THE CONGRESSIONAL GLOBE:

CONTAINING

THE DEBATES AND PROCEEDINGS

OF

THE SECOND SESSION

OF

THE THIRTY-SEVENTH CONGRESS.

BY JOHN C. RIVES.

CITY OF WASHINGTON:
PRINTED AT THE CONGRESSIONAL GLOBE OFFICE.
1862.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. THURSDAY, FEBRUARY 27, 1862. NEW SERIES....No. 61.

at the instigation of the malice and revenge, if you please, of any indiscreet, injudicious, fanatical person who may chance to be down there and have some vengeance to wreak upon somebody? Is he to designate the property of this man and that man, without reason or rule, and tell the commissioners, "take possession of it, and administer it for the benefit of the Government." Sir, if we pass this bill we are exposing every citizen of both these States to the will and caprice of every petty tyrant with epaulets upon his shoulders who may enter into the territory of either of these States, and who may, for any purpose, with reason or without reason, choose to designate the property of any man as property that ought to be seized upon and administered for the benefit of the Government.

Now, sir, I cannot vote for a bill that is—I mean no disrespect to any one when I say it—so crude, so ill digested as this bill is. While I fully concur with the gentleman in the propriety of legislating upon the subject; while I fully appreciate the reasons, and the momentous reasons that urge upon us action and speedy action, those very reasons urge upon us deliberate action, wise action, matured action; not an ill-digested bill that can never be executed if passed, and that will become a most potent engine of wrong and oppression.

I am as anxious to get hold of the property of rebels and traitors as any one can be; but I am not so anxious as to induce me totally to disregard the rights of those who may be in their midst that are as loyal in their hearts to-day as you or I. There is wheat growing among the tares in these southern States, and I am not willing to endanger that by ruthlessly plucking away the vicious weeds that surround it.

I do not intend, Mr. President, to go into any discussion on the merits of the bill. There are many other provisions that I think are as crude as this one; but I suggest this, in the very first section, as a reason why, in my opinion, this bill ought to go to the Committee on the Judiciary, that they may consider and perfect it. We cannot—I am sure we have not, if we can—have considered and appreciated the importance, the momentousness of the subject with which this bill undertakes to deal, and the difficulties that will surround us at every step of our progress in the execution of the best devised and best considered measure that we can give birth to. This is, in my judgment, one of the most difficult and oppressive problems that has been presented for our solution; and I do not feel disposed myself to vote for it upon the spur of the moment, without having time to give more than a very hasty perusal to the bill at my desk in this Chamber. Although nature may not wait, as the honorable Senator from Massachusetts says, her operations and her processes for the next three or four or five days, or a week if you choose, cannot materially embarrass this measure when it is perfected, when in a position to be executed; and it is far better that we should get it right in the beginning, than that we should pass it, and at the very onset of an attempt to execute it find that we are surrounded with difficulties that we cannot unravel, that we cannot cast off, and that we shall then have to begin and do our work all over again. We had better do it well in the beginning.

I am ready to vote for any bill that will take possession of the property of traitors and rebels wherever it is proper to take possession of it—wherever we lay our hands upon it. I may say, as I go along, that I do not desire to lay waste and desolate all the country, even of the States that are in rebellion against the Government. There are a great many loyal people there. We are under a higher obligation; the considerations that press upon us to take care of them and their interests are, if possible, more sacred than those that appeal to us for the protection of our constituents at home in the loyal States. They are suffering all the horrors, all the calamities, all the oppressions, all the desolations of this terrible and wicked war on their own soil, at their own hearthstones, under their own roof trees; and are we to come now with a bill like this, that embraces all and makes no exceptions, and add to all that they have even now endured at the hands of rebels and traitors; add to the oppressions of all that, the oppression of our measures? Are we to cast them off; and because they happen to be, by no fault of theirs, in rebel States, in the midst of rebels and traitors, where they cannot speak out in behalf of the Union and the Government; where they cannot efficiently lift a finger to strike for the Union and Government—are we, because they are thus surrounded, thus oppressed, thus afflicted, to cast them off entirely, pay no regard to their interests, and in our legislation make no discrimination between them and those who have brought upon the country all the disasters that it is now enduring? Mr. President, I am not willing to vote for a bill that casts good and bad, loyal and disloyal, all into the same lot and upon the same platform. I know that if we pass this bill we shall have occasion to repent it and to regret it, for it cannot be executed. Let it go to the Committee on the Judiciary and be perfected, and I shall be as ready to vote for it as anybody else.

Mr. HALE. If this war could be successfully prosecuted, and this rebellion crushed, and the rightful supremacy of the Constitution and laws restored without hurting anybody, I should be as willing to agree to it any one else; but I do not believe it can be so done. The objection which the Senator from Illinois makes to this bill is precisely analogous to that which I suggested when a bill was introduced for confiscating vessels owned partially by rebel owners. That bill provided for confiscating the whole vessel under such circumstances. I suggested that there might be loyal citizens owning shares, and that it would be unjust to seize their property. It was answered, and it was a sufficient answer with a majority of the Senate, that the interests of loyal owners might be cared for, and compensation made, but that the necessity of the Government compelled the confiscation of the vessel, though there might be some loyal owners of shares therein.

Mr. COLLAMER. I beg the gentleman's pardon; that was not exactly the answer. The answer was, that there was provision made in the bill that the Secretary of the Treasury might remit the penalty in relation to those persons who were loyal.

Mr. HALE. That is the very measure I intended to indicate. That was it; and the bill passed, confiscating the whole of every such vessel, and leaving a loyal part-owner to the remedy which has been suggested by the Senator from Vermont. Now, sir, this bill proposes only to take possession of the lands that are committed to the commissioners by the military authority. Suppose there should be, as I trust there are; some loyal men there who have been surrounded by rebels, and have had to abandon their lands and their negroes, and we have eaten up their corn, and left their servants to starve; will it be better to except them from the general provisions of the bill, or take the whole of these lands and leave the bill, or take the whole of these lands and leave the loyal owners, whose lands may be occupied, to loyal owners, whose lands may be occupied, to such recompense as the justice and magnanimity of the Government will give them afterwards?

Mr. President, we cannot find precedents for every step that we are taking. I tell you that in this war, unprecedented, unforeseen, and uncalculated upon, we are not to follow precedents, but to make them—make them so that those who come after us, if they should ever be troubled with such a war as this, will find them to their hands. I think there is great force in the suggestion which was made by the honorable Senator from Massachusetts, that seed-time is upon us. It was one of the most prosaic suggestions that I ever heard him make, unembellished with classical quotations or poetical extracts. [Laughter.] It is a plain and simple natural truth, seed-time is upon us, and we must improve it, and if we cannot improve it in just exactly the way that might be matured by all the wisdom of the Senate, devoting the whole session to it, it is no answer to that pressing fact that seed-time is upon us and will soon be gone, and unless we improve it we shall have to join in the lamentation of the prophet, and say that "the harvest is passed, the summer is ended, and we are not saved." I think the bill is well prepared, very well. Why should we commit it to the Committee on the Judiciary? It came from one of the most luminous minds of that committee.

Mr. COLLAMER. It came from the Committee on Territories.

Mr. HALE. It came from the honorable Senator from Connecticut, [Mr. FOSTER.]

Mr. BROWNING. I think the Senator from New Hampshire is mistaken in supposing that the bill came from the Committee on the Judiciary.

Mr. HALE. I am not at all mistaken. I did not say that it came from the Committee on the Judiciary.

Mr. BROWNING. Then I misunderstood the Senator.

Mr. HALE. I said it came from one of the most luminous minds of the Committee on the Judiciary. It was referred to the Committee on Territories, and was not altered by that committee by the addition or change of a single letter. I think it has been matured enough, and I hope the Senate will not recommit it, but will pass upon it before the seed-time is gone.

Mr. FOSTER. I certainly feel a very strong interest in the question about which this bill is conversant, and am very desirous that this or a better measure should very speedily pass this and the other House of Congress. I hope, therefore, that the motion to recommit this bill will not prevail. I have heard no good reason for it. It would induce delay, and delay is the defeat of this measure and of any other measure to remedy the evil which this bill proposes to remedy. The only suggestion which the honorable Senator from Illinois makes in support of his complaint as to the crudities of the bill, is, that it uses the expression in the first section, "military authority," which he professes himself unable to understand, or at least to give to it any definite meaning. I do not claim to quote his language, but his idea. He does not know whether the military authority is to be considered as represented by the picket guard, as he walks backwards and forwards over a certain space on the lines, or whether it is represented by some intermediate authority between him and the President of the United States, who, he says, is the head of the military authority. I confess that I do not believe the Judiciary Committee can use a more appropriate term than "the military authority." It seems to me it is very easily understood, and not liable to be misunderstood. Nor do I see the danger which the honorable Senator suggests, that somebody—some fanatic—from spite or malice, may turn over some loyal man's plantation into the hands of commissioners appointed under this bill, and he thus be deprived of his property; and so the good and the loyal, together with the rebellious and disloyal, subjected to the tyranny of this bill, while devastation is spread over the country. It is a very lamentable idea. I certainly should go with the Senator from Illinois, at an humble distance, perhaps, behind him, in endeavoring to prevent any such terrible calamities from visiting any portion of our country. The object of this bill is to prevent, not to produce, ruin and devastation, which he, no more than I, deprecates. It is to save, not to destroy. For myself, I have no fears; I trust the Senator need have none, that the military authority will turn over into the hands of the commissioners of the United States any loyal man's property. Is there any danger from anything already done? Has General Sherman, who is in command of the forces in South Carolina, shown any disposition to play the fanatic, or to put the property of loyal men to improper uses? Is General Halleck, who is commanding in another department, exhibiting any disposition or desire to destroy or to confiscate what is called property, even in its most offensive sense, within the district which he commands? Is Flag-Officer Foote, in publishing a short proclamation to the inhabitants of Clarksville, in Tennessee, giving any indica-

tion that the property of loyal men is in danger from the military or naval authorities of the United States? Need the Senator fear, when, as he says, the President of the United States is the head of the military authority, that he will allow any man, because he has epaulets on his shoulders, to disturb the humblest loyal citizen in any portion of the rebellious States in the management of his property? I am not afraid of it, if the Senator is. I have not the slightest fear of it. I am willing to trust these authorities with the protection of the citizen; and this bill simply proposes to take possession of the property which is abandoned—left in such a condition that, unless we do take care of it, it will be unimproved and fall into decay and ruin, and waste and desolation be spread over the country. Besides preventing this, the bill proposes to provide for the population—more important, in my judgment, than the territory itself. It proposes to provide for those who will be in a perishing condition unless speedy means be afforded to protect and relieve them.

ORDER OF BUSINESS.

The VICE PRESIDENT. It becomes the duty of the Chair at this hour to call up the special order first assigned for to-day.

Mr. FOSTER. I am not going to detain the Senate by any remarks of mine. I thought I should show my friendship for the bill by saying nothing about it; but I hope its consideration may be continued a few minutes, in order that it may be disposed of. I move, therefore, to postpone the present and all prior orders for the purpose of continuing the consideration of this bill, at least for a very brief space. If it is likely to lead to a long discussion, I shall not press it now.

Mr. COLLAMER. I have no desire to prevent the Senator from Conneticut having his bill disposed of; but the special order referred to by the Chair is a bill in which I take some interest, and I do not want it to lose its place as a special order. If the time runs by, I understand that I lose my special order.

The VICE PRESIDENT. It became the duty of the Chair to call up the special order at this time; and upon the special order (which is the bill fixed for to-day on the motion of the Senator from Vermont) the Senator from Vermont is entitled to the floor. Therefore, the Senator from Connecticut is not in a position even to move to postpone the special order, unless the Senator from Vermont yields the floor to him.

Mr. COLLAMER. The effect of it is what troubles me. By yielding, do I not lose my special order entirely?

The VICE PRESIDENT. While the other is pending; but when the other bill is disposed of, the first question that will then come up will be the Senator's special order.

Mr. COLLAMER. But I should like to know whether by permitting the bill of the Senator from Connecticut to go on by consent, I lose my special order; or whether it will come up of course whenever his bill is finished.

The VICE PRESIDENT. The bill which has just been before the Senate may be continued by unanimous consent, subject to the Senator's motion to call up his special order at any time.

Mr. COLLAMER. I cannot get unanimous consent to anything.

The VICE PRESIDENT. The Senator does not understand the Chair. If the Senate will give unanimous consent to proceed with the discussion of the question which has been up this morning, subject to the motion of the Senator from Vermont at any time to call up his special order, it can be so proceeded with.

Mr. COLLAMER. I have no objection to that, if it is so understood.

Mr. TRUMBULL. There is another special order behind that, which I do not wish to have delayed.

The VICE PRESIDENT. The special order made on the motion of the Senator from Vermont is first in order to-day, having been first made.

Mr. TRUMBULL. I am aware of that; but the next special order is the bill we had up yesterday for the confiscation of the property of rebels, which I desire to keep before the Senate. Although I cannot object to taking up the bill of the Senator from Vermont, which is the first special order, I do object now to another matter coming in and postponing that, he still holding precedence. I hope that the Senate will take up his special order and dispose of it, and then, when the confiscation bill comes up, adhere to it until it is disposed of.

The VICE PRESIDENT. Perhaps it may be the duty of the Chair to correct a wrong impression of the Senator from Illinois. If the Senate proceed to the consideration of the special order made on motion of the Senator from Vermont and dispose of it, then the bill which has just been before the Senate will come up, being also a special order for this day, and preceding the one indicated by the Senator from Illinois. There are three special orders for this day; the one indicated by the Senator from Illinois is the third.

Mr. TRUMBULL. The subject under consideration is not a special order.

The VICE PRESIDENT. It is a special order for to-day.

Mr. TRUMBULL. I was not aware that it was made a special order.

The VICE PRESIDENT. There are three special orders for this day. This bill was called up, however, in the morning hour; but that does not deprive it of its character as a special order for to-day.

Mr. COLLAMER. I perceive that the more I concede, the more complicated it becomes with two or three other matters, and therefore I desire to proceed with the special order.

The VICE PRESIDENT. The special order, therefore, before the Senate is House bill No. 104.

Mr. HARRIS. I desire to inquire, for information, whether or not the Oregon case is not a privileged question, entitled to preference over either of these orders?

The VICE PRESIDENT. Not in the impression of the Chair.

Mr. HARRIS. I desire to say that I feel constrained to press that case whenever the rules of the Senate will allow.

The VICE PRESIDENT. The ruling of the Chair will be, that it will be the privilege of the Senator from New York, whenever the occasion shall occur, to make his motion. It will then become a privileged question; but these are special orders, and override that privileged question, and the Senator from Vermont is entitled to the floor upon House bill No. 104. When the Senator from Vermont shall have concluded his remarks, if the Senator from New York shall obtain the floor, it will be in order for him to move to postpone all prior orders for the purpose of taking up the question indicated.

Mr. HARRIS. I think I understand what my rights are.

INCREASE OF REPRESENTATIVES.

The Senate resumed the consideration of the bill (H. R. No. 104) fixing the number of members of the House of Representatives from and after the 3d of March, 1861, the pending question being on the amendment of Mr. COLLAMER to strike out, in the sixth and seventh lines, the words, "to be apportioned among the several States," and to insert:

The members added by this act to be assigned to the six States having the largest unrepresented fractions under the apportionment made.

Mr. COLLAMER. That amendment which was offered to the bill of the House in relation to the apportionment of Representatives was an amendment offered by myself. I now propose to withdraw that amendment and substitute a different one, which I send to the desk and desire may be read.

The Secretary read the amendment, to strike out all of the bill after the words "United States," in the fifth line, in the following words:

Shall be 239, to be apportioned among the several States according to the provisions of the act of May 23, 1850, entitled "An act providing for the taking of the seventh and subsequent censuses of the United States, and to fix the number of the members of the House of Representatives, and provide for their future apportionment among the several States."

And to insert in lieu thereof the following:

Shall be 241, and the eight additional members shall be assigned one each to Pennsylvania, Ohio, Kentucky, Illinois, Iowa, Minnesota, Vermont, and Rhode Island.

So that the bill will then read:

That from and after the 3d day of March, 1863, the number of members of the House of Representatives of the Congress of the United States shall be 241, and the eight additional members shall be assigned one each to Pennsylvania, Ohio, Kentucky, Illinois, Iowa, Minnesota, Vermont, and Rhode Island.

Mr. COLLAMER. Mr. President, although this is, in a considerable degree, a sort of arithmetical measure, still I have a good deal of confidence that I can satisfy almost every gentleman in this Senate of the equity and justice, as well as of the constitutionality of the amendment which I have proposed, if they will give me a little attention. It is true that I have no considerable feeling on this subject in relation to my own State, because whether the original bill is passed without amendment or with the amendment, it is all the same to my State. It will make no difference to her; but still I wish the amendment to be made. It is no small matter for a State to lose a third part of its representation; and still more is it an important matter for a State to lose half of it. By the apportionment, as made under the act of 1850, my State loses one third of its whole representation. I think it would rather startle a gentleman from New York or from Ohio or from Illinois, if the proposition was made that they should lose one third of their whole representation. They would think there was some importance in it. This subject is of just as much importance as that to my State; and it is just as important as losing one half of their whole representation to the State of Rhode Island or the State of Minnesota. It involves nothing less than that. They will not only lose their representation, but all those advantages that are connected with it; for instance, having a cadet at West Point, and having midshipmen in the Naval School. It is true they had but two in Rhode Island and three in Vermont any way; but to lose a third part of that is a matter of some importance. We are to lose also the same proportion in the college of electors for President and Vice President. These are to us matters of a good deal of importance; and I take it that gentlemen will bear with me a little if I occupy time as they think unnecessarily. My apology, if it needs an apology, will be found in the importance of the measure.

I wish, first, to call attention to the expression in the Constitution in relation to the apportionment of Representatives:

"Representatives and direct taxes shall be apportioned among the several States, which may be included in this Union, according to their respective numbers."

It then goes on to state how these numbers are to be ascertained: by taking all the free people and three fifths of the slaves to ascertain their representative population, and by that, direct taxes and Representatives are to be apportioned, according to the respective numbers of the people in the States. Now, direct taxes are apportioned with arithmetical certainty. They are apportioned by the numbers of the people, and of course there are no fractions left about it; every man is counted; and the taxes are paid according to their entire number in each State, entirely regardless of the subject of apportionment, without having any fractions. There can be no fractions. In saying that the Representatives shall be apportioned according to the population of the respective States, I take it, the design was to approximate as near as possible to that equality. This being the great point on which I choose to make my remarks, I think it important to restate it: that the Representatives shall be apportioned among the States according to their population as near as practicable. I believe I can show to any attentive man that the apportionment, as provided for in the act of 1850, in all its bearings, does not carry out that provision of the Constitution fairly, justly, and, as I think, according to its true meaning and import. I wish to call attention to that apportionment act. I will read it:

"That from and after the 3d day of March, 1853, the House of Representatives shall be composed of 233 members, to be apportioned among the several States in the manner directed in the next section of this act.

"That so soon as the next and each subsequent enumeration of the inhabitants of the several States, directed by the Constitution of the United States to be taken, shall be completed and returned to the office of the Department of the Interior, it shall be the duty of the Secretary of the Interior to ascertain the aggregate representative population of the United States"—

It then goes on to repeat the mode of getting it according to the Constitution, and then it provides—

"which aggregate population he shall divide by the number 233, and the product"—

which, I think, should be quotient in division; but the result—

"of such division, rejecting any fraction of an unit, if any

such remain, shall be the ratio, or rule of apportionment, of Representatives among the several States under such enumeration."

When he has divided by 233, the result, the quotient which is produced, shall be the rule of apportionment of Representatives. That is what I shall call the Representative ratio:

"And the said Secretary of the Department of the Interior shall then proceed, in the same manner, to ascertain the representative population of each State, and to divide the whole number of the representative population of each State by the ratio already determined by him, as above directed; and the product of this last division shall be the number of Representatives apportioned to such State under the then last enumeration: *Provided*, That the loss in the number of members caused by the fractions remaining in the several States, on the division of the population thereof, shall be compensated for by assigning to so many States having the largest fractions, one additional member each for its fraction as may be necessary to make the whole number of Representatives 233."

Now, sir, the taking of a number to divide by for the purpose of ascertaining the representative ratio is entirely arbitrary; but when you have taken that and made your dividend and ascertained what the representative ratio of the Union would be, you give to each State as many members as they have under that ratio in their number. That they are entitled to. That is the ratio of representation; and if they come up to that ratio they are entitled to one; if they come up to it twice, they are entitled to two; and so on as long as they can by their numbers entitle themselves to a member by that ratio.

Mr. President, by what power and right and principle is it that you give Representatives to fractions at all? I take it, it is because in giving them to the fractions you approximate nearer to the representative ratio. Then you ought to give representation to each State so long as by giving it they will be nearer to the representative ratio than they will be by withholding it. That is the great point—great in my estimation—which I wish to make; that when you go to give it to a fraction, you have no right to stop short of this rule; that is, you will give it to every State when by giving it to her she will come nearer to the representative ratio than she will by withholding it. I think no other just rule can be found. This law of 1850 does not give that. It gives representation to the States having fractions until it gets down to a certain number, 233, and stops right there. It does not proceed to give it to the States who by getting it will have their representation nearest to the ratio; but it stops arbitrarily at that number. There is the injustice of it; there is the iniquity of it; and I believe there is no member of this Senate who will give his attention to the subject for twenty minutes, that will not subscribe to the perfect correctness of my principle. It cannot be answered in my estimation.

This bill as passed by the House of Representatives would not effect what they really desire. I am fully authorized to state that. The difficulty was, they meant to give representation to six more of the unrepresented fractions to save their number, 239; but they framed their bill in such a way that they said the number should be 239, and should be apportioned according to the act of 1850. The moment you take that act, you take for your first divisor 239 instead of 233, as was taken in making the dividend under the act of 1850; and you throw the fractions upon an entirely new set of States by it. That was not what they intended; it was not what they desired. I made a proposition of amendment to correct that; but upon a full investigation of the subject I have come to the conclusion which I have now stated, and which I am sure gentlemen can understand if they desire to understand it. I know, if gentlemen are set upon the idea that the act of 1850 cannot be varied from, and that it is the clear and settled policy of this Government, then it is in vain to talk about it; but I have been endeavoring to show, and I believe I have shown to every man who chooses to attend to it, that the act of 1850 is unjust and wrong in its apportionment.

Under the apportionment made under the census of 1860 no less than fifteen States have a member accorded to them by the Secretary for fractions, and then it arbitrarily stops because you had got up to 233 under the act, whereas, as I again repeat, it should have gone on giving it to fractions so long as by giving it you could have made the States nearer to the representative ratio than by withholding it. That is what should have been done. The amendment which I have sent to the table does that. It is the result of a calculation to which I desire to call attention. Take the bill as passed by the House of Representatives, that they should have their number 239, and then take the census of 1860, and divide the representative population by 239, as their bill proposes; that will ascertain your fractions. Then go on and give Representatives to every State, according to that representative ratio produced by that result, and then give to each State having the fractions, if by giving them you will make them nearer to the ratio than they would be by withholding them, and it will give to just those States which I have enumerated in my amendment, taking from none. That is all the effect of it; and that is the effect of the arithmetical calculation which has been carefully made, and which I have here.

I am sensible that gentlemen cannot go over a set of figures here with me with care, and I do not expect they will; but I want to state certain results in that calculation. Take the whole representative population by the census of 1860, and divide it by 239, the number stated in the bill, and it will make the representative ratio 123,717. Then go on and give to each State that has that number in it one Representative, and that has that number twice in it two Representatives, and so on through them; and then take those that have fractions and give to them, as I again repeat, a Representative, when by giving it, you would make them nearer the Representative ratio than by withholding it, and you will include those very States that I have mentioned. I have each State here cast by itself. I will take some of those States, and show what the result is. There will be fifteen States entitled to Representatives as having the largest fractions. Then come these eight States that will be entitled by this rule that I have proposed. One of them, for instance, is my own State, which is uppermost and first in my mind, of course, and pretty much last in the minds of others. The State of Vermont, by the apportionment made under the act of 1850, by the last census, would be entitled to two Representatives; that is, we would lose one. Now, if Vermont had but two Representatives, each one of them would represent 157,558 people by this class. The whole number to entitle to representation being 123,717, the State would get two Representatives, and each of the two would represent 157,558. Each of the two would have 33,841 above and beyond the representative ratio. Now suppose you give them another. They would then have three Representatives, and each of the three would represent 105,000, and they would be 18,678 each short of the ratio. In the first instance, with two Representatives, they would be 33,841 above it; and in the other, with three members, they would be but 18,678 below it. They would be more than 16,000 nearer to the representative ratio by giving them one additional Representative than by allowing them but two. I think this is a pretty strong case. Why should you withhold from them that which will make them much nearer to the due ratio of apportionment, and give it to others that are really not nearer to it, because you come down to certain numbers?

Take the State of Rhode Island. Rhode Island has 174,621 people. By the whole representative apportionment the ratio would give her but one member. Then you come to the fractions. Now if she has but one, that man would represent 50,900 people more than the representative ratio. Suppose you give her two. If you give Rhode Island two, each will represent 87,000 people, and they will be but 36,000 away from the average, whereas by the other mode they would be 50,000 away from the average. There is a difference of 14,000, and a fraction over. They are nearer to the representative ratio by 14,000 when you give them two Representatives than when you give them but one. This is true, though not to the same extent, of all the States I have enumerated in the amendment.

Take, for instance, the State of Minnesota. That State has 172,000 people. One Representative now appointed to them would represent 48,300 people more than the ratio. If you give Minnesota two, they would each represent 37,000 less than the ratio; that is, they would be 9,000 and a fraction nearer to the ratio with two than with one. Then why not give them two? Is it not, according to their population and agreeably to the Constitution, more nearly, and much more nearly, the ratio than the other? It is not necessary that I should go over each of the States I have enumerated here. In all instances the fractions are nearer with the Representative than without, and the amendment covers all the cases where they are nearer.

Mr. President, when I have thus stated the principle, and thus shown its application in the case, it seems to me I have done all that is necessary. It is true, however, that this proposition would increase the number of the House from 239, as they now have, to 241; that is, it adds two members. It does that for equality of representation. Congress, at every time they have made an apportionment, have always exercised their power over the mode of regulating the representation of fractions. Sometimes they have given the representation to a particular State—at other times not—but they have always exercised the power to produce equality of representation. That is all that is asked of it now.

But it may be said you propose to increase the House to 241? Is there anything exceptional in that? It is the necessary result of the bill they themselves have passed, making the number 239, worked out by what I regard as the clear and fair construction of the Constitution. But what if it does increase the number of Representatives? We have within the last ten years increased our population by 8,000,000. The representation in the House will not be anything like as large in proportion to the people as it is now, or rather was at the last census. It will be very much smaller in proportion than it has been for ten years past, or than it ever was, except under the first apportionment by the Constitution. It is a very grave question whether that representation ought not to be very much increased any way. A large part of our most experienced statesmen are of opinion, and have been long of the opinion, and many of them have urged it very much, especially Mr. John Quincy Adams, that the House ought to be very much larger; that it would be much more safe to the community; much less liable to any combinations and confederacies against the interests of the people; but I am not about to enter into that.

The proposition which I have made is simply the result of the principles that I have stated, and only adds two members to the House. You cannot withhold those members without doing most direct injustice, for instance, to Minnesota and to Rhode Island particularly. To those two States you cannot do justice in any other way, unless you go by the principle I have stated, by giving Representatives to them because they come the nearest to the ratio. I do not think it worth while to occupy further time on the subject. If there are objections made to this amendment, I reserve to myself the right, and shall feel it to be my duty, as far as in me lies, to answer them. Otherwise, I shall submit it to the Senate as it stands.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) The question is on the amendment submitted by the Senator from Vermont.

Mr. HARRIS. If this bill is to be further discussed, I shall feel constrained to move its postponement; but if a vote can be taken upon it, I have no objection to its being done.

The amendment was agreed to.

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

SENATOR FROM OREGON.

Mr. TRUMBULL. I now move to proceed to the consideration of Senate bill No. 151, which is the confiscation bill that we had up yesterday. I am sorry to have to insist on this bill as against the case of the Senator from Oregon; but it has been made a special order, and if it is crowded out by that case, it goes over, and I do not know when we may get it up again. It is a very important public measure, now under consideration, having been discussed yesterday, and I must insist that we proceed with it.

Mr. HARRIS. I must also insist on the disposition of the Oregon case; and if the Senator from Illinois insists upon his case we must submit it to the decision of the Senate. I hope, sir, that that bill will not be taken up, but that we shall proceed to the disposal of the Oregon case, which has been, as every Senator knows, too long delayed. I hope, therefore, the motion of the Senator from Illinois will not prevail.

The PRESIDING OFFICER. Does the Senator from New York interpose a motion for the taking up of the subject indicated by him?

Mr. HARRIS. If it be in order, I will move that the Oregon case be taken up, and that all prior orders be postponed.

The PRESIDING OFFICER. In the opinion of the Chair, that, being a privileged question, is entitled to be put to the Senate prior to the motion of the Senator from Illinois. It is in the power of the Senate, of course, to dispose of the question of priority by their votes; but that will be the first question put to the Senate.

Mr. SUMNER. One of the most important questions now before Congress is the bill of the Senator from Illinois. It is practical as well as important. Its consideration was commenced yesterday. A Senator took the floor in order to address the Senate upon it, and I think it is important that it should be kept before the Senate until it is decided. It is a measure with regard to which there has been too much delay. I hope the Senate, therefore, will not take up anything else until it has acted upon that.

Mr. CARLILE. Congress has been in session now, sir, nearly three months. One of the States of this Union has been during the whole of that period, one of the most interesting in our history, deprived of one half of its representation. It is due to that State that she should be informed by the action of this body whether the Senator she has sent here is to be admitted or not as one of her representatives. If admitted, she is entitled to his voice, and to be heard through him upon this floor. If not admitted, it is due to her that she should have an early opportunity of selecting some one who may prove acceptable to the Senate. I trust, therefore, that the Senate will adopt the motion of the Senator from New York, and in order that those of us who desire to extend an early hearing to the State of Oregon may have an opportunity of recording our names, I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. It is moved that the Senate take up for consideration the report of the Judiciary Committee on the application of Mr. Stark to be admitted as a Senator from Oregon; and upon that question the Senator from Virginia demands the yeas and nays.

The yeas and nays were ordered.

Mr. DOOLITTLE. I desire to say one word. I protest, on a mere question as to the preference of business, against our being placed in the position of being antagonistic to one measure or another measure, because we vote to give preference to one or the other in its determination in the Senate. The case of Mr. Stark has been discussed one or two days, and we are right in the middle of the discussion. The bill of the Senator from Illinois, to confiscate property, has been discussed a day or two; and the question which was brought in by the Senator from Ohio [Mr. WADE] on the bill of the honorable Senator from Connecticut, who now occupies the chair, [Mr. FOSTER,] has been discussed one or two mornings, and we are right in the middle of the discussion of all three. My judgment is that the one we have discussed first, we had better finish and have done with it, and then take up another.

The Secretary proceeded to call the roll, and Mr. ANTHONY answered to his name.

Mr. TRUMBULL. We are losing so much time——

The PRESIDING OFFICER. Discussion is too late, the call of the roll having commenced, and a Senator having answered.

Mr. TRUMBULL. I will ask the unanimous consent of the Senate that the Senator from Virginia may withdraw the call for the yeas and nays. I will agree to let the Oregon case come up, and let us finish that, and then I shall insist upon the other subject being considered.

Mr. CARLILE. Of course I will agree to that.

The PRESIDING OFFICER. The call for the yeas and nays can be withdrawn by unanimous consent. The Chair hears no objection. The question is on the motion of the Senator from New York.

The motion was agreed to; and the Senate resumed the consideration of the following resolution reported from the Committee on the Judiciary:

Resolved, That Benjamin Stark, of Oregon, appointed a Senator of that State by the Governor thereof, is entitled to take the constitutional oath of office.

The PRESIDING OFFICER. The pending question is on the motion of the Senator from New Hampshire to recommit the resolution and report to the Committee on the Judiciary.

Mr. HALE. At the request of several friends around me, I will withdraw that motion, with the consent of the Senate.

The PRESIDING OFFICER. The motion to recommit is withdrawn, and the question is upon the resolution of the committee.

Mr. SUMNER. Now, Mr. President, the amendment that I proposed the other day comes up in order, and I offer this as a substitute for that. It is the original amendment in a new draft. It is to strike out, as I proposed the other day, after the word "thereof," in the second line of the resolution, the residue in the following words, "is entitled to take the constitutional oath of office," and to insert in lieu thereof the following:

Now charged with disloyalty by the affidavits of many citizens of Oregon, and also by a letter addressed to the Secretary of State and signed by many citizens of Oregon, some of whom hold public trusts under the United States, is not entitled to take the constitutional oath of office without a previous investigation into the truth of the charge.

So that the resolution would then read:

Resolved, That Benjamin Stark, of Oregon, appointed a Senator of that State by the Governor thereof, now charged with disloyalty by the affidavits of many citizens of Oregon, and also by a letter addressed to the Secretary of State, and signed by many citizens of Oregon, some of whom hold public trusts under the United States, is not entitled to take the constitutional oath of office without a previous investigation into the truth of the charge.

On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SUMNER. I am unwilling to speak again in this debate. So reluctant am I, that nothing but a sense of duty could make me break silence. But I am determined that this Chamber of high trust, so carefully guarded by the Constitution, shall not be opened to disloyalty, if any argument, any suggestion, or any persuasion of mine can prevent it.

Of course, in this debate, something is assumed. It is simply this: that the evidence touching the loyalty of the claimant is not valueless; that it is entitled to attention; that it affords *probable cause*, if I may adopt the phrase of the Roman law, for distrust; that it is enough, simply, to put a party on the defensive. If this be the case; if all these affidavits, verified by the certificate so numerously signed, are not put aside as baseless; then the Senate must inquire into the validity of the charge. The result of the inquiry may be one way or another; but the inquiry must be made. It is an abandonment of present duty not to make the inquiry, and it is an abandonment of an essential right of self-defense not to assert the power.

I have listened to the various arguments urged to induce the Senate to disarm itself as they have been presented by able Senators. I have listened to the Senator from Maine, [Mr. FESSENDEN,] to the Senator from Wisconsin, [Mr. HOWE,] and I have felt, as I listened, new confidence in the constitutional power of the Senate to protect itself at all times against disloyalty, and in the duty of the Senate to exercise this constitutional power at any time, early or late, in its completest discretion.

But it is said—and I believe the Senator from Maine first presented this argument which has been urged so strongly by the Senator from Wisconsin—that if we reject the present claimant, Oregon will be without a representative. And if we expel him, will not Oregon be without a representative? Surely this is no reason why we should hesitate in either case. I, too, desire to secure a representative for Oregon; but I know full well that a disloyal representative is no representative; or rather, sir, it is worse than no representative. In insisting upon such a representative, you sacrifice substance to form; you abandon the living principle and content yourselves with the dead letter; you keep the word of promise to the ear, and break it to the heart; you offer to the people of Oregon a stone, when they demand bread. In the name of the people of Oregon, whose wishes are manifest in the papers now before us, I protest against the pretension that they can be represented by a disloyal person. Misrepresentation is not and never can be representation.

But it is said—and I believe the Senator from Maine made that argument—that the evidence against the claimant, if sustained, might justify expulsion; but it will not justify a refusal to admit him to take the oath.

Mr. FESSENDEN. The Senator will state my position as I put it; and that was, if the same language and declarations were proved as coming from Mr. Stark while a Senator, I thought they might justify his expulsion.

Mr. SUMNER. The Senator says that if the same language had been used while he was a Senator it might justify expulsion. That is enough, sir; and yet the Senator argues that it will not justify the Senate at this stage in refusing to open its doors to him. In plain terms, the Senate may pronounce the stigma of expulsion, but not the judgment of exclusion. A similar absurdity would be to say, that in private life a certain offense would justify us in kicking an intruder down stairs, but would not justify us in refusing him admission to our house. It is enough to state this case. Nothing can be clearer in the light of reason—and I say also of the Constitution—than that it is the duty of the Senate to meet disloyalty on the threshold; to say to it, wherever it first shows itself, that this Chamber is no place for it. The ancient Hebrew pictured his desolation when he said that he could not go forth to meet his enemy at the gate. Desolate will be the Senate when it cannot meet disloyalty at the gate.

But the Senator from Maine has complained, and the Senator from Vermont [Mr. COLLAMER] joined him in this complaint, that the claimant is not allowed to *purge* himself by his oath; thus using a technical phrase of the law, applicable chiefly to suspected persons. Not allowed to *purge* himself! Rather say, sir, not allowed to *perjure* himself. For, in view of the testimony now on your table, the inference is unhappily too strong, that in any oath to support the Constitution, he must perjure himself. I say this with pain, and without any desire to prejudge the case; but simply because the facts, as they appear without contradiction, leave no opportunity for any other conclusion.

But since complaint is made by learned lawyers, that the claimant is not allowed to purge himself, I desire to adduce a legal analogy on this question. It is well known that, by the common law, a person is not permitted to take an oath who does not believe in God. This is the general principle; but when we look at the application of this principle we shall see how completely it illustrates the present case. If a person is known to have openly and recently declared his disbelief, he will not be permitted to purge himself by his oath, for the reason that his own declarations are decisive. Here is the text on this point, in the authoritative work of Mr. Greenleaf on the law of evidence:

"It should here be observed that defect of religious faith is *never presumed*."

I would add, as defect of political faith is never presumed:

"On the contrary, the law presumes that every man brought up in a Christian land, where God is generally acknowledged, does believe in Him and fear Him. The charity of its judgment is extended alike to all."

Precisely as when the claimant comes to this body and offers to take the oath, the charity of the Constitution supposes him to be loyal; but it does not go further, and refuse to consider the evidence of disloyalty. The authority then proceeds:

"The burden of proof is not on the party adducing the witness to prove that he is a believer; but it is on the objecting party to prove that he is not. Neither does the law presume that any man is a hypocrite. On the contrary, it presumes him to be what he professes himself to be, whether atheist or Christian; and the state of a man's opinions, as well as the sanity of his mind, being once proved, is, as we have already seen, presumed to continue unchanged till the contrary is shown. The state of his religious belief, at the time he is offered as a witness, is the fact to be ascertained; and this is presumed to be the common faith of the country, unless the objector can prove that it is not. The ordinary mode of showing this is by evidence of his declarations previously made to others, the person himself not being interrogated."

I apply this principle precisely to the question in hand: "the ordinary mode of showing this is by evidence of his declarations previously made to others"—precisely as it is now proposed to show the sentiments of the present claimant. Then, in a note, this authority proceeds, as follows:

"It has been questioned, whether the evidence of his declarations ought not to be confined to a period shortly anterior to the time of proving them, so that no change of opinion might be presumed. (Brock *vs.* Milligan, 1 Wilcox, 126, per Wood, J.) The witness himself is never questioned in *modern* practice as to his religious belief; though formerly it was otherwise. (1 Swift's Dig., 739; 5 Mason,

19; American Jurist, vol. 4, p. 79, note.) It is not allowed, even after he has been sworn. (The Queen's case, 2 B. and B., 284.) Not because it is a question tending to disgrace him; but because it would be a personal scrutiny into the state of his faith and conscience, foreign to the spirit of our institutions. No man is obliged to avow his belief; but if he voluntarily does avow it, there is no reason why the avowal should not be proved, like any other fact. The truth and sincerity of the avowal, and the continuance of the belief thus avowed, are presumed, and very justly, too, till they are disproved. If his opinions have been subsequently changed, this change will generally, if not always, be provable in the same mode. (Attwood *vs.* Welton, 7 Conn., 66; Curtis *vs.* Strong, 4 Day, 51; Swift's Evid., 48-50; Mr. Christian's note to 3 Bl. Comm., 369; 1 Phil. Evid., 18; Commonwealth *vs.* Bacheler, 4 Am. Jurist, 79, note.) If the change of opinion is very recent, this furnishes no good ground to admit the witness himself to declare it; because of the greater inconvenience, which would result from thus opening a door to fraud, than from adhering to the rule requiring other evidence of this fact. The old cases, in which the witness himself was questioned as to his belief, have on this point been *overruled*. (See Christian's note to 3 Bl. Comm., 369, note 30.) The law, therefore, is not reduced to any absurdity in this matter. It exercises no inquisitorial power; neither does it resort to secondary or hearsay evidence. If the witness is objected to, it asks third persons to testify, whether he has declared his disbelief in God, and in a future state of rewards and punishments, &c. Of this fact they are as good witnesses as he could be; and the testimony is primary and direct."

And here again is additional illustration from the great work of Phillips on Evidence:

"After the incompetency of the witness from defect of religious belief is satisfactorily established by proof of his declarations out of court, he will not be permitted to deny or explain such declarations or his opinions, or to state his recantation of them, when called to be sworn. But he may be restored to his competency, on giving satisfactory proof of a change of opinion before the trial, so as to repel any presumption arising from his previous declarations of infidelity."

I do not wish to press this illustration too far. But it seems to me clear that, if you accept the declarations of a person as decisive with regard to his religious belief they must be accepted as equally decisive with regard to his political belief. An oath to support the Constitution presupposes political belief, as much as the oath itself presupposes religious belief.

Pardon me, sir; but I cannot refrain from astonishment that Senators, learned lawyers, should be willing to treat the oath to support the Constitution as an oath of *purgation*—an oath of *defecation*—an oath of *purification*—an oath by which a suspected person may cleanse himself—an oath by which an evil spirit may be cast out. Sir, it is no such thing. Such is not the oath of the Constitution. By that oath the accepted Senator dedicates himself solemnly to the Constitution. Sir, it is not an oath of purgation, as Senators insist, but an oath of consecration. It is to such an oath that may be fitly applied the words of the ancients when they spoke of the oath as "the greatest pledge of faith among men."

I do not wish to be carried off into technicalities; but since Senators have insisted that this oath is merely of purgation, I desire to add that, according to early writers, it is well known that there are two forms of oaths, one technically styled "the oath of expurgation," sometimes called the *ex officio* oath, by which persons were bound to answer all questions, even to the extent of accusing themselves or intimate friends. This oath was much used and abused in the days of Queen Elizabeth. At an earlier day it was administered to an Archbishop of York charged with murder; and no less than one hundred compurgators were sworn with him. The other is what is called the "promissory oath," which is the oath of the sovereign, the magistrate, the judge, the Senator. Such an oath is widely different from the oath by which a person clears himself from suspicion, or cleanses his name.

There is another oath, which is familiarly known by its peculiar name; I mean the *custom-house oath*. You all know something of this oath, which is taken hastily, without solemnity or question, and is now an acknowledged nuisance and mockery, against which people petition Congress. By such oaths, "sworn is the tongue, but unsworn is the mind." With such oaths as seed, surely perjury is the natural harvest. If Senators who have spoken in this debate can have their own way, you will degrade the solemn oath of the Constitution to the same class, and make it the seed of a similar harvest.

For myself, I am determined, so far as my vote or voice can go, that the oath shall mean something, and that it shall be kept solemn and above suspicion. It shall not be degraded to be an oath of purgation or a custom-house oath; but shall be in all simplicity—what it is regarded by the Constitution—an oath of office, in itself the pure and truthful expression of an assured loyalty. I say, sir, of an assured loyalty; not of a loyalty which is yet in question, which is yet doubtful, so that people testify against it. And where there is evidence seriously impeaching the loyalty of a claimant, he shall not, with my consent, be permitted to take that oath until the impeachment has been removed. Sir, I am not insensible to the attractions of comedy, when well performed on the stage; but there is a place for everything, and I am unwilling to sit in my seat here and witness the comedy that is now proposed. The Senate is to resolve itself into a theater, under the management of grave Senators; the Senator from New York, the Senator from Maine, and other Senators, and we are to see the play proceed. The claimant from Oregon will cross the floor, and under honorable escort approach the desk, take the oath, and kiss the book. The title of the play is borrowed from a forgotten old English drama, "Treason Made Easy; or, An Oath no Great Thing."

Permit me to say, that it ill becomes the Senate at this moment to do or to forbear anything by which the standard of loyalty can be lowered. If it justly expects loyalty from others—if it requires loyalty in its soldiers and officers—surely it ought to set an example of that loyalty in its own members. Toward itself, at least, it cannot be too austere in its requirements. Wherever about us disloyalty shows itself—whether in the Senate or in its lobby; whether already intrenched here, or struggling to enter in; whether planted at these desks, or still standing at the gate—we have one and the same duty to perform. We must inquire into its character; and if it be found unworthy of trust, we must chastise it or exclude it from the Senate. This is the least we can do.

Mr. McDOUGALL. I had hoped that this debate had nearly closed; and I rise in my place now simply for the purpose of expressing my astonishment at the course of remark of the Senator from Massachusetts. I regard his speech, the language in which he has couched it, and the sentiments he has expressed as containing a most unwarrantable assault upon a person who has no right to respond to him on this floor, and most unwarrantable for that. It is the gentleman's privilege here to express his opinions, it is true; but it seems to me the Senator might have clothed his assault in something like courteous language, and left out his denunciations, considering particularly the fact that the gentlemen whom he was assaulting had no privilege of responding.

Mr. SUMNER. Mr. President, I have spoken of the facts now before the Senate; and I at former times in this debate have stated that I did not wish to prejudge this case. I asked for an investigation into the facts; and the very remarks of the Senator who has just taken his seat are an all-sufficient argument in favor of what I have asked. The Senator says that I have used unjustifiable language with reference to the claimant from Oregon. What is the language that I have used that the Senator regards as unjustifiable?

Mr. McDOUGALL. That his purging himself, for instance, would be perjury. An assault of that kind ought not to be made here, in this Senate, or anywhere else, except upon very sufficient ground. The Senator had said in his place, with the papers before him, that he did not know how he should vote when the question should come before him.

Mr. SUMNER. I did not hear the first part of the remark of the Senator.

Mr. McDOUGALL. The Senator said that this oath of purgation would be perjury, in his judgment, on the part of Mr. Stark; so that he has judged him finally. The Senator said in his place, having the report of the committee before him, and all the facts presented to any Senator, that he had not arrived at a conclusion; that he would not make up his mind except upon full investigation. Now, with no other testimony—and I will say without any testimony; without anything that bears the color of testimony, such as is known in courts of justice—he has pronounced him as a man who, if he took the oath to support the Constitution of the United States, would be guilty of perjury.

Mr. SUMNER. The Senator has not stated my position accurately. I do not doubt his desire to do me justice. I certainly have no desire to do him other than justice. I said this: Senators have urged that the claimant should be admitted to take this oath in order to purge himself. I wished to expose the inadequacy of that suggestion. I wished to show that the oath to support the Constitution of the United States is not an oath of purgation. In exposing that, I repeated the language, "an oath to purge himself;" and I said, rather, if the argument on the other side is to hold good, an oath to perjure himself; and that I repeat. Sir, it will be just as I have said, because you have on your table there uncontradicted testimony tending to show that the claimant is not loyal to this Government; and therefore do I say that if now, without any investigation—that was my argument—without any inquiry, you allow the claimant to come forward to take that oath, having that testimony before you, you do allow him to come forward to perjure himself. I do not say that the claimant from Oregon will perjure himself. I have said before that I do not prejudge this case. I do not know that it will not be in the power of the claimant when this case comes up for inquiry, if the Senate allows it to be looked into, to show that all the testimony in regard to his loyalty is baseless; but there is the testimony—testimony tending to show that the claimant is not loyal to the Constitution of the United States. Therefore do I say, in the face of that uncontradicted testimony—and I pray the Senator from California to mark the limitation of what I say—in the face of that uncontradicted testimony, if you allow the claimant to come forward to take that oath, you allow him to come forward and take all the responsibilities which I have suggested.

Sir, I felt it my duty to make that suggestion, because I desire that the Senate should see precisely where they stand. I desire the Senate to be aware that if they undertake to say that in the face of numerous affidavits, vouched by numerous letters from the most respectable citizens of the State, solemnly declaring that the claimant has uttered disloyal sentiments to this Government; that, notwithstanding all that, he shall be admitted to go forward and take the oath to support the Constitution of the United States, I say the Senate solemnly make themselves parties to the disloyalty with which he is charged; and I go still further, and say that they undertake to enact a comedy. Sir, to it I do not wish to be a party. I enjoy a comedy. I like to sit on the benches and see the well-graced actor as he moves upon the stage; but I do not wish to see a claimant with such testimony against him as you have now on your table allowed to cross this floor and take the oath to support the Constitution of the United States, and the Senate declaring that it has no power at this moment to make any inquiry into the question whether that oath is valid or not. That is my answer to the remark of the Senator from California.

Now, again, I desire to say in all frankness, and I pray the Senator to accept my statement, that I shall approach the consideration of this question, if the Senate choose to go into the inquiry, absolutely uncommitted, without any final opinion formed upon it. I have not even carefully studied the actual evidence before us. I looked at it enough to see that, in the face of that evidence, it is impossible for this Senate to allow him to take that oath without saying that it regarded the oath as valueless, that it regarded perjury as of very little account, and that it was willing to adopt the title of the old English play, "Treason Made Easy; or, An Oath no Great Thing."

Mr. DAVIS. Having said a few words upon this subject when it was before the Senate on a former day, I feel myself somewhat constrained, in order to explain my vote, to add a few words upon the present occasion. I do not doubt that the Senate have the right to investigate the question of a gentleman's loyalty to the Government when he presents himself to be sworn in as a Senator; and that is the position which I maintained in the remarks that I made on a former day.

It has been said, Mr. President, by some of the members of the Senate, that there is probably as much evidence before the Senate upon the question of fact of the loyalty of the gentleman from Oregon now, as will be got before the Senate, and the whole of the evidence being before the Senate, it is as well prepared to act upon the question of

loyalty as a question of fact now, as it will be at any future time. Considering the remoteness of the locality whence the testimony must be obtained, I come to the conclusion, that all the facts and all the evidence bearing upon the question of the loyalty of the gentleman from Oregon that could be got before the Senate at the present session of Congress are now before the Senate. Now, the question with me is this: maintaining the right of the Senate to inquire into the fact of the loyalty of the gentleman, and to refuse to receive him, if they find beyond all reasonable doubt that he is so disloyal as to disqualify him from a proper discharge of his duties as a Senator, conceding that position of constitutional law, the point then arises upon the testimony now before the Senate, is it sufficient to establish the fact of his disloyalty so clearly, so conclusively to the minds of the Senate, as to authorize them to exclude him from his seat on this floor. I say, Mr. President, it does not satisfy my mind upon that proposition.

What is a Senator's loyalty? I might turn to the Senator from Massachusetts and ask him, what is his loyalty to the Constitution? If that question was propounded to half the lawyers of this Union, I doubt whether it would not be responded to largely that he was not loyal to the Constitution of the United States. What does loyalty to the Constitution mean? It means to support it in its principle as it is written; to uphold it. Well, sir, if I see the Senator from Massachusetts, or any other Senator here, willing to trample down the Constitution into the dust in some of its most important principles and provisions, would not that state of the case authorize me to come to the conclusion that he himself was disloyal to the Constitution, and more so than these *ex parte* illegal affidavits prove the gentleman from Oregon to be?

Mr. President, we had a case involving this principle before the Senate a few weeks ago; and in the discussion and adjudgment of that case, the principle seemed to be generally conceded, that an abstract opinion, however disloyal it might be, unaccompanied by an overt act, was not sufficient to expel a member from the Senate. That was my own proposition and my own principle, and I now adhere to it; I maintain it against all odds. A man to commit the crime of treason must perform an overt act. No opinions however disloyal to the Government; no opinions however treasonable to the United States, unaccompanied by an overt act, constitute treason. Sir, there must be action and overt acts to constitute treason; and short of overt acts with the intent to commit treason, there is no treason at all. I can take the resolutions of the gentleman from Massachusetts, offered upon this floor, and I can prove from them to the Supreme Court of the United States, or to any lawyer of ability and independence and integrity, that his opinions are more untrue and more destructive to the principles of the Constitution and the Government of the United States, or equally so, than any opinions attributed even by this *ex parte* proof to the gentleman from Oregon. The gentleman from Massachusetts will differ from me in my estimate of his loyalty to the Constitution; so probably will a majority of the Senate; I do not know; but whether he differs from me or not, that is my judgment of the relative state of the case between him and the gentleman who applies to be admitted to a seat on this floor as a representative of the State of Oregon.

Well, what does it prove? It proves that there may be a contrariety of opinion about such matters, and that as to the particular loyalty or disloyalty of different gentlemen, there may be a difference of judgment and of opinion. What is it that constitutes disloyalty? What is it that constitutes a sufficient amount of disloyalty to exclude a member from the Senate, either upon expulsion or when he applies to qualify as a member of the body? What facts amount to disloyalty? By what principles or definitions will you identify it? How will you ascertain it? I lay down this proposition with perfect confidence, that when a gentleman presents himself to the Senate, and asks to be admitted as a Senator upon this floor, and you seek to exclude him for previously declared opinions, you must make out the clearest, the most satisfactory and conclusive case against him. Indeed, I take a stronger position than that; I say that no amount of opinions, however definite and precise and strong, that may have been expressed, although they may be proven, not by *ex parte* affidavits taken from the enemies of the party who applies for admission, but by testimony taken according to the strictest forms of legal evidence, unless they establish overt action in connection with his disloyal and treasonable principles, would be sufficient to expel him or to deny him the privilege of taking the oath when he came with the proper credentials to represent his State as a member of this body.

The honorable gentleman from Massachusetts had better beware what measures he puts up here. He may make a sort of bed of Procrustes, and he may be called upon to lie upon that bed himself in the vicissitudes of senatorial and political parties. I remember that a few years ago there was another and antagonistic party in possession of this Government that were as haughty, as domineering, and as proscriptive as the gentleman from Massachusetts is; but a change has come over the country, and they have been thrown down from their seats of power. It may be so with him, and in a very short time, too, for there is much change in life, and especially in political life. I warn the gentleman to be cautious what sort of political rules and measures he puts up, lest he himself be made some of these days to submit to them, and he may find himself wanting in coming up to the measure that he prescribes.

Mr. President, I have said thus much in explanation of the vote that I intend to give. I am sorry that I said a word on a former day in relation to this subject. If I had not, and did not intend to vote in a manner seemingly different from the position which I then assumed, (though there is really no difference at all,) I should not now have said a word, but have silently voted.

Mr. COWAN. Mr. President, I have so far upon this case refrained from expressing any opinion at all, and I am very free to say that I have done so for the reason that I had no guide in the forming of such an opinion. If it is to be the rule of this body that men are to be expelled from it, kept out of it, by the mere caprice of the sitting members, I fear that we are in that position which has been so eloquently described by the Senator from Kentucky, where no one of us may know at what time the blow may fall on his own head. I had supposed that in all matters of this kind, where facts were to be ascertained and determined, tribunals were established by law for their ascertainment and determination; and that when the proper tribunal had found the facts, there was an end of it, and nobody else had a right to inquire further. A familiar illustration of this may serve.

When my brother KING, who sits at my side, is elected a Senator from New York, I take it that that establishes everything which is necessary in relation to him, except, perhaps, the questions of his age, how long he had been a citizen, and where he lived at the time. Certainly it would be a very singular objection if I were to observe here that he ought to be kept out because he was not a man of sufficient talent, genius, or learning. It would be equally absurd if I were to object on the score that he was not a man of good moral character. So, I take it, if I were to object on the score of his want of loyalty to the country, he would very properly say to me, "Sir, if you will attend to the concerns of Pennsylvania, it is more than likely that New York will be able to attend to her own affairs."

Here, in this case, the State of Oregon, through her constituted authorities, has appointed Mr. Stark a member of this body, and he proposes to qualify himself by taking the necessary oath. Now, what further can we require? It is not denied, I understand, that he is of proper age; that he has been nine years a citizen of the United States, and that he is at the present time, and was at the time he was appointed, an inhabitant of the State of Oregon. What further have we to do? Can we review the decision of Oregon upon the question raised here? Are we to determine Mr. Stark's capacity other than as to his constitutional qualifications. Can we say that he is not wise enough, that he is not religious enough, or that he is not loyal enough? To my mind, the thing wears an air of absurdity; and, as the Senator from Massachusetts delights in comedy, loves to see the great actors, while he sits upon the benches of the pit or parquette, the boxes or gallery, as the case may be, I should think he would have improved this comedy very much if he had moved, before we considered this case, that we should go into executive session, because it looks to me very much like sitting on the confirmation of Mr. Stark the same as though his name had been sent to us upon an appointment from the President.

If that is to be the rule of this body, if we are to inquire as to all these things which are *dehors* the Constitution, and which are unknown to the law, I should like some gentleman to answer the question, what is disloyalty? I know what treason is. That is a term known—well defined by the law; and when I am called upon to determine a case involving it, I have something to guide me. But what is disloyalty? Is it that a man does not feel kindly towards this Administration? Is it that he does not feel kindly towards our Constitution? What is it? Is it to consist in mere verbal utterances, without overt acts as a proof of it? I should like very much to hear the honorable Senator from Massachusetts, who talks so much about disloyalty, give us something like a legal definition of it, wherein it consists, how it is limited, bounded, and defined.

Mr. SUMNER. The Senator appeals to me.

Mr. COWAN. I do.

Mr. SUMNER. I have in my hand the report of the Judiciary Committee, containing a letter addressed to Hon. William H. Seward, Secretary of State, and signed by William H. Rector, superintendent of Indian affairs for Oregon, William C. Johnson, member of the State central committee, E. B. Comlon, Indian agent, A. B. Clough, Levi Anderson, Colburn Barrell, Henry Failing, John S. White, W. H. Bamhart, S. G. Reed, H. W. Corbett, chairman of the Republican State central committee, Simeon Francis, and Samuel E. Barr, being thirteen names in all; and all of these gentlemen in this paper addressed to the Secretary of State, make the following averment of their own knowledge:

"Mr. Stark, who is a resident here, and personally known to us all, has been for the past twelve months an ardent advocate of the cause of the rebellious States. He has openly avowed his sympathies with the South, declaring the Government disrupted, and openly expressing his admiration for the constitution of the confederated States, and advocating the absorption of the loyal States of the Union in the southern confederacy under that constitution as the only means of restoring peace."

And now the Senator asks me for a definition of disloyalty. To that inquiry I reply categorically precisely on the facts before us, and I say that if that statement thus authenticated by these thirteen citizens of Oregon be true, then is the present claimant a disloyal man; and further I say that those facts in every respect, beyond all question, beyond every peradventure, constitute disloyalty, disloyalty with regard to which there can be no question, and which if, when presented as it now is to the Senate, this body shall fail to sit in judgment upon, it will solemnly stultify itself before the world. That is my reply to the Senator.

Mr. HOWARD. If the gentleman from Pennsylvania will pardon me, I will take leave to call his attention to some further evidence in the case.

Mr. COWAN. Certainly.

Mr. HOWARD. I allude to what is to be found on page 7 of the same report, in which a sworn witness testifies as follows:

"That in the month of February, 1861, he heard said Benjamin Stark make use of the following language in substance at the post office in the city of Portland: 'If there is to be any war between the North and South all my property is for sale at fifty cents on the dollar, and I will go and help the *South* fight. The palmetto flag is my flag. The southern confederacy is the only legal government in existence; that the United States Government is broken up; that Jeff Davis is fighting in a good cause, and it will be impossible to defeat him.'"

Mr. CARLILE. What is the name of that man?

Mr. HOWARD. Wesley C. Hull.

Mr. COWAN. Mr. President, I asked for an egg and received a stone. I wanted a definition; I was treated to an example. Now, I am just as wise as I was when I started. What is the definition of the word disloyalty—what does it mean? Does it mean openly talking against the United States? If that is the meaning of it, say so. Or does it mean offering to sell your property for half price?

Mr. HOWARD. Offering to fight.

Mr. COWAN. Does it mean, then, in an offer to go and help the enemy to fight? All I want is the definition; I want something to guide me. I have

no particular leaning one way or the other here; but I do think that when a man is to be kept away from his rights, and deprived of them, he should be deprived by law, and that that law should be written down; that he should know it; that everybody should know it. You cannot deprive him of a right unless you do it by law; nor can you punish him unless you do it by law. Now, where is there anything in the world, in the shape of a law, which has made this kind of speaking, or this kind of offering, unlawful? Everybody knows it is exceedingly imprudent, and mischievous, and unfortunate—nobody denies that; but still the question remains, whether it has ever been declared unlawful, and whether we are to declare it so now. If we are, I am as willing to abide by it as anybody; but I want it definitely written down, so that we can be guided hereafter by it.

In other words, Mr. President, I do not want your seat here, nor mine, nor that of any other member, to depend upon the caprice of a majority of my fellows. You, sir, are in the same position, I suppose, that we are. After the whole people of the United States have decided upon your qualifications, and you come into this Senate to take your seat upon the chair there, are we to arrogate to ourselves the right to review their decision and determine upon your qualifications, not constitutional qualifications, but such qualifications as we in our wisdom may fancy you ought to have? Surely this never happened in any deliberative assembly before. Surely it must be the offspring of these excited times. And if there is anything we should guard against, if we wish to preserve the integrity of the country, and the integrity of its institutions, we ought to avoid these excessive measures, these new doctrines.

Mr. SUMNER. Does the Senator want an answer?

Mr. COWAN. Yes, sir.

Mr. SUMNER. The Senator put a question; he asked whether it would be for the Senate to sit in judgment on the qualifications of the Vice President when he comes forward to take the oath. Does the Constitution make the Senate the judge of the qualifications or of the election of the Vice President? It makes the Senate the judge of the qualifications and of the elections of its own members, and it is in the exercise of that power that I insist that the Senate must, at this moment, sit in judgment on the claimant from Oregon.

Mr. COWAN. Then I answer the honorable Senator from Massachusetts, by telling him that the qualifications of a Senator of the United States are set forth in this book, (the Constitution,) and that he has no right to add a single jot or tittle to them one way or the other; nobody anywhere on the earth has that right. These qualifications are put down in this book. Not satisfied with the constitutional qualifications, he proposes to go outside, and set up his own standard by which to measure those who come here to take seats.

Mr. McDOUGALL. The Senator will allow me to suggest that, in judging of the qualifications of Senators, the Constitution simply means that the Senate shall ascertain the fact whether they have the qualifications prescribed by that instrument. The Senate, in their authority to judge of the qualifications of a member, in the first instance, may inquire into the fact whether he has the constitutional qualifications, but no further.

Mr. COWAN. I suppose that since the formation of the Constitution down to this present speaking, nobody has ever had a doubt of the meaning of the Constitution in this respect. We are the judges of the election of the members of this body. Why? Because we are supposed to be impartial. If it be questioned as to which of two men has a majority of the Legislature of Wisconsin, for example, we decide. We are the judges of the election; and, I suppose, from a parity of reasoning, we are also the judges of an appointment by the Governor. Beyond that, we are the judges of the qualifications of the Senator—not his qualifications as to intellect, not his qualifications as to morality; not his qualifications as to any particular religious or political belief, but his constitutional qualifications. Somebody may get up and say "He is too young; he is not thirty years of age;" we try that question, and, therefore, we are to judge of it. Another may object and say "He has not been in the country nine years." Albert Gallatin, from my neighborhood, was once prevented from taking his seat in the Senate because at the time he offered himself he had not been nine years a citizen of the United States. He came from Switzerland. So, too, if it be objected that, at the time of his appointment, he was not an inhabitant of the State he proposes to represent, we are to try that. But beyond the subjects mentioned in the Constitution, we have no authority whatever; and to assume or to attempt to assume authority outside of that is to strike a blow at the Constitution, and a worse blow than gentlemen who are continually lauding it in their speeches suppose admitting men of doubtful loyalty would be.

Mr. DOOLITTLE. Before my honorable friend concludes I desire to ask him a single question, as this subject may have been under his consideration, he being one of the committee. My question is, whether, if the gentleman from Oregon be admitted to be sworn, and if the fact be that previous to his being sworn in he has been a traitor to the United States, can we, after he is sworn, then raise a question and expel him from the seat because he has been a traitor before we admit him, or must we only expel him for some act of treason or disloyalty committed after he has been admitted as a Senator?

Mr. COWAN. I suppose I am entitled to the same privilege that a judge would be entitled to under these circumstances, and that I may be allowed to say that when that case arises I will decide it. It is not here yet. It is enough for us to determine that which we have in hand. The question here, as I think, is whether Mr. Stark has the proper constitutional qualifications to be a Senator; whether he is regularly appointed; whether he is willing to take the oath to sustain the Constitution of the United States? If it shall turn out next week or next year that he has been at some time heretofore a traitor, a murderer, or what not, I have a very simple way for solving that question. There is the law, there is the court; why not indict and try him? We may punish a member here for disorderly behavior, if he becomes so troublesome as to prevent the transaction of the ordinary business of the Senate. With the concurrence of two thirds, if he becomes so bad that punishment will not effect his reformation, we have a right to expel him. I am aware that that last clause has been declared a substantive one, and was taken advantage of in the Senate, at a very early period, to expel a member for other improprieties than those properly falling within the phrase "disorderly behavior."

I am rather inclined to think that it was improper at the time, and a stretch of the meaning of that section which may hereafter occasion difficulty, if it be persisted in. We should stand upon the simple rules of the law as we find them. I suppose a Senator has no more immunity for his crimes than anybody else. If one of us should commit a crime, I do not see any reason why we should not be taken into court and treated precisely in the same way as the humblest citizen, and I think that is the right way, and then we avoid these questions. If, on the other hand, we do not commit crime, if we only do those things which by the common consent of everybody all of us have a right to do, we are not amenable. The law does not pretend to punish everything that is wrong; but it makes the just allowance that all have failings and imperfections, nay, even sins and transgressions—and by the governmental compact these shall not be accounted crimes or misdemeanors, and no man is to be arraigned for them. I suppose a Senator has not any more immunity than anybody else, and that he has the same right to the exempted offenses that the people outside have. If we violate the law, and pass the boundaries fixed by it, then punish us as other people.

Mr. WILMOT. Mr. President, I suppose it is proper to come back again to the question, which I understand to be this: The gentleman from Oregon presents himself here claiming a seat as a Senator; he is met upon the threshold by representations from very respectable sources in his own State, declaring his disloyalty. The point is, whether we shall admit him without investigating that matter. It may be proper to attempt a definition of disloyalty, as it is called for by my colleague. If I shall say that it is unfaithfulness to the country and to the Constitution, he may require a definition of that; but substituting the word "unfaithfulness" for "disloyalty," he understands it—every gentleman understands it. It is infidelity to the country, sympathizing with and adhering to and supporting its enemies, not by overt acts which constitute treason, but by open expressions of sympathy and adherence and support. We are not now trying the question of the loyalty of the Senator from Oregon; we are merely determining when we shall enter upon that question. My colleague, and other Senators here, say they will enter upon it, if ever, after he shall have been admitted to a seat; then they will try the question of whether he be a loyal man or whether he be not. If I understand, that is the position they take.

Now, sir, would it not be a farce to admit to a seat in this body an acknowledged disloyal man; a man that every one of us was ready to pronounce disloyal, unfaithful to the country and to his obligations as a citizen; to permit him to be sworn, and then to turn him out? It most certainly would, in my judgment. There can be no reasonable objection to trying the question of his loyalty or disloyalty here when he presents himself. This is not like the House of Representatives. That is a body that is disorganized every two years; for lengthy periods of time, it has no organized existence; and if every member of the House of Representatives were to be met by the same objection, and it were first to be tried, the House could never be organized. This body, however, is in permanent organization; it is never disorganized, and hence the distinction between the action of the two Houses is a clear one, and a very proper one. A gentleman presents himself here to be sworn as a Senator; he is met by representations of his disloyalty. Now, suppose the claimant to this seat were admitted to this floor, and he should, as a Senator in this body, assert what these respectable gentlemen say he asserted in Oregon, would you permit him to continue to sit here? I imagine not; I imagine that not a member of this body would permit him to sit here longer under such circumstances. The simple question is, when will you inquire into the fact? We do not by the vote on the pending proposition pronounce him disloyal; we know nothing about it, except from the representations which are made to us; and we propose now, in the very outset, to inquire into the fact; and if it turns out to be true that he is disloyal, that he is unfaithful to the country and to the Constitution, we then propose to refuse him a seat in this body. Certainly, it seems to me entirely proper that we should do so. If he were admitted here, and his disloyalty were made perfectly manifest and clear, if he declared here in the Senate the sentiments which it is represented that he proclaimed in Oregon, most certainly the Senate would expel him; there can be no doubt of it. Then are we to admit a man for the purpose of going through the form of his expulsion? My colleague says we do not try the religious qualifications of a man; we do not try his intellectual qualifications——

Mr. COWAN. Will my colleague allow me to ask him whether there was any motion made in the Senate to expel Jefferson Davis, Robert Toombs, and divers other gentlemen who talked infinitely more mischievous talk than all that is alleged against this gentleman?

Mr. WILMOT. The Senate then had really no power to enforce any such expulsion.

Mr. COWAN. It seems to me that it was the duty of somebody to try.

Mr. WILMOT. My impression is that some motion was made with that view; but it matters not. When the Senate was powerless to carry out its purpose of expulsion, the fact that it was not done furnishes certainly no argument that the Senate has no power to do it. Are we to be the victims of any and every man's disloyalty on this floor? Is every man here privileged to rise in the Senate and declare that in his judgment ours is not a Government, that the true Government of this country is the government of the confederated States, that Jefferson Davis is its true President, and that he stands ready to sacrifice his life and his property in the maintenance and support of that government? Is any man at liberty to stand up here and say that? If he is I have misconstrued entirely the organization of this body and the duty of its members.

Now, sir, as to the constitutional test. My colleague says that we do not try the intellectual capacity of the candidate. Surely not; neither at this

nor any other time do we try it; we are never privileged to enter upon it. Nor do we subject him to any religious test either now or at any other time. For aught I know it may be made perfectly clear that the Senator from Oregon is entitled to his seat; but what I contend for is that if he be disloyal, if he be not entitled to his seat, or if there be any question as to this point, we may now enter upon the inquiry of his loyalty or disloyalty; that this is the proper time; that it would be a perfect farce to admit him to a seat on this floor, then institute an inquiry as to his loyalty, find out that he was disloyal, and then expel him.

Mr. CARLILE. I do not intend, Mr. President, to detain the Senate by anything like an extended argument in this case. After the able and unanswerable argument addressed to the Senate by the Senator from Wisconsin [Mr. HOWE] the other day, it would be, in my opinion, a work of supererogation. But, sir, I desire, after having given mature reflection for the government of my own vote in this matter, to say that I have arrived at the conclusion that the Senate has no power to do that which we are called upon by gentlemen who oppose the qualification of the Senator from Oregon to do. It is a question, in fact, to assert the power of the Senate to exclude from representation any State that may not choose to select a representative who may be agreeable to a majority of the Senate. That is the naked power that we are called upon to assert—one, I venture to say, that would do more to overthrow the character of our Government, and destroy the rights of the people and of the States under the Constitution, than any single act it is in the power of this body to perform. And in order to sustain such a proposition, gentlemen resort to cases, which they put upon the spur of the moment, that never could occur to embarrass the Senate. The question was put by the Senator from New Hampshire, [Mr. CLARK,] the other day, when I had occasion to submit a few remarks to the body, what could be done if his State should be so unfortunate as to select as a representative here a horse-thief, not knowing him to be one at the time the selection or appointment was made. Sir, I take it for granted that that State of my friend has laws upon her statute-book which would enable her to take from this Chamber and try one who had been guilty of such an offense, and punish him, and thus relieve her and the Senate from being disgraced by his remaining longer upon this floor.

Mr. CLARK. Let me say to the honorable Senator that he might be taken and punished, but that would not vacate his seat.

Mr. CARLILE. When he is suffering the punishment visited upon him by his State for the violation of her laws, he is not here, according to the argument of the gentleman from New Hampshire and those who agree with him, to embarrass the Administration in the conduct of the Government, or to give aid and comfort to any of the enemies of the Government.

Mr. TRUMBULL. Will the Senator from Virginia allow me to ask him a question?

Mr. CARLILE. Certainly.

Mr. TRUMBULL. Take the case which the Senator puts; suppose that a person elected a Senator was indicted for larceny, and tried and convicted before reaching his seat in the Senate, and sentenced to imprisonment, and therefore was not here to take his seat, which he would let him have under his doctrine if he were here——

Mr. CARLILE. No, sir.

Mr. TRUMBULL. If he were not here, I should like to know if the State of New Hampshire is to go unrepresented while he serves his time in the penitentiary?

Mr. CARLILE. If I am not mistaken, I understood the Senator from Illinois to state the other day that Congress had passed a law excluding from office those who were convicted of such offenses.

Mr. TRUMBULL. Not such offenses, but some offenses.

Mr. CARLILE. If there is no law excluding persons from seats in this body for the commission of crime, and you can indulge the violent presumption that the authorities of the States of this Union would select such persons to represent them here, I think it is high time that the Senator from Illinois, as chairman of the Judiciary Committee, should introduce such a bill and have it enacted into a law.

Mr. SHERMAN. With the permission of my friend, I will inform him that it has been settled in England, it has been settled in almost every deliberative body I have ever read of, that that body may expel one of its members for a crime committed ten years ago. The proposition which Senators are now discussing, is not a proposition that is correct. It has been settled in England, in the House of Commons and House of Peers, it has been settled in almost every deliberative body, that that body may expel a member for an offense committed years before his election. There are many precedents of the kind which I can show.

Mr. CARLILE. Mr. President——

Mr. TRUMBULL and Mr. McDOUGALL rose.

Mr. CARLILE. I must object to these interruptions. I do not intend to detain the Senate but a moment or two, and while I am disposed to indulge all courtesy to every Senator, I claim at least the benefit of a few moments that I intend to occupy for myself.

The Senator from Wisconsin [Mr. DOOLITTLE] put to the Senator from Pennsylvania, [Mr. COWAN,] a question as to our power to expel the Senator from Oregon after his admission, for anything done before his appointment. I say the "Senator from Oregon," for I maintain that he is a Senator to all intents and purposes, just as much as he will be after his qualification. It is merely made necessary by the Constitution to enable him to enter upon the discharge of the duties of his office as a Senator, that he shall take an oath to support the Constitution, and that is the constitutional test to determine his loyalty. Suppose, says the Senator from Wisconsin, [Mr. DOOLITTLE,] he shall be proven to be a traitor? Then, sir, he will not sit in the Senate long, and he will be tried, I trust, and hung under the law as a traitor, so that there can be no danger to the institutions of this country from the case put by the Senator.

But, sir, look at the monstrous proposition that is contended for here. There are thirty-four States in this Union, sixty-eight Senators; thirty-five is a quorum; eighteen is a majority of a quorum; and you put it, by the establishment of this precedent, in the power of eighteen Senators to exclude thirty-three from seats upon this floor. Well might the Senator from Wisconsin [Mr. HOWE] remark, that there is not a State of this Union to-day that would incorporate the provision contended for by Senators on the other side of this question into any constitution that they would adopt for their government. One third of this body goes out every two years. Eighteen Senators remaining can forever perpetuate their power, and exclude the third who have a right to come in, under the monstrous doctrine contended for here, in this the year 1862, after this body has been in operation near three quarters of a century.

What is loyalty, has been well asked. What is disloyalty as gentlemen contend for it here? Is it difference of opinion as to the best means to be employed to put down this rebellion? Is it as to the propriety of using force? Is the loyalty of Horace Greeley questioned, and was he not among the first of those who control and mold and fashion public opinion in this country to advocate the allowing the seceded States to go, and the recognizing their separate existence? While I do not desire to impeach the motives of any one, while I have no right to impute improper motives to any one, yet judging from gentlemen's actions, if you allow me to judge what is loyalty, I would assert this power, if I believed it to be necessary in other instances than the one now before the Senate. Judging from the haste with which gentlemen press bills that are calculated to destroy forever the Constitution of the land, to tear down the work of Washington and his revolutionary compatriots, to blot it out of the memory of man, if I were to be permitted to say who gave the greatest aid and comfort to Jeff Davis and his rebellious gang, whether it were the man in his army with arms in his hands, or the Senator in his place who advocated such propositions, I would say the Senator gave him much the greatest aid and comfort.

Mr. WILKINSON. I should like to ask the Senator a question.

Mr. CARLILE. Certainly.

Mr. WILKINSON. The telegraph announces that Governor Harris, of Tennessee, proposes to call the Legislature of that State together for the purpose of permitting them to repeal their ordinance of secession. Suppose Governor Harris should send General Pillow here to to fill the place of Senator Nicholson, who has been expelled, would the Senator from Virginia vote to admit him?

Mr. CARLILE. The Senator from Wisconsin [Mr. HOWE] answered that question well the other day.

Mr. WILKINSON. I asked it of the Senator from Virginia.

Mr. CARLILE. If General Pillow should be sent here, we will try and hang him as a traitor; he will not be allowed time to present his credentials to this body; he will be visited, before he reaches this capital, I trust, by the marshal of the United States, as the Senator from Wisconsin remarked.

Mr. WILKINSON. That does not answer my question. I should like to have the Senator from Virginia answer whether he would allow him to take a seat.

Mr. CARLILE. I say, sir, that I cannot conceive such a proposition will ever be presented to the Senate for its consideration. Gentlemen, I maintain, cannot, by any just argument, submit propositions here that violate all our ideas, not only of honesty, but of common sense.

Mr. WILKINSON. That does not answer my question. I should like to have the Senator say——

Mr. CARLILE. If that does not answer the question of the Senator, I confess that I am not capable of answering it. If the Senator will sit down and at his leisure put questions and suppose cases which never can arise, he must answer them for himself.

Mr. WILKINSON. Mr. President——

Mr. CARLILE. No, sir; I do not intend to be interrupted any further; with no disrespect whatever to the Senator, however. What is loyalty? I would inform the Senator from Massachusetts, for whom I entertain all kindness personally, but from whom I differ *toto cœlo*, that I have now before me a Republican paper, as I am told it is—a paper published in the State of New Jersey, and I have fourteen others, making fifteen altogether—the Senator has referred to thirteen affidavits; I have fifteen papers—Republican papers—edited in northern States, charging, and if I were a sworn juror I might say proving, disloyalty in the Senator, not only by the utterance of sentiments, but by acts; and one of the acts cited is in relation to the proposition which he gravely submitted in his place for the consideration of the Senate the other day, to blot out of existence eleven of the States of this Union. Sir, I shall take occasion, if ever that proposition comes before the Senate to be discussed, to speak of it at length; I shall not detain the Senate in regard to it now.

But, sir, the test of loyalty prescribed by the Constitution—the test of fidelity—is the oath to support the Constitution, which the instrument requires shall be taken by a Senator before he enters upon the discharge of the duties of his office. The Constitution having fixed the test of loyalty, the Constitution having made that the standard, I maintain that the Senate has no power to go beyond it or without it. Since the Senator from Massachusetts the other day asserted that loyalty was one of the constitutional qualifications, I have carefully read the Constitution, and I failed to find it anywhere in that instrument; but I do find that to which the Senator referred, the requirement to take this oath to support the Constitution, which the founders of the Government believed in their wisdom was the test of loyalty, the test of fidelity; and which, when taken, precluded this body from any further inquiry or investigation as to that point. If that oath is violated by an act inconsistent with it thereafter; if that oath is violated by that which is disloyal, that which is treason, that which goes to infidelity, then it is in the power of the Senate, under the other provision of the Constitution, to exclude him from his seat on this floor by expulsion.

The Senator from Pennsylvania [Mr. WILMOT] says that loyalty is unfaithfulness to the Constitution. Who is to judge of what is unfaithful to the Constitution, and who are unfaithful? It is a question that is strongly connected with our party associations and our party education. It may be that the Senator's party would consider princi-

ples and notions such as were entertained by the party to which, for the greater portion of my life, I was attached, when parties were in existence, unfaithful to the Constitution, while, if I were to be allowed to express an opinion and had a right to do so, I should be bound to say that I have discovered in the action of that Senator, in days gone by, what, in my judgment, was unfaithfulness to the Constitution, but which he, no doubt equally honest with myself, believed to be conformable to the Constitution.

But, sir, never, never can I consent with my vote and by my action to declare that the States of this Union shall hold subordinate to the pleasure of the Senate their right to representation upon this floor. No such provision, no such clause was ever put into the Constitution, and I venture to say that none such would ever have been put in any constitution adopted by the wise, great, good, and patriotic men who formed our present Constitution. He would best serve his country now in this the hour of her trial, in a legislative capacity, by doing (at the risk of all that is dear, at the risk of life itself, sacrificing even that if it is necessary,) that which is best calculated to preserve intact the Constitution of the country, the rights of the States, and the liberties of the people under it.

Mr. SHERMAN. The importance of the precedent we are about to establish will probably excuse me for detaining the Senate a few minutes in expressing my conclusions, and some of the reasons which have led me to them. The question is not, in my judgment, whether Mr. Stark is a disloyal citizen; the question is not whether he has committed a crime; but the question presented to us is, shall he, upon presenting his credentials in due form as a Senator from Oregon, be sworn in, or can any Senator, upon producing affidavits and testimony tending to prove his disloyalty, exclude him from being sworn? That, it seems to me, is the only question. The Constitution of the United States provides that every person holding a civil office shall be sworn. Every member of the Senate and House of Representatives must be sworn to support the Constitution of the United States. The Constitution does not say when, where, or by whom this oath shall be administered. So far as the Constitution is concerned, Mr. Stark might be sworn in Oregon before a judicial officer; he might be sworn at any time after his election or appointment. As to most civil and military officers, this is usually done by any magistrate having power to administer an oath. But the law of 1789 explains somewhat the provision of the Constitution. It declares that—

"The President of the Senate, for the time being, shall administer the said oath or affirmation to each Senator, who shall hereafter be elected, previous to his taking his seat."

This, then, prescribes the person who shall administer the oath, "the President of the Senate;" the time when, "after he is elected, and before he has taken his seat." There is nothing in the law, there is nothing in the Constitution to require a Senator to be sworn in open Senate. He may go into your chamber, sir, and you may administer the oath to him, and you may furnish the evidence of that to the Secretary. The administering of the oath is not a formal ceremony. The day is not fixed; the place is not fixed. The person is fixed by statute, and not by the Constitution. Now, the question arises, when a Senator duly elected, with all the qualifications prescribed by the Constitution, comes before you, and asks you to administer the oath, which by law you are compelled to administer, can a Senator of the United States, upon producing certain *ex parte* affidavits, prevent that person from being sworn and taking his seat? And can a majority of the Senators prevent you from complying with your legal duty to administer the oath? If so, a majority of the Senators who are present at any time can prevent any newly-elected member from taking his seat. Now, let us look at the argument of inconvenience, and I wish the attention of the Senator from Massachusetts especially to this.

We have here now but little more than a quorum of Senators. At the expiration of this Congress we shall have less than a quorum, less than the number which the Constitution declares shall perform any business; you will have then less than thirty-five members on this floor after this Congress expires if the seceding States are not in the mean time represented. May a bare majority of that body of Senators, only thirty, for only thirty will survive this Congress, decide whether or not they shall have any future associates in this body? May they exclude forever all the States that are not represented at that time? Suppose at the end of this Congress, or the beginning of the next, a Senator presents his credentials in due form; the Senate would then be composed of but thirty Senators holding over, less than a quorum: shall a majority of that number, less than a quorum, exclude all the newly-elected Senators, on the suggestion of any one, supported by *ex parte* affidavits, that that person is disloyal, unfriendly, dangerous to the Government?

Take the case of the House of Representatives, because the same constitutional provision applies to the House of Representatives as to the Senate, the Constitution declaring in each case that before a member takes his seat he shall swear to support the Constitution. Suppose objection is made to the loyalty of a member of the House of Representatives, when he is about to present himself for the oath, who shall try it? It is customary in the House of Representatives for the Representatives from Maine first to step up to the Speaker's desk and take the oath. Suppose some one should object that a member from Maine was disloyal, that he had said so and so, who would try the question of his loyalty? It seems to me that the argument of the Senator from Massachusetts, if he will only look to the practical, logical effect of it, would exclude any man that any Senator might choose to affirm was not loyal, and he might support that affirmation by *ex parte* testimony. I ask him if that would not be the practical effect of it in the House of Representatives?

Mr. SUMNER. The Senator puts a question. I answer him frankly by reading three lines of the Constitution of the United States, which I submit are a complete answer to everything he has said.

Mr. SHERMAN. I will hear them, but no doubt they are familiar.

Mr. SUMNER. "Each House shall be the judge of the elections, returns, and qualifications of its own members."

Mr. SHERMAN. Certainly.

Mr. SUMNER. "Each House." What is "each House?" It is a majority of each House. What are they authorized to do under the Constitution? To sit in judgment on the election of each member; to sit in judgment on the return of each member; to sit in judgment on the qualifications of each member. The Senate will bear in mind that under the Constitution that power is given to a majority of the House. The argument of the Senator is that great inconvenience will come if the Senate undertake to sit in judgment on the loyalty of a claimant for a seat; and why? Because, says he, that loyalty will be passed upon by a majority. But does not the Constitution of the United States provide that all these important matters are to be passed upon by a majority? Is the will of the Senator from Ohio wiser than the Constitution? Will the Senator from Ohio say that great inconvenience is to come in the Senate and House of Representatives simply from carrying out the Constitution of the United States? Further, I have argued from the beginning, and I still insist that among the qualifications under the Constitution of the United States is loyalty, and I insist that it is first and foremost among the qualifications, simply because the Constitution of the United States requires that every person before he can be an officer under it shall take the oath to support it. Therefore, that qualification, the qualification of loyalty, I say, is placed by the Constitution, expressly and solemnly, under the safeguard of an oath, and each body is to watch and see that that qualification is completely maintained.

Mr. SHERMAN. The Senator has repeated again what he said before, at least two or three times, yet he has not answered my question, and I do not intend to allow him to evade it. *When* shall the House of Representatives judge of the qualifications, elections, and returns of its members? When shall the Senate judge? Shall the House do it when they are in a confused, disorganized mass? If so, who shall vote on the question of the qualifications, elections, and returns? There is the point. I say that the Constitution contemplates that the Senators and members, after having been elected, shall be sworn in upon the faith of the papers presented, showing a *prima facie* case. They must be sworn in, and after they are sworn in the organization is complete, and then each House may judge of the elections, qualifications, and returns of its members; a majority of each House may then pass upon each case. But if the doctrine of the Senator from Massachusetts prevails, then thirty members, at the expiration of this Congress, may judge whether there shall ever be any other Senators of the United States; and the House of Representatives might be entirely disorganized. Sir, there is no practical way but to give due credit to the credentials of a member, and then when his right to a seat is disputed, to try that dispute in the proper mode. I dislike disloyalty. The evidence here has made a serious impression on my mind against Mr. Stark, probably as serious as on the mind of any one in the Senate; but I am not willing to adopt a principle which will disorganize Congress and give to a small minority a dangerous power, which might almost overthrow the Government itself.

Undoubtedly the Senate can protect itself against persons who would subvert the Government they swear to support; but I respectfully submit if this cannot be done directly, without seeking to do it under cover of the right to judge of the election, returns, and qualifications of your members. You admit that Mr. Stark was duly elected, or appointed; that the returns or credentials of his appointment are in due form, and that he has the qualifications prescribed by the Constitution. The Constitution having prescribed the requisite qualifications, you cannot add to them. It has frequently been decided that a State cannot, even in her constitution, add to them. Now, then, is there no other way to deal with a disloyal person except to add to the prescribed constitutional qualifications of a Senator the vague, uncertain, undefined one of loyalty? It seems to me that the Constitution points out a plain, simple way—we can expel a member. When such a motion is made, the evidence of his disloyalty becomes material. I feel bound to say, that upon the face of the papers, as they now stand, unexplained and uncontradicted, I would pronounce Mr. Stark disloyal. I cannot read the testimony of these *ex parte* witnesses, giving their statements full credit, without the deepest conviction that he is disloyal. But, sir, we are bound to give him a trial—a fair trial. We cannot condemn him on *ex parte* testimony, especially in the face of his solemn denial. We must give him an opportunity to cross-examine these witnesses, to show the mitigating circumstances—to explain or extenuate. To refuse this would be to deny him a privilege secured to the meanest criminal. Can we, in the mean time, give such effect to the accusation as to exclude him from his seat? Can we deny to Oregon the right of representation while her duly appointed Senator is pursuing his defense? Shall we adjudge him and punish him as disloyal, and exclude him until he has a chance to prove his innocence? This we know he cannot do without sending to Oregon. If the Senate pursue this course, his term will expire before he can have a fair hearing; so that a simple allegation of disloyalty, founded upon *ex parte* testimony, disputed by him, will have the effect not only to deprive him of his high office, but also to deprive Oregon of her constitutional representation here. Surely the Senate will not commit this act of injustice, when the power of expulsion is ample, plain, and always within your acknowledged power.

Let him take his seat; let him take the oath, administered either here or in your ante-chamber, wherever you please, Mr. President, because the law does not even prescribe the place where the oath shall be administered. Then allow him the usual facilities for his defense, and if he fails in making it, expel him. The Senator from Minnesota put a question to the Senator from Virginia with great confidence, as if it was conclusive, suppose Pillow should be appointed by Governor Harris, and come here as a Senator: what will you do with him? I will tell the Senator. As soon as he is appointed, and by his appointment becomes a member, I would expel him, even before he could come here and take the oath which the law requires him to take.

Mr. WILKINSON. I would ask the Senator whether we could expel a person from the Senate who was not a member of the Senate?

Mr. SHERMAN. When a person having the

legal qualifications is appointed, *he is a member of the Senate;* he franks documents; he is recognized uniformly by all the organs of the law as a Senator. From the 4th of March, when your term legally begins, you are a Senator of the United States, although the Senate may not meet for a year afterwards. At each successive Congress members are elected whose office takes effect from the 4th of March, and yet the House of Representatives does not meet until the first Monday of December following. I ask you whether in that *interim* the person elected is not a member of Congress? Certainly he is. You pay him as a member of Congress from the 4th of March; you pay him for time which expires before he is sworn. His oath does not fix the commencement of his office. The oath must be administered to him before he can take his seat and discharge his duties here; but he is still a Senator or a member from the constitutional period at which his office commenced. This doctrine is laid down in Jefferson's Manual, in all the books on parliamentary law, and has been so repeatedly decided in England.

Mr. DOOLITTLE. I would inquire of my honorable friend if the Senate did not in the case of LANE decide the other way?

Mr. SHERMAN. I think not.

Mr. DOOLITTLE. The Senate decided that Mr. LANE was not a Senator until he came here, and was qualified and took his seat; and therefore his being appointed a brigadier general after his election, and before he took his seat, could not disqualify him.

Mr. SHERMAN. That was not the proposition decided, as I understand it.

Mr. DOOLITTLE. That is the precise question that was decided.

Mr. WILMOT. I should like to ask the Senator from Ohio a question.

Mr. SHERMAN. I trust not too many. I say there is no difficulty about this matter. Gentlemen have attempted to raise a great many difficulties. It has been asked, "Suppose Floyd should come here: what would be done?" I say it is for this body to protect itself. The Senate may, by a two-thirds vote, expel any member, with or without cause. It is an arbitrary power given to us for our own protection. We can expel a member for an offense that he has committed ten years before. We can expel him because he is a horse thief, to take the strong case which has been put in the debate. In England, it has been done a dozen times. The only difference between our law and the English law in this respect is, that the House of Commons may expel a member by a majority; we cannot except by a two-thirds vote. If you will look at the historical incident connected with the provision of the Constitution, you will know the cause of the difference. Just about the time our Constitution was made, the House of Commons used the power to expel in an arbitrary way. It was necessary to give every political body the power to expel its members in order to preserve its dignity and character; but in order to restrain that power, the framers of our Constitution wisely limited it to two thirds of the body, so that a mere bare majority should not for any bad feeling or hatred or sudden impulse expel a member; but the Constitution gave to each body the power, by a two-thirds vote, to expel a member, and without limitation. There is no limitation to the power. It is laid down in May's Parliamentary Practice, a recognized book on parliamentary law, that—

"Expulsion is generally reserved for offenses which render members unfit for a seat in Parliament, and which, if not so punished, would bring discredit on Parliament itself. Members have been expelled as being in open rebellion, as having been guilty of forgery or perjury, or frauds and breaches of trust, of misappropriation of public money, of conspiracy to defraud, of corruption in the administration of justice, or in public office, or in the execution of their duties as members of the House, of conduct unbecoming the character of an officer and gentleman, and of libels and various other offenses committed against the House itself."

There is no limit to the power to expel. Whenever a man by his personal conduct becomes so offensive to the body that he brings discredit upon it, it is the duty of the body to expel him. It has been done over and over again in England. The House of Commons have expelled for all these causes.

But it has been said here in argument, and it has seemed to be assented to, that this body cannot expel a member for things that occurred before his election. That is untrue. It has been done in many cases, and a celebrated case, that is familiar probably to many of you, is the case of Robert Walpole. Robert Walpole was expelled for corruption, an offense committed three years before his election. I have the Journal of the House of Commons here before me, and as it is a very interesting case I may point out the bearing of it. Robert Walpole was secretary of war in 1707, and was continued until the change of Administration, which I believe was in 1710. It seemed that in 1707 Walpole had a corrupt collusion with some one, and retained for himself, or rather for a friend of his, an interest in a contract made in the war office. This was in 1707. In 1710 there was a change of administration, and a new Parliament was elected, of which he was a member. The allegation was made in 1711 that Walpole had been guilty of corruption, and this resolution was introduced into the House of Commons:

"A motion being made, and the question being proposed, that Robert Walpole, Esq., a member of this House, in receiving the sum of five hundred guineas, and in taking a note for £500 more, on account of two contracts for forage of her Majesty's troops quartered in North Britain, made by him when secretary at war, pursuant to a power granted to him by the late lord treasurer, is guilty of a high breach of trust and notorious corruption.

"An amendment was proposed to be made to the question, by leaving out these words: 'and notorious corruption.'"

The amendment was agreed to; and then the question being put upon the resolution, it was decided in the affirmative by a vote of 205 to 148. This was immediately followed by a resolution of expulsion, which was adopted.

Thus Robert Walpole was expelled for an offense committed four years previous, although, in the mean time, he had been elected by a constituency to Parliament, and no man was ever found to complain of this precedent. There are many cases that I have had looked up, but there is one other case that is familiar to every Senator, to which I will merely allude. I refer to the case of Wilkes, of which I have here a short abstract. The history of the case is familiar. John Wilkes was a member of Parliament, and while a member of Parliament he wrote a libel, for which he was expelled. He was then reëlected again, by Middlesex county, I believe, came in and took his seat, and the House expelled him again for the same cause He was the third time elected, but at that election another man was put up against him, Luttrell, who received a few votes. Luttrell contested the election, and contended that as Wilkes had been twice expelled for the libel, and as votes cast for Wilkes were illegal and void, therefore he, Luttrell, though he received but one hundred and thirty-odd votes, was entitled to a seat in the House of Commons. The House, by an arbitrary majority, allowed Luttrel to take the seat on the ground that a vote cast for a man who had been expelled was illegal and void. It was never denied that the House of Commons had the right to expel Wilkes time after time and time after time; but the point was made by many leading statesmen that Parliament could not say that the citizen had not the right to vote for any man he chose. That point was made by Junius in one of his scathing letters. This was a case where the House of Commons went beyond the mere expulsion of Wilkes, and decided that a vote cast for Wilkes was illegal and void, and they allowed Luttrell to come in. After some ten or fifteen years of stormy parliamentary history, the resolution allowing Luttrell to come in was expunged from the record of the House of Commons, and it was upon that expunging resolution that our own distinguished citizen, now dead, based his proceeding in a celebrated case in this very body.

I have shown you, Senators, that there is an easy remedy for this matter; and I say here now, that if any of the traitors who have borne arms against the Government come here and offer to take seats while I am a member of this body, the very moment I hear of their election or appointment, that moment I will exercise my right, if no other Senator does, to offer a resolution to expel them from this body. That is the plain, simple, constitutional remedy which we have the power to enforce. That we can do; but do not, I beg of you, tread upon the right of a State to elect whom it chooses. Let him be sworn, if you do not act on his case before he comes here, as you may do with an open rebel. Even after he is sworn you can expel him. If you should now establish the precedent that when an objection is made to the right of a Senator to take his seat here, that question shall be tried before he takes his seat, you do more to revolutionize this Government than any act that has been done by any of the men who are now in arms against the Government. That is my deliberate judgment; and with that opinion, although my convictions in regard to Mr. Stark are strong, although I cannot see how any man living in Oregon could utter the sentiments he is said to have uttered, yet I will not deny to Oregon her representation here. On the other hand, I desire that these papers shall be recommitted to the Judiciary Committee, that there the Senator from Oregon may be allowed to explain and produce all the evidence he can; and if he should fail to explain away these facts and circumstances, let the Judiciary Committee then report upon the merits of the case; but in the mean time, let the State of Oregon be represented on this floor by two Senators.

Mr. HALE. I do not want to occupy much time, but I desire to notice one suggestion of the Senator from Ohio. He says that this course of keeping a Senator out, which he states as being by a single member, would disorganize the body. That has been done; it has been done while I have been a member, and there was not a word said at that time about its being disorganizing. In the instance to which I allude, a member was kept for a long time outside the door of the Senate.

Mr. SHERMAN. Did not that arise in a case where there was a question as to whether the person had been legally elected, whether his qualifications were within the terms of the Constitution, or whether the returns were valid upon their face? Was it not one of that class of cases?

Mr. HALE. I will state the case; it is familiar to many old members of the Senate—the case of Mr. Dixon, of Kentucky. Mr. Dixon came here and presented himself with his credentials in due form. There was no objection to his credentials or to his qualifications. It was said, however, that he was not entitled to the seat, but that Mr. Meriwether, who had been previously appointed, was entitled. Mr. Meriwether was not here contesting the seat, and yet Mr. Dixon was kept out for weeks until the case was decided. I only mention the fact to show that the Senate have heretofore adopted this very course, and it was not suggested that it was revolutionary at all. I think the Senator from Ohio, who usually states his points with great clearness, and—I do not say it to flatter him—makes his positions exceedingly plain, has fallen into an inconsistency in the exposition he has now made. The Senator from Minnesota put a question to the Senator from Virginia which the Senator from Virginia modestly, and I have no doubt candidly, said he could not conceive of an answer to; but the Senator from Ohio has undertaken to answer it, and it seems to me—I say it, of course, with all respect to him—that he would have stood quite as well if he had put on the same shield that the Senator from Virginia did, because he has fallen into an inconsistency, and a very great one, I think. He says that if Tennessee were to send Pillow here, he would expel him before he got here; that is, he would expel him without a hearing, behind his back, and upon common rumor.

Mr. HOWARD. And before he had taken the oath.

Mr. SHERMAN. That has been done in many cases. Sometimes articles of impeachment against an officer are filed on common rumor. The House of Representatives has a dozen times started committees of investigation on common rumor. We often institute inquiries on common rumor. On the allegation being made that Mr. Pillow was elected a member of this body, I would at once institute an inquiry, and if it was proved that he had been guilty of treason against the Government, I would certainly vote to expel him.

Mr. HALE. I know that allegations are made on public rumor; but judgment is not generally entered upon public rumor; there must first be an inquiry. The Senator would have to be pretty quick if he instituted an inquiry and gave a trial before General Pillow got here to take the oath. He says that if Pillow were elected, he would expel him before he got here. He believes Mr. Stark, upon the evidence, to be disloyal, and he will not prevent him coming in and taking the oath, but will resort to his expulsion afterwards.

It seems to me there is an inconsistency in that. I rose now only to protest as one individual against the idea being entertained for a moment that it is a matter of indifference, when a man comes up to take the oath of office and take a seat as a Senator, whether he is a friend or an enemy of the Constitution. Stripped of the phraseology with which the proposition has been decked out, the position of the Senator from Ohio is nothing more nor less than that it is a matter of supreme indifference whether a Senator who comes up to take the oath is a friend or an enemy to the Government. I contend that it is not indifferent, but that we have a right to make the inquiry, and that here is the place, and the only place, to make it. If, when the facts are known upon which you can act, you forbear to act before the oath is administered, you are, in my humble judgment, estopped from acting hereafter. I candidly say that that will be the rule of my action. If, knowing these facts, believing as the Senator from Ohio says he does on the face of the papers, on the evidence now before the Senate, that the Senator from Oregon is disloyal—if, with that evidence before them, the Senate vote to let him take the seat, (for they mean the same thing; when he takes the oath he does take the seat,) they will be, in my humble judgment, morally estopped from any inquiry hereafter.

Mr. TRUMBULL. The amendment of the Senator from Massachusetts brings the Senate to a direct vote upon the question whether Mr. Stark shall be sworn in as a member of the Senate without any investigation whatever as to the truth of the charges of disloyalty which have been exhibited against him—charges of disloyalty arising out of letters, out of sworn affidavits, and out of testimony of one witness examined and cross-examined before the Committee on the Judiciary. This amendment presents that precise question. Of course, those who vote against the amendment will say that he is entitled to be sworn without any reference whatever to this state of fact. The Senator from Ohio has rightly stated it; but in order to maintain his position he has assumed some most extraordinary doctrines, and among the most extraordinary, probably, is the position that a Senator may be sworn anywhere. Does the Senator from Ohio seriously contend that a justice of the peace may pass upon the age, upon the citizenship, and upon the inhabitancy of a man elected a Senator? He says a justice of the peace may swear him, and that he is a Senator.

Mr. SHERMAN. Is there anything in the Constitution or anything in the law that requires the election, returns, and qualifications to be decided before he is sworn? If so, I should like to ask the Senator how a member of the House of Representatives could be sworn?

Mr. TRUMBULL. There are some things that we understand without having a positive law or provision in the Constitution to provide for them. When the Constitution says that each member shall be sworn, we all understand what is meant by being sworn; and when in the same connection it declares that each House shall be the judge of the qualifications, election, and returns of its own members, we know that it would be impossible for either House to be a judge of the qualifications, election, and returns of its members, if a man could become a member simply by taking the oath before a justice of the peace. The Senator has assumed the most—I was about to say extravagant position—I do not mean it in any offensive way at all; but it strikes me as very extravagant to say that a person elected is a member immediately. The Senator asks, do not such persons have the franking privilege? Did they get the franking privilege by virtue of the Constitution? Did they get the franking privilege by virtue of the law giving the right of franking to a member? No, sir. It required a special act of Congress authorizing a person to frank before he was admitted to a seat; he did not get it by virtue of being a member; and the old law, as it first passed, did not allow the franking by a person from the 4th day of March, as it now does. The law at this very time allows a member to frank for nine months after his term has expired. Is he therefore a member of Congress nine months afterwards? The terms of the members of the House of Representatives will all expire on the 4th day of March, 1863, and yet every one of them has a right to frank documents until December following. Does the Senator from Ohio therefore hold them to be members of Congress after the 4th of March? He surely does not contend for any such thing.

But he says this would be an extraordinary power; there will be but thirty Senators here at the end of this Congress, and those thirty Senators can forever prevent any other Senators coming in; and the Senator from Virginia is shocked at the idea that less than a quorum can keep the Senators of States out. Your own doctrine will allow less than a quorum to keep them out. The doctrine advocated by the Senator from Ohio allows less than a quorum to do it. Thirty-five members is a majority of the Senate; that is a quorum, is it not? Twenty-four is two thirds of thirty-five. Twenty-four Senators could expel all above the thirty-five that came here and took the oath and were admitted to seats, one at a time. Are you not shocked that you are living in such a Government as that? That is the Constitution of the United States. You talk about a majority acting from caprice; and even my friend from California is alarmed at the idea that a majority may prevent a man from taking his seat here. Only twenty-four Senators, on your own doctrine, may expel a member. We are not to presume either that two thirds of a quorum, or that a majority of a quorum, are to be actuated by caprice, by political considerations. Sir, when the people and the representatives of the States become so corrupt as that they are incapable of self-government; when they are so unmindful of their duty as to act from such considerations, your whole Government has gone, and self-government is a failure.

But the Senator from Ohio talks about expelling Senators before their admission, and I should like his attention for a moment on that. He is going to expel Pillow before he gets here, and the Senator has looked up the precedents on that point. I have not searched for them, but I venture the prediction that the Senator cannot produce a precedent to show that a man was ever expelled before he was admitted. It is an absurdity upon its face. I will not believe it until I see it. I have not looked for them, but I challenge the production of a precedent where a legislative body has gone through the farce of expelling a man that had never been there I venture to predict that it cannot be found. He must be a member before you can expel him. You cannot put him out until he gets in.

But it is said that you must not examine the credentials, and the Senator from Ohio wants to know how you could ever organize and carry out that notion. Why sir, there is some sort of comity about these things; there is a sort of understanding in the House of Representatives, I believe, to swear in the members who present themselves. They are frequently sworn in the House without presenting their credentials at all. I believe I have seen a Senator sworn in this body on a statement made by a member of the Senate that the gentleman had been elected and that his credentials had not arrived. In the House of Representatives the members come together, those claiming to be elected, and they qualify, and afterwards they purge the body of those who have no right to seats; but they often refuse to admit members upon the credentials, to begin with. Has the Senator from Ohio forgotten the broad seal case of New Jersey? Has the Senator from Ohio forgotten the case after case in the Senate of the United States that has been read here and exhibited to the Senate, where the credentials have been referred before the man was sworn?

Mr. SHERMAN. I am very happy that the Senator mentions the case of New Jersey, because I believe it is the admitted judgment of nearly all impartial and intelligent men that that was a high-handed outrage. I was going to school about that time, and I know it was so regarded then over the country as a high-handed outrage that they overlooked the great seal of the State of New Jersey. It is considered to this day one of the political crimes of the old Democratic party.

Mr. TRUMBULL. The Senator objects to the precedent in the New Jersey case. Does he object to half a dozen precedents that have occurred in the Senate? There is a difference between the Senate and the House of Representatives, as has been well remarked by the Senator from Pennsylvania, [Mr. WILMOT.] The Senate is a permanent body, and might adopt different rules from those adopted in the House of Representatives without inconvenience. I shall not, however, go into a discussion of the New Jersey case at this time. The Senator from Ohio thinks that was a political decision, and he has not much respect for it. I know that my friend from New Jersey has not much respect for it.

Mr. TEN EYCK. Allow me a word.

Mr. TRUMBULL. I heard the Senator's remarks upon the subject the other day; but I will yield to him.

Mr. TEN EYCK. I am very loth indeed to interrupt the Senator; it is against my practice to do so; but as the point which he now makes concerns my own State so intimately, I desire to say a word. In that case, against the opinion of many very able men, and I shall not refer to any other in this connection but the late President John Quincy Adams, who argued the question most fully and satisfactorily, the House of Representatives refused to give the members from New Jersey, who had the credentials under the broad seal, their seats, and that matter was kept, during the whole session, in dispute, and eventually referred to a committee, who, during the following vacation, examined into it. The Senator will also permit me to say that that was considered such a gross outrage upon the rights of the State that not only old-fashioned Whigs, but old-fashioned Democrats, turned in with one accord and returned those men who had the credentials and had been refused their seats, by a majority of between seven and eight thousand the next year. All men, with one accord, considered it an outrage upon the rights of the State and upon the symbols of her sovereignty; and it was such an expression of opinion as that Congress, from that day to this, has regarded the expression of the public voice in that respect.

Mr. TRUMBULL. I think the Senator from New Jersey is mistaken in supposing that the people of New Jersey changed their politics on account of that matter. It occurred at the time of the change of politics in the country. There was a great overturning everywhere, even where members were not refused their seats. If he will look at the election in that period he will find that not only in New Jersey, but some other States, the Democracy of that day did not sustain themselves before the people. We all know that Mr. Van Buren went out with a whirl in 1840. I do not think it was owing to that decision; and I am not now arguing to sustain that position. I merely alluded to it as one case. While great men, as the Senator has well remarked, were of opinion that the men having the broad seal ought to be admitted in the first instance, other great men thought differently; and a majority thought differently, and refused to admit them. That was the opinion of a majority of the House of Representatives; and there were perhaps as great men on the one side as on the other.

But the analogy between the House of Representatives and this body does not hold, because we are a permanent body; and, as I said, the same difficulty in organizing does not arise here as in the other House. In this body, credentials have been repeatedly referred. Here is the place for a member to be sworn; and he cannot be a Senator until he is admitted to his seat here. The taking of an oath before a justice of the peace would not make him a Senator. It is not until his election and his qualifications have been passed upon by this body, that he is a Senator. We pass upon them when we admit him to take the oath and take his seat here; and then, and not till then, is he a Senator of the United States.

I do not propose going over the ground which I occupied the other day; but I cannot forbear saying a word to the Senator from Virginia [Mr. CARLILE] who, when a question was put to him in regard to excluding a man from a seat here who had been convicted of crime, wanted to know if there was not a law that would exclude such a man. Can a law alter the Constitution? Does not the Senator from Virginia contend that the constitutional qualifications of age, inhabitancy, and citizenship, are the only qualifications that can be imposed upon a man? And now he is willing to admit that you may by law disqualify a Senator. The Senator from California [Mr. MCDOUGALL] the other day, when he was arguing this question, spoke of a person coming here having the constitutional qualifications of age, inhabitancy, and citizenship, and laboring under no legal disqualifi-

cation. Can there be a legal disqualification? Does the Senator admit that? If he does, he gives up the whole ground of power.

Mr. McDOUGALL. It is not necessary to inquire into that.

Mr. TRUMBULL. If he admits that Congress may by law, as it has done, pass an act declaring that a judge who has been bribed to give a decision shall hold no office of honor, trust, or profit under the Government—if he admits that law, passed soon after the Government was organized, to be a constitutional act—then he does admit that some power in this Government may put a disqualification upon a man's taking a seat here besides age, inhabitancy, and citizenship.

Mr. CARLILE. The Senator referred to me. Will he allow me to say a word?

Mr. TRUMBULL. Let me finish the idea I am upon. And if he admits that Congress may do this by an act, thus declaring a person incapable of holding an office, I ask him if he can avoid the admission that the Senate may do it, which, by the terms of the Constitution, has plenary and full power to pass upon the election, qualifications, and returns of its members? If Congress can enact a disqualification—and the Senator from Wisconsin [Mr. HOWE] has stated that case too, of which he seemed to speak rather cavalierly—if Congress can put a disqualification upon a man, which is neither as to his age, nor his citizenship, nor his inhabitancy, I want to know if the Senate, which by the very terms of the Constitution has full power, may not itself put the disqualification?

Mr. CARLILE. I desire now, before the Senator leaves that point——

Mr. TRUMBULL. I shall be through in a moment. It is not adding to the qualifications prescribed by the Constitution; but it is inflicting a punishment for crime. It is refusing a seat to a man who is guilty of infidelity to his Government, if he is a disloyal man. If he is a traitor, by the act of the Senate, which is made the exclusive judge, it is making it a part of the punishment for his treason that he shall never desecrate this Hall by his footsteps.

Mr. CARLILE. Will the Senator now allow me to say a word?

Mr. TRUMBULL. Certainly.

Mr. CARLILE. I understand the Senator to contend that, because Congress has the constitutional power to enact a law excluding persons guilty of crime from office, the Senate, one of the branches only of Congress, without law, can do what Congress only can do by law—one branch of Congress can do without law what it requires two branches to do by law, which requires the concurrence of both branches and the approval of the President. I believe that Congress has the constitutional power to enact a law; but I do not believe that the Senate, one of the branches of Congress, without law, has the power to add to the qualifications of a Senator mentioned in the Constitution. That I understand to be the argument of the Senator from Illinois.

Mr. TRUMBULL. Mr. President, we shall see how few words will answer the Senator's position. If the law is unconstitutional, has it any validity? If the Constitution of the United States entitles a man to take a seat here who is thirty years of age, nine years a citizen, and an inhabitant of the State that appoints him, can a law change that Constitution? When the Senator says that you may by law prevent such a person from taking a seat, he gives up the whole question of power. If you can do it by law, may you not do it by a vote of the Senate? Is a law which is opposed to the Constitution of any more value, or of any more validity, than a resolution of the Senate? I did not say that the Senate could pass a law; but I said the Senate had the exclusive power to pass upon the election, returns, and qualifications of its members; and I say that the Senate has the power to determine upon the infamy, upon the treason, or the crime, whatever it may be, of a man, that disqualifies him to hold a seat in this body. Why, sir, if a law of Congress did exclude a man from holding an office under the Government, the Senate would not be bound by it. The decision of the court would not bind this body. That is the very case put in 3 Cowen, to which I referred the other day. I repeat again, it is not by passing the law, but it is by using all the power which the Constitution of the United States has placed in the Senate; and it is not adding to the qualifications of the member. I trust my learned friend from Wisconsin will make a distinction between qualifications for office, and a punishment for treason, or for other crimes.

Mr. DIXON. Mr. President——

Mr. SHERMAN. Before the Senator proceeds, I trust he will allow me to refer to the Manual upon one point. The Senator from Illinois says that a Senator is not a Senator until he is sworn, and that a member is not a member until he is sworn. He has criticised my position upon that subject. I am happy to be sustained by the Manual prepared by Jefferson, and also by a great number of cases referred to in it. It declares expressly:

"Privilege from arrest takes place by force of the election; and before a return be made a member elected may be named of a committee, and is to every intent a member, except that he cannot vote until he is sworn."

This is supported by very many cases, and it is in accordance with our own law. A member is a member from the time he is duly elected until the time the Constitution fixes as the end of his term of office. He cannot take his seat here until he is sworn; and that is fixed rather by our law than by the Constitution.

Mr. TRUMBULL. He is a *quasi* member for some purposes. He is not a member in the constitutional sense, with the privileges of a Senator. He may be sufficiently a member to prevent his arrest on his way to the Capitol. I think that that perhaps may be so.

Mr. DIXON. Mr. President, the claimant of the seat from Oregon is charged with disloyalty to the Government of the United States. The testimony upon this subject is before the Senate in the report of the Committee on the Judiciary. That testimony is of a very peculiar character. It is extremely explicit; and it goes directly to the opinions of the claimant upon the claim of the Government of the United States upon him as a citizen. I shall not, at this time, take up the attention of the Senate by referring at length to that testimony. I have already done so to a certain degree. The Senator from Michigan [Mr. HOWARD] has done so at considerable length.

The Senate will recollect that the claimant from Oregon, according to this testimony, took the ground that the government of Jefferson Davis was the true government; that he owed allegiance to that government, and that he would fight for that government. Were those his sentiments? Is that testimony correct? Is it true that the Senator ever uttered those sentiments, and that he now entertains them? What is the ground he himself takes upon that question? This is sometimes spoken of as an *ex parte* hearing. The claimant from Oregon has been heard upon this question. He has had an opportunity to deny the truth of these statements, and to give to the Senate of the United States, and to the people of the country, his views upon this question. Has he done so? His statement is before us. What has he said? He has not denied that he uttered those sentiments. He has not denied that at this very moment he entertains those sentiments. He has given us a partial denial. I will not accuse that gentleman of any want of candor. I will not say that he has not met this question as he ought to have met it; but sir, I say his denial is only partial; it is a negative pregnant. He denies a portion and he admits a portion. I think it was his duty to come before the Senate and people of the United States, and to state what his opinions were. He might have said, "I am loyal to the Government of the United States." Has he said so?

He has said that he is willing to take the oath. Why, sir, that is merely saying that he is willing to take the office. He knows it is necessary to take the oath before he can take the office. Of course, he is willing to take the oath. He presents himself here for that purpose. He claims the office, and he tells us that he is willing to take the oath of office. We knew that before he made to us that statement.

Now, sir, what are his opinions? What does he believe? Is he true to this Government at this time, or is he loyal to the government of Jefferson Davis? That is what I wish to know. The Senator from Ohio has given us his opinion upon this question. He says that in looking upon this testimony, although he is in favor of admitting the claimant from Oregon, he believes him to be disloyal to the Government. He says he cannot read this testimony without coming to the conclusion that the claimant of this seat is disloyal to the Government of the United States. I confess, when I heard that from my friend from Ohio, I was astonished. Why, sir, what is disloyalty? The Senator from Pennsylvania has asked that question, and he has asked it in a manner that seemed to show there was some difficulty in deciding what disloyalty was. What is it? It is infidelity to the Government of the United States; it is moral treason; it is only one step short of actual treason. A disloyal man has only to carry out his purpose and his wishes, and he becomes a traitor in fact. That is disloyalty. The Senator from Ohio says the claimant is disloyal, and still he says he could not now exclude him. He has a somewhat short method of regulating the difficulty. He says he would expel him before he comes here; he would expel him before he takes his seat. I do not think it necessary to resort to such extreme measures as he proposes.

I find, in what has been said by another distinguished Senator on this floor, who has also advocated the doctrine that the claimant ought to be admitted, what I think is the true doctrine laid down there. I allude to the remarks of the Senator from Maine [Mr. FESSENDEN] a few days ago. That Senator, in my judgment, admitted the whole case. He admitted that there might be a case in which it would be proper to refuse admission to a claimant before taking his seat. He said it must be an extreme case. Of course it must. It must be a clear case. If the Senator from Ohio is right, this is a clear case, for we are acting upon the claim of a disloyal man, who is a moral traitor to the country. What did the Senator from Maine say?

"While I say now that I am not prepared to admit that in no case would I not exert it, and while I say that there are many cases in which I would exert it, come what would, yet this is not one of them."

And now he dwells on the question which was raised by the Senator from Wisconsin [Mr. HOWE] in his able and ingenious speech the other day:

"Suppose for instance that one of the leaders of this rebellion should present himself here; suppose the State of Tennessee should come back to the Union being freed of those who now control it, and that a Legislature properly elected should send General Pillow here as a Senator from that State: I would vote that he should not be allowed to take the oath, because, though not a convicted traitor, he is an admitted traitor. I would not allow him to come here by my vote; and if Senators ask me upon what principle I act, I tell them I act upon my own individual responsibility as a Senator of the United States."

That is the principle upon which I act also.

"It is for me to judge both with regard to expulsion and with regard to admission; and it is between me and my conscience, myself and my God, who will judge me for the manner in which I discharge my duties to the country."

He goes on:

"While I admit that there may be cases in which it may be necessary and justifiable that the majority should exercise that power, I say it is a precedent fraught with much danger to our institutions, to the body of which we are members, and to all legislative bodies, that a power should be exercised by a mere majority to exclude anybody from a seat who comes with the regular constitutional qualifications. It being a power so dangerous, so liable to abuse, from the exertion of which so many wrong inferences may be drawn, and from which so much injury may follow to the country, I think it a duty not to exercise that power, except in extreme cases, cases so palpable that they address themselves at once to the consideration of every man and to the good sense and propriety of feeling of the country, where every one sees and feels that the extremity of the case justifies the strength and power of the action."

I admit the correctness of those views. Unless in a clear and extreme case, I think this power ought not to be exercised. That it exists is admitted in this speech. It is an existing power; but it is to be used with great care, with great caution, and upon the individual responsibility of each Senator. Now, sir, what is this case? The Senator from Ohio declares this claimant to be disloyal, and he himself does not deny it. If disloyal, he is as unfit to hold a seat upon this floor as the leader of the southern rebellion or any one of his followers. I make no distinction. I know no distinction between the leader of the rebellion and any one of his followers in arms and a claimant to a seat upon this floor who justifies and upholds them. Entertaining this view, considering this to be the extreme case which the Senator from Maine has supposed, I shall vote for rejecting the claimant upon the threshold.

Mr. McDOUGALL. I am not disposed to delay the vote upon this question; but the point made

by the Senator from Ohio struck me with a great deal of force, and as being exactly true; and that my own view of it may be distinctly understood, I wish to make a few remarks to the Senate.

I think the confusion about this whole matter has arisen from confounding office with institution into office. An office is a right. In England, when the Crown issues its commission, the party receiving it under the seal of the Crown, is clothed with office, and he has a perfect right to institution. If it were the law of England that a judge appointed to the common bench, would have to receive the oath at the hand of the chief justice, he having his commission from the Crown, would be a judge of the common bench, with a full right in the office; his right would be perfect, for the reason that his oath would be a voluntary act within his own power. There would be no limitation on it outside of himself; and therefore the right would be perfect in him. The chief justice might deny or refuse to administer the oath, and then he would have to appeal to the courts for a mandate of institution, his right being perfect in the first instance.

Now, I say, in this case the power that may clothe a Senator with office having fully acted, he has the full right, which is the office, in him; and although he may not be instituted, he has a right to be instituted; and although he may be wrongfully denied institution, if it were any other office the courts would administer the right. The Senator from Oregon having been clothed with a right only requiring institution by taking an oath, which he has a right to demand shall be presented to him and administered, is altogether a Senator, so far as the right is concerned, because the condition rests in his own volition, and he may assert the right at his pleasure.

There is another mistake. We do not expel a person from this Senate—we expel him from his office; and he being in office when he is clothed with the commission, we may vacate the office that is in him by our constitutional authority. There is no one familiar with the law of offices but understands that an office is a mere right, and that right is not qualified by the mere process of institution into office, which he may demand, as I have said before, at the hands of the courts, and the courts are bound to administer it. The Senator having been appointed and commissioned by as high an authority as if he had a Crown commission, he having the right of office, why is he not, then, subject to our jurisdiction by the constitutional authority to eject him from office—not from the Senate, but from his office—for good cause shown? It strikes me that the doctrine advanced by the Senator from Ohio is one of the strongest arguments that has been advanced in the course of this controversy. We have jurisdiction over him the moment he is clothed with the senatorial office.

Another word. I merely rose to state these propositions, for I think they will be recognized by every lawyer in the Senate. Now, as to the term "qualification" as it is used in the Constitution, it may mean constitutional qualification; it may mean qualifications established by law. I do not propose to discuss the question presented by the Senator from Illinois, for it is not important in this controversy, and it is not involved in it; but "qualification" is, like all other terms used in the Constitution, a word that has some definite meaning. What is the definite meaning of "qualification?" The Constitution has said itself what "qualification" shall consist of. What is left to the Senate? To inquire into the fact of qualification, not into the law of qualification. The law has been established by the Constitution. We may inquire into the fact; and if it should appear that the Senator was not qualified for years, or for citizenship, or for any other cause assigned by the Constitution, the fact being ascertained, we could act upon the question simply as one of qualification. But here comes a party with all the constitutional qualifications. We have jurisdiction over him now to eject him from office, for he is in office; that is, he has the office, although not instituted. I say that Senators, if they think they have good cause—for that rests in their own consciences, and they may judge as they think justly—may move to expel him, not from his seat here, but from the office with which he has been clothed by the Governor of the State of Oregon; and if they can get the constitutional majority they can succeed; but they cannot by indirection accomplish a result expressly provided for by the terms of the Federal Constitution.

Mr. WILSON, of Massachusetts. I rise to ask the Senator from New York if he intends to have the vote taken to-night upon this subject. If he does, I am ready to sit here. If not, I desire before the Senate adjourns to take up a bill which I regard as very important to be acted upon to-night.

Several SENATORS. Let us take the vote now.

Mr. HARRIS. I believe, so far as I can ascertain, it is the desire of the Senate to close this case to-day. With that belief, I shall press the matter to a vote.

If I were to consult my own inclination, Mr. President, at this late hour and this late period in the debate, I should not say a word; but the views and doctrines which have been presented in this discussion are of such a character, so unsound, in my judgment, so extraordinary, so mischievous in their character and tendency, that I feel constrained, impatient as I know the Senate to be, to make some suggestions in reference to those arguments. It has been said by an old writer that power is ever at war with its own boundaries, and the truth of that remark has been most emphatically illustrated in this debate. A strenuous effort has been made on the part of distinguished Senators, distinguished lawyers, to thrust into the Constitution a power that its framers never put there, and never designed should be found there.

Mr. President, the Constitution was the work of thirteen distinct, independent, sovereign States. In order to form a national Government those States each surrendered a portion of its sovereignty. They undertook to create a national Legislature, one branch of which should represent the people of the country, the other branch of which should represent the sovereignty of the States. That branch is the Senate. It was agreed in this surrender that each State should have two members in this branch of the Legislature: the greater should not have more; the least should not have less. It was agreed, too, in instituting this national Government that the States might themselves, in the exercise of their own State authority and sovereignty, choose for themselves their own members of this body. All the restrictions they put upon themselves were that they should not choose a man who was under thirty years of age, that the Senator whom they should choose should have been nine years a citizen, and at the time of his election should be a resident of the State where he was elected. These three qualifications, these three restrictions, the States chose to impose upon themselves; so that now, if a man fails in any one of these qualifications, though he may have been in form elected, he is not in fact elected; the election is void; it is against this restriction which the States have put upon themselves in framing the Constitution. It is perfectly competent for this Senate, whenever a Senator presents himself here, to have the matter first referred to a committee to inquire, and afterwards themselves to judge upon the question whether or not the Senator has been in due form elected; whether his credentials are in the proper form as evidence of that election; and lastly, whether or not the Senator presenting himself comes within these qualifications which the Constitution prescribes. This, sir, is all that we find upon the subject of qualifications within the limits of the Constitution.

But it is said that a Senator must be loyal. I agree to that. I agree that he must be loyal, although it is a term in respect to which a good deal has been said, and properly said, and upon the definition of which I apprehend no two Senators would precisely agree. The Senate say to the States sending Senators here, "We insist that they shall be loyal to the Government." The State says, "We agree to that; but what shall be the test of loyalty? How shall it be determined whether a Senator is loyal? We intend to determine that question for ourselves in the first instance; we are not to be questioned as to our right to elect any man coming within the qualifications specified in the Constitution; we choose to reserve to ourselves the right on the subject of loyalty to elect any man we please; but we will agree to this: that when our Senator presents himself in the Senate, and offers to take his seat as the representative of our sovereign authority, he shall take an oath; he shall furnish to the national Government a guarantee that he will be true to the Constitution;" and hence it is that the Constitution provides that when the Senator presents himself, he shall go to that desk, and here, in the American Senate, in this holy of holies of our nation, he shall swear true allegiance to the Government that he is about to serve. This, sir, is the test of loyalty that the Constitution prescribes, and it prescribes no other test.

But the Senator from Illinois, he that stands foremost in the Committee on the Judiciary, has urged that there is a necessity that we should apply a further test. Sir, I object to this law of necessity when discussing constitutional questions. What, asks the Senator—and he seems alarmed and shocked at the thought—is it possible that the Senate of the United States is bound to receive into its bosom a convicted traitor, a convicted felon, a man of infamy? Why, sir, that inquiry of the Senator was fairly answered the other day by the Senator from Virginia. Some things, says the Senator from Illinois, are to be presumed; and it is to be presumed that the Senate will not, through caprice or prejudice or injustice, reject a member who presents himself. He made use of that very argument to-day. Sir, may not the same presumption be made in favor of the sovereignty of a State? May it not be presumed that a State will not send here its convicted felon instead of sending him to the penitentiary? May it not be presumed that a State will not send here its convicted traitor instead of sending him to the gallows? May it not be presumed that a State will never send here a man covered all over with infamy as with a leprosy? Sir, a constitutional question like this, of the gravity and importance of this, is never aided by such extreme illustrations.

Other Senators have attempted to illustrate this by still more extreme cases. One Senator supposes the case of a woman being sent here by a State Legislature, and another a lunatic, and another a horse thief. Sir, this is not the way to discuss constitutional questions of this kind. I shall not enlarge upon it. The Senator from Illinois, in his first argument upon this question, told us he was sure there must be such a power in the Senate as to exclude a man for disloyalty or infamy, or because he had been convicted of crime, not, as he admits, as a ground of disqualification—for he concedes that he cannot find that in the Constitution—but, to use his own language, as a punishment due to his crime and the infamy of his character. That, it seems to me, is a most surprising and illogical argument for a sound lawyer to present upon such a question as this.

But he says Congress has legislated on the idea that it has the power to exclude a Senator. Sir, I deny it. It is true that in 1790, immediately after our Constitution went into operation, Congress passed a law declaring that no judge who should be guilty of the charge of bribery, should afterwards hold any office of profit or emolument; and in 1853 Congress passed another law declaring that no member of Congress who should be guilty of bribery, should afterwards hold any office of profit or emolument. But, sir, what is the amount and what is the effect of these laws? They only operate upon that class of offices within the control of the legislative power. The very authority that the gentleman cited, the decision from the State of New York, the language of the chancellor that he cited in the case of Barker *vs.* The People, expressly states that the Senate of the United States is the exclusive and supreme judge of the qualifications of its own members, and so far as by the terms of the law such an office as that would be embraced, the law is defeated by the Constitution itself.

But there is another class of Senators who have undertaken to show that, by the papers before the Senate, this applicant for the seat is convicted of what they are pleased to call disloyalty. Well, sir, I know a gentleman, a distinguished gentleman, who has a great fancy for getting definitions of the term "common sense." He carries a book with him, and wherever he has a convenient opportunity, he asks the gentleman with whom he happens to be in conversation what is his definition of common sense; and he takes his definition and records it. He makes a volume of the definitions of common sense. Now, I apprehend that we should have just about as great a variety of definitions of the terms loyalty and disloyalty as

my friend has of the term common sense. I do not know what the Senate would deem a sufficient amount of disloyalty to exclude a man from taking a seat in the Senate. Certainly the Constitution gives us no light or aid upon that question. I apprehend that there are all degrees of disloyalty. There are Senators here—I do not mean to be at all personal, and I do not mean to make a remark or intimate who I have in my mind—but, judging from what I have heard here in the course of the present session, I should feel very much inclined to think that there was a class of Senators here who thought they stood on a higher plane of loyalty than others who may feel themselves to be as loyal to the Government as they. There are all degrees and shades of loyalty; and what amount of disloyalty Senators would have a man guilty of in order to deprive him of his constitutional right to take a seat here, I have been unable to ascertain from all that I have heard.

Senators think they find in these affidavits the evidence of disloyalty, of a want of fidelity to the Government; and nothing in this debate has surprised me so much as to find eminent lawyers—the gentleman from Pennsylvania, [Mr. WILMOT,] who has been a judge, and I know from what I see of him has been a good judge; the Senator from Michigan, [Mr. HOWARD,] who is an eminent and distinguished lawyer, and the Senator from Connecticut, [Mr. DIXON,] discussing these affidavits and undertaking to spell out from them evidence of treason; at any rate of disloyalty. I mistake those Senators, if any one of them would convict the most miserable vagrant that walks our streets of the crime of petty larceny upon these affidavits. I do not believe there is a Senator who would do it; and yet those Senators are willing to vote here that this applicant for a seat, representing the sovereignty of Oregon, is to be excluded from this Senate, that that sovereign State is to be in part disfranchised upon such affidavits as these, affidavits that any man who knows and appreciates the value of evidence would reject upon the most petty trial.

Mr. DIXON. Will the Senator allow me a moment?

Mr. HARRIS. Certainly.

Mr. DIXON. I would remind the Senator that the distinguished Senator from Ohio, who argues upon his side of the question with so much ability, is also convinced by these affidavits that the claimant is disloyal.

Mr. HOWARD. I will ask the Senator from New York one question in this stage of the proceedings. I desire to ask whether he entertains any doubt, first, of the authenticity of the affidavits to which he refers, and the authenticity of a paper which is not an affidavit, which is also referred to; and, second, whether he has any ground in his own mind of rational doubt of the substantial truth of the averments contained in both of these papers? After he has answered these questions, we may talk about loyalty.

Mr. HARRIS. Let us look at the affidavits, and see. I am disposed, in view of that inquiry, to criticise these affidavits. In the month of February the leading affiant, Mr. Hull, says that he "heard the said Benjamin Stark make use of the following language, in substance, at the post office in Portland."

Mr. HOWARD. I do not wish to interrupt the mode in which the Senator may see fit to answer the question; but my first inquiry related to the authenticity of these papers.

Mr. HARRIS. I have no reason to doubt the genuineness of these papers. It has never been questioned. Here is a letter addressed to Governor Seward, which has been read as a part of the evidence in this case, unauthenticated, unverified, unsworn to, which no lawyer would regard as evidence, of course. The first leading affidavit is that upon which I was about to comment. It is the affidavit of Mr. Hull, in which he says that Mr. Stark made use of this language:

"If there is to be any war between the North and South all my property is for sale at fifty cents on the dollar, and I will go and help the *South* fight. The palmetto flag is my flag. The southern confederacy is the only legal government in existence; that the United States Government is broken up; that Jeff Davis is fighting in a good cause, and it will be impossible to defeat him."

Now, observe Mr. President, this conversation, these statements alleged to have been made by the claimant of the seat, are alleged to have been made in Portland, in the State of Oregon, and to have been made in the month of February. Now, sir, Jefferson Davis on the 21st of January was in his seat in this Senate. The confederation was not formed until late in February. The news of secession had not reached Portland, when it is alleged this affidavit was made. The Senator from Oregon [Mr. NESMITH] told us that on the 12th of February, at Acapulco, in Mexico, on his way to Washington, he heard the intelligence of the secession of South Carolina. Sir, the man who swears to this affidavit has made an egregious mistake. It is an unreliable document.

Mr. NESMITH. With the permission of the Senator from New York, I desire to correct that. It appears reported in the Globe that I stated that I heard that on the 12th of February. I said on the 12th of January.

Mr. HARRIS. But, sir, still the records show that on the 21st of January Jefferson Davis was here. Now, this person who makes this affidavit swears that in February this applicant said he was going to join the southern confederacy, and that Jefferson Davis was fighting in a good cause. Sir, it is not true. It bears intrinsic evidence of its inaccuracy. In this connection let me read what a standard author, whom all lawyers recognize—I am reading from Stephens's Blackstone—says of this sort of evidence:

"How far mere words spoken by an individual, and not relative to any treasonable act or design then in agitation, shall amount to treason, has been formerly matter of doubt. We have two instances in the reign of Edward IV, of persons executed for treasonable words: the one a citizen of London, who said he would make his son heir of the *Crown*, being the sign of the house in which he lived; the other a gentleman, whose favorite buck the King killed in hunting, whereupon he wished it, horns and all, in the King's belly. These were esteemed hard cases, and the Chief Justice Markham rather chose to leave his place than assent to the latter judgment. But now it seems clearly to be agreed that by the common law and the statute of Edward III, words spoken amount only to a high misdemeanor, and no treason; for they may be spoken in heat, without any intention, or be mistaken, perverted, or misremembered by the hearers. Their meaning depends always on their connection with other words and things. They may signify differently, even according to the tone of voice with which they are delivered; and sometimes silence itself is more expressive than any discourse."

Now, what was the occasion when those words were uttered; what was the subject of the conversation; what was the connection in which the words were uttered? It is to be remembered that the person in question claiming the seat as Senator from Oregon avows himself to have been a Breckinridge Democrat; and, according to my recollection of the times, there were many such sentiments as are contained in these affidavits uttered by that class of men, who, up to the fall of Sumter, were loud in their expressions of what would here be called disloyalty; but from that time we heard no more of them. There are men now prominent in our Army, fighting the battles of our country, as loyal and true to the Constitution as any member of this body, who up to that period were loud in their expressions of sympathy for the South, and their readiness to aid and assist the South in any way they could; but from that time forward, we heard no more of them. Their attachment to their country, their devotion to the good old flag of the country would not allow them to suffer that indignity.

It will be remembered that all these expressions are alleged to have been made before any knowledge of that occurrence. What does the Senator himself say? It has been criticised. In my judgment, he says all that an honorable man could say under the peculiar circumstances of this case. Here were bitter political opponents seeking to defeat him in his attempt to take his seat in the Senate. They undertook to make affidavits, affidavits of what had occurred months and months before. How could they recollect the very words? Some of them say they cannot. How could they recollect the circumstances? They were affidavits made under circumstances which repelled the idea of their strict accuracy. Now what does the Senator say? I think it is all he ought to be called upon to say to meet these allegations, these loose affidavits:

"It is due to myself, however, that I should state that I have examined all the papers referred to by the committee, and that I find them, without a single exception, to emanate from my bitterest political opponents.

"While I cannot undertake to recall"—

these affidavit-makers undertook it—

"all that I may have said in private conversations during the past twelve months of earnest and often heated discussions of public affairs, I do most solemnly declare that in a forum competent to try and determine the issue, I am able to prove the allegations against my loyalty to be utterly unfounded; that, in many important particulars, the declarations of my assailants are false; that in others my language has been perverted and wrested from its true intent; and that in every respect the papers referred to are calculated and were designed to sustain a theory founded upon an opinion alike unjust to my true sentiments and discreditable to the candor of my accusers."

Now, sir, I do not know what a man could say in answer to such affidavits. I have asked myself the question, what could I do, conscious as I am of my loyalty to the Government, believing there is not a man here who is more loyal than myself, who feels a stronger devotion to the Constitution of his country, who would sacrifice more than myself—I do not know what more I could say if similar affidavits were made about me. I am aware that a criticism has been made upon the latter part of this communication. There are expressions there which, in my judgment, are very heterodox in politics. Views are presented in that communication to which I could never assent. But, sir, it is nothing but heresy in politics. I do not regard them as furnishing any ground upon which, if the Senator from Oregon were on trial, we could convict him even of disloyalty.

Then, sir, how does the matter stand? We have a Senator presenting himself here confessed to have the constitutional qualifications. It is objected that he is disloyal, and *ex parte* affidavits are presented for the purpose of showing that disloyalty. They furnish the most unsatisfactory and suspicious kind of evidence. They are, as I have said, evidence upon which we would not rely to convict for the most petty offense; and yet the Senate is asked to exclude this Senator from his seat, to deny Oregon its right of representation here by its own chosen representative, to put this indignity upon a sovereign State upon these unsatisfactory affidavits. It seems to me, sir, that by doing so we should, as has been well said, inflict a wound upon our Constitution greater, more severe, more to be deplored, than anything that the rebels are now doing. I agree with the Senator from Missouri [Mr. HENDERSON] that we cannot afford to do this. It was well remarked by him, the other day, that we can put down this rebellion, we can extinguish this attempt to overthrow our Government, without inflicting any such wound upon the Constitution, and I most sincerely hope that a majority of the Senate will view it in that light.

Mr. HOWARD obtained the floor.

Mr. FESSENDEN. If my friend from Michigan will excuse me a moment, it is quite evident we cannot finish the debate to-night. Many members have gone away, and there should be a full Senate when it is decided; and, therefore, if it is agreeable to him, I will move an adjournment.

Mr. TRUMBULL. I think we have got as full a Senate as we have had at any time.

Mr. FESSENDEN. We cannot get a vote to-night.

Mr. TRUMBULL. There is a quorum here.

Mr. FESSENDEN. There is a quorum here, to be sure; but many Senators have gone away who would like to vote upon it.

Mr. TRUMBULL. If we adjourn now, this subject will take all day to-morrow, and will interfere with other business. I do hope it will not be agreed to.

The PRESIDING OFFICER, (Mr. RICE in the chair.) Does the Senator from Maine make a motion to adjourn?

Mr. FESSENDEN. Yes, sir; I make that motion.

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

Mr. CARLILE. I desire to say that my vote will be governed by a disposition to accommodate the Senator from Michigan.

Mr. HOWARD. I have but little to say upon this subject; and I do not ask the Senate to adjourn on my account.

Mr. CARLILE. If he desires it, I shall vote for an adjournment; if not, I shall vote against it.

Mr. HOWARD. The Senate can consult their own convenience. I do not desire an adjournment.

The question being taken by yeas and nays, resulted—yeas 21, nays 20; as follows:

YEAS—Messrs. Browning, Clark, Davis, Fessenden, Foster, Grimes, Howe, Johnson, Kennedy, Lane of Indiana, Latham, McDougall, Nesmith, Pearce, Powell,

Rice, Saulsbury, Sumner, Willey, Wilmot, and Wilson of Missouri—21.

NAYS—Messrs. Anthony, Carlile, Chandler, Cowan, Dixon, Doolittle, Hale, Harlan, Harris, Henderson, Howard, King, Pomeroy, Sherman, Ten Eyck, Thomson, Trumbull, Wade, Wilkinson, and Wilson of Massachusetts—20.

So the motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *February* 26, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

CORRESPONDENCE WITH RUSSIA.

The SPEAKER laid before the House a message from the President of the United States, transmitting a copy of instructions from Prince Gortchakoff to Mr. De Stoeckl, the minister of his Imperial Majesty the Emperor of Russia, and the copy of a note from the Secretary of State to Mr. De Stoeckl relative to the adjustment of the question between the United States and Great Britain, growing out of the removal of certain citizens out of the British mail steamer Trent; which were referred to the Committee on Foreign Affairs, and ordered to be printed.

CLERKS OF INTERIOR DEPARTMENT.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting a list of the clerks employed in that Department; which was laid on the table, and ordered to be printed.

CHAIRMANSHIP OF COMMITTEES.

Mr. VAN WYCK. The near approach of the time when the army of the Potomac must be put in motion renders it necessary I should ask to be excused from serving further as chairman of the committee on Government contracts. Some weeks since I informed my colleagues I should pursue this course when the event arrived. It was my judgment that I should resign my place entirely on the committee, so that another could be appointed; but they insisted I should continue one of its members, devoting such time to its service as I could spare. With the sentiments of warm and generous friendship so often manifested on their part, I do not feel at liberty to disregard their wishes.

The few days before the army moves will be required to close up some unfinished investigations. I need not say I will always feel a lively interest in the results of the committee, and I will cheerfully give in its aid what of time may not be required in the field.

It has yet much to do, although the unflinching integrity and untiring watchfulness of Secretary Stanton relieve it of many cares.

I would also ask to be excused from serving as chairman of the Committee on Revolutionary Pensions.

In the darkest hour of the Republic, when disaster had overtaken our armies, at the close of the extra session of Congress, nearly fifteen hundred of the brave, loyal men of my district gathered around the drooping flag of our country and pledged themselves to die in its defense. They came from the mountains and valleys through which the warrior Brandt and his savage horde echoed the war-whoop in the days of the Revolution; from the birth-place of De Witt Clinton and William H. Seward; from the headquarters of Washington by the Hudson. They followed me to the field, and I must be with them in the day of battle.

If it be true that the principles I profess have contributed to produce this horrid war, I desire no compromise but to defend them on the field and seal them with my blood.

This is my reason for the request, which I trust the House will grant.

The SPEAKER. The Chair does not see how the House can entertain that question. The committee on Government contracts can elect a chairman in the absence, or in case of the resignation of its chairman. The gentleman from New York does not, as the Chair understands, propose to be excused from service on that committee. But he does ask, if the Chair is not mistaken, to be excused from service on the Committee on Revolutionary Pensions, for the reasons indicated.

Mr. VAN WYCK. I desire to decline acting on that committee, but did not feel at liberty to withdraw from it altogether without consultation with my colleagues.

The SPEAKER. Does the gentleman ask to be excused from serving on those committees?

Mr. VAN WYCK. No, sir; only to be excused from acting as chairman.

The SPEAKER. The Chair does not see that the House can act on that.

NEW YORK CUSTOM-HOUSE OFFICERS.

Mr. VAN WYCK offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Government contracts be directed to inquire into the amount of moneys received by the Federal officers in the city of New York by virtue of their offices; also, as to the ownership and rents of the bonded warehouses; also, the terms, considerations, and profits of the labor contracts and general orders contracts, for the storing, hauling, delivering, &c., of foreign goods in the city of New York; when made, by whom, and who are now interested in the same.

VOTES RECORDED.

Mr. MORRILL, of Vermont. Having been absent yesterday, engaged on the Committee of Ways and Means, when the vote was taken on the bill making an additional article of war, I ask leave to record my vote.

There being no objection, Mr. MORRILL's vote was recorded in the affirmative on the passage of the bill.

Mr. SHELLABARGER made a similar request.

There being no objection, his vote was in like manner recorded in the affirmative.

Mr. ROBINSON made a similar request.

There being no objection, his vote was in like manner recorded in the negative.

Mr. NOELL made a similar request.

There being no objection, his vote was in like manner recorded in the negative.

Mr. SMITH made a similar request.

There being no objection, his vote was in like manner recorded in the negative.

Mr. NORTON made a similar request.

There being no objection, his vote was in like manner recorded in the negative.

Mr. COX made a similar request.

There being no objection, his vote was in like manner recorded in the negative.

The SPEAKER suggested that, there being no objection, all members who did not vote yesterday on the bill referred to might have their votes recorded.

FOREIGN AND COASTING TRADE.

Mr. BEAMAN offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire and report to this House whether any further legislation is necessary to regulate the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States; and that they report by bill or otherwise.

ORDER OF BUSINESS.

Mr. COX. I call for the regular order of business.

The SPEAKER. The regular order of business is the call of committees for reports.

NANCY RICE.

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

Resolved, That the Committee on Revolutionary Claims be discharged from the further consideration of the claim of Nancy Rice, widow of Moses Rice, deceased, and that the same and accompanying report be transferred to the Secretary of the Interior for adjustment, the case being provided for by existing law.

THANKS TO GENERAL HALLECK.

Mr. VOORHEES asked the consent of the House to introduce a joint resolution of thanks to Major General Halleck.

Mr. LOVEJOY. I object.

Mr. VOORHEES. I ask that the resolution may be read.

Mr. LOVEJOY. I object to that.

Mr. VOORHEES. I think I have the right to have the joint resolution read for information.

The SPEAKER. The resolution can only be here at all by unanimous consent, and cannot be read if objection be made.

Mr. VOORHEES. I hope no one will object to that.

Mr BAKER. I object.

VIRGINIA CONTESTED ELECTION.

Mr. WORCESTER. I now call up the case of S. Ferguson Beach, contesting the seat of Charles H. Upton as a Representative from the seventh congressional district of Virginia.

I am instructed by the Committee of Elections to report for the consideration of the House the following resolution:

Resolved, That Charles H. Upton is not entitled to a seat in this House as a Representative of the seventh congressional district of Virginia.

Mr. RIDDLE. I ask the gentleman to yield to permit me to offer an amendment to that resolution.

Mr. WORCESTER. Certainly.

Mr. RIDDLE. I move to amend by striking out the word "not," in the first line of the resolution.

Mr. WORCESTER. Mr. Speaker, this is a case from the seventh congressional district of Virginia. Both the contestant, S. Ferguson Beach, and the sitting member claim to represent that district in this House. The sitting member claims his right to a seat here in pursuance of an election which he alleges was held in that district of the State of Virginia, on the 23d of May last. He appeared at the special session in July last, as the member elected from that district. His name was entered upon the catalogue of members, and he was sworn in as a member of this House, and participated in its organization. By what right or in virtue of what pretensions his name was permitted to be entered upon the roll of members, the Committee of Elections have not been advised.

Some days subsequent, during that session, a resolution was introduced by the gentleman from the metropolitan district of Ohio, [Mr. Cox,] instructing the Committee of Elections to inquire into his eligibility. That resolution was referred to the Committee of Elections, and they did, to some extent, enter upon the consideration of the case; but in consequence of the shortness of the session, and the amount of business before the committee referred to us by the House, a conclusion was not reached upon the case prior to the adjournment, and the further consideration of it was postponed until the commencement of the regular session.

At the commencement of the present session, on the first day of the session, the contestant presented his memorial to the House, which was by vote of the House subsequently referred to the Committee of Elections. This memorial alleges that the contestant was elected to a seat in this House, from the seventh congressional district, on the fourth Thursday of October, 1861. That memorial I will read, for the purpose of bringing the facts of this case to the knowledge of the House, and that the House may understand the precise issues that are now about to be tried. The following is the memorial:

To the honorable the House of Representatives of the Congress of the United States:

The memorial of S. Ferguson Beach, of the city of Alexandria, in the State of Virginia, respectfully represents: That in consequence of the revolutionary action of the convention of Virginia, which assembled at Richmond in February last, elections for members of the Thirty-Seventh Congress, on the day fixed by law for such elections, were obstructed and prevented throughout most of the congressional districts of the Commonwealth.

Such was especially the case in the seventh district, composed of Alexandria and adjacent counties, where, owing to the presence of large military forces, and to the operation of other influences scarcely less powerful, not a single poll is believed to have been opened.

By an ordinance of the convention of Virginia, lately sitting at Wheeling, passed on the 20th day of August, 1861, it was ordained that in all those districts where elections had thus been prevented, as aforesaid, elections should be held on the fourth Thursday of October then next; and it was also thereby provided, that voters who should be unable to vote at their usual places, by reason of the presence of those in armed opposition to the Government, should be allowed to vote in any county of their district.

Under the provisions of this ordinance, and in response to the proclamation of Francis H. Pierpont, Governor of the Commonwealth, calling upon the loyal citizens, where ever it was practicable, to avail themselves of said provisions, polls for the election of a Representative for said seventh district were regularly opened in the city of Alexandria on the day appointed.

A small vote was cast, made up by voters from the counties of Alexandria, Fairfax, and Prince William, all, substantially, for your memorialist, as will appear by a regular and formal certificate of election which he now holds.

Your memorialist further represents, that upon the assembling of the present Congress, in extra session, on the 4th day of July, 1861, one Charles H. Upton, confessedly a citizen of, and voter in, the State of Ohio, at the presidential election in the November previous—neither then nor now a citizen of the State of Virginia—not even a *bona*

fide inhabitant of Virginia, so far as can be ascertained—on the fourth Monday of May last appeared as the representative of said seventh district.

No one appeared to contest his right, since no person interested thereunto had any intimation whatever that any such right was pretended. On the contrary, it was matter of the most common notoriety that no election of a Representative, either in form or substance, had been held in a single precinct of the district.

The urgent necessity for an immediate organization of the House precluded, at that time, any inquiry into minor matters, and the said Upton was accordingly admitted and sworn in as a member, without examination of his credentials.

The grounds upon which the said Upton claims to represent the loyal population of said district are entirely unknown to your memorialist and to all those who participated in the election lately held, on the fourth Thursday of October.

It is believed a slight examination will show that the claim rests upon no foundation whatever, and it is respectfully submitted that a decent regard for the rights and feelings of those interested requires that such examination shall be made.

On behalf, therefore, of them and of himself, your memorialist desires that the House, by its proper committee, will make due inquiry in the premises and dispose of the subject-matter in such way as the rights and interests of all concerned may appear to require.

S. FERGUSON BEACH.

ALEXANDRIA, VIRGINIA, *November* 29, 1861.

MESSAGE FROM THE PRESIDENT.

A message, in writing, was received from the President of the United States, by Mr. NICOLAY, his Private Secretary.

Also a message notifying the House that he did, on the 25th instant, approve and sign bills of the following titles:

An act (H. R. No. 209) making additional appropriations for the support of the Army for the year ending 30th of June, 1862; and

An act (H. R. No. 240) to authorize the issue of United States notes, and for the redemption or funding thereof, and for funding the floating debt of the United States.

CONTESTED ELECTION—AGAIN.

Mr. WORCESTER. A resolution was adopted by the House on the 9th of December, requiring the contestant to serve upon the sitting member notice of the grounds upon which he claimed his seat here; also fixing the time when the sitting member should serve upon the contestant an answer; also stating the grounds upon which he claimed his seat.

Subsequent to the passage of this resolution, the contestant served upon the sitting member, as the grounds upon which he claimed the seat in controversy, a copy of his memorial. To that memorial, or to the specifications therein contained, the sitting member, within the rule prescribed by the House, served upon the contestant his answer, to a portion of which I will ask the attention of the House:

"That there was a condition of things in Virginia, as you set forth, in the month of May last, and at the regular period for holding congressional and other elections, which made any attempt to adhere to the national standard, and rally the loyal people of Virginia thereto, both difficult and dangerous is most true; but that there was no poll opened in the seventh district at that time is untrue; and in answer to your carefully worded charge, that 'not a single poll is believed to have been opened,' I will, at the proper time, of which you will be duly notified, prove by the testimony of the conductor and one or more of the commissioners for holding the election at Ball's Cross Roads, in Alexandria county, that a poll was then and there, on the 23d day of May, being the fourth Thursday of May, regularly opened for a member of Congress.

"As to the proclamation of Governor Pierpont, to which you refer, I call upon you to lay it before the Committee of Elections, that they may see whether it gave the citizens of Alexandria any authority for the step they took, or whether it referred only to 'vacant and unrepresented districts.'

"As to the election held in the city of Alexandria on the fourth Thursday of October last, I have only to say that I took no notice of it, nor those concerned in it. But if the newspapers of the day are to be relied on, and there were, as I believe, more than five hundred Union citizens then in Alexandria; and as less than one hundred and fifty votes are said to have been cast on that day, it leaves the gratifying inference to me that a large majority of the loyal citizens there regarded the movement to embarrass me as both ungenerous and illegal.

"What you say about my former residence in Ohio is immaterial; but when you represent that 'one Charles H. Upton was not even a *bona fide* inhabitant of Virginia, so far as can be ascertained, on the fourth Monday of May last,' I am compelled to believe that you have not made very strenuous efforts to 'ascertain' this very important fact. At any rate, I will produce testimony to remove all obscurity upon this point."

The law regulating contested elections provides that to furnish authority to a person to appear in this House in the character of a contestant, he should serve upon the sitting member the grounds upon which he claims to contest his right to a seat in this House. These grounds must be stated specifically. The law further provides that the sitting member, after receiving the notice of the contestant, shall serve upon the contestant his answer, either affirming or denying the several allegations contained in the specifications. And he is required further, if he has grounds besides those furnished in the specifications of the contestant, to set forth those grounds specifically in his answer.

It will be seen from the specifications of the answer that the sitting member denies only two material facts alleged in the notice of the contestant. He denies the allegation that he was not a *bona fide* inhabitant of the seventh congressional district on the fourth Monday of May last; and he also denies the allegation that there was no poll opened in that district in any precinct; but he says in reply that a poll was opened for members of Congress at the precinct of Ball's Cross Roads. He does not state that he has any other ground for occupying the seat that he now holds, except the fact that he was at that time an inhabitant of the State of Virginia, and that a single poll was opened at a single precinct in the seventh district. He does not allege that he received a single vote at that precinct. He does not allege that he has any certificate of election, or that he has any evidence that any vote was cast for him.

The resolution which was referred to the Committee of Elections at the special session refers to them two questions for their consideration. First, was the sitting member *eligible* as a member of this House? Second, was the election under which he now claims to hold his seat regular, or conducted in conformity to law?

In answer to the first inquiry, the Committee of Elections found that the sitting member, prior to October, 1860, was a resident and inhabitant of the State of Ohio; that in the month of October, or prior thereto, he had engaged in conducting a daily newspaper in the city of Zanesville, and that at the State election of that State, held in October, 1860, he appeared at the polls and voted.

Mr. BINGHAM. I desire to inquire of my colleague whether the Committee of Elections have not decided that this question of residence was outside the case; in other words, whether they have not decided that he was an inhabitant of Virginia?

Mr. WORCESTER. We have admitted that he was an inhabitant of the State of Virginia in May; and that admission is contained in the report of the Committee of Elections.

Mr. BINGHAM. I understand, then, that there is no question as to his eligibility—that the Committee of Elections has decided in his favor on that point, and that he was an inhabitant of Virginia.

Mr. WORCESTER. That is so. I was stating the facts contained in the report. The committee, in their report, state that they find that the sitting member, prior to the month of October, 1860, as I have already said, was an inhabitant of the State of Ohio, and voted at the election in that State of that year. That the fact of his voting implied that he was a resident of the State of Ohio, and for at least one year previous. The committee also find that subsequently to the month of October, 1860, he returned to his former residence in the State of Virginia, where his family had resided; and that, from 1860 up to the time of election in the month of May, 1861, he was a resident and an inhabitant of the State of Virginia.

The revolutionary condition of that part of Virginia where this district is located was brought into question both by the memorial of the contestant and the answer by the sitting member. The committee have endeavored to ascertain as far as possible the facts which could be shown to have existed to prevent or obstruct the election in this congressional district in the month of May last, as alleged by the contestant. It appears from the current history of events that a revolutionary convention, called in the State of Virginia in the month of February, 1861, adopted what was called an ordinance of secession. That ordinance, in terms, repealed the ratification of the Constitution of the United States by the State of Virginia, and resumed to the State all the rights and powers granted by that ratification. Immediately thereafter the State of Virginia claimed to be independent, and the secession convention passed another ordinance recognizing the independence of the confederated States. During the month of April, of the same year, and not long after the passage of the ordinance of secession, the State of Virginia became, by the act of its convention and its Executive, a member of the southern confederacy. On the 24th of April, of that year, an ordinance was passed suspending the election of members of Congress, which ought to have taken place on the following 23d of May. It was provided by the law of Virginia passed in 1853 that the election for Congress should take place at the time I have named. The question to be considered by the committee was the effect of that ordinance of secession and the subsequent ordinance of the convention upon this congressional district.

It is made the duty of each State under the Constitution of the United States to pass laws fixing the time, place, and manner of holding elections for members of Congress. The Constitution in that respect is mandatory upon each State. If a State has adopted a law regulating the election of members of Congress, that law may be repealed by the same power that has enacted it. The convention of Virginia claimed to exercise in what it did the powers of a Legislature. Its acts and its ordinances were received, respected, obeyed, and had the force of laws in all that portion of Virginia east of the Blue Ridge. All of the executive officers of the State, from the Governor down to the constable, lent their aid to enforce these ordinances. The courts gave the sanction of their judgments, and issued their processes for the execution of these ordinances. The archives of the State, the great seal, and all the emblems of authority were in the possession and under the control of this convention. These ordinances were respected and obeyed by the people in all the eastern portion of Virginia. The Federal officers in that part of the State were either compelled to resign or were driven off, and no person was allowed to exercise the rights or to perform the duties of an office in that portion of the State without first renouncing his allegiance to the Government of the United States and taking an oath of fealty to the new government. From what the committee can understand, it appears that at the time referred to the law for the election of members of Congress was not only in terms suspended by the convention, but the election officers appointed to carry that law into effect were superseded. There were, therefore, no officers who could execute it.

The Committee of Elections fully admit that all of these acts of that convention were revolutionary; that they were usurpations; that the people of the eastern portion of Virginia were neither legally nor morally bound to obey them. The very term usurpation, however, implies that the party who usurps has the control and possession of the rights and powers which he has usurped. The question is simply one of fact—not whether it may have been legally right for the people of the eastern portion of Virginia to elect a member of Congress in the month of May last, but whether it was legally, physically possible for them to do so. But the sitting member claims—and he must claim in order to support his case—that this elective law of 1853 was not only in force, but that he was elected in all respects in pursuance of that law. The Constitution of the United States prescribes the qualification of a person entitled to a seat as a member of this House. It requires that he shall be of a certain age; that he shall be an inhabitant of the State from which he comes; and that he be a citizen of the United States for a certain length of time. The Constitution of the United States makes this House the judge of the qualification of its own members; and when the House sits judicially on the qualification of its members, the Constitution of the United States is the rule by which its decisions are to be governed. The Constitution provides that each State shall prescribe the time, place, and manner of electing members of Congress, until such time as the State laws may be altered or amended by the Congress of the United States. When this House sits in judgment upon the election and return of one of its members, the law of the State from which the member comes, and under which he claims to hold his seat, is the rule by which it is to be governed.

The question now to be considered is whether the law of 1853, under which the sitting member claims his seat, was in force at the time; and if in force, whether the sitting member was elected in accordance with the provisions of that law. The laws of the several States in regard to the

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. FRIDAY, FEBRUARY 28, 1862. NEW SERIES.....No. 62.

election of members of Congress differ essentially in most of the States. In one State the voting is done by ballot, and in another *viva voce* In one State the election board consists of two persons, and in another five or more. In one State the election is in the month of May, in another it is in the month of October; and it is self-evident that in order to determine the validity of the election, whether the member who claims a seat here is elected or not, this House must find, if in his favor, that he was elected in conformity to the laws of the State in these respects.

The law of Virginia under which the sitting member claims to hold his seat, as I have said before, was passed in 1853. It had been several times amended. It provided, among other things, that the court of common pleas in each of the counties of that State should appoint five persons, who are named in the law, as commissioners, for the purpose of holding elections in each of the election precincts of the county in which the court was held. They also appoint one other officer, who was called a conductor. Each of these persons had his duty to perform under the law. The commissioners, any two of whom might act as a board, were required, before entering upon the duties of their offices, to take an oath to faithfully perform those duties. They acted as the judges of election. The conductor was also an officer of the election, and was to see that order was preserved, and that the votes were properly recorded. This board were to determine, in the first instance, who had a right to vote, yet their decision upon any particular case was not conclusive. If the vote of any person was challenged, he still had the right to have that vote recorded as a challenged vote. The voting was *viva voce*, and not by ballot, and as the votes were announced by the voters they were recorded by the recorder of the election. After the voting was closed, the law required that the poll-book in which the votes were recorded should be certified as to its correctness by all the persons who held the office of judges of election. If there were five commissioners, it was to be certified by them all, and also by the conductor. After these votes were recorded, and the poll-book certified to be correct by these officers, the law required that they should be returned to a certain other election board at the court-house of the county. This second board was required by the law to revise the poll-books, and strike from the list of voters the names of any persons not entitled to vote. After this list is so revised, the law provided that within a certain time they should be returned from the several court-houses of the district to the court-house of the county first named in the law making the district, where they are to be revised by a third board, who make out a certificate of election for the successful candidate, and return it to the Governor of the State. Upon the receipt by the Governor of the certificate certifying the election of the successful candidate, it was made the duty of the Governor to issue his proclamation declaring the election of the successful candidate.

This certificate or proclamation, under the great seal of the State of Virginia, is the kind of credential that every person elected to Congress from the State of Virginia is entitled to hold as the evidence of his right to a seat in this House. It is the kind of evidence that every person who holds a seat in this House either has or is entitled to have from the Executive of the State from which he comes. And if he does not bring with him a certificate, emanating from the Executive, showing that he is elected, he ought to be able, upon the contest for a seat before this House, to produce evidence showing that he is entitled to a certificate of that character.

But the contestant in this case brings to this House no such certificate; nor does he bring to us any certificate from any election board from the seventh congressional district. He brings to us no certificate of any description—nothing that shows or which tends to show that a single vote was ever cast for him.

But there were, Mr. Speaker, certain documents that were submitted to the Committee of Elections, and in virtue of which he claims to hold his seat here, and I beg leave for a moment to call the attention of the House to the character of that testimony. I will preface what I have to say in regard to the character of that testimony with a short chapter in the autobiography of the sitting member, showing something relative to the course he took in order to secure his election. In a memorial which he has presented to this House in regard to his case, he says:

> Immediately after the adjournment of the Richmond convention I went to Alexandria and called upon Hon. George W. Brent, who was a member of that body, (and elected by a very large majority as a Union candidate,) and requested him to announce himself as a candidate for Congress. He peremptorily refused. I then called upon Lewis McKenzie, Esq., to take this position. He also declined. I then wrote a card announcing myself as a candidate, and again visited Alexandria with a view to its publication in the Gazette—a paper of large circulation in the seventh district, then published in that city. The editor of the Gazette promised to publish the announcement until the day of election, but failed to redeem his promise. Having waited for the fulfillment of the promise a reasonable time, I announced myself a candidate in two papers of this city—the Republican and Star—and also issued a circular addressed to the people, of which the following is a copy:
>
> FALLS CHURCH, FAIRFAX COUNTY,
> *May* 15, 1861.
>
> On Friday last I visited Alexandria, and placed the subjoined announcement in the hands of the editor of the Gazette, who promised to publish the same if I would omit the portion contained in brackets. I consented to this change, but the promise has not been kept:
>
> *To the voters of the seventh congressional district:*
>
> I hereby offer myself as a candidate for election to represent you in the next (Thirty-Seventh) Congress of the United States, upon the basis of the maintenance of the Union. [The recent convention at Richmond, called without authority, and usurping all authority, has undertaken to set aside the supreme law of the land in reference to elections to Congress.—Acts of 1852–53, chap. 3, sec. 7, p. 4.] As, therefore, in most of the precincts throughout the district no poll will be opened for members of Congress, I call upon Union men to open side polls, and preserve the evidence of the wishes of the people, a copy of which may be transmitted to me, at Falls Church, Fairfax county, or to Hon. John W. Forney, Clerk of the House of Representatives, at Washington.
>
> CHARLES H. UPTON.

We find, Mr. Speaker, as a response to that call, several documents, as I have said, that were furnished to the Committee of Elections, as evidence that the sitting member was elected. They are all alike, and for the purpose of showing the House the character of all, I will read the poll-book of the election at Ball's Cross Roads. It is as follows:

> BALL'S CROSS ROADS, ALEXANDRIA COUNTY,
> *May* 23, 1861.
>
> The undersigned, legal voters and citizens of Virginia, some of whom were deterred by threats of violence from armed soldiers, and others led to believe that to vote for a member of Congress was illegal, do therefore give our votes for Charles H. Upton, of Fairfax county, as our Representative in the Thirty-Seventh Congress of the United States.
>
> R. H. DONALDSON, and 18 others.

There was one of the same character from the Brentville precinct, Prince William county; another from Alexandria; another from Fall's Church, Fairfax county; and still another from Lewensville precinct, in the same county. There were ninety-five of these votes in all; but it will be seen by examination that the signers of these papers not only do not show that they were voters, but not even that they were inhabitants of the seventh congressional district, which the sitting member claims to represent. The return from Alexandria is as follows:

> ALEXANDRIA, VIRGINIA, *May* 23, 1861.
>
> No poll having been opened in any precinct of this city for the election of a member of the Thirty-Seventh Congress, the undersigned hereby vote for Charles H. Upton, Esq., of Fairfax county, for this office, claiming a right of representation, and Mr. Upton having announced himself as a Union candidate.

It does not show that the persons who signed that paper even lived in the State of Virginia; and even if it did, it would be no evidence of that fact. But I will not occupy the time of the House by commenting upon that testimony. It is clearly not evidence to be used in any election case, nor was it claimed with any confidence before the committee by the sitting member himself that it should be so used.

But it is claimed upon the part of this sitting member that he did receive at this election *ten votes*, and that those votes were cast for him in one precinct in that congressional district. That precinct was Ball's Cross Roads; and for the purpose of showing the character of this document, I will read a portion of it. It is headed "poll for delegates to the House of Delegates and other officers, Thursday, May 23, 1861. Names of candidates and offices." This is claimed to be the poll-book kept at that precinct on that 23d day of May. Following what I have read are the headings, "State Senate," "House of Delegates," and "Member of Congress." George W. Brent appears upon the margin as one candidate for member of Congress, and Charles H. Upton as the other. Under the name of George W. Brent is one mark, denoting that he received one vote; and under the name of Charles H. Upton there are ten marks, denoting that he received ten votes.

On the back of that document, I find the following certificate:

> COUNTY OF ALEXANDRIA, *to wit:*
>
> This day personally appeared before me, a justice of the peace in and for said county, H. S. Wunder, Wesley Carline, H. W. Febry, Richard Southern, commissioners appointed to superintend an election to be held at Ball's Cross Roads, in said county, on the 23d day of May, 1861, for a State Senator and a member of the House of Delegates, and made oath that they would faithfully execute the office of commissioners.
>
> Given under my hand this 23d day of May, 1861.
>
> JOHN R. JOHNSON, *J. P.*

That certificate corroborates what I have said in respect to there being no officers in that congressional district in the month of May last who were authorized to hold an election for member of Congress. These men, whose names appear in this document, which the sitting member claims as the evidence—and the only reliable evidence—of his election, were not appointed by any court in the State of Virginia for the purpose of holding an election for a member of Congress. The oath which they took shows that they were appointed for the purpose of holding an election for members of the State Senate and House of Delegates. That was the oath they took, and that was the election they were to hold.

As I have said before, the laws of the State of Virginia required the county courts to appoint the persons who were to hold an election for member of Congress, as well as other officers; but in that district, at that time, as it appears, there were no persons who were authorized, as far as we know, to hold such an election. Certainly these persons who are named as commissioners in this certificate, and whose oath to perform the duties of commissioners is indorsed upon the back of this document, were not authorized to act as judges of election for a member of Congress in that district.

What further? We find also the oath of the conductor of the election. It is substantially in the same form. It shows that he was appointed only to hold an election for State Senator and members of the House of Delegates, and was not sworn to hold an election for a member of Congress; and then we have this certificate, which is claimed to be proof of that document:

> ALEXANDRIA COUNTY:
>
> Having carefully examined the above and the within transcript, from the poll-book of the conductor of the election held at Ball's Cross Roads, on the 23d day of May, ultimo, I hereby certify that the comparison shows the same to be a correct copy.
>
> Given under my hand this 1st day of July, 1861.
>
> H. S. WUNDER, *J. P.*

That, Mr. Speaker, is the only authentication and the only proof that we have in this case that any votes were cast for the sitting member, and it would be in derogation of the good sense of the House for me to undertake either to argue or to deny that it is testimony. What right or power has a justice of the peace to certify a document of this kind any more than a constable? And what more weight should we give to that certificate than to the certificate of a private individual? I say, then, that we have no proof that the sitting member received a single vote at any election held under the laws of Virginia that would entitle him to

a seat here. In order to have had that poll-book properly authenticated under the laws of Virginia it would have been necessary for the commissioners who held the election to have certified to the correctness of it; and why have they not done it? There is no reason or excuse given by the sitting member why it has not been done. If the men named in this oath really presided at that election, why did they not, in pursuance of the laws of Virginia, return their certificate to the officer who conducted the election at the court-house in the county of Alexandria, where this election was held? The committee find, not only that this election was irregular, that he had no certificate; but they find that there is no evidence that any votes were given for the sitting member; and they have, therefore, unanimously reported that the sitting member is not entitled to the seat he now holds.

Mr. RIDDLE. Mr. Speaker, upon the first day of the extra session of this Congress, the name of Charles H. Upton appeared on the official roll prepared by the Clerk of the last House, who, I believe, pursuant to an existing law, organizes each succeeding House of Representatives. A motion was made that those who responded on the call of that roll should be sworn in. An exception was sought to be introduced, omitting from the roll, among others, the name of Charles H. Upton, of Virginia. I refer to this merely to show that the attention of the House was called specifically at that time to the claim of this gentleman to a seat. The proposition was so modified as to provide that the oath should be administered to those to whom no objection was made. Upon the administration of the oath at that time, so far as the record shows, no objection was made to administering the oath to Charles H. Upton. That has significance, if it has any, only as showing the fact that attention had previously been called to his case.

Now, Mr. Speaker, in this state of the record, I have a proposition to submit to such consideration of the House as it, in its wisdom, may think it entitled to. It is to be borne in mind that there is no contestant for Mr. Upton's seat. It must also be borne in mind that there is no whisper of discontent or dissatisfaction coming from any portion of his so-called district. True, there is some person who has come here at some time or other claiming the seat, and whom the member of the committee has dignified with the name of "the contestant," and he was made to figure somewhat conspicuously in the able remarks of my distinguished colleague, [Mr. WORCESTER.] But it is a most significant fact, so far as he is concerned—and that is all I shall say of him and his claim—that his name does not occur in the elaborate report of the Committee of Elections. Why, sir, his pretended election took place long after the extra session of Congress, and the committee in their report are silent as to him and his claim.

But I was about to say that the sitting member was sworn in after the attention of the House had been called to his position as a claimant and when there was no claim adverse to his What then is his position upon this floor? The fifth section of the first article of the Constitution provides that each House shall be the judge of the election, returns, and qualifications of its members, and shall exercise to that extent, of course, judicial functions, and I suppose that when they have exercised that function in a given case, they have used it up, so far as that case is concerned. I am not aware that any provision of the Constitution, or any law of Congress, or any usage of this House permits the House to undertake to reconsider or review its own decision. I have never heard of such a thing, and the effect of the administration of the oath upon this gentleman was to make him conclusively and *bona fide* as much a member of this House as any gentleman who occupies a seat in it, and, in my judgment, he can only be got rid of by the same means as other members can be excluded by expulsion.

Now, sir, in some cases a man comes here with only a *prima facie* case; he is to some extent paired off with another claimant; the House finds upon hasty consideration that he has such a claim as entitles him to receive the oath, and in such a case it is expressly or impliedly understood, from the fact that there is a contestant, that the case is not conclusively settled. But I submit to the judicial consideration of the House that when a man comes here and claims a seat to which there is no contestant—and especially in a case where an objection is raised and the House considers it and votes it down, and then administers the oath to him as it is administered to others—that the function of judging of the qualifications and election of that man has been exercised, and that there is no power by which the decision may be reconsidered, unless you can charge upon the sitting member some act of fraud. There is but one other function, so far as he is concerned, which the House can exercise if they wish to vacate his seat, and that is by a motion or resolution, on proper cause made, for his expulsion, which requires a two-thirds vote.

I know that it is out of order to allude to what transpires at the other end of the Capitol. I shall not do so in a reprehensible way so as to bring myself within that rule; but it is well known that there is now a gentleman claiming a seat as a Senator, the question of whose qualification is under discussion, and it is conceded on all hands—his seat not being contested—that if he is sworn in, even upon a *prima facie* case, he can only be thereafter excluded by a two-thirds vote sustaining his expulsion.

That is quite as much, perhaps, as I ought to say on this point. I do so for the purpose of bringing the attention of parliamentary and constitutional lawyers on this floor to what may possibly have no title to their consideration, but which seems to me to be founded on the best and most conclusive reasons.

Subsequently, at a later day in the last session, as was said by the gentleman in his opening, the question of the eligibility of this gentleman to his seat and the regularity of his election was referred to the Committee of Elections, whether for the purpose of reconsidering his admission or of predicating a resolution for his expulsion we are not informed by the resolution itself. The committee, not quite content with reporting on this eligibility and the regularity of his election, reported, after finding that he was eligible, that he was not entitled to a seat in this House. Now, I submit that even if a majority of the House should find that he was not entitled to his seat, that would not vacate the seat unless that majority rose to two thirds for reasons already stated.

Before calling attention to the report and some of its reasonings, I wish to say a word or two in regard to some very important principles that seem to me to lie a little below the ground occupied by the committee in its report. The great primal law, so to speak, which lies at the foundation of all American politics, to wit, the right of the people to govern themselves, finds its expression in this other equally primary law, that they shall do that by their Representatives. It therefore becomes of the gravest consequence that this right of expressing their preference or declaring their choice for the Representatives who shall carry forward the process of Government shall be by the amplest means secured to the people. That is the thing to be accomplished. All the various laws of the United States or of the several States regulating elections, are but the means employed to insure to the people the exercise of their right of choice, and to permit them, through constitutional and legal forms, to express that choice. Every presumption of fact, every intendment of law, and every construction of law and of fact are to be in favor of giving effect to this voice of the people in a given case, and can never be used to defeat it. The purpose and object to be arrived at is, what did the people wish? For the purpose of ascertaining that, we pay little respect to broad seals; we pry them up. We do not pay much attention to enactments; we cleave whole volumes of them asunder, so that we may arrive at the wish of the people, as it resides in them, pure as light is said to reside primarily in the diamond. It is a defeat of the primary as well as of the paramount object of these various election laws to use them or permit them to be used to prevent the purpose and object of the people. Wherever, whenever, and however it can be ascertained that under the forms and color of law, a people have expressed their wish for a Representative in a given case, that wish is to have effect given to it. I believe there can be no exception whatever to that rule, and never was.

Now, here is a congressional district, called the seventh district of the State of Virginia. All its multiplied and various interests are to be represented on this floor. Its territory, which is a portion of the territory of the United States, the eminent domain of which resides in the sovereign; all its variety of interests—interests of property, interests geographical and commercial, and all other, before you reach the ultimate, greatest, and last interest—the interest of the people themselves—are to find expression and representation on this floor, or are to be denied. One would suppose that the theory was that the right of self-government, if it is to be exercised by Representatives, would carry with it the right of universal suffrage. That is not the American rule. The Constitution has left to the State authorities the right to designate who, in a congressional district having perhaps one hundred thousand inhabitants, shall give expression to the will of the inhabitants in the selection of a Representative. It is said here by this committee that in the seventh district of Virginia this choice is to be expressed by about six or eight thousand—not one tenth, not more than one twelfth—of the inhabitants. These voters are not the only persons interested in this thing. They are but the agents of the inhabitants to express their wish in a given instance, to put them in official relations with the General Government. When they have exercised that function—the voting for a member of Congress—they sink back again into the great mass of the constituency. They have no interest independent of that of everybody else. They are, in no sense, to be considered constituents in contradistinction to all the other inhabitants of their congressional district. They are the agents on the part of the people, and the agents on the part of the General Government, to put that particular congressional district in official relations with the General Government in all its various territorial, commercial, geographical, and other interests.

Now, sir, has any law of the Congress of the United States enforced this duty on these official agents? Does it enjoin that they shall do it? Does it impose on them any penalty if they fail to do it? Did any law of the State of Virginia impose this duty on these six or seven thousand agents? Did it impose on them any disability if they disregarded it? Have the people of a given congressional district any constitutional or legal power to coerce or enforce this discharge of official duty on the part of these agents, save only the sometimes strong, sometimes weak, force of public opinion? None at all. Does the law of Congress or the Constitution of the United States require that all or any specified part of these official agents shall unite to express the will of the people? Not at all. Is there any law of the State of Virginia which requires for the election of a member of Congress the concurrent action of one half, two thirds, three fourths, or any other number? Not at all. What is the legal and constitutional conclusion from these premises? Why, that any number, from one to ten thousand, who shall, in accordance with and under color of the law of the State, in proper time and manner deposit one vote or the whole number of votes for a given candidate, are entitled to have effect given to their will. Does the Constitution or any law provide that in case of an invasion of territory, or in case of an insurrection involving a majority of the inhabitants, this right to express the will of the people in the choice of their Representative shall not take effect? Not at all. There is no qualification or condition of any sort. It is complete, wholly unqualified, and unconditional.

This gives additional strength and support to the conclusion at which I have just arrived, to wit, that any number of electors who shall attempt in good faith, and under color and form of law, to give utterance and expression to the will of the people, and shall so utter and express it, may be sufficient to exercise that power. They are a sort of agents, trustees of a power, coupled, to be sure, with an interest, but with no interest independent of the interest of all the other inhabitants of the district. It would be intolerable to admit any other rule. What would be done with a district, if a different rule were to be established, where two thirds, three fourths, nine tenths, or ninety-nine hundredths of the electors refused to vote, no matter for what reason? Should they be permitted to outlaw the whole territory, and to disfranchise all the people? It is to be borne in mind that they are not the constituents, any more than the rest of the inhabitants. They are merely the official agents to express the voice of the people.

Now what have we here? The Committee of Elections is instructed by the House to inquire into the eligibility and regularity of the election of the gentleman who holds a seat here as a Representative of the seventh district of Virginia. It seems to me, without meaning the least disrespect to these gentlemen, that somehow or other, if they have not found the water here too deep for them they have found it too turbid and chilly for them to venture over it. It would almost seem as if they contented themselves with making a few incoherent excuses for not attempting the navigation. It seems as if the able and distinguished lawyers who constitute the Committee of Elections brought to the adjudication of these great questions the narrow and technical rules that are perhaps safe and prudent in cases of assault and battery, or in matters of book accounts, but which utterly fail, in my judgment, to measure the everlasting rules of right and wrong, as they lie hid beneath your Constitution, and which alone give it its validity and sanction.

Why, sir, they seemed to consider themselves, for the time being, a sort of tribunal, and Mr. Upton a suitor before them, and as a suitor without any presumption of law in his favor; indeed, that he occupies almost the position of a mendicant, and the position of the committee such that they are bound to report adversely to his case, unless he produces testimony to substantiate his suit.

Why, sir, the House has decided that already. Mr. Upton is as much a member of this House as are his triers, or as any of us are, and in the same sense, and as conclusively. The same flag that drapes this House in its deliberations covers him as it does the occupant of the Speaker's chair.

But the Committee of Elections complain that he has not produced testimony—just as if it was obligatory upon him to produce testimony, as if the onus lay upon him to establish affirmatively his right to a seat. Why, sir, they are charged with an inquiry; they are to investigate; they are to look here, to look abroad, to look everywhere, to every legitimate source of legal proof, where ever they can get a clue to the facts; to themselves summon witnesses. And it is only when they shall find the proof to be adverse to him that they can or should call upon him for proof to explain or rebut what would otherwise be established.

This is not a case in which a man stands outside knocking at the door for entrance into this Hall. He is already here, the peer of the proudest of us, recognized as such by the Constitution and the laws. He sits here in the discharge of the solemn duties devolved by the Constitution upon a Representative from one of the sovereign States of this Union. The seventh congressional district of Virginia, which he here represents, cannot be disfranchised, and he be placed in the attitude of a mendicant or plaintiff at the tribunal of this grave and important committee.

Sir, I am neither querulous nor complaining; but it seems to me that they have entirely misjudged in another very important point of view. Why, sir, they have attempted to take into consideration the political condition of the seventh congressional district of Virginia. What provision of the Constitution, what law of Congress made the political condition of any district a question to be inquired into by this House? I should like to know where in the history of contested elections has the House, as a primary condition, undertaken to inquire into the political condition, or moral condition, or any other condition, of any district asked to be represented in determining the question whether a person has been fairly chosen a Representative upon this floor. I will ask the Clerk to read the position taken by the Committee of Elections upon this point.

The Clerk read, as follows:

"It appears, then, from the facts that we have elted from the history of the times, and from the foregoing evidence, that the authorities which had usurped and then had control of the civil government and military forces of the State had, for the time being, set at defiance and annulled the lawful authority of the United States, and deposed or driven off its officers, practically severed the ties and abrogated and repealed all laws that bound the State to the General Government of the United States. All this was done, for aught that is shown to the contrary, with the approval and concurrence of a very large majority of the people, and without the effective opposition of any of them. The law of the State, providing for the election of members of Congress on the 23d of May, was regarded and treated by the Governor, sheriffs, commissioners, and other officers charged with the duty of seeing it carried into effect, with the exception at most of those of a single election precinct, as suspended, and for the time being as practically repealed. This course of the election officers appears to have been adopted and pursued without remonstrance or objection from any considerable number of the people of the seventh congressional district. The great body of the people in the district seem to have acted upon the belief that, on the 23d of May, there was no law in force in the State which would enable them, if so disposed, to elect a member of Congress, nor was there any evidence before the committee that any very considerable number, if they had had the power, would have had the inclination to exercise it. Such being the state of the district, it is a question well worthy of grave consideration whether its political condition was such that any election for a member of Congress at that time should be held legally valid, either under the law of Virginia or of the United States, even were the evidence of such election clothed with all the ordinary forms of law."

Mr. RIDDLE. I think that extract contains one of the gravest errors ever pronounced on this floor, and I wish to call the attention of the gentleman to one aspect of it alone. Sir, we are here told that the governmental agents of Virginia were in rebellion, and had carried their rebellion to the dignity of treason—the highest known crime—notwithstanding it is a historical fact that, at the time this election was held, there was not the foot of a so-called confederate soldier pressing the soil of the seventh congressional district of Virginia. We are here told by this grave and learned committee that, in the absence of all proof, in violation of the presumption of all law, it is the presumption that a large majority of the people of this district were also guilty of this treason. Yes, sir, they go further, and say there is no proof before them that any considerable body of the citizens of that district were not thus guilty.

Why, sir, you may take the most hardened wretch that ever ran, red-handed, crusted, leprous with crime, and when he is placed at the bar of justice for his trial, the presumption of the law is that he is still innocent; and that is not a mere legal formality, a mere fiction of law, that floats intangible in the judicial atmosphere, but it arises like solid adamant about him and shields him from all prejudice, from improper influences, and which yields only to irrefragable proof.

But, sir, you have here a committee gravely asserting not only that the government authorities of Virginia were guilty of treason, but in the absence of a particle of proof asserting that a large majority of the voters of the seventh congressional district of Virginia were also guilty of treason. And they go further, and assert that it is the duty of the claimant in this case, or of somebody else, to show the proof negatively that they were not so guilty.

But, sir, if that be a poisonous doctrine, there is found in the same paragraph, perhaps, the antidote, for they say that this was a mere usurpation. Well, sir, what follows from that? These pretended acts and ordinances of secession are mere idle breath, essentially not legal entities; that they are presumed not to be; not only do they have no binding effect upon any of the citizens of that district, but they are presumed not to exist in fact. Not only are the citizens of the district presumed to be loyal, for that is the constitutional as well as the legal presumption, but they are presumed also to know that there was no legal or binding validity whatever in any one of these acts of usurpation. They were not only citizens of the United States, with the right to exercise all the privileges and franchises of citizens in all their length and breadth, but they are presumed to know it. And if they chose not to exercise those rights they are presumed to have had a sufficient reason for it. The legal presumption goes even further than that. They are presumed to acquiesce in the dictation of those who did exercise those rights and are bound by those acts; for it is to be borne in mind that while some of the citizens of that district had armed themselves and were haunting the various election precincts, still not the foot of a solitary so-called confederate armed soldier at that time pressed the soil of the district. The presumption of the law, therefore, is not only that these citizens were loyal but that they were in the full exercise of their rights and privileges, and they are presumed to have discharged them in their own way.

Now, sir, what did occur in this district on the election day? I do not propose to occupy your time or ask your attention much longer. The question is not whether a majority or two thirds or three quarters of the qualified voters of the district actually expressed their choice; the question is, whether any of the qualified voters of the district attended on behalf of the people under color of law and did exercise the elective franchise upon the day named in the unrepealed law of the State of Virginia. If so, I insist upon it that this House must give effect to that election.

It is conceded that the 23d of May, 1861, was the day designated by the laws of the State of Virginia for the election of members of Congress. It is conceded that the State of Virginia could not and did not secede from the Union so as to have the least legal or constitutional effect upon any of the citizens of that State. It is conceded that on the day of the election an election was holden at the precinct of Ball's Cross Roads. It is in proof that the State authorities did formally at that place open an election for a member of Congress.

But I am met right here by what is considered a very grave, fatal objection. It is said, although there was a law opening this poll, and although the formalities of that law were complied with in almost all respects so far as the opening of the polls was concerned, yet one most important element was wanting, to wit, that the conductors of that election—or the commissioners, or whatever they are called—were not sworn to open and conduct an election for a member of Congress. Is that to be allowed to disfranchise the voter? Was that his fault? Was he presumed even to know whether they had or had not been sworn? And if he had known it, what remedy had he? Is it to be used to defeat him of his right of choice? He stands there a Virginia citizen. He stands there in the face of this abominable treason. He stands there in the face of the armed men. He stands there with the solid earth shaking under him, and he cannot shrink behind the privacy of the ballot. He declares with loud voice, amid the opposing elements, that he votes for Charles H. Upton for Representative in Congress. Was he a qualified elector? There is no question made about that. There was no oath required of him. He executed the formalities under color and pursuant of the law of the State, passed in pursuance of the Constitution of the United States, and you cannot permit the technical disqualification of any officer of that election to rob him of his right. You cannot disfranchise his district. You cannot alienate the territory. You cannot throw out by your action, without the right of being heard, the thousands and thousands of inhabitants who are, under the Constitution and the laws, presumed to be loyal to the Government. And I might make that same remark in regard to everything that transpired afterwards.

It is idle to stand here and say to me that there was not a proper return made. A majority of this same committee reported against a sitting member and for a contestant deliberately in the face of the certificate of all the returning officers. You disregarded the forms of law. You went back to the sanctuary where was said to be kept the depository of the ballots. You broke it open, rummaged and counted them. Why? Because you wanted the clearly expressed will of the people, not as they had been made to speak through corrupted returns, but as they did speak. All I ask is the recognition of the same principle; and the whole House recognized the correctness of the procedure, and only disagreed with the committee as to the facts. If you find in this instance that the people have honestly, under the color of law, given expression to their solemn judgments, you must give that expression effect.

Mr. WORCESTER. My colleague will permit me to ask him a question. What evidence does he find to show that a single vote was cast for the sitting member? He may find evidence that the polls were opened, but none that a single vote was cast for the sitting member.

Mr. RIDDLE. He is *the* sitting member. If he were a contestant claiming a seat here, the gentleman might well inquire what proof he had to produce; but he sits here the sworn member of this House, and the peer of the gentleman himself. What do those who assail his right to a seat here—those whose duty it was to inquire—they who were the inquisitors, and who had no business to say to this man that he must produce testimony—what do they say? Do they say in their report to this House, does the gentleman say in his place upon this floor, that those votes were not so cast? Not at all. He who takes the affirmative of the

pending resolution, that this man is not entitled to his seat, does not say in his report or upon this floor—he cannot, he dare not—that these votes were not cast; but, with the ingenuity of a special pleader, takes advantage, or seeks to take advantage, of forms, and that too, sir, when, at the request of this same committee, the House refused to permit the sitting member to take further proof after he had seen their report, and that they had misconceived or misstated the force of his evidence, and a wrong bearing was given to it.

The sitting member has produced the conductors of the election, who swear that the polls were opened, and they claimed to produce a copy of the poll-book, which shows that ten votes were cast for Charles H. Upton for member of Congress. Those were the witnesses before them, and the committee were the inquirers. They have reported those facts, but they say that the proof does not rise to the full formality that would be required for the admissibility of testimony on the part of this plaintiff or sitting member. They took the affirmative. This copy of the poll-book is produced, and the officers are produced, who swear that the polls were opened. No question is made about the identity or the correctness of that poll-book. It is not said by the committee that it is not a copy of a poll-book. It is not said that those votes were not cast as represented; but it is said, to the shame and confusion of the committee, I submit, in view of their solemn duties, that this plaintiff has not yet produced the full measure of proof that the votes were cast. There is not a man living, who will read that report, who will not come to the conclusion, unshaken by the presence of a doubt, that these votes were so cast as claimed.

But these gentlemen, not quite content with the resolution which they have reported to us, have added a sort of drizzling after-birth. They query, even if the ten votes were given, whether the paucity of votes would not defeat the election, but do not claim that it would. They say that it was not generally known in the district that Charles H. Upton was a candidate for Congress on that occasion. Admit that it was not. In Virginia a plurality elects. Supposing you had a thousand candidates, and that nine hundred and ninety-nine of them received ten votes each and the thousandth received eleven, would the gentleman stand here and contend that the man with the eleven votes was not the regularly elected member of Congress, even though it was not generally known that he was a candidate? To sustain the validity of the election supposed, is there any more force to be given to the votes which were cast against the man who received the eleven than there would have been if they had been withheld? Does voting against a man contribute more to his election than not voting at all?

Mr. Speaker, I have said all I care to say. I submit, in the first place, that by the record the sitting member is entitled to his seat—conclusively so. I say that he is only to be excluded by a vote expelling him, which requires two thirds of the House. I say, beyond that, that the conclusion is inevitable from the facts that he was legally and constitutionally elected. I hope, therefore, that the resolution reported by the committee will be rejected.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, announced that the Senate had concurred in House bill No. 104, entitled "An act fixing the number of the House of Representatives from and after the 3d of March, 1863," with an amendment; in which the concurrence of the House was requested.

VIRGINIA CONTESTED ELECTION—AGAIN.

Mr. FESSENDEN. Mr. Speaker, the instructions of this House to its Committee of Elections were, "to inquire into the question of the *eligibility*" of the honorable gentleman who claims to be the Representative of the seventh congressional district of the State of Virginia in the Thirty-Seventh Congress, "and *the regularity* of his election." As to the eligibility, it is conceded by the committee. The only question is as to its regularity. And the conclusion to which the committee has arrived is—

"That the incumbent has produced no evidence which, either under the statutes of Virginia, or in accordance with any precedent known to them, would be admitted as satisfactory proof that *any* votes were *legally* cast for him as a candidate for Representative to the Thirty-Seventh Congress, either at the voting precinct at Ball's Cross Roads or elsewhere in the seventh congressional district."

But the question at once presents itself, is it *necessary* that this evidence should be produced before he can be entitled to a seat in this House? Are there *no conditions* which, having been fulfilled, preclude the necessity the existence of which the committee has taken for granted, and on which they have predicated the resolution under consideration?—the resolution that Charles H. Upton is not entitled to a seat in this House as a Representative of the seventh congressional district of Virginia. Were any votes cast for the incumbent as a candidate for Representative to the Thirty-Seventh Congress, either at the voting precinct at Ball's Cross Roads or elsewhere within the district? Did he have a majority of all the actual votes cast?

In submitting for the consideration of this House the remarks which I may make on this case, I propose these questions as pertinent to the issue.

That *some* votes were cast for the incumbent at Ball's Cross Roads, I understand to be admitted; that he had a majority of all the votes actually cast, no one is disposed to doubt. We return then to the first question, which is, in substance, as follows: is it necessary that the sitting member should produce *satisfactory proof* that *any* votes were *legally* cast for him as a candidate before he can be entitled to a seat in this House?

Now this, I think, will be admitted: votes legally cast for him must have been votes cast in accordance with the laws of Virginia in such cases made and provided. The laws of Virginia, in this case, provide "that the county court shall biennially appoint *five* freeholders *commissioners* of election for each place of voting in the county, any two of whom, together with another officer, called the *conductor*, are authorized to hold the election. After the polls are closed, the correctness of the poll-book is required to be certified by the commissioners and conductor. It is then made the duty of these officers, within five days after the commencement of the election, to report and deliver the poll-book so certified to the officer conducting the election, at the court-house in the same county. In the case of a congressional election, these last-named officers in the several counties in the district meet, canvass the poll-books, and make out a certificate of the result, one of which is transmitted to the Governor." It appears likewise that, previous to opening the poll, the commissioners and conductor must make oath that they will faithfully "execute the office" according to law.

If such be the election laws of Virginia, they provide for some six or eight special acts on the part of certain officers, either of which not being performed, I do not see how a candidate could be *legally* elected, notwithstanding he may have had a majority of the votes, provided there is to be a strict construction of the law. Suppose the State of Virginia had been, as a State, on the 23d day of May last, as it was on the 23d day of May, 1858, all right as to the Union, and at peace, and at the congressional election the provisions of the law, in the seventh congressional district, were not complied with; no sworn commissioners and conductor held the election; no poll-book was certified by the proper officer, or, if otherwise in these respects, these officers had no meeting to canvass the poll-books and make out a certificate of the result; or, having held a meeting for this purpose, they failed to transmit a copy of their certificate to the Governor, what then? Why, it is perfectly obvious that, according to a strict construction of the law, the election would have been null and void. Or will it be said this or that provision of the law is not material to render the election valid? There may have been no conformity with some particular requisition of the law, and still, in fact, one of the candidates was elected. But if you are at liberty, under some circumstances, to overrule one provision of the law and declare the candidate to have been elected, notwithstanding said provision was not complied with, may you not, under some circumstances, likewise overrule every provision of the election laws of Virginia, and declare the candidate to have been elected, notwithstanding these laws were disregarded? I do not say that at the election in May last, by which the incumbent claims to hold his seat, there was non-compliance with all or any of the election laws of the State of Virginia. But suppose there was: is this a valid reason for his ejectment? This is the question.

It is well said, that "reason is the soul of the law, and when the reason of any particular law ceases, so does the law itself." When the congressional election of which we are speaking took place, where was the *soul* of the law by which certain officers in the several counties, or in any county in the seventh congressional district of Virginia, were required to meet, canvass the poll-books, make out a certificate of the result, and transmit it to the Governor of the State? It had become defunct. It had been carried off *vi et armis* by the disloyal Governor of Virginia, his sheriffs, and conductors, and its very life taken from it. There was no more occasion or use for any of these officers to meet, canvass the poll-books, make out a certificate of the result, and transmit it to the Governor of Virginia, than there was for them to meet and go through this form and transmit a copy of their certificate to the Governor of Maine. There was no Governor of Virginia to receive their certificate, just as there was no Governor of Maine who would receive it. There would have been no reason for their so doing. The reason for the act was gone; the soul of the law was wanting; it had been divested of its spirit and meaning. There was nothing left of it but the letter, which was of no account.

But "no return was made of the election at Ball's Cross Roads to the sheriff or conductor at the court-house in Alexandria." The sheriff had fled; he had no intention of being there to receive the return. And suppose he had not fled, but could have been found at the court-house on some of the five days after the commencement of the election, to receive the return of the commissioners: what reason would there have been in their making the return to this disloyal sheriff for the purpose of his sending "the certificate" to the disloyal Governor? There were armed men at the opening of the polls at Ball's Cross Roads on the 23d day of May, "in active rebellion;" the roads were traveled daily by many violent secessionists. Why should these commissioners persist in going to the court-house to see a sheriff who was not there, to afford him an opportunity of sending a certificate to a Governor who had no official existence—an opportunity which, if the Governor had been officially alive, the sheriff would have had no inclination to improve?

"But the result of the election"—

we read in the report of the committee—

"was in no manner certified, authenticated, or proved by the officers conducting the election at that precinct, or in any other mode known to the law."

By the election laws of the State of Virginia, "the officers" were to certify "the result of the election" according to a certain prescribed mode. Any other mode than that prescribed by the laws would have been illegal. There is no evidence that they did not so certify, other than that arising from presumption, based on the fact that it was quite, if not altogether, impossible for them to certify, or authenticate, or prove the result of the election in accordance with the provision of the law. The commissioners made oath "faithfully to execute the office of commissioner." And it is to be presumed that they did faithfully execute the office to the best of their knowledge and ability. It is a sound law maxim, I believe, "that all things are taken to be lawfully done until proof is adduced to the contrary." Fraud shall never be intended or presumed or adduced by the law, unless it is expressly averred. If a faithful execution of their trust required these commissioners to certify to the correctness of the poll-book, and to do certain other things as declarative of the result, who shall venture to assert that they were not done, because no further evidence or proof than the oath of the commissioners to do these acts is adduced to show that they were performed?

Then, again, the result of the election is in a "manner" certified, authenticated, and proved by some of the officers conducting the election at that precinct. It is truthfully certified; no one will assert to the contrary.

Admit, for the sake of the argument, that the result is not certified in any manner known to the law, still, if we have the truth stated, we have the substance, and something in the manner or mode of stating the result which ought to be known to the law, and held in great respect by lawyers as it is. Why, Mr. Speaker, the wonder to me is,

when I consider the circumstances in which these commissioners were placed, not that they failed to certify, authenticate, and prove the result of the election in a mode known to the law, but that they certified, authenticated, and proved the result in any manner or mode whatever.

There they were—the Governor of Virginia in open rebellion against the United States; the sheriffs and conductors in rebellion; not a few of the people in rebellion; angry discussion in almost every house; armed men walking about avowing their secession doctrines, and ready to assault any loyal man who objected to them; all excitement; all anxiety; and no man feeling that there was any security left for himself, his family, or his property; it is wonderful if the commissioners were so calm, so collected amidst this storm of passion, as to so much as think of certifying to a return of the election; more wonderful still had they been so cool as to make it in accordance "with laws which," as they were counseled, "had ceased to be the laws of the State," "and that to observe these laws would be highly illegal and improper."

Do you ask the incumbent to produce "satisfactory proof" that he was elected Representative to the Thirty-Seventh Congress in the seventh congressional district of Virginia, and say to him that the only proof that can be so regarded is that which will show that he has been *legally* elected, and you mean by "legally," in accordance with the election laws of that State in 1858? You require of him that which he cannot do. The law does not seek to compel a man to do that which he cannot possibly perform. Says Sir W. Scott:

"The law itself, and the administration of it, must yield to that to which everything must bend—to *necessity;* the law, in its most positive and peremptory injunctions, is understood to disclaim, as it does in its general aphorisms, all intention of compelling to impossibilities, and the administration of laws must adopt that general exception in the consideration of all particular cases.

"In the performance of that duty, it has three points to which its attention must be directed.

"In the first place, it must see that the nature of the necessity pleaded be such as the law itself would respect, for there may be a necessity which it would not—a necessity created by a man's own act, with a fair previous knowledge of the consequences that would follow, and under circumstances which he had then a power of controlling, is of that nature.

"Secondly, that the party who was so placed used all practicable endeavors to surmount the difficulties which already formed that necessity, and which, on fair trial, he found insurmountable. I do not mean all the endeavors which the wit of man, as it exists in the acutest understanding, might suggest, but such as may reasonably be expected from a fair degree of discretion and an ordinary knowledge of business.

"Thirdly, that all this shall appear, by distinct and unsuspected testimony; for the positive injunction of the law, if proved to be violated, can give way to nothing but the clearest proof of the necessity that compelled the violation.

"It is, then, a general rule which admits of ample practical illustration, that *impotentia excusat legem*, where the law creates a duty or charge, and the party is disabled to perform it, without any default in him, and has no remedy over—there the law will in general excuse him."

In the matter of the election in the seventh congressional district of the State of Virginia, on the 23d day of May last, the law created a certain duty which commissioners, conductors, and sheriffs were unable wholly to perform. They were disenabled, without any default in them, and have no remedy over; and here the law should excuse them. The nature of the necessity which was laid upon them, their unavailing practicable endeavors to surmount the difficulties which formed that necessity, and this having been made to appear by distinct and unsuspected testimony, is sufficient to render them justified in the eye of the law for not having complied with its provisions. By reason of their failure to do that which they could not possibly perform, it is that the incumbent has failed—if he *has* failed—to do that which *he* could not possibly perform. I beg to quote again the language of the eminent jurist, and to say that here we have a case—if there ever was such a case—to which the principle is applicable, and to which justice in the case requires that it be applied:

"The law itself, and the administration of it, must yield to that to which everything must bend—*to necessity;* the law, in its most positive and peremptory injunctions, is understood to disclaim, as it does in its general aphorisms, all intention of compelling to impossibilities, and the administration of laws must adopt that general exception in the consideration of all particular cases."

The Constitution provides that—

"Each House shall be the judge of the elections, returns, and qualifications of its own members."

It is as judges, it is in a judicial capacity, we are here to decide this case. It is a well-known judicial maxim, that "it is the duty of a judge, when requisite, to extend the limits of his jurisdiction." Broom says:

"The maxim of the English law is to amplify its remedies, and, without usurping jurisdiction, to apply its rules to the advancement of substantial justice; and accordingly, the principle upon which our courts of law act is to enforce the performance of contracts not injurious to society, and to administer justice to a party who can make that justice appear by enlarging the legal remedy, if necessary, in order to attain the justice of the case; for the common law of the land is the birthright of the subject, and *bonus judex secundum aequum et bonum judicat, et aequitatem stricto juri praefert.*"

Lord Hobart observes:

"I commend the judge who seems fine and ingenious, so it tend to right and equity; and I condemn them who, either out of pleasure to show a subtle wit will destroy, or out of incuriousness or negligence will not labor to support the act of the party by the art or act of the law."

Now, is it not our duty in this case to enlarge the legal remedy in order to the advancement of substantial justice, and to administer justice to a party who makes that justice to appear, to the end that the justice of the case may be attained?

Not long since I listened to the honorable gentleman from New York, [Mr. DIVEN.] He said:

"I desire, however, to draw a distinction between rebellious *States* and rebellious *people*, and to draw a distinction between a civil and a foreign war. In a foreign war, all the citizens of the State with which we are at war are our common enemies—no matter whether they are engaged in the conflict or not. But, sir, in civil war, none are our enemies but the persons who voluntarily embark in the war; and the rules and usages of war cannot apply to any other of the citizens than those who are actually engaged in it. Even those who may be forced into a position by the rebel power are just as much entitled to our protection, although they may have their domicile in South Carolina, as though their domicile may be in Connecticut. All laws applicable to the protection of the property and persons of citizens of the United States, extend all over the United States. It makes no sort of difference where the citizen may dwell, he can say, 'I am a citizen of the United States, and I appeal to the protection of our Constitution and our laws.'"

While he enforced the rights of a citizen of the United States under the Constitution, and while he made some statements, advanced some views, to which I could not assent, he did state a proposition to which I would call your attention in this connection as coming within the scope of my argument.

Mr. Speaker, the question I have to ask is, if even those who may be forced into a hostile position by the rebel power are just as much entitled to our protection, although they may have their domicile in South Carolina, as though their domicile may be in Connecticut; if all laws applicable to the protection of the property and persons of citizens of the United States extend all over the United States; if it makes no sort of difference where the citizen may dwell, he can say, I am a citizen of the United States, and I appeal to the protection of our Constitution and our laws—if this be true with respect to those who may be forced into a hostile position by the rebel power, how much more is it true in regard to those who loyally and heroically stand out against the rebel power, and boldly assert and maintain their rights? So stood forth the honorable gentleman from the seventh congressional district of Virginia on the 23d of May last, and the few noble men who, with their lives in their hands, went to the polls on that day and deposited their votes, or demanded their right to do so, for a Representative to the Thirty-Seventh Congress.

The honorable gentleman did not seek to be the candidate. He earnestly entreated other gentlemen to suffer themselves to do so good a work for a periled State and nation. But no; as the convention of Virginia had, by ordinance, declared that no election for members of Congress should be held in the State, these gentlemen regarded it "as highly illegal and improper," at least very inexpedient, for either of them to think of being a candidate. And they were neither candidates nor voters on that day. They left the incumbent to do as best he could for his State and country without their assistance. They left the brave men and true patriots, few as they were in number, to breast the storm alone, and be shipwrecked by it for all that they cared. And now they come into this Congress to-day to take advantage of their own wrong, and disloyalty it may be, and to deprive the incumbent and his constituents of the justice which is their due; to deprive them of their right to be represented on this floor. They claim—the constituents of the incumbent who voted for him and those who would have voted for him—that they conformed to the election laws of Virginia as far forth as they were permitted and were able to do so. They claim that the honorable gentleman is the man of their choice, the man who stood by them, his State, and the nation, when others fled; risked his all and cared not what would be the consequences if he could only do them, Virginia and the United States, the service which he would have been a coward and a traitor had he not then rendered.

Shame on the poltroons who, having mustered courage enough under the protection of three or four hundred thousand muskets to hold an election for member to Congress in the seventh district, now come into this House and ask that the incumbent be ejected to give place to the man who would take it from him; and that the few voters, who well deserve what they ask, should be unheeded, to gratify the many voters if you please, who do not deserve to have their request; for they are here with the everlasting disgrace upon them of having failed to show their loyalty when their State and country stood most in need of it. The law and equity and the Constitution regard those only who watch, and not those who sleep. They are for the protection of those who take due care of their rights; who make it to appear that they set a proper value upon them.

I have no hesitation in saying that to my mind here is a case in which we have a right to enlarge the legal remedy, in which it is our duty to do so. Substantial justice will be done by our so doing; and, to my view, substantial injustice, if we take a different course. The justice of the case is far, very far from being attained, if we say to the incumbent and his constituents: although you are citizens of the United States, you appeal in vain to the protection of our Constitution and our laws in a matter so vital to your interests as is that of being represented on the floor of this House in a day when, if ever, you need as loyal citizens all the encouragement and protection which you can derive from this regard for your rights.

But it is obtaining a seat in Congress at too cheap a rate, it has been alleged, to permit a gentleman to take a seat here, backed by so few votes. Sir, it is no mean price which this man or any of the honorable gentlemen of this Congress from the border States have paid for the high honor, whether the votes by which they were elected were many or few. Proscribed and hunted and robbed and peeled by rebels on their track—by rebels who will hang them to the nearest tree, if perchance they can lay hold of them, which God forbid—this is the price these gentlemen pay; this is the price the honorable gentleman from the seventh district has paid in part, and he may yet have to pay it in whole.

I have thus, as briefly as I could, endeavored to set forth the principles by which I shall be governed in the vote which I shall give. But I have another word to add to those which I have already spoken, before I take my seat. I have a right to speak *of* the honorable gentleman as well as of his case. If an acquaintance, early ripened into close friendship, which had its commencement nearly thirty years since, under the smile of our alma mater, and has been perpetuated during all this period, to this dark day in our nation's existence, when she needs and will have the undivided support of the true hearts and strong arms of all her loyal sons, and when the taint of disloyalty must and ought to condemn any man to whom it justly attaches to everlasting ignominy; if all this, and conjoined with this, a vivid recollection of the fearful night I passed under his hospitable roof, which had so long ministered to the wants of our brave officers and soldiers, to be succeeded by the more fearful morning when he gathered around him his family and was compelled to take a hasty departure and to abandon his all to the enemy, never again to have his homestead restored to him; if all this does not give me a right to speak of him, what can give me or any man this right? Not his keen perception of the fitness of things, which fitness of things he may be fearful I shall violate; not his frown of displeasure shall deter me from the exercise of this right. It is not his to dictate to me to-day what I shall say of him, no more than it is his to dictate my action on his case. I have to say what, it is true, need not be said to any man who knows him, or to any man who

lives to know him, that he is no suppliant for favor; he demands justice only of this House for himself and his constituents. He would not take as a favor, if he could have it, that which your sense of justice would lead you to withhold. Be the decision of this House what it may, this is left to him, and of it he cannot be divested; nothing can make him swerve from his loyalty and the path of duty for his country's good; nothing on earth or in hell, nothing in heaven, would. His only desire is to see the Constitution maintained, the Union restored, as the result of victories which our Army must and will achieve, and he cares not to what use he or his may be put, if so be that he renders some service towards accomplishing so glorious an object.

Mr. SHEFFIELD. In view, Mr. Speaker, of the importance of the principle which may be involved in the question which is now before the House for its decision, I feel justified in claiming the attention of the House for a few moments, to present the views which I entertain, and the reasons which will govern the vote which I am soon to give upon the matter now before the House.

It seems to me that the principle involved is one of far more consequence than the case which we are called upon to decide. That principle is magnified, in view of the present situation of our public affairs. Our army has recently marched down into Tennessee, and taken possession of a large portion of that State. It is already marching, I suppose, into Virginia. It has passed through Kentucky, and I trust, before long, it will have passed over and subdued to the Constitution and Union the people of all the States. Elections may be had in the rear of that army, which may involve the question this case presents, and which elections will be presented to the consideration, and for the decision of this House; and the manner in which we may determine this question now may hereafter, to a considerable extent, control the deliberations and action of this body. It is, therefore, a question of very great magnitude, whether an individual coming here, pretending to be elected by ten or eleven votes, is entitled, under the circumstances under which the incumbent comes here, to occupy a seat upon the floor of this House.

Now, sir, the question of the personal character of the member from Virginia is not at all involved. The sacrifices which he has made for the Government by his loyalty are not the grounds upon which he bases his claims to a seat here. I appreciate, I trust, as I ought, those sacrifices. In the hour of his trial he had my warmest sympathy; but when he comes here and asks for a seat in this House, he must present a stronger claim than that which he has presented to entitle him to my vote in his favor. He must show that he has been elected a Representative by the free voice of the constituents whom he claims to represent, and in accordance with the laws of the land. This is a judicial question, for there are no facts in controversy here, so far as I know. At the very outset we are met by the suggestion of my friend from Ohio, [Mr. RIDDLE,] that this question has been heretofore passed upon and decided, and that it is not now open. That was his suggestion, and yet in the very next breath he tells us what broad principles of construction we should apply to the consideration and decision of this question; that we should even, in order to get at the truth and the right, break through a whole volume of statutes, if need be, and at every hazard and in all events we should reach the goal at which we are aiming.

Mr. RIDDLE. The gentleman is too good a lawyer to confound the court with the laws which it administered and the facts upon which it acted.

Mr. SHEFFIELD. I understood what I have stated to be the fact, and then I understood him to claim that, from the mere technical fact that this man had been sworn in, he was now entitled to his seat, and that we could not go behind that fact. I am not very familiar with the proceedings of this House. I am a new member here; but I did suppose that in all cases of contested elections any party having a *prima facie* title to a seat was entitled to be sworn in, and the question of his right was open to be inquired into afterwards; that it was the constitutional right of the House to investigate the title of all its members to their places.

Mr. DAWES. Will the gentleman allow me to ask him to state to the House what was the *prima facie* evidence of his title to a seat here?

Mr. SHEFFIELD. I do not know.

Mr. DAWES. If the gentleman will allow me I will state it.

Mr. SHEFFIELD. Certainly.

Mr. DAWES. The sitting member came here without the certificate of the Governor, without a certificate of a justice of the peace, and without the certificate of any man touching his right to his seat. He came here and induced the Clerk of the House to put his name upon the list of members. He was sworn in without so much as a vote of the House upon the question. That is the *prima facie* case, and he had no other *prima facie* case. It was the influence he exerted over the Clerk of the House to induce him to put his name upon the printed catalogue, which was made up beforehand, which caused him to be sworn in here without the slightest evidence in the world, or any certificate of election, considered as such by any sort of law.

Mr. RIDDLE. The gentleman will find, by turning to the record, that the question was raised as to the right of this very man, and the House did vote upon it, and laid the matter upon the table.

Mr. SHEFFIELD. I presume the sitting member came here with a *prima facie* title, and, in the judgment of the House, was entitled to be sworn in. I understand that the question before the House was as to that *prima facie* evidence, and that the House settled that question, whether rightfully or wrongfully I do not propose to inquire. But the question was merely upon the *prima facie* evidence, leaving the right of the party to a seat to be afterwards inquired into precisely as the right of any other claimant to a seat is inquired into and decided.

Mr. WORCESTER. I desire to ask the gentleman a single question. I think the gentleman from Rhode Island is mistaken as to one fact. I know of no action of the House upon this question. The records of the House show no such thing, and the sitting member was sworn in upon the first day of the session, so far as we have any record evidence, in the same manner that other members were, without any credentials ever having been exhibited to the Clerk of the House or brought before the committee.

Mr. SHEFFIELD. I have no doubt of that, but the want of action was in this case equivalent to action. He was admitted here by taking the oath. But I do not care about that for the purpose of this argument. The person is here, and his case ought to be inquired into by the House properly. It is not material whether he came here with or without a *prima facie* case; it is enough that the House admitted him by taking the oath, and the question is open and to be inquired into and decided precisely as the case of any other person whose seat is contested.

Now, there are many analogies between the case of Segar, which was passed upon the other day, and the case now before the House. Last spring the Governor and the State authorities of the State of Virginia refused to execute the laws of the United States. The people there met together and organized a new government. In other words, they elected new officers for the purpose of executing the laws according to the old constitution and carrying on the old government. They put a new motor, so to speak, upon their legislative machinery to carry it into operation.

Now, that can hardly be said to be revolutionary in any sense. It is true, the officers whose duty it was to administer the laws, refused to administer them and to keep the government in operation, and that the people elected persons from their own number who would carry on the government. It was a necessity which was forced upon them. They had no other alternative open to them. They had to elect those officers or be without a government. When they did that, so far as these officers had power, they executed the laws and constitution of Virginia as they existed at the time of the breaking out of the rebellion; and we have recognized that government. I think, rightfully, the present authorities are the same as the old, so far as we are concerned. Afterwards, the convention of Virginia passed an ordinance appointing an election for Representatives at some time in October; and at the extra session we recognized the right of conventions to legislate in relation to the election of members of Congress. I, sir, did not coincide in that decision, but we must stop somewhere; and I trust I am obedient enough to bow in submission to the decision of this House on questions of that kind, though at that time I did not assent to it. If that act of the convention was a legislative act, it was inconsistent with the existing law of Virginia, and it *pro tanto* repealed that law. Now, though this man was elected before the convention, and under the old law, yet the notice of election under the statute, and the notice under the ordinance, is precisely the same.

We must establish some principle upon which we are to justify to the American people our conduct in admitting members to participate in the deliberations of this House. I have examined this question somewhat, and I have come to the conclusion that the only safe ground for us to act upon is one that has its foundation in the usages of our fathers and in the immutable principles which lie at the foundation of the common law, and at the foundation of all elective governments. The district must be so situated that there can be an election. An election implies a free choice; the district must submit to the Constitution and laws, either voluntarily or by force of our armies, before they can be entitled to be represented here. If we undertake to permit a representation of a part of a district, what part are we to take? Can any man who stands upon twelve inches square of ground in the district, and who is a loyal man, and who says that he represents the district be admitted? Or, if not twelve inches, how much?

You may say that it is hard upon the loyal men of a district that they shall suffer in consequence of the disloyalty of certain persons in that district, but it is inseparable from all human institutions and affairs that the innocent shall suffer with the guilty. The innocent child suffers with the convicted father. The innocent kinsman suffers with the guilty kinsman. Under the old common law the crimes of the individual, unless the hundred purged itself, were visited upon the hundred. The inhabitants were to maintain order within the hundred and protect the rights of the people and of the public; and if they did not, the crime was upon the hundred. And it is not for us to say that there was not some justice in it. In what part of the district do the loyal people of the district reside? How are we to decide that question? How is it to be determined that there were not as loyal people in other parts of the seventh district in Virginia as those ten that met at Ball's Cross Roads? There are as true and loyal men all through the South to-day, who are overborne in disloyal neighborhoods, as there are upon this floor or anywhere in the country. There are to-day in the State of South Carolina as true and loyal men, and men as devoted to the old Constitution and the old flag, as there are anywhere in this country. These men need our sympathy, and have the same claim upon our justice, as the men who held this informal election at Ball's Cross Roads. But it is impossible in human affairs to administer exact justice. All human institutions, and all human actions, partake of the imperfection incident to the human character.

Now, it seems to me that the only principle which we can adopt in regard to this matter is to require that a whole district shall be subjected to the law and the Constitution before it shall be entitled to be represented upon this floor. Policy dictates it as well as right principle. We must inspire the ambitious men in every district, if we can, to assist in putting down this rebellion, to assist with their friends, and thereby to make a claim upon the loyalty of their districts to entitle them to the consideration of being selected by their loyal friends to represent them in the Congress of the nation. I say, then, that policy coincides with what seems to me to be the justice of the matter.

But, sir, it is said that Mr. Upton was elected because some votes were cast for him upon the day of the election; and this, though a very large proportion of the electors of the district were either engaged in rebellion or overawed by its rebellious inhabitants. In the time of Edward I it was enacted that, "because elections ought to be free, the king commandeth, upon great forfeiture, that no man, by force of arms nor by malice or menacing, shall disturb any to make free election."

Now, sir, if an election is not free, it is no elec-

tion. There is no choice. If by fraud or duress the people are prevented from giving free expression to their wishes by their votes, there is no choice of the people; the people are without that opportunity to elect which is conferred upon them, and which lies at the very foundation of our elective system. This, I apprehend, to be well settled law; and in this connection I will ask the Clerk to read the one hundred and eighty-first paragraph from the Laws and Practice of Legislative Assemblies, by Mr. Cushing.

The Clerk read, as follows:

"The great principle which lies at the foundation of all elective government, and is essential, indeed, to the very idea of election, is, that the electors shall be free in the giving of their suffrages. This principle was declared by the English Parliament, with regard to elections in general, in a statute of Edward I, and with regard to the election of members of Parliament in the declaration of rights. The same principle is asserted or implied in the constitutions of all the States of the Union. Freedom of election is violated by external violence, by which the electors are constrained, or by bribery, by which their will is corrupted; and in all cases where the electors are prevented in either of these ways from the free exercise of their rights, the election will be void without reference to the number of votes thereby affected."

Mr. SHEFFIELD. That, Mr. Speaker, I apprehend to be good law; and if it is not, I have been misled by that authority. It seems to me that reason coincides with it, because, as I said just now, the idea of election implies free choice; and if the people of a district are under duress there is no choice, and consequently no election.

Mr. UPTON. In this case the only choice was between fidelity to the flag of the Union and the rebel flag.

Mr. SHEFFIELD. I will answer that remark in a moment, in another connection. I say that that choice which constitutes an election may be defeated either by force or by fraud, and the will of the electors be thereby thwarted; and whenever this is done, no matter in what way, there can be no election. The sitting member says that he is faithful to the flag of the Union. Sir, I believe he is faithful to that flag. He has shown his devotion to it, and I admire his heroism and patriotism. But because he and these men who voted for him at Ball's Cross Roads are devoted to that flag, I cannot believe that he is entitled to a seat upon this floor. For I cannot presume that all the loyal men in the district were there and voted for him. Only ten men cast their votes for him. If they are the only loyal men in the district, then we are reduced to the alternative of determining whether ten loyal men in the State of Virginia shall be entitled to a Representative upon this floor, to countervail the votes of one hundred thousand loyal people of the district which I represent here. Are ten men in Virginia to have the same power in this House as a hundred thousand of the people of Rhode Island? Loyal as these men in Virginia may be, no man will say—no man dare say—that the people of Rhode Island are not as loyal as the people of any State in this Union.

Mr. HARRISON. Will the gentleman from Rhode Island allow me a single moment?

Mr. SHEFFIELD. With a great deal of pleasure.

Mr. HARRISON. I understand the fact to be conceded on all hands, that all the loyal voters residing in the congressional district from which the sitting member claims to have been elected, who could, or chose under the circumstances to do so, voted at the election, which was held at the time prescribed by the laws of Virginia for the holding of elections for members of Congress from that State. Now, therefore, I submit to my learned friend from Rhode Island, (whose legal opinions have great weight with me,) whether an election thus held is not valid, although only ten votes may have been cast, in consequence of the treason of some citizens of the district and the duress imposed by traitors upon other citizens, who were disposed to discharge in good faith the duty of participating in the election; and which duress the sitting member and his loyal supporters did all in their power to resist.

Mr. SHEFFIELD. I am obliged to the gentleman for an opportunity to answer that question, for it contains the only argument which can be made in behalf of this claimant, compactly stated. I answer it thus: that if all the rest of the people of the district were overborne or held in duress by riot or tumult, or, what is worse, rebellion, they would not be entitled to be represented here; and this is in accordance with the authority which has just been read to the House, because the majority of the people would be prevented from expressing their choice, and consequently there could be no election. It is to be presumed that there are other loyal men in the district besides these ten who voted for the sitting member, and that they were overawed. The learned gentleman from the Cleveland district [Mr. RIDDLE] told us—and I may admit a part of what he said—that it is to be presumed that all the men in that district are loyal. That is to be presumed to be so until the fact appears to be the contrary, and hence this fact overthrows the presumption, yet I think that it may be fairly presumed that there are many loyal men in that district.

It is true that there were a great many disloyal men there. The fact is patent, is notorious, and is to form a page in American history, that Virginia, the home of Washington, the home of Henry—Virginia, which has given to this country so many great men, presented her face and raised her hands against this Union and against the Constitution to which Washington subscribed. There were disloyal men in her midst—men who have cast a pall over all her former glories, and have dimmed her fair name as it stands upon the page of our history. These disloyal men were menacing, overawing, holding the people in bondage. The gentleman from Maine [Mr. FESSENDEN] tells you that this claimant, brave and heroic as he was, was driven from his home, with all his family, and compelled to leave behind him all his earthly possessions. If the principle is to prevail which is to entitle this gentleman to a seat on this floor, what congressional district is there in the whole South that cannot find its ten loyal men—ay, ten times ten and more? Who that has read the accounts of the progress of our gunboats up the Tennessee river does not believe that there are in that State congressional districts not represented here which could present claims to be represented here many times stronger than those of the seventh congressional district of Virginia, now or at the time of this election? There is not one who does not believe so. Are we to adopt this principle that any one who will come here claiming a seat is entitled to it? no matter how he professes to have been elected, so long as he brings a certificate from somebody that somewhere an election was held by some persons, he will be entitled to his seat? We shall soon have a full House. I for one am not willing to adopt this precedent. In this case the electors were loyal.

But men may come here, under a claim such as is presented by the gentleman from Virginia, steeped, it may be, from the crown of the head to the sole of the foot in treason. They may knock at our door, and we will be compelled to admit them here to fellowship with us.

Now, Mr. Speaker, I certainly have as much sympathy with the men of the border States as my friend from Maine, [Mr. FESSENDEN,] who has expressed so much in his recent speech, and so little by his votes heretofore. I have as much sympathy with them, I trust, as my friend from Ohio, [Mr. RIDDLE,] and I have expressed as much, I trust, by my votes as he has. But I would not desecrate this place by admitting men to occupy seats here who are not entitled to them. To entitle a man to a seat here, he must be the choice of his constituents, and that choice must be constitutionally and lawfully expressed. I believe that the people are as much bound by the law regulating elections, as the members of the House of Representatives are bound by it. I do not believe that the people have a right to alter the law or to alter the Constitution in any other form than that prescribed by the Constitution. I believe that it is as much binding on them as it is on us. They must express their will according to the law, according to the Constitution. Otherwise their act is a mere void act, and goes for nothing. If the people of this congressional district were so under duress on the 23d day of May last that they could not express their choice according to law, and that they did not so express it, then the pretended election then held was no election, and is merely void.

Now, let us establish the principle in this case that ten men can get together at a cross roads and elect a member of Congress, and we will not long have vacant seats here. I, for one, cannot consent to any such position. It seems to me that we may look over the whole of these technical questions raised by gentlemen on both sides of this question to the great substantial fact that is everywhere patent in this case—that the people of the seventh congressional district of Virginia were under duress, were restrained by a lawless mob on the 23d day of May last. That is enough, according to the parliamentary practice of every legislative assembly on earth. It is enough for me to stand on, in giving my vote against this claimant. My feelings have been drawn out toward the gentleman from Virginia. I sympathize strongly with him. I should be glad to vote for him to-day as a member of this House, if I could do so consistently with the duty which I owe to the American people by my position here. But I cannot do it.

Mr. SEDGWICK. Mr. Speaker, I beg the indulgence of the House while I state, in the briefest possible form, the reasons which will control my action on the case now before it. At our special session in July, the gentleman whose case is now under consideration, with several other members claiming to represent the State of Virginia, took his seat on this floor. They were elected under the same law which controlled the election of members of Congress in Virginia in May 1861, if such election were provided for by law. His name was entered on the roll of the House. My ingenious friend from Massachusetts [Mr. DAWES] has testified, in answer to his own ingeniously put question to a witness who he was aware knew nothing about the fact, that the gentleman from Virginia induced the Clerk to put his name on the roll, as if there was something unfair or improper in the mode in which it was entered. But I shall speak on the evidence before the committee, and not allow them to testify against a member whom they induced the House, several days ago, to forbid taking any further testimony. His seat was questioned at that time, but solely on the ground that he was ineligible to an election as member of Congress, because he was not an inhabitant of the State. That question was raised by the gentleman from Ohio, [Mr. Cox.] It was considered by the House. His admission was suspended for a time; but he was finally admitted as eligible, and he took his seat. That question has been reviewed by the committee, and they came to the same conclusion: that he was within the terms of the Constitution of the United States, an inhabitant of the State of Virginia, and was entitled to an election. Since, the contestant for his seat has appeared, claiming to have been elected, not at the time nor under the law when and under which Mr. Upton claims to have been elected, but claiming to have been elected under a law of the new government of Virginia.

Mr. DAWES. What report does my friend allude to?

Mr. SEDGWICK. I say the report of the Committee of Elections has now said that he was not ineligible, being an inhabitant of the State of Virginia.

Mr. DAWES. That is the present report.

Mr. SEDGWICK. Yes; the present report. He was elected under a law by virtue of which another gentleman from Virginia claimed a seat the other day, which claim was rejected. I shall have occasion to say a word more on the subject of his claim hereafter.

Now, I desire to state in the outset a fact which everybody in the House knows, and which appears on the papers here—that none of the members from Virginia, who took their seats here in July, complied fully with the election law of Virginia in force at the time of their election, namely, in May, 1861. They complied, each of them, as far as the revolutionary proceedings of their respective districts permitted, and were admitted on the ground that full compliance was rendered impossible, and, therefore, unnecessary, by such revolutionary proceedings. The law of Virginia provides that these commissioners and conductors of elections shall make returns of the poll-book, with their certificate, to the sheriff of the county; that the sheriff shall return it with his certificate to the Governor of the State; and that the Governor of the State shall issue a proclamation or certificate of election to the several members who appear to have been elected. Just so far as compliance with this law was possible, it was followed out by all the Representatives from Virginia, who were

admitted to seats on this floor. I say, therefore, that in admitting these members, this House has determined and decided by its action that the election law of Virginia had not been abrogated by the revolutionary proceedings of the State authorities or convention; that an election under it was valid; that there was a law in force at the time when this gentleman claims to have been elected; that proceedings under that law were valid and constitutional; and that it was unnecessary to pursue the forms provided by that law any further than the political condition of their respective districts would allow. Now, under that law, the sitting member claims his seat. He was guilty of no fraud. He proceeded openly and in good faith to procure an election on the day and in the mode prescribed by the law of the State which we have determined to have been then in force, and not abrogated by the revolutionary convention of that State.

The committee have cited proofs showing that he was a candidate, that he was openly announced in the public journals of that district; for instance: in the Alexandria Gazette of the 17th of May, in the Fairfax County News of the same date, and in the National Intelligencer of this city, on the 20th of May, a paper that circulated extensively in that district, in which paper is quoted an extract from a correspondent of the Richmond Examiner threatening Mr. Upton, and threatening all those who attempted to vote for him or take part in that election, with all the pains and penalties of treason against the State of Virginia.

It will be seen, therefore, that the Committee of Elections present abundant proof that the election was public; that the intention of Mr. Upton to hold himself out as a candidate was made public; that it was well known throughout the district; that there was no fraud upon the electors of the district by putting up a candidate in some concealed, obscure, fraudulent way, in order to bring here a few votes, and claim an election upon them. No such thing is pretended in this case. Neither was the sitting member actuated from any motives of personal ambition. He was determined that his district should be represented under the laws of the State; and for that purpose, as is shown in this report, he solicited other persons in his district, gentlemen of reputation and character, who were supposed to be Union men at the time, to become candidates for the place he now occupies. They refused for fear of popular violence, for fear of the pains and penalties of treason denounced against them by the revolutionary authorities of the State. But Mr. Upton, with that nobler courage, dared to brave those penalties and bring himself before the people of his district as a candidate for Congress.

I am obliged to the gentleman who preceded me in this debate, [Mr. SHEFFIELD,] who cited the statute of Edward, in regard to the freedom of elections in that country from which we have derived our principles of justice and liberty. The quotation made by the gentleman from Rhode Island was to the effect that elections shall be free; that they shall express the choice of the people, that fraud or violence shall vitiate an election. But how does it become the gentleman to cite that authority against the sitting member here? If he had come here, having used threats, intimidation, or force, to keep the people away from the polls, or to control or overrule them in their choice; if he had been guilty of fraud, in any manner, in connection with the election or in procuring the evidence that he was elected, that law would have become applicable, and should have had the effect of shutting him out from his place.

But here the gentleman would have this House decide that when a man guilty of no fraud, guilty of no corruption, guilty of no bribery, guilty of no violence, claims his seat, because his opponents, those who disapprove his action, because they have endeavored to defraud the people, because they have attempted to prevent the expression of their choice by violence and revolution, therefore the innocent candidate for his seat is attempted to be shut out from his place. It seems to me the authority is an unfortunate one to cite against the claimant for his seat here.

I say again—because I would not weary the patience of the House—that there was one poll opened in his district for a member of Congress. At Ball's Cross Roads the polls were regularly opened by the commissioner or conductor of elections; and in that precinct Mr. Upton obtained ten legal votes for the position which he holds. Now, the committee have endeavored—not by denying this fact, but by saying they have no evidence of it—to produce the impression upon the House that there were no legal votes cast for Mr. Upton at this election. It is in the recollection of every member, probably, who participated in the action of the House several days ago, that the claimant asked permission to take further testimony upon this point. He asserted that he could prove, by the testimony of the men who conducted the election, that these votes were cast for him. The request was opposed on the part of the Committee of Elections, by their chairman, with the assertion that there was no dispute in regard to that fact. He admitted openly, in the hearing of the House, that there were ten votes cast for the sitting member. Upon that—I have the right to say—upon that statement of the chairman of the Committee of Elections, this House refused the sitting member the privilege of bringing forward additional testimony. I therefore assume it as a fact bearing upon this case that they are estopped from denying now that there were ten votes cast for this gentleman at that poll opened at Ball's Cross Roads.

In addition to these, not as legal votes, but as expressing the choice of the electors, evidence is produced before the committee, certified to them, that other persons to a considerable number—the exact number I do not now remember—at side polls, where the commissioners, fearful of the pains and penalties of treason under the laws of Virginia, refused to open a poll for members of Congress, although they opened it for State officers—at these places, voters of the district registered their names expressing a choice in writing for Mr. Upton as their Representative in Congress. I speak of these not because they were regular votes, but because they go, as far as such evidence exists, to establish the fact that he was the choice of the people of the district, and that if they had not been prevented by the revolutionary proceedings of the State, they would have cast their votes for him in a legal way as their Representative in Congress, and so far as the free choice and wishes of electors should be heeded, it is just as good evidence for the members of this House as if the polls had been regularly opened by the proper officers and their votes had been cast in pursuance of the laws of the State.

And further, I desire to insist upon this point, that there is no evidence whatever of any disagreement or dispute among the loyal citizens of that district as to their choice, there being cast but a single vote in any way, formally or informally, for any other man, and that vote was cast at Ball's Cross Roads for a gentleman by the name of Brent.

Mr. WORCESTER. If the gentleman will allow me for a moment, I think he is mistaken as to what the incumbent wished to prove in the request made by him for leave to take further testimony some days since. He did not propose to prove that he had received any votes at all. He wished to call the conductors who held the election for the purpose of proving what the conductor should have said in his testimony taken before the committee. The claimant supposed that the committee had misunderstood this testimony of the conductor in respect to the number of votes cast, not for member of Congress, but for a senator, delegate, and other officers.

Mr. SEDGWICK. I do not understand that to have been the point at all. Neither did the Committee of Elections understand it to be the point, for the reason that the chairman of the committee said, when the request was urged, that the fact was admitted, and not denied, that Mr. Upton did receive ten votes by persons at Ball's Cross Roads who intended to vote for him as member of Congress. The claimant wished to produce further evidence as to what the conductor of the election would say upon that point, claiming that he would have testified, and that he supposed he did testify, to the fact that these votes were received; and he desired to recall him for the purpose of establishing that point—nothing else. That was the whole point of the controversy, and that the chairman of the committee distinctly admitted.

Mr. WORCESTER. I have before me exactly what the sitting member did say and what he wished to prove, and, with the permission of the gentleman from New York, I will read it.

Mr. SEDGWICK. Not now; the gentleman has an hour in which to close this debate. The House is quite competent to correct me if I am wrong.

Mr. DAWES. I do not know whether the gentleman desires to be corrected or not. If he does, I would like to do so.

Mr. SEDGWICK. I will yield to the gentleman from Massachusetts, if he is not to follow me in this argument. If I have misstated a fact, and the gentleman can correct me, I will be glad to have him do so. I will try to make plain what was the position of the Committee of Elections on a former occasion.

Mr. DAWES. The question is not now what is the position of the chairman of the Committee of Elections, but what is the position of the gentleman from Virginia. I want the gentleman from New York to keep to the point.

Mr. SEDGWICK. I am keeping to the point. My point is that the gentleman from Massachusetts is estopped from disputing a certain fact because of the admission which he made upon a former occasion. I have the book here to show exactly what the gentleman did say.

Mr. DELANO. Let me explain the reason for sending the book to the gentleman from New York. It will be remembered that some two or three weeks ago this question came up in an informal way, and that the chairman of the Committee of Elections then declared himself as to the fact of there having been ten votes cast for my friend from Virginia, the sitting member. I have sent to the gentleman who is now addressing the House the record of that day's transaction for the purpose of having the matter clearly before the House.

Mr. DAWES. If my friend from New York will not let me correct him, perhaps he will let me correct my colleague. The question which has arisen is whether the sitting member wanted the privilege of proving that ten men actually voted for him at Ball's Cross Roads. That is the question under discussion at this moment. The record will show that the contestant did not want any such thing—that he did not propose any such thing. He proposed to bring the conductor and the writer of that election in order to show that there were more votes cast at that election for other officers than appeared in the report of the Committee of Elections. My learned colleague, [Mr. DELANO,] who has just taken his seat, seeing the point more clearly than the sitting member, came to his rescue and proposed that we should have the ten voters who, it was claimed, actually did vote, to prove whether they did vote or not. I remarked what I propose to repeat when the gentleman sits down, that I was willing to admit that ten men did vote on that day just as he has set forth in his paper, and that they did vote for him. The incumbent never asked us to let him prove that. It was suggested by my colleague outside of the resolution which the gentleman from Virginia offered himself.

Mr. DELANO. If the gentleman from New York will yield to me for a moment, I will say a word in reply. Whether the gentleman's colleague did or did not have a clearer apprehension of what the exigency of the case required is entirely immaterial. It was at least clear that the sitting member desired that there should be no question made, when his case came before the House, about his having received at least ten votes for member of Congress at the time prescribed by the law of Virginia, and at the place for holding that election. That is all that was asked for, in order then to have the case clearly before the House. It seemed to me to be no extravagant favor on the part of the Committee of Elections to let the sitting member produce the evidence before the House which he desired. It was to obviate that necessity that the chairman of the Committee of Elections declared what is contained in that part of his speech which the gentleman from New York is about to read, that is, that he would make no question on the point; that it would be taken as conceded by every member of the committee; that the number of votes claimed by the sitting member, and about which the report of the committee had created so much doubt, should be relieved of all doubt whatever, and taken as having been cast at the proper time and place for the sitting member.

Mr. SEDGWICK. It is very evident that the gentleman who claims this seat is not a lawyer, and that the chairman of the Committee of Elections is, and a very adroit one, too. The point, and the only point, of that resolution was, to prove that ten men voted for him as member of Congress on the fourth Tuesday in May, 1861, at Ball's Cross Roads. That is all he wanted to prove. The gentleman from Massachusetts [Mr. DELANO] understood it. The chairman of the Committee of Elections [Mr. DAWES] understood it, and so he said:

"There is not a particle of dispute about the facts. The gentleman does not claim but ten votes. The committee are willing to admit that ten men went and voted for him at Ball's Cross Roads, exactly as he said they did."

Mr. DAWES. I propose to repeat it now.

Mr. SEDGWICK. The gentleman cannot make it plainer by repeating it now. It is as plain as the English language can make it; and I undertake to say that no one would have refused to the gentleman from Virginia permission to bring forward his proof in regard to that fact, if the gentleman from Massachusetts had not admitted it.

Now, sir, I say that he has those votes which were regular, besides the expression of other loyal men in Virginia, at side polls, as they are termed, which are irregular, which go to show that he was the choice of the district. We are, in addition, to presume that many voters were deterred from voting because of violence threatened, or the pains and penalties of treason threatened, not by the sitting member or any of his friends, to prevent his enemies from expressing their opinions, but by the men who were determined to establish the rebel government in Virginia. It is in proof before the committee that on that occasion at these polls in Virginia, the letter of Senator Mason, which we may all remember, was openly read for the purpose of deterring men in that district from expressing their choice in regard to a member of Congress.

I come again to the statement that this election was conducted precisely in the same way and upon the same principles as those of the other members from Virginia who were admitted by decision of the House at that time. The only difference is as to the number of voters who expressed their opinion. What those numbers were in the other districts depended upon the condition of those districts and their freedom from the violence of the traitors to prevent or deter the people from going to the polls.

We are met at this session with this claim of Beach under the proclamation of the new Governor. He claims to have been elected in October last, under a law passed by the new State government of Virginia. I refer to the proclamation of the Governor of Virginia in October, and I find that the executive authorities of the new State recognized the validity of elections under the laws which existed in May before, because the Governor's proclamation expressly excepts from his appeal for elections in October those districts which were represented under the election in May, so that Mr. Beach, under any view of the case, has no ground whatever to stand upon his claim to represent that district. The seventh district was not considered vacant by the Governor of Virginia, and there was no proclamation for an election there.

Now, the right of the sitting member to a seat is denied by the Committee of Elections on two grounds, to which I desire for a moment to call the attention of the House, and then I have done with what I desire to say. The first is, that the election law of Virginia was not complied with. As I said before, and repeat now, this is true of all the districts represented in July. Compliance was regulated by power and by the situation of the respective districts. None of these gentlemen produced the certificate of the Governor that he was elected a member of Congress, because the Governor was a traitor, and would grant no certificate that differed from the ordinance taking that State out of the Union. Some produced the certificates of loyal sheriffs, to whom the commissioners of elections made returns. That they were enabled to do, because in some of the counties of Virginia the sheriffs remained loyal to the Government. When the sheriffs were traitors, the returns of the loyal commissioners would of course be suppressed.

Then we go back to inquire whether there were any loyal commissioners who dared to open the polls and hold irregular elections in which the wishes of the electors might be expressed. That we find to have been the case here. In this portion of the State, at least, the commissioners were loyal men, and they opened the polls and held elections for members of Congress. Now what is the principle which should control us? That the law of Virginia in relation to elections should be complied with so far as treason and revolution would permit, and no further. And that is precisely the principle upon which all these gentlemen stand and claim their seats. And when any man claiming an election under the law goes as far as the situation of his own district would permit, then he has done all, except what is excusable, in carrying out the law of the State.

The second objection of the Committee of Elections to the right of this claimant is one to which I desire to call the especial attention of the House. It is, that the ordinance of the Virginia convention, dissolving the connection of that State with the General Government, should be allowed by this Congress to have such force and effect as to suspend and prohibit the election of members of Congress. If it had such power and force in the election in the seventh district, it had such power in all the districts; and it is a matter of vast importance to this House, to settle what validity they will give to this ordinance of the convention of Virginia. The committee say, and undertake to prove, that this ordinance was acquiesced in by a majority of the people. They say that it

"Practically severed the ties and abrogated and repealed all laws that bound the State to the General Government of the United States. All this was done, for aught that is shown to the contrary, with the approval and concurrence of a very large majority of the people, and without the effective opposition of any of them. Such being the state of the district, it is a question well worthy of grave consideration, whether its political condition was such that any election for a member of Congress at that time should be held legally valid, either under the law of Virginia or of the United States, even were the evidence of such election clothed with all the ordinary forms of law."

There this doctrine, which I say is a dangerous and revolutionary doctrine, is proclaimed by the Committee of Elections as controlling and governing this case. They undertake to give effect to the ordinance of a rebel State which severs its connection with the General Government, and makes any proceeding invalid under the preceding laws of the State of Virginia. I say that that doctrine recognizes the establishment of this traitorous government, wherever a majority of the people assent to it, in any State of this confederacy. And I say it is a doctrine as dangerous and as weak as any that Jeff Davis or any of his cabinet has ever claimed in any period of this controversy. I ask this Congress to pause before they establish this doctrine of the committee. I ask them to reflect before they give effect to the ordinance of a rebel State, which undertakes to nullify the laws under which members of Congress hold their seats. I ask if loyal citizens have not rights, and whether they shall not have encouragement and support in their resistance to treasonable measures by this Congress; and whether, in addition to the pains and penalties which are threatened by revolutionary governments in their own States, you will disfranchise every loyal inhabitant of the State of Virginia? Their own State pronounces them traitors, and you say that the same act shall have such force and effect with you as will disfranchise them. I say this is an important question, and if the principle is true, it should shut out all members elected under that law in May last in the State of Virginia. It is not too late. These men all stand upon the same foundation. You have admitted members from several districts in Virginia, claiming no other and no better title to a seat than the gentleman now on trial before you. They have all taken their oaths as members of this House; and now this committee have labored, through several pages of their report, to establish the doctrine that the treasonable convention of Virginia abrogated its laws, and therefore that these men have no shadow of a foundation for their claims as members of this Congress. In that view of the case, this is a most important question for the House to decide.

And now, gentlemen, I am disposed to leave this matter to the judgment of the House. It is claimed, and the members of the committee in debate upon this floor have claimed, that we should register its edict, because the Committee of Elections were unanimous in recommending that this person shall not be admitted to his seat. This is dangerous ground. I say the members of this House should be independent in their judgment upon questions of this importance, without being influenced by the decision of any committee. Why, this doctrine that the committee are infallible and cannot err, would have kept the arch traitor Bright in his seat in the Senate; because the Judiciary Committee of the Senate unanimously agreed that he was entitled to retain his place. [A VOICE. There was one dissenting voice.] One dissenting voice, a gentleman says. I say that men should rely upon their own judgments, their own sense of right and propriety; and they should say whether, in their own judgments, this district in Virginia, represented here now by a loyal and true man, as all his opponents admit, should be disfranchised, and be driven in disgrace from this House because the committee are unanimous in their decision upon it; and whether his constituents shall be unrepresented here because, by violence and fraud, by the action of a traitorous convention and a traitor Governor, he has been deprived of the ordinary proofs of his election, to which, in peaceful times, he would have been entitled. Upon these grounds I shall vote that the gentleman from the seventh congressional district of Virginia is entitled to retain his seat as a member of this House.

Mr. DELANO obtained the floor.

Mr. MAYNARD. I appeal to my friend from Massachusetts to give way to a motion to adjourn.

Mr. DELANO. I am entirely content to do so.

Mr. MAYNARD. I move that the House adjourn.

APPORTIONMENT FOR MEMBERS OF CONGRESS.

Mr. KELLOGG, of Illinois. If the gentleman will suspend one moment, I desire to say that the Senate have passed, with an amendment, a bill of the House (No. 104) which went over from last session, fixing the number of the House of Representatives from and after the 3d of March, 1863. That bill, with the amendment, has come in from the Senate to-day. The amendment does not at all vary the principle of the bill; but makes it a little more simple. I ask the consent of the House to take from the Speaker's table that bill, with a view to concurring in the amendment of the Senate.

A VOICE. No hurry about it now.

Mr. KELLOGG, of Illinois. Yes, sir; there is a necessity for its immediate passage. We provided at the last session—and the Senate have concurred in that—that there should be an additional member from six or eight States, on a large fraction. The reason why it is important to pass it now, is that the Legislatures of many of the States are now in session, and some of them—Pennsylvania, in particular—are interested in this matter, and desire to take action on it before they adjourn. I think there is no objection to the amendment, and I hope the House will now dispose of the matter.

Mr. MAYNARD. This is a very important matter, fixing the representation in this House for the next ten years.

Mr. KELLOGG, of Illinois. We have passed upon it once, and passed the bill, and the amendment of the Senate conforms to the principle agreed upon by the House.

Mr. MAYNARD. I will not insist on my motion.

Mr. TRAIN. I object to taking up the bill now. It can be taken up to-morrow morning.

Mr. WICKLIFFE. I am anxious that the amendment of the Senate shall be acted on for the reason stated by the gentleman from Illinois. The Legislature of Kentucky will shortly adjourn.

Mr. TRAIN. I withdraw the objection.

There being no further objection, the bill was taken from the Speaker's table, and the amendment of the Senate was read, as follows:

Strike out all after the word "shall," in line four, to the end of line ten, and insert in lieu thereof the following:

Be two hundred and forty-one, and the eight additional members shall be assigned, one each, to Pennsylvania, Ohio, Kentucky, Illinois, Iowa, Minnesota, Vermont, and Rhode Island.

Mr. KELLOGG, of Illinois, demanded the previous question on the amendment of the Senate.

The previous question was seconded, and the main question ordered.

The amendment of the Senate was agreed to.

Mr. KELLOGG, of Illinois, moved to recon-

sider the vote by which the amendment of the Senate was agreed to; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

THE REBEL STATES.

Mr. ASHLEY. I ask leave to report from the Committee on Territories a bill to establish temporary provisional governments for the districts of country in rebellion against the United States, for the purpose of having it printed and recommitted to the committee.

Mr. VALLANDIGHAM. I object; and I give notice that I shall raise a question on that bill whenever it is brought in.

On motion of Mr. MAYNARD, the House (at a quarter past four o'clock, p. m.) adjourned.

IN SENATE.

THURSDAY, *February* 27, 1862.

Prayer by Rev. SAMUEL D. BURCHARD, D.D., of New York city.

The Journal of yesterday was read and approved.

PETITIONS.

Mr. POMEROY presented the petition of Irvin P. Long, on behalf of the Wyandotte Indians, praying allowance for discount and interest on bonds held by the United States in trust for that tribe; which was referred to the Committee on Indian Affairs.

Mr. GRIMES presented the petition of Charles Fosdick Fletcher and his associates, asking a charter for the Union Cotton Supply Company; which was referred to the Committee on the Judiciary.

COMMERCIAL RELATIONS REPORT.

Mr. ANTHONY submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That three thousand copies of the report on the commercial relations be printed for the use of the Senate.

REPORT FROM A COMMITTEE.

Mr. WILSON, of Massachusetts, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 196) for the establishment of a national foundery and furnace for the fabrication of cannon and projectiles for the Government, reported it with amendments.

BILL INTRODUCED.

Mr. FOSTER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 214) prohibiting the allowance of certain claims for pensions; which was read twice by its title, and referred to the Committee on Pensions.

CONFISCATION OF PROPERTY.

Mr. DAVIS. I gave notice to the Senator from Illinois, the chairman of the Committee on the Judiciary, a few days ago, that at the proper time I should move a substitute to his bill, No. 151. I have the proposed substitute prepared, and I throw myself upon the courtesy of the Senate to ask that it be read, with a view to a motion to have it printed. It is not long.

The VICE PRESIDENT. If there be no objection, it will be read. The Chair hears no objection.

The Secretary proceeded to read the proposed amendment to the bill (S. No. 151) to confiscate the property and free the slaves of rebels.

Mr. WILSON, of Massachusetts. I suggest to the Senator to have that printed as an amendment—it is a very important thing—or else move it as an amendment to the bill when it comes up for consideration.

The VICE PRESIDENT. The Senator indicated a purpose to move to print it after it is read.

Mr. DAVIS. I do not care about its being read, if the Senate will order it to be printed.

Several SENATORS. Certainly.

The amendment was ordered to be printed.

MEDICAL DEPARTMENT OF THE ARMY.

Mr. WILSON, of Massachusetts. I move to take up the bill to increase the efficiency of the medical department of the Army. I think it will not take much time.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 188) to increase the efficiency of the medical department of the Army, which had been reported from the Committee on Military Affairs, with an amendment.

Mr. WILSON, of Massachusetts. The amendment of the committee proposes to strike out all of the bill after the enacting clause. I think, therefore, it will not be necessary to read anything but the amendment of the committee.

The VICE PRESIDENT. The Chair will suggest that in all amendments of this character there should be something left in the original bill. By parliamentary law, one single word is enough; but it is not in accordance with parliamentary law to strike the bill entirely out, leaving nothing to attach an amendment to.

Mr. GRIMES. The enacting clause is left.

The VICE PRESIDENT. The enacting clause is no part of the bill. The word "that," or whatever the first word of the bill is, should be left.

The Secretary read the amendment of the committee, to strike out all after the word "that" in the third line of the bill, and to insert the following in lieu thereof:

There shall be added to the present medical corps of the Army ten surgeons and ten assistant surgeons, to be promoted and appointed under existing laws; twenty medical cadets, and as many hospital stewards as the Surgeon General may consider necessary for the public service.

SEC. 2. *And be it further enacted*, That the Surgeon General shall have the rank, pay, and emoluments of a brigadier general. There shall be one assistant surgeon general and one medical inspector general of hospitals, each with the rank, pay, and emoluments of a colonel of cavalry; and the medical inspector general shall have, under the direction of the Surgeon General, the supervision of all that relates to the sanitary condition of the Army, whether in transports, quarters, or camps, and of the hygiene, police, discipline, and efficiency of field and general hospitals, under such regulations as may hereafter be established.

SEC. 3. *And be it further enacted*, That there shall be eight medical inspectors, with the rank, pay, and emoluments each of a lieutenant colonel of cavalry, and who shall be charged with the duty of inspecting the sanitary condition of transports, quarters, and camps, of field and general hospitals, and who shall report to the medical inspector general, under such regulations as may be hereafter established, all circumstances relating to the sanitary condition and wants of troops and of hospitals, and to the skill, efficiency, and good conduct of the officers and attendants connected with the medical department.

SEC. 4. *And be it further enacted*, That the Surgeon General, the assistant surgeon general, medical inspector general, and medical inspectors, shall be appointed by the President, by and with the advice and consent of the Senate, by selection from the surgeons of the Army, without regard to their rank when so selected.

SEC. 5. *And be it further enacted*, That medical purveyors shall be charged, under the direction of the Surgeon General, with the selection and purchase of all medical supplies, including new standard preparations, and of all books, instruments, hospital stores, furniture, and other articles required for the sick and wounded of the Army. In all cases of emergency they may provide such additional accommodations for the sick and wounded of the Army, and may transport such medical supplies as circumstances may render necessary, under such regulations as may be hereafter established, and shall make prompt and immediate issues upon all special requisitions made upon them under such circumstances by medical officers; and the special requisitions shall consist simply of a list of the articles required, the quantities required, dated, and signed by the medical officer requiring them.

SEC. 6. *And be it further enacted*, That whenever the inspector general, or any one of the medical inspectors, shall report an officer of the medical corps as disqualified, by age or otherwise, for promotion to a higher grade, or unfitted for the performance of his professional duties, he shall be reported by the Surgeon General for examination to a medical board, as provided by the seventeenth section of the act approved August 3, 1861.

SEC. 7. *And be it further enacted*, That all acts or parts of acts inconsistent with the provisions of this act be, and the same are hereby, repealed.

Mr. WILSON, of Massachusetts. In the fifth line of the fourth section I move to strike out the word "surgeons," and insert "medical corps." That will give the idea of the committee better.

Mr. FOSTER. I would prefer a little variation in the amendment proposed by the Senator in the fourth section. It is true the amendments now proposed by him will remove, to some extent, what I think is very objectionable in the section—the restriction of these appointments entirely to the surgeons of the Army. It proposes to open the appointments to the whole medical corps of the Army, which will bring in the assistant surgeons as well as the surgeons; but I think that is not enough. It will not bring in the surgeons of the volunteer corps at all; and the volunteer medical corps of the Army bears about the same proportion to the regular medical corps of the Army that the volunteer force of the Army does to the Army proper. It is a very great force compared with a very small one. I do not think these appointments should be restricted entirely to the medical corps of the Army. I see no justice in it, no reason in it. I think it would be very impolitic. I think it ought to be opened to the volunteer corps; and I suggest to the Senator that he make the amendment accordingly. A medical gentleman from the honorable Senator's own State—it is true, he is now dead—a gentleman of the highest reputation, an honor to the service, an honor to his corps, an honor to the country, would be excluded under this bill if he were living. There are many others of great merit in the volunteer medical corps who should not be excluded. I hope the Senator will modify his amendment, so as to allow the President to make these appointments as well from the volunteer medical corps as the Army corps. I by no means wish to make or create any unfriendly feeling between the medical corps of the Army proper and the medical corps attached to the volunteer force. If the medical corps of the Army proper are superior in point of merit, they will be appointed; but it is unnecessary to hedge them round by law if they have the superior merit. Let it be open to both corps.

Mr. RICE. I regret that our chairman should have offered the amendment now pending, and I hope it will not prevail. We had this bill before us in the Military Committee for weeks and months, and with the utmost difficulty we agreed upon what has been reported by the committee. I hope the suggestion made by the honorable Senator from Connecticut will not prevail. We have a contract with the officers of the Army. When the surgeons, assistant surgeons, and all the officers of the medical corps came into the service, they abandoned all the civil pursuits of life, and came in under an implied contract that they should be benefited by promotions, and whenever a vacancy should occur above them they should rise in their regular order.

Mr. FOSTER. Will the honorable Senator allow me to ask him whether there is any more of a contract with the medical officers of the Army than with the officers of the line?

Mr. RICE. Yes, sir.

Mr. GRIMES. These are new offices that we are creating now.

Mr. RICE. These are new offices, I know; but we have no right morally, in my opinion, to go into civil life to select gentlemen and place them above officers with whom we have made a contract. Upon that principle you might keep a second lieutenant a second lieutenant until he was gray. It is an innovation that has never been made in the Army, and I hope the door will not be opened now. Make the selection here from the surgeons of the Army; it raises ten assistant surgeons with the rank of captain, and ten with the rank of lieutenant; it raises them up each one grade. I venture to say that the best medical officers in the volunteer service would not accept these positions. They entered into the service temporarily, and through patriotism, most of them. Do you tell me that you can get the best surgeons in civil life, such as were mentioned by the Senator from Connecticut, to accept a position here? I think not.

Mr. FOSTER. If they do not accept them it will do no harm to make the change I have suggested.

Mr. RICE. But if they do, it will do harm.

Mr. FOSTER. Not if they are better men.

Mr. RICE. I think it will do harm. It will have a great tendency to demoralize the medical corps. I hope the amendment will not prevail.

Mr. GRIMES. I propose to modify the amendment of the Senator from Massachusetts by inserting after the word "Army," in the fifth line of the fourth section, the words "or volunteers in the service of the United States," so as to give the President the power to select the assistant surgeon general and these medical inspectors from either the regular Army surgeons or assistant surgeons, or from the list of volunteer officers of these grades who are now in the service of the United States, or from the brigade surgeons.

It occurs to me, Mr. President, that there is not any analogy between the cases that have been put by the Senator from Minnesota. These are entirely new offices; they have not been recognized in the law before. I think he might with as much propriety say that it would be improper for us to authorize the appointment of a brigadier general or a major general or an adjutant general or any other staff officer, for these are in fact staff officers, from civil life or from the volunteer service, as to say that it would be improper for us to appoint these particular officers from those gentlemen who are now performing similar services for us in the volunteer Army. I do not wish to bring any

officers into the Army, to the exclusion of those who are in the line of promotion. I presume that this power to appoint would be very sparingly exercised; but I do not want to say that if the President finds a man who stands head and shoulders among his fellows, a perfect Saul among the prophets, he shall not have the power to bring that man into the service, and to secure his abilities to the country.

Mr. FOSTER. The idea of the Senator from Iowa and my own will be carried out entirely by inserting before the word "from," in the fifth line of the fourth section, the word "either," and after the word "Army" the words "or brigade surgeons and surgeons of the volunteers." It will then read, "by selection either from the surgeons of the Army or brigade surgeons and surgeons of the volunteers."

Mr. GRIMES. That would exclude the assistant surgeons.

Mr. WILSON, of Massachusetts. It has been said by the Senator from Minnesota that the bill has been written and rewritten, labored over for weeks by the Committee on Military Affairs, and I believe it received the unanimous concurrence of the committee. The amendment which I have proposed was made on the suggestion of members of the committee, especially the Senator from New York, who sits by my side, [Mr. KING.] I thought on reflection we had better make this slight amendment, as it would to a certain extent get rid of the charge that this was a close corporation, and would open it to the assistant surgeons of the Army. It is a fact, I think, that we all ought to accept, that many of these assistant surgeons are the equals, and in some cases vastly the superiors, of some of those who are surgeons. It takes a long while in our Army to attain the position of surgeon ordinarily, and many of the surgeons are men of age. Some of them, I think, ought to be retired for the good of the service. Many of the assistant surgeons are gentlemen from thirty to forty-five years of age, and I think that it would certainly liberalize this idea to throw the assistants open so that they may be selected from for these important positions.

As to the selections from the brigade surgeons of volunteers, I have a doubt as to that policy. I know, at the first blush, it appears to be right, liberal, and just; but, on reflection, I am inclined to think that the Senator from Minnesota is right, and that those eminent surgeons who have accepted the position of brigade surgeons of volunteers, actuated by patriotic motives, by strong desire to serve the country, do not desire to enter permanently into the Army; and this provision is a permanent provision for the Army of the United States. Reference has been made to Dr. Bell, recently deceased, a gentleman of eminent talent in his profession, and, I may say, of eminent talent in every respect. There were but few men in my State or my section of the country who were his superiors, intellectually. I do not believe, however, that Dr. Bell ever thought or dreamed of entering into the Army of the United States from anything but patriotic motives. He entered as a regimental surgeon, and came on with the first regiments of the three years' men. He came out, I know, actuated by the purest patriotism. It was a sacrifice to him, in every respect, and I think it has cost him his life. But he never thought of going into the Army of the United States permanently; he could not afford to do it. There are other brigade surgeons of volunteers whom I might mention, half a dozen of them of eminent talent, some of whom have, during the last five years, attended the sick-beds of more persons than all the surgeons of your Army have attended, and by the side of whose experience the experience of your Army surgeons is dwarfed into utter insignificance. I do not believe, however, that those gentlemen desire to go permanently into the medical corps of the Army. I think if you throw this door open, you will not obtain the services of those eminent gentlemen, who deserve all that can be bestowed upon them, certainly, but you are more likely to have the services of persons who have gone with the volunteer forces simply to advance their own personal interest, and, certainly, we have had some of that class. They may seek these positions in the Army. I think if you throw it open to the entire medical corps of the Army for selection, it will be liberal; it will be a large number of men to select from, and I think we had better, all things considered, confine it to that.

Mr. RICE. I shall not object to the modification proposed by the Senator from Massachusetts, although I hardly think it is exactly right.

Mr. GRIMES. I should like to ask the Senator from Massachusetts how many new officers this bill provides for, how many of these inspectors, assistant inspectors, directors, and so on, will be taken from the line under the provisions of this bill.

Mr. WILSON, of Massachusetts. We have a Surgeon General now; but this bill proposes to give the Surgeon General the rank of brigadier general, and to appoint an assistant surgeon general with the rank of colonel, and then to appoint a medical inspector general with the rank of colonel, and eight assistant medical inspectors.

Mr. GRIMES. How many does that make altogether?

Mr. WILSON, of Massachusetts. It adds ten.

Mr. CLARK. How much does it add in expense?

Mr. WILSON, of Massachusetts. Very little indeed; and it will, in my judgment, save thousands of dollars to the Government of the United States.

Mr. GRIMES. Allusion has been made by the Senator from Massachusetts to a late eminent citizen of his State, and his remarks might perhaps convey the impression that Dr. Bell was opposed to the proposition which I have suggested as an amendment. I only desire to say that Dr. Bell was a friend of mine, and that I received from him by the same mail which brought me the intelligence of his death a letter on this very subject, requesting that I should attempt to make the very amendment which I have proposed; not that he desired the appointment, but he thought the best interests of the Army would be promoted by a proposition of this kind. He wrote to the Senator from Maine [Mr. FESSENDEN] about the same time and to the same effect.

Mr. SHERMAN. I wish to call the attention of the Senate to the large increase made in the salaries of these officers. The present Surgeon General receives in the aggregate $2,740 a year. He has been a distinguished and faithful officer, and no complaint has been made of the amount of his salary. This bill proposes to give him $4,760 a year. Now I ask whether there is any occasion for this large increase of salary. Surgeons of ten years' standing receive $225 a month, an assistant surgeon of five years' standing receives $138 a month, and so on up. This bill proposes to give to the medical inspector and to the assistant surgeon general $3,414 a year. It also proposes to give to all of the new officers created by the bill about three thousand two hundred dollars, or some five hundred dollars more than you have given for years to your Surgeon General. Now, why is it that in this time, when I think an honest effort will be made for the purpose of reducing salaries, it should be proposed to increase them so largely when there is no occasion for it? I will never vote for this bill in its present position. If you will allow the pay of the surgeons to remain as it now stands, I am perfectly willing to give the increase of number demanded by the Military Committee. If they want more surgeons, if they want inspectors, let them have as many as are desired; but I will not now vote for the increase of the salaries of these officers. Two or three amendments will change the character of this bill so that I can vote for it.

Mr. FESSENDEN. Move them after this is disposed of.

Mr. SHERMAN. If it is now in order I will move to strike out——

The VICE PRESIDENT. An amendment is now pending.

Mr. SHERMAN. After that is disposed of I will move mine.

The VICE PRESIDENT. Does the Senator from Massachusetts withdraw his amendment?

Mr. WILSON, of Massachusetts. No, sir. I desire a vote on it.

The VICE PRESIDENT. Then the question is on the amendment of the Senator from Massachusetts, in section four, line five, of the amendment of the committee, to strike out the words, "surgeons of," and insert "medical corps;" so as to read:

That the Surgeon General, the assistant surgeon general, medical inspector general, and medical inspectors, shall be appointed by the President, by and with the advice and consent of the Senate, by selection from the medical corps of the Army, &c.

Mr. GRIMES. Is that susceptible of amendment?

The VICE PRESIDENT. It is not, the main proposition being itself an amendment.

Mr. GRIMES. If that is adopted, will it then be proper for me to add after the words "medical corps of the Army," the words, "or the volunteer force?"

The VICE PRESIDENT. The Chair thinks it will. New words may be added. The question is on the amendment of the Senator from Massachusetts to the amendment of the committee.

The amendment to the amendment was agreed to.

Mr. GRIMES. Now, I propose my amendment, to insert, after the words just inserted, the words, "or of the volunteer medical corps in the service of the United States."

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

Mr. NESMITH. I hope that amendment will not be adopted. This bill has received a great deal of attention and consideration at the hands of the Military Committee. It has been before them about a month. They have not only considered the merits of this bill, but the merits of about fifty other bills on the same subject. Every man who had any connection with the military service in a medical capacity, seemed to be willing to enlighten the committee on the subject of medicine and on the subject of the proper organization of the corps of surgeons. I believe the adoption of this amendment will have a tendency to disorganize the medical corps of the Army. I believe it will deprive the old surgeons, those who have devoted their time and attention to acquiring the necessary qualifications to become good Army surgeons, of the proper promotion which legitimately belongs to that corps. I believe, further, that by throwing it open to the introduction of surgeons from the volunteer corps, neither the corps nor the Army will be benefited. It is true, as has been stated on this floor, and as has been stated in committee, that there are a great many very distinguished surgeons and assistant surgeons in the volunteer corps. I do not undertake to depreciate their attainments. I believe there are as able men there as there are anywhere; but I do not believe they are the class of men who will be selected for the high positions provided for in this bill. Many of the gentlemen who are now brigade surgeons of volunteers are gentlemen who have occupied high positions in medical institutions in the country, who have left a very fine practice and a fine social position. They have abandoned all this merely temporarily, in order, as they supposed, to confer a benefit on the country, and they have conferred great benefits on the country and great benefits on the Army. I am willing to accord to these gentlemen all the merit to which they are justly entitled; but they are not the class of men who will be selected and be put in the high places provided for by this bill. These gentlemen desire and are anxious, when the war is over, to return to their former occupation, either to return to the professorships which they have occupied in medical institutions, or to return to the very lucrative practice which they have abandoned in order to accept their present places. The adoption of the amendment now suggested will throw the medical corps of the Army open to a very different class of persons—men who are empirics, quacks, politicians, persons who have never had social or professional position, mere politicians who can bring political influence to bear, and they will be the individuals who will be selected. The President, of course, is not to be supposed to institute an examination as to the qualifications of these persons, and we all know how easy it is to get recommendations from Senators, from members of Congress, and from other persons of political influence, for offices of this kind; and thus men will be selected and appointed, not for their attainments as surgeons, but by their political influence. I guaranty that if Esculapius or Galen, said to be the fathers and founders of the medical science, were this day living, and were to come here themselves and make application, they could not get sufficient political influence to obtain these appointments. If, however, the applicants were submitted to a board of examination, that would be the true test, that would be the touchstone to

which they should be brought, and that would be the place where their attainments would be developed.

I am opposed to the amendment for this reason: I believe it will demoralize the medical corps of the Army; I believe it will deprive surgeons in the Army now, medical men of long standing and experience, of the proper promotion to which they are entitled, and place mere politicians above them in rank. It is a humiliation and a degradation which I, for one, am not willing to fasten upon these men. I am opposed to the amendment, and I hope it will not be adopted.

Mr. RICE. I wish to call the attention of Senators to one fact. If the amendment of the Senator from Iowa prevails, the President can select, without regard to age or qualifications, surgeons wherever he may find them, to fill these important positions.

Mr. GRIMES. But they must be taken from the service.

Mr. RICE. From the volunteer service. He may select without regard to age, or merit, or qualifications. It will disorganize the whole system of the medical corps of the Army.

Mr. GRIMES. Can he not select the poorest ones from the regular medical corps, as the bill stands?

Mr. RICE. There are no poor ones in the medical corps of the Army, in my opinion. If this amendment prevails, and the President has as many political quacks about him, pressing him for appointments, as the Military Committee have had in order to get up a bill to suit these little pill-doctors, he will not get through his appointments in the next six months.

Mr. BROWNING. Mr. President, I believe most of the members of the Military Committee have informed us that they have had this bill under consideration for a long time, have bestowed great care and deliberation upon it, have heard all the representations that could be made by medical men as well as military men, and they have, after full consideration of the whole subject, agreed upon the bill as it is. The sanitary commission, I understand, gave the committee the benefit of their intelligence and information upon this subject, and they unanimously approve of the bill as it is. I am satisfied that if the amendment is made, it will be productive of evil and evil only. I do not think any good can result from it. I am very sure that the medical gentlemen in the volunteer service, who are distinguished for character and ability, have no desire whatever to enter permanently into the service of the Army of the United States. They have no purpose or intention of doing so. They design when this war is over and the volunteer force is disbanded, to return to their pursuits in civil life. The only applicants that there will be from the volunteer service for promotion in the Army and for positions in the Army in this corps, will be of the class characterized by the Senator from Minnesota and the Senator from Oregon as medical and political quacks, and it will subject the President to a degree of harassment and vexation that I am not willing to impose upon him by this or any other bill. There will be hundreds of men unfitted for the position, bringing political influences to bear to get them into the Army, to the great detriment of the service, when they can bring it no ability, no valuable service whatever. It will have a tendency to demoralize the medical corps of the Army. I am very sure that it is that class who will seek these appointments. There may be honorable exceptions, there may occasionally be a man of distinguished ability and of eminent qualifications as a surgeon in the volunteer force, who would desire to enter the Army; but these instances would be exceedingly rare; generally the applicants would be of that class of men who ought not to be promoted, and yet who could bring political influences to bear in aid of their promotion. Deferring as I do entirely in this matter, and in most others that come before the Senate, to the committee who have had the subject in charge, men of ability, men eminently qualified to consider and decide upon it in all its aspects, I shall vote with the committee for this bill, as I generally vote with the Finance Committee, and the Naval Committee and other committees who have had the especial charge of a matter. I do not say that we are all bound by their judgment; but there is a degree of respect due to these committees, that I think in matters of doubt ought to influence us to give them our support; and feeling as I do perfectly satisfied that the amendment if adopted will be productive of injury and not of good, opening a door to a scramble for medical offices in the Army, just as there is a scramble going on constantly where there are offices to dispose of, among politicians, unworthy men, men that are not actuated by patriotic motives, men that are urged forward only by selfish considerations, without qualification entitling them to the position, I shall vote against it. The men who have qualifications do not want to go into the Army; they can go back and resume their positions in civil life, that are more acceptable to them, more in harmony with their tastes, more compatible with their domestic comfort and enjoyments; and when the war is over and the volunteers are disbanded, they will return to the pursuits of civil life; and it will be only those who have not exhibited character or merit to secure them position at home who will be clamorous around the executive department for appointment and promotion in the Army.

Mr. GRIMES. The whole argument of the Senator from Massachusetts, as well as that of the Senator from Oregon, is predicated upon the assumption that this is to apply to the regular Army, and is not for a mere temporary purpose. They say that because it is to be a permanent thing, that because it is to apply to the Army, as it is to exist after peace shall have been established, therefore the volunteer surgeons should not be permitted to have access to these offices. If that be so, I am opposed to this bill. Is it possible that the Committee on Military Affairs recommend that we shall have a Surgeon General and an assistant surgeon general permanently attached to the Army; that we are then to have another bureau to have charge of the hospitals, for each of these is a distinct bureau; and then that we are to have eight medical inspectors, who are to be constantly traveling over the whole country, and drawing mileage at the rate of ten cents a mile under your military bill, to inspect military hospitals when peace shall have been declared? If the bill is for a temporary purpose, I am for it; if it is for a permanent purpose, I am against it; and the very argument that the Senators have urged in favor of it is a sufficient reason for me to vote against the whole bill.

If it was only to apply to the regular Army, if the gentlemen who are in the medical service of the Army were only to doctor the regulars, I should be satisfied that they should have the regular doctors; but it so happens that the vast majority of the persons who are to come under the direction of these medical men are volunteers. They would rather be physicked and dosed by their own neighbors and their own friends, men whose reputation they knew at home, who had been, in many instances, their own family physicians, who had reputations in their States. They have the idea—I do not know whether truthful or not—but I have received many a letter from the State of Missouri, where the Illinois and Iowa troops are commingled, in which they condemn the treatment that they receive from the regular Army surgeons, and approve of that which they receive from their volunteer surgeons. It is for that reason that I am in favor of allowing a discretion to the President. It does not necessarily follow that he is to take politicians. I have too much confidence in the President to believe that he will not establish a competent board to examine these men. I do not believe that the President can be induced to select for these very important offices men who are not entirely competent to perform the duties. I want to give him the privilege of going over the whole country, of selecting the best men for these nine offices, men who stand, as I said before, a head and shoulders above their fellows in the profession; and let him take them from the regular Army or from the volunteer service, no matter where they are to be found.

Mr. FESSENDEN. I suppose that the object is, at any rate it ought to be, to get the best men for these important places. I think that the argument which is derived from the organization of the corps, the idea that the corps will be demoralized, the suggestion that we must have regard to the particular sensibilities and particular ambition of men in particular corps, is an argument that should not be listened to for a moment. The question is, where will you find the best men? These offices are important, exceedingly so, not only to the regulars but also to the volunteers, as my friend from Iowa has said. The simple question arises whether you shall be confined within a very small limit, in order to make a selection of men of ability, or whether you shall have a larger field in which to look for the men you want. That is the only question; and the idea that we are to sacrifice that great object or to endanger it for the sake of certain individuals who claim to be advanced, is to me, in the present state of things, a very singular idea. Why should we demoralize this corps any more by going out of it for the selection of new officers, than we have demoralized the Army by going to the bottom of it to select a major general, or by going out of the Army entirely to select major generals and brigadier generals? If we have not done that, we have, at any rate, taken colonels, lieutenant colonels, majors, and other officers for the regular Army from civil life over those who had been in the service for a great number of years. It was on the principle of getting better men——

The VICE PRESIDENT. The Senator will pardon the Chair. It becomes the duty of the Chair to call up the special order, which is the unfinished business of yesterday.

Mr. FESSENDEN. I think that ought to come up.

Mr. WILSON, of Massachusetts. I move to postpone the special order.

The VICE PRESIDENT. The Senator from Michigan [Mr. HOWARD] is entitled to the floor on the special order. Does he yield it to allow the motion of the Senator from Massachusetts to be interposed?

Mr. WILSON, of Massachusetts. I want to have this bill finished as soon as possible.

Mr. FESSENDEN. The other question ought to be settled.

The VICE PRESIDENT. The Senator from Michigan is entitled to the floor, and in the opinion of the Chair no interposing motion can be made without his consent, he yielding the floor for that purpose.

Mr. HOWARD. I think we had better proceed to the order of the day, unless the gentleman from Massachusetts is of opinion that his bill is of so much importance that it ought in reality to take precedence.

Mr. WILSON, of Massachusetts. The Senator from Michigan has the floor, and I certainly do not wish to do anything to take it from him. I am free to say, however, that if the Senator had not the floor, I should press the consideration not only of this bill, but of others, and make every motion that I could to prevent our consuming another day by having a repetition of the speeches we have had on the question relative to the claimant of a seat from Oregon. But as the Senator from Michigan has the floor on that question, and speaks but little, I shall yield to his wishes. If he had not the floor, or did not insist upon his right to it, I should like to put off that question until four o'clock, and we might do some business in the mean time.

SENATOR FROM OREGON.

The VICE PRESIDENT. The resolution of the Committee on the Judiciary, declaring that Mr. Stark is entitled to take the constitutional oath as Senator from Oregon, is before the Senate, and the question is on the amendment of the Senator from Massachusetts, [Mr. SUMNER.] On that question the Senator from Michigan is entitled to the floor.

Mr. HOWARD. Mr. President, not having intended originally to say anything upon the subject now before the Senate, and knowing the great pressure of other business which is before us, I feel it a duty to consume the time of the Senate very sparingly in what I have to say upon this question. The subject itself, however, is of a character requiring our careful attention and our cool deliberation. It is one which also requires on our part, according to my judgment, an exhibition of patriotic and unflinching firmness—a firmness which adheres to the Constitution, and which is ready at all times to do anything and everything to uphold the Constitution and the supremacy of the laws.

The subject as it presents itself to us now, sir, is fairly resolvable into two questions. The first is whether the Senate has power, for any cause whatever, to preclude and prohibit an applicant

from taking his seat in this body, his credentials being in due form, and he being a citizen thirty years old, and nine years an inhabitant of the State from which he comes. The second is, whether, if the Senate has this power, the facts before us are sufficient to justify us in exercising it in the case of Mr. Stark. Have the Senate the power preliminary to inquire into the fitness of the applicant who presents himself and declares his readiness to take the oath of office? Have we, for any cause, aside from those expressly mentioned in the Constitution which are called qualifications, but which are really restrictions, the power to say to a person who thus presents himself here, "you shall not take the oath of office; you shall not occupy a seat among us; you shall not participate in the votes and other proceedings of this body?" It seems to me, sir, that to hold the negative of this proposition is most extraordinary. I cannot reconcile myself to it. I cannot say that because A B presents himself at the door of this Senate with credentials in his hand, which are simply in due form, he has the right in and of himself, thus armed with his formal credentials, to insist upon taking his seat here and voting with us and participating in our deliberations.

Are we thus powerless? Are we thus stripped of all authority to exclude from our deliberations a person who comes here for no other purpose than to assist in destroying the Government itself which we are sworn to support? Are we necessarily, by the Constitution and by our duties, to say to such an applicant, "it is your right so to do, and we are concluded absolutely by the exhibition of your credentials with the seal of your State affixed to them?" If we are thus concluded, certain consequences of a very grave nature must necessarily follow. If I understand correctly the argument of my friend from Wisconsin, [Mr. HOWE,] of my friend from New York, [Mr. HARRIS,] and of several other gentlemen who have spoken on this point, we are, according to them, absolutely concluded from taking any exception to such an applicant, unless it be on the score of his so-called qualifications. If we are, I insist that a State government now within the limits of what is called the southern confederacy may send here a traitor, may send even Jefferson Davis to this Chamber with the broad seal of the State of Mississippi upon his credentials, and we are precluded from taking any step in reference to that man until he has taken his seat in the Senate and has sworn to support the Constitution of the United States.

Mr. President, the Senate is an organized body. It is in its character unceasing, and in the contemplation of its framers, was to endure as an organized body forever. It never ceases its organization or its functions; it, therefore, in contemplation of the Constitution, at all times, without intermission, has whatever powers properly belong to a legislative body, and may exercise them as occasion shall require. The question now is, whether we have not the right to exclude from our body a person who is a notorious traitor, and as to whom we have the best ground to believe that if he offers himself for admission into this body, it is merely for the purpose of acting as a spy; merely for the purpose of aiding and assisting, so far as is in his power, in destroying and overthrowing, not only the body itself, but the entire fabric of the Government of the United States. May we not keep such a man as this out of the Senate? If he came without credentials, and presented himself at our door, and asked to be admitted as a spectator of our deliberations, and announced at the same time that he came here for the purpose of acting the part of a spy of the insurrection, and consequently for the purpose of overthrowing this Government and destroying this legislative body, is there a gentleman here who would hesitate for one moment to say we have the power to exclude the wretch? We have the power to drive him from our midst; we have the power to shut our door in his face; and how do we derive the power in the case which I put? Is there anything in the Constitution of the United States which authorizes the Senate thus to close the door upon an intruder if he were but a mere private intruder? Nothing, sir; not one single word. The Constitution is totally silent upon that subject.

I ask gentlemen also, how does the Senate derive the power to punish a person not a member of this body as for a contempt? That we possess this power will be conceded by every one. Why do we possess it? How do we possess it? Not by the express terms of the Constitution; but we possess it as one of those necessarily implied powers which are indispensable to the preservation of the body in which we are serving as members. It is the power of self-preservation, not necessary to be granted by the Constitution—a power incident alike to courts of justice and to legislative bodies, without which it is impossible for the body to preserve itself. This principle has been too often recognized to be enlarged upon now.

I have said, sir, that neither House of Congress has any express power in the Constitution to punish any person not a member of either body; and still both Houses possess the power. The Constitution declares that

"Each House may determine the rules of its own proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member."

That power of punishing expressly granted is simply applicable by its terms to the members of each body, but is not applicable to strangers to those bodies. There has been upon the standing rules of the Senate an order which has existed since 1798, declaring that

"No motion shall be deemed in order to admit any person or persons whatever within the doors of the Senate Chamber to present any petition, memorial, or address, or to hear any such read."

The Senate at its origin declared to the country and to the world that no person, not, of course, a member of the body, should be allowed within the Hall of the House for the purpose of presenting any petition to either House. They are excluded; they ever have been excluded, and very properly; and why are they excluded? What is the object and purpose of this rule? To preserve order in the body, to protect its proceedings, and to enable it to do the duty which each member has sworn to do; and that is, to support the Constitution of the United States by assisting in carrying on the Government.

We have standing rules also at the present time, excluding the public from this floor; and I suppose as a matter of course, if a stranger should find his way upon this floor, contrary to the rules of the Senate, it would be competent for the Senate to proceed to punish him as for a contempt of its authority. How do we derive the power? As I said before, from the necessity of protecting our proceedings, from the necessity of being free in our deliberations, the necessity of being uninterrupted, of being secure from violence; for, if we have no power thus to defend ourselves, we might at any time be interrupted in our proceedings, and all the proceedings of the Senate might suddenly and effectually be brought to an end. Unless we have the power, then at any time a squad of rebels may organize themselves in the streets of this city, march up into the Capitol, force their way into the Senate Chamber, seize the Vice President, drag him from his chair, and expel all the members of the Senate from their seats; thus disorganizing and dispersing the body. Are we so helpless that we cannot guard against such an incident? Are we so entirely powerless and defenseless as the Senator from Wisconsin seems to intimate that we are? He told us the other day, in very emphatic terms, that the Senate had no right of self-defense, that they had no power to defend themselves, and seemed to speak in terms of ridicule of the proposition that it was a necessary incidental power to the very existence of the Senate.

The question of the authority of the House of Representatives to punish for a contempt of its authority has long since been settled; and I beg to call the attention of the Senate to a single passage from a judgment of the Supreme Court, to be found in 6 Wheaton's Reports, and which case arose in the following manner: a person not a member of the House of Representatives had committed a contempt of the authority of the House. He was seized, by a warrant from the Speaker, and placed in the custody of the marshal, and was restrained of his liberty for a considerable time; but finally, after having been reprimanded by the Speaker of the House, was liberated. After that, he brought his suit in trespass against the marshal, for the purpose of procuring damages for false imprisonment; and there the question arose distinctly as to the power of the House of Representatives to punish strangers for contempt of its authority; and the Supreme Court, to which the case was removed, used the folowing emphatic and expressive language. They say, and say unanimously:

"That 'the safety of the people is the supreme law,' not only comports with, but is indispensable to, the exercise of those powers in their public functionaries without which that safety cannot be guarded. On this principle it is that courts of justice are universally acknowledged to be vested, by their very creation, with power to impose silence, respect, and decorum in their presence, and submission to their lawful mandates, and, as a corollary to this proposition, to preserve themselves and their officers from the approach and insults of pollution.

"It is true that the courts of justice of the United States are vested, by express statute provision, with power to fine and imprison for contempts; but it does not follow from this circumstance that they would not have exercised that power without the aid of the statute or not, in cases, if such should occur, to which such statute provision may not extend; on the contrary, it is a legislative assertion of this right as incidental to a grant of judicial power, and can only be considered either as an instance of abundant caution, or a legislative declaration that the power of punishing for contempt shall not extend beyond its known and acknowledged limits of fine and imprisonment."—*Wheaton's Reports*, vol. 6, pp. 227, 228.

Now, sir, I have asked Senators to show me any distinction, in point of principle, between the case of the stranger, who comes here and attempts to intrude himself upon this body, announcing his purpose to be that of a spy to aid the rebellion, or any other wicked and mischievous cause, destructive of the Government itself, and the case of a man, or a set of men, who shall thrust themselves in here, and by their noise and confusion and uproar render it impossible for the Senate to proceed with their deliberations. Is not the former case which I put one of greater atrocity, far, than the latter? Is it not more important to this body, more important to the Government of the United States, that the secret spy, who comes in here with a dagger concealed under his vesture, for the purpose of giving the genius of free government a stab, a more dangerous intruder, far, than the rowdy who comes here filled with liquor and interrupts our proceeding by means of noise and other disturbances? If we might expel the private intruder who came upon such a wicked mission, I ask you, sir, I ask every Senator here, upon what principle is it that he will venture to say that the formality of mere credentials in the pocket of the intruder is a perfect justification for him to come into this Senate, take his seat here, vote with us, act with us, with the same purpose in his heart? It is that question which I desire may be answered, if there be any gentleman here who is prepared to answer it. No, sir; you and I, and the rest of us, on taking our seats in this body, took upon ourselves, each of us, a solemn oath that we would support the Constitution of the United States.

That, sir, is what we have sworn to; and when we took that oath we intended by it this: that we would, to the best of our judgment and ability, not only uphold the Constitution and all the functionaries acting under the Constitution in the just and legal discharge of their duties and their trusts at the present time, and for the present time, but that we would endeavor, so far as depends upon us, to continue them in the use of those functions for all time to come. In other words, we swore to support, that is, to uphold, to continue in operation and efficiency for all time to come the Constitution of the United States, and to obey all and each of its requirements; and I beg to say to the gentleman from New York that when I speak of loyalty to the United States of America I have no mental reservation. I take the word "support" the Constitution of the United States as answering the question which he has so pointedly put. To support the Constitution is a very simple thing. The meaning of the word is plain. The Senator from New York cannot misunderstand it. No other Senator, no citizen of the United States, can misunderstand it. When called upon to support the Constitution of the United States, and swearing to support that Constitution, I mean to continue all the functions of the Government that are created by the Constitution of the United States for all time to come; I mean that it is our duty to use all our powers to establish and maintain the administration of justice by the courts of the United States in every place where the jurisdiction of the United States extends under the Constitution; to collect the revenue of the United States within the limits and jurisdiction of the United States; and to do all and every act in all and every place within the proper limits of that jurisdiction which

we may lawfully and constitutionally do under the Constitution of the United States. It is this disposition of mine which I call loyalty. I think there is no uncertainty in the meaning of the word. It needs no logic chopping; it needs no piling up of dictionaries; much less does it mean such a volume as the Senator from New York spoke of in regard to common sense, fully to make its meaning known to the world.

This is what I understand to be the right and the power of the Senate. We are not to be intruded upon by a person, whether with or without credentials, who is not thus loyal to the United States. If we suffer it, we admit a spy into our camp.

The next question which addresses itself to us is my second question; and that is, whether the facts which have been laid before the Senate are sufficient in and of themselves to justify us in exercising this which I regard as an undoubted and unquestionable power and faculty of the Senate as a legislative body? What are the facts of this case? Before referring to the affidavits which I shall read, I must refer to some other facts of great notoriety, facts of which I cannot presume the present applicant to have been ignorant at the time that he made these declarations. That gentleman at the time he made the declarations upon which I shall comment directly, I must assume knew substantially what had taken place at Washington; he knew what had taken place in South Carolina; he knew that civil war, a general insurrection, throughout the slave States was imminent. He was acquainted with all the causes or the pretended causes of that insurrection. Why, sir, that members of a certain party calling themselves Democrats had made up their minds that there was to be what is called a dissolution of the Union at a very early period, is past all doubt. Even as early as the beginning of December, 1860, only one month after the election of President Lincoln, we hear a member of the House of Representatives from the State of Wisconsin, himself a Democrat, as I have been told, using the following language to his friend and correspondent at Milwaukee, that friend being a Government contractor employed upon some public works of the United States there. The person to whom the letter was written was under a contract to deliver timber to the Government at Milwaukee. The writer says:

WASHINGTON, *December* 7, 1860.

SIR: I have just seen Captain Smith. You will lose nothing by a failure to make the first delivery of timber. Captain S. authorizes me to say this to you. My own advice is, not to invest a cent in the matter, for the chances are ten to one that no further prosecution of the work will be had.

The contract for stone will not be let.

The end is near. Prepare for it. *This* privately.

Yours truly, C. H. LARRABEE.

JONATHAN TAYLOR, Esq., *Milwaukee.*

—

DECEMBER 6, 1861.

I hereby certify that the foregoing is a true copy of the original on file in this office.

BENJAMIN U. KEYER,
Chief Clerk Light-House Board.

That alarm was sounded as early as December, 1860. "The end is near. Prepare for it. This privately." I should like to know what sense of obligation and honor a member of the House of Representatives can possess who allows himself to communicate such alarming intelligence as is contained in that letter to a friend, and to do it privately; but let that pass.

The next fact of a public nature to which I call the attention of the Senate is the letter of the then President of the United States of the 30th of December, 1860, written to certain South Carolina commissioners, which was published in all the journals of the country in a very short time after its date. He says:

"It was my earnest desire that such a disposition might be made of the whole subject by Congress, who alone possess the power, as to prevent the inauguration of a civil war between the parties in regard to the possession of the Federal forts in the harbor of Charleston."

Again, the President says:

"It is not believed that any attempt will be made to expel the United States from this property by force; but if in this I should prove to be mistaken, the officer in command of the fort has received orders to act strictly on the defensive."

Again, in the same document, he says:

"It is well known that it was my determination, and this I freely expressed, not to reinforce the forts in the harbors, and thus produce a collision, until they had been actually attacked, or until I had certain evidence that they were about to be attacked."

At the close of the same letter, he says further:

"At this point of writing I have received information by telegraph from Captain Humphreys, in command of the arsenal at Charleston, that it has to-day (Sunday the 30th) been taken by force of arms. It is estimated that the munitions of war belonging to this arsenal are worth $500,000. Comment is needless. After this information I have only to add that, while *it is my duty to defend Fort Sumter* as a portion of the public property of the United States against hostile attacks, from whatever quarter they may come, by such means as I possess for this purpose, I do not perceive how such a defense can be construed into a menace against the city of Charleston."

That letter of the President, as I remarked, is dated the 30th of December, 1860, and was published in the journals all over the country. On the 1st of January, 1861, the South Carolina commissioners, in answer to that letter of the President, used the following language in their note:

"He (Major Anderson) abandoned his position, spiked his guns, burned his gun-carriages, made preparations for the destruction of his post, and withdrew, under cover of the night, to a safer position. *This was war.*" * * * * "By your course you have probably rendered civil war inevitable. Be it so. If you choose to force this issue upon us, South Carolina will accept it, and, relying upon Him who is the God of justice as well as the God of hosts, will endeavor to perform the great duty which lies before her hopefully, bravely, and thoroughly."

I read these extracts, Mr. President, for the purpose of throwing a little light upon the state of public affairs throughout the country at the time these declarations of Mr. Stark are alleged to have been made, and in reference to which he certainly made them. This becomes necessary in order to show the animus by which he was actuated at the time he made these declarations. The last paper I read is dated the 1st of January, 1861. Now, I take it, it will not be denied that by the ordinary course of the mail there was an abundance of time for those letters to have reached the Pacific coast long before the month of February of the same year had expired.

Now, sir, I come to the evidence which is before the Senate. On the 29th of October, 1861, Governor John Whittaker, of Oregon, signed and delivered the credentials to Mr. Stark, for they bear that date. How long he remained at Portland or in that vicinity does not appear; but it does appear that during the month of November a great number of persons came forward as witnesses for the purpose of showing the disloyalty of Mr. Stark. On the 21st of November, Mr. Simeon Francis addressed a letter to the present Secretary of State, Mr. Seward, in which, inclosing these papers, Mr. Francis says:

"The signers of the letter transmitted to you to-day, in the case of Benjamin Stark, feel themselves under some embarrassment, but one of them being personally acquainted with you. I beg to say they comprise some of the most respectable citizens of Portland; and in my own case, as thus speaking in behalf of these gentlemen, I refer you to President Lincoln."

The first paper which is laid before the Senate is signed by thirteen gentlemen, one of them, a Mr. Rector, being superintendent of Indian affairs for Oregon, and another, Mr. Comlon, being Indian agent, the others having no official character; but these persons all unite in the following declaration:

"Mr. Stark, who is a resident here, and personally known to us all, has been for the past twelve months an ardent advocate of the cause of the rebellious States. He has openly avowed his sympathies with the South, declaring the Government disrupted, and openly expressing his admiration for the constitution of the confederated States, and advocating the absorption of the loyal States of the Union in the southern confederacy under that constitution as the only means of restoring peace; thus advocating the surrender of our Government to the so-called confederated States.

"Mr. Stark has thus expressed himself publicly, and has in consequence been recognized as the most prominent and bold of the advocates of secession in this State. He has been selected by Governor Whittaker doubtless in consequence of his secession proclivities; thus outraging the sentiment of the people of Oregon."

And I believe they speak God's truth when they so speak, that the sentiments of the people of Oregon are grossly outraged by the sending of such a person to this Senate as is Mr. Stark if these affidavits and other papers are to be relied upon as containing the truth; for I believe that people, like all northern people unpolluted by secession doctrine, are loyal and true to the Government under which they live and to which they owe so much.

"He has been selected by Governor Whittaker doubtless in consequence of his secession proclivities, thus outraging the sentiment of the people of Oregon, a large majority of whom are loyal to the Union.

"Accompanying this communication will be found affidavits from reliable citizens in confirmation of the statements herein made concerning Mr. Stark."

These thirteen gentlemen, who are thus vouched for by Mr. Francis as being among the most respectable citizens of Portland, say that the persons who have furnished affidavits, and which I am about to read, are also respectable, reliable citizens of that place; but the thirteen proceed and say further:

"The acts and expressions of Mr. Stark fully warrant the belief that he would render the cause of the South all the assistance in his power consistent with his personal safety.

"We believe that Mr. Stark, as United States Senator, may prove to be a dangerous person, and therefore respectfully urge that his actions may be closely scrutinized, and that you will take such measures as the public interests may require to dispossess him of all power for harm.

"We are obediently yours."

Signed by the thirteen. Next follows a statement on oath, the oath being administered by Samuel E. Burr, a justice of the peace, by Mr. Wesley C. Hull, in which he says:

"That in the month of February, 1861, he heard said Benjamin Stark make use of the following language in substance at the post office in the city of Portland: 'If there is to be any war between the North and the South all my property is for sale at fifty cents on the dollar; and I will go and help the *South* fight. The palmetto flag is my flag. The southern confederacy is the only legal government in existence; that the United States Government is broken up; that Jeff Davis is fighting in a good cause, and it will be impossible to defeat him.'"

One word, sir, upon this particular passage which has received the criticism of the learned Senator from New York. He insists that, inasmuch as this witness Hull swears that this statement was made in his hearing at some time in the month of February, 1861, and inasmuch as, in the opinion of that Senator, the news of these events could not have reached Oregon at that time, therefore Hull has sworn falsely, and is not to be believed on his oath. Let us look into that a moment. Mr. Hull made this oath on the 18th of November last. He swears that in the month of February, 1861, he heard this conversation. In this conversation, Mr. Stark is reported as saying that the palmetto flag was his flag. Is there a doubt about his knowing what was meant by the palmetto flag in the month of February, 1861? South Carolina had been out of the Union at that time for nearly or quite two months, and had a flag of her own, a rebel flag, which was known as the palmetto flag; just as well known on the shores of the Pacific as being the rebel flag of South Carolina, as that the stars and stripes were the standard of the Union and the nation. So there can be no doubt about that. There was an abundance of time for the news of the raising of the palmetto flag, at least, to have gone from New York, or from South Carolina, or from Mobile, or from the Atlantic coast somewhere to the Pacific coast; and Mr. Stark may have understood the fact. I have made inquiry respecting the time occupied by the passage of the mail from the Atlantic ports to the Pacific ports during that period; and, according to the best information which I could obtain, in which I place great credit, the average time of that passage was from twenty-eight to thirty days; a month being a large and liberal allowance under ordinary circumstances for the passage of information by mail from the Atlantic to the Pacific coast.

But the Senator seems to find another difficulty in this affidavit of Mr. Hull, where Mr. Hull speaks of the southern confederacy. It is true that that southern confederacy was not, properly speaking, formed until the 4th day of February. On that day the rebel congress assembled at Montgomery in the State of Alabama, and on the 18th day of that same month Jefferson Davis delivered his inaugural address to the rebel congress. Now, sir, is it so improbable, as the Senator from New York would have us believe, that this information of the constitution of a southern confederacy had reached the Pacific coast at that time during the month of February? I think it is not improbable. I have made further inquiry, and I have ascertained that at that time there was a pony express from St. Joseph, in the State of Missouri, to Placerville, and that there were telegraphic wires on from that vicinity to San Francisco, and that the whole time at that period consumed in passing from St. Joseph to Placerville was, upon the average, eight or ten days only; so that it is quite possible, in my judgment, and according to the best information which I can obtain, that the news of the constitution of the southern confederacy, so called,

had reached the Pacific coast and the ears of Mr. Stark within the limits of February, 1861.

But again, I ask the Senator from New York whether his mode of treating this witness, his mode of assailing his credit, is perfectly on the square? Is it perfectly worthy of the character of a learned judge, or a calm and considerate counsel? Why, sir, that gentleman knows as well as I, as well as we all know, that there is nothing which a witness is so liable to forget as a mere date. A witness will remember the main fact which he has observed for a great length of time; and even at the end of forty or fifty years a man with a good memory will be enabled to detail the occurrence which he witnessed, while at the same time it would be totally out of his power to recollect the particular date at which it occurred. We are not talking about the mere date; we are talking about the fact whether or not this man Stark did make this declaration substantially as the witness has said that he did. The Senator from New York did not see fit to respond to my second question which I addressed to him; and that was, whether he had any ground to doubt the substantial truth of the statements contained in all these affidavits. He has not even yet answered that question. He admits that they are authentic; he admits that they are all genuine; and he does not deny, for I undertake to say that he dare not deny, and therefore will not deny, the substantial truth of the averments contained in these papers. But I must pass on, sir. So much for Mr. Hull.

Mr. John M. Breck swears—

"That he is a citizen of the county and State aforesaid, and that he is personally acquainted with Benjamin Stark, of the same place; that just after the reception of the news of the reverses to the national army at Bull Run, the affiant being at the time standing at the entrance to the Bank Exchange, in the city of Portland, county and State aforesaid, did then and there distinctly hear and see the said Benjamin Stark, the present Senator from this State to the Congress of the United States, drink a toast, in company with a well-known secessionist, to the following effect, viz: 'Beauregard' or 'beau regard.' This affiant further says that he cannot certainly say that the said Stark alluded thereby to the notorious rebel of that name, but such was his understanding, never having previously heard the said Stark use the latter phrase."

Mr. A. M. Starr testifies—

"That he is a resident of the city of Portland, in said county and State; that he is personally acquainted with Benjamin Stark, of said city, and has been acquainted with said Stark for the last ten years past; that he has heard said Stark, within the last two weeks, say that there was no United States Government; that he heard said Stark say at the time the President first called for volunteers, that the United States Government could not support an army of thirty thousand men in the field for six months; that the people in the loyal States would not back up the Administration in trying to put down this rebellion."

Oh, how mistaken he was, sir! Little did that unfortunate man, unfortunate in his estimate of the feeling of the loyal people of this country—little, quite too little, did he know of the strength of that spirit of loyalty and liberty which, under God, is destined to restore this glorious Union, and to bring those vile miscreants who have attempted to destroy it to justice.

Again, we have the affidavit of thirty persons attached to one and the same paper, and sworn to before the same magistrate. It is as follows:

"The undersigned, each being first duly sworn, say that they are personally acquainted with Benjamin Stark, of the city of Portland, county and State aforesaid, and that he is well known and generally reputed to be an open and avowed friend to the southern confederacy as against the Union, and believe that he should not be allowed to take his seat in the United States Senate by the appointment he has received from Governor Whittaker, Governor of Oregon, and should be arrested as soon as he arrives in Washington city as a traitor and a spy."

The magistrate who administered the oath to these thirty witnesses himself certifies as follows:

"I do certify that the persons whose names are subscribed to the annexed paper and affidavit were all duly sworn by me, a legal justice of the peace in and for said county, and that I am personally acquainted with each and every one of them, and that they are all men of truth and veracity, and that I subscribe to the facts set forth in the annexed affidavit."

All of them are certified by this magistrate to be men of truth and veracity. Mr. A. W. Sweet, another witness, in a separate affidavit, swears:

"That he is personally acquainted with Benjamin Stark, and knows him to be an avowed friend of the southern confederacy; that he knows this from personal conversation with said Stark, and that his language is full and explicit and as traitorous as I ever heard any one utter, and without condition."

This is sworn to and subscribed before Samuel E. Barr. Then again Mr. Barr, the magistrate, himself makes an affidavit; which is as follows:

Personally appeared before me, the undersigned, a notary public of the State of Oregon, Samuel E. Barr, who is known to me to be one of the justices of the peace in and for said county, and being by me first duly sworn, says that he is personally acquainted with Benjamin Stark, and each of the parties who have made their affidavits before him, and that he knows them each to be trustworthy and reliable men, good and loyal to the country, and of unimpeachable veracity, and that the facts stated by them are true, as he verily believes. SAMUEL E. BARR.

Subscribed and sworn to before me this, the 15th day of November, anno Domini 1861.

[L. s.] A. W. SWEET, *Notary Public.*

There is a solemn indorsement. Will the Senator from New York treat this as unworthy of attention? Will my friend from Wisconsin treat this affidavit as unworthy of any attention? No, sir; neither of them will. Were this the case of a charge of treason against the President of the United States, and affidavits as formally and solemnly sworn to as are these, pregnant with charges of the crime, to be presented to a proper judge, and upon that showing a warrant for his arrest should be asked, I undertake to say, if that judge was my learned friend from New York, he would not hesitate one moment in issuing his warrant for the arrest of the President of the United States or the Chief Justice of the United States, or any other person within the limits of the United States, high or low. It then has some weight, has it not?

Again, Peter Smith swears:

"That he is a resident of the county and State aforesaid, and that he is personally acquainted with Benjamin Stark, of the city of Portland, Oregon; and that affiant has had some conversation with said Stark in reference to the right of secession of the southern States"—

I desire attention to this—

"and the said Stark argued and maintained that any State had the right to secede from the rest of the Union, and that a county or precinct or town had the right to secede; that there were no constitutional grounds to prohibit them, and no constitutional right to coerce them into submission; and affiant further saith not."

Then follows a certificate, under the seal of the circuit court for the county of Multnomah, in Oregon, by which these various affidavits, and the signatures of the magistrates are authenticated in the usual form.

Now, sir, as I said before, Mr. Stark has had an opportunity to read every one of these papers which I have read, and to answer them. The committee treated him with courtesy and kindness. They placed these papers in his hands. He was allowed to peruse them. He did peruse them. He says himself, in the letter which he addressed to the chairman of that committee:

"It is due to myself, however, that I should state that I have examined all the papers referred to by the committee, and that I find them, without a single exception, to emanate from my bitterest political opponents."

He does not dispute the genuineness of a single one of these papers; he admits their genuineness; but he proceeds:

"While I cannot undertake to recall all that I may have said in private conversations during the past twelve months of earnest and often heated discussions of public affairs, I do most solemnly declare that in a forum competent to try and determine the issue, I am able to prove the allegations against my loyalty to be utterly unfounded."

The Senator from New York insists that this is a very sufficient answer, on the part of Mr. Stark, to the various allegations made against him by these witnesses. Here are fifty-one witnesses, all of them respectable, reliable, and veracious persons, living and residing in the city of Portland, and all of them concurring in the general statement that this man is at heart and in principle disloyal to the Government of the United States; that he holds that Government in contempt; that he is strongly, fervently attached to the insurrectionary government established at the South; and when he is shown the papers and his particular attention is called to each one of these charges made specifically, time and place being given in each instance, what does he say? He does not deny the fact; he does not deny that he said so in one of these cases; but he comes in and declares this, evasively: that, in a proper forum he can disprove all that is said against his loyalty. Will the Senator from New York inform the Senate what, in his judgment, Mr. Stark means by the word loyalty? I have given, so far as I could, my idea of loyalty; that it means and intends simply to support the Constitution of the United States in all its functions, at all times, and in all places, fervently, cordially, earnestly, as a dutiful son would act in defense of his own mother, never for a moment yielding an inch of ground, so far as that Constitution is concerned. By disloyalty, I understand to be implied the reverse of what I state to be loyalty—a disposition to attack and overthrow and break down the Constitution of the United States; to defeat its operations at some time, in some places, and, perhaps, in all places; to overthrow and overturn the Government; to disorganize it; to get rid of it. That is what I understand to be loyalty. I see no mystery in it. It is as simple as A B C, to my understanding.

Now, sir, I insist that if this man entertains the views which these witnesses concur in swearing he does entertain and has expressed, he is not a fit person to take a seat in this Senate; for I hold that any person, here or elsewhere, who entertains the doctrine that one of the States of the United States may lawfully and constitutionally secede, in other words, withdraw from the United States, is at heart a traitor. It is against this sophism, this false doctrine which has been so long taught and promulgated by the South Carolina school of politicians, with Mr. Calhoun at their head—it is against this doctrine, this fatal poison, this virus, which has been corrupting the southern blood for thirty years past, and even longer, that this glorious war is now urged. Sir, we have been told that even the Gospel on some occasions has been best propagated at the cannon's mouth; and I believe the time has come to disprove that sophistry by the use of the cannon and the bayonet, and that military power must prevent the further fatal and mischievous effects of such a doctrine, for they are now carrying it out in practice.

At the time many of the declarations which Mr. Stark made in Oregon were uttered, he must have been fully acquainted with the fact of the organization of the southern rebellion; he must have read the inaugural address of Jefferson Davis to the insurrectionary congress, and he must have known the meaning and purpose of this extract from that famous inaugural. On the 18th of February, 1861, Mr. Davis, addressing his rebel crew, used the following language:

"For purposes of defense the confederate States may, under ordinary circumstances, rely mainly upon their militia; but it is deemed advisable, *in the present condition of affairs, that there should be a well-instructed, disciplined army, more numerous than would be usually required on a peace establishment.* I also suggest that for the protection of our harbors and commerce on the high seas, a navy adapted to those objects will be required."

Mr. Stark, at the time he made these declarations, knew perfectly well that a civil war was raging within the limits of the United States; that Jefferson Davis and his rebel congress had raised a force of half a million of men, and that the United States of America had also raised a tremendous force for the purpose of putting down that rebellious military force. I ask you, sir, what sort of loyalty is that which, at such a time, and under such circumstances, stands up in the public streets and declares that it is in favor of a southern confederacy; that it is ready to go South, and fight for the South? I cannot consent to permit such a man as this to take a seat in this body. While I see my own neighbors and friends and countrymen hurrying away to the field of strife for the purpose of upholding forever this glorious Constitution of ours; while I see the mother taking leave of her only son, and bidding him God-speed, with his Bible in his pocket, to fight the battles of constitutional liberty, and to uphold the old and time-honored flag; when I see the entire loyal population of the United States rushing with unexampled alacrity to the field of slaughter, and facing death even at the cannon's mouth in defense of this instrument, I will never cover myself, as a United States Senator, with the shame and dishonor of suffering a traitor to take his seat by the side of me in this Senate, so help me God. [Manifestations of applause in the galleries.]

The VICE PRESIDENT. Order!

Mr. DAVIS. I desire to move an amendment to the amendment of the Senator from Massachusetts. It is to strike out all of the amendment after the words "United States," in the following words:

Is not entitled to take the constitutional oath of office without a previous investigation into the truth of the charge.

And in lieu thereof to insert:

But the evidence in the case is not sufficient to preclude the said Benjamin Stark from taking the oath prescribed by

the Constitution, and that he therefore be permitted to take the oath and his seat as a member of the Senate from the State of Oregon.

I ask for the yeas and nays upon that amendment.

The yeas and nays were ordered.

Mr. BROWNING. Mr. President, I shall occupy the attention of the Senate but a very few minutes. I have no purpose of making a speech at all. But I was absent last week when the main discussion on this subject occurred, and had not the benefit of hearing it. There is one question about it I have not heard suggested, that gives me some trouble, and which I should like to have solved if I could before I vote. I will state very briefly my own view of the subject, occupying but a very few minutes indeed, not intending to go at all into the question of the loyalty or the disloyalty of the gentleman who presents himself here, claiming a seat as a Senator from the State of Oregon. Upon the question that is now pending before the Senate, I do not think it appropriate to go into a consideration of the evidences of loyalty or disloyalty. The question that presents itself to my mind is this: whether, in voting for the resolution of amendment offered by the Senator from Massachusetts, that resolution can be adopted by a majority vote, or whether it will require the sanction of a two-thirds vote to adopt it, or not. The Constitution provides that

"The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years.

"No person shall be a Senator who shall not have attained the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

"Each House shall be the judge of the elections, returns, and qualifications of its own members."

Now, these provisions are all to be taken and considered together. What is necessary to constitute a person a member of the Senate of the United States? It is necessary that he shall be elected by the Legislature, or appointed, when a vacancy occurs during the recess of the Legislature, by the Governor of the State; and it is necessary that he shall possess the qualifications indicated by the constitutional provision. If he does not possess them, his election or appointment will be void—will be a nullity. But if he does possess them, and if he is elected or appointed, and accepts, then I apprehend he is a member of the Senate of the United States, even in advance of having taken the oath required by the Constitution to support the Constitution of the United States. I suppose he is, when elected, possessing the constitutional qualifications, a member of the Senate, even in advance of having taken the oath to support the Constitution of the United States, provided he accepts of his election or appointment, as in this case the Senator seems to have done. He has indicated his purpose of acceptance by appearing and presenting his credentials, and offering to enter upon the discharge of his functions as a Senator.

There is another provision of the Constitution, the fifth section of the first article, that

"Each House shall be the judge of the elections, returns, and qualifications of its own members."

Taken in connection with the other two, the first one I read providing for his election, the second one I read designating the qualifications, and this third one declaring that the Senate shall be the judge of that election and of those qualifications, and if he has been elected and possesses these qualifications and accepts, he is a member of the Senate even in advance of taking the oath; and then the question arises whether we can interpose and prevent his exercising the functions of a Senator by less than a two-thirds vote. He is a member of the Senate. I do not know that it matters, when this question comes before us, whether it is before he has taken his oath or afterwards; but whether it comes at one time or the other, it is, in my judgment, a proceeding for the expulsion of a Senator, requiring a two-thirds vote.

Mr. SHERMAN. With the consent of my friend from Illinois, I can give him one or two examples that I have found since I spoke yesterday. Baron Rothschild occupied a seat in Parliament eleven years without being sworn. He could not vote; but still he was recognized as a member of Parliament, and was protected, and had all the rights of a member of Parliament; and so with a Jew by the name of Solomon, who kept a seat for two years, and was recognized as a member of Parliament; but as he could not take the oath required by law he was not allowed to vote. Another thing: the House of Representatives at this very session expelled two members from the House of Representatives who had never been here and had never taken the oath, and had never occupied seats as members of the House. I think it has been settled, therefore, by every kind of authority, by the example of Parliament in the House of Commons, and by the example of the House of Representatives, that a man is a member even before he has taken the oath of office.

Mr. BROWNING. The other provision of the Constitution upon which I intended submitting a remark is this clause that

"Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member."

Is Mr. Stark a member of the Senate? In my judgment, he is a member of the Senate even in advance of taking the oath, and he may be expelled. I apprehend he could be expelled before he was admitted upon the floor; but to do it it requires a two-thirds vote of this Senate. I do not know what the sense of the Senate is, and I do not know how it is to be determined; whether the amended resolution offered by the Senator from Massachusetts is to become the authoritative act of this body, by the sanction of a majority vote only, or whether it is to require two thirds for it. I have already said that, in my opinion, we might proceed to the consideration of the question, and to the expulsion of the Senator, if the causes for his expulsion be sufficient, even in advance of his being admitted upon the floor. But, in my opinion, it would be the more regular way, and the juster way, to admit him upon the floor, that he might have an opportunity for defense.

I express no opinion as to how my own vote would be on the evidence before us. I know there is no man in this Chamber who is more determinately opposed to any taint of treason upon this floor than I am. I express no opinion upon the evidence. If the evidence should satisfy me of the disloyalty of the Senator from Oregon, I would not hesitate one instant to record my vote for his expulsion. But, sir, I want to proceed properly and regularly, and in accordance with the provisions of the Constitution in doing it. I wish to afford him, as, in my opinion, he is a member of the Senate, the privilege that ought to be afforded to every accused man—the privilege of self-defense. Let us hear what he has to say. Let us have the evidence on both sides, and when we have had it on both sides, we shall certainly be better prepared to form opinions by which we can stand hereafter, as well as now, than we are prepared at this moment to do.

One thing more, sir, and I shall not longer detain the Senate. The precedent, in my opinion, is fraught with immense danger, of the Senate undertaking by a bare majority vote to disfranchise sovereign States. They send here, as the representative of the sovereign State, their Senator, possessing the qualifications prescribed by the Constitution, and elected in conformity with all constitutional and legal provisions. He accepts it. It makes him a Senator. Then what does the Senate undertake to do? Why, sir, look at what may happen in times of high party excitement. The case which I am about to suppose is perhaps improbable; the probabilities are, no doubt, that it never would occur, yet it might occur, and I am not disposed to make a precedent that would make such an occurrence even possible. Hereafter in times of high party excitement, when the Senate is pretty nearly equally divided, when there are vacancies of one party and a majority of another party upon the floor, when they are desiring to perpetuate their power and to keep from their midst all who differ with them in political sentiment, Senators of opposite politics are sent here, and what do they do? By a majority vote they prevent them from taking their seats in the Chamber, whereas if they were admitted upon the floor they could not expel them, because, while they were a majority, they were not two thirds. They could furnish no two-thirds vote to the expulsion of a Senator, but by a majority vote they could deny him admission upon the floor. The practice is one that is capable of immense abuse, immense wrong; and one which it is within the range of possible things might at some time or other be used for the worst purposes of tyranny. I am not willing to aid in establishing such a precedent.

I think, sir, we ought to admit the member upon the floor. If this is a proceeding for his expulsion, as I think it is, before the question of his expulsion is acted upon we ought to admit him and hear what his defense against the charge is. I believe that is all that I desire to say. If the question is now put, as I have already said, without intending to indicate how I shall vote on the question when it comes here, of expulsion, after I have heard the evidence and the defense, I shall at present vote against the resolution offered by the Senator from Massachusetts.

Mr. HOWE. I submit, as a modification of the amendment to the amendment, to which I ask the assent of the Senator from Kentucky, that these words may be added to the amendment he has submitted:

Until such time as satisfactory evidence can be procured of the truth or falsehood of such charges.

The VICE PRESIDENT. Does the Senator from Kentucky adopt that as part of his amendment?

Mr. DAVIS. I do, sir.

The VICE PRESIDENT. The amendment of the Senator from Kentucky as proposed to the amendment of the Senator from Massachusetts, will again be read as modified.

Mr. SUMNER. I hope that all the different propositions will be read, beginning with the proposition of the committee.

The VICE PRESIDENT. The Secretary will first read the amendment of the Senator from Massachusetts.

Mr SUMNER. If the Chair will excuse me, it would be better to begin with the original resolution reported by the committee; then my proposition of amendment; and then the propositions of the two Senators afterwards.

The VICE PRESIDENT. The Secretary will so read.

The SECRETARY. The resolution reported by the committee, is as follows:

Resolved, That Benjamin Stark, of Oregon, appointed a Senator of that State by the Governor thereof, is entitled to take the constitutional oath of office.

It is proposed by Mr. SUMNER to amend that resolution by striking out all after the word "thereof," in the following words, "is entitled to take the constitutional oath of office," and to insert in lieu thereof:

And now charged with disloyalty by the affidavits of many citizens of Oregon, and also by a letter addressed to the Secretary of State, and signed by many citizens of Oregon, some of whom hold public trusts under the United States, is not entitled to take the constitutional oath of office without a previous investigation into the truth of the charge.

It is proposed by Mr. DAVIS to amend the amendment submitted by Mr. SUMNER, by striking out all after the words "United States," in the following words:

Is not entitled to take the constitutional oath of office without a previous investigation into the truth of the charge.

And to insert in lieu thereof the following:

But the evidence in the case is not sufficient to preclude the said Benjamin Stark from taking the oath prescribed by the Constitution; and that he, therefore, be permitted to take the oath and his seat as a member of the Senate from the State of Oregon until such time as satisfactory evidence can be procured of the truth or falsehood of such charges.

Mr. HARRIS. A further amendment, perhaps, is not in order now.

The VICE PRESIDENT. It is not, at this stage.

Mr. HARRIS. I desire to state that it is the wish of Mr. Stark that the resolution reported by the committee should be amended so as to refer back the papers and evidence to the Judiciary Committee, that they may inquire and report upon the truth of the case. I wish, therefore, at his instance, to offer at the proper time this amendment, to be added to the resolution reported by the committee:

And that the credentials and the papers relating to his loyalty be recommitted to the committee, with instructions to inquire and report upon the charges made in such papers.

The proposition is to swear him in, and then refer the papers back. Then the resolution reported by the committee is, that he is entitled to take the constitutional oath of office, and the papers in the case shall be referred back to them.

Mr. COLLAMER. I take it, we shall under-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. FRIDAY, FEBRUARY 28, 1862. NEW SERIES....No. 63.

stand that that is essentially the form in which the committee desire to have the case put now, at the request of Mr. Stark. I desire to have it acted upon understandingly on that point. If the resolution of the committee is to be voted against when that amendment is to be offered, then gentlemen may understand it, if they are unwilling to have it inserted, when they vote on it.

Mr. TEN EYCK. The proposition which has been stated by the Senator from New York is one that I shall not assent to when my vote comes to be given. I am opposed entirely, under any circumstances, to have this matter recommitted to the Judiciary Committee, or to have them further investigate the subject, and I shall vote accordingly. I said, the other day, that all the evidence which can be expected to be had before this Senate, before the adjournment of Congress, is before it now, and the Senate are just as well prepared, and perhaps better prepared, to act upon it now than they will be at any future time; and I desire that the question may be met fairly and squarely now. I have one view in relation to the admission of the member to his seat, and perhaps I may have another view in relation to his holding that seat afterwards; but in the view which I entertain, where a sovereign State has a right to send its Senator here, if he comes armed and clothed with its credentials, he ought to be permitted, in the first instance, to take his seat, and to take the oath of office; else, as I understand it, the State, instead of having the right of sending her Senators here upon her own motion and in accordance with her own constitutional right, must have her Senator take his seat by and with the advice and consent of this Senate solely. That is a position which I will not consent to, although I do not profess to be a very strong State rights man.

Mr. SUMNER. Before the vote is taken, I wish to explain the effect of it as I understand it. If the amendment of the Senator from Kentucky is affirmed by the Senate, the Senate will affirm that the evidence before them is not sufficient to exclude the claimant from taking his seat. In short, the Senate will sit in judgment on that evidence, and will declare the conclusion thereupon. If the proposition which I have submitted be affirmed by the Senate, there will be no conclusion by the Senate on this testimony; but the Senate will simply affirm that the testimony is of such a nature as to justify inquiry. I had hoped to have a vote directly on that question, an important proposition of constitutional law. I was sorry, therefore, that the Senator from Kentucky interposed his amendment, which prevents the Senate from coming to a direct vote upon the proposition that I submitted. I would add still further that the proposition of the Senator from Kentucky does not harmonize with the amendment. It does not make a connected or grammatical sentence. If the Senator will look at it, and read it over, he will see that the two do not go together.

Mr. HOWE. I do not know but we may be in some danger of getting swamped by these amendments; but it did not occur to me that we were in any extreme peril. I do not know that that resolution will be grammatical, or will be capable of a grammatical construction; but if it be amended as proposed by the Senator from Kentucky, I will submit to the Senator from Massachusetts, who started this objection, that we may authorize the Judiciary Committee to amend the grammar at the same time that they supply the evidence, if that is a serious objection. If the resolution be amended as moved by the Senator from Kentucky, it presents, as it seemed to me, this issue to the Senate: is this report, submitted to the Senate by the Judiciary Committee, such authority as will warrant the Senate, by the vote of a majority, for that is the vote which determines this question, to exclude a representative from the State of Oregon? I believe that is the question presented to the Senate by the resolution, if it shall be amended as moved by the Senator from Kentucky; for all the evidence the Senate has before it is such as is reported to it by the Judiciary Committee. If the Senate think that upon that report the majority is warranted in refusing admission to this floor to a representative duly accredited by the State of Oregon, they will say "nay" to the resolution after it has been amended, if it shall be amended. If they think that is not sufficient to warrant, under the Constitution, a majority excluding the representative from Oregon, they will vote otherwise.

Mr. ANTHONY. Mr. President, I protest entirely against the interpretation which the Senator from Massachusetts puts upon this resolution. I accept no such meaning, for it has been amended so many times that I hardly know how it reads, and hardly know how to vote upon it; but, while I am in favor of admitting the claimant to take the constitutional oath, I entirely reserve my opinion as to the propriety of expelling him subsequently if he shall be proved to be disloyal.

Mr. HARRIS. I desire to have the amendment of the Senator from Massachusetts read.

The VICE PRESIDENT. It will be again read.

Mr. COLLAMER. Permit me to suggest that, as these various propositions are detached pieces of paper, and I do not know how they are connected, the Secretary should read the resolution as it would stand if the different amendments proposed were agreed to.

The VICE PRESIDENT. The Secretary has just done so, and will do so again.

Mr. COLLAMER. He reads what is proposed to be stricken out and what is proposed to be put in; but I wish him to read the paper as it will stand if the amendment be adopted.

Mr. DAVIS. I wish to say a single word in explanation to the Senator from Massachusetts. I know that my amendment to his amendment will not make very elegant language, but the reason that I offered it was this: you cannot graft a fruit tree without having the stalk, and you cannot graft an amendment upon an amendment without having some of the amendment to graft it upon; and I retained as few of the words of the amendment of the Senator from Massachusetts as would furnish me a barely sufficient stock to graft my amendment to his amendment upon. Although it may not be as elegantly expressed as the honorable gentleman would have expressed it, the sense is clear.

The VICE PRESIDENT. The Secretary will again read the resolution and amendments.

The SECRETARY. The resolution, as reported by the Committee on the Judiciary, is:

Resolved, That Benjamin Stark, of Oregon, appointed a Senator of that State by the Governor thereof, is entitled to take the constitutional oath of office.

If it be amended as proposed by Mr. SUMNER, it will read:

Resolved, That Benjamin Stark, of Oregon, appointed a Senator from that State by the Governor thereof, and now charged with disloyalty by the affidavits of many citizens of Oregon, and also by a letter addressed to the Secretary of State and signed jointly by many citizens of Oregon, many of whom hold public trusts under the United States, is not entitled to take the constitutional oath of office without a previous investigation into the truth of the charge.

As proposed to be amended by Mr. DAVIS, it will read:

Resolved, That although Benjamin Stark of Oregon, appointed a Senator of that State by the Governor thereof, is now charged with disloyalty by the affidavits of many citizens of Oregon, and also by a letter addressed to the Secretary of State, and signed jointly by many citizens of Oregon, some of whom hold public trusts under the United States, the evidence in the case is not sufficient to preclude the said Benjamin Stark from taking the oath prescribed by the Constitution, and that he therefore be permitted to take the oath and his seat as a member of the Senate from the State of Oregon, until such time as satisfactory evidence can be procured of the truth or falsehood of such charges.

Mr. DOOLITTLE. The amendment of the Senator from Kentucky, as modified on the suggestion of the Senator from Wisconsin, is in effect precisely what the committee propose that we shall resolve: first, that Mr. Stark shall be sworn; second, that the papers on file shall be sent back to the committee to inquire into the truth or falsehood of the charge. This proposition is substantially the same, that the evidence is not sufficient to preclude his being sworn until, on further investigation, the truth of the charge appears. It seems to me to be substantially the same as the original proposition proposed by the committee.

Mr. HOWE. I want to remind my colleague that the resolution does not in terms propose a recommitment to the Committee on the Judiciary, or to any other committee, but leaves the Senate to make such further disposition of the matter or to institute such further inquiry as they may see fit.

Mr. HARRIS. On conferring with Mr. Stark since I had the floor before—since I made the suggestion in relation to the alteration of the amendment to the resolution—he states that if he shall be admitted, and so become entitled to the floor of the Senate, he will himself ask for an investigation. I therefore will not propose any amendment such as that I suggested.

Mr. FESSENDEN. Before the vote is taken I wish simply to state, that preferring the resolution in its original form, and wishing to get at a vote on that, I shall vote against both these amendments.

Mr. JOHNSON. I merely wish to state that I regard the question of admission to be one question, and the question of expulsion to be another. I shall therefore vote against all amendments and vote for the admission of the member and that the oath be administered to him, leaving myself uncommitted as to what I shall do when the question of expulsion shall come up. After his admission, if the member himself does not move a reference of this whole matter, for investigation, to the Judiciary or some other appropriate committee, others will make that motion. I shall vote against all amendments, and vote simply for the report of the committee and for the admission of the member.

The VICE PRESIDENT. The Secretary will call the roll.

Mr. DAVIS. As Senators are not satisfied with the amendment to the amendment which I proposed, I ask leave to withdraw it.

The VICE PRESIDENT. It requires the unanimous consent of the Senate, the yeas and nays having been ordered. The Chair hears no objection. The Senator from Kentucky withdraws his amendment to the amendment, and the question recurs on the amendment proposed by the Senator from Massachusetts.

Mr. COLLAMER. I am not going to take up time; but inasmuch as other gentlemen have thought proper to state the reasons for the vote they intend to give, I deem it proper to say a word. I consider the ground of charge the subject-matter of expulsion, and that only. I think that for the purpose of expulsion, the man must first be a member, and he is entitled to be heard and to defend himself in the body against the charge. Inasmuch as this charge, in my estimation, is matter for expulsion, if it be anything, and that only, I think the man ought to be admitted and to have a chance to defend himself on that charge.

The yeas and nays were taken on the amendment of Mr. SUMNER.

Mr. HOWE. I shall vote "nay." I declined to vote when my name was called, for this reason: the Senator from Maine [Mr. MORRILL] last night asked me to pair off with him, and I did not see him in his seat——

The VICE PRESIDENT. The Senator from Maine is present now.

Mr. HOWE. I vote "nay."

Mr. MORRILL voted "yea."

The result was announced—yeas 18, nays 26; as follows:

YEAS—Messrs. Chandler, Clark, Dixon, Doolittle, Grimes, Hale, Harlan, Howard, King, Lane of Indiana, Morrill, Pomeroy, Sumner, Trumbull, Wade, Wilkinson, Wilmot, and Wilson of Massachusetts—18.

NAYS—Messrs. Anthony, Browning, Carlile, Collamer, Cowan, Davis, Fessenden, Foster, Harris, Henderson, Howe, Johnson, Kennedy, Latham, McDougall, Nesmith, Pearce, Powell, Rice, Saulsbury, Sherman, Simmons, Ten Eyck, Thomson, Willey, and Wilson of Missouri—26.

So the amendment was rejected.

The VICE PRESIDENT. The question returns on agreeing to the resolution as reported from the committee.

Mr. DOOLITTLE. I desire to suggest an amendment of a single word, so that the resolution shall contain what is said in the report, that there may be no mistake on the question whether this vote of the Senate shall in any way be *res judicata* and a bar to any subsequent proceeding. The report of the committee is, that "without expressing any opinion as to the effect of the papers before them upon any subsequent proceedings in the case"—that is stated in the report but not mentioned in the resolution. I desire to add at the end of the resolution the words, "without prejudice to any subsequent proceedings in the case." Then we shall know that this decision is not to be taken as *res judicata* in any subsequent proceeding.

Mr. HALE. I hope the amendment will not be adopted. If we are going to put that part of the report in, I hope the whole will go in. If this proceeding means anything, it means what the resolution says, and it is the resolution the committee have reported, and I hope it will not be amended by putting into it any part of the report. We can all judge what it means for ourselves.

The amendment was agreed to; there being, on a division—ayes 24, noes 16.

The VICE PRESIDENT. The question is on the resolution as amended.

Mr. SUMNER. On that I call for the yeas and nays.

The yeas and nays were ordered.

Mr. HALE. Let it be read as amended.

The Secretary read, as follows:

Resolved, That Benjamin Stark of Oregon, appointed a Senator of that State by the Governor thereof, is entitled to take the constitutional oath of office, without prejudice to any further proceedings in the case.

Mr. TRUMBULL. The Senator from Wisconsin has proposed the amendment just adopted, in order that no one shall be precluded by the action which is now to be taken by the Senate. Every one will judge of that for himself. In my opinion, this resolution, if it passes, is the end of the case. In my opinion, we do pass upon the case by this resolution; and if the testimony cannot keep a man out, it cannot expel him afterwards; that is to say, the same testimony cannot be used to expel him afterwards, if it cannot be used to keep him out. A majority of the Senate have, however, decided that no matter though a man comes here covered all over with infamy, they will not look at a charge of treason or anything else against him, but they will admit him to his seat, though the testimony against him comes sworn to by, I believe, some fifty witnesses. Now, sir, although the Senator from Wisconsin and other Senators may say that they will swear in this applicant and vote to turn him out afterwards, I am bound by no such action of the Senate and shall be controlled by no such action of the Senate.

Mr. HALE. I appeal to this Senate of lawyers if, this proceeding being had here, it is not, in point of law and morals both, a bar to any further proceeding? Here is a complaint made, and evidence submitted before a tribunal having the constitutional power to pass upon it. They do pass upon it, and say that it is not sufficient to exclude him. Then I say that, by every principle of morality, as I understand, it is a bar to any further proceeding; and you may resolve as much as you please what it is not to be a prejudice to, I shall feel bound myself, as a member of this tribunal, by its decision, against any further proceeding.

Mr. BROWNING. I wish to ask my colleague a question, if he will have the kindness to give me his attention for a moment.

Mr. TRUMBULL. Certainly.

Mr. BROWNING. I ask my colleague whether, in his opinion, the proceeding in which we are now engaged, is a proceeding for the expulsion of a member of the Senate?

Mr. TRUMBULL. Most unquestionably not. You cannot expel a man before he is here, any more than you can empty water out of a bottle before you have got it in. One is just as absurd as the other.

Mr. BROWNING. Then, if this is not a proceeding for expulsion, I should like to know how it can bar the Senate hereafter from entering upon a proceeding for expulsion. That is what I want to know.

Mr. TRUMBULL. I shall be very happy to answer the Senator. It does not bar you if you wish to go over the testimony again; but if the testimony is sufficient to expel a man from our presence, I ask, in the name of common sense, of which the Senator from New York spoke yesterday, is it not sufficient to keep him out? If you say it will not keep him out, in my judgment it is an absurdity to say it will turn him out.

Mr. HOWE. I cannot answer the question of ethics submitted to the Senate by the Senator from New Hampshire; but in point of law, I understand him to assume, as well as in point of morals, the Senate will be barred by this vote, which admits the representative from Oregon to a seat on this floor, from entertaining a motion to expel him upon proofs subsequently obtained by the action of the Senate.

Mr. HALE: I did not say anything of that kind; I never thought of such a thing.

Mr. HOWE. Well, I do not know but that I have misapprehended the point of the objection made by the Senator from New Hampshire. I did understand him to say, that in morals and in law we should be debarred by this vote from any subsequent proceedings against the representative from Oregon. I have only to refer the Senate to a case which I cited the other day, a case which arose many years ago, when two Senators were sent up here, there being but one vacancy in the Senate from the State of Rhode Island. It was the opinion of a portion of the Senate that no one should be admitted, until the Senate had inquired and determined which was the legitimate representative; but it was the decision of the Senate that the first one returned should be allowed to fill the vacancy, and he was admitted to his seat; and then the whole question, with the credentials of both representatives, was referred to the appropriate committee to inquire which had the best right.

The VICE PRESIDENT. The question is upon the adoption of the resolution reported by the Judiciary Committee, as it has been amended on the motion of the Senator from Wisconsin, [Mr. DOOLITTLE.]

The question being taken by yeas and nays, resulted—yeas 26, nays 19; as follows:

YEAS—Messrs. Anthony, Browning, Carlile, Collamer, Cowan, Davis, Fessenden, Foster, Harris, Henderson, Howe, Johnson, Kennedy, Latham, McDougall, Nesmith, Pearce, Powell, Rice, Saulsbury, Sherman, Simmons, Ten Eyck, Thomson, Wilkey, and Wilson of Missouri—26.

NAYS—Messrs. Chandler, Clark, Dixon, Doolittle, Foot, Grimes, Hale, Harlan, Howard, King, Lane of Indiana, Morrill, Pomeroy, Sumner, Trumbull, Wade, Wilkinson, Wilmot, and Wilson of Massachusetts—19.

So the resolution was adopted.

The VICE PRESIDENT administered to Mr. STARK the oath to support the Constitution of the United States, and he took his seat in the Senate.

MESSAGE FROM THE HOUSE.

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

A bill (No. 233) to establish an additional judicial district in the State of New York, and in relation to the courts of the United States in said State;

A bill (No. 258) to regulate the time of holding the courts of the United States for the district of Kentucky, and for other purposes; and

A bill (No. 260) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1863.

BILLS BECOME LAWS.

The message further announced that the President of the United States had approved and signed, on the 20th instant, the following acts:

An act (H. R. No. 156) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense, for the year ending 30th of June, 1863, and additional appropriations for the year ending 30th of June, 1862; and

An act (H. R. No. 286) making an appropriation to illuminate the public buildings.

And that on the 25th instant he had approved and signed the following acts:

An act (H. R. No. 209) making additional appropriations for the support of the Army for the year ending 30th June, 1862; and

An act (H. R. No. 240) to authorize the issue of United States notes and for the redemption or funding thereof and for funding the floating debt of the United States.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed an enrolled bill (S. No. 212) to authorize the Secretary of the Treasury to issue certificates of indebtedness to public creditors; which thereupon received the signature of the Vice President.

CIVIL APPROPRIATION BILL.

The message further announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 154) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1863, and additional appropriations for the year ending the 30th of June, 1862.

Mr. PEARCE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 154) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1863, and additional appropriations for the year ending the 30th of June, 1862, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the House of Representatives recede from their disagreement to the fifth, sixth, seventh, eighth, ninth, tenth, sixteenth, and eighteenth amendments of the Senate, and agree to the same.

That the House recede from their disagreement to the eleventh amendment of the Senate, and agree to the same, with an amendment, as follows: strike out of said amendment, in line three, the words "one thousand," and insert in lieu thereof "five hundred."

That the Senate concur in the amendment of the House to the thirteenth amendment of the Senate.

That the Senate concur in the amendment of the House to the Senate's seventeenth amendment, with the following amendments: strike out, in lines one and two of said amendment, the words "in the expenditures of," and insert the words "of appropriation for repairs of the Capitol made by;" and add, at the end of said House amendment, the following:

"To enable the Commissioner of Public Buildings to pay for the purchase and repair of plate, and repair of gas fittings for the President's House, $2,613."

That the House recede from their disagreement to the twenty-first amendment of the Senate, and agree to the same, with the following amendments: in line three, of said amendment, strike out the word "sell," and insert "lease;" and in line six, after the word "notice," insert "thereof;" and strike out in lines six and seven, the following words: "of the time, place, and terms of sale," and insert in line ten, after the word "authorized," "to use it for the sick and wounded soldiers of the United States or."

JAMES ALFRED PEARCE,
J. R. DOOLITTLE,
DANIEL CLARK,
Managers on the part of the Senate.
THADDEUS STEVENS,
E. P. WALTON,
CHARLES R. TRAIN,
Managers on the part of the House.

Mr. PEARCE. The Senator from Iowa took some interest in the last amendment named in the report, and I will state, for his information, that the House of Representatives were unwilling to make sale of the Burlington marine hospital, and although there was a provision in the bill authorizing the Secretary of the Treasury to lease that property, they thought it advisable to amend the amendment, which, on his motion, the Senate adopted, so as not merely to authorize the leasing of it, but also to authorize its use for the sick and wounded soldiers of the United States, or for other public purposes. If there are any other explanations which any member of the Senate desires, I shall cheerfully give them.

Mr. GRIMES. The amendment that I proposed authorized the Secretary of the Treasury to close that hospital entirely.

Mr. PEARCE. Authorized him to sell it.

Mr. GRIMES. It gave him the alternative either to sell it or close it.

Mr. PEARCE. He has that authority under this amendment. He is authorized not to sell it, but to lease it, or to close it up and discharge the officers, or to employ it as a hospital for sick and wounded soldiers.

Mr. GRIMES. That is very satisfactory to me.

The report was concurred in.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Secretary of War, transmitting, in obedience to law, the returns of the militia of the United States, and of their arms, accouterments, and ammunition for the year 1861; which was

referred to the Committee on Military Affairs and the Militia.

HOUSE BILLS REFERRED.

The VICE PRESIDENT. The Chair will lay before the Senate some bills from the House of Representatives for the purpose of reference.

The bill (No. 260) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1863, was read twice by its title, and referred to the Committee on Finance.

The bill (No. 233) to establish an additional judicial district in the State of New York, and in relation to the courts of the United States in said State, was read twice by its title, and referred to the Committee on the Judiciary.

The bill (No. 258) to regulate the time of holding the courts of the United States for the district of Kentucky, and for other purposes, was read twice by its title.

The VICE PRESIDENT. The bill will be referred to the Committee on the Judiciary.

Mr. POWELL. I ask the indulgence of the Senate to consider and pass that bill now. It is important that it should be passed promptly; there will not be one word of debate about it. There is another bill pending touching the Federal courts in Kentucky, but this by no means interferes with that. The court is now in session, and the judge is very anxious that the bill should be passed.

Mr. TRUMBULL. I hope it will not be considered now. I am anxious to take up another bill, and this should be examined.

The VICE PRESIDENT. Objection being made, the bill cannot now be considered, and it will be referred to the Committee on the Judiciary.

SLAVERY IN THE DISTRICT.

Mr. MORRILL. I move to take up the bill (S. No. 108) for the release of certain persons held to service or labor in the District of Columbia, with a view of assigning a time for its consideration.

The motion was agreed to.

Mr. MORRILL. I now move that Wednesday next be assigned for the consideration of this bill, and that it be made the special order for that day at one o'clock.

The motion was agreed to.

MEDICAL DEPARTMENT OF THE ARMY.

The VICE PRESIDENT. The Senate has now before it, as in Committee of the Whole, the bill (S. No. 188) to increase the efficiency of the medical department of the Army, the question pending being on the amendment of the Senator from Iowa, [Mr. GRIMES,] to insert the words "or of the volunteer medical corps in the service of the United States," in the fourth section of the amendment of the Committee on Military Affairs. On this question, the Senator from Maine [Mr. FESSENDEN] is entitled to the floor; he was addressing the Senate when the Chair interrupted him at one o'clock.

Mr. FESSENDEN. I have forgotten where I was at that time, and not only forgotten that, but where I want to be, in reference to that question, [laughter.] I believe, however, that I was saying something upon the argument suggested by gentlemen who opposed the amendment of the Senator from Iowa, that it might demoralize the corps; and I think I was observing that if so, we had been following a rule which, if correct, would have been likely to demoralize the whole Army, because, with reference to the body of the Army, the line itself, men have been taken not only from out of place in the line but from civil life to rank those who were in the service. I think there is nothing in that argument, because after all the true rule comes back for consideration, and that is the exceeding importance of getting the right men wherever they may be found, whether in the Army or the volunteer force, to take these positions. That I think can best be done by enlarging the circle.

I think on another ground that it is unwise to confine these appointments to the surgeons now in the Army. If we so confine them, these high grades will be filled in all probability by the oldest men in the service. That will not follow necessarily, but in all probability the same rule of demoralization will apply; for if you confine the selection to that corps, and you do not want to go outside of it, the argument will be much stronger to go according to age and standing in the service; and if that were disregarded, the effect, in my judgment, would be much worse than to go outside of the particular corps.

In reference to many of these gentlemen who have been for a long period of years in the service, and who are, perhaps, very excellent surgeons, it must be conceded that they have not had the experience during the period they have been in service that men who have been in large practice outside have had. It must be remembered that our Army was very small, and the surgeons who have been long in service in that Army have had very little opportunity for any extended practice. Their places are given them for life, and they have not had the ordinary inducements to keep up with the learning of the day, and certainly have not had the opportunities of practice and experience and observation that men have had who have had a large practice outside, in the hospitals and in other particulars. You would get, therefore, in my judgment, a less experienced set of men to place at the head, if you confine the selection to the Army surgeons. Our hospital service in the regular Army has been very limited, exceedingly so. We have had heretofore nothing like a military hospital that I know of, anywhere. Their practice has been confined to the soldiers, and the number of soldiers has been very small, not generally more than one company, or one or two companies together at one place, as my friend from Iowa suggests. I have said that the Army surgeons, having their places for life, had less inducement to improvement, and they have had fewer opportunities to improve, than surgeons in civil life. Then how could they make so good surgeons as those who have been educated outside, who have had access to hospitals, who have had large practice, and are, therefore, necessarily much more competent for the services that are required of them at the present time? In my judgment, that would necessarily be the effect.

The argument has been used by the Senator from Illinois [Mr. BROWNING] and by some others, that the gentlemen who have gone into the volunteer service as brigade surgeons, for instance, men of eminence many of them, do not desire this position. Why should they not desire it? If it is to be a temporary matter, (and I trust it may be; otherwise, I should agree with my friend from Iowa and vote against this bill,) if it is to last just so long as the war lasts, they have entered for the war, they mean to serve during the war, they do not mean to leave their field of action until the necessity for their presence no longer exists; and why should it be assumed, for it is a mere assumption, that these gentlemen will not like these positions of high trust and honor? It is the merest assumption in the world. Is any Senator here authorized to speak for this body of surgeons? Is he authorized to say that the men most eminent and best qualified for these places, do not desire them, or will not take them, and that they will be left to be hustled for by men who would be unfit or who would seek them from unworthy motives? I think that is doing injustice. I happen to know one surgeon; I cannot answer positively for him; but I can state what he is. He was educated in my State, and stood among the very first men in the profession in it. He went South on account of the health of one of his family, and he went out of practice to a very considerable extent for two or three years; but he studied while he was there the diseases of the South, particularly in his own neighborhood. When the rebellion broke out, he was driven away from the State where he then resided, and lost what property he had there. I recommended him for appointment as a brigade surgeon. He came here and went before the board. After the examination which was had was gone through with, that same day, contrary to their usual custom, such were his eminent qualifications, that they reported him at once, and recommended his immediate appointment, and next day he received his commission and went into service simply on account of his eminent fitness, which was exhibited to everybody who made the examination. He was not in practice when he went there; he had not been for two or three years. What has he to return to? I have not heard from him since; but is there any reason why a gentleman of that position, of that eminence, of that ability, should not be willing to take a post under this bill, if it was offered to him; and is there any reason why he should not accept and receive it just as well as an Army surgeon, if it is to be only a temporary matter? I see no reason. I suppose the same reasoning applicable to him is applicable to a great many others, for I presume he is not a single instance. Therefore I say, if you want good officers enlarge your circle. If you want the best men you can get—and you do want them, or else the bill ought not to pass at all—do not confine the selection to a little knot of men, many of whom have not had the experience they should have had for the last fifteen or twenty years they have been in the Army, but enlarge it, throw it open to the distinguished gentlemen who have volunteered and are in the service, and are perfectly competent and able to render the very best service in the line of their profession. I am in favor of the amendment for these reasons, and hope it will be adopted by the Senate.

Mr. FOSTER. The objection that is urged against going out of the circle of Army surgeons is mainly on the ground that it is doing injustice to that corps of the Army by taking persons, as it is said, from civil life and placing them over their heads. It is compared to the case of taking civilians and making them military officers, which, it is said, is unjust to the officers of the Army, because they, entering the service as it is presumed for life, and becoming acquainted with their profession, are entitled to the promotion which may come to them, and ought not, under such circumstances, to be kept in junior positions by placing over their heads men from civil life to positions above them. There is force in that objection as applied to military officers, and I should not ordinarily be prepared to confirm appointments from civil life in the military service of the country over those who were in the service and whose promotion was thus delayed by such action. But, sir, the position of military officers as compared with civilians, and the position of Army surgeons as compared with those who are not Army surgeons is not analogous; for while it requires, unquestionably, particular education, particular knowledge, particular training to make a man a good officer in the Army, to fit him to command troops, which does not belong to a civilian in ordinary life, it does not by any means follow that an Army surgeon requires or attains knowledge which does not belong to other men in the profession in civil life. The Army surgeon, it is true, is called upon to prescribe for "the ills which flesh is heir to" as they affect soldiers, as a general thing; but their diseases are like the diseases of other men. There is nothing to distinguish the diseases of soldiers particularly from the diseases of men in other walks of life. The cases of surgery in the Army are like cases of surgery in common life. A man who is well fitted as a physician and surgeon in common life, is well fitted for an Army surgeon; and, as has been well remarked, those surgeons in common life who have had a wide and extensive practice have seen much more practice than our most experienced Army surgeons who have devoted themselves to their profession in the Army. They are accustomed to treat and to see the treatment of disease on a much larger scale than those who are connected with the Army as surgeons, and there is no reason why they should be excluded. I shall not take up the time of the Senate upon the question; but it seems to me that there is no reason for restricting the appointments in this bill to the surgeons of the Army proper.

Mr. RICE. I am not going to enter upon a discussion of this matter now, but I wish to call the attention of Senators to one fact. Since the formation of this Government it has been a great principle, controlling every Administration and every Congress, to keep politics out of the Army. If this amendment, however, prevails, the appointments to be made will be more or less through political influence. To show how careful Congress has been heretofore in regard to this matter, I may state that any medical officer of the proper age can come before a medical board, and if he passes the examination, he is put down upon the list, and he is entitled to the very first vacancy that occurs, and there is no politics about it. Every effort has been made heretofore to prevent politics from entering into the Army, and if there ever was a time when it should be kept out, that time is the present. If you open the medical corps in

this way to the influence of politics, if you make that a political institution, for that will be the result of this movement, the next step will be to open the various other corps of the Army to the same influence. I think it is wrong; I think it will establish a dangerous precedent; and if this amendment shall be adopted, I think not twenty-four months will pass before the provision will be repealed.

Mr. FOSTER. In connection with the remarks of the Senator from Minnesota, I will say that I do not believe there is a brigade surgeon, a surgeon, or an assistant surgeon of volunteers who was appointed on account of his politics. I do not believe there is one in the service.

Mr. RICE. I did not say so. I do not think so myself. I am speaking in regard to these life offices.

Mr. FOSTER. Then if the selection is to be made from men who were themselves appointed without reference to politics, and is entirely confined to that class of men, I ask what reason is there for making the charge that politics will now be a test of merit in the appointment of these officers.

Mr. RICE. Because it is a test of merit now in regard to every office outside of the Army and Navy, and always has been.

Mr. FOSTER. The Senator at the same time admits what I have asserted, that not a single man connected with the medical corps of the volunteer forces has been appointed on account of political considerations.

Mr. RICE. I say I do not know it to be so. I do not consider this a political war. I trust that every Union man has so far lost sight of politics on this great question as not to let such matters interfere with his judgment.

Mr. GRIMES. I have an amendment which I propose to offer, to limit the operation of this bill to the continuance of the present rebellion; and then all that objection will be obviated, and we shall come back to the old organization.

Mr. FOSTER. I had supposed, until this objection was made, that this bill was understood to be confined to this war, and that the appointments we were now to make were to be made with reference to that. It was, therefore, among other reasons, that I urged the enlargement of the circle outside of the Army surgeons, for here the service is to be performed more out of the Army proper than in it. Why, upon the principles claimed by the Senator from Minnesota, he should insist upon having this service performed by surgeons within the Army, I am at a loss to understand. The service is to be performed mainly in the volunteer corps, because they constitute really the bulk of the Army. The Army proper is but a drop in the bucket compared with the whole force of the country. The whole force is over six hundred thousand men; the Army proper is between twenty and thirty thousand—I do not know the precise number; certainly less than thirty thousand, perhaps not more than twenty thousand.

Mr. RICE. About twenty thousand.

Mr. FOSTER. Now, to limit the selection of surgeons to the surgeons of an army of twenty thousand men, when the service is really to be rendered to six hundred thousand men, is to me incomprehensible.

Mr. NESMITH. I believe the present bill does not contemplate interfering in any way with the surgeons of the volunteer corps. This bill, I apprehend, looks to a permanent increase of the medical force of the Army, and it is only a corresponding increase of the medical force with the increase of the regular Army which was made at the last session of Congress. It provides for the appointment of ten additional surgeons and ten assistant surgeons. There is nothing in the bill which will exclude civil appointments from the Army. The only point is that they go in at the foot and come up by regular gradation, instead of being taken from civil life and placed over those who are already in the Army, and who have had experience. I do not apprehend that this bill contemplates any application to the volunteer force. I think it is intended as a permanent thing for the regular Army, as established on its present basis and with its present numbers.

The bill also provides for eight medical inspectors. Now, whatever the qualifications of a physician may be in civil life, however eminent he may be, there are certain questions and certain duties connected with the office of inspector which he is not likely to acquire in civil practice. There are a great many sanitary questions with which physicians in civil life are not always familiar. There are a great many questions arising, identified with the routine of the military service, which make it necessary that the surgeon should have some knowledge of the regulations and of the usages in the military department in order to make him a competent inspector.

The Senator from Iowa suggested this morning that the wishes and feelings of the soldiers should be consulted upon this matter, and that for that reason persons should be appointed to these positions from civil life. He said that men preferred to be doctored by their own neighbors or those whom they had known and with whom they were best acquainted. I apprehend that that whole idea is based upon a fallacy, and is not calculated to recommend itself, at least to the military organization of the Army, in any way. To carry out that idea, every soldier must be permitted to take his own doctor into the Army with him. I know that in private life, it is very convenient for a man to select his own physician; but the thing is impossible and impracticable in the military service. The soldier must submit to discipline, and the Government must make provision for his care in sickness and in health. The system of medicine, as practiced in our Army now, is deducted from scientific experiments, from all the light and intelligence of the age, and from all that has been shed upon it by former ages. It is supposed to be the very best. I myself very much doubt whether the Senator from Iowa, with all his knowledge—enlightened as I admit he is—would to-day be qualified to select for himself the best physician in the country; and I apprehend that if he was sick he would be about as likely to fare well—to be treated or to have his disease well treated—by a physician who was selected for him by the Government as by one whom he had selected for himself.

There have been various propositions submitted to the committee, and, as I stated before, almost every person who has adopted any particular theory upon medical science desires to interpolate it into the Army, and have it adopted. We have had homœopathic physicians before us; and we had persons representing all the varieties of practice that are in use. The other day there was a spiritualist who desired to come before the committee, in order to organize a corps of spiritual rappers to draw wagons out of the mud; [laughter;] and he said that when they were not engaged in that, they could be consulted as clairvoyancers. He said there were a great many spiritualists in the Army, and that that class of persons ought to be provided for by the selection of mediums.

Mr. CLARK. Did you not hear them?

Mr. NESMITH. No; we did not listen.

Mr. CLARK. I would have taken anything to get the wagons out of the mud.

Mr. NESMITH. This gentleman proposed to use clairvoyance in treating diseases, and also suggested that the clairvoyancers might be employed as spiritual rappers to remove wagons out of the mud.

Mr. CLARK. Did they want to bring it here?

Mr. NESMITH. I believe they did not ask for any particular rank, but they wanted rank and pay both, and no doubt they would take high rank. People desire to introduce all sorts of conflicting theories and systems of medical practice into the Army, and I think if the tastes and notions and prejudices and predilections of every soldier were to be consulted in establishing the corps of medical officers for the service of the Army, it would be about as sensible to introduce clairvoyancers, spiritual rappers, homœopathists, and practicers of all other systems of medicine that are known at the present day, in order to gratify the caprice of every soldier who may happen to be in the Army.

Mr. HALE. I do not want to make a speech, but I shall vote for this amendment; and after it is adopted or rejected either, I shall move to strike out all of the section after the word "selection." According to the suggestion which I made the other day, I want to give soldiers the benefit of the best medical advice in the country, and I do not believe it is to be found in the Army surgeons or the volunteer surgeons. I want to throw the door wide open.

Mr. GRIMES. The Senator from Oregon did not exactly apprehend the drift of the few remarks I made this morning. I say that it is the duty of a statesman to consult not only the reason of the people, but sometimes their prejudices. Now, it is a fact that a large portion of the volunteer forces, whether right or wrong—I think, in a great many instances, wrongfully—have a prejudice against your regular Army surgeons. Taking that as the basis upon which to act, I say that if there was no other reason for it, it is right to leave the door open, so that physicians who belong to and are of the volunteer service may be put in if the President sees fit, and the board of examination that he constitutes shall decide that they are competent. I propose that such men may be put in, and come upon an equality, at least, with these gentlemen against whom soldiers have improperly, I admit, in a great many instances, strong prejudices.

Mr. NESMITH. I am willing to humor the prejudices of the soldiers so far as the thing is convenient; but the Senator must see the inconvenience of the thing. No one medical officer can be selected, even if he be selected from the volunteer service, with whom all the soldiers are acquainted; his reputation must naturally be confined to his own neighborhood. While he may be very eminent there, and well known in his own vicinity, the moment he steps out of his secluded village in some part of the country, the whole Army know nothing about him. After he obtains his position in the Army he ceases to be a volunteer officer, and becomes a regular officer. The prejudice to which the Senator from Iowa refers has never been made known to the committee; no remonstrance was made to the committee against Army surgeons. These objections all come from civil life—from individuals who are anxious to develop their own theories and have them adopted by the country generally. They are anxious to make the Military Committee and Congress a sort of advertising institution for their own notions upon the subject of medical science. The objections do not come from the Army. Any pandering to the prejudices of the volunteers would only satisfy a few of them. If you select a medical officer from the volunteer surgeons and make him an inspector, his reputation must naturally be known only to a small number of the volunteers, who are selected from various portions of the country. The moment he is selected and placed in one of these positions as inspector he ceases to be a volunteer officer, the "hail fellow well met" that had prescribed for their little diseases in a country village; he is then an officer of the regular Army and becomes identified with it. He is entirely unknown to the great body of the volunteer forces; and upon the theory of the Senator from Iowa, he fails to accomplish the purpose for which he was selected.

Mr. WILSON, of Massachusetts. Mr. President——

Mr. BROWNING. Will the Senator from Massachusetts permit me to make an inquiry of him or some other member of the Military Committee. I desire to know whether the adoption of this bill displaces any of the surgeons in the volunteer service, or at all interferes with them, or prevents the appointment of surgeons from civil life in the volunteer service? If it does, I shall not vote for it.

Mr. WILSON, of Massachusetts. It does not.

Mr. GRIMES. It does not displace anybody, either in the regular or volunteer service.

Mr. NESMITH. On the contrary it opens the door.

Mr. COWAN. I should like to ask the Senator from Massachusetts a question. Is there anything in the laws or regulations now as they exist, which would prevent the appointment of a homœopathic physician as a surgeon in the Army?

Mr. WILSON, of Massachusetts. I think there is nothing in the laws upon the subject; but that class of physicians has sprung up within a few years, and the old organization is not willing to admit them.

Mr. COWAN. What I wish to know is, whether there is anything forbidding the appointment of a physician from that particular school.

Mr. WILSON, of Massachusetts. I think there is nothing in the law on the subject; but the two modes of practice being quite different, the questions which a board would submit to an applicant

for examination who was a homœopathist, would be such that, practically, he would be ruled out.

Mr. GRIMES. That would depend on whether the board of examiners knew that the applicant was a homœopathist. I know that homœopathists have been examined and passed on the supposition that they were allopathists.

Mr. WILSON, of Massachusetts. I am told by gentlemen who are anxious to make a change in this respect, that the questions as to the mode of treatment of certain diseases, if answered as they would be answered by this school of practitioners, would be fatal to their acceptance.

Mr. COLLAMER. But would those questions be put if it was not known that the applicants belonged to that school?

Mr. WILSON, of Massachusetts. I do not know; but it seems to me they ought to be put.

Mr. NESMITH. I should like to ask the chairman of the Committee on Military Affairs one question on that point. Is there anything now in the laws or regulations which prohibits a regular Army surgeon from practicing on the homœopathic system in the Army?

Mr. WILSON, of Massachusetts. I do not know that there is. I think not.

Mr. GRIMES. Let me ask a question. Is there not a regular routine of medicines which the Government furnishes? And does it furnish any others?

Mr. NESMITH. The Government furnishes medicines, it is true; but I believe the difference between the two systems is the size of the dose; the homœopathists give less.

Mr. GRIMES. They have different medicines entirely.

Mr. WILSON, of Massachusetts. I take it the fact is that the old school of practitioners have the control of the medical board, and they are jealous of the admission of any medical men of the new school. That there is quite a difference in their practice is admitted, and I think that practically the questions would be so put by the examining board that physicians of this school would be ruled out, unless they were very adroit and skillful, and made answers that perhaps they could not truthfully make, and adhere to their own school. I think there is no legislation upon the subject; but if it were desirable to bring in medical men of the new school, as we have been asked to do this year by a large number of petitioners, some of them men of great eminence, the difficulty would be in having these diverse systems of practice in the Army. It would lead to great confusion. I think it better to have it all the one or all the other.

Now, sir, a word in regard to this amendment. Senators ask if this bill is to be a permanent measure. I cannot answer that. Several years before we increased the Army by the addition of twenty-five thousand men in eleven regiments, we were asked, with our old Army, to increase the number of surgeons; and the reason given was that we were spending thousands of dollars annually in hiring surgeons and hiring men outside of the Army to do the work of Army surgeons; we had too few surgeons. Before we increased the Army from seventeen thousand to forty-two thousand men, we were annually asked for an increase of the Army surgeons. We have now more than doubled our force, and still we have added but very few to the medical corps of the Army.

Mr. GRIMES. Will the Senator allow me to ask him a question? I want to ask him if we have not added more surgeons to the regular Army in proportion than we have added men by enlistment?

Mr. WILSON, of Massachusetts. We have added a few surgeons, but the ranks of the eleven regiments are not yet full; I think they will be filled up in a few months. I have no doubt upon that point. When the war is over, we can make these reductions, just as we shall probably reduce the Army force, if we do not need it. I think other Congresses will be quite as wise as we are in that respect. I am willing to trust the future.

The Senator from Maine thinks that, under the bill as reported, we shall appoint the oldest class of surgeons to these high positions. Sir, I hope not. I hope no man will be appointed as inspector general or assistant inspector general who has ever seen sixty years of age. I hope that men in the mature vigor of life, men of intellectual and physical power, will be selected by the President to fill these high and important positions. We have so framed this bill that these important positions are not to be filled by regular promotion, but by selection by the President from the whole medical corps. The object is to empower the President to select from the corps the most efficient and able men that can be found in the Army.

Now, sir, a word has been said in regard to the increase of compensation. It is an increase, but a small one after all, and I believe that, had this increase been made six months ago, it would have saved tens of thousands of dollars to the Government of the United States. If, at the last called session of Congress, we had incorporated into our laws that provision, although it would have been a small increase of expense on the face of it, it would have saved this Government tens of thousands of dollars, I have not the shadow of a doubt.

Mr. SHERMAN. How?

Mr. WILSON, of Massachusetts. I will tell Senators in what way. You would then have had nine gentlemen selected for capacity and character, who would have been empowered to make a thorough organization of all your hospitals at stations and in the field, to bring all that science and experience could have brought to superintend, direct, and control all the hospitals of this country in the camp and field and everywhere; and if these men were good men, if they were efficient men, each one of them could have saved the health of the soldiers, and could have saved in the expenditures in our hospitals by good organization and good management tens of thousands of dollars annually. The object of this very provision is to secure that efficiency in the administration of the hospitals of the country that shall save health and save money too.

Mr. FESSENDEN. I should like to know what difference it makes in that particular, whether you call a man a general or a colonel.

Mr. WILSON, of Massachusetts. There is all the difference in the world. If a man goes into a hospital, who, by his rank, can command every man there, if he has an organizing mind, if he has absolute control, he is somebody, and can manage affairs. Now, perhaps, a surgeon is sent to one of these hospitals, and there is another surgeon there who outranks him, an old surgeon, twenty years older than he is, who thinks he knows quite as much as this officer, though he may know far less. When he gets there, can he give a command; can he control him? In no way, whatever. Therefore, we propose to give these inspectors the rank of a lieutenant colonel, which gives them the power to rank everybody in the medical corps, excepting, of course, the Surgeon General of the Army, the assistant surgeon general, and the inspector general, who has control over them. That is the reason why you give them that rank.

Now, a single word in regard to the various propositions that have been before this committee and before Congress for the last few weeks.

Mr. SHERMAN. Before my friend leaves that point, I wish to ask him a question. These new officers are inspectors, and by the very terms of the law they have no command whatever over the hospitals, no control, no direction; they simply inspect and report to their superior. Now, could they not do it without just as well as with the rank of lieutenant colonel?

Mr. WILSON, of Massachusetts. No, sir.

Mr. SHERMAN. That I do not understand.

Mr. WILSON, of Massachusetts. The Senator says they have no command. They do have authority.

Mr. SHERMAN. The bill expressly provides that these medical inspectors "shall be charged with the duty of inspecting the sanitary condition of transports, quarters, and camps, of field and general hospitals," and that they "shall report to the medical inspector general, under such regulations as may be hereafter established, all circumstances relating to the sanitary condition and wants of troops and of hospitals, and to the skill, efficiency, and good conduct of the officers and attendants connected with the medical department." These are their prescribed duties, and they have no other.

Mr. WILSON, of Massachusetts. That is very true; but they do outrank everybody there, and they can inspect and give directions. Even now, if you send to an hospital a surgeon with the rank of major, and there is there an assistant surgeon with the rank of captain, your surgeon outranks him, and of course directs and controls. The controlling mind should outrank the other.

This bill has provisions in it that have encountered the opposition of gentlemen in the medical corps of the Army. Most of them are opposed to the doctrine of selection. They want these grades, they want the positions; but they want to obtain these grades and these positions, not by selection on the ground of merit, but by regular promotion on the ground of seniority.

I will state another reason why the selection of these officers is confined to the medical corps of the Army. We have had a sanitary commission, consisting of gentlemen of talent, of varied experience, of character, and I believe they have done an amount of good during the last few months that cannot be measured by words. All the gentlemen connected with that board, men who have traversed our camps, who have visited our hospitals, who have expended and administered tens of thousands of dollars for the comfort of our sick and dying soldiers, are in favor of this proposition; they are in favor of confining the selection to the medical corps of the Army, for the reason that they do not want it to be supposed that they desire these places for themselves or their friends.

Mr. GRIMES. Is that the only reason?

Mr. WILSON, of Massachusetts. So far as they are concerned, I do not know but that it may be the only reason. These gentlemen were desirous of putting themselves above suspicion. They did not wish to open any warfare on the medical corps of the Army. They wished simply to have these important offices filled, to appoint the officers by selection, to have the fittest men in the country selected. They did not wish to have the matter so left that it could be supposed they had any personal ends to serve. In this matter, I think they acted as they have acted during this war, like gentlemen of intelligence and of patriotism.

I think myself Senators had better keep this bill as it came from the committee. If, however, the Senate determines otherwise, I shall submit, and support the bill in all other respects, because I believe its passage will be productive of great good to the service; and instead of increasing the expenses of the Government of the United States, if the President makes good selections—and I have no doubt he will be disposed to select the best men he can—the passage of this bill will save thousands of dollars to the Treasury of the United States; it will be to the comfort of our sick soldiers; and I have no doubt it will save many lives.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) The question is on the amendment proposed by the Senator from Iowa to the amendment of the Military Committee; and on this question the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 26, nays 16; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Collamer, Cowan, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Howard, Howe, Johnson, Pomeroy, Sherman, Simmons, Sumner, Trumbull, Wade, Wilkinson, Willey, and Wilmot—26.

NAYS—Messrs. Browning, Harris, King, Lane of Indiana, Latham, McDougall, Nesmith, Pearce, Powell, Rice, Saulsbury, Stark, Ten Eyck, Thomson, Wilson of Massachusetts, and Wilson of Missouri—16.

So the amendment to the amendment was agreed to.

Mr. HALE. As the Senate have now opened the door so as to include the medical officers of the volunteer service as well as the officers of the medical corps of the Army, I want to extend it further; and I move to strike out from section four all after the word "selection." The words I propose to strike out are, "from the medical corps of the Army or the volunteer medical corps in the service of the United States, without regard to their rank when so selected;" so as to give the President an opportunity to find the best doctors he can without confining him to two particular corps. On the suggestion of the Senator from Vermont, [Mr. FOOT,] I propose, in lieu of the words to be stricken out, to insert the words "at large."

Mr. FESSENDEN. In that case, if the appointment is to be made by selection at large, the President cannot take anybody outside of the Army.

Mr. HALE. Then I will modify my amend-

ment, so as to make the section read, "by selections from the surgeons of the country at large."

Mr. FESSENDEN. That would shut out the Army and the volunteer surgeons.

Mr. KING. This bill has been the subject of a good deal of discussion and labor in the Military Committee. My own earnest wish from the commencement has been that the range of selection should be wider than was proposed, and I would not consent to the bill at all unless it included the assistant surgeons. There were some who desired to confine the appointment of these higher officers to the surgeons, of whom there are enough; but finally the bill was agreed upon in the terms in which it has been reported, and I was disposed to adhere to it.

There has been a sanitary commission of volunteer surgeons and others who have rendered immense service to our Army. They have expended fifty or sixty thousand dollars of contributions, and have acted entirely independent of the medical corps of the Army. Among them are some of the most eminent as well as the best and most patriotic men of the country, who have given their time and their money, and the moneys which have been collected by subscription, to the preservation of the health of the Army, and the improvement of the sanitary condition of the camps. Those gentlemen were before the committee, and were consulted about this matter. There were some of them who would be very suitable persons to be appointed to this service, and I thought that perhaps some of them would like to be upon it; but they themselves came to the conclusion that it was better to leave it to the medical corps of the Army. My own opinion was that it was best to do that; but I have no objection to the amendment that has been adopted by the Senate, though I voted against it, preferring to retain the bill as the committee agreed to it. The proposition now offered, however, would be a wide departure, and, in my judgment, would expose the appointments to solicitation and pressure from all quarters that is undesirable, and that has made more or less trouble in the selection of officers for the various departments. I think it proper to retain the bill as it is.

Mr. HALE. As some remarks have been made about my amendment, I prefer to withdraw it, and renew the one which I first offered. I move now to strike out the words "by selection from the medical corps of the Army, or from the volunteer medical corps in the service of the United States, without regard to their rank when so selected;" so that the section will read:

That the Surgeon General, assistant surgeon general, the medical inspector general, and medical inspectors, shall be appointed by the President, by and with the advice and consent of the Senate.

The amendment to the amendment was rejected—ayes eight, noes not counted.

Mr. LATHAM. I move to amend this section by inserting after the amendment that has been adopted, this proviso:

Provided, That such volunteer medical officers shall be examined and found qualified by the medical board of the Army.

Mr. SIMMONS. I would suggest to the Senator from California that if anybody is to be subjected to that kind of examination, all the officers should be—regulars as well as volunteers. Why make the distinction?

Mr. LATHAM. The regular officers are now examined, and I want the volunteer officers examined.

Mr. SIMMONS. They are all examined. If you want to examine a man's qualification for this high position, let all be examined or none.

Mr. LANE, of Indiana. Every principal surgeon and every assistant surgeon in the Army has already passed a medical examination, and been reported qualified. Every brigade surgeon in the volunteer service has also undergone the same examination, and been reported qualified. The exclusion would only exclude assistant surgeons in the volunteer service. They have not passed a medical examination, and I do not know that it is desirable they should; but all the others have.

The amendment to the amendment was rejected.

Mr. WILSON, of Massachusetts. I move, in the fourteenth line of the fifth section, to strike out the word "required," and insert the word "thereof;" so as to read, "the special requisitions shall consist simply of a list of the articles required, the quantities thereof," &c.

The amendment to the amendment was agreed to.

Mr. SHERMAN. I now submit the amendments which I indicated this morning. If it is the pleasure of the Senate, they can be taken together or separately. I move to strike out the first clause of section second; and then, in line five of section two, to strike out the words "colonel of cavalry," and insert "surgeons of ten years' service;" and in line three of section three, to strike out "lieutenant colonel of cavalry," and insert "assistant surgeon of ten years' service."

Mr. COLLAMER. What about the provision giving the Surgeon General the rank and pay of a brigadier general?

Mr. SHERMAN. That I propose to strike out. The second section provides "that the Surgeon General shall have the rank, pay, and emoluments of a brigadier general." My first amendment is to strike that out, and leave him with his present pay of $2,740 a year, with the rank of colonel. The next clause provides that,

"There shall be one assistant surgeon general and one medical inspector general of hospitals, each with the rank, pay, and emoluments of a colonel of cavalry."

I propose to strike out "colonel of cavalry," and insert "surgeon of ten years' service," which gives him a pay of $2,700, a little less than the Surgeon General. The pay of a colonel of cavalry would give him about $3,414. The third amendment is to strike out the words "lieutenant colonel of cavalry," as the pay of the eight medical inspectors, and insert the words "assistant surgeons of ten years' service." This would give the pay of the highest grade of surgeons of ten years' service to the inspector general of hospitals, and the pay of the highest grade of assistant surgeons to the new medical inspectors. I think that is enough.

The PRESIDING OFFICER. The Chair will put the question separately on each amendment, as they are different propositions. The first amendment of the Senator from Ohio is in the second section of the amendment of the committee, to strike out the words, "the Surgeon General shall have the rank, pay, and emoluments of a brigadier general."

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The next amendment of the Senator from Ohio, is in the fifth line of the second section to strike out "colonel of cavalry," and insert "surgeon of ten years' service;" so as to make the clause read:

There shall be one assistant surgeon general and one medical inspector general of hospitals, each with the rank, pay, and emoluments of a surgeon of ten years' service.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The next amendment of the Senator from Ohio, is in the third line of the third section of the amendment of the committee, to strike out the words "lieutenant colonel of cavalry," and insert "assistant surgeon of ten years' service;" so as to make the clause read:

There shall be eight medical inspectors, with the rank, pay, and emoluments each of an assistant surgeon of ten years' service.

The amendment to the amendment was agreed to.

Mr. WILSON, of Massachusetts. I ask the Senator from Ohio to explain his last amendment.

Mr SHERMAN. My last amendment gives to the eight medical inspectors the pay of assistant surgeons of ten years' service. The amount of that pay is $174 50 per month, besides their fuel and quarters.

Mr. WILSON, of Massachusetts. What is the pay of a surgeon?

Mr. SHERMAN. The pay of a surgeon of ten years' standing is $225 a month.

Mr. WILSON, of Massachusetts. Then the Senator does not propose to give these inspectors so high a rate of compensation as he would give to ordinary common surgeons?

Mr. SHERMAN. Not a surgeon of ten years' standing I do not.

Mr. WILSON, of Massachusetts. A very large portion of the surgeons of the Army are of more than ten years' standing.

Mr. SHERMAN. These eight medical inspectors are new officers. The pay of a surgeon of less than ten years' standing is $189 a month.

Mr. WILSON, of Massachusetts. Under the Senator's amendment the President cannot select as one of these inspectors a surgeon who has the rank of major, and who has been fifteen years in the service, although he may be the most eminent man in the country, and may be nearly at the head of his corps, without reducing his compensation.

Mr. GRIMES. I will state to the Senate that there are but thirteen surgeons in the whole regular Army that are of ten years' standing—Dr. Satterthwaite, and some gentlemen who are pretty well advanced in life.

Mr. SHERMAN. Under this amendment, the amount of compensation would be about $2,100, besides which they will get an allowance for fuel and quarters, and mileage for traveling expenses. With the present rate of mileage, I have no doubt, the medical inspectors will be better paid than surgeons of the highest grade. I think it had better stand as it is.

Mr. GRIMES. I have an amendment to offer; to insert as a new section:

And be it further enacted, That the provisions of this act shall continue and be in force during the existence of the present rebellion, and no longer.

The amendment to the amendment was agreed to.

The amendment of the Committee on Military Affairs, as amended, was agreed to.

Mr. FESSENDEN. I inquire whether the effect of the amendment of the Senator from Ohio would not be, as the Surgeon General is created anew by this bill, that he will go out and we have none at all?

Mr. SHERMAN. The Surgeon General is not created anew by the bill. That clause is left out. He is to be left to stand on the present laws, or he may be reappointed again under this law.

Mr. RICE. I have no amendment to offer; I merely wish to call the attention of several gentlemen who know so much about military matters here, to the bill as it is now amended. The President can now appoint any person he may please to the offices created by this bill. He may take my friend from Iowa and give him an appointment. No provision whatever is made for his going before a board to be examined. The Senator from New Hampshire wanted it to be "at large;" I think it includes the entire world; everybody of all colors and ages.

Mr. GRIMES. It is only a few days ago since the Senator from Minnesota put me down in the Senate, and overcame some opposition I had to some proposition by saying that he had the utmost confidence in the President.

Mr. RICE. I have.

Mr. GRIMES. So have I; and I am satisfied that he will appoint surgeons.

Mr. RICE. But I have not confidence in all his advisers.

Mr. GRIMES. I do not know but that I would agree with the Senator in that.

Mr. FESSENDEN. The Senator from Minnesota is mistaken, because the President must make these appointments from the surgeons of the Army or volunteers, as the bill now stands.

Mr. RICE. Did not the amendment of the Senator from New Hampshire prevail?

Mr. FESSENDEN. No; it was defeated.

The amendments made as in Committee of the Whole were concurred in.

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

Mr. NESMITH. On the passage of the bill I call for the yeas and nays. ["Oh, no!"]

The yeas and nays were not ordered.

The bill was passed.

CONFISCATION OF PROPERTY.

Mr. LANE, of Indiana. I move that the Senate adjourn.

Mr. TRUMBULL. I ask the Senator to withdraw that motion for a moment. I wish to get a bill up merely to have it before the Senate.

Mr. LANE, of Indiana. I have no objection.

Mr. TRUMBULL. I move to take up Senate bill No. 151, to confiscate the property and free the slaves of rebels, with a view to have it before the Senate to-morrow at one o'clock.

Mr. FESSENDEN. I give notice that to-morrow, at one o'clock, I shall want to take up an appropriation bill.

The motion of Mr. TRUMBULL was agreed to.

Mr. TRUMBULL. Will this bill come up to-

morrow of course, or must I make it the special order for one o'clock to-morrow?

The PRESIDING OFFICER. In the opinion of the Chair, it will come up at that hour as unfinished business.

Mr. TRUMBULL. Then I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *February* 27, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

The SPEAKER stated that the regular order of business was the consideration of the report of the Committee of Elections in the case of Hon. Charles H. Upton, upon which the gentleman from Massachusetts [Mr. DELANO] was entitled to the floor.

MESSAGE FROM THE PRESIDENT.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States:

To the Senate and House of Representatives:

In transmitting to Congress the accompanying copy of two letters, bearing date the 14th of February, 1861, from his Majesty the Major King of Siam to the President of the United States, and of the President's answer thereto, I submit for their consideration the question as to the proper place of deposit of the gifts received with the royal letters referred to. ABRAHAM LINCOLN.

WASHINGTON, *February* 26, 1862.

The message was referred to the Committee on Foreign Affairs, and ordered to be printed.

Mr. WALTON, of Vermont. I ask the gentleman from Massachusetts, who is entitled to the floor, to allow me to make two reports from the Committee on Printing.

Mr. DELANO. I will yield the floor cheerfully to any gentlemen who desire it, until the House is fuller.

PATENT OFFICE REPORT.

Mr. WALTON, of Vermont, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

Resolved, That one thousand copies of the report of the Commissioner of Patents, mechanical department, exclusive of the lists of patents granted and patents expired, be printed for the use of the House.

EXTRA COPIES OF BILL AND REPORTS.

Mr. WALTON, of Vermont, from the same committee, also reported the following resolution; which was read, considered, and agreed to:

Resolved, That there be printed in pamphlet form, for the use of the House, ten thousand extra copies each of the act of February 25, 1862, "to authorize the issue of United States notes and for the redemption or funding thereof and for funding the floating debt of the United States;" of the report of the Committee on Commerce on the commercial relations of the United States with the British North American provinces and possessions, as affected by the treaty of 1854, known as the reciprocity treaty; and of the report of the Committee on Military Affairs, in regard to the construction of a ship canal from the Mississippi river to Lake Michigan.

VOTES RECORDED.

Mr. DUELL. Having been absent on Tuesday when the final vote was taken on the bill to make an additional article of war, I ask leave to record my vote upon it.

The SPEAKER. Leave was granted yesterday to gentlemen who were absent, to record their votes on that bill at the Clerk's desk.

Mr. DUELL recorded his vote in the affirmative.

Mr. CAMPBELL also recorded his vote in the affirmative.

PROCEEDINGS OF THE 22D OF FEBRUARY.

Mr. WRIGHT. I desire to inquire of the chairman of the Committee on Printing, whether any resolution has been referred to them for the printing of the proceedings of the 22d of February, including the Farewell Address?

The SPEAKER. The concurrent resolution of the two Houses directed it to be done.

ABOLITION OF COLLECTION DISTRICTS.

Mr. WASHBURNE, by unanimous consent, introduced a bill abolishing certain collection districts, and reducing the compensation of collectors and surveyors in California; which was read a first and second time, referred to the Committee on Commerce, and, with the accompanying papers, ordered to be printed.

NATIONAL FOUNDERY, ETC.

Mr. ARNOLD, by unanimous consent, introduced a bill to establish a national foundery and depots of arms on the lakes; which was read a first and second time by its title.

Mr. ARNOLD. I move that the bill be referred to the committee on lake defenses, and printed.

Mr. DELANO. I move, as an amendment, that the bill be referred to the special committee on armories and founderies.

Mr. ARNOLD. I hope the gentleman will not insist on that motion. The committee on lake defenses has the subject under consideration, and I presume there will be no difference of opinion in regard to the matter.

Mr. DELANO. I cannot understand upon what ground the gentleman can presume any such thing. This twofold subject of inquiry into the expediency of establishing national founderies and armories has been before a special committee of this House since July last. There have been, I should think, some twenty-five bills and petitions from all quarters of the country referred to that committee. That committee, as I understand, though I have been absent from my seat for somewhat over a fortnight, are nearly prepared to report. It seems to me that if there is anything in this bill, or anything of novelty in the project, or if it is calculated in any way to affect or influence the opinion of the committee, that, of all other committees, is the one to consider the proposition.

Mr. ARNOLD. This bill proposes to establish, in accordance with the recommendation of the War Department, naval depots of arms on the lakes, and that part of it at least rightfully belongs to the committee to which I ask its reference. It also proposes the establishment of a national foundery. It has nothing to do with the establishment of a national armory. I desire, therefore, that it shall take this reference. I will remark, in regard to the committee on the establishment of a national armory, that I do not think, from what I hear of the deliberations of that committee, that there will be any difference of opinion between that committee and the committee to which I ask the reference of the bill.

Mr. DELANO. From what authority does the gentleman derive that information?

Mr. ARNOLD. From the language of the members of the committee, who, I understand, have acted in the absence of the gentleman. I ask simply, as a matter of courtesy, that the bill which I have introduced may be printed, and referred to the committee I have indicated. When it comes back, if it is not satisfactory to the gentleman, he can move its reference to the other committee.

Mr. McKNIGHT. I think the suggestion of the gentleman from Massachusetts is a very proper one, that there being a committee raised by vote of the House on the question of an armory—which committee, I understand, have, in connection with the armory project, taken into consideration also the establishment of one or two national founderies—that there is peculiar propriety in referring this bill to the armory committee. I have only heard it incidentally, and outside of the committee; but I understand that they have agreed to make a certain report to the House, embracing the establishment of an armory and of two founderies, and perhaps an arsenal. I think, therefore, that this bill ought, by all means, to go to that committee.

Mr. ARNOLD. The bill is on a subject entirely distinct from that which they have under consideration. The bill is in regard to the establishment of naval depots on the lakes, and the committee on the armory has nothing to do with that subject. I trust, therefore, that the gentleman from Massachusetts will not insist on his motion. I will say to the gentleman, that that committee, appointed in July last, has not yet reported, and that when this bill shall be ready to be reported back, I will advise the gentleman, so that, if he desires to have it referred to the special committee on a national armory, he may have it so referred.

Mr. KELLOGG, of Illinois. Will my colleague permit me to make a suggestion.

Mr. DELANO. I do not yield the floor except for a momentary explanation.

Mr. KELLOGG, of Illinois. Only for a moment. The suggestion which I would make is this, that so much of this bill as refers to the establishment of a national foundery be referred to the special committee on a national armory and foundery.

The SPEAKER. The Chair does not see how the reference of a bill can be thus divided.

Mr. KELLOGG, of Illinois. If that is not in order, Mr. Speaker, and probably it is not, I shall be in favor of referring the bill entirely to the special committee on the subject of a national armory and foundery, because the material part of it is, as I think, the foundery itself. I suggest that the bill take that direction. That committee will be prepared to report in a very short time, and its report will cover the main proposition in this bill. I think it peculiarly proper and just that the bill shall go to that committee, which has the subject in charge. I think that the interest of my colleague, and the interests of the West, will be sufficiently and amply guarded by the report of the special committee.

Mr. DELANO. Mr. Speaker——

Mr. WASHBURNE. I should like to have the bill read.

The SPEAKER. It cannot be read now, unless the gentleman from Massachusetts yields for the purpose.

Mr. DELANO. I shall not yield for that purpose at present. I am now ready, after hearing the remarks of the gentleman from the Chicago district, to unfold a little more the reasons that seem to have animated certain gentlemen in this House in wishing to have this bill referred to the committee on lake and river defenses rather than to the special committee on the subject of a national armory. I have no doubt that what transpired in this House at the time of the general reference has long since passed from the minds of most members of the House.

Mr. WASHBURNE. I rise to a question of order. I think we have a right to have the bill read before the question is discussed.

The SPEAKER. Not while a gentleman is on the floor, as it would have to be taken out of his time.

Mr. WASHBURNE. If the gentleman from Massachusetts is speaking on the election case, well and good.

The SPEAKER. The gentleman from Massachusetts is entitled to the floor.

Mr. DELANO. I was proceeding to say, Mr. Speaker, that when the President's message was referred to the various committees of the House, the question came up as to the appointment of a special committee on the subject of coast defenses, and also on the subject of a national armory and foundery. There had been already appointed a special committee on the latter subject. The House decided at that time, under the ruling of the Chair, that the question as to the establishment of a national armory and foundery should go to the special committee on that subject, and that it was not in order to refer it to the newly proposed committee on lake and river defenses. What was the effect of that decision? It was, that from that time to this every proposition relating to the establishment of a national armory and foundery has been referred to the special committee on that subject, and its reference to the special committee on the subject of lake and river defenses has been ruled out of order, and that ruling has been acquiesced in by the House.

Now, what has been the action of the last-named committee? The first intimation I had was, that it was not only considering the subject of lake and river defenses generally, but had also, by usurpation of the authority of the other special committee, chosen to go into this very question, and consider it as a part of its proper business. I submit to the House that this is but a piece of the same plan and proceeding. The gentleman from the Chicago district, who is, I understand, chairman of that committee, introduces this bill and asks to have it referred to his committee. What will become of it, or what competition or collision there may be in the future between that committee and the special committee on the subject of national armories I leave the House to judge. One thing is true, and that is the principal fact which the House should understand, that since July last there has been a committee appointed on this special subject, and that the gentleman who is at the head of a committee charged with an entirely dif-

ferent subject now proposes to withdraw from the proper reference this bill, and refer it to a committee which has no just right to consider the subject-matter. I move the previous question on the motion of reference.

Mr. ARNOLD. I hope the gentleman from Massachusetts will permit me to reply to the charge of usurpation.

Mr. DELANO. If the gentleman will renew the previous question.

Mr. ARNOLD. I will do so.

Mr. DELANO. Am I to understand, Mr. Speaker, that the time consumed by gentlemen on this subject of an armory is to be deducted from the time which I had intended to consume on the contested-election case from Virginia?

Mr. ARNOLD. I have nothing to do with that.

Mr. DELANO. The Speaker is aware that several gentlemen appealed to me to yield informally for them to present certain matters to the House. Among other things was the bill proposed by the gentleman from the Chicago district, which I supposed would not occupy a moment's time. It seems that that was a matter of more general interest than was anticipated. The question is, whether the time consumed shall be deducted from the time which I was otherwise entitled to on the subject of the Virginia contested-election case.

The SPEAKER. The Chair thinks that as this subject came in by unanimous consent of the House, it will not come out of the gentleman's time.

Mr. WASHBURNE. That is different from the decision which the Speaker made when I wanted to have the bill read.

The SPEAKER. The gentleman from Massachusetts was then on the floor, and had a right to occupy an hour on this question if he chose.

Mr. WASHBURNE. I did not understand that to be the ruling of the Chair.

The SPEAKER. The gentleman's presumptions are not the decisions of the Chair.

Mr. WASHBURNE. I presume the Chair always decides right.

Mr. ARNOLD. Mr. Speaker, in July last a committee was raised by the House, on the motion of a gentleman from Pennsylvania, which was charged with the subject of the establishment of a national armory. At the opening of the present session of Congress the President thought proper to call the attention of the House to the condition of lake defenses. Our relations with Great Britain at that time were such as, in the opinion of the President, required Congress to give its attention to these defenses. It was known to every gentleman on this floor residing near the northern lakes, that they had been unfairly stripped of arms, their fortifications being left without a single gun. So much of the President's message as related to that subject was referred to the select committee. After that committee had been organized by the Chair, it put itself into communication with the Secretary of War and the general commanding the Army. Important measures were recommended by the Secretary of War, by the chief of the Topographical Bureau, and by the Commanding General of the Army—among others, to provide means for arming, not only the fortifications now existing on the lakes, but arming the mercantile marine on the lakes.

The fact was developed in the investigations of the committee that the American merchant marine on the lakes amounted to twelve hundred vessels, while the Canadian was only about three hundred. The fact was also brought to light that there were some fifteen thousand sailors engaged in American vessels on the lakes, while our Canadian neighbors had only three or four thousand. But this preponderance was without avail unless there were means of arming the merchant marine. The committee deemed it its duty to report the necessity of establishing somewhere in the vicinity of the lakes the means of manufacturing ordnance, in order to put the lake coasts in a condition of defense; and it recommended the establishment of a depot of arms on Lakes Michigan, Erie, and Ontario, and instructed me to prepare a bill for that purpose. I have just introduced, in accordance with their suggestion, a bill providing for the establishment of a national foundery and for naval depots. Now, sir, I ask simply for the reference of that bill to the committee which has charge of that subject. The gentleman from Massachusetts objects because he is a member of a committee which has charge of, not a national foundery, but a national armory.

Mr. DELANO. I ask the gentleman to permit me to say a word just at this point. The gentleman intimates that I object to the reference of this bill to his committee, although the subject of a national foundery has been committed to the committee on lake defenses, while it has not been referred to the special committee on the establishment of a national armory. Now, if the gentleman from Illinois insists that that is the true version of the authority committed to each of these special committees, I would refer him to the action of the House to show what is the scope of the authority given to the special committee on the establishment of a national armory upon this subject. Sir, there have not only been referred to that committee various bills and various propositions relating to a national armory, but quite as many bills and propositions, if not more, relating to the establishment of a national foundery.

It has been ruled in committee—if I may be allowed to refer to what has been done in committee—that it was within the scope of their inquiry as well to consider the subject in relation to a national foundery as a national armory.

Mr. ARNOLD. I am aware that sundry bills and petitions of the character indicated by the gentleman from Massachusetts have been referred to that committee. I am aware, also, that the original resolution of the House constituting that committee, did not name a national foundery at all, but related specifically to the establishment of a national armory.

But, sir, I do not deem the action of the House which is proposed at this time of as much importance as the gentleman from Massachusetts seems to regard it. The subject of lake defenses, the subject of the defenses of the northern frontier, embraced in so much of the President's message as was referred to the special committee upon that subject, did speak of propositions to provide arms and ordnance for the defense of the northern frontier; and I need not surely detain the House by showing that to defend the northern frontier requires ordnance, and the provision of that ordnance is necessarily connected with that subject.

I have no controversy with the committee on the establishment of a national armory as to who shall report this measure; none at all. If they are prepared to report a provision for the establishment of a national foundery, which will enable us to arm the forts and vessels upon the northern lakes, if it shall be necessary to arm them, it is immaterial to me whether that proposition comes from that committee or from the committee on lake defenses. But I ask the gentleman to listen to the suggestion I made, that while this bill relates to the subject of a national foundery, of which the committee on the establishment of a national armory has taken cognizance, it also relates to another matter with which they have no possible connection, to wit: the establishment of naval depots. Why, then, does the gentleman insist upon the reference to the national armory committee of a proposition to establish naval depots. If that committee will report in favor of the establishment of such a national foundery, I have no doubt the committee on lake defenses will forbear to take any action upon that subject. I care not through the medium of what committee this subject comes before the House. I simply now desire that the committee on lake defenses, which have given to that subject a very careful consideration, who have taken the advice of the War Department upon the subject, should have referred to them a bill which has been presented to the House in accordance with their suggestion. I submit that the mere question of form, whether this bill shall be referred to one committee or the other, can in no manner interfere with the action of that committee, and I trust that there will be no more controversy on the subject. It is a matter of ordinary courtesy, that the member introducing the bill may have it referred to the committee which he desires; and especially as the other committee, which seeks to obtain possession of it, have no possible jurisdiction over one of the subjects embraced in the bill.

Mr. SPAULDING. If the gentleman will allow me for a moment, I wish to state that it seems to me this is so plain a case that it does not admit of any very great debate. The guns on the northern frontier have all been taken off to the Mississippi. There is not a gun at one of the northern forts, and it is absolutely necessary that some guns should be cast for that purpose. And why the gentleman from Massachusetts should oppose so plain a proposition as this, I cannot understand. The establishment of a national foundery at Chicago is absolutely necessary.

Mr. OLIN. Will my colleague yield to me for a moment?

Mr. SPAULDING. Not now. The question now is not upon the merits of the bill. This is the mere ordinary form of having the bill referred and printed. When it is reported, and properly before the House, the discussion of its merits may then be properly gone into; but now it is a mere matter of courtesy that the bill, which has been introduced by the gentleman from Illinois, should be printed and referred to the committee indicated by him. I do not see why the gentleman from Massachusetts should object to that.

Mr. ARNOLD. Now, Mr. Speaker, I trust that, without further debate, this bill will be referred to the committee I have named. I regret that a mere matter about the reference of the bill, not at all involving its merits, merely involving the question of what committee shall act upon the subject, should have excited so much controversy here. Now, sir, I will not longer occupy the time of the House, but call the previous question.

Mr. NOELL and Mr. OLIN rose.

Mr. ARNOLD. I will withdraw the demand for the previous question, and yield to the gentleman from Missouri.

Mr. NOELL. As a member of the special committee on lake defenses, I desire to say a single word.

Mr. OLIN. I object to the gentleman from Illinois yielding the floor, unless he yields unconditionally.

The SPEAKER. Objection being made, the gentleman cannot yield, unless he yields unconditionally.

Mr. ARNOLD. I will yield the floor to the gentleman from Missouri, if he will renew the call for the previous question.

Mr. NOELL. I will.

Mr. OLIN. I rise to a question of order. My point is, that two gentlemen cannot bargain for the floor on the condition that one or the other shall call the previous question.

The SPEAKER. The Chair recognizes no such bargain. He understands the gentleman from Illinois to have yielded the floor unconditionally.

Mr. NOELL. I desire to make this suggestion to the House. I understand the question before us to be as to the propriety of referring this matter to one committee or the other. Now, the committee on lake and river defenses were intrusted with, and did inquire into, not merely the matter of fortifications alone, but so far as the defenses of the northern lakes and rivers are involved, they have a perfect right to consider the question of the establishment of armories or founderies in connection with the subject of fortifications. It was a legitimate subject for the consideration of this committee.

Mr. DELANO. In order that the House may understand precisely what power was given to the committee, I desire to read the report, as it is given in the Globe, upon the original reference of this matter. It is most distinctly stated. It was then attempted to embrace both subjects, in the reference to the same committee; but that reference was not only ruled out by the Chair, but the ruling was acquiesced in by the House. Now, I ask the Clerk to read the report of that proceeding.

Mr. NOELL. I understand that this committee was raised by a resolution of the House. That resolution defines the power of the committee, which is to take into consideration the subject of the defenses of the northern lakes and rivers.

Mr. DELANO. Do I understand that the gentleman declines to yield for the purpose of having this report read?

Mr. NOELL. I do, for the reason that it has nothing whatever to do with the power of the committee. The question referred was the question of the defenses of lakes and rivers—not the question of fortifications simply; but they have equally high authority to consider the question of the establishment of founderies and armories at

convenient distances from the points where the fortifications are to be erected, which are essentially necessary to these defenses.

I desire to say this much upon this question. I do not understand that this reference has anything to do with the power of the committee. We were intrusted by the House with the duty of considering the whole question of lake and river defenses. We had the right, therefore, to consider the question of armory and foundery establishments; and we have it from the highest authority in the country on the subject to say that the establishment of manufactories of arms, at convenient distances from the points of defense, was indispensably essential. I renew, as I promised I would, the demand for the previous question.

Mr. MOORHEAD. I hope that I will be permitted to say a word.

Mr. OLIN. I have had the floor, and I object to any family arrangement about the floor. I want all to have a fair chance to speak on this subject.

Mr. STEVENS. There is so much confusion in the House that it is really difficult to tell what is before it.

The SPEAKER. The question is on seconding the demand for the previous question on the pending motions of reference.

Mr. KELLOGG, of Illinois. I ask the unanimous consent of the House to make an explanation on this question.

Objection was made.

Mr. STEVENS. I move that the whole subject be laid upon the table.

Mr. SPAULDING. I demand the yeas and nays on that motion.

Mr. KELLOGG, of Illinois. There is misapprehension on this question, and I ask to make an explanation.

The SPEAKER. Debate is not in order.

Mr. KELLOGG, of Illinois. I ask the unanimous consent of the House for leave to say a few words in explanation.

Objection was made.

The yeas and nays were not ordered.

The question was taken on Mr. STEVENS's motion; and it was agreed to.

So the whole subject was laid upon the table.

MELANCTHON B. WOOLSEY.

Mr. F. A. CONKLING, by unanimous consent, introduced a bill to place the name of Melancthon B. Woolsey on the active service list of the Navy; which was read a first and second time by its title, and referred to the Committee on Naval Affairs.

ENROLLED BILL.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill (S. No. 212) to authorize the Secretary of the Treasury to issue certificates of indebtedness to public creditors; when the Speaker signed the same.

CIVIL APPROPRIATION BILL.

Mr. STEVENS. I rise to submit a report from the committee of conference on the disagreeing votes between the two Houses on House bill No. 154, making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1863, and additional appropriations for the year ending the 30th of June, 1862. I ask that the Clerk read it.

The Clerk read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 154) making appropriations for sundry civil expenses of the Government for the year ending the 30th June, 1863, and additional appropriations for the year ending the 30th June, 1862, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House of Representatives recede from their disagreement to the fifth, sixth, seventh, eighth, ninth, tenth, sixteenth, and eighteenth amendments of the Senate, and agree to the same.

That the House recede from their disagreement to the eleventh amendment of the Senate, and agree to the same with an amendment, as follows: Strike out of said amendment, in line three, the words "one thousand," and insert in lieu thereof "five hundred."

That the Senate concur in the amendment of the House to the thirteenth amendment of the Senate.

That the Senate concur in the amendment of the House to the Senate's seventeenth amendment, with the following amendments: Strike out, in lines one and two of said amendment, the words "in the expenditures of," and insert the words "of appropriation for repairs of the Capitol made by;" and add, at the end of said House amendment, the following:

To enable the Commissioner of Public Buildings to pay for the purchase and repair of plate and repair of gas fittings for the President's House, $2,613.

That the House recede from their disagreement to the twenty-first amendment of the Senate, and agree to the same, with the following amendments: In line three, of said amendment, strike out the word "sell," and insert "lease;" and in line six, after the word "notice," insert "thereof;" and strike out, in lines six and seven, the following words: "of the time, place, and terms of sale;" and insert, in line ten, after the word "authorized," the following words: "to use it for the sick and wounded soldiers of the United States," &c.

JAMES ALFRED PEARCE,
J. R. DOOLITTLE,
DANIEL CLARK,
Managers on the part of the Senate.
THADDEUS STEVENS,
E. P. WALTON,
CHARLES R. TRAIN,
Managers on the part of the House.

Mr. STEVENS. I do not propose to make any speech on that report of the committee of conference. I think that it explains itself. I demand, therefore, the previous question on its adoption.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the report of the committee of conference was adopted.

Mr. STEVENS moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ADDITIONAL CLERKS.

Mr. STEVENS, by unanimous consent, from the Committee of Ways and Means, reported a bill to provide for the appointment of additional clerks in the office of the Assistant Treasurer in New York, and for other purposes; which was read a first and second time by its title, ordered to be printed, and referred to the Committee of the Whole on the state of the Union.

NULLIFICATION, ETC.

Mr. WRIGHT. I ask the unanimous consent of the House to submit the following resolution:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the proclamation of Andrew Jackson on the subject of nullification be printed together with the Farewell Address of George Washington, for distribution.

There was no objection.

Mr. STEVENS. I move to amend the resolution so that it will also provide for the printing of the Declaration of Independence for distribution.

The amendment was agreed to.

Mr. WASHBURNE. I object to putting that resolution on its passage at this time.

Mr. WRIGHT. I only ask that the resolution be referred to the Committee on Printing.

Mr. WASHBURNE. I do not object to that; and I submit the motion that the resolution be referred to the Committee on Printing.

The motion was agreed to.

VIRGINIA CONTESTED ELECTION.

The SPEAKER. The question now before the House is the unfinished business yesterday, being the report of the Committee of Elections on the case of Hon. Charles H. Upton, claiming to represent the seventh congressional district of Virginia, on which the gentleman from Massachusetts [Mr. DELANO] is entitled to the floor.

Mr. DAWES. I ask my colleague to yield the floor to me for a moment on a question of privilege.

Mr. DELANO. I will do so with pleasure.

Objection was made.

Mr. DELANO. Mr. Speaker, I do not regret the time that has been consumed in disposing of a subject of such considerable interest to my constituency—the reference of this question of the establishment of a national armory——

The SPEAKER. The Chair does not see what that has to do with the question before the House, of whether the gentleman from Virginia [Mr. Upton] is entitled to represent the seventh congressional district of that State or not.

Mr. DELANO. Mr. Speaker, I am as much convinced of that as yourself; but I am not aware that anything has as yet been said by me to show that I have been wandering from the question before the House. I had not finished the sentence I was in the act of uttering.

I will, therefore, repeat. The time which has been consumed upon the question of reference has been well spent, upon a subject which, though it concerns a matter of considerable interest to my constituents, falls far short in importance of that which now comes before the House. The question now is, whether Charles H. Upton, who has been sitting with us from the 4th of July last up to the present time, and has been acting as a member upon this floor, and as a member of one of the principal committees of this House—whether he shall, under the judgment and decision of this House, longer be permitted to retain his position here, or shall be ousted from the seat he has so long occupied. You will now see, sir, the force of my suggestion. I was glad that there was a little delay upon a collateral matter, so that the seats of members might be filled before we were called upon further to hear and act on the question of Mr. Upton's election. It was with the deepest regret that I saw yesterday, when the gentleman from Ohio, [Mr. RIDDLE,] the gentleman from Maine, [Mr. FESSENDEN,] and the gentleman from New York, [Mr. SEDGWICK,] were appealing to the House in behalf of my friend from Virginia, and in favor of his retaining his seat from the seventh congressional district of that State, that there was not at any time during that discussion a quorum of this House present, intent on the business of hearing and determining that important judicial question. That is the reason, if you desire to know, why I was content to see informal matters brought before the House until the House was full, and all of the members were present, prepared to enter upon these the highest of the legislative functions, relating to this question of privilege now pending before it.

I desire, though I confess I do it hopelessly, that every member of this House may be able to say, before casting his vote on this question, that he has not only read the report of the Committee of Elections, but every syllable of testimony upon which that report is founded. Unless I can be satisfied that gentlemen will, on a vital question like this, refrain from their customary listlessness and give their attention to the business before them, I despair of justice being done; and I appeal most earnestly to members of this House, before recording their votes, to take pains to understand from the beginning to the end not only the report of this committee, but also the twenty pages of printed testimony taken in the case. It is a reasonable request, considering that the proposition is nothing less than to oust a member from his seat in this House, which he has been occupying since the 4th of July last.

Now, Mr. Speaker, as testing the reasonableness of this desire, I would like to put the question to gentlemen on all sides of this House—I care not what their former political associations have been; I care not what their prejudices are, or what their opinion as to any future policy may be—I would like to inquire of every member, whether or not he has given that careful reading to the twelve pages of this committee's report, and the twenty pages of testimony which accompanies that report, which is essential to a correct understanding of the case? I do hope, if they have not given that time to the subject, if they have not been able to sacrifice that much of their patience and attention, they will not consider that they have any right to lift up their hands or their voice when sitting in judgment, and pronouncing upon the right of my friend to a seat here. And in the few remarks I have to make, it will be my chief desire to bring to the attention of members those parts of the evidence which may have failed to meet with their personal perusal, in order that they may understand precisely what it is which is now in controversy. And that brings me at once to the inquiry as to what force or what conclusiveness ought to be attached to this unanimous report of the Committee of Elections. I may say that no member of this House can respect each and every member of that committee—the gentleman who reported the adverse resolution not less than the chairman of the committee, who is my colleague upon this floor—more than I do; and if there is any committee of the House to whose judgment I would be willing to submit my own and be bound thereby, I would certainly defer to none more readily than to the Committee of Elections. But, while making this concession to the committee, I must call attention to the limited state of the question pending before the House, and insist that the real question is one merely as to the application of a principle, and not in the slightest degree involving any matter of fact.

I probably should not have found myself ad-

dressing the House at the present time had it not been that three or four weeks ago I unexpectedly had my attention called to the proof-sheets of the report of this committee. I know that unwittingly the chairman of the Committee of Elections, my colleague, [Mr. DAWES,] in the heat of argument at that time upon this matter, let slip from his lips a suggestion that the gentleman from Virginia [Mr. Upton] had been getting me to come here to defend his case. But, sir, I take it I have no need of exculpating myself from any such impeachment as this. I should be the last man whom the gentleman from Virginia, or any other man having a contested seat in this House, would apply to for aid in any such exigency. But the gentleman who made this report [Mr. WORCESTER] knows very well that it was by the merest accident that my attention was called to the proof-sheets as they were in his own hands for revision, and that at the very time of reading it over I expressed at least this much of surprise—and I desire just at this point to call the attention of the House to it—that I thought the question of principle involved here as grave in importance as any upon which this House could be called on to act, and I certainly intimated, upon my hasty reading of their report, that I thought the committee ought to have come manfully up to the issue of principle involved, while, in reality, acting too timidly, as I thought, they had shunned the important issue by finding the facts against the sitting member, and that upon an issue of fact merely they had concluded to advise the House to turn him out of his seat. But, Mr. Speaker, I am entirely satisfied, after conversation with various members of the committee, that they do not wish the House to consider the question upon any such narrow and technical ground as that intimated; but that they desire the House to come directly and squarely up to the question of principle which I consider involved in the report, overlooking, if there is any room for technicality, every question of form which may be supposed to divert from the force of the sitting member's case; and that they assume, at least for the purposes of this case, that the sitting member has ten votes duly given and as duly certified to the House as the circumstances of the times would permit. It is upon this assumption of fact that I desire to consider my friend's case.

Mr. WORCESTER. Will the gentleman allow me to put him right in one respect? Something was said in the course of debate yesterday of an admission by the chairman of the Committee of Elections, of certain certified votes said to have been cast for the sitting member. As the organ of the committee who made this report, I would say that neither the committee nor the chairman of the committee is authorized, nor is it competent for them, to make any such admission. This, we understand, is a contested election, and not only the rights of the contestant are in issue, but the rights of the people of the district from which he comes.

Mr. DELANO. I certainly was not expecting this retraction or recantation at this stage of the proceeding.

Mr. WORCESTER. It is no retraction.

Mr. DELANO. Three weeks ago, when my friend, [Mr. Upton,] immediately after the report came in, had ascertained that the committee were really not satisfied that any votes were cast and certified to in that district, I did, in the warmth of my friendship for the gentleman from Virginia, as well as from a desire of justice, volunteer to state to the House my reasons for thinking that it was most reasonable that he should be permitted to furnish further evidence of the fact controverted, because it seemed to me that the committee, in their report had, as if to avoid testing before the House the principle involved, found the fact against him, and thus cut him off from ever reaching or presenting to the House the naked question whether a majority could by force disfranchise a minority, however small.

Mr. DAWES. If my colleague will allow me, perhaps it is due to the committee as well as to myself that I should make a statement here. I find that I was reported in the Congressional Globe as not only saying that I would myself admit that ten men voted for the incumbent precisely as he claimed they did; but I am further reported as having said that the committee would admit it. I may have said so; I am inclined to think, however, that I did not. I had certainly no right to speak for the committee in that matter. I did say for myself—and I propose to repeat it, if it be found proper for me to say anything to-day—that I was ready to admit that ten men voted for the incumbent on that day just in the manner in which he claims that they voted for him, and in no other way. That was all I intended to admit myself, or to state at that time, and it is due to the committee that I should make this statement. This is my own admission, and upon that ground I propose myself to submit some remarks to the House hereafter.

Mr. DELANO. Now, I think, after what has fallen from the chairman of the committee, if we will for a moment listen to the record of the debate as given in the Globe, we shall see at what disadvantage the committee has taken my friend here, if they do not permit him to consider as established what he then proposed to establish, namely, the fact of his having the votes upon which he now rests his claim. One would suppose from the admission then made, and from the admission which my colleague now makes, somewhat more narrowly, that no one of the committee would dispute that the claimant had these ten votes. Having rested on the admission that the committee would not contest these votes, the House will see his embarrassment if the committee now rise up and impeach the existence of these very votes. I ask that the remarks of my colleague at that time may be read by the Clerk.

The Clerk read, as follows:

"One word more, and I will leave this matter for the decision of the House. I am not going to have any words with the gentleman from Virginia as to whether he asked us to tell him how to conduct his case or not. He has conducted his case as he has seen fit to conduct it, and the committee have come to a conclusion upon it. There is not a particle of dispute about the facts. The gentleman does not claim but ten votes. The committee are willing to admit that ten men went and voted for him at Ball's Cross Roads, exactly as he says they did. They do not entertain a doubt of that. The committee were unanimous in this matter. They do not entertain a doubt that ten men voted for the gentleman there."

Mr. DELANO. With that admission, what occasion was there for my friend further to insist upon summoning these ten men before the committee?

Mr. DAWES. Why does not my colleague state the fact that this incumbent never at any time asked to summon either the whole ten, or any one of them; and that he never asked the opportunity of proving that they voted for him? That was not what he asked. It was in a discussion between my colleague and myself that I made the statement, according to my recollection, as I have repeated it this morning, and which I had no right to state for any member of the committee. But the incumbent never at any time asked this House to permit him to produce any single one of these men who he claimed voted for him that day.

Mr. DELANO. I cannot let the matter drop here. I ask the House what was the purpose of the incumbent in appealing to the House for a partial reopening of the case before the committee, if it was not to relieve from all doubt that which their report had brought into doubt? It matters very little how one member of the House or another member of the House proposed to relieve the matter of that doubt. My friend proposed to do it by summoning one or two of the sworn officers of the election. I proposed to do it by summoning every man who cast a vote on that day. It was practicable to determine the matter either way. Now, when the sitting member was proposing one method of relieving the House of this doubt, and I was proposing another method, my colleague [Mr. DAWES] came in and pledged himself for the committee, that there was not a particle of doubt that the ten votes were cast; but that the committee were unanimous and never would question the fact here. I ask them with what face it can now be argued to the House that ten votes were not duly given for the sitting member by voters of that district? If it is the determination of the committee, after having misled the sitting member into the belief that he would have the benefit of ten certified votes, to base their opposition to him upon the ground that he received no votes, then I appeal to the House, in all fairness, to reopen the case and give him the chance which he then asked the House to give him.

But, sir, I do not believe that any one will seriously take the ground, even upon this report, that the sitting member did not receive the votes of ten good and loyal Virginians; and, after these various admissions, I shall, in the discussion of this question, take it to be conceded as true that in that dark contest of disloyalty, he was backed by at least ten loyal voters of the seventh congressional district of Virginia. And this brings me to the point from which I proposed starting. It was not the question of fact whether he received ten votes. I did not suppose that any member of this House would doubt that for a moment. It is conceded that he received these votes. It is conceded that he made every effort to get before the people of the seventh congressional district; that he appealed to one gentleman of his acquaintance of distinction and public note to become a candidate and that he declined; that he then appealed to another gentleman and that he declined; and that having been abandoned and betrayed first by one and then by another, at the last moment he concluded, for the credit of his district, that he would stand himself as a candidate; and the only question before the House I take to be whether, after having done all this and having received his ten votes, we are to sanction the doctrine of the committee that a man with but ten votes in a district otherwise thoroughly disloyal shall not hold a seat on this floor, but that his district must go unrepresented.

Mr. LEHMAN. I would ask the gentleman whether there is any evidence showing that anybody disputed the fact that ten men voted for Mr. Upton for Congress at that poll?

Mr. DELANO. No man disputed the fact. It never has been disputed from that day to this; indeed there was no man who had the courage in that district to come into the field to dispute that or any other act of any loyal man there until the district was under the protection of Federal bayonets after this election had taken place. And that is precisely what challenges my admiration for my friend here, that when the whole district was disloyal, when men looked to their families and their property, and deemed it more prudent to forego the privilege of being represented in the Federal Congress than to bring themselves to the halter or their property to confiscation, my friend took his life in his hand and marched bravely up to the demands of the times. He saw his property flanked by rebel pickets on the one side and by Federal pickets on the other, and there he stood resolved that nothing in that crisis should deter him from announcing himself as a candidate in the customary manner, and to ask of those who had the courage to vote, their suffrages in his behalf. That is precisely the way it stood. There was no question about his election made by anybody, and probably for the very reason that no one had courage to make any or to call in question the validity of his election, because Federal bayonets had not at that time begun to inspire confidence in the gentleman's competitor. My friend was fighting single-handed, without support. Everybody else was succumbing to the rebel domination and rebel ordinances.

The gentleman who is here representing the seventh district was determined to stand up and to disregard those ordinances; he was determined, in spite of every influence brought to bear against him, to make his stand upon the ancient constitution and the ancient laws of Virginia, as though there had never been any attempt to repeal them.

But, sir, the point I was considering was, how far the judgment of the committee in a case like this—the ten votes being conceded—is to be deferred to; and whether the House, merely because the report is unanimous, are to concur in their report.

If it is conceded that there were ten votes for the sitting member, then the House, without any report, can readily see whether or not it was right or possible for the timid voters of the seventh district to vacate their rights and abandon their privileges, and thus to disfranchise a respectable or even a very small minority. Here is where I take issue with the committee. Was it competent for the majority, I do not care how large, of the voters of that district, by actual force or submission to force, to disfranchise the minority, I do not care how small? I say, clearly not. In order to show the House how the committee reason their case, I read a brief paragraph from their report:

"It appears, then, from the facts that we have cited from the history of the times, and from the foregoing evidence, that the authorities which had usurped and then had control of the civil government and military forces of the State had, for the time being, set at defiance and annulled the

lawful authority of the United States, and deposed or driven off its officers, practically severed the ties and abrogated and repealed all laws that bound the State to the General Government of the United States. All this was done, for aught that is shown to the contrary, with the approval and concurrence of a very large majority of the people, and without the effective opposition of any of them."

Now, sir, I undertake to demonstrate that there never was a greater fallacy than that here put forth. Will it be maintained here that because the seventh district of Virginia was in the hands of disloyal men, therefore the loyal men in the district had no right to make themselves heard here, and that we ought not to hear them?

How is it in the other branch of Congress? Is Virginia now represented in the Senate through the votes of a majority of her people? Do her Senators speak there their own voice only or the voice of the State? They have been admitted there, although it is known that a majority of the people have not by any act of theirs, direct or indirect, sent them. We have admitted members from that State here because we believe that the majority are at present in a state of suppressed or suspended political animation; that they cannot speak; that they dare not speak; and because when men come forward, no matter under what irregular proceedings or organization or provisional government, they are presumed to represent correctly the dormant or stifled sentiment of their districts. And yet what a small proportion of the State of Virginia would any member in the other branch of Congress pretend to represent territorially. So precisely here. Although the voters of the seventh district, consulting their own safety, taking counsel of their timidity, thought it best to waive, for the time being, the assertion of their rights at the polls, which might involve the halter or the confiscation of their property, they were willing that the risk should be run by my friend here, who, more courageous than they, stood up to his duty, and, as Throckmorton says, for weeks before the famous ordinance of secession passed, ran up the stars and stripes over his own homestead, and proclaimed that if no other place in the whole territory of Virginia were true to its ancient loyalty and to the flag of the Union, he at least remained constant.

I feel that no member of the House can fail to admire that sort not only of physical but of moral courage; and it is this admiration which will not permit me to sit here in silence. I have known the sitting member from the time he first took his seat here; I have known him on committee; I know him as an intelligent man, and one who is worthy to be associated with his peers in this House. His character has been amply vouched by his former acquaintances, now his colleagues here, and by others who have known him in every relation of life. But I know that appeals on grounds of social and intellectual qualities merely must be as distasteful to him as they are illegitimate in the way of argument.

I therefore pass on to consider and bring to the attention of the House the varied evidences of duress which kept down the manifestation of loyal sentiment among the people of the seventh district of Virginia before, at, and after this election. In that connection I shall mention some names lately become notorious; and with this view I desire to call attention to the history of events in the State of Virginia during the short period between the 4th of February and the 23d of May. It will be borne in mind that on the 4th of February delegates were elected to a convention of the State of Virginia. On the 13th of February that convention had its first meeting. It was reported to be for the Union by some sixty thousand majority. The first act of the convention indicated that the Union sentiment prevailed in the proportion of about one hundred and ten to some forty. I do not know that anything of a peculiar character transpired in March. Then came April. In the mean time, an ex-President of the Republic, John Tyler, was here attending a peace convention, professedly in the councils of the Union party, and desirous of preserving the integrity of the Republic. Then, shortly and rapidly, came a change in the sentiment of the convention. On the 17th day of April the ordinance of secession was passed. On the 22d of April General Lee was put in command of the army and navy of the State of Virginia. On the 24th the officers of the State assumed supreme authority. On that same day the convention passed an ordinance declaring—for the purpose of preventing any courageous gentleman like the sitting member here from putting himself before the people—that all voting for members of Congress should be prohibited. It is in these terms:

"The election for members of Congress for this State to the House of Representatives of the Congress of the United States, required by law to be held on the fourth Thursday in May next, is hereby *suspended* and *prohibited* until otherwise ordained by this convention."

See how adroitly they did this. Coming into convention with a large Union majority, they professed to submit the ordinance of secession to the people of Virginia; and yet, within one week, they passed another ordinance, by which it was presumed and assumed that the ordinance of secession would be carried, and that there would not be found loyal men enough in Virginia to send a Representative to the Federal Congress. They therefore suspended the State law and prohibited any election. Now, in what position did that place the timid men of Virginia? Why, if they acted in defiance of this ordinance, and if the ordinance of secession were adopted, they would have placed their necks in the halter and have subjected their property to confiscation. That was the duress laid on them as early as the 24th of April. My friend had property. He had ties and rights as dear to him as any head of a family in that ancient Commonwealth. But he set at naught this ordinance; he set at naught this supplementary act, and he took the same view of all the ordinances and acts of rebel legislation which the Federal Administration has taken, from that time to this. He stood on the theory that the ordinance of secession, and all other ordinances and laws disqualifying members or prohibiting their election were an utter nullity. Is there any question that he was right in this? I, for one, embrace most cheerfully this theory of our President and his Cabinet, and expect at no distant day to be called on to apply to a variety of rebel legislation the very principle on which the gentleman acted. As a man of Massachusetts, I confess I see no other so practical a method of restoration of seceded States as to fall back on the utter futility of every ordinance of secession and every law passed in pursuance thereof. I regard them as nullities—all. I believe that when the States resume their orbits again around the Federal center—as I trust, from the signs of the times, they speedily will do—in fraternity and good accord, it will be by assuming that there has not been the first shadow of validity from the time of the first ordinance of secession down to the last law or ordinance passed as accessory thereto. Upon this theory, and upon this alone, may we look for a restoration of the old Union, and to a return of the thirty-four States in all their original features and identity, and with the glorious associations of the past. Acting on this theory, I cannot permit myself to doubt that in a brief period we shall welcome back, not only Tennessee, then North Carolina and Georgia, until ultimately the galaxy shall be restored.

Now, because my friend here chose to stand on the nullity of the ordinance of secession, and on the nullity of the acts passed under it, are we to turn him out of his seat on the ground that he had but ten votes, when, too, he only was "faithful among the faithless found?"

But I am now on the question of duress. I have shown how the convention of Virginia not only passed an ordinance of secession, referring it to the people, but also, as if they distrusted the people, passed an ordinance prohibiting them in advance from voting for members of Congress. But my friend here defied them. Here are two or three very interesting letters. I ask how many members have read what is to me one of the most interesting reports ever laid on my desk—the report of the evidence in this case. I repeat again, sir, it contains but twenty pages, and I see not how members can excuse themselves, when voting on this question, without having scrutinized this evidence. Look at the Alexandria Gazette of the 17th of May—six days before the gentleman put himself before the voters of his district for election. An article reads thus:

"As the convention of Virginia has by ordinance declared that no election for members of Congress shall be held in this State at the ensuing election, as that ordinance is the law of the State, as an attempt to resist or contravene the ordinance would be highly illegal and improper, we trust that no one will countenance this proceeding by taking a vote or holding a poll; and we have no doubt that those who are not in favor of secession will themselves condemn most pointedly that which can only promise mischief and bring trouble upon parties persisting in being concerned in it."

Mr. MALLORY. The gentleman has remarked that he thinks no member ought to vote in this case who has not carefully read the report of the Committee of Elections, and every line of the testimony in this case. I differ with my friend somewhat, in regard to this matter, and suggest to him that inasmuch as the gentleman from Virginia has a seat on this floor, no gentleman, who has not carefully read the report and evidence, and has not come to the conclusion that he is not entitled to his seat, shall vote to oust him from it. I think that is the light in which he ought to put it.

Mr. DELANO. I accept the suggestion of the gentleman. But what I am upon just now is the Alexandria Gazette, of May 17. The editor of that paper, to whom my friend here appealed, and through whose columns he hoped to reach the voters of the district, made a promise that his notice of intention to become a candidate should be published; but when the day of publication came there was a virtual refusal to publish the notice. The duress had begun to take effect in that quarter. The editor on that day says:

"As the convention of Virginia has, by ordinance, declared that no election for members of Congress shall be held in this State at the ensuing election, as that ordinance is the law of the State, as an attempt to resist or contravene the ordinance would be highly illegal and improper, we hope that no one will countenance this proceeding by taking a vote or holding a poll."

Thus we have confessedly the leading paper of the district urging the voters of the district to absent themselves from the polls at that time.

Then, the Fairfax County News of the same day, alluding to the prohibitory ordinance, says:

"The obedience of every citizen of the State is not only due to the above, as the sovereign act of the Commonwealth, but is enforced by the pains and penalties of the law against treason."

Here, sir, are two papers, and the only papers to which he could appeal for the publication of his notice and address to the people, both of them, from timidity or indifference, or having gone over to the rebel cause, refusing to allow him access to their columns for the purpose of reaching the ear of the people of the district.

But there is a more interesting document still, which I shall ask to have read at the Clerk's desk—the letter of Senator Mason, giving his views as to the propriety and danger of voting at this time. Observe, it was circulated in Upton's district the day before election, and when read, sir, I wish to ask whether the House is prepared to indorse such advice to the people of the seventh congressional district of Virginia.

The Clerk read the letter, as follows:

WINCHESTER, VIRGINIA, *May* 16, 1861.

To the editor of the Winchester Virginian:

The question has been frequently put to me, what position will Virginia occupy should the ordinance of secession be rejected by the people at the approaching election? And the frequency of the question may be an excuse for giving publicity to the answer.

The ordinance of secession withdrew the State of Virginia from the Union, with all the consequences resulting from the separation. It annulled the Constitution and the laws of the United States within the limits of this State, and absolved the citizens of Virginia from all obligation of obedience to them.

Hence it follows, if this ordinance be rejected by the people, the State of Virginia will remain in the Union, and the people of the State will remain bound by the Constitution of the United States, and obedience to the Government and laws of the United States will be fully and rightfully enforced against them.

It follows, of course, that in the war now carried on by the Government of the United States against the seceded States, Virginia must immediately change sides, and under the orders of that Government turn her arms against her southern sisters.

From this there can be no escape. As a member of the Union, all her resources of men and money will be at once at the command of the Government of the Union.

Again: for mutual defense, immediately after the ordinance of secession passed, a treaty or "military league" was formed by the convention, in the name of the people of Virginia, with the "confederate States" of the South, by which the latter were bound to march to the aid of our State against the invasion of the Federal Government. And we have now in Virginia, at Harper's Ferry and at Norfolk, in face of the common foe, several thousand of the gallant sons of South Carolina, of Alabama, of Louisiana, Georgia, and Mississippi, who hastened to fulfill the covenant they made, and are ready and eager to lay down their lives, side by side with our sons, in defense of the soil of Virginia.

If the ordinance of secession is rejected, not only will this "military league" be annulled, but it will have been made a trap to inveigle our generous defenders into the hands of their enemies.

Virginia remaining in the Union, duty and loyalty to her obligations to the Union will require that those southern

forces shall not be permitted to leave the State, but shall be delivered up to the Government of the Union; and those who refuse to do so will be guilty of treason, and be justly dealt with as traitors.

Treason against the United States consists as well "in adhering to its enemies and giving them aid" as in levying war.

If it be asked, what are those to do who in their consciences cannot vote to separate Virginia from the United States, the answer is simple and plain: honor and duty alike require that they should not vote on the question; and if they retain such opinions, they must leave the State.

None can doubt or question the truth of what I have written, and none can vote against the ordinance of secession who do not thereby (whether ignorantly or otherwise) vote to place himself and his State in the position I have indicated. J. M. MASON.

Mr. DELANO. Mr. Speaker, there is one other document to which I shall ask the attention of the House. It is the manifesto of the gentleman now occupying the seat here, published when he declared himself a candidate for Congress, after he had solicited two other prominent gentlemen in the district to become candidates, and failed to prevail on them. I desire to have that address read, to show the position occupied by Mr. Upton, and after that I do not care to trouble the House longer.

The Clerk read, as follows:

FALLS CHURCH, FAIRFAX COUNTY, *May* 15, 1861.

On Friday last I visited Alexandria, and placed the subjoined announcement in the hands of the editor of the Gazette, who promised to publish the same if I would omit the portion contained in brackets. I consented to this change, but the promise has not been kept:

To the voters of the seventh congressional district:

I hereby offer myself as a candidate for election to represent you in the next (Thirty-Seventh) Congress of the United States, upon the basis of the maintenance of the Union. [The recent convention at Richmond, called without authority, and usurping all authority, has undertaken to set aside the supreme law of the land in reference to elections to Congress.—Acts 1852-53, chap. 3, sec. 7, p. 4.] As, therefore, in most of the precincts throughout the district no poll will be opened for members of Congress, I call upon Union men to open side polls, and preserve the evidence of the wishes of the people, a copy of which may be transmitted to me, at Falls Church, Fairfax county, or to Hon. John W. Forney, Clerk of the House of Representatives, at Washington. CHARLES H. UPTON.

At Alexandria I witnessed the first fruits of the revolution now in progress; the wharves were without shipping, many of the stores were closed, and the streets, excepting a few persons in regimentals, were almost deserted; the silence of the ancient borough, where the immortal Washington once voted and worshipped, was almost oppressive; and it was with a sad heart that I looked upon all this. The leading spirits of this revolution talk about "Lincoln's Government—the North invading the South—a mercenary army menacing Virginia;" but all this is the language of bitter partisans. The North has never yet invaded the South—the foot of no armed soldier of the Union has yet pressed the soil of Virginia, nor has the existing Administration done aught but defend the flag and property of the nation, cut a path to its beleaguered capital, and blockade the ports which refused to pay duties at the custom-houses of the Union. This is what has been done, and this is the whole of it; and for thus performing his sworn duty, the President of the United States has been accused of "invading the South," and Jeff Davis, whose supporters have all the while led the way in aggression, now talks of "accepting" the the war which is made! The siege of Fort Sumter must be blotted from history before the world will "accept" this reversal of truth. Everybody knows where, and by whom, this political saturnalia was begun; the glory and shame of it belongs to South Carolina, whose public men openly avow that they have long sought an opportunity to overthrow the Government established by Washington and Jefferson and their compeers.

The question whether Virginia will join the alliance formed by the Gulf States, for this purpose, is still before the people. The Richmond convention did not dare to take it from them; yet we are told that all are traitors who do not indorse the ordinance of "secession," as it is called, passed by that convention. How is this? Did this convention, among their secret acts, abolish the Virginia bill of rights, the magna charta of Virginia liberty? If not, here is the second clause of that glorious instrument: "*That all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.*" This convention, then, is still amenable to the people, and the sixty-odd thousand Union majority which marked its election may hold it to account. The people have still one opportunity left (God grant that it may not be the last) to redeem their heritage, and restore the imperiled Union. The effort to deprive the people of their deliberate vote by clamor and threats, to put down freedom of speech and the press by denouncing the speedy infliction of the penalties of treason upon all who dare to question the wisdom and authority of the convention, if it succeeds, will make the election of Thursday next a mockery. Union men of Virginia! break the silence you have kept too long; come forth in your full strength, and show the world that Richmond is not all of Virginia; and, if you cannot out-vote the troops which are now quartered upon you and eating out your substance, at least show a moral strength in your numbers which will serve to make those who for a time hold your destinies in their hands, pause before they finally determine that Virginia, now the geographical center of this great nation, shall be banded over to the new-fangled confederacy, to become their outposts, their fence, and shield from danger, that they may sow and reap in safety, while our crops are trampled down and wasted by armies and their camp-followers; that their wives and children may sleep in security at their homes, while ours are scattered and flying from their dwellings.

My political creed, the same which Henry Clay believed, teaches me that my first obedience is due, not to Massachusetts, where I was born—not to Virginia, which holds all my earthly possessions, and where I have lived, with the exception of two brief intervals, for the last twenty-five years—neither to the State of my nativity nor to the State of my adoption, but to the United States of America; and the Government under which we live, instead of a blessing, will be a torment, a perplexity, and a curse to the citizen, until the pestilent heresy of State sovereignty is rooted out of the land. Look at the condition, fellow-citizens, in which we are likely to be placed after the troops have filed and drummed and bayoneted us out of the Union. If we adhere to the flag of our country, we commit treason against the confederate States; if we go over to the confederate States, we commit treason against the United States; and thus the two governments have each a halter ready for our necks. We might as well go hang ourselves at once, and save them both all further trouble about our miserable carcasses. For myself, I shall take on no new allegiance, train after no new banner. That I have lived under I will die under; and in this connection, I say, as Luther did at the Diet of Worms, "God help me—I can do no otherwise." CHARLES H. UPTON.

Mr. HARRISON. Mr. Speaker, time spent in the careful and thorough examination of this case is not, in my judgment, time misspent, for it involves an important principle, and it may have much, certainly something, to do with the restoration of the Union in its pristine integrity, vigor, and glory. I shall occupy the attention of the House only a short time, because I think this is one of those cases which either commends itself to the favor or disfavor of the mind capable of comprehending it, upon the very statement of it. There are some propositions so reasonable and others so absurd that the mere statement either proves or disproves them. I think this is one of them.

The chief objection urged against the right of the sitting member to a seat in this House, as I understand it, is that, in consequence of the disturbed political condition of the congressional district which he claims to represent at the time the election was held, the majority of the voters did not or could not exercise the elective franchise.

Mr. WORCESTER. If my colleague will allow me to interrupt him, I will say that the report is based upon no such view. The report does not find that the sitting member is not elected for the reason that the seventh congressional district of Virginia was in a disturbed condition. It merely expresses a doubt whether the condition was such as to make this election valid; that is all.

Mr. HARRISON. With all deference to my colleague, I understand that one of the chief points made by the Committee of Elections against the right of the sitting member to retain his seat to be this: that, in the seventh congressional district of Virginia, at the time prescribed by the law of the State for the election of members of Congress, last May, the condition of that district was such as to prevent the electors of the district from voting for a member of Congress. But if I have misunderstood the committee in that regard, no member who heard the discussion of this case yesterday has forgotten that that objection was urged, and very ably urged, by the learned gentleman from Rhode Island, [Mr. SHEFFIELD,] and, in my humble judgment, it is the only point of objection which is entitled to much consideration in the investigation of the case.

Now, sir, I repeat that to my mind the only objection against the right of the sitting member to retain his seat in this House which is entitled to serious examination is, that in consequence of the disturbed political condition of the congressional district which he claims to represent, at the time the election was held, a majority of the voters did not or could not exercise the elective franchise.

In order to test the soundness of this objection it is necessary to ascertain the cause of the alleged disturbed condition of the district in question, and to view the true nature of it. I will endeavor to very briefly state what I understand these to have been.

Shortly prior to the election under which the incumbent claims to retain his seat, a treasonable conspiracy against the Government of the United States culminated in open rebellion. Many parties to this conspiracy and rebellion were citizens of the district in which the election now alleged to have been invalid was held. There were, consequently, at that time two classes of citizens in that district—loyal citizens and traitors. It appears from the report of the Committee of Elections which is now under consideration that the latter class was probably the most numerous. A part of the infamous scheme of the conspirators was to prevent, if possible, an election of members of Congress from the district in which this election was held, as well as in other congressional districts where the conspirators supposed there was any hope of successful rebellion.

To that end, in the month of April last, these conspirators, through the instrumentality of fraud and the power of the mob brought to bear upon the State convention assembled in Richmond, succeeded in passing an ordinance, which, among other things, assumed to ordain that there never should be in the State of Virginia another election for members of the Congress of the United States. But, sir, that ordinance, as every member of this House, I trust, will admit, was, when it was adopted, and still is, an absolute nullity. It never had any legal or constitutional operation or force. It is absolutely void. Nothing can be claimed from it to affect the rights of any loyal citizen of the State of Virginia, or of any State in the Union.

Now, sir, the loyal citizens of the seventh congressional district of Virginia were desirous of frustrating that part of the scheme of the conspirators to which I have alluded, by which it was sought to prevent the election of members of Congress from that State. To accomplish that end, it was necessary for those loyal citizens to hold an election for a member of Congress at the time prescribed by the laws of Virginia. I grant that they could not hold an election on any other day, because notwithstanding the ordinance of secession of Virginia, to which I have referred, undertook to abrogate the law prescribing the time and manner of holding elections for members of Congress in that State, that law was nevertheless in full force. Such an election was held. But it is said that all the loyal citizens of the district did not vote, because they dare not from fear of violence.

By whom was this violence threatened? By men who had committed treason against the Government of the United States and were in rebellion against its lawful authority. Neither those who voted at that election nor the member elected by them were parties to the means employed to debar any of the loyal electors from attending the polls. On the contrary, they did all they could do to avoid such duress.

Now, I confess where an election is held, although it may be holden at the time and place, and in the manner prescribed by law, yet if either the successful candidate or his supporters, by means of fraud or violence, prevent the electors of the district from fairly exercising their right to vote, the election is void. But, sir, that is by no means this case. I understand the proposition in dispute to be this: wherever any portion of the loyal electors of a congressional district in good faith hold an election at the time, and substantially in the manner prescribed by the law for the holding of such an election, shall their will be defeated, and the loyal citizens and inhabitants of the district be deprived of representation in Congress, from the fact that traitors in the district did not vote, or because some of the loyal citizens of the district may have been prevented from exercising the elective franchise by the fraud or force of persons in rebellion against the Government.

Now, sir, I take it that no gentleman who has given any attention to the subject will assert that the simple fact that a very small number of the electors in a congressional district may vote on the day appointed for the holding of elections for members of Congress will invalidate an election. If in the seventh congressional district of Ohio, at the election next October, very few of the electors should vote for a member of Congress, all the others refraining, and not being prevented from voting, I suppose no gentleman will claim that the citizen elected by those who actually voted, however small in number, would not be entitled to his seat in this House. But the gentleman who sits before me, [Mr. DAWES,] and who will probably close the argument in this case, may say that that is not the point of objection. He will probably urge that the real point of objection in this case is, that the disturbed condition of the district which the incumbent claims to represent actually debarred many electors who desired to do so from voting at the election.

I confess, Mr. Speaker, that I have been somewhat troubled to arrive at a satisfactory conclu-

sion on that proposition. It is an important question; and, in my judgment, sir, the case that is now before us can be decided without committing the House on that precise legal question. I prefer, therefore, on this occasion, not to discuss that question. I therefore submit, that in order to oust a member of this House from his seat, when chosen under the circumstances under which the sitting member was elected, it should appear to the House that the loyal voters of that district who could not attend the election, or a majority of them, object to his continued occupancy of the seat, in consequence of the fact that they were not allowed to vote. The sitting member was duly admitted to his seat at the opening of the present Congress. The demand now is that he be ousted. In order to justify the House in turning him out of the body, it seems to me that it should satisfactorily be made known to the House that at least a considerable number of the loyal voters of the seventh congressional district of Virginia, who did not vote when he was elected, insist that he shall be ousted in consequence of their inability to vote. Their silence may justly be regarded as an acquiescence in the result of the election and of the action of the House at the special session admitting him to his seat.

Mr. WORCESTER. I would inform the gentleman that we have that very expression from the people of that district. At an election held in the city of Alexandria in the month of October last, the contestant of this seat was elected by fifteen times the number of votes that were cast for the incumbent, or even that he claims were cast for him.

Mr. HARRISON. I am aware, sir, from what has passed during the consideration of this case, that there was a pretended election held last October in this congressional district, but I did not suppose that my learned friend and colleague would claim that that election amounted to anything more than the vote by which the ordinance of secession passed the convention at Richmond.

Mr. DAWES. The gentleman from Ohio will permit me to inform him that that election was held under the same proclamation of Governor Pierpont, and according to the same form, and in every manner just like the one which the gentleman voted for the other day, with only this difference: that, at the one he voted for the other day, only twenty-five votes were cast, while at this, one hundred and thirty-eight votes were cast.

Mr. HARRISON. Although the provisional government of the State of Virginia may have been recognized by this House, and although the other day, acting upon a principle settled by the Supreme Court of the United States in the Rhode Island case, that all departments of the Government were bound to recognize the State and Executive of the State which the President of the United States recognized, I did vote as he has suggested, yet I did not suppose that the chairman of the Committee of Elections [Mr. DAWES] would claim that an election held before the provisional government was created and went into operation, would be in the slightest degree affected.

Mr. DAWES. The gentleman must know that I claim no such thing as that. The gentleman stated that there were no persons in the district who intimated an objection, and it was in response to that statement that I stated to the House that, according to the forms he himself had recognized valid, men had taken objection to the number of fifteen times as many as supported the incumbent.

Mr. HARRISON. I was not sure that I was right, and I am glad that the gentleman from Massachusetts has explicitly stated his position. This party, then, is treated as a contestant. He is claimed to have been elected last fall, and, to some extent, his claim is recognized by the Committee of Elections. It seems to me, in order to justify the House in turning the sitting member out of the body, whatever it might be inclined to do, and whatever might be its duty, if the question were now an original one, it should be satisfactorily made known to the House that the loyal voters of the seventh congressional district of Virginia will not be fairly and faithfully represented by the member who was chosen at the election last May. I do not call in question the loyalty or character of those who voted at the pretended election last October; but I do not know whether they are true loyal citizens of the State of Virginia or not.

Mr. WORCESTER. If my colleague will permit me, I will say to him that we have their certificates to show that they voted for a member of this Congress, if that is any evidence of their loyalty.

Mr. HARRISON. I am glad to be assured that there are more than ten loyal men in the seventh congressional district of Virginia. But, sir, my point is this: that the loyal citizens of the seventh congressional district of Virginia have not presented a memorial to this House asking the House to oust the sitting member from a seat in this Hall.

The gentleman before me [Mr. DAWES] suggests that those who voted last fall have sent a memorial in the shape of the person who claims to have been elected last fall. Well, I have no doubt that that gentleman has made due profert of himself before the committee; but he has not been presented in person to the House, as all memorials are required to be.

Mr. DAWES. Certainly my friend is mistaken there. He has made profert of himself to the House, and has made profert of one hundred and thirty votes in the House here, and the House referred him to the committee, and he is a contestant of this man whose case is now before the House; and the title of the printed paper which the gentleman has before him, and from which he derives his notes, indicates that fact.

Mr. HARRISON. The Committee of Elections, as I understand, have not reported in favor of the claim of that gentleman. They have treated it as being not entitled to the consideration of the House.

Mr. DAWES. Why does my friend make the statement that the committee have treated that claim as not deserving the consideration of the House? Does not the gentleman know that the reason the two reports are not joined together is, that they result from two distinct and independent elections, and cannot be joined together?

Mr. HARRISON. I was not aware why they were not joined together.

Mr. DAWES. I suggest to the gentleman that that is the reason.

Mr. HARRISON. I understand it to be a fact, though not fully advised in regard to it, that the Committee of Elections do not consider that the gentleman who claims to contest the seat of the sitting member has a valid claim.

Mr. DAWES. I submit that my friend is entirely unposted in this matter.

Mr. HARRISON. Perhaps I am.

Mr. DAWES. Then I regret that my friend should undertake to say to the House that which he confesses himself he knows nothing about.

Mr. HARRISON. I made the statement partly because, upon the principle on which the report of the committee in the Segar case was predicated, I did not think they would report to the House that a man who received only the number of votes which my friend says this gentleman received last fall, is entitled to a seat in this House. I supposed they would apply to all future cases the principle which governed them in that case.

Now, sir, the question still recurs, notwithstanding the ingenious method my friend has resorted to in order to dispose of the point, as to whether all presumptions shall not operate in favor of the sitting member retaining his seat. Now, it seems to me that, giving him the benefit of such presumptions, neither the fact that an election was held last October, nor the fact that the sitting member did not receive a majority of the votes of that congressional district at the time of his election, should cause us to oust him from his seat.

A few suggestions, in conclusion, upon the general proposition to which I have alluded in the opening. Suppose that in the seventh congressional district of Virginia, when this election was held last May, there were only ten loyal citizens, and they assembled and in good faith voted for a member of Congress, and all the remaining voters of the district, in consequence of being engaged in a treasonable conspiracy to overthrow the national Government, absented themselves from the polls, I submit that the person chosen by these ten loyal citizens would be the choice of all the citizens of that district entitled, under the Constitution, to elect a member of Congress from that district. Hence, I do not see how this House could refuse to admit a person coming here with such a vote. Probably the gentleman from Massachusetts [Mr. DAWES] in his closing argument may satisfy me upon that point, and if he does, I shall vote in conformity with his report. It must be borne in mind that representation is not founded upon the number of voters in a given congressional district; but the Constitution founds representation upon population.

Mr. WORCESTER. My colleague will allow me to interrupt him once more. I will state to my colleague that the evidence in this case shows that there were seventy-nine Union men who voted on that day at the polls at Ball's Cross Roads.

Mr. HARRISON. I suppose my colleague will not claim that the sixty-nine, because they declined to vote for a member of Congress, would have any right now to object, and to claim the benefit of having failed to discharge their duty by voting for a member of Congress.

Mr. WORCESTER. I would state that the transcript which we have here of the poll-book at Ball's Cross Roads does not purport to be a perfect transcript, and we cannot tell, and there is no evidence before the House or before the committee to show, for whom those seventy-nine men voted, or whether or not they voted at all.

Mr. HARRISON. That is a new fact to me.

Mr. WORCESTER. I presume it is, as I see the gentleman does not understand the whole case yet.

Mr. HARRISON. I repeat that is a new point, and I confess I am not sufficiently familiar with the facts in regard to it, as the committee in their report have not disclosed them, to enable me to discuss it. I read the whole report very carefully last night and tried to understand every fact bearing upon this case; yet I may have failed to clearly comprehend the statements and positions of the committee. But I reassert that the seventy-nine electors who voted at this poll were, according to the law of the State of Virginia, in the discharge of their duty as citizens of the United States and of that State, and ought to have voted for a member of Congress.

Mr. DAWES. The gentleman says he is not fully posted, and therefore he will excuse me if I try to post him a little. The evidence before the committee was that there was an armed band of soldiers, eighteen in number, at that poll, who kept every man within their power from voting; that these ten succeeded clandestinely in slipping in their votes into a side box.

Mr. HARRISON. It seems there were ten courageous Union citizens there, and that although an attempt was made by violence to prevent these loyal men from exercising the greatest privilege of an American citizen—the elective franchise—they had courage enough to do it. I regret exceedingly that the other sixty-nine had not the same courage.

Mr. UPTON. The voting was not clandestine. The law of Virginia requires that the vote shall be *viva voce*.

Mr. DAWES. The gentleman from Virginia will not deny, in the presence of nine members of the committee, that he himself stated before the committee that these ten men watched their opportunity and voted when the soldiers did not know it.

Mr. UPTON. Was that clandestine?

Mr. DELANO. Allow me to read a paragraph from the evidence.

Mr. HARRISON. I have no doubt that if I shall ever see this debate in print, I shall be in the same condition as to my remarks that my venerable friend from Kentucky [Mr. WICKLIFFE] was the other day in reading his speech upon the conduct of the war. They will be so interpolated with the observations of others that I shall hardly be able to recognize them. However, I yield again to the gentleman from Massachusetts.

Mr. DELANO. As to this point, whether there was intimidation enough, I call the attention of the House to a portion of the evidence, which I imagine has not been very generally distributed. I refer to the testimony of Richard Southern, which is as follows:

"*Question.* Were there armed men present belonging to the army of Virginia, endeavoring to prevent the opening of the polls?

"*Answer.* There were armed men, but they did not prevent the opening of the polls. There was one officer came into the room, and looked upon the poll-book and saw your name [Mr. Upton's] upon the margin for member of Congress, and I heard him say that if he could get a sight of Upton 'he be d——d if he should ever take a seat in Congress.'"

Mr. HARRISON. Probably, Mr. Speaker, if

the rebel who uttered that threat had known what would have been the possible fate in this House of the member from the seventh congressional district of Virginia, he would not have been so anxious to prevent him from taking his seat by the infliction of violence upon him.

So far from the manner in which these ten loyal and valorous men succeeded in voting for a true Union man to represent them in the Congress of the United States being any objection to their votes being counted, and their voice being heard with respect, it entitles them to be treated with the utmost consideration and respect. Sir, the constituents of the gentleman from Massachusetts can assemble in their respective precincts, and be fully protected in the exercise of the elective franchise. In Virginia when, according to the law of that State, members of Congress were to be elected last May, whoever chose to undertake to exercise that privilege, had to do it by encountering great risks.

My views of this case require me to give the gentleman from Virginia the benefit of all reasonable presumptions. Giving him the benefit of those presumptions, and as he has been admitted to a seat upon this floor, and as I do not think the gentleman who undertakes to contest his seat, by virtue of an election held several months after that at which the sitting member was elected, is entitled to make such a contest—unless the gentleman who will close this debate shall convince me that I am wrong in the premises upon which I predicate my conclusion—I shall cast my vote, not to admit the gentleman from Virginia, but that he shall retain the seat he already occupies. Not a single congressional district in the United States, in which there are a sufficient number of loyal voters to choose a true Union member of Congress; and who exercise that choice at the time and substantially in the manner prescribed by law, shall, by any vote of mine, go unrepresented in this House.

Mr. LOOMIS. The Speaker, it was not my intention to say a single word upon this case until after the discussion commenced yesterday, and I had seen the Committee of Elections, of which I am an humble member, somewhat roundly abused by several gentlemen. A persistent effort has been made by some gentlemen who have spoken in favor of Mr. Upton, to make it appear that the Committee of Elections occupy the position (toward him) of prosecutors or persecutors. This was the idea introduced by the gentleman from Ohio, [Mr. RIDDLE,] who so unmercifully *riddled* our poor report. [Laughter.] He says that we have conducted the case as we would an action for assault and battery in court, and all sorts of complaints are made of the committee. On the one hand it is said that the committee should have taken the position of dignified and impartial judges, hearing and deciding upon the evidence before them. On the other hand, it is said that they ought never to have occupied such a position, but that they ought to have acted as lawyers in behalf of Mr. Upton, and rendered him assistance in the preparation and presentation of his case. It is complained that the committee found certain facts to have been proved as true, which Mr. Upton had taken great pains to establish before the committee, and omitted to find other facts of which there was not a particle of evidence. In short the committee are blamed for all that is *not proved* in this case, as well as for all that has been proved here. It is impossible to please some of Mr. Upton's friends in this matter.

ENROLLED BILL.

Mr. GRANGER, from the Committee on Enrolled Bills, reported as truly enrolled a bill (H. R. No. 104) fixing the number of the House of Representatives from and after the 3d March, 1863; when the Speaker signed the same.

VIRGINIA CONTESTED ELECTION—AGAIN.

Mr. LOOMIS. As I was about remarking, it has been impossible for the committee to please Mr. Upton's friends in this matter. We are blamed, whatever we do; and blamed for not doing directly contrary and opposite things. We are in the precise condition, as it seems to me, of the sinner as represented by Lorenzo Dow under the doctrine of Calvinism, as he termed it:

"You shall and you shan't, you will and you won't,
"You'll be damned if you do, you'll be damned if you don't."

Mr. DUNN. I call the gentleman to order. He must not attack Calvinism on this floor. [Laughter.]

Mr. LOOMIS. I was only quoting Lorenzo Dow. But, sir, I will not dwell upon these complaints against the committee. Suffice it to say that there is not one word of truth in the assertion that there has been the least unfairness or unkindness on the part of the Committee of Elections towards Mr. Upton.

The gentleman from Ohio [Mr. RIDDLE] adduced one argument yesterday which, if true, puts an end to all inquiry in this case. It is a plea in bar, so to speak. He says that as Mr. Upton was sworn in on the first day of this session as a member, and has taken his seat here, it is too late to make any inquiry into the legality of his election, and it is impossible to unseat him except by a two-thirds vote on a resolution for his expulsion. I had always supposed that the Constitution, in article first and section fifth, gave this House full power to decide, at all times, on the qualifications, election, and return of its own members, and that they have that power after a member has been sworn in as such as well as before. If the doctrine of the gentleman be true, the Committee of Elections will have little to do, for it will be impossible, in any case, to unseat a member here and give the seat to a contestant. The Constitution makes no difference, whether there be a contestant or not.

But perhaps the gentleman meant to put it upon the ground of *res adjudicata*, inasmuch as an objection was made to Mr. Upton and he was afterwards sworn in. That objection was made in this way: a resolution was introduced proposing that the oath should be administered to all who had been enrolled by the Clerk as members, with the exception of five gentlemen named in the resolution, among whom was the name of Mr. Upton. That resolution was laid upon the table, and that was the whole of the action of the House in the matter. How can the gentleman call that a decision on the part of the House of any question concerning the regularity of the election of Mr. Upton? It is absurd. The House merely allowed the gentleman to take the oath as being *prima facie* a duly elected member, and by a resolution subsequently passed the case was referred to the Committee of Elections.

The plea in bar, therefore, being disposed of, let us proceed for a moment to the merits of the cause. The gentleman from New York [Mr. SEDGWICK] insists upon it that Mr. Upton's case is just as strong as that of either of the gentlemen from Virginia who were admitted at the extra session in July last, and that it is precisely analogous with their cases. I cannot agree with him. I claim that they are no more alike than a horse chestnut and a chestnut horse. In the cases of the other gentlemen from Virginia, the law of Virginia was complied with. In Mr. Upton's case it was not. In the former cases the people were not under duress of the rebel authorities, and had an opportunity to vote throughout the districts. In the latter they had no such opportunity.

Mr. SEDGWICK. Did either of the gentlemen, admitted as Representatives from Virginia, have a certificate from the Governor of the State that he was duly elected?

Mr. LOOMIS. I do not know that either had the certificate of the Governor; but the returns were generally made to the sheriff, as required by law.

Mr. SEDGWICK. And by the sheriff to the Governor, or by the sheriff here?

Mr. LOOMIS. The sheriffs' certificates, I suppose, were here. It was so stated.

Mr. SEDGWICK. Are you sure there were any such returns?

Mr. LOOMIS. I am sure that it was so stated. There was no very full investigation of those cases, I admit; but the gentleman cannot deny my position that in the case of those gentlemen the people were allowed to express their choice at the ballot-box; there was not such a condition of things in the districts as prevented it. In those cases the people did generally vote, but in this case they did not. Mr. CARLILE, one of the gentlemen referred to, stated upon this floor that he had received a larger majority of the votes of his district than any man who was ever elected from the State of Virginia. But Mr. Upton, on the other hand, received a smaller number of votes than any man ever received for any office, unless I must except Rev. Marble Nash Taylor, provisional Governor of North Carolina, who received only four votes, as I am told.

The gentleman from Ohio, [Mr. RIDDLE,] after he had disentangled himself from the technicality of his special plea in bar, seemed, for the time, fairly to revel in his new-born freedom, and then he was for cleaving through broad seals and all forms of law, and even whole stacks of statutes, so that he might get at a true expression of the real will of the people.

Well, I am willing to go with the gentleman and inquire what is the will of the people of the seventh congressional district of Virginia. The will of the people is, of course, to be ascertained in some of the forms prescribed by law. What evidence is there that Charles H. Upton, on the 23d of May last, received any vote for Congress? The gentleman from Ohio [Mr. RIDDLE] answered this question in his speech by asking another of the chairman of the Committee of Elections. "What evidence, pray," said he, "is there that he *did not* receive any votes?" And he holds the committee responsible to show in all cases the evidence where there is a want of evidence. Mr. Upton comes here without any proclamation from any Governor certifying that he had the highest or any number of votes, without a certificate from any sheriff or other officer, without even a *statement* from any person that he had the highest, or any number of votes for Representative from that district. The whole case rests on those papers that have been referred to—the papers at Ball's Cross Roads. I will not take up the time of the House by going into the details of these papers.

Mr. DELANO. I would inquire of the gentleman from Connecticut what Governor should, in his judgment, have verified the result of that election by the broad seal of the State?

Mr. LOOMIS. I do not claim that the proclamation of the Governor could have been obtained by Mr. Upton.

Mr. DELANO. Then the argument falls.

Mr. LOOMIS. The argument does not fall; because I will show, before I sit down, that Mr. Upton did not get the best evidence of which his case was susceptible.

Mr. WORCESTER. I ask my colleague whether Governor Pierpont had not been inaugurated before the 4th of July?

Mr. LOOMIS. I believe he had been, but will not be positive on that point. I suppose it was competent for the gentleman to have submitted his papers to Governor Pierpont and received his certificate as soon as he was recognized here as the legal Governor of the State of Virginia. It is not necessary that the Governor who happens to be in office at the time of the election should issue the certificate of election.

Mr. DELANO. I wish to ask the gentleman whether he believes that the sitting member could have obtained the signature of Governor Letcher, then Governor of Virginia.

Mr. LOOMIS. I do not suppose he could have obtained the certificate of Governor Letcher; but he might have obtained that of Governor Pierpont. I do not however claim that this omission is fatal to the claims of Mr. Upton.

Mr. DAWES. Let me ask my colleague if he understands anybody in the House to claim that whether a man is elected to Congress or not depends on the certificate of a Governor.

Mr. DELANO. I do not; and for that reason I did not take the force of the gentleman's argument—the argument that the sitting member had not the certificate of either Governor of Virginia. If there was any force in that argument, then my question would be pertinent.

Mr. LOOMIS. I repeat that I do not consider the omission of the Governor's certificate as fatal to Mr. Upton. All that we have here is what purports to be a simple tally list, not *the* original tally list itself, but a transcript of a part of it only, which somebody made. We know not by whom it was made, and in this all the evidence of the votes for Upton consists of straight marks made opposite the names of ten different voters, under the name at the top of Charles H. Upton, for Congress. There is one mark opposite the name of a voter, under the column headed "George W. Brent," for Congress. That is the whole of it.

Now, the gentleman from Massachusetts [Mr. DELANO] says that Mr. Upton complied with the law just as far as it was possible for him to have

done under the exigencies of the times; and he says that is the true test of the matter. I claim it is not so. He did not, in the case of this election, procure the best evidence within his reach. We have here five officers who were conducting the election—four commissioners and one conductor—and not one of these gentlemen has given a certificate that Mr. Upton received the highest number of votes at that poll, or any number of votes at that poll. Neither has any one of these gentlemen testified to that fact.

What, then, do we have? All that we have is a simple certificate of a man who adds "J. P." to his name, made a month and a half after the election transpired, that he has examined two papers submitted to him; and one, he says, is a transcript from the other. But Mr. Upton, in this pamphlet, which he has got up against the Committee of Elections, says that even that was not a transcript of the whole record. Mr. Upton himself, or his lawyer, puts forth such a statement in this document. Here I am reminded what the claim of the sitting member is. Mr. Upton has caused to be cast at the brain foundery of some lawyer a huge columbiad in the shape of this pamphlet, intended to annihilate utterly the Committee of Elections.

I beg leave to read what he says upon the question whether the poll-book was duly certified. It will be found on p—

"As to there being no evidence that the poll-book was certified by the commissioners; and is there any evidence that it is not so certified? None whatever. That which is furnished the committee does not purport or pretend to be anything whatever but a transcript of the votes cast for the persons who were candidates on the day of election. The oaths of the commissioners and conductor and recorder of the votes, and the certificate of the magistrate, that what is given is a correct transcript *from* the poll book, not that it is a copy of all its contents."

Here, again, we find the extraordinary proposition that where there is no proof that a thing is true, if there is no proof that it is *not* true, it is sufficient evidence that it is true; or, at least, that the committee should have been satisfied with it!

But we were inquiring as to the will of the people of the seventh congressional district of Virginia. The friends of Mr. Upton say that they have submitted to this House the evidence that eleven persons voted, ten votes being cast for Mr. Upton, and one for Mr. Brent. The gentleman from Ohio [Mr. HARRISON] says, "suppose that only ten or eleven voters were loyal." That is not a supposable case here. Is it for a moment to be supposed that, out of ten thousand voters, in the ten counties which compose this district, only eleven loyal voters were to be found? If eleven were all, I must say that it is a pretty small leaven with which "to leaven the whole lump" in that district Did the loyal voters of that district have an opportunity to exercise the elective franchise? Here, it seems to me, that Mr. Upton has changed ground since he appeared before the committee, and since the report of the committee was made. Or if he has not done so, perhaps his lawyer did, in this pamphlet. On page 8, he says:

"On the 23d day of May, 1861, the polls were actually opened in every precinct in the seventh congressional district of Virginia, so that every elector could have deposited his ballot for a Representative in the Thirty-Seventh Congress."

And again, on page 10, he says:

"But in one of the precincts included in the district, as has been stated, namely, that at Ball's Cross Roads, the formalities of the law were complied with. In how many other precincts the election was conducted with all the legal formalities, as well for member of Congress as for State officers, it is now impossible to determine, as directly after the election the officers lost no time in uniting themselves with the rebel horde, and carried with them all the evidence of the election results. The sheriff in this district also fled to the traitor's ranks; but fortunately the return had not been delivered to him. If it had been, the incumbent would have been wholly without record evidence of the election result in any single precinct."

Here is an intimation that there may possibly have been votes cast in other precincts than the one mentioned. Now, if the gentleman concedes that there was voting for a member of Congress in other precincts, I ask by what right has he to presume that all the votes, or a majority of them, were cast for him? Why might there not have been a majority for Mr. Brent, the opposing candidate, in some of the precincts? If this is true, we do not know that Mr. Upton was the choice of a majority of those who did vote. But I am frank to say, that I do not believe there was such voting. If I understood Mr. Upton aright before the committee, he took, I think, a different view. And here I remember that the committee has been severely censured for the inquiry into the condition of the seventh congressional district of Virginia. It is said that we had no business and no commission to make such inquiry. In reply to that I will state that every particle of evidence on this subject which we have submitted to the consideration of the House was submitted to the committee in the first instance by Mr. Upton himself. It is not for him or his friends to find fault with us for reporting evidence on which he relied. And I say here, that that evidence was offered distinctly on this idea on the part of Mr. Upton, to show why he did not obtain, and could not have obtained, more than ten votes. He intended to satisfy the committee that such was the state of things in the district that it was impossible that he should have received any larger number of votes. That was his position then. In Document 26, page 7, we have the very card of Mr. Upton which shows this extraordinary state of things in this district—that the voters could not, in an unbiased manner, express their choice at the polls. Hence he calls upon them not to go and vote in the regular manner; but to open side polls for him. That is all he asks of them to do. It shows that he recognized the political condition the same as the committee has reported. I remember that the gentleman from Ohio [Mr. RIDDLE] denied that there was an armed occupation to prevent voters from depositing their votes.

Mr. RIDDLE. I said that it was a historical fact that none of the so-called confederate soldiers were there. I did say, and repeat, that there were armed parties at the polling places.

Mr. LOOMIS. From the fact that the gentleman used the expression "none of the so-called confederate soldiers," I perhaps misunderstood him. But what is the distinction? What matters it whether those forces had been formally marshaled into the service of the confederate government or were simply armed individuals about each voting precinct, so far as the argument is concerned? In this pamphlet there is an intimation that that feature in the report of the committee which represents that armed men prevented the voting is untrue. But the evidence before the committee fully sustains their report. On page 10 (Document 26) of the printed evidence, there is this paragraph:

"On the day of election many of the precincts were visited and overawed by armed rebel forces, and threats of violence were made against any who should dare to vote for a member of Congress. The following letter from ex-Senator Mason, studiously prepared for the occasion, was also read at several precincts, (and probably throughout the district,) and prevented any from voting."

That is what Mr. Upton himself says. In various other places in this document the same thing will be found, proving that our position is correct. Among the other numerous sins laid at the door of the Committee of Elections, the gentleman from New York [Mr. SEDGWICK] claimed that the committee had recognized secession in their report, if I understood him right. We recognize only the terrible fact which everybody must recognize. We recognize the terrible fact that those traitors to God and man, those armed rebels, have put chains upon the minds and limbs of the loyal men of that district, and have, by duress and by red-handed violence and crime, prevented the free men of that district from exercising the inestimable privilege of the elective franchise. The loyal men having been thus subjected to one tyranny, we do not wish to subject them to another by imposing on them for two years a Representative whom they have never chosen, and whom they could not participate in choosing. It is in vain for gentlemen to say that the report of the Committee of Elections proposes to disfranchise loyal men. It proposes just the reverse. It proposes to enfranchise them, to give the loyal voters a chance to say who shall represent them. It proposes that ten men shall not, in some obscure precinct or some back kitchen, cook up an election which shall override ten thousand voters in ten counties.

Now, one word as to this doctrine of presumed acquiescence. I admit that where there is legal notice and a fair opportunity to vote at any election, all of the voters who do not vote are presumed to acquiesce in the result; but it seems to me that that presumption is sufficiently rebutted by showing a state of things such as prevailed in this district, and which rendered it impossible for the voters generally to attend the polls and vote. There I agree with the authorities cited by the gentleman from Rhode Island, [Mr. SHEFFIELD,] showing that the great principle which lies at the foundation of all elective governments, and is indeed essential to the very idea of elections, is that the electors shall be free in giving their suffrages. But the gentleman from New York, [Mr. SEDGWICK,] claimed that that rule applied only to cases where the member himself or his immediate friends had interfered with this freedom of choice. This cannot be the meaning of the law referred to; for the same authority says in another sentence:

"Freedom of election is violated by external violence by which the electors are constrained."

And what earthly difference, I ask, can it make whether that violence comes from the candidate himself and his friends or from anybody else? The result is the same, to wit: the freedom of choice is overthrown and destroyed.

In this case, many eloquent appeals have been made and sympathies expressed in behalf of Mr. Upton. I fully share in these sympathies and in every sentiment of respect expressed towards him. Yea, I admire that courage and patriotism which he displayed, which induced him to lay all that he had on the altar of his country, and to keep the azure blue of the old flag waving over his homestead while everywhere else in his district the flag—no, the *rag*—of secession and treason was waving triumphantly in the breeze. But we are not to consult our sympathies in deciding who shall be a member of this House. Ever since I run for Congress, I have been laboring under the great delusion that votes were actually necessary to give a member a title to his seat here; but it seems that votes are becoming obsolete things, that they have

"Gone glimmering through the dream of things that were"—"a schoolboy's tale"—and that it requires very few, or none at all, to give a man a title to this great privilege and responsibility. If this case be decided in favor of Mr. Upton, such must be the precedent; and men enough can assemble in any district—ay, men enough can assemble in any hollow tree in any district to confer on a man a right to exercise the high responsibility of giving laws to thirty millions of people. I hope that no such precedent will be established in this case. But most of all do I hope and trust that the advance of our armies will soon sever the links of despotic power in the rebel States, and give the loyal people of each congressional district a fair opportunity to send a loyal man to represent them in this House.

Mr. DAWES. I cannot fail, Mr. Speaker, to take notice that the House is quite tired of this debate, and that it is altogether unnecessary, either for the cause of truth or for any other consideration, for me to weary the House with any further remarks. I, for one, would be disposed to take the vote of the House now, believing that the principles involved in this case, as in some others which have been before the House, have been so fully brought out for the consideration of the House that whatever might be said further on one side or the other, will be comparatively useless. I agree, nevertheless, with my distinguished friend from Ohio, [Mr. HARRISON,] that the principles involved in this case and in kindred cases are of such importance, in connection with the present state of things in this country, that we can hardly discuss them too much, that we can dwell upon them with profit from time to time, because in them lie the germs of reconstruction, reorganization, and reappearance of this Union among the nations of the earth. It is that, and that only, which would justify me or any member of the Committee of Elections in further asking a moment's consideration of this House on this question.

Sir, I am disposed, myself, to try to discuss it, stripped of all technicalities, and to address myself at once to the real facts as they exist in this case. I have striven, at all times, so to do here and elsewhere, and have had the coöperation of those working with me, in trying to bring this case properly before the House.

Now, sir, what are the facts on which this case is founded? What, after all, is the basis on which this incumbent rests his claim to represent the seventh congressional district of Virginia? Allow me, Mr. Speaker, before discussing this, to allude

to one striking feature of this debate, which also exhibited itself in the other debate a few days ago—that is, the persistency with which members feel justified in dwelling on the character and opinions of the incumbent.

Mr. Speaker, it has been our endeavor, in discussing the qualifications and rights of members upon this floor, to make ourselves at least believe, if we do not our peers here, that we judge each one of those cases upon its merits, without regard to the opinions, political or otherwise, of the incumbent or contestant. In strong party times, however much we have striven to come to this conclusion, poor human nature has frequently found itself unable to stand up straight, and clothed in the semblance of justice herself, with eyes blinded to all political opinion, decide upon each of these cases as it arose upon its merits alone. However much we have flattered ourselves that we have been able to do this, I must say that during my experience here I have too frequently been painfully conscious that we have not been entirely able to divest ourselves of those influences. But until the present time, I have never known men make an ostentatious exhibition of the fact that the grounds on which they felt constrained to vote that a man has a right to a seat here were the political opinions he was supposed to entertain.

My learned and distinguished friend from Maine [Mr. FESSENDEN] yesterday in the very fine argument which he addressed to the House, paid a tribute to the private worth and personal esteem of this incumbent, which did honor to his own personal feelings and to his own literary attainments, but he will allow me to say in all kindness, that after having taken on his brow the ermine of justice, while sitting in the character of judge to try this case, he should have omitted to tell us how much he was the personal friend of the party whose rights he was to try.

And so with my friend and colleague [Mr. DELANO] this morning; much as I agree with all he said about the personal character and worth of this incumbent, he will allow me to say that I have struggled against all such influences in making up the judgment I am to render upon this case—with what success it does not become me to say. Yet I account myself no more a judge in this case than every one of my peers upon this floor; but I account it my duty, so far as in me lies, to shut my eyes to the question, whether the incumbent or the contestant for the seat entertains opinions more agreeable and harmonious with those I entertain than a gentleman who sought the seat here a few days since, and who I felt it incumbent upon me to say I did not think was elected.

I said I desired to discuss this question stripped of technicalities, and to look at the naked facts. Now, sir, the naked facts are, I doubt not, that ten men, on the 23d of May, legal voters of the seventh congressional district of Virginia, did deposit their ballots in a ballot-box for this incumbent. I admit that; I believe it to be true. But, Mr. Speaker, the gentlemen who have advocated his claim to his seat upon this ground have all set out with the assertion that his claim rested entirely upon ten legal votes.

I ask what is meant by ten legal votes? Do gentlemen desire to stand upon that proposition, or do they desire, as every one has done, the moment after making the assertion to depart from it, and say the condition of things was such in the district that they could not comply with the law? Which is the proposition gentlemen desire to stand upon?

I propose, as a member of this House, to discuss both propositions. I believe every gentleman who has advocated the claim of the incumbent, with the exception of my friend from Ohio, [Mr. HARRISON,] has started out with the proposition that he has ten legal votes, and then immediately departed from his adherence to that proposition, and undertaken to say that, in the condition of things in that district, a strict compliance with the law was impossible, and that it should not be required of the incumbent.

Now, I understand ten legal votes to mean not only that the votes were cast on the legal day—because if that is not done anybody may be elected—but something more is necessary than that they should have been cast on the legal day to make them legal votes. It is not enough to say that they were legal voters; for, if that is all that is necessary, they could express their opinions in any way or manner whatever, and the forms of law would be of no avail. Legal votes I understand to be votes cast by legal voters in conformity to law; that is, in the form and manner required by law. That I understand to be legal voting.

But I am not going to stop with saying that if this man has not ten legal votes he ought not to retain his seat. I am starting out with the proposition assumed by all who have advocated the claims of the incumbent, that he has ten legal votes, and asking the House to look into the facts. I agree with all parties that it is our duty sometimes to look beyond the question whether a man's vote has been cast in conformity with law or not, but I want first to settle the question whether these ten votes were legal votes or not.

Now, let my friends look into these papers, and they will see that ten men, on the legal day—if I may use the expression—deposited their votes for the incumbent in a ballot-box. I am ready to presume that they were legal voters, and therefore I state the proposition as I admit it, that ten legal voters, on the day by law required, deposited their votes for Mr. Upton in a ballot-box.

Mr. UPTON. The gentleman from Massachusetts has several times repeated, and I did not like to interrupt him, that those votes were deposited in a ballot-box. That is not the method of voting in Virginia. They keep a poll-book, and record the names of the voters.

Mr. DAWES. I stand corrected. I believe that is the law, although the first time the gentleman has informed me of the fact is at this moment. Ten men then, *viva voce*, cast their votes for this man, and so far it is in conformity to law. But yet it is not in conformity to law, for there was no poll opened to begin with, according to law. There was no sworn judge or inspector to receive these votes, and therefore it is precisely the same if the voters rose up in the presence of the Speaker of this House and gave their votes, or if they rose up in the presence of the gentleman from Virginia himself, or anybody else. There was no poll opened for member of Congress, according to the provisions of law; no man sworn to receive votes for member of Congress, according to the provisions of law; it was precisely this, and no more, that ten men, before an irresponsible person, not required by law, not authorized by law, gave their votes *viva voce* for this man. The law of Virginia is just as plain upon this point as any other; it requires that it shall be done before sworn inspectors and judges—sworn to receive votes for member of Congress, in a particular manner, with the oath set out in words in the statute.

That was departed from. Then the law requires that these men who take these votes, being sworn officers, shall certify to them—certify the number and the persons for whom the votes were given.

If you will look to the 19th page of this document, you will see that there is not a particle of evidence that the law was complied with in this respect. These men acting as judges and inspectors of this election took the oath to receive votes for other officers, but not for members of Congress. That is what they say. They did not vote themselves, and they took care, in view of the pains and penalties of treason that hung over them, not to put their necks into such a halter. They did not vote themselves, and they did not certify that anybody else voted. There is no record to be found "under heaven or among men" that a single man cast his vote there. Two of those men have been upon the stand as witnesses, and they have sworn to about everything else that could come into the heads of the contestant or the incumbent, but they have not testified that even a single vote was cast for member of Congress there. Why is it—let me ask in all respect—that members of this House start out and say that ten legal votes were cast for this man, when the papers show conclusively that not one legal vote was cast for him—not a vote?

That, sir, is a fact that nobody controverts the moment he attempts to argue the case. With the exception of my friend from Ohio, [Mr. HARRISON,] there has not been an argument for the claims of the incumbent that has not, the moment it commenced, admitted that the law has not been complied with. Then should we depart from the law? Do we ever depart from the law and give seats to members upon this floor? Certainly we do. Certainly it is our bounden duty on occasions to disregard the fact that forms of law have not been complied with by voters, so that—and this is the essence of it—the voice of the voters of the district may be heard; so that the voice of the voters of the district shall have effect; so that if the electors of the district have striven to give effect to their voices they shall not be thwarted in that purpose by mere shells of forms which do not contain the real substance. Is that the fact here? That is the pertinent inquiry.

Our first duty is to see whether this election conforms to law. Having seen that it does not conform to the law, and no one claims that it does conform to law, our next duty is to inquire into the circumstances of the case, and see whether we can find in those circumstances any arguments which will justify us in putting aside the requirements of the law; and if we do, it is our duty to give effect to such an election. There is no difficulty in finding abstract principles which ought to govern these cases. It is their application in extreme cases that makes the task difficult.

Now, sir, we find in looking into this case that there were but ten men who voted for the incumbent. Not being bound by law, and not having the form of law in their selection, we search for reasons to give effect to the voice of those voters. We look into the nature and circumstances of the election to see whether it is of such a character as will justify us in laying aside the forms of law.

The first question is, whether there were only ten men in the district? Why were there only ten men there? In the candid argument of my friend from Ohio [Mr. HARRISON] he put that legitimate question. What is the reason there were only ten men there? Is there any doubt as to the facts why there were only ten men? There is none. All of the gentlemen who have argued in favor of this vote have volunteered the testimony to show that the district was in the armed occupation of hostile forces. The fact was, gentlemen say, that even the personal safety of the incumbent was put in peril. Gentlemen have said handsome things about the bravery of the incumbent and the bravery of these ten men. I commend as much as my friend from Ohio the bravery of the incumbent and of these ten men. They imperiled their lives, my friend from Ohio says. I admit that.

I want honestly and fairly to address myself to the argument of the gentleman from Ohio. It deserves attention because of its candor. This whole case deserves the closest consideration—certainly whatever a man like myself can give it. The gentleman admits that if these ten men cast their votes on any other day the election would be void and without effect. Why? Because the law of Virginia had fixed that day, as it had fixed the manner of the election. It had as much prescribed the manner as the day. It had as much prescribed the men in whose presence these votes should be cast and the manner of receiving them and the judicial functions they were to exercise as the day. And I ask my friend, in all sincerity, why he is disposed to dispense with one provision of the law and still insist on the other?

My friend says further, that he admits if this man's vote—say there were ten—were, by reason of any fraud or violence on the part of the friends of the incumbent, the only ones that were allowed to be cast, that would destroy the whole transaction, because a man shall not be permitted to take advantage of his own wrong. That is belittling this case. It would simply be in effect that the incumbent was the only party in this case. This whole House and the country are interested in this question. It cannot with any justice be carried down to and behind what is the interest or what is the personal right of this incumbent. The number of his votes is reduced to ten—to the insignificant number of ten. It is true that he shall not take advantage of any fraud or violence committed in the district; it is true that neither he nor any one else should take that advantage. It is that seat which it is our duty to protect against fraud and violence from whatever source it comes. It must be protected by our votes, and not left open to fraud and violence.

Mr. HARRISON. I desire to say, if the gentleman will permit me, that I did not intend to apply the legal principle which I stated simply as operating to the benefit of the sitting member. Probably I indistinctly stated it; but the idea that I meant to put forth was this: that where an election is held, and, by fraud or force, a person is imposed upon those who have the right to elect

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. SATURDAY, MARCH 1, 1862. NEW SERIES.....No. 64.

within that jurisdiction, the election is vitiated; but that in a case like this, where all the loyal voters who can do so vote for a man of their own Union sentiments, the presumption is that the remainder of the loyal voters, if they had been enabled to, would have voted for him, or for some man who entertained the same sentiments. That is my position.

Mr. DAWES. The latter part of my friend's remarks was what he stated in a different connection. The gentleman in his restatement of it states my proposition, which is, that where a man, by fraud or force or from any cause whatever, is imposed upon a constituency—I use the word imposed in no offensive sense—wherever a man, by fraud or violence from any quarter, is imposed upon a constituency, or, in other words, where the number of men who have expressed their voices in the form of ballots is reduced to ten, then comes up the question—and I understand that my friend admits it if that case arises—whether it is not our duty to keep the seat vacant. It is our duty to keep the seat vacant from any such imposition as that. Therefore it is our duty to look into the district and see what was the reason there were so very few votes. Does any one doubt what the reason was? Why did the gentleman from Maine [Mr. FESSENDEN] assert that the incumbent took his life in his hand, and that these ten men took their lives in their hands? Why did the gentleman from Ohio [Mr. RIDDLE] talk about the shaking of the solid earth under their feet as they went up to the polls? What did he mean when he said that armed men stood around the polls and kept Union men from voting? What was all that for, except to show that fraud and violence were used to prevent the Union voters from saying who they wanted to represent them in this seat? It could not have been for any other reason.

Now, my friend will excuse me if I say he laid down propositions here a moment ago, and when they were met by the facts of this case he crept around them by stating that he hoped I would be able to show in the few remarks I might be disposed to make, that there were more than ten loyal voters in that district, saying that he did not know, and that he found difficulties in his own mind—that mind which is a legal one and an acute one, as well as an honest one—in coming to the conclusion which his remarks indicated he was disposed to come to, provided the fact should turn out to be that there were other Union men residing in that district ready to vote. The moment the fact was brought to his attention not only that there were other Union men in that district, but that sixty of them stood around that poll ready to vote, but were prevented by armed force, my friend says he honors the ten more than the sixty. Well, I honor the ten more than I do the sixty. I honor a man's courage anywhere; but that is not the question. The question is, shall the fraud and force which prevented these sixty men from showing whom they were in favor of for member of Congress have force and vitality given to them at our hands in the action which we take this day upon this case? The difficulties which come up to my friend's mind will find enlargement when he comes to look further into this district, and when he sees not only sixty but hundreds of good and loyal men coming up every day as our Army strikes the shackles off these loyal men, to vindicate their wishes and express their voice in reference to their representation here, which, by the armed force on the 23d day of May they were utterly prevented from expressing.

I agree with my friend, that no more important question than this, connected vitally, as it is, with the restoration of this Union, has come before this House. We talk a great deal about the right, the sacred right, of representation. What does it mean? It is not a merely formal question. I want to know what we mean here by preserving the right of representation? Is it merely securing the incumbent a seat, without regard to the wishes of the men he assumes to represent? The right of representation I understand to be the right to express a choice as to who shall occupy that seat; and it is that I desire to guard and protect. It is that I desire to hold out to the returning reason and loyalty of those districts. I do not want them to know and feel that the first man who comes here has been, by our votes, permitted to occupy the seat which they alone have the right to fill by their choice. I desire to cherish and nourish this Union sentiment in all these districts, coming, as it will, in the rear of our armies, though feeble at first. That sentiment is to be nursed by no other process than by holding out to the Union men the assurance that they shall have the first opportunity that our arms can give them, of a free, full, and fair choice of the men to represent their sentiments, their opinions, and their policy upon this floor. That is what I understand by protecting the right of representation in these districts. And I understand that it is strangling the right of representation, that it is mocking the Union voters of every one of these districts, to say to them that the first man who can reach the Hall of the House of Representatives with a hatful of votes shall be planted in the seat which it is their inalienable right, and theirs alone, to fill.

That principle is involved in this case. When secession and rebellion had subverted the constituted authorities of Virginia; when every office-holder in that State had bowed the knee to rebellion; when the pains and penalties of treason were held over every one of them, so that not one of them dared to perform the duties and functions of a loyal officer; when this whole district itself was in utter rebellion, so that the entire expression amounted only to the asserting, *viva voce*, in a side and unobserved manner, by ten men, their choice for a Representative on this floor; if we are to say by our vote here that this seat shall be held for the remainder of this Congress by him who now fills it, we close the avenue to representation of these loyal voters.

Sir, I have heard the argument addressed to this House in behalf of this incumbent, rather than in behalf of the voters of his district, that he has made sacrifices for the cause of the Union; and that he has kept the flag waving over his house while all others were taken down. Permit me to say that, while I honor all those traits and qualities of this incumbent, I have yet to learn that it is by that test that we are to decide whether he is the choice of the voters of that district. I heard it urged a moment ago, right under my own ears, that members should vote for the incumbent because he was poor, because he had suffered losses in the cause of the Union.

Now, sir, so far as my personal relations to this incumbent are concerned, I am happy to believe that in very many respects his political opinions harmonize with mine; but I never for one moment have thought that that should be a consideration with me; least of all, that I should make the ostentatious display of that fact a reason why I should vote for him. I feel that there is bound up in this question all that we can hold out from this Hall, as an inducement to these districts, as one after another they fall in the rear of the onward tread of our armies, to come back here in fellowship with us to discharge each the functions assigned to them by the Constitution and the laws.

Yet it is urged upon us here to disregard all the provisions of law; to disregard all the facts in this case. While this man can find but ten men to express their wishes for him, hundreds of men have exhibited in another way their desire for somebody else, and yet it is urged upon us that we must make haste in this matter, and that we must stop these hundreds of men, during the remainder of this Congress, from any participation in our proceedings here, through their Representative. I simply put it to the House: shall we elect men to represent these several congressional districts? Shall we, if we do not elect ourselves, say to them that the first man that comes here shall have the seat? Or shall we rather say to these men, "as soon as, in the providence of God, the armies of the Union shall deliver you from bondage, you shall have the opportunity of expressing your choice, and of sending your Representatives here to speak for you."

These are considerations which weigh upon my mind. They may not be deserving of weight in the minds of others; but, for me, I cannot justify myself in studying out methods to stifle representation. I have sought, in the experience I have had in matters of contested elections, to give effect to the voice and the choice of the people.

Some doctrines have been announced in this discussion which, if I thought they could obtain here, I should think it incumbent upon me to strive to answer. The gentleman from Ohio [Mr. RIDDLE] yesterday announced this doctrine:

"The effect of the administration of the oath upon this gentleman was to make him conclusively and *bona fide* as much a member of this House as any gentleman who occupies a seat in it, and, in my judgment, he can only be got rid of by the same means as other members can be excluded, by expulsion."

Mr. SHEFFIELD. I wish to ask the gentleman from Massachusetts whether there was any evidence before the committee that no polls were opened in any other precincts in this district?

Mr. DAWES. There was no such evidence before the committee. There was no evidence but what other polls were opened and other parties voted for, and another person chosen, for aught we know.

Mr. NOELL. With the permission of the gentleman from Massachusetts, I desire to put a question to him. I would ask the gentleman what power in this country is required by the Constitution of the United States to suppress rebellion and to preserve to the people of the several congressional districts the privilege of exercising the elective franchise? Is it not the Federal Government? And if so, then, upon what principle, if the Federal Government fails or is unable to protect the whole people in the exercise of this privilege, can this Congress, a department of the Government, refuse those who do exercise that privilege a Representative upon this floor, because the Government fails or is unable to extend the same protection to the rest of the loyal citizens of the district?

Mr. DAWES. It is the duty of the Federal Government to insure to each one of these districts, as it is to each State at large, a republican form of government and representation.

Mr. NOELL. And to suppress rebellion.

Mr. DAWES. And to suppress rebellion. It is their duty to drive the rebels out of the district as fast as they can. It is not their duty to drive them out any faster than they can. [Laughter.] It is their duty to drive them out just as fast as they can, and the moment they are driven out of the district, the district will have an opportunity to elect a Representative.

Mr. NOELL. The gentleman does not seem to catch the point of my interrogatory. It is this: if the Government fails or is unable, for the time being, to protect the loyal citizens of the whole district from the effects of this rebellion, then upon what principle can we, as one of the departments of the Government, refuse the loyal men who do exercise this privilege the right of representation here because the rest of the loyal men have not had the opportunity?

Mr. DAWES. I suppose my friend does not mean that because armed rebellion succeeds for a time in preventing men from exercising a choice, therefore we should prevent them from doing so for the rest of the congressional term by filling up the place. I suppose he does not mean that. We have got to do the best we can. We are not called upon to do more than that; and our first duty is to give these men a free and unrestricted exercise of the elective franchise. That is the duty incumbent upon the Government, and it is no means to that end to fill the seat so as to prevent them from doing it when we shall have succeeded in relieving them by the suppression of the rebellion.

But, Mr. Speaker, I was going to apologize to the gentleman from Ohio, [Mr. RIDDLE,] who has disappeared, for not attempting to argue the proposition which I have read to the House, that the

mere fact that this man was admitted to the seat and took the oath of office made him conclusively the owner in fee-simple of that seat, and that we could not exclude him except by expulsion. If I had any idea that any member of the House, except the distinguished gentleman from Ohio, had made that discovery or maintained that doctrine, I should attempt to refute it. It would very much embarrass the Committee of Elections, because in every contested case one man is outside the House and the other man inside, and if the man *inside* has an indefeasible right, the man outside is, of course, if I may use the expression, "a goner." [Laughter.] If that is the rule which is to prevail in such cases, it is time that the committee understood it from the House, and I pray a vote of the House on some resolution of the gentleman from Ohio expressive of that doctrine.

The beautiful, delicate, chaste figure of speech with which the gentleman closed his remarks of yesterday touching the report of the committee of course I have nothing to do with. I shall not disturb him in it. We are sometimes accused of using far-fetched figures of speech; but it is due to the gentleman from Ohio to say that that criticism will not apply to him, for he seemed perfectly at home with this figure of speech to which he seemed to have clung with a great deal of relish and delight. And with that, I will pass over the gentleman's remarks, if he will pardon me.

Now, Mr. Speaker, stripped of all technicalities, the facts of the case are, that ten men, on the legal day, did cast their votes for the incumbent, but not according to law, and that force and violence prevented anybody else in the district from exercising the elective franchise. This man, then, cannot claim to have been elected according to law; but he claims that we shall give effect to the voice of the people. And how does he propose to do it? He proposes to stifle the voice of the people. He claims that we shall not speak under the forms of law, but rise above them, and protect the sacred right of representation. And how does he propose that we shall do it? By enacting here by our votes that there shall be no representation. Sir, I cannot think that this House will make a precedent here, in the face of the fifty or more districts unrepresented in this House, that the first man who reaches here from an unrepresented district with a subscription paper in his pocket can take his seat and close the door against all comers. If so, I think we had better stop talking about encouraging the Union sentiment in these districts.

Sir, like my colleague, [Mr. DELANO,] I, as one of the Representatives from Massachusetts, have no hope that we shall ever see this Union again as it was before, unless I see Representatives coming here under the sanctions of law, and baptized in the assurance of the choice of the free electors of their districts. If any other member of this House desires to give men seats upon this floor by any other title than that, I cannot vote with him. I vote to sustain this report of the Committee of Elections, because, in so doing, I vote a declaration here to the people of this district, and of all others, that whenever the fetters fall from their hands, they shall have a right to choose the men who shall occupy seats here as their Representatives. I now move the previous question.

Mr. BINGHAM. I hope the gentleman will not insist on that. I should like to address the House about thirty minutes.

Mr. DAWES. I would be very glad to withdraw it, but the argument in this case has been very much extended. I waited to see if any other gentleman desired the floor before I took it. I have submitted these remarks, and I must insist on the previous question, according to my agreement with the gentleman from Ohio, [Mr. WORCESTER,] who has charge of the case.

The previous question was seconded, and the main question ordered.

The question was first taken on Mr. RIDDLE's amendment to the resolution reported from the Committee of Elections, to strike out the word "not," so that it would read that Mr. Upton is entitled to his seat.

Mr. RIDDLE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 50, nays 73; as follows:

YEAS—Messrs. Aldrich, Arnold, Joseph Baily, Bingham, Francis P. Blair, Jacob B. Blair, William G. Brown, Campbell, Colfax, Cravens, Crittenden, Cutler, Davis, Delano, Duell, Fessenden, Fisher, Frank, Goodwin, Granger, Grider, Haight, Hanchett, Harrison, Hooper, Horton, Francis W. Kellogg, Knapp, Lehman, Mallory, Maynard, Noell, Potter, Price, Alexander H. Rice, John H. Rice, Richardson, Riddle, Sedgwick, Sloan, Smith, Stratton, Train, Charles W. Walton, Ward, Whaley, Albert S. White, Wickliffe, Windom, and Wright—50.

NAYS—Messrs. Alley, Ancona, Ashley, Baker, Baxter, Beaman, Biddle, Samuel S. Blair, Blake, George H. Browne, Buffinton, Chamberlin, Clements, Frederick A. Conkling, Cox, Crisfield, Dawes, Delaplaine, Dunlap, Dunn, Edgerton, Edwards, Eliot, Ely, English, Gurley, Hale, Harding, Holman, Hutchins, Johnson, Kelley, Lansing, Leary, Loomis, Lovejoy, McKnight, McPherson, May, Menzies, Mitchell, Moorhead, Justin S. Morrill, Nugen, Olin, Patton, Pendleton, Perry, Pike, Pomeroy, Porter, Robinson, Sargent, Sheffield, Shellabarger, Shiel, John B. Steele, William G. Steele, Stevens, Benjamin F. Thomas, Francis Thomas, Trowbridge, Van Valkenburgh, Verree, Vibbard, Wallace, E. P. Walton, Washburne, Webster, Wilson, Wood, Woodruff, and Worcester—73.

So the amendment was rejected.

During the vote,

Mr. KELLEY stated that Mr. HICKMAN was detained from the House by sickness.

Mr. KELLOGG, of Illinois, (not being within the bar when his name was called,) asked leave to vote.

Mr. STEVENS objected.

The question recurred on the resolution reported by the Committee of Elections, as follows:

Resolved, That Charles H. Upton is not entitled to a seat in this House as a Representative of the seventh congressional district of Virginia.

The question was taken; and the resolution was adopted.

Mr. DAWES moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, one of their clerks, informed the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses upon the bill entitled "An act making appropriations for sundry civil expenses of the Government for the year ending 30th June, 1863, and additional appropriations for the year ending 30th June, 1862."

HOMESTEAD BILL.

The SPEAKER announced the business next in order to be the consideration of the homestead bill as a special order, on which the gentleman from Indiana [Mr. HOLMAN] was entitled to the floor.

Mr. HOLMAN. I move to postpone the consideration of that subject till to-morrow.

Mr. BLAIR, of Missouri. There is a special order fixed for to-morrow.

Mr. HOLMAN. That makes no difference.

The motion was agreed to.

PENNSYLVANIA CONTESTED ELECTION.

Mr. DAWES, from the Committee of Elections, reported the following resolutions; which were ordered to be printed:

Resolved, That John Kline is not entitled to a seat in this House as a Representative in the Thirty-Seventh Congress from the third congressional district in Pennsylvania.

Resolved, That John P. Verree is entitled to the seat now occupied by him as a Representative in the Thirty-Seventh Congress from the third congressional district in Pennsylvania.

INVESTIGATIONS AT ST. LOUIS.

Mr. WASHBURNE, from the special committee on Government contracts, reported the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be directed to communicate to this House the report and correspondence of the commission at St. Louis, consisting of David Davis, Joseph Holt, and Hugh Campbell, and the report and correspondence of the attorney of said commission.

Mr. WASHBURNE moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

INDIAN AGENT'S REPORTS.

Mr. POTTER offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Interior be requested to transmit to this House copies of the reports made to the said Department between May 1, 1861, and August of the same year, by Augustus Watts, Esq., special Indian agent to visit the Sacs and Foxes, the Kansas, Chippewa, Ottawa, Delaware, and Osage tribes of Indians; also the correspondence on file in the Indian bureau between the Department and Mr. George M. Day, in regard to the Indian superintendencies.

And then, on motion of Mr. BLAIR, of Virginia, (at half past four o'clock, p. m.,) the House adjourned.

IN SENATE.

FRIDAY, *February* 28, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. TEN EYCK presented the petition of W. N. Wood, praying relief for Olivin Spencer Wood, late temporary naval storekeeper at St. Paul de Loando; which was referred to the Committee on Naval Affairs.

Mr. HOWARD presented the petition of R. Shelden and others, citizens of Michigan, praying that a military road be established from the copper region of Lake Superior to connect with the nearest railway station at Appleton, Wisconsin; which was referred to the Committee on Military Affairs and the Militia.

Mr. SUMNER presented a petition of citizens of Addison, New York, in which they set forth that by the act of the slave power in rebelling we have all of us been released from every obligation to tolerate any longer its existence among us, and praying for the adoption of such measures by Congress as will insure emancipation; which was ordered to lie on the table.

Mr. CHANDLER presented the petition of Eugene E. T. Smith, praying for an increase of pension; which was referred to the Committee on Pensions.

He also presented a memorial of citizens of Michigan, praying for the establishment of a Government naval depot at the most suitable point on the Saginaw river; which was referred to the Committee on Naval Affairs.

Mr. RICE presented a petition of G. F. Perry & Co., M. W. Galt & Brother, Joseph T. K. Plant & Co., E. M. Linthicum & Co., John L. Kidwell, and others, citizens of the District of Columbia, praying that the banks of the District may be authorized to issue small notes; which was referred to the Committee on the District of Columbia.

Mr. FESSENDEN presented the petition of Charles Henry Foster, praying for the passage of a law enabling the electors of the second congressional district of North Carolina to choose a Representative of the second district to the House of Representatives of the United States, under the authority conferred upon Congress in article one, section four, of the Constitution; which was referred to the Committee on the Judiciary.

He also presented the petition of Marble Nash Taylor, praying for the passage of a law enabling the electors of the second congressional district of North Carolina to choose a Representative to the House of Representatives of the United States; which was referred to the Committee on the Judiciary.

Mr. McDOUGALL presented resolutions of the Legislature of California, in favor of a semi-monthly mail, by sea, from San Francisco to Crescent City, in that State; which were referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

Mr. GRIMES presented resolutions of the Legislature of Iowa, in favor of an order that the Iowa third and seventh regiments of infantry be authorized to bear upon their respective colors the words "Blue Mills" and "Belmont," in letters of gold, that they may bear a similar badge of honor with the Iowa first regiment; which were referred to the Committee on Military Affairs and the Militia.

REPORTS FROM COMMITTEES.

Mr. FOSTER, from the Committee on Pensions, to whom were referred the petition of Isaac Vanderpoel and the bill (S. No. 127) for the relief of Isaac Vanderpoel, asked to be discharged from their further consideration, and that they be referred to the Committee on Claims; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 214) prohibiting the allowance of certain claims for pensions, reported it without amendment.

Mr. SUMNER. The Committee on Foreign Relations, to whom was referred the message of the President of the United States, transmitting a copy of the special treaty between the United States and his Majesty the King of Hanover, for the abolition of the Stadt dues, have had the same under consideration, and directed me to report a bill to carry into effect the stipulations of the treaty. I present a letter from the Secretary of State, addressed to our minister at Berlin, relating to this question, a copy of which has been transmitted to the committee by the Department of State, which I am directed to report to the Senate, with the request that it be printed for the use of the Senate.

The bill (S. No. 215) to carry into effect the stipulations of the treaty with Hanover for the abolition of the Stadt dues, was read, and passed to a second reading; and the letter of the Secretary of State was ordered to be printed.

SLAVERY IN THE DISTRICT.

Mr. CLARK. I ask the indulgence of the Senate to allow me to introduce a bill of which notice has not been given, for the sake of having it printed merely. It is a bill which I intend to offer as a substitute for the bill reported by the Committee on the District of Columbia for the abolition of slavery. I desire to say that I offer it, not intending to obstruct, or in any way defeat the bill of the committee, but simply to present a bill which will better accomplish the object, and to aid them in the undertaking.

There being no objection, leave was granted to introduce the bill (S. No. 216) to abolish slavery in the District of Columbia; and it was read twice by its title, and ordered to be printed.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the Speaker of the House of Representatives had signed an enrolled bill (H. R. No. 154) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1863, and additional appropriations for the year ending the 30th of June, 1862; which thereupon received the signature of the Vice President.

LOYALTY OF MR. STARK.

Mr. STARK. I submit the following resolution:

Resolved, That the papers relating to the loyalty of BENJAMIN STARK, a Senator from Oregon, be withdrawn from the files of the Senate, and referred to the Judiciary Committee, with instructions to investigate the charges preferred against said STARK on all evidence which has been or may be presented, and with power to send for persons and papers.

Mr. HALE. Let it lie over.

Mr. STARK. I shall detain the Senate for but a single moment. I prefer that the resolution should not lie over unless the Senator from New Hampshire has some particular reason for desiring that it should. If he proposes to discuss it, I shall not urge it now.

Mr. HALE. I am opposed to the passage of it. I do not want it passed.

The VICE PRESIDENT. If it be objected to, the matter is not open for discussion at this time.

Mr. STARK. I refer it entirely to the courtesy of the Senate.

Mr. HALE. I withdraw my objection, if the Senator prefers to have it considered now.

The VICE PRESIDENT. The objection being withdrawn, the resolution is before the Senate, and the question is on agreeing to it.

Mr. STARK. I do not propose to detain the Senate by any discussion on the resolution at all; but I desire to state that I offer it myself because I would spare any friend of mine what might be an ungracious office, and I certainly would not permit one who was opposed to me to place himself in such a false position as he might be supposed to be put in by presenting the resolution; and I am anxious, if there is any Senator who proposes to be the prosecutor of the charges implied in those papers, that every opportunity may be afforded to him. I protest, however, that in presenting it myself, I am not to be considered as volunteering to be the prosecutor of myself.

I avail myself also of this opportunity to say, moreover, that relying upon my own consciousness of loyalty and fidelity to the country, and yielding to no man in devotion to the Constitution and the Union, and in reverence and veneration for the flag of my country, I have heretofore refrained from entering into the question which was contained in those papers, preferring to stand, as the Senator from New York [Mr. HARRIS] recognized, upon what I conceive to be my personal honor and the rights of my State. I have in my resolution given the direction to those papers which I prefer they should take, and if any one chooses to prosecute the measure any further, I shall be only too happy to meet it.

Mr. HALE. I was far from putting myself in the situation of prosecutor in this case, on any ground, personal or political. I think the Senator from Oregon has proof himself that I have no desire to persecute or prosecute him. I have acted thus far, upon my convictions of public duty. I look upon the question as settled——

Mr. STARK. The Senator from New Hampshire will permit me to say that I stated that I presented the resolution myself, not only to spare my friends an ungracious office, but also to relieve any one who might be opposed to me from what would appear to be a prosecution.

Mr. HALE. I look upon the question as substantially and fully settled by the vote of the Senate yesterday. I mean on the evidence then before us; and I shall vote for the Senator to retain his seat, whatever the Committee on the Judiciary may report. It will make no odds to me what they report, unless some new case shall be made out against the Senator; and as I do not understand the Senator to submit anything but what has already been considered by the committee and by the Senate, I am opposed to any further proceedings upon it, and shall vote against the resolution.

Mr. HOWARD. I did not happen to be in my seat at the time the gentleman from Oregon presented these papers, and therefore I ask that the Secretary may read the resolution which he has presented.

The Secretary read the resolution.

Mr. HOWARD. I would put an inquiry to the gentleman from Oregon: whether he proposes to take any active steps in this behalf himself. I consider a *prima facie* case made out against him upon the papers, and I desire to know whether he contemplates making an effort to rebut the presumption created by these papers; whether that is his purpose.

Mr. CLARK. I voted yesterday for the amendment of the Senator from Massachusetts [Mr. SUMNER] with a view to an examination. I conceived then that it might be due to the Senator from Oregon that he should have an opportunity to make a further statement to the Senate. If he desires it now, I certainly shall vote for his resolution; and I hope he may have an opportunity, and that such an investigation may be made as he or any of his friends or anybody else may desire. I hope the resolution will be passed.

Mr. SUMNER. I cannot express too strong a regret at the vote of the Senate yesterday. I regret it for the Senate itself. I regret it for the principle that was then established. But it is now proposed that we should endeavor to remedy—I put it in that way—what we did yesterday. The Senator from New Hampshire [Mr. HALE] thinks that the action yesterday was final. I fear that it may be so regarded. But even if not so regarded, any further proceeding will, I fear, be little more than a continuation of the comedy which has been already begun.

There are papers upon your table which at this moment are uncontradicted. If they are not set aside as absolutely false, then the present Senator from Oregon, yesterday a claimant for a seat on this floor, is a disloyal man. I say, sir, if those papers remain uncontradicted this is the absolute, irresistible conclusion. I do not say that the Senator is a disloyal man; I say that on those papers uncontradicted he is a disloyal man; and I do not wonder, therefore, that the Senator should seek an opportunity of removing that grave imputation. I am not astonished that other Senators who have aided him in entering into this Chamber should seek, perhaps, also to remove from themselves the responsibility of the act which has been done. If Senators, therefore, are disposed to continue this inquiry, I say let it proceed. Perhaps it is due to the Senator, perhaps it is due to the Senate itself; but if it proceeds, I know not that any person here can be called prosecutor. I know not that in any of these proceedings any person can be so regarded. The proceeding is for the sake of the Senate; it is to save its honor, its character, and to give security to those high trusts which, under the Constitution, the Senate has to perform. I think, therefore, as the proposition is made, though after the vote of yesterday I never should have brought it forward, the Senate ought to proceed with it.

Mr. FESSENDEN. Mr. President, I do not like the language of the Senator from Massachusetts. He made some half dozen harangues to the Senate upon this case which failed to convince a majority that he was right; and although he undertook to say that the Senate would stultify itself by not following his lead and acting according to his views, I do not feel that I have stultified myself because I have had the misfortune to differ from him. And now, sir, what does he mean by saying that he does not wonder that Senators who have done this deed wish to relieve themselves of the responsibility? Sir, is not my responsibility as great as his? I am one of them. What right has he to assume to lecture me and my friend from Vermont, [Mr. COLLAMER,] and the majority of the Senate, for the decision they have made? Is his standing so lofty that he has a right to lecture Senators for what they do under the responsibilities of their oath, and their position before the country? Sir, I am as ready to defend my action, if it needs defense, as he is to defend his, and I can do it, I trust, to as much effect. No one, I believe, in this country doubts that I act upon conscientious principles any more than himself or any less than himself. I do not like this style, sir. I am responsible for what I do; and when I exhibit any fear of the consequences of my own actions here, or any disposition to shake off the views which I have expressed or the votes which I have given, it will be time enough for that eminent Senator to stand up and say that he does not wonder that Senators older than himself—not older here, perhaps, but older in years and having had some experience—desire to relieve themselves of the responsibility. Sir, I feel no responsibility in this matter, except what I feel in all cases. I acted upon my own individual opinions. Are they not entitled to as much respect as his? What right, then, has he to say before the country that he does not wonder that Senators seek to relieve themselves of responsibility? It will be time enough for him to say that when they ask his aid to escape from the responsibilities of their action, but it will be long, I trust, before I ask it.

Mr. HARRIS. I commend the course of the new Senator from Oregon in offering this proposition. I honor him for it. After what has been said in the course of the debate upon the question whether he should be admitted or not, it was becoming in him to tender to the Senate the fullest opportunity to investigate the charges against him. He will be honored for it; he deserves to be.

But, sir, I should prefer myself not to have this resolution adopted; certainly I should prefer that it should not go to the Committee on the Judiciary. The Senate cannot be unaware of the fact that, so far as I am concerned, an humble member of that committee, my own opinion is formed, and notwithstanding all that has been said, though the Senator from Michigan [Mr. HOWARD,] said there were fifty-one witnesses against this Senator, I assert upon my responsibility as a member of the Senate, that there are not more than four witnesses whose testimony would be received in any judicial tribunal; and what is the effect of their testimony? In my judgment it furnishes merely the evidence that this Senator, like a great many other citizens of the United States, of your State, sir, and mine, were, during the last political campaign, that class of politicians known as Breckinridge Democrats, engaged in a system of political filibustering. He was undoubtedly one of that class; and it was continued until the ignominious attack upon our flag at Fort Sumter; and then that sort of filibustering was extinguished, at least in my section of the country; and we have heard nothing from him since that. I will not say, however, that we have not seen something of that kind in this Senate upon this question.

Now, sir, with those views, regarding all the evidence in the case as only amounting to this, and as no evidence of disloyalty or treason, I do not think I am a fit person to serve upon a committee to investigate this matter. The Senate know that my judgment is formed, that there is not sufficient evidence upon which this Senator can be con-

victed of disloyalty. While I am very willing that Senators should have an opportunity to extend this prosecution or investigation as far as they choose, I hope I shall be relieved from further duty in respect to it.

Mr. McDOUGALL. I can see no good object or purpose to be subserved in having this question further before the Senate at this session. The Senator holds under an appointment from the Governor of Oregon. The Legislature of the State of Oregon meets in September next, I believe. The affidavits brought to bear on this subject have been before the committee; they have been discussed here; and no further inquiry can be instituted that will amount to anything without sending to the State of Oregon. There is no probability of any effort being made to bring such testimony, certainly not to bring witnesses here. I can see no purpose in talking about a further investigation, and I am of the opinion that this whole matter might as well be disposed of at once. I am altogether satisfied with the fact that the Senator from Oregon has chosen to bring this matter up, placing himself at least in the right position; but as a Senator, I do not choose to be troubled with it any further, particularly as it can lead to no good results. I move, therefore, to lay the whole subject-matter upon the table.

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

Mr. HOWE. Mr. President, as the yeas and nays are called for upon this motion to lay upon upon the table——

Mr. TRUMBULL. Is the motion debatable?

The VICE PRESIDENT. The motion is not debatable.

The question being taken, resulted—yeas 7, nays 32; as follows:

YEAS—Messrs. Carlile, Hale, McDougall, Nesmith, Pearce, Powell, and Saulsbury—7.

NAYS—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Cowan, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Harlan, Harris, Henderson, Howard, Howe, Johnson, King, Lane of Indiana, Latham, Morrill, Pomeroy, Rice, Sherman, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Willey, and Wilson of Massachusetts—32.

So the Senate refused to lay the resolution upon the table.

Mr. DIXON. So far, sir, from having been influenced in the vote which I have given on this subject, if I may allude to it, or in any remarks I have made, by any personal feeling against the Senator from Oregon, I may say that my feeling has been of quite a contrary character. I suppose, however, it is not necessary for me to disclaim any personal feeling on this subject. I said in the outset of the discussion that, so far as I was in any way influenced in that respect, it was in favor of that Senator. Certainly his bearing has been such as to prepossess us all; and there was another reason why I could have no personal feeling against him, and that was that he is a native of the State which I represent; I should have been glad for that reason to be able to record a vote in favor of his loyalty.

Mr. FOSTER. My colleague will permit me to say that he is mistaken as regards the nativity of the Senator. He lived a long time in our State; but he is not a native of it.

Mr. DIXON. I was informed by the Senator himself, as I understood him, that he was a native of Connecticut. I may have misunderstood him. He certainly informed me that he had resided in that State, and perhaps I inferred that he was born there.

Let it be remembered that the testimony which was presented by the Committee on the Judiciary was uncontradicted. It represented that the Senator from Oregon had declared that "the southern confederacy was the only legal government; that the Government of the United States was broken up; that Jefferson Davis was fighting in a good cause, and it would be impossible to defeat him." That testimony, as the Senator from Massachusetts has said, was uncontradicted. No denial of its material correctness was offered by the Senator. As the record stands, therefore, the opinions alleged to have been announced by him were his acknowledged uncontradicted opinions.

Now, I desire to say that it seems to me that the vote which has been given by the Senate on this subject is a disastrous vote. I bring no charges against any Senator. The Senate have taken the ground, as I believe, and I think this ought to be announced to the country, that any person, whether sustaining the rebellion or himself participating in it, may be admitted here; and that even Jefferson Davis, or Robert Toombs, or any other of those Senators who left us one year ago, may be returned to the Senate and occupy a seat here, and that this cannot be prevented by a vote of a majority of this body.

Every Senator, with one exception, upon this side of the Chamber has placed his vote on that direct ground. The Senator from Ohio [Mr. SHERMAN] said that he believed the Senator from Oregon was disloyal, but could not be reached at this time by a majority vote—that expulsion by a two-thirds vote was the only remedy. The Senator from Illinois who sits furthest from me [Mr. BROWNING] took the same ground. The Senator from Wisconsin, [Mr. HOWE,] in his able speech, took the ground that we had no jurisdiction of this question at this time. Every Senator except the Senator from Maine [Mr. FESSENDEN] took the position that the Senate could not now act upon the question. The Senator from New York, [Mr. HARRIS,] in his able speech, assumed and defended that position. It was argued by all these Senators, that, no matter what were the opinions of the claimant, no matter what the amount of disloyalty which might be charged and proved against him, he could not be prevented from taking his seat at this stage of the proceedings, but must be reached by a two-thirds vote on a resolution of expulsion. The resolution to admit the Senator from Oregon was carried by the votes of Senators who declared that opinion, for the Senator from Maine was the only Senator who voted for the resolution who said that was not his belief, and without these votes the resolution could not have been carried. Now, if the doctrine sustained by the vote of the Senate is correct, I desire to ask what is to prevent twenty-one Senators—I think there were at any rate that number of Senators who left this Chamber one year ago, insulting the people and the Senate of the United States with their open, avowed declaration of treason—what is to prevent their walking in to-day, with new credentials, and taking their seats as Senators of the United States, and then, uttering again their insolent defiance, saying to us, "you cannot prevent our entrance, and when we have entered you have not the power, you have not the numbers, to expel us. It cannot be prevented if this vote is to be a precedent. That, I think, is the position we now occupy, and therefore I take the occasion also, with the Senator from Massachusetts, to express my regret that the Senate have come to this conclusion.

I impute no motives, I bring no charges; but without saying a single word upon the question of fact as to the loyalty or disloyalty of the Senator from Oregon, I do say that the vote which has been recorded upon the question of his admission, with the reasons rendered in its support, in my judgment, is one of the most disastrous votes that has been given since I have been a member of this body.

Mr. BROWNING. Mr. President, but for the remarks of the Senator from Massachusetts and the Senator from Connecticut, I certainly should not have ventured a word upon this occasion. The Senator from Massachusetts expressed a great deal of concern on account of the great responsibility that the Senators who have voted to admit the Senator from Oregon to take his seat upon the floor yesterday, have incurred. It will be time enough for him to come to my relief from any responsibility which I have incurred by that vote, or which I shall incur by any other vote, when I ask his services. I am as willing as that Senator to meet the responsibility of that vote and every other vote that I give, as willing as he can be, and I reflect now with as much satisfaction upon the vote I gave yesterday as upon any vote I have ever given in this Chamber, and I have no fear that the hour will ever come when I shall have one single regret for my course in this case. I do not think it is becoming in him to expend so much of his sympathy for the benefit of his brother Senators, who occupy as independent a position upon this floor, I apprehend, as he does; who are as much at liberty to form their opinions for themselves, and control their actions for themselves, as he is; and who are responsible to those who sent them here, and not to him. I do not think it very becoming that he should undertake to lecture us for the sentiments we have uttered, or the vote we have given, and deplore our miserable condition before the nation.

The Senator from Connecticut undertakes to state the ground upon which I based my action yesterday. I prefer always to state the grounds for myself. In doing so, he attributes to me the expression of an opinion of the disloyalty of the Senator from Oregon.

Mr. DIXON. I beg pardon. I did not intend to refer to the Senator from Illinois. In making that statement, I referred to the Senator from Ohio.

Mr. BROWNING. I of course accept the explanation; but I desire to say in connection with it, that I expressed no opinion whatever either of the loyalty or disloyalty of the Senator from Oregon, because, in my judgment, it was a question not before us, and it was not proper to be discussed, and not proper to be acted upon. The ground upon which I based my action was simply this—and I understood it to be the ground on which all those who voted as I did based their action—that, under the Constitution of the United States, any person who is thirty years of age, who has been nine years a citizen of the United States, and who at the time of his election is a resident of the State for which he is elected, and who has been elected or appointed, and has accepted the appointment, is a Senator of the United States, in advance even of taking the oath of office. That was the position I assumed yesterday, and, so far as I know, no one controverted it. I heard no Senator express his dissent from the position, that when a person is duly elected a Senator of the United States, if he possesses the qualifications of thirty years of age, of having been nine years a citizen of the United States, and of being a citizen of the State for which he was elected, and has accepted the office, he is then a Senator of the United States.

Mr. TRUMBULL. I presume the Senator did not hear me, of course. I did deny that he was a Senator, and I think there were nineteen other Senators on this side of the Chamber who denied it.

Mr. BROWNING. It may be that my colleague did, but I have heard no one——

Mr. TRUMBULL. I considered him no more a Senator to be expelled, and at the time when I was asked the question if you could expel a man before he was here, I illustrated it by saying that you could no more do it than you could pour water from a bottle before any was put in.

Mr. BROWNING. Will my colleague permit me to ask him if a person thus situated holds any official character, and if he does, what that official character is? I hear no response.

Mr. TRUMBULL. Does the Senator wish me to reply?

Mr. BROWNING. I do, sir.

Mr. TRUMBULL. He certainly holds no office. For some purposes he may have a sort of *quasi* official character, but not as a Senator to be expelled. I think, under the Constitution, after he is elected, he is so much a Senator that he cannot be arrested for a debt on his way to the capital. There are certain sorts of privileges, perhaps, connected with it; but we settled, if we settled anything, the other day in the case of the Senator from Kansas, that he was not a Senator until he qualified and was admitted to his seat; and that his being a brigadier general, after he had been elected to the Senate, and giving up the office before he qualified as a Senator, did not interfere with his right to be a Senator. I know many Senators on that occasion placed their votes on that ground. I do not know that my colleague did; he may have had other reasons. But it has been settled repeatedly in the other House that a person elected to the House may hold any office under the United States after his election and up to the time of his qualification, and it is no interference with that provision of the Constitution which declares that a member of Congress shall not hold any other office of honor, profit, or trust under the Government. He may hold that office up to the very moment that he qualifies as a member, and his holding it after he has been elected has never been held to disqualify him, but right the reverse, over and over again.

Mr. BROWNING. In the case of the Senator from Kansas, the only question that I understood to be at all material was, not whether he was a Senator of the United States—for that was con-

ceded by everybody—but whether, after he became a Senator of the United States he had or had not accepted another office incompatible with it. That was the question in regard to the Senator from Kansas. There was not a single point of resemblance between his case and the one under consideration now.

Furthermore, my colleague states that an election by a State Legislature of a person who is thirty years of age, who has been nine years a citizen of the United States, and who is at the time a citizen of the State for which he is elected, does not constitute him a Senator of the United States. Now, sir, I should like to know what does make a Senator of the United States? The Constitution says:

"The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof for six years."

What makes a Senator? Does the Senate elect him? According to the theory of my colleague, I apprehend no man can be a Senator, whatever a State Legislature or a State Governor may do, or whatever his qualifications may be, without his nomination by a State Legislature or a Governor, (for it is a mere nomination on that theory,) being ratified and confirmed by this Senate. Or is it the administration of the oath that constitutes him a Senator? The Constitution says he shall become a Senator by the election of the Legislature or the appointment of the Governor. My colleague says he shall not be a Senator by an election of the Legislature, notwithstanding he possesses the qualifications, but that he must be reëlected by the Senate to clothe him with that character, and have the oath administered to him before he takes upon himself the character of Senator. I know he must have the oath administered before he enters on the discharge of the functions of a Senator, but he is a Senator in the meaning of the Constitution, and in the meaning of the clause of the Constitution which provides for expulsion; he is as much a Senator, if he possesses the qualifications, and is elected, and has accepted, before he takes the oath as he is afterwards.

Now, sir, the ground upon which I based my action yesterday, and which I think was the basis of the action of all those who voted as I did, was this: that by what had been done independent of us and over which we had no control and could assume no control, the gentleman from Oregon was a Senator of the United States; and then, how can a Senator of the United States be deprived of his seat upon this floor? How can you expel him? If you had denied the Senator from Oregon his seat by a majority vote, it would have been the expulsion of a member of this body by a majority vote, and would therefore have been in direct conflict with, a violation of, the Constitution. That is the reason why I opposed it, because when a person has become a member of the Senate, he can be ejected from this body only by a two-thirds vote. I took no exception to the time at which this inquiry was set on foot; I admitted distinctly that it was competent for us to enter upon the inquiry before the oath was administered to the Senator, and he had been admitted upon the floor. I did not doubt the power; but I did doubt the expediency and justice of trying a man upon so serious a charge and denying to him the privilege of defense, and I therefore thought it was proper that the oath should be administered, and the Senator admitted upon the floor, and the opportunity of defense afforded to him, before we tried him and condemned or acquitted him upon the charges that were preferred against him. The constitutional provision is that "each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member." Now, sir, I regard it as an attempt——

The VICE PRESIDENT. It becomes the duty of the Chair at this hour to call up the unfinished business of yesterday.

Mr. SUMNER. Let us finish this.

Mr. WILSON, of Massachusetts. I think this is pretty well finished now; we have been bored enough with it.

Mr. BROWNING. I will just say that I am in favor of this resolution.

Several SENATORS. Let it be passed.

Mr. WILSON, of Massachusetts. If Senators are ready to vote, very well; we have had a pretty severe infliction in these speeches.

The VICE PRESIDENT. By the unanimous consent of the Senate the Chair will suspend the special order.

Mr. TRUMBULL. I call for the special order. There will be more speaking on this matter.

The VICE PRESIDENT. The special order is before the Senate.

Mr. FESSENDEN. I move to postpone the special order.

The VICE PRESIDENT. The Senator from Illinois is entitled to the floor on the special order.

Mr. TRUMBULL. No, sir; I do not want to make a speech. I only wish to call up the bill; there are others who will probably speak.

Mr. SUMNER. Before the question on the motion of the Senator from Oregon passes away to-day, I think I may claim the indulgence of the Senate, as I have been alluded to somewhat personally by——

The VICE PRESIDENT. That question is not now before the Senate; it has passed away.

Mr. SUMNER. Then I ask the indulgence of the Senate for three minutes for a personal explanation. ["No objection."]

The VICE PRESIDENT. The Chair hears no objection. The Senator will proceed.

Mr. SUMNER. The Senator from Illinois over the way, [Mr. BROWNING,] who last spoke, has criticised what I said to-day, and the Senator from Maine near me, [Mr. FESSENDEN,] who spoke first, preceded him in a similar criticism. That two such Senators, personal friends, should think anything that fell from me worthy of criticism would lead me to suppose that I have erred. The Senator from Illinois is cautious and grave, and yet he felt it his duty to complain that I had made something in the nature of an injurious imputation upon him. Sir, nothing could be further from my thought. The Senator suggested that if he had occasion for assistance or sympathy from me, he would call for it—I think something of that kind. Sir, I have known that Senator too well during the brief period that he has been upon this floor, not to know that he is ample able, on all occasions, in every debate, to take care of himself; nor does he need aid or sympathy from any one so humble as myself. I have never had the presumption to offer it. I think the Senator, in making the suggestion that he did, has done me injustice, and attributed to me something that never entered into my mind.

But, sir, I am not astonished that the Senator from Illinois made the suggestion, for he followed the lead of the Senator from Maine, whom we all know to be prompt in debate, speaking on the spur of the moment, always with effect, with directness, with point—may I not add, sometimes with fervor, with passion, not always perfectly restrained by the relations which he bears to other members of this body? Sir, I intend nothing injurious to that Senator in the suggestion which I now make. My relations with him on this floor and elsewhere have been too intimate, my confidence in him too great, and my admiration too complete, to allow me to make any suggestion that he could justly interpret into anything of unkindness.

But the Senate listened to what fell from his lips. Was it perfectly kind in substance, perfectly kind in tone, perfectly kind in manner? I doubt if it were. I think if the Senator had been less prompt, he would have been more cautious in what he uttered; and I think that he would not have let fall anything, or imparted any tone to what he said, which any friend of his on this floor could for a moment suppose to be in the nature of a personal affront. I do the Senator that justice.

And now, sir, what are the facts? I stated that this Senate, by its vote of yesterday, had assumed a grave responsibility. The Senator from Connecticut [Mr. DIXON] has properly characterized that vote as disastrous. I agree with him. The language is not too strong. Had it occurred to me, I would have adopted it when I spoke first. Believing the vote to be disastrous, surely it cannot be improper for me to add, without intending any personal imputation upon any member of this body, that I was not astonished that Senators responsible for this vote sought to relieve themselves of the responsibility? In making this remark I criticise the action of the Senate. I criticise no individual. Surely I make no personal imputation.

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

Mr. SUMNER. Certainly.

Mr. FESSENDEN. What evidence has he seen that any man who voted with the majority has sought to relieve himself of the responsibility of that vote? The Senator says he does not wonder that Senators who voted with the majority seek to relieve themselves of it. What evidence of that has he seen?

Mr. SUMNER. I answer the Senator. I understood that certain Senators who voted with the majority were anxious that an inquiry should take place through the Judiciary Committee.

Mr. FESSENDEN. What evidence has there been of that? Nobody of the majority has asked for it.

Mr. SUMNER. I have heard it so stated.

Mr. FESSENDEN. So stated outside?

Mr. SUMNER. So stated on this floor—so stated in debate yesterday.

Mr. FESSENDEN. I think the Senator is mistaken. No such statement was made by anybody here.

Mr. SUMNER. Then I am entirely mistaken.

Mr. BROWNING. Will the Senator allow me a word?

Mr. SUMNER. Certainly.

Mr. BROWNING. I am in favor of a further investigation of this matter; but I am not in favor of it with any view to relieve myself from any responsibility.

Mr. SUMNER. Very well; I accept the statement of the Senator; and yet I must fall back upon my own original statement, that it does not astonish me that Senators who have taken the responsibility of opening this door, as I believe, to disloyalty, should be anxious to relieve themselves of the responsibility of such an act. There are the papers on the table, which, if uncontradicted, will——

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

Mr. SUMNER. Certainly.

Mr. HARRIS. Does he know of any Senator who is thus anxious to relieve himself from any responsibility; and if he does not, why does he make the imputation?

Mr. SUMNER. I have understood that Senators were desirous that there should be an inquiry before the Judiciary Committee. If this is not the fact, then I am entirely mistaken.

Mr. BROWNING. Does not the Senator also understand that, while they are in favor of an inquiry, they disclaim any motive to shield themselves from any responsibility?

Mr. SUMNER. I understand that they now do.

Mr. BROWNING. I take pride in remembering how I voted yesterday, and there is no vote I have given that I reflect upon with more satisfaction; and I should have regarded it as the most disastrous vote that has been given in this body since I have had the honor of being a member of it, if the party with whom the Senator acted had prevailed.

Mr. SUMNER. Very well; then the Senator and myself differ; and I come back to my original position, that the Senate took a great responsibility by its vote yesterday, which must be a precedent of infinite importance in the history of the country.

Mr. STARK. Will the Senator permit me to ask him if he means to be understood as saying that I am a disloyal man?

Mr. SUMNER. The Senator asks me if he is to understand me as saying that he is a disloyal man. I have said in the course of the discussion, more than once, that I regarded the whole question of the loyalty of the Senator as still in issue; but that on the testimony before the Senate uncontradicted, I did regard him as a disloyal man.

Mr. STARK. That is certainly not a direct answer to my question. My question is, whether the Senator from Massachusetts desires to be understood as declaring that I am a disloyal man, of his own knowledge, or from any information that he may have.

Mr. SUMNER. The Senator is new in the body, and perhaps does not know that he is asking a question which is not pertinent. I have nothing to go by except the testimony. I have nothing of the Senator's life or declarations outside of the testimony. All that testimony may be false; I hope, for the sake of the Senator, that it is; but on that testimony I say that he is a disloyal man.

Mr. STARK. Taking the reply of the Senator from Massachusetts, which is not as direct as I expected he would be willing to make, after having just said that a majority of the Senate had opened the doors of the Senate to disloyalty, I intended to ask him, if he did not mean to be understood as declaring that I was a disloyal man, how had the doors of the Senate been opened to disloyalty?

Mr. SUMNER. When I said the Senate had opened its doors to disloyalty, I referred to all the consequences of that vote. Jefferson Davis, Robert Toombs, Judah P. Benjamin, and all in their train, may enter now through the same door that has been opened to admit the Senator from Oregon.

Mr. STARK. That is a matter of argument.

Mr. SUMNER. The Senator will please not to interrupt me; I have answered his question precisely on the papers. And now I have taken too much time; more than I intended. My sole purpose was to relieve myself from the injurious suggestion made by the Senator from Maine, and also—more carefully and kindly—by the Senator from Illinois. I certainly intended nothing which could justify either of them in any such suggestion as they made. They have misconceived the motive with which I spoke, and the spirit of my few words.

Mr. FESSENDEN. I hope the Senate will excuse me for talking; I wish to settle this matter so far as I am concerned. The Senator from Massachusetts now says the same thing over again. I do not think that he does it with any evil intent, or that he perceives the force of his language; but the amount of what he says now is simply this: that perceiving that certain Senators recommend a further investigation, he infers that the motive is that they may rid themselves of the responsibility of their vote. That is all there is of it. No Senator had intimated any such motive, and there was no real ground, except the suspicions of the Senator, to impute any such motive to any one; because the truth is that the explanation is that they think the matter ought to be investigated in another shape. The Senator has supposed a motive, and on the supposed motive he has made the remarks he has, which might be calculated to do injury to Senators, if not answered, before the country. I confess that the imputation of such a motive to me, as connected with my vote—I did not know what it arose from at all, but of such an idea in my own mind of any desire to shun, in the slightest possible way, the responsibility of any vote I give—offended me, for the reason that I really believe Senators present know me well enough to be aware that I never shrink from the responsibility of anything I do. I am not disposed to shrink from any proper responsibility that belongs to me; nor do I desire to explain or avoid it, unless I think I have done something wrong. I therefore felt offended; I thought the imputation was improper, and especially improper as coming from a long-known and cherished friend to me; and I felt indignant, and I may have expressed myself with heat, and in a manner that was offensive. I am very sorry that was so; because, after all, there can, in my belief, be nothing between the Senator from Massachusetts and myself but kindness. If I do feel sensibly from anybody an imputation upon my personal motives in making remarks here of any kind, it belongs to me; and if I feel it more when it comes from a personal friend than from anybody else, that also belongs to me. I cannot help it.

Mr. WILSON, of Massachusetts. Mr. President——

Mr. DOOLITTLE. If the Senator will permit me, I appeal to him to let us dispose of this question; do not let us spend another day upon it. We can come to a vote now in five minutes.

Mr. WILSON, of Massachusetts. If Senators are ready to vote, I am willing to agree to it. If not, not.

Mr. TRUMBULL. We have tried that before.

Mr. HALE. I call for the special order.

The VICE PRESIDENT. The special order now before the Senate is Senate bill No. 151; but if it be the unanimous consent of the body to take the question upon the resolution submitted by the Senator from Oregon, the Chair will submit that question.

Mr. HALE. Let us have the special order.

ORDER OF BUSINESS.

The VICE PRESIDENT. The Senator from New Hampshire is understood to insist on the special order. It is, therefore, before the Senate.

Mr. TRUMBULL obtained the floor.

Mr. DOOLITTLE. I move to postpone the special order, and let us dispose of this question.

The VICE PRESIDENT. The Senator from Illinois is entitled to the floor on the special order, and no Senator can intervene.

Mr. TRUMBULL. I took the floor in order to proceed with the bill. I do not design, myself, addressing the Senate upon it at this time. I wish to proceed with the bill; and while I am now on my feet, I will say to the Senator from Wisconsin that this other question cannot be disposed of without debate. There are Senators here who intend to discuss it. It was called up in the morning hour, and I want to know if this important bill, as I regard it, is to be crowded out of the way every day? I have made it a special order, and this Oregon case has crowded it out for two days already, and here it comes up again on a resolution. Is the Senator from Wisconsin going to crowd it over another day to discuss this resolution of reference merely? I do hope we may be permitted to proceed with the special order. I have no objection to the Senator from Massachusetts [Mr. WILSON] presenting a bill, or anything of that sort, that takes no time.

Mr. FESSENDEN. I move to postpone the special order with a view to take up House bill No. 208, being the legislative appropriation bill. I will state to the Senate that I do so because I am pressed in different quarters to have this bill passed as soon as possible. There are clerks in the Department who have pay due to them, and are really suffering for the want of their money, and who cannot be paid until this bill passes. It is also the desire of many members of the House of Representatives that it be passed, because it involves a matter in relation to the payment of their mileage, which the Senate has already received, but which they cannot receive until this bill has passed. I think it will not take long, there are no disputed points about it, and I hope it may be passed this morning; and therefore I make the motion.

Mr. WILSON, of Massachusetts. The morning hour has been consumed in debate—a repetition of old speeches; and I have a resolution that I desire to submit, and also a bill that I wished to introduce this morning, but had not an opportunity to do so.

Mr. FESSENDEN. If the Senator will allow the vote to be taken on my motion, and the bill is taken up, I will then give way for that purpose.

Mr. TRUMBULL. I am sorry that the Senator from Maine has made that motion. I hope he will not persist in it; and I hope the Senate will adhere to the bill which has been made a special order, and upon which certainly a number of us have been struggling to get action for a month. It is a very important bill, and I trust it will not be displaced by a bill making appropriations for the next fiscal year for one branch of the public service. For that, of course, there need be no haste, because the fiscal year does not begin until the 1st of July next. The Senator from Maine gives as a reason why that bill should be passed, that some clerks have not been paid for whom that bill makes provision. Now, will it make much difference whether they are paid this week or the next? Perhaps it will to them individually. He also urges that the mileage of the members of the other House is involved. Well, sir, is that so very important that it must be passed now, when it will delay a great measure which is urgently called for? If we are to pass any bill by which the property of the men who have made war upon this Government is to be taken possession of, that it may be made to contribute towards paying the expenses of the war which they have inaugurated, it should be done speedily, for their property, by the knowing ones, is being spirited away and being conveyed for the purpose of preventing its being reached. I have tried to make this bill a special order time and again, and after having succeeded, I have been compelled to give way to appropriation bills, several of which have been passed. We all know that whenever the Senator from Maine has brought in an appropriation bill he has carried it through. I again express the hope that the Senator will not persist in his motion to take up that bill to-day. Let it go over until next week. We can probably dispose of the bill I desire to call up this week. If he persists in his motion, I shall be compelled to call for the yeas and nays upon it. If I am not then sustained by the Senate, I must acquiesce in its decision.

Mr. FESSENDEN. I will only say I have no desire to antagonize any appropriation bill against any bill whatever that the gentleman may desire to take up—not the slightest in the world. To me, personally, it is a matter of perfect indifference whether this bill is taken up to-day, next week, the week after, or at any other time. I have no wish about it; but pressed as I am in different quarters for an appropriation of money which is already due, I feel it my duty to bring it before the Senate. The responsibility then will be on the Senate, and not on me.

The VICE PRESIDENT. On the motion of postponement the Senator from Illinois asks for the yeas and nays.

The yeas and nays were ordered.

Mr. SHERMAN. I shall vote against the motion of the Senator from Maine. I do it with reluctance, as I know he is very much pressed, occupying a very important position; but I do not think there is any pressing necessity for the passage of this bill except that the House, by ingrafting on it a deficiency bill in an unusual way, have probably made that necessity. I think for the first time, the House have ingrafted on the appropriation bill for the next fiscal year appropriations for the present fiscal year. It is a new custom, and should be broken up, and I think has been to some extent broken up by the course pursued by the chairman of the Finance Committee on the Army appropriation bill. I think the House ought to be compelled to send us bills separating the appropriations for each fiscal year; and as they have not done that in this case, I do not feel disposed myself to be hurried into acting upon this very important bill, which will take a good deal of time, merely by a practice which they themselves have inaugurated, and which I think ought to be corrected.

Mr. FESSENDEN. I cannot expect to get along very well with the appropriation bills if the members of my own committee are opposed to my action in relation to them. If we are to be divided, and I am to meet the Senator from Ohio on the floor of the Senate in reference to them, I must take the consequences in regard to doing the business of the committee.

Mr. SHERMAN. I gave the Senator notice that I did not agree to the motion.

Mr. FESSENDEN. I know he did; but, after all, I supposed he left it to my judgment. I can only say, with regard to the Army bill, it was not particularly with reference to that view of the case that we took a different course. It was that, under existing circumstances, the uncertainty of things with reference to the war, we deemed it better to take that course in regard to that bill. We shall probably take the same course with regard to the Navy bill, and pass the deficiency bill first. I do not think that the same reason applies at all to the legislative bill. The greater part of the deficiency arises merely from the fact that we have, at this session, increased the number of clerks in the Departments very largely—I think very nearly a hundred. These clerks have been appointed, and no provision has been made for their payment. They have been some time at work, and need this money, and they ought to be paid. That is the reason for it. My own judgment is, that the Senate would do better to take up this bill and dispose of it to-day; that the sense of justice to the public creditors, and also to the House of Representatives, requires it. But, sir, I am in the hands of the Senate. If they decide otherwise, I shall submit to their decision with perfect satisfaction. I have no wish about it.

Mr. DAVIS. There was a substitute offered to the bill which the Senator from Illinois proposes to take up. I think that substitute is one of importance, and deserves consideration. It was ordered to be printed yesterday, and has not yet been laid on our tables.

Mr. TRUMBULL. It is on the tables now.

Mr. DAVIS. I was informed it had not been when I inquired about it.

The PRESIDING OFFICER. The question is on postponing the special order for the purpose of taking up the bill indicated by the Senator from

Maine, on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. FOOT. Before the vote is announced, I rise to submit a question of order for the decision of the Chair. It will be remembered that the amended rule of the Senate requires a two-thirds vote to make a special assignment. I inquire of the Chair whether, when the Senate shall come to take up that special order, a majority can postpone it; or whether it will require the same vote to postpone the special order that is required to make it a special assignment?

The VICE PRESIDENT. The attention of the Chair has been called to that matter. Unregulated by a special rule of the Senate, the ruling of the Chair would be that it would take precisely the same vote to postpone that it would to establish the special order; but by a rule of the Senate the Chair has come to the conclusion that after the special order has come before the Senate, and is within its control, it is subject to a majority vote.

The result was then announced—yeas 24, nays 20; as follows:

YEAS—Messrs. Anthony, Carlile, Collamer, Cowan, Davis, Doolittle, Fessenden, Foot, Foster, Hale, Henderson, Howe, Johnson, Kennedy, Latham, McDougall, Nesmith, Pearce, Rice, Saulsbury, Stark, Thomson, Willey, and Wilson of Missouri—24.

NAYS—Messrs. Browning, Chandler, Clark, Dixon, Grimes, Harlan, Harris, Howard, King, Lane of Indiana, Pomeroy, Powell, Sherman, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Wilmot, and Wilson of Massachusetts—20.

So the motion was agreed to.

CONTRABAND NEGROES IN SOUTH CAROLINA.

Mr. WILSON, of Massachusetts. I ask the Senator from Maine to allow me to introduce a resolution.

Mr. FESSENDEN. Certainly.

Mr. WILSON, of Massachusetts. I offer the following resolution, and ask for its present consideration:

Resolved, That the Secretary of the Treasury be directed to communicate to the Senate the report made by Edward L. Pierce, agent to Port Royal, and such other information as may be in the possession of the Department relating to the condition and wants of the people of color in the district of South Carolina held by the military forces of the United States.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FOSTER. I have no objection at all to this resolution; but a resolution of like character, that is, calling upon the Secretary to inform the Senate whether, in his opinion, any legislation was necessary upon this subject, which would ask for this very information, passed the Senate a month ago, to which no answer has been received.

Mr. WILSON, of Massachusetts. I will state that Mr. Pierce, the agent sent by the Treasury Department to South Carolina, who has been there for several weeks, has made a very careful and elaborate report, full of information on this subject. This resolution is to bring that report, for our information, before the Senate; and I understand that the Department is ready to send it to give us that information. I assure Senators that the report will give us a great deal of information in regard to the condition and wants of those people.

Mr. HARRIS. I should like to suggest to the Senator from Massachusetts an addition to that resolution, asking the Secretary of the Treasury to inform the Senate what measures have been taken to occupy the cotton lands that have come into the possession of the Government.

Mr. WILSON, of Massachusetts. If the Senator moves that as an amendment, I accept it certainly; or it might come in as a separate proposition.

The VICE PRESIDENT. The Senator from New York proposes to amend the resolution by adding at the end thereof the following words:

And also what measures have been taken for the occupation of the lands which have come into the possession of the military forces in that State.

Mr. WILSON, of Massachusetts. I accept the amendment.

The VICE PRESIDENT. Then the question is on agreeing to the resolution as modified.

The resolution, as modified, was agreed to.

BILLS INTRODUCED.

Mr. WILSON, of Massachusetts, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 217) to encourage enlistments in the regular Army of the United States and for other purposes; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. McDOUGALL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 218) providing for a steam coast mail between San Francisco and Crescent City, in California, with service at intermediate ports; which was read twice by its title, and referred to the Committee on the Post Office and Post Roads.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ETHERIDGE, its Clerk, announced that the House of Representatives had agreed to the amendment of the Senate to the bill of the House (No. 104) fixing the number of the House of Representatives from and after the 3d of March, 1863.

The message further announced that the House had passed a bill (No. 302) to provide for the appointment of additional clerks in the office of the Assistant Treasurer at New York, and for other purposes; in which the concurrence of the Senate was requested.

PERSONAL EXPLANATION.

Mr. WADE. Before proceeding with the appropriation bill, I rise to explain a paragraph that I discover in a paper, which carries an implication with it involving other persons, and which is entirely wrong. I wish to explain it now if the Senate will permit me.

The PRESIDING OFFICER, (Mr. RICE in the chair.) The Senator can make an explanation, if there is no objection. The Chair hears none.

Mr. WADE. I allude to a paragraph in the New York Tribune of yesterday, I will read the objectionable part of it. It says:

"FRAUD IN LEGISLATION DISCOVERED.—The border-State policy got fetched up yesterday with a very round turn in the House, and inquiries are pending in both branches of Congress which will elucidate it still further, and expose, if it is too late to remedy, a fraud in legislation without a parallel in recent years. Three weeks ago a bill was rapidly ground through both Houses by which the President was authorized to take military possession of the railroads and telegraphs of the country. There was some objection to a grant of such extraordinary power, but it was given. It has, however, been discovered that the bill, as passed, contains these words: 'And to extend, repair, and complete the same'—meaning railroads. These words do not appear in the bill as printed, and, as is believed, were interlined in it on its way from the Senate to the House. However this may be, the clause, unnoticed by legislators and repealed almost unanimously by the House, has been acted upon to the great advantage of Kentucky."

Now, Mr. President, I introduced that bill into the Senate. It is very true that the original draft of the bill did not contain the words that are complained of here; but I moved them here in the open Senate as an amendment. I explained very briefly what my object was—to give the executive government full and entire power over these roads during the war, and for war purposes; to repair them, and to extend them, and to complete those that were commenced, if it was necessary; not doubting that they would exercise this power with discretion. I do not doubt that they have. I have no reason to believe that they have at all, in any particular, abused the power granted in that bill; but the idea that anybody interpolated these words in the bill after it had passed the Senate, is to cast an implication upon some of our clerks that is entirely groundless and wrong.

If anybody is to blame for it I am to blame; for I moved to insert these words, in my place, in the ordinary way, as the Globe will show; and I supposed it was perfectly understood by the Senate. I did intend to confer upon the executive government all the power that they wished during this rebellion to crush it. I intended to give them this great and extraordinary and unusual power. I do not believe they have abused it. If they have, that is another thing.

Mr. GRIMES. You are mistaken in saying that you explained it. You did not explain it to the Senate.

Mr. WADE. The gentleman says I did not explain it. I moved it in the Senate in the usual way, and showed how the bill would read with the amendment. That is all I claim about it. I do not think I made a speech on the amendment; I do not remember that I did; but I moved it in the usual way in amending a bill. I believe the Senator does not intend to say that I did not move it.

Mr. GRIMES. The Senator stated that he explained it to the Senate. That he did not do. There was no explanation made. It passed as a matter of course.

Mr. WADE. I do not know that I explained it any further than to say how the bill would read as amended. It was perfectly evident to everybody who paid attention to it that I was putting very extraordinary powers into the bill; and I stated that in the Senate.

Mr. GRIMES. I merely wished to correct the Senator on that point. I was unwilling that it should go out to the country that I would have voted for any such proposition as that, if I had known the purpose of it. The trouble is not so much with that amendment as with a subsequent amendment in the last section, in which in the fourth line, after the word "act," these words are inserted: "so far as it relates to the operating and running of said railroads;" so that the section will read:

"That the provisions of this act, so far as it relates to the operating and running of said railroads, shall not be in force longer than is necessary for the suppression of the rebellion."

But leaving any road that may be commenced by the War Department under the provisions of this act, or any proceedings that may be instituted toward the construction of a road to remain in full force and effect and not stopping that, although it stops operating other roads and the telegraph.

Mr. WADE. I do not recollect whether I moved that amendment.

Mr. GRIMES. Yes, sir; you did.

Mr. WADE. I do not remember about that. I only rose to say that I moved this amendment in question. The Senator does not suppose there is anything wrong about that.

Mr. GRIMES. No, sir; I have looked at the Journal to-day.

Mr. WADE. That is all I wish to say. There is nobody to blame but myself in regard to that.

CLERKS IN ASSISTANT TREASURER'S OFFICE.

Mr. SHERMAN. Before any action is taken on the legislative appropriation bill, I will ask the consent of the Senate to take up a bill, the immediate passage of which is desired and is important. It is a House bill which has just come here.

There being no objection, the bill (H. R. No. 302) to provide for the appointment of additional clerks in the office of the Assistant Treasurer at New York, and for other purposes, was read twice by its title.

Mr. SHERMAN. I desire to have it put on its passage now, and I will explain the reasons for it.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Assistant Treasurer of the United States at New York to appoint, from time to time, with the consent and approbation of the Secretary of the Treasury, such other clerks, messengers, and watchmen, in addition to those already employed by him, as the exigencies of the public business may require, at rates of compensstion to be fixed by the Secretary of the Treasury; but such rates in no case are to exceed those now allowed by law to the persons similarly employed in his office. It further authorizes the Assistant Treasurer at New York, with the approbation of the Secretary of the Treasury, to appoint a competent person from among his clerks, to be called the deputy assistant treasurer of the United States. The deputy assistant treasurer, in addition to the duties performed by him, and any other which he may be required to perform by the Assistant Treasurer, is authorized to witness the execution of any and all transfers of Government stock and powers of attorney, and sign all receipts for patent fees and bullion receipts, with like effect as if they were witnessed and signed respectively by the Assistant Treasurer in person. The deputy assistant treasurer is to receive an additional compensation of $1,000 per annum, but the total compensation received by him is not to exceed $3,000 per annum. The sum of $2,500 is appropriated by the bill for the purchase of blank checks for the use of the sub-Treasury.

Mr. SHERMAN. The passage of the recent Treasury note bill makes it necessary to have an additional clerical force in that office. This bill is introduced for the purpose of authorizing that increase; but the appropriation for the clerks and

messengers is indefinite, and I therefore desire to offer an amendment to it. It is to insert after the word "watchman," in the twelfth and thirteenth lines of the first section, the words "for the current and next fiscal year;" so that the clause will read:

The compensation for such additional clerks, messengers, and watchmen, for the current and next fiscal year, shall be paid out of any money in the Treasury not otherwise appropriated.

The amendment was agreed to.

Mr. SHERMAN. I desire to move another amendment, at the end of the first section to insert the following:

Estimates for compensation for such additional clerks, messengers, and watchmen, for the next fiscal year, shall be submitted by the Secretary of the Treasury with his annual estimates.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 208) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th June, 1863, and additional appropriations for the year ending 30th June, 1862, which had been reported from the Committee on Finance with amendments.

The Secretary read the first amendment reported from the committee, to strike out lines fifty-eight and fifty-nine of the bill in the clause for the contingent expenses of the Senate in the following words:

For binding documents and purchase of blank-books, $2,590.

The VICE PRESIDENT. With the consent of the Senate, the Secretary will continue to read the amendments of the committee, and the question will be taken on such as are not objected to together. The next amendment will be read.

The Secretary read the amendment, to insert on page 4, under the contingent expenses of the Senate, the following:

For Congressional Globe, and binding the same, $30,000.

Mr. FESSENDEN. I wish to move an amendment to that amendment. There was a little misunderstanding in the committee in relation to it, and it has since been investigated. I will move an amendment to strike out the words reported there as an amendment, and to insert what I send to the Chair:

For printing the Congressional Globe and Appendix, which are hereafter to be bound under the supervision of the Superintendent of Public Printing, according to the provisions of section five of the "joint resolution in relation to the public printing," approved June 30, 1860, $18,000.

The amendment to the amendment was agreed to.

The VICE PRESIDENT. If there be no objection to the amendment as amended, the next amendment of the committee will be read.

The Secretary read it, after line sixty-one, to strike out the following:

To pay John C. Rives for printing five hundred copies of the Diplomatic Correspondence of the United States, from 1776 to 1783, for the State Department, $15,000.

The next amendment of the committee was, after line sixty-eight, to insert the following:

For the usual additional compensation to the reporters of the Senate for the Congressional Globe for reporting the proceedings of the Senate for the second regular session of the Thirty-Seventh Congress, $800 each, $4,000.

The next amendment of the committee was, in the appropriations for contingent expenses of the House of Representatives, to strike out, in line one hundred and nineteen, the words "twenty-five hundred," and to insert "eighty-nine thousand;" so that the clause will read:

For binding documents, including the Congressional Globe, $89,000.

Mr. FESSENDEN. The committee move to amend that amendment by striking out the whole clause entirely. It is intended to strike out both the "twenty-five hundred" and all included within those two lines.

The amendment to the amendment was agreed to.

The next amendment of the committee was, in the appropriation for the contingent expenses of the office of the Fourth Auditor of the Treasury, in line three hundred and eleven, to strike out the word "two," and insert "one;" and in line three hundred and twelve, strike out the word "two," and insert "five;" so that the clause will read:

For contingent expenses of the office, $1,500.

The next amendment of the committee was, in the appropriation for contingent expenses of the Department of the Interior, in line three hundred and ninety-three, after the word "dollars," to insert the following proviso:

Provided, That the said journals and documents shall be sent to such libraries and public institutions only as shall signify a willingness to pay the cost of the transportation of the same.

So that the clause will read:

For expenses of packing and distributing congressional journals and documents, in pursuance of the provisions contained in the joint resolution of Congress, approved 23d January, 1857, and act 5th February, 1859, $6,000: *Provided*, That the said journals and documents shall be sent to such libraries and public institutions only as shall signify a willingness to pay the cost of the transportation of the same.

The next amendment of the committee was, in the appropriations for the War Department, after line five hundred and four to insert:

For compensation of additional clerks, messengers, and laborers in the offices of the Secretary of War, Adjutant General, Surgeon General, Quartermaster General, Paymaster General, Chief Engineer, Chief of Ordnance, and Commissary General, appointed under authority of act of January 27, 1862, $63,360.

The next amendment of the committee was, in the appropriations for the Navy Department, after line five hundred and ninety-seven, to insert:

For compensation of additional clerks in the office of the Secretary of the Navy, appointed under authority of act of the 27th of January, 1862, $4,800.

The next amendment of the committee was, in the appropriations for the United States Mint at Philadelphia, in line six hundred and seventy-seven to strike out "thirty" and insert "fifty;" so that the clause will read:

For incidental and contingent expenses, including repairs and wastage, $50,000.

Mr. FESSENDEN. There is an amendment that the committee wish made, on page 30, that may as well be acted on as we go along. It is in line seven hundred and seven, in the appropriations for the territorial government of New Mexico, to strike out "fifteen" and insert "twenty," and also to strike out the proviso, in the following words:

Provided, That the surplus, if any, of said appropriation may be used for the repair of the palace buildings, and the revision of the laws of New Mexico.

And to insert in lieu thereof:

Provided, That $5,000, or so much thereof as may be necessary, shall be used to revise and print the laws of New Mexico.

So that the clause will read:

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, $20,000: *Provided*, That $5,000, or so much thereof as may be necessary, shall be used to revise and print the laws of New Mexico.

The next amendment of the committee was to strike out the second section of the bill in the following words:

SEC. 2. *And be it further enacted*, That, in addition to the clerical and other force of the War Department, the following clerks, messengers, laborers, and non-commissioned officers be, and are hereby, authorized to be employed therein: *Provided*, That when Congress shall fail to make appropriation for the payment of said employés, the offices shall be deemed thereby abolished.

Office of the Secretary of War:
Two clerks of the third class, and two clerks of the second class.
Office of the Quartermaster General:
Two clerks of the third class, three of the second class, five of the first class, and one messenger.
Office of the Commissary General:
One clerk of the third class, two of the second class, and one laborer.
Office of the Chief Engineer:
One clerk of the first class.
Office of the Surgeon General:
One laborer.
Office of the Paymaster General:
Four clerks of the second class, four of the first class, and one messenger.
Office of Chief of Ordnance:
One clerk of the third class, two of the second class, and one of the first class.
Office of the Adjutant General:
Three clerks of class three, four of class two, thirteen of class one, and ten non-commissioned officers from the Army; and the sum of $70,000 is hereby appropriated for that purpose.

Mr. FESSENDEN. That section was drawn up before we had passed a law with reference to these new clerks. We have since passed a law on the subject, in which they are all provided for, and this section is therefore unnecessary.

The next amendment of the committee was, in the third section, after line five, to insert the following:

For paper and printing blanks for the Executive Departments, $30,000.

The next amendment of the committee was, in line fifteen of the same section, to strike out "five" and insert "four;" so that the clause will read:

For twenty-four copies of the Congressional Globe and Appendix for each member and Delegate in the first regular session of the Thirty-Seventh Congress, $4,778 40.

Mr. FESSENDEN. In order to divide the space a little better between lines twenty-four and twenty-five of that section, I move to insert the words:

For contingent expenses of the Senate, namely.

The VICE PRESIDENT. Is that a separate amendment, or an amendment to the amendment?

Mr. FESSENDEN. I propose it as a separate amendment, simply to divide the space.

The VICE PRESIDENT. If there be no objection to this amendment, the next amendment of the committee will be read.

The Secretary read it, to insert after line twenty-four of the same section, the following:

For compensation of three messengers appointed under authority of a resolution of the Senate of July 19, 1861, $3,600.

The next amendment of the committee was in the same section to insert, after the last amendment, the following:

For binding, $20,000.

The next amendment of the committee was in the same section, after the last amendment, to insert the following:

For lithographing and engraving, $30,000.

The next amendment of the committee was in the same section, after the last amendment, to insert the following:

For stationery, $12,000.

The next amendment of the committee was in the same section, after the last amendment, to insert:

For reporting proceedings, $3,000.

The next amendment of the committee was in the same section, after the last amendment, to insert:

For Congressional Globe and Appendix, at the first session of the Thirty-Seventh Congress, $6,184 20.

The next amendment of the committee was in the same section, after the last amendment, to insert:

For clerks to committees, pages, horses, and carryalls, $7,000.

The next amendment of the committee was in the same section, after the last amendment, to insert:

For miscellaneous items, $30,000.

The next amendment of the committee was in the same section, after the last amendment, to insert:

For Capitol police, $1,500.

The next amendment of the committee was in the same section, to strike out the following clause:

For expenses of the investigating committees of the House of Representative and the Senate, appointed at the first session of the Thirty-Seventh Congress, $5,000.

The next amendment of the committee was in the same section, to strike out the following clause:

For compensation of the surveyor general of Illinois and Missouri, $2,000.

Mr. HARLAN. I desire to except that amendment.

The VICE PRESIDENT. It will be excepted.

The next amendment of the committee was in the same section, after line forty-eight, to insert:

For contingent expenses of the office of the Fourth Auditor, $700.

The next amendment of the committee was to insert at the end of the third section the following:

For compensation of additional clerks, messengers, and laborers in the offices of the Secretary of War, Adjutant General, Surgeon General, Quartermaster General, Paymaster General, Chief Engineer, Chief of Ordnance, and Commissary General, appointed under authority of act of January 27, 1862, $26,400.

The next amendment of the committee was to add at the end of the third section the following:

For compensation of two Assistant Secretaries of War, appointed under act of January 22, 1862, one year from the date of their appointment, $6,000.

The next amendment of the committee was to add at the end of the third section the following:

For compensation of additional clerks in the office of the

Secretary of the Navy, authorized by act of January 27, 1862, $2,000.

The next amendment of the committee was to add at the end of the bill, as an additional section, the following:

SEC. —. *And be it enacted further*, That the President of the United States is hereby authorized to expend during the fiscal year ending the 30th of June, 1863, so much of the appropriation of 2d of March, 1861, as he may deem expedient and proper, not exceeding in the whole $10,000, for compensation to the United States marshals, district attorneys, and other persons employed in enforcing the laws for the suppression of the slave trade, for any services they may render, and for which no allowance is otherwise provided for by law.

The VICE PRESIDENT. These are all the amendments of the committee. The question will be put on all the amendments together, except the one objected to by the Senator from Iowa.

The remainder of the amendments of the Committee on Finance were agreed to.

The VICE PRESIDENT. The question now is on agreeing to the amendment reported by the Committee on Finance, to strike out lines forty-four and forty-five in the third section, in the following words:

For compensation of the surveyor general of Illinois and Missouri, $2,000.

Mr. HARLAN. The Committee on Public Lands have learned from the Commissioner of the General Land Office that it will be improper to transfer the books and papers of that office to the State authorities during the coming year; that the office work will occupy the whole force for another year. Hence it appears to the Committee on Public Lands improper to direct that office to be abolished at this time.

Mr. FESSENDEN. We refused to make an appropriation last year for that very purpose, as the Senator will recollect. It has gone on, however, and not only is this appropriation put in here for the present year as a deficiency, but there is also, on another page, an appropriation for the coming year. The Senator will recollect that we had a debate in the Senate on the subject of this surveyor general of Illinois and Missouri. The business there, or at least all the surveying, has been done some time ago. We would not make any appropriation for it, and the House concurred with us. It has been kept up, however, and we now have not only an appropriation for a deficiency, but an appropriation for the next fiscal year. Why has this work not been finished? I should like to have some information from the Senate in reference to it. Congress indicated its intention when we passed the appropriation bill of last year, and made no appropriation. It seems, notwithstanding the legislation of Congress, that they demand the same sum for the current year, and also for the next. If this amendment succeeds, I shall also move to strike out of the bill the appropriation which has been put in on another page for the next year, (1863.) Is there to be no end to it? What is the explanation of it?

Mr. HARLAN. The only explanation I have is, that I learn from the Department that the work in that office cannot be completed short of the conclusion of the coming fiscal year. I might remark perhaps, in addition, that although Congress withheld the appropriation for the present fiscal year, it also passed a law increasing the labor in that office by reviving an old law authorizing claimants to present private land claims under some old Spanish and French grants, and these have not all been disposed of.

Mr. PEARCE. We have been endeavoring for more than a year to put an end to these appropriations. The Committee on Finance recommended it two years ago, if I recollect aright; and we were then told that the coming year would see the business of the office wound up, and the papers transferred. It seems very difficult to bring a thing of this sort to a conclusion; and I am rather disposed to do it by the strong hand, and put it down.

The amendment was agreed to.

Mr. FESSENDEN. I now move, in order to carry it out, as we have struck out the appropriation for the present year, the same amendment on page 19, to strike out lines four hundred and thirty-seven and four hundred and thirty-eight:

For compensation of the surveyor general of Illinois and Missouri $2,000.

The amendment was agreed to.

Mr. PEARCE. If the chairman of the Committee on Finance has got through with his amendments, I desire to offer an amendment from the Committee on the Library.

Mr. FESSENDEN. I have finished all but one which I defer for the present.

Mr. PEARCE. I have been instructed by the Committee on the Library to offer two amendments, the first of which I now send to the Chair. It is to insert at the end of the second section, after line sixty-eight, the following:

To enable the Commissioner of Public Buildings to replace the thin glass in the roof of the Library of Congress with glass of a proper thickness, and to ventilate the Library, $900.

I will state briefly for the information of the Senate that the roof of the library is made of thin glass, and it is constantly breaking. On last Monday when we had a wind storm, sixty panes were broken, and the broken glass fell through and broke some panes of fine painted glass in the ceiling. It is necessary, therefore, to protect the roof of the library by putting in thick glass. That is the object of the amendment.

The amendment was agreed to.

Mr. PEARCE. I have another amendment which I send to the Chair, to follow the one just made:

For putting the plates of the exploring expedition in order for preservation, and transporting them and the other effects of the expedition to Washington, to be preserved in some of the public buildings, or at the Smithsonian Institution, $2,000, to be expended under the direction of the Joint Committee on the Library of Congress; and if any part of this appropriation shall remain unexpended for these purposes, the same may be applied, if necessary, to the completion of volume twenty-three of the works of said exploring expedition, or to the payment of any arrears of rent or claims for services due on account of said works.

This is the last of the exploring expedition of which the Senate have heard so much during the many years previous, for the present. The object of the amendment is to bring to Washington all the effects of the expedition, and all the plates, near one thousand in number, including those of natural history, and the plates of the charts, all of which are of great value, to deposit them for preservation in some of the public buildings here, after having them properly cleaned and waxed, that they may be ready for use if they should be required hereafter, as doubtless they will be, and certainly the charts; for they have been heretofore in great demand for the mercantile marine, and sometimes for the naval service. We propose now to wind up the publication, though all the works of the expedition have not been completed, some four or five volumes being either not fully prepared for publication or only partly printed. The committee have determined, under all the circumstances, that it is better to stop the publication here, even though the works be incomplete. The sum asked is required to enable us to pay rent of a fire-proof building in Philadelphia and of an office here, which will be due at the end of the present year, and to defray the expenses of transportation, as I have mentioned, and also to pay for the services of the superintendent, whose services cannot be dispensed with until the property shall all be brought here and deposited in some of the public buildings. I hope there will be no objection to the amendment.

The amendment was agreed to.

Mr. WILSON, of Massachusetts. I propose to make a slight amendment, which I think necessary in the second proviso on the 2d page in the clause making appropriations for legislative expenses. It now reads:

And provided further, That the foregoing proviso shall not be construed to give any more mileage than is allowed by existing laws.

I desire to amend that by striking out the word "any," and to change the rest of the proviso so as to read, "more than two mileages to the members of the present Congress," in order to leave nothing for construction hereafter; but providing simply that we take the mileage at this session, and that it shall be understood that there shall be no more mileages for this Congress. I believe we are entitled to but two mileages. I think it was a mistake to take the mileage at the called session, and that the mileage provided for in this act is not due until the next session of Congress; but as we propose to take it, I think the provision ought to be amended so that it will be understood by Congress and by the country that no more mileage is due to us during the present Congress.

Mr. FESSENDEN. I will suggest to the Senator a change of the phraseology of the proviso, so that it shall read:

And provided further, That the foregoing proviso shall not be construed to give mileage for more than two sessions of the present Congress.

That will answer his purpose.

Mr. SUMNER. That is the same idea.

Mr. FESSENDEN. It is the same idea, but correcting the phraseology. I think it is very clear as it is now.

Mr. WILSON, of Massachusetts. I accept that.

The amendment was agreed to.

Mr. SUMNER. I have some amendments to offer which I am directed by the Committee on Foreign Relations to move to the bill. I send one up to the desk to insert on page 9, under the head of "Department of State," between the two hundred and third and two hundred and fourth lines——

Mr. FESSENDEN. I will suggest to the Senator to put the amendment in some other place, after the two hundred and fifth line if he pleases, because the next head is "for the incidental and contingent expenses of said Department."

Mr. SUMNER. Very well; it is better there. I move to insert on page 9, after line two hundred and five, the following:

For losses on drafts of consuls, marshals of the United States, consular courts, and interpreters for the period ending June 30, 1863, $10,000.

If any Senator needs an explanation of the amendment, I have an explanation furnished me from the Department of State. I suppose it is not necessary.

Mr. SHERMAN. I should like to hear the explanation. An appropriation is usually made for this purpose in the consular appropriation bill, and if this is in addition to that appropriation I should like to know the reason for it.

Mr. SUMNER. The occasion for it now is, that the appropriation usually made has run out. There is at this moment but $90 94 in the Treasury for this purpose, and the object is to make proper provision for these cases.

Mr. SHERMAN. It has been usual to put this appropriation in the consular bill.

Mr. SUMNER. It has been usual to put it in the consular bill; but it was not put in that bill, and this is to supply the deficiency occasioned by its not being there.

The amendment was agreed to.

Mr. SUMNER. I have another amendment to follow that:

For an increase of the salary of the consul general of the United States at Havana, to commence June 30, 1862, $1,500, and the said salary is permanently established at $7,500.

If any explanation is needed I have it here.

Mr. FESSENDEN. I suggest to the Senator to put that amendment after line two hundred and three, before the appropriations for the incidental expenses of the Department.

Mr. SUMNER. That is where I proposed to put them both.

Mr. SHERMAN. Is that amendment in order, to change an existing law on an appropriation bill? Perhaps it is in the Senate; it is not in the House of Representatives.

The VICE PRESIDENT. The Chair apprehends that it is in order.

Mr. SHERMAN. Then I am opposed to the amendment, and call for the yeas and nays upon it. I intend, in all cases, to vote against an increase of salaries, unless there is some especial reason for it. I think the salary of the consul general at Havana, $6,000, is amply sufficient to compensate a political patriot who may choose to go there and reside, and perform the duties of that office.

Mr. SUMNER. If the question were as the Senator states, the compensation of a political patriot, I should agree with him entirely; but that is not the question. It is a question whether the present compensation is adequate for the demands upon the consul at that place; and in regard to that I am furnished by the Secretary of State with a statement which I will read. I ask the attention of the Senator from Ohio to it.

"I embrace this occasion"—

says the Secretary in the letter which I have here—

"to invite your attention to the expediency of increasing the compensation of the consul general at Havana, so as to make it at least equal to that of the consuls at London and Liverpool. The number of American vessels which enter and clear at Havana is more than three times as great as at Liverpool, and more than four times as great as at London.

The expenses of the consulate for clerk hire and contingencies are large, and the consul general is not only required by circumstances to extend his hospitality to his fellow-citizens visiting Cuba, but also to make large contributions to his countrymen who find themselves in a necessitous condition on the island.

"Under a regulation of the Governor General of Cuba, all the business of the United States consulates in Cuba with the chief authorities at Havana is required to be transacted through the medium of the consul general. This requirement necessarily involves a considerable addition to the clerical work of the consulate general, which is paid by the consul general from his own salary.

"During the present rebellion the labors of Mr. Shufeldt, our consul general, have been unceasing, and the Department has had constant occasion to commend his energy, prudence, and foresight. The information which he has communicated weekly has also been of great service to the Department and in our naval operations.

"I feel, therefore, that I am doing only an act of justice in renewing the recommendation, which has heretofore been made by my predecessors, both Mr. Marcy and General Cass, that additional compensation be provided for this consulate general. (See Executive Document, No. 68, Thirty-Fifth Congress, second session, pp. 457, 462.)

"I make this recommendation with the more confidence in view of the provision of the law made by the last Congress, (see Session Statutes, second session, p. 220,) directing the Secretary of State 'to audit and settle the accounts of Charles J. Helm, consul general of the United States at Havana, upon the principles of justice and equity, for the expenses incurred by him in preparing and making the reports and returns, and bringing up the arrearages of the business of his predecessor in that office, and for extra clerk hire in his office, and for moneys advanced to destitute American citizens, and for extra rent, and to pay the amount thereof, not exceeding the sum of $8,768, out of any money in the Treasury not otherwise appropriated.'"

Then the letter proceeds:

"It will be seen from the provision thus made that the Congress of the United States considered it just that the late consul general should be compensated for his losses in sustaining the office.

"In case the additional compensation be granted, I beg leave to suggest that it be made to commence with the beginning of the current fiscal year."

I have drawn the amendment in conformity with this recommendation of the Department of State, and this statement from the Secretary, it seems to me, sufficiently explains it.

Mr. SHERMAN. I have no doubt a statement could be obtained from the Secretary of State in favor of increasing the salaries of all the officers of the Government a hundred per cent., because he is a generous, liberal, free-handed man. This does not satisfy me that $6,000 is not an amply sufficient salary for the consul at Havana. I remember the case of Helm very well. Helm, it was said, employed additional clerk hire to bring up the duties of his predecessor, which I think were in arrears some three years, and he showed disbursements to the amount of $8,000. He did not pretend to claim more than his salary; but if I remember aright he claimed that he had disbursed that amount of money for clerical services in bringing up the returns and official reports of his predecessor. Mr. Helm, I will state, was a citizen of Kentucky; he was believed at the time to be a rebel, as he has since proved himself to be, for he is fighting with the secessionists, and it was regarded as a matter of political favor to him by those who then controlled the Senate. The Senate inserted the appropriation in an appropriation bill; and the House of Representatives had to agree to it or defeat the bill. It was really a political job for Mr. Helm, at the time a secessionist; and it was given to him as a gratuity for services rendered to the southern confederacy—that was about the amount of it—on the pretense that he had expended money to bring up the business of his predecessor. I trust the Senate will not at this time increase salaries. Although this is but $1,500, it is only the commencement. We have already increased the expenses of the consular and diplomatic system largely, at the request of the Secretary of State; I forget how much, but I think the increase amounts to about $300,000.

Mr. FESSENDEN. Not so much as that.

Mr. SHERMAN. We have increased the expenses very largely. We have made a great number of new consuls, and have increased the salaries of some. This is another proposition to increase a consular salary, and it is not in its proper place. If there was any great necessity for it, it must have been known a month ago, when the consular bill was before us. I do not think we ought to make it now.

Mr. CHANDLER. I hope the amendment will not prevail at this time. I think there are a great many cases of real hardship among our consular officers; but I do not consider this one. I believe it is necessary to review and rearrange the salaries of our consular agents. We have a consular agent, for example, at Manchester, England, a place almost as expensive to live in as Paris, where the pay is only $2,000 a year, which is totally inadequate. If this amendment prevails, I shall certainly desire to move one or two to provide for existing cases of extreme hardship. I do not think, however, that this is a time to increase the salaries of consular agents, or any other agents of this Government. I hope the amendment will not prevail.

Mr. SUMNER. I do not desire to press this proposition against the disposition of the Senate. If the Senate decide against it, I shall accept their decision; but our present consul general at Cuba is understood to be a very meritorious officer; he has rendered essential service, as the Secretary of State says in his letter; he has aided our naval expeditions, and he has been put to very considerable expense. Havana, I understand, is as expensive a place as any city in the world, as expensive, certainly, as Liverpool or London, where the salaries are $7,500; and it is proposed to put this salary on the same level with Liverpool and London. I should like the Senate to give expression to their opinion upon it, and I shall be content.

The VICE PRESIDENT. The Chair understood the Senator from Ohio to request the yeas and nays on this amendment.

Mr. SHERMAN. I withdraw the call.

The amendment was rejected.

Mr. SUMNER. I have one more amendment to offer, to come in at the same place:

For rent of prison, wages of keepers of the same, and care of offenders, at Amoy, from July 1, 1860, to June 30, 1861, in pursuance of the provisions of the act approved July 2, 1860, $858 27.

With regard to this, the Secretary of State writes:

"I have also to request that an appropriation of $858 27 be made for rent of prison, wages of keepers of the same, and care of offenders, at Amoy, from July 1, 1860, to June 30, 1861, in pursuance of the provisions of the act approved July 2, 1860. No appropriation for this purpose has heretofore been made. A copy of the communication, dated January 24, 1862, of Mr. Hyatt, the late consul, in explanation of his claim for compensation for the above mentioned objects, is herewith inclosed, and also the report of the Comptroller of the Treasury, dated February 17, 1862, to whom the account of Mr. Hyatt was submitted by this Department with a request to revise and adjust it."

I have the letter of Mr. Whittlesey, the Comptroller of the Treasury, with reference to this account, and the sum, as finally adjusted by him, is what I have named in the amendment.

The amendment was agreed to.

Mr. HARLAN. I move to amend the bill on pages 20 and 21, by striking out lines four hundred and fifty-eight and four hundred and fifty-nine, lines four hundred and sixty-six, four hundred and sixty-seven, and four hundred and sixty-eight, and lines four hundred and ninety, four hundred and ninety-one, and four hundred and ninety-two, and to insert in lieu of them this provision:

That from and after the 1st day of July next, and until otherwise ordered by the President, the Territories of Utah and Colorado shall constitute one surveying district, and the duties of surveyor general in said district shall be performed by the surveyor general of Colorado; and the surveying district of Nevada shall be united to that of California, and the duties of the surveyor general of the former shall be performed by the surveyor general of California; and the transfer of the effects and archives of the said offices shall be made under the instructions of the Commissioner of the General Land Office.

Mr. FESSENDEN. I suppose the Senator wishes that to come in as an additional section at the end of the bill.

Mr. HARLAN. I have no objection to that course if it would better preserve the congruity of the bill.

Mr. FESSENDEN. Let the Senator move to strike out what he wishes to strike out, and then move to put in the other clause as an additional section.

Mr. HARLAN. I will adopt the suggestion of the chairman of the Committee on Finance.

The VICE PRESIDENT. The first question will then be on striking out.

Mr. FESSENDEN. I should like to know how much of the bill the Senator proposes to strike out.

Mr. HARLAN. I move to strike out these clauses:

For compensation of the surveyor general of Utah, $4,000.

For compensation of the surveyor general of the Territory of Nevada and the clerks in his office, $7,000.

For rent of the surveyor general's office in the Territory of Nevada, fuel, books, stationery, and other incidental expenses, $2,000.

Mr. FESSENDEN. Does the Senator mean to leave in the appropriation for Colorado?

Mr. HARLAN. I propose to leave that in, because the surveying district of Colorado is to include Utah.

The motion to strike out was agreed to.

The VICE PRESIDENT. The question now is on the amendment of the Senator from Iowa to insert, as an additional section, the words which have been read.

The amendment was agreed to.

Mr. HARLAN. I move to amend the bill in line three hundred and fifty-eight, page 16, by striking out the word "recorder," and adding at the end of that paragraph, in line three hundred and sixty-two, the words "and that the duty of countersigning patents and other duties required by the existing laws of the recorder, shall be performed by the said Commissioner," so as to make the clause read:

For compensation of the Commissioner of the General Land Office, and the draughtsman, assistant draughtsman, clerks, messengers, assistant messengers, packers, watchmen, and laborers in his office, $175,440; and that the duty of countersigning patents and other duties required by the existing laws of the recorder, shall be performed by the said Commissioner.

I learn from the Commissioner of the General Land Office that he would prefer to countersign the land patents in person, in order that he may review the work at his own desk, and consequently the office of recorder in the General Land Office is a useless office.

The amendment was agreed to.

Mr. FESSENDEN. I wish to ask the Senator from Iowa what the salary of the recorder is?

Mr. HARLAN. Two thousand dollars.

Mr. FESSENDEN. Then I move to amend the clause by reducing the appropriation from $175,440 to $173,440.

The amendment was agreed to.

Mr. HARLAN. I move the following as an additional section:

And be it further enacted, That the President shall appoint in the Department of the Interior, by and with the advice and consent of the Senate, a competent person who shall be called the Assistant Secretary of the Interior, whose salary shall be $3,000, payable in the same manner as the salary of the Secretary of the Interior, who shall perform such duties in the Department of the Interior as shall be prescribed by the Secretary or may be required by law, and who shall act as the Secretary of the Interior in the absence of that officer.

Mr. FESSENDEN. I ask if that comes from a committee?

Mr. HARLAN. It comes from the Committee on Public Lands.

The question being put,

The VICE PRESIDENT declared that the noes appeared to have it.

Mr. HARLAN. I desire to record my vote in favor of the amendment, but I am almost discouraged from calling the yeas and nays from the result of a similar call made by me some days since. I however ask for the yeas and nays, and will make an explanation——

Mr. FOOT and others. Move it in the Senate.

Mr. HARLAN. I am advised by Senators around me to renew the motion in the Senate when the bill shall be reported to the Senate. I therefore withdraw my call.

The VICE PRESIDENT. The Chair decides that the amendment is rejected.

Mr. WILKINSON. On page 30, I think there is, perhaps, a mistake in printing the bill. I see there this clause:

"For salaries of Governor, three judges, and secretary of the Territory of New Mexico, $12,000."

For the other Territories on the next page, the appropriation is only $9,700. I move to strike out "$12,000" and insert "$9,700." On looking at the statute, I see that the salaries of judges in New Mexico are precisely the same as in Nevada and Colorado, so that $9,700 would be the proper amount.

Mr. BROWNING. I wish to inquire of the Senator whether the number of judges in all these Territories is the same.

Mr. WILKINSON. Yes, sir; three judges in each. The statute organizing the Territory of New Mexico provides that "the Governor shall

have a salary of $1,500 per annum, and $1,000 as superintendent of Indian affairs;" and that "the chief justice and associate judges shall receive an annual salary of $1,800," and the secretary $1,800; which altogether makes $9,700.

Mr. FESSENDEN. I would call the attention of the gentleman to the estimates:

"Territory of New Mexico:
"Governor (per act of March 3, 1857, 11th Laws, page 185, section 3,) $2,500."

Mr. WILKINSON. That is what I estimate it at—$1,500 as Governor, and $1,000 as superintendent of Indian affairs.

Mr. FESSENDEN. The estimates proceed:

"Chief justice and two judges, at $2,500 each, (per act of July 27, 1854, 10th Laws, page 311, section 1.)"

Mr. WILKINSON. It is not so in the organic act of New Mexico.

Mr. FESSENDEN. This is by the act of July 27, 1854, and it is so with others. In the estimates here the salary is $2,500 each; it is so in the Territory of Utah by law; it is so in the Territory of Washington by law; but in the Territory of Nebraska it is not so much; there the salary is $2,000. I notice, however, that in the appropriations for the service of the fiscal year 1862, the amount was only put at $9,700 in the whole, but it is $12,000 for the next year. I cannot explain at this moment the difficulty about it; but the Governor at $2,500, three judges at $2,500 each, and the secretary at $2,000, would make $12,000, which is the sum appropriated.

Mr. WILKINSON. The salaries must have been increased by an amendment to the organic act of this Territory.

Mr. FESSENDEN. Have you not the law of 1854 before you?

Mr. WILKINSON. No, sir.

Mr. FESSENDEN. Are not the laws of 1854 in that volume?

Mr. WILKINSON. They are here.

Mr. FESSENDEN. I will say to the Senator that if the appropriation exceeds the amount provided by law it cannot be drawn out, so that there will be no difficulty about it.

Mr. WILKINSON. I will waive my amendment for the present, and I will look at the statute.

Mr. GRIMES. I am instructed by the Committee on the District of Columbia to offer, as a separate section, this amendment:

And be it further enacted, That the sum of $100,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to be expended, under the direction of the Secretary of the Interior, in the erection and completion of a jail for the District of Columbia on Government reservation No. 13, in the city of Washington: *Provided*, That the entire cost of said jail shall not exceed the sum hereby appropriated.

I have only one word to say in regard to the amendment. I suppose everybody agrees that there is a necessity that there should be a new jail in this District. I think that not only the members of this body, but the people of the whole country are satisfied on that subject. I believe that twice, certainly once, two years ago last spring, an amendment was ingrafted upon an appropriation bill by an almost unanimous vote of the Senate, appropriating $250,000 for the construction of a jail upon this reservation, No. 13. The Committee on the District of Columbia were unwilling now to appropriate that amount, and they thought that a jail might be built which would answer all the purposes of the District for some considerable period of time for $100,000, and be built in such a manner that it could be extended so as to accommodate the future wants of the District. I will state in regard to the position where it is proposed to place this jail, that it is upon a Government reservation in the vicinity of the almshouse, outside of the settled portion of the city, where the Senate has twice before determined that it should be placed.

The amendment was agreed to—ayes twenty-four, noes not counted.

Mr. FESSENDEN. I move to insert after line five, on page 39, among the appropriations for the present fiscal year, the following words:

For keeping in repair and partially furnishing the Post Office building, to be expended under the direction of the Postmaster General, $20,000.

I have in my hand a long communication from the Postmaster General, referring to a recommendation made by General Meigs, who had the oversight of all these buildings, that there should be an appropriation made of about sixty-seven thousand dollars for the purpose of completing the General Post Office building. It is found now that the building, not being completed, is suffering exceedingly, is very much injured by the heavy rains washing it very badly, so that it is absolutely necessary to make an appropriation in order to preserve the building. The clerical force of the Post Office Department is also very badly accommodated; and it is necessary that some more rooms should be furnished for their use. There are a great many rooms in the new portion of the building that are built, but entirely unfurnished. Instead of recommending an appropriation of $67,000 to complete the building, I have, by the consent of one or two of the committee, drawn an amendment which appropriates only $20,000, which the Postmaster General says will be enough for the preservation of the building, and to furnish the rooms he needs, if he can have the expenditure of the money. I have drawn the amendment accordingly.

The amendment was agreed to.

Mr. MORRILL. I am instructed by the Committee on the District of Columbia to move the following amendment, to come in after line sixty-eight, on page 42, among the appropriations for the present fiscal year:

For necessary expenses for supply of water fixtures, pipes, hydrants, hose apparatus, and employment of firemen for the protection of the public stores and hospitals in the city of Washington, the sum of $10,000, or so much thereof as may be necessary for that purpose, to be expended under the direction of the Secretary of War: *Provided*, That no more than one fireman shall be employed at each store or hospital, and at a compensation not exceeding $500 per annum.

The amendment was agreed to.

Mr. COLLAMER. I am directed by the Committee on the Post Office and Post Roads to move as an additional section to this bill, a bill reported by them in relation to the post office in Philadelphia. As I never can get that bill up on the Calendar, I desire to put it on here. I offer this amendment:

And be it further enacted, That the Postmaster General be, and he is hereby, authorized and empowered to carry into effect the provisions heretofore made by law for refitting and preparing, in the city of Philadelphia, the building now owned by the United States, on Chestnut street, for the use of a post office and the holding of the United States courts in said city: *Provided, nevertheless*, That the whole expense of said alterations and improvements shall not exceed in cost the unexpended balance heretofore appropriated by law for that purpose.

I will state the object of it. There has been an appropriation already for the purchase of a site and the erection of a post office in Philadelphia. They are in a very bad condition there about their post office. The lease is nearly out, and they are paying $5,000 a year rent, while this site is standing idle, and can be readily fitted up for the post office with the balance of the appropriation which remains unexpended. The matter was committed by law to the charge of the Postmaster General, the Secretary of the Treasury, and the Attorney General; but the result of having so many men to consult about it was that nothing could ever be done, no decision could ever be obtained. This proposition is merely to enable the Postmaster General to carry the existing law into effect; it makes no additional appropriation.

The amendment was agreed to.

The bill was reported to the Senate as amended.

The VICE PRESIDENT. The question is on concurring in the several amendments adopted by the Senate as in Committee of the Whole.

Mr. SHERMAN. I should like to have a separate vote on the amendment with regard to the new jail in this District.

The VICE PRESIDENT. Then the Chair will put the question on all the other amendments together.

The amendments were concurred in.

The VICE PRESIDENT. The question now recurs on concurring in the remaining amendment agreed to as in Committee of the Whole, to appropriate $100,000 for the erection of a jail in the District of Columbia.

Mr. SHERMAN. I am satisfied that the present condition of the jail is seized upon as a reason for hurrying through this appropriation. For the last five years an effort has been constantly made to get a new jail erected here at the expense of the United States. Why is it that the people of Washington cannot have their own jail? Why cannot the corporation of this city provide for the erection of a jail? Why is it that we are not called upon to furnish breakfast, dinner, and supper to every citizen of Washington? There is no reason for this Government building a jail for this District, and the House of Representatives has uniformly on that ground opposed it. The municipal authorities here have the power to levy taxes, and they have the power to build a jail to keep their own vagrants in. We have a great variety of public buildings now which have been constructed at great expense. I see that the Senate is in a temper to pass this proposition, but I prophesy now that this jail, instead of $100,000 will cost $300,000; that is the lowest estimate ever made for it. I remember that two years ago the Senate put on an appropriation bill an appropriation of $250,000 for a jail, and the very plans then submitted to the Senate contemplated an expenditure of more than that amount. If, at this time, you commence with $100,000, you will have to pay much more in the end. You are just seizing this time when there is more necessity for a jail than ever before—a time that cannot last long, for your jail will not be built until all these exciting circumstances pass away—to erect an expensive public work in the city of Washington. For one I am opposed to it; I desire to record my vote against it, and I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. GRIMES. Whenever the Senator from Ohio is willing to embark in a scheme for revolutionizing the laws of the District, changing them entirely, I shall be ready to join hands with him and go into it; but, as the laws are now upon your statute-book and are administered, we have the entire control of the legislation and of the administration of justice in the District of Columbia. Every man who is sent to the jail here is our prisoner, and not the prisoner of the District of Columbia. So long as the laws remain as they are, it is our business, and not the business of the people of the District, to furnish some proper and humane method of detaining persons who have been committed by the authority of our laws, by our own officers, and who are to be brought before our own judges, and whose guilt or innocence is to be passed upon and to be determined by our own juries. The Senator is altogether mistaken, I think, so far as the Committee on the District of Columbia is concerned, in supposing that the present condition of the jail is seized upon in order to get this appropriation made. The present jail, I understand, cost about twenty-five thousand dollars. There have been during the last fall as many as two hundred and thirty-eight inmates at one time. It is designed to accommodate, some of the persons connected with it say, in the neighborhood of one hundred. I should think there could be somewhere in the neighborhood of sixty properly accommodated. The average number of persons in this jail before the breaking out of the present insurrection or rebellion was about one hundred and ten—nearly double the number that the jail can adequately accommodate. I have nothing further to say. If the Senate desire to vote it down, very well.

Mr. TEN EYCK. If there has been any one subject during the present session of the Senate that has been the object of denunciation, it has been this jail in the city of Washington. It has justly called forth the condemnation of every Senator who has had any connection with it, with respect to the want of humanity there exhibited, arising in a great measure from the want of accommodation. Now "what is everybody's business is nobody's business," according to an old axiom; and although this is the capital of the nation, in reality, from the very nature of things, less attention perhaps is paid as a general thing by Congress to the interest of the community here than to any other locality which has a Representative upon this floor, or upon the floor of the other House.

In a humanitarian point of view I desire that an improvement shall be made in this respect, that the chairman of the Committee on the District of Columbia may not have occasion hereafter to give utterance to his just indignation on account of the matters he there discovers in the different visits which he is called upon to pay to this jail. I apprehend the Senator from Ohio is perhaps slightly in error with respect to the general declaration he has made, that this is the jail of the city of Washington. I have no doubt that many of the muni-

cipal prisoners, so to speak, are confined within the walls of this institution, but the courts of this city are all of them Federal courts, the criminal court in this city is a Federal court, exclusively so——

Mr. GRIMES. And the magistrates are Federal magistrates.

Mr. TEN EYCK. So are the magistrates courts Federal courts. The smallest court in the city having jurisdiction of criminal cases is a Federal court. This is a place for the safe-keeping of offenders, where they are lodged until they may be accused and tried, and for the safe-keeping of those who are convicted for criminal offenses.

Now, shall the cost of the erection of a new structure of this kind be upon the inhabitants of the city alone, or shall it be borne in part, if not wholly, by the Federal Treasury? It seems to me to be most appropriate that the Federal Government should be at the expense of this structure. I do not know whether or not this amendment embraces a provision relative to the place for holding the courts, because there was so much "noise and confusion" in the Chamber when the amendment was read that it was impossible to hear what was going on from the seat which I occupied; but we know also that the place of holding the courts, as well as the jail, has been occupied jointly and conjointly by the Federal tribunals and by the city authorities, who hold courts for the trial of civil causes, &c. There is no doubt that we should be cautious, that we should be careful, that there is no raid committed upon the Treasury for the sole and exclusive advantage of the city; and yet, at the same time, I apprehend it is proper and right that we should discriminate and not entirely withhold the appropriation of funds from the revenue of the country for the benefit, advantage, and convenience of the Federal Government, so to speak. In this point of view, I shall sustain and vote for the amendment as proposed by the chairman of the Committee on the District of Columbia.

Mr. SHERMAN. I can tell the Senator from New Jersey why there have been so many abuses in this jail. It is simply because it is under the authority of the United States. As long as the municipal building here where you put your petty offenders, your little thieves, your negroes who are taken up for assault and battery, &c., is under the control of the marshal of the District, an officer paid by the United States Government, instead of being controlled by the city officers, you will have abuses. If you erect a magnificent palace, costing $500,000, you will have the same troubles about the jail. Negroes will be held without process just as well as in a poor jail. You will have the same abuses that you have now. You must put the jail under local authority; you must put it under the authority of the grand jury and the municipality here in order to get rid of abuses. Why is it that the jails all over the United States are generally so well conducted? It is because they are controlled by the county commissioners in the counties, by the municipal authorities in the cities; because they are controlled by a healthy public sentiment. No abuse could be permanent in a jail controlled by the authorities of the city of Washington, because the people of the city themselves would rise and insist upon the correction of it. The reason why abuses have occurred in our jail here—and I have heard of them with as much regret as anybody—is because the marshal is beyond all power, beyond all control, unless you can control him. It is because the men who control your jails are beyond your authority. You must put the places assigned for the punishment of petty offenders under the control of the judges, under the control of the city authorities, and then these abuses will be avoided. The whole of this District, I believe, is embraced within two corporations. The cities of Washington and Georgetown, I believe, cover the whole territory of the District.

Mr. PEARCE. No.

Mr. SHERMAN. Is there a county outside of the two cities?

Mr. PEARCE. Yes, sir.

Mr. SHERMAN. Then there are three corporations covering the whole territory of the District—the city of Washington, the city of Georgetown, and the county of Washington. If you place the jail under these local authorities, I think it will be well managed; there will be no temptation to abuse. The offenders that are there are offenders against the laws of the United States for the District. You do not put in this jail persons accused of treason. They are tried in the States where treason is committed, and they are convicted there. In the States, the United States use the jails of the various counties under an arrangement made. Now, if you think it is just that the United States should aid the city authorities in building a jail, I am perfectly willing to vote for a law, to be framed by the Senator from Iowa, allowing the city authorities of Georgetown and Washington to build a jail after their own plan, and let the General Government contribute a fair share of the expense. I am willing at any time to vote for such a proposition; but to vote for a proposition that will throw the whole burden of building a jail—a magnificent jail, as it will be, if built by the United States—on the Government of the United States, at this time of trial, when we are under no more obligation to punish the petty thieves, the shoulder-hitters, the persons who are guilty of assault and battery in this District, than we are anywhere else, is, I think, wrong. I, for one, will not vote for it; and I think you will find that this proposition will be opposed in the House of Representatives, as it always has been. Let the District Committee, who ought to have charge of this matter, bring in a bill to provide for the construction of a jail under the control of the authorities of the District, not under the control of the Secretary of the Interior, who ought to have nothing to do with it.

My friend from Tennessee [Mr. JOHNSON] suggests that we might as well build a market-house for this city. Why not? Why not build residences for the citizens? Why not furnish them, as I asked before, with their breakfast, dinner, and supper? We can make laws for them; but that does not necessarily imply that we must make all the people of the United States be at the expense of constructing the necessary buildings for their municipal purposes.

I have always opposed this system and I always shall. I think the true way of disposing of this District is to vest in the municipal authorities of Washington and Georgetown all the powers of a State, a county, and a municipal government, supervised, however, by Congress; to treat the people of this District as you would treat any other subordinate authority to the Government of the United States, giving them a right to control all their municipal matters, to construct all their public buildings, except such as you yourselves use for the transaction of the public business. A jail, a poor-house, an asylum—except the general asylums for the Army and Navy—all these local buildings ought to be built by some authority in the District of Columbia, under laws wisely framed by Congress, the money to be disbursed by the municipal authorities, to be collected by taxes in the main, and let the General Government contribute whatever is right and proper, in a liberal and manly spirit, to help the municipal authorities in erecting public buildings. That is the only proper system, in my judgment, and I shall vote against any appropriation of public money for building municipal institutions in this city.

Mr. GRIMES. I suppose the Senator from Ohio has discovered, what I presume most of us have, that it is much easier to raise objections, to point out evils, than it is to undertake to remedy them. Why is it that the Senator himself, who has been so long in public life, has not brought in a bill to remedy the evils of which he speaks?

Mr. SHERMAN. I have not been on the appropriate committee.

Mr. GRIMES. The Senator has been on a committee that has special charge of the finances of this country. The amount of money that is appropriated from the Federal Treasury for the support of institutions, for the pay of judges, jurors, and witnesses, and so on in this District, is a very large sum. Has not the Senator's attention been attracted to it before? He asks why it is not proper for us also to make an appropriation for a market-house. The answer is because our laws do not control the markets of this District. There is no sort of analogy between that case and this. This jail is a place where we put men who have violated our laws, men who have been tried by our courts, who have been found guilty by our juries, who have been sentenced by our judges under our authority. Certainly it is not only competent but proper that we should find methods of punishing them. I should like the Senator to point out what method we ought to adopt to secure the erection of a jail in the District unless it is done by the United States, with the laws as they now stand. We have in this District three several jurisdictions. We have first the city of Washington with its mayor and common council. Then we have the city of Georgetown with its mayor and common council. Then we have the levy court of the county of Washington, which controls things outside of those two corporations. How are we going to apportion the expenses of erecting a building of this sort, among these several jurisdictions? They are not bound together by any common authority. There is no board of county commissioners to control things here. There is no way by which you can equalize the assessments between the different portions of the county of Washington. If there is any such method, I should like to have the Senator from Ohio suggest to us the manner in which it can be accomplished. I have given to this subject a good deal of attention; I have tried to devise some way I came into Congress with precisely the same ideas as to what was supposed to be the grasping disposition of the people of this District to acquire the public Treasury into their own control that the Senator from Ohio has manifested here to-day; but after giving the subject all the consideration I could, I have not been able to imagine any scheme by which we can secure the erection of a humane, decent, respectable, and strong jail, unless we do it ourselves.

Mr. SHERMAN. I will answer the Senator's question. What practical difficulty is there in the way of forming a county organization, such as is formed in Iowa or Ohio, for your laws are precisely similar to ours in that respect, I believe—a county organization, embracing the whole of this District, and giving to county commissioners a subordinate municipal authority, a power to levy taxes within certain limits, as county commissioners do in the States. County commissioners erect jails in the States. Why not erect this District into a county with that organization?

Mr. GRIMES. There are a great many reasons why that cannot be done. I do not propose to go into them here, and specify them in detail; but that subject has been under the consideration of the Committee on the District of Columbia, and we believed it was impracticable for us to do it.

The Senator has said that the evils which are now complained of will always exist while the jail is under the control of the marshal, who is beyond our jurisdiction. A great many of these evils, in the opinion of the committee, have resulted, not from the conduct of any marshal, but from the character of the jail itself. It has no ventilation; there are no water closets; there are none of the conveniences that exist in any well regulated jail. Now, are we to stand by with our arms folded, and wait for a board of commissioners, if we should appoint one, or authorize the election of such a board, to levy a tax on the people of this District, and meanwhile allow white men and colored men to be thrown in and huddled together, two hundred and thirty-eight at a time, in such a jail as this, mixed up without any classification, no matter what may be the offense that may have been perpetrated? Why sir, the jail itself, speaking not of the man who conducts it, but of the method of conducting it, and which results inseparably from the construction of the jail, is a stench in the nostrils of any man who has ever taken the trouble to investigate it.

Mr. CLARK. It is admitted, I believe, by all that the management of the jail in this city is disgraceful. It is under the control of the government of the District—of the marshal—under our control. We admit that it is a disgrace to us, and has been for years. Now, as I understand it, the Senator from Ohio objects to making it anything else, to putting it in the proper position, because he thinks the authorities of Washington ought to do it. Is it not our jail? Does it not belong to us to reform it, if anybody? I suggest to the honorable Senator from Ohio that if we put it under the control of the people of Washington, it is not possible to make this jail what it ought to be. If you go into one of the cells where the men sleep, you will find twenty men, by the very force of circumstances, the want of room, put into one cell.

There you will find twenty together, and not any ventilation at all. You cannot make the jail any better by putting it under the control of somebody else. The evil is a radical one, and must be remedied by an appropriation, either to alter the jail, if that is possible, or to build a new one. There is no drainage, no sewerage, nothing by which anybody can try to make it such a jail as it ought to be.

Now, shall we permit it longer to go on? Shall we take some other time as suggested by the Senator from Tennessee? Is not now the time, and the best time to reform what has been said to be a stench in the nostrils of everybody? It seems to me that we ought to do it, and we ought not to throw it upon somebody else. It is our jail, our institution, and why should we not take it in hand?

Mr. WILSON, of Massachusetts. I think we ought to-day either to make a new jail or put a provision is this act that no person shall hereafter be confined in the present jail; it ought no longer be used to imprison a human being in. It is not a question of administration. If the jail was well administered, I think it would be a decided improvement upon what it is; but no man on earth can make this prison what it ought to be. It was built in another age; we have outgrown it altogether; and it is pronounced by men who have witnessed the prisons of the world to be about the worst prison to be found on the globe. A French commission visited it during the last few months, and the head of that commission said to one of the keepers, after he had visited it, that he had traversed most of the nations, examining prisons, and he had never found but one prison so bad as this; and this is our prison, built by us, administered by us, for which we, the people of the United States, are responsible before the nations and before God. I hope we shall build a new prison, or else that we shall forbid the use of this prison to immure any human being on earth. This is not a question of administration. It is not a question to make a new marshal. If it was, I would vote for it just as heartily as I vote for the new prison; but it is a question to build a new prison, and I believe the moral, humane, and Christian sentiment of this country will justify and sanctify the expenditure of $100,000 even in this crisis of the country, to erect a prison that shall be fit for the country and the age in which we live.

The question being taken by yeas and nays, resulted—yeas 36, nays 7; as follows:

YEAS—Messrs. Anthony, Browning, Carlile, Chandler, Clark, Collamer, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Henderson, Howard, Howe, Kennedy, Latham, McDougall, Morrill, Pearce, Pomeroy, Powell, Rice, Simmons, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Willey, Wilmot, Wilson of Massachusetts, and Wilson of Missouri—36.

NAYS—Messrs. Harris, Johnson, King, Lane of Indiana, Saulsbury, Sherman, and Stark—7.

So the amendment was concurred in.

Mr. HARLAN. I desire now to renew the amendment which I moved in committee, and which was then rejected:

And be it further enacted, That the President shall appoint in the Department of the Interior, by and with the advice and consent of the Senate, a competent person, who shall be called the Assistant Secretary of the Interior, whose alary shall be $3,000, payable in the same manner as the salary of the Secretary of the Interior, who shall perform such duties in the Department of the Interior as shall be prescribed by the Secretary or may be required by law, and who shall act as the Secretary of the Interior in the absence of that officer.

Mr. HARLAN. I send to the desk and ask for the reading of a letter addressed to the chairman of the Committee of Ways and Means of the House of Representatives by the Secretary of the Interior, which explains the object of the amendment.

The Secretary read the following letter:

DEPARTMENT OF THE INTERIOR,
February 15, 1862.

SIR: At the first session of the present Congress I had the honor to present for your consideration a request that Congress should provide for the appointment of an Assistant Secretary of this Department.

The necessity of such an officer for the correct and prompt discharge of the duties of the Department has been felt by every Secretary since its organization, and, as will be seen by a reference to their reports, all have recommended a provision of law to authorize such an appointment. Appeals are taken to the Secretary from the decisions of the Land Office, the Pension Office, and the Indian Office, in cases involving not only questions affecting the public interests, but frequently important private interests of great extent. The decision of these questions requires the examination of large masses of testimony, the argument of counsel, and of legal authorities, which impose upon the Secretary more labor than can be properly performed by any man. The assistance which the Secretary may derive from the labor of the clerks in the Department is not of a character which can relieve him of much of the labor required. He needs the aid of a good lawyer of industry and practical business talent, who can examine the cases presented for the decision of the Secretary on appeal, and present the legal questions involved with the authorities bearing upon them. A person possessing the requisite talent and legal knowledge for the proper discharge of this duty, cannot be employed as a mere clerk. The position of an Assistant Secretary, with a salary of $3,000, would command the requisite qualifications. I deem it my duty, therefore, to again recommend that provision be made by law for the appointment by the President, with the advice and consent of the Senate, of an Assistant Secretary of the Interior Department, with a salary of $3,000, who shall perform such duties as shall be assigned to him by the Secretary.

I am, sir, your obedient servant,

CALEB B. SMITH,
Secretary of the Interior.

HON. THADDEUS STEVENS, *Chairman Committee Ways and Means of House of Representatives.*

Mr. HARLAN. I think that if this question is understood by the Senate there will be but little opposition to the amendment. I will state a very few facts in regard to it. In the first place, every other head of a Department connected with this Government has one or more assistant secretaries. We have an Assistant Secretary of State, an Assistant Attorney General, an Assistant Secretary of the Treasury, an Assistant Secretary of the Navy, three Assistant Secretaries of War, and three Assistant Postmasters General. The Senate has one standing committee on each of those subjects, but on the business that comes under review by the Secretary of the Interior we have no less than five standing committees—the Committees on Pensions, on Indian Affairs, on Public Lands, on Private Land Claims, and on Patents and the Patent Office. The business that arises under several of these bureaus is enormous. I shall speak of one alone, with which I am acquainted. There are various legal questions that have to be adjudicated by the Secretary of the Interior with regard to private land grants, school lands, railroad grants, university grants, salt spring grants, land warrants, swamp lands, and appropriations of lands to aid in the construction of canals and the improvement of rivers.

Although the sales of the public lands have been greatly diminished, the questions that arise under these laws, I have no doubt, have been greatly augmented during the embarrassments that now prevail, for every individual who has a claim against the Government is presenting it. I cannot speak with the same familiarity of the business that is under the review of the other four committees to which I have referred; but I may state, in connection with this, that I think the House of Representatives has six standing committees on the business that comes under the review of the Secretary of the Interior. The amount of money involved is but $3,000—about the salary of two second-class clerks. The Secretary needs this officer, and his predecessors have said so, each, from the organization of that Department to the present time, and it seems to me a little singular if Senators can hesitate to give him what he demands. I may state that he has been retrenching the expenses of the Department very largely. He has dismissed no less than forty-eight clerks in the Land Office alone, and I think he has as largely reduced the number in proportion in the other bureaus. I mention this to show that the Secretary is not making this demand for the purpose of patronage, because he is reducing his patronage as largely as is possible under the present embarrassed condition of the country.

Mr. WILKINSON. I do not believe that the Secretary of the Interior can discharge his duties faithfully, and at the same time investigate properly and carefully all the legal questions that come before him. I, myself, in one preëmption case which came before the Secretary of the Interior, expended two weeks in taking testimony in the State of Wisconsin, and it was brought up to the Secretary of the Interior with a mass of testimony. Ordinarily, heretofore, the Secretary of the Interior has been obliged to leave these important cases to be decided by clerks, for he had no time to attend to them. It seems to me that after this war shall close, which I hope will be very soon, the Interior Department will have more business before it than any other Department of this Government. The legal questions that are brought before the Secretary of the Interior to determine in connection with the Indian Office, and the Land Office, and the Pension Office, are such that no man can discharge his duties faithfully as Secretary and be obliged to investigate personally all the cases that come before him. It seems to me that it would be a very wise provision to adopt this amendment.

Mr. HARRIS. The result of my own observations during my short residence in Washington, and my familiarity with the Departments, leads me to concur entirely in the remarks made by the two Senators who have addressed the Senate. I believe, from what I have seen and observed, that the Interior Department requires an Assistant Secretary as much as any other Department in the administration of the Government. I am, therefore, without repeating what has been said by those Senators, entirely in favor of this proposition. I think it is an unjust discrimination against that Department to give all the other Executive Departments an Assistant Secretary and deprive the Secretary of the Interior of an assistant, who, I think, needs one quite as much as any other Secretary.

The amendment was agreed to—ayes twenty-six, noes not counted.

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

ADJOURNMENT TO MONDAY.

On motion of Mr. GRIMES, it was

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

COMMITTEE SERVICE.

Mr. DOOLITTLE. I move that a member of the Senate be placed upon the Committee on Indian Affairs, in the place of Mr. LANE, of Kansas, who is absent.

Mr. FOSTER. Does the Senator refer to the brigadier general?

Mr. HALE. He will be here in a day or two.

Mr. DOOLITTLE. I understand that he will not be.

The VICE PRESIDENT. What is the motion of the Senator from Wisconsin? Is it that Mr. LANE, of Kansas, be discharged from further service as a member of the Committee on Indian Affairs?

Mr. DOOLITTLE. I move that he be discharged from further service upon the Committee on Indian Affairs, and that the Chair appoint a member in his place.

Mr. HALE. I only want to say that I saw yesterday a colonel, whose name I have forgotten, who came direct from Kansas; and he told me that General LANE would be here in his seat in the Senate within two or three days. Under these circumstances, I hope this motion will be postponed.

Mr. DOOLITTLE. I have seen gentlemen from there who have received a telegram (and that comes faster than a man can travel) saying that he is not coming.

Mr. WILKINSON. I saw last night Colonel Delahay, whom I know very well, who came right from General LANE, and he told me that he would be here the last of this week.

Mr. DOOLITTLE. As there is such a strong conviction on the part of gentlemen here that Mr. LANE is coming back in a few days, I shall not press the motion now. I withdraw it.

CONFISCATION OF PROPERTY.

Mr. McDOUGALL. I move to take up the special order that has been passed over to-day, the bill of the Committee on the Judiciary (S. No. 151) to confiscate the property and free the slaves of rebels.

The motion was agreed to.

Mr. HALE. I move now that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *February* 28, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

MILITIA RETURNS.

The SPEAKER laid before the House a communication from the War Department, transmit-

ting the annual return of the militia; which was referred to the Committee on the Militia, and ordered to be printed.

VIRGINIA ELECTION—JOSEPH SEGAR.

Mr. DAWES. I ask permission of the House to make a statement in behalf of Colonel Segar, who was lately a memorialist asking for a seat in this House.

There was no objection.

Mr. DAWES. I send to the Clerk's desk a report of some remarks which I offered in the House when the case of Mr. Segar was up.

The Clerk read, as follows:

"I say, Mr. Speaker, that the only paper which this gentleman presented here, on the strength of which he asked to be sworn in and to take his seat, and on the strength of which the House referred the case to the Committee of Elections, was simply the paper which I hold in my hand. It is a certificate in these words:

"I certify that the above is a correct register of the votes polled at Hampton, Virginia, this 24th day of October, 1861.

"ALEX. WORRALL, *Clerk.*

"We, the undersigned, freeholders of Elizabeth City county, State of Virginia, do hereby certify that the above election was conducted agreeably to the call of F. H. Pierpont, Governor of the State of Virginia, by proclamation issued the 12th day of October, A. D. 1861.

"THOMAS DOBBINS.
"T. S. TENNIS.

"I hereby certify that the above Thomas Dobbins and Theodore S. Tennis were duly sworn by me as judges of election held at Hampton, Elizabeth City county, State of Virginia, this 24th day of October, 1861.

"CAPTAIN N. M. BURLEIGH,
"*Provost Marshal at Camp Hamilton.*

"Witness:

"WILLIAM BARTLETT, *Teller.*

"The two men who held the election at Hampton, the place of residence of the memorialist, where he keeps a hotel, and where there were gathered together twenty-five votes for him in a box, certify to the fact that twenty-five votes were cast for him then and there. He took that certificate, brought it here, and asked to be sworn in. The House, in its wisdom, referred him and the certificate to the Committee of Elections, to inquire into the merits of that election. The committee proceeded to discharge that duty. The claimant submitted to the committee the evidence on which he claimed his seat. He subsequently obtained from these men a codicil to their certificate. That codicil I will read to the House:

"And we do further certify that there was no poll opened at any other precinct in said county, and that so far as we can learn and confidently believe, there was no poll opened or election held for member of Congress in any other county or city or town of said first congressional district, owing to the fact that all the other counties and elector precincts of said congressional district were, on the 24th day of October last, within the lines and under the influence and control of the seceding and rebel States; and we do further certify that at the election held in pursuance of the proclamation aforesaid, at Hampton, on this 24th day of October, 1861, in the said county of Elizabeth City, which is one of the counties composing the first congressional district of the State of Virginia, Joseph Segar, Esq., having received all the votes polled, was duly elected to represent the said first district in the Congress of the United States.

"Given under our hands and seals this 29th day of October, 1861.

"ALEXANDER WORRALL. [SEAL.]
"THOMAS DOBBINS. [SEAL.]
"T. S. TENNIS. [SEAL.]

"Having procured this certificate and this declaration on the part of these three men that he had been elected, Mr. Segar takes it to the Governor after he had had a hearing before the committee. The Governor, on the strength of it, issued a paper, which is by the gentleman from Tennessee [Mr. MAYNARD] and by the gentleman from Kentucky [Mr. CRITTENDEN] pronounced conclusive on this House."

Mr. DAWES. The statement which I desire to make on behalf of Mr. Segar is this—that although it is true that the only paper which he presented as his credentials asking to be sworn in, is the one which I have referred to there, still he had the other certificate in his possession at the time. He had brought the wrong paper to the House, leaving the other inadvertently in his trunk. Having presented that one, and the House having referred his case to the Committee of Elections and ordered that paper to be printed, he came to the House the next day with the second paper in order to have it substituted for the first. He was informed, however, that the other paper had, by order of the House, gone to the printer. He desires to be put right on the record, to that effect.

I desire further to state for him, that he did not go to Governor Pierpont for his proclamation. Governor Pierpont voluntarily offered to give him the proclamation. The only communication he had with him was by telegraph—telegraphing to him to send him on his proclamation. These papers he had in his possession before he had a hearing before the Committee of Elections. I stated there that he brought them afterwards. In point of fact he had them at the time, and they were ordered by the House to be printed.

I desire to state further for him that, in point of fact he was not the keeper of a hotel at Hampton, but was part owner of a hotel at Old Point, which was carried on exclusively by his partner in business, and which he had no control of.

One thing further, and I think I will have made all the explanation he desires. In the course of my remarks I called the attention of the House to the fact that he cited a law of the State of Virginia to show that his certificate was in conformity to law, omitting in his citation a part of the law on which the whole question hinged. He desires me to state to the House that he omitted that because he had supposed that it had no bearing on the case; that he omitted it in good faith, and for that reason. On that point the committee differed with him; but it is due to him that he should have the benefit of his statement before the House, that he supposed it had no bearing on the case. I believe I have made the statement fully; if I have omitted anything I will make the correction.

Mr. MAYNARD. I ask the gentleman from Massachusetts to add this fact, that at the time of the election, and previously thereto, Mr. Segar was not in the district. The election was the work of Union men who desired to be represented, and who chose Mr. Segar.

Mr. DAWES. I am glad to state what I am reminded of by the gentleman from Tennessee, that when the election took place Mr. Segar was in New England, and had no knowledge of it till he was informed of the proceedings by those who participated in them.

F. A. BEELEN.

Mr. THOMAS, of Maryland, by unanimous consent, reported from the Committee on Foreign Affairs a bill for the relief of F. A. Beelen; which was read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

UNITED STATES COURTS.

Mr. SLOAN, by unanimous consent, introduced a bill to provide for the reorganization of the Supreme, circuit, and district courts of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

WASHINGTON'S FAREWELL ADDRESS.

Mr. ROLLINS, of Missouri, offered the following resolution; which was referred to the Committee on Printing:

Resolved, That ten thousand additional copies of the Farewell Address of George Washington be printed for the use of the House, and that the trustees, professors, and teachers of the different colleges, academies, and common schools in all the States be respectfully requested to have said address prominently placed in their respective institutions, where the same may be read, and where the lesson of wisdom, patriotism, and Union which it teaches may be indelibly impressed on the youthful minds of the country.

SPANISH BARK PROVIDENCIA.

Mr. FISHER, by unanimous consent, reported from the Committee on Foreign Affairs a bill for the relief of the owners, officers, and crew of the Spanish bark Providencia; which was read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

TERRITORIAL LIMITS, ETC., OF NEVADA.

Mr. CRADLEBAUGH, by unanimous consent, introduced a bill to extend the territorial limits of Nevada and increasing the salaries of certain officers; which was read a first and second time, and referred to the Committee on Territories.

TERRITORIAL PROBATE COURTS.

Mr. CRADLEBAUGH also, by unanimous consent, introduced a bill to define the jurisdiction of the probate courts in the Territories; which was read a first and second time, and referred to the Committee on the Judiciary.

NEVADA PUBLIC LANDS.

Mr. CRADLEBAUGH also, by unanimous consent, introduced a bill to provide the manner of surveying the public lands in the Territory of Nevada, and for the sale thereof; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed

SMALL NOTES IN THE DISTRICT

Mr. F A. CONKLING. by unanimous consent, introduced a bill to repeal that part of the act of Congress which prohibits the circulation of bank notes of a less denomination than five dollars in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

NATIONAL ARMORIES AND FOUNDERIES.

Mr. MOORHEAD. I ask the consent of the House to report from the special committee on national armories a joint resolution, with a view of putting it on its passage at this time.

Mr. WASHBURNE. Let it be read first for information.

The joint resolution was read. It provides that there shall be established within the United States one national foundery east of the Alleghany mountains; and also one national foundery, one national armory, and one manufacturing arsenal west of the Alleghany mountains, and in the valley of the Ohio and Mississippi; and that to that end, a commission of five citizens be appointed by the President to locate said founderies, armory, and arsenal, who shall, within sixty days from the time of their appointment, report to the Secretary of War; that the Secretary of War shall, upon the incoming of said commission, report the same to Congress, together with an estimate of the amount necessary for the establishment of said founderies, armory, and arsenal; and that there shall be appropriated to pay the expenses of said commission, the sum of $5,000.

Mr. DELANO. I object.

Mr. MOORHEAD. I ask, then, that it may be made the special order for one week from to-day.

Mr. BAKER. I object.

Mr. MOORHEAD. I ask, then, that it may be referred to the Committee of the Whole on the state of the Union, and, with the report and accompanying documents, be ordered to be printed.

There being no objection, the joint resolution was received, read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the report and accompanying documents, ordered to be printed.

Mr. MOORHEAD. I now ask that the joint resolution be made the special order for this day two weeks.

Mr. BAKER. I object.

Mr. DELANO. I ask the unanimous consent of the House to make a minority report upon the same subject, to be referred and printed with the report of the majority of the committee.

There being no objection, the minority report was received, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

WILLIAM H. VAN HORN.

Mr. HOLMAN, by unanimous consent, introduced a bill for the relief of William H. Van Horn; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

ROBERT M'INTIRE.

Mr. JOHNSON, by unanimous consent, introduced a bill for the relief of Robert McIntire; which was read a first and second time, and referred to the Committee for the District of Columbia.

ENGINEER VOLUNTEERS.

Mr. WASHBURNE. I call for the regular order of business.

The SPEAKER. The regular order of business is the consideration, as a special order, of House bill No. 254, to authorize the employment of engineer volunteers, with amendments.

The bill was read *in extenso*. The first section authorizes the President of the United States to accept the services of, or select and transfer from other regiments, a number of engineer volunteers in the proportion of one company to every brigade in the service; such engineer volunteers to serve for such time as the President may direct, not exceeding three years nor less than six months, and to be disbanded at the end of the present war.

The second section provides that they shall be subject to the rules and regulations governing the Army of the United States, and shall be divided into regiments, and fixes the number of officers, non-commissioned officers, and privates in such regiments

The third section provides that the Governors of the States furnishing said engineer volunteers

shall commission the field, staff, and company officers; but where the State authorities fail to make such appointments, or in case of vacancies occurring through death, resignation, or otherwise, the President shall make appointments to fill the vacancies.

Section four provides that the officers, non-commissioned officers, and privates of said engineer volunteers shall, in all respects, be placed on the same footing, as to pay and allowances, bounty, pensions, &c., as engineer officers and men of the regular Army.

The fifth section provides that the officers, non-commissioned officers, and privates heretofore mustered into service as engineers, or sappers and miners, shall, in all respects, be placed on the same footing as to pay, or allowances, bounty, pension, &c., as the engineer officers, non-commissioned officers, and privates of the regular Army, and shall be paid as such for services already rendered.

The Committee on Military Affairs reported to amend by striking from the third section of the bill the following words:

The Governors of the States furnishing engineer volunteers, under this act, shall commission the field, staff, and company officers requisite for said engineer volunteers; but in cases where the State authorities fail to make such appointments, or in the event of vacancies occurring from death, resignation, or otherwise, of officers commissioned by Governors of said States, the President shall make appointments to fill all vacancies.

And inserting as follows:

The President of the United States shall commission the field, staff, and company officers requisite for the said engineer volunteers.

Mr. WILSON. I was satisfied when this bill was reported from the Committee on Military Affairs the other day, and the attempt was made to hurry it through without consideration, that it had a deeper meaning than appeared upon the face of it. I have, from investigations made since that time, satisfied my mind fully that the bill has a deeper meaning than there appears upon its face.

Now, sir, the effect of this bill is an increase of the present military force of the country from eighteen thousand to twenty-five thousand men. The first section of the bill provides that

"The President be, and is hereby, authorized to accept the services, or select and transfer from other regiments, a number of engineer volunteers, in the proportion of one company to every brigade in service."

Now, sir, I understand that we have from one hundred and fifty to two hundred brigades in service, and consequently we shall have an increase in the number of men equal to the number embraced in each company, multiplied by the number of brigades in the service. The number of men and officers in each company, as provided in the second section of the bill, will be one hundred and twenty-five, which, if the number of brigades be one hundred and fifty, will give an entire number of nineteen thousand men; or, if the number of brigades be two hundred, as stated by some gentlemen, it will give an aggregate increase of twenty-five thousand two hundred and twenty men. There is, therefore, an attempt to increase the military force of the country now in service to this very large extent for some purpose. What that purpose may be, I cannot state upon any good authority or with certainty; but I can give my opinion.

On the 24th day of January an act was passed by Congress, authorizing the President of the United States to assume control of the telegraph and railroad lines in the United States. In that bill, a provision has been discovered which authorizes the President of the United States to extend, repair, or complete railroads. Under that provision, the Government has, I understand, contracted for the extension of a railroad from Nicholasville, Kentucky, to Knoxville, Tennessee, a distance, as I am informed, of some one hundred and eighty miles. And I am not only informed that the contract has been made, but I am informed that a nomination has been sent to the Senate of a gentleman by the name of Stone, as brigadier general of railroads.

Now, sir, putting these facts together, when we find this bill introduced for the purpose of organizing a force of some eighteen to twenty-five thousand men, engineers, the inference we may fairly draw from these facts is that it is to this force the brigadier general of railroads is to look for his command. For what purpose, I ask, is this force to be organized, if it has no connection with this railroad which the Government has contracted to construct? What other connection can it have? If it is not intended, in other words, to organize a force of laborers under the laws of the United States, to be governed by the rules and regulations governing the Army, then I cannot see what this bill means. It certainly cannot mean that it is necessary to organize this force for the purpose of erecting fortifications, for our soldiers have already erected those which are needed upon our frontier, and our Army has already penetrated into the heart of the enemy's country.

Mr. WICKLIFFE. Do I understand the gentleman from Iowa to state that the Government has made a contract to build a railroad from Nicholasville to Knoxville?

Mr. WILSON. I only state that I have been so informed. I do not know whether that is the fact or not. I have been informed that the Government has made such a contract. I do not know whether the contract has been made, or whether the Government intends to carry on the work without a contract.

Mr. WICKLIFFE. From what source does the gentleman get his information?

Mr. WILSON. From a source that satisfies my mind that such a contract or project is now contemplated by the Government.

Mr. HUTCHINS. As the gentleman from Iowa is a member of the Committee on the Judiciary, and seems to have investigated this subject, I desire to ask him a question. I want to know by what law the President has appointed a brigadier general of railroads?

Mr. WILSON. I do not know by what law that has been done. I do not know that he has been appointed a brigadier general of railroads. My information is that a person has been appointed to the rank of brigadier general for the purpose of taking control of this force. That is my information.

Mr. STEVENS. I suppose the fact is this: we passed a law by which we authorized the President to take possession of all railroads and to extend them. I understand that it is designed by the War Department to extend this railroad just as the gentleman from Iowa has suggested, and further, in order to give the engineer who superintends it military authority over it, Mr. Stone has been appointed brigadier general—not of railroads, but brigadier general, and has been assigned to that particular duty. I learn that to be the fact from authentic sources.

Mr. WILSON. That is substantially my statement. He is to have control of this force—I mean the force provided for by this bill, which is to be used for the purpose of constructing this railway. Over this force and this road Mr. Stone, who has been appointed a brigadier general, is to preside in a military capacity. There is another thing which confirms what I have already said.

Mr. BLAIR, of Missouri. I was not present in the House when this question came up. It is a bill reported from the Committee on Military Affairs.

The SPEAKER. It came up the first thing in order this morning, as the special order.

Mr. BLAIR, of Missouri. I understand the gentleman from Iowa to say that this bill is reported for the purpose of organizing volunteer engineer corps, to be used for the construction of the railroad which has been spoken of.

Mr. WILSON. I say that my belief is that the force provided for in this bill is to be used for that purpose.

Mr. BLAIR, of Missouri. I will say, in response to that, that there is no foundation for that belief—none whatever. The first recommendation which came to the Committee on Military Affairs in regard to this railroad, came from General Halleck, of Missouri. A regiment of volunteer engineers, as is well known, was organized in the State of Missouri immediately after the adjournment of the last session of Congress. It was considered essential for the service in that quarter. I think, also, two or three independent companies of pontoniers or engineer soldiers have been raised there, and put into the field. They were organized because it was impossible to move the army across the country without having engineer soldiers to make roads, and to throw bridges across streams. Up to that time there was not an engineer soldier in the whole western department.

The same necessity exists in Kentucky. I do not know that there are any engineer soldiers there now. I think I can hazard the declaration upon this floor that, although there may be one or two of the regular engineer officers in that department of the West, yet there is not a single regular engineer soldier there. That is a fact, sir.

They have not had any engineer force there, and what was the result? The infantry force was compelled to be used for the performance of the labor usually done by the engineer force, such as throwing up field works, bridges across streams, erecting fortifications, &c. Under the regulations of the Army, infantry soldiers employed on that work are allowed forty cents each per day extra pay. In the opinion which General Halleck gives me on this subject, he states that it will be more economical to have this volunteer engineer organization than to be compelled to pay the additional sum to infantry soldiers of forty cents per day each while they are employed on that work.

Before the opening of this Congress, certainly before the opening of the present session, General Lyon organized one company of sappers and miners, which are the same thing as the engineer corps. General Frémont organized a regiment of engineer soldiers in the western department, under the sanction, I believe, of the War Department. It was organized and raised after the adjournment of the last session of Congress. I understand that four or five companies of an engineer regiment, or a regiment of sappers and miners, raised in New York are now at Hilton Head or Port Royal, and have been of great use. I learn that one of those companies was recently successful in carrying guns across a swampy island, and establishing a powerful battery upon that island, so as to command the navigation of the Savannah river, and to cut off the communications of Fort Pulaski. I also know that there is another regiment of engineers now stationed near this city, and which has been doing duty in the field. My knowledge on this subject does not extend to the department of Kentucky, under General Buell. I do not know whether there is an organization of that kind there or not, but I suppose there is.

Mr. KELLOGG, of Michigan. I can answer that question. I will say, in regard to the division of General Buell in Kentucky, that he has a regiment of engineers. That regiment comes from Michigan, and are now engaged in Kentucky in the work belonging to engineer soldiers.

And I will say, with the permission of the gentleman, that I saw General Halleck at St. Louis a few days ago, and he told me that the passage of this bill was of the utmost importance in an economical point of view, as well as for other reasons. They want these engineer soldiers in all divisions of the Army for the purpose of enabling them to move rapidly through the country by building bridges, roads, &c. He told me that these engineer soldiers are indispensably necessary.

Mr. BLAIR, of Missouri. I had no doubt that there was such a corps of engineers with General Buell's division of the army in Kentucky, but I did not know it in such a way as to enable me to state the fact with certainty. I know that the Government has given its sanction to these regiments, because I know that they are necessary to the efficiency of the service. So the gentleman from Iowa is misinformed, or misapprehends the true state of the case.

Mr. WILSON. The statement that the gentleman has made has not changed my opinion of this bill. I do not charge, sir, that the Committee on Military Affairs have reported this bill for the purpose of organizing a force for the construction of a railroad; but I do contend that the effect of this bill will be that the force raised under it will be used for that purpose.

The gentleman speaks of volunteer regiments now in the service. I have no objection to that. I admit that they are of benefit to the service, and that such organizations are necessary, but no provision of this bill, as originally introduced, had reference to them. The amendment reported by the gentleman, I believe, on Monday last, had no provision in it concerning the officers and men now in the service as attached to the engineer corps, but it simply related to the organization of this additional force. The President of the United States is authorized to organize that additional force without taking a single man from any of the regiments now in the service. He is to take them

from those not now engaged in the service of the United States.

Mr. Speaker, if it is necessary to have these organizations, it was as necessary to have them in July last as it is now. Our armies have advanced and successfully advanced on an extensive scale without these organizations. General Buell's army has advanced. We learn by the dispatches this morning that General Curtis has reached Fayetteville, Arkansas; General Grant has advanced to Nashville and taken possession of it. All these things have been done without these organizations, except so far as the gentleman has mentioned the few companies now in the service. He says that this labor has been performed by our troops. Very well. It has been performed, and our armies have advanced, and it is not necessary to have this force organized.

Now, sir, there is another provision of this bill which is worthy of attention, and that is, that it is not proposed to take these volunteer engineers into the service upon the same basis and subject to the same conditions, as to terms of enlistment, as other volunteers are received. The provision of the first section is this:

"*Provided*, That the services of these engineer volunteers shall be for such time as the President may direct, not exceeding three years, nor less than six months, and they shall be disbanded at the end of the present war."

Mr. BLAIR, of Missouri. I will state to the gentleman that that is the very language of the bill under which we organized the whole volunteer force now in service. Its language is also "not less than six months."

Mr. WILSON. I do not remember exactly the language of that bill; but I was guided in my remarks by the language of the proclamation of the President. They were to be received for three years, unless sooner discharged. This bill provides that these engineer volunteers may be received for such time as the President may direct, provided the term shall not be less than six months.

Mr. BLAIR, of Missouri. If the gentleman will look at the law which we passed at the extra session, he will find the identical language which is contained in this bill, if my recollection is correct.

Mr. WILSON. Even though that may be the case—and I am not clear in my recollection as to the precise language of the act of July, under which the volunteer force was organized—the soldiers have performed all the labor that will be required at the hands of this corps of engineers, except it may be that this force is intended to work upon that railroad. Now, we do know that steps have been taken by the Government, under the act of January 24th, to construct that road from Nicholasville to Knoxville, Tennessee.

Mr. BLAIR, of Missouri. The gentleman will permit me to read the language of the act of July, under which the five hundred thousand volunteers were organized. It is this:

"*Provided*, That the services of the volunteers shall be for such time as the President may direct, not exceeding three years nor less than six months, and they shall be disbanded at the end of the present war."

And that is the identical language of this bill.

Mr. WILSON. And under that act the President organized a force, and that force has performed all the labor which is necessary. Then, why this increase of force? I would like to know why this bill follows so quickly upon the heel of this contract for constructing a road from Nicholasville to Knoxville, if it is not to be used in connection with the construction of that road? If not, for what purpose is it to be used? And I wish to ask the honorable chairman of the Committee on Military Affairs [Mr. BLAIR, of Missouri] whether he can state to the House that it is not the intention of the Government to use any portion of the force provided for in the bill in the construction of that railroad?

Mr. MALLORY. If the gentleman will allow me, I would like to make a remark just here. The gentleman from Iowa has asked why this engineer force is more necessary now, in reference to the movements of our army, than it has been heretofore, in connection with the same matter. Let me tell him that the army, up to a short time since, had advanced only through loyal States, where no railroads had been destroyed, no bridges burned, and where all the railroads were in good repair, and where the transportation of troops and munitions of war could be accomplished with ease and without any labor of this kind. But now that army has proceeded into the heart of a rebel country, where the railroads are all broken up, where no bridges are left by the retreating army, and where every obstruction possible to be thrown upon the roads have been placed upon them; and engineers in larger numbers than the President will get by this bill, will be required to repair those bridges and remove the obstructions upon the road as the army advances.

Mr. WILSON. So far from the remarks of the gentleman from Kentucky being correct, I say that in no State of the Union have there been greater damages done to the railroads than in the State of Missouri.

Mr. DIVEN. And the companies have repaired those roads themselves.

Mr. WILSON. The gentleman from New York suggests that the roads have been repaired by the companies themselves. At all events, they have been repaired. Those lines of communication have been broken up, and they have been repaired. The same is true in reference to the States of Kentucky, Virginia, and Maryland. There the lines of communication were broken up by the rebels.

Mr. MALLORY. It is a fact well known to every gentleman upon this floor, and I suppose that it is in the knowledge of the gentleman from Iowa, that the advance of our army would have been more rapid and more successful in Missouri and Kentucky if we had had a large corps of engineers accompanying our armies in those States, who could have repaired the injuries and removed the obstructions thrown in our way by the rebels in those States.

Mr. WILSON. There has been no material delay in repairing the railroads in Missouri. The communication has been kept open almost constantly, and the army has done what the company could not do. The work has all been performed, and our armies have advanced far into the heart of the rebel States.

Mr. BLAIR, of Missouri. The Government will use this engineer force wherever it is wanted.

Mr. WILSON. My question is, whether the gentleman can state to the House that no part of the force provided for in this bill is to be used in constructing the railroad from Nicholasville, in Kentucky, to Knoxville, in Tennessee.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, one of their clerks, announced that the Senate had passed a bill entitled "An act to increase the efficiency of the medical department of the Army," in which the concurrence of the House was requested.

ENGINEER VOLUNTEERS—AGAIN.

Mr. BLAIR, of Missouri. I will state to the gentleman from Iowa that I never heard of the suggestion which he has made upon this floor today until it was made by him; and that such a thing never entered into my mind when I reported the bill.

Mr. WILSON. I do not charge that the Military Committee intended any such thing.

Mr. BLAIR, of Missouri. I will state to the gentleman what I stated to him the other day when I introduced the bill, and when he asked me whether this bill was recommended by any Department of the Government. I stated to him that it was recommended by the fact that the Government had sanctioned the organization of these regiments heretofore; but that there had been no such suggestion made by the Government, or by any member of the Government, to any member of the committee. In the first place, the bill was introduced by my colleague from Missouri, and referred to the Committee on Military Affairs; and the committee acted upon the suggestions contained in a letter received by me from General Halleck, and a letter from the colonel or lieutenant colonel of a regiment at Hilton Head, and upon information which I received from a visit to the engineer regiment stationed here adjacent to Washington. I never received any suggestion from any member of the Government in regard to this thing; but I suppose that if the Government would receive into its service engineer volunteers, and employ them as such, it was the bounden duty of Congress to pay them as such. Therefore we went on and introduced a bill which would cover that case, and under which men who performed the services would be paid.

Mr. WILSON. The statement of the chairman of the Committee on Military Affairs amounts to this: that he cannot say to the House that this force is not for the purpose of constructing this road.

Mr. BLAIR, of Missouri. Upon what ground does the gentleman assert that it is intended for any such purpose?

Mr. WILSON. I give it as my belief.

Mr. BLAIR, of Missouri. And I give it as my belief that the gentleman is entirely misinformed.

ASSISTANT TREASURER'S OFFICE, NEW YORK.

Mr. STEVENS. Will the gentleman from Iowa allow me to interrupt him a moment, in order to call up a bill which ought to be passed to-day?

Mr. WILSON. I will yield.

Mr. STEVENS. I ask the unanimous consent of the House to discharge the Committee of the Whole on the state of the Union from the further consideration of the bill (H. R. No. 302) to provide for the appointment of additional clerks in the office of the Assistant Treasurer at New York, and for other purposes. The necessity of the passage of this bill arises from the fact that the allotment law goes into effect to-morrow, and soldiers must be delayed in getting their money unless this bill be passed and sent to New York to-night.

The bill, which was read, authorizes the Assistant Treasurer of the United States at New York to appoint, from time to time, by and with the consent and approbation of the Secretary of the Treasury, such other clerks, messengers, and watchmen, in addition to those already employed by him, as the exigencies of the public business may require, at rates of compensation to be fixed by the Secretary of the Treasury; provided such rates shall in no case exceed those now allowed by law for the several persons similarly employed in the office of the Assistant Treasurer; that the Assistant Treasurer be authorized to appoint, with the approbation of the Secretary of the Treasury, a competent person from among his clerks, who shall be called the deputy assistant treasurer of the United States. The deputy assistant treasurer, in addition to the duties performed by him and any others which he may be required to perform by the Assistant Treasurer, is authorized to witness the execution of any and all transfers of Government stock and powers of attorney, and sign all receipts for patent fees and bullion receipts, with like effect as if the same were witnessed and signed, respectively, by the Assistant Treasurer in person. The deputy assistant treasurer is authorized to receive an additional compensation of $1,000 per annum, to be paid out of any money in the Treasury not otherwise appropriated; provided the total compensation received by him shall not exceed $3,000 per annum. And the sum of $2,500 is appropriated, out of any money in the Treasury not otherwise appropriated, for the purchase of blank checks for the use of the sub-Treasury.

Mr. HOLMAN. I shall not object to the consideration of the bill provided I am permitted to make a motion to strike out the additional compensation of $1,000.

Mr. STEVENS. Certainly.

Mr. HOLMAN. Then I do not object.

There being no further objection, the Committee of the Whole on the state of the Union was discharged from the further consideration of the bill, and it was brought before the House for consideration.

Mr. HOLMAN. It does not seem that the duties and responsibilities of this position will necessarily be much increased. The bill simply assigns to a person already in the employment of the Government other duties than those which he ordinarily performs, and there seems to be no reason why there should be this great increase of salary. I therefore offer the following amendment; beginning at line fourteen, in section two, strike out the words:

"Said deputy assistant treasurer shall receive an additional compensation of $1,000 per annum, to be paid out of any money in the Treasury not otherwise appropriated: *Provided*, the total compensation received by him shall not exceed $3,000 per annum."

Mr. STEVENS. I will not occupy the time of the House by reading a communication from Mr. Cisco and other officers, saying that this business requires great additional labor, and that the present force there cannot do the work at all.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. TUESDAY, MARCH 4, 1862. NEW SERIES.....No. 65.

Mr. Cisco says that he must have some man as competent as himself to act as deputy assistant treasurer, but that he can employ a skillful clerk at $3,000 a year. I do not think that too much. He also sets forth that a vast number of persons, the relatives of soldiers, will apply for these allotments, and unless this bill is passed it will be impossible for him to get through with the business. The increase is almost incalculable. The committee were entirely satisfied that the request was a just one. I move the previous question.

The previous question was seconded, and the main question ordered.

The amendment proposed by Mr. HOLMAN was disagreed to.

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

Mr. STEVENS moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

VOLUNTEER ENGINEERS—AGAIN.

Mr. WILSON resumed the floor.

Mr. MAYNARD. If the gentleman from Iowa will allow me, he has more than once referred to the construction of a railroad between Nicholasville and Knoxville I have understood that information has been circulated privately through the House on that subject which is entirely inaccurate. I do not feel at liberty to state here to the House, in a manner which would become public in quarters where it ought not to be known, what the facts are in connection with the subject; but of one thing I am certain, if the gentleman knew them as they exist there would be no ground whatever for apprehension on his part. There is no purpose of any commercial operation, or anything looking to it, but simply a military operation which will be attended with no more expense, and no more cost to the Government, than the ordinary agencies that are used by the Government for similar purposes, that is, for transportation in wagons with horses, mules, drivers, forage, and so forth.

I make this remark because it seems to have impressed itself upon the mind of the gentleman from Iowa as something that is wrong, something that is indefensible. I will take great pleasure in explaining to him, or to any other gentleman, in another forum and in another shape, the facts, and all the facts, in reference to it. I have thought proper to say this much, and I have thought proper to observe a degree of reticence which forbids me to speak more in detail, as, I am sure, the gentleman will understand and appreciate.

Mr. WILSON. The question which I propounded to the gentleman from Missouri, [Mr. BLAIR,] the chairman of the Committee on Military Affairs, has not been answered. We have no assurance from him, or from any other source, that the force which this bill proposes to organize is not to be used in the construction of the railroad referred to by the gentleman from Tennessee.

The gentleman from Tennessee [Mr. MAYNARD] has remarked that this is not a commercial operation, but that it is a military operation, and I suppose a "military necessity," for everything goes by that term now. How long will it take to construct that railway from Nicholasville to Knoxville? I understand that the distance is some one hundred and eighty miles. I may not be quite accurate, but certainly it is one hundred and fifty miles. The road passes through, perhaps, the worst country in the United States for the construction of a railway; and I undertake to say that that railroad cannot be constructed from Nicholasville to Knoxville in less than six months' time, and cannot be constructed at a cost of $10,000,000.

Mr. MAYNARD. I will relieve the gentleman from Iowa by saying, in the first place, that there is no necessity of constructing the road from Nicholasville to Knoxville, for the road is already partially built. I will say that, so far as time is concerned, nothing that is contemplated would take anything like six months; and, as for expense, nothing that is contemplated would cost fifteen per cent. of the sum the gentleman has named.

As I said before, I cannot meet these several points as I would do, for the reason that I feel myself constrained by the circumstance already referred to.

Mr. F. A. CONKLING. I desire to make a suggestion to the gentleman. He has dealt in various mysterious allusions here, and I submit to him that he ought to move that the House go into secret session under the joint rule, that we may all be in possession of these facts which he deems so important.

Mr. MAYNARD. I cannot make that motion. The President has not authorized me to speak for him.

Mr. WILSON. The gentleman from Tennessee says that this railway is partly constructed. I understand that the line has been completed from Frankfort or Lexington to Danville or to Nicholasville, and that from that point to Danville—I probably may not be accurate in the names of the towns—the grading has been performed, but that a great portion of the line is unbroken, and that it passes over mountain ranges and hills that will necessarily impede the construction of the road. It is suggested that tunneling will be necessary. Now, we all know, who know anything about railroad transactions in this country, that you cannot build a road of the length which one would necessarily be between these two points in the time suggested by the gentleman from Tennessee; and I will venture to assert that, if the project shall be carried out by the Government, not a solitary train will pass over the road in less than six months' time, and it is most probable that it will take more than a year to construct the road.

But the gentleman from Tennessee says that I estimated the cost as too high. If that be so, and the suggestion made by him in relation to the cost be true, then the road will be built cheaper than any road was ever built in this country by a private company; and we all know that it costs the Government more to do work of this kind than it does private companies.

Now, the point which I have made, or endeavored to make, is this: that the Government has determined to build this road, that the entire country must pay for its construction, and that it cannot be completed in less than six months, by which time I hope our army will be advanced far below Knoxville. Our line of communication is now open to Nashville. Now, sir, if it is necessary to have this road, it is necessary to have it speedily, and you cannot have it in less than six months' time. Further than that, sir, as I have remarked, it is to be constructed at the expense of the entire country. How long is this war to last? Six months? a year? two years? If we shall close it, as has been intimated by our Government, in a few months, this road will be incompleted at the close of the war, and then it results only in benefit to the people of Kentucky and Tennessee.

The other point I have made is this: that the Government must have a force to do this work. We find that this bill provides for the organization of a certain force. For what are they to be used? Are they to be connected with the construction of this road? If so, then this House is called upon to pass a bill for the organization of twenty-five thousand engineer volunteers for the purpose of constructing a railroad that cannot be constructed in time for the purposes of our army unless we intend to continue it on after our army into the Gulf States.

Mr. MAYNARD. I will ask the gentleman from Iowa whether he is personally familiar with the country of which he speaks, whether he ever traveled there and knows anything about it from personal observation?

Mr. WILSON. No, sir; not at all.

Mr. MAYNARD. I will take great pleasure if the gentleman will accompany me in a few days, when I expect to go there, in taking him along with me and showing it to him. Personal observation of it would probably relieve the gentleman very much. I know this: that if the troops there under pay had been employed in the work of grading and preparing the ties, and so forth, they could have had the entire road almost ready for laying the iron at this day, without a dollar of additional expense to the Government, and in a service which would have been much preferable to them to lying in their tents, simply because in the state of the country and condition of the soil they could not have transportation.

Mr. WILSON. The gentleman's sneer at my information does not amount to much for an argument.

Mr. MAYNARD. I beg to say that I did not sneer at all. The gentleman has made a statement in reference to that country which I think he would himself say, if he was acquainted with it, was inaccurate. I am very sorry that not only he, but, it so happens, a great many other persons are not familiar with the topography or geography of that particular portion of the country. I said that in no unkind or sneering manner.

Mr. WILSON. I suggest that the gentleman has not contradicted any statement which I have made. He has not stated to the House that my information is not correct. He has not stated that a railway passing from Nicholasville, Kentucky, to Knoxville, Tennessee, has not to pass over a broken country, over mountain ranges, over streams that must be bridged. Nor does he deny that tunneling must be done. None of the information on which I based my statements is denied.

Mr. MALLORY. I will state to the gentleman from Iowa that an accurate reconnoissance has been made of that country, and the estimates of able and skillful engineers satisfy us that the cost of the road will not exceed $30,000 a mile, and that the distance between Danville and the point to which the road would have to be built, to establish a connection between Knoxville and Danville, is within one hundred and twenty miles.

The gentleman remarked just now that this road could not be finished in six months. I do not know about that. I think that with force enough it could be built in less time. He then asked the question, how long the war is to continue? Is it to last six months, or twelve months, or two years? If the gentleman from Iowa will answer that question to my satisfaction, I shall be very much obliged to him. I cannot answer it to his satisfaction, or to that of the House. But if this war continues, this road which the gentleman speaks of is, in my estimation, an absolute military necessity; and I say to him that if the war be ended in six months, or twelve months from this time, he will concur with me in opinion that the condition of things in that southern country will require that we should have facilities, for some time after the termination of the war, to send troops and munitions of war, perhaps, into these States with the utmost facility, if it is necessary to do so.

Mr. WILSON. The only point which the gentleman has made is that the road is not going to cost as much as I have stated. Now, at his own figures, it will cost from $3,000,000 to $5,000,000, allowing the shortest line that he has stated. This is not a question as to whether the Government shall build a cheap railroad or a dear railroad. That is not the question. The only position on which the gentleman can base an argument in support of this measure is that it is a military necessity. Does the gentleman expect that our army is to remain at Knoxville, Tennessee? Shall not our army advance beyond the Tennessee line? And if the army is to advance, must we continue to build railroads? How far shall we continue them? Where are they to end? And what is to be their aggregate cost to the Government?

Mr. MALLORY. I will say to the gentleman from Iowa, for his information, if he is not apprised of that fact already, that now and heretofore, as our armies have advanced in the State of Kentucky and in the State of Missouri—and it will be the same case, in a still more marked degree, in the southern States—it has been necessary for the army to build roads of every description to facilitate transportation. I will say to the gentleman

from Iowa that when the army gets to Knoxville, it is not my expectation that it will stop there. When it reaches Knoxville, by those facilities which we choose to furnish it, it will then have access to almost every part of the Atlantic coast—to Beaufort, North Carolina; to Charleston, by way of the Virginia and Tennessee railroad; and to Richmond or Washington city. The army can diverge in any direction from that point.

A MEMBER. Unless the railroads are destroyed.

Mr. MALLORY. If the railroads are destroyed, they will have to be reconstructed.

Mr. WILSON. The gentleman does not answer my question at all. He does not assert that there is direct railroad communication from Knoxville to the heart of the Gulf States.

Mr. MAYNARD. Certainly there is.

Mr. WILSON. And communication to the Southwest?

Mr. MAYNARD. Certainly.

Mr. WILSON. And to the Southeast?

Mr. MAYNARD. Certainly.

Mr. WILSON. How many railroads center in Knoxville?

Mr. MAYNARD. Simply one line of railroad passes through the eastern portion of Tennessee, which is the central part of the hour-glass from which the others diverge.

Mr. WILSON. And yet there is a large portion of the country between the Mississippi river and the Atlantic coast which is not at all supplied with railroad facilities in connection with Knoxville. If the army is to penetrate that portion of the country, you must, if the argument of necessity be good for anything, continue this railway in that direction.

Mr. MAYNARD. At Knoxville you are in a railroad communication which articulates with roads that open up the whole southern confederacy of States.

Mr. WILSON. The railroad referred to by the gentleman is one making east and west connections. The connection is not with the southern States by direct lines. Therefore I say that if the argument of necessity made in favor of this measure is a good one, it will be just as good for a continuous railway to the Gulf as it is for a railroad to Knoxville.

Mr. BLAIR, of Missouri. I raise the point of order that the discussion of the practicability, feasibility, and propriety of building a railroad from Kentucky is not germane to the bill now under consideration.

The SPEAKER. The gentleman from Iowa is opposing the bill because he alleges that the engineer corps proposed to be raised would be used in building railroads. The Chair does not see how it can restrain debate.

Mr. BLAIR, of Missouri. The question of building railroads by the Government can furnish no good argument against the bill.

The SPEAKER. The Chair has no control over the conclusiveness of the gentleman's arguments.

Mr. WILSON. My argument may not satisfy the gentleman, or any other person. I am only giving the reason why I pursue a certain course in regard to this measure. It is satisfactory to me. Now, I say that those who have interrupted me in the course of my remarks have not undertaken to give the House any light whatever on the principal question which I have put in regard to this bill, and that is, whether this force is to be organized for the purpose of constructing that railway from Nicholasville to Knoxville.

Mr. MALLORY. I hope the gentleman will not persist in these remarks.

Mr. WILSON. I decline to yield the floor.

Mr. MALLORY. The gentleman made a charge, and I thought he should have allowed a reply.

Mr. WILSON. The chairman of the Military Committee says that no Department of the Government has asked for the passage of this bill. It comes from the Military Committee, and is, I think, although unintentional on their part, only a part and parcel of the scheme by which this railway is to be constructed. I have said all that I desire to say on this subject. I should only have occupied a few minutes had it not been for the interruptions.

Mr. SHANKS. I wish to ask a question of the chairman of the Military Committee. I find that the first section of the bill gives the President authority to accept the service, or to select and transfer from other regiments, a number of engineer volunteers, in the proportion of one company to each brigade. I find in the second section an arrangement designating the officers for a regiment. Now I wish to know, if these companies are to be raised for the purpose of being divided among brigades, how can one set of regimental officers discharge the duties belonging to their commissions?

Mr. BLAIR, of Missouri. I will remark to the gentleman from Indiana, that the language employed in this bill is that which is ordinarily or generally employed when speaking of cavalry, artillery, or engineer forces. It is so much in proportion to the infantry, or to a brigade. It is not intended by this bill that every brigade shall have one company of engineers assigned to go with it any more than it is intended that every brigade shall have a squadron of cavalry, whether they want it or not; or any more than it is intended that each brigade shall have a certain amount of artillery, whether they want it or not. They are to be employed at any point where the wants of the service require them. That is the intention of the bill; and it only speaks of the proportion of engineers that may be mustered into service to the whole number of troops in service, for the purpose of maintaining a proper balance.

Mr. WILSON. I wish to state, in conclusion, that I have no disposition whatever to oppose any measure which is necessary to the prosecution of this war. I have invariably voted for all the money that has been recommended by the Committee of Ways and Means, and I hold myself ready to do so in future. I shall also vote for all the men who are necessary for that purpose. But I have no information from any Department that this organization is necessary or asked for. Nay, sir, I will go further than that; if I was convinced that the construction of this road was a military necessity, and such a necessity that the Government could not carry on its operations without it, I should not oppose it. But I am satisfied that the operations of the Government can be carried on without it, because our armies have already penetrated the rebel States without the aid of such conveniences. In my judgment the construction of the road on the part of the Government is really to result in the benefit of the citizens of those regions through which the road is to pass, and them alone, because the time required, as I have already remarked, for its construction, will extend beyond the time when I hope this rebellion will have been brought to a close.

Now sir, I am satisfied further, from what has been said by various gentlemen who have interrupted me, that there is something in this bill which should be thoroughly investigated, and I therefore move that the bill be referred to the Committee of the Whole on the state of the Union.

Mr. LOVEJOY. Is that motion debatable?

The SPEAKER. It is.

Mr. WILSON. I intended to finish my remarks by calling the previous question. I will, however, not do so, if the gentleman from Illinois will call it when he has finished his remarks.

Mr. LOVEJOY. I will. Now, Mr. Speaker, I suppose I shall not be thought surcharged with affection for the border States, or be supposed to favor any measure which looks to the advancement of any peculiar interest of theirs at the expense of the country, by anything I may say upon this bill. But it does strike me—while I know nothing about the connection of this bill with the railroad spoken of—that it may be desirable that such a road should be built for a shorter or longer distance, precisely as it is desirable, in my view, that railroads should be built in this city and railroad bridges to cross the Potomac, for the reason that it is much cheaper to build railroads, when you have the men to do it, for the transportation of troops, supplies, and munitions of war, than it is to transport them by wagons. And while I know nothing about the circumstances in reference to the road which the gentleman from Iowa says the Government have contracted to build, I can easily conceive that it would be cheaper to build portions of this road for the mere purpose of the transportation required by the Government during the war, than to undertake to carry on that transportation by the slow process of wagons. And in this case it might be peculiarly desirable to build this road, and cheaper, for the additional reason that when the war has closed the Government will, I suppose, sell it precisely as they contemplate selling the horses, mules, wagons, and other things which have been purchased only for the purposes of the war.

Mr. MALLORY. I was about to state, if the gentleman had not done it, that that is precisely the case. I think information could be furnished by the Quartermaster General's department which would satisfy the gentleman and the House that it would be a matter of economy for the Government to build this road, and that the cost which has already been incurred for transportation in that portion of Kentucky has swelled to more than the cost of the construction of this railroad.

Mr. LOVEJOY. I supposed that might be the case, and I have no doubt there is a disposition upon the part of the House, if the President and Secretary of War state the construction of that road to be necessary, to vote any amount of means required for the accomplishment of that purpose.

Mr. MALLORY. With the consent of the gentleman from Illinois, I will mention another thing, that he may have it in mind in the remarks he is making. I will state that before the assembling of the present session of Congress the President had become so well satisfied, that in order to carry on the operations of the Government in Kentucky and Tennessee this road would be a necessity for the transportation of troops, supplies, and munitions of war, that in his annual message you will find he recommended the construction of this very road as a military necessity—not that I understand a military necessity in the same light as represented by the gentleman from Iowa. He seems to understand, by the expression, that the road must be an absolute necessity, without which the army could not move at all.

Mr. WILSON. Not at all.

Mr. MALLORY. No such military necessity as that existed; but the testimony is clear and explicit that the construction of such a road would facilitate the transportation of troops and supplies, and cheapen the cost to the Government of the military operations in that quarter.

Mr. WILSON. Let me make a suggestion to the gentleman from Kentucky. I understand that a bill was introduced early in the session for the construction of this road. I understand that it was referred to a committee, but that that committee has not yet become convinced of the necessity of reporting the bill back to the House with a favorable recommendation.

Mr. MALLORY. I will say to the gentleman from Iowa that that matter has been acted on, and that I have been instructed unanimously, as chairman of the committee, to report the bill to the House, which I am ready to do whenever I have an opportunity.

Mr. LOVEJOY. I did not contemplate occupying the time of the House but for a moment. These thoughts suggested themselves to me as the possible solution of the difficulty which the gentleman from Iowa seems to labor under. If the construction of this road be not an absolute necessity, yet we all know how much the operations of the Government are facilitated by the means of railroad transportation; and whether the construction of such a road shall turn out a matter of economy to the Government, will depend very much upon the length or shortness of the war.

Mr. TRIMBLE. Have we not at present a railroad connection with Knoxville, Tennessee, by way of Nashville, as well as by way of Memphis?

Mr. LOVEJOY. So far as that is concerned, I have not investigated the matter. I simply mention this as a general idea that these roads are necessary, and that sometimes they may be constructed by the Government with economy, as they have been here in this city. I do not profess to have investigated this particular case or to know the facts in reference to it. But, if the President and Secretary of War, and those who have the responsibility of the administration of the Government and of carrying on the war say they need this road, I should be disposed to vote for it.

Mr. TROWBRIDGE. I have before me Lloyd's American Railroad Map, in which I see there is a parallel road, about three fourths of which we have in our possession. There is a road from Louisville to Nashville, at which latter place connection is made with an east and west line running to Knoxville. Gentlemen can therefore see for

themselves whether it would not cost less to transport the Government stores, &c., by this route than to construct a new road. There can be no great difference in the distance.

Mr. MALLORY. Let me correct the gentleman. From Louisville to Nashville, the distance is one hundred and eighty miles, and from Nashville to Knoxville the distance is some two hundred and fifty miles. That, sir, is a fact which I know in reference to this matter, yet the gentleman talks about this being a parallel road about equally distant from Knoxville.

Mr. TROWBRIDGE. I did not say of equal distance from Knoxville. The question I wished to submit to the House was, whether it would not be more economical with the road already constructed to transport the troops, munitions of war, &c., of the Government, although the distance may be a little greater, than to go to work and build a new road over the mountain ranges of eastern Kentucky and Tennessee?

Mr. MALLORY. But the gentleman will recollect that it is the country through which the contemplated road passes where the Government needs these facilities.

Mr. TROWBRIDGE. I desire to refer just here in this connection to a remark made a few minutes ago by the gentleman from Illinois that the amount already paid out for transportation through this country would go far towards building this road. Now, sir, the circumstances under which we have paid for that transportation are such as I hope and trust may never occur again. That country has been in the possession of the enemy; we have foot by foot obtained possession of it; and I trust in God we shall never again lose possession of it. We have a parallel road leading to the same place, but by a little more circuitous route. We have two thirds of that road already. The question is, whether we will now, at this late day, build a new road, when we have a parallel road, or use that parallel road, or so much as we have of it, and go on to take the rest of it.

It seems to me that there can be no doubt about the course we ought to pursue, nor is there any question about the facts involved here. I knew when it was announced in this House, not publicly; when we were told that proceedings had already taken place for the purpose of building that road, I believed that that was all done under the false pretense that it was deemed best to take possession of the railroad and telegraph lines of the country. I was absolutely amazed to see under that power given to the President an attempt made to construct this road; and I hope that Congress will now, if not too late, interrupt these proceedings and stop the work where it is.

Mr. WILSON. I believe on Monday last the gentleman from Ohio [Mr. TRIMBLE] offered a resolution, which was adopted by the House, calling on the President of the United States for information touching this railroad. I understand that we have received no response to that resolution of the House. We have no information on the subject; and until we do have, it is proper that we should delay our action on this proposition.

Mr. MALLORY. With the permission of the gentleman from Illinois, I will take the floor to say that the gentleman from Michigan is mistaken about the charge he has preferred. I am disposed to look upon the President of the United States as a plain, blunt, honest, direct man. I believe that he is an honest man. I believe that he is a patriotic man. It is rather strange that this testimony should come from me in refutation of an indirect charge against him by the gentleman from Michigan. He says that he is constrained to believe that the President of the United States has undertaken this work under false pretenses. I deny it. I deny it emphatically. The President undertook this work by virtue and under authority of law which passed both Houses of Congress. If the gentleman happened not to be in his place, or if he paid no attention to the bill when it was up, it is his fault that the law was passed, and not the fault of the President, that under his oath he has executed the law. I will make another remark before I take my seat. The gentleman from Iowa [Mr. WILSON] misconceives this matter when he charges that this bill has been introduced by the Committee on Military Affairs for the purpose of constructing this road. The gentleman from Missouri, [Mr. ROLLINS,] before the law passed giving the President of the United States the right to take possession of the telegraph and railroad lines of the country, and by virtue of which the President is constructing this road, as the gentleman from Iowa contends that he is, introduced a bill for the very purpose of constructing this road.

Mr. EDWARDS. I hope that I will be permitted to say a word.

Mr. LOVEJOY. I suppose that the friends of this bill are impatient to have it acted on.

Mr. EDWARDS. Does the gentleman propose to call the previous question on it?

Mr. LOVEJOY. I propose to call the previous question on the reference of the bill.

Mr. EDWARDS. Then I hope the gentleman will yield to me for a moment.

Mr. LOVEJOY. I yield to the gentleman from New Hampshire if he will be brief. Then I propose to call for the previous question.

Mr. EDWARDS. This debate, Mr. Speaker, seems to me to be of an extraordinary character. The bill before the House simply proposes to increase the Army by adding to it the peculiar corps of engineers or sappers and miners. The gentleman from Missouri, who reports the bill from the Committee on Military Affairs, declares that it is not for the purpose of constructing any railroad, and the gentleman from Iowa, who opposes the passage of the measure, alleges that it is for the purpose of constructing a railroad. Certain gentlemen too seem to advocate the passage of the bill upon the very ground that the gentleman from Iowa takes for his opposition to it. I so understand the gentleman from Kentucky, and other gentlemen. They advocate it because it is for the purpose of constructing this railroad.

Mr. MALLORY. The gentleman from New Hampshire is mistaken. I do not see any connection between this bill and the project alluded to for the construction of a railroad.

Mr. EDWARDS. I was only showing the extraordinary character of this debate. I am glad to be corrected.

I come now to the merits of the bill. The only question which seems to me to be pertinent to the consideration of this bill is, whether this engineer corps is necessary for the efficiency of the Army, independently of the construction of railroads. If that be so, then there is no earthly necessity for this discussion about railroads. There is no earthly necessity for it unless gentlemen believe that there is an intention to spring a trap, and indirectly to provide for the construction of a railroad. I do not understand that there is any such intention; and I certainly would vote against this bill if I did not deem that this corps was necessary for the efficiency of the Army. I do not vote for it, because I believe that it provides for the construction of a railroad. I would not vote for the construction of any railroad unless it was patent by the bill that that was its purpose, and unless there was a necessity for it and the proper means were provided. When a bill comes in here for the construction of a railroad in Tennessee or Kentucky, and it is recommended by the Government as necessary to its interest, I will vote for it; but I would not vote for such a proposition where there was no provision intended to be made for that.

I will not take up the time of the House in discussing the merits of this question as to whether this corps is necessary for the efficiency of the Army or not. I will only say that this bill comes here without the sanction of the War Department, and without the sanction of those who are responsible for the success of the Army. I think, therefore, that we ought not to sustain it.

This is too important a bill to pass in this hurried way. It proposes to add twenty thousand men to our present large Army, and it proposes to pay them higher pay than we are now paying to our soldiers. I have high respect for the Committee on Military Affairs, yet I cannot vote for this bill, which they report to us without being able to say that it has the approbation of the authorities who are responsible to us for the conduct of this war. It seems to me that this bill ought not to be passed by this House, and I hope that it will be rejected.

Mr. TRIMBLE. I trust the gentleman from Illinois will not object to my saying a few words on this subject.

Mr. Speaker, I am not disposed to make any captious objection to this bill for the organization of an engineer corps. It may be necessary; and when I am convinced of its necessity for the successful operation of our forces, I am ready to vote for it; but not till then. It has been stated by several gentlemen who have occupied the floor, that our Army, up to the present time, at least, so far as we have been informed, has not felt the want of an engineer corps. We have bridges built, field works thrown up, and fortifications erected, and I have never heard of the necessity of any addition to our engineer corps. I venture to say, if there had been a full regiment of engineers under General Lander, in Western Virginia, they could not have built, like the western volunteers, a bridge between "dark and daylight." In almost every regiment of our Army we have regularly educated military men, who are not only soldiers, but engineers. Their education necessarily makes them such. We have also among our volunteers many railroad engineers, superintendents, and constructors of railroads. It is doubtful whether there is a western regiment which cannot furnish on an hour's notice all the men you propose to organize under this bill into an engineer company.

It is a little remarkable that during the progress of this war no movement of this sort has been made under the direction of the President or the Secretary of War. If there had been so great a necessity for it, I think we would have heard of it before now.

Mr. Speaker, in connection with this subject, the use to which this engineer corps is to be applied has been understood to be that of constructing railroads. I do not say that that is the sole purpose, or any part of the purpose of this engineer corps. But I may be permitted to say here that after reading the President's message I was induced to believe that the influence of the President would be given to the extension of the railroad from Danville, Kentucky, to Knoxville, Tennessee. He believed that to be an important military necessity. Though I have great respect for the President and his opinions, I beg leave to differ with him upon this subject. I have investigated this subject, not within the last twenty-four hours or the last week, but I have been examining it ever since I read his message. Various reasons led me to that investigation. Many of my dearest friends and relatives are located near to this road. There is not a man upon this floor, not excepting the delegation from Kentucky, who would be more gratified in rendering any aid or assistance to that people than myself if it could be done without sacrificing the great public interests of the country.

Now, sir, I introduced, a few days ago, a resolution of inquiry, requesting the President of the United States to inform us whether he had ordered or contracted for the building of a railroad from Nicholasville, Kentucky, to Knoxville, Tennessee. I did so because I had been informed, by what I supposed to be good authority, that such a thing was in contemplation, if it had not already been inaugurated. We have received no reply to that inquiry; but I presume I may be permitted to say that I afterwards received information from one who I supposed was well informed upon the subject, corroborating what I had previously heard. But it is not necessary that I should refer to private information. It has been acknowledged upon this floor during this discussion by several gentlemen that this road was now actually in the way of construction. I reiterate what the gentleman from Iowa said, that there is no portion of country in the United States over which it would be more difficult to construct a railroad than this route between Nicholasville, Kentucky, and Knoxville, Tennessee. The very topography of the country proves it. You cannot find a single stream running in the direction of this proposed road. In the progress of that road, you cross the ridges, you cross the hills, and you cannot follow a watercourse anywhere. I appeal to the good sense of any railroad man, or of any man who has had any connection with railroad matters, whether it is not bad policy always to take any other route than that in the direction of the water-courses. Let any man take a map of the United States, and he will find that all the water-courses have to be crossed on this line at right angles, and that you follow none of them. I have been in that country, and I know whereof I speak when I say that you can-

not build a good railroad in that country for less than $60,000 a mile.

I know that the engineers of various companies throughout the country have made estimates of what those various roads would cost. The estimates might be ten or twenty thousand dollars a mile; and I can now point out roads to you every one of which have cost from two to three times as much as the estimates of the engineers. There is a road passing through my section of the country, the first estimated cost of which was $10,000 a mile; the second $20,000; and yet that road of less than two hundred miles in length, has already cost upwards of thirteen millions of dollars, and it is not more than half finished to-day. Now, the country over which this proposed road passes is a great deal worse than that over which the road I have referred to passes, for all your hills and valleys are underlaid with solid rock.

Mr. LOVEJOY. I do not wish to interrupt the gentleman; but the question now before the House is a motion to refer to the Committee of the Whole on the state of the Union, and the merits of the bill are not before us.

Mr. TRIMBLE. The discussion has assumed a very broad latitude. I am perfectly willing that the bill should go to the Committee of the Whole on the state of the Union, or anywhere else where I may have an opportunity to discuss it. But I will soon be through with my remarks.

Without going any further into the question of the feasibility of constructing this road, I have yet to hear any man say that its construction is a military necessity. I know that under the law which we inadvertently passed a few days or weeks ago, we gave the President power to extend, repair, and complete railroad and telegraph lines. I do not believe that such a bill could pass this House to-day. There are railroads the construction of which might have been considered, and which might be considered to-day, as a military necessity. I might say that the Baltimore and Ohio road was a military necessity, and yet we chose to abandon it to the enemy, and we have not possession of it to-day. We probably might have saved to the Government double the cost of the construction of a railroad from Danville, Kentucky, to Knoxville, Tennessee, even if that road should have cost $60,000 a mile. We might say that military necessity requires the construction of a double track from this city to Baltimore. I do not doubt it, and yet the President and Secretary of War have not sought the power to construct that double track. The city of Washington has only one single track of road leading into it, upon which all the transportation of troops, supplies for the Army, coal and food for the inhabitants is to be transported, and yet, so far as I know, no application has been made for power to construct a double track.

Still, here in Tennessee, where you have only one small column of the Army, you have granted a power to construct a road which, taking into consideration the curves of the road, will not be less than one hundred and eighty miles long. Gentlemen talk about this being constructed in six months or a year. It cannot be done, if all the power and all the energy of the Government were expended on it. It would be impossible from the very nature of the country through which it runs.

It is said that we have possession of the Louisville and Nashville road only to Nashville. We certainly will, if we can hope from former success, soon have possession of the whole of that road extending to Chattanooga, and that will give us possession of the Tennessee and Virginia road passing through Knoxville. Now, I state it here as my opinion that you can go to Cincinnati on Monday next, on the supposition that you already have a road from Danville to Knoxville, and contract for the transmission of freight and troops to Memphis, Tennessee, and from there by railroad to Knoxville, for less money than you can contract to carry them from Cincinnati, by the Covington, Lexington, and Knoxville road. It may be a little longer round by way of Louisville and Memphis to Knoxville; but when we take into consideration the character of the country, and the necessary curves which will have to be adopted in the speedy construction of the road, which will not admit of the tunneling of mountains and of deep cuttings, it will not be a much longer route. I think we may predict that in less than thirty days we shall have possession of all those points, and then we have a continuous road to Knoxville. Where, then, is the urgent immediate military necessity for the construction of this road, which any man can see cannot be completed in six months?

I wish merely to add, that if this engineer corps, to the amount of twenty-five thousand men, or any portion of it, is to be employed in the construction of railroads, when no one pretends to say they are a military necessity, I am opposed to it. But I am opposed to it for another reason. We had an outburst of economy here day before yesterday, when we reduced the cavalry force from seventy-five or eighty thousand men to fifty thousand. And now we are ready, upon the heel of that, to create by this bill a much larger force to be employed for other purposes, adding much greater expense to the Government than has been saved by the reduction of cavalry regiments.

Mr. LOVEJOY. I must interrupt the gentleman.

Mr. TRIMBLE. I should like to have concluded the remarks I proposed to make on this subject; but if the gentleman insists upon the floor, I must yield.

Mr. LOVEJOY. I yielded only for ten words, and I do not think I have been much wanting in courtesy to the gentleman from Ohio in yielding thus long. I do not care to discuss the merits of this proposition, for I have not investigated it. What I wanted to say has reference more to this particular road than to the engineer corps. When the President and Secretary of War say that it is necessary, why, then I am in favor of sustaining them and granting them authority to finish the road, and the means to do it. I shall not yield to gentlemen from the border States in my confidence in the integrity and straightforwardness and uprightness of the President of the United States. I am not going to give him into their hands to be patronized at all. I now move the previous question.

The previous question was seconded, and the main question ordered.

The SPEAKER stated that the chairman of the Committee on Military Affairs [Mr. BLAIR, of Missouri] was entitled to the floor for one hour to close the debate.

Mr. BLAIR, of Missouri. I desire to say something about the bill which has been before the House and occupying its attention without having received any notice at all, and pending which nothing but the railroad question has been discussed.

Mr. LOVEJOY. I called the previous question upon the motion to refer only.

The SPEAKER. The Chair does not know how that can be done. The previous question will exhaust itself on the engrossment and third reading of the bill, if it is not referred to the Committee of the Whole on the state of the Union.

Mr. BLAIR, of Missouri. I do not desire to have the bill referred to the Committee of the Whole on the state of the Union. If the House are not disposed to vote for the bill I want them to vote it down here now, and not let it hereafter be resurrected like a ghost to take up more of the time of the House, and afford a vehicle for the discussion of the railroad question.

Mr. MALLORY. Before the gentleman proceeds to discuss the merits of the bill, I hope he will allow me to say a few words.

Mr. BLAIR, of Missouri. No, sir; I cannot. I do not intend to have any more railroad discussion upon this bill, if I can help it. When the railroad question comes up the gentleman can discuss it.

I cannot account for the hallucination, strange and unaccountable, which has taken possession of the gentleman from Iowa [Mr. WILSON] in reference to this bill. He opposes it because, if the bill is passed, the engineers authorized to be raised under it may be employed to build a certain railroad. Why, sir, he might as well oppose the organization of a volunteer force to put down this rebellion because the President might, in his discretion, invade Canada with it. He does not pretend to know anything of the fact he states here. I do not believe he states it as a fact at all. He simply speaks of this thing as a possible contingency; and while it is admitted upon all hands that a volunteer engineer corps is essential to the efficiency of the Army, an engineer corps is not to be allowed, for fear the President will do something underhand with it. That is the whole argument addressed to the House—the apprehension that if this bill is passed, the President will be guilty of some underhand conduct, and build a railroad under it which the gentleman does not want to have built! I say that the gentleman's remarks had no sort of application to the bill pending, and I endeavored to keep him to the discussion of the bill. I had no objection to his stating that he suspected the President and the Administration of this, that, or the other; but I did object to the discussion of the practicability and feasibility of building a railroad in a particular portion of the country upon a bill of this description.

Now, sir, that this corps is essential to the Army and to its efficiency cannot be better illustrated than by the fact that already men have been mustered into the service as engineers, without there being any law under which they could be mustered in, and they have done service.

The gentleman from Iowa undertakes to say that the Army has marched without engineers. I say it has not marched without engineers. There have been engineers accompanying it, but they have simply failed to get the pay of engineers.

Mr. WILSON. I did not deny that the Army has engineers. I gave the gentleman credit for the statement which he made, that a few companies had been organized. That was all he stated, and I admit that.

Mr. BLAIR, of Missouri. The gentleman did not give me credit for all I stated then, because I said that something more than a few companies had been organized. I stated that one company, in the Missouri department, had been organized, before the meeting of Congress at its extra session, by Brigadier General Lyon, and that a regiment and some other companies had since been organized in that department. The gentleman from Michigan [Mr. KELLOGG] stated that there is now a regiment in Kentucky, under the command of General Buell. And I stated that there is another regiment at Hilton Head, under the command of General Sherman, and that there is another regiment here, and I understand there are two. In all, there are five or six regiments; and not only a few companies.

Mr. WILSON. Five or six regiments in all?

Mr. BLAIR, of Missouri. To my knowledge, from information derived here to-day upon this floor. There may be more, and I think it possible that there are more, in independent companies and in regimental organizations. I have no doubt there are all the engineers mustered now that the President will desire to have mustered under this bill if it shall pass.

Mr. WILSON. Then why is it necessary to pass this bill, excepting so much of it as is embraced in the last section, or the last but one?

Mr. BLAIR, of Missouri. Simply for the reason that the bill of the last session does not authorize the raising of engineers at all.

Mr. WILSON. Then the last section but one of this bill is all that is needed.

Mr. BLAIR, of Missouri. That section only relates to the pay of the engineers that have been in service. The bill proposes to continue them in service.

Mr. WILSON. Well, then, why is it necessary to provide that there shall be an organization amounting to one company to each brigade in the service, if the President now has all the engineers that are needed? Why not legalize their mustering in, and provide for their payment, and let it rest there?

Mr. BLAIR, of Missouri. Because the President may think more are necessary, and there should be a law under which they can be mustered into the service.

Mr. WILSON. Has he so stated?

Mr. BLAIR, of Missouri. He has not so stated. Now, sir, the gentleman from Iowa had a good deal to say about this matter before I came into the House, and I understand that the gentleman stated—and another gentleman has so stated since I came into the House—that this bill will create a force of twenty-five thousand men.

Mr. WILSON. The gentleman will permit me to correct him, so far as I am concerned. I stated that I had information that the number of brigades now in the service is about one hundred and fifty. Other gentlemen have stated that they number two hundred. If the number is one hundred and fifty, the force would be nineteen thousand; if two

hundred, it would amount to more than twenty-five thousand. That was my statement.

Mr. BLAIR, of Missouri. The President is simply authorized by this bill, in the event that he shall deem it essential to the efficiency of the Army, to fill up this corps to that number. The bill does not require that he shall muster in another man as an engineer. It does not require that there shall be twenty-five or twenty or fifteen or ten thousand. It simply gives the President discretion—if he can be intrusted with that discretion—to muster into service this number of engineers, if he shall deem it essential and necessary. It authorizes him to do it, in other words, to the number of one company for each brigade, but it does not require that the number of regiments or companies shall be brought up to that number at all. And if the gentleman from Iowa desires to put a limitation upon it; if he will take the risk of making a limitation and narrowing it down, instead of attacking the bill for something that is not in it, and talking about railroads on an engineer bill; if he will apply himself to the bill, and show how many or how few are necessary, and give good reasons to the House for making the limitation, I shall be very much obliged to him.

Mr. WILSON. I repeat the statement made by the gentleman himself, and that is, that the President has now, so far as the gentleman is informed, a sufficient number of engineers in the Army.

Mr. BLAIR, of Missouri. Well, sir, it seems that the President, on account of the hasty legislation of the last session of Congress, which did not authorize him to muster in engineers at all, deeming that it was essential to the service, has authorized the generals commanding in the different departments to muster in men as engineers; and it is presumed that he has given that authority to the extent that it has been deemed necessary and proper up to the present time; but events may arise, the condition of affairs may be such, that the generals in command of the Army and the President, who is the superior of them all, may think that there are still more of this corps necessary, and this bill simply gives to the President that authority and the sanction of law for what he has done, and what I conceive he has done wisely; and at the same time it gives him authority of law to increase this force still more if he shall deem it proper or important or for the benefit of the service.

Mr. ROSCOE CONKLING. I want to inquire of the gentleman from Missouri whether he deems this bill necessary in order to ratify and confirm the acts of the President in mustering engineers into service?

Mr. BLAIR, of Missouri. I do, sir. It is necessary in order that the engineers may be paid as engineers; and it is necessary in order that they may be equipped as engineers. Now, I state to the gentleman from New York that the engineer regiment at St. Louis have never been paid as engineers.

Mr. ROSCOE CONKLING How have they been paid?

Mr. BLAIR, of Missouri. They have been paid as infantry; and when they are called upon to perform those labors incident to the engineer service—for instance, to build bridges or make roads or throw up field works—then, by regulation, they are allowed forty cents a day additional per man; and General Halleck's opinion is that it is cheaper for the Government to have them as engineers, regularly trained to their work, with the implements and equipments belonging to that branch of the service, rather than to depend on infantry to do the work, and to pay them, in addition, forty cents a day, while they have little preparation for the proper execution of the work.

When the gentleman from Ohio propounded to me the other day the question whether any Department of the Government had sanctioned this organization, I answered him truthfully. I stated to him that it was not recommended to the Committee on Military Affairs by any part of the Administration, but that the Administration had given its high sanction to it by mustering into service five or six regiments of engineer volunteers. That is the fact. I have since been at the pains to procure a letter addressed by Secretary Cameron to Colonel Serrill, commanding a volunteer engineer regiment from New York. It is dated "War Department, September 21." It informs him that his offer to furnish a regiment of volunteer officers and soldiers is accepted by the Department, subject to the approval of Governor Morgan, as one of the quota of twenty-five regiments authorized by him. This letter is signed "Simon Cameron." Colonel Serrill writes to me from Port Royal, where he says eight of his companies are in the field and in service, that on every pay day, when they go to get their pay, they are met by the paymasters with a flat refusal; and it requires an absolute order from the commanding general of the department to have them paid as engineer soldiers. This recurs on every pay day. In some places, where the commanding general is not willing to take the responsibility of giving such an absolute and direct answer, they are not paid at all.

Mr. VAN VALKENBURGH. There are now near this city two regiments from the State of New York, which were enlisted as engineers, which have been doing duty as engineers at the navy-yard, building pontoon bridges, which were mustered into the United States service as infantry, and which have been paid only as infantry. They were enlisted as engineers under a similar order to that read by the gentleman from Missouri, signed by Secretary Cameron. Colonel Stewart is in the command of one of them, and Colonel John McLeod Murphy is in command of the other. They have been diligently employed for a number of months past in building pontoon bridges; and they are now under orders to proceed with their pontoon bridges. It is eminently proper that these men, having done duty as engineers, should receive pay as engineers of the Army.

Mr. BLAIR, of Missouri. What I complain of in the matter is this: here is a simple proposition, brought forward by one of the committees of the House, to recognize the acts of the Administration in organizing these five or six engineer regiments; or probably there may be, with the independent companies, six or seven regiments in the service. A bill of this kind, leaving with the President the authority, in his discretion, to extend its application, if he thinks necessary and proper, is attacked from one side of the House, and a clamor is raised against the bill on the purest supposition, on the most far-fetched supposition, that these men might be employed to do a certain work which those gentlemen who make the attack do not desire to have done.

Mr. BINGHAM. I wish to inquire of the gentleman from Missouri whether the provision inserted in the second section of the bill, subjecting volunteer engineer corps to the rules and regulations of war, is not an absolute requirement under the present legislation of the country; in other words, whether there is any existing law at all by which volunteer engineers can be so organized and subjected?

Mr. BLAIR, of Missouri. No, sir; there is no existing law on the subject. There is no such thing as volunteer engineers known to the laws now.

Mr. BINGHAM. That is what I supposed.

Mr. BLAIR, of Missouri. We have, as I said before, five or six regiments in the field doing this service, whose organization has been deemed so essential that the President has departed from the law, and has, in advance of the law, authorized their organization. Circumstances may arise which would make it necessary to augment that force. Hence the bill was introduced. It has been assailed by the gentleman from Iowa [Mr. WILSON] on the ground that these men might be allowed to build railroads. Why, sir, it does not make a particle of difference in regard to the railroad referred to whether this bill be passed or not. If the President wishes to have a railroad built, he can have it done just as well if this bill be defeated as if it be passed. It will not make a particle of difference to him in that respect. He can employ civil engineers, and the laborers necessary for the work. There is no kind of difficulty about it. This bill does not prevent him doing it, if defeated, nor does it aid him if it become a law. And I say that it does not become the gentleman to make an attack of this kind on the Administration, or to assume that it intends to do anything underhand in this matter.

Mr. WILSON. I have not made any direct attack on the Administration. I have taken the Administration as doing what the gentleman from Missouri says; and that is, that neither the President, Secretary of War, nor any other head of Department, has intimated to his committee or to this House that this engineer corps is necessary. That is no attack on the Administration.

Mr. BLAIR, of Missouri. Well, sir, take the gentleman at his word; if the President and Secretary of War are so well convinced of the necessity of having a volunteer engineer corps, that they will in advance of the law, and without any law at all, organize such regiments, I think that that is as strong an expression as the President or Secretary of War could employ in the recommendation of this bill.

Mr. WILSON. Has not the gentleman already stated to the House that the President has now in the employment of the Government all the engineers necessary; and if so, I ask him why does he not so amend the bill as to legalize the act of the President in mustering into service these engineer regiments, and to provide for their payment as engineers?

Mr. BLAIR, of Missouri. Mr. Speaker, I have attempted to answer both the interrogatories of the gentleman once before, and I will make another effort. I said that I presumed that when the President took upon himself to authorize the organization of the volunteer engineer regiments now in existence, he authorized all that he or the commanding general deemed absolutely essential at the time. I did not say, in the language which the gentleman puts in my mouth, that the President had all the engineers he wanted, but that I presumed he had authorized the organization of as many as he deemed to be absolutely essential to the service up to that time. I said in addition, that in the progress of this war it might possibly and very probably be necessary to augment that corps to some extent, and that the bill was intended both to provide for those who had been organized, to legalize them, pay them, and equip them as engineers, as long as the President deems their service essential, and also to give him the power and authority to augment the corps to such extent as he may deem best for the service of the Government. That is the reason why the Committee on Military Affairs have chosen to frame the bill in this manner, instead of in the manner which the gentleman suggests.

Mr. STEELE, of New York. The idea of a railroad in connection with this bill seems to haunt the minds of a good many members. I would like to ask the gentleman from Missouri whether there is any railroad, directly or indirectly, either expressed or covered up, in this bill?

Mr. BLAIR, of Missouri. There is no railroad that I know of, except in the imagination of the gentleman from Iowa; and it is a pure imagination on his part, I believe.

Mr. WILSON. I do not understand the gentleman. Does he not say that no such thing was contemplated on the part of the Government as the construction of the railroad to which I have referred?

Mr. BLAIR, of Missouri. I did not say anything about that.

Mr. WILSON. Then I misunderstood you.

Mr. BLAIR, of Missouri. The gentleman from New York said that the bill seemed to be opposed because of the railroad discussion that was got up about it, and he wanted to know from me whether there was any railroad covered up in this bill.

Mr. WILSON. I did not hear the question of the gentleman from New York.

Mr. BLAIR, of Missouri. And I responded to that, that I did not know that there was any railroad in the bill, or anywhere else, except in the imagination of the gentleman from Iowa; that it was purely a thing of his imagination, so far as I know.

Mr. WILSON. So far as the railroad to which I have referred is concerned, the gentleman has not got information; because it has been insisted by other gentlemen on the floor that the Government does intend to build this road, and that it should be built.

Mr. BLAIR, of Missouri. There are thousands of miles of railroads in that section of country, but they have nothing to do with this bill. They have nothing more to do with it than has the railroad of which the gentleman from Iowa speaks; and that is the very point of complaint which I make against the gentleman, that he will make such a covert attack on a bill of this kind, instead

of resisting it on its merits or demerits. He imagines the theory, and makes out of whole cloth an accusation that this bill is intended to cover up the building of a railroad from Danville, Kentucky, to Knoxville, Tennessee; and he relies upon that argument to defeat a bill which is essential to the service of the country and the prosecution of the war. Now, sir, I repeat, it makes no sort of difference, so far as that railroad is concerned, whether this bill passes or not. If the President intends to order a railroad to be built, the passage of the bill will not aid him. He can employ laborers enough to go and build it at the usual wages, and he can employ civil engineers for the purpose, so that this bill will not help or hurt in this matter. I desire that the House, in voting upon it, shall say by its votes whether the five or six regiments of volunteer engineers, now in the service, and acting as engineers, are or are not to be paid as such. That is the question which the House is to answer. And further, the House is to say whether, if in the conduct of the war the President shall deem it essential for the service to augment the corps, it will trust him with that authority or not; and how far he can be trusted. These are the only things which the House is called upon to decide; nothing more nor less.

Mr. VAN VALKENBURGH. I understand that, the previous question having been called, no amendment is now in order.

The SPEAKER. No amendment is in order except by unanimous consent.

Mr. VAN VALKENBURGH. I ask unanimous consent to offer an amendment, in order that if the bill passes justice may be done to those persons who have already enlisted in these engineer regiments and been mustered, most of them, as infantry. I know that the two regiments of whom I spoke before have been mustered as infantry, although they have been doing service as engineers. My amendment provides that they shall receive pay for the time that they have been doing service as engineers.

There being no objection,

Mr. VAN VALKENBURGH offered his amendment, as follows:

After the word "miners," in the amendment reported from the Committee on Military Affairs, insert the following: "or who having been mustered into any arm of the service shall have been employed as engineers or sappers and miners;" so that the section will read:

SEC. 5. *And be it further enacted*, That all officers, non-commissioned [officers,] and privates heretofore mustered into service as engineers or sappers and miners, or who having been mustered into any arm of the service shall have been employed as engineers or sappers and miners, shall in all respects be placed on the same footing, as to pay and allowances, bounties, pensions, &c., as engineer officers, non-commissioned officers, and privates of the regular Army, and shall be paid as such for services already rendered.

Mr. BLAIR, of Missouri. I am very glad that the gentleman from New York has offered that amendment. I did not know the fact to be that there were any regiments mustered in as infantry and subsequently employed as engineers. All the engineers in the volunteer service about whom I happened to know the particular facts, had been mustered in as engineers—I mean those in Missouri, those in Kentucky, spoken of by the gentleman from Michigan, [Mr. KELLOGG,] those employed at Hilton Head, and a good many other independent companies. I repeat, Mr. Speaker, that I do not desire this question to be referred to the Committee of the Whole on the state of the Union. I desire that the question may be taken upon it in the House now, and let the bill be either passed or defeated by the vote of the House. I hope the House will pass upon the merits of the bill; that it will vote it down if it thinks it unnecessary or improper to have more volunteer engineer regiments in the service, or vote it through if it thinks that those men who have given their service to the Government are deserving of being paid.

The motion to commit was not agreed to.

The question recurred on Mr. VAN VALKENBURGH's amendment to the amendment; and it was agreed to.

The question recurred on the first amendment reported by the Committee on Military Affairs; and it was rejected.

The question recurred on the second amendment reported by the Committee on Military Affairs, as amended by the amendment of Mr. VAN VALKENBURGH; and it was agreed to.

Mr. SHELLABARGER. I ask the unanimous consent of the House to offer the following amendment:

Add to the end of section one, the words—

Provided, That the said engineer volunteers shall not be employed in the extension of any line of railroad, nor in the construction of any new line of such road, which shall not have been authorized to be extended or constructed by law of Congress.

Mr. KELLOGG, of Michigan. I object. I ask unanimous consent to offer the following amendment:

In line five, strike out the words "two majors," and insert the words "one major;" so that the clause will read:

Each regiment shall have one colonel, one lieutenant colonel, one major, one surgeon, and one assistant surgeon, one sergeant major, one regimental quartermaster sergeant, one regimental commissary sergeant, one train sergeant, one hospital steward, and shall be composed of ten companies, each company to consist of one captain, two first lieutenants, one second lieutenant, ten sergeants, ten corporals, one wagoner, fifty privates of the first class, or artificers, and fifty privates of the second class.

There being no objection, the amendment was received, and agreed to.

Mr. VAN VALKENBURGH. I ask unanimous consent to offer a verbal amendment, to add the word "officers" after the word "non-commissioned."

There being no objection, the amendment was received and agreed to.

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

Mr. ROSCOE CONKLING called for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 57, nays 66; as follows:

YEAS—Messrs. Aldrich, Alley, Joseph Baily, Baker, Bingham, Francis P. Blair, William G. Brown, Buffinton, Calvert, Chamberlin, Clements, Crittenden, Davis, Dawes, Delano, Diven, Dunlap, Ely, Fisher, Frank, Goodwin, Grider, Gurley, Haight, Hale, Hall, Hooper, Julian, Kelley, Francis W. Kellogg, William Kellogg, Knapp, Lazear, Lovejoy, Mallory, Maynard, Menzies, Noell, Odell, Pendleton, Pomeroy, Price, John H. Rice, Richardson, James S. Rollins, Sheffield, Spaulding, John B. Steele, Benjamin F. Thomas, Train, Van Valkenburgh, Vibbard, Wallace, Charles W. Walton, Albert S. White, Wickliffe, and Wright—57.

NAYS—Messrs. Ashley, Baxter, Beaman, Biddle, Jacob B. Blair, Samuel S. Blair, Blake, George H. Browne, Campbell, Clark, Cobb, Colfax, Frederick A. Conkling, Roscoe Conkling, Conway, Covode, Cox, Cravens, Cutler, Edgerton, Edwards, Eliot, Fessenden, Hanchett, Harrison, Holman, Horton, Hutchins, Lansing, Loomis, McPherson, Moorhead, Anson P. Morrill, Morris, Nixon, Nugen, Patton, Perry, Timothy G. Phelps, Pike, Porter, Potter, Riddle, Edward H. Rollins, Sargent, Sedgwick, Shanks, Shellabarger, Shiel, Sloan, Smith, William G. Steele, Stevens, Stratton, Trimble, Trowbridge, Van Wyck, Verree, Voorhees, E. P. Walton, Washburne, Wheeler, Wilson, Windom, Woodruff, and Worcester—66.

So the bill was rejected.

During the vote,

Mr. ANCONA stated that he was paired off on this bill with Mr. WEBSTER.

Mr. COVODE (when his name was called) said: I heard but little of this discussion; and I want to ask the chairman of the Military Committee if the Secretary of War has requested the passage of this bill.

The SPEAKER. No discussion is in order.

A MEMBER. He says he has not.

Mr. COVODE. Then I vote "no."

Mr. VALLANDIGHAM stated that he was paired off on this question with Mr. VAN HORN; otherwise he would have voted "no."

The vote was announced as above recorded.

Mr. WILSON moved to reconsider the vote by which the bill was rejected, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ADJOURNMENT OVER.

Mr. KELLOGG, of Illinois. I move that when the House adjourns, it adjourn until Monday next.

The motion was agreed to.

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

The motion was disagreed to.

HOMESTEAD BILL.

The SPEAKER. The regular order of business is the consideration of the bill (H. R. No. 125) to secure homesteads to actual settlers on the public domain, and to provide a bounty for soldiers in lieu of a grant of public lands, reported from the Committee on Public Lands.

The pending question is the motion to recommit the bill with the following instructions:

Strike out the eighth section of the bill, and insert:

And be it further enacted, That the provisions of an act, entitled "An act in addition to certain acts granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States," approved March 3, 1855, shall extend to and be construed to embrace the officers, soldiers, and seamen who have been engaged in the military or naval service of the United States since the 12th day of April, 1861, or who shall be engaged in such service during the present war: *Provided, however*, That no officer, soldier, or seaman shall be entitled to the benefit of said act unless he shall have been engaged in the service aforesaid for a period of not less than sixty days, or been honorably discharged on account of wounds received or sickness incurred while in the line of his duty in such service: *Provided further*, That the widows and children of officers, soldiers, and seamen who shall die from wounds received or sickness incurred while in the service of the United States, as aforesaid, shall be entitled to the benefits of said act.

And that they further provide that this act, except this section, shall not go into operation for the period of one year after the close of the war in which we are now engaged.

Mr. HOLMAN. Mr. Speaker, it is not my purpose, sir, to enter into an extended discussion of the measures pending. But so much time has elapsed since this subject was postponed for future consideration, and so many important measures have in the mean time engrossed the attention of the House, that a brief reference to the questions involved may be justified.

The pending bill was reported to the House by the gentleman from Wisconsin, [Mr. POTTER,] as chairman of the Committee on Public Lands. It is, in its main features, a homestead bill, granting one hundred and sixty acres to every settler on the public lands. Its provisions are liberal. Every citizen of the United States, or person who has declared the intention to become such, being the head of a family, or of the age of twenty-one years, residing upon or cultivating a portion of the public domain for the period of five years, becomes possessed of the freehold. It is not limited to the landless, nor is the extent of cultivation designated. Its benefits are placed within the reach of every one, whether landless or not, who may live within the reach of public lands. The first six sections constitute the homestead feature. The seventh section confers its benefits on all persons in the Army of the United States. This is surplusage, for they would be entitled to its benefits under the general features of the act. But there is a provision in the seventh section to which I would invite attention:

"That, as to all persons performing service in the Navy of the United States in the present war, or in any foreign war during the same, the benefits of this act shall be in lieu of prize-money and all extra allowances."

Is this discrimination just? Why not impose the same restriction on those engaged in the Army? The citizen who has remained in inglorious ease, either from choice or necessity, during our national perils may, without restriction, avail himself of the benefits of the law; but the men of the Navy, who have achieved so much, who have added such luster to your arms at Hatteras and Port Royal, at Roanoke and Fort Henry and Fort Donelson, who have forced their vessels into the very jaws of the enemy's cannon, and achieved victory by their unexampled temerity, are they to be less favored than those who have rendered no peculiar service, to their country? At a time, sir, when you are striving to enlarge and increase the efficiency of your Navy, this provision, in my judgment, is peculiarly impolitic and unjust.

Mr. VALLANDIGHAM. I desire to call the attention of the gentleman from Indiana to the fact that that provision is borrowed from the several bounty land laws that have been passed by this Government from the beginning. It does not interfere with the homestead right of these men as citizens; it only excludes those who, as sailors or marines, not as citizens, claim the benefit of this bill from accepting prize-money.

Mr. HOLMAN. It will be observed that that provision which applies to the naval service does not apply to the military service.

Mr. VALLANDIGHAM. The reason is plain. There is no prize-money given to those in the military service.

Mr. HOLMAN. Prize-money is a peculiar feature in the naval service. It is one of the inducements held out by the United States and most other nations to inspire greater energy and courage

in the perilous enterprises upon the high seas. I object, however, to this discrimination against one class of citizens.

Mr. VALLANDIGHAM. One word more, and I will interrupt the gentleman no further. He intimates that this provision is to be made applicable to those who win brilliant victories. Now, sir, in the war of 1812–14, there were as brilliant victories won and as glorious service rendered as any which we have seen at any time since, and yet sailors and marines in that war, who accepted bounty lands, received no prize-money.

Mr. HOLMAN. While those who have known nothing of this war except its advantages, who have had the opportunity of its unlimited sources of speculation and profit, are required to relinquish nothing, while they may avail themselves of the benefit of this law, why discriminate against so meritorious a class of those engaged in the public service? There are many chances for prize-money on land as well as on sea.

But the eighth section is, in no wise, germane to the bill. It has no application to the public lands, but proposes, in lieu of *bounty land*, to give to each of the soldiers who were called into the public service by the President's proclamation of April 15, 1861, the sum of thirty dollars, and those of your soldiers who came into the public service under the act of Congress of July 22, 1861, and who shall have served in the Army for the period of six months, instead of two years, as provided by that act, the sum of $100. This does not increase the bounty, but diminishes the time, and places the soldier who shall serve for the war on the same footing with those who have served for six months, and pays those who have served for six months more than three times as much bounty as those who have served for three months. Is this equitable?

A motion was made to recommit the bill, and a motion was then made to instruct the committee to strike out the eighth section, and substitute one extending to the soldiers of the present war the benefits of the act of March 3, 1855, granting bounty lands to soldiers and seamen who had been engaged in the service of the Republic during the preceding wars; and this motion to recommit the bill with instructions is now pending. The merits of the bill and pending amendments are somewhat under consideration. It will be seen, sir, that the proposed amendment, except that it postpones the taking effect of the homestead measure for one year, to place the soldier and unwarlike citizen on the same footing—for, with the blessing of Heaven, we will terminate this war within a year—does not affect the homestead feature of the bill.

I take this occasion to say that the proposed amendment is not designed to affect the homestead policy. I cordially concur in the condensed and forcible argument submitted to the House a few days since by yourself, sir, in favor of increasing the strength of the Republic by adding to the number of its independent homesteads. Its policy cannot be questioned. But I do protest, sir, against the appeals which have been made in favor of this measure to the members of one of the great political parties of the country. This is in no just sense a party measure. Its importance rises above all party considerations. The principle of not holding the public lands for the purposes of revenue by the Government was, I believe, first suggested by that stern patriot, Andrew Jackson, while President of the United States; and the subject was first brought before the country as a legislative measure by that other great citizen of Tennessee, ANDREW JOHNSON, who for many years, sir, like yourself, has been its unwavering advocate. I do not refer to either of these names in any partisan spirit. The fame of the one is now the common property of the country. His name is a tower of strength to the nation. His spirit animates and leads your armies. His noble maxim, "the Union must be preserved," swells up with the thunder of your artillery on every field of battle. The other has lost the character of the partisan in assuming the infinitely nobler qualities of the patriot statesman. It were impious at such a time as this to refer to either in the spirit of party. This measure has received the ardent support of the people of the free States without reference to party divisions. Republicans and Whigs and Democrats have alike given it their support. For the veto of James Buchanan no existing political organization is responsible.

The greater number of the politicians of the South have opposed it, because, in the main, its benefits would result to the people of the free States and such citizens of the southern States as would emigrate to your Territories to improve their fortunes by their own enterprise and energy, and because the tendency of this policy was to rapidly people your Territories, introducing new States into the Union, founded on the idea of free labor, and thus increase the preponderance of that form of labor in the control of the Federal Government, and because the revenue derived from the public lands diminished the duty on foreign imports, which the South, as a producing people, regarded favorable to their interests; yet in the South, as I have shown, opposition to the homestead policy was not universal, while the North, and especially the Northwest, was united in its support. In my judgment, the policy of applying the public lands in such manner as to increase the number of independent farmers, of secure and independent homesteads, decentralizing and diffusing the wealth of the nation, is of the very first importance; vital, indeed, to the ultimate stability of the Republic. The greatest of the English statesmen finds the causes of internal war, seditions and factions organized against the Government, in the centralization of the wealth, and especially the lands of a nation, destroying the interest of the people in the stability of the nation. If this is true of monarchies, where not only the lands and wealth, but the political power and social advantages are possessed by the smaller number, sustained, too, by military force; if there, when, *multis utile bellum*, the greater number could see an improvement of their fortunes by the overthrow of the existing order of things, the nation totters to its fall, how much more dangerous to a republic where the whole political fabric rests on the will of the people! Create a motive in the popular mind for the destruction of the Government, and what power can resist it? If the Government exists alone for the benefit of the smaller portion of its people, if the greater number toil only for the benefit of the few, why should not the Government be overthrown?

It is, sir, to the courage and manhood inspired by *common interests, social and political equality*, and *common hopes*, that we are indebted for our noble army of citizen soldiers, and for our recent brilliant victories. Such motives, sir, have rendered the battle-fields of Marathon, Thermopylæ, and Pharsalia, to which you, sir, have referred, illustrious monuments of the hopes and aspirations of mankind.

"I have often been astonished," said a celebrated French naturalist, writing just before the first French revolution, "that there is no law in France to prevent the unbounded accumulation of landed property. The Romans had censors who limited the extent of a man's possession to seven acres as being sufficient for the subsistence of one family. By the word acre was understood as much land as a yoke of oxen could plow in one day. As Rome increased in luxury it was extended to five hundred; but even this law was soon infringed, and the infraction hurried forward the ruin of the republic. Conquerors have always met with feeble resistance in countries where property is unequally divided. Overgrown estates destroy the spirit of patriotism in those who have everything and those who have nothing. 'The shocks of corn,' said Xenophon, 'inspire those who raise them with courage to defend them.'

"But while the excessive accumulation of property exposes a State to such outward dangers, the internal mischief it produces among the citizens is not less to be deplored. It is not on the face of vast dominions, but in the bosom of industry that the Father of mankind pours out the most precious fruits of the earth."

Believing as I do that in all Governments there is a tendency to centralize its wealth, its lands, and its political power, and that the safety of a republic is involved in resistance to these tendencies; and believing that this measure will tend to that result, I give it my unqualified support. We must put an end, as far as may be consistent with sound policy, to the extraordinary facilities which our land policy has hitherto furnished for capitalists to almost monopolize the public lands, and that too at almost nominal prices. Instead of baronial possessions, let us facilitate the increase of independent homesteads. Let us keep the plow in the hands of the owner. Every new home that is established, the independent possessor of which cultivates his own freehold, is establishing a new republic within the old, and adding a new and a strong pillar to the edifice of the State.

But, sir, subordinate to this great measure, and in some respects tending to the same end, but in others tending to the old system, is the policy of granting lands to such of your citizens as have served the Republic in the dangerous pursuit of arms. Shall we grant a portion of the public lands to the soldiers of the present war? A measure of public policy long adhered to and generally approved should not be abandoned unless upon weighty considerations. Over one hundred and fifty acts have been enacted by Congress on the subject of granting public lands to those who have been engaged in the military and naval service of the Republic. You have granted bounty lands to the soldiers of the war of the Revolution and the war of 1812, and to those who fought under your banner in the war with Mexico. These have been the great wars of the Republic. But you have granted this bounty in every war with the Indian tribes, however unimportant. Indeed, sir, the act of the 3d of March, 1855, is so comprehensive, revising all former laws, that it embraces every soldier and seaman who has been engaged in any military or naval service of the Government from the beginning of the Revolution down to the time of its enactment, even for the brief period of fourteen days, or even for a less period, if the soldier was engaged in any battle. Such has been your policy from the beginning, unbroken, uninterrupted. The soldiers of the present war, while animated by nobler motives than any mercenary considerations, might naturally consider this established policy of the Government one of the methods by which the Republic would testify her appreciation of their services, as one of the methods by which the wants of their wives and children would be relieved if they fell in her service. Why not apply this policy to the present war? Is the war itself subordinate in importance to your other wars?

Sir, all the other wars of the Republic are as dust in the balance in comparison to this. I speak of results and consequences. The nation has ever gloried in the self-denial and fortitude and courage of their fathers. The old battle-fields are sacred and holy; the memories which gather around them have stirred the hearts of generations. But if, overborne by the numbers and power of the British empire, our fathers had failed in their noble purpose, the battle-fields where they fought and fell would have only been new monuments in the pathway of the eternal struggle, new and inspiring achievements in "the conflict of ages," the war between despotism and liberty, between the mastery of the few and the free government of the many. The establishment of free government on this continent would have been but a question of time. The next generation, strengthened by the old example, would have consummated the battle which their fathers had begun. The old defeats would have extinguished no hope. But if, sir, after the Republic was founded and had entered upon its career of free government under auspices so favorable; after successive generations had enjoyed the full fruits of liberty; after a prosperity unknown in the annals of history; after an experiment so favorable to complete success of the capacity of mankind for a government where the will of the greater number should be the law, this Republic, torn to pieces by the acts of ambitious leaders and the power of faction, had failed—and fail it must when its territorial limits were broken and its Constitution defied—the monarchists and aristocrats of the world would have exulted in this overwhelming evidence that the government of the many was inconsistent with the nature of man, and the most ardent friends of freedom throughout the world have abandoned hope. Sir, if this Republic had failed, generations of oppression, *not now, but in the immediate future*, could alone have inspired courage for a new effort. The war, then, in which you are engaged is more significant than any of which history has kept the record. But have your soldiers met the perils of battle with less resolution and courage than in former wars? Sir, however noble may be the battle-fields of our fathers, those of this war will challenge them for a comparison. The desperate and unyielding courage of the battle-fields of Western

Virginia; of Springfield and Mill Spring and Roanoke; of Fort Henry and Fort Donelson, place those fields, numbers considered, side by side with the famous fields of history. The courage of your soldiers has equaled the cause which summoned them to arms. Their achievements, then, furnish no argument for discrimination against them.

But what of your soldiers, as citizens and men, in these respects? Are they inferior to those who have hitherto fought your battles? I blush as I ask this question. Your Army is composed of the very nobility of your people. History has never recorded the achievements of such an army. Six hundred thousand men, and not a conscript or a mercenary in their ranks! Six hundred thousand citizen soldiers, men of cultivation and refinement! The shop, the loom, and the anvil, the farm-house, the counting-room, the pulpit, and the forum, have sent their chosen men to war, not inspired by the thirst for conquest or plunder, but leaving the enchanted circle of home, and resisting the sweet attractions of father and mother, and wife and child, they have gone forth to defend the honor of their country, to preserve the Constitution of their fathers inviolate against the most accursed ambition that ever dishonored mankind. Then your soldiers are not, as men and as citizens, inferior to those who have hitherto fought your battles. Why then refuse them, as a grateful acknowledgment of their services, a portion of the lands, the title of which they have defended by their courage and blood?

But it is said that bounty lands only inure to the benefit of sharpers and speculators and brokers—the men who know nothing of war but its plunder and spoils. I am willing to admit the infamous existence of such a class, but I am not willing to admit the force of the argument. Why not withhold from the soldier his pay, or the bounty in money you have hitherto promised, for fear the soldier will squander it, or the artful villain will seize upon it? If some will receive no benefit from this act of national justice, their improvidence should not impair the just expectations of the greater number who will appreciate this act of the nation, this acknowledgment of their right to a permanent interest in the soil of the country their valor has defended. But you have got these lands, and while the nation is strong in credit you have got no money. The bounty in money you propose will be a debt of more than seventy-three millions of dollars, which your soldiers, in common with the residue of the nation, will have to pay. You will tax them to pay their own bounty. I demand something beyond this. They should have this bounty in money, as you promised them in the beginning, in addition to their bounty in lands. But again, sir, this bounty land policy will not exhaust the public land. It will not require one sixth part of them, leaving the larger portion to be applied under your homestead policy. One hundred and twelve millions of acres will supply your soldiers, and over eight hundred millions of acres, surveyed and unsurveyed, will be left.

Is it not a noble idea, sir, that when the flag of the nation shall be unfurled by every glad wind, from the Rio Grande to the St. Lawrence, the Republic shall invite her brave defenders from the pursuit of arms to peaceful pursuits of industry, and point out to each upon her bosom a spot of earth which shall be his own against all the vicissitudes of fortune? It seems to me, sir, that to recognize the right of the soldier to a freehold on the soil of his country is the most appropriate and graceful approval of his services. It announces "well done, good and faithful servant," in terms which no patriot heart can fail to appreciate; and if but a few of your mighty Army shall avail themselves of this bounty, I am content. Their children will become the noblest defenders of the Republic, because the soil on which they were reared was the gift of the Republic as the reward of the patriotism and valor of their fathers.

Again, sir, you have lands in the States of Florida and Mississippi and Arkansas and Louisiana. Would it not be well to infuse, if we may, a little more patriotism into those States? Your peaceful civilians will not venture into those fields. I trust in God that such will be your policy, that the stalwart soldiers of your Army will invade, not with the sword, but with the plow and reaping-hook, the rich glades of Florida, infusing a new life among a people, who, purchased *as serfs* from Spain, enfranchised and ennobled by the Republic, and admitted to the illustrious right of her citizenship, have, in the beginning of our troubles, after being the recipients of unexampled blessings at the hands of this nation, crawled out like reptiles on a sunny bank and hissed at the sun that has warmed them into life. So with the other States I have named. For never, sir, since God created this earth, in human affairs, has such base and infamous ingratitude dishonored the race of mankind. Let us infuse new germs of honor and patriotism into those States. Let us do it for another reason: that that great highway of the nation, the Mississippi river, may be kept open by peaceful agencies, for the martial spirit of the great West will mark with the iron footprints of desolation the majestic course of that noble river from its sources to the Gulf, rather than submit to the infamous wrong of the slightest restraint on its free navigation.

One other suggestion, and I leave the subject. I am in favor of this bounty land policy, because, in one instance at least, it places the soldiers in the ranks side by side with their officers. I abhor the discrimination we are inclined to make. You have seen, sir, how this House and the country, and even the spirit of republican government, have been debased, dishonored, and humiliated by efforts made on this floor to glorify the officers, while the brave men who fought and won the battles were forgotten. Sir, this miserable adulation only insults the officer who is really worthy of your praise. This unjust discrimination is the worst feature of the war. Your soldiers endure dangers and encounter hardships far beyond the men who happen to command them, and they meet as fairly and as bravely the perils of battle. Your victories are not "organized victories"—impious suggestion!—they are the offspring, under the approval of Heaven, of the invincible spirit of your soldiers. And that officer who is willing to assume to himself more credit for victory than he will accord to the brave soldier under him, is not worthy to command. In cultivation, intelligence, worth, and social position your soldiers are equal to their officers; and yet, sir, the voice of fame only proclaims the names of the commanders. Such is the inequality of war. And while we grudgingly pay thirteen dollars per month to the soldier in the ranks, *thousands of whom are worthy to command armies*, you have an Army on your hands of mere carpet generals and officers of every grade, who know nothing of war except its pay-rolls, and who live off of the munificence of the nation. In one notable act I wish to see all of the defenders of the Republic placed on the same level—*the general and the soldier*—each invited, when the hour of blessed and honorable peace shall come, to beat their swords into plowshares, and receive from a grateful country an equal expression of gratitude and approval. I am for "free homes for free men," as a wise measure of policy; but at the same time I demand justice for the soldiers of the Republic.

Mr. CRAVENS. Will my colleague yield to me to make a statement in reference to this bill?

Mr. HOLMAN. I will yield to my colleague.

Mr. CRAVENS. I only desire to say a word in reference to the amendment of my colleague. Before doing that, however, I desire to remark that I am distinctly and unequivocally in favor of the homestead policy. A homestead bill, well guarded, I think is a measure which involves more the prosperity of the western country than any measure that can be adopted by this House. It is not a political question in my section of the country. In southern Indiana, and in every section of that State, all parties, without exception, so far as I know their sentiments, are in favor of a homestead bill granting lands to actual settlers. They believe that to be the wisest policy in reference to the public lands which will bring into settlement and cultivation at the earliest practicable period all the uncultivated lands of the West.

I was pleased with the able and eloquent remarks of the Speaker of the House of Representatives a few days ago in favor of this measure. But, sir, I do not at this time propose to detain the House but a moment, and I cannot, therefore, enter upon a general discussion of the homestead policy, and I desire merely to indicate my unqualified approval of the measure.

I wish, however, before taking my seat to say that I am for this amendment proposing to give bounty lands to the soldiers. I am for it because I believe it is intrinsically right; I am for it because it has been the uniform practice of the Government, from its commencement down to the present time, to give bounty lands to soldiers; and I am in favor of it because I am unwilling to make a discrimination against the soldiers now in the field.

Mr. ALDRICH. I wish to ask the gentleman from Indiana if this bill, as it stands without the amendment, makes any discrimination?

Mr. CRAVENS. I am not aware that the bill does make any discrimination except as against the soldiers of this war in reference to former wars; but if this amendment should not be adopted, and the House should fail to pass any measure providing bounty lands to soldiers in accordance with the practice heretofore in reference to the soldiers of other wars, there would be a discrimination against the soldiers who are now in the field fighting the battles of the country.

Mr. ALDRICH. I ask the gentleman to allow me to say——

Mr. CRAVENS. I decline to yield. I do not desire to occupy the floor, as I said, but a moment. I was proceeding to say that, during the interval between the adjournment of the special session of Congress, in August last, and the assembling of the present session, everywhere in my section of the country the inducement was held out to our citizens to enlist in defense of their country in this important crisis, that they should have this bounty land; and I think it would be in bad faith to them if the Government should at this time fail to give it.

In all the wars in which the Government has ever been engaged heretofore, it has been given; and I fully concur in the remarks of my colleague upon this subject, that this is a time when we should follow out that line of policy in regard to our soldiers which has been inaugurated by the wisdom of those men who have preceded us.

We have such an army in the field to-day as has never been witnessed in any country before—noble, brave, gallant men, struggling for what? The maintenance of the Constitution; the maintenance of the Union of our fathers. Struggling not for a political idea, not for a political dogma; but struggling to restore this Government to what it was before the present troubles commenced. It is that for which they are fighting to-day; nothing more, nothing less. It is a holy and sacred cause; none the less holy, none the less sacred than the cause in which our fathers were engaged in the days of the Revolution. Yea, more; while they were fighting against a foreign enemy, our men are compelled to sustain the stars and stripes and the Constitution of the United States against traitors at home, against kinsmen, if you will, against our own people, making sacrifices greater, perhaps, in feeling, than ever were made by the men of any country before.

They have achieved already triumphs in the field well worthy of the cause in which they are engaged. It is to such men that we are now called on to perform a duty, and let us perform it fearlessly and independently. Let us perform it for the double reason, first, that as a measure of wisdom for the Government in the disposition of its lands, it is the best that can be devised; and because, in the second place, it is a measure of justice and right towards those soldiers, and in conformity with the uniform practice of the Government. For myself, I feel that I owe it to the brave men who have gone in such large numbers from my section of country, and especially from southern Indiana, to assist in its passage with what little ability I possess; for in the district which I represent, without taking to myself or to my people more credit than is really due, I undertake to say that none have gone out under more adverse circumstances. They have given up their best sons to engage in this contest for the preservation of the Union—not for the abolition of slavery, or any other dogma, but to uphold the Constitution of the country. Sir, I am for the amendment.

Mr. HOLMAN. I now renew the demand for the previous question on the motion to recommit with instructions.

Mr. WINDOM. I hope that the gentleman will not call for the previous question at this time, as I desire before the vote is taken on this question to say a few words on the general subject.

Mr. POTTER. I also have an amendment which I wish to offer, and on which I desire to make some observations.

Mr. HOLMAN. I supposed that it was the purpose of the friends of this bill to dispose of it this evening. If, however, it is the general wish that the debate should go on, I will not object. I yield to the gentleman from Minnesota.

The SPEAKER. Does the gentleman withdraw the call for the previous question?

Mr. HOLMAN. I do.

Mr. WINDOM. Heretofore when this bill has been before the House it has found only two parties: open friends and avowed enemies. Now it finds the members upon this floor divided into three classes, namely: those who are its ardent friends, because they believe it is right in theory, and will prove expedient in practice. Second, those who have always admitted the soundness of the principle, and who have, by the most solemn pledges which men, or a great political party, could give to the people, when asking for power, bound themselves to support it, but who doubt its expediency under the circumstances which surround us. Third, its enemies upon principle. These are not so numerous as formerly, for a majority of them (always the foes of the people and of free labor) are now the open enemies of the Government, and with *perjured souls* and *parricidal hands* are putting forth every effort which human ingenuity, combined with fiendish malice, can devise to destroy it. But I fear there are still a very few of the same sort left, who bitterly oppose it, because it gives vitality and power to the great free-labor theory of the country, for which, with everything else that favors freedom, they cherish an intense, undying hatred.

To this latter class I do not wish to address my remarks; they are joined to their idols; let them alone.

But if I can for a few moments have the attention of those who admit the soundness of the principle under ordinary circumstances, but doubt the expediency of its present application, I shall be exceedingly gratified.

I will not now discuss the evils of which our present land system is the prolific parent in the new States, nor will I attempt to enumerate the hardships which its rank injustice to the pioneer causes him to suffer. These views of the subject have been so often and so ably presented, I am sure they must be familiar to every member of this House. The system of selling large tracts of land to non-residents and speculators is the *direst curse* which has ever been inflicted on the West, and has done more to retard the growth and improvement of that section of our country than all other causes combined. These evils have been recognized by the nation; and the loyal States, by majorities almost unparalleled, at the last general election declared they should no longer exist.

The people of this country have over and over again, by the votes of their Representatives on this floor, by the platforms of State and national conventions, and by the pledges exacted from candidates for office, expressed their approval of this measure, and demanded its passage by Congress. Under the gallant leadership of our present Speaker it has been several times carried triumphantly through the House, but in the other wing of the Capitol—once the paradise of traitors; now, thank Heaven! almost regenerated—it has as often found its grave. Now, both the Senate and the House are, in a good degree, purified from the foul breath of treason, which has always blasted the fair fruits of this policy just as they were budding into promise. The executive and legislative branches of the Government are both controlled by men who, before their election, solemnly declared their principles, and pledged their future action in these words:

"*Resolved*, That we *protest* against any sale or alienation to others of the public lands held by actual settlers, and against any view of the free homestead policy which regards the settlers as paupers or supplicants for public bounty; and we *demand* the passage by Congress of the complete and satisfactory homestead measure which has already passed the House."

Gentlemen of the eastern and middle States, I here, to-day, renew your own "protest" and "demand," and, in the name of the people of the Northwest, and of the laboring classes of the whole country, who have confided in your honor, I call upon you to redeem your pledges.

The answer is, that this declaration of our principles was made for a time of peace, and that the rebellion has not only absolved us from all obligations heretofore assumed on this subject, but it also compels us to adopt the same policy in regard to the public lands, for which the rebels and traitors so stoutly contended before they deserted these Halls, so long disgraced by their presence. If this bill be lost they will have the satisfaction of knowing that one of their cherished objects has been accomplished, and that if they are compelled to bow before the brave champions of free labor on the bloody battle-field, they can at least strike a deadly blow at that interest through its less reliable and more facile Representatives in Congress.

Those who claim that the change in our circumstances requires a corresponding modification of their views and policy on this question, have assigned only two reasons therefor. The first is, that the public lands should be given as a *bounty* to our soldiers. The second is purely *economical*.

In reply to the first, I desire to say that no man shall go further than myself in guarding and protecting the rights and interests of the country's gallant defenders, or in bestowing rewards for their services to the utmost extent of our ability. But, were I to forget all other considerations, and look only to the interest of the soldier, I would be compelled to regard this bill reported by the Committee on Public Lands as far preferable to the amendment offered by the gentleman from Indiana. The bill proposes to give both citizen and soldier the benefit of the homestead policy, and in addition thereto a bounty of thirty dollars to those who entered the military service under the first proclamation of the President, and also to require the payment of the $100 bounty provided for in the act of July, 1861, at the expiration of six months' service instead of two years', thus giving to all our soldiers a farm of one hundred and sixty acres, and the means of going to it and partially improving it.

The amendment of the gentleman from Indiana proposes to extend the bounty land act of 1855 to all the soldiers and seamen engaged in this war, thereby giving to each and all of them a land warrant for one hundred and sixty acres of land. What will these warrants be worth to the soldier if this amendment be adopted? In the report of the Secretary of the Interior lately submitted to the House I find the following:

"On the 30th September, 1861, there were 55,555,595.25 acres of the public lands which had been surveyed but not proclaimed for public sale. The lands surveyed and offered at public sale previous to that time, and then subject to private entry, amounted to 78,662,735.64 acres, making an aggregate of public lands surveyed and ready for sale of 134,218,330.89 acres." * * * * * *

"The bounty land warrants and scrip issued under different acts of Congress, previous to September 30, 1861, embrace an aggregate of 71,717,172 acres of land. Of this amount there have been located: for revolutionary services, 8,200,612 acres; for services in the war with Great Britain, 4,850,120 acres; for Canadian volunteers, 72,750 acres; for services in the Mexican war and other services, under the acts of 1847, 1850, 1852, and 1855, in all 51,138,970 acres; leaving yet to be located on warrants and scrip, already issued, 7,454,720 acres." * * * * *

"The propriety of issuing bounty land warrants to the volunteers who have been called into service to suppress the existing insurrection, is already a subject of discussion, and must be determined by Congress. A warrant for 160 acres to each volunteer engaged in the service would absorb over 100,000,000 of acres—a much larger amount than has been issued under all previous laws. It is evident that the issue of such an amount of warrants would destroy all hope of deriving any revenue from the public lands, at least for many years. And while such a measure would deprive the Government of all income from this source, it would afford but little benefit to the volunteers. These warrants are now sold in the market at about fifty cents per acre. An addition of the large amount necessary to supply the volunteers would necessarily reduce the price of them to a merely nominal sum.

"The bounty of the Government, dispensed to the volunteers in this form, would fail to realize to them the advantages intended. All the best lands would fall into the hands of speculators, who would be enabled to purchase them at a nominal price and sell them to settlers at full prices as fast as emigration to the West would require them for settlement. If additional compensation to the volunteers, beyond the amount now authorized by law, shall be deemed just and proper, it will be better both for the Government and the volunteers to make such compensation by a direct appropriation of money or of Government securities."

Now, sir, if with only 7,454,720 acres of warrants in the market they are worth no more than fifty cents per acre—as stated by the Secretary—what will they sell for when you issue 100,000,000 acres more? With no additional demand, and an increase of thirteen hundred per cent. in the supply, we may reasonably calculate upon a proportionate diminution in value, which will reduce them to less than five cents per acre; or, as the Secretary of the Interior says, "to a merely nominal sum."

Those who desired to sell their warrants would, therefore, realize nothing from them, while the soldier who chose to use his in the location of a farm for improvement and cultivation, would find himself surrounded by thousands of acres of unimproved land, located by non-resident speculators with the cheap warrants that would glut the market, thus rendering his own land comparatively valueless, and subjecting him to all the evils resulting from land monopolies. While, therefore, this policy would benefit no one but the speculator, it would work an incalculable injury to all our soldiers who desire, when the war is ended, to make for themselves homes on the public lands; and it would forever rest like a blighting curse upon all the new States and Territories of the Republic. I am not willing, sir, for the sake of making a pompous *show* of regard for the soldier, thus to inflict upon him an actual injury.

If you propose to *donate* all the public lands to *speculators*, adopt this amendment of the gentleman from Indiana. But I beg of you do it directly and boldly, and instead of calling it "an act granting bounties to soldiers," and thus deceiving them by false pretenses, while you stab to the heart the best interests of the country they are periling their lives to defend, entitle it truly "an act to prevent the occupancy and improvement of the public domain, to encourage land monopolies, and granting bounties to speculators and Shylocks." I do not mean to insinuate that any member can think of playing the demagogue on this subject; but if we were so unfortunate as to have any demagogues among us, they would find in this amendment an irresistibly inviting field for the display of their peculiar genius.

The second reason assigned for a change of policy in reference to this measure, is based solely upon the condition of our national *finances*. It is claimed that the "public lands are relied upon as a security for the payment of our public debt and the interest thereon;" and that, "through all the world a landed security is considered the best for a debt." Now, sir, with all deference to the superior wisdom and experience of those who assume this position, I maintain that their reasoning, as applied to this subject, is totally fallacious, both in its premises and conclusions. They assume that the passage of this bill immediately divests the Government of all the public domain, and sweeps away at once this basis of national credit. What is the fact? It will not divest the Government of one square inch of land under five years; and when, at the end of that period, it does grant title to a quarter section, it will be, in consideration of settlement and cultivation, far more valuable to the Government than the price now received.

Nothing can be further from the truth than the assumption that when these lands are granted to settlers in consideration of occupancy and improvement, they cease to be a part of the national wealth. They just as really, for all the purposes of public credit and revenue, belong to the Government after the issuance of the patent as before. And who does not know that just to the extent of their improvement the wealth of the country is enhanced, and the basis of taxation and public credit enlarged? Let us illustrate. The Territory of Washington contains about 81,000,000 acres of land, nearly all of which belongs to the Government. The States of Ohio, Indiana, and Illinois, together, contain less than 82,000,000 acres, the title to almost all of which has passed from the Government into the hands of individuals.

Do capitalists rely upon Washington Territory as a better security for the payment of our national debt than the great States of Ohio, Indiana, and Illinois, with all their immense real estate wealth?

The aggregate of public lands surveyed and ready for sale is, in round numbers, 134,000,000 acres, being about equal in extent to the States of New York, Ohio, Indiana, and Illinois.

Is this vast amount of unimproved, unproductive public land a better security for the debts of the nation, than the real property of those four great States, valued as it is at over $2,333,000,000?

A tax of three mills on the dollar upon the valuation of real property in those four States will produce a revenue of over $7,000,000 per annum. The net proceeds of the sale of the public lands last year

does not exceed $200,000. At this rate it will require thirty-five years to realize the same amount of revenue from all this vast "landed security," (of which we hear so much,) that will be produced in one year, by a tax of three mills on the dollar upon the valuation of an equal number of acres of improved land in those four States.

Let it not be said that this illustration is fanciful or overstrained, for in point of fact it falls far short of truly representing the real difference between improved and unimproved lands, as a basis of public credit and source of income to the Government.

Ours being an agricultural nation, and our exports consisting chiefly of the products of the soil, we may reasonably calculate that imports, and consequently the increase of revenue from customs, will be in proportion to the enhanced value of the real property of the nation.

The value of real estate in the United States, in round numbers, is $12,000,000,000. The annual income from customs has been about $60,000,000. If, then, $12,000,000,000 worth of real property in the United States furnishes a basis of wealth which enables the nation to import foreign goods, upon which the Government receives a revenue from customs amounting to $60,000,000 per annum, the proportion which must be credited to the real estate wealth of those four States is $11,668,000 per annum. Add this to the $7,000,000 which may be raised, as I have shown, from a tax of three mills on the dollar, and you have over $18,000,000 per annum, as the financial result of the improvement and cultivation of the 134,000,000 acres of land in those States, against the sum of $200,000 received last year from all the public land capital of the Government.

The difference would seem to justify the assertion that it is the improved lands owned by the people, and not the wild lands held by the Government, which furnish the best basis for public credit, and the most available and safest security for public debts.

The statistics of Wisconsin furnish another forcible illustration of the truth of my position. The farms of that State, as per census of 1860, embrace 7,899,170 acres. At $1 25 per acre, the Government has received from them $9,873,962. This sum placed at interest, at six per cent. per annum, will yield an income of $592,437. The lands unimproved are worth no more in the hands of individuals than of the Government, and a three mills tax on their value will amount to $29,622. Total revenue from those lands under our present system, $622,059.

What income can be realized from them by reason of their settlement and cultivation? Cash value of farms in Wisconsin, as per census of 1860, $131,117,082. A three mills tax on this valuation gives $393,351.

Assuming that the valuation of real estate furnishes the basis upon which we may calculate with approximate certainty the amount of revenue reasonably to be expected from imports, and that the amount of such revenue contributed by Wisconsin bears the same relation to the whole amount received by the Government as the value of her real property bears to the whole real estate of the nation, you have the sum of $655,582, as the increased amount of customs which you are thus enabled to collect by reason of the improvement of those farms.

The total annual income, therefore, which would be derived from those Wisconsin farms by a three mills tax on their value, and by the increase of revenue, would be $1,048,933 against the sum of $622,059 under our present policy; balance in favor of the free homestead policy, $426,878 per annum. This result, it will be observed, is produced by a three mills tax, a rate much lower than what we shall be obliged to levy at this session of Congress.

I beg the indulgence of the House while I refer to the statistics of my own State, which, being purely agricultural and one of the youngest in the Republic, will perhaps exhibit more satisfactorily than any other the comparative results of the two land policies.

The number of farms in Minnesota is 18,081, embracing an average of about 100 acres each, making 1,808,100 acres. At $1 25 per acre the Government has sold them for $2,260,145. This sum at interest at six per cent. yields an annual revenue of $135,608. A three mills tax on the unimproved value of said farms gives $6,750. Total revenue, under our present policy, $142,358.

What can the Government realize from the same lands as now improved? Value of taxable property in Minnesota, $39,000,000. A three mills tax on this sum produces $117,000. Her agricultural products of 1861 estimated at $6,000,000. One per cent. tax on agricultural products gives $60,000. If we adopt the rule mentioned before, that the increase in the value of her real estate induces a proportionate increase of customs, the amount to be credited to Minnesota, by reason of the improvement and cultivation of her farms, is $194,896. But that my figures may be beyond the reach of cavil, I will estimate the *increased* amount of customs thus contributed at only $90,000 per annum, less than one half of what I suppose it really is. Total, from the rate of taxation assumed and from increase of customs, $267,000, against $142,338 under our present policy. Balance in favor of settlement and cultivation policy, $124,662 per annum.

Extend the comparison to 100,000,000 acres. Let us suppose two uninhabited Territories, each containing 100,000,000 acres of land, possessing the same advantages of soil and climate, and equal in all other respects, set apart to test the financial merits of this bill as compared with our present land policy. In Territory No. 1 we will suppose the whole 100,000,000 acres are sold to-day, and the Government price therefor—$125,000,000—put at interest at six per cent. per annum, thus yielding a yearly revenue of $7,500,000. To this we will add a three mills tax on their value, (which, if unimproved, would of course be the same in the hands of individuals as of the Government,) amounting to $375,000, making a total of $7,875,000 as the yearly income which could be derived from that Territory.

Suppose, on the other hand, that in Territory No. 2 the policy of this bill is adopted, and the 100,000,000 acres are to-day given to actual settlers, in farms of 100 acres each, which are improved to the same extent, and produce the same proportionate basis of taxation, as do these new farms in the new State of Minnesota: what would be the amount of revenue raised from that Territory, assuming the same rates of taxation which I have before named? Stated more simply, as a problem in the rule of three, if 18,081 farms of 100 acres each, improved and cultivated to the extent they are in Minnesota, give an annual income of $267,000, what annual revenue would 1,000,000 farms produce if improved and cultivated to the same extent? The answer is $14,822,243.

Thus, while Territory No. 2 yields $14,822,243 as the results of the homestead policy, Territory No. 1 gives only $7,875,000, showing a difference in favor of the free homestead policy amounting to $6,947,243 per annum. Thus Territory No. 2 would pay into the Treasury every year a revenue equal to that derived from No. 1, and also supply a sinking fund which in *less than eighteen years* would equal the whole amount for which No. 1 was sold. This difference in favor of No. 2 would furnish a net income to the Treasury greater by at least three hundred per cent. per annum than the whole yearly proceeds of the public lands under our present system.

The average revenue from sales for several years has been less than $1,000,000 per annum. At this rate it would take *one hundred and twenty-five years* to realize the $125,000,000 for which I have supposed Territory No. 1 to be sold; whereas, if we could have No. 2 settled upon, improved, and cultivated to-day, even to the limited extent to which the farms of my State are cultivated, we would be able to realize from it the same amount, namely, $125,000,000, in *less than nine years*.

If it be said that my argument is defective, in the fact that it would be impossible to secure the settlement and cultivation of Territory No. 2 immediately, I answer that under the policy of this bill it would be occupied and improved long before No. 1 could be sold. If the net income received last year from the sale of public lands indicates what is to be the revenue from this source in the future, it will require *six hundred and twenty-five years* to realize the Government price for 100,000,000 acres.

The estimates I have made, based on the number of farms of 100 acres each in Minnesota, falls far short of a fair illustration of the financial results which the policy of this bill would tend to produce, for the reason that but a small portion of each of these farms is actually tilled; whereas the bill contemplates bringing under *actual cultivation*, to the utmost extent possible, *all* the public lands.

The census returns show that the number of acres of *tilled* land in that State is 433,267. The question then, fairly stated, would be as follows: if 433,267 acres of *improved* and *cultivated* land in Minnesota furnish the resources for an annual income of $267,000, what annual revenue, at the same rate of taxation, could be derived from 100,000,000 acres equally cultivated and improved? The answer is, more than $60,000,000 per annum. If eighty acres of each quarter section were thus improved and cultivated, the revenue would be over $30,000,000; and if only forty acres of every quarter section were thus tilled, the income to the Government would be over $15,000,000 per annum.

Now, sir, if it were a fact that the present land policy of the Government and that proposed by this bill would yield an equal amount of revenue, it would then be a question with economists which policy will *most speedily* make the vast public domain available for such purpose? Can there be any doubt on this point? Can you not give away to actual settlers 100,000,000 acres long before you can sell the same quantity to speculators? The mere statement of the question furnishes the answer.

When, therefore, by the free homstead policy the public domain can be much more speedily rendered available to the support of the Government than by our present system, and when it would thus furnish a revenue more than double as great, I ask if the rigid laws of finance are not more than satisfied?

Does not the condition of our Treasury demand, more imperatively than ever before, the prompt passage of this bill?

The statistics to which I have referred prove that every acre of land which the Government can dispose of, in consideration of improvement and cultivation, at once becomes worth more than two acres of the unimproved land which it retains. If, then, you would double the value of these lands, and increase one hundred per cent. this species of security for our public debt, you have it in your power to do so by passing this bill. I do not ask support for it as gratuity to the settler, for, as declared in the Chicago platform, "I protest against any view of the free homestead policy which regards the settlers as paupers or supplicants for public bounty." What I ask is, that when we have this vast amount of unproductive property on hand, and there are those who stand ready and willing to enter upon it, and for every acre of land received to add twice its value to the nation's wealth, we will act the part of wisdom and permit them thus to contribute to the wants of an overburdened Treasury.

Beyond the Mississippi—stretching away toward the setting sun—lies the most magnificent public domain on earth. Slumbering in its bosom is a giant energy of productiveness, which, if roused by the hand of industry, would pour the wealth of empires at our feet. In our own country and among the oppressed of Europe are millions with strong arms and brave hearts, who would gladly perform this task for you. They need your lands, but have not the means to purchase them. Your lands demand their industry, and the Government wants the wealth which their toil would produce. Remove the barrier which a mistaken policy has interposed, and a wilderness transformed into teeming farms and thriving cities, a Treasury replenished, and the gratitude of loyal millions shall be your reward.

Mr. POTTER obtained the floor.

Mr. SHEFFIELD. I ask the gentleman from Wisconsin to yield to me for an amendment. I want to move to strike out these words:

That as to all persons performing service in the Navy of the United States, in the present war, or in any foreign war during the same, the benefits of this act shall be in lieu of prize-money and all other extra allowances.

Mr. POTTER. I was about to move the same amendment myself. I move that amendment; and in addition, I move to strike out the words in the first section, "passage of this act," and in lieu thereof to insert, "1st of January, 1863;" so that it will read:

That any person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who shall have filed his declaration

of intention to become such, as required by the naturalization laws of the United States, shall, from and after the 1st of January, 1863, be entitled to enter, free of cost, one hundred and sixty acres of unappropriated public lands, upon which said person may have filed a preëmption claim, or which may, at the time the application is made, be subject to preëmption at $1 25, or less, &c.

Mr. POTTER. Mr. Speaker, this bill provides for granting one hundred and sixty acres to every actual settler twenty-one years or more of age, or head of a family, who is a citizen, or has declared his intention to become such.

2. Grants one hundred and sixty acres to every person who has or shall enlist in the military service to suppress the present rebellion, whether naturalized or not, and whether twenty-one years of age or not.

3. Gives a bounty in cash of thirty dollars to each three months soldier; while those who enlist for the war are entitled to $100 by existing law.

I do not propose to discuss, at this late day, the policy of a homestead law, nor at any considerable length the propriety of its adoption in the present condition of the country. The wisdom of the former has been heretofore ably and clearly demonstrated, and the people have for many years earnestly desired the adoption of this most beneficent measure. Our public lands have been acquired by the expenditure of the common treasure of the people, and certainly no more equitable disposition of them can be made than to appropriate them to the purpose for which their Creator designed them—the assignment of a limited quantity to each head of a family, for the purpose of cultivation and subsistence. By the adoption of this system, the object which has ever been regarded as of the utmost importance in the final disposal of our public lands—their early and rapid settlement by an industrious population—will be much sooner realized than under the old system, which allows a large portion of the public domain to fall into the hands of the speculator, a system which limits and retards settlement, because the purchaser does not desire these lands for his own occupation, but retains them until such time as the laborer is compelled by his necessities to yield to the demand made upon him, and to pay to the capitalists a price entirely beyond the means of the greater number of those who would gladly occupy and improve them. By the adoption of this policy, we shall hereafter avoid the great evils which have invariably followed the enormous grants of public lands to corporations and companies, thus building up large land monopolies, which have ever been the bane and curse of our new States, and proved most detrimental to the interests of that class of our fellow-citizens who are the best entitled to the protection of the Government, by placing them in the power of those who have no sympathy in common with them, and no interest except their own aggrandizement. You will also, by the proposed change in our present system, do much to check the spirit of speculation which has proved so disastrous to the business interests of the nation.

It is true that large fortunes have been made by speculators in the public lands; but when we reflect that these fortunes have been made out of the labor of the cultivators of the soil, from contributions levied upon and wrung from them by those who have been enabled by their capital to purchase lands in large quantities from the Government, and that these fortunes are the price paid by labor for the privilege of cultivating, improving, and making valuable these lands, we see at a glance the impolicy and injustice of such a system. The wild and ruinous speculations which have invariably resulted in general disaster, involving thousands in ruin, and which have visited us periodically, may in almost every instance be traced to the facilities afforded by the Government for the accumulation of the public lands in the hands of speculators.

In answer to the objection that these lands should be reserved by the Government as a basis of credit, in view of the present condition of the Treasury, I reply that, by the adoption of this policy you enlarge, extend, and greatly strengthen the basis of your credit. It is not claimed that any considerable amount of revenue, during the continuance of the present rebellion, will be realized from this source. Neither does any one contend that the mere possession of these lands by the Government strengthens its credit. Public credit is based upon the general wealth and prosperity, the extent of which depends upon the amount of material means in our possession, and the amount of labor applicable to these means for the creation of wealth. Unoccupied and unimproved public lands afford a large portion of these means; but until the application of labor to them, until they are occupied and improved, they neither add to the general wealth nor contribute to the public credit. But when these lands are once settled, the wealth of the nation is increased and increasing. Your taxable basis is enlarged, not only by an increase of the aggregate wealth, but by a large accession to the class of consumers, thereby increasing your revenue, and strengthening your credit. No wiser policy can be adopted in the present situation of the country. Immigration has almost ceased, and the present unsettled condition of Europe, tending to a general war on that continent, should invite, on our part, the adoption of the most liberal policy, which will induce the emigrant to seek a home here, and invest his capital and direct his labor to the development of the now unproductive resources of the country. Our paralyzed interests require that we shall do all in our power to invite immigration and capital to our unoccupied public lands. The opposition to this measure has heretofore come from that class of men whose interests lie in the direction of land monopoly, and who are now engaged in a most wicked rebellion against the Government. They have ever opposed it with bitterness, and hitherto with success. Their power for evil, in this respect at least, is now broken, and the avowed friends of the homestead policy have it in their power to adopt this most beneficent policy, if they choose to do so.

This bill provides a bounty in money to those soldiers who first responded to the call of the President to defend the flag of their country. By the act of July, 1861, a bounty of $100 is allowed to all who shall have served for the term of six months or longer, or who shall have received an honorable discharge; but no provision was made for the three months men. This bill provides for them (in lieu of the issue of a land warrant) a bounty of thirty dollars in money; and all soldiers who have, or shall have served during this war, are entitled to enter, free of cost, one hundred and sixty acres of public land.

The issue of land warrants, under previous acts, has absorbed nearly one hundred million acres of our public lands, and thrown nearly that amount into the hands of speculators. But a small proportion of those for whose immediate benefit these warrants were issued have been benefited by them, further than the small pittance which the speculator chose to pay him for it; while the whole system has tended to the accumulation of the lands in the hands of a few, and has proved an unmitigated curse to the new States and Territories, and the worst possible policy for the nation at large. It is a far wiser and a more enlarged policy to pay the soldier, who has served his country faithfully, in the currency of the country, and then, when the war is over, permit him with his family to go upon your public lands, and find an asylum and a home without cost and without price. Adopt this policy, and the future prosperity of the nation will demonstrate its wisdom, and future generations will bless you.

I now withdraw the motion to recommit which I submitted some days ago, and demand the previous question on the bill and amendments.

Mr. HOLMAN. I ask the gentleman to withdraw the demand for the previous question for a moment.

Mr. POTTER. Certainly.

Mr. HOLMAN. Mr. Speaker, there was a motion made to recommit this bill, and that motion was moved to be amended by instructing the committee to strike out the eighth section of the bill, and insert in lieu thereof a section extending to the soldiers of the present war the benefits of the bounty land act of 1855. The gentleman from Wisconsin has withdrawn his motion to recommit, and I presume that my amendment falls.

The SPEAKER. It does, there being nothing before the House to which it was moved.

Mr. HOLMAN. I wish to say that the eighth section of this bill contains some very important provisions. The grant of thirty dollars to each of the soldiers who serves for three months will amount in all to $3,000,000. The soldiers who entered the service under the act of the 22d of July last, will receive $100 bounty if they serve six months. Now, sir——

Mr. POTTER. I did not know that the gentleman wanted to make another speech.

Mr. HOLMAN. I ask the gentleman to let me get in my motion to strike out the eighth section of the bill, and to insert a provision extending the bounty land law of 1855 to the soldiers of this war. If the House is not willing to incorporate that bounty land feature into the bill, I will not embarrass the passage of the bill by any further motions.

Mr. POTTER. The amendment proposed by the gentleman from Indiana is deemed by the friends of this bill to be entirely opposed to the principles of a homestead law, and I therefore decline to admit it. I renew the demand for the previous question.

Mr. VALLANDIGHAM. I ask the gentleman to yield to me for a suggestion. I wish to state to the real and *bona fide* advocates of the homestead policy, in regard to the proposition of the gentleman from Indiana, that if it were adopted it would absorb every acre of the land now surveyed by the United States—134,000,000 acres—so that there would not be an acre of surveyed land upon which any citizen of the United States could claim a homestead.

Mr. HOLMAN. Let me reply to that.

Mr. POTTER. I can yield no further. I insist on the demand for the previous question.

The previous question was seconded, there being, on a division—ayes 70, noes 20.

Mr. HOLMAN demanded the yeas and nays on ordering the main question to be put.

The yeas and nays were not ordered.

The main question was then ordered to be put.

Mr. HOLMAN moved that the House do now adjourn.

The House refused to adjourn, there being, on a division—ayes 20, noes 74.

The amendments moved by Mr. POTTER were then severally agreed to; and the bill as amended was ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time.

Mr. POTTER demanded the previous question on the passage of the bill.

The previous question was seconded; and the main question ordered to be put.

Mr. WASHBURNE demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 107, nays 16; as follows:

YEAS—Messrs. Aldrich, Alley, Arnold, Ashley, Baker, Baxter, Bingham, Samuel S. Blair, Blake, Buffinton, Campbell, Chamberlin, Clark, Clements, Cobb, Colfax, Frederick A. Conkling, Roscoe Conkling, Conway, Covode, Cox, Cravens, Cutler, Davis, Dawes, Delano, Diven, Duell, Dunn, Edgerton, Edwards, Eliot, Ely, Fessenden, Frank, Goodwin, Granger, Gurley, Haight, Hale, Hanchett, Harrison, Holman, Hooper, Horton, Hutchins, Julian, Kelley, Francis W. Kellogg, William Kellogg, Knapp, Lansing, Law, Lazear, Lovejoy, McKnight, McPherson, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Nixon, Nugen, Olin, Patton, Pendleton, Perry, Timothy G. Phelps, Pike, Pomeroy, Porter, Potter, Alexander H. Rice, John H. Rice, Richardson, Riddle, Robinson, Edward H. Rollins, Sargent, Sedgwick, Shanks, Sheffield, Sloan, John B. Steele, Stevens, Stratton, Benjamin F. Thomas, Train, Trimble, Trowbridge, Vallandigham, Van Valkenburgh, Van Wyck, Verree, Voorhees, Wallace, E. P. Walton, Ward, Washburne, Whaley, Albert S. White, Wilson, Windom, Woodruff, Worcester, and Wright—107.

NAYS—Messrs. Joseph Baily, Jacob B. Blair, George H. Browne, William G. Brown, Corning, Crittenden, Dunlap, Grider, Harding, Mallory, Maynard, Menzies, Norton, Shiel, Vibbard, and Wickliffe—16.

So the bill was passed.

During the vote,

Mr. ANCONA stated that he was paired with Mr. BAILEY, of Massachusetts.

Mr. HOLMAN stated that Mr. LEHMAN was paired with Mr. VAN HORN, and that the latter would have voted for and the former against the bill.

Mr. DAWES stated that Mr. FENTON was paired with Mr. WEBSTER, and that the former would have voted for and the latter against the bill.

Mr. JOHNSON stated that he was paired with Mr. SHERMAN, who was necessarily absent as surgeon of a volunteer regiment. Mr. J. would have voted against the bill in its present shape.

The vote was then announced as above recorded.

Mr. POTTER moved to reconsider the vote by

which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ENROLLED BILL.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill (H. R. No. 154) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1863, and additional appropriations for the year ending the 30th of June, 1862; when the Speaker signed the same.

And then, on motion of Mr. COX, (at half past four o'clock, p. m.,) the House adjourned.

IN SENATE.

MONDAY, *March* 3, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND

The Journal of Friday last was read and approved.

CREDENTIALS PRESENTED.

Mr. LANE, of Indiana, presented the credentials of Hon. JOSEPH A. WRIGHT, appointed by the Governor of Indiana a Senator from that State, to fill, until the next meeting of the Legislature, the vacancy occasioned by the expulsion of Jesse D. Bright. The credentials having been read, the oath prescribed by law was administered to Mr. WRIGHT, and he took his seat in the Senate.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 16th of January, information in relation to payments for transportation made to railroads in Virginia, Maryland, Delaware, and Pennsylvania; which was referred to the Committee on Military Affairs and the Militia; and ordered to be printed.

The VICE PRESIDENT also laid before the Senate a report of the Secretary of War, communicating, in obedience to law, a statement of the contingent expenses of the War Department for the fiscal year ending June 30, 1861; which was ordered to lie on the table, and be printed.

The VICE PRESIDENT also laid before the Senate a report of the Secretary of War, communicating, in answer to a resolution of the Senate of the 7th of January, information in relation to the number of three years volunteers in the service of the United States, and the number of brigadier generals and other brigade officers that have been nominated to the Senate for confirmation; which was referred to the Committee on Military Affairs and the Militia.

The VICE PRESIDENT also laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 29th of January, information in relation to the number of troops raised for the service of the United States in each State of the Union; which was ordered to lie on the table, and be printed.

The VICE PRESIDENT also laid before the Senate a report of the Secretary of War, in answer to a resolution of the Senate of the 4th of February, in relation to the orders, supplies, and amount of force given to the military command in service in Kansas; which was laid on the table, and ordered to be printed.

The VICE PRESIDENT also laid before the Senate a report of the Secretary of the Treasury, in answer to a resolution of the Senate of the 24th of February, to institute an inquiry and report what officers employed in the collection and protection of the revenue may be discontinued without detriment to the public service; which was ordered to lie on the table, and be printed.

The VICE PRESIDENT also laid before the Senate a report of the Secretary of War in answer to a resolution of the Senate of December 30, 1861, transmitting copies of the proceedings of the court-martial that tried the charges against Captain Thomas Jordan, of the quartermaster's department.

Mr. NESMITH. I move that the papers be printed, and referred to the Committee on Military Affairs and the Militia.

Mr. WILSON, of Massachusetts. As to printing, I think the committee had better examine the documents first; they are very voluminous.

Mr. NESMITH. The proceedings are presented in response to a resolution I offered to the Senate at an early part of the session. I should be glad to have them printed, because there are legislative matters dependent on these documents that I desire to call up when they are printed.

Mr. WILSON, of Massachusetts. Very well.

Mr. HALE. Before the motion to print is put, I want simply to make a single remark about it. Up to within a very few years, the Senate rigidly refused to interfere, even to call for papers of this kind. I know there were some proceedings that I thought were perfectly outrageous in the Navy Department a few years ago, and I tried to get the Senate to call for them, but it was resisted, and resisted by a most decided vote of the Senate, upon the ground that it was unwise and indiscreet and injurious to the service for the Senate to undertake to set themselves up as a court of revision of the doings of the Army and Navy in courts-martial. The Senate refused it for years; and if I am not mistaken, the very first instance in which there has been a departure from that rule was at the present session—perhaps it may not have been first, but it was among the first—on the call of the Senator from Iowa, [Mr. GRIMES,] who offered a resolution calling for the proceedings of the court-martial in the case of Colonel Miles, for his conduct at the battle of Bull Run. It is an entire innovation. If you are going to keep up courts-martial in the Army or Navy, you must let them go for what they are; you might just as well call for the proceedings of the judicial courts in the trial of criminals, and submit them to revision here. As the law is constituted this body has no power over them at all. They are in the nature of judicial proceedings. You must amend your laws, and not call for the proceedings in each particular case; and it has been for a great many years the course of the Senate not to call for them. I am opposed to a departure from it unless the law is changed.

Mr. FESSENDEN. I hope the Senator from Oregon will withdraw his motion to print. If we begin to print papers of this description, we shall necessarily incur very great expense, and the printing can amount to nothing except the gratification of curiosity. Such papers are generally called for on the suggestion of a single Senator, if at all, and he can examine them; but to call for proceedings of courts-martial, and then print them, will involve in the consequences considerable expense. They ought to be referred and looked into before we decide on printing.

Mr. NESMITH. Very well; I withdraw my motion to print.

The papers were referred to the Committee on Military Affairs and the Militia.

PETITIONS AND MEMORIALS.

Mr. WILMOT presented a petition of citizens of Easton, Pennsylvania, praying for the total abolition of slavery in the District of Columbia; which was ordered to lie on the table.

He also presented four petitions from citizens of Pennsylvania, praying for the total abolition of slavery throughout the country; which were ordered to lie on the table.

He also presented resolutions of the Legislature of Pennsylvania in relation to the coöperation of that State with New Jersey and Delaware in the defenses of Delaware river and bay; which were referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. POMEROY presented the petition of William Chestnut and other citizens of Ossawatomie, Kansas, praying for the establishment of a daily mail route from Leavenworth to Fort Scott; which was referred to the Committee on the Post Office and Post Roads.

He also presented the petition of George Bratton and others, citizens of Kansas, praying for the establishment of a daily mail route from Topeka to Humboldt; which was referred to the Committee on the Post Office and Post Roads.

Mr. WADE presented a petition of citizens of Ohio, praying for the passage of a law forfeiting the property of rebels, and that the proceeds be applied to the payment of the expenses of the war; which was ordered to lie on the table.

Mr. GRIMES presented the petition of Frederick B. Van Vleck and others, citizens of New York, praying for the location of a national armory at Rock Island, Illinois; which was ordered to lie on the table.

Mr. ANTHONY presented the petition of Jane McAllister, daughter of a revolutionary soldier, praying for pension; which was referred to the Committee on Pensions.

Mr. WILKINSON presented a memorial of the Legislature of Minnesota, in favor of the establishment of a mail route from Torah, in Stearns county, via Lake George and Grove Lake, to Alexandria, in Douglas county, in that State; which was referred to the Committee on the Post Office and Post Roads.

He also presented a memorial of the Legislature of Minnesota, in favor of the establishment of a mail route by steamers weekly, from Detroit, Michigan, to Duluth, in the State of Minnesota; which was referred to the Committee on the Post Office and Post Roads.

He also presented the petition of Alfred P. Foster and others, citizens of New York, praying that South Carolina, Georgia, and all that portion of Florida lying east of the Appalachicola river, be reduced to a territorial condition, and set apart to colonize all persons set free from slavery; which was referred to the Committee on Territories.

Mr. MORRILL presented the memorial of B. C. Bailey, praying remuneration for expenses and damages sustained by him by the seizure and detention of the ship Arago while in the prosecution of a lawful voyage in the month of May, 1861, by the naval commanding officer of the United States at Hampton Roads; which was referred to the Committee on Commerce.

Mr. HARRIS presented three petitions of citizens of New York, one signed by all the State officers of that State, praying that the office and dignity of a full major general be conferred upon General John E. Wool, and that his rank as such take effect from the time when his commission of major general by brevet bears date; which was referred to the Committee on Military Affairs and the Militia.

Mr. McDOUGALL presented nine petitions from citizens of California, praying for the establishment of an overland mail from the eastern States through New Mexico to Los Angeles, California; which were referred to the Committee on the Post Office and Post Roads.

REPORTS FROM COMMITTEES.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the petition of Erastus Hutchins, of Morgan county, Ohio, praying for arrears of pension, reported adversely thereon, and submitted a report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Samuel Noah, of Mount Pulaski, Logan county, Illinois, praying for a pension, reported adversely thereon, and submitted a report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Charlotte Crane, of Richmond county, New York, widow of Ichabod B. Crane, colonel of the first regiment of artillery, United States Army, praying for a pension, reported adversely thereon, and submitted a report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of William R. Coombs, praying for a pension, reported adversely thereon, and submitted a report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Eunice Church, praying for a pension, reported adversely thereon, and submitted a report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Hugh H. Howard, praying for a pension, submitted a report, accompanied by a bill (S. No. 219) granting an invalid pension to Hugh H. Howard, of Hockingport, State of Ohio. The bill was read, and passed to a second reading, and the report was ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ETHERIDGE, its Clerk, announced that the House had passed a bill (No. 125) to secure homesteads to actual settlers on the public domain, and to provide a bounty to soldiers in lieu of grants of the public lands; in which the concurrence of the Senate was requested.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed an enrolled bill (H. R. No. 104) fixing the number of the House of Representatives from and after the 3d of March, 1863; which thereupon received the signature of the Vice President.

BILL INTRODUCED.

Mr. WADE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 55) in relation to the appointment of assistant adjutants general and other staff officers in the regular and volunteer service; which was read, and passed to a second reading.

HOUSE BILL REFERRED.

The bill (No. 125) to secure homesteads to actual settlers on the public domain, and to provide a bounty for soldiers in lieu of grants of the public lands, was read twice by its title, and referred to the Committee on Public Lands.

MESSAGE FROM THE PRESIDENT.

A message from the President of the United States, by Mr. HAY, his Secretary, announced that the President had approved and signed, on the 1st instant, an act (S. No. 212) to authorize the Secretary of the Treasury to issue certificates of indebtedness to public creditors.

CAPTAIN GOLDSBOROUGH.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, recommending that Captain Louis M. Goldsborough receive a vote of thanks of Congress for his services and gallantry displayed in the combined attack of the forces commanded by him and Brigadier General Burnside, in the capture of Roanoke island and the destruction of rebel gunboats on the 7th, 8th, and 10th of February, 1862; which was referred to the Committee on Naval Affairs.

RAILROADS IN MISSOURI.

A message from the House of Representatives by Mr. ETHERIDGE, its Clerk, announced that the House had agreed to the second and third amendments of the Senate to the resolution of the House (No. 37) in relation to certain railroads in the State of Missouri, and had disagreed to the first amendment of the Senate to the resolution.

On motion of Mr. WILSON, of Massachusetts, the Senate insisted on its first amendment to the joint resolution, and asked for a conference on the disagreeing votes of the two Houses. Mr. WILSON of Massachusetts, Mr. HENDERSON, and Mr. HARRIS were appointed the committee of conference on the part of the Senate.

OATH OF ALLEGIANCE.

Mr. CHANDLER. The Committee on Commerce, to whom was referred House bill No. 294, have directed me to report the same back, with a recommendation that it pass; and I ask the unanimous consent of the Senate to allow it to be put on its passage now. It is simply to administer an oath of allegiance to captains of vessels in the mercantile service sailing to foreign ports.

There being no objection, the bill (H. R. No. 294) requiring an oath of allegiance and to support the Constitution of the United States to be administered to masters of American vessels clearing for foreign or other ports during the present rebellion, was considered as in Committee of the Whole. The bill makes it the duty of the several collectors of the customs at the ports of entry within the United States, during the continuance of the present rebellion, to cause to be administered to each and every master of any American ship or vessel, steamship or steam vessel, about to clear for any foreign port or place, or for any port or place within the United States, the oath of allegiance required by chapter sixty-four of the acts of the year 1861; which oath is to be duly taken by such masters before such vessels are to be permitted to clear for such ports. This oath or affirmation may be taken before the collector of customs at the port from which the vessel is about to clear, or before any justice of the peace or notary public or other person who is legally authorized to administer an oath in the State or district where it may be administered. Any violation of the oath will subject the offender to all the pains and penalties of willful and corrupt perjury, and he will be liable to be indicted and prosecuted to conviction for any such offense before any court having competent jurisdiction thereof.

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

ENLISTMENTS IN THE REGULAR ARMY.

Mr. WILSON, of Massachusetts. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 217) to encourage enlistments in the regular Army of the United States, and for other purposes, to report the bill back with two slight amendments. I move that the bill be considered at the present time. I think there cannot be any opposition to it.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that it shall be lawful, under and pursuant to such rules as the President may prescribe, to enlist from the ranks of the volunteer forces now in the service of the United States all privates, not exceeding the number necessary to fill the regiments authorized by law, who may desire so to be enlisted in the cavalry, artillery, or infantry of the regular Army of the United States, either for the term of three years or for the unexpired term of their volunteer enlistment; and all such volunteers as may be thus enlisted in and transferred to the regular service are to be entitled, upon such enlistment in and transfer to the regular Army, to receive in advance twenty-five dollars, which is to be taken by them as part of the $100 bounty to which, by law, they would severally be entitled upon the expiration of their respective terms of enlistment.

Section five of the act "to authorize the employment of volunteers," approved July 22, 1861, and section five of the act "to increase the present military establishment of the United States," approved July 29, 1861, are to be so construed as to allow twenty-five dollars of the bounty of one hundred dollars therein provided to be paid immediately after enlistment to every soldier of the regular Army hereafter enlisted during the continuance of the existing war. The President of the United States is to be authorized, by and with the consent of the Senate, to appoint as many military storekeepers in the quartermaster's department of the Army as the exigencies of the service may require, provided the whole number of military storekeepers in that department shall not exceed twelve.

During the existing insurrection and rebellion each division of the forces of the United States, consisting of two or more brigades, is to have the following officers attached thereto, who shall constitute the staff of the permanent commander thereof, viz: one assistant adjutant general and one assistant inspector general, who shall bear, respectively, the rank of major, and who shall be assigned from the Army or volunteer forces. Also, three aids-de-camp, to bear the rank of captain, to be appointed by the President, upon the recommendation of the commander of the division, and the appointment to cease upon the expiration of his division command. Also, one medical director, to bear the rank of major, and to be assigned from the surgeons or assistant surgeons of the regular Army or from the brigade surgeons of volunteers. The division commander may detail an officer of his command, of the rank of captain, to act as judge advocate of the division, or a lieutenant of the command, upon the recommendation of the commander, may be assigned by the President to act as such division judge advocate, and he will bear the rank of captain while so assigned The officers are to receive the same pay and allowances as are provided by law for officers of cavalry of corresponding rank. Officers of the regular Army, thus assigned or appointed and detached to staff duty, upon the cessation of such service, are to resume their positions in the regular Army, with the same rank and promotion as if they had continued to serve in their own regiments or corps. The senior officer of artillery in each division, in addition to his other duties, is to act as chief of artillery and ordnance at the headquarters of the division, and to receive the rank and pay of a major, if of a rank inferior thereto.

The first amendment reported by the Committee on Military Affairs was in the twenty-fourth line of the fourth section, to strike out the words "or appointed;" so that the clause will read:

Officers of the regular Army assigned and detached to staff duty, as above provided, shall, upon the cessation of such service, resume their position in the regular Army, &c.

The amendment was agreed to.

The next amendment of the committee was in section four, to strike out, in lines thirty and thirty-one, the following words: "and shall receive the rank and pay of a major, if of a rank inferior thereto;" so that the clause will read:

The senior officer of artillery in each division shall, in addition to his other duties, act as chief of artillery and ordnance at the headquarters of the division.

The amendment was agreed to.

The VICE PRESIDENT. The Secretary suggests another amendment, to make the bill formal. The third section now reads: "That the President of the United States be, and he hereby is, authorized, by and with the consent of the Senate," &c. The word "advice" is left out.

Mr. WILSON, of Massachusetts. That is merely verbal.

The VICE PRESIDENT. That amendment will be made if there be no objection.

Mr. SHERMAN. I would ask the chairman of the Committee on Military Affairs why he does not report a clause repealing that section of the act of last summer authorizing the appointment of additional aids by the generals.

Mr. WILSON, of Massachusetts That is on another bill.

Mr. SHERMAN. It was said by the Senator the other day, when the subject was discussed, that he would report it on this bill.

Mr. WILSON, of Massachusetts It is on another bill.

Mr. SHERMAN. I want it somewhere.

Mr. WILSON, of Massachusetts. It was put on another bill that I think we shall get through in a day or two.

Mr. SHERMAN. I think it had better be on this bill.

Mr. GRIMES. We have it on two other bills. I have an amendment already drawn, and I offer it here:

And be it further enacted, That the act approved August 5, 1861, entitled "An act supplementary to an act entitled 'An act to increase the present military establishment of the United States,'" approved July 29, 1861, be and the same is hereby repealed.

Mr. FESSENDEN. As that amendment proposes to repeal an act, I think it had better come in as the concluding section of the bill; and I ask the Senator to withdraw it for a moment to give me a chance to offer several sections as an amendment.

Mr. GRIMES. Certainly.

Mr. FESSENDEN. I move to amend the bill by adding three sections to it, composing the cavalry bill as it is called, which has come back from the House of Representatives. The first section of that bill, as it originally passed the Senate, provided for a reduction of the volunteer cavalry to forty regiments; the second section gave three months' extra pay to the officers and enlisted men discharged necessarily by the act; and the third section provided for an examination of the officers. I offer the first and third sections as they passed the Senate, and I strike out of the second section the words "and enlisted men," and reduce the pay to two months. That bill has come back from the House with an amendment increasing the cavalry regiments from forty to fifty.

There is no reason in the world why the men enlisted and discharged should receive three months' extra pay. Most of them have been in their own States. They have not been in service at all. See how it operates: we have a regiment of cavalry raised in my own State, for instance; they have been spending the winter at Augusta, the capital of the State; they have been there receiving fifteen dollars a month, and they have had their clothing and their support, and have not been out of the State. If they should happen to be discharged there is no reason in the world why we should pay them three months' extra pay. Taking these as full regiments, I have made a calculation of what we should have to pay under the second section of that bill, which is merely giving away money for no service in the world to men who have been doing better during the winter than any other laboring men in the community. Having received fifteen dollars per month and their clothing and support for several months, we should be just giving them three months' extra pay for no service in the world, and it would amount, according to my calculation, to something like $2,000,000, if the regi-

ments were all full. Now, I must say to gentlemen it is time for us to begin to think a little more about the money. The event of this war depends upon whether we can support it or not, and at the rate we are going on we shall come to a conclusion before we are aware of it, I fear. This dealing so lavishly and liberally, giving money away for no reason whatever to men, simply because they have enlisted, is a matter that neither this Government nor any other Government in the world can support.

We may as well talk plainly at one time as another; and instead of asking how much money we shall give soldiers, ask how the country can support itself. Under the circumstances, I propose to put these sections here for the sake of avoiding difficulty. The bill would not have passed the Senate without opposition with this provision in it, if I had not been in my committee-room at the time it went through. I said, during the discussion, that in regard to officers who have been at the expense of providing uniforms and buying horses, and many of them at very considerable expense in raising their companies, it was proper that they should be remunerated to a certain extent. I have no objection to their getting a couple of months' extra pay; but with regard to privates there is no reason for it under heaven. I would rather fix the number of regiments at thirty, if the chairman of the Military Committee will be satisfied with that; but I shall not urge that proposition against his wish.

Mr. WILSON, of Massachusetts. The House of Representatives amended our bill so as to fix the number at fifty, and I am told that if we insist on forty they will resist it, but I think they will be satisfied that it is enough.

Mr. FESSENDEN. I shall not urge the reduction to thirty regiments against the wishes of the chairman. I offer the amendment in the form I have suggested.

The VICE PRESIDENT. The amendment of the Senator from Maine is to insert, as additional sections, what the Secretary will read.

The Secretary read, as follows:

That the cavalry forces in the service of the United States shall hereafter be organized as follows: each regiment of cavalry shall have one colonel, one lieutenant colonel, three majors, one surgeon, one assistant surgeon, one regimental adjutant, one regimental quartermaster, one regimental commissary, one veterinary surgeon, whose compensation shall be seventy-five dollars per month, with the rank of a regimental sergeant major, one sergeant major, one quartermaster sergeant, one commissary sergeant, two hospital stewards, one saddler sergeant, one veterinary sergeant, one chief trumpeter, and one chief farrier or blacksmith; and each regiment shall consist of twelve companies or troops, and each company or troop shall have one captain, one first lieutenant, one second lieutenant, and one acting or supernumerary second lieutenant, to be selected from the non-commissioned officers of the respective regiments, one first sergeant, one quartermaster sergeant, one commissary sergeant, five sergeants, eight corporals, two teamsters, two farriers or blacksmiths, one saddler, one wagoner, and seventy-eight privates; the regimental adjutants, the regimental quartermasters, and regimental commissaries to be taken from the first lieutenants of their respective regiments, but in which they shall continue in the line of promotion: *Provided*, That vacancies caused by this organization shall not be considered as original, but shall be filled by regular promotion.

And be it further enacted, That the President of the United States be, and he is hereby, authorized and directed, under such regulations as he may establish, to reduce, by transfer, discharge, or otherwise, the volunteer cavalry forces now in the service beyond forty regiments, each of which regiments to be organized as provided for by this act.

And be it further enacted, That the officers necessarily discharged from service by this act shall, in addition to the allowances granted by existing laws, receive each two months' extra pay proper.

And be it further enacted, That all officers of cavalry who have been or may hereafter be appointed in the volunteer force in the service of the United States, shall be examined by a board of officers to be appointed by the Secretary of War, and who shall be familiar with the tactics and organization of the mounted or cavalry service of the United States Army.

Mr. WILKINSON. I want to offer an amendment to the amendment, to strike out "and officers;" so that the officers shall be placed on the same footing with the privates. I do not agree with the Senator from Maine at all in the idea that officers should be allowed two months' pay, while the privates are excluded.

The VICE PRESIDENT. The Senator should move then to strike out that whole section.

Mr. WILKINSON. Very well, sir.

Mr. FESSENDEN. I have no objection to that.

Mr. KING. It seems to me that there is as much reason for paying the privates as the officers. I had great doubts about giving anything in this respect; but I think there is as much reason for privates, who have been carried away, receiving money, as for officers. I move to make it one month's pay for both officers and privates.

Mr. FESSENDEN. It is only a question of about a million of dollars, or seven or eight hundred thousand; that is all. If we can afford to throw away our money in this way, to just make gifts of half millions at a time in this state of the Treasury, we may do it on a mere motion; it is nothing more. The distinction is this: the officers furnish their own uniforms, which cost them a hundred dollars; I think they furnish their own horses, also. Many of them have been put to very considerable expense, I am told, in raising regiments before they receive anything. I thought under these circumstances, it might be just to give them something if they are discharged, because they enter for the war. The same rule does not apply to the private soldier, and although my impression is that it will be no more than just to give something to the officers, yet rather than throw away half a million dollars, which ought not to be paid to anybody, I would let them go and take their chance for remuneration hereafter, if they ought to have any.

The VICE PRESIDENT. The first question is on the amendment proposed by the Senator from New York.

Mr. HOWE. I want to say a word about that amendment. It seems to me that the proposition to make some compensation to officers is a just one; but it does not strike me that a month or two months' or three months' pay is a practical way of doing that justice. The injustice of mustering these men out of service at the present time, as I understand it, is, that they have been at the expense of equipping and uniforming themselves with a view of entering upon the service of the United States for a series of months or years; they have just obtained their uniforms, and paid for them, and they are mustered out. This expense is just about the same figure for every officer; but the pay of officers differs very materially; the pay of a colonel is much higher than the pay of a lieutenant. Whatever the expense of the uniform is, that all ought to have, it seems to me, and they ought to have nothing more. That is all the injustice that has been done them; and if any provision is made for them at all, it should be a provision which should pay them the cost of their outfit, the cost of preparing them to enter upon this service.

Now, I have one word to say with regard to the amendment offered to the bill. I do not know but that there is some good reason for bringing up the subject of the disposition of the cavalry in the shape of an amendment to the bill pending before the Senate. The two measures, however, seem to me radically different, and I was sorry that the cavalry question was brought in here as an amendment. It seems to me if it were treated as a distinct measure, we should get to the end of it much more speedily than we can by the present proceeding. We ought to act upon that question, and act very early. Everybody concedes that we have some thirty regiments of cavalry more than the Government needs. We have had them for months and have been paying them for months. One of the most economical measures pending before either House of Congress, in my judgment, is one to get rid of these thirty or forty regiments, whatever the excess is. But if this amendment be adopted, it sends this bill to the House of Representatives with a measure ingrafted upon it just such as the House of Representatives has once rejected, and opens the debate there anew. If the bill before the Senate could be acted upon and passed, and then the cavalry bill taken up and the Senate vote upon the amendments made by the House of Representatives, it seems to me we should get to the end of it much more speedily than we shall by this process.

As to the number of cavalry regiments, I have but very little choice about it. A proposition was made by the Senator from New York [Mr. KING] the other day which I thought to be the most sensible and practical that I heard suggested, and that was to leave it discretionary with the President to muster out such regiments as he could spare, reducing them at least to fifty regiments. I do not recollect the exact terms of the proposition. I think if the cavalry bill was now put in that shape, the House of Representatives would agree to it. The probability is, if we send it back to them fixing the number at forty regiments, we shall still have the bill hanging along here for it may be weeks to come; but put it in the shape suggested by the Senator from New York, and I have no doubt it would be acceded to, and we can very easily spend the cost of keeping ten regiments in the field a good while by debating this measure with thirty additional regiments on pay while we are debating it.

Mr. FESSENDEN. I wish the Senate to understand precisely my object; it is perfectly evident that the Senator from Wisconsin does not. We sent the cavalry bill down to the House of Representatives with the third section in it, and that section has been agreed to by the House. If that bill goes back to them at all, it goes back on the single question of fifty or forty regiments; everything else is settled. That is what I want to avoid. I do not want to send that bill back to the House of Representatives at all. I want to save this large amount of money, and the only way we can save it is by keeping that bill here and sending there another bill, with this provision disbanding the cavalry upon it. The only question left to the Senate is, whether they will, as a mere matter of favor—for it is nothing else—in the present state of the Treasury, present these soldiers with a million and a half or two millions of dollars which they have not earned in any shape or form. A friend remarks to me, and I have heard it before, that it was stated in one of the London papers a short time ago, and I believe it is true, that we are paying for our Army as much per month as the English are paying to support their army for a year at the present time. How long can we stand it? We have burdens enough upon us now that we must meet, in all conscience, without legislating so rashly and with such open hands, without reflection, giving money to people to whom it is not due and who never contracted for it. That is the only question left to the Senate. I must do my duty. I cannot suffer these things to be passed without notice. I know it applies to men in my own State as well as other States; but we have duties to perform that are beyond all these considerations, and when we are voting the public money we should inquire whether we have a right to do it in the way we are going on.

Mr. KING. This bill was originally reported by the Military Committee to reduce the cavalry force to fifty thousand men—that number was fixed upon after consultation with the chief of cavalry and the chief officers of the Army—and without any extra pay whatever. The Senate reduced the number to forty regiments, and added a provision giving three months' extra pay to those who should be mustered out of service. I proposed at that time, instead of reducing the number of regiments to forty, to reduce it to fifty, with discretion in the President or the Secretary of War to muster out an additional number of regiments whenever the exigencies of the public service would permit. I should have been content with that provision in the bill; but the question before us now is simply as to extra pay. It seems to me that if we are to give it at all, we should give it to them all alike; but I think one month's pay is enough for any of them. The motion I make, therefore, is to reduce the pay of all the officers and men one month, instead of two or three.

Mr. NESMITH. I am opposed to the amendment offered by the Senator from New York, and I concur in the views of the Senator from Maine. The proposition to discharge these men and give them either three months' or one month's pay is wrong. They have been well paid for what they have done while they have been in service. If they are discharged now by virtue of the bill under consideration, and which I presume will become a law, they can all reënlist in the regular regiments. Every man discharged by this act can reënlist in a regular regiment, and his pay goes on, and in addition to that he gets twenty-five dollars bounty when he reënlists, and gets seventy-five dollars more at the expiration of his term of service. That provides amply for the men. No injustice, no wrong is done them. In fact, it will be a benefit to the men to be discharged, because it opens an opportunity for them to get into a better corps of the service by enlisting in the regular Army, not for three years, but for the unex-

pired term of their service in the volunteer force. So far as the officers are concerned, they too have been amply paid, and will suffer no loss by the passage of the bill, without receiving any extra compensation.

In relation to the cavalry service generally, I think there is no department of the Government which has been so badly and so extravagantly managed. Not only the President, but many of his subordinates have given authority to men to raise cavalry regiments. Men have come here speculating, and they have done what they call "putting up" regiments. They have been authorized to go home and raise regiments, furnish horses, arms, equipments, uniforms, and they have brought regiments into the field at an enormous expense, and when they have been brought into the field they have been perfectly worthless. You have heard of little service being rendered by these cavalry regiments, and you will not hear of their rendering much service. It is not in the nature of things that they should. There is nothing, as a soldier, so worthless and so helpless as a man on horseback who cannot manage his horse, and who knows nothing of the use of the saber. He is a perfect incumbrance on any battle-field.

I am in favor of reducing the cavalry force to the lowest possible point. I believe we have now three times as many cavalry soldiers as there is any necessity for. To obviate the use of the saber, which makes the cavalry soldier the most effective, they have undertaken to innovate on our usage, and the usages I believe of almost every country except Mexico and Spain, by arming cavalry soldiers with long poles with iron on the ends of them. They call them lances—a kind of frog-stickers, with red flag-staffs at the end of them. The men, with these poles and frog-stickers, will never hurt anybody in the world unless it is some wounded or disabled man. They will never run them into an enemy; they may run them into each other. They will never be of any sort of service on a battle-field or in confronting an enemy. I am in favor of dispensing with all that expensive branch of the service which gets up these fancy arrangements for mere show. They are ornamental; they are not useful, were never intended to be so, and can never be so. Ten thousand, or fifteen thousand, or twenty thousand cavalry at most, are as much as can be effectively used in this war. You will never hear of any distinguished charges made by that species of cavalry upon any battle-field. You may hear of their being useful in pursuing fugitive or small parties, but you will never hear of their making any charge against infantry or against artillery, or being of any use in the way that cavalry is usually used and is effective in European armies. It is not in the nature of things. It takes long to make a cavalry soldier; and most of the men enlisted in the eastern States know nothing about the management of a horse, much less the management of a saber. I think the best way to make good cavalry of the men who are armed with frog-stickers would be to put them on foot, [laughter,] for they will never be of any service on horseback.

As I said before, I am in favor of dispensing with the whole of them, and I am not in favor of paying the men who are discharged, because the door is open to them to reënter the service on better conditions than they entered it at first, with twenty-five dollars advanced as bounty, and seventy-five dollars to be paid at the end of the term, and all the clothing and equipments furnished them which is provided for by the act under which they went into service.

Mr. WILKINSON. Mr. President——

Mr. FESSENDEN. I accepted the amendment of the Senator from Minnesota to strike out the whole section giving extra pay.

Mr. KING. My motion was to amend the amendment of the Senator from Maine; but if he waives that, mine, of course, goes with it.

The VICE PRESIDENT. The question before the Senate, as the Chair understands, is the motion of the Senator from Minnesota to strike out one section of the amendment of the Senator from Maine

Mr. HOWE. I understood that the Senator from Maine accepted the proposition of the Senator from Minnesota as a modification of the amendment he offered to the bill

Mr. WILSON (to Mr. HOWE.) Do you agree to that?

Mr. HOWE. I do not; I mean to oppose it.

Mr. WILSON, of Massachusetts. As one o'clock is close at hand, it is evident this bill cannot be disposed of this morning if there is to be any further contest. There is one section of this bill which I am anxious to get through this morning without fail; and if we can get it through here, I shall endeavor to get it acted on by the House of Representatives to-day. I move to lay this bill on the table and take up the division staff bill.

The VICE PRESIDENT. The special order of the day is now before the Senate, on which the Senator from California [Mr. McDOUGALL] is entitled to the floor.

Mr. WILSON, of Massachusetts. I hope the Senator will yield for a minute or two for the purpose I have indicated.

Mr. McDOUGALL. I will yield for that purpose.

The VICE PRESIDENT. The question is on the motion of the Senator from Massachusetts to lay on the table the bill which has been under consideration this morning, and take up the bill indicated by him.

The motion was agreed to.

ARMY DIVISION STAFFS.

The consideration of the bill (S. No. 122) providing for the organization of the staff attached to divisions of the Army of the United States, regular and volunteer, was resumed as in Committee of the Whole.

Mr. WILSON, of Massachusetts. I move to strike out all after the word "that," immediately after the enacting clause of the bill, and insert an amendment which has been unanimously agreed upon by the Military Committee, which I think accomplishes nearly all we intended to accomplish by the original bill:

During the existing insurrection and rebellion each division of the forces of the United States, consisting of two or more brigades, shall have the following officers attached thereto, who shall constitute the staff of the permanent commander thereof, viz: one assistant adjutant general and one assistant inspector general, who shall bear, respectively, the rank of major, and who shall be assigned from the Army or volunteer forces. Also three aids-de-camp, to bear the rank of captain, to be appointed by the President, upon the recommendation of the commander of the division, and the appointment to cease upon the expiration of his division command. Also one medical director, to bear the rank of major, and to be assigned from the surgeons or assistant surgeons of the regular Army, or from the brigade surgeons of volunteers. The division commander may detail an officer of his command, of the rank of captain, to act as judge advocate of the division, or a lieutenant of said command, upon the recommendation of said commander, may be assigned by the President to act as such division judge advocate, who shall bear the rank of captain while so assigned. Said officers shall receive the same pay and allowances as are provided by law for officers of cavalry of corresponding rank. Officers of the regular Army, assigned and detached to staff duty, as above provided, shall, upon the cessation of such service, resume their positions in the regular Army, with the same rank and promotion as if they had continued to serve in their own regiments or corps. The senior officer of artillery in each division shall, in addition to his other duties, act as chief of artillery and ordnance at the headquarters of the division.

The amendment was agreed to.

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

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

CIVIL APPROPRIATION BILL.

The VICE PRESIDENT. The special order is before the Senate being the bill (S. No. 151) to confiscate the property and free the slaves of rebels, on which the Senator from California is entitled to the floor.

Mr. McDOUGALL. Mr. President——

Mr. HALE. I simply want the floor a minute to make a privileged motion to reconsider a vote, in order to have it entered. I move to reconsider the vote by which the Senate concurred in the report of the committee of conference on the civil appropriation bill.

The VICE PRESIDENT. That motion will be entered.

Mr. BROWNING. I wish to know from the Senator from New Hampshire what is the title of the bill. Is it "An act making appropriations for sundry civil expenses of the Government for the year ending 30th June, 1863?"

Mr. HALE. Yes sir; the report submitted by Mr. PEARCE, on Thursday, I think.

Mr. BROWNING. I will inform the Senator that the bill has been laid before the President, approved by him, and so reported to the House of Representatives.

Mr. HALE. I can inform the Senator that that does not deprive me of my constitutional right to move a reconsideration.

Mr. BROWNING. I thought I would give you the information.

Mr. HALE. While I am up I will give my reason for the motion if the Senate will indulge me a single minute. It is because I see by the report in the paper——

The VICE PRESIDENT. It is not in order, in the opinion of the Chair, to move to reconsider the vote on a bill which has passed from the Senate. The order would be ordinarily to send a message recalling it if it were in a position to be recalled. That is the practice of the Senate.

Mr. HALE. As this is a matter of some consequence, I want to have it settled. The Senator from Massachusetts says the Senator from Illinois is mistaken in his information.

Mr. SUMNER. I will state that the bill that passed the Senate on Friday I have seen this morning in the hands of the engrossing clerk, and it was to be taken, I think, by the Secretary of the Senate to the other House. I do not precisely remember the title of it.

Mr. BROWNING. There may be a misunderstanding between the Senator and myself.

Mr. SUMNER. There may be a misunderstanding in regard to the title.

Mr. BROWNING. The bill I refer to is House bill No. 154, entitled an act making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1863, and additional appropriations for the year ending the 30th of June, 1862. That bill has been laid before the President, and has received his signature, and has been reported as approved to both Houses.

Mr. SUMNER. Does the Senator remember when it was laid before the President?

Mr. BROWNING. I can give the information in an instant.

The VICE PRESIDENT. If the Chair may be allowed a moment, he believes that the bill entitled the legislative and executive appropriation bill is within the province of the Senate—that is, if the Senate has it not, it can reach it, as there are disagreeing votes between the two Houses.

Mr. BROWNING. This bill was laid before the President on Saturday.

Mr. SUMNER. Then that cannot be the bill that passed on Friday; because that had to go to the House, as there were Senate amendments to be acted on by the House.

Mr. SHERMAN. I can explain the matter to Senators. The civil bill and the legislative bill are distinct bills. The civil bill is now a law signed by the President. The legislative bill has to go back to the House.

The VICE PRESIDENT. The legislative bill has gone back to the House.

Mr. HALE. I beg pardon of the Senator from California for a moment; but I want this bill—I read from the report in the Globe:

"The message further announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 154) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1863, and additional appropriations for the year ending the 30th of June, 1862."

Upon which Mr. PEARCE submitted a report from the committee of conference. Has that bill gone to the President and been signed?

Mr. BROWNING. Yes, sir; that bill has been approved by the President, and been reported as approved to both Houses of Congress.

The VICE PRESIDENT. And the time within which a motion to reconsider should be made has also expired on that bill.

Mr. HALE. To-day is Monday, is it not?

The VICE PRESIDENT. That bill passed on Wednesday or Thursday last.

Mr. HALE. I think I can understand the reason why it was hurried to the President so quick and put out of the reach of reconsideration. Anybody who will read the report will understand it.

The VICE PRESIDENT. The Senator from California is entitled to the floor.

Mr. HALE. One single moment. The reason I make this motion is that I am informed——

Mr. McDOUGALL. I object.

Mr. HALE. I will not occupy but a minute.

Mr. McDOUGALL. I object.

Mr. HALE. Very well.

The VICE PRESIDENT. The Senator from California objects, and he is therefore entitled to the floor on the special order.

CONFISCATION OF PROPERTY.

The Senate resumed the consideration of the bill (S. No. 151) to confiscate the property and free the slaves of rebels.

Mr. McDOUGALL addressed the Senate for two hours and a half, and without finishing, gave way for an executive session. [His speech complete will be found in the Appendix.]

EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business; and after being some time engaged therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *March* 3, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of Friday last was read and approved.

ENGAGEMENT AT DRAINESVILLE.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a report of the engagement at Drainesville, in answer to a resolution of the House of Representatives of January 20, 1862, which was referred to the joint committee on the conduct of the war, and ordered to be printed.

PURCHASES OF HORSES.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, in relation to the purchase of horses for Colonel Williams's regiment, in answer to resolution of the House of January 17, 1862; which was referred to the select committee on Government contracts, and ordered to be printed.

FEEDING OF DISABLED HORSES.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, in further answer to the resolution of the House of December 2, 1861, in reference to the feeding of disabled horses; which was referred to the select committee on Government contracts, and ordered to be printed.

CONTINGENT EXPENSES OF WAR DEPARTMENT.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a report on the contingent expenses of the War Department; which was laid upon the table, and ordered to be printed.

OFFICERING OF VOLUNTEER COMPANIES.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, in answer to the resolution of the House of Representatives, of the 20th ultimo, asking why it is that full companies of troops who have volunteered from Ohio and other States, and been accepted into service by the War Department, are now refused commissions to their officers from the Federal Government, and are required to be commissioned, if at all, by the Governor of Pennsylvania, and this, too, against the earnest protest of such companies. The Secretary, in answer thereto, submits a report from the Adjutant General, who deems it necessary, before he can report understandingly, that he shall be furnished with a statement of the alleged facts in each case which the resolution contemplates.

The communication was laid upon the table, and ordered to be printed.

SALES AND GRANTS OF PUBLIC LANDS.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a statement called for by resolution of the House of January 20, 1862, relative to the quantity of public lands disposed of by sale and grants since the 30th of June, 1859; which was laid upon the table, and ordered to be printed.

OREGON AND WASHINGTON WAR CLAIMS.

On motion of Mr. WALLACE, of Washington, by unanimous consent, joint resolution S. No. 25, prescribing the mode of paying the awards authorized by the act of 2d of March, 1861, for settling the Washington and Oregon war debt, was taken from the Speaker's table, read a first and second time, and referred to the Committee on the Judiciary.

S. FERGUSON BEACH.

Mr. DAWES, from the Committee of Elections, made a report in writing on the memorial of S. Ferguson Beach, praying to be admitted to a seat in the House as a Representative from the seventh congressional district of Virginia, accompanied by the following resolution:

Resolved, That S. Ferguson Beach is not entitled to a seat in this House as a Representative in the Thirty-Seventh Congress from the seventh congressional district of Virginia.

The report was laid upon the table, and ordered to be printed.

COMPENSATION OF A DISTRICT ATTORNEY.

Mr. BLAIR, of Virginia, by unanimous consent, introduced a joint resolution regulating the compensation of the district attorney for the western district of Virginia; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

RAILROADS IN MISSOURI.

Mr. HOLMAN. I move to take from the Speaker's table joint resolution H. R. No. 37, in relation to certain railroads in the State of Missouri, returned from the Senate with amendments, with a view to dispose of it.

Mr. STEVENS. That may give rise to some debate. I beg leave to report first from the Committee of Ways and Means the tax bill.

Mr. HOLMAN. I hope the gentleman from Pennsylvania will postpone that a moment. There are but three amendments, and two of them are merely verbal. I wish to submit a motion that the House agree to the second and third amendments, and disagree to the first.

There being no objection, the joint resolution was taken from the Speaker's table, and the amendments were read.

Mr. HOLMAN. The last two amendments are merely verbal; but the first, which is to strike out the preamble, is substantial. I move that the House non-concur in the first amendment, and concur in the other two.

Mr. PRICE. I hope the House will not disagree to the first amendment. The friends of the joint resolution are willing to take it as it passed the Senate, and delay would be very prejudicial to the roads in Missouri. I hope, therefore, the gentleman from Indiana will withdraw his opposition. I move that the House agree to the first amendment of the Senate.

Mr. STEVENS. I think there had better be a committee of conference on the joint resolution.

Mr. OLIN. I hope the House will agree to the amendment of the Senate. I do not think that the striking out of that preamble would alter the legal effect of the bill at all. It is important, if the bill is to pass, that it should pass now, and I hope, therefore, the House will agree to the amendment.

Mr. HOLMAN. I trust that my course in reference to this joint resolution proves that I am anxious to do entire justice to the Missouri roads; but the preamble asserts the proposition that the Government has a right to free transportation over roads to which grants of land have been made. That assertion seems to me to be very important in connection with the joint resolution itself. I hope, therefore, that the House will not consent that that preamble shall be stricken out. It puts the case upon the ground that we have a right to free transportation; but that, in view of the injury which these roads have received from the enemies of the country, and in view of the absolute necessity of keeping them open for the use of the Government, the Government will, therefore, pay the actual cost of transportation. It seems to me to be of vital importance that the preamble should be retained.

Mr. OLIN. Let me make one suggestion to the gentleman. I appeal to every man with three grains of sense in the House, if it is not perfectly obvious that a mere congressional resolution as to what is the legal effect of a legislative measure does not alter the law at all, and that the assertion in this preamble, that the Government has a right to the use of these roads under the existing law, whenever necessary, does not alter the law at all? Nobody will dispute that proposition. It is true that under the existing law we have that right, and, therefore, it is not of the least importance in the world to assert in the preamble to this resolution that the Government has, in the judgment of Congress, a right to use these roads.

Mr. FESSENDEN. Then why was it stricken out?

Mr. OLIN. It was a kind of barnacle sticking to the joint resolution—a humbug. I would have moved to strike it out myself, but I thought it of no importance.

Mr. HOLMAN. I assert that the joint resolution itself is to be construed by the declaration contained in the preamble; that the preamble contains the construction which Congress places upon the grant contained in the bill. Every gentleman understands the effect of a precedent, and the danger of this precedent is manifest, unless Congress declares the motives which induce it to enact this law.

Mr. STEVENS. I think the joint resolution had better go to a committee of conference. I move the previous question.

The previous question was seconded, and the main question ordered.

The first amendment of the Senate, striking out the preamble, was disagreed to.

The second and third amendments were agreed to.

TAX BILL.

Mr. STEVENS, from the Committee of Ways and Means, reported a bill to provide internal revenue to support the Government and pay the interest on the public debt; which was read a first and second time.

Mr. STEVENS. I move that the bill be referred to the Committee of the Whole on the state of the Union, and printed.

The motion was agreed to.

Mr. STEVENS. I move that the bill be made the special order for Wednesday week at one o'clock.

Mr. VALLANDIGHAM. That is too short a time to examine a bill which it has taken the committee no less than two or three months to prepare. I suggest to the gentleman that he make it the special order for this day two weeks.

Mr. STEVENS. I cannot agree to that.

Mr. VALLANDIGHAM. Then I object to making it a special order.

The SPEAKER. The gentleman from Ohio objects to the bill being made a special order.

Mr. VALLANDIGHAM. I do not object to its being made a special order; but I object to the time proposed to be fixed for it.

The SPEAKER. The Chair cannot accept that as an objection to the special order.

Mr. VALLANDIGHAM. I withdraw the objection, if the gentleman from Pennsylvania insists on fixing it for Wednesday week.

Mr. STEVENS. I think that that is far enough off.

Several MEMBERS. Too far.

Mr. COLFAX. I move to amend by fixing the time for next Monday—one week from this day.

Mr. VALLANDIGHAM. I object to that distinctly.

Mr. STEVENS. I suggest to gentlemen that I mean to follow this motion with a motion to print a large number of copies of this bill for circulation, so that our constituents all over the country may have an opportunity to read and examine it.

Mr. COLFAX. I suppose that the debate on this bill in the Committee of the Whole on the state of the Union will be at some length, and will elicit the views of gentlemen and their constituents. I think we ought to commence next Monday, as it will take some time to get through with the bill.

The SPEAKER. The Chair desires to know whether there is objection to the bill being made a special order?

Mr. VALLANDIGHAM. I object, unless the time be fixed.

Mr. COLFAX. I withdraw my amendment.

There being no objection, the bill was made a special order for Wednesday week.

Mr. STEVENS. I move that ten thousand extra copies of the bill be printed for the use of members.

The SPEAKER. That motion goes to the Committee on Printing.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. WEDNESDAY, MARCH 5, 1862. NEW SERIES....No. 66.

Mr. STEVENS. I ask unanimous consent that the motion may be considered now.

The SPEAKER. The law expressly requires motions for printing extra copies of documents to go to the Committee on Printing.

Mr. STEVENS. I know, Mr. Speaker, that there has been considerable impatience exhibited by the public, and probably by some members of the House, at the delay in reporting this bill. I desire to say that the Committee of Ways and Means was not, until late in the first week in January, in possession of the estimates and facts to enable it to judge how much revenue would be necessary. The committee had then all the appropriation bills to prepare. They have all been prepared and reported, and passed through this House ten days ago, which is, I think, earlier than usual. The committee was also engaged in the question of currency, which occupied some time. The committee may have seemed to have occupied too much time on the Treasury note bill. I will, however, state here that from the time the Committee of Ways and Means first came into possession of information as to the amount of revenue needed, the duty of drawing and preparing this bill was assigned to a sub-committee of just one half of the whole number. I need not mention their names. They will be well known to the public. I believe that from that time to this that committee has labored as assiduously, every spare hour that its members were not engaged in the House, as it was possible for them to do. I believe that they have worked more hours daily, since that time, than any laborer, mechanic, or manufacturer in the United States. Since that subcommittee was prepared to report to the whole committee, they have gone over the bill carefully, line by line, and item by item, until they have so adjusted it, yielding something to each other's opinions, that it has become the unanimous report of the Committee of Ways and Means.

I do not make the statement for the purpose of eliciting either for the sub-committee or for the whole committee any commendation; but simply that, when the bill comes to be considered by the House and the country, they may view our labors with that benevolent indulgence to which they are entitled. I desire that these ten thousand extra copies shall be immediately printed and distributed over the country, so that our constituents who will have to bear the burdens, may criticise it and instruct us further, if they please. For our part, we shall always be ready to receive such criticism and instructions, and to consider them candidly. I hope the House will do so likewise. The Committee of Ways and Means has no pride of opinion. It has no pride in the paternity of this bill. Its members know very well that, from inexperience and inability, they are incapable of making a perfect report at this time. I say this in order that those of our constituents who feel desirous to do so, may criticise our work and inform us candidly and frankly of their views. I have no doubt that every member of the House desires to be enlightened on this great measure, which is to bear so particularly, and, I fear, for some time to come, on the whole interests of the country.

The motion was referred to the Joint Committee on Printing.

WITHDRAWAL OF PAPERS.

Mr. WOODRUFF asked and obtained unanimous consent to have withdrawn from the files of the House, and referred to the Pension Bureau, the papers in the following cases: heirs of Captain Abraham Fuller, heirs of Captain Abram Foot, heirs of Jonathan Barnes, heirs of Eben Strong, heirs of Eliphalet Johnson, heirs of Timothy Stevens, widow of Moses Cass, jr., and heirs of John Hubbard.

PRINTING TAX BILL.

Mr. WALTON, of Vermont, from the Joint Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

Resolved, That ten thousand extra copies of the bill to provide internal revenue to support the Government and pay interest on the public debt, reported by the Committee of Ways and Means, be printed for the use of this House.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that the Senate had passed the House bill to provide for the appointment of additional clerks in the office of the Assistant Treasurer at New York, and for other purposes; and the House bill making appropriations for the legislative, executive, and judicial expenses of the Government, for the year ending June 30, 1863, and additional appropriations for the year ending June 30, 1862, severally; with amendments, in which he was directed to ask the concurrence of the House.

AWARDS OF THE ST. LOUIS COMMISSION.

Mr. BINGHAM. I ask leave to report back from the Committee on the Judiciary joint resolution S. No. 22, providing for the payment of the awards of the commission to investigate the military claims in the department of the West.

Mr. HOLMAN. I ask for the reading of the joint resolution.

The joint resolution was read. It directs that all sums allowed to be due from the United States to individuals, companies, or corporations, by the commission heretofore appointed by the Secretary of War for investigation of the military claims against the department of the West, shall be deemed to be due and payable, and shall be paid by the disbursing officer, either in St. Louis or Washington, on presentation of the voucher, with the commission's certificate thereon. This resolution is to apply only to claims allowed on account of subsistence, clothing, quartermaster's property, army transportation, arms, and supplies.

The joint resolution was reported back, with an amendment to strike out the last clause, and with a recommendation that it do pass.

Mr. HOLMAN. I wish to inquire from the gentleman from Ohio whether this bill is printed?

Mr. BINGHAM. I do not know that the bill is printed. It was unanimously approved by the Committee on the Judiciary.

Mr. HOLMAN. If the motion be that the bill be printed and referred to the Committee of the Whole on the state of the Union I shall not object to it.

Mr. BINGHAM. I hope the gentleman will not object. Here is a commission appointed, as is notorious for the last six months, to which the meritorious claims of citizens have been referred, and unless the joint resolution be passed, these claims cannot be paid.

Mr. HOLMAN. The joint resolution proposes to authorize payment either here or in St. Louis, and that is a discrimination.

Mr. BINGHAM. Then I call for the regular order of business.

REPORTS OF COMMITTEES.

The SPEAKER stated that the regular order of business was the call of committees for reports for reference only.

GEORGE W. JOHNSON.

Mr. BUFFINTON, from the Committee on Military Affairs, reported back the claim of George W. Johnson, and asked that the committee be discharged from its further consideration, and that it be referred to the Committee on Claims.

It was so ordered.

CALL OF STATES.

The call of committees for reports being completed,

The SPEAKER announced the next business in order to be the call of States for resolutions, beginning with the State of Maine.

MEXICAN AFFAIRS.

Mr. SEDGWICK offered the following resolution; which was read, considered, and agreed to:

Resolved, That the President of the United States be requested, if not inconsistent with the public interest, to communicate to this House any correspondence or other information in his possession relative to the present condition of Mexico, and especially in reference to the alleged design of the allied Powers now invading that country to establish a monarchy there.

CONTRACTS FOR FIRE-ARMS.

Mr. ROSCOE CONKLING offered the following resolution; which was laid over for debate:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That all orders unexecuted from the War Department for the manufacture or delivery of fire-arms by companies, firms, or individuals, who were not at the time of the issue of such orders manufacturers, importers, or regular dealers in fire-arms, be and they are hereby rescinded and annulled; and that the Secretary of War be authorized, in his discretion, to suspend till the further action of Congress or wholly annul any or all other unexecuted orders for fire-arms.

PRINTING OF CENSUS REPORT.

Mr. DUELL submitted the following resolution; which was read, considered, and referred to the Joint Committee on Printing:

Resolved, That there be printed for the use of the House of Representatives, by the public printer, fifty thousand copies of a compendium of the eighth census, to be arranged by the Superintendent of the Census, embracing the population by towns and counties; the ratio tables of population; tables of nativities, births, marriages, and deaths; of the deaf, dumb, blind, insane, and idiotic; of schools and colleges; of aggregate of occupations; of churches; of newspapers and libraries, and of agricultural products, with illustrative notes and comparative tables: *Provided*, The said compendium shall not exceed four hundred pages.

DELAWARE RIVER AND BAY DEFENSES.

Mr. DAVIS presented joint resolutions of the Legislature of Pennsylvania, relative to the defenses of the Delaware river and bay; which were referred to the Committee on Military Affairs, and ordered to be printed.

PAYMENT OF VOLUNTEERS.

Mr. DAVIS also presented joint resolutions of the Legislature of Pennsylvania, in favor of the passage of a law changing the pay of volunteers; which were referred to the Committee on Military Affairs, and ordered to be printed.

GLOBES FOR NEW MEMBERS.

Mr. JOHNSON submitted the following resolution:

Resolved, That the Clerk be directed to procure for each member of this House, not heretofore supplied, one copy of the Congressional Globe and Appendix.

Mr. HUTCHINS. I desire to debate that resolution.

The SPEAKER. The resolution, then, must lie over under the rule.

MEXICAN AFFAIRS, ETC.

Mr. VALLANDIGHAM submitted the following resolution:

Resolved, That the President of the United States be requested to inform the House, if not incompatible with the public interests, whether any offer has been made by the Executive to the allied Powers of Europe, or any of them, to assume the public debt of Mexico, or any part thereof; also, whether any offer has been made by the Executive to Great Britain, or any other foreign Power, of the free navigation of the Mississippi, limited or unlimited; and if so, in either case, to communicate the terms to the House.

Mr. VALLANDIGHAM. I desire to debate the resolution.

The SPEAKER. It must, then, go over under the rule.

NEUTRAL RIGHTS.

Mr. COX introduced a bill in relation to neutral rights; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

NATIONAL LOAN.

Mr. PENDLETON submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be directed to communicate to the House the amount of the subscriptions to the national loan authorized by act of July 17, 1861, the amounts collected on such subscriptions, and the purposes to which the amounts so collected have been appropriated.

PAY OF VOLUNTEERS.

Mr. TRIMBLE submitted the following resolution:

Resolved, That the Committee on Military Affairs be instructed to report to this House a bill to provide for the pay-

ment of officers and soldiers who have performed actual service in the field before being regularly mustered into the United States Army; and also to provide for the pay, bounty, and pension to the heirs of such officers and soldiers as have died or been wounded or killed in battle, before being thus regularly mustered into the United States service.

Mr. RICHARDSON. I ask the gentleman to modify that resolution so as to direct the committee to inquire into the expediency of reporting the bill, instead of directing them to report it.

Mr. TRIMBLE. I will so modify it.

The resolution, as modified, was agreed to.

FOREIGN BANK NOTES.

Mr. RIDDLE, in pursuance of previous notice, introduced a bill to prohibit the circulation of foreign bank notes within the jurisdiction of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

RAILROAD POSTAL CONTRACTS.

Mr. BLAKE submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire what legislation, if any, is necessary to secure the transportation of the United States mails at reasonable rates over the roads of all railroad companies that have received grants of public lands to aid in the construction of such railroads, and also over all other railroads in the United States, and report by bill or otherwise.

COLLEGIATE MILITARY DRILL.

Mr. WHITE, of Indiana, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of enacting a law to provide for detailing, at the expense of the United States, from the line of the Army, a suitable instructor in military drill and tactics, for each incorporated college in the United States which shall provide for such a course of instruction.

OBJECTS OF THE WAR.

Mr. HOLMAN submitted the following resolution, and called the previous question on its adoption:

Resolved, That, in the judgment of this House, the unfortunate civil war into which the Government of the United States has been forced by the treasonable attempt of the southern secessionists to destroy the Union, should not be prosecuted for any other purpose than the restoration of the authority of the Constitution, and that the welfare of the whole people of the United States is permanently involved in maintaining the present form of Government under the Constitution, without modification or change.

Mr. LOVEJOY. I move to lay that resolution on the table.

Mr HOLMAN. I ask for the yeas and nays upon that motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 60, nays 58; as follows:

YEAS—Messrs. Aldrich, Alley, Arnold, Ashley, Babbitt, Baker, Baxter, Beaman, Bingham, Samuel S. Blair, Blake, Buffinton, Burnham, Campbell, Chamberlin, Clark, Colfax, Frederick A. Conkling, Roscoe Conkling, Conway, Cravens, Cutler, Davis, Delano, Duell, Ely, Fessenden, Franchot, Frank, Hooper, Hutchins, Francis W. Kellogg, Lansing, Loomis, Lovejoy, McKnight, McPherson, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Patton, Pike, Pomeroy, John H. Rice, Riddle, Sargent, Sedgwick, Shanks, Stevens, Trowbridge, Van Wyck, Verree, Wallace, Charles W. Walton, Wheeler, Albert S. White, Wilson, Windom, and Worcester—60.

NAYS—Messrs. Joseph Baily, Biddle, Jacob B. Blair, George H. Browne, William G. Brown, Calvert, Clements, Cobb, Corning, Cox, Crisfield, Crittenden, Diven, Dunlap, Dunn, Goodwin, Granger, Hale, Hall, Harding, Harrison, Holman, Horton, Johnson, William Kellogg, Knapp, Law, Lazear, Leary, Mallory, Maynard, Menzies, Nixon, Noble, Noell, Norton, Nugen, Odell, Pendleton, Perry, Richardson, Robinson, James S. Rollins, Sheffield, Shellabarger, Smith, John B. Steele, Stratton, Benjamin F. Thomas, Francis Thomas, Trimble, Vibbard, Wadsworth, Webster, Whaley, Wickliffe, Woodruff, and Wright—58.

So the resolution was laid on the table.

Before the vote was announced,

Mr. VALLANDIGHAM said he had paired with Mr. VAN HORN.

Mr. SMITH said his colleague, Mr. WALL, was detained from the House by sickness.

Mr. MALLORY said: My colleague and friend, Colonel JACKSON, is at the head of his regiment, in the State of Tennessee, fighting to maintain the Constitution and the Union, and enforce the laws. I have no doubt he is as close to the lines of the enemy as he can get. But that his duty as a soldier ties him to his regiment, he would be here, and vote against laying this resolution on the table.

The SPEAKER. No debate is in order.

Mr. MALLORY. I was merely assigning a reason why my colleague was not present.

Mr. COBB stated that Mr. STEELE, of New York, was absent with an investigating committee in the city of New York.

Mr. ALLEY stated that Mr. BAILEY, of Massachusetts, was confined to his room by illness.

Mr. COLFAX. Having already once voted for the Crittenden resolution at the first session of this Congress, and this being only a reiteration of it, and not deeming it necessary to repeat that vote over and over again, I vote "ay."

He also stated that his colleague, Mr. PORTER, was absent, having been subpenaed in a case on trial to-day in court.

Mr. McKNIGHT. I want to change my vote. I am tired of repeating myself on this question, I vote "ay."

Mr. PIKE. I see nothing objectionable in this resolution itself.

The SPEAKER. No debate is in order.

Mr. PIKE. I desire merely to say——

The SPEAKER. The Chair will direct the Sergeant-at-Arms to arrest the gentleman if he persists in his statement. The Chair has repeatedly stated that debate, during the roll-call, would not be permitted. If one member is allowed to speak another must be. He hopes the House will aid him in enforcing the rules.

The vote was announced as above recorded.

Mr. LOVEJOY moved to reconsider the vote by which the resolution was laid upon the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. TRAIN. I ask the unanimous consent of the House for leave to record my vote on the motion to lay upon the table the resolution just pending.

Mr. VALLANDIGHAM. I object.

Mr. TRAIN. I would have voted in the affirmative to lay the resolution upon the table.

DISABLED SOLDIERS.

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

Resolved, That the Committee on Military Affairs be instructed to inquire into, and report on, the expediency of establishing at Madison, Indiana, a home for disabled soldiers.

DETERIORATION OF SOILS.

Mr. LOVEJOY, by unanimous consent, submitted the following resolution.

The Clerk read the resolution, as follows:

Whereas it is of the first importance to the agricultural interests of the United States to be possessed of the best information which the science and skill of the country can command of the deterioration of the soils of the several States from cultivation, and also of any remedies which may be known to lessen or counteract such deterioration: Therefore,

Resolved, That the Commissioner of Patents be requested to procure, and report to Congress, analyses of the arable lands of the United States, showing the percentage of proximate organic and inorganic fertilizing elements contained in their cultivated depth; also the annual yield of the same crop, on the same soil, from the first to the latest cultivation; also the estimated amount of fertilizing material in crops annually exported from the United States.

Mr. RICHARDSON. What will be the cost of that resolution?

Mr. LOVEJOY. I move that it be referred to the Committee on Agriculture.

Mr. RICHARDSON. I do not object to that.

The resolution was referred as indicated.

THOMAS HAYNE.

Mr. ARNOLD, by unanimous consent, introduced a bill for the relief of Thomas Hayne and others; which was read a first and second time, and referred to the Committee on the Judiciary.

CALIFORNIA MAIL SERVICE.

Mr. SARGENT, by unanimous consent, submitted the joint resolutions of the State of California, in favor of semi-monthly mail service, by sea by steamers, from San Francisco to Crescent City, Del Norte county, California, and intermediate points; which were referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

CONFISCATION OF REBEL PROPERTY.

Mr. ALDRICH. I submit the following resolution, and demand the previous question on its adoption:

Resolved, That the Committee on the Judiciary be, and are hereby, instructed to report back House bill No. 126, for the confiscation of all property of rebels, their aiders and abettors, and for the liberation of their slaves, with a section enjoining upon the Commander-in-Chief of the Army and upon all naval officers the seizure of all of the enemy's property made liable to capture by said bill.

Mr. KELLOGG, of Illinois. I want to suggest to the gentleman from Minnesota that that resolution is unnecessary.

Mr. BINGHAM. I object to discussion.

On seconding the previous question there were on a division—ayes 40, noes 56.

Mr. ALDRICH demanded tellers.

Tellers were ordered; and Messrs. THOMAS, of Massachusetts, and BINGHAM were appointed.

The previous question was not seconded; the tellers having reported—ayes 42, noes 56.

Mr. VALLANDIGHAM. I propose to debate the resolution.

The SPEAKER. Then the resolution goes over.

EXECUTIVE APPROPRIATION BILL.

Mr. STEVENS. I ask, by unanimous consent, that the House take up the amendments of the Senate to the executive, legislative, and judicial appropriation bill, and that they be referred to the Committee of Ways and Means.

There was no objection, and it was so ordered.

MILITARY TRIAL, ETC.

Mr. ALDRICH. I ask the unanimous consent of the House to submit the following resolution:

Resolved, That the Committee on the Judiciary be, and are hereby instructed to report back House bill No. 119, being "A bill to subject certain persons to military trial and punishment, and for other purposes."

Mr. VALLANDIGHAM. I propose to debate the resolution.

The SPEAKER. Then the resolution goes over.

SALINE LANDS IN NEBRASKA.

Mr. DAILY. I ask the unanimous consent of the House to present a letter from the Secretary of the Interior in relation to saline lands in the Territory of Nebraska, in order that it may be referred to the Committee on Public Lands.

Mr. RICHARDSON. I object.

VETO POWER IN DAKOTA.

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

Resolved, That the Committee on Territories be instructed to inquire into the expediency of amending the organic act of the Territory of Dakota, so as to make its provisions relative to the exercise of the veto power conform in all respects to those of the Territory of Nebraska; and that it report by bill or otherwise.

GRANT OF LAND TO DAKOTA.

Mr. TODD, by unanimous consent, introduced a bill making a grant of land to the Territory of Dakota, in alternate sections, to aid in the construction of certain railroads in said Territory; which was read a first and second time, and referred to the Committee on Public Lands.

HOMESTEAD BILL.

Mr. MORRIS. I ask the unanimous consent of the House for leave to record my vote on the homestead bill passed on Friday last.

There was no objection, and Mr. MORRIS voted in favor of the passage of the bill.

The SPEAKER. If there be no objection, the Chair will to-day permit all members who were absent on Friday last, when the homestead bill was passed, to record their votes on that question.

There was no objection.

Messrs. CRISFIELD and CALVERT voted against, and Messrs. BLAIR of Missouri, SHELLABARGER, NOBLE, and LOOMIS, in favor of the passage of the homestead bill.

COMMERCE OF THE UPPER LAKES.

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

Whereas the commerce of the upper lakes and of the canals opening into the same has never been made a subject of legislation by Congress, and as a rigid enforcement of the strict letter of existing laws, which were not enacted to meet the peculiar exigencies of the tonnage and trade of the lakes and of the canals opening into them would place such commerce under many embarrassments and restrictions: Therefore,

Resolved, That the Committee on Commerce be requested to examine whether any, and if any what, legislation is needed to regulate our present lake commerce; and to report by bill or otherwise.

PROTECTION OF LANDS OF THE UNITED STATES.

Mr. DIVEN, by unanimous consent, introduced a bill to protect the lands of the United States, and to prevent waste; which was read a first and second time, and referred to the Committee on Public Lands.

BUTLER MORRIS.

Mr. JOHNSON, by unanimous consent, introduced a bill for the relief of Butler Morris; which was read a first and second time, and referred to the Committee on Public Lands.

REVOLUTIONARY PENSIONERS.

Mr. DUELL, by unanimous consent, introduced a bill to prohibit the payment or granting of pensions to the children of officers and soldiers of the war of the Revolution; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

WASHINGTON CITY RAILWAY.

Mr. ASHLEY, by unanimous consent, from the Committee for the District of Columbia, reported back Senate bill No. 178, to incorporate the Washington and Georgetown Railway Company, with a substitute, and moved that it be put on its passage.

The Clerk read the substitute, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Horace M. Dewey, Richard Wallach, Jensen Hasbrouck, William A. Darling, Thomas Berry, Joseph F. Brown, William Remsen, Jonathan H. Butler, John B. Proctor, John Butterfield, Joseph T. Stevens, William Claflin, Samuel J. Reeves, John L. Brown, Edward A. Abbott, and their associates and assigns be, and they are hereby, created a body corporate under the name of the Washington and Georgetown Railroad Company, with authority to construct and lay down a double track railway, with the necessary switches and turnouts, in the cities of Georgetown and Washington, in the District of Columbia, through and along the following avenues and streets: commencing on Bridge street, at the intersection with High street, or at such point on said Bridge street east thereof, in the city of Georgetown, as may be designated hereafter by the corporate authorities thereof, along said Bridge street to its intersection with the street running to the tubular bridge over Rock creek to Pennsylvania avenue, in the city of Washington; along said avenue to Fifteenth street west; along said street south to said avenue; along said avenue to the foot of the Capitol grounds; thence around the northern boundary of the Capitol grounds to the northern gate thereof; through the same to the southern gate; thence along their southern boundary easterly to Pennsylvania avenue; along said avenue to Eighth street east, or Garrison street; and along said street south to the navy-yard gate, with a lateral road connecting said main road with New Jersey avenue, at its intersection with the depot of the Baltimore and Ohio Railroad Company; also, a double or single track railway, commencing at Boundary street north and running down Seventh street west to Pennsylvania avenue and to the Potomac; also, a railway commencing at Rhode Island avenue and running down Fourteenth street west to Pennsylvania avenue or to the Potomac; with the right to run public carriages thereon drawn by horse power, receiving therefor a rate of fare not exceeding five cents a passenger for any distance between the termini of either of the said roads: *Provided*, That the use and maintenance of said road shall be subject to the municipal regulations of the cities of Washington and Georgetown, respectively, within their several corporate limits, and that whenever the Capitol grounds shall be enlarged, then the said routes shall be made to conform thereto.

SEC. 2. *And be it further enacted*, That said roads shall be deemed real estate, and they, together with other real property and the personal property of said body corporate, shall be liable to taxation as other real estate and personal property in the cities aforesaid, except as hereinafter provided.

SEC. 3. *And be it further enacted*, That three per cent. of the net receipts for fares on said roads shall be paid over to the cities of Georgetown and Washington, to be divided according to the relative population of the two cities, and to be applied exclusively to the support of free public schools; and while the said per cent. shall be duly paid the realty of said roads shall be exempt from any other taxation.

SEC. 4. *And be it further enacted*, That the said railway shall be laid in the center of the avenues and streets, as near as may be, without interfering with or passing over the water or gas pipes, in the most approved manner adapted for street railways, with rails of the most approved patterns, to be determined by the Secretary of the Interior, laid upon an even surface with the pavement of the streets. The gauge of the tracks, and the space between them, shall not be less than four feet nor more than six feet, and the carriages shall not be less than six feet in width, the gauge to correspond with that of the Baltimore and Ohio railroad.

SEC. 5. *And be it further enacted*, That the said corporation, hereby created, shall be bound to keep said track and the pavements within and for the space of two feet beyond the outer rail always in good order, without expense to the United States or the cities of Georgetown and Washington.

SEC. 6. *And be it further enacted*, That the privileges hereby granted shall continue until repealed by Congress.

SEC. 7. *And be it further enacted*, That nothing in this act shall prevent the Government, at any time, at their option, from altering the grade, or otherwise improving Pennsylvania avenue, and such other avenues and streets as may be occupied by said roads, or the cities of Washington and Georgetown, likewise of such streets and avenues as may be under their respective authority and control, and in such event it shall be the duty of said company to change the level of said railroad so as to conform to such altered grade.

SEC. 8. *And be it further enacted*, That this act may at any time be altered, amended, or repealed by the Congress of the United States.

SEC. 9. *And be it further enacted*, That nothing in this act shall be so construed as to authorize said body corporate to issue any note, token, device, scrip, or other evidence of debt, to be used as a currency.

SEC. 10. *And be it further enacted*, That the capital stock of said company shall be $300,000, and that the stock shall be divided into shares of fifty dollars each, and shall be deemed personal property, transferable in such manner as the by-laws of said company may direct.

SEC. 11. *And be it further enacted*, That the said company shall place first-class cars on said railroad, with all the modern improvements for the convenience and comfort of passengers, and shall run cars thereon during the day as often as every five minutes, and until twelve o'clock at night as often as every half hour; and throughout day and night as much oftener as public convenience may require.

SEC. 12. *And be it further enacted*, That said company shall procure such passenger rooms, ticket offices, stables, and depots at such points as the business of the railroad and the convenience of the public may require. And the said company is hereby authorized to lay such rails through transverse or other streets as may be necessary for the exclusive purpose of connecting the said stables and depots with the main tracks. And the said company is hereby authorized to purchase or lease such lands or buildings as may be necessary for the passenger rooms, ticket offices, stables, and depots above mentioned; and in case of purchase, to execute and deliver the bonds of the corporation for these properties, or other property purchased and held by the company; and the said bonds shall be secured by the whole or any portion of the property of said company, provided that said loan does not exceed $100,000.

SEC. 13. *And be it further enacted*, That all articles of value that may be inadvertently left in any of the cars or other vehicles of the said company shall be taken to their principal depot and entered in a book of record of unclaimed goods, which book shall be open to the inspection of the public at all reasonable hours of business.

SEC. 14. *And be it further enacted*, That the United States Government shall have the right and authority to convey and run freight cars, and carry freight for Government use, over the whole or any portion of the railroad hereby granted; the Government of the United States to pay said company such reasonable compensation for the use of such railroad, in the running of such freight cars, as may be deemed just by the Secretary of War, or by such other person as the President of the United States may designate for the purpose of fixing such compensation.

SEC. 15. *And be it further enacted*, That, within five days after the passage of this act, the corporators named in the first section, who shall act as directors for the first year and until others are chosen, or a majority of them, or if any refuse or neglect to act, then a majority of the remainder shall cause books of subscription to the capital stock of said company to be opened and kept open for a period to be fixed by said corporators, not less than three days, and continued open until the whole capital shall be subscribed for, and said corporators shall give public notice, by advertisement in at least two of the daily papers published in the city of Washington, of the time when and the place where said books shall be opened, and subscribers upon said books to the capital stock of the company shall be held to be stockholders and associates of the corporators named in the first section: *Provided*, That no person, for himself, or for another, during the first day, shall subscribe for more than two hundred and fifty, and during the second day, not more than one hundred shares each; when, if the whole shall not then be taken and subscribed for, the subscribers then existing shall have the right to increase their stock in equal amounts, and if the whole shall not then be taken, any party may then subscribe therefor in any number of shares until the whole shall be taken; and when the books of subscription to the capital stock of said company shall be closed, the corporators named in the first section, or a majority of them, and in case any of them refuse or neglect to act, then a majority of the remainder shall call the first meeting of the stockholders of said company, and in all meetings of the stockholders each share shall entitle the holder to one vote, to be given in person or by proxy: *Provided*, That a majority in interest in the shares shall have the right to increase the same, whenever it shall appear necessary, to the extent of four thousand additional shares, or to such extent as may be deemed necessary to carry out the object of this charter.

SEC. 16. *And be it further enacted*, That the government and direction of the affairs of the company shall be vested in the board of directors, who shall be chosen from and by the corporators herein provided, who shall be stockholders, and who shall hold their office till others are duly elected and qualified to take their places as directors; and the said directors (nine of whom, the president being one, shall be a quorum) shall elect one of their number to be president of the board, who shall also be president of the company; and they shall also choose a treasurer, who shall give bonds with surety to said company, in such sum as the said directors may require for the faithful discharge of his trust. In case of a vacancy in the board of directors by the death, resignation, or otherwise, of any director, the vacancy occasioned thereby shall be filled by the remaining directors.

SEC. 17. *And be it further enacted*, That the directors shall have full power to make and prescribe such by-laws, rules, and regulations as they shall deem needful and proper touching the disposition and management of the stock, property, and effects of the company, not contrary to the charter or to the laws of the United States.

SEC. 18. *And be it further enacted*, That there shall be an annual meeting of the stockholders for the choice of directors, to be holden at such time and place, under such conditions, and upon such notice as the said company in their by-laws may prescribe.

SEC. 19. *And be it further enacted*, That the mayor, common council, and the several officers of the corporations of the cities of Georgetown or Washington, and the said corporations are hereby prohibited from doing any act or thing to hinder, delay, or obstruct the construction or operation of said railroad as herein authorized. And it is hereby made the duty of said mayors, common councils, and other officers to do such acts and things within their respective departments as may be needful to promote the construction and protect the operation of the said railroad. Any act or thing done in violation hereof shall be inoperative and void, and the use of said streets by said company for the purposes of said railroad, as herein authorized, shall be considered a public use.

SEC. 20. *And be it further enacted*, That the said company shall have at all times the free and uninterrupted use of their road-way, and if any person or persons shall willfully and unnecessarily obstruct or impede the passage on or over said railway, or any part thereof, or shall injure or destroy the cars, depot stations, or any property belonging to said railway company, the person or persons so offending shall forfeit and pay for every such offense the sum of five dollars to said company, and shall remain liable, in addition to said penalty, for any loss or damage occasioned by his, her, or their act as aforesaid; but no suit shall be brought unless commenced within sixty days after such offense shall have been committed.

SEC. 21. *And be it further enacted*, That the said railway shall be completed and ready for the transportation of passengers between the Capitol and Georgetown within sixty working days, and from the Capitol to the navy-yard within six months after the approval of this act.

SEC. 22. *And be it further enacted*, That all acts and parts of acts heretofore passed, which are inconsistent with any of the provisions of this act, are, for the purposes of this act, hereby repealed, so far as the same are inconsistent herewith.

Mr. HUTCHINS. I suggest to my colleague to add the following:

SEC. 23. *And be it further enacted*, That nothing in the act shall be so construed as to prevent an amendment or repeal of the same by this or any subsequent Congress.

Mr. ASHLEY. That is already provided for in the bill. This is substantially the Senate bill, and as it is reported unanimously from the Committee for the District of Columbia, I demand the previous question.

Mr. OLIN. I ask the gentleman to yield to me for the purpose of making a suggestion.

Mr. ASHLEY. I yield for that purpose.

Mr. OLIN. Mr. Speaker, I do not think that a measure of this magnitude should be pressed through the House in this way. I am well aware of the difficulties there have been for the last five years to secure the passage of a Washington city railway bill, and I do not know that there is very much that is objectionable in the pending proposition; but I know the means and appliances brought to bear to force a bill through the House probably in the shape of this one. It is no doubt the result of a combination of incorporators.

But there is one section which I think is an outrage. I mean the tax for the benefit of the common schools of Washington and Georgetown. There is to be a tax upon the proceeds of this road, which will be mainly derived from strangers who come to this city on official business, for the support of the common schools of this District. Now, in the name of all that is holy, if the people of this District cannot do something towards taking care of themselves, for God's sake let them go without common schools. [Laughter.] The people of my State tax themselves for the support of common schools, and I know no reason why the people of this District, who have habitually lived upon the plunder of the General Government, should assess a tax upon the traveling public for the support of their common schools. I do not approve of that part of the bill. If a fare of five cents for each passenger who rides will support the common schools, as well as defray the expenses of the railroad, I would reduce the fare.

Again, sir, this road is to be laid down in sixty days, so as to be used between the Capitol and Georgetown, and then the Government is to pay a reasonable compensation for everything which is carried over the road for the Government, when there are hundreds of men, I believe, in this city and out of the city, who would build this road, charge only the fare that this bill proposes, and do all the transportation for the Government free of charge.

MESSAGE FROM THE PRESIDENT.

Several messages in writing were received from the President of the United States by Mr. HAY, his Private Secretary.

Also, a message informing the House that he had approved and signed a bill making appropriations for sundry civil expenses of the Government for the year ending June 30, 1863, and additional appropriations for the year ending June 30, 1862.

WASHINGTON CITY RAILROAD—AGAIN.

Mr. OLIN. I have detained the House longer than I intended to have done, and I wish only to make one further suggestion. I have no particular hostility to this bill. I think that a railroad bill ought to pass, if one can be passed which will protect the Government and the citizens who come here, and who would be accommodated by this railroad. But I suggest to the gentleman whether it would not be better to take the bill up and allow some of its sections to be discussed and amended, if the House thinks fit, and see if we cannot pass the bill in the ordinary way that legislation is disposed of in this House. I object to this plan of getting up and proposing a substitute for the Senate bill, which probably none of us have read, and without any discussion, without an opportunity to amend or canvass any of its provisions, moving the previous question, and attempting to force the bill through the House without any consideration. I do not like that mode of legislation. I have seen too much of it already here this session. But a short time ago, as I am informed, a bill came back from the Senate with a little amendment stuck into it, in which the House concurred without consideration, and which will probably cost this Government over ten millions of dollars; and I venture to say, that not ten men in the House knew there was such an amendment when it was concurred in.

Mr. ASHLEY resumed the floor.

Mr. STEVENS. Will the gentleman from Ohio allow me five minutes?

Mr. ASHLEY. Certainly.

Mr. KELLOGG, of Illinois. I object to his yielding the floor.

Mr. OLIN. Surely the gentleman will not refuse that courtesy.

Mr. KELLOGG, of Illinois. I do not learn lessons of courtesy from that side.

The SPEAKER. The gentleman from Ohio is entitled to the floor, and can only yield it by unanimous consent.

Mr. VERREE. I hope the gentleman will not insist on the previous question.

Mr. OLIN. I thank the gentleman from Ohio for the courtesy which he has extended to me. I have thrown out these suggestions not with any view to make objection to the bill.

The SPEAKER. The gentleman is not in order. Objection is made to the further yielding of the floor.

Mr. ASHLEY. In reply to what has fallen from the gentleman from New York, I have this to say: that the Senate bill, which passed that body without a division, contained a provision taxing the railroad corporation three per cent. on its gross earnings for the support of schools in this District. The substitute taxes them three per cent. on their net earnings. I for one, as a Representative, certainly desire to see this corporation taxed this amount for the support of schools in this District. If this tax is not imposed, the fare, which, as the gentleman from New York very properly remarks, will be collected chiefly from non-residents, will remain at five cents. Three per cent. on the net earnings will leave the fare about four cents and ninety-eight hundredths of a cent; and whether this tax is imposed or not, it will be impossible to reduce the fare. Five cents is the customary fare for horse-railroad travel all over country.

With regard to the remarks of the gentleman as to the propriety of leaving the bill open for discussion, I have to say, that all the bills upon this subject which have been introduced into the House and referred to the Committee for the District of Columbia have had careful consideration, and this substitute is unanimously reported by the committee. It was printed by the order of the House, on the 24th of February, and every gentleman in the House who has had any interest in it, has had an opportunity to examine its provisions. I see nothing to be gained by discussion, and, for one, I do not wish to take up the time of the House in discussing it. I now ask the previous question on the bill.

Mr. STEVENS. If the gentleman will withdraw the call for a few moments, I will renew it.

Mr. ASHLEY. I withdraw it with that understanding.

Mr. STEVENS. I rise merely to say that one great reason why I support such a bill as this is because it does contribute to educate the children of this District. It takes it not from the passengers who use the road, but from the net earnings and out of the pockets of the company. Now, I care not whether the people here are worthless or not; they have children who are to grow up and become men and women, and the more worthless the people here are, the greater necessity for taking care that their children are properly educated. I admire the law in some of the eastern States which puts it in the power of certain officers to go about among the worthless portion of the population, pick up their children, and compel them to attend school at the public expense. Such, I believe, is the law in Massachusetts, and in nearly all the New England States; and it is an admirable law.

Now, I know, to use a Yankee phrase, how "shiftless" the people of this District are, and how "shiftless" the people are in all great towns supported by governmental patronage. But that is all the more reason why we should take care of the rising generation, and give them an opportunity of being educated, whether their fathers and mothers are able to educate them or not.

I will only say in regard to the bill, that I had the honor of presenting what I thought a very good bill in the early part of the session, which was referred to the Committee for the District of Columbia. I do not know that it was any better than this bill; but several of my friends were interested in it, and named as corporators, and I should have been glad if the committee had selected it. But I have been here long enough to know that unless we take the bill which has been matured by the committee, rival interests will come in, and we never shall get a railroad here. I understand that the committee overruled the bill which I introduced, and have unanimously introduced another. I have read the bill in its printed form, and see nothing objectionable in it. It is not quite as good as my bill, and I wonder the committee did not discover that. But they thought otherwise; and I have made up my mind to sacrifice my predilection for my own bill, and support this one. I am under an obligation to call the previous question, which I now do.

Mr. WRIGHT. I ask the gentleman to withdraw that for a few moments.

Mr. STEVENS. The gentleman from Ohio has control of it.

Mr. ASHLEY. I must insist on the previous question.

Mr. WRIGHT. Then I hope it will be voted down. I call for tellers on the second.

Tellers were ordered; and Messrs. PENDLETON and ASHLEY were appointed.

The House divided; and the tellers reported—ayes 55, noes 45.

So the previous question was seconded.

The main question was ordered to be put.

Mr. WEBSTER. Would it be in order now to ask a question for information?

The SPEAKER. Debate is not in order, except by unanimous consent.

Mr. WEBSTER. I really desire information, and hope the House will give me a chance to obtain it.

There was no objection.

Mr. WEBSTER. I desire to know how many directors are to control this road?

Mr. ASHLEY. Nine constitute a quorum.

Mr. WEBSTER. How many is the total number? I do not see it stated in the bill.

Mr. ASHLEY. Fifteen. Their names are printed in the bill.

Mr. WEBSTER. There are thirteen corporators named; but the sixteenth section says that the government and direction of the affairs of the company shall be vested in a board of directors. It does not state how many directors there are to be in the board. They are to be chosen from and by the corporators. I want to know how many directors there are to be.

The question being on the substitute reported from the Committee on the District of Columbia,

Mr. WRIGHT called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 101; nays 24; as follows:

YEAS—Messrs. Aldrich, Alley, Arnold, Ashley, Baxter, Beaman, Bingham, Samuel S. Blair, Blake, George H. Browne, Calvert, Chamberlin, Clark, Clements, Cobb, Frederick A. Conkling, Roscoe Conkling, Conway, Corning, Cox, Cravens, Cutler, Davis, Dawes, Delano, Diven, Duell, Dunlap, Dunn, Edgerton, Edwards, Eliot, Ely, Fessenden, Fisher, Franchot, Gooch, Granger, Grider, Hanchett, Hooper, Horton, Julian, Kelley, Francis W. Kellogg, William Kellogg, Knapp, Lansing, Law, Leary, Loomis, Lovejoy, Maynard, Menzies, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Morris, Nixon, Noble, Nugen, Odell, Patton, Perry, Timothy G. Phelps, Pike, Pomeroy, Potter, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, James S. Rollins, Sargent, Sedgwick, Shanks, Sheffield, Shellabarger, Shiel, Sloan, Smith, John B. Steele, Stevens, Stratton, Benjamin F. Thomas, Train, Trimble, Trowbridge, Van Valkenburgh, Van Wyck, Verree, Vibbard, Wadsworth, Wallace, Charles W. Walton, Ward, Wheeler, Whaley, Windom, and Woodruff—101.

NAYS—Messrs. Joseph Baily, Baker, Biddle, Francis P. Blair, Buffinton, Campbell, Covode, Gurley, Hale, Harding, Harrison, Hutchins, Johnson, McKnight, McPherson, Olin, Riddle, Francis Thomas, E. P. Walton, Webster, Albert S. White, Wickliffe, Wilson, and Wright—24.

So the substitute was adopted.

During the vote,

Messrs. RICHARDSON and TRAIN, not having been within the bar when their respective names were called, asked leave to vote.

Objection was made.

The vote was announced as above recorded.

The bill, as amended, was read the third time.

Mr. ASHLEY called for the previous question on the passage of the bill.

Mr. OLIN. Will the gentleman from Ohio permit me to ask him one question in reference to this bill, in regard to which I think he has misled the House?

Mr. ASHLEY. I decline to withdraw the demand for the previous question.

Mr. OLIN. Let me say that there is a cheat, an imposition in this bill. [Calls to "Order!"]

The previous question was seconded; and the main question ordered.

Mr. RIDDLE. I move to lay the bill on the table.

The motion was not agreed to.

The question recurred on the passage of the bill; and it was passed.

Mr. ASHLEY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. FORNEY, its Secretary, notifying the House that the Senate had passed an act (No. 122) providing for the organization of the staff attached to divisions of the Army of the United States, regular and volunteer; in which he was directed to ask the concurrence of the House.

Also, that the Senate had passed an act (H. R. No. 294) requiring an oath of allegiance and to support the Constitution of the United States, to be administered to masters of American vessels clearing for foreign or other ports during the present rebellion.

ST. LOUIS COMMISSION—AGAIN.

Mr. BINGHAM. I ask leave now to report from the Committee on the Judiciary a joint resolution (S. No. 22) providing for the payment of the awards of the commission to investigate the military claims in the department of the West.

The SPEAKER. Is there any objection to the report being made?

There was no objection.

Mr. WICKLIFFE. I desire to ask the gentleman making this report to have it postponed. I have information——

Mr. BINGHAM. I must say to the gentleman that I was instructed by the committee to report this resolution, with the amendment which I indicated before.

Mr. WICKLIFFE. Will the gentleman allow me a single moment?

Mr. BINGHAM. I will hear the gentleman's statement.

Mr. WICKLIFFE. I have information direct from St. Louis that these commissioners have concluded their labors, and are now engaged in making out their report. That report will be here in a few days, and the House can then act better upon it than it can on uncertainties as to what the commission has done. I hope, therefore, that the gentleman from Ohio will agree to have the consideration of this resolution postponed for a few days, till this report shall have come in.

Mr. BLAIR, of Missouri. I ask the gentleman from Ohio to yield me the floor for a moment.

Mr. BINGHAM. The gentleman from Kentucky [Mr. WICKLIFFE] has the floor just now.

Mr. WICKLIFFE. I did design, when I introduced a resolution, some weeks ago, to call the attention of the Judiciary Committee to this subject, with a view that that committee might report a provision that the adjudications of this commission should be final and conclusive on both parties. I understand that that committee has not come to the conclusion to favor the proposition which I had offered to the committee at the instance, pretty much, of the board at St. Louis. If the report of the committee is to be considered now, I will feel constrained to offer an amendment; but I suggest that it be postponed for a single week.

Mr. BINGHAM. I do not feel at liberty, under the instructions given me by the committee, to consent to any postponement. That instruction was to put this bill on its passage.

Mr. BLAIR, of Missouri. I desire to say, in reference to this matter, that any further postponement of this measure would work an arrant injustice to those creditors of the Government. I oppose the proposition made by the gentleman from Kentucky on the ground that those men in the western department who have furnished supplies to the Government have been already kept out of their pay for a most unreasonable length of time. It is not just or proper that the House should further postpone the payment of these demands against the Government. At least the amounts which the commission have agreed to pay them ought, in my opinion, to be paid them without any further delay. In every other military department the creditors of the Government have got their pay. A different rule has been established in regard to the creditors of the Government in the western department from that which prevails in any other part of the country. Among the letters which I received last evening was a letter of this kind: a gentleman who purchased a voucher of the Government, signed by the proper officer, was compelled first to submit that voucher to the commission at St. Louis. The deduction made by the commission on that voucher was greater than the reduction at which he originally purchased the voucher. At the same time he has lost the interest of his money for five or six months.

Now, I wish to know whether there are to be two rules in relation to the creditors of the Government—one for one section of the country, and a different one for another section. In every other department the creditors of the Government have had their demands allowed and paid; at least, there has been no legislative interposition to prevent their being paid. Whereas, in the western department, men have been compelled, after receiving vouchers from the regular disbursing officers of the Government, to come forward and prove up their claims; and, in many instances, third parties, who had nothing to do with furnishing the supplies, but who have purchased vouchers on the faith of the Government, have been compelled to submit to deductions. The proposition now is to postpone the consideration of the report of the committee, which only proposes to pay according to the awards of the commission.

Mr. BINGHAM. I have a word to say about this resolution, and then I shall be constrained to call the previous question.

Mr. WICKLIFFE I appeal to the gentleman to give me the opportunity to offer a short amendment, and to say a word in reply to the gentleman from Missouri, [Mr. BLAIR.]

Mr. BINGHAM. Let the gentleman's amendment be reported.

Mr. WICKLIFFE I desire to submit the following:

The payment of the sums adjudged by said board of commissioners to the claimant or his assignee shall be made upon the execution of the receipt to the United States, in the form recommended by said commissioners in their report to the executive department.

Mr. BINGHAM I object to the introduction of such an amendment, and I would state the reason of my objection. A short time since an amendment was introduced in the House, and referred to the Judiciary Committee, contemplating the object which the gentleman's amendment seeks to effect. It was rejected by the committee, for the reason that, in their opinion, it would be unjust to incorporate in this bill a provision to the effect that these claimants should be forever estopped and concluded by virtue of the payments awarded to them by this commission. I am ready to state, and will state to the gentleman very frankly, my reason for concurring with the majority of the committee, and I think, perhaps, the whole committee, in rejecting the amendment. It seems that all the claims in the department of Missouri have been suspended by reason of the appointment of this commission. The claimants have been awaiting the examination of their accounts by this commission; they have been awaiting the awards of the commission. The quartermaster, paymaster, commissary, or whoever may be charged by law with the payment of these accounts, has, by order of the War Department, suspended the payment of every dollar due these claimants until the award of the commission, constituted by the arbitrary act of an executive department, shall be made.

Now, sir, it seems to me there has been a stretch of power upon the part of the executive department, in the constitution of a commission to sit in judgment upon the claims of citizens of the United States; and that we should be wrong in declaring that the award of that commission, when made, shall be final and conclusive forever. In the opinion of the Judiciary Committee, there are other tribunals competent to examine claims not passed upon or determined upon by this commission. So far as the commission have examined and passed upon claims, their award should be conclusive upon the claimants; and I am willing to indicate our confidence in their action to that extent. No one supposes that in respect to the claims entertained and passed upon by the commission, any demand will ever be made for a dollar beyond the sums awarded. But there may be claims which the commission have refused to entertain—claims held in good faith by citizens of the United States, but which, for reasons best known to themselves, the commission determined not to entertain nor pass upon at all. The amendment of the gentleman from Kentucky would have the effect to bar forever such claimant from any further application for payment of their claims. It seems to me it would be the grossest injustice to our citizens to incorporate such an amendment in this bill, and on that account I am not willing to admit now any amendment which will give such a scope to the power of this commission, constituted, as it has been, by the act of executive authority, without any authority of law.

The creation of this commission has, as I have remarked already, operated as a suspension of all these claims for several months. I do not complain of that. I hope the event will prove that they have saved money to the Treasury. To the extent to which they have gone I have no doubt they have done justice between the Government and the citizens more particularly interested. Their action will have the effect to estop those whose claims have been audited by the commission; but it should not be conclusive upon claims presented to them but not considered by them.

Now, Mr. Speaker, this is the view the committee have taken of the resolution before us. I have no special interest in reference to it, except what is common, I believe, to every member of the House. I call the previous question upon the bill and the amendment.

Mr. WICKLIFFE. I hope the gentleman will give me four or five minutes to reply to what he has said.

Mr. BINGHAM. I hope the gentleman will excuse me. I am acting under the instructions of the committee.

Mr. WICKLIFFE. I will renew the call for the previous question.

Mr. BINGHAM. The gentleman will excuse me. I demand the previous question on the third reading of the resolution.

Upon seconding the demand for the previous question, 42 voted in the affirmative and 15 in the negative—no quorum.

Mr. WICKLIFFE called for tellers.

Tellers were appointed; and Messrs. KELLOGG, of Michigan, and SHANKS were appointed.

The House divided, and the tellers reported—ayes 62, noes 13; no quorum voting.

Mr. F. A. CONKLING. I hope the gentleman from Ohio will withdraw the call for the previous question. It is very evident that the House is not prepared to vote upon this bill.

Mr. BINGHAM. I am acting under the instructions of the Committee on the Judiciary, and do not feel at liberty to withdraw the call. I move that there be a call of the House.

The motion was agreed to.

The Clerk proceeded to call the roll of members.

Mr. BLAIR, of Missouri. I move that all further proceedings under the call be suspended.

The motion was not agreed to.

The Clerk, in further execution of the order that there be a call of the House, called the list of absentees.

The following members failed to answer to their names:

Messrs. Allen, Ancona, Babbitt, Goldsmith F. Bailey, Jacob B. Blair, George H. Browne, Campbell, Cobb, Cooper, Cravens, Crittenden, Delaplaine, English, Fenton, Fouke, Haight, Hickman, Jackson, Kerrigan, Killinger, Lehman, Logan, McKean, Mallory, Marston, May, Mitchell, Noell, Norton, John S. Phelps, Timothy G. Phelps, Porter, James S. Rollins, Sherman, Spaulding, William G. Steele, Vandever, Van Horn, Voorhees, Wall, Ward, Washburne, Wheeler, Chilton A. White, and Wood.

Mr. BLAIR, of Missouri. A quorum has answered, I believe. I move that all further proceedings in the call be dispensed with.

The motion was agreed to—ayes 51, noes 18.

Mr. F. A. CONKLING. I rise to a question of order. No quorum voted on the motion to dispense with further proceedings under the call.

The SPEAKER. The gentleman states a fact, but does not state a question of order.

Mr. F. A. CONKLING. My question of order is, that a quorum not having voted, the motion was not decided.

The SPEAKER. The rules provide that fifteen members may direct proceedings under a call of the House.

Mr. RICHARDSON. Otherwise the House could not adjourn.

The SPEAKER. There is no doubt as to the rule. All further proceedings, under the rule, are dispensed with.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that the Senate insist upon the amendment disagreed to by the House to the joint resolution of the House in relation to certain railroads in Missouri, and ask a committee of conference thereon.

AWARD OF ST. LOUIS COMMISSION.

The question recurred on seconding the demand for the previous question.

The House divided again, and there were—ayes 56, noes 13; no quorum voting.

Mr. F. A. CONKLING. I move that the House do now adjourn.

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

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 16, nays 104; as follows:

YEAS—Messrs. Joseph Baily, Baxter, Beaman, Biddle, George H. Browne, Frederick A. Conkling, Crisfield, Dunlap, Hale, Harding, Johnson, Maynard, Menzies, Sheffield, Shiel, and E. P. Walton—16.

NAYS—Messrs. Aldrich, Alley, Ashley, Baker, Bingham, Francis P. Blair, Jacob B. Blair, Blake, William G. Brown, Buffinton, Campbell, Chamberlin, Clark, Clements, Cobb, Colfax, Roscoe Conkling, Conway, Corning, Covode, Cox, Cravens, Cutler, Davis, Dawes, Delano, Duell, Dunn, Edgerton, Edwards, Eliot, Ely, Fessenden, Fisher, Franchot, Frank, Gooch, Goodwin, Granger, Grider, Gurley, Hall, Hanchett, Harrison, Holman, Hooper, Horton, Hutchins, Julian, Kelley, Francis W. Kellogg, William Kellogg, Lansing, Law, Leary, Loomis, Lovejoy, McPherson, Mallory, Moorhead, Anson P. Morrill, Morris, Nixon, Noble, Nugen, Odell, Olin, Patton, Pendleton, Pike, Pomeroy, Porter, Potter, Price, Alexander H. Rice, John H. Rice, Riddle, Robinson, Edward H. Rollins, Sargent, Sedgwick, Shellabarger, Sloan, Smith, John B. Steele, Stratton, Benjamin F. Thomas, Train, Trimble, Trowbridge, Vallandigham, Van Valkenburgh, Van Wyck, Verree, Wallace, Charles W. Walton, Webster, Wheeler, Whaley, Albert S. White, Wilson, Windom, Woodruff, and Wright—104.

So the House refused to adjourn.

During the call of the roll,

Mr. JOHNSON stated that Mr. ANCONA went home on Saturday, and no train of cars having come in this morning, he was necessarily absent.

The question again recurred on seconding the demand for the previous question.

The previous question was seconded—ayes seventy, noes not counted.

The main question was ordered to be put.

The amendment reported by the Committee on the Judiciary was agreed to—ayes 66, noes 24.

The joint resolution, as amended, was ordered to a third reading, and was accordingly read the third time.

Mr. BINGHAM demanded the previous question on the passage of the resolution.

The previous question was seconded, and the main question ordered to be put.

Mr. F. A. CONKLING called for the yeas and nays on the passage of the bill.

The yeas and nays were not ordered.

The joint resolution was passed.

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

The latter motion was agreed to.

EXCUSED FROM COMMITTEE SERVICE.

Mr. DUNN. I ask the consent of the House to be excused from further service on the Committee on the Militia. I am already on two other committees.

There was no objection; and it was so ordered.

EXCUSE FOR ABSENCE.

Mr. PORTER. I wish to state that during the recent roll-call I was absent as a witness in court.

JUDICIAL COURTS.

Mr. MAYNARD, by unanimous consent, introduced a bill to amend the act entitled "An act to establish judicial courts of the United States;" which was read a first and second time, and referred to the Committee on the Judiciary.

DIPLOMATIC SYSTEM.

Mr. TRAIN, by unanimous consent, introduced a bill to amend the act of August 18, 1861, entitled "An act to regulate the diplomatic and consular system of the United States;" which was read a first and second time.

Mr. TRAIN moved that it be referred to the Committee on Commerce.

Mr. COX moved that it be referred to the Committee on Foreign Affairs.

The latter motion was agreed to.

RAILROADS IN MISSOURI.

Mr. HOLMAN. I ask the unanimous consent of the House to take up the message from the Senate on the joint resolution in relation to certain railroads in Missouri, to insist on its disagreement, and agree to the committee of conference asked for by the Senate.

There was no objection, and it was so ordered.

STAFF OFFICERS OF THE UNITED STATES ARMY.

Mr. BLAIR, of Missouri. I ask the unanimous consent of the House for leave to take from the Speaker's table Senate bill No. 122, providing for the organization of the staff attached to divisions of the Army of the United States, regular and volunteer, in order that it may be put on its passage. It is important that it should be considered at once.

There was no objection, and the bill was read a first and second time.

Mr. BLAIR, of Missouri. I am informed that there is great necessity for the passage of this bill. It has passed the Senate with great unanimity, and I have been requested to call it up and put it on its passage by those most interested in it—I mean the generals themselves. It does not create any new offices, but permits the detailing of officers already in the service as adjutants general and inspectors general of divisions. Those, all know, are indispensable to the efficiency of the Army. I demand the previous question.

Mr. McPHERSON. I ask the gentleman to withdraw the previous question, and to yield to me for a moment.

Mr. BLAIR, of Missouri. I yield to the gentleman.

Mr. McPHERSON. Mr. Speaker, I have had no time carefully to consider the pending bill, and, indeed, I did not know, as it has not been printed, that there was such a measure likely to be called up by the chairman of the Committee on Military Affairs. I have only heard the bill read by the Clerk, and I do not know that I have caught all of its provisions. As I understand it, it provides that although a division commander may have only two brigades under him, he shall have a much more numerous staff, and one higher in rank and pay than at present. The assistant adjutant general is now only a captain, but this bill proposes to make him a major. Each division commander, although he may only have two brigades, is to be allowed three aids-de-camp, ranking as captains, instead of two, ranking as lieutenants, as at present; and there are other features which have escaped my memory.

I think that the gentleman is mistaken when he says that this bill does not create any new offices. In the volunteer service, to which this bill applies, the practice is, when any officers from the line are appointed on staff duty, to have their places in the line filled, so that there will be additional officers and considerable additional expense under the provisions of this bill, if it be adopted. The line officers in our volunteer regiments, who are detailed for staff duty are, as I am informed, presumed by the War Department to have vacated their positions in the line, which are immediately filled.

Mr. BLAIR, of Missouri. This bill provides expressly that their line positions shall not be vacated.

Mr. McPHERSON. As I have already said, I have not had an opportunity to examine this bill. I think, however, that it does, and as I believe unnecessarily, increase the number of officers, the rank, and of course the pay of the class to whom it applies.

As to the necessity for this measure, there may fairly be difference of opinion. I do not think that any of our generals, so far as I have seen, have been retarded in their operations by the want of staff officers; and under this bill you will have an increase of officers whether the division be in active service or not, and whether the division consists of two brigades or more. I ask, therefore, in order that the House may look into this question, that its further consideration be postponed until Thursday next, and that the bill be ordered to be printed.

Mr. BLAIR, of Missouri. I am perfectly willing that that course shall be pursued. There are few provisions in the bill, and they are easily understood. It is indispensably necessary to have an adjutant general for every division, and the only question is, whether he shall rank as captain or as major. So, also, is an inspector general necessary, and his rank is that of major at this time. I now renew the demand for the previous question.

Mr. McPHERSON. Has my motion been received?

The SPEAKER. It has.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the further consideration of the bill was postponed until Thursday next.

ADVANCES BY THE STATES.

Mr. PORTER. I ask unanimous consent to take from the Speaker's table Senate joint resolution declaratory of the intent and meaning of a certain act therein named.

There was no objection; and the resolution was taken up, and read a first and second time by its title.

Mr. PORTER. It will be recollected, Mr. Speaker, that at the last session we passed an act providing for paying the States the expenses incurred by them for clothing and other supplies furnished the troops from those States. It was supposed by every member of the House that provision was made for the payment not only of expenses previously incurred by the States, but those which might afterwards be incurred; but the Secretary of the Treasury has interpreted the act to provide only for the payment of expenses incurred prior to its passage. This Senate resolution directs that it shall be so interpreted as to provide for the payment of expenses incurred not only prior to the passage of the act of last session, but for those incurred since. I suppose there will be no objection to the resolution, and I therefore demand the previous question.

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

PENNSYLVANIA CONTESTED-ELECTION CASE.

Mr. DAWES. At the request of the parties, I give notice that I will to-morrow call up the contested-election case of Kline *vs.* Verree. The reports are printed, and gentlemen will save delay in the House by getting and reading them.

RICHARD B. JONES.

Mr. McKNIGHT, from the Committee on Foreign Affairs, made an adverse report in the case of Richard B. Jones, late consular agent to Egypt; which was laid upon the lable, and ordered to be printed.

TREATIES WITH NEW MEXICAN INDIANS.

Mr. WATT, by unanimous consent, introduced a bill to authorize the making of treaties with the Navajo, Apache, and Utah Indian tribes in New Mexico; which was read a first and second time, and referred to the Committee on Indian Affairs.

LAW OF PRIZE, ETC.

Mr. THOMAS, of Massachusetts, from the Committee on the Judiciary, reported back House bill No. 279 to facilitate judicial proceedings in adjudications upon captured property, and for the better administration for the law of prize, with the recommendation that it do pass.

The bill was read *in extenso*. It provides that whenever any property captured as prize shall be brought into any district of the United States for adjudication, it shall be the duty of the prize commissioners for such district forthwith to receive, seal, and safely keep the same, until process shall be issued out of the court, under which the same shall be placed in the custody of the marshal of such district; and the prize commissioners shall, at the time of taking possession, and from time to time pending the adjudication, examine into the condition of the property, and report to the court if it or any part thereof be perishing or perishable, or deteriorating in value; and if it be so found by the court, upon report or other evidence, the court may order an interlocutory sale thereof by the United States marshal, and the deposit of the gross proceeds of such sale in the registry of the court, to abide the final decree, whether a claim to the property has or has not been interposed. It shall be the further duty of the prize commissioners to receive from the prize master all the papers and documents, and forthwith to proceed to take the testimony of the witnesses prescribed by law, pursuant to the rules and under the interrogatories adopted by the court, and separately from each other and unattended by counsel, and the papers, documents, and testimony, securely to seal with their seals, and, as soon as practicable, deposit in the registry of the court; and thereafter, promptly and without unnecessary delay, the court shall proceed to hearing and adjudication.

All reasonable and proper claims and charges for pilotage, towage, wharfage, storage, insurance, and other expenses incident to the bringing in and safe custody and sale of the property captured as prize, shall be a charge upon the same, and having been audited and allowed by the court, shall, in event of a decree of condemnation or of restitution on payment of costs, be paid out of the proceeds of any sale of the property, final or interlocutory, in the custody of the court. In case of a decree of restitution upon payment of costs, where no sale has been made, such charges and expenses shall constitute part of the costs to be paid by the claimant. The prize commissioners, and also the district attorney, acting for the United States, and the counsel for the captors, shall be entitled to receive a just and suitable compensation for their several and respective services in each prize case or proceeding; and the same shall be adjusted and determined by the court upon due consideration of the facts and circumstances of each case and of the services actually rendered therein; and when so adjusted, shall, in case of final condemnation or restitution on payment of costs, be paid out of the proceeds of the prize property in the custody of the court, or when no sale has been made, in whole or in part, as the court may direct, by the claimant. Whenever a final decree of condemnation of property captured as prize shall have been made, unless an interlocutory sale has been made as before provided for, the property shall be sold by the United States marshal, pursuant to the practice and proceedings in admiralty, and the gross proceeds of such sale shall be forthwith deposited in court; and thereupon the prize commissioners shall proceed, under the direction of the court, to take the requisite evidence to determine the rights of parties as distributees of such prize proceeds, and report the same to the court; and as soon as practicable thereafter a final decree of distribution shall be made, and within thirty days after the

entry of the same, the clerk of the court shall transmit to the Treasury of the United States the moneys so deposited in court, together with a certified copy of the decree of distribution, after deducting from the moneys the costs of court and the charges and expenses before provided for.

The provisions of the act will apply as well to cases now pending as to all future cases of maritime captures and to captures and seizures made under the laws for the abolition of the slave trade; and all laws and parts of laws inconsistent with it are repealed.

Mr. THOMAS, of Massachusetts, demanded the previous question.

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

And then, on motion of Mr. RICHARDSON, (at ten minutes to four o'clock, p. m.,) the House adjourned.

IN SENATE.

TUESDAY, *March* 4, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. SUMNER. I offer a memorial from merchants and others of Boston, Massachusetts, having business with the west coast of South America, and interested in shipping visiting the Pacific ocean, in which they state that, "having learned with surprise and regret, that the United States Government have no arrangements with the owners of the steamers running between New York and Aspinwall and the Panama Railroad Company for the transportation of the mails to and from Panama and New York, that said mails have been taken free of charge to the United States Government by the said steamers and railroad company, since the land mail to California has been established; that on communication with the Postmaster General, he has replied that his power over the matter is exhausted; that having called the attention of Congress to the subject in his annual report he must wait the action of Congress." The memorialists setting forth these facts, proceed to ask Congress to take such immediate action in the premises as, in their judgment, they may deem expedient to authorize the proper authorities to provide a conveyance of the mails to and from Panama and New York. I ask the reference of this memorial to the Committee on the Post Office and Post Roads.

It was so referred.

Mr. HARLAN presented a petition of citizens of Iowa and Nebraska, praying for the establishment of a tri-weekly mail route from Plattsmouth, on the Missouri river, to Fort Kearny; which was referred to the Committee on the Post Office and Post Roads.

Mr. DAVIS presented a petition of J. C. Philbrook and others, citizens of Boston, praying Congress to drop the negro question, and attend to the business of the country; which was ordered to lie on the table.

Mr. WILMOT presented a petition of citizens of Pennsylvania, praying for the total abolition of slavery throughout the country; which was ordered to lie on the table.

He also presented resolutions of the Legislature of Pennsylvania, in favor of the payment of volunteers from the time of their enlistment, and the payment of officers from the time they were placed on recruiting service, and the reimbursement of the expenses incurred in recruiting companies and regiments for the volunteer force; which were referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. GRIMES presented the memorial of Joseph Rogers and others, citizens of Dubuque, Iowa, in support of the claim of Othniel Preston for a pension; which was referred to the Committee on Pensions.

Mr. POMEROY presented additional papers in relation to the claim of the Wyandotte Indians for discount on bonds held in trust by the United States for those Indians; which were referred to the Committee on Indian Affairs.

REPORTS FROM COMMITTEES.

Mr. FESSENDEN. The Committee on Finance, to whom was referred the bill (S. No. 121) for the collection of taxes in insurrectionary districts, and for other purposes, have had the same under consideration and directed me to report it back, asking to be discharged from its further consideration, and that it be referred to the Committee on the Judiciary. I will make the first motion to discharge the committee, and omit the motion to refer until the Senator from Wisconsin, [Mr. DOOLITTLE,] who introduced the bill, comes in.

The motion to discharge the Finance Committee was agreed to.

Mr. POMEROY, from the Committee on Claims, to whom was referred the petition of James Pool, submitted a report, accompanied by a bill (S. No. 220) for the relief of James Pool. The bill was read and passed to a second reading; and the report was ordered to be printed.

Mr. GRIMES, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 211) to authorize the corporation of Georgetown, in the District of Columbia, to lay and collect a water tax, and for other purposes, reported it without amendment, and with a recommendation that it do pass.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred the bill (H. R. No. 284) for the relief of Z. B. Caverly, late secretary of legation at Lima, Peru, reported it without amendment, and with a recommendation that it do pass.

ANNALS OF CONGRESS.

Mr. CARLILE submitted the following resolution:

Resolved, That the Secretary of the Senate purchase from W. W. Seaton, or the proprietors of the National Intelligencer, fifteen copies of the Annals of Congress and the Register of Debates, for the use of the Senate.

Mr. HALE. Let it lie over.

The VICE PRESIDENT. Objection being made, the resolution lies over.

NOTICE OF A BILL.

Mr. SUMNER gave notice of his intention to ask leave to introduce a bill to provide for carrying the mails from the United States to foreign ports.

BILLS INTRODUCED.

Mr. FOSTER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 221) to exempt volunteers during the present rebellion from the operation of the last proviso of the act of the 30th of April, 1844; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 58) to regulate the compensation of agents for paying pensions; which was read twice by its title, and referred to the Committee on Pensions.

MESSAGE FROM HOUSE OF REPRESENTATIVES.

A message from the House of Representatives by Mr. ETHERIDGE, its Clerk, announced that the House of Representatives had passed the joint resolution of the Senate (No. 46) declaratory of the intent and meaning of a certain act therein named.

The message further announced that the House had passed the joint resolution of the Senate (No. 22) providing for the payment of the awards of the commission to investigate the military claims in the department of the West, with an amendment, in which the concurrence of the Senate was requested.

The message further announced that the House had passed the bill of the Senate (No. 178) to incorporate the Washington and Georgetown Railway Company, with an amendment, in which the concurrence of the Senate was requested.

The message further announced that the House had agreed to the amendments of the Senate to the bill of the House (No. 302) to provide for the appointment of additional clerks in the office of the Assistant Treasurer at New York, and for other purposes.

The message further announced that the House insisted upon its disagreement to the first amendment of the Senate to the resolution of the House (No. 37) in relation to certain railroads in the State of Missouri, insisted on by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appointed Mr. WILLIAM S. HOLMAN of Indiana, Mr. ALBERT G. PORTER of Indiana, and Mr. THOMAS L. PRICE of Missouri, managers at the same on its part.

BILL BECOME A LAW.

The message further announced that the President of the United States had approved and signed on the 1st of March, an act (H. R. No. 154) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1863, and additional appropriations for the year ending the 30th of June, 1862.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills:

A bill (H. R. No. 294) requiring an oath of allegiance and to support the Constitution of the United States to be administered to masters of American vessels clearing for foreign or other ports during the present rebellion; and

A bill (H. R. No. 302) to provide for the appointment of additional clerks in the office of the Assistant Treasurer at New York, and for other purposes.

WASHINGTON RAILROAD.

The Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 178) to incorporate the Washington and Georgetown Railway Company; and

On motion of Mr. GRIMES, it was

Ordered, That it be referred to the Committee on the District of Columbia.

WESTERN MILITARY CLAIMS.

The Senate proceeded to consider the amendment of the House of Representatives to the resolution of the Senate (No. 22) providing for the payment of the awards of the commission to investigate the military claims in the department of the West; and on motion of Mr. SHERMAN, the Senate disagreed to the amendment of the House of Representatives, and ask a conference on the disagreeing votes of the two Houses thereon. It was

Ordered, That the committee of conference on the part of the Senate be appointed by the Vice President.

The VICE PRESIDENT appointed Mr. SHERMAN, Mr. CLARK, and Mr. LATHAM.

A message from the House of Representatives, by Mr. ETHERIDGE, its Clerk, afterwards announced that the House insisted on its amendment to the resolution of the Senate (No. 22) providing for the payment of the awards of the commission to investigate the military claims in the department of the West, disagreed to by the Senate; agreed to the conference asked by the Senate upon the disagreeing votes of the two Houses thereon, and appointed Mr. JOHN A. BINGHAM of Ohio, Mr. CHARLES A. WICKLIFFE of Kentucky, and Mr. JAMES F. WILSON of Iowa, managers of the same on its part.

REGENT OF SMITHSONIAN INSTITUTION.

Mr. DIXON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 56) for the appointment of a regent of the Smithsonian Institution; which was read twice by its title.

Mr. DIXON. Let the resolution be read at length.

The Secretary read it, as follows:

Resolved, &c., That the vacancy in the board of regents of the Smithsonian Institution of the class other than members of Congress, caused by the decease of Cornelius C. Felton, be filled by the appointment of Henry Barnard, of Connecticut.

Mr. DIXON. Mr. Barnard is so well known to the Senate, and to the whole country, for his devotion to the cause of public education, that I am in hopes the resolution may be passed, even without a reference. He has devoted his life to the very object specified in the will of Mr. Smithson, "the diffusion of knowledge among mankind;" and, therefore, I am in hopes the Senate will consent to its immediate passage. If not, I shall not urge it, but move its reference.

The VICE PRESIDENT. The Senator from Connecticut asks the unanimous consent of the Senate to consider this resolution at the present time.

Mr. FESSENDEN. I must object to that. Although the confession argues myself unknown, I must say that I never heard of Mr. Barnard before.

The VICE PRESIDENT. Objection being made to the consideration of the resolution, it will be referred to the Committee on the Library.

Mr. DIXON. Mr. President——

The VICE PRESIDENT. It is not subject to discussion.

Mr. DIXON. I should myself, on objection being offered, have made a motion to refer it to the Committee on the Library.

The VICE PRESIDENT. It is referred.

Mr. DIXON. I feel that I ought to say one word, if the Senate will allow me, though not strictly in order, in reply to the remark of the Senator from Maine, that he had never heard of Mr. Barnard. It is unfortunate undoubtedly, and may seem to be a reflection on Mr. Barnard. He is known everywhere throughout the whole country and in Europe for his exertions in the cause of popular education. I would not have said a word but for that remark, which might imply some disrespect on the part of the Senator to Mr. Barnard, which I hope however was not the case.

Mr. FESSENDEN. I meant none in the world. I meant simply to say that it so happened, unfortunately for myself, that I never heard of Mr. Barnard, and I would rather the matter should be referred.

Mr. DIXON. I supposed it to be so, yet felt that I ought to say so much in justice to a gentleman so widely and favorably known.

SAFE-KEEPING OF PRISONERS.

Mr. HARRIS. I move that all prior orders be postponed, and that the Senate take up for consideration Senate bill No. 199, reported from the Committee on the Judiciary. It will take but a moment.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 199) to provide for the safe-keeping and maintenance of United States prisoners. It proposes to authorize the Secretary of the Interior to contract with the directors or managers of any State, county, or private penitentiary for the safe-keeping and subsistence of prisoners under indictment for, or convicted of, any violation of the criminal laws of the United States by any circuit or district court of the United States in the State in which such prison may be situated; but no contract is to be made at prices higher than those heretofore paid in the State.

The bill was reported from the Committee on the Judiciary with an amendment, in line five of the first section, to strike out the word "private" and insert "city," and after the word "penitentiary," to insert "prison, or jail;" so that the clause will read:

That the Secretary of the Interior be, and he is hereby, authorized to contract with the directors or managers of any State, county, or city penitentiary, prison, or jail, &c.

The amendment was agreed to.

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

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

THE ATLANTIC FISHERIES.

Mr. COLLAMER. Mr. President, there is a little bill on the Calendar, a very short one, not connected with the war, and I hope we may be allowed to turn aside for a few moments to attend to it. It is Senate bill No. 150. The British Government have addressed ours, saying that the Atlantic fisheries were being essentially deteriorated by certain practices; in which fisheries England, France, and the United States are alone directly interested. We are informed from competent authority that there has grown up a practice there of laying long lines of hooks upon the spawn banks of the fisheries, where all the germ is deposited from which the fish generate for the supply of all the fisheries of the Atlantic. In this way the fisheries are being rapidly destroyed. We are invited by the British Government to join in a commission with them and France, to meet together and devise some measures by which the utter destruction of the fisheries may be prevented. The bill is for that purpose. It is a small matter, and I ask that it may be taken up.

The VICE PRESIDENT. The Senator from Vermont moves to postpone all prior orders, and proceed to the consideration of the bill indicated by him.

The motion was agreed to; and the bill (S. No. 150) for a joint commission for the preservation of the Atlantic fisheries, was read a second time, and considered as in Committee of the Whole. Its object is to authorize the President of the United States to appoint a commissioner to meet such commissioner as may be appointed on the part of Great Britain, and also one on the part of France, together to form a joint commission to frame measures to protect the fisheries off the coasts of Newfoundland and North America against deterioration and destruction by means of set lines on the spawn banks, and like destructive practices. The sum of $3,000 is appropriated to carry the act into effect.

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

SURRENDER OF FUGITIVE SLAVES.

Mr. WILSON, of Massachusetts. The Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 299) to make an additional article of war, have directed me to report it back without amendment. I ask that it may be considered now.

Mr. DAVIS. Before the question is put, I should like to hear the bill read.

The Secretary read the bill, which proposes that the following provision shall be promulgated, obeyed, and respected as an additional article of war for the government of the Army of the United States:

ART. —. All officers or persons in the military or naval service of the United States are prohibited from employing any of the forces under their respective commands for the purpose of returning fugitives from service or labor, who may have escaped from any persons to whom such service or labor is claimed to be due; and any officer who shall be found guilty by court-martial of violating this article shall be dismissed from the service.

Mr. DAVIS. I ask the Senator from Massachusetts to consent that that bill may go over until to-morrow. I should like to offer an amendment to it.

Mr. WILSON, of Massachusetts. If the Senator desires to offer an amendment to the bill, it is rather ungracious to deny him the opportunity to prepare it if he has not got it ready. With the understanding that we take up the bill and act on it to-morrow morning, I withdraw my motion now.

PRESENTS FROM THE KING OF SIAM.

Mr. SUMNER. The Committee on Foreign Relations, to whom was referred the message of the President of the United States, transmitting a copy of a letter from his Majesty the Major King of Siam to the President of the United States, accompanied by certain presents, and of the President's answer thereto, have had the same under consideration, and have directed me to report a joint resolution providing for the custody of the letter and presents, and to ask for its immediate passage. It will take only one minute.

The joint resolution (S. No. 57) providing for the custody of the letter and gifts from the King of Siam was read three times, and passed. It proposes to deposit the letter and accompanying gifts in the collection of curiosities at the Department of the Interior.

LAWS OF THE DISTRICT.

Mr. GRIMES. I ask leave to introduce a bill in obedience to the instruction of the Committee on the District of Columbia.

The bill (S. No. 222) to provide for the codification and revision of the laws of the District of Columbia, was read twice by its title.

The VICE PRESIDENT. The bill will be referred to the Committee on the District of Columbia.

Mr. GRIMES. I merely wish to say that the bill comes from the Committee on the District of Columbia, and I am instructed to ask for its passage at an early day. It simply authorizes the President of the United States to appoint a commissioner to codify and revise the laws of the District of Columbia, and report them to the present session of Congress.

The VICE PRESIDENT. Does the Senator report it from the committee?

Mr. GRIMES. I will say that some other subjects have been referred to the Committee on the District of Columbia——

The VICE PRESIDENT. The Chair only inquires for the purpose of knowing how the Journal should be made up.

Mr. GRIMES. I am going to state to the Chair exactly the position of it. We found that by attempting to pass into laws a great many bills that have been introduced repealing certain statutes of the District of Columbia, we should be involved in inextricable difficulties, and we therefore thought it was proper to authorize the President of the United States to appoint a competent man to revise these laws, put them in some shape, and present them to Congress before the 1st day of May. I will state that Congress at a former session did authorize three commissioners to revise the laws, and they prepared a very good system; but unwisely, Congress allowed it to be submitted to the people for ratification, and by a small majority, as I understand, it was voted down. It is supposed that this commissioner could take as the basis of his codification the code that was then reported and not adopted, and that he would be able to comply with the provisions of this bill, if appointed, in ample time for us to act upon the subject at the present session. I therefore move that the Senate proceed to the consideration of the bill, if there be no objection.

Mr. SUMNER. I hesitate to proceed to the present consideration of a bill of that importance unless I have seen it in print. I should like to read the bill before I act upon it. On general grounds, I am in favor of it.

The VICE PRESIDENT. If objection be made, the bill must go over. The Chair still does not understand from the Senator from Iowa whether it is introduced by himself or reported from the committee.

Mr. GRIMES. I say I was authorized by a unanimous vote of the committee to report it.

The VICE PRESIDENT. Then it will be entered as reported by the committee.

LAS ORMIGAS AND LA NANA LAND GRANTS.

Mr. HARLAN. I move to take up House bill No. 114, authorizing floats to issue in satisfaction of claims against the United States for lands sold by them within the Las Ormigas and La Nana grants, in the State of Louisiana. I will state to the Senate that it involves no new principle, and was reported by the unanimous authority of the members of the committee present when the bill was considered by the Committee on Public Lands. It passed the House of Representatives, I believe, by a unanimous vote.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It makes it the duty of the Commissioner of the General Land Office to issue and deliver to the respective owner or owners of the Las Ormigas and La Nana tracts of land, formerly situate in the parish of Natchitoches, now parishes Sabine and De Soto, in the State of Louisiana, or to their assigns or other legal representatives, certificates or floats in the usual form for so much land as may have been at any time heretofore sold, donated, granted, or reserved by the United States within those tracts of land, or either of them; which certificates or floats may be located by the owner or holder on any lands belonging to the United States, and subject to private entry at a price not exceeding $1 25 per acre, and shall be in full satisfaction of all claims against the United States for lands so sold, donated, granted, or reserved. As a condition precedent to the issuing of the floats hereinbefore authorized, the claimant or claimants are to present to the Commissioner of the General Land Office satisfactory evidence of title thereto, and that they have been, and continue to be, loyal to the Government of the United States. This act is to take effect immediately.

Mr. SHERMAN. I should like to inquire of my friend from Iowa whether the Government received money for the lands; and if so, how much?

Mr. HALE. If the Senator from Iowa will allow me, I will make a single statement in reference to this bill. These were grants that were made before we acquired possession of Louisiana, and the Government have sold the lands and received pay for them. Under an act of Congress, these claimants brought a suit in the district court of Louisiana, and obtained judgment not only for the lands, but the court went on and gave authority for them to locate their titles elsewhere. That case was brought up to the Supreme Court of the United States, and the Supreme Court of the United

States affirmed the decision so far as it confirmed their grants, but set aside the order for locating their land grants elsewhere, and they came to Congress for it. With these facts, a report has been made in their favor, and it has the recommendation of the Commissioner of the General Land Office, as well as the judgment of the Supreme Court. The Government have sold these lands and received the money for them nearly forty years ago; and this bill simply gives them other land without interest.

Mr. SHERMAN. My question has not been answered. For how much did the Government sell the lands to individuals?

Mr. HALE. That I cannot say.

Mr. HARLAN. We are not informed on that point. I will ask the Secretary to read the letter of the Commissioner of the General Land Office. Nearly all these lands were sold for money; but the land named will cover a part of a school section, I think. The residue was all sold for money.

Mr. SHERMAN. I do not yet understand it. If the Government of the United States sold the lands of private individuals, I acknowledge the duty of the Government to reimburse that money; but lands in Louisiana ought not to be exchanged for lands in the western country. Public lands in Louisiana would not be worth ten cents an acre. Probably they were granted as swamp lands, or were given to the State. Now, to give valuable lands in the western country, worth $1 25 an acre, for those lands, would be a very bad bargain. I think it would be far better to leave these claimants to pursue their legal remedies at law. If they have a valid title by a valid grant of the government of Louisiana before the United States acquired possession of it, they can hold that land against any title acquired under a patent of the United States. The Supreme Court will so decide, and they have so decided. What equity is there then in the Government of the United States giving them other lands, probably many times more valuable, for what they can hold under their title? I do not see any equity in it.

Mr. HARLAN. Suit was brought to recover these claims under a law of Congress originally passed in 1824, which included the States of Missouri and Arkansas. It, however, was revived in 1844, and made to extend to the State of Louisiana. This law provided that the claimants might bring suits against the United States in the district court of the United States within the district named. These parties brought their suits in the district court of the United States in Louisiana. The court decided in favor of the claimants, and awarded them in the decree an amount of land or land scrip equal to the amount sold and disposed of by the United States within the limits of the grant covered by the decree. The United States took an appeal to the Supreme Court of the United States, and there the validity of the grant was confirmed; but the Supreme Court of the United States reversed that part of the decision of the district court of Louisiana which allowed them land scrip for the number of acres of land sold, and on this ground: the claimants had not made the parties who purchased of the United States parties to the suit. Had they been made parties to the suit when the suit was brought in the district court in Louisiana, the land scrip would then have been awarded; but as the claimants had omitted to make them parties to the suit, the Supreme Court of the United States reversed that part of the decree. The committee could see no reason why these individuals should be deprived of the amount of land sold by the United States that had been included within the grant for neglecting to make these individuals parties to the suit, when there is no question but they bought the lands of the United States and paid for them, as the records of the General Land Office show. The letter of the Commissioner among the papers will show the exact number of acres that has been disposed of.

Mr. FESSENDEN. What is the title of the bill? I should like to hear it read.

The SECRETARY. A bill authorizing floats to issue in satisfaction of claims against the United States for lands sold by them within the Las Ormigas and La Nana grants, in the State of Louisiana.

Mr. FESSENDEN. I should like to have that bill lie over. There has been so much loss in these private land claims in Louisiana and that section that they want a very careful looking after. Does it come from a committee?

Mr. HARLAN. The House committee has examined it. I will ask the Senator from Maine if he will not hear the report of the House committee?

Mr. FESSENDEN. Certainly.

Mr. HARLAN. I ask for the reading of the report.

The Secretary read it, as follows:

The Committee on Private Land Claims, to whom was referred the bill authorizing floats to issue in satisfaction of claims against the United States for lands sold by them within the Las Ormigas and La Nana grants, in the State of Louisiana, respectfully report:

That from an examination of the facts in the case, it appears that these two grants were made by Spain prior to the treaty of 1803, under which Louisiana was acquired.

That both were made as vacheries, or stock ranges. That immediate possession was taken by the grantors, and have continued by them and their assignees to the present time.

That in the year 1844 an act was passed by Congress reviving the act passed for Missouri in 1824, and applying its provisions to the State of Louisiana.

That the claimants to these two tracts of land instituted suits against the United States in the district court of the United States for the district of Louisiana, and recovered the same by the judgment of that court. That from this judgment the United States appealed to the Supreme Court of the United States, and that this court affirmed the decision of the district court, whereby the claimants became entitled to the land covered by said two grants.

That in the mean time the United States had sold, donated, and granted some of these lands.

The bill provides for the issuing of certificates or floats by the Commissioner of the General Land Office to the claimants and their legal representatives, authorizing them to locate an equal quantity of land on any land belonging to the United States subject to private entry, at a price not exceeding $1 25 per acre, for the land so sold, donated, or granted, in full satisfaction of all their damages.

This provision, in the opinion of your committee, is in accordance with the uniform practice of this Government in such cases, and in accordance with the principles of justice and equity, and your committee therefore respectfully recommend the passage of the bill.

Mr. FESSENDEN. There have been several of these claims from Louisiana, and I should like to inquire why the relocation, if I may so call it, is not confined to the State of Louisiana? The United States own lands in Louisiana, and let the claimant locate there on any lands of the United States.

Another suggestion: this bill came from the Committee on Private Land Claims of the House of Representatives. It strikes me that is the appropriate committee to investigate matters of this sort. Why did it not go to the Committee on Private Land Claims of the Senate? It is peculiarly a private land claim, and has nothing to do with the Committee on Public Lands at all that I can perceive.

Mr. HARLAN. I cannot answer the latter question. All I know is it was sent by the Secretary of the Senate to the Committee on Public Lands. We found it among the business thus referred to the committee, and have acted on it. I suppose it went there on the motion of some individual, or perhaps by suggestion of the President of the Senate. In answer to the first question in relation to the location of the lands within the State of Louisiana, I will remark to the Senator that that would defer the possibility of allowing these parties just remuneration for the lands sold by the United States. The land offices in that State have long since been closed on account of the rebellion which now exists. I suppose I may state in addition, that these parties have been deferred for over twenty years; so that the lands within that State—those that are now vacant—have depreciated very greatly in value, and not in consequence of the laches of the claimants. They have been prosecuting their rights in the courts of the United States until they have finally secured a decree or decision in the court of the last resort; and this has consumed, I think, some twenty years. It seemed to the committee that it would be unjust to refer them back to the State of Louisiana, in which all the valuable lands have in the mean time been sold by the Government of the United States, and also in which State the land offices have been closed by order of the Department.

Mr. FESSENDEN. Where do these parties reside?

Mr. HALE. In New York.

Mr. FESSENDEN. What is the amount, I will inquire?

Mr. HALE. Seventeen thousand acres.

Mr. FESSENDEN. I should rather it would lie over. I am not satisfied about it at all.

The VICE PRESIDENT. The Senator from Maine moves to postpone the further consideration of the bill until to-morrow.

The motion was agreed to.

CONFISCATION OF PROPERTY.

Mr. WILSON, of Massachusetts. I move to take up the bill to encourage enlistments in the regular Army of the United States, and for other purposes, which was under consideration yesterday morning.

The VICE PRESIDENT. The morning hour having expired, the special order of the day, which is Senate bill No. 151, to confiscate the property and free the slaves of rebels, is now before the Senate; and upon that question the Senator from California [Mr. McDOUGALL] is entitled to the floor.

Mr. McDOUGALL concluded his speech on the subject. [His speech complete will be found in the Appendix.]

Mr. COWAN. Mr. President, I agree with the honorable Senator from California, and look upon the bill now under consideration as the most important, by far, upon our Calendar, involving the gravest questions and most momentous issues. If it passes, I think it will be the great historic event of the times—times which are as fruitful of events as any the world has ever witnessed. Upon the disposition we may make of it, perhaps the fate of the American Republic may depend; and no one surely can overrate the magnitude of anything which may be attended with such consequences.

We are standing now squarely face to face with questions of most pregnant significance. Shall we stand or fall by the Constitution, or shall we leave it and adventure ourselves upon the wide sea of revolution? Shall we attempt to liberate the slaves of the people of the rebellious States, or shall we leave them to regulate their domestic institutions the same as before the rebellion? Shall we go back to the doctrine of forfeitures which marked the middle ages, and introduce feuds which intervening centuries have not yet sufficed to quiet? These are great questions, and they are in this bill, every one of them.

If, for one moment, we can suppose the scheme consummated which it contemplates, we shall have the following results:

I suppose it is reasonable and moderate to estimate the number of people engaged in the rebellion to be equal to one half of the whole white population of the confederate States—say four millions. If so, this bill proposes, at a single stroke, to strip all this vast number of people of all their property, real, personal, and mixed, of every kind whatsoever, and reduce them at once to absolute poverty; and that, too, at a time when we are at war with them, when they have arms in their hands, with four hundred thousand of them in the field opposing us desperately.

Now, sir, it does seem to me that if there was anything in the world calculated to make that four millions of people and their four hundred thousand soldiers in the field now and forever hostile to us and our Government, it would be the promulgation of a law such as this. Will they yield to us sooner in view of such a result to them? What would we be likely to do if they were to threaten us with a similar law? Would we ever, under any circumstances, yield on terms like those? I need hardly ask that question to men descended from sires who refused to pay the tax on teas, and from grandsires who rose in rebellion and overturned a monarchy rather than pay twenty shillings ship money—for that, I believe, was the sum demanded from Hampden, and which cost Charles I his head.

Again: the forfeitures of William the Conqueror, decreed upon the property of the Saxons who followed Harold to the field of Hastings, sink into utter insignificance compared with those enacted in the bill before us. The proud Norman and his rapacious barons were content with the castles and fiefs of the Saxon leaders whom they had overcome; but they did not dare to strip the people, or, indeed, even much to increase their burdens. They knew, victorious and all as they were, that would have involved them in a new and far more dangerous struggle, in which every peasant would have been a principal combatant, with his all at stake.

Neither did the English conquerors of Ireland, in their long series of forfeitures and confiscations, from the time of Strongbow down to the rebellion

of 1798, ever, at any time, venture upon such a sweeping measure as this; their attainders exhausted themselves upon the Irish nobility, and they never were rash enough to strip the Irish people. I do not know the value of the property forfeited by this bill; I cannot even approximate it, except to say that it is enormous—to be computed by billions. But, sir, the bill goes further, and forfeits a vast amount of property of the rebels which, when forfeited, cannot be confiscated or put into the coffers of the conquerors—I mean their property in negro slaves.

Now, I do not mean to stop here to discuss their right to this species of property; it is enough for me to say that all the people of the slave States, loyal and rebellious, seem to agree as to this with a wonderful unanimity, and to resent with an excessive sensibility any interference with it whatever. And, although in the bitterness of the feuds engendered by the civil war now raging among them, the loyalists there would be glad to join in inflicting upon the rebels even the severest punishments, yet this one they abhor and refuse, because they aver that it would be equally injurious to them as to their enemies; and it makes no manner of difference whether that view is correct or not, if they believe it—and this their representatives can tell us. What I mean to say is, that this bill would liberate, perhaps, three millions of slaves; surely the most stupendous stroke for universal emancipation ever before attempted in the world; nay, I think it equivalent, if carried out, to a virtual liberation of the whole four millions of slaves in the Union.

But what is to be the effect of it upon the war? Will we be stronger after it than before; or will we find we have doubled the number of those in arms against us? They have now no cause of war; will not this measure furnish them one, and one they think more just and holy than any other? Let the loyal men who know them also answer this question. I will abide their answer, and submit again that no deliberative assembly in the world ever before sat in judgment upon an issue of such magnitude.

Not content, however, with this, those who favor this bill seem determined to bewilder and blind us still more by an additional project of greater magnificence and, if possible, of greater difficulty; and that is, in the duty it imposes upon the President, in the third section, of procuring a home for these emancipated millions in some tropical country, and of transporting, colonizing, and settling them there, if they desire to go, with guarantees for their rights as freemen; and this is all provided for in a section of a single sentence of nine lines! Surely, sir, we must have been recently transported away from the sober domain of practical fact, and set down in the regions of eastern fiction, if we can for a moment entertain this proposition seriously. Do the advocates of the scheme propose to confer upon the President the gold-making touch of Midas? One would think the universal menstruum or the philosophers' stone had been at last discovered. Certainly, nothing short of the ring and lamp of Aladdin, with their attendant genii, would enable us in our present condition to assure the President of his ability to enter upon such a task, unless, indeed, it is conceived the Treasury note is of equal potency in this behalf. If so, the sovereign of the tropical country and the transportation companies ought to be consulted in regard to the legal tender clause. I suppose it is not expected that the exodus can be supported on the way by quails and manna; and yet, I am free to say, it will need the miraculous interposition of Heaven quite as much as did that of the Israelites of old.

But to return, at a time when every energy of the country is put in requisition to suppress the rebellion; when we are in debt equal to our resources of payment, is it not strange that this scheme, which would involve us in a cost more heavy than even the present war, should be so coolly presented for our consideration, and urged to its final consummation with a kind of surprise that any one should oppose it? It is certainly due to ourselves, if not to the country, that we should not be in haste about engaging in such gigantic schemes.

Then there is a further consideration involved in this bill of still greater moment than even those I have already glanced at; and that is, its direct conflict with the Constitution of the United States, requiring us, indeed, should we pass it, to set aside and ignore that instrument in all its most valuable and fundamental provisions; those which guaranty the life, liberty, and property of the citizen, and those which define the boundaries between the powers delegated to the several departments of the Government.

Pass this bill, sir, and all that is left of the Constitution is not worth much. Certainly it is not worth a terrible and destructive war, such as we now wage for it. And it must be remembered that that war is waged solely for the Constitution, and for the ends, aims, and purposes sanctioned by it, and for no others.

I am aware, however, that some think the Constitution is a restraint upon the free action of the nation in the conduct of the war, which they suppose could be carried on a great deal better without it, &c. Now, sir, I have no hesitation in saying that no greater mistake ever was made in the world than is made by such people. And I am afraid it amounts to an open confession that they have not examined very carefully the full scope of its provisions. Because, under it I think we have full and ample power delegated to the General Government to enable it to do, in war as well as peace, everything which a Government ought to be allowed to do; while at the same time it has laid down accurately upon its charts all those rocks upon which other Governments have been split and wrecked heretofore, with the proper prohibitions to prevent us from seeking our destruction upon them. And I will venture to say that there is not a restraint it imposes which is not salutary, and which, if thrown off, will not prove most destructive. The real danger consists in the fact that the prohibited measures are all of them at first sight most plausible; they are not roaring breakers, obvious to all, but sunken rocks in a calm sea, where the chart of experience is most necessary to guide the political pilot, if he is prudent enough to take the warning.

I am, therefore, opposed to this bill, to all and every part of it, except to the last two sections, which, although not free from objections, yet these are not of such a serious character but that I could give my assent to them. I will proceed to give my reasons then, and show, if I can, why I think the bill and its main provisions unnecessary, impolitic, inexpedient, and unconstitutional, and, I might add, utterly and totally useless.

In doing this, I trust I shall also be able at the same time to show that the Government, notwithstanding, has the power, and can do all in a constitutional and lawful way which is necessary and proper to be done to put down the rebellion and to punish the rebels; that there is not in reality the slightest necessity to strain the provisions of the Constitution in any way, but just to give them their free and natural play according to the original design of the framers of it. As, for instance, the President can and has a right to do a great many things against the rebels by means of the war he makes upon them, which it would be absurd to ask us to do against them through the medium of *law*, of which I shall say more hereafter. Now, however, I shall address myself to sustain this proposition, to wit, Congress cannot forfeit the property of rebels for longer than their lives, by the enactment of any law whatever, for the following reasons:

1. Those persons now in rebellion, having levied war against the United States, are guilty of treason within the exact definition of that crime contained in the third section of the third article of the Constitution, in which it is declared that

"Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort."

Hence, it cannot be doubted but that as soon as the rebels are arrested and brought within the power of any law we may pass, they become *eo instanti* traitors, and obnoxious to the punishment which is imposed by our statute for treason. As long, however, as the rebel is at large, or in the hands of the military, he cares nothing for the law, and is not amenable to it, because the military power cannot try him under the law—that must be done by the courts. But the second clause of that same section provides further, that

"The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attainted."

Therefore any law made for the guidance of the courts must conform to this provision, and no other or greater penalty could be imposed than it would warrant. If, therefore, the law was to enact an absolute forfeiture of the estates of the traitor, it would be bad for the excess, and the judges would be obliged to make the sentence constitutional, either by cutting down the statutory penalty to a forfeiture of his estates for life, or by omitting to forfeit them at all. All this seems to me so obvious as not to be doubted.

2. The power assumed in this bill is also obnoxious to the provisions of the Constitution, if it be assumed that Congress can legislate an effectual forfeiture of the estates of rebels, as such, without allowing them an opportunity or means of trial in the courts. Because,

1. By the fifth amendment to the Constitution, it is provided:

"No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger; nor shall any person be subject, for the same offense, to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation."

Here, it is attempted to deprive a large class of persons of all their estates and property, without any arrest, without any presentment by a grand jury, without any trial by a petit jury, without, indeed, any trial at all in any court. This would be to deprive them of their property in the very face of the provision requiring that it shall only be done "by due process of law," which all commentators and all lawyers agree, means proceedings according to the course of the common law.

I am aware that this will seem strange to some people who think that, as we are at war with the rebels, we ought of course to be able to enact any law we pleased, inflicting upon them punishment befitting their crimes. Such people, however, will do well to remember that our Government is not one of absolute powers—it is in no respect omnipotent or restrained only by its own sense of propriety or policy. On the contrary, its powers are limited to those expressly delegated to it, and are not to be implied from any supposed necessity that they ought to be there, or that it was intended to confer them. Besides this, the powers actually delegated are also distributed and divided to and among the several departments of the Government which are to exercise them. These, too, must confine themselves severally to their functions as fixed by the terms of the grant. Congress has its part, the President has his part, and the courts their part. Now Congress, for instance, has no power to punish anybody, (except for contempts,) and to-day, if we had half a dozen of the worst rebels caged here in this Chamber, we could inflict upon them no punishment. We could not order the Sergeant-at-Arms to hang or behead them, no matter how certain we might be of their guilt. Nay, more, the President himself and all his Army could not lead them away from this Hall to execution. The only way they could be punished at all, would be to deliver them over to the judges—the proper judges—because no one judge might have a right to try all of them Nay, it is possible every one of them might have to be tried by his separate judge, in his separate court and district. There again the functions of the judges, in such cases, are limited—a jury shares them, and its members are the exclusive judges of the facts, while, after the condemnation and judgment, the sheriff or marshal would be the only person having the right to execute the judgment.

I may also further remark that it is in this limitation of the powers of the Government, and their distribution after the manner of the Constitution, that its great merit consists. On those accounts we love, cherish, and revere it; and because it has such features we are now at war with all our force and treasure to defend and preserve it. Had we no Constitution limiting its powers, defining its agencies, fixing the boundaries of their rights and duties under it, nobody would lift a hand for it; and if you make it usurp powers not granted at all, not granted to the usurping department, then our war for it is a great mistake, if not a great wickedness.

Again, this is further guarded against in the

ninth section of the first article and third clause, as follows:

"No bill of attainder or *ex post facto* law shall be passed."

A bill of attainder was a mode of proceeding resorted to in England, as well as in some of the United States during the Revolution, to condemn and punish traitors, by Parliament or the Legislature, in cases where they were out of the reach of the process of the courts; nay, indeed, in many cases even after they were dead. In such cases the law-making branch of the Government supplied the want of due process of law by blending together in one statute the law and the application of the law to particular persons named therein, or to a class of persons by description. Bills of attainder condemned the accused to death, (if not dead already,) forfeited their estates, and corrupted the inheritable blood of their children and heirs, so that no one could take any estate either from or through them. Bills, however, like the one under consideration, which does not propose to inflict capital punishment, or corrupt the blood of the offenders, but imposed other penalties of lesser grade, were called "bills of pains and penalties."

It may be said the latter are not within the prohibition, and therefore allowable here. It is true they are not within the letter of it, but being equally within the mischief, which was, that the legislature should in any case attempt to usurp and exercise the functions of the courts; and construing the fifth amendment in connection, I have no doubt they are also prohibited. Indeed, no one can come to any other conclusion but that the convention which framed the Constitution intended to remove every possibility of the usurpation, by Congress, of the power to punish anybody without "due process of law."

Besides, to grant our power of passing bills of pains and penalties is to nullify the whole effect of the clause, inasmuch as it is easy, by passing several of these against the same person, to make their aggregate result precisely the same as a bill of attainder. Such a construction would defeat the provision instead of making it avail, as intended.

We are not left, however, without authority as to this point, if any were needed to give force to the reason adduced for it, because Judge Story, in his Commentary on the Constitution, at section 1344, says:

"But in the sense of the Constitution, it seems that bills of attainder include bills of pains and penalties; for the Supreme Court have said, 'A bill of attainder may affect the life of an individual, or may confiscate his property, or both.'"

And for this he cites Fletcher *vs.* Peck, 6 Cranch's Reports, 138; 1 Kent's Commentaries, sec. 19, p. 382; and this was well shown by the honorable Senator from California.

This, then, being, in the language of the Supreme Court, a bill of attainder, and in the stricter language of the common law a bill of pains and penalties, is clearly within the prohibition contained in the clause read; and nothing which I can say is so apposite as the remainder of the section quoted from Judge Story, and from it all may see the view taken of such laws as this by a jurist so eminent—one, too, sitting calmly in his closet and free from all those exciting influences which, in troubled times like ours, are so apt to warp our judgments and blind our reason to the truth:

"Bills of attainder, as they are technically called, are such special acts of the legislature as inflict capital punishments upon persons supposed to be guilty of high offenses, such as treason and felony, without any conviction in the ordinary course of judicial proceedings. If an act inflicts a milder degree of punishment than death, it is called a bill of pains and penalties. But, in the sense of the Constitution, it seems that bills of attainder include bills of pains and penalties, for the Supreme Court have said, 'a bill of attainder may affect the life of an individual, or may confiscate his property, or both.' In such cases, the Legislature assumes judicial magistracy, pronouncing upon the guilt of the party without any of the common forms and guards of trial, and satisfying itself with proofs, when such proofs are within its reach, whether they are conformable to the rules of evidence or not. In short, in all such cases, the legislature exercises the highest power of sovereignty, and what may be properly deemed an irresponsible despotic discretion, being governed solely by what it deems political necessity or expediency, and too often under the influence of unreasonable fears or unfounded suspicions. Such acts have been often resorted to in foreign Governments as a common engine of state; and even in England they have been pushed to the most extravagant extent in bad times, reaching as well to the absent and the dead as to the living. Sir Edward Coke has mentioned it to be among the transcendent powers of Parliament, that an act may be passed to attaint a man after he is dead. And the reigning monarch, who was slain at Bosworth, is said to have been attainted by an act of Parliament, a few months after his death, notwithstanding the absurdity of deeming him at once in possession of the throne and a traitor. The punishment has often been inflicted without calling upon the party accused to answer, or without even the formality of proof, and sometimes because the law, in its ordinary course of proceedings, would acquit the offender. The injustice and iniquity of such acts, in general, constitute an irresistible argument against the existence of the power. In a free Government it would be intolerable; and in the hands of a reigning faction, it might be, and probably would be, abused, to the ruin and death of the most virtuous citizens. Bills of this sort have been most usually passed, in England, in times of rebellion, or of gross subserviency to the Crown, or of violent political excitements—periods in which all nations are most liable (as well the free as the enslaved) to forget their duties, and to trample upon the rights and liberties of others."

I have thus far considered the subject of forfeiture of estates as a punishment for crime, and I think no one can doubt that it is unconstitutional, if absolute, even in the ordinary course of the administration of the laws; and I think it is also equally clear that no warrant can be found for it, where the legislature undertakes to declare it upon the principle of a bill of attainder.

I now propose to go further and argue that the exercise of such a power, even if it had been granted, would now be mischievous and impolitic, and that our fathers did wisely and well in refusing it. Their great principle was to punish the guilty alone, and not involve a whole family in the ruin which the head of it might have brought upon himself, by his crimes, because in fact the family might have been and in most cases was wholly innocent. By their just leniency they showed that they looked beyond the hour of conflict to the better day of reconciliation, and offered a bounty to the heirs of the guilty that they might be loyal. I may say, too, that the civilized world, at least in all christendom, have come to this same conclusion, and have generally purged their statute-books of such a relic of angry barbarism:

"The reason commonly assigned for these severe punishments, beyond the mere forfeiture of the life of the party attainted, are these: by committing treason the party has broken his original bond of allegiance, and forfeited his social rights. Among these social rights, that of transmitting property to others is deemed one of the chief and most valuable. Moreover, such forfeitures, whereby the posterity of the offender must suffer, as well as himself, will help to restrain a man, not only by the sense of his duty and dread of personal punishment, but also by his passions and natural affections; and will interest every dependent and relation he has to keep from offending. But this view of the subject is wholly unsatisfactory. It looks only to the offender himself, and is regardless of his innocent posterity. It really operates as a posthumous punishment upon them, and compels them to bear, not only the disgrace naturally attendant upon such flagitious crimes, but takes from them the common rights and privileges enjoyed by all other citizens, where they are wholly innocent, and however remote they may be in the lineage from the first offender. It surely is enough for society to take the life of the offender, as a just punishment of his crime, without taking from his offspring and relatives that property, which may be the only means of saving them from poverty and ruin. It is bad policy too; for it cuts off all the attachments which these unfortunate victims might otherwise feel for their own government, and prepares them to engage in any other service, by which their supposed injuries may be redressed, or their hereditary hatred gratified. Upon these and similar grounds it may be presumed that the clause was first introduced into the original draft of the Constitution; and after some amendments it was adopted without any apparent resistance. By the laws since passed by Congress, it is declared that no conviction or judgment, for any capital or other offenses, shall work corruption of blood, or any forfeiture of estate. The history of other countries abundantly proves that one of the strong incentives to prosecute offenses as treason has been the chance of sharing in the plunder of the victims. Rapacity has been thus stimulated to exert itself in the service of the most corrupt tyranny; and tyranny has been thus furnished with new opportunities of indulging its malignity and revenge, of gratifying its envy of the rich and good, and of increasing its means to reward favorites, and secure retainers for the worst deeds."—*Story's Commentaries on the Constitution*, sec. 1300.

In the light of this exposition let us follow the consequences of this bill into detail, and let us suppose its provisions fully carried out. Our armies have overrun the whole territories of the confederate States; resistance has entirely ceased; and the President and his officers being masters of the country, they have time to finish the residue of their work by gathering in the balance of the property of the rebels not already taken to supply the "military necessities" of the suppression. The rebels themselves are homeless, houseless, and propertyless; and the question arises, have you made them loyal by your severity? Are you assured their love for the Union will return again after this chastisement? Have you thought how they would shout at the sight of the glorious old banner—"the stars and stripes"—which brought them such deliverance?

Mr. President, these people are to be again our brethren and kinsman, if such a thing is possible; but it does seem to me that, by such laws as this, you will make that possibility a very remote one. Will not their women and children hate you, and and their children's children hate and curse you down to the latest generation; and whenever they get a chance will they not rebel against you? Have you not sown the seeds of many rebellions by this one ill-advised act? All this might make little or no difference if they were of hostile race and alien enemies, and if we were making war upon them for conquest and subjugation. But that is not the fact. We have here in these Halls of Congress solemnly declared that the war was for no such purpose, but that it was for the purpose of compelling obedience to the Constitution and the laws; and I am for standing upon that declaration.

The Constitution and the laws being restored and obedience tendered, is this law one of them? Now, we suppose that a large number of people everywhere in the confederate States were constrained, even by force, to join in the rebellion—are these to suffer upon the same scaffolds with the willing traitor; and is there no difference to be made between the general who betrayed his country and the soldier he has compelled to march at his bidding at the head of a rebel column? This bill makes none; and if it did, it makes no provision to try it and determine its value when it is found; the officers have seized the property, and the victim of force in the beginning ends by being the victim of wrong and injustice. To him the Constitution and laws are not yet restored. Again: thousands of these people have been duped into rebellion by being told that we of the North were all abolitionists—intent, when we had the power, to wield it for the emancipation of their slaves, and the destruction of their social system. What does your bill do with these—these men, who believed the falsehood because it was first asserted by southern demagogues and then proved and corroborated by northern knaves? Is there no difference here, again, between the wily traitor and his simple dupe? This bill makes none, but includes within its terms the whole rebel population, of every state and degree, from the lordly planter down to the negro laborer; and the broad acres of the one, as well as the narrow hovel of the other, are alike forfeit under it.

But the President and his officers are to dispose of these confiscated estates. Who will buy them? What kind of neighborhood will exist between the former owner or his heirs and your alienees or their heirs? How the delights of this society will enhance the value of those estates to the purchasers, especially when they reflect that the forfeiture will never be forgotten in the family of the rebel, and that if they have no other, they can transmit this inheritance to their descendants unimpaired for centuries! The tradition of it will sit continually by the hearthstone of that family a hideous specter, deathless for ages, prompting to revenge and inciting to rebellion. Sir, your thrifty purchasers will not like incumbrances such as these hanging over your forfeited estates, and you might as well try to attract them and their capital to your vendue, by promising they should be entitled, as appurtenant to the land offered for sale, to an Irish feud in perpetuity or a Corsican vendetta in fee to them and their heirs forever. Such titles have never been desirable. In the French revolution, even when its success seemed well assured, the holders of the assignats refused to buy the public domain with them, although at that time (August, 1793,) the franc assignat had so depreciated that the metal franc was worth nine of them. Sir, you might as well expect capital to seek the margin of an extinct volcano, before the lava had cooled, for investments in real estate. The only purpose forfeitures ever served in ancient times was to furnish a means of payment to the hardy soldier who achieved their conquest; his title was in his sword, and he could maintain it. That which is taken in war must be kept in war. Every hill must have its castle, and every marsh its wardens. But surely this is not one of the "dispositions" the President and his officers are to make of this property

I desire here, sir, to notice, in regard to this second section, that it is liable to another objection which, to my mind, is fatal in itself upon grounds of policy:

"SEC. 2. *And be it further enacted*, That every person having claim to the service or labor of any other person in any

State under the laws thereof, who during the present rebellion shall take up arms against the United States, or in any manner give aid and comfort to said rebellion, shall thereby forthwith forfeit all claim to such service or labor, and the persons from whom it is claimed to be due, commonly called slaves, shall, *ipso facto*, on the commission of the act of forfeiture by the party having claim to the service or labor as aforesaid, be discharged therefrom, and become forever thereafter free persons, any law of any State or of the United States to the contrary notwithstanding. And whenever any person claiming to be entitled to the service or labor of any other person declared to be discharged from such labor or service under the provisions of this act shall seek to enforce such claim, he shall, in the first instance and before any order for the surrender of the person whose service is claimed, establish not only his title to such service, as now provided by law, but also that he is and has been, during the existing rebellion, loyal to the Government of the United States; and no person engaged in the military or naval service of the United States shall, under any pretense whatever, assume to decide on the validity of the claim of any person to the service or labor of any other person, or to surrender up any such person to the claimant."

Now, sir, as a Republican I protest against any measure of this kind emanating from the legislative branch of this Government. I do so for my own, and for the sake of the great party which came to the rescue of the Union and the Government just at the time when the conspirators had almost consummated the ruin of both, and both of which, I trust in God, with the aid of good loyal men everywhere, it will be strong enough to restore and wise enough to preserve in all their former vigor and glory. Now, sir, if ever there was one slander more foul than another, or more mischievous to the peace and happiness of the country than another, it was the allegation made by the conspirators of the South, and reiterated over and over again by their scarcely less wicked confederates of the North, that the sole object of the Republican party was the abolition of negro slavery in the southern States of the Union. That SLANDER, sir, was the moving cause of this war; that was the catchword which inflamed the South, which enabled the leaders of the rebellion to consolidate her people and obtain over them a control which prevented us ever since 1854 from having a hearing before them, which shut out from them all testimony as to our real principles and beliefs, and left them exposed to be confirmed in their error by the knowing and willful falsehood of their allies in the North. And, sir, I have but a single word here to say of those allies, and it is this: that I have a thousand times more respect for and faith in the poor soldier in the rebel army to-day, and in his patriotism and loyalty, than I have in those editors of the North who, year after year, month after month, and day after day—knowing the same to be false—published and sent down to the South this gigantic lie and base slander against the true men of the free States, nine hundred and ninety-nine out of every thousand of whom never dreamed of disturbing anybody's constitutional rights, never thought of abolishing negro slavery when it lawfully existed in States; men who, on the contrary, were as obedient to the Constitution as to the behests of their religion, reverencing it next to their Bibles, and giving now on the battle-fields of the South the offer of their very lives to sustain it; men who never cared or took a thought of slavery as imposing a single responsibility upon them, and who never would have come into collision with it anywhere of their own choice. But when it insolently attempted outside of its legitimate sphere and within their lawful reach to provoke a struggle and contest with them as to whether the common Territories of the nation should be the homes of free white men or of servile negroes, they resisted it, as they had a right to do. It was a simple question between the white men and the negroes—which should have the Territories; if the negro succeeded, the white man *would not* inhabit them in his company, and if the white succeeded, the negro *should not*.

The victory was won by the white man; and the creed and doctrine which animated him in achieving it is "Republicanism." Nothing more, nothing less. So it declared and published everywhere; so it is understood by the people; so elevated into power by the nation; so put forth almost unanimously by the present Congress. We have said we had no right, and we claimed none, to meddle with slaves or slavery in the slave States. All which has been and is now perfectly understood by all not willfully blind.

Then, sir, I say again, that as a Republican, standing upon the Constitution as construed by that party, I protest against the second section of this bill as being a total and entire departure from the principles of that instrument, most mischievous at this time, because it uselessly distracts, divides, and weakens the friends of the country when they ought to be united and of one accord in action, if ever such were needed before. In addition to this, it would make us do of all things in the world that which would most gratify and strengthen our enemies everywhere—worth today more than a hundred thousand armed men to the traitors of the South, and worth more than five hundred thousand votes to the would-be traitors of the North; thus enabling the latter again to get control of the Government, to wield it as they have wielded it before. No, sir, pass that bill by this Congress, and every falsehood uttered and every design charged upon us in six years of desperate struggle is verified by our deliberate act, an act as useless to the country and to the cause in which we are engaged (apart from other objections) as would be a law against serfdom in Russia passed here.

I know that a great many good people, who hate slavery, and ardently desire that the country were well rid of it, will at first be inclined to wonder at the difficulties in the way of their favorite schemes; but I have no doubt, on further reflection, they too will recognize them. I know that many people suppose, in some way not very clear to them, that our powers under the Constitution have been indefinitely enlarged by the fact that a civil war is now raging in one half the States of the Union, calling into play what is called the "war power" of Congress, by virtue of which we can pass any law we choose which tends or is supposed to tend towards the suppression of the rebellion, and that under it this bill is warranted by the Constitution.

I think all this will be found a delusion and a snare. Our power to-day is no greater than it was at any time since the formation of the Constitution, and any law enacted now which would have been unconstitutional if enacted then, would be unconstitutional now. Nobody pretends that if Jefferson Davis alone had been guilty of treason last year or the year before, and had escaped the jurisdiction of the courts, that Congress could have attainted him as a traitor, or forfeited his property, or emancipated his slaves. Even the simplest man would have known that in such case he must be tried, convicted, and punished by law. Nor can the case be at all altered if one thousand or one hundred thousand other traitors were in the same category, because neither the power of the legislature or courts is enlarged in the slightest degree by the multiplication of the number of the criminals. The grants of power to us in the Constitution were fixed in it from the beginning, and we stand just where we did always.

But cases may arise where the laws are inadequate to the preservation of the order and peace of society, not because they are not severe enough, but because they cannot be executed. That is the case now in eleven States of the Union, and the question is, what is the remedy? Since the laws are silent, the courts destroyed, and the will of the nation disregarded, how does the Constitution meet the emergency? Does it meet it, and effectually? I answer unhesitatingly it does, and as promptly as any other system of government in the world; and since the law is of no avail it resorts to force, military force, in other words, war, and those who resist are treated by this method the same as though they were alien enemies. I may say that this course is adopted because of its superior efficacy over law, and the law abdicates to make way for war.

Then, who shall make this war and determine how it shall be carried on? Shall it be Congress, the President, or the judges? Some think the power is in Congress, because the Constitution confers upon that branch the power to declare war; but the power to declare war is not the power to make war, but simply the right to declare when the necessity for war had come. And it might just as well have been left to the Supreme Court to decide that question; and if it had, surely nobody would have contended that that court would have been the war-making power.

The Constitution declares that the President shall be the Commander-in-Chief of the Army and Navy, or, in other words, the force of the nation is put into his hands, investing him with the war-making power; and he must wield it until all resistance has ceased or till peace is made. He is the commander directing and controlling it as he pleases, and only restrained in so far by Congress in that he must depend upon them to foot his bills and authorize his levies. He organizes the forces, appoints the officers, directs their operations, and is responsible for the failure or success of the campaigns; and it makes no difference whether the enemies who resist him are alien enemies or disaffected citizens in revolt, he conducts the war upon the same principles in both cases. Indeed these principles are now so well settled and agreed upon by the civilized nations of the world, that they have become part of a great general code called the "Laws of Nations," and which are obligatory upon all belligerents everywhere. In the conduct of the civil war now waging in this country, the President is guided and controlled by these laws, nor has the Congress any power whatever to alter or change them, and bind him by so doing, against his consent:

"A civil war breaks the bands of society and government, or at least suspends their force and effect; it produces in the nation two independent parties, who consider each other as enemies, and acknowledge no common judge. Those two parties, therefore, must necessarily be considered as thenceforward constituting, at least for a time, two separate bodies, two distinct societies. Though one of the parties may have been to blame in breaking the unity of the State and resisting the lawful authority, they are not the less divided in fact. Besides, who shall judge them? Who shall pronounce on which side the right or the wrong lies? On earth they have no common superior. They stand therefore in precisely the same predicament as two nations, who engage in a contest, and being unable to come to an agreement have recourse to arms. This being the case, it is very evident that the common laws of war—those maxims of humanity, moderation, and honor, which we have already detailed in the course of this work, ought to be observed by both parties in every civil war. For the same reasons which render the observance of those maxims a matter of obligation between State and State, it becomes equally and even more necessary in the unhappy circumstance of two incensed parties lacerating their common country. Should the sovereign conceive he has a right to hang up his prisoners as rebels, the opposite party will make reprisals; if he does not religiously observe the capitulations, and all other conventions made with his enemies, they will no longer rely on his word; should he burn and ravage, they will follow his example; the war will become cruel, horrible, and every day more destructive to the nation. The Duke de Montpensier's infamous and barbarous excesses against the reformed party in France are too well known; the men were delivered up to the executioner, and the women to the brutality of the soldiers. What was the consequence? The Protestants became exasperated; they took vengeance of such inhuman practices; and the war, before sufficiently cruel as a civil and religious war, became more bloody and destructive. Who could without horror read of the savage cruelties committed by the Baron Des Adrets? By turns a Catholic and a Protestant, he distinguished himself by his barbarity on both sides. At length it became necessary to relinquish those pretensions to judicial authority over men who proved themselves capable of supporting their cause by force of arms, and to treat them, not as criminals, but as enemies. Even the troops have often refused to serve in a war wherein the prince exposed them to cruel reprisals. Officers who had the highest sense of honor, though ready to shed their blood in the field of battle for his service, have not thought it any part of their duty to run the hazard of an ignominious death. Whenever, therefore, a numerous body of men think they have a right to resist the sovereign, and feel themselves in a condition to appeal to the sword, the war ought to be carried on by the contending parties in the same manner as by two different nations; and they ought to leave open the same means for preventing its being carried to outrageous extremities, and for the restoration of peace.

"When the sovereign has subdued the opposite party, and reduced them to submit and sue for peace, he may except from the amnesty the authors of the disturbances—the heads of the party. He may bring them to a legal trial, and punish them if they be found guilty. He may act in this manner particularly on occasion of those disturbances in which the interests of the people are not so much the object in view as the private aims of some powerful individuals, and which rather deserves the appellation of *revolt* than of *civil war*. Such was the case of the unfortunate Duke of Montmorency. He took up arms against the King in support of the Duke of Orleans; and, being defeated and taken prisoner at the battle of Castelnaudari, he lost his life on a scaffold, by the sentence of the parliament of Toulouse. If he was generally pitied by all men of worth and sentiment, it was because they viewed him rather as an opponent to the exorbitant power of an imperious minister than as a rebel against his sovereign, and that his heroic virtues seemed to warrant the purity of his intentions."—*Vattel's Law of Nations*, book 3, chap. 18, secs. 293, 294.

In fact, from the very nature of these laws, it is almost utterly impossible that they could be made into enactments by any legislative body; and this for the reason that they consist of a great number of alternative rules, each depending upon circumstances as to whether it shall be observed or not; the whole being embraced and included by the great law of self-defense, establishing the right to do anything that is necessary to secure it, even to killing our enemies, and doing them all the harm possible.

In judging as to what is necessary, the general has not absolute, but legal discretion in the premises—that is, within the law; as for instance, he may judge it necessary to kill his prisoners of war, but only by way of retaliation, when his enemy has first killed such prisoners as he may have taken—and this to stop the practice, not to introduce it. Hence, it may be said that no legislature could enact laws of war, because it is impossible to foresee the contingencies upon which their application may depend. And again, such enactments would be wholly useless, because if they were different from those agreed upon by the nations, these would resist them and restore the old; if, on the other hand, no alteration was made, nothing would be gained.

And in the case before us, the President, or his generals, with their armies, have a right to attack the rebels in arms, and kill them if they do not submit. He has also a right to take, by way of capture, all their public property used in the war, such as forts, ships, arms, ammunition, stores of every kind, &c., but he could not do as this bill proposes to do; he could not follow the rebel after his surrender, and take from his house the private property which he had left there for his wife and children, while he was at the war. And all this because a Christian civilization has taught the nations that such modes of making war are not only not necessary, but that they are in all cases mischievous and injurious, even to the conqueror himself. The modern rule is very clearly stated by Wheaton, in his "Elements of International Law," at page 419, *et seq.* of the sixth edition, as follows:

"The application of the same principle has also limited and restrained the operations of war against the territory and other property of the enemy. From the moment one State is at war with another, it has, on general principles, a right to seize all the enemy's property, of whatsoever kind and wheresoever found, and to appropriate the property thus taken to its own use, or to that of the captors. By the ancient law of nations, even what were called *res sacræ*, were not exempt from capture and confiscation. Cicero has conveyed this idea in his expressive metaphorical language, in the fourth oration against Verres, where he says that 'victory made all the *sacred* things of the Syracusans *profane*.' But by the modern usage of nations, which has now acquired the force of law, temples of religion, public edifices, devoted to civil purposes only, monuments of art, and repositories of science, are exempted from the general operations of war. Private property on land is also exempt from confiscation, with the exception of such as may become booty in special cases, when taken from enemies in the field or in besieged towns, and of military contributions levied upon the inhabitants of the hostile territory. This exemption extends even to the case of an absolute and unqualified conquest of the enemy's country. In ancient times, both the movable and immovable property of the vanquished passed to the conqueror. Such was the Roman law of war, often asserted with unrelenting severity; and such was the fate of the Roman provinces, subdued by the northern barbarians, on the decline and fall of the western empire. A large portion, from one third to two thirds, of the lands belonging to the vanquished provincials was confiscated and partitioned among their conquerors. The last example in Europe of such a conquest was that of England by William of Normandy. Since that period, among the civilized nations of Christendom, conquest, even when confirmed by a treaty of peace, has been followed by no general or partial transmutation of landed property. The property belonging to the Government of the vanquished nation passes to the victorious State, which also takes the place of the former sovereign, in respect to the eminent domain. In other respects, private rights are unaffected by conquest."

It may be proper here to say a few words in regard to the slave property of the rebels engaged in this war. With regard to this species of property the laws of war are silent, inasmuch as from the necessity of the case it could have no means of distinguishing the slaves of a hostile people from the people themselves. In our own case, although our generals might well know a negro from a white man, yet, as all negroes are not necessarily slaves, they could not determine the question as to which class any they met might belong. It is their duty, then, to take things as they find them, and consider the negroes simply as persons. Then if they are hostile they are to be treated as enemies, or if they are friendly they should be treated as friends precisely as though they were not marked by any difference of complexion.

The next question which arises is, whether, being friends, we should enroll them as soldiers in our armies? The answer to this depends upon another consideration. We have seen that the President must make war according to the laws of nations, and, of course, he must compel his soldiers to observe those laws; and he would not be warranted in enlisting such as could not, from any cause, be so controlled and restrained. In this way England violated the laws of war by employing the Indians against us in the Revolution, and everybody remembers the terrible denunciations of Lord Chatham against it. The Indians were savages who murdered women and children, and burned their prisoners at the stake—with other practices equally abhorrent to humanity—and nobody could be justified in making soldiers of them.

It follows, then, as a corollary from this, that if the negroes of the South could be drilled and disciplined so as to become obedient to the laws of war, there is no valid objection to their being employed for that purpose the same as other men. But if, on the other hand, they are ignorant, barbarous, and savage to such an extent as coupled with the fact that they belong to a race towards which ours entertain strong antipathies, and from their degraded and servile condition it would be impossible to restrain them from committing outrages not allowable even against the enemy, then they ought not to be employed in our ranks; and to do so on our part would bring down upon us the odium of all Christendom, and the condemnation of all good men.

This question, then, is one for the President and his military advisers to decide; and I am content to confide it to them, as I am all other duties devolved upon them by the laws and the Constitution.

But it is said that because the Constitution confers upon Congress the right "to make rules concerning captures on land and water," that this law is proper to enable the President to make the captures it contemplates. The answer is that the bill does not contemplate, apply, or relate to captures at all; because in the case of a capture the right to the thing captured depends solely upon the taking, and in case of recapture by the first owner his right reverts again; but this is a bill of forfeiture and confiscation, or perhaps a confused attempt at both, and if it could operate at all it would pass the title to all the property of rebels immediately to and vest it in the United States without any capture or seizure of it whatever, the law itself conferring seizin upon the United States by the very terms of it.

Again: it is attempted to put the propriety of this bill, and I suppose the constitutionality of it too, upon the principle ruled in the case of the United States *vs.* Brown, 8 Cranch, 110, in which it was held that enemy property in this country at the declaration of war against Great Britain, in 1812, was not confiscated by the fact of that declaration, and that in order to do so an act of Congress was necessary—and so I think the law is—for the reason that in that case the property attempted to be confiscated was within the domain of *law*, and the *law*—I mean here municipal law—is of course supreme everywhere within its domain; but the property which this bill attempts to confiscate by the first section is in the country of the belligerent, and therefore extra-territorial, where the law can have no effect, and where we are obliged to operate by force, or war. The legislature, therefore, has nothing to do with it till the President captures it, (as he might in certain cases be warranted in doing,) and then Congress might make a law for its disposition, either giving it in whole or in part to the captors, or directing the whole to be put into the public Treasury.

But I suppose it will be said that all the property to be confiscated by this bill is now in this country, and therefore within the principle of the case of Brown; if so, then I say the rebels are not belligerents; and if they are not belligerents, then we have no right to confiscate their property, any more than we have a right to forfeit it for crime. Either form of the dilemma is fatal to the bill; nevertheless, it is entitled to its choice of them.

This kind of vicious reasoning in a circle pervades the whole character of the bill, since it is perfectly clear that it can only justify its claim to confiscate on the grounds that the rebels are belligerents and enemies outside the purview of the Constitution; while on the other hand, it claims jurisdiction of them and their property as though they were citizens, and within the Constitution. In this way the constitutional guarantees, to which I have referred, would all be nullified, and neither rebel nor traitor would be recognized in the instrument. We then might forfeit all their property upon a judgment against them as belligerents, and afterwards hang them on the ground of their treason. I submit, Mr. President, the proposition is absurd and suicidal, carrying its own refutation on the face of it.

Sir, I hope and trust some other and better way than this will be found to punish those concerned in this rebellion after it shall have been suppressed, and that the method adopted, whatever it may be, will not be one which will furnish cause for future revolts. Those who are to be punished at all, ought to be punished effectually under the Constitution, and according to the laws they have violated; and those who are to be forgiven ought to be forgiven fully and freely as it becomes the majesty of a great nation to forgive. Having rescued the revolted States, and restored the dominion over them to the loyal people within them, I would have the traitors dealt with in such way as not to endanger in the future either the happiness or safety of such as have remained faithful through the terrible ordeal to which they have been subjected. In this I should consult their wishes and defer much to their better judgment; but certainly I would not do that which, in their opinion, would leave them worse with the Union restored than they would be with the confederacy sustained. I would not offer bounties to make them rebels, neither would I impose penalties or conditions having the like effect. I look upon this bill as a measure of the latter kind—the natural consequence of which would be to give to the rebels the energy of despair, and to take from the loyalists every motive for fidelity. Pass this bill, and the same messenger who carries it to the South will come back to us with the news of their complete consolidation as one man. We will then have done that which treason could not do; we, ourselves, will then have dissolved the Union; we shall have rent its sacred charter and extinguished the last vestige of affection for it in the slave States by our blind and passionate folly.

I am well aware, sir, of the object of this second clause—emancipating the slaves of the rebels—and I know there are many who think that ought to be done, because they think slavery the only cause for the rebellion. In considering this, it is well to remember that there are now in the world, and always will be, many great evils which God, in his wisdom, and for his own purposes, has put out of the reach of remedy, except in his own way and at his own time, and then his means are always adequate and very generally apparent. Four millions of negro slaves are now in bondage in the United States. Where are the signs of their emancipation? Have not hundreds of thousands of these everywhere had ample opportunities to throw off their chains within the last few months? Have they done so? And if they have not done so, can you compel them to exchange voluntary servitude for involuntary freedom? I thought the world was old enough by this time to know that they who are entitled to freedom, themselves must strike the blow which is to secure it. What blow has the negro struck for himself in this his fairest opportunity? His rebel master, with a madness to all other men incomprehensible, engaged himself in revolt, broke up the society in which he lived, liberated all its elements, so that they are free to act, and thus tacitly invited him to assert his manhood? How has he availed himself of it? Why, sir, just in the way one might have expected; knowing nothing of liberty, caring nothing for it, he has remained inactive as the domestic animals around him, impelled, perhaps, by the same unconscious instinct of dependence upon the providence of a master wiser and stronger than himself. A child always in the scale of development, he may have had some child's consciousness that the boon of liberty so ostentatiously offered him by his over zealous friends might prove to him fatal as the shirt of Nessus or the box of Pandora, and he still hesitates and hugs his chains. I have no hope of him yet, though, God knows, I would have him free, free as I am myself, if freedom be his choice, through the strife and agony by which he as all men must purchase it. Eternal vigilance and continual struggle is the price of liberty.

In conclusion, I have only to say that I hope this bill will not pass, and that we may all address ourselves to the matters we have in hand, that are really necessary to our success in the great struggle in which we are engaged.

Surely there is no call for us that we should turn out of our safe way to tread upon dubious ground. Surely we have enemies enough already, without

making more by embarking in new projects so objectionable to the friends we now need so much. Can we not await a little longer the tide of events before we engage in doing that which, even if there were nothing else against it, all must agree is now premature? Is not our first duty to carry on the great war we have undertaken, till we have triumphantly secured the great end for which we wage it, without anticipating that triumph, and perhaps losing it by yielding ourselves to that premature anticipation?

For my own part, I can only see my duty clearly by confining my vision to the sole end of restoring the supremacy of the Constitution and laws over the whole territory of the Union, and then all else is easy. May God grant this consummation.

Mr. MORRILL. If it is the purpose of the Senate to proceed with the consideration of this bill at the present time, I desire to submit some observations in relation to it.

Mr. WILSON, of Massachusetts. If the Senator from Maine will give way, I desire to make a report from a committee of conference.

Mr. MORRILL. Very well.

RAILROADS IN MISSOURI.

Mr. WILSON, of Massachusetts, submitted a report from the committee of conference on the disagreeing votes of the two Houses upon the joint resolution (H. R. No. 37) in relation to certain railroads in the State of Missouri. The report is that the Senate recede from its amendment to strike out the preamble, and agree to the preamble, with an amendment striking out the words "by the public enemies, and in consideration thereof."

The report was concurred in.

EXECUTIVE SESSION.

On motion of Mr. WILSON, of Massachusetts, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *March* 4, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House a message from the President of the United States, transmitting a report of the Adjutant General, in answer to a resolution of the House of Representatives of January 22, 1862; which was laid upon the table, and ordered to be printed.

CAPTAIN GOLDSBOROUGH.

The SPEAKER also, by unanimous consent, laid before the House a message from the President of the United States, recommending that Captain Louis M. Goldsborough receive a vote of thanks of Congress for his services and gallantry displayed in the combined attack of the forces commanded by him and Brigadier General Burnside, in the capture of Roanoke island and the destruction of rebel gunboats on the 7th, 8th, and 10th of February, 1862; which was referred to the Committee on Naval Affairs, and ordered to be printed.

CONTRACTS FOR TENTS.

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

Resolved, That the committee on contracts be directed to inquire what contracts for hospital tents have been recently made with Messrs. Fox & Polhemus, what notice was given, what number contracted for, and on what terms; also, whether the particular variety of duck required to be used in making such tents was not such as to preclude competition on the part of other parties.

INCREASED CLERICAL FORCE.

Mr. STEVENS. I ask that bill of the House No. 302, for the appointment of additional clerks in the office of the Assistant Treasurer at New York, and for other purposes, which has been returned from the Senate with two immaterial amendments, be taken from the Speaker's table and the amendments concurred in.

There being no objection, the bill was taken up, and the amendments of the Senate were read and concurred in, as follows:

First amendment:

Page 1, line twelve, after the word "watchmen," insert "for the current and next fiscal years."

Second amendment:

Page 1, line fourteen, after the word "appropriated," insert "estimates for compensation for such additional clerks, messengers, and watchmen, after the next fiscal year, shall be submitted by the Secretary of the Treasury with his annual estimates."

PENNSYLVANIA CONTESTED-ELECTION CASE.

Mr. DAWES. I rise to a question of privilege. I call up the contested-election case of Kline *vs.* Verree. I ask for the reading of the resolutions reported by the Committee of Elections.

The Clerk read the resolutions, as follows:

Resolved, That John Kline is not entitled to a seat in this House as a Representative in the Thirty-Seventh Congress from the third congressional district in Pennsylvania.

Resolved, That John P. Verree is entitled to the seat now occupied by him as Representative in the Thirty-Seventh Congress from the third congressional district in Pennsylvania.

Mr. JOHNSON. I propose, with the leave of the gentleman from Massachusetts, to move to amend the first resolution by striking out the word "not" before the word "entitled."

The SPEAKER. Does the gentleman from Massachusetts yield for that purpose?

Mr. DAWES. I do.

Mr. JOHNSON. Then I offer that amendment.

Mr. DAWES. Mr. Speaker, I presume that every member of the House has read the report in this case, No. 40, and presuming that every member of the House understands the report, it is hardly worth while for me to say anything further upon the case, but merely to state it. I do not propose, therefore, to argue the case now.

This case arises in the third congressional district of Pennsylvania, consisting of several wards in the city of Philadelphia, and the case brings up, to some extent, the same questions that were considered in another contested-election case by this House during its present session. It differs, however, somewhat from that case, and to the differences I propose to call the attention of the House.

Some portion of the report is taken up with a discussion of the manner in which the papers in this case were prepared and the issue presented to the committee; and I think that it is not inappropriate for me to call the attention of the House, for a moment or two at least, to that fact.

As long ago as 1851, there was an attempt on the part of Congress to reduce the matter of contested elections in this House to some sort of science, and to prescribe the forms and methods in which they shall be conducted so as to bring cases to some definite issue before trial, and to secure a speedy hearing and determination in each case. It has been determined since, after some discussion and struggle in the House, that that law is not binding as a law, and that departures from it do not necessarily render the proceedings void; because each House is itself the sole judge of the election of its members, and therefore the sole judge of the methods by which that election shall be determined. But, nevertheless, all Houses of Representatives, since the passage of that law, have felt it to be wise as a rule, and to be held to in all cases unless there were some strong and paramount reasons for a departure from it. The House was very strict in its adherence to this law up to the last Congress; so that I do not know of any precedents that justified any material departures from the requirements of the law; indeed, I remember that, in the Thirty-Sixth Congress, so strictly did the House hold parties to the requirements of this law that a sitting member, although chairman of the Committee of Ways and Means of this House during all the time prescribed by law for taking testimony, and thus unable to take any testimony himself, was subsequently, when he made application to take testimony, cut off by a vote of the House from doing so.

But there were departures from the law for what were deemed to be good reasons in the last Congress, and there has been a growing disposition, if I may be allowed so to speak in reference to the House, to depart from the rules prescribed by that law not only very much to the inconvenience of the parties contesting and of the tribunal hearing the parties contesting, but very much, in the opinion of the committee, to the detriment of the hearing itself. And the present case presents a striking instance of that fact. While the statute attempts to prescribe that there shall be preliminary pleadings in a case with the purpose and evident intention of bringing the parties to a definite issue, with some analogy to pleadings in common law, in this case there was nothing on the part of the contestant that at all approached to any compliance with the statute. The committee have not felt themselves at liberty to pass over these departures so frequently occurring, and they therefore instructed me in making this report to call the attention of the House to the fact. A portion of this report is devoted to that part of this case. The committee, however, lest injustice might be done to the contestant in this case, permitted him orally and before the committee to amend the pleading, and state precisely what he did intend to rely upon, and upon what points, in order to present an issue to the committee and to the House. That issue is, that in twelve of the precincts in the wards composing the third congressional district of Pennsylvania, the return officers in counting the votes made mistakes, and mistakes to that extent as, on a recount, to change the result, and to turn a majority of twenty-two for the sitting member into a majority of eight for the contestant. There is no allegation of fraud touching either of these counts, but that the mistakes were the result of inadvertence and carelessness on the part of the officers.

I suppose the House will recollect, from the discussion which was had in the case of the contestant, Butler, from the first congressional district of Pennsylvania, precisely what the law is in reference to the preparation and counting of these ballots, the returns to be made, and the preservation of the ballot-boxes. There are judges and other officers appointed to attend upon elections, to count the ballots in the manner prescribed by the statute, and to make a sworn return upon the night of the election, and that is to be taken on the Friday following to a board of officers composed of the return judges, and they are to certify the result of the polls of the district to the Governor, and the Governor is to issue his proclamation. All this was done in this case. But it is claimed that, as to twelve of these districts, there was carelessness or mistake in the count on the night of the election, and that the returns so made were false in fact. There is no allegation and no claim that they were intentionally false on the part of the return judges. It is the duty of these judges, after having so counted the votes, to put them all back in the same ballot-boxes, tying up the ballot-boxes in a particular manner with tape, to put a seal upon it, and carry it to the magistrate residing nearest to the precinct; and it is his duty to keep the ballot-box. There is no provision of law as to how long he shall keep it, or in what particular manner; but it is to be kept for the purpose of being subject to be opened by any tribunal authorized to examine into the election.

These ballot-boxes were all so returned. There was in this case no difficulty in the mind of the committee as to identifying the ballot-boxes of these twelve divisions. On that point each of the aldermen who received the ballot-boxes testifies to the fact that the particular ballot-box was the one that it claimed to be. In all of these cases about which there was contest in this election, the boxes were labeled when received.

The election was held on the second Tuesday of October, 1860. This contest was commenced immediately on the Governor's giving his certificate of election to the sitting member. The notice of contest was then served by the contestant, and an answer was made in due season by the sitting member. Testimony was taken on the part of both contestant and sitting member; but the ballot-boxes were not approached until the 8th of January following. From the 8th to the 26th all these ballot-boxes were opened in the presence of the magistrates taking the testimony. They were therefore in the custody of the magistrates from the second Tuesday in October until about the second Tuesday in January—a period of three months. They were therefore in the custody of the law, although the law itself provided very inadequately for their security, and has since seen its defect and remedied it by additional legislation.

In a former case of contested election in this House, a majority of the committee were of

opinion that the ballot-boxes, being in the custody of the law, being kept as prescribed in the law, although insecure, were to be presumed, in the absence of testimony that they were tampered with, as having been kept safely, and were of opinion that these boxes should be recounted. It was in the absence of any direct testimony that the majority of the committee came to that conclusion. However, the House differed with that majority, and established what the committee might have treated as a precedent: that is, that if the boxes were kept in an insecure place, although it was the place prescribed by law, it was not safe, even if there was no testimony as to their being tampered with, to allow a recount of them to control the sworn return made on the night of the election. The committee might well consider itself bound by that precedent. It was a conclusion which had great force upon its judgment.

But the case is not that. This case has all the elements of that case, and something more. The ballot-boxes were in that case, as in this, in the custody of the law for a period of three or more months. They were in just such a custody—in a custody which the committee felt, in this case as in the other, to have been insecure—in a place where they were exposed, and where there might have been tampering with them. I do not say that the committee would have reversed its decision, if that were all. But, touching three of these boxes, there was positive testimony which shook all faith that the committee might otherwise have had in the integrity of the boxes, and especially when arrayed against sworn returns. The committee did not feel at liberty to control the returns by these boxes. Conceding to the contestant all of the recount which he has obtained, he is elected by only a majority of eight. In three of these boxes he has claimed to have gained fifty-four votes. It would be necessary for him to avail himself of these three boxes entirely in order to change the result. Accordingly both the sitting member and contestant directed the attention of the committee especially to these three boxes—the contestant to what he claimed to be evidence of the security of these boxes, and the sitting member to what he claims to be proof that the boxes had been tampered with. I propose simply to call the attention of the House to these three boxes, and then, on the conclusions which the House shall feel bound to come to touching them, will be decided the whole case.

The views of the committee touching these three boxes will be found in the report, commencing on the 8th page and closing on the 12th page. The first is the third division of the eleventh ward. This box was received by the alderman, and there is no doubt about its identity. The alderman thought, when it was opened, that it was in the same state in which it was when he received it. He had no doubt in his own mind of that fact. He put it, after sealing it, in the vestibule or portico of his office, on a shelf over the door, with other boxes; and there it remained till it was taken by him, with other boxes, and carried by him and the constable of the ward, on the 7th or 8th of January, to the magistrate to be opened. The constable of the ward was named McKinney. The boxes were not opened on that day, and were taken back by these two men to the same place. The next day they were carried to the office of the magistrate and opened. McKinney, however, testifies to this circumstance: that, on the day before the box was taken to the magistrate—while the alderman was absent from the office and he (McKinney) was there alone—a stranger came to the office, and told him he was sent by the magistrate for this box. The constable helped him to get the box. The stranger took it and put it in a basket, covered it up with a cloth, and carried it off. This was about ten o'clock in the morning. About three o'clock in the afternoon he brought it back. About seven o'clock in the afternoon, according to the testimony of McKinney, the alderman came back to his office, not entirely sober. On the next day the ballot-box was taken, by order of the magistrate, to the office by the alderman and constable; and the magistrate not being ready to open it, it was taken back and kept another day, and again carried to the magistrate's office by these same parties.

No one knows, so far as the testimony is concerned, what was the purpose of this man in taking the box away. It does not appear that the box was actually carried to the magistrate's office, nor does it appear what was done with it during those five hours. The contestant attacks the character of McKinney, and says his story is not to be believed—that he was indicted and convicted of extortion, or of obtaining money under false pretenses, that he had been pardoned by the Governor, and had since been elected constable of the ward. Alderman Williams, in whose office this constable was, testifies that he would not believe him under oath. However that may be, the committee was called upon by the contestant to take this box after it had kept such company, and allow it to control the sworn returns of the judges made on the night of the election. The committee did not feel it necessary to come to the conclusion either that McKinney was an honest man and his story to be believed, or that he was a rascal, and therefore unfit to take care of the box; because, in either case, the committee lost confidence in the box. It lost confidence in it if McKinney were an honest man; and it certainly ought to lose confidence in it if he were so great a scoundrel as he was tried to be shown on the part of the contestant. The committee could not say that the box which had kept such company as that should be allowed to control the sworn returns of the election judges; and therefore the committee rejected that. That in itself would decide the case, because it was claimed that in this box the contestant gained thirty votes, and his entire majority was but eight.

The second box was in the third division of the sixteenth ward. The alderman who kept that box kept it for a while under the desk in his office, and then having built a new house, he removed it to the cellar of his new house, which upon one side was boarded up to inclose it from the outside. There it was kept with the other boxes until it was brought to the magistrate's office to be examined, sometime about the 8th of January. This magistrate, who kept the boxes, was one of the two magistrates before whom all the testimony on the part of the contestant was taken. It appears that he took the box to the magistrate's office two days before it was opened, the magistrates not being ready to proceed with the case. Instead of being taken back and kept in the custody of the law until they were ready to proceed, he put it in an unfastened closet in the magistrate's office—in a closet that had no lock upon it—and there it remained from Thursday until Saturday. Who was in the office during that time, or who might have approached this box, he does not know. It lost the custody of the law from that moment, and had no longer that force or weight which the law gives to it from the fact that it is kept according to law.

When they came to open it, the magistrate in whose custody it should have been kept, became very much alarmed. He came to be impressed with the idea that something was wrong about the box. He thought at first the sealing-wax was so fresh upon it that it could not have possibly been placed upon it in October; and he went down into his cellar, and compared it with the sealing-wax upon the others; but found them also fresh, and he became satisfied there was nothing in that suspicion. But he testifies that he could not sleep for two nights, he was so impressed with the idea that the box had been tampered with. He could not divest his mind of the impression that the box had been changed or tampered with.

While down in the cellar, looking into these matters, the alderman, in whose office the box had been left for the two days, came down there, and wanted to know what he was about. He told him of the uneasiness he had felt in consequence of this suspicion of his. Alderman Remick, however, told him that there was no occasion for him to indulge in any fears or suspicions about the matter. His testimony upon this point will be found upon page 10 of the report, and is this:

"I believe I told him that I was unnerved. I had not slept for two nights, and I was fairly trembling then, which was shown by the fluid lamp which I held in my hand.

"*Question.* Did Alderman Remick make any reply in the presence of Mr. Verree? If so, state what it was. Give, as nearly as you can, his own words.

"[Question objected to.]

"*Answer.* I believe he laughed at me, and said I was a damned fool; that is as near as I can recollect."

When the box came to be opened the committee had the benefit of the tally list, or exact copies of it. It was claimed that when it was opened there was found to be a gain for Kline of thirty votes in this box. It was found, on comparing the votes with the tally list, that this state of facts existed. You will recollect that the process of counting is, to count ten ballots for one man, twist them together, and make a mark on the tally list; then they count ten more, twist them together, make another mark, and so on, making separate marks for the odd votes. The bundles of ten are placed back in the box, and it is sealed up. When the box was opened it was found that the bundles of ten corresponded exactly with the tally list. The odd tickets also corresponded with the marks on the tally list indicating odd tickets. So far all was right.

But when they came to open the bundles of ten for the sitting member, they found inside the bundles, ballots with stickers on them—stickers having the name of the contestant upon them. One bundle would have one, another two, and another three of these ballots with stickers. It was claimed by the contestant that these ballots with stickers were evidently intended for him, and that they had been overlooked in the count; that by mistake, the whole of these tickets had been counted for the sitting member; and that in this way mistakes of thirty votes were made.

This ballot-box, at the request of the sitting member, after the ballots had been returned to it, in bundles, precisely as found when opened at the magistrate's office, was sealed up again, and sent here to the Clerk of the House. It was produced and opened in the presence of the Committee of Elections; and when they came to open the bundles of ten, they were counted and compared with the tally list. Those tickets with stickers upon them were printed upon white paper; the stickers were upon yellow paper, pasted upon the white ballots, forming a contrast that could not be mistaken; discoverable as far as you could see the ballot itself, so that nobody but a blind man could have overlooked them, because none other could fail to see them. It could not, therefore, be that it was done by mistake. It must have been done fraudulently, if done at all.

But when these ballots came to be opened in the committee-room there appeared another peculiarity, which struck the committee with great force. It was this: these ballots had been folded at some time, and the crease or fold was perfectly apparent upon the ballot itself. But there was no such corresponding fold upon the sticker on the inside. So that the sticker must have been put on the ballot right across the fold, and must have therefore been put on at sometime after the ballot had been folded. I do not know whether the law requires the ballot to be folded, but the practice seems to have been always to fold them.

Mr. STEVENS. The law requires it.

Mr. DAWES. My friend from Pennsylvania says the law requires them to be folded. If that be the fact, the committee were afraid—I will not use a stronger expression—that the ballots had been folded when they were deposited, and the sticker put on afterwards, right across the fold.

There was another peculiarity in reference to these ballots, which was not quite so apparent or uniform, but still easily discoverable upon many of the ballots. These bundles of ten were, as I have said, twisted up after they had been counted. Upon most of the ballots the twist was marked upon the ballot so as to be perfectly discoverable, but you cannot find the mark of the twist upon the sticker on the inside.

Then, touching this box, the committee find this: that, kept like all the other boxes where it was possible for it to be approached, although in the custody of the law, whether it be proper to inquire into their safe keeping because in the custody of the law, in the absence of testimony, we have not undertaken to decide; yet this box lost the custody of the law before the ballots were counted in the magistrate's office. It was placed in the custody of an irresponsible person, where it was altogether unprotected, and the alderman, whose business it was to keep it according to law, had his suspicions, to say the least of it, awakened about the condition of the box. He could not be made to believe that it was as originally delivered to him, while the alderman, in whose possession the box had remained for the two days while it was out of the custody of the law, was singularly cool in giving the magistrate the comforting assurance that it was all right. But, above all, the appearance of the ballots as they were opened in

the committee-room had the same effect upon the committee that was produced upon them in reference to the other boxes; and that was, it shook their entire confidence in the integrity of the box at the time it was opened. They could not say that votes counted under such circumstances should control the sworn returns. The whole number of votes of the precinct was but some two hundred and fifty, and it is too much to suppose that a mistake of thirty votes could have been made in counting these votes under the circumstances I have mentioned.

In relation to the third box, it was found, upon examination, not to have been closed at all. I do not mean to say that it had never been closed. Upon that point there was no testimony before the committee. But it was found that the cover or slide was capable of being opened three eighths of an inch—enough to put in single tickets; and the alderman himself could not say whether bundles of ten could not be put in. When the box came to be opened, there were visible at this aperture loose tickets standing some for the sitting member, some for the contestant, and some for other persons. One of the judges of the election testified that all scratched or broken tickets were put in loose in that way, and another testified that all were twisted together in bundles of ten, and that he did it himself. The committee did not find it necessary to reconcile that testimony, because they believed that one of two things must be true, that the box had never been sealed according to law, or that it had been tampered with afterwards; for when produced, it was not in the condition that the law contemplated that it should be in. For that reason the committee could not control the sworn return in that division by the result of the ballot-box when it was opened.

That, Mr. Speaker, disposes of this case. Those are the conclusions to which the committee have come. From the count of these three division boxes the contestant has failed to make out a majority for himself. The committee, therefore, for those reasons, were unanimously of the opinion that the contestant was not, and that the sitting member was, entitled to a seat upon this floor.

Mr. JOHNSON. Mr. Speaker, I propose to occupy a few moments of the time of the House in the examination of the report submitted by the Committee of Elections in this contested-election case of Kline against Verree. Yesterday for the first time I looked at that report and the testimony in the case which has been printed, previously not having had any knowledge of the matter involved. I have arrived at the conclusion that the report of the committee not only does injustice to the contestant, but more than that, it does lasting injustice to the voters of the third congressional district of the State of Pennsylvania. If the doctrine is to be recognized as of force in this House, that it has a right to go behind the law of a great State, and to set up its own judgment, and to decide whether a man is properly, and not whether he is legally, elected under the laws of his own State, the injury is greater than that inflicted upon the congressional district in question. Such a doctrine will strike at the very root of our elective system. It will strike at our very system of Government.

As I have stated, my attention was called to this report yesterday afternoon. I asked the contestant who sits near me, what was the report of the committee, and his response was significant: "They have counted me in; then they have resolved me out." Yes, sir, this committee has shown, not by proclamation of the Governor, not by certificate of a board of election, not by legal conclusions, and not by reports of any persons who have any official control of these election returns, but by the ballots themselves, counted in the boxes, that John Kline stands here this day with a decided majority of eight votes in the third congressional district of Pennsylvania. That is a small majority, but we must recollect that the sitting member came here with a majority of only twenty-two. Eight majority is small, but it is as important for the purposes of this investigation as if the majority were eight thousand. Those eight votes, sir, entitle him as much to a seat upon this floor as any member in this House.

This House is bound to consider this case with reference to the laws of the State of Pennsylvania. If that be the judgment of the committee, if we are to look to the law of Pennsylvania, and not to the statements of the committee, who set themselves up as law-makers, then there can be no doubt of the legal election of John Kline, the contestant.

The report of the committee is burdened with statements of the notices of the parties. That may be necessary for one purpose, and that is that any omission which may have taken place shall not be established as a precedent. But this House is not going to look back into the notices, to see whether they are sufficient or insufficient, for the purpose of getting around the result obtained from the ballot-boxes. The law of Pennsylvania in regard to elections is, that the man who received the most legal votes is the party elected. The acts of Assembly directing how elections shall be conducted guard the ballot-boxes and the expression of the will of the people from any improper handling or interference. It is provided that any party feeling aggrieved may come in and examine where the error is. The courts of the State have formally decided that in contested-election cases their simple inquiry will be to find who has received the most legal votes. Judge King has laid down the law in the following language:

"While this court would not hesitate in setting aside an election, where they are convinced that in conducting it the laws of the Commonwealth have been infracted, yet *they certainly will not exercise ingenuity to find causes for such an adjudication.* On the contrary, every fair presumption ought to be made in favor of popular elections, and the leaning ever should be to sustain them, where this can be done consistent with a faithful and independent maintenance of their purity."

I commend the attention of the House to the words I have emphasized. When I come to refer to this report I think that I can show there has been more ingenuity on the part of the committee to get around the count of the ballots than would even become the members of this House. I cannot believe that this report is the work of the chairman of the Committee of Elections; for it looks to me very much like the legal argument presented by the able counsel of the incumbent. But that is none of my business. I must deal with the report as I find it.

The question, I take it, which we are to decide this day is whether, under the laws of Pennsylvania, John Kline or John P. Verree is entitled to represent the third congressional district of Pennsylvania in this Congress. The election was held on the second Tuesday of October, 1860, and the returns were made up from precincts and subdivisions of wards; and these returns, under the law of Pennsylvania, were deposited in the office of the nearest magistrate or alderman. The act of Assembly does not give the board of return judges the right to select the alderman with whom they shall deposit these boxes, but they are to deposit them with the nearest one. So with this case, the boxes were deposited with the nearest alderman. On the following Friday the return judges met, cast up the returns as they were sent, and certificates were made out. One was deposited at the prothonotary's office, and another was sent to the Governor of the Commonwealth. That certificate merely shows that the return judges having met and counted the votes declared that John P. Verree had received a majority, and was therefore elected as member of Congress from the third congressional district. Their certificate was filed with the secretary of the Commonwealth, and upon it the Governor afterwards issued a proclamation declaring that Mr. Verree had been so elected. The proclamation merely stated the conclusion at which these officers had arrived, and nothing more. Probably the Governor who issued the proclamation had never seen the certificate. The secretary of the Commonwealth had added up the figures and stated the result to the Governor, upon which result, in each case, the Governor issued his proclamation.

As a matter of right, as to who should have the seat in the first instance, the Governor's proclamation made out a *prima facie* case in favor of Mr. Verree, and that, probably, is all to which this certificate or the Governor's proclamation could be applicable; but the Committee of Elections have gone beyond the forms; they have gone beyond the Governor's proclamation, and behind it; they have gone to the ballots themselves. The ballot-boxes show really what was the fact; and I take it that we are to be controlled by the result of the count of the ballots in those ballot-boxes. That is the ground upon which we are to make our decision. As the case is now submitted to us by the committee for our consideration, it is as to the count of the ballots in the third division of the eleventh ward, and the third division of the sixteenth ward. Why the committee should have thought in necessary to go to the pains of rejecting the first division of the nineteenth ward I cannot conceive. Throw it out, and John Kline, upon their own showing, was still elected; but it is necessary that either the third division of the eleventh ward, or the third division of the sixteenth ward, or both of them, should be thrown out of the calculation in order to prevent Mr. Kline from having a majority of the votes.

Now, sir, I do not pretend to say that there was any willful fraud perpetrated by the board of election at any stage of this case. I do not charge that there was any willful disposition manifested to make a false return. On the contrary, I think I can satisfy the House that it is a simple mistake—a mistake which may very easily occur in the counting of votes. In the third division of the eleventh ward the official return—that is, the return as it was made by the judge, the two inspectors, and the two clerks—on the night of the election, was that Mr. Verree received 151 votes, and John Kline 141 votes. A recount, when the boxes were afterwards opened and examined in the presence of the parties and their counsel, showed that, instead of Mr. Kline having 141 votes, it was Mr. Verree who had 141 votes; and instead of Mr. Verree having 151 votes, Mr. Kline had 148. The aggregate number of votes found in the box falls two short of the number returned. I can readily imagine the means that might be resorted to by parties who desired to corrupt the ballot-box, but I doubt whether a corrupted ballot-box would show upon its face such figures as these—a falling short of only two votes, and a transposition of a number from the name of Verree to that of Kline.

Now, sir, how were these mistakes made? Why, it seems that there were some twenty different candidates on the ticket to be voted for by the parties who voted for member of Congress. There were three parties in the field, so that there were sixty candidates to be voted for. This required large tally lists, as they are called by the committee. What is the course pursued in counting and tallying the votes? An inspector of election takes up a bunch of tickets, which have all been taken from the box, and he commences assorting them; he throws the Verree tickets in one pile before him, and the Kline tickets in another, the scratched tickets, those with stickers on them, he throws into the center of the table for the time being. When he gets ten of one ticket, he hands them over to the judge of elections, who calls out "ten for Kline" or "ten for Verree," and the clerk tallies, as shown in the report. Now, it would be a very easy matter, a very natural error, for the inspector to hand over a bunch of ten tickets and call them Verree tickets when they were Kline tickets, and *vice versa*. He might do it accidentally, and the judge of election who receives them and deposits them in the box and who gives them this twist that is spoken of, may misapprehend or misreport, or the clerk who tallies may put the X opposite the name of the wrong party, as they stand together on the list. This might easily be done; and since there seems to be an exact transposition of ten votes here, why should we labor to show that it was not in consequence of an error or mistake of this kind?

Again: when we look to the third division of the sixteenth ward, we find exactly the same state of things. The official return made on the night of the election, was for Verree 182 votes, and for Kline 166 votes. When the ballot-boxes were reopened, and a recount took place, it was found that Kline had 180 votes and Verree 166 votes. Here is a falling off in the number of votes returned of two votes, showing that there was an error. The mistake doubtless occurred in this way: the report of the committee shows that some of the twisted bunches of votes, which should have contained ten votes each, were found to contain but nine. This was the way in which the two votes were returned more than were found in the box. The simple transposition of these figures gives Mr. Kline a gain of thirty votes in the third division of the sixteenth ward, and a gain of seventeen votes in the third division of the eleventh ward, making in the two divisions a gain of forty-seven votes. In the fourth division of the sixteenth

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. THURSDAY, MARCH 6, 1862. NEW SERIES.....No. 67.

ward the gain was on the other side. This was in the same ward.

If persons were tampering with the ballot-boxes, if the officers, if the aldermen, or any other persons under the sun were tampering with these ballot-boxes, how is it that they have tampered with them in favor of Mr. Verree? Is it to be supposed that the whole city of Philadelphia was let loose upon these ballot-boxes? Is it to be supposed that the friends of Mr. Verree and the friends of Mr. Kline alike had access to these ballot-boxes from time to time to tamper with them as they pleased? That, I think, would be a very violent presumption. It is one that I think the House would not like to rest its judgment upon. It is one, I am sure, that no court of justice in the country would arrest a gentleman upon. And yet in that division Mr. Verree gains eighteen votes. But strange to say there was a gain in the number of votes found in the box in that division over the number returned on the night of the election of twenty-six votes, whereas where Mr. Kline gains by a transposition of votes, there is a falling off of two votes in each case. But giving Mr. Verree the benefit of that gain of eighteen votes, when we look over the returns from the whole district, we find that in one division Mr. Verree gains two votes; in another Mr. Kline one; in another division Mr. Verree gains one, and so on alternately through the wards.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate disagreed to the amendment of the House, to the joint resolution (S. No. 22) providing for the payment of the awards of the commission to investigate the military claims in the department of the West, asked a conference on the disagreeing votes of the two Houses, and had appointed Messrs. SHERMAN, CLARK, and LATHAM, managers at said conference on the part of the Senate.

CONTESTED-ELECTION CASE—AGAIN.

Mr. JOHNSON. In the case of Butler *vs.* Lehman, decided at the present session, the gains shown were large gains—some two hundred votes; and I am free to say that where there have been opportunities to perpetrate frauds upon the ballot-boxes, and upon a reëxamination and recount, the gains are large and altogether upon one side, and that upon the side of the parties who have had the custody of the boxes, it is a suspicious circumstance to say the least of it, but that is not this case. Here the gains and losses are trifling and alternate. The large gains are made by a single transposition of the figures, as I have stated.

Now, sir, the committee seek to overthrow these ballots by showing that their custody has not been such as to entitle them to that respect which the Legislature of Pennsylvania intended to be given to them when they provided that they should be deposited with the aldermen and justices of the peace, and kept sealed up by them in their offices for further purposes of investigation and counting. They say they have no doubt that the boxes opened and counted were the identical boxes deposited with the aldermen, but they have doubts whether the custody of the boxes was such as completely to preclude the possibility of their being tampered with. And, strange to say, they have thrown doubt upon the ballot-boxes because the contestant has not been able to prove a negative, to wit—that from the time the boxes were left in the offices of the aldermen up to the time when they were opened and examined they had not been tampered with. They say:

"Upon the question of *security*, whether these ballot-boxes, when opened and recounted before the magistrates, were in the same condition as when sealed up by the election officers and delivered to the aldermen on the night of the election, there was much conflicting testimony and much doubt."

Now, sir, the law of Pennsylvania is that every intendment must be made in favor of the faithful discharge by every officer of his official duty, and it is not a mere matter of presumption. We have no right to say that we fear he has not done his duty, and therefore we will disregard his acts. The law of Pennsylvania gives to every man intrusted with official duties the presumption of law that he discharges his duty faithfully; but here a presumption is set up against the aldermen—not against any one alderman in particular, but against the whole community—that because, forsooth, there is a majority for John Kline of eight votes out of some eighteen thousand cast at the election, somebody must have tampered with the ballot-boxes, that some fraud must have been perpetrated—a presumption that the parties have been guilty of a crime which by the act of the Legislature of Pennsylvania sends them to the penitentiary for not less than a year.

I propose to follow the report, and to comment upon it as I go along:

"*Third Division Eleventh Ward.*—The box of this division was received by Alderman Williams on the night of the election, and placed by him in the vestibule of his office, over the door, upon a shelf with the other boxes, so high up as to require the use of a chair to reach it."

Now, sir, the act of Assembly does not state how the aldermen are to keep the boxes. They are to be deposited in the alderman's office, and there kept. That is the custody assigned to them. The alderman was the legal custodian of these boxes, and I think he has exhibited considerable care with respect to them. There were some twenty-six of them. He placed them over his door, high up, so high that the witness testifies he had to get a chair to reach up and get them. They were all together.

"There he thinks it remained undisturbed till the 8th of January, the day it was taken to the magistrate's office to be opened, a period of three months."

The committee say he "thinks" it remained there undisturbed. I have read the testimony, and I find that the alderman swears positively in respect to it. There is no "thinks" about it at all. He swears positively that he firmly believes it was there.

"He took it himself, with other boxes, on that day to the office of the magistrate for that purpose, having the assistance of one Samuel L. McKinney, the constable of the ward, in carrying and bringing back the boxes. The box was not opened on that day as was expected, and was taken again to the office in like manner and for a like purpose on the next day. Yet, although Alderman Williams believed the box when opened to be in the same condition as when it was received by him, the office where it was deposited was a place of frequent resort."

Did not the Legislature of Pennsylvania know that the offices of aldermen and justices of the peace were places of frequent resort when it provided that ballot-boxes should be deposited there? If they had been placed elsewhere, in a bank vault, for instance, we would have had the committee raising their hands in holy horror, and saying that they were not in the place appointed by the law for them to be kept in.

But especially, say the committee, this McKinney was in the habit of going there; and then they refer to McKinney's testimony:

"McKinney testified that on the day before the box was taken the first time from the office to the magistrate to be opened, in the absence of Alderman Williams, a person, a stranger to him, came to the office, representing to him that he had come after this box to take to the magistrate; that, believing his story, he helped him to get it from the vestibule and take it away; that it was carried away in a basket, covered up with a cloth, and kept from ten till three o'clock in the afternoon, when it was returned by the same man who took it; and that Alderman Williams did not return to his office till seven o'clock in the evening, and then not entirely sober."

The report tells us further that

"The character of McKinney was attacked, and it appeared that he had been convicted of 'extortion,' or obtaining money by fraud, and had been pardoned by the Governor and since elected constable of the ward. Alderman Williams testified that he would not believe him under oath. If his character is as bad as claimed by the contestant, the committee believe him to be a very unsafe person to keep the company of ballot-boxes for three months, or to be intrusted with them, as he was by Alderman Williams, to carry to the magistrate's office, and would be a very suitable person to do or connive at the very thing he testifies was done."

Now, here are the sage conclusions to which this committee has arrived. So far as the custody of the box is concerned, when McKinney helped Alderman Williams to carry it to the magistrate's office, Alderman Williams swears that he walked alongside of him and saw the boxes all the time. If the committee refer to the fact that McKinney was the custodian of the box, so far as his being present at the office and delivering it to the stranger who came there, and that therefore he was an improper custodian, I have to say this: the committee does not reject these returns on the ground that it is presumed that that stranger, whoever he may be, who carried away the box on that day, had suffered any fraud to be perpetrated on the box while in his custody. Not at all. Why? Because witnesses came forward to the stand and swore that this man McKinney was a convicted criminal, and that his character for truth and veracity was so bad that they would not believe him under oath. Some eight or ten witnesses came forward and proved that he was that kind of man. But, say the committee, if he were that kind of man, it was certainly very improper for him to have the custody of these boxes. But do the committee remember that this man McKinney is the only witness who proves that he had the custody of the box? They take his testimony to establish the fact that he had the custody of the box, but they reject it for other purposes. If he were so bad a man that he was unworthy to have custody of the box, how is it that the committee take his word for the fact that he had its custody? Nay, more: how can they do it in face of the fact that Alderman Williams swears that McKinney's testimony as to his (Williams) coming home that night not entirely sober is a falsehood? Alderman Clark, who has been alderman in the city of Philadelphia for thirty years, swears that he would not believe McKinney under oath—that his character for lying is notorious.

Mr. Ashe, another ex-alderman, who has occupied Mr. Williams's office as a conveyancer for two years and more, swears he was there on the day and at the hour fixed for McKinney for the coming of the stranger and his taking away the box, and that McKinney was not there at all. Yes, sir; not only is this witness broken down, so that the committee dare not hold him up before the House as worthy of belief in regard to a stranger having possession of the box on that day, but it is proved by a gentleman who has held the position of alderman and notary public, and who occupies part of Alderman Williams's office, that on the 7th of January, 1861, the day fixed by this man, McKinney, Alderman Williams being absent, he was there all day, and McKinney was not there. Then Alderman Williams says that whenever he went out of the office and did not leave Mr. Ashe there, he locked up the office. The office is a part of his dwelling in the city of Philadelphia, and it is not to be presumed that so notorious a man as McKinney would have had access to the office and dwelling of an alderman of the city of Philadelphia, or that an alderman would leave his office open, so that parties of that character might find access to it when they pleased. I say the whole story is improbable. The committee has not stated these facts as they appear in the testimony; and therein, I say, they have done injustice to the contestant here.

It may be of little consequence, perhaps, to the people of the district, as to which of these two claimants shall represent them here, for the majority for either was but small; but it is a matter of consequence when we consider that the institutions of the country rest on the ballot-box. In these days, when we hear so much about fighting for the Union and the Constitution, let me say to gentlemen, that whatever enthusiasm and ardor have been shown for the preservation of the Government and the Constitution, if the time should come when the Congress of the United States and the courts of justice will disregard the ballot-box, they will find that every manly voter will be a soldier in the field to defend that right. They may yield all other rights. It is possible that, under duress and stress of circumstances, they may be driven to the wall. They may yield every other right, but that one they never will yield.

"If," say the committee, speaking of McKinney:

"His character is as bad as claimed by the contestant, the committee believe him a very unsafe person to keep the company of ballot-boxes for three months, or to be intrusted with them, as he was by Alderman Williams, to carry to the magistrate's office, and would be a very suitable person to do or connive at the very thing he testifies was done."

Who proves the transaction in question but the very man himself? Who proves that this box was in his custody and keeping for three months but this man McKinney himself? And he is contradicted by other witnesses, contradicted by the alderman, and contradicted by all the circumstances of the case. Nay, more; it is contradicted by his own statement on cross-examination when on the stand as a witness—where he was crying, driveling, wandering, refusing to answer, saying "if I must, I must," insinuating that his testimony would go to damage the character of somebody. Any lawyer, any man who has practiced in the courts for six months, will see the character of the testimony of this man. He needs no other evidence to show that he has been in the penitentiary. He will see that his testimony is entirely unreliable.

Then as to the third division of the sixteenth ward, the report says:

"This box was received on the night of election by Alderman Mecke, of the sixteenth ward, and by him kept under the desk in his office till the 6th of December following, when it was removed by him with the boxes to his new house, and placed with them in a boarded cellar till the examination before the magistrate of the 25th of January following. This alderman was one of the magistrates who took the testimony for the contestant."

Why is that point made? Why do the committee parade that in their report to the House? Is there a jot or tittle of this testimony which shows that he is not a high, honorable man? Why, then, have the committee seen proper to take the pains to tell us that he is one of the magistrates before whom the testimony of the contestant was taken? The presumption is, that the reason why he was selected by the contestant was that he was the nearest and most convenient magistrate to the witnesses who were to be examined. The fact that he was selected as the depositary of the ballot-boxes, shows that he was nearest to the place where the polls were opened. The committee go on to say:

"And when his own deposition was taken, another magistrate was substituted in his place. The box was brought by him to the magistrate's office, two days before it was opened, and left there by Alderman Mecke in an unfastened closet, in charge of no one."

In an unfastened closet. In another instance the committee find fault because the box was placed in an alderman's office upon a shelf so high that it could not be reached by any one without the use of a step-ladder or a chair or something of that sort. In this case it was put into a closet, but the closet was not locked. Well, suppose it had been locked: would not the alderman, in whose custody it was left, have been likely to have the key in his possession and have access to the closet? Why then was this insinuation leveled at him?

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, their Secretary, notifying the House that the Senate had passed bills and a joint resolution of the following titles; in which he was directed to ask the concurrence of the House:

An act (No. 150) for a joint commission for the preservation of the Atlantic fisheries;

An act (No. 193) to provide for the safe-keeping and maintenance of United States prisoners; and

A joint resolution (No. 57) providing for the custody of the letter and gifts from the King of Siam.

PENNSYLVANIA CONTESTED ELECTION—AGAIN.

Mr. JOHNSON. Then a conversation took place in which Alderman Mecke expressed doubts as to whether this box might not have been tampered with. I have examined the testimony upon this point; I have not time to read it here; but I find this to be fact, that this word "tampering" was put into his mouth by the lawyer employed by the incumbent, and that it was not a word selected by him. I find that he was charged with being incorrect as to his statement in regard to the seals placed upon this box—in regard to the condition of the sealing-wax used. And it would seem that, having been so charged upon one occasion, and after having brought forward from twenty or thirty boxes stored away in his cellar the wrong box, as he supposed he had identified it, he became somewhat confused. He was told that he was mistaken, and he thought the box had been tampered with. He became somewhat excited, or unnerved, to use his own language; but here is the testimony upon this point:

"I believe I told him that I was unnerved. I had not slept for two nights, and I was fairly trembling then, which was shown by the fluid lamp which I held in my hand.

"*Question.* Did Alderman Remick make any reply in the presence of Mr. Verree? If so, state what it was. Give, as nearly as you can, his own words.

"[Question objected to.]

"*Answer.* I believe he laughed at me, and said I was a damned fool; that is as near as I can recollect."

Now, sir, considerable has been said about this conversation; and let it be remembered, the committee suspect—they find ground of suspicion in the conduct of one of the aldermen, because he seems unnerved and confused when he was charged with not having kept the box safely—that circumstance is considered by the committee cause of suspicion against him, while the other alderman who stood out stoutly that nothing was wrong, that the box had not been tampered with, is considered as of having also given cause for suspicion from such conduct. I think it would have been extremely difficult to have pursued such a course as would have met the approbation of the committee.

Now, sir, let me say a word about the seals that were placed upon these boxes. The testimony shows the practice which is followed in Pennsylvania. The boxes are prepared by the proper officers and are kept from year to year. Some of them become quite old. At each of the two or three elections every year, the same boxes are used, the ballots are counted, and returned to the box. The box is then closed, tape is wrapped round it, and sealing-wax is put upon it in different places. At the next election the tape is stripped off, leaving of course a great part of the sealing-wax remaining, and the box is opened. But great stress is laid by the committee upon the fact that the sealing-wax looked fresh upon this box, and therefore it is inferred that it must have been tampered with by somebody. The tape was round every box as it should be, and the custodian, under the laws of Pennsylvania, of each one examined; and every man of them swore that they remained just as they were when they were deposited with them. Then why is this insinuation of the committee made? Why do they present these things to the House in the face of the sworn testimony of men who are unimpeached and unimpeachable.

Now, sir, I desire in the short time left me to refer to one or two things more—to one or two other "suspicious circumstances" which have been discovered by the Committee of Elections. They find that some of the stickers on the tickets were placed over the fold in the ticket. Mr. Speaker, the law of Pennsylvania requires, as the chairman of the Committee of Elections did not seem to know until informed by my colleague [Mr. STEVENS] this morning, that all tickets shall be folded with the names of the candidates on the inside, and the office for which the tickets are intended on the outside. The usual practice is for these tickets to be printed and folded before the day of the election, and each voter, as he comes to the polls, brings his folded ticket with him; but some candidate who is anxious to run ahead of his ticket stands, or his friends stand, near the polls, and as voters approach with the opposite ticket in their hands, solicit them to vote for this particular candidate. They offer stickers, as they are called, which are nothing more than strips of paper, with the name of the candidate printed on one side and gum arabic on the other side, like a postage stamp. A voter, with the ticket with which Mr. Verree is running in his hand, approaches, and he is requested to vote for Mr. Kline. He takes the sticker and pastes it over the name of Mr. Verree and votes the remainder of the opposite ticket. And so on the other side. And as the law requires the ticket to be folded with the name of the office voted for on the outside, as a matter of course the sticker pasted on the inside must be right across the fold. It is the only place for it; and this accounts for the very suspicious circumstance which the committee have discovered in the fact that the sticker was placed across the fold of the ballot, and from which they have arrived at the conclusion that the stickers were placed on the ballots after they had been returned to the box.

But the committee have discovered another suspicious circumstance in the appearance of these ballots, in the fact that the stickers did not show the twist, as the ballots themselves did. Now, sir, I have attended elections for a long time. For twenty years I have assisted in conducting them and in counting the votes, and I know how it is done. As I have already remarked, the plan usually pursued is to throw the ballots containing one full party ticket into a pile at one end of the table, those containing the full ticket of the other party in a pile at the other end of the table, and those which have been scratched, or upon which stickers have been placed, are thrown into another pile in the middle of the table. They count them out in bundles of ten, and sometimes twist them up and sometimes they do not, so that it may happen that the stickers did not get twisted.

Then, again, it is said that these stickers were yellow, and that nobody but a blind man could have failed to see them.

Now, I suppose that is true, provided the man looked at the sticker. If he did not look at the sticker he might as well be blind, for he would not see it. I very often have my attention called to a friend of mine in the galleries, but after looking around in all directions, although my friend's face is as familiar to me as that of any man I know, I am unable to find him. The eye cannot take in at once all the people who are in these vast galleries. So it is in counting these votes; attention is attracted by many things. There is the excitement of the election out of doors, and a disposition on the part of all the election officers to get through with the count in order that they may learn the result in other wards. An officer takes up a ticket and cries out "Foster, full ticket," or "Curtin, full ticket." There may be a sticker upon one of these, but in the hurry of the count his eyes do not catch the sticker. Is it to be wondered at, therefore, in a count of three or four hundred votes, some one or two of those stickers should get into the ballot-box unobserved by any of the officers? And because they have got there is there any good ground upon upon which to found a presumption that the boxes themselves are fraudulent?

Again: it is alleged that there was a crack in one of these boxes, from an eighth to three eighths of an inch in width, through which tickets might have been inserted into the box. The committee have not told us what sort of a box it was, but I presume that it was the same kind of a box that is used in all parts of the State. The top of the box I presume was covered with a slide, and there always must be a crack or aperture at the place where the slide goes in. It was admitted on all hands that this box was tied around with red tape and sealed with sealing-wax at half a dozen different places. But what does the allegation amount to? We stand here to answer arguments and facts, and not to answer inferences. Are we to pile up inference upon inference, and when we find that they are not sufficient, to get others, and all for the purpose of overriding the presumption of the law.

The committee in this case have undertaken to accumulate all the inferences conceivable which will operate against the legality of the boxes. I regret that I have not had time to examine this case more fully. I did not intend at first to take any part in the discussion. The first time I saw the contestant was when, at his suggestion, I presented his petition of contest to the House. I have known nothing of his case since then until yesterday, when I inquired of him what the report of the committee in his case was, and he replied, "they have counted me in, but they have resolved me out." I say that the committee have no right to draw the inferences they have against the honesty and integrity of the officers of the election. They have, I think, acted contrary to the law of Pennsylvania. That law authorizes the presumption that every officer has discharged his duty until the contrary has been shown.

Mr. WRIGHT. Mr. Speaker, the House will have exercised a very high prerogative in deciding this case, if it reject the balance cast, and accepts the returns of an election board. If a rule is to be adopted by the House of Representatives of the United States giving a person a seat who is not entitled to it, merely because he presents the certificate, such rule will in time to come work

unfavorably to gentlemen whose seats may be contested. The facts, as presented is this case, show that Mr. Verree, according to the returns, has twenty-two majority, while Mr. Kline, according to the actual count of the ballots in the boxes, has a majority of eight votes. Now, by what authority that majority of eight votes, as shown by actual count, is not to be credited to Mr. Kline, I want some better reason for than I have yet had, either in the report of the Committee of Elections or the debates in this House. Every State has some peculiar law in regard to the mode and manner of conducting its elections. We have gone as far in Pennsylvania to prevent frauds in the ballot-box as the people of any other State. The law of Pennsylvania requires that after the election is closed the ballots shall be sealed up in boxes, with certificates containing the result and the oaths of the officers inclosed, and that the boxes shall be placed in the custody of the nearest magistrate. For what purpose? For the purpose of settling all difficulties that may afterwards arise by a reference to the ballots themselves, which are, of course, the best testimony in the matter. I say that the courts of Pennsylvania have uniformly ruled that it is the count of the ballots in the boxes which must govern in contested elections, and not the certificates which may have been given by boards of election. Although the House of Representatives is the judge of the qualifications and returns of its own members, yet it occurs to me that we ought to be controlled in applying State law to the case by the construction put upon that law by the State authorities from whence the case comes.

Mr. DAWES. I hope the gentleman will tell us to what decision he alludes.

Mr. WRIGHT. The gentleman will find it in Parson's Equity Cases. There have been numerous decisions made on this subject, and the spirit of all the decisions, in my opinion, has been that the ballots in the ballot-boxes are to decide in all cases of contested elections.

Mr. DAWES. How did the gentleman consider the law in the other case of Butler vs. Lehman?

Mr WRIGHT. I did not say a word in that case.

Mr. DAWES. But the gentleman voted. I would like to know upon what principle he founded his vote.

Mr. WRIGHT. Before I get through I intend to say something about that case to which the gentleman has referred. As I have said, I want the decisions of the courts of the State to govern in this case and in every other case that may come before the House of Representatives. I want the chairman of the committee to understand that I am not impugning his motives or his acts. That is no part of my purpose. I wish to show him that when the ballots in these boxes were counted Mr. Kline was found to be elected.

Now, to show in what a loose manner elections are frequently conducted, and particularly in this district, I will state a fact. I find that in twelve boxes belonging to the nineteen divisions of this congressional district which were opened, there was a discrepancy between the ballots contained in them and the certificates of the return judges. This discrepancy resulted from no intention to defraud, but it is the strongest possible evidence, if I may be permitted to use the expression, of the negligence that existed in the mode and manner of conducting the election. The testimony shows that when the ballots were counted in the twelve boxes which were opened that not one of the boxes agreed with the certificate of the return judges. Does the gentleman intend to say that this difference was caused by fraud? He cannot prove that, for the difference was not all in favor of one or the other of these contesting candidates. The difference affected both of them, sometimes favorably and sometimes unfavorably.

Now, Mr. Speaker, there is another fact which I desire to lay before this House. When these return judges met, and cast up their returns and made out their certificates, five of the judges refused to sign the certificate of the election of Mr. Verree. This board of sworn officers met to count up these votes, and yet five of them refused to give their sanction to the certificate which had been made out. I have no doubt that those five were as well satisfied that John Kline was the lawfully elected Representative to this House from the third congressional district of Pennsylvania as they could be of anything.

Mr. DAWES. Will the gentleman refer us to the page of the testimony where that fact is stated?

Mr. WRIGHT. Yes, sir. It is on page 119. Why, sir, it is only in keeping with another part of this testimony, where one of the witnesses brought before the magistrate by the incumbent says: "I know that Mr. Kline was elected." "How do you know it?" "Because that was the sentiment, opinion, and feeling within the several divisions." There is a fact with regard to this case.

Mr. DAWES. I do not see here any evidence of the refusal of anybody to sign the return.

Mr. WRIGHT. Their names are not there.

Mr. DAWES. Oh!

Mr. WRIGHT. Whether they refused or not, it was their duty to sign the return, and they did not do it.

Mr. DAWES. I understood the gentleman to say that they refused to sign the return, and he gave the reason for their refusal to the House.

Mr. WRIGHT. No, sir.

Mr. DAWES. The gentleman took the liberty to give the reason for their refusal to the House.

Mr. WRIGHT. The gentleman misunderstood me altogether. I say they did not sign. I may have used the words that they refused to sign, but I mean that they did not sign.

Mr. DAWES. Then what did the gentleman mean when he said that they did not sign the return because they knew it was not correct? What did he mean by saying that?

Mr. WRIGHT. Because I supposed they knew it.

Mr. DAWES. I supposed the gentleman to say they refused to sign.

ENROLLED BILL SIGNED.

Mr. GRANGER, from the Committee on Enrolled bills, reported that the committee had examined and found truly enrolled a bill (H. R. No. 294) requiring an oath of allegiance and to support the Constitution of the United States, to be administered to masters of American vessels clearing for foreign or other ports during the present rebellion; when the Speaker signed the same.

PENNSYLVANIA CONTESTED ELECTION—AGAIN.

Mr. WRIGHT. If the seat of the honorable chairman of the Committee of Elections were contested under a state of facts of this kind, I suggest whether he would not cling with tenacity to the ballots that were inside of the boxes, and which were his only evidence of election. I am sure that no gentleman would adhere with more tenacity to a position of that kind than that gentleman, from the knowledge I have of him. And so it would be with any gentleman occupying a seat upon this floor.

The aldermen who had these boxes that were opened in charge, all of them swear that they are the same boxes which were left with them, and were in the same condition in which they came into their hands. They identified them in every particular. Now what authority has this House under its constitutional right to judge of the qualifications of its members, to say we will resort to an hypothesis by which the majority contained in the boxes themselves shall be set aside?

There are three ward divisions that are complained of here in the report of the Committee of Elections. In the third division of the eleventh ward the count shows a decrease of three votes, as compared with the number returned, and Mr. Kline gains seventeen votes. The count in the third division of the sixteenth ward shows a decrease of two votes, and the count in the first division of the nineteenth ward shows a decrease of seven votes. It was found upon the opening of these three boxes, upon which I understand this whole case turns, that there was a loss of twelve votes, as compared with the number returned. It cannot, therefore, be contended by the committee that any votes were added there. That was all regular. But the irregularity consists in this, that the return officers represented upon paper a different statement of facts from what they were warranted in doing by the contents of the boxes.

Why is it provided by the law of Pennsylvania that these ballots shall be preserved? It is in order that in cases of doubt or difficulty the question upon the return may be settled by a recount of the ballots. What is the evidence upon which the judges of an election make their return? The ballot-boxes. From them they make up their certificates, and that evidence, upon which their report is founded, is made subject of inquiry and investigation by the courts, if it be in the case of an officer whose duties are confined within the limits of the State, or by Congress if it becomes necessary to resort there. Now, if we take the evidence of the ballots that were found in these boxes upon a reëxamination, the Committee of Elections will not deny that Mr. Kline is entitled to the seat. If they evade that and resort to the returns, it gives the seat to Mr. Verree. The committee attempt to give reasons why they should dispose of these ballots that were found in the boxes, and take them from Mr. Kline and give them to Mr. Verree. As the evidence in regard to that part of the case is very short, I wish to refer to it. The boxes containing the votes of the third division of the eleventh ward were put in the hands of Alderman Williams. There was a change of thirty-seven votes in the box of that division. I wish to call the attention of the House to the evidence of Alderman Williams.

Mr. KELLEY. Will the gentleman give us the page?

Mr. WRIGHT. I cannot yield to that gentleman for any question; and he knows well the reason.

The evidence of Alderman Williams, as found in the book, is as follows:

"*Question.* Have you in your possession and custody the election box containing the ballots cast for State officers in the third division of the eleventh ward, used at the election held in said division on the second Tuesday of October last; and if so, by whom was it brought to you, when, and where to?"

Now, mark the answer, because here is the evidence that ought to rule the case:

"*Answer.* I have the box containing the ballots cast for State officers in the third division of the eleventh ward, at the election held on the second Tuesday of October last; the box is so labeled. To the best of my recollection, it was brought to me by William T. Kennedy, an election officer or judge of the third division. The box was brought to me on the night of the election on the second Tuesday of October, to my office, No. 226 Callowhill street.

"*Question.* Is that box in the same condition now that it was in when deposited with you on the night of the second Tuesday of October last?

"*Answer.* Yes; I am satisfied it is."

Now, in that box there was a gain to Mr. Kline of seventeen votes. The officer whose duty it was made to keep that box in his custody swears before the committee, and his evidence is so reported to this House, that that box was in the same condition when it left his office as it was when it was brought to it. Tell me then why those seventeen votes are to be transferred to the sitting member? Tell me upon what principle you can take from Mr. Kline the seventeen votes he gained there, when the man who had the custody of the box swears that it was in the same condition when it left him as when it came into his hands, and transfer those votes to another? Does that come within the high constitutional privilege of the House, of determining upon the qualifications, elections, and return of its members? If such a principle is carried out, though it may be honestly done, it will be doing wrong with regard to the construction which Pennsylvania has placed upon her law in such cases. The witness says, "I am satisfied that it is in the same condition that it was in when it was brought to me." How was it brought to him? It was brought to him tied up with tape and sealed with wax and put into his custody, and he swears that when it was presented for the purpose of this examination it was in the same condition as it was when it was brought to him. I cannot vote with the committee to transfer the seventeen votes in that box found to have been cast for Mr. Kline to Mr. Verree because the committee have so reported.

Now, how is it with regard to the next case? The box containing the returns of the third division of the sixteenth ward, and which showed a gain of thirty votes for Mr. Kline, was put into the custody of Alderman Mecke. I call the attention of the House to this evidence of Mr. Mecke:

"*Question.* Please produce the box labeled 'State officers,' and which you say you received from the election officers of the third division.

"*Answer.* Here it is.

"*Question.* Was that box used at the election held on the second Tuesday of October last?

"*Answer.* I presume so.

"*Question.* Is it in the same condition now it was in when you received it?

"*Answer.* It is, sir."

There you have the evidence of the alderman who had the custody of the box containing the votes of the third division of the sixteenth ward, and which upon a recount show a gain for Mr. Kline of thirty votes; and yet these thirty votes are to be taken from him! Tell me, if you please, upon what principle these votes can be taken from him, and this done for the purpose of giving the sitting member a right to a seat upon this floor? I read further from the evidence of Mr. Mecke:

"*Question.* Is it not surrounded with tape, sealed with sealing-wax in various places, the sealing-wax covering the tape; and is not the box perfectly secure?

"*Answer.* It is, sir."

Now, sir, I know of no way by which, in compliance with the statute law of Pennsylvania, these boxes could have been placed anywhere else. It is made the duty of the election board to deposit them with the nearest magistrate to the place where the election is held. These two boxes, it seems, were put into the custody of these two gentlemen —magistrates. Now, with regard to the third, the report says that the ballots which were put into the box in the first division of the nineteenth ward were deposited with Alderman Field. In that Mr. Kline has a gain of seven votes. Now I refer to the evidence of this Mr. Field:

"*Question.* Are you an alderman for the nineteenth ward of this city?

"*Answer.* Yes, sir.

"*Question.* Have you in your custody, as such alderman, the division box of the first division of the nineteenth ward of this city used in the election held in that division on the second Tuesday of October, 1860; and if so, by whom was it brought to you; where to, and when?

"*Answer.* I have the box; I believe it to be it; delivered to me on the night of the election, whether before or after twelve I can't say, by the election officers of the first division of the nineteenth ward, at my office in Fifth street, below Diamond, in the nineteenth ward.

"*Question.* Have you that box here now?

"*Answer.* I believe it to be it. I have the one that was deposited with me here.

"*Question.* Is not that box surrounded with red tape, which red tape is covered with sealing-wax, now unbroken?

"*Answer.* Yes.

"*Question.* Has that box been in your custody ever since the night of the election in October last; and is it now in the same condition it was in when deposited with you?

"*Answer.* The morning after the election, as soon as I opened my office, I locked it by, kept the key in my pocket since, no person has had access to it since, and, to the best of my knowledge, it is in the same condition as it was when deposited with me."

Now, this is the sworn evidence of the officer whose duty it is made to take charge of these boxes. He swears that to the best of his opinion that box remained in his hands from the time it was deposited until it came out of his hands by the process of taking the evidence in this case. Mr. Kline, as I have said, has a gain of seven votes in this ward. Add the results of the three together and it gives to Mr. Kline a majority entitling him to his seat here. If these boxes, preserved under the solemnity and sanction of the law for the express purpose of meeting just such a case as arose here in this contested election, are to be treated with entire and absolute disregard, there is no necessity on earth for preserving them after an election has been held. And I ask this House what right or authority has it to deprive the contesting member of what the law gives him? The law of his own State gives it to him, and the justice of the House ought to award it to him. There were eighteen thousand votes polled in the third district. Mr. Verree came here, on his certificate, with a majority of twenty-two votes. That certificate was only *prima facie* evidence of his right to take his seat in the House. The actual recount of the votes shows Mr. Kline to have been elected, and proves him to be entitled to his seat.

As I have already stated, Mr. Speaker, the very object and aim of the law in preserving these ballots is to correct errors. If they have been tampered with as is claimed by the sitting member—if the fact be shown that tickets had been removed and others substituted for them, then I do not pretend that in that case the record should be the governing principle on which the House should decide the question of the election. But fraud is a thing which, like other matters, must be proved. The allegation of fraud amounts to no more than the allegation of any other infraction of law. Fraud must be proved. Now, show me from the evidence, if you please, in what part of this case there is proof of fraud on the part of these three aldermen, after these boxes were placed in their custody. One evidence of fraud that the committee has discovered is that in the case of the "stickers" the pasters were evidently put on after the ballots had been folded. I agree with the honorable chairman of the Committee of Elections on that point. As my colleague [Mr. JOHNSON] has said, these tickets had been folded days and days before the election. It is when voters come to the polls prepared to put in their ballots, that the impression is made upon them to change their votes. The voter takes his ballot out of his pocket and puts in a paster, if he is convinced that he ought to vote differently from what he had intended to vote

The chairman of the Committee of Elections turned to my colleague and asked authority for the statement that, by the law of Pennsylvania, tickets are to be folded. Undoubtedly that is the law. You cannot in Pennsylvania place your tickets in the box unless they are folded. In other words, the law of Pennsylvania will not permit others to know how you vote, so far as the ballot is concerned. These tickets, as I have said, are folded days and days before the election, and if they are opened at the window for the purpose of putting a sticker or paster on them, why, as a matter of course, that paster would cover a fold. I do not think, therefore, that the inference which the gentleman draws from this state of facts is legitimate and proper. I think, at least, that under the explanation which I have given, the gentleman ought not to insist on that as an evidence of fraud. According to the report, the gentleman infers fraud, because there were loose tickets in some of these boxes. Now, it is to be remarked that it is in evidence by the officers of the election that separate tickets were put in the box

Much stress is laid, in the report of the committee, on the fact that a man named McKinney swore that he saw a man at one time enter the office of the alderman who had charge of one of these boxes, take it out of the office, and return it back again. Now, let me say to the chairman of the Committee of Elections, that he will find, as he has undoubtedly read in the printed pages of the testimony, that the witnesses who were called not only testified that McKinney is a man of bad character for truth and veracity, but that they would not believe him under oath; and I think the sitting member did not attempt to sustain the character of McKinney. I know that in looking over the evidence last night, I found that witness after witness was called in reference to McKinney's character. Among the rest Alderman Clark, whom I know very well, and other highly respectable gentlemen. They all swore he was unworthy of belief under oath.

Now, when the alderman is made the custodian of the boxes containing the ballots of electors, something stronger than the evidence of a man whose character is proven to be so worthless that he is not to be believed under oath is necessary to throw doubt upon the ballots. I think there is no reason given in the report of the committee, with regard to these boxes, why they should be thrown out. Why, sir, the ballots contained in those boxes which showed the true state of things in regard to the election of that day, sealed, tied up, placed in charge of the aldermen, men of high character and standing, are of infinitely more force and power than the evidence of a man who would attempt to cast doubt upon the manner in which they had been kept, and whose character is so vile, according to the testimony produced, that he was not only not entitled to credence, but that he should not be believed under oath. That is not the way in which those ballots which were cast on the second Tuesday in October, in these three districts, for John Kline, should be disposed of. It is a summary proceeding. I do not call in question the honesty or proper motives of the Committee of Elections, against whom I have nothing to say, but I hold that there should be some stronger evidence than there has been adduced, to justify the House in refusing to give to Mr. Kline the benefit of the results shown by recount of those ballots. They give him majorities, one of seventeen, one of thirteen, and another of seven. Allow him these votes and he is entitled to his seat. Take them from him and you give the seat to the sitting member.

Now, Mr. Speaker, through a long practice in the courts of my own State, for a period of one third of a century, it has been my fortune to have been engaged in a great number of these contested-election cases; and the invariable ruling has been that it is not the certificate that is conclusive. It is the condition of the ballot-box that is to govern in such cases. It is not the men who sum up the votes after a long day's election, that are to judge conclusively of the result. It is the votes contained in the ballot-box that are to be conclusive. That is a rule of law. It is not only founded on principles of common sense, but it is a law which is incorporated into a statute, and is entered on the statute-book of the State. Let us have an application of the rule which we apply under our own system of judicature in the administration of justice in cases of contested elections; and I venture to say that no court in the State of Pennsylvania would, after a hearing, pretend to assume that because an impeached witness had sworn that he saw one of these boxes (the ballots in which would not change the result) go into the hands of another person, that was such evidence of fraud as the law requires to be given. Fraud is not only to be alleged, but is to be proved, as any other fact is to be proved. I have nothing to say with regard to the report of the committee as to their overruling or ignoring the want of formality attending the notice on the part of the contesting member here. The committee has been disposed to give a liberal treatment in regard to it; but I think it could not have done less. I refer to this as a matter which may, perhaps, be looked at hereafter.

In his tenth specification the contestant says:

"The examination of the tally papers and all of the other election papers relating to said congressional election, and deposited in the office of the prothonotary of the court of common pleas, and deposited in the several ballot-boxes in said congressional district, together with a recount of all the ballots deposited in said ballot-boxes, in said district, at said election, will show that you were not elected, and that I was elected."

Now, the very point made by the contestant, preparatory to his making an effort to sustain his case, was the allegation that on a recount of the boxes it would appear that he had more ballots than the sitting member, and that therefore he was legally and properly elected a member of the House of Representatives. The chairman of the Committee of Elections claims credit in his report for having passed over that with some degree of leniency, so far as the contestant is concerned. It is unnecessary to allude to it here, because the case is taken up on its merits.

Now, Mr. Speaker, if the ballots contained in these three boxes (the only ones that can really affect the result of the election) are to be counted, they show that Mr. Kline was elected. If you throw them out, then Mr. Verree is elected. And I call upon gentlemen who wish to act conscientiously in regard to this matter, to say whether that comes under either provision of the Constitution as to the qualification or returns or election of members of this House? The man who is elected by the voters of his district is the one that is entitled to his seat; and no man can gainsay that position; and as, in the State of Pennsylvania, the ballots contained in the ballot-box are the only evidences of election, then I say that if, on a recount, they show a result different from that first reached, it requires convincing, plain, I will not say positive, proof to show that these ballots have been tampered with, and are not to be regarded as reliable. I ask the honorable chairman of the Committee of Elections whether, if he were canvassing these facts before a jury of twelve men, he would rest his case before that jury on the fact that McKinney has sworn to in this case—contradicted as McKinney is by unimpeachable testimony. The issue before that jury, if it were traversed, would be, "Were these boxes in the same condition that they were in on the night of the election? Had they been kept as they were left? Were they just as they came into the hands of the aldermen?" On that issue, as the evidence is unfolded to me, it strikes me that no jury, on a traverse of the facts, could say they were satisfied in their minds that tickets had been taken out and other tickets substituted. Great allowance is to be made for the hasty manner in which these contested-election cases are made up before the committee and the House. Because of the multiplicity of other business, the committee cannot devote that time and attention to the subject which is demanded, but which is too often neglected. Therefore I have always, in my legislative life, resolved for myself the propriety of voting on the reports of the Com-

mittee of Elections just as the facts of the case presented themselves to my mind when I was called upon to vote.

But I do say that it would be doing a great injustice to the contesting member to refuse to count the ballots in these three boxes, and thereby to change the result of the election.

I have now, in a few words, Mr. Speaker, discharged what I considered to be my duty in this case. That I have no feeling in regard to it I cannot say. That I would like to see justice done is a principle which I fully and freely acknowledge.

ST. LOUIS COMMISSION.

Mr. BINGHAM. I ask to have taken from the Speaker's table the Senate joint resolution No. 22 providing for the payment of the awards of the commission to investigate the military claims in the department of the West.

There being no objection, the joint resolution was taken from the Speaker's table.

Mr. BINGHAM. I move that the House insist on its amendments, and agree to the committee of conference asked for by the Senate.

The motion was agreed to; and Messrs. BINGHAM, WICKLIFFE, and WILSON were appointed the conferees on the part of the House.

CONTESTED-ELECTION CASE—AGAIN.

Mr. KELLEY. Mr. Speaker, I had not intended to take part in this discussion; but I feel constrained to say a few words before the House shall be brought to a vote upon it, and the more so, as we have been appealed to by my colleague [Mr. WRIGHT] to act conscientiously in this matter. There is a certain remarkable interview described as having taken place between Joseph Surface and Lady Teazle. In a subsequent conversation with her, Mr. Surface used the word "honor," when her ladyship suggested to him that the less he referred to that quality perhaps the better. And after the very remarkable statements of the gentleman, I think the less he says about "conscience" in this connection the better for his consistency. I have not been so long in the practice of the profession of the law as my colleague says he has; but, as a sitting judge, I spent weary and anxious months in investigating the facts and deciding the law of the leading election case of Pennsylvania. For a period of nine years and nine months, first by commission of the Governor, and afterwards by popular election, I was a judge of that court to which the law commits election contests in the great county of Philadelphia; and I say that the law of Pennsylvania does not refer to the ballots for the settlement of such cases. I say that the leading case, and all the important cases that follow it, exclude resort to them except as a possible aid to the judicial mind, to be resorted to only under the exercise of sound judicial discretion. I asked the gentleman to do me the favor, or rather to do the House the favor, of permitting us to follow him in the examination of the testimony. He declined to say from which page he read, and assured the House that I knew the reason why.

Sir, if he mistook my request to be for a personal favor, I know well the reason why; for I have known him from my boyhood and would not expect a personal courtesy from him. But what I asked was an act of justice to the House, and why the gentleman should refuse it I cannot divine. I am sure it could not have been for the same reason that induced a tricky counsel, in arguing a case before me, in which he had astounded the court and opposing counsel by reading as law that which they all knew to be diametrically opposed to the teaching of the books, to refuse to hand over the book from which he had seemed to read, that it might be examined. I am sure that it cannot be that the reason which controlled him influenced my colleague—which was that he had simply omitted from the text the little monosyllable "not," and thereby reversed the sense of the passage cited. The gentleman did not contemplate anything of that kind. I am sure he did not. I vindicate him from the suspicion.

The actual count of the ballot-box, resolutely and earnestly as the gentleman asserts that it did, never determined an election case in a court in Pennsylvania unless it was where the case, having been brought into court, the parties came in and agreed, by writing filed, that its determination should depend on an examination of the boxes or a particular box. That the law of Pennsylvania is as I have stated it, may be ascertained by reference to the reports of her courts, which have been examined by the committee, as is shown by their references in their report. What, then, becomes of the statement that her courts have uniformly held otherwise, coming from the gentleman, and of his assurance to the House that, in a long life of professional practice, he has been engaged in many of the leading election cases in Pennsylvania, and has never known a case to be decided except by reference to the ballot-boxes? Sir, it is of a piece with his statement that five of the return judges refused to sign the returns because they knew that Mr. Kline was elected. "Where do you find your evidence that they refused to sign," says the chairman of the Committee of Elections. "There is no such evidence, but they did not sign them," says he. "If I used the word 'refused,' I did it inadvertently." "How then do you know that they knew that Mr. Kline was elected?" "I judged so from the fact that they did not sign the returns."

Is this House to be swayed in the discharge of conscientious duty by such reckless assertions as these? Sir, "fraud must be proved," says the gentleman, and so far I accept his statement. Fraud must be proved, and what is the case? The return judges, acting under their official oath, returned John P. Verree as duly elected a member of this Congress from the third congressional district of Pennsylvania. The Governor, in pursuance of that return, made the proclamation under which Mr. Verree took his seat. Now, in order to oust the sitting member, the fraud must be proved; and I challenge the most scrutinizing examination of the testimony in the case to find the first thing that, in the estimation of any man familiar with election cases in Pennsylvania or elsewhere, looks like fraud. And I take occasion to say here, Mr. Speaker, that under the rule adopted by this House, giving pay and mileage to a contestant, if you will adopt the rule of examining ballot-boxes kept as those in question were, you may pay double mileage and double compensation to parties from all the districts of Pennsylvania, and those of a good many other States at each Congress. Make it so that men like those named in the evidence in connection with these ballot-boxes can be associated in doing what they seem to have done here, and you will have contested-election cases enough to keep the Committee of Elections and the House busy during the term of an ordinary session.

What are the facts in this case? An election was held on a given day, or to speak more properly, elections were held in the forty-eight or forty-nine precincts, constituting the third congressional district of Pennsylvania. They were conducted by men of differing political parties, selected by the people of the precincts, who were sworn to do their duty; and it was open to the people of each and every precinct to go into court by petition and ask that three watchers designated by the people of the precinct should be appointed to supervise, or at least to see that there was fairness in the conduct of the election. If there was doubt as to the integrity of the officers chosen to conduct the election, if there was any indication that fraud would be attempted in the precinct, watchers were appointed. When the election thus conducted was closed, under the law, the proper election officers announced from each window the result of the election there held, and that result so announced was carried to the central news and police stations. It showed that the sitting member had been elected. On the day fixed by law the return judges met, and every man who met, every return judge who acted, signed the return which declared the election to have resulted in accordance with the proclamation which has since been made by the Governor of the State, and under which the sitting member was sworn in.

Mr. KLINE, (contestant.) Will the gentleman permit me to ask him if the return judges from the eleventh, twelfth, sixteenth, and seventeenth wards signed that return?

Mr. KELLEY. Were you present?

Mr. KLINE. Yes, sir.

Mr. KELLEY. Present when the return judges made out their returns?

Mr. KLINE. I was at the door.

Mr. KELLEY. I say that the record shows that every return judge acting signed this paper. I speak by the record as it is given in evidence, and I challenge contradiction of that fact, established by the record of the case, now lying on the desks of members.

Now, sir, what one of the officers who conducted that election has been put upon the witness stand? What one of them has given an intimation that he had been fraudulently used or deceived by any of his colleagues? Not one. The case of the contestant stands before the House upon the bald suspicions, ay, worthless facts, adduced from an examination of the ballot-boxes, which were kept, in the interim, about as sacredly as if they had been carried each morning and placed upon a market stall, and not more so.

Sir, if we would vindicate the law of the State of Pennsylvania; if we would decide this case as her judges, as shown by the reports, have uniformly decided such cases, we will adopt the resolution of the Committee of Elections. And by so doing we will show to the people of Pennsylvania that this House, at least, will not encourage speculation in the nature of contested seats in Congress.

CORRECTION OF THE JOURNAL.

Mr. CRAVENS. I rise to a question of privilege. I find that I am recorded on the Journal as having voted to lay the resolution yesterday offered by my colleague [Mr. HOLMAN] on the table. I voted in the negative, and ask to have my vote so recorded.

The SPEAKER. If there be no objection, the Journal will be corrected.

Mr. THOMAS, of Massachusetts. That will change the result of the vote, as I understand.

The SPEAKER. It would.

Mr. RICHARDSON. It is a matter of right, however, that the gentleman shall be recorded as he voted.

The SPEAKER. The vote, with the correction made, would stand, 59 in the affirmative, and 59 in the negative. The Chair votes in the affirmative, so that the result is not changed. The Chair will direct the correction to be made.

ENROLLED BILL.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (H. R. No. 302) to provide for the appointment of additional clerks in the office of the Assistant Treasurer at New York, and for other purposes; when the Speaker signed the same.

MESSAGE FROM THE SENATE.

A message from the Senate was received by Mr. FORNEY, their Secretary, informing the House that the Senate insisted upon their amendment, disagreed to by the House, to the joint resolution in relation to certain railroads in Missouri, and asking a conference thereon.

PENNSYLVANIA CONTESTED ELECTION—AGAIN.

Mr. DAWES. I move the previous question.

The previous question was seconded, and the main question ordered to be put.

The question was stated to be first upon the amendment of Mr. JOHNSON, to strike out the word "not" in the following resolution:

Resolved, That John Kline is not entitled to a seat in this House as a Representative in the Thirty-Seventh Congress from the third congressional district in Pennsylvania.

Mr. JOHNSON asked for the yeas and nays.

The yeas and nays were not ordered.

Mr. JOHNSON called for tellers on the yeas and nays.

Tellers were not ordered.

The amendment was disagreed to.

The question then recurred on the adoption of the resolution.

Mr. WRIGHT called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 105, nays 13; as follows:

YEAS—Messrs. Aldrich, Alley, Ashley, Babbitt, Baker, Baxter, Beaman, Bingham, Francis P. Blair, Jacob B. Blair, Samuel S. Blair, Blake, George H. Browne, Buffinton, Campbell, Chamberlin, Clark, Clements, Cobb, Colfax, Frederick A. Conkling, Roscoe Conkling, Conway, Covode, Crisfield, Cutler, Davis, Dawes, Diven, Duell, Dunlap, Dunn, Edgerton, Edwards, Eliot, Ely, Fessenden, Franchot, Frank, Gooch, Goodwin, Granger, Grider, Gurley, Haight, Hale, Harrison, Holman, Hooper, Horton, Hutchins, Kelley, Francis W. Kellogg, Killinger, Lansing, Loomis, Lovejoy, McKnight, McPherson, Maynard, Menzies, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Nixon, Noble, Noell, Olin, Patton, Perry, Timothy

G. Phelps, Pike, Pomeroy, Porter, Potter, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Shanks, Sheffield, Shellabarger, Sherman, Sloan, Smith, John B. Steele, Stevens, Benjamin F. Thomas, Trimble, Trowbridge, Van Valkenburgh, Wallace, Charles W. Walton, E. P. Walton, Webster, Wheeler, Whaley, Albert S. White, Wilson, Windom, Woodruff, and Worcester—105.

NAYS—Messrs. Ancona, Joseph Baily, Biddle, Calvert, Corning, Cox, Johnson, Morris, Nugen, Pendleton, Price, Wickliffe, and Wright—13.

So the resolution was agreed to.

During the call of the roll,

Mr. NIXON stated that Mr. STRATTON was detained from the House by indisposition.

Mr. BIDDLE stated that Mr. NORTON was absent in consequence of indisposition.

Mr. HOLMAN stated that Mr. WASHBURNE, chairman of the committee on Government contracts, and Mr. STEELE, of New York, and Mr. FENTON, members of that committee, were absent in New York on the business of the committee.

The result was announced as above recorded.

Mr. DAWES moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

The second resolution reported by the Committee of Elections was then read, and agreed to; as follows:

Resolved, That John P. Verree is entitled to the seat now occupied by him as Representative in the Thirty-Seventh Congress, from the third congressional district in Pennsylvania.

Mr. DAWES moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

RAILROADS IN MISSOURI.

Mr. HOLMAN submitted a report from the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to joint resolution H. R. No. 37 in relation to certain railroads in the State of Missouri.

The committee recommend that the Senate recede from their amendment to the joint resolution to strike out the preamble, and agree to the same, with an amendment, as follows:

Page 2, line four, after the word "roads" strike out "by the public enemies, and in consideration thereof."

The report of the committee of conference was agreed to.

Mr. HOLMAN moved to reconsider the vote by which the report was agreed to; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

EXCUSE FROM SERVICE ON A COMMITTEE.

Mr. COX. I desire to take the present opportunity to resign my place as a member of the committee on the Pacific railroad, for the reason that my time is employed in other matters, and there are other members who have a more direct interest in that project, and who, I think, could fill the place with far more ability and with more satisfaction to the House and their constituents.

The question was taken; and Mr. Cox was excused from further service on the committee.

PAY OF CONTESTANTS.

Mr. STEVENS. I desire to offer a resolution. I do not care whether it is considered now or not, but I wish to get it before the House.

The Clerk read the resolution, as follows:

Resolved, That the Clerk of the House be authorized and directed to pay to John M. Butler, Joseph Segar, and John Kline, contestants and claimants for seats in this House, whose claims have been adversely decided, mileage and salary up to the date of such adverse decisions respectively.

The SPEAKER stated the question to be on agreeing to the resolution.

Mr. PIKE demanded the yeas and nays.

The yeas and nays were not ordered.

The resolution was adopted.

Mr. STEVENS moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

PACIFIC RAILROAD AND TELEGRAPH.

Mr. CAMPBELL, by unanimous consent, from the special committee on the Pacific railroad, reported a bill to aid in constructing a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes; which was read a first and second time, recommitted to the select committee, and ordered to be printed.

IMPEACHMENT OF A JUDGE.

Mr. BINGHAM, by unanimous consent, from the Committee on the Judiciary, made a written report in the matter of the impeachment of West H. Humphrey, district judge of the United States courts in the several districts of Tennessee.

The report, with the accompanying testimony, was ordered to be printed, and was recommitted to the Committee on the Judiciary.

SMALL NOTES IN THE DISTRICT OF COLUMBIA.

Mr. CALVERT asked the unanimous consent of the House to introduce a bill to authorize the issue of small notes in the District of Columbia, for the purpose of having it referred to the Committee for the District of Columbia.

Mr. BLAIR, of Missouri, objected.

THE FRANKING PRIVILEGE.

Mr. STEVENS moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HUTCHINS in the chair.)

The CHAIRMAN stated that the first bill in order on the Calendar for consideration was a bill (H. R. No. 92) to regulate the franking privilege.

Mr. STEVENS. I want to take up the President's annual message.

The CHAIRMAN. There is no message from the President in Committee of the Whole on the state of the Union.

Mr. GROW. It was disposed of in the House long ago.

Mr. STEVENS. I thought some part of it remained undisposed of.

The CHAIRMAN. The bill before the committee is the bill to regulate the franking privilege.

CONDUCT OF THE WAR—GENERAL FRÉMONT.

Mr. SHANKS. Mr. Chairman, it is with feelings of much anxiety that I arise, under the peculiar circumstances which surround me, to address this House on the subjects before it.

My purpose is to call the attention of the committee to some of the matters contained in the "report in part" of the committee on contracts, of which the gentleman from New York [Mr. VAN WYCK] is chairman, only, however, so far as they relate to General John C. Frémont, and then only to a part of those at this time, as I intend, if possible, to take those subjects in detail when that report and accompanying resolutions may come before us.

This "report in part" was made on the 17th day of December, and has been sent from this House to all parts of the country. Its consideration has been deferred from time to time, until some ten days ago it passed from its character of a special order to a special privilege in the hands of the committee.

The country has had the charges for over two months, and yet not a word of defense from those whose characters have been challenged on testimony taken without notice to them. But since I am compelled to speak in Committee of the Whole, I shall take the privilege thus offered me to draw attention to matters of more general importance to the country, as connected with him of whom I shall speak to-day, still hoping that the time may come when the matters named in the report to which I have referred shall be well known to the House and the country.

The only subject among the several named by the committee, touching the administrative character of General Frémont which they think worthy to ask special action by the House upon, is in relation to the purchase by him, as commander of the western department, for service in his cavalry, of five thousand new cast-steel breech-loading Hall's carbines of Simon Stevens, for the sum of twenty-two dollars apiece. This pattern of arm was approved years ago, and adopted as a Government weapon, and I learn that a manufactory for its fabrication was established at Harper's Ferry, Virginia. A copy of the Army Regulations of 1835 now before me gives the cost in detail of this arm for material and manufacture at twenty-one dollars; they were then smooth-bored. On the 6th day of June, 1861, General Ripley, chief of the Ordnance Bureau of this Government, claiming to act under an order from the War Department, which very order the committee say his bureau recommended, sold to a Mr. Eastman five thousand four hundred of these arms for the sum of $3 50 each—just one sixth their original cost to the Government. Eastman had proposed to Ripley, for an average of one dollar apiece, to chamber and rifle these carbines in the style of the latest improved arm; but Ripley refused it, and got the order on the recommendation of his own department and sold them as above stated. General Frémont, sorely pressed for arms, having none for his cavalry, and his entire command in need of early organization, wholly neglected by the Government, as I will abundantly prove as I go along, received by telegraph from Stevens the following dispatch:

NEW YORK, *August* 5, 1861.

I have five thousand Hall's rifled cast-steel carbines, breech-loading, new, at twenty-two dollars, Government standard, 58-100 bore. Can I hear from you?

SIMON STEVENS.

J. C. FRÉMONT, *Major General commanding Department of the West, Cairo, Illinois.*

To which the following is an answer:

HEADQUARTERS WESTERN DEPARTMENT,
ST. LOUIS, *August* 6, 1861.

I will take the whole five thousand carbines. See agent Adams's Express, and send by express; not fast freight. I will pay all extra charges. Send also ammunition. Devote yourself solely to that business to-day.

J. C. FRÉMONT,
Major General Commanding.

SIMON STEVENS, *New York.*

This is a contract, and if honorably made by the Government's agent, it cannot now afford to violate it; but in this case I only desire to lay the fault and blame where they belong, for I agree with the committee that there has been a most damnable fraud committed against the Government; but I now insist, and will go on to prove that General Ripley is the man who has by his most unaccountable liberality with her much-needed arms wronged the Government out of them for a nominal sum. The law provides as found on page 292, United States Military Laws, approved March 3, 1825, as follows:

"That the President of the United States be, and he is hereby, authorized to cause to be sold any ordnance, arms, ammunition, or other military stores or subsistence, or medical supplies, which, upon proper inspection or survey, shall appear to be damaged, or otherwise unsuitable for the public service, whenever, in his opinion, the sale of such unserviceable stores will be advantageous to the public service."

It becomes a question whether the President has, in the pressing need for arms during a war like the one now upon us, ordered to be sold arms which General Ripley himself, in a letter to Mr. Eastman under date of June 20, informing him where to get the carbines which were at arsenals on Governor's Island, New York, and Frankfort, Philadelphia, saying that Eastman was to have "all of the Hall's carbines of every description (serviceable and unserviceable) on hand at the rate of $3 50 each." I do not believe that the President did give such order; if he did, it was on the recommendation of the department contracting them; and I am well convinced that the President did not order *serviceable* carbines at that time to be sold at that price.

The Army Regulations under date of August 10, 1861, give the price of Hall's carbines at $17, as the cost of material and manufacture, which is $4 less than in 1835, owing to the improvement in machinery. The carbine will shoot as well now as then, when made in the same way; but in looking over the list of prices of small arms manufactured by the Government, as found on pages 394 and 395, Army Regulations, August 10, 1861, they are as follows: Musket, $13; rifle, $13 25; Hall's carbines, $17; artillery musketoon, $10 37; cavalry musketoon, $11; sapper's musketoon, $10 62; pistol, $7. But some of those same carbines were purchased here by those who sold them for $15. Before Frémont purchased those five thousand they were all chambered and rifled, making them a superior cavalry piece; and they are now in service by Halleck's cavalry, having been armed by Frémont when he commanded.

Now, this committee ask this House to recommend the Treasury to only pay $12 50 for those purchased by Frémont, when the Army Regula-

tions, dated four days after the purchase, give the price, as shown, at $17. The committee propose to allow $4 50 less than the material and manufacture, without the rifling and chambering, cost, showing simply that the committee have not understood the case. Ripley sold them for $13 50 apiece less than the regulations of August, 1861, fix the actual cost, when there was no pressing need for sale, and Frémont gave, after they were altered, $5 more apiece than the Government price then, and only $1 more than the Government price when he had been in service; yet the committee say that "General Ripley is a gentleman of large experience, and inexorable in the performance of his public duties." On the 12th of April, 1861, the enemy attacked Fort Sumter; on the 14th it surrendered; on the 15th the President called for seventy-five thousand men to quell the rebellion, all of whom would need arms; on the 19th the traitors in Baltimore killed our unarmed troops in the streets. On the 6th of June the "inexorable" Ripley, on what he claims as authority from the War Department, grounded on a recommendation from his own department, and all in violation of law, sold five thousand four hundred carbines for $3 50 each, which the regulation of 1835 tells us are worth $21 each, and the regulation published August 10, 1861, thirty-four days after the sale, gives the cost of manufacture at $17; on the 16th of June we lose Harper's Ferry, where they were made, and surrender to the enemy all the arms there, with the machinery; on the 20th of June the carbines are still in the arsenals, not paid for and not delivered. Ripley, by written orders, directed that all, *serviceable and unserviceable*, be delivered to Eastman, at $3 50, subsequently buying seven hundred and ninety of them at $15.

On August 6th, General Frémont needing arms for men who were ready to defend a vast department, purchased five thousand of them at twenty-two dollars, in open market, where the Government officers had thrown them contrary to law; but of which he knew nothing. On the 10th of August, four days after his purchase, the very department which sold them at $3 50 report them at seventeen dollars, cost of manufacturing in Government arsenals. Yet, you condemn Frémont and indorse Ripley, after you have said that the carbines were sold in the first place "privately." I think that the committee will do justice when they see these things in their true light.

But the committee inform us the Ordnance Bureau, at whose head is General Ripley, in time of war, recommends the sale, and sells, without law, for one fifth their value, as shown by the books of his own office, five thousand four hundred stand of arms, with a loss to the Government of near $73,000, and holds his office still, and who is indorsed by the committee.

Inexperienced, I now approach with hesitancy to attack the cordon of fortifications thrown by experienced hands across the pathways of an honest, pure, devoted patriot, for his destruction, to satisfy the ambition of base and corrupt men, who, instead of supporting him, have seized upon the wisdom of his recorded councils and the armies and fleets by him spoken into existence, from which to gather the laurels due his rightful victories, to wreath their brows while he wears a crown of thorns.

My purpose is to do an act of justice to one who, though his name and honor stand connected with this report and resolution, was not notified, nor could have been present, when the extra-judicial examination was had by the committee upon which they are based. Nor can he be here now to defend himself upon this floor against the unjust charges and inferences contained in them, against that name which has in this country long been a household word, synonymous with freedom; loved at home, honored and respected abroad.

I well recollect how the grateful thanks of our western people went forth to meet the President for the appointment of the brave and generous Frémont to the office of major general, and in command of the western department; how with one accord our young men rallied to the support of the Union, with the cheering hope that he should command them. The energy and perseverance of the people of our western States have no just comparisons among men. It was not strange, then, that they should look with pride and hope to a commander whose courage, energy, and devotion to liberty are proverbial throughout the civilized world. I recollect how it was proclaimed through the public journals that he was the right man in the right place. *That as this war was the result of slavery's treason, freedom's patriotic defender was our proper commander.* Our western people are plain in manners, devoted in thought, and prompt in action. With one hope we entered our country's service; politics were forgotten among us; our minds recalled and our tongues retold the scenes of his past life, and rejoiced that the hour was nigh when (as we then hoped and believed) he should lead us to battle.

Nor have the people been deceived by the many causeless and unjust efforts made by designing persons to destroy their confidence in one of the ablest generals in the American Army, and the boldest friend of freedom in the Government service. Conceal it as you may, misname it as you will, the elements which have combined for General Frémont's destruction are too apparent to deceive the common sense and quick perception of our intelligent and patriotic people. They see it successfully developed in the designs of the slave power, as manifested towards him by its leaders since his proclamation to the people of Missouri, of August 30, 1861, in a combination of long-known, undermining politicians, and in a bigoted military jealousy. We well know that General Frémont was given his high rank in the Army in obedience to the loudly and universally expressed wish of the people, who desired when the Republican party came into power that the services of its first representative, the man who had welded it together, under whom it had won its victories in 1856, should be recognized. Against this wish to distinguish one of themselves, the very men whom the people had educated into their positions, have set themselves in violent opposition, because he had not received with them the rite of infant baptism at West Point.

Having from my youth learned to combat the world's wrongs and neglects, and contend with its privations, I condemn the ingratitude of this class toward him, who only asks of the Government that he be allowed to continue in the active service of his country, leaving impartial *history* to determine between West Point and western patriotism.

There are some chronological events which, when understood and recollected, will materially aid in elucidating the positions I am taking in this case, as well as the action of those who strive with so much zeal to crush out every rising hope of him whom they have thus far practically victimized to their ungenerous purposes.

All will recollect the wide-spread national joy which pervaded all classes of *pure, unconditional Union-loving citizens*, when the lightnings told by telegraph that Frémont would take command in our Army. He was, by those who *now* denounce him, *then* the brilliant, able, and patriotic son of the West, full of mind, energy, military skill, and promise; and, in fact, these attributes were his before his promotion to command—so by the recognition of all men, and the contrary was not announced until his hand had written the proclamation of August 30, 1861, a portion of which is in the following memorable words, and which places his name in history honorably, and in most pleasing unity with his life from his earlier adventures when he saved the State of California to freedom.

But to the proclamation:

"The property, real and personal, of all persons in the State of Missouri, who shall take up arms against the United States, or who shall be directly proven to have taken active part with their enemies in the field, is declared to be confiscated to the public use, and their slaves, if any they have, are hereby declared free men."

This was the head and front of his offending—the key-note on which rallied all the clans in combination against him. It was but a few hours after he had said that traitor's property should help to pay the expenses of the war forced on us by them, and that their slaves should be free, until from Kentucky and Missouri—from the friends of slavery, who have not risked their lives in this war—came invectives against him and in favor of the cause which wrongs us. Prior to this time, neglect of the western department and western men had been the only clue to his defeat, then apparent to those who, for sinister motives, sought his ruin.

The proclamation was the opening door at which his enemies entered and made common cause against him. The politician who fears his popularity; the friend to slavery, who prefers that institution, even in rebel hands, to the life and prosperity of free, true, and just men, at field, camp, or homestead; the military bigot, who sees West Point first, and after it, the country; and lastly, speculators at the public Treasury, who, themselves, guilty and suspected, point the finger of distrust at others. These are the classes in unholy combination against an honest and pure man, *whom they cannot control*, but hope to destroy; and, on the principle that a large shelter protects more certainly from the storm, the attack is made on a popular man to more effectually draw public attention, while his assailants, running under cover of this temporary check in the current of public thought, in the armistice thus falsely obtained, consummate their combined grasp of public power, regardless of the cost and national ruin, leaving the dissensions which will grow out of a division of spoils to the settlement and conditions which time may afford.

I do not stand here as the partisan of any man. Knowing General Frémont as I do, I love him. I know him to be deliberately brave and unconditionally patriotic, with a will to act, and a nerve for that will; a mind to comprehend, a judgment to direct, and an ability to execute; pure and honest, with a soul which rises above the groveling walks of the wily politician, the jealous professor of conditional patriotism, the serpentine course of the oppressors of men, and of those Treasury vampires who fasten alike upon individuals and nations, drawing their life-blood for selfish aggrandizement. He does not anticipate their base machinations, nor prepare to meet them; and when he finds himself basely and cowardly stabbed, assassinated by those who had professed their friendship, he pities the soulless wretches who could inflict the wound, and looks to time and justice for his vindication.

Yet, sir, though I loved and devotedly served under him during his command in the western department, I did not return with him from Springfield after his relief. Colonel Lovejoy, of Illinois, Colonel Hudson, of Indiana, and myself, all members of his staff, chose, and with his full approbation remained with the army, to which he and we were attached by ties stronger than life, and severed only when the army was, under General Hunter, ordered to return where our further association could do no good to either.

I mention this to show that, though cherishing every hope and prospect for General Frémont's just success, I bind my fate and will to no man, only so far as his pathway lies along those lines of justice which Deity draws directly from him to the hearts of all men; but here, as elsewhere, I shall enjoy and exercise that freedom of thought and action which is the leading trait in the character of him for whom I speak.

I speak here as a member of this House, fully recognizing the duties of that trust, and only desirous that justice be done between the country I serve and one of her most worthy citizens.

I am not here to ask favors of this House for General Frémont. Such act would be alike unjust to him and the country. As an honest man he could take neither more or less than, by fixed principles of justice between him and his country, are his dues; and the Government well administered will only give to one of her citizens that which under like circumstances she bestows upon another. And, though this be true, General Frémont has, and from the hour of his appointment as major general had, legally, the highest military rank in the Army of the United States, except the President and Lieutenant General Winfield Scott; yet his devotion to his country, his love of order in our councils, his modesty of self-defense, and willing submission to the directing power, choosing to lose place, power, property, and life, if necessary, rather than distract our forces by jealousies and contentions in this hour of our nation's trials, has made him never so much as demand his rank and place. What I say on this subject I say on my own responsibility, but fully knowing what I say. Over this question of rank even the President has no power, and the position which General McClellan has held in the Army is an error over General Frémont's legal rights. He whose energy and wisdom has provided

armies, gunboats, mortar boats, and written basis for the plans of the present triumphant western campaign, is discarded by the influence of the combination against him, and slandered by the political scavengers of the country.

Major Generals Frémont and McClellan were appointed the same day; hence their commissions bear the same date. This would leave them of equal rank. In such cases the military law directs that to determine the superior rank of one you ascertain the relative rank of the appointees prior to promotion. This done, we find that McClellan was a captain and Frémont a lieutenant colonel—two grades higher than McClellan. Such is the state of this case. I feel confident that when the President has known his duty in these premises, he will discharge it under the law.

I ask for Frémont JUSTICE, stern and unvarnished. No more, no less. I know nothing personally of any contracts made by the officers of this Government for arms or supplies to be used in the prosecution of this war. Nor have my people engaged in such contracts. I do not now know that any man in my district has a contract with any branch of the War Department or their agents for furnishing arms or supplies. My people are in the service of, but not in the speculations against, the Government. They and I stand free, clear, and unincumbered. And for them, for justice, and myself, I stand to defend him against the injustice done by parties in interest.

I have no disposition to assail the committee. It is not my purpose or my duty. The members of the committee are, with myself, members of this House, and are my peers on this floor. I aided in raising this committee, and, unlike some of my friends over the way, who make common cause against another committee for special objections, I would vote again for investigating any department of the Government which does not stand above suspicion.

If public papers are being plundered from the White House, investigate it. When campaign maps were furnished, in July last, by traitors in the War Department to the enemy, causing defeat of our army at Bull Run and Manassas, it should have been investigated. When Adjutant General Thomas treasonably published the strength of our army in Kentucky and in Missouri, while in the field, giving to the enemy the locality, destination, and numbers of our forces, he should have been tried for treason, condemned, and shot by the men whom he betrayed, as a warning to traitors everywhere. Sir, my present complaint against the committee is, that they have not fully investigated the subjects before them. They should have examined both sides of all cases prior to a report. The accused should have been present. General Frémont had no notice of the time, place, or purpose of the committee's sitting. The examination was made when he was in the field, at the head of his army, hundreds of miles from St. Louis, where its sessions were held; and that the House may more fully understand the net-work of oppression which has been so dexterously and perseveringly thrown around him by parties in *influence* and power, by directing, neglecting, permitting, or restraining him, controlling his acts, or countermanding his orders in his presence or his absence, as seemed to his pursuers most conducive to his injury, I will briefly explain the circumstances under which the testimony in this report relating to him was taken. That portion of it taken in New York was without notice to him, and while he was at St. Louis, managing the vast department under his command. And I do not now intend saying of that taken at St. Louis, that it was with a purposed intention to wrong any one; but that either the committee or Frémont was purposely victimized, is apparent to any one who knows the facts and cares to reflect upon them.

On the 10th day of July last, this committee was appointed in accordance with the terms of a resolution offered by Mr. VAN WYCK, now chairman of the committee. This was sixteen days before General Frémont took command of the department of the West. It was expressly understood from the remarks of the chairman of the committee, made on the introduction of the resolution, that peculations were going on in the War Department at Washington, and this House having raised the committee, would very naturally expect that it should, in a reasonable time, be investigated and reported, particularly so since Secretary Cameron was in his Department almost the entire time since the committee was appointed, up to the date of his resignation; and as a member of this body, and one who favors investigation, let me now say here, in my place, that I do hope, if the committee intend to make an investigation of the contracts entered into by the War Department, while under the charge of Secretary Cameron, that he shall have notice of the time, place, and purpose of the committee's sitting; that at least his presence may be his privilege. Then, if he fails to show his innocence, the country will apply the censure; and as he is appointed to a foreign mission, let the investigation be had before he leaves the country, and not, as was done in General Frémont's case, when he was in command of his army in the field, far from the committee and from public conveyance; and even then without notice.

But the House must know that this is only one of several committees connected with this case. Immediately after General Frémont's proclamation was published, an *inquisitorial* committee started from the Federal capital to St. Louis, consisting of Quartermaster General Meigs and Postmaster General Blair. A singular committee to examine a military department! And concurrent with their starting from Washington, notices were inserted in leading journals of the country informing the public that this committee had gone to the West to investigate General Frémont's department; creating the impression that some great wrong had been done there, requiring two such personages, one of them a Cabinet officer, to examine. And following closely the return of the inquisition to this city, the public journals were filled with the published intention of removing General Frémont for inefficiency. This charge was new to the people, who read in his energy and success a refutation of it. It was new to the world, and it was new to those who invented it; but, like all other "new and useful improvements," the inventors were entitled for a limited time to the benefit of their patent. Let it be borne in mind, however, that this discovery was not made until the proclamation of August 30 was published. Some who were particularly loud in their praise of his ability prior to that publication, were now the first to assail him. They made haste to correspond with political friends and intimate associates here, and were soon in the same conspiracy, clamoring for the fall of the man whom but a few days before they delighted to honor.

The inevitable conclusion in every mind is, that the inquisition and concurrent publications to which I have referred, were but the preparatory steps to do what they knew to be a grave wrong, and which the public mind would not receive until trained to it by a succession of approaches, made upon it from different quarters and influences, which the sequel to this history of wrongs will show to have been most assiduously applied.

Culminating in the "temporary" relief of Frémont from command—retiring of the army from Springfield followed by robbery and bloodshed over two thirds of the State—the combination and conspiracy against him was gaining numbers and strength. The force against him had assumed form. Slavery was its center column; political knavery commanded on the right wing, as the post of honor in this most unholy crusade, and on the left were semi-traitors in office and influence, disappointed contractors, and Treasury plunderers.

But the great miscreant in this struggle of wrong against right is slavery, whose advocates, plying with their usual activity and ingenuity, like great and practiced criminals in the commission of fraud, securing its profits, yet avoiding that justice due to the committers of those accursed crimes so long inflicted upon our country, and which have been borne with until we have lost that manhood which God intended all men should have, as a safeguard against wrong and oppression.

The responsibility on the people of this country at this time is a fearful one, and fearfully we will answer it, unless freemen stand up and demand freemen's rights.

The coming presidential campaign is looked to by those men with the keen perception of long-practiced political schemers. A transposition of the locality of President and Vice President, will, as a political necessity, take place. As the North and South are in conflict, the East and West will be required to change hands upon this question. Those who cannot expect, from this and other reasons, to reach the higher, will hope that mere locality may possibly give them the lower of those positions. And knowing that the public mind will be incensed at the accursed cause of slavery which has produced all our national calamities, it becomes necessary to shape that public mind so as to receive another cheat and treason as preliminary to its still further use, by men devoid of that lofty devotion to country which marks the real good man, but yet who rejoice in their unjust successes at the nation's expense and sacrifice; and to effectually do this, it becomes necessary to strike down the man who is himself the consistent and acknowledged representative of that great truth of his proclamation, which finds at this time, regardless of party, a welcome response in the hearts of the northern people. And knowing that they abhor dishonor in their public servants, his persecutors shrewdly attempt to fasten that charge upon Frémont, by the arts of practiced demagogues, and energy of bad men in a bad cause, with the success which follows for a time the efforts of combinations against the single-handed, who, attending to his own duty, does not anticipate or prepare for the associated treason of dishonest men.

I know that the combination is a strong one, and that General Frémont, because a friend of freedom, is the sacrifice to be offered by authority on the altar of his country as a peace-offering to the slave power. It is but the first step of that march to degradation which you will all soon recognize; for the want of nerve and manhood to repel the aggressors and to sustain Frémont in his proclamation will come upon us from this same combination, which is one for power and place; and when this war is ended, with rebel slavery protected by the Government, those slaveholding traitors will turn upon you in these Halls, denounce your brave soldiers as a rabble, and rejoice at the blood they have spilled. Under the protection of the flag they have desecrated and torn, they will lash their slaves to daily toil; protected by the laws they have violated and denounced, they will scorn the widows and orphans their treachery has made, and again will they strike down any Representative who, in these Halls, dares to point out their crime. You will talk of the high mission and glory of the nation, while rebels stand, by your permission—nay, with your sanction; ah! with still more, your protection—with one hand on the throats of their slaves, who are patriots, and with the other tears the flag which is the emblem of our national honor; you see this, you know it; the world sees it and condemns it; all civilized men pity you, and scorn the imbecility which permits it. You indorse the proclamations of generals in favor of protecting slavery.

At this moment we are asked to indorse and make a law of the late jubilant repetition of General Halleck's order No. 3. You send your sons to fight this war, brought on by slaveholders, for the purpose of permanently establishing slavery on the ruins of our Government. Slaves aid their rebel masters in every species of the labor of war, and procuring supplies for their armies. You listen to and indorse the proclamations of those generals who avow that this relation of master and servant, even of rebels, shall not be molested; protecting, by this means, the very forces you are warring, and holding the enemy's weapons at the heart of our friends. Not only so, but the slaves themselves are loyal, and would be true to our flag and people. To indorse slavery is a mark reckless enough in this age of civilization; but for freemen to aid in holding those persons in bondage to the traitors of the country, men whom we despise and loathe, is a degree of ingratitude which the negro himself will pity in us, and feel proud that he is a slave.

It is not enough that the nation has lost over twenty thousand of her brave sons by death in hospital and battle-field; that Rachel is weeping for her children, and will not be comforted, because they are not; that the blood of those four hundred and eighty brave young men stained the ensanguined field of Manassas; that the disgrace of that struggle has severely rebuked our wonted prestige in

war; that we have spent in this causeless rebellion over six hundred millions of dollars, and with the inevitable necessity before us of spending hundreds of millions more; that the Ball's Bluff murder is but a part of this accursed tragedy, where treason and treasonable blunders murdered by the hands of slavery's maddening demons a brave and loved officer and a thousand pure patriots; that at Springfield, Lyon and his men struggled against a fearful and hellish power until, outnumbered, he and hundreds of his soldiers lay down for the last time, and their dead and mangled bodies become prisoners to traitors who could not conquer them while living. It is not enough that at Rich Mountain, Carnifax Ferry, Belmont, Fredericksburg, Lexington, Springfield, Roanoke, Forts Henry and Donelson, our brave brethren fell murdered by traitors for slavery; but these same traitors are to be protected and apologized for here; and the man who dared to proclaim their property confiscated to the public use, and their slaves freemen, is hunted down through every avenue which human ingenuity can invent, prompted by the most remorseless desire to fasten on us and continue this cause and origin of all our woes. Of history we learn nothing; our own we do not study; we blindly sit here while the vortex is opening again to receive us. The blood of our people, the tears of our widows and orphans, the sword of the Army, and the Congress of the nation, all fail to do a simple act which God has warned us, through lamentations and sorrow, is our duty to mankind and to Him; but in face of all this, we support those who, with vulture eye, have hunted the friend of freedom to his fall, and have divided his garments.

The charge of inefficiency was too shallow a pretext to deceive any one, more especially the western people, who bore witness to his trials and his efforts, as well as the results of his labors in his extensive department, "which was the State of Illinois and the States and Territories west of the Mississippi river and on this side the Rocky mountains, including New Mexico," and subsequently including a part of Kentucky and the river. He took command of the western department wholly without special instructions, with full discretionary power to conduct himself under the arduous duties of that position as his judgment should dictate. He entered upon his duties at St. Louis on the 26th day of July, 1861, and found the department in the most deplorable condition, almost without arms and military stores, wholly without money, clothing, or provisions. From the 6th of June previous, Missouri had been in the command of General McClellan, and from the perplexed and needy condition of the Government, had been wholly but unavoidably neglected. Lyon's troops had not been paid or clothed by the Government during the time he commanded them. General Lyon was in the southwest part of Missouri, needing reinforcements. There was trouble in the northwest, requiring more troops than we had there. In the northeast part of the State we had barely enough troops to meet the enemy; while in the southeast, Bird's Point, Cape Girardeau, Ironton, Rolla, and St. Louis, with Cairo, Illinois, were threatened by a large force of the enemy, and no adequate preparations made to meet the emergency. The railroads were continually threatened and frequently destroyed, the incendiary's torch performing its office; arms were taken from Union men by squads of rebels all over the State; treason walked on the highways and denounced the flag and Government with impunity. The State was wild with excitement, persons flocking to the rebel standard from the very doors of the Government officers, St. Louis itself seething with treason and rebellion. "The State government in inextricable confusion, unable to lend a helping hand; no arms, no equipments, no horses for cavalry, no large guns for batteries, or small guns for field artillery; all the affairs of the department in helpless confusion; no system, no money, no officers, and no credit;" the department entirely neglected by those whose duty it was to provide for it. The whole country was in commotion. The failures of our army of the Potomac at Bull Run and Manassas; its retreat on Washington; the surrender of Harper's Ferry, with our arsenal and arms, the machinery of which for manufacture fell into the enemy's hands; the retiring of Patterson from the Virginia shore—had all gone to embolden the rebels, who were then much better armed than were our forces. The authorities at Washington, trembling at the advance of a victorious enemy, who were within sight of the Capitol, were using every effort to make "Washington safe," having but one manufactory for arms left, and but few arms in the arsenals or market, the major part of them having been plundered by Floyd and his traitorous coadjutors, left the western department almost destitute. All the arms which could be procured by the Government were sent to the army of the Potomac. Its money was spent there; its clothing was forwarded and used there; the demand was great and the supplies small. In vain did General Lyon, days and weeks before Frémont's arrival, plead for money to pay his needy troops, and with which to provide commissary and quartermaster's stores. In vain did he ask them to pay the debts he had contracted. In vain did he call for arms and reinforcements. In vain did he notify the Government that his troops had neither pay nor clothing from the Government during their three months' service, that their families were in want, they dispirited from the neglect, and unwilling to reënlist on account of it. In vain did Frémont plead for arms. In vain did he ask for money and military stores; compelled to contract loans on his own responsibility to pay troops, and furnish troops and arms. In vain did he inform the Government that his troops were mutinous, and those whose times were expiring unwilling to reënlist on account of the failure to pay. He importuned until a Cabinet officer wrote to him that he could get no attention to the West or western matters; that he must take every needful responsibility to save the people over whom he was specially set.

Such are the ordeals through which Lyon and Frémont passed, and paved the way to others' honor and renown.

When General Frémont took command of the western department, there were less than twenty-five thousand troops in the entire command; of which forces ten thousand were three months' men, all of whose time expired within ten days after his arrival, leaving him some fifteen thousand in all that vast department. Of the whole forces, Lyon had near one third at Springfield; the remainder were with Pope in North Missouri; Prentiss, Cairo; Lawler, Bird's Point; Bland, Pilot Knob; Wyman, at Rolla; Shrifel, Lexington; Stevenson, at Booneville; Smith and Marsh, at Cape Girardeau; and Burnstine, at Jefferson City; with a remnant at St. Louis; all the Missouri troops poorly clothed, not paid, some of them badly armed, and dispirited; while, as I have said, the enemy, buoyant with hope, had over sixty thousand men in the field, and their forces fast augmenting. Pillow, in southeast Missouri, seventeen thousand; Hardee, near Greenville, seven thousand; Price, southwest, threatening Lyon, with near thirty thousand; Harris, in northeast, with sixteen hundred; Green, in northwest, with over fifteen hundred; Thompson and Watkins, near Girardeau, five thousand; making a total of sixty-two thousand one hundred.

The enemy had cavalry and large amounts of artillery; while the Federal forces were without cavalry and but little artillery; the whole State in revolt, and the young men joining the enemy. General Frémont, fully anticipating the wants of his vast department, and well knowing the needs of the Government, with its disposition to call arms, ammunition, and supplies to Washington, on receiving information, while in this city, from Governor Yates, of Illinois, that he had seven thousand men ready to march, only that they were without arms, called on General Ripley, of the ordnance department, and obtained a promise that, out of twenty-five thousand stands of arms then on hand, seven thousand stands should be immediately forwarded to the West for those troops. On the next day Ripley informed General Frémont, at New York, that the Governor of Illinois must be mistaken in wanting arms, and that they could not be had. Of this he notified the President through the Postmaster General, who informed him that the President would in person attend to this matter; which he did by the appointment of Major Hagner to assist General Frémont in procuring arms by purchase for the West. And, notwithstanding this precaution and kindness by the President, the arms and supplies purchased for the West were sent by Hagner to Washington for the army of the Potomac, as appears in the committee's report of Hagner's testimony. Not over about two thousand stands of arms came from Hagner to Frémont.

Another ruse played on Frémont was to send an order, dated July 24, 1861, for five thousand stands of arms on the arsenal at St. Louis, when there were none there to fill the order. Large amounts of those that were there in the spring of 1861 were rifled and repaired under the supervision of this same Major Hagner, who then had charge of the arsenal, and delivered to General Buckner, which have been used against our troops in Kentucky until captured by the forces under Generals Grant, Wallace, McClernand, and Smith, and Commodore Foote, which is a part of the army raised by General Frémont. On his arrival in the West, the Government was almost destitute of supplies, being compelled to send her agents into the open market to purchase for the Potomac army. Different Governors also had their agents in the market purchasing supplies for their respective States, all of which were competing with each other, raising the prices at times to much more, and seldom at as little as the real peace price of the arms and munitions of war. To show the House the very high prices which arms and ammunition reach in times of war, in Governments where, as in this country, ample national factories have not been constructed and in use, I will read from a treatise on the rise in prices in arms and ammunition in England during the Crimean war:

"When a sudden demand arose for an enormous supply of the munitions of war, not only were private establishments unable to provide them in sufficient quantities, but those that were supplied were produced at a cost considerably beyond, and in some cases of four and five times their value, and of a quality so inferior as to involve great risk of the failure of military operations.

"The shells for which the contractors during the late (Russian) war charged $324 per ton, are now produced in the Government factories for $66 per ton."

It was during such a struggle for arms that General Frémont was compelled to enter the market without money to compete with the United States and the several States in the purchase of arms for his needy department, of supplies for his gunboats and his mortar boats, and to equip his land and river forces, with a concentration of which to quell a gigantic rebellion in the vast country included in his command. He could not advertise, for he had no money to pay for what was required. He could only get what people were willing to let him have upon credit. And it is worth while naming, in this connection, that the Government is, at this moment, refusing to pay for the supplies thus furnished.

At this moment, and ever since the removal of General Frémont, an illegal committee, presided over by the man most instrumental in the procuring of General Frémont's removal, and violently opposed to him politically, has been sitting in inquisition upon his administration at St. Louis—annulling contracts. I repeat, *annulling* contracts. The Essex, which, since before the battle of Belmont, has been active in protecting Kentucky, and bore a distinguished part in the victories which have gladdened and revived the loyal part of the nation—that very Essex, costing much less than half the price of the gunboats built by Government—delivered to the Government completely finished and furnished not only with every article of necessity, but even of comfort, including the cabin furniture of the officers and crew, put on board and paid for by the private means of the officer employed to build her, (Captain Adams;) even for this they have refused to pay, but struck off two thirds from the fair and reasonable cost, and that upon the full and detailed exhibition of the most satisfactory vouchers. And this, because this boat was built under the orders of General Frémont. Compelled to strike a bargain wherever he could, he offered, single-handed, the credit of the Government, and plead his pressing necessity as an excuse for the offer; and though thus burdened with duties which belong to the Government, and which for all her other generals except Lyon she has performed, he procured his arms and supplies, equipped and managed his army, throwing his forces along those vast distances, quieting and controlling the rebellion, repairing railroads, and building bridges, and discharging all the duties of officers of armies organized, *and which do not move*, in addition to those services of which I have spoken.

And yet we are told he is inefficient. By whom?

Why, sir, by that cabal which has pursued him because of his proclamation, in which are the friends of that institution of slavery here held above the peace of families, the desolation of societies and States, the sacrifice of property, and the lives of freemen; a cause whose advocates find no sorrow or shame in marshaling its hosts for strife and blood against the Government, its law, peace, and citizens.

General Frēmont is always successful when pursuing the dictates of his own judgment, which early pointed out the necessity of having gunboats and mortar boats to use on the rivers in connection with his land forces. He had such constructed, the first under the supervision of the brave and competent Commodore Foote, who commanded them with honor to himself and the country; the mortar boats by that most excellent officer and gentleman, Mr. Adams. I clip the following just remarks from the New York Times relative to these boats:

"Speaking of the success of Foote and Porter, does it occur to you to look back and give credit where credit is due—to the man who planned the enterprises which have yielded such abundant returns? Do you recollect that among the first charges that were brought against Frémont was the one that he was wasting money in building gunboats to be used on the western rivers, and that an unending flood of ridicule and abuse was heaped upon what was called 'his visionary scheme?' Frémont has not been permitted to reap the full harvest of the seed he planted; but the future will know that for the fall of Fort Henry, and probably for the ultimate reduction of Columbus and the clearing out of the Mississippi, the nation will be indebted to General Frémont's foresight and adaptation of means to an end. The campaign of the West is coming back to the lines upon which Frémont stood when his triumphant career was cut short. Thus time and circumstances are vindicating him almost before the ink is dry upon the paper that doomed him to inaction, and for a time to public censure."

After General Frēmont had well secured his outposts, and fortified them, with the fortifications of St. Louis in an advanced state, he moved his forces to the towns of California, Tipton, Syracuse, Sedalia, and Georgetown, his headquarters to Jefferson City, thence to Tipton, intending to move in pursuit of the army under Price in seven divisions, under Generals Sigel, Asboth, McKinstry, Pope, Hunter, Sturgis, and Lane, in all near forty thousand men.

On the 11th of October, Secretary Cameron and Adjutant General Thomas reached St. Louis, as I learn from their published journal of events so injudiciously given by Thomas to the country, and after examining the fortifications there, reached Tipton, where I saw the Secretary, on Sunday the 13th of the same month, reviewing a portion of the troops there and in Syracuse, leaving the same day, and on the 14th ordered the work on the fortifications at St. Louis to be stopped; this was done without notice to Frēmont. And at the time Messrs. Cameron and Thomas were in his camp, they were the bearers of an order to relieve him of command, dated October 7th, six days prior to their visit. Yet they did not serve the order, or inform the general that such was in being. This order was left in St. Louis, in the hands of inferior officers, and General Frēmont permitted to march south with his forces in pursuit of Price, which he did with the full knowledge of Secretary Cameron and Adjutant Thomas on the morning of the 14th.

On the morning of the 16th, two days after Frēmont left the railroad at Tipton, the Van Wyck committee commenced its investigations at St. Louis; and the order for the relief of General Frēmont from command was changed from the 7th to the 24th of October, as will appear by reference to the instrument itself. The committee closed their testimony on the 29th, two days after the alteration of the date of the order, which, thus mutilated by irresponsible hands, was served on him at Springfield, November 2d, one hundred and thirty miles from where Secretary Cameron left him. The order to relieve General Frēmont was signed by General Scott, and before it was served on him, which was twenty-six days after its first, and nine days after its last date, General Scott had retired from service, and General McClellan was commander-in-chief; and so strangely was this business transacted, that General McClellan on the 2d of November, the same day that General Frēmont was relieved at Springfield, Missouri, issued an order at Washington, directing him what course to pursue with his army. This was duly received on the 4th, by General Frēmont, two days after its date, on his way to St. Louis, in obedience to the prior order.

This is the most singular conduct ever emanating from any department of any Government. Let us review it. An order to relieve the major general commanding the western department is issued and signed by the commander-in-chief, October 7; is carried by the Secretary of War and his Adjutant General to the camp of the commanding general six days after its date, and knowing that he is intending to move with an army of forty thousand men, in pursuit of an enemy in the field, with all the equipments for war, do not serve the order, or prevent the movement of the army. After he has gone from the last point of prompt communication, they stop the work on the fortifications ordered by him prior to starting. Two days after this an investigating committee, which was appointed by Congress sixteen days before Major General Frēmont entered on his duties (and notwithstanding this committee was appointed at the instance of the chairman to examine the Secretary's conduct, then challenged by him as imprudent and unjust) commence an investigation of this new department, without notice to the general of its purpose, gathering its information from his avowed known and personal enemies; the date of the order to relieve changed by irresponsible inferior officers to the 24th of the same month. The committee closed their investigation on the 29th, five days after this change of date. The order is not served until the 2d of November, nine days after its last date, and four days after the committee close their testimony, when an order from McClellan reached Warsaw, Missouri, in two days. The trip can be readily made from St. Louis to Springfield in three days, being one hundred and sixty miles by railroad, and one hundred and thirty by good wagon road. The investigating committee commenced its labors two days after he started from the railroad, and left before he returned. And the commander-in-chief did not know that a major general was relieved twenty-six days after the order issued. Whether this singular coincidence was by the committee recognized at the time, I do not know; but that no man's good name should be assailed in his absence, without notice, has been settled as good law. And that a commander-in-chief should learn in less than twenty-six days that an order to relieve a major general, who was commanding an extensive department, with over sixty thousand troops, had issued, will hardly need affirmation here.

It will be remembered that while he pursued Price with a heavy force, his occupation of Kentucky, at Paducah, Cairo, Illinois, with almost the entire State of Missouri, was fully established and maintained. His removal, at the time he had succeeded in concentrating his forces at Springfield for his certain and swift descent on Price's army, was fatal, not only to him, but to the State of Missouri and the country. With an army in high spirits, well disciplined, with some seven thousand cavalry, eighty-six pieces of artillery, and the remainder infantry, abundant trains, with provisions, such as could not be procured in the country, had it not been for two occurrences, which are worthy of notice here, General Frēmont would have engaged Price before the order for his relief reached him. One was the swollen condition of the Osage river, over which he threw a trussel bridge eight hundred feet in length through a deep and rapid current in thirty-six working hours—getting the material from the forest—on which his army passed with all his artillery and stores, and returned again under General Hunter. The second hinderance was the tardy movements of Generals Pope and Hunter.

The country has been informed by the publication of Adjutant General Thomas's diary of his peregrinations through Missouri and Kentucky, among other and singular things, that for want of means of transportation, General Frēmont's army could not move at all, which at the date of his report had moved sixty miles from where he saw it, and built a bridge over a navigable river, and moving on; and secondly, that Generals Hunter and Pope could not do so for the same reason. To disabuse the public mind, I will insert the statement of Colonel I. C. Woods, chief of transportation, made to the general, under date of October 18, at Warsaw, showing the amount and character of transportation of each division of the army, except Generals Lane's and Sturgis's. The report shows the number of teams, whether Government, hired, or pressed, of each division, at that date:

	Government.	*Hired.*		
General Hunter....	205			
General Pope.....	90			
General Sigel.....	102	25	Enough pressed to move.	
General Asboth....	165	15	80	"
General McKinstry.	30			
Colonel Marshall...	10	-	12	"
Major Holman.....	3			
Major Zagonyi.....	12	-	2	" for band.
Headquarters.....	16	-	3	"
	633	40	97	

Yet Pope reached Springfield only on the 2d of November, and Hunter late in the evening of the 3d, and his command on the 4th, where Frēmont and the other divisions had been for over a week. And though the roads were good, their teams did not arrive with tents, cooking utensils, and provisions for some time afterwards, putting their men to severe and unnecessary exposure, which I saw with sorrow, and of which I have a right and a will to speak of here. A portion of my constituents were in those commands. The neglect was unnecessary, and I am now, as I was then, and there stated, firmly convinced that it was done to create distrust in the minds of the troops against General Frēmont; and that they *had* teams is further evidenced by their subsequent arrival. The advance divisions saved their men by hauling their knapsacks, leaving them their arms and ammunition to carry; the roads were good. The world may determine whether it was a part of the combination when they know who took command.

While General Frēmont was at Springfield, Price with a much heavier force was at Cassville, and at intermediate points between those places, his advance at one time reaching to Wilson's Creek battle-ground, ten miles from Springfield; his heaviest forces being at Cassville, and McCulloch at Flat Creek, nearer our forces. That the armies would soon have met and fought is beyond any doubt, unless Price had again fled; and in that case every preparation was made for a most vigorous pursuit, with ample amounts of stores for the severest campaign. It has been said that Price was not in force and threatening a battle. I shall be willing to believe what such officers as Sigel, Asboth, Albert, and numerous scouts, loyal citizens of Missouri, as well as officers from our camp sent to Price's for the exchange of prisoners, believed to be true. I conversed with them at the time. In this belief I particularly rely on the statements of General Franz Sigel, whose reputation as a military commander is established both in Europe and America, who had command of the advance, and who used in my presence, to Colonels Hudson and Lovejoy, the following words: "I know that we will fight Price in forty-eight hours;" and but for the arrival of Hunter and Pope, and removal of Frēmont, it would have taken place. The arrival of two divisions of an army was to Price tangible, and his information certain, that Frēmont's forces had reached him, but that General Frēmont would be removed at that time, and under the circumstances surrounding him and his army, no man of Price's good sense would believe, even if he had heard it. That Hunter believed the advance of the enemy to be near I am well convinced from the caution he exercised in making a reconnoissance in force to the old battle-ground, in which I accompanied him.

And, again, only eight days after General Hunter's order to retire with his forces north of the Osage river, Price followed him, and captured part of his train, and for thirty-six consecutive days ravaged all the country south of the Osage, and much of that lying north of it. At the town of Warsaw, where General Frēmont crossed the Osage river, and General Hunter returned on the bridge of which I have spoken, if we are to believe the newspapers, our own officers burned a portion of our quartermaster and commissary stores, to prevent their falling into the hands of the enemy, so closely were they pursued more than one hundred miles north of Springfield. We all rejoiced over victories made by General Davis, with part of Pope's division, more than one hundred miles north of where Frēmont had carried peace and quiet. Sir, the voice of citizens plundered, and the blood of loyal men murdered in all that country by the enemy, after General Frēmont's removal, will

rise up against those who were engaged in procuring it.

To-day we are again rejoicing over victories of our brave troops at Springfield, and on the exact lines of march which Frémont made and intended to make. These gunboats and mortar boats scour the rivers, carrying all before them; the forces organized by him now in Kentucky, under the brave Generals Smith, Grant, Wallace, and McClernand, and the forces under General Buell, are marching on the identical roads, and taking the same towns, which General Frémont advised the President, by the following letter of September 8, should be secured:

(Private.)

HEADQUARTERS WESTERN DEPARTMENT,
September 8, 1861.

MY DEAR SIR: I send by another hand what I ask you to consider in respect to the subject of the note by your special messenger.

In this I desire to ask your attention to the position of affairs in Kentucky. As the rebel troops, driven out from Missouri, had invaded Kentucky in considerable force, and by occupying Union City, Hickman, and Columbus, were preparing to seize Paducah and attack Cairo, I judged it impossible, without losing important advantages, to defer any longer a forward movement. For this purpose I have drawn from the Missouri side a part of the force which had been stationed at Bird's Point, Cairo, and Cape Girardeau, to Fort Holt and Paducah, of which places we have taken possession. As the rebel forces outnumber ours, and the counties of Kentucky between the Mississippi and Tennessee rivers, as well as those along the latter and the Cumberland, are strongly secessionist, it becomes imperatively necessary to have the coöperation of the loyal Union forces under Generals Anderson and Nelson, as well as of those already encamped opposite Louisville, under Colonel Rosseau. I have reinforced, yesterday, Paducah with two regiments, and will continue to strengthen the position with men and artillery. As soon as General Smith, who commands there, is reinforced sufficiently to enable him to spread his forces, he will have to take and hold Mayfield and Lovelaceville to be in the rear and flank of Columbus, and to occupy Smithland, controlling in this way the mouths of both the Tennessee and the Cumberland rivers.

At the same time Colonel Rousseau should bring his force, increased, if possible, by two Ohio regiments, in boats to Henderson, and taking the Henderson and Nashville railroad occupy Hopkinsville, while General Nelson should go with a force of five thousand by railroad to Louisville, and from there to Bowling Green. As the population in all the counties through which the above railroads pass are loyal, this movement could be made without delay or molestation to the troops. Meanwhile General Grant would take possession of the entire Cairo and Fulton railroad, Piketon, New Madrid, and the shore of the Mississippi opposite Hickman and Columbus. The foregoing disposition having been effected, a combined attack will be made upon Columbus, and if successful in that, upon Hickman, while Rousseau and Nelson will move in concert, by railroad, to Nashville, Tennessee, occupying the State capital and, with an adequate force, New Providence. The conclusion of this movement would be a combined advance toward Memphis, on the Mississippi, as well as the Memphis and Ohio railroad, and I trust the result would be a glorious one to the country. In reply to a letter from General Sherman, by the hand of Judge Williams, in relation to the vast importance of securing possession, in advance, of the country lying between the Ohio, Tennessee, and Mississippi, I have to-day suggested the first part of the preceding plan. By extending my command to Indiana, Tennessee, and Kentucky, you would enable me to attempt the accomplishment of this all-important result; and in order to secure the secresy necessary to its success, I shall not extend the communication which I have made to General Sherman, or repeat it to any one else.

With high respect and regard, I am, very truly, yours,
J. C. FRÉMONT.

THE PRESIDENT.

This was before the enemy had occupied them, and they could have been seized without blood. Nashville would have been in our possession by the 1st of October, and the Union citizens of Tennessee have been saved from the hellish murders inflicted on them. The blood of the murdered of Tennessee, Kentucky, and Missouri, in battle, in the secret places of the mountains, in the prairies and forests, fields, and highways, will, like Abel's, cry to God from the ground for this double murder. The enemies of freedom in the South rose against her friends there, and the enemies of freedom here rose up against their deliverer and destroyed him, cutting off, for a long time, all aid, while the caverns of the mountains echo back the dying shrieks of murdered loyal citizens; and still the combination in full conspiracy, coldly calculates upon the flexibility of the American mind, hoping still to mold it for their further use. Frémont was removed because the slave power demanded it.

The question of the necessity for the fortification of any point is a military one, to be determined by the officer in command, at the time and place, in view of the surroundings, and whether St. Louis should have been fortified was properly the province of General Frémont to decide; in fact, the committee do not of their judgment attempt to pass upon it, but introduce General Curtis as a witness of different opinion. I must confess that it was with some surprise I read in the report that General Curtis thought the fortifications unnecessary. I perfectly recollect that in conversation with him at his house at the barracks, where he was in command, on the day prior to General Frémont's starting to Jefferson City and Tipton, en route for Springfield and Price, he said to me, that the troops then at the barracks were raw, some of them unarmed, could not defend the city against the attack of an ordinary force, and that the barracks should have been built in the State of Illinois, putting the Mississippi river between them and the enemy.

It does seem to me that fortifications were as necessary as this precaution, particularly as troops are to defend against, and not to be defended by the enemy. St. Louis is a large city; it was to Frémont what Washington is to McClellan—his base of operations; that while the Potomac river, a mile in width, forms a protection to this city, running as it does between it and the enemy's advance, preventing the egress and ingress of spies, St. Louis is on the south side of the river, with its approaches all exposed, and the river a barrier against reinforcements from the loyal States, as certainly as the Missouri river was to General Sturgis, who was unable to aid Mulligan, though only the river between them, and the remainder of General Stone's command when Baker fell. Yet not only General Scott and General McClellan thought it necessary to fortify Washington, but this Congress, at its special session and this one, have voted directly for that purpose many hundred thousands of dollars. Is property in Washington, the lives of her people, or the cause of justice, or duty of her military officer to maintain it, more sacred or more binding than in St. Louis?

The committee affirm that the soldiers should have built those fortifications. These were in all a heavy work. It was warm weather; the climate, as has been clearly proven, not congenial to the northern soldier until acclimated; but the strongest reason was that the troops at St. Louis were received raw and generally unarmed. They were necessarily equipped and drilled as soon as possible and thrown to the outposts. This was the continued and necessary practice at that point. No body of troops were retained after being fully armed and equipped; and, indeed, necessity sent many to outposts not well armed and drilled. The Governors of States who came up so nobly to the cause requested, in all cases, that their troops be not thrown into active service without drill. Frémont's was not a besieging or a besieged army. He was in command only 100 days, in which time he raised his forces from 15,000 to 62,000, arming, equipping, feeding, and clothing them, attended with the difficulties which I have already named, moving them to and fortifying points distant from St. Louis as follows: Cape Girardeau, 120 miles; Ironton, 80; Bird's Point, 200; Jefferson City, 125; Rolla, 120; and Cairo, Illinois, 200; and Paducah, Kentucky, 230; besides moving forces over and quieting all north and west Missouri, watching and repairing railroads through, and holding military occupation of, almost the entire State, moving near 40,000 men 290 miles by way of Tipton to Springfield, guarding the entire country, driving a victorious army before him, and giving peace and quiet to the people, except in the south border, and would in a few days have cleared the State of enemies, had he not been removed. If he had simply been stationed with an immense force to guard the city of St. Louis, as has been the case at this city, he could have fortified it as he did his outposts with his soldiers, and, too, without the aid of Congress.

Again: General Frémont found the commerce and labor of the city paralyzed, and much want and suffering; a large number of the laboring people of St. Louis thrown out of employ, dissatisfied with the Government, because taught by those wealthy and traitorous scoundrels who had furnished them labor, but now did not, that the Government was the cause of the war and their suffering. The labor on the barracks and fortifications furnished employ for several thousand hands, at good wages, and by this expenditure the minds of many men were disabused, and St. Louis now presents the spectacle of poor patriots and wealthy traitors—the entire foreign population loyal. The feud between the German and Irish element when Frémont reached St. Louis was of a character approaching an outbreak. By the expenditure of this money the city was quieted. The fortifications were so built as to command both the city and the approaches to it, including the river above and below it. The city is wealthy, and if it should fall into the hands of the enemy would furnish supplies to their entire army. Theirs is a war of robbery; ours of protection.

Again: General Frémont needed all his forces, his purpose being, so soon as quiet was restored in the southwest part of the State, by the destruction of Price's army, which in a few days he would have effected, without returning with his army to St. Louis, to have met his combined forces at the river, and, with a concerted movement of his Kentucky troops, with his gunboats and mortar boats and Missouri forces, to move down the river, leaving St. Louis in charge of troops enough to man her fortifications, it being his grand depot, the center of travel and trade of the West, approached by seven railroads—three in Illinois and four in Missouri—as well as river line between those States, opening to his gunboats and mortar boats the Missouri, Ohio, Tennessee, Cumberland, and lower Mississippi rivers. Connected as it is by telegraph with the free States and the capital, he could keep up his lines of communication for all purposes with the granaries of Illinois, Indiana, Ohio, and Iowa. The great, free Northwest could pour her troops into his army in any need.

Sir, the life, the spirit, the labor, the plan, and the success of this great western campaign, is General John C. Frémont's. History and the honest judgment of mankind will give it to him, and he will yet have the reward of his labor, combinations to the contrary notwithstanding.

As a question of economy, the fortification of St. Louis was entirely tenable. That city has a population of one hundred and sixty thousand; her best fighting loyal element was already in our lines, away from their homes. They knew the danger, because compelled to quell rebellion at their own door-steps. With their homes fortified, those troops felt that the Government was in earnest, and cared for them; a feeling not so prevalent with many three months' men, if we may believe General Lyon, who said they were dispirited and felt they were neglected. Confidence is all and all to fighting men. There is no man who loves his country but who loves his family; and he who knows that his family is in danger of these murderous slave-drivers, whose course so far is one of robbery and slaughter, treads with unsteady step the path which leads from home; but when he feels *himself* in danger for the safety of those objects of his hope and affection, he counts no odds, and proudly meets his foes. But to hold a city of the size of St. Louis without fortification, against forces which could in the rear of an advancing army rise and seize its stores or burn the city, it would require fully ten thousand well-armed troops, with costs not varying materially from the following:

10,000 men at wages 43 cents per day	$4,300
" " at expenses 25 " "	2,500
500 horses, for teams and artillery, 20 cents per day,	100
	$6,900

In addition, it will require one hundred wagons and harness for horses, with wear and tear in all, equaling $8,000 per day. The fortifications will require less than half that number of men, wagons, horses, and arms. So that the expense of $4,000 per day, with a loss of five thousand men, fifty wagons, two hundred and fifty horses, and artillery for field service, with arms for all, can be saved by the fortifications, which would be a saving, in fifty days, of their entire cost, at the price they were built, not counting the service in the field of the spare forces. Now, when quiet is restored, it is said they were not needed. It is easy to say that a successful precaution was not necessary.

But what made St. Louis safe? Was it those committees which have followed General Frémont so perseveringly at such respectful distances? Was it the policy which has suffered the Potomac blockaded, both above and below the capital—the Baltimore and Ohio railroad and canal destroyed—

three out of four of the approaches to the city of Washington cut off—which surrenders the Harper's Ferry manufactory of arms and arsenal, with machinery, to the enemy—an army murdered at Ball's Bluff, in sight of their brave and anxious friends, without means of relief—the capital, with two hundred thousand men, beleagured for six months—was it these? No! no! It was a brave and active army, imbued with the same spirit of freedom which moved him who organized it.

But in addition to the deprivations against which Lyon and Frémont had to contend, of which I have spoken, troops and arms were called from that endangered and needy department, at times, too, when they were most required, compelling General Lyon, at one time, to the unwelcome necessity of refusing to obey the orders of the Government, and withholding troops from superior demand. And as testimony to prove what I have said, I introduce and incorporate in my remarks letters and telegrams, and extracts of each from the correspondence of Generals Lyon and Frémont; and for the further purpose of dispelling the unjust aspersions so industriously circulated against Frémont, charging him with a neglect of duty to General Lyon in not reinforcing him prior to the battle of Wilson's Creek, showing by the telegrams of General McClellan and the President their opinions of the importance of holding Cairo and northeast Missouri, and the necessity of saving this region, which lay in proximity to the river and State of Kentucky, which would, in the hands of the enemy, directly endanger the city of St. Louis and entire State of Missouri.

These telegrams and official writings will show the following state of facts:

That General Frémont took charge of his command July 25, 1861.

That it was imperatively necessary to reinforce Cairo.

That the enemy's forces far exceeded any possible numbers Frémont could bring to bear.

That your troops were not fed, paid, or clothed, by the Government, while Lyon was in command.

That General Lyon made urgent requests for them.

That drafts were made on him for troops until he finally refused to obey the order.

That General Frémont reinforced Cairo on the 2d of August, which was as soon as possible.

That the department was destitute of money or supplies.

That Government would not pay attention to his urgent requests more than it did Lyon's.

That General Frémont ordered troops to General Lyon, August 3d, seven days prior to the fight at Wilson's Creek, which was August 10th.

That General Lyon notified Frémont that, in case of failure to reinforce him, he would retire.

That a failure to reinforce Cairo would have lost the State, with St. Louis, and not have saved Lyon, because he would have been surrounded.

That there were not armed troops enough to reinforce both.

HEADQUARTERS DEPARTMENT OF OHIO,
CINCINNATI, *June* 18.

CHESTER HARDING, jr., *Assistant Adjutant General:*

Have received order placing Missouri under my command. Will leave for St. Louis to-morrow. If more troops are needed, telegraph me details of case.

G. B. McCLELLAN, *Major General.*

—

BOONEVILLE, MISSOURI, *July* 2, 1861.

DEAR COLONEL: I hope to move to-morrow, and think it more important just now to go to Springfield. My force in moving from here will be about twenty-four hundred men. Major Sturgis will have about twenty-two hundred men, and you know what force has gone to Springfield from St. Louis, so that you see what amount of provisions we shall want supplied at that point. Please attend to us as effectually as possible. Our line should be kept open by all means. I must be governed by circumstances at Springfield. You will, of course, have due attention to the southeast. The State Journal is outrageous, and must be stopped. You will take such measures as you think best to effect this. Our cause is suffering from too much indulgence, and you must so advise our friends in St. Louis. Colonel Stevenson must have pretty strong garrisons at the points he occupies on the river, and he must have support from other States as occasion seems to require. Colonel Curtis is, I suppose, on the Hannibal and St. Joseph road. Rigorous measures should be shown the disorderly in that region. Our operations are becoming extensive, and our staff officers must keep up with our emergencies. We need here a regular quartermaster and commissary. Cannot something be done for us from Washington?

Yours, truly, N. LYON, *Commanding.*

Colonel HARDING, *St. Louis Arsenal.*

P. S.—I cannot spare more than three hundred stand of arms for home guards at Jefferson. I shall not be able to supply other portions of the State with the same proportion. N. L.

—

HEADQUARTERS DEPARTMENT OHIO,
BUCKHANNON, *July* 5, 1861.

TO CHESTER HARDING, *Assistant Adjutant General:*

Communicate freely with Prentiss. If he does not need Wyman you can take him. Telegraph to General Pope at Alton, to give you a regiment, and to Hurlbut, at Quincy, to give you another.

Do not lose sight of importance of Cairo, and of its operations in southeastern Missouri. Write to me fully.

G. B. McCLELLAN, *Major General U. S. A.*

—

HEADQUARTERS SOUTHWEST EXPEDITION,
SPRINGFIELD, MISSOURI, *July* 13, 1861.

SIR: I arrived at this place early this evening, two or three hours in advance of my troops, who are encamped a few miles back. I have about five thousand men to be provided for, and have expected to find stores here, as I have ordered. The failure of stores reaching here seems likely to cause serious embarrassment, which must be aggravated by continued delay, and in proportion to the time I am forced to wait for supplies. * * * * I shall endeavor to take every due precaution to meet existing emergencies, and hope to be able to sustain the cause of the Government in this part of the State. But there must be no loss of time in furnishing me the resources I have herein mentioned. I have lost in reaching this place about four days' time by the high waters in Grand and Osage rivers, which made it necessary to ferry them. The same difficulty prevented Sturgis from coöperating with Sigel in time to afford any aid. Please telegraph to McClellan and to Washington anything in this letter you deem of importance to these headquarters. Shoes, shirts, blouses, &c., are much wanted, and I would have you furnish them, if possible, in considerable quantities.

Yours truly, N. LYON,
Brigadier General Commanding.

Colonel CHESTER HARDING, *St. Louis Arsenal.*

—

(By telegraph from Chicago, July 15, 1861.)

ST. LOUIS ARSENAL, *July* 15, 1861.

TO CHESTER HARDING, jr.:

Have dispatched condition of affairs to General Frémont, and asked authority to take the field in north Missouri with five more regiments. Expect answer to-night. Will go down and confer with you as soon as I hear. How did you succeed with Harris?

JOHN POPE, *Brigadier General.*

—

HEADQUARTERS ARMY OF THE WEST,
SPRINGFIELD, MISSOURI, *July* 15, 1861.

COLONEL: General Lyon is now here with about seven thousand men, of these fully one half are three months' volunteers whose term of service has nearly expired; the latest expiring on the 14th of August. Governor Jackson is concentrating his forces in the southwestern part of the State, and is receiving large reinforcements from Arkansas, Tennessee, Louisiana, and Texas. His effective force will soon be certainly not less than thirty thousand men, probably much larger. All idea of any further advance movement, or of even maintaining our present position, must soon be abandoned, unless the Government furnish us promptly with large reinforcements and supplies. Our troops are badly clothed, poorly fed, and imperfectly supplied with tents; none of them have yet been paid; and the three months' volunteers have become disheartened to such extent that very few of them are willing to renew their enlistment. The blank pay rolls are not here, and the long time required to get them here, fill them up, send them to Washington, have the payment ordered, and the paymaster reach us, leaves us no hope that our troops can be paid for five or six weeks to come. Under these circumstances, there remains no other course but to urgently press upon the attention of the Government the absolute necessity of sending us fresh troops at once, with ample supplies for them, and for those now here. At least ten thousand men should be sent, and that promptly. You will send the inclosed dispatch by telegraph to General McClellan, and also to the War Department, and forward by mail a copy of this letter.

Lose no time in fitting for the field the three years' volunteers now at the arsenal, and send them here as soon as possible. Call for Colonel McNeil's regiment of home guards to garrison at the arsenal, and allow him to organize it for the regular three years' service if he desires to do so. It is believed that the remaining home guards will be sufficient for the city. Should it be necessary, their term of service can be renewed, for a short period, for the purpose of a city garrison. The general is not aware whether Colonel Smith's regiment has yet taken the field; if not, he presumes that both his and Colonel Bland's regiments may be sent here without delay. You may doubtless leave the care of the southeast part of the State to General Prentiss. Should St. Louis be in danger from that direction, troops could easily be called from Illinois and Indiana for its defense; moreover, a force moving on St. Louis from the south would be exposed to attack in rear from Cairo. Hence there seems little or no danger from that direction. Unless we are speedily reinforced here we will soon lose all we have gained. Our troops have made long marches, done much effective service, and suffered no small privations. They have received no pay nor clothing from the Government, and the small stock furnished by private contribution is now exhausted; so that unless the Government gives us relief speedily, our thus far successful campaign will prove a failure.

I am, sir, very respectfully, your obedient servant,

J. M. SCHOFIELD,
Captain Eleventh Infantry, Acting Adjutant General

TO Colonel CHESTER HARDING, *Adjutant General Missouri Volunteers, St. Louis Arsenal, Missouri.*

P. S. Cannot Colonel Curtis's regiment be spared from St. Joseph; and, if so, send it forward.

N. LYON, *Commanding.*

HEADQUARTERS RIPLEY COUNTY BATTALION,
CAMP BURROWS, *July* 16, 1861.

DEAR SIR: If there is any way to communicate with the Governor, through any person in St. Louis, please let me know it. I am advancing, and General Yell will follow me in a few days with five thousand men. He will take position between Rolla and Ironton, and act as circumstances dictate. General Watkins will move up, sustained by General Pillow, and if proper energy is exercised we can drive the enemy north of the Missouri and into St. Louis in thirty days. You will please let me hear from you, verbally or not, through the person through whom this passes; and please send the Daily Journal for a short time to Doniphan, as it will be sent to me by my couriers.

Yours, respectfully,

Col. M. JEFF THOMPSON,
Commanding Ripley County Battalion.

JOSEPH TUCKER, Esq., *Editor The State Journal, St. Louis.*

DEAR MISS ——: I have not heard from you yet, but make free to trust this to your care.

—

SPRINGFIELD, MISSOURI, *July* 17, 1861.

SIR: I inclose you a copy of a letter to Colonel Townsend on the subject of an order from General Scott, which calls for five companies of the second infantry to be withdrawn from the West and sent to Washington. A previous order withdraws the mounted troops, as I am informed, and, were it not that some of them were en route to this place, they would now be in Washington. This order carried out would not now leave at Fort Leavenworth a single company. I have companies B and E second infantry, now under orders for Washington, and if all these troops leave me I can do nothing, and must retire, in the absence of other troops to supply their places. In fact, I am badly enough off at the best, and must utterly fail if my regulars all go. At Washington, troops from all the northern, middle, and eastern States are available for the support of the army in Virginia, and more are understood to be already there than are wanted, and it seems strange that so many troops must go on from the West and strip us of the means of defense; but if it is the intention to give up the West, let it be so—it can only be the victim of imbecility or malice. Scott will cripple us if he can. Cannot you stir up this matter and secure us relief? See Frémont, if he has arrived. The want of supplies has crippled me so that I cannot move, and I do not know when I can. Everything seems to combine against me at this point. Stir up Blair.

Yours, truly, N. LYON, *Commanding.*

Colonel HARDING, *St. Louis Arsenal, Missouri.*

—

(By telegraph from Chicago, dated 17, received July 17, 1861.)

To Major General FRÉMONT, *U. S. A., New York;*

We need specially, to fit out one or two regiments of cavalry, sabers and revolvers. There are absolutely none in this part of the country.

JOHN POPE, *Brigadier General.*

—

HEADQUARTERS ARMY OF WEST,
SPRINGFIELD, MISSOURI, *July* 17, 1861.

SIR: I have the honor to acknowledge the receipt of special order No. 112 from headquarters, under date of July 5, directing the removal from the department of the West of companies B, C, F, G, and H, second infantry, and of Captain Sweeny, now acting brigadier general, by election, of volunteers. The communication reached me yesterday at this place.

I have been drawn to this point by the movements of the rebel forces in this State, and have accumulated such troops as I could make available, including those in Kansas. My aggregate is between seven and eight thousand men, more than half of whom are three months' volunteers, some of whose term of enlistment has just expired; others will claim a discharge within a week or two; and the dissolution of my forces from this necessity, already commenced, will leave me less than four thousand men, including companies B and E, second infantry, now with me. In my immediate vicinity it is currently reported there are thirty thousand troops and upward, whose number is constantly augmenting, and who are diligently accumulating arms and stores. They are making frequent lawless and hostile demonstrations, and threaten me with attack. The evils consequent upon the withdrawal of any portion of my force will be apparent; loyal citizens will be unprotected, repressed treason will assume alarming boldness, and possible defeat of my troops in battle will peril the continued ascendency of the Federal power itself not only in the State, but in the whole West.

If the interests of the Government are to be sustained here, and, in fact, in the whole valley of the Mississippi, large bodies of troops should be sent forward to this State, instead of being withdrawn from it, till, by concentration, there may be ability to overpower any force that can be gathered in the West to act against the Government. Troops properly belonging to the valley of the Mississippi from Wisconsin, Michigan, Indiana, and Ohio, have already been withdrawn to the East. The moral effect of the presence of the few regulars in my command is doubtless the main consideration that holds the enemy in check, and with them I may be able to retain what has already been achieved until I am strengthened; but any diminution will be imminently hazardous.

The volunteers with me have yet had no pay for their services, and their duties have been arduous. Their clothing has become dilapidated, and, as a body, they are dispirited. But for these facts, they would probably nearly all have reënlisted. I have no regular officers of the pay department, nor the commissary and quartermaster; the affairs of both the last are consequently indifferently administered, from want of experience. Nothing but the immense interests at stake could have ever induced me to undertake the great work in which I am engaged, under such discouraging circumstances. In this state of affairs, presumed to have been unknown when the order was issued, I have

felt justified in delaying its execution for further instruction, so far as the companies with me are concerned.

Very respectfully, your obedient servant,

N. LYON,
Brigadier General Commanding.

To Lieutenant Colonel TOWNSEND,
Assistant Adjutant General, &c.

—

ST. LOUIS, *July* 19, 1861.

To Major General FRÉMONT:

It was the design to occupy southwest Missouri, cutting off all approaches from Arkansas by way of Pocahontas, to occupy Poplar Bluffs, Bloomfield, Greenville, and the line of the Cairo and Fulton railroad—accordingly one regiment is at Ironton, ready to advance when reinforced. Grant was under orders, but his orders were countermanded. Marsh is at Cape Girardeau, instructed to keep open communication with Bloomfield, where Grant was to be. General Prentiss has eight regiments at Cairo, and could spare five of them to go into that country. If we once lose possession of the swamps of that region a large army will be required to clear them, while if we get possession first and hold the causeway a smaller force will do. General McClellan telegraphed that he had authentic intelligence of a large army gathering at Pocahontas, according with what I have advised for weeks. Expecting you here daily, I have not telegraphed before; but if you do not come at once, will you take into consideration the importance to Cairo that the southeast should be held by us?

CHESTER HARDING, Jr.,
Assistant Adjutant General.

—

(By telegraph from Cincinnati, July 20, 1861.)

ST. LOUIS ARSENAL, *July* 20, 1861.

To CHESTER HARDING, jr., *Assistant Adjutant General:*

In case of an attack on Cairo have none but Illinois troops to reinforce, and only eleven thousand arms in Illinois. Will direct two regiments to be ready at Caseyville, but you will only use them for defense of St. Louis, and in case of absolute necessity. Telegraph me from time to time.

G. B. McCLELLAN,
Major General United States Army.

—

ST. LOUIS ARSENAL, *July* 21, 1861.

* * * * * * * * * *

A week since General McClellan telegraphed that he had the same definite information of troops crossing from Tennessee and coming up from all parts of Arkansas to Pocahontas, which I had learned from our scouts and spies, (one of them a pilot on a Memphis boat which had conveyed some of the troops over,) and had sent to him.

Now, in the southeast we stand thus: two regiments, not in communication with each other; no artillery, a few home guards, against what they expect to be twenty thousand men, (regular troops, well provided,) who design marching upon St. Louis.

I have explained all this to General Frémont, who will be here Tuesday, and who (as does General Pope) understands the threatened movement, and will take vigorous measures to meet it.

* * * * * * * * * *

At home our friends are alarmed, and the city is uneasy. I receive about five deputations per diem, warning me that I ought not to send away so many troops, (two thousand two hundred U. S. R. C. left,) and sometimes hinting that I will be overhauled by higher powers for doing so. The only danger is in case of an advance from Arkansas. But the first demonstration will result in clearing St. Louis of its secession element.

CHESTER HARDING,
Assistant Adjutant General.

To Brigadier General LYON.

—

(By telegraph from Cairo, 23d July, 1861.)

ST. LOUIS ARSENAL, *July* 23, 1861.

To CHESTER HARDING:

Have but eight regiments here. Six of them are three months' men. Their time expires this week—are reorganizing now. I have neither tents nor wagons, and must hold Cairo and Bird's Point. The latter is threatened. I have but two guns equipped for moving. Thus you see I cannot comply with request. Again, news of this morning changes policy of rebels in Kentucky. They are organizing opposite. Watkins is encamped with two thousand seven miles from Bloomfield. He had no cannon and poorly armed. This may be the force you have heard from.

B. M. PRENTISS, *Brigadier General.*

—

WASHINGTON, *July* 26, 1861.

DEAR GENERAL: I have two telegrams from you, but find it impossible now to get any attention to Missouri or western matters from the authorities here. You will have to do the best you can, and take all needful responsibility to defend and protect the people over whom you are specially set. * * * * * * * * * *

Yours truly, and in haste, M. BLAIR.

—

SPRINGFIELD, MISSOURI, *July* 27, 1861.

DEAR SIR: I have your notes about matters in St. Louis, &c., and your proceeding seems to me perfectly correct. Now that matters North seem more quiet, cannot you manage to get a few regiments this way? I am in the deepest concern on this subject, and you must urge this matter upon Frémont as of vital importance. These three months' volunteers would reënlist if they could be paid, but they are now dissatisfied, and if troops do not replace them all that is gained may be lost. I have not been able to move for want of supplies, and this delay will exhaust the term of the three months' men. Cannot something be done to have our men and officers paid, as well as our purchases paid for? If the Government cannot give due attention to the West, her interests must have a corresponding disparagement.

Yours, truly, N. LYON,
Brigadier General Commanding.

Colonel C. HARDING, *St. Louis Arsenal, Missouri.*

(Memorandum by Colonel Phelps, from General Lyon to General Frémont, July 27.)

"See General Frémont about troops and stores for the place. Our men have not been paid, and are rather dispirited; they are badly off for clothing, and the want of shoes unfits them for marching. Some staff officers are badly needed, and the interests of the Government suffer for the want of them. The time of the three months' volunteers is nearly out, and on returning home, as most of them are disposed to, my command will be reduced too low for effective operations. Troops must at once be forwarded to supply their place. The safety of the State is hazarded. Orders from General Scott strip the entire West of regular forces, and increase the chances of sacrificing it. The public press is full of reports that troops from other States are moving toward the northern border of Arkansas for the purpose of invading Missouri."

—

ST. LOUIS, *July* 28, 1861.

To Hon. W. H. SEWARD, *Washington:*

I ordered the arms shipped to New York to my order, expecting to forward, on the arrival, to my department. I trust you will confirm this disposition of them. The rebels are advancing in force from the South upon these lines. We have plenty of men, but absolutely no arms, and the condition of the State is critical.

J. C. FRÉMONT,
Major General Commanding.

—

(Received St. Louis, July 28, 1861.)

CAIRO, *July* 28, 1861.

To Major General FRÉMONT:

On yesterday three thousand rebels, west of Bird's Point forty miles; three hundred at Madrid, and three regiments from Union City ordered there; also troops from Randolph and Corinth. The number of organized rebels within fifty miles of me will exceed twelve thousand—that is, including Randolph troops ordered, and not including several companies opposite in Kentucky.

B. M. PRENTISS,
Brigadier General.

—

ST. LOUIS, *July* 29, 1861.

To Major HAGNER, *Fifth Avenue Hotel, New York:*

The agent of Adams's Express Company here has offered to bring me by passenger train any arms directed to me. Send everything you have for me by passenger trains, for which the express company will provide.

Your letter of 24th received.

There were no arms at the arsenal here to meet the order given for the five thousand. We must have arms—any arms, no matter what.

J. C. FRÉMONT,
Major General Commanding Western Department.

—

(Unofficial.)

HEADQUARTERS WESTERN DEPARTMENT,
ST. LOUIS, *July* 30, 1861.

MY DEAR SIR: You were kind enough to say that, as occasions of sufficient gravity arose, I might send you a private note.

I have found this command in disorder, nearly every county in an insurrectionary condition, and the enemy advancing in force by different points of the southern frontier. Within a circle of fifty miles around General Prentiss there are about twelve thousand of the confederate forces, and five thousand Tennesseans and Arkansas men, under Hardee, well armed with rifles, are advancing upon Ironton. Of these, two thousand are cavalry, which yesterday morning were within twenty-four hours' march of Ironton. Colonel Bland, who had been seduced from this post, is falling back upon it. I have already reinforced it with one regiment, sent on another this morning, and fortified it. I am holding the railroad to Ironton and that to Rolla, so securing our connections with the South. Other measures which I am taking I will not trust to a letter, and I write this only to inform you as to our true condition, and to say that, if I can obtain the material aid I am expecting, you may feel secure that the enemy will be driven out and the State reduced to order. I have ordered General Pope back to north Missouri, of which he is now in command.

I am sorely pressed for want of arms. I have arranged with Adams's Express Company to bring me everything with speed, and will buy arms to-day in New York. Our troops have not been paid, and some regiments are in a state of mutiny, and the men whose term of service is expired generally refuse to enlist. I lost a fine regiment last night from inability to pay them a portion of the money due. This regiment had been intended to move on a critical post last night. The Treasurer of the United States has here $300,000 entirely unappropriated. I applied to him yesterday for $100,000 for my Paymaster General Andrews, but was refused. We have not an hour for delay. There are three courses open to me. One, to let the enemy possess himself of some of the strongest points in the State, and threaten St. Louis, which is insurrectionary. Second, to force a loan from secession banks here. Third, to use the money belonging to the Government, which is in the treasury here. Of course I will neither lose the State, or permit the enemy a foot of advantage. I have infused energy and activity into the department, and there is a thorough good spirit in officers and men. This morning I will order the treasurer to deliver the money in his possession to General Andrews, and will send a force to the treasury to take the money, and will direct such payments as the exigency requires. I will hazard everything for the defense of the department. You have confided to me, and I trust to you for support.

With respect and regard, I am yours truly,

J. C. FRÉMONT,
Major General Commanding.

The PRESIDENT OF THE UNITED STATES.

(By telegraph from Cairo.)

August 1, 1861.

To Major General FRÉMONT, *St. Louis:*

The following information just received is, I believe, reliable. General Pillow was at New Madrid on the morning of the 31st, with eleven thousand troops well armed and well drilled; two regiments of cavalry splendidly equipped; one battery of flying artillery, 10-pounders, and ten guns manned and officered by foreigners; several mountain howitzers and other artillery, amounting in all to one hundred. Nine thousand more moving to reinforce. He has promised Governor Jackson to place twenty thousand men in Missouri at once. I have a copy of his proclamation, and also one of his written passes. C. C. MARSH,
Colonel Commanding Camp Frémont.

Upon this day, August 1, General Frémont went in person to reinforce Cairo, with what troops he could gather, and with as much display as possible, in order to increase the apparent size of his small force.

WAR DEPARTMENT, WASHINGTON, *August* 2, 1861.

To General FRÉMONT:

Since ordering the two batteries for you yesterday, it appears one company has no guns and the other is in Western Virginia; neither can be withdrawn. The order is countermanded. WINFIELD SCOTT.

—

(Telegram.)

HEADQUARTERS, CITY OF ALTON,
CAIRO, *August* 3, 1861.

Captain J. C. KELTON, *Assistant Adjutant General:*

Order Colonel J. D. Stevenson's regiment to Rolla forthwith. Quartermaster's and commissary stores to follow. Use utmost dispatch. J. C. FRÉMONT,
Major General Commanding.

—

(Telegram.)

HEADQUARTERS, CITY OF ALTON,
CAIRO, *August* 3, 1861.

Captain W. E. PRINCE, *Commanding Fort Leavenworth:*

The Commanding General directs that Montgomery's force join General Lyon's command at Springfield, Missouri immediately. Send him this order by express.

J. C. KELTON,
Assistant Adjutant General.

—

CAIRO, *August* 4, 1861.

To Major General J. C. FRÉMONT:

Information last night of a large force at Bloomfield, reported from eight (8) to ten thousand, (10,000;) at Garrison Mills, on Picket road, five hundred, (500;) at Castor Mills, five hundred, (500;) at Strong's Mills, on Castor river, five hundred, (500;) about five miles above Strong's Mills they are herding beef cattle. On August 1 and 2 they had orders to cook four days' rations of bread. C. C. MARSH,
Colonel Twentieth Illinois Volunteers Commanding.

—

ST. LOUIS, *August* 4, 1861.

Hon. MONTGOMERY BLAIR, *Washington City:*

Yours of the 4th received to-day. See dispatch to President. I have made a loan from the banks here. Send money. It is a moment for the Government to put forth its power. J. C. FRÉMONT,
Major General Commanding.

—

(Via Jonesborough, received St. Louis 5th.)

CAPE GIRARDEAU, *August* 4, 11 a. m.

To Major General FRÉMONT:

Thompson is advancing within sixteen miles of me. Am fortifying the hill in rear of Mills's. Send me reinforcements and ammunition. Express waiting for reply.

C. C. MARSH,
Colonel Twentieth Illinois Vol., Com'g.

—

(Via Jonesborough.)

CAPE GIRARDEAU, *August* 5, 9 p. m.

To Major General FRÉMONT:

Enemy close on me; over five thousand strong. Will be attacked before morning; send me aid.

C. C. MARSH, *Colonel.*

—

CAIRO, *August* 5, 1861.

To Major General FRÉMONT:

The following dispatch was just received:

CAPE GIRARDEAU, *August* 4, 11 p. m.

General PRENTISS: Enemy advancing within sixteen miles of me; help me if you can. C. C. MARSH.

B. M. PRENTISS, *Brigadier General.*

—

(By telegraph from the Arsenal.)

August 5, 1861.

To General FRÉMONT, *St. Louis:*

There are now in the arsenal two thousand nine hundred and thirty-three men, besides Smith's six hundred and thirty at the barracks. Smith's and Color's men do not know the facings and marchings. Ought not Color to go to the barracks, and should not the officers of the thirteenth regulars be instructed to drill both regiments?

CHESTER HARDING, Jr.

—

HEADQUARTERS, W. D., ST. LOUIS, *August* 3, 1861.

To Captain PRINCE, *Fort Leavenworth, Kansas:*

1. The commanding officer directs that Colonel Montgomery's force joins General Lyon's command, at Springfield, Missouri, immediately.

2. The force under Colonel Dodge, at Council Bluff, is

ordered to St. Joseph forthwith. On its arrival at that point the commanding officer of the regiment will report to these headquarters for orders.
J. C. KELTON,
Assistant Adjutant General.

Forward these orders with the utmost dispatch.
J. C. KELTON,
Assistant Adjutant General.

—

(By telegraph.)

WASHINGTON, *August* 5, 1861.

To Major General FRÉMONT:

The President desires to know briefly the situation of affairs in the region of Cairo. Please answer.
JOHN G. NICOLAY,
Private Secretary.

—

HEADQUARTERS W. D., ST. LOUIS, *August* 6, 1861.

To Colonel C. C. MARSH, *Cape Girardeau:*

I reinforce you this morning with a heavy battery of twenty-fours and one regiment. General Prentiss reinforces you from below. Keep me posted.
J. C. FRÉMONT,
Major General Commanding.

—

WASHINGTON, *August* 6, 1861.

To Major General FRÉMONT:

All the troops are ordered out of New Mexico. The first detachment will leave about the 15th. Volunteers received in New Mexico are reported unreliable in defending the large amount of United States property there. Those stores cannot be moved East. There is danger of their falling into the hands of the Texans. Nevertheless, the regulars must come away as ordered. At least two regiments of volunteers, say from Kansas, should be sent without delay to New Mexico, with a competent officer for the immediate command of all the troops there. Confer with the Governor of Kansas, and arrange for the safety of New Mexico as soon as possible. WINFIELD SCOTT.

—

HEADQUARTERS WESTERN DEPARTMENT,
ST. LOUIS, *August* 6, 1861.

COLONEL: I send by special engine Mr. Edward H. Castle, for any information you may have of General Lyon's position. Mr. Castle will inform you what progress Colonel Stevenson has made, who, with his regiment, is on his way to General Lyon's camp. Communicate to me through Mr. Castle, who is instructed to return with any information you may have—all of which you may safely intrust to him.

Inclosed letters to be forwarded as immediately as possible to General Lyon. J. C. FREMONT,
Major General Commanding.

To Colonel WYMAN, Rolla.

—

(By telegraph from Cairo.)

ARSENAL, *August* 6, 1861.

To CHESTER HARDING:

I have just ordered four companies with two six-pounders on board steamer, to send. They are, no doubt, fighting now. See general. If not countermanded, will hurry them forward. Marsh has called for help again. Enemy five thousand and over. Citizens have left Cape Girardeau. Answer if I must send them. B. M. PRENTISS,
Brigadier General.

—

ARSENAL, *August* 6, 1861.

To Major General FRÉMONT:

Prentiss telegraphs that hot fighting is no doubt going on at Cape Girardeau, and that he has on board, ready to start, four companies and two six-pounders to go to his aid. He asks if he shall send them. Please answer him. Ought he not to increase the reinforcements? Enemy five thousand strong. CHESTER HARDING, Jr.

—

CAIRO, *August* 6, 1861.

To Major General FRÉMONT:

Colonel McArthur, with six companies, and four field pieces, left for Cape Girardeau seven and a half, a. m. Will hurry intrenchments at Bird's Point.
B. M. PRENTISS, *General Commanding.*

—

WASHINGTON, *August* 6, 1861.

To Major General FRÉMONT:

Orders have been sent Governor Morton to forward five regiments to your department. Hoffman's battery of artillery, from Cincinnati, have been ordered to report to you for orders. THOMAS A. SCOTT,
Acting Secretary of War.

—

HEADQUARTERS, *August* 6, 1861.

To Brigadier General B. M. PRENTISS, *Cairo:*

Heavy battery of six twenty-four pounders and one thousand men left at midnight for Girardeau, under an experienced officer. J. C. FRÉMONT,
Major General Commanding.

—

BIRD'S POINT, *August* 8, 1861.

Major General FRÉMONT:

The men want to go home, and if detained much longer the worst consequences may be feared. Their time of service expired yesterday. Provide for their return. They are of little use in their present spirit. I wait your answer.
ROBERT ROMBAUER.

—

(Special Orders, No. 39.)

HEADQUARTERS WESTERN DEPARTMENT,
ST. LOUIS, *August* 8, 1861.

The seventh regiment Missouri volunteers, Colonel Stevenson, now at Rolla, will immediately proceed to Springfield to join General Lyon's command.

By order of Major General Frémont.
J. C. KELTON,
Assistant Adjutant General.

(Telegram.)

HEADQUARTERS WESTERN DEPARTMENT,
ST. LOUIS, *August* 8, 1861.

[Extract.]

* * * * Captain Kelton will also order Colonel Stevenson, with his regiment, now halted at Rolla, to go immediately forward and join General Lyon.
J. C. FRÉMONT,
Major General Commanding.

—

(Rough draft of a letter to Montgomery Blair.)

August 9, 1861.

[The letter as sent does not differ from this in any material point. No copy of it is in General Frémont's possession.]

The greater part of the old troops, especially the foreign element, is going out of service. The new levies are literally the rawest ever got together. They are reported by the officers to be literally, entirely, unacquainted with the rudiments of military exercises. To bring them face before the enemy, in their present condition, would be a mere unmanageable mob. I can remedy this if I can be authorized by the President and Secretary of War to collect throughout the States instructed men who have seen service. With them I could make a skeleton—meager—but still a framework on which to form the army. This authority ought to be allowed, and the cost of transportation. Do not lose time, but get it quick. I assure you it will require all we can do, and do it in the best manner, to meet the enemy. I ought to be supplied here with four or five millions of dollars in Treasury notes, and the disbursing officers allowed to sell them at the ruling discount.

All such equipments as I can procure abroad in much less time than I could get them here, I ought to be allowed to send for.

These are my suggestions. They are valuable. Pray act upon them, and what you do, do quickly. It would subserve the public interest if an officer were directed to report to me, to have command of the operations on the Mississippi. Show this to the President. The contest in the Mississippi valley will be a severe one. We had best meet it in the face at once, and by so doing we can rout them. Who now serves the country quickly, serves it twice.
J. C. FRÉMONT.

—

HEADQUARTERS WESTERN DEPARTMENT,
ST. LOUIS, *August* 13, 1861.

Hon. THOMAS A. SCOTT, *Assistant Secretary of War:*

Dispatch received. Our soldiers are not promptly paid, partly from small force of paymasters, more from want of money, which fatally embarrasses every branch of the public service here. I require this week three millions for quartermaster's department. J. C. FRÉMONT,
Major General Commanding.

The following dispatch was sent to Mr. J. T. Howard, of New York, who, at General Frémont's request, was endeavoring to procure certain arms from the Union Defense Committee of that city:

ST. LOUIS, *August* 13, 1861.

To J. T. HOWARD:

Dispatch received. Send the arms without further bargaining, and also send your address. Ship per Adams & Co.'s fast freight, who collect here on delivery. Good men are losing their lives, while the men whom they defend are debating terms. Answer. J. C. FRÉMONT,
Major General Commanding.

—

(Vol. 2, p. 79.)

WASHINGTON, *September* 14, 1861.

To Major General FRÉMONT:

On consultation with the President and head of Department, it was determined to call upon you for five thousand well-armed infantry, to be sent here without a moment's delay. Give them three days' cooked rations. This draft from your forces to be replaced by you from the States of Illinois, Iowa, Kansas, &c. How many men have you under arms in your district? Please answer fully and immediately. SIMON CAMERON,
Secretary of War.

—

(Vol. 2, p. 83.)

WASHINGTON, *September* 14, 1861.

To Major General FRÉMONT:

Detach five thousand infantry from your department, to come here without delay, and report the number of the troops that will be left with you. The President dictates.
WINFIELD SCOTT.

—

(Vol. 2, p. 76.)

HEADQUARTERS WESTERN DEPARTMENT,
ST. LOUIS, *September* 14, 1861.

To Colonel E. D. TOWNSEND,
Assistant Adjutant General, Washington city:

I am preparing to obey the orders received this evening for the five regiments. J. C. FRÉMONT,
Major General Commanding.

—

(Vol. 2, p. 82.)

HEADQUARTERS WESTERN DEPARTMENT,
ST. LOUIS, *September* 14, 1861.

To General THOMAS, *Adjutant General, Washington city:*

I am preparing to obey the orders received this evening from the Secretary at War for the five regiments. I also send messenger. J. C. FRÉMONT,
Major General Commanding.

—

HEADQUARTERS WESTERN DEPARTMENT,
ST. LOUIS, *September* 17, 1861.

CAPTAIN: The general directs me to say to you that Major Farrar, late of General Lyon's staff, states publicly in the city that he came to these headquarters and applied for reinforcements for General Lyon; that the reinforcements were refused, and that, from the *manner* of refusal, the intention was to leave General Lyon to his fate. What are the facts in the case?

Respectfully, J. H. EATON,
Major U. S. A. and M. S.

Captain J. C. KELTON, *A. A. G.*

To which Captain Kelton replied as follows:

SEPTEMBER 21, 1861.

MAJOR: Your note was not read till this morning. I have no recollection of Major Farrar bringing application for reinforcements to General Lyon. That every effort was made to send General Lyon additional troops, after the arrival of General Frémont, I do know. It was found impossible to do so, and keep open the railroad communication extending toward Springfield, and at the same time to meet the threatened advance up the Mississippi. I do not know anything of the manner in which the refusal to send reinforcements was made. I can only recall now Major Farrar in connection with his application to me for a pass over the Pacific railroad for his horses, which I declined after the quartermaster had informed me it could not be authorized. If I had any conversation with Major Farrar on the subject to which your note alludes, it has escaped me entirely.

Very respectfully, JNO. C. KELTON.
Late A. A. G., Col. Ninth Reg. M. V.

The following is an extract from a statement voluntarily drawn up and offered to General Frémont, by Colonel Chester Harding, Assistant Adjutant General to General Lyon:

PACIFIC, *October* 5, 1861.

* * * * Looking, then, to the position of affairs in this State on the 26th July, 1861, it will be found that General Lyon was in the southwest in need of reinforcements. There was trouble in the northwest, requiring more troops than were there. In the northeast there were no more troops than were required to perform the task allotted to them, while in the south and southeast there was a rebel army of sufficient force to endanger Bird's Point, Cape Girardeau, Ironton, Rolla, and St. Louis, and no adequate preparation was made to meet it.

General Frémont sent the eighth Missouri to Cape Girardeau, and the fourth United States reserve corps (whose term of service was to expire on the 8th August) to reinforce Bland at Ironton. He took some of General Pope's force from him, added to it two battalions of the first and second United States reserve corps, (whose term of service was to expire on the 7th August,) equipped Buell's light battery, and started about the 1st August for Bird's Point, with the troops thus collected, being something less than thirty-eight hundred men, and being also all the available troops in this region, expecting to find an enemy not less than twenty thousand strong.

Subsequent events showed that the rebel force was not over-estimated, and nothing but the reinforcements sent to the points above named and the expeditions down the river prevented its advance upon them. Common report greatly magnified these reinforcements; and it was generally believed in the city, and no doubt so reported to the rebel leaders, that Frémont had moved some ten or twelve thousand troops to the southeast, while, in fact, he did not have over five thousand five hundred to move, and was not strong enough at any point to take the field and commence offensive operations.

General Frémont *was not* inattentive to the situation of General Lyon's column, and went so far as to remove the garrison of Boonville, in order to send him aid. During the first days of August troops arrived in the city in large numbers. Nearly all of them were unarmed; all were without transportation. Regiment after regiment laid for days in the city without any equipments, for the reason that the arsenal was exhausted, and arms and accouterments had to be brought from the East. From these men General Lyon would have had reinforcements, although they were wholly unpracticed in the use of the musket, and knew nothing of movements in the field; but in the mean time the battle of the 10th of August was fought.

CHESTER HARDING, Jr.,
Late A. A. G. upon the Staff of Brig. Gen. Lyon.

Before Mr. SHANKS had concluded the above remarks, his hour expired.

Mr. WHITE, of Indiana. I ask that by unanimous consent my colleague may be permitted to proceed. [Cries of "Agreed!"]

Mr. HOLMAN. I hope it will be given.

Mr. BLAIR, of Missouri. I hope he will be allowed ample time.

By unanimous consent Mr. S. was allowed ten minutes to conclude his speech.

Mr. OLIN. Mr. Chairman, I do not propose at this late hour of the evening to enter into any discussion of the various topics that the speech of the gentleman who has just taken his seat might appropriately suggest, and I would not have risen at this time at all but for the fact that the gentleman has seen fit to allude to the conduct of a gentleman now in the service of the Government in a disparaging manner, in justification of his leader whom he has followed, if not to victory, at least with devotion.

I do not rise to enter into any discussion with reference to the merits or demerits of John C. Frémont. I would sincerely thank any gentleman who would rise in this House and vindicate his

conduct either by facts or arguments. His reputation is at least as dear to me as to my friend from Indiana. I have made for him some sacrifices; and of all things in the world it would have been most gratifying to me if I could have seen him elevated to the place which is occupied by the present incumbent of the presidential chair; and the thing that has pressed heaviest on my heart has been that when he was placed in a position in which he could vindicate himself to the whole world as worthy of the nation's choice, he did not only nothing, but worse than nothing; and all I have to say is—and I say it with the best and kindest feelings—that if my friend has no better defense to make for him against these charges which have been made by this investigating committee—which I hoped in God might be made to appear trumped up and *ex parte* charges—if he has no better defense than he has made to-day, then may God have mercy on him! [Laughter.]

Now, I would not have said a word upon this occasion if the gentleman had not, in the course of his speech, alluded to the conduct of the gentleman now at the head of the ordnance department, General Ripley, a man who has faithfully and most honorably served his country for more than thirty years, and added daily to that respect and reverence which the country will always attach to the honest performance of duty; and if he had not taken occasion to say of him that the only difference between Ripley and Floyd was in the amount of the injury that the one or the other had done his country. How could he say that? How can he deem it necessary in defense of anybody, anywhere, or on any occasion, to cast such an imputation upon the character of a man like General Ripley?

What is the charge the gentleman makes against General Ripley? It is simply that he ordered Hall's carbines to be sold; and the gentleman presumes that he did not have any proper authority to sell them. Now, I presume that he had such authority. If you will examine with the utmost scrutiny the conduct of General Ripley while at the head of the ordnance department, whether outside or inside of his office, you will find that his official conduct has been regulated by the strictest regard for law. Nay, more; when you come to read the report, which is now being prepared, and will be sent to this House in a few days, of all the various contracts made for the purchase of arms, you will see his repeated protest against the making of many of them as in violation of law; and you will see that if his advice and admonitions had been heeded, or his suggestions followed, $50,000,000 would have been saved by this Government.

Now, what is the charge in reference to the sale of Hall's carbines? It was an article notoriously condemned by the ordnance department of the Government. The gentleman says the sale was ordered some time in April. So it was. The carbines were sold as a condemned, useless article. We wanted a better article. The President had then called for seventy-five thousand men. Is there any pretense that we could not then arm with better arms than Hall's carbines seventy-five thousand men? It might have been injudicious to order the sale of those arms at that time. Subsequent events have taught us that it probably was. But who then dreamed that exigencies would arise in which five or six hundred thousand men would be required to be armed and put into the field? Did the President, the Cabinet, or anybody else believe it? Certainly not. If they had, they would have acted on the presumption that it would have been necessary to supply these five or six hundred thousand men with arms. This, then, is the simple charge on which the gentleman has chosen to base this monstrous charge against General Ripley, a man of singular fidelity and honesty in the discharge of his duty, and I assert without fear of contradiction, that no man ever held a position in that department who has ever exhibited more earnest desire to perform his whole duty, or whose heart and soul warmed with more patriotic devotion than his.

Compare him with Floyd—that thief, sneaking and mousing through every department of the Government for opportunity to betray it, professing obedience to its behests with his lips, while plotting its destruction! Why, the gentleman is mad. His devotion to his great leader has led him very far astray. The gentleman says that the misfortunes of Major General Frémont have arisen from two causes, one of which is that he has not received infant baptism at West Point. Now, I have heard this slang until I am sick of it. I am tired of it, and I think the country is about tired of it. It is true that many officers who were educated at that institution by the bounty of the Government, have, on the first opportunity, betrayed that Government, and taken up arms against it; and West Point has been frequently called a nursery of traitors. Now, Mr. Speaker, and gentlemen of the House, is it not true that the proportion of officers entering the Army appointed from civil life in the seceded States, and who have deserted the old flag, is as four to one compared with those educated at West Point, coming from the seceded States? Is not that true? Does not every well informed man know that?

Now, Mr. Speaker, one other suggestion. There are not in these latter days many native-born generals. A man is not the greater general now because he does not know anything. I concede that West Point cannot make a great general; but where nature has done what it can do towards making a general, West Point will not hurt. Without the aid of some military education, either by experience in the field, or at schools, nobody ever was a great general; and nobody ever will be. Apply the principle to any other profession or walk of life. Apply it to a profession with which many of us are more familiar than we are with the profession of arms. I am not much of a lawyer; but my friend on the left [Mr. THOMAS, of Massachusetts,] is a pretty good lawyer. Will any one say that, however exalted a man's ability may be, however learned he may be, in the general acceptation of that term, can he sit down and try a case in court for the first time with hope of success against my friend from Massachusetts on the left, or against my venerable friend before me, [Mr. CRITTENDEN?] Nay, more: take an ordinary man in the profession of the law, and a man, however gifted in intellect, however extensive his scientific acquirements, but who has not studied and practiced the profession of the law, cannot succeed against him.

Now, does not every gentleman know that this is precisely true in regard to the science of war? Or is war no science at all? Does it not demand any education, any capacity? Are we to be told now that a man who has neither, or whose sole qualification is that he has not been educated anywhere, is the proper man to take command of your Army?

Now, one other thing is said to have been General Frémont's ruin—that is, that proclamation which the gentleman says so thrilled the whole country, and which I confess gratified me. It is said that his misfortune dates from the issuing of that proclamation, in which he attempted to manumit the slaves of rebels engaged in the overthrow of the Government. Now, so far as my observation goes, I think that was his chief merit, or rather was the least of his demerits. It is true, it seemed to controvert the policy of the Administration, whose policy, I think, was wise. It was wise as indicated by the act of Congress of August last. The President thought very properly—and I concur with him in that respect—it was wise and safe to go no further than Congress saw fit to go, and that it was proper his generals should follow in the footsteps of their master rather than undertake to precede him.

What is the charge? It is that the pro-slavery men of the country have such an all-controlling influence over the present Administration—Seward, Blair & Co.—as to cause them to move out of office a very meritorious man, because he was a little too anti-slavery in his notions. Why, upon what times have we fallen! Those humble disciples who have followed with doubtful steps our great leaders have already got before their master. This may all be right; but it is, at least, a little extraordinary.

I beg pardon of the House for delaying it these few moments. There was nothing further from my purpose than to interfere at all with this debate. Although I ought probably to have known something about military affairs, I am not one of those individuals who are at all disposed to take upon themselves the business of reviewing the campaign or of inspecting the conduct of military men. "Shoemaker, stick to your last," has been my maxim. I do not pretend to be a military critic. And when gentlemen undertake it in this House, certainly without any definite knowledge of all the surrounding circumstances, and, above all, those who are without any knowledge at all on the subject of military affairs, it seems to me an idle waste of the time of the House. It seems to me that the House might be more profitably engaged in some other employment, and on subjects which demand our attention.

Mr. PERRY obtained the floor, but yielded to

Mr. WRIGHT, who moved that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. HUTCHINS reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly a bill to regulate the franking privilege, and had come to no conclusion thereon.

WASHINGTON GAS-LIGHT COMPANY.

Mr. HAIGHT, by unanimous consent, introduced a bill to incorporate the Union Gas-Light Company in the city of Washington; which was read a first and second time, and referred to the Committee for the District of Columbia.

And then, on motion of Mr. SHEFFIELD, (at five o'clock and ten minutes, p. m.,) the House adjourned.

IN SENATE.

WEDNESDAY, *March* 5, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

ENROLLED BILLS SIGNED.

The VICE PRESIDENT signed the following enrolled bills, which had heretofore received the signature of the Speaker of the House of Representatives:

A bill (H. R. No. 294) requiring the oath of allegiance and to support the Constitution of the United States to be administered to masters of American vessels clearing for foreign or other ports during the rebellion; and

A bill (H. R. No. 302) to provide for the appointment of additional clerks in the office of the Assistant Treasurer at New York, and for other purposes.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Navy, communicating, in compliance with a resolution of the Senate of the 14th of February, information in relation to contracts made by the Navy Department; which, on motion of Mr. HALE, was referred to the Committee on Naval Affairs.

The VICE PRESIDENT laid before the Senate a message of the President of the United States, transmitting a translation of an instruction to the minister of his Majesty the King of Italy, accredited to this Government, and a copy of a note to that minister from the Secretary of State, relating to the settlement of the question arising out of the capture and detention of certain citizens of the United States, passengers on board the British steamer Trent, by order of Captain Wilkes, of the United States Navy; which was ordered to lie on the table, and be printed.

The VICE PRESIDENT also laid before the Senate a message of the President of the United States, transmitting a copy of a dispatch to the Secretary of State from the minister resident of the United States at Lisbon, concerning recent measures which have been adopted by the Government of Portugal, intended to encourage the growth and to enlarge the area of the culture of cotton in its African possessions; which was referred to the Committee on Foreign Relations, and ordered to be printed.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented a petition of citizens of North Lake, Wisconsin, praying for the passage of a general bankrupt law; which was referred to the Committee on the Judiciary.

Mr. POMEROY presented resolutions of the Legislature of Kansas in favor of the passage of a law granting to the State of Kansas public lands for the use of schools, in lieu of the sixteenth and thirty-sixth sections embraced in all of the Indian country lying within the State; which were referred to the Committee on Public Lands.

He also presented an address of the Legislative Assembly of New Mexico to the citizens of that Territory, in relation to the invasion of that Territory by Texas troops; which was ordered to lie on the table.

Mr. WADE presented a petition of citizens of Ohio, praying for the abolition of slavery throughout the country; which was ordered to lie on the table.

REPORTS FROM COMMITTEES.

Mr. HALE, from the Committee on Naval Affairs, to whom was referred the petition of Captain John H. Aulick, United States Navy, praying that certain deductions which have been made from his pay may be allowed him, reported adversely thereon.

He also, from the same committee, to whom was referred the joint resolution (S. No. 14) to place the name of Lieutenant Peter Turner upon the active service list of the Navy, reported it back with a recommendation that it be indefinitely postponed; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 88) to restore Lieutenant M. B. Woolsey to the active service list of the Navy, reported it back, with a recommendation that it be indefinitely postponed; which was agreed to.

Mr. CARLILE subsequently moved a reconsideration of the vote by which the bill to restore Lieutenant Woolsey to the active service list of the Navy was indefinitely postponed; and the motion was entered.

Mr. ANTHONY. The Committee on Printing, to whom was referred the resolution to print three thousand copies of the Report on the Commercial Relations, have instructed me to report it back, with a recommendation that it pass, and also to ask for its present consideration.

The resolution was agreed to.

Mr. HARLAN, from the Committee on Indian Affairs, to whom was referred a letter of the secretary of state of the State of Kansas, communicating an act of the Legislature of that State, providing for the taxation of the Wyandotte Indian lands, and requesting the concurrence of Congress thereto, asked to be discharged from its further consideration; which was agreed to.

Mr. SHERMAN. I am directed by the Committee on Naval Affairs, to whom was referred the bill (S. No. 158) regulating the pay of officers of the Navy, and for other purposes, to report it back to the Senate with an amendment. I am also directed to give notice that this bill will not be called up for consideration until after the Senate has acted on the bills regulating the pay of Congress and the Army. The committee are unanimously of opinion that, while the present pay of the Navy should be altered and this bill should be adopted, it should not be done until after Congress itself has shown a disposition to sacrifice a little to the necessity of the times. I will further say, that the committee were not unanimous on all the features of the bill, although I am directed to report it back.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred the bill (H. R. No. 242) making appropriations for the naval service for the year ending the 30th of June, 1863, and additional appropriations for the year ending the 30th of June, 1862, reported it with amendments.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom was referred the bill (H. R. No. 190) extending the laws now in force regulating trade and intercourse with the Indian tribes to the Indian reservations of California, reported it without amendment.

He also, from the same committee, to whom was referred a letter of the Second Auditor of the Treasury, communicating copies of his accounts with persons charged with disbursements for the Indians for the year ending June 30, 1861, reported a motion that the same be printed, and

On motion of Mr. DOOLITTLE, it was

Ordered, That it be referred to the Committee on Printing.

PAPERS WITHDRAWN.

On motion of Mr. DIXON, it was

Ordered, That the heirs of Abram Foot, the heirs of Noah Warriner, the heirs of Thomas Stevens, the heirs of John A. Hopper, the heirs of Garrett A. Hopper, the heirs of Persis Locke, and the heirs of Abram Hopper, have leave to withdraw their petitions and papers from the files of the Senate.

BILLS INTRODUCED.

Mr. DAVIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 224) granting pay, pensions, and bounty to the volunteer officers and soldiers of Kentucky, from the day of their enlistment, and also granting pay and pensions to the home guards of said State for the time they were actually engaged in the military defense thereof; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. RICE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 59) approving of the appointment of chaplains to the Army hospitals, as made by the President of the United States; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. DIXON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 60) authorizing the Secretary of the Navy to appoint a commission to inquire into forfeitures incurred by contractors under that Department; which was read twice by its title, and referred to the Committee on Naval Affairs.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. ETHERIDGE, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the joint resolution (H. R. No. 37) in relation to certain railroads in the State of Missouri.

The message further announced that the House had passed a bill (No. 279) to facilitate judicial proceedings in adjudications upon captured property and for the better administration of the law of prize; in which the concurrence of the Senate was requested.

HOUSE BILL REFERRED.

The bill from the House of Representatives (No. 279) to facilitate judicial proceedings in adjudications upon captured property and for the better administration of the law of prize, was read twice by its title, and referred to the Committee on the Judiciary.

MAILS TO PANAMA.

Mr. SUMNER. I offer a memorial from merchants of the city of Baltimore, who state that they learn with regret that the present mail facilities between this country and the west coast of South America are about to be discontinued; and in view of the great loss and injury that will be sustained by the country by the stoppage of mail facilities, they pray Congress to authorize the proper arrangements to guaranty to them the safe transmission of their letters to and from Panama. I move that the memorial be referred to the Committee on the Post Office and Post Roads.

The motion was agreed to.

Mr. LATHAM. I should like to make a remark in relation to that memorial if it be in order to do so.

Mr. SUMNER. Before the Senator makes his remark, I will state that I have a bill which I propose to introduce to-day.

Mr. LATHAM. I shall move to print your bill, and on that motion say what I have to say.

Mr. SUMNER, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 223) to provide for carrying the mails from the United States to foreign ports; which was read twice by its title.

Mr. LATHAM. I move that that bill be referred to the Committee on the Post Office and Post Roads, and that it be printed. In making this motion, I wish to make a statement to the Senate. It is well known to this body, as well as to the country, that for the past few months the overland communication between the Pacific coast and the Atlantic States has been almost entirely interrupted in consequence of severe and unprecedented floods. The valley of the Sacramento has been visited with a flood almost unparalleled in the history, I may say, of the world, certainly of this country. The same calamity has happened to Carson Valley, as well as to Salt Lake, and the consequence has been that the daily overland mail established by Congress during the last Congress, has not been able to bring mail matter through with as much expedition as could have been desired. The result has been that the commercial intercourse between the Atlantic and Pacific States has been in a great degree interrupted, and merchants having business with the Pacific coast and South America have been compelled to send their letters under Government envelopes by the express companies, in order that they might reach their place of destination in safety. The petitions sent here by the citizens of different cities, presented by the honorable Senator from Massachusetts, would convey the idea that there was a disposition on the part of general shipmerchants not to carry mail matter for the Government when they were in the receipt of the ordinary postage given them by law. Such, however, is not the case.

The lines of steamships plying between New York city and Aspinwall, and between Panama and San Francisco, for the first time in the history of the Government, have determined not to carry either the dispatches of the Government sent to its own officers on the South American coast, or to oblige the mercantile community by taking under Government envelopes, through the express companies, letters which relate to their business; and it is to guard against an outrage of this kind that this bill is proposed by the Senator from Massachusetts. I intend to offer it as an amendment, if I can get the sanction of the Committee on the Post Office and Post Roads of this body, to the Post Office appropriation bill, so that, if possible, this evil may be corrected.

I say, sir, it is an outrage for these vessels, plying under the protection of the American flag, to refuse to the Government of the United States, and to the commercial interests of this country, the simple privilege of sending, so long as the Government is not deprived of its revenue, their communications upon their ships.

Mr. COLLAMER. And paying them for it.

Mr. LATHAM. And also paying them for it. Why, sir, the very companies who refuse to carry these dispatches, have received over ten millions of dollars from the Government of the United States for carrying our mail matter. For ten years we paid them over nine hundred thousand dollars a year; and now when they find this great calamity of floods happening to our country, causing a loss of life and of millions of property, they think it is a fit opportunity to put their iron heel on the Government, in order to force a mail contract from the United States whether it approves or not. I say, sir, that it is an outrage which the Government of the United States should rebuke at once by passing a law that these vessels shall not be allowed to clear from the ports of the country, and receive the protection of our flag, unless they are willing to adapt themselves to our wants and necessities.

I have felt it proper, as a representative from the Pacific coast, to make this statement. I shall have more to say upon the subject when the bill comes up for legitimate consideration. I move that it be printed and referred to the Committee on the Post Office and Post Roads.

The motion was agreed to.

CAPITOL EXTENSION.

Mr. FOOT. The Committee on Public Buildings and Grounds, some time ago, reported a joint resolution, in pursuance of a resolution of inquiry on the subject, referred to that committee, proposing a transfer of the superintendency of the Capitol extension from the War to the Interior Department. I should like to make a few words of explanation in connection with that resolution. I move to postpone all prior orders and proceed to its consideration. It will occupy but little time.

The motion was agreed to; and the joint resolution (S. No. 50) transferring the supervision of the Capitol extension, and the erection of the new dome, to the Department of the Interior, was read the second time, and considered as in Committee of the Whole. The resolution transfers the supervision of the Capitol extension and the erection of the new dome from the War Department to the Department of the Interior, and directs that all unexpended money which has been heretofore appropriated, and all money which may be hereafter appropriated for either of those improvements, shall be expended under the direction and supervision of the Secretary of the Interior.

Mr. FOOT. Mr. President, a very brief statement of facts is all that I shall attempt at this time, and which, I think, will be sufficient to satisfy the Senate of the importance, and even of the neces-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. THURSDAY, MARCH 6, 1862. NEW SERIES....No. 68.

sity, of the change proposed by this joint resolution. This resolution, coming from the Committee on Public Buildings and Grounds, merely proposes to transfer the superintendency of the work upon the Capitol extension and upon the dome from the War Department, where it is now lodged, to the Department of the Interior, where it was originally placed. It remained under the Department of the Interior until the accession of Mr. Pierce to the Presidency, and of Jefferson Davis to the head of the War Department, in March, 1853. It was, immediately, and within the first month of that Administration, transferred from the Department of the Interior to the Department of War, and has continued there ever since, covering the entire terms of the administration of Mr. Pierce and of Mr. Buchanan, and of their Secretaries of War, Jefferson Davis and John B. Floyd; with how much advantage or disadvantage to the Government, or with how much of economy or of extravagance, I do not now undertake to say, or even to consider. It is sufficient to say that, under this military superintendency, after eight years of time, and after the expenditure of some six or seven millions of dollars, the work was left unfinished upon the hands of the present Administration. Soon after the accession of Mr. Lincoln to the Presidency, and upon the outbreak of the rebellion, and the consequent and exclusive occupation of the War Department in the military operations of the country, the work was suspended. It has not since been resumed, except for a few months upon the dome by the joint recommendation of the chairmen of the Committees on Public Buildings and Grounds of the two Houses, approved by the President himself, and for which, as yet, the contractor has received no compensation.

Mr. President, I beg leave to say here, and to be understood, that the proposed change is urged upon no ground and for no reason which, in the slightest degree, reflects upon the War Department. I will take occasion to say further, that no man at this day commands a larger measure of the confidence of the loyal people of this country, as a gentleman of distinguished ability, of high integrity, of uncommon business capacity, and of devoted loyalty to this Government, than the present head of that Department. In that confidence I fully share, and so, I doubt not, does every Senator upon this floor. But we all know very well that Mr. Stanton has not an hour of time to give to the direction of this work. We all know that his whole time and all the energies of his mind are now engrossed in the far higher and more important and more pressing duties which more directly and more appropriately belong to his office as Secretary of War.

General Meigs, who has heretofore, for the most part of the time, had the immediate supervision of this and of other public works, and is now the nominal superintendent, is also a gentleman of a very high order of talent, of great energy, and of remarkable executive ability. But General Meigs has no time to give to the supervision of this work at this time. His hands are full of other occupations. All his time and all his attention are occupied in the laborious and complex duties of his office as Quartermaster General. Probably there are no two officers of the Government, not even excepting the President himself, or the Secretary of the Treasury, whose labors, physical and mental, are more severe and more incessant than are those of the Secretary of War and of the Quartermaster General; and it is but a poor tribute to say of them that these labors, severe and incessant as we know them to be, are yet ably and faithfully performed.

This of itself is reason enough for relieving the War Department of this work. Besides, it does not come within the sphere of the appropriate duties of that Department, especially in time of war. In short, it is utterly impossible for the War Department to give the necessary time and attention to this work; and yet something must be done, and needs to be done quickly, in order to save this building, which has cost so much, from material and immense damage. The new wings and the dome, although carried comparatively near to completion, nevertheless are left in such a condition as affords little protection to the interior of the building from the effects of the weather. The building is suffering continually and severely from the effects of every storm of rain and snow that falls upon it. The roof and the upper portions of the walls are incomplete, and left in such condition that the water, instead of being carried off from the building, a considerable portion of it runs down inside of the building; some of it between the outer and the inner walls, much of it upon the ceiling above and upon the floors from the upper to the lower story. The effect of it will be seen in nearly all the rooms of the different wings adjoining to the outer wall, and upon the different floors from the higher to the lower, by the staining upon the inner walls in most of these rooms, in the weakening and loosening of the thick and heavy plastering upon these rooms, and in some of them it is actually falling off. This process of injury will continue so long as the building is left in its present unprotected condition. If this process of injury shall continue a year or two longer, it will cost a larger expenditure of money to repair the injury than will now be required to carry the work so far, at least, as to prevent the injury; and so much, at all events, ought to be done. The dictates of the strictest economy require it to be done.

Now, sir, to the accomplishment of this purpose it becomes necessary to place the superintendency of the building and its extensions in the hand of some competent person, who can devote the necessary care and attention to it. This is the purpose, and this is the necessity of the proposed change. The Secretary of the Interior, to whom this work appropriately belongs as the head of the domestic, civil departments of the Government, would be very likely to place its immediate supervision in the hands of some competent civilian, the Commissioner of Public Buildings, perhaps, or some eminent architect or civil engineer. Our military engineers have, all of them, employment enough already upon their hands. Whether this work shall be carried on to entire completion in all its parts, including the extension of the public grounds and their improvement, their fitting up and their inclosure, depends, of course, upon the will of Congress and upon future contingencies. Whether it will be expedient to carry out this work to entire completion now, in the present condition of the country and of the Treasury, is a matter for future consideration; it is not a question now. All we now ask is, that by the expenditure of a few thousands of dollars you shall protect and preserve what has cost this Government so many millions; and this ought to be done at once; it ought to be done before this injury progresses any further; and it ought to be commenced as soon as the state of the weather will admit of out-door work of this kind. We are asking no expenditure for mere works of art and of ornament at this time. We are only asking so much as is absolutely necessary to protect this magnificent and costly structure from further and from lasting injury in consequence of its present exposed condition. It requires no new appropriation. The unexpended appropriations are amply sufficient for this purpose.

Having said this much, Mr. President, I have discharged my duty as chairman of the Committee on Public Buildings in bringing the subject to the consideration of the Senate. They will dispose of it as they shall see fit.

Mr. FESSENDEN. I am opposed to this resolution in its present shape; and I am more particularly opposed to it from some hints that were dropped by my friend from Vermont in the remarks he has just made. The truth is that the appropriations to finish this building have been made. I think there are something like a million and a half of dollars now appropriated. The great expenditure, however, to be made, is in finishing the ornamental parts of the building. All the finished parts of the building have been occupied by Congress long ago, and are under the control to-day of the Commissioner of Public Buildings, and he has charge of them.

General Meigs, who has been in charge of the Capitol extension, and was superintendent of the work most of the time, came to the conclusion that in the present state of the country, when we needed everything that we could possibly raise, and more than we have been able to raise thus far, to carry on the war, it would be very poor policy for him to draw the $1,500,000 which has been appropriated from the public Treasury and devote it to the finishing of the Capitol, building porticoes, and other things of that description. He thought it better to let it remain where it was until a more appropriate occasion; and, sir, I am of the same opinion. Now, the honorable Senator from Vermont proposes not to make an appropriation, which should be done if anything, and put it in the hands of the Commissioner of Public Buildings or the Secretary of the Interior to protect the building; but to pass over the whole sum appropriated, for ornamental parts and all—the whole $1,500,000 (if that is the sum)—into the hands of the Secretary of the Interior, to control the policy which has been adopted by General Meigs, the superintendent, after mature reflection, with reference to the exigencies of the public service; and the Senator hints that the probability would be that some "eminent architect" would be employed to take charge of this work. It involves the old question, what the Senate and Congress has refused over and over again, whether we shall take the matter out of the hands of the War Department and the superintendent of the building, who has erected it thus far, and place it in the hands of Mr. Walter, who desires to be employed again at a salary of $5,000 a year to go on with this work and expend this money. That is the simple question which is presented by this joint resolution in the shape in which my friend has brought it forward.

If it is true—and perhaps it is, owing to the fact that some portions have not been entirely completed, as they should be—that an appropriation to protect the building from further injury is needed to be expended under the superintendence of the Secretary of the Interior, if you please, or the Commissioner of Public Buildings, I have no objection to that; the present superintendent has no objection to that. It may be that that is necessary; but this resolution, as it stands, goes the whole length of taking this building out of the hands of the Secretary of War, where it has been placed; in fact, out of the hands of the superintendent, who thus far has done his work with great economy and great care with reference to contracts. He was removed at one time by Mr. Floyd, because he would not suffer the money to be misspent, and was brought back here by the action of Congress and of this Administration, after being absent a short time, and after money had been wasted in consequence of his removal; and this resolution proposes to take it again out of his hands at the present time, and subject it to somebody else, in order that they may go on with it with the "eminent architect" who has been in an eternal quarrel with the War Department and with Mr. Meigs from the time he first came here, and spend this money when we have not money to spare.

My objection to the resolution is that the money is safe where it is now; that we have no occasion to finish this building at present. We have no occasion to spend that $1,500,000 at the present time. We ought not to do it. We ought to let this Capitol stand as it is, comparatively, until better days; until the time arrives when we have more money to dispose of than we have at the present time. If the Committee on Public Buildings think—and I am disposed to defer to their opinion—that there should be an appropriation to protect the building thus far, to be expended under the Secretary of the Interior or the Commissioner of Public Buildings, let us make that appropriation; it will require but a small sum. That would be much better than to take the money out of the safe hands where it is

now, and put it into the hands of the Commissioner of Public Buildings, the Secretary of the Interior, or anybody else. We all know how fast it goes, especially when we have our eminent architects about, who want to be employed again. It is manifestly safe where it is, and, in my judgment, we had better leave it there; and let the Committee on Public Buildings call for an appropriation, if they please, to protect the building against injury. Something may be necessary in that particular.

Mr. FOOT. My honorable friend from Maine has been misinformed in regard to the amount of outstanding appropriation for these works. There has been no appropriation for the dome since that made for the fiscal year 1858, which was then $500,000, of which only about seventy thousand dollars now remain unexpended. At the last session of the last Congress we made an appropriation of $250,000 for the continuation of the extensions of the building. That $250,000 remains outstanding, and that, with the $70,000 of the outstanding residue of the appropriation for the dome, is all that there is at hand.

I have already suggested, Mr. President, that this resolution did not present the question to the Senate of the policy or impolicy of carrying on this work to a completion, in the present condition of the country and of the Treasury. So far as I know, the only purpose is to appropriate and to expend so much money, and no more, at the present time, as may be necessary to protect this building from the injury which it is suffering every day; and that injury is daily increasing. I have pointed it out very slightly; but this injury is patent and open to the observation of every Senator. Every member can see for himself to what extent the building is suffering for need of an expenditure of, I do not know how many thousand dollars. I know that the present superintendent, General Meigs, has no time even to examine the subject. The proposition is that it be placed in hands who can give attention to it, and employ some competent person to make the expenditure, so far, at least, as to protect this building from dilapidation and decay.

Mr. FESSENDEN. If the Senator will put it in that shape as I have told him, I shall not make any objection to it. I may be misinformed and have an incorrect idea about the amount that still remains unexpended; but if the Senator will put it in that shape, to take from that appropriation, or any other, what may be necessary to prevent this building from injury, and have that expended by whom he pleases, I shall have no objection to his resolution. But while he says that is the object of it, it goes the whole length of changing the superintendency of the building; it goes the whole length of taking it out of the hands of the Department which has conducted it thus far, and putting it in the hands of the Secretary of the Interior, and giving him control over all the appropriations that are now on hand. I know what it involves. It is impossible to misunderstand it. The power is gone out of our hands when we have passed it, unless we repeal the resolution after we pass it. If the protection of the building were all that the Committee on Public Buildings desired to accomplish, it would be very easy to pass a resolution to that effect, authorizing the Commissioner of Public Buildings or the Secretary of the Interior, if you please, to spend a specific sum of money for the preservation of the building. Let the resolution be specific, and not go to the root of the matter entirely and change the whole superintendence of the building.

General Meigs has not asked to be relieved from it at all. He has adopted his policy. The whole thing is now in charge of men whom he left here sufficient to take care of what has been done. If he said that he had no time to attend it, if he wanted to be relieved from the superintendence of the work, if the War Department asked to be relieved from it, it would be a different affair; but they ask no such thing. It is a movement outside of them, and the movement comes in connection with this gentleman, who has been so desirous from the beginning to control this work, and who has been in a quarrel with the War Department from beginning to end, and been turned out once or twice; I mean Mr. Walter, the architect. This seems to be a good chance for him to get control of the work again. I am opposed to that. I am opposed to passing a resolution which goes so far as this does. To the extent to which the Senator from Vermont says he desires to go—to protect the building—I am willing it should be done; but it can be done by very different kind of legislation from taking it out of the hands of those disposed to hold on to the money and putting it into new hands disposed to spend it.

Mr. FOOT. It is due to Mr. Walter, perhaps, as his name has been referred to by the Senator, that I should say I never had a word of conversation with Mr. Walter on the subject; his name has never been indicated to me from any quarter whatever in connection with this work; and it had not occurred to me until the Senator himself suggested it. I do not know who the Secretary of the Interior might employ, in whose hands he might place this work in charge; but I will say, and it is all I have now to say, that I am, upon general principles, in favor of taking this work from a military superintendency, to which it is not appropriate, and placing it under a civil superintendency. It more appropriately belongs to such a superintendency.

The joint resolution was reported to the Senate without amendment; and on the question, "Shall the joint resolution be engrossed for a third reading?" there were on a division—ayes 16, noes 9; no quorum voting.

Mr. FOOT. It is necessary to have the yeas and nays in order to obtain a quorum; and I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. GRIMES. I move to postpone this resolution until to-morrow. It has been stated here, by the Senator from Maine, that this joint resolution if passed virtually transfers $1,500,000 from the Treasury now under the control of the War Department and places it in the hands of another Department. It seems to me we ought not to take so important a step as that without knowing whether that is so.

Mr. FESSENDEN. I may have confounded the amount necessary to complete the building with the amount of the actual appropriation. I think we ought to ascertain how much there is on hand before we pass this resolution.

Mr. GRIMES. It is rather a large sum, and I think we should have information in regard to it.

Mr. HALE. I think we might be content with the statement of the chairman of the Committee on Public Buildings, who has investigated it, and says there are about three hundred thousand dollars on hand.

Mr. GRIMES. He did not deny the statement of the Senator from Maine.

Mr. HALE. Yes, he did, and stated specifically what there was on hand; about seventy thousand dollars unexpended of the appropriation for the dome, and the $250,000 which have been appropriated since for the building, making, altogether, $320,000 instead of $1,500,000.

Now, let me say that I think that we ought to pass this resolution. When this Capitol was commenced, it was commenced under civil superintendency, and a decent, Christian plan of building a house was devised and begun. The foundations were laid for a respectable building; one that would have given us the benefit of a little light and air from heaven, instead of having our air pumped up from the cellar and our light come down as it does. The foundations of the building were all laid for it in that way. Then Mr. Pierce came in, with Mr. Davis as Secretary of War, and he thought the arrangement of the Almighty for supplying light and air was not quite so good as he could devise, and he moved it into the center of the building, like a mouse trap in a pot, so that no air could come to it, and went to work, at an immense cost, pumping up air from the cellar. And that is the way we get our air here, by a steam engine that is constantly at work. This is one of the worst ventilated rooms I ever was in in my life, not excepting stables; but I believe the present Sergeant-at-Arms has made some improvement upon it. I think that the practical wisdom that has been manifested by these two Departments, is vastly in favor of the civil instead of the military. Why, Mr. President, it has got so now that this Government cannot do anything under heaven, but the Army has to come in to do it. It seems to me, as was well suggested by my friend from Illinois, that the Army has got quite enough to do, without holding on to anything and everything there is to do, and the Secretary of the Interior has not quite enough. I hope the recommendation of the committee will be followed.

The VICE PRESIDENT. The special order of the day is the unfinished business of yesterday, and one o'clock having now arrived, it is before the Senate.

CONFISCATION OF PROPERTY.

The Senate resumed the consideration of the bill (S. No. 151) to confiscate the property and free the slaves of rebels.

Mr. MORRILL. The great measure before us—and none greater has ever been before the Senate—has been characterized in this debate in earnest, eloquent, indignant, and I think I am authorized to say, satirical speech, as extraordinary, unconstitutional, oppressive, and inexpedient. When I freely confess to its opponents that it does not belong to the class of ordinary legislation, I concede no more than must be confessed of much that has been done on behalf of the nation, here and elsewhere, by the national Legislature and by the Federal Executive since our troubles began.

Sir, it were better that that man had not been born who shrinks from taking the responsibility when a distracted and bleeding country requires "the dauntless spirit of resolution." As to the rest: the Constitution, I conceive, is the strength and shield of the nation in its hour of peril, and must not be construed so as fatally to hamper honest endeavor in its behalf. Clemency on the lips of an American Senator to the malignant enemy of the Republic is cruelty to its friends; and that is expedient which is demanded for the present safety and future security of free institutions. I premise this much as the stand-point of the debate, and in this spirit I approach its general topics.

The bill under consideration contemplates the exercise of the extreme legislative power of the nation for purposes of self-preservation and for the chastisement and overthrow of its domestic enemies. The primary object of the bill, as I read it, in its general scope and bearing—I do not speak of its details—is the suppression of rebellion. It apparently proceeds upon the assumption that the insurrection is incited by a faction in the slave States, holders of the vast proportion of the property and slaves in those States; that this property and these slaves constitute the incentive and form the material base of the rebellion; and that, therefore, it becomes the right and duty of the nation, from the height of its extreme authority, to award the penalty of condemnation of estate and forfeiture of control over persons to those who thus conspire against the Government and make war on its authority.

But, sir, at the threshold of this measure, as, indeed, at the outset of every effort on the part of the friends of the Government to defend it against the machinations of conspirators and to put down this most impious rebellion, we are met with a flat denial of adequate constitutional authority.

The nation is involved in the perils of civil war, demanding the instant and decisive exercise of its utmost powers and combined energies, and yet it is painfully obvious that there exists the most embarrassing contrariety of opinions as to the constitutional powers of Congress, and the policy demanded by the public emergency. Under these circumstances, it is a matter of the first importance to ascertain the extent of the authority, where it is lodged, and upon whom the responsibility for its exercise is to rest. The powers and duties we shall assign to the Government will depend, I think, upon what shall be determined to be the actual condition of the nation—whether that of peace or war.

Plainly enough, the general and ordinary powers of the Government, under the Constitution, are applicable to the nation in a state of peace; and yet as clearly the Constitution contemplates the exercise of powers and the performance of duties peculiar to a state of war. Is the nation in that condition which devolves upon the Government the exercise of power common to a state of general hostilities? "Constitutionally speaking," to use the phrase in vogue here, is the nation in a state of war; and if so, what are its powers, under the Constitution, and to what extent do the public perils render the exercise of those powers necessary and expedient? The power of the Government over its domestic enemies, the necessity

and expediency of its exercise, are the topics to which I invite attention. First, is the nation, for purposes offensive and defensive, for all questions of its authority, to be regarded in a *state of war?*

It should be observed that the Government has made no formal declaration of war, and that the conflict is between the established Government and members of the same Government. But it will not be questioned that a state of war may exist between the Government and a portion of the people, and that no formal declaration is necessary to legalize hostilities. That a general state of hostilities exists, need not now be argued, and will not be questioned. That the nation has passed through the period of hesitation between peace and war, conciliation and authority, compromise and coercion, is equally clear. As to the policy of *war* as the only solution of the national troubles, the necessity of a contest of arms to repel insults, redress injuries, and to establish absolutely and forever the supremacy of the national Government over its domestic enemies, all truly loyal men, every where, are now happily agreed. And, sir, this condition of the nation is not, and from the beginning of the conflict through all its successive stages of threat and menace to open and armed assault upon its authority, has not been optional and voluntary on our part; but throughout, the stern alternative has been constantly presented to the Government of abject submission to the impious designs of a malignant faction, or the manly and patriotic vindication of its integrity.

While, sir, in the impartial performance of its duties to all parties, and to all parts of the Union, the *authority* of the Government was set at defiance throughout a large portion of its territory; its functions as a Government *derided;* its forts, arsenals, custom-houses, navy-yards, ships of war, and public property—the substantive tokens of its national supremacy—captured as prizes of war, and employed to disturb that tranquillity they were designed to insure; the public press silenced; citizens of the United States guilty of no offense, and suspected of none save of loyalty to the Union, imprisoned or driven from their homes; disclosing, at length, a bold and wicked conspiracy, embracing entire communities, and extending to and combining in its plans and purposes several States, having a military organization which put these States on a war footing in times of peace, and which brought into the field at an early day an army whose rank and file were numbered by hundreds of thousands, animated by the audacious *assurance* of a speedy advance upon the national capital, and ravening for the plunder of northern cities.

The conspirators, at first but a handful of men in the extreme South, in a few localities, artfully fomenting discontent, spread the sedition to other communities, until they came to control the action of several States. Emboldened by success in these States, and maddened by recent popular demonstrations against their mad schemes, they at length made open war on the jurisdiction of the United States, and opened a deadly cannonade upon a fort held by a handful of men, simply as custodians of the Federal authority.

Sir, the nation could not misunderstand this *unprovoked, murderous,* and *cowardly* assault. Long-standing conspiracy against the Government having passed through the successive stages of sedition and insurrection, now broke into open rebellion, declaring at the cannon's mouth its purpose to overthrow republican institutions, and to erect on the ruins of the Republic an oligarchy, hostile to liberty and inimical to the civilization of a Christian age.

The Government, at length comprehending its danger and the designs for its subversion, proclaimed its purposes of defense. At the national summons, more than half a million of patriot men, hundreds of thousands more than the estimated need, heroically volunteered, and now, at the end of a few short months, stand in serried ranks—country loving, God fearing, bold, defiant men—a numerous and resistless host, impatiently demanding to be shown the enemy of our peace.

The nation, sir, it may be assumed, is in a *state of war*—involuntary war on its part, insurrectionary, causeless, rebellious war on the part of its domestic enemies. And, sir, it matters not that it is not purely public war—conflict between two or more nations; civil conflict is as positively and unqualifiedly war, and has its laws as well defined as conflict between two nations. It surely, Mr. President, is not a state of *partial* hostilities, combining a few persons, invading a few places, and extending to and involving minor interests. Literally, the country is a camp and the nation an army. The war reaches to the confines of the Republic; levies its contributions on loyal men by millions of dollars each day; has daily sacrifices in the camp and on the field of scores of heroic men; and accepts its recruits from every city, town, and hamlet in the land.

Sir, let us not mistake. It is war in its most gigantic proportions—insurrectionary war upon the land, and piratical war upon the sea—not for redress of grievances, not to recover rights lost or impaired, not to escape from a heavy load of burdens no longer tolerable, but for objects and with motives and conduct which put the conspirators beyond the rights of civilized warfare, and which invest the nation with the high *prerogatives* of war, and forces upon the Government the exercise of its extreme power for self-defense. To balance longer on the condition of the nation or question its power, will prove fatal. We should stand no longer on the hope of conciliation; we are fully committed to war as our *remedy;* a deadly conflict is upon the nation; begun, high advanced, wields a sword already red with its best blood, consumes its wealth, wastes its substance, the which if you do not bring to a speedy close, by bold, determined, successful battle, will degenerate into a remorseless national *broil,* adding to the horrors of general war the miseries of intestine disorder, gaunt famine, general demoralization and desolation, and which, if the nation do not triumph, by an *unconditional assertion and vindication of its absolute supremacy,* will end in the extinction of all hope of popular government.

Our condition, sir, being that of civil war, I think it must be manifest that the nation possesses all the rights and powers necessary for self-preservation and for dealing with its enemies that are common to a nation in that situation. Clearly the Constitution contemplates the contingency when the Government may be required to draw the sword, both as against external and internal enemies, and wisely provides for such an event by the institution of an army and navy, and a system of militia; and in such contingency imposes no limitation on its power, but plainly designed that it should be left wholly unrestricted, to exercise all the powers and rights of a nation forced to take up arms for its defense.

While, under the Constitution, a state of peace is the normal condition of the nation, and while that instrument carefully defines and limits the powers of the Government and guards the rights of the States, leaving them free to pursue their internal affairs in their own way, a state of hostilities, of insurrectionary war, is *contemplated;* and in such event the power of the Government over all its enemies, whether internal or external, is unlimited and unrestrained, and is controlled only by the law of nations. The nation may then deal with its enemies in any way its exigencies may require, not repugnant to the principles of public law.

Sir, the amplitude of the power of the nation was forecast in the significant phrase of the preamble to the Constitution, itself a compendium of the objects and duties of Government: "To form a more perfect union," "establish justice," "insure domestic tranquillity," "provide for the common defense," "promote the general welfare," "*secure* the blessings of liberty." In its civil functions the Constitution provides for Government with limited power and duties, general in their character, and chiefly applicable to external affairs. Its war power is of the most absolute character; the right of making war, the expediency and necessity of an appeal to arms, are expressly given to the Federal Government, and the States are as expressly forbidden to exercise them. And, sir, the war power is not an incidental, but a substantive power, expressly conferred, and is that extreme power known to nations as the *ultima ratio,* at the declaration of which civil privileges are in abeyance and municipal laws silent. Strange delusion of the times, that it ever should have been doubted that the nation possessed the powers necessary for self-preservation!

The specific grants of power in the Constitution cover the whole subject of public hostilities, and every variety of national conflict; "may define and punish piracy on the high seas;" "declare war;" "make rules for captures on land and water;" "raise and support armies;" "call forth the militia" "to suppress insurrection or repel invasion."

I am aware, sir, that there are those who do not agree to this assumed power of the Federal Government, those who strongly insist that internal disorder, a state of general internal hostilities, is in "no constitutional sense war;" that the nation is fatally hampered by its organic law, and in such case can perform none of those acts of self-defense which are the essential characteristics of Government; that the Constitution at best provides for a sort of *quasi* Government in its relations to the States, and was purposely left without the power of enforcing obedience to its authority. In the language of the late President, "the Federal Executive has no authority to decide what shall be the relations between the Federal Government and the States;" that "Congress possesses no authority, by force of arms, to compel a State to remain in the Union;" that "while Congress possesses many powers of preserving the Union by *conciliation,* the sword was not placed in their hands to preserve it by *force.*"

Sir, the dark page of our history will be that which records these opinions, not as the delirium of mad ambition, not as the dreams of the human mind, but as the semi-authoritative utterances of the chief "public functionary" of the nation in the hour of its trial and peril. No public officer had ever before so sinned, so blundered. There had been great crimes and great criminals, from the days of the false prophet to Davis—crimes against country, society, humanity; traitors in our own times; rebels beside "fallen angels," and little inferior to the "angel of the bottomless pit;" but no such base compound of weakness and wickedness as is disclosed in this traitorous speech; himself in some large sense the State, its representative and chief, conceding to the enemies of its peace what makes his authority a sham, and degrades the majesty and grandeur of the Commonwealth to the dead level of a commercial partnership.

Set, sir, as a sentinel to guard the approaches to the citadel, cognizant of the fact of a long-standing conspiracy for its assault, familiar with the infernal counsels that for four years had been plotting its overthrow in his very presence, he still hesitates, as if halting between abstract love of the mischief contemplated and self-will, absurdly denying the *right* of the conspirators to take his official life, and questioning his own "constitutional" authority to defend it, and at length compromising the whole matter by the sublime sophism that "Congress has many *powers* of preserving the Union by conciliation, none by force." The *height* of this argument will constitute the bad eminence of the public functionary, as through all time it will carry the conviction, when repeated, of a resort to a pitiful subterfuge to avoid responsibility, when the peace and safety of his country demanded a brave and manly word from its executive chief. He has doubtless learned ere this that "to be weak is miserable, doing or suffering."

There is, sir, some fatal delusion misleading the minds of those who thus reason and act. The history of the origin of the Constitution, as well as the progress of the nation under it, shows that its founders designed to provide for a government with the essential attributes of government for "domestic tranquillity," as well as for foreign relations. Until the sentiment of government, under the Constitution, sovereign and absolute within its sphere, shall take possession of the minds of the American people, there can be no Union perfected, no tranquillity secured, no civil liberty attained. As well expect the results of a superintending Providence from an atheistic pantheism, the harmony of the planets without the central power to control them in their orbits:

> "The glorious planet, Sol,
> In noble eminence enthroned, and shepherd
> Amid the rest."

But, sir, let the nation rejoice that, with the close of the administration of the partisan President, the beguiled official, his political sophism lost its power, and that the whole breed of politicians who could insanely repeat disloyal sentiments while the country trembled on the brink of dissolution, is well nigh extinct in a large portion of the nation.

And, sir, here I regret to feel obliged to notice, in passing, that these sentiments and opinions are

not yet considered wholly out of place in the Senate.

We were told the other day by the honorable Senator from Virginia, "that, constitutionally speaking, this is not a war in which we are engaged."

Pray, sir, what is a war, and what are its characteristics, and how shall it ever be known when a nation is at war? "War," says Mr. Jefferson, "is a conflict in which the parties endeavor to do each other all the harm they can." Tried by this standard, are the conspirators making war on the United States?

What, sir, could men or devils do that they have not done, are now doing, or attempting, to subvert this free Government and lay it in ruins. To carry this fiendish purpose into effect at the point of the bayonet, they have taken up arms, organized a military despotism in a large portion of our territory, robbed loyal men of their property, and thrown them into prisons, captured or burned your commerce on the seas, marched armies for the subjugation of States, and now beleaguer your national capital. Does not the honorable Senator see in all this the "grim visage and stern look of war?"

True, we are not, have not been making war; but we are waging war already begun and forced upon the Government. In its designs, plans, and appointments, it is inveterate and vengeful, and exhibits war as seldom sung or painted:

> "The death shot hissing from afar,
> The shock, the shout, the groan of war."
>
> "A dark, a desperate game
> Where lives and limbs and hearts and souls of men
> Are staked for knaves."

Not war. Then what shall we write upon the tombstones of Ellsworth, Winthrop, Lyon, Baker, Lander, and scores of brave hearts that have perished in battle. Sir, how do such statements mock our grief for the patriot dead!

It is an "effort," says the honorable Senator, "on the part of the Federal Government to suppress insurrection and put down rebellion;" and what, pray, is an "effort" with the sword between two great armies drawn from all parts of the contending sections, but war? Is insurrection, breaking into armed rebellion and involving half a continent, anything less than a state of hostilities? The shock of "the effort" has sundered the honorable Senator's State, and its violence made her soil crimson with the blood of her children, and yet we are told that, "constitutionally speaking, this is not war in which we are engaged." The effort, on their part, is for the utter subversion of the Government—an effort of invasion for a moiety of the national domain and for the establishment, within our limits, of an independent government upon principles inimical to American liberty—an effort characterized by rapine, robbery on land, and piracy on sea, and displaying the most deadly hostility to social forms and national interests.

There seems, sir, some fatal delusion by which minds, keen in other respects, are blinded to the deep-seated malignity of this great insurrection. The forecast of Jackson, Adams, and Benton, had enabled them to see the gathering storm, and to warn their countrymen of its approach. Its distant mutterings were heard in 1833 in South Carolina. It had clouded the extreme southern horizon in 1850, threatening sudden disaster. In 1860 it had covered the entire southern sky, and the pregnant tempest was soon to burst upon the nation "with leaden rain and iron hail," awakening the people to a sense of their danger, and to a full realization of what had been predicted. Still there are those who doubt as to our real condition—much more as to our duties, and whether, if we are actually involved in a *hostile* contest at arms, it is not possible so to conduct it as not to injure the enemy. The great English historian has well said that a languid conduct of war is *cruelty* to all parties.

Assuming now the state of the nation to be that of general internal hostility; and that, being so involved, it possesses the power of self-defense, it is still important to inquire in what department of the Government this authority is lodged. Happily this is no longer an open question. The supreme power of making and conducting war is expressly placed in *Congress* by the Constitution. "The whole powers of war," says the Supreme Court of the United States, in Brown *vs.* The United States, (1 Cranch,) "are vested in Congress." Surely all will agree there is no such power in the judiciary, and the Executive is *simply* "Commander-in-Chief of the Army and Navy;" all other powers and duties, not necessarily implied in the command of the military and naval forces, are expressly given to Congress. Congress *declares* war; grants letters of marque and reprisal; makes rules for captures on land and water; raises and supports armies; provides and maintains a navy; makes rules for the government of land and naval forces; provides for organizing, arming, and disciplining the militia, and for governing them in actual service; and is thus invested, in the language of the court, "*with the whole powers of war.*"

In the contingency of actual hostilities the nation assumes a new and extraordinary character, involving new relations and conferring new rights, imposing extraordinary obligations on the citizens, and subjecting them to extraordinary penalties.

There is then, sir, no limit on the power of Congress; but it is invested with the absolute powers of war—the civil functions of the Government are, for the time being, in abeyance when in conflict, and all State and national authority subordinated to the extreme authority of Congress, as the supreme power in the peril of external or internal hostilities. The ordinary provisions of the Constitution, peculiar to a state of peace, and all laws and municipal regulations must yield to the force of martial law, as resolved by Congress.

Now, sir, upon principles of public law, what are some of the rights of nations in a state of hostilities?

In war, says Grotius,

"We have a right to deprive the enemy of his possessions—of anything which may augment his strength, and enable him to make war. Whenever we have an opportunity, we seize our enemy's property and convert it to our own use, and thus *diminish* his power and *augment* our own, and obtain at least a partial indemnification for what constitutes the subject of the war, or for expenses, or losses incurred in its prosecution—in a word, we do ourselves justice."

In the language of Professor Martin:

"The conqueror has a right to *seize* on the property of the enemy, whether *movable* or *immovable*. This may be done: 1. In order to obtain what may be demanded to be due. 2. To force the enemy to an equitable peace. 3. To defray the expenses of the war. 4. To deter him, or by reducing his strength, to hinder him, from *repeating* in future the injuries which have been the cause of the war. And with this object in view, a Power at war has a right to destroy the possessions and property of the enemy for the express purposes of doing him mischief."

Says the Supreme Court:

"*War* gives the full right to take the persons and confiscate the property of the enemy wherever found." "It may be considered as the opinion of all who have written on the *jus belli*, that war gives the right to confiscate."

In the case of The Rapid, which was the case of the forfeiture of the property of a citizen, the court said:

"This is the first case since the organization of the Government in which this court has been called upon to assert the rights of war against the property of the citizen. It is with extreme hesitation, and under a deep sense of the solemnity of the duty which we are now called upon to discharge, that we proceed to adjudge the forfeiture of private rights upon principles of public law highly penal in their nature, and unfortunately too little understood."

"*But a new state of things has occurred, a new character has been assumed by this nation*, which involves it in new *relations and confers on it new rights*, which imposes a new class of obligations on our citizens and subjects them to new penalties."—8 *Cranch*, p. 64.

We have *now* assumed that new *character*.

"The nature and consequences *of a state of war must direct* us to the conclusions which we are to form in this case. In a state of war nation is known to nation only by their armed exterior, each threatening the other with conquest or annihilation."

The court held that the power of Congress under that provision of the Constitution which authorizes it "to make rules concerning captures on land and water," *was an unrestricted power*.

Thus, sir, we have seen that Congress is invested with the whole power of war, and that confiscation of the enemy's property is one of its powers.

Confiscation, sir, is the fate of the property of the belligerent—the penalty of war—and there can be no fair pretense that these principles do not apply in the case of a domestic enemy. They are the ordinary dictates of justice to those who not only wantonly involve the country in the miseries of civil war, but who rob the loyal citizen of his property as a penalty for his loyalty.

Condemnation of the estate of the domestic enemy of the nation is the current judgment of the civilized world. Nay, more; it is the judgment of the nation against any man who revolts. Every circumstance of this rebellion—its purpose, plan, conduct—demand that the nation should enter up this judgment against the conspirators, if its authority is to be respected in the future. The protection and indemnity of the loyal citizen robbed of his property require that this judgment should be enforced. The popular sentiment of the nation is for it; that of the civilized nations of the earth will approve it.

And, sir, necessarily connected with the question of the confiscation of the property of rebels, is that affecting his right to control his slave. That principle or policy which dispossesses the rebel of his property, would seem to deprive him of his slave. If it be allowable to take his property to "compel a peace," "*to deter him*, or by reducing his strength to hinder him, from repeating in the future the injuries which have been the cause of the war," why not his slave, which is not less his support and incentive to rebellion, *and which is, indeed, in this case the casus belli?*

Sir, the well-defined notions of mankind in relation to persons and property, in peace or war, seem wholly to fail to guide us when the shadow of the sable African falls upon us. He is the riddle we cannot tell; the nondescript we constantly fail to comprehend; the visible outline of man with the invisible quality of property, mysteriously united, that confounds us; the grim idol of an idolatry that shocks while it enchants and infatuates.

Plainly, that judgment which condemns the person and property of the rebel, necessarily absolves the allegiance of his slave.

The right to deal with the rebel, and the necessity of his overthrow, is urgent, and yet we constantly stumble on the methods of action.

There is a class of persons, here and elsewhere, who, while they entertain no doubt of our power, and the expediency of its exercise, to confiscate the property of rebels, still deprecate all interference with their slaves. They constantly raise imaginary distinctions, putting slave property on grounds high above other rights of property, which should exempt it from the casualties common to all municipal rights. It is supposed to possess a constitutional immunity, wholly unknown to and above all other rights of property. The honorable Senator from Virginia seems to participate in these notions, to regard the "institution" as possessing a sanctity akin to that which attaches to the Constitution—its *existence* essentially the bond of union between the States, and which was carefully protected by the framers of the Constitution. "That a war for the liberation of slaves would be a war for the overthrow of the Constitution;" "an inhuman and unholy crusade against American constitutional liberty." "That the troubles," to use his language, "that now stare us in the face are chargeable, not upon slavery, but upon an unwarrantable agitation of the subject."

Now, sir, the plain import of all this impassioned phrase is, that the existence of the institution is indissolubly bound up with the Constitution, and so an element of the essential life of the nation. That the institution and the Constitution must stand or fall, survive or perish, together. That slavery is not the guilty cause of our troubles, and that to destroy it would be to destroy the Constitution of the country.

Sir, in this view of the subject, the memorable words "liberty and Union, one and inseparable, now and forever," were an unmeaning figure of speech when uttered by the great expounder of the Constitution in view of national perils; and they are *delusive* now when pronounced from the lips of the illustrious patriot Senator from Tennessee, himself involved in all the miseries of civil war. The rendering should have been, and should now be, "slavery and Union, one and inseparable, now and forever."

Sir, I do not care, at this time, to attempt the refutation of this oft-asserted and as oft-refuted political heresy; nor do I stop to take issue with the honorable Senator whether slavery is the real or the predisposing cause of the rebellion. Sufficient that it is the ostensible cause, and the one assigned by the conspirators themselves. Neither do I accept issue upon the immaterial question whether "war for the liberation of the slaves would be a war for the overthrow of the Union"—immaterial, because no such question arises on the

record, and is wholly foreign to the facts involved in the national controversy.

There can be no fair pretense for saying that the Government has made war, or prosecuted war, for "the liberation of slaves," or that it has made war at all; it has, at most, waged war already begun upon it. The *manner* of conducting war thus begun upon it is the Government's high prerogative, and is not to be questioned by those who assail it and stand in the relation of its domestic enemies. Let those who take the sword abide its stern arbitrament. But, sir, if slavery makes war on the nation for any purpose, I maintain the right of the Government, *under the Constitution*, to defend itself, and in doing so "to liberate the slaves" of rebels; and that whenever and howsoever the question arises between the "existence of the institution" and the Constitution—slavery and the Union—the former must go to the wall, *must perish*, if necessary to preserve the latter; and that this may be done in *the name and in the behalf* of "American constitutional liberty."

The Government has inaugurated no war on slavery; but, sir, it has raised the great battle-ax of war on rebellion, and on whatever is inseparably connected with rebellion—its guilty cause and support. Let no man plead to avert the penalties awarded to those who wantonly take the sword against the life of the nation! The *right* of slavery to "exemption from interference within its locality" is lost in its audacious revolt and armed assault on the Government; its cry "to be let alone" amid the cannonading of Sumter, is a shallow pretense to conceal a wicked purpose.

Sir, that "the institution" is inseparable from "American constitutional liberty" and the Union formed by the founders of the Government, I deny with all the emphasis of my being. This is the great delusion of the times—"the direful spring" of all our political woes. No greater fallacy was ever asserted than this attempt thus to link "the institution" and the Constitution indissolubly together, to ingraft the former upon the latter, to make slavery the corner-stone of the nation, to be guarded and protected by the Government.

In a national sense, "the institution" has no legal basis whatever. Its aspirations for national recognition and protection are as foreign to the purposes and principles of the Government of our fathers, under the Constitution, as would be a pretension for recognition of the systems of apprenticeship, or any other purely local usage, good or bad. It rests, like all other local rights, on the municipal law or usage, and will, of course, be left to the control of the local authority so long as it does the nation no harm, and threatens none. I freely concede its right to be exempt from interference by the nation—to deal with it is clearly beyond the ordinary powers of Congress; but when it revolts, brings on war, public disorder, menaces the life of the nation, it then subjects itself to the rules of war, and to the penalties of war at the hands of the Federal Government.

Sir, the questions that divide us are not so much questions of power as what the safety of the nation demands. And here we shall all agree, that whatever faction or class, interest or institution, raises itself against the Government, must pay the penalty for its temerity by being itself overthrown. And wherefore this rebellion? Let the history of American politics in the last quarter of a century answer. The constantly increasing sentiment favorable to slavery in the South, the demand for acquisition of territory, for change of national policy, for "expansion," for "equality," for "protection," settled hostility to free institutions, intolerance of opinions once current and common to the whole country, and at length open assault upon the early measures of the Government, and final demand for intervention in favor of the "institution." These show why war is levied on a Government against which no man at any time has rightfully uttered a complaint.

We must deal with events as we find them presented to us. The nation's necessity is to put down whatever disturbs its repose, is hostile to its peace, menaces its existence. The slaveholders have taken up arms against the Government. Their property and their slaves are their stay and support, their *means* of carrying on the war. They have forced upon the Government the dread alternative of war or submission to dismemberment and subversion. To avert a disaster so terrible as the overthrow of free government, the calamities of civil war, even, are welcomed by the nation. More than half a million of free men, with no other purpose than defense of that Government, have accepted arms and are now encountering the perils and hardships of war. They have stood guard for long, long months behind a line dividing loyal and disloyal States, to protect the Federal authority and preserve the national capital, their numbers diminishing daily by disease, the covert attacks and stealthy shot of the enemy, while south of that line have been exhibited the revolting scenes of vengeful war. And now, sir, when we are forced to contemplate an advance into the enemy's country, our great solicitude seems to be how we can best do so with least possible injury to the foe; and whether, indeed, it is "constitutional" to advance at all, if thereby the institution of slavery is to be endangered.

Those who have placed themselves in the condition, and who maintain the purposes of enemies to this Government, have no rights of property or person which should restrain the nation in the advance of its armies. The laws of battle they have invoked, the precious interests they have imperiled, the great necessity they have forced upon us, justify and urge the advance for their overthrow, the seizure and condemnation of their property; and here, it is said, you must pause; you may not annul the right to control the slave, the cause and strength of the war.

Sir, higher responsibilities were never imposed on any nation than are now devolved upon the American people. Not before was so much staked upon a single issue—the experiment of free institutions, the capacity of man to govern himself. A malignant aristocracy, privileged and tolerated, although alien to the principles of the Government, at length seeks to supplant democracy. Jefferson Davis is founding an empire within our limits, and desires "to be let alone." Stephens is laying broad and deep the foundations of a government of which slavery is to be the chief corner-stone, and "wants to be let alone." Mr. Speaker Bocock proclaims a constitution founded on a "different philosophy" from that of our fathers, and "wants to be let alone." Secession is breaking up a great nation, and desires "to be let alone." Slaveholders are founding a despotism in the heart of the Republic, and demand "to be let alone." The enemies of free government everywhere are holding high carnival, and if we do not join in, we are expected not by violence or indiscreetness to disturb the festivities of the occasion. We are admonished by all the malcontents in Christendom that we are endangering our Christian character by our obstinate refusal to be ruined; that "the whole doctrine of coercion" of such as neglect their duty to Government, is barbarous and inhuman, and that "*conciliation*" is truly the great *function* of Government; that national *resistance* to armed conspirators, and *measures* of self-preservation against organized rebellion, are cruel *usurpations*.

Sir, what we are witnessing and encountering is the old struggle of a class for power and privilege which has so often convulsed the world, repeating itself in our history. A class identified with a local and exceptional institution, grown powerful through political representation, demands to govern. It has its origin in the idea and mixed motives of a southern commercial center, and of the social and political supremacy of a class through the servitude of a race.

To this end they have conspired, have persistently inculcated the malignant heresy of secession, and at length forced the fatal issue upon the nation through the action of the States, in total disregard of the will of the people. Sir, to those who have incited sedition and planned rebellion, let the penalties of their great crimes be awarded.

To the people, deceived and misled, upon return to allegiance, give the assurance of amnesty, protection, and the privileges of free institutions, free schools, *homesteads*, even-handed justice, and equality of political rights; privileges that ennoble and elevate the masses into the dignity of a sovereign people, and give to popular government a secure support.

Sir, it would be a libel on human nature to suppose that the great body of the people of the South enter with alacrity into the purposes of the conspirators to overthrow this popular government, and to found a government on slavery. I would therefore discriminate in their favor, and seek to establish in those States a *commonalty*, with the privileges and immunities which make the people truly sovereign, in the place of an odious aristocracy, who having betrayed, are no further entitled to the protection of the Government.

Sir, in this great national drama there are many interests and persons represented, domestic and foreign. Enacted here, in the freest and most prosperous nation of the earth, and on a scale of unequaled grandeur, it will not fail to stir the pulse of the people and convulse the Governments of all Europe.

The cast of the tragedy will naturally move the people of the Old World with lively emotions of sympathy for a Government that from the beginning, by its lofty declaration in favor of human rights, had inspired them with hope, while it will arouse the passions and excite the prejudices of classes and factions always inimical to our great example and experiment.

In this great trial the *people* of old England, from whom we are descended, will, I am sure, prove now, as always heretofore, our friends; the Government, whose tyranny drove our fathers hither, as always heretofore, so now our enemy, and that upon principles so natural as that it should surprise nobody. The English *people* and the Anglo-Americans are in favor of *free government* everywhere; not so with the "*governing* classes" so called.

If, in the providence of Heaven, external elements are to "*intervene*" in this domestic strife, it may serve to prolong and intensify the struggle; it will not render doubtful the issue.

The patriot *endeavor*, and religious duty of the nation is to maintain the American experiment of popular government as a power on this continent, in harmony with the purposes of the patriots who planned and set that Government in motion, in spite of foes, foreign and domestic. To maintain this purpose and conduct this issue to a prosperous termination, the people are fully committed, and will not turn aside or falter, though their foes multiply and gather until the enemies of popular rights are everywhere combined against them.

Sir, this purpose of the American people is in harmony with the civilization of the age—the holiest aspirations of the ages—with that truth and justice whose reign is eternal.

Mr. BROWNING. Mr. President, I desire to address the Senate upon the subject now under consideration, but do not propose to do so to-day.

Mr. WILSON, of Massachusetts. Will you give way for other business?

Mr. BROWNING. Yes, sir.

Mr. GRIMES. I move to suspend all prior orders for the purpose of taking up a little bill and pass it, to authorize the President to appoint a commissioner to revise the laws of this District and report to us at the present session. I presume there will be no objection to it. It is Senate bill No. 222.

Mr. TRUMBULL. I should like to know if the bill under discussion will lose its place by that?

Mr. GRIMES. No, sir. The Senator from Illinois [Mr. BROWNING] takes the floor to speak to-morrow.

Mr. TRUMBULL. Will it be the order to-morrow at one o'clock if it goes over now?

The PRESIDING OFFICER, (Mr. HOWE in the chair.) So the Chair understands. The Senator from Illinois has the floor, and gives way for the motion submitted by the Senator from Iowa.

LAWS OF THE DISTRICT.

Mr. GRIMES. I move to take up the Senate bill (No. 222) to provide for the codification and revision of the laws of the District of Columbia.

The motion was agreed to; and the bill was considered as in Committee of the Whole. The first section empowers the President to appoint, by and with the advice and consent of the Senate, a suitable person, learned in the law, to revise and codify the laws of the District of Columbia; and the second section provides that the person appointed shall receive ten dollars per day for his services while so employed, and shall render a final report of his revision and codification to Congress on or before the 10th day of May next.

Mr. GRIMES. I move to strike out in line two, of section two, after the word "shall," the words "receive ten dollars per day for his services

while so employed, and shall;" so that the clause will read:

That the person who shall be thus appointed shall render a final report of his revision and codification to Congress, on or before the 10th day of May next.

The amendment was agreed to.

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

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

PAY OF ARMY OFFICERS.

On motion of Mr. WILSON, of Massachusetts, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 175) to define the pay and emoluments of certain officers of the Army and for other purposes, the pending question being upon the amendment proposed by Mr. GRIMES, as modified on the motion of Mr. CLARK, to insert the following as an additional section:

SEC. 23. *And be it further enacted*, That the act approved the 5th of August, 1861, entitled "An act supplementary to an act entitled 'An act to increase the present military establishment of the United States,' approved the 29th of July, 1861," be, and the same is hereby, repealed. But the repeal of the said act shall not be construed so as to deprive those persons already appointed under it from holding their offices in the same way and manner as if it had not been repealed.

The amendment was agreed to.

The PRESIDING OFFICER, (Mr. HOWE in the chair.) The Chair is advised that when the bill was last under consideration there were several other amendments proposed; and the first question is now upon the amendment of the Senator from Connecticut, [Mr. FOSTER,] in section ten to strike out the word "post" where it occurs before the word "chaplains," and also to strike out the word "regular," and insert "volunteer;" so as to make the section read:

SEC. 10. *And be it further enacted*, That in each of the permanent hospitals, where the President may deem it necessary, he may appoint a chaplain, who shall receive the same compensation as is now allowed to chaplains in the volunteer service.

Mr. FOSTER. I was not aware that this bill was under consideration until my attention was just called to it. I am very unwilling to detain the Senate by any remarks; but I must say that I think the discrimination made by the section, as it stands, against the chaplains who serve at these hospitals—they will be very few—is very unjust and very unequal; for the service performed by them, if they perform their service faithfully, is more self-denying, more laborious, and more exhausting than that performed by the chaplains in the regular Army; and if any discrimination were to be made this class of chaplains should receive higher instead of lower pay than those in service in the field. They are to be appointed only in those hospitals where the President judges that there is a necessity for the appointment of chaplains. That is, of course, where there are a large number of patients who are sick and daily dying, and are more in need of the services of a chaplain than the men are in the field, and it would be more cruel to deny them. The time which the chaplain is called upon to devote, if he performs his duty, is his whole time both night and day; for there will be daily and nightly men called to "the inevitable hour," when they will require, and it would be cruel to deny the consolations of a minister of religion. Under these circumstances, to say that these men shall receive less pay than those in the field, seems to me, as I have said, very unjust. The whole number of them will be very small, and the difference to the Treasury will be very light; but to make this discrimination seems to me unjust, unequal.

Mr. RICE. The amendment does not, in my opinion, cover the main point. These gentlemen have been serving a long time without pay. I introduced a resolution this morning on the subject. If the Senator from Connecticut will consent to it, I should like to offer as a substitute for that section the following:

That the appointments of chaplains to the Army hospitals as made by the President of the United States, are hereby approved, and the chaplains so appointed shall be compensated for their services in the same manner as regimental chaplains.

I believe that covers the whole case.

Mr. FOSTER. I will agree to that.

The VICE PRESIDENT. The Senator from Minnesota therefore moves to strike out this section and insert what has been read.

Mr. BROWNING. That does not clothe the President with any power to make other appointments hereafter. If this tenth section be stricken out, it leaves the President without power to make other appointments, I think. If I am correct in that, the amendment ought to be still further amended, so as to continue the power in the President to make appointments. Very few appointments have thus far been made, and I know of many hospitals where chaplains are really desired, and none are provided except such as render voluntary service.

Mr. FOSTER. I understood the amendment would accomplish that object. If it does not, I presume the Senator from Minnesota will so modify it as that the President shall have the power of appointment as a continuing power.

Mr. BROWNING. Will the Secretary report the amendment? I may be mistaken in regard to it.

The Secretary read it; to strike out the tenth section of the bill, and insert the following in lieu thereof:

That the appointments of chaplains to the Army hospitals, as made by the President of the United States, are hereby approved, and the chaplains so appointed shall be compensated for their services in the same manner as regimental chaplains.

Mr. GRIMES. I should like to inquire of some member of the Committee on Military Affairs what is the present number of chaplains in the service, both regular and irregular volunteers. I do not know anything about it; but I suppose there must be a good many of these chaplains, where regiments are divided up, who are not on duty; and, if so, I should think some of them might perform this duty at hospitals.

Mr. SHERMAN. There are only six hundred of them.

Mr. GRIMES. The Senator from Ohio says we have six hundred chaplains. I understand we have seven hundred and twenty regiments. Am I correct?

Mr. WILSON, of Massachusetts. Oh, no.

Mr. GRIMES. That is the last report I had from the Paymaster General. If we have that number of regiments, we must have nearly that number of chaplains. I should like to know how many there are, before we vote to increase the number greatly.

Mr. WILSON, of Massachusetts. Every regiment of the volunteers is, by law, entitled to one chaplain, and no more; and I suppose nearly all of these regiments have one chaplain. It may be that they do not need these chaplains; but every regiment is entitled to one, and can have but one. This bill simply proposes that the President shall appoint a few chaplains for the permanent hospitals; and as we had the impression that the regimental chaplains were paid too much, higher than we would now give them, if we had this to do over again; higher than we would have given last summer if they had not entered the service under the promise of this compensation from the Government, we thought we would fix the compensation of chaplains for hospitals at the same rate as that received by post chaplains in the regular Army. I thought when we made that proposition it was enough; and I think so now.

Mr. HARLAN. It seems to me that the section of the bill is right as it is. If I understand the subject, it provides for the payment of these chaplains that are to serve in the hospitals, the same as the chaplains of the regular Army receive, which, I think, is the pay of a captain of infantry.

Mr. FOSTER. The gentleman is mistaken.

Mr. GRIMES. The pay of a captain of cavalry.

Mr. HARLAN. I think I am right. The chaplains of the volunteer regiments receive the same pay as captains of cavalry. The post chaplains connected with the regular Army receive the pay of captains of infantry, which I understand amounts to about one hundred and twenty-five dollars a month. The chaplains that go into the field with regiments——

Mr. FOSTER. If the gentleman will allow me, the act of July 5, 1838, creating the office of post chaplain, makes it lawful for the officers composing the council of administration at any post from time to time to employ persons as chaplains, their pay not to exceed forty dollars a month. By the act of February 21, 1857, twenty dollars per month was added, so that they are now entitled to sixty dollars per month. That is their pay, and that is all of their pay proper.

Mr. HARLAN. I will inquire of the Senator from Connecticut if they are not paid certain allowances for rations and quarters?

Mr. FOSTER. They have rations.

Mr. HARLAN. And forage?

Mr. FOSTER. No forage. Volunteer chaplains have.

Mr. HARLAN. I will inquire if the Senator from Connecticut can inform the Senate how much they receive per month, or per annum, including all allowances.

Mr. FOSTER. I cannot, precisely. It is not exceeding sixty dollars per month, four rations a day, quarters and fuel.

Mr. HARLAN. I have been informed privately by a Senator near me that it amounts to between eleven and twelve hundred dollars per annum. The Senate pays its Chaplain $750 a year. The House of Representatives pays its Chaplain the same amount. I suppose this small compensation arises from the consideration that the Senate and House usually employ ministers who are in charge of congregations in the city. They do not always do this. They sometimes employ ministers of religion from abroad; and yet they pay them but $750 a year, and never have any difficulty in procuring a high order of talent. These chaplains that are to serve in hospitals will usually be employed from among the ministers of the various congregations residing in the towns and cities where the hospitals are located, and there will not be, in my judgment, the slightest difficulty in securing the highest order of talent for the amount of money proposed in the section as it now stands. If they are to receive under this section as it now stands between eleven and twelve hundred dollars a year, there will be no difficulty, I am sure, in procuring the highest order of talent for this class of service. Hence I am opposed to the amendment.

Mr. FOSTER. Mr. President, persons of the highest order of talent are not needed for this service. They would be out of place in performing it. I should be opposed to appointing such men. I should be opposed also to appointing men who have charge of a parish, or who are regular stated preachers in any town where there may be a hospital; because it is impossible for men, no matter how high the order of talent may be, to perform the duty required of them in these hospitals and at the same time to attend to their parish duties; it is out of the question. If the object is to appoint such men who thus have a charge which should and does probably occupy all their time, it is useless, or next to useless, to make any appointment at all. The duties that are required of these men are of a totally different character from those which we ordinarily understand to be called for from men of the highest order of talent. It is to be in these hospitals where there are sick and dying men, and to attend to their spiritual wants from day to day and from night to night, unremittingly. Labor is required without ceasing in these hospitals; and if a man has a parish, it is out of the question for him to attend to his duties in the hospital. Take the case of from one to two or three hundred men, sick, wounded, and dying. The idea of a clergyman of a parish attending to his duties in the parish and really performing any effective service in a hospital of that kind, having from one hundred to three hundred men to see and converse with, and minister to from day to day and night to night, is simply impossible. We had better not make any appointments at all than to do this. If we can get self-denying, patient, pious, devoted men, who will go into these hospitals, and devote their time to the sick and wounded, they ought to be paid for it; and if we cannot do it, it had better be let alone altogether.

Mr. FESSENDEN. I should like to inquire of the Senator from Iowa what he thinks the average compensation of clergymen of different denominations throughout the country is?

Mr. HARLAN. It would be very difficult to answer the question propounded by the Senator from Maine, though I am quite certain that the average pay they receive will not equal the amount proposed by this section.

Mr. SHERMAN. I think the Senate ought

to be consistent with itself. Last year when we were fixing the pay of a chaplain it was put at about eighteen hundred dollars a year, because it was said a chaplain would have to ride about, would have to go from place to place, would have to be mounted on horseback. I do not know that the chaplains in the army of the Potomac have had much occasion to use their horses; but at any rate, that was the argument which led the Senate to give them a very large salary. The salary of a post chaplain, at the very lowest, is $917 a year, and the highest is $1,157. I will guaranty that I can find one thousand pious, painstaking, good men—better men than your chaplains—for less money, who will gladly, not only for the money they receive, but for the good of the service, act as chaplains in your hospitals. Indeed, I have no doubt that in almost every city where these hospitals are located intelligent, pious, Christian men will perform the duties without a salary. They would not ask, or pretend to ask, what is given to a post chaplain; and indeed I doubt whether one in ten would receive any time during his lifetime as much as you will allow them under the provisions of this bill. The idea of paying $1,800 to a chaplain rendering service at a place where he does not have to mount on horseback, and move about, it seems to me is simply ridiculous when we have no money to give away.

Mr. RICE. At the last session I moved an amendment to reduce the pay of the regimental chaplains to that of post chaplains, which would have reduced it some eight or nine hundred dollars; but we were all so rich then, and so extremely anxious to do something that would suit everybody, that the amendment did not prevail. The argument that was used—and it was a very good one—why it should not be reduced, was that the President, in his proclamation calling out the troops, had stated that they should receive such a salary. To that I was willing to submit. The point that I now make is in regard to the chaplains who have been appointed by the President to attend to the hospitals throughout the country. There are some seven or eight of them. They have been now several months acting in that capacity, and have not received one dollar of pay. They were promised by the President in the appointment the pay given to other chaplains. I think it is due to those gentlemen that they should receive the amount promised up to the time that the appropriation may be made. Then, if Congress see fit to reduce the pay, well and good.

But in regard to the duties of the chaplains of the regiments and those of the hospitals there is no sort of comparison. I know of my own knowledge that the chaplains of the hospitals are engaged day and night throughout the entire seven days of the week. They not only act as chaplains, but as nurses; and not only as nurses, but as correspondents for the sick. They subject themselves to every disease that may be prevailing in the hospitals. They are not confined to one hospital. Each chaplain visits all or a certain number of the hospitals; and they are to some extent precluded from performing their duties in churches and among their parishioners, from the fact that when one goes into a hospital where the small-pox prevails he is excluded from the world; he must remain there; and they do remain there. I believe each of the hospital chaplains has performed greater service than any ten regimental chaplains.

Mr. FESSENDEN. I should like to have a little information from the Committee on Military Affairs with relation to this subject of Army chaplains. I do not know anything about it myself, and it is a matter that ought to be investigated. I have heard a good deal said on the subject; in the first place, that there were too many chaplains; that there was no need of more than one chaplain for a brigade, instead of having one for a regiment; that one chaplain could easily perform the duties——

Mr. RICE. My friend will pardon me a moment. My remarks were confined simply to hospital chaplains.

Mr. FESSENDEN. I understand that; but I am inquiring about this bill, which, I suppose, covers the whole subject, regimental as well as other chaplains.

Mr. WILSON, of Massachusetts. It has nothing to do with regimental chaplains at all. They were appointed under the law passed last summer at the called session; one chaplain being appointed to each volunteer regiment, with the pay of a captain of cavalry, amounting to about eighteen hundred dollars, or very nearly that. This provides simply for the appointment of chaplains for permanent hospitals, and authorizes the President to make these appointments; and as we had given what some of us thought very high pay at the last session to the regimental chaplains, we thought this compensation of post chaplains to the regular Army would be sufficient. It only applies to a few men. I think the appointments must be very limited.

Mr. FESSENDEN. I had the impression, somehow or other, that there was an amendment proposed to this bill, touching the number of chaplains in the volunteer force.

Mr. WILSON, of Massachusetts. The Senator from Oregon [Mr. NESMITH] has moved an amendment, to insert at the end of the eleventh section, "and that hereafter there shall be but one chaplain to each brigade." He proposes to cut them down from regiments to brigades.

Mr. FESSENDEN. That was one of the points upon which I wanted information: whether the Committee on Military Affairs had considered that subject. From what was said by the Senator from Minnesota just now, it would appear that a regimental chaplain has very little duty; and in addition to that, it appears that he has very high pay—the pay of a captain of cavalry, $1,800. Does that cover the allowances and everything that he receives?

Mr. RICE. Between eighteen and nineteen hundred dollars.

Mr. FESSENDEN. How much does a captain of infantry receive?

Mr. SHERMAN. That does not cover the allowance for fuel, quarters, transportation of baggage, forage in kind, &c. It only covers the pay, rations, and allowances for the service.

Mr. FESSENDEN. I know that the pay of a captain of infantry, with the allowances that are made of one kind and another, amounts to some eighteen or nineteen hundred dollars, and the pay of a captain of cavalry is very considerably higher. I am inclined to think, when you take it all into consideration, and pick up all the little odds and ends of allowances, it will amount to twenty-six or twenty-seven hundred dollars. Now, look at it. Each of these regiments in the field has a chaplain, receiving some twenty-five hundred dollars or more a year—as large a compensation and larger compensation than is usually received by clergymen over large and rich parishes in our cities, with the exception, perhaps, of some few parishes in the very large cities; and I understand from the Senator from Minnesota that one of these hospital chaplains has about as much to do as ten regimental chaplains.

Mr. RICE. I think so.

Mr. FESSENDEN. Well, I suppose it is so. It is perfectly obvious that the duty which a regimental chaplain has to perform must be very small, indeed, comparatively, and he may do it or not, just as he pleases; it is all left to his own discretion. Then, sir, if that is the case—and I really know nothing about it; I want to be informed—it is very singular that we have overlooked this subject. I suppose there is not one of them who, if left in the charge of a parish at home, would receive over a thousand or twelve hundred dollars a year at the outside; and yet to the chaplain of every regiment in our Army we are paying probably $2,500.

Mr. RICE. No, sir.

Mr. FESSENDEN. He has the pay of a captain of cavalry.

Mr. RICE. He has the pay of a captain of cavalry, but it cannot exceed $1,900; because, whenever a chaplain is absent from his regiment, he receives no compensation for quarters or fuel.

Mr. FESSENDEN. But suppose he stays with his regiment.

Mr. RICE. He then receives them in kind.

Mr. FESSENDEN. I do not see why.

Mr. RICE. But that is the fact.

Mr. FESSENDEN. The pay of a captain of cavalry is fixed by law. He has certain pay and certain allowances; and if the provision is simply that a chaplain shall have the pay of a captain of cavalry, he gets the whole, be it more or less.

Mr. RICE. But it does not exceed $1,900.

Mr. FESSENDEN. I do not know why it should be so, unless Senators show me some law on the subject.

Mr. RICE. The laws and regulations show it.

Mr. FESSENDEN. Very well, sir. Then one thing or the other we ought to do, and perhaps both. We may just as well meet this matter flat in the face. We either ought to reduce the number, or reduce the pay, perhaps both. If a chaplain can well and easily, or fairly, perform all the duties that are necessary for a whole brigade, we ought to have but one chaplain for a brigade, and if you please—I am for paying a reasonable compensation to everybody—you may give him the pay of a captain of cavalry, if that is not too much; but when we multiply them in this way, and have one for each regiment, and bring this immense burden upon the country, we ought to look into it. It has been well said that we were exceedingly liberal last summer. We were organizing our forces, and everything that was proposed by anybody in regard to pay was acceded to. We have now come to a point where we are obliged to look the matter of expenditure in the face.

Mr. RICE. I proposed at that time to make the pay of chaplains of the volunteer force the same as that of post chaplains in the regular Army; but it was not acceded to.

Mr. FESSENDEN. I am not opposing that at all. I am speaking of the general subject. There are two or three questions before the Senate at this time on various amendments. We ought, at any rate, to meet the matter; and if it is true, as suggested by the Senator from Minnesota, that the regimental chaplains have so very little duty to perform, we ought to dispense with them and appoint chaplains for brigades, and let them take charge of a whole brigade, if they can do it, and then pay them what is reasonable and what ought to be paid. If it is necessary to have these hospital chaplains, and undoubtedly it is, and they have hospital duty to perform, pay them all they ought to be paid. I have no objection to that; but I want to say to the Senator from Minnesota that when the President appointed these chaplains he said they must be dependent for compensation on the action of Congress; that he could make no promise one way or the other; that he would appoint them, but they must perform the duties at their own risk. They come before Congress not under any promise of the President, but for the simple purpose of being appointed and being paid. I am perfectly willing to appoint them, because I think a chaplain is needed in a hospital where there are so many sick persons, and I think they ought to receive a reasonable compensation.

I have no doubt, as suggested by the Senator from Ohio, that in many places we might find clergymen located who would be ready to perform the duty of hospital chaplains without compensation; but I would not impose it upon them. I think we are bound to provide for it ourselves, and provide fairly for the spiritual wants of the sick and wounded soldiers in the hospitals, and I am ready to do so. But if we have too large a number of chaplains, and if we pay them more than they ought to receive consistently, let us set about the business of cutting it down to a proper sum at once, and not hesitate upon the subject simply because it is paid to chaplains. Some of them, I have heard, and I have no doubt, are totally unfit for their positions, and instead of being any benefit, are of great disservice by the example they set to the soldiers. But, sir, I hope and trust that that is true only in exceptional cases, and that the chaplains in the Army conscientiously and devotedly discharge the duties which they owe to their country and which they owe to the religion they profess. I trust it may be so; but that is no reason why in the present state of finances of the country we should have so many more of them than are needed, or pay them beyond any reasonable ratio, when compared with the compensation they receive for services in civil life.

Mr. RICE. Would my friend wish to have the pay of chaplains appointed in hospitals reduced, for the services they have already performed?

Mr. FESSENDEN. No, sir; not at all.

Mr. RICE. Then we agree exactly.

Mr. FESSENDEN. I would grade their pay for services already performed precisely according to what they ought to receive for services hereafter. We are bound to them by no obligation.

The President entered into no obligation to them that I am aware of.

Mr. RICE. The President gave them each an appointment. It is true, it depended on the future action of Congress to ratify it, in the same manner as his call for seventy-five thousand men and various other acts were dependent on the ratification of Congress. All Union men unanimously agreed to sustain him in those acts, and I think we should sustain him in this, up to the time we act on the subject. As to the future, we can make any reduction of pay and any reduction of numbers that may be deemed necessary.

Mr. FESSENDEN. I think, according to my recollection, the President made it dependent entirely on the action of Congress. He could not do otherwise, because he had no sort of authority one way or the other. I have so much respect for the clergy, so much for the cloth, as it is called, that I do not suppose one of these men would be willing to take out of the Treasury one dollar more than he ought reasonably to receive for his services on the strength of any promise or intimation whatever. They have too much conscience for that, and are willing unquestionably to submit to what is right.

Mr. WILSON, of Massachusetts. It will be remembered that when the President called for volunteers early last year, in the plan of organization submitted at that time it was provided that regimental chaplains should have the pay and rank of captains of cavalry, and when Congress assembled, in reporting the bill for the organization of the volunteers, we acted according to that plan and that pledge of the Government. The Senator from Minnesota [Mr. RICE] moved a reduction of that compensation. It was sustained by a vote of the Senate, but under the pledge given to these chaplains of volunteer regiments the Senate reconsidered that vote, and the bill, as finally passed by Congress, gave to the chaplains of volunteer regiments the pay of a captain of cavalry. That is the law of the land to-day. We have, it is said, seven hundred and forty regiments. I do not believe we have so many. I have never seen any evidence that we have six hundred regiments in the field. I do not believe that there are under the flag of the Union in the volunteer forces of the country more than five hundred thousand men.

Mr. GRIMES. How many regiments?

Mr. WILSON, of Massachusetts. I do not think there are more than from five hundred and fifty to six hundred regiments.

Mr. GRIMES. I will ask the Senator if that is the report from the Paymaster General?

Mr. WILSON, of Massachusetts. I understand the Paymaster General says there are about seven hundred and twenty regiments. We have called on the Department for a list of those regiments, and they returned us but little more than five hundred. I think there is some mistake on this subject. I think there are not six hundred regiments organized, and that there are not over five hundred thousand men. We are not paying more than five hundred thousand men to-day. I will say further, that I have never yet seen any evidence that led me to suppose the army of the so-called confederate States ever exceeded two hundred thousand men; and it does not now amount to one hundred and eighty thousand. These forces have been over-estimated altogether.

Now, sir, we have one chaplain for every volunteer regiment. There may be a few regiments, perhaps, without a chaplain. I believe most of these chaplains are men of capacity and of character, men who are faithfully performing the duties that belong to them as chaplains of volunteer regiments. Some of them are unworthy, worthless, a disgrace to their profession, and receive, as they ought to receive, the scorn, derision, and contempt of officers and soldiers; but I believe the great mass of them are doing their duty with fidelity; that they comprehend their duties and are performing them.

I think this may be said also of the great mass of the officers of the volunteers. I know that it is fashionable to sneer at and deride those officers. We are told that they throng this city, and fill up every avenue of dissipation. Sir, there are more than eight thousand officers connected with the army of the Potomac, and how few of them do we ever see hanging around this city. The great mass of those officers are with their men, faithfully performing their duty.

The Senator from Maine, if I understand him, does not oppose the appointment of chaplains for these hospitals. There can be but few of them at any rate; only one to each permanent hospital. Everybody admits that we need chaplains in those hospitals. The President, without law, governed by the necessities of the occasion—the wants of sick and dying men—appointed a few chaplains for those hospitals, for whom, I think, the compensation proposed by this bill would be ample; others think otherwise. I am willing to fix it at a reasonable rate; and as we have proposed in this bill to cut off certain emoluments of officers, I would be willing to fix the compensation of these chaplains, say at $1,200 a year, $100 a month; and I would be willing to reduce the compensation of regimental chaplains from $1,800 or $1,900 to $1,200. I think that would be a full and ample compensation. I am willing, therefore, to make an amendment to this section so as to provide that the chaplains appointed for these hospitals shall receive a compensation of $1,200 a year; that is, $100 a month, and have no emoluments and no favors of any kind. That would be a salary that everybody would understand, and I think it would be sufficient. I am willing also to amend the bill so as to reduce the compensation of chaplains in the field, who are receiving double the compensation they could average when they were at home.

Mr. CLARK. I desire to ask the Senator from Massachusetts a question, if he will allow me.

Mr. WILSON, of Massachusetts. Certainly.

Mr. CLARK. I wish to ask him if he can tell the Senate what number of chaplains we are paying. The point is to know what we pay.

Mr. WILSON, of Massachusetts. I cannot tell what number we are paying. There can be in the volunteer force but one chaplain to a regiment under any circumstances, and I think some regiments are without a chaplain.

I suppose the Senator would like to know the number appointed in the hospitals. I called on the President a day or two ago in regard to this matter, and in the course of conversation I was told by him that he had made very few appointments.

Mr. RICE. Seven or eight; not exceeding nine.

Mr. WILSON, of Massachusetts. I understood that they would not exceed a dozen in the whole country. These persons have been acting for several months without any law for their appointment; and the President said he had calls for the appointment of quite a number of them in various parts of the country where they were needed. The passage of this bill may lead to the appointment possibly of some forty or fifty hospital chaplains in the whole country; it will not exceed that number.

Mr. CLARK. I understand that there can be but one to a regiment. It seems, however, that nobody knows whether there are five or six hundred regiments.

Mr. WILSON, of Massachusetts. We cannot tell.

Mr. CLARK. I call the attention of the Senate to the fact that there is not a man here who can tell the number of regiments within a hundred; and there is not a man here who can tell what they are paid; some say $1,800, some $1,900, some $2,600, and some $2,700. We sit here as grave Senators to legislate on a subject that we know so much about!

Mr. RICE. We can tell all about it.

Mr. CLARK. I wish the Senator would tell all about it. How many chaplains have we?

Mr. RICE. Not to exceed one for each regiment.

Mr. CLARK. I understand that; but how many regiments have we?

Mr. RICE. I would prefer that the honorable Senator should address that inquiry to the Commander-in-Chief of the Army.

Mr. CLARK. Or the Secretary of War?

Mr. RICE. Yes, sir.

Mr. CLARK. I do not see that I have any more information about it than I had before.

Mr. WILSON, of Massachusetts. We have called on the Secretary of War to furnish us with a list, and he has sent returns here making little more than five hundred regiments in all. We are told that the Paymaster General says there are something like seven hundred and twenty. I suppose he includes skeleton organizations, scattered about the country, of which there are perhaps one hundred or one hundred and fifty that are not yet made up, and never will be.

Mr. CLARK. Does a skeleton have a chaplain?

Mr. WILSON, of Massachusetts. I think those regiments have not. I will say to the Senate, in regard to the appointment of chaplains, that the law requires that the company officers of the regiment shall assemble and elect a chaplain. The presumption is, therefore, that a chaplain is never appointed to a regiment until it is full, the officers commissioned, and the regiment fully organized; and I think that is the general practice. I do not know who is to blame for the ignorance that prevails in the country with regard to the number of regiments. We do not know the number; the War Office does not know; the President does not know, and I do not know anybody who can tell us. We have called for the information. I have investigated the matter, and my own opinion is that we have between five hundred and fifty and five hundred and eighty regiments, and that we have a force of about five hundred and twenty thousand men in the whole country. The loose manner in which the volunteer forces have been called into the field, is to a great extent owing to the fact that the President of the United States gave authority to gentlemen who came here to raise regiments, that the Secretary of War gave authority, and whether the commanding generals gave authority or not I do not know.

Mr. DAVIS. They did.

Mr. WILSON, of Massachusetts. I am told they did do so; but I know that a clerk in the War Office, without the knowledge of the Secretary of War—a man who now fills a foreign position, but has not yet been confirmed by the Senate—gave authority to raise regiments, and transacted other business in the name of the Secretary of War, in violation of his duties as a clerk in that office.

Mr. HOWARD. Who was that?

Mr. FOSTER. One Mr. Lesley.

Mr. WILSON, of Massachusetts. Congress committed a grave mistake last session; we committed it through potent influences. I mean official influence—the influence of gentlemen who administered the Government at the other end of the avenue. We made the mistake that we left something to discretion, instead of confining the call for troops to law, or to proclamation, fixing everything properly. By not doing so, we have had a loose way of calling out regiments, and I have no doubt that it has added much to the military expense of the country, and has been the prolific cause of this ignorance in regard to the number of our regiments.

Mr. SHERMAN. I should like to interrupt my friend just there. The law that he says was so loose, although framed by himself, expressly limits the number of regiments of cavalry and artillery to one tenth; and I have here a table showing the organization of the Army, which provides for thirty-five regiments of cavalry, thirty-five regiments of artillery, and four hundred and thirty regiments of infantry. The law was right; it limited the number of regiments in each branch of the service; but they exceeded the law, and disobeyed it. It is not for the want of law; the law itself was well enough.

Mr. NESMITH. When the proposition to employ chaplains in the Army was before the Senate last summer, I was opposed to it; I thought it was creating unnecessary expense. The other day, when this bill was up, I submitted an amendment, to be called up subsequently, to insert at the end of the eleventh section these words:

That hereafter there shall be but one chaplain to each brigade.

I know that amendment is not properly before the Senate at the present time; but it seems to me somewhat connected with the question now pending. I have no objection to the employment of chaplains for the hospitals, as contemplated by the amendment now under consideration. I think that is very proper; but after that amendment shall be adopted, I hope the Senate will adopt the amendment submitted by me when the bill was last under consideration, or one similar to it. I offered it from no unkind feeling towards the clergy, or the influence they might exert in the Army, but merely as a financial measure to save the money of the country, which is being squandered at such an extravagant rate. I have made some computations on the subject. The pay of a chaplain, under the bill which we passed at the

last session, amounts to $1,758 a year; that is the pay and allowances proper, to say nothing about his transportation or other expenses which are occasionally paid by the Government. Including all expenses, I think it may be safely set down that the chaplains cost the Government about two thousand dollars each; but I have computed it at $1,758. Then suppose there are six hundred regiments, with a chaplain to each regiment. I apprehend that there is a chaplain to each regiment, though the chairman of the Committee on Military Affairs says the presumption is, that no chaplain is appointed until the regiment is filled. I think that is a violent presumption. I notice that most of the officers get their commissions and their pay in advance of the regular organization of the regiment. On the computation I have made of $1,758 a year, the pay of a captain of cavalry, with six hundred chaplains, one to each regiment, which, I think, is a reasonable computation, the whole amount we are now paying to chaplains in the Army, is $1,054,800 in the aggregate. This is a very large sum. I apprehend that no army in the world ever employed such a vast number of chaplains; and I do not think this Government can afford to do so at this time, considering the straitened financial condition of the country.

The proposition submitted by me provides that there shall hereafter be but one chaplain to each brigade. Suppose there are one hundred and twenty-five brigades—and I apprehend that is about as many as will be organized—the pay of the chaplains would amount to $219,750 per annum in the aggregate. There would be a saving to the Government, under my amendment, of $835,050; and upon the presumption that there would be extra expenses incurred in the way of traveling expenses, I think you may safely set it down that, by the adoption of my amendment, the Government will save $1,000,000 per annum.

Now, sir, without any desire or intention to detract from the services of these gentlemen, I do not think so great a number of them is absolutely necessary. I know of some instances where they are of no service at all. I know other instances where Protestant chaplains have been appointed to regiments consisting almost entirely of Catholics. The prejudices which are engendered by animosities growing out of differences of religious creeds are such that one denomination will not pay attention to the other, and will not go to hear a minister of the other preach. A gentleman recently called upon me, who is now a chaplain in one of the volunteer regiments, a Protestant, and he stated to me that nearly the entire regiment were Catholics, and that it detracted very much from his influence over them; that they would not listen to or pay attention to him. They desired a Catholic chaplain in the regiment, and I think they should properly have had one. I have no prejudices myself on the subject of religion; but I think the better plan would be to adopt my amendment, dispense with this vast number of chaplains, and give one to each brigade, and thereby save in the aggregate $1,000,000 per annum.

Mr. RICE. I have modified my amendment to correspond with the appointment the President gave to the hospital chaplains, and I propose to add to the tenth section these words:

The appointments of chaplains to the Army hospitals heretofore made by the President of the United States are hereby approved; and the chaplains so appointed shall be compensated for their services in the same manner as chaplains in the Army.

Mr. HARLAN. It seems to me that the amendment as proposed is indefinite. "Shall receive the same compensation as chaplains in the Army." I understand that the volunteer chaplains receive more than those connected with the regular Army. I think the better plan would be to fix the amount they are to receive definitely; say that "hospital chaplains shall receive compensation at the rate of $1,000 per year," more or less, as in the judgment of the Senate will command the services which they need. I have no doubt that if the Senate will amend this tenth section so as to read, "who shall receive compensation at the rate of $1,000 per annum," it will meet the approval of the religious organizations in the country from one end of it to the other.

Mr. RICE. My amendment only relates to the past; it is not in regard to the future. I merely wish to have the appointments made by the President carried out. I think it is due to him. It involves but a very small amount. There are only some seven or eight hospital chaplains that he has appointed, and I think the promise he made at the time should be indorsed.

Mr. WILSON, of Massachusetts. We have had considerable discussion about this matter, and various ideas have been expressed. I think the amendment proposed by the Senator from Minnesota, sanctioning what the President has done, is very well, and it ought to be in the section. I think the proposition made by the Senator from Oregon to have one chaplain for a brigade will not work well. We have now one chaplain for each regiment. Some of the regiments are composed mainly and chiefly of Irish, of Roman Catholics, and they have their priest with them. It may be that if we were to have but one chaplain for a brigade, they would not have what they desire, and what I think they ought to have in this respect. I believe it is better as it is, that there should be a chaplain for every one thousand men, every regiment. If this costs too much, reduce the compensation, bring it down from $1,758 or $1,800 or $1,900—if that is the sum—to $1,200 a year, $100 a month, which is good and ample compensation. I think we had better pass the provision in that form, authorize the President to appoint chaplains in permanent hospitals, give our sanction to what he has already done in that respect, and then provide that the chaplains in the volunteer force shall receive a compensation of $1,200. That will be a great saving to the Government, and will keep the chaplains who are now with their regiments with them. If they are good and faithful men, they are doing good beyond human calculation; if they are the poor creatures some of them are, they are doing no good to anybody. I think the good and faithful men will feel that, in the present condition of the country, a salary of $100 a month is ample compensation.

Mr. RICE. Let me suggest to the chairman of the Military Committee that there are already two bills before the Senate in regard to the pay of chaplains, one from the committee and one from the Senator from Ohio, [Mr. SHERMAN.] It seems to me appropriate now only to legislate in regard to those who have been appointed by the President for the hospitals, and when the other bills come up we can regulate the pay. We should now, I think, confine ourselves to the ratification of what has been done in providing chaplains for the hospitals, and action on the amendment of the Senator from Oregon as to the number.

Mr. WILSON, of Massachusetts. Very well; let us have a vote.

Mr. FESSENDEN. The original amendment is that the hospital chaplains shall receive the pay of regimental chaplains in the volunteer forces, as I understand. Up to the present time, by the amendment of the Senator from Minnesota, they will receive a less amount.

Mr. RICE. They will receive the same amount promised by the President.

Mr. FESSENDEN. According to the Senator's amendment, they will receive, up to this time, the pay of Army chaplains in the regular service; but hereafter, under the amendment of the Senator from Connecticut, they will receive the pay of regimental chaplains of volunteers—a good deal more. It ought to be made either one thing or the other.

The amendment of Mr. RICE was agreed to.

Mr. HARLAN. I now move to modify the text of the tenth section so as to provide that the hospital chaplains shall receive compensation at the rate of $1,000 a year.

Mr. SHERMAN. If I understand the question, the amendment of the Senator from Connecticut has not yet been voted upon.

The VICE PRESIDENT. The Senator from Connecticut was understood to withdraw his amendment.

Mr. FOSTER. I did not withdraw it.

The VICE PRESIDENT. The Secretary informs the Chair that that amendment was agreed to.

Mr. SHERMAN. I have been watching it very closely, and I am sure no vote has been taken on the amendment of the Senator from Connecticut.

The VICE PRESIDENT. The impression of the Chair was that he withdrew it, to allow the Senator from Minnesota to offer his

Mr. SHERMAN. I understood him to accept the amendment of the Senator from Minnesota.

The VICE PRESIDENT. The Secretary states that the amendment of the Senator from Connecticut was adopted.

Mr. SHERMAN. Then I move to reconsider the vote by which that amendment was agreed to.

The motion to reconsider was agreed to; and the question recurred on the amendment of Mr. FOSTER to strike out in the tenth section the word "post," before the word "chaplains," and to strike out "regular," and insert "volunteer" before "service."

Mr. SHERMAN. The question comes up on the simple proposition whether we shall pay chaplains in the regimental hospitals $1,800 a year, with indefinite allowances for fuel and quarters, or pay them $1,100, or some other fixed sum. I think that proposition ought to be kept by itself simply, and I hope we may have a vote.

Mr. FOSTER. I am not strenuous at all as regards the amount that shall be paid; but I think a discrimination against men who render the most laborious and most meritorious service is unjust. If $1,800 a year is too much for the chaplains, reduce it; but do not pay the chaplains in the volunteer service $1,800, and then pay those who perform this self-denying, laborious, meritorious, and, I will add, dangerous service, but $1,100. It is unjust, unfair.

Mr. SHERMAN. If the Senator from Connecticut desires to put them all on the same footing, let him in a few words say, "and regimental chaplains shall receive the pay of a post chaplain." In that way he will accomplish what I desire, and what he says he is willing to agree to.

Mr. FESSENDEN. I should like to know whether there is any distinction between a post chaplain in the Army and any other chaplain. As it stands there, hospital chaplains are to receive up to the present time the pay of post chaplains in the Army. What is the distinction between the pay of post chaplains and other chaplains in the Army?

Mr. FOSTER and others. None.

Mr. SHERMAN. There is no such thing as chaplain in the Army, but there is a post chaplain.

Mr. FESSENDEN. I only wanted to know what was the difference.

The amendment of Mr. FOSTER was rejected.

Mr. HARLAN. I now move to modify the tenth section, so as to read, "who shall receive compensation at the rate of $1,000 per annum."

The VICE PRESIDENT. What words does the Senator propose to strike out?

Mr. HARLAN. I move to strike out in line three, the words "the" and "same," and in line four, all after "compensation," and to insert "at the rate of $1,000 per annum;" so as to make the section read:

That in each of the permanent hospitals where the President may deem it necessary, he may appoint a chaplain who shall receive compensation at the rate of $1,000 per annum.

Mr. CLARK. It seems to be agreed that the amount we pay the chaplains of the volunteer forces is much too large. I want to suggest to the Senator from Iowa if it will not be better to let the amendment proposed by the Senator from Minnesota pass, so that the hospital chaplains shall have the pay of Army chaplains, and then bring regimental chaplains to the same standard, and then we shall have only one compensation for the whole. I understand that by the amendment of the Senator from Minnesota they will get a little more than the Senator from Iowa proposes, a little more than a $1,000 a year, and certainly he will not object to that.

Mr. HARLAN. I will say to the Senator from New Hampshire that in conversation with chaplains of the Army, I learn that they would much prefer to have their compensation fixed by the month or year. Now it depends somewhat on the disposition of the paymaster how much they receive, under the law as it stands. They are not skilled in these estimates, and they would prefer to receive a fixed salary, so much money per month or year. If in the opinion of the Senate $1,000 a year is not sufficient, I do not object to $1,200; but it is due to them, I think, that the amount should be fixed.

Mr. CLARK. I have no doubt it would be

better that the sum should be fixed, so that we and everybody should know what it is. My desire was to bring them all to one standard; and if the Senate wants to bring the pay of post chaplains of the Army to $1,000 or $1,200, to agree to it. I want them all put on the same basis, and I should be glad to have that basis fixed and known, made certain and definite.

Mr. WILSON, of Massachusetts. I suggest that the best way to settle this matter is to stand by the section as reported, striking out the word "post" before "chaplain," add the amendment proposed by the Senator from Minnesota, without saying anything about compensation, and then add to the section these words:

And that from and after the passage of this act the compensation of regimental and hospital chaplains of volunteers shall be $1,200 per annum.

Mr. COLLAMER, Mr. CLARK, and others. Put in the Army. Put them all on the same footing.

Mr. WILSON, of Massachusetts. I will agree to that.

The VICE PRESIDENT. Does the Senator from Iowa withdraw his amendment?

Mr. HARLAN. In my opinion, the chaplains who go into the field with the regiments that are in actual service ought to receive more compensation than those who live at home; and I know this is the opinion of the chaplains themselves. The hospital chaplains will, in nine cases out of ten—perhaps the whole of them—reside in their own houses. At every place where a hospital may be located, there will probably be ten or twenty ministers of different denominations, any one of whom will accept the position and serve as chaplain to the hospital, and live at home. It seems to me the compensation need not be so large for them, as for those who leave their homes and associations and go into the field. I prefer, therefore, that the question be taken separately, and that we fix the compensation for chaplains of hospitals first, and then the compensation of chaplains of regiments in the field.

Mr. FOSTER. The Senator from Iowa is entirely mistaken in supposing that the chaplains of hospitals are of opinion that they ought to receive less than chaplains in the field. The chaplains in the field may think they ought to receive more; but I have the testimony of several chaplains who have served in the field and in the hospital, and they say they would rather go into the field and perform all the service that is required of them there, than to perform the service required of them in the hospitals, at the same rates. They deem hospital service more laborious, more exhausting, and vastly more entitled to higher compensation; and every man who looks at it I think will come to the same result, if the service is performed. I agree with the Senator from Iowa, that if it is understood that the service in the hospital is to be performed by some clergyman residing in the town, who performs his usual duties to his parish, and at his leisure moments walks through the hospital, and occasionally makes a prayer in the building when it is convenient, such a man certainly can perform that service, receiving his regular salary, at less sacrifice to himself than if he were called into the field to perform service as a regimental chaplain. But my idea is to appoint no such man, but to appoint a man who will devote himself to the service; and if he does that, he earns his money much more than a regimental chaplain does in the field.

Mr. HARLAN. I discover that the Senator from Connecticut and myself differ in opinion merely on that subject. I will make a statement, however, without any fear of contradiction, from ministers of religion, that if you appoint no chaplains to these hospitals, the wounded and sick soldiers will be cared for by them voluntarily. They will make an arrangement among themselves in all the towns and cities where hospitals are erected, and, by regular rotation, will administer to their spiritual wants. There is no opportunity, when a regiment is in the field, to make any such arrangement. With the observations that I have had and the conversations I have had with ministers of the various denominations, and those of the very highest position, I know that the amount I name will be satisfactory. If it were submitted to any religious organization, or organization of ministers in this country anywhere, they would decide that $1,000 a year was enough. There will be a multitude of applicants for these positions at that compensation. If, in the opinion of Congress, the pay of chaplains in the field should be reduced as low as this, I shall not object to the reduction; but, in my judgment, they ought to receive more compensation than those who live at home. I will adhere, consequently, to the proposition I have made, and ask a vote of the Senate.

Mr. COLLAMER. I believe that a very generally prevailing notion amongst the regimental chaplains is that they came out under a contract. They came into the service under an assurance of the pay of a captain of cavalry. They are willing to be reduced in company with other officers of the Army in their pay, but not to be made themselves an exception. If you reduce the pay of a captain of cavalry, they expect to abide by that reduction; but I believe it is their feeling pretty generally that it is rather invidious to select them, to reduce them by themselves, when other officers of the Army are not reduced *pro rata*, nor is that which was given as the standard of their pay itself reduced.

Mr. WILSON, of Massachusetts. The distinction is this: The volunteer force is called into the field with the same compensation as the Army officers; a volunteer captain of cavalry comes here and has the same pay as a regular officer; the chaplain of a regiment comes here, but instead of having the pay of a chaplain of the Army, he has the pay of a captain of cavalry. It was fixed at too high a standard at the time; it was wrong to do it; and I think in the present state of the Treasury we owe it to the country to make the change and put them on the same footing with chaplains of the Army. We really propose here to give them a little more.

The question being taken on Mr. HARLAN's amendment, there were, on a division—ayes 16, noes 15; no quorum noting.

Mr. WILSON, of Massachusetts, and others, called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 14, nays 23; as follows:

YEAS—Messrs. Anthony, Chandler, Dixon, Grimes, Harlan, Harris, Johnson, Lane of Indiana, Latham, Nesmith, Pomeroy, Sherman, Trumbull, and Wilmot—14.

NAYS—Messrs. Browning, Carlile, Clark, Collamer, Cowan, Davis, Fessenden, Foot, Foster, Henderson, Howard, Howe, Morrill, Powell, Rice, Stark, Sumner, Ten Eyck, Wade, Willey, Wilson of Massachusetts, Wilson of Missouri, and Wright—23.

So the amendment was rejected.

Mr. RICE. I have an amendment to propose, to come in as a new section——

The VICE PRESIDENT. The Senator's amendment is not now in order. The next amendment in order is one which has been submitted by the Senator from Oregon, [Mr. NESMITH,] to insert, at the end of the eleventh section:

And that hereafter there shall be but one chaplain in each brigade.

Mr. CLARK. It does not strike me that that amendment is wise, or will operate well. I think if Senators will consider, they will see that every chaplain of a regiment has more persons to look after than almost any man who has the care of a parish or of a small society. I think that the societies in my State will not average so large a number of persons as a regiment for which the minister has to care; and if he is a good man, he finds abundance to do for all his time; and if he is not a good man, he will not attend to his duties, whether he is the chaplain of a regiment or of a brigade.

Then there is another consideration. Your chaplain goes with the regiment; the men are made up and taken from his neighborhood; he understands their condition and their wants. If you now make them into brigades, you will have one regiment from one State, and another from another State, and you will have persons appointed chaplains to brigades who are entire strangers to the soldiers, who will not know their wants as they do now.

Then, again, by the adoption of this amendment, you will have to discharge a certain portion of these chaplains. Which of them shall be discharged, and how shall they be discharged? It seems to me that as we have begun with a chaplain to a regiment, we had better so continue until the war is ended, and the volunteer force disbanded. I think a good chaplain is the most effective man in the regiment, and I can now point to men who are doing more good as chaplains than almost any men in the regiment. Though they do not fight, they do a great deal towards keeping the regiment ready to fight; they are with the sick, they are with the suffering, they do a great deal to keep your Army such as it ought to be. In my judgment, you had better not take away from the regiment the man to whom the soldier goes in his time of suffering, or when he needs advice. You had better let him be with the men, and let the men be close to him, and about him, and let them see him every day, and every hour of the day, and let them come to him readily and ask his advice, and let him be a friend to them, and a close friend, and about them all the time. It seems to me that it is not wise to take the chaplains away from the regiments, and send them home, or provide a different organization.

The amendment was rejected.

The VICE PRESIDENT. The amendment of the Senator from Minnesota is now in order.

Mr. RICE. I offer the following amendment, as an additional section:

And be it further enacted, That hereafter all chaplains, whether in the regular or volunteer service or hospitals, shall receive $1,200 per annum.

Mr. HARLAN. I ask for the yeas and nays on that.

The yeas and nays were ordered.

Mr. HOWE. I want to ask the mover of the amendment whether, if it be adopted, the chaplains will be entitled to their pay monthly or quarterly?

Mr. WILSON, of Massachusetts. The rule in the Army is to pay every two months. The chaplains are paid regularly with the others every two months.

Mr. HOWE. All other persons in the service have a monthly pay prescribed. This is a pay per annum. I did not know but that might make a difference.

Mr. WILSON, of Massachusetts. Say $100 a month.

Mr. HOWE. It seems to me that would be the better form in which to put the amendment.

The VICE PRESIDENT. Does the Senator from Minnesota accept that modification?

Mr. RICE. Certainly; let it read "$100 per month."

Mr. HARLAN. This is a proposition to reduce the pay of regimental chaplains more than fifty per cent. per annum. Then, if the bill should pass with the ninth section included, it will reduce their pay in addition ten per cent. from the $1,200 as now proposed, which will reduce the compensation of volunteer chaplains below that of post chaplains. I am not sure that I understand this system of appointing chaplains to the Army; but if I understand it, there are no chaplains to the regular regiments of the Army. There are post chaplains; that is, chaplains appointed to serve for troops that may be stationed at posts on the frontier. I have learned from the Adjutant General that they never appoint a post chaplain for regular troops that are quartered near a city or a town where the troops can attend the services of their denominations at the various churches, and that these post chaplains consequently have quarters furnished them; and hence, under the compensation, as the law now stands, the post chaplains do receive, as I have been informed by them and by Army officers, compensation to the amount of about one hundred and twenty-five dollars a month. They live in their quarters at their posts, not exposed to danger to any very great extent. This amendment proposes to give to the chaplain of a volunteer regiment who follows the troops in the field, twenty-five per cent. less compensation than a post chaplain receives. In my judgment, this is wrong.

Mr. BROWNING. I think I shall vote against the amendment. I do not think the pay is sufficient. If good men are appointed chaplains in the Army, I do really believe that they render more valuable service to the country for the amount of money they receive than any men in the service. If bad men are appointed, of course they do us evil instead of good. I do not doubt that there are some unworthy men acting as chaplains. It would be remarkable if there were not. It is so in every department of life, and always will be until the millennium comes. As a general thing, I

have no doubt they are good men—men qualified for their positions, and men who earnestly discharge the duties of their positions; and if they do so we get more in value received for the amount of money we pay them than we do from the same amount of money paid to any other class of men in the service. I know that a man who has a family to support—and preachers generally, as well as other men, have—cannot possibly upon $1,200 a year, living away from his family in the field, provide for his own necessities—and he has many of them to provide for—and out of that compensation support his family besides. I think we had better leave the compensation as it was fixed at the last session.

Mr. RICE. I am not pertinacious in regard to the amount of pay; but I wish to have it equal among the chaplains of the regular Army and of the volunteers. I wish them to receive the same pay each, all alike. The amendment I have offered slightly increases the pay of chaplains of the regular service, and diminishes that of the volunteer chaplains; makes it the same sum throughout. Whether they are in the regular service or the volunteers, or in the hospitals, the pay is the same by this amendment. If it is deemed too low, the Senate can raise it; but I wish no discrimination to be made.

The question being taken by yeas and nays, resulted—yeas 31, nays 10; as follows:

YEAS—Messrs. Carlile, Chandler, Clark, Cowan, Davis, Dixon, Doolittle, Fessenden, Grimes, Harris, Henderson, Howard, Howe, Johnson, Kennedy, Lane of Indiana, Latham, Pearce, Pomeroy, Powell, Rice, Sherman, Stark, Sumner, Trumbull, Wade, Wilkinson, Wilmot, Wilson of Massachusetts, Wilson of Missouri, and Wright—31.

NAYS—Messrs. Anthony, Browning, Collamer, Foot, Foster, Harlan, McDougall, Nesmith, Ten Eyck, and Willey—10.

So the amendment was agreed to.

Mr. GRIMES. I move to insert immediately after the amendment just adopted these words——

The VICE PRESIDENT. That is not in order. The Senate has just agreed to the amendment, and it cannot now be amended. An amendment to it will be in order when the bill shall have been reported to the Senate.

Mr. GRIMES. I merely want to propose that when the chaplains shall be actually in the field they shall be entitled to one ration per day; and perhaps the Senate will agree to insert that without objection. They may be placed where it may be impossible for them to procure subsistence for themselves; and I propose to give them one ration per day when they are in the field. It will amount to $116 80 a year.

The VICE PRESIDENT. These words may be inserted by the unanimous consent of the Senate.

Mr. WILSON, of Massachusetts. I do not think anybody will object.

Mr. NESMITH. I have no objection to the amendment of the Senator from Iowa if he will insert the words "in kind."

Mr. GRIMES. They ought to have one ration when in the field. They may be in such a position that it will be necessary to provide for them in that way; but I do not adopt the suggestion of the Senator from Oregon. I do not want to compel them to take it in salt pork or junk. If the Senator insists on that, I shall offer the amendment in the Senate.

Mr. McDOUGALL. I move that the Senate now go into executive session, and I will state my reason for it. There are some Senators about to be absent, one going to the West; and I ask now for action on the pending business in executive session.

Mr. SHERMAN. Before we go into executive session, I desire to make a report from a committee of conference.

Mr. McDOUGALL. I yield for that purpose.

WESTERN MILITARY CLAIMS.

Mr. SHERMAN submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the joint resolution (S. No. 22) providing for the payment of the awards of the commission to investigate the military claims in the department of the West, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate agree to the amendment of the House with an amendment, as follows:

Insert in lieu of the words stricken out by the House, the following:

This resolution shall apply only to claims and contracts for service, labor, or materials, and for subsistence, clothing, transportation, arms, supplies, and the purchase, hire, and construction of vessels.

JOHN SHERMAN,
DANIEL CLARK,
MILTON S. LATHAM,
Managers on the part of the Senate.
JOHN A. BINGHAM,
JAMES F. WILSON,
Managers on the part of the House.

The report was concurred in.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ETHERIDGE, its Clerk, announced that the House had passed the resolution of the Senate (No. 45) for the relief of William H. Nobles.

The message further announced that the House had passed a bill (No. 326) to fulfill treaty stipulations with Hanover; in which the concurrence of the Senate was requested.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled resolutions; which thereupon received the signature of the Vice President.

A joint resolution (S. No. 46) declaratory of the intent and meaning of a certain act therein named; and

A joint resolution (H. R. No. 37) in relation to certain railroads in the State of Missouri.

HOUSE BILL REFERRED.

The bill from the House of Representatives (No. 326) to fulfill treaty stipulations with Hanover, was read twice by its title, and referred to the Committee on Foreign Relations.

EXECUTIVE SESSION.

On motion of Mr. McDOUGALL, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *March* 5, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

APPOINTMENTS ON COMMITTEES.

The SPEAKER made the following appointments to fill vacancies on committees:

On the District of Columbia—Mr. FESSENDEN, in the place of Mr. Upton.

On the Pacific Railroad—Mr. HALL, in the place of Mr. COX.

On the Militia—Mr. PRICE, in the place of Mr. DUNN.

On Expenditures in the State Department—Mr. PRICE, in the place of Mr. Upton.

PURCHASE OF ARMS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, giving copies of the correspondence in reference to the purchase of arms by General John C. Frémont, in response to resolutions of the House of Representatives of the 23d of December, 1861; which was referred to the select committee on Government contracts, and ordered to be printed.

INCREASE OF CADETS.

Mr. DUELL, by unanimous consent, introduced a bill to increase the number of cadets in the Military Academy at West Point, and for other purposes; which was read a first and second time, and referred to the Committee on Military Affairs.

WILLIAM H. NOBLE.

Mr. OLIN. I ask the consent of the House to report from the Committee on Military Affairs Senate joint resolution No. 45, for the relief of William H. Noble; and I hope the House will permit me to make a single remark in relation to it.

The SPEAKER. The call of committees for reports, commencing with the Committee on Military Affairs, is the business regularly in order. The gentleman, therefore, has the right to report his bill, and is entitled to speak an hour on it if he desires.

Mr. OLIN. I then report the joint resolution from the Committee on Military Affairs.

The joint resolution was read. It authorizes the Secretary of the Interior to pay out of the balance of appropriation for wagon roads under his control $8,199 99, that being the amount reported by him under the second section of the Army appropriation bill, approved March 2, 1861, to be due to William H. Noble, late superintendent of the Fort Ridgeley and South Pass wagon road.

Mr. OLIN. I ask the attention of the House for a single moment to this joint resolution, unanimously passed by the Senate, and now reported for the consideration of the House. A brief statement of the facts connected with it will enable the House to act understandingly upon it, and will show, I think, why they should act at this time.

In 1856, by act of Congress, $50,000 was appropriated for the construction of what was known as the Fort Ridgeley and South Pass wagon road; and William H. Noble was appointed by the Administration the superintendent of that work. This is one of the works, and one of the few public works, that had been ordered to be constructed near the northern frontier, to facilitate communication with the Pacific coast. Floyd was then Secretary of War, and that Department had charge of the work. Mr. Noble, having been appointed superintendent, entered upon the discharge of his duty; and it is sufficient to say that every possible embarrassment was thrown in the way of the superintendent to prevent the construction of the road. What were the motives that induced the Secretary of War so to act in that matter, his subsequent history probably has convinced the people of the country. Instead of furnishing the funds that were appropriated by the Government for the construction of the road, he was, without means, ordered to proceed with the work, and he purchased a large amount of supplies upon his own credit. He prosecuted the work for some time, until he was finally superseded without any adjustment of his accounts for salary or his claims for money. He was left in that condition, and was prosecuted by the Government.

By act of March 2, 1861, the Secretary of the Interior was authorized to examine and adjust his claims against the Government, and to report to Congress thereon the amount found to be actually due him.

The amount claimed by him reached the sum of $15,000, including his salary and the expenses incurred by him. The Secretary of the Interior caused the proper examination to be made, and I have his report before me. He seems to have examined the matter with great care, and, in pursuance of the act of March last, has reported the sum named in the joint resolution as due him.

The Senate, as I have stated, has passed a joint resolution appropriating the amount so audited. I believe the claim is eminently just and proper; and any gentleman who will examine the report of the Secretary of the Interior, as well as the report of the committee in the Senate who have examined that claim, will concur with me in that opinion.

One other consideration why action should be had at this time upon the joint resolution. Mr. Noble is now in the service of the country at Port Royal. All his means, and more than his means, have been exhausted by using his credit in his efforts to prosecute this work, and he and his family are now in a destitute condition. I hope, therefore, that this measure will receive the prompt and cordial assent of the House at this time. I move, therefore, that the joint resolution be put on its passage, and call the previous question.

The previous question was seconded, and the main question ordered to be put.

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

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

The latter motion was agreed to.

UTAH CAPITOL.

Mr. HARDING, from the Committee on Territories, reported adversely upon the resolution sent to them by the House, instructing them to inquire into the propriety of making an appropriation for the completion of the territorial capitol of Utah.

The report was laid on the table, and ordered to be printed.

ABOLITION OF STADT DUES.

Mr. CRITTENDEN, from the Committee on Foreign Affairs, by unanimous consent, reported a bill making appropriations to carry out the third and fourth articles of the treaty between the United States and the King of Hanover, for the abolition of the Stadt dues.

The bill was received, and read a first and second time.

The bill was read at length. It appropriates, to enable the President to carry out the third article of the treaty, $43,454 16; and to carry out the stipulation contained in the fourth article of the treaty, $10,042 90, or so much thereof as may be necessary to pay the interest provided for in said article.

Mr. CRITTENDEN. I will simply remark, that the time given for the execution of the treaty will expire on the 1st of May next, and the Secretary of State wishes this bill passed to enable him to carry out the treaty.

Mr. LOVEJOY. Is there a report in this case?

Mr. COX. I will say to the gentleman that all the papers in the case are upon his table, and have been for some days.

Mr. LOVEJOY. I should be glad to hear the report read.

Mr. CRITTENDEN. I ask the Clerk to read the articles of the treaty requiring these appropriations to be made.

The Clerk read, as follows:

"ART. 3. By way of damage and compensation for the sacrifices imposed upon his Majesty the King of Hanover, by the above stipulations, the United States of America agree to pay to his Majesty the King of Hanover, who accepts the same, the sum of sixty thousand three hundred and fifty-three thalers, Hanoverian currency, this being the proportional quota part of the United States in the general table of indemnification for the abolition of the Stadt or Brunshausen dues.

"ART. 4. The sum of sixty thousand three hundred and fifty-three thalers courant, stipulated in article three, shall be paid at Berlin into the hands of such persons as shall have been authorized by his Majesty the King of Hanover to receive it, on the day of the exchange of ratifications, as hereinafter provided."

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

SALARIES IN COLORADO.

Mr. CRAVENS, from the Committee on Territories, made an adverse report on the resolution of the House instructing them to inquire into the propriety of increasing the salaries of Federal officers and the pay of members of the Legislative Assembly of the Territory of Colorado; which was laid on the table, and ordered to be printed.

RUFUS L. HARNEY.

Mr. HARRISON, from the Committee on Invalid Pensions, made an adverse report upon the petition of Rufus L. Harney; which was laid on the table, and ordered to be printed.

SYLVANUS BURNHAM.

Mr. SHERMAN, from the Committee on Invalid Pensions, reported a bill for the relief of Sylvanus Burnham; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

LOUISA ABERT BYRNE.

Mr. SHERMAN, from the same committee, reported a bill for the relief of Louisa Abert Byrne; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

HENRY FEDLER.

On motion of Mr. CUTLER, the Committee on Invalid Pensions was discharged from the further consideration of the petition of Henry Fedler for a pension, and leave was granted to petitioner to withdraw the papers in the case for the purpose of reference to the Commissioner of Pensions.

Mr. ASHLEY. I was not in my seat when the Committee on Territories was called, and I ask leave now to report a bill from that committee.

Mr. PENDLETON. I call for the regular order of business.

JOHN GOULDING.

Mr. RICE, of Maine, from the Committee on Patents, reported a bill for the relief of John Goulding; which was read a first and second time.

Mr. RICE, of Maine. I ask that the bill be made the special order for one week from to-day.

The SPEAKER. The Chair will state that there is already a special order for that day—the tax bill.

Mr. RICE, of Maine. Then I suggest Tuesday next.

Mr. EDWARDS. Does not the bill make an appropriation of money?

Mr. RICE, of Maine. It does not.

Mr. STEVENS. I object to making that bill a special order.

Mr. RICE, of Maine. Then I move that the bill be recommitted to the Committee on Patents, and printed.

The motion was agreed to.

CAPITOL BAKERIES.

Mr. TRAIN, from the Committee on Public Buildings and Grounds, reported back, with a recommendation that it do pass, joint resolution S. No. 32, directing the removal of the Army bakeries from the Capitol.

The joint resolution directs the Commissioner of Public Buildings to cause the Army bakeries, and everything pertaining to them, to be removed, as soon as possible, from the Capitol, and appropriates $8,000, or so much thereof as may be necessary, to pay the expenses of such removal. It also provides that in case the whole of the foregoing sum shall not be needed for the removal of the bakeries, the commissioner may expend the balance in repairing the damages done to the Capitol and grounds in consequence of its occupancy for Army purposes.

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

Mr. TRAIN. The gentleman has not the floor to make that motion. This resolution has passed the Senate unanimously, and any gentleman who has given any attention to the subject I think will agree that the Senate acted very wisely in passing it. I did not suppose that there would be any question in reference to it, and therefore I did not propose to make any statement. If gentlemen wish to discuss it, I will hold the floor for that purpose. The gentleman from Indiana [Mr. HOLMAN] rose for some purpose.

Mr. HOLMAN. I rose to move to lay the joint resolution upon the table.

Mr. TRAIN. I cannot yield for that purpose. I suppose that every gentleman will agree that the Capitol of a Republic like ours is not a fit place for a bakery in any event. That which was originally designed only for a temporary arrangement for the convenience of the soldiers who were located in the Capitol itself has now grown up to be a very large establishment, and one of very great detriment to those doing business in the Capitol. The most serious injury which it works to the Capitol is to the Congressional Library, and if gentlemen have had any occasion to go there within the last six weeks, they have ascertained the fact that it is impossible to warm the Congressional Library while the bakeries are in operation. The library has remained unheated, and gentlemen who have gone there and remained any time have taken cold and been seriously indisposed; and the librarian will tell you that the library itself is suffering very much in consequence of there being no means of heating it owing to the operations of the bakery. Under the military authority here they do as they please about the Capitol, and the Commissioner of Public Buildings cannot control them at all. They build flues wherever they choose, and they have built a flue into the flue of the furnace of the library which prevents any heat being furnished to the library.

Now, if it is of more consequence to Congress that these gentlemen shall be allowed to bake their bread in the Capitol than it is to preserve the Congressional Library, then you will vote this resolution down. There are two buildings in this immediate neighborhood which are offered to the Government, and which will answer the purposes of the bakeries, and which the Government can have at their own price. The only cost to be incurred under the resolution is the cost of removing the ovens, and putting them up in these buildings. One of the buildings is the one formerly used as a gas-house, and the other is the old depot down here at the corner of the street. The owners of the buildings have offered them to the Government at any price they choose to pay.

Mr. LOVEJOY. I would ask the gentleman if there are not several persons who are desirous of having the job of the transfer of these bakeries, and if that is not an additional reason why this appropriation should be made?

Mr. TRAIN. I do not know anything about that. I am stating what I believe to be the truth of the matter, and I am not inclined to joke about it this morning.

The chimneys of these bakeries upon the Senate side of the Capitol, by the smoke and gas which they send up, are a serious annoyance to Senators and to everybody who has any business there; and I know that every member of the Senate is very anxious that this resolution shall pass, as is shown by the fact that it passed the Senate unanimously. I do not know that I can enlighten the House any further in regard to this matter. I do not believe that there is any job about it, or that it will give anybody more than fair wages per day for the work necessary; and I think every one will agree after it is done that it was not done a moment too early. I move the previous question.

Mr. BLAKE. I make the point of order that the joint resolution makes an appropriation, and, therefore, must be referred to the Committee of the Whole on the state of the Union.

The SPEAKER. The gentleman has allowed the bill to be considered for fifteen minutes, and the Chair thinks the point of order comes too late. After a bill has been read and debated, it is always held that it is too late to make that point of order.

Mr. BLAKE. Well, I move to lay the joint resolution upon the table; and upon that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 76, nays 42; as follows:

YEAS—Messrs. Arnold, Joseph Baily, Baker, Bingham, Blake, William G. Brown, Buffinton, Calvert, Campbell, Chamberlin, Clark, Clements, Colfax, Frederick A. Conkling, Roscoe Conkling, Cravens, Crittenden, Cutler, Davis, Diven, Duell, Dunlap, Dunn, Edgerton, Eliot, Ely, Fessenden, Fisher, Frank, Gooch, Goodwin, Hale, Hall, Harding, Harrison, Holman, Hooper, Horton, Hutchins, Kelley, William Kellogg, Killinger, Lansing, Lazear, Leary, Loomis, Lovejoy, Menzies, Mitchell, Moorhead, Anson P. Morrill, Nixon, Patton, Pendleton, Pike, Pomeroy, Porter, Potter, John H. Rice, Edward H. Rollins, Sargent, Sedgwick, Shellabarger, Sherman, Sloan, Stevens, Trowbridge, Van Valkenburgh, Wadsworth, Wall, Wallace, Charles W. Walton, Wheeler, Wickliffe, Wilson, and Windom—76.

NAYS—Messrs. Babbitt, Baxter, Beaman, Biddle, Francis P. Blair, Jacob B. Blair, George H. Browne, Cobb, Conway, Corning, Cox, Crisfield, Delano, Edwards, Franchot, Grider, Gurley, Haight, Knapp, Lehman, McPherson, Maynard, Noell, Norton, Nugen, Perry, Timothy G. Phelps, Alexander H. Rice, Richardson, Riddle, Robinson, Sheffield, Shiel, Smith, John B. Steele, Benjamin F. Thomas, Francis Thomas, Train, Verree, Vibbard, E. P. Walton, and Webster—42.

So the joint resolution was laid upon the table.

Mr. BLAKE moved to reconsider the vote by which the joint resolution was laid upon the table, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

SUTLIFF AND CASE.

Mr. HALE, from the Committee of Claims, reported a bill for the relief of Sutliff & Case; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

COLE AND McELRATH.

Mr. CRISFIELD, from the Committee on Public Lands, made an adverse report on the petition of Gordon E. Cole and Charles McElrath; which was laid upon the table, and ordered to be printed.

MAILS TO PANAMA.

Mr. COLFAX, by unanimous consent, presented a letter from the Postmaster General, on the subject of the threatened discontinuance of the mails to Panama; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

SMALL NOTES IN THE DISTRICT OF COLUMBIA.

Mr. CALVERT, from the Committee for the District of Columbia, reported a bill to authorize the banks in the District of Columbia to issue circulating notes of a less denomination than five dollars; which was read a first and second time, recommitted to the Committee for the District of Columbia, and ordered to be printed.

REVOLUTIONARY PENSIONS.

Mr. DUELL, from the Committee on Revolutionary Claims, reported back, with a recommendation that it do pass, a bill (H. R. No. 318) to prohibit the allowance or payment of pensions to children of the officers and soldiers in the war of the Revolution; and asked that a communication from the Secretary of the Interior be read.

The communication was read, as follows:

DEPARTMENT OF THE INTERIOR,
WASHINGTON, *February* 19, 1862.

SIR: My observation of the operation of the revolutionary pension laws since my connection with the Interior Department has satisfied me that it is the duty of Congress to interpose to stop the drain now being constantly made upon the Treasury under those laws. The revolutionary soldiers who were entitled to the gratitude as well as the bounty of the country have nearly all passed away. Very few of the widows of those soldiers, for whom Congress has made liberal provision, remain. A new class of claimants, however, are now presenting themselves in considerable numbers, whose claims, when allowed, generally amount to a large sum. These are the children of soldiers of the Revolution, or of their widows, who, while living, never presented or established any claim to a pension.

It has long been a matter of controversy in the Executive Departments whether a pension could be claimed by the children of a deceased revolutionary soldier, or of the deceased widow of such a soldier, who never made a claim to a pension while living. Hon. Levi Woodbury, while Secretary of the Treasury, questioned the right of the children to receive a pension, but finally yielded a reluctant consent to the payment, in deference to the opinion of the honorable Secretary of War, and the past practice of the Department. Hon. Caleb Cushing, Attorney General, in a very elaborate opinion, dated the 19th of November, 1856, (Opinions of Attorneys General, vol. 8, p. 198,) examined the question, and decided that the laws did not sustain the claim, but said the erroneous construction had been too long sanctioned by the practice of the Executive Departments to be then abandoned.

The question was referred by my predecessor, Mr. Secretary Thompson, to the late Attorney General, Hon. Jeremiah S. Black, who, in an opinion of the 19th of September, 1857—a copy of which I herewith inclose—decided that the right to a pension which was not asserted during the lifetime of the person entitled to it, did not survive to the children, but did with the person who might have asserted the claim. Upon this opinion these claims were disallowed during the residue of Secretary Thompson's official term.

I felt constrained to adopt the same construction of the law and to withhold my sanction from these claims, and should have continued to do so but for the action of the House of Representatives on the 8th ultimo, adopting a resolution referring back two claims of that character to this Department, upon the ground that they were already provided for by law.

So deliberate an expression of the opinion of the House of Representatives of the effect of the law, and of the duty of this Department, appeared to me to be such a legislative interpretation of the law as I was not at liberty to disregard. I felt bound, therefore, to direct the allowance of the claims thus referred back to the Department by the resolution alluded to. The same construction must of course be given to the law in its application to all similar claims.

I cannot regard these claims as possessing any merit which should justify a liberal construction of the law to meet them. They are based upon no sacrifices or services of the claimants, and were never presented by the persons whose services would have justified an appeal to the Government. The practice of presenting them has become a matter of speculation on the part of claim agents, who, from their knowledge of the revolutionary army rolls, are enabled to ascertain the names of persons who might have claimed a pension while living. With a diligence and industry sharpened by cupidity, they hunt up the surviving children and give them the information that they are entitled to a pension. The claimants, thus informed for the first time of the existence of such a right, will readily agree to give a large proportion of the money which may be recovered if the claim shall be successfully prosecuted.

I have presented this statement for the purpose of asking your consideration of the question whether this practice should not be arrested by legislation. Our pension rolls will soon be swelled by the casualties of the existing war to such proportions as will make it a heavy burden on the Treasury. Ought this burden to be increased by the admission of claims based upon no services, and which the party really entitled to the bounty of the Government never thought proper to present?

The object may be effected by an enactment that hereafter no claim for a pension or for increase of pension shall be allowed in favor of the children or other descendants of any person who served in the Revolutionary War, or of the widow of such person, when such person or his widow died without having established a claim to a pension. I believe such an enactment would be just, and that it would save a large amount of money to the Government. It would also be in harmony with the policy adopted by Congress in barring (finally, by the act of February 8, 1854—Statutes at Large, vol. 10, p. 267, chap. 10) the claims of soldiers of the war of 1812 to the land bounty promised to them prior to their enlistment, and to their legal representatives in the event of their death in the service.

I have the honor to be, very respectfully, your obedient servant, CALEB B. SMITH,
Secretary of the Interior.

Hon. R. HOLLAND DUELL, *Chairman of the Committee on Revolutionary Claims, House of Representatives.*

Mr. DUELL called for the previous question on the third reading and engrossment of the bill.

The previous question was seconded, and the main question ordered.

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

The bill directs that no claim for pension or increase of pension shall be allowed in favor of the children or other descendants of any person who served in the war of the Revolution, or the widow of such person, where such person or his widow died without having established a claim to a pension.

Mr. MAYNARD. I would like to ask a question of the gentleman who has reported the bill. It professes to be a restraining bill; but I ask the gentleman whether it really is such, or whether it is the opposite in its character—by negativing one state of facts to affirm another? I ask him whether, in point of fact, under the construction of the existing law as given by the Attorney General, the pension to the revolutionary soldier or widow does not cease on his or her death?

Mr. DUELL. This bill is intended to sanction the decision of Attorney General Black. It is intended to be restraining in its character. It has reference to the claims of children of revolutionary soldiers whose ancestors either neglected or were unable to establish claims for pensions during their lifetime. It is intended to apply only to that class of case.

Mr. MAYNARD. In other words, this bill enacts into law the opinion of Attorney General Black.

Mr. DUELL. Certainly. That is all it amounts to.

The question was taken on the passage of the bill, and it was passed.

Mr. DUELL moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CONDEMNED ARMY SUPPLIES.

Mr. EDWARDS, from the Committee on Public Expenditures, reported a joint resolution relating to sale of goods unfit for use by the War Department; which was read a first and second time.

The joint resolution was read. It directs the Secretary of War to cause all goods, merchandise, and other property that have been furnished to his Department as Army supplies, now on hand and unsuitable for use, to be sold for the benefit of the United States, in such quantities and at such times and places as he shall deem best for the public interest.

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

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

The latter motion was agreed to.

PAY OF ARMY OFFICERS.

Mr. BLAIR, of Missouri, from the Committee on Military Affairs, reported a bill to define the pay and emoluments of certain officers of the Army, and for other purposes; which was read a first and second time, ordered to be printed, and its consideration postponed for two weeks.

DESTRUCTION OF PROPERTY.

Mr. BLAIR, of Missouri, also, from the same committee, reported a bill providing for compensation to loyal citizens for property destroyed to prevent the same from being used by the enemy; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

SUTLERS IN VOLUNTEER SERVICE.

Mr. BLAIR, of Missouri, also, from the same committee, reported back, with amendments, an act (S. No. 136) to provide for the appointment of sutlers in the volunteer service, and to define their duties.

The bill and amendments were read.

Mr. BLAIR, of Missouri. This is a matter in which the House and the country take a great deal of interest; and I move, at the suggestion of several gentlemen, that the bill and amendments be printed, and made a special order for Monday next.

The motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message, in writing, was received from the President of the United States, by Mr. HAY, his Private Secretary.

Also, notifying the House that the President had approved and signed an act fixing the number of the House of Representatives from and after the 3d of March, 1863.

HOSPITAL CHAPLAINS.

Mr. DUNN, from the Committee on Military Affairs, reported a bill relating to the appointment and compensation of chaplains to military hospitals; which was read a first and second time.

The bill recites the appointment, by the President of the United States, of certain clergymen, naming them, to discharge the duties of chaplains at the hospitals for sick and wounded soldiers, and enacts that they shall be severally entitled to receive as compensation for their services, for the time they have been so employed and until discharged by order of the President of the United States, the pay and allowance authorized by law to be paid to chaplains in the volunteer service of the United States. The second section authorizes the President to appoint a chaplain to each general military hospital of the United States, when he may deem the same necessary, and to revoke such appointments at will. Such chaplains to receive the pay and allowance as aforesaid.

Mr. HOLMAN. I ask my colleague what is the salary fixed for these chaplains?

Mr. DUNN. The same as is now paid to chaplains in the volunteer service. In this connection I beg leave to have read a paragraph on this subject from the President's message, and also schedule A accompanying the message.

The Clerk read, as follows:

"By mere omission, I presume, Congress has failed to provide chaplains for hospitals occupied by volunteers. This subject was brought to my notice, and I was induced to draw up the form of a letter, one copy of which, properly addressed, has been delivered to each of the persons, and at the dates respectively named and stated, in a schedule, containing also the form of the letter, marked A, and herewith transmitted.

"These gentlemen, I understand, entered upon the duties designated, at the times respectively stated in the schedule, and have labored faithfully therein ever since. I therefore recommend that they be compensated at the same rate as chaplains in the Army. I further suggest that a general provision be made for chaplains to serve at hospitals, as well as with regiments.

SCHEDULE A.

EXECUTIVE MANSION,
WASHINGTON, D. C., ——, 1861.

Rev. —— ——:

SIR: Having been solicited by Christian ministers and other pious people to appoint suitable persons to act as chaplains at the hospitals for our sick and wounded soldiers, and feeling the intrinsic propriety of having such persons to so act, and yet believing there is no law conferring the power upon me to appoint them, I think fit to say that if you will voluntarily enter upon and perform the appropriate duties of such position, I will recommend that Congress make compensation therefor at the same rate as chaplains in the Army are compensated.

The following are the names and dates, respectively, of the persons and times to whom and when such letters were delivered:

Rev. G. G. Goss	September 25, 1861.
Rev. John G. Butler	September 25, 1861.
Rev. Henry Hopkins	September 25, 1861.
Rev. F. M. Magrath	October 30, 1861.
Rev. F. E. Boyle	October 30, 1861.
Rev. John C. Smith	November 7, 1861.
Rev. William Y. Brown	November 7, 1861.

Mr. HOLMAN. My colleague says that the pay provided by this bill is the same as the pay of chaplains in the volunteer service, which is about $1,700 a year. The recommendation of the President is, that these chaplains shall be paid the same as chaplains in the Army, which, as a matter of course, means chaplains in the regular Army. I should like my colleague to say what that compensation is. Does it vary far from $900 a year? I am happy to say, in behalf of those clergymen who have rendered their services gratuitously, that they have been anxious to render this service in the hour of the nation's troubles; but I think that their salary should be fixed at the same rate as is paid to post chaplains—that is to say, $900 a year.

Mr. DUNN. If the question before the House were a question as to what should be the pay of chaplains, I might be disposed to vote for a much less sum than that now paid; but here are a few chaplains who have performed arduous duties at the request of the President, and on an assurance from him that he would recommend that they should receive the same pay and compensation as chaplains in the volunteer service. I ask, in this connection, that two letters, one from Rev. Dr.

Samson, of the Baptist church, and the other from Rev. Dr. Gurley, of the Presbyterian church, be read.

The letters were read, as follows:

COLUMBIAN COLLEGE, WASHINGTON, D. C.,
February 3, 1862.

MY DEAR BROTHER: I learn through some of the hospital chaplains that Hon. Mr. DUNN has been, as was natural, misled by the wording of the President's message as to what I think we shall agree was his intention, fully expressed in conversation with us. The bill prepared by Hon. Mr. DUNN proposes to put hospital chaplains on a footing with post chaplains in the regular Army. Such chaplains being permanent, having a limited range of duty, and requiring no horse, and being furnished with a house, can live very economically with their families. The hospital or regimental chaplains have the expense of breaking up for a temporary service, the necessity for two establishments if they have families, and for the use of a horse in attending funerals; and including wear and tear added to this expense, I see not how they can live with less salary than the regimental chaplains. My impression is clear, and I think you will agree with me, that the President designed to put the hospital chaplains on a footing with the regimental.

I am truly your brother, G. W. SAMSON.

Rev. Dr. GURLEY.

TUESDAY MORNING, *February* 4, 1862.

DEAR SIR: I concur in the views expressed by Rev. Dr. Samson. If you have any doubt about the matter, suppose you confer with the President, and ask him at what rate he expected these hospital chaplains to be paid.

Yours truly, P. D. GURLEY.

Hon. Mr. DUNN.

Mr. DUNN. The clergymen who wrote these letters have charge of congregations in this city; but have no connection with the chaplain service. They early called the attention of the President to the wants of the military hospitals in that regard, and the President took the responsibilty of requesting the persons named in the bill to serve as chaplains. The question having arisen as to what the President meant in saying that they should be paid as Army chaplains—whether as chaplains in the regular Army or in the volunteer service—I called upon the President in accordance with the suggestion contained in the letter of Dr. Gurley. The President said he intended to indicate the pay of the chaplains in the volunteer service, and that he gave the assurance that he would recommend that compensation to be appropriated.

Now, I wish the House to understand that the service that these chaplains have rendered is in compliance with the request of the President of United States. They have served as chaplains now some six months, since September or October, without compensation; and the families of some of them are really in a suffering condition. I hope, therefore, the House will concur in this bill as it is reported, and then, if they desire it, let them in future reduce the salaries of all chaplains if they think proper so to do. Gentlemen will observe that in this bill authority is conferred upon the President to discharge these chaplains whenever, in his judgment, their services are no longer required.

Mr. OLIN. With the permission of the gentleman from Indiana, I wish to ask the attention of the House to one or two considerations in connection with this subject, for I deem it but an act of justice to attempt to remove the misapprehension that evidently prevails as to the merits of the measure proposed in the bill before the House.

There is no comparison between the labors performed by these hospital chaplains and the ordinary post chaplains of the regular Army. The duties of the two are as dissimilar as it is possible to conceive, both as to their extent and variety.

Sir, let me state a fact. Your post chaplain is assigned to a permanent post. Take, for instance, the post of Fort Hamilton, in New York; the chaplain there is the minister of a congregation as well as chaplain of the post, and a salary of $200 to the chaplain of that post would be a more adequate compensation than a salary of $800 proposed by gentlemen to be paid to a chaplain in one of our military hospitals.

Now, look for a moment to the position of a hospital chaplain. It is a mere temporary assignment to a particular duty—a duty the most arduous and important in its character that can be possibly assigned to a man. He is attending daily and hourly at the bed of the sick man. He is attending almost daily the funeral services of men who have died in the hospital; and the amount of services that these men have to perform, in the discharge of their duty, is not only equal to that performed by the chaplains in the volunteer service, but it is ten times more than is ordinarily performed by one of the regimental chaplains of the Army.

Why, Mr. Speaker, do you know the number of the sick and disabled soldiers in the hospitals in this city and Alexandria? Do you know anything about the services performed by the men who act as chaplains at these hospitals—men, some of whom I personally know—men following in the steps of their Divine Master, "going about and doing good?" I should be amazed, I should be ashamed if this House should refuse to pay to these worthy men the sum which the President's act in their appointment pledged to them. Sir, these men should be paid a salary at least equal to that paid to the regimental chaplains in the volunteer service.

Mr. Speaker, I know that a great many good men have gone into the Army as chaplains, and that they have performed a duty there for which their Divine Master will, I trust, reward them, though this House and the people may fail to do so.

Mr. STEVENS. I wish to ask the gentleman a question in connection with this subject. The gentleman refers to the similarity of the work performed by those men to that performed by their Divine Master; is there not this distinction, that one created fishes and coin whenever he had need of them, while his human followers have not that power. [Laughter.]

Mr. OLIN. Yes, sir; and the wicked world crucified one, and would stone the others. [Laughter.] In that respect, the parallel holds good to this day.

Now, while it is true, as I have said, that many of our Army chaplains have rushed to the field from a sense of duty, many who have thrown up salaries and the charge of congregations where they were being paid more than they are being paid for their services in the Army, who, I repeat, have gone into the Army simply from a sense of duty, it is true that there are in the Army others who are not of that character, and who, for the credit of the service, had better remained at home. But these men, some of whom I personally know, appointed by the President as hospital chaplains, I know with what assiduity and devotion they have performed their duty; and I think it would be a great hardship and a gross outrage for Congress to pay them a compensation less than is given to the regimental chaplains in the volunteer service.

Mr. F. A. CONKLING. The gentleman from New York has stated that he knows these men personally; will he inform the House whether they are not pastors of congregations in this city.

Mr. OLIN. Some of them are, and some of them are not. I know one young gentleman—but it is unnecessary for me to go into particulars. If gentlemen will make themselves familiar with what has been done and with what is now doing by these men, they would not, I am sure, begrudge the salaries which it is proposed by this bill to pay. I thank the gentleman from Indiana for affording me the opportunity to make these few remarks.

Mr. FESSENDEN. I concur in the remarks that have been made by the honorable gentleman from New York on my right. If he is astonished at the course which some gentlemen are inclined to take in reference to the class of chaplains referred to in the bill now reported by the gentleman from Indiana, there are others who have had reason to be much more astonished for another reason.

It is true, as the gentleman has said, that the labors of chaplains, whether at the post or in the hospital of the volunteer forces, are not understood or appreciated as they should be. They are, I believe, underrated by gentlemen upon the floor of this House. But there seems to be a disposition—I have seen it manifested in the House by gentlemen here—to reduce their salaries, on the ground that their services are not at all proportionate to the salaries they receive.

Now, Mr. Speaker, I am persuaded that if gentlemen on this floor will really set about it, and will make the requisite inquiries, they will find that these chaplains are men who render services that are not disproportionate to the salaries they receive; that they render more services than other gentlemen or other officers in the Army in proportion to the salaries they receive.

Mr. HOLMAN. I wish just to say a word upon that point.

Mr. DUNN. I do not like to interfere with the gentleman, but I do not wish to lose control of the floor.

Mr. HOLMAN. Not at all. I merely desired to say, that by the law as it exists, the private soldiers in our Army receive, for incurring all the dangers and hardships of the service, a salary of less than one hundred and sixty dollars per annum, and now it is proposed to pay these men who have been acting as chaplains, a salary of seventeen or eighteen hundred dollars a year.

Mr. F. A. CONKLING. Two thousand one hundred dollars.

Mr. HOLMAN. The gentleman says $2,100. Now I wish to ask the gentleman from Maine if the salaries of these two classes of men are proportionate to their services?

Mr. FESSENDEN. The gentleman is laboring under a misapprehension as to the compensation of chaplains in the Army. I ask the gentleman from Indiana [Mr. DUNN] what that compensation is.

Mr. F. A. CONKLING. I will inform the gentleman. They receive the salary of captain of cavalry, which is $175 per month, making a yearly compensation of about two thousand one hundred dollars.

Mr. OLIN. Oh, no; the gentleman is mistaken.

Mr. DUNN. I must decline to yield the floor further.

Mr. EDGERTON. I wish to suggest to the gentleman from Indiana, that I understand one of these gentlemen to whom this bill refers as chaplain, has been shown to be disloyal by testimony taken in reference to him.

Mr. DUNN. Which one of them?

Mr. EDGERTON. Mr. McGrath.

Mr. DUNN. If the gentleman states upon his responsibility that such is the fact, let him make a motion to strike out the name of this one and I will accept the amendment.

Mr. EDGERTON. If the gentleman will allow me I will move to add:

Provided, That no such salary shall be paid to any chaplain who shall be disloyal to the Government.

Mr. DUNN. I have no objection to that amendment, if the House sees fit to adopt it. I now move the previous question.

Mr. LOVEJOY. I would like to ask the gentleman from Indiana a question as to the character of this bill.

Mr. DUNN. I will hear the question.

Mr. LOVEJOY. I want to ask whether the bill provides merely for the payment of the chaplains who have been heretofore appointed, or whether there is also a provision for future appointments?

Mr. DUNN. There is a second section of the bill which provides that the President may, in his discretion, appoint chaplains to general permanent military hospitals, to hold their offices during his pleasure, and their pay to be like that first named, subject, of course, to the future action of Congress.

Mr. LOVEJOY. That is all I wanted to know.

Mr. EDWARDS. I want to ask the gentleman from Indiana what the pay and allowances of a captain of cavalry amount to?

Mr. DUNN. About one thousand seven hundred dollars, I believe; but I wish the House to understand this one thing, that the pay of chaplains of the Army is but about half what members of Congress receive, and as my colleague [Mr. HOLMAN] is so much exercised upon the subject of chaplains receiving more than the soldiers who have to face death in the ranks, I should like to know how much he receives for his services here?

Mr. HOLMAN. The same sum that my very worthy colleague does. I believe that is a little too high, and I hope my colleague will favor any fair proposition that may come before the House to reduce it.

Mr. DUNN. I will do that.

Mr. HOLMAN. I am not objecting to a fair compensation to chaplains, but I do object to this great disproportion between the small pittance paid to the soldier and the large sums paid to chaplains. I am in favor of paying chaplains $900 a year.

Mr. DUNN. If my colleague will introduce a bill to reduce the pay of members of Congress to that of common soldiers, I will vote for it.

I only wish to say further, that these chaplains acted in accordance with the request of the President, and on the assurance that they should be paid as other volunteer chaplains are paid; and I

hope the House will not repudiate that understanding. I now move the previous question.

The previous question was seconded, and the main question ordered.

The amendment proposed by Mr. EDGERTON was agreed to.

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

Mr. DUNN. I move the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. SHERMAN demanded the yeas and nays on the passage of the bill.

The yeas and nays were not ordered.

Mr. McPHERSON called for tellers.

Tellers were ordered; and Messrs. DELANO and ASHLEY were appointed.

The House divided; and the tellers reported—ayes seventy-six, noes not counted.

So the bill was passed.

Mr. DUNN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

PRINTING OF TAX BILL.

Mr. MORRILL, of Vermont. I desire to ask the unanimous consent of the House—and I presume there will be no objection—that eight thousand of the ten thousand extra copies of the tax bill, which have been ordered to be printed, be printed in pamphlet form instead of in the ordinary bill form. It will be much less expense to the Government; and they will be more convenient for distribution in that form.

There being no objection, it was so ordered.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. MORRILL, of Vermont, from the Committee of Ways and Means, reported back the amendments of the Senate to bill of the House No. 208, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th of June, 1863, and additional appropriations for the year ending 30th of June, 1862.

Mr. MORRILL, of Vermont. I ask that the amendments may be considered in the House now.

Mr. MAYNARD. I think they had better be considered in the Committee of the Whole on the state of the Union. The rule requiring it is a very wise one; and I think we had better adhere to it.

Mr. MORRILL, of Vermont. I hope the gentleman from Tennessee will not object to their being considered in the House at this time. The Committee of Ways and Means recommend a non-concurrence in most of them.

Mr. MAYNARD. As I dislike to disoblige my colleague upon the committee, I will withdraw the objection for this once; but I give him notice that I will make it hereafter, if nobody else does.

The SPEAKER. If there be no objection the Senate amendments will be considered in the House at this time.

Mr. F. A. CONKLING. I object.

Mr. MORRILL, of Vermont. Then I move that the bill and amendments be referred to the Committee of the Whole on the state of the Union.

The motion was agreed to.

Mr. MORRILL, of Vermont. I move to close debate upon the amendments in one minute after the Committee of the Whole on the state of the Union shall proceed to consider them.

The motion was agreed to.

ENROLLED JOINT RESOLUTIONS SIGNED.

Mr. GRANGER, from the Committee on Enrolled Bills, reported as truly enrolled a joint resolution (H. R. No. 37) in relation to certain railroads in the State of Missouri; and a joint resolution (S. No. 46) declaratory of the intent and meaning of a certain act therein named; when the Speaker signed the same.

LEGISLATIVE APPROPRIATION BILL—AGAIN.

Mr. MORRILL, of Vermont. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. KELLOGG, of Illinois, in the chair,) and proceeded to the consideration of the amendments of the Senate to the legislative, executive, and judicial appropriation bill.

First amendment of the Senate:

Page 1, line twenty-two, strike out the words "give any more mileage than is allowed by existing law," and insert in lieu thereof, "include more than two mileages for the present Congress;" so that the clause will read:

For compensation and mileage of Senators, $240,430: *Provided*, That the second mileage due by law shall be paid at the present session as soon as certified by the Presiding Officers of the Senate and House: *And provided further*, That the foregoing proviso shall not be construed to include more than two mileages for the present Congress.

The Committee of Ways and Means recommended concurrence.

Mr. MORRILL, of Vermont, called for tellers.

Tellers were ordered; and Messrs. BABBITT, and THOMAS of Massachusetts, were appointed.

The committee divided; and the tellers reported—ayes sixty-one, noes not counted.

So the amendment was concurred in.

Second amendment:

Page 3, strike out lines eighteen and nineteen, as follows:

For binding documents and purchase of blank-books, $2,500.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Third amendment:

Strike out "to pay John C. Rives for printing five hundred copies of the Diplomatic Correspondence of the United States, from 1776 to 1783, for the State Department, $15,000," and insert in lieu thereof the following:

For printing the Congressional Globe and Appendix, which are hereafter to be bound under the supervision of the Superintendent of Public Printing, according to the provisions of section five of the "joint resolution in relation to the public printing," approved June 30, 1860, $18,000.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Fourth amendment:

Insert the following:

For the usual additional compensation to the reporters of the Senate for the Congressional Globe for reporting the proceedings of the Senate for the second regular session of the Thirty-Seventh Congress, $800 each, $4,000.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Fifth amendment:

Strike out the following:

For binding documents, including the Congressional Globe, $2,[illegible].

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Sixth amendment:

Insert as follows:

For losses on drafts of consuls, marshals of the United States, consular courts, and interpreters, for the period ending June 30, 1863, $10,000.

For rent of prison, wages of keepers of the same, and care of offenders, at Amoy, from July 1, 1860, to June 30, 1861, in pursuance of the provisions of the act approved July 2, 1860, $858 27.

Mr. HOLMAN. I move a *pro forma* amendment. I presume that the last item is correct. At least I know nothing to the contrary. The appropriation of $10,000 I understand to be simply to meet any expenses that may be incurred by our representatives abroad. This is in addition to the ordinary compensation, to pay for any losses that our foreign representatives may sustain by reason of discount charged on drafts of the Government on London, or other points. I desire to be informed by the chairman of the Committee of Ways and Means whether that is not the fact? It seems to me that there is no reason why we should give this additional bonus to our foreign representatives. They are very well paid. Every officer of the Government is subject to similar deductions in consequence of exchange. Unless this be the established policy of the Government authorized by existing law, it does seem to me that this appropriation should not be made. Considering the services required of them, I think that our foreign representatives are better paid than any other class of persons in the employment of the Government.

Mr. MORRILL, of Vermont. If the gentleman from Indiana had examined the precedents, he would have found that it is and has been the policy of the Government ever since its foundation to pay the differences in exchange between this country and other countries where our ministers are stationed. The difference in exchange between here and England is something, but it is not so much as the difference in exchange between here and Turkey, China, or the Sandwich Islands; and if the ministers in those countries are not allowed this loss in exchange they would find their salaries very seriously diminished.

Mr. HOLMAN. I wish to inquire further on this point, whether so large a sum as $10,000 has been ordinarily appropriated for this purpose, or whether it has not generally been a much smaller sum?

The CHAIRMAN. Debate is exhausted on this amendment.

Mr. HOLMAN. I hope the gentleman from Vermont will be permitted to answer the question.

Mr. MORRILL, of Vermont. Of course there will be no more of this sum used than is absolutely necessary.

Mr. HOLMAN. But are we not appropriating more than is usual?

Mr. MORRILL, of Vermont. About the usual amount, I believe.

The question was taken on Mr. HOLMAN's amendment; and it was rejected.

The question recurred on the Senate amendment, and it was concurred in.

Seventh amendment:

Strike out "$2,200," and insert in lieu thereof "$1,500;" so that the clause will read:

For blank-books, binding, stationery, office furniture, carpeting, two newspapers, preserving files and papers, bounty land service, and miscellaneous items, $1,500.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Eighth amendment:

Strike out the word "recorder," so that the clause in which it occurs will read as follows:

For compensation of the Commissioner of the General Land Office, and the draughtsman, assistant draughtsman, clerks, messengers, assistant messengers, packers, watchmen, and laborers in his office, $175,440.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Ninth amendment:

Strike out "$175,440," in the above clause, and insert in lieu thereof "$173,440."

The Committee of Ways and Means recommended non-concurrence.

Mr. MORRILL, of Vermont. It was proposed by the Senate to strike out the word "recorder;" but the Committee of Ways and Means was satisfied that a recorder is indispensable in the office. The subsequent amendments proposed by the Senate are merely to reduce the amount so as to correspond with that.

The amendment was non-concurred in.

Tenth amendment:

Add the following to the foregoing clause:

And the duty of countersigning patents, and other duties required by existing laws, of the recorder, shall be performed by the said Commissioner.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Eleventh amendment:

After the word dollars insert "*Provided*, That the said documents shall be sent to such libraries and public institutions only as shall signify a willingness to pay the cost of the transportation of the same;" so that the clause will read:

For expenses of packing and distributing congressional journals and documents, in pursuance of the provisions contained in the joint resolution of Congress, approved 28th January, 1857, and act 5th February, 1859, $6,000: *Provided*, &c.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Twelfth amendment:

Strike out the following:

For compensation of surveyor general of Illinois and Missouri, $2,000.

The Committee of Ways and Means recommended concurrence.

Mr. BLAIR, of Missouri. I move a *pro forma* amendment, for the purpose of saying that the appropriation proposed to be struck out is for a deficiency. It is recommended both by the Interior Department and by this House. The service which it proposes to pay for is already performed.

It is for the year ending June 30, 1862. It is impossible that the Senate could, with an understanding of the facts, have struck out the appropriation, which is simply intended to compensate an officer in the service of the Government, who has performed service of a most valuable character.

Mr. HOLMAN. I wish to inquire whether the deficiency is not this: that the last House of Representatives refused to appropriate money to pay this salary, on the ground that the office had, by limitation of law, ceased to exist? This bill, I understand, contains not only an appropriation for this deficit of $2,000, but also an appropriation for the current year. The same argument was made use of in the other branch of Congress, that this was a deficit; but it was met by the statement that the office had ceased to exist, by limitation of the law creating it, and that, therefore, if service was rendered it was in defiance of law, and for the purpose of creating an argument in favor of the payment. On that ground the Senate struck out the appropriation. I understand—and I make that inquiry of the gentleman from Missouri, to see if I am not correct—that by virtue of the law creating the office, or some law in some way or other modifying the duties of the office, the office itself has ceased to exist prior to the last preceding year.

Mr. BLAIR, of Missouri. In response to the question of the gentleman, I will state that the office did not cease to exist absolutely under the law. The Secretary of the Interior had it in his discretion and authority to close the office; but he found it impossible to close it, because the business of the office required it still to remain open. It was impossible to close the business, and therefore, in his discretion, the Secretary of the Interior directed that it should not be closed. That is the state of facts in relation to this matter.

Mr. HOLMAN. Did not the law expressly authorize him to discontinue the office?

Mr. BLAIR, of Missouri. It did; but it also authorized him to keep it open so long as the public service required.

Mr. HOLMAN. Did not the act creating the office fix a time at which it should be closed, which time has expired?

Mr. BLAIR, of Missouri. The facts are as I have stated. I hope the House will non-concur in the amendment of the Senate. I withdraw my amendment.

The amendment of the Senate was concurred in.

Thirteenth amendment:

Page 18, line fourteen, strike out as follows:
For compensation of the surveyor general of Utah, $4,000.

The Committee of Ways and Means recommended non-concurrence in the amendment.

The amendment was non-concurred in.

Fourteenth amendment:

Page 19, strike out the following words:
For compensation of the surveyor general of the Territory of Nevada, and the clerks in his office, $7,000.

The Committee of Ways and Means recommended non-concurrence in the amendment.

The amendment was non-concurred in.

Fifteenth amendment:

Page 20, strike out lines eight, nine, ten, and eleven, as follows:
For rent of the surveyor general's office in the Territory of Nevada, fuel, books, stationery, and other incidental expenses, $2,000.

The Committee of Ways and Means recommended non-concurrence in the amendment.

The amendment was non-concurred in.

Sixteenth amendment:

Page 21, in line seven, insert as follows:
For compensation of additional clerks, messengers, and laborers in the offices of the Secretary of War, Adjutant General, Surgeon General, Quartermaster General, Paymaster General, Chief Engineer, Chief of Ordnance, and Commissary General, appointed under authority of act of January 27, 1862, $63,360.

The Committee of Ways and Means recommended concurrence in this amendment.

The amendment was concurred in.

Seventeenth amendment:

Page 24, after line twelve, insert as follows:
For compensation of additional clerks in the office of the Secretary of the Navy, appointed under authority of act of the 27th January, 1862, $4,800.

The Committee of Ways and Means recommended concurrence in the amendment.

The amendment was concurred in.

Eighteenth amendment:

Page 27, in line ten, strike out "$30,000" and insert "$50,000" in the following clause of the bill:
For incidental and contingent expenses, including repairs and wastage, $30,000.

The Committee of Ways and Means recommended non-concurrence in the amendment.

Mr. HOLMAN. To what does that refer?

Mr. MORRILL, of Vermont. To the mint at Philadelphia.

The amendment was non-concurred in.

Nineteenth amendment:

Page 28, line thirteen, strike out "$15,000," and insert in lieu thereof "$20,000;" so that the clause, as amended, would read:
For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, $20,000.
And strike out: "*Provided*, That the surplus, if any, of said appropriation may be used for the repair of the palace buildings and the revision of the laws of New Mexico;" and insert in lieu thereof the following:
Provided, That $5,000, or so much thereof as may be necessary, shall be used to revise and print the laws of New Mexico.

The Committee of Ways and Means recommended concurrence in the amendment.

Mr. HOLMAN. I move to amend by striking out "$20,000" and inserting "$15,000," and by striking out the proviso.

Mr. Chairman, I offer the amendment merely for the purpose of asking my friend from New Mexico, who I see standing near me, or the chairman of the Committee of Ways and Means, whether this increase of the appropriation from $15,000 to $20,000 is not in reality a separate appropriation for the purpose of revising and printing the laws of New Mexico? That I understand to be the effect of the amendment. I wish, then, to inquire whether it has been the practice of the General Government to pay for such work for the other Territories? If it has, I have nothing to say; but if it has not, it seems to me this is not the time to begin such a practice, which is to result in an increased expenditure upon the part of the Government.

I, therefore, desire this information; and if it has not been the practice of the Government heretofore, I hope the increase of appropriation will be stricken out. It seems to me, inasmuch as the General Government pays the salaries of all the officers in these Territories, and all their legislative and nearly all the contingent public expenses, we ought not to be asked to pay for revising and reprinting their laws. I am in favor of placing New Mexico upon the same footing with all the other Territories, and therefore I make this inquiry. I do not desire to inaugurate any new policy in this direction at this time.

Mr. WATTS. I will state to the member from Indiana who has just taken his seat, that this amendment was proposed in the Senate, and passed by that body, on account of the inadequacy of the present appropriation to answer the purposes designed.

I believe it has been the custom of the Government of the United States, in all the Territories, wherever it becomes necessary, to pay for a revision of the laws the same as it does for the publication of the laws. Every law that is passed by a Territorial Legislature is published at the cost of the United States Government; and whenever it becomes necessary that there should be a revision of the laws of a Territory, it becomes the duty of the United States to make provision for having that revision made. It has been done in all cases, so far as my knowledge or information extends, for many years past.

There is a great necessity for this work being done in New Mexico at this time. The pamphlet edition of the laws which has been published from year to year has become exhausted; and a full copy of the laws since the last revision can hardly be found in the whole Territory. The Attorney General and the Secretary of State have heretofore been desirous of having this work done, but there has been no fund out of which the expenses could be defrayed; and for this reason it was added to this appropriation in this bill.

The usual appropriation for these miscellaneous items has been $20,000. But on account of the economy with which the government has been administered in that Territory, there has usually been a small sum each year left unexpended, which has reverted to the Treasury of the United States. The present year the Committee of Ways and Means have reduced the amount to $15,000. We now ask that the appropriation may be restored to what it has been heretofore; and that if we can manage to economize so as to save this small amount, we may have the opportunity of devoting it to this purpose.

Mr. HOLMAN. I will ask the gentleman if there was not an appropriation made a few years ago for the purpose of revising the laws of New Mexico?

Mr. WATTS. There was a revision made in 1851 or 1852, which was paid for by the General Government. But about once in ten years the laws of the Territory get bad enough to make it necessary that there should be a new revision.

Mr. HOLMAN. I withdraw my amendment.

The amendment of the Senate was concurred in.

Twenty-first amendment:

Strike out the entire second section of the bill, as follows:

SEC. 2. *And be it further enacted*, That in addition to the clerical and other force of the War Department, the following clerks, messengers, laborers, and non-commissioned officers be, and are hereby, authorized to be employed therein: *Provided*, That when Congress shall fail to make appropriation for the payment of said employés, the offices shall be deemed thereby abolished.

Office of the Secretary of War:
Two clerks of the third class and two clerks of the second class.

Office of the Quartermaster General:
Two clerks of the third class, three of the second class, five of the first class, and one messenger.

Office of the Commissary General:
One clerk of the third class, two of the second class, and one laborer.

Office of the Chief Engineer:
One clerk of the first class.

Office of the Surgeon General:
One laborer.

Office of the Paymaster General:
Four clerks of the second class, four of the first class, and one messenger.

Office of Chief of Ordnance:
One clerk of the third class, two of the second class, and one of the first class.

Office of the Adjutant General:
Three clerks of class three, four of class two, thirteen of class one, and ten non-commissioned officers from the Army; and the sum of $70,000 is hereby appropriated for that purpose.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Twenty-second amendment:

Page 37, line one, change "section three" to "section two."

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Twenty-third amendment:

Page 37, after line six, insert:
For keeping in repair and partially furnishing the Post Office building, to be expended under the direction of the Postmaster General, $20,000.
For paper and printing blanks for the Executive Departments, $30,000.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Twenty-fourth amendment:

Page 37, line sixteen, strike out "five," and insert in lieu thereof "four;" so that the clause will read:
For twenty-four copies of the Congressional Globe and Appendix for each Member and Delegate in the first regular session of the Thirty-Seventh Congress, $4,778 40.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Twenty-fifth amendment:

Page 38, after line ten, insert:
For contingent expenses of the Senate, namely:
For compensation of three messengers appointed under authority of a resolution of the Senate of July 19, 1861, $3,600.
For binding, $20,000.
For lithographing and engraving, $30,000.
For stationery, $12,000.
For reporting proceedings, $3,000.
For Congressional Globe and Appendix, at the first session of the Thirty-Seventh Congress, $6,184 20.
For clerks to committees, pages, horses, and carryalls, $7,000.
For miscellaneous items, $30,000.
For Capitol police, $1,500.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Twenty-sixth amendment:

Page 38, strike out lines eleven, twelve, thirteen, and fourteen, as follows:
For expenses of the investigating committees of the

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. FRIDAY, MARCH 7, 1862. NEW SERIES.....No. 69.

House of Representatives and the Senate, appointed at the first session of the Thirty-Seventh Congress, $5,000.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Twenty-seventh amendment:

Page 38, strike out the lines fifteen and sixteen, which are as follows:

For compensation of the surveyor general of Illinois and Missouri, $2,000.

The Committee of Ways and Means recommended non-concurrence.

Mr. HOLMAN. I understand that this is the regular appropriation for the current year. I understand that the committee have already concurred in an amendment striking out the amount appropriated as a deficiency for the same office and upon the ground that the office had virtually ceased to exist. Now, the question is whether we will appropriate the same sum for the current year. It does seem to me that the Committee of Ways and Means have resorted to rather a remarkable policy in refusing to pay it for one year and appropriating it for the next.

Mr. STEVENS. This is the deficiency.

Mr. HOLMAN. Then the gentleman from Missouri [Mr. BLAIR] was mistaken when he said that the other was a deficiency.

Mr. STEVENS. Yes, sir.

Mr. HOLMAN. Then we have stricken out the appropriation for the current year on the ground that no such office exists. If there is no such office now there was none last year, and the services were rendered without authority of law. The question is whether we will retain this appropriation or not. I understand the fact to be that the appropriation made the year before last was made in this same way; that is to say, a deficiency occurred, and an appropriation was made to meet that deficiency.

The CHAIRMAN. All this debate is out of order.

Mr. ROSCOE CONKLING. In order to make myself in order in asking a question of the gentleman from Indiana, I move to add to the clause proposed to be stricken out the words "being an ingenious mode of taking that amount out of the Treasury."

Mr. HOLMAN. I would accept that if it was in my power.

The CHAIRMAN. The Chair hardly thinks that amendment in order.

Mr. STEVENS. Oh, I think it is in order. I dare say it will correspond with the gentleman's speech.

Mr. ROSCOE CONKLING. Is not my amendment in order?

The CHAIRMAN. The Chair will not interpose an objection unless some gentleman makes a point of order, and then he will decide it.

Mr. ROSCOE CONKLING. The point is, that I have occasion to ask favors of the House so often that if it is a matter of right to offer this amendment, I would rather take it in that form.

Mr. CAMPBELL. In order to test the question, I make the point that the amendment is not in order.

The CHAIRMAN. The Chair is inclined to think that it is not a matter of legislation, and is not properly germane to the bill. The Chair, therefore, sustains the point of order.

Mr. ROSCOE CONKLING. The Chair is right, as he always is, and therefore I will move to reduce the amount of the appropriation one half, if that is in order.

The CHAIRMAN. That is in order.

Mr. ROSCOE CONKLING. And now, having saved the time of the House by having the point of order disposed of, I want to ask the gentleman from Indiana the question which I rose for the purpose of asking him. It is, whether he is able to say, with certainty, that this office, as a matter of law, had ceased to exist? Because I am free to say that if he knows it had, I think he is right in saying that it would be entirely irreconcilable with the vote the committee gave a short time since to retain this clause in the bill.

Mr. HOLMAN. I have not examined the act referred to; but the subject was before the House some time since on a bill which was brought before the House by the gentleman from Missouri, [Mr. NOELL,] and, in connection with that measure, the impression made upon my mind was that this office had ceased to exist some two or three years ago. I understand, from the debates had upon the subject, that the last appropriation for a deficit was made upon the ground that the services had been rendered, and that inasmuch as the services had been rendered, and no appropriation had been made to pay for them, that deficiency ought to be supplied. I have not, however, examined the law upon the subject.

Mr. ROSCOE CONKLING. Then, although the gentleman is not entirely confident that the office had ceased to exist, I think this appropriation ought to be stricken out. It seems to be a favorite mode of legislation here to have a proposition originated in this House on one subject, and when it goes over to the Senate to have some original proposition upon an entirely different subject tacked on to it, and then it comes back here and is passed. If there is any law under which this office had existence, no doubt this appropriation can be put upon some bill with which it has nothing in the world to do, and we shall have a chance to vote it hereafter.

Mr. MORRILL, of Vermont. I wish to say that this appropriation is not an appropriation made by the Senate. It is an appropriation that originally passed this House. It is for the purpose of defraying the expenses of this office for the year 1862.

So far as the Committee of Ways and Means have been able to ascertain the facts, the services have been, at least in part, already performed. We are not sure as to the fact of the termination of the office, as contended by the gentleman from Indiana, and we did not, therefore, feel at liberty to strike out the appropriation for the year 1862. We did, however, feel at liberty to strike out the appropriation for 1863.

Mr. ROSCOE CONKLING withdrew his amendment.

The question recurred upon the amendment of the Senate.

Mr. MORRILL, of Vermont, demanded tellers.

Tellers were ordered; and Messrs. BUFFINTON and CRISFIELD were appointed.

The committee divided; and the tellers reported —ayes 41, noes 54.

So the amendment of the Senate was non-concurred in.

Twenty-eighth amendment:

Page 38, after line nineteen, insert:

For contingent expenses of the office of the Fourth Auditor, $700.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Twenty-ninth amendment:

Page 38, after line twenty-three, insert the following:

For compensation of additional clerks, messengers, and laborers in the offices of the Secretary of War, Adjutant General, Surgeon General, Quartermaster General, Paymaster General, Chief Engineer, Chief of Ordnance, and Commissary General, appointed under authority of act of January 27, 1862, $26,400.

For compensation of two Assistant Secretaries of War, appointed under act of January 22, 1862, one year from date of their appointment, $6,000.

For compensation of additional clerks in the office of the Secretary of the Navy, authorized by act of January 27, 1862, $2,000.

For necessary expenses for supply of water fixtures, pipes, hydrants, hose apparatus, and employment of firemen for the protection of the public stores and hospitals in the city of Washington, the sum of $10,000, or so much thereof as may be necessary for that purpose, to be expended under the direction of the Secretary of War: *Provided*, That no more than one fireman shall be employed at each store or hospital, and at a compensation not exceeding $500 per annum.

To enable the Commissioner of Public Buildings to replace the thin glass in the roof of the Library of Congress with glass of a proper thickness, and to ventilate the Library, $900.

For putting the plates of the exploring expedition in order for preservation, and transporting them and the other effects of the expedition to Washington, to be preserved in some of the public buildings or at the Smithsonian Institution, $2,000, to be expended under the direction of the Joint Committee on the Library of Congress; and if any part of this appropriation shall remain unexpended for these purposes, the same may be applied, if necessary, to the completion of volume twenty-three of the works of said exploring expedition, or to the payment of any arrears of rent or claims for services due on account of said works.

SEC. 3. *And be it further enacted*, That the President of the United States is hereby authorized to expend during the fiscal year ending the 30th of June, 1863, so much of the appropriation of 2d March, 1861, as he may deem expedient and proper, not exceeding in the whole $10,000, for compensation to the United States marshals, district attorneys, and other persons employed in enforcing the laws for the suppression of the slave trade, for any services they may render, and for which no allowance is otherwise provided by law.

SEC. 4. *And be it further enacted*, That from and after the 1st day of July next, and until otherwise ordered by the President, the Territories of Utah and Colorado shall constitute one surveying district, and the duties of surveyor general in said district shall be performed by the surveyor general of Colorado; and the surveying district of Nevada shall be united to that of California, and the duties of the surveyor general of the former shall be performed by the surveyor general of California; and the transfer of the effects and archives of the said officers shall be made under the instructions of the Commissioner of the General Land Office.

SEC. 5. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized and empowered to carry into effect the provisions heretofore made by law for refitting and preparing, in the city of Philadelphia, the building now owned by the United States, on Chestnut street, for the use of a post office and the holding of the United States courts in said city: *Provided, nevertheless*, That the whole expense of said alterations and improvements shall not exceed in cost the unexpended balance heretofore appropriated by law for that purpose.

SEC. 6. *And be it further enacted*, That the sum of $100,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to be expended, under the direction of the Secretary of the Interior, in the erection and completion of a jail for the District of Columbia on Government reservation No. 13, in the city of Washington: *Provided*, That the entire cost of said jail shall not exceed the sum hereby appropriated.

SEC. 7. *And be it further enacted*, That the President shall appoint in the Department of the Interior, by and with the advice and consent of the Senate, a competent person who shall be called the Assistant Secretary of the Interior, whose salary shall be $3,000, payable in the same manner as the salary of the Secretary of the Interior, who shall perform such duties in the Department of the Interior as shall be prescribed by the Secretary or may be required by law, and who shall act as the Secretary of the Interior in the absence of that officer.

The Committee of Ways and Means recommended that the House agree to so much of the Senate's twenty-ninth amendment as is included in section three of said amendment, with amendments, as follows:

For completing the work on the Patent Office building, so far as to preserve the materials already prepared, $15,000.

To pay the mileage and salaries of John Kline, Joseph Segar, and John M. Butler, while contesting seats in the House of Representatives, per resolution of the House of Representatives of March 4, 1862, $10,000.

Mr. STEVENS. The Committee of Ways and Means recommend the House to strike out that part in reference to the jail and the Assistant Secretary of the Interior.

Mr. HOLMAN. I rise to make an inquiry of the chairman of the Committee of Ways and Means. I understand that the effect of the recommendation of the Committee of Ways and Means is to non-concur in the amendment of the Senate making an appropriation for the jail, and creating the office of Assistant Secretary of the Interior.

Mr. MORRILL, of Vermont. Will the Clerk read the part of the amendment which the Committee of Ways and Means recommends non-concurrence in.

The amendment was read.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that they had passed a bill (No. 222) to provide for the codification and revision of the laws of the District of Columbia; in which he was directed to ask the concurrence of the House.

LEGISLATIVE APPROPRIATION BILL—AGAIN.

Mr. STEVENS. I move to non-concur in that part of the amendment of the Senate which refers to the jail, and to the Assistant Secretary of the Interior, and to concur in all the rest, with the amendments which we have had read.

Mr. F. A. CONKLING. Is the question divisible?

The CHAIRMAN. The Chair cannot see how it can be divided.

Mr. PENDLETON. I desire to submit a remark or two in regard to this amendment. I do not know whether I am in order now.

The CHAIRMAN. If the gentleman desires to oppose the amendment offered by the gentleman from Pennsylvania, he will be in order.

Mr. PENDLETON. I would be very glad if the chairman of the Committee of Ways and Means would so modify his motion as that we may have a separate vote on these two propositions with which he proposes we shall non-concur.

Mr. STEVENS. This came to us as one amendment of the Senate, and I do not see how it can be divided. If it goes back to a committee of conference, it can be arranged in that way.

Mr. PENDLETON. I trust, Mr. Chairman, if it is impossible to have a vote on these amendments separately, that we shall take such a course in regard to them as that we may get a specific vote on the appropriation to build a jail in this District. I am as much opposed as anybody can be to this very vicious system of legislation which the Senate has adopted of putting on appropriation bills sent to them from the House amendments which would not be legitimate here, and could not be ingrafted on the bills if offered here. But as I see no prospect, either by a bill from the Committee for the District of Columbia, or otherwise, of taking steps to remove what I think a nuisance in the city, a burning and lasting disgrace to the District of Columbia, to the city that tolerates it and to the Congress that tolerates it, I hope we may have an opportunity now, even in this objectionable manner, to vote on the proposition to erect here a new jail. I visited this jail on one occasion when I was called there on business, and was shocked to see the condition in which prisoners of all grades, of both sexes, of all colors, charged with all crimes, are kept there, after conviction and before conviction. It is a place as bad as the black hole of Calcutta. No citizen of the United States should be kept there for an hour. I do not hesitate to say, in my place here, that I should prefer that there would be a general jail delivery, and that every man in the jail should be turned out on the community, than that they should be kept there twenty-four hours longer. I know that gentlemen complain about this jail—some who have not seen it, some because fugitive slaves are kept there. I say, sir, that for all men, whether charged with crime or convicted of crime, whether fugitive slaves or not, it is a burning disgrace to Congress that the jail is allowed here, under the very eaves of the Capitol, to be continued day after day and month after month, as it has been. I therefore hope that we will have an opportunity now, as I see no prospect of any other chance, to vote upon the amendment of the Senate, and commence, at least, the removal of this nuisance from our midst.

Mr. ROSCOE CONKLING. Is debate on this amendment exhausted?

The CHAIRMAN. It is.

Mr. ROSCOE CONKLING. As the gentleman who moved the amendment did not speak in support of it, if he will allow me I will support it.

The CHAIRMAN. Under the parliamentary rule, the gentleman from Pennsylvania is regarded as having waived his right to support the amendment.

Mr. ROSCOE CONKLING. Is another amendment in order now?

Mr. STEVENS. I understand that the report of the Committee of Ways and Means ought to be modified. I move to strike out of the Senate amendment all in reference to the jail, and to insert what has been reported from the Committee of Ways and Means.

Mr. ROSCOE CONKLING. I move to amend the amendment, by adding to it the last part of what is stricken out. I do so for the purpose of saying that I concur with the gentleman from Ohio [Mr. PENDLETON] in much that he has said with regard to the inhumanity suffered at the jail by those accused of crimes, and the inhumanity practiced on those accused of no crimes at all; and I understand that a good many of the latter are inmates of this jail. I differ, however, Mr. Chairman, with the gentleman from Ohio as to the hope that he expresses that Congress will, as an amendment to this bill, or in any other way, abate what he deems a nuisance. I do not believe there can be found on the map of the world another such municipal mendicant as the city of Washington. Congress paves the streets; and as far as Congress paves them they are paved, and no further, if you except two short patches of pavement on Seventh street and C street. As far as Congress lights the streets, they are lighted. As far as Congress drains the streets, they are drained, and not much further. We furnish their hospitals, their jails, their asylums, their water works, and nearly everything else that partakes of public convenience and accommodation. And why? Why, in the name of common sense, does not the city of Washington have a suitable jail in which to shut up the pick-pockets, the shoulder-hitters, the robbers and burglars of the city of Washington? Why should not Washington maintain a jail? If Federal prisoners are confined there, just as the General Government pays the State of Ohio by the week or by the day for prisoners confined and subsisted in her jails, so ought payment to be made here. But why should Congress build this jail?

Now, sir, so long as we pass railroad bills with a percentage limit upon strangers, for the purpose of sustaining the local schools of the city; as long as we furnish hospital buildings and put furniture in them, and then listen to demands that we furnish medicines to give to the sick poor of the city, you may rely upon it no plan or proposition will ever be seriously entertained by the authorities or people of the District to provide a jail or anything else of the sort. No improvement will be made in the jail, although it be crowded with prisoners and filled with vermin, until the Congress of the United States makes it and pays for it. Why not let these people know that, like other people, they are subject to fair taxation, and that they are to bear their fair share of the burdens in the ordinary manner, whether it be the maintenance of public peace, the preservation of local order, the promotion of public convenience, or anything else concerning the District or the cities within its limits.

Again, Mr. Chairman, I hope we shall not appropriate this $100,000 to build a jail, under the pretense that any such sum is to complete it. Three hundred thousand dollars is the smallest sum that has ever been estimated for this purpose; and estimates and plans have heretofore more than once been submitted to Congress. It is said that the jail is crowded now; it is so, but the crowd is unusual, in consequence of extraordinary causes which will soon cease to exist—I hope long before a new jail can be built. If it is understood by the people of this District that Congress will not build a jail for them, they will set about it themselves, and then there will be a jail in Washington as there is in New York and Albany and Cincinnati and in every other city where a jail is needed, and it will be paid for in the same way.

For these and other considerations, I hope the amendment of the Senate will not be concurred in; although I again agree with the gentleman from Ohio that the jail, like many other things in the city of Washington, is a disgrace to the city, or would be a disgrace to any city where the people pretend to pay at all for their municipal privileges.

Mr. PENDLETON. I rise to oppose the amendment submitted by the gentleman from New York who has just taken his seat, and I do it for the purpose of saying a word in relation to the general subject of the Senate amendment.

Mr. Chairman, the gentleman from New York agrees with me that the jail in this city is such a nuisance as ought to be abated; that it is an outrageous nuisance, and that whoever is responsible for the erection of a new jail ought to set about it immediately; and that is the point to which I wish to address my remarks.

The reason why the people of the city of Washington cannot, of themselves, provide for all the public accommodations that the people of other cities do—and I do not controvert the fact that they do not—is, that the Government of the United States here owns an immense amount of valuable property which does not go upon the tax duplicate of the city. I will go with the gentleman from New York in any scheme which he may devise, or the Committee for the District of Columbia may devise, to place the property of the Government within the limits of the District of Columbia upon the tax duplicate of the city, and then for requiring the people of the city to pay their legitimate proportion of the expenses of their own government, or I will go with him in taxing the people of the District to pay for building a new jail, if he will report a bill from the Committee for the District of Columbia, of which he is chairman, for that purpose.

I concur with him fully in the opinion that this expense ought to be borne by the people of the District. But, sir, we will never remove this nuisance, we will never remove this disgrace until the Congress of the United States take the matter in hand. We have the power to make the appropriation for building the jail, and we have the power to levy a tax upon the people of the District to pay the expense of it. It may be and perhaps is true that we should not make an appropriation for this purpose without at the same time making provision to reimburse the Treasury of the United States for the amount expended from the property of the people of the District. I make no controversy about that. And I repeat that if the gentleman from New York will bring in a bill placing the property of the United States within the District of Columbia upon the tax duplicate and allow it to be taxed along with the property of the people of the District for all municipal purposes, I will go with him for the passage of such a measure and then for making no appropriations for any purpose properly pertaining to the municipal authorities of the District directly from the Treasury of the United States. If he will devise any scheme by which the people here shall be taxed to pay their proportion of the expenses, I will join hands with him. But for the present, in order to accomplish a great good, in order to remove a great disgrace, I hope we will accept this amendment sent to us by the Senate.

Mr. ROSCOE CONKLING, by unanimous consent, withdrew his amendment.

Mr. STEVENS. Many members have indicated a desire to act separately upon the several items of the Senate amendment. If there be no objection, I hope that will be done.

Mr. DELANO. I wish to ask the chairman of the Committee of Ways and Means a question which relates to this amendment. I desire to know what is the rate of taxation in this District, what rate of taxes the citizens of this city are now paying, and how their present taxes compare with the rate of taxation which prevails elsewhere in the neighboring cities in Maryland, or even beyond the immediate neighborhood. As I understand—and, if so, it would seem to be a partial answer to the somewhat sweeping suggestion of my colleague on the Committee for the District of Columbia [Mr. ROSCOE CONKLING]—the rate of taxation in this city and District is quite as high as that which prevails in other communities near us.

The CHAIRMAN. The Chair desires to know whether objection is made to the proposition of the chairman of the Committee of Ways and Means that separate votes be taken upon the several items of the Senate amendment.

No objection was made.

Mr. LOVEJOY. I desire the consent of the committee to ask the chairman of the Committee for the District of Columbia this question, if he is able to answer it: how much more it costs us to meet in this city than it would in a commercial city like New York, Chicago, or Cincinnati, where we should not have to be at the extra expense of paving streets, building jails, and other expenses of that description?

Mr. ROSCOE CONKLING. I comprehend the question of the gentleman from Illinois; but, of course, I cannot answer it accurately, if at all. Should I give such an answer as would express my idea on the subject, it would be, to say the least, not altogether complimentary to this capital city. My belief is, that the ingenuity of no member of the House will enable him to specify one particular in which the people or the Representatives of the people, who come here to tarry or reside, are tolerably accommodated in those respects which go to make up the public conveniences of a town. But, so far as regards inconvenience, extortion, discomfort, and whatever else is objectionable, this city is entitled to the palm, when considered in comparison with any place in the northern States, at least, from center to circum-

ference; and all this despite the enormous expenditures we make.

Mr. WICKLIFFE. I am afraid my friend from New York has got into bad company since he has been in this city. [Laughter.]

Mr. ELIOT. Has debate upon this amendment been exhausted?

The CHAIRMAN. No further debate is in order.

Mr. MALLORY. I hope the gentleman from New York [Mr. ROSCOE CONKLING] will be allowed to explain the serious charge made upon him by my colleague. [Laughter.]

The first five clauses of the twenty-ninth amendment of the Senate, as given above, were then read, and severally agreed to.

The Clerk then read the sixth clause, in relation to the works of the exploring expedition.

Mr. MORRILL, of Vermont. I desire to say a single word in relation to that amendment before the question is put. This appropriation is merely to preserve the work already on hand and to remove it to a place of safety. It is not for a continuation of the work, but the work being already suspended, it is proper that Congress should at least take care of the very valuable plates that have already been engraved.

Mr. RICE, of Massachusetts. I would like to inquire where the plates are now.

Mr. McPHERSON. Mr. Chairman, I think I can answer the question of the gentleman from Massachusetts, [Mr. RICE,] and remove opposition to the proposed concurrence in the Senate amendment. During the progress of the work, over nine hundred engravings accumulated, at a cost of nearly one hundred thousand dollars. Many of them are of great value. They have been for years stored in Philadelphia, where the printers of the exploring expedition reside. The purpose of the committee is to remove all the property of the Government used in this work from Philadelphia, and to close the business there after the completion of the twenty-third volume, now in press, and of which there are but forty pages to print. This appropriation it is proposed to apply to the settlement of whatever outstanding accounts have not been closed, and to the payment of the expenses incident to the transportation of the materials to this city, where they can be kept in one of the public buildings without cost. The sum is not large, and the committee will not expend more than may be required for the purposes indicated.

The question was then taken, and the amendment of the Senate was concurred in.

The Clerk then read the next clause of the amendment of the Senate, to which the Committee of Ways and Means recommended an amendment proposing, among other things, to appropriate $10,000 to pay salary and mileage to certain contestants and claimants for seats in the House of Representatives, under the resolution of the House adopted yesterday.

MESSAGE FROM THE SENATE.

Here the committee rose informally, and the Speaker having resumed the chair, a message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the joint resolution, No. 22, providing for the payment of the awards of the commission to investigate the military claims in the department of the West.

ENROLLED JOINT RESOLUTION SIGNED.

Mr. GRANGER, from the Committee on Enrolled Bills, reported as truly enrolled a joint resolution (S. No. 45) for the relief of William H. Nobles; when the Speaker signed the same.

LEGISLATIVE APPROPRIATION BILL—AGAIN.

The Committee of the Whole on the state of the Union then resumed its session.

Mr. F. A. CONKLING. Mr. Chairman, I move to amend the amendment of the Committee of Ways and Means by reducing the amount for this payment of salary and mileage from $10,000 to $5,000. I wish to ask some member of the Committee of Ways and Means whether this sum of $10,000 is to be equally divided between the three parties named in the amendment?

Mr. MORRILL, of Vermont. I suppose that as the House has already voted to pay these gentlemen their salary and mileage, it will be paid according to law. An estimate of this amount was made by the Clerk of the House as being sufficient, and no more than sufficient.

Mr. F. A. CONKLING. Well, I venture to say that there has been no estimate. Here are the contestants, Mr. Kline from Pennsylvania, and Mr. Butler——

Mr. MORRILL, of Vermont. I desire to know whether the gentleman means that as an imputation upon myself? Does he mean to say that we have not acted on the recommendation of the Clerk or not?

Mr. F. A. CONKLING. I mean to say that in my judgment there has been no estimate about it; and the gentleman is at liberty to construe it in any manner he pleases.

Mr. MORRILL, of Vermont. I stated to the House that the Clerk sent us a written recommendation. I say so now.

Mr. F. A. CONKLING. In my judgment the gentleman from Vermont is too sensitive in regard to his honor in this matter.

The CHAIRMAN. The gentleman will confine his remarks to the amendment he has offered.

Mr. F. A. CONKLING. I have made the assertion, and I repeat it, that, in my judgment, there has been no estimate at all; but that the round sum of $10,000 is proposed to be inserted in this bill, when I know that the sum justly due to these gentlemen cannot possibly amount to that.

Mr. MORRILL, of Vermont. Mr. Chairman——

The CHAIRMAN. Does the gentleman from New York yield to the gentleman from Vermont?

Mr. F. A. CONKLING. No, sir; I do not yield. Here are three gentlemen, John Kline, John M. Butler, and Joseph Segar, two of whom came here as contestants from contiguous districts in Pennsylvania, and the third of whom came here claiming a seat for the district in Virginia opposite this city, and the sum to be paid them, if properly estimated, can amount to no such sum as $10,000.

We know that the salary of a member of Congress is $3,000 a year, and we know that one year's salary has not accrued to any of these parties, even if they are to be paid at the same rate as members, for the putative services which they have rendered in this House.

Then, as to mileage; as I have remarked, Mr. Kline came here from the city of Philadelphia. We know whether his mileage can amount to $333. We know whether Mr. Segar's mileage, coming from a contiguous district in an adjoining State, can amount to $333. And we know whether Mr. Butler's mileage, coming from a district in Pennsylvania contiguous to that of Mr. Kline, can amount to that sum.

I voted yesterday against paying these contestants one cent; and I shall vote in every instance against giving a single cent to any contestant who fails to make good his claim to a seat on this floor. I believe that the proposition to pay them is not supported by justice or sound policy. We saw here at the extra session a contestant come from Oregon and receive some seven or eight thousand dollars. We saw a gentleman from the same State who sat in this House a few days ago, and who, as it seemed to me, had no earthly claim to the seat he occupied, receive the same enormous sum. It is certain that this system tends to encourage the practice of contesting the seats of members; and we know how many days and weeks have been consumed by the House in considering and deciding the claims of these contestants. Did time permit, I might refer to the questionable expedients by which some of them have attempted to sustain their pretensions. I believe, sir, that we acted injudiciously yesterday in adopting the resolution to pay these contestants; but now, the House having adopted it, I propose to pay them precisely what they are entitled to, and not one cent more.

I have the impression from my observation, sitting upon this side of the Hall among the friends of Mr. Kline, that he has attended here but a few days. We all of us know how many days Mr. Segar spent among us; and perhaps some gentleman may know how many days Mr. Butler actually devoted to contesting his seat; I do not. The proposition now before the committee is to pay each of these contestants $3,333 33, or, at all events, to divide $10,000 among the three. I repeat that I am satisfied no actual estimate has produced that result, and for the simple reason that it is an utter impossibility that such a result can be reached by a fair computation. I hope that my motion to reduce the amount will prevail.

Mr. MORRILL, of Vermont. I oppose the amendment offered by the gentleman from New York. Since I have been a member of this House, in making any statement to the House I believe that those who know me will acquit me at all times of any purpose to deceive the House, or to state anything not entirely frank, both in matter and manner. Now, when the gentleman put the question to me, I stated distinctly that there had been an estimate sent to us by the Clerk of the House. Immediately on that, the gentleman from New York abruptly declared to the House that he did not believe that any such statement had been made.

Mr. F. A. CONKLING. Any such estimate.

Mr. MORRILL, of Vermont. Now, I leave it to the House to judge whether that statement of the gentleman from New York was worthy of the gentleman, or worthy of any gentleman. I hold in my hand the statement sent to us by the Clerk of the House. It reads as follows:

OFFICE OF THE HOUSE OF REPRESENTATIVES,
WASHINGTON, *March* 4, 1862.

SIR: An appropriation of ten thousand dollars ($10,000) will be required to pay the mileage and salaries of Hon. John Kline, Hon. Joseph Segar, and Hon. John M. Butler, while contesting seats in the House of Representatives, authorized by a resolution of this date, and I respectfully ask that the above-named sum be added to the "miscellaneous item" of the contingent fund of the House, and that it be inserted in House bill No. 208, between lines eighteen and nineteen, on page 40.

Very respectfully, EMERSON ETHERIDGE,
Clerk of the House of Representatives.

Hon. THADDEUS STEVENS, *Chairman, &c.*

Now, Mr. Chairman, in reference to this particular matter, so far as the proposition of the gentleman from New York is concerned, I should concur with him in saying that the House had committed an error in voting so large a sum; but as the House has passed the resolution it is incumbent on us now to appropriate the sum necessary to carry that resolution into effect. A very little arithmetic, Mr. Chairman, will show that this sum is not too large. These gentlemen will draw their salaries, I suppose, for the entire year. That will be for the three of them, $9,000. There is, therefore, only $1,000 left for mileage. I now hold in my hand the exact statement, this moment handed to me, of the Clerk of the House, and it appears the sum necessary is $8,930 18.

Mr. F. A. CONKLING. Will the gentleman permit me to make a personal explanation? I perceive, Mr. Chairman, that my language has been misinterpreted by the gentleman from Vermont. I did not intend to assert or insinuate for a moment that the gentleman had not received this estimate. I simply intended to remark, and I trust I was so understood by the committee, that that amount could not have been arrived at by any just estimate, that no such estimate could have been made, but that simply a round sum was proposed to be inserted in the bill. Certainly, nothing was further from my purpose than to intimate that the gentleman from Vermont had not received such a statement as he refers to from the Clerk of the House.

Mr. MORRILL, of Vermont. I accept the explanation of the gentleman, but he certainly was very unfortunate in his language. Now, Mr. Chairman, as I was saying, this sum of $10,000 is, of course, in round numbers. It may exceed, and does exceed by a few dollars, the sum necessary; but of course no more than is absolutely necessary under existing laws will be paid out of this appropriation. The Committee of Ways and Means, as was their duty, only proposed such a sum as would conform to the action of the House, whether that was right or wrong.

The question was taken on Mr. F. A. CONKLING's amendment; and it was rejected.

Mr. EDWARDS. I move to amend by striking out $10,000, and inserting $6,000. After I shall have submitted a few remarks, I will ask the Clerk to read the resolution which the House adopted yesterday, ordering these persons to be paid, so that the committee may be informed of its precise terms. Mr. Chairman, I voted against that resolution, and I should vote against any resolution of a similar character. I am in favor of the precedent established here during the last

session of Congress in certain cases, to fix a specific sum, as a kind of indemnity, for those who contested seats in this House unsuccessfully, and not to put them on a par with members of the House under the statute of the United States. I wish only to say that I shall vote for an appropriation that will carry out the resolution of the House. I therefore desire to have that resolution read, for I would not vote for a dollar more than is authorized by it to be paid.

Mr. STEVENS. I ask the gentleman if he will modify his amendment by inserting the exact sum to be paid? If so, I will vote for it.

Mr. EDWARDS. I ask that the resolution adopted on this subject yesterday be read.

The resolution was read, as follows:

Resolved, That the Clerk of the House be authorized and directed to pay to John M. Butler, Joseph Segar, and John Kline, contestants and claimants for seats in this House, whose claims have been adversely decided, mileage and salary up to the date of such adverse decisions respectively.

Mr. EDWARDS. I suppose that that means mileage and salary under the law, and that the question of how much salary these men are entitled to is subject to the provisions of the law. It does not necessarily follow that they are entitled to a year's salary, because a year has elapsed since the commencement of this Congress. If they have attended the sessions of the House they are entitled to their pay; if they were not in attendance, their salary during their absence should be deducted. I therefore would not have the precise sum to be paid to them fixed; but the subject should be referred to the Committee on Mileage for the purpose of determining what they are entitled to. That amount I should be willing to vote for, as the House has once adopted this resolution.

Mr. JOHNSON. I am opposed to the amendment offered by the gentleman from New Hampshire. I think the committee is under a wrong impression as to the facts involved in the question now before it. The gentleman from New York [Mr. F. A. CONKLING] has just stated to the committee that these gentlemen were not in attendance here. I do not know how it may have been in regard to two of these gentlemen, Mr. Butler and Mr. Segar; but in regard to Mr. Kline, the Journal will show that on the 6th or 7th of July—two or three days after the opening of the called session—I presented his petition for a seat here. I have not had any charge of his case. I had nothing to do with consulting him. That was the first time I had ever seen him; but, during this session I observed him here almost daily. He has been here presenting his case before the Committee of Elections, whenever they were prepared to hear him. The testimony taken in the case shows that within the thirty days fixed by law, after the October election of 1860, he gave notice of contest and that he followed it up. The testimony returned before the House amounts to some two hundred pages of closely printed matter. Some testimony was taken on the 8th of January, 1861. So that, so far as the state of facts in regard to Mr. Kline is concerned, the gentleman from New York is in error.

In regard to Mr. Butler, his was a similar case. He gave his notice of contest about the same time, and testimony was taken. I have not the honor of his personal acquaintance, and cannot say whether he was in attendance or not. I presume that he was. A large proportion of the House voted to give him his seat, which shows that those gentlemen were satisfied that he had a good case. Another error which the gentleman from New York fell into was in reference to the Oregon case. When the legally-elected Representative from Oregon, the only one who held any credentials that had any form of law about them at all, came here he found another man occupying his seat. He found another man's name on the roll, placed there by the Clerk of the former Congress. That gentleman had been sworn and admitted to his seat. As soon as the Committee of Elections could hear the case they reported that the sitting member had no shadow of right to the seat; but, under the law, he had been *prima facie* admitted and sworn; and without any order from the House, he drew his pay and mileage, and retired. So that he was not a contestant: he was a sort of interloper.

A MEMBER. Squatter.

Mr. JOHNSON. Yes, squatter; that is the term out West. He was not a contestant. As to the gentleman from Virginia, Mr. Segar, I am not particularly informed as to his case; and I will leave it to others who may know.

Now, as to the policy of paying these contestants. If we are going to proclaim to the people that a man who has a just right to contest a seat in this House shall have no show here, I think we will be establishing a very dangerous doctrine. If a contestant is not even to receive courtesy here, we might as well set down the arbitrary rule that whatever the election officer returns must be taken as a fact, and that we cannot go behind it.

[Here the hammer fell.]

Mr. EDWARDS. I propose so to modify my amendment as to conform exactly to the figures which have now been presented as the sum to which those gentlemen are entitled by law. I propose to reduce the appropriation to $9,000, (I understand the exact amounts a little less than that,) and to add the following proviso:

Provided, That only so much salary or mileage shall be paid to either as he would have been entitled to up to the time of his rejection if he had been duly elected.

Mr. STEVENS. I will not object to that if the gentleman wants to put it in.

Mr. MAYNARD. I desire to oppose the amendment of the Senator from New Hampshire.

The CHAIRMAN. The gentleman from New Hampshire only modified his amendment, and debate is exhausted upon it.

Mr. MAYNARD. I understood him to withdraw his amendment and propose another.

The CHAIRMAN. Debate is exhausted upon the amendment, but if there be no objection the Chair will indulge the gentleman from Tennessee.

Mr. MAYNARD. I will detain the committee but a few moments, and simply for the purpose of stating what I understand to be the well-settled practice of the House upon the subject of paying contestants who come here for the purpose of establishing their right to seats in the House. I understand the practice to be established by a long line of precedents, that when a contestant comes here in good faith and upon probable cause, although it may turn out that he is unsuccessful in the results of the contest, still the contestant is entitled to his pay and mileage.

For illustration: in the last Congress a gentleman came here from, I believe, the fourth congressional district of Kentucky, and took his seat in the House, upon a certificate based upon an alleged majority of some two or three votes. A subsequent examination of the poll-books showed that there had been an error in the count of some ten votes against him, giving a majority of five or six to the opposing candidate, who thereupon contested the election, very properly and conscientiously. But, upon a thorough revision of the count, on recurring again to the poll-books, it was found that a portion of the votes given to the contestant were illegal votes—a fact of which he is presumed to have been ignorant—so that upon the whole poll, properly revised, the sitting member was entitled to his seat. Yet the House decided that inasmuch as the contest was made in good faith, and upon probable cause, he was entitled to his pay and mileage.

And so I might refer to numerous precedents running back through a long series of years. In reference to these cases of the present session, the House has decided that they come within the rule for upon solemn resolution they have declared that the contestants shall be paid. Accordingly the Clerk reports, that to enable him to pay them the amounts due according to law, the sum of $10,000, in round numbers, will be necessary. If the amount is more than the amount of pay and mileage due them, no more will be paid; but if $100 or $500 or $1,000 remains, it will immediately revert back to the Treasury. I suppose the sum of $10,000 was named *in solido* as sufficient to cover the pay and mileage required by the resolution of the House.

I hope the committee, in obedience to the former action of the House, will place a sufficient amount in the hands of the Clerk to enable him to execute the resolution or order that has been made.

The amendment proposed by Mr. EDWARDS to the amendment of the Committee of Ways and Means was adopted.

The amendment of the Committee of Ways and Means, as amended, was agreed to.

The subdivision of the amendment of the Senate, as amended, was concurred in.

The next subdivision of the Senate amendment relating to the surveying districts of Utah and Colorado Territories, was reported.

The Committee of Ways and Means recommended non-concurrence.

Mr. CRADLEBAUGH. I move to amend, as follows:

That the House do not concur in so much of Senate amendment as abolishes the office of surveyor general of Nevada, and places the surveyorship under the control of the surveyor general of California.

Mr. Chairman, I can see no reason for abolishing the office of surveyor general of Nevada. It is true that the amount of agricultural lands which we have in that Territory is very limited, and that the quantity of lands which are really valuable, and which ought to be surveyed, will bear a proportion of perhaps not more than one to a hundred of the entire lands of the Territory. I have already presented, and had referred to the Committee on Public Lands, a bill providing the manner of surveying the lands in Nevada Territory, changing entirely the system under which the lands in our Territory are being surveyed.

I think the condition of our Territory is such, and the location of the lands such, that this change ought to be made. If the system now in operation is to be continued, the consequence will be that the proceeds of all the valuable lands in the Territory will be exhausted in the cost of surveying lands that are wholly worthless.

It is on that account that I have introduced this bill. I have also presented to the House within a day or two past the petitions of eleven hundred citizens asking that a land office shall be established in that Territory at as early a day as possible, and that we shall not be made to wait for such arrangements as this surveyor general for California shall choose to make.

I am, therefore, unable to see any good reason why this office of surveyor general of that Territory should be abolished; nor can I see the justice of requiring the people of that Territory to go for the records of the surveys of their lands to a land office in California. I hope, therefore, that the amendment of the Senate will not be concurred in so far as relates to the abolition of this office of surveyor general of Nevada.

The CHAIRMAN. The Chair will suggest to the gentleman that the Committee of Ways and Means recommend non-concurrence in this item of the amendment of the Senate, which, if the House adopt, will be equivalent to the adoption of the gentleman's amendment.

Mr. CRADLEBAUGH. I was not aware that the Committee of Ways and Means had made that recommendation. I will withdraw my amendment.

The subdivision of the Senate amendment was non-concurred in.

The next item of the amendment, relating to the refitting, &c., of the post office in Philadelphia, was reported.

The Committee of Ways and Means recommended concurrence.

The subdivision was concurred in.

The next amendment was that for building a jail for the District of Columbia.

The Committee of Ways and Means recommended non-concurrence.

Mr. STEVENS. When, some time ago, I made a motion to non-concur in this portion of the Senate amendment, it was discussed by everybody except the Committee of Ways and Means, and I do not suppose, therefore, that anybody else will want to speak upon it again.

I desire merely to say that, in my judgment, this is not the time to begin new works in this city. In the first place, it seems to me, that the new jail is needed entirely for the inhabitants of the city and District. Nobody who comes here to Congress wants to use a jail, [laughter;] and why we should build a jail for the thieves and pickpockets of the District, I do not know. If we do, this is not the time to commence one.

But more than that, when you have expended this $100,000, you will have to vote next year $100,000 more, and the next year $100,000 more, and so on. I have seen the way these matters always work. Your limitation practically amounts to nothing. Now, I want this war to be finished. I want to be entirely sure who is to have possession of this capital before we enter upon any new building. What would be said of a proposition to build a new War Office at this time? Would it not

be madness? Let us wait a year; let us wait at least sixty days—in which time some gentlemen tell us we are to conquer the South—and see whether the South are conquered. I hope this amendment will not be concurred in.

Mr. ELIOT. Mr. Chairman, when this amendment of the Senate was before the committee half an hour ago, I was disposed to object to the statements which were made by the gentleman from New York, [Mr. ROSCOE CONKLING,] and to address the committee upon one or two of the suggestions which fell from him; and, in the first place, that in regard to the citizens of this District. Since that time, however, it has occurred to me that the gentleman was probably referring to persons other than the residents of the District of Columbia. I have known something of the citizens of this District and something of the residents of Washington for so many years that I cannot but believe that when the gentleman from New York anathematized the whole of them in the language which he used, he was referring to a class of persons who are not those who would properly be characterized as the resident citizens of Washington city.

Mr. ROSCOE CONKLING. Mr. Chairman, I did not intend to allude either to persons resident in the District or to strangers coming here. The remark which the gentleman doubtless refers to was that in respect to public facilities and hospitalities, and I referred to hotel facilities, and to the ten thousand other things which go to make up the public facilities of a place. Nothing was further from my intention than to refer to private hospitalities or to the residents of the District.

Mr. ELIOT. Then I think, when the gentleman from New York comes to read the remarks which he made before, he will be glad that I have given him this opportunity for explanation; for certain it is that the impression made by his remarks upon gentleman in this part of the House was very different from that which his present explanation will permit to remain.

Now, one word as to the legislation of Congress in regard to matters of this description pertaining to the District of Columbia. Why, Mr. Chairman, we must either legislate on them or else we must discontinue legislation for the District. We are the only tribunal to which the citizens of this District can look for legislation of this kind. Who built the jail that is now here? Did the city of Washington build it? The chairman of the Committee of Ways and Means makes no reply. I undertake to say that it was built by the General Government. I know that it was owned by the General Government years ago. And, Mr. Chairman, I do not know that I shall not agree with the chairman of the Committee for the District of Columbia, if he will introduce some system which will separate the District from Congress in some way, and give them some independent existence, with a right here upon the floor to make themselves and their wants known.

Mr. STEVENS. Has not the city of Washington already a municipal government under which they could do all these things for themselves if they only had the energy?

Mr. ELIOT. It has a municipal government undoubtedly; but the gentleman knows—and no one knows better—that we are the Legislature for the District. The Committee for the District of Columbia is the medium through which the District of Columbia communicates with Congress, and it is perfectly well known to all of us that so long as this mongrel system exists there must be these difficulties continually arising year by year, when propositions are made and objected to because, upon the one hand, demands are made which are believed to be improper; and upon the other, charges are made against the citizens of the District, which are oftentimes unfounded.

I want now, sir, to say a few words about this jail. I say that it ought not to remain there one day. I say that it ought to remain there no longer time than is needful for the mechanics to take brick from brick and stone from stone. It is a disgrace to the city, a disgrace to the District, a disgrace to the nation, and a disgrace to humanity. That jail and the manner in which it is kept are offenses that are rank; and, sir, they should be abated.

The chairman of the Committee of Ways and Means says that we ought not at this time to spend money for the erection of public institutions here. Now, as a general proposition, I agree to that; but if he had been within that jail as I have been—[laughter]—ay, as I have been; and there is many a man who has committed no more offense than I have who has been there as a convict; but I have been there as a visitor; and if the gentlemen who now laugh will go there as visitors, they will come here with one voice to say that that institution should be demolished.

Mr. STEVENS. Does the gentleman mean the institution which brought those men there?

Mr. ELIOT. I mean the building which keeps them there.

Mr. STEVENS. I now withdraw my amendment to the amendment, and move that the committee rise, with a view of closing all debate.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. KELLOGG, of Illinois, reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the amendments of the Senate to the legislative, executive, and judicial appropriation bill, and had come to no conclusion thereon.

Mr. STEVENS. I move that all debate in the Committee of the Whole on the state of the Union upon the remaining amendments of the Senate close in half a minute after the committee shall resume the consideration of the same.

The motion was agreed to.

Mr. STEVENS. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly again resolved itself into the Committee of the Whole on the state of the Union, (Mr. KELLOGG, of Illinois, in the chair,) and resumed the consideration of the Senate amendments.

Mr. ROSCOE CONKLING. I want to occupy the half minute allowed for debate to state to gentlemen what the rate of taxation here is. The highest rate of taxation in this city in the past was seventy-five cents on $100; and in the city of New York, for example, it is two dollars on $100.

Mr. THOMAS, of Massachusetts. I will say to the gentleman that the rate of taxation in this city is high compared with the country generally.

Mr. ROSCOE CONKLING. It is not as high as the taxes in my city are, for instance.

Mr. ELIOT. I should like to know to what extent the corporation of this city have the right to impose taxes?

Mr. ROSCOE CONKLING. We have the power to give them the right to impose taxes to any amount.

The CHAIRMAN. The time allowed for debate has expired.

The question was then taken on the clause of the Senate amendment under consideration; and it was non-concurred in.

The last clause of the twenty-ninth amendment of the Senate, authorizing the appointment of an Assistant Secretary of the Interior, was then read.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

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

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. KELLOGG, of Illinois, reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the legislative, executive, and judicial appropriation bill, with the amendments of the Senate thereto, and had directed him to report it to the House with the recommendation that some of the amendments of the Senate be concurred in, some non-concurred in, and others concurred in with amendments.

Mr. STEVENS. I move the previous question on the amendments.

The previous question was seconded, and the main question ordered.

By unanimous consent, the recommendation of the Committee of the Whole on the state of the Union was concurred in in reference to all the amendments of the Senate, excepting the two mentioned below, upon which separate votes were asked.

The SPEAKER then stated the question to be upon the amendment of the Senate in reference to a jail for the District of Columbia, upon which a separate vote had been asked by Mr. SHEFFIELD.

The question was taken; and the amendment was non-concurred in—ayes 40, noes 57.

Mr. MALLORY called for the yeas and nays.

The SPEAKER decided that the call came too late.

Mr. WICKLIFFE moved to reconsider the vote by which the amendment was non-concurred in.

Mr. ROSCOE CONKLING moved to lay the motion to reconsider upon the table.

Mr. THOMAS, of Massachusetts, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 63, nays 40; as follows:

YEAS—Messrs. Aldrich, Ashley, Baker, Baxter, Bingham, Jacob B. Blair, Samuel S. Blair, Blake, Buffinton, Campbell, Chamberlin, Clark, Clements, Cobb, Frederick A. Conkling, Roscoe Conkling, Corning, Cutler, Davis, Diven, Edgerton, Edwards, Frank, Haight, Hale, Hall, Harding, Harrison, Holman, Hooper, Horton, Hutchins, Kelley, Francis W. Kellogg, William Kellogg, Killinger, Loomis, Lovejoy, McPherson, Moorhead, Justin S. Morrill, Noble, Patton, Pomeroy, Porter, Potter, John H. Rice, Robinson, Edward H. Rollins, Sargent, Shellabarger, Sherman, Stevens, Van Valkenburgh, Wadsworth, Wall, Charles W. Walton, E. P. Walton, Whaley, Albert S. White, Windom, Worcester, and Wright—63.

NAYS—Messrs. Ancona, Joseph Baily, Biddle, Colfax, Conway, Crisfield, Duell, Dunlap, Dunn, Eliot, Goodwin, Granger, Grider, Gurley, Johnson, Knapp, Law, Leary, Lehman, Mallory, May, Maynard, Menzies, Nixon, Nugen, Pendleton, Alexander H. Rice, Richardson, Riddle, James S. Rollins, Sedgwick, Sheffield, Sloan, John B. Steele, Benjamin F. Thomas, Francis Thomas, Ward, Webster, Wickliffe, and Wilson—40.

So the motion to reconsider was laid upon the table.

During the vote,

Mr. ALLEY stated that his colleague, Mr. BAILEY, was confined to his house by illness.

Mr. THOMAS, of Massachusetts, stated that his colleague, Mr. DAWES, was absent from the city attending the committee that was engaged in cleansing the Augean stable of Government contracts.

The vote was announced, as above recorded.

The question recurred on the Senate amendment in regard to the Assistant Secretary of the Interior, on which a separate vote had been asked by Mr. DUELL; and the amendment was non-concurred in.

Mr. STEVENS moved to reconsider the several votes upon the amendments of the Senate; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PUBLIC DOCUMENTS.

Mr. ROLLINS, of New Hampshire, by unanimous consent, introduced a bill to provide for the folding and distribution of documents for the House of Representatives; which was read a first and second time, referred to the Committee of Accounts, and ordered to be printed.

ST. LOUIS COMMISSION.

Mr. BINGHAM presented the report of the committee of conference on the disagreeing votes of the two Houses on the Senate joint resolution No. 22.

And then, on motion of Mr. RICHARDSON, (at five o'clock, p. m.,) the House adjourned.

IN SENATE.

THURSDAY, *March* 6, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

CLERKS IN THE SECRETARY'S OFFICE.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Senate, in compliance with the eleventh section of the act of August 26, 1842, showing the names and compensation of the persons employed in his office during the year 1861; which was ordered to lie on the table, and be printed.

PETITIONS AND MEMORIALS.

Mr. HARRIS presented two petitions of citizens of New York, praying that the office and dignity of a full major general may be conferred upon General John E. Wool, and that his rank as such take effect from the time when his commission of major general bears date by brevet; which was

referred to the Committee on Military Affairs and the Militia.

He also presented a petition of citizens of Troy, New York, praying that homœopathic surgeons may be made eligible to at least one eighth of the surgical appointments in the Army and Navy; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of citizens of New York, praying for the total abolition of slavery throughout the country; which was ordered to lie on the table.

Mr. TEN EYCK presented additional papers in the case of Olin Spencer Wood, late temporary naval storekeeper at St. Paul de Loando, on the coast of Africa; which were referred to the Committee on Naval Affairs.

Mr. CHANDLER presented a letter of W. B. Shubrick, chairman of the Light-House Board, to the Secretary of the Treasury, transmitting a report of the Light-House Board in relation to the transfer of the light-house establishment to the Navy Department, as proposed in a bill now before the Senate to reorganize the Navy Department; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. HARLAN presented the petition of A. N. Blumer and one hundred and five others, citizens of Iowa, praying for the total abolition of slavery throughout the country; which was ordered to lie on the table.

Mr. COLLAMER presented a petition of citizens of Vermont, praying for the abolition of slavery in the District of Columbia and the liberation of slaves belonging to persons in rebellion against the Government; which was ordered to lie on the table.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. ETHERIDGE, its Clerk, announced that the House had passed the following bills and joint resolution:

A bill (No. 318) to prohibit the allowance or payment of pensions to the children of officers and soldiers of the war of the Revolution;

A bill (No. 334) relating to the appointment and compensation of chaplains to military hospitals; and

A joint resolution (No. 46) relating to the sale of goods unfit for use by the War Department.

BILL BECOME A LAW.

The message further announced that the President of the United States had approved and signed, on the 4th of March, an act (H. R. No. 104) fixing the number of the House of Representatives from and after the 3d of March, 1863.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The message also announced that the House of Representatives agreed to some and disagreed to other amendments of the Senate to the bill (H. R. No. 208) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1863, and additional appropriations for the year ending the 30th of June, 1862, and agreed to the thirty-fifth amendment of the Senate, with an amendment, in which the concurrence of the Senate was requested.

The Senate proceeded to consider the action of the House of Representatives; and,

On motion of Mr. FESSENDEN, it was

Resolved, That the Senate insist upon its amendments to the bill (H. R. No. 208) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1863, and additional appropriations for the year ending the 30th of June, 1862, disagreed to by the House of Representatives, disagree to the amendment of the House to the thirty-fifth amendment of the Senate to the said bill, and ask a conference on the disagreeing votes of the two Houses thereon.

Ordered, That the committee of conference on the part of the Senate be appointed by the Vice President.

The Vice President appointed Mr. FESSENDEN, Mr. HARLAN, and Mr. MCDOUGALL.

A subsequent message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House insisted upon its disagreement to certain amendments of the Senate to the bill of the House (No. 208) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1863, and additional appropriations for the year ending the 30th of June, 1862, insisted upon by the Senate, and insisted upon its amendment to the thirty-fifth amendment of the Senate to the said bill, disagreed to by the Senate, and agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. THADDEUS STEVENS of Pennsylvania, Mr. JAMES BUFFINTON of Massachusetts, and Mr. W. MCKEE DUNN of Indiana, were managers at the conference on its part.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 318) to prohibit the allowance or payment of pensions to the children of officers and soldiers of the war of the Revolution—to the Committee on Revolutionary Claims.

A bill (No. 334) relating to the appointment and compensation of chaplains to military hospitals—to the Committee on Military Affairs and the Militia.

A joint resolution (No. 46) relating to the sale of goods unfit for use by the War Department—to the Committee on Military Affairs and the Militia.

REPORTS FROM COMMITTEES.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred the bill (H. R. No. 259) making appropriations for the service of the Post Office Department during the fiscal year ending 30th June, 1863, reported it without amendment.

Mr. COLLAMER, from the Committee on the Post Office and Post Roads, to whom was referred the bill (H. R. No. 296) to authorize additional mailable matter, reported adversely thereon.

He also, from the same committee, to whom was referred the bill (H. R. No. 244) to establish a postal money order system, reported adversely thereon.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the joint resolution (S. No. 22) providing for the payment of the awards of the commission to investigate the military claims in the department of the West.

Also, that the House had passed the bill (S. No. 122) providing for the organization of the staff attached to divisions of the Army of the United States, regular and volunteer, with amendments; in which the concurrence of the Senate was requested.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed an enrolled resolution (S. No. 45) for the relief of William H. Nobles.

CAPTAIN GOLDSBOROUGH.

Mr. HALE. The Committee on Naval Affairs, to whom was referred a message of the President of the United States, recommending that Captain Louis M. Goldsborough receive a vote of thanks of Congress for his services and gallantry, displayed in the combined attack of the forces commanded by him and Brigadier General Burnside, in the capture of Roanoke island and the destruction of rebel gunboats, on the 7th, 8th, and 10th of February, 1862, have instructed me to report a joint resolution tendering the thanks of Congress to Commodore Goldsborough, as recommended by the President. If there is no objection, I suppose it may be put on its passage at once. I presume it will give rise to no discussion.

There being no objection, the joint resolution (S. No. 61) tendering the thanks of Congress to Captain Louis M. Goldsborough and officers, petty officers, seamen, and marines under his command for the victory at Roanoke island, was read three times and passed.

LIEUTENANT M. B. WOOLSEY.

Mr. SHERMAN. If there is no business pressing this morning, I should like very much to have the Senate take up Senate bill No. 142, a bill relating to Congress; and for that purpose I move to postpone all prior orders.

Mr. CARLILE. I hope the Senator from Ohio will give way for one moment.

Mr. SHERMAN. Certainly.

Mr. CARLILE. I desire—it will not take long—that the Senate should consider the motion which I had entered yesterday to reconsider the vote by which the bill (S. No. 88) to restore Lieutenant M. B. Woolsey to the active service list of the Navy, was, upon the recommendation of the Committee on Naval Affairs, indefinitely postponed. I will detain the Senate but a moment by saying that my attention was called to the merits of this bill by the wife of Lieutenant Woolsey, she being a native of Virginia. He, however, is a resident of Connecticut—a native of the North. He was retired, as it appears from the letters of Commodore Dupont and others that accompany the papers, because of what was supposed to be permanent physical disability. It has turned out that that was not correct. Commodore Dupont recommends his restoration and the Secretary of the Navy recommends it. He tendered his services to the Government immediately upon the breaking out of hostilities, and has been in very active and arduous service ever since.

Mr. SHERMAN. I object to taking up that case, because I know, being a member of the Committee on Naval Affairs, that it received consideration, and it will meet opposition. It will take time if the Senator desires to press the consideration of the subject. If he desires only to have it referred, I shall have no objection.

Mr. CARLILE. I want to have the motion to indefinitely postpone the bill reconsidered, and then it can lie over.

Mr. GRIMES. If the Senator proposes to recommit it to the Committee on Naval Affairs, I suppose there will be no objection.

Mr. SHERMAN. There will be no objection to that; and then the Senator can make any showing he desires before the committee.

Mr. CARLILE. I will take that course. I hope, then, the vote will be reconsidered, and the bill recommitted to the Committee on Naval Affairs.

The motion to reconsider the vote by which the bill was indefinitely postponed, was agreed to; and the bill was recommitted to the Committee on Naval Affairs.

EXPENSES OF CONGRESS.

Mr. SHERMAN. I now renew my motion that all prior orders be postponed, and that the Senate take up the bill (S. No. 142) relating to Congress.

The motion was agreed to; and the consideration of the bill was resumed by the Senate as in Committee of the Whole.

Mr. SHERMAN. I wish to submit one or two amendments to the first section.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) The Chair is informed that there is an amendment pending which has not yet been acted upon. The question is on an amendment proposed by the Senator from New Jersey, [Mr. TEN EYCK,] in the ninth and tenth lines of the fifth section, to strike out the word "document," and insert "folding" in each place; so as to make the clause read:

One superintendent of folding-room, $1,500; two assistants in folding-room, $1,080.

The amendment was agreed to.

Mr. SHERMAN. In order to correspond with the action of the Senate since we have had this bill under consideration, I move, in line seven of the first section, to strike out "30th day of June, 1862," and insert "4th day of March, 1863;" so that the new mileage for members of Congress will not commence until after the close of the present Congress.

The amendment was agreed to.

Mr. SHERMAN. I also move to strike out, in the tenth line of the first section, the word "ten," and to insert "twenty;" so that the mileage shall be twenty cents per mile.

After some debate the Senate agreed to twenty cents a mile, and although I think ten cents is enough, I shall not renew the discussion, but yield to the vote of the Senate already taken.

The amendment was agreed to.

Mr. HALE. I desire to submit a small amendment in the fifth section. I move in the fifth line of that section to strike out "in his department, to be appointed by him;" and in the sixth line, after the word "postmaster," to insert "chosen by the Senate;" so as to make the clause read:

There shall be one postmaster, chosen by the Senate, who shall receive $1,500.

Mr. SHERMAN. I have no objection to that.

Mr. FESSENDEN. I move to reconsider the

vote on the amendment relative to the superintendents of the document-room and the folding-room.

The PRESIDING OFFICER. The question is on the motion to reconsider the vote by which the amendment of the Senator from New Jersey [Mr. TEN EYCK] was adopted.

Mr. TEN EYCK. I do not know whether it is courteous to resist this motion at this time. I wish to say something on the proposed amendment; but I have no wish to come in conflict with the Senator from Maine in regard to what is courteous or proper in my action. I suppose, perhaps, that the view I have of the matter may be stated as well upon this motion as upon the amendment itself, if the reconsideration were had.

Mr. FESSENDEN. I should like to have it reconsidered, and then it will be open to discussion. I did not observe that the vote was taken at the time.

The PRESIDING OFFICER. The question is on reconsidering the vote adopting the amendment.

Mr. SHERMAN. I hope my friend from Maine will be satisfied with a vote in the Senate after the bill is reported.

Mr. FESSENDEN. I think it ought to be reconsidered. I did not observe it when the vote was taken.

Mr. TEN EYCK. It has occurred to me, sir, that if there was to be at this time, under the idea of retrenchment, the abolishment of one of these offices, either that of the superintendent of the document-room or of the superintendent of the folding-room, the facts connected with both these rooms were of such a character as to induce the Senate to retain the superintendent of the folding-room and not the superintendent of the document-room; but I was in hopes that before this bill was finally acted upon, we should know first whether or not the bill abolishing the franking privilege is to pass, because I think that is an important matter to be considered in connection with this question. If the bill for the abolition of the franking privilege should pass, then it may well be that the office of one of these superintendents may be abolished; but if that bill does not pass, I have no doubt that both these superintendents will be required. I did not wish to anticipate a debate upon that subject when the circumstances of the case might change our views in relation to the propriety of amending this bill in the particular proposed, as it came from the committee originally, striking out one of these offices. But, sir, we have no control of that matter now, and I have taken the pains myself to investigate the facts, inasmuch as I feel some personal interest in the party who has charge of the folding-room, and I suppose the Senator from Maine perhaps will not deny that he feels some interest in the superintendent of the document-room. I admit frankly here that in behalf of a friend and acquaintance of mine, who occupies a position in the folding-room, I desire that the facts connected with that room may be stated to the Senate shortly.

It seems to me that while the franking privilege is in existence, we cannot dispense with this superintendent at all; and although the Senate have an outline or general knowledge of the amount of documents, books, &c., dispatched from that establishment, I apprehend they have no notion or just idea, such as the statistics will show, in connection with its operations. I will briefly state that there were received at the folding department during the year 1861, 155,200 bound books, which have to be folded and proportioned off to each Senator, and kept in that department subject to their order. During the year 1861, 389,250 speeches and Daily Globes were received and folded, for which 786 different receipts were signed, of all of which a regular book account is kept. Of the bound books, 32,780 were delivered, one copy at a time, to pages and other persons, per order. It is also the duty of the folding department to send to each foreign minister and the different departments of the General Government one copy or more of every bill before the Senate, and of all documents ordered; likewise one bound volume of every work. There have been 1,930 letters received and answered within the last six months in this department pertaining to its business.

The duty of the superintendent of the document-room, as I understand, is to receive one bound copy for each Senator of all books, and annually, in bulk, after they are all received, to send them to the residence of each Senator; also to put all bills on the Senators' desks, and keep the surplus when occasionally called for, making in a full Senate seventy, and the present Senate fifty desks to be supplied; while the folding department sends forty-sets of all bills twice a week to the foreign ministers and heads of Departments, and forty-seven sets of all bound books—within seven sets of the whole duty performed by the document-room in this respect alone.

One comparison is only necessary, and everything is explained. Take the Agricultural Patent Office Reports; twenty thousand copies are ordered, they are sent to the folding-room, there folded and retained subject to the Senators' orders; in three or four months after seventy bound copies are sent to the document-room, one for each Senator. Every Senator is aware that when he desires a book, say the Patent Office Report, or any other ordered by the Senate, he sends to the folding-room for it.

This shows that there is a vast amount of labor performed in the folding-room necessarily, infinitely more extensive than that connected with the document-room, under the present act which authorizes the franking privilege; but suppose the franking privilege should be denied and refused hereafter, still there would be a very large amount of work to be done in the folding-room, though not so large of course as at present. The Globe does not require a frank, for it goes free by act of Congress. During a long session, six thousand sets of four volumes each have been heretofore distributed, making twenty-four thousand volumes. The President's message and the finance report will probably be printed for distribution after the abolition of the franking privilege, if it shall be abolished. It is supposed, too, that, notwithstanding the abolition of the franking privilege, speeches which are made by Senators, although they may not be scattered broadcast over the land in the way in which they have been, will continue to be printed and sent by Senators to their several constituents.

I have contented myself with stating these simple facts before the Senate, with a view to bring them to a determination in relation to the choice which they may be called upon to make, so far as regards the retrenching of one or the other of these two offices. I beg leave to say that it is with exceeding great pain that I moved my amendment under the existing circumstances, because I have had some intercourse myself with the superintendent of the document-room, and I believe him to be a most accomplished, efficient, and faithful officer. It is disagreeable to me to be compelled to make my election between these gentlemen who are thus situated; but being compelled to make the election, I am driven also to state the facts.

Mr. COLLAMER. Had we not better take up the franking bill first?

Mr. TEN EYCK. It is suggested to me by the Senator from Vermont, and I think it is a wise and discreet suggestion, that before we pass this bill, and strike at the officers of Congress in this particular, we should take up the bill in relation to the franking; and I move now to suspend the further consideration of this bill and take up the bill to abolish the franking privilege. Let us settle that question first.

Mr. FESSENDEN. I should like to have that deferred until we reconsider the vote on the amendment of the Senator from New Jersey. I believe it is not contrary to the ordinary custom to reconsider a vote when it has passed without a Senator's observation, where he has already made objections to it. I should like to have his amendment stand as an original question.

The PRESIDING OFFICER. The question is on the motion of the Senator from New Jersey to postpone the further consideration of this bill, for the purpose of taking up the bill abolishing the franking privilege.

Mr. SHERMAN. I trust the Senate will dispose of this bill. I moved to postpone all prior orders and take it up, with a view of having it disposed of. There is nothing in this bill except small matters of detail which ought to be arranged. I think the bill is now carefully worded. This is the condition of affairs upon the question which has been discussed: there is a superintendent of the document-room and a superintendent of the folding-room; I believe all admit that we can dispense with one of these officers; but the difficulty is that the Senator from Maine is interested in preserving one, and the Senator from New Jersey is interested in preserving the other. I do not care, nor does it make any difference to the public service, which of these two officers is retained. One of them ought to be, and one alone is sufficient; which one it shall be, I do not care.

It seems to me that we ought to dispose of this bill. It is a bill of some importance, and it is the commencement of other bills. Unless Congress will correct the abuses that have grown up in time around our own desks here, we cannot very well go into abuses in other departments of the Government. It is easy to point out objections to any bill; but this bill has been maturely considered; it has been a long time before the Senate; every objection that could be fairly made to it has been made, and although it may not be perfect, it seems to me to be as perfect as we can get it. I trust we may pass it promptly and send it to the House of Representatives. I shall insist upon the yeas and nays on this motion, and I shall adhere to the bill unless it is postponed by a majority of the Senate. If it is now postponed, I do not believe it will ever be brought up again. A postponement will be the substantial defeat of the bill. I trust, therefore, Senators will excuse me in being persistent for the bill in its present form and insisting on its passage.

Mr. FESSENDEN. It is not unfrequently the case that a Senator who takes a particular interest in a particular bill which he has made, is apt to look upon it with very different eyes from others. The Senator from Ohio says this bill has been very maturely considered. By whom? By the Senator from Ohio. By nobody else that I know of. I do not know of anybody else who has had the chance really to consider it. It has been on our tables, I know, but I for one have had no opportunity to examine it, and it seems to me that everybody in the Senate must understand that I have not much opportunity to look at many bills outside of my own committee room. I do not know who has maturely considered this bill except the Senator from Ohio.

Mr. SHERMAN. The Senator from New Hampshire, [Mr. CLARK.]

Mr. FESSENDEN. The Senator from New Hampshire may have considered it also; but as to the maturity of his views I am not advised, and I believe he rather disclaims it. I may be mistaken about that, however. I think the bill is not just in many of its provisions. The Senator from Ohio talks about the abuses that have grown up here in the Senate, and he wishes to dispose of them. Well, sir, there may be some; but we who have been here a good while and have been in the habit of considering them, are not quite so well satisfied of the extent of those abuses as the Senator from Ohio, who is comparatively a very new member of the Senate, and who has suddenly discovered all these great abuses in the Senate.

I have not had a chance to look over the bill minutely; but there are some very grave mistakes in it, and mistakes that do a great deal of injustice, in my opinion, to those who are connected with the Senate. In the first place, it is not correct that everybody in the Senate concedes that one of these two offices, either the superintendent of the folding-room or the superintendent of the document-room ought to be abolished. I do not concede it by any means. I think that unless you repeal the franking privilege, they both ought to be continued; they are both necessary, both essential. That is my opinion, and, contrary to the view expressed by the Senator from Ohio, I am inclined to think that will be the opinion of the majority of the Senate. If we abolish the franking privilege, my friend from New Jersey will not contend that we want a superintendent of the folding-room; for there will be comparatively nothing to do there; we shall have no documents to distribute, and we shall have no speeches to be folded. It is perhaps an abuse that we fold our own speeches in the folding-room at public expense, and that might be abolished; but if you abolish the franking privilege, there is nothing left comparatively for anybody there to do. One man could do it all with perfect ease and with very little labor. If you do not abolish the franking privilege the office ought to be continued; the labor is very considerable, undoubtedly; and whether he is a new officer or an old one, I think he ought

to be continued at a reasonable salary. If his salary is too large strike it down.

But I say, on the other hand, that, whether you abolish the franking privilege or not, you cannot, consistently with your own convenience and comfort, dispense with the superintendent of the document-room. We all know that it needs a man of experience to do that work, a man who is familiar with it, and has been familiar with it for a considerable time. When the former superintendent went out, one of his assistants was taken for the reason that a new man could not fill his place and make himself competent to do the work for a very considerable time. We all know another thing—I say it without fear of contradiction because most of the Senators know him; the Senator from New Jersey admits that he is a most valuable officer—that the officer at the head of the document-room has information that we can get nowhere else, because he is the only man who has had the opportunity to get it. And what has he to do? Every one of the bills and reports that are laid upon our tables every morning have to pass through his hands. All the legislative business of Congress passes through his hands. It goes to him; he furnishes us with all our bills and reports; he has them laid on our tables; he files them; he has to keep a record of everything; and he is obliged to make an index of everything that passes through his hands. All the ordinary legislative printing and all the documents printed for preservation for the use of members and others, are distributed by him—not the extra documents that are printed merely for distribution, but all the original documents. All the bound documents pass through his hands and are regulated by him. More than that. Those of us who have occasion to look into the business of Congress, to find reports and other documents, are obliged to trust to him. We cannot find them ourselves, especially when we are new members; and although I may now be considered an old member, I cannot. We are all compelled to call upon the man who is familiar with them and has made himself acquainted with them by examination and having to handle them. He can always tell us where information upon different subjects of legislation can be found, and he is the only man who does know it. It is a business requiring experience, requiring skill, requiring knowledge, and such as he only has among those connected with the Senate. The business of the folding-room, however, although large, may be done by anybody. It is merely the folding of documents that go there, and tying them up one by one, and sending them around to members. He only has to superintend that operation. One man may do it about as well as another, a new man as well as an old. He must keep a record of the documents folded and distributed, of course. It is a labor, to be sure—a labor that must be accomplished, and a very considerable labor so long as the franking privilege exists—but it is a labor that does not require anything more than a very ordinary capacity. It does not require any great experience. It is mere work that one man may do just about as well as another. That is the difference between the two.

Now, I believe that both these officers are absolutely necessary if the franking privilege continues. I believe that the superintendent of the document-room is absolutely essential any way, that we cannot get along without him at all, and members who have been here any considerable length of time are perfectly aware of that fact, and I believe I shall be borne out in it by them. The Senator from Ohio thinks it is a matter of indifference which of these officers is continued. It is because he is aiming for a particular thing, to strike at somebody, and he seems not to care who it is if he only strikes off some one. I think they ought both to be continued if the franking privilege remains. Besides, the bill, as I understand, reduces all our clerks in the Senate to $1,200 a year.

Mr. SHERMAN. It reduces some of them to $1,200. It leaves one at $2,000, two at $1,800, and some at $1,200.

Mr. MORRILL. One at $1,800; not two.

Mr. SHERMAN. One clerk has been added to the $1,800 list since the bill was originally drawn.

Mr. FESSENDEN. I have not examined this bill sufficiently to speak with any sort of certainty about it; but I do not think there is a clerk connected with this body who ought to be reduced to $1,200 a year. The clerks that we have here are ordinarily—all that I know, certainly—men who earn more money than that, or who ought to earn more money than that. It is a very low rate of compensation. It is what is given in the Departments to any copying clerk who goes there with little accomplishments to do ordinary business. We require in all our clerks a careful set of educated men, and we have them generally; men whose services are worth more, and who ought to be paid more than that. I do not think there is one of them whom I would be willing to reduce to $1,200 a year. Still I cannot say, because I have not examined this bill, how far the Senator goes upon that point. I have not had a chance to do it, and I should really like to look at it further. I do not think the public interest will suffer by a little delay; nor do I regard the postponement of the bill until it can be considered as necessarily its defeat.

I will state another reason why I have not examined it particularly. I have not known really what bill was to be insisted upon and to be passed. In the first place, here is this bill. I like the principle of it, and I am willing to go with the Senator to sustain the bill; provided the details can be corrected where I think they are wrong; but for the sake of a reduction of the public burdens, I would even sacrifice something in that particular, so that gross injustice was not done to individuals. Then there is the military bill which has been urged by the Senator from Massachusetts, [Mr. WILSON,] that strikes off ten per cent. from all salaries. Then, in the tax bill reported in the other House, a general tax is imposed on all official salaries. The Senator from Ohio sustained the bill of the Senator from Massachusetts; he sustains this; what is to be the consequence? You take one of our clerks, you reduce him to $1,200 by this bill, then you strike off ten per cent. of that by the bill of the Senator from Massachusetts. You bring down our messengers and everybody connected with the Senate to the lowest possible notch you can screw them down to, take off ten per cent., and then impose a tax upon them. Connecting with all that the depreciation of currency, if there is to be any depreciation, and the increased price of living, and I think they will be in pretty poor condition.

There ought to be reason in all these things. We are bound to look after the public interest and to reduce expenditures where they are too large; but I do not like the idea that we are bound to go ahead with a broadax and cut, and cut, and cut merely for the sake of cutting, without regarding what is to be the consequence to individuals. We have not got to such a state of poverty and misery in this country yet, and I hope we shall not get to it. I should like to know which system is to prevail. Is it to be that of the Senator from Massachusetts which the Senator from Ohio opposed, and yet declared he would vote for, or is it to be that of the Senator from Ohio, or is it to be both? I do not know, and I have been waiting to see which was to be urged. I like this best, and am inclined to sustain it—I mean the idea of it, the system; I do not mean all its details, though I should, perhaps, be willing to agree to some of them. I think it is a system less calculated to do injustice; but I think we ought to have time to consider it; and I must really say to my friend from Ohio that I shall not regard a postponement of this bill until we act on the question of the franking privilege as a defeat of it by any means. It has been up once before and has been postponed. It is not an unusual course of proceeding in this body that a bill introduced here should lie for weeks until it can be properly considered and digested. I am not willing, myself, to take, as conclusive upon the matter, the consideration which has been given to it by the two Senators who were members of the commission. I am satisfied that there are few other Senators, if any, who have given it the consideration it deserves.

Mr. SHERMAN. As we have but two or three minutes before the special order will come up, and as I know we cannot in the mean time get a vote on this bill, perhaps I may as well take those two or three minutes to reply to the fifteen minutes' argument of the Senator from Maine.

The Senator says this bill has not been considered. I say to him it has been considered by a committee composed of two members of this Senate, both of whom have had a number of years' experience in Congress, and three very intelligent members of the House of Representatives. It has been agreed to by them unanimously, after a full and careful consideration of the whole subject-matter. Although I am a new Senator—I am thankful to the Senator for reminding me of that—as this bill relates to the expenditures of both Houses of Congress, my experience in the other branch of Congress might justify me in expressing an opinion on the subject.

I think there is no occasion for a superintendent of the document-room and a superintendent of the folding-room. One of these officers can certainly be dispensed with. But suppose the Senator disagrees with me in that: is it not very easy to take a vote of the Senate upon it? I agreed with his reasoning, and inserted a provision to retain the superintendent of the document-room and dispense with the superintendent of the folding-room. There is no reason in the world why one of these officers could not superintend both rooms. These superintendents have more or less clerks, laborers, and employés under them; and this bill provides for assistants, clerks, and laborers. I say there is not a particle of use for both these officers. Instead of referring to the superintendent of the document-room for information, we go to the library. There is no practical difficulty at all on this subject.

In regard to the clerks of the Senate, I do not desire to strike at them; but I think $1,200 a year compensation, for three months during one year and for five months during the other year, is sufficient to secure the services of competent clerks. If I am not correct in that, let the Senator move to increase the amount. I think $1,200 is sufficient. We must commence reduction somewhere. The most thankless office in the world is to stand here and seek to reduce the compensation of any man. The person affected, as a matter of course, will think it is a blow at him, and not to change the system. I know it is very difficult to frame any bill embracing a great number of persons, without being open to criticism; but, it seems to me, we must do something of the kind, and wherever we can dispense with an officer we should do it.

The Senator agrees with me in the principle of this bill. It has been on his table for some time. I have conversed with him about it. It has been reported nearly two months. It has been the subject of conversation. It was brought up here and was discussed before. The Senator says he has not read it; but when will he read it? After this matter is postponed, he will never think of it again until it is brought before the Senate.

Mr. FESSENDEN. I will try to do so.

Mr. SHERMAN. He may do so now, because he is under a specific pledge.

Mr. FESSENDEN. If the Senator will only furnish me a copy.

Mr. SHERMAN. I cannot do that. Senators must get them for themselves.

Mr. FESSENDEN. I will get one.

Mr. SHERMAN. Here is the difficulty; whenever the bill is brought up, it is postponed because the Senator has not had an opportunity to consider it. It seems to me the Senator must take a little on the information derived from others, and not depend solely on his own judgment on all these matters; or at least he ought to be willing to go on with the bill when it is brought before the body. I know we take a great deal on his judgment. We pass bills here, reported by him, sometimes without any examination whatever; and it seems to me he ought not to criticise the labors of others.

In conclusion, I will only repeat that I have said many times in this Senate that, under dire necessity, we must revise all the expenses of this Government. I am willing to commence with myself; then with those around me; and then extending the circle to those that are further off, until finally, and as a last resort, we strike at the Army and Navy, and all the officers engaged in those branches of the public service. I care not in what form it comes, whether in the shape of a tax, a *pro rata* reduction, or a carefully analyzed deduction, I am willing to vote for it, and I am willing to commence with myself.

ORDER OF BUSINESS.

The PRESIDING OFFICER. The morning hour having expired, it becomes the duty of the Chair to execute the order of the Senate, that the Senate proceed to the consideration of executive

business. The Sergeant-at-Arms will clear the galleries and close the doors.

Mr. TRUMBULL. I do not understand that an order to go into executive session is anything more than any other order that the Senate may make. There is a bill pending, which is in order this morning at one o'clock, upon which my colleague has the floor, and I apprehend it will take a vote of the Senate to go into executive session. We can go into executive session at any time. I supposed that the bill which has been under discussion for some days would be before the Senate at this hour, and, upon that, my colleague took the floor yesterday, and is entitled to the floor this morning. If he does not desire to go on, other persons would. I suppose that bill has precedence. My understanding yesterday, when he took the floor, was that it would come up at one o'clock today. It is a special order, made so by order of the Senate.

The PRESIDING OFFICER. It was ordered by the Senate yesterday, in executive session, that at one o'clock to-day the Senate should proceed to the consideration of executive business. The impression of the Chair is, an order of that sort cannot, of course, be discussed in open session—that the Senate must, at this hour, go into executive session. The question of which should have priority cannot be discussed in open session.

Mr. TRUMBULL. I apprehend it requires a motion to go into executive session, notwithstanding that order.

The PRESIDING OFFICER. Such is not the opinion of the Chair. The order made in executive session must be enforced by the Chair when the hour arrives, and cannot be discussed in open Senate.

Mr. TRUMBULL. I must be constrained to appeal from the decision of the Chair. That decision makes the action of the Senate in executive session superior to its action in open session. How does that order of the Senate in executive session differ from an order of the Senate in open session? If there were two orders for one o'clock to-day the oldest one would have precedence. Suppose that two special orders had been assigned for to-day; that the Senate on a former day had resolved that at one o'clock to-day bill No. 1 should be taken up, and had also resolved on a former day, but subsequent to the first order, that at one o'clock to-day, bill No. 2 should be taken up; when the hour arrived, what would the Presiding Officer do? Surely he would call up Senate bill No. 1 because it was the oldest special order.

There is another rule of the Senate that at one o'clock the business which was pending on the day previous is to be called up; and if there are several special orders for one o'clock, the one under consideration the day previous, being unfinished business, is entitled to precedence, as I understand it, on the succeeding day. Now, sir, does this differ in any respect from the case of several different special orders? I think it would be establishing a very bad precedent to say that an order made in executive session was to override the decisions of the Senate made in open session, if they come in conflict with each other. I do not know that this is a question that has been settled by any practice of the Senate. I do not remember an instance of the kind since I have been a member of the body; but it does seem to me that the oldest order, or that business which would be entitled to precedence, is entitled to precedence now, and the fact that this other order was made in executive session cannot change it. If the Senate had resolved yesterday to take up at one o'clock to-day bill No. 16, would bill No. 16 have come up at one o'clock, if there had been a prior order? Does this amount to anything more? It seems to me that the other question has precedence.

Mr. PEARCE. Touching the remarks made by the Senator from Illinois, I recollect one case which, it seems to me, may be in point. I remember that in the year 1844, when the Texas treaty was pending, the Senate determined in executive session—and I am violating no injunction of secrecy, because that has been removed—to go into executive session every day at one o'clock until that treaty was disposed of. Accordingly, when one o'clock arrived, the Chair announced that the Senate must go into executive session; and I never heard it contended, during the whole period of several weeks we were engaged in that discussion, that his decision was not perfectly proper. No one attempted to interrupt the order of the Senate made in executive session; no business ever interfered with it; and we discussed it for several weeks until it was finally acted upon. That seems to be an example in point; and that is the only one I recollect.

Mr. TRUMBULL. I should like to make an inquiry of the Senator from Maryland on one point. Being the oldest order of that kind, of course it would necessarily come up; but in that case, did it come in conflict with another special order, which was older, on the first day? After the first day it could not, because, being the business under consideration the day previous, and a special order for one o'clock each day, it would necessarily run along, and nothing would interfere with it, and this question of priority would not arise. It could only have arisen on the first day. Now, if there was another special order for the first day after the Senate resolved to proceed with the consideration of the Texas treaty, and the question was raised, then it would be a decision in point, and I should be disposed to acquiesce; but if there was no special order to conflict with it, of course, having once been entered upon, it would have had precedence all along. Here is another special order of an older date; and the question I desire to present is between that and an order to go into executive session.

Mr. PEARCE. At this distance of time—it is now some eighteen years since—I cannot say whether there was any special order pending in legislative session. I take it for granted, however, that such was the case; because ever since I have been a member of the Senate there have been very numerous special orders always upon our Calendar. I take it for granted, therefore, there were special orders at that time. But special orders in legislative session apply to the business of legislative session, and where there is a special order of the Senate in executive session, I apprehend it will not be considered as at all in conflict with special orders in legislative session, and the determination of the Senate in executive session will control the action of the body in legislative session, so far as carrying the body into executive session, when the hour arrives, is concerned. That certainly was the usage of the Senate at the time I mention.

Mr. TRUMBULL. If that has been the usage of the Senate—I do not recollect any case myself—I shall not persist in the appeal from the decision of the Chair, though it does strike me that the oldest order would be the proper one to consider. However, I shall not persist in it, under the statement made by the Senator from Maryland. I had not known of a case of the kind.

The PRESIDING OFFICER. Does the Senator withdraw his appeal from the decision of the Chair?

Mr. TRUMBULL. Yes, sir; I withdraw it, if that has been the practice of the Senate.

EXECUTIVE SESSION.

The PRESIDING OFFICER. It becomes the duty of the Chair to execute the order of the Senate made yesterday. The Sergeant-at-Arms will clear the galleries and close the doors.

The Senate thereupon proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *March* 6, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

COTTON IN PORTUGUESE COLONIES.

The SPEAKER laid before the House a message of the President of the United States, transmitting a copy of a dispatch to the Secretary of State from the minister resident of the United States at Lisbon, concerning recent measures which have been adopted by the Government of Portugal, intended to encourage the growth and to enlarge the area of the culture of cotton in its African possessions; which was referred to the Committee on Commerce, and ordered to be printed.

THE TRENT AFFAIR.

The SPEAKER also laid before the House a message of the President of the United States, transmitting a translation of an instruction to the minister of his Majesty the King of Italy, accredited to this Government, and a copy of a note to that minister from the Secretary of State, relating to the settlement of the question arising out of the capture and detention of certain citizens of the United States, passengers on board the British steamer Trent, by order of Captain Wilkes, of the United States Navy; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

COAST SURVEY.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury in reply to a resolution of the House of Representatives of January 7, 1862, calling for certain information in reference to the coast survey; which was referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. F. A. CONKLING. I move that one thousand extra copies be ordered to be printed.

The motion was referred to the Committee on Printing.

ROBERT F. WINSLOW.

Mr. LOVEJOY, by unanimous consent, reported back from the Committee of Claims the memorial of Robert F. Winslow, and asked that the committee be discharged from its further consideration, and that it be referred to the Committee on Military Affairs.

It was so ordered.

DEPUTY INSPECTORS GENERAL.

Mr. BUFFINTON, by unanimous consent, introduced a bill to authorize the appointment of two deputy inspectors general; which was read a first and second time, and referred to the Committee on Military Affairs.

VOLUNTEER SERVICE.

Mr. GOODWIN, by unanimous consent, reported from the Committee on Invalid Pensions a bill to amend an act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property;" which was read a first and second time, and recommitted to the Committee on Invalid Pensions.

KENTUCKY VOLUNTEERS.

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

Resolved, That the Committee of Claims be instructed to inquire into the justice and propriety of providing by law for the compensation of Captain Edward Penn, of Taylor county, Kentucky, for a horse lost and military service rendered by him to the United States; and also to inquire into the justice and propriety of providing compensation to officers and privates for military service rendered by them, under the command of the said Penn; and to report by bill or otherwise.

PERSONAL EXPLANATION.

Mr. KELLEY. I rise to a question of privilege. It may not be technically a question of privilege, but I trust the House will so treat it. I ask unanimous consent to make a brief statement touching a valued friend and constituent, to whom very grave injustice has been done by one of the committees of the House.

The SPEAKER. The Chair thinks that is not a question of privilege.

Mr. KELLEY. I ask consent to make a statement.

Objection was made.

Mr. KELLEY. I ask gentlemen to withdraw their objection, and hear what the statement is. It is not a favor to myself.

Objection was not withdrawn.

MEDICAL DEPARTMENT.

Mr. ALDRICH, by unanimous consent, introduced a bill to increase the efficiency of the medical department of the Army; which was read a first and second time, and referred to the Committee on Military Affairs.

DENHAM AND TOWNSBY.

Mr. GRIDER, by unanimous consent, reported from the Committee on Revolutionary Claims a bill for the benefit of the heirs and administrators of John Denham and George Townsby, deceased; which was read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

CAPTAIN MONTGOMERY.

Mr. GRIDER also, by unanimous consent, reported from the same committee a bill for the ben-

efit of Captain Montgomery, deceased, an officer in the army of the Revolution; which was read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

PICTURE OF GENERAL SCOTT.

Mr. MALLORY. I ask unanimous consent to introduce the following joint resolution:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Joint Committee on the Library be instructed to purchase Troy's picture of General Scott.

Mr. LOVEJOY and others objected.

LABOR IN NAVY-YARDS.

Mr. PIKE. I ask unanimous consent to report from the Committee on Naval Affairs, and have put upon its passage, a bill to amend an act entitled "An act to further promote the efficiency of the Navy," approved December 21, 1861.

The bill was read for information. It enacts that the eighth section of the act referred to shall be so amended as that the hours of labor and the rate of wages of employés in the navy-yards shall conform, as nearly as is consistent with the public interests, with those of private establishments in the immediate vicinity of the respective yards, and to be determined by the commandants of the navy-yards, subject to the approval and revision of the Secretary of the Navy.

Mr. PENDLETON. Is it proposed to refer this bill to a committee?

The SPEAKER. It is proposed that it shall be acted on at this time.

Mr. PENDLETON. I object to its being reported for that purpose.

WESTERN MILITARY CLAIMS.

Mr. BINGHAM. I rise to a question of privilege. I present the report of the committee of conference on the part of the House on the disagreeing votes of the two Houses on joint resolution S. No. 22.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the joint resolution (S. No. 22) providing for the payment of the awards of the commission to investigate the military claims in the department of the West, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate agree to the amendment of the House with an amendment, as follows:

Insert in lieu of the words stricken out by the House, the following:

This resolution shall apply only to claims and contracts for service, labor, or materials, and for subsistence, clothing, transportation, arms, supplies, and the purchase, hire, and construction of vessels.

JOHN A. BINGHAM,
JAMES F. WILSON,
Managers on the part of the House.
JOHN SHERMAN,
DANIEL CLARK,
MILTON S. LATHAM,
Managers on the part of the Senate.

Mr. BINGHAM. I move the previous question on the adoption of the report.

The previous question was seconded, and the main question ordered; and under its operation the report was adopted.

Mr. BINGHAM moved to reconsider the vote by which the report was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

DIVISION STAFF OFFICERS.

The SPEAKER announced the business regularly in order to be the consideration of the bill of the Senate (No. 122) providing for the organization of the staff attached to divisions of the Army of the United States, regular and volunteer, postponed on the 3d instant to this day, upon which the gentleman from Missouri [Mr. BLAIR] was entitled to the floor.

The bill was read. It provides that, during the existing insurrection and rebellion, each division of the forces of the United States, consisting of two or more brigades, shall have the following officers attached thereto, who shall constitute the staff of the permanent commander thereof, namely: one assistant adjutant general, and one assistant inspector general, who shall bear, respectively, the rank of major, and who shall be assigned from the Army or volunteer forces. Also three aids-de-camp, to bear the rank of captain, to be appointed by the President, upon the recommendation of the commander of the division, and the appointment to cease upon the expiration of his division command. Also one medical director, to bear the rank of major, and to be assigned from the surgeons or assistant surgeons of the regular Army, or from the brigade surgeons of volunteers. The division commander may detail an officer of his command, of the rank of captain, to act as judge advocate of the division, or a lieutenant of said command, upon the recommendation of said commander, may be assigned by the President to act as such division judge advocate, who shall bear the rank of captain while so assigned. Said officers shall receive the same pay and allowances as are provided by law for officers of cavalry of corresponding rank. Any officers of the regular Army assigned and detached to staff duty, as above provided, shall, upon the cessation of such service, resume their position in the regular Army, with the same rank and promotion as if they had continued to serve in their own regiments or corps. The senior officer of artillery in each division shall, in addition to his other duties, act as chief of artillery and ordnance at the headquarters of the division.

Mr. BLAIR, of Missouri. I am authorized by the Committee on Military Affairs to move to amend the bill, by inserting in the eighth line, after the words "adjutant general," the words "one quartermaster and one commissary of subsistence."

I will state to the House that this bill creates no new officers. It authorizes to be detailed from the Army, regular and volunteer, certain officers now in service. It does, however, give some additional rank. It gives to several of the officers who, under the law as it now exists, hold the rank of captain the rank of major. And this is necessary, if these persons are to command the other officers under them in the division. The brigade quartermasters, regimental quartermasters, and commissaries of subsistence should be under the command of the division quartermaster, and he should, of course, hold a superior rank.

Mr. F. A. CONKLING. I wish to ask the gentleman from Missouri whether the last line of the bill, as printed, is really the end of the bill now before the House? The reading of the bill was concluded by the Clerk with the word "division." I inquire of the gentleman whether that is really the end of the bill?

The SPEAKER. The bill ends with the word "division," as read by the Clerk.

Mr. BLAIR, of Missouri. I desire to state to the House that this bill is considered by the commanders of divisions, with whom I have conversed upon the subject, as very essential. I will state here that General McDowell urges its passage; that General Burnside has written to the commander-in-chief, insisting that he shall be allowed these additional officers.

We know, Mr. Speaker, that in some instances this same object has been accomplished in another way; that in the case of General LANE, for instance, who, for the purposes of the expedition upon which he proposed to enter, required a larger staff, and to accomplish the purpose, staff officers had to be appointed on General McClellan's staff and then assigned for duty to General LANE, in Kansas. The increase of staff was considered necessary by General LANE, and it seems the representations made by him to the President and War Department were so satisfactory that they acceded to his request.

I say it is deemed essential by commanders of divisions that they should be allowed upon their staffs the officers provided for by this bill. I have had no conversation with any officer in command of a military department of the Army who has not insisted upon the passage of the bill now before the House.

I believe I was incorrect in the statement with which I set out that this bill does not create any new officers, in one respect. It does allow three aids-de-camp, while the law, as it now stands, only allows two to the commander of a division. In every other respect, I believe, the statement I made is correct.

Mr. McPHERSON. Will the gentleman permit me to submit a few remarks upon the subject of this bill?

Mr. BLAIR, of Missouri. I will yield to the gentleman.

Mr. McPHERSON. Mr. Speaker, last Monday, I interposed an objection to the passage of this bill, because it was suddenly brought before the House, and I desired to examine and consider it. In the interval, I have given it considerable attention, and I am confirmed in my opinion that it ought not to pass. If it is to pass, there are some points on which it is highly important it should be amended. But I think a calm consideration will bring the House to the conclusion that it ought not to become a law.

As it stands, it proposes to increase the staff of nearly every division commander in the Army. It adds three officers, and if the amendment of the gentleman from Missouri [Mr. BLAIR] for a division quartermaster and a division commissary of subsistence be adopted, it will add five, each with a rank above any member of the present staff, and it will increase the rank of the former staff positions a corresponding grade, and, of course, with the rank there will be an increase of pay. I will speak more particularly of this again.

The member from Missouri commends this bill to the House upon the score of necessity, and he names one or two officers who are particularly anxious for the passage of this bill. Mr. Speaker, I should hesitate very much before I would make any obstacle to the passage of a measure essential to a vigorous and efficient organization of the Army; but it appears to me that the objections to the present method by which these division commanders—if this bill be the result of their recommendation—seek their purpose is open to so many objections that it ought not to be adopted by the House.

The gentleman refers to the opinion of General Burnside, who, he informs the House, has written to the Department, insisting upon the passage of some law by which his staff may be increased. Well, sir, there may be instances in which it may be desirable to enlarge the staff of a general in command of a department; and the gentleman, in the reference he made to the course pursued in the case of General LANE, has shown that it is already within the power of the President of the United States, when an emergency exists, requiring an increased staff for the commander of a division, to give that increase. But the fact that General Burnside requires additional members of his staff, it strikes me, is no valid argument for the passage of a wholesale bill like this. The necessity in the case of General Burnside will not apply to commanders of divisions in the Army generally, for the reason that he is in command of an independent and separate corps; he is in command of an independent, separate department, whereas in the case of a large majority of division commanders, such, for instance, as those in the army of the Potomac, no such increase is necessary, because they are immediately connected with the commanding general, whose staff has been created with reference to all the probable emergencies of the service. Hence, there is not the same necessity for a large staff for a commanding general of a division in this army there would be for a general commanding a separate and independent division or department.

But, Mr. Speaker, this is the first intimation I have heard, of a formal character, that General Burnside did require an increase of his staff. I did hear that, before he started upon his expedition, he had expressed the desire to have an additional staff, and that officers should be detailed for that purpose; but I do not think he has put in any official shape the opinion that his operations at Roanoke island were at all crippled by want of staff officers. I am very sure we have had no complaint from General Sherman that his operations at Port Royal were impeded by reason of a like cause, or from General Grant that he suffered inconvenience at Fort Donelson. Yet, if it were true in these particular cases, that an additional number of staff officers is required, that would furnish no argument in favor of a general increase of staff for every division general in the Army, no matter what may be the circumstances of his command.

Now, sir, in the third line of the bill you will find that its terms apply to every general commanding a division of the Army which "consists of two or more brigades." Now, if this bill passes, every general commanding a division which includes two or more brigades, no matter what may be the circumstances of his command, whether in camp or field, will be entitled to this enlarged staff; so that even if it were true that these generals commanding separate departments, or these generals commanding divisions actively engaged,

required these staff officers, it would not avail in favor of the adoption of that particular feature of this bill; and if the bill is to be passed, I think it highly important that this word "two" should be erased. We should stand to our legislation of July last, which required that each division should consist of three brigades, or bring it up to the standard which has been practically established, and make it apply only to those generals who have four brigades under their command.

In the next place, I find that the assistant adjutant general upon the staff of each general commanding a division in this entire Army is to be raised to the rank of a major. His duties are not increased in the least by this bill. He remains substantially assistant adjutant general of precisely as many brigades as he does at present. His duties are not increased in the least, and yet you propose to raise his rank by one grade and his pay correspondingly. Now, why? There is no other reason for it, except that in subsequent portions of this bill you bring into the general's staff an assistant inspector general and a medical director, who have the rank of major, and it is necessary, in order to make this organization complete, that you should raise this assistant adjutant general—generally called the chief of staff—to the same rank as the two officers you introduce. But if, as I hope, the House will vote out of the bill these two particular features, then there will be no necessity for the adoption of this, since they all hang together.

Again: there is to be an assistant inspector general, ranking as major, to be introduced into every staff. Now, that is, as I understand it, an increase of officers. The gentleman from Missouri says that these assistant inspectors general are merely to be detailed, and that there will be no increase in the number of officers. Well, sir, if an assistant inspector general is detailed to a staff he must be detailed from some other position, and either the duties of the position which he formerly filled will not be performed, or you will be obliged to increase the number of assistant inspectors general, or else to detail from some other part of your army organization persons to perform their duties; and I think that practically it will be impossible to carry out this bill without making a very large increase in the number of officers.

But what is the necessity of this assistant inspector general? I confess that I approach the discussion of a point of that sort with some degree of diffidence; but, so far as my observation goes, and so far as ordinary reasoning indicates, I cannot see that there is any necessity for the addition to the staff of every division general of this office of an assistant inspector general. I can understand why you require an assistant inspector general for every department of the Army, but I cannot see any necessity for the addition of an assistant inspector general to the staff of every general commanding a division throughout the Army. As every one knows, the Army regulations provide for a regular system of company and regimental inspection; and whether the Army is in the camp or the field, every regiment and every company is obliged to undergo inspection. Now, if our company and regimental officers are worth anything—and I presume they are, for they have been five or six months learning—they can perform this duty; and while it may be necessary and perfectly proper for the commanding general of a department, or of the Army, to have one or more inspectors general on his staff to detail, with a view to a general inspection of the Army at particular intervals, there is no necessity, as I believe, for the creation of these offices.

I have conversed with some military gentlemen who, hearing of my opposition to this bill, were anxious to remove the grounds of my objection, but I confess that I have not yet seen one who could give any reason, valid or invalid, for the creation of these offices except that it is desirable to make our army organization as complete as possible, and that it would be well to make a head in every division to every department of the division. If you proceed upon that basis, you will create office upon office, serving no useful purpose except to make things a little better rounded off. I confess that you would have, in theory, a more complete organization of the divisions of your Army, but I believe that not one division would be more effective in consequence of it than it is now.

Mr. Speaker, the next point open to criticism is this: there is a creation of the office of medical director. Here, again, I must differ from my friend from Missouri, who intimates that the mere detailing of a brigade surgeon of volunteers, or of a surgeon or assistant surgeon of the regular Army to do duty as medical director, will not create a vacancy in the position which he now fills, and will not be an actual creation of an office. Now, take as an illustration any one of your divisions. You have a division with three brigades, each brigade having a surgeon. Upon the passage of this bill creating a medical director, the medical department of the Army will detail from the volunteer corps, or the regular Army, a gentleman to act as medical director. Suppose a brigade surgeon of the volunteer corps be detailed for this purpose, as he would be of course, that will take him away from his brigade, and you must then allow that brigade to be without a brigade surgeon, or else the detailing of a brigade surgeon as medical director does create an office. You have I believe now one hundred and thirty or one hundred and forty brigade surgeons, and you have about thirty-five persons who have passed your medical board, and have been recommended for appointment as brigade surgeons. Every one of your brigade surgeons is to-day upon duty, and if you pass this bill creating the office of medical director for each of the divisions of the Army, you will require, besides your present force, the services of every man who has passed your medical board and been recommended for appointment as a brigade surgeon. You cannot avoid it. You have nearly forty divisions in your Army, and if you detail forty brigade surgeons to act as medical directors, you must supply their places by forty more who have been passed and recommended for appointment, or allow forty brigades to be without brigade surgeons.

Now, Mr. Speaker, what is the state of the case at present? Every division of your Army has to-day a medical director. The medical department of every division to-day is under the superintendence of one medical man, and just as efficiently under the superintendence of one medical man as it will be if you pass this bill. How is it done? The senior brigade surgeon is, by virtue of his seniority of commission, entitled to be medical director of the division. Every division to-day has a medical director in effect in the senior brigade surgeon. This bill proposes to break up that system and create a medical director, by which you will increase the number of medical officers not less than forty, or at least one for every division in the Army.

Mr. Speaker, there is another feature which I find in the fifteenth and sixteenth lines of this bill, which appears to me to have less merit than any of them, and which is more nearly a fancy arrangement than any provision of any Army bill I have seen in the House this winter. I find that it is proposed to authorize the general commanding each division to detail from the line a captain, or authorizes the President to detail a lieutenant, who for the time shall be a captain, to act as judge advocate of the division, as if the Army were to rest constantly and indefinitely upon the banks of the Potomac and to waste their time in holding courts-martial. I hope that the day is near, and from some indications I am inclined to believe that the day is near, when inaction shall give place to activity, and when there shall be substituted for this period of preparation, one of glowing, determined action; and in view of the possible advance of the Army and its coping with the enemy, what reason is there for the enactment of a permanent provision by which there is to be created for each division of the Army a judge advocate?

Mr. Speaker, I have a sixth objection to this bill, and it is quite as serious as any of the others. I find that, in the ninth line of the bill, it is provided that there shall be appointed three aids-de-camp, to bear the rank of captain, to be appointed by the President, on the recommendation of the commander of the division. As the law now stands, generals commanding divisions are entitled to this assistant adjutant general, ranking as a captain, and to two aids, with the rank and pay of lieutenant. The fourth section of the act of July last provides that the aids, authorized by the preceding section, shall be selected by the respective generals *from the officers of the Army or volunteer corps*. This bill reverses that principle. It provides that the three aids, who are to have the rank of captain, are to be appointed by the President, on the recommendation of the commander of the division, without any limitation whatever as to whether they shall be taken from the officers of the Army or from civil life. Now, I think that omission is a very significant and a very objectionable one

Mr. HUTCHINS. Will the gentleman, who has investigated this matter, allow me to inquire how much will this bill add to the annual expenses of the Army?

Mr. McPHERSON. I will come to that directly. Now, Mr. Speaker, why is it that while both Houses of Congress declared in July last that the aids for general officers should be taken from the regular Army or volunteer corps, there is an attempt now made to leave out that limitation? I will not go into motives or purposes; but I object to that feature. I do so on the very highest ground; because if this law be enacted, it will be a discrimination by the Congress of the United States against the officers who are now in the field, and be a positive invitation to your commanding generals to select their aids from civil life. I venture the prediction that if this bill becomes a law in its present shape—as I hope it will not—and if staff appointments are to be made under it, a large proportion of them will be made from civil life; and the aids will consist principally of young men who for some reason or other have not entered the volunteer service, but who may have held themselves aloof from volunteering in anticipation of an opportunity for promotion of this sort, irregular and improper as it would be.

But, Mr. Speaker, not only would it be a discrimination against officers of the regular Army and volunteer corps, but it would be a direct discrimination against those men in the ranks who would naturally be elected to fill the vacancies caused by detailing line officers to staff positions. You would thereby, as I believe, inflict a terrible blow on the *esprit de corps* of the Army, and you would do—what I hope no American Congress will do—put it out of the power of respectable, intelligent, and deserving men in the ranks—sergeants, corporals, and privates—to obtain commissions. I have, as I believe, no more than a proper feeling on the subject. I have had some opportunity of studying the character and qualifications of the men who compose the rank and file of the army of the Potomac. There are in the ranks a large proportion of sergeants, corporals, and privates fit to be lieutenants and captains of companies, and many of them are as competent for these positions as many of your brigadier generals are to be brigadiers. I hope that if this bill is to pass, there will be inserted in this section of it an amendment which I propose to offer, requiring these staff officers to be appointed from the privates, non-commissioned officers, and officers of the regular Army or volunteer corps.

These, Mr. Speaker, are my particular objections to this bill; but I have a general one, which was partially indicated before. It is that you are organizing, by means of this bill, a staff system far more extensive than there is any necessity for. I confess that it might be very agreeable for the commanding generals of divisions to have a staff organized on this basis. If we were on a peace establishment, or if we had an ordinary war establishment, and if the condition of the Treasury were such as to make it proper, I would be among the last to do anything which, by any perversion, could be construed into an attempt either to wound the honorable pride or cripple the ambition of any of our commanding officers. But I do not believe that this is necessary. I do believe that this proposed staff organization is more extensive than is required. The evidence of that is written in the history of our army operations. On that I will stand or fall.

Besides that, Mr. Speaker, this bill is largely expensive; and now I come to the question suggested a moment ago by the gentleman from Ohio, [Mr. HUTCHINS.] The present staff organization of your generals commanding divisions consists of an assistant adjutant general and two aids. The expenses of these officers are $429 50 per month. If this bill become a law, you will, in lieu of that, have the following organization: one assistant adjutant general, ranking as major, with pay of $197 per month, one medical director, ranking as major, with the same pay, one assistant inspector

general with the same rank and pay, and three aids, ranking as captains, with an aggregate pay of $463 50 per month. If the amendment offered by the gentleman from Missouri be adopted, it will add to these staff officers a division quartermaster and a division commissary of subsistence, each ranking as major, and each receiving $197 per month.

But the bill as it stands, leaving out for the present the amendment offered by the gentleman from Missouri, will increase the staff expenses of each general commanding a division from $429 50 per month to $1,054 50 per month, an increase for each division of the Army of $635 per month or $7,500 per year. This, on an estimate of there being forty divisions in the Army, will increase the staff expenses $300,000 a year; and if the amendment of the gentleman from Missouri shall prevail, the increased expenditure will be, under the operations of this bill, about $489,120 a year. As I understand it, there will be created by this bill about forty brigade surgeons, forty assistant inspectors general, and forty aids, and as proposed to be amended by the gentleman from Missouri, forty quartermasters and forty commissaries of subsistence. I do not pretend to say that there are exactly forty divisions in the Army, but I have, in an official shape, an intimation that such is the fact. I do not pretend to say that some means may not be devised by which certain subaltern officers may be detailed to perform the duties of some of those who may be detailed for service on the division staffs. But I do say that, as a general thing, that is impracticable, and it cannot be done without thereby weakening the company and regimental organization of the Army in other respects.

I do not feel that we are in a position to authorize us to take any such steps, with all my good feelings and friendly regard for the officers of divisions of the Army, many of whom I personally know, and all of whom I respect. To aid them in every proper way, I will be disposed to go with him who goes to the furthest extent consistent with the high obligations we owe the country. But the present bill will involve so much injustice and wastefulness, and accomplish, in my opinion, so little which should be regarded, in proportion to the injuries it will inflict, that I have felt it to be my duty to say this much in opposition to it.

With a view, however, to bring the House to a direct test vote upon it—while, if it is their intention to pass it in some shape, I desire to see it amended in one or two particulars—I will, if it be in order, move to strike out the enacting clause.

Mr. BLAIR, of Missouri. I yielded the floor to the gentleman to make remarks upon the subject, but not to make such a motion.

Mr. McPHERSON. If the gentleman objects to a test vote at this time, I will withdraw the motion.

Mr. BLAIR, of Missouri. I do not object to any test vote; but I believe I still hold the floor, and I do not yield it at the present for the motion which the gentleman indicates; certainly until something has been said in reply to the remarks he has made.

Mr. DUNN. Will the gentleman permit me to say a word or two upon the bill?

Mr. BLAIR, of Missouri. I will yield the floor to the gentleman from Indiana.

Mr. DUNN. I would not take any part in this discussion, except for the effect produced upon my mind in favor of the bill from repeated conversations held with General Burnside upon the subject—and I can say to the House that he is the only officer of the Army with whom I have had any communication upon the subject. In several conversations with him before he left this city, he expressed himself very anxious for the passage of some measure like this; and so impressed was he with the importance of its speedy passage that he wrote me a letter from Annapolis, shortly before embarking from that point on his expedition, again urging immediate action on this measure. I do not say that he recommended this particular bill, but he was anxious that a bill should be passed increasing the number of staff officers for division commanders. And so important did he deem the matter in his own case, that he appointed and took with him additional officers without any provisions being made for their compensation. So necessary did he consider the increase that he took them even upon these terms.

Now, it is very easy for a gentleman to find fault with particular provisions of a bill so general in its character as this. I could take the roll of the officers of this House, and point out officers—a good many of them—who, in my judgment, are receiving pay far beyond the value of their services, and who might very well be dispensed with altogether.

But I ask the gentleman from Pennsylvania to remember that while we have increased the number of employés in every department and bureau of the Government connected with the war, it is but reasonable that there should be some increase in the number of those actually engaged in the war. Since the commencement of this war, we have made three Assistant Secretaries of War, we have made an Assistant Secretary of the Navy, and have added, so far as I know, to the clerical force of every bureau connected with the war. If we have failed to do so in respect to any bureau, it has been a great fault on our part, for the business of the War and Navy Departments is still suffering for want of sufficient clerical force. Then, I say, when we are increasing the force in these Departments and bureaus, it is but a fair presumption that an additional staff force is also required by the generals in command of divisions.

I ask the attention of the gentleman also to the fact that the additional officers authorized by the bill are to continue only during the continuance of the present rebellion. The bill does not provide for a permanent increase of the staff officers of the Army.

I believe the way to give full efficiency to our Army is to give to those who have the responsibility of conducting the war the means which they themselves deem necessary. I repeat, that in my judgment, those men who are responsible before the country for conducting the war, and who have been commissioned because of their supposed ability, are better judges of what is necessary to make the Army most efficient, than the civilians upon this floor. I would pay just as much attention to their criticisms if they were to come here and find fault with the manner in which we are doing our business—although they might with reason complain of our delay and inaction—as I would to the criticisms of civilians upon this floor of the plans furnished by the officers in command of the Army for increasing its efficiency.

The gentleman from Pennsylvania seems to take particular exception to the provision of the bill which provides for the appointment of a judge advocate to each division. Why, does not the gentleman know that every day officers and men are arrested for some cause or other, and that it is important they should be tried by courts-martial as speedily as possible, so that if the charges are not sustained the parties arrested may be restored to their positions in the service?

Mr. McPHERSON. The gentleman must surely know that under the military regulations, as they now exist, whenever a number of arrests have been made a general court-martial is ordered by special order of the general commanding.

Mr. DUNN. I do not profess to know very much about military affairs, and would much prefer to rely upon the judgment of military men than upon my own judgment. I do know, however, that it was considered a matter of great grievance, prior to the present session of Congress, that no general court-martial could be held for the trial of military offenders in any department of the Army without the convictions being submitted to General McClellan for approval or disapproval. Now, the very creation of this office of judge advocate will have a tendency to increase the efficiency of the Army in this: that instead of keeping officers and soldiers arrested on various charges in confinement awaiting the convening of a general court-martial, by giving them a speedy trial, if the charges are not sustained, they will be restored at once to their positions in the field.

The gentleman from Pennsylvania, I think, makes his calculations upon a wrong basis as to the increase made by this bill in the number of staff officers. He proceeds upon the supposition that the whole Army is divided up into divisions of some four brigades each. Now, sir, we have no such divisions, or, at least, but few of them. Our Army is upon a grander scale. The divisions are much larger, and therefore the calculations of the gentleman do not apply to the basis as it exists. But, in any event, I ask if this increase in staff is needed to enable the generals in command to discharge promptly and efficiently the duties devolving upon them, whether it is not better to authorize the increase?

As to the objection the gentleman has made to a particular section of the bill which, in his judgment, would authorize the appointment of civilians upon the staffs of division generals, I ask him whether the very *esprit de corps* to which he has referred is not a sufficient protection against that? I ask him whether officers in command of an army in the field, who have upon them all the perils and responsibilities of battle, are very likely to place civilians in positions of responsibility?

Mr. McPHERSON. I ask the gentleman if civilians were not appointed to important positions in the Army in the beginning of the war?

Mr. DUNN. Yes, sir; at a time when we had not enough officers of experience in the country to command our armies, and had to select them from civil life. But now, when the complaint comes from the Army itself, that civilians have been put in command over those who have borne "the heat and burden of the day," and that this has been, and is being done through the influence of members of Congress and others not in the service, instead of promoting officers already in the service, I think there is no danger of civilians being appointed to these places by officers commanding divisions. However, without knowing the wishes of the chairman of the Committee on Military Affairs upon the subject, I have myself no objection to a provision excluding civilians; for I think with the gentleman from Pennsylvania that appointments to important positions in the Army ought to be made from those who have gone into the service of the country as officers or privates. I agree with him that appointments to high offices in the Army should not be made from civil life, except in very extreme cases.

I have said more than I intended to say upon this subject. I simply wished to bring before the House the fact that one of the most experienced and gallant officers of the Army had urged upon me, as a member of the Committee on Military Affairs, that a bill of this character should be pressed, and earnestly pressed, upon the consideration of the House, and passed as promptly as possible.

Mr. BIDDLE. Mr. Speaker, I entertain so much respect for my friend and colleague, [Mr. McPHERSON,] and know his ability so well in every sphere in which I have had the pleasure to be associated with him, that when he interposed an objection to this bill the day before yesterday, I saw with pleasure that the House entertained it, and gave him time to elaborate the views which he has presented here to-day; but I must say that reflection has not enabled me to coincide with them. I do not intend to reply to them in detail; but I would say generally that the fullest organization of the military staff is not too much for our Army under the present circumstances. I do not believe that there now exists, nor do I believe that this bill will create, one superfluous office—one office that is not needed for the efficiency of our troops in the field.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was received, by Mr. NICOLAY, his Private Secretary.

DIVISION STAFF OFFICERS—AGAIN.

Mr. BIDDLE. I was about to advert to the fact that a large number of officers in the volunteer army, who are performing their duties for the first time, require a greater amount of supervision, such as is given by inspectors and other officers contemplated by this bill.

With respect to the aids for division commanders, the House need only turn to the bill to see that these aids-de-camp are only to bear the rank of captain, and that their appointments are to cease on the expiration of the division command. They are, therefore, offices temporary in their character, and are not likely to be sought for in the line of the Army; indeed, there has always been a great disposition on the part of volunteer generals to take as their aids officers from the line of the Army.

It is a fact well known to the House that so many officers of the regular Army were selected by volunteer commanders for their staffs, that finally a regulation was made forbidding it. I do not

think it was for the benefit of the service, being thus deprived of the assistance of officers of the regular Army to act as their aids-de-camp. The consequence was, that general officers sought gentlemen of the highest character and capacity in the forces under their command. In the division which I had lately the honor to serve in, the division commander exercised such singular judgment and discrimination in selecting his aids, that he selected my colleague, [Mr. McPHERSON,] who most ably performed his functions. But the objection to detailing officers from other positions in the Army to fill these staff places is, that you leave their places vacant; and if they were useful officers there, their places must remain vacant, or, perhaps, be incompetently supplied; whereas, by leaving a wide circuit of choice, this bill permits competent men in the rank and file of the Army, (for they are not excluded,) or among the officers of the Army, or outside of the Army, to be employed for this occasional service.

Now, sir, I do not think that any bill has come before the House more strongly recommended by authority than the one upon which we are now about to act. The Senate has passed it. Our own Military Committee have recommended it unanimously. Officers of the highest rank have testified their particular interest in it. I chanced to meet this morning on the avenue a gentleman of very high military character; not a division commander, and having not the slightest interest in this patronage, either as donor or recipient. I had not met him before for some fourteen years, yet, after the usual salutations, the first question he asked me was, "Why will not your House pass this bill, which is to add so much to the efficiency of the Army?"

Now, sir, I believe that we shall incur very heavy responsibility if we should decline to give what is asked from us by persons representing the sentiments of the Army, and representing its interests and efficiency. I am as sensitive as any man to the objection of expense; but in the great military enterprise in which we are engaged we must discard that consideration sometimes, and really this will be a very small addition to the immense aggregate of our expenses in this war, and it is trifling compared with the efficiency which it is believed that this measure will give to the Army. I, for one, shall certainly vote for the bill with great pleasure.

Mr. BLAIR, of Missouri. I have had some experience of the ingenuity displayed in this House in making monstrosities out of small matters. I had some experience of it the other day, when a gentleman saw a railroad a thousand miles long in a very simple bill, and when I showed conclusively to the House that the Administration who were suspected of designing to build that road had nothing to do with the bill, then the bill was defeated by a counter current from the other side, that the Administration had not asked for it.

Mr. KELLOGG, of Illinois. Will the gentleman from Missouri permit me to suggest an amendment, to which I think he will agree?

Mr. BLAIR, of Missouri. I cannot agree to it, but I will hear what it is.

Mr. KELLOGG, of Illinois. I propose to insert after the words "brigade surgeon" in the seventeenth line, the words "or acting brigade surgeon." There is a large class of acting brigade surgeons who have only commissions as regimental surgeons, but are in fact brigade surgeons, and I think that out of that number these appointments might as properly be made as from among those who hold the position of brigade surgeons. I hope they will be included.

The SPEAKER. There is one amendment already pending, and no further amendment is in order, except an amendment to that.

Mr. BLAIR, of Missouri. I wish, in a few words, to respond to the gentleman from Pennsylvania, [Mr. McPHERSON.] He has two classes of objections to this bill, which are inconsistent with one another. One is, that he is opposed to detailing men from the service because their places will have to be filled up, and the other is, because the bill does not detail men from the service. I understand the gentleman so. He does not like the idea of detailing men from the service. Assistant inspectors general have already the rank of major. The adjutants general have already the rank of captains in the service, and are only to be promoted to majorities. The quartermasters and commissaries of subsistence are now already in the Army, and will only be promoted one step under this bill. The gentleman says that if they are detailed for this service somebody must supply their places. Now, sir, that is not the case.

[Here the hammer fell.]

Mr. KELLOGG, of Illinois. I hope the House will allow me to offer the amendment which I have indicated. It can be done by unanimous consent.

Mr. WRIGHT. I hope the House will give the gentleman from Missouri an opportunity of explaining the bill. He has yielded most of his hour to other gentlemen.

The SPEAKER. The gentleman will have an hour to close the debate.

Mr. KELLOGG, of Illinois. I ask the unanimous consent of the House to offer the amendment which I have indicated.

Mr. OLIN. I desire to make a suggestion to the gentleman, which I hope will induce him to withdraw his amendment. If this bill is to pass at all, for God sake let it pass to-day.

Mr. KELLOGG, of Illinois. This is a just and proper amendment, and I insist upon it, if the House will allow me to offer it.

Mr. OLIN. I object to it. If you want to kill the bill, you had better kill it here than send it back to the Senate.

Mr. KELLOGG, of Illinois. Well, I shall vote against it.

Mr. VAN VALKENBURGH. The only objection I have heard to this bill from the gentleman from Pennsylvania, that seems to me to be of any weight, is the fact that it increases the expenses of the Army.

It will be seen that these assistant adjutants general, assistant inspectors general, surgeons, and judges advocate are to be assigned to duty from among the officers already in the service. This will not, of course, increase the expenses, except insomuch as these officers are promoted from the rank which they now hold. It does not follow that the vacancies thus occasioned are necessarily to be filled either by appointments by the Governors of States or by the President.

Mr. McPHERSON. The construction of the War Department is that these vacancies will be filled. Whenever officers are detailed from the volunteer service, their positions are considered as being vacated, and are accordingly and necessarily filled.

Mr. VAN VALKENBURGH. I do not so understand it. I know that that has not been the case in all instances where the adjutant has been assigned to other duties. I have in my mind now one regiment from my State where its adjutant is first lieutenant in a battery assigned to duty, and the vacancy has not been filled, and will not be filled, by the Governor.

Mr. McPHERSON. The practice differs elsewhere. I conversed the other day with a general of one of our divisions, whose opinion I asked on that very point, and I learned from him that in every case where a regimental quartermaster or adjutant vacated his place in his division, the vacancy has been filled.

Mr. BLAIR, of Missouri. I desire to state that what the gentleman from Pennsylvania has said in reference to regimental quartermasters and adjutants is true. It is provided by law that persons detailed to those positions shall have the rank of lieutenant. They are considered as additions to the regimental officers, and their places are supplied. That is the law. But, so far as this bill is concerned, there is no law for filling the places of officers to be selected for staff appointments; and there is no power to do it, as they do not vacate their places. On that subject the gentleman from Pennsylvania is entirely incorrect.

Mr. LOVEJOY. I wish to ascertain what the particular duties of a division quartermaster would be. I suppose there are regimental quartermasters and brigade quartermasters; and then the point is, what are the duties of a division quartermaster?

Mr. BLAIR, of Missouri. I will state to the gentleman from Illinois one instance of the duty of a division quartermaster. If a division of the Army is preparing to move, it is the duty of the quartermaster to provide for the transportation. If one of the brigade quartermasters were to act as division quartermaster, he would be very likely to take particular care of his own brigade, and not to provide fairly for the other brigades. The division quartermaster would be the person in charge of the entire transportation of the division. He would be bound to know, from his position, what amount of transportation each brigade would require, and would divide the transportation accordingly. As a matter of course, the division quartermaster has other duties to perform; but this is one illustration of his duty. He would have the general superintendence of all the quartermasters subordinate to him.

Mr. LOVEJOY. I ask the gentleman whether the duties which are described as belonging to the division quartermaster are not now, by law, devolved on the senior brigade quartermaster?

Mr. BLAIR, of Missouri. I do not know whether they would devolve on the senior brigade quartermaster; but it seems to me that it would be a very ungenerous thing to require a man to perform the duties of a quartermaster of division while he was to receive only the pay of a quartermaster of brigade.

Mr. VAN VALKENBURGH. It may be, Mr. Speaker, that the vacancies made by assignment of officers to other positions, are required to be filled; but I know that such requirement has not been, in every case, complied with, even in the case of officers in the volunteer service. The gentleman from Missouri says that the law is, that where the assignment is made of officers from the regular Army, the vacancies are not filled. Even this law provides that any officer of the regular Army, assigned and transferred to staff duty, shall, on the cessation of such service, resume their positions in the regular Army, with the same rank and promotion as if he had continued to serve in the same corps. Consequently, if that vacancy had been filled on the assignment of the officer to other duty he could not have returned to his position.

Now, it seems to me that the staff which this bill provides for a commander of division is a small one. When you take into consideration the fact that a division consists of from eight to sixteen thousand men, the requirements of the officer in command of that division, doing his duty as it should be done, demand that he shall, at least, have the assistance of as many staff officers as are provided for in this bill. All these officers, with the exception of the aids, are to be appointed from those already in the service. The aids, it seems, are to be appointed by the President, on the recommendation of the division general, from any class or condition in life. It seems to me that it is eminently fit that a division general should have the privilege of selecting his aids from men outside of the Army who may be better competent to discharge the duties required of them, than any in the Army. He may, for instance, desire some foreign officer to serve on his staff—some officer who has seen service abroad, and who is not attached to the regular Army or volunteers. It seems to me that, in that respect, the bill is as it should be; and that these division generals should have the privilege of selecting their aids wherever they may find them.

Mr. KELLOGG, of Illinois. The objection to the amendment which I offered is now, I understand, withdrawn, and I desire to offer it.

Mr. BLAIR, of Missouri. I have no objection to the gentleman offering his amendment.

Mr. KELLOGG, of Illinois. Then I ask unanimous consent to offer the following amendment:

In line seventeen, after the words "brigade surgeons," insert the words "or acting brigade surgeons."

There being no objection, the amendment was received.

Mr. SHEFFIELD. Mr. Speaker, I confess to the House in the beginning that I know nothing in regard to military matters. I have been always content to leave these to military men, to adopt their suggestions, to vote them the means necessary to carry on the war, and to hold them responsible for the use of those means. I should not trouble the House now with a single suggestion, were it not for the fact that a constituent of mine has been repeatedly alluded to by gentlemen on the floor—I mean General Burnside. He asks that additional aids be given him. It seems to me that if he asks it he needs it. I say this from a knowledge of his character. Certainly that gentleman has reflected no discredit on the Government since he has been in service.

I rose principally to make a suggestion in reply to one made by the gentleman from Pennsylvania,

[Mr. McPHERSON,] with reference to the source from which these aids shall be taken—whether from the Army or from civil life. General Burnside has already selected two of his aids from men who served under him as privates in the three months' regiment which he commanded—men who distinguished themselves while they were serving under him. It seems to me that so far as this officer is concerned, the selection of his aids may be safely trusted to him. I do not think that any injustice will be done to the Government by him or by any other officer in selecting their aids. No amendment need be made to the bill on that point. For one, I am willing to vote these military men almost anything they ask, if they will only put down this rebellion.

Mr. BLAIR, of Missouri. I now call the previous question on the amendment.

Mr. DIVEN. I ask the gentleman to yield to me for a moment.

Mr. BLAIR, of Missouri. I will yield to the gentleman.

Mr. DIVEN. I want to make a single remark. Since the introduction of this bill, I have examined, to some extent, the organization of the European armies as they appear from the French Military Almanac—I believe that is the designation—and the British Army List, and I find that officers having commands corresponding with the commands of our division generals have uniformly much larger staffs than is given to any division general of our Army.

Mr. BLAIR, of Missouri. The gentleman from Pennsylvania [Mr. McPHERSON] indicated his desire to offer an amendment to this bill. I certainly will afford him the opportunity of offering that amendment, and I shall interpose no obstacle to any other amendment being offered by any other gentleman. What I desire is to terminate the debate on this bill, for I think the House has become tolerably well informed as to the provisions of the bill, and are prepared to vote upon it.

The gentleman from Pennsylvania insisted in one instance that the officers of the Army should not be detailed to service on the staffs of division commanders, and in another he objected to civilians being appointed to those positions. I understand that his amendment is to apply to the removal of the latter objection. He desires to confine the selection to the officers in the regular and volunteer service. Well, sir, from the encomium he has passed upon the privates, I would rather he would have extended it to all engaged in the regular and volunteer service. We have a large army, an army which has been raised in an unprecedented short time, from a people who are not addicted to military affairs. There is no other nation on earth that ever levied such an army in so brief a period of time; no other civilized nation on earth which had not a larger nucleus of an army than this nation had. But now we have the objection raised that there will be an additional expense incurred if we, in our efforts to improve the organization which has existed up to this time in our army, add some officers to the number heretofore authorized for that purpose.

Now, sir, I believe our Army would be the most invincible on earth if they had the requisite discipline. The staff officers of the Army have been well described as to the Army what the senses are to the natural person. They are the hands, the feet, the eyes of the Army. They are to make provision to enable the Army to move; they supply and perform those functions without which your Army, no matter what may be its numbers, no matter how brave may be the bravery of the men composing it, would be almost useless.

And I cannot conjecture upon what grounds gentlemen base their objections which have been made here to-day. Now, the fact is, that the major generals commanding in our Army are entitled, under existing law, to three aids-de-camp, with the rank of captain, who are to be selected, as the gentleman has said, from the officers of the regular or volunteer forces. The other staff officers which are assigned to these division commanders, are detailed from the staff corps of the Army. The adjutant of a regiment is the only adjutant known to our volunteer army. All the adjutants general are designated to perform the duties of adjutant for brigades or divisions from the staff corps, which has been organized, and belongs to the regular Army of the United States. There are in that corps, as a matter of course, higher officers, but those occupying the position of brigadiers or colonels are detailed for service in the War Department, or are assigned to the staff of the general commanding the Army.

Now, this bill simply gives to those officers who perform the duties of adjutant general for a division of the Army a rank commensurate with their responsibility and the labor they perform. It is proposed by this bill to advance them one step in grade temporarily during their assignment to the staff of a general commanding a division. The same thing is true in reference to quartermasters and commissaries of subsistence included in the amendment I have offered to the bill; and let me say that one reason which induced the Committee on Military Affairs to direct the amendment to be offered, was the fact that it was considered by Quartermaster General Meigs as vital to the efficiency of the service.

Now, sir, I do not know what may be the views of the House upon this subject; but I am well satisfied that there is nothing in the objection offered by the gentleman from Pennsylvania. I think it is a pity that he indicated his hostility to this measure the other day, and has since employed his time in supporting the position he then took, which he has done with a great deal of ingenuity, I will admit. I now move the previous question upon the pending amendments.

The previous question was seconded, and the main question ordered to be put.

The amendment submitted from the Committee on Military Affairs was agreed to.

The amendment submitted by Mr. KELLOGG, of Illinois, was agreed to.

Mr. McPHERSON. I move to lay the bill on the table.

Mr. BLAIR, of Missouri. I suggest to the gentleman that he will accomplish his purpose as well by voting against the bill on its passage. He is only multiplying votes.

Mr. McPHERSON. Not at all. If this motion is carried, there will be but one vote. I call for the yeas and nays upon the motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 42, nays 66; as follows:

YEAS—Messrs. Ancona, Babbitt, Joseph Baily, Baker, Samuel S. Blair, Campbell, Chamberlin, Clark, Clements, Roscoe Conkling, Cutler, Davis, Dunlap, Edwards, Fessenden, Frank, Hale, Hutchins, Julian, Kelley, Killinger, Lazear, Loomis, McPherson, Moorhead, Patton, Pike, Porter, Sargent, Shanks, Shellabarger, Sherman, Shiel, Stevens, Verree, Wallace, E. P. Walton, Wheeler, Wickliffe, Wilson, Windom, and Worcester—42.

NAYS—Messrs. Aldrich, Ashley, Baxter, Beaman, Biddle, Bingham, Francis P. Blair, Jacob B. Blair, Blake, William G. Brown, Buffinton, Calvert, Cobb, Colfax, Corning, Cox, Crisfield, Crittenden, Diven, Dunn, Edgerton, Fisher, Goodwin, Granger, Grider, Gurley, Haight, Hall, Harrison, Horton, William Kellogg, Knapp, Leary, Lehman, Lovejoy, McKnight, Mallory, Menzies, Anson P. Morrill, Morris, Nixon, Noble, Norton, Odell, Olin, Pendleton, Perry, Timothy G. Phelps, Pomeroy, Price, John H. Rice, Richardson, Riddle, Robinson, Sheffield, John B. Steele, Benjamin F. Thomas, Francis Thomas, Trowbridge, Van Valkenburgh, Voorhees, Wall, Charles W. Walton, Whaley, Albert S. White, and Wright—66.

So the bill was not laid on the table.

Before the vote was announced,

Mr. F. A. CONKLING stated that he had paired with Mr. WEBSTER, who was detained from the House by sickness.

Mr. McPHERSON. I now move to amend the bill by inserting in the twelfth line, as follows:

To be selected by their respective generals from privates, non-commissioned officers, and officers of the Army or volunteer corps.

The amendment was agreed to.

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

Mr. BLAIR, of Missouri, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. FORNEY, their Secretary, announcing the passage by the Senate of a joint resolution (No. 61) tendering the thanks of Congress to Captain Louis M. Goldsborough and the officers, petty officers, seamen, and marines under his command for the victory at Roanoke island; in which he was directed to ask the concurrence of the House.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The message further announced that the Senate insist on their amendments disagreed to by the House to the bill of the House (No. 208) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1863, and making additional appropriations for the year ending June 30, 1862; disagreed to the amendment of the House to their thirty-fifth amendment to the said bill; ask a conference with the House on the disagreeing votes of the two Houses thereon; and have appointed Mr. FESSENDEN, Mr. HARLAN, and Mr. McDOUGALL the managers at the said conference on the part of the Senate.

Mr. STEVENS. I ask that the conference may be agreed to on the part of the House.

The motion was agreed to.

The SPEAKER thereupon appointed Mr. STEVENS, Mr. BUFFINTON, and Mr. DUNN as the managers of the House at the said conference.

EMANCIPATION.

Mr. STEVENS. I ask the consent of the House to have taken up and read a message from the President of the United States, which is lying upon the Speaker's table.

There being no objection, the following message from the President of the United States was taken up and read:

Fellow-Citizens of the Senate
and House of Representatives:

I recommend the adoption of a joint resolution by your honorable bodies, which shall be substantially as follows:

Resolved, That the United States ought to coöperate with any State which may adopt gradual abolishment of slavery, giving to such State pecuniary aid, to be used by such State in its discretion, to compensate for the inconveniences, public and private, produced by such change of system.

If the proposition contained in the resolution does not meet the approval of Congress and the country, there is the end; but if it does command such approval, I deem it of importance that the States and people immediately interested should be at once distinctly notified of the fact, so that they may begin to consider whether to accept or reject it. The Federal Government would find its highest interest in such a measure, as one of the most efficient means of self-preservation. The leaders of the existing insurrection entertain the hope that this Government will ultimately be forced to acknowledge the independence of some part of the disaffected region, and that all the slave States north of such part will then say, "the Union for which we have struggled being already gone, we now choose to go with the southern section." To deprive them of this hope, substantially ends the rebellion; and the initiation of emancipation completely deprives them of it as to all the States initiating it. The point is not that *all* the States tolerating slavery would very soon, if at all, initiate emancipation, but that, while the offer is equally made to all, the more northern shall, by such initiation, make it certain to the more southern that in no event will the former ever join the latter in their proposed confederacy. I say "initiation," because, in my judgment, gradual, and not sudden emancipation, is better for all. In the mere financial or pecuniary view, any member of Congress, with the census tables and Treasury reports before him, can readily see for himself how very soon the current expenditures of this war would purchase, at fair valuation, all the slaves in any named State. Such a proposition on the part of the General Government sets up no claim of a right by Federal authority to interfere with slavery within State limits, referring, as it does, the absolute control of the subject in each case to the State and its people immediately interested. It is proposed as a matter of perfectly free choice with them.

In the annual message last December, I thought fit to say, "the Union must be preserved; and hence all indispensable means must be employed." I said this not hastily, but deliberately. War has been made, and continues to be an indispensable means to this end. A practical reacknowledgment of the national authority would render the war unnecessary, and it would at once cease. If, however, resistance continues, the war must also continue; and it is impossible to foresee all the incidents which may attend, and all the ruin which

may follow it. Such as may seem indispensable, or may obviously promise great efficiency towards ending the struggle, must and will come.

The proposition now made, though an offer only, I hope it may be esteemed no offense to ask whether the pecuniary consideration tendered would not be of more value to the States and private persons concerned, than are the institution, and property in it, in the present aspect of affairs.

While it is true that the adoption of the proposed resolution would be merely initiatory, and not within itself a practical measure, it is recommended in the hope that it would soon lead to important practical results. In full view of my great responsibility to my God and to my country, I earnestly beg the attention of Congress and the people to the subject.

ABRAHAM LINCOLN.

March 6, 1862.

Mr. STEVENS. I move that the message be referred to the Committee of the Whole on the state of the Union, and printed.

The motion was agreed to.

PURCHASE OF COIN.

Mr. STEVENS, from the Committee of Ways and Means, reported a bill to authorize the purchase of coin, and for other purposes; which was read a first and second time.

Mr. STEVENS. I wish to say a single word in explanation of this bill. It will be recollected that by an amendment to the Treasury note bill, made by the Senate, and concurred in by this House, the Secretary of the Treasury was authorized to sell bonds at their market value for the purpose of meeting what was made necessary by the specie amendment. That did not include the seven and three tenths per cent. notes. The Secretary of the Treasury is of opinion that he could dispose of them to much better advantage than the bonds at present, and inasmuch as $60,000,000 of notes are made receivable for public dues, for imports, there will be no coin coming from that quarter at present to pay the interest. There must, therefore, be a sale of bonds unless this bill is passed, and the Secretary thinks that he can make a much better bargain with the bullion brokers if he has an opportunity of selling the seven and three tenths per cent. notes, $100,000,000 of which were issued. That is the reason why this bill is reported.

There is another thing: he is authorized to sell bonds at the market value. It has turned out, just as I supposed it would, that he cannot get anybody to buy them at the market value, and that he must take for them what the banks will offer. He finds now that he cannot sell them at the market value, and must have liberty to sell them at such rates as he can dispose of them for, or this interest cannot be paid.

All this thing is against my judgment, but it is rendered necessary by the unfortunate amendment to the Treasury note bill to which I have referred. I trust that the Secretary of the Treasury will be enabled to pay this interest in coin, no matter at what sacrifice, since it has been so ordered by Congress. I call the previous question.

The previous question was seconded, and the main question ordered.

Mr. WICKLIFFE. I should like, with the consent of the House, to make an inquiry of the chairman of the Committee of Ways and Means.

There was no objection.

Mr. WICKLIFFE. I understand from the reading of the bill that there is no limit to the amount of specie thus to be purchased by the Secretary of the Treasury, and no intimation of what is to be done with the specie after it has been purchased. There is no limit in the bill as to the amount, is there?

Mr. STEVENS. There is not.

Mr. WICKLIFFE. Then I cannot vote for it.

Mr. STEVENS. The bill is such a one as was sent to us by the Department, with an urgent request to have it passed to save the credit of the Government.

Mr. WICKLIFFE. I should like to have the amount limited.

Mr. PENDLETON. I move to reconsider the vote by which the main question was ordered, in order that we may have the bill considered for a very short time.

The motion to reconsider was agreed to.

Mr. PENDLETON. I now move to postpone the further consideration of the bill until to-morrow, and that it be printed, so that we may have an opportunity to see what it contains.

Mr. STEVENS. I cannot object to so reasonable a request as that, although the Department seems to be very urgent in the matter. If the House sees proper to take time to examine the bill further, I shall not find any fault with it; but I shall not consent to the postponement.

Tellers were ordered on the motion to postpone; and Messrs. LEHMAN and HARRISON were appointed.

The House divided; and the tellers reported—ayes 42, noes 47; no quorum voting.

Mr. COLFAX. There is evidently a quorum in the Hall, and I suggest that there be a recount.

Mr. STEVENS. I think it will save time if we let the bill go over till to-morrow.

The further consideration of the bill was then postponed until to-morrow, and it was ordered to be printed.

PATENT OFFICE REPORT.

Mr. WALTON, of Vermont, from the Committee on Printing, submitted a report in writing in regard to the destruction by fire of the sheets of the second volume of the Patent Office Report, mechanical department, for 1860, accompanied by the following resolution:

Resolved, That the Committee on Printing be discharged from the further consideration of so much of the report of the Superintendent of Public Printing as relates to the sheets of the mechanical report of the Patent Office for 1860, which have been destroyed by fire.

The resolution was adopted, and the report was laid upon the table, and ordered to be printed.

CHARLES HENRY FOSTER.

Mr. MORRILL, of Maine, by unanimous consent, presented a memorial from one hundred and sixty-eight loyal electors in the second congressional district in the State of North Carolina, asking the admission of Charles Henry Foster as Representative of said district in the House of Representatives of the United States, and other papers pertaining thereto.

The memorial and papers were referred to the Committee of Elections, and ordered to be printed.

EXTENSION OF CONTRACTS.

Mr. HAIGHT, by unanimous consent, introduced a joint resolution to authorize the Secretary of the Navy to appoint a commission to investigate into the propriety of extending certain contracts for steam machinery; which was read a first and second time, and referred to the Committee on Naval Affairs.

REVOLUTIONARY PENSIONS.

Mr. BLAIR, of Pennsylvania, by unanimous consent, introduced a bill regulating claims to revolutionary pensions; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

THE FRANKING PRIVILEGE.

Mr. STEVENS moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HUTCHINS in the chair,) and resumed the consideration of the bill to regulate the franking privilege, upon which Mr. PERRY was entitled to the floor.

CONDUCT OF THE WAR, ETC.

Mr. PERRY. It is with great reluctance that I enter at this time into any discussion; but the questions of emancipation and abolition having been forced upon this House in various forms by the gentleman from Massachusetts, [Mr. ELIOT,] the gentleman from Pennsylvania, [Mr. STEVENS,] the gentleman from Illinois, [Mr. LOVEJOY,] the gentleman from Ohio, [Mr. BINGHAM,] and others professing similar sentiments, at a time like the awful present, involving issues so vital and important, plain good intention, a wish to prevent any misconstruction of the views of my constituents, and an earnest desire for the welfare of my country, are the only motives that prompt me to trespass for a few moments on the attention of this House.

If there ever was an occasion that called for an exalted conception of public affairs, or for a superhuman effort to cast aside the bonds of fanaticism and stand before the world a patriot, not a partisan, it is the present. We never have seen, and I trust to God we never will see again, such a crisis. Everything that makes life desirable is depending on the fortune of war; but the result of that war rests with our loyal people.

Those measures advocating the abolition of slavery involve and virtually ask the question, shall the Government be maintained and the Union preserved? They present themselves at the bar of this House clad in the borrowed garments of necessity. They bear beneath their deceptive folds a sword drawn to destroy and sever the Union—a shield to shelter and defend the beloved African. They are, Mr. Chairman, wolves in sheep's clothing.

The fact that these extreme measures are totally unconstitutional is perhaps sufficient to condemn them; but there is nothing in the Constitution that gives them even the shadow of a foundation. This is a contest to uphold and maintain, not to destroy and overthrow the Constitution. The American Union can exist no longer than the Constitution remains safe from the insidious attacks of these abolition doctrines. If we give up our defense of the Constitution, or yield one inch of the sacred territory upon which we take our stand, we seal our own fate, are accessory to our own insignificance, and aid in our own destruction. If I understand, sir, anything of the object of this war, it is designed for the preservation of the country, and not for its destruction; yet you propose to annihilate the great institution of the South that you may preserve the South. How can you preserve the whole by destroying any part! But you may be willing to sacrifice, if *necessary*, a part, to save the rest.

For myself, I want far, far stronger proof that emancipation or abolition is a necessity. I cannot now be made to believe that it is necessary to make the slaves our allies in suppressing this rebellion.

This is not a war for the destruction and depopulation of the South, but a war to preserve the South, and restore it to the protection of the Government and the laws.

Since all our acts have such an influence on the existence of our nation, it is necessary that we should look at the effect of our measures.

What, then, would be the effect of the adoption of these abolition schemes?

And here the book of fate is opened to us so wide that he who cannot draw from it instruction and warning must be blind indeed.

Though I think that the advocates of these measures err in their judgment, still I have the charity to believe in the rectitude of their intentions. But the effects of this policy are so certain that they seem to me to be evident to almost dullness itself.

The universal condemnation with which this emancipation doctrine has been received in Kentucky, Missouri, and Tennessee, is a sufficient index of its effect in the rest of the southern States. Men that were formerly Union men have actually been driven to take up arms and join the rebel army. We find that on the very day that General Frémont's cloven foot was shown, there were three thousand enlistments in General Price's rebel army. From escaped and released prisoners, from deserters from the rebel army, from a hundred sources, we have an unlimited amount of proof that it is the general impression of the South that this war has for its direct object the emancipation of the slaves. However much we may disclaim such a policy, still that does not alter the fact that such an impression prevails. The soldiers and people derive these impressions from their leaders; but the truth cannot be shut out from the people for any great length of time.

Now, if these rumors are without foundation they must fall to the ground, and when they do they bury their authors in the ruins.

There are thousands at the South who cannot thus be misled by the leaders who are compelled to occupy a neutral position. But give these reports the shadow of a foundation in fact; let this abolition policy be adopted, and the South will be united heart and hand in one unanimous effort to establish their house upon a rock.

It has been sufficiently demonstrated that it requires all the strength of the Government to maintain itself against the attacks of those actually rebelling, but yet you seem determined to inspire them with greater strength.

I accept the proposition of the honorable gentleman from Massachusetts, that this war "is a question whether the Government or the rebels shall be stronger." I think it has been sufficiently well demonstrated that the southerners are valiant fighting men, and that it requires all the giant power of the North to cope with them. Then, sir, when our salvation is doubtful, it is the height of folly and blindness to throw into the balance against us *all* the hatred, *all* the vigor, *all* the strength of feeling in the southern heart. To say the least, it is not according to the dictates of common sense to make bad worse by driving the entire South to arms. Such measures as these will convince them that fanaticism rules the councils of the nation, and will animate, nerve, and strengthen them in their efforts to build on the ruins of the American Union a southern confederacy—a monument to our insane and suicidal policy.

Since these measures will insure a united and exasperated South, why do you hasten to destroy all that is desirable in the present that some imaginary good may be secured in the future? When we show to the South the utter want of a foundation for their delusion; that we are not enslaved by the insane measures promulgated by the abolitionists; that we worship our country, but not abolitionism, then, sir, we will rob them of one half their strength, and break the strongest sword drawn to sever the Union. If we utterly rout these measures, and proclaim to the South that loyalty is to be maintained, disloyalty subdued, we will create a political revolution in our favor; surely a result devoutly to be wished. Thus we will put those actually rebelling in such an odious light that they cannot possibly maintain the formidable front they now present, but will be compelled to succumb to the powerful reaction of the southern people. But if we drive them into a position which they do not now occupy, if we are determined to make the entire South our mortal foe, then should the whole North rise in mass and crush the people of the South. Let me tell you, at that late hour we would find, to our sorrow, that "he who overcomes by force alone hath overcome but half his foe."

But how will these measures affect the state of affairs at the North? In the anxiety for the developments of the future, in the terrible suspense of the present, all have forgotten the past. The loyal men of the North have cast aside all party prejudice. They have forgotten the mottoes daubed on the tissue banners of partisanship. They have buried the hatchet, and united in this effort to maintain the Government. Party has been swallowed up in the broad stream of patriotism that surrounds our country. Why are you so anxious, at such a time as this, to dig up the buried hatchet, and fulfill the earnest expectation of the South, by making a divided North? The fabric of a southern confederacy, built by the wicked imaginations of men deluded by a false ambition, was founded on the expectation of aid from foreign Powers and the hope of a divided North. Since one half of the foundation has vanished, it remains with you to withdraw the other half, and dash the proud fabric to the dust. Why do you oppose and try to unsettle the noble principle of action adopted by the President, to whom all eyes are turned, and in whom all hopes are concentrated? The loyal men of the country look to the Administration to defend the Constitution, and not turn their armies into a band of crusaders against the institution of negro slavery; and, sir, let me tell you the will of millions of patriots is no thing to trifle with.

The Democratic Union party now, as heretofore, insists on the enforcement of the laws throughout all this country, and they rejoice in supporting, with heart and hand, a President who seems determined to fulfill his oath of office; and to preserve the Union by maintaining the Constitution. Let them never see a desertion from the cause of the Union, or this noble struggle converted into a John Brown foray; then, sir, the abolitionists will have to fight their own battles; or follow an illustrious example and resort to insane asylums.

Sir, the nation looks to the President to stand unmoved by either of the factions, North or South. He must conquer the faction at the South that are trying to overthrow the Constitution by substituting one of their own making, and that faction at the North who are trying to subvert the Constitution by applying the power of the nation to carry out their abolition schemes.

The adoption of this policy will as surely cause a division at the North as that a sun shines in the heavens. It should be our chief aim, for our salvation depends upon it, to keep the North united and divide the South. Yet the certain result of these measures will be to unite the South and divide the North. "United we stand; divided we fall!" The heart of the people must be in this mighty struggle. They must be attached to the Government, the leaders of the Army, the commanders of the Navy. Their affections must be anchored deep in the foundation of our sacred institutions. With this, we are safe and victorious against every foe; without it, the Government would be a number of tottering columns; the Army a miserable rabble; the Navy but a floating mass of rotten timber. Why will you shatter the wonderful confidence the people have placed in the Government? When the nation is rising in its strength, and every preparation is made to bring the war to a successful termination, and everything is conspiring to make easy the way to conciliation, when success is almost in our grasp, by resorting to these desperate measures, you block up forever the road to victory.

If these are the facts of the case, and I know not who can deny them, how utterly absurd does such a policy appear! With what confusion should its advocates be covered!

"Is there not some chosen curse,
Some hidden thunder in the stores of heaven,
Red with uncommon wrath, to blast the man
Who owes his greatness to his country's ruin?"

The gentlemen seem to lose sight of the object of this war. It would be well to determine what this contest was commenced for. Was it not because the traitors of the South attempted to supplant the Constitution of the United States by one they had framed for themselves? Since the day our nation's flag fell, "fluttering like a wounded bird," on the ramparts of Sumter, seven hundred thousand freemen have drawn the sword to avenge the insult, and maintain that banner as the emblem of the Union. Our patriot soldiers, who have taken their lives in their hands, have gone forth in defense of the Union; that, sir, being their sole object, not to advance any single doctrine or to establish any theory. When these men hear that their lives are endangered not for the Union, but to supply the slaves with knives to cut their masters' throats, then will they, in the might of their indignation, rise and tell you that they never trusted their lives to your care thus to be sacrificed for the liberation of the "almighty nigger." They swore to maintain and not to overthrow the Constitution of the United States.

Mr. Chairman, I never can consent that the armies sacred to the cause of the Union, the Constitution, and the rights of man, should be used to violate those first principles; to crush the loyal as well as the disloyal, and to overthrow where they should build up. Never shall I consent that our Army of freemen shall be converted into so many John Browns. Ye who so loudly cried "not guilty" when that infernal insurrection was started at Harper's Ferry, why now are you so anxious to carry on the same insurrection on a magnificent scale? Why do you strive to shield with the mantle of military glory such a monstrous national crime? In the words of the honorable gentleman from Kansas, (SLIGHTLY modified,) "estrangement and war will always exist while *abolition* survives. The extinction of this evil is the only final end of disunion. The question therefore is, whether our Government shall be saved or destroyed; whether *Union* shall be its object, and peace its fruits, or *abolition* its object, and war its baleful offspring." Sir, it is this doctrine of abolition that has driven us into the war; and yet its advocates flag not in advancing this pernicious theory. In spite of the unavoidable proof of all this; in spite of the awful danger we are in because of them; they are determined to obtain the supremacy, that they may carry out their fatal system, and then exult over the ruin they have made. Let us be thorough in our lustration, and tear from the hideous face of abolition the deceptive mask of emancipation; let us bury it in one and the same grave with its colleague, disunion.

But, Mr. Chairman, I neither wish at this time to open old wounds, nor to enter into a discussion about the causes of this war. It is enough to know that the evils are upon us, and it becomes us, as the arbiters of the destinies of this Republic, to strip off all vails that contract or impede our vision. Honorable, indeed, is it to be a nation's physician; and when a country is struggling with a disease that threatens its very life, ill does it become us to discuss, with professional skill, the cause of the malady, and overlook the groaning calls for relief. It is our imperative duty to prescribe the proper medicine, and in sufficient quantities to save the life of our country. Having done this, it will then be time enough to investigate the cause, and guard against a recurrence of the malady.

Since, then, our Constitution has been vitally assailed, let us first decide whether or not it shall be trampled under foot, and spit upon; and not stop to discuss these side issues, when the very pillars of our Government are tottering around us. Instead of closing the breach that now yawns between the North and the South, it will widen and deepen it. If it be your object to bury in the same grave loyalty and disloyalty, pass these measures, and you will accomplish your ends.

But, if you love your country better than the nigger, the Union better than party, drop these diverting, ruinous measures, and let the whole united strength of the nation be used to accomplish the object of all these efforts; and when the Union is again restored to its former safety, then introduce your other measures, and we will try to settle them. Why will you allow the African to cast such a black shadow over your minds that you cannot get a single unclouded peep at the Union? Do not, I beseech you, look at everything through such black and deceptive spectacles. For the sake of your country, turn your eyes away from the negro, if only for a few short months, and let patriots see the Union restored; then I care not how divided we are in sentiment, nor how much you extol and eulogize the dark object of your affections.

I do not wonder that the advocates of emancipation are at a loss to know what to do with the immense burden that they propose to carry. I do not wonder that they propose so many and such impracticable methods of relief. Already have many of the States, whose Representatives on this floor are loudest in their appeals for emancipation and abolition, cruelly closed their doors against the unfortunate African.

I send to the Clerk's desk, to be read in the hearing of this House, and to go forth to the world as evidence of the truthfulness of such heartfelt sympathy, extracts from the laws of Indiana and Illinois:

The Clerk read, as follows:

"SEC. 1. No negro or mulatto shall come into or settle in the State after the adoption of this constitution.

"SEC. 2. All contracts made with any negro or mulatto coming into the State contrary to the provisions of the foregoing section shall be void; and any person who shall employ such negro or mulatto, or otherwise encourage him to remain in the State, shall be fined in any sum not less than ten dollars nor more than $500.

"SEC. 3. All fines which may be collected for a violation of the provisions of this article, or of any law which may hereafter be passed for the purpose of carrying the same into execution, shall be set apart and appropriated for the colonization of such negroes and mulattoes and their descendants as may be in the State at the adoption of this constitution, and may be willing to emigrate.

"SEC. 4. The General Assembly shall pass laws to carry out the provisions of this article."—*Constitution of Indiana*, art. 13.

"SEC. 6. All contracts made with negroes or mulattoes who shall have come into the State of Indiana subsequent to the 1st day of November, A. D. 1851, are hereby declared null and void.

"SEC. 7. Any person who shall employ a negro or mulatto who shall have come into the State of Indiana subsequent to the 31st day of October, in the year 1851, or shall hereafter come into the said State, or who shall encourage such negro or mulatto to remain in the State, shall be fined in any sum not less than ten dollars nor more than $500."—*An act to enforce the thirteenth article of the Constitution of Indiana.*

"The General Assembly shall at its first session under the amended constitution pass such laws as will effectually prohibit free persons of color from immigrating to and settling in this State, and to effectually prevent the owners of slaves from bringing them into this State for the purpose of setting them free."—*Constitution of Illinois*, art. 14.

Mr. PERRY. Mr. Chairman, the extracts read fully illustrate, in the most satisfactory manner, the pure and deep feeling, and kind and benevolent intentions of the gentlemen referred to; and are proof positive, no doubt, of the high-toned sentiments and opinions of the constituents they so earnestly and faithfully represent. They certainly require no further comment from me. They carry their own commendation.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. SATURDAY, MARCH 8, 1862. NEW SERIES.....No. 70.

It must be indeed a desperate case that has to pervert passages of Scripture to prop it up. The able gentleman from Massachusetts [Mr. ELIOT] told us the other day to free the slaves and then trust to Providence for direction; "for unto the day sufficient is the work thereof." If the gentleman had examined the original a little closer, he might have found that it contained an argument against him and not for him. Perhaps the gentleman did make the discovery and tried an improved edition; but sad to relate, he only jumped from the mud into the mire.

The work that is now on our hands is more than can be completed in our day, then do not increase the labor by placing this new difficulty in the way; for, to use the gentleman's own words, "sufficient unto the day is the work thereof." Let us first cast aside the evils that already beset us, and not increase the burden, since we already have as much as we can bear, for "sufficient unto the day is the evil thereof."

Sir, is this a war for the subjugation of the South, or the overthrow of rebellion? Is it a contest for the maintenance of the Government, or for the maintenance of abolitionism? Is this a war for the Union, the Constitution, and the laws, or is it a war for disunion? Do you wish to change all this strife from a noble and grand effort to suppress rebellion into the "irrepressible conflict?" If this be your object, then vote for these measures, and you will break this Union into so many fragments that reconstruction will never be even dreamed of. With the well-known facts of this rebellion staring us in the face, to advocate this abolition policy seems to me to be almost insanity. While I am so opposed to these measures, still I wish to do the *rebels* as much damage as possible, but in a humane and constitutional way. We are not now discussing the abstract right or wrong of slavery, but only the advisability of abolishing it as a means of suppressing this rebellion. While I am opposed to any such wholesale robbery as is here proposed, still I think the slaves of *rebels* should be no more respected than any other kind of property. Our path of duty is perfectly clear. Reject this abolition policy, let the Administration be true to its noble position, and success is ours. Adopt it, and you sacrifice the happiness and prosperity of twenty millions of loyal men; you destroy the hope and glory of the world, that you may give to a few thousand slaves that liberty which "will not make them rich, but us poor indeed."

But, as a Christian nation, we should consider the inhumanity of this law. As a leading journal ably says:

"This policy involves a savage cruelty unworthy of a virtuous and enlightened nation. It violates the rules of civilized warfare, and whatever retaliation might warrant as against a foreign enemy, it is not to be thought of by the country in this strife with her own infatuated children."

This is a policy as inhuman as that which armed the blood-thirsty savage in the war of the Revolution. It would be well for the advocates of this measure to ponder on the celebrated speech of the Earl of Chatham. It affords me pleasure to inform my friend, the honorable gentleman from Pennsylvania, [Mr. KELLEY,] that all hopes founded on his imaginary "General Order No. 2," must fall to the ground; that his champion, the self-constituted western commander-in-chief, General JAMES LANE, has found that a superior officer still has command, and that the true commander-in-chief has not been intoxicated by the ranting schemes of the Kansas "jayhawker."

I had supposed, from the gentleman's confidence a few days since, that he had just left the star chamber, and was intimating the intended policy of the Government. And I now take pleasure in informing my friend that the *Lane* of his admiration has been brought to a very short turn, and just in time. Now that Union is made the object of the western expedition, the *hero* (?) refuses to fight. There is an honest abolitionist for you! The negro his "all in all." Never let fanaticism so far conquer you as to obliterate every feeling of humanity. Nothing less than fanaticism could, in my opinion, prompt any man to defend measures that are so utterly unconstitutional, inhuman, and unchristian.

Mr. Chairman, I can never vote away the treasures of this nation for any such purpose. If all the vast expenditures that have been made; if all the life that has been sacrificed, has been for the cause of abolition, then we have no ground for exultation, no encouragement to continue. Millions for the Union, but not one cent for abolition! When patriots bring their offerings into the temple that the Union may be restored, I will never give them away to institute a system that can only end in its destruction. Never will I permit all this vast amount of money, now placed on the altar of the Union, to be squandered and thrown away to decorate the idol of emancipation. For myself, for my constituency, I may say for the State of New Jersey, I solemnly protest against any such pollution of our sacred cause! But should you rush blindfold into such a course, regardless of the appeals and protests of a majority of the loyal men, I sincerely trust that the laws of nature may be suspended, and that the effect will not follow an adequate cause. God grant that our country may be able to survive the stupidity of such defenders!

But, Mr. Chairman, why introduce these diverting measures when our lives and our liberties are at stake? If we hesitate we are ruined! The question now under discussion is, not the power and greatness of the Republic, but whether all these things that surround us, and the countless blessings they bestow, are to continue our own, or whether they, together with ourselves, are to fall into the hands of the enemy. Inaction to us is death! The doctrine that this rebellion will die by our maintaining a "masterly inactivity" is worse than folly—it is madness. That course has brought us to the verge of the precipice, and unless abandoned will dash us to destruction. Whoever heard of giant wickedness growing weak by tolerance? It is the duty of truth to act on the offensive, and not await the attacks of error: I do not desire to dictate to the commanders of the Army; and when I urge action, I mean action combined with adequate force; not a blind onward to Richmond movement, but action combined with design, and a power able to accomplish a desired result. Until we have that power, it is far better to act on the defensive. As the motive power of the Government rests here, here the action must commence. The onward movement must begin here. Here the first blow must be struck at this rebellion. Therefore do I urge action here as essential to action in the field. We should practice first and preach afterwards. Such action as called forth the admirable order of Secretary Stanton to the Army of the Union on the defeat of Zollicoffer, which, like the bugle blast, found its echo in every loyal heart, and cheered on our patriotic soldiers to renewed victories in Kentucky and Tennessee, and the splendid triumph of our arms at Roanoke island, where so many of the brave sons of New Jersey sacrificed their lives in defense of their country, to the credit and glory of themselves and their native State. Every consideration is calling upon us to unite and support, not distract and overthrow. Postpone outside measures; let action be our motto, not words, words, words.

And here allow me, Mr. Chairman, to express my great surprise that the elder members of this House, on whom we might expect to depend for guidance, should present to the country such a spectacle. I say that I am surprised that while the credit of the Government has been falling fast, men who occupy commanding positions on the committees of this House should be the very first to introduce such measures as they have imposed upon our consideration. While the finances of this Government have been threatened with ruin, and the laborer and mechanic have made these very Halls echo with their petitions for the millions now due them, instead of proposing and adopting measures of relief, thereby arresting the downward career of our national finances, their time has been occupied, to an alarming extent, in planning and defending their pernicious schemes. We have been leaning on a staff that crumbles in the hour of need.

I hope, Mr. Chairman, that the bill of relief that has just passed has not been too late. But why have the gentlemen who have been so anxious to legislate for the welfare of the negro, been so terribly slow in providing the "sinews of war?" The Treasury should have received relief two months ago, and not at the very hour of its bankruptcy. The secret is here, Mr. Chairman: they care more for the negro than for the Union. And let me tell you, sir, the people are fast finding out that secret.

In putting down this rebellion you began wrong, because you began by despising every act and assertion of the rebels. The seventy-five thousand men that were first called out were only so many armed spies to gaze with wonder on the gigantic strides the rebels were taking. You heard the waves of rebellion roar, but consoled yourselves with the thought that the leak the ship had sprung was not very important. Instead of manning the pumps and preparing for a terrible storm, you thought it would "quickly blow over;" but now that the breakers are near, and every seam is drinking in the angry waves, all must spring to the pumps and work with desperation, or the waves you so despised will complete the work your own short-sightedness began, and roar in triumph over you. Sitting, as we do, beneath the very edge of the dark cloud that threatens to overshadow our land and eclipse our greatness, ill does it become us to despair; but when most burdened we should strive most to rise. Every blessing that life gives must be earned before it is enjoyed.

The brow must be covered with the heart's blood before the laurel of the victor crowns it. Our forefathers, supported by godlike patriotism and perseverance, carried the Revolution through bloody scenes to a successful issue. The like success crowned the struggles of 1812 and 1846. We are fighting those battles over again, against more powerful, crafty, and serpent-like foes; enemies that are actuated by the most fiendish passions that ever debase the mind of man. Men once honored and respected by their countrymen stoop to do the work of the midnight assassin, by burning the bridges on railroads, concealing poison in food, nay, stooping to any degree of baseness to carry death among their friends and brothers. Their acts need but the horrid war-cry of the savage to complete the picture. How sad to find in those we used to love the proof of the old saying that "friendship turned to hate is the most fiendish passion of the human breast." When I turn to one side of the picture, and see assembled those whose arms are raised against their country and their friends, I am sad: sad to think we are in arms against those who were formerly attached to us by the deepest affection; sad that our rejoicings are over our own brethren. But, sir, when I behold on the other hand, millions of men rise in defense of their country, thrilled by the watch-word UNION; who at the same time extend the hand of friendship and unsheathe the sword of defiance, then do I feel that—

> "War is honorable
> In those who do their native rights maintain;
> In those whose swords an iron barrier are
> Between the lawless spoiler and the weak."

If it be necessary for the chariot of war to sweep across the whole land, I trust that "*the supremacy of the laws*" may be so deeply impressed in its track that time itself cannot obliterate it.

I contend, Mr. Chairman, that to maintain the justice of, and compel obedience to the laws, is not to subjugate. If the laws are broken with impunity, then we virtually have no laws; and if we have no laws, we have no Government. By defending the one we maintain the other. If obedience to the laws is subjugation, then are we all subjugated. If the enforcement of just laws is called subjugation, then commend me to the word subjugation for the rest of my life. The land of

our forefathers is in peril; the land that Washington gave us is in peril; the Union, the tree watered so freely for seven long years with their heart's blood, is in peril. Therefore it is that we are called to stand in the solemn presence of Washington and baptize anew our hearts in the ocean of his patriotism, and reconsecrate ourselves to the glorious cause of preserving this nation a "Union of States none can sever."

Would to God some voice had been potent enough to win back every disloyal feeling, and bring all to know the supremacy of the Union; that the latent fires of patriotism might have been rekindled; and that the North and the South, having buried all selfishness, partisanship, and sectionalism, might have met around the altar of a common country:

"But now since peace is despaired,
Who can think submission."

Let us then sink every other consideration, and make UNION the beginning, UNION the aim, and UNION the end of this war. In one sublime combination of wisdom, patriotism, and vigor, we can work out our salvation from the rebels that aimed their daggers at the heart of the nation:

"Destroy thou them, O God; let them fall by their own counsels; cast them out in the multitude of their transgressions, for they have rebelled against thee."

We must combine action with reason, which, if exerted harmoniously, will inspire us with a force capable of dispelling all disorder within and repelling injury from without.

The skies are covered with dark and portentous clouds; now and then the flash of lightning is seen; now the rumbling mass is broken and scattered.

Though everything may be dark and foreboding, still behind the cloud of rebellion the sky is clear and beautiful. Soon the breath of heaven will sweep across the threatening mass, and one by one the stars on that dear banner will reappear; then we can count the thirty-four, and thank God that they are all there.

Mr. DAVIS. Mr. Chairman, if I am not misinformed, one portion of the President's message has not been referred to any committee; whether on the ground that there was no appropriate standing committee, I cannot say. I allude to the portion of the message which treats of labor and its relations to capital. It may be appropriate to refer it to the Committee of the Whole on the state of the Union, and to this point I propose to speak.

In the records of man's history, the bloodiest page is that on which is recorded the efforts of the privileged few to reduce the masses to their control, and the resistance of the divided people to such subjugation. They first desired to enslave labor, that they might enjoy its fruits; the latter desired to dispose of their own labor, and to partake of its products. By the usurper honest labor has been held in low esteem, for they grew mighty on the sweat of others' brows. They strode haughtily over the poor and lowly, and declared that slavery was the proper condition of labor.

In this class we find the emperors, kings, and nobles of the world, with the large unitary body of slave-owners in this country. Opposed to these are the bearers of burdens, the laborers, bond and free, the producers and the tax payers of the earth.

The page of history which we are this day writing is but a continuation of the sanguinary record. The past of this record has been ably reviewed by others; I will deal with the present and future of this grand drama, in which freedom and slavery stand in armed opposition. As parties in this contest there are three actors, two in the interest of slavery, united in their adoration of it, and agreeing in their contempt of free institutions, only disagreeing as to the best means of perpetuating the system. One, "hating everything with the prefix of free, from free negroes down or up through the whole catalogue, free farms, free labor, free society, free will, free thinking, and free schools, as all belonging to the same damnable class of isms," has rebelled against the Government, and is now in arms against its rightful authority. The second is embraced in that which is known as the border State interest, which is willing to remain in the Union and give loyalty and service to the Government on conditions as set forth in the following pronunciamiento:

"If we remain in the Union, we must demand a repeal of every unconstitutional act against the institution of slavery. We must demand that it shall be a settled policy of this Government that wherever slavery shall exist under the flag of the Union, it shall receive full and adequate protection from the Federal Government."

These men sustain the Constitution and the Union, believing that slavery will be more secure under such protection. They deprecate the conflict of arms, and hug the cheat of neutrality lest slavery may come to harm in the hurly burly of mad war.

There is another class—nondescripts, leaders of the late Democratic party of the North, hungry expectants at the table of slavery, and disappointed officials—not numerous enough to form a distinct element in the contest. They are strongly inclined to mischief; and as they recover from the odium incurred by the late Democratic administration, and the open rebellion of the southern wing of that party, they may serve a purpose in distracting the North by clamoring for reconstruction on the old basis, and for confining the war strictly to *old* issues. Opposed to all of these stand free institutions, the spirit of the age, and the laborers of the world.

To the careful attention of the *laborers* of my country, North and South, I would commend these earnest words from the President's annual message:

"It continues to develop that the insurrection is largely, if not exclusively, a war upon the first principle of popular government—the rights of the people. Conclusive evidence of this is found in the most grave and maturely considered public documents, as well as in the general tone of the insurgents. In those documents we find the abridgment of the existing right of suffrage, and the denial to the people of all right to participate in the selection of public officers, except the legislative, boldly advocated, with labored arguments to prove that large control of the people in government is the source of all political evil. Monarchy itself is sometimes hinted at as a possible refuge from the power of the people.

"In my present position, I could scarcely be justified were I to omit raising a warning voice against this approach of returning despotism." * * * * * *

"A few men own capital, and that few avoid labor themselves, and, with their capital, hire or buy another few to labor for them. A large majority belong to neither class—neither work for others, nor have others working for them. In most of the southern States a majority of the whole people of all colors are neither slaves nor masters; while in the northern, a large majority are neither hirers nor hired. Men with their families—wives, sons, and daughters—work for themselves on their farms, in their houses, and in their shops, taking the whole product to themselves, and asking no favors of capital on the one hand, nor of hired laborers or slaves on the other. It is not forgotten that a considerable number of persons mingle their own labor with capital—that is, they labor with their own hands, and also buy or hire others to labor for them; but this is only a mixed, and not a distinct class. No principle stated is disturbed by the existence of this mixed class.

"Again: as has already been said, there is not, of necessity, any such thing as the free hired laborer being fixed to that condition for life. Many independent men everywhere in these States, a few years back in their lives, were hired laborers. The prudent, penniless beginner in the world labors for wages awhile, saves a surplus with which to buy tools or land for himself; then labors on his own account another while, and at length hires another new beginner to help him. This is the just, and generous, and prosperous system, which opens the way to all—gives hope to all, and consequent energy, and progress, and improvement of condition to all. No men living are more worthy to be trusted than those who toil up from poverty—none less inclined to take, or touch, aught which they have not honestly earned. Let them beware of surrendering a political power which they already possess, and which, if surrendered, will surely be used to close the door of advancement against such as they, and to fix new disabilities and burdens upon them, till all of liberty shall be lost."

These words are full of meaning, clearly pointing to the *objects* of the war, on the one part, and the danger to the laborer if slavery should succeed in its nefarious intent, upon the other, and closing with words of solemn warning against any surrender of rights which they already possess. As one of the class contemplated in this message, as one who has *always* labored for his *bread*, and is, in *all* respects identified in thought, feeling, and hopes with those who must eat their bread in the sweat of their face, I will speak of the *war, its cause, and its cure.*

Men learned in the law have already spoken to this question with instruction to the public mind; and others, with semblance of learning, have darkened counsel by words without knowledge, to the confusion of the people. I will not multiply words to verify the truth as contained in the teachings of Marshall, Hamilton, Madison, and Adams, and as set forth in the able argument of my honorable friend from Ohio, [Mr. BINGHAM.] I am content that we have all necessary legal and constitutional powers and rights to deal, as seemeth *best for the Republic*, with the cause of the war.

"It has been by a simple rule of interpretation I have studied the Constitution of my country. That rule has been simply this: that by no word, no act, no combination into which I might enter, should any one human being of all the generations to which I belong, much less any class of human beings of any nation, race, or kindred, be oppressed and kept down in the least degree in their efforts to rise to a higher state of liberty and happiness. Amid all the glosses of the times, amid all the essays and discussions to which the Constitution of the United States has been subjected, this has been the simple, plain, broad light in which I have read every article and every section of that great instrument. Whenever it requires of me that this hand shall keep down the humblest of the human race, then I will lay down power, place, position, fame, everything rather than adopt such a construction or such a rule. If, therefore, in this land there are any who would rise, I say to them, in God's name, good speed."

Mr. Seward has said many things that future ages will gladly remember; but in all the records of eloquence, whether of his or other man's, it would be difficult to find a loftier passage than this. Would that I could persuade myself that such was still his creed and practice.

As a representative of labor, I shall speak for the laborers of the whole country, however diverse they may be in color, be they bond or free, whether it be to advocate the interests of American labor, as opposed to the capital and machinery of foreign countries, whether it be to resent the slur and the sneer so often cast upon the laborer by those who lack appreciation of his true dignity, or whether it be to save the blood and lives of the northern laborer in this war, by doing right and justly by the slave. I will now and always speak my honest convictions, with no shadow of reverence for those precedents, compromises, or usages which have culminated in violence and rebellion; and without apology of argument I will assert that "the present rebellion finds its root and nourishment in chattel slavery in the South; that the leading conspirators are slaveholders, who form an oligarchy hostile to free institutions;" and as, in the nature of things, no solid peace can be maintained while the cause of this war is permitted to exist, therefore I am in favor of such action by Congress, the Executive, the armies, and navies, as will lead to the final extinction of the *cause, leaving the terms of said extinction* to the time when we may be called upon to act on it. I am utterly opposed to any recognition of the right of any rebel master to any claim on the services of any person.

When gentlemen from the South announce themselves as slaveholders—and they lose no occasion to proclaim it—as the very title of their "greatness and nobility," a thrill of admiration vibrates through the opposite side of the Chamber, and *their* eternal song of the "*nigger*" is listened to with that deferential consideration *always* due this privileged order. And though they may emulate "Bunsby" in the profundity of their reasoning as to the fate and condition of the ship of State, the "Captain Cuttles," who may be found everywhere, wag their wise heads over "an opinion as is an opinion," and commend these "chunks of wisdom" to us poor Republicans. You slaveholders claim of us respectful consideration, because a poor score or more of men and women are the bond creatures of your will and obey your beck and bidding. Your pretensions to superiority on such poor grounds are disregarded and laughed at by the *free* men and skilled working men of the North. Your assumptions can only be as nothing in the minds of men of skilled hand and trained intellect, who, as inventors, wrestle, as Jacob did of old, with the angels of the Lord, and refuse to let them go until they bless them with good gifts from the master's garner of invention. *Your dominion* seems poor to whole armies intent on the conquest of nature's forces to man's use and benefit. And your order is not recognized by men who have grown in a world and aspire to be nobles in a kingdom wherein, by the touch of the little finger, the force and power and efficiency of ten thousand of your poor servitors spring into being, attended by no groan of anguish from overtasked nerves, needing no lash to urge, no fugitive bill to reclaim to unwilling bondage. I too, have been a slaveholder; for years I have driven a grim, black giant, born of the dust of the earth, and fashioned in the womb of the furnace "seven times heated," with iron frame and thews of steel, asking no kindness at my hands, save to wipe his oiled visage, and to lubricate his joints—he would toil on two and twenty hours in every day, the year through.

This slave is the steam engine, the wonder of the age, the crowning triumph of man's mechanical skill. We have but to touch the secrets of its being, and a power almost omnipotent and seem-

ingly eternal in its endurance, awaits our direction, to overcome every obstacle to our will, to execute all designs of our brain.

In this creation we behold the embodiment of more of human thought, effort, and self-sacrifice, more of sublime triumph and deep despair of attainment, than culminated at Marathon, Waterloo, or the proudest and bloodiest of earth's battlefields. After knowing such dominion, and exercising such mastery over the machinery of power, and *knowing* the development that attends it, I would emancipate all human labor from forced subjection to another's will; educate *all* men to a full development of their intelligence and skill; and open unobstructed way to every people, that the race may achieve supremest mastery over the material world and the forces of nature. And as man's developed will transcended his physical power to execute, I would give each laborer, not a human, but an iron slave.

In answer you will say, "we also have the engine and machinery as aid and ally to our well-ordered, safe, and permanent system of labor." I know you have admitted machinery within your realm; but you have always feared it as the missionary of freedom; for the free-thoughted, outspoken mechanic, the engineer, the smith, and the machinist, the whole army of workers in iron and brass, in stone and in wood, follow close in its train.

These men will assert the dignity of labor, and their equality with you, by making terms and conditions with you; they will stand your equals as men, your superiors in the skill and knowledge of their trade, and will give you equivalent service for your gold. You know that slavery cannot live in the face of such men. They bring with them the fundamental idea of the North, "that the laborer is worthy of his hire;" that the first debt to be paid, is the wages of the working man; and that to defraud the laborer of his hire, is the depth of meanness. In the South it is considered honorable to compel the laborer to work without pay. This constitutes the essential difference between the North and the South—the meanness of the one is the honor of the other; how will you reconcile them? And these practical men of exact works and close figures will reason with you, slaveholders, in this wise: you give $1,000 for a slave and place him at one end of a saw, and another $1,000 for his mate at the other end, and you get scant supply of lumber for your houses or ships. I will give $1,000 for a ten horse power engine equal to the power of one hundred and fifty men, and attach it to a saw, and supply you with lumber so cheap that you must discard the saw, and turn your slaves to other employment. Or you put your slave to the hand-mill, and he grinds a scant supply of coarse meal for your family use; but the millwright marks the brawling brook that from creation's dawn has run its wild course free and unobstructed from the mountain to the sea; he takes the stones that block your roads, and the boulders that mar the beauty of your pastures, and he forms a reservoir of gratuitous power in the mill-dam; he fashions the mill, and shapes the water-wheel and simple machinery from the crowded trees of the forest; from material hitherto waste he evolves a power of a thousand hands, and directs it to the preparation of the corn and wheat—in consequence, a thousand slaves are liberated from the toil of the mill, and a thousand handmills are consigned to the rubbish heap. The plough and cultivator banish the clumsy hoe, and substitute the horse or mule for many slaves; thus, by improved machinery and processes, lessening your dependence on the rude labor of the slave, and dispensing with the awkward tools with which the past was content. Every improvement, whether the erection of the mill or the introduction of the steam engine, frees or removes your bondmen. In this peaceful process of emancipation we see the hand-saw giving way to the reciprocating mill-saw, and this, in turn, displaced by the circular saw. The old planter's mill banished by the water or steam-mill; the spinning-wheel and hand-loom merged and lost in the giant factory; the scythe, the sickle, and the flail in the patent reaper and the thrashing machine.

And yet, sir, so far as I have heard, the unfortunate owners of this discarded machinery have never set up a claim on Government for the losses incurred by the introduction of the patented inventions. Had such claim been made, a good and sufficient answer would be: you are more than compensated in the reduced cost of the products of the new machinery. You are paid for your *saw* in the first load of boards you purchase. It is eighty-five years since Adam Smith wrote:

"It appears, accordingly, from the experiences of all ages and nations, that the work done by freemen comes cheaper in the end than that performed by slaves. It is found to do so even at Boston, New York, and Philadelphia, where the wages of labor are so very high."—*Wealth of Nations*, 1, viii.

So wrote Adam Smith; and all intelligent men know that the odds are greatly in favor of anything Adam Smith wrote being true. Do you believe this? My constituents will be apt to say to claimants for compensation for the emancipated slave, "you will be paid in the better man we will give you; if we take your slave we will return you the freed man;" and again, "you will be paid for your saw in the first load of boards you buy." But you say, "we do not desire this." Possibly not; but it has been answered "that the Republic may suffer no damage, we do this thing." "But I have bought this man. I gave 'thirty pieces of silver' for him, and he is mine; his increase and his services are my possession. Are my thirty pieces to go for nothing? Would you rob me?" Not so. We place you on a level with the owner of the turnpike and the Conestoga team, when the railroad and locomotive were introduced. You suffer only as the owner of all productive machines does when better and cheaper productions displace his; from the "whipsaw," the "handmill," and the "spinning-wheel," up to the slave, all are subject to the common law of property in machines; all must yield to the better and cheaper, without thought of compensation for the discarded rubbish. Should my people say this to me, how can I answer them? How can I vote millions to remunerate the owner of the slave, when he is superseded by a better man, and refuse to apply the same rule to the thousand and one bake-ovens that may be displaced and ruined by the mechanical bakery.

To illustrate the injustice, suppose South Carolina has four hundred thousand slaves, and we allow the moderate sum of $400 for each slave, this would equal $160,000,000 in compensation to the owners, and yet the State would contain four hundred thousand more efficient workers than it had before. We are made poorer by the taxes imposed to meet this payment. They are made doubly rich by the gift of millions of dollars and freedom to the slave.

An objection to the policy of confiscation, or the emancipation that may follow it, and one that is used to fright the northern laborer from meeting the question squarely, to bias his better judgment by appeals to an alarmed self-interest, is embodied in the question asked by the gentleman from Pennsylvania, [Mr. WRIGHT:]

"Where would you march that army of four millions of slaves? Would you march them to Ohio, or to the State of Pennsylvania, or to the State of New York?"

And which he anwers in the following supposition:

"But let me say to the gentleman, that if his army of four millions of slaves were to commence their march into Ohio and Pennsylvania, it would be worse upon those States than the plagues of Egypt. They would devour and eat out the substance of the people. *Not only would that evil come to pass*, but the effect of it would also be to destroy the blacks themselves and annihilate all their power for good."

This is a fearful picture, and one that we might justly shrink from, were it founded in probability, or had anything of fact to sustain it.

I propose to show by the following argument that such inroad is unlikely, and would be contrary to the past history of this people.

By the census of 1850, we find that Maryland had a free black population of 74,000; Delaware of 18,000; Virginia of 54,000; or a total of 136,000 in these three border States.

These free blacks are surrounded by the blighting influences and dangers of slavery; subjected to laws, the injustice and cruelty of which are but now coming to light in the practices of this District. In spite of threats of forcible expatriation, or of being sold into bondage; in the face of attempted legislation, thus denounced by Judge Catron, of Tennessee, in opposing a bill for the forcible removal of this unhappy class:

"My objection to the bill is *that it proposes to commit an outrage, to perpetrate an oppression and cruelty.* This is the plain truth, and it is idle to mince words to soften the fact.

"We are told that this 'free negro bill' is a politic, popular measure. Where is it popular? In what nook or corner of the State are the principles of humanity so deplorably deficient that a majority of the whole inhabitants would commit an outrage not committed in a Christian country of which history gives any account? In what country is it, this side of Africa, that the majority have enslaved the minority, sold the weak to the strong, and applied the proceeds of sale to educate the children of the stronger side, as this bill proposes? It is an open assertion that 'might makes right.' It is reopening the African slave-trade, in fact. In that trade the strong capture the weak, and sell them, and so it will be here, if this policy is carried out.

"All over the State, those who are responsible for passing the bill will have to contend with fearful public opinion, made up of all the women who have moral characters and religious feelings; backed by the clergy, and assuredly by a very large majority of the members of all the churches, for we must carry along with us the important fact that numbers of the people, sought to be enslaved or driven out, belong to and are members of our various churches, and in full communion. That these great bodies of Christian men and women will quietly stand by and see their humble co-workers sold on the block to the negro-trader, is not to be expected, nor will any set of men be supported, morally or politically, who are the authors of such a law."

Yet of the 53,000 free blacks in Pennsylvania, only 15,000 are not native born. Why have this people, with so many reasons to impel them, *not* migrated to the North? Why do they adhere with such persistence to their native soil? This love of home is strikingly illustrated by the following figures from the census of 1850: of the 54,333 free blacks in the State of Virginia, only 533 were born out of the State; of the 18,073 in Delaware, only 1,141; of the 74,723 in Maryland, only 1,367; and of the 27,463 in North Carolina, but 645 were born out of the State; or of a total free population in these four States of 174,000, only 3,686 are foreign born, or a trifle over two per cent. This shows plainly that the black is not migratory, and that our people have little to apprehend from a race thus deep-rooted in the soil of the South. Is it not doing violence to right reason and the facts to assume that the negro would abandon the home that he has clung to under such adverse circumstances, with the first step towards rendering his existence tolerable? I am satisfied that gentlemen have allowed their prejudice to cloud their judgment; and when they come to review the facts, they will agree with me that, with emancipation, the exodus of the negro will be southward, and that soon, of all the free blacks resident in the cold North, one half or more would take up the line of march to the sunny land of Dixie.

"Where the yam will grow, the cotton blow,
They'll raise the rice and corn;
And never they'll fear if never they hear
The driver blow his horn."

Having combatted the apprehension that the comparative feeble African would overrun and root out the developed working man of the free States, I will proceed, in a rapid and hasty sketch, to set forth some of the advantages that may accrue to the northern laborer by this system of free labor in the South, which may happily follow this war.

The slaves of the South are, of necessity, non-consumers of the products of northern skill and labor, save to a very limited extent. There are about four million five hundred thousand slaves; these will be converted into consumers of our labor by the introduction of a system that will enable them to gratify their simple tastes, in vieing with old master in the consumption of the ten thousand products of our skill. The wages earned by these people, exclusive of board, would at once amount to $250,000,000, of which it is within reason to suppose one half, or $150,000,000, would find its way into the workshops of the North. Why, sir, a single pair of shoes per annum to each of these four and a half millions would cheer the hearts of the sons of St. Crispin in Massachusetts and Philadelphia; a cheap ornamental Yankee clock on each mantel of the eight hundred thousand humble homes which would soon dot the southern landscape, would almost reconcile Connecticut to freedom; an extra Sunday gown to each woman and child would consume twenty or thirty millions of yards of calicoes; a suit of Sunday best to each man and boy would give $30,000,000 to northern industry; the hoe, spade, and ax, needed about the little home, would add other millions. Each want gratified would lead to new desires, to act as stimulants to thrift and industry, and thus fit them to their new estate.

But the South will soon supply these simple wants of her people—granted; and I most ardently desire that she may. Then she will the more need the skill of our mechanics to build her mills and

machinery, and the skilled workmen of the North to conduct her enterprise to success. At a future time I may follow this argument into detail, to show to the working man, capitalist, mechanic, manufacturer, and trader of the whole country, the advantages of securing a market of four and a half millions of consumers.

Mr. Chairman, the advocates of slavery are now engaged in the destruction of the Government and the Constitution. They have proclaimed their independence, and have adopted a constitution, the vital idea of which is the enslavement of labor, the subordination of the rights of man to the power of capital, or, in fulfillment of the avowal of Governor H. V. Johnson, "that capital should own labor and the laborer." With this unholy purpose at heart, they have levied armies and waged war on the land. They have fitted and authorized privateers to ravage the seas. By appeals to the avarice of the foreign trader, and temptations to European lust of dominion, they seek to involve us in a foreign war, and thus secure the disruption of the Union. They have inaugurated a reign of terror over the Union-loving citizens of the South. They have driven them from their homes, and have confiscated their lands and chattels and all properties. They have declared all residents of the loyal States aliens, and have sequestered their property as such. In violation of common honesty they have repudiated their private debts. They have introduced anarchy, misrule, violence, and bloody war within the Union, and made popular government a jeer and a by word in the mouth of the stranger. As deadly enemies they beleaguer the capital. We legislate within sound of their cannon, and the honored seat which you occupy, Mr. Chairman, is barely beyond their rifle shot. The young men whom the nation has intrusted to our keeping lie in graves dug by an enemy's hands. The west wind is yet tainted with the blood of the battle-field. The Potomac is closed by the leaguers, and three hundred thousand lives are now the rampart between our homes and the myrmidons of slavery.

In this state of affairs I feel released from all past obligations, and am free to regard slavery as the cancerous spot on the vitals of the body-politic—to be treated with knife and cautery, actual and potential. "For if we meet this dreadful and portentious evil with poor common-place proceedings, with trivial maxims and paltry old saws, with doubts, fears, and misgivings, down we go to the bottom of the abyss, and nothing short of Omnipotence can save us." Yet, sir, gentlemen on the Democratic side of the House and the pro-slavery side of this question, insist, *on this floor*, in State Legislatures, in public discussion, through the press, by correspondence, and in conversation, at all times, in all places, in season and out of season, sentiments and views of policy as expressed in the following preamble to resolutions of the Legislature of Maryland, adopted January 2, 1861:

"The General Assembly of Maryland have seen with concern certain indications at the seat of the General Government of an interference with the institution of slavery in the slaveholding States, and cannot hesitate to express their sentiments and those of the people they represent in regard to a policy so unwise and mischievous. This war is prosecuted by the nation with but one object, that, namely, of a restoration of the Union *just as it was* when the rebellion broke out. The rebellious States are to be brought back to their places in the Union without change or diminution of their constitutional rights. In the language of the resolution adopted by both Houses of Congress at its extra session in July last with remarkable unanimity, this war is declared to be prosecuted not 'in any spirit of oppression, or for any purpose of conquest or subjugation, or purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union, with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished the war ought to cease.'"

Can this be? Is it, in the nature of things, possible? In my opinion, clearly and emphatically, no. Which party, red-handed from the war, with the triumph upon the one hand and the bitterness of defeat rankling in the hearts of the other, will ever consent to return again to the hollow shams, tricks, deceptions, and compromises which have ultimated in this unholy war.

Will the northern working man again permit the southern slaveholder and the Breckinridge Democrat to strike hands in conspiracy against his rights? Will the southern slaveholder again trust the northern Democrat who betrayed him into his present deadly peril, by promises of northern aid to put down any attempt at coercion, illustrated by the following precious morsel, cut from a South Carolina paper?

BELLEFONTE, PA., *Nov.* 24, 1860.

DEAR SIR: I understand that Colonel James S. Brishin, of this place, has offered his services, with some "five hundred Wide-Awakes," to Governor Letcher, for the purpose of forcing the people of Virginia into measures, should they secede. I have expected this, and I now offer my services, with "one thousand men," who can be organized within ten days, to repel any attack that may be made by those men, or any other force from the northern States.

I have been through the neighboring counties, and the young men of the Democratic party are anxious for them to make the first move. If they do so, I pledge you my word of honor as a gentleman and a soldier, they will never have to leave their own State to find an enemy.

If you accept my offer, you will please let me hear from you.

I am, truly, ——— ———.

Hon. HENRY A. WISE, *Richmond, Va.*

Will the northern Democrat ever trust the southern slaveholder who so ruthlessly broke up the party, and handed them over to the tender mercies of the Black Republican? The Democratic party was founded to defend the rights of man against the pretensions of property; and on this it grew into power.

Will the democratic masses of the North consent to a reconstruction on the basis of the right of capital to own labor, or will they uphold a party existing exclusively as the defender and glorifier of the right of property in negroes?

How long will it be before the merchant and manufacturer or the farmer of the North can again give credit to those chivalric slaveholders who have repudiated their obligations, and cheated their creditors of unknown millions? When again will the northern mechanic expose himself to the dangers of a residence in a slaveholding community? When, and how, can these wounds be healed? Do the advocates of slavery mean, by the restoration of the old order of things, that Twiggs shall return upon the Army Register as brigadier general United States Army? If so, is he to outrank the gallant Grant? Shall Mason again scowl in the Senate, and crack his whip over the representatives of the North; with Floyd, that thief, sneaking and mousing through every department of the Government for opportunity to betray it, professing obedience to its behests with his lips, while plotting its destruction—in a word, do they mean, with this expenditure of blood and treasure, simply to restore lost power to the leaders of a pro-slavery Democracy?

Sir, I have a higher hope. I believe that when we emerge from this war—decimated and impoverished though we may be—freedom will have a higher signification, and liberty will not be a word without meaning. From this time and forever you will ask in vain of the northern man to submit to the contemptuous pretensions of the imperious southerner to acknowledge the lordly rule of an aristocracy, based on the *ownership* of a slave, whose title-deed of nobility is dated from some noisome slave-pen, and attested by the sign-manual of the slave trader. No, sir, it cannot be; no possible consequences of this war can reconcile the people to return to the *wallow* of the past; they will never consent to allow slavery again to become a controlling power in the Government. Let us be honest with each other, and speak the thought that is in our hearts. Then, if gentlemen from Kentucky, Virginia, Maryland, or Missouri, find it harder than they can bear; if they regard slavery as higher and holier than freedom; if they hold their rights to this property as more sacred than country; if they can offer on the altar of the Union life, fortune, and sacred honor, reserving slavery as beyond and above all these; then let them turn the bitterness of their hearts and the phials of their wrath against the bad men, who, urged by a worse system, have precipitated this conflict between freedom and slavery—and not against us, who but accept a stern necessity. Let us say to them, the opportunity to strike at this great evil of slavery, which our fathers longed and prayed for, is at length granted to the children; and we must not forego it, or God may abandon us.

"Once, to every man and nation, comes the moment to decide,
In the strife of truth with falsehood, for the good or evil side;
Some great cause, God's new Messiah, offering each the bloom or blight,
Parts the goats upon the left hand and the sheep upon the right,
And the choice goes by forever 'twixt that darkness and that light."

Let them know plainly and honestly that, as we have in the past been true to the compromises of the Constitution in favor of slavery, we now feel ourselves absolved therefrom by the acts of the slaveholder.

And now that we are forced into a life and death struggle with this ugly fiend, and been drawn into the final contest with these traitors to the glorious heritage of the Revolution, we do regard the armed champions of slavery as foes to God and humanity, who must abide the fearful retribution of their crimes against both. They have whetted a sword against their own peace, and we must use it to their overthrow, and man's salvation; they have staked their lives against our lives, and we meet them with our lives in our hands; they have prepared a destruction against us, and we must return it upon them; they gloried in the belief that every northern man's hand would be on his neighbor's throat through their machinations. So they must not wimper and cry if we arm such hands in the South as may rise to strike for the Union and freedom. Nor do they who are in the field against us complain of anything which we may propose to do. As men, they accept the brunt of the battle, the losses and privations of the war, the risks of insurrections, or our forced emancipation of their slaves. They accept all the danger and the death consequent on their course; and, so far as I have heard, laugh our threat to scorn, and defy us to do our best or worst.

Yet gentlemen on the other side of the House would have us believe, should we dare to touch this "sacred property," the inevitable result will be the disbandment of our armies, and the withdrawal of the Democratic element of our country from the contest. Day by day we are gravely told that any departure from the original issues involved in the controversy are to lead to these direful results. The gentleman from Pennsylvania [Mr. WRIGHT] has clearly shown his lack of faith in the conscience, virtue, and intelligence of our people, by declaring that to do justice to the laborers of the South, that to recognize the truth that "he who delves the soil has a just claim to its fruits," that to act up to the Gospel maxim "the laborer is worthy of his hire," that to pay a fair day's wages for a fair day's work to these dark children of toil, is to scatter this grand army of working men; that to inscribe freedom on the banner consecrated to freedom is to disband an army of freemen; that to institute the marriage relation, (impossible in slavery,) to teach these four millions of "illiterate and half barbarous people" the honored names of husband and wife, parent and child, is to cause the hundreds of thousands of loyal, loving husbands, noble fathers, and heroic sons to forget their oaths of service, and to throw down their arms in the face of insolent rebellion; trail the stars and stripes before the rattlesnake emblem of South Carolina; to allow their country to perish, and themselves to become the scorn of true womanhood the world over. Or, if we reach from our high estate of freedom and intelligence, and take these wronged men in our strong right hand, and teach them that they are men, or give them homes in this world, and a hope of life immortal in the next, then the gentleman from Pennsylvania ventures to say that the army of one hundred thousand men which Pennsylvania has put in the field would become less formidable "than the contemptible company of men that Falstaff was ashamed to march through Coventry to the battle of Shrewsbury." Or the gentleman from New York, conjuring up the horrible phantom with which so many children and southern statesmen have been frighted at, says:

"It is my firm belief that if abolitionism should rule the day, this war would become one of extermination and death all over the country. That 'the blackness of darkness' would overshadow the land, and the sun of liberty go down in blood, thereby extinguishing the hopes of freemen for a republican Government, and obliterating all reasonable grounds for expecting the permanent sovereignty of the people."

Now, Mr. Chairman, I, for one, do not believe any such thing. I have lived close to the people of my country, and I believe that the great American people, Democrat and Republican, "love freedom more than slavery, free institutions more than slave institutions, the old starry flag always and forever above the broad-striped rag that now insults the manhood and brings the blush of shame to the womanhood of the nation." Their logic is short and terribly direct: "Slavery is at war with

us, and slavery *must* die." The death knell of slavery was in the echoes of the first gun at Sumter. Slavery pointed that gun, and fired it against freedom and our flag. Then the sons of freedom and the lovers of that flag rose *en masse* as a man; the men of the North roused to the rescue; instinctively the people sought out their old leaders and *made them* do reverence to the old banner of the Revolution, and the stars and stripes floated from every house. Demagogues who had cheated the masses, in fear and trembling at the terrific outburst of patriotic indignation, ran to and fro to borrow the flag they had laughed at, and their white lips did unusual reverence to the Union they had conspired against.

This outburst of patriotism served for a time to hush the treason that, with blatent threat, promised to carry Pennsylvania with the southern confederacy. The cry went forth that the capital was endangered, and the ax was dropped in its cut, the iron in the fire, the shuttle half across the woof, the plow in the furrow, the day-book left unbalanced, as the woodman, the smith, and weaver, the farmer, clerk, and lawyer, the tired son of toil, the idle child of luxury, the schoolmaster and his scholar, the learned judge, preachers and dignitaries, high and low, none too high, none too low, hurried to respond to the insult and the challenge. And here we stand to-day, face to face with the fell spirit that pulled down that flag amid fire and blood, which drove the brave Anderson and the gallant and true Doubleday and Foster from the walls of Sumter. That story revealed to an astonished world the inherent loyalty of our people to the spirit of the institutions transmitted from their fathers. Would it not be well for gentlemen to take heed in the dangerous game they are playing, by striving to block the way to victory, in withholding supplies, in paralyzing the loyal endeavors of the true-hearted by teaching this miserable heresy of a conditional loyalty.

But should these teachers of half truths, of half-way loyalty to our flag and country, aided by pro-slavery Army officers, succeed in arraying this Army against such policy as may be deemed necessary to the salvation of the country—well, what then? Will the nation die because these false sons fail it in its hour of need? Are the people to be subdued by a treason not altogether unanticipated? Shall liberty return to heaven, from whence it came, and shall free institutions perish on earth because Democracy still chooses to follow the lead of the false-hearted Breckinridge? No, sir; chafing and impatient, fierce and almost bloodthirsty, stands this nation, looking with damnation on each doubter, and bitter contempt on every feebleness, and should our present great preparation fail us utterly, and our commanders prove incompetent or disloyal, still would I know that the Lord liveth, and these United States are to endure.

Mr. BIDDLE obtained the floor.

Mr. KELLEY. Will my colleague yield me the floor for a few minutes?

Mr. BIDDLE. Certainly.

Mr. KELLEY. Mr. Chairman, I regret to be constrained to ask from my colleague the favor which he so gracefully grants; but had I been permitted this morning to make a brief statement, I should not have had occasion to interfere with my colleague now. I rose then to request this House to repair, in so far as it could by listening to and putting upon its Journal his statement, the wrong which, by publishing the report of one of its committees, it had done to a friend and constituent of mine, a gentleman of integrity and character, one who, from early life to his present age, has risen steadily by the energy and ability with which he has managed a large business, the control of a daily newspaper, and by the fidelity with which he has lived up to all his contracts with men.

I ask now that the Clerk may read a letter which this gentleman has done me the honor to address to me as his Representative. When it shall have been read, I will yield the floor to my colleague, to whom I am grateful for his courtesy. It is the letter of Colonel Alexander A. Cummings, of Philadelphia, drawn from him by the fact that his announcement to the committee that there was remaining in the hands of Messrs. Dix, Blatchford, and Opdyke $140,000 accounted for by vouchers, has been given to the public, and commented upon as a statement that he had in his hands $140,000 unaccounted for.

Mr. F. A. CONKLING. I wish to remind my friend from Pennsylvania that no member of the committee which he impeaches is present in the House.

Mr. WICKLIFFE. I should like to ask my friend from Pennsylvania a single question. I suppose the person he alludes to is the same Mr. Cummings whose name I see on the 66th page of this small primer [laughter] which I hold in my hand.

Mr. KELLEY. What is the first name of that Mr. Cummings? I have not the volume to refer to.

Mr. WICKLIFFE. Alexander A. Cummings.

Mr. KELLEY. That is the same, sir.

Mr. WICKLIFFE. I see that he is reported as having purchased for the use of the Army two hundred and eighty dozen pints of ale and porter, so many tierces of codfish, three hundred boxes of herrings, two hundred boxes of cheese, thirty-six packages of butter, six barrels of tongues, sixteen hundred and seventy dozen of straw hats, twenty-five casks of Scotch ale, price not stated; ten casks of London porter, price not stated. Is it to explain away these articles that the paper is intended to be read?

Mr. KELLEY. The letter, Mr. Chairman, will speak for itself; and when, without doing wrong to a colleague who is obliging me, I shall have an opportunity to reply to the gentleman, I promise to do it.

Mr. NOBLE. I move that the reading of the paper be dispensed with, and that it be published in the Globe.

Mr. KELLEY. If the House has done a worthy man injustice, I ask that it shall, at least, hear the statement of his case.

Mr. CAMPBELL. I rise to a question of order. How does the gentleman from Ohio [Mr. NOBLE] get the floor? The reading of this paper comes out of the time of my colleague, who desires to have it read as part of his argument.

Mr. KELLEY. I ask that it be read as part of my remarks. If preferred by the committee, I will read it myself.

Mr. NOBLE. I rise to a question of order. I understood clearly that I had the floor, and made a motion. The vote on that motion has not been announced.

The CHAIRMAN. The Chair decides that the committee cannot order a paper to be published, and therefore the motion of the gentleman from Ohio cannot be in order.

The Clerk read the paper, as follows:

Hon. WILLIAM D. KELLEY,
Member of Congress, Fourth District, Pennsylvania:

A severe and protracted illness, from which I have as yet only partially recovered, has prevented me, until now, from responding to, or in any way noticing, the extraordinary assault upon my character contained in the report of what is known as the "Van Wyck committee," made to the House of Representatives on the 17th of December last. I embrace the earliest moments of returning health to meet and refute the unfounded allegations contained in that report.

I address you because I am your constituent—long and well known to you—and need no further commendation. I ask you, therefore, upon the first fitting occasion, when this subject may be before the House, to introduce this letter, that it may have the same publicity with the slanders that have been uttered against me.

Towards the middle of December, not long after Congress had convened, hearing, greatly to my surprise, through a friend, that the report of the committee about to be made contained statements injuriously affecting my reputation, I came to Washington from a sick bed, against the earnest protest of my physician, with the view of seeing the members of the committee, to ascertain, if possible, what was the question, if any, in their minds, in relation to my transactions. I waited in person upon a majority of the members of the committee, although scarcely able to leave the hotel; and, while I obtained no information, yet I inferred, from certain circumstances, that they were about to allege some discrepancies in relation to my accounts. I knew, if the accounts were all before them, that there could be no complaint alleged against me, and earnestly requested the delay of the report for a single day, stating to them that I would dispatch, and subsequently that I had sent a special messenger to New York for Mr. Blatchford, who had in his possession facts and vouchers which would relieve me from the slightest suspicion in relation to the transactions which have received the animadversion of the committee, and which I understood they were about to criticise.

Though refusing, by a vote of the majority of those present, to grant my request on these urgent, specific, and manifestly just grounds, and instructing their chairman to make the report forthwith, it happened by some accident that the report was delayed for the length of time I desired, during which interval Mr. Blatchford arrived in Washington for the express purpose of appearing before the committee. I immediately and personally communicated the fact of Mr. Blatchford's presence to the committee.

I was advised by a physician in Washington, who was in constant attendance upon me, and warned by my own knowledge of my condition, that, if I would secure or regain my health, I must speedily return home. I left Washington, not entertaining a doubt that Mr. Blatchford, who remained there, would be called upon by the committee to furnish the important information I had assured them was in his possession, and which would have saved me from the least suspicion of wrong. The public will be surprised, as I have been, to learn that Mr. Blatchford was not allowed to appear before the committee *until after the report*, with all its reckless errors and calumnious misstatements, was launched upon the House and the country. I submit to you whether there ever was conduct more unjustifiable.

My illness—a severe attack of gastric fever—proved of long continuance, and for a considerable portion of the period of doubtful result, with utter inability and entire prohibition to even think of business of any kind whatever. During all this time, unconsciously to myself, the misrepresentations of the committee have been poisoning the public mind. I have but quite recently been able to leave my room, and I have within the last three days, for the first time, even seen a copy of the report. It is only since my arrival in Washington that I have learned of the extent of its injurious character. You may judge, if you can, how I have been astounded at its contents.

The extraordinary and unprecedented course of the committee seemed to flow from a desire which, wronged as I have been, I will not impute to them, to produce an immense sensation with partial and unproven facts; and that course has given rise to an impression which the committee owe it to themselves and the country promptly to dispel, that they deliberately and of purpose excluded the testimony of one of the most prominent citizens of New York, lest it should in any way conflict with the supposed developments with which they appeared to be eager to startle Congress and the people.

For myself, the best reply, and the most comprehensive and conclusive defense will be contained in a simple, brief, and impartial recital of all the transactions referred to by the committee. So rapid has been the current of events and so fleeting is memory, that it is necessary, by way of premise, to recall the exact condition of the country at the period referred to. Rebellion had not only ingulfed all south of the Potomac, but the insurrectionary spirit had spread over Maryland, seized its metropolis, and cut off all communication between the capital of the nation and the loyal portion of the people. The terror and the panic throughout the land for the fortnight succeeding the tragedy in Baltimore, on the 19th of April, were appalling, and well nigh paralyzing to the courage and the energies of all. The national authorities at Washington were astonished and perplexed, and scarcely knew which way to turn for relief. They had found the officers of the regular Army and Navy deserting them by scores, and enlisting under a traitor ensign; and they knew not whom to trust, even among those that retained an outward allegiance to the "old flag"—many of whom, by subsequent desertion, have justified the suspicions then entertained of their loyalty. In this perilous emergency the corporation of the city of New York, prompted by the impulses of the popular mind, came forward with an appropriation of $2,000,000 for the national defense; and the authorities at Washington—so soon as they could in any way convey a communication to New York—called to their aid persons intimately known to them, in whose judgment and integrity they had confidence, and of whose patriotic loyalty there was not a tinge of doubt. In pursuance of this design, measures were adopted by the Treasury and War Departments, (and the Navy also,) as set forth in the following communications:

TREASURY DEPARTMENT, *April* 24, 1861.

GENTLEMEN: Relying upon your well-known integrity and devotion to the best interests of the country, the President has this day authorized an advance to be made to you of $2,000,000 as a fund from which legal and proper demands upon the Treasury may be met without the delay consequent upon the present interruption of all regular communication with this Department. Two drafts for $1,000,000 each have this day gone forward, which will place such sum to your credit with the Assistant Treasurer at New York. The purpose of this fund is to meet only such requisitions as may be directly consequent upon the military and naval measures necessary for the defense and support of the Government. You are therefore authorized and requested to pay such demands upon you, within the above limit, as are presented to you by the duly constituted agents of the Government.

The Department doubts not your willingness to render every assistance in your power in this unprecedented state of affairs. When possible, it is hoped that you will all unite in each act hereby authorized. If, however, from any cause, such united action cannot be had, a majority may exercise the full authority given to the whole; and if any extraordinary emergency shall create a necessity for it, any one may do so.

Very respectfully, S. P. CHASE,
Secretary of the Treasury.

Messrs. JOHN A. DIX, GEORGE OPDYKE, R. M. BLATCHFORD, *New York.*

—

April 21, 1861.

DEAR SIR: You will receive another letter from me with this.

We shall need supplies to a very large amount sent here from New York, since the interruption to purchases in Baltimore. They will, I think, much of them, have to come via Easton, Reading, Harrisburg, and the rest by sea, via Annapolis. I have called on Thomas A. Scott to take charge of the railroads, and I want you to assist the commissaries and quartermasters in pushing forward their supplies, as well as in aiding them in making purchases at or from New York.

We need men here without delay, and supplies should accompany them if possible.

SIMON CAMERON.

A. CUMMINGS.

—

DEPARTMENT OF WAR, *April* 23, 1861.

In consideration of the extraordinary emergencies which demand immediate and decisive measures for the preserva-

tion of the national capital and the defense of the national Government, I hereby authorize Edwin D. Morgan, Governor of the State of New York, and Alexander Cummings, now in the city of New York, to make all necessary arrangements for the transportation of troops and munitions of war in aid and assistance of the officers of the Army of the United States until communication by mails and telegraph is completely reëstablished between the cities of Washington and New York. Either of them, in case of inability to consult with the other, may exercise the authority hereby given.

SIMON CAMERON,
Secretary of War.

Under the authority thus conferred, purchases of clothing, arms, and other supplies were made by me, and ships were chartered to carry troops, &c., to the gross amount of $221,734 40, for which I have filed in the Treasury Department vouchers in detail—a full statement of all of which was furnished to the committee in New York, in September last. And I told them at the same time that the remainder of the vouchers were in the hands of Mr. Blatchford, for other purchases made by my authority, which would complete the whole account. The balance in my hands—$3,193 62—was subsequently deposited with Mr. Cisco, the Assistant Treasurer, at New York, for which I have his certificate; a copy of which is filed in the Treasury Department. The vouchers and certificates together amount to $224,928 01. The vouchers in the hands of Mr. Blatchford, which he had with him when here in December, and ready to exhibit to the committee, as I assured them, with a balance in his hands of about eight thousand dollars—since deposited with the United States Treasurer in New York—amount to the sum of $165,071 99—making, altogether, $390,000—which was the total amount drawn from that portion of the $2,000,000 placed in the hands of Messrs. Dix, Blatchford, and Opdyke, subject to the draft of Governor Morgan and myself, for the purposes indicated in the above letters.

The vouchers in the hands of Mr. Blatchford, which I have before stated the committee so unreasonably and ruthlessly refused even to look at, contained not only the authority of the name of Mr. Blatchford himself, but most of them are indorsed by the signatures of Moses H. Grinnell, Captain Charles H. Marshall, and Samuel Sloan, all alike eminent for their integrity and intelligent devotion to the interests of the country. Many of the articles whose purchase is thus indorsed by these vouchers were bought under the direction of General Wool and General Dix; and not a small portion were directly purchased by General Wadsworth in person for the purpose of freighting the steamer Kill-von Kull, which he sent forward with these stores for the relief of the Government; all of which the committee would have seen if they had yielded to my importunity and called Mr. Blatchford; and thus the whole question of the rightful expenditure of all the money would have been disposed of.

It is thus made evident, by authentic and well-attested vouchers, that the money drawn from the two million fund was honorably expended for what was thought to be, and really was, the necessity of the Government.

It is made equally evident that the statement of the report—still more plainly and offensively repeated in congressional speeches by members of the committee—that a large balance of $140,000 was retained in my possession, is destitute of the slightest semblance or shadow of truth; the only ground for which, at any time, seems to have been a singular misapprehension or an ingenious and willful alteration of the language of my note to the committee, and appended to my testimony. The note, as written to the committee, and which is now in *their* possession, is literally and legibly as follows. Mark the words:

"There retained—under authority of the Secretary of the Treasury—by Messrs. Dix, Blatchford, and Opdyke, one hundred and forty thousand dollars, besides what I have stated in my testimony, which is accounted for by the vouchers."

The original draft of the note, still in *my* possession, is as follows:

"There was retained—under authority of the Secretary of the Treasury—by Messrs. Dix, Blatchford, and Opdyke, one hundred and forty thousand dollars, besides what I have stated in my testimony, which is accounted for by the vouchers."

In copying it very hastily for the committee, I seem to have omitted the word "was;" but the least intelligent reader would in an instant have supplied it, and, indeed, without it the meaning is entirely plain.

The committee, in their report, printed it as follows, and founded upon their version an argument that I had possession of $140,000. Their whole line of argument and injurious deductions is thus based upon an alteration of my language:

"I have retained, under authority of the Secretary of the Treasury, by Messrs. Dix, Blatchford, and Opdyke, $140,000, besides what I have stated in my testimony, which is accounted for by the vouchers."

It will thus be seen that, in changing the word "there" to the words "I have," the report not only reduced the language of the note to an absurdity, but, so far as it left any meaning in it at all, it changed the depository of the $140,000 from Messrs. Dix, Blatchford, and Opdyke (by whom it was held by proper authority) to myself; who, according to their insinuations, retained it without vouchers of any character whatever.

But aside from, and independently of, this critical exposition of the alteration of my language by the author of the report, from which I have been suffering, I have happily at command official papers sustaining, in whole and in detail, my statement on this point—all of which Mr. Blatchford would have exhibited to the committee if he had been allowed to appear before them.

The original deposit of the $2,000,000 in New York, by Secretary Chase, (made upon the official requisition of the Secretary of War and Secretary of the Navy for $1,000,000 each,) and the authorization, by Secretary Cameron, to use that portion appropriated to the War Department, were procedures growing out of the imperious necessity of the hour, and justified by this necessity, as at least partially conceded by the committee in their report. When the exigency was removed, by the reëstablishment of communication between the loyal States and the capital, the deposit of the money was very properly withdrawn by Secretary Chase, as will be seen by the following letter:

TREASURY DEPARTMENT, *May* 6, 1861.

GENTLEMEN: Regular communications with New York having been established, although not as frequent nor as rapid as heretofore, thus removing the absolute necessity which existed on the 24th of April last for special disbursing officers in the city of New York, and referring to my letter of instructions of that date, I request that such sum as may be remaining in your hands of the amount of $2,000,000 advanced to you on that date, to meet legal and proper demands upon the Treasury, may be deposited with the Assistant Treasurer at New York to the credit of the Treasurer of the United States; and that you will, as early as practicable, render your account, with the vouchers, to this Department, that the same may be promptly settled.

There is no doubt that your report, when received, will be entirely satisfactory, and that your proceedings will be found to have been in accordance with the high estimation entertained of you by this Department.

You will please consider this as a revocation of the authority given in my letter of the 24th ultimo, and accept the thanks of this Department for your patriotic services.

I am, very respectfully,

S. P. CHASE,
Secretary of the Treasury.

Messrs. DIX, BLATCHFORD, and OPDYKE, *New York.*

To which Messrs. Dix, Blatchford, and Opdyke replied, stating that there were outstanding obligations amounting to about one hundred and forty thousand dollars, which amount they had retained, *subject to the approval of the Secretary of the Treasury.*

In rejoinder, these gentlemen received the following telegraphic communication:

WASHINGTON, *May* 11.

Your reservation of fund to meet requisition of War Department, through Mr. Cummings, approved.

S. P. CHASE,
Secretary of the Treasury.

It was to this sum, and to the action in relation to it, that I referred in my note, so strangely garbled and misused. I referred to it because it was in addition to what had been at first expended, as I discovered on examining my papers, *having endeavored in vain to induce the committee to allow me to furnish them the vouchers and papers, instead of relying on my recollection;* and I wrote the note that there might not be the appearance of an omission. But the note stated, in relation to it, that this sum "*is* accounted for by the vouchers," which seemed to render it impossible for any misapprehension; and I think now that no fair mind could have misapprehended it, and certainly no honest mind would have altered it.

All these facts, so perspicuous, so undeniable, and so conclusive, as to the rightful retention and appropriation of the $140,000—with the knowledge and sanction of the authorities of the Government—could have been had by the committee if they had been willing even to hear the testimony of Mr. Blatchford, who had all the papers necessary to a full understanding of the case, as previously stated.

It should be remembered that, during all my interviews with the members of the committee, I had not the remotest idea of what they were about to complain of. I was never once asked to explain a syllable about the $140,000, nor was it hinted to me that that was a question in their minds; and, indeed, I had been assured that they had no serious complaint to make against me.

The simple statement of these facts convicts the committee of such gross and reckless injustice, that I do not feel called upon to stamp it or characterize it with the deserved and appropriate epithets.

If it be alleged that this alteration of which I complain was a mistake, unwittingly and not willfully made; then, I ask, why did not the committee recall me, to ascertain the meaning of the note which their alteration had reduced to nonsense; or, worse still, why did they refuse so pertinaciously to hear Mr. Blatchford, whose statement I assured them would make everything perfectly plain?

Is it too much to say that, however the alteration may have been made originally, the committee, by their subsequent conduct toward me, and by the argument of the report, made it willfully their own?

In further evidence that this authority to act in New York was regarded as only temporary, and resulting from a peculiar exigency, the following letter was addressed by Secretary Cameron to Governor Morgan and myself at the same time with the letter of Secretary Chase, withdrawing the deposit:

WAR DEPARTMENT,
WASHINGTON, *May* 7, 1861.

GENTLEMEN: The extraordinary emergency, which demanded immediate and decisive measures for the preservation of the national capital, and the defense of the national Government, rendered it necessary for this Department to adopt extraordinary means for that purpose; and having full confidence in your intelligence, experience, and integrity, you were authorized to make all necessary arrangements for the transportation of troops, &c., in aid and assistance of the officers of the Army of the United States, until the reëstablishment of communication, by mails and telegraph, between the cities of New York and Washington.

Uninterrupted communication between the two cities being now again established, and it being desirable that the duties heretofore attended to by you should be hereafter performed by the officers of the Army, to whom they properly belong, I beg to tender you the thanks of this Department for the very prompt and efficient manner in which you have discharged the duties assigned you, and to request you to cease making purchases, procure transports, or attending to other duties under authority given, which could be justified only by the emergency, and now happily no longer existing.

Respectfully yours,

SIMON CAMERON,
Secretary of War.

Governor E. D. MORGAN, and ALEXANDER CUMMINGS, Esq., *New York City.*

I have thus, by a plain statement of facts, accompanied by official documents from the Treasury and War Departments, disposed of the principal calumny of the report. In looking back over the history of the last few months, it seems really marvelous that any portion of the public could have believed so preposterous a story—which has been so industriously circulated through the agency of this report—as that the large sum of $140,000 of the public money would have been allowed by the vigilant and honest head of the Treasury Department to remain in any hands unaccounted for.

I have this satisfactory reflection: that, notwithstanding the criticisms of the committee about the looseness of these transactions, and the accounts pertaining to them, they never could have been taken up for settlement without a perfect vindication of my character in relation to the whole affair. My note, as altered, might have remained unexplained, but nothing else. The facts and figures are in proper order, and would speak for themselves in all time, with or without my presence, and so I assured my friend, to whom I have alluded in the first part of this letter, who was alarmed for my sake, by the rumor that seemed to have leaked out of the committee.

I might close here, but for the labored attempt of the committee, while admitting, in language, the integrity of my purpose, yet attempting by insinuation to fix a stigma upon me for some of the minor acts connected with the execution of my trust. Of these, the one most harped upon is the purchase of linen pantaloons and straw hats for the troops. It is not alleged that a high price was paid for these articles; on the contrary, it is well known that they were purchased at a very low rate—being about ninety cents a pair for the pantaloons, and sixteen cents a piece for the hats. The most, therefore, that can be charged in this affair, and others of similar character, is an error of judgment. On that point I am not sensitive; but I may be excused for still believing that large bodies of men, suddenly transferred from the northerly climes of Maine and Michigan, where the chill of winter was still upon them, to a latitude where the heat was ranging from seventy-five to eighty degrees, would find great relief and comfort, and, indeed, an exemption from the danger of sudden overheating and sun-stroke—many cases of which actually occurred—by the seasonable clothing thus provided. These men were not soldiers, in the technical sense of that term, long inured to woolen uniforms, but they were volunteers from all the walks of life; and in New York, and in Washington also, at that time, it was thought sensible to provide for them such clothing as in similar climate they would provide for themselves. They were fully the equals of, living in like manner with, the members of this committee, adapting their clothing to the change of the seasons—a fact which seems to have been utterly forgotten by the committee.

The eagerness with which the articles in question were sought by the troops—who would have been glad to purchase them at the price they were procured by the Government—may be quoted as some proof of the wisdom of the purchase. They were no more outside of the Army regulation than the purchase of winter gloves for the soldiers on picket duty. The committee, it is fair to presume, from their action on this question, would let the soldiers' fingers freeze fast to their musket-locks rather than have a sound discretion exercised in such an emergency. So much for that large point which occupies a considerable portion of the report, and whose vast importance has called forth speeches in both Houses of Congress.

With regard to the purchase of ale, about which so much is said, the same character of reply, to some extent at least, may be made. No one will deny that it might have been made useful both in the hospitals and out of them; and I doubt not it was used advantageously. But if it were not, it is surely no fault of mine.

The accusations of the report do not stop with those matters with which I was connected, but there seems to be a desire to drag me into others with which I had no connection whatever. Of these, the most unjustifiable is the insinuation that I had some connection with the chartering of the steamer Cataline—an insinuation made indirectly, but significantly, after I had on oath averred that I had no connection whatever, in any way, direct or indirect, with that steamer, nor even knowledge of its ownership or charter. I repeat that averment in the most emphatic and unqualified manner. This averment is in no way affected by the note which the committee publish, showing that I had ordered freight on board of the Cataline. She had been chartered by Colonel Tompkins, United States Quartermaster at New York, as the committee ascertained, and I told them that it was very likely some of the articles I had purchased were forwarded by her, because they were sent by any vessel that was in the service and ready to go. In the note which the committee parade, in connection with this subject, two other vessels are named as well as the Cataline—the Roanoke and Chesapeake—as having freight on board from me, and I have not, to this hour, the remotest idea of who owned them then or now, nor who chartered them for the Government; and I knew no more of the Cataline than I knew of them. It was not at all necessary, nor hardly even within my province, to inquire who owned or chartered them.

Without going further into detail upon the various matters embraced in the report of the committee, I content myself with the declaration that the money expended by myself and those with whom I was associated, was disbursed economically and wisely; and that in the whole vast outlay that has attended this war, in no instance has the Government more truly or more fully got its money's worth, or the disbursing agents more strictly and conscientiously discharged their onerous duties. And it is proper to add that very little was done toward the safety of the Government in its great emergency, except through this provision of its officers above alluded to, and the action of the city of New York, through the Union Defense Committee.

As an evidence and in illustration of the care used in the expenditure of the funds provided for this emergency, I may properly cite one instance out of many cases that occurred: during the period alluded to, the Government decided, I think in Cabinet meeting, to purchase the steamer Atlantic,

then in the public service, under a charter made by regular officers of the Army; and I was authorized, and, indeed, almost instructed, by a telegraphic dispatch, to purchase her for the sum of $350,000—the price named in her charter—at which the Government had a right to purchase. I received the dispatch late in the evening of Saturday, the 4th of May, stating that her charter would expire the next day, which was Sunday. It had evidently been represented to the Government by parties who were in Washington, that it was important that the privilege to purchase provided for in the charter should be taken advantage of. After obtaining what information I could, I decided not to make the purchase, and so reported to the War Department, informing the Secretary that the vessel had not long before been offered at a much lower price, and probably would be again so offered if not bought now. I understand that she has subsequently been offered to the Government for about two hundred and fifty thousand dollars, making an actual saving, if it is still thought wise to purchase her, of a sum equal to one fourth of all the money I expended during the dark and perilous period that followed the memorable 19th of April.

I have now done. I have spoken in self-defense. I have spoken plainly, as is my right, and the right of every man unjustly assailed. I have not harshly characterized the report, but I have shown, by official and irrefragable proof, the groundlessness of its charges and insinuations as affecting the transactions with which I was connected. I do not doubt, indeed I have the utmost confidence in, the personal honesty and candor of certain members of the committee; and I feel assured that, upon a review of all the facts in the case, they will be alike anxious to vindicate me from the aspersions which they have unwittingly assisted in heaping upon me, and to relieve themselves of the injustice which, perhaps through misapprehension and haste, they have, in the face of the country, committed against a citizen of whom they can justly allege no wrong. I have given a complete and impartial, though necessarily brief, statement of this whole transaction, in reply to the report of the committee, by which I have been made to suffer so unjustly. I have made it without resentful impulses, for which, if I had been disposed to indulge them, there is ample scope. But I prefer to make no retorts, and have only to say, in conclusion, *fiat justitia*.

I am, as ever, yours truly,

ALEXANDER CUMMINGS.

WASHINGTON, *February* 25, 1862.

Mr. KELLEY. I have now only to thank my colleague for his courtesy, and the committee for its attention.

Mr. BIDDLE. Mr. Chairman, I thank you for giving me the floor. I would not willingly let pass the sentiments which have just been uttered by my colleague [Mr. MORRIS DAVIS] without opposing to them sentiments which are, I believe, more characteristic of the conservative people whom he and I have the honor, in part, to represent upon this floor.

As a citizen of the border State of Pennsylvania, the views in which I have been bred in relation to the institution of slavery have been temperate, and, I hope, just. It has not been to me an exciting subject, as it is to many with whom I am associated in this House; for to some gentlemen, very calm in their judgment on all other matters, the mere word "slavery" seems to have much the same effect that a red rag has on a bull.

I have never been blind to the disadvantages and evils of slavery; I have not been indifferent to their alleviation by practical, constitutional means; yet I have ever regarded the intemperate and aggressive policy of the political anti-slavery party to be as sterile of benefit to the negro as it has been disastrous to the peace, the prosperity, and unity of our country.

This war has brought us, at last, to see that there is a broader question than the "slavery question," though it is commonly preferred to narrow the discussion down to that. But, now the matter is brought home to us, we find that there is a "negro question," vast and complex and embarrassing, even if slavery were blotted out of existence.

From the earliest times, Pennsylvania has had her mode of treating these questions. Originally a slaveholding State, she adopted, in 1780, the policy of gradual emancipation, extending it, however, only to the future-born children of the slaves then living; these children were to receive their freedom at the age of twenty-eight years.

This great measure was the product of universal public sentiment, and was perfectly consistent with the general interest; to effect it, no pressure, no compulsion from without was directed against our people. Had there been, from what I know of their temper, I should judge that slavery would have existed among us to this day. As it was, the last slaves died out within the recollection of the youngest man upon this floor.

By our common law, however, the negro had never been a citizen; so our highest court decided; and when the point was controverted, the people settled it definitely by amending the constitution, so that to be a "white" man is one of the necessary constitutional qualifications of the elector.

On our statute-book, at this very day, is our State fugitive slave law, far older than the acts of Congress on that subject; nay, older even than the clause in the Constitution of the United States providing for the return of fugitives.

You perceive, sir, that Pennsylvania could have little excuse for joining in the insurrections against the fugitive slave law, or against the judgment of the Supreme Court of the United States denying citizenship to the negro, since we have ourselves furnished the precedents for both the statute and the decision.

In our just indignation against the present vast rebellion, let us not entirely forget that in too many of the northern States a chronic rebellion against distasteful constitutional obligations has existed for many years.

In Pennsylvania, our distinctive school of abolition has been marked by the mild benevolence of our venerable Society of Friends, whose Christian charity embraced both the master and the slave; let it not for one moment be confounded with the cut-throat *philanthropy*, whose emblems are the torch and the pike, which has canonized John Brown as a saint of the church in which the negro is worshipped. You will rarely find in full membership in it a man born and bred upon the soil of Pennsylvania.

From that church I am an open dissenter; I differ wholly from those who look upon the present as a "golden hour;" who regard it with exultation as the dawn of a black millennium. In me their hopes and schemes inspire disgust and horror.

An eminent member of the dominant party has promulgated his scheme for carrying on this war. He has promulgated it in many essays and speeches, to one of which parliamentary usage permits me to refer, since it was not made in his place in the Senate. He would not, it seems, trust to the valor of our armies and the skill of our generals. We are, like the ancient Britons, to call in an ally to fight our battles for us; our ally is to be—the negro.

Southern men, it is said, fight and let the negro till the ground; we are to reverse this order. The negroes are to do our fighting for us; a million of them are to constitute our army! In this pamphlet of Mr. SUMNER the black muster-roll is given. He says in his speech to the Republican convention at Worcester:

"Careful calculations demonstrate that of this number there are upwards of one million of an age for military service; that in Virginia alone there are 121,564 male slaves of an age for military service."

If the distinguished gentlemen from Missouri and Kentucky wish to know the number of these black champions of the civil liberties of white men in their respective States, they will find it set down here In conclusion, Mr. SUMNER asks this question:

"*Can we afford to reject this natural alliance, inspired by a common interest and consecrated by humanity?*"

A noble lord once urged in the British Parliament the employment of the Indians against the British colonists in America. He said, this noble lord, that "it was perfectly justifiable to use all the means which God and nature had put into our hands." Then, sir, the great Chatham rose and blasted him with an eloquence that has become immortal:

"That God and nature put into our hands! I know not what ideas of God and nature that noble lord may entertain; but I know that such detestable principles are equally abhorrent to religion and humanity. Such notions shock every precept of morality, every feeling of humanity, every sentiment of honor.

"These abominable principles, and this more abominable avowal of them, demand the most decisive indignation. I call upon that reverend and this most learned bench to vindicate the religion of their God, to support the justice of their country." * * * * "I invoke the genius of the constitution.

"To send forth the merciless cannibal, thirsting for blood, against whom? Your Protestant brethren! To lay waste their country, to desolate their dwellings, and extirpate their race and name by the aid and instrumentality of these hell-hounds of war. I solemnly call upon your lordships, and upon every order of men in the State, to stamp upon this infamous procedure the indelible stigma of the public abhorrence."

Sir, you will remember, too, that it is the standing reproach of American history against George III that he called in the Hessian against his British subjects. Yet we are to call in the negro! Mr. SUMNER asks us, "can we afford to reject this natural alliance?" Why, if, indeed, with our twenty millions we cannot cope with six; if it is we who are in danger of extermination, then, perhaps, we cannot afford to reject the alliance with the negro. A French marshal once smothered his enemies—men, women, and children—in a cave; and when he was arraigned before the public opinion of the world, he pleaded "necessity."

Now, sir, no man can set limits to necessity, and no human intelligence can foresee all the exigencies of war; and I, for one, have been unwilling to give my adhesion in advance to any set formula for their determination. But, in the present aspect of this war, my trust is not in the help of the negro. Nay, sir; as one who has at heart the successful prosecution of this war, I would not venture to array against the Government in which I have a part, the sympathy of race. It is the great tie by which God knits into families those several portions into which it has pleased Him to divide mankind.

Do you remember when the East Indian rose upon his English ruler? Do you remember how it froze our blood to read of men who clasped their wives and daughters to their hearts for the last time, and then slew them to save them from the black demons, athirst with lust and rage, who swarmed around them? Do you remember how the American minister, an honored Pennsylvanian, stood up then in London and said to the British nation, "Men of kindred breeds, our hearts are with you in this struggle?"

Never did minister better represent his people. Our wrongs from England were forgotten then. Yes, we forgot that it was England that warmed in her bosom the viper of abolition till its fangs were grown. Now that they are fastened upon the vitals of our unhappy country she rejects the reptile that she fostered.

Sir, I know not what notion that man has of the military character who thinks that the slave of yesterday may be the soldier of to-day. Of the slave you cannot make a soldier; you may make an assassin. But the shrieks of white households murdered, and worse than murdered, by the negro would appall the hearts and palsy the arms of more of the supporters of this war than all the race of Ham could take the place of. To Mr. SUMNER's question, then, I answer, we *can* afford to reject this black alliance. It offers to northern white men a fellowship that most of them abhor; it proffers to the southern white man no terms that he prefers to extermination—it proffers negro equality or negro domination; it drives the Union men of the South into the ranks of the enemy; it opens to us a dreary prospect of a protracted, devastating, ruinous guerrilla warfare; it shocks the sentiment of the white race throughout the world.

In the present aspect of the war, then, my trust is not in the negro. I trust in the mercy of Almighty God to bring this distracted nation back to peace and union; and, under his divine Providence, I trust to our soldiers' valor and their leaders' skill; to firm and moderate counsels in the Administration of this Government: the allies whom I would welcome are the Union men of the South. We all know how long and gallantly the Union men of North Carolina and Alabama and Tennessee strove till they were suppressed and overwhelmed. It is well known how the Union sentiment retarded the progress of secession in all the southern States. It "is not dead, but sleepeth," that Union sentiment which men of the South have cherished, under perils that we have not been called on to encounter. Every dispatch that comes to us from Kentucky and Tennessee tells us of men rallying to the old flag. I would have the old banner presented to their expectant eyes, not as the emblem of military despotism, but as the free flag of constitutional government. I would see our armies, strengthened and restrained by discipline, moving southward with resistless force; carrying everywhere peace to the peaceful; the Constitution and the laws to the law-abiding; defeat and rout to southern armies, which could never be rallied nor recruited where the people have their rights. War so conducted will knit our conquests to us, will double our strength, and sap the enemy's.

To those victories let us contribute our part. Let us not, by revolutionary measures, extinguish the rising hopes of those who love the Union. Let us not foster and stimulate and pander to public impatience. It was discussed here on

this floor lately what was meant by the great captain of the age when he said he was forced to give battle prematurely at Bull Run. Sir, I understood always that he meant that popular impatience of delay precipitated his movements. Perhaps he remembered how at the beginning of the war with Mexico a congressional intrigue had nearly elevated over him an incompetent politician—he felt that he must move, or perhaps again experience "a fire in his rear" from political batteries. Let us not repeat our errors, lest we expiate them by defeat or indecisive victory. Give time to our white Army, and you will not need a black one.

I know that here I run counter to sentiments that are often expressed upon this floor. The gentleman from Kansas, for instance, in his eloquent speech, which we all remember, charged it upon the President, as a grievous error, that he wished "to bring back the seceded States on the old basis;" and the gentleman deemed it the height of satire and ridicule to describe "McClellan and Banks and Dix and Halleck, and the like, armed to the teeth and ready for the fray, with sword in one hand and the Constitution in the other, prepared to administer death or the oath of allegiance, according to the stubbornness or docility of the subject." Sir, if what is thus ridiculed is indeed the policy of the President, I will give all a man can give to further and support it.

I refer to the speech of the gentleman from Kansas, because it is the frankest and clearest exposition that I have heard here of the doctrine of the party of which he is a distinguished leader. I would say that the doctrine of that party might be summed up in four words: "Throw the Constitution overboard." The gentleman from Kansas said explicitly, "the wish of the masses of our people is to conquer the seceded States to the authority of the Union, and hold them as subject provinces." He combats, as a fallacy, the idea that constitutional obligations rest on our Government in its prosecution of the war. He says, "this principle must be repudiated, or it is obvious that we are tied hand and foot."

Sir, the rise of the Democratic party in this country was the people's protest against the concentration of power in the Federal Government. Now, let some party rise; call it the Democratic party—call it, if you will, "the white man's party"—which shall protest against these schemes for black armies and States held as subject provinces.

Truly did Jefferson record the parentage of abolition at its rise, as a political proscription. He said, in a letter to La Fayette:

"On the eclipse of Federalism with us, although not its extinction, its leaders got up the Missouri question, under the false front of lessening the measure of slavery, but with the real view of producing a geographical division of parties which might insure them the next President. The people of the North went blindfolded into the snare, followed their leaders for a while with a zeal truly moral and laudable, until they became sensible that they were injuring instead of aiding the real interests of the slaves, that they had been used merely as tools for electioneering purposes."

Such were the words of Jefferson, himself opposed to slavery, but more opposed to the attempt to abolish it in Missouri, through the agency of the Federal Government:

"This momentous question, like a fire bell in the night, awakened and filled me with terror. I considered it, at once, as the knell of the Union." * * * * "Of one thing I am certain, that as the passage of slavery from one State to another would not make a slave of a single human being who would not be so without it, so their diffusion over a larger surface would make them individually happier, and proportionally facilitate the accomplishment of their emancipation by dividing the burden on a greater number of coadjutors."

Let me recall, too, that at that day a Representative of my own State, Henry Baldwin, of Pittsburgh, afterwards a judge of the Supreme Court of the United States, and one of the ablest, foresaw, with a prescience that rivaled Jefferson's, the dire evils that were to arise from a geographical division of parties. In 1819 and 1820, on the floor of this House, Baldwin advocated, with all the vigor of his robust intellect, the immediate and unconditional admission of Missouri. Sir, I voted the other day against the bill prohibiting the return of fugitives by the military authorities. That bill was carried through this House under the whip and spur of "the previous question," after a single speech in its favor from the gentleman from Ohio, to which no man was allowed to utter a word in reply. He represented, without any chance for contradiction, that the military officers were usurping the functions of our civil judges and marshals, and were "running down and hunting down men, women, and children; as alleged fugitives from slavery."

The simple fact, as I understand it, is this: that in localities where the civil power is extinct, and all its functions are exercised by the commanding general in the performance of his duty and his pledge to protect all constitutional rights, he has protected rights to slave property. We, by our recent legislation, have invidiously discriminated those rights as the only ones which he shall not protect, and that at a moment when our armies are occupying regions where those rights of property are more valuable than any other. Our army occupies a country, say in Tennessee; the Union men welcome it; their slaves quit work to hang round the camp; the owners appeal to the only authority existing for a remedy. The general, who decides everything else, must say, "Friends, I promised to maintain all your constitutional rights, but here I am powerless. Go down to where there was once a court, and if the judge, who is now a secession colonel, does not hang you as a Union man, he will give you a warrant, perhaps. If not, all your slaves must, practically, be free; civil society must fall into chaos. So Congress has enacted."

Sir, I did not choose to vote for that enactment. Whenever, in the anomalous condition of things incident to this war, it rests wholly upon a military officer to sustain civil society and maintain the laws, I will not vote to restrict him in his duty. I believe that in the progress of this war we shall constantly see, as we have seen, the civil power entirely superseded by the military. By the rules of civilized warfare the conqueror owes protection to peaceful men in their rights of property; I would not impose a penalty on our officers for performing this duty. Law and sound policy, in my judgment, dictate that they should perform it. Of course I do not mean to countenance the notion that slaves or any other property should be returned to men in arms against the Government. But, sir, I do not wish to see every column of our army carrying in its train a vast swarm of ungovernable negroes; a terror to every one but the foe in arms. Useless in battle, they will devastate the land and stain the page of our history with horrors that modern civilization forbids, even in war. How this is to be prevented I know not, if our officers may not send them back to their labor; nay, as some here have strenuously contended, may not even exclude them from the camp.

For these sentiments, I doubt not, I shall be styled "an advocate of slavery." Neither that nor any other imputation shall ever deter me from voting and speaking according to my convictions.

I desire to see a speedy and glorious termination to this war; and I would not ignore the lessons of history, which teach that such a termination was never reached through sweeping confiscations and proscriptions and savage cruelties. You may make a desert and call it peace; or you may summon clemency to the aid of valor, and make your earliest victories decisive. I am a northern man with northern principles. In this conflict my pride and interests are all enlisted on the northern side, which is my side.

It is in the interest of the North that I have ever been opposed alike to northern disunionists and southern disunionists.

I would leave to my children the Union that our fathers left to us. Born and bred on the soil of the State, whose proudest title is to be "the Keystone of the Federal arch," I do not wish to see a new St. Domingo on her southern border.

These are my sentiments as a Pennsylvanian and a white man.

Mr. BLAIR, of Missouri, obtained the floor, but yielded to

Mr. BUFFINTON, who moved that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. HUTCHINS reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly a bill to regulate the franking privilege, and had come to no conclusion thereon.

PRESIDENT'S SPECIAL MESSAGE.

Mr. KELLOGG, of Illinois. I move that ten thousand extra copies of the President's special message be printed for the use of the House.

The motion was referred to the Committee on Printing.

STEVENS'S BATTERY.

Mr. NIXON presented the memorial of E. A. Stevens, in reference to the Stevens battery; which was referred to the Committee on Naval Affairs.

COPYRIGHT.

Mr. NOBLE, by unanimous consent, introduced a bill to amend the act respecting copyright, approved February 3, 1831; which was read a first and second time, and referred to the Committee on the Judiciary.

And then, on motion of Mr. HARDING, (at five o'clock, p. m.,) the House adjourned.

IN SENATE.

FRIDAY, *March* 7, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a message from the President of the United States recommending the adoption of a joint resolution expressing the purpose of the United States to coöperate with any State which may adopt gradual abolishment of slavery, giving to such State pecuniary aid, to be used by such State in its discretion to compensate for the inconveniences, public and private, produced by the change of system; which, on motion of Mr. WILSON, of Massachusetts, was referred to the Committee on the Judiciary, and ordered to be printed.

ENROLLED BILL SIGNED.

The VICE PRESIDENT signed the enrolled joint resolution (S. No. 45) for the relief of William H. Nobles, which had heretofore received the signature of the Speaker of the House of Representatives.

PETITIONS AND MEMORIALS.

Mr. SUMNER. I offer a memorial from merchants and others having business with the west coast of South America. It is signed by a large number of the most eminent merchants of New York. It is similar in its character to memorials which I have already presented from merchants of Baltimore and merchants of Boston, and it concludes with the prayer that "Congress will take such immediate action in the premises as in their judgment they may deem expedient to authorize the proper authorities to provide a conveyance of the mails to and from Panama and New York." As that subject is now before the Committee on the Post Office and Post Roads, I move the reference of the memorial to that committee.

The motion was agreed to.

Mr. SUMNER presented a petition from citizens of Ohio, praying for the total abolition of slavery throughout the country; which was ordered to lie on the table.

Mr. HOWE presented the petition of Ira E. Leonard and other citizens of Wisconsin, praying for the passage of a general bankrupt law; which was referred to the Committee on the Judiciary.

Mr. ANTHONY. I offer the memorial of officers, non-commissioned officers, and privates, of the United States marine battalion which was on board the steamer Governor, in Commodore Dupont's expedition, which vessel was lost; the officers and privates lost all of their personal effects. They ask for compensation for the loss which they have sustained; and the case is the more meritorious as the vessel was notoriously unseaworthy, known to be so by many of the officers who were compelled to embark on board of her, and who protested against it at the time. I move that the memorial be referred to the Committee on Naval Affairs.

The motion was agreed to.

PROPOSED EXPULSION OF MR. POWELL.

Mr. DAVIS. Before the Senate proceeds with other business, I desire to ask a question, by the courtesy of the Senate, of the chairman of the Judiciary Committee. Mr. President, at the last session of the Kentucky Legislature, that body passed a resolution instructing my predecessor and my

colleague to resign their seats, because as the Legislature believed they were not loyally, and according to the principles and opinions of the State, representing the State. On the 20th of February, one of the Senators from Minnesota [Mr. WILKINSON] introduced a resolution for the expulsion of my colleague. Fifteen days have elapsed, and there has been no report. The Legislature of Kentucky are now in session, and they want to know what will be the action of the Senate upon the resolution to expel my colleague. One House of the Legislature, after the resignation of Mr. Breckinridge, and after my colleague declined to resign, passed a resolution requesting the Senate to examine into his loyalty, and if found disloyal, to remove him by expulsion. The other branch of the Legislature deemed it indelicate to press the Senate upon that point, and refused to act upon it. That body is now in session, and it wishes to adjourn in the course of a week or a short time. I have received many letters from the prominent Union members of that body inquiring of me what will be the action of the Senate upon the subject, for this reason: if my colleague is to be retained in his seat, they want to know it, that they may acquiesce; if my colleague is to be removed as a member from this body, they want to know it, that they may send his successor here, who will truly represent the opinions and the loyalty of that State in this body, by their own election. They are unwilling to take a recess, and then to permit a disloyal and a traitorous Governor to select a Senator who shall represent the State of Kentucky in the room of my colleague, if he be expelled from the body.

These are the reasons which they have assigned for asking my attention to this subject, and requesting me to ascertain at some convenient and reasonable time, what disposition the Senate intends to make of the subject. I call it up in this manner this morning, to know of the chairman of the Committee on the Judiciary when it is probable that the subject will be reported by that committee.

Mr. TRUMBULL. I did not hear the Senator's proposition, and do not know exactly what is pending; but I will answer the question which I understood him to ask at the conclusion of his remarks. The Committee on the Judiciary have had under consideration the case of the Senator's colleague, and have made some examination in reference to it; but our pressing engagements have been such that we have not been able to report upon it up to this time. I can say to the Senator from Kentucky that his colleague is anxious that it should be pressed to an early decision, and the committee have given the case all the attention they could, consistent with other pressing engagements, and it will be reported to the Senate at the very earliest moment that the committee can dispose of it consistent with other pressing engage that are upon them.

Mr. DAVIS. That answers my purpose. I merely wanted to bring the attention of the chairman of the committee to the subject.

Mr. POWELL. I have been a little astonished at the zeal of my colleague in this matter. I do not intend now to enter into any discussion; and I had not proposed, until the committee reported, and every Senator in this Chamber who desired to do so had given his views on the subject, to open my mouth in regard to it; but I will say to my colleague, to the Senate, and to the country, that I am anxious this investigation should go on. As the honorable chairman of the Committee on the Judiciary has said, I have pressed the committee as far as I could with delicacy to act upon it. The committee, I will do them the justice to say, have given every indication that they wish to dispatch it, and have given it as much attention, I think, as the pressing business before them would permit.

My colleague has chosen to speak of the acts of the Kentucky Legislature. I think he is mistaken upon one matter of fact. He says after my colleague, the predecessor of the gentleman, (Mr. Breckinridge,) and myself had been asked to resign, and I had refused to do so, one branch of the Kentucky Legislature passed a resolution asking the Senate to inquire into my case. I think my colleague is utterly mistaken in that. I do not think either branch of the Legislature has taken action upon the subject since that resolution of instruction was passed. I know that at a previous session, one member of the lower House introduced a resolution of that kind; but it never was acted upon within my knowledge. My colleague, I suppose, falls into the mistake from the fact that when the original resolution was presented, asking my then colleague and myself to resign, it was accompanied by a resolution that, unless we complied, the Senate should investigate our conduct. The resolution in that form passed the Senate; it was sent to the House; but the House refused to concur in it in that form, and simply passed a resolution requesting us to resign, and in that form it was concurred in by the Senate. That is the fact, as I understand. As to any such action since that resolution was passed as that indicated by my colleague, I can only say I have not heard of it, and I have been a pretty close and attentive observer of the action and doings of the Legislature.

While I am up, I will simply say to the Senate, that so far as the action of the Kentucky Legislature and myself are concerned, it is a matter between me and my constituents. At a proper time, when I shall be heard, I will make it apparent to this body and to the world that my action during the last session of Congress was perfectly in accordance with the resolves of the Kentucky Legislature then upon the statute-book, was perfectly in accordance with the views of the people of Kentucky, as expressed in the resolutions of all the political organizations of that State, and that the Legislature have asked me to resign for doing what they said ought to be done, to wit, endeavoring to maintain the strict neutrality of Kentucky.

I will say furthermore that a friend of mine, when those resolutions were pending in the Legislature, proposed as an amendment to the resolutions, to submit the question to the people of Kentucky as to whether the Senators from that State should resign or not, and the Legislature declined to do it. I told the gentleman before he offered that amendment, that if that test were agreed to, I would abide it, and he might so state in his place to the House. Whether he made the statement or not, I do not know. He offered the resolution.

I say now, that, whether I retain this seat or not, whenever I can have a proper hearing before the people of Kentucky, I am willing to submit my action to them; and if they decree, upon full investigation of my conduct here, that I do not truly represent them, I shall resign my seat; but there is a difference between the Kentucky Legislature and myself. I think that I fairly and fully represented the will of the people of my State, as expressed in every form, at the time when I cast the votes of which complaint is made. I was then willing, and I am now willing, to leave that matter to the people of Kentucky. It is a matter with which, I suppose, this Senate has nothing to do. I hope the Judiciary Committee may, as promptly as they can consistently with the public interests, make a report upon my case, and then I hope the Senate will take it up and continue with it till it is disposed of. That is my wish. I have no wish to delay it a single moment. I will say further, while I am up, that I do not propose to make any remarks, after the case is reported, until every Senator who desires to be heard shall have spoken, and then I shall ask the permission of the Senate to make a statement in my vindication. I shall wait patiently and silently to hear what every Senator says; and then, according to my own judgment, I shall make a brief statement. That is all I ask. I shall not delay action in any form or in any manner.

Mr. DAVIS. In relation to the action which I stated one of the Houses of the Legislature of Kentucky had taken upon the subject of my colleague's resignation, he may be right in point of fact; but if he is, I am misinformed. Members of the Senate of the Legislature of Kentucky have told me that that body passed such a resolution; and I have no doubt that they did pass such a resolution. I do not propose at this time to enter with my colleague into the investigation of the question whether he has represented the people of Kentucky or not. It will be sufficient to enter upon that inquiry when the resolution of the Committee on the Judiciary, whatever it may be, shall have been reported. When the report shall be made, I shall be ready to enter upon that investigation.

CULTIVATION OF COTTON LANDS.

Mr. FOSTER. I present the petition of Messrs. C. H. Marshall, P. Perit, William F. Havemeyer, A. A. Low, Morris Ketchum, Shepherd Knapp, and divers other eminent citizens of the city of New York, calling the attention of Congress to the condition of the cotton lands on the coast of South Carolina and Georgia, now in our possession, and to the condition of the blacks upon the plantations there, and asking legislation. As a better argument than any I could make myself for taking up the bill (S. No. 201) which is before the Senate on this subject, I beg to ask that the petition may be read; it will occupy not more than two or three minutes.

The Secretary read the petition, as follows:

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

The undersigned, citizens of New York, respectfully represent to your honorable body, that they view with deep concern certain facts set forth in a recent report to the Secretary of the Treasury, as the results of an official inquiry concerning the condition of property held by the military and naval forces of the United States on the coast of South Carolina, and from which it appears—

1. That, notwithstanding the destruction of a large quantity of cotton by the rebels, and notwithstanding the irregular, imperfect, and necessarily improvident manner in which the remainder has been secured, it is estimated that a very large sum of money will be received into the Treasury of the United States, as the proceeds of sale of the cotton already gathered from the plantations now within the military lines.

2. That the slaves by whose labor this cotton was produced still remain, with immaterial exceptions, upon their respective plantations.

3. That while large quantities of corn, also the product of the labor of these slaves, have been taken from the plantations for the use of the Army, the supply of food for the slaves themselves is already, in many cases, stinted and precarious, and is likely to become more so.

4. That the supply of clothing which has customarily been procured for the slaves by their owners, and paid for out of the proceeds of the cotton crop, is to the present time withheld from them.

5. That the chief military authority and representative of the Government at Port Royal has solicited charity to provide for the wants thus originating.

6. That there appears to be no reason to doubt that the labor of these destitute persons would, under proper direction, again produce crops of cotton and corn, the proceeds of which would far more than suffice to reimburse the Government for the necessary expense of providing in a liberal manner for all their immediate wants.

7. That the season during which the ground should be prepared for the planting of cotton is already nearly passed.

8. That little or no work has as yet been done in preparation for such a crop, but that a large part of the laboring population is living in idleness.

9. That this idleness is not attributable to any indisposition to work on the part of these people, nor to any difficulty growing out of the military occupation, which it is not practicable to remove at insignificant cost.

10. That the direct loss by delaying for a few weeks the removal of these difficulties cannot reasonably be estimated at less than $1,000,000, while it may not improbably amount to a much larger sum. In view of these several facts, the undersigned respectfully submit to your honorable body that the occasion for the passage of an act of Congress, directing and providing ways and means for the efficient employment of this laboring population, is one of extreme urgency, and is recommended alike by considerations of economy, humanity, justice, and the national honor.

The undersigned are not unaware that since the date of the report in question measures have been taken to give agricultural occupation to some of the negroes for whom their charity is solicited by the Government; but while they regard this as an acknowledgment of the propriety and necessity of action on the part of the Government to remove the discouragements to labor which at present exist, they consider that the measures referred to are wholly inadequate to the emergency, and that the result, without the passage of such an act of Congress as has been suggested, will be a disastrous failure to meet the obligation assumed.

For the immediate passage of such an act, therefore, the undersigned most respectfully make this their petition.

NEW YORK, 1862.

Mr. WADE. I move to postpone all other orders and take up Senate bill No. 201, on that very subject.

Mr. GRIMES. I hope we shall go through with the business of the morning hour. I have been trying to get in a resolution for the last two or three days, which I should like to offer.

Mr. WADE. I hope we shall take up this bill, if it is the intention that we shall ever do anything on the subject. It is evident from the paper just read, that if any legislation is to be had upon the subject, we are already sufficiently late, and shall be fatally so unless we take it up now. If it is the sense of the Senate that they will not act on this subject, I shall never press it any further; but if it is intended to act on it, now is the time.

Mr. GRIMES. I do not think that fifteen minutes will make a great deal of difference.

Mr. WADE. Fifteen minutes may postpone it indefinitely. That is the difficulty.

The VICE PRESIDENT. The Senator from

Ohio moves to postpone all prior orders for the purpose of taking up the bill indicated in his motion.

Mr. SHERMAN and others. What bill is it?

The VICE PRESIDENT. A bill (S. No. 201) to provide for the occupation and cultivation of the cotton and other lands in the possession of the United States, lying along the southern coast of the United States.

The question being put; there were, on a division—ayes 18, noes 12; no quorum voting.

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

Mr. CARLILE. It will be remembered by the Senate that that bill was before the Senate a day or two ago, and gave rise to very considerable discussion, and it is apparent that if it is taken up now it cannot be disposed of in the morning hour. I desire myself, if no other Senator shall address the Senate upon the bill, to make some remarks upon it. I am unwell this morning, and not in a condition to do so. I think, from the experience of the Senate when it was before it the other day, it must be apparent to every Senator that it will be impossible to make any disposition of it in the half hour now remaining of the morning hour.

Mr. WADE. I hope we shall continue the discussion of it until we act definitely upon it; either postpone it forever, or act upon it now.

The question being taken by yeas and nays, resulted—yeas 25, nays 11; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Collamer, Cowan, Dixon, Doolittle, Fessenden, Foot, Foster, Hale, Harris, King, Lane of Indiana, Morrill, Pomeroy, Sherman, Simmons, Sumner, Ten Eyck, Thomson, Trumbull, Wade, Wilmot, and Wilson of Massachusetts—25.

NAYS—Messrs. Browning, Carlile, Davis, Grimes, Henderson, McDougall, Pearce, Powell, Saulsbury, Willey, and Wright—11.

So the motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 201) to provide for the occupation and cultivation of the cotton and other lands in possession of the United States lying along the southern coast of the United States, the pending question being on the motion of Mr. BROWNING to refer the bill to the Committee on the Judiciary.

Mr. WADE. There is no occasion whatever for sending this bill to the Judiciary Committee. I hope it will not be done.

The motion was not agreed to.

The VICE PRESIDENT. The Chair understands the question to be on concurring in the amendments made as in the Committee of the Whole. The first is to strike out the words "and guardians" wherever they occur in the bill after the word "receivers."

Mr. WADE. There is no objection to that, I believe.

The amendment was concurred in.

Mr FOSTER. I wish to move a reconsideration of the vote by which the amendment moved by the Senator from New Hampshire [Mr. HALE] to the thirteenth section was adopted. He moved it, I believe, under a misapprehension as regards the question whether there was any limit to the amount of expenditure. In that point of view, if there was no limit in the bill, it was certainly a very proper amendment; but I believe the Senator is satisfied, from an examination of the bill, that although the amount is not limited in numbered dollars, it is limited in regard to the expenditure per acre and in regard to the expenditure for every person, so that it is as fully limited as it can with safety be. I believe the Senator from Massachusetts consents that the amendment shall be stricken out. As it has been adopted, I suppose it is necessary to move a reconsideration of the vote.

The VICE PRESIDENT. The amendment referred to was, to insert at the end of the thirteenth section the words "not exceeding $20,000;" so as to make the section read:

SEC. 13. *And be it further enacted*, That the sums required to be expended under the provisions of the third section of this act, and all other sums which may be required to carry out the entire provisions of this act, shall be supplied, as may be from time to time required, to the aforesaid board, out of any funds not otherwise appropriated in the Treasury of the United States, not exceeding $20,000.

Mr. SHERMAN. I trust the Senate will allow that limitation to remain, because no general, indefinite appropriation extending to future years ought ever to be made in any bill.

Mr. FOSTER. It is not for future years. It is simply for this year. The bill is limited to one year

Mr. SHERMAN. If that is the case, I have no objection to it.

Mr. FOSTER. It is as closely guarded as it can be even by the Senator from Ohio, who is certainly anxious in regard to the Treasury.

The VICE PRESIDENT. This amendment has not yet been concurred in by the Senate. The question is on concurring in it.

The amendment was non-concurred in.

The bill was ordered to be engrossed for a third reading; and was read the third time. On the question of its passage,

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

Mr. CARLILE. I regret very much, sir, that the friends of this bill should press its passage at this time. I had hoped that the motion submitted by the Senator from Illinois, to refer this bill to the Judiciary Committee, would have prevailed, and that it would have been reported to the Senate free from the very many objectionable features which it now contains. There is a question as to how far this Government has the power to seize upon and hold the lands of private individuals. Suppose that in less than twelve months the State of South Carolina should be brought back, and the Constitution and the laws enforced within her limits, would not the owners of these lands have the right to institute their legal remedies in the State courts, and eject from the possession of them these tenants and guardians of yours who have seized upon private property and appropriated it to their use? Is there anything in the Constitution of the United States that would prohibit this? By what power do you claim the right to appropriate to yourself the lands of private individuals? This bill makes no distinction. It does not appropriate the lands alone of those who have been engaged in the rebellion. It takes all the land of all the citizens that may be within these States of South Carolina and Georgia, and appropriates it to the use of the Government of the United States, to be managed by the hundreds of appointees that are authorized under this bill, at a cost, it may be, of millions to the Treasury of the United States. I hold, sir, that the Government of the United States is not the lordly proprietor of the soil of the various States of this Union. The people of this country do not hold their lands by any feudal tenure. Each and every individual owner of the soil has the allodial right to the property.

But, sir, the bill goes further, and proposes to substitute New England masters for those who now own these slaves. Instead of disconnecting, as it seems to be the desire of very many Senators, the Government of the United States from the institution of slavery, it converts the Government itself into one great lordly slaveholder, and confides the management of the slaves to its numerous overseers who are to have charge of the direction, the government, and the care of those people. Surely, sir, it is not the purpose of the Senate to sanction a proposition like this.

The measure is urged upon the Senate, and urged upon it now, because, it is said, seed-time is upon us. Well, sir, is it seriously supposed by any Senator that the fruits of the seed you will put in the ground, under this bill, will ever be reaped by the Government of the United States? Is it in the contemplation of Senators that this war is to continue until another harvest of cotton, and until after it shall be gathered and ginned and made fit for market? Will it not have an injurious effect upon the country if the Senate shall announce to them that, in its deliberate judgment, the prosecution of this war will last until another spring shall come, and find South Carolina not yet subjected to the Constitution and the laws of the land?

There is scarcely a section of the bill that will not cost the Government thousands upon thousands of dollars, and that will not authorize a brood of Government employés to go down and take possession of the realty, and manage the personalty of private individuals residing within these States of South Carolina and Georgia. It is true, sir, you say that these receivers of lands shall be as humane as possible to these slaves; that their treatment shall be a decent treatment; but you limit the amount you are to pay to supply their wants to fifteen cents, I believe, per day; and the very small allowance that is to be made to provide for them food and comfortable clothing, care, and shelter, shows that the very provision of your bill requiring that they shall be humanely treated cannot be complied with.

It is urged that these people are suffering; that the corn and the provisions that were supplied to support them during the year by their owners and masters have been consumed by our Army; and we are appealed to to provide for them and take care of them. Sir, if we have been benefited by using the provisions that were there for their support, it is our duty to restore them in kind.

These lands are to be divided into plantations of not less than one thousand nor more than three thousand acres. These plantations are to be confided to your overseers—superintendents I believe you call them—who are to have as many of these people under them as may be necessary to work them. The Government is to purchase and furnish agricultural implements, "tools, seeds, animals, fencing materials, and other articles of husbandry, as shall be found necessary to be used on any precinct, provided that the cost of the same shall not exceed ten dollars per acre." Now, sir, will the framer of the bill, or any friend of the bill tell me how many acres it is proposed to seize and hold? And at ten dollars an acre for agricultural implements, how many thousands of dollars is it to cost your Treasury, and what is to be the return for it?

It seems to me the only argument in the world that could be used in the advocacy of such a proposition as this is, that it is incumbent on the Government to take care of and provide for those who are unable to take care of and provide for themselves; who have been deprived of their owners, and from whom you have taken the provisions that their owners provided for them. But, sir, if we enter upon that, there are as many of our own race to-day, (for whom I confess I have a greater regard,) now turned out adrift upon the world from their homes and families, and subsisting upon the charity of the good people of this land. They appeal to you, it seems to me, with tenfold more force than any appeal that can come from the negro race.

As was remarked the other day, this bill is a confession that now that we have the elephant we do not know what on earth we shall do with it, and I think affords a good argument against propositions which will tend to get into our possession a much larger number of this class of people. Far better and far cheaper would it be to the Treasury, if you have any place where you expect to dispose of them, if you do intend to colonize them, that you should provide at once for the transportation of those that you have got, that are now left without their guardians who have heretofore taken care of them and provided for them in sickness and in health, and appropriate the money for the purpose. It would not cost one dollar, where under this bill you will have to expend ten, to send them somewhere where they may, if they are capable of doing it, take care of themselves, and where this humane scheme, as it is held up to the country, of the colonization of this race can be tested with those that you now have upon your hands. Take from the Treasury the money you contemplate to take by this bill and use it in the manner in which it is proposed to be used at some future or indefinite period by those who advocate these schemes of emancipation. By pursuing that policy, you will get rid of the payment of these annual salaries that are to be given under this bill to these overseers of the land who are to engage in the cotton-planting, tobacco-growing, and corn-growing business of the country, I presume.

The VICE PRESIDENT. The morning hour having expired, it now becomes the duty of the Chair to call up the special order.

Mr. CARLILE. I am very glad of it, and hope that the special order will be taken up and the bill before the Senate allowed to go over.

Mr. WADE. I move that the special order be postponed, to proceed with the consideration of this bill.

Mr. CARLILE. I trust that it will not be the pleasure of the Senate to do that. It is with no purpose of delaying this bill that I say so; but I do not like to detain the Senate by a diffusive discussion, to which I should have to resort at this time to express my ideas upon the bill, when it can be saved, if I can have a few minutes time to take it up and examine it, as I shall have between this and the next legislative day. I shall then make no opposition to its being disposed of, so far as I

am concerned, but shall in a condensed form submit my views, and probably propose some amendments to the bill. The motion to commit to the Judiciary Committee prevented me from attempting anything like an amendment. This bill has never been considered by that committee whose particular province it is to investigate such propositions as these.

The VICE PRESIDENT. The special order is now before the Senate, and the Senator from Illinois [Mr. BROWNING] is entitled to the floor upon it. Does the Senator from Illinois yield for the purpose of allowing a motion to postpone the special order?

Mr. WADE. I have moved the postponement.

Mr. SUMNER. I had intended at this hour to move that the Senate proceed to the consideration of executive business; but I feel the importance of the bill under discussion, which the Senator from Ohio is properly pressing, for the bill will be entirely useless if we delay much longer.

The VICE PRESIDENT. There is no motion now before the Senate for that purpose, nor can there be unless the Senator from Illinois yields the floor.

Mr. SUMNER. I understood that the Senator from Ohio had made a motion to postpone all prior orders in order to proceed with the bill.

The VICE PRESIDENT. The Senator from Ohio could not make the motion, because he was not entitled to the floor. The Senator from Illinois is entitled to the floor on the special order, and the Chair inquires if he yields it for the purpose of allowing the motion to be made.

Mr. BROWNING. I had consented to yield the floor for the purpose of a motion to proceed to the consideration of executive business, and having agreed to that, I should prefer not to proceed with the discussion of the bill which was the special order for this hour to-day. I am willing and ready to yield to a motion to proceed with the consideration of executive business upon the understanding that I shall have the floor on the next legislative day, and that there shall be no further postponement.

Mr. WADE. That is not the question. The question is whether the Senator will yield for the continuation of the bill that has been under consideration to-day.

Mr. BROWNING. I yield for the purpose of allowing the motion to be made.

Mr. WADE. I move to postpone all prior orders for the purpose of continuing the bill which has been before the Senate this morning.

Mr. CARLILE. I ask for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. DOOLITTLE. I am satisfied that this bill will lead to discussion, and as I understood that we were to go into executive session at one o'clock to-day, I move to change the motion so that we shall now proceed to the consideration of executive business.

Mr. WADE. That is not in order, I believe.

The VICE PRESIDENT. It is not.

The question being taken by yeas and nays, resulted—yeas 23, nays 16; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Collamer, Dixon, Fessenden, Foot, Foster, Grimes, Hale, Howard, Howe, King, Morrill, Pomeroy, Sherman, Simmons, Sumner, Ten Eyck, Trumbull, Wade, Wilmot, and Wilson of Massachusetts—23.

NAYS—Messrs. Browning, Carlile, Cowan, Davis, Doolittle, Harris, Henderson, Kennedy, McDougall, Pearce, Powell, Rice, Saulsbury, Thomson, Willey, and Wright—16.

So the motion to postpone the special order was agreed to.

Mr. CARLILE. Mr. President, the Senate seems determined to dispose of this bill to-day. I am not disposed to inflict upon them any extended remarks at all, and I am in no physical condition to do it, if I were so disposed. I am too unwell to continue the discussion. I am perfectly satisfied that if the attempt is ever made to put this bill into operation, the folly and the expense of it will be demonstrated to the whole American people.

Mr. PEARCE. Mr. President, I have not examined this bill carefully. Indeed I had not read it until this moment. I confess I am very much surprised at its general provisions and its general character. I believe there never was a man in the world so wise as never to commit an error, not to say an absurdity; and I apprehend there is no body so august and so wise—not even the Senate of the United States—as not occasionally to make a mistake, and sometimes perpetrate the most enormous blunder. I think, sir, of all the legislative absurdities I have ever beheld, this bill is the greatest, in whatsoever light you view it. But looking at it simply in an economical view, I will venture to say the absurdity of it will be demonstrated by the result of the experiment, if we ever attempt to carry it out. I find that there is to be a board of receivers and guardians of not less than two nor more than three persons, who are to receive twenty-five dollars per day for their services; and they are authorized, where they do not lease the property—God knows what right they have to lease the property at all, or what sort of people they will lease it to—to lay it off in precincts which are to contain not less than one thousand nor more than three thousand acres. They are also to appoint a superintendent to each precinct, who is to have a salary of not less $1,000 a year, and perhaps more. Then they are to have a treasurer, and certain other officers, clerks, &c.

There are also provisions in regard to establishing hospitals for the sick and the infirm of these indigent people, at a cost not to exceed one dollar for each person. What sort of an hospital will they get at that sum? There is not a respectable planter in the southern States who has a hundred of these indigent people on his plantation who has not an hospital; and I apprehend no one of them ever thought of establishing an hospital for several times that sum, or keeping a physician at an expense of fifteen cents per month for each person, which is about one dollar and eighty cents a year to the physician per head. What sort of a physician they will get at that sum I do not know. Perhaps some quack fellow, who will administer nostrums to these people which, in all probability, will help them to kingdom come only so many years the sooner. [Laughter.]

Then you are to allow fifteen cents a day for providing food, lodging, bedding, and clothing. An allowance so far from liberal, it seems to me, would be a most decided reproach to the beneficence of the United States.

Then, sir, you are to pay them fifty cents a day for task or piece work. That will amount to a little over one hundred and fifty dollars a year; and when you add the amount allowed for provisions, clothing, physicians, attendants, and such allowances as are personal to these indigent people, small as they seem to be, it will cost you about two hundred dollars a year to maintain them.

Then you propose to enforce their labor by such humane and decent methods of constraint as are usual among civilized people. What those humane and decent methods are, I confess I do not know, nor can I imagine. Indeed, I do not know that humanity and decency will not compel them to resort to the usual corrections. If so, I can see that the Senate of the United States are legislating for a purpose which they do not assign.

Then it will take at least about two hundred dollars a year to provide for these indigent people, the result of which will be, if there should be any great number of them, to make the Treasury of the United States still more indigent than they are themselves. [Laughter.] Then, when you have provided for gathering the crops, the preparation for market, and the exportation to the place of sale, I apprehend it will be found that this thing, like many other illy-contrived projects, will cost more than it comes to. [Laughter.]

Upon the whole, I have no doubt that the gentleman who introduced the bill—I do not know who it was—had the best purposes in the world, and I have no doubt, upon subjects which he understands, he is a great deal more intelligent than I am myself; but I think in regard to this particular matter he has committed a most extraordinary and ridiculous blunder. Of course, I cannot vote for the bill, for the considerations I have mentioned, and for others; but I will venture to say if it passes, and if the Administration undertake to carry out the policy of the bill, we shall have an exhibition of the most ridiculous sort that the Senate of the United States were ever charged with.

There are grave objections on my mind to the measure, of a constitutional character, which I shall not now urge. I understand that the Senator from Illinois, [Mr. BROWNING,] whom I had not the pleasure of hearing, dissected and exposed the blunders of the bill very successfully a few days ago. I will only add, that it seems to me that the Congress of the United States would be much better employed in the sphere of its ordinary and legitimate duties, than in this fanciful and speculative legislation. They are, I think, groping in the dark at present.

The question being taken by yeas and nays on the passage of the bill, resulted—yeas 26, nays 14; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Collamer, Dixon, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Howard, Howe, King, Lane of Indiana, Morrill, Pomeroy, Sherman, Simmons, Sumner, Ten Eyck, Trumbull, Wade, Willey, Wilmot, and Wilson of Massachusetts—26.

NAYS—Messrs. Browning, Carlile, Cowan, Davis, Henderson, Kennedy, McDougall, Pearce, Powell, Rice, Saulsbury, Thomson, Wilson of Missouri, and Wright—14.

So the bill was passed.

Mr. RICE subsequently said: I desire to state to the Senate that my colleague [Mr. WILKINSON] has been called away from the Senate upon important and urgent business; and I have an understanding with him that on all questions on which we might differ, in which my vote would change the result, I should be paired off with him. I make this statement in justice to my colleague, who is necessarily absent, and to myself for having voted, as my vote does not change the result.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House had passed a bill (No. 341) to authorize the purchase of coin and for other purposes; in which the concurrence of the Senate was requested.

ADJOURNMENT TO MOMDAY.

On motion of Mr. FOOT, it was

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

EXECUTIVE SESSION.

The VICE PRESIDENT. The special order of the day is again before the Senate and upon that the Senator from Illinois is entitled to the floor.

Mr. SUMNER. If the Senator from Illinois will give way to me for one moment, I wish to move that the Senate proceed to the consideration of executive business.

Mr. BROWNING. I will, as before stated, yield for that motion to-day, but I wish it to be done under the distinct understanding that I am not to be postponed another day upon the question before the Senate.

The VICE PRESIDENT. The Senator from Massachusetts moves, the Senator from Illinois yielding the floor, that the Senate now proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in the consideration of executive business, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *March* 7, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

The SPEAKER. The regular order of business is the consideration of House bill No. 341, to authorize the purchase of coin, and for other purposes, yesterday postponed until to-day.

INCREASE OF CLERICAL FORCE.

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

Resolved, That the Committee on Public Expenditures be directed to inquire into the expediency of increasing the clerical force in the office of the sub-treasurer of the Mint and Assistant Treasurer of the United States at San Francisco, California; with leave to report by bill or otherwise.

BOUNTY AND PENSIONS FOR SAILORS, ETC.

Mr. GURLEY, by unanimous consent, introduced a bill to secure to pilots, engineers, sailors, and crews upon gunboats and war vessels their bounty and pensions; which was read a first and second time, and referred to the Committee on Military Affairs.

GEORGE B. SIMPSON.

Mr. NOBLE, by unanimous consent, reported from the Committee on Patents a bill for the relief of George B. Simpson; which was read a first and second time, recommitted to the Committee on Patents, and ordered to be printed.

AFRICANS AT FORTRESS MONROE.

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

Resolved, That the Secretary of War communicate to this House the number, age, and condition of the Africans who have been under the supervision of Major General Wool, in Fortress Monroe, Virginia, since he has had command of that division—together with the amount of work or service performed by them, the pay, if any, which they have received, and the cost to the Government for their maintenance and support.

PURCHASE OF COIN.

The House then proceeded to the consideration of House bill No. 341, to authorize the purchase of coin, and for other purposes.

The bill was read. It provides that the Secretary of the Treasury may dispose of any bonds or notes, bearing interest authorized by law, for coin, at such rates and upon such terms as he may deem most advantageous to the public interest, and may issue, under such rules and regulations as he may prescribe, certificates of indebtedness, such as are authorized by the act to authorize the Secretary of the Treasury to issue certificates of indebtedness to public creditors, approved March 1, 1862, to such creditors as may desire to receive the same in discharge of checks drawn by the disbursing officers upon sums placed to their credit on the books of the Treasurer, upon requisitions of the proper department, as well as in discharge of audited and settled accounts as prescribed by said act. It is further provided that the demand notes authorized by act of July 17, 1861, and by the act of February 12, 1862, shall be receivable and shall be lawful money and legal tender in like manner and for the same purposes and to the same extent as the notes authorized by the act to authorize the issue of United States notes, and for the redemption or funding thereof, and for funding the floating debt, approved February 28, 1862.

Mr. PENDLETON. I desire to ask the chairman of the Committee of Ways and Means how many dollars' worth of bonds or Treasury notes the Secretary of the Treasury has now authority to issue, independent of the authority conferred upon him by the act of the last month.

Mr. STEVENS. I am not very well advised as to how much of the last $50,000,000 of seven and three tenths notes have been issued up to this time. My belief is that there were about sixteen or seventeen millions of dollars, when the Secretary of the Treasury found he could not sell them at par; and I presume he has not disposed of any considerable amount of these notes since that time. I suppose, therefore, that is all he is authorized to issue, outside of the authority given by the act of the last month.

Mr. PENDLETON. I asked for information myself, because I am not able, from the report of the Secretary of the Treasury, to determine exactly what amount of bonds this bill would authorize him to sell for coin.

Mr. STEVENS. I am not able to state exactly because I do not know how much of the last $50,000,000 he has issued since his last report to the House on the subject.

Mr. PENDLETON. I perceive by the laws passed at the last session of Congress that the Secretary of the Treasury is authorized to issue Treasury notes to the amount of $250,000,000. He had issued of that amount, at the beginning of the present session, in round numbers, $170,000,000—perhaps a little less—leaving some $80,000,000 undisposed of at that time, which he had authority to issue. A law was passed during the last month authorizing the issue of $10,000,000 more of demand notes. By the law of the last session of the last Congress he was authorized to issue $20,000,000 of Treasury notes, and to reissue them. So far as I can ascertain, therefore he is authorized to issue more than $100,000,000 of notes and bonds which he has not been able to dispose of under the law.

Now, in the law of the last month as it was amended and finally passed, the Secretary of the Treasury is authorized to issue $500,000,000 of bonds, and to sell such portion of them as may be necessary at the market price for coin.

Mr. STEVENS. I think the gentleman is mistaken as to the amount the Secretary of the Treasury has been authorized to issue since the commencement of the present Congress. He was authorized by the act of July, or 1st of August last, to issue $250,000,000. He did issue $100,000,000 of seven and three tenths notes, and $50,000,000 of bonds.

Mr. PENDLETON. Forty-five millions.

Mr. STEVENS. He issued $50,000,000 of bonds, which sold in the market at a discount, and for which he got $45,000,000. He had issued $50,000,000 of demand notes, or nearly that amount. I presume the entire amount has now been issued. That left $50,000,000 to be disposed of, and as he could not dispose of them in the shape of six per cent. bonds, he offered them in the shape of seven and three tenths and three and sixty-five hundredths Treasury notes, and has disposed, as I understand, of them all with the exception of ten or fifteen millions. Then he was authorized by the act to issue $10,000,000 of demand notes in addition. That is a statement of what the gentleman desires to know, so far as I am able to make it from the information in my possession.

Mr. PENDLETON. I believe the gentleman is correct, and that I was perhaps in error in the statement I made. There is, however, another question in relation to this bill which I wish to ask the chairman of the Committee of Ways and Means. I understand that the only thing for which this Government is required to pay coin is the interest upon the public debt. According to the statement of the Secretary of the Treasury in his report to this House, the public debt at the close of the present fiscal year will reach about six hundred and fifty millions of dollars; and if his estimate be correct, the interest cannot amount to more than $40,000,000 for a whole year.

Now, I ask the chairman of the Committee of Ways and Means whether, in his opinion, or in the opinion of the Department, it is necessary to grant to the President or the Secretary of the Treasury the power to sell more than the $500,000,000 for coin, which we have authorized by the act of the last month, to raise this $40,000,000 required to pay the interest on the public debt?

Mr. STEVENS. I will answer the gentleman's question now, if he desires it.

Mr. PENDLETON. I do desire an answer, if agreeable to the gentleman.

Mr. STEVENS. The authority granted by this bill is necessary, as I understand, for this reason: it will be recollected when the Treasury note bill passed this House, it was so arranged that notes were to be considered the same as coin for every liability of the Government. No specie was required even to pay the interest on the public debt. The Senate, however, amended the bill, and the House concurred in the amendment, requiring the interest to be paid in coin. In order to place in the hands of the Secretary of the Treasury coin sufficient for that purpose, we authorized him to sell such portion of the $500,000,000 bonds as might be necessary, at their market value, for coin. But it is found by the Secretary of the Treasury, as I foreboded, that these bonds cannot be sold for coin at any rate but an immense sacrifice, which he does not choose to make.

He, therefore, comes to us and asks us to allow him to sell these seven and three tenths notes for the purpose of raising the coin required for immediate use. That is the whole of it. To do that it is necessary for us to take off the limit requiring them to be sold at par, and permit them to be sold for the market price; in other words, to allow him to sell them for whatever the masters of the money market may see fit to compel him to take.

I trust it will not be necessary to sell $500,000,000 of bonds, or a tenth of that amount, to raise the specie that the Government may find necessary to use. I hope the balance of the seven and three tenths notes which he is authorized to issue will raise all the coin required for immediate purposes, though I am not sure that such will be the fact, for I do not know to what extent the money brokers will require him to go, although I hope that having got these bonds payable in coin, they will exact but little beyond to enable the Government to procure the coin.

Mr. PENDLETON. The explanation of the gentleman relieves my mind of the difficulty I had on this subject. I was misled by the use of the term "bonds" in the first section of the bill, where it is provided that the bonds shall be sold at whatever price the Secretary of the Treasury may be able to obtain.

Mr. STEVENS. I beg the gentleman's permission to add another word. I meant to say that of these $500,000,000 of bonds, none are engraved or on hand, while of the seven and three tenth notes there are enough on hand.

Mr. PENDLETON. It is suggested to me to ask the gentleman whether he knows what is the market value of the seven and three tenth per cent. notes now?

Mr. STEVENS. The demand notes sell at ninety-nine and a half and sometimes one per cent. above par. The seven and three tenth per cent. notes not being a legal tender, sell at from ninety-seven to ninety-nine. That, I understand, is for currency. What may be their market price in coin, God only knows, I do not.

Mr. PENDLETON. I can very well understand the necessity of this bill, if it is intended under it to sell the bonds and notes that are already on hand, rather than to wait one or two or three months till the others are engraved. On that explanation of the gentleman from Pennsylvania, I understand the object of the bill. I hold it to be our duty, if we require the Secretary of the Treasury to pay interest—as I think he ought to do—in coin, that we shall enable him to raise the coin in order to pay it, even by a great sacrifice of our bonds. I desire to ask the gentleman another question, if he will not think me impertinent.

Mr. STEVENS. Not at all.

Mr. PENDLETON. In the second section of the bill it is stated that the demand notes issued under the authority of the law of last session shall be receivable and shall be lawful money and a legal tender in like manner and for the same purposes and to the same extent as the notes authorized to be issued a month ago. The demand notes are now receivable for duty, both by the terms of the original act and by the terms of the act which was passed last month. I desire to ask the gentleman whether it is not intended by this bill to prohibit their being hereafter received in payment of duty?

Mr. STEVENS. Not at all; but the Secretary of the Treasury is of opinion that if you will add the legal tender and put them upon a par with all our currency, so as to create uniformity, you will make them a little better than they are now. I am of the same opinion.

Mr. PENDLETON. I suggest to the gentleman that the bill is fairly liable to be interpreted in that way; and that, if it is passed, they will not be receivable hereafter by the United States in the payment of duties. I will, therefore—I hope with the concurrence of the gentleman—move to insert, after the word "shall," in the fourth line of the second section, the words "in addition to being receivable in payment of duties on imports;" so that the section will read:

SEC. 2. *And be it further enacted*, That the demand notes authorized by the act of July 17, 1861, and by the act of February 12, 1862, shall, in addition to being receivable in payment of duties on imports, be receivable, and shall be lawful money and a legal tender, in like manner, and for the same purposes, and to the same extent, as the notes authorized by the act entitled "An act to authorize the issue of United States notes, and for the redemption or funding thereof, and for funding the floating debt of the United States," approved February 25, 1862.

I offer that amendment to perfect the bill, and to carry out what the gentleman from Pennsylvania says is the design of the Secretary of the Treasury and of the Committee of Ways and Means, and I hope there will be no objection to it.

Mr. STEVENS. I do not know that this amendment will make the bill any worse than it now is, except it adds a little verbiage, for which American legislation is very famous. We have already the original law requiring expressly that these notes shall be received in payment of duties; but in order to do away with all difficulty about their being received after the passage of our last law, we amended it, and made them receivable for public dues again expressly. Now, sir, lest there should be some doubt about the public faith at this time, I think it right that we should enact it the third time, and therefore the addition proposed by the gentleman from Ohio is right enough; at least I can see no harm in it, and I shall not object to it.

The question was taken on Mr. PENDLETON's amendment; and it was agreed to.

Mr. BAKER. I move to strike out from the fourth line of the first section of the bill the words "bearing interest."

It seems to me that if the bill is passed in its present form, and with those words in it, that com-

pelling the Secretary of the Treasury to sell bonds or notes bearing interest in coin may fix the rates of those bonds and notes so that hereafter he may not be able to dispose of them at favorable rates when he receives Treasury notes in payment for bonds.

The effect of this amendment will be, not to compel him to sell notes or bonds bearing interest, but that he may purchase coin with Treasury notes.

Mr. EDWARDS. I understand that the effect of the amendment would be to allow the Secretary of the Treasury to sell the demand notes at any price they will command. Of course, if it is an objection, as has been stated, that by selling bonds and notes bearing interest it would fix for them a price below their par value, it seems to me a still greater objection that by thus selling demand notes we would fix for them a depreciated price at once.

I wish to say further that a distinguished gentleman from my State, who once served with reputation a term in the Senate of the United States, and who was reëlected to serve a further term, but before taking his seat was struck down in the discharge of professional duty in a court of justice, by paralysis—that frequent destroyer of those who overtax the intellect—had only time to utter these last words, which, like the last words of "the old man eloquent" in this Capitol, are treasured up by those who were immediately connected with him, "I expected this, but not so soon." So, sir, when the Treasury note bill came back to the House from the Senate with the amendments which were there introduced, and which were adopted by this House, I expected that this Government would be placed at the feet of that power which rules the world in relation to this measure of relief, as it has now been, but I did not expect it would occur so soon. I suppose, however, that the only remedy now is, to meet the legislation as it stands, and to submit to such sacrifices now and hereafter as shall be exacted, inasmuch as we did not place ourselves in a position to avoid it when we had the power.

With these general remarks—perhaps not called for by this particular amendment, but very naturally suggested by such swift necessity for the bill—I desire to say again that the amendment does not seem to me to be judicious and entitled to adoption, however it may strike the minds of other gentlemen, and whatever may be its fate.

Mr. STEVENS. I must oppose the amendment of the gentleman from New York. The effect of it would be to authorize the sale of what is called currency—what we have made money. The effect of the bill as it now stands is to sell our loans or obligations. That I look upon as a very different thing, and affecting a very different class of people from a proposition affecting the currency. If you allow the sale of the demand notes or of the legal tender notes which we have created, you at once fix a depreciation upon those notes, and in all transactions of life this currency will have become depreciated. So long as we confine this depreciation to the bonds which are not a currency, although it is an evil arising from our unfortunate legislation, yet it is an evil which affects but one man where the other would affect a thousand. I hope, therefore, that the amendment of the gentleman from New York will not be agreed to.

Mr. BAKER. I wish to say a word in reply to the gentleman from Pennsylvania. The effect of this amendment, I think, would simply be to place the Treasury notes in the same position as the notes of non-specie-paying banks. At the present time coin is valued at two per cent. more than such notes, and consequently the Secretary would be compelled to give two per cent. in addition to the present value of the Treasury notes for coin.

Mr. PIKE. I desire to ask the gentleman from Pennsylvania [Mr. STEVENS] how soon any considerable amount of interest upon our public debt becomes due?

Mr. STEVENS. I am not able to answer that question. I have, however, a letter here from the Secretary of the Treasury, stating that the necessity for some coin is very urgent.

Mr. PIKE. The only object of this bill is to provide for the interest on the public debt, is it?

Mr. STEVENS. I suppose it is. That is the main object, of course. I now ask the previous question on the bill.

The previous question was seconded, and the main question ordered.

The amendment proposed by Mr. BAKER was disagreed to.

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

Mr. STEVENS. I move the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

The bill was passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

ADJOURNMENT OVER.

Mr. KELLOGG, of Illinois. I understand from the chairman of the Committee of Ways and Means that there is no pressing business for to-morrow, and I, therefore, move that when the House adjourns, it adjourn to meet on Monday next.

The motion was agreed to.

PERSONAL EXPLANATION.

Mr. HARDING. I rise to a question of privilege. I discover that there is a statement going the rounds of the newspapers——

The SPEAKER. The Chair would say to the gentleman that no statement in a newspaper can be a question of privilege.

Mr. HARDING. There is a statement going the rounds of the public newspapers in regard to the Committee on Territories which, as a member of that committee, I am not willing shall go longer uncontradicted.

The SPEAKER. That is not a question of privilege.

Mr. HARDING. I have not yet made my statement.

The SPEAKER. There can be no question of privilege arising out of newspaper statements.

Mr. HARDING. I want to call upon the chairman of the Committee on Territories for an explanation.

The SPEAKER. The gentleman asks the unanimous consent of the House to make a personal explanation. Is there any objection?

No objection was made.

Mr. HARDING. The statement to which I refer is this: that the chairman of the Committee on Territories has reported to this House a bill providing, in substance, that all the seceding States are to be remanded to the condition of mere territories, and further providing for their admission into the Union hereafter upon certain stipulated conditions.

Now, no such bill as that has been reported from that committee to this House, and I am at a loss to know how the public newspapers could ascertain that any such proposition had been discussed in that committee at all.

I make this statement in order that the chairman of the committee, if he chooses to do so, may explain. No such bill has been reported. How it should be known to the editors of these newspapers that the question was even before the committee, I am at a loss to understand. The public and the newspapers are even now discussing its merits. I hold in my hand a paper in which it is discussed at length.

Mr. ASHLEY. In answer to the question of the gentleman from Kentucky, I have this to say. The Committee on Territories authorized me to report to the House the bill referred to, and instructed me to obtain an order to have it printed and recommitted. The day before the committee were called, I gave to several gentlemen who asked for it, copies of the bill, which had been printed but not distributed. When the Committee on Territories was called, I was not in my seat. On coming in a moment after the committee was passed, I asked leave to report the bill—a privilege which is seldom, if ever, denied any chairman of a committee—but with the courtesy usually manifested on that side of the House, the privilege was refused. I have seen no paper in which the bill appeared as having been reported; only that it would be reported when the committee was next called. That is all I have to say in reply to the gentleman from Kentucky.

Mr. HARDING. I hold in my hand a paper in which it is represented that this bill had been reported to the House, and moreover, that the Senate Committee on Territories had concurred in its provisions.

Mr. ASHLEY. If Kentucky papers make misstatements, neither the chairman of the Committee on Territories in the House nor the chairman of the Committee on Territories in the Senate are responsible. I have consulted with a number of the gentlemen of that committee in the Senate about this matter, but that committee have not authorized its chairman to report this bill or any other for action to the Senate, that I am aware of.

Mr. HARDING. The gentleman has consulted with the Senate committee, has he? I was not aware of that, either. In response, however, I will make this statement, and ask the chairman if it is not correct: only four members out of the nine who compose the committee ever consented that such a proposition should be reported to the House.

The SPEAKER. The Chair will state to the gentleman that it is not in order to state in the House what has taken place in committee.

Mr. HARDING. It is a personal explanation in response to the gentleman's statement. I understood him to say that the Committee on Territories had directed him to report such a bill to this House, and that he had permitted it to find its way to the New York Tribune. I ask him whether more than four out of nine members have permitted such a report to be made; and, moreover, whether he does not know that there was a minority report prepared and ready to accompany his report?

Mr. ASHLEY. Yes; I understood there was to be a minority report.

Mr. HARDING. I have been waiting some two weeks for the appearance of the gentleman's report. I again ask him whether more than four out of the nine members of the committee authorized him to report that bill?

The SPEAKER. The Chair thinks that that is against the express rule of the House. The permission to make a personal explanation does not authorize the gentleman to make public the proceedings of a committee of the House.

Mr. HARDING. I wish to say, then, that the responsibility rests on others, and not on myself or those connected with me.

The SPEAKER. The Chair will say that if the time of the House were to be taken up in correcting newspaper statements it could do little else.

Mr. HARDING. I beg to say to the Speaker that my remarks do not relate to newspapers, but to the action of the chairman of the Committee on Territories. It seems that propositions not before the House were sent to the public newspapers by him.

Mr. ASHLEY. I ask leave of the House now to report from the Committee on Territories the bill to which the gentleman from Kentucky has referred.

Mr. WICKLIFFE. I object to a bill being reported from a minority of any committee.

Mr. ASHLEY. I was directed by a majority of the committee to report this bill.

The SPEAKER. No debate is in order.

The SPEAKER announced that the regular business in order was the call of committees for reports of bills of a private character, beginning with the Committee of Elections.

EUNICE COBB.

Mr. HARRISON, from the Committee on Invalid Pensions, made an adverse report on the petition of Eunice Cobb; which was laid on the table, and ordered to be printed.

JOHN G. MINI.

Mr. DUNN, from the Committee on Patents, reported back with an amendment a bill (H. R. No. 223) to render valid and authorize the extension of the letters patent granted to John G. Mini, on the 13th day of November, 1844, and reissued on the 24th day of August, 1852, and asked that it be put upon its passage.

The bill was read. It declares that letters patent granted to John G. Mini, on the 13th of November, 1844, for an improvement in the manufacture of lampblack, and reissued on the 24th of August, 1852, shall be deemed valid, with the same effect as if they had been originally granted to him as a subject of France; and the Commissioner of

Patents is authorized to extend the patent for a period of seven years, if, in his judgment, the invention is novel, useful, valuable, and important to the public, and the applicant for extension having made all reasonable effort to introduce the invention into general use, has not been adequately remunerated for his time and expenses in discovering and perfecting it; provided the application for the extension shall be made within six months from the passage of the act.

The committee reported the following amendment:

Add to the bill:

And provided further, That parties now engaged in the manufacture of lampblack on the process so patented, shall not be liable for any infringement of such patent prior to such extension, if the same be granted.

Mr. DUNN. This bill was reported to the House from the Committee on Patents at an early day of the session, and afterwards, on my motion, was recommitted to the same committee. Parties opposed to its passage have been before the committee, and the bill has received a careful examination. It seems that John G. Mini is a native of France, and now resides in Philadelphia. He emigrated to this country some thirty years since. About twenty years ago, if I recollect rightly, he applied for a patent for a new process for the manufacture of lampblack. In his application—through ignorance of the requisitions of our laws, I suppose—he applied in the character of an American citizen, although he was not then naturalized. The patent was issued to him; but in a trial at law for the infringement of his patent, the fact of his not being an American citizen when the letters patent were issued to him, and of his not having paid the additional fees required by law in such cases having been made to appear, the court decided his patent for that reason invalid. He then applied to the Patent Office for a reissue of his patent. This was done, on his paying the fees required by law of foreigners over what was required of citizens, making the total fees paid by him the sum of $300.

Afterwards, in a controversy in regard to this patent, the court decided that although the Commissioner had a right to reissue patents for defective specifications, he had no right to do so for a defect of this kind. The patentee, therefore, has lost the benefit of his invention on account of the mistake, in the first place, in not stating his citizenship correctly, and paying the fees required to be paid by foreigners, and in the second place, on account of the mistake in the Patent Office in reissuing the patent. The object of this bill is simply to enable Mini to have his patent confirmed and extended, if now, on reëxamination, the Commissioner is of opinion that the invention was patentable at the time of the original application. The amendment now reported by the committee provides, at the same time, that parties now or heretofore engaged in the manufacture of lampblack on the process so patented, shall not be liable for damages for infringements prior to the reissue of the patent, if such should be granted. Mini ought certainly either to have the opportunity of establishing his right to a patent, or have his money returned to him.

Mr. LOVEJOY. Does the gentleman from Indiana propose to have this bill put upon its passage now?

Mr. DUNN. I do.

Mr. LOVEJOY. Is the bill printed?

Mr. DUNN. Yes; all except the proviso, which is a limitation on the bill.

Mr. LOVEJOY. As a general principle, we ought not to extend these patents. My attention has not been called to this bill, and I have not been able to hear the remarks of the gentleman from Indiana.

Mr. DUNN. The gentleman has evidently not heard me, for this cannot properly be called a bill for the extension of a patent, but a bill to relieve a party of a disability in order that he may have a patent confirmed and extended, if the Commissioner of Patents should be of opinion it ought to be extended.

Mr. F. A. CONKLING. Will the gentleman allow me to suggest an amendment? I propose, in place of allowing six months for an application to be made, to make it thirty days.

Mr. DUNN. I have no objection to that.

Mr. F. A. CONKLING. Then I offer that amendment.

Mr. DUNN moved the previous question on the amendment.

The previous question was seconded, and the main question ordered; and under its operation the amendment was agreed to.

The question recurred on the amendment reported from the Committee on Patents; and it was agreed to.

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

Mr. LOVEJOY called for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 73, nays 39; as follows:

YEAS—Messrs. Arnold, Ashley, Joseph Baily, Baker, Baxter, Beaman, Bingham, Francis P. Blair, Samuel S. Blair, Blake, Calvert, Clark, Cobb, Colfax, Conway, Cox, Cravens, Crisfield, Cutler, Diven, Dunn, Edgerton, Fessenden, Fisher, Frank, Goodwin, Granger, Grider, Gurley, Hall, Harding, Johnson, William Kellogg, Lansing, Law, Lazear, Leary, Lehman, Mallory, Menzies, Moorhead, Anson P. Morrill, Nixon, Noble, Odell, Olin, Patton, Pike, Pomeroy, Porter, Price, Alexander H. Rice, John H. Rice, Riddle, Robinson, James S. Rollins, Sargent, Shanks, Sloan, John B. Steele, Stratton, Francis Thomas, Van Valkenburgh, Verree, Voorhees, Wadsworth, Wall, Wallace, Webster, Albert S. White, Chilton A. White, Wickliffe, and Worcester—73.

NAYS—Messrs. Babbitt, Jacob B. Blair, Buffinton, Campbell, Chamberlin, Frederick A. Conkling, Roscoe Conkling, Corning, Covode, Crittenden, Davis, Delano, Edwards, Eliot, Gooch, Haight, Harrison, Hutchins, Julian, Kelley, Knapp, Loomis, Lovejoy, McPherson, Maynard, Noell, Perry, Timothy G. Phelps, Richardson, Edward H. Rollins, Sheffield, Shellabarger, Sherman, Stevens, Train, Charles W. Walton, E. P. Walton, Wilson, and Woodruff—39.

So the bill was passed.

Before the vote was announced,

Mr. THOMAS, of Massachusetts, stated that Mr. ALLEY was in Massachusetts accompanying the remains of General Lander.

Mr. DUNN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. NICOLAY, his Private Secretary, notifying the House that he did, on the 6th instant, approve and sign bills and a joint resolution, of the following titles:

An act (H. R. No. 302) to provide for the appointment of additional clerks in the office of the Assistant Treasurer of New York, and for other purposes;

An act (H. R. No. 294) requiring an oath of allegiance and to support the Constitution of the United States to be administered to masters of American vessels clearing for foreign or other ports during the present rebellion; and

A joint resolution (H. R. No. 37) in relation to certain railroads in the State of Missouri.

FRANKING PRIVILEGE.

Mr. STEVENS moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HUTCHINS in the chair,) and resumed the consideration of the bill to regulate the franking privilege, upon which Mr. BLAIR, of Missouri, was entitled to the floor.

Mr. BLAIR, of Missouri. I have sought the floor, Mr. Chairman, for the purpose of making some observations upon the subject of the administration of the department of the West under General Frēmont. I did not introduce this topic to the House of Representatives, nor have I ever desired to make any issue between General Frēmont and myself; but I have noticed for several weeks past a very great pressure brought to bear in certain newspapers to force General Frēmont back into an active command in the field, to force the Administration, against its judgment, after mature deliberation, again to place him in command of one of the departments of the Army. I have seen telegraphic dispatches sent from this place, asserting that General Frēmont had again and again demanded a trial upon the charges preferred against him, and that the Administration had steadily refused him this act of justice. No part of this statement is true.

Mr. RIDDLE. Will the gentleman state his authority for that denial?

Mr. BLAIR, of Missouri. I had intended to give the House my authority without the request of the gentleman. Unless General Frēmont has made that demand within the past three or four days, I assert that he has not made it at all. I have taken the pains to inquire of the Adjutant General of the United States Army, through whose office, under the regulations, such an application would necessarily be made, and also of the Judge Advocate, in whose office that application would be filed, and I was assured by both of those officers that no such application had ever been made by him. I refer to this matter for the purpose of remarking that it is one of the most extraordinary examples of an officer charged with grave errors and high military offenses in the conduct of his administration, and in consequence of such charges, after deliberate examination by the Administration, dismissed from his command, and yet up to this time he has demanded no trial or investigation. He quietly holds on to his office under the censure thus pronounced upon him by the highest officer of the Government, and has not sufficient faith in his own innocence to challenge an inquiry, which might deprive him of his office as well as of his command. He prefers a different kind of trial, one in which his own loose and unsupported statements, and those of his friends, shall go to the public, rather than a lawful trial in which evidence can be sifted and a judgment pronounced by his peers. I express the opinion, that if he were to demand a trial he would obtain it. The Government, although not disposed in time of war, as long as the officer deposed from his command neglects to make application for trial, to detail for that purpose other officers of equal rank now in active service, and who could not well be spared for such a purpose, yet it would not deny him a trial if he should demand it. It has also been heralded in the newspapers that the committee on the conduct of the war has unanimously demanded the restoration of General Frēmont to an active command in the military service. I undertake to say there is no truth in the statement. It is simply an attempt of some of his partisans to induce the belief in the country that the committee on the conduct of the war, after an examination into his administration of his department, had approved it, which is not true in point of fact. It is proclaimed upon the same authority that he is to be appointed to an important command, and that he has been promised such a command by the President of the United States. I do not know whether such is the case or not, but inasmuch as the information comes in the same shape as the other publications I have noticed, I believe it is of the same character. The President could not, with propriety, give an important command to an officer charged with the gravest offenses known to military law, and on account of such charges censured and deposed from his command, who yet quietly submits to this censure, and does not ask to have his character vindicated by a court-martial. I think no other instance of the same kind can be found in military annals.

The publications to which I have referred, put forth by his partisans, foreshadowed and heralded the simultaneous appearance of the statement made by General Frēmont in his *own* defense before the committee on the conduct of the war, and the speech of his aid-de-camp, the member from Indiana, [Mr. SHANKS,] made in this House the other day. This speech and statement inaugurate a new campaign, and in a new and more congenial field, to be fought with new weapons, far different from the rude instruments of war with which General Frēmont has been so unsuccessful. It is a campaign of proclamations, the only weapons which, up to this time, he seems to have used with effect. I commend his choice of weapons. His proclamations will not help the enemy as much as he did by supplying them with arms at his isolated and unsupported positions at Lexington and elsewhere, nor will his proclamations injure the Government in its struggle to put down rebellion one tithe as much as one single contract of his making for condemned arms or for useless earthworks.

The statement made by General Frēmont is extraordinary both in its character and in the manner in which it was made public. I do not believe, after the statements upon this floor the other day by authority of the committee on the conduct of

the war, that its publication was sanctioned by them.

Mr. GOOCH. As that testimony has been made public, I feel bound to state, with the permission of the gentleman from Missouri, the action of the committee on the conduct of the war in reference to it.

General Frēmont came before the committee the same as all other witnesses that appeared before us. The committee deemed it essential that they should inquire into the conduct of the war in the western department, and for that purpose begun, as they have begun in all other departments, where it has been possible for them to do so, by bringing before them first the general in command of the department.

When he appeared before the committee he produced certain documents, from which he said the committee could select such parts as they deemed material. It was suggested by the chairman of the committee—and in that the whole committee agreed—that General Frēmont had better make a concise statement in writing, such as he wished to make in reference to the conduct of the war in his department. He did so; and when that statement was submitted these documents were submitted with it. They were not, however, received by the committee with the understanding that all of them were to be published in the report the committee were to make to Congress, but only such parts as they should deem material to the investigation which they had been instructed to make. At a subsequent time General Frēmont appeared before the committee, and certain questions were asked him, in relation to the western department, which he answered. When General Frēmont left the committee room he was requested by the committee, as all other witnesses have been, to give no information to any one of what he had stated to the committee. With that request I understood him to comply, the same as all other witnesses have done.

I only wish to say further, that the testimony was published without the knowledge or consent of the committee; and I will add that I do not believe that under any circumstances the committee would have felt it to be their duty to have reported to Congress all the letters and telegraphic dispatches which were laid before them, because they would have considered that some of them would throw no light upon the investigation which the committee was making, and ought, from their very character, to be suppressed.

Mr. BLAIR, of Missouri. I ask the gentleman if all General Frēmont's testimony is published?

Mr. GOOCH. The written statement and the letters and dispatches which he gave to the committee are published, but not that part of his testimony which was in response to interrogatories propounded to him by the committee. He did not give to the committee the original letters and dispatches, but copies of them, and said that he would furnish the originals when we desired them. He had no copy of that part of his testimony which was in response to interrogatories, and therefore could not publish that.

Mr. BLAIR, of Missouri. Mr. Chairman, the character of this statement is as extraordinary as the manner in which it has found its way before the public. It is an apology for disaster and defeat; ingenious upon its face by the omission of important facts, and by the suggestion of others which never existed. It proves him to be a much better apologist for the defeats which he suffered, than he is a general to achieve victories. One of his aids-de-camp, a gentleman distinguished as a literary man, has also published an account of his campaign in Missouri, in one of our popular magazines, under the title of "Frēmont's Hundred Days in Missouri," thereby challenging comparison with the far-famed campaign of Bonaparte. Is there anything in this campaign, as portrayed by the general himself, and by his several aids-de-camp, that resembles, except in the number of days, the historic campaign of the first Napoleon? Can imagination conceive of Bonaparte returning to Paris, and announcing that he had lost two armies, liberated two negroes, and published a bombastic proclamation.

It is known, Mr. Chairman, that I took an interest in the elevation of General Frēmont to his present rank and recent command in the Army. I do not suppose that my recommendation aided him in securing him that position, but it shows the good feeling I entertained for him, and the confidence I had in him at the time. I should have rejoiced in his success in the department over which he was placed. I had been his friend for many years, and my whole family had been most friendly to him and to his family. The kindest relations had always existed between us. I should have rejoiced in his success, not only on account of the great public cause in which we were both engaged, but also on account of my personal interest in him. I recommended him in the belief that he would serve the great public interest, and when I found he was incompetent to serve that cause, I recommended his removal upon the same public considerations, and with no other feelings than those of humiliation and regret. There is nothing in the letter that I addressed to my brother, the Postmaster General, and through him to the President, that shows that I had one particle of feeling against him. The conviction which was forced upon me, came with grief and mortification, such as I have never before experienced. My judgment, uninfluenced by any motives except those for the public good, compelled me to the conclusion that General Frēmont was unfitted for the command of that department. I never had any private griefs against him of any kind. I never asked anything of him for myself, because there was nothing I desired that I could have obtained by his aid, which I could not just as well have obtained without it. I never asked for anything for others, that he did not cheerfully assent to, and, so far as it was in his power, grant.

Now, sir, I have read with attention the statement he has made through the press, and I have read also the speech of the gentleman from Indiana, [Mr. SHANKS,] who followed him to Springfield as an aid-de-camp, and I can find nothing in either to justify the enthusiasm which that gentleman seems to feel over a sad record of defeats and unvaried disasters. The one is a tame apology, the other a sort of frothy rhetoric and confused declamation. There are two great points which will forever stand out in relief in the history of those hundred days, the saddest days that ever befell the loyal men of that State, which no rhetoric and no studied obscurity of expression can shield from view or make the nation forget. Those two great points of public interest upon which the sad eyes of the nation will always be fixed, are Springfield and Lexington; the fields where the heroic Lyon fell, and where Mulligan yielded, not to the foe, but to famine and thirst. What had the gentleman from Indiana [Mr. SHANKS] to say about them? Absolutely nothing! What has General Frēmont said about them in his statement? He treads lightly on that ground. The other historian, who has chosen a popular magazine for his forum, finds little time to bestow upon them. But I will do General Frēmont the justice to quote his own language:

"From St. Louis to Cairo was an easy day's journey by water, and transportation abundant. To Springfield was a week's march, and before I could have reached it, Cairo would have been taken, and with it, I believe, St. Louis.

"On my arrival at Cairo, I found the force under General Prentiss reduced to one thousand two hundred men, consisting mainly of a regiment which had agreed to await my arrival.

"A few miles below, at New Madrid, General Pillow had landed a force estimated at twenty thousand, which subsequent events showed was not exaggerated. Our force, greatly increased to the enemy by rumors, drove him to a hasty retreat, and permanently secured the position. To these facts the accompanying papers and the testimony of General Prentiss and other officers is offered to the committee.

"I returned to St. Louis on the 4th August, having in the mean time ordered Colonel Stevenson's regiment, from Booneville, and Colonel Montgomery, from Kansas, to march to the relief of General Lyon.

"Immediately upon my return from Cairo, I set myself to work, amid incessant demands upon my time from every quarter, principally to provide reinforcements for General Lyon.

"I do not accept Springfield as a disaster belonging to my administration. Causes wholly out of my jurisdiction had already prepared the defeat of General Lyon before my arrival at St. Louis. His letter to me of the 9th August, with other papers annexed, will show that I was already in communication with him, and that he knew his wants were being provided for. It will be seen that I had all reasonable expectations of being able to relieve him in time, and had he been able to adhere to the course indicated in his letter, a very short time would have found him efficiently sustained."

His defense for not succoring Lyon at Springfield is that Cairo was threatened; that it was an easy day's journey from St. Louis by water, and transportation abundant; that Lyon was at Springfield, a week's march from St. Louis, and that he does not accept Lyon's defeat as belonging to his administration. Now, I undertake to say, that it is true Cairo was within an easy day's journey from St. Louis by water, and less by railroad, that it could be reached from Springfield, Illinois, as easily and in as short a time. From Indianapolis, the capital of Indiana, from Columbus, Ohio, from almost any point in any of the northwestern States, Cairo was not more than an easy day's journey by water or by railroad. It was and is, the point of all others, most accessible to the entire Northwest, and easily reinforced. It was also intrenched, defended by eight thousand men, and with ordnance of the heaviest caliber. General Prentiss had as many men as Lyon and more, as shown by their statements, accompanying General Frēmont's defense. McCulloch and Price, according to Frēmont's statement, had one third more men to attack Lyon than Pillow had to assail Cairo, as it was then said he was threatening to do. Lyon was without fortifications and without heavy guns, Prentiss had both at Cairo, and that place was covered by two rivers in front, and could not have been assailed without crossing them, which it was utterly impossible for the enemy to do, in face of an army to oppose them.

It is pretended and attempted to be shown by a dispatch from General Prentiss, that his army, consisting of six "three months" and two "three years" regiments, was about to be disbanded, and the statement of General Prentiss is left unexplained, and the argument boldly advanced that without reinforcements he could have had but two regiments left to defend the post. The truth of the matter is, as shown by General Prentiss in a subsequent dispatch, that these six "three months" regiments were then in process of reorganization; and I say they did not disband, but reëntered the service almost in a body for the war. Cook's regiment, Oglesby's regiment, McArthur's regiment, the regiment originally raised by Prentiss, were all "three months" men. They remained in the service; they remained at Cairo, and the other two regiments of "three months" men, whose names I do not now remember, remained also, and all have since made their names illustrious at the siege of Fort Donelson. But if a portion of Prentiss's command were "three months" men, so also were a majority of the troops under Lyon's command, at Springfield. Springfield was a week's march from St. Louis, and was capable of being reinforced only from that point. Yet General Frēmont believed and acted upon the belief that Cairo, threatened by Pillow with twenty thousand men, was the point to be reinforced, although it was strongly intrenched, garrisoned by eight regiments, defended by guns of the heaviest caliber, with the Ohio and Mississippi rivers in front, and capable of being reinforced within twenty-four hours from any part of the entire Northwest; and that Lyon at Springfield, threatened by thirty thousand men, having under his command a less force than that at Cairo, with no intrenchments, with no heavy guns, with no natural defenses interposed between him and the enemy, a week's march from St. Louis, from which point alone it could be effectually reinforced, was to be left to his fate, or to be left to wait until Cairo, naturally so much stronger, and with its artificial defenses so much better, so much more easily reinforced, and defended by more men, should first be attended to. This is the amplification of his own argument. Let him be judged on his own statement.

So thoroughly was he possessed by this idea that he seems utterly to have forgotten Lyon and Springfield until the 3d day of August, nine days after his arrival in Missouri. A messenger came from Lyon repeating the sad story of his distress and peril, which was forwarded to Cairo, and General Frēmont on that day telegraphed an order to Stevenson at Booneville and Colonel Montgomery at Leavenworth in Kansas, ordering them to reinforce Lyon with their regiments. These two regiments were probably the two of all others in his command the farthest from Springfield by the routes which they would be compelled to take, and in positions the most difficult to supply them immediately with transportation. This is literally all that Frēmont ever did to reinforce Lyon. You may search his statement—every letter, every telegram, and every document—and you will find

no other order given. He makes the distress of Lyon the pretext for the purchase of condemned arms, but he made no effort of any kind except the orders given to Stevenson and to Montgomery, to relieve Lyon's distress, and he provided neither Stevenson nor Montgomery with transportation to enable them to carry out the order of relief. If he had provided the transportation for these two regiments, they could not have reached Lyon in time, although both could certainly have done so had he made the order on his first arrival in Missouri. He had other regiments in his command which could have reached Lyon and reinforced him, even if ordered as late as the 3d of August. For instance, Wyman's regiment, thirteenth Illinois, then at Rolla, and thirty-six hundred other men, as shown by the report of Colonel Chester Harding, jr., to have been at the arsenal and Jefferson barracks on the 5th day of August, of which Coler's Illinois regiment is stated by him to be the only one not ready for service.

In this place I desire to allude to the assertions of General Frēmont and of Colonel Chester Harding, jr., to the effect that the force which Pillow is said to have had, and with which he was threatening to assault and take Cairo, was demonstrated by subsequent events not to have been over-estimated. Well, sir, if subsequent events have demonstrated that fact, they have been very unfortunate in not pointing to a single one of them. Neither of them point to anything that has occurred that justifies any such statement; and, in my opinion, there was good reason for this singular reserve on their parts. Months afterwards, when the battle was fought at Belmont, it was not supposed by any one that there were twenty thousand men at Columbus, under command of General Polk, who had then taken the place formerly held by Pillow. It has not been shown, by anything that will pass for evidence, that there were twenty thousand men at Columbus the other day when it was evacuated. The fact that Pillow retired when the reinforcements went forward under Frēmont, would go to show that Pillow did not consider himself very strong at that time, and the fact that no demonstration has since that time been made against Cairo, are among the "subsequent events" that do not strengthen their assertions. It is the opinion of many well-informed persons that the movement towards Cairo at that time, as well as the demonstration under Hardee against Iron Mountain, were mere feints to draw off reinforcements from Lyon, in order that he might be overwhelmed by the superior force brought against him under Price and McCulloch. The general and the adjutant general who had been deceived by such a ruse would be among the last to admit that they had been outwitted, although the fact that no serious attack nor even a demonstration in that quarter has since been made will go far to convince impartial persons that the enemy in that quarter were standing on the defensive, and their heavy fortifications at Columbus will be almost conclusive. I leave this branch of the case. I think I have made it appear that it was not Frēmont's first duty to reinforce Cairo in preference to Springfield, but I am willing for the sake of the argument to admit that he was correct in his judgment upon this point. It is a matter of opinion, and will always be a matter of opinion, whether he should have taken that course or not. I am willing that upon the facts of the case—not, however, upon his statement of facts—the country shall judge his conduct upon this point.

There remains, however, another branch of this case, which is not a matter of opinion, but a question of fact, upon which I take issue with him. It is the statement that he had not sufficient force under his command with which to reinforce both Cairo and General Lyon at Springfield. It is perfectly evident that he had enough to reinforce Cairo, for that was done, and the enemy fled before his grand flotilla. I will undertake to prove that he had enough also, after he had reinforced Cairo, to have reinforced Lyon; and that he had ample notice of Lyon's peril, and ample time in which to forward reinforcements. I premise by saying that it is curious that he should have omitted, when he stated that he had not sufficient force for both of these objects, to state also the force which he then had under his command.

The statement which I shall make is not derived from the books in the Adjutant General's office, for I have had no access to them. General Frēmont probably has those books, or at least all the data which embrace the returns of the number of troops in his own department. My knowledge is derived from my own early connection with the organization of troops in the department, from my association with them since, and from scattered items of information which I have been able to glean from the studied obscurity of General Frēmont's own statements and the documents annexed to it.

There was, on the day of arrival of General Frēmont in Missouri, sixteen full Missouri regiments in the service of the United States. They were as follows:

First regiment Missouri volunteers, Colonel F. P. Blair, at Springfield.

Second regiment Missouri volunteers, Colonel Boernstein.

Third regiment Missouri volunteers, Colonel Sigel, at Springfield.

Fourth regiment Missouri volunteers, Colonel Schuttner.

Fifth regiment Missouri volunteers, Colonel Saloman, at Springfield.

Of these, the first regiment was the only three years' regiment.

The sixth regiment Missouri volunteers, Colonel Bland, at Ironton.

Seventh regiment Missouri volunteers, Colonel Stevenson, at Booneville.

Eighth regiment Missouri volunteers, Colonel Smith, in Warren county, Missouri.

Ninth regiment Missouri volunteers, Colonel Fredericks, at St. Louis.

Tenth regiment Missouri volunteers, Colonel Bayles, at or near St. Louis.

I find Colonel Schæffer's regiment, which I believe to be the eleventh regiment Missouri volunteers, is noticed in the Missouri Democrat with that of Bayle's and Frederick's, as being armed and equipped, and under marching orders on the 6th day of August. In addition to these, the five reserved corps regiments—Almstedt's, Kalmann's, McNeil's, Brown's, and Stifel's—were then in the service, fully armed and equipped, and stationed at different points in Missouri. There were four Kansas regiments in his department—Dietzler's and Mitchell's, the first and second, then with General Lyon; the third and fourth regiments, Montgomery's and Weer's, one at Leavenworth, the other at Fort Scott, on the boundary between Missouri and Kansas, about sixty or seventy miles from Springfield. There were at that time four Iowa regiments in the State of Missouri, the first under Bates at Springfield, the second (Curtis) at Jefferson barracks, the third (Williams) on the Hannibal and St. Joseph railroad; there was one other in the State, and three others, making seven regiments in all, in Iowa, and ready for service; two of which, the sixth and seventh regiments, reached Jefferson barracks on the 11th of August, and a battalion of the Iowa fifth was at the arsenal, St. Louis, on August 10; three companies of the Iowa fourth arrived in St. Louis on the 11th of August. There were eighteen Illinois regiments in the service and under his command. These regiments were numbered from seventh to twenty-fourth inclusive; six of these were "three months" men, which I have already named as being at Cairo in the command of General Prentiss, almost the whole body of which were reorganized and reëntered the service, and are now leading the column of victory in Tennessee. There were ten others, "three years" men, numbered from thirteenth to twenty-fourth, inclusive, fully armed and equipped, all in active service, mostly in Missouri, and all under Frēmont's command. These ten regiments had been authorized by the Legislature of Illinois to be raised by the Governor in anticipation of a call by the President. There were one thousand regular troops under Lyon at Springfield, as will appear from the statement of the adjutant general, Captain Kelton, which is among the documents published in Frēmont's papers. These consisted of cavalry, artillery, and infantry. There were also three companies of regulars at Leavenworth. There was a battalion of four hundred home guards at St. Joseph under Colonel Peabody, who was afterwards severely wounded in the siege of Lexington. There were three hundred under Major Hunt at Hannibal, and three hundred at Kansas City under Major ——, who was also subsequently wounded at Lexington; there were also one hundred and fifty at Booneville, under a gallant officer, who afterwards defended that city with his small force and dispersed eight hundred rebels. The Nebraska regiment of four hundred and fifty-seven men reached St. Louis on the 13th or 14th of August.

This statement shows that there were forty-four regiments in the western department armed and equipped when General Frēmont arrived there and took the command. On the 4th of August Governor Morton of Indiana telegraphed to General Frēmont, as appears from his dispatch annexed to Frēmont's statement, offering him five regiments. Surely these regiments could have been made available for the defense of Cairo, if any serious attack had been made on that position, and although they were not in the western department the Government would not have hesitated to have given him this force if Cairo had been attacked. The Government did consent to his taking those regiments, for they arrived in St. Louis on or about the 17th of August, and were soon followed by three other regiments and several batteries of artillery from that State, all of which have since served with distinction in Missouri.

I propose now to show something as to the particular location of the troops actually in his department at the time of Frēmont's arrival in Missouri, and to prove that he not only had the men to reinforce Cairo and to succor Lyon, but that they were in position to be available to him for those purposes. I read from a letter addressed to me by Colonel John M. Palmer, fourteenth Illinois volunteers, now a brigadier general, who is well known to every member of this House from the State of Illinois:

ST. LOUIS, *November* 22, 1861.

DEAR SIR: On the 5th of July, 1861, the fourteenth regiment Illinois volunteers (nine hundred strong) crossed the Mississippi river, and on the 13th moved from Hannibal to Macon City, and remaining there and at Renich and Sturgeon, on the North Missouri railroad, until the 9th of August, and on the 10th reached Jefferson barracks.

When this regiment left Hannibal, the third Iowa and the sixteenth Illinois were on the line of the Hannibal and St. Joseph railroad. On the 13th July, Colonel Turchin's Illinois regiment came into the State of Missouri. On the 14th, Colonel Grant's twenty-first Illinois was at Palmyra, at which place Colonel Turchin was stationed. On the 31st July, I found at Mexico Colonel Marshall's first Illinois cavalry and one battalion of the fifteenth Illinois, Colonel Hecker's regiment having left the same place a few days before.

During the month of July the following regiments were in North Missouri and within twenty-four hours of St. Louis:

Fourteenth Illinois volunteers, (Palmer,)	900	men.
Sixteenth Illinois volunteers, (Smith,) say	800	"
Nineteenth Illinois volunteers, (Turchin,) say	800	"
Fifteenth Illinois volunteers, (Turner,) say	800	"
Twenty-first Illinois volunteers, (Grant,) say	800	"
First Illinois cavalry, (Marshall,) say	600	"
Twenty-fourth Illinois volunteers, (Hecker,) say	900	"
Third Iowa volunteers, (Williams,) say	700	"
Total	6,300	men.

All these regiments were then full, and the estimate of their actual strength is low.

Very truly, &c., J. M. PALMER.

Colonel F. P. BLAIR.

P. S. If it be inquired what all these regiments were doing, the answer is, eating their rations and holding the railroads. J. M. PALMER.

I annex a statement, also, of the number and designation of troops taken by General Frēmont to reinforce Cairo, and it will be seen that of the whole number of sixty-three hundred men, contained in the list of General Palmer above, there was but one regiment of these taken to Cairo—Colonel Turchin's—leaving fifty-five hundred men within twenty-four hours of St. Louis, available, when Frēmont first arrived in St. Louis, to reinforce Lyon:

List of troops taken by General Frēmont to Cairo, August 1, 1861.

"Nineteenth Illinois regiment, Colonel Turchin, armed with Miniés.

"Seventeenth Illinois regiment.

"Rombauer's home guard, composed of one battalion of Almstedt's and one of Kalmann's of the first and second United States reserve corps—eleven hundred strong.

"Second Iowa regiment, formerly Curtis's, and Captain Buell's battery of six pieces; eight steamboats; Frēmont and staff in four carriages, the City of Alton steamboat being especially devoted to the general and his staff."

This statement is made from the columns of the St. Louis Democrat.

In addition to the regiments mentioned in the schedule of Colonel Palmer within easy reach of Frēmont, there was the thirteenth Illinois regiment, Colonel Wyman, at Rolla; Colonel Stevenson's regiment, at Booneville; Weer's regiment, at

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. TUESDAY, MARCH 11, 1862. NEW SERIES.....No. 71.

Fort Scott, in Kansas, sixty or seventy miles from Springfield, and Colonel Montgomery's regiment at Leavenworth, Kansas, all of which could have reached Springfield before the 10th of August, and in time to have reinforced Lyon. There were other regiments, including Bayle's, Frederick's, Shæffer's, Smith's and Coler's, then at or near St. Louis, which regiments I presume are included in the statement of Colonel Chester Harding, jr., as comprising the thirty-six hundred men in the St. Louis arsenal on the 5th of August. As the regiments not named by him in his statement are enumerated in the Republican newspaper of St. Louis as being at the arsenal, and under marching orders, on the 6th of August. From this statement it is very clear that there were ten thousand men fully armed and equipped which might have been used to reinforce Lyon, if General Frémont had had the capacity to appreciate the difficulties surrounding Lyon, instead of making those difficulties an excuse for his purchase of Austrian guns, and breaking down under that effort for his relief, and making no other movement, and giving no other order for that purpose, except the order to move two regiments, the only regiments at that time among those I have enumerated, whose positions made it impossible they should reach Lyon by the 10th of August. He not only made no other effort, but, so far from it, transportation which was at Rolla, and which might have been used to forward troops to Springfield if Frémont had had any intention of sending them, was on the 4th of August discharged from service at Rolla and brought back to St. Louis.

I assert that Frémont had notice of Lyon's perilous condition before he left the city of New York for St. Louis. I received a dispatch from General Lyon while I was in Washington during the extra session of Congress, on or about the 18th of July, stating that Price was advancing upon him with a force of thirty thousand men, and that he would be overwhelmed unless reinforced. My brother, Montgomery Blair, transmitted that message to General Frémont in New York, urging him at the same time to proceed to the West. When General Frémont arrived at St. Louis he was met by a messenger from General Lyon, Major Barnard G. Farrar, attached to Lyon's staff, who came from Lyon with urgent entreaties for reinforcements. Captain John S. Cavender, of the first regiment Missouri volunteers, also came from Lyon upon the same errand, and returned, and was afterwards wounded at the battle of Wilson's Creek. Colonel John S. Phelps, a member of this House from the Springfield district, made the same statements to Frémont, and placed in his hands a written statement from General Lyon, which will be found among the documents attached to Frémont's defense, in which Lyon said that Missouri would be devastated unless he was reinforced. Frémont, therefore, had ample knowledge of the position in which Lyon stood. He had that knowledge when he left New York, and it was repeated to him in the most urgent terms when he arrived in St. Louis. He seems to have disregarded it altogether, and to have paid no attention to the wants of Lyon until the 3d of August. It does not appear that he even opened communication with Lyon until his return from Cairo. Lyon's letter of August 9, in response to one from Frémont, does not disclose any encouragement held out to him by Frémont's letter, to which his is in reply. Frémont's letter to Lyon is not published, for some reason best known to himself. He has favored the public with a great many of his letters upon matters wholly immaterial, and has chosen to keep back this letter, which might have disclosed what his views were at that time, and what his intentions were with regard to reinforcing Lyon. I know of no subject connected with General Frémont's career which at this moment would have so much interest for the public.

He says that Lyon had the assurance that he was doing everything he could for him. If he had that assurance, it is more than anybody else has been able to discover. If he had, it is more than he has attempted to prove by this record; for this record shows that he took no notice of Lyon until the 3d of August, nine days after his arrival in St. Louis, although I have shown that he had ample force under his command, in addition to that which he sent to Cairo. The only remaining question is, whether there was time, in the period intervening between the 25th of July, the date of his arrival in St. Louis, and the 10th of August, when the battle was fought, to draw in his forces and send them to reinforce Lyon. From St. Louis to Rolla, by railroad, the distance is one hundred and eleven miles; from Rolla to Springfield, one hundred and fifteen miles, with a road firm and hard, though rough and broken. Sigel, in his first expedition to Springfield, made the same distance in much less time than fifteen days. The distance has been traversed before and since by large armies, in much less time, and we have General Frémont's own authority for saying that Springfield is only a week's march from St. Louis.

I am willing to rest the case here. I think that I have proven that he had ample notice, ample time, and ample force with which to have relieved Lyon; but the difficulty was that he had no appreciation of Lyon's condition. He told Governor Gamble, of Missouri, who went to him to urge upon him the necessity of sending forward reinforcements, that Lyon was stronger than anybody else upon his line. If further proof were needed it would be found in the fact, that immediately upon the receipt of the news of the battle of Springfield he sent forward Palmer's and Turner's regiments, and two other regiments, all of which reached Rolla within three days after the news of the battle, and all of which might have been sent on the first day he arrived in St. Louis. The pretext now put up by himself for not sending them, and which is also to be found in the certificate given him by Colonel Chester Harding, jr., was that they were required in northeast Missouri to prevent an uprising of the rebels. The fact is, that these troops were withdrawn from northeast Missouri before the battle of Springfield, Palmer's regiment arriving in St. Louis on the 10th of August, and there was no organized body of secessionists there when Frémont arrived in the State, and Palmer, in his letter above quoted, states: "If it be inquired what all these regiments were doing, the answer is, eating their rations and holding the railroads." Everybody knows that these troops could have been better spared from northeast Missouri, or indeed from any other part of the State before the battle of Springfield, than they could afterwards, because that event inspired the rebels with hope and confidence, and set them to organizing all over the State. The sum total of his attempts to succor Lyon may be thus stated. He made no effort at all until it was too late. He ordered two regiments forward, but made no arrangements for transportation; and that these two regiments, so ordered, had the least chance of getting to Springfield in time.

It was under these circumstances that Lyon was forced, by the condition in which he found himself, to engage the enemy twenty-three thousand strong, with his force of less than five thousand men, in one of the most sanguinary and deadly conflicts that ever took place on this continent, and which resulted in a victory and driving the enemy from the field. After the battle was over and the enemy had disappeared from sight, it was discovered that during the tremendous struggle which they had endured, the ammunition of our forces had been almost entirely expended, and they had suffered so much that it was not possible, if the enemy should return and renew the attack, for them to hold their ground, and therefore they retired unmolested. They were never pursued. The enemy showed no disposition to engage them again. They plundered the bodies of the slain, but never attacked the remnant of Lyon's army. Frémont has done injustice to the men who at Springfield risked everything for their country, by speaking of it as a defeat. It was a disaster, but no defeat. In the opinion of Lyon and his officers, to attack the enemy was the only way in which the army could be saved, it being unsupported and beyond the hope of any succor. If they had attempted to retreat over the broken roads, through the defiles and forests to Rolla, the enemy having a large force of cavalry, would have harassed them and cut them off, especially as they would have been embarrassed and impeded by the large numbers of Union men fleeing with their wives and children. General Lyon thought his best course was to attack the enemy in front. He did attack them and lost his life, but saved his army and won a victory. That victory did not bear fruit, but that was not the fault of the general who ordered the battle or the men who fought and won it; it was the fault of another. The battle need not to have been fought that day, if there had been any hope of succor; it might have been delayed possibly for a week. It was simply because Lyon, as he then stated, considered himself abandoned, and was hopeless of receiving reinforcements, and felt that this was the only road to safety, that the battle was fought.

The next point to which I shall ask the attention of the House is the siege and fall of Lexington, the most disastrous blow which the Union cause has received in the whole war, if we regard it in the aspect of the number of prisoners taken, and the number of arms, munitions of war, stores, money, and other valuables lost to the Government and captured by the enemy. The number of killed and wounded on our side was not very large, and did not exceed two hundred men, but the enemy took three thousand prisoners, upwards of one thousand horses, three thousand stand of small arms, four heavy guns, wagons, stores, and munitions of war, and nearly half a million of dollars in money. General Frémont says that the first news he received of Price's advance upon Lexington was on the 12th of September, the day of Mulligan's arrival at that place. The fact is, that it had been known for weeks that Price was advancing into that part of the State, and Mulligan went to Lexington to take possession of it, and hold it, against Price's advance. The dispatch of Mulligan, to which General Frémont refers to support his statement, proves simply that on the 12th of August he received news that Price had arrived at Warrensburg, thirty-five miles distant from Lexington, with an army estimated at from twelve to fifteen thousand. Two days afterwards Frémont made a statement of the forces under his command, which I here give:

HEADQUARTERS WESTERN DEPARTMENT,
September 14, 1861.

To the Hon. SIMON CAMERON,
Secretary of War, Washington, D. C.

Subjoined is a list of our total force, with its distribution:

St. Louis, including home guard	6,899
Under Brigadier General Pope, including home guard	5,483
Lexington, including home guard	2,400
Jefferson City, one fourth home guard	9,677
Rolla	4,700
Ironton	3,057
Cape Girardeau	650
Bird's Point and Norfolk	3,510
Cairo, including McClernand's brigade	4,826
Fort Holt, opposite Cairo, Kentucky shore	3,595
Paducah	7,791
Under General Lane	2,200
Mound City, near Cairo	900
Total of present and absent on detached duty	55,693

JOHN C. FRÉMONT,
Major General Commanding.

It will be seen from the above that, according to his own showing, he had at the time nearly fifty-six thousand men under his command.

[Here the hammer fell.]

Mr. COLFAX. If the gentleman from Missouri has not concluded his remarks, I hope he will be allowed to do so.

No objection was made.

Mr. BLAIR, of Missouri. I am very much obliged to the committee and to the gentleman from Indiana for the courtesy which has been shown me. I am well satisfied that it could be shown that Frémont had a larger force at this time. His adjutant general, Captain McKeever, informed me, on or about the middle of October, one month later, that General Frémont had upwards of ninety

thousand men under his command in the department of the West; but I am content to take his own statements. Mulligan was ordered to Lexington, to take and hold it until relieved. The dispatches which he sent to Colonel Jefferson C. Davis, commanding at Jefferson City, and which are annexed to Frémont's statement, show that such were his instructions, for he declares his determination to hold it, and asks that reinforcements be sent to him. But for these instructions, he could have saved his command by crossing the river in the two ferry-boats and a steamboat which lay at the landing of Lexington, and thus put the Missouri river between him and Price, who would have had no means of crossing over and following him. He could thus have joined his forces to those of Sturgis on the north side of the river, and made a stand against Price. But he was ordered to hold Lexington until relieved. He was sent there for that purpose and none other, and he obeyed the order. When General Frémont gave that order, he must have had an opinion as to his ability to reinforce Mulligan in time; he must have supposed either that he was able or that he was not able to do it. If he believed he was able to do it, and then failed, the responsibility of giving such instructions, by which three thousand men with their arms, ammunition, equipments, munitions of war, and stores fell into the hands of the enemy, must rest upon him. If he gave such instructions without believing that he could reinforce Mulligan in time, then the responsibility that rests upon him is unrelieved by any redeeming feature.

This latter construction has been placed upon his conduct by two newspapers published in St. Louis, the Democrat and Republican, both advocates and apologists of his administration of the western department. The Democrat of September 25, in announcing the fall of Lexington, and noticing the movements against Price's victorious army, says:

"All look to the grand movement for the complete entrapping of the rebel army under General Price, to the accomplishment of which, we are disposed to believe, the capture of Colonel Mulligan was but one of the predetermined necessities."

The Republican contained an article of the same tenor. I take a different view of it. I do not think Frémont meditated the destruction of Mulligan. He doubtless believed he had the force to succor him, and he simply lacked the capacity to wield it. I point to the number of troops then under his command, and the positions they occupied, as shown by the statement of his adjutant general, which I have already quoted to prove that he had ample force, if he had known how to use it. Everybody in Missouri, prior to the fall of Lexington, friend and foe alike, believed that he would succeed in cutting off and destroying Price's army.

The statement already referred to which I hold in my hand, shows that he had nearly seven thousand men in St. Louis; under General Pope, in North Missouri, five thousand four hundred; in Lexington, including the home guard, two thousand four hundred; (the real force in Lexington was three thousand;) at Jefferson City, nearly ten thousand men; at Rolla, four thousand seven hundred, and under General Lane, two thousand two hundred. All of these forces were within less than a week's march of Lexington; all of them could have been brought to bear upon Lexington in less than a week; in all, upwards of thirty thousand men, armed and equipped. Mulligan held out for nine days. Price held possession for ten days of Lexington, after the capture of Mulligan, making in all nineteen days. The army with which he invested Lexington was reported at from ten to fifteen thousand. He was reinforced by Harris and Green with five thousand men, who traversed the State from its eastern boundary, crossing the river at Glasgow and reaching Lexington before its fall, traveling the whole distance by land, and aiding in its capture. In the mean time, General Frémont, with the railroads at his command to carry his troops within sixty miles of Lexington, with the river and abundant transportation to carry his troops to the city of Lexington itself, and land them at the foot of the hill on which Mulligan was making his gallant defense, failed to send a single man to his assistance. He alleges that he gave orders that were not executed. It was a case in which he should have executed his own orders. It was a case in which he knew day by day, or had the means of knowing, whether his orders were executed or not; and after the loss of a few days, when he found his orders were not being executed, it was still in his power to take the matter in his own hands, and by moving the troops from St. Louis and Jefferson City, he could have reached Lexington in three days by the river, reinforced Mulligan, and destroyed Price's army.

After the fall of Lexington he had full time to have rushed upon Price and destroyed him before he left that city, where he remained for ten days after its capture. He announced his intention to do so in a telegraphic dispatch to the President. He remained nearly a week in St. Louis after this announcement. He went to Jefferson City by railroad, and remained there another week; not leaving there with his army until Price moved off leisurely from Lexington. He went then in the direction of Sedalia, on the Pacific railroad, and remained nearly another week. He then marched off to Warsaw and Springfield, and reached the latter place one month after leaving St. Louis, a distance of about one hundred and fifty miles by railroad, and less than a hundred and thirty by land. He started on his expedition with an army of forty thousand men, sufficient to have confronted every secessionist on the western bank of the Mississippi. With that army he reached Springfield in disorder and confusion, the division of General Hunter being compelled by his orders to make forced marches by night and day to relieve the panic fears of a leader whose enemy was sixty miles away and in full retreat. Was he disturbed by thoughts of the neglected Lyon, or of that other gallant soldier who succumbed to famine in the trenches of Lexington, while he indulged his vanity in the pomp and parade of the inauguration of Benton barracks? It is a curious coincidence, marking the trivial and frivolous character of the man, that at the very moment when the cry of distress came with its wildest accents from both Wilson's Creek and Lexington, it was drowned by the music of a holiday parade, the only warlike sound that ever smote on our general's ear; and it is not the less curious that he who could be so indifferent to the dangers that beset Lyon and Mulligan, should turn pale at the visionary terrors of the approach of Price's Falstaffian army in buckram and Kendal green, when he was surrounded and defended by a well-appointed army of more than forty thousand men. If he had made half the haste to succor Lyon or to relieve Mulligan as he did in ordering up Hunter to his own relief, it would have been better for his fame, and far better for the country. Yet I would not impugn his personal courage. A man may be physically brave, but so conscious of the want of faculties to answer the responsibilities of a great occasion as to be paralyzed by it. Frémont was in consternation with such apprehension amid affairs he could not manage.

In his own summing up of the results of his command in Missouri, he declares that it is unreasonable to expect that a general shall always be victorious. It is equally unreasonable to expect that our generals shall always be defeated. He adds that when he had completed the organization of his army, and got it into the field, and commenced handling it, that he was victorious at all points. He cites the instances of Zagonyi's charge at Springfield and the battle of Frederickton. Something has already been said in this Hall of the battle of Frederickton. I did not make any observation upon it at the time, because I had not seen the dispatches produced by the gentleman from Indiana on that occasion. The occasion of their production was a statement made by the gentleman from Ohio [Mr. GURLEY] that the battle was fought against the orders of the commanding general, and that therefore he was not entitled to the credit of winning it. It would appear on the face of the telegraphic dispatches produced by the gentleman from Indiana [Mr. SHANKS] that General Frémont did not order the concerted movement on Frederickton, which was the only victory won in the hundred days in Missouri. The charge of Zagonyi was, in no sense, a victory. Zagonyi and the men under him made a gallant charge; they went in and came out very much worsted, and fell back twenty-five miles. There could be no result from the charge to compensate for the loss it occasioned, as Springfield must necessarily have fallen without loss upon the approach of Frémont's overwhelming force. The action was brave indeed, and the men who performed it deserve applause. The general who ordered such a sacrifice without any advantage to be obtained from it, deserves nothing but censure.

The dispatches read by the gentleman from Indiana to prove that General Frémont ordered the battle of Frederickton do not sustain that theory, but prove the reverse of it. The dispatches read by the gentleman from Ohio [Mr. GURLEY] establish the absolute truth of his statement that it was fought against General Frémont's orders. All of the dispatches taken together prove that if Frémont had not been providentially taken away from St. Louis, and out of the reach of the telegraph, he would have been without a single victory to illustrate his hundred days. The first dispatch is from Colonel Carlin, commanding at Pilot Knob, announcing the approach of Jeff Thompson's army. I read it:

(1) [Vol. 5, p. 94.
(Special Messenger.) PILOT KNOB, *October* 15, 1861.
Captain C. MCKEEVER, *A. A. G.:*
Jeff Thompson is reported twenty-two miles east, near Farmington. I require two more regiments if you can send them. I will attack him and follow him up. His force is estimated at three thousand, (3,000.) The telegraph is broken or cut, and I fear the railroad will be obstructed.
CARLIN, *Colonel Commanding.*

The second dispatch shows that Frémont was out of reach of the telegraph, and was, fortunately for the country, where he could not interfere with the disposition of the troops called on to act against Thompson. He was twenty-five miles south of Syracuse, and could only be communicated with by express. The date of the dispatch is the night of the 15th of October. I present it:

(2) [Vol. 4, p. 94.
SYRACUSE, *October* 15, 1861.
Captain C. MCKEEVER, *A. A. G.:*
Rumor reports the destruction of long bridge, on Iron Mountain road, and the capture by the enemy of its guard. General Frémont is to-night twenty-five miles south of here. Dispatches sent to me can reach him by express from this place. MCKINSTRY, *Brigadier General.*

The dispatches which I shall now read prove that the movements which led to the defeat of Thompson, at Frederickton, were concerted between General Curtis and Captain C. McKeever, who agreed cordially upon the measures necessary to be taken. The dates of these dispatches prove that Frémont had no hand in them:

(3) [Vol. 5, p. 100.
BENTON BARRACKS, *October* 16, 1861.
C. M. MCKEEVER, *A. A. G.:*
Who commands south of St. Louis county? Important reports are coming to me. Thompson was at Big River bridge.
SAMUEL R. CURTIS,
Brigadier General Commanding.

—

(4) [Vol. 5, p. 101.
ST. LOUIS, *October* 15, 1861.
Brigadier General GRANT, *Cairo, Illinois:*
Jeff Thompson, with between two and three thousand men, is at Farmington, twenty miles east of Ironton. Send as large a force as you can from Cape Girardeau, in the direction of Ironton, or Pilot Knob, to cut off his retreat into Arkansas.
By order of Major General Frémont.
MCKEEVER, *A. A. G.*

—

(5) [Vol. 5, p. 102.
CAMP BENTON, *October* 16, 1861.
C. MCKEEVER, *A. A. G.:*
The remainder of the (8th) eighth Wisconsin went to depot early this morning. Boyd's is about ready to move; is delayed for want of wagons, but will soon move down.
S. R. CURTIS, *Brigadier General.*

—

(6) [Vol. 5, p. 102.
CAMP BENTON, *October* 16, 1861.
C. MCKEEVER, *A. A. G.:*
Have detailed Captain Spoore's company, Dodge's light battery, and the captain, to go forthwith.
S. R. CURTIS, *Brig. Gen. Com.*

—

[*Vide* No. 5.] (7) [Vol. 5, p. 111.
ST. LOUIS, *October* 16, 1861.
Brigadier General CURTIS, *Benton Barracks:*
Colonel Carlin is in command south of St. Louis county. His headquarters are at Pilot Knob. Send six days' provisions with Colonel Boyd's regiment. Have the remaining companies of the eighth Wisconsin left this morning? Thompson is at Farmington. Answer how soon troops can be at depot.
C. MCKEEVER, *A. A. G.*

—

[*Vide* No. 6.] (8) [Vol. 5, p. 111.
ST. LOUIS, *October* 16, 1861.
Brigadier General CURTIS, *Benton Barracks:*
Have one of the companies of light artillery under your command equipped immediately. You will make requisition upon Major Allen and Captain Callender for everything that is necessary. Please notify me which company you intend equipping.
By order of General Frémont.
C. MCKEEVER, *A. A. G.*

The next dispatch is from General Frémont, McKinstry's express having reached him and brought back his orders. Fortunately they came too late to make another Springfield or Lexington at Fredericktown:

HEADQUARTERS, *October* 21, 1861.

To Brigadier General CURTIS:

Order all the troops that you have sent on the Iron Mountain road back to Benton barracks. The whole affair has been grossly exaggerated. Colonel Carlin should have kept the road open without any additional force.

By order of Major General Frémont.

C. McKEEVER, *A. A. A. G.*

The querulous tone of this dispatch proves that it emanated from the commanding general, who never thought anybody to be in danger but himself. It could not have been McKeever's, because he had concerted the movements with Curtis which led to the sending of the reinforcements countermanded by Frémont. I read another dispatch announcing the victory:

HEADQUARTERS, *October* 23, 1861.

To Brigadier General CURTIS, *Benton Barracks:*

Colonel Carlin left Pilot Knob Sunday. Attacked the enemy yesterday and routed him. The eighth Wisconsin and Colonel Boyd's Missouri volunteers will remain for the present at Pilot Knob. You will order Colonel St. James with his command to return immediately to Benton barracks. Orders will be issued at once sending his regiment forward to Tipton.

By order: C. McKEEVER, *A. A. A. G.*

A singular fact in connection with this transaction which deserves mention is, that the dispatch to Curtis, countermanding the reinforcements is not to be found in the whole batch produced by the gentleman from Indiana; each of which has the mark of the folio of Frémont's order-book attached to it, showing who furnished them, for the purpose of appropriating to General Frémont the honors of that victory. The dispatch to Curtis is discreetly left out. May we not presume that the man who suppressed that dispatch might overlook others calculated to throw light on the other events of the "hundred days." The dispatch to Curtis was given to me by that gentleman with his own hand; I use it now, that honor may be given where honor is due.

We have heard much in this House and out of it of the great army which General Frémont created, and of the enthusiasm which he inspired. I had thought that the people of the West had volunteered for the defense of the cause. When the President made his first call for "three months" volunteers, the quota was filled to overflowing in the West. The second call was filled up before General Frémont's reluctant footsteps were lured back from France by the offer of a major generalship. Every call made on the people of the West has been filled, and the acceptance of more men was refused by the Government. But the idolators of General Frémont will have it that his popularity alone created our western army, and that the Governors and people of Illinois, Indiana, Iowa, Missouri, and the entire Northwest have no merit at all in this matter; but when we have been forced by the clamors of his partisans almost to admit that he alone raised this vast army, and when we beheld with our eyes their gallant array, as we did on the grand flotilla which bore him and them to Cairo, when the pleading for succor fell sadly on our ears before the battle of Wilson's Creek, and as we did, also, at that splendid pageant which commemorated the inauguration of Benton barracks, at the very hour when the booming cannon shook the resounding hills at Lexington, and when we ask why were these brave men not permitted to succor their brothers and carry our banners to victory upon the stricken fields of Wilson's Creek and Lexington, instead of ministering to the pride and vainglory of our chief, then we are told that these long and splendid lines of troops, who marched before our own eyes to the sound of martial music and with flaunting flags, were not men, they were phantoms; the gay flotilla "a painted ship upon a painted ocean;" and the clang of arms, which made the breast of more than one burly brigadier swell with pride, and paled the cheek of beauty at Benton barracks, was a mere imagination of men, and a thing unreal.

Now, sir, he did have the troops, but he did not know how to use them. He did not create these troops. Most of them were enlisted before his feet touched the shores of America on his return from Europe. Missouri overflowed her quota. I have seen men in Missouri after he arrived there, high men, too, coming to him with offers of regiments, and they were elbowed out of the way by his lackeys and orderlies. They were made to give way to the California cormorants. The army that he raised was that army of contractors who settled down upon us like obscene birds of prey upon a carcass. They elbowed everybody else out of the way, and unfortunately for him and the country, engrossed his time and attention. I suppose that there are no men in America whose characters are so bad as the men who were his familiars and associates. Of course, I do not refer to the gentlemen who were near him, of whom there were many on his staff; very many of them were most honorable men, whose only motives were to serve the country and to serve him, and among that number I take pleasure in distinguishing the gentleman from Indiana. My allusion is directed to those who sought him for the sake of contracts. Those of his aids-de-camp who did get contracts were the worst of all.

I desire, in this place, although somewhat out of place in the line of my remarks, to refer, for a moment, to an allusion in the speech of the gentleman from Indiana, to the effect that St. Louis was seething with treason when Frémont arrived there. The general himself stigmatizes St. Louis as a rebellious city, over which he was compelled to establish martial law, and resort to the most stringent measures to prevent the secessionists from taking the town. These statements are made in utter ignorance of affairs in St. Louis. The city and county of St. Louis voted for Abraham Lincoln for President by a large majority, and almost all the votes of the minority were given for Douglas. The vote for Breckinridge did not number one thousand, in a total vote of more than twenty thousand. I venture the assertion that, at the time General Frémont came to the city, there were not a thousand secessionists there They had the whole winter, with the State and national Governments in their favor, to raise and arm men for the secession cause, and yet they raised only two meager regiments; the other troops captured with these two regiments at Camp Jackson, by General Lyon, on the 10th of May, came from the interior of the State. The secessionists are found among the would-be respectable people, and a few other thoughtless persons, led by these upstarts; but when the call to arms was made in support of the Union cause, ten thousand men volunteered in St. Louis in two weeks, and ten thousand more would have offered if they could have been accepted. No congressional district in the Union has given so many soldiers to the Union cause as the city and county of St. Louis. St. Louis a rebellious city! There never was a greater slander uttered by any man. Some of the rich men were, as he said, secessionists, but the working men, the mechanics and the great body of the people, nine tenths of them, were for the Union, and ready to bear arms in its defense. The declaration of martial law by General Frémont was the offspring of timidity, seeking to prevent imaginary dangers by inspiring the terrors with which he himself was haunted. The robust courage of Lyon failed to see any efficacy in martial law, even when the traitors were openly congregating in Camp Jackson. He relied on his own courage and the valor of his soldiers. The people of that city took up arms, when they were not permitted to bear commissions, but the men who bore arms for their country without commissions from anybody, sustained the power of the Government in the State of Missouri. If they had waited for commissions, an armed minority would have trampled down the authority of the Government there, as was done in many, if not all, of the southern States. It can be said of St. Louis, what cannot be said of any city in a slave State, that the arsenal of the United States and the United States treasury were saved to the Government by its loyal citizens, while the State and national governments were conspiring for their capture.

I return to the point I was discussing before this digression on the subject of the loyalty of St. Louis demanded that I should say a few words in defense of the patriotism of its citizens. General Frémont approaches the subject of contracts with rather more of confusion in his manner than characterizes the rest of his statement. In respect to the Beard contract, he makes use of some remarkable language. Among other things, with regard to this contract, when speaking of its treatment in the report of the Van Wyck committee, he says:

"Concerning the contract for this work the committee of investigation say that it was made under the 'special order and direction of General Frémont,' and concerning the payments that they were made upon his 'personal order.' The following extract will show that not only was I recognized to have this power, but that I was, so late as the 3d of September, counseled to exercise it by the Quartermaster General, General Meigs."

Here is the counsel of Quartermaster General Meigs, which he quotes:

Letters of the Hon. M. Blair, P. M. G.

"WASHINGTON, *September* 3, 1861.

"Meigs begged me this afternoon to get you to order fifteen-inch guns from Pittsburg for your gunboats. He says that the boats can empty any battery the enemy can make with such guns. He advises that you contract for them directly yourself, telling the contractor you will direct your ordnance officer to pay for them."

Quartermaster General Meigs counsels him to buy fifteen-inch guns. For what? For his gunboats. And this he construes as authority to erect fortifications around St. Louis, forgetful of the order of the Secretary of War to stop the erection of these same fortifications, and make no further payment on account of them, which order he set at defiance, and continued the construction of the forts, and ordered the payment of $60,000 on them to be made by Major Allen, as is clearly shown by the testimony of that officer in the very report upon which he was commenting. What is still more singular is, that when the committee were charging that this was a case of gross fraud upon the Government, and not laying so much stress upon his want of authority, that he should set up his power to make the contract instead of vindicating its fairness. The contract, by its terms, requires that the forts shall be built in five days. It is proven, and admitted by General Frémont, that he set Beard to work upon them as soon as he (Beard) arrived in St. Louis from California. The first payment on account of the forts was made to Beard on the 29th of August; the contract was dated on the 25th of September. It is shown by the testimony that Beard had been working for twenty-five days on the forts before the contract was signed, which contract required him to complete them in five days. It is proven that the forts were not completed on the 14th of October, when the Secretary of War ordered Frémont to stop the work on them. The work continued. How long Beard was in completing them, I do not know. I have been informed that they were not completed on the 1st of November.

Thus it is established that Beard was working for six weeks, and probably for two months, on a job which he had stipulated to finish in five days. The fact of his having been employed in constructing these forts for six weeks, is brought home to the knowledge of General Frémont; the stipulation to complete them in five days was the colorable pretext merely for the enormous prices paid him for the job. Beard built five of the forts; five others were built under the superintendence of Major Kappner, he employing and paying the laborers. The five built by Kappner cost $60,000, and were one fifth larger than the five built by Beard, who received in money $171,000, and received orders upon the quartermaster, signed by General Frémont, for $75,000 more; making in all $246,000. The committee in their report say:

"It will be seen, therefore, the total amount ordered to be paid to Beard, on account of these works, by General Frémont, was $246,000, of which $171,000 was *actually paid.* Through the firmness of Major Allen, who appears to be a vigilant and incorruptible guardian of the public interest, this last amount of $60,000 was saved from going into the capacious and already gorged pocket of Beard, who, in the language of Major Allen, was the 'leader among the contractors,' and perhaps 'the most extravagant and grasping of them all.'"

The committee say further:

"There is, however, another way of testing the character of this contract. The five forts built by Major Kappner, by days' work, which would ordinarily be the most expensive way, cost the sum of $60,000, while they were one fifth larger on an average than the five built by Beard. Major Kappner testifies positively that the five forts built by Beard would certainly not cost more than $60,000, which the five forts cost that he built. Allowing to Beard the liberal estimate that the cost of building the five forts which he constructed was $60,000, he has already obtained from the Treasury of the United States the profit of $111,000; and had the additional amount of $75,000 been paid him, which General Frémont had ordered to be paid, the Government would have been defrauded in that one transaction out of the enormous sum of $176,000.

"From the fact that the contract with Beard was entered into so long after the work had been commenced by him it has the appearance that it was really intended to cover all the work on all the forts—that done by Major Kappner by days' work as well as by himself—for the purpose of enabling him to obtain pay for the whole at the extravagant and outrageous prices provided for in his contract. It is

but justice to General McKinstry to state that he is not responsible for this contract. It was made at headquarters, and the enormous and unconscionable prices were there fixed upon between General Frémont and the contractor, and the payments made by him on the contract were made by the express direction of General Frémont. He acted for the commanding general, and by his direction. Beard brought to him a paper from headquarters, 'formally drawn up,' which contained the prices. (See Clement's testimony, p. 885.) He objected to the prices, and 'greatly reduced them.' If the prices named in the contract were the '*reduced*' prices, it would be a matter of curiosity to know what the original prices were as sent from headquarters."

I cannot forbear another quotation from the report of the committee:

"The money appropriated by Congress to subsist and clothe and transport our armies was thus, in utter contempt of all law and of the Army regulations, as well as in utter defiance of superior authority, ordered to be diverted from its lawful purpose, and turned over to the cormorant, Beard. While he had received $171,000 from the Government, it will be seen from the testimony of Major Kappner that there had only been paid to the honest German laborers, who did the work on the first five forts built under his direction, the sum of $15,500, leaving from forty to fifty thousand dollars still their due. And while these laborers, whose families were clamoring for bread, were besieging the quartermaster's department for their pay, this rapacious contractor, Beard, with $171,000 in his pocket, is found following up the army, and in the confidence of the major general, who gives him orders for large purchases, which only could have been legally made through the quartermaster's department, and which afforded him further opportunities for still plundering the Government."

I can only add to this, that the laboring men who did the work for Beard went without their money as well as those who did the work under Kappner. Dozens of them came to my house to ask how they should get their money, and as I was not as well acquainted with Beard as General Frémont appears to be, from his statement, and had not the same confidence in him as the general declared that he had, I could not answer their questions.

The above quotations show what was the gravamen of the charge made by the committee, and I regard it as a most singular answer to this charge that Quartermaster General Meigs had recommended him to purchase fifteen-inch guns for his gunboats.

This allusion to gunboats, however, reminds me of the declaration made by the gentleman from Indiana, [Mr. SHANKS,] and many times repeated in his speech, in praise of the forethought and energy of Frémont in ordering and constructing the gunboats on the western waters. The gentleman says they were a part of Frémont's plan, and originated by him. Now, sir, I am compelled to state, in vindication of the truth of history, that Frémont did not order the gunboats, and that the plan did not originate with him. They were ordered before he came back from Europe. The Government had determined upon the plan, and the advertisements for proposals were published before he reached the shores of America. They were intended for McClellan when he was in command of that department. The idea of the mortar boats originated with Captain Fox, Assistant Secretary of the Navy, to whom the whole merit of their plan is justly due.

The gentleman from Indiana is haunted with the idea of an awful combination against the "champion of freedom." There is scarcely a paragraph in his speech in which this combination does not crop out. He classifies the parties to that combination or conspiracy, and goes over it again and again in "damnable iteration," showing that it had made a great impression on his mind, and that he actually believed in it. Parties to this "unholy alliance" consisted of pro-slavery men, jealous politicians looking to the Presidency, West Pointers, and contractors. I do not know in which of these classes the gentleman has placed me. I am inclined to think that I am left out altogether. My opposition to slavery has been tried and proven in a more severe ordeal than any through which the gentleman from Indiana or General Frémont have ever been called on to pass. It has been tested in worse places and in worse times than either of them have ever experienced. I have sealed my devotion to that cause by quite as many sacrifices as the gentleman from Indiana, or his friend General Frémont. I intend, so far as I can, under the Constitution of my country, to continue my hostility to the institution of slavery. I shall oppose, as I have always opposed, its existence in the State in which I live; and if any mode, under the Constitution, can be devised by which the institution of slavery can be obliterated from all the States in the Union, I shall be among the first to support that measure; but I will not aid in breaking down the Constitution even to destroy slavery. I consider the Constitution of more value to me and to my children than any other earthly possession.

During the pendency of the present struggle, I have taken upon myself some slight hazards in its defense, and will never be found enrolled among its enemies and violators, no matter from what quarter they may come. I understand that by pro-slavery men the gentleman means to designate those who opposed the proclamation of General Frémont. I can say that I did not see anything very bad in that proclamation. Nobody paid much attention to it in Missouri, where it really had little or no effect. Everybody understood very well that it was not intended for that meridian, but that it was put out for a campaign in New England and elsewhere. It was not intended to operate upon the theater of war, where its only effect would be to make the rebels fight more desperately to save their property and negroes; it was rather intended for a political campaign in which the general had embarked, and in which he hoped for better success than had attended his arms. The net results of this bombastic proclamation was the loss of two armies and the liberation of two negroes—negroes that did not belong to the man from whom they were taken, but to his wife, to whom they were secured by a marriage contract. The deeds of emancipation which he gave to these two negro men were intended to point an electioneering document. In the course that I have thought proper to pursue towards General Frémont, I believe I am uninfluenced by any sentiment of jealousy. I have heretofore given him a very cordial support for every position to which he has aspired, and I am unconscious of ever having experienced a feeling of jealousy to any one. There is certainly nothing in General Frémont's present position to inspire any one with jealousy. I am neither a West Pointer nor a contractor, and do not feel myself included in the conspiracy, which the imagination of the gentleman from Indiana has conjured up.

My belief is that the President was operated upon in the removal of General Frémont by his own judgment upon events which transpired in Missouri. Before General Frémont took command in that department uninterrupted success attended the standard of the Union. The first blow which was struck for the Government was given in Missouri; the first successes of the cause were won upon the soil of that State. Camp Jackson, Booneville, and Carthage, made the names of Lyon and Sigel historic, and gilded the cloud of disaster which had settled upon our arms elsewhere. The welcome which greeted the advent of Frémont had hardly ceased to sound before the cry of distress broke upon our ears. Humiliation, disaster, defeat, and disgrace, came with him, remained with him, and went away with him and his army of contractors.

As soon as the paralyzing influence of his imbecility was removed victory came back to the standard of the Union in the West, and the advancing columns of our victorious armies have penetrated to the very heart of the rebellion, inflicting blows from which it lies writhing in death, and from which it can never recover.

I believe it is the judgment of mankind that there is no such thing as an unfortunate great man. A man to be great must be able to do great things with small means; and when we hear of a fellow going whimpering around the country trying to give the reasons for his being whipped, the spectacle may excite sympathy, he may even be regarded as a very good man, but nobody will ever select him as a fit person to fight battles and to carry on war.

The admirers of General Frémont say that he would have won a victory if he had been permitted to remain in command. The world would have more confidence if he had given any proof of his capacity by winning victories when he had a command. It was with great difficulty that the order for General Frémont's removal was carried through his lines. A messenger who bore the dispatch passed through his lines by a ruse, as I am given to understand, and delivered it to General Frémont.

The newspapers that were in his interest in St. Louis announced that, when the intelligence of his removal was made known, there was a mutiny in the army, and that there was a meeting of officers, especially of those whose commissions expired with the end of his service in the department; that they gathered around him, and shouted "Hurrah for Frémont, and down with Hunter!" His friends say that he used his potent influence to put down this terrible mutiny. There was no mutiny that was not of his own making. The press in St. Louis, in his interest and under his control, instigated mutiny, and promoted it by every species of influence they could bring to bear; by misrepresentations of the grossest character; by appeals to the pride and passions of the men.

The general himself permitted it by not preventing it. If he did anything to quell the mutiny, it was only when he found that it did not extend beyond a few of his own dependents and retainers, and that the army had risen in defense of the country and not to put him above the country. The conduct of his nearest and most trusted friends, and the conduct of the press, which had only spoken during his administration of the department as he dictated, proved most conclusively that he would have defied the Government and retained the command, if he had dared to do so.

The fact that his friends applaud him, even for yielding his command when ordered to do so by the Government, shows how little margin there is for praise when such an act, under such circumstances, is extolled. But as little as there is to exalt in his enforced obedience to what he could not and dared not resist, yet it was the most commendable act, after all, of his administration.

"Nothing in life [official life] so became him
As the leaving it."

Mr. COLFAX. Mr. Chairman, I did not intend at the opening of my friend's remarks, to speak on this subject to-day; and therefore am but illy prepared to answer his elaborate argument of two hours in length. But I am gratified that the House, on my motion, extended his time, so that he could present the whole array of charges at once.

While I differed, as is known to him and many other members of the House, with the Administration, which I assisted to elect, in the supersedure of Major General Frémont in the department of the West; I desire, lest I might be misunderstood, to say at the outset, once and for all, that no matter what general the Administration may put up or put down, I shall sustain it with all my heart and soul and strength and mind in every military movement that it makes against the enemy. I believe it to be our duty to do so. It is, under God, the only means by which we can put down this gigantic, satanic, conspiracy and rebellion. And although I lament the supersedure of a general who lives to-day in the loyal hearts of millions of the American people, that can make no difference in my earnest and cordial support of the Administration.

I pass over many remarks of the gentleman from Missouri, [Mr. BLAIR,] which, I am sure, he will, himself, in his cooler moments, regret. He has seen fit to mingle personalities with his criticisms, and to speak of a gentleman, who holds a commission as major general in the Army, as a tool, a dupe, a designing man. I cannot follow the gentleman here. The subject is too grave to be thus discussed.

There has been an attachment between myself and the gentleman from Missouri almost since our boyhood, and I shall not suffer a single remark to fall from my lips which could wound him or any friend of his or any member of his family. I rise simply to vindicate history, and to prove, from the records of the day, that my friend from Missouri has had his feelings and judgment perverted, or perhaps I should rather say influenced, by prejudice. He spoke about the "idolators" of Frémont. My friend has not used the word fittingly. Those whom he calls the idolators of Frémont are the men who stand by him to-day, just as my friend did from the commencement of his acquaintance with him till the last of August, 1861, up to which time he was his warm, his devoted friend and admirer. He ought, from that long acquaintance, to have known his mind, his capacity, his judgment, his will. In August he was his friend, warm and true; in September he was not. All my crime is that I continue the same friendship that, in common with him, I had in August, and did not change with him in September.

Mr. Chairman, men are but nothing in this struggle. They are but ciphers—the whole of them. These generals, with all their epaulets and sashes, are but the instruments by which the strong arm of the country is to put down this rebellion. Since the war broke out I have, in my humble sphere and capacity, endeavored to preach the doctrine of forbearance and concord and unity, and have implored men on all sides to cease depreciating our generals. I have said that when they go forth at the head of the Army with their lives in their hands, they are entitled to confidence and respect. When the Administration supersedes them, well and good; let them pass away, unless, so far as, this afternoon, we vindicate the past, without saying what the Administration shall do in the future. I say this as to General McClellan, as I do about General Frémont, and every other general commanding. Whether the Administration shall yield to the wishes of hosts of the people by giving General Frémont another command, is no part of my argument to-day. I have no right to dictate on this point; and further than I have already advised, I shall say nothing.

I have this, also, to say about General Frémont: I do not take him to be perfect. I know that all men are fallible. He is sometimes an impulsive man. He has feelings like all of us who are made of flesh and blood. I regret very much that he suffered this publication to be made, which the chairman of the joint committee on the conduct of the war objected to to-day. I wish that he had bided his time a little longer. For six months he has been standing with closed lips, and listening to the allegations against him with a reticence which has commanded the approbation not only of his friends at home, but of thousands elsewhere in the civilized world, waiting patiently for the hour of his vindication. I wish he could have waited some time longer. But I think that something ought to be pardoned to a man who had poisoned arrows hurled against him from every side, and who had been deposed from his command under circumstances so painful and trying.

Without disparaging any other general, I have this also to say of General Frémont: he is the only major general of the United States Army who has, in this war, gone out with his troops, away from his headquarters—gone out over field and valley and mountain and plain and river. He was the only one. I suppose the others are willing to do it. But while that record lives—and it will live in history—no man will believe the intimations of the gentleman from Missouri, that Frémont is a timid man. The schoolboy at the log school-house knows very well that there is not a particle of timidity about the man. He may not have been fitted for the command of the military department of the West. I think he was. But whether he was or not, he is a brave and fearless man. He has braved death in a thousand forms, and has written his name high up on the scroll of history as a great discoverer, or as a great adventurer, if you will. He has planted the stars and stripes on the highest point of the Rocky mountains. He has suffered privation and suffering and toil in his daring journeys. His cheek has not blanched in the presence of danger or of death. And when he knew that the sword of Damocles was hanging over his head by a single hair, he went forth with his army in pursuit of the enemy, to punish treason with the sword, and encamped with the advance guard, instead of with the rear, as is usually the custom of commanding generals. No, sir, General Frémont is not a coward. He has no timidity.

Mr. BLAIR, of Missouri. My friend does not state, I trust, that I called General Frémont a coward.

Mr. COLFAX. The language that my friend used was "timidity," which is of course a qualified degree of cowardice.

Now, in relation to this contract for the construction of earthworks in St. Louis, I wish to say that I will be frank upon this subject as upon every other. I do not approve of that contract. I think the contractor made too much money out of it. I do not suppose it was made upon the judgment of General Frémont, but that he yielded to the opinions of the heads of the engineer department about prices. I think the prices were too high, and truth compels me to say so, because when I stand here to vindicate General Frémont, I will not sacrifice the truth to vindicate him or anybody else. If I speak at all, I must express my convictions. But admitting that there was extravagance in his department, I ask whether every other department of the Army has been managed with more care and less extravagance? Has not the Government been imposed on even here, despite the keenest watchfulness of the most experienced officers, some of whom have had no military duties to engross or distract their minds?

General Thomas says in his report that two or three hundred horses were found unfit for service; that they were lame and ringboned and spavined, although it is not proved that Frémont had seen a single one of them. Well, sir, when I came to Washington at the beginning of the present session, upon looking into the Star, I noticed the sale of fourteen hundred condemned Government horses, of the army of the Potomac, which brought prices ranging from twenty-five cents to sixty dollars. Yet my friend had no denunciations against the management of this department. In time of war, in conducting operations on so extensive a scale, the experience of England in the Crimean war and of all other nations at such times unfortunately prove that it is not to be expected that everything would be precisely right, that all articles shall be suddenly bought of the best quality and at the lowest prices. I noticed, also, that the exhibits attached to General Thomas's reports contained two singular complaints against General Frémont. One was a complaint by General Hunter, that Frémont had ordered him into the field, and that he had forty wagons and only forty-one mules. And the very next of the exhibits was a complaint by Quartermaster Turnley, within a few days of the date of General Hunter's letter, complaining that Frémont had ordered him to push on the inspection of mules as rapidly as possible. I think these two complaints exactly answer each other. But how could Frémont have satisfied such critics?

My friend from Missouri vindicates the character of the city of St. Louis. I wish I could believe all he says about the loyalty of that city, for I think it is a very pleasant city. I have spent many pleasant days there; I have enjoyed not only the hospitality of my friend from Missouri, representing the St. Louis district, but of many other friends in that city. I believe with him that the great body of the working men of that city are loyal, but that a majority of the men of wealth and high social position there are disloyal.

Mr. BLAIR, of Missouri. The gentleman is mistaken.

Mr. COLFAX. I cannot yield to my friend, at least until I have finished this sentence. Why, sir, even since General Halleck assumed the command of that department, the secession candidates for officers of the Chamber of Commerce of St. Louis were elected by a sweeping majority.

Mr. BLAIR, of Missouri. It is true that the secession candidates were elected by the Chamber of Commerce by a majority, and the same fact is true in reference to the Mercantile Library Association of St. Louis, but that only shows that the commercial men of the city were largely engaged in commerce with the South, and were in that way identified with secession. But I say to the gentleman that I know the city well, and I know that the two regiments raised, which General Lyon took prisoners at Camp Jackson, were all the secession troops they could raise and all they could arm. There was never any necessity of declaring martial law.

Mr. COLFAX. I beg to say to my friend that I know something about St. Louis, though not, of course, as much as himself. I have not only visited it frequently, but I read the newspapers published there, and particularly a paper which used to be considered his organ, but I believe is not now a favorite of his, the St. Louis Democrat. And my friend knows very well that in the case of the Mercantile Library Association, every effort was made, both by the Unionists and secessionists, to carry the election; that the Union men paid the dues of Union members in arrears, and proposed numbers of others, qualified for admission, for the purpose of obtaining their votes, but nevertheless were defeated by a large majority.

Mr. BLAIR, of Missouri. The reason why the Union men left the hall and refused to participate in the meeting was, that a hundred Union candidates to become members were excluded by a majority of the old members, under a technical rule requiring one day's notice before admission. I do not often read the organ of the Frémont party, of which the gentleman speaks, but I think I am pretty well acquainted with the facts, nevertheless.

Mr. COLFAX. I have no doubt of it, and my friend knows very well that these members of the Chamber of Commerce, who elected their secession candidate, voted for him openly as such in face of the United States military authorities in the city. They made no professions of zealous loyalty, as many secessionists have done in face of an armed force. Their conduct was so open and undisguised that General Halleck ordered every one of the officers elect to come up and take the oath of allegiance; being, I believe, the first civilians he imposed this upon, though he has required it since more extensively still.

Mr. BLAIR, of Missouri. The gentleman will allow me to say——

Mr. COLFAX. I cannot yield further. I did not interrupt my friend the whole time he was speaking.

Mr. BLAIR, of Missouri. The gentleman says they were openly secession——

The CHAIRMAN. The gentleman from Missouri is out of order. The gentleman from Indiana declines to yield.

Mr. BLAIR, of Missouri. I am a little sensitive upon this point.

Mr. COLFAX. Then I will yield, of course.

Mr. BLAIR, of Missouri. I merely desire to say that these men did not vote for what was called a secession candidate, but for a man known to be a Union man, and who refused to hold the office after he had been elected.

Mr. COLFAX. Still, the statement remains uncontradicted that he was voted for as a secession candidate by those who sympathized with the men who are in arms against the Government, and was elected as such.

Mr. Chairman, I know that the mass of the people of the city of St. Louis, the working people, as I said previously, are loyal; for, sir, when this same General Frémont came back to that city after his removal; when he came with no favors to confer, but degraded, dishonored, deposed from his command, the loyal people of that city, who had heard all the charges of their Representative against him, but who still confided in him, flocked by thousands and tens of thousands, with banners and torchlights and music and shoutings, to welcome him as no man was ever welcomed there before. Oh, yes, sir, the heart of the people of St. Louis is loyal; they have proved it so.

RESPONSIBILITY FOR THE DEATH OF GENERAL LYON.

My friend from St. Louis has quoted documents and presented arguments to prove that General Frémont had it in his power to reinforce General Lyon before the battle of Springfield, and that his failure to perform that duty was the cause of General Lyon's death, and these I desire now to examine. Sir, the death of General Lyon occurred on the 10th of August, and yet the friendship of the gentleman from Missouri for General Frémont continued undiminished for weeks after. He continued to be the friend of the man whom he now arraigns as a guilty criminal; for if the charges he makes are proved, General Frémont, in willfully suffering the death of that gallant officer, was guilty of a no less crime than murder. I think I can show to this committee that twenty days after the death of General Lyon my friend from Missouri did not charge General Frémont with crime in failing to send reinforcements. I will read the dispatch of Captain Schofield, now General Schofield, whom my friend knows, because he was, I believe, connected with his regiment at St. Louis when I was there. I want to show the reasons why General Lyon was not reinforced, and I shall show it in a way my friend from Missouri cannot deny, unless he denies the documents themselves. In his dispatch, as adjutant general of General Lyon, dated Springfield, July 15, he says:

"Governor Jackson is concentrating his forces in the southwestern part of the State, and is receiving large reinforcements from Arkansas, Tennessee, Louisiana, and Texas. His effective force will soon be certainly not less than thirty thousand men, probably much larger. *All idea of any further advance movement, or of even maintaining our present position, must soon be abandoned, unless the Government furnish us promptly with large reinforcements and supplies.* Our troops are badly clothed, poorly fed, and imperfectly supplied with tents; none of them have yet been paid, and the three months' volunteers have become disheartened to such an extent that very few of them are willing to renew their enlistment. The blank pay-rolls are not

here, and the long time required to get them here, fill them up, send them to Washington, have the payment ordered, and the paymaster reach us, leaves us no hope that our troops can be paid for five or six weeks to come. Upon these circumstances there remains no other course but to urgently press upon the attention of the Government the absolute necessity of sending us fresh troops at once, with ample supplies for them and for those now here. At least ten thousand men should be sent, and that promptly. *You will send the inclosed dispatch by telegraph to General McClellan, and also to the War Department*, and forward by mail a copy of this letter."

This is directed to Chester Harding, jr., assistant adjutant general at St. Louis, who doubtless sent the dispatch to General McClellan as requested, and here is the dispatch, dated July 20, of General McClellan, in reply:

To CHESTER HARDING, Jr., *Assistant Adjutant General:*

In case of an attack on Cairo, have none but Illinois troops to reinforce, and only eleven thousand arms in Illinois. Will direct two regiments to be ready at Caseyville; but you will only use them for defense of St. Louis, and in case of absolute necessity. Telegraph me from time to time.

G. B. McCLELLAN,
Major General United States Army.

He could not allow reinforcements to go to the support of General Lyon in the southwest. There was more imminent danger he felt nearer by; and he pointed to Cairo as one of the threatened points, and St. Louis as another. He will "direct two regiments to be ready at Caseyville, but you will only use them for defense of St. Louis, and in case of absolute necessity." Here is a dispatch of General McClellan, five days after Lyon's appeal for troops through his assistant adjutant general, and six days before General Frémont arrived at St. Louis, declining to send reinforcements to General Lyon. And now I want General Lyon to speak from his grave, and answer whether he considers General Frémont responsible for his death.

I read, first, a letter from Lyon himself to Assistant Adjutant General Harding, at St. Louis:

SPRINGFIELD, MISSOURI, *July* 17, 1861.

SIR: I inclose you a copy of a letter to Colonel Townsend on the subject of an order from General Scott, which calls for five companies of the second infantry *to be withdrawn from the West and sent to Washington. A previous order withdraws the mounted troops*, as I am informed, and were it not that some of them were *en route* to this place they would now be in Washington. *This order carried out would not now leave at Fort Leavenworth a single company. I have companies B and E second infantry now under orders for Washington, and if all these troops leave me I can do nothing, and must retire in the absence of other troops to supply their places.* In fact, I am badly enough off at the best, and must utterly fail if my regulars all go. At Washington troops from all the northern, middle, and eastern States are available for the support of the Army in Virginia, and more are understood to be already there than are wanted, and it seems strange that so many troops must go on from the West, *and strip us of the means of defense; but if it is the intention to give up the West, let it be so.*

I omit a severe allusion to General Scott, because I do not wish, by reproducing it here, even to give it currency, feeling that General Lyon, in his great anxiety, did him injustice. The letter concludes:

Cannot you stir up this matter, and secure us relief? See Frémont if he has arrived. The want of supplies has crippled me so that I cannot move, and I do not know when I can. Everything seems to combine against me at this point. Stir up Blair.

Yours truly, N. LYON, *Commanding.*

Colonel HARDING, *St. Louis Arsenal, Missouri.*

I would not allude to my friend's brother at all if it had not been that he himself alluded to him in his speech, and the only allusion I shall have occasion to make to him is the one I am now about to make. I want to use his evidence to show why General Lyon was not reinforced. On the 26th of July last, Montgomery Blair wrote to General Frémont as follows:

WASHINGTON, *July* 26, 1861.

DEAR GENERAL: I have two telegrams from you, but find it impossible now to get any attention to Missouri or western matters from the authorities here. You will have to do the best you can, and take all needful responsibility, to defend and protect the people over whom you are specially set.

* * * * * * * * * * *

Yours, truly, and in haste, M. BLAIR.

That was five days after the battle of Bull Run, and when this city was supposed to be in imminent danger; and I doubt not that fact explains why the West was comparatively neglected. I shall assume that and blame no one, for my object and resolution is to attack no one to-day, but to simply give reasons for the faith that is in me.

I shall read now some more extracts from General Lyon's correspondence, because the one I have read was not the only protest he made. The next is from a letter from General Lyon, written to Colonel Harding on the day after Frémont got to St. Louis, and ten days after the previous letter. He says, under date of July 27:

"If the Government cannot give due attention to the West, her interests must have a corresponding disparagement."

And in a memorandum from General Lyon, sent by Colonel Phelps to General Frémont, dated Springfield, July 27, he says:

"*The safety of the State is hazarded;* orders from General Scott strip the entire West of regular forces, and increase the chances of sacrificing it."

But I want now to read the statement of his assistant adjutant general, Colonel Harding. It is long, but it does justice to the dead general and to the living general; and it is written by the assistant adjutant general, who, from his confidential relations with his chief, knew his thoughts best of all men now living:

"Looking, then, to the position of affairs in this State on the 26th July, 1861, it will be found that General Lyon was in the southwest in need of reinforcements. There was trouble in the northwest, requiring more troops than were there. In the northeast there were no more troops than were required to perform the task allotted to them, while in the south and southeast there was a rebel army of sufficient force to endanger Bird's Point, Cape Girardeau, Ironton, Rolla, and St. Louis, and no adequate preparation was made to meet it.

"General Frémont sent the eighth Missouri to Cape Girardeau, and the fourth United States reserve corps (whose term of service was to expire on the 8th August,) to reinforce Bland at Ironton. He took some of General Pope's force from him, added to it two battalions of the first and second United States reserve corps, (whose term of service was to expire on the 7th August,) equipped Buell's light battery, and started about the 1st August for Bird's Point, with the troops thus collected, being something less than thirty-eight hundred men, and being also all the available troops in this region, expecting to find an enemy not less than twenty thousand strong.

"Subsequent events showed that the rebel force was not over-estimated, and nothing but the reinforcements sent to the points above named and the expedition down the river prevented its advance upon them. Common report greatly magnified these reinforcements; and it was generally believed in the city, and no doubt so reported to the rebel leaders, that Frémont had moved some ten or twelve thousand troops to the southeast, while in fact he did not have over five thousand five hundred to move, and was not strong enough at any point to take the field and commence offensive operations.

"General Frémont *was not* inattentive to the situation of General Lyon's column, and went so far as to remove the garrison of Booneville, in order to send him aid."

But my friend from Missouri says that there were quantities of troops coming into St. Louis who could have been detailed to reinforce General Lyon. So there were; but hear what Colonel Harding says:

"During the first days of August, troops arrived in the city in large numbers. *Nearly all of them were unarmed; all were without transportation. Regiment after regiment laid for days in the city without any equipments, for the reason that the arsenal was exhausted, and arms and accouterments had to be brought from the East.* From these men General Lyon would have had reinforcements, although they were wholly unpracticed in the use of the musket, and knew nothing of movements in the field; but in the mean time the battle of the 10th of August was fought."

And yet, when they were entirely without arms, and Frémont sought, at this very time—the 6th of August—in his overwhelming anxiety and solicitude, to buy any kind of arms to put into their hands to protect the Union, and put down the rebellion, and save the lives of our brave soldiers and their generals at all the exposed points in his department, he was denounced from one end of the country to the other as being in the hands of contractors, and in corrupt collusion with knaves. If this is justice, God save me from ever being in any position in this Government to receive such justice.

My friend stated, and I took down the exact words that fell from his lips, on this envelope, that "there was at that time no necessity to reinforce Cairo from St. Louis; that it could have been reinforced from other directions." Now, I differ with him on that point, and I think I can prove that I am right. Frémont then had actually but little available force under his command. Indeed, on the 16th of July, General Lyon had had to authorize one regiment of his little band at Springfield (Colonel Brown's fourth) to return to St. Louis, to be mustered out of service, at the expiration of their three months' enlistment. The three months' men would not reenlist, because they could not get their pay. The West at that time, in the pressure from the East, and the imminent peril of the capital, seemed to be neglected. The troops already under arms did not see the paymaster, and they would not reënlist. With this inadequate force and this lack of arms, Frémont had to choose between reinforcing one point or the other. Now, I submit the question to the House and the country, which of those two points was the most important; the one at the end of a wagon road in southwestern Missouri, whence Lyon could possibly retreat if he felt that he could not sustain his position, and the other at the mouth of the Ohio river, where it joins the Mississippi, commanding both streams, and the furthest point south of which we had possession? Which was the most important? Should they retire from Cairo or from Springfield? I contend, that as this evidence proves, Frémont could only reinforce one of these points, and he went down to Cairo on the 1st of August. My friend insists that General Prentiss's dispatches prove that he did not stand in pressing need of reinforcements. Let us see. I read now what General Prentiss said. General Prentiss was commanding at Cairo, and on the 23d of July he wrote to Colonel Harding as follows:

"Have but eight (8) regiments here. *Six* (6) *of them are three* (3) *months' men. Their time expires this week*—are reorganizing now. I have neither tents nor wagons, and must hold Cairo and Bird's Point."

He said he had but eight regiments and six of them were three months' men, and their term expired that very week, before Frémont could get there, leaving only two certainly available regiments at Cairo. Now let us see what was the position of the rebel forces in the vicinity of Cairo. I read again from General Prentiss, under date of July 28:

"To Major General FRÉMONT:

"Rebels from Tennessee are concentrating at New Madrid, Missouri, with avowed intention of assaulting Bird's Point. They may intend going to Cape Girardeau. Colonel Marsh has no battery. *I have none to spare. My command is merging from three months' to three years' service on half recess.* Mustering in yesterday and to-day. *I have but two six-pounders prepared to move.*"

We come down now to July 29, the next day. General Prentiss again telegraphs Frémont; and you will see that the danger is daily becoming more imminent:

"On yesterday, three thousand rebels west of Bird's Point forty miles; three hundred at Madrid and three regiments from Union City ordered there; also troops from Randolph and Corinth. *The number of organized rebels within fifty miles of me will exceed twelve thousand*—that is, including Randolph troops ordered and not including several companies opposite in Kentucky."

Again, on the 1st day of August, he telegraphed General Frémont a still darker prospect, as follows. (New Madrid is on the Mississippi river, south of Cairo, and not very distant:)

"The following information just received is, I believe, very reliable. *General Pillow was at New Madrid on the morning of the 31st, with eleven thousand troops well armed and well drilled; two regiments of cavalry splendidly equipped; one battery of flying artillery, ten-pounders, and ten guns manned and officered by foreigners; several mountain howitzers and other artillery, amounting in all to one hundred. Nine thousand more moving to reinforce.* He has promised Governor Jackson to place twenty thousand men in Missouri at once. I have a copy of his proclamation and also one of his written passes."

These dispatches came pouring in upon General Frémont from this exposed and important position, vital not only for Illinois but for the whole Union, where there were but eight regiments, only two of which they had a right to hold there, the remaining six being three months' men whose term had expired, and the rebels were forming round them twenty thousand strong. McClellan, but ten days before, had, in reply to Lyon's appeals, in the telegram I have quoted, expressly pointed to Cairo as a threatened position, and had alluded to the inadequate forces at his command for its defense. What should an officer do under such circumstances? Frémont did the best he could; he got together all the men he could, and went down with steamboats to Cairo. And for this he was condemned all over the country, because he went down there with steamboats and "made a parade," when really it was useful, because it impressed the secessionists and capitalists of St. Louis with the conviction that he had a larger force than he really had. But let me say, in passing, just here, that great complaint was made because General Frémont went down to the boat in a carriage and four. My friend did not speak of it, but the charge has been in circulation all over the country. Now, the facts in relation to that matter are just these, as I learned at St. Louis. His friends, without his knowledge, when the expedition was ready to start, brought a carriage and four to his house for him to ride down to the

boat in. When Frémont came to the door and saw it, he positively refused to ride in it, preferring to walk to the levee or to go in an ordinary carriage. But his friends told him that it had been said that he dare not show himself to the people for fear of being assassinated, and it was necessary that he should go down to the boat as publicly as possible, in order to show that there was no truth in the report; and thereupon Frémont consented to enter the carriage, and this was added to the charges against him.

I have heard a great deal, too—and the House will pardon me for these digressions, as a few incidental points strike my mind while speaking—about a costly $6,000 house which he hired in St. Louis for himself and his staff. I have been in that house, and so has my friend from St. Louis; for at one time both he and I were able to pass its "barricades." Other generals and other officers have found that they must exclude most of the thousand visitors desiring to see them, if they wished to attend to their grave and responsible trusts; but from one end of the country to the other Frémont was denounced for these barricades. I found out this in regard to that celebrated house: that the officers crowded into that one house, where they were at the instant call of the commanding general, no time lost in sending messengers from one office to another, but all under the same roof, and the telegraph with them, would, if they had been in separate quarters, have been allowed, under the Army regulations, $6,400 for quarters. Frémont paid $6,000 a year for this house, and yet he has been denounced for that as an evidence of his reckless extravagance.

There is another thing to which I wish to refer before I leave these minor points. When I got to St. Louis at one time, I heard a great many sneers about Frémont having ordered five hundred tons of ice, and about the glorious time he and his staff would have with their sherry cobblers, &c., on their march to southwest Missouri. I made inquiry about it, and found that it was on a requisition from the surgeon that this ice was supplied. It was not to accompany the army, but to be used in the hospitals along the railroad, where the sick were suffering, and to which the wounded, after battle, would, if possible, have been brought. It made my heart bleed to think that the general commanding should be denounced for this. In some of the Indiana regiments, my own fellow-citizens, for whose sufferings in the field or the hospital I have felt deeply, nearly half the men were lying sick from fevers contracted by malaria and exposure, and because they were not used to the muddy water of the Missouri. After they went into hospital, and drank the same water, they continued sick. One regiment, the twenty-second, had a majority in hospital from the malaria and the drinking of this water. The surgeons asked for ice for hospital purposes, for the sick and suffering men who had gone out to fight, to suffer, and to die, if needs be, for their country. And for yielding to that, and showing, as he always has, a deep solicitude for the men under his command, Frémont was denounced in St. Louis and all over the country. Let the denunciation go on. The brave men whose parched lips were thus cooled will not forget the man who has been thus condemned for this additional act of "extravagance."

But, Mr. Chairman, I have no time to examine and explain all the charges—"thick as the leaves in Vallombrosa"—which have been made against him. The balance, or most of them at least, are of a piece with those to which I have alluded. Let them all pass.

THE SADDEST DAYS IN MISSOURI.

My friend says that the "hundred days" of Frémont were the saddest days for all the loyal persons in Missouri that they had seen. I differ with him in that. There was a sadder day for them than those. It was after Frémont was deposed, and after this army that had gone forth with banners and music to southwestern Missouri, and the enemy fleeing before them, took up its line of march back to the line of the railroad, and the more densely populated settlements. The people of southwestern Missouri, who, in the exuberance of their zeal, when they saw the stars and stripes borne by Frémont's army, had clapped their hands with joy, and proclaimed themselves for the Union—these men from the very heights of confidence and hope, were plunged into the very valley of despondency by this forward movement being changed into a retreat. And when the army took up its backward march, they, knowing what fate they might expect to meet from the vengeance of the rebel hordes of Price—the halter, the prison, outrage and robbery, tyranny and spoliation—followed that army, with their sorrowing families, in sad procession, back to St. Louis, penniless and homeless, when, had Frémont not been superseded, the army would have gone on with the banner they had welcomed full high advanced, instead of coming back, and leaving all southwest Missouri to be ravaged by traitors, until three months afterwards a more fortunate general led another army over the same route that Frémont had trodden, and on the same mission. No, sir; that was the saddest day that the loyal men of Missouri had ever seen.

FRÉMONT'S PROCLAMATION.

My friend has said that the proclamation of General Frémont was bombastic. I cannot turn aside from this argument to analyze its sentences and to discuss the question whether it was bombastic or firm and decided; whether it was a mere flourish of the pen, or intended to prove that those who embarked in rebellion should find it a costly experiment, not only as to their lives but also as to their possessions. The President modified it, as he had a constitutional right to do. I have never quarreled with the President because he saw fit to say that that proclamation must be changed. I regret that he was of that opinion. But I know Mr. Lincoln to be an honest man—as honest and as conscientious and true-hearted a man as walks the earth; and I know he must have taken this position because he felt, looking over the whole country, that that seemed to be his duty. Whether he erred or Frémont erred, I would be the last man to asperse any of Mr. Lincoln's acts, when they are based, as all know they are, on his convictions. When the President ordered the proclamation to be modified, General Frémont replied in a letter, moderate and not "bombastic," wherein he says he prefers, if the President feels it necessary, he should himself modify it; and that he would bow to the order, as a subordinate should always bow to the rebuke of his chief.

I think my friend might have spared the sarcastic remarks which he made about the threatened mutiny at Springfield when General Frémont was removed from command. I have the assurance of a gentleman from Indiana, whose word is as good as my oath, or any other man's oath—I mean Colonel Hudson, the agent of the State of Indiana—who was there at the time, that there was sadness all over the camp when the news came that Frémont was actually superseded. This may have been unjust to his successor. It may have been unwarranted; but still the fact was so. The fact also exists that Frémont's utmost influence was promptly exerted to preserve subordination among his troops. He bowed, without a murmur, to the decision; though it took from him the coveted opportunity of vindicating himself against all who had attacked him, and he demanded that all under his command should cordially obey his successor. His farewell to "the Mississippi army"—which he had labored so earnestly, against all adverse circumstances, to organize; which he had led, by forced marches that seem incredible, almost into the presence of the retreating enemy; and which was the only army of the Union that had, up to that time, been led fifty miles away from a railroad or a navigable water-course—has been read, not only in our own but also in foreign lands, even by men who, with the multiplied charges against him had doubted his capacity, with moistened eyes, as they saw how nobly that man, thus stricken down, fell without a word of complaint, and closed his military career in the western department by stirring words of encouragement to the gallant soldiers from whom he was thus separated. Even one of the leading New York papers that denounced him spoke in highly eulogistic language of the manner in which he met his fate. And when twenty thousand of the constituents of my friend from Ohio, [Mr. GURLEY,] who had been on his staff, came thronging to honor the fallen general, and offered him an ovation in the city of Cincinnati, he declined it, and passed through without accepting any hospitality. Six months have passed since then. Has there been a man who bore himself so meekly? He visits New York, after official consent was at last obtained for him to leave St. Louis, and refuses the complimentary reception that thousands would gladly have joined in. No word of bitterness or complaint falls from his lips. He comes to this city, subpenaed by a congressional committee, to testify as to his management of his responsible trust. He comes here, and bears himself as modestly as in New York. Do you see any parade of his gaping wounds to the people? Not at all. He has not even prompted me to say a single word in his behalf, although he knows me to be his friend. I have not asked him for a single fact in reference to his case, because I wanted to speak independently here, as a Representative of the people. He doubtless longs to be in the service of his country at this hour of her peril. And though he may chafe at inaction, as his heart bounds at the thought of being again at the head of advancing squadrons driving the enemies of the country before him, have you seen a single line of complaint from his pen against those who counseled his supersedure?

But, to recur to his proclamation. Let me ask what difference was there in substance between that proclamation and the celebrated remark in Cincinnati of Andrew Johnson, that loyal, Jackson-like and heroic Senator from Tennessee, whom all true men in the country cherish in their heart of hearts? He said, about the very time when Frémont issued his proclamation, "that no rebel had a right to own anything." Frémont said that the real and personal property of rebels should be confiscated to the public use, and that their slaves, if they had any, should be declared free men; and Andrew Johnson, a slaveholding Senator from a slaveholding State, said that no rebel had a right to own anything. I can see no difference between the two, except that Frémont, as a commanding general, desiring thus to weaken the power and cripple the resources of the traitors, embodied it in a proclamation, as the Senator did in a sentence.

THE FALL OF LEXINGTON.

I come now to the siege and fall of Lexington. I think I have shown, by General Lyon's own statement, that he did not arraign Frémont for not being strengthened and succored; and I should have added then that Frémont arrived in St. Louis only fourteen days before Lyon's death. I have shown where General Lyon thought the responsibility rested. I have shown the dispatch from General McClellan, only six days before Frémont arrived at St. Louis, saying that there were only enough troops and arms to reinforce Cairo, and that the troops he could spare, and but two regiments at that, must *only* be used to defend St. Louis, and only then "in case of absolute necessity." I will now leave that part of the subject and come to the surrender of Mulligan at Lexington. I think I can make out as strong a vindication for General Frémont there. I am glad to see that my friend from Missouri is paying so much attention. The attachment between him and me has been such that it is the most painful duty of my life to have to differ from him to-day on such a subject. I would far rather meet any one else here in the collision of conflicting views; but we can differ, I know, as friends should differ when their roads separate.

My friend said that troops could be got in every direction to defend Cairo. Now here is a dispatch from Governor Morton, of Indiana, in response to Frémont's pressing appeal, dated the 4th of August, three days after Frémont went to Cairo, and six days before Lyon was killed:

"Can send five regiments if leave is granted by the Department, *as I am ordered to send them East* as fast as ready."

Now, to show also how General Frémont was "aided" at that time, here is a dispatch from Washington, eight days before Lyon died, and when Cairo, from General Prentiss's dispatches, was so bare of artillery:

WASHINGTON, *August* 2, 1861.

To Major General J. C. FRÉMONT, *Cairo:*

This dispatch was sent yesterday to commanding officer department Ohio, Cincinnati. Order two (2) companies fourth artillery, with their batteries, under Howard and Kingsbury, to St. Louis without delay.

WINFIELD SCOTT.
M. BLAIR, *P. M. G.*

I doubt not Frémont's heart bounded as he read of this timely aid coming to his relief.

But here is another dispatch from General Scott *of the same day:*

WAR DEPARTMENT, WASHINGTON, *August* 2, 1861.
To General FRÉMONT:
Since ordering the two batteries for you yesterday, it appears one company has no guns and the other is in western Virginia; neither can be withdrawn. *The order is countermanded.* WINFIELD SCOTT.

I will not comment on the disappointment the general must have felt; but he toiled on with almost daily drawbacks like these.

I come now to Lexington. I happened on the 14th of September to be in the city of St. Louis, when the whole city was excited at the news which had just reached it that Price was marching on that gallant and devoted band at Lexington; and when my friend spoke about the home guards which General Frémont had under him, it reminded me that Colonel Mulligan did not bear testimony to the efficiency of the home guards at Lexington.

Mr. BLAIR, of Missouri. If Colonel Mulligan made such a statement, he is not as magnanimous as he is brave. I will undertake to prove that the home guards in the trenches at Lexington bore themselves as gallantly as did Colonel Mulligan, or any other man who was there. Colonel Grover was wounded, and died of his wounds; Colonel Peabody was badly wounded; Colonel White is still disabled by wounds received in that fight; and the gallant major of the Kansas City home guards, whose name at this moment, I am ashamed to say, has slipped my memory, also received honorable wounds. Thus it will be seen that the commanding officer of every battalion of home guards was wounded; and as large a proportion of men were killed and wounded as among the Illinois regiments. No man should disparage those who have shed their blood for the country.

Mr. COLFAX. Colonel Mulligan's testimony is the reverse of that. I was not there, and therefore do not know.

Mr. BLAIR, of Missouri. These are the facts of the case.

Mr. COLFAX. I wish my friend to understand that I do not arraign the home guards at all. I do not arraign anybody. I am simply on the defense, and am stating the facts from history, and from official documents, which can be read by the whole country. I only made the passing remark that Mulligan did not regard the home guards as valuable auxiliaries in his defense, though my friend cites their number in various towns as part of Frémont's effective force.

When I arrived at St. Louis on the 14th of September, I saw Lieutenant Governor Hall. He told me that Price was marching through the center of Missouri, up toward Lexington, with fifteen thousand men, and that Frémont ought to send out a column for the purpose of intercepting and capturing them. I asked him how many men Frémont had in St. Louis. He said he had twenty thousand men, and spoke with great positiveness as to the number. I thought if that was correct, there was no excuse for not sending them, and went to headquarters at once to see General Frémont. I told him it was represented that he had twenty thousand men in St. Louis, that Price was marching on Lexington with a large force, and urged that a force be sent without delay to cut him off. He replied: "Mr. COLFAX, I will tell you, confidentially, how many men we have in St. Louis, though I would not have it published on the streets for my life. The opinion in the city is that we have twenty thousand men here, and this gives us strength. If it were known here what was the actual number, our enemies would be promptly informed. But I will show you how many there are." He rang the bell, and his secretary brought in the muster-rolls of the morning. I read them, and there were in the city and for a circuit of seven miles round, less than eight thousand men, home guards and all. There were actually but two full regiments, and the remainder of the force was made up of fragmentary and undisciplined regiments of two hundred and fifty, four hundred, and six hundred men. It was a beggarly array of an army in proportion to what was needed at that time for the defense even of that city against enemies without or within, and I told him so. "But," said I, "can't you spare some of these men?" The tears stood in his eyes as he handed me two telegraphic dispatches, just received by him, which I read then with pain and sadness, and will read now, and the House can judge how they aided him in his plans for the reinforcement of Mulligan, or the capture of Price's army.

WASHINGTON, *September* 14, 1861.
To Major General FRÉMONT:
On consultation with the President and head of Department, it was determined to call upon you for five thousand well-armed infantry, to be sent here without a moment's delay. Give them three days' cooked rations. This draft from your forces to be replaced by you from the States of Illinois, Iowa, Kansas, &c. How many men have you under arms in your district? Please answer fully and immediately. SIMON CAMERON,
Secretary of War.

—

WASHINGTON, *September* 14, 1861.
To Major General FRÉMONT:
Detach five thousand infantry from your department, to come here without delay, and report the number of the troops that will be left with you. The President dictates.
WINFIELD SCOTT.

I have shown you before that there were regiments there waiting, without guns, and yet, when under these desperate circumstances, General Frémont bought guns, the best he could get, he was denounced because they were not Springfield muskets or Enfield rifles, or the best arms known to the service. He was not allowed to send unarmed regiments, to be armed after they reached Washington, or on the road. From these he could have filled the order easily. But they must be "well-armed infantry." And he had been begging for "arms, arms of any kind," the whole fifty days he had then been in command in the West, but mostly in vain. And now, "five thousand well-armed infantry" were needed to swell the forces of the army of the Potomac. I do not allude to this to criticise. Like Frémont, I believe the capital of the country was, first of all, to be defended, and if he was foiled in his plans by demands like these, at such a critical moment, impartial history hereafter will show that it was his misfortune, not his fault.

Mr. BINGHAM. What is the date of these dispatches?

Mr. COLFAX. Saturday, the 14th of September; the very day I was there—just six days before the fall of Lexington—for I wish the House to remember that Mulligan surrendered Friday, September 20. I asked him what he would do, and my heart sank as I asked. Here were the best of his forces ordered away to Washington. I told him I would, if in his place, telegraph to Mr. Lincoln that he had not the eighty thousand efficient soldiers in his department that rumor stated he had; that Missouri would be lost if the troops were taken away. "No," said he, "that would be insubordination, with which I have already been unjustly charged. The capital must be again in danger, and must be saved, even if Missouri fall and I sacrifice myself."

After that interview, after the noble and patriotic sentiment that fell from his lips, I should have been false to my convictions of right and justice, if I had not stood up here to-day and defended the man who was willing, even at his own sacrifice, to save the capital of the nation.

Mr. BLAIR, of Missouri. The gentleman says General Frémont on that day took out the muster-rolls, and showed him how many troops there were at St. Louis.

Mr. COLFAX. Yes, sir; less than eight thousand.

Mr. BLAIR, of Missouri. It so happens that on that same day—the 14th of September—General Frémont returned to Simon Cameron, Secretary of War, the following statement of the forces under his command:

St. Louis (including home guard)	6,890
Under Brigadier General Pope (including home guard)	5,483
Lexington (including home guard)	2,400
Jefferson City (one quarter home guard)	9,677
Rolla	4,700
Trenton	3,057
Cape Girardeau	650
Bird's Point and Norfolk	3,510
Cairo (including McClernand's brigade)	4,826
Fort Holt, opposite Cairo, Kentucky shore	3,595
Paducah	7,791
Under General Lane	2,200
Monroe City, near Cairo	900
Total	55,693

Thus you will see that there were some twenty thousand men at and about Cairo; and you will further see, by reference to the documents that, under the order the gentleman has read, not a man was sent out of Missouri, and but two regiments were started from his department at all. Two regiments, I believe, left his department, and went as far as General Buell's department, and went no further. The order was countermanded, and no more troops sent. The two regiments started were, I believe, Illinois troops in or about Cairo and Paducah. General Frémont did not send a man out of Missouri, I repeat, under that order, and he was not required to do it. So that the explanation which the gentleman gives, and which General Frémont gives, by way of excusing himself for not sending reinforcements to Colonel Mulligan, about this order to send five thousand men to Washington, amounts to just this: that no troops were sent to Washington at all under that order; only two regiments were sent from his department under it, and none from Missouri under it.

Mr. COLFAX. The gentleman from Missouri occupied two hours in his speech, and he has taken a considerable portion of my time since. I shall only ask to be allowed to go on after the expiration of my hour for the time that has been taken from me; and I do not know that the committee will give me that, [cries of "Oh, yes!"] I presume a majority of the committee will give their consent, but a single member has the power to prevent it.

I will enlighten my friend from Missouri now on the point he has cited. When this order came to send five regiments to Washington, General Frémont sent down to Carondelet and ordered the twenty-fourth Indiana regiment, one of the only two full regiments he had in St. Louis or its vicinity, to proceed to Washington, but the officers of the regiment came up to his headquarters and urged him to allow them to remain in Missouri; and that is the reason they did not go. He then changed the order, and like a faithful subordinate he telegraphed to Washington that he was preparing to obey the order—although it made his heart bleed. Here are the dispatches:

HEADQUARTERS WESTERN DEPARTMENT,
ST. LOUIS, *September* 14, 1861.
To Colonel E. D. TOWNSEND, *A. A. G., Washington City:*
I am preparing to obey the orders received this evening for the five regiments. J. C. FRÉMONT,
Major General Commanding.

—

HEADQUARTERS WESTERN DEPARTMENT,
ST. LOUIS, *September* 14, 1861.
To General THOMAS, *A. G., Washington City:*
I am preparing to obey the orders received this evening from the Secretary of War for the five regiments. I also send messenger. J. C. FRÉMONT,
Major General Commanding.

True, as the gentleman from Missouri says, the order was at last partially countermanded; but, when days were almost years, he was engaged in preparations for sending on three more regiments of "well-armed infantry," besides the two he did send, for FOUR DAYS out of the six that elapsed between the order from Washington and the fall of Lexington; and engaged besides in the most vigorous attempts, out of his scattered forces in the vast area of disloyal territory they were holding, from Paducah to the Kansas frontier, to reinforce the imperiled Mulligan. Here is the countermanding order, after four days and nights of anxious labors to comply both with duty on one side and orders on the other, for which his reward has been a sad one indeed:

WASHINGTON, *September* 18, 1861.
To Major General FRÉMONT:
General Scott acquiesces to your wishes in your proposition to retain troops not already forwarded. He has telegraphed order to retain the two regiments which have left for Cincinnati to wait orders for a few days, if they have not passed beyond that city. E. D. TOWNSEND.

Let us return to Mulligan's peril. Thinking there might still be hope of obtaining reinforcements by appealing to the Governors of States near at hand—for, if they could send troops immediately to St. Louis, he could order up all his available forces there by steamboat toward Lexington—he telegraphed, on this very 14th of September, to Governor Morton and Governor Dennison, of Indiana and Ohio, for help. And these are the replies: (Mr. Coggeshall was Governor Dennison's military secretary:)

INDIANAPOLIS, *September* 14, 1861.
We have received *orders to send all available forces to Washington.*
O. P. MORTON, *Governor of Indiana.*

—

COLUMBUS, OHIO, *September* 15, 1861.
No troops are ordered to eastern Virginia. *All our troops are ordered to western Virginia.* Dennison is in Washington. W. T. COGGESHALL.

His only remaining hope was in his own men, his scattered forces, to weaken himself at some points on his long line to save Lexington, if possible. And what did he do? My friend says—and I have his exact words—"it cannot be shown that he moved one single man towards Lexington at all." Lexington fell on Friday, the 20th of September. I shall remember the day to the last hour of my life; for I watched, as did my constituents, day by day and hour by hour for news from there, with a solicitude that excluded all thought of all other questions.

General Frémont telegraphed in every direction. He ordered General Pope to come down to Lexington and reinforce Mulligan there; he ordered General Sturgis to come down and reinforce him; he ordered Jefferson C. Davis, of Indiana, acting brigadier general at Jefferson City, to go forward and reinforce him. He used every means in his power. The telegraphic wires were hot with his dispatches, sent in every direction, to secure the reinforcement of Mulligan. See the columns of them of these eventful days in the official dispatches, at last published in the New York Tribune, and which attest his sleepless energy so strikingly. Now, four days before Mulligan surrendered, see what General Pope telegraphs:

PALMYRA, *September* 16, 1861.

To Major General FRÉMONT:

From paper just handed me I learn for first time that important matters are occurring at Lexington. *The troops I sent to Lexington will be there the day after to-morrow, and consist of two full regiments of infantry, four pieces of artillery, and* 150 *irregular horse. These, with the two Ohio regiments, which will reach there on Thursday, will make a reinforcement of* 4,000 *men and four pieces of artillery.* Do you wish me to come down to St. Louis, or go to Canton and Keokuk to finish matters in this section? The following force along this road at Hannibal: At Kansas, 480; at Palmyra, 320 of twentieth Illinois; at Hudson, 420 of Taster's men; at Brookfield, 650 of Morgan's regiment; at St. Joseph, coming east, 3,000 Iowa and Missouri irregular troops. Please answer to Quincy.

JOHN POPE, *Brigadier General.*

So that General Frémont had the promise that on the 18th, two days before Lexington actually fell, two full regiments, four cannon, and one hundred and fifty cavalry should succor the brave garrison there holding out, and that by Thursday, the 19th, one day before Mulligan surrendered, the reinforcement from Pope's forces for Lexington should be increased still further, to four thousand men. That they did not arrive there and save it, is not Frémont's fault, then.

Nor was this all. On the 13th of September, the day before I arrived there, it was supposed at St. Louis that Price's advance threatened Booneville; and Frémont telegraphed General Sturgis, then in north Missouri, as follows:

HEADQUARTERS WESTERN DEPARTMENT,
ST. LOUIS, *September* 13, 1861.

SIR: Information having been received at these headquarters of an intended attack on Booneville, you are hereby ordered to move at once by the shortest possible route, and with all practicable speed, direct to that place with your force of infantry and artillery.

J. C. FRÉMONT,
Major General Commanding.

To Brigadier General STURGIS, *Mexico.*

But on the eventful 14th of September it was discovered that the attack would probably be on Lexington, and he telegraphed again to Sturgis, as follows:

HEADQUARTERS WESTERN DEPARTMENT,
ST. LOUIS, *September* 14, 1861.

SIR: You are hereby directed to move, via Utica, with all practicable speed to Lexington, on the Missouri river, with your force of infantry and artillery. You will send back the three companies of the Frémont hussars, under Captain Blum, to St. Louis.

The most practicable route from Utica to Lexington for you will be by Austinville, Finney's Grove, and Morton.

J. C. FRÉMONT,
Major General Commanding.

To Brigadier General STURGIS, *Mexico.*

On the 13th, he twice telegraphs to acting Brigadier General Jeff. C. Davis, at Jefferson City, to send forward two regiments to strengthen Lexington, and says, "move promptly." On the 14th he telegraphs him that he is sending him up regiments and batteries from St. Louis, while he also notifies the Department at Washington that they should have the five regiments they demanded from him—two from St. Louis, two from Cairo and vicinity, and one from Illinois—absolutely stripping himself in St. Louis of every means of defense to comply with these wants in every direction. Not content with issuing orders, you find nearly half a dozen the same day to his officers, urging celerity, energy, rapid movement. No man living could have done more. I add here the official dispatch to Jeff. C. Davis:

HEADQUARTERS WESTERN DEPARTMENT,
ST. LOUIS, *September* 14, 1861.

SIR: As a column of the enemy's force is moving upon Lexington, you are hereby directed immediately to order two of the regiments under your command to the reinforcement of that place. Orders have already been issued to two regiments in this city to proceed to Jefferson City, and reinforce your command.

Brigadier General Sturgis, now at Mexico, will also repair to Lexington with his entire force of infantry and a battery of artillery. On his arrival, he will assume command of all the troops at that place.

J. C. FRÉMONT,
Major General Commanding.

To Colonel JEFF. C. DAVIS,
Colonel Commanding at Jefferson City.

Now, let us examine what was done. Pope's reinforcements did not arrive; General Sturgis did come to a point near the river on the opposite side from Lexington; and I have the testimony of Colonel Mulligan himself that if he had actually come within sight with his forces on the opposite side of the river, Price had got so tired of fighting, the defense had been so persistent and unyielding, that he would have retired, notwithstanding his force of twenty thousand men, with eight brigadier generals, besieging one colonel of the Union forces. But the evidence is, that Sturgis came down to a point within a few miles of the river, and learning that the ferry-boats had been destroyed, and that, therefore, it was impossible for him to cross the river, and learning from a contraband—for they were permitted then to come within our lines and give information as to rebel movements—that Price's force was twenty to twenty-five thousand, deeming that he had not a force sufficient to meet them, as he had not, he retired. Frémont, however, supposed that, by four days after his order to him, he would have reached Lexington; and on the 18th—two days before Lexington fell—he sent orders to him at that point.

Jefferson C. Davis, upon the reception of General Frémont's orders, embarked as soon as possible—for it takes time—his available force upon some steamboats; and they proceeded up the river to a place called Glasgow, where, learning the rebels had erected batteries, they landed for the purpose of storming them before proceeding under their fire; and in the darkness of the night they fired into each other, and being thrown into confusion, they did not get to Lexington in time to reinforce Colonel Mulligan.

These three forces from different directions, then set out under the orders of General Frémont to reinforce the gallant defenders of Lexington, and he failed in accomplishing that purpose because the elements seemed to be against him, and not because he did not seek in every possible way to succor that besieged garrison. His dispatches to his secret agents are not, of course, published; but a reply from one of them, Charles Noyes, says that Sturgis was expected to reach Lexington the Wednesday night before the surrender, and General Lane the Thursday night before. Fate seemed to prevent these reinforcements, not the inactivity or indifference of Frémont.

Now, to appreciate the difficulties General Frémont had to contend with in bringing any considerable number of men to any one point, you must remember the extended frontier, and the large number of posts he had to defend. Troops were stationed, and had to be, not only at St. Louis and Cairo, but all through north Missouri, at Lexington, at Jefferson City, at Rolla, at Ironton, at Cape Girardeau, at Bird's Point, at Fort Holt, opposite Cairo, at Norfolk, at Mound City, at Paducah, and many other points. Judge Blair testifies how difficult it was for him, here at the capital and with the influence wielded by a member of the Cabinet, to obtain attention to western interests, or compliance with western requisitions. But Frémont, with troops constantly ordered away from him, with a plentiful lack of guns, with credit impaired, if not ruined, by the possibility of his removal, (and since then these creditors have seen their claims delayed for months, till examined by a board of commissioners, and even still unpaid,) was expected to organize victory and triumph over every adverse circumstance.

But let us look further, and see what was the condition of affairs when Price marched upon Lexington. Why, sir, at the very time when Price, with from fifteen to seventeen thousand men, was threatening Lexington, McCulloch was threatening Rolla and Jefferson City, Hardee was threatening Ironton, in southeast Missouri, and Polk and Pillow, with a number of troops, estimated at twenty to twenty-six thousand, were down at Columbus, threatening our inferior forces at Cairo; and in addition to that, there were the forces of Jeff. Thompson, Martin Green, and other guerrilla bands; and there were organized bands of rebels in every county in the State. The State was heaving and seething with insurrection under his feet, and he had to restore it to its loyalty. All this Frémont had to encounter, with nearly eighty thousand rebels threatening all these exposed points, with the disloyalists at their homes, and with an inadequate force to meet the enemy. Sir, a responsibility was thrown upon him which I would not to-day take upon my shoulders for the best office in the gift of the American people or of the world.

THE INVESTIGATING COMMITTEE.

While he was struggling nobly to perform his duty, from every side came the poisoned arrows of calumny, and the *ex parte* testimony of the investigating committee of this House, charging him with connivance with contractors to plunder the Treasury. I regret to have to allude to their course, for every member of the committee, I believe and hope, is my personal friend.

Sir, I have learned to look with some distrust upon *ex parte* testimony. I recollect that when my friend from Ohio, [Mr. SHERMAN,] who now occupies a seat at the other end of the Capitol, was at the head of a committee sitting in judgment upon the then Secretary of the Navy, Mr. Toucey, they wrote to Secretary Toucey, as I found in rereading their report recently, that they were going to examine into the live-oak contract and other matters, and that he would be welcome to come and listen to the evidence; and subsequently, when they had taken the evidence of eight witnesses, they had a correct copy of it made and sent it to Secretary Toucey, with a respectful letter, offering to subpena any witnesses he might desire to have called, and when subsequent witnesses appeared before them, they took the same course. This was an example of impartiality towards a political opponent worthy of admiration and imitation.

But how was it in the case of Frémont? I undertake to say, and history proves it, that while Frémont was out hunting the enemy, some persons—not the committee, perhaps, but his enemies in St. Louis—were hunting up witnesses against him to have *ex parte* testimony taken there; and no sooner was it taken, while he was still in the face of the foe endeavoring to obtain victory for our arms and periling his life for his country, a synopsis of these *ex parte* statements was given by some one to some newspaper correspondent and sent upon the wires all over the country, so as to poison the public mind against the commander of the department of the West and assist in achieving his overthrow. Sir, I think that in common justice, in common humanity—if there are such things as justice and humanity—when he returned, a deposed general, the committee might, if they did not see fit to do so before, have sent him the adverse evidence, which up to this hour they have never done, and said to him: "Sir, before you were sent to this department, you were supposed to be an honest man, but this testimony clouds your character. It was taken in your absence; if you have any vindication or defense to offer, we will subpena your witnesses and give their testimony to the world in company with that taken against you while you were in the field." But no, the testimony was never sent to him, and he has never seen it, unless some member of the House ere this has lent him a copy; he has had no official information concerning it.

My friend from Missouri says that Frémont has not demanded a trial. I wish to ask him if he did not make charges against General Frémont before the late Secretary of War, Mr. Cameron?

Mr. BLAIR, of Missouri. Certainly.

Mr. COLFAX. Then I wish to say this: that if Secretary Cameron, the Minister of War, thought those charges worthy of consideration, it was *his* duty to have put Frémont on trial. I wish to ask my friend now, if he has not also made charges against General Frémont before the present Secretary of War?

Mr. BLAIR, of Missouri. I preferred charges against him at the time, and the gentleman knows

very well that I have preferred no charges since; but I know that the Judge Advocate has preferred charges since.

Mr. COLFAX. Then, if the present Secretary of War deems them worthy of investigation, it is his duty to order a trial. General Frémont has the same right as the meanest and wickedest man in the country has—the right to meet his accusers face to face, and to stand up in his own defense, and vindicate himself against these charges.

My friend was arrested by General Frémont, and I feel authorized to say that I went to Frémont at the time and remonstrated with him, and spoke in terms of condemnation of his arrest of my friend as being unwise and wrong; that the country would regard it as the result of a personal quarrel, &c. Sincerely the friend of both, I desired, if possible, to restore friendly relations between them. It was during the dark days of which I have spoken; and General Frémont replied that it was for insubordination; that he could not expect subordination in others if, on account of my friend's influence and power, which he did not underrate, he passed his by in silence. Still, I deeply regretted it. But when my friend was discharged by order of General Scott, did he think it necessary for his character that, after having been thus discharged, he should still insist on a trial?

Mr. BLAIR, of Missouri. Yes, sir; and I did demand a trial.

Mr. COLFAX. But none was had. Then, if my friend has made charges against General Frémont; and the War Department, either under Mr. Cameron or Mr. Stanton, deemed the charges such as substantially affect his present rank, it was their duty to arraign him and put him on trial.

Mr. BLAIR, of Missouri. Charges have been preferred against him by the proper officer of the Government—the Judge Advocate of the United States.

Mr. WADSWORTH asked a question in reference to the contract for the fortifications of St. Louis, which was inaudible at the reporters' desk.

Mr. COLFAX. I am speaking now, not on dollars and cents, but to vindicate the history of the past; but I will answer the gentleman from Kentucky as follows: I said at the opening of my remarks, if the gentleman had been kind enough to listen to me, which I suppose he did not, that I did not defend the fortification contract, nor did I deem it wise or economical.

Mr. WADSWORTH. I heard the gentleman say so.

Mr. COLFAX. I am not called upon to defend that contract, but in justice to General Frémont, it ought to be stated that the contractor offered, if the work could be done by day only, instead of day and night uninterruptedly, when he would have to pay extra for night work, to do it for sixty per cent. less; but Frémont said "time is worth more than money; do the work immediately, with all the force you can put on, working night and day"—for he was just then preparing for his march against Price. He needed all available troops, and, with the fortifications, he could leave St. Louis with a smaller force for its defense.

But I want now to put a question to the gentleman, *argumentum ad hominem*, as he has opened this question. Suppose you find that some claim has passed this Congress which everybody concedes to be entirely wrong and inexcusable; and suppose some man looking over the Globe finds, on the list of yeas and nays on the vote by which that money was improperly taken out of the Treasury, that Mr. WADSWORTH voted for it, and arragns him before the people for it. This, on *ex parte* evidence, would look badly. Here is a cheating claim on the Treasury, the people would say, and the claimant gets his money out of our Treasury by the direct aid and consent of our Representative's vote. But there are two sides to it. The gentleman from Kentucky rises and says, "Does not my defamer know that the Committee of Claims reported favorably upon that claim, and that it is the custom of members of Congress to follow the report of the Committee of Claims, in cases which they have closely scrutinized, and against which they themselves see no objection?" And when the gentleman has thus been heard in his defense, everybody says that, although he voted for the claim, he is acquitted, because his explanation is satisfactory. That is the only fair way to try a man. Strike, but hear before you strike. If Frémont shall prove that he made this contract to carry on the work day and night until its completion, upon the advice of engineers and men experienced in work of this kind, it will be at least some palliation of it, just as the gentleman's vote in favor of a bad claim, on the recommendation of the proper committee, would palliate it. I do not know what Frémont's defense is. I have not asked him what his defense is.

Mr. WADSWORTH. The case which the gentleman puts is not at all like this case. It appears that Frémont made a contract with an adventurer of the name of Beard for earthworks and embankments, at $2 50 per cubic yard for removing the earth, when the committee tell us it was only worth sixty cents a cubic yard; a difference of $1 90.

Now, if I did anything of that sort as a member of Congress, I should say that I was unworthy of holding my seat here, and my constituents would be justified in denouncing my action as the result of bribery, or other improper influence.

Mr. COLFAX. I am reminded by a friend near me that General Frémont, in his letter to Senator WADE, the chairman of the committee on the conduct of the war, explains this matter himself. As I do not defend these contracts, deeming them too costly, though I may err against him in that, I will let him make the explanation in his own language.

Mr. WADSWORTH. I have never seen that explanation.

Mr. COLFAX. I am going to read it to you:

"When the prices for his work were under discussion and were referred to me by General McKinstry, I directed this officer to reduce them to what was just and reasonable to both parties, having reference to the circumstances under which the work was done, and the extra prices that had been paid, so as to leave the contractor what might be strictly a fair profit on his labor, and his decision whatever it was, was approved by me. For cost of construction and other details with which I am not acquainted, I respectfully refer the committee to the testimony of the quartermaster and the contractor, whom I have asked to have summoned.

"To show their nature and value, the report and testimony of the engineers, who planned and were superintending the work, will be furnished the committee. The object aimed at was the completion of the city defenses in the shortest possible time. The works are thoroughly and well built, covering and comprehending the city itself and the surrounding country on a length of about ten miles, and the total cost is, I think, less than $300,000.

"In my judgment, having in view the time and manner in which they were built, the money was well applied, and as a measure of expediency and policy, it was fully worth to the Government what it cost."

This is just exactly what General McClellan and the Secretary of War do every day in the matter of ordnance, and a thousand other things. If Mr. Stanton attends to the business of his Department, he would not have time to look after the details of all the contracts that are made for the vast service of that Department. He regards the heads of bureaus as his legal advisers in the matter. General Frémont did the same thing with the heads of his—the engineer department, quartermaster, &c., &c. All over the country, General Frémont has been held responsible for what General McKinstry had done. He never appointed General McKinstry, nor could he remove him. McKinstry was appointed by the last Administration, and continued at that post by the present one. He was quartermaster general of that post, just as General Meigs is Quartermaster General of the United States. He therefore had the authority to do this thing.

Mr. STEVENS. I understand that McKinstry is a good officer, and was appointed on recommendations of an influential firm doing business partly in this city and partly in St. Louis.

Mr. COLFAX. As I said before, Mr. Chairman, I have not attempted to arraign anybody. I have not arraigned the commanding general of the army of the Potomac, or any Cabinet officer, or the President, or anybody else. I have only gathered together the facts of history, collected these official documents that every one can read, and laid them before the House; and with a few remarks in conclusion, I will relieve my fellow-members from listening to me further.

The CHAIRMAN. The gentleman has had consent to proceed without limitation as to time.

Mr. COLFAX. I will not take advantage of the good nature of the House. When Frémont was superseded what was the condition of affairs in Missouri? It has gone into history, and will live there during all time, his proudest and noblest vindication. The whole State, thanks to his energy, was more tranquil on that day than was western Virginia or Kentucky at that period—all except a little corner down by Arkansas; and an United States officer in uniform could ride alone from Springfield, near the Arkansas line, to St. Louis unmolested and unharmed; that was certainly one thing not to his discredit.

In the second place, the army which he was heading was further South than any other army of the Union on that day. That was another good sign.

In the third place, it was headed in the right direction—southward, after the enemy. That was still another good sign. He may be a very incompetent general, as my friend insists; but it took three months after his supersedure to get things back to just the point where he left them, saying nothing of all the rebel outrages during the interim.

In the fourth place, the men under his command were filled with loyalty and enthusiasm for him. If he had been this imbecile, this corrupt man, this timid man, this incompetent general, they would have scorned and despised him, and would have revolted against him. The brave life guard commanded by Zagonyi—who, my friend says, won no victory at Springfield—performed the most brilliant achievement of the war up to that time, and lighted up the horizon, after long months of inaction and reverse, with the glorious illumination of that act—the presage of future triumphs for our arms. But that charge upon the enemy, with the war cry of "Frémont and the Union," cost them dearly. When the life guard came back to St. Louis, they were dismissed from service "for words spoken at Springfield." They were refused rations for themselves; they were refused forage for their horses; they were treated with disapproval and almost contempt "for words spoken at Springfield." They were mustered out of service; and Zagonyi, who would gladly give his life to make another such charge on the rebel host, finds no place open for him in the armies of the Union. They had dared to charge upon the enemy, shouting the name of their chief, whom, perhaps, they

"Loved, not wisely, but *too well*."

But I do insist, however we may differ as to Frémont, that the noble band who hurled themselves on ten times their number, drove them before them by their impetuous charge, and planted the starry banner of the Union on the court-house spire at Springfield, should be spoken of on this floor with admiration of their heroism, and not by endeavoring to underrate their brave endeavor.

In the fifth place, Frémont had marched his army rapidly after the enemy, notwithstanding the Adjutant General of the United States, who had seen him on the road, said he could not move it for lack of transportation. Mr. Thurlow Weed, in his letter, which was also thrown in the scale against Frémont, at the trying hour when his supersedure was pending, and he himself was in the field, said the same thing—that Frémont had got to the Osage, but that he could not progress beyond it, and that it was well understood at Warsaw he did not intend to. But, sir, the man who scaled the Rocky mountains is not the man who stands idle "for lack of transportation." He threw a bridge across the Osage river in thirty-six working hours, infusing into the troops the same energy that has characterized his whole life. The army crossed, and proceeded with forced marches on after the enemy in the right direction. But the moment came that he was to be superseded, and then he fell.

In the sixth place, whatever charges have been made that he unwisely reposed confidence in certain contractors, not even his bitterest enemies have intimated that a single dollar of the people's money, beyond his salary, has stuck to his fingers.

In the seventh and last place, when he left the State of Missouri, all the railroads of the State were running for every mile of their length, and to their full capacity; and he left behind him in the city of St. Louis a monument of his good sense, if not of his genius, in making a connection of all the railroads at the levee, so that the rolling stock of all three could be, in case of a sudden emergency, used on any one of them. That closes his career as the commander of the department of the West; and the duty of all others the most grateful to me, vindicating a friend in the hour of

trial and adversity, having been performed, it only remains for me to thank the House for the generous extension of time they have given me.

Mr. RICHARDSON obtained the floor, but yielded to

Mr. TRAIN, who moved that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. HUTCHINS reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly a bill to regulate the franking privilege, and had come to no conclusion thereon.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that the Senate had passed an act (S. No. 201) to provide for the occupation and cultivation of the cotton and other lands in the possession of the United States, lying along the southern coast of the United States; in which he was directed to ask the concurrence of the House.

And thereupon, on motion of Mr. COX, (at five o'clock, p. m.,) the House adjourned till Monday next.

IN SENATE.

MONDAY, *March* 10, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of Friday last was read and approved.

RESOLUTIONS OF STATE LEGISLATURES.

Mr. POMEROY presented resolutions of the Legislature of Kansas, in favor of the passage of a law legalizing the preëmption entries of certain lands in that State; which were referred to the Committee on Public Lands.

Mr. McDOUGALL presented resolutions of the Legislature of California, in favor of the passage of a law authorizing the authorities of that State to locate lands in lieu of sections reserved for public uses or taken by private claims upon any unappropriated public lands in the State, except mineral lands; which were referred to the Committee on Public Lands, and ordered to be printed.

He also presented resolutions of the Legislature of California, in favor of the establishment of a mail route between San Francisco and ports in China and Japan; which were referred to the Committee on the Post Office and Post Roads.

PETITIONS AND MEMORIALS.

Mr. HARRIS presented resolutions of the Homœopathic Medical Society of New York, praying that homœopathic physicians may be appointed in the Army and Navy; which were referred to the Committee on Military Affairs and the Militia.

He also presented the petition of merchants, traders, and citizens of the city of New York, praying for the passage of a general uniform bankrupt law; which was referred to the Committee on the Judiciary.

He also presented the petition of citizens of the town of Holland, Erie county, New York, praying for the passage of a law allowing the New York Caucasian, and all other Democratic papers now excluded from the mails, in all the loyal States, whose editors are not convicted of treason, the same privileges enjoyed by Republican and abolition papers; which was ordered to lie on the table.

Mr. SUMNER presented a petition of citizens of Paterson, New Jersey, praying for the total abolition of slavery throughout the country, allowing for emancipated slaves of such as are loyal a fair pecuniary award as a conciliatory measure; which was ordered to lie on the table.

He also presented a petition from citizens of Washtenaw county, Michigan, praying for the total abolition of slavery throughout the country; which was ordered to lie on the table.

Mr. RICE presented a memorial from the Legislature of the State of Minnesota, in favor of the establishment of a daily mail route from La Crescent, through Troy, Chatfield, Frankford, Grand Meadow, Mower City, Lansing, Austin, and Albert Lea, to Winnebago City, in that State; which was referred to the Committee on the Post Office and Post Roads.

Mr. McDOUGALL presented the petition of Duncan, Sherman & Co., and others, merchants, bankers, &c., concerned in the trade between the Atlantic States and the States on the Pacific, praying the Government to provide postal facilities between the East and California by steam vessels, in addition to the overland mail; which was referred to the Committee on the Post Office and Post Roads.

He also presented four petitions of citizens of California, praying for the establishment of a semi-monthly mail, by steamer, from San Francisco to Crescent City, in that State; which were referred to the Committee on the Post Office and Post Roads.

He also presented the petition of Robert Porter and others, citizens of California, praying for the establishment of postal facilities between the East and California, by steam vessels, in addition to the overland mail; which was referred to the Committee on the Post Office and Post Roads.

He also presented the petition of George A. Pendleton and others, citizens of California, praying for the establishment of an overland mail route to California, through New Mexico; which waa referred to the Committee on the Post Office and Post Roads.

Mr. HOWARD presented two petitions of citizens of Michigan, residents of the copper-producing region of Lake Superior, praying for the construction of a military road from the copper region of Lake Superior to connect with the nearest railway station at Appleton, Wisconsin; which were referred to the Committee on Military Affairs and the Militia.

He also presented a petition of German citizens of Detroit, Michigan, praying Congress to permit no infringement of the freedom of the press; which was ordered to lie on the table.

Mr. LATHAM presented the petition of George W. Johnson, praying compensation for damages sustained by him from the seizure and occupation of his land, at the cascades of the Columbia river, by the troops of the United States; which was referred to the Committee on Claims.

Mr. DAVIS presented the memorial of Edward Troye, praying Congress to purchase his painting of General Winfield Scott; which was referred to the Committee on the Library.

Mr. DOOLITTLE presented a petition of citizens of Wisconsin, praying for the passage of a general bankrupt law; which was referred to the Committee on the Judiciary.

He also presented a petition of citizens of Wisconsin, praying for the total abolition of slavery throughout the country; which was ordered to lie on the table.

TREATY WITH HANOVER.

Mr. SUMNER. The Committee on Foreign Relations, to whom was referred the bill (H. R. No. 326) to fulfill treaty stipulations with Hanover, have had the same under consideration, and have directed me to report it back, with a recommendation that it pass; and as it is simply to carry out a treaty which has already been ratified by the Senate, I ask that it be acted on at once.

There being no objection, the bill was considered as in Committee of the Whole. It proposes to appropriate the following sums to enable the President to fulfill the stipulations contained in the third and fourth articles of the treaty between the United States and Hanover, of the 6th of November, 1861: to carry out the stipulations contained in the third article, $43,454 16; to carry out the stipulations contained in the fourth article, $1,042 90, or so much thereof as may be necessary to pay the interest provided for in that article.

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

WESTERN MILITARY DEPARTMENT.

Mr. LANE, of Indiana. I am directed by the Committee on Military Affairs and the Militia to report back House bill No. 148, with an amendment of one word, and inasmuch as there is great urgency, and it is a bill that passed the House of Representatives some two months since, I hope it will be put upon its passage. The object is to secure the officers and men actually employed in the western department, or the department of Missouri, their pay, bounty, and pensions. They were mustered in informally, and have been in service all the time and have done good service, but they can get no pay. There is one case that I may mention: Colonel Grover was killed after his property had been destroyed by the secessionists. He was killed in battle, and his widow and orphan children are now among strangers, without a dollar of support. They cannot even apply for a pension until this bill shall pass.

There being no objection, the Senate as in Committee of the Whole proceeded to consider the bill (H. R. No. 148) to secure to the officers and men actually employed in the western department, or department of Missouri, their pay, bounty, and pension. It proposes to require the Secretary of War to allow and pay to the officers, non-commissioned officers, musicians, and privates, who have been heretofore actually employed in the military service of the United States, whether mustered into actual service or not, where their services were accepted and actually employed by the generals who have been in command of the department of the West, or the department of Missouri, the pay and bounty as in cases of regular enlistment; and the officers, non-commissioned officers, musicians, and privates, so employed, who may have been wounded or incapacitated for service, are to receive the pension allowed for such disability. The heirs of those killed in battle, or of those who may have died from wounds received while so employed, are to be allowed the bounty and pay under existing laws; but the bounty allowed to officers, non-commissioned officers, musicians, and privates, their widows or heirs, is not to be payable unless their term of enlistment be of such duration as by existing laws would entitle them to bounty.

The amendment of the Committee on Military Affairs was to insert in the seventh line of the third section, after the word "enlistment," the words "and service;" so that the clause will read:

Provided, That the bounty herein allowed to officers, non-commissioned officers, musicians, and privates, their widows or heirs, shall not be payable unless their term of enlistment and service be of such duration as by existing laws would entitle them to bounty.

The amendment was agreed to.

Mr. CARLILE. I move further to amend the bill by inserting after the words "department of the West," the words, "and also the department of Western Virginia," so that the bill will include my State, and provide for the payment of some four hundred and fifty or five hundred persons, who were in the formation of a regiment, and were stationed at Guyandotte at the time they were captured by the rebel forces, and are now in prison in the city of Richmond. Of those who thus enlisted, many were not only citizens of our own State, but some were citizens of our neighboring State of Ohio. I presume there will be no objection to the adoption of my amendment.

Mr. LANE, of Indiana. I cannot consent to have any amendment placed on this bill. I will vote for the gentleman's proposition in a separate bill after it passes the appropriate committee, and is reported by them.

Mr. CARLILE. The proposition I make merely enlarges his bill, and gives to those who were enlisted in the service in the State of Virginia that which he proposes by this bill to give to those in the department of the West. I can see no possible objection to it.

Mr. LANE, of Indiana. It may be all right, and doubtless is; but at the same time this bill has passed the scrutiny of two committees, and we know precisely who are embraced in it. We do not know the circumstances under which those Virginians were enlisted and mustered in, nor the time of their service, or anything of that kind. It seems to me it ought to be referred.

Mr. SHERMAN. In addition to what has been said by the gentleman from Virginia, I will state that some volunteers from Ohio who had not been mustered into service, but were enlisted as State volunteers, and who would have been mustered into service shortly, went over to the Guyandotte skirmish and some of them were taken prisoners; some of them were killed; among the rest, I think, a surgeon and some officers. Under the law they have not been able to get any pay; and if pay is given to any class of persons who have served in our Army without being regularly mustered into service, certainly they ought to be embraced.

Mr. LANE, of Indiana. This bill, I understand, does not embrace that class of cases. This applies

to those who were in the United States service, not in State service, but were not regularly enlisted.

Mr. SHERMAN. That is precisely the case. These men had been enlisted for the service of the United States; but they were not mustered in. They were ordered by the general in command over into Virginia, and some of them were taken prisoners at Guyandotte. They ought to be paid.

Mr. LANE, of Indiana. No doubt about that; but this is the difficulty: the class of cases provided for by the bill has been examined by two committees and reported upon, and the bill has already passed one House. All we ask is that it shall stand by itself, without opposing any one else who ought to be properly paid; but we want some committee to scrutinize all the cases.

Mr. POMEROY. Almost precisely the same state of facts exists in Kansas that exists in Missouri. I do not understand why the committee or the Senator from Indiana desire to single out Missouri and rush a bill through for their relief alone.

Mr. LANE, of Indiana. It is for the western department; Kansas was in the western department.

Mr. POMEROY. The headquarters of the Missouri department are at St. Louis. Kansas is a different department.

Mr. LANE, of Indiana. These troops were all enlisted in the western department. The department of Kansas has been made since. This embraces all those cases that have been examined. We do not want to put in more now.

Mr. POMEROY. It is true, as the Senator from Indiana says, that our department has been made since; but that is the very reason why it is not embraced here.

Mr. LANE, of Indiana. If you read the bill, you will find that it is embraced. It includes all who were enlisted in the western department.

Mr. FESSENDEN. I doubt very much the expediency of passing any bills of this character. In the way we pass them we really do not know anything about them or what they cover. We pass bills here in the morning hour; they slip through, being favored by gentlemen who know something about them; and the first thing we know, there are millions of dollars paid out, without our understanding why or wherefore. If these men have been regularly enlisted under the laws of the United States and mustered into service, they can be paid under existing laws.

Mr. LANE, of Indiana. They have not been mustered in.

Mr. FESSENDEN. If they have not been regularly enlisted and mustered into service under the laws of the United States, they ought not to be paid except by the States by whose authority the thing was done.

Mr. LANE, of Indiana. The Senator will pardon me a moment. He is under a misapprehension. They were regularly enlisted in the service of the United States, but not regularly mustered in, because there was no mustering officer to muster them in. They were volunteers in the United States service to defend Lexington and to defend St. Louis. There were no mustering officers there for many days. Some were sworn in by the commissioned officers, some by justices of the peace. They went to Springfield, they went to Lexington, they went to Belmont; and many were killed. This bill has undergone the scrutiny of both Military Committees, and has passed the House of Representatives. If there is a just case, this is one; but if it leads to debate I withdraw my motion to put it on its passage now, and will let gentlemen have time to examine it.

The VICE PRESIDENT. The bill will go over.

ORDER OF BUSINESS.

Mr. KING. I move, then, to postpone all prior orders, and take up the bill relating to the organization of the cavalry. I make that motion. It is essential that that bill be acted upon and disposed of.

Mr. GRIMES. I ask leave, under the rules, to introduce a joint resolution for the purpose of reference.

Mr. KING. I have no objection to that.

The VICE PRESIDENT. If the Senator yields the floor, he yields it unconditionally.

Mr. KING. Then I insist on my motion, and hope the question will be put.

Mr. GRIMES. For four successive days now, something or other has been crowded in so as to prevent the ordinary routine business of the Senate in the morning hour. We generally have some military bill of such vast consequence that it cannot possibly be postponed for thirty minutes in order that we may get off our hands the resolutions and bills and petitions that the morning hour is set apart and designated for disposing of. Now, I hope that we shall be permitted to go on, and get our drawers clear of what we have got on hand, and then take up this bill which is of so much consequence.

The motion of Mr. KING was not agreed to—ayes twelve, noes not counted.

REPORTS FROM COMMITTEES.

Mr. CLARK, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred a resolution to pay William Patton, late engrossing clerk, for work done by him during the recess of the Senate in preparing indexes to the executive documents, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

He also, from the same committee, to whom was referred the petition of Preston Starrit, formerly a messenger of the Senate, praying for pay which he alleges has been illegally withheld from him, asked to be discharged from its further consideration, and that it be referred to the Committee on the Judiciary; which was agreed to.

Mr. HALE, from the Committee on Naval Affairs, to whom were referred resolutions of the Legislature of Ohio in favor of the establishment of a naval depot on the western lakes, resolutions of the Legislature of Michigan in favor of the establishment of a naval station and dock-yard in that State, a memorial of the mayor and city council of Sandusky, Ohio, praying for the establishment of a naval depot at Bull's Island in Sandusky bay, and sundry memorials and petitions on the subject of a naval station and depot on the western waters, submitted a report; which was ordered to be printed.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the petition of Jesse Ellis, an invalid pensioner, praying that he may be exempted from periodical medical examination by physicians, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of John R. Joy, praying for an additional pension, submitted an adverse report; which was ordered to be printed.

Mr. FOOT, from the Committee on Public Buildings and Grounds, to whom the subject was referred, reported a bill (S. No. 226) authorizing the opening of Sixth street west; which was read, and passed to a second reading.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a motion to print the letter of the Second Auditor of the Treasury, communicating copies of his accounts for Indian disbursements for the year ending June 30, 1861, reported in favor of printing the same, and that one thousand additional copies thereof be printed.

The report was agreed to.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred the message of the President of the United States relating to the seizure of the Spanish bark Providencia, submitted a report, accompanied by a bill (S. No. 225) for the relief of the owners, officers, and crew of the Spanish bark Providencia. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the bill (S. No. 181) to secure the early completion of the southwest branch of the Pacific railroad, in the State of Missouri, reported it with an amendment.

Mr. COLLAMER, from the Committee on the Post Office and Post Roads, to whom was referred the bill (S. No. 223) to provide for carrying the mails from the United States to foreign ports, reported it with amendments.

Mr. WILSON, of Massachusetts, from the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 46) relating to the sale of goods unfit for use by the War Department, reported adversely thereon.

He also, from the same committee, to whom was referred the bill (H. R. No. 334) relating to the appointment and compensation of chaplains in military hospitals, reported adversely thereon.

ARMY DISBURSEMENTS.

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

Resolved, That the Committee on Military Affairs and the Militia be instructed to inquire into the expediency of so modifying the existing laws, that all the moneys now disbursed by quartermasters and commissaries of subsistence and their subordinates, shall hereafter be presented in the form of the several contracts or accounts to paymasters of the Army, and be by such paymasters audited and paid, such paymasters being required to give security accordingly, and to account to the proper auditing officer of the Treasury; and that they report by bill or otherwise.

APPOINTMENT OF GENERALS.

Mr. GRIMES submitted the following resolution:

Resolved, That, in the opinion of the Senate, no persons should be commissioned as generals of divisions or brigades, except such as shall exhibit superior competency in the command of men, or gallantry in action against the enemy.

Mr. HALE rose.

Mr. WILSON, of Massachusetts. I think that had better lie over.

The VICE PRESIDENT. If objected to, it must lie over.

Mr. HALE. I do not object to it. I am rather in favor of it; but I think it does not go far enough.

The VICE PRESIDENT. The Senator from Massachusetts was understood as objecting.

Mr. WILSON, of Massachusetts. I withdraw the objection.

Mr. CARLILE. That resolution is of sufficient importance, I think, to be considered by the Committee on Military Affairs. If in order, I move that it be referred to that committee.

The motion to refer was agreed to.

BILLS INTRODUCED.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 64) expressive of the thanks of Congress to Captain A. H. Foote of the United States Navy, and to the officers and men under his command in the western flotilla; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. FOSTER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 62) authorizing and directing the change of location of the light-vessel on Eelgrass shoal; which was read twice by its title, and referred to the Committee on Commerce.

The VICE PRESIDENT. The Chair would remark to the Senator from Massachusetts [Mr. WILSON] that on Friday, as the doors were being closed for an executive session, he sent to the Secretary's desk a joint resolution, and it was objected to by the Senator from Delaware, [Mr. SAULSBURY.] It being a joint resolution, the objection of the Senator from Delaware precluded its reception. It is now in order for the Senator to renew it if he chooses so to do. It was not received; the objection of the Senator from Delaware prevented it.

Mr. WILSON, of Massachusetts. I ask leave now to introduce a joint resolution to grant aid to the States of Maryland and Delaware to emancipate certain persons held to service or labor in said States.

Mr. SAULSBURY. I intend to object to the proposition in every stage and fight it at every stage; I shall make all objections at all stages that I have a right to make.

Mr. WILSON, of Massachusetts. I did not understand that it required unanimous consent, for I notified the Senate a week ago in regard to that matter.

The VICE PRESIDENT. If the Senator will pardon the Chair, there is no prescribed form by which a Senator shall give notice that he will introduce a bill. It has been usual for a Senator to rise in his place and give that notice. The Senator from Massachusetts did on Friday send to the Chair the joint resolution and the title was read. The Chair rules that that was notice, and therefore the Senator is entitled to ask leave to introduce his resolution to-day, under the notice already given.

Mr. SAULSBURY. Then I wish to say a word upon that subject.

Mr. WILSON, of Massachusetts. If the Senator desires to consider it, I hope it will go over this morning, and let us take up an important bill.

Mr. SAULSBURY. I shall not insist on speaking now if it is not to be brought up in my absence.

Mr. WILSON, of Massachusetts. I will say to the Senator that I will bring it up when he is here, but we are anxious this morning to consider the bill referred to by the Senator from New York.

Mr. SAULSBURY. I do not mean to occupy the time of the Senate. All I want is that when the matter comes up before the Senate for action I may be heard; that it shall not be called up in my absence.

Leave was granted to introduce the joint resolution, (S. No. 63,) and it was read and passed to a second reading.

ENLISTMENTS IN THE REGULAR ARMY.

Mr. WILSON, of Massachusetts. I move to take up the bill (S. No. 217) to encourage enlistments in the regular Army of the United States, and for other purposes.

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

The VICE PRESIDENT. The question is on the amendment submitted by the Senator from Maine.

Mr. FESSENDEN. I will, with the leave of the Senate, vary the amendment which I submitted. The matter has been looked into by the chairman of the Military Committee, and perhaps it is as well that some allowance should be made to the officers and soldiers of the cavalry service who may be discharged under this proposition. I shall therefore vary the amendment by offering it in the original shape, merely substituting "one month's" instead of "three months'" extra pay, in the third section. I think that will satisfy everybody on that point, and I am disposed to agree to it.

The VICE PRESIDENT. It is in the power of the Senator to modify his own amendment at present as he pleases. The amendment of the Senator from Maine, as modified, will be read.

The Secretary read the amendment, to add to the bill, as additional sections:

That the cavalry forces in the service of the United States shall hereafter be organized as follows: each regiment of cavalry shall have one colonel, one lieutenant colonel, three majors, one surgeon, one assistant surgeon, one regimental adjutant, one regimental quartermaster, one regimental commissary, one veterinary surgeon, whose compensation shall be seventy-five dollars per month, with the rank of a regimental sergeant major, one sergeant major, one quartermaster sergeant, one commissary sergeant, two hospital stewards, one saddler sergeant, one veterinary sergeant, one chief trumpeter, and one chief farrier or blacksmith; and each regiment shall consist of twelve companies or troops, and each company or troop shall have one captain, one first lieutenant, one second lieutenant, and one acting or supernumerary second lieutenant, to be selected from the non-commissioned officers of the respective regiments, one first sergeant, one quartermaster sergeant, one commissary sergeant, five sergeants, eight corporals, two teamsters, two farriers or blacksmiths, one saddler, one wagoner, and seventy-eight privates; the regimental adjutants, the regimental quartermasters, and regimental commissaries to be taken from the first lieutenants of their respective regiments, but in which they shall continue in the line of promotion: *Provided*, That vacancies caused by this organization shall not be considered as original, but shall be filled by regular promotion.

And be it further enacted, That the President of the United States be, and he is hereby, authorized and directed, under such regulations as he may establish, to reduce, by transfer, discharge, or otherwise, the volunteer cavalry forces now in the service, to forty regiments, each of which regiments to be organized as provided for by this act.

And be it further enacted, That the officers necessarily discharged from service by this act shall, in addition to the allowances granted by existing laws, receive each one month's extra pay proper.

And be it further enacted, That all officers of cavalry who have been or may hereafter be appointed in the volunteer force in the service of the United States, shall be examined by a board of officers to be appointed by the Secretary of War, and who shall be familiar with the tactics and organization of the mounted or cavalry service of the United States Army.

Mr. SHERMAN. I move to amend the amendment by striking out "forty" regiments, and insert "thirty." I desire to call the attention of Senators to the present law. The law of July 22, 1861, fixes the volunteer establishment at five hundred thousand men. By the second section of that law it is provided:

"That the said volunteers shall be subject to the rules and regulations governing the Army of the United States, and that they shall be formed by the President into regiments of infantry, with the exception of such numbers for cavalry and artillery as he may direct, not to exceed the proportion of one company of each of these arms to every regiment of infantry, and to be organized as in the regular service."

I have here a detailed table of the organization of the volunteer forces prepared by the Adjutant General, which gives the organization of five hundred thousand volunteers. It provides for thirty-five regiments of artillery, thirty-five regiments of cavalry, and four hundred and thirty regiments of infantry; but the regiments of cavalry are ten company regiments instead of twelve company regiments. Under the organization proposed by this bill there will be twelve companies in each regiment. Thirty regiments of cavalry, under the proposed organization, would be about equivalent to thirty-five regiments under the old organization. As I do not believe that our Government can maintain more than half a million of volunteers; as I do not think it advisable to base our military organization on a greater number than that, my opinion is that we ought to keep within the terms of the law. If we authorize thirty regiments of cavalry, they will amount to thirty-six thousand men, which will be just about equivalent to the present legal organization. It is true that the Secretary of War, or the President, or whoever had to do with it, instead of organizing thirty-five regiments of cavalry which the law allowed him to do, organized some sixty or seventy regiments.

Mr. WILSON, of Massachusetts. Seventy-seven.

Mr. SHERMAN. That was a plain, palpable violation of law. I do not know what necessity pressed upon them, but the law expressly limited the number of cavalry regiments to thirty-five, and I have the table before me to show that the legal volunteer regiments of cavalry are thirty-five. I think we ought to reduce our cavalry forces to the amount fixed by law, and hereafter I hope a provision will be introduced into some of the bills that are pending limiting the infantry regiments to the number authorized by law. I am told by officers of high standing in the Army that thirty regiments organized under this bill, making an aggregate of thirty-six thousand men, will be a greater number of cavalry than we shall probably use in the war, whatever magnitude it may assume hereafter. I think we have now more than thirty or forty thousand actually enlisted in the cavalry forces, although they are distributed among seventy-seven regiments, but by consolidating the enlistments they could be reduced to thirty regiments of twelve hundred men each.

Mr. WILSON, of Massachusetts. The Senator from Ohio is certainly mistaken in regard to the number of privates enlisted. The whole number of cavalry regiments is seventy-seven; the number of officers and privates is sixty-four thousand. The bill was originally passed by the Senate for forty regiments, which would make forty-eight thousand men, discharging, therefore, or putting into the infantry sixteen thousand men. The House of Representatives fixed the number at fifty regiments, the original proposition of our committee. I am satisfied that forty regiments are enough, but I will not oppose putting in this bill thirty, and try the temper of Congress on that.

I see that a statement is going the rounds of the press of the country that there is something wrong about this bill. The fact is, that if the seventy-seven regiments be reduced to forty, thirty-seven colonels, thirty-seven lieutenant colonels, one hundred and eleven majors, about four hundred and fifty captains, and about nine hundred lieutenants, will be discharged, effecting an annual saving of $2,900,000 to the Treasury of the United States; and by transferring sixteen thousand privates to the infantry, a great deal will be saved; because they will cost less as infantry than as cavalry. It is proposed also to carry up the numbers of the five old cavalry regiments in the regular service by having eighty-three privates to a company, instead of sixty-four, so as to make the service uniform. That will cause an addition of five majors. That is all there is in the proposition. It is a plain mathematical demonstration. The sixth regiment of regular cavalry is organized on this basis; and we propose to make all the old cavalry regiments of the regular Army uniform with this system.

Mr. SHERMAN. There are six of those.

The VICE PRESIDENT. The question is on the amendment of the Senator from Ohio [Mr. SHERMAN] to the amendment of the Senator from Maine, [Mr. FESSENDEN.]

The amendment to the amendment was adopted; and the amendment, as amended, was agreed to.

The VICE PRESIDENT. The Senator from Minnesota [Mr. WILKINSON] moved to strike out the third section of the amendment of the Senator from Maine. That question should have been put before the question on the amendment of the Senator from Maine. The Chair will regard the latter as not having been put; and the question is on the amendment of the Senator from Minnesota to the amendment of the Senator from Maine.

Mr. SHERMAN. What is it?

The VICE PRESIDENT. The Senator from Minnesota moves to strike out the third section of the amendment of the Senator from Maine, which is in these words:

And be it further enacted, That the officers and enlisted men necessarily discharged from service by this act shall, in addition to the allowances granted by existing laws, receive each one month's extra pay proper.

Mr. HALE. Does that include the $100 bounty?

Mr. WILSON, of Massachusetts. No; they have got to serve two years for that.

The amendment to the amendment was rejected.

Mr. HOWE. I had this bill before me a short time since, and perhaps I may have it here now; but the question before the Senate, I understand, is on the adoption of the amendment reported by the chairman of the Military Committee.

The VICE PRESIDENT. On the amendment offered by the Senator from Maine, consisting of four sections.

Mr. HOWE. I have one suggestion to make to the Senator from Maine, if the proposition comes from him; and that is, that in discharging any portion of the cavalry now mustered into the service, or raised for the service of the United States, preference ought to be given to full regiments rather than to parts of regiments. This measure, as I understand it, contemplates the discharge of a portion of our regiments. I do not understand yet how many men we have; it is said we have seventy-seven cavalry regiments.

Mr. WILSON, of Massachusetts. We have sixty-four thousand men in the seventy-seven regiments.

Mr. HOWE. A great many of those regiments are therefore incomplete. We have had three or four different resolutions passed by this body calling on the Secretary of War or on the President, sometimes one and sometimes the other, to inform the Senate what number of cavalry we had raised. I have never yet known of any one of those resolutions being responded to, and I have never known, until I hear it now from the chairman of the Committee on Military Affairs, what was the number of men we had. Some of these regiments are to be disbanded. Many of them are incomplete, are skeleton regiments; others are full regiments. The suggestion I make is that preference should be given to the full regiments; that in all cases the skeleton regiments should be broken up or disbanded in preference to the full regiments. If that suggestion is acceptable to the Senator from Maine or to the chairman of the Committee on Military Affairs, I shall have no opposition to offer to this amendment. It seems to me to be a just and reasonable one.

Mr. GRIMES. I think it will be found there are no skeleton regiments; that they have got the full number of men, but have not got their horses and other equipments.

Mr. DOOLITTLE. We have them in my State.

Mr. GRIMES. My friend from Wisconsin says they have skeleton regiments in his State. I take it, the Wisconsin regiments are all full so far as the number of men is concerned, but are unmounted and unequipped. I know that is the case elsewhere with regiments that are called skeleton regiments.

Mr. HOWE. It is said that we have seventy-seven regiments and sixty-four thousand men, and a full regiment I believe consists of twelve hundred men.

Mr. WILSON, of Massachusetts. Twelve hundred and sixty-eight.

Mr. GRIMES. The Senator is mistaken in that. All of these regiments have not twelve hundred men. The regiments that were formed after a certain date have twelve hundred men, but the five original regular regiments have not twelve hundred men. Only a portion of the volunteer cavalry have that number.

Mr. WILSON, of Massachusetts. Most of them.

Mr. GRIMES. No, sir; a large number have only seven hundred and odd men.

Mr. WILSON, of Massachusetts. General Stoneman told me yesterday that he found nearly all the volunteer cavalry regiments, with the exception of two or three, organized with twelve hundred men.

Mr. GRIMES. Where is his report?

Mr. WILSON, of Massachusetts. That is the statement he made to me. He says there are but two or three regiments that are not organized in that way.

Mr. HOWE. It is very manifest this bill provides for retaining a certain number of regiments at twelve hundred men each. Some of the regiments we have now in the service have twelve hundred men; how many I do not know, and I do not know that any one knows. I only say preference ought to be given to those regiments. If an amendment is now in order to the amendment, I will offer an amendment providing that in all cases of discharge under this bill—without having the bill before me I cannot word it properly—preference should be given to regiments which are now full, and those regiments shall be retained in the service.

The VICE PRESIDENT. The Senator will prepare his amendment in writing.

Mr. FOSTER. I presume if the Senator from Wisconsin reflects a moment, he will see that this had better be left to the Executive. No doubt proper discretion will be used; and they will certainly break up a regiment partially organized, rather than a full one. It is to be presumed they will exercise a proper discretion about it, and we had better leave it to the Executive certainly than to undertake to interfere by legislation. The Senator's suggestions are wise no doubt, but they will occur to the proper authorities.

Mr. WILSON, of Massachusetts. The suggestion of the Senator from Connecticut is certainly a good one, and I hope the Senator from Wisconsin will so regard it. We have seventy-seven regiments, sixty-four thousand men. We propose to make a large reduction. We have a portion of these regiments mounted; others are not mounted. I suppose the Senator does not propose to buy horses to mount regiments. I take it that the Government will arrange this in the best possible manner for force and economy. I think this is an executive matter, and not a matter of legislation.

The VICE PRESIDENT. The morning hour having expired, the special order is now before the Senate.

Mr. FESSENDEN. I move to postpone the special order until we dispose of this bill. I suppose the Senator from Illinois will have no objection to that. It is very important to dispose of the bill.

Mr. BROWNING. If this bill can be disposed of in a short time, and without any protracted discussion, I will yield to that motion; but I do not wish to be postponed another day.

Mr. FESSENDEN. I think it can be disposed of in a short time.

The VICE PRESIDENT. The Senator from Maine moves to postpone the special order for the purpose of continuing this bill.

Mr. FESSENDEN. The Senator from Illinois says he will yield if the bill can be disposed of without any extended discussion. That will depend decidedly on the disposition of Senators.

Mr. HOWE. I am not going to discuss it at any length.

The VICE PRESIDENT. If there is no objection, it will be taken as the sense of the Senate that the special order be postponed temporarily, subject to the call of the Senator from Illinois whenever he insists upon it, and that the consideration of the bill before the Senate be continued. The Chair hears no objection.

Mr. HOWE. I was about to remark I will not detain the Senate even for the time necessary to draw the amendment I suggested. If it is going to be opposed by the Senator from Connecticut and the Senator from Massachusetts, it would be useless for me to draw such an amendment; but the proposition which I suggested seemed so just that I supposed the Senate would recognize it. If they suppose the Executive would, I can see no reason why we should not recognize it; but if the Senate will not, I shall have to rely on the Executive.

The amendment, as amended, was agreed to.

Mr. FESSENDEN. I propose the following as an additional section:

And be it further enacted, That no further enlistments of volunteers shall be made, nor shall the services of any additional number of volunteers be accepted in any branch of the service until the whole number in service shall have been reduced to five hundred thousand, rank and file; and when the whole number in service shall have been so reduced, it shall not afterwards be allowed to exceed that number, any law heretofore passed to the contrary notwithstanding.

Mr. HARRIS. If I understand the provisions of that section upon its reading now, this will be the effect of it: it will call in probably five hundred officers scattered through all the States who are now engaged in filling up regiments.

Mr. WILSON, of Massachusetts. That is the best thing that could be done.

Mr. HARRIS. I only want the Senate to understand it. There is probably not a regiment of volunteers that is now full, probably there is not a regiment of them that has not its officers now out recruiting; and the effect of this section should be understood. It is to call in those officers and leave these regiments without their requisite number. How they are to be filled up, what is to be done, what is to be the arrangement with respect to these five hundred thousand men should be considered before such a proposition as this is adopted here. It is only the beginning of a reform, it seems to me, if it be a reform at all. I think the proposition requires a little consideration in this shape and form.

Mr. FESSENDEN. The simple effect of the amendment is this: at the last session we authorized the raising of five hundred thousand volunteers, rank and file. That was all that Congress intended to authorize, and more than we wanted; quite as many as we wanted, at any rate. We afterwards passed another bill which was not intended at all to increase the number, but to vary the proceedings a little; but by a misconstruction of that bill, the Government has gone on and increased the force from five hundred thousand to between six and seven hundred thousand. If, as the Senator says, there are officers now out recruiting to fill up the regiments and increase the number still more, it is high time that we stopped it; for if we do not, we shall be unable to pay them in the end. This amendment does not reduce the number now actually in service, but provides that it shall not be increased further than it is now, and that no more enlistments shall take place until it is brought down to the original bill. It applies only to the volunteers, and does not affect the regular Army at all.

Now, sir, if Governors of States have sent out volunteer officers recruiting in their different States to fill up regiments and still increase the number larger and larger and larger, it is impossible that this Government should go on and pay them. We may just as well come down, or try to come down, at once to what Congress originally intended, and what everybody admitted were enough in all conscience to raise; and certainly at this time, with present appearances, we do not want to increase our Army. I really hope gentlemen will consider that we must stop somewhere, and not raise these objections to bringing the matter somewhere within reasonable bounds. If men have been recruited, they can be put in any company anywhere to fill it up. They are not raised for any particular company, and if they are wanted in one place they can transfer them. There is no difficulty about that.

Mr. DOOLITTLE. I regret somewhat that the cavalry bill and this enlistment bill should be combined together. The two subjects are entirely distinct; and while I am decidedly anxious to favor the passage of the cavalry bill, I must say I have some very serious objections to some of the provisions of this enlistment bill. I will state one that occurs to me. It provides for the enlistment from the ranks of the volunteer forces now in the service of the United States of men for the regular Army.

Mr. FESSENDEN. The question now is on the amendment I have offered, not on that proposition.

Mr. DOOLITTLE. Perhaps the remarks I am making are premature, but my objection is to the proposition to go right into the ranks of the volunteer regiments with your enlisting officers for the regular Army to enlist men out of their ranks and put them in the regular Army, and give them twenty-five dollars a piece for doing so—paying volunteers to go into the regular Army, and disorganizing them.

Mr. HALE. I concur entirely in the views of the Senator from Maine on the subject of reducing the Army to five hundred thousand; but I think there is more in the objection stated by the Senator from New York than the Senator from Maine seems to give credit for. Suppose one of these regiments gets very much reduced; as, for instance, a regiment of Illinois volunteers at the battle of Fort Donelson it is said lost more than three fourths of their whole number, this amendment of the Senator from Maine, as I understand it, would prevent the regiment from being filled up. Suppose that any of these regiments that are now in the field are reduced by the contingencies of battle or disease below a convenient size? We all know that regiments are best recruited in their own States. Let me take, for instance, one of the regiments of my own State, that I visited on Saturday—the New Hampshire second. They are expecting to move every day; and suppose they move and are reduced by the contingencies of battle or disease three fourths or one half their present number; the first and more natural dictate of the officers would be to send to the State of New Hampshire to fill up that regiment with recruits, and that would not be to increase the Army.

Mr. FESSENDEN. Why would it not?

Mr. HALE. It would be to keep it at what it now is.

Mr. FESSENDEN. That is what we do not want. If we do that, we shall never get it down to five hundred thousand men.

Mr. HALE. If the Senator's amendment were framed so that the regiments should be reduced so as to put the Army on a basis of five hundred thousand, that would accomplish what he desires.

Mr. GRIMES. Or that regiments be disbanded when below that number.

Mr. HALE. Something of that sort; but it strikes me the direction the Senator from Maine gives his reform is not a practical one. Although I should generally rely on the superior wisdom of the Senator from Massachusetts and the Committee on Military Affairs, yet it strikes me there is very much force in the objection of the Senator from New York, and it occurred to me even before he suggested it. I think the amendment is not in the form in which it should be put.

Mr. FESSENDEN. I am very anxious that we should effect something; that we should get one bill through, if we can, and save some money; and if there is to be a discussion on this amendment, as the Senator from Massachusetts tells me there are other bills coming up relating to the Army, with the leave of the Senate I will withdraw this amendment, and propose it on some other bill. I withdraw the amendment.

Mr. WILSON, of Massachusetts. I propose a slight amendment in the eighth line of the first section, to insert before the word "cavalry" the word "engineers;" so that it will read: "engineers, cavalry, artillery, or infantry." I offer this amendment in accordance with a suggestion contained in a note from General Totten, who is very anxious to get some engineer soldiers, and desires that this amendment should be made.

The amendment was agreed to.

The VICE PRESIDENT. When the bill was last up, the Senator from Iowa [Mr. GRIMES] submitted an amendment, to insert the following as an additional section:

And be it further enacted, That the act approved August 5, 1861, entitled "An act supplementary to an act entitled 'An act to increase the present military establishment of the United States,'" approved July 29, 1861, be, and the same is hereby, repealed.

The amendment was agreed to.

Mr. DOOLITTLE. I do not wish to take up time, but I object to that portion of the bill which allows recruiting officers for the regular Army to go into the ranks of the volunteer regiments anywhere in the field and enlist men from under volunteer officers for the regular Army, and give them twenty-five dollars apiece out of the bounty in advance. I think the tendency of that will be to disorganize the volunteer regiments as they exist. I am not in favor of it, and shall simply content myself with voting against the bill with that provision in it.

The bill was reported to the Senate as amended.

Mr. TRUMBULL. It strikes me there is great

force in what was said by the Senator from Wisconsin, and I should be very glad if the chairman of the committee could amend the bill in some way, so as not to have them enlisted without the consent of the officers of the volunteer regiments. I think it will have a very bad effect for recruiting officers to go in among the men. Every man dissatisfied with his commander would enlist in the regular service. The bill authorizes recruiting from any of the volunteer regiments, and pays twenty-five dollars to the recruit in advance. The regular officers will go right in among the volunteer regiments and break them up partially. I think it ought to be guarded in some way; I am not prepared to say how; but it seems to me this is a very serious objection.

Mr. WILSON, of Massachusetts. It is well known there is a popular prejudice in the country against going into the ranks of the regular Army. It is a very foolish and unreasoning prejudice; still it exists. If I were forced to-day to go into the regular Army for five years or into the volunteers for three years, at the same price, I would give the five years of my life to the regular Army rather than the volunteers. Many men, when they are in the service, when they become used to camp life, when they understand this whole matter, when they see the superiority of comfort and discipline and everything that attaches to the regular Army above the volunteers, are anxious to enlist in the regular Army. The result is that at the present time there are men all through your half million of volunteers who are asking to be transferred to the Navy or to the Army. Applications are continually made by these volunteer soldiers to be transferred to the regular Army or to go into the Navy.

Now, sir, we want about fifteen or twenty thousand men to fill up the ranks of the regular Army, and this bill simply proposes to permit those soldiers in your volunteer forces who may desire it to be transferred to the regular Army, or to enlist in the regular Army for three years. I know that there are men in the volunteer forces at the present time who have been asking and seeking for months to go into this force. I do not believe that it will disturb or have the slightest effect upon the volunteer army. The Navy Department has already called for men in the volunteer service to go into the Navy, and they have been sent by the hundred to the gunboats in the West that are winning these battles. They have asked the volunteers to go into the artillery, and the men are anxious to go. Then why should we not permit them to do it? I have not the slightest idea that it will have any deleterious effect on the volunteers to allow a few men to enlist in the regulars, and it will fill up the ranks of your regular Army, your engineers, infantry, and cavalry, the force that ought to be filled up.

Mr. TEN EYCK. I simply ask for information to regulate my vote, if there is so great an anxiety on the part of volunteers to go into the regular Army, where is the propriety of making this appropriation of twenty-five dollars a head in order to induce them to go in, at the very time, too, when we have not the funds to spare? I simply ask the question for information. It strikes me as somewhat pertinent.

Mr. CHANDLER. Is it in order now to move an amendment?

The VICE PRESIDENT. It is.

Mr. CHANDLER. Then I move that the volunteer regiments have the same privilege as the regular Army, and the same bounty.

The VICE PRESIDENT. The question will first be taken on concurring in the amendments made as in Committee of the Whole; and then it will be in order further to amend the bill.

Mr. CHANDLER. I merely wish to say that thus far all the fighting in this war has been done by the volunteer regiments; and I have quite as much faith in their continuing to do the fighting in this war as I have in the regular Army. I object *in toto* to our Michigan regiments being deluded and put into intrenchments to dig dirt instead of going into battle with the bayonet. Sir, up to this day all the fighting in this war has been done by the volunteer regiments—the whole of it. Look at Fort Donelson. There was but one regular officer, I believe, in that fight; there was not a regular soldier there; and yet they fought like veterans. Now, you propose to throw your do-nothing officers among those fighting regiments, and offer a bounty to them to leave their colors. I object to having a recruiting officer from the regular Army enter among the Michigan regiments anywhere. Our men are prepared to fight under their present officers and under their present organization; and I will guaranty, if my amendment carries, that I will get ten recruits from your regular service to enter the volunteers to one that you will get from the volunteers to enter the regular service. Let us have equality at least if you pass this bill, and permit volunteers to recruit in the same way that you permit your regulars.

Mr. WILSON, of Massachusetts. If Senators regard it as an objection that you should hold out an inducement of twenty-five dollars for them to enlist, I am willing, so far as that applies to volunteers, that it should be stricken out, and simply provide that men in the volunteer service may be transferred to the regular service on their own request, or they may enlist for three years. The section of the bill provides that twenty-five dollars shall be given to those who enlist in the regular service who are not now in the volunteer force of the country. I would not stand a mere stickler on that point. My own impression, however, is that the bill, as now prepared, will work good for the country. I have no doubt about it.

Now, sir, a word in regard to your regular Army. We have got but very few regular soldiers. We have some twelve or thirteen thousand men. They are in good condition, and wherever they are placed, I have no doubt, will do their whole duty. I do not think this general bragging about the men of the West or the East or of volunteers or anything else is in good taste. I believe our men will do their duty, whether they be in the regular Army or the volunteers, especially if they are fitted and prepared for their duty.

The VICE PRESIDENT. The question before the Senate is on concurring in the amendments made as in Committee of the Whole.

The amendments were concurred in.

Mr. TEN EYCK. I wish simply to inquire of the chairman of the Committee on Military Affairs whether he will move the amendment he suggested? If he does not, I shall move it.

Mr. WILSON, of Massachusetts. If the Senator thinks anything is to be gained by it, the balance of the section, after the word "enlistment," in the eleventh line, may be stricken out.

The VICE PRESIDENT. Does the Senator submit that motion.

Mr. WILSON, of Massachusetts. Yes, sir.

The VICE PRESIDENT. The words to be stricken out will be read.

The Secretary read them, as follows:

And all such volunteers as may be enlisted in and transferred to the regular service, as herein provided, shall each be entitled, upon such enlistment in and transfer to the regular Army as aforesaid, to receive in advance twenty-five dollars, which shall be taken by them as part of the $100 bounty to which, by law, they would severally be entitled upon the expiration of their respective terms of enlistment.

The amendment was agreed to.

Mr. GRIMES. I doubt very much the propriety of our passing a law here so much calculated to disorganize the volunteer regiments as it seems to me this bill is. I would not object to it so much if it was not for the fact that by this bill we increase the regular cavalry regiments upwards of twelve hundred men and create between thirty and forty new officers in the regular cavalry regiments. They are better paid than our infantry. The idea gets out in a company that it is better for a few men in that company to enlist in one of these regular cavalry regiments. The sentiment spreads through the company, and the first thing we know that company is entirely disorganized and there is not enough men to compose half a company, perhaps not a quarter of a company. As I understand, this is to be followed up by another bill which the Senator from Maine proposes to introduce prohibiting further enlistments into the volunteer Army, and not disbanding such a company as I have alluded to, that is perfectly decimated by enlistments from it into the regular Army, and we have a company that would be utterly worthless. I think the right way to increase our regular Army is to do exactly what the Senator from Maine proposes—to stop enlistments in the volunteers, and then you will find that there will be plenty of men who will be willing to enlist into your regular regiments. That is the way to obtain them, and not encourage the decimation of the volunteers by transference from the volunteers into the regulars.

Mr. WILSON, of Massachusetts. I cannot see why the Senator from Iowa should object to allowing a few hundred men who may desire it—

Mr. GRIMES. Fifteen thousand the Senator told us a while ago.

Mr. WILSON, of Massachusetts. It is not at all probable that the whole fifteen thousand will come from the volunteers, but there are a great many young men in the volunteers who desire to go into the regular service, and especially into the cavalry, engineers, and artillery. We want several hundred men in the cavalry regiments and in our artillery, and General Totten says he wants quite a number of men in the engineers. If you give the men who are in the field, who have become attached to military life, an opportunity to go into the regular service—into the artillery, the cavalry, or the engineers—I think it will be sought for. I know it is sought for now. Then why should we prevent it? I cannot see any reason in it whatever.

Mr. GRIMES. Will the Senator allow me to put this case? There is located, for instance, in this city, a couple of regiments that are commanded by unpopular officers. The soldiers are already enlisted for three years or during the war. That is the same period of time for which we enlist our regular soldiers. Now cannot the Senator conceive of a case where the soldiers of this volunteer regiment, thus commanded by unpopular officers, of whom they want to get rid, would transfer themselves into one of these regular regiments composing a part of this twelve hundred cavalry force, by which they would be paid two dollars a month more than they receive in the regiment in which they now are, and thus leave a broken-up regiment, with plenty of officers for us to pay, but no men for them to command?

Mr. CLARK. There is another point in this bill that ought not to be overlooked. Who will be the soldiers who will enlist from your volunteers into the regular Army? The very men who love the military service, and want to be in it. You will take, then, from the volunteers the very best soldiers in the service, and leave the worthless men among the volunteers. It seems to me it is better to leave these choice soldiers in the volunteer service to act where they enlisted.

There is another point to which I want to call the attention of the Senate. I understand that by a regulation of the War Department, no soldier or officer from the volunteer service can be promoted or appointed to the regular service. They will not allow it to be done. A man may be ever so gallant; he may have fought ever so bravely in a battle, but he cannot be promoted into the regular service.

Mr. FESSENDEN. It has been done.

Mr. CLARK. It has been done; but I understand distinctly from the Secretary of War that it will no longer be done. I was there when a man asked it to be done, and the Secretary of War said he would not do it in any case.

Mr. FESSENDEN. What was the office?

Mr. CLARK. A captain.

Mr. POMEROY. I was there, too.

Mr. CLARK. The Senator from Kansas was there, and standing by my side, and the Senator from Minnesota, [Mr. WILKINSON;] and he said he would not do it in any case; he was opposed to it. I knew that it had been done, and told him so. He said he would do it no longer. Now you propose to take the best soldiers from the volunteers and put them in the regular Army, when you cannot get an officer from the volunteers into the regular Army. The Secretary of War said distinctly, "I will promote them in distinct services;" and why? Because these men who have joined the volunteer corps have entered into a contract which they shall perform; and yet when they want the men they will step in and take them out, and relieve them of the contract; but when you want them to carry out the contract, it binds your men. It seems to me it is fair that it should operate both ways, and if you take the men you should take the meritorious officers as well.

Mr. BROWNING. Have I a right to the floor on the special order?

The VICE PRESIDENT. You have.

Mr. BROWNING. I was very willing to yield for half an hour; but the indications are that the bill will take all day. I do not wish to postpone

the special order any further, and I believe I shall proceed.

Mr. WILSON, of Massachusetts. If we can have a vote on the bill, I know the Senator would be willing to allow it to be taken. If we cannot, I will agree to let it go over.

Mr. BROWNING. Yes, sir; if we can have a vote I will give way.

Mr. CHANDLER. Is an amendment in order now?

The VICE PRESIDENT. It is.

Mr. CHANDLER. Then, in place of the amendment which I proposed, I move to strike out the first section of the bill, which authorizes enlistments from the volunteers into the regular regiments.

The amendment was agreed to.

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

ARMY DIVISION STAFFS.

The VICE PRESIDENT. With the permission of the Senator from Illinois, the Chair will lay before the Senate the action of the House of Representatives on the bill (S. No. 122) providing for the organization of the staff attached to divisions of the Army of the United States and volunteers.

Mr. WILSON, of Massachusetts. We cannot concur in those amendments, I think, and therefore I move that the Senate disagree to them, and ask for a committee of conference.

Mr. FESSENDEN. Oh, no; let it lie on the table for the present.

The VICE PRESIDENT. Does the Senator move to lay the bill on the table?

Mr. FESSENDEN. Yes, sir.

Mr. WILSON, of Massachusetts. Very well.

The motion was agreed to.

PURCHASE OF COIN.

The bill (H. R. No. 341) to authorize the purchase of coin and for other purposes was read twice by its title.

Mr. FESSENDEN. Ordinarily that bill would be referred to the Committee on Finance; but the committee have considered the bill this morning, and in order that it may be considered presently, I move that it be laid aside.

The VICE PRESIDENT. The bill will lie on the table, with the consent of the Senate.

CONFISCATION OF PROPERTY.

The Senate resumed the consideration of the bill (S. No. 151) to confiscate the property and free the slaves of rebels.

Mr. BROWNING. I assume, Mr. President, that the earnest and sincere desire of every Senator is for the speedy and successful termination of the war, the reëstablishment of the authority of the Government, the return of peace, and the return of revolted citizens to their allegiance. In this wish we all agree. And however much we may differ in opinion and action, still, whatever we do, is done because we believe it will be promotive of these ends. I also assume that in the prosecution of these ends we all wish to keep within the limits of the Constitution, and conform to its requirements, and preserve it in all its parts unimpaired, for our security and protection now and hereafter, and for the benefit of our posterity forever. We will have prosecuted the war to a melancholy end if its result shall be only to re-establish authority over the revolted States, and overthrow the Constitution. Unless we can save the Constitution with the Union we had better let them both go.

All the calamities that the rebel States are now enduring, all the disasters and miseries which have crowded upon them in one brief year, are the legitimate fruits of their disregard of the Constitution, and an attempt to govern in violation of its provisions. If they had adhered to its principles and abided by its provisions, peace, prosperity, and good and equal government would have blessed their land to-day as they had blessed it from the hour the Constitution was adopted. There is danger in departing from it; and no necessity which has yet arisen can justify us in doing so. Every object we have in view can be better attained by keeping within its limitations than by overstepping them.

I concede, as has been claimed by Senators who have preceded me in this debate, that the bill under consideration exceeds in the importance of the principles which it involves, and the magnitude and difficulty of the subjects with which it deals, any which has been before us during the present session.

Its constitutionality is questioned. The power to pass bills of attainder is expressly prohibited to Congress by the Constitution, and I believe it is not denied that this is a bill of attainder within the meaning of the Constitution. How then, if it be so, can we constitutionally pass it?

I understand the honorable Senator from Maine to derive the power not from the Constitution, but from the existing state of war. Or, to state the proposition in his own language, "the general and ordinary powers of Government, under the Constitution, are applicable to the nation in a state of peace; and yet, as clearly, the Constitution contemplates the exercise of powers and the performance of duties peculiar to a state of war," &c.

The truth of this proposition, as thus stated, I am not unwilling to concede, while I controvert the deductions which the Senator has thought proper to make from it.

The powers of the *Government* are unquestionably enlarged by a state of war; that is, the Government may lawfully and constitutionally exercise powers in a state of war which it cannot in a state of peace; powers which are in entire harmony with the Constitution, but which lie dormant during peace, and are vivified and brought into exercise and constitutionally asserted only in a state of war.

But is Congress the Government? Do these extraordinary powers belong to Congress; and may Congress exercise them at all either in peace or war? I think not. All the powers which Congress possesses are those which are granted by the Constitution, and they are the same yesterday and to-day and forever. They do not change, expand, and contract with the uncertain and ever fluctuating tide of human affairs. With all possible respect for the Senator's learning and ability I may be permitted to suggest that the infirmity of his argument is to be found in his distribution of the powers of Government, a distribution, in my judgment, directly in the teeth of the Constitution. Says the honorable Senator:

"There is no limit on the power of Congress; but it is invested with the absolute powers of war. The civil functions of Government are, for the time being, in abeyance when in conflict, and all State and national authority subordinated to the extreme authority of Congress, as the supreme power in the peril of external or internal hostilities. The ordinary provisions of the Constitution, peculiar to a state of peace, and all laws and municipal regulations must yield to the force of martial law, as resolved by Congress."

There, sir, is as broad and deep a foundation for absolute despotism as was ever laid. In a time of war, and especially in a time of domestic war, when the restraints and protection of the Constitution are more than at any other time needed to check and control inflamed passions, and protect minorities from the oppression and tyranny of excited majorities, life, liberty, property, all are to be held at the will and caprice of Congress, without limitation, or restraint of any kind or character upon its power. If these extreme war powers be prostituted to the purposes of tyranny and oppression by the President, to whom the Constitution has intrusted them, when peace returns he is answerable to the civil power for that abuse. If Congress usurps and prostitutes them, the liberty of the citizen is overthrown, and he is hopelessly without remedy for his grievances. The Constitution was not constructed upon a sliding scale; and I know of no single act which Congress may constitutionally do in time of war that it may not, in equal accord with the Constitution, do in time of peace.

The extraordinary powers which the Government may exercise in time of war, but the assertion of which is denied to it in peace, are war powers, vested in and to be wielded by that part of the visible organism which represents the sovereignty of the Government in the actual and potential conduct and prosecution of war—and that is not Congress. Congress can no more command the Army, or interfere with the command of it when in the field, than it can adjudicate a case at law or control the decision of a court.

The functions of Congress are civil and legislative only. It can exercise no war powers, properly so called. They belong to another department of Government. This question has been considered and I think fully passed upon by the supreme judicial department of this Government, and I pause long enough to invite the attention of the Senate to a very brief consideration of two adjudicated cases pertinent to this discussion. The first is the case of Luther *vs.* Borden, *et al.*, (7 Howard, pp. 43 to 46,) and grew out of the difficulties in Rhode Island some years ago. The Supreme Court, in the consideration of that case, said:

"After the President [not Congress] has acted and called out the militia, is a circuit court of the United States authorized to inquire whether his decision was right? Could the court, while the parties were actually contending in arms for the possession of the Government, call witnesses before it, and inquire which party represented a majority of the people? If it could, then it would become the duty of the court (provided it came to the conclusion that the President had decided incorrectly) to discharge those who were arrested or detained by the troops in the service of the United States or the Government which the President was endeavoring to maintain." * * * * * * * *

"It is said that this power [the war power] in the President is dangerous to liberty, and may be abused. All power may be abused, if placed in unworthy hands. But it would be difficult, we think, to point out any other hands in which this power would be more safe, and at the same time equally effectual. When citizens of the same State are in arms against each other, and the constituted authorities unable to execute the laws, the interposition of the United States must be prompt or it is of little value. The ordinary course of proceedings in courts of justice would be utterly unfit for the crisis."

Mark this:

"And the elevated office of the President, chosen as he is by the people of the United States, and the high responsibility he could not fail to feel when acting in a case of so much moment, appear to furnish as strong safeguards against a willful abuse of power as human prudence and foresight could well provide. At all events, it is conferred upon him by the Constitution and laws of the United States, and must therefore be respected and enforced in its judicial tribunals."

Again, the court say:

"A question very similar to this arose in the case of Martin *vs.* Mott, (12 Wheat., 29–31.) The first clause of the first section of the act of February 28, 1795, of which we have been speaking, authorizes the President to call out the militia to repel invasion. It is the second clause in the same section which authorizes the call to suppress an insurrection against a State government. The power given to the President in each case is the same, with this difference only, that it cannot be exercised by him in the latter case, except upon the application of the Legislature or Executive of the State."

That is in case of a State insurrection.

"The case above mentioned arose out of a call made by the President, by virtue of the power conferred by the first clause; and the court said that, 'whenever a statute gives a discretionary power to any person to be exercised by him upon his own opinion of certain facts, it is a sound rule of construction that the statute constitutes him the sole and exclusive judge of the existence of those facts.' The grounds upon which that opinion is maintained are set forth in the report, and we think are conclusive. The same principle applies to the case now before the court."

I invite the attention of Senators to the statement of the court in harmony with what I have already stated:

"Undoubtedly, if the President, in exercising this power, shall fall into error, or invade the rights of the people of the State, it would be in the power of Congress to apply the proper remedy. But the courts must administer the law as they find it."

But, sir, if Congress, on the contrary, should assume the exercise of war powers, should usurp them, and should use them for the purposes of tyranny, there is absolutely no remedy to be found anywhere. The court, in the consideration of the Rhode Island case, continues:

"It was a state of war, and the established Government resorted to the rights and usages of war to maintain itself, and to overcome the unlawful opposition. And in that state of things the officers engaged in its military service might lawfully arrest any one, who, from the information before them, they had reasonable grounds to believe was engaged in the insurrection; and might order a house to be forcibly entered and searched, when there were reasonable grounds for supposing he might be there concealed. Without the power to do this, martial law and the military array of the Government would be mere parade, and rather encourage attack than repel it. No more force, however, can be used than is necessary to accomplish the object. And if the power is exercised for the purposes of oppression, or any injury willfully done to person or property, the party by whom or by whose orders it is committed, would undoubtedly be answerable."

That is one case, and I turn for a single moment to the other. The other is the case of Cross *et al. vs.* Harrison, (16 Howard, 190,) and grew out of a very peculiar and extraordinary state of things. I think as early as 1846, California or the port of San Francisco had been conquered by the arms of the United States. Shortly afterward we had military possession of all Upper California, but we had no power to legislate for it. Congress could not touch it. Congress had no jurisdiction, no right to exercise or to assert any authority of any

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. TUESDAY, MARCH 11, 1862. NEW SERIES.....No. 72.

kind or character over it; but there was a government established by that portion of the United States Government which had a right to exercise authority in such cases, and the court say:

"Early in 1847, the President"—

not Congress, but the President—

"Early in 1847, the President, as constitutional Commander-in-Chief of the Army and Navy, authorized the military and naval commander of our forces in California to exercise the belligerent rights of a conqueror and to form a civil government for the conquered country, and to impose duties on imports and tonnage as military contributions for the support of the government, and of the army which had the conquest in possession."

That power was exercised by the President, where the war power abides, and where the Constitution has placed it; and Congress neither had authority nor attempted to exercise authority to legislate for California; and the government thus instituted under the war power vested in the President continued its existence and exercised its functions long after California had been ceded to this country by Mexico, before it was superseded by any government established by the action of Congress. I read these cases for the purpose of calling attention to the fact, which I think cannot be controverted as a legal proposition, that the war-executing powers are vested in the President, in the executive department of the Government, and Congress has no more right to touch them or exercise them than it has to usurp and exercise the judicial functions of the Government.

But the honorable Senator from Maine makes a further derivation of power to pass the bill under consideration from that clause of the Constitution which authorizes Congress to "make rules concerning captures on land and water." But the Senator overlooks the fact, and an important one, that the bill does not relate to captures. If it did, if it had regard to captures either on land or water, or both, I am sure he would not contend that it would not be as competent for Congress to pass it in a time of profound peace as amid the clash of resounding arms. But it relates exclusively to property not captured, and which it presupposes is not to be captured, for if the capture were once effected then the bill would be wholly unnecessary; for the very act of capture of belligerent property subject to capture *eo instanti* transmutes the title from the overpowered enemy to the conquering captor, and neither a bill of pains and penalties, nor the sentence or decree of a court, is necessary to change the property.

But, as remarked, this bill has no reference whatever to captured property, but to that which neither has been nor is expected to be captured. Nor is it restricted to property which, by its character or uses, is adapted to aid the rebellion, but strikes at all the property of every kind and character of all the citizens of the seceded States with scarcely an exception. It sweeps away everything, even the most ordinary comforts and necessaries of domestic life, and reduces all to absolute poverty and nakedness. It leaves them the *ownership* of nothing, and when executed will leave them the *possession* and enjoyment of nothing. If the bill is constitutional, the instant it passes millions of people in the private walks of life will be stripped of the *ownership* of everything, and the moment the strong arm of power can reach them to execute the law, will also be stripped of the *possession* of everything. They may repent of their past rebellion and return to their allegiance the next day or the next month, but they return bankrupts and beggars, with nothing on earth to make government desirable.

But if this bill passes would they return? What possible inducement would they have to do so? What could they hope or expect from a Government which had shown itself so stern and remorseless in the execution of vengeance, not upon the guilty few, whose vaulting ambition conceived the treason and hatched the rebellion, but upon the deluded masses, who are fitter subjects of commiseration than of vengeance? The sure and certain effect of this bill would be to make peace and reunion an impossible thing. It would fill the hearts of the entire people with despair, and nerve their arms with the energy and desperation which despair inspires. It would turn to the blackness of night the last glimmering hope of future fraternity between now alienated and exasperated brethren.

Mr. President, we have the power to suppress this rebellion, and we will suppress it. Day by day our Army is advancing further and further into the revolted States, and gladdening the hearts of misguided and repentant citizens by unfurling again to their gaze the loved old banner of their fathers.

Our brethren of the South—for I am willing yet to call them brethren; my heart yet yearns towards them with a fervency of love which even their treason has not all extinguished, and which tempts me constantly to say in their behalf, "Father, forgive them, for they know not what they do"—our brethren of the South are as keenly alive as we are to the inevitable issue of this war. They see and appreciate the magnitude of our power, and the inflexible determination of the Government to vindicate its authority. They know the hour is near when the rebellion will take its place among the things that were, and when all that will be left of it in the present will be its blackened track—the dreary and desolate homes of its deluded and unhappy victims. They are already beginning to shape their conduct to a condition of things which they cannot possibly avert. They are already preparing to come back to the embrace and protection of the Union; and if we deal with them justly, I cannot think the day far distant when we will again be a united and harmonious people.

A simple statement of the case will, I think, demonstrate our want of power to legislate as proposed. If we recognize the existing state of things as war, then we must also recognize the rebels as public enemies, and deal with them according to the rules of war established by the laws of nations, which we cannot change. We must deal with them precisely as we would deal with a foreign nation with which we were at war. And if at war with a foreign nation, the law of nations would forbid us to pass a law to confiscate the property of the private citizens of that nation, or even to plunder them when our victorious army had invaded their country. I think it will not be contended that we could do either. Our Constitution, I concede, would not restrain us. We would be restrained by the law of nations. We could confiscate all the property which we captured during the progress of the war; but we would do it under the war power, and not by legislation.

If we do not recognize the rebellion as war and the rebels as public enemies, but as insurgent citizens only, and deal with them and treat them as citizens, then we cannot pass the law proposed, because the Constitution forbids the enactment of bills of attainder, and this is, in the meaning of the Constitution, a bill of attainder.

When our arms have triumphed and the rebellion is suppressed and the rebels reduced to obedience, the Government will be restored to its authority over them as citizens, and may pass laws of amnesty, embracing all or any part of them, or elect to treat them as traitors, and indict, convict, and punish them for treason. But this must be done in accordance with constitutional provisions and guarantees, and within constitutional limitations; and we could not even then, in the case of a convicted traitor, confiscate to the extent proposed by this bill.

Thus, Mr. President, whether we regard the rebels as public enemies with whom we are at war, or only as insurgent citizens, we are, in either case, without power to pass the bill under consideration. But in renouncing this power of legislation we renounce no power necessary to the defense of the Government and the maintenance of its authority—the suppression of the rebellion and the condign punishment of the traitors. The powers of the Government for these purposes are ample and plenary, as I trust to be able to show. But they are war powers, and not powers of legislation. The inexpediency of this bill is as manifest as its unconstitutionality. Let it pass, and its provisions be heralded in advance of the army as it marches South, and what other effect can it have than to consolidate the entire people for one last despairing struggle against those whom they might then justly regard as enemies and oppressors instead of friends and benefactors? What possible inducement could they have to prefer submission to death? For one, I do not wish to waste the fortunes and devastate the homes of all. Leave something to make the guardianship of Government and the protection of law desirable. Surely it is most desirable, if we can, to win back our erring brethren to their allegiance to and love for the good old Government of our fathers; and if we cannot do this, the success of our effort to put down the rebellion will be almost as disastrous as failure.

A vast majority of those acting against us have been constrained by circumstances which, without their agency, have been made to surround them, and by a reign of terror which they could not resist. For the great masses of the people, many of whom have been deluded, and many deprived of all freedom of action, I am ready for one, when the appropriate time comes, to unite in passing an act of amnesty, which, instantly upon their return to their allegiance, and submission to the authority of the Government, shall remit them to their former rights of person and property, and give them full protection for both. But it is altogether different in regard to the fomenters and leaders of the rebellion.

The annals of human guilt and depravity furnish no instance of so stupendous and atrocious a political crime as this rebellion. The laws recognize no punishment commensurate to the offense. The severest penalties the law inflicts are far short of the enormity of the guilt of the bad, base men whose machinations have brought upon the land the terrible plagues which afflict it. For them I have no word of mercy. If we ever get them they should expiate their guilt upon the gallows.

But, Mr, President, it is not my intention to dwell upon the details of the bill; and having expressed my opinion in general terms both of its constitutionality and expediency, I proceed to submit some views upon the subject which, in my opinion, has caused the war, and is now causing many of the embarrassments which surround our legislation.

I believe, sir, that slavery is the sole, original cause of the present unhappy condition of affairs; that is, I believe that without slavery there would have been no treason, no conspiracy, no rebellion, no war. And I believe further that it is slavery alone which maintains and continues the war. If by some exertion of divine power, some miracle—for nothing less could accomplish it—slavery could be blotted from the American continent, this war could not last thirty days longer, and all the Powers of earth could not prevent the speedy reunion of these now disrupted States.

A large majority of the people of the free States of this Union believe as I do; and so believing, many of them, good and patriotic people, are anxious that the war shall be made the occasion of wiping slavery out. Suggestions are often made that it is the duty of the President to proclaim universal emancipation to the slaves; and many worthy citizens who would not knowingly infract the Constitution—the only safeguard of our freedom—believe that he possesses the power to do so. Your table is crowded with petitions calling on Congress, under the war power, to pass laws for the emancipation of all slaves; and I presume that I am not mistaken in supposing that this bill is intended as the first step towards compliance with this demand.

I think a bill so sweeping in its provisions would not be urged except for the wish that it may reach and dispose of the species of property to which I have referred. The petitioners must believe that Congress possesses some power of legislation now that it did not possess before the war began, and that the rebellion has, in some way, enlarged and amplified the powers of Congress. The able and distinguished Senator from Maine seems to enter-

tain the same opinion. I confess, sir, that I do not comprehend it. All the power of legislation that Congress possesses is derived from the Constitution, granted by the Constitution, and the power of emancipating slaves is not included. However much I may desire to see the last vestige of slavery disappear from the continent of America, I can do nothing to accomplish that end which is prohibited by the Constitution which I have solemnly sworn to support.

To ask the President to proclaim emancipation to the slaves, is to ask him to usurp a power which, in the existing state of things, he does not possess. To ask Congress to do it, is to assume that Congress may, and is willing to, disregard all constitutional guarantees, and transcend all constitutional limitations. A state of war does not justify the civil power in abrogating constitutions, nor in violating the rights of person or property. The right to life, liberty, and the pursuit of happiness, is as inalienable in the citizen in time of war as in time of peace; and the tenure by which he holds his property is the same, and as inviolable by the civil authority amid domestic commotions as in the hour of greatest tranquillity and prosperity. It ought to be practically as well as theoretically true that a Government neither can nor will do a wrong. Its duties to its loyal citizens remain unchanged, and their rights of person and property are, in these turbulent times, as effectually under the panoply of the Constitution as they were before treason engendered conspiracy, and conspiracy culminated in rebellion.

In regard to those in arms against the Government, the primary effect of the war is to extinguish all intercourse and to place the belligerents in the condition of enemies, and the Constitution and municipal laws have nothing to do with our dealing with them. But a proclamation, as a law, intended to emancipate the slaves of those who have committed no offense against the Government, and when no overmastering public necessity exists for so radical a measure, would be manifestly unjust and indefensible. It would be confounding loyalty and treason, and inflicting a punishment which ought to be visited upon crime alone, where no crime exists. If directed against the rebels it would be little more than a bravado, for however much we may declare by proclamation or resolution or statute that their property shall be confiscated, no confiscation will ensue until we can actually seize the property and enforce the penalty; and when we are in a condition to do that, neither proclamation nor law of Congress nor resolution will be necessary. Confiscation will be as well accomplished without them as with them, and, in any event, they would be meaningless and inoperative. They are not necessary to give the *right* to despoil armed rebels of their property. That right already exists, and they will add nothing to the power of enforcing the right. If we have not the strength and material ability, which are the things needed, mere paper manifestoes will not give them.

And when another class of persons ask Congress to interpose in an especial manner for the benefit of slavery, and to make the war a war for its protection, above and beyond the protection given to other interests, they, too, ask what ought not to be granted, and what there is no power in the Government to grant. We are here for no such purpose. The Army is marshaled upon hostile fields for no such purpose. It is for no such purpose, but for a far higher, nobler, and more patriotic one, we are giving millions of treasure, sacrificing thousands of lives, and enduring many heavy burdens not easy to be borne. If slavery can stand the shock of war and survive, be it so. If in the conflict for liberty, the Constitution, and the Union, it must necessarily perish, then let it perish. Whether its fate will be the one or the other, I will not now undertake to predict. If it lives *with* the country and the Constitution, all loyal men will accord it the same rights hereafter to which it was entitled heretofore. If it dies *for* the country and the Constitution, no patriot tongue will complain, no patriot heart will grieve.

Agriculture, manufactures, commerce, lands and tenements, goods and chattels, the implements of industry, and the products of industry, every branch of trade, and every species of property, are common to all the States, and to the people of all the States, saving and excepting slavery alone. That alone is anomalous; that alone is local; finding its sanction, the charter of its existence, in local laws only, and circumscribed to a local habitation. It does not acknowledge itself amenable to the Constitution and laws of the General Government. They cannot regulate or control, modify or abolish it. Its condition is fixed by the laws of its domicil, and whatever that condition is the laws of Congress cannot change it. They claim no power over it in the States where it exists. In times of peace it is independent and defiant of national legislation. Let it maintain its independence now if it can; but it has no right to come to the national Legislature and demand especial interposition in its behalf, and ask that especial privileges and protection may be accorded to it. We have neither right nor power to grant such demand. It is not our mission to take care of slavery, but of the country. Let us take care of the Army; let the Army take care of rebels and traitors, and let slavery take care of itself. This is not a war for the abolition or extirpation of slavery on the one hand, nor for its preservation, maintenance, and perpetuation on the other; but for the suppression of rebellion, the punishment of treason, the preservation of the Union, the maintenance of the Constitution, and the restoration of the just authority of the Government over all its territory and all its people.

In the conduct of the war slaves stand to us in the relation of property, and to be dealt with as other property; if belonging to loyal citizens, to be respected by the Army, and protected by the laws; if belonging to rebels, and coming within the grasp of the Army, to be seized and confiscated and applied to our own uses in the best way in which they can be applied to weaken the enemy and to strengthen ourselves. But it is not the business of the Army to catch and return slaves even for loyal citizens. That is no part of the war power. Our free and gallant soldiers are not to be put to such base uses. A general has no more right to detail a soldier or permit a soldier to run down, catch, and return a stray negro, than he has to detail one to run down, catch, and return a stray horse, ox, or a pig. The loyal owner, in either case, has a right to go and take his property wherever he can find it, and the Army should interpose no obstacle in his way. Neither should it turn aside from its high and important duties to the country to give him aid. If he needs assistance he must apply to the civil power. The law makes ample provision. Would the commanding officers of the soldiers of Kentucky consent that their brave followers, who have volunteered their services, who are giving their treasures, and offering their lives in fighting the battles of freedom for our beloved country, should, in the face of the enemy, be turned away from their noble and heroic work, and debased to hunting and returning stray horses, mules, and cattle for the people of Illinois? Never, sir; never. They would break their swords, and trample upon their epaulets, before permitting the gallant men they commanded to be used for such ignoble work. Nor, sir, will I ever consent that the equally gallant and patriotic sons of Illinois shall be mustered into the service of the United States to become negro-hunters for any one.

But let me not be misunderstood. I concede the right, to the fullest possible extent, of every loyal citizen to the same protection from the Constitution and laws for his slave property now that he had before this rebellion broke out. The General Government possesses no more power now, and claims no more power now, to emancipate the slaves of loyal citizens than it did before the rebellion began, unless it shall become an inexorable necessity to do so for the success of the great cause in which we are engaged, and on which the very life of the nation depends. Then, and in that event, it would possess and might exercise the power as a war power, over slave property as over all other property of all citizens, to take it and destroy it, or use it in any way which the extremity of the Government might make necessary and indispensable for the suppression of the rebellion, the maintenance of the Union, and the reëstablishment of the authority of the Constitution and laws. But in all such cases it would be both the duty and the pleasure of the Government to make just and fair compensation to the owner, whatever the property was, whether negroes, horses, cattle, goods, and chattels, or any other thing over which man may have dominion, and of which he may be the owner.

The main object of the war is to put down rebellion and uphold the Government, and all individual interests, whatever they are, are subordinate to this great object, and must yield, for the time being, to the necessities which it imposes.

Does any one doubt either the power or the duty of a commanding general to seize the horses and cattle of loyal citizens, to burn or demolish the houses and devastate the fields of loyal citizens, if these acts become indispensable to the success of our arms, to prevent defeat or secure victory? Only in case of dire extremity may this be done, but when that extremity comes it *must* be done. And is there anything more sacred about slave property than other property? Is there anything so sacred as to exalt it above the preservation of the Constitution and the Union? anything so sacred as to make its preservation the primary object of the war, and the preservation of the Union and the Constitution only secondary and subordinate? No, sir; let the reëstablishment and maintenance of the Government be the first, the grand, and central object, and all other things secondary and subservient. Guard, protect, and defend the rights, and all the rights, of person and property compatible with the success of the great cause, but if they stand in the way of success they must be thrust out of the way, and if the negro stands in the way of success, he, too, must be pushed aside.

True, loyal-hearted men are willing to, and do, give up all their individual interests and pursuits and contribute with open and unstinting hand the accumulations of the industry and frugality of their best years to promote the welfare and secure the triumph of the holy cause in which we are embarked; and shall the negro be withheld when he becomes necessary to the same end? Nay, more: they give their lives. Our brethren of Kentucky, Tennessee, and other slave States, stand front to front with the rebel foe, bare their breasts to the messengers of death, and bleed their lives away upon the gory and ensanguined field to uphold the venerated banner under whose folds our fathers fought, and save it from dishonor by traitor hands. Shall the vital drops that gush with the patriot heart's last pulsation be freely given, and the negro only withheld? Is he more precious than the life's best blood of husband, father, son, and brother? Can these all be immolated without a murmur in a cause that *must* be *holy* to claim such sacrifices; and can the heroic heart that, without grudging, can make these sacrifices hesitate and falter and tremble and "start like a guilty thing upon a fearful summons," when the hand is outstretched towards the negro to sacrifice him in the same holy cause? Is he more than the moans and sighs of widows and orphans that fill the air, and their hot tears that bedew their pillows and their hearthstones? Is he more than our homes, filled with slaughter, and smoking and smouldering in ruin around us? More than overthrown temples and desecrated altars? For all these things we give and bear with a fervency and fortitude that would have done honor to the noblest Roman of Rome's most glorious day. And shall we start back affrighted and aghast only when the hand is uplifted to strike the fetters from the slaves who give to rebels and traitors their strength?

No, Mr. President; no! I will do our patriot brethren of the slave States no such cruel wrong as to believe it possible that they will, with sublime heroism sacrifice home and family and friends and fortune and all that is dear and precious to human affection; all that sanctifies the memories of the past, and gilds the hopes of the future in this sacred cause; and lose all the nobleness and manhood and the dignity and glory of patriotism, to retain, amid the death-throes of the country, a clutch upon slavery. It is not so; it is not so. In the name and for the honor of my native land, whose past history is radiant with the evidences of her devotion to freedom and to constitutional government, and with deeds of romantic daring in defense of human rights; in the name of the land whose green pastures and stately forests I first beheld; whose atmosphere I first breathed; endeared to me by the most cherished memories of childhood and youth and early manhood, and sanctified by the graves of my loved ones, I protest that it is not so. No, sir; it is not so. When the hour and the necessity come for choosing between the unity and glory of the country and the suppression of rebellion and the honor of our flag

on the one hand, and a dissevered country, dishonored flag, and slavery on the other, the choice will be made in behalf of the country with a sublimity of patriotism and a heroic sacrifice of individual and local interests, and cherished opinions and prejudices worthy of the sons and daughters of immortal sires.

But let us not force this necessity upon them. If it *must* come they will submit to it—hard as it may be they will submit to it. Let us do all we can to ward it off. Let us deal with them kindly and generously, as well as justly, and show them by our deeds that our words of loyalty to the Constitution with all its compromises, are not vain, hollow, and deceitful. Let us give to them, in person and property, the same measure of protection that we claim for ourselves, and show them that we love the country and venerate the Constitution more than we hate and detest their local domestic institution; and then both they and we will meet and bear together the necessities that are born in this dark hour of national travail, whatever they may be. They will ask nothing more. Or, if they do ask more, and prove false to their past history and to the high and noble love of liberty and free constitutional Government by which I suppose them to be actuated—if they do ask more, and demonstrate that they are fighting for slavery first, and for the country only as an instrument to uphold it; that slavery and not the Union and the Constitution is their war cry and their inspiration—then, sir, for one, I am ready to wage upon slavery a war of total and utter extermination; for there is nothing on this earth, no tie of friendship, kindred, or nativity; no individual interest of father or mother, sister or brother; no prejudice of early education, however inveterate; no strong affection of maturer years, however hallowed; nor love, nor hate, nor memory of the past, nor expectation of the future, that *shall stand* between me and my loyalty to this blessed but bleeding land, and my efforts to save it from overthrow and ruin.

I am willing to believe, and do believe, that true-hearted men in the slave States have embarked in the war with equal earnestness, and bring to the cause equal devotion with ourselves, and that they are fighting for law and liberty, the Constitution, and the Union, for the great interests of mankind, and not simply for an individual interest of their own; and I am also willing to believe that they will, with us, accept and bear all the necessities which the war imposes, whatever they may be; and if, in its fiery and impetuous course, as it surges from State to State, slavery shall be necessarily and inevitably swept before it, and a tradition only of the institution be left behind, their patriotism and loyalty will bear even that. But to be borne and submitted to, it must come as an inevitable and inexorable necessity, and not be of purpose contrived and forced upon them by us. On the contrary, it is our duty to do all we can, consistently with the higher and nobler object of saving the country, to obviate the necessity, and give protection even to this description of property, and save it from destruction, just as it is their duty to do all in their power consistent with the primary and grand object of the war, to guard and protect our rights, and save our property from destruction. And if, when the storm is past and the war is ended, and peace smiles again upon the land, and the national flag floats again over the soil and in the breeze of every State, there shall be one slave, the property of a loyal citizen, found remaining in any of the States, the right of that loyal citizen to that slave will be as inviolable then, and as far beyond the reach and power of the Federal Government as it was before the war began; and the General Government will have no power to interfere with the title by which he is held; no power to emancipate him, or to fetter and limit the master's control over him, but must leave that question where the Constitution left it—with the State government. That alone will have adequate power to act. The General Government will have none, and will neither claim nor usurp it. The very best thing for us to do now while the war rages, and the best thing for us to do when it is ended, will be to deal fairly and justly with all, and to award to all the full measure of protection for both person and property, secured and guarantied by the Constitution and laws, to the full extent of our ability to do so.

These, sir, are my views of the principles which should govern us, and of the measures that should be adopted in the treatment of slaves owned by loyal citizens. To enforce these principles, and execute these measures, no legislation is necessary. The laws are now ample for these ends. Our duties and the rights of others are alike well understood. Legislation cannot make them plainer, cannot add to them additional force; but will only tend to complicate, embarrass, and bewilder. Let us then forbear, and instead of seeking to establish new rules, instead of searching after new definitions and interpretations of rights and duties, let us abide by the old, confident of their efficacy, if adhered to, to work out a solution of all the seeming difficulties which encompass this question.

But the property of rebels, including their slave property, as well as the property of loyalists is to be dealt with; and I proceed briefly to inquire whether any legislation in regard to that is necessary, or whether the whole subject cannot be better managed by the rules of law now existing than by any new ones we can enact. In what I say upon this subject I wish it understood that I have reference to movable property only, and not to real estate. In regard to lands and tenements it may be that a different rule should be applied, and a different course of procedure adopted; but as it respects movable property and our power over it and treatment of it, the law as it now stands is equal to any emergency which may arise—is plain, simple, and easy of application

I pass by all refinements and speculations as to the name or term that shall be used to designate the existing state of things. Call it treasonable insurrection, call it rebellion if you will; it is both, but it is nevertheless war—real, actual, present war to all intents and purposes; and we are entitled to claim and exercise all the war powers and belligerent rights which arise out of and pertain to a state of war. The so-called confederate States, and all who acknowledge allegiance to them, or take part with them, are public enemies. They are at war with the United States, and all the usual concomitants of war attend the conflict. Men taken in battle are held as prisoners; flags of truce pass between the hostile lines; intercourse is interdicted between certain States and parts of States; seaports are formally blockaded, and prisoners of war are exchanged; and all the incidents which usually attend what is technically called a solemn war are present in this; and all the laws of war apply, and all belligerent rights attach. What are these laws of war, and these belligerent rights?

By a state of war that of society between the belligerents is suspended. The rebel States by making war upon the United States have, for the time being, dissolved the state of society which previously existed between them; and they are no longer entitled to invoke the protection of the Constitution and laws which they have repudiated and are endeavoring to destroy. The state of war in which they have put themselves, and which it was in their own power to prevent, permits of itself every method of recognized warfare which can be used against them to subdue them, so that *they* have no reason to complain whatever we do. By the laws of war already existing, and undoubted, and universally acknowledged by civilized nations, we have the belligerent right to seize all the property of those who are in arms against the Government, or aiding, assisting, and encouraging those in arms, which comes within our grasp, and by the seizure of which an advantage directly accrues to ourselves, or the power of the enemy to do us injury is weakened or diminished. "By the law of nations not only he that makes war for a just reason, but also every man in a just war, acquires a property in what he takes from the enemy, and that without rule or measure, at least as to the external effects with which the right of property is accompanied; that is to say, neutral nations ought to regard the two parties at war as lawful proprietors of what they can take from each other by force of arms, the state of neutrality not permitting them to espouse either side." "And with respect to movable effects, as they may be easily transferred by commerce into the hands of the subjects of a neutral State, often without their knowing that they were taken in war, the tranquillity of nations, the good of commerce, and even the state of neutrality require that they should ever be reputed lawful prize," and that the right of property should vest in the captor.

The principles of law, thus stated, declare the rights which war gives over the effects of an enemy, taken in a solemn war, declared in form between two States always distinct. But precisely the same principles and rules which apply to and govern what are technically called *solemn wars*, are applicable to civil war, and they embrace all persons who take part in the war against the Government, whether the State where the hostile act is performed has formally thrown off the authority of the general Government or not. When a State is actually divided into two distinct and independent bodies, warring upon each other, they have no more right, as between each other, to claim the protection of the Constitution and laws of the former Government than the citizens of a foreign State at war with us would have a right to claim such protection. The laws of civil society, that is, municipal laws and constitutions, as regulating intercourse between the parties and settling their mutual and relative rights of person and property, are dissolved, and the only rights as between them which can be insisted upon are belligerent rights; and one of these is the right to take, confiscate, appropriate, and dispose of, as we please, absolutely and forever, all the movable property of every kind and character belonging to the enemy individually and collectively, which has any relation to the end of the war, and which tends to our advantage by strengthening us or by weakening the enemy, and diminishing his ability to carry on the war and do us injury.

The exercise of this belligerent power, the assertion of this belligerent right of seizure and confiscation, in no sense and to no extent endangers the liberty of the citizen; nor is there the least occasion for alarm in that regard. It deals with public enemies only. It does not touch the loyal citizen nor his rights of person or property, nor at all intermeddle with the relations between him and his Government, nor fix nor attempt to fix rules of property between the citizen and Government or between citizen and citizen, but is limited, in the class of persons upon whom it operates, to public enemies. The exercise of this power is not usurpation, but is fully warranted by the laws of war, which antedate constitutions, and is in entire harmony with all the principles of international political law. It is a high, important, and valuable power, which the Government cannot afford to surrender, and without the exercise of which this war can never be brought to a successful termination.

I do not speak this in reference to slaves alone, but to all property. Can the war be prosecuted upon the understanding that all the property captured from the enemy is to be held for restoration to former owners when the war is over? If a general, in the progress of the war, needs the horses or the negroes of a loyal citizen for public use, he may take them, but must make compensation for them, or restore them when the necessity has passed, making compensation for their use. But if he captures horses from those in arms against the Government, from public enemies, are they not at his absolute disposal? May he not use them, sell them, destroy them, or turn them loose upon the desert, according to the exigencies of the case, without accountability to those of whom they were captured? And if he may turn loose horses, why may he not negroes? They both stand to us in the relation of property of the enemy, which we may lawfully take, either to weaken him or strengthen ourselves. And if we have no right or power to take the negro, neither have we right or power to touch or take any other description of property belonging to the enemy. Will any one pretend that if the horses and cattle of the enemy come within our lines, we should drive or send them back to strengthen him, and to be used by him in waging war upon us? And if not horses and cattle, why drive or send back negroes, which will strengthen him to a much greater extent, and be far more valuable as a means and material of war? The consequences of such a policy will be, that while the enemy acts upon the laws of war, and plunders us, and confiscates all our property that he can reach, and despoils, cripples, and weakens us, our hands will be so tied as to disable us from touching anything that is his; or if we touch it at all, touch it only to return it.

I repeat, Mr. President, that so valuable, so indispensable and vital a belligerent right ought not to be surrendered nor even suspended.

Let all our generals, everywhere, understand that it is their duty to act upon it, and that they are expected to perform that duty. No legislation is necessary to this end. Without an actual and existing state of war no legislation could create or authorize the exercise of this power, and when war begins the right and power both begin with it. They spring out of the war, and are incident to it, and do not wait for legislation to bring them into existence. They are of the very essence of the war power, and, as already remarked, they existed prior to the Constitution, and independent of the Constitution and the laws enacted by legislative bodies. They inhere in, pertain to, and spring out of a state of war. They are a part of the constitution of nations, and no war ever was or ever will be prosecuted without their practical assertion.

I have always supposed the object and purpose of war to be to kill, destroy, and spoil the enemy in person and property to the full extent that was necessary to subdue him and attain the end for which the war was undertaken. Where, sir, will you find in our Constitution or statute laws any authority for our soldiers to kill and slay in battle? Yet who doubts the power, the right, and the duty to do so? War without the purpose, intention, and effort to do so, would be but a magnificent farce. It would be a misnomer to call it war. It is equally a misnomer to call that war where the great object of solicitude with one belligerent is to save and protect the material of war of the other from damage and destruction. The term war, *ex vi termini*, means violent, crushing death and destruction; and when before in the history of nations did a people with six hundred thousand men in the field, eager and panting for the fray, and the life of the nation in peril so imminent that nothing but a successful blow struck in its defense could save it from death; when before, I ask, did a people, under such circumstances, ever pause upon the eve of battle to inquire whether, if the blow were struck, the opposing hostile hosts might not suffer by the loss or destruction of property, and quibble upon the absence of written laws and constitutions to justify the act? Such authority—the authority of written constitutions and laws—is no more necessary to vindicate the seizure and confiscation of enemy's property than it is necessary to vindicate the slaying of enemies themselves. Both powers pertain to a state of war, independent of constitutions, and the only inquiry which we need make is, whether the Constitution imposes any limitations or restrictions upon their exercise, or whether our statute laws at all modify the laws of war in this regard, or deny to us, in actual war, the assertion and benefit of any of our belligerent rights. The statutes, I believe, are silent on the subject, and the only limitation which the Constitution imposes upon the exercise of any war power is that contained in the third article of the amendments to the Constitution, which provides that—

"No soldier shall, in time of peace, be quartered in any house, without the consent of the owner, *nor in time of war, but in a manner to be prescribed by law.*"

Is not the implication, from this provision, as strong as it can well be made, that but for the restriction thus imposed, soldiers might, by virtue of the war power, in time of actual war, be quartered in any house in any manner which the commanding general might see fit to direct? Is it not a distinct recognition of the fact that all preëxisting war powers continued to exist, notwithstanding the Constitution, only in so far as they were modified by this clause of the Constitution? But even this is not a limitation of belligerent rights. Belligerent rights are those which grow out of the war, and which regulate the dealings of the belligerents with each other, and with neutrals; but have no relation to the dealings of the belligerent Governments with their own citizens or subjects. War powers and belligerent rights are by no means synonymous.

The clause of the Constitution above quoted does not impair, diminish, modify, or restrict any belligerent right. It does put a limitation upon a war power, but does so for the benefit and protection of our own citizens, and out of no tenderness to public enemies, and with no purpose of protecting their persons or property, or guarding their interests from injury. It will save us some trouble and perplexity to remember that the Constitution was made for our own citizens, and not for public enemies; for those who recognize the Government as one to which they owe allegiance, and from which they have a right, therefore, to demand protection, not for those who have renounced their fealty, repudiated the Government, declared themselves its public enemies, and made war upon its people. Allegiance and protection are correlatives, and when the one is renounced the other is forfeited; and I never hear, without surprise, arguments drawn from our treatment of public enemies, and the confiscation of their property, to prove against the Government, or any of the officers or agents of the Government, infractions of the Constitution. It is from a total misapprehension of the subject that such reasoning proceeds. They are matters with which the Constitution has nothing to do. They are altogether extra-constitutional, and the error comes of confounding things which, in their nature, are totally distinct and separate—municipal constitutions and laws, war powers, and belligerent rights. Let them be kept distinct and separate, separately considered, and separately and appropriately applied, and the momentous questions upon us will be disembarrassed of many of their seeming difficulties.

The problem, "what shall we do with the slaves during the progress of the war?" although intricate and oppressive, is not beyond the reach of a just and satisfactory solution. If loyal men will be content to claim only that to which they are justly entitled, and accord to all others that to which *they* are entitled, the way before us will be plain and simple, and the problem will work itself out to a result which will be acquiesced in and submitted to, if not entirely satisfactory to all.

I am anxious to make myself understood on these questions, and will, therefore, recapitulate, in as distinct and compact a form as I can, my views.

I say, then, Mr. President, that the war which has been forced upon us is for the suppression of the rebellion, the punishment of treason, and the preservation of the Union and the Constitution; and it is the duty of the Government to use all lawful and constitutional means within its power and under its control of every kind and character to accomplish these ends; to do everything that can be done to weaken the cause and diminish the means of the rebels; to give protection to the persons and the property of every description of loyal citizens, and to strengthen the cause and increase the means of the Government for the vigorous and successful prosecution and speedy termination of the war.

Loyal citizens are now as fully entitled to the benefits, protection, and guarantees of the Constitution and laws for their persons, and for their property of every kind, including slaves, as they have been at any time since the adoption of the Constitution, and will be so entitled after the termination of the war as they were before its commencement. The General Government does not claim the power, nor will it attempt to exercise it, of changing the tenure by which loyal citizens hold their property; but it has the right to take any or all the property of any citizen, when the exigencies of the war make it necessary for the success of the war and the suppression of the rebellion; but in all cases where the property of a loyal citizen is taken, or necessarily lost to him, or destroyed in the prosecution of the war, just and reasonable compensation ought to be made therefor.

The Government has the right and power, and ought to exercise them, to seize and confiscate all the property, of every character, including slaves, of those in armed rebellion against the Government, or who may give aid and comfort to those in arms, so far as such property may come within the reach of our Army, and so far as its seizure and confiscation may have any relation to the end and object of the war, and may tend to cripple and subdue the enemy or strengthen us, and promote the success of our arms; and it is the duty of the Government to exercise this right, and to apply such property to the uses to which it is best adapted to aid in the successful prosecution of the war, in defraying its expenses and lightening its burdens on loyal citizens.

To accomplish this, neither legislation nor adjudication is necessary. The power is a war power—the right is a belligerent right. These principles are as applicable to slaves as to other property, and no officer should be permitted to use the forces under his command in repelling fugitives from the lines, or in arresting and returning them to rebel masters; but they should be received, and used in whatever way they could be made most available and efficient in the prosecution of the war; and if any come, whose services cannot be made available, let them pass through the lines and shift for themselves. The Army is not bound to take care of them, and cannot have them as camp followers, to be provided for at the expense of the Government. All who can be advantageously used should be used. Let them do the drudgery and labor which would otherwise devolve on our soldiers. Let them open roads, build bridges, dig ditches and trenches, erect fortifications, and do labor of every kind which may be needed by a large army; and if need be to save the Government from overthrow, the country from ruin, and our homes from desolation, let them be formed into companies and regiments, and drilled and disciplined and armed, to take their chances for wounds and death in the front of battle.

Let no one be startled from his propriety by this declaration. I do not make it rashly, but have considered it well, and comprehend its full import. I would not do it now. The necessity has not yet arisen. It may never come. I trust in God it will not; but if it does, I, for one, am prepared to meet it. But I would not do it now, because it is not now demanded by the stress of the war, and because the measure itself, however urgent and overmastering the necessity may be, will still be distasteful, if not offensive, to our friends in the slave States; and I would do nothing that was not justified by the most powerful and cogent reasons, that was offensive to them. Their situation is peculiar, delicate, and embarrassing; and I appreciate the difficulties that surround them, and am unwilling, if it can be avoided, to add to the distress of their position. I want their free, hearty, and zealous coöperation, and am willing to make sacrifices to secure it; and if our acts prove the full sincerity of our words in the recognition of their rights in this unexampled and distressing emergency, I cannot doubt that they will go with us to the extremity I have suggested, when events shall have developed its justice, its humanity, and its necessity. A distinguished British statesman in a recent speech, delivered at a time when good men of both countries were oppressed with painful apprehensions of an approaching collision between these kindred nations; when bad men hoped for the collision, and rash men were making it possible; breasting the storm of passion that raged around him, and intent upon preserving the peace of the world and cementing the brotherhood of nations, and speaking with the strength and power which truth and conscious rectitude give, said of America:

"Eighty-five years ago, about the time when some of our oldest townsmen were very little children, there were on the North American continent colonies mainly of Englishmen, containing about three millions of souls. Those colonies we have seen a year ago constitute the United States of North America, and comprising a population of not less than thirty millions of souls. We know that in agriculture and in manufactures, with the exception of this kingdom, there is no country in the world which may be placed in advance with regard to those arts of the United States. With regard to inventions, I believe within the last thirty years we have received more useful inventions from the United States than we have received from all the countries of Europe. In that country there are probably ten times as many miles of telegraph as there are in this country. There are at least five or six times as many miles of railways. The tonnage of that nation, of its shipping, is at least equal to ours, if it does not exceed ours. The prisons of that country—for even in countries the most favored, so far, prisons are needful—the prisons of that country have been models for the other nations of Europe; and many European nations and Governments have sent commissions beyond the Atlantic to inquire into the admirable systems of education established universally in their free schools throughout the free and northern States. If I were to speak of them in a religious aspect, I should say that, within that period of time to which their short history goes back, there is nothing on the face of the earth, and never has been besides, to equal the magnificent arrangement of churches and ministers, and of all the appliances which are thought necessary for a nation to teach morality and Christianity to the people. Besides all this, when I state that for many years past the annual public expenditure of the Government of that country has been somewhere between ten and fifteen millions, I need not perhaps say further; that there has existed in that country, among all the people, an amount of comfort and prosperity, of abounding plenty, such as I believe no other country in the world in any age has displayed."

True, just, generous, and noble words, worthy of a Christian statesman. He might have

added that she had been an asylum, not only for Britain's suffering children, but for the poor and down-trodden of all the nations of earth, and that here alone, since creation's dawn, had been realized the sublime spectacle of the practical fraternity of the human family. He might have added that we were feeding and clothing and humanizing and Christianizing and giving homes and happiness to millions, of all kindreds and tongues and peoples, who had never known these blessings of civilization before; and that here all were equal before the law. That come from what benighted or what hostile shore they might, here they were all Americans, entitled to and enjoying the protection of the most beneficent Government the wisdom of man had ever devised. Of this great country, this beneficent Government, the rebel States were a part. They shared all its benefits and all its glory; and no people on earth were ever in the fuller fruition of all the *possible* blessings of good government. No conceivable change could have improved their condition.

But notwithstanding all this, incited by hatred of free institutions and of the free people of the North; by lust of power and dominion; by cupidity, which fattened upon the unrewarded labor of others; to gratify their own selfish aims and their bad ambition, and reckless of the peace of the world and of the happiness of all others but themselves, and utterly regardless of the wretchedness and woe and death and desolation which war would bring, they conspired to tear down this Government and drive the plowshare of ruin over this fair country. They robbed the Treasury, they robbed the custom-houses, they robbed the arsenals and armories, corrupted the officers of the Army and Navy, and precipitated upon us all the miseries of war which now afflict us. And this is the people against whom we are not to arm the free colored men of the land when that shall be the last resort to prevent the full accomplishment of their diabolical schemes. Against us they have armed the Indians, have armed the negroes, and are using all the bad power they possess to arm Europe. They *may* succeed. I trust they will not. I trust the wiser and more humane and Christian counsels of the great and good man from whose grand speech I have quoted may prevail. But if they do succeed, then the necessity to which I refer will have come.

Two governments cannot exist where before there was but one, and permanently to separate the two sections of this country will only be to intensify and perpetuate the war. Two governments, with thousands of miles of coterminous territory, separated only by imaginary lines, cannot exist together here. Natural causes are against it, and domestic, commercial, and political reasons are all against it. All the Powers of earth could not keep the peace between them. And, whenever the confederate States shall be recognized as one of the family of nations, the struggle with us becomes a struggle for our own throats. Our only alternatives will be to subjugate or be subjugated, to exterminate or be exterminated. The responsibility of this condition of things is not with us. To escape it we abased ourselves for years; but abasement was met only by new exactions, and increased insolence and arrogance. The free States with their industry, thrift, and prosperity, and ample means and appliances of domestic comfort, have for years been to the rebel States the Mordecai in the gate. They have erected a gallows for *us*—we should drag *treason* to it. And when, to the unholy alliance of traitors, rebels, Indians, and negroes, now warring upon us, there shall be added the hireling bands of the haters of freedom in Europe, it will be stupid and preposterous in us to refuse to avail ourselves of the strength which fugitives from their hated fellowship may bring us. We will then be fighting not only for national existence, but for our individual lives, and the lives of our wives and children; and it would be both wicked and treasonable to refuse to arm fugitives, but to drive them back to be armed against us, as they have been and will be as fast as they are driven back. And why should we hesitate? Can or will any one give a satisfactory reason why, when the necessity arises, we should hesitate to arm and discipline the colored race for the defense of the country, the quelling of rebellion, and the crushing of treason? If the object of war really be, as I have always supposed it to be, to kill and destroy, until the enemy is so weakened and subdued as to give security against further injury from his hostility, and make the object of the war attainable, is it any worse to kill that enemy with a musket in the hands of a black than in the hands of a white man? Or is it any worse to expose the lives of the black men of the country to the perils of battle than it is to expose the lives of our sons, brothers, and friends to the same peril?

I would do nothing, Mr. President, to incite to servile insurrection. On the contrary, I would exert all the power I possessed, which could be exerted with safety to our cause, to save even the traitors of the South from the horrors of a servile war; but when slaves and aboriginal savages of the country are both armed to aid in the overthrow of the Government, I can, if a strong necessity comes, have no puerile and fantastic scruples against arming fugitives in defense of the Government, and subjecting them to the discipline and control of our officers, by whom their conduct can be regulated and their ferocity restrained. So far from having a tendency to stir up servile insurrection, this will, on the contrary, be the very best, if not the only protection we can give to the women and children of the rebel States against the frightful scenes of carnage and conflagration which may otherwise sweep them from the earth.

Whenever our armies march, as they must march, and, I trust, will soon march, into the insurgent States, the slaves will flock to our standard. This has been already demonstrated. It will continue to be so, and to a far greater extent than has yet occurred. Let them be repulsed, let them be driven back at the point of the bayonet, to a detested bondage to traitors, and one of two things will inevitably follow: they will either be armed and marched against us, or the pent-up hate and revenge which have been engendered and intensified by centuries of servitude, towards those whom they regard, whether justly or not, as their oppressors, will burst like volcanic fire among defenseless women and children, and make one vast, wild waste, red with blood and black with fire, of the land that has been their prison-house, that has resounded with their groans, been watered with their tears, and heard their whispered prayers for deliverance. Let us not drive them back to strengthen the army or to devastate the homes of the enemy, thus adding the horrors of servile to the horrors of fraternal war, but avail ourselves of the strength they bring us, and keep them where we can restrain their passions, control their actions, and imbue them with something of the dignity of freedom and the charities of civilization. It will be mercy and humanity to both races to do so.

I know, sir, there are those whose sensibilities are shocked at the idea of the *Government* accepting the armed assistance of the colored race, but who have never a word of reprobation for the rebel chivalry, whose boast it is to lead them to the battle-field against the freemen of the North. They are willing that traitors shall slay our soldiers with every weapon and by every instrumentality accessible to their use. That is all right; but we must fight them in kid gloves, and if even by accident we knock a traitor down, we must wait till he gets up, and call to time before we strike again. I am tired, sir, of this war on one side. I am tired of using our free, gallant-hearted young men of the North for the base purpose of holding negroes for rebels while rebels overthrow the hopes of mankind. If it is *war*, let it be war in earnest. Let it be quick, fierce, and terrible. It is both mercy and economy to make it so. I cannot consent that any local domestic institution shall be exalted above the Union and the Constitution, or stand in the way of their full and complete vindication. If slavery can survive the conflict, be it so; but as slaveholders lit the torch of civil war, if slavery suffers in the effort to extinguish the flame, why let it suffer. All other interests of every section of the country and every class of citizens suffer likewise. Why should slavery alone claim and enjoy exemption? I am tired, sir, of half-way measures. Injurious and damaging to any enterprise, they are fatal to war, and never have failed, and never will fail, to bring disaster, defeat, and disgrace upon the men who may be so imbecile as to attempt to apply them to war.

One of the most acute and intelligent observers and vigorous thinkers of the present century, in a review of Hallam's Constitutional History, takes occasion to comment upon a revolution which, more than two centuries ago, brought to the block a tyrant whose oppressions could not break the spirit of the English people. In discussing the progress of the war between the king and Parliament, he says:

"The two Houses, it must be acknowledged, committed great errors in the conduct of the war, or rather one great error which brought their affairs into a condition requiring the most perilous expedients. The parliamentary leaders, of what may be called the first generation, Essex, Manchester, Northumberland, Hollis, even Pym—all the most eminent men, in short, Hampden excepted, were inclined to *half measures*. They dreaded a decisive victory almost as much as a decisive overthrow." * * * *

"The war was, therefore, conducted in a languid and inefficient manner. A resolute leader might have brought it to a close in a month. At the end of three campaigns, however, the event was still dubious; and that it had not been decidedly unfavorable to the cause of liberty, was principally owing to the skill and energy which the more violent Roundheads had displayed in subordinate situations. The conduct of Fairfax and Cromwell at Marston had exhibited a remarkable contrast to that of Essex at Edgehill, and Waller at Lansdown.

"If there be any truth established by the universal experience of nations, it is this: that to carry the spirit of peace into war is a weak and cruel policy. The time of negotiation is the time for deliberation and delay. But when an extreme case calls for that remedy, which is in its own nature most violent, and which, in such cases, is a remedy only because it is violent, it is idle to think of mitigating and diluting. Languid war can do nothing which negotiation or submission will not do better; and to act on any other principle is not to save blood and money, but to squander them. This the parliamentary leaders found. The third year of hostilities was drawing to a close, and they had not conquered the king. They had not obtained even those advantages which they had expected from a policy obviously erroneous in a military point of view. They had wished to husband their resources. They now found that, in enterprises like theirs, parsimony is the worst profusion. They had hoped to effect a reconciliation. The event taught them that the best way to conciliate is to bring the work of destruction to a speedy termination. By their moderation many lives and much property had been wasted. The angry passions which, if the contest had been short, would have died away almost as soon as they appeared, had fixed themselves in the form of deep and lasting hatred. A military caste had grown up. Those who had been induced to take up arms by the patriotic feelings of citizens, had begun to entertain the professional feelings of soldiers. Above all, the leaders of the party had forfeited its confidence. If they had, by their valor and abilities, gained a complete victory, their influence might have been sufficient to prevent their associates from abusing it. It was now necessary to choose more resolute and uncompromising commanders."

Let us be admonished by the teachings of history, and learn wisdom from the lessons of past ages. Let us cease the folly of attempting to conduct the war upon peace principles. Economy and humanity alike demand increased vigor and energy. Mercy, herself, pleads for more resolute and uncompromising measures. Let our blows be quick and powerful. Let the contest be fierce and brief.

If we are fighting for the Union and the Constitution—to uphold a once glorious and beneficent Government—to save from ruin this asylum for the oppressed of all earth's groaning nations—to beat back approaching barbarism and despotism, and advance the banner of liberty and learning and civilization and Christianity yet further and higher, and display its radiance before all the earth, let us fight like men in earnest, in so holy a cause. If, on the contrary, we are fighting only to protect the institution of human slavery from sustaining damage by the conflagration which the most atrocious and stupendous treason the world ever saw has kindled—if we are fighting only to rivet more firmly the fetters of to-day, and to forge new ones for to-morrow—if the preservation of slavery, and not the preservation of the Government, is the great end and object of the war, then let us disband our armies, break our swords, abase our souls, and cease the wicked and unholy strife.

Mr. CARLILE. Mr. President, if it is the pleasure of the Senate to go on now——

Mr. WILSON, of Massachusetts. Let us postpone the bill until to-morrow.

Mr. CARLILE. I have no objection, provided I shall be entitled to the floor at one o'clock to-morrow.

Mr. WILSON, of Massachusetts. This question will go over to one o'clock to-morrow.

Mr. CARLILE. Does the Senator desire to have this subject pass by for the evening?

Mr. WILSON, of Massachusetts. Yes, sir; I should like to have it go over until to-morrow at one or two o'clock.

Mr. CARLILE. If it is desirable I will go on this evening. I do not wish to interfere with any

business the Senate may have to-morrow, and I am prepared to go on now.

Mr. WILSON, of Massachusetts. I move that the further consideration of this bill be postponed until to-morrow at one o'clock.

Mr. CARLILE. With the understanding that I shall be entitled to the floor then.

Mr. WILSON, of Massachusetts. Yes, sir.

Mr. ANTHONY and others. It would be better to say two o'clock to-morrow.

Mr. WILSON, of Massachusetts. Two o'clock is suggested.

The motion to postpone was agreed to.

SUCCESSES OF OUR ARMS.

Mr. GRIMES, during the delivery of Mr. BROWNING's speech, obtained permission to read the following:

NAVY DEPARTMENT, *March* 10.

Hon. Mr. GRIMES:

Nothing further from Hampton Roads. Just received the following from Dupont's last expedition:

BALTIMORE, *March* 10.

To Hon. GIDEON WELLES, *Secretary of the Navy:*

I arrived this morning, and will come on in the next (four o'clock) train. The enemy has abandoned his heavy fortifications at St. Simon's and Brunswick, Georgia. Fort Clinch and Fernandina and St. Mary's, Florida, are ours.

C. H. DAVIS,
Captain United States Navy.

Z. B. CAVERLY.

Mr. SUMNER. I ask a favor of the Senate to take up a little bill which will take only five minutes, in which I know the Senator from Vermont [Mr. COLLAMER] feels an interest; the bill for the relief of Caverly. I want to have the Senate do an act of charity and of justice at the same time.

The PRESIDING OFFICER. Will the Senator indicate the bill?

Mr. SUMNER. It is the bill from the House of Representatives, No. 284.

Mr. McDOUGALL. What is the bill?

Mr. SUMNER. A bill for the relief of Mr. Caverly, late secretary of legation in Peru.

Mr. COLLAMER. He is a poor and sick man.

Mr. SUMNER. I have a letter from his physician, which makes an appeal to me for action upon it.

The motion was agreed to; and the bill (H. R. No. 284) for the relief of Z. B. Caverly, late secretary of legation at Lima, Peru, was considered as in Committee of the Whole. It provides for the payment to Z. B. Caverly, for his services and expenses as special messenger from Lima to Washington in 1859, 1860, and 1861, of $1,988, that being the amount of his per diem and expenses, after deducting therefrom his salary for the time of such service as secretary of legation.

Mr. SHERMAN. I ask for the reading of the report.

The Secretary read the report of the Committee on Foreign Affairs of the House of Representatives. It appears that Mr. Caverly, while acting as secretary of legation at Lima, was required by the minister, Mr. Clay, his superior, to proceed to Washington, and lay before the Department of State the pending difficulties then (July, 1859) threatening to disturb the amicable relations of the two Governments. He went to Washington, attended to the business as bearer of dispatches, and gave the condition of affairs to the Department in such a way and with such authenticity and correctness as no one but himself or the minister could do, and returned to Lima October 26, 1859, being gone three months. The difficulties still remaining unsettled, he was again required, on account of his peculiar fitness, not only as a bearer of dispatches, but because he was most cognizant of the affairs pending, to return to Washington in the same capacity. He left Lima again December 27, 1859, and remained at the instance of the Department, and for their service and information, until April 1, 1861—four hundred and fifty-nine days; and during this time, although temporarily absent at intervals by their permission, yet subject to and answering the call of the Department until he was dismissed by the appointment of a new secretary of legation. If he had not been secretary of legation, he would be legally entitled, without further action of Congress, to pay as bearer of dispatches at the rate of six dollars per day and expenses.

It was not in his power, although secretary, to refuse to obey the request of the minister, who, for the best reasons, dispatched him to Washington. He was of the more service as bearer of dispatches, because he was thoroughly informed of the affairs out of which the difficulties grew; and in equity, he would be entitled as well to his salary as secretary as to his per diem and expenses as bearer of dispatches. He received his salary as secretary, because he needed the "ready money" to live upon during his stay at Washington and in the United States; but it also appears that he paid over all his salary to a substitute to Lima subsequently, relying upon the Government to pay him as bearer of dispatches only. The Government would have paid him in the latter capacity but for the technical rules of settlement, as the Secretary of State says in his letter of the 31st July, 1860, in consequence of his drawing his salary as secretary of legation, which connection he had no power to dissolve except by resignation. The Secretary of State regrets this decision, inasmuch as Mr. Caverly was bound to obey the instructions of the minister, and because he is satisfied that the decision of Mr. Caverly, in obeying his superior, "was the result of very proper and honorable motives." Mr. Clay (as appears by his dispatch of November 10, 1859,) regarded Mr. Caverly's presence in Washington as indispensable. Caverly provided a substitute, to whom he paid an amount equal to the whole of his salary. He was serving the country in two capacities in effect, and should be paid at least for one; and that the one he asks pay for is the one in which he performed the actual service, at the same time using his information, ability, and experience as secretary, for the benefit of the country here, where it was, in the opinion of the Secretary of State and Mr. Clay, indispensable. The committee, on these facts, report a bill to pay Mr. Caverly his per diem and expenses as special messenger, after deducting his salary as secretary of legation, being the sum of $1,988.

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

SURRENDER OF FUGITIVE SLAVES.

Mr. WILSON, of Massachusetts. I move now to take up the bill from the House of Representatives to make an additional article of war.

The motion was agreed to; and the consideration of the bill (H. R. No. 299) to make an additional article of war was resumed as in Committee of the Whole.

Mr. DAVIS. I move to amend the bill by inserting after the word "due," in the eleventh line of the first section, the words "and also from detaining, harboring, or concealing any such fugitives;" so that the proposed article will read:

All officers or persons in the military or naval service of the United States are prohibited from employing any of the forces under their respective commands, for the purpose of returning fugitives from service or labor who may have escaped from any persons whom such service or labor is claimed to be due, and also from detaining, harboring, or concealing any such fugitive.

I ask for the yeas and nays on the amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 10, nays 29; as follows:

YEAS—Messrs. Bayard, Carlile, Davis, Henderson, Latham, McDougall, Powell, Rice, Saulsbury, and Wilson of Missouri—10.

NAYS—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Cowan, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Howard, Howe, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Sherman, Sumner, Ten Eyck, Trumbull, Wade, Wilson of Massachusetts, and Wright—29.

So the amendment was rejected.

Mr. SAULSBURY. I offer the following amendment, to come in as a proviso at the end of the first section:

Provided, That this article shall not apply in the States of Delaware, Maryland, Missouri, and Kentucky, nor elsewhere where the Federal authority is recognized or can be enforced.

I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 7, nays 30; as follows:

YEAS—Messrs. Bayard, Carlile, Latham, McDougall, Powell, Saulsbury, and Wilson of Missouri—7.

NAYS—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Cowan, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Henderson, Howard, Howe, King, Lane of Indiana, Lane of Kansas, Pomeroy, Sherman, Sumner, Ten Eyck, Trumbull, Wade, Wilson of Massachusetts, and Wright—30.

So the amendment was rejected.

The bill was reported to the Senate without amendment.

Mr. CARLILE. I wish to make an inquiry of the patron of this bill. The President under his proclamation in April, among other things, called for the services of the militia to aid him in the execution of the laws. One of the laws upon our statute-book is for the return of fugitive slaves. If the President shall find it necessary to call upon the military power of the country to enable him to discharge his sworn duty in this respect—for he swears, as I understand, when he enters upon the duties of his office, to see that the laws are faithfully executed—I desire to know if this bill will not interfere with that in this particular, and what effect this bill would have upon any military authorities of the country who should obey the call?

Mr. WILSON, of Massachusetts. I suppose the Senator from Virginia clearly understands this matter. The case he supposes, if I understand it, would be a case where the authorities would call out the military for the purpose of enforcing the decision of the judicial tribunals—mere civil process. The return of fugitive slaves is a civil question, a judicial one, not a military one.

Mr. CARLILE. Then I am to understand that this will not interfere with that?

Mr. McDOUGALL. I should like to have the bill read for the information of the Senate. I have not heard it read.

The Secretary read the bill.

Mr. COLLAMER. I think the last section of the bill ought to be stricken out. It does not mean anything. Of course the act will take effect from its passage.

Mr. WILSON, of Massachusetts. But if we amend it, it will have to go back to the House of Representatives. It is a House bill.

Mr. McDOUGALL. I move to strike out that section.

The PRESIDING OFFICER, (Mr. FOOT in the chair.) The words proposed to be stricken out will be read.

The Secretary read, as follows:

SEC. 2. *And be it further enacted*, That this act shall take effect from and after its passage.

Mr. McDOUGALL. If I understand the proposed legislation correctly, it is simply to inhibit the officers in the field from being agents in and about this business of returning fugitives—prohibits them from engaging in it. I do not understand it to impair or affect that provision of the Constitution, and the laws under the Constitution, which make it the duty of any person having custody or possession of a fugitive from service or labor, to surrender him up on the claim of the loyal owner. It is, I understand, a mere measure to prevent the interference of the Army in these matters. As such, I am prepared to vote for it; but in voting for it, I wish to say here that I understand it to be simply a provision to prevent the interference of Army officers in this matter, not impairing the obligation on the part of an Army officer as well as a private citizen to surrender a fugitive from service or labor under the Constitution and laws of the United States.

Mr. CARLILE. Mr. President, I have no feeling other than a proper one in regard to this proposition; and I do not intend to detain the Senate longer than a moment. They will see that I have no disposition to make any factious opposition to the passage of the bill. I know Senators desire that nothing shall be done that will throw the slightest obstacle in the way of the accomplishment of the great purpose we all have of restoring the Union. Now, I put this question to the Senator from Massachusetts: the Senator from Tennessee, our associate upon this floor, has been recently appointed a brigadier general, and has gone to his own State to discharge his new duties in his military capacity, and is expected, I presume, also to do all that he can to effect the great purpose had in view as a civilian. Now, suppose General Johnson shall be called upon to return to a loyal citizen of his State a fugitive slave, would you not by this bill, however much he might esteem the act as one going to aid in the accomplishment of the purpose had in view by his appointment, put it out of his power to do it; and would he not be subject to the penalty provided in this act if he did it?

The amendment was rejected.

Mr. SAULSBURY. I move to amend the bill by inserting after the word "due," in the eleventh line of the first section, the words, "or for the purpose of enticing or decoying such persons held

to service or labor from the service of their loyal masters." I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. ANTHONY. I would inquire if officers of the Army and all other persons are not already prohibited from enticing or decoying slaves?

Mr. HOWARD. They are by heavy penalties.

Mr. SAULSBURY. If a person exercising military authority comes to my State, where there is no opposition to Federal authority and no disposition to manifest opposition to Federal authority, where the Federal laws are in full exercise, where nobody is offering them resistance, and my slave escapes, you prohibit the Federal officer from returning him to me. I want under such circumstances the same act to say that neither your Federal officer, nor any person exercising power or authority under you, shall entice or decoy my slave away from me, or shall entice or decoy the slave of any loyal citizen of my State, or any other State, from the service of his master. If you say you intend to keep your Army aloof from this question, but you do not intend that they shall return fugitive slaves, then all I ask of you is, that when they come into a loyal community it shall not be lawful for them, nor for any person acting under Federal authority, to entice or decoy my slave or the slave of my constituents away. That is the object of the amendment—nothing more, nothing less.

Mr. HOWARD. If he did I suppose he would simply make himself liable to the severe and almost inhuman penalties of the fugitive slave law of 1850.

Mr. SHERMAN. The laws of the State would operate also.

Mr. HOWARD. And he would be subject also to the penalty prescribed by the law of the State where he is. I understand this bill as simply prohibiting military men from disgracing the uniform they wear, by engaging in the business of slave-catching and delivering slaves to their owners—a disreputable business—in which no gentleman, North or South, military or civil, I undertake to say, will willingly engage.

Mr. SAULSBURY. Upon that question, there certainly as we all know is great difference of opinion in the country. This amendment of mine does give some protection to the citizens of Maryland and the citizens of Delaware and elsewhere. Suppose your Army goes into my State, suppose it goes into the State of Maryland, into the lower counties of the State of Maryland where it has recently been, and suppose slaves are enticed away, as I am informed they have been, by persons pretending to be soldiers of the United States, I want your law to say that the person who engages in such a disreputable work as that, who will entice my slave or the slave of one of my constituents away, shall be dismissed from your service. When you say that if my slave goes where he is, he shall not return him, I want you to say also that he shall not be the means of depriving me of my slave.

Mr. ANTHONY. In voting against this amendment, which I shall do, I certainly do not wish it to be understood that I would vote to give any officer the right to entice a slave from a loyal master; but I understand that the law already prohibits it; it is already an offense, and we are only reënacting another law.

Mr. McDOUGALL. What the Senator from Rhode Island says is true; but the law passed by Congress, making it penal to entice away a person held to service or labor, is not an article of war, and there is a vast difference between the laws on our statute-books which have to be enforced through the courts of justice and the ministers of the established law, and that martial authority which controls armed men in the field. Here it is proposed by military law—the canons of military authority—to say that officers of the Army shall not interfere in the matter of the return of fugitives by employing or directing their subordinates, officers or men, to engage in that business, which is no office of theirs by law, imposed upon them by no law, would be a mere volunteer act on their part under any circumstances, except where they had the particular personal custody of the person held to service, and hence would be bound, under the Constitution, to render him up on demand. When we legislate against interference for the return, would it not be well to say that as you shall not employ your forces for the return of fugitives, they shall not be employed in intermeddling with the rights of those who hold these persons to service or labor? It looks to me like justice and measuring out equity and constitutional provisions with even hand. I have heard, as the Senator from Delaware has said, that persons connected with the Army in Maryland and Delaware and in this District have been busy going about and saying to servants held to service or labor by law, that they were no longer bound to render service, and have been disturbing the interests and rights of those States. I can see some justice and reason in this request, and as we say they shall not meddle in favor of the master, so I think it but justice to say that they shall not intermeddle with the relations between the master and his servants, particularly in those States where mischief may result, as I have been informed it is resulting here in these two States and in the District. If we mean to live up to our constitutional obligations, let us live fully up to them. I can see no mischief in the amendment suggested by the Senator from Delaware, and I think it is placing the whole question upon its fair ground.

The question being taken by yeas and nays, resulted—yeas 10, nays 29; as follows:

YEAS—Messrs. Bayard, Carlile, Davis, Henderson, Latham, McDougall, Powell, Rice, Saulsbury, and Wilson of Missouri—10.

NAYS—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Cowan, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Howard, Howe, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Sherman, Sumner, Ten Eyck, Trumbull, Wade, Wilson of Massachusetts, and Wright—29.

So the amendment was rejected.

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

Mr. CARLILE. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 29, nays 9; as follows:

YEAS—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Howard, Howe, King, Lane of Indiana, Lane of Kansas, McDougall, Morrill, Pomeroy, Sherman, Sumner, Ten Eyck, Trumbull, Wade, Wilson of Massachusetts, and Wright—29.

NAYS—Messrs. Bayard, Carlile, Davis, Henderson, Latham, Powell, Rice, Saulsbury, and Wilson of Missouri—9.

So the bill was passed.

Mr. FESSENDEN. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *March* 10, 1862.

The House met at twelve o'clock, m. Prayer by Rev. Dr. WAKELEY.

The Journal of Friday last was read and approved.

CUSTOM-HOUSE IN WASHINGTON.

Mr. WALLACE, of Washington, by unanimous consent, presented the memorial of the Legislative Assembly of Washington Territory, praying for the erection of a custom-house on Puget sound; which was referred to the Committee on Commerce, and ordered to be printed.

NEW MEMBER SWORN.

Mr. GRIDER presented the credentials of Hon. SAMUEL CASEY, member elect from the first congressional district of Kentucky.

Mr. CASEY thereupon presented himself at the Speaker's desk, and took the usual oath to support the Constitution of the United States.

SUTLERS IN THE VOLUNTEER SERVICE.

The SPEAKER announced the regular order of business to be the consideration of the bill (S. No. 136) to provide for the appointment of sutlers in the volunteer service and to define their duties, postponed on the 5th instant until to-day, and made a special order.

The bill was reported at length.

The SPEAKER stated that the Committee on Military Affairs reported sundry amendments to the bill, which would be first considered.

The first and second amendments of the committee were reported, as follows:

Page 1, section one, line six, strike out the word "following," and in line seven strike out after the word "service," as follows: "to wit: apples, dried apples, oranges, figs, lemons, butter, cheese, milk, sirup, molasses, raisins, candles, crackers, wallets, brooms, comforters, boots, pocket looking-glasses, pins, gloves, leather, tin washbasins, shirt buttons, horn and brass buttons, newspapers, books, tobacco, cigars, pipes, matches, blacking, blacking brushes, clothes brushes, tooth brushes, hair brushes, coarse and fine combs, emery, crocus, pocket handkerchiefs, stationery, armor oil, sweet oil, rotten stone, razor strops, razors, shaving soap, soap, suspenders, scissors, shoestrings, needles, thread, knives, pencils, and Bristol brick;" so that the section as amended would read:

That the inspectors general of the Army shall constitute a board of officers, whose duty it shall be to prepare, immediately after the passage of this act, a list or schedule of the articles which may be sold by sutlers to the officers and soldiers of the volunteer service. Said list or schedule shall be subject, from time to time, to such revision and change as, in the judgment of the said board, the good of the service may require: *Provided always*, That no intoxicating liquors shall at any time be contained therein, or the sale of such liquors be in any way authorized by said board. A copy of said list or schedule, and of any subsequent change therein, together with a copy of this act, shall be, without delay, furnished by said board to the commanding officer of each brigade and of each regiment not attached to any brigade in the volunteer service, and also to the Adjutant General of the Army.

Mr. BLAIR, of Missouri. The first and second amendments are submitted to the first section of the bill, and provide simply for striking out the schedule of articles named which the sutlers shall be allowed to sell. That is the effect of the two amendments. The Committee on Military Affairs thought it unnecessary to put a schedule of articles in the bill, when a board of officers is appointed in the same section of the bill to make such a schedule. We have, however, retained in the section the prohibition against the sale of intoxicating liquors, leaving it to a commission appointed by the first section to make a schedule of articles. I presume there will be no objection to these two amendments.

The first and second amendments were agreed to.

Third amendment:

Section three, strike out all after the enacting clause, as follows: "That it shall be the duty of the commanding officer of each brigade, immediately upon the receipt of a copy of said list or schedule and copy of this act, as herein provided, to cause one sutler for each regiment in his brigade to be selected by the commissioned officers of such regiment, which selection shall be by him reported to the Adjutant General of the Army; the person so selected shall be sole sutler of said regiment. And the commanding officer of each unattached regiment shall, in like manner, cause a selection of a sutler to be made for said regiment, who shall be sole sutler of said regiment. Any vacancy in the office of sutler, from any cause, shall be filled in the same way as an original appointment," and insert in lieu thereof as follows:

That all sutlers for volunteer regiments in the service of the United States shall be appointed as now provided for by law.

Mr. McKNIGHT. I desire to ask the gentleman from Missouri what the provision is for the appointment of sutlers in the volunteer service under the law as it now exists.

Mr. BLAIR, of Missouri. The provision for the appointment of sutlers, under the law as it now exists, is that they shall be appointed by the council of administration of the regiment, which consists of the lieutenant colonel, the major, and the first captain.

Mr. McKNIGHT. I desire to call the attention of the gentleman from Missouri to this point: I do not know where it comes in, in the bill, but I want to know whether there is a provision in the bill requiring that no sutler shall be appointed for more than one regiment? I recollect that when the expedition was about starting for Port Royal there were great complaints made that about sixteen regimental sutlers were turned out, and a single sutler appointed for the whole expedition. I have heard it stated that this act was without color of law; and what I wish to ascertain of the gentleman from Missouri is whether there be any law which would authorize such an appointment, and if there is, whether there is any provision in this bill to prevent such appointments in future?

Mr. BLAIR, of Missouri. There is no provision of law authorizing the act the gentleman mentions. On the contrary, it was in violation of law. The law as it now exists authorizes the colonel of each regiment upon the recommendation of the council of administration, to appoint his own sutler. The amendment we have proposed leaves the appointment precisely where it now rests. The third section, as it passed the Senate, gives to the commission provided in the bill for fixing the schedule of articles and the price of the various articles, also the power of appointing the sutler. The

committee thought it better to vest the appointing power in another board than that which regulated his powers and duties. It is to be supposed that the board which appoint the sutler will appoint persons friendly to themselves, and that a better guard against extortion will be provided by fixing a different board to regulate the prices which the sutler shall be allowed to charge. We have, therefore, remodeled the section as it passed the Senate, by retaining the appointing power in the council of administration, where it now exists, and providing that a board, consisting of all the commissioned officers of the regiment, shall fix the schedule of articles the sutler is allowed to sell, and the prices he may charge.

Mr. McKNIGHT. Then, if I understand the honorable gentleman from Missouri, this bill does not permit a sutler to be appointed for more than one regiment?

Mr. BLAIR, of Missouri. Certainly not. And that is the law as it now exists. Every regiment is entitled to a sutler, and the only change we make in the present law in this respect is to provide that another commission shall fix the prices the sutler is allowed to charge, allowing the power of appointment to remain where it now exists, in the council of administration. We think that will remedy some of the objections which are made to the system as it now exists.

Mr. WATTS. There are some appointments now existing of sutlers for two or four regiments. What effect will this bill have upon those appointments?

Mr. BLAIR, of Missouri. That applies to regiments in the regular Army and at military posts. This bill does not affect them at all. It applies to the volunteer service only

Mr. WATTS. I alluded to sutlers in the volunteer service. There have been appointments made by the Secretary of War of a single sutler for several regiments. How will this bill affect such appointments?

Mr. BLAIR, of Missouri. That is in violation of law. There is no law authorizing the appointment of sutlers except for single regiments. The law is explicit, and cannot be misunderstood. The colonel of every volunteer regiment is authorized to appoint a sutler upon the recommendation of the council of administration of the regiment, and that council of administration consists, under the Army regulations, of the lieutenant colonel, the major, and the first captain of the regiment. That is the law under which sutlers are appointed. I know nothing of such appointments as the gentleman mentions having been made. I know, however, that the law is as I have stated.

Mr. McPHERSON. I understand the effect of the amendment proposed by the Committee on Military Affairs to be to give the appointment of sutlers to the council of administration, consisting of the lieutenant colonel, major, and first captain of the regiment; and that the question before the House is between vesting the power of appointment in this council of administration and in a board consisting of all the commissioned officers of the regiment. It appears to me that there is one consideration which ought to weigh with this House. The commissioned officers of a regiment are the persons who are presumed to know and feel most acutely the abuses which exist under the present sutler system. It is undoubted that they can be trusted more safely than any particular portion of them. I suppose it was this consideration which induced the Senate to depart from the usual mode of a council of administration for control of these matters; but I suggest whether it is not safer and better to trust the selection of a sutler to the commissioned officers of a regiment.

Mr. BLAIR, of Missouri. I see no propriety in the change proposed by the Senate; and if that change be agreed to by us, and is passed into law, then all the sutlers who have been already appointed, all the sutlers in the Army at present, would be dismissed. I cannot conceive how there can be any necessity for any such act. I believe that it is proper to make a change as proposed by the Committee on Military Affairs, that is to say, to give to a board different from that which appoints the sutler the power of fixing the price of the goods sold. I do not think it is necessary to make any more radical change. I hope, then, unless some other gentleman desires to speak on the amendment, that the question will be decided.

Mr. RICHARDSON. If the House confine the appointment of a sutler to the whole list of officers, then the same men will fix the prices of the articles sold. That the Committee on Military Affairs desire to avoid. And, sir, there is a good reason why the same persons should not fix the prices who have the power of appointing the sutler. I think that there is a great necessity for the change proposed by the Committee on Military Affairs. It is supported by the experience of our Army in the field, and I hope that the amendment recommended by the Committee on Military Affairs will be adopted.

Mr. BLAKE. I have an amendment which I desire to offer. I do not know that it is now in order.

Mr. BLAIR, of Missouri. Is it an amendment to the pending amendment?

Mr. BLAKE. It is not. It is rather in the nature of a substitute for the bill.

Mr. BLAIR, of Missouri. I have no objection to the amendment being offered whenever it is in order.

Mr. BLAKE. I ask the Clerk to read my amendment.

The Clerk read, as follows:

Strike out all after the enacting clause, and insert as follows:

That the office of sutler in the volunteer service of the Army of the United States shall be, and the same is hereby, abolished: *Provided*, That this act shall take effect and be in force from and after the 1st day of May next.

Mr. BLAIR, of Missouri. I presume we will have to meet that question sooner or later, and I therefore am ready, for one, to meet it now.

The SPEAKER. The substitute will be received; but it will not be voted on until the amendments to the pending bill are disposed of.

Mr. ALDRICH. It strikes me the argument of the chairman of the Committee on Military Affairs, that if this amendment be adopted then new sutlers will have to be appointed, does not amount to much. If the sutler is satisfactory to the officers and men of a regiment, there is no doubt that he will be reappointed; and if the sutler is not satisfactory to them, then he ought to be removed, and a better man put in his place.

I am aware, sir, that in some of the regiments about here, the sutlers are obnoxious to the company officers and men—obnoxious to almost the entire commands, and yet they are kept in so long as the boards of administration deem fit to retain them. I know of one sutler of eight months' standing who has gone home during the last four weeks and taken with him $10,000, which he had made out of profits from the officers and men of the regiment to which he is attached. I am opposed to such enormous profits. I am decidedly in favor of the amendment of the gentleman from Ohio, [Mr. BLAKE.] I think that the whole thing of sutlers ought to be abolished. It seems to me that there are no officers under this Government anywhere, saving and excepting Indian traders in some portions of the country, who are guilty of so much swindling as these sutlers of the different regiments of the United States Army. I am in favor, I repeat, of abolishing the whole thing, and I hope that the House will do it.

The question was taken on the third amendment, and it was disagreed to.

Fourth amendment:

In the following strike out the words in brackets, and in lieu thereof insert the words in italics:

SEC. 4. *And be it further enacted*, That the sutlers chosen in the manner provided in the preceding section shall [each be authorized to sell to the officers and soldiers of the regiment only for which he has been chosen] *be allowed a lien only upon the pay of the officers, non-commissioned officers, and privates of the regiment for which he has been chosen, or those stationed at the post to which he has been appointed, and for no greater sum than one sixth of the monthly pay of each officer, non-commissioned officer or private for articles sold during each month; and the amount of one sixth or less than one sixth of the pay of such officer, non-commissioned officer or private, so sold to him by the sutler, shall be charged on the pay-rolls of such officer, non-commissioned officer or private, and deducted from his pay, and paid over by the paymaster to the sutler of the regiment or military post, as the case may be: Provided, however, That sutlers shall be allowed to sell only* the articles designated in the list or schedule provided in this act, and none others, and at prices not exceeding those affixed to said articles, as herein provided. He shall keep said list or schedule, together with a copy of this act, fairly written or printed, posted up in some conspicuous part of the place where he makes said sales, and where the same can be easily read by any person to whom he makes said sales.

Mr. BLAIR, of Missouri Mr. Speaker, this amendment of the Committee on Military Affairs is a radical change of the bill as it came from the Senate. It provides that the sutler shall have a lien upon one sixth of the pay of the officers and soldiers for goods sold by him. I know that a good deal has been said about these sutlers in the newspapers and elsewhere. I know that a loud clamor has been raised against them. I desire, therefore, to give the reasons which have operated upon the committee to induce them to submit this radical change of the section of the bill as it came from the Senate. I do not believe in the denunciation of a whole class of men. I am not afraid to say that if improper persons have been appointed sutlers, and they have charged improper prices, then the fault is on the persons who appointed them and fixed their prices. If there has been all the swindling carried on by the sutlers that we have heard of, then the fault is with the colonels of regiments who have the power to discharge them. A council of administration has had the right to appoint the sutler, and to fix the price of his goods; and if a sutler has made an enormous profit and there has been the swindling complained of, then the fault is equally that of the volunteer officers and the sutlers. I am inclined to think that a few cases of that description which have come to the notice of the public, added to the sympathy which we all feel for the volunteer soldiers in the field, have given an undue prominence to this matter, and caused the clamor on the part of the public. I do not believe that any large body of our citizens, or any class of men in this country, have set themselves sedulously to swindle our soldiers. I do not believe it, and I think that it is beneath the dignity of Congress to legislate against any class of our citizens.

I desire to say furthermore, that so far from protecting the soldier, this provision striking out the lien allowed to the sutler, is prejudicial to his interest. You cannot find anywhere in the world, where men are called upon to fix the price of goods, that they will not fix them higher from considerations of justice and equity where there is a doubt about the pay than they would if there were certainty of pay. If you take away the lien the effect will be to give a bonus to those soldiers who will not pay their debts. It will give the dishonest officers and soldiers a chance to escape the payment of their debts, and make the honest officers and soldiers pay higher for what they may obtain from the sutler than they otherwise would have to do. A sutler is necessary upon the march and in the camp, and if you take this lien away from him you of course increase the hazard of his business, and when the risk of his business is increased no board of officers will refuse to allow an increase of price. We know that merchants increase the price of their goods according to the risks they run. If there be no risk, then, of course, the decrease of price will result to the advantage of the soldiers. It is a rule which I believe will operate invariably to enhance the price of these articles to the soldier who has to buy them, and the only benefit that can be produced to the soldier is that the dishonest soldier who does not want to pay will escape, and the honest soldier will have to pay his own debt and the debt of the dishonest one also. That is the amount of it.

Mr. LOVEJOY. I wish to ask the gentleman why it is that we need sutlers at all? Cannot the quartermasters furnish everything which the soldiers really want?

Mr. BLAIR, of Missouri. I would say in reply to the gentleman from Illinois, although it is not the question now before the House, that the quartermaster, if he provides for the soldier, is just as likely to cheat him as the sutlers.

Mr. LOVEJOY. But the quartermaster provides at the Government prices, and he can provide everything that the soldier needs.

Mr. BLAIR, of Missouri. You would not remove the evil by that plan, because we have heard just as much clamor in this House about the soldier being cheated by quartermasters as by sutlers. He has had rotten cloth and shoddy and wooden soles to his shoes, and the cheating has been as great in the quartermaster's department as in any other department of the Government. While I say this, I say it with a perfect knowledge that we have at the head of that department one of the best and most honest men in the service of the United States, but it is impossible to make a law which cannot in some way be evaded.

Mr. RICHARDSON. The gentleman will allow me to make a suggestion in reply to my col-

league. The quartermaster now furnishes to the soldier what he is entitled to under the law. He does not keep and is not authorized to keep anything but what the law authorizes to be given to the soldier by the Government. The sutler comes in at that point and keeps articles which the Government does not supply. All our experience has shown that it is necessary we should have sutlers to supply those very articles. A quartermaster would look very well dishing out and charging five cents' worth of tobacco, or five cents' worth of buttons, or five cents' worth of thread, and settling his account with the soldier whenever he is paid. You would impose duties upon the quartermaster that would make it necessary for the Government to employ double the number of quartermasters now employed. This system of sutlers has worked well. I fear that many gentlemen are judging of the necessity of sutlers by the experience of the army here, but whenever the army moves and leaves the neighborhood of towns, the necessity will suggest itself to every gentleman that there should be sutlers to supply these articles which are necessary for the comfort and convenience of the soldiers, and which the quartermasters and the commissaries do not and cannot supply.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed, without amendment, bill of the House No. 326, to fulfill treaty stipulations with Hanover.

SUTLERS IN THE VOLUNTEER SERVICE—AGAIN.

Mr. RICHARDSON. I will only add that to require the quartermasters or commissaries to supply the soldiers with these articles would be to increase the Army of the United States by millions. The soldier would not be able to get these articles from the quartermaster or commissary any cheaper than he gets them from the sutler. The effect of the amendment suggested by my colleague would be to increase the expenses of the Government, while it would add nothing to the comfort or convenience of the soldier.

Mr. BLAIR, of Missouri. We have already, in a section of the bill which we have passed over, disconnected the board which has the appointment of the sutler from that which has the fixing of the prices of his goods. Those two powers are lodged in two different boards, and it becomes this House to consider, dispassionately, whether it is not proper that we should give a lien to the sutler for a moderate porportion of the soldier's pay to benefit the soldier—a lien, for instance, on one sixth of his pay. The officers upon whom the duty is imposed of fixing the prices, will take that lien into consideration. They will say that such and such an amount of business is given to the sutler under this act, and his pay is absolutely certain, and that, when his pay is certain, he ought to take no higher profits than are right and proper; and the board, in conscience and equity, as between the sutler and the soldier—in whom they ought to feel the greatest interest—will fix the prices equitably and upon a proper basis.

Now, I appeal to the good judgment of the House not to allow the clamor that has been made against the sutlers, as a class, to bear down their better judgments in this matter; but that, after having disconnected the appointing power from that which has the fixing of the prices, they will now give a lien upon one sixth of the soldier's pay to the sutler, in order that this board may put the prices down to the lowest possible rates, knowing well that everything which the sutler sells will be paid for, and that he ought to be contented with small profits when his pay is certain.

Mr. CAMPBELL. Mr. Speaker, I desire to say a word upon the subject of these sutlers. I think there has been nothing connected with the volunteer portion of the Army of the United States that has been subject to more abuses than this sutler's department. We know that when pay day comes round, as a general thing the sutlers receive almost all the wages—to the amount of thousands of dollars in some instances. We know that they have sold an immense amount of trash to the soldiers, including raisins and almonds and bad fruit, stale pies, liquor, and cider, and other things which the men would have been much better without. We know that officers have leagued with them, and in some instances shared the profits. We know that the Army, as a general thing, are opposed to the whole system, and that it is the influence of officers and the sutlers themselves—those who are supposed to derive benefit from it—that up to this time has kept the system in force.

The Senate have wisely proposed to deprive the sutler of a lien on the wages of the soldier. Why should the sutler have a preëmption upon the pay of the soldier over and above the merchant and others who sell to the soldier? Why should they have a priority of lien over all other men? The country merchants at the cross roads in the neighborhood of the Army, who sell these same articles to the soldier, and in many instances better articles, and at a lower price, have no lien on the wages of the soldier. It is admitted in this amendment offered by the Committee on Military Affairs that they ought to have a lien of one sixth. If that is right, why not give them a lien upon the whole? If they are entitled to a special preëmption over and above other men for one sixth, you ought to give them a lien for the whole. If they are prohibited from selling anything but certain articles at a fair price, it would be just to give them a lien for the whole. I hold that they are not entitled to any immunities and rights over and above other traders in communities where our Army moves. Let the whole traffic be thrown open for fair competition. Let the soldier go where he can buy cheapest. What does he want while in the service of the United States? The soldier is well clothed. He is well fed. He wants nothing, unless it may be a few penniesworth of tobacco, and now and then a pair of suspenders, and such like. With a dollar or two in his pocket the soldier can provide himself cheaply with everything that he wants. These little articles, besides, are generally supplied by the soldier's friends. Experience has satisfied me that the soldier is better off without any money in his pocket, and without credit. If soldiers have credit they will buy what they want in camp, and will spend their pay on stale pies, bad fruits, almonds, raisins, liquors, &c. I believe, therefore, that the Senate amendment, which deprives the sutler of a lien upon the soldier's pay is right. If the soldier buys from the sutler, let the sutler be on the same footing as the general dealer. If the soldier is deserving of credit he can have it. If he is not, the sutler should not give it to him. I think that the interest of the soldier will be best protected when you put obstacles in the way of his buying worthless articles from the sutler or anybody else. I hope that the amendment to the amendment will be voted down, and that the Senate amendment will be concurred in.

Mr. DUNN. The Committee on Military Affairs thought best to give the sutler a lien to a limited extent. The House will observe that this lien is only to the extent of one sixth of the monthly pay of the officer or soldier. The gentleman from Pennsylvania [Mr. CAMPBELL] wants to know why any lien at all should be given to sutlers. I will give him one reason, which I think might have occurred to his own mind. It is this: it is expected that soldiers will be sometimes killed in battle. I should like to know what remedy the sutler would have to recover the debt due to him by the killed soldier, unless he had a lien upon his pay. The committee therefore thought that the sutler should have a lien to a limited amount, and that amount it has fixed at about $2 16 per month for the soldier.

Mr. CAMPBELL. There is always a lien upon the wages of the soldier, for the purpose of defraying his funeral expenses; but I ask the gentleman from Indiana what security the general dealer has in the case of the death of a soldier who is in his debt?

Mr. DUNN. It is expected that the sutler shall supply the necessities of the soldier where the general dealer cannot reach the Army. If you throw open to all dealers the right to trade with soldiers in their camps, you will soon have a state of general confusion in the Army. You must either have sutlers, or persons performing similar duties under other names; and I see no particular reason for changing the name and keeping the thing. The committee think it best to let the sutler have a limited lien only, because they do not want to encourage soldiers to deal with sutlers, or sutlers to deal with soldiers, beyond the necessities of the soldier.

Mr. HUTCHINS. Will the gentleman explain why it is that our soldiers must be restricted to dealing with sutlers?

Mr. DUNN. That is a question that needs scarcely to be answered. If you were to permit citizens generally to go within the lines everywhere and to trade with the soldier, you would, after a while, have more traders than soldiers. You would have your soldiers surrounded by men trying to cheat them out of their last cent. It is for the convenience of the soldier that there shall be sutlers in the Army. Under the provisions of the bill the sutler is bound to keep certain specified articles, the list of which is to be furnished by the inspectors general, and these articles are to be sold at a price fixed by certain officers of the brigade. The prices will, of course, have to vary somewhat, according to circumstances and the location of the troops. The prices being fixed, the next thing is, to what extent the sutler is to have a lien. If he have an unlimited lien it will be his interest to induce the soldier to buy to the full amount of his pay, whether the articles are necessary or not. If the lien be only to a limited amount, the interest of the sutler expires when the extent of the lien is reached. Soldiers sometimes lose their money. Sometimes they send it to their families. Sometimes they gamble it away. What then? Will you leave a man without the means to buy his tobacco or cigars? We all know how men accustomed to these things prize them; but men in the field, more than any other, feel the want of these little comforts. I do not think that the soldier can be harmed under the amendment reported from the Committee on Military Affairs.

Mr. CAMPBELL. If the soldier is so improvident as he is described to be by the gentleman from Indiana, and runs debts up to one sixth of his pay in the space of five days, what is he to do for the rest of the month?

Mr. DUNN. In the first place, I set a limitation to the remark that I made about gambling in the camps. I know that that vice exists to a limited degree. Still, it does exist to some degree. The gentleman wants to know what the soldier is to do after he reaches the limit of the sutler's lien? Why, he will do just as well as he would if the sutler had no lien at all.

Mr. RICHARDSON. The gentleman from Pennsylvania [Mr. CAMPBELL] seems to be of the opinion that the sutler can come to the pay table and draw the whole of the soldier's pay, if he have sold to that amount. Such is not my understanding. Limit the lien to $2 16, and if the officer in command forces the soldier to pay more than that, he renders himself liable to a trial by court-martial, and to be dismissed from the service. The gentleman wants to know why we should not as well give a lien on the soldier's pay to the dealers on the cross roads, to those outside of the camp. Why, sir, the sutler system is established for the very reason that you have the sutler under military authority. If he sells articles to the soldier in violation of the law he can be punished; but what punishment can you inflict on the man who sells articles at the cross roads?

Now, if sutlers have sold raisins, almonds, and other unfit articles to the soldiers, the fault is not so much with the sutlers, as it is with the officer in command of the regiment to which the sutler is attached. He, not the sutler, is the responsible party. This bill, however, provides a board to determine not only what articles the sutler may sell, but also at what prices they shall be sold.

Now, I desire to say one thing in reply to the gentleman from Pennsylvania. It is this: the legislation that might be adapted to regiments lying beside a city like Washington is not adapted to regiments that are pushed into Tennessee or Virginia. In the latter case the soldier has to rely on the sutler for the supply of those little articles that are necessary for his comfort. If the sutler does not supply them, the soldier has to do without them.

Now, one single word in regard to these sutlers. The utmost that a sutler is entitled to sell to a regiment is $2,160 worth of goods per month. All the stories that we have heard about the enormous profits of a sutler are absurd. If the commanding officer does his duty, the sutler can make no such profits. I have had some little experience about this matter. If the sutler system were abolished, and our Army were pushed forward, the soldier could not supply himself for $2 50 with the articles which he could get from the sutler for

one dollar. He will be left at the mercy of every trader as he goes along. The sutler is under the control of military authority, and he cannot, if the officers do their duty, make larger profits than those to be allowed under the bill, at the prices to be fixed by the board. I know that if I were in the Army I should want a little plug of tobacco every day. You regulate the price, and I may go to the sutler and buy it. But if I have got no sutler, I should have, perhaps, to abandon my duties in camp, if I could obtain permission, and go in quest of tobacco, without which I could not think, [laughter,] and could not act very well.

Now, there are a dozen little things without which the soldiers cannot get along in the field. You must not measure the usefulness of this sutler by your experience round about this city.

Mr. JOHNSON. I ask the gentleman from Missouri to yield to me for a moment.

Mr. BLAIR, of Missouri. I will yield to the gentleman.

Mr. JOHNSON. I desire to say a few words in reference to this subject; and before I take my seat I shall suggest an amendment, which seems to me to be desirable, to the sixth section of the bill.

Mr. Speaker, I have given to this subject some consideration and some deliberation, and I have come to the conclusion that the only good method by which our soldiers may be supplied with those little luxuries necessary for them is through the medium of sutlers. If there be abuses connected with the practices of sutlers, I think we can remedy those abuses. Now, sir, I am in favor of giving to our soldiers all those little luxuries, so called—all those little outside matters that have been referred to—so far as is consistent with their health and discipline.

There are three methods which have been suggested of supplying them; one is to allow the public to hawk and peddle about the camps. That is an objectionable method, because it may disclose the position of our forces in the face of the enemy. And it would be difficult in many instances perhaps to know the character of those hawking and peddling about the camps. Besides that, I think there is more liability to imposition upon the soldier by that class of persons than by some person who is regularly established in the camp. It would certainly be very well if soldiers could be permitted to come into town and buy in the market their supplies, where the citizens buy theirs. But it must be remembered that they cannot leave their camps for that purpose, and it is to be hoped that they will not always be as near these markets as this army of the Potomac now is.

These objections, together with those already stated, seem to me to be formidable against allowing the public generally to hawk and peddle about the camps.

Another method is that suggested by the gentleman from Illinois, [Mr. LOVEJOY,] to have the quartermasters furnish these articles. Now, sir, the difficulty I see in the way of the adoption of that method, as has already been stated, is that the kind of articles intended to be supplied by sutlers are not those in general use among them. For instance, one soldier may smoke, another may chew, and a third may do neither. The quartermaster only furnishes those articles in general use which are matters of necessity, which every soldier must have. It occurs to me, too, that if the quartermasters were to set about furnishing these articles, we would soon hear complaints coming to this House that those who did not use the articles would be charged with them in the quartermasters' bills. That method, then, seems to be impracticable, and leaves the only other method which has been proposed, which is the appointment of sutlers and regulating them under the law as best we can, so as to prevent imposition.

Now, it may be very easy for us to say here that the soldiers can do without those articles, that there is no necessity for these little extras; but we must deal with our soldiers as they are; coming from the various portions of the country, they had habits formed before entering the service, and they are not, perhaps, the kind of men who are willing to change them at once. There are many little articles of necessity and convenience which, if the soldier can have administered to him from time to time as he wants them, renders his position more comfortable, his service more agreeable, and renders him contented in the camp. There is less inducement for him to leave it. In fact, he has no excuse whatever when the article he wants is at his command at a fair price, to ask leave of absence from the camp.

Now, sir, the amendment which it strikes me will perfect the sixth section of the bill is as follows: in the seventh line, after the word "presents," I would insert the words "nor to be interested in any way in the stock, trade, or business of any sutler," and then, in the eighth line, after the word "presents," I would insert the words "or being thus interested;" so that the section, as I propose to amend, in addition to the amendment of the Committee on Military Affairs, would read:

SEC. 6. *And be it further enacted*, That no person shall be permitted to act as sutler unless appointed according to the provisions of this act; nor shall any person be sutler for more than one regiment; nor shall any sutler farm out or underlet the business of sutling or the privileges granted to him by his appointment; nor shall any officer of the Army receive from any sutler any money or other presents; nor to be interested in any way in the stock, trade, or business of any sutler; and any officer receiving such presents or being thus interested, directly or indirectly, shall be *punished at the discretion of a court-martial*. No sutler shall sell to an enlisted man on credit to a sum exceeding one fourth of his monthly pay within the same month; nor shall the regimental quartermasters allow the use of army wagons for sutlers' purposes; nor shall the quartermasters' conveyances be used for the transportation of sutlers' supplies.

So far as my information has gone, the great difficulty in administering the office of sutler with justice to the soldier has grown out of the fact that the sutlers have overreached the lien which they were allowed to have on the soldier by the law. The officers of the regiments, too, it is said, are in some instances interested with the sutler in the profits of the business. I do not know whether it is a fact or not; but I can readily conceive that it would not require a very sharp colonel to make that interest with the sutler. Consequently, if there is any injustice on the part of the sutler practiced upon the soldier, if he undertakes to take more pay than he has a lien for, or undertakes to seize upon the money of the soldier, the soldier is without redress. He has no friend to appeal to if the officers are interested with the sutler.

Now, to prevent anything of that kind, I think these words which I have suggested, if inserted in the bill, would sufficiently guard it. If we can insure that the officers shall have no interest with the sutler, the soldier can appeal to them for justice, knowing that they have no interest but what is right. It will inspire confidence on the part of the soldiers in their officers in this regard. But if, notwithstanding the remedy which I propose, the officer still makes himself interested with the sutler, punishment is provided by the last clause of the section.

I will not offer the amendment at this time myself. I merely suggest it to the chairman of the Committee on Military Affairs, and, if it meets his approbation, at the proper time I will offer it.

Mr. BLAIR, of Missouri. The amendment the gentleman proposes is not now in order, as we have not yet reached that section of the bill. If it were, I should have no objection to his offering it.

Mr. JOHNSON. Then I give notice that at the proper time I will offer it.

Mr. BLAIR, of Missouri. As this is a radical change in the bill which the Committee on Military Affairs have recommended, and the only radical change they have recommended in the Senate bill, I hope the House will not vote upon it upon the idea that there is to be no sutler at all in the volunteer service. I should like the House to perfect this bill as far as possible before the question is taken upon the substitute of the gentleman from Ohio, [Mr. BLAKE.] If we are to have sutlers, then I know that the gentleman from Ohio is as desirous as any of us that the system shall be properly regulated. Let us first perfect this bill, and then we will be better able to decide between it and the proposition for the abolition of the sutler system. I am sorry to say that the arguments made by some of the gentlemen who have been up have not been pertinent to the question before us. I want the House to vote on each amendment on its merits.

Mr. THOMAS, of Massachusetts. I suggest to my friend, the chairman of the Committee on Military Affairs, whether he will not adopt the following amendment:

Insert in section four:

And provided further, That the sutler shall have no legal claim upon any officer, non-commissioned officer or private, to an amount exceeding one fourth of his pay for articles sold during any month

Mr. Speaker, the difference between that and the pending amendment is this: the amendment provides that the sutler shall have a lien to the extent of one sixth of the pay of an officer or soldier; and my amendment provides that a sutler shall have no legal claim if he sells to the extent of more than one fourth of the pay—that he shall have no legal claim whatever. The limit of my amendment is one fourth of his monthly wages.

Mr. RICHARDSON. There is no objection to that.

Mr. BLAIR, of Missouri. I have no objection to it. I am willing to make the limit one sixth of the pay of an officer or soldier. I hope that the amendment of the gentleman from Massachusetts will be adopted by the House. I would accept it as a modification of my amendment, if the amendment were my own measure, and not that of the Committee on Military Affairs. I am satisfied—and every word uttered upon this floor has gone still further to satisfy me—that if we are to have sutlers they ought to be permitted to have a lien upon the pay of officers and soldiers, to a certain extent.

The argument of the gentleman from Pennsylvania, [Mr. CAMPBELL,] that the sutlers should not be allowed more privileges than any other traders or merchants, I do not think is a sound one. The theory upon which sutlers are provided for the Army is, that they will move with the Army to places where there may be no traders of any kind to supply the wants of the soldiers. In that regard the sutlers are necessary to the Army, and the benefit and comfort of the soldiers. To deal with the traders at the cross roads soldiers will have to leave their camp, or those traders will have to be allowed to enter camp for the purpose of dealing with the soldiers. In either case there would be a breaking down of discipline. A camp would not be worth much where the soldiers were permitted to go out of camp whenever they pleased, or the traders were permitted to go into it whenever they pleased. It would destroy all proper discipline.

The sutler should have a lien because his prices are fixed by a board, and fixed for the purpose of benefiting the soldier. The merchant outside can fix any price that he may please. He is not subject to any control at all. He may overcharge the soldier, or sell him to any extent, without any power of interference on the part of the officers. He may sell what he pleases. He may sell articles that are good, or articles that are injurious. The sutlers, on the contrary, can only sell certain articles, and at certain prices. Those considerations are sufficient, to my mind, why there ought to be a discrimination made between a sutler and a common trader. It is utterly impossible to leave a camp open for traders to come in whenever they please, and at the same time preserve discipline.

I call the attention of the gentleman from Pennsylvania to this fact: our Army is about to penetrate into the southern country, and as our Army advances the sutlers will have to advance with it. How much would the soldiers have to pay for the articles they wanted if there were no sutlers? How much would a soldier have to pay for a spool of cotton in Richmond? If we were to take possession of that city this day the soldier would have to pay twenty-five cents a spool for cotton. How much would it cost to buy a clothes brush, or two or three of them? Why, sir, it would take a soldier's pay for a month. The sutlers who go along with the Army have a price fixed upon every article, and the soldiers can procure whatever they want at a very small price compared with the enormous charges made in the seceded States where it is expected our Army will soon penetrate. Soldiers, by having sutlers, can procure greater comforts at more reasonable rates. If you do not have sutlers, there are a great many things which the soldier cannot get at all without paying enormous prices for them. We should, therefore, legislate upon the theory that our Army is going to move into the South and upon the forces of the rebels. We ought not to legislate upon the theory that the Army is not going to move, whether correct or not. We should endeavor, as far as possible, if our Army should penetrate into the interior of the rebellious States, as our Army in the West has done, to legislate to give our soldiers all the necessary comforts at reasonable rates.

I know, Mr. Speaker, that the gentlemen who think differently from me on this subject are as sincerely disposed to do all they can for the benefit of the soldier as I am. It is an honest difference of opinion between us. I call upon the House, therefore, to act upon these amendments as if there were to be no change of system, and sutlers were to remain in the Army forever. When the amendments of the committee have been disposed of, then the House can decide between the pending proposition and the substitute of the gentleman from Ohio, [Mr. BLAKE.]

If we leave out this amendment, and accept the provisions of the Senate bill, I am satisfied that it will not conduce to the benefit of the soldier. The amendment of the Committee on Military Affairs will do justice to both parties. I am convinced that to make the pay of the sutler certain is the way to induce the board of officers to put down the price of articles to the lowest possible rate. To leave the sutler without a lien upon the soldiers' pay is to leave him open to make constant appeals to the council of administration. He will say, "you see what hazards we have to undergo. We carry our goods into the country of the enemy, and if the Army is destroyed, then we lose everything. If the soldiers do not choose to pay us, then they can go off without doing so. We cannot undertake such a hazardous business without a proportionate compensation." And such appeals, in justice and equity, cannot be denied. Even in our cities the hazards which naturally attach to the business of any of our merchants have to be taken into consideration in fixing the price of their goods. So it is everywhere. In my opinion, therefore, to pass the bill as it came from the Senate would be inevitably to increase the price of all articles sold by the sutlers to the soldiers, and offer to the dishonest soldier a bonus not to pay at all.

Mr. FESSENDEN. I have a single word to say upon this bill. It seems to me, sir, that upon this question the opinion of military men upon this floor ought to have great weight with us; and when I hear those gentlemen say that sutlers are absolutely necessary for the Army, I am disposed to defer to their opinion. I was prejudiced on this question in this respect, and had about come to the conclusion that sutlers were unnecessary. I agreed, in part, with the gentleman from Ohio [Mr. BLAKE] and with the gentleman from Pennsylvania, [Mr. CAMPBELL,] that it would be better to do away with this office altogether in the Army. Still, sir, having listened to the remarks of the gentlemen who have had experience in this matter, and who are acquainted in the Army, who are or have been officers of the Army, I believe now it is absolutely necessary for the comfort of the soldiers that this office should be continued.

Now, sir, there are those of us here who have a special interest in this matter. We have sons in our Army, and we feel that it is necessary for us to do anything that we can do for their comfort; and I suggest to the gentleman from Pennsylvania whether, if he objects to the articles which he has named, it would not be better for him to move an amendment to strike from the list those unnecessary articles?

Mr. CAMPBELL. I do not think that the list as presented to this House by the Senate contains any unnecessary articles. My objection is to giving the sutler a lien upon the wages of the soldier. That was the only point I made. I am in favor of the provision of the Senate and against the amendment proposed by the Committee on Military Affairs of this House.

[Here the hammer fell, Mr. BLAIR's hour having expired.]

Mr. FESSENDEN. I supposed that the gentleman from Pennsylvania objected to the articles that were enumerated in the list. As to the matter of lien, I concur with the gentleman from Massachusetts, [Mr. THOMAS,] that if this bill is safely guarded in that respect, no difficulty will arise from the objection urged to it by the gentleman from Pennsylvania, and I think that it will be so with the amendment suggested by the gentleman from Massachusetts.

The SPEAKER. The Chair will state that the amendment of the gentleman from Massachusetts is not pending. It was not in order at the time it was suggested.

Mr. FESSENDEN. Well, if that amendment shall be introduced and adopted, I think the bill will be sufficiently guarded to meet the objection of the gentleman from Pennsylvania.

Mr. EDWARDS. I should not have known for the past fifteen minutes precisely what the question was before the House if I had not given some special attention to it. But, sir, I understand now that the question arising upon the amendment reported by the Committee on Military Affairs is simply whether Congress will give to the sutler a lien to the amount of one sixth of the pay of the soldier on the articles he may supply during the month. That is the single question presented by this amendment.

Now, sir, as has been remarked by the gentleman from Missouri, I think we should not pass upon that question with any reference to the ultimate disposition of the main question whether we will have sutlers or not. I know that the term "sutler" has become odious; I know that there have been great abuses; I know that there is a feeling abroad very extensively in the country, that this office ought to be abolished; but, sir, it is always dangerous to legislate upon prejudice, and it is necessary to investigate the facts before we yield to prejudice.

Now, sir, I am satisfied, not only from the remarks of the gentleman from Missouri, but from my own reflections, that sutlers are an important attachment to the Army; but they ought to be regulated with such strictness as to guard against abuses. This bill undertakes to regulate them. It changes the mode of their appointment, and undertakes to guard against abuses, and secure a proper person to discharge the duties of the office. In the next place, it provides that there shall be a tribunal who shall say what shall be sold and what shall not be sold, and the prices at which sales shall be made, by the person thus appointed, call him sutler or what you will, to the soldiers. Then, the only question that remains is, whether, having thus selected the sutler, and limited him in what he shall sell, you will provide that he shall have any lien on the wages of the soldiers for anything which he supplies to them. Now, it seems to me that it is for the benefit of the soldiers, as well as of the sutler, that there shall be a limited lien towards the indebtedness they may incur. It is for the benefit of the soldier to have some limited supplies, and he must necessarily look to the sutler for them, and under these restrictions he will be safe in receiving them; and if the prices are fixed, it will be for the benefit of both parties that this limited credit should be extended.

Without going into any comparison between the condition of the sutler and other classes of the community who furnish supplies, it is enough that the office of sutler is necessary to the service; and having guarded it as we propose to do, that we should allow a limited lien to the sutler to the extent proposed by the Committee on Military Affairs, seems to me to be only reasonable. Nor do I see any objection to the proposition of the gentleman from Massachusetts, [Mr. THOMAS,] for it would seem to be just as reasonable that you should limit the extent to which the sutler shall give the soldier credit for the purpose of securing the earnings of the soldier, as to limit the extent to which the sutler shall have a lien for the supplies furnished to the soldier. I shall, therefore, if I have an opportunity, vote both for the amendment suggested by the gentleman from Massachusetts and for the amendment proposed by the Committee on Military Affairs.

Mr. WHITE, of Indiana. This question is like all others where we have to deal with what constitutes, at the same time, a great necessity and a great evil. It is very difficult to protect the young and inexperienced soldier in our Army against the improvidence natural to his condition and to his age, and at the same time to furnish him those comforts which we cannot furnish under the organism of the Army.

I am sorry that the schedule which the Senate proposed, or some other suitable schedule, has not been retained in the bill. I have no confidence in the attention which will be given by the commissioned officers of the Army to the making out of this schedule. I know that the article of dried nuts, which is not in this list in the Senate bill, will be one of the first to go into the camps, and they are a great injury to the soldiers with their concentrated oil.

With regard to the particular amendment now before the House, I am inclined to favor it, and I do it mainly for this reason: I know that some regiments have now been in the field for five months without receiving any pay, and that many of those comprising them are poor men, men who have no money, and are not able to raise means to provide themselves with necessaries which they must have, and who must, therefore, necessarily anticipate their pay with the sutlers for these necessaries. Now, you propose here to restrict the sutlers to one sixth of the pay, and you will not allow the soldier to make a credit of more than one fourth his pay. You give the sutler a positive lien upon one sixth of the soldier's pay. I think that is right, and for this reason, that the poor man cannot get along without this credit. If he does not get it from the sutler, the young men in the service who have means will be compelled to loan to those who have not; for they will have these things whether you give the sutler a lien on their pay and allow him to give credit or not; and if they cannot get credit from the sutler they will get it from the more liberal and generous of their fellow soldiers, who will remain in the end entirely uncompensated. I think, therefore, that the provision which the Committee on Military Affairs propose to introduce into this section will protect the more generous portion of our soldiers in camp from their improvident associates, who would borrow from them if they could not get credit from the sutler.

Now, I regard more than all other features of this bill the very clause that we have rejected—I mean the restrictive list. I hope that in some form or other the Committee on Military Affairs will be induced to reconsider that point, or that the House will do so under its advice.

Mr. BLAIR, of Missouri. I will state to the gentleman from Indiana that I certainly have no objection to the vote being retaken on that clause. There seemed to be no interest taken in it by the House at the time it was voted upon. The Committee on Military Affairs was not particularly anxious that that clause should be either retained or rejected. But it was supposed that if the commission provided for in the first section of this bill were appointed, the whole matter about making or altering the schedule ought to be left to that commission. It would be competent for it to decide what is proper to be sold by sutlers. Certainly, if it is the sense of the House, or if any gentleman desires it, the vote can be taken on it again. I shall certainly not only consent to it, but shall be very glad of it.

Mr. WHITE, of Indiana. Then I will move to reconsider the vote by which the clause reciting the list of articles to be sold by the sutlers was struck out. It will be observed, by looking at the clause, that the list is subject to such revision as, in the judgment of the board, the necessities of the service may require. This gives the board a power over the list; but the very fact of the insertion of such a list in the bill will be a sufficient hint to the board that it is not to permit the introduction of contraband articles.

The question was taken on the motion to reconsider the vote by which the House struck out the following clause of the bill:

To wit: apples, dried apples, oranges, figs, lemons, butter, cheese, milk, sirup, molasses, raisins, candles, crackers, wallets, brooms, comforters, boots, pocket looking-glasses, pins, gloves, leather, tin washbasins, shirt buttons, horn and brass buttons, newspapers, books, tobacco, cigars, pipes, matches, blacking, blacking brushes, clothes brushes, tooth brushes, hair brushes, coarse and fine combs, emery, crocus, pocket handkerchiefs, stationery, armor oil, sweet oil, rotten stone, razor strops, razors, shaving soap, soap, suspenders, scissors, shoestrings, needles, thread, knives, pencils, and Bristol brick.

The vote was reconsidered.

The question recurred on the amendment reported by the Committee on Military Affairs, to strike out the foregoing clause, and the amendment was rejected.

Mr. WRIGHT. Mr. Speaker, I have presented several petitions, very numerously signed, in favor of abolishing this system of Army sutlers. The reason given on the face of these petitions was the extortions practiced by the sutlers upon the soldiers. That was the chief, and I presume the only objection. It was not so much against the existence of the office as it was to correct the abuses that exist in it. Now, according to the terms of this bill, it is submitted to a military board in the first place, to say what articles these sutlers shall deal in; and in the next place a board of offi-

cers is to fix the prices of these articles. Now, what objection can there be to a bill of this kind, guarded with so much care, first in regard to the articles to be sold, and second, in regard to the prices to be charged? So far as my own observation goes—and I have made diligent inquiries into the subject—I am satisfied in my own mind that, as this bill is framed, it does away with all the objections that have been made so far against the sutler system. As the Army advances somebody is needed to supply the soldiers with a variety of necessary articles. There is no reason why it should not be within the power of the soldiers to procure at reasonable charges such articles as are necessary for them. This is so particularly with reference to the regimental sutlers. If you dispense with that post, you put it out of the power of the men in the regiment to procure what they need, for you will find no peddler that will assume the risk of accompanying a single regiment with supplies for it. He might follow a brigade, but still there would be uncertainty in the matter. Under this bill, the Inspector General is to furnish the list of articles which the sutler may sell, and the officers of the brigade or regiment are to fix the prices. This will put it out of the power of the sutler to practice extortion on the soldiers. I think that the provisions of the bill are good, that the bill is well guarded, and that it ought to meet with the favorable consideration of the House.

There is, however, one thing in the bill which I should like to see changed. There is, in the second section, a clause providing that the board of officers shall consist of the acting colonel, lieutenant colonel, major, and two senior captains of the regiment. With the approbation of the chairman of the Committee on Military Affairs, I will move to strike out the words "two senior."

The question was taken on the fourth amendment reported by the Committee on Military Affairs, to strike out the following words in the fourth section: "each be authorized to sell to the officers and soldiers of the regiment only for which he has been chosen," and to insert in lieu thereof, as follows:

"Be allowed a lien only upon the pay of the officers, non-commissioned officers, and privates of the regiment for which he has been chosen, or those stationed at the post to which he has been appointed, and for no greater sum than one sixth of the monthly pay of each officer, non-commissioned officer or private for articles sold during each month; and the amount of one sixth or less than one sixth of the pay of such officer, non-commissioned officer or private, so sold to him by the sutler, shall be charged on the pay-rolls of such officer, non-commissioned officer or private, and deducted from his pay, and paid over by the paymaster to the sutler of the regiment or military post, as the case may be: *Provided, however*, That sutlers shall be allowed to sell only.

So that the section will read:

SEC. 4. *And be it further enacted*, That the sutlers chosen in the manner provided in the preceding section shall be allowed a lien, &c.: *Provided, however*, That sutlers shall be allowed to sell only the articles designated in the list or schedule provided in this act, and none others, and at prices not exceeding those affixed to said articles, as herein provided.

The amendment was agreed to.

The question was next taken on the amendment offered by the gentleman from Massachusetts, [Mr. THOMAS,] to insert the following proviso:

And provided further, That the sutler shall have no legal claim on any officer, non-commissioned officer, or private, to an amount exceeding one fourth of his pay, for articles sold during any month.

The amendment was agreed to.

The question was next taken on the fifth amendment, reported from the Committee on Military Affairs:

Section six, strike out "dismissed from the service," and insert in lieu thereof, "punished at the discretion of a court-martial;" so that the section will read:

SEC. 6. *And be it further enacted*, That no person shall be permitted to act as sutler unless appointed according to the provisions of this act; nor shall any person be sutler for more than one regiment; nor shall any sutler farm out or underlet the business of sutling or the privileges granted to him by his appointment; nor shall any officer of the Army receive from any sutler any money or other presents; and any officer receiving such presents, directly or indirectly, shall be punished at the discretion of a court-martial.

The amendment was agreed to.

Sixth amendment:

At the end of the sixth section, strike out the following words:

Provided, That nothing herein contained shall be so construed as to give sutlers a lien upon any part of the soldier's pay.

The amendment was agreed to.

The question was next taken on the amendment proposed by Mr. JOHNSON; and it was agreed to.

Seventh amendment:

Strike out "at his pleasure, or upon conviction thereof by a court-martial, be dismissed from the service, and be ineligible to a reappointment, and shall forfeit all goods, chattels, and effects found within the lines of the Army at the time of such violation, one half to the use of the United States, and the other half to the use of the person or persons who shall furnish such evidence as shall lead to a conviction for any such violation," and insert in lieu thereof, "with consent of the council of administration be dismissed from the service;" so that the section will read:

SEC. 7. *And be it further enacted*, That any sutler who shall violate any of the provisions of this act shall, by the colonel, with consent of the council of administration, be dismissed from the service.

The amendment was agreed to.

Mr. WRIGHT. I move to amend, in the second section, by striking out the words "two senior," so that the board of officers shall consist of the acting colonel, lieutenant colonel, major, and captains.

The amendment was agreed to.

Mr. ALDRICH. I move the following as an additional section:

SEC. 8. *And be it further enacted*, That any regiment of volunteers in the service of the United States shall have the power and the privilege of dispensing with the service of a sutler, whenever a majority of said regiment may so desire, by petitioning the commanding officer thereof.

Mr. WHITE, of Indiana. I would suggest that that amendment would conflict with the first section of the bill which appoints these sutlers as brigade officers, and only allows regiments that are detached to have sutlers of their own. Where regiments are brigaded, no single regiment can have the right of denying to the others the benefit of a sutler. If the gentleman will make his amendment apply only to the case of detached regiments I will have no objection to it.

Mr. ALDRICH. As I understand it there is no brigade sutler provided for by this bill. It seems to me it is no more than right to give to any regiment the privilege, if a majority desire it, of dispensing with the regimental sutler.

Mr. RICHARDSON. I am opposed to the amendment under consideration and I will very briefly state the reasons of my opposition. If adopted, it will be an invitation to insubordination in every regiment in the service. The first duty of every soldier is to learn how to obey, and to permit the soldiers of a regiment to dispense with one of the regulations of the service by a majority vote could not but have a most pernicious influence on the discipline of a regiment.

Mr. ALDRICH. It is not proposed that an election shall be held; it is merely proposed that by petition to the commanding officer the majority of the regiment may, if they desire, dispense with their sutler.

Mr. RICHARDSON. That is holding an election to all intents and purposes.

Mr. BLAIR, of Missouri. If the gentleman from Illinois will allow me for a moment, I desire to make a suggestion upon the subject of this amendment. Nobody, as the law now is, or as it is proposed to make it by this bill, is compelled to purchase of the sutler if he desires to dispense with his services. If any soldier wishes to relieve himself of the services of the sutler, he can accomplish his purpose by abstaining from making any purchases of him. I do not propose to permit any one regiment of the Army, by a majority vote, to dispense with one of the regulations of the service. If we consider the sutler necessary to the military service, let us have him, and have him as a part of the service, and not leave any regiment to vote him out by a majority of the soldiers.

Mr. RICHARDSON. I was coming to the very point the gentleman has mentioned. I desire, however, to say, in addition to the point made by the gentleman from Missouri, that the pernicious effects of this amendment, if agreed to, will be felt upon every regiment in the service.

Now, Mr. Speaker, the bill as amended by the Committee on Military Affairs, with the additional amendment proposed by the gentleman from Massachusetts, [Mr. THOMAS,] and adopted by the House, it does seem to me secures every possible right to the soldier that ought to be secured in this connection. It is true, as the gentleman from Missouri says, that no officer or soldier is compelled to buy one dollar's worth of goods from the sutler, unless he sees fit to do so. It is for the benefit of our soldiers in the field that these sutlers were appointed, and not for the benefit of those lying around Washington, from whom, I fear, is derived a large portion of the information upon which gentlemen who oppose the appointment of sutlers are acting.

I speak what I know when I say that every western regiment in the field find the sutler absolutely indispensable to the comfort and convenience of the soldiers while they are prosecuting this war. I am willing, if gentlemen desire it, that you should dispense with the services of the sutler for this army as long as it continues to lie round Washington; but my word for it, as soon as they penetrate into the interior of Virginia, as I hope they will in a few days, they will find an absolute necessity for the presence and services of these much-abused sutlers. I am no more in favor of them as a class than anybody else; but we must have them in some shape, and I want them where the military authorities of the Government can control them. If we are to have them at all in the Army I want them to be under Army regulations. When you throw open your camps to everybody who chooses to come there to peddle to the soldiers, you will find the most disastrous consequences following—that the officers will be utterly powerless to control. It seems to me that not without grave consideration should you throw aside a system which the result of long military experience shows to be, with proper regulations, the best that has been devised to meet the wants of the men in the military service of the country.

Mr. ALDRICH. My intercourse with the Army in the field has not been very extensive, but so far as it has gone, I am convinced that a majority of the non-commissioned officers and privates would be glad to see the abolition of sutlerships altogether. They have written to me that it would be better for them if Congress were to impose a tax upon them to the extent of ten per cent. on their pay until the end of the war, and abolish the office of sutler, than it would to continue the sutler and levy no tax at all. I think the amendment ought to be adopted.

Mr. EDWARDS. The amendment of the gentleman from Minnesota is plausible on the face of it, and at the first view would seem to be entitled to favor. It recognizes the right of each regiment to decide the matter for themselves. But, sir, where is the necessity for it? The gentleman proposes that if a majority of the regiment petition for it, if one more than half petition for it, the sutler shall thereupon, under this law, be dismissed. Where then are the rights and privileges of the other forty-nine out of the one hundred who desire to have a sutler, and do not therefore choose to join in the petition? It is carrying this matter of the elective franchise, this will of the people, into an arena where it cannot be safely exercised.

Mr. ALDRICH. It is democratic.

Mr. EDWARDS. It is democratic, I will admit, and democratic principles are all right in their place. But there is another course which these fifty-one can pursue which will answer their purpose just as well and save the rights and privileges of the forty-nine; that is, by having no bargains with the sutler, by purchasing no goods from him. There is no inconvenience to them in it, and, therefore, it would be wrong upon any ground to permit the fifty-one to deprive the forty-nine of their privileges. Let them reject the services of the sutler by keeping away from him, and allow those who wish his services to avail themselves of them.

Mr. ALDRICH. With the consent of the House, I will modify my amendment so as to make it require the consent of two thirds of the regiment, in the shape of a petition to the commanding officer, to displace the sutler.

The amendment was disagreed to.

The question then recurred on the motion of Mr. BLAKE to substitute for the whole bill the following:

That the office of sutler in the volunteer service of the Army of the United States be, and the same is hereby, abolished: *Provided*, That this act shall take effect and be in force from and after the 1st day of May next.

Mr. BLAKE called for the yeas and nays.

The yeas and nays were not ordered.

The substitute was disagreed to.

The bill, as amended, was ordered to a third

reading; and was accordingly read the third time, and passed.

Mr. BLAIR, of Missouri, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

EMANCIPATION.

Mr. ROSCOE CONKLING. I ask the consent of the House to introduce the following joint resolution:

Resolved by the Senate and House of Representatives of the United States in Congress assembled, That the United States ought to coöperate with any State which may adopt gradual abolishment of slavery, giving to such State pecuniary aid, to be used by such State in its discretion, to compensate for the inconveniences, public and private, produced by such change of system.

Mr. WOOD. I object.

Mr. ROSCOE CONKLING. I move to suspend the rules. This is the exact resolution recommended by the President. I call for the yeas and nays upon my motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 86, nays 35; as follows:

YEAS—Messrs. Aldrich, Arnold, Ashley, Babbitt, Baker, Baxter, Beaman, Bingham, Francis P. Blair, Samuel S. Blair, Blake, William G. Brown, Buffinton, Campbell, Chamberlin, Clark, Colfax, Frederick A. Conkling, Roscoe Conkling, Conway, Covode, Davis, Diven, Duell, Dunn, Edgerton, Edwards, Eliot, Ely, English, Fessenden, Fisher, Franchot, Frank, Goodwin, Granger, Gurley, Hanchett, Harrison, Hooper, Hutchins, Julian, Kelley, Francis W. Kellogg, William Kellogg, Lansing, Lehman, Loomis, Lovejoy, McKnight, McPherson, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Nixon, Olin, Timothy G. Phelps, Pike, Pomeroy, Porter, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Shanks, Shefield, Sherman, Sloan, Stevens, Stratton, Benjamin F. Thomas, Trowbridge, Van Valkenburgh, Verree, Wallace, Charles W. Walton, E. P. Walton, Wheeler, Whaley, Albert S. White, Wilson, Windom, and Worcester—86.

NAYS—Messrs. Ancona, Joseph Baily, Biddle, George H. Browne, Calvert, Cobb, Corning, Cravens, Crisfield, Crittenden, Hall, Harding, Johnson, Knapp, Law, Leary, Mallory, May, Morris, Noble, Norton, Pendleton, Price, Richardson, Robinson, Shiel, Smith, John B. Steele, Francis Thomas, Voorhees, Wadsworth, Chilton A. White, Wood, Woodruff, and Wright—35.

So the rules were suspended, (two thirds having voted therefor.)

During the call of the roll,

Mr. CRISFIELD stated that Mr. WEBSTER had been called home to his family.

Mr CRAVENS stated that Mr. HOLMAN was absent from the city on business connected with the committee on Government contracts.

The joint resolution was thereupon introduced, and read a first and second time.

Mr. ROSCOE CONKLING. This resolution is in the exact words of the President of the United States, as sent here with the message in which he recommends its passage. It relates to a subject in regard to which almost every member, if not every one, has made up his mind; and those who have not made up their minds will not have their conclusions settled by any discussion which may occur on this resolution. The message of the President of the United States, on motion of the gentleman from Pennsylvania, [Mr. STEVENS,] was referred to the Committee of the Whole on the state of the Union, and there every gentleman who votes now will have an opportunity of assigning at full length the reasons for the vote he will give.

Mr. GRIDER. I want to state to the gentleman from New York and the House that so far as I am concerned, he misapprehends my position, and possibly the position of others. I have not given the President's message full consideration, and I have come to no settled conclusion as to what is my duty, whether I ought to vote for or vote against its recommendations. I may be permitted to say, therefore, that in my opinion it was premature to bring in the pending proposition this morning. Nor is there any necessity for the resolution at all, because the message of the President, which was referred to the Committee of the Whole on the state of the Union——

Mr. ROSCOE CONKLING. I do not yield any further.

Mr. GRIDER. Permit me to finish the sentence. I say that there was no necessity for this resolution being brought before the House this morning, because the President's message on the subject has already been referred for consideration to the Committee of the Whole on the state of the Union.

Mr. CRISFIELD. I want to say a word.

Mr. RICHARDSON. I hope the gentleman from New York will yield to me.

Mr. ROSCOE CONKLING. I hope my friend from Illinois will excuse me now. I see half a dozen members rising to get the floor, and as I have agreed to call the previous question, I cannot yield to one without yielding to all.

Mr. DIVEN. I rise to a point of order. My point of order is this: that this resolution, having been already referred to the Committee of the Whole on the state of the Union, it is not in order for the gentleman to submit it to the House in this way. I hold that it is not in order to consider a matter in the House which is already pending in the Committee of the Whole on the state of the Union.

The SPEAKER. The gentleman is mistaken in his facts; this resolution has never been referred to the Committee of the Whole on the state of the Union.

Mr. CRISFIELD. I hope the gentleman will let me say a word.

Mr. ROSCOE CONKLING. I cannot yield to the gentleman.

Mr. THOMAS, of Massachusetts. Then let us vote down the call for the previous question.

Mr. RICHARDSON. Does not the resolution lie over, because it gives rise to debate?

The SPEAKER. The rules have been suspended to let the resolution in—that rule with the others.

Mr. ROSCOE CONKLING. I want to occupy the floor long enough to say that, as a personal matter, I would be delighted to yield to every gentleman, but when I introduced this resolution I agreed to demand the previous question. Therefore, although I might be happy under other circumstances to yield to any gentleman who may desire to submit remarks, yet I am compelled now to demand the previous question on the passage of the resolution.

Mr. WADSWORTH. As I differ with my colleague [Mr. GRIDER] in what he has said, I ask the gentleman to withdraw the demand for the previous question. I am prepared now to vote against the resolution. My mind is made up.

Mr. ROSCOE CONKLING. I decline to withdraw the demand.

Mr. WADSWORTH. I am ready to vote against the resolution.

Mr. NOBLE. I ask the gentleman to answer me a question.

The SPEAKER. Debate is not in order.

The House divided on seconding the call for the previous question; and there were—ayes 56, noes 58.

Mr. ROSCOE CONKLING demanded tellers.

Tellers were ordered; and Messrs. BINGHAM and CRISFIELD were appointed.

The question was taken; and the tellers reported—ayes 61, noes 68.

So the House refused to second the demand for the previous question.

Mr. RICHARDSON obtained the floor.

Mr. MALLORY. With the permission of the gentleman from Illinois, I will say that this to me, and others situated like me, is perhaps more embarrassing than any other question. We were most anxious that action should not be pressed upon it this morning. We were anxious, because we had intended to deliberate upon this matter maturely and calmly before we came to any conclusion on it. I, for one, am thankful to the House for the consideration of our feelings, which was manifested on the part of the majority. If the gentleman from Illinois will allow me, I will move that this subject be made a special order for next Monday. I do that out of respect for the majority which this morning refused to let the resolution be pressed through under the previous question. By that time we will have considered the subject, and be prepared to act on it. Does the gentleman from Illinois yield for that purpose?

Mr. RICHARDSON. I desire to make a remark or two, and then I will make the motion for the postponement of the subject to some more distant day.

Mr. Speaker, I confess I was struck with astonishment this morning, when the gentleman from New York introduced this resolution, and proposed to put it on its passage under the operation of the previous question. It is a subject worthy of the closest scrutiny. It is a resolution which commits us to a policy about which our people may not have considered. It embraces in its range the gravest considerations which can attract the attention of the American Congress. I intended, when I obtained the floor on another subject, to make some observations on the question embraced in the recent message of the President. The gentleman from New York [Mr. ROSCOE CONKLING] says that we ought to have our minds made up on the subject of this resolution. Why, sir, there is no subject which will engage the attention of this Congress of more magnitude. I venture to say that not one half of the members on this side of the House have had time to consider it. We have had no time to communicate with our people.

But I am prepared to say one thing in regard to that message of the President. So far as it recommends the doctrine of the rights of the States—understand when I say the rights of the States, I mean exactly what I say, for under our form of Government there are State rights, but there is no State sovereignty—so far as that document recognizes the rights of the States in this matter I recognize its force. My objection to it is not of that character; I object to it upon another ground altogether. I do not believe my people are prepared, I know that they are not prepared, to enter upon this proposed work of purchasing the slaves of other people and turning them loose in our midst. I have long entertained the idea that this class of negroes in our country are incapable of becoming the repository of freedom or government. When the President in his annual message declared that he was in favor of selecting a place outside our limits where they could be taken and colonized, I saw a light break in upon us. Then I thought there was a way by which we might get rid of that class of people as fast as possible. But that is not now before us.

In reference to another point embraced in that message, I have but a single word to offer. Without the Constitution and the Union there is no liberty—no government—and whatever stands in the way of their preservation I am prepared to strike down or to yield up. Whatever stands in the way of our Government and its integrity must be destroyed. But I do not propose to go beyond the Constitution. I know that the lives of our citizens have been sacrificed, and are being sacrificed, in order to maintain the supremacy of the law and the integrity of the Constitution. I do not know why a single article of property should be singled out and made an exception.

But, sir, I am satisfied that gentlemen are not prepared to vote upon this question to-day. I am satisfied that this is a mere movement on the part of some gentlemen to gain a seeming advantage. I am satisfied that if they were acting in good faith, they would bring forward a bill to tax our own constituents before they forced this measure upon us. It is a subject which requires consideration; and I move, therefore, that it be postponed to this day week.

Mr. BINGHAM. I hope the motion to postpone will not prevail. If gentlemen propose to entertain the proposition of the President, they can have but little, if any, difficulty in coming to a just conclusion upon it, as it involves no principle save the power of the Government of the United States to contribute in aid of the gradual abolition of slavery in any State which, of its own motion, may initiate that policy. That is all there is of the resolution. Gentlemen on both sides of the House profess to have regard to the President's wishes in this matter, and to be desirous of accepting and adopting his recommendation. The President has seen fit to send this resolution to both Houses of Congress, and to accompany it with these significant words, which I commend to the consideration of gentlemen, if the President's opinions are to have weight with them in the disposition of this matter. After suggesting the passage of the resolution as it now stands, the President uses these words:

"If the proposition contained in the resolution does not meet the approval of Congress and the country, there is the end; but if it does command such approval, I deem it of importance that the States and people immediately interested should be at once distinctly notified of the fact, so that they may begin to consider whether to accept or reject it."

The words of the President, to which I invite

the particular attention of gentlemen, are these: that he deems it important, if the resolution meets the approval of Congress, that the people immediately interested should be *at once* distinctly notified of the fact, so that they may begin to consider whether they will accept or reject the proposition. The adoption of the resolution imposes upon no State any obligation to act in the premises. It interferes with no right of any State by intendment or otherwise.

Mr. WICKLIFFE. Will the gentleman allow me to make an inquiry of him?

Mr. BINGHAM. I will, certainly.

Mr. WICKLIFFE. The gentleman is learned in the Constitution of the United States. Will he tell me under what clause of the Constitution he finds the power in Congress to appropriate the treasure of the United States to buy negroes, or to set them free? Is it under the head of "the general welfare?"

Mr. BINGHAM. If the House will permit me, I will answer the gentleman. I supposed, Mr. Speaker, that that question was settled long ago by those who made the Constitution. I took occasion in January last, when I was discussing the question of the power of Congress to provide for the common defense, to remind the House—not supposing that I was giving the House any new information, but to remind the House of the words of the father of the Constitution, uttered in the hearing of the listening nation when the Constitution was under consideration for adoption or rejection, that the power conferred upon the national Legislature by the grant of the Constitution for the common defense, had no limitation upon it, express or implied, save the public necessity, and that their laws should not conflict with the general spirit and purpose of the Constitution, viz: the protection of the lives, liberty, and property of its loyal citizens. If the gentleman will pardon me, I beg leave to remind him again of the words of Madison, that

"It is in vain to oppose constitutional barriers to the impulse of self-preservation. It is worse than in vain!"

And, says Hamilton:

"Congress have an unlimited discretion to make requisitions of men and money."

These words were uttered by James Madison and his great peer, Alexander Hamilton; and the people, with these words ringing in their ears, adopted the Constitution with that very construction upon it, and have acted upon it ever since. They have authorized you to levy and collect taxes without limit for the common defense.

Now, sir, gentlemen seem to think that in time of war the provisions of the Constitution, which limit and restrain the power of Congress to legislate for the administration of civil justice, and the appropriation of private property for public use through the instrumentality of courts, fetter the power of this great people to provide by legislative enactment for the collection and appropriation of revenue for the preservation of the nation. I tried to make myself understood when I was discussing that proposition before; and I shall call the attention of the House more particularly now to a statute upon your statute-book, which ought to bring the blush of shame to the faces of gentlemen who sit quietly in their places and permit it to remain untouched without an attempt to repeal it, if these limitations to which they constantly refer are to operate in time of war to the hinderance of the people and the people's Representatives in legislating for the common defense. The statute to which I refer is this: by the act of 1806 it is expressly provided that any spy, not being a citizen of the United States, nor owing allegiance to the Government of the United States, who shall be found lurking in our camps, or about the headquarters of our Army, shall, upon conviction by a general court-martial, suffer death.

Mr. HARDING. I rise to a question of order. I submit whether this discussion is in order upon a motion to postpone.

Mr. BINGHAM. I am sorry the gentleman did not make that question of order when his colleague propounded the question to me.

The SPEAKER. The Chair sustains the point of order. The only question before the House is on the propriety of postponing.

Mr. BINGHAM. It is due to myself that I should remind the House that I showed no disposition to enter into the discussion of this question upon its general merits until challenged to do so, and then I craved the indulgence of the House to answer the question put to me by the gentleman from Kentucky, [Mr. WICKLIFFE;] but if the gentleman insists on his point of order, of course I must desist.

Mr. HARDING. I do insist upon it.

Mr. BINGHAM. I return then to the line of argument which I was pursuing when the venerable gentleman from Kentucky [Mr. WICKLIFFE] interrupted me. I was showing from the message of the President that this resolution ought not to be postponed. I ask the House to weigh well his words. He says that if the resolution meets the approval of Congress, it is important that those immediately concerned should be at once, without delay, distinctly notified of the fact, so that they may begin to consider whether to accept or reject the proposition. I think, sir, that there should be immediate action upon this subject. I do not suppose that there is a member upon this floor who needs time to make up his mind whether it is competent for Congress to make such a proffer—for it is simply a proffer—to the States of money in aid of a State act of emancipation, which would, in the judgment of the President, greatly contribute to the suppression of the rebellion and the common defense of the Union.

Mr. VOORHEES. I concur with the gentleman from Ohio as to the propriety of considering this resolution now; and I desire to say that if the people that I have the honor to represent are to pay taxes, in addition to the burdens they at present labor under, for the purpose of buying the slaves of the South, it is best for them to know it at once. I shall vote against any postponement of this question. I, for one, as a member of this House, am fully prepared to act upon it now. If this measure is to be pressed, and to become a part of the policy of the Government, I think it is right and proper that the people should know it soon; that, while groaning under almost untold burdens, while trembling under the weight of taxation upon their shoulders, if this additional burden is to come upon them they may prepare in season their sad and oppressed hearts and almost broken bodies to bear it.

I will say one thing further: that if there is any border slave State man here who is in doubt whether he wants his State to sell its slaves to this Government or not, I represent a people that is in no doubt as to whether they want to become the purchasers. It takes two to make a bargain; and I repudiate, once and forever, for the people whom I represent on this floor, any part or parcel in such a contract. Slavery, wherever it exists under the Constitution, I and my constituents will recognize and respect in its legal rights; the *slave trade*, either domestic or foreign, we are opposed to, and it is no favorite of the Constitution. If *emancipation* means *taxation* on the free States, now lavishing their all for the Union and the Constitution, and ever ready to do so, I am opposed to that cause; and I here take my stand in the name of the people I represent against it.

The SPEAKER. The Chair thinks that the gentleman is discussing the merits of the proposition.

Mr. VOORHEES. For these reasons, and for others which I have not time to state here, I concur with the gentleman from Ohio in favor of the immediate consideration of this question.

Mr. BINGHAM. I hope the House will concur in it.

Mr. VOORHEES. I do not think it is a question about which there should be any delay.

Mr. BINGHAM. The words used by the President that it is important, if this measure be acted on at all, that it be acted on at once, were used with great propriety. I desire to state further, that a reason for prompt action on this resolution is suggested to my mind by the remarks of the gentleman from Indiana, [Mr. VOORHEES.] The special order for to-morrow or next day is the general tax bill, to which the gentleman from Indiana referred. If we have to provide a fund for the abolition of slavery in any of the States, we had better be notified of it before we pass upon this tax bill, that we may legislate accordingly. Hence it seems that it is fit we should act upon it now, and before we come to the consideration of the amount of taxes to be levied.

Mr. MALLORY. As I suggested the time to which the gentleman from Illinois [Mr. RICHARDSON] moved to postpone the consideration of this subject, I wish to say in response to the suggestions of the gentleman from Indiana [Mr. VOORHEES] and the gentleman from Ohio [Mr. BINGHAM] that I wish for no unnecessary delay in regard to this matter. The reasons that operated on me for asking this delay are known to myself and colleagues, and many gentlemen around me think they are cogent and sufficient for the request which I make. I believe, however, that what we wish to accomplish can be done in a shorter time than that indicated by the motion of the gentleman from Illinois, and I suggest to him to change his motion so as to make it Thursday next, instead of Monday. By that time we will be ready to act upon it.

The SPEAKER. The Chair will state that the tax bill is made the special order for Wednesday, and until disposed of.

Mr. RICHARDSON. Then it will come up after that.

Mr. MALLORY. I suppose that by general consent the tax bill can be postponed and this subject taken up instead.

Mr. BINGHAM. There is no objection to the gentleman amending his motion.

Mr. MALLORY. I will not do it without the consent of the gentleman from Illinois.

Mr. RICHARDSON. I have no objection.

Mr. MALLORY. Then I move that the subject be postponed till Thursday next.

Mr. BINGHAM. That motion suspends the action of the House on the tax bill for that day. Now, it is well known that the tax bill passed at the last session has been suspended from taking effect by the action of the two Houses at this session.

Mr. MALLORY. The gentleman knows that it will take much longer than Thursday to consider the tax bill.

Mr. BINGHAM. I understand that very well; but I want the House to have all the time we can fitly appropriate to that particular measure. I want it to be considered and passed as soon as can be, because the Treasury of the United States is now in need of funds. The passage of the tax bill is necessary, as a war measure, to furnish the supplies for our Army, and to enable the Government to carry on the war vigorously.

Mr. WADSWORTH. I desire the postponement of this question until Thursday next or any named day, for several reasons. As the subject has been introduced in the House, I desire to say that it is not because of any doubt on my own mind as to the course which I ought to take that I desire this postponement. I would not have said that much at this time, had not my colleague, [Mr. GRIDER,] for whom I have the greatest respect, intimated that his own mind had not come to any conclusion on the subject. The proceedings of this day will go out to the country, and I do not wish my position upon this question to be misunderstood for a moment. I beg, therefore, to protest, while I shall vote for the postponement, against being misunderstood. I am not in favor of the resolution. I do not expect to change my mind through any postponement of the subject. If, however, the question be not postponed, I now desire to debate it on its merits. I beseech gentlemen not to force us to a vote until, at least, we have been heard. In my humble judgment we ought to be heard, even though that may not affect the vote, and I trust we will be heard before the vote is taken on the proposition.

Mr. MALLORY. I wish it understood that when I made the remark in favor of the postponement of the question that I did it because gentlemen of my own delegation, including my colleague, [Mr. WADSWORTH,] and other gentlemen from other States, are engaged in consultation at this time as to what their course shall be on this subject. I was not aware that my colleague had made up his mind. If he has, of course he does not engage in those deliberations. The reason why I wanted postponement was that those gentlemen to whom I have alluded should have the opportunity of consulting. We have agreed on the time and the manner of that consultation. I wish all this to go to the country as furnishing the reason why I want a postponement of the subject for a few days.

Mr. WADSWORTH. I am always open to conviction on any subject. No man needs instruction more than I do. No man is more teachable, or will more patiently accept instruction. But it

is no fault of mine that my colleague had not understood that I am opposed to this resolution. I have told him so several times. If he has not understood distinctly that in no event will I consent to the inauguration of an emancipation policy in Kentucky by the Federal power, or give it my support, it is his fault, not mine.

The SPEAKER. The Chair will remind the gentleman that, on a motion to postpone, it is not in order to discuss the merits of the question.

Mr. WADSWORTH. Then I have to complain of the Chair that it did not remind my colleague of that fact when he spoke about me. I beg, therefore, to be heard on that point for a moment.

There was no objection.

Mr. WADSWORTH. Mr. Speaker, I do not understand that, by going into consultation on a great measure, I bind myself to come to the same conclusion with that which may be arrived at by the majority consulting. If the contemplated consultation proposes to introduce a preliminary resolution, declaring that all who participate in it shall be bound by the conclusion arrived at, I shall not go into it at all; nor do I understand any advisory consultation to be based on that condition——

Mr. MALLORY. With the leave of my colleague, I desire to interrupt him.

Mr. WADSWORTH. I will be a little more gracious to my colleague than he was to me.

Mr. MALLORY. I will say that I have always understood my colleague as being opposed to the inauguration of an emancipation party or policy in the State of Kentucky; but perhaps there is some question as to whether the passage of the resolution by Congress is to be the inauguration of such a policy or of such a party in Kentucky. It was in reference to a question of that sort that I supposed my colleague's mind was open to conviction, and about which he was ready to deliberate with the rest of us.

Mr. WADSWORTH. Undoubtedly I am open to conviction upon that point. I cannot consent to yield to the counsels of others on such a question, when my own judgment does not lead me to the same conclusion to which my colleague seems now disposed to come.

Mr. MALLORY. My colleague has no right to infer any conclusion that I seem disposed to come to. I gave no indication as to what conclusion I was disposed to come.

Mr. WADSWORTH. Well, sir, I do not desire to discuss this question now on its merits, and I will abstain from discussing it. But, sir, this is a question of vital interest to the people of my State, and I appeal to the House, if they have any consideration for me or for the people whom I represent, not to force a vote upon this resolution without opportunity for discussion now or some other time. I ask them to postpone it until Thursday, or whatever day they choose to name, or if they will not postpone it, not to force us to a vote until there can be an opportunity for full discussion.

Mr. BINGHAM. For myself, I am desirous of hearing the gentleman from Kentucky express his opinions fully upon this subject, and I hope he will have the opportunity of being heard. The object of those who desire that this motion to postpone shall not prevail, so far as I know it, is not for the purpose of cutting off debate, but for the purpose of giving the fullest opportunity for debate within a reasonable time, but that no unnecessary delay should be allowed to prevent the prompt and final action of the House upon the resolution. I understand the object of those who desire the postponement of the resolution is that they may have the opportunity for private consultation. Now, sir, if the House will permit me, I propose briefly to assign more fully my reasons why this resolution should not be postponed.

I have called the attention of the House already to certain emphatic words of the President in communicating this resolution to us; and now I desire their attention still further to the language of the President. He says:

"The Federal Government would find its highest interest in such a measure as one of the most efficient means of self-preservation."

If that be so, the House should not delay it. They owe it not only to the President but to the country to take up the resolution and consider it at once. If weighty considerations like these have induced the President to communicate this resolution to the House, there should be no unnecessary delay in our final action upon it. I beg leave to read still further from the words of the President touching this measure:

"The leaders of the existing insurrection entertain the hope that this Government will ultimately be forced to acknowledge the independence of some part of the disaffected region, and that all the slave States north of such part will then say, 'the Union for which we have struggled being already gone, we now choose to go with the southern section.' To deprive them of this hope substantially ends the rebellion; and the initiation of emancipation completely deprives them of it as to all the States initiating it."

The "initiation of emancipation" deprives the rebels of their hope, and substantially ends the rebellion. Memorable words, sir: the initiation of emancipation ends the rebellion.

I submit to the House that, upon the showing of the President, if we are going to offer inducements to any States still loyal to the Union, and known as slave States, to "initiate emancipation," it is high time that we should take up the proposition and dispose of it, in order to give those States an opportunity to accept the offer or to reject it.

Mr. WADSWORTH. If the gentleman from Ohio will allow me, there is an assent from another tribunal besides this Congress to be given to this proposition before it can be carried into full operation. If you will not postpone this question here for a day, because time and the public necessities demand instant action, now, when the people of the several States to whom the proposition is made shall come to also act upon it, as they must, how many *hours* will you graciously grant them to consider this remarkable proposition? How long will your haste and the public exigencies allow them to consider it? I fancy they will take as much time as they wish—too much for your haste.

Mr. BINGHAM. I am free to say that they might have as much time for the consideration of this proposition as is compatible with the public safety, and not a moment longer.

Mr. WADSWORTH. How long is that?

Mr. BINGHAM. That depends entirely upon circumstances.

Mr. WADSWORTH. I think I know what the opinion of the gentleman is. I think he is of opinion that the time has already past.

Mr. BINGHAM. I do not know how the gentleman knows my opinion upon that subject.

Mr. WADSWORTH. I listened to the gentleman's speech the other day, and I think he expressed in substance that opinion.

Mr. BINGHAM. The gentleman will pardon me, but I desire to say I have expressed no such opinion.

The SPEAKER. The Chair is not able to see what this discussion has to do with the question of postponement.

Mr. WADSWORTH. I am endeavoring to show that the object of pressing this resolution to a vote now is not because we have no time to spare. The gentleman in his speech the other day, if I remember correctly, expressed the opinion that this Congress should promulgate a decree of universal emancipation, and at once.

Mr. BINGHAM. The gentleman will pardon me. I said no such thing.

Mr. WADSWORTH. I have not the gentleman's speech before me, but that is my recollection of his idea.

Mr. BINGHAM. The gentleman will find no such words in my speech. I did not therein advocate any proposition for universal emancipation, or for any emancipation of the slaves of loyal citizens with or without compensation.

Mr. WADSWORTH. I did not say the gentleman did without compensation. He declared it the duty of Congress to proclaim the emancipation of four millions of slaves.

Mr. BINGHAM. I said the four millions of slaves *held by rebels*.

Mr. WADSWORTH. The gentleman said of four millions of slaves, at least. "In ten days, by means of that human telegraph woven of the lacerated heart-strings of four millions of human beings," these slaves were to be set free, rise, and end the rebellion.

Mr. BINGHAM. My proposition only had reference to slaves held by rebels; and I so expressly declared more than once in my speech to which the gentleman refers.

Mr. WADSWORTH. Well, then, slaves held by rebels. I suppose the gentleman includes everybody in the South in the term "rebels," as we only have some four millions of slaves in the South.

Mr. BINGHAM. I beg pardon of the gentleman; I do no such thing.

Mr. KELLOGG, of Illinois. I rise to a question of order. This discussion is utterly irrelevant to the subject of postponing this resolution.

The SPEAKER. The Chair sustains the question of order.

Mr. WADSWORTH. I trust the House will not interrupt us in this little matter.

Mr. BINGHAM. I certainly should like to hear what the gentleman has to say.

Several MEMBERS objected.

Mr. CRISFIELD. With the permission of the gentleman from Ohio, I desire to say that I shall vote for this motion to postpone, and I now only rise to say that in giving that vote no inference is to be drawn as to the final vote I shall give on the resolution.

The proposed measure is one to which under ordinary circumstances my State would naturally be opposed. It is due to the gravity of the proposed measure, it is due to the President of the United States, it is due to the two Houses of Congress, it is due to the country, that we should bring to it the calmest consideration and that we should give it the most thorough investigation of which we are capable.

It is to enable me to give to it that careful consideration that I desire the subject postponed to some future day. And I trust that the gentlemen upon this floor who have much less feeling upon the subject, who have much less personal interest in it, and whose constituencies are not so much interested in it as those whom I have the honor to represent, will concede to us that which we ask—time for calm, deliberate consideration.

Mr. KELLOGG, of Illinois. I desire, Mr. Speaker, to say but a word. It has occurred to me that it was unfortunate to present this resolution just now and attempt to carry it through under the operation of the previous question. I foresaw, as I thought at the moment, the result which has since manifested itself here. There has sprung up an antagonism to a proposition which I believed then and I believe now would receive three fourths of the vote of the House if fairly and calmly considered, and our minds fixed upon some scheme by which it might be practically carried into effect. But the forcing of the question upon the House in this summary manner produces antagonisms which in a moment of excitement form opposing parties that it will be difficult ever to get together. I thought, sir, that it was the object of the President to eschew party differences and partisan excitement, and see whether we could not agree upon some proposition, adopt some policy upon which the country could harmonize with a view that at some future day we might eradicate the great evil which is now stinging and burning the very vitals of the Republic. It was not intended that there should be inaugurated by the Federal Government the policy which has been indicated by the gentleman from Kentucky.

Mr. WADSWORTH. I rise to a point of order. I have no objection to the subject being debated, but I want both sides heard.

Mr. KELLOGG, of Illinois. I am in favor of postponing the further consideration of the subject to another day, in order that the House may have full opportunity to arrive at a just and fair conclusion as to the real scope and design of the resolution. It is not, as has been charged, our purpose, or the purpose of the Administration, to inaugurate on the part of the Federal Government in any of the States a scheme or measure of general emancipation of slaves. It is important that the subject should be postponed in order to show that there is no such thing in the recent message of the President of the United States or the resolution under consideration. We ought to have time, not only for consideration of this question ourselves, but in order that we may develop some plan that will harmonize all sections, and most certainly and safely accomplish the beneficial purpose that we all have in view.

The SPEAKER. It is not in order to discuss the merits of the resolution.

Mr. KELLOGG, of Illinois. By carefully looking at the message of the President, it will be seen that there is not an objectionable point in it. It is liberal and patriotic.

I am in favor of the postponement of this question, because of what has occurred here to-day. The spirit and purpose of this movement have been misunderstood. That ought to be put right. Members upon both sides of the Chamber have grown excited, and have not quite fairly, I think, looked at the matter, because of the attempt made to press the resolution through under the operation of the previous question. Let us have time in which to interchange our views. In eight or ten days we will come to some conclusion by which we will be enabled to establish a conservative constitutional policy, such as that which has been indicated by the President. We may, and I am sure that we will adopt such a measure as will meet with the approval of the large majority of this House. It is said by the gentleman from Indiana that he is unwilling to tax his people for the purpose of aiding the States, as indicated by the President. Sir, we must be careful that the tax upon the States shall not be burdensome. For while I would in any reasonable way render the aid suggested by the President, I never would be in favor of oppressive and burdensome taxation for that purpose; and this branch of the subject certainly requires consideration and reflection. A matter of this importance ought to be fully and thoroughly canvassed. The accomplishment of an object so grand and beneficial is worthy of the closest attention, and ought to command the most profound consideration of Congress.

For all of these reasons, Mr. Speaker, I do sincerely hope that members will be allowed opportunity to examine and reflect on the President's recommendation. When the question shall be pressed on the House for final action, then let that which is right and just prevail. I think that, under all the circumstances, it is due to ourselves to pursue this course. I hope the motion to postpone will be adopted.

Mr. BINGHAM. I have but a few words more to say why the further consideration of this resolution should not be postponed. I have already quoted to the House the President's remarkable words, urging immediate action by Congress. I do not care to repeat again the words of the President. I have already read all that bore directly on this subject. I desire to say, however, that I view this matter in the same light with the President.

It is proposed that there shall be a movement of gradual emancipation initiated by the different loyal slave States; for it is only such States that we can expect will entertain the proposition; and I am free to say that only such States are entitled to any such consideration; the rebel States are but organized mobs. If loyal slave States will but "initiate emancipation," that measure will itself tend to destroy this rebellion. I believe if the Federal Government, in a spirit of generosity, in the name of all the people of the free States, were to state to Maryland, Kentucky, Delaware, and Missouri that they were ready to go with them hand in hand in this matter of emancipation, and to bear their just and full proportion of the burden for whatever pecuniary sacrifice the loyal slave States may make for the general welfare of the Republic, I believe that the loyal and patriotic men of those States would be disposed to adopt this great measure of freedom, that this gigantic and wicked rebellion might speedily come to an end.

The SPEAKER. The merits of the resolution are not open for discussion.

Mr. BINGHAM. It seems to me that the border slave States will not consider this question of emancipation as they should, until the proposition of pecuniary aid is presented to them by the Government of the United States. Until that is done we have no hope they will do so. They are not ready, I fear, in these times of general destruction of property and of individual credit to initiate so important a measure without some aid from the General Government.

Mr. Speaker, if we are going to aid these loyal slave States to initiate this beneficent measure of self-preservation, we should, in the words of the President, so declare "at once;" lest, as the lengthening shadows around us seem to admonish, "the night cometh," when it will be too late.

Mr. WICKLIFFE. Mr. Speaker, I want this matter placed where there can be some deliberation and discussion on it. My friend from Ohio [Mr. BINGHAM] seems alarmed for the country just now. He thinks that we are going to be served at Manassas as we were served there last July. May be he wants to get off.

I understood my friend from New York to state that he had been instructed to call for the previous question on this resolution. That would look as if the thing had been considered and settled upon the other side. If it is, then let it go. I say let us go into the Committee of the Whole, where the President's message now is, and there we can consider it. We ought to have time to discuss it.

Mr. ROSCOE CONKLING. The gentleman from Kentucky states that I declared I had been instructed to call for the previous question.

Mr. WICKLIFFE. I so understood the gentleman. I may have misunderstood him.

Mr. ROSCOE CONKLING. I said no such thing—if the gentleman will allow me to say so.

Mr. WICKLIFFE. Gentlemen around me say that they also so understood you to declare.

Mr. ROSCOE CONKLING. If any other gentleman misunderstood me I hope that the gentleman from Kentucky will allow me to state what I did say. I said that this subject had been referred to the Committee of the Whole on the state of the Union, where every gentleman who did vote would have abundant opportunities to state his reasons for the vote he gave. On consultation with friends I had promised, on offering the resolution, to call for the previous question.

Mr. WICKLIFFE. That is what I stated.

Mr. ROSCOE CONKLING. My colleague states that the language I used was that I had agreed to call for the previous question, and not that I was instructed to demand it.

Mr. WICKLIFFE. I do not think that I did the gentleman any great injustice in what I said. I did not intend to do him any, at all events. I am disposed to have this question discussed. I have my own opinion on it. That opinion may be changed, but not by such a commentator of the Constitution as the gentleman from Ohio, [Mr. BINGHAM.] I want to see whether there is a disposition to meet this question calmly and dispassionately. I do not know whether it is in order for me to make the motion, but I would like to have this question postponed until after we have got through the tax bill, which is now before us and made a special order. I move that the resolution be referred to the Committee of the Whole on the state of the Union for discussion and action there.

The SPEAKER. That is not in order during the pendency of the motion to postpone.

ANOTHER UNION VICTORY.

Mr. OLIN. I ask the Clerk to read the following dispatch, which has been received by the Navy Department.

The Clerk read, as follows:

BALTIMORE, *March* 10.

TO HON. GIDEON WELLES, *Secretary of the Navy:*

I arrived this morning, and will come on in the next (four o'clock) train. The enemy has abandoned his heavy fortifications at St. Simons and Brunswick, Georgia. Fort Clinch and Fernandina and St. Mary's, Florida, are ours.

C. H. DAVIS,
Captain United States Navy.

EMANCIPATION—AGAIN.

Mr. DIVEN. Mr. Speaker, I care not whether this resolution be postponed until Thursday or until Monday next. When the resolution came here, accompanied by the message of the President, I hailed it with great satisfaction; and I thought the disposition made of it by the chairman of the Committee of Ways and Means in referring it to the Committee of the Whole on the state of the Union was the proper disposition to be made of it. It seems to me that that is still the proper disposition to be made of it. It is clear to my mind that it was never contemplated by the President that a measure which he declares in his message to be of great importance, should be passed under the previous question. Sir, I hailed the introduction of this resolution, coming as it did from the Executive of the country, as a bow of hope and promise. I hope that the postponement which gentlemen who are more interested in it than any other part of the country desire will be granted; and I hope that gentlemen from the border States will, during the time that may be granted to them, devote themselves carefully to its consideration. They will find, if they do, that it proposes no infringement upon their constitutional rights.

The SPEAKER. The Chair thinks the gentleman is discussing the merits of the proposition.

Mr. DIVEN. All I desire is, that those gentlemen shall have time to consider the resolution in the light in which it is presented to them, as a measure of conciliation, as a measure to interfere with none of their rights, but as a measure which the whole country, rising above all political considerations, and avoiding all constitutional quibbles and objections, may adopt. If they will use the time between now and Monday, or between now and Thursday, in thus considering it, with an honest desire to arrive at a proper conclusion, I am satisfied that the resolution will commend itself to every one of them as it does to me. In the hope that it will thus commend itself to them, not as partisans but as patriots—in the hope that consideration of this question may be had upon principles above all party organizations, but for the good and for the pacification of the country, as designed by our distinguished President, I shall vote for the postponement.

Mr. THOMAS, of Massachusetts. I desire to say but a single word upon this question. I shall vote for the postponement of the consideration of this resolution, not because I have any doubts about it myself; I intend to vote for it; but I think it is but justice to the gentlemen in this House who are situated very differently from gentlemen who represent northern States to give them the fullest opportunity for careful deliberation. I do not assent to the doctrine of the gentleman from New York [Mr. ROSCOE CONKLING] that we should vote and then deliberate, decide and then discuss. I understand that this is a deliberative body, and not merely a voting body; and I believe that if this firebrand, if I may so express myself, had not been thrown into the House in the motion for the previous question, you would have had at least five sixths of all the votes of this House in favor of the resolution; and I believe now, that upon a full consideration of this question, we shall have at least as large a number as that.

Mr. BIDDLE. Will the gentleman allow me a moment?

Mr. THOMAS, of Massachusetts. I have but a word more to say, and that is in reply to the gentleman from Ohio, [Mr. BINGHAM.] I know the President desires that we should consider this question at an early day, and I have the highest respect for the wishes and feelings of the President upon this subject, but I do not understand, as gentlemen seem to intimate frequently on the floor of this House, that the House is to follow the beck of the President, or any member of the Administration. It has its duties to discharge as well as the President. This House is to initiate a policy, and not the President of the United States; it is to take the responsibility as well as the President, and therefore it is to discuss and deliberate before it decides or votes. That is all I desired to say.

Mr. BIDDLE. I will add a single word to what has so well been said by the gentleman from Massachusetts on the subject of postponement. I understood the gentleman from Ohio [Mr. BINGHAM] to refer to the language of the President of the United States, as if he had, so to speak, called the previous question himself upon this resolution.

Mr. BINGHAM. The gentleman will excuse me. I did not intend to communicate any such idea.

Mr. BIDDLE. I so understood him. There was some particular urgency which he derived from a criticism of the phraseology used by the President. That is what I mean to impute to him, and nothing more. I therefore beg, before he replies to me, if he thinks it worth while to do so, to call his attention to the final sentence of the President's message, in which he says:

"In full view of my great responsibility to my God and to my country, I earnestly beg the *attention* of Congress and the people to the subject."

Now, this solemn language, in which he calls the *attention* of this Congress to the subject, certainly does not imply a desire that the resolution should be hurried through without any attention being given to it or any deliberation upon it.

Mr. BINGHAM. I merely wish to say that I expressly declared that I did not object to giving it attention, or to there being debate upon it, if gentlemen desired to discuss it. I objected to postponement. That was all.

Mr. ELIOT. I move the previous question on the motion to postpone.

Mr. ROSCOE CONKLING. Will the gentle-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. WEDNESDAY, MARCH 12, 1862. NEW SERIES.....No. 73.

man yield me the floor for a single moment? I will then renew the call for the previous question, if he desires it.

Mr. LOVEJOY. I want a moment or two.

Mr. ELIOT. I withdraw the call for the previous question.

Mr. ROSCOE CONKLING. Am I to renew the demand or not?

Mr. ELIOT. Yes, sir. I should like to have an opportunity to speak myself, but I think the House is prepared for the question, and that the gentleman had better move the previous question.

Mr. COX. I object.

The SPEAKER. To what does the gentleman from Ohio object?

Mr. COX. I understand they are farming out the floor over there, though we cannot hear distinctly what is going on.

The SPEAKER. The gentleman from Massachusetts withdrew the demand for the previous question, and yielded the floor to the gentleman from New York, and the Chair recognized the gentleman from New York.

Mr. ROSCOE CONKLING. The gentleman from Ohio will agree with me, I am sure, that considering the amount of criticism which has been bestowed upon the demand I made for the previous question, it is quite right that I should be allowed a moment or two in answer to all that has been said.

On the 6th day of this month, the President of the United States sent here a brief message in writing, accompanied by a very brief resolution. The subject of this communication was not of recent origin, not novel, but of long standing and familiar to every citizen of the country in public and private life. Not only an old and familiar subject, but one upon every phase of which parties and factions of parties have voted, divided, and arranged themselves in this House and in the country over and over again—that topic, all the bearings and applications of which are fixed with a distinctness, defined with a sharpness which belongs to no other theme engaging the public mind, and which nothing could have produced but years of earnest discussion.

The nature of the proposition was such, and the recommendations with which it was accompanied were such, as has been truly said by the gentleman from Ohio, as to demand, at its earliest convenience, the action of the House. On the motion of the gentleman from Pennsylvania [Mr. STEVENS] it was referred to the Committee of the Whole on the state of the Union—no special committee being raised to consider it, and no standing committee of this House being placed in charge of it. It went, therefore, to that place which, at every advanced stage of a session, becomes "the tomb of the Capulets," and there it would have rested for a considerable period of time had no motion of any sort been made to induce action upon it. After the lapse of four days, when there has been less than usual occupation here, and after we have adjourned from Friday to Monday, a resolution was offered reviving the resolution recommended by the President. The precise phraseology of the President was adhered to, to the end that the vote should be taken upon the very thing which in public, in private, and in the newspapers, has been turned round and round until I believed, when I offered the resolution, as I believe now, that every gentleman in the House has made up his mind pretty fully upon it. I do not even now understand my distinguished friend from Kentucky [Mr. MALLORY] to say that he has not made up his mind which way to vote upon the resolution.

Mr. MALLORY. Then the gentleman from New York most distinctly misunderstood the gentleman from Kentucky.

Mr. ROSCOE CONKLING. If I did misunderstand the gentleman, I am glad to be corrected. I understood the gentleman [Mr. MALLORY] and his colleague [Mr. GRIDER] both to say that some time was desired to enable a consultation to take place in regard to the resolution, and my inference was as to the management and disposition of the question; a consultation, perhaps, as to reasons to be assigned, and the conduct of the debate. It seemed to me that all had resolved or could easily resolve whether his vote should be yes or no, that those who desired to make a record of the reasons for the vote they should give, could assign those reasons in the Committee of the Whole on the state of the Union. And, therefore, I was hardly within the sweep of the criticism of the distinguished gentleman from Massachusetts, [Mr. THOMAS,] who hinted so broadly that my idea was, that we should decide first and deliberate afterwards. No, sir. I said that I believed we had already deliberated, and that any gentleman who desired to record his reasons for his decision, could have that opportunity at his convenience in the Committee of the Whole.

Now, it is said that pressing this question to a vote was a fire brand introduced into this House; and the gentleman who made that remark [Mr. THOMAS, of Massachusetts] accompanied it with a declaration that he thought five sixths of the members of the House would have voted for the resolution if the previous question had not been demanded.

Mr. THOMAS, of Massachusetts. Allow me to correct the gentleman. I said if time had been given for a careful consideration of the exact measure which the President proposes, and the reasons and motives for it, that it would have that effect.

Mr. ROSCOE CONKLING. I very gladly accept the explanation of the gentleman, although he said, in so many words, that if this firebrand in the form of the previous question had not been thrown into the House he believed the resolution would have received the support of five sixths of the members.

Mr. RICHARDSON. I rise to a question of order. I demand to know of the Chair, whether this debate is pertinent to the issue before the House.

The SPEAKER. The gentleman is stating the reasons why the previous question should be put on the proposition.

Mr. ROSCOE CONKLING. The previous question is to be called, because I promised to call it.

The SPEAKER. What is a good reason for calling the previous question is a good reason why the consideration of the measure should not be postponed.

Mr. ROSCOE CONKLING. I was about to say, when the gentleman raised his point of order, that before the previous question was demanded at all, alluded to, or anticipated, upon objection being made by the member from New York [Mr. WOOD] to the introduction of this resolution, we were unable, even upon dividing the House, to carry the suspension of the rules, to get at it at all, and were driven to the yeas and nays, and hardly found votes enough even then. So much for the universal acclaim which this resolution would ever have received in the House, and with which it would have been received if the previous question had not been called.

If any one, after the record already made, can suppose general consent to the resolution can be successfully invoked, there is not so great faith I fear out of this House, no, not in Israel.

My purpose at this moment, my purpose at the moment I moved the previous question, and at every moment since I took my seat here on the 4th of July as a member of the present Congress, is and has been to give to the Administration a generous, hearty, unqualified support; a support in all its efforts, in all its recommendations, in all its measures looking to throttling and putting down the great rebellion which has reared itself against the nation's life.

Mr. RICHARDSON. I now suggest to the Chair whether that is pertinent to the issue. [Laughter.]

The SPEAKER. The Chair is in doubt about it.

Mr. ROSCOE CONKLING. Mr. Speaker, the resolution before us is not a measure, but simply a declaration of what may be our line of conduct and the policy of the Administration with regard to certain questions in a certain contingency. It is a recommendation coming from the President of the United States, and dictated, as I believe, by all the patriotism and all the purity of purpose which has distinguished every recommendation, so far as I know, that he has made to Congress, and every act of his since he entered the presidential chair. I believed when the resolution was introduced, and I believe now, that a deliberate, considerate, proper, and wise mode of acting upon it was, to take it up in the House, where there is a previous question, and pass it without a revival of that debate which has already vexed the ears of the country and raised a clamor against both Houses of Congress. It seemed to me the question might be taken without multiplying that discussion of the slavery question which has already consumed much time here, even at this session, when things were to be *done* rather than said, and the subject discussed, if discussed it must be, in Committee of the Whole here, and in the other end of the Capitol, where no previous question exists. That was my reason for demanding the previous question. That is my reason for voting now as I shall vote.

Mr. THOMAS, of Massachusetts. May I ask the gentleman from New York a question?

Mr. ROSCOE CONKLING. Certainly.

Mr. THOMAS, of Massachusetts. Did not the gentleman state to the House that he called the previous question because he had agreed or promised to call it?

Mr. ROSCOE CONKLING. I will repeat the answer on that point, which I gave to the gentleman from Kentucky, [Mr. WICKLIFFE.] It was, that on consultation with other gentlemen on this floor, I had agreed (if that is the word I used,) to call the previous question, and I say that I did so, not upon my own judgment alone, but in deference to the judgment of gentlemen whose opinion I value more than my own, and who thought this the fitting mode of giving assent to this recommendation of the President, and putting it on its way to the other House.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. FORNEY, its Secretary, notifying the House that the Senate had passed a bill to encourage enlistments in the regular Army of the United States, and for other purposes, in which he was directed to ask the concurrence of the House.

EMANCIPATION—AGAIN.

Mr. ROSCOE CONKLING. Now, sir, the proposition is to postpone the resolution until Monday or Thursday, it matters not which, for either is a day beyond that already fixed for the consideration of that volume, almost as large as a family Bible, entitled the "tax bill;" and having taken that up, it having been made a special order from day to day until disposed of, I imagine no man will witness the reappearance of this resolution for a period so long as to be destructive of the present and immediate object which the President and his advisers have in view.

Mr. Speaker, I, for one, have listened in vain to hear the statement of any valid reason why the vote should not be taken upon the resolution to-day. I think every substantial purpose can be answered by a vote now. I believe every vote will be recorded upon its final passage if we vote to-day exactly as it would be recorded if we should postpone it for the longest time desired by any gentleman.

Mr. BLAIR, of Missouri. Suppose a gentleman had not made up his mind how to vote upon this question, would the gentleman consider that a valid reason for delay? The gentleman knows that there are persons here who state that they have not made up their minds, and desire delay for deliberation.

Mr. ROSCOE CONKLING. The gentleman seems to base his interrogatory upon the idea that no important measure ought to be acted upon until

every member has given it the fullest consideration and made up his mind as to the propriety of all its details. If that be his idea, I wish to ask him in his character as chairman of the Military Committee of this House, how many of the important bills which he reports, and after holding the floor an hour or a fraction of an hour brings to the final vote under the operation of the previous question, bills involving the expenditure of enormous sums of money, and affecting largely the interests of this, and future generations—how many of these bills would have passed this House or would pass before the end of the session, if they waited until every member examined them in all their details, and in all their bearings, and made up his mind upon them? These are all new measures, many of them in the nature of amendments coming from the Senate, not always even printed. Yet here is a resolution so brief—the proposition so much in a nutshell, that I submit with great respect that no gentleman needs more time to make up his mind definitely upon it than is sufficient to read it and see how it squares with his preconceived views and convictions of a matter which has been discussed until it is perfectly threadbare, which has been held up to the light and kept under the microscope until every fiber has become as visible as a sunbeam.

Mr. BLAIR, of Missouri. I say to the gentleman in the first place that I never called the previous question upon any measure in this House without discussion.

Mr. HUTCHINS. I rise to a question of order. I submit that this discussion is not in order, not being relevant to the issue before the House.

The SPEAKER. The Chair can hardly see how the question whether the gentleman from Missouri called the previous question upon an Army bill is pertinent to the postponement of this bill.

Mr. ROSCOE CONKLING. My friend from Missouri will be satisfied, from what is in order, that I meant no criticism upon him. The point I wished to present was, that no important bill would ever be put upon its passage by him or any other gentleman if the rule of action had been followed, that no vote should take place until it had been thoroughly examined in all its parts by every member of the House, nor until every member had made up his opinion upon it.

Now, sir, having said this much in vindication of my own action, and of those whose sentiments I reflect in regard to this proposition, and having agreed with the gentleman from Massachusetts, as the condition on which I occupied the floor by his politeness, to call the previous question, I trust no offense will be taken if I insist upon that call, which I do, on the motion to postpone.

Mr. STEVENS. I hope the gentleman will withdraw the demand for the previous question for a moment, until I can move an amendment to the motion to postpone.

Mr. ROSCOE CONKLING. With the permission of the gentleman from Massachusetts I will withdraw the demand for that purpose, and yield the floor to the gentleman from Pennsylvania.

Mr. STEVENS. I understand the motion pending to be to postpone until Thursday next.

The SPEAKER. The motion is to postpone until Monday next, and an amendment is pending to change the time until Thursday.

Mr. STEVENS. I thought the amendment was accepted.

The SPEAKER. The Chair understood the gentleman from Illinois to indicate his willingness to permit the gentleman from Kentucky to offer the amendment.

Mr. RICHARDSON. That is what I said.

Mr. STEVENS. I hope the gentleman will modify his motion so as to make it to-morrow.

Mr. BLAIR, of Missouri. Make it Wednesday.

Mr. STEVENS. Wednesday will suit me. On Thursday the tax bill comes up, and unless it is disposed of before that time, it is impossible to say when it will be considered. I merely want to say that Wednesday will give every man ample time to consider it. I have read it over; and I confess I have not been able to see what makes one side so anxious to pass it or the other side so anxious to defeat it. I think it is about the most diluted, milk and water gruel proposition that was ever given to the American nation. [Laughter.]

The SPEAKER. The Chair must again remark that it is not in order to discuss the merits of the resolution on the motion to postpone.

Mr. STEVENS. Yes, sir. The only reason I can discover why any gentleman should wish to postpone this measure is for the purpose of having a chemical analysis to see whether there is any poison in it. [Laughter.] I demand the previous question.

Mr. BLAIR, of Missouri. Do I understand the gentleman from Kentucky to accept the amendment of the gentleman from Pennsylvania?

Mr. MALLORY. I did not.

Mr. STEVENS. I did not move it as an amendment, because I supposed as many amendments were already pending as the rules would permit.

The SPEAKER. An amendment is in order.

Mr. STEVENS. I move, then, to postpone until Wednesday.

Mr. ELIOT. I wish to know what day the tax bill has been assigned for?

The SPEAKER. Wednesday.

Mr. STEVENS. I was under the impression it had been assigned until Thursday. I will change my motion, then, until to-morrow, and now demand the previous question.

The previous question was seconded, and the main question ordered to be put.

ENROLLED BILL.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 326) to fulfill treaty stipulations with Hanover; when the Speaker signed the same.

And then, on motion of Mr. STEVENS, (at five minutes past four o'clock, p. m.,) the House adjourned.

IN SENATE.

TUESDAY, *March* 11, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. SUMNER presented the petition of Henry J. Gray, William Jenkins, and two hundred and twenty-seven others, citizens of Andover, Massachusetts, praying for the total abolition of slavery throughout the country; which was ordered to lie on the table.

He also presented a petition of citizens of Buffalo, New York, praying for the total abolition of slavery throughout the country; which was ordered to lie on the table.

Mr. McDOUGALL presented the petition of William Holman and others, praying for mail facilities between the Atlantic States and the States of California and Oregon, by steam vessels, in addition to the overland mail; which was referred to the Committee on the Post Office and Post Roads.

Mr. KING presented a petition of citizens of New York, praying for the passage of a general uniform bankrupt law; which was referred to the Committee on the Judiciary.

Mr. COWAN presented resolutions of the City Councils of the city of Philadelphia, praying for an appropriation for the defenses of that city; which were referred to the Committee on Military Affairs and the Militia.

Mr. DIXON presented additional papers in relation to the resolution for the appointment of Hon. Henry Barnard, of Connecticut, as regent of the Smithsonian Institution; which were referred to the Committee on the Library.

Mr. POMEROY presented additional papers in support of the claim of Lydia S. Hall; which were referred to the Committee on Claims.

REPORTS FROM COMMITTEES.

Mr. SUMNER, from the Committee on Foreign Relations, to whom were referred resolutions of the Legislature of Wisconsin in favor of appropriate action for the relief of Ireland from the impending famine, and also similar resolutions from the Legislature of Kentucky, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred a message of the President of the United States, transmitting a copy of a dispatch to the Secretary of State from the minister resident of the United States at Lisbon, concerning recent measures which have been adopted by the Government of Portugal intended to encourage the growth and enlarge the area of the culture of cotton in its African possessions, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a message from the President of the United States, transmitting the correspondence of the Department of State with the ministers of Austria, and also of Prussia, relating to the capture and detention of certain citizens of the United States, passengers on board the British steamer Trent, by order of Captain Wilkes, of the United States Navy, and also the correspondence of Mr. Adams, our minister at London, with a letter from Lord Russell to Lord Lyons, relating to the same matter, asked to be discharged from the further consideration thereof, and that the papers of Mr. Adams, covering the letter of Lord Russell to Lord Lyons, be printed for the use of the Senate; which was agreed to.

Mr. CLARK. The Committee on Claims, to whom was referred the petition of Hugh McKee, Frederick Haun, and H. C. F. Hackbush, praying compensation for services rendered in surveying the Delaware reserve lands in the State of Kansas, ask to be discharged from its further consideration, and that it be referred to the Court of Claims. It is peculiarly a case for the Court of Claims.

The motion was agreed to.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the petition of Charles Appleton, praying for arrears of pension, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Elizabeth Smoot, one of the heirs of Robert Speider, a soldier in the war of 1812, praying for a pension and bounty land, submitted an adverse report; which was ordered to be printed.

Mr. RICE, from the Committee on Public Lands, to whom was referred the resolution (S. No. 26) explanatory of a certain act therein mentioned, reported it with an amendment; and he notified Senators that he would call it up at an early day.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 189) for the survey of grants or claims of land, reported it without amendment, and that it ought not to pass.

Mr. WILSON, of Massachusetts, from the Committee on Military Affairs and the Militia, to whom the subject was referred, reported a joint resolution (S. No. 65) to authorize the Secretary of War to accept moneys appropriated by any State for the payment of its volunteers, and to apply the same as directed by such State; which was read, and passed to a second reading.

NOTICE OF A BILL.

Mr. LATHAM gave notice of his intention to ask leave to introduce a bill to repeal all postal laws or disabilities preventing a foreign steamship company from carrying American freight and mails from New York to Panama and from Panama to San Francisco.

COAST SURVEY REPORT.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting a report of the Superintendent of the Coast Survey, showing the progress in that work for the year ending November 1, 1861.

Mr. ANTHONY submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That there be printed, in addition to the usual number, six thousand two hundred copies of the report of the Superintendent of the United States Coast Survey, of which twelve hundred shall be for the use of the Senate, and five thousand copies for distribution by the Superintendent.

EUROPEAN RAILWAYS.

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

Resolved, That the President of the United States be requested, if in his opinion it be not incompatible with the public interests, to communicate to the Senate a copy of any correspondence on the records or files of the Department of State, in regard to railway systems in Europe.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House had passed a bill (No. 223) to render valid and authorize the extension of the letters patent granted to John G. Mini on the 13th day of November, 1844, and reissued on the 24th day of August, 1852, in which the concurrence of the Senate was requested.

The message also announced that the House had passed the bill of the Senate (No. 136) to provide for the appointment of sutlers in the volunteer service, and to define their duties, with amendments; in which the concurrence of the Senate was requested.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 208) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th June, 1863, and additional appropriations for the year ending 30th June, 1862.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bill and joint resolution; which thereupon received the signature of the Vice President:

A bill (H. R. No. 326) to fulfill treaty stipulations with Hanover.

A joint resolution (S. No. 22) providing for the payment of the awards of the commission to investigate the military claims in the department of the West.

HOUSE BILL REFERRED.

The bill from the House of Representatives (No. 223) to render valid and authorize the extension of the letters patent granted to John G. Mini on the 13th day of November, 1844, and reissued on the 24th day of August, 1852, was read twice by its title, and referred to the Committee on Patents and the Patent Office.

NAVAL DISASTER IN HAMPTON ROADS.

Mr. WILSON, of Massachusetts. I submit the following resolution, and ask for its present consideration:

Resolved, That the Committee on Naval Affairs inquire into the late engagement between the rebel steamers and the vessels of the United States, near Fortress Monroe, with all the circumstances that led to such destruction of the property of the United States; and that they be authorized to send for persons and papers.

The VICE PRESIDENT. Is there any objection to the consideration of the resolution?

Mr. HALE. I do not want to make any objection to it, and if the Senate charge the committee with it, we shall make such inquiries as we can; but I think it is proper at this time to state a fact that should be called, in my judgment, to the attention of the country and of the Senate. It is this: so far as I know, or am informed, or have any reason to believe, from the commencement of this rebellion to the present hour, no matter what disasters have attended our arms, on sea or on land, neither the War Department nor the Navy Department, except in the single instance of a solitary officer at the battle of Bull Run, have made the least inquiry under heaven. The disgraceful affair at the mouth of the Mississippi and the disaster at Ball's Bluff have passed, so far as either of these Departments is concerned, without the least notice. I suppose that this resolution is introduced by the Senator from Massachusetts in cognizance of that fact. I wish to say that I do not think it is a matter that belongs to a committee of Congress, provided that either of these Departments, the War or the Navy, took the first step toward their imperative duty. In my judgment, the moment that a disaster occurs, by land or by sea, the head of the appropriate Department should institute a rigid scrutiny and inquiry into it. But as I said, the only inquiry they did make was as to the conduct of a single officer at Bull Run, and I believe that court of inquiry reported, in substance, that they believed certain things existed; but the witnesses swore so terribly that it would be difficult to prove them or disprove them either, and therefore they thought it best to let the matter go. That has been the system on which both these Departments have acted in regard to these matters.

I have no objection to the resolution.

Mr. WILSON, of Massachusetts. I rise simply to say that months ago the country understood that the Merrimac was being fitted out at Norfolk; that the press of the country called the attention of the Government to it; that the merchants of the country were anxious about it; that the underwriters and insurance agents wrote to the Government here, to members of Congress, and to others, calling attention to the danger of that ship coming out from Norfolk. To my personal knowledge, the War and Navy Departments and officers in the Army and Navy have had their attention called over and over again to the danger to the country of the fitting out of the Merrimac. It has been fitted out. It has come out of that harbor and has annihilated vessels of war, and I know no reason why it may not come out this very day and annihilate all the vessels in that harbor, or go where it pleases. I think this deplorable calamity which has fallen upon the country—I will not say unexpectedly—should be looked into, and we should know who is responsible for it.

Mr. GRIMES. I think it is due to the chief of the Navy Department that I should say a single word in regard to this subject, and especially——

Mr. BROWNING. Will the Senator from Iowa permit me to ask, in regard to a point of order, is the resolution before the Senate?

The VICE PRESIDENT. The Chair heard no objection, and the resolution is before the Senate.

Mr. BROWNING. I intended to object to its present consideration.

Mr. GRIMES. I want to say a single word.

The VICE PRESIDENT. If the Senator from Illinois objects, it cannot be discussed.

Several SENATORS. It is too late.

Mr. BROWNING. I did not understand that the question of objection had been submitted to the Senate.

The VICE PRESIDENT. The Chair inquired if there was any objection. The Chair did not state that there was no objection.

Mr. BROWNING. The Chair did not make any announcement.

The VICE PRESIDENT. The Chair did not; nor did the Chair hear any objection.

Mr. CLARK. The Chair recognized debate.

Mr. HALE. I said that if there was no objection, and it was under consideration, I had a few remarks to make, and I went on and made them.

The VICE PRESIDENT. And nobody objected The Chair rules that it is before the Senate.

Mr. GRIMES. In the first place, I wish to say a word in regard to a remark which fell from the Senator from New Hampshire, who is chairman of the Committee on Naval Affairs. It is very true that with reference to the disaster that occurred to our shipping at the mouth of the Mississippi no court-martial was held, because from the very circumstances that surrounded the case it was impossible to hold one. The facts were these: several officers, most of whom had been retired by a former retiring board of the Navy, but who, after being restored, on account of their position on the Naval Register, were entitled to the command of vessels, were in command of the ships that were blockading that point. They were mostly men who had been pronounced by the universal sentiment of the service unfit for their commands; but there was no alternative for the chief of the Navy Department to pursue except to assign them to these commands, because Congress itself had decided that they were fit to command by restoring them to the Naval Register, and placing them in a position where he was compelled to take them. When that disaster befell our shipping, an order was immediately issued by the Secretary of the Navy directing them to go before a retiring board; and I believe that every one of them either has been retired by that retiring board or else has been retired by the act of Congress passed at the early part of this session. It was impossible for the Secretary of the Navy to recall the junior officers who were on that station in order to hold a court-martial upon the superior officers here in Washington without detriment to the public service, and he pursued exactly the course that I think the facts justified, and that the necessities of the service required.

Now, sir, I suppose that the purpose of the resolution is to fix the responsibility of the disaster that has occurred to the Cumberland and the Congress upon somebody. We all know where that responsibility rests now. There is no use in sending it before any committee to investigate it. It rests upon the military branch of the Government, for not organizing at an early day a military expedition against Norfolk, and thus capturing the city, shipping, navy-yard, and machine shop. Whose fault was it that such an expedition was not organized? Was it the fault of the Navy? By the reference of this resolution to the Committee on Naval Affairs, the inference is to be drawn in this body, and by the country, that the Navy is in some way responsible for this disaster. In no degree is the Navy responsible. At all times, upon all occasions, it has not only been willing, but has been anxious to perform its whole duty. Why, sir, it is a notorious fact that upon two different occasions the Navy officers have offered, been anxious, solicited an opportunity to go down and open the blockade of the Potomac, and upon one occasion for thirty-six hours were the flotilla under steam, prepared to go down; but a superior military officer, who undertook to control all offensive operations, refused to let it go.

Mr. FESSENDEN. Who was he?

Mr. GRIMES. I suppose some gentleman on the committee on the conduct of the war, who are now investigating these subjects, can inform the Senator. I say the responsibility rests upon those who have neglected to organize a military expedition against Norfolk, and in which the Navy has always been anxious to assist.

A part of the blame for this disaster is perhaps due to ourselves, because we have not at an earlier day passed some appropriations by which to construct iron-plated ships. I congratulate myself that one of the first acts I did when I came into Congress was to introduce a resolution into this body calling for information in regard to iron-plated ships, initiating the very measures which the experience of the past few days has shown to us that it is necessary for us to adopt if we will protect our sea-coast from the ravages of a hostile foe.

I wish to say another word, Mr. President. I have heard remarks made outside of the Senate, and by Senators, in regard to the condition of the Roanoke, a fine steam frigate belonging to the Navy, which, at the time these vessels came out, was deprived of her steam power. What are the facts? The Roanoke is a fine frigate. Whether wisely or unwisely I am not going to say, we have no means of building steam engines for our own vessels; we have to contract with individuals or private companies for their construction. The engines of the Roanoke, as the engines of all other steamers, were built by private contract. These contractors have all the patterns and the models for all parts of her machinery. When, therefore, the shaft of the Roanoke broke, it was necessary for the Department to do one of two things: either to send her under tow to New York, and thus deprive themselves of the benefits of her batteries if they became necessary, for she is a forty-gun frigate, and presents to the enemy which approaches her on either side twenty guns, or to send the broken shaft to New York to have it repaired, and allow her to remain in the harbor to be moved back and forth by steam tugs, of which there were half a dozen in that vicinity, and which could be used for that purpose. I apprehend that the Department was entirely blameless in that respect. That the engine was not completed earlier is no fault of the Department, but the fault perhaps in some degree of the system which we have adopted, of allowing these engines to be constructed by private contractors, and thus whenever a portion of the machinery becomes disabled, permitting them to take up and go on with any other work that may be more profitable to them, and leave this kind of work to be done at their leisure.

Mr. COLLAMER. I inquire of the gentleman how long since that shaft was broken.

Mr. GRIMES. I cannot say how long.

Mr. COLLAMER. I understand it is four months. I desire to know whether any measures of any kind have been taken to replace it?

Mr. GRIMES. I will inform the Senator that everything that could be done, or that was desirable to be done, was done. The persons who had these models and these patterns have been stimulated, I understand, in all possible ways to get her in a condition so that she could go to sea; but the Senator will see that the Department is completely

in the power of the contractors, having the models themselves, we having none, and if we had them, having no machinery to make the defective parts.

Mr. COLLAMER I ask whether they have been applied to for a shaft for that vessel?

Mr. GRIMES. Long ago, as I understand. But the Senator will observe that the Roanoke in the tow of tugs, of which there were two by her side, for the purposes for which she was used, was just as efficient as she would have been had her machinery been perfect.

Mr. HALE. I want to say, in answer to what has been said by the Senator from Iowa, that I did not mean to charge any special neglect on the Secretary of the Navy in this particular instance; but what I meant to say, and what I think is a notorious fact and a fact highly reprehensible, is that there has been no inquiry made either by the War Department or the Navy Department into the cause of any of the disasters which have befallen our arms on the sea or on the land, with the solitary exception, if I am rightly informed, of the court of inquiry into the condition of Colonel Miles at the battle of Bull Run. The honorable Senator from Iowa says they did right in regard to the affair at the mouth of the Mississippi, because they sent our officers before a retiring board. They sent them there just exactly as they sent there some of the officers of the finest character in the Navy, men of unblemished reputation—Commodore Stewart, Commodore Long, and others—men whose fame and reputation are without reproach and without suspicion. They were sent before the same retiring board.

Mr. GRIMES. The Senator I suppose knows that Commodore Long voluntarily retired, and that Commodore Stewart himself was chairman of the retiring board, and could not have gone before the board.

Mr. HALE. They have been all retired, some of them by the board before the last law was passed, and some of them by law. What I mean to say is that I do not see how the Senator can think that answered the necessity of an inquiry when they were simply honorably retired, exactly as other officers were, precisely in the same way.

What I want to call the attention of the Senate to is that there has been no inquiry. Does not the Senator know that the navy-yard at Norfolk, the greatest naval depot we had, was abandoned and no sort of inquiry was ever instituted by the Department into that, not the slightest; and that there has been no inquiry made into anything, either in the Army or the Navy, from the very commencement of this contest up to the present hour? The honorable Senator from Vermont [Mr. FOOT] suggests that he thought we ordered an investigation into the surrender of the Norfolk navy-yard. We did not commence an investigation until months and months after the transaction occurred, and we found that the Navy Department had failed to institute any inquiry before the resolution was introduced into the Senate. In my humble judgment, both these Departments have been exceedingly derelict in this matter. The very first thing which should be done when a disaster occurs to our arms either on land or on sea, is to institute an inquiry instantly, and it should be ascertained where the fault is, if there is any fault, and justice should be meted out to those to whom the blame should be attached.

Mr. FESSENDEN. I merely rise to suggest whether any special inquiry can be necessary in this case. We have a standing committee of both Houses on the conduct of the war; and when that committee was appointed it was with the express understanding, so stated in debate, that they should inquire into all these matters that took place. I have heard no report from that committee. I suppose they have not thought it wise to make one. Their inquiry has been going on. The matter is in their hands, and no doubt they will institute in this case such investigation as they think necessary, and will communicate with us in due time. I see no necessity for any special resolution, when we have that committee to act with the zeal and ability that every one admits belong to them.

Mr. HALE. I move to amend the resolution by striking out "the Committee on Naval Affairs," and inserting "the committee on the conduct of the war," so as to commit the inquiry to the committee mentioned by the Senator from Maine.

The amendment was agreed to; and the resolution, as amended, was adopted.

PURCHASE OF COIN.

On motion of Mr. FESSENDEN, the bill (H. R. No. 341) to authorize the purchase of coin and for other purposes, was considered as in Committee of the Whole. It proposes to authorize the Secretary of the Treasury to dispose of any bonds or notes bearing interest authorized by law, for coin, at such rates and upon such terms as he may deem most advantageous to the public interest; and that he may issue certificates of indebtedness such as are authorized by the act of March 1, 1862, to such creditors as may desire to receive them, in discharge of checks drawn by the disbursing officers upon sums placed to their credit on the books of the Treasury upon requisitions on the proper department, as well as in discharge of audited and settled accounts as already provided. The second section provides that the demand notes authorized by the acts of July 17, 1861, and February 12, 1862, shall, in addition to being receivable in the paying of duties on imports, be receivable and lawful money and a legal tender in like manner and for the same purposes and to the same extent as the notes authorized by the act of February 25, 1862.

Mr. FESSENDEN. The Committee on Finance have directed me to offer some amendments to the bill. The first is to strike out in lines one, two, and three, the words, "may dispose of any bonds or notes bearing interest authorized by law for," and insert, "is hereby authorized to purchase;" so that the clause will read:

That the Secretary of the Treasury is hereby authorized to purchase coin at such rates, &c.

The amendment was agreed to.

Mr. FESSENDEN. I move further to amend the bill by inserting as a new section:

And be it further enacted, That the limitation upon temporary deposits of United States notes with any Assistant Treasurers or designated depositaries authorized by the Secretary of the Treasury to receive such deposits at five per cent. interest to $25,000,000, shall be so far modified as to authorize the Secretary of the Treasury to receive such deposits to an amount not exceeding fifty millions of dollars.

I desire before the Senate act upon this amendment, if Senators will give me their attention for a moment, to explain what it means, inasmuch as the matter was one of very considerable discussion in the Senate when the bill authorizing the issue of United States notes was before the body. The Senate will remember that in the bill to authorize the issue of United States notes, we inserted a clause by which any person holding a certain amount of them was authorized to deposit them with a sub-Treasurer, or any other designated depositary, and receive five per cent. interest for them, having the right to withdraw them on giving ten days' notice. That provision was limited to $25,000,000, giving also to the Secretary the power at any time on notice to stop the payment of the interest. The experiment has been found, in the opinion of the Secretary, to lead to a very beneficial result. The banks of New York have agreed to deposit with the sub-Treasurer in New York, the amount of twenty or twenty-five millions at five per cent., and to receive the certificates authorized by the act, and to use these certificates in the settlement of balances at the clearing house. The Secretary regards this as a very beneficial arrangement, a loan, in point of fact, of $20,000,000—if that is the amount; it is not less than that—to the Government at five per cent. interest, and a loan somewhat permanent, because it will be very likely to remain; it will be the interest of the banks to have it remain so long as the arrangement between them, to use these certificates in the settlement of balances shall continue. But the Senate will recollect that the amount is limited to $25,000,000; and if New York can loan the Government $20,000,000 at five per cent. interest, for a considerable time, it will very nearly exhaust the amount to which the Secretary is limited. Boston undoubtedly will require some portion, to be used in the same manner; Philadelphia another portion, not perhaps a large amount; and the western States may take perhaps something more. It becomes therefore advisable, in the judgment of the Secretary, that the amount should be increased to $50,000,000, and he regards it as a loan and a very beneficial operation for the Government.

The Committee on Finance have accordingly drawn up this section, which so far modifies the limitation as to give him authority to receive an amount of deposits not exceeding $50,000,000. I am bound, however, to state, in regard to it, that the Committee on Finance did not authorize or direct me to report this as a measure advised by the committee, inasmuch as there was so much discussion on the subject before and so much opposition to the original proposition, but simply authorized me to report it for the purpose of laying it before the Senate, in order that the Senate might judge for itself of the expediency of increasing the amount and removing the limitation thus far. The original power vested in the Secretary to stop, upon short notice, the payment of interest at any time he pleases, operates as a sufficient check upon the matter in case it should be found to work injuriously. There are, however, some arguments against it in the minds of some gentlemen which have been urged heretofore, and I have called the special attention of the Senate to the point in order that there may be no misapprehension or misunderstanding about it after its action shall have been had.

Mr. COLLAMER. I wish to make an inquiry of the Senator from Maine. The issue of Treasury notes, I believe, is limited to $160,000,000.

Mr. FESSENDEN. One hundred and fifty millions of dollars.

Mr. COLLAMER. A bill for an additional $10,000,000 was slipped in while the discussion was going on.

Mr. FESSENDEN. But the whole amount is limited to $150,000,000. While the $60,000,000 are out but $90,000,000 of new notes will be issued, except to replace those now out.

Mr. COLLAMER. If they shall be replaced, the whole amount will be $160,000,000.

Mr. FESSENDEN. The law limits the whole amount of United States demand notes out at any time to $150,000,000. If there are $60,000,000 now out, of course only $90,000,000 of new notes will be issued.

Mr. COLLAMER. I lay no particular stress on that point; but the right to reissue the notes is in the Department. According to law now, a quantity of these notes, not exceeding $25,000,000, may be deposited and a certificate of deposit given bearing five per cent. interest. It is proposed here to carry that up to $50,000,000. The depositors have a right to withdraw the notes when they please, giving ten days' notice; and the Secretary of the Treasury has a right to give notice that he will stop the payment of interest, and then of course they would withdraw their deposits. In the mean time, as I understand, the notes that are deposited are subject to be reissued. Am I not right?

Mr. FESSENDEN. The same notes will be used.

Mr. COLLAMER. That is really a reissue of them. Now, suppose a man deposits $1,000 in these notes, and takes his certificate of deposit. The Treasury takes his notes and pays them out again while he holds the certificate. If the whole amount of $50,000,000 shall be deposited, and then the depositors should call for their notes, and in the mean time the Secretary of the Treasury has got out the entire $150,000,000, how will he let them have the notes? That is a question which needs answering. I understand the chairman of the Finance Committee to say that it cannot be answered by him.

Mr. FESSENDEN. Nobody can answer it at the present time that I am aware of. The whole matter is in the hands of the Secretary of the Treasury. It is to be presumed that he will manage his affairs with ordinary skill and judgment, and that he will not deprive himself of the power to meet his obligations.

The VICE PRESIDENT. The morning hour having expired, it becomes the duty of the Chair to call up the special order.

Mr. FESSENDEN. I hope it will be dispensed with until this bill shall be disposed of.

The VICE PRESIDENT. The Senator from Virginia [Mr. CARLILE] is entitled to the floor on the special order.

Mr. FESSENDEN. That was postponed until two o'clock to-day, by a vote yesterday.

Mr. CARLILE. No, sir; no vote was taken.

Mr. FESSENDEN. There certainly was a vote taken.

Mr. CARLILE. My understanding was that there was none, and I think the record will bear me out.

Mr. FESSENDEN. Then the record is incorrect, for it certainly was so voted.

Mr. FOOT. I will explain the matter, as I happened to be occupying the chair at the time. A motion was made to postpone the further consideration of the subject then under debate until to-morrow, that is to-day. One Senator indicated one o'clock, and another Senator indicated two o'clock. The Chair put the question on the general proposition to postpone until to-day, and it passed in the affirmative, without designating the hour. That is the way it stands.

The VICE PRESIDENT. Then it comes up at the expiration of the morning hour.

Mr. FESSENDEN. I move that the special order be postponed until this bill shall have been disposed of.

Mr. CARLILE. I beg the Senator to defer the further consideration of his bill until I conclude the remarks which I design to make, and then he can take up this bill for consideration.

Mr. FESSENDEN. I can only say to the Senator that it is very important to the public interest that this bill shall pass the Senate and go to the House of Representatives, so that our amendments may be acted upon there to-day.

Mr. CARLILE. I shall get through in ample time for that I think. I am not very well; I have not been well for a week past, and I prefer to go on at this hour.

Mr. FESSENDEN. Very well, sir.

CONFISCATION OF PROPERTY.

The VICE PRESIDENT. The special order is the bill (S. No. 151) to confiscate the property and free the slaves of rebels, on which the Senator from Virginia is entitled to the floor.

Mr. CARLILE. I do not propose, Mr. President, to follow the example set us by my friend, the honorable Senator from Illinois, [Mr. BROWNING,] who addressed the Senate yesterday, by saying what I may do in the future upon the happening of a contingency which, in my judgment, never can arise. I am content to deal with the present. If I can meet wisely the questions of the hour, I shall be satisfied; and in my opinion it would be well if we would, in this the day of our trial, act upon the maxim, "Sufficient unto the day is the evil thereof." The bill under consideration is entitled "A bill to confiscate the property and free the slaves of rebels." The objects of the bill, as stated in the title, are, in my opinion, beyond the power of accomplishment, if we regard our constitutional obligations. The Supreme Court would have to pronounce such a law unconstitutional in any case arising under it, if it could be brought before that tribunal for its decision. The founders of the Government intended to secure to every citizen, and have so provided in the Constitution, the right to test the constitutionality of any congressional enactment before the Supreme Court; but here is a bill taking from more than one fourth of the entire population of this whole country all their property of every kind and description, reducing them to beggary and want, without judicial trial or legal investigation. The bill denies to the citizen the constitutional right of testing the constitutionality of the act before the tribunal created by the Constitution. It would seem as if the authors of the bill, conscious of the unconstitutionality of the proposed measure, purposely framed it so that its constitutionality could not be pronounced upon by the Supreme Court.

The bill proposes to confiscate to the use of the Government all the property, real and personal, belonging to the citizens of the seceded States who are or may be in the service of the so-called confederate States, or who in any way give aid and comfort to the rebellion. When it is remembered that the authors of the rebellion were in possession of the various State governments, and used the power and machinery of their respective State governments to compel the people to acquiesce in their unconstitutional acts, and to recognize their usurped authority, it will be seen that all the property of each and every citizen in the seceded States would be forfeited under this bill. Such a sweeping proposition, so unjust and cruel a measure, one better calculated to continue the war forever and exhaust the whole country, never has been in the history of the world, and I predict never will be again, proposed to any legislative assembly representing a civilized community.

By the bill all the property, except slaves, is to be sold, and the proceeds put into the public Treasury. The slaves are to be emancipated in violation of the Constitution and in disregard of the acknowledged constitutional rights of their owners and of the States wherein they reside. The want of power in Congress to interfere with slavery in the States where it exists has always heretofore been admitted; the most ultra abolitionists admit that Congress cannot interfere with slavery in the States, and because this is so they denounce the Constitution as a covenant with death and a league with hell. The ablest speech made this session in Congress in favor of converting the struggle in which we are engaged into an anti-slavery war, was made by the Representative in the House from Kansas, [Mr. CONWAY.] It is a speech that must challenge the admiration of those who differ with its author, for its boldness, frankness, and candor. The member from Kansas with directness meets the questions he discusses; there is no mistaking his position. Not a dollar or a man will he vote for the restoration of the Union. Millions for an anti-slavery war, not one cent to suppress insurrection and to restore the supremacy of the Constitution and the laws. Do I misrepresent him? Let him speak for himself:

"For one, I shall not vote another dollar or man for the war until it assumes a different standing, and tends directly to an anti-slavery result. Millions for freedom, but not one cent for slavery!"

To accomplish his purpose—the abolition of slavery—he would recognize the so-called confederate States as an independent Power, and he would conquer the seceded States and hold them as subject provinces. Hear him again:

"To recognize the confederate States for their benefit is no part of our duty; but to shape our policy to accord with events, and enable us to fulfill a high purpose, is what we are imperatively called upon to do. The fiction upon which we are now proceeding binds us to slavery; and hence the national arms, instead of being directed against it, are held where they may at any moment be required to be turned to its defense.

"The wish of the masses of our people is to conquer the seceded States to the authority of the Union, and hold them as subject provinces."

The member from Kansas admits that his purposes cannot be accomplished constitutionally, and expressly refers to the bill now before the Senate, and shows it to be unconstitutional. Hear him again:

"Slavery cannot be abolished in a State by act of Congress. The thing is impossible. Congress is the legislative branch of the Government, performing its duties under certain constitutional limitations. Slavery in the States is outside of those limitations. It can be abolished only by the States themselves, or by the Executive *in time of war*, on principles of public law, as ably expounded many years ago by John Quincy Adams. In the suppression of insurrection, however, the Executive has not this power, unless the insurgents have ceased to be parties to our constitutional Union; in which case they have, in fact, ceased to be insurgents, and become belligerents.

"The overthrow of slavery by confiscating the property of rebel slaveholders seems to me to be utterly impracticable, consistently with the plain requirements of the Constitution. A bill has recently been introduced into the Senate to declare the property of all persons engaged in the rebellion forfeit, and directing the President to execute its provisions summarily without the interposition of civil process for trial or judgment. This bill is unconstitutional. The fifth amendment to the Constitution provides that, 'No person shall be deprived of life, liberty, or property without due process of law.' And the sixth amendment is as follows:

"'In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State or district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.'

"A bill has also been introduced into this body of similar import, and obnoxious to the same objection, and likewise to a still stronger one. This latter bill proposes to abolish a State, and degrade it to the position of a Territory. Such an act as this is utterly at war with the theory of our Federal system. It could not be carried into effect without destroying the nation, as it has heretofore existed. Its success would establish a precedent which would make the Federal Government the source of all power, and convert the States into mere corporations."

To accomplish his purposes, he would recognize the so-called confederate States as a separate nation, and wage war upon them because he believes that the laws regulating public war would enable him to deprive the citizens of those States of $2,000,000,000 worth of slave property. He says:

"The conflict has now been progressing nine months, and has changed its character from an attempt to destroy an insurrection into a deliberate and settled war."

I have read from the speech of the member from Kansas, because, in my opinion, it is a representative speech, and because he has had the boldness to avow what I believe are the real views of his party, but what his party associates, less bold than himself, for prudential reasons do not avow. If a member from a slave State had uttered such sentiments as those I have read from the speech of the member from Kansas, the whole air would have been filled with the cry of disloyalty and his expulsion demanded. The press that clamored so loudly for the expulsion of the late Senator from Indiana and the rejection of the Senator from Oregon, is engaged in applauding the sentiments of the member from Kansas. Those sentiments are, as I have shown you, that unless the confederate States are recognized as an independent Power and war is waged upon them for the abolition of slavery, not another man or dollar of money will the member from Kansas vote. Let a member from a slave State of either House declare that he would—unless the so-called confederate States are recognized and war allowed, not to conquer the northern States and hold them as subject provinces, but only to secure constitutional guarantees for slavery in the Union—not vote another man or another dollar; how long, think you, would he or ought he to retain his seat in Congress? And yet what would be the difference? Whose utterances would be most disloyal, or, if you please, most treasonable?

For more than twenty-five years, Mr. President, the representatives of the abolitionists and of the secessionists have pulled the same string at different ends, heretofore sitting together in the same Congress and acknowledging the same country. They are still pulling the same string at different ends of the string and each in his own end of the country. Both want the so-called confederate government recognized; both want the rebellion dignified by the name of war; both want their rights. The one wants you to acknowledge his right to take his slave into the Territories, not that he will ever take him there; the other wants you to acknowledge his right to liberate the slave in the slave States, not that he would do it, for he will not let the free negroes live in his State, and he knows that they will not be permitted to live in the slave States. The secessionist is fighting for his rights; the abolitionist would have you fight for his. Both contend that the Union is dissolved. *Par nobile fratrum.* People of America look at them! Behold a pair of noble brothers—abolition and secession; twins they are; spawned at the same time in the same muddy stream.

The third section of this bill makes it the duty of the President to colonize the negroes at the cost of the Government, of course the Government to get the money by taxing the people. It is not enough to tax them for war purposes, but they must be taxed to pay overseers on Georgia and South Carolina plantations; taxed to the tune of ten dollars an acre, to buy implements of husbandry for all the land tilled by these overseers in Georgia and South Carolina; taxed to buy land in tropical climates; taxed to send negroes to tropical climates; in short, the people are to be taxed upon lying down and getting up, standing or walking, asleep or awake, all for the glorious privilege of evincing to the world that enlarged philanthropy that can view with complacency the sufferings and the groans of the white race, but is horrified at the sight of four millions of negroes comfortable, contented, and happy, unconscious of suffering until informed by some philanthropic Greeley; who was willing to permit their masters to withdraw them and the States in which they reside from the Government to which the labor of the one and the productions of the other has contributed more than any other portion of our country to make it what it was a little more than one year ago—the proudest, richest, and most prosperous on the globe.

Mr. President, I was about to call the attention of the Senate to the third section of the bill. This section makes it the duty of the President to provide for the transportation, colonization, and settlement of such emancipated negroes as may be willing to emigrate to some tropical climate, to be selected for them by the Executive. The bill fails to make provision for the negroes who shall be unwilling to leave the land of their birth and the home of their nativity. That this latter class will comprise at least ninety-nine hundreths of the slaves, is a fact known to all acquainted with the race, and

I presume is known to the advocates of this measure in the Senate. I see from a speech reported in the Globe, made by a member of the House, concurring in opinion with the advocates of this measure, that the negro's attachment to his native land is well understood by the member, [Mr. DAVIS, of Pennsylvania.] I will read the extract to which I refer:

"Yet of the 53,000 free blacks in Pennsylvania, only 15,000 are not native born. Why have this people, with so many reasons to impel them, *not* migrated to the North? Why do they adhere with such persistence to their native soil? This love of home is strikingly illustrated by the following figures from the census of 1850: Of the 54,333 free blacks in the State of Virginia, only 533 were born out of the State; of the 18,073 in Delaware, only 1,141; of the 74,723 in Maryland, only 1,367; and of the 27,463 in North Carolina, but 645 were born out of the State; or of a total free population in these four States of 174,000, only 3,686 are foreign born, or a trifle over two per cent. This shows plainly that the black is not migratory, and that our people have little to apprehend from a race thus deep-rooted in the soil of the South. Is it not doing violence to right reason and the facts to assume that the negro would abandon the home that he has clung to under such adverse circumstances, with the first step towards rendering his existence tolerable? I am satisfied that gentlemen have allowed their prejudice to cloud their judgment; and when they come to review the facts, they will agree with me that, with emancipation, the exodus of the negro will be southward, and that soon, of all the free blacks resident in the cold North, one half or more would take up the line of march to the sunny land of Dixie.

"'Where the yam will grow, the cotton blow,
They'll raise the rice and corn;
And never they'll fear if never they hear
The driver blow his horn.'"

Assuming that the attachment of the negro to his "native soil" is as Mr. DAVIS represents, and that all the free negroes in the non-slaveholding States are, as he intimates, to be colonized for settlement in the now slaveholding States, and that the advocates of this bill so understand their proposed schemes of emancipation, colonization, and settlement, the conclusion that it is their purpose to Africanize American society in the southern States is irresistible. If this be their purpose, I assure them they are mistaken. Self-preservation would compel the States within which slavery now exists, if the slaves were emancipated, either to expel them from the State or reënslave them. If expelled, where would they go? The non-slaveholding States, many of them, exclude them by express constitutional provision; others would do so, for we are told by the advocates of emancipation that the negro is not to be permitted, when liberated, to come into their States. What follows? Extermination or reënslavement. Can it be possible that the Christian sentiment of the North, which it is said demands the abolition of slavery, desires the extermination of the negro race? Such, I trust, is not the sentiment of any considerable number of persons anywhere. The result would be that the States would do what they have the acknowledged constitutional right to do, reënslave them. The wellbeing, if not the existence, of the white race would demand their reënslavement, and it would be done. I ask, then, what good to either race would be accomplished by the passage of this section of the bill?

The Senator from Illinois, [Mr. TRUMBULL,] the patron of this bill, as I understood him, admitted the want of power in Congress to forfeit real estate for a longer period than the life of the owner. If I am in error, I desire to be corrected.

Mr. TRUMBULL. The Senator certainly misunderstood me. I said that I was inclined to think Congress could not forfeit the real estate of a convicted traitor longer than for life; but the bill which is pending proposes not to forfeit the real estate of convicted traitors, but to forfeit the property of persons who cannot be convicted, who are beyond the reach of judicial process. It is not a bill against persons who can be reached by judicial process.

Mr. CARLILE. I thank the Senator, because I desire to understand his position. I now understand him to say that, while it is not in the power of Congress, aided by the judicial department of the Government, upon trial and conviction for treason, to confiscate the real estate of the traitor beyond his life, Congress can yet of itself, without the intervention of the judicial department of the Government, inflict that punishment, not upon a convicted traitor, but upon one who in the eye of the law is presumed to be innocent until he is proven to be guilty. That is to say, you may without conviction impose a heavier penalty than can be imposed upon guilt being ascertained and judgment being pronounced. It is worse than I supposed. Such a proposition I shall not detain the Senate by discussing.

The Senator referred us, in his argument, to several decisions of the Supreme Court. I have examined those cases. Not one of them bears upon his proposition. In Brown's case the court seem to say that Congress can by legislation provide for the confiscation of enemy property. This is not authority for the confiscation of the private property of our own citizens, although they may be rebels. The Constitution provides against the confiscation or forfeiture of the estate of the latter in as plain language as it forbids the enactment of bills of attainder. That this bill is a bill of attainder, as such bills have been defined by our own judges, is beyond the shadow of a doubt. The Supreme Court has said that "a bill of attainder may effect the life of an individual, or may confiscate his property, or both." Judge Tucker says a bill of pains and penalties is a bill of attainder. The true definition of a bill of attainder, is any bill providing for the infliction of punishment by Congress for political offenses, without the intervention of the judicial department of the Government—without legal trial. Such bills the Constitution prohibits and forbids, and takes care to secure to the citizen a jury trial, and to secure him from being deprived of his property without due process of law. Congress can as well pass a bill making it the duty of the President to order the seizure by such officers, military or civil, as he may designate, of all persons in the seceded States, and direct the officers so seizing them to hang them without the intervention of judge or jury, as they can pass this bill which makes it the duty of the President to order such officers as he may designate, military or civil, to seize the property of the citizens of the seceded States, and confiscate it.

But, say the advocates of confiscation, there ought to be such a power, and therefore we will enact such a law. How different such sentiments from those given us by the Father of his Country. Washington says:

"If, in the opinion of the people, the distribution or modification of constitutional powers be wrong in any particular, let it be corrected by an amendment in the way which the Constitution designates. *But let there be no change by usurpation;* for though this in one instance may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield."

Mr. President, the advocates of this bill would have us believe that although in time of peace the Constitution is the paramount law of the land, in time of war it ceases to be of binding obligation, and therefore feeling the want of constitutional power they seek to show, by citations from Grotius and others, that such a measure is authorized by the law of nations, forgetting that the laws of war fix the rules by which separate and independent nations are to be governed when engaged in war with each other. Senators who contend for the power to enact this bill ignore the great fact which lies at the foundation of all our institutions, that this is a Government of limited powers, clearly defined in a written Constitution forbidding the exercise of any power not authorized by it, and denying to the legislative branch of the Government the authority to enact any law which is not authorized by a grant of power.

It is unnecessary to detain the Senate by a reference to authorities to show that this is a Government of limited powers, such as I have stated it to be. It is an admitted truth that no man, I take it, at this day will dispute. But, Mr. President, I deny that the laws of war authorize any such measure as this bill proposes; and I go further, and deny that even if sanctioned by the laws of war Congress could enact any such law, unless the power were given in the Constitution. I deny, as Senators seem to suppose, that in time of rebellion the Constitution is a dead letter. I deny what the rebels assert, and what Senators seem to admit, that the act of rebellion has destroyed constitutional government, and left us at the mercy of the unrestrained will of Congress. Let us see what Vattel says of these confiscation propositions. In speaking of the ancient rules of war, he says:

"But at present war is less dreadful in its consequences to the subject; matters are conducted with more humanity; one sovereign makes war against another sovereign, and not against the unarmed citizens. The conqueror seizes on the possessions of the State, the public property, while private individuals are permitted to retain theirs. They suffer but indirectly by the war; and the conquest only subjects them to a new master.

"But if the entire State be conquered, if the nation be subdued, *in what manner can the victor treat it*, without transgressing the bounds of justice? What are his rights over the conquered country? Some have dared to advance this monstrous principle, that the conqueror is absolute master of his conquest; that he may dispose of it as his property; that he may treat it as he pleases, according to the common expression of *treating a State as a conquered country;* and hence they derive one of the sources of despotic government."—*Vattel's Law of Nations*, book 3, chap. 13, secs. 200, 201.

In pursuing the same subject, he says:

"But if the conqueror thinks proper to retain the sovereignty of the conquered State, and has a right to retain it, the same principle must also determine the manner in which he is to treat that State. If it is against the sovereign alone that he has just cause of complaint, reason plainly evinces that he acquires no other rights by his conquest than such as belonged to the sovereign whom he has dispossessed, and, on the submission of the people, he is bound to *govern them according to the laws of the State.*"—*Vattel's Law of Nations*, book 3, chap. 13, sec. 201.

Without detaining the Senate, I will read the concluding sentence of another paragraph on the same subject, wherein the writer says:

"Surely it is enough that an innocent people suffer the calamities of war: must even peace itself become fatal to them?"—*Ibid*, book 3, chap. 13, sec. 390.

And again he says:

"For the same reason, he who declares war does not confiscate the immovable property"—

this bill proposes to do that—

"possessed in his country by his enemy's subjects. By permitting them to purchase and possess such property, he has in that respect admitted them into the number of his subjects."—*Ibid*, book 3, chap. 5, sec. 323.

Justice Story, in treating of the clause in the Constitution giving to Congress power to punish treason, but forbidding the forfeiture of the estate for a longer period than life, says:

"Two motives probably concurred in introducing it as an express power. One was, not to leave it open to implication whether it was to be exclusively punishable with death, according to the known rule of the common law, and with the barbarous accompaniments pointed out by it, but to confide the punishment to the discretion of Congress. The other was, to impose some limitation upon the nature and extent of the punishment, so that it should not work corruption of blood or forfeiture beyond the life of the offender."—*Story on the Constitution*, book 3, sec. 1297.

Again, he says:

"Bills of attainder, as they are technically called, are such special acts of the legislature as inflict capital punishments upon persons supposed to be guilty of high offenses, such as treason and felony, without any conviction in the ordinary course of judicial proceedings."—*Ibid*, book 3, sec. 1344.

I will not detain the Senate by reading the whole paragraph, but I will call the attention of the Senate to this:

"The punishment has often been inflicted without calling upon the party accused to answer, or without even the formality of proof; and sometimes, because the law, in its ordinary course of proceedings, would acquit the offender. The injustice and iniquity of such acts, in general, constitute an irresistible argument against the existence of the power. In a free Government it would be intolerable; and in the hands of a reigning faction it might be, and probably would be, abused to the ruin and death of the most virtuous citizens."—*Ibid*, book 3, sec. 1344.

Mr. President, this bill does not forfeit the private property of alien enemies, inhabitants of the enemy's country, but it proposes to take all the property belonging to our own citizens who have been compelled to submit to a power they could not resist, which claims to be both a *de facto* and a *de jure* government, and which does possess the physical force to compel obedience to it from those within its limits. This Government—the Federal Government—which claims the allegiance of these citizens has been unable to relieve them or to protect them in their assertion of that allegiance. Are not allegiance and protection mutual obligations, and when you fail to afford the one will you punish for the want of the other, when it was not in the power of the citizen to give it, and when, if proclaimed, it would have cost him his life?

It should never be forgotten, but always borne in mind, that the struggle in which we are engaged is not on our part, constitutionally speaking, a war. We are not engaged in war. Congress makes war, declares war. Congress has made no such declaration; nor has Congress declared, as in the case of the war with Mexico, that war exists. When we speak of war generally we mean public war. If we do not, we use some expression to define the kind of war of which we speak, as civil war, servile war, and the like. The war spoken of by the writers on the laws of war quoted in this debate is public war, that which takes place between nations or sovereigns, where

one nation seeks to enforce its alleged rights against another and separate nation; where, in the language of Scripture, "nation lifts up the sword against nation." The struggle in which we are now engaged is not, strictly speaking, even a civil war; but is, on our part, an effort to suppress insurrection, as an extract from Vattel will show. The war of the Revolution was a civil war. Why? Because there was justice on the side of those who were in rebellion. They had right on their side; and whenever you speak of a civil war to a man who understands its definition, you admit that there is some justice for that war. I deny that there is any justice for this rebellion. It is an unholy and wicked effort on the part of ambitious men to enslave the people and make them subservient to their own wicked purposes. Senators will mark the distinction which Vattel makes, because I shall call their attention to the definition of insurrection presently:

"The name of *rebels* is given to all subjects who unjustly take up arms against the ruler of the society, whether their view be to deprive him of the supreme authority, or to resist his commands in some particular instance, and to impose conditions on him."

Sir, are not these people rebels?

"A popular commotion in a concourse of people who assemble in a tumultuous manner, and refuse to listen to the voice of their superiors, whether the design of the assembled multitude be leveled against the superiors themselves, or only against some private individuals. Violent commotions of this kind take place when the people think themselves aggrieved, and there is no order of men who so frequently give rise to them as the tax-gatherers. If the rage of the malcontents be particularly leveled at the magistrates, or others vested with the public authority, and they proceed to a formal disobedience or acts of open violence, this is called a *sedition*. When the evil spreads, when it infects the majority of the inhabitants of a city or province, and gains such strength that even the sovereign is no longer obeyed, it is usual more particularly to distinguish such a disorder by the name of *insurrection*."—*Vattel*, book 3, chap. 18, secs. 288, 289.

Now, what is the definition of civil war?

"When a party is formed in a State who no longer obey the sovereign, and are possessed of sufficient strength to oppose him—or when, in a republic, the nation is divided into two opposite factions, and both sides take up arms—this is called a *civil war*. Some writers confine this term to a just insurrection of the subjects against their sovereign, to distinguish that lawful resistance from *rebellion*, which is an open and unjust resistance. But what appellation will they give to a war which arises in a republic torn by two factions, or in a monarchy, between two competitors for the crown? Custom appropriates the term of '*civil war*' to every war between the members of one and the same political society. If it be between part of the citizens on one side, and the sovereign with those who continue in obedience to him on the other, provided the malcontents have any reason"—

mark—

"for taking up arms, nothing further is required to entitle such disturbance to the name of *civil war*, and not that of *rebellion*.—*Vattel's Law of Nations*, book 3, chap. 18, sec. 292.

Sir, I deny that this is a civil war. I deny that there was anything to justify the men who inaugurated it. I pronounce it a rebellion, and those who are engaged in it are rebels.

I deny, therefore, that if Congress were not restrained by the Constitution the laws of war would authorize or justify the enactment of such a law as the bill proposes; but whether right or wrong in this proposition, I plant myself upon the Constitution, deny the power, and challenge contradiction. I assert what will not be denied, that, prior to the rebellion, the advocates of this bill themselves admitted the want of power in Congress to interfere with slavery, or to change the *status* of the slave in the slaveholding States. No Senator has shown, or can show, any grant of power in the Constitution to warrant the enactment of such a law, or from which the power to do so is deducible. The want of such a power is conclusive, and should end the discussion.

I will read, however, from the eighty-fourth number of the Federalist, written by Mr. Hamilton, who certainly is believed at this day to have claimed as large powers as the most latitudinous construction could give to the Constitution. He is endeavoring to show why a bill of rights was not necessary:

"I go further, and affirm that bills of rights, in the sense and to the extent they are contended for, are not only unnecessary in the proposed constitution, but would even be dangerous. They would contain various exceptions to powers not granted; and on this very account would afford a colorable pretext to claim more than were granted. For why declare that things shall not be done, which there is no power to do? Why, for instance, should it be said that the liberty of the press shall not be restrained, when no power is given by which restrictions may be imposed?"—*Federalist*, p. 535.

Again, I call the attention of Senators to the very first section of the first article of the Constitution itself:

"All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

Then, sir, it is only the legislative power granted in the instrument that the Senate and House of Representatives can exercise, and none other. I go further, and show that not only is there no such power given in the Constitution, but the exercise of such a power is expressly forbidden; first by the clause declaring that

"No bill of attainder or *ex post facto* law shall be passed."

Again, by the clause declaring,

"The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attainted."

Again, by the fifth article of the amendments,

"No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces or in the militia when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation."

Again, by the seventh article of the amendments:

"In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise reëxamined in any court of the United States than according to the rules of the common law."

Where but twenty dollars is involved, the right of trial by jury is secured, and admitted to be secured by the Constitution; and yet under this bill all that the citizen may have is swept from him without even the first process known to our courts being served upon him.

It is incumbent upon Senators who, prior to the rebellion, admitted that Congress could not interfere with slavery in the States where it exists, but who are now the advocates of this bill, to show the clause in the Constitution conferring upon Congress the power claimed. Congress has the power to legislate for the suppression of insurrection, but the insurrection must be suppressed and the rebellion put down by constitutional means, and in a constitutional way, otherwise all that would be necessary to overthrow the Constitution and destroy the Government under it, would be to incite insurrection. If Congress were not to suppress insurrection by constitutional means and in a constitutional way, there would be nothing for the loyal citizen to fight for. He readily obeys his country's call, and enrolls himself in its military service. Why, and for what? That the Constitution may be overthrown, that his fellow-citizens in the rebellious States may be deprived of their constitutional rights secured to them by the common bond? No, sir; God forbid. He takes up arms for no such purpose; he enlists under the banner of his country to uphold it and all the rights of which it is the emblem. He spills his blood that the constitutional Government under which he has lived may be preserved, and all his constitutional rights maintained. It was for this, and this alone, as I know full well, that the brave Lander sacrificed his life. Patriot soldier he was. Long will his memory live in the hearts of the loyal people of my State. He it was that led our troops to battle and to victory at Philippa and Rich Mountain. It is one of the proudest recollections of my life that I urged upon the President and his Cabinet his nomination as brigadier general. I reflect with satisfaction upon my agency in procuring his nomination. I will not now check the unbidden tear that fills my eyes while I recall before me his manly form and reflect upon his heroic courage. No man ever guarded more carefully the honor of his country, or more scrupulously protected the rights of private property.

Mr. President, Massachusetts's son was made a Virginia brigadier. Your records will show that it was Frederick W. Lander, of Virginia, that the President nominated and the Senate confirmed. Virginia adopted him as her son, and she claims the privilege to mingle her tears with those of his own native State. This is as it should be between States united as are the States of this Union, under one Constitution, having one country and one destiny. Let us remember that to the united efforts, in war and in peace, of Massachusetts and Virginia and their sister States we are indebted for our glorious Constitution. I would acknowledge also our indebtedness to Massachusetts for loaning to us, through her Governor, in our darkest hour last spring, two thousand stand of arms. Such recollections are themes upon which I love to dwell. Would to God there had been in the past nothing inconsistent with the kind and friendly service to which I have referred. Let us bury forever all recollection of what has occurred to interrupt the kindly relations between the two old States or between the sections of our common country. Let us again be a united and a happy people, animated by that fraternal feeling so necessary to our peace and prosperity as a nation. God grant that again we may be bound together by the silken cord of brotherly love, never to be broken; each State vieing with the other in the kindly discharge of every constitutional obligation and all frowning indignantly upon the first dawning of any attempt to alienate the sections or to disturb the harmony of the whole.

Mr. President, the Senator from Maine the other day argued that we were engaged in a war, and contended that Congress had the power to do what he said the law of nations authorized sovereign and independent nations engaged in public war to do. Assuming his positions, he argued to prove what the rebels have been striving to make the world believe, that the so-called confederate States were a nation and an independent Power, entitled to be recognized as a belligerent Power, and therefore, according to his assumption, as we have the right to confiscate the property of a belligerent Power, we have the right to pass this bill and confiscate, not the property of the belligerent, but all the property, lands, and goods of private individuals inhabiting the domain over which the government of this belligerent Power extends. If the Senator be right, we should cease to complain of England for so far recognizing the so-called confederate States as a belligerent as to maintain a neutral position between us.

The Senator from Maine follows the Representative from Kansas, from whose speech I have quoted, and contends that the conduct of the rebels invests this nation with the high prerogatives of war. In other words the unconstitutional acts of rebels confer upon Congress powers not delegated by the Constitution. I humbly submit to the Senator if he has not done what no foreign Government has yet done, and what we would be ready to resent if any foreign Government were to do—recognized by his speech the pretended confederate government. He has gratified the conspirators by dignifying their rebellious acts into acts of war. He would concede to them what they claim, that they are not engaged in rebellion, but in waging war against a foreign Government; for the Senator from Maine has arrived at the conclusion, to use his own language, that we are in a state of involuntary war with a belligerent Power, and therefore he would confiscate the property, not of the belligerent, for the belligerent has none—the custom-houses, forts, dock-yards, mints, &c., are ours—but he would confiscate the property and free the slaves of private individuals. I confess I do not understand the Senator's logic. We are not at war, Mr. President, with a belligerent Power, but with rebellious citizens. The Senator from Maine asks how shall it ever be known when we are in a state of war? I reply, Congress will inform him. The Constitution confers upon Congress the power to declare war.

I object to this bill because it violates an express provision of the Constitution in this: the Constitution declares that no person shall be deprived of life, liberty, or property without due process of law, and that private property shall not be taken for public use without just compensation. This bill, as the Senator from Illinois explained a little while ago, without judicial accusation or trial, would sweep from the entire population of the seceded States the property of every person residing therein. It dispenses with the judicial tribunals of the country, condemns without a hearing, and punishes without a trial. In short, it does what the Constitution expressly forbids—executes itself. I inquire, was there ever before such a proposition submitted to any legislative assembly in any civilized country on the face of the earth?

In the same letter, to which I before referred, Mr. Hamilton quotes Justice Blackstone:

"To bereave a man of life," says he, "or by violence to confiscate his estate, without accusation or trial, would be

so gross and notorious an act of despotism as must at once convey the alarm of tyranny throughout the whole nation; but confinement of the person by secretly hurrying him to jail, where his sufferings are unknown or forgotten, is a less public, a less striking, and therefore *a more dangerous engine* of arbitrary Government."

And as a remedy for this fatal evil, he is everywhere peculiarly emphatical in his encomiums on the *habeas corpus* act, which in one place he calls "the BULWARK of the British constitution." (Federalist, p. 533.)

This paragraph from Justice Blackstone cited, as I have shown, by Mr. Hamilton, in the number of the Federalist to which I have referred, shows conclusively that such a proposition as this would not be authorized by the Constitution, and would be exercised only by the veriest despotism.

The friends of this measure contend that it is necessary to the suppression of the rebellion. How can this be? It can only be enforced where rebellion has never existed, or where it has been suppressed. How can you execute this law in those States and districts where all your laws are successfully resisted? Before you confiscate the property of rebels you must first be able to possess yourselves of it. You can only do this where your armies have preceded you, and where the rebels have been dispersed. This bill can only be enforced in the districts occupied by your Army or by loyal citizens who recognize their obligation to the Constitution and laws, and who will aid you in their enforcement. If the mere passage of an act would put down the rebellion, all you have to do is to pass an act confiscating all the powder in the seceded States, and the rebellion is ended at once. The absurdity of such an effect to be produced by the mere passage of a bill to operate in States where you are unable to enforce any law must be apparent to all. This bill, if it become a law, like all of your laws, will remain upon your statute-book, a dead letter in the seceded States until you shall have crushed out the rebellion and suppressed the insurrection. When that is done, this bill cannot aid in suppressing what is not in existence.

Mr. President, is it expedient to beggar six millions of your people? Will the avowal of such a purpose have the effect to strengthen the loyal sentiment of the seceded States? Will it confirm and bring to your aid the hesitating and doubtful, or will it not rather, if that be possible, make more desperate those now arrayed against you, increase their power, and bring to them an active strength that has up to this time kept aloof from the struggle? What will be its effect upon the thousands that have been impressed into the rebel army who are now anxiously looking for an opportunity to rush to your standard? There is scarcely a family of any size in all the loyal portion of my State that has not one or more members of it, or some one connected with it in the rebel service, or who have not in some way aided the rebellion. It has divided parents from their children, brother from brother, and separated husband and wife. I will, with the permission of the Senate, read an extract from a letter I received yesterday from a highly respectable lady, a resident of northwestern Virginia, a daughter of a late judge of the United States, and a grand-daughter of a former Governor of the State of Ohio, and a member of the Cabinets of Mr. Madison and Mr. Monroe.

"I have never had a line from my husband since last August, and am not in communication with him at all. It is only through Mrs. ——, who returned a fortnight ago, that I know his whereabouts. I do not and never have thought secession a practical or desirable move. I have been here with my children making every effort to send or to go to Dixie to induce him to return. You know that I was possessed of sufficient means to at least live comfortably before our marriage, but as it consisted of notes, bonds, and money, it has been almost all reconverted into other property, and can be all taken. I cannot believe it is the intention and desire of the wise and humane rulers of this country to throw upon the world without means of subsistence unoffending women and innocent children."

Mr. President, is it expedient to deprive decrepid age and helpless infancy of the means of support? If we do this thing, the cry of the widow and the wail of the orphan will go up to heaven, and the God of the widow and the Father of the fatherless will say in the storm-cloud: "Vengeance is mine, and I will repay, saith the Lord."

The incendiary press of this country seize upon the hour that exhibits to the gaze of the world the heart-rending spectacle of the only Government on earth where man enjoys as much liberty as is consistent with his nature, struggling for existence, and would add to our difficulties by reviving sectional feuds by which we have been torn and distracted in order to secure the accomplishment of the wishes of those who have for years denounced the Constitution of Washington and his compatriots as a covenant with death and a league with hell. This, too, at a moment when the efforts of all should be directed to the single object of extinguishing the flames lighted by the fires of rebellion. The temple of liberty is on fire, and instead of an honest effort on the part of all to save the noble structure, the anti-slavery element is engaged in an unholy effort to destroy the southern wing, not seeming to know or care that the destruction of part involves the loss of the whole. The rebels have applied the torch, and the anti-slavery element say, let it go, unless the entire southern portion is shorn of its fair proportions, its dimensions narrowed and contracted, and its occupants made dependent upon our will and subservient to our views. These are they who attribute this wicked rebellion to the existence of slavery, and who, by misrepresentations, would lead the people they ought to honestly instruct to war upon the Constitution. From such teachings we are warned by the Father of his Country in his Farewell Address—

"One of the expedients of party to acquire influence within particular districts is to misrepresent the opinions and aims of other districts."

These are they who say if there had been no slavery there would have been no rebellion. As well might they attribute the rebellion to the Union, for if there had been no Union there would have been no rebellion against it. Has the country forgotten that thirty years ago a similar attempt at rebellion was initiated, and would have grown to as great proportions, perhaps, as the present, if a Buchanan instead of a Jackson had been the Chief Magistrate? And do we not know that the tariff was then the pretext? Who, at that day, insisted that commerce should be destroyed, or said if there had been no commerce there would have been no attempt at rebellion? No, Mr. President, Mr. Yancey and his associates spoke the truth when they wrote to the British minister "that it was from no fear that the slaves would be liberated that secession took place." The true cause, the real motive, is the same that influences the men who now clamor that this shall be made an anti-slavery war. They would convert the holy struggle in which we are engaged for a restoration of the Union into a wicked crusade against slavery, bringing down upon us the just vengeance of a righteous God and the denunciations of the whole civilized world. So long as our efforts are confined to a vindication of the Constitution and a restoration of the Union, we have the sympathies of the good throughout the earth, and, I sincerely believe, the approval of Heaven; for are we not engaged in a struggle to maintain religious as well as civil liberty? The cause of the rebellion was a determination on the part of its authors to rule or ruin. The opposition to a restoration of the Union is to be attributed to the same cause. The restoration of the Union buries in the same grave abolitionists and secessionists. In life their labors have tended to the same end; it is fitting that they should be consigned to the same grave. May Heaven speed their demise.

Mr. President, it is for us to preserve the best Government on earth, and to keep inviolate our plighted faith. The passage of this bill would be a violation of the nation's faith as pledged through the Executive and Congress, and a fraud upon our people. What was the call of the President to which your citizen soldiers so promptly responded? Was it not to aid him in the enforcement of the laws, protect the nation's property, and to enable him to keep his oath of office, by which he swore to preserve, protect, and defend the Constitution, and to see that the laws were faithfully executed? Did not the President in his inaugural address declare:

"I have no purpose, directly or indirectly, to interfere with the institution of slavery in the States where it exists. I believe I have no lawful right to do so, and I have no inclination to do so."

And did he not, in his annual message to Congress, in July last, say:

"Lest there be some uneasiness in the minds of candid men as to what is the course of the Government towards the southern States, after the rebellion shall have been suppressed, the Executive deems it proper to say it will be his purpose then, as ever, to be guided by the Constitution and the laws; and that he will probably have no different understanding of the powers and duties of the Federal Government relating to the rights of the States and the people under the Constitution, than that expressed in the inaugural address."

Did not your present General-in-Chief, in May last, when he entered my State at the head of our brave friends from Ohio and Indiana who responded to the President's call, assure us that he came not to make war upon us or our institutions, but that he came to crush out treason and deliver us from the power of traitors. Hear him:

"Notwithstanding all that has been said by the traitors to induce you to believe that our advent among you will be signalized by interference with your slaves, understand one thing clearly, not only will we abstain from all such interference, but we will, on the contrary, with an iron hand, crush any attempt at insurrection on their part."

What was the mission of the brave Burnside, and the equally brave Goldsborough, as declared by them to the people of North Carolina? They shall speak for themselves:

ROANOKE ISLAND, NORTH CAROLINA,
February 18, 1862.

To the People of North Carolina:

The mission of our joint expedition is not to invade any of your rights, but to assert the authority of the United States, and to close with you the desolating war brought upon your State by comparatively a few bad men in your midst.

Influenced infinitely more by the worst passions of human nature than by any show of elevated reason, they are still urging you astray to gratify their unholy purposes.

They impose upon your credulity by telling you of wicked and even diabolical intentions on our part; of our desire to destroy your freedom, demolish your property, liberate your slaves, injure your women, and such like enormities—all of which, we assure you, is not only ridiculous, but utterly and willfully false.

We are Christians as well as yourselves, and we profess to know full well, and to feel profoundly, the sacred obligations of the character.

No apprehensions need be entertained that the demands of humanity or justice will be disregarded. We shall inflict no injury, unless forced to do so by your own acts, and upon this you may confidently rely.

Those men are your worst enemies. They, in truth, have drawn you into your present condition, and are the real disturbers of your peace and the happiness of your firesides.

We invite you, in the name of the Constitution, and in that of virtuous loyalty and civilization, to separate yourselves at once from these malign influences, to return to your allegiance, and not compel us to resort further to the force under our control.

The Government asks only that its authority may be recognized; and we repeat, in no manner or way does it desire to interfere with your laws, constitutionally established, your institutions of any kind whatever, your property of any sort, or your usages in any respect.

L. M. GOLDSBOROUGH, *Flag Officer,*
Commanding North Carolina Blockading Squadron.
A. E. BURNSIDE, *Brigadier General,*
Commanding Department of North Carolina.

What was the order of the accomplished officer, gallant soldier, and I may add, enlightened statesman, General Halleck, as his troops were about to advance into Tennessee?

Proclamation of General Halleck.

HEADQUARTERS DEPARTMENT OF MISSOURI,
ST. LOUIS, *February* 23.

The major general commanding the department desires to impress upon all officers the importance of preserving good order and discipline among their troops as the armies of the West advance into Tennessee and the southern States.

Let us show to our fellow-citizens in those States that we come merely to crush out rebellion, and restore to them peace and the benefits of the Constitution and the Union, of which they have been deprived by selfish and unprincipled leaders. They have been told that we come to oppress and plunder. By our acts we will undeceive them. We will prove to them that we come to restore, not to violate, the Constitution and the laws. In restoring to them the glorious flag of the Union, we will assure them that they shall enjoy under its folds the same protection of life and property as in former days.

Soldiers! let no excess on your part tarnish the glory of our arms!

The order heretofore issued in this department, in regard to pillaging and marauding, the destruction of private property, and the stealing or concealment of slaves, must be strictly enforced. It does not belong to the military to decide upon the relation of master and slave. Such questions must be settled by the civil courts. No fugitive slave will therefore be admitted within our lines or camps, except when specially ordered by the general commanding.

Women and children, merchants, farmers, mechanics, and all persons not in arms, are regarded as non-combatants, and are not to be molested either in their persons or property. If, however, they aid and assist the enemy, they become belligerents, and will be treated as such. As they violate the laws of war, they will be made to suffer the penalties of such violation.

Military stores and the public property of the enemy must be surrendered, and any attempt to conceal such property, by fraudulent transfer or otherwise, will be punished, but no private property will be touched unless by order of the general commanding. Wherever it becomes necessary to obtain forced contributions for the supply and subsistence of our troops, such levies will be made as light as possible, and be so distributed as to produce no distress among the people. All property so taken must be receipted and fully accounted for, as heretofore directed.

These orders will be read at the head of every regiment, and all officers are commanded to strictly enforce them.

By command of Major General Halleck.

N. H. McLEAN, *Adjutant General.*

How did Congress speak in February, 1861, upon the motion, I believe, of my friend from Ohio, [Mr. SHERMAN:]

"*Resolved*, That neither the Federal Government nor the people or governments of the non-slaveholding States have a purpose or a constitutional right to legislate upon or interfere with slavery in any of the States of the Union.

"*Resolved*, That those persons in the North who do not subscribe to the foregoing proposition, are too insignificant in numbers and influence to excite the serious attention or alarm of any portion of the people of the Republic, and that the increase of their numbers and influence does not keep pace with the increase of the aggregate population of the Union."

How, again, did Congress speak in July last, in the House of Representatives, upon the motion of the hero, patriot, and sage, the venerable CRITTENDEN:

"*Resolved by the House of Representatives of the Congress of the United States*, That the present deplorable civil war has been forced upon the country by the disunionists of the southern States, now in arms against the constitutional Government, and in arms around the capital; that in this national emergency, Congress, banishing all feelings of mere passion or resentment, will recollect only its duty to the whole country; that this war is not waged on their part in any spirit of oppression, or for any purpose of conquest or subjugation, or purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the *supremacy* of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished the war ought to cease."—*Journal House of Representatives*, first session, Thirty-Seventh Congress, p. 123.

Shall it be said that this resolution was adopted under the fearful excitement growing out of the battle of the day before, at Bull Run? No, sir; never will the nation allow any such intimation to be made against its honor. What said the Senate in July last upon the motion of the distinguished Senator from Tennessee, [Mr. JOHNSON?]

"*Resolved*, That the present deplorable civil war has been forced upon the country by the disunionists of the southern States, now in revolt against the constitutional Government and in arms around the capital; that in this national emergency Congress, banishing all feeling of mere passion or resentment, will recollect only its duty to the whole country; that this war is not prosecuted upon our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution and all laws made in pursuance thereof, and to preserve the Union, with all the dignity, equality, and rights of the several States unimpaired; that as soon as these objects are accomplished the war ought to cease."—*Senate Journal*, first session Thirty-Seventh Congress, pp. 84, 85.

Now, I call the attention of the Senate to the vote upon that resolution. Every Senator present and voting, save one, voted for that resolution. It is significant, and the country should know who it was that, on the 25th day of July, refused to vote for that resolution. Breckinridge, now an open traitor at the head of rebel forces, Johnson of Missouri, in the same position, Polk, in the same position, POWELL, and TRUMBULL. I was about to do my friend from Illinois, the chairman of the Judiciary Committee, injustice. I find, what I did not notice before, that his name is recorded with the names of Breckinridge, Johnson of Missouri, Polk, and POWELL, against the resolution. He is consistent, I must confess.

Mr. President, what did the distinguished gentleman at the head of the State Department, Mr. Seward, in his letter of instructions, in April last, to Mr. Dayton, our minister to Paris, say:

"I need not further elaborate the proposition that the revolution is without a cause. It has not even a pretext. It is just as clear that it is without an object. Moral and physical causes have determined inflexibly the character of each one of the Territories over which the dispute has arisen, and both parties, after the election, harmoniously agreed on all the Federal laws required for their organization. The Territories will remain in all respects the same, whether the revolution shall succeed or shall fail. The condition of slavery in the several States will remain just the same whether it succeed or fail. There is not even a pretext for the complaint that the disaffected States are to be conquered by the United States if the revolution fail; for the rights of the States and the condition of every human being in them will remain subject to exactly the same laws and forms of administration whether the revolution shall succeed or fail. In the one case the States would be federally connected with the new confederacy; in the other they would, as now, be members of the United States; but their constitutions and laws, customs, habits, and institutions in either case will remain the same.

"It is hardly necessary to add to this incontestable statement the further fact that the new President, as well as the citizens through whose suffrages he has come into the Administration, have always repudiated all designs whatever and whenever imputed to him and them of disturbing the system of slavery as it is existing under the Constitution and laws. The case, however, would not be fully presented if I were to omit to say that any such effort on his part would be unconstitutional; and all his actions in that direction would be prevented by the judicial authority, even though they were assented to by Congress and the people."

I respectfully call upon the Senator from Illinois, taking the position that he does, to read at his leisure this last paragraph quoted from our Secretary of State, a statesman who has spent the greater portion of his life in the service of his country.

Think you, Mr. President, that these declarations had nothing to do with our successes at Roanoke, Fort Henry, and Fort Donelson? I would not detract in the slightest degree from the honor won by our brave soldiers, but I assert it as my honest belief that we owe much to the Union sentiment that was in the confederate service. If the rebel force had been animated by the spirit that inaugurated this rebellion, it would never have surrendered as it did, and it is the realization of this fact that made Jeff Davis admit in his message that they had undertaken more than they could achieve. The same fact was pressing upon the rebel officer who wrote to the Richmond Examiner the extract I read:

"The Roanoke affair is perfectly incomprehensible. The newspapers are filled with extravagant laudations of our valor; the annals of Greece and Rome offer no parallel; whole regiments were defeated by companies, and we yielded only to death. Our men finally surrendered 'with no blood on their bayonets,' and what is the loss? Richmond Blues, two killed and five wounded; McCulloch Rangers, one killed and two wounded; the other four companies lost in all two killed and eleven wounded. Comment is needless. The whole army had better surrender at once, for it will eventually come to it."

I think so, too. I concur in opinion with him.

Let us never, Mr. President, violate our faith. It has been well remarked by some writer that the chief of all powers is moral power, and I believe we owe more to-day to our moral position which we secured by the declarations I have read than we do to our armies, great as I know our obligations are to them, which obligations I take pleasure in acknowledging. Think you, Mr. President, if General Halleck and Commodore Foote had announced to the people of Tennessee that their purpose was to confiscate their property and turn them houseless and homeless upon the world, and to free their slaves, Nashville and Clarksville would have been ours? Would they not have been reduced to ashes, and would not their people have rushed with eagerness to the field and arrayed themselves under the standard of rebellion? Pass this bill, disregard the tears of widowhood and the cry of orphans, visit upon the children to the third and fourth generation the sins of the father, impoverish the wife and pauperize the child, as this bill proposes to do, and the mother, instead of taking upon her knee her lisping babe to instill into his infant mind sentiments of love for his country and gratitude for its beneficence, will cause her child to kneel by her side and swear undying hate and eternal hostility to the Government that took from her the means of support, and turned mother and child beggars upon the world. Pass this bill, and interminable, never-ending war will be the result.

"Oh shame to men! devil with devil damned
Firm concord holds; men only disagree
Of creatures rational, though under hope
Of heavenly grace, and God proclaiming peace,
Yet live in hatred, enmity, and strife
Among themselves, and levy cruel wars,
Wasting the earth, each other to destroy."

This bill proposes to do what the President forbid General Frémont from doing, and what, in the opinion of the President, would have thrown Kentucky against us, and alarmed the Union men of the South. So impressed was the President of the danger to the cause of the country by the announcement of such a policy by a subordinate military officer, that he addressed to him the following letter:

WASHINGTON, D. C., *September* 2, 1861.

MY DEAR SIR: Two points in your proclamation of August 30 give me some anxiety.

First: Should you shoot a man, according to the proclamation, the confederates would very certainly shoot our best men in their hands, in retaliation; and so, man for man, indefinitely. It is, therefore, my order that you allow no man to be shot, under the proclamation, without first having my approbation or consent.

Second: I think there is great danger that the closing paragraph, in relation to the confiscation of property, and liberating slaves of traitorous owners, will alarm our southern Union friends, and turn them against us—perhaps ruin our rather fair prospect for Kentucky. Allow me, therefore, to ask that you will, as of your own motion, modify that paragraph so as to conform to the *first* and *fourth* sections of the act of Congress, entitled "An act to confiscate property used for insurrectionary purposes," approved August 6, 1861, and a copy of which act I herewith send you. This letter is written in a spirit of caution, not of censure. I send it by a special messenger, in order that it may certainly and speedily reach you.

Yours very truly, A. LINCOLN.

To Major General FRÉMONT.

Mr. President, the path of duty is clear. Let us march steadily on observing the line of policy laid down by ourselves. Let us not violate our own solemn declarations by which we are bound not only to our own people but to the whole world. The declarations of our Chief Magistrate and our own solemn resolves have gone to the world, and have been read and approved of in Europe as well as upon this continent. We have a law for the punishment of treason; enforce it; try, convict, and hang by the neck the traitor leaders, the authors of this wicked conspiracy to destroy our Government. Grant to the rank and file who have been seduced and unwillingly and unwittingly forced into the rebellion a pardon for past offenses. Leave it to the loyal Legislatures of the States, which will have to bring back into the Union their respective States, to exclude from office all whose lives are spared, who willingly participated in this rebellion. In this way you will punish the guilty and protect the innocent. So impressed was I with the importance of a declaration of policy such as I have briefly alluded to that, after the capture of Fort Donelson, I called upon two gentlemen who I had reason to believe enjoyed the confidence of the President, and asked them to urge upon him the propriety of issuing a proclamation announcing such a policy as I have indicated. I believed that the hour of victory was the hour of magnanimity, and I now believe if this had been done, we should have had peace in less than ninety days. I may be mistaken, but I am glad to find that in this opinion I am not alone. Hon. James Guthrie, in a speech the other day, expressed similar views. I will read an extract or two from his address:

"This day"—

That was the 22d of February, the anniversary of Washington's birthday—

"This day, if the power was with me, an amnesty and free pardon should be proclaimed to all, whether in arms or not, who, in a prescribed time, give up their arms and the rebel cause, acknowledge the supremacy of the Constitution and the laws, and agree to submit to them. I am asked what I would do with the leaders? I reply, I would leave them to the tribunals and the punishment prescribed by the laws they have violated, but I am for the largest forgiveness consistent with the restoration of the Constitution and the safety of the Union. All are not leaders in this rebellion who have acted as its noisy champions, through the press, or on the stump, or filled high places in the strife."

* * * * * * * * * *

"I would declare this amnesty and pardon as a war measure. It may draw thousands who feel that rebellion is not a remedy for existing or supposed evils, and are earnestly and hopefully awaiting to escape, as far as possible, from the consequences of their acts. I would open the door for them. Many of the seceded States have always been for the Union, and only await the time they may safely take ground for it."

I know, sir, my State has always been, and is to-day, if a fair expression of the opinion of her people could be had, for the Union by fifty thousand majority:

"I would declare the amnesty and pardon as a financial measure—as a measure of economy in this most expensive and wasteful civil war. I believe it would act promptly in the restoration of the Constitution and the Union, and be more effective in restoring the Union than the most signal victories our arms have or shall obtain. If it shorten the war but fifty or one hundred days, it would save to the nation more than ten times the value of all the estates you could possibly confiscate in accordance with the Constitution."

* * * * * * * * * *

"The worst enemies of the Constitution are those whose constant cry is for the blood of the rebels, and the confiscation of their estates, with the emancipation of the slaves, and who, to reach their purposes, would trample the Constitution, the rights of property, and the principles of humanity under foot, and blast forever the prosperity of the nation. Such men propose to establish, through congressional action, provisional governments over the seceded States."

I invite the attention of Senators while I read an extract from the farewell address of General Jackson. I read it without comment. Senators will see the lesson which it teaches:

"The Constitution cannot be maintained nor the Union preserved in opposition to public feeling, by the mere exertion of the coercive powers confided to the Government. The foundations must be laid in the affections of the people; in the security it gives to life, liberty, character, and property in every quarter of the country, and in the fraternal attachments which the citizens of the several States bear to each other as members of one political family, contributing to the happiness of each other."

The Senate will pardon me for a moment while I allude to myself. I am not in the habit of speaking of myself. I do not think it in good taste, and look upon it as a custom more honored in the breach than the observance; but there are occasions when it becomes necessary to do so. Intimations questioning my loyalty have been made by those who would impress upon the country that to be loyal it is necessary to be an abolitionist. The Senate will, therefore pardon me for saying that I have periled all, life itself, in defense of the Constitution and Union of my country. I have been engaged in this fight actively since December, 1859. I saw the storm coming, and sought to prepare the people of my own mountain home for it, so that when it did come we would be able to resist it. I stood in the capitol of my own State fighting the battles of the Constitution and the Union amid the jeers and taunts, hisses and threats of the mob. From the 7th day of March to the 18th day of April, in the city of Richmond, the assassins sought my life. On Saturday the 13th day of April last, a crowd of not less than one hundred men, devils I will call them, came to my lodgings about midnight with drum and fife and rope to hang me. My colleague in the House [Mr. BROWN] witnessed the scene. For weeks after my return to my own home in my own town my life was threatened. When I would leave to go to a neighboring county to address the people, my friends would follow to guard me on the road without informing me of it. I led the movement, and drew the resolution adopted by the people of my own county of Harrison, to whom belongs the honor of inaugurating the movement which resulted in organizing and making effective the Union sentiment of northwestern Virginia. I stand here to-day in the nation's Capitol, as I stood in the capitol of my State, to defend from assault the Constitution and Union of my country, come from what quarter it may. In their defense I am prepared to sacrifice all—life itself. I stand upon the platform of the President as announced by himself in his inaugural, reiterated in his message to Congress in July last, and again in his message to Congress at the commencement of this session. I stand upon the solemn declarations of the last Congress and of this. I maintain, as the Union was formed so it should continue and endure forever an everlasting monument of the wisdom and patriotism of its founders.

Let us, Mr. President, in the language of a distinguished statesman and former Senator upon this floor, "cling to the Constitution as the mariner clings to the last plank when night and the tempest close around him."

Mr. WILSON, of Massachusetts. I will move to postpone the further consideration of this bill until two o'clock to-morrow; but before doing so, I wish to offer an amendment to the first section, and desire to have it printed.

The motion to print the proposed amendment was agreed to.

The VICE PRESIDENT. The Senator further moves to postpone this subject until two o'clock to-morrow.

The motion was agreed to.

PURCHASE OF COIN.

Mr. FESSENDEN. I suppose the bill under consideration when the special order was called up will now be proceeded with.

The VICE PRESIDENT. It now comes up as the unfinished business.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 341) to authorize the purchase of coin, and for other purposes, the pending question being on the amendment offered by Mr. FESSENDEN, to add as an additional section:

And be it further enacted, That the limitation upon temporary deposits of United States notes, with any Assistant Treasurers or designated depositaries authorized by the Secretary of the Treasury to receive such deposits at five per cent. interest, to $25,000,000, shall be so far modified as to authorize the Secretary of the Treasury to receive such deposits to an amount not exceeding $50,000,000.

Mr. FESSENDEN. With the leave of the Senate, I will suspend action on that amendment, in order to move a reconsideration of the first amendment I offered this morning. I think I can accomplish my object better in another way.

The VICE PRESIDENT. The question is on the motion to reconsider the vote by which the Senate agreed to the amendment to strike out in lines one, two, and three of the bill the words "may dispose of any bonds or notes bearing interest authorized by law for," and to insert in lieu thereof the words, "is hereby authorized to purchase."

The motion to reconsider was agreed to.

The VICE PRESIDENT. The question now is on the adoption of the amendment.

Mr. FESSENDEN. I ask leave to withdraw that amendment, with a view of another in its place.

The VICE PRESIDENT. If there be no objection, the amendment will be considered as withdrawn. The Chair hears no objection.

Mr. FESSENDEN. Now I move to strike out the words "bearing interest," in the second line, and to insert in lieu of them the words "of the United States;" so that it will read:

That the Secretary of the Treasury may dispose of any bonds or notes of the United States, authorized by law, for coin, &c.

The amendment was agreed to.

The VICE PRESIDENT. The question now recurs on the amendment offered by the Senator from Maine, to add an additional section to the bill.

Mr. FESSENDEN. I think, at the time the special order came up, I was stating, with reference to a question put by the honorable Senator from Vermont, [Mr. COLLAMER,] that it must be taken for granted that the Secretary of the Treasury, having the power and knowing what the responsibilities of the Government would be, would manage this matter of receiving these notes upon deposit and paying interest on the certificates on deposit issued for them in such a way as would enable him to meet them. Of course, if he chose to spend for the purposes of the Government all the notes that would be received on deposit, and also exhaust all the notes which he is authorized by law to issue, without replacing them; and if the deposits should then be called in, the result would be that he would have nothing on hand with which to replace them, and the Government must be discredited or make other provision for them. That is a matter, however, that can hardly be supposed. It can hardly be supposed that the Secretary would do that, and I presume nothing of that sort need be apprehended. That is the only answer I can make. It is a possibility, and the possibility exists in all cases that the person having the power to use funds may so dispose of them as not to be able to meet his obligations.

Mr. COLLAMER. Suppose, sir, there are $150,000,000 of these notes out to-day, and that $50,000,000 are put upon deposit; suppose the depositors give notice that ten days hence they will want their notes: now, if he has the right to reissue those notes put on deposit, he may find himself called upon to pay the notes and not have anything on hand with which to pay them.

Mr. FESSENDEN. That is very true; but I suppose the Secretary does not anticipate anything of the sort. He has the power to reissue them, and to reissue them as they come in, subject only to the limitation that the whole amount out shall not exceed $150,000,000.

Mr. COLLAMER. That is the very point to which I wish to call the attention of the gentleman: whether it is true, because he has the right to reissue notes which are received in payment of taxes, &c., that he therefore has the right to reissue these notes that are merely placed on deposit, subject to be called for at any day the depositor pleases.

Mr. FESSENDEN. These notes thus placed on deposit are loaned to the Government; they are in the hands of the Secretary; he receives them; and he may reissue them, of course, having borrowed them, if you please, for any other purpose, just exactly the same as any of the other notes.

Mr. COLLAMER. As they are subject to be called for at any time, how can he meet that call if he reissues them?

Mr. FESSENDEN. That is for him to look out for, undoubtedly. If the honorable Senator supposes that the Secretary would so manage the matter as not to be able to meet the obligations of the Government, and deprive himself of all means to do so, there is that danger, of course. But I suppose it is left to him to ascertain that fact; and it is not to be presumed that he would leave himself without means. The difficulty, it strikes me, is rather imaginary. The necessities of the Government may compel him to do it, and in that case, we must meet the obligations of the Government by legislation hereafter. There is no mode that I am aware of to look out for it now.

But, sir, I did not rise for the purpose of arguing the matter at length, but simply to state the circumstances under which I was authorized by the committee to offer the amendment to the Senate, for the Senate to pass upon according to their views. The Secretary of the Treasury think it very desirable; and, as I have more than once said in the Senate, in matters of detail, and in the management of the funds we intrust to him, I think it safer to trust to his discretion.

Mr. COLLAMER. I did not regard the question I put to the Senator as being at all qualified by the fact whether the amount was $25,000,000 or $50,000,000. It applies just as well to one as the other. I do not therefore object to the amendment on that ground; but I put the question merely to show the practical impossibility of getting along in this way without, in all probability, producing the necessity for more issues of notes.

Mr. SHERMAN. I was very much opposed to this section of the Treasury note bill when it was under consideration. I ventured then to make a prophecy that within two weeks from that time the Secretary would call upon us to remove the limit. My prophecy has turned out to be true. Within two weeks (for I believe the law has not been on our statute-book for quite ten days yet) this limit is asked to be removed. In my judgment, the whole section was wrong, and therefore I certainly will not vote to extend it. Now what is the practical effect of it? The Secretary of the Treasury is authorized to receive on deposit these demand notes for which he issues certificates of deposit payable with five per cent. interest. This operation is necessarily confined to the cities where these notes accumulate in banks, and may at any time be deposited. The deposit certificates are liable to be paid on demand in ten days. The Government gets no benefit from the arrangement at all. The Secretary of the Treasury thinks he does. My friend, the chairman of the Committee on Finance, has not ventured to express an opinion upon that point; but he seems to think the Treasury in some way gets a benefit from this arrangement.

Mr. FESSENDEN. I depend on the Secretary on that point.

Mr. SHERMAN. But it is the most futile idea that can enter the mind of any man. The deposit is made by a person holding these notes. The notes are not drawing interest. At the pleasure of the depositor these notes are made to bear five per cent. interest. We must keep those notes there in the hands of the sub-Treasurer, to pay these certificates of deposit; otherwise, we are liable, at any moment, to have our Government dishonored. The practical effect of it will be to compel Congress hereafter to issue an amount of Treasury notes equal to the amount of this deposit. I venture to make that prediction, as I have the other, although the operation will not be so soon.

There is no practical use in this measure, and I think the Secretary of the Treasury ought to abandon it. It is of no benefit to the Government. It is of no benefit to anybody except the bankers in New York. Now, since the bankers are compelled to take these notes, since they now desire to take the notes, since they have had new light and find that it is convenient to take the notes and make other people take them, I do not think there is any occasion to give them an additional benefit.

This is not a small matter. The present interest on the $25,000,000 authorized is $1,250,000 a year. That is a small item in these times. But now you propose to double the amount so that you will pay $2,500,000 to the bankers and brokers of New York for interest on notes which in the hands of the people bear no interest. That is the precise operation of this scheme. As a matter of course, all the bankers of New York are very desirous to carry it on. They have made these certificates of deposit the medium of their exchanges in which they pay balances in the clearing house in New York. They were so anxious in New York to seize upon this mode of obtaining interest that they at once appropriated $20,000,000 out of the $25,000,000 by a resolution, which I believe they adopted on Saturday last. They claimed that as New York was the great center of finance,

and as the amount was limited to $25,000,000, as a matter of course, they must have $20,000,000, and they appropriated $20,000,000, leaving the sum of $5,000,000 to the balance of the country. The banks of Philadelphia, Boston, Cincinnati, St. Louis, and all the other cities desire a chance to put the notes they have on hand temporarily, on interest, and they want a share. They appeal to the Secretary of the Treasury: you have given this privilege to the New York bankers and brokers to put their idle notes on interest at any moment; now give it to us. If $20,000,000 is enough for New York, Philadelphia will want $10,000,000, Boston $5,000,000, and so on, and you increase the amount in this way to $50,000,000. I think myself the Senate would do wise to repeal that section of the Treasury note bill at once; and I do not believe any one would feel injured by it, or be injured by it, except the bankers and brokers; and we have no favors to ask of them except so far as their interests go. As soon as it is their interest to present these certificates they will do it.

There is another practical difficulty. If you authorize the Secretary of the Treasury to issue $150,000,000 of notes, and in addition to that authorize him to issue $150,000,000 of these certificates of deposit as soon as he pays out these notes, what receipts does he expect to have? What receipts have the Government of the United States now? They have no sources of revenue, and cannot have until after these notes are exhausted. We know that the tax bill cannot take effect for a year. The duties on customs will be very slight. The whole $150,000,000 will be paid out as fast as the printers can make them; and when they are paid out, how will you get them back to redeem these certificates of deposit? There is no way of getting them back; and you will have then to issue other notes. Now, I will not, under any circumstances, be compelled or induced by a pressing necessity that is manufactured for the occasion to aid in issuing any more of these demand notes. I came to the conclusion to vote for the demand note bill with some reluctance, but I did it solely on the ground that I thought it was wise to furnish the people a medium of exchanges and currency with which they might carry on the operations of the Government at a time when the banks had all suspended specie payments. That was the only reason I could give myself for voting for it. The only constitutional power I could find for it was, that it was a just and necessary medium of exchange to carry on the operations of the Government. You have authorized the Secretary to pay interest on $25,000,000 of these notes. If you go on and authorize him to pay interest on $25,000,000 more, when we have the whole $150,000,000 out, and there are no means of paying these outstanding certificates, as a matter of course you will be asked to issue more notes. The necessity for it will be impressed upon us; but if we avoid that necessity, I think we need not resort to any more demand notes.

Mr. President, I believe that this is a mere scheme for the interests of the bankers and brokers; that it would do no good to anybody else; that it is to the injury of the Government. It can do no good to the Government. It is a bonus of $2,500,000 to secure the good will of the brokers and bankers in the cities, and I am not disposed to give quite so much for it.

Mr. CHANDLER. Is it in order to move an amendment to that amendment at this time?

The VICE PRESIDENT. It is.

Mr. CHANDLER. Then I wish to move that "fifty millions" be stricken out, and "one hundred millions" be inserted in its stead. The Senator from Ohio evidently misapprehends this whole financial question. It is no benefit to the banks and bankers. It is simply borrowing money by the Government at five per cent., when the Government itself is offering seven and three tenths per cent. at the same time. You have $150,000,000 of Treasury notes; when you have paid out that $150,000,000 you will have none left unless some means are provided by which a portion of that $150,000,000 can find its way into your Treasury. By providing some outlet, or some way by which your Treasury may be replenished from these original $150,000,000, you keep yourselves in funds. Now, what is this proposition? The bankers come in and propose to take, we will say, $50,000,000, for I think it would require $50,000,000 of these certificates of deposit, bearing five per cent. interest, to transact their business. That is no temporary loan. You do not keep one dollar on hand in order to pay that—not one farthing. It is precisely like the daily operations of a bank of deposit. The bank of deposit receives from day to day, and pays five per cent. interest, but it keeps nothing on hand, because it relies upon the receipts of to-morrow to meet the obligations of to-day. This is precisely the same thing.

Now, sir, I do not believe that $50,000,000 will furnish a sufficient outlet; I do not believe it is enough. I believe if you will make it $100,000,000, and with your present proviso that they may be at any time exchanged for seven and three tenths Treasury notes, you can make these $150,000,000 do the work of at least from four to five hundred millions. I believe that with these $150,000,000 and this outlet of five per cent., and the privilege of converting them into seven and three tenths Treasury notes, you will make $150,000,000 do the work of from four to five hundred millions. The Senator from Ohio says you are paying out $2,500,000 for the benefit of bankers alone. Sir, you are doing no such thing. You are saving $133,333 to your Treasury. You propose to pay seven and three tenths per cent. interest; you are urging the holders of the notes to come and accept seven and three tenths per cent. bonds, and now the bankers say, "if you will give us this kind of security which we can use in our daily business we will loan it to you at five per cent." You are gaining just so much, not losing anything. The notes that are paid in to-day, you pay out to-morrow. It is an absolute loan to the Government, and amounts to a permanent loan to them at five per cent.

Mr. SHERMAN. When you have received these notes and paid them out, what means have you left to pay the certificates of deposit? You have to redeem them after ten days' notice.

Mr. CHANDLER. The continuous receipts that are coming in, as with banks and banking institutions.

Mr. SHERMAN. But we know beforehand that no receipts that will come in will be sufficient to pay the certificates of deposit.

Mr. CHANDLER. Are you not receiving the notes daily for the seven and three tenths per cent. Treasury notes? Are you not receiving them from day to day for these five per cent. certificates? Are you not receiving them for duties? Are you not receiving them for every liability of the Government?

Mr. SHERMAN. The Senator from Michigan does not seem to understand the difference between a loan and a deposit—a deposit which may be called for at any moment, and a loan which cannot be called for for two, three, or four years, whatever the time is.

Mr. CHANDLER. The Senator from Ohio will pardon me for saying that, unfortunately, I cannot make him understand the difference between them. [Laughter.] That is the trouble. This is a matter with which I have been familiar for thirty years. It is absurd to talk about keeping your notes on hand to be ready to pay these certificates. How could a bank pay five, three, or one per cent. interest, if they had to keep on hand the identical sum deposited to meet the deposit on which it is paying interest? I cannot make the Senator understand a plain business proposition. It is probably on account of my own obtuseness that I cannot do it; but this is a matter of life-long experience with me. I know, as a banker and as a merchant, that no banker or merchant in the habit of receiving deposits on call keeps scarcely a moiety of the amount on hand to meet that call. He receives to-day on deposit at five per cent. $100,000. He cannot pay five per cent. if he keeps that $100,000 on hand to meet it; he cannot pay one per cent.; he cannot pay a mill. But he pays the five per cent. on call, and he relies upon to-morrow's receipts to meet to-day's liability, and to-morrow's receipts meet it. So it is with the Government. In a thousand and one ways you are in daily receipt of enough to meet the daily call upon you for the redemption of these certificates. I, therefore, move that "$50,000,000" be stricken out and "$100,000,000" inserted, and I believe it will be found of essential benefit to the Government, and an essential relief to the Treasury.

Mr. FESSENDEN. I hope my friend will not insist on that amendment. Fifty millions is all the Secretary asks for.

Mr. CHANDLER. I think he is mistaken. I think he wants more.

Mr. FESSENDEN. Well, that is all he wants at present.

Mr. CHANDLER. I will withdraw it on the suggestion of the Senator.

The VICE PRESIDENT. Then the question is on agreeing to the amendment proposed by the Senator from Maine.

Mr. HOWE. I understand this is a proposition to allow these deposits to be increased from $25,000,000 to $50,000,000. Am I right?

Mr. FESSENDEN. Yes sir; that is it.

Mr. HOWE. I have listened to the remarks of the Senator from Michigan, and I am forced to come to a conclusion directly opposite from his. I am forced to believe that it is a proposition on the part of the Government to pay the bankers $2,500,000 for circulating their notes instead of the notes of the United States, at the same time that we furnish the banks with the means of redeeming their own circulation, in case of a panic and run on them. That is the construction that I put upon it. We propose to allow the banks to deposit the notes of the United States, and to receive five per cent. on them, and they are for the time being withdrawn from circulation.

Mr. CHANDLER. Not at all. They are paid into the Treasury and put into circulation instantly.

Mr. HOWE. Then the idea of the Senator is that the Government will borrow these notes of the banks paying five per cent. on them, promising to repay them or to refurnish them on demand or within ten days, and pay them right out again; so that when the $50,000,000 have been deposited and paid out, the Government is indebted to the amount of $50,000,000 payable on demand without a dollar to meet it. Then I am mistaken in saying that it is a proposition to pay $2,500,000 to the banks for the privilege of having them circulate their notes instead of ours. It is simply a proposition for the Government to become bankrupt in sixty days. That it is morally dishonest for the Government to assume to pay $50,000,000 on demand with not a dollar to pay it with, seems to me perfectly apparent. I hope the Government does not mean to assume any such obligation, and I do not believe it does. If it undertakes to borrow $50,000,000 on demand or payable in ten days' time, it means to preserve a fund to meet that obligation. There is no doubt about it in the world. I take it, no bank in the world would agree to pay interest on its deposits, even for so short a period of time as thirty days, if it were not receiving deposits every day, which the Government is not; and even then I understand it is a losing business with the banks to pay interest on deposits for that time. If this is intended as a permanent arrangement, let the time be extended. If the assumption is that the Government is not going to be called upon to pay these certificates, then extend the time for which they are to run. If you say they are going to run six or twelve months, put it on the face of the certificates. Why put the Government in the position of promising to pay money on demand or within a few days which you know they cannot pay? The Government may not be dishonored; but you put the risk upon the Government and not upon the banks. My own idea is that these notes, or a large portion of them, would be retired from circulation, and the banks would put their notes in circulation in place of them, and they would hold the certificates of the Government which compel the Government, in case the notes of the bank were returned for redemption, to furnish a note made a legal tender on demand with which they can redeem their own notes. That is my understanding of the operation of the measure; and I think $25,000,000 of them is as much risk as the Government can take.

Mr. CHANDLER. Mr. President, this proposition is so perfectly plain to me, as a business man, that I do not precisely understand how I am to make it plainer than I undertook to do before. It is simply borrowing $50,000,000 at five per cent. interest; that is the whole of it. But the Senator says we shall have nothing on hand with which to pay it. Have you not authorized the emission of $500,000,000 of bonds and seven and three tenths per cent. Treasury notes? Have you not

those on hand to realize $50,000,000 at any time you are called upon to pay it, in addition to your receipts from day to day from the same source? It is simply doing what the banks have been in the habit of doing for five hundred years, to wit: receiving money on deposit—borrowing money, if you please—paying an interest upon it, and returning it at its own option; that is, its option is within ten days.

Mr. HOWE. Will the Senator allow me to make an inquiry?

Mr. CHANDLER. Certainly.

Mr. HOWE. I simply propose to inquire upon what fund the bank relies to redeem these certificates? When they issue a certificate of deposit bearing interest, upon what fund do they rely to redeem it, in case it is returned?

Mr. CHANDLER. They rely upon their daily business receipts; and in addition to that they usually have securities which they can turn into money on an emergency.

Mr. HOWE. But would they issue them if they were not receiving deposits every day?

Mr. CHANDLER. Very well; is not the Government receiving money every day from different sources? Does not the Government propose to do it? If one million is called for to-day, can it not issue that same million to-morrow? If ten millions are called for to-day, can it not issue the same ten millions to-morrow? It is identically the same course that has been pursued by bankers for five hundred years, and I cannot illustrate it or make it plainer than common sense will do it to any man.

Mr. FESSENDEN. I do not wish to discuss this matter to any greater length; it is understood by the Senate; but I cannot see the point of opposition so very strongly as some gentlemen seem to look at it. We go upon this system—it is a very simple one: we authorize the issue of $150,000,000 of Treasury notes. We do not suppose that that will meet all our calls. What are we to do? We provide that they may be turned into bonds at six per cent. at any moment, and we hope that they will be turned into bonds fast enough to enable us to keep up the circulation of $150,000,000, and thus meet our responsibilities. Now, instead of that, it is proposed that they may be allowed to be turned into certificates; that is, put upon deposit, and certificates issued, that are subject to be called for at any moment, if you please, but on ten days' notice. Is it the time that gentlemen object to? That is all the difference; we get money at five per cent. instead of six, only we may be called upon in ten days, instead of being called upon in five, or ten, or twenty years, as the case may be.

Then the only argument there is against the proposition—because, so far as percentage is concerned, it is all in our favor; we save one per cent.—is, that you may be called upon very suddenly and the Government may not be able to meet it. My answer to that is a very simple one. I take it, in the first place, that the Secretary would predicate his action with regard to this money upon what he believed he should be able to do by way of meeting all demands that were made upon him. As the Senator from Michigan says, he has the daily receipts of the Government, such as they are, and he has the power to sell bonds, to put them out, and the notes themselves; and he can go into the market and buy notes even if he has to buy them at a discount; or he can call upon Congress to get him out of the difficulty if he gets into one unexpectedly. The only question is, shall we refuse to do this thing which he seems to think beneficial, because we are afraid the matter may be so managed that the Government paper may be discredited? It has never been discredited to any extent as yet, and I trust it never will be. I trust we shall have power to meet all our obligations as they arise. I do not see any great difficulty about the subject, and I propose to give the Secretary the power he wants, so far as restricting it to $50,000,000 is concerned.

The amendment was agreed to.

Mr. FESSENDEN. I have another amendment to offer.

Mr. SHERMAN. I desire now, or at some other time, to have a vote of the Senate on the last proposition.

The VICE PRESIDENT. It can be done in the Senate.

Mr. SHERMAN. Very well.

Mr. FESSENDEN. I offer another amendment, to insert as a new section:

And be it further enacted, That in all cases where the Secretary of the Treasury is authorized by law to reissue notes, he may replace such as are so mutilated or otherwise injured as to be unfit for use, with others of the same character and amount, and such mutilated notes and all others which by law are required to be taken up and not reissued, shall, when so replaced or taken up, be destroyed in such manner and under such regulations as the Secretary of the Treasury may prescribe.

The amendment was agreed to.

The bill was reported to the Senate as amended.

The VICE PRESIDENT. The first question will be on concurring in the amendments made as in Committee of the Whole. The question will be taken on all the amendments together, unless there shall be certain excepted ones. Does the Senator from Ohio desire a separate vote upon the section alluded to by him?

Mr. SHERMAN. Yes, sir.

The VICE PRESIDENT Then the question will be taken on concurring in all the other amendments.

The remainder of the amendments were concurred in.

The VICE PRESIDENT. The question now is on concurring in the amendment referred to by the Senator from Ohio.

Mr. SHERMAN. I should like to have the yeas and nays on that.

The yeas and nays were ordered; and being taken, resulted—yeas 20, nays 16; as follows:

YEAS—Messrs. Anthony, Browning, Chandler, Clark, Davis, Dixon, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Lane of Kansas, Morrill, Rice, Sumner, Wade, Wilkinson, and Wilson of Massachusetts—20.

NAYS—Messrs. Collamer, Doolittle, Henderson, Howe, Kennedy, King, Lane of Indiana, Latham, McDougall, Pomeroy, Sherman, Ten Eyck, Trumbull, Willey, Wilson of Missouri, and Wright—16.

So the amendment was concurred in.

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

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. FESSENDEN. The committee of conference, who have had under consideration the disagreeing votes of the two Houses on the bill (H. R. No. 208) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th June, 1863, and additional appropriations for the year ending 30th June, 1862, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from so much of their third amendment as proposes to strike out words in lieu of the words inserted, and that the House agree to the said amendment as so modified.

That the House recede from their disagreement to the Senate's eleventh, thirteenth, fourteenth, fifteenth, eighteenth, twenty-fifth, thirty-sixth, and thirty-ninth amendments, and agree to the same.

That the Senate recede from their eighth, ninth, tenth, twenty-seventh, and thirty-eighth amendments.

That the Senate agree to the amendment of the House to the thirty-fifth amendment of the Senate, and recommend that said amendment of the House be inserted after the thirty-fourth amendment of the Senate.

I can state what these amendments are. The third amendment of the Senate was to strike out an appropriation of $15,000 to pay Mr. John C. Rives for publishing a digest of the diplomatic correspondence. The publication was made under the advice of the Department of State, and the books partly furnished to them, but a part have remained with Mr. Rives because they were safer in his keeping, for some reason or other. He has been asking for payment for several years, having actually executed the work. The money has not heretofore been appropriated; but the House of Representatives made the appropriation this year and the Senate struck it out. The Senate inserted at that part of the bill an amendment to pay for the printing and binding of the Congressional Globe, to which there was no objection on the part of the House of Representatives except that it was put in place of the other. That, however, was an error of our engrossing clerk or of some clerk, which I hope will be avoided in the future. They were really distinct things: one provision was struck out and the other was inserted. The amendment was not offered as a motion to strike out and insert; but inasmuch as one came in where the other was struck out, the clerk (as he has done in several instances before) put these two propositions as one amendment, to strike out the one clause and insert the other. That has led to confusion before, and has done so in this instance. They were distinct amendments; one was to strike out, and the other was to insert, but the one did not take the place of the other, and was not so intended. The Senate recedes from its amendment striking out the $15,000; and the House of Representatives allows the $18,000 for the printing and binding of the Globe to remain, which is really a reduction; thus leaving in both provisions.

The eighth, ninth, and tenth amendments of the Senate abolished the office of recorder of the General Land Office, and made certain changes in the appropriations consequent upon that. The House of Representatives insist upon the bill as it was in that respect, and the Senate recede.

The eleventh amendment of the Senate was a proviso to the appropriation for books for libraries, making a very considerable saving in expense. The House recede from their disagreement to this amendment.

The thirteenth amendment was to strike out the appropriation for the surveyor general of Utah. The House recede from their disagreement to that. The fourteenth and fifteenth amendments struck out the appropriations for the surveyor general of Nevada and his clerks, and for office rent of his office. The House recede from their disagreement to these amendments, and also from their disagreement to the eighteenth amendment, which increased the appropriation for the Mint at Philadelphia. The twenty-fifth amendment was an appropriation for a deficiency in the contingent expenses of the Senate. The House recede from their disagreement to this. The House disagreed to the twenty-seventh amendment, which struck out the appropriation for the surveyor general of Illinois and Missouri for the present year. They recede from that disagreement, and agree to the amendment striking out the appropriation for next year. In this way the office may be closed.

The House amended the thirty-fifth amendment of the Senate by inserting a couple of additional items, but they were put in at the wrong place, and it is proposed to transfer them to their proper place. These amendments appropriate $15,000 for keeping the Patent Office building in repair, and $9,000 to pay certain expenses in connection with contested seats in the House of Representatives. The thirty-eighth amendment, from which the Senate recede, appropriates $100,000 for a jail in Washington. The thirty-ninth amendment provided for an Assistant Secretary of the Interior, and the House recede from their disagreement to that.

Mr. HALE. We necessarily must have great confidence in these reports, because we have not time to examine them. I desire, however, to inquire of the chairman of this committee—and I shall be satisfied with his simple word on the subject—whether there is any legislation introduced here, whether anything is contained in the report except in relation to the disagreeing votes of the two Houses? I am answered that there is no legislation in the bill; and of course I make no objection to the report.

The report was concurred in.

ARMY DIVISION STAFFS.

The VICE PRESIDENT. The bill (S. No. 122) providing for the organization of the staff attached to divisions of the Army of the United States, regular and volunteer, has been returned from the House of Representatives with amendments.

Mr. WILSON, of Massachusetts. I move that that bill lie on the table.

The motion was agreed to.

CAVALRY ORGANIZATION.

The VICE PRESIDENT. The bill (S. No. 153) for the better organization of the cavalry forces has been returned from the House of Representatives with an amendment.

Mr. WILSON, of Massachusetts. I move that that bill lie on the table.

The motion was agreed to.

SUTLERS IN THE VOLUNTEER FORCES.

The VICE PRESIDENT. The bill (S. No. 136) to provide for the appointment of sutlers in the volunteer service, and to define their duties, has been returned from the House of Representatives with amendments.

Mr. WILSON, of Massachusetts. That bill

comes back from the House of Representatives with several amendments. I move that the Senate disagree to those amendments, and ask a conference upon the disagreeing votes of the two Houses.

The motion was agreed to; and Messrs. WILSON of Massachusetts, HOWARD, and WRIGHT were appointed the committee of conference on the part of the Senate.

PAYMENT OF VOLUNTEER FIELD OFFICERS.

Mr. WILSON, of Massachusetts. I move to take up, for the purpose of getting off the Calendar and out of the way, House bill No. 241, for the payment of field officers of volunteer regiments for services rendered prior to the full organization of the regiments. We have been troubled somewhat with claims of this kind; and I think the bill involves a very important principle. I should like to have it disposed of. The Committee on Military Affairs report adversely to it.

Mr. HENDERSON. As the bill alluded to by the Senator from Massachusetts is likely to provoke some discussion, I should like very much, with his consent, to have it passed over for a moment, and allow us to proceed to the consideration of House bill No. 148, relative to the pay of soldiers employed in the department of the West, which was before the Senate yesterday morning and discussed for a few minutes. I was not in at the time. Some of our citizens are deeply interested in it, and it has been pending here for over two months. I have been unable to reach it heretofore; it has been before the Military Committee. With the consent of the Senator, I should like very much to have it taken up and passed. It will take but a few minutes.

Mr. FESSENDEN. In reference to that bill, I wish to look at it a little further and get some information in regard to it before it is taken up. I made the objection yesterday morning when it was laid over.

Mr. HENDERSON. I can satisfy the Senator from Maine in a few minutes in regard to it.

Mr. FESSENDEN. I think the Senator would not be able to satisfy me in a few minutes about it, with my present information.

Mr. HENDERSON. Then I shall not press it now.

Mr. FESSENDEN. I think it had better lie over.

Mr. WILSON, of Massachusetts. I think the Senator from Missouri had better let that bill lie over for a day or two, and I think, on examination, the Senator from Maine will be satisfied it ought to be passed.

Mr. HENDERSON. I do not desire to consume time about it.

Mr. WILSON, of Massachusetts. I now renew the motion I made to take up the bill I referred to.

Mr. GRIMES. I understood the Senator from Missouri to say that he wished to be heard on this bill of the Senator from Massachusetts.

Mr. HENDERSON. I yielded upon request.

Mr. GRIMES. I understood the Senator from Missouri to say that he desired to be heard upon the bill which the Senator from Massachusetts proposes to call up.

Mr. HENDERSON. Not at all; but I said it would probably lead to discussion.

The motion of Mr. WILSON, of Massachusetts, was agreed to; and the bill (H. R. No. 241) for the payment of the field officers of volunteer regiments for service rendered prior to the full organization of the regiments, was considered as in Committee of the Whole.

The Secretary proceeded to read the bill.

Mr. WILSON, of Massachusetts. I do not think it is necessary to read the bill unless somebody desires it. The committee report adversely to it, and the question will be on rejecting it.

Mr. GRIMES. I should like to hear it read.

The VICE PRESIDENT. It will be read.

The Secretary read the bill. It provides that in all cases where a volunteer regiment has been or shall be raised to the minimum standard, the colonel and other field officers who have been commissioned shall be entitled to receive the pay and allowances established by law for their respective grades from the time they were severally authorized in writing by the President, the Secretary of War, or the Governor of their State, to raise the regiment; but in no case is the pay to relate back more than three months prior to the regiment being raised to the minimum standard. It also provides that captains of companies, under like circumstances, may be paid not more than two months' pay.

Mr. WILSON, of Massachusetts. I move that the bill be postponed indefinitely.

The motion was agreed to.

EXPENSES OF THE LAND SYSTEM.

Mr. LATHAM. I move that the Senate proceed to the consideration of the bill (S. No. 187) to reduce the expenses of the survey and sale of the public lands in the United States. This is a bill that was reported by the chairman of the Committee on Public Lands. It was considered some time ago, and laid over at my instance. I wish now to have the bill acted upon. It will give rise to no discussion.

The motion was agreed to; and the Senate resumed the consideration of the bill. It provides that contracts for the survey of the public lands shall not become binding upon the United States until approved by the Commissioner of the General Land Office, except in such cases as the Commissioner shall otherwise specially order; and that the printed manual of instructions relating to the public surveys, prepared at the General Land Office, and bearing date February 22, 1855, the instructions of the Commissioner of the General Land Office, and the special instructions of the surveyor general, when not in conflict with the printed manual or the instructions of the Commissioner, shall be taken and deemed to be a part of every contract for surveying the public lands of the United States. The Commissioner of the General Land Office is to have power, and it is to be his duty, to fix the prices per mile for public surveys, which shall in no case exceed the maximum established by law; and under instructions to be prepared by him, an accurate account is to be kept by each surveyor general of the cost of surveying and platting private land claims, to be reported to the General Land Office, with the map of such claim, and patents are not to issue for any such private claim until the cost of survey and platting shall have been paid into the Treasury of the United States by the claimant. From and after the 1st day of July next, and until otherwise ordered by the President, the Territories of Utah and Colorado are to constitute one surveying district, and the duties of surveyor general in that district are to be performed by the surveyor general of Colorado; the surveying district of Nevada is to be united to that of California, the duties of the surveyor general of the former to be transferred to the surveyor general of California, and the transfer of the effects and archives of the offices to be made under the instructions of the Commissioner of the General Land Office.

Upon the recommendation of the Commissioner of the General Land Office, approved by the Secretary of the Interior, the President may order the discontinuance of any land office, and the transfer of its business and archives to any other land office within the same State or Territory. And from and after the 1st day of July next, the compensation of registers and receivers in all the land offices in the United States is to be an annual salary of $500 to each, with the fees and commissions now prescribed by law, and to be paid by claimants, an additional fee in donation cases of five dollars for each final certificate for one hundred and sixty acres, ten dollars for three hundred and twenty acres, and fifteen dollars for six hundred and forty acres, to be accounted for in the same manner as fees and commissions in warrant and preëmption locations, with limitations as to maximum of salary prescribed by existing laws, and in accordance with such instructions as shall be given by the Commissioner of the General Land Office. In regard to settlements which by existing laws are authorized in certain States and Territories upon unsurveyed lands, which privilege is to be extended to California, the preëmption claimant is to be in all cases required, from and after the 1st day of September, 1862, to file his declaratory statement within three months from the date of the receipt at the district land office of the approved plat of the township embracing such preëmption settlement. And from and after the 1st day of July next, and until otherwise ordered by the President, the duties of the register and receiver of New Mexico are to be transferred to and devolved upon the surveyor general of that Territory; and it may be lawful for the President, in like manner, to transfer the duties of register and receiver in any district to the surveyor general where the public interest may require such transfer. And from and after the 1st day of July next, the salary of the surveyor general of California is not to exceed $3,000 per annum, and the salaries of the surveyor general of Oregon and Washington are not to exceed $2,500 each per annum, and should the surveying districts of Utah and Nevada be hereafter established by order of the President, each as an independent district, the salaries of the surveyors general are not to exceed $3,000 each for those districts.

Mr. LATHAM. I have an amendment to offer as an additional section. I will merely state that this section has received the approbation of the Committee on Public Lands, and also of the General Land Office and the Department of the Interior:

And be it further enacted, That where the settlers in any township or townships not mineral or reserved by Government shall desire a survey made of the same, under the authority of the surveyor general of the United States, and shall file an application therefor in writing, and deposit in a proper United States depository to the credit of the United States a sum sufficient to pay for such survey, together with all expenses incident thereto, without cost or claim for indemnity on the United States, it shall, and may be, lawful for said surveyor general, under such instructions as may be given him by the Commissioner of the General Land Office, and in accordance with existing laws and instructions, to survey such township or townships, and make return thereof to the general and proper local land office: *Provided*, the townships so proposed to be surveyed are within range of the regular progress of the public surveys embraced by existing standard lines or bases for the township and subdivisional surveys.

I will make a short explanation of this section. I had it drawn up by the Commissioner of the General Land Office, more with a view to reach my own State than any other portion of the country, and for this reason: it is well known to the Senate that large sums of money have been appropriated by Congress to carry on the surveys in that State, and they have been improperly applied; that is to say, they have been expended, and the Government has not been the beneficiary; the surveys were carried on in portions of the State that never could be brought into market; lines were run through deserts. The result has been that some $700,000 have been consumed for which the Government have had no return.

Now, it is quite evident that Congress is unwilling to appropriate any more money to carry on these surveys, and especially while our finances are in their present condition. The object of this section is merely to allow the settlers to get a title to the land, where they are willing, at their own expense, to have the survey made. There are large communities there who are perfectly willing to defray all the expenses of the survey made by the United States officer, if they can only have a title secured to their lands, and the metes and bounds run by the proper officer; and this section is with a view to allow that to be done where they are willing to do it without costing the Government anything. I ask the Secretary to read a letter from the Commissioner of the General Land Office, showing the propriety of this provision.

The Secretary read, as follows:

GENERAL LAND OFFICE, *February* 25, 1862.

SIR: Referring to Senate bill No. 187, "to reduce the expenses of survey and sale of the public lands in the United States," Senator LATHAM has desired a section to embrace surveys, under particular circumstances, at cost of claimants, and a section has been drawn accordingly, copy herewith, to which this office sees no objection.

With great respect, your obedient servant,

J. M. EDMUNDS, *Commissioner.*

Hon. JAMES HARLAN, *United States Senate.*

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

COMMITTEE SERVICE.

Mr. WADE. I move that the President of the Senate be authorized to fill the vacancy in the committee on the conduct of the war, occasioned by the withdrawal of the Senator from Tennessee, [Mr. JOHNSON.]

The motion was agreed to; and Mr. WRIGHT was appointed to fill the vacancy.

CALIFORNIA COLLECTION DISTRICTS.

Mr. LATHAM. I move now that the Senate proceed to the consideration of the bill reported by the Committee on Commerce relative to the

abolition of certain collection districts in the State of California. I do not recollect the number of it. There will be no objection to it. It reduces the expenses some $70,000 a year.

Mr. GRIMES. I move that the Senate do now adjourn.

Mr. LATHAM, After hearing a suggestion from my colleague, I withdraw my motion.

The motion of Mr. GRIMES was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *March* 11, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

COAST SURVEY.

The SPEAKER laid before the House a letter of the Secretary of the Treasury, transmitting the report of the Superintendent of the Coast Survey, showing the progress of that work for the year ending November 1, 1861; which was referred to the Committee on Commerce, and ordered to be printed.

NATIONAL FOUNDERY, ETC.

Mr. BAKER. I ask the unanimous consent of the House for leave to introduce for reference a bill for the establishment of a national foundery at Chicago, Illinois, and at Pittsburg, Pennsylvania, and at Poughkeepsie, New York, for the fabrication of cannon and projectiles for the Government. Also, for the establishment of an armory and arsenal at Columbus, Ohio. Also, for the establishment of a depot for saltpeter, powder factory, and magazine at Indianapolis, Indiana, and at Trenton, New Jersey.

Mr. McPHERSON. To what committee does the gentleman propose to refer the bill?

Mr. BAKER. To the Committee of the Whole on the state of the Union.

Mr. McPHERSON. I object. The bill ought to go to the select committee on the subject.

Mr. BAKER. That committee has made its report.

Mr. McPHERSON. I withdraw my objection.

The bill was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

ARMY CHAPLAINS.

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

Resolved, That the Secretary of War be requested to furnish the House of Representatives with a list of the names of regimental and hospital chaplains now in the United States service, and the regiments and hospitals with which they are connected.

INELIGIBILITY TO OFFICE.

Mr. WILSON. I ask the unanimous consent of the House for leave to introduce a bill, declaring certain persons ineligible to office, for the purpose of having it referred to the Committee on the Judiciary.

Mr. WOOD. I ask that the bill be read for information.

The bill was read *in extenso*. It is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no person shall be a Senator or Representative in the Congress of the United States who has ever held any office, civil, military, or naval, under the authority of the United States, or any office under any of said States, and who, since the commencement of the present rebellion, has held, or may hereafter hold, any office, civil, military, or naval, under the pretended government of the self-styled confederate States of America, or either of them.

SEC. 2. *And be it further enacted*, That no person shall be eligible to any office, civil, military, or naval, under the Government of the United States, who may have heretofore held office under the said Government of the United States or either of them, and who has held, or may hereafter hold, any office, civil, military, or naval, under the pretended government of the said self-styled confederate States of America, or either of them.

Mr. WOOD. I object to that bill.

PENSIONERS.

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

Resolved, That the Secretary of the Interior furnish for the use of Congress the names and residences of all persons who have applied for pensions on account of wounds received or disabilities incurred by them during the present rebellion, and of those who have at any time been admitted to the invalid pension roll, (except such as were pensioned from the date of their disability,) the time when their pensions commenced, the amount per annum received by each, distinguishing each according to grade, with reference to the several acts of Congress under which said pensions were allowed, to be arranged in alphabetical order, both as to States and names of pensioners, and an estimate of the amount claimed by or due to each from the date of his disability to the time when his pension commenced, or if no pension has been allowed, to the date of his or her application; and that said Secretary be authorized to employ a clerk for the purpose above mentioned.

SCHOOL LANDS IN CALIFORNIA.

Mr. PHELPS, of California, by unanimous consent, presented joint resolutions of the State of California relative to sixteenth and thirty-sixth sections of land donated to that State for school purposes; which were referred to the Committee on Public Lands, and ordered to be printed.

MAIL LINE TO JAPAN.

Mr. PHELPS, of California, also, by unanimous consent, presented joint resolutions of the State of California, praying for the establishment of a mail line between San Francisco and Japan and China; which were referred to the Committee on Commerce, and ordered to be printed.

WARDENS FOR WASHINGTON JAIL.

Mr. LOVEJOY. I ask the unanimous consent of the House for leave to take from the Speaker's table Senate bill No. 197, to authorize the appointment of wardens of the jail in the District of Columbia.

Mr. KELLOGG, of Illinois. I object.

MRS. SUSAN TEN EYCK WILLIAMSON.

Mr. PERRY, by unanimous consent, introduced a bill for the relief of Mrs. Susan Ten Eyck Williamson, widow of Charles L. Williamson; which was read a first and second time, and referred to the Committee on Naval Affairs.

NAVY-YARDS, ETC., ON THE LAKES.

Mr. KELLOGG, of Michigan, by unanimous consent, introduced a bill to establish navy-yards or depots of arms on the lakes; which was read a first and second time, and referred to the special committee on lake defenses.

SALINE LANDS IN NEBRASKA.

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

Resolved, That the Committee on Public Lands be requested to consider the communication of the Secretary of the Interior in relation to the saline lands in the Territory of Nebraska, and to report by bill or otherwise.

SCHOOL LANDS IN NEBRASKA.

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

Resolved, That the Committee on Public Lands be requested to consider the question of giving to the counties of Richardson and Nemaha, in the Territory of Nebraska, school lands in place of sixteenth and thirty-sixth sections that would belong to those counties if there had been no half-breed reserves; and that said committee report by bill or otherwise.

A. H. JONES AND M. H. C. BROWN.

Mr. EDWARDS, from the Committee on Indian Affairs, reported a bill for the relief of A. H. Jones and M. H. C. Brown; which was read a first and second time, referred to a Committee of the Whole House on the Private Calendar, and with the accompanying report ordered to be printed.

DEAF AND DUMB AND THE BLIND.

Mr. ROLLINS, of New Hampshire. I move that by unanimous consent, Senate bill No. 80, to amend "An act to incorporate the Columbian Institution for the Instruction of the Deaf and Dumb and the Blind," and to make appropriations for the benefit thereof, be taken from the Speaker's table and put on its passage.

There was no objection, and the bill was taken up and read a first and second time.

The bill, which was read *in extenso*, provides that the sum of $4,400 per annum, payable quarterly, shall be allowed for the payment of salaries and incidental expenses of said institution; and that $4,400 be appropriated for that purpose, out of any moneys in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1863; that the sum of $9,000 be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, for the erection, furnishing, and fitting up of two additions to the buildings of said institution; and that all receipts and disbursements under this act shall be reported to the Secretary of the Interior, as required in the sixth section of the act to which this is an amendment.

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

Mr. ROLLINS, of New Hampshire, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

DEFENSE OF PHILADELPHIA.

Mr. BIDDLE. I ask the unanimous consent of the House to present the resolutions of the Councils of Philadelphia relative to the defense of that city, and move that they be referred to the Committee on Military Affairs.

Mr. BLAKE. I object.

SENATE BILLS UPON THE SPEAKER'S TABLE.

Mr. BLAIR, of Missouri. I move, by unanimous consent, that we go to the Speaker's table and take up Senate bills there for reference to appropriate committees.

Mr. BLAKE. I will agree to that if Senate bill No. 201, to provide for the occupation and cultivation of the cotton and other lands in possession of the United States lying along the southern coast of the United States be excepted. That bill ought to be passed immediately.

There was no objection; and the motion was agreed to, excepting the bill referred to by Mr. BLAKE.

The SPEAKER then laid before the House the following bills of the Senate; which were severally read a first and second time, and referred as indicated below:

Joint resolution (No. 42) in addition to the joint resolution for payment of the expenses of the joint committee of Congress appointed to inquire into the conduct of the war, approved the 27th of January, 1862—to the committee on the conduct of the war.

A bill (No. 109) for the relief of the legal representatives of J. E. Martin, deceased—to the Committee of Claims.

A bill (No. 93) for changing the place for holding the September term of the district court of the United States in the district of Maine—to the Committee on the Judiciary.

A bill (No. 197) to authorize the appointment of a warden of the jail in the District of Columbia—to the Committee for the District of Columbia.

Joint resolution (No. 36) limiting the compensation of collectors of the customs, naval officer, and other officers employed in the collection of customs—to the Committee on Commerce.

A bill (No. 128) to change and regulate the terms of the circuit and district courts of the United States in the northern district of New York—to the Committee on the Judiciary.

Joint resolution (No. 54) to amend an act entitled "An act to carry into effect conventions between the United States and the republics of New Granada and Costa Rica"—to the Committee on Foreign Affairs.

A bill (No. 188) to increase the efficiency of the medical department of the Army—to the Committee on Military Affairs.

A bill (No. 150) for a joint commission for the preservation of the Atlantic fisheries—to the Committee on Commerce.

A bill (No. 199) to provide for the safe-keeping and maintenance of United States prisoners—to the Committee on the Judiciary.

Joint resolution (No. 57) providing for the custody of the letter and gifts from the King of Siam—to the Committee on Foreign Affairs.

A bill (No. 122) to provide for the codification and revision of the laws of the District of Columbia—to the Committee for the District of Columbia.

Joint resolution (No. 61) tendering the thanks of Congress to Captain Louis M. Goldsborough and officers, petty officers, seamen, and marines under his command, for the victory at Roanoke island—to the Committee on Naval Affairs.

A bill (No. 217) to encourage enlistments in the

regular Army of the United States, and for other purposes—to the Committee on Military Affairs.

CULTIVATION OF COTTON.

Mr. BLAKE. I move to take up and pass Senate bill No. 210, to provide for the occupation and cultivation of the cotton and other lands in possession of the United States, lying along the southern coast of the United States.

Mr. MORRIS. I object to the consideration of that bill at this time.

Mr. BLAIR, of Missouri. I understand the objection to be to the consideration of the bill now, and not to its reference.

The SPEAKER. If the motion to refer should be voted down, the bill would be before the House for consideration.

Mr. BLAKE. I withdraw my objection to the reference of the bill.

Mr. ASHLEY. Let it go to the Committee on Territories.

Mr. WOOD. I object.

WASHINGTON'S FAREWELL ADDRESS, ETC.

Mr. WALTON, of Vermont, from the Committee on Printing, reported the following resolution:

Resolved, That fifty thousand extra copies of the Farewell Address of George Washington, together with the proclamation of President Jackson, of December 10, 1832, and the Declaration of American Independence, be printed for the use of the House.

Mr. WALTON, of Vermont. The Superintendent of Public Printing estimates that the work will cost $2,500.

The resolution was adopted.

COAST SURVEY.

Mr. WALTON, of Vermont, from the same committee, reported the following resolution; which was read, considered, and agreed to:

Resolved, That five hundred extra copies of the report of the Secretary of the Treasury in answer to the resolution of the House calling for information regarding the expenses of the Coast Survey be printed for the use of the House.

THANKS TO CAPTAIN GOLDSBOROUGH, ETC.

Mr. EDWARDS. I rise to a privileged question. I move to reconsider the vote by which the joint resolution of the Senate (No. 61) tendering the thanks of Congress to Captain Louis M. Goldsborough, and the officers, petty officers, seamen, and marines under his command, for the victory at Roanoke island, was referred to the Committee on Naval Affairs.

The SPEAKER. The Chair thinks that motion is hardly in order. The bill was taken up by unanimous consent for the purpose of reference only, and it would not be fair to bring it back by a motion to reconsider.

Mr. EDWARDS. Then I ask the unanimous consent of the House to have it considered now.

Mr. F. A. CONKLING. I object.

NAVY AGENT AT WASHINGTON.

Mr. PIKE, by unanimous consent, introduced a bill to define the duties of and to regulate the clerical force in the office of the Navy agent at Washington, District of Columbia; which was read a first and second time, and referred to the Committee on Naval Affairs.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. STEVENS. I rise to a privileged question. I am instructed by the committee of conference on the legislative, executive, and judicial appropriation bill to make the following report.

The Clerk then read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. 208) making appropriations for the legislative, executive, and judicial expenses of the Government, for the year ending 30th June, 1863, and additional appropriations for the year ending 30th June, 1862, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the Senate recede from so much of their third amendment as proposes to strike out words in lieu of the words inserted, and that the House agree to the said amendment, as so modified.

That the House recede from their disagreement to the Senate's eleventh, thirteenth, fourteenth, fifteenth, eighteenth, twenty-fifth, thirty-sixth, and thirty-ninth amendments, and agree to the same.

That the Senate recede from their eighth, ninth, tenth, twenty-seventh and thirty-eighth amendments.

That the Senate concur in the amendment of the House to the thirty-fifth amendment of the Senate, and recommend that the said amendment of the House be inserted after the thirty-fourth amendment of the Senate, and that in the second line of the twenty-third amendment of the Senate, after the word "partially" add the following: "finishing and."

W. P. FESSENDEN,
JAMES HARLAN,
J. McDOUGALL,
Managers on the part of the Senate.
THADDEUS STEVENS,
W. M. DUNN,
Managers on the part of the House.

The report of the committee of conference in detail is as follows:

The House recedes from its disagreement to and agrees to the following amendments:

Eleventh amendment:

Page 17, in line three hundred and ninety-three, after the word dollars, insert "*Provided*, That the said documents shall be sent to such libraries and public institutions only as shall signify a willingness to pay the cost of the transportation of the same;" so that the clause will read:

For expenses of packing and distributing congressional journals and documents, in pursuance of the provisions contained in the joint resolution of Congress, approved 28th January, 1857, and act 5th February, 1859, $6,000: *Provided*, That the said documents shall be sent to such libraries and public institutions only as shall signify a willingness to pay the cost of the transportation of the same.

Thirteenth amendment:

Page 18, line fourteen, strike out as follows:

For compensation of the surveyor general of Utah, $4,000.

Fourteenth amendment:

Page 19, strike out the following words:

For compensation of the surveyor general of the Territory of Nevada, and the clerks in his office, $7,000.

Fifteenth amendment:

Page 20, strike out lines eight, nine, ten, and eleven, as follows:

For rent of the surveyor general's office in the Territory of Nevada, fuel, books, stationery, and other incidental expenses, $2,000.

Eighteenth amendment:

Page 27, in line ten, under the head of "Mint of the United States at Philadelphia," strike out "$30,000," and insert "$50,000," in the following clause of the bill:

For incidental and contingent expenses, including repairs and wastage, $30,000.

Twenty-fifth amendment:

Page 38, after line ten, insert:

For contingent expenses of the Senate, namely:

For compensation of three messengers appointed under authority of a resolution of the Senate of July 19, 1861, $3,600.

For binding, $20,000.

For lithographing and engraving, $30,000.

For stationery, $12,000.

For reporting proceedings, $3,000.

For Congressional Globe and Appendix, at the first session of the Thirty-Seventh Congress, $6,184 20.

For clerks to committees, pages, horses, and carryalls, $7,000.

For miscellaneous items, $30,000.

For Capitol police, $1,500.

Thirty-sixth amendment:

At the end of the bill insert, as follows:

SEC. 4. *And be it further enacted*, That from and after the 1st day of July next, and until otherwise ordered by the President, the Territories of Utah and Colorado shall constitute one surveying district, and the duties of surveyor general in said district shall be performed by the surveyor general of Colorado; and the surveying district of Nevada shall be united to that of California, and the duties of the surveyor general of the former shall be performed by the surveyor general of California; and the transfer of the effects and archives of the said officers shall be made under the instructions of the Commissioner of the General Land Office.

Thirty-ninth amendment:

At the end of the bill, insert as follows:

SEC. 7. *And be it further enacted*, That the President shall appoint in the Department of the Interior, by and with the advice and consent of the Senate, a competent person who shall be called the Assistant Secretary of the Interior, whose salary shall be $3,000, payable in the same manner as the salary of the Secretary of the Interior, who shall perform such duties in the Department of the Interior as shall be prescribed by the Secretary or may be required by law, and who shall act as the Secretary of the Interior in the absence of that officer.

The Senate recede from and agree to strike from the bill the following amendments:

Eighth amendment:

Strike out the word "recorder," so that the clause in which it occurs will read as follows:

For compensation of the Commissioner of the General Land Office, and the draughtsman, assistant draughtsman, clerks, messengers, assistant messengers, packers, watchmen, and laborers in his office, $175,440.

Ninth amendment:

Strike out "$175,440," in the above clause, and insert in lieu thereof "$173,440."

Tenth amendment:

Add the following to the foregoing clause:

And the duty of countersigning patents, and other duties required by existing laws, of the recorder, shall be performed by the said commissioner.

Twenty-seventh amendment:

Page 38, strike out the lines fifteen and sixteen, which are as follows:

For compensation of the surveyor general of Illinois and Missouri, $2,000.

Thirty-eighth amendment:

Add at the end of the bill, as follows:

SEC. 6. *And be it further enacted*, That the sum of $100,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to be expended, under the direction of the Secretary of the Interior, in the erection and completion of a jail for the District of Columbia on Government reservation No. 13, in the city of Washington: *Provided*, That the entire cost of said jail shall not exceed the sum hereby appropriated.

The third amendment of the Senate was as follows:

Strike out "to pay John C. Rives for printing five hundred copies of the Diplomatic Correspondence of the United States, from 1776 to 1783, for the State Department, $15,000," and insert in lieu thereof the following:

For printing the Congressional Globe and Appendix, which are hereafter to be bound under the supervision of the Superintendent of Public Printing, according to the provisions of section five of the "joint resolution in relation to the public printing," approved June 30, 1860, $18,000.

The committee recommend that the words proposed to be stricken out be retained, and that the substitute be also inserted, so that the amendment, as amended, would read:

To pay John C. Rives for printing five hundred copies of the Diplomatic Correspondence of the United States, from 1776 to 1783, for the State Department, $15,000.

For printing the Congressional Globe and Appendix which are hereafter to be bound under the supervision of the Superintendent of Public Printing, according to the provisions of section five of the "joint resolution in relation to the public printing," approved June 30, 1860, $18,000.

The House amended the thirty-fifth amendment of the Senate by adding appropriations for completing the work on the Patent Office building, and to pay the compensation and mileage of contestants for the seats of members.

The committee recommend that the Senate concur to the House amendment, but that it be transferred to the thirty-fourth amendment of the Senate. The thirty-fourth amendment of the Senate, as amended, would then read:

For putting the plates of the exploring expedition in order for preservation, and transporting them and the other effects of the expedition to Washington, to be preserved in some of the public buildings or at the Smithsonian Institution, $2,000, to be expended under the direction of the Joint Committee on the Library of Congress; and if any part of this appropriation shall remain unexpended for these purposes, the same may be applied, if necessary, to the completion of volume twenty-three of the works of said exploring expedition, or to the payment of any arrears of rent or claims for services due on account of said works.

For completing the work on the Patent Office building, so far as to preserve the materials already prepared, $15,000.

To pay the mileage and salaries of John Kline, Joseph Segar, and John M. Butler, while contesting seats in the House of Representatives, per resolution of the House of Representatives of March 4, 1862, $10,060: *Provided*, That only so much salary or mileage shall be paid to either as he would have been entitled to up to the time of his rejection, if he had been duly elected.

The committee also recommend that the twenty-third amendment of the Senate be amended by inserting in the second line after the word "partially," the words "finishing and;" so that the amendment, as amended, would read:

Page 37, after line six, insert:

For keeping in repair and partially finishing and furnishing the Post Office building, to be expended under the direction of the Postmaster General, $20,000.

For paper and printing blanks for the Executive Departments, $30,000.

Mr. STEVENS. I ask that the vote be taken on the report of the committee.

The report of the committee of conference was adopted.

Mr. STEVENS moved to reconsider the vote by which the report was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

BRANCH MINT AT DENVER.

Mr. STEVENS, from the Committee of Ways and Means, reported back bill of the House (No. 287) to establish a branch of the Mint of the United States at Denver, in the Territory of Colorado.

Mr. STEVENS. If there be no objection, I should like to have the bill considered in the House now. I will merely state that the bill is recommended by the Director of the Mint, and by the Secretary of the Treasury; and it is necessary, if it is to pass at all, that immediate steps shall be taken for the establishment of an assay office, at least, at Denver. It will save a great deal of expense and inconvenience to the inhabitants of the

Territory. The bill has been very carefully examined by the Committee of Ways and Means, and we can see no objection to it, and I ask that it be put upon its passage now.

Mr. F. A. CONKLING. What is the amount of money appropriated by the bill?

The SPEAKER. Seventy-five thousand dollars.

Mr. F. A. CONKLING. I object to its consideration in the House.

Mr. STEVENS. I move then that the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of considering the bill now.

The SPEAKER. That motion is not in order at this time, the House having ordered the main question on the motion to postpone the joint resolution introduced yesterday by the gentleman from New York, [Mr. ROSCOE CONKLING,] in reference to emancipation.

Mr. RICHARDSON. I hope the gentleman from New York will withdraw his objection, and let the bill be considered in the House now, if we have to pass it.

Mr. F. A. CONKLING. I shall not object to going into the Committee of the Whole on the state of the Union to consider it now.

Mr. RICHARDSON. Why not consider it in the House now?

Mr. F. A. CONKLING. Because the previous question will cut off all discussion with regard to the merits of the proposition.

Mr. RICHARDSON. The gentleman from Pennsylvania will not move the previous question.

The SPEAKER. This debate is not in order. The bill makes an appropriation, and is referred to the Committee of the Whole on the state of the Union.

ENROLLED JOINT RESOLUTION SIGNED.

Mr. GRANGER, from the Committee on Enrolled Bills, reported as truly enrolled a joint resolution (S. No. 22) providing for the payment of the awards of the commission to investigate the military claims in the department of the West; when the Speaker signed the same.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill of the House to make an additional article of war, and also the bill of the House for the relief of Z. B. Caverly, late secretary of legation at Lima, Peru.

EMANCIPATION.

The SPEAKER. The question before the House is on the motion to postpone the joint resolution in relation to the abolishment of slavery, introduced yesterday by the gentleman from New York, [Mr. ROSCOE CONKLING.] The gentleman from Illinois [Mr. RICHARDSON] moved that its further consideration be postponed until Monday next. The gentleman from Kentucky [Mr. MALLORY] moved as an amendment, to strike out "Monday" and insert "Thursday." The gentleman from Pennsylvania [Mr. STEVENS] moved to amend by inserting to-morrow. The question is upon postponing until to-morrow.

The motion was disagreed to.

The question recurred on the motion to postpone until Thursday next.

Mr. STEVENS demanded the yeas and nays.

The yeas and nays were ordered.

Mr. CRITTENDEN. Mr. Speaker——

The SPEAKER. The main question has been ordered, and the Chair cannot recognize any gentleman.

Mr. CRITTENDEN. I ask the consent of the House to make a motion only.

The SPEAKER. The yeas and nays have been ordered on the motion to postpone. The gentleman from Kentucky asks the unanimous consent of the House to make a motion in connection with this subject.

Mr. STEVENS. If we permit the gentleman to do it, we shall have to extend the same privilege to other gentlemen. I hope we shall proceed and dispose of this matter.

The question was taken on Mr. MALLORY's amendment to the motion to postpone; and it was decided in the negative—yeas 66, nays 67; as follows:

YEAS—Messrs. Ancona, Joseph Baily, Baxter, Biddle, Jacob B. Blair, George H. Browne, William G. Brown, Calvert, Casey, Clements, Cobb, Corning, Cox, Cravens, Crisfield, Crittenden, Delano, Dunlap, Dunn, English, Fisher, Granger, Grider, Haight, Hall, Hanchett, Harding, Horton, Johnson, William Kellogg, Knapp, Law, Lazear, Leary, Lehman, McKnight, Mallory, Menzies, Morris, Nixon, Noble, Noell, Norton, Odell, Pendleton, Perry, Price, Alexander H. Rice, Richardson, James S. Rollins, Sheffield, Shiel, John B. Steele, Stratton, Benjamin F. Thomas, Francis Thomas, Train, Wadsworth, E. P. Walton, Webster, Whaley, Chilton A. White, Wickliffe, Wood, Woodruff, and Worcester—66.

NAYS—Messrs. Aldrich, Arnold, Ashley, Babbitt, Baker, Beaman, Bingham, Francis P. Blair, Samuel S. Blair, Blake, Buffinton, Campbell, Chamberlin, Clark, Colfax, Frederick A. Conkling, Roscoe Conkling, Conway, Cutler, Davis, Diven, Edgerton, Edwards, Eliot, Fessenden, Franchot, Frank, Gooch, Goodwin, Gurley, Harrison, Hickman, Hooper, Hutchins, Julian, Kelley, Francis W. Kellogg, Lansing, Loomis, Lovejoy, McPherson, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Olin, Patton, Pike, Porter, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Shellabarger, Sloan, Stevens, Trowbridge, Van Valkenburgh, Verree, Wall, Wallace, Charles W. Walton, Wheeler, Albert S. White, Wilson, and Windom—67.

So the amendment was disagreed to.

Mr. COX stated that Mr. NUGEN had been called home on indispensable public business.

Mr. WALL stated that Mr. SMITH was confined to his room by indisposition.

The question recurred on Mr. RICHARDSON's motion to postpone the resolution until Monday next.

Mr. NOBLE demanded the yeas and nays.

The yeas and nays were ordered.

Mr. CRITTENDEN. Can I make a single statement to the House? [Loud cries of "Object!"] I wish merely to state that there has been a meeting this morning of a portion of the members of this House. [Renewed cries of "Object!"]

The SPEAKER. Objection is made, and no remarks are in order.

Mr. NOBLE. I appeal to gentlemen upon the other side of the House to hear the gentleman from Kentucky.

Mr. BLAKE. No one objects here.

Mr. NOBLE. I understand that the objection is withdrawn.

The SPEAKER. The Chair does not understand any such thing.

Mr. STEVENS. No, sir; it is not withdrawn.

The question was taken on the motion to postpone; and it was decided in the negative—yeas 67, nays 71; as follows:

YEAS—Messrs. Ancona, Joseph Baily, Biddle, Jacob B. Blair, George H. Browne, William G. Brown, Calvert, Casey, Clements, Cobb, Corning, Cox, Cravens, Crisfield, Crittenden, Delano, Diven, Dunlap, Dunn, English, Fisher, Granger, Grider, Haight, Hale, Hall, Hanchett, Harding, Johnson, William Kellogg, Knapp, Law, Lazear, Leary, Lehman, McKnight, Mallory, Menzies, Morris, Nixon, Noble, Noell, Norton, Odell, Pendleton, Perry, Timothy G. Phelps, Price, Alexander H. Rice, Richardson, James S. Rollins, Sheffield, Shiel, John B. Steele, Stratton, Benjamin F. Thomas, Francis Thomas, Train, Wadsworth, Webster, Whaley, Chilton A. White, Wickliffe, Wood, Woodruff, Worcester, and Wright—67.

NAYS—Messrs. Aldrich, Arnold, Ashley, Babbitt, Baker, Baxter, Beaman, Bingham, Francis P. Blair, Samuel S. Blair, Blake, Buffinton, Campbell, Chamberlin, Clark, Colfax, Frederick A. Conkling, Roscoe Conkling, Conway, Covode, Cutler, Davis, Duell, Edgerton, Edwards, Eliot, Ely, Fessenden, Franchot, Frank, Gooch, Goodwin, Gurley, Harrison, Hickman, Hooper, Horton, Hutchins, Julian, Kelley, Francis W. Kellogg, Lansing, Loomis, Lovejoy, McPherson, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Patton, Pike, Pomeroy, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Shellabarger, Sloan, Stevens, Trowbridge, Van Valkenburgh, Verree, Wall, Wallace, Charles W. Walton, E. P. Walton, Wheeler, Albert S. White, Wilson, and Windom—71.

So the House refused to postpone the consideration of the joint resolution.

Mr. WICKLIFFE. It is now in order, I suppose, to say something on this resolution.

The SPEAKER. It is.

Mr. BLAIR, of Virginia. I ask the gentleman from Kentucky to yield me the floor a moment, that I may offer an amendment.

Mr. WICKLIFFE. I should like to hear the amendment read before I yield to have it offered.

The amendment was read, as follows:

Provided, That nothing herein shall be construed to imply that Congress will consent to any partition of the territory now held by the United States. On the contrary, it is again affirmed as the unalterable resolution of the House to prosecute the war until the Constitution is restored to its ancient supremacy over every State rightfully a part of the Union.

Mr. PENDLETON. I ask the gentleman from Kentucky to give way that I may offer an amendment, to come in at the end of the resolution.

Mr. WICKLIFFE. I will yield to have it read.

The amendment was read, as follows:

And that Congress, in order to redeem this pledge, ought at this session to pass a bill for the levy and collection of taxes within the current year for the payment of the pecuniary aid so tendered to the States.

Mr. WICKLIFFE spoke for an hour. [His speech will be found in the Appendix.]

Mr. DIVEN. I desire, Mr. Speaker, to submit a very few remarks on this resolution; and I especially solicit the attention of those who have indicated their opposition to it. I desire very briefly to allude to the constitutional objections that have been made to the resolution, and to the objections of policy made in respect to it. I wish now to say—I trust I need not say it—but that I may forever be understood, I wish to say that, whether this resolution be adopted or not, whether the border States or the southern States ever choose to abolish slavery or not, I shall always be for leaving them in the possession of all the constitutional rights they had at the time they entered into our Union. I call upon them, however, to consider that all the northern States are not united in construing the Constitution so as to permit them at all times to exercise jurisdiction over their own domestic matters. I believe there is a large majority in each State that so understands the Constitution and so understands their constitutional obligations. And these men, who will be found ever strenuously adhering to the constitutional rights of the States—some of them at least—understand this resolution as in no manner conflicting with those rights.

Sir, what has instigated this resolution and recommendation on the part of the President? I invite men from the border States particularly to consider what I have to say as my judgment in that respect. The President has certainly shown himself as loyal to the Constitution as any man in the country. After the triumphs of our armies in Virginia, in Kentucky, and in Tennessee, and after it had become manifest that the rebels could not, by force of arms, maintain their position in those States—their extreme left wing being manifestly turned, and they being outflanked—Jefferson Davis issued a proclamation in which he announced to the rebels that they had undertaken too much, more than, in his judgment, they could accomplish. I then thought that I understood what was meant by that. Events that have transpired since, have satisfied me that I was not mistaken, and that he meant to abandon the border States, to concentrate the rebel forces in the heart of the cotton States, and there maintain an obstinate resistance, which might induce this Government finally to acknowledge the independence of some few of the cotton States; they hugging the idea that we care but little for them, if we could only get the border States—the most valuable in a commercial point of view—and believing that with the Union thus broken, with that holy devotion broken which the whole country has ever had for the Union of Washington, Jefferson, and Madison, the loyalty for the Union would be broken. It was then hoped that a petty annoyance would be waged against the border States until they would be driven, one by one, to join that confederation of the Gulf States. They would thus add to their power, and secure what they now find they cannot secure by force of arms. Seeing that they were clinging to that hope, the President is desirous to strip them of their last hope of refuge, and to show them that, even though they should succeed in their rebellion, they will be disappointed in their expectation of drawing the border States with them. Disappointed in it by this, by a noble, just, fair proposition upon the part of the Government not to interfere with any of the reserved rights of these States; not, under the Constitution or above the Constitution, to meddle with any of their institutions; not to assume to pass laws, if we have the right to pass them, which could interfere with their reserved rights; but a magnanimous proposition to them, that if they would stand by the Union, that no injustice should be done to them. If the possession of their slaves should become intolerable, they might have an opportunity to rid themselves of them without crushing them out, and breaking them down. In a spirit of magnanimity, the President of the United States recommended that this Congress should adopt this resolution, looking to an ultimate resort in case any of the States at any time find it necessary, for the pro-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. THURSDAY, MARCH 13, 1862. NEW SERIES.....No. 74.

tection of their rights, to adopt that ultimate resort.

Now, it will not be apprehended, I think, by any one, that such a measure as this is to any extent a violation of that clause of the Constitution which gives to every State the right to regulate its own domestic affairs. There is nothing in this resolution, if it pass into a law, that could interfere with that right. Every State remains in possession of all the power in reference to this question of emancipation which was given to it by the Constitution of the United States. It takes from them no power, it interferes with no power. It leaves every State in the full possession of all the powers which they now possess. And it gives them this further assurance, that if in the exercise of this power which they, and they only, possess, they ever do exercise it for the emancipation of slaves, we will bear our portion of the pecuniary loss.

That is all there is of this, and surely gentlemen from the slave States cannot complain that it infringes upon any of their rights. When they pass a law for the emancipation of their slaves, if they ever do pass such an act, they will make it conditional that Congress shall pay a portion of the loss. If that condition be not complied with they lose nothing by their law. If it be complied with by Congress they gain. There is, I repeat, no tampering with their rights, no infringement upon their rights.

Now, sir, the distinguished gentleman from Kentucky [Mr. WICKLIFFE] inquired under what clause of the Constitution the power was derived by which we could enact a law providing for the payment of emancipated slaves. Sir, it seems to me it is too late to raise or discuss that question. It has long since been passed upon; and if the testimony of distinguished statesmen, lawyers, and jurors in times past will have weight with the gentleman, I can mention, I think, a number of cases in which the same question was involved and passed upon. I can remind him of an early day when a bill was introduced into this Congress, when Kentucky was represented on this floor by one of her sons of whom she is always proud, a bill was introduced making an appropriation for the establishment of an asylum for the deaf and dumb, when this very question of want of power to make such an appropriation was raised and it was most eloquently and successfully answered by Henry Clay, in which the existence of the power in Congress to pass laws having reference to the amelioration of the condition of any portion of the people of the country was regarded as within the scope of the Constitution.

Mr. WICKLIFFE. I suppose the gentleman has reference to the institution for the education of the deaf and dumb at Danville.

Mr. DIVEN. No, sir; I referred to an institution in Massachusetts or Connecticut. I think, perhaps, Connecticut.

Mr. WICKLIFFE. I thought the gentleman referred to an institution in Kentucky.

Mr. DIVEN. No, sir; I referred to an institution for the deaf and dumb in New Haven, Connecticut, the first institution of the kind ever established in this country.

Mr. ENGLISH. I beg the gentleman's pardon. There is no such institution in New Haven.

Mr. DIVEN. I stand corrected. I referred to Hartford. Well, sir, from that time down to the present, the question has often been raised as to the appropriation of the money of the United States or the property of the United States for the benefit or amelioration of citizens of the United States, and it has always been acquiesced in, and appropriations have been made from time to time the purpose of which was the education or aid of the unfortunate. There are many instances which I could mention. I have not taken the pains to brief the cases; but I am reminded by my colleague of the expedition to the Dead Sea, an expedition for scientific purposes, for the increase of general knowledge. I place this resolution upon the ground that it is for the amelioration of a race of men, most unfortunately, as I think, placed upon this continent. Another gentleman mentions the case of affording relief to the starving poor of Ireland. Yes, sir, if I were to receive the suggestion of all the cases which could be mentioned in which this power has been exercised by Congress, I should occupy the time of the House for a long time. It is too late, in my judgment, to raise this question.

Then, sir, if there be no constitutional objection, if it infringes no right, if it will disappoint the hope and expectation of a bitter and relentless enemy struggling with desperation, if we who are loyal will pledge ourselves here, now and forever, to stand by the Constitution in the enforcement of all the reserved rights of all the States, I ask those men of the border States to come up and stand by us who are loyal to them, and who have testified to them our desire to maintain to them the possession of all their rights. Stand by the President, who has never had a thought of violating one of your constitutional rights. I appeal to these men; I appeal to all who would rally round the President in his desire—in his honest, earnest desire—to bring this country out from this fiery ordeal unscathed, with every star upon her flag undimmed, with every State that ever belonged to the Union restored to loyalty and the Union—not that I suppose when this country is restored there are to be just as many houses as when it began; that there is to be just as much property as when it began; not that there are to be as many great cities as when it began; not that there are to be just as many negroes in slavery or free as when it began; but that the constitutional rights of every section of the country shall remain just as perfect as when it began. That is what this war is for; that is why the President of the United States has wanted the passage of this resolution, and I can say to those men who oppose it, that if they will cordially unite with the President in this effort, they will do more to restore in this country harmony, conciliation, and peace than by any other act they can perform here.

The gentleman from Indiana [Mr. VOORHEES] has thought proper in the discussion of this proposition to refer to the expense that would be incurred. Why, sir, half a day's expense of this war will pay for the emancipation of all the slaves in Delaware. The cost of sustaining this war for half a month will pay for the emancipation of all the slaves in Kentucky. The cost of maintaining this war for a month would pay for the emancipation of the slaves in Missouri and Kentucky. And if we can cut off from these rebels their last hope, and in my judgment this is their last hope, for they have already been obliged to surrender the hope to which they have so fondly clung of the intervention of European countries; and now if you will cut off this last desperate hope which the rebel leaders still entertain, you will do more to accelerate the termination of this rebellion than any other congressional measure that can possibly be adopted. I want to separate this proposition from the other propositions that the gentleman from Kentucky has alluded to as objectionable, and as designed to interfere with the reserved rights of the States. If there are other propositions which cannot be defended on constitutional grounds, that is no reason why this should be defeated. It ought not to be defeated because of the objectionable features of other propositions. This proposition stands upon its own merits. I give this opinion in all sincerity to the men for whose rights I will battle as I will battle for my own. I know no section; I know no locality in this quarrel. My quarrel is for the whole country, and no fraction of it.

Mr. BIDDLE. Mr. Speaker, I desire to say a few words in reference to the vote I shall give on this question. I have given some reflection to the matter since our adjournment last evening, though I have had no opportunity for conference with others, nor any opportunity of learning the sentiments of my constituents. I see plainly that the easier and more popular course would be to vote for this resolution; the sentiment that it expresses is so amiable and philanthropic that it commends itself to every one; but I have asked myself, shall I truly represent the interests and the sober second thought of my constituents, by declaring to all of the world, that in addition to the taxes already burdened upon them and their children, they shall be increased to a sum necessary to give practical effect to this resolution? It would take nearly a million of dollars to turn the slaves of Delaware into free negroes; and I confess, with great deference to the judgment of the gentleman from New York [Mr. DIVEN] on the other side, that I cannot see that that transformation would have any material effect on the conduct of this war. In ordinary sales the buyer wants to have the subject delivered to him, but I assure you, if my constituents take any part in this act, that will not be their desire. The resolution only says that the United States ought to give pecuniary aid in the abolishment of slavery. I think that you must make this move specific before it can be presented as a practical plan for the abolition of slavery in the States where it now exists. My belief has always been that the burden of slavery rests upon the people of the States where slavery exists. If you review this subject from the adoption of the present Constitution down to the present day—and it is a review I do not intend to inflict upon the House at the present moment—if you review the subject, you will find that while State action has always been beneficent, Federal action has always been pernicious, exasperative, and, as I think, unconstitutional. Therefore, sir, while I do not pretend to prejudge any practical scheme that may be brought before this House in relation to this subject, I cannot now declare on behalf of the constituency I represent, that the United States ought to increase our burdens by the adoption of this resolution for compensation for the abolition of slavery.

Mr. CRISFIELD. Mr. Speaker, I have a very few remarks to make on this subject. I shall vote against this resolution, and for that vote I desire briefly to give my reasons. If I could do so, and had the right to consult my own wishes on this subject, I would not vote at all. I concede, and it gives me pleasure to concede, from all I can hear, that the President of the United States in making this offer to the country is actuated by a spirit of patriotism. I can understand that he offers it to the people of the slave States to produce some harmony on the agitating question of slavery, which has disturbed the whole country. I give him entire credit for honesty and good faith. I believe he has no other motive than that disclosed upon the face of the message and the resolution which accompanies it.

But what am I to do? I represent a slaveholding constituency, and whatever gentlemen may think of it, I am myself a slaveholder. This is a proposition, if I understand it, coming from the President and from the free States of this Union to the citizens of the slave States, by which this vexed question of slavery can be settled; by which this apple of discord may be removed from our midst. Those I represent in this House have a personal interest in this matter. If an appropriation shall be made by which this policy shall be carried out, I shall be one of those to whom the inducement will be given by the Government of the United States to get rid of all of my slaves. That is the reason why it is not fit and proper for me to vote on this proposition now.

But this ought to be the offering simply of gentlemen on the other side of the House. They ought to present it alone as their means by which this agitation of the slavery question shall hereafter be prevented. Let them offer this scheme; let them say to us of the slave States that they, in good faith, offer as an inducement for the liberation of our slaves to share the loss which it will occasion; then it will be for us to give the answer. It is not fit that I should vote on such a resolution as this, because the people I represent have a personal interest in the matter. If gentlemen on the other side design to settle this subject in this way; if they feel, as the truth of the case really is, that slavery in this country is as much

the act of the North as of the South, and if it is to be got rid of, it is as much a moral obligation upon them as upon us to exert themselves in that regard, let them present this proposition in good faith to us, and let us have time to consider and act upon it. When they have done that, it will be time enough for us to accept or to reject the proposition.

I have opposed the consideration of this subject immediately. I did not want this subject at once to be brought to the consideration of the House and to a vote. I wanted this subject to go out to the country; I wanted it discussed by my people. I wanted them to see and to examine every question connected with it. I wanted them to intimate their feelings on the subject. When that was done, I would be ready to vote on this question. Forced as the question now is upon me, without time for consideration, and freighted as the resolution is with reasons appealing to myself and constituents personally, I am constrained to vote against it.

Mr. OLIN. Mr. Speaker, nothing was further from my intention a few moments ago than to have uttered one word on the subject of this resolution, and I should not have done so now had I not casually listened to a few observations which fell from the gentleman from Kentucky, [Mr. WICKLIFFE,] whose position in this House, and whose position in his own State is calculated to have great weight and influence upon public opinion, at least so far as his own State is concerned, if not upon the neighboring States. All, I think, will bear testimony that during the present session I, at least, have said no word and scarcely have given a vote that could offend or give concern to gentlemen who are so sensitive upon that interest of slavery in the border States. Now, the gentleman from Kentucky, without intending it no doubt, has said what, in my judgment, he was not warranted in saying in reference to the action of this House; and, so far as his influence goes, what he said will give his own State an entirely false and erroneous opinion of the purpose of the President of the United States, and of the members upon this floor in regard to the emancipation of slaves.

The gentleman took occasion to allude to the vote which was given the other day on the resolution submitted by the gentleman from Indiana, [Mr. HOLMAN.] That resolution was a literal copy of the resolution introduced last session by the gentleman from Kentucky, [Mr. CRITTENDEN,] and adopted by this House with great unanimity. A maggot always disturbs the head of the gentleman from Indiana, and for some reason he thought proper to introduce the Crittenden resolution again, and a majority of the members of the House, I among others, thought it proper to lay the resolution upon the table. I do not claim there was any great sagacity in that vote. We once passed that resolution with almost entire unanimity, and now I submit would it not look ridiculous, contemptibly ridiculous, were a resolution of that kind to be repeated once a week by the same Congress? I think that consideration was a sufficient reason for laying the resolution upon the table. The House by no vote and by no act had expressed the slightest dissent from the views it entertained on the passage of the Crittenden resolution, and the resolution was again offered to the House, as a number of things are thrown in, for the purpose of getting the member's name in the Globe or before the country as having offered a resolution.

Now, it is not true that either this House or the people of this country have any other motive in the prosecution of this war than they had in August last. They are fighting this war for the maintenance of the Constitution and the Union. That is their object, and their sole object. I speak now of ninety-nine hundredths of the people of the free States. I know that there is a difference of opinion upon another question, and that is as to the means to be employed for the prosecution of this war. I know that some gentlemen, and perhaps my friend from Illinois [Mr. LOVEJOY] for one, think that the best way is, like the Dutch Governor of New York, to fight it by proclamations, to proclaim liberty throughout the land to the captives. Another gentleman would say, let the negro question alone.

Mr. LOVEJOY. I beg the gentleman's pardon for interrupting him; but I simply desire to say that I want to fight with bayonets and bullets, and not with proclamations.

Mr. OLIN. I am happy to hear that, and it will enlighten the House upon that point, I have no doubt.

Now, there is, as I have observed, a difference of opinion upon this subject. But every intelligent man in the free States as well as in the slave States knows—the whole world knows—that this institution of slavery, never very palatable to the free States of the Union, has been the cause of this accursed rebellion. Mr. Speaker, you remember Toombs said that that institution could only exist as long as slaveholders controlled this Government, and that when they were deprived of the power and patronage of the Government to uphold it, that institution must fall. Slaveholders having been deprived of that power, this rebellion is the consequence. Now, gentlemen from slave States must treat with a little forbearance my friends upon this side of the House. I beg you remember they, together with all the world, know that this war has been brought upon us by men who sought to control the destinies of this country by wielding the influence of slavery. It is not to be wondered at that the people of the free States do not feel very kindly disposed towards that institution, or that every opportunity is sought within the constitutional limits of the Government to strike a blow at that institution which, if it shall not destroy it forever, will leave it in such a situation that it will never hereafter be a disturbing power in the administration of this Government.

Now, I am desirous to see this war prosecuted within the strict limits of the Constitution. I think that this Government is released from no obligation to my friend from Kentucky by reason of this rebellion; that the Government is bound to protect all his rights of property and everything that is dear to him in his social and political relations, and I wish to see the war prosecuted successfully, if it may be, with a most sacred regard to all the rights of every citizen. In my humble judgment the whole strength of this accursed rebellion rests in an entire delusion on the part of the southern people. Every gentleman who has held a seat on the floor of this House as long as I have knows one fact, and that is, that there has been for years a strenuous, constant, and persistent effort on the part of some southern men in this House and out of it, to imbue the entire southern mind with the idea that the party now in power, if they ever did attain power, would, by force and violence, if necessary, emancipate their slaves; and it is that belief that now adds strength to their army. If that delusion could be dispelled, this rebellion would melt away like frost-work before the sun. I believe as sincerely that that is so as I believe any truth revealed from above.

What, then, is obviously the policy of the Government in respect to this measure? Why, I think—though, perhaps, my opinion upon that subject is not worth much—that the President is pursuing a wise and prudent course, and I think that my friend from Kentucky is unnecessarily alarmed at the introduction of this resolution. What is it, in its whole scope and extent? Why, simply that if you gentlemen of the slave States are willing to get rid of slavery, the General Government will aid you to do it by giving you a compensation for any loss that you may sustain; and although I am not worth much, God knows I would divide my last crust of bread to aid our southern friends to get rid of slavery, and let us live in peace and harmony together. I have not a great deal; but, thank God! what there is of it has been earned by honest industry, and I would cheerfully divide it to aid you, gentlemen, in accomplishing that object. If these gentlemen say, "we cannot afford to make the sacrifice of manumitting our slaves," the President says, "very well; the General Government will aid you to accomplish it." That is the magnanimous, the great, the God-like policy of the Administration. But while it says that, it says to you and it says to the world, "we do not propose to force this question of emancipation upon you; you are perfectly free to accept or to reject the offer. We disclaim entirely the right to constrain you in the matter."

But the gentleman from Kentucky [Mr. WICKLIFFE] says that the offer to aid in the emancipation of the slaves is an interference with this institution. Merciful God! Does this institution make you mad? Must you close your eyes to what is going on all over the civilized world? Look, I beseech you, at this matter! Conduct your Army in the best way you can, with the most sacred regard to every right, and when it overruns a State, as it has overrun Missouri, what is the result? Where have gone to-day her slave population? Nearly two thirds of them have fled either North or South; and if our Army marches successfully through Kentucky and Tennessee, to some extent this same result will be produced there. Nay, more. As they march through other States, as they are now marching through South Carolina, thousands upon thousands of these poor negro slaves will flock to the standard of the Union—the slaves of rebel masters, the slaves of men who have taken up arms to subvert this Government, a Government such as was never founded by man. And do you think, I pray you, that any power of this Government, judicial, military, or executive, can ever be induced to surrender those men to those rebel masters? Oh, no; you are touching there a chord that vibrates through the whole northern heart, and it says we never will consent that property of this description shall be returned to men thus arrayed against the Government by the strong arm of the Government.

I have observed that the policy of the Administration is in my judgment a wise and salutary one. I have thought it the duty of all the free States to impress upon the southern mind that the Government is determined to adhere to the Constitution, to observe the letter and spirit of the law, and compel obedience to each by the Army. I think that it is the policy of the President and the Administration—and a wise policy too—to impress upon the people of the slave States that their rights under the Constitution shall be preserved to the letter. I have thought so because I believe, and I think it fitting to utter the sentiment here—because I believe and do now most religiously believe, that unless you can conciliate the support of a very considerable proportion of the population of the slave States, this war is a useless war, that it is not in the power even of twenty millions of free people to subjugate and hold in subjugation the population of the eleven slave States which have gone through the forms of seceding from the Union. If this population were compressed within the compass, perhaps, of the State of Virginia, it very possibly might be done; but in an extent of territory as large as that of these eleven slave States, sparsely settled with six millions of inhabitants, such a feat never was performed and recorded in history and never will be performed, when the entire population is hostile, as to subjugate them and hold them as subjugated provinces. I therefore believe that it is wise; I think that it is the policy of the Government, I am sure it is the policy of the great majority of the northern people, to conciliate every man, and to maintain and defend the rights of every man who is disposed to stand by the old flag of the Union.

Now, I have said, Mr. Speaker, that there is a disagreement as to the means proposed for the prosecution of the war. I have, perhaps, said sufficient to indicate my views of policy on that subject; that while I would pursue with that just divine vengeance which ought to be meted out to the men who have instigated and promoted and carried on this rebellion, I would, as against the people generally, who have even engaged in it, show them on the first fitting occasion that the Government was not their enemy, that the old Government of the Union was what it ever has been, a beneficent and paternal Government, the best Government the world has known, and that no man except the wretch who deserves the criminal's cell has ever felt its arm, save as the earth has felt the gentle dews of heaven—in its blessings. I would, therefore, conciliate that people. But, on the other hand—and that, I think, is the sentiment of the people of the free States—whatever is necessary in the last extremity to preserve the Federal Government will be employed for that purpose. While I would regret to see, above everything that can possibly occur on this earth, a servile insurrection, with indiscriminate butchery of women and children, still, in view of even that dread calamity, before I would see this Government upturned, it is due to us, due to the world, due to coming generations, that we should leave this continent a

blackened mass of ruins, and a solitude, rather than permit this Government to be overthrown. What is the principle involved in this struggle, I pray you? We have here a framework of Government created by the unanimous consent of the people, and providing peaceably, and by the forms of law, for every alteration, every amendment, even for a separation of the States, for any modification of the Government which the people may choose to make. If we permit a Government of this description to be subverted by violence, there is an end of all the forms of Government originating in the consent of the people. Before I would see that accomplished, as God is my judge, I would be prepared to see this country a solitude and a desert.

But, sir, I look for better things. I hope for better things. I think I see evidences of better things at Roanoke, Kentucky, Tennessee, Arkansas, and wherever our troops march. Is there not evidence that the individuals who have been engaged in this rebellion are anxious to escape from it? The delusion under which these people have been laboring is about to be dispelled. If that be accomplished, I tell you there is not the least necessity for disturbing ourselves about this negro question just now. God is vindicating his ways.

Mr. WICKLIFFE. Does the gentleman from New York pretend to say that Kentucky has ever been in rebellion?

Mr. OLIN. I did not pretend to say that, nor did I say it.

I was about to remark that, in my judgment, there never was a time in the whole history of the Government since its formation, when so little uneasiness need be felt by my friend from Illinois [Mr. LOVEJOY] on the subject of negro slavery. If we can prosecute this war successfully, and bring into obedience the people of those States that have set up this defiant authority against the General Government, I tell you that this element of slavery will never again be a disturbing cause in the administration of this Government.

Now, Mr. Speaker, there is a question of the gravest importance which this House and the country have to consider. That question will be forced upon us. Our Army, as it goes through the slave States, will liberate, of necessity, whether they desire to accomplish that purpose or not, a vast number of those persons who have been held in bondage; and it will well become the patient care and paternal duty of the General Government to devise the proper means by which to take care of that class of people, so illy calculated to take care of themselves.

From my observation within this District, and from my intercourse with men from the South, I have been induced to take a somewhat different view of this question of slavery from that which is expressed by some gentlemen of this House. Take for instance the district of Beaufort, South Carolina, where there is so large a preponderance of the slave population over the white population. The best informed men from the North who have come in contact with that class of population—I do not mean men who had any prejudice against the immediate emancipation of slaves, but men who have spent their lives in efforts to emancipate them—say that the idea of emancipating such a class as that is idle. The Government must take care of them. They are as impotent to take care of themselves as four-year-old children. When they ran away from their masters and came within the lines of our army, the agents of the Government offered to give them wages and employ them at gathering cotton in that district. Many of them, as I am informed, went to work a day or so, and then ran back to their masters. Work was not the feast to which they thought themselves invited.

Mr. LOVEJOY. I want to ask the gentleman what authority he has for that statement. I have seen such statements, but do not believe a word of them. So far as I have seen in Missouri, and so far as I can read, the contrary is true.

Mr. CRISFIELD. The statement agrees with the very character of the negro.

Mr. OLIN. I ask the gentleman from Massachusetts [Mr. TRAIN] what was the name of that agent sent by the Government to Port Royal?

Mr. TRAIN. His name is Pierce.

Mr. OLIN. That is my authority.

Mr. LOVEJOY. That authority, however, happens to be the other way. His report is entirely in the other direction.

Mr. OLIN. Perhaps that gentleman has the habit of making somewhat conflicting reports.

Mr. LOVEJOY. No, sir; but the gentleman has the habit of misunderstanding the one report.

Mr. OLIN. If the gentleman had listened to me a moment I think he could have corrected one delusion that he labors under in reference to my remarks. Take the colored population of Virginia, Maryland, and the District of Columbia, who come into daily contact with white men, and are more or less educated and cultivated, and you will find that in some way or other these persons acquire a degree of intelligence and self-control and cultivation, which, in a great measure, fits them for freedom. But take a population of negro slaves which exceeds the white population as five or ten to one, where the negro slave does not see a white man except his driver from one week's end to the other, and you will find that of all persons in the world he is the least qualified to take care of himself, and the most helpless of human beings, so far as providing for his own support and maintenance is concerned.

Mr. LOVEJOY. Will the gentleman allow me to interrupt him?

Mr. OLIN. Certainly.

Mr. LOVEJOY. I did not expect to take part in this debate, and I do not care to do so now, only I think it rather hard in this House, among the professed friends of freedom, to have the slaves slandered, and denied the few things that really belong to them. I suppose that the gentleman is not ignorant of the fact that emancipation in the West Indies, where eight hundred thousand slaves were set free at once and unconditionally, has worked to the advantage of the freed man, to the advantage of the island, and to the advantage of the morals and education of that community.

That is a historical fact. No murder was ever committed by these freed men, although there were five slaves to one white man in the island. Although a consistent effort has been made on the part of the friends of slavery to misrepresent the results of emancipation in the West Indies, still it is a historical fact which cannot be denied, that it has worked admirably. The gentleman must know, if he has ever been where slaves are, that the masters are much more dependent on the slaves than the slaves are upon the masters; that the slaves have not only to provide for themselves, but have to provide for their masters.

Mr. OLIN. I am aware of all that. I should not dissent from a great deal my friend has said upon that subject. If you were to take such a district as Beaufort, South Carolina, for instance, where the slave population greatly preponderates, emancipate the slaves, give them the control, and I do not affirm that such a community would not make better progress in all that is valuable in civilized life, than the average condition of social life in that district.

Now, sir, no possible analogy can be drawn from the facts stated in reference to the results of emancipation in the West Indies and emancipation in South Carolina. I agree with most of what the gentleman says upon that subject in reference to the West Indies.

Mr. LOVEJOY. I do not understand that the dominant class left the West Indies because of emancipation. On the contrary, my information is that they remained there. They stormed and opposed the measure very virulently up to the time the act was passed, but they then conformed themselves to the fact which they could not prevent, and it has since been better for both classes.

Mr. OLIN. Now, if my ingenious friend is through, I will reply to that. He certainly knows that, in the West Indies, up to the time of emancipation, the control of the Government was in the hands of the whites, and that after the act of emancipation the black population, largely preponderating in numbers, were in the full enjoyment of all the rights of freemen. Now, if my friend from Illinois would remember that an act of emancipation would but strike the fetters from the slave, but would not enable him to have a voice in the government of the State, or shape the policy of a State, so that, even where there was a preponderance of the black population, they could take no control of the government of the State, he would see the wide difference between emancipation in the West Indies and emancipation in South Carolina.

Mr. LOVEJOY. The gentleman will allow me to remind him of a fact he is already aware of, that in South Carolina there is a large preponderance of the black population.

Mr. OLIN. I am certainly aware of that fact. The gentleman did not need to inform me of it. But the blacks have not got the government in their hands in South Carolina, and are not likely very soon to have it; and that is the precise difference I was trying to make apparent to the House.

Now, let no man charge me with any want of regard for this class of our population. No, sir; every act of my life, every sentiment of my heart has been enlisted in favor of that unfortunate class of our people. I would to God that this Government, or some Power, could place that population in a position where they could enjoy the rights which God and nature designed for them; but it never can be done while they remain either a free or a slave race among us. I say it never can be done. Why, the lesson taught the gentleman from Illinois by his own State ought to speak, it seems to me, in somewhat significant tones upon that subject. I understand at this very time the convention of that State which is remodeling its organic law is incorporating into it a provision by which all free negroes shall forever be prohibited from coming into the State to reside.

Mr. LOVEJOY. Yes, sir; it is the work of the pro-slavery Democracy of that State which seem to have the control of that body. I am sorry to be compelled to state it.

Mr. ROBINSON. Let me state, with the consent of the gentleman from New York, upon that question, that we had in Illinois a convention in 1847, which incorporated into the constitution a provision authorizing the passage of a law by the Legislature prohibiting the immigration into the State of free negroes. The next year the question was presented before the people of the State, and the provision was sustained by an overwhelming majority.

Mr. LOVEJOY. Very much to our disgrace; with shame I acknowledge it.

Mr. OLIN. I know it is, and that is just what I complain of. It is a disgrace and a shame. Now, since I have been a citizen of the State of New York, I think on three several occasions the proposition has been presented to the popular vote of the people of that State in the shape of a proposition to amend the constitution, each time regularly passed by the Legislature, to extend the rights of suffrage to the black equally with the white man.

Mr. LOVEJOY. I desire the indulgence of the gentleman a single moment.

Mr. OLIN. Not at this moment. I was proceeding to say that by the constitution of that State, adopted in 1823, a negro having real estate to the value of $250, or having been assessed upon personal property to the amount of $250, and paid a tax upon it, can vote. As I stated, since I have been a citizen of the State three several propositions have been submitted to the vote of the people of the State to allow the negro the same privilege that any other man enjoyed, who behaved as well as he did. [Laughter.] The smallest vote that proposition ever received, according to my recollection, was when the Republican party held a triumphant majority in the State of New York. The vote gradually grew less from 1823 to 1856, and the smallest vote that was ever given for that proposition was the last one given.

Now, what does this show? I voted for that proposition, and advocated it to the best of my ability, because I thought it was in accordance with the principles of republican government, and eminently and justly due to a downtrodden race; but, nevertheless, there stands out the pregnant, speaking fact that there is instinctively implanted in these two distinct races a sentiment that will not coalesce.

Mr. THOMAS, of Massachusetts. Does it not also indicate another fact—that there is in New York and Illinois just as much lenity toward the negro as there is in the slave States?

Mr. OLIN. Certainly. I do not believe for a moment that the rejection of the proposition in New York originated in any disregard for the interests of these people. Why, sir, our own State has done everything that it rationally could do to alleviate—and I am happy to say, very successfully in most instances—the condition of these unfortunate people in our midst.

In my own city, of some forty thousand inhabitants, there are between fifty and seventy-five of the colored population who have the property qualification and have voted invariably in our elections, and they may safely challenge comparison with the average white population of my district for intelligence, information, sobriety, and every characteristic that belongs to the Christian manhood. Nay, more; they have not only accomplished all this, but they have done it under the most adverse circumstances and influences that could press down to the earth a human being.

Now, Mr. Speaker, I am sorry to see what, in my judgment, is an unnecessary amount of excitement and feeling in this House upon this resolution. I say unnecessary, because there is nothing in the resolution, and there is nothing in the message, I am persuaded, which can be tortured into anything but the kindest regard and the most tender consideration for every interest and for every section of the country. Certainly gentlemen from the border slave States have no right to complain that it is not well meant towards them. If we of the North acquiesce and cheerfully submit to aid you, if you choose, to emancipate your slaves and get rid of this population; if we voluntarily make that sacrifice and give it to you, in God's name, can you complain? Can you regard it as an act of hostility towards you? I should have been happy to have seen this House act with great unanimity upon a question of this kind.

Now, sir, there was a measure reported from the Committee on Military Affairs, and adopted by the House, and the gentleman from Kentucky has attempted to put an interpretation upon it that was never thought of before or that it was believed the measure was capable of bearing. It provides that our Army should not engage or be employed in the return of fugitive slaves to their masters. That was, in my judgment, a proper and necessary measure. The officers of the Army were never meant for any such purpose. They are clothed with no judicial powers. It was none of their business, and they ought to have left it alone. The gentleman says that the Army are now prohibited from being used by the Government in aid of the legal proceedings or decrees of a competent court. That is not so, and nothing was further from the intention of those who framed the bill. I was sorry to see the gentleman from Kentucky attempt to give a false construction to that measure. I know my friend's loyalty to the Union.

Mr. WICKLIFFE. I wanted to offer an amendment to prohibit officers of the Army from enticing slaves from their masters, and I was not permitted to do so. So far as the Army has passed through our country, they have returned the fugitive slaves to their masters. Even the slaves that were captured at Fort Donelson were returned to their masters. I know that the large portion of slaves that has been lost has been lost through Lane and Montgomery. They have taken up slaves, and when they were claimed by their masters, they have only given certificates that so-and-so lost so many slaves by the movement of the Army of the United States. If the slaves belonged to rebels, then they were taken to Kansas, and set free.

Mr. LOVEJOY. I wish to understand from the gentleman from Kentucky whether he means to state that officers of the Army or any of them have returned slaves to their masters?

Mr. WICKLIFFE. I stated what I understood the fact to be. I have understood when General Grant took Fort Donelson, that he found there some twelve slaves, which he delivered up to their masters.

Mr. LOVEJOY. Did General Grant deliver them up?

Mr. WICKLIFFE. I do not know who delivered them up. I do not know, for I was not there.

Mr. LOVEJOY. Then how does the gentleman know the fact?

Mr. WICKLIFFE. Just as the gentleman knows a great many things—from the newspapers.

Mr. OLIN. Now, Mr. Speaker, instead of occupying the time of the House for only a few moments, I have consumed nearly an hour. I regret exceedingly that this measure should have created the amount of feeling that has evidently been exhibited. I attribute it not to the fault of any one member, but to the rules of this House, which seem to be made for the government of fools and knaves. I attribute it to the manner in which this discussion has been brought about. I should have been glad to hear my friend from Tennessee and my friend from Kentucky on this question. I think it was due to the House and to the country that a measure which may be regarded as one of the gravest which can engage the attention of the Congress of the United States, and which commits us to a policy which no man can perceive the end of so far as the pecuniary results are concerned—I say that it was due to the country that a proposition of so much importance should be fully considered and debated. It was due to gentlemen representing a constituency sensitive to every vote or declaration of this Congress, that they should be heard upon it. They look to every vote and declaration of Congress to see whether they can discover whether the enemies of the country have interpreted rightly, or whether there is assurance that speaks in language that cannot be misunderstood that those men who have stood by the old flag and sacrificed everything for it, shall be protected in their rights and their institutions.

Mr. Speaker, it has been no sacrifice to me. I have taken up no cross on this subject. I have not been pressed to give in my allegiance to the flag of the Union. When the guns of Fort Sumter were silenced, the people of my State were, as by magic, melted into universal accord. Any man in my State, whatever might have been his feelings or the tendency of his mind, would have been in as dangerous a position, by expressing any disloyalty to the Government, as he would to face the cannon upon the field of battle. I repeat, I have taken up no cross on this subject. My people have taken up no cross. The struggle has been going on now for a year, and the tide of battle in the slave States has fluctuated. No one knew whether security lay in the path of duty or whether the easiest course to honor, wealth, and promotion did not lie in the attempt to subvert the Federal Constitution.

And while I disclaim any merit of my own in reference to this question of fidelity to the Constitution, I beg gentlemen to remember it is a different thing with the men in the border States, who have struggled against the civil government of their States, and who have fought so valiantly against great odds for the supremacy of the United States. I honor those gallant men who have stood up with JOHNSON in Tennessee, and who have suffered so much for the country. They fled to the mountains and suffered all that men could suffer. They have sealed their devotion to the Union in such a way that I hope you and I will not be called to pass through the same ordeal. So long, then, as I can raise my voice in this Hall, I shall listen patiently to their counsels and their suggestions. I know that it has been frequently said that those men are not more than half loyal to the Government. Gracious God! I will not make that charge. I will not make such charges. If those who make them had been placed in the position that many of these men have, it would be seen how far the test of loyalty would have tried their character.

I have been led into saying as much as I have on account of what fell from the gentleman from Kentucky, for whom I have a high respect. His remarks, I thought, were calculated to produce an incorrect impression and to create a feeling prejudicial to this measure. I trust I have corrected him, and put the spirit and purpose of the President and Congress in favoring the pending resolution in their true light.

Mr. CRITTENDEN. Mr. Speaker, in order that I may not appear to have been too persistent in attempting to get the floor this morning, when it was proposed to pass this resolution under the operation of the previous question, I wish to state that there had been a meeting of some, I may say of most, of the members of the border States, in which they consulted on this subject. When that meeting adjourned, just previous to the assembling of the House, I was instructed to state to the House that they desired the postponement of this resolution to Monday next. But I was put down by the demand for the previous question. I do not mention that, now, in any spirit of complaint, though I will take occasion to say that the use of the previous question arbitrarily does the work of many secessionists. It is injurious to our deliberations on the important questions brought before us.

There is another thing which I think is quite obvious to all of us. It is a little unfortunate that this topic can never be mentioned without gentlemen indulging in extreme remarks and the exhibition of passion and excitement. It promotes no good purpose, but it rather detracts from the force and solemnity of our proceedings. We ought to on all such important questions subdue ourselves to the calmest consideration of their merits. Ought it not to be so? In this spirit, I trust, I desire, now that I am up, to make a few remarks upon the subject under consideration.

Mr. Speaker, among the many things which have been so well said by the gentleman from New York [Mr. OLIN] who has just taken his seat, he seems to recommend to us a conciliatory policy. Conciliation is his policy, and he seems to think that this resolution which we are now debating is offered in that spirit, and characterized by that spirit, and that we who represent the border States ought to accept it. Mr. Speaker, I do not doubt the perfect sincerity and integrity and patriotism with which the President has presented it for our consideration; but although I do not doubt that, I have not been able to bring myself to the belief that it is a measure exactly suited to the times.

Mr. Speaker, I will say nothing about the loyalty of the State of Kentucky. I have no disposition to boast of her. What she has done is known to you all. She has stood in her proper character. And why, I ask, do you exact of Kentucky more than she has already done to establish her loyalty? Has she not parted with all her ancient allies—with all her natural kindred in other States? When her nearest neighbor, the State of Virginia, from which she descended, fell into rebellion—Virginia, where our kinsmen were by thousands—Kentucky stood firm for the Union, and she has stood so ever since. But this resolution, or the arguments used here in its support, seem to require of her now, as further evidence of her fidelity to the Constitution, that she shall surrender up her domestic institutions. Why should that be asked of her? Is she a suspected thing, that the North or the South should apprehend that she will forget her duty to herself, her truth, and her integrity as a State of this Union, and require her to give further pledges? And is it to be understood that the slave States, as one after another they may be mindful of their duty, and return to the standard of the Union, are to give the same sort of pledge by abandoning their domestic institutions, and giving them up? Is this right? Is this good faith?

But the argument is that Kentucky ought to surrender her slave institutions by way of showing to the North, and more particularly to the South, that she never will, in any event, ally herself with the South or abandon this Government. You say destroy that hope in the South, and the South will not wage this war with the same spirit; that it is that hope which sustains her, and you demand this measure on our part for the purpose of destroying that hope of the South. What right has the South to suppose now that old Kentucky will abandon her faith in the Constitution of the United States, and unite herself with that South? None at all. Can she have such a hope? If she has, that hope must be too feeble, I think, to urge her on to any desperation in this contest. The way to conciliate Kentucky is not by pressing these questions upon her. The way to conciliate her is to let her alone. That is the way to conciliate her. That is the way to show your confidence in her—your confidence that she will always, and under all circumstances, do her duty. That will make the old State proud. But when you demand of her a revolution in her domestic policy, when you make a demand of that sort upon her, I am apprehensive it may not have the good effect you suppose. I do not appear here as a suppliant in her behalf; I am the advocate of her political rights. And why should you, why should we, who are contending for the Constitution of the United States, insist that this or that State shall give up part of her constitutional rights as an assurance of her devotion to the Constitution? The cardinal principle upon which our whole system of government is founded is that matters of a local and domestic character shall be under the exclusive control of the State governments, and national and external matters under the control of the General Government. Is not that our theory? And according to that theory, does not this institution—as has always been admitted by you—fall within the class of those

domestic subjects which belong exclusively to the States? If you begin now to trench upon that paternal and patriarchal jurisdiction which belongs to the States by taking one domestic subject from under its control, what will be the result in the future?

I do not know how this proposition will be received by my constituents. It is suddenly brought before them. It relates to a subject about which they are very sensitive. I fear they will think that they ought to be let alone on this subject. You urge them to take a further step in proof of their loyalty. They will say: "Is this the way the other States of the Union treat us? The moment we come within their grasp, the moment we join hands with them, and take up the sword in defense of the Constitution, they desire that we shall modify our institutions in accordance with their wishes." It is not a very welcome policy to those who, under the sanction of the Constitution of the United States, have adopted this system. The Constitution of the United States sanctions their right to establish this institution as much as it does your rights of property, as much as it does your right to State government in any particular whatever. And do you demand of us a surrender of a part of our constitutional rights, while you are professing to support the whole Constitution?

Mr. LOVEJOY. I desire to ask the gentleman if he thinks it would be unconstitutional if Kentucky should emancipate her slaves, on condition that the Federal Government shall pay her a certain amount of money?

Mr. CRITTENDEN. Mr. Speaker, I will answer the gentleman's question. I am not prepared to say that it would be unconstitutional. I am not prepared to give an opinion upon that question. To be sure, I should be very thankful to anybody who would pay my constiuents, if they should be required to emancipate their slaves, or should do it willingly—who would aid them by full compensation, or even partial compensation. I take no exception to the proffer. As to the constitutional power to carry that promise into execution by appropriating money here to pay for the slaves, on that question I do not desire to give any opinion.

But that is not all. The gentleman looks at the matter in a very limited way. When this Government makes a proposition of this sort, it is equivalent to an invitation, and by such an invitation agitation may be introduced at a time when we want no agitation. This may be the first step to such agitation, and not having had time to hear from our constituents on the subject, we are only apprehensive that it may lead us into that sort of agitation at the present time, when of all things we wish to be free from any such agitation.

We have given you assurances enough. We have given you all the assurances that ought to be asked. We have given as much as any of you. There is not a State of the Union that has given more, and I think I may say, in no boastful spirit, that no State has given as great assurances. No State has had the same difficulties to contend with. No State has made so many social and personal sacrifices—sacrifices of kindred and relations and friendships of the dearest kind. We have done all that. Kentucky has taken her position and intends to maintain it; she maintains it upon principles higher than any considerations of property; she has taken it at the sacrifice of all her interests, and at the sacrifice of property too, for her trade was all with the South.

But the gentleman says that this will break the hopes of the rebellion, and that otherwise the South will compel you to recognize her independent government. So says my friend from New York; and this measure proposed is only to prevent Kentucky and the border States from acceding to that independent southern government when it shall force itself upon our acknowledgment. Sir, I hope that that day is never to come. It is too remote a possibility to found any argument upon. If that time ever does come, when these twenty millions of people shall be content to see this great Government broken up; and if, looking forward beyond that infamous and disgraceful day, we shall be told that there is a fear on the part of the North that the border States will then join the southern confederacy, if you permit that day to come, I shall not want to be with you. I freely tell you so. I shall be ready to separate from you then—not till then. Are we recreantly to submit to have this country broken into pieces, and then dare to think of things that are to happen afterwards? No, sir; there is no thereafter; there is no future beyond that. I will not look into it. And yet the argument used here to-day is that we shall, without consideration, without knowing what will happen to this measure in Kentucky or the other border States, base this measure only upon things that may happen in the future, that may happen after that day of infamy. My policy does not reach so far, nor will I act upon any supposition of the sort.

Sir, we are in the habit of saying a great many things in the ardor of our feelings which we would like to recall. My friend from New York [Mr. OLIN] has said so many admirable things that he will excuse me for alluding to one extravagance of this sort in the remarks which he has just made. He says that if necessary, or when it shall be necessary, that this whole continent be made a solitude and a desert, he will accept the necessity. He says that if it becomes necessary for the preservation of the country, he would be willing to see the negro armed and servile war made in the South by southern negroes upon southern planters—a war of the black man upon the white man.

Mr. OLIN. Surely the gentleman from Kentucky does not designedly misrepresent my remarks?

Mr. CRITTENDEN. The gentleman has not heard me misrepresent them.

Mr. OLIN. I have heard enough to justify me in interrupting the gentleman from Kentucky. I certainly did not say, or intend to say, that if the border States did not accept any proposition that may be offered, that then I wished to see any given event take place—the negro armed, or servile insurrection, or anything of that kind. I must have been very much misapprehended, or must have very much misspoken if I uttered any sentiment of the kind. I did, however, say this, or intend to say it, that in the last extremity, whatever necessary means may be employed for the preservation of the Union and of the Federal Constitution, I would be willing to see employed; that I would be willing to resort to anything, even to laying the whole continent in one mass of ruins. That I said; but I did not say that if this proposition or any such proposition was not accepted, I would be willing to see that take place.

Mr. CRITTENDEN. Nor did I say so; not at all. I said, on the contrary, that the gentleman's proposition was that if it became necessary to save the country then he would be content to see even servile war. That is all that I object to; and he furthermore said that he should dread to look upon it, more than anything else that could happen on this earth. Now, the gentleman has no right to suppose such a case. The supposition of such a case, and the presentation of such thoughts to the American people is unjust to ourselves and unjust to them. How can it ever become necessary for a nation to do what in the sight of God and man is condemnable under all circumstances? How can it be necessary, in defending the interests of man, to do that which is an offense against God and humanity? No, sir; it never can be necessary for a great nation like this to talk about the possibility of creating civil war in order to maintain just and constitutional supremacy. I object to that style of speaking. That is all. I will not suppose such a case. It is the very *argumentum* which ranges through the long series of resolutions here for confiscation and emancipation—that you have a right to do anything to weaken your enemy and to strengthen yourself. A doctrine more at war with every principle of ethics, of morals, and of religion, cannot be proclaimed. Instead of doing anything that violates morality, you should do everything that morality, that the dictates of religion permit you to do to preserve the Government. But to say that you have a right to do that which is inhuman, which is forbidden of God and man, nothing can be more flagitious or more false than such a sentiment. You have no such right, sir. Such a right would be of no avail, and of no use.

In the name of God, what are we fighting for this day? Are we not fighting to uphold the Government; to uphold humanity; to put down those who violate law, who would induce to disorder, homicide, and crime? And are you to say that you have a right to commit all manner of crimes for the purpose of accomplishing your object? No matter what your enemy was, he could not be worse than you are, if that is your morality. And yet, strange to say, respectable gentlemen, honorable gentlemen, without taking a second thought about this business, talk about the consummation of the greatest immorality that could be perpetrated among men or nations. Cut off the hands of prisoners of war, slaughter every child in the rebel States—that would weaken your enemy. Seize every man by the collar, and force him into your ranks—that will strengthen you. But who would justify such means? Sir, I am sure that the gentleman from New York could not have given this idea the second thought. I do not set up my code of morality above other men's; but these are plain truths. Justice and morality are instincts that God has given us for our better and surer guide. He has not left us to our uncertain reasoning. In a cause like ours, a glorious cause, which seeks to maintain justice and liberty and right among men, let not us, its chosen defenders, sink ourselves down to the level of those who have called forth this effort on our part to subdue them. Let us not sink from our high position. This is a great contest. I want to see it waged on principles that become it; that are lofty as the subject itself is. It is not necessary for us to do wrong. It is only necessary for us to behave dutifully toward our country, and to enforce our laws. We shall thus do our whole duty, and shall have nothing to upbraid ourselves with when the war is over.

Let us not talk about necessity justifying us in doing anything, however, violatory of the laws and Constitution of our land or of humanity. We have a right to preserve ourselves. How? God has given us that right. Let us keep ourselves within well-ordered principles and well-ordered rules. It is not necessary that we should become unjust to ourselves, in order to secure justice to others. I do not want now to go into the question of the doctrine of confiscation or emancipation. I forbear that. I regret exceedingly that I find myself in the position which requires me to vote against this resolution. There is one circumstance connected with the position of the resolution here which seems to me a little unfortunate. The President, in the message in which he recommends the adoption of this resolution by Congress, expresses many sentiments and doctrines in which I heartily concur. But it seems as if an effort was being made here to separate the resolution from the context of the message. It appears here now without accompaniment, simply as a resolution presented by the gentleman from New York, [Mr. ROSCOE CONKLING.] To be sure, it is in the words of the message, but there is no reference to the message which accompanied it; there is no reference to the views expressed by the President in that message. There is a declaration in the message of the President that the people of the slaveholding States have an interest in their slaves, a property in their slaves, and a property of which they cannot be divested by the act of this Federal Government, a property which you cannot take from them. I concur in that sentiment, and if this resolution is to pass this body, I regret to see it snatched from its proper connection. It is snatched from its proper context as it appears before us, and comes here simply as the resolution of the member from New York. It is not the President's resolution. However perfect the copy may be, it is not the President's resolution, because you make no reference to the message which accompanied it.

Now, sir, as the President intended it, the resolution, it may be well enough. I have no complaint to make. I have avowed my confidence in his integrity. I avow my confidence in his purity of intention. I believe he means right; and it affords me pleasure to concur with him in most of the measures recommended by him; but I regret that in this my conscience and judgment will not permit it. I believe the President would not, as he says he would not, interfere. He would leave it to the choice of the States to say whether they will enter upon the policy of emancipation or not; but do not I know that although the President will abstain from interfering, so far as he is concerned, there are many others who, knowing it is a favorite policy of his, desiring themselves to be in his favor, would stir up an emancipation party in Missouri, in Maryland, and in Delaware—I will not now speak of my own State—simply from

that motive? Would not that be the probable consequence? Although the President would not do it himself, I say there are persons who from a desire to court favor would, without doubt, enter upon the agitation of that question in those States. I am sure there is no gentleman here who would do it. I give purity of motive to all my fellow-members upon this floor.

But I warn you, gentlemen, if you want to succeed in the suppression of this rebellion, that you will do nothing towards the accomplishment of your purpose by entering upon the policy marked out by this resolution. You have a double object to accomplish. You want not only to crush out the insurrection, but to crush out hostility. You want to unite the different sections of this country in one harmonious whole. You want again to see our own loved Republic. That is what we want. Let us aim at that, and at that alone, leaving out altogether this perplexing and unhappy controversy about slavery. Reconcile ourselves first to the Constitution of the United States. That we are first to do. Are you reconciled to it? You admit that it leaves it to the States to have or not to have the institution of slavery. Are you reconciled to act in strict conformity to the spirit and letter of the Constitution and allow that institution to remain strictly within the control of the States? Are you making in this way a species of collateral warfare against States which are standing side by side with you in this warfare against rebellion? I do not know that anything could drive them from your side in this contest. But I appeal to you, in your gallantry, in your liberality, in your duty to the Constitution, to march up to this great purpose, and this alone, and achieve, as you will achieve for yourselves, a great name in history.

But if you fritter away your time upon these comparatively small issues of our internal State policy, no man can foresee what will be the consequences. If you fail in the accomplishment of this great object, how will you be recorded in history? If in consequence of these paltry small bickerings and side quarrels you fail in this contest and this country be broken up into fragments, how will you answer to future generations for your conduct? Let it not be said that you frittered away your energies upon comparatively unimportant issues while an empire was trembling in the balance; that you preferred the smaller work to the greater one; that you were more competent to that than for the greater work in which we are engaged.

Mr. Speaker, I am proud of my connection with this body in the great events that are occurring around us in connection with this war. I am proud to have a share in the record that history shall make of the action of this Congress upon the greatest occasion in which the experience of our country ever presented opportunity for action. I want this body to stand above all questions, so that in future it may be said of us that we looked to our country and to our country only; that we sought only to protect the Constitution; that we obeyed it ourselves in all things; that we held it up before us as our shield; and that we triumphed over all obstacles. I will not detain the House longer.

Mr. FISHER. I am not placed, Mr. Speaker, in the same delicate position in reference to this resolution which my excellent friend and neighbor from the eastern shore district of Maryland has informed this House he occupies. He tells us, sir, that he is a slaveholder, (and I may properly add, perhaps, that he is one among the largest slaveholders in this House, if not the very largest,) and that he should feel a delicacy in voting for this resolution holding out to the slaveholders the pecuniary aid of the General Government, because it might look as though he had a personal interest in voting money into his own pocket. He also says that he has not yet had an opportunity since the proposition has been before the House to communicate upon the subject with his constituents, and learn their views in reference to the propriety of its adoption by Congress. I am not in either category. I have talked much with those of my constituents more immediately interested in this subject, and although representing on this floor a slaveholding State, (though she is only nominally slaveholding,) and one in which, I deeply regret to say that the madness of pro-slavery sentiments with a considerable class of individuals rages as virulently and as deeply as it does anywhere, even in the State of South Carolina or Virginia, yet I am not myself a holder of any slaves, nor do I consider myself bound to stand here to advocate *exclusively* the interests of that small class of men in my State who hold slaves, (numbering, all told, less than six hundred,) but as the Representative of the *people* of the State generally. While I would be watchful to see that the interest of the slaveholding portion of my constituency shall receive no wrong, if in my power to avert that wrong, yet I feel that the highest duty which I owe to those who sent me here is to look with scrupulous regard and vigilant eye to the interest of the toiling thousands who make up the great bulk of my people, and whose labor, after all, makes up the wealth of the State. I repeat, sir, that I stand not here to-day as the special Representative of slaveholders, and am free from the embarrassment of owning any slaves myself. I once owned some, but the last of these, through bills of manumission, under the operation of the laws of our State, have become emancipated.

Sir, I was reared and nurtured in the lap, upon the very bosom of slavery. I have seen it in all its good and evil forms and phases; and I will here say that they who see nothing but unmitigated wrong and oppression and inhumanity in the system are quite as much at fault as they who regard it as an institution divine in its origin and christianizing in all its influences and operations. I think I can duly appreciate, therefore, from the position which I have occupied, that of gentlemen who represent the more southern of what are commonly known as the border slave States. I know they desire and they ought to have time to consult the sentiments and views of their respective constituencies upon this most grave and interesting proposition. I can readily understand how they should feel an indisposition to have the question pushed upon them with undue haste, for I believe they desire to meet it in the same spirit which has prompted the President to present it to our consideration. But, Mr. Speaker, with all due respect for the situation of my friends from the other border States who have spoken in this debate, and with becoming deference to their judgment and opinions, I must be allowed to say that I think they are altogether mistaken in the view which they have taken of the meaning of this resolution, and of the message in which the President has been pleased to present it.

The venerable gentleman from Kentucky, [Mr. WICKLIFFE,] who first addressed the House in opposition to the resolution, has, in my humble judgment, totally misconceived its spirit and miscalculated its effect and operation. He seems to regard it as the forerunner of a series of measures of confiscation and emancipation by which the institution of slavery is suddenly and violently to be uprooted in all the border, and, indeed, in all the seceding States; and my venerable and distinguished friend, his colleague, at whose feet and from whose lips I received some of my earliest lessons in the wholesome doctrines of the old Whig party, [Mr. CRITTENDEN,] and to whom I have always looked as much as to any man in the country for guidance and instruction upon all the great questions pertaining to our national affairs, I am sorry to see, has followed in the wake of his colleague and taken the same erroneous view relative to the tendency of this resolution and the propriety of its adoption.

Gentlemen over the way, sir, seem to think that the proposition contained in this resolution, which is word for word the same as that presented by the President in his message for our consideration, is to be received and regarded, not as a matter of *option* upon the part of the slaveholding States respectively—a proposition which they may reject or adopt, just as they may choose to determine—but as a *threat* upon the part of the Federal Government, if adopted by Congress, a virtual declaration of intention that if the slave States do not of their own accord adopt a policy of emancipation, they will be forced into it by the power of the General Government. Mr. Speaker, I am utterly at a loss to conceive how any such construction can be placed upon a resolution so plain and a message so fairly and honestly worded. To my mind, it seems unfair and really unkind to attempt to place any such strained construction upon either the resolution or the message. I look upon them in a very different light. I regard the policy contemplated by the President, not as an entering wedge for a series of measures of confiscation and emancipation under the war power of the Government, but as altogether a *counter project* to any such series of measures. I regard it, sir, as but a reassertion of the principle which has been always recognized by both the old Whig and Democratic parties that the people of each State shall be left free at all times to regulate their own domestic institutions in their own way. I look upon it as a proposition intended to manifest in good faith upon the part of the President and his administration, and all who vote for its adoption, an intention to leave the States entirely free to select their own time and mode of emancipation, or to reject the system altogether, and as a pledge of faith on their part to perpetrate no injustice to any southern State. Could I believe that the purpose of the President or those who favor this resolution was a mere trap or sham—could I suppose for a moment that it means that if we do not in each of the slaveholding States immediately or at some early day inaugurate a rapid scheme of emancipation, then the whole power of the Federal Government should be exerted to compel us to it, State by State, upon the principle of French elections, I would be among the last to give it any countenance whatever.

But, sir, I do not thus regard it. I rather view it as an olive branch of peace and harmony and good faith presented to the border States, and indeed to all the southern States—even those which have seceded. I see in its adoption a settlement and a final settlement of all angry discussion and agitation upon this terrible question of slavery, which comes up here and in almost all public deliberative bodies in this country, like Satan among the sons of God, to afflict and destroy our happiness and prosperity. I hear, in its kindly invitation, the voice of the mighty North, composed of twenty millions of free white men—men who labor for themselves—having the power now to overrun and lay waste the entire southern country and liberate its slaves, speaking to us language like this: "We know as you know, that slavery has been the hot-bed in which treason has been nurtured; we know it is the cockatrice's egg, the Pandora's box, whence issued this most atrocious and wicked rebellion; but we know, too, that slavery was fastened upon the country far back in the past, and that our fathers were as much responsible for it as yours; we look upon it as the most serious curse which was ever inflicted upon our people, but you have your constitutional rights, which we intend most scrupulously to regard. We know that the profits of the introduction of slavery from Africa into the American colonies were largely shared in by our ancestors at the North, and we do not intend that you shall be called upon to deliver up your slaves under any power which may be asserted in the prosecution of this war; we do not want to confiscate your slaves first and free them afterwards, or *without compensation* EVER."

Sir, this resolution says in the plainest possible terms that the Federal Government, which is now and will be for at least three years to come in the hands of the North; which is controlled and administered almost exclusively by northern men; nay, sir, if you please, conducted by a President and Cabinet and Congress installed by the Republican party; that this Government will wait, that it will bide its time for the emancipation of slaves in each particular State until each shall, of its own volition, come forward and incept for itself a plan or system of emancipation which will be just to all, an infringement of no man's rights, and in no wise a violation of the letter or spirit of our Federal Constitution. But further, it says that inasmuch as the people of the North, who were the carriers in the inception of this grand system of slavery, inasmuch as by being the carriers of the slaves from the shores of Africa to this continent they made large profits, inasmuch as they have put large gains in their pockets by the business of slave-dealing, and to that extent have been participants in fastening this great evil upon the people of the country, they will, in the event of the inauguration by any State of a scheme of emancipation, not permit the whole expense of emancipation and colonization of the slaves to fall upon the people of the State alone; but in a spirit of justice and equity, amounting, in my view, to magnanimity, will cheerfully bear upon their shoul-

ders an equal portion of the burden. The North, by this proposition, agrees to divide with the South the expense of whatever system of emancipation and colonization may be adopted by the several States.

Much has been said, Mr. Speaker, by our friends over the way respecting the magnitude of the expense involved in this proposition if acceded to by all the States. Sir, it is not contemplated by the resolution; it is not contemplated by the President in his message; nay, sir, it is not even expected or believed by the gentlemen themselves that there would be under its operation an immediate abolition of slavery in all the southern States. It is not proposed that there shall be a sudden and immediate emancipation of all the slaves in any one of the States; nor is there the remotest possibility that any State would act so unwisely as to attempt any such disturbing policy as that of bringing all her slaves to freedom by one single bound. No, sir. The bill proposes *gradual emancipation for compensation*, not sudden abolition without it. And let us now suppose that the policy were to commence in my own little State of Delaware, where there are not exceeding eighteen hundred slaves. Why, sir, the gentleman from New York [Mr. DIVEN] has already stated, and truly stated, that what it costs the country to carry on this war for half a day will pay for every slave now owned in the State of Delaware. Yes, sir, that is true, and more than true; the cost of the prosecution of this war to put down a rebellion begotten by slavery for half a day will not only pay for all the slaves in my State, at full prices, but will leave a heavy margin to provide a fund for the removal from our midst not only the freed slaves, but the entire negro population, and colonize them in any other country provided for them by the General Government.

In my humble judgment this plan of gradual emancipation by the States, in which they are themselves to take the initiative, is the very best that could possibly be suggested or devised. The States choose their own plan of emancipation, and then they are invited by this proposition to rely upon the strong arm of the Federal Government to aid them in its complete and successful accomplishment.

If it be objected that the offer by the General Government of the proposed aid is a recognition of the propriety of the adoption by the States as soon as they can without detriment, public or private, to the white race, of some policy of gradual emancipation and colonization, I have only to reply that on this account I hail the message of the President as a return to the glorious principles which moved and prompted our fathers, who framed for us the Constitution and Government under which we live; a Constitution the most liberal, and a Government the most mild and benignant that the world has ever known. Yes, sir; it is but a return to that principle from which for forty years we have been unconsciously drifting; one which we must all acknowledge to be right when we can free ourselves from party trammels, and think with minds free from passion or ignoble prejudice. It is but a return to a principle of right, acknowledged by and acted upon by the men composing the convention which adopted our Constitution, and among the foremost of those by the representatives in that body of the State of Virginia, now the most rampant, next to South Carolina, in promoting and carrying on this wicked and gigantic rebellion.

Let us recur, sir, for but a moment, to the period of the organization of this Government, and read the debates of the convention of 1787, which framed the Federal Constitution. Sir, we find that it was the almost universal sentiment of the men assembled in that immortal body that slavery was and would be the great curse of this country; that it was a social, political, and moral evil, and one which ought to be put in the course of "*ultimate extinction.*" Nay, more than that, sir, Thomas Jefferson, the great founder of Democracy, whose name will go down to "the last recorded syllable of time" as the author of the Magna Charta of American liberty, when he drew the original draft of that great instrument, inserted a provision embodying this principle. In the enumeration of the grievances of the colonies against the King of Great Britain, he charges him substantially in these terms: "He has waged cruel war against human nature itself, violating its most sacred rights of life and liberty in the persons of a distant people who never offended him, captivating and carrying them into slavery in another hemisphere. Determined to keep open a market where men should be bought and sold, he has prostituted his negative for suppressing every legislative attempt to prohibit or restrain this execrable commerce." Unfortunately, I think, that clause was stricken out. Had it remained to this day as the polar star in the policy of our Government in dealing with this vexatious question of slavery, we should not now have presented to the world the humiliating and horrid spectacle of a civil war raging in the fairest Government under heaven, in which it is not thought a matter of such serious and awful consequence how many lives of our white brethren are sacrificed as it is how many miserable negroes have escaped from their masters and how many have been returned by our Army officers. It was the recognition of a great fundamental principle of liberty and humanity which, smother it as you may, will, Arethusa-like, break forth ever and anon in the great American heart North and South.

In thus speaking, I do not wish it understood that I favor the cause of abolition, which is a violent and sudden disruption of the relation of master and slave without consent, without compensation, and without regard to the dangerous and direful consequences which may result to the communities in which that relation has subsisted for so long a time; but I hesitate not to declare that I believe the Almighty intended this Union as the home of the white race, created for them, not for the negro, and that it is the duty of every patriot to consider, in the language of the President, under a full sense of his responsibility to his God and his country, how the separation of the two distinct races, which can never, and ought never, to dwell together upon terms of political and social equality, can be effected with the least jarring to the harmony and happiness of our country.

And now, sir, I do not desire to trespass longer upon the attention of the House. I should not have arisen but for the purpose of saying, as I have already intimated, that entertaining the views which I have expressed, and believing that they are the sentiments of a majority of those whom I have the honor to represent, I shall most cheerfully vote for this proposition, not because I regard it in the light in which it seems to be viewed by my friends from Kentucky, but because I look upon it as a pledge freely offered by the northern States to us of the South—a pledge from a northern Administration—that so long as the power of this Government shall be wielded by the North it will wait until the States themselves shall have taken the initiative in measures of emancipation, and then will only intervene so far as to aid by its powerful arm in the work of carrying out the policy which each State may in its wisdom adopt. In that view, and in that view only, I cordially yield my assent and approval to the proposition made to us by the President as contained in the resolution now before us.

Mr. HICKMAN. Mr. Speaker, I shall detain the House but a very few minutes with any remarks of mine.

Mr. McPHERSON. If the gentleman will yield to me, I will move that the House do now adjourn.

Mr. HICKMAN. I will occupy the floor but for a short time.

Although I do not consider the passage of this resolution as of any great practical importance, yet I shall cast my vote for it. It does not possess any great intrinsic merit, for the reason that its adoption would not constitute legislation. It would be better distinguished as a plank in the platform of a political party. If carried through this House it will not even bind the present House to pass a law, much less a House that shall be convened in the future. It is, in my judgment, simply a declaration of opinion as to a policy, and nothing more. As I look at it, it is rather a compensation to the North for disappointed hopes, and a warning to the people of the border slave States, who are most interested at the present moment in the subject to which it makes special reference. The President of the United States cannot be ignorant of the fact that he has, thus far, failed to meet the just expectation of the party which elected him to the office he holds, and his friends are to be comforted, not so much by the resolution itself as by the body of the message, while the people of the border slave States will not fail to observe that with the comfort to us is mingled an awful warning to them.

The paper is somewhat of an assurance—slight I admit—that the President still has convictions upon the great question of freedom and slavery, and that in a certain event the interests of slavery, which he seems anxious to protect, may be prostrated; and that, therefore, it is better for the border States to put themselves in a position to meet a great crisis. It is, therefore, rather a palliative and caution than an open and avowed policy; it is rather an excuse for non-action than an avowed determination to act. I speak frankly upon this point, because I do not rest upon the arms of power, and I am as free to denounce anything which I may regard objectionable in this Administration as in any which has preceded it, or which may follow it. Neither the message nor the resolution is manly and open. They are both covert and insidious. They do not become the dignity of the President of the United States. The message is not such a document as a full-grown independent man should publish to the nation at such a time as the present, when positions should be freely and fully defined. The President of the United States is not permitted to be ignorant of the fact which is hourly made more evident that the party which elected him to office have, to a certain extent, been disappointed in the prosecution of this war. I do not mean to intimate that this party anticipated that the President would enter upon a scheme of abolition—far from it; but I do mean to say that they expected when he was elevated to office that in such an emergency as the present he would not fail to assume any responsibility made proper by the circumstances surrounding him.

Sir, any man who sits down and carefully reads this message, cannot fail to understand just what it was the President had in his mind at the time he penned it. In the first place he says to the Republican party: "Gentlemen, I am not such a great defender of the institution of slavery as you would make the country believe I am. I am willing that the institution of slavery shall be sustained, and especially in the border States, but in case a dissolution of the Union, to any extent, shall occur, I will see, as far as my official influence extends, that those border States shall affiliate with the States of the North." In the second place, he says to those border States: "Gentlemen, I give you warning in time, that in the prosecution of the war a policy may eventually become necessary on the part of this Administration which will lead to the destruction of the slave interest in these States." Now, let us see whether this is not the case. After proposing the resolution in question, the President says:

"In the annual message last December, I thought fit to say, 'the Union must be preserved; and hence all indispensable means must be employed.' I said this not hastily, but deliberately. War has been made, and continues to be an indispensable means to this end."

That is, to the preservation of the Union—

"A practical reacknowledgment of the national authority would render the war unnecessary, and it would at once cease. If, however, resistance continues, the war must also continue."

There shall be no peace, in other words, so long as any State in the Union fails to recognize the lawful authority of the United States. I ask the attention of gentlemen interested in "the peculiar institution" to the sentence which I am now about to read:

"*And it is impossible to foresee all the incidents which may attend, and all the ruin which may follow it.*"

That is, which may follow the prosecution of the war for the preservation of the Union:

"Such as may seem indispensable, or may obviously promise great efficiency towards ending the struggle, must and will come."

I say, sir, in view of the plain language of the message, that no gentleman can fail to observe that the President of the United States makes direct reference to the employment of measures, in a certain emergency, which may cause a weakening if not a total subversion of the slave power; and as no one can well doubt that the war will eventually be more vigorously prosecuted upon the Gulf than in the border States, and that where slavery is strongest it will be the last place to yield, so I believe that the end of this struggle, if it shall

come—and I as much believe that it will come as I believe in any coming event—will be upon the Gulf. The President, therefore, says to these gentlemen of the border States, in language not capable of misconstruction: in the prosecution of this war for the maintenance of the Constitution and the Union, I may be forced, as I said to you in my annual message, to resort to such extreme measures that slavery may be abolished in the Gulf or cotton States, in which event, it is well for you, gentlemen, to consider your interests, so far as they are identified with this institution, will be destroyed. I therefore regard this message, not only as a compensation for disappointed hopes, but as an awful note of warning to those residing in the border States, and as an act of justice and magnanimity to them which, I am sorry to see, some of their Representatives upon this floor fail to appreciate.

If this is not the plain interpretation of the message, the Chief Executive of the nation has been most unfortunate in the use of language. After a careful reading and examination of it—I had not the advantage of listening to the discussion yesterday, nor have I been able to glance at it since—I am satisfied that I cannot be mistaken as to the points in the mind of the President. He does look, and we look, and you gentlemen from the slave States look to a contingency in which extreme war measures may become necessary. I presume you are patriots; I assume that you are; I give you, at least, the benefit of a charity. If this Union and Constitution are deserving of the eulogiums which have been passed upon them by gentlemen from all sections, they are worth more than the pecuniary interests involved in any single local or domestic institution; and if you are possessed of the patriotic feelings which I suppose you to be possessed of, and which I am willing to admit you are possessed of, you will regard the preservation of the Constitution and the Union as paramount to the pecuniary interests involved in any domestic institution, not excepting slavery.

If the President had postponed this message to a day after the occurrence which he seems to anticipate had taken place, when the slave institutions of the extreme South were undermined in the progress of the war, and had then cautioned his friends in the border States having large interests in this institution, it would have been everlastingly too late. He plays the part of a friend and counselor to them. He says to them in as plain language as state reserve will admit of, perhaps: "Gentlemen, the time may be near at hand when your slave interest will be completely crushed, and I therefore advise Congress to pass this resolution, and to that extent to assure you that by a proper precaution on your part against a disastrous contingency in the future, your interests may be protected and saved."

Mr. Speaker, every American citizen, worthy of the name, has certain axiomatic doctrines to which he holds, and which he can never disregard. The first is that this is a Government more deserving of the confidence and regard and support of the people than any Government ever established upon the face of the earth; secondly, that you cannot maintain this Government without sustaining and protecting the organic law which ante-dates and precedes the real Union; thirdly, the Union being the main purpose and result of the Constitution, you cannot destroy it without destroying the real Government; fourthly, that the Union must be preserved, no matter what the cost or the sacrifice to which it may lead. I therefore give as a conclusion, resulting from admitted principles, that that man who is not willing to save the Constitution and the Union by the sacrifice of a private interest is already a rebel, and I care not upon whose ear that declaration may fall with harshness; and, sir, when, a few weeks since, in a running discussion in this Hall, I propounded the question to gentlemen from the border slave States whether they would sustain the Constitution and the Union, although it might be necessary to sacrifice slavery to save them, there was but a solitary and a very feeble voice came up in affirmative response. Now, sir, although the North has magnanimity, the North has not too much patience. I proclaim here a fact which has studiously been concealed, as it seems to me, that the border States are not in this Union because they love freedom. They are in it because they fear force.

Mr. WICKLIFFE. If the gentleman will allow me, I oppose to that sentiment of his an unqualified contradiction.

Mr. HICKMAN. I do not care whom that may contradict. It does not contradict me. I have never proclaimed any other opinion. I declared before this rebellion broke out that but for the fear of force even Delaware would break the bonds of the Union. That opinion was not a hasty one, and I still adhere to it. What means the action of Kentucky maintaining neutrality in the hour when the Union required friends? If a man professes to be a friend of mine, I expect him to show his active friendship in the hour of my trial and my sufferings. Kentucky, proud, magnanimous Kentucky, as she has been designated here this morning—and I have nothing to say against either attribute—in that hour of trial and danger stood on the ground of perfect neutrality. But when the passage of our troops to the national capital had been secured, when the integrity of the Union had been put out of danger for the time being, and when the safety of Kentucky was imperiled, then she was the proud and magnanimous State to declare herself on the side of the Union.

It was precisely the same with Maryland, and I am by no means certain that I would be willing to make an exception in any particular or individual case. I am up now for the purpose of speaking the truth plainly; not all the truth, for if I were to declare all the truth here, it is probable I should make myself very unpalatable to some gentlemen.

Mr. BLAIR, of Missouri. Will the gentleman yield to me?

Mr. HICKMAN. Certainly.

Mr. BLAIR, of Missouri. I desired the floor for the purpose of saying here that the people of Missouri, or a portion of them, struck the first blow against the enemies of the Union. Without the assistance of the Government, and without a call from the Government, they organized their troops and defended the property of the nation when the national Government and the State government were both conspiring for its capture.

Mr. HICKMAN. That I admit, sir. But is it not undeniable that the Legislature of Missouri met in the darkness of the night, and passed an ordinance of secession, and that the Government kept Missouri striking hard blows for a pretty long time before it was ascertained exactly whether she was in the Union or out of it?

And a great deal of credit is due to my friend from the St. Louis district for keeping the State of Missouri in the Union. The fact that she is in the Union to-day adds much to the laurels of that gentleman, and no man will render him more praise than I will for his devoted patriotism in that hour of danger to his State.

Mr. BLAIR, of Missouri. I shall disclaim all the praise which the gentleman attributes to me if it is to be at the expense of my State and of my people. All that I have to say is that it was the act of the people. The people of all the southern States were far in advance of the politicians, and if this Government had not deserted the people of the South, if this Government had not been a *particeps criminis* with rebels, and furnished them arms with which to put down the loyal people of the South, if this Government had not been one of the conspirators against the people of the South, the unarmed majorities of the southern States would never have been put down by the armed minorities, armed with guns furnished by the Government of the United States. I do not ask the gentleman's compliments to me at the expense of my people.

Mr. HICKMAN. The gentleman, of course, does not ask my compliment, but the compliment is of the more value to him being unasked. The gentleman from Missouri does not expect me at this late day to enter into any defense of the policy of the last Administration. [Laughter.]

Mr. WEBSTER. Will the gentleman allow me to interrupt him?

Mr. HICKMAN. Certainly.

Mr. WEBSTER. The gentleman from Pennsylvania has alluded to the State which I in part represent, and I simply rise to make a correction. The members representing the State of Maryland declare that the gentleman from Pennsylvania is entirely mistaken when he says that the people of that State have been held in the Union by fear of war. On every occasion since the war has broken out, when the people of Maryland have had the opportunity of speaking on that question at the ballot-box, they have declared by overwhelming majorities for the maintenance of the Union and the prosecution of the war.

Mr. HICKMAN. I will not quarrel with the gentleman as to an expression of opinion, for I know respectable gentlemen even in the town in which I live, limited as is its population, who would deny that their mouths had been closed from speaking treason through a fear of consequences. Still, a private opinion entertained by any gentleman from Maryland cannot weaken the force of my convictions or militate against a great fact received as such by the nation at large. The evidence, as far as has been afforded, is all on the side on which I speak—that Maryland is by no means an exception, but that she has been chained to the car of the Union simply because she was unable very readily to separate herself from it. The testimony of Massachusetts troops, and of Unionists compelled to fly from her commercial metropolis would be, I judge, in my favor.

Mr. CRISFIELD. I protest against that sentiment, and I can only express my surprise and astonishment that a gentleman who is so familiar with the public acts of the people of Maryland as that gentleman must be, could express it here on this floor.

Mr. HICKMAN. What are the public acts of the people of Maryland, to which the gentleman refers? I beg of him to enumerate them.

Mr. WEBSTER. Will the gentleman allow me to answer him?

Mr. HICKMAN. No, sir; I call upon the gentleman who speaks about the public acts of Maryland to answer.

Mr. CRISFIELD. In the first place, there is the Governor of Maryland, to whose agency, more than that of any other human being, are we indebted to-day for the possession of this capital. Secondly, there is the election in June, by which the representation on this floor was made unanimous in the support of the Union, after the severest contest that had ever occurred in the State of Maryland. Thirdly, in the election that occurred in November, Maryland again expressed her devotion to the Union by a vote of more than two to one.

Mr. HICKMAN. Now, Mr. Speaker, I do not desire to give way again, unless some gentleman feels himself specially aggrieved, which I trust he will not. I have not said and would not be understood as saying, that in these border States there is not a class of people devotedly attached to the Union, and who would not differ with me in the opinion I have expressed. But, sir, I still reiterate what I believe to be God's truth, that every border slave State would have separated itself from this Union if it had not been for fear, and that that man whose interests are identified with slavery thinks just about as well of slavery as of the Union. I am forced to believe that.

Mr. FISHER. I feel constrained to say at this point, in defense of the State I have the honor to represent, that so far as Delaware is concerned the remark of the gentleman is not true.

While I am free to say there are some men in my State who if they had had a leader bad enough and bold enough would have been ready to join in a party to carry Delaware out of the Union, it is nevertheless true that there was no time when the loyal men of the State would have permitted it to have been taken out of the Union. No, sir; the loyal men of that State would have suffered death upon their own soil before they would have permitted it.

Mr. HICKMAN. I happen myself to know a few facts connected with these border slave States, living as I do in close proximity to two of them. I profess to have some little information as to the statement made by the gentleman from Delaware, and he will agree with me when I say that it was with very great difficulty the enrollment of men for this war was commenced in the State of Delaware.

I must also refresh the recollection of my friend from Maryland somewhat by saying that Mr. Lincoln himself, a few months since, did not appear to differ much from me in the opinion I have expressed here. I speak from very high authority. Mr. Lincoln thought just what I think; and when I am speaking on the authority of the President of the United States, my words ought to be received with a great deal of respect. [Laughter.] The President thought that the Legislature of the

State of Maryland had resolutions of secession in their pockets when they were about meeting at their adjourned session in Frederick. The authorities of Maryland moved their capital when the United States forces took possession of Annapolis. I do not know what they did that for when they were among their friends. [Laughter.] But I say the President thought legislators were about to meet at Frederick with resolutions of secession in their pockets, and that if left unmolested, it was not unlikely a resolution of secession might actually be passed by the Legislature of Maryland. He therefore, as a matter of extreme caution, thought it better to arrest the members of that Legislature and put them in jail. The supreme power of the State was incarcerated because the President thought as I think, although my friend from Maryland may think their legislators were extremely loyal.

Mr. THOMAS, of Maryland. If the gentleman from Pennsylvania will allow me, I suppose it is impossible for any gentleman to appreciate the extreme reluctance I have to appear upon the Journal of our proceedings in connection with such a scene. But, under a deep conviction that there is something due from me to my immediate constituents, in common with the people of Maryland, on an occasion like this, I desire to say a very few words of explanation.

If gentlemen will confine themselves to the denunciation of individuals in Maryland, they would find me the most uninterested spectator of this scene that can be well imagined. I am perfectly willing that each man in Maryland should take his share of responsibility for his conduct; but I am not willing in this exhibition before the Congress of the United States to have it supposed that there is no material in Maryland as loyal and as early to assume the responsibility of loyalty in this contest as Pennsylvania can boast.

Now, sir, in the first instance, it is very well to understand that this Legislature of Maryland which convened, not at Annapolis but at the town of Federick, where I have passed a large share of my life, was elected some two years before this most unfortunate question which has agitated the country so long culminated in war. It is perhaps equally well known that no force was required from any quarter outside the State to teach that Legislature that they could not force the State out of the Union against the wish of the great majority of the people of the State. It is very well known that without aid from the General Government, and without arms, the people of the vicinity organized five hundred strong to resist any such illegal action if attempted by the Legislature. That is a part of the history of Maryland. That is history which speaks the great heart of the people of Maryland; and is it fair, is it not a scandalous exhibition, to present the whole people of Maryland as responsible for that little portion—that incubus which was so readily and so promptly thrown off? Sir, is it, I repeat, fair to make the whole people of a State responsible for the discreditable acts of an inconsiderable few? I have no disposition to follow the gentleman's example in this regard, but it would not be more unfair to charge upon the whole people of Pennsylvania the responsibility of a whisky insurrection which once occurred in that State. Sir, a more gallant people cannot be found anywhere than are the people of Pennsylvania, and it would be wanting in magnanimity to charge upon them the responsibility of the discreditable acts of a few.

Mr. HICKMAN. I did not give way to the gentleman to make a speech.

Mr. THOMAS, of Maryland. If I have satisfied the gentleman in so little time I am content. I had scarcely begun.

Mr. HICKMAN. A feeling of thankfulness for the patience of the House would not permit me to reply to the remarks of the gentleman from Maryland. Perhaps, sir, it is unfortunately the case that the position of Maryland has been misunderstood, for the opinion I have expressed has certainly been shared by the public to a considerable extent, and by Mr. Lincoln, as he thought it advisable to incarcerate the Maryland Legislature to prevent them from enacting an ordinance of secession, and carrying the State out of the Union.

And I have also the opinion of that other great man, the president of the so-called confederate States, Mr. Jefferson Davis, who declares that if Maryland had not been intimidated and held by force, she would have linked her fortunes with the rebellious and treasonable South. I do not undertake to quote the precise language. But without such high authority, I should not hesitate to say that, from all I can see, there is no slave State population that has not the well-being of slavery so much at heart, and into the composition of whose hearts slavery does not enter to such an extent that they love human slavery, with its christianizing and republican influences, its separations of husbands and wives, of parents and children, its days of toil without recompense, its servility and utter degradation, its life without hope, and its death without knowledge, as much as they love the Government. Why, sir, I have found but one among the Representatives of slave constituencies on this floor, who, when the Union was in the hour of its direst peril, was ready to make the open and distinct avowal, that if the Union and slavery could not both be saved, he would save the Union in preference to slavery.

Now, sir, but one word more for the present. I may, on some other occasion, take up the history of this war in its different stages—I should like to do so, but I find gentlemen so sensitive upon this question that it is unpleasant to use plain language. Allow me to say in conclusion, that I know no great diversity of opinion among men whose interests are identified with slavery. I have never been able to discover a difference in views or feelings between a man from Maryland and a man from South Carolina or Alabama. I have found wherever the negro is there is an undivided loyalty to slavery, and every day's proceedings here show it—conclusively show it. Every fair-minded man cannot but admit it. The President knows it. The Cabinet knows it; and therefore the difficulty which the President has had for a long time in dealing with this rebellion. Mr. Lincoln has found himself between two swords—the sword of the party looking to a particular policy, to be pursued towards a rebellion springing from slavery, and the sword in the hands of the border States, who insist all the time that the war shall be prosecuted in such a way as to save their peculiar, divine, and humanizing institution. The President of the United States, if he has any recollection—and I do not know whether he has or not, for I do not perceive any evidence of the fact—if he has any recollection, he will remember that he was taken up by a party, sustained and carried into his high position by a party whose very life was dedicated to the maintenance of the Constitution and the Union; and they had the right to expect the adoption of such measures, not inconsistent with the laws of war, as would be most likely to crush treason at the earliest moment. And when I say to this House that the nation at large has been somewhat disappointed in its reasonable expectation, I may be open to a charge of indiscretion, but not to one of misrepresentation.

I say further, that the nation has felt a great lack of confidence, not only in the President, but in those military leaders put in highest position by the President. He knows this well, and has made some changes. He knows further, that the people of the northern States regard this Government as sacred, and will never allow the sacrilegious hand to touch it without striking it off, and that its downfall cannot precede northern desolation and death. No matter what interests may perish, no matter what lives may be sacrificed, they will command that the war shall be prosecuted with the greatest vigor, and that the Government shall be reëstablished, even if it be but over smouldering cities and wasted lands.

I may be pardoned for giving expression to my firm belief that there are some here who are willing to endanger the Union, but who are not willing to endanger slavery, and I do mean, in what I have said, to rebuke the manifestations of that feeling which have been shown more than once upon this floor.

I speak for myself alone; I do not speak for organizations, political or otherwise, and I assume the responsibility. That may be my misfortune.

"Never mind!
My words, at least, are more sincere and hearty
Than if I sought to sail before the wind.
He who has naught to gain can have small art; he
Who neither wishes to be bound nor bind,
May still expatiate freely, as will I,
Nor give my voice to slavery's jackall cry."

Mr. ROSCOE CONKLING obtained the floor.

Mr. WADSWORTH. I hope the previous question will not be called, because I want to say something on the pending resolution.

Mr. ROSCOE CONKLING. As the mover of this resolution I feel desirous to have a vote on it; if not now, at some time belonging to the present, whether it be to-day or to-morrow. The discussion which has taken place has led to such extreme harmony—indeed I may say to such an accord of sentiment, that perhaps in that regard this is as happy a time as any to take a vote. I for one am ready to vote on this question now or at any other time when a vote can be reached. The tax bill is the special order for to-morrow and for every day until disposed of. If we adjourn now and this resolution goes over it will be overridden by the special order. I would be glad, therefore, if we could come to some understanding by which the previous question may be called this evening, and a vote taken on the resolution to-morrow. I am willing to agree to any other mode by which we can prevent this question being overslaughed to-morrow by the special order to which I have referred. I promise to do all that courtesy can demand to oblige the greatest number of members on the floor.

Mr. CRISFIELD. Name some day to which this resolution shall be postponed.

Mr. BLAIR, of Missouri. I think that next Monday will satisfy every one.

Mr. CRISFIELD. I suggest Monday to the gentleman from New York.

Mr. RICHARDSON. Notwithstanding the special order may come up to-morrow, we can go on with the discussion of this question. I think I can say for the members upon this side of the House that they will be ready to come to a vote on this resolution in the early part of next week. All we want is some opportunity for discussion. I think that I can speak for all of the members on this side of the House that they will be ready to vote on this proposition by next Monday or Tuesday. There will be no difficulty in coming to an understanding about the vote, if we have an opportunity for discussion.

Mr. ROSCOE CONKLING. Will the gentleman inform me whether there is any considerable number of gentlemen who desire to be heard on this question?

Mr. RICHARDSON. There are several gentlemen who desire to be heard; but there is no difficulty about getting discussion on the resolution, even though it may not be formally before us. We can discuss it in the Committee of the Whole on the state of the Union, on the tax bill.

The SPEAKER. Under the new rule, discussion must be confined in the Committee of the Whole on the state of the Union, on a special order, to the proposition pending.

Mr. RICHARDSON. Then I have been misled. The rule used to be to allow discussion in the Committee of the Whole on the state of the Union when any bill was up upon all manner of subjects; but I learn now that the practice is different from what it was when I was here before. But there is enough in the tax bill, which will come up to-morrow, to which the discussion of this resolution may be applicable. Let this resolution be made the special order for Monday next, and then we will be able to dispose of it. That will obviate all objection, I am sure.

Mr. BLAIR, of Missouri. From the conversation I have had with gentlemen around me, I understand that it will meet with general consent to take the vote on Monday next. I hope, therefore, the resolution will be postponed and made the special order for Monday next.

Mr. ROSCOE CONKLING. If the motion to postpone the resolution to Monday next be carried, and it is not disposed of that day, will it still be before the House, or will it go over?

The SPEAKER. It will come up as the unfinished business, if a suspension day, and will have to go over to the following Monday. But the House, by unanimous consent, may fix whatever time it pleases for taking the vote on this question.

Mr. ROSCOE CONKLING. I am willing to agree to any understanding satisfactory to both sides of the House, by which we may have a vote on this resolution at an early day.

Mr. RICHARDSON. There will be no objection to taking the vote on Monday next.

Mr. COX. Say Tuesday.

Mr. RICHARDSON. If we say Wednesday week, ample time will be afforded for discussion.

Mr. ROSCOE CONKLING. Am I to understand if we postpone this resolution to a day certain, that the vote will be taken on that day? [Cries of "Yes!"]

Mr. COX. We expect some discussion on that day; but we will vote on that day.

Mr. ROSCOE CONKLING. That is what I want to understand. If there be discussion on it on that day, then the resolution may drift over again. [Cries of "No!"]

Mr. RICHARDSON. You may fix the hour on Wednesday week when the vote shall be taken.

Mr. ROSCOE CONKLING. I propose to fix a certain day and a certain hour on that day which may be agreeable to gentlemen over the way to take up this resolution and vote on it, and when that hour comes I want the vote to be taken without further delay.

Mr. THOMAS, of Massachusetts. I want to say a word on the resolution before the vote is taken.

Mr. HUTCHINS. I object to any arrangement which would cut off any gentleman from speaking who desires to express his views upon this question.

Mr. THOMAS, of Massachusetts. I desire, for one, to express my opinions, and to say something in relation to the speech of the gentleman from Pennsylvania, [Mr. HICKMAN.]

Mr. BINGHAM. Then why not go on with the discussion to-night?

Several MEMBERS. It is too late.

Mr. RICHARDSON. I desire to ask this question of the Chair: if this resolution is kept before the House, the House agreeing to fix a period of time when we will vote upon it, could we not continue to discuss it during the morning hour from now until that time? Would not the resolution be before the House during the morning hour every day until the day agreed upon for the taking of the vote?

The SPEAKER. Until the joint resolution is disposed of, no other subject can come up unless the House goes into Committee of the Whole on the state of the Union.

Mr. RICHARDSON. Then I suggest to the gentleman from New York that he fix a day for the taking of the vote, and then we can discuss the resolution during the morning hour until that day arrives. That will give us time enough for discussion.

Mr. ROSCOE CONKLING. Gentlemen all around me say that they object to that.

Mr. ASHLEY. Of course it will be objected to.

Mr. ROSCOE CONKLING. If the resolution is postponed till a certain hour on a certain day, the morning hour in the mean time can be occupied in its discussion; but that need not be the subject of agreement now.

Mr. RICHARDSON. No; but I suggest to the gentleman that the trouble is this: that if you postpone the resolution, there will be no opportunity to discuss it. I was trying to get rid of a difficulty which suggested itself to gentlemen around me. They desire to discuss the question. But if we postpone the resolution till Wednesday week, there will be no chance of discussing it in the mean time.

Mr. ROSCOE CONKLING. To meet that view of the case, I have a proposition to make, and it is this: that the joint resolution shall be postponed now, and that a certain day and a certain hour of that day shall be fixed when the vote shall be taken, the subject to be pending and to be before the House in the mean time.

Mr. RICHARDSON. I have no objection to that.

Mr. ROSCOE CONKLING. That covers the gentleman's point.

Mr. F. A. CONKLING. I move that the House do now adjourn.

Mr. ROSCOE CONKLING. My colleague does not happen to have the floor to make that motion. I believe I have the floor myself.

My proposition is that the joint resolution be postponed—that is, that it stand over now, and that we fix a definite time when the vote shall be taken; gentlemen, in the mean time, to discuss it to their hearts' content on every opportunity that presents itself.

Mr. VOORHEES. And probably no such opportunity will present itself. I object to that arrangement.

Mr. ROSCOE CONKLING. We are in the habit here of adjourning over on Saturdays. I suggest that we sit next Saturday, and that the vote be taken at four o'clock on that day, gentlemen to discuss it in the mean time as far as they see fit.

Mr. VOORHEES. If the gentleman from New York will address himself to the question, which is that we desire to fix upon some way in which this resolution can be discussed, perhaps some agreement can be had, but he seems intent only on getting a vote.

The SPEAKER. Is the proposition of the gentleman from New York objected to?

Mr. VOORHEES. Yes, sir; I object to it.

Mr. COLFAX. I desire to make a suggestion to my friend from New York. It strikes me that there is a good deal of force in what he says about Saturday. If we fix upon Monday next for taking the vote, the debate can go on all day Saturday without any vote being taken; and those gentlemen who want to go to the Departments can go there, and gentlemen who want to hear this matter discussed, or to discuss it themselves, can come here.

Mr. THOMAS, of Massachusetts. Suppose some gentlemen want to go to the Department, and also want to discuss this question, what then?

Mr. ROSCOE CONKLING. Let me answer the gentleman from Massachusetts.

Mr. LOVEJOY. I rise to a question of order.

Mr. ROSCOE CONKLING. Oh, I hope the gentleman will not make a point of order now.

Mr. LOVEJOY. Well, I certainly will.

Mr. ROSCOE CONKLING. This matter is sufficiently complicated without any question of order.

Mr. LOVEJOY. My point of order is that all these propositions are out of order.

The SPEAKER. The Chair sustains the point of order.

Mr. ROSCOE CONKLING. The Chair assigned the floor to me; and I suppose I am entitled to it for one hour.

The SPEAKER. That is true; but the subject under consideration must be discussed by the gentleman, or by whoever he yields the floor to.

Mr. ROSCOE CONKLING. I propose to discuss the question strictly, so as to avoid the question of order.

Mr. BLAIR, of Missouri. Will the gentleman from New York yield the floor to me?

Mr. ROSCOE CONKLING. I will yield to the gentleman, if he will keep in order.

Mr. BLAIR, of Missouri. I desire to make a suggestion.

Mr. LOVEJOY. I object to the floor being yielded.

Mr. ROSCOE CONKLING. If I have the floor, I am anxious to be heard now. I propose one of two things, and I hope nobody will make a point of order on me. The gentleman from Massachusetts [Mr. THOMAS] and some other gentlemen seem to hope that we shall hit upon some scheme that will be perfectly agreeable to every individual member of the House. Of course we cannot do that. We must all concede something. Now, if we can adopt the suggestion of the gentleman from Indiana, [Mr. COLFAX,] and agree to take the vote on Monday, all day Saturday can be allowed for discussion, no vote to be taken on that day, so that no gentleman will be bound to come here unless he desires to speak. That will be agreeable to me, and I hope it will be to gentlemen around me. If we cannot come to that arrangement or any other, I shall be compelled, as the House is now full, to ask that the debate be closed now; because the other alternative is to postpone the subject indefinitely.

Mr. EDWARDS. Allow me to make one suggestion. If the gentleman will stand by the arrangement to have the vote taken at four o'clock on Monday, then the House can dispose of Saturday as they please when they come to it. I think that might be agreed to all round.

Mr. ROSCOE CONKLING. Is that objected to?

Mr. VOORHEES. I object to it.

Mr. ROSCOE CONKLING. Then, unless some gentleman can suggest an arrangement by which we can have an early vote, and that will be consented to, I shall move the previous question at once on the resolution.

Mr. VOORHEES. I am as ready for the previous question as the gentleman from New York is.

The SPEAKER. Does the gentleman withdraw his objection?

Mr. VOORHEES. No, sir.

Mr. BLAIR, of Missouri. I move that the House take a recess till seven o'clock, this evening.

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

The question was taken; and the House refused to adjourn—ayes 40, noes 68.

Mr. RICHARDSON. If the gentleman from Missouri will withdraw his motion, I will move that we take the vote on Monday next at one o'clock, without making any other disposition of the subject.

Mr. CONWAY. I object.

Mr. BLAIR, of Missouri. I insist on my motion that the House take a recess until seven o'clock, this evening.

Mr. ROSCOE CONKLING. I rise to a point of order. I would inquire whether that motion is in order?

The SPEAKER. The Chair thinks the House can take a recess. That has been the practice.

Mr. ROSCOE CONKLING. Is it not a standing rule of the House that when it adjourns it will adjourn to meet at a certain hour?

The SPEAKER. The gentleman is right, and the Chair sustains the point of order. It has been the practice for the House and for the Committee of the Whole on the state of the Union to take a recess, but it has always been done by unanimous consent or under a suspension of the rules.

Mr. ROSCOE CONKLING. I now move the previous question on the joint resolution.

The previous question was seconded and the main question ordered.

Mr. COX. Is it in order now to move an adjournment?

The SPEAKER. It is.

Mr. COX, (at five thirty-five, p. m.) I make that motion.

The question was taken, and the House refused to adjourn.

The question recurred on the engrossment and third reading of the joint resolution.

Mr. RICHARDSON. There was an amendment offered by the gentleman from Virginia, [Mr. BLAIR.] Is not the question first on that amendment?

The SPEAKER. The amendment of the gentleman from Virginia was not offered. The gentleman from Kentucky [Mr. WICKLIFFE] only yielded the floor to allow it to be read.

Mr. WICKLIFFE. I yielded the floor both to the gentleman from Virginia [Mr. BLAIR] and to the gentleman from Ohio [Mr. PENDLETON] to have their amendments offered.

The SPEAKER. It was not so stated, nor were the amendments received by the House.

Mr. RICHARDSON. The gentleman from Virginia who sits near me [Mr. BLAIR] did me the honor to consult me as to the proper time for the offering his amendment. I understood that it was offered and was before the House as an amendment to this resolution.

The SPEAKER. It was not so understood or stated by the Chair. The language of the gentleman from Kentucky to the gentleman from Virginia was that he would hear his amendment read. That was all that was said.

Mr. BLAIR, of Virginia. That was his remark to the gentleman from Ohio, [Mr. PENDLETON.]

The SPEAKER. The same remark applied to both.

Mr. WICKLIFFE. I did not object to the gentleman's amendment being received.

The SPEAKER. Until an amendment is stated by the Chair, it is not received or not pending. When a gentleman who is entitled to the floor yields it to have a proposition read, that is the end of it.

Mr. PENDLETON. I had an amendment, for the purpose of offering which the gentleman from Kentucky yielded to me. It was sent to the Clerk's table, read, and offered as an amendment to the resolution. I appeal to the gentleman from Kentucky to say whether he did not give me the floor for the purpose of offering my amendment?

The SPEAKER. The gentleman from Ohio asked the gentleman from Kentucky to yield to have an amendment to an amendment read. The gentleman from Kentucky yielded for that purpose. The Chair did not state the amendment to

the House as a pending amendment. If it had come in, it would have come in as an amendment to the amendment of the gentleman from Virginia, [Mr. BLAIR,] which was not germane to the pending proposition.

Mr. PENDLETON. That may have been.

The SPEAKER. It shows to the gentleman from Ohio that his proposition was not received as an amendment.

Mr. PENDLETON. It was the understanding of all the gentlemen on this side of the House that it was received; and if the Chair did not state it, I beg leave to say that I ought not to suffer from that neglect of duty.

The SPEAKER. The Chair heard no one ask to have it received as an amendment.

Mr. BLAIR, of Virginia. I expressly asked the gentleman from Kentucky to give way that I might offer my amendment—not simply that it might be read. He acceded to my request. The amendment was sent to the desk and read.

Mr. ROSCOE CONKLING. Is this question of order debatable?

The SPEAKER. It is not. The gentleman from Virginia and the gentleman from Ohio raised this point of order that there were two or three amendments pending to this joint resolution. The Chair stated the question to be on the engrossment and third reading. The point of order is, that the vote should be first taken on this proposition. The Chair will state the facts as they occurred. The gentleman from Kentucky [Mr. WICKLIFFE] being on the floor, the gentleman from Virginia [Mr. BLAIR] asked him to yield that he might offer an amendment. The gentleman from Kentucky stated that he would hear it read. It was read; and that was all that either gentleman said about it. The gentleman from Ohio [Mr. PENDLETON] afterwards rose and asked the gentleman from Kentucky to yield him the floor to have an amendment read. The gentleman yielded, and the amendment was read. Neither of the gentlemen proposed anything more about it. The Chair will now submit it to the House whether these amendments have been received. It is a question of fact.

Mr. RICHARDSON. I desire to say that I do not think I am mistaken in my recollection of the matter.

Mr. BINGHAM. I rise to a point of order.

The SPEAKER. This is a question of fact, which the Chair hopes the gentleman will allow to be settled.

Mr. RICHARDSON. The gentleman from Kentucky yielded to the gentleman from Virginia to offer an amendment.

The SPEAKER. The Chair thinks that if the gentleman from Illinois will consult the reporters, he will find that the Chair is right.

Mr. BLAIR, of Virginia. I know that I am not mistaken. I desired to offer a proviso which I had drawn up, and I consulted the gentleman from Illinois about it, as to whether it was in order to offer it at that time as an amendment. He informed me that it was. I then asked my friend from Kentucky, who occupied the floor, whether he would give way, not that my proposition might be read, but that I might offer it as an amendment to the resolution.

The SPEAKER. The gentleman from Kentucky yielded the floor only to have it read, and declined to yield it any further.

Mr. BLAIR, of Virginia. I appealed to the gentleman, not to hear it read, but that I might offer it; and the gentleman says he yielded the floor for the purpose for which I asked him to do so.

The SPEAKER. The gentleman from Kentucky stated expressly that he would hear it read; and that is all that was said. It is, however, a question of fact for the House to decide.

Mr. WICKLIFFE. The Chair will pardon me if I state over again just what the gentleman from Virginia did say. I was appealed to by that gentleman to give way for the amendment. I said "certainly; let us hear it read;" and I consented, so far as I had the power to consent, that it should be offered as an amendment.

Mr. BINGHAM. The gentleman did not say so to the House.

Mr. WICKLIFFE. I was then appealed to by the gentleman from Ohio [Mr. PENDLETON] for the same purpose. He had read his amendment to me before he offered it. He asked me if I would yield to let him offer it. I consented, and told him to offer it at the end of the resolution. It was so offered and read.

The SPEAKER. The Chair has heard the statement, and will submit the question of fact to the House.

Mr. KELLOGG, of Illinois. I think I heard very distinctly what took place, and I would like to state how I understood it.

Objection was made.

The SPEAKER. Both gentlemen have made their statements; and it is now a question of fact for the House to determine. If the amendments were received at that time, they should be voted on now. Shall they be received as amendments?

Mr. WICKLIFFE. I ask for the yeas and nays on that question.

Mr. BINGHAM. I rise to a question of order. Is it in order, under the rules, at this stage of the matter, when the main question is ordered, to interpose a question whether other things have been received as amendments?

The SPEAKER. It is a question of fact for the House to determine, whether these amendments were received.

Mr. BINGHAM. I submit that a question of fact is one thing, and a proposition to receive amendments while the previous question is pending, is another thing.

The SPEAKER. That is for the House to determine.

The yeas and nays were ordered.

ENROLLED BILL.

Mr. GRANGER, from the Committee on Enrolled Bills, reported as truly enrolled, a bill (H. R. No. 297) to make an additional article of war; when the Speaker signed the same.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that the Senate had disagreed to the amendments of the House of Representatives to the bill (S. No. 136) to provide for the appointment of sutlers in the volunteer service, and to define their duties; asked for a committee of conference on the disagreeing votes, and appointed Messrs. WILSON of Massachusetts, HOWARD, and WRIGHT conferees on the part of the Senate.

SUTLERS IN VOLUNTEER SERVICE.

Mr. BLAIR, of Missouri. I move to take from the Speaker's table the bill just sent in from the Senate.

The motion was agreed to; and the bill (S. No. 136) to provide for the appointment of sutlers in the volunteer service, and to define their duties, was taken from the Speaker's table.

Mr. BLAIR, of Missouri. I move that the House agree to the committee of conference asked for by the Senate.

The motion was agreed to.

EMANCIPATION—AGAIN.

Mr. KELLOGG, of Illinois. I desire that the vote as to the reception of these amendments may be taken separately. One, in my judgment, was offered, and the other was not.

The SPEAKER. The vote must be taken on both.

Mr. CONWAY. I ask that the amendments be read.

The SPEAKER. The character of the amendments has nothing to do with the question, which is simply whether they were offered.

Mr. GOOCH. Is the question whether these amendments were received at the time they were offered, or whether they shall be now received?

The SPEAKER. It is for the House to determine whether these amendments were, at the time they were read, proposed as amendments. That is all.

The question was taken; and it was decided in the negative—yeas 43, nays 78; as follows:

YEAS—Messrs. Ancona, Joseph Baily, Biddle, Francis P. Blair, Jacob B. Blair, George H. Browne, William G. Brown, Casey, Clements, Cobb, Corning, Cox, Cravens, Crisfield, Crittenden, Dunlap, English, Hall, Harding, Johnson, William Kellogg, Knapp, Law, Leary, Noble, Pendleton, Perry, Price, Richardson, Robinson, James S. Rollins, Shiel, John B. Steele, Francis Thomas, Voorhees, Wadsworth, Ward, Webster, Whaley, Chilton A. White, Wickliffe, Wood, and Woodruff—43.

NAYS—Messrs. Aldrich, Arnold, Ashley, Babbitt, Baker, Baxter, Beaman, Bingham, Samuel S. Blair, Blake, Buffinton, Campbell, Colfax, Frederick A. Conkling, Roscoe Conkling, Conway, Covode, Cutler, Davis, Delano, Duell, Edgerton, Edwards, Eliot, Ely, Fessenden, Fisher, Franchot, Frank, Gooch, Goodwin, Granger, Haight, Hale, Harrison, Hickman, Hooper, Horton, Hutchins, Julian, Kelley, Francis W. Kellogg, Lansing, Loomis, Lovejoy, McKnight, McPherson, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Nixon, Olin, Patton, Timothy G. Phelps, Pike, Pomeroy, Porter, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sheffield, Shellabarger, Sloan, Stratton, Train, Trowbridge, Van Valkenburgh, Verree, Wallace, Charles W. Walton, E. P. Walton, Albert S. White, Wilson, and Windom—78.

So it was decided that the proposed amendments were not pending.

Mr. WOOD moved that the House adjourn, and called for the yeas and nays on the motion.

The yeas and nays were not ordered.

The motion to adjourn was disagreed to.

The question recurred on the motion to lay the resolution on the table.

Mr. WICKLIFFE called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 34, nays 81; as follows:

YEAS—Messrs. Joseph Baily, Biddle, George H. Browne, Campbell, Corning, Cox, Cravens, Crisfield, Crittenden, Dunlap, English, Hall, Harding, Johnson, Knapp, Law, Leary, Noble, Norton, Pendleton, Price, Richardson, Robinson, James S. Rollins, Shiel, John B. Steele, Francis Thomas, Voorhees, Wadsworth, Webster, Chilton A. White, Wickliffe, Wood, and Woodruff—34.

NAYS—Messrs. Aldrich, Arnold, Ashley, Babbitt, Baker, Baxter, Beaman, Bingham, Francis P. Blair, Samuel S. Blair, Blake, Buffinton, Campbell, Chamberlin, Clements, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Cutler, Davis, Delano, Duell, Edgerton, Edwards, Eliot, Ely, Fessenden, Fisher, Franchot, Frank, Gooch, Goodwin, Granger, Haight, Hale, Harrison, Hickman, Hooper, Horton, Hutchins, Julian, Kelley, Francis W. Kellogg, William Kellogg, Lansing, Loomis, Lovejoy, McKnight, McPherson, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Olin, Patton, Timothy G. Phelps, Pike, Pomeroy, Porter, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, Sargent, Shanks, Sheffield, Shellabarger, Sloan, Stratton, Train, Trowbridge, Van Valkenburgh, Verree, Wallace, Charles W. Walton, E. P. Walton, Albert S. White, Wilson, Windom, and Worcester—81.

So the resolution was not laid on the table.

Mr. NOBLE moved that the House adjourn, and called for the yeas and nays upon the motion,

The yeas and nays were not ordered.

The motion to adjourn was disagreed to.

The question recurred on the engrossment and third reading of the joint resolution.

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

Mr. ROSCOE CONKLING demanded the previous question on the passage of the joint resolution.

The previous question was seconded, and the main question ordered to be put.

Mr. WICKLIFFE called for the yeas and nays on the passage of the joint resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 89, nays 31; as follows:

YEAS—Messrs. Aldrich, Arnold, Ashley, Babbitt, Baker Baxter, Beaman, Bingham, Francis P. Blair, Jacob B. Blair, Samuel S. Blair, Blake, William G. Brown, Buffinton, Campbell, Chamberlin, Clements, Colfax, Frederick A. Conkling, Roscoe Conkling, Conway, Covode, Cutler, Davis, Delano, Diven, Duell, Dunn, Edgerton, Edwards, Eliot, Ely, Fessenden, Fisher, Franchot, Frank, Gooch, Goodwin, Granger, Haight, Hale, Harrison, Hickman, Hooper, Horton, Hutchins, Julian, Kelley, Francis W. Kellogg, William Kellogg, Killinger, Lansing, Loomis, Lovejoy, McKnight, McPherson, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Nixon, Olin, Patton, Timothy G. Phelps, Pike, Pomeroy, Porter, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, Sargent, Shanks, Sheffield, Shellabarger, Sloan, Stratton, Train, Trowbridge, Van Valkenburgh, Verree, Wallace, Charles W. Walton, E. P. Walton, Whaley, Albert S. White, Wilson, Windom, and Worcester—89.

NAYS—Messrs. Ancona, Joseph Baily, Biddle, Corning, Cox, Cravens, Crisfield, Crittenden, Dunlap, English, Harding, Johnson, Knapp, Law, Leary, Noble, Norton, Pendleton, Perry, Richardson, Robinson, Shiel, John B. Steele, Francis Thomas, Voorhees, Wadsworth, Ward, Chilton A. White, Wickliffe, Wood, and Woodruff—31.

So the joint resolution was passed.

Before the vote was announced,

Mr. BAKER stated that his colleague, Mr. WALL, was absent in consequence of indisposition.

Mr. DUNLAP said Mr. WRIGHT was necessarily absent from the House.

Mr. STEELE, of New York, said Mr. SMITH was detained from the House by sickness.

Mr. JOHNSON made a similar statement in reference to Mr. COOPER.

Mr PENDLETON stated that Mr. VALLANDIGHAM was absent and paired with Mr. VAN HORN.

The vote was announced as above recorded.

The SPEAKER. The Chair asks the indulgence of the House to have the 38th rule read.

The Clerk read, as follows:

"When a motion is made and seconded, it shall be stated by the Speaker; or, being in writing, it shall be handed to the Chair, and read aloud by the Clerk, before debated."

The SPEAKER. The Chair desires to say in addition, in explanation of his decision that no amendments were pending to this resolution, that no motion is considered to be in possession of the House until it has been stated by the Chair.

The Chair will also remark that no member upon the floor can yield to another for the purpose of offering an amendment if there be objection. If objection is made he cannot yield unless he yields unconditionally.

Mr. ROSCOE CONKLING moved to reconsider the vote by which the joint resolution was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate by Mr. FORNEY, its Secretary, announced that the Senate had appointed Mr. WRIGHT, of Indiana, a member of the joint committee on the conduct of the war, in place of Mr. JOHNSON, of Tennessee.

Also, that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the legislative, executive, and judicial appropriation bill.

Also, that the Senate had indefinitely postponed the bill of the House (No. 241) for the payment of the field officers of volunteer regiments for services rendered prior to the full organization of the regiments.

And then, on motion of Mr. COX, (at twenty minutes past six o'clock, p. m.,) the House adjourned.

IN SENATE.

WEDNESDAY, *March* 12, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting, in pursuance of the act of May 1, 1820, a statement of the appropriations applicable to the service of the War Department for the fiscal year 1860-61; the amount drawn from the Treasury by requisitions during the same period; the balances on the 1st July, 1861, and the appropriations carried to the surplus fund; which, on motion of Mr. WILSON, of Massachusetts, was referred to the Committee on Military Affairs and the Militia.

PETITIONS AND MEMORIALS.

Mr. McDOUGALL presented the petition of R. Withers and others, praying for mail service by steam vessels between the Atlantic States and California, in addition to the overland mail; which was referred to the Committee on the Post Office and Post Roads.

He also presented a memorial of the officers of the eighth regiment New Jersey volunteers, and memorials of the officers of the first, second, and fifth regiments of the Excelsior brigade, remonstrating against the abolition of regimental bands; which were referred to the Committee on Military Affairs and the Militia.

Mr. DAVIS. I present the petitions of John Buckingham and fifty-nine others, citizens of Waterbury; of Alonzo Bailey and twenty-two others, citizens of Rockville; of E. H. Roberts and seventy-two others, citizens of Middletown; and of H. Huntingdon and one hundred and thirteen others, citizens of Hartford, all of the State of Connecticut, setting forth that they earnestly desire "to see our distracted country restored to its former condition of peace and prosperity, and firmly believe that the compromise on the subject of slavery, embodied in the Constitution adopted by our fathers, is the only bond which can reunite and hold us together as a brotherhood of States, and therefore beseech you, as national legislators, to leave it for fanatics and demagogues and other people of that sort, while you, like true patriots, like enlightened statesmen and philanthropists, seek your country's welfare by doing what you can, by proper means, for the reëstablishment of the Constitution and laws as expounded by the courts." I ask that these petitions be received, and laid on the table.

It was so ordered.

REPORTS FROM COMMITTEES.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred a resolution for the expulsion of Hon. LAZARUS W. POWELL, a Senator from the State of Kentucky, reported it back, with a recommendation that it do not pass.

Mr. DAVIS. I give notice that to-morrow morning I shall ask that the report in the case of my colleague be taken up by the Senate; and I shall make a motion to reverse the report.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the petition of John Carter, late a soldier in the service of the United States, praying for pension, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Mrs. Harriet B. Macomb, praying for arrears of pension, submitted an adverse report; which was ordered to be printed.

Mr. HOWE, from the Committee on Finance, to whom was referred the bill (S. No. 177) for the relief of Sylvester Crooks, reported it with an amendment, and submitted a report; which was ordered to be printed.

BILLS INTRODUCED.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 227) to authorize the President to take possession of certain property and for other purposes, which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. LATHAM, in pursuance of notice, asked and obtained leave to introduce a bill (S. No. 228) to repeal all the laws prohibiting foreign steamships from carrying American freights and mails between New York and Aspinwall, and Panama and San Francisco, California; which was read twice by its title, referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 229) to provide for the administration of the oath of allegiance to American citizens in foreign countries; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a joint resolution (No. 67) in relation to the claims of Marshall O. Roberts, for the loss of the steamer Star of the West; which was read twice by its title, and referred to the Committee on the Judiciary.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House had passed a joint resolution (No. 48) declaring that Congress ought to coöperate with, affording pecuniary aid to, any State which may adopt the gradual abolishment of slavery; in which the concurrence of the Senate was requested.

The message further announced that the House had passed the bill of the Senate (No. 80) to amend "An act to incorporate the Columbian Institution for the Instruction of the Deaf and Dumb and the Blind," and to make appropriations for the benefit thereof.

The message further announced that the House had agreed to the conference asked by the Senate on the disagreeing votes of the two Houses on the bill (S. No. 136) to provide for the appointment of sutlers in the volunteer service, and to define their duties; and had appointed Mr. F. P. BLAIR of Missouri, Mr. WILLIAM A. RICHARDSON of Illinois, and Mr. EDWARD McPHERSON of Pennsylvania, managers at the same on its part.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed an enrolled bill (H. R. No. 299) to make an additional article of war; which thereupon received the signature of the Vice President.

BILLS BECOME LAWS.

The message further announced that the President of the United States had approved and signed, on the 6th instant, the following enrolled bills and joint resolutions:

An act (H. R. No. 302) to provide for the appointment of additional clerks in the office of the Assistant Treasurer at New York, and for other purposes;

An act (H. R. No. 294) requiring an oath of allegiance and to support the Constitution of the United States to be administered to masters of American vessels clearing for foreign or other ports during the present rebellion; and

A resolution (H. R. No. 37) in relation to certain railroads in the State of Missouri.

HOUSE BILL REFERRED.

The joint resolution from the House of Representatives (No. 48) declaring that Congress ought to coöperate with, affording pecuniary aid to, any State which may adopt the gradual abolishment of slavery, was read twice by its title, and referred to the Committee on the Judiciary.

THANKS TO CAPTAIN FOOTE.

Mr. GRIMES. I am instructed by the Committee on Naval Affairs, to whom was referred a joint resolution (S. No. 64) expressive of the thanks of Congress to Captain A. H. Foote, of the United States Navy, and to the officers and men under his command in the western flotilla, to report it back, and recommend its passage. I desire to occupy about half an hour of the time of the Senate to-morrow, taking this resolution as the basis of the remarks I desire to submit. I shall, therefore, feel under obligations to the Senate if there can be an understanding that at one o'clock to-morrow this resolution may be taken up by general consent.

Mr. TRUMBULL. Why not say half past twelve o'clock?

Mr. GRIMES. Well, half past twelve—any time to-morrow.

Mr. LATHAM, (to Mr. GRIMES.) Make a motion to that effect.

Mr. GRIMES. I move that the joint resolution be made the special order for to-morrow at half past twelve o'clock.

The motion was agreed to; two thirds concurring.

THANKS TO LIEUTENANT WORDEN.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 66) expressive of the thanks of Congress to Lieutenant J. L. Worden, of the United States Navy, and to the officers and men under his command in the Monitor; which was read twice by its title.

Mr. SHERMAN. This joint resolution has been informally submitted to the Committee on Naval Affairs, and I have the unanimous assent of that committee to say that it meets their approval. I hope the same course will be pursued with it as with the joint resolution in regard to Commodore Foote, that it will be postponed until to-morrow at half past twelve o'clock, when the vote can probably be taken on both. I move that it be postponed until that time.

The motion was agreed to.

STATE MONEYS FOR THEIR VOLUNTEERS.

Mr. WILSON, of Massachusetts. I now move to take up Senate resolution (No. 65) to authorize the Secretary of War to accept moneys appropriated by any State for the payment of its volunteers, and to apply the same as directed by such State.

The motion was agreed to; and the joint resolution was read the second time, and considered as in Committee of the Whole. It authorizes the Secretary of War, if any State during the present rebellion shall make any appropriation to pay the volunteers of that State, to accept the same, and cause it to be applied by the Paymaster General to the payments designed by the legislative act making the appropriation, in the same manner as if appropriated by act of Congress; and also to make any regulations that may be necessary for the disbursement and proper application of such funds to the specific purpose for which they may be appropriated by the several States.

Mr. COLLAMER. I wish to inquire of the Senator whether he considers this as superseding the regulations the States themselves may make for their own disbursements. The State of Vermont, for instance, have an appropriation for pay-

ing seven dollars a month to their volunteers in addition to the United States pay, and they have their own paymasters and their own way of paying it. The State might avail themselves of this provision, or might not. Will the gentleman consider that this is in exclusion of a State provision? They might prefer to use their own means.

Mr. WILSON, of Massachusetts. I should think it would not interfere with that at all. I understand this resolution to be intended to reach cases where a State appropriates money to pay volunteers the regular pay which the Government agrees to pay them, and it provides the mode and manner in which that may be done. The State of New York has passed such a law to appropriate money to pay what the Government of the United States agrees to pay these men. The Secretary of War having examined the subject very carefully, is desirous that this mode be adopted for that purpose, and I think it will not interfere with any extra pay that the States may choose to pay their troops. I consulted this morning, on a suggestion made by the Senator from Maine [Mr. FESSENDEN] yesterday, in regard to this going to the Secretary of the Treasury, and the Secretary of War said there was a difficulty about it, and they wanted it to go in this direction, in order to hold the paymasters in the Army responsible. This was thought to be the best way to have it done. In fact, the resolution was prepared at the War Office.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time, and passed

PAY OF ARMY OFFICERS.

On motion of Mr. WILSON, of Massachusetts, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 175) to define the pay and emoluments of certain officers of the Army, and for other purposes; the pending question being on a motion heretofore submitted by Mr. RICE, to strike out the ninth and sixteenth sections, which are as follows:

SEC. 9. *And be it further enacted*, That, during the continuance of the present rebellion, there shall be deducted from the compensation of all persons employed in the military, naval, and civil service of the United States, except the President of the United States and the judges of the courts of the United States, and warrant officers and sailors in the Navy, and non-commissioned officers, musicians, and privates in the Army and marine corps, ten per cent. of the amount of their compensation; and this deduction shall apply to all allowances for mileage and for commutation for servants, forage, and rations, and to all fees or contingent allowances paid for personal services from the Treasury of the United States.

SEC. 16. *And be it further enacted*, That hereafter the rate of mileage of members of Congress shall be reduced fifty per cent., to be computed by the most direct traveled route from their places of residence to the seat of Congress, respectively. A statement of the mileage of each Senator shall be certified to the Secretary of the Senate, and of each Representative and Delegate to the Sergeant-at-Arms of the House of Representatives, by the Postmaster General, within thirty days after the commencement of the first session of each Congress: *Provided*, That, until a railroad is constructed to the Pacific coast, the mileage of Senators and Representatives from beyond the Rocky mountains shall be computed by the usually traveled route.

Mr. FESSENDEN. I think the Senator from Massachusetts had better strike these sections out of his bill, for the reason that provision is made for an income tax which is to come here, and the amount is less. If that fails, the provision can be put on some other bill. It is improperly placed in this bill for the Army. Probably the same objection applies to both sections.

Mr. SHERMAN. I trust the Senate will not strike out this ninth section of the bill. It is the only reduction of salary likely to pass. I know from my experience that detailed bills are not likely to pass. If any one wants to try the experiment, I hope he will try it. This reduction of ten per cent. is probably the only reduction that will be made, and if it is not passed in this bill, it will not pass at all. The tax bill may be modified; it will be some time before it will get here. If this is considered as in lieu of a tax, there will be no difficulty about it. I believe it is the best feature of the bill, and I hope it will be adhered to.

Mr. FESSENDEN. I hope it will not be adhered to for the reason, in the first place, without going into details about it, that it is very unjust; it applies to everybody who receives a salary, and there are a great many who receive small salaries to whom it ought not to apply at all. It is in its nature sweeping and founded on no principle except a mere cutting down, without reference to the question whether too much or enough is received in a great many cases. For instance, it takes in all officers of the Army, captains, lieutenants, second lieutenants; it takes in all persons in the employ of the Government, even if they do not receive over $600 a year; it includes a great many classes that I am satisfied ought not to be reduced at all. For that reason, it is unjust in its operation, as necessarily every provision of this kind must be which makes no sort of distinction between classes of men. Now, while I am ready to submit myself to any reasonable tax placed upon me or upon those who are ready to bear it, there is no reason why in our fever of appearing to do something for outside operations, to show people that we are disposed to economize, we should treat with injustice a large class of persons in the public employ.

I am perfectly willing to take the responsibility of meeting anything of that sort, either by vote or word. Take, for instance, an officer who receives about eighteen hundred dollars a year; there are officers in my eye who have families at home to support, who have left business which brought them in a great deal more, and who have to be at their own extra expense in the field and to support their families besides, and you cut them off ten per cent., and then you tax them on their incomes besides, and in addition to that, force them to pay all the increased prices of living. Why, sir, it is unjust; it is a perfect outrage on such men. Those who receive high salaries may be able to bear this and more; but the Senator from Ohio [Mr. SHERMAN] makes no distinction. After demonstrating the other day by his speech that the thing was wrong, he is still willing to take it for the sake of a reduction. He may be able to bear it, and I may be able to bear it, but there are large classes of the community who are not able to bear it.

In the second place, it is out of place here; it has no connection with this bill, which is to apply to the Army. In the third place, we cannot tell what we are to do until after the tax bill is passed. You cannot make a distinction in an income tax. For instance, you cannot tell what burdens the whole community is to bear, in the first place, by the tax on articles, and in the next place, by an income tax, which is connected with the tax bill as reported, and which is to come up here. No harm can be done by deferring this particular proposition. The idea that there is no chance to do it, except we do it here, is no argument if it is doing injustice. I think the bill is decidedly wrong; and for the sake of any praise I might get myself in the newspapers for voting for it, or any blame I might get for voting against it, I am not disposed to yield to anything of that sort. We can do justice as well here in the case of public servants as in others.

Mr. WILSON, of Massachusetts. I think the Senator from Maine has made an unnecessary allusion——

Mr. FESSENDEN. I did not allude to anybody but myself. I say I am ready to meet what may come.

Mr. WILSON, of Massachusetts. It is very easy to declare our readiness to "meet" anything that may come because of our opposition to this measure. It is not necessary for the Senator from Maine, or any other Senator, to make any declarations of his readiness or willingness to "meet" what may come from the press in regard to this measure, for I venture to say that nine tenths of the press of the country will take the side that the Senator has taken to-day on this question, and any man who expects to gain anything in popular estimation by going for this proposition of the bill will be entirely mistaken. I do not suppose that anybody dreamed it could be done. I am sure nobody has gained anything, or will gain anything in popularity, by its support. On the contrary, the grossest misrepresentations have been made in regard to this very proposition, its object, and its purpose; and attacks have been made against those who introduced it and those who have supported it.

The proposition contained in the section to which the Senator objects, may not in all cases work justly. I must confess that I think in some cases it will work hardly. It is a deduction proposed to be made during the existing trouble, and it seemed to me to be more just than to make a general and permanent reduction of salaries, which in many cases ought not for a series of years to be reduced. It is easy to collect this small sum of ten per cent. I noticed that a proposition was introduced the other day in the House of Representatives that seemed to me to work more justly; and that was, that all persons receiving under $2,000 should be taxed five per cent., those receiving from $2,000 to $5,000 ten per cent., and those receiving over $5,000 fifteen per cent., making a discrimination. It seemed to me that proposition was a good one and a better one than this, but I think as this is in the bill we may as well adhere to it.

The Senator says it is hardly fit to put this provision upon this bill. We had a report from a commission appointed last session, who presented a bill to reduce the salaries of officers. I thought their bill was rather a sweeping bill, making large permanent deductions; and it seemed to me that it was better for those engaged in the military service of the country to make a temporary reduction upon their compensation during the present trouble, than to make a reduction that would last through a long series of years; and that every man would feel under present circumstances a willingness to make a sacrifice for the public good. I have received letters from a large number of officers in the field, who say to me that this is the best mode to make that reduction; that they prefer it altogether to the other propositions that have been made here; that during the present trouble in the country they are ready to make their part of the sacrifices necessary to be made to carry on the struggle.

Then, sir, there was another reason why I wished to bring the provision in here. This bill proposes a large reduction; it cuts off expenses in various directions. It seemed to me that if we were to do anything we ought to make some reduction upon our own compensation, that before we undertook to reduce the receipts of others we ought to be willing to make some reduction for ourselves, and that during the present struggle we could afford to make some sacrifice for the country. That was the motive for putting this proposition into the bill. I think it is a good proposition. I am not strenuous whether it goes upon this bill or some other. If there is another place and another time better fitted to put this provision in, I certainly am willing to have that time and that place fixed upon rather than to have it put upon a bill in which Senators think it ought not to be. I will simply say to the Senator from Maine that if this is an unfit place in which to put this provision, and if Senators prefer that it should be put upon any other bill, I am willing to do so, for I am very anxious to get this bill through, for it will make a reduction of many millions of dollars in the expenses of the military service of the country. I think it will save somewhere from twelve to fifteen millions of dollars annually; I am confident that it will save more than a million of dollars per month; therefore I am anxious that it shall go through to-day.

Mr. FOSTER. As an illustration of the injustice of the application of this ten per cent. principle, I will allude to the case of chaplains in the volunteer service as compared with captains of cavalry. By the bill which we passed at the extra session, we authorized the appointment of chaplains for the volunteer portion of the Army, and we fixed their compensation, making it the same as that of captains of cavalry, some eighteen or nineteen hundred dollars in amount per annum. The other day, after a debate in the Senate, their salaries were fixed by a vote of the body at $1,200, to which they are to be reduced from eighteen or nineteen hundred dollars. Now, it is proposed to take ten per cent. from the salaries of these officers; ten per cent. from the captains of cavalry and ten per cent. from the chaplains, each of whom, at the extra session of Congress, we judged to be entitled to the same pay, and for ought that has been said, the pay fixed at that time for a chaplain as compared with a captain of cavalry was not too much. But we have not reduced the pay of a captain of cavalry from $1,800 to $1,200; and that would save very much more money, for there are at least ten captains of cavalry to every regiment, and there is but one chaplain. If the pay of a chaplain was, as according to the vote of the Senate it must be assumed to be, too much, we ought to have reduced the pay of a captain of cavalry at the same time, and we should have saved

for a regiment instead of $600, ten times $600. If the mere fact that we save money by our votes is to be a sufficient reason for giving them, it applies with tenfold force to reducing captains' pay rather than chaplains'; but we reduce the chaplains only, and then propose to take the same amount—ten per cent.—from that pay, thus reduced one third, that we take from captains not reduced at all.

But, Mr. President, I am not disposed to rest my opposition to this bill on the distinct ground that it thus does gross injustice, although I think that is sufficient. I am perfectly willing to meet distinctly what certain members assume to be the strong point in the bill, and that is that it reduces the pay of members of Congress. I am perfectly willing for one to say that I do not believe the pay of members of Congress at the present time is more than it ought to be; and I am not prepared to vote for a reduction of that pay. I am perfectly free to avow it. It is probable I may stand in a very small minority, possibly in one as small as my friend from Iowa [Mr. HARLAN] the other day, a minority of one; but I still adhere to the opinion. I chanced to be here at the time the pay of members of Congress was increased. I voted for the increase. I did not believe at that time that the compensation was raised above what it should be. I have not changed my opinion. I do not think it was raised above what it should have been; and certainly at the present time when the expenses of living are very greatly increased both in this capital and at home; when the public burdens imposed upon us are very greatly increased; when the income from all property, if members chance to have any property, is very greatly diminished, and when we are paid in a depreciated currency, that we should diminish our compensation, however popular or however unpopular it may be, seems to me to be unjust. I am not prepared to vote for it, and I am just as ready to put my opposition to this bill on the ground that it reduces the pay of members of Congress as any other class. I will not say but that there may be, by possibility, other portions of the public service which are not as well paid as members of Congress; but I must confess that I do not know any such portion of the public service. There is no branch of it that is not, in my apprehension as well paid as members of Congress.

In regard to the whole matter of saving money by reducing salaries, I think we had better save money by raising the tax. That will fall fairly upon property. A reduction of this sort does not fall fairly. If our present rate of taxation is not high enough, we must raise it, but let us pay our public servants a fair compensation, whether they are in civil or military service.

There is no reason why, when we are exacting severer duty from any class of public servants, we should diminish their compensation. That, however, seems to be the principle of the bill, that during the period of the existing rebellion this deduction shall be made. I think that instead of doing that, we ought rather to raise their compensation. We should make our compensation in proportion to the amount of labor. This bill makes it in the inverse ratio. In proportion to the amount of labor the pay is to be diminished. That is the principle of this bill. As my friend from Maine [Mr. FESSENDEN] suggests, just in proportion as you increase the expenses necessarily incurred and increase the amount of duty imposed, you diminish the amount of pay by this bill. That is radically wrong in my judgment. I am aware that it may be said our service is not dangerous and that a great many men, perhaps as learned, as wise, and as patriotic as we, are ready to come here and take our places, and serve the public for less money than we do. I have no doubt of it, Mr. President. Indeed, from indications that have been made within a short time, I am by no means prepared to deny the proposition that we might possibly get very good, wise, and honest men to serve in either House of Congress, at the pay proper per month of privates in the Army. I am not prepared to vote to reduce my pay to that figure, although my seat might be filled by a man who would fill it better than I do, at that price or even less. I can only say that while I have had a seat in Congress my income has been less than it was when I was at home earning my bread by labor, and I am prepared to go to work again and earn my living in an honest way if I can; but while I am here in the performance of a public duty, I am not prepared to reduce my compensation, by my own vote at at least, below what I deem to be a fair compensation. Other gentlemen may think our compensation is a great deal too much, and may be disposed to reduce it. Of course, I have no fault to find with their opinions. I can only say that so far as members of Congress are concerned, we ought to be worth the money that is paid us; and if we are not, I must say that I do not think we ought to remain in positions involving so important duties and responsibilities.

In regard to the military and naval service, I do not believe that the pay as it is now fixed by law is greater than it should be, at least in time of war. No doubt there are abuses, and that by certain constructions of different laws certain officers get compensation greater than the law intended and greater perhaps than they ought to have; but I believe that the great mass of those who serve in the Army and Navy are not paid beyond the amount which is fair and reasonable for this Government to pay those who are engaged in the duties which they are called to perform. At all events, Mr. President, it seems to me to be a most unfortunate time, just as we are bringing men to the mouth of the cannon, and putting their lives in peril, for us to say, we will take off ten per cent. of your pay before going into battle. It may be that it would stimulate patriotism to call upon men to fight for nothing. I introduced a bill a short time since, and it was referred to the Committee on Military Affairs, to authorize the President to appoint proper persons who might volunteer to serve on staff appointments in the Army without pay; and I thought, and still think, that there were a great many persons who would serve the country very efficiently and gallantly on those terms. The bill provides for their appointment and commission, giving them the rank of officers of the Army to perform staff duty—not to command troops—without pay, and that their commissions should so specify. It does not seem to meet with favor; at all events, it has not been reported back by the Committee on Military Affairs, although I believe the chairman of the committee is in favor of the bill. Still, a proposition to allow men, who are willing to do so, to fight for nothing, does not seem to be acceptable.

While we adopt the principle of making compensation, I say let our compensation be a reasonable and a just one, and in time of war let it be a liberal one, and cut down when peace comes, if we cut down at all. When this war is over, there will be vastly more necessity for reducing the pay of all men, either in civil or military service, than there is now. If we have not the pecuniary ability to keep our Army in the field and our Navy upon the ocean at the present time, and pay a just and reasonable compensation, we had better stop where we are, abolish compensation altogether, and appeal to the patriotism of the people to defend the country at their own expense—far wiser, far better. Then we should know where we stood, and I believe we should have a tolerably efficient force even on that basis; but till we come to that, I must, for one, insist upon, not a prodigal disbursement of the public money, but a just, economical, and, I will add, liberal compensation to all those who serve on the land or on the ocean in war, and not to cut down the pay even in the civil service below what is just and fair.

Mr. WILSON, of Massachusetts. The Senator from Connecticut opposes these provisions of the bill, although his vote was given the other day to retain them in it. I believe the vote of the Senate then was, with two exceptions, in favor of the very provisions to which opposition is made this morning. However, every man has a right to a sober second thought, and I suppose Senators have that right. I see that there is to be opposition to these sections of the bill. I am anxious that the bill shall be passed. I think it would have saved more than a million of dollars if it had been passed promptly when it was first introduced. From beginning to end, it is a bill to save money; to cut off unnecessary expenditures. I do not agree with Senators in regard to the present position of affairs. I think now is our time to reduce all unnecessary expenses, and to cut down large salaries. Sir, we have an Army that costs us more in one month than the army of England in the Russian war cost in a year. It is paid four or five times higher than any army in the world. The sections of the bill proposed to be stricken out do not touch the rank and file, and were never intended to reach them; but they apply to the officers, and require them, during the present contest, to make some reduction, some contribution. If we are in danger from any quarter, I think it is in regard to our finances. We owe millions of dollars to-day. There are forty or fifty millions of dollars now owing in the War Office of this country not paid. But, sir, if these provisions are to encounter opposition, if Senators are to change the position they held the other day, if they desire to put these sections on some other bill, or try this question in some other form, I prefer to let them go rather than to hold this bill with the provisions that are in it, which I know will correct abuses, here in the Senate, day after day, unacted upon.

Mr. SHERMAN. I regret very much to hear what has fallen from the Senator from Massachusetts. I believe the majority of the Senate are in favor of these sections. I do not want to discuss them any more if we can have a vote. He may be induced to abandon them here upon the ground that they may be put upon some other bill; but if he does, I venture the prediction that they will not be put on any other bill or be carried. We might just as well adhere to them here and let a majority of the Senate determine the question whether we shall make this reduction or not.

Why, sir, the price of everything has gone down, and I think a reduction of ten per cent. now on our salary makes it equivalent to what it was one year ago. I think we might as well adopt this reduction now as at any other time. It will save a very large sum of money, and it will be a contribution by the public officers, all of whom can bear the reduction better than your citizens. The compensation and salary of the great body of the people of this country, the West especially, according to the statistics, is between four and five hundred dollars. That is the limit of an ordinary farmer. There is scarcely a person affected by this bill but who receives a salary or compensation ranging from $600 to $25,000. A reduction of ten per cent. on their salary, although a very large sum, is certainly oppressive to nobody, and the reduction is only to last during the present rebellion. When the rebellion is over, I hope we shall be able to systematize salaries and adopt a better system.

As I said here the other day, I am opposed to this general reduction. I do not think it is fair or just ordinarily, and if we had time now to take up the bill before us and adopt a new system of pay, equalizing this reduction, making it greater on higher salaries and less on smaller ones, then I should be glad to abandon these sections and adopt the other mode; but I know that is impossible. We spent the morning hour the other day in debating whether we could dispense with one of our clerks, and if so which one, and as to whether either should be dispensed with. We know very well that we cannot now, in the midst of war and excitement, legislate on bills that require a great number of details. We must take a general principle even if it works injustice. I hope, therefore, that these sections will be adhered to and adopted by the Senate, and that the Senate will at least give the House an opportunity to act on them. If the House refuse to adopt them, then we can abandon them, and then it will be time enough to do so.

Mr. CHANDLER. In addition to what the Senator from Ohio has said in regard to the reduction of compensation all over the United States, I will say that in all the large cities and towns in the United States, as I am informed, the reduction on rents amounts to more than twenty-five per cent. All salaries, all rents, all profits and expenses have fallen. We ask the whole people to contribute to the expenses of this war; we ask them, notwithstanding this great depreciation in their annual receipts, to submit to large and heavy taxation; and is it just, is it honest, for us, Senators and Representatives, Government employés, receiving large compensation, when the expenses of living have diminished, to attempt to shift this burden from ourselves upon a people already overburdened by depreciation in consequence of this war? I hope the Senator from Massachusetts will insist upon these particular provisions, and I call

for the yeas and nays upon the motion to strike them out. I hope they will pass unanimously.

The yeas and nays were ordered.

Mr. CLARK. I wish to call the attention of the Senate to one feature in this ninth section, and to see what will be its operation upon the regular officer and the volunteer officer. It is said in favor of this section that it will last only during this rebellion, and then the officers will return to their present salary. Many thousands of volunteers have come into the service for a short time with the understanding that they were to have a given compensation. You propose to cut them down during the rebellion; and then they will all be discharged, and will have no increase of salary; but your regular officer will have his increase. He will submit to be cut down during the rebellion to save his salary afterwards; but your poor volunteer, out of business, with nothing to do, is discharged as soon as the rebellion is over; and his salary is cut down ten per cent. while he has been fighting your battles and endangering his life—sacrificing it in battle and in the camp. Is that just to the volunteer?

Mr. SHERMAN. In reply to that observation I will say this: that before the rebellion is over, we shall have ample time to revise our pay list; and I have no doubt that the pay of the Army and Navy will be revised and reduced; but we cannot do it now. It is impossible to do it, probably, at the present session. The Senator from New Hampshire concurred in a bill which will reduce the pay of the regular officers of the Army more than ten per cent. The bills reported from the committee on compensation and expenditures, of which he is a member, make a permanent reduction of from ten to twenty per cent. on officers of the higher grades of the Army and Navy, and of a less rate on the pay of those of lower grades; and no doubt those bills can be acted upon before the present rebellion is over. The compensation now paid to our officers of the Army and Navy of the higher grades, is entirely too high. The pay of a brigadier general is over five thousand dollars, and the pay of a major general is between six and seven thousand dollars. Every officer that I have met, without exception, has expressed his willingness to agree to a reasonable reduction; and I do not think you will find any officer who is fighting with a patriotic motive in this war, but what is willing to bear this and even a greater reduction. You have staring you in the face the fact that, unless you make some reduction, decrease in some way your Army, decrease in some way your expenditures, it will be impossible for the people of the United States to pay out $600,000,000 in one year, and to continue that more than twelve months. We know very well that, notwithstanding all our resources, we have been able to borrow but $250,000,000; that we are now in debt, and have issued securities in almost every possible form which the ingenuity of man can devise in order to carry on the operations of the Government. I say, in the face of this startling fact, we must meet the difficulty, and reduce our expenses as far as we can, in every possible way, and reduce our Army, if necessary.

The true statement of the power of a nation is not the number of soldiers that can be called into the field, because by high pay or want of employment, by ordinary occupations ceasing, you may get your whole population in the field, simply as a matter of interest. The true test is, how long can you keep them in the field; how can you pay them, and raise the means to pay them? It seems to me, therefore, on the ground of economy, on the ground of a vigorous prosecution of the war, it is necessary to husband our resources, and that every man, especially one who is deriving a salary from the Government, should bear his portion of whatever burden is placed on the people; and we ought to bear most of the burden. A salary of $2,700 a year to a member of Congress during the present rebellion is worth more to him than a salary of $3,000 in ordinary times. We could not if we were out of public life receive the same rate of compensation in private life now that we could have received before. I suppose there are but very few members of the Senate but what could earn more than three thousand dollars a year in private life. It is not the compensation which nearly all of us could receive in private life; but that is not the test. We cannot apply a rule to the officers of the Army and Navy that we are not willing to apply to ourselves; and where there is a general rule of reduction, which on the whole would be equal and just and fair, we cannot object to that rule because it may in certain cases work injustice.

Mr. CLARK. It is very true that I concurred in the bill to which the Senator alludes reducing the pay of the Army officers permanently; but because I did that I do not see that it is any reason why I should concur in this injustice to the volunteer. I cannot see the force or the propriety of it. If the pay of the Army officer is too large, there is some propriety in cutting it down permanently; but not in cutting down the pay of the regular and volunteer officers for a certain time, at the end of which the volunteer will be discharged, and then restoring the pay of the regular officer.

Mr. President, I have heard a good deal said in the Senate and elsewhere about the condition of the country and the danger of our being ruined; and the Senator from Massachusetts, who is chairman of the Committee on Military Affairs, says this morning, if we are in danger from anything, we are in danger from our financial condition. I beg Senators to reflect upon one thing: we have carried on this war so far, and have not collected the first dollar by tax from our people; and if you lay your tax bill and ask the people to pay it, they will sweep away this financial difficulty as quick as your Army will sweep away the rebels if you will let them fight. And yet we sit here groaning and croaking. Let us meet the crisis and lay the tax, and away with the difficulty.

Mr. FESSENDEN. It strikes me the Senator from Ohio has rather a curious idea of the morality of legislation, to say the least of it. He admits that the section of the bill is wrong; he admits that it will work injustice, that its provisions are unequal, that it will do what it is not right to do; and yet he says, inasmuch as we have not time to mature details and make it right, therefore we must put it on, right and wrong altogether. It will work well, probably, in some cases, although it will not in some others; it will work justly in some cases, although unjustly in a great many others; nevertheless we are to put it on, because we have not time to make it right. I will ask my friend, is that a correct principle of action in legislation?

Mr. SHERMAN. I will answer my friend, that the application of any general rule does injustice in particular cases. I pointed out the injustice of this rule in particular cases the other day; but on the whole—and we must take a general rule now, because we cannot have the time to attend to the details—taking the whole operation of the rule, it will be just and beneficial.

Mr. FESSENDEN. That is to say, in many cases, in the majority of cases, it will not do wrong; but, because the general effect is to save so much money, therefore it is right to do wrong to individuals in legislation. I do not hold to any such logic; nor do I hold to the logic of the other proposition, which was certainly used as an argument. This is on its face to operate during the war. The answer made by my friend from New Hampshire is, that it works a certain reduction upon the great mass of the officers of the five or six hundred thousand volunteers, because as soon as the war is over they go out of service, and there is an end of it, and it operates upon them not only during the war, but for all time; but the regular officers, who are pleased with the idea that this is only to be during the war, and therefore submit to it rather than have something worse, a general scale of cutting down salaries, come back again to their original compensation. But, says the Senator from Ohio in reply, that is all mere moonshine, because as soon as we have cut down generally during the war, we will cut them down altogether. It seems, therefore, that they are to be deceived with reference to the matter. Sir, we cannot gain anything by that kind of legislation. To be sure, it saves a certain amount of money to the Government, but the question is whether that amount of money ought to be saved in that way.

Mr. President, from the beginning of this Congress, not only during this session, but the last, I have been attempting to correct abuses which have cost us millions of money. I tried very hard to get a provision into the bill that was first passed, limiting the powers of the President with regard to multiplying the soldiers, providing for a proclamation, and providing for their being taken in certain States according to the number of population. The object was to prevent the rushing in of more soldiers than we needed from certain great States, where there were multitudes who had nothing else to do. Well, sir, it stood on that statute-book a few days, and then there came in a bill to repeal it, and let them take them anywhere without proclamation, and without regard to numbers. What was the result? It was just what we have seen. It went up immediately, and has gone up to five hundred thousand, six hundred thousand, seven hundred thousand, and God only knows how many are scattered over the country that are not counted. There is a bill here now to pay certain men in Missouri who have never been mustered in at all, and never been accepted by the President, but who served, and whom we have got to pay; and we do not know how many there are in other places. I tried to regulate it, but I was not permitted to do so. I warned the Senate of the danger. I told them we need not be frightened; that there were men enough who were willing to serve, and we could get them; but everybody was going with a sort of shout on the subject, and my friend, the chairman of the Committee on Military Affairs shouted about as loud as anybody, as he will admit. That cost us not only millions, but hundreds of millions of dollars.

Well, sir, I made an effort in another direction at the same time; but I was overruled, swept away by the current. I could not see the necessity of being frightened. I have been trying it at this session. I tried it no longer ago than the day before yesterday, I think, to cut down the Army to what Congress said was enough—five hundred thousand—and not by doing it immediately, but to prevent any increase of it. Gentlemen popped up all around here and said, you are going to disorganize a company or regiment from my State, or something else. That would have saved by the tens of millions, if I could have passed that; but I was not permitted to do it. That would be just and right. It would break no contract. It would do precisely what we have a right to do, and it would pay everybody for his services; for we provide liberally for our soldiers.

Then we had a regular pay for our soldiers of eleven dollars per month. That was the amount fixed by law previous to the last session. Everybody was contented with it; there was no complaint about it. We were getting volunteers about as fast as we could muster them into service at eleven dollars a month; and I believe that is more than double what is paid to a British soldier, and vastly more than double what is paid to a French soldier. My honorable friend from Massachusetts, the chairman of the Committee on Military Affairs, got up here one morning and said it must be increased; that it must be done at once; that all enlistments were stopping. It was on the strength of three or four letters that he got from the country somewhere, I believe from New York, and up it went, without any consideration, without any soldier in the service asking for it; and everybody was convinced two days afterwards that it was unnecessary. That has cost us some twenty millions of dollars.

Sir, it is in all those places where we are wasting money unnecessarily that is not called for by any real necessity, that we ought to strike. Take this question of cavalry. I brought it up at the very beginning of the session. I do not think it was more than a week or ten days from the commencement of the session. I pointed out to the Senate and the country what the trouble was with regard to cavalry; that they were going on without rhyme or reason and giving every man who asked for it permission to raise a regiment of cavalry, until it had got up I did not know how far. I called it sixty regiments, but I believe there were seventy or eighty at that very time. Officers had been appointed for them; the regiments were not filled; and we were spending money at the rate of thirty or forty millions a year, and more than that, upon cavalry that we did not want. I have urged a reduction of that force from time to time. My friend from Massachusetts at last got a bill from the War Department putting it at fifty regiments. I got it struck down to forty. I thought then that thirty regiments were plenty, and I believe everybody is now satisfied that thirty are enough, and all we want. We have got that bill through the Senate, but whether it will go through the other House I do not know.

Those are matters on which we can save money; but it is idle to suppose that anything that is to relieve substantially the burdens of the war is to be saved by striking off a few dollars here and there from the salaries of men in the civil service, and more especially of the officers in the military service. It would save a certain amount; but the question is whether it can be justly saved, and whether, after all, they receive anything more than proper compensation.

Now take the case of many of our volunteers; take the case of one captain I happen to know; and I presume there are a thousand such cases. I know a captain in the Army who left a business worth $3,000 a year, and a family at home to be supported, to volunteer to command a company, and for no other reason in the world than that he thought it was his imperious duty to set the example under the circumstances; that somebody should move in the matter who had something to sacrifice. He has a family at home to support, and he is in the field. What are you going to do with him? In the first place, you take off ten per cent. from the $1,800 he gets, and then you make him pay all the increased prices which he will have to pay arising from the tax on articles of subsistence that he purchases for the use of his family. Is it just with regard to him? When you come down to a lieutenant, who receives a still lower compensation, or a clerk who gets six or eight hundred dollars, is it just with regard to him? Everybody will answer at once, it is not; it is wrong in itself.

These are the reasons, sir, why I am opposed to this section. I do not know but that it may be so arranged that I would vote for it rather than put my vote on record against it under some circumstances; but the point I started with was this: We have a tax bill coming to us, and in that tax bill is an income tax of three per cent., I suppose. Now you cannot make any distinction. It has got to be upon all incomes when it does come. You cannot make exceptions. What are you going to do? Are you going to strike off ten per cent. here from an officer's salary, and salaries are incomes, and the only incomes, probably, many men have of any consequence, and then tax him three per cent. more upon his income, and then subject him to all the other burdens arising from increased taxation? Is it unjust to the people at home? Are we doing any injury to them? We bear the same burdens that they do. Men who receive salaries from the Government devote their days and their lives to the Government. They work for it. It is all they have, in the greatest number of instances; while the man who stays at home can attend to his own private affairs, and make his money; some get rich, and some do not; but, at any rate, he has his own time and means, and uses them as he pleases; and the man who goes into the service of the Government has nothing of that kind at all. Why is it unjust to those at home? Take our own case, as my friend [Mr. CLARK] says. We have a business, and are obliged to leave the whole of it. Although I believe some of the newspapers argue that we should be paid according to time, and being here only half the year, should be paid for only half the year, yet who does not know that our coming here utterly destroys all the business we have got at home. What are we to do the rest of the year? Are we to live without any income at all? The argument is a perfectly fallacious one.

I state these things very decidedly, because it is impossible to keep them out of sight. If the Senate choose to pass this bill, I have no very great objection to it, for I have done my duty with reference to the matter.

Mr. HALE. I think, sir, that this is the most unfortunate body of men in one respect that I ever fell among in my life. We agree universally, I believe, in one idea, and that is, the necessity of economy, the necessity of retrenching our expenses. I believe there we all, every one, agree; and I believe it is about the only thing that we do agree upon, except that it is necessary to adjourn over Saturday. [Laughter.] But unfortunately it so happens that when you come to any particular place, any particular point, any particular measure, where this universal sentiment is to be made a practical fact, then we disagree; the matter is too large or too small; it is a time of war, or a time of peace; and when it is in peace, we ought not to do it, because it should be done only in war, and when in war we should not do it because it should only be done in peace. My honorable friend from Iowa [Mr. GRIMES] the other day said he congratulated himself that one of the first measures he recommended when he came into the Senate was the construction of iron-clad steamers. Well, sir, I congratulate myself, my humble self, that from the time I first came into this body I have labored in season and out of season, early and late, in peace and war, to get the Congress of the United States to reform this subject of the compensation of Army officers. I introduced a resolution here, a year or two ago, asking the Congress to say that in time of peace no officer, except the Lieutenant General, should be paid over $5,000 a year; that is to say, that $5,000 was enough to pay a man for sitting still in his office and doing nothing. How many votes did it get? Anybody that is curious can look back to the record of the yeas and nays, and see how many there were at that time who thought $5,000 an incompetent compensation for an officer of the Army doing nothing. Well, sir, it is notorious to the Senate, notorious to Congress—I do not believe it is to the country—that a practice has grown up in the Army by virtue of which officers of the Army file certificates upon honor that they keep certain horses and servants, and have certain transportation, when, in fact, there is no such thing, and draw compensation for that. I have tried to stop that. I have introduced resolution after resolution to see if we could not get a fixed compensation for the officers of the Army so that we might know what we pay them. How many votes did that get? I do not believe I ever got enough to call the yeas and nays on that simple, honest proposition, by which the people of this country should be told how much they paid certain officers.

I have endeavored to arrest some of our expenditures here in the Senate; and now I will mention another fact to this economical Senate, all of whom agree that economy is so necessary. We are reduced in numbers, we are about forty-nine instead of sixty-eight, as we used to be; and yet we are administering the Senate to-day vastly more expensively, with more officers and more salaries than we ever paid before. We require our Secretary at the commencement of every year to give us a list of his employés, their number and compensation. I have looked at the list for the last eight or ten years, and the list to-day is nearly double what it was ten years ago, and the salaries are much higher; but there is a stereotyped certificate which accompanies every return that the persons employed are all necessary and could not one of them be dispensed with without detriment to the public service. Next year I suppose you will have more and more and more. Now, sir, here is the bill before us, which proposes a reduction of ten per cent. from our salaries. I am in favor of it. We are calling on the people for taxation. They will have to bear burdens. My colleague thinks they will sweep it away just exactly as our Army have swept away our foes. It may be so. I have no doubt that we represent as patriotic and as self-denying a people as any on the face of the earth; but I tell you, sir—you need not deny it, you need not shut your eyes to it—if you tax this people as you have got to tax them, if you go into the huts of poverty and tax the tea, the coffee, the sugar, the salt, and the iron, if you have got to tax all the necessaries of life and bring the practical burden of this war home to the widow and the orphan, the poor, the sick, and the destitute, they will ask us all, when you are imposing this immense burden upon the whole of us, what did you do yourselves?

Mr. FESSENDEN. Do we not tax ourselves at the same time?

Mr. HALE. We shall if we pass this bill.

Mr. FESSENDEN. Shall we not in the income tax. There is no difference.

Mr. HALE. Yes, sir; there is a great deal of difference. Cromwell and his Parliament may have been fanatical men, but they were men of great good sense; they had a deep knowledge of human nature; and I tell you that the self-denying ordinance which they took was that which gave them more weight with the people of England than anything else they ever did.

Now, let me say a word to my colleague, from whom I always differ with great distrust to my own judgment. He brings up the case of the volunteers. Well, sir, I think I have as much sympathy and respect for the volunteers as any man. I feel as deeply for them as any man. This bill does not propose to touch the great mass of the volunteers, the soldiers, the rank and file, the men who do the fighting; but it does propose to touch the salaries of the officers. When the pay for the volunteers was fixed, it was put at a high figure, as it is, so that it might correspond with the pay of the officers of the Army; not because, in point of equity, they were entitled to so much as regular Army officers, but because it would be invidious to make a distinction. Why are they not in point of equity and good conscience entitled to so much? Because the officers of the Army make that their business for life. They are trained to no other occupation; they have no other pursuit; that is their living, and take that away from them and they have nothing. But these volunteer officers have come from the pursuits of civil life. They leave them for awhile, and when the war is over they go back to the same pursuits they have abandoned. There was a propriety, in order that there might be no invidious distinction between the Army and the volunteers, in putting them at the same rate of compensation; but when you make the reduction, they certainly cannot complain of having their salaries brought down to that of the regular Army, because it was put as high as it was simply and solely for the reason that the pay of the regular Army furnished the standard.

Mr. CLARK. If my colleague will permit me, does he suppose that these officers of the volunteers will not understand that you put the salary of the regular officer up immediately, as soon as this rebellion is over?

Mr. HALE. I do not suppose any such thing. I suppose they will understand it, and ought to understand it. It would be absurd to suppose that they did not understand it. But what I contend for is that, as a measure of itself, and by itself, the volunteer officers who are called into the field for a year or two, not trained to the military life, not instructed by military education, do not render service equal in value to those of the regular officers who are thus trained, and there will be no injustice in putting them down during the war to the same pay that the regular officers receive; and if the circumstances of the country shall enable the country after the war is over to raise the pay of the regular Army up to what it was, they will have no just cause of complaint.

But, sir, my great end and aim here has been to have this reduction adopted, and to have it applied to ourselves. I voted for the bill which raised our compensation. I exerted what little influence belonged to me for it, because I thought it was just. Thinking it was just I voted for it. If I thought it was just to raise it to-day, I would vote to raise it. But, sir, I do not think it is any impeachment of a man's fairness, integrity, or candor, to say that he is governed, and that he will be governed, by the outward ear; or in other words, by the expectations and the reasonable expectations, ay, sir, or the unreasonable prejudices, of his constituents. If they thought Congress ought, in imposing these burdens, to impose a burden upon themselves, to my mind it seems perfectly right and proper that it should be done.

I propose to offer an amendment to the ninth section of the bill. I see an exception here which, it strikes me, does great injustice to a body of men whom I have not often appeared here to screen or defend, and that is the judges of the United States courts. An exception is made here of the salary of the President of the United States and the salaries of the judges of the courts of the United States, by which they are excepted from this burden of ten per cent., which is proposed to be imposed on everybody else in the country.

Mr. FESSENDEN. The Constitution fixes that.

Mr. HALE. I know what the Constitution says exactly. I think, sir, that you could do nothing in the world that would have a tendency to render the President of the United States and the judges of the United States more odious and unpopular with the people, that would subject them to more reproach and make them the subject of hate, than to vote, in this time of general distress, when every class of the community, rich and poor, high and low, were called upon by the Congress of the United States to bear a part of the burden of this war, that these gentlemen, by special legis-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. THURSDAY, MARCH 13, 1862. NEW SERIES.....No. 75.

lative enactment, were excepted from bearing their part of the burden. I believe that the judges themselves would repel the idea; and that if you insisted upon putting such a provision as that in the bill, they would come forward voluntarily and ask to be excused from it. I am told that the Constitution prevents this. Well, sir, the Constitution says simply—if I misquote it I shall be corrected; I have it not before me—that they shall receive a salary which shall not be diminished during their continuance in office. That is the provision, substantially. To remedy that, I was simply going to amend the section, so as to make it read:

That during the continuance of the present rebellion, there shall be levied a tax of ten per cent. on all persons employed in the military, naval, and civil service of the United States.

And then strike out the exception of the President of the United States and the judges of the United States courts. There is no provision in the Constitution which says that they shall not bear their burden of taxes; and if you put this ten per cent. in the shape of a tax, to be levied upon these salaries, then it would be levied upon everybody, the President, the judges, and every one else. I have not the shadow of a doubt that if the President and judges could be heard, they would, with one voice, beseech you not to make them such an odious and invidious example as holding them up as the few individuals in the land that were denied the privilege of bearing their part of the burdens of this war.

Mr. President, if we want to go home to this people and encourage their patriotic efforts and excite them by patriotic appeals to put their shoulders to the wheel, to bear this burden, to press forward the victorious car which even now is crushing down the strongholds of the rebellion, I tell you we must go to them, ourselves having been the first to lay the offering upon the altar of our country. We must put our hands in our own pockets, and lay the sacrifice of our self-denial upon the altar of our country; or else we must be dumb before our constituents when we go home to ask them to aid in bearing these burdens. In my humble judgment, no more suicidal policy could possibly be adopted to-day than to exempt the Congress from its share of this general levy which the bill proposes; nay, sir, we should begin the measure, and I am against calling upon the officers of the Army or the Navy, or anybody else, to have their salaries reduced the first dollar until we have reduced our own.

Men are talking here every day about one thing and another not being exactly in accordance with the precedents that have gone before us. I heard a good deal of it upon a bill that was up the other day. Sir, it is not a time for precedents. It is a time to make them, and not to follow them. Notwithstanding we may have the strongest confidence in the will and the ability of the people to bear this burden, and I think I have as much as anybody, gloss it over as you will, make it as pleasant and as palatable as you may, still I tell you, sir, it is a bitter dose that the hard-working people of this country have got to take. Lighten it as well as you may, put your own hands to bear up the burden, and still it will bear heavily, and very heavily upon the backs of this people.

For these reasons, I am in favor of the bill, and more than all the bill I am in favor of this ninth section. Before I sit down I desire to move, if there is no motion of amendment pending——

The VICE PRESIDENT. The Senator's motion will be in order.

Mr. HALE. Then I move to amend the ninth section by striking out in the second line the words "deducted from," and inserting the words "levied as a tax;" so as to make it read:

That during the continuance of the present rebellion there shall be levied as a tax from the compensation of all persons employed in the military, naval, and civil service, &c.

Mr. WILSON, of Massachusetts. The Senator from Maine alluded to his efforts at the called session of Congress to have a provision placed in the bill calling the volunteers into the field, the object of which was to regulate the mode of calling out volunteers. He knows full well that I concurred heartily with him in it, and that it was carried through the Senate by the concurrence of all of us. He knows very well why that was changed afterwards, and where the responsibility of that change lies. That the change has cost the country tens of millions of dollars, I do not entertain the shadow of a doubt; but neither the Senator from Maine nor myself was responsible for the change, nor for the failure to adhere to the policy incorporated into the first act for calling out volunteers. At the time the increased compensation was given to the privates, there were very few persons entering the service of the country; it was a time when there was appeal made to the country for men, and that appeal for weeks was not responded to. For weeks after Congress adjourned, appeal after appeal, call after call was made upon the country to come to the defense of the capital, and this capital was held for weeks by a force of less than fifty thousand men. At the same time, calls were made for volunteers to join Frémont in the West, and those calls were not responded to. He had but a small force for weeks there, and owing to that want of force was unable to perform the duties required of him, and being unable to perform those duties, he failed in his department to accomplish what the country required of him.

Now, sir, I do not believe the sum of thirteen dollars per month paid to the privates too large. It may be too large for the Treasury; it may be a great burden upon the country; but the majority of the men in the ranks of your Army are accustomed to receive a larger compensation than thirteen dollars per month. The rank and file of this Army of sixty thousand men is made up generally of men of intelligence and character. I know that thousands of those men left occupations where they were earning from thirty to forty dollars per month to take your little pittance of thirteen dollars per month, and they went into the service from patriotic motives. The difference in compensation between them and their officers is altogether too great. Sir, if the officers were to resign, you could make officers out of the ranks, nearly, if not fully equal, to the present officers. In many cases the captains and lieutenants of companies are men who at home are not able to earn as much as many privates of their companies, and do not occupy social positions superior to many of the privates of their companies.

A private receives thirteen dollars per month, and three dollars and a half per month for clothing. Your captains receive about two thousand dollars a year, and your lieutenants from twelve to fifteen or sixteen hundred dollars a year. I venture to say that an overwhelming majority of the privates of the Army are earning less money to-day than they earned when they went into the service; they are working for less wages than they are accustomed to work for. I venture further to say that a large majority of the officers of this Army are receiving double the compensation they ever did earn or ever will earn after they go out of the service. There is a very plain reason, then, why you should let the privates stand as they are, and why the burden, if it comes at all, should be borne by men who are receiving large salaries—salaries more than fifty per cent. on the average higher than they ever did earn or can earn if they go out of the service. I thought it was right at the last session of Congress to raise the compensation of the privates at the time it was raised, and I do not think it would be right to make a reduction now. I do not suppose anybody desires to do so. I am sure the Senator from Maine is the last man who would desire to make any reduction in the pay of the privates.

Senators say that this section is unjust; that it operates oppressively on those with small salaries. I should be willing to modify it so as to make this a reduction of ten per cent. apply to all who have a compensation of $2,000 and upwards, and a reduction of five per cent. on those who have compensations below $2,000. That would cover the cases of all men who have very small compensations. But I think, with the Senator from New Hampshire, [Mr. HALE,] that in the present condition of the country, when the people in all the occupations of life are compelled to labor at reduced compensation, when the receipts in all parts of the country are diminished by this war, and when we have got to put upon the people this immense burden of taxation, we should make some reduction in the amount of compensation we pay men in the public service of the country, civil and military. I would not reduce the compensation of public servants if the wants of the Treasury did not demand that all men in the civil and military service should not sacrifice something for the public good. The toiling millions upon whom must rest the burden of the hundreds of millions of taxation imposed upon them for the defense of the unity of the country and the authority of the Government now assailed, will bear the great burden more cheerfully when they see that men who hold positions in the public service, civil and military, are willing to make sacrifices for their country. In the pride of conscious power we have fixed ample salaries for public officers. In this hour of trial, when the Treasury is empty, when the Government and the people are staggering under the burdens of this gigantic rebellion, I think public men should cheerfully, joyfully, sacrifice a portion of their compensation for the good of their suffering country.

The VICE PRESIDENT. The hour for the consideration of the special order having arrived, it becomes the duty of the Chair to call up the special order.

Mr. WILSON, of Massachusetts. I move to postpone the special order and all other questions, for the purpose of seeing if we cannot finish this bill to-day.

The VICE PRESIDENT. The Senator from Massachusetts moves to postpone the special order, being himself entitled to the floor to make that motion, until to-morrow.

The motion was agreed to.

Mr. CLARK. I desire to say a word or two in regard to what has been said by my colleague, and also what has been said by the Senator from Massachusetts. I will cheerfully go with him in his proposition to reduce the pay of these civil officers; and I will say to my colleague, who made such forcible and eloquent remarks in regard to our self-sacrificing spirit, that if he will amend, or if he will go with me in amending this bill so as to strike out everybody but members of Congress, and let their pay be cut down ten per cent., I will agree to it. I will go with him and be liberal with our own money, but not undertake to make contracts for other people. I will move that amendment, if he will go with me. We have a right to be liberal with what is our own. If the Senator from Massachusetts will strike out the naval and military officers, I will go with him.

I think there is injustice in cutting down the pay of volunteer officers; and I want the attention of my colleague for a moment on that point. I agree with him entirely that the services of the volunteer officer may not be worth so much, as a general thing, as those of the regular officer, because the regular officer is supposed to be trained better. That may be so; but I want to ask my colleague if this is not exactly what we agreed to give those officers when they went into the service? Then why should we cut them down afterwards? Perhaps the honorable chairman of the Committee on Military Affairs will say, they can resign and go home, and let other men from the ranks take their places, who will make just as good officers. Very true; but is that just to the officers you now have? Many of them have left employments more valuable to them than the places they now hold, and if they go back they do not find those employments; their business is destroyed. They cannot go back on that account. They cannot go back because they do not want to leave the Army. They do not want to go back, because they do not want to have the name of resigning and going

home, even if you do strip them of their pay. But that is no reason at all why we should not be just to them. If they come here under the implied contract that they shall have this pay, they ought to have it, and this distinction should not be made. If the chairman will agree to the amendment he suggested, to make a reduction of ten per cent. from those who receive $2,000 and upwards, and a reduction of five per cent. from those who receive under that amount, I will go with him cheerfully; but I do not want everybody, the men at your doors around here, and who earn $800, $900, or $600, to have ten per cent. of their earnings deducted. If you will make it so as to bear less harshly and less unjustly, I will go with you.

Mr. WILSON, of Massachusetts. Will you go for a reduction of ten per cent. on all salaries over $2,000?

Mr. CLARK. I will go cheerfully with the Senator in that in all civil employments. I will go with him in any fair deduction, if you can make one, for the permanent reduction of the pay of officers of the Army, so as to put it on an equal basis; but I do not like a provision that will operate so harshly upon these different classes. I agree with what my colleague says, that it is necessary we should make some reduction in our own compensation. It would be setting an honorable example to the country; and I would be very glad to do it; but while I should be willing to do that, I am not willing to do injustice to other classes; and it is not right that it should be asked. I want to protect them. Now, if it can be agreed upon as to what is the true measure, I shall be thankful, and will go for it; or, as I said, I will go for a proposition to tax ourselves ten per cent., and let the others go.

Mr. WILLEY. It has been intimated by Senators that this provision sounded very well, perhaps, upon the popular ear; and it may be supposed that Senators who support a proposition of economy are influenced by such considerations. Well, sir, while the vote which I shall give is in no wise controlled by such considerations, I believe it is a legitimate influence, and one that ought to be felt and recognized in this body. It is apparent to me that the day of retrenchment must come. The necessity for it is imperative; it is overwhelming. We may put off the day; we may protract the time at which we shall commence this retrenchment and reform in the expenditure of the Government; but the time will come, and the longer we put it off the more difficult will it be to meet the demands of the occasion that will then arise. We are expending or incurring a debt of $1,500,000 every day. The effects of this state of things are apparent upon the business of the country, upon the value of property, upon all our commercial and industrial interests and pursuits. They are daily depreciating; and the question is, whether it is not proper and right and just, in and of itself, to commence retrenchment even with our own salaries.

As has been justly remarked, this has no reference to the pay of the common soldier, the private in the ranks. I do not know that it ought to extend that far. But then the legal objection arises, the mere technical objection, that the officers in our volunteer service entered into that service upon the express understanding that they were to have so much compensation for their services. Let us see if the same objection, to some extent, does not apply to every other officer of the Government who will be affected by the passage of this bill. But there is another consideration: while it may violate technically this principle of contract between the country and the volunteer, what is in point of fact its operation upon him? Is it really doing him any injustice? Is not property depreciating? Has not everything which he has to buy, and which enters into his subsistence in life, depreciated since the day his salary was fixed? I ask Senators to consider whether, with this reduction of ten per cent., his salary to-day would not in point of fact be as valuable and worth as much to him, and enable him to purchase of all the necessaries of life or anything else which he wishes to purchase, as the whole salary would at the time he entered into the service, and at the time the salary was fixed. It is practically doing him no injustice, because he gets as much in effect, and, in fact, with a reduction of ten per cent. on his wages, as he would have got if things had remained at the same state of value which existed at the time he entered the service.

I did not rise to enter into any extended remarks on this subject. I rose only to state that I am satisfied we must commence retrenchment, and we must commence it soon; and as it is said charity begins at home, I am very willing to begin with my own salary, and to reduce it ten per cent. or more, if necessary. Reduction must come or disaster will come. Reduction in the expenses of the country must take place, or we shall find ourselves, unless I am very much mistaken, in a condition in which we shall not be able to pay our soldiers anything or to sustain an army in the field. The country cannot endure this constantly accumulating weight of taxation rising mountain high and in Atlas-like proportions upon all the interests of the country. Why, sir, who pay these taxes? The people at large. Their property has depreciated more than ten per cent. since these salaries were fixed; and should not the soldier in the field, much as I honor him, the officer who stands firmly at his post, allow his salary to be reduced ten per cent., when in point of fact it is equally valuable, to all practical purposes, as was the whole amount at the time the salary was fixed?

The PRESIDING OFFICER, (Mr. FOOT in the chair.) The question is on striking out the ninth and sixteenth sections of the bill, upon which the yeas and nays have been ordered. The Senator from New Hampshire, [Mr. HALE,] however, moves an amendment to the ninth section, the effect of which is to strike out from the section so much as excepts the President of the United States and the judges of the United States courts from the operation of the deduction proposed in that section. The Chair begs leave to state that that portion of the section was incorporated in it some days ago in the form of an amendment, so that it is not now open either to rejection or to modification; but the Senator will reach his object when the bill shall have been reported to the Senate upon the question of concurrence in that amendment. The Chair will suggest to the Senator, then, the propriety of withdrawing his amendment. The Chair is obliged to rule it out of order.

Mr. CLARK. I was drawing, in consultation with the chairman of the Committee on Military Affairs, an amendment providing that there should be deducted during the present rebellion from the compensation of all persons in the civil service of the United States whose pay exceeds $1,500 a year, ten per cent. of the amount of their compensation, including the mileage of members of Congress, and from those whose compensation is less than $1,500, five per cent., excluding the judges and the President. I have not got it quite finished. I therefore simply give notice to the Senate that if this section shall be stricken out, I shall propose to insert instead of it the provision which I have stated.

Mr. HOWE. I ask for a division of the question, so that we may vote on striking out each section separately.

The PRESIDING OFFICER. The two sections are depending together, but the Chair regards the sections as divisible and subject to a separate vote on the demand of a member. The question now is on striking out the ninth section.

Mr. HOWE. I did not know that the sections necessarily were dependent on each other and connected together.

The PRESIDING OFFICER. That was a suggestion of the Chair. The Chair regards the two sections as connected with each other; the amendment is in fact a single proposition to strike them out, but being in two sections they are subject to division if the Senator desires it.

Mr. SHERMAN. I call for a division if there is any question about it.

The PRESIDING OFFICER. The question before the Senate is on striking out the ninth section.

Mr. HALE, Is not my motion to amend in order before that question is taken? I thought it was in order to move to amend a section before the vote on a motion to strike out was taken.

The PRESIDING OFFICER. The Chair understood the amendment of the Senator from New Hampshire to be to modify or to strike out from the ninth section what had been incorporated into that section as an amendment.

Mr. HALE. Probably the President misunderstood me. The first amendment was to change the form of it. Where it says "there shall be deducted from the compensation," my motion was to strike out "deducted" and say "there shall be a tax levied upon the compensation."

The PRESIDING OFFICER. The amendment proposed by the Senator from New Hampshire will be read in connection with the section, that the Chair may understand it.

The Secretary read the amendment of Mr. HALE, to strike out in the second and third lines of the ninth section the words "deducted from," and insert "levied as a tax on," and in the ninth line to strike out "deduction," and insert "tax."

The PRESIDING OFFICER. The Chair will entertain the amendment of the Senator from New Hampshire.

Mr. WILLEY. I desire to ask the Senator from New Hampshire whether that is not a matter that will be more pertinent to the tax bill? Here it will lead to confusion. Would it not be better to leave it to be considered when the tax bill comes here, and to be incorporated with it in some way or other? It seems to me there is an incongruity in tacking a little piece of taxation on one bill and a little piece of taxation on another. The matter of taxation should be all together in the same bill, where it can be considered together; and having the subject all before us at one time, we should be not so likely to make inconsistencies and incongruities in the bill. I merely throw out this suggestion for the consideration of the Senator from New Hampshire.

Mr. FESSENDEN. That was precisely what I suggested in the beginning, as the difficulty about this kind of legislation. You pass this as a reduction in the first place, and then comes in the income tax on top of it. You cannot make distinctions in the tax bill between different pursuits. I suggested, therefore, that this section ought not to be passed in its present shape until we knew what the tax bill was, and saw how it would operate. Hence I desired, in the first place, to let this go to that time. The Senator from Massachusetts, however, is very anxious to pass the remaining part of his bill; and I therefore suggested to him that we had better strike out these sections and pass the remaining part of his bill, and then consider this question in connection with the tax or some other bill.

Mr. HALE. I do not want to do anything by indirection, and I will state very frankly to the Senate what I intend by this amendment. The section, in the form in which it now stands as a reduction from salaries, may be obnoxious to the censure of being in contravention of the Constitution, because the Constitution says that certain officers shall have a salary which shall not be diminished during their continuance in office. In accordance with that, an amendment has been adopted in Committee of the Whole excepting the President of the United States and the judges of the United States courts from the general provision made applicable to all other officers. Now, sir, I say in all sincerity, and I believe it just as truly as I believe anything, that the judges of the Supreme Court and the President of the United States, instead of wishing such an exception as that, will feel hurt and mortified at it; and I believe, just exactly as much as I believe them to be honest and honorable men with the common feelings of humanity, that they would ask as a favor that you do not except them from a burden which you impose on everybody else. I see a smile of incredulity on some faces around me, and I am astonished at it; for, of all the severe things I have ever heard said of that court, nothing is so severe as a smile of incredulity at the remark that they would willingly bear the burdens that are imposed on the rest of society.

Mr. SHERMAN. There is a practical difficulty in the way of the adoption of the amendment, that I will suggest to the Senator from New Hampshire, and I hope, therefore, that he will not adhere to it. The Senate cannot originate a proposition for taxation; by the Constitution it must be left to the House of Representatives. But that is not all; this proposition would create a difficulty in keeping the accounts and books in the Treasury Department. A deduction, as a matter of course, is made at once from all the officers of the Army and Navy and the civil service; but if you levy a tax, you have got to keep an account of that tax. It will create great embarrassment

to the accounting officers of the Treasury. I hope the Senate will be satisfied with the bill as it stands and adhere to it.

Mr. HALE. I shall not make any words about this matter, but I remember a song that was written by Mr. John Quincy Adams some sixty years ago, in which he says that if we cannot alter things we can change their names. That was the prose of the thing; the poetry I will not repeat. This is really a tax, whether you call it a deduction from compensation or a tax. I made the suggestion of amendment for the purpose which I have indicated. If the Senate agree with me—I do not know whether they will or not—and adopt my amendment, it will be a very easy thing to insert a provision that this tax shall be collected when the salary is paid; and in that form it could be just as well collected under the name of a tax as under the name of a reduction. The Secretary of the Treasury might do it by regulation, or you might provide that when the salary of an officer was paid, the tax should be taken at the time of payment. There is no practical difficulty about it.

Mr. HOWE. I ought to be indulged in a word of explanation. I was one of those who were betrayed into a smile at the remark made by the Senator from New Hampshire just now, that the President of the United States and the judges of the Supreme Court would feel hurt at the invidious exception made of themselves in the bill now before the Senate. That smile was not a smile of incredulity at the statement, for I have no doubt at all of the truth of it. It was simply a smile of gratification at finding the Senator from New Hampshire at this moment so tender of the feelings of those officers. I had labored under the apprehension for some time that he was not inclined to be particularly indulgent to them; and my feeling was purely a feeling of gratification at finding this change in his sentiments towards them. I certainly shall adopt his reasoning fully. No doubt his statement is correct. I shall vote for his amendment.

Mr. HALE. I am for paying them their salary because I think it is due to them. What I have said about them heretofore, I have said because I thought that was due to them.

The question being taken by yeas and nays, resulted—yeas 16, nays 23; as follows:

YEAS — Messrs. Carlile, Clark, Cowan, Fessenden, Grimes, Hale, Howe, King, Lane of Kansas, Morrill, Pomeroy, Powell, Simmons, Sumner, Trumbull, and Wilkinson—16.

NAYS—Messrs. Anthony, Browning, Collamer, Davis, Dixon, Doolittle, Foot, Foster, Harris, Henderson, Kennedy, Lane of Indiana, Latham, McDougall, Rice, Saulsbury, Sherman, Ten Eyck, Wade, Willey, Wilson of Massachusetts, Wilson of Missouri, and Wright—23.

So the amendment of Mr. HALE was rejected.

The PRESIDING OFFICER. The question recurs on the motion to strike out the ninth section of the bill.

Mr. FESSENDEN. I should like to ask the Senator from Massachusetts, whether the section does not make a little improper distinction. I believe the leader of a band has the rank and pay of a lieutenant; but there is no deduction from him, while there is ten per cent. from a lieutenant.

Mr. GRIMES. Is that section now open to amendment?

The PRESIDING OFFICER. It is.

Mr. GRIMES. I move to amend by inserting after the words "civil service of the United States" the words " whose annual compensation shall exceed eight hundred dollars;" so as to read:

That during the continuance of the present rebellion there shall be deducted from the compensation of all persons in the military, naval, and civil service of the United States, whose annual compensation shall exceed eight hundred dollars, &c.

Mr. WILSON, of Massachusetts. I think if we are to amend it in order to correct the inequalities that have been suggested, it would be better to tax those salaries under $2,000, five per cent., and those above $2,000 ten per cent. I think we had better do that than to exempt any; but if you exempt any, I think you ought to apply the exemption to all under a thousand dollars.

Mr. SHERMAN. I shall vote against all amendments to this section, because I think the reduction ought to be general; but especially against the amendment of the Senator from Iowa. The class of persons to whom he now alludes are mostly the employés of Congress. In my opinion, there is no class of Government employés, or of any employés in civil or military life, who can bear the reduction better than those under $800, who are not privates in the Army or sailors in the Navy. The pay of our laborers about the Capitol is from fifteen to twenty per cent. higher than that of laborers of the same character in other employments of life, and there ought not to be that distinction. They can bear this reduction as well as any other class in the public service, at least they can now, until we can look over the matter and correct existing inequalities. I have no doubt it will be hard in some cases, as I said before; but the class of salaries under $800 are mostly those in the employ of Congress. I think the greatest hardship will be on the clerks in your Departments whose salaries are $1,200. That is a class of cases that I think it will operate pretty hard upon; still, if the amendment of the Senator from Iowa be adopted, they will have to bear the reduction. Then why not those who receive $800, most of whom are laborers here, who receive twenty per cent. more than laborers of the same kind in other employments? I think it is better to make the rule general, and then nobody can complain.

Mr. GRIMES. I suppose that it costs a man here who gets $640 a year, under our laws, as much to support himself and his family as it costs a clerk who receives $1,200; but this law, I understand, is to apply, not only to our employés about the Capitol, but to all persons all over the country who are receiving compensation from the Federal Treasury?

Mr. SHERMAN. Who are they?

Mr. GRIMES. They are many. There are custom-house officers whom it will affect. I have not read the section critically, but I suppose it includes postmasters. It applies to everybody who receives any compensation from us. I am not tenacious about the amendment; but it occurs to me that this reduction will go very hard with those who are receiving small salaries, if we pass the section as it is submitted to us by the Committee on Military Affairs.

Mr. HOWE. There is a class of officers who would be saved by the amendment offered by the Senator from Iowa from the operation of this reduction or tax, whatever it may be, who I think ought to be saved. There is a class of light-keepers, small petty officers about the country, who do a good deal of hard work for a small compensation. I know an individual who some years ago possessed $30,000 in specie; as honest a man as lives in the world, as generous a man, a well-educated man, a good French scholar as well as a good English scholar; who went into business and lost everything he had. He has a large family of small children, and he is very poor. His friends solicited me to interest myself in his behalf to get him some employment. I devoted myself to that work, and I obtained a light-house for him, one of our isolated points on Lake Michigan, with a salary of $350. I felt very grateful for the opportunity of serving him to that extent, and I should be very glad to avoid the necessity of voting to tax that man thirty-five dollars out of that salary. If the Senator's amendment is adopted, I can get rid of it.

The amendment of Mr. GRIMES was rejected.

The question being taken by yeas and nays, on the motion to strike out the ninth section, resulted—yeas 20, nays 20; as follows:

YEAS—Messrs. Browning, Clark, Collamer, Cowan, Fessenden, Foot, Foster, Grimes, Harris, Howe, Kennedy, Latham, McDougall, Morrill, Pearce, Rice, Simmons, Sumner, Wilkinson, and Wilson of Missouri—20.

NAYS—Messrs. Anthony, Chandler, Davis, Dixon, Doolittle, Hale, Harlan, Henderson, King, Lane of Indiana, Lane of Kansas, Pomeroy, Powell, Sherman, Ten Eyck, Trumbull, Wade, Willey, Wilson of Massachusetts, and Wright—20.

The VICE PRESIDENT voting in the negative, the motion to strike out did not prevail.

The question being taken by yeas and nays on the motion to strike out the sixteenth section, resulted—yeas 8, nays 32; as follows:

YEAS—Messrs. Browning, Hale, Kennedy, Latham, McDougall, Pearce, Pomeroy, and Wilkinson—8.

NAYS—Messrs. Anthony, Chandler, Clark, Collamer, Cowan, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Harlan, Harris, Henderson, Howe, King, Lane of Indiana, Lane of Kansas, Morrill, Powell, Rice, Sherman, Simmons, Sumner, Ten Eyck, Trumbull, Wade, Willey, Wilson of Massachusetts, Wilson of Missouri, and Wright—32.

So the motion to strike out did not prevail.

Mr. WILSON, of Massachusetts. I move to insert, as an additional section to come in after the twenty-first section, this provision:

And be it further enacted, That every person who shall furnish supplies of any kind to the Army or Navy shall be required to mark and distinguish the same on the outside of each and every package, with the name or names of the contractors so furnishing such supplies to the Army or Navy; and no supplies of any kind shall be received unless so marked and distinguished.

Mr. HALE. Is not that a little too broad and specific? How will it work with regard to furnishing iron and timber and beef cattle? It seems to me to be a little too broad to be practical.

Mr. WILSON, of Massachusetts. I do not think there is the slightest trouble about it. This provision will correct a great evil. I am told that we have had vast quantities of clothing and other articles for the supply of our Army that have come to the Government and have been found to be unfit for use. The Government has been cheated. It has been very difficult to find out who made the goods or where they came from. This provision, it is supposed, will reach most generally articles of clothing. I do not think there is any trouble in regard to beef cattle, or flour, or iron, or articles of that kind.

The amendment was agreed to.

Mr. WILSON, of Massachusetts. I move to add as an additional section to the bill:

And be it further enacted, That the President of the United States shall have power, whenever in his opinion it shall be expedient, to purchase cemetery grounds and cause them to be securely inclosed, to be used as a national cemetery for the soldiers who shall die in the service of the country.

The amendment was agreed to.

Mr. WILSON, of Massachusetts. I desire now to move a slight amendment to the first section. It now reads that "officers of the Army having brevet commissions, shall," &c. I move to strike out the word "having," and insert the words " to whom;" and after the word "shall," to insert the words " hereafter be given shall;" so that the section will read:

That officers of the Army to whom brevet commissions shall hereafter be given, shall not be entitled to any increase of pay or emoluments because of the exercise of command according to their brevet rank.

There are, I understand, to-day but two officers in all the Army of the United States whom this section as it now stands will reach. One is General Wool, who is exercising brevet rank, and the other is Major Donaldson, who is in New Mexico. I received a letter the other day from a gentleman who understands this subject thoroughly, saying that these are the only two men whom it will affect. There may possibly be more, but they must be very few, indeed. I propose now that this provision shall apply to those who are hereafter to be brevetted; and there will unquestionably be a large number of brevets during this war, although I do not believe in the policy of making many brevets. I wish this provision to apply to the future, and not to apply to General Wool, a man whose whole soul has been in this contest from the beginning, who warned the Government of the impending war four months before the administration of Mr. Buchanan went out, who, in his correspondence with Senators and with gentlemen in the country, pointed out the probabilities of war and pointed out the remedies, who entered heartily into the contest, who engaged promptly in the forwarding of troops at a critical moment, who has been burning with zeal through the whole war to enter the service of the country, who has been anxious to have the control of men in order to bring about important results. I hope, therefore, the amendment will be adopted, and that we shall not apply this provision to that old public servant who has served the country with so much ability and fidelity. I understand that the section as it now is will apply only to him and to Major Donaldson, who has been brevetted for great services in the defense of New Mexico. The Senator from Iowa [Mr. GRIMES] suggests that it applies to General Totten, also. I do not think anybody would except General Totten, for certainly he is one of the ablest men in the military service of this or any other country.

The amendment was agreed to.

Mr. WILSON, of Massachusetts. I propose to make a slight amendment to the nineteenth section, by striking out, in the ninth and tenth lines, the words " born in lawful wedlock," and in the eleventh and twelfth lines, the words " provided

they be residents of the United States." This section relates to the distribution of the bounty now allowed by law to a soldier, in case he dies without receiving it.

The amendment was agreed to.

Mr. SHERMAN. On consultation with the chairman of the Military Committee, I desire to offer two amendments to carry out the intention of the section. In section two, line three, I move to strike out all after the word "but," and to insert, "may draw forage in kind for each horse actually kept by them when and at the place where they are on duty, not exceeding the number authorized by law." The words proposed to be stricken out are, "shall draw the allowance in kind for each horse actually kept by them as authorized by law."

The amendment was agreed to.

Mr. SHERMAN. I move to strike out all the following words in the eighteenth section:

Quarters and fuel shall be furnished to officers only when on duty in the field, or when assigned quarters in public buildings belonging to the Government. The number of offices now allowed to certain officers of the Army for the transaction of business shall be furnished, and no more.

And to insert this provision in order to make the language more clear and definite:

No allowance or commutation shall be made to officers for fuel and quarters. The number of offices now allowed to certain officers of the Army in the transaction of business shall be furnished, and no more. And no allowance shall be made to officers when entitled to receive mileage, for transportation of baggage or servants. This section shall not affect the present regulations for quarters and fuel actually furnished or assigned to officers on duty in the field, or to quarters assigned in public buildings belonging to the Government.

The amendment was agreed to.

The VICE PRESIDENT. The amendments on which the Senate has been acting are amendments to the amendment reported by the Committee on Military Affairs. If no further amendment be proposed, the question is on that amendment as amended.

The amendment as amended was agreed to as follows, viz.: strike out all of the original bill after the enacting clause, and in lieu thereof insert:

That officers of the Army to whom brevet commissions shall hereafter be given shall not be entitled to any increase of pay or emoluments because of the exercise of command according to their brevet rank.

SEC. 2. *And be it further enacted*, That officers of the Army entitled to forage for horses shall not be allowed to commute it, but may draw forage in kind for each horse actually kept by them, when and at the place where they are on duty, not exceeding the number authorized by law.

SEC. 3. *And be it further enacted*, That major generals shall be entitled to draw forage in kind for four horses; brigadier generals for three horses; colonels, lieutenant colonels, and majors, two horses each; captains and lieutenants of cavalry and artillery, for two horses each; and chaplains, for one horse.

SEC. 4. *And be it further enacted*, That whenever an officer of the Army shall employ a soldier as his servant, he shall, for each and every month during which said soldier shall be so employed, deduct from his own monthly pay the full amount paid to or expended by the Government per month on account of said soldier; and every officer of the Army who shall fail to make such deduction shall, on conviction before a general court-martial, be cashiered.

SEC. 5. *And be it further enacted*, That the first section of the act approved August 6, 1861, entitled "An act to increase the pay of privates in the regular Army and in the volunteers in the service of the United States, and for other purposes," shall not be so construed after the passage of this act as to increase the emoluments of the commissioned officers of the Army. And the eighth section of the act of 22d July, 1861, entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," shall be so construed as to give to quartermaster sergeants the same compensation as to regimental commissary sergeants.

SEC. 6. *And be it further enacted*, That so much of the aforesaid act, approved 22d July, 1861, as authorizes each regiment of volunteers in the United States service to have twenty-four musicians for a band, and fixes the compensation of the leader of the band, be, and the same is hereby, repealed; and such bands shall be mustered out of the service within thirty days after the passage of this act.

SEC. 7. *And be it further enacted*, That each brigade in the volunteer service shall have sixteen musicians as a band, to be selected from the regimental bands mustered out of service by this act, who shall receive the pay and allowances now provided by law for regimental bands, except the leader of the band, who shall receive forty-five dollars per month only.

SEC. 8. *And be it further enacted*, That in lieu of the present rate of mileage allowed to officers of the Army when traveling on public duty, where transportation in kind is not furnished to them by the Government, not more than six cents per mile shall hereafter be allowed, unless where an officer is ordered from a station east of the Rocky mountains to one west of the same mountains, or *vice versa*, when ten cents per mile shall be allowed to him; and no officer of the Army or Navy of the United States shall be paid mileage, except for travel actually performed at his own expense, and in obedience to orders.

SEC. 9. *And be it further enacted*, That during the continuance of the present rebellion, there shall be deducted from the compensation of all persons employed in the military, naval, and civil service of the United States, except the President of the United States and the judges of the courts of the United States, and warrant officers and sailors in the Navy, and non-commissioned officers, musicians, and privates in the Army and marine corps, ten per cent. of the amount of their compensation; and this deduction shall apply to all allowances for mileage and for commutation for servants, forage, and rations, and to all fees or contingent allowances paid for personal services from the Treasury of the United States.

SEC. 10. *And be it further enacted*, That in each of the permanent hospitals where the President may deem it necessary, he may appoint a chaplain, who shall receive the same compensation as is now allowed to post chaplains in the regular service; and that the appointments of chaplains to the Army hospitals heretofore made by the President of the United States, are hereby approved, and the chaplains so appointed shall be compensated for their services in the same manner as chaplains in the Army.

SEC. 11. *And be it further enacted*, That so much of section nine of the aforesaid act, approved July 22, 1861, and of section seven of the "Act providing for the better organization of the military establishment," approved August 3, 1861, as defines the qualifications of chaplains in the Army and volunteers, shall hereafter be construed to read as follows: That no person shall be appointed a chaplain in the United States Army who is not a regularly ordained minister of some religious denomination, and who does not present testimonials of his present good standing as such minister, with a recommendation for his appointment as an Army chaplain from some authorized ecclesiastical body, or not less than five accredited ministers belonging to said religious denomination.

SEC. 12. *And be it further enacted*, That so much of the fifth section of the aforesaid act, approved July 22, 1861, as allows forty cents per day for the use and risk of the horses of company officers of cavalry be, and the same is hereby, repealed.

SEC. 13. *And be it further enacted*, That whenever an officer shall be put under arrest, except at remote military posts or stations, it shall be the duty of the officer by whose orders he is arrested to see that a copy of the charges on which he has been arrested and is to be tried shall be served upon him within eight days thereafter, and that he shall be brought to trial within ten days thereafter, unless the necessities of the service prevent such trial; and then he shall be brought to trial within thirty days after the expiration of the said ten days: *Provided*, That if the copy of the charges be not served upon the arrested officer as herein provided, the arrest shall cease: *And provided further*, That the provisions of this section shall apply to all persons now under arrest and awaiting trial.

SEC. 14. *And be it further enacted*, That whenever the name of any officer of the Army or marine corps now in the service, or who may hereafter be in the service of the United States, shall have been borne on the Army Register or on the Naval Register forty-five years, or shall be of the age of sixty-two years, he shall be retired from active service, and his name entered on the retired list of officers of the grade to which he belonged at the time of such retirement.

SEC. 15. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to assign any officer who may be retired under the preceding section of this act, or the aforesaid act of August 3, 1861, to any duty; and such officer thus assigned shall receive the full pay and emoluments of his grade while so employed.

SEC. 16. *And be it further enacted*, That hereafter the rate of mileage of members of Congress shall be reduced fifty per cent., to be computed by the most direct traveled route from their places of residence to the seat of Congress, respectively. A statement of the mileage of each Senator shall be certified to the Secretary of the Senate, and of each Representative and Delegate to the Sergeant-at-Arms of the House of Representatives by the Postmaster General, within thirty days after the commencement of the first session of each Congress: *Provided*, That until a railroad is constructed to the Pacific coast, the mileage of Senators and Representatives from beyond the Rocky mountains shall be computed by the usually traveled route.

SEC. 17. *And be it further enacted*, That the number of paymasters of the volunteer forces of the United States shall be reduced so as not to exceed one hundred and twenty-five.

SEC. 18. *And be it further enacted*, That no allowance or commutation shall be made to officers for fuel and quarters. The number of offices now allowed to certain officers of the Army in the transaction of business shall be furnished, and no more. And no allowance shall be made to officers when entitled to receive mileage, for transportation of baggage or servants. This section shall not affect the present regulations for quarters and fuel actually furnished and assigned to officers on duty in the field, or to quarters assigned in public buildings belonging to the Government.

SEC. 19. *And be it further enacted*, That the bounty now allowed by law to soldiers in the service of the United States shall, in the event that a soldier entitled thereto shall die intestate without having drawn the same, be paid to the following persons, and in the order following, and to no other person, to wit: first, to the widow of such deceased soldier, if there be one; second, if there be no widow, then to the children of such deceased soldier, share and share alike; third, if such soldier left neither a widow nor child or children, then and in that case such bounty shall be paid to the following persons, to wit: first, to his father, or, if he be dead or has abandoned his family, then to the mother of such soldier; and if there be neither father nor mother as aforesaid, then such bounty shall be paid to such of the brothers and sisters of the intestate, resident as aforesaid, who may have been dependent upon such intestate for support.

SEC. 20. *And be it further enacted*, That all contracts made for, or orders given for the purchase of, goods or supplies by any Department of the Government, shall be promptly reported to Congress by the proper head of such Department, if Congress shall at the time be in session, and if not in session, said reports shall be made at the commencement of the next session.

SEC. 21. *And be it further enacted*, That no contract or order, or any interest therein, shall be transferred by the party or parties to whom such contract or order may be given, to any other party or parties, and that any such transfer shall cause the annulment of the contract or order transferred, so far as the United States are concerned: *Provided*, That all rights of action are hereby reserved to the United States for any breach of such contract by the contracting party or parties.

SEC. 22. *And be it further enacted*, That every person who shall furnish supplies of any kind to the Army or Navy shall be required to mark and distinguish the same on the outside of each and every package, with the name or names of the contractors so furnishing such supplies to the Army or Navy; and no supplies of any kind shall be received unless so marked and distinguished.

SEC. 23. *And be it further enacted*, That the President of the United States be, and hereby is, authorized and requested to dismiss and discharge from the military service either in the Army, Navy, or volunteer force, in the United States service, any officer for any cause which, in his judgment, renders such officer unsuitable for service, or whose dismission would, in his judgment, promote the public service.

SEC. 24. *And be it further enacted*, That the act approved the 5th of August, 1861, entitled "An act supplementary to an act entitled 'An act to increase the present military establishment of the United States,' approved the 29th of July, 1861," be, and the same is hereby, repealed. But the repeal of the said act shall not be construed so as to deprive those persons already appointed under it from holding their offices in the same way and manner as if it had not been repealed.

SEC. 25. *And be it further enacted*, That hereafter all chaplains, whether in the regular or volunteer service or hospitals, shall receive $100 per month.

SEC. 26. *And be it further enacted*, That the President of the United States shall have power, whenever in his opinion it shall be expedient, to purchase cemetery grounds and cause them to be securely inclosed, to be used as a national cemetery for the soldiers who die in the service of the country.

The bill was reported to the Senate as amended, and the amendment made as in Committee of the Whole was concurred in.

The VICE PRESIDENT. The Senator from Iowa [Mr. GRIMES] submitted an amendment when the bill was last under consideration, which is now in order, but it was not then, in that stage of the bill. The following section was adopted as an amendment to the bill:

And be it further enacted, That all chaplains, whether in the regular or volunteer service or hospitals, shall receive $100 per month.

The Senator from Iowa moved to amend by adding the words "and one ration when in the field." The question now is on this amendment.

The amendment was agreed to.

Mr. WILSON, of Massachusetts. I should like to have the Senator from Iowa consent to change that amendment. He proposes to give one ration a day to those chaplains who are in the field. I think he had better not confine it to those in the field, but say "one ration a day." I know that those in the hospitals have an amount of work to perform that, in comparison with those in the field, is as three or four to one. I think we had better give all of them one ration a day.

Mr. HALE. Say "when on duty."

Mr. WILSON, of Massachusetts. I think they ought to have one ration a day all around. Let us put them on an equality.

Mr. GRIMES. The suggestion is made to me. I believe I offered the amendment. I am content that it shall be changed as proposed by the Senator from Massachusetts. I hear Senators around me say, "Let it go as it is." I am perfectly content either way. I think it is very important if we send chaplains out into the field, if they are going away from among their friends and from the neighborhood of the cities, that they should be permitted to go to the quartermasters and commissaries and draw some provisions.

Mr. COLLAMER. In kind.

Mr. GRIMES. I do not care whether it is in kind or otherwise. The whole amount of expense entailed will be $118 and some cents for a chaplain per annum. If it meets the views of the Senator from Massachusetts, I desire to modify it so that it shall read, "and one ration when on duty."

The VICE PRESIDENT. That modification will be made if there be no objection on the part of the Senate. The Chair hears no objection, and the amendment will be so modified.

Mr. McDOUGALL. I have presented to the Senate and had referred to the Committee on Military Affairs, several petitions requesting that regimental bands be not discontinued. It appears to be the opinion of those persons who represent themselves to be cognizant of this matter, that the bands may be diminished in point of number, that

a band of sixteen for each regiment will be quite as efficient as twenty-four, as now provided; but they insist that regimental bands are of great value in keeping up the proper spirit of the Army when in camp as well as when in the field. It is well known to every one who has ever had anything to do with camp life, that there is very little relaxation and very little amusement in it, and that the music the bands afford do a great deal to sustain the tone, and even the health, of persons in the camp. As a matter relating simply to the health and spirit of our troops, I believe myself that regimental bands may be well employed. It is not simply martial music; but music is intended, as introduced in the military service, for the purpose of inspiriting the troops. From early morn until the time for rest, when in camp, soldiers have no occupation except drill, and no proper relaxation; and nothing is exciting, all is laborious.

It is provided in this bill that brigade bands of sixteen pieces each shall be organized. Regiments are not always brigaded, and a regiment is an independent and distinct body by itself, with its colonel and officers. They are generally organized, and bring their music from particular parts of the country. It will be a very embarrassing thing to carry out this provision. In the first place, the bands must be organized as brigade bands; and then they will not relate to the same body of persons or to the same organization. The petitions that have come here have been numerously signed by the whole, I think, of the officers of one division of the Army. As far as I can learn, it is the general opinion, as a matter of policy, that the bands, as regimental bands, should be retained, though the pieces may be reduced in number.

I can understand very well, and I think it will be understood by all Senators, that music is one of the essentials in maintaining a body of armed men in the field as well as moving them in battle. I dislike myself to see an innovation so extensive as this, providing simply a band for brigades, the brigadier general, the officer commanding a brigade not generally having immediate relation to the corps. I think such a provision as I now suggest will answer all the reduction that can be profitably made. I move to strike out all of the sixth section after the words "and be it further enacted," and to insert "that regimental bands be reduced to sixteen musicians;" and to strike out the whole of the seventh section.

Mr. WILSON, of Massachusetts. I hope the Senate will not sustain the motion made by the Senator from California. This bill will save nearly four millions of dollars annually in this respect alone. I suppose that some officers and possibly some of the men would desire to retain these bands; but a band for a regiment, in my judgment, organized as our Army now is, is unnecessary altogether. Nearly all our regiments are brigaded, and the brigades are organized in divisions; and we are about organizing the divisions into corps. This bill proposes to abolish the regimental bands, and to organize one brigade band in each brigade. That will reduce to one fourth of the present cost, the expense of the bands. The Senator ought to remember, and doubtless does remember, that every company has two musicians besides the band—a drummer and a fifer. Some of the regiments, instead of having a drummer and fifer in each company, have organized a drum corps; some of them have five fifers and fifteen drummers. But all the regiments by law are entitled to have twenty musicians, and this does not touch that. I think that abundant. The services rendered by these bands amount to very little indeed. They are out at dress parade, and that is about all; and they are also out on special occasions. They are here at enormous expense, and I venture to say to-day, that nearly all the members of these bands are here at a sacrifice and desire to go home. My mails have groaned with letters from members of the bands inquiring about this bill, and I have received but a solitary letter during this session in favor of retaining these bands. They are appealing to the Adjutant General continually to be discharged and to go home. I think the passage of this section will save nearly four millions of dollars a year. The Paymaster General has been urging and pressing upon us to pass it. Therefore I hope it will not be changed. If I would change anything in the section, it would be to carry the brigade bands from sixteen up to twenty-six pieces, the number of the regimental bands now, but I think sixteen pieces will make a very good band.

Mr. McDOUGALL. I differ radically with the Senator from Massachusetts, about the whole business of saving. I think that we may save by his policy, with a loss. Everything appears to be measured here, all these considerations, by how much the Government may save, without any regard to the question what it is policy for the Government to do. In regard to this question, I am satisfied that I am right; and I think if the gentleman had marched long weary days, and made camp, evening after evening, fatigued and worn out with marching, and if after he had broke his fast, he heard the sound of beautiful music rise upon the evening air, and got his repose in that as much as in his rest and sleep at night, he would understand that there is something more in music, in martial music, in bands, if you please, than a question of mere amusement, a mere thing of pleasure, a mere thing of taste, the enjoyment or the luxury of our troops in the field. As I said before, it is a matter that has to do with the health, the discipline, and the heart of our soldiers.

We have now a band of sixteen musicians for every thousand or twelve hundred men. It is, according to the view of the gentleman, nothing of benefit that we should have such a band. Why, sir, the commonest piece of instrumental music, a single horn or a bugle note is of advantage to men fatigued. After a day's marching it is relaxation, it is rest. It has both physical and moral influences. Why has music always been connected with arms, and the marches of armed men, through all history? Is it for no purpose of utility? I say it is for utility, not for pleasure, not for grandeur, not for ornament, but for the purpose of supporting the hearts of men who are laboring and marching, who are taken away from the relations of society, and who need something for the improvement of the tone of the individual. I say it is good for the health, it is good for the morals, it is good for the courage and the heart of the soldier, that there should be a certain amount of music. The sound of the fife and drum is music in a certain sense; it is good music to march to; but that is not all. You can keep beautiful time with the fife and the drum; but since the fife and drum were invented, music has been vastly improved, and if there is any person entitled to these improvements, the man who goes into the field, who undergoes the fatigues of marching, and the dangers of battle, is as much entitled to them as the Senator from Massachusetts, who may go and hear delightful music discoursed at any of the concerts in the city of Washington. For these persons it is a need; to the Senator it would be a luxury.

Mr. WILSON, of Massachusetts. The Senator from California has "music in his soul," and I trust the rest of us are not destitute of the quality; but the Senator ought to remember that this army is brigaded, and if he goes across the river he will find that every division, which is within two miles square, has five hundred and fifty musicians.

Mr. McDOUGALL. The regiments go into camp, each under its colonel. What relation has that to the other regiments of the division?

Mr. WILSON, of Massachusetts. Every company is entitled to two musicians.

Mr. McDOUGALL. I understand.

Mr. WILSON, of Massachusetts. That makes twenty musicians to a regiment.

Mr. McDOUGALL. Fifers and drummers.

Mr. WILSON, of Massachusetts. Then every regiment is at present entitled to a band of twenty-six pieces. In every brigade of this army there are four large bands of twenty-six pieces each.

Mr. McDOUGALL. How near together do the regiments lie? Do the brigades lie together?

Mr. WILSON, of Massachusetts. There is one brigade that has been here for months, and its camps do not extend one mile from end to end.

Mr. McDOUGALL. That is a mistake of the Senator, I think.

Mr. WILSON, of Massachusetts. There is not a brigade of the army of the Potomac that I have not visited.

Mr. ANTHONY. They hold dress parades together.

Mr. WILSON, of Massachusetts. I was out last Sunday, and saw any quantity of dress parades. I saw one dress parade of three regiments, with three bands all going at the same time. The regiments were located side by side, and the whole line was not much more than half a mile in length. A gentleman wrote to me the other day from Fortress Monroe that he had heard twelve bands of music playing there. Over the river here, divisions that are camped down within two miles square are entitled to thirteen large bands, and each regiment has twenty musicians besides. It is proposed in this bill to have one band for each brigade. It will be ample and sufficient. Then every regiment will continue to have its twenty pieces, to which it is entitled by law; and I venture to say that the music of the drum and fife is, to my uncultivated ear, the finest music in the Army. I think they will have an abundance of it. The Senator from California seems to think that the bands play when the army is marching. Our army moved the other day, and I venture to say there was very little music; I do not know whether they will have any in marching back. This provision of the bill musters out of the service a vast number of men, and saves a great amount of money. I think it is of vital importance in the present condition of the country. We are told that we have over six hundred thousand men in the field, and our expenses are over two millions of dollars a day—for I am informed that the army of the Potomac alone costs $1,250,000 a day. I think we had better muster these men out of the service; and I venture to say that nine tenths of them desire to be mustered out. I hope the amendment of the Senator from California will not be agreed to.

The amendment was rejected.

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

Mr. McDOUGALL. Before the bill is passed I wish to say a few words, though I do not suppose I shall be able to influence the opinion of any one Senator. The question of finance, the question of taxation, properly belongs to a particular committee of the Senate. It is a subject of the largest moment, demanding the most complete system. We have expenses to meet in the conduct of this war and in the administration of this Government, and we have got to derive revenue to meet those expenses. The entire subject of taxation—and this to a great extent is but a measure of indirect taxation—is one that is now receiving the consideration of the appropriate committee of the House of Representatives, and is the proper business of the Finance Committee here, and is being considered by them. It is well understood that we are to have a measure brought before Congress, providing for the assessment of a regular tax upon every citizen in proportion to his means and his income. Now, if there is a fundamental rule of law recognized in all civilized Governments, which has been recognized in this Government, it is equality in taxation. A bill has been reported from the Ways and Means Committee of the other House, assessing an income tax against every citizen, the persons who hold place under this Government, and the persons who engage in their personal pursuits. Out of the income of a Senator or Representative is to come his percentage of tax. Out of the income of the employé of the Government in any department is to come his percentage of tax. Upon what principle is it that you make a special tax upon the employés of the Government? It seems to be understood that when we tax others, we must do something ourselves. Shall we not, by the general law, all be equally taxed? Or is this upon the supposition that the persons in the employment of the Government are special and most legitimate objects of taxation? If so, why so?

I do not know that the persons who serve the Government, and who serve it well, are better paid than persons engaged in pursuits requiring the like skill, the like ability, and the like labor in the other avocations of life. I understand, by the admission of Senators, and by their general statements, that the employés of the Government do not, in proportion to skill and in proportion to labor, receive equal compensation with those who engage in private pursuits. Then, where is the justice of this special taxation? I undertake to say that it is a truth, maintained by all experience, that Governments do not pay as well as private individuals for useful services; and in our coun-

try one of the great evils of our system is, that we do not pay well enough for good services, and we pay too much for inferior services. The consequence is that we secure, to a great extent, in the various offices of the Government incompetency, inefficiency. In place of a judge who will clear his calendar and administer the law in a week, we have an inferior man who will hold court for a month, and render unsound adjudications, and cause appeals to the superior tribunals and cause litigations throughout the land. The same is true in other branches of the public service.

The Senator from Massachusetts talks about saving. The law of saving is not the law of economy, or else the miser would be the highest economist. Public economy consists in doing what can be best done for the public good, in the least expensive manner. There is no greater error than saying "an office is a place of dignity, and parties are to accept it on account of the dignity, and take part of the compensation in that." If Government wants to be well served, Government must transact business like individuals. The merchant in the city of New York seeks skill; and how does he obtain skill? By paying the compensation which skill demands. The economy is in paying well and securing competent officers, and then in having no more than are necessary. It was said here upon the floor a short time ago, or in one of the committee rooms, that in one of the Departments of the Government the clerks cannot keep up the business, because they do not understand anything about it. What is the reason they have not persons who understand the business of the Treasury Department and the various offices? What is the reason the Auditors are behind, with their array of clerks? Want of knowledge on the part of the employés is the cause. I am for reducing the number of officers and persons paid by the Government. I will go in that direction as far as almost any Senator, as far as I think we can go with justice. Instead of reducing the compensation and taxing the pay, let us inquire what officers are not needed, and require the heads of the various bureaus and Departments to work their force. If instead of talking about reducing compensation in regard to soldiers, we see, or try to have the proper Department of the Government see to it, that the business of the Government is properly administered, there will be proper economy. More can be saved in the quartermaster's department by an extra day of labor, than can be saved by our talking about these retrenchments. More can be saved by a bold and efficient administration of the War Department. It is the economy of prompt action, it is the economy of sound administration that will save the Treasury of this Government, and relieve us from the burdens with which we are threatened. Cutting down pay is no way to maintain the Federal Treasury pending this war. We want good, sound, prompt, efficient administration; we want to employ good and sound public agents in all the departments connected with the war.

Mr. President, this is a very inopportune time to introduce this particular bill. We have had our Army organized and in the field for many months. They have just been winning great successes in the West, and we are just now moving our main column down into Virginia, for the campaign is fully opened. Now, right on the very verge and eve of battle, it is proposed to deprive the regiments of their bands as a piece of economy, as a piece of saving, and to cut down the pay of the officers who are to lead our soldiers into battle. And here let me remark that I did not think the practice had come into the United States Senate of Senators making invidious distinctions between classes of men who fill either civil or military positions. The poor soldier is presented here as a person who has special merits as against the officer of the Army. The Senator from Massachusetts speaks of the men who do the fighting——

Mr. WILSON, of Massachusetts. Oh, no; I never said so.

Mr. McDOUGALL. I heard the Senator from my place use the expression.

Mr. WILSON, of Massachusetts. I beg the Senator's pardon.

Mr. McDOUGALL. I can only say that I understood that to be the language of the Senator.

Mr. WILSON, of Massachusetts. No, sir.

Mr. McDOUGALL. The Senator said something which left the impression upon my mind that that was his expression, at any rate.

Mr. WILSON, of Massachusetts. I cannot allow myself to be misrepresented. I said nothing of the kind. I made no invidious distinction between the officers and men. I spoke of the small pay of the one as compared with the large pay of the other, and I said that if you made a distinction you should make it in favor of the one who got the least.

Mr. McDOUGALL. Did not the Senator make use of the term "the soldier who does the fighting?"

Mr. WILSON, of Massachusetts. No, sir; I beg the Senator's pardon.

Mr. McDOUGALL. Well, sir, it is not very material. I understand that when a person is placed in any office, it is by reason of some skill or fitness for it, and as well the officer who takes charge of our soldiers as the officer who fills the place of a judge or the seat of a Senator; and I understand that to the officers belongs the conduct of all these soldiers. I can see what was the basis upon which their compensation was placed. Was it a reasonable, rational basis, on which a certain compensation was fixed for the private soldier, a certain compensation for the lieutenant, a certain compensation for the colonel, a certain compensation for the brigadier? Was it upon a just basis with reference to their skill and ability? If so, what is the justice of changing the one and not the other? It is the skill and the soul of the leader that makes the body of his followers strong.

This measure comes at a bad time, striking, as it does, at the compensation of every officer in the field. It may be saving; it is not economy. The greatest economy will be in strengthening the arms of your men, giving them all kinds of encouragement, and not in saying that they shall have so many dollars less every month for the support of their families at home. I do not understand that our officers are overpaid. I think the Senator from Massachusetts will find that, of the regular Army, the young officers with families are probably the most economical body of men in the United States, in proportion to their position, education, and associations; and you will not find, as a general rule, one of them who is not compelled every month, or, at least, from time to time, to anticipate his pay in order to meet his almost immediate necessities. Men of the best habits, of the greatest economy, do not receive as compensation now enough to support themselves, if, perchance, they have with themselves a family, which it is the right of the soldier to have, as well as the right of the Senator from Massachusetts.

I object to this measure on general principles. It is unsound; it is admitted to be imperfect. I would ask the Senator from Ohio why upon an important movement of this kind, when a special committee undertook to investigate it, they do not bring forward a measure that relates to some system. This is a temporary expedient. We have had temporary expedients enough. We legislated last summer, passed laws which remain dead letters on the statute-book, impracticable——

Mr. SHERMAN. I hope my friend will allow me to answer his question now. We have introduced specific bills covering all the officers of this Government, naval, military, and civil; and yet when we called up one of them the other day, the Senate wasted the morning hour in deciding which of two officers should retire, it being generally admitted that one of them should retire; but one Senator being interested in keeping one of them, and another Senator another, I became discouraged, disheartened with any attempt to introduce and pass through bills carefully considered, regulating the pay of all the officers of the Government. I do not believe that time can be had to do it, or to act on those bills; but I will say that a system of that kind has been devised, that it is now in the form of bills before Congress, and I should like very much indeed to get my friend from California to coöperate with me in getting action on those bills as soon as possible, and then I shall be willing to let this reduction pass away.

Mr. McDOUGALL. I think that in meeting the great necessities of this time, we can afford to come to the work deliberately, to comprehend some system that shall embrace both the expenses which the Government is compelled to meet, and the revenues necessary to sustain those expenses, and that one should relate to the other, and both should be parts of an entire system. This is a mere fragmentary, imperfect thing, it is conceded; and I say it is started at a time when its main features will strike the whole body of officers commanding our troops in the field, and deprive them of part of the means of support. Here let me say that upon them taxation is unequal, because their revenue, whatever it may be, their income is to be assessed. The income of the colonel, the captain, the lieutenant is to pay the percentage that may be named as an income tax. Should he be taxed more than the citizen who remains at home, and pay a double tax? There is neither policy nor justice in it.

I understood the Senator from New Hampshire, the chairman of the Naval Committee, to move an amendment to the ninth section of this bill for the purpose of making the provision constitutional. A word as to that. I say the provision is unconstitutional in its terms, and it would be with his amendment. When the Constitution provides that the salary of a judge shall not be reduced during his continuance in office, it means to prohibit anything that in substance amounts to that; and what cannot be done directly cannot be done indirectly. He is entitled to his salary of $6,500 a year, if that is the amount fixed by law. If the Government can withdraw ten per cent. it can withdraw fifty per cent. This is class legislation aimed at officers. It may as well be aimed at six officers as at sixty thousand. You may say, then, of the judges of the Supreme Court, that they shall pay into the Treasury, or that there shall be retained in the Treasury, fifty per cent. of their salaries; and if you may say it of the judges of the Supreme Court as a body, you may say it of any one of the judges; and you may by this kind of legislation defeat the Constitution by a mere change of name. If you cannot get at a thing, as the Senator says, you may change its name and then it is practicable. I understand him so to say. That kind of logic does not answer the demands of the Constitution or the law. He is going to change the name to make it constitutional or so that it will not be so patently obnoxious to objections as unconstitutional. Equally unconstitutional it is in both forms, so far as it applies to them.

But that is not my objection to the bill. It is that this saving is not economy; that it is to operate just at this time upon the men whom we trust with our lives and honor. It is saying to them, "we will tax you more than the man who remains at home is taxed; he earns his five hundred or thousand dollars a year, or his two thousand or five thousand dollars a year, and he pays one tax, and that tax you pay too; but you, not receiving anything like an equal compensation with the man who stays at home, are to pay the same tax that the person at home pays, and then ten per cent. besides"—an enormous burden as a single item of taxation. It is bad policy, it is an injustice, it is a violation of the fundamental rule that taxation should be equal, it is in some respects obnoxious to the provisions of the Constitution. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 37, nays 2; as follows:

YEAS—Messrs. Browning, Carlile, Chandler, Clark, Collamer, Cowan, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Henderson, Howard, Howe, King, Lane of Indiana, Lane of Kansas, Latham, Morrill, Pomeroy, Powell, Rice, Sherman, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Willey, Wilson of Massachusetts, Wilson of Missouri, and Wright—37.

NAYS—Messrs. Kennedy and McDougall—2.

So the bill was passed.

BILL BECOME A LAW.

A message from the President of the United States by Mr. NICOLAY, his Secretary, announced that the President had approved and signed on the 11th instant, a resolution (S. No. 22) providing for the payment of the awards of the commission to investigate the military claims in the department of the West.

BILL RECOMMITTED.

Mr. HARLAN. I move to take up the bill (H. R. No. 189) for the survey of grants or claims of land, for the purpose of having it recommitted to the Committee on Public Lands. It was reported on adversely.

The motion was agreed to; and the bill was recommitted to the Committee on Public Lands.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. MORRIS, Chief Clerk, announced that the House had passed the following bill and joint resolutions of the Senate:

A bill (No. 150) for a joint commission for the preservation of the Atlantic fisheries.

A joint resolution (No. 54) to amend an act entitled "An act to carry into effect conventions between the United States and the republics of New Granada and Costa Rica."

A joint resolution (No. 57) providing for the custody of the letter and gifts of the King of Siam.

The message also announced that the House had passed a joint resolution (No. 51) authorizing the Secretary of the Navy to inquire into the causes of the failure of certain contracts for steam machinery, and to remit penalties connected therewith; in which the concurrence of the Senate was requested.

HOUSE BILL REFERRED.

The joint resolution (No. 51) authorizing the Secretary of the Navy to inquire into the causes of the failure of certain contracts for steam machinery, and to remit penalties connected therewith, was read twice by its title, and referred to the Committee on Naval Affairs.

SLAVERY IN THE DISTRICT.

Mr. MORRILL. I move to take up for consideration the bill (S. No. 108) for the release of certain persons held to service or labor in the District of Columbia. I desire to have the amendments acted upon.

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

The first amendment of the Committee on the District of Columbia was in the first section to strike out the words, "and subjection to service or labor proceeding from such cause shall not hereafter exist in said District," and in lieu of them to insert, "and from and after the passage of this act neither slavery nor involuntary servitude, except for crime, whereof the party shall have been duly convicted, shall hereafter exist in said District;" so as to make the first section read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons held to service or labor within the District of Columbia, by reason of African descent, are hereby discharged and freed of and from all claim to such service or labor; and from and after the passage of this act neither slavery nor involuntary servitude, except for crime, whereof the party shall be duly convicted, shall hereafter exist in said District.

The amendment was agreed to.

The next amendment was in the first line of the second section, after the word "persons," to insert "loyal to the United States;" and at the end of the section to insert the words, "and declaring his allegiance to the Government of the United States;" so as to make it read:

SEC. 2. *And be it further enacted*, That all persons loyal to the United States holding claims to service or labor against persons discharged therefrom by this act may, within ninety days from the passage thereof, but not thereafter, present to the commissioners hereinafter mentioned their respective statements or petitions in writing, verified by oath or affirmation, setting forth the names, ages, and personal description of such persons, the manner in which said petitioners acquired such claim, and any facts touching the value thereof, and declaring his allegiance to the Government of the United States.

The amendment was agreed to.

The next amendment was in the third section, to strike out of the fifth and sixth lines the words "and who shall;" to strike out of the sixth line the word "legal" before "validity," and after the word "validity" to insert "and value;" in the seventh line, after the word "presented," to insert "as aforesaid;" and after the word "and," in the seventh line, to strike out "who shall;" so as to make the section read:

SEC. 3. *And be it further enacted*, That the President of the United States, with the advice and consent of the Senate, shall appoint three commissioners, residents of the District of Columbia, any two of whom shall have power to act, who shall receive the petitions above mentioned, investigate and determine the validity and value of the claims therein presented, as aforesaid, and appraise and apportion, under the proviso hereto annexed, the value in money of the several claims by them found to be valid: *Provided, however*, That the entire sum so appraised and apportioned shall not exceed in the aggregate an amount equal to $300 for each person shown to have been so held by lawful claim.

The amendment was agreed to.

The next amendment was in the tenth line of the fourth section, to strike out "the lawful holders thereof," and insert, "entitled thereto as aforesaid;" so as to make the section read:

SEC. 4. *And be it further enacted*, That said commissioners shall, within nine months from the passage of this act, make a full and final report of their proceedings, findings, and appraisement, and shall deliver the same to the Secretary of the Treasury, which report shall be deemed and taken to be conclusive in all respects, except as hereinafter provided; and the Secretary of the Treasury shall, with like exception, cause the amounts so apportioned to said claims to be paid from the Treasury of the United States to the parties found by said report to be entitled thereto as aforesaid, and the same shall be received in full and complete compensation: *Provided*, That in cases where petitions may be filed presenting conflicting claims or setting up liens, said commissioners shall so specify in said report, and payment shall not be made according to the award of said commissioners until a period of sixty days shall have elapsed, during which time any petitioner claiming an interest in the particular amount may file a bill in equity in the circuit court of the District of Columbia, making all other claimants defendants thereto, setting forth the proceedings in such case before said commissioners and their action therein, and praying that the party to whom payment has been awarded may be enjoined from receiving the same; and if said court shall grant such provisional order, a copy thereof may, on motion of said complainant, be served upon the Secretary of the Treasury, who shall thereupon cause the said amount of money to be paid into said court, subject to its orders and final decree, which payment shall be in full and complete compensation, as in other cases.

The amendment was agreed to.

Mr. MORRILL. The amendments reported with the bill having been disposed of, I move further to amend the bill by adding at the end of the third section the following words:

And provided further, That no claim shall be allowed for any slave or slaves brought into said District after the passage of this act; or which originates in or by virtue of any transfer heretofore made or which shall hereafter be made, by any person who has in any manner aided or sustained the rebellion against the Government of the United States.

The amendment was agreed to.

Mr. MORRILL. I move still further to amend the bill by adding as a new section:

SEC. 8. *And be it further enacted*, That any person or persons who shall kidnap or in any manner transport or procure to be taken out of said District any person or persons discharged or freed by the provisions of this act, or any free person or persons, with intent to reënslave or sell such person or persons into slavery, or shall reënslave any of said persons, the person or persons so offending shall be deemed guilty of a misdemeanor, and on conviction thereof in any court of competent jurisdiction in said District shall be imprisoned in the penitentiary not less than five nor more than twenty years.

Mr. HOWARD. I move to amend the amendment by striking out "misdemeanor," and inserting "felony."

Mr. MORRILL. I have no objection to that.

The VICE PRESIDENT. The amendment will be so modified, the Senator from Maine accepting it.

The amendment, as modified, was agreed to.

Mr. MORRILL. I have one other amendment to offer, as an additional section:

SEC. 9. *And be it further enacted*, That all acts of Congress and all laws of the State of Maryland in force in said District, and all ordinances of the cities of Washington or Georgetown, inconsistent with the provisions of this act, are hereby repealed.

The amendment was agreed to.

Mr. HARRIS. I am not disposed to move an amendment to the bill; but I wish to suggest to the Senator from Maine a criticism on an amendment which has been made to the first section of the bill. It provides that "from and after the passage of this act neither slavery nor involuntary servitude" shall exist here, as though they were two distinct things. I suppose, but I am not sure about it, that up to this time the term "slavery" has not been introduced into the legislation of the country.

Mr. MORRILL. This is the exact language of the ordinance of 1787.

Mr. HARRIS. I have a further suggestion to make, and that is that the term "involuntary servitude" will embrace the condition of apprentices, unless the phrase "by reason of African descent" in the beginning of the section shall control, as perhaps it will.

Mr. COLLAMER. The phrase "slavery or involuntary servitude" has received a construction under the ordinance of 1787.

Mr. DAVIS. I offer by way of amendment to this bill, as an additional section, this clause:

And be it further enacted, That all persons liberated under this act shall be colonized out of the limits of the United States; and the sum of $100,000, out of any money in the Treasury not otherwise appropriated, shall be expended, under the direction of the President of the United States, for that purpose.

I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. DOOLITTLE. I understand the effect of this amendment to be to colonize them whether they are willing to be colonized or not. If the amendment of the Senator was to offer to appropriate the sum of $100,000 to be used for transporting and colonizing such of the free colored persons of this District as might desire to be colonized, I should vote for the amendment; but as it is I cannot vote for it.

Mr. DAVIS. I think I am better acquainted with negro nature than the honorable Senator from Wisconsin. He will never find one slave in a hundred that will consent to be colonized, when liberated. The liberation of the slaves in this District, and in any State of the Union, will be just equivalent to settling them in the country where they live; and whenever that policy is inaugurated, especially in the States where there are many slaves, it will inevitably and immediately introduce a war of extermination between the two races. In relation to this particular proposition, here are a great many vagabond negroes in a state of slavery in this city; for the number of negro slaves that reside here, a great many. They are now idle and comparatively worthless; and whenever they are liberated they become greatly more so. A negro's idea of freedom is freedom from work, as a general rule. I have known of hundreds of slaves in my experience that have been liberated, which slaves previous to their liberation were industrious, were orderly, were well-behaved; and in, I may say, ninety-nine cases out of one hundred, after they were liberated and acquired their freedom, they became lazy, indolent, thievish vagabonds. Men may hug their delusions, but these are facts heretofore, and they will remain facts in the future. Where you have a few free negroes in a white community, and the negroes have but a small association, and the examples all around them are the examples of diligence, industry, and thrift, this outward influence will force them to a modicum of labor and of thrift, too. But whenever you settle negroes in large numbers, or liberate them in large numbers, and they become a society to themselves, you will have a thriftless, worthless, indolent, inefficient population. I know that just as well as I know that these gentlemen around me belong to the Caucasian race.

The negroes that are now liberated, and that remain in this city, will become a sore and a burden and a charge upon the white population. They will be criminals; they will become paupers. They will be engaged in crimes and in petty misdemeanors. They will become a charge and a pest upon this society, and the power which undertakes to liberate them ought to relieve the white community in which they reside, and in which they will become a pest, from their presence. This is a poor city at any rate. The total amount of wealth here is very inconsiderable for the number of the white population. The burdens and charges upon them are heavy, onerous, oppressive, and this measure will make those burdens greatly more so.

Gentlemen who have lived in the slave States, and who know what the free negroes are in the slave States, who know what the free negroes are in communities of considerable numbers of them, know that they are the most worthless and vicious and expensive of our population to the society in which they live. It is so.

Mr. President, whenever any power, constitutional or unconstitutional, assumes the responsibility of liberating slaves where slaves are numerous, they establish as inexorably as fate a conflict between the races that will result in the exile or the extermination of the one race or the other. I know it. We have now about two hundred and twenty-five thousand slaves in Kentucky. Think you, sir, that we should ever submit to have those slaves manumitted and left among us? No, sir; no, never; nor will any white people in the United States of America where the slaves are numerous. If by unconstitutional legislation you should by laws which you shrink from submitting to the test of constitutionality in your courts of justice, liberate them, without the intervention of the courts, the moment you reorganize the white inhabitants of those States as States of the Union, they would reduce those slaves again to a state of slavery, or they would expel them and drive them upon you, or south of you, or they would hunt them like beasts and exterminate them. They

would not do this from choice, but they would do it from necessity. It will produce such a conflict between the races as will render it inevitable, and there will be no escape from it.

I maintain that it is a matter of humanity to the negro in this city, and of justice to the white population of this city, that when you turn three or four thousand negroes who are now in a state of slavery free, you should relieve them from the curse of such a population, from its expense, from its burdens upon this community in every form; you ought to assume the philanthropy and the justice—the philanthropy to the negro race and the justice to the white race—to remove these people from the District. You may refuse to do it. If you do, a few years' experience will tell you what a mistake you made. I shall speak, though, on this subject at more length on another occasion. I will only say now that when the negroes are liberated in the cotton States, it is giving up the cotton States to the negro race, and it is expelling, in a very short time, by inevitable necessity the white population from that country, or it is introducing war between the two races that will result in the exile or expulsion of one or the other.

I know what I talk about. Mr. President, the loyal people of the slave States are as true to this Union as any man in the Senate Chamber, or in any of the free States; but never, never will they submit by unconstitutional laws to have their slaves liberated and to remain domiciled among them; and the policy that attempts it will establish a bloody La Vendée in the whole of the slave States, my own included. If at the time you commenced this war, you had announced as the national policy that was to prevail the measures and visionary schemes and ideas of some gentlemen on this floor, you would not have had a solitary man from the slave States to support you. Whenever you seek to carry those measures into operation you unite the slave States as one man. They will tell you that in resisting such schemes they are fighting for the Union and the Constitution; and they will tell you so truly. They will tell you that your system of policy is no less aggressive and destructive upon the Union and the Constitution than that of the rebels of secessia themselves; and they will tell you so truly. They will feel it as incumbent on them as men and as freemen to resist your unconstitutional policy, by which you will overturn and trample under your feet the principles of the Constitution, as they feel it to be their duty to resist the war which the secessionists have made upon the Union.

Mr. President, I did not expect to say a word in relation to this subject. I speak upon the impulse of the moment. I speak from what I know. I speak from what I feel. I speak of principles and a line of conduct that I will devote my life to, and that every Union man in the slave States will devote his life to. Sir, in the horrors of the French revolution, the peasantry of La Vendée never made a more united and heroic struggle in defense of all rights against the encroachments of that wild revolution than will be made in the slave States against your unconstitutional encroachments on their rights. You will unite them as one man, as one woman; the whole white population, men, women and children, will unite in deadly resistance to any such policy.

I did not intend to anticipate this discussion; but when a measure so flagrant, so unjust to the white population of this District, as to liberate all the slaves here, and to make no provision for their colonization, is forced upon them by an arbitrary assessment of value, without submitting it to the judgment of just men, and without consulting them whether they desire it or not—when a measure of this kind is submitted upon a people who have no representation here, I feel as a sentiment of humanity and justice that I ought to interpose one word of remonstrance against this population being left in their midst.

Mr. HALE obtained the floor; and on his motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *March* 12, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a statement of the appropriations applicable to the service of that Department; which was laid on the table, and ordered to be printed.

REGENT OF SMITHSONIAN INSTITUTION.

Mr. McPHERSON, by unanimous consent, introduced a joint resolution for the appointment of Theodore D. Woolsey, of Connecticut, a regent of the Smithsonian Institution, in place of Cornelius C. Felton, deceased; which was read a first and second time, and referred to the Committee on the Library.

COAST SURVEY REPORT.

Mr. ELIOT. I rise to a question of privilege. I move to reconsider the vote by which the House yesterday referred to the Committee on Commerce the annual Coast Survey report.

The motion was agreed to.

Mr. ELIOT. I move that the report be laid on the table, and be ordered to be printed.

The motion was agreed to.

Mr. ELIOT also, in the same connection, submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That there be printed five thousand extra copies of the report of the Superintendent of the United States Coast Survey, for the year 1861; three thousand of which shall be for distribution by the Superintendent, and two thousand copies for the use of the members of the House of Representatives.

EMANCIPATION.

Mr. THOMAS, of Massachusetts. I was accidentally absent from the House yesterday when the vote was taken on the passage of the joint resolution relative to emancipation. I ask the consent of the House to record my vote.

No objection being made, Mr. THOMAS voted in the affirmative.

Mr. GURLEY made a similar request.

No objection being made, Mr. GURLEY voted "ay."

Mr. LEHMAN made a similar request.

At the suggestion of the Speaker, by unanimous consent, permission was granted to all who desired to vote upon the said resolution.

The following members voted:

YEAS—Messrs. Cobb, Clark, Gurley, Lehman, Sedgwick, Benjamin F. Thomas, Wall, and Wheeler.

NAYS—Messrs. Calvert, Grider, Mallory, Menzies, and Morris.

THANKS TO J. ERICSSON.

Mr. EDWARDS, by unanimous consent, submitted a joint resolution giving the thanks of Congress to J. Ericsson for his skill and energy in the construction of the iron-clad gunboat Monitor; which was read a first and second time.

Mr. SEDGWICK moved that the joint resolution be referred to the Committee on Naval Affairs.

The motion was agreed to.

REMISSION OF PENALTIES.

Mr. ALLEY reported from the Committee on Commerce the following joint resolution:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy be and he hereby is authorized and empowered to inquire into the circumstances attending the failure of certain contractors for building steam machinery within the time specified in their several contracts, and to remit the whole of the penalties for such failure, or a part thereof, as to him may seem just and equitable.

The joint resolution was read a first and second time.

Mr. ALLEY moved the previous question on its engrossment and third reading.

The previous question was seconded, and the main question ordered to be put.

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

Mr. ALLEY moved to reconsider the vote by which the resolution was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ENROLLED BILL.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill (H. R. No. 284) for the relief of Z. B. Caverly, late secretary of legation at Lima, Peru; when the Speaker signed the same.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. FORNEY, its Secretary, notifying the House that that body had passed House bill No. 341, to authorize the purchase of coin, and for other purposes, with amendments; and also a bill (S. No. 187) to reduce the expenses of the survey and sale of the public lands of the United States; in which he was directed to ask the concurrence of the House.

INDEMNITY TO CITIZENS OF DELAWARE.

Mr. DUNN, from the Committee on Military Affairs, reported back House bill No. 321, to indemnify certain citizens of the State of Delaware for expenses incurred by them in defense of the United States, with the recommendation that it do pass; and moved that it be ordered to be printed, and recommitted to the Committee on Military Affairs.

The motion was agreed to.

CONVENTION WITH NEW GRANADA, ETC.

Mr. WHITE, of Indiana. I am directed by the Committee on Foreign Affairs to report back Senate joint resolution No. 54, to amend an act entitled "An act to carry into effect conventions between the United States and the Republics of New Granada and Costa Rica," with an amendment. The resolution merely provides necessary rules for taking testimony. I move that it be put on its passage.

The amendment of the committee was read, as follows:

Strike out the resolving clause, and insert the words "be it enacted, &c.," and amend the title, so as to make it a bill, instead of a resolution.

The SPEAKER. The Chair is not sure that it is in order for this House to change the form of a resolution or a bill coming from the Senate.

Mr. WHITE, of Indiana. Resolutions are sometimes only declaratory of the meaning of former acts.

The SPEAKER. A resolution is as much a law as a bill.

Mr. WHITE, of Indiana. If it be the sense of the Chair that the amendment is not in order, I withdraw it.

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

Mr. WHITE, of Indiana, moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ATLANTIC FISHERIES.

Mr. ELIOT. I am directed by the Committee on Commerce to report back Senate bill No. 150, for a joint commission for the preservation of the Atlantic fisheries, and to move that it be put on its passage.

The bill was read *in extenso*. It authorizes the President of the United States to appoint a commissioner, to meet such commissioner as may be appointed on the part of Great Britain, and also one on the part of France, together to form a joint commission to frame measures to protect the fisheries off the coasts of Newfoundland and North America against deterioration and destruction by means of set lines on the spawn banks, and like destructive practices, and provides that, to enable the President to carry into effect this act, the sum of $3,000 is appropriated out of any money in the Treasury not otherwise appropriated.

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

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

The latter motion was agreed to.

ABOLITION OF SLAVERY IN THE DISTRICT.

Mr. ASHLEY, from the Committee for the District of Columbia, reported a bill for the release of certain persons held to service or labor in the District of Columbia; which was read a first and second time.

Mr. ASHLEY. I move that the bill and report of the committee be printed, and that the bill be recommitted to the Committee for the District of Columbia.

It was so ordered.

Mr. CALVERT. I ask to present a minority report, and to move that it be ordered to be printed.

The paper was received, and ordered to be printed.

JUDICIAL SYSTEM OF THE UNITED STATES.

Mr. WILSON, from the Committee on the Judiciary, reported back Senate bill No. 89, to amend an act of 3d of March, 1837, entitled "An act supplementary to an act entitled 'An act to amend the judicial system of the United States,'" with sundry amendments; and moved that the bill and amendments be ordered to be printed, and recommitted to the Committee on the Judiciary.

The motion was agreed to.

MEDICAL DEPARTMENT OF THE ARMY.

Mr. BLAIR, of Missouri, from the Committee on Military Affairs, reported back Senate bill No. 188, to increase the efficiency of the medical department of the Army, with a substitute.

The bill and substitute were read.

Mr. BLAIR, of Missouri. Gentlemen express the desire that the further consideration of this bill shall be postponed and the bill printed, in order that they may have an opportunity of examining it; and that they may be accommodated, I move that the further consideration of the question be postponed until Tuesday next, and that the bill and substitute be ordered to be printed.

It was so ordered.

SIGNAL CORPS.

Mr. BLAIR, of Missouri, from the Committee on Military Affairs, reported a bill to provide for the organization of a signal corps, to serve during the present war; which was read a first and second time.

Mr. BLAIR, of Missouri, moved that the further consideration of the bill be postponed until Tuesday next, and that the bill be ordered to be printed.

It was so ordered.

ADDITIONAL CLERKS.

Mr. HOOPER, from the Committee of Ways and Means, reported a bill to provide for the appointment of additional clerks in the office of the Assistant Treasurer of the United States at Boston, to fix their salaries, and provide for the absence of the Assistant Treasurer, and for other purposes; which was read a first and second time.

Mr. F. A. CONKLING. Does the bill make an appropriation of money? If it does, has any increase of compensation been provided for the Assistant Treasurer at Boston?

The bill was read *in extenso*.

Mr. F. A. CONKLING. Are the clerks named in this bill in addition to those already employed in the office of the Assistant Treasurer at Boston?

Mr. HOOPER. They are.

The SPEAKER. Does the gentleman from New York object to the reception of the report?

Mr. F. A. CONKLING. I do not; but I reserve the right to move that the bill be referred to the Committee of the Whole on the state of the Union.

Mr. TRAIN. I want to suggest to my colleague that the Committee on Public Expenditures have had the same subject under consideration in reference to the sub-Treasurer at San Francisco, California, and that, under the circumstances, it would be proper to refer the pending bill to that committee, in order that both may be investigated and reported together.

Mr. HOOPER. I ask the Clerk to read the letter of the Secretary of the Treasury in favor of the passage of this bill.

The Clerk read, as follows:

TREASURY DEPARTMENT, *March* 11, 1862.

SIR: I have the honor to inclose herewith a letter from Ezra Lincoln, Esq., Assistant Treasurer at Boston, explaining the necessity for the reorganization of his office, together with the draft of a bill for that purpose.

It is obvious that the existing and prospective pressure of duty upon that Assistant Treasury compared with those when the present establishment was authorized by law, not only justifies but requires the proposed increase, which will not be so costly as is provided for by the recent annual appropriation. I therefore recommend this measure to the favorable consideration of the Committee of Ways and Means.

Very respectfully, your obedient servant,

S. P. CHASE,
Secretary of the Treasury.

Hon. THADDEUS STEVENS, *Chairman of Committee of Ways and Means, House of Representatives.*

Mr. HOOPER. As my colleague states that the Committee on Public Expenditures have a similar proposition under consideration, I move that this bill be referred to that committee, and ordered to be printed.

The motion was agreed to.

LIEUTENANT U. S. GRANT.

Mr. RICHARDSON, from the Committee on Military Affairs, reported a bill for the relief of Lieutenant U. S. Grant; which was read a first and second time.

Mr. RICHARDSON. Mr. Speaker, as this bill makes an appropriation, I suppose that, under the rules, it must have its first consideration in the Committee of the Whole on the state of the Union.

The SPEAKER. Not unless objected to.

Mr. RICHARDSON. I am willing that it shall be referred to a Committee of the Whole House on the Private Calendar. I move that it be referred to that committee, and ordered to be printed.

The motion was agreed to.

LABOR AT THE NAVY-YARDS.

Mr. PIKE, from the Committee on Naval Affairs, reported a bill to amend an act entitled "An act to further promote the efficiency of the Navy," approved December 21, 1861; which was read a first and second time.

The bill provides for fixing the hours of work at the navy-yards, &c., under the control of the Secretary of the Navy.

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

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

The latter motion was agreed to.

ADVERSE REPORT.

Mr. RICE, of Massachusetts, from the Committee on Naval Affairs, reported adversely on the resolution of the House directing the committee to inquire into the expediency of modifying the first section of the act entitled "An act to increase and regulate the pay of the Navy of the United States," approved June 1, 1860.

The report was laid upon the table, and ordered to be printed.

LINE OFFICERS UNITED STATES NAVY.

Mr. SEDGWICK, from the Committee on Naval Affairs, reported back House bill No. 280, to equalize the grade of line officers of the United States Navy, with a substitute; and moved that they be ordered to be printed, and recommitted to the Committee on Naval Affairs.

It was so ordered.

GIFTS FROM SIAM.

Mr. THOMAS, of Maryland, from the Committee on Foreign Affairs, reported back Senate joint resolution No. 57, providing for the custody of the letter and gifts of the King of Siam, with the recommendation that it do pass.

The resolution provides that they shall be deposited in the Department of the Interior.

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

SECEDED STATES.

Mr. ASHLEY, from the Committee on Territories, reported a bill to establish a temporary provisional government over the districts of country in rebellion against the United States; which was read a first and second time.

Mr. PENDLETON. I demand the reading of the bill.

The bill was then read *in extenso*.

Mr. CRAVENS. I ask that the views of the minority of the committee may be read.

The Clerk read the views presented by Mr. CRAVENS.

Mr. HARDING. I desire also to present the views of a portion of the committee, and I ask that they be read.

The Clerk read the paper.

The SPEAKER stated the question to be upon the motion of Mr. ASHLEY, that the bill be recommitted to the Committee on Territories, and be printed, together with the views of the minority of the committee.

Mr. ASHLEY. I ask the previous question upon that motion.

Mr. PENDLETON. Is it in order to move that the bill be rejected?

The SPEAKER. The Chair thinks not, pending the motion to recommit.

Mr. PENDLETON. Is it in order to move that the bill lie on the table?

The SPEAKER. That is in order.

Mr. PENDLETON. Mr. Speaker, this bill ought to be entitled a bill to dissolve the Union and abolish the Constitution of the United States. I am unalterably opposed to the destruction of either, from any quarter whatsoever——

Mr. BINGHAM. I call the gentleman to order. I object to debate.

The SPEAKER. The gentleman from Ohio knows that he is out of order. No debate is in order.

Mr. PENDLETON. I move to lay the bill upon the table.

Mr. BINGHAM. I demand the yeas and nays upon that motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 65, nays 56; as follows:

YEAS—Messrs. Ancona, Joseph Baily, Biddle, Francis P. Blair, Jacob B. Blair, George H. Browne, William G. Brown, Calvert, Casey, Clements, Cobb, Colfax, Corning, Cravens, Crisfield, Crittenden, Delano, Diven, Dunlap, Dunn, English, Fisher, Granger, Grider, Gurley, Haight, Harding, Harrison, William Kellogg, Killinger, Law, Lazear, Leary, Lehman, McKnight, Mallory, May, Menzies, Morris, Nixon, Noble, Noell, Norton, Pendleton, Perry, Timothy G. Phelps, Porter, Alexander H. Rice, Richardson, Sheffield, Shellabarger, Shiel, John B. Steele, Stratton, Benjamin F. Thomas, Francis Thomas, Train, Wadsworth, Ward, Webster, Wheeler, Whaley, Chilton A. White, Wickliffe, and Wood—65.

NAYS—Messrs. Aldrich, Arnold, Ashley, Baker, Baxter, Beaman, Bingham, Samuel S. Blair, Blake, Buffinton, Campbell, Chamberlin, Clark, Frederick A. Conkling, Roscoe Conkling, Cutler, Davis, Duell, Edgerton, Edwards, Eliot, Fessenden, Franchot, Frank, Hale, Hooper, Horton, Hutchins, Julian, Kelley, Francis W. Kellogg, Lansing, Loomis, Lovejoy, McPherson, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Pike, Pomeroy, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Sloan, Stevens, Trowbridge, Van Valkenburgh, Wall, Charles W. Walton, E. P. Walton, Wilson, Windom, and Worcester—56.

So the bill was laid upon the table.

During the roll-call,

Mr. JOHNSON stated that he was paired off with Mr. SHERMAN, of New York, on this bill, who is a surgeon of a regiment, and was called away to that duty, otherwise he would have voted "ay."

The result of the vote having been announced as above recorded,

Mr. PENDLETON moved to reconsider the vote by which the bill was laid upon the table; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a joint resolution (S. No. 65) to authorize the Secretary of the Treasury to accept moneys appropriated by any State for the payment of its volunteers, and to apply the same as directed by such State; in which he was directed to ask the concurrence of the House.

TERRITORY OF ARIZONA.

Mr. ASHLEY, from the Committee on Territories, reported a bill to provide a temporary government for the Territory of Arizona; which was read a first and second time, recommitted to the Committee on Territories, and ordered to be printed.

CHAUNCEY A. HORR.

Mr. ALDRICH, from the Committee on Indian Affairs, reported a bill for the relief of Chauncey A. Horr, of Nebraska; which was read a first and second time, recommitted to the Committee on Indian Affairs, and ordered to be printed.

JOHN B. MOTLEY.

Mr. LOVEJOY, from the Committee on Territories, reported a bill for the relief of John B. Motley; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

PURCHASE OF COIN, ETC.

On motion of Mr. STEVENS, by unanimous consent, the bill of the House (No. 341) to author-

ize the purchase of coin, and for other purposes, returned from the Senate, with amendments, was taken from the Speaker's table and referred to the Committee of Ways and Means.

TAX BILL.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and proceeded to the consideration of the special order, being the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

By unanimous consent, the first reading of the bill was dispensed with.

Mr. MORRILL, of Vermont. Mr. Chairman, it is my purpose, after a few observations upon the general character of the bill before us, to confine what I have to say to an explanation of its most important details, to give some reasons therefor, and conclude with an estimate of the amount of revenue it may be expected to produce. The extent of the bill, and the large number of objects included, leads me to hope the committee will indulge me for a few minutes beyond the allotted hour, if it should be necessary to complete the course I have marked out—otherwise I shall omit some things which I might prefer to place before the committee.

It is proper to say at the start that the Committee of Ways and Means will propose a few changes in the bill at the proper time, and among others to strike out the duty on flour, to reduce the duty on oxide of zinc and barytes; also, to change the provisions on petroleum and coal oil, and to transfer, perhaps, some articles from the specific to an *ad valorem* rate.

There have been issued in bonds and Treasury notes, authorized at the extra session of Congress, $250,000,000. At the present session we have, under all forms, authorized the issue of United States securities to the amount of $610,000,000. This, with our previous public debt, would make about $950,000,000. The appropriations for 1862 have been $514,984,067 31; and the bills already passed and reported show that if the war continues through 1863, our indebtedness will not be less, after deducting what receipts of the Treasury there may be, than nine or ten hundred millions of dollars. To pay the interest on this sum will require from sixty to seventy millions. Our ordinary expenses would not, under any circumstances, be less than $60,000,000 per annum; and our military establishment after the close of the rebellion, will be likely to require $25,000,000 beyond that sum for some years. We must pay all our ordinary expenses, the interest on all the public debt, and, over and above this, have a respectable sinking fund to retire some portion of the public debt annually, and this overplus must be sufficient to guard against all contingencies. It will be my purpose to show that the financial measures in contemplation guaranty even more than the amount of these large demands upon the Treasury.

Many years since one of the European Governments offered a reward to any person who should discover a new object of taxation, and it was bestowed, I believe, upon the discovery of the stamp tax upon paper. That is not by any means our condition. There is but little more than one source, that of imposts, which we have relied upon to any extent for revenue, and that source has not been pushed to its utmost capacity. Driven, however now, like Milton's Adam, from our untaxed garden, to rely upon the sweat of the brow for support, like Adam, we have "all the world before us where to choose." In doing this we have to be just. If it would not do to quarter the immense army of the Potomac on the District of Columbia alone, no more would it do to press any single interest with the entire burden that now weighs down upon the Treasury. The weight must be distributed equally—not upon each man an equal amount, but a tax proportionate to his ability to pay—equally, yet not one that will be in the exact ratio of population, but in a just proportion to the means and facility of payment. What could be easily sustained in one quarter of the country might sink another in hopeless dishonor and repudiation. A heavy duty upon some articles would banish them from use, while upon others it would merely stimulate greater activity and industry to obtain them. A tax dependent upon the habits or vices of men is the most reliable of all taxes, as it takes centuries to change or eradicate one or the other. No matter what obstacles may be placed in the way of the introduction of opium, the Chinese will brave death itself rather than suffer the deprivation of their favorite stimulant. England taxes spirits enormously, but has her drunkards still. They raise, too, $28,000,000 (or about one dollar for each inhabitant) of revenue from duties on tobacco, which proves that *some* of the Queen's subjects are not entirely immaculate as to those filthy expectorations which so disgust English travelers in America.

In the preparation of the present bill it has been found proper to look at the condition of the several States, as well as the United States. Each of these have been compelled to assume, or have voluntarily assumed, heavy burdens, moved thereto by the profoundest attachment to the General Government, and will all have largely to increase their tax rolls in order to meet State engagements. It is a question of vital importance to them that the General Government should not absorb all their taxable resources—that the accustomed objects of State taxation should, in some degree at least, go untouched. The orbit of the United States and the States must be different and not conflicting. Otherwise, we might perplex and jostle, if we did not actually crush, some of the most loyal States of the Union. It has not been possible, so multifarious are the systems of State taxation, and so large our wants, to wholly succeed in carrying out this idea; but it has been attempted in two modes; the first, by the avoidance of any tax or duty on live stock, and by declining to increase the direct tax on real estate—a very moderate one—levied at the last session of Congress; and the second, by a selection of new objects of taxation, and such others as for many reasons can sustain even the double taxation to which they may be for the time subjected.

Some gentlemen, and even some States, have manifested a solicitude that any taxes incident to the present rebellion should be levied in such a way as to allow the several States to assume, assess, and collect them, or, if not to include the assessment, at least to assume and collect after an assessment by the United States. If this were practicable, it might be very desirable. In the direct tax of August last this feature was introduced, and there has appeared as yet no serious national difficulties in the practice. In fact, all, or nearly all, of the States have assumed and will pay the tax. If there be any exceptions, both the States and amounts are too small to be worthy of notice. If State officers could be employed, and the increase of Federal patronage avoided by not creating a new corps of office-holders, a great point would be gained.

According to the Constitution, direct taxes must be apportioned, and all other taxes must be uniform. It would appear almost superfluous to say that nothing but a direct tax can be assumed by a State, and yet the contrary opinion has been so prevalent that it seems proper to notice it. We provide in the present bill that the duties, if not paid at the proper time, shall be hereafter collected in the now rebellious States. Authorize the States to assume and collect, and then suppose South Carolina to set about it. How much revenue so farmed should we be likely to obtain? It would be for the interest of all State officials to collude and pay as little as possible. It is not too much to suppose some would improve the opportunity.

This idea is wholly impracticable as may be seen by any one who looks at the scope of the bill, with its fingers spread out in all directions, ready to clutch something to buoy up the sinking credit of a nation which has hitherto generally sheltered its capital and its labor from all tax gatherers, except through the indirect process of the custom-house. It is not enough to know that a debtor has means; he must exhibit the will to pay, otherwise there must be some law to coerce the will. In this emergency, we cannot afford to return to the pusillanimity of the old Confederation, and request the States to make their contributions, and shiver in the wind if any should fail to do so, or declare war upon them for delinquency. The Government of the United States—the most parental and benign of all earthly governments—in its hour of need has the right to *demand* whatever may be the measure of its necessities to sustain the public credit—our honor and existence as one people. That the Government is the property of the people is not more true than that the property of the people for public use belongs to the Government. If the power of taxation gives the right to take three per cent., it gives to the extent of ninety-nine per cent. just as much; but it would be an abuse of power justifying a revolution if it exacted *anything* beyond its reasonable and urgent necessities.

This bill is not a little budget that a town or county tax collector might take under his arm, as a little extra business that would not retard his progress in the ordinary discharge of his duties, but quite the reverse; and the United States collectors might, perhaps, with rather more propriety, accept local tax bills for collection as not a large additional burden. The rebellion must be so ended as that the principal performers can never reappear in a secession tragedy—never reappear at all; but unfortunately internal duties and taxes must reappear. Our brave men of to-day must shed their blood with no other reward than to set their names as jewels in the history of the times—and they ask no more—but a generation must be annually taxed for this parricidal attempt to destroy the Government of our fathers. Taxation for many years, I fear, must be the rule, and have a place in our statutes as a part of our ordinary legislation. It is indispensable that the Government shall have within its own control—responsive to it at regular and stated periods—the means of meeting all its vast engagements. This can only be secured by its own agents under its own laws. Even where the States are allowed, as they are in the direct tax, fifteen per cent. for assuming and collecting a tax, when all assume it, there is no advantage gained. The effect is to require the tax to be put fifteen per cent. higher than would otherwise be called for; and the General Government can collect the amount at a much less expense.

That the bill is perfect the committee are far from supposing. To us at best it is but an experiment, and the wisdom of Congress, now and hereafter, will judge how much of it should be permanently retained and what part must be dropped out. It is no personal or party measure, but one imperiously demanded—sharp as may be the medicine—for the general welfare. The committee which has reported it, as has already been stated, gave it their united approval, with no dissenting voice. No party groans or croaks were there tolerated. Catholic and suggestive criticism, for the purpose of real amendment, is to be invited—nay, will be treated with hospitality; but that fault-finding which lurks in ambush, ready to take advantage of anything which may turn up, with no courage or virtue but to do pleasing things, objecting but offering no valid substitute, is so nearly allied to cowardice in the field and to the cause of our enemies, that I am persuaded an intelligent people will never stop to make or mark any distinctive difference.

The time in which and the materials from which to prepare such a bill have been too stinted to warrant sanguine predictions as to the result. A disposition to be just to every interest, and to all parts of the country, I think will not be questioned. The correspondence of the committee, added to that of many members of the House and Senate, kindly thrown into their hands, has been very voluminous and of considerable value. Gentlemen engaged or interested in very many branches of industry—many of them of much intelligence, enterprise, and weight of character—have been before the committee to give such facts and information as were deemed important, touching nearly the whole range of objects concerning which we are called upon to legislate. I feel it is due to those gentlemen to say that in few instances have any of them asked to be exonerated or exempted from their proper share in sustaining the Government. It is true that some were willing, perhaps, to see pilgrims by their side bearing up a larger pack than they felt to be wise or prudent for their own backs, but all were willing and even anxious to contribute what appeared to them to be just and reasonable; and some were willing to contribute much more, on the ground that, if

the duty should be a light one, they could make no advance on the consumer, whereas, if it should be heavy, they would at once be furnished with an argument to put up prices upon stocks on hand as well as on all amounts hereafter produced.

There is, perhaps, an eagerness in some quarters for high and extravagant duties upon some particular article which might be cited as conspicuous evidence of patriotism, if it could be certainly known that the parties had not already provided an ark for a wet day, and housed their stock beyond the reach, as they suppose, of any duty or tax.

Seeking to avoid all extremes, the committee have thought best to propose duties upon a large number of objects, rather than confine them to a narrow field, and thereby be forced to make them excessive in amount, and for that reason entirely unreliable. If the rates can be hereafter increased in any instance to the benefit of the revenue, and without inflicting any injury upon any quarter of the country, it will soon be ascertained. Meantime is it not wisest to set out on a moderate scale —one that will neither shock the sense nor the pockets of the people—rather than attempt to make any one product the victim from which to torture magnificent bounties?

It is to be expected there will be a diversity of opinion concerning many features of the bill, arising sometimes from location, from an earnest appeal of some favorite constituent or an equally earnest protest from another, from positive defects in the bill, and possibly sometimes from the fact that persons may not be possessed of full information upon the different subjects. No two members of this House would frame a bill exactly alike, and yet no bill deserves to pass unless it accords with the general sense of this House. If it will produce too much or too little revenue, if it includes objects that should be left free, or omits those which should justly be held to contribute, these are legitimate objects of amendment, as much so as matters of form or detail; but an ample and effective bill—being all for which I personally feel the slightest solicitude—is demanded at our hands by all the motives which can move a lover of his country; and if it were possible for this Congress to desert its responsibilities, and adjourn without passing some equivalent measure, it would deserve to be pickled in history as representative imbeciles. Observers living under other forms of government, proclaim that our weak point is incapacity for taxation, and our securities, therefore, have no solidity abroad. Representative democracy is now on trial. Let us see to it that the Republic suffers no shame at our hands.

In starting out with a bill like the present, so important to the vitality of the Treasury, which is to touch so many and such various interests, the machinery by which it is to be put into operation, with the least friction and at the least expense, becomes a question of some magnitude. We have, therefore, looked to such examples as we found upon our statutes, and have endeavored to arrange a system by which all descriptions of duties could be assessed and collected through the same officers.

For this purpose we propose a commissioner of internal revenue, under the direction of the Secretary of the Treasury, who is to have the general charge and superintendence of all matters in relation to internal revenue. The salary named, $5,000, is not considered too much to indicate the standard of capacity and integrity required for a position of such labor and responsibility. Beyond this, it is proposed to have one collector and one assessor appointed for each State or district—in the larger States possibly more—and as many deputy collectors and assistant assessors as may be usefully employed. The number of the latter must necessarily be large, but they will naturally be taken from among those exercising similar functions under State authority, and, if so taken, the number of officers, State and national, need not be much increased.

Persons liable to be assessed will be required to furnish lists according to forms prescribed. If this should be done promptly and truly, the labors of the assistant assessors will be light, but if there should be neglect or fraudulent evasion, the assessors are vested with a proper latitude of power to protect the Government. Those assessed are, of course, required to pay, and if they do pay, the duties of the collectors and deputy collectors will not be burdensome. If they should omit that most interesting point of the law, the power to levy and distrain is made swift and ample, and in case of actual fraud the forfeitures furnish the proper correction. Should any wrong or injustice occur, an opportunity is afforded for ultimate appeal and remedy.

The duties proposed by the present bill rest heavily on spirits and malt liquors—being about one hundred per cent. on raw whisky, fifty per cent. on rum, and twenty-five per cent. on ale or beer—but far below the point at which even some prominent distillers thought they might be safely carried, and yet largely above the point indicated by the majority of those engaged in the business. The men who now are supposed to have large stocks on hand, and those who would destroy the traffic, regardless of revenue, for once agree in the propriety of an exorbitant tax. Large quantities of alcohol are used in the arts and manufactures, and will pay a duty in proportion to its strength. For any such purpose the duty proposed on the raw article is as high as it will bear. Little whisky is sold to be used as a beverage until it has passed through some process of rectification, is redistilled, or is filtered through charcoal. All spirituous liquors, it will be seen, which are subjected to this sort of hocus-pocus, or the jargon of juniper, strychnine, and other sugar-coated pills, are again assessed to the extent of twenty-five cents per gallon, making in all forty cents per gallon on a large share of spirituous beverages. Surely this is enough, very possibly too much. In England the duty on spirits is ten shillings and fivepence sterling, or about $2 52 per gallon. It is manifest that at present no such duty could be collected of the people of the United States. Much the largest quantity of spirits produced in this country is from corn, and many persons engaged in the business apprehend that we shall cut them up by the roots with a duty so high as even fifteen cents per gallon, and that great injury will result to farming interests thereby. The committee were satisfied these fears are not well founded. So long as consumption keeps equal pace with production—as in the case of all manufactures—the consumer must pay the increased cost price. The consumption will not be seriously checked; and, if it could be, such a result would bring upon us no national disgrace. Whisky and rum, with the duty added, will still leave it possible for any man or brute to get drunk in our land on cheaper terms than in any other that I know of. Persons who like good liquors are patriotic on the subject of taxation, and never quarrel about the price of the article; and those who swallow that which is said to be "sure to kill at forty rods," will have it at any hazard of life or purse. There are large quantities of the article exported; and by the bill we give a drawback to the full amount of the internal duty, a favor, certainly, as the Government gets nothing for collecting and returning the duties, such as it receives on foreign goods when reëxported. Ale and beer, as beverages, may be regarded as less unhealthful than spirits. It is therefore desirable to preserve the relative difference in the value of the quantities usually disposed of at retail, so as not to give any new advantages to competing liquors. On the whole it is to be hoped that no important changes will be made, in one direction or the other, as to the rates respecting spirits or malt liquors.

The amount which will accrue on licenses under the present bill, embracing merchants, traders, bankers, brokers, auctioneers, distillers, brewers, peddlers, manufacturers, theaters, hotels and taverns, and other classes, will be very considerable, and is estimated at $3,000,000. The first license in England was in 1784, on brick-makers. Licenses, though heretofore not generally adopted in this country, may be regarded, as they are in England, among the least objectionable modes of taxation; the strongest objection being the novelty imposed upon any lawful occupation of obtaining a license from national authority for its exercise; but this objection nearly vanishes when it is considered that a license is not so much a permit for carrying on the business as a recognition of the trade and a designation of the premises in which the business is to be conducted. It is also a shield against unauthorized and irregular competition, and, there being no interference with the private details of business, the duty will be paid with very little dissatisfaction.

The duty proposed on unmanufactured tobacco is three cents per pound, and on manufactured tobacco and snuff an additional duty of five cents per pound. On cigars the rates are in proportion to value. The whole crop of tobacco in the United States in 1860, was about 400,000,000 pounds. Of this fourteen of the loyal States produced 190,366,620 and Virginia 123,967,757 pounds. The entire crop of 1859 was estimated at 337,200,000 pounds, and of this 79,200,000 was consumed at home, and about 258,000,000 pounds was exported. In England the consumption per capita of tobacco, by males over eighteen years old, is reckoned at four and ten hundredths pounds, and in France at five and a half pounds. In the United States it has been estimated at seven and sixty hundredths pounds, but it is more likely to be, for males over twenty years old, as much as it is in Belgium, where it is nine pounds. A fair chewer, it is said, consumes a pound a month, or twelve pounds a year, and a moderate smoker of cigars burns up about twenty pounds per annum.

Without urging the duty on tobacco as a measure of reform, it is to be observed that its culture is no less detrimental to the soil than its use is destructive to physical health, but the habits of the world are fixed, and its continued cultivation and use will not be revolutionized. Being an article sold and distributed in the smallest quantities, high duties may be easily borne and collected. Some nations prohibit its cultivation in order to secure all the duties and shield their soil from exhaustion, and thus levy a duty of frequently several hundred per cent. upon its importation without producing complaint. The custom-house duty on unmanufactured tobacco in England is three shillings sterling, or seventy-three cents per pound; on manufactured or cigars it is nine shillings, or $2 18 cents per pound; on snuff it is six shillings, or $1 45 per pound. To these rates five per cent. is added, and stalks and other waste is prohibited. When men are allowed to consume any article or not, as they please, the duty upon it is a very different question from the one where you put a tax directly on property in the hands of the holder.

On unmanufactured tobacco we do not propose to allow any drawback on exports. If our soil is to be impoverished by its culture, there is no impropriety in claiming that the Treasury shall not be, especially when the denial of this privilege will not be likely to affect the producer at all. But on manufactured tobacco, and everything else exported, upon which duties have been paid, it is proposed to allow a drawback to the extent of the duty. This is necessary on tobacco especially, as the unmanufactured, under the reciprocity treaty, is admitted into Canada free, and, if no drawback was allowed on the manufactured article, all of our tobacco manufactories would at once be transferred to Canada.

Everything used for illuminating purposes deserves to be considered with some reference to their power of competition. To be entirely impartial toward all parties, we have proposed a duty on candles, lard oil, gas, and petroleum. Gas, when properly made, from its brilliance, absence of odor, cheapness, and convenience, will always remain the paragon of lights; and those who turn on and off its splendors at will, can generally afford to pay, and do pay, very remunerative prices for its use. Here is an instance where either party is presumed to be able to meet the duty without hardship.

Petroleum or rock oil was early known to the Indian tribes, and used with paint to besmear their persons. In 1819 its true uses were first discovered in Ohio, but not until 1858 did it rise above the dignity of a quack medicine. Since then it has rapidly gained consideration as an article of commerce and for illuminating purposes. Since Congress assembled, wells have been opened in Canada rivaling our own. It appears to have been not unknown two thousand years ago, and known at least for the last two hundred years in Italy. Brought from the shores of the Caspian, large quantities for years have been consumed in Persia and in India. The distillation of coal oil developed the process by which petroleum has assumed its present importance. The spouting wells discovered in Pennsylvania and Ohio mark an era in the history of the article, and perhaps in domestic economy. The product of 1860 was twenty millions, in 1861 estimated at forty millions, and in

1862 it is estimated that it will be fifty millions of gallons. In the process of refining, benzole is separated from it, and, since the rebellion, takes the place of turpentine.

At these wonderful wells petroleum now sells at from twenty-five to thirty-five cents per barrel of forty gallons. The barrel costs two dollars, and the cost of refining is about five dollars per barrel. Freight to the Atlantic cities the present winter has been at the enormous price of five dollars and over per barrel. But this leaves the article at an extremely low price, according to its value as an illuminating oil. The Government is now paying $1 60 cents per gallon for sperm oil, and it has been higher, but I am convinced that, in proportion to the measure of light and heat, the refined petroleum or coal oil is cheaper than the best sperm oil would be at even twenty-five cents per gallon. The polar seas will not long be vexed by the pursuit of whales, unless these oil fountains suddenly stop their supplies. There is nothing, for illuminating purposes, to be compared with it but gas, and that may surpass it in extreme brilliance, neatness, and convenience, but hardly in cheapness. When the price was one dollar per gallon it was all readily taken, and frequently secured by orders in advance of its manufacture. With the duty proposed, it is probable the price will not be more than half it brought last year when the consumption doubled. On the market value, ten cents per gallon on refined oil may be a high percentage, but compared with the rate on lard oil and gas, it is very low and reasonable.

The duty of three per cent. *ad valorem* proposed on all manufactures, except those specifically provided for, some at heavier rates, will not come out of the manufacturer—though a depression or glut of the market will make him suffer loss as it always does—but will increase the cost to that extent to the consumer, as much so as if added to the cost of labor or the raw material. The drawback allowed will preserve any foreign markets intact. It was not thought best to propose duties on raw materials generally, but to wait until all the cost, in the finished state at the time of sale, was added to the production, and thus assess the duty on the largest values. From this source much the largest item of revenue will be derived—in all, specifics included, not less than $50,000,000.

The census in 1850 of manufactures was imperfect and understated, and that of 1860 will show a prodigious increase—true now, but not comparatively true. In this prosperity the rebel States have shared to some extent. The whole amount of woolen goods produced in 1850 was $43,542,288. The increase has been fifty-five per cent. in the loyal States alone, or the amount now for these States is $65,928,486; and New England produces almost as much as the whole country did ten years ago, or $38,509,080. The increase in cotton goods in the eastern States has been eighty per cent., in the middle States fifty-five per cent., and in the southern States over sixty-three per cent. The total amount of agricultural implements produced in the whole Union in 1850 was $6,842,611. In twenty of the loyal States it is now $15,975,838. The whole value of boots and shoes made in the United States in 1850 was $53,967,408; and the aggregate in nine States is now $74,668,557. The whole amount of manufactures in 1850 was $1,013,336,463, and is now in the loyal States alone $1,761,000,000. Such facts should make every man with an American heart in his bosom glow with pride.

If manufactures in the history of our Government have been fostered, they are now the strongest pillars of our support. A burden that would paralyze the agriculturists of the country will be taken on to the backs of the steam giants with alacrity and confidence. But it will be indispensable for us to revise the tariff on foreign imports, so far as it may be seriously disturbed by any internal duties—on some things the tax proposed is more than the present tariff—and to make proper reparation, otherwise we shall have destroyed the goose that lays the golden eggs. From such a revision, including some articles that hitherto it has not been considered sound policy to take from the free list and lower schedules of the tariff, it is expected also to increase the revenue several millions of dollars. If we bleed manufactures we must see to it that the proper tonic is administered at the same time. There are many articles, however, where the tariff is now high enough for revenue or protection, which will require no advance.

A tax upon railroads is easily levied and easily collected; but to adjust an equitable tax upon all railroads has been one of the difficult problems the committee have attempted to solve. If we took the basis of cost it was apparent that the nominal cost—including long interest accounts while in course of construction—would, in many instances, be beyond the present value. The market value could be no criterion, as many are not sufficiently known to have any fixed value, and of the whole five hundred and forty-one railroads in the country, few are without a moiety or a prominent share of their cost represented in bonds or floating debt. In 1857, the total investment in railroads was $908,679,325, and of this $417,243,664 consisted of debt and bonds. In January, 1862, the total investment was $1,192,302,015, and if the relative amount of debt and bonds remain the same, it would be $547,476,495, and while the bonds are mainly of value the stock may be worthless. If we were to take the gross receipts as a basis of taxation, many of the roads would be taxed for freights which they now transport over long distances—having competing lines, here and in Canada, by land and water—for little more than the bare cost. In these times of commercial depression, it is an object to leave the transit of produce and merchandise as much unfettered as possible. One of the wisest of mankind has said three things are essential to national prosperity, namely: "fertile fields, busy workshops, and easy communication." It is important, also, to have no obstacle in the way of swelling our exports to the largest possible extent, that the country may not be drained of specie.

A passenger tax is not without its difficulties, all of which cannot be wholly overcome. Many people not being able to hold real estate in cities, have made themselves homes on the lines of roads, and daily travel over them to and from their places of business on season or commutation tickets, with an expectation that these accommodations would be continued on the same terms indefinitely. These and immigrant passengers are always carried at diminished rates.

The subject has been disposed of by proposing a duty of three per cent. on the season or commutation tickets, and on the coupons or interest paid on bonds, and by a duty of two mills on passengers (other than season-ticket passengers) for each mile traveled. This, in some sort, apportions the tax between the owners of the road, whether foreign or domestic, and whether represented in the form of stock or debt. It is also provided, where any legal restriction exists, that railroad companies may add the duty to their rates of fare if they choose to do so.

Obviously the system had to be modified and extended to steamboats and other vessels, in order to deal justly by the roads and obtain justice for the Government.

Stamp duties have been in bad odor with us ever since England attempted to impose them on the American colonies without their consent. Practically, stamp duties upon legal and commercial documents and papers are found to be as unobjectionable as any duties which can be collected. The sums levied in each instance are small, and the transactions are not much restricted thereby. The experience of other nations shows that here is a resource we cannot afford to forego. England collects $40,000,000 from a similar tax alone, but includes much which here would not be regarded as expedient, and many rates that here would not find a cheerful acquiescence. The great activity of the American people in commercial transactions—every man more or less a buyer and seller—justifies the expectation, with only the moderate rates proposed, of a large revenue from this source; but having no reliable data upon which to found an estimate, we have preferred, as in other cases, to put the amount below rather than to exceed what may be realized.

Stamp duties upon telegraphic dispatches and express packages will not be likely to encounter opposition, especially the latter, as it is a class of business rewarded by unusual profits; nor will the duty on patent medicines, from which so many not inconsiderable fortunes have been accumulated, be regarded with disfavor. The percentage is, indeed, large, but the rule of profits is much larger. The traffic in these nostrums grows by what it feeds on. The poor prisoners of disease, if they get well, are swift witnesses to miraculous cures; if otherwise desperate, the vendors continue to tantalize them with a new ray of hope for which any price is not too dear.

The income duty is one, perhaps, of the least defensible that, on the whole, the Committee of Ways and Means concluded to retain or report. The objection to it is that nearly all persons will have been already once taxed upon the sources from which their income has been derived. There are few persons in this country who have any fixed incomes for a term of years. Real estate is not disposed of in any way to create such incomes, nor have we any system of annuities, except life insurances, to be reached by this mode of taxation. The dividends of banks, the interest on railroad bonds, and United States official salaries, including members of Congress, have been elsewhere subjected to duties, which will largely diminish the amount to be obtained under this head. The income tax is an inquisitorial one at best; but, upon looking at the considerable class of State officers, and the many thousands who are employed on a fixed salary, most of whom would not contribute a penny unless called upon through this tax, it has been thought best not to wholly abandon it. Ought not men, too, with large incomes to pay more in proportion to what they have than those with limited means, who live by the work of their own hands or that of their families?

The duty on advertisements was thought advisable on the ground that, more than any other tax, it would be likely to fall, where it should fall, upon the person for whose benefit the advertisement is published. The publishers will prove to be the patriotic and honest agents of the Government for the collection of a duty which will at once be added to the price of advertisements. Experience has abundantly proven that the bold, ungrudging, and even lavish advertiser is always largely repaid for all costs of advertising, and these are not the men to skulk from a picayune tax. Whether so or not, where the whole industry of the country is called upon to respond to the wants of the Government, one of the most profitable branches, to all parties, could not be legitimately omitted. It is in no sense a tax upon the newspaper or any other publication. There is even a careful provision in the case of any legal restrictions upon the price of any advertisements, State or national, that the duty may be added. What the State and nation submits to, cannot be objected to by individuals.

There is no duty proposed on the circulation of any literary, scientific, or news publication whatever. Printing paper, like any other manufactures, it is proposed to assess, but only to the extent of three mills per pound, which is equal to three per cent. *ad valorem*. It is to be assessed as a paper manufacture, but at less than half the percentage proposed on writing paper. Can it be asked that it should be exempt?

There has been no purpose to cripple the dissemination of books, reviews, magazines, or newspapers. No special tax is proposed upon them at all, and they are specially exempted as a manufacture; but to except all manufactures of which they make use would be asking too much. Even upon telegraph dispatches, the stamp rate is put at three cents only for each dispatch, and it is no more though it should fill the whole broadside of a newspaper. The printers' devil, when he washes his face at night, might as well object to the duty of five mills per pound proposed on soap, as a tax on knowledge, civilization, and Christianity, as for any one to complain that three mills per pound on printing paper, and three cents on telegrams, is a blow at newspapers, education, and republican institutions generally.

Mr. Chairman, the subject is a dry one, and I have, without exhausting the materials, sufficiently taxed the committee. Whatever we do ought to be done speedily, as every day's delay is a resulting loss to the Government. I have but a single point more, and will then conclude.

One of the most dangerous things to the reputation of an American financier, I have noticed, is to make financial predictions, which, in the sequel, are found to fall far below or to overleap sober facts, but seldom hit the truth in the very eye. History is apt to stone our prophets. The rapid development of means of intercommunication, the

discovery of new sources of wealth, the almost annual birth of States, and the swift culmination and subsidence of monetary crises, all tend to baffle ordinary calculations. In the estimate now to be presented, I shall only claim that it is made in good faith, and it may be said that, for many of the items, we have sufficient data; others are conjectural, or made on facts embracing only a portion of our country as a basis to furnish an estimate for the whole. It may not unfairly be presumed that the errors will be such as may be offset, so as not materially to damage the aggregate result.

I will ask to have read the estimate which I will send to the Clerk's desk, and which I shall append to my speech:

Estimated amount of Internal Revenue.

Ale, beer, and other malt liquors, 4,000,000 barrels		$1,000,000
Spirits, 100,000,000 gallons		15,000,000
Licenses of all kinds		3,000,000
Linseed oil, lard oil, &c.		600,000
Candles and soap		1,500,000
Petroleum and coal oil		2,500,000
Leaf tobacco, (loyal States and Virginia,) 288,000,000 pounds		5,000,000
Manufactured tobacco, snuff, and cigars, 60,000,000 pounds		3,000,000
Boots and shoes		2,500,000
Hats, caps, bonnets, clocks, pins, skirts, umbrellas, &c.		2,000,000
Paper		1,000,000
Leather		1,000,000
Paints, painter's colors, ink, &c.		1,000,000
Coffee, ginger, spices, &c.		500,000
Starch		500,000
Salt		225,000
Refined sugar, and sugar made from molasses, confectionery, &c.		500,000
Gas		1,000,000
Rectified and adulterated spirits, wines, vinegar, &c.		1,000,000
Slaughtered cattle, sheep, and hogs		500,000
Auction sales		1,000,000
Telegraph companies		100,000
Railroads, ferries, steamboats, omnibuses		6,000,000
Watches, plate, carriages, piano-fortes, and billiard-tables		2,000,000
Railroad bonds		1,000,000
Banks and savings' institutions		800,000
Advertisements, estimated at $40,000,000 gross,		2,000,000
Income duty		5,000,000
Stamp duty, express companies, excluding patent medicines		6,000,000
Patent medicines, stamps		2,500,000
Legacies and distributive shares of personal estates of deceased persons		1,000,000
Salaries, say $40,000,000		1,200,000
Manufactures, not included		30,000,000
		101,925,000
Direct tax—$20,000,000; say	$12,000,000	
Duty from imports	50,000,000	
		62,000,000
		$163,925,000

Mr. WADSWORTH. Mr. Chairman, it is my duty and purpose to support the Government in all wise and constitutional measures for the prosecution of the war to an honorable peace. It is my duty to vote it taxes and to vote it men, whenever, in my judgment, I can do so consistently with the preservation of the liberties of the people of this country.

This bill now under consideration calls upon the people of the United States for vast sums of money, and imposes unusual burdens. We ought to be very careful, indeed, in the details of the bill when we approach the people to demand from them even a portion of the necessaries of life, as this bill does; but, above all, we ought to be still more careful to inspire in the people of the country a confidence that their hard-earned wealth is to be devoted alone to the preservation of the liberties which are their inalienable right.

I have many objections to this bill—many objections to the details of it. I declare, sir, that it proposes for too unlimited a time to grant supplies to this Government, to meet my present views. Sir, I cannot give my confidence to the party in power; I cannot give my confidence to this Administration; I cannot give my full confidence to any part of it; and, sir, when I am called upon to vote upon my constituents—as I am by this bill—burdens with which they have hitherto been unacquainted, I desire to consider the purposes for which this money is appropriated; I desire to inquire what is to be done with it, and for what ends their treasure and their blood are to be poured out in this contest.

Sir, I came to this Congress very little experienced in public affairs, with but a very narrow ambition—faithfully to represent the constituents who sent me here with such great unanimity, and to promote, to the extent of my humble ability, the concord and fraternity of the American people, for the preservation of their Union.

Mr. MORRILL, of Vermont. I wish to state now, at the commencement of the debate, that I shall be compelled to call any gentleman to order, on either side of the House, who does not confine his remarks to the discussion of the bill before the committee.

Mr. WADSWORTH. Does the gentleman raise a point of order on me?

Mr. MORRILL, of Vermont. I do not. I merely wished to give the notice which I have given.

Mr. WADSWORTH. It is my intention, Mr. Chairman, to discuss the questions that grow out of this great subject of taxation; not to discuss the details of the bill, but to discuss the policy of the Government, the tendency and objects of the war, for the support of which these taxes are to be levied and the wealth which this bill seeks to bring in is to be expended.

The CHAIRMAN. The Chair will state to the gentleman from Kentucky, in order that he may be apprised of the decision of the Chair, that when a bill is made a special order debate must be confined to it. The Chair will, therefore, be compelled to arrest the remarks of the gentleman from Kentucky if he takes the latitude which he now indicates. Previous to 1860, debate in Committee of the Whole on the state of the Union on appropriation bills was unlimited. But in 1860, a rule was adopted directing that when there was a special order the debate shall be confined strictly to the measure under consideration. The Chair understands that to mean that debate is to be confined to the examination of the details of the measure under consideration. Otherwise, on every appropriation bill there might be the same unlimited debate under this rule as there was previously. Gentlemen might still, upon the Army or Navy or other appropriation bill, arraign the policy of a party or of an Administration. The Chair, therefore, thinks that the intention of the rule is, that debate shall be confined to the details of the bill, as to whether they are legitimate and proper. The Chair, however, will not be at all dissatisfied if, whenever he shall arrest the remarks of the gentleman from Kentucky, that gentleman will appeal from his decision, so that the committee may settle the question. The Chair desires to administer the rule impartially.

Mr. WADSWORTH. I always hear the Chair talk with a great deal of pleasure, for the Chair talks well. I am perfectly aware of the truth of all that is announced touching the rules of the House. But I did not propose to violate the rules, and I trust that the time occupied by the Chair will not be deducted out of my hour.

The CHAIRMAN. It will not.

Mr. WADSWORTH. I say, sir, that the details of this bill bring up the whole policy of the Government. They bring up the discussion of every question that has hitherto agitated the minds of the American people since this rebellion commenced. I object to the very first provision of the bill, so far as it proposes to create offices for a period of time not limited by the bill. I shall oppose that feature of the measure, and will give my reasons. I declare that I cannot trust this Administration with unlimited supplies, or supplies for an indefinite period of time. I say that this House ought not to trust the Administration with supplies for an indefinite period of time. The people of the country ought not to trust it. I propose to state the reasons why. If that be not in order, it is impossible for me to understand what order is.

Preliminarily to a more particular examination of this question I proceed to declare, as I was declaring at the point of time when I was interrupted, that I brought here to this Congress as single a purpose for the public good as this poor heart of mine was capable of entertaining. I came here, sir, leaning strongly to this Administration. I came here with an overpowering anxiety to support it to the fullest in the prosecution of this war. I was sent here in that spirit by my constituents. I was anxious to be a Union Administration man as far as was in my power. I thought I knew the distinguished gentleman who occupies the presidential chair. I thought it was impossible to doubt his patriotism or his honesty. I shall not doubt it now. I believed that his views in this revolutionary crisis were moderate, and that he had no other purpose or policy than the restoration of the Union in its former integrity, the bringing back of those States that were carried off by a deluded and inflamed portion of their people to their obedience to the Constitution, and to the enjoyment of all those rights that once belonged to them, and belong to them still. I supposed that the restoration of the old Union was the policy of the Administration, the restoration of the *status ante bellum*, which the gentleman from Massachusetts [Mr. ELIOT]—the one who exfoliated on the Cooly trade—declared the other day was not to be expected. In the maintenance of a policy to restore the Union I was prepared to vote taxes. I was prepared to vote men. I was prepared to fight out this war to the bitter end, as I am to-day. I want no compromise with traitors in arms, till the proudest head shall be brought into subjection to the majesty of the law, to the will of the people constitutionally expressed, to which it has been hitherto the pride and glory of every citizen to bow.

I have changed my views somewhat since I came to this Congress. I have not changed them on fundamental principles. I am still prepared to give support to the President in the exercise of all constitutional powers for the restoration of the Union as it was before this rebellion broke out. But I am not prepared to give this war an abolition turn, and to call upon my constituents for taxes to support it for an indefinite period of time, as this bill proposes. No, sir, for such a purpose as that I am not prepared to vote a cent. To all the millions of property in the State of Kentucky—which is kept in the Union by fear, as was falsely said on this floor—this Government is welcome to maintain the Constitution, to defend the supremacy of the Federal Government within its just sphere, to protect the rights reserved to the States and to the people of the States. For the maintenance of that purpose alone should we vote taxes or vote money. Is that the purpose to which these taxes are to be devoted? Can we put confidence in the Administration that they will be devoted to that purpose? Are the rights of the States and of the people—reserved by the Federal instrument itself—to be preserved or are they to be swallowed up by this war? It is not that slavery is to be preserved or abolished, not that manufactures are to be protected by high protective tariffs, not that gigantic and unconstitutional banks are to be erected, not that the Government shall have the power to construct railroads and turnpikes or undertake other internal improvements in the States—no; but shall reserved rights be surrendered to a consolidated Government?

It has been my fortune, all my life, to be in a minority. In the contest carried on during my day between the tendency toward ultra State rights and the effort of the Federal Government to preserve its just powers on a liberal construction of the Constitution, I have been in the minority resisting that tendency of the States which has this day culminated in secession. I have seen the people of the States take away from the Federal Government, as it were, the powers to establish a national bank; to pass high protective tariffs; to make internal improvements; to legislate for the restriction of slavery in the Territories. I was found in the old Whig party advocating (except the last) these measures and claiming these powers for the Federal Government. I am to-day found—where? In what party? Where is my party? I never took any other name than the honored name of Whig, until this secession business sprung up in the State of Kentucky, when the people of all parties met together and took the name of Union Democracy. I am bound by it; and I am here to-day as a member of the Union Democracy of Kentucky without a party. But I am here to resist this new and overshadowing danger, this tendency of the Federal Government to swallow up the powers reserved to the States and people respectively. I am here to resist the claim made on this floor on behalf of the right of the Federal Government to interfere with the institutions of other States, on the ground that these institutions are incompatible with the security of the Federal Union. I was denied, yesterday, the privilege of disclosing the effort of this Government to interfere with the reserved rights of the States. The message of the President declared, at the start, that there are institutions and laws guarantied by

State and Federal constitutions, the longer continuance of which, in their present form, are incompatible with the security of the Union. That, sir, is the logic of the message, and that is the doctrine of the political abolitionists of this country.

Mr. EDWARDS. I rise to a question of order. I ask whether the discussion now indulged in by the gentleman from Kentucky is in order? I should be very glad to hear the gentleman from Kentucky upon the subject he is now debating at any time when it is in order, but I think, inasmuch as the acting chairman of the Committee of Ways and Means has indicated his intention to confine this discussion strictly to the bill under consideration, and as the Chair has announced that he will confine the debate to the bill itself, I think the rule ought to be enforced upon every member or upon none. I, therefore, submit that the gentleman from Kentucky, in the course he is pursuing, is out of order.

The CHAIRMAN. The Chair is of the opinion that the remarks of the gentleman are not in order, except by unanimous consent. The Chair thinks the question of the message of the President is not before the committee.

Mr. WADSWORTH. Well, sir, I will move to strike out the enacting clause of the bill. I presume anything will be in order upon that.

The CHAIRMAN. That would not bring the remarks of the gentleman within the rule. The bill before the committee has been made a special order, and under the rule all debate must be confined strictly to the bill.

Mr. THOMAS, of Massachusetts. Does the Chairman mean to say that, in the discussion of this bill, it is not in order to debate the general objects of the bill? Is that the ruling of the Chair?

The CHAIRMAN. The rule requires that debate shall be confined strictly to the measure under consideration.

Mr. THOMAS, of Massachusetts. Does not that involve the general policy and principles of the measure as well as its details?

The CHAIRMAN. Does the gentleman from Massachusetts appeal from the decision of the Chair?

Mr. THOMAS, of Massachusetts. No, sir; I do not.

Mr. WADSWORTH. I have no purpose except to proceed in order; and if I thought I was not strictly in order I would not say another word. I have not risen to discuss the details of the bill, as any gentleman can perceive. I will try, sir, to keep in order. I am speaking without preparation, with no notes before me; these interruptions are therefore more than ordinarily embarrassing, and I trust they will not be persisted in.

I was trying to show my opposition to this bill—to the extent to which it goes at least—to say to my constituents, and to such part of the country as my humble voice may reach, that I can no longer confide in this Administration, or give my confidence in full to the President himself. I cannot vote taxes for the purposes for which I fear these taxes are to be used. I cannot vote, at all events, for them for as long a time as this bill proposes to do. If that be not in order, how can anybody ever be in order?

I say, then, to recur to the thought of my mind at the time I was interrupted, that the exercise of any reserved right of any State, or the people of any State, should be incompatible with the security of the Union, is altogether absurd in its very terms. I say the most ultra political abolitionist has never claimed anything more than that. It is to say at once that there is no Constitution; it is to say that the exercise of a right the Constitution reserved is incompatible with the continuance of the Union.

I say, therefore, that the message itself has put this idea forward to this country. And why? When it asks this Congress to notify the States "distinctly," that they have an institution in them which, though legal in its character, and guarantied by the Constitution itself, is incompatible with the security of the Union, (to go no further,) does any gentleman, then, suppose that this message was put forward with a solemn appeal to God and the country as a mere idle collocation of words? That it means nothing more than to propose to certain States of this Union that the Federal Government will assist them by pecuniary aid to do a certain act? That the President, surrounded by an able Cabinet, deliberating upon every word of that resolution and that message, has been guilty of the folly of calling upon God and the people of the country, upon a mere idle proposition? No, sir, no, sir. There are certain interpretations of that message and resolution, either of which threaten the preservation of the Union if it be adopted. If it be adopted and followed out to its legitimate result, I am not prepared to vote a dollar of the money of my constituents to accomplish it.

One construction is that the northern people—if I may use the term, meaning the people of the free or non-slaveholding States—have come to the conclusion that the gentleman from Pennsylvania, not now in his seat, [Mr. HICKMAN,] had come to, that the border slave States were held in the Union by "fear" alone. I do not see that gentleman present, and I will therefore forbear to make the remark that rises to my lips in answer to such a statement as that. Whatever else we are afraid of, we are not afraid of that doughty warrior, the gentleman from Pennsylvania. Whenever the gentleman from Pennsylvania shall wish to try how much Kentucky is awed by fear, let him assemble all who are of the same opinion with himself and try it; we will put "switches" into the hands of enough loyal men to switch them into Canada. The interpretation is, I say, that the party now in power, at least, have come to the conclusion that the border States are not loyal. I know that is the opinion of some of them. But I am sorry, indeed, that the President or his Cabinet concur in that opinion, if indeed they do.

It is not correct; ay, believe me, sir, it is not correct. Sir, if all this radical proposed legislation springs out of that conviction, dismiss it at once. I tell you that you can preserve the Constitution, and that there will be no Union without it. Preserve it, and Kentucky will occupy her place as an obedient sister in the Union, circling round the Federal center, singing the celestial song of inseparable liberty and Union until the harmony of the spheres itself shall cease. The love of Kentucky for the Union was born in her and cannot be eradicated. Not even such men as the gentleman from Pennsylvania, to whom I have alluded, [Mr. HICKMAN,] can drive her out of this Union or make her cease to love it. Her soldiers have fought side by side with yours everywhere for the preservation of liberty. The inhabitants of northern Ohio who are daily sending petitions beseeching Congress to arm our negroes and encourage them to rise in servile revolt upon their white brethren in the South, if they will look upon their own soil, may see the whitened bones of Kentucky soldiers who sacrificed their lives for the protection of Ohio homes.

Mr. RIDDLE. I wish merely to say that Ohio has sent forty thousand armed soldiers to defend Kentucky, and they are there now.

Mr. WADSWORTH. Mr. Chairman, I thank noble Ohio for her assistance. But, sir, they came there not for the purpose of trampling under foot the Constitution. I served with five thousand of them in Kentucky. I mingled as a private with the soldiers in the ranks. I mingled also freely with the officers. I know the soldiers of Ohio, and they do not entertain the sentiments of the gentleman who interrupted me. They are not for waging a war for the extermination of slavery. They do not believe there is an irrepressible conflict; that this Union cannot be secure while slavery exists in any part of it. They believe that their fathers and our fathers were wise and good men, and that the system of government which our fathers established is good enough for them. They believe that if in olden times, when the sons of Kentucky fought in defense of Ohio homes, the people of that day could live together in peace and fraternity *with negro slavery in the Union*, their children can do the same, if they are not degenerate sons of worthy sires.

I was trying when thus interrupted—it seems to me very unnecessarily—to convince gentlemen, if they had any belief or faith in me or in my testimony, that they ought to disabuse their minds of the belief, if such an impression rests upon them, that Federal bayonets are required to keep Kentucky in the Union, or that it requires a Federal policy, looking, by Federal patronage and influence, to the gradual emancipation of slavery in that State. They ought to dismiss such impressions from their minds at once, because to retain them would not only be a gross injustice to us, but result most disastrously. We are powerless here upon this tax bill, or upon anything else. We depend alone upon the regard which gentlemen have for the Constitution, to preserve at once Federal supremacy and the reserved rights of the States, each in their spheres. If they are of the opinion that slavery in Kentucky is incompatible with the preservation of the Union, (as many of them are, I know, from their declarations made upon this floor,) and that "fear" only keeps Kentucky loyal, then they will never cease to agitate for Federal interference. The President is an honest and a patriotic man. He has been teased and pressed by the radical anti-slavery men, to whom he looks for much of his support, until he has been compelled to offer what he supposes a compromise between extreme abolitionists of the North and Unionists of the South. Let us admit that logically we may infer from the message that general confiscation of property, general emancipation or abolition, degradation of States to Territories, &c., is to be abandoned by those who have advocated them hitherto; all the radicals who support the President's policy, let us concede, give them up. I heard the gentleman from Pennsylvania, [Mr. STEVENS,] the chairman of the Committee of Ways and Means, advocate general confiscation and universal emancipation in the speech which I have before me. All those things must be abandoned if this policy is adopted by him. I say that it may logically follow.

We may fairly infer from the language of the message that, urged by the distrust which exists in the minds of northern men, and which may be lurking in his own, that Kentucky, if slavery be not abolished within her borders, cannot be kept within the Union, the President has proposed the principle of Federal pressure on the States to compel gradual emancipation by their own action. He places that policy upon the ground that gradual emancipation initiated in the border States on the proffer of aid by the Federal Government is "one of the most efficient means" of preserving the Union. I say that evidently this is a compromise. It is not the policy of any one man at all. That is the President's purpose and the President's view. He will doubtless consider every gentleman, however radical he may be, who comes to this message and still presses the ultra measures before alluded to, as putting himself in opposition to the policy of the Administration. This scheme, therefore, requires the ultras to yield. The vote to lay the territorial bill upon the table to-day is doubtless an indication of this policy of the Administration on the subject. I am not unwilling that such a result shall be attained. I am very glad that influence of a proper character can be brought to bear successfully to persuade gentlemen to abandon the radical opinions and projects that they have entertained and proposed hitherto.

Mr. MORRILL, of Vermont. I hope the gentleman will let me interrupt him on the subject of the territorial bill to which he refers. It is invariably the practice of the House to have all bills printed when they are reported and before they are taken up to be considered. It is almost the invariable custom. The vote this morning was merely deciding that the House preferred not to have that usual rule departed from.

Mr. WADSWORTH. The case then is much stronger than I thought it was. The House had such an aversion to the scheme that they would not consider it. They would not let it be printed, but laid it at once and finally upon the table. It is exactly where the proposition ought to be.

Mr. McPHERSON. If the gentleman from Kentucky will give way one moment, I desire to say, for myself and others around me, that they voted this morning against tabling the bill introduced by the chairman of the Territorial Committee, and asked by him to be printed and recommitted for further consideration, that they did so without reference to the merits of the measure, and not in a spirit of approval of it; but because, as a matter of parliamentary courtesy and in accordance with the usual practice, they were willing to permit its friends to put it in the precise shape they desired, before inviting definite action upon it.

Mr. WADSWORTH. I learn that some gentlemen so voted, with inexpressible pleasure.

Now, sir, to return. I say that the gentlemen who have introduced radical measures into Con-

gress, although they support the new policy with great zeal, will not choose to abandon them when the President calls upon them to do so. If he thinks so, then he has been misled in that regard. There is the gentleman from Pennsylvania, [Mr. STEVENS,] the leader of the House of Representatives, and he will not give up his policy to the President. I ask him whether he will surrender his proposition of confiscation and emancipation? I give him an opportunity to say whether he will or not.

Mr. STEVENS. Out of respect to the gentleman, I will, of course, answer him. Whenever the President of the United States or any one else convinces me that I am wrong, then I will give it up. Until then, the gentleman will find me pursuing the course I have commenced.

Mr. WADSWORTH. I expected nothing else than the candid answer which the gentleman has given. I merely appealed to him as testimony to show that this compromise of the President of the United States cannot be made effective. Even if we would consent in Kentucky to go for gradual emancipation, the scheme would not satisfy men like the gentleman from Pennsylvania and others who are too influential in the councils of the Government. The gentleman from Pennsylvania [Mr. STEVENS] said in his speech as to how this war should be conducted, and how these taxes should be expended:

"Prejudice may be shocked, weak minds startled, weak nerves may tremble, but they must hear and adopt it. Those who now furnish the means of war, but who are the natural enemies of slaveholders must be made our allies. Universal emancipation must be proclaimed to all."

And again he says:

"If an effectual course is not to be pursued for fear of offending border State friends, better submit at once, and, if we cannot save our honor, save, at least, the lives and treasure of the nation."

The gentleman avows that is his opinion still. This "weak water gruel" of the President, as he calls it, will not touch the secretions of his political system. It does not go far enough.

I observe, also, that my friend from Ohio [Mr. BINGHAM] has advocated this scheme of universal emancipation in the border States. I will take an extract from his speech as published in the Globe to show where he stands:

"Why should not this legislation be extended so as to authorize the seizure and confiscation to the public use of all the property, real and personal, moneys, goods, stocks, credits, and effects of these rebel enemies, their aiders and abettors, wherever found, who shall persist in the rebellion? This property retained by the enemy is an element of strength. Why should not the $300,000,000 worth of cotton, corn, rice, sugar, and tobacco, now possessed by the enemy, and to them a means of subsistence and a basis of credit, be declared forfeited by law, and subject to seizure and confiscation by your courts to the public use? Why should not the fertile lands of the enemy, as fast as they are wrested from them by our arms, be by law subjected to the occupancy of loyal citizens, that by honest culture they may be made to yield their annual tribute to the national Treasury? And above all, sir, why should not the four millions of slaves held by these rebels, and by whose unpaid toil this rebellion waged by half a million of traitors in arms is sustained, be by a law of Congress declared freemen, and forever released from their unwilling servitude?"

And again:

"But, it is said such a law will not, as to the rebels' slaves be effective. Why not? Is it because the knowledge of the fact cannot reach these slaves? Pass your law simply declaring them freemen, and that they shall, if they fly to your standard, receive the protection of your Army, and the joyful news will in ten days reach every slave in the Republic, by means of that human telegraph whose living network overlies every slave plantation, and is woven of the lacerated heart-strings of the victims of this infernal atrocity."

That will show this House that the gentleman from Ohio will give but a light support to the policy of the Administration. So it is with regard to a large portion of the gentlemen who are found so anxious and pressing to have this proposition adopted by the border States. Those are the gentlemen who obstinately refused to let us say a word on the subject when the proposition was offered to us of the border. Here, too, is the gentleman from Maine, [Mr. FESSENDEN.] He looks to the usurpation by the Federal Government of the rights reserved to the States, to begin with the emancipation of the slaves of rebels first, but aiming to reach the slaves of the Union men sooner or later. I will give an opportunity to those gentlemen to say whether they will give up those schemes which they have advocated here for the President's policy. None of them speak. They will not. I declare, therefore, that the President has made a mistake. To see that, we have only to recur to the reasoning contained in this message. The President says:

"In the annual message last December, I thought fit to say 'the Union must be preserved; and hence all indispensable means must be employed.' I said this not hastily, but deliberately."

And again, speaking of the incidents and ruin which cannot be foreseen if the war continues, he says:

"Such as may seem indispensable, or may obviously promise great efficiency toward ending the struggle, must and will come."

Then he asks the men of the border—

"Whether the pecuniary consideration tendered would not be of more value to the States and private persons concerned than are the institution and property in it, in the present aspect of affairs?"

And again he tells us, speaking of the initiation of emancipation in the border States:

"The Federal Government would find its highest interest in such a measure, as one of the most efficient means of self-preservation."

Suppose the proposition of the President is adopted by Congress, and it meets unexpectedly with any favor in Kentucky, it is provided by the constitution of that State that the Legislature shall not consider the question for four years after it is mooted. I doubt not that the other slave States have constitutional provisions for considering this matter in conventions. It will, therefore, take years to "initiate" emancipation; yet it is to "shorten the struggle." Will that shorten the struggle now going on, to go through the process suggested by the President? It is to shorten the struggle by initiating the movement in the border States. The President tells us that it is of the highest interest to the Federal Government as the most efficient means of its self-preservation. But it will be rejected by the border States. I reject it now. I utterly spit at and despise it, tendered as it is by the Federal Government in a dark and stormy moment like this; by this the strongest Government that the world ever saw, with the purse-strings wide open and the sword grasped by no feeble hand. Tendered under these circumstances, and in the face of our Constitution and in the face of our prejudices, I regard it as the most fatal measure that could be thrown before the American people for agitation at such a time as this.

Why, sir, they call me an abolitionist in my State. [Laughter.] The Democrats down there have been abusing me for years as an abolitionist. I was not "sound" on the question of slavery. I was brought up at the feet of Henry Clay, who never taught anything which I did not believe. I believed that he was the greatest man in the tides of time. A son of the people and of the lower orders, he rose from that humble condition; and he dragged his class, my class, up with him, and proved to all the world the inherent nobility of human nature, superior to hereditary rank and artificial distinctions. He weaned me away from my father's political faith, and I yield to none in veneration for his memory. He tried to secure emancipation in Kentucky as far back, I believe, as 1798; he was known to lament the existence of the institution, but he said also that he never saw the scheme of emancipation in Kentucky that he would give his consent to. I say the same. Determinedly he opposed Federal interference; so do I his humble follower.

Two hundred and twenty-five thousand contented and happy creatures, of humble mental capacity, and of an inferior race, are in our midst. The native tribes from which they sprang are still in Africa, naked savages, wandering in the woods, or offered as sacrifices upon the grave of the King of Dahomey to appease the manes of his father. They know not God. All the arts of civilization are unknown to them. Their brethren in this country we have never degraded and we never propose to degrade them. We have elevated them from that barbarous condition to as high a point, perhaps, as their humble capacity will permit them to reach. As the Anglo-Saxon race continues its grand march to the goal of civilization, lessening the distance between earth and Heaven, this inferior race will march with it, and in the providence of God and by his means now undisclosed to man, perform, it may be, a more important part in the grand drama of life than it now does. My feeble eyes cannot see it; I know what the African has performed in his own country left to himself, and I know what he has performed in this country, when left to himself, with the example even of the white man before him and around him. I know that if deserted by the white race he would soon degenerate into the condition in which our northern and southern ancestry found him and we now find his brethren in Africa. We have never done them any wrong, and we do not intend to do them any wrong, nor do we intend to permit these people to do them any wrong. Born and raised amongst them, we are attached to them; and should you attempt, by Federal usurpation this day, by your decree, to strike what you call their "chains" from their limbs, still we should feel a love for them and an interest in them, and thousands and thousands of us would never permit them to leave our firesides. And it would be a sad day for them, indeed, when they heard that you had passed such a decree as that, and were going to enforce it by Federal bayonets, or by accursed Federal usurpations. Do you think that these Africans would be happy? Do you think that your philanthropy would be any compensation to them for the sundering of all the ties and relations which have surrounded them through life? No; it is impossible; the scheme is foolish; and, by Heaven, it is unconstitutional, is unjust.

But that is not the end of it. Suppose these States reject the proffer; and they will reject it; the President knew it, and everybody knows it; then comes my friend from Pennsylvania, [Mr. STEVENS]—I feel nothing but friendship for him, and I wish he reciprocated it—and my friend from Ohio, [Mr. BINGHAM,] who ought to be the friend of every Kentuckian, and they will say to the President, "We have sustained your policy and the border States reject it; you have told us that it is the most efficient means of self-preservation, and that that which promises great efficiency must and will come. Now, in order to deprive the cotton States of the hope that these half-loyal States (as the gentleman from Pennsylvania [Mr. HICKMAN] termed them last evening) will join them in that contingency which you are expecting, and as an 'efficient means of self-preservation,' we demand forcible emancipation; you have pledged yourself to the principle; you have gone one mile, you must go twain; we have your cloak, you must give us your coat also; you must come to the plain ground on which we stood in the beginning—no compromise with slaveholders, loyal or disloyal; there is an irrepressible conflict, and a house divided against itself cannot stand. Now, we do not expect the house to fall, but we do expect it to cease to be divided." They will talk to the President in that way. My friend from Maine [Mr. FESSENDEN] nods approval, and yet he wonders I did not embrace this proposition the moment it came into the House. He thinks that I ought to have taken it without debate and without consideration, and gone to the people of Kentucky, already ruined by this war, with no cotton manufactures, with no manufacturing of shoes or shoddy, with no fraudulent contracts and no corruption fund to supply the sad wants which the war has entailed upon them; cut off from their trade with the southern States, and cut off from their trade with foreign nations, by the destruction of the Baltimore and Ohio railroad—he expects me, I say, to go to them and ask them to give up a portion of the necessaries of life to carry out this policy of State emancipation by Federal treasure. Sir, he does not value this Union as I value it: no man does who would press this fatal measure upon us now.

These gentlemen say that there is not a slaveholder but what prefers slavery to his God. I have no sympathy with that profanation of the sacred name of the Author of our existence; it is founded on infidelity; it springs from an infidel heart. You say we prefer slavery to our God, to the Union, to the Constitution. Tell me how you will abolish slavery by Federal usurpation and preserve the Constitution? Tell me how you will raise an issue between the Constitution and slavery? No, gentlemen—no, Mr. Chairman, I do not prefer any earthly possession to the Constitution. This is no idle declaration. I know gentlemen say, "you will give your lives to preserve it, but not your slaves." That is a mistake. We will give them and give them freely whenever you need them to carry on the war, to dig your trenches or drive your wagons, or take any part in the war which is authorized by Christian principles or by

the Constitution. You shall have them as freely as you shall have that noble breed of horses, sprung from Arabian and English studs, now feeding upon our blue-grass pastures. But, gentlemen, we will not give up our municipal liberty; we will not give up the reserved rights of the States or of the people, because it would destroy the Union. The great mistake you make is in supposing that the Union consists in its present territorial boundaries, and that you must sacrifice the Constitution itself rather than let a foot of territory go away from you. Why, Texas was once out of the Union, and the Constitution was in existence. I prefer the preservation of the Constitution to our territorial integrity, but I intend to have both, so far as anything I can say or do will accomplish it.

But let me ask you who talk this way about our preferring slavery to the Union, did it never occur to you that you would not give up your abolition notions for the Union—that you preferred them to the Union? I ask you, would you not rather see this Union rent in twain than abandon your convictions upon the subject of negro slavery, and your measures for the emancipation of the slaves of America? I declare there are many who do not want to see this Union brought back again if African slavery is to come back with it.

Mr. FESSENDEN. As the gentleman from Kentucky has referred to me, I merely wish to say, so far as that question is concerned, that so long as I hold to the view to which he has adverted, and which I advanced as the sentiment of the President, I much more desire the extermination of slavery, if it can be constitutionally effected—as I believe it can—than I do to see the Union restored. I wish to see slavery at an end when this war shall be at an end, if it can be constitutionally accomplished.

Mr. WADSWORTH. I concede, therefore, to the President patriotism and honesty. I concede that he proposes a constitutional emancipation policy in the border States. I concede that that policy logically repudiates all the extreme notions of my friend from Maine [Mr. FESSENDEN] and the other gentlemen to whom I have alluded. And then the question arises whether I can, as a Representative of the people of Kentucky, accept it. I say no. I cannot support the Administration on its emancipation policy in the border States. I will not support it here, nor will I do it at home.

There is another view which I propose to present. The keenest pang which an anxious reflection on that message brought to me was a belief that it contemplates the contingency of a dissolution of the Union; that it looks to the contingency when the cotton States may, through the forces now in operation, be permitted, at least for some generations, to remain outside of the Union. It evidently contemplates that time, or the whole argument is weak. There is a considerable body in this country that does not want the Union if they are to have it with slavery in any of the States. The Senator from Massachusetts [Mr. SUMNER] represents that idea in the other end of the Capitol. It has many representatives in this Hall. They contemplate the time when it will be, perhaps, necessary to recognize the independence of the cotton States or to admit them into the Union with slavery in their constitutions. These men would much prefer to have the eight northern grain-growing slave States in the Union, and to compel them to emancipation, in accordance with the law of the irrepressible conflict, since Union and slavery cannot exist together in their opinion. They would rather see these cotton States go out of the Union and their independence recognized, than see them come back with their former rights and the institution of slavery in their midst. They are cultivated men—men of intellect. They know emancipation in the cotton States is simply an absurdity—a physical, natural, commercial, and moral absurdity and impossibility. It cannot be done. There is not power enough in the world to compel it to be done. An attempt to do it would only render their return to the Union utterly hopeless. This class of politicians, I say, would rather have the eight grain-growing slave States with emancipation initiated, than have the cotton States back here with slavery in them.

That class of men has been for thirty years back politically insignificant, until the follies and the crimes of those wicked men now in rebellion raised it into importance. They had no power of themselves, but their enemies gave them the advantage. Before the repeal of the Missouri compromise, they could muster eight thousand votes in the State of Ohio, and I do not know how many in your State, sir, the State of Indiana, but very few there or elsewhere. They were utterly unimportant in influence and numbers, although respectable in intellect. Should the slave States be brought back to their allegiance, this class would again lose power and subside into their former insignificance. They dread it. The crimes and follies of those men of the South who precipitated this war have alone made these men now too powerful in the Government. And to-day we have the restoration of John C. Frémont to his military command, over a portion of Kentucky, too, a State which despises him, reeking, as he is, with fraud and corruption, with the death of Lyon—hero of the war—and the capture of Mulligan on his skirts. With these charges against him untried, he is appointed to the command of the "mountain department" and McClellan restricted to the command of the Potomac, and Buell and Rosecrans and Garfield and Grant, and all the proven soldiers of the war overslaughed, as it were. All this thing shows that, this day, that class of men to whom I have alluded, and that political idea to which I have alluded, are and is all powerful in the administration of the Government; and I, for one, cannot give my confidence to it under these circumstances. I do not wish to vote it, without question and without limitation or inquiry, taxes to carry on this war for dangerous ends. I am for the war for the Union in all its length and breadth, and the necessary means to support it. I am for the Union from the lakes to the Gulf, and from ocean to ocean.

Mr. HICKMAN. If the gentleman will allow me to interrupt him——

Mr. WADSWORTH. I cannot yield now. I have but three minutes left, and wish to conclude.

Mr. HICKMAN. I merely wish to say this, in justice to the gentleman. I understand that he abstained from some remarks because I was not here. I am now here. I merely wish to announce my presence.

Mr. WADSWORTH. I have the greatest respect for the constituency of the gentleman from Pennsylvania; and if I had time I would permit him to interrupt me.

Mr. HICKMAN. I have nothing to say except to announce my presence; and any remarks which the gentleman desires to make in my presence, I am ready to hear.

Mr. WADSWORTH. If the committee will extend my time, I will pay my respects to the gentleman.

The CHAIRMAN. The gentleman from Kentucky has five minutes left.

Mr. WADSWORTH. Will the committee extend my time a few minutes?

Objection was made.

Mr. WADSWORTH. The gentleman from Pennsylvania says he is a man that does not "hang on power." No; he would *hang* more gracefully somewhere else. I was saying, Mr. Chairman, that under these circumstances I cannot give my confidence to the Administration. But, still, I support it in the prosecution of "the war for the Union." I cannot ever consent that the cotton States shall go out of the Union—not one of them. And you, people of the free States, must never make up your minds to let them go. If you do, we will not stay with you. I tell you that you must contend for "54° 40' " or—surrender something else. Let no abolition scheme of that kind find lodgement for a moment in your breasts. The people of the country have no sympathy with it. We depend, Mr. Chairman, on the loyal masses of all the States for assistance and protection during the prosecution of this war, and for the restoration of all those States to their former constitutional position. We appeal to northern men; we appeal to the Democrats of the North, and the old Whigs of the North, and ask them to protect us until we can appeal to the people of the North and South once more in the new elections, for a majority more in accord with what we believe to be the substantial interests and sentiments of the country than is the majority which now riots over us here. Protect us till that time. We will never desert you, in the council chamber or in the field. We will always be your friends and fellow-countrymen. We have let the other slave States go away to stay with you, and here we are, "naked to our enemies." Even our conservative friends in the Republican party forget us and forsake us. With seven hundred thousand men in the field, and taxes to maintain them, wielded by a remorseless enemy to us, we are powerless and hopeless both, unless the conservative sentiment of the people of the country arise with suddenness, and in thunder tones direct the Representatives of the people here to sustain the failing energies of the President.

[Here the hammer fell.]

Mr. BINGHAM. Mr. Chairman, I was not of those who objected to the gentleman from Kentucky stating his reasons why, as a Representative of the people, he could not favor the bill now before the committee——

Mr. MENZIES. Mr. Chairman——

Mr. BINGHAM. Does the gentleman desire me to yield to him?

Mr. MENZIES. I do not desire to interrupt the gentleman; but I desire to make a statement, lest I might be misunderstood, from the declaration which I made here on a former occasion in this connection.

Mr. BINGHAM. I yield to the gentleman.

Mr. MENZIES. Mr. Chairman, I desire to repeat now what I stated on this floor on a former occasion. It is this: there are hundreds of living witnesses who heard me declare in my town, before the late presidential election, in a public speech, that should a separation of the States ever take place, either temporary or permanent, that the line of separation shall be south of Kentucky. I now repeat that declaration, and say that I represent myself in making it, and I verily believe I represent my constituents in making it. They intend to stay under the Constitution, no matter who may desert it. [Applause.]

Mr. WADSWORTH. Now, I ask the gentleman to allow me to say a word?

Mr. BINGHAM. I do not like to be discourteous to the gentleman. I am willing to yield to him if it is not to be taken out of my time; otherwise I cannot yield.

Mr. SEDGWICK. I object.

Mr. MENZIES. I will say that I have been misunderstood.

Mr. VOORHEES. I rise to a question of order. I am for perfect fairness. If the gentleman will not yield to one gentleman from Kentucky, I object to his yielding to the other.

Mr. BINGHAM. The gentleman will pardon me. I yielded to one gentleman upon precisely the same condition that I yielded to the other.

Mr. VOORHEES. Then I beg the pardon of the gentleman from Ohio, and withdraw my objection.

Mr. WADSWORTH. I desire to say in respect to my colleague——

Mr. SEDGWICK. I object to any interruption, unless it is to come out of the time of the gentleman from Ohio.

Mr. WADSWORTH. I appeal to the gentleman. I allowed everybody to interrupt me.

Mr. BINGHAM. I cannot yield, since objection has been made.

Mr. STEVENS. It is now four o'clock; if the gentleman will yield, I will move that the committee rise.

Mr. BINGHAM. I hope the gentleman will allow me to proceed with what I have to say.

Mr. Chairman, I recognize the right of every Representative of the people to rise in his place here, if he is so minded, and if it be according to his convictions, when a bill is under consideration to impose taxes upon the people to the extent of $100,000,000 or more, and oppose the bill on the ground that he has no confidence in the Administration, or any part thereof.

Mr. WADSWORTH. The gentleman will excuse me. I did not say that.

Mr. BINGHAM. I will allow the gentleman to make his corrections in the Globe. I used the words which I took down from his lips—that he had no confidence in the Administration or in any part of it.

Mr. WADSWORTH. I did not say that. I said that I did not give the President my full confidence. I said I expected to vote for the bill, but that I would correct it if I could, so far as related to the extension of these taxes for an indefinite period.

Mr. BINGHAM. I am very glad to know that the gentleman has confidence in the Administra-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. FRIDAY, MARCH 14, 1862. NEW SERIES.....No. 76.

tion; but I certainly understood him to announce to the House that he opposed the bill because he had not confidence in the Administration, under whose direction the money was to be disbursed; and I understood perfectly well, as every gentleman understands perfectly well, that it is the duty of the Representatives of the people to refuse to raise revenue when they know it is to be expended through an executive department of the Government in which and in the members of which they have no confidence. The first duty they owe to themselves and to the people they represent, when the attempt is made to raise revenue which they believe is to be controlled by a corrupt Administration for corrupt purposes, is to resist that attempt and insist and demand, in the name of all the people, that the corrupt officials be impeached and hurled from the high places which they have dishonored and disgraced.

The gentleman, however, now disclaims an entire want of confidence in the Administration, and also disclaims opposition to this bill. If the gentleman has confidence in the Administration and is in favor of the bill, why did he start out in his speech in opposition to this bill, and end in opposition to the Administration and the friends of the bill and the Administration? The gentleman, in his opening remarks, declared his opposition to the bill on the ground that it creates offices unlimited as to time. I beg leave to say to the gentleman that, as I read the bill, it contains no such provision, it creates no such offices. It is one of those statutes which expires by its own limitation, and all offices which it creates fall with it. The bill provides only for the creation of such offices as are required to execute it, and such other acts as have been or may be passed for the imposition and collection of internal duties, stamp duties, licenses, and taxes, direct and indirect.

The gentleman is aware that it is not in his time or mine hitherto that in this Republic there has been such legislation placed upon the statute-book. It is only once in a generation that such legislation is required; and I believe the day is not far distant when this bill, if it passes into a law, as I hope it may, will, together with all like enactments, be no longer needed, and cease to be law.

The gentleman will observe that the various offices created under the bill are necessary to the execution of its provisions, and that the bill would be useless without them. If, therefore, his objection prevails, the bill is substantially defeated. For aught that the gentleman has said the offices created by this bill are essential to its practical operation. I submit, therefore, that this objection, so earnestly urged by the gentleman, falls and is not valid. Surely, sir, I am justified in saying that the gentleman seemed to be against the bill. Certainly if he was in favor of it, and of its passage, he pursued a very singular course in attempting to aid its passage by insisting that it contained provisions which he could not approve, and not even intimating that in any of its provisions he did approve it, or would in any event vote for it. Having thus stated his objections to the bill, the gentleman proceeded to arraign the President of the United States before this House, and then directed his attacks against the venerable chairman of the Committee of Ways and Means, through whose instrumentality, and that of his worthy colleagues on the committee, this well considered and digested measure is now before the House for adoption or rejection. For an hour the gentleman rambles through an excited speech to show the House why its members should distrust those whom he pleases to admit constitute a majority of the Representatives upon this floor, and who are the known friends of the bill and of the Administration.

The gentleman says that before he votes for this bill, he wants to know what the money is going to be used for. I suppose the gentleman has some recollection of having indulged in utterances of that sort. The purpose for which the money is to be raised is declared in general terms by the title of the bill, to wit: to support the Government and pay the interest on its debt. A bill to raise money to support the Government and sustain its credit, ought to command the unqualified support of every patriot. But the gentleman, before he can support it, wants to know the special uses to which the money is to be put. Why, sir, to limit the use of the money *specially* in a general revenue bill would be a novelty in legislation. Whoever heard before of inserting in a bill for raising general revenue to supply the Treasury of a nation, limitations declaring precisely how and for what purposes, and no other, all the money to be raised should be applied. That would be indeed a most extraordinary proceeding. Why, sir, that is a novelty so strange and new, so unheard of in the history of our legislation, that I think a neutral border State alone is entitled to the honor of originating it, and should be entitled in all coming time to have a special patent for it. The doctrine that there is to be no revenue raised until you have carefully guarded the bill so that the money can only be applied to this or that particular object, is, I repeat, novel, and without precedent in our history. It will be time enough specially to appropriate the money after you shall have provided for raising it.

Mr. WADSWORTH. I hope the gentleman will allow me for a moment to explain my seeming opposition to this bill. The gentleman will recollect that I was yesterday exceedingly anxious to deliver some opinions I entertained about the message of the President and the joint resolution which was before the House; but having no opportunity to do it, I was compelled to say what I could say upon that subject upon the tax bill. The gentleman will recollect that I was frequently interrupted by questions of order in the remarks I made to-day, and I was compelled to assume a seeming opposition to this bill, in order to enable me to bring my remarks upon the other subject within the rules of order, and afford me an opportunity of expressing my opposition to the policy of the Administration. The gentleman I suppose understands that. I expressed no real opposition to the tax bill.

Mr. BINGHAM. The gentleman said that before he voted for this bill he wanted to know what was to be done with the money. I supposed him to say it in good faith; and that the bill could not have his support, nor the Government be provided with support by means of this general revenue bill, unless with express limitations annexed that this suspected Administration should only use the money in a certain way. What limitation upon the uses of this revenue would the gentleman have? Would he have its use so restricted that in supporting the Government the patriarchal institution of slavery should suffer no detriment? The thought which ran through the gentleman's speech was, that if this revenue be raised, or if this bill be passed, its uses should be restricted to the purpose, the sublime purpose, of bringing the cotton States back into the Union, and keeping them in the Union, with their ancient social system of chattel slavery, if you please, intact. What else, sir, can you infer, or can the House infer, from the significant utterance of the gentleman, that unless the cotton States shall be brought back into the Union, or, to use his words, *if you let the cotton States go*, Kentucky will not stay with you? What do those strange words signify; what do they import? Why, that the gentleman is willing to raise $100,000,000 of revenue, to be collected for the time being from the loyal citizens of the United States, for the purpose of getting the cotton States back into the Union upon their former *status*, with their slaves and slavery; and not otherwise. This idea pervaded the gentleman's speech from beginning to end, whether he was conscious of it or not. He said, in substance, that if you attempt, through the instrumentality of your Army—supported and sustained, in part at least, by means of this immense revenue that you are to collect and put into the Treasury by this bill, in the preservation of the Constitution and the Union, and in defense of the Constitution and the Union, and in defense of the good men and true who dwell under the shield of the Constitution, and are entitled to its protection, and to be made secure in their persons, their property, and their homes—to touch the divine institution of slavery, that civilizer of the children of the kingdom of Dahomey, the gentleman and his State will depart from you. Touch not the civilizer, says the gentleman, or Kentucky leaves you. This divinity of civilization, chattel slavery, is sacred; for the way to civilize men is to enslave them and convert them into brutes!

Sir, if that is the condition upon which the gentleman's allegiance is to be retained to the Union and the Constitution, the sooner all such patriots depart the better. I say that the sooner they depart the better for the country.

Mr. WADSWORTH. Let me say a word.

Mr. BINGHAM. No, sir; I am not misrepsenting the gentleman's position. He argued that chattle slavery in America is the civilizer of the children of the kingdom of Dahomey.

Mr. WADSWORTH. I do say that the gentleman misrepresents my position. I annex no conditions to my loyalty.

Mr. BINGHAM. If the gentleman annexes no condition to his loyalty then his remarks about the use of this revenue and the divine civilizer of Africa, and retaining the cotton States with their slaves and slavery untouched in the Union, were simply meaningless, and ought not to have been uttered. He said, if you allow, under any condition, the cotton States to depart from this Union, then Kentucky would not stay in the Union; and annexed the condition that you must not, in the great effort to retain the cotton States, touch slavery. Who, in the name of Heaven, wants the cotton States in the Union or in any other place than the state of perdition, if they are only to be in the Union on the condition that, from day to day, from generation to generation, and from age to age, slavery, this new civilizer of the children of Dahomey, shall continue, and be upheld by the whole power of the Government? [Laughter.] The question is whether the gentleman from Kentucky is in favor of the Union, whether he is for the Government of the United States and for the exercise of all the means which God and nature have given to us, and which may be justly and lawfully employed under the sanction of humanity, for the putting down of this infamous, infernal rebellion? Is he for the Union to that extent that he will sanction the employment of all necessary and just means to preserve it?

Mr. WADSWORTH. Will the gentleman permit me to answer?

Mr. BINGHAM. I want an affirmative or a negative answer.

Mr. WADSWORTH. I want the Government to use such force as may be necessary to overcome the force opposed to the execution of the laws; but I am not in favor of preserving the Union by destroying the Constitution and inaugurating congressional usurpation.

Mr. BINGHAM. I put the question again to the gentleman from Kentucky, and I want an affirmative or negative response. If the majority of the people of the United States, and a majority of their Representatives in Congress, together with the President of the United States, conclude that to suppress effectually this rebellion and save the Union, there is an indispensable necessity to sweep away that "infernal atrocity," the Dahomey civilizer, which has maddened the brain and deadened the heart of the people of half the territory of the Republic—will the gentleman then stand by the Union and the Constitution, and sustain the President and his policy?

Mr. WADSWORTH. No such necessity can ever exist, except in the diseased minds of those who talk about the infamy of their brethren in the South, for habits which their fathers approved and for institutions which they lived under for years.

I will answer the gentleman's question still further. I am not opposed to the destruction of anything which stands in the way of the exercise of any power, where that power is necessary to overcome the rebellion. Dig up every acre of land upon which the rebels stand—armies may

do it—but they cannot alter the title to a single acre.

Mr. BINGHAM. The gentleman has not yet answered my question. I will state it again. Suppose that the contingency shall arise when, in the judgment of the President and in the judgment of a majority of the peoples' Representatives in this House and in the Senate, it becomes necessary to utterly abolish this system of slavery that the Constitution may live and that the Union may be preserved, is the gentleman for it?

Mr. WADSWORTH. Whenever the President and a majority of this House come to the conclusion that it is necessary to sweep slavery out of the country in order to preserve the Union, I will oppose such a law by constitutional action—always by constitutional action. If the gentleman and his abolition allies come to our State to execute such a law with force, I will oppose them.

Mr. BINGHAM. The gentleman does not answer whether he is going to leave the Union or not.

Mr. WADSWORTH. Never will I leave the Union. Whenever it becomes necessary for either the gentleman from Ohio or myself to leave the Union, I will take care that the gentleman and not myself will have to go.

Mr. BINGHAM. The gentleman would have a busy time of it before he got through with it. [Laughter.] It now seems that the gentleman is going to stay with us, but that he or rather his State is going to stay with us, in the event supposed, only as a rebel. I want to know by what right Kentucky or any other State comes upon this floor and says in advance, by her Representative, she will not abide by the decision of a majority of the peoples' Representatives in the House and the Senate?

Mr. WADSWORTH. I deny that they will get the voice of a majority of the people.

Mr. BINGHAM. I assumed that they would, and so stated.

Mr. WADSWORTH. It makes no difference with me.

Mr. BINGHAM. I object to these constant interruptions. When the gentleman wants to interrupt me he must first get my leave.

Mr. WADSWORTH. The gentleman put questions to me.

Mr. BINGHAM. I am not putting questions, I beg leave to say now to the gentleman. The gentleman says in case of such a law being passed as I have stated, and which if executed will save the Constitution and the Union and put an end to this war, he will stay in the Union and fight. Fight what?

Mr. WADSWORTH. Will you let it be broken up?

Mr. BINGHAM. Who is the judge?

Mr. WADSWORTH. You.

Mr. BINGHAM. No, sir. The people, speaking through a majority of their Representatives and their Executive, must rule by their laws and under their laws, until those laws which they may enact be by them repealed, or be set aside by the supreme judicial tribunal of the country. I submit that the gentleman is not the judge. Judge, indeed! On that ground Jefferson Davis has the right to carry on his treason, and no man has the right to go forth and slay the traitor. You have no right, sir, if this be the rule, to place the mark of Cain upon his brow as his brother's murderer and drive him out a fugitive and a vagabond in the earth, or hunt him down as a traitor, and send forth legions six hundred thousand strong to invest him in his treasonable capital, drag him to the temple and the altar of justice, convict him of his hellish treason, and in the solemn language of the old law, "hang him by the neck until he be dead." I want to know whether, if the gentleman's assumption is good for him, it is not good for Jefferson Davis, who has assumed to go out of the Union because you did not by law give protection to slave property everywhere within the legislative jurisdiction of the country, by land and by sea; that is his position. There is no question about it. He has spoken it more than once in his character of president of the confederate States of America.

The gentleman seems to be an apt student of the original leader in this rebellion. I say, sir, for myself, and it is because I apply the rule to myself that I believe it ought to apply to the gentleman, that it is my duty as a citizen of the Republic to bow to the majesty of the law in whatever form it comes, and claiming for myself, if I deem the law unjust, the right which always belongs to the citizen, to seek its repeal by my vote and my voice, and in the mode prescribed seek its overthrow in the judicial tribunals of the country. That, sir, is the extent of my privilege and of the privilege of every individual citizen acting in his individual capacity. In saying this, I do not deny the inherent, sacred right of revolution in the people. I admit if the Government of the United States arrogates powers which do not belong to it, imposes upon the people such burdens as are too grievous to be borne, they may, as a last resort, after all peaceable means of redress have been faithfully tried and have failed, and if further submission is more dangerous to their lives and liberties than armed resistance—then, and not till then, may they employ force. That is the common judgment of mankind.

Mr. WADSWORTH. I subscribe to all that.

Mr. BINGHAM. I am glad that the gentleman does subscribe to it. If he subscribes to it and acts upon it, he will not be swift to advise Kentucky to arm to resist the Government of the United States, if a majority of Congress, with the President, conclude and legislate accordingly, that the slaves of rebels in arms shall be declared freemen, and shall be no longer compelled to sustain treason.

This Government has the right—which belongs to every legitimate Government known among men—of self-preservation. If it becomes necessary, in order to preserve the State, to sacrifice the lives of the best, the bravest, the noblest in the land, their lives must be sacrificed. In the providence of God, it has always been and always will be, to the end of time, a national necessity that some must die that the State may live. The question, then, is this: if it becomes necessary for the preservation of the Constitution and for the maintenance of our nationality—the youngest born and the noblest of the earth, known as the Republic of the United States of America—to sweep away this modern civilizer of the children of Dahomey, will the gentleman, on that account, rise in revolt against his country? That is the question.

Mr. WADSWORTH. Do you ask me that question?

Mr. BINGHAM. No, sir; you have answered it already.

Mr. WADSWORTH. I prefer the Constitution to nationality.

Mr. BINGHAM. The gentleman prefers the Constitution to nationality. I prefer not to be diverted from my argument, nor needlessly interrupted. There is no nationality without a constitution, either written or unwritten. There never was, and there never can be. You might as well talk of pulsation without arterial action as to talk of a nationality without a Constitution or system of Government.

Mr. WADSWORTH. Has France got any?

Mr. BINGHAM. Yes, sir, she has one.

Mr. WADSWORTH. France has a nationality. I would not purchase it, by exchanging our Constitution for hers.

Mr. BINGHAM. Yes, sir; she is a nationality and she has a constitution of government, and so has every other nationality. I said a written or unwritten constitution was essential to nationality. They are one and inseparable. They never did exist and never can exist separately. There can be no constitution without a nation, and there can be no nation without a constitution; they go together. But I am amazed that a gentleman should come here and tell me that the Constitution and this new civilizer are one and inseparable. That is what excites my special wonder!

Mr. WADSWORTH. I did not tell you so.

Mr. BINGHAM. The gentleman says he did not tell me so. It is hard to tell what he did mean by his interruption.

Mr. WADSWORTH. If the gentleman will allow me, I will tell him what I did say.

Mr. BINGHAM. I cannot yield now.

Mr. WADSWORTH. I beg he will not fight a man of straw.

Mr. BINGHAM. I beg the gentleman's pardon for supposing him to be a man of flesh and blood.

Mr. WADSWORTH. What I said——

Mr. HICKMAN. I rise to a point of order.

Mr. BINGHAM. I do not yield. I have declined to do so.

Mr. HICKMAN. I know you do not yield, but I have a right to make my point of order, and it is this, that the gentleman from Kentucky is the last man who should insist upon interrupting when the person upon the floor resists it, for when I came in here and announced my presence, he would not allow me to do it, although I understood he had something very odious to say in case I had been present. That is the point of order that I make; that the gentleman has no right to interrupt the gentleman from Ohio, unless the gentleman from Ohio gives him permission to do so, and I object to it.

The CHAIRMAN. The Chair will state that the gentleman from Kentucky has a right to rise and ask the gentleman from Ohio to yield the floor to him, but he has not the right to proceed with remarks without the consent of the gentleman from Ohio.

Mr. BINGHAM. I am not going to charge the gentleman from Kentucky with saying that, if he did not say it—nor have I.

Mr. WADSWORTH. I only ask fair play.

Mr. HICKMAN. I object to any interruption.

Mr. WADSWORTH. I am about to make a point of order myself, and it is this, that the gentleman, or the member from Pennsylvania, has no right to get up and, under cover of making a point of order, to make remarks about me.

Mr. HICKMAN. Yes, I had the right to answer just in the way I have answered. [Cries of "Order!" "Order!"]

Mr. WADSWORTH. That is the point of order I make.

Mr. HICKMAN. My point of order precedes that of the gentleman from Kentucky, and he has no right to pile one question of order upon another.

The CHAIRMAN. The gentleman from Pennsylvania objects to the gentleman from Ohio yielding the floor any further. No interruption of the speaker who is entitled to the floor can be allowed except by unanimous consent, and therefore the gentleman from Ohio cannot yield the floor even on the request of the gentleman from Kentucky.

Mr. WADSWORTH. I beg pardon of the gentleman from Ohio if I have been out of order in interrupting him; but I see no occasion for any indecency, such as the member from Pennsylvania seems disposed to indulge in. [Shouts of "Order!" "Order!"]

Mr. HICKMAN. If the member from Kentucky pronounces it indecency on my part, I pronounce it a libel on his part. [Renewed shouts of "Order!" "Order!"]

The CHAIRMAN. These remarks are not in order, and gentlemen will take their seats.

Mr. HICKMAN. I will not permit interruption after the course which has been pursued by the member from Kentucky here to-day. [Cries of "Order!"]

Mr. WADSWORTH The member from Pennsylvania heard what I said.

Mr. BINGHAM. Mr. Chairman, there is nothing further from my purpose than to do injustice to the gentleman from Kentucky, or to anybody else. If the remark which I made does not apply to the gentleman from Kentucky he ought not to have interrupted me at all. For the honor of my country, and in sacred regard for the Constitution of my country, I affirm that slavery and the Constitution are not one and inseparable.

Mr. WADSWORTH. I do not say they are.

Mr. BINGHAM. I do not say that the gentleman does in express terms say so. But I stand here to repel all *insinuations* of that kind, come from what quarter they may. I say, in the language of Madison, that the Constitution is a great charter of human liberty, and that it "would have been wrong to admit in that instrument that there could be property in man;" and hence its framers declared that it was not fit to incorporate even the word "slave" or "slavery" or "servitude" in that instrument, for it was intended to live through all coming time, and it should not transmit to all after generations of men the fact that any such system of "civilization" as the African or domestic slave trade, and all its kindred atrocities existed at any time among the American people or within the limits of the Republic. The Constitution declares for liberty and justice, not for slavery and despotism.

Mr. Chairman, I am tired of the supercilious air with which gentlemen assail as violators of the Constitution and enemies of the Union the friends of every measure which is exclusively for the common defense, or which proposes to condemn the property and liberate the slaves of armed rebels. Wherein do we violate the Constitution, pray? The gentleman from Kentucky, [Mr. WADSWORTH,] when I had the honor to address this House before on these great questions, that tower above all other questions to-day because they touch the preservation and safety of the Republic, seemed to be filled with a holy horror because I ventured to assert in my place here that the four millions of slaves held by half a million of armed rebels, and by whose unpaid toil their atrocious rebellion is sustained, ought to be liberated, and protected, too, if they would seek shelter under the flag of American liberty.

As the gentleman then and now has chosen to assail me for this, I may be pardoned for calling his attention to the inquiry, what further did I say in that connection on that day and in the hearing of the gentleman? I said that every loyal citizen in this land held his life, his property, his home, and the children of his house a sacred trust for the common defense. Did that remark excite any horror in the gentleman's mind? Not at all. I undertook, in my humble way, to demonstrate that, by the very letter and spirit of the Constitution, you had a right to lay the lives and the property and the homes, the very hearthstones of the honest and the just and the good, under contribution by law that the Republic might live. Did that remark excite any abhorrence in the gentleman, or any threat that fifteen slave States would be combined against us? Not at all. I stated in my place just as plainly that by your law you might for the common defense not only take the father of the house, but the eldest born of his house to the tented field by force of your conscription, if need be, and subject him to the necessary despotism of military rule, to the pestilence of the camp, and the destruction of the battle-field. And yet the gentleman was not startled with the horrid vision of a violated Constitution, and there burst from his indignant lips no threat that if we did this there would be a union of fifteen slave States against the Federal despotism. I asserted in my place, further, that after you had taken the father and his eldest born away, and had given them both to death a sacrifice for their country, you could, by the very terms of the Constitution, take away the shelter of the roof-tree which his own hands had reared for the protection of the wife and the children that were left behind, and quarter your soldiers beneath it, that the Republic might live. And yet the gentleman saw no infraction of the Constitution, and made no threat of becoming the armed ally of the rebellion. But the moment that I declared my conviction that the public exigencies and the public necessities required, that the Constitution and the oaths of the peoples' Representatives required, that by your law—the imperial mandate of the people—the proclamation of liberty should go forth over all that rebel region, declaring that every slave in the service of these infernal conspirators against your children and mine, against your homes and mine, against your Constitution and mine, against the sacred graves of your kindred and mine, shall be free, the gentleman rises startled with the horrid vision of broken fetters and liberated bondmen, treason overthrown, and a country redeemed, regenerated, and forever reunited, and cries, no, this shall not be; fifteen States will combine against you. Slavery is the civilizer; you shall neither denounce it as an "infernal atrocity" nor overthrow it to save the Union. I repeat the word which so moved the gentleman from his propriety, that chattel slavery is an "infernal atrocity." I thank God that I learned to lisp it at my mother's knee. It is a logical sequence, sir, disguise it as you may, from that golden rule which was among the first utterances of all of us, "whatsoever ye would that men should do unto you, do ye even so unto them." And yet men are dragged away from the land of their nativity under pretense of civilizing them, subjected to the horrors of the middle passage, reduced to the condition of chattels in a strange land, where it is made a crime by statute to teach them the grand stirring words of John Milton, "Give me the liberty to know, to argue, and to utter freely, according to conscience, above all liberties;" words worthy to be spoken by him who walked in his singing robes immortal, without tasting death; words fit to be told and interpreted to every man, that he has a conscience, a right to know his duty, and a right to do it. Milton, for teaching this and like lessons to men centuries ago, has been enrolled among the immortals. Milton, for teaching it to-day in that vast rebel district of confederate conspirators, would be doomed to the dungeon or the scaffold by the code of this "infernal atrocity."

Mr. WADSWORTH. Do you say that is the case in Kentucky?

Mr. BINGHAM. I say it is the case in cottondom, in the Dahomey of America. I am not speaking of Kentucky; I am speaking of the slavery and the slave code of the cotton States, which the gentleman says we must keep in the Union with their slavery, or Kentucky will not stay. When she throws off her allegiance to the Union and joins this rebel carnival of blood, I will speak of her as she deserves to be spoken of. I trust in God that day will not come, when Kentucky, rather than see the Consitution and Union saved by the liberation of the slaves of rebels, will seek to destroy the Union to save slavery. Why, sir, the very fact that the gentleman has intimated such a result as possible to flow from such a measure of justice ought to teach the gentleman himself that a system which could drive a Commonwealth to such an act of wickedness is an "infernal atrocity." Kentucky to leave the Union or to band with traitors against the Union if we proclaim that system abolished in the eleven rebel States which declares it a crime punishable by indictment and imprisonment to teach a living being the alphabet of his native tongue; to teach him to know that he is a man, and not a beast; to teach him to know that his soul is his own, and that he has a right to enjoy the fruits of his own toil; to teach him to know that there is even a God, or a hereafter——

Mr. WADSWORTH. Some white folks do not seem to know that.

Mr. BINGHAM. Perhaps so; but does the gentleman apply the remark to me?

Mr. WADSWORTH. I do not apply it to you.

Mr. BINGHAM. I am glad to know it, sir. Yes, sir; you must expect fifteen slave States to wage war upon the Union, if you interfere with the rebel's right to his slave, or with the rebel's code that it shall be held and punished a crime to whisper to his slave—there is a God that takes notice even of the sparrow's fall, and hears the young raven when it cries for food, and sometimes condescends to clothe with superhuman power the good right arm of an outraged man when he strikes for the liberty of himself, his wife, and children. To-day, sir, these rebels in arms, who have forfeited all rights, save the right to a gallows, doom four millions of men to chains and slavery; subject them to sale in market overt, like the ox; say to the father: "Your little child that prattles its lisping words upon your knee, is only our chattel, and will be sold with our pigs next market day," and the mother of your children shall be sold to another. The victims of this infernal atrocity are the native-born children of this land; and yet are held by these rebels to wage war upon you. Their rights in their slaves must not be touched, or you violate the Constitution. I stand by my words, and denounce the system an infernal atrocity.

I speak in the spirit of one of the noble men of Virginia (formerly a Representative here) who, in his place a long time ago, said he looked with scorn and contempt on the northern man who could get up and interpose any apology for slavery. He said he would at any time go a mile to kick a sheep. I believe he would have gone as far to kick a northern pro-slavery flunkey. He had no respect for a northern flunkey, these gentry who whisper with white lips, they come, they come, when the angel of liberty, beautiful and immortal, shakes the door of the prison house in which men charged and chargeable with no crime are buried alive.

Your Constitution is no respector of persons; it forges no fetters for the guiltless; it sanctions no unjust tyranny over the mind or body of man. And yet, sir, by that Constitution my friend who stands near me, in the pride of his manhood, may be summoned to the battle-field that his country may not die, that its free Constitution may live; the child of his house, the hope and pride of his life, may be required to follow with unequal steps, his father's martial tread to the same field of honorable death; the house and home which he leaves behind him a shelter and a refuge for his wife and children, may be required to be given up in the hour of the nation's peril; and yet my friend is to be mocked with the ribald jest that the atrocious institution of slavery is more sacred than his life and the life of his son and the home of his wife and children. Such argument, come whence it may, is simply vulgarity—blasphemy against the divine beauty of life. The slave pen and the barracoon more sacred than the free home and the hearthstone! Judge them, sir, by their fruits. From the households of the free, from the hearthstone of the free, that nursery of all that is great, or beautiful, or good in human character, come the mighty body-guard of mankind, the world's elect, who have made the scaffold and the cross glorious, and have wrought out and brought in, not without suffering and martyrdom, that brilliant civilization in which we live—the boast of our country, and the boast of the Christian world; while from the slave pen and the barracoon of the slaver, has come that fell influence, the infernal sorcery, which has driven one half of this Republic mad, and converted the people thereof into armed traitors against a Government that has done them no wrong, but has hitherto crowned their lives with blessings and benefits, the only return for which is a treason with no parallel save that first treason, the revolt of the fallen angels against the God who made them. Sir, there is not even a colorable excuse for these traitors and their treason. There had been in no instance an injury or hurt threatened or done to them or theirs by the Government of the United States.

The only question really in issue is whether the majority in this Republic shall rule. That is the question to be decided by this conflict of arms. I take it to be a well-settled principle of this Government that the majority shall rule. In pursuance of that principle, the majority of this nation, nay, sir, the majority of this Congress, speaking for the nation, have the right under the Constitution to declare by law that all the property of *rebels in arms* or aiding this unmatched treason shall be the lawful subject of prize and capture, and shall be condemned as such in your courts of justice, for the common defense.

Mr. HICKMAN. Not excepting the slave.

Mr. BINGHAM. I do not refer to slaves as property. I would liberate the slaves of rebels in arms and of their aiders and abettors.

Sir, gentlemen have talked very loud in their discussions here about indicting a whole people. I hold them to the issue—let them meet it—shall rebel property be made to pay as far as it will go, the expense of suppressing *their* rebellion, and shall *their* slaves be taken from them to weaken their power. It is a uniform rule among civilized nations, applicable as well to civil war as to foreign war, or a war between two independent nations, that all enemy property captured in war is the legitimate subject of confiscation to defray the expenses of the war, and to indemnify the State or nation for losses sustained. The justice of this rule cannot be questioned where the civil war, in the one case, has been without any just cause unlawfully and wrongfully waged by rebel citizens, and where the foreign war, in the other case, has been unlawfully and wrongfully waged by the nation whose property is thus seized. I submit that it is a rule universally recognized among civilized nations; and I should like to see the gentlemen who talk so loud against it, bring some authority to show the contrary, not shirk the question by talking about indicting a whole people. The rebels in this case indict themselves, they confess in open court.

Let me repeat: I assert that it is the accepted law at this hour among civilized nations, that when in a just war the conqueror acquires property, by capture or by conquest, he holds that property, if he so wills and has the force, until the peace, and continues to hold it afterwards, unless he voluntarily surrenders it. I hold that to be a principle recognized by our own court in the case of a harbor in Maine possessed by Great Britain in the late war. They would have held it until this day if they had been strong enough and had not voluntarily surrendered it. There was nothing in the law of nations to oblige them to surrender it. When gentlemen talk about the difference between a foreign and civil war, I want to

know if the Government of the United States should not be indemnified for the cost of suppressing this unjust and bloody treason out of the property of the rebels in arms? There is but one answer; that is, that it is the right of the Government to take the indemnity, if she has the force to do it. Much is said about private property being respected in war, save enemy property at sea; that the usage is only to take public property on land. I admit the usage in general, in international war; because, by such a rule, the means for just indemnity by seizing all property of the sovereignty and of all its subjects at sea, and taking the public property on land is sufficient; and for the further reason that the subject must obey his sovereign, and is therefore not your enemy by choice. These rebels have no sovereignty; they are simply organized conspirators, waging civil war against the people and the people's sovereignty. They have no public stores, and can have none; all the property they hold is enemy property, belonging only to them as rebels and enemies in arms. It is the right and duty of the Government to take their property for indemnity by capture and condemnation, and to liberate their slaves to weaken them; and for the further reason that the Government has the right to the service for defense of all its citizens, and especially of all who desire to aid the Government. I scout the alleged sovereignty of these rebels; they are simply an organized mob, nor more, nor less.

The gentleman says he is for the Constitution. So am I. The gentleman says he respects his oath to support the Constitution of the United States. So do I. I do not doubt his sincerity. I do not stand in my place to tell the gentleman that he violates either his oath or the Constitution when he refuses his assent to such legislation as he cannot approve, and I respectfully deny his right to say that I am not acting in conformity to my oath to support the Constitution——

Mr. WADSWORTH. I did not.

Mr. BINGHAM. Then I misunderstood the gentleman.

Mr. WADSWORTH. I certainly would not treat the gentleman otherwise than with courtesy, and I cannot imagine in what sentence of my remarks the gentleman drew such an inference.

Mr. BINGHAM. I am very glad to know the gentleman did not. I must have misapprehended his remarks in that respect.

Now, sir, it is the duty and right of this Government to use whatever force is necessary to crush out this treason and to crush out everything that stands in the way of our arms, to use whatever just means will tend to strengthen the Government, and whatever will tend to weaken the enemy. Does not every gentleman know—I pity the intelligence of the man who does not know—that here are four millions of enslaved men, who dig the trenches and build the fortifications of the enemy, who cultivate their fields, gather their crops, and furnish them the bread on which they live. I would like to see the man rise here in his place and say that it would not weaken the enemy to take from them these four millions of men who thus furnish their support. I would like to see the man who would express it as his conviction that it would not weaken the enemy to take from them one third their population, and that portion of their population whose labor provides solely and exclusively, almost, to them the means of subsistence. They might almost as well undertake to live without the bright heaven above us, filled with the life-giving breath of the Almighty.

I now come to the other point, and I desire to be very brief about it. Gentlemen talk about the rights of the States. I heard something upon that subject yesterday and it was brought up again to-day. Now, sir, I wish to say that not one of the eleven rebel States is to-day a State *in the Union*. The territory is in the Union, the citizens of the original State are in the Union, and still owe allegiance to the Constitution of the United States. They cannot get the territory out of the Union. They cannot run away with it. It is anchored and fixed there; it is a part of the common heritage of the whole people of the Republic. I know Floyd would steal it if he could, [laughter,] but it is beyond the reach of a thief. The territory is there, and there it will abide forever; the people are there, but there is no constitutional State—no State in the Union or of the Union there; that maddened multitude, the majority of each of the original States in that rebel district have voluntarily destroyed their respective constitutional State governments. I rather think the gentleman from Kentucky knows that as well as I do, or as any man in this House.

Mr. Chairman, as every gentleman is for the Constitution, and especially as the gentleman from Kentucky claims to keep special watch and ward over it, I desire to read a single sentence to prove the truth of what I say, that these rebel States are not *States in the Union*, but only rebels in arms within the *territory* of the Union, and without a constitutional State government. An illegal State constitution is simply void as to the United States Government. The Constitution of the United States declares—

"The Senators and Representatives aforesaid"—

that is of the United States—

"and the members of the several State Legislatures, and all executive and judicial officers, both of the United States AND OF THE SEVERAL STATES, shall be bound by oath or affirmation to support this Constitution."—*Constitution of the United States*, art. 6.

The Legislature of every State in the Union, and all the judicial and executive officers thereof, must be bound by oath or affirmation to support this Constitution. Without this obligation taken and accepted they cannot in law exist as the officers of departments of a State government in the Union. There can be no State *in the Union* without these several departments. That would be a curious republican State without a legislative and an executive and a judicial department. If there be no such State departments *so bound* to support the Constitution of the United States in that rebel region, as I know there is not, then I care not what forms and shams of government they may have; they are but organized conspirators and traitors. They have no State rights and can have none without constitutional State governments. Is there a Legislature in South Carolina to-day bound by oath to support this Constitution? They are sworn by an oath to overturn it. Is there a judiciary in South Carolina to-day bound by oath to support this Constitution? They are sworn by an oath to trample it under foot. Is there to-day in South Carolina an Executive bound by oath to support this Constitution? He is sworn by an oath to destroy it.

These rebels have destroyed their respective State constitutions. State constitutions can only originate by the act of the people in the several States, and by them they may be destroyed. They have broken down their State governments; they have no Legislature which, to-day, under the Constitution of the United States, can rightfully impose a tax upon any man or upon any man's property, within their limits. They have no right to legislate at all. They are simply traitors, wearing the robes of office. There is no State government in South Carolina, nor in Florida, nor in Texas, nor in Louisiana, nor in Mississippi, nor in Arkansas, nor in North Carolina, nor in Alabama, nor in Georgia, nor in Tennessee, nor in Virginia, known to the Constitution, or entitled to a moment's consideration. I would like to see the man, if there be such a State-rights man, rise here and say that the Legislature of South Carolina, with the oath of treason fresh upon their lips not to support the Constitution, but to overthrow it, have the right to elect a United States Senator, or to enact a law affecting the life, liberty, or property of any citizen of the United States. The powers of the Federal Government in the territory of South Carolina are, in the absence of a constitutional State government, as exclusive and general as they are in the District of Columbia. Why so? Because throughout the limits of the Republic the United States Government has exclusive legislative power save where there is a constitutional State government. Otherwise the Constitution and Government could not be maintained, and the great end of the Constitution carried out.

What is the end of the Constitution? As I said to the gentleman the other day in debate upon the President's emancipation message, its first and chief purpose is to protect the loyal citizens of the United States everywhere in their lives, liberty, and property. The citizens of every State now in the Union, and all who were citizens in the original States now dissolved by rebellion and treason, are citizens of the United States. Is the Constitution of the United States so weak an invention that, in the absence of a State government, it cannot establish courts of justice in any district or Territory within its limits for the purpose of protecting the property of every loyal citizen, and his liberty and life as well? I would be ashamed to go to your tribune to take the oath to support the Constitution if I felt in my heart that it was so weak an invention that it did not provide for even this first duty of a Government. I assert the proposition here to-day, and I challenge contradiction, that the Government of the United States has full and ample powers for all of these purposes within the original limits of the revolted States; and we ought to exercise them if we have any respect for the oaths we have taken. We must exercise these powers until the people of the rebel districts, now reduced to the condition of Territories by their own act, shall return to their allegiance, and reëstablish State governments under the Constitution, and bind the several departments thereof by an oath to support the Constitution of the United States.

I will never consent, sir, that South Carolina, or any revolted State, shall send a Representative upon this floor until every department of that State shall have become bound by an oath to support the Constitution of my country. We have no right to consent to that, they have no right to demand it until they so reconstruct their State government. We have the right, and it is our duty, to provide by law for the administration of justice in that Territory. We have the right to send our tribunals to South Carolina in order that justice may be done to our loyal citizens. Has the patriot Pettigru, in that rebel city of Charleston, faithful found among the faithless, standing fast for the integrity of the Union and Constitution amid the wild howl of treason, no claim to the protection of this Government and to be protected there in his home? That good old white-haired man, what true citizen would not run out in a storm to meet him and to help him? He is an honor to human nature. Unawed, unseduced, and unsubdued, he clung to the Constitution amid the falling pillars of the temple, and alone amid the conspirators he is for the Constitution still, and cherishes the hope of its restoration as he cherishes the hope of a better life in the land of uprightness.

Why, sir, amid the thunders of the infernal enginery of treason, battering down the walls of your doomed and burning fort, he denounced the treason, refused to strike hands with the traitors, and stood by the old flag. I ask you, has that brave, good man no right to claim the protection of your laws in Charleston? Such fidelity, such loyalty may justly demand the protection of the Government. If you would administer justice between man and man in South Carolina, you must establish a court of justice there that will take the oath to support the Constitution of the United States, without which no court can rightfully sit anywhere in the United States. And if the worst comes to the worst—if these traitors imbrue their hands in the blood of loyal citizens—how can you refuse to provide the tribunal to make them pay the penalty of their infernal crime upon the gallows?

Mr. Chairman, I trust that I have as much charity as other gentlemen; but, sir, I beg leave to say that the Representative who will stand up in his place and deny the right of the Government to provide speedily and effectively for the administration of justice in the revolted States, commits a crime which would require a charity broader than the charity of the Gospel to cover. He is in a condition to strike hands with the rebels themselves. Is nothing to be done beside sending conquering armies to burn and destroy as they go? That is a needful thing; but I would also send the white-robed ministers of justice. I would put them into the deserted temples of justice, and place in their hands the sacred scales, and bind them by an oath to do equal and exact justice to the poor and the rich, the stranger and the citizen.

I would let it go out that those who submit to the law shall have their protection under the law, and that those who revolt against the law should not only find the armed soldiers of the Union pursuing them unto death, but they should find as well the swift hand of justice falling upon them, and the majesty of the law declaring, "you are my prisoner, a prisoner against offended justice, because you have invaded the rights of citizens of the United States who were entitled to protec-

tion under the law of the land." Let these rebels know that by confederating as conspirators for the overthrow of the only form of State government which could exist under the Constitution, they must submit to the administration of justice proposed until they can get another State organization under the Constitution. The only limitation that is imposed upon the power of this Government in the premises is that whenever any of these Territories presents a State government organized in subordination to the Federal Constitution, and recognized as such by the Federal Government, the State authority will be again established. That, sir, is my argument in reply to the suggestion about State rights.

Those who would assert State rights must organize a judiciary under solemn oath to support the Federal Constitution, they must organize a Legislature on solemn oath to support the Federal Constitution, they must organize an executive department upon a solemn oath to support the Federal Constitution, and until they do that they cannot exercise State rights. Thus their treasonable civil organization, while it is void as against the Federal Government, operates an absolute forfeiture of all *their* powers and rights as States.

It is perfectly clear to my mind that no State which once existed in this Union can destroy its constitutional State government without the perjury of its Legislature, who must, by providing for secession, break the oath by which they were bound to support the Constitution of the United States. The executive, legislative, and judicial officers in those rebel States who aided this destruction of their constitutional State—and nearly *all* of them did so—only accomplished it through their broken oaths. They stand this day clothed with perjury as with a garment before their God and their country. Yet after such black infamy as this, we hear all this clamor about their State rights and their private rights and the sacredness of their divine institution—that great civilizer. The gentleman spoke of Kentucky going away from the Union.

Mr. WADSWORTH. I did not. She is not going.

Mr. BINGHAM. The gentleman says now that she is not going. I am glad he has changed his mind, and is willing to let her stay. But he stated before, that if Congress interfered with the civilizer she would not stay. I would like him to tell us how Kentucky would go out of the Union if she should be mad enough to try it? It depends upon circumstances whether she will remain in the Union or not. I hope circumstances will constrain her to stay. We believe that the initiation of emancipation, of full and complete emancipation, will put an end to this civil war.

After slavery is abolished, or put in process of ultimate but certain extinction, there will be nothing left for traitors to fight for. It is the sole cause of this great treason, and it is time that the world knew and comprehended the fact. This great war is a conflict for freedom and free institutions on the part of the armies of the Union, against armed traitors who seek to build and perpetuate upon the ruins of representative government the most unlimited and atrocious despotism the world ever saw.

Mr. RICHARDSON moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the tax bill, and had come to no resolution thereon.

WASHINGTON GUARD-HOUSE.

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

Resolved, That the Secretary of War be requested to investigate the condition of the "central guard-house," used as a prison, under the control of the provost marshal, in this city, and give this House information as to the allegations and statements contained in the following letter of C. E. Livingston and other persons confined in said prison.

CENTRAL GUARD-HOUSE, WASHINGTON,
March 5, 1862.

DEAR SIR: Being a prisoner and a stranger in this city, and suffering from bad treatment and wrongs at the hands of the "provost guard," and situated as I am, I do not know who to apply to for redress unless it is yourself. You will pardon the liberty that I assume in giving you a brief description of the treatment I receive. The deplorable condition of myself and fellow-prisoners must be my apology. There are twenty-one of us confined in a room fifteen by eighteen, which answers the purposes of "parlor, sitting-room, kitchen, and water-closet." We are supposed to be allowed soldiers' rations; but it is very few of them that we receive. To give you an idea what food we receive, I will enumerate the articles we have had for the past three days, which consisted simply of hard crackers and as much water as was necessary. This is not an isolated case. Some days we get a small piece of beef or pork; such instances are "angels' visits." We receive neither coffee or tea, nor any warm food whatsoever. If we only received the fare of a State prison convict, we would be perfectly satisfied; *they* receive treatment compatible with a Christian and enlightened people. Men who left their homes and firesides to fight the battles of our common cause, and to encounter all the dangers and hardships of a soldier's life, are denied even the privileges of a common felon. We do not profess to be incarcerated here without a cause; we are all liable to err, and, to a certain extent, we are no exception from the rule. Many of us are here for trivial offenses against military discipline, and, owing to the neglect of the proper authority, we are allowed to suffer imprisonment from one to three months without a hearing or trial. We are not even allowed soap to wash our clothes, consequently some of the prisoners are obliged to wear their clothes until they are in a very filthy condition, and in a great many cases full of vermin. Now, a man is supposed to be innocent until he is proven guilty; they should, I think, be treated accordingly. Unless some person in proper authority investigates our condition, we will continue to suffer all the horrors of a "bastile." If the military authorities wish to dispose of us, we would much rather meet death in any shape other than gradual starvation, which would most assuredly be the fate of some of the more delicate constituted if they were not supplied with money by their friends; those that cannot get money have to suffer. We can buy coffee from the guard by paying fifteen cents for a canteen full. *They* get it from their *quarters*, and pocket the money. Is there not a heavy penalty for selling Government property?

I would not trouble you with a recital of my sufferings only my Colonel (Ruger) is at present in Virginia with General Banks, consequently not in a situation to render me any assistance.

I will not trespass any longer on your time; but I hope you will consider this communication of enough weight to at least satisfy yourself of its truthfulness, which you can do by examining into this statement, and, as a Representative of a free people, expose any wrong that is perpetrated on your constituent.

Yours very respectfully, C. E. LIVINGSTON,
Company F, Third Regiment Wisconsin Volunteers.

—

I certify that the foregoing statement is true.
WILLIAM GRAY,
Ninth Regiment N. Y. S. M.

—

I certify that the foregoing statement is correct.
WILLIAM H. WRIGHT,
Assistant Wagonmaster Quartermaster's Dep't.

—

We certify that the foregoing statement is correct.
GEORGE W. COATS,
JAMES McKENNEY,
PATRICK DEMPSY,
Nineteenth N. Y. S. V.

—

I certify that the foregoing statement is correct.
R. C. RUHLY,
Forty-Fifth N. Y. S. V.

TAX BILL—AGAIN.

Mr. STEVENS moved that the debate in the Committee of the Whole on the state of the Union on the tax bill should be limited to five minutes.

Mr. RICHARDSON demanded the yeas and nays.

And then, on motion of Mr. HARDING, (at five o'clock, p. m.,) the House adjourned.

IN SENATE.

THURSDAY, *March* 13, 1862.

Prayer by Rev. J. S. KENNARD, of Washington.

The Journal of yesterday was read and approved.

EUROPEAN RAILWAYS.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, transmitting a report from the Secretary of State, in compliance with the resolution of the Senate of the 11th instant, calling for a copy of the correspondence on the files of the Department of State in regard to railway systems in Europe; which, on motion of Mr. CHANDLER, was ordered to lie on the table, and be printed.

PETITIONS AND MEMORIALS.

Mr. HOWARD presented a petition of citizens of Michigan, praying for the establishment of a military road from the copper region of Lake Superior to connect with the nearest railway station at Appleton, Wisconsin; which was referred to the Committee on Military Affairs and the Militia.

Mr. MORRILL presented resolutions of the Legislature of Maine relative to the defense of the coast of that State; which were ordered to lie on the table, and be printed.

Mr. WILKINSON presented a memorial of the Legislature of Minnesota, in favor of the establishment of a weekly mail route from Watertown, in Carver county, to Kandiyohi, in Kandiyohi county, in that State; which was referred to the Committee on the Post Office and Post Roads.

Mr. COWAN presented a petition of citizens of Blair county, Pennsylvania, praying for the establishment of a national armory and foundery at Hollidaysburg, in that State; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of the Mayor and other citizens of Philadelphia, praying for the imposition of a fair and just tax to sustain the credit of the United States Government; which was referred to the Committee on Finance.

He also presented a petition of citizens of Luzerne county, Pennsylvania, praying for the total abolition of slavery throughout the country, liberating unconditionally the slaves of all who are rebels, and allowing for the emancipated slaves of such as are loyal to the Government a fair pecuniary award; which was ordered to lie on the table.

Mr. DOOLITTLE presented the petition of the sachems and counselors of the Rockbridge tribe of Indians, residing in Wisconsin, praying that the Secretary of the Interior be authorized and directed to expend the fund of $6,000, set apart under the fourth article of the treaty of 1839, in purchasing supplies and other necessaries for the benefit of that tribe; which was referred to the Committee on Indian Affairs.

PROPOSED EXPULSION OF MR. POWELL.

Mr. DAVIS. There appearing to be but little press of morning business, I ask the Senate to indulge me in calling up the case of my colleague for consideration. The Legislature of Kentucky, as I intimated a few days ago, is now in session; it proposes to adjourn early next week; and whatever may be the action of the Senate in the case of my colleague, whether it be to retain him in his seat or to expel him, I should like exceedingly to have the action take place before the Legislature adjourns, for a reason which I assigned the other day, and which it is unnecessary for me to repeat. If the Senate will take up the case, I flatter myself we can get through with it to-day.

Mr. FOOT. Before the question is put on the motion of the honorable Senator from Kentucky, I would suggest to him what, perhaps, has escaped his recollection—that a special order was assigned for half past twelve o'clock this morning, on the motion of the Senator from Iowa, [Mr. GRIMES,] who expressed a wish to be heard upon that proposition, when that hour should arrive. It is so near at hand that I presume the Senator from Kentucky will not care to press his motion.

Mr. DAVIS. Not at all. I give way for that with a great deal of pleasure.

The VICE PRESIDENT. Does the Senator withdraw his motion?

Mr. DAVIS. For the present.

REPORTS FROM COMMITTEES.

Mr. LATHAM, from the Committee on the Post Office and Post Roads, to whom was referred the bill (S. No. 218) providing for a steam coast mail between San Francisco and Crescent City, in the State of California, with service at intermediate ports, reported it without amendment.

Mr. HALE. On the 10th of March I submitted a written report from the Committee on Naval Affairs, in reference to the establishment of a naval depot on the western lakes. The report has been printed, and concluded with a resolution discharging the committee from the memorials. I believe the vote was not taken on that resolution. I wish that it may be taken now.

The motion was agreed to; and the Senate proceeded to consider the report.

The resolution is as follows:

Resolved, That the committee be discharged from the further consideration of the memorials, petitions, and resolutions herein named.

The resolution was agreed to.

Mr. WADE subsequently entered a motion to reconsider the vote by which the Committee on Naval Affairs was discharged from the further

consideration of the resolutions, memorials, and petitions, in reference to the establishment of a naval depot on the western lakes.

JOHN DAVIS.

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

Resolved, That the Committee on Naval Affairs be instructed to inquire what action ought to be taken in relation to John Davis, whose distinguished bravery and devotion to duty have been brought to the notice of the Government in the recent report of Commodore Goldsborough; and that they report by bill or otherwise.

SEIZURE OF M. FOUCHET.

Mr. SUMNER. I offer the following resolution, and ask for its present consideration:

Resolved, That the President of the United States be requested to communicate to the Senate, if not incompatible with the public interest, a copy of all unpublished correspondence between this Government and that of Great Britain relative to the attempted seizure, by the commander of the British ship-of-war Africa, of M. Fouchet, envoy extraordinary and minister plenipotentiary of France, while on board the packet sloop Peggy, within the waters of the United States, on his way from the city of New York to Newport, Rhode Island.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SUMNER. I wish to make a brief statement in regard to this resolution. It relates to a very interesting incident in the early history of our country, the communications with reference to which that passed between the two Governments have never been printed. In late inquiries at the Department of State, I understand that an important dispatch relating to the event was found to be missing from the files. It could not be obtained on application to the British legation here, but it was obtained, through the liberality of the British Government, in London, and a copy was furnished from their files. It has been thought important in the interest of history, and in that respect only, that the correspondence should see the light, and, indeed, that it should be embodied in the archives of the country.

The resolution was adopted.

NAVAL ACADEMY.

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

Resolved, That the Secretary of the Navy be instructed to inform the Senate by virtue of what law or authority the Naval Academy was removed from Annapolis to Newport, in Rhode Island, and is still retained there, and the reasons of such removal; and also whether the reasons which called for its removal still exist, and whether any additional legislation is necessary for its permanent location.

BILLS INTRODUCED.

Mr. GRIMES. I am desired by the Common Councils of the city of Washington to introduce two bills of which previous notice has not been given, the merits of neither of which do I know anything about; but I introduce them merely to call the attention of the people of the District to them, and have them referred to the Committee on the District of Columbia.

There being no objection, leave was granted to introduce a bill (S. No. 230) to amend an act entitled "An act to continue, alter, and amend the charter of the city of Washington;" which was read twice by its title, and referred to the Committee on the District of Columbia.

Leave was also granted to introduce a bill (S. No. 231) amendatory of an act entitled "An act to provide for the care and preservation of the works constructed by the United States for bringing the Potomac water into the cities of Washington and Georgetown, for the supply of said water for all governmental purposes, and for the uses and benefit of the inhabitants of the said cities;" which was read twice by its title, and referred to the Committee on the District of Columbia.

THANKS TO CAPTAIN FOOTE.

The VICE PRESIDENT. The special order assigned for half past twelve o'clock is the joint resolution (S. No. 64) expressive of the thanks of Congress to Captain A. H. Foote, of the United States Navy, and to the officers and men under his command in the western flotilla, which is now before the Senate as in Committee of the Whole.

The joint resolution is as follows:

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the thanks of Congress and of the American people are due, and are hereby tendered, to Captain A. H. Foote, of the United States Navy, and to the officers and men of the western flotilla under his command, for the great gallantry exhibited by them in the attacks upon Forts Henry and Donelson, for their efficiency in opening the Tennessee, Cumberland, and Mississippi rivers to the pursuits of lawful commerce, and for their unwavering devotion to the cause of the country in the midst of the greatest difficulties and dangers.

SEC. 2. *And be it further resolved*, That the President of the United States be requested to cause this resolution to be communicated to Captain Foote, and through him to the officers and men under his command.

Mr. GRIMES. Mr. President, I conceive it to be my duty, and it certainly is a great pleasure to me, to call the special attention of the Senate to the achievements of the newly created naval flotilla on the western waters, and to the gallant part borne by its officers and men against armed rebels in Kentucky and Tennessee. Surely no one could more properly be proud of the deeds of our *Army* in that quarter than a Senator from Iowa. Yet, I know that whatever adds to the glory of our Navy in the recent conflicts in the West, adds also to the glory of the Army, and that the two branches of the service have been and are so conjoined that no rivalry ought to exist between them, except a virtuous emulation in the performance of patriotic duty. No examples can be found in the history of any country of more important results attained in an equal time, in an untried field of naval enterprise, than those we have lately witnessed on the Ohio, Mississippi, Tennessee, and Cumberland rivers; and I feel assured that the successes that have thus far been achieved, will be surpassed by the same forces whenever they can find an enemy with whom to cope between Cairo and New Orleans.

On the 16th day of May last, Commander John Rodgers was ordered by the Secretary of the Navy to proceed to Cincinnati and to purchase or commence the construction of several gunboats for service on the western rivers. Under his auspices the three boats, Taylor, Lexington, and Conestoga, were purchased and fitted up for war purposes. They were put in commission and reached Cairo, after some delay arising from the low stage of water in the Ohio river, on the 12th of August, Commander Rodgers taking command of the Taylor, and assigning Commander Stembel to the Lexington and Lieutenant Phelps to the Conestoga. The Taylor carried seven guns, of large caliber, the Lexington six, and the Conestoga four. Here was the beginning of the western flotilla. We all remember the unfavorable criticisms indulged in when these three stern-wheel steamers, with oak casings, arrived at that military post. Some said they would be shaken to pieces by the recoil of their own guns; others that they would be speedily sunk by the shore guns of the rebels; while not a few were alarmed by visions of Hollins's ram butting them to pieces with impunity. From the day they reached their destination to the present no rebel craft has shown itself ten miles above Columbus, and no rebel force of *any* description has harbored on the two rivers in a proximity which could be deemed threatening to their navigation, or to the two cities of St. Louis and Cairo. A few experimental trips dispelled all doubts of their efficiency; and when the people became assured that they would do the work they were intended for, all fears of a rebel incursion into any of the northwestern States, other than Missouri, was also dispelled. A band of Jefferson Thompson's robbers did, indeed, make a demonstration of crossing the Mississippi river, in August last, from the town of Commerce, Missouri; but at the first intimation that the gunboats were coming, they fled with what booty they could lay their hands on, pillaged impartially from friends and foes on the Missouri shore. The boon of security to the people of the northwestern States is a debt due, in no small degree, to these wooden gunboats, for however numerous and brave our armies, it would have been impossible with them alone to have guarded all points on our river line. Thus, our people were not only protected from danger of invasion, but they were enabled to give all their time and energies to preparation for those offensive movements which have reclaimed so much important territory from the domination of the enemy.

On the 23d of September, Commander Rodgers was detached from service in the West, and Captain A. H. Foote was ordered to take command as flag officer. Since that time the following boats, with iron-clad bows, have been built or prepared for service, and added to the flotilla under his command: St. Louis, thirteen guns, Lieutenant Paulding; Carondelet, thirteen guns, Commander Walk; Pittsburg, thirteen guns, Lieutenant Thompson; Louisville, thirteen guns, Commander Dove; Cincinnati, thirteen guns, Commander Stembel; Essex, five guns, Commander Porter; Mound City, thirteen guns.

The first engagement of the gunboats with the enemy took place on the 9th of September, at Lucas's Bend, in the Mississippi river, a short distance above, and in full view of the rebel stronghold at Columbus. In that engagement the Lexington, Commander Stembel, and the Conestoga, Lieutenant Phelps, silenced two shore batteries, dispersed a large body of rebel cavalry, and so disabled the rebel gunboat Yankee that she has not been heard of since.

On the 29th of October, the Conestoga, Lieutenant Phelps, proceeded, with three companies of Illinois volunteers, sixty-two miles up the Tennessee river to Eddyville, Kentucky, where they jointly attacked and routed a rebel encampment, bringing away their horses, arms, camp equipage, and negro slaves.

There could hardly have been an occasion where the presence of an efficient naval support was more necessary than at the battle of Belmont, fought on the 7th day of November last; and there has been no conflict during the war where this support, when finally called into requisition, was more effectively and opportunely rendered. Nothing but the well directed fire of grape and canister from the guns of the Taylor and Lexington saved our land forces from being utterly cut to pieces while retiring on board their transports. Every effort of the enemy to bring his artillery to bear on our columns was defeated by the storm of iron which assailed him from the boats. His pieces were dismounted and his horses and men swept down as fast as they were placed in position.

A great deal has been said about the origin of the proposition to take possession of the Tennessee river. The credit of originating the idea of a military campaign in that direction has been claimed, first for one, and then for another military commander. I desire that impartial justice should be done to every man; and acting upon the intention to do justice, I must be permitted to say, that so far as I can learn, the project of turning the enemy's flanks by penetrating the Tennessee and Cumberland rivers, originated with Commodore Foote. The great rise of water in those rivers was providential, and with the quick eye of military genius he saw at once the advantage that it might secure to our arms. Accordingly he sent to General Halleck, at St. Louis the following dispatch:

CAIRO, *January* 28, 1862.

General Grant and myself are of opinion that Fort Henry and the Tennessee river can be carried with four iron-clad gunboats and troops, and be permanently occupied. Have we your authority to move for that purpose when ready?

A. H. FOOTE.

To this dispatch no reply was vouchsafed, but an order was subsequently sent to General Grant to proceed up the Tennessee river with his troops under convoy of the armed flotilla, and attack Fort Henry, directing General Grant to *show* to Commodore Foote his orders to this effect. Commodore Foote was at once ready for the expedition, and advised the Department to that effect, in the following dispatch:

UNITED STATES GUNBOAT CONESTOGA,
PADUCAH, *February* 3, 1862.

SIR: I have the honor to inform you that I left Cairo yesterday with this vessel, having ordered the armored gunboats Essex, Carondelet, Cincinnati, and St. Louis to precede me to Paducah, and arrived here last evening.

To-day I purpose ascending the Tennessee river with the four new armored boats and the old gunboats Taylor, Conestoga, and Lexington, in convoy of the troops under General Grant, for the purpose of conjointly attacking and occupying Fort Henry and the railroad bridge connecting Bowling Green with Columbus. The transports have not yet arrived, although expected last night from Cairo, which causes detention, while in the mean time, unfortunately, the river is falling. I am ready with the seven gunboats to act offensively whenever the Army is in condition to advance, and have every confidence, under God, that we shall be able to silence the guns at Fort Henry and its surroundings, notwithstanding I have been obliged, for want of men, to take from the five boats remaining at Cairo all the men except a sufficient number to man one gunboat for the protection of that important post.

I have left Commander Kitly, as senior officer, in charge of the guns and mortar boats at Cairo, ordering him, with the assistance of Fleet Captain Pennock, to use every effort in obtaining men and forwarding the early equipment of

the mortar boats. It is peculiarly unfortunate that we have not been able to obtain men for the flotilla, as they only are wanting to enable me to have, at this moment, eleven full-manned instead of seven partially-manned gunboats ready for efficient operations at any point. The volunteers from the Army to go in the gunboats exceed the number of men required; but the derangement of companies and regiments in permitting them to leave, is the reason assigned for not more than fifty of the number having been thus far transferred to the flotilla.

I inclose a copy of my orders to the commanders of the gunboats, in anticipation of the attack on Fort Henry; also a copy of orders to Lieutenant Commanding Phelps, who will have more especial charge of the old gunboats, and operate in a less exposed condition than the armored boats.

I have the honor to be, very respectfully, your obedient servant, A. H. FOOTE, *Flag Officer,*

Commanding Naval Forces on the Western Waters.

Hon. GIDEON WELLES,

Secretary of the Navy, Washington, D. C.

P. S.—Several transports with troops have just arrived. A. H. F.

I proceed up the Tennessee early in the morning, and will there make the Cincinnati my flag-ship. A. H. F.

On the preceding day he had issued the following order to Lieutenant Phelps:

[Special Orders, No. 3.]

UNITED STATES GUNBOAT TAYLOR,

PADUCAH, *February* 2, 1862.

Lieutenant Commanding Phelps will, as soon as the fort shall have surrendered, and upon signal from the flag ship, proceed with the Conestoga, Taylor, and Lexington, up the river to where the railroad bridge crosses, and if the army shall not already have got possession, he will destroy so much of the track as will entirely prevent its use by the rebels.

He will then proceed as far up the river as the stage of the water will admit, and capture the enemy's gunboats and other vessels which might prove available to the enemy.

A. H. FOOTE, *Flag Officer,*

Commanding Naval Forces on the Western Waters.

The fleet, consisting of the iron-clad boats Essex, Carondelet, Cincinnati, and St. Louis, and the three wooden boats Taylor, Lexington, and Conestoga proceeded to Fort Henry and reduced it in one hour and twenty minutes, Commodore Foote being, as is his wont, in the forefront of the battle. It appears from the order to Lieutenant Phelps, (which that gallant officer promptly executed,) that Commodore Foote knew before leaving Paducah that he should take Fort Henry, no matter what might be the force or the resistance he should meet there. He was thoroughly inspired by the great idea of victory. The contingency of failure did not enter into his calculations. He, therefore, addressed himself to plans for reaping the fruits of victory, rather than to plans for repairing the consequences of defeat. It will be observed from the foregoing letter to the Secretary of the Navy, written before the battle of Fort Henry, that the efficiency of the flotilla was much impaired by the want of seamen, or by a neglect in some quarter to have those transferred from the military service who had been selected for that purpose.

After reducing Fort Henry and sweeping the Tennessee river as far up as Florence, in Alabama, Commodore Foote returned to Cairo to prepare the mortar boats for operations against Fort Donelson. He was aware of the formidable character of the rebel works at Donelson, and he desired a delay of a few days to complete the mortar boats, by which he believed the garrison, however extensive, could be shelled out without much loss of life on our side. General Halleck believed an immediate attack to be a military necessity. In this, I doubt not, he was right, and I only refer to it to show that the crippled condition of the fleet and the heavy loss of life on our side are not to be attributed to rashness or bad management on the part of the flag officer. Of the gallant attack on Fort Donelson no one need be reminded. Subjected, as our vessels were, to a long-continued and hot fire of three rebel batteries at four hundred yards' distance, they continued the fight for one hour and thirty minutes, and not until the wheel of one and the tiller ropes of another of his boats were shot away, did the well-managed guns of the commodore cease to scatter death and consternation among the foes of his country Although wounded himself, and his gunboats crippled, but with the glory of the combat on his brow, he indulged in no repinings for his personal misfortunes or laudations of his successes; but, like a true Christian hero, he thought only of his men. In a letter written the morning after the battle to a friend, he said:

"While I hope ever to rely on Him who controls all things, and to say from the heart, 'Not unto us, but unto Thee, O Lord, belongs the glory,' yet I feel sadly at the result of our attack on Fort Donelson. To see the brave officers and men who say they will go wherever I lead them fall by my side, makes me feel sad to lead them to almost certain death."

But he obeyed what was believed to be the military necessity of the situation.

The Senator from Massachusetts nearest me has this morning kindly furnished me with a letter from a trustworthy friend of his who has from the beginning been with the army of the West, from which I am permitted to read the following extracts:

"When Fort Henry surrendered, the gate was opened by which the rebellion will be finally and utterly crushed. In a few days Commodore Foote will open the Mississippi, provided he is not hampered, and also provided he is properly supported by Government. He has done a great work for his country—a work which, I am sorry to say, has not been properly appreciated. He has improvised a navy with almost insurmountable obstacles against him. I see it stated in the papers that the gunboats did but little service at Donelson, which is a monstrous mistake. They silenced nearly all the enemy's guns, and had not the wheel of one boat and the tiller ropes of another been shot away, in fifteen minutes more the batteries would have been flanked and the entire rebel army exposed to the broadsides of the fleet. He would have mowed them down like grass."

* * * * * * * * * *

"As it was, he made the work of the army in the fight of Saturday much easier than it otherwise would have been. Several of the Mississippi officers (prisoners) informed me that the shells of the gunboats had a demoralizing effect upon their men. The Memphis Appeal says it dispirited them." * * * * "I have had a fair opportunity to observe the operations of both army and navy, and I can say with emphasis that there are no more self-denying, patriotic, hard-working, faithful men than the flag officer and his captains, Stembel, Pennock, Phelps, and others." * * * * "I make these statements from my own sense of justice and honor, and not from any man's prompting or request."

The next movement of Commodore Foote, with his flotilla, was to take possession of Clarksville, where he arrived on the 19th day of February, and issued his proclamations to the inhabitants three days before the arrival of the land forces, though that fact, from some unexplained cause, nowhere appears in the official reports of the military commander of that department.

On the 21st February, 1862, Commodore Foote telegraphed to General Cullum, the chief of General Halleck's staff, then at Cairo, as follows:

PADUCAH, *February* 21, 1862.

General CULLUM, *Cairo:*

General Grant and myself consider this a good time to move on Nashville: six mortar boats and two iron-clad steamers can precede the troops and shell the forts. We were about moving for this purpose when General Grant, to my astonishment, received a telegram from General Halleck, "not to let the gunboats go higher than Clarksville;" no telegram sent to me.

The Cumberland is in a good stage of water, and General Grant and I believe that we can take Nashville. Please ask General Halleck if we shall do it. We will talk per telegraph—Captain Phelps representing me in the office, as I am still on crutches.

A. H. FOOTE, *Flag Officer.*

It may be that there was some great military reason why General Grant was directed "not to let the gunboats go higher than Clarksville," but up to this time it is wholly unappreciable by the public. Had they been permitted to go, as was proposed by Commodore Foote, Nashville would undoubtedly have capitulated some days earlier than it did, and an immense amount of rebel stores been captured, which were destroyed or removed before the army reached there, the value of which has been estimated at $2,000,000, and would probably have intercepted a part of the rebel Johnston's army.

I ought not to omit to mention the gallant attack by a part of the western flotilla, under Lieutenant Gwin, upon the enemy at Pittsburg on the Tennessee river, where fifteen hundred rebel infantry and cavalry were completely routed, with a loss of twenty killed and one hundred wounded.

The next fact of importance in the campaign at the West, and indeed the most important of all, was the evacuation of Columbus. Why was this stronghold, which cost so much labor and expense, abandoned without firing a shot? It is not for me to underrate the advantages of position secured by the valor of our troops at Fort Donelson; yet I undertake to say, from the knowledge I have been able to obtain of the defenses at Columbus, that there was nothing in the mere fact of the capture of Donelson and Nashville, and exclusive of our command of the river, which need have caused the evacuation, except after a long and bloody siege. From the letter of a correspondent writing on the spot, I obtain the information that the forts at Columbus

"Were so located and constructed as to be almost impregnable to an assault by storm. The capture of one by no means involved the capture of the balance. A fresh assault must be made in each instance. At the main fort, and many of the earthworks, stockades crossed the trenches, exposing the assaulting party to a storm of bullets from riflemen firing through loop-holes. Every ravine and ditch was thoroughly protected, and the various approaches of the river commanded for a long distance in every direction. It is sufficient to say, that an unusually strong natural position was seized upon, and so improved by rare engineering skill, that the equal of the Columbus fortifications, in extent and perfection of detail combined, can hardly be found in the United States."

Another correspondent, describing the fortifications after the evacuation, says:

"The fortifications were strong—perhaps stronger than any others in the South—but they were injudiciously constructed, and could not have stood an hour's bombardment by the gunboats and mortar fleet. The water battery stood out in such relief from the bluff that a well-directed mortar shell would have buried it under a hundred tons of earth from above. There were no casemates to protect the artillery from the galling fire of seven gunboats; and how long could men, unsheltered, have stood a continuous hail from twenty one guns, throwing eight-inch shell?"

It is well understood that Commodore Foote was opposed to giving the rebels an opportunity to leave Columbus. He felt sure of his ability, with his gun and mortar boats, to shell them into a speedy surrender, but was compelled to give way to counsels of military commanders.

When we couple the strategic position acquired by our occupation of the Tennessee and Cumberland rivers with the completion of the mortar boats and the absolute command of the river given us by the armored gunboats, there remains no mystery about the evacuation of Columbus. The two arms of the public service are equally entitled to the credit of frightening the rebels from their strongest position on the Mississippi river, if not the strongest in their whole military jurisdiction.

Yesterday the intelligence reached us that the western flotilla, composed of ten gunboats and ten mortar boats had started for new scenes of conflict and to achieve, I doubt not, new and yet greater triumphs. The country is assured that whatever can be accomplished by gallantry and nautical experience will be performed by Commodore Foote and the brave officers and men under his command. We await the announcement of new victories.

I have thought it proper, Mr. President, as a western Senator, in some degree charged with the examination of naval affairs by this body, to bear this testimony to the worth of that branch of the public service in the western campaign, and to the noble deeds of the flag officer in that command. No one can over-estimate their services to the country, and to the Northwest in particular; and in the name of that great section and of the whole country I thank them, one and all, officers and men.

But I would avail myself of this occasion to accomplish another purpose. I am anxious that the people of this entire country may feel that the exploits of the Navy wherever performed are their exploits, that its glory is their glory, and that while they are taxing themselves to support it, they are supporting the right arm of the national defense. I desire the citizen of the most remote frontier to feel that he is equally protected and equally honored by the brave deeds of our naval officers with the citizen of the Atlantic coast. I wish the men of Iowa and Minnesota to know that they are as effectually defended in their liberties at home and in their honor abroad, by the achievements of Du Pont and Goldsborough and Stringham and Foote on the water, as they can be by any victories won by our armies on the land.

Mr. President, ours must be a great maritime nation. Heaven has ordained that it should be such, and we could not make it otherwise if we would. We have a coast, both on the Atlantic and Pacific oceans, which, with its numerous indentations, is many thousand miles in extent, occupied by a hardy, nautical population, and flanked on either side by soils and climates that furnish the most valuable productions of the globe, and which must be supplied to other nations. On the north we have a succession of great lakes already bearing upon their bosoms a registered commercial tonnage of nearly half a million, and navigated by a race of daring, industrious, northern seamen. Unlike any other maritime nation, ours is traversed by navigable rivers, thousands of miles in length, floating an inland commerce unequaled by that of any country in the world, except, possibly, that of China, and capable of navigation by armed vessels of great capacity. With a country of such extent, a soil and climate fur-

nishing such productions, and a population along our ocean, gulf, bay, lake, and river coasts, accustomed to navigation, who does not see that ours must, from the very necessities of our geographical position, and the conformation of our continent, become a great commercial people? Our products must be borne to remote nations in our own ships, navigated by our own seamen, and protected wherever they go by our vessels of war.

I know not with whom originated the phrase that the "Navy is the right arm of the public defense;" but I know that a truer sentiment was never uttered. In my conviction it will always be in this country the most efficient and far the least dangerous arm of the public service by which to maintain the national integrity and defend the national honor. History teaches us that every nation that has depended upon a navy for protection has been comparatively free by the side of those which placed their reliance upon armies. I need not go back to antiquity to prove this. I point to Holland and England in modern times. The former, while she continued to be the greatest naval Power on earth, was the freest Government on earth, and only began to be shorn of her liberties and of her territory when she neglected to maintain her fleets. England, the most liberal of all Governments save our own, is in no small degree indebted for her present position to the fact that she maintains only a small military force in the British islands, and relies upon her wooden walls as a means of attack and defense. She puts no faith in large standing armies, and will not until her people shall be prepared to surrender their freedom. With her garrisoned possessions encircling the globe, her entire military establishment does not exceed one hundred and twenty thousand men. France, Austria, Russia, Prussia maintain large standing armies on their soil; and in those countries the liberty of the people is measured by the will of the sovereign. The freedom they enjoy is the gratuity of emperors and kings; the servitude they endure is enforced by the presence of standing armies. The people of this country can never accept the rights which they enjoy as the gift of any being inferior to their Creator.

I do not believe that anybody but the public enemy has had anything to fear from the numerous and well-appointed armies we have raised, yet no one of us is prepared to say that with an army much longer isolated from home scenes and home ideas, concentrated in large bodies, and taught the duty of most implicit obedience, danger to our free institutions may not arise. No such danger can arise from the existence of a navy, however large, or however commanded. Seamen are cosmopolitans. Always employed and generally afloat, they never become, as armies sometimes do, as dangerous to friends in time of peace as to enemies in time of war.

I might go on and show that, situated as all of our large cities are upon arms of the sea or upon navigable rivers, the Navy might be made more efficient in suppressing domestic insurrections, as well as in repelling a foreign invasion, than the Army. I might show, too, that, notwithstanding what is said by professed statisticians, the support of a navy is less expensive, in comparison with the service it renders to a maritime nation, than that of an army; but I shall not detain the Senate by attempting to enter upon such an exposition at this time.

As I said at the outset, Mr. President, my purpose in rising to address the Senate at this time was to call the attention of the country to the successful operations of the western flotilla; but I cannot refrain from alluding, for one moment before I close, to the successes of our Navy elsewhere in this war. The whole southwestern Atlantic coast has been swept by the fleet of the gallant Du Pont, and is now effectually held by both an inside and outside blockade. The enemy have been driven from the waters of North Carolina by Goldsborough, their whole navy in that quarter destroyed, and their coast towns occupied. Such progress has been made in the Gulf of Mexico, that I venture to predict that in a few days at furthest intelligence will reach us that the forts at the mouth of the Mississippi river have been captured, and that Farragut and Porter are now or soon will be in possession of New Orleans. But the startling events that have recently occurred in Hampton Roads attract, as they ought, the attention of all. It would be well for us to reflect upon what those events have clearly demonstrated. They are—first, that in modern naval warfare, wooden sailing vessels of war are perfectly harmless and helpless; second, that the strongest stone fortifications can be no obstruction to the entrance of iron-clad vessels of war into any of our harbors, and that one or two such vessels, unopposed by vessels of a similar character, can hold any commercial city on the continent at their mercy; third, that we can now commence the creation of a proper navy upon a footing of comparative equality with all of the naval Powers of the world.

Mr. President, no man sympathizes with the relatives and friends of the gallant dead who perished on the Congress and Cumberland more deeply than I do. Perhaps, however, their loss was necessary to teach us our true path of duty to the country. Let us not suffer more valuable lives to be periled upon such worthless vessels; and while we deplore the loss of so many brave men, let us rejoice that so many more are left to the service who are willing to do and die for their country. Especially let us give thanks for the brilliant example of courage, seamanship, and patriotism furnished to the country and to the world by that matchless officer, Lieutenant John L. Worden, and the officers and men under his command on board the Monitor. In that unexampled engagement of Sunday last, after a terribly suffocating and dangerous passage from New York, without having slept, with an undrilled crew and handling an untried experiment, Lieutenant Worden and his crew performed prodigies of skill and valor that will render all on board the Monitor immortal. They will be immortal not for their valor alone. Who shall undertake to estimate the influence that battle will exert upon all of the maritime Powers of the earth? Who shall undertake to tell the number of homes to which the news of its successful result carried quiet on that eventful evening, which had been for hours disturbed by the most distracting fears? Is it too much to say that it rescued our commerce and our commercial cities from ravage, and in one hour completely revolutionized all systems of naval architecture and naval warfare? Captain Ericsson, too, may well be proud of the place his name will henceforth occupy in the history of nautical science, and we may well be proud that the country of our birth is the country of his adoption.

But, Mr. President, while I would thus honor the gallant living, I would bear my tribute of affectionate respect for the memory of the heroic dead who fell in the engagement in Hampton Roads. Let the remembrance of that brave young officer, whose obsequies are now being performed in another part of this city, who, when his vessel was sinking beneath his feet, replied to a summons to surrender, that he would never give up the flag intrusted to his keeping, and the next moment met death with composure, be cherished by his countrymen. The name of Smith, already illustrious in the annals of the American Navy, will be added to the bright galaxy of those who have freely laid down their lives at the call of their country.

Mr. President, the nation has cause to be proud of the Navy; let it be honored and maintained.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time, and passed unanimously.

THANKS TO LIEUTENANT WORDEN.

Mr. SHERMAN. I trust that the other joint resolution, which was also made a special order for this morning, will be acted on now.

The VICE PRESIDENT. That course will be adopted, if there be no objection.

The joint resolution (S. No. 66) expressive of the thanks of Congress to Lieutenant J. L. Worden, of the United States Navy, and to the officers and men under his command, in the Monitor, was considered as in Committee of the Whole. The joint resolution is as follows:

Be it resolved, &c., That the thanks of Congress and of the American people are due, and are hereby tendered, to Lieutenant J. L. Worden, of the United States Navy, and to the officers and men of the iron-clad gunboat Monitor, under his command, for the skill and gallantry exhibited by them in the late remarkable battle between the Monitor and the rebel iron-clad steamer Merrimac.

SEC. 2. *And be it further resolved*, That the President of the United States be requested to cause this resolution to be communicated to Lieutenant Worden, and through him to the officers and men under his command.

Mr. CLARK. I suggest to the Senator who introduced the resolution whether it should not be amended. We can offer the thanks of Congress, but not of the American people.

Mr. SHERMAN. It is in the ordinary form.

Mr. CLARK. I supposed it was not.

Mr. SHERMAN. It is in precisely the same form as the resolution which has just passed in regard to Commodore Foote.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time, and passed unanimously.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House had passed a bill (No. 355) to amend an act entitled "An act to further promote the efficiency of the Navy," approved December 21, 1861; in which the concurrence of the Senate was requested.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; which thereupon received the signature of the Vice President:

A bill (S. No. 80) to amend "An act to incorporate the Columbian Institution for the Instruction of the Deaf and Dumb and the Blind," and to make appropriation for the benefit thereof;

A bill (S. No. 150) for a joint commission for the preservation of the Atlantic fisheries;

A bill (H. R. No. 208) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th of June, 1863, and additional appropriations for the year ending the 30th of June, 1862;

A joint resolution (S. No. 54) to amend an act entitled "An act to carry into effect conventions between the United States and the republics of New Granada and Costa Rica;" and

A joint resolution (S. No. 57) providing for the custody of the letter and gifts of the King of Siam.

PROPOSED EXPULSION OF MR. POWELL.

Mr. DAVIS. I now renew my motion to take up the report of the Committee on the Judiciary in the case of my colleague.

The VICE PRESIDENT. Does the Senator from New Hampshire [Mr. HALE] yield the floor. The Senator from New Hampshire is entitled to the floor on the special order.

Mr. DAVIS. With his permission, I should like to have this case disposed of to-day. I think we can get through with it to-day.

Mr. HALE. I am at the pleasure of the Senate. It is very little that I have to say, and I do not care when I say it. If it is the pleasure of the Senate to take up the other subject, I shall yield.

Mr. DAVIS. My Legislature, as I stated, are in session, and wish to adjourn in the early part of next week, and I should like to have the case disposed of before they adjourn. If it were not for that, I should not press it now.

Mr. HALE. Well, sir, I give way for the motion. Let the sense of the Senate be taken upon it.

The VICE PRESIDENT. The Senator from Kentucky moves to postpone all prior orders for the purpose of considering the report of the Committee on the Judiciary relative to the seat of his colleague.

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

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 16; as follows:

YEAS—Messrs. Browning, Carlile, Cowan, Davis, Doolittle, Fessenden, Foot, Foster, Harris, Howe, Kennedy, King, Lane of Indiana, Latham, Nesmith, Pearce, Powell, Rice, Saulsbury, Ten Eyck, Trumbull, Wilkinson, Willey, and Wright—24.

NAYS—Messrs. Anthony, Clark, Collamer, Dixon, Grimes, Hale, Harlan, Harris, Henderson, Howard, Lane of Kansas, Pomeroy, Sherman, Simmons, Sumner, Wade, and Wilson of Massachusetts—16.

So the motion to postpone the special order was agreed to; and the Senate proceeded to consider the resolution submitted by Mr. WILKINSON on the 20th of February last, upon which the Committee on the Judiciary had reported adversely.

Mr. DAVIS. I move that the Senate reverse

the report of the committee and pass the resolution as it was proposed by the Senator from Minnesota.

The PRESIDING OFFICER. (Mr. FOOT in the chair.) The Chair will state to the Senator from Kentucky, as a question of order, that the original resolution, although accompanied with an opinion of the committee that it ought not to pass, is before the Senate; and the question is on the passage of the original resolution.

Mr. DAVIS. I thank the Chair. I shall address the Senate then in support of the original resolution.

The PRESIDING OFFICER. The resolution will be read before the Senator proceeds.

The Secretary read the resolution, as follows:

Whereas LAZARUS W. POWELL, a Senator from the State of Kentucky, after eleven States had published their ordinances of secession, by which to sever themselves from the Government of the United States, had formed a confederation and provisional government, and made war upon the United States, did, on the 20th day of June last, at the city of Henderson, in the State of Kentucky, attend a large southern State rights convention, over which he was called to and did preside; and, on taking his seat as president thereof, made a speech, in which he stated the object of said convention, and then appointed a committee, which reported to said convention a long series of resolutions that were unanimously adopted by it. Among those resolutions are the following:

"2. That the war being now waged by the Federal Administration against the southern States is in violation of the Constitution and laws, and has already been attended with such stupendous usurpations as to amaze the world, and endanger every safeguard of constitutional liberty."

"That the recall of the invading armies, and the recognition of the separate independence of the confederate States, is the true policy to restore peace and preserve the relations of fraternal love and amity between the States."

"6. That we heartily approve the refusal of Governor Magoffin to furnish Kentucky troops to subjugate the South; and we cordially indorse his recent proclamation defining the position of Kentucky, in accordance with the sentiment of her people, and *forbidding* the *invasion* of *Kentucky* by *Federal* or confederate troops.

"7. That although Kentucky has determined that her proper position *at present* is that of strict neutrality between the belligerent sections, yet, if either of them invade her soil against her will, she ought to *resent* and *repel* it by *necessary force*."

The pith of Governor Magoffin's proclamation, which that convention so cordially approved, is embodied in this paragraph:

"I hereby notify and warn all other States, separate or united, especially the United and confederate States, that I solemnly forbid any movement upon Kentucky soil, or occupation of any part or place therein, for any purpose whatever, until authorized by invitation or permission of the legislative and executive authorities. I especially forbid all citizens of Kentucky, whether in the State guard or otherwise, from making any hostile demonstration against any of the aforesaid sovereignties; to be obedient to the orders of the lawful authorities; to remain quietly and peaceably at home when off of military duty, and refrain from all words and acts likely to provoke a collision, and so otherwise to conduct themselves that the deplorable calamity of invasion may be averted; but, in the mean time, to make prompt and efficient preparation to assume the paramount and supreme law of self-defense, and strictly of self-defense alone."

The closing speech of this convention was made by Senator POWELL, and the resolutions passed by it, and a summary statement of its proceedings, were signed by him as its president.

On the 10th of September last, while the Legislature of Kentucky was in session in the town of Frankfort, and after her territory had been invaded at two distant points by the confederate armies, and while Humphrey Marshall was employed in organizing and drilling an armed body of rebels in the contiguous county of Owen, a large southern State rights convention assembled and held its sessions in Frankfort, for the apparent purpose of overawing the Legislature, controlling its deliberations, and deterring it from passing measures to support the Union and the Government of the United States. LAZARUS W. POWELL was a delegate to that convention from the county of Henderson, and was appointed on its committee of resolutions. Among other resolutions, that committee reported these:

"*Resolved*, That every material interest of Kentucky, as well as the highest dictates of patriotism, demand that peace should be maintained within her borders, and this convention solemnly pledges the honor of its members to do all in their power to promote this end.

"2. That it is the deliberate sense of this convention and it is believed of an overwhelming majority of the people of Kentucky, that the best and perhaps the only mode of effecting this great object is by adhering strictly, rigidly, and impartially to her chosen and oft-declared position of neutrality during the existence of the deplorable war now raging between the sections; taking sides neither with the Government nor with the seceding States, and declaring *her soil* must be *preserved inviolate* from the *armed occupation* of either."

"9. That we consider it incompatible with the neutrality avowed by Kentucky to vote money for the prosecution of the civil war, or to tax the people of the State, or augment its debt for a purpose so unwise, and for a cause so hopeless as the military subjugation of the confederate States."

This was a convention of most intense secessionists, and was attended by John C. Breckinridge and many of the leaders of that party from generally over the State. William Preston and R. W. Wooley, Esqs., made speeches to it fraught with the rankest treason, and denouncing the fiercest war against the United States. Its resolutions were unanimously adopted, and its business closed with the following one offered by Senator POWELL:

"*Resolved*, That Colonel William Preston, George W. Johnson, Esqs., General Lucius Desha, Captain Richard Hawes, and Thomas P. Porter, Esq., be, and they are hereby, appointed a committee of organization, in order to carry out the purposes of this convention; and full powers are conferred upon them for that object."

Those men were thus commissioned in the cause of conspiracy, treason, and rebellion. By the warrant given them, on the motion of Senator POWELL, they went forth and organized, or advised and assisted in the organization of armed bands of traitors, and soon thereafter led them into the confederate camps, where they are yet struggling to consummate the disruption of the Union and the overthrow of the Constitution and laws of the United States. From the beginning of this great rebellion to the present time Senator POWELL has neither done nor said anything in Congress or out of Congress to strengthen or sustain the United States in this mighty struggle for national life. While the true and loyal men of his own State were engaged in an arduous and protracted struggle to bring her to perform her duty to the nation and its Government, he not only withheld from them all assistance and sympathy, but gave to the rebels the moral force of his disloyal position and opinions, and all the aid and comfort which he could render them short of the commission of technical treason. His purposes, if not his acts, have been treasonable. Being an ex-Governor of the State of Kentucky, and one of her Senators in Congress, his example and counsel have doubtless been potential with her people and of mischievous tendency in other States. Under the false and delusive cry of neutrality and peace, and the absurd purpose to protect the soil of the State against invasion from the military force of the United States, he has doubtless assisted to seduce hundreds and hundreds from loyalty and duty into rebellion and treason. He has not supported the Constitution of the United States, but he has sounded the charge to his recruits, and they have made the overt attack upon it: Wherefore,

Be it resolved, That the said LAZARUS W. POWELL be, and he is hereby, expelled from the Senate.

Mr. DAVIS. Mr. President, in this matter I am in the performance of what I conceive to be a high duty. I am acting in obedience to the instructions, or, at least, to the request, of the Legislature of my own State, and in conformity to my own judgment in relation to the merits of the proposition. In November last, the Kentucky Legislature, being in session, passed this joint resolution:

"Whereas, John C. Breckinridge and L. W. POWELL do not represent the will of the people of Kentucky: Therefore,

"*Resolved, by the General Assembly of the Commonwealth of Kentucky*, That they be instructed to resign their seats in the Senate of the United States."

I admit that the Constitution imposes no obligation upon my colleague to act in obedience to that resolution. I concede that it is a point upon which his own judgment and his own sense of propriety alone authorize him to act. But I know that my colleague, in his whole course in relation to this war and all of its policy, has misrepresented the known and clearly-expressed will of the Legislature of the State of Kentucky, and of the entire Union party of that State, constituting at least two thirds of it. The Legislature of Kentucky and the people of Kentucky desire that my colleague's place in this body should be vacated, and that some other gentleman, representing their principles and their will on the subjects and in relation to the points in which my colleague differs from his constituency, should be sent here. They desire it for many reasons, and I will name only one or two of them. In the first place, they regard the matters upon which my colleague has acted in difference from their will and their opinions as matters of the most vital and momentous interest to the people of the United States and to the State of Kentucky also. They desire that their principles and their will in relation to those important subjects should be correctly and faithfully reflected and acted out in this body. They expected, as a matter of moral right and of moral propriety, that my colleague would resign his office here when he found himself in total difference and dissent from the Legislature of his State and from the Union party of the State, constituting at least two thirds of the people of the State, in relation to these important matters. If he chose not voluntarily and of his own will to take that course of action, they desired that the Senate of the United States should expel him from his office, that they might send a man here who would correctly represent them. They desire that I, a member of the Senate from that State, coming here as the chosen representative of the Union party of the State, should do all that I could in the line of my duty for the purpose of vacating the seat of my colleague, that they might have an opportunity of sending some individual whom they preferred to be their representative to him.

The course and principles of my colleague are as well known in the State of Kentucky as in this body to all the reading and intelligent men of that State. They were as well known to me before I left the State of Kentucky to come to this city to take my seat as a representative in the Senate from that State as they are at this day. With this full knowledge upon the part of my constituency and of myself, they have no more united or earnest desire than that my colleague should be removed from his seat. I came here with as deep and thorough a conviction that my colleague was an improper person to represent the people of the State of Kentucky on the floor of the Senate as I ever had of any proposition; and I came here with as decided and unalterable a purpose to do everything that my duty and my honor would enable me to perform for the purpose of vacating his seat, as I ever had any purpose in the course of my life.

Mr. President, the office of Senator of the United States is a most exalted position. There are few stations of honor or of responsibility in the world that are equal to that of a Senator of the United States. With the exception of the President and the members of the Supreme Court, there are probably none in the General Government, or in the State Governments that in dignity, in power, and in responsibility equal it. A Senator represents so much of the sovereignty of the States as the Constitution of the United States has permitted to remain to the States. The Senate is the peculiar and the only proper representative of the sovereignty of the States in this complex system of government. Whenever a Senator presents himself here and asks to be sworn in and to take his seat as a Senator, he takes the oath to support the Constitution of the United States. Is that oath a matter of substance? Does it mean anything? Has it any moral force or power? Or is it a mere empty form, utterly meaningless? I hold that it is one of the highest sanctions that can be given by a Senator of his obligation and of his purpose to uphold the Constitution, and to do what he can do in his official capacity to support and to sustain the Government of the United States. A Senator that is totally derelict in that obligation to his Government, in my judgment is wholly unfit to fill the place, and whenever the facts in relation to his case can be made manifest, so as to prove that that is his position, it seems to me then that it is the bounden and high duty of the Senate to expel him from his seat.

Mr. President, how can a Senator of the United States support the Constitution? Every Senator has two characters, his individual and his official character. This oath is addressed to both, to his individual and to his official character; he is not only as a Senator but as a citizen and as a private man to support the Constitution of the United States. How is he to support the Constitution of the United States, as an officer, as a member of the Senate? In a time of danger and of peril like the present, when the existence of the Government itself is threatened with overthrow, and has been most seriously threatened with overthrow, how is the Constitution of the United States and how is the Government of the United States to be supported by Senators? In no other mode than by voting for the laws necessary to uphold both, by voting for appropriations of men and money necessary to repel the attacks that have been, by treason and rebellion, made upon both. Let us inquire, Mr. President, how far my colleague has performed this duty and in how far he has failed.

Gentlemen from the free States have had a smooth sea. It has been an easy matter for them to preserve their loyalty and to adhere to the Government and to give it the necessary support of loyal citizens and of faithful Senators. In the border slave States, where there was a large secession and treasonable party, the case has been greatly different; and for the purpose of presenting that difference to the Senate, I will read a short extract from a newspaper in Kentucky, that embodies it in a few words:

From the Frankfort Commonwealth.

"If any one ever doubted the wisdom of the part pursued by those who have shaped the policy of Kentucky in this civil war, recent events must convince them that it was the only course that was consistent with patriotism and the public safety. No one outside the State can understand the difficulties that had to be encountered by those who have kept the Commonwealth in her place in the Union. The elections preceding the rebellion had gone in favor of men under the influence of southern sympathies. The Executive had been elected by a large majority over his conserva-

tive opponent. A majority in both branches of the Legislature of the same political proclivities with the Governor had been returned. The great head and idol of the Democratic party, John C. Breckinridge, was plying his followers with artful suggestions, preparing their minds for resistance and driving them to fury by his great and popular eloquence. The senatorial representation in Congress was upon the side of the rebellion. Emissaries from the southern States were freely admitted to address the popular assemblies and to make their impress in the social circles, and even Yancey himself, who had been successful 'in firing the southern heart,' was received with almost consular honors, and introduced to the people by the highest official dignitary in the State. The bench of the Federal court, too, was occupied by an eminent lawyer, who was all for the South. Add to this, that much of the wealth of the State was really in the southern States—many of our richest men being owners of large and valuable cotton and sugar estates. Moreover, our trade had been chiefly in that direction, and the manufacturers of hemp fabrics, the growers of corn and tobacco, the breeders of blooded stock, the raisers of fat cattle and mules, and almost every variety of occupation found a market in the very hot-bed of rebellion. Self-interest led most of them into southern sympathy. As if all this was not enough, there was superadded to it all a military organization known as the State Guard, under the command of Simon Bolivar Buckner, and into the custody of that guard the entire armament of the State was confided; the muskets, the cannon, the ammunition, and every implement of war. This warlike force was disciplined and drilled at State expense, and carefully and systematically prepared for treason.

"Such was the political and social status, and the patriotic Kentuckians had to meet it, without a Governor, without a Legislature, without a soldier. When one looks back into this red sea of troubles it seems a miraculous deliverance. How that deliverance was effected, and by whom, will hereafter appear in the history of Kentucky, and the memories of the men who achieved it will be held in grateful remembrance. Suppose they had failed, and Kentucky had gone into the southern confederacy, what would now be our condition? Being immediately on the border, the confederates would have occupied it at the very beginning of hostilities. Their troops would have been quartered in all our principal towns, and their cavalry would have taken possession of the richest farms. If they paid for such things, it would have been in confederate scrip, not now worth a dollar a bushel. They would have driven out every man who did not indorse their actions, and confiscated the property of all who wished success to the Union.

"Would they have been enabled, by occupying Kentucky and with such additional strength as Kentucky could have brought to their aid, to successfully contend with the nation? The question is almost answered in the putting it. They would have brought the war that much nearer to the point where the strength of the Government really was, and that much further from their own resources; and instead of the powerful and inexhaustible forces of the Northwest having to march hundreds of miles to meet the enemy, they would have had him in sight all the time. As it was, the South showed miserable generalship in seizing on Columbus and Bowling Green, and transferring the theater of operations from the Potomac and the Atlantic to the West. They have been able to hold their ground there, and gained some renown in arms; but on the western field they have sustained nothing but disaster upon disaster, and now, retreating from fortification to fortification, losing whole armies by capture or panic, they see the flag of the Union floating from the capitol of Tennessee, and the whole brunt of battle carried down upon Mississippi, Alabama, and Georgia.

"Did not those do wisely who kept our State from being the battle-ground, and from being crushed between the millstones of war?

"This may be called the physical aspect of the question, but looked at in its moral aspect and how grandly does not our old Commonwealth loom up in the eyes of an admiring nation? Instead of being seduced from her allegiance by the allurements of interest, or the persuasions of demagogues, or the menaces of power, she has remained true and steadfast in loyalty to the Union, the Constitution, and the enforcement of the laws. She has in the field more than her quota of soldiers, and is lending an efficient aid to the Government in all its constitutional efforts to keep the nation together. Had she, in madness and folly, gone with the South, she would now have the unenviable distinction of being the first State that had to haul down the flag of rebellion, while the smoking ruins of all that garnishes this lovely land—making it an earthly paradise—would be all that was left her as the reward of treason. As it is, she will come out of this civil war with untarnished honor, and her people will soon be once more united, prosperous, and happy."

Mr. President, it was a dreadful, and for a long time a doubtful, struggle in that State which party would prevail and control its destiny. The popular mind of the State of Kentucky had to be educated against all their sympathies, all their interests, all their business connections, and against the feelings and sympathies of their brethren in the South, before they could be induced to take position in favor of the Union and of their Government against them. They had a perilous and a difficult duty to perform, and the men who were most prominent in its performance met daily with the denunciations and obloquy of the secessionists. They were threatened from day to day, openly and by anonymous letters, and in every form, with violence and death, merely because of their fidelity to the Union and to their Government. I speak from personal experience. If the question had been taken eight or nine months ago in the State of Kentucky upon the general proposition to go South or to adhere to the old Union, I have no doubt that a majority of the people of that State would have decided to go South, and would have seceded with the other States, where they had their markets, their sympathies, the profits of all their industry and trade. It was only by a series of measures that caused the suspension of their judgment, and gave them an opportunity to be addressed by truth and sound argument and their minds to be instructed, that that wholesome change was wrought in the public mind of that State which eventually brought two thirds of its people to loyalty and duty in support of the Constitution of the United States.

Mr. President, what was the duty of my colleague at that time, that eventful and doubtful time? His position, his principles, his moral power as an ex-Governor of the State of Kentucky and as a Senator representing that State in the Senate of the United States, were all thrown against the Government of the Union and in favor of the rebellion and of the secessionists. I challenge him to produce a single act of his, public or private, from that time to the present that ever evinced the least interest in or sympathy for his own Government, or the smallest purpose to support and uphold that Government according to the obligation of his constitutional oath. I challenge him to produce a single act, public or private, of his, the tendency of which was not to strengthen the rebellion, to give it complete and final success, to disrupt this Union, and to overthrow the Constitution of the United States.

Mr. President, I know full well the popularity of the honorable gentleman. I know his power in the State of Kentucky, and especially in his own region of it. I never have seen a man who was the enemy of my colleague personally. I never have met an individual who cherished against him an unkind feeling. If there be such an individual in existence upon this earth, I know him not. If in that hour of our trouble, of our trial, of our doubtful struggle, the honorable gentleman had thrown himself into the cause of the Union and of the Government, and had come out manfully and actively and heroically for that Union and that Government, he would have been hailed with shouts of gratitude and admiration by the whole Union party of the State. There was nothing in relation to him that they more desired. They would have cheered his advent into their ranks; they would have been prepared to receive him with all the gratitude and honor that they could have manifested towards him. But, sir, instead of acting that patriotic, manly, and noble part, my colleague has acted a part diametrically the opposite in all the passages of his life, public and private, so far as they have come to my knowledge or I have information of them.

The Senate was in session in March, 1861—this month a year ago. The work of rebellion and of civil war had then been initiated. This grave and momentous subject was before the Senate of the United States; and my colleague was called upon to act and to express himself in relation to this great struggle then; and how did he act and express himself? I will read from a speech which he made. On the 2d day of March last my colleague said in a speech addressed to the Senate from his seat:

"I say now that I am for enforcing the laws in all the States that are *within* the Union; but I am opposed to making war on States that are *without* the Union. I am opposed to coercing seceded States. That I have declared in this Chamber on more occasions than one, heretofore. I am utterly and entirely opposed to coercion. I have distinctly and explicitly declared that I believed that war on the seceding States would put an end to all hope of any reconstruction of the Union, and hold that no true lover of the Union can be in favor of coercion. I hold that we have no right under the Constitution to make war upon those States."—*Congressional Globe and Appendix*, 1860-61, part 2, page 1370.

At that early day, when the opinion and sentiment of the people of Kentucky were wholly Union, before the emissaries of the South had instructed the Kentucky mind on behalf of treason, when there was not a voice in that noble State uttered but what was for the Union and for upholding the Government of the United States in all its constitutional authority, when the mind and opinion and patriotism of that people were unseduced, and before they were corrupted, what were the principles announced by my colleague on this floor in the extract which I have just read? What does he term "coercion?" The Constitution of the United States says that the Constitution and the laws of Congress passed in pursuance of it and the treaties of the United States shall be the supreme law of the land, and it directs that every officer, executive, legislative, and judicial, of the Federal Government, and of all the States of the Union, shall take an oath to support the Constitution of the United States in this its expressed supremacy. What was the position of my colleague? Here was a wicked and a causeless rebellion; it had attained to extensive and stupendous proportions; it had debauched and corrupted almost one half of the United States, mainly by the connivance of your Secretary of War and your Secretary of the Navy, who had so disposed of the navies and armies and guns and munitions of war, that the energies and power of the General Government could not be promptly summoned to quell the rebellion. You had an effete, driveling President, if not a traitor, with full knowledge of all their treasonable projects. His confidential advisers, the members of his Cabinet were in daily consultation with him, and two of them had then boldly entered into this great conspiracy to overthrow the Government and to dissolve the Union, and had prostituted all their official power for the purpose of disabling the Government and putting it in a position to be subjugated by this mighty rebellion. All this was under his immediate inspection and with his knowledge. The outbreak was without cause, or with a cause so slight as to amount to nothing on the question of rebellion and revolt. These men raised the standard of revolt; they seized upon the forts and arsenals and ships and other property of the United States of America; they instituted their own State governments in subordination to the new position which they assumed, and they organized a provisional government, and elected one who was a member of this body at that time their president. They fired upon a ship of the United States in the public service sent to relieve one of its beleagured forts; and in a few days thereafter they opened their formidable and long and deliberately prepared batteries upon that fort itself, and they reduced it and compelled the flag of the United States for the first time to trail the ground to a domestic enemy. What was the position of my colleague then? What lesson was he teaching his constituency in the State of Kentucky? What treason was he indoctrinating or attempting to indoctrinate that noble and gallant people with? Notwithstanding this was the condition of public affairs, and eleven of the States had seceded and thrown off their allegiance to the Government of the United States and reared the standard of rebellion and were trying to raise an alien and hostile government, "I" said he, "hold that there is no constitutional power to coerce these insurgents and rebels to obedience to the laws of Congress, and to the authority and Constitution of the United States!"

Was there ever a position of treason taken more boldly—treason *flagrante delicto*? Here, in the dawn of this mighty rebellion, before it had assumed its large and gigantic proportions, before many of the people of the United States, and especially the people of Kentucky that eventually sympathized with and took part for it, had taken their position—here is the principle which my colleague is teaching to his constituency and to the American people, he acting here the part of an American Senator. What did he make his speech for? It was to be read by his constituency—the people of Kentucky. It was to instruct the Kentucky mind, and to fire the Kentucky heart for the purposes of southern treason. It could have had no other effect; it was intended to have no other effect. If my colleague were a private individual, he would not have been so culpable; but he, a component part of the Government of the United States, a member of the Senate, representing the qualified and restricted sovereignty of the State of Kentucky upon this floor, was teaching that principle, and avowing that he was totally opposed to the whole principle and doctrine of coercion, and giving forth that political teaching to his people and to the nation! What greater dereliction to duty, to patriotism, to the obligations of his oath, could my colleague have enacted short of the overt act of treason?

But, sir, I shall proceed with as connected a narrative of the political life of my colleague, both in the Senate and out of it, as I have been enabled to get hold of; and I ask leave to bring to the attention of the body the proceedings of a State

rights meeting or convention in the city of Henderson, where my colleague has his home, and over which he presided, that took place in June last. I have here a notice of it in the Reporter, a secession State rights paper, published in my colleague's own town, giving a summary of its proceedings in a short paragraph. After reading that, I shall read the resolutions and the official account of the proceedings of the meeting. The editor says in an editorial:

"On Saturday last a large crowd assembled at the court-house in pursuance to the call for a mass convention to nominate a southern rights candidate for the Legislature. The meeting was the largest and most harmonious we have attended for many a day. Governor L. W. POWELL was called to the chair, and briefly stated the object of the convention. A committee of seven was appointed to draft resolutions expressive of the sentiments of the convention, and to report a plan for choosing a nominee and suitable persons to be put in nomination. The committee then retired to transact their business.

"Being called upon, S. B. Vance, Esq., candidate for the State Senate, took the stand, and delivered one of the most powerful, convincing, and eloquent speeches we ever heard. He followed the course of the unconditional Union party"—

You see there was an unconditional Union party in Kentucky at that time. I belonged to that party then; I belong to it now, and I will belong to it ever. I was born under the stars and the stripes, within the ark of the Union, educated religiously to maintain and support the principles of that immortal system of government. I have lived to my age in their support, and, with the blessing of God, I will die in their support. [Manifestations of applause in the galleries, which were checked by the Presiding Officer.]

"He followed the course of the unconditional Union party through its various changes, reading their resolutions from January to the present time, holding up their time-serving inconsistencies and gross hypocrisy, to the minds of his attentive audience, in a style peculiarly his own. He read a miserable and slanderous circular, which charged candidates of the southern rights party with talking one kind of sentiments and entertaining another; that the declarations of their principles from the stump were but 'hollow pretenses to deceive the people.' He administered a very courteous but telling rebuke to the unscrupulous authors of the circular. The conclusion of his speech was truly beautiful and eloquent. He gained many friends and supporters, as he will undoubtedly do wherever he goes. His election by a large majority is a fixed fact.

"After Mr. Vance concluded, the committee made their report; which was unanimously adopted."

A number of speakers followed; and, at the close, "Governor L. W. POWELL" then arose. After the speeches of the persons present had been made and listened to and drunk in, like the hart who pants for the water-brooks, as the desert of Sahara does for the meager shower that falls upon its parched sand; when they had drunk in these treasonable sentiments with the same avidity, my colleague, not satisfied, must needs address that body of conspirators himself:

"Governor L. W. POWELL then arose and addressed those who had not retired from the house in a short but appropriate speech of about fifteen minutes, when the convention adjourned, all pleased with its proceedings, except, perhaps, the coercionists."

No doubt that is true. I have here also the official account of the meeting:

"At a southern rights convention, held in the city of Henderson on the 15th instant, at the court-house, for the purpose of nominating a suitable person to represent the county of Henderson in the lower House of the next General Assembly of Kentucky—

"On motion, Governor L. W. POWELL was called to the chair, and J. F. Clay appointed secretary."

The most honored name on earth is sometimes carried by an unworthy and ignoble person. This was the case in relation to the secretary of this convention.

"On motion of F. H. Dallam, Esq., the following resolutions were adopted:

"*Resolved*, That a committee composed of seven persons be selected by the chair to report the names of suitable persons to be put in nomination for representative of this county.

"2. That said committee report a plan by which the votes of the convention shall be cast, so as to determine the nomination.

"In accordance with the foregoing resolutions, a committee of seven was appointed, composed of the following named gentlemen: F. H. Dallam, Solomon Sizemore, John S. McCormick, Robert Dixon, J. P. Breckinridge, and J. B. Lester, who retired for the purpose of preparing their report."

I trust this Dixon is no relation of my honored friend from Connecticut.

"Mr. Vance, candidate for the State Senate, being called for, took the stand and presented his positions in a very able, effective, and eloquent address.

"After which the committee, through their chairman, appeared and tendered the following resolutions, which were received, and unanimously adopted:

"*Resolved*, That the State governments in this Republic are founded on the consent of the free people thereof respectively, and the will of a majority of such people lawfully expressed is binding upon all, and that the Federal Government, being instituted by the voluntary association of such sovereign States"—

What sovereign nonsense!—

"united under the Federal Constitution for the purpose of common defense and general welfare, is but the agent of the States within the sphere of enumerated powers contained in the instrument and bond of such Union, and possesses no power to subjugate or coerce such States."

When South Carolina, or any other traitorous State, by its State authority organizes rebellion and rises in traitorous opposition to the Constitution and Government of the United States, the position of my colleague is that the Government of the United States has no power to repress and to put it down by military arms. Why, sir, it was to invest the General Government with this identical power that our fathers, with that godlike man, Washington, at their head, repudiated and put aside the old Articles of Confederation, and framed and adopted by the people of the United States, acting by States—as the people of a State act by counties in the adoption of their State constitution—the Federal Constitution, and it became the instrument and form of Government of the people, and not of the States. It was to stamp upon it the character of a Government that would not operate through the agency of the States, but directly upon the people, through laws against treason and other penal laws, that the present system of Government was formed. It was to embody and to carry into effect these indispensable powers of Government, without which any system of Government would be but a mockery and a dream, that this Constitution was framed and adopted by the people of America after seven years of experience under the old Articles of Confederation, when it had no longer the energy that was imparted to it by the struggle for our independence with the mother country.

These resolutions go further:

"2. That the war now being waged by the Federal Administration against the southern States is in violation of the Constitution and laws, and has already been attended with such stupendous usurpations as to amaze the world and endanger every safeguard of constitutional liberty.

"3. That Kentucky protests against sharing any part of the enormous burden of debt created in the prosecution of this wicked, unnecessary, and unnatural war"—

No part of Kentucky ever assumed that position but that arch-traitor John C. Breckinridge, and his followers in treason. The Union party of that State knew better, thought better, felt better, acted better, and upon the contrary proposition.

"That Kentucky protests against sharing any part of the enormous burden of debt created in the prosecution of this wicked, unnecessary, and unnatural war."

Sir, the war was correctly characterized; but they sought to put the saddle on the wrong horse, they sought to put the boot upon the wrong leg. The responsibility for this war was upon the rebels, the secesshers, and their sympathizers, and not upon the Government of the United States or the Union people of Kentucky or of America. The resolution continues:

"She did nothing to bring it about, but everything in her power to avert it"—

I shall speak on that point directly—

"and she protests against it as destructive of the sovereignty of the States, subversive of the liberties of the people"—

I should like to know how much liberty is enjoyed by the people of the South in secessia under the iron military rule and despotism of Jeff Davis—

"and leading to a system of direct taxation, which, if submitted to, must speedily desolate and beggar the Commonwealth."

I admit the prospect of enormous direct taxation. Who is responsible for it? Who made that great national burden necessary? By whose act was it that the industry of this nation is borne down and ground into the dust by the enormous taxation that has been and is to be imposed to carry on this war? Who but Jeff Davis and my colleague and their followers and sympathizers? I do not complain of the burden to defend the nation and the Government, and to extract it from the clutches of this treason, and to crush it in the dust and in ignominy. I would be for waging this war for twenty years and giving up all the subsistence that the nation has, and all of its heroic blood, sooner than compromise with the treason and these traitors, by allowing them one right outside of the pale of the Constitution of the United States.

But, sir, I did not read the whole of the previous resolution of this convention. Here it is:

"*Resolved*, That the State governments in this Republic are founded on the consent of the free people thereof respectively, and the will of a majority of such people lawfully expressed is binding upon all, and that the Federal Government, being instituted by the voluntary association of such sovereign States, united under the Federal Constitution for the purpose of common defense and general welfare, is but the agent of the States within the sphere of enumerated powers contained in the instrument and bond of such Union, and possesses no power to subjugate or coerce such States."

Then they continue:

"2. That the war now being waged by the Federal Administration"—

not by Congress, not by the United States, but the war now being waged by the Federal Administration—

"against the southern States, is in violation of the Constitution and the laws, and has already been attended with such stupendous usurpations as to amaze the world and endanger every safeguard of constitutional liberty.

"3. That Kentucky protests against sharing any part of the enormous burden of debt created in the prosecution of this wicked, unnecessary, and unnatural war; she did nothing to bring it about, but everything in her power to avert it, and she protests against it as destructive of the sovereignty of the States, subversive of the liberties of the people, and leading to a system of direct taxation, which, if submitted to, must speedily desolate and beggar the Commonwealth.

"4. That the military usurpations by which our sister States of Maryland and Missouri are trampled in the dust are utterly fatal to State sovereignty, and have been enforced under circumstances of cruel ferocity disgraceful to a civilized age.

"5. That the recall of the invading armies, and the recognition of the separate independence of the confederate States, is the true policy to restore peace and preserve the relations of fraternal love and amity between the States."

There, sir, is the position of my colleague. He is against coercing the seceded States. He is not only against that, but he is for their recognition as the only mode and means by which amity and peace can be established between them and the adhering States. What else do the seceding States ask for, or did they ever ask for? To be let alone; to have their separate existence and independence recognized. It was what they rebelled for. It was that for which they have raised and embodied their vast military power, with which they have resisted the execution of the laws of the United States. My colleague takes the position that their separate existence and independence must be recognized as the only mode by which peace can be established. Sir, that is a treasonable sentiment, and that would be the great consummation of the treasonable purpose of these States. But my colleague was mistaken. There are other means and other modes by which peace could be established. Those modes are now being resorted to, and they are heard in the shout of battle and in the acclaim of success by the heroic Union hosts who are now in the tented field struggling for the existence of their Government. It is heard in the complaints and in the wail of distress, and soon it will be heard in the cry of submission and peace that the confederates themselves will send up to the Government of the United States.

But, sir, I will read on these resolutions:

"6. That we heartily approve the refusal of Governor Magoffin to furnish Kentucky troops to subjugate the South"—

I never approved of that. I admit that many of our people did; and I admit that a majority of the old Breckinridge Legislature that was elected before this difficulty commenced did; but I will speak of that, its breadth, scope, and meaning after a while—

"and we cordially indorse his recent proclamation defining the position of Kentucky, in accordance with the sentiment of her people, and forbidding the invasion of Kentucky by Federal or confederate troops."

I say that that was a wholly untruthful and unjust interpretation of the sentiment of the people of Kentucky. They never intended nor will they ever indorse the neutrality of Kentucky as it was laid down and explained by the Governor. Let us look at that and see what it is. Here is that very noted proclamation:

"Now, therefore, I, Beriah Magoffin, Governor of the Commonwealth of Kentucky, and commander-in-chief of all her military forces, on land or water"—

I do not believe she had any on water at that time—

"have issued this my proclamation, hereby notifying and warning all other States, whether separate or united, and

especially the 'United States,' and the 'confederate States,' that I solemnly forbid any movement upon the soil of Kentucky, or the occupation of any port, post, or place whatever within the lawful boundary and jurisdiction of this State, by any of the forces under the orders of the States aforesaid, for any purpose whatever, until authorized by invitation or permission of the Legislature and Executive authorities"—

He would not allow his veto to be overruled by the legislative power on that point, but he requires that the consent of the Executive himself shall be given to such occupation, as well as that of the Legislature—

"of this State previously granted. I also hereby especially and solemnly forbid all good citizens of this Commonwealth, whether incorporated in the 'State guard' or otherwise, making any warlike or hostile demonstrations whatever against any of the authorities aforesaid, earnestly requesting all citizens, civil and military, to be obedient hereto; to be obedient to the laws and lawful orders of both the civil and military authorities;"—

he claiming, himself, to be the military authority—

"to remain, when off military duty, quietly and peaceably at their homes, pursuing their wonted lawful occupations; to refrain from all words and acts likely to engender hot blood and provoke collision; to pursue such a line of wise conduct as will promote peace and tranquillity, and a sense of safety and security, and thus keep far away from our beloved land and people the deplorable calamities of invasion."

See what he calls invasion. If the President of the United States ordered a body of men in the military service of the United States to be marched into Kentucky, the Governor treated it as an invasion. The President had as undoubted power to march troops into Kentucky or into any State of this Union in peace or in war as he has to approve of a bill passed by Congress, or to do any other act which his official duty and the Constitution authorize him to do.

I ask the attention of the Senate to the concluding portion of this proclamation:

"But at the same time earnestly counseling my fellow-citizens of Kentucky to make prompt and efficient preparations to assume the armor and attitude prescribed by the paramount and supreme law of self-defense—and strictly of self-defense alone; praying Almighty God to have us evermore in his holy keeping, and to preserve us in peace, prosperity, and security forever."

What blasphemy to connect such a prayer as that with such diabolical and unholy purposes. This, sir, is the proclamation of the Governor of Kentucky, so enthusiastically lauded by my colleague and by his co-conspirators in treason on that occasion. Neither the confederate government nor the United States of America were to be allowed to move any troops into Kentucky; and if the United States moved any troops into Kentucky, they were to be met by forcible resistance, by armed men in a state of rebellion and in the enactment of the crime of treason.

But, sir, I will hasten on. The seventh resolution adopted by that southern rights convention, at Henderson, was in these words:

"That although Kentucky has determined that her proper position at present is that of strict neutrality between the belligerent sections, yet if either of them invade her soil against her will, she ought to resent and repel it by necessary force."

Is that a constitutional sentiment and opinion of my colleague? Dare he stand up in the face of the Senate and of the nation and reiterate such a sentiment of bold treason? If the United States Government, the President representing its executive sovereignty and all of its military power, having by the Constitution and the laws the supreme command of the armies and navies of the United States, and with discretionary power to move them when and where, into every State and portion of the United States, that he may choose, dare to send a force into Kentucky, these men, with my colleague presiding over the convention that concocted this declaration of treason, counsel the people of Kentucky to resist them with force of arms.

Suppose the advice of my colleague had been taken, as it was taken; suppose that deluded men, with confidence in him and in his co-workers in conspiracy, had adopted, as they did adopt, his advice; that they got together and formed military associations in the State of Kentucky with a view to force the President of the United States and the Government thereof to withdraw the forces from that State that were raised and marched there with the concurrence and at the instance of two thirds of the people of the United States, to perform a constitutional duty on the part of the Government of the United States, to enforce the laws, to protect the people of that State, and to put down domestic violence and insurrection; suppose that at that time they had moved off, warmed and heated by this sentiment and by the eloquence with which the honorable gentleman maintained it, to the performance of an overt act in this work of treason: I ask the Senate if my colleague would not have been guilty of an overt act of treason? if he would not have committed the crime according to the definition of the United States and according to the definition in England, where it was first defined by the statute of Edward III? Whether, if he had been arraigned for having counseled an act which was put on foot immediately after he gave the counsel, and this had been proved upon him, any United States court and independent jury in Kentucky or in Christendom would not have convicted him of treason, and have adjudged him to suffer by the halter?

Well, sir, the bolt did not follow the flash instantly; but it came in due time. It took some little time to prepare the public mind, and to produce this development of treason in armed bands of rebels in hostile array in battle-fields against the Government of the United States. Did not my colleague exhort them to that line of conduct? Did he not exhort them to perform those acts of treason? Are not those acts the fruits, the direct consequences of that line of conduct which he thus counseled them to take? It would be a nice question, indeed, and it would take a very learned lawyer to decide, whether he did not thereby commit, technically, the crime of treason, according to the rigid construction which has been placed upon the law of treason by the courts of England and the United States. But in relation to the crime of intention, of purpose, of what he wished to be done, of what he advised to be done, there is not and cannot be a doubt.

But I will read on:

"That although Kentucky has determined that her true position at present is that of strict neutrality between the belligerent sections, yet if either of them invade her soil against her will"—

Her will was embodied in the Federal Constitution; her will was legitimately embodied in the office which the President of the United States, as the embodiment of the executive power of the Government of the United States, expressed in his military orders, and she had no other legal or constitutional or proper will in relation to the subject—

"yet if either of them invade her soil against her will, she ought to resent and repel it by necessary force.

"That all honorable efforts for the conciliation of the belligerent sections and the reconstruction of the Union are desirable, and we will heartily second and further such efforts."

I will now proceed in a hasty review of my colleague's official action as a Senator of the United States. I took this synopsis from the Congressional Globe itself. I did it carefully, and I answer for its fidelity. I come here to make this record. I come here to array this record against my colleague. I come here to have him indicted before this Senate upon his conduct at home and upon his record here; and I come here to ask the just and proper judgment of an enlightened, impartial, and patriotic Senate upon the whole conduct of my colleague on this question of expelling him from his seat.

At the late July extra session of Congress the bill to authorize the employment of volunteers to aid in enforcing the laws and protecting public property, being under consideration, an amendment was offered to reduce the number of men proposed to be raised by it from five hundred thousand to three hundred thousand. The object of that amendment is obvious. It was to weaken the strength of the Government in its struggle for life. Senator POWELL voted for it; and, on the passage of the bill, he voted in the negative, with Breckinridge, Johnson of Missouri, and Polk. (Congressional Globe, pp. 52, 84.)

On the question of the passage of the bill to provide for the collection of the duties on imports, and for other purposes, on the 12th of July last, Mr. POWELL voted in the negative, with Breckinridge, Bright, Johnson of Missouri, and Polk. (Congressional Globe, p. 84.)

The now sitting members of the Senate from the State of Virginia offered themselves to be sworn according to the Constitution, and to take their seats, on the 13th July. Mr. POWELL made a speech against their right, and, with Bright and Polk, voted to refer their credentials to the Committee on the Judiciary. (Congressional Globe, pp. 107, 109.)

On the same day, the bill to authorize a national loan, and for other purposes, being under consideration in the Senate, an amendment was offered to reduce the amount of the proposed loan from $250,000,000 to $150,000,000—still to cripple the power and the ways and means of the General Government in this great war of rebellion—and Mr. POWELL, with Johnson of Missouri, and Polk, voted for it. (Same Congressional Globe, p. 110.)

I admit that sometimes my colleague in these votes had two or three other gentlemen voting with him.

The bill for the better reorganization of the military establishment being under consideration in the Senate on the 18th of July, the following amendment to it was proposed:

"*And be it further enacted*, That the purposes of the military establishment provided for in this act are, to preserve the Union, to defend the property and to maintain the constitutional authority of the Government."

Senator POWELL, with Breckinridge, Johnson of Missouri, and Polk, voted against that amendment. (See same Congressional Globe, p. 194.)

On the 26th of July the bill to define and punish certain conspiracies being before the Senate, Mr. POWELL opposed its passage by the presentation of a written protest, signed by himself, Bright, Breckinridge, and Johnson of Missouri. (See same Congressional Globe, p. 275.)

The bill to provide increased revenue from imports, to pay interest on the public debt, and for other purposes, being under consideration on July 29th, a motion was made to amend it by striking out the proposed duty of four cents per pound on coffee, and POWELL, Bright, Johnson of Missouri, and Polk voted for the amendment. (Same Congressional Globe, p. 316.)

The revenue bill being on its passage in the Senate, on the 2d of August, 1861, Mr. POWELL spoke upon it in these words:

"I have steadily voted against all appropriations to carry on this war. I voted against the loan bill, and I have steadily voted against all war supplies. I cast those votes because I was opposed to the war; because I believed the war was calculated to eternally sever the States of this Union, and that it would result in no good, but manifest evil to every interest of the entire country. Having cast the votes I have, I cannot conscientiously vote for this bill. I knew that the heavy amount of war supplies that were being voted by Congress would necessarily result in the most onerous taxation of the people. Those gentlemen who voted for those war measures, I suppose, can conscientiously vote for this bill; for the votes which they have given lead directly to it.

"Those who vote for war measures and war loans can properly vote for the taxes to raise the money to pay the debt. I having opposed the war, having voted against the loan, having voted against the Army supplies, deem it my duty to vote against the bill, which I shall do."

And, with Breckinridge, Bright, Johnson of Missouri, and Polk, he did vote against it. (See the same Globe, pp. 399, 400.)

On the 5th of August, the bill to increase the pay of the non-commissioned officers, musicians, and privates of the regular Army and volunteers, &c., in the service of the United States, being on its passage, Mr. POWELL called for the yeas and nays, and, with Breckinridge, voted against it. (See the same Globe, p. 442.) I believe they were the only two who voted against it. That is my recollection, but upon that point I will not speak positively.

Another bill for the same purposes, was introduced and passed the Senate that day—there was some irregularity in the first bill—against which Senators POWELL, Breckinridge, and Bright voted. (See the same Globe, p. 443.)

Now, Mr. President, I will give another passage of my colleague's history outside of this Hall. The Legislature of Kentucky convened in session early in September. We had three elections in Kentucky during the past year. I know full well what those elections were, and upon what principles and questions they turned, and so does my colleague. The position assumed at that time for the purpose of gaining strength and bringing the gallant State of Kentucky into direct line with the other loyal States of the Union, and to the strict performance of her duty, was, as I before said, to instruct the public mind, and to gain time with a view to impart that instruction, and to implant the principles of constitutional law and truth that would bring her right. Many of our people therefore—I never did—took the ground that Ken-

tucky should preserve her neutrality to this extent, and for this purpose; that she would not send any men upon the requisition of the President in April last to defend the capital when he called upon the Governors of the different States for seventy-five thousand volunteers. Why did she not respond to that call as her loyalty, as her past history, as her faith to her obligations, and to the Constitution required? The reason was that a bosom, political, and personal friend of my colleague, whom he had aided to elevate to the office, was then as now the Governor of that State—Magoffin. At the previous gubernatorial election he had beaten Bell by six thousand votes. If Bell had been elected to that office, no State in this Union—not even the gallant State of Indiana and the other gallant States of the Northwest—would have been more prompt to respond to that call, and to send her full quota, and more than her full quota, than my native State would have been.

Sir, I was a boy of ten years of age when the war of 1812 was declared. I remember its incidents. I remember the occasions upon which the hardy and brave men of Kentucky were called upon to volunteer in defense of Indiana and Michigan and the whole Northwest. I have seen entire counties, *en masse*, without a solitary exception, turn out to meet those calls upon the patriotism and bravery of Kentucky. I recollect, a few years ago, when we had a difficulty upon the Rio Grande, and General Gaines made a patriotic call to Kentucky and some of the western States for troops, Kentucky sent forward, almost as prompt as the reveille itself, three times the number of men that had been called for from her.

Kentucky was as prompt in furnishing volunteers in the war with Mexico—a war that was commenced by usurpation and in flagrant violation of the Constitution of the United States, by Mr. Polk—Congress itself being in session—by ordering General Taylor upon Mexican ground to take possession of Corpus Christi. Polk had predetermined to have that war. He and the southern counselors and their allies were looking covetously to some portions of Mexico, and especially to the gold mines of California, and to that great port, San Francisco, that is to be the gate of the mighty commerce between the eastern and the western world in the course of time, and which is to grow up one of the greatest and grandest cities of the earth. Polk had his eye upon that acquisition. He knew that he could not accomplish his purpose unless there was a war between Mexico and the United States. As Benton had proved, in a speech that he made against the treaty negotiated by Mr. Calhoun for the acquisition of Texas, he knew, as well as any man that Corpus Christi was not in Texas, but was a part of one of the lower provinces of Mexico upon the Rio Grande that extended across the Rio Grande to the river Nueces. Every man of information on the subject knew it; but he was determined to have that war. An adventurous man, in digging out for the construction of a saw-mill, had discovered gold in California; and Polk knew of the position and capacities and the future availability of the port of San Francisco as the great gate and emporium of trade. The southern statesmen knew it; and in their grasping avidity for territory and empire, they determined to have it. They knew that they could have it only by war. Therefore it was that Polk directed General Taylor to march with the American army to Corpus Christi; and the collision then commenced between that weakened, distracted, divided, and almost dissolving republic of Mexico and the young and mighty power of the United States. What did Polk do then? He sent a message to Congress that war had been commenced by Mexico against the United States by shedding American blood upon American soil. My honorable friend from New York [Mr. KING] and myself were present in Congress at that time.

I allude to the Mexican war to show the fact that when Kentucky was called upon for her quota of men in that war—I cannot give with any certainty the number of companies required, but it was some fifteen or twenty—she sent to the call of the United States over seventy companies, the very *élite* of her land, the noblest and the bravest and truest of her young men of every grade of life. Better materiel for soldiery was never assembled upon God's earth since it commenced its diurnal revolution. A State with such a history as this never intended to assume a position of active treason against the Government that it had been so prompt always to defend.

With this short digression, I will proceed with my narrative. On the 10th of September last, the Legislature of Kentucky was in session, and I was proceeding to state the issues in the Kentucky elections between the Union men and the Breckinridge secession party; and in alluding to that party I hope I shall not wound the sensibilities of any gentleman upon this floor. I have no such purpose. I know that there are many Breckinridge Democrats outside of the State of Kentucky who are true, loyal, and most reliable Union men; but in Kentucky, such instances are rare indeed. I do not know one in a hundred within the whole bounds of my acquaintance in that State; but at the same time I do know a few who are as true, as loyal, as gallant, and as heroic in their devotion to the Union and the maintenance of the Government as men of any politics whatever. There is a member of the Kentucky Legislature, Mr. Jacobs, who is as much above suspicion as any living man. The State senator from my own portion of the State, Colonel Prall, was a Breckinridge Democrat; but there is no truer Union man than he. The number of Breckinridge men in that State, however, who are Union men are few, few indeed. I wish they had been more numerous. I wish that my colleague had taken his position among that glorious few, and had spared me the performance of this unpalatable duty of asking for his expulsion from his position and place.

But, Mr. President, I was remarking that the Union men of Kentucky were at that time fighting to instruct the public mind. They assumed this position: that Kentucky would not respond to the call of the President of the United States for her quota of the seventy-five thousand men that he called for in April. I was telling you why that had not been done. It was because there was a secesher and a traitor in her executive chair, by whose instrumentality alone the act could be done. At that time all was doubt, all was uncertainty, all was commotion and perturbation in the public mind of Kentucky. If she had been called upon to decide the great and momentous question, whether she too would traitorously secede or loyally uphold the stars and stripes and the Government of the United States, I have every reason to believe that she would have decided in favor of the right. But we bore with our doubting friends; we counseled together; we reasoned with them; we reminded them of our past history, of the unbroken and unsullied fidelity of Kentucky to her allegiance, and to her ancient faith to the Union and the Government. In that way we increased our friends and our numbers, and eventually became the majority in the State. But the extent of the neutrality which Kentucky then declared was this: that she would do no act short of her duty, except refuse to respond in the men that were called for by the President. She never placed herself in direct active hostility with the Government of the United States—at least the Union men did not; all the seceshers did. She assumed the contrary position. Her Union men knew that it was the duty of the General Government to protect them against their own domestic traitors and the traitors of the South, and whenever they were assailed by such enemies, it was their firm, fixed, and express purpose to call upon the Government of the United States for protection.

When our first election for the border State convention took place in April or May last, the two parties made their issue, and my colleague knows it just as well as I do, and as every man in the State of Kentucky knows it. Here were two parties both using the word neutrality—one in the sense of my colleague and the other in the sense of the Governor. That neutrality was explained and expressed in his proclamation, which I have read. That was my colleague's neutrality. That was the neutrality of John C. Breckinridge and of all his followers; but the neutrality of the Union men was this: that they would meet all the demands of the Government upon them for taxation to maintain this war; that they would offer no resistance, military or civil, or in any other form, against the just authority of the United States. The United States had a post then at Newport. Its post office system was in operation throughout all our State, and was dispensing its ample blessings to us at a greater cost than it returned to the Department in that State. We had custom-houses at Louisville and at Paducah. We had collectors; we had district attorneys; we had district judges, we had these learned officers of the law—one of them a traitor, the district judge; but the circuit judge was a loyal and a true man, although he was from Tennessee—duly administering in our midst the laws of the United States, and thus giving peace, security, and protection to our people, securing those great ends of government.

No part of the Union party ever took position actively against the United States Government. The whole extent of their default in the performance of their duty was, for the time, alone to refuse to send men upon the requisition of the President Well, my New England friends, and especially my friend from New York, [Mr. KING,] know that in the war of 1812 some three or four of the New England States were guilty of precisely the same fault. Your Governor Strong and your Governor Chittenden—one of Massachusetts and the other of Vermont—and the Governor of one of the other New England States, all took that ground. It was an error with them; it was an error with us. With us it was an error of necessity, and it was an error that we intended to reform so soon as we got the ability and the power to reform it; and nobly have we reformed it, for Kentucky now, in addition to the secession host of about eight thousand sent to the southern confederacy, has upwards of thirty thousand true Union soldiers in defense of the stars and the stripes; and may God give them victory. [Manifestations of applause in the gallery.]

The PRESIDING OFFICER called to order.

Mr. DAVIS. Now my colleague will seek to deceive and to delude Senators, as he and his friends sought to delude and deceive the people of Kentucky, by his idea of neutrality. His neutrality was never my neutrality. The neutrality of the Governor as fulminated in his proclamation and in his threats of resistance and rebellion and war against the United States, was never the neutrality of a solitary Union man in the State of Kentucky—never! Upon the question of Union neutrality and of Magoffin's neutrality, the first political battle of the last year was fought in Kentucky in the election of border State convention men; and my colleague, his candidate for the Presidency, his Governor, and his party in that State were overthrown by a vote of more than two to one. The people of the State of Kentucky, then and there, in the most emphatic manner, decided against the political position and principles of the gentleman. They decided that they never would become rebels against their Government. They decided that they never would resist the march of United States troops into the State of Kentucky; they decided that they never would attempt to expel the garrison at Newport from the borders of that State. They decided that they never would throw off the Post Office Department and the protecting shield with which the laws and power of the United States covered the people of that State and all the States of the Union. They never decided, as the gentleman has so often announced, that they would pay nothing to the support of this war; but so soon as there was another election, and we obtained a majority in the Legislature, they came out and passed resolutions declaring in emphatic language that they would pay their portion of the tax imposed by Congress at the July session, and that they would rally to the support of the Government in this terrible conflict.

Well, sir, the President called an extra session of Congress, and we had an election for members of Congress in Kentucky. The same issues and the same contest came up. When I was a boy I lived somewhat in a frontier country, and I used to hear men from the settlements say that one wolf could make as much noise as ten dogs. We found in Kentucky in all these contests that one secessionist could make as much noise as ten Union men, and always did. They bragged loud and high and strong; and before the contest came off, by the shouts with which men sometimes attempt to excite themselves to brave deeds, I suppose they did create a little courage in their own bosoms; at any rate they produced a little apprehension in ours; and we did not know how strong they might be. But the contest came off in the congressional election upon precisely the same issue of neutrality according to the Governor's definition, and according to our definition, and

we again in this conflict defeated them by about the same majority.

In August afterwards the election for our State Legislature came off. A Legislature was then to be elected to represent the people of Kentucky, and to determine her domestic position, and her position relatively to this Union so far as it could be determined by lawless and rebellious acts, or by acts of loyalty and obedience to the Constitution. We again defeated them, and we elected about three fourths of the members of both Houses. Then we were strong and invincible in our position, and we then came out and took the true constitutional ground.

The Legislature were called in session early in September. What did the thrice defeated secesshers do? After they had met us in the third battle, and had been again signally overthrown, did they acknowledge their defeat? Did they bow to the sovereignty of the will of the majority? Did they exhibit any returning sense of a true understanding and a true and loyal obedience to the Constitution? No. Defeat seemed to have but exasperated and to have rendered them desperate. The leaders were desperate because they knew that their last die was about to be cast. What did they do? My colleague knows full well what they did. They again called peace meetings all over the State of Kentucky, and a grand peace convention of southern State rights men, to be held in the town of Frankfort, the seat of our government, where the Legislature had convened, I believe on the 4th of September. They rallied there in their strength. My colleague was there as a representative from the county of Henderson. Humphrey Marshall was not there, but he was in the neighborhood, in that county called Sweet Owen, the very hot-bed of secessionism, and of everything that is wrong and vile in politics; he being a resident of Henry, on the other side of the Kentucky river. He had been in the Mexican war, and he thought himself a Napoleon in military capacity and strategy. What did he do? He set to work to organize the secession host, to drill them, to arm them, to march upon Frankfort where the Legislature of the State was, and by force of arms to scatter them and break up the Legislature. My colleague knows it; my colleagues of the House know it. I was there. I reached there to attend a session of the court of appeals on the very evening that it was said Humphrey Marshall was to make his incursion into Franklin county, and to storm the capital. Some members, especially secession members of the Legislature, and some citizens of the town of Frankfort, and one or two judges of our court of appeals, left Frankfort hurriedly in the expectation that it was to be sacked that night by Humphrey Marshall's insurgent hosts. I myself, with other gentlemen, provided ourselves with arms to take part in the defense of the Legislature and the capital of the State. We sent to Lexington, where there were encamped three hundred or five hundred Union troops, who had been enlisted in the Union service for the defense of the Legislature and the capital of our State, and had them brought down at three o'clock in the morning. They were led by Colonel Dudley, as heroic and as true a man as ever breathed the breath of life. Bayard, of France, had no more of the elements of a true knight than had Dudley. He has gone to his long home. He has perished from the diseases of the camp in nursing his sick soldiers, and the Union portion of our State is wrapped in mourning on the occasion of his death. The hosts of Humphrey Marshall did not come, and the reason he did not come no doubt was that he had got wind that Frankfort, with Dudley's command, and the true Union people of that State armed, were ready to receive him.

Well, sir, some two or three days after, the secession convention met in Frankfort, on the 10th. My colleague well knows too that on the 10th they had planned a great peace barbecue in the county of Owen, that stronghold of rebellion and secessionism. All the disloyal hosts on the lower branches of the Kentucky river were to meet there in rendezvous, and they were to feast upon Kentucky whisky and upon my colleague's and John C. Breckinridge's treason; and from that feast they were to march with Humphrey Marshall upon Frankfort. But our friends were informed of it, and were on the alert everywhere. Nelson with his four regiments was some thirty or forty miles off. He resolved to come in. Everybody was ready to receive them, but they did not come. But my colleague and his convention of secesshers met, and what did they do? I will read what they did. But before I do that I will follow up the senatorial history of my colleague one step further.

The House of Representatives, at this session, passed the following joint resolution declaratory of the purpose of Congress to impose a tax:

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That in order to pay the ordinary expenses of the Government, the interest on the national loans, and for an ample sinking fund for the ultimate liquidation of all the public debts, a tax shall be imposed which shall, with the tariff on imports, secure an annual revenue of not less than $150,000,000."

That resolution passed the House of Representatives on the 15th of January. It was reported to the Senate and passed here. What was the vote in the Senate on the passage of that resolution? There were thirty-nine members of the Senate who voted for it, and one member who voted against it, and that member of the Senate was my colleague. He was true to his treasonable sympathies, true to his sympathies with the southern confederacy, true to his spirit of opposition to his own Government.

I now return to the account of this famous peace convention at Frankfort. Just before this general convention was held, they had what they termed peace meetings all over the State. There was one in my own immediate neighborhood, just back of my house. I could see the treasonable host from my own door. There was one in Montgomery; there was one in Clark. They had penetrated the mountains. They scattered themselves all over the State, on plain and on mountain, in city and hamlet and field and everywhere. They were getting up what they called peace meetings, denouncing the policy of the Union party, with a view of overriding the free sentiments of our Legislature, and to terrify and coerce that Legislature to pass resolves in conformity to their treasonable purposes. I know it, sir; my colleague knows it. We were both actors in these scenes—he on one side, and I on the other. After these meetings had passed resolutions, drunk whisky, and been spoken to by all the secession orators of the State, and some four or six days after the session of the Legislature commenced, they met together in Frankfort in central convention. My colleague was there. He was a member of that convention from the county of Henderson. Here is his name "Henderson county—Governor L. W. POWELL, and Alexander H. Major." It was not large in numbers, but it was powerful in influence and in position. There was an ex-Governor representing treason there. There was a United States Senator representing treason there. Surely that was representation enough in that line.

Mr. Cissell, who is now in the secession army—my colleague knows him; he was then a member of the Kentucky Senate—

"Mr. Cissell then offered the following resolution; which was adopted:

"*Resolved*, That the chairman appoint a committee of ten, two from the State at large and one from each congressional district, to prepare and report a series of resolutions, as expressive of the sense of this convention.

"The committee appointed by the chairman, under the direction of the foregoing resolution, consisted of:

"For the State at large—William Preston and B. P. Cissell."

Preston is now a confederate major general, in the service of Jeff Davis.

"First district, General Stephens; second district, Governor POWELL; third district, Jacob Golladay; fourth district, A. G. Talbott; fifth district, C. P. Mattingly; sixth district, Squire Turner; seventh district, Governor Morehead; eighth district, George W. Johnson; ninth district, James W. Moore; tenth district, A. B. Chambers."

George W. Johnson was the late governor of thot most absurd of all farces, "the provisional government of Kentucky." Those fellows ought to be taken neck and heels, tied in the pillory, and made to stand there every day for a whole year. There never was such impudence manifested by mortal man. At the evening session—

"The convention assembled according to adjournment, when Colonel William Preston, from the committee on resolutions, made the following report, which was adopted unanimously."

I ask the attention of the Senate to the date. These resolutions were passed on the 10th of September, as late a period as that, when the nation was in its greatest peril, when the Legislature of Kentucky had just assembled, with a majority of acknowledged Union men, and every true heart in the State was preparing to wheel her into her position of constitutional duty. It was to circumvent and to defeat that purpose, that my colleague and John C. Breckinridge and their hosts summoned this convention of traitors, under the style of "peace men," and southern State rights men to Frankfort to intimidate the Legislature of the State, and to drive them from passing resolutions in support of the Government and expressive of their loyal duty. Here are the resolutions of this convention:

"Whereas we, the delegates of the people from all parts of the State in popular convention assembled, without distinction of past party organization, have met together at a period of profound interest and public danger to consider the best means of preserving the peace of the Commonwealth, and securing our own rights and liberties unimpaired: Therefore,

"*Resolved*, That every material interest of Kentucky, as well as the highest dictates of patriotism, demand that peace should be maintained within her borders, and this convention solemnly pledges the honor of its members to do all in their power to promote this end."

Now, see how they promote the end of peace:

"2. That it is the deliberate sense of this convention, and it is believed of an overwhelming majority of the people of Kentucky"—

They were the most trusting people in the world; there were never people of such faith; they had been three times successively defeated by majorities in the State of about two to one; and yet, in the face of all these votes, they claimed two thirds of the people of that State on their side!

"That it is the deliberate sense of this convention, and it is believed of an overwhelming majority of the people of Kentucky, that the best and perhaps the only mode of effecting this great object, is by adhering strictly, rigidly, and impartially to her chosen and often declared position of neutrality during the existence of the deplorable war now raging between the sections, taking sides neither with the Government nor with the seceding States, and declaring her soil must be preserved inviolate from the armed occupation of either."

Was there ever such assurance in treason before? The State had decided by more than two to one that she would pay her share of the tax, that she never would put herself in active opposition to the Government, that the only neutrality which she would attempt to occupy would be simply not to send her quota of men upon requisition of the President, and that so soon as the people could express their true will and true principles and sentiments in a general election and elect a majority of true men, they would perform their whole duty; after the people had thrice taken that position, these modest gentlemen, these peace-loving gentlemen, these southern State rights men, these diabolical traitors have the audacity to assume that two thirds of the people still are for maintaining the Governor's position of neutrality, which declared that if the Government of the United States dared to march a soldier of the Federal Army into that State, he would expel that soldier or any number of soldiers by force of arms!

"3. That the organization and presence upon the territory of Kentucky of a military force of either of the belligerents, is a violation of the neutrality indorsed by the people"—

Why, sir, during this whole time and for long years the Government had had its troops at Newport. For three or four months before this time Nelson had organized five regiments, four of infantry and one of cavalry, every man of whom was either a Kentuckian or an East Tennesseean; and this at the express instance and solicitation of the Union men for the preservation of the peace and the protection of the Union men of that State. These gentlemen knew that that was the state of things—

"and we believe can be attended with none other than the most fatal and disastrous results; and in that belief we earnestly advise the immediate removal, by the proper authorities, of all such force from the limits of the State.

"4. That it is the deliberate judgment of this convention, and they believe of more than two thirds of the people of Kentucky, that 'the policy of coercion is wild and suicidal, promising only to deluge the land with blood, and dissolve the Union irretrievably in the crimson tide;' and they, therefore, earnestly invoke good and true men of all parties, the patriots and lovers of liberty both North and South, to exert every influence to bring about a cessation of hostilities, in order that a fair and honest effort may be made to agree on terms for a permanent peace.

"5. That it is the deepest conviction of their hearts that this is not less demanded by the interests of humanity and the dictates of patriotism than by the preservation of that liberty which they so highly prize, and upon which such fearful inroads have already been made.

"6. That the late act of Congress confiscating property and emancipating slaves as a penalty for the crime of the owner, is a gross and palpable violation of the Constitution of the United States, and justly alarming to the freemen of Kentucky. If such power exists, Congress may, with equal

right, annex the penalty of emancipation to every violation of any of its laws.

"7. That we should not consider ourselves faithful sentinels of liberty if we failed to raise our voice in unqualified condemnation of the open and flagrant violation of the Constitution of the United States by the President, in arrogating to himself powers vested by that compact of Union exclusively in Congress; by increasing the regular Army and Navy, and calling out volunteers for three years; by regulating at his own will and pleasure commerce between the States"—

they wanted to send contraband articles to the secessionists—

"by blockading ports without any declaration of war by Congress; by the suspension of the writ of *habeas corpus*, the bulwark of American liberty; and exercising powers which neither he nor Congress possesses; by authorizing his military commanders to proclaim martial law, to arrest persons arbitrarily without a legal warrant, to imprison whomsoever they please without their conviction of any crime, to deny them a speedy public trial, and to dismiss the police officers of cities and appoint others in their place; by fettering the freedom of commerce of a State within its own bounds; by suppressing newspapers, and prostituting the mail of the United States by refusing them transportation, thus destroying the freedom of the press; by infringing the people's right to bear arms; and lastly, by making unreasonable searches and seizures. We consider these acts a crime against the liberty of mankind."

I do not condemn everything this convention did; but I do condemn most unqualifiedly nearly everything they did.

"8. That the late proclamation of General Frémont in Missouri, abolishing and subordinating the entire civil power of the State to his own arbitrary will and emancipating the slaves, is such a manifest violation of the plainest provisions of the Constitution, and such a bold invasion of the liberties of the people, as demands the unqualified condemnation of every citizen, and should meet with the determined rebuke of every loyal State, whether slaveholding or otherwise.

"9. That we consider it incompatible with the neutrality avowed by Kentucky to vote money for the prosecution of the civil war now pending, or to tax the people of the State or augment its debt for a purpose so unwise and for a cause so hopeless, as the military subjugation of the confederate States.

"10. That having first secured the neutrality of Kentucky, we advise the union of all good men for the purpose of producing peace between the belligerent parties, on the best practical basis, maintaining the honor and embracing the interests of each.

"11. That for this purpose we recommend a truce between the belligerents, and the appointment of commissioners by the United States and the confederate States to treat for a permanent peace.

"12. That the exercise of powers by the President not warranted by the Constitution of the United States, upon the plea of necessity, is a precedent too dangerous to the liberties of the people to be sanctioned or indorsed by them.

"Upon motion of Mr. Harvie, the Chair appointed a committee composed of Governor C. S. Morehead of Jefferson county, General Lucius Desha of Harrison county, Captain Lewis E. Harvie of Louisville city, Governor John Q. A. King of McCracken county, and Colonel Thomas B. Stevenson of Mason county, to prepare an address to the people of Kentucky, based upon the principles of the resolutions adopted by this convention."

I have read all the resolutions reported by the committee; but here is one, a closing resolution, offered by my colleague himself. I have read them all, that all might be before such of the Senate as are present:

"Governor POWELL offered the following resolution, which was adopted:

"*Resolved*, That Colonel William Preston"—

the confederate major general—

"George W. Johnson, Esq."—

the provisional governor—

"General Lucius Desha"—

who has lately been to secessia—

"Captain Richard Hawes"—

who is now in secessia, and who was formerly member of Congress from the Ashland district—

"and Thomas P. Porter, Esq."—

late Licutenant Governor of Kentucky—

"be, and they are hereby, appointed a committee of organization, in order to carry out the purposes of this convention; and full powers are conferred upon them for that object."

Here are the organs of treason and conspiracy appointed upon the motion of my colleague. What did they do when they received this authority? They scattered out into the country; they commenced either by themselves or by their instruments organizing the whole secession host of the State; they got this host together in small bands, and in a very short time after they had received this authority to perform the work of treason, they marched with those whom they had thus enlisted into secessia, and those of them who have not been captured at Fort Donelson and elsewhere are still in the secession army battling against their Government and against the permanency of the Union.

What sort of conduct is that for a Senator to be guilty of? What kind of advice and counsel is that for a Senator in the United States Senate—one clothed with high and necessary authority in the Government, in its administration and for its preservation? Suppose the President had been loyal, the House of Representatives had been loyal, and every Senator had voted and acted like my colleague, where now would have been Abraham Lincoln and the Government of the United States? Where would have been the Senate? Where would have been Jeff Davis? He would have realized the vaunting boast of his late secretary of war: "By May I will plant the confederate flag on the Capitol in Washington; I will push on to Philadelphia; ay, to Faneuil Hall itself." If everybody had thought and acted and voted and had counseled the people as my colleague counseled and thought and acted and voted, where would have been this Government; where would have been our experiment of popular self-government? All, all would have perished, never, never to be reconstructed Every man sees that. Has my colleague a greater immunity in his acts, in his responsibilities, a higher and a broader exemption from his duties and his oath, than the rest of the Senators here? I suppose he is subject to the same rules that we all are; to the same responsibilities, to the same tests, and to the same judgment of condemnation and punishment that we all should have been justly entitled to receive, if we had acted the part which he has acted. How then can the Senate exempt him, when the proposition is self-evident that, what he has done, if right and proper, every Senator might have done; and when the conclusion is inevitable that, if every Senator, or a majority of the Senate, had done this, the Government would have been overthrown by rebellion and by traitors, and these traitors would have dispersed the Government, and have possession of the capital of the country? When these are the consequences which his acts would bring upon the country and upon the Government, how can Senators exempt him from the responsibility of such acts?

Mr. President, it is with no pleasure that I have appeared in this most unpleasant duty. I do not say that I perform it reluctantly, far from it; for where duty marshals me according to my reason and my conscience, there will I tread. I act upon that principle now; but I have said to the Senate, and in the presence of the Senator, that I have no unkind feeling, and I never had any unkind feeling for my colleague. I said and I repeat that I never knew of an enemy he had personally. I have said in addition that it would have gladdened the whole Union heart of my State if my colleague had taken rank with them. Yes, sir, we would have opened our mouths, and we would have shouted for him to the top of our voices; we would have opened our hearts and our arms, and we would have received him with all the honors that could be conferred upon so distinguished a convert. We mourned at the time, and we now lament that he did not tread this path of duty. If he had, it would have been better for us, it would have been better for our land of Kentucky. He was, as I said, a man of popularity and of power there. I have no doubt that his example, these precepts of treason and of crime that he has published to the young men and the old men of Kentucky, have seduced hundreds and hundreds into the rebellion and into the crime of treason. We were struggling in Kentucky to preserve the old State in her constitutional moorings, and to bring her at last into the harbor of duty. The Government was struggling for its existence, and yet no pulsation of sympathy, no cheering voice does he give to his Union neighbors and friends in Kentucky, or to his struggling associates, who are attempting, from day to day, to sustain by arms and by money, by ways and means, at one time, the faltering fortunes of the Government, and to roll back that defeat which threatened to submerge it into the abyss of ruin. Amidst all the conflicts and the trials of the Government, everything that my colleague said, everything that he did, all the resolutions that he voted for, all the principles that he enunciated in resolutions or in debate in the Senate, all the votes he gave, were against his country and against his Government, for secessia and for rebellion. If he had consulted Jeff Davis himself, and had taken his counsel as to what course he should take, and what votes he should give in the American Senate, he would have counseled no other course and no other votes than those he did take and give.

Mr. President, if here is not sympathy with crime and treason, if here is not giving all the aid to crime and to treason and to the overthrow of the Government that can be given, short of the most palpable and direct overt act of treason, I do not understand the force of the gentleman's line of conduct, and his votes. Sir, if it had not been for him and his associates, one fourth of our native State would not have been desolated by fire and sword. One fourth of Kentucky has been occupied by the secessionists—the rebels. They have waged a Vandal war in that portion of the State; they have outraged humanity and all the rights of womanhood. They have followed as with the sweep of a destroying Attila their course through that lately beautiful but now blighted and desolate land, in his own neighborhood. My colleague in the other House, representing that district, says that the secessionists have carried from three counties down there upwards of three hundred thousand dollars' worth of slaves. They have burned, destroyed, desolated, and stolen everything they could. If you want to see a country ravaged, ruined, a people exiled, oppressed with the most grievous and unbearable oppression that ever existed in our day or generation, short of East Tennessee, go to the southern part of Kentucky, into the gentleman's neighborhood. There you will find all these consequences; and you will find that these things have been done and perpetrated by the hosts that the gentleman counseled and incited to go into armed resistance against the authority of the United States, and against the expressed will and opinions of his own State. I am in earnest in relation to this matter. It is not unreasonable that I should be. Our people are in earnest about it. There is many an old father, many a mother, whose son has died in camp or fallen in battle, and in the scecsh cause, that are mourning the loss of their children from their hearthstones and their country; and my colleague and his advisers, his conventions, and his resolutions, are responsible for this desolation. They will call some of these days for vengeance upon the authors of these crimes; and never will they consent, never will I give my consent, by any voice that I can utter, that the leaders in this crime shall be spared. The severest punishment with which the laws of treason can visit them, it shall ever be my counsel shall be visited upon them. They no more merit the halter than, in my honest judgment, my colleague deserves the judgment of expulsion. Write it down. I utter it; and I will stand upon it and by it.

Two or three days before the convention to which I have alluded met, on the 10th of September last, at which my colleague figured so largely, the confederates had invaded Kentucky at two points. They had taken possession of Columbus and the Chalk Bluffs just below Columbus, and they had taken possession of the Cumberland Gap. I was here last summer in consultation with the President and a portion of the Cabinet; and Governor Wickliffe and myself, in the month of August last, counseled the President and his Cabinet to seize upon Bowling Green and Columbus at that time, as they were great strong natural strategic points in Kentucky, and if it had been done, a great deal would have been saved. I have told you what ravages the secession armies made in that part of Kentucky from which they have lately been driven.

Now, Mr. President, a word or two more, and I shall have done. It is often inquired what was the cause of this war. The immediate, proximate, exciting cause was simply no less, no more, than the election of Abraham Lincoln. Suppose John C. Breckinridge had been elected, would the southern States have seceded? Suppose the North had given up to the southern States in perpetuity the election of the President of the United States, and had allowed them to wield all the patronage, office, honor, jobs, and contracts, enriching so many of his friends, that the President has to dispense. Suppose you had given up to them in perpetuity the election of President, and had debarred from yourselves the House of Representatives, and the Senate, and the Supreme Court of the United States, do you belive that they ever would have seceded? Never, never. Jeff Davis, in his letter to the English ministry, read a few days ago by

my friend from Virginia, said most truly that they did not secede because they thought their title to their slaves was in danger, but that they seceded to prevent the rule of northern men over southern chivalry. That was not the language, but that was the idea. I know it to be true. When they had the House of Representatives, and the Senate, and the Supreme Court, and the President could not pass any measure or declare any war, or maintain and carry on any hostilities without being under the control of their friends constituting the majority in Congress, would they have seceded when they possessed that amount of power in the Government, if their object had simply been the defense and protection of their slaves? Never, never. The Presidency had gone from them, never to return, and that was the reason why they seceded; and such a cause to produce such a crime, such a rebellion! Why, sir, when I reflect on the treachery of the Senators and Representatives from the seceding States in the two Houses of Congress, their ignoble and base treachery to their friends in the border States, it almost frenzies me; and when I think of the great crime that they have committed, and of the ruin and devastation that they have brought upon this whole land, themselves included; when I reflect that they have involved us in debt and difficulties and civil struggles, from which there is no certainty that we shall ever emerge, and all this without any cause, or with a cause so slight as to amount to no cause at all; when I consider the mass of crime and of misery that these ambitious and wicked and misguided and weak men have brought upon our happy country, (for happy it was at the time they brought all this upon us,) I can scarcely repress the expression, even to myself, of the deep curse that rankles in my heart against the artificers of such ruin.

As I said on a former occasion, if ever there was a sentiment, an object, an idea that I have idolized, that has commanded everything I had of head and of heart, of mind and of soul, it has been this Union and its perpetuity. I yet hope it will be restored; I do not hope that it will be perpetual, because no institution or organization of man has perpetuity. When this continent fills up with population, and there are two hundred millions of people on this side of the Rocky mountains, and fifty or seventy-five millions on the other side, it must break in two by its own weight; but amidst that ruin, that wreck of our political world, I hope still that the great valley of the Mississippi will ever, amidst the changing fortunes and vicissitudes of this continent, constitute one united and grand empire. We never ought to separate, we cannot separate; it is against the fiat, the decree of nature. A separation might ensue temporarily from some convulsion; but a reunion under the form of civil government or military despotism would be a great and inevitable necessity. Our people do not wish to part; the loyal men of Kentucky never intend to part with our brothers of the Northwest. Mr. President, the deep and abiding and indestructible sense of obligation under which we have been placed by the heroic sons and daughters of Ohio and Indiana and Illinois and Wisconsin and Iowa and Minnesota has made impressions upon our memories and our hearts that can never be erased. We bless and pour out to them our gratitude in our waking moments and in our night dreams. The whole voice of our land, of men, women, and children, ascends in orisons to Heaven daily for their happiness and their welfare, and for eternal peace and amity between them and us. We want this golden cord to exist forever. New England at some day may be detached, as the moon was said to have been detached from the earth, sundered, disrupted; but I hope not. The distant country beyond the Rocky mountains will no doubt at some time constitute a separate and a distinct and an independent empire, but an empire speaking our language, peopled by our race, having our institutions and our principles of civil and religious liberty and our history, looking back to the past as to a common property. They may rear themselves into a great western imperial empire; but oh! the vast valley of the Mississippi, in extent, in fertility, in capability to sustain human population, second to none on the earth unless it be the valley of the great river of South America, the Amazon, my prayer is that it shall be the theater of one continued, perpetual empire of liberty, civil and religious. And that, Mr. President, is the sentiment of the people of Kentucky. They have expressed it in their legislative resolutions, and have returned their thanks to their brethren of the Northwest for their generous assistance.

I know, Mr. President, that the loyalty of Kentucky, even of the Union men of Kentucky, is questioned by some Union men of the North. Oh, what a cruel suspicion! We believe that the Constitution is the bond of our Union. We want no right that it does not secure to us; we want all that it does secure to us. We profess to be law-abiding men; and whenever a law is passed, and is submitted constitutionally to the judicial tribunals of the country, if it is there sustained, we will acquiesce, unless it brings upon us burdens too grievous to be borne, and burdens to such an extent as to authorize revolution; but we never expect to be so oppressed. We have faith and confidence and trust and hope in the great mass of our countrymen. They are mainly just what we are. If we were to swap positions, and they were placed where we are, and we were placed where they are, we should undoubtedly swap opinions and sentiments. But come weal or come woe, come protection under the Constitution, or come oppression under its violation, you will never see old Kentucky marching from under the flag of Washington—the stars and the stripes. She will maintain her position in this Union; she will fight under that flag; and though she may be fighting the battle of revolution, that battle will be to sustain some great essential principle of the Constitution, and there she will occupy holy and constitutional ground. A constitutional Union man has as much right to fight against a violation of the Constitution as he has to fight against the disruption of the Union. It would take an extreme case to bring the Union people of Kentucky to that point. They never expect that case to arise; they know that it never will arise.

Since I have been here I have formed acquaintances for the first time with many gentlemen from the northern section of the Union at this session of the Senate. They sit around me. I have as much confidence in their intellect, their reason, their soul, their patriotism, their devotion to the Constitution, as I have in my own. We only view and form our opinions from different stand-points; and I believe that if they occupied my stand-point, they would have the same views and sentiments that I have. But we intend to be patient with you and of long suffering; we seek no quarrel; we want no civil war; we want no disruption of the Union. We do not believe that on "sober second thought" you will ever bring that state of things upon us. If you do, we will appeal from the action and judgment of the Senate to that of the courts, and we shall expect there to be sustained. If we are defeated in that, if the courts sustain you, the act must bring upon us grievances and intolerable oppression, unendurable grievance, before we shall ever rear the standard of rebellion. When we are forced to that, if we ever shall be—but I hope and believe we never shall be—we would act simply as all men worthy of manhood, having the properties and the qualities that fit them to be free, would act.

Mr. President, I ask the Senate to take into its serious and impartial consideration the case of my colleague. If he has shown himself disloyal to the Union, disregardful of his duty and of the obligation of his oath, expel him. I believe as religiously as I believe that I am now addressing the Senate, indeed I know, that if the Senate have such a conviction on their minds, they will remove him. If they have not, in the name of justice and of the God of justice acquit him, and let my Legislature, at Frankfort, know it, and go home and attend to their business.

Mr. WADE and Mr. POWELL addressed the Chair.

The PRESIDING OFFICER, (Mr. DOOLITTLE.) The Senator from Ohio is entitled to the floor.

Mr. WADE. I do not get the floor with any idea of making a speech; I wish to move for an executive session. The Senator from Kentucky may have the floor, but I am anxious to have an executive session.

Mr. POWELL. I will move the executive session myself after awhile.

Mr. WADE. Very well.

Mr. POWELL. If no other Senator desires to address the Senate upon the pending resolution, I propose to do so. I must reply to the very extraordinary speech of my colleague; and I hope to do it briefly, with as much brevity, at least, as circumstances will permit. If there is, however, any other Senator who desires to speak, I will yield the floor to him. I do not desire to address the Senate until after every Senator who wishes to speak on this subject shall have done so.

Mr. DAVIS. I noticed the other day the order that my colleague prescribed for this debate, that he would hear what every Senator has to say upon the subject and then close the argument. I know of no custom, of no rule of courts, or of bodies acting *quasi* as courts, that allows any man who is upon his trial the right to conclude the debate. When my colleague addresses the Senate, I shall listen to what he says; and if there is anything that I think proper to answer, I shall claim my privilege to answer him.

Mr. POWELL. I do not propose to prescribe to my colleague the order of this debate. In fact, it is with very deep regret that I feel compelled to say anything on this subject. I was perfectly willing, and so expressed to friends around me, if there was no debate on the other side, to let the Senate vote upon the resolution merely on the report of the committee, without saying anything; but as my colleague has addressed the Senate, I desire to be heard.

I think it proper that I should yield to any Senator who desires to address the Senate on this subject. That I will do cheerfully. Of course, so far as my colleague is concerned, he can reply to me if he chooses; and I shall claim the privilege, if I choose to do it, of replying to him. I do not expect much favor from my colleague in this matter; he is my prosecutor; but I rejoice that he is but one of my judges. I do not propose now to address the Senate; and I move, if no other Senator desires the floor, that the further consideration of this question be postponed until half past twelve o'clock to-morrow. When that motion shall be agreed to, I will, in accordance with my promise, move that the Senate go into executive session.

Mr. SHERMAN. I hope the Senator will allow us the morning hour.

Mr. POWELL. Very well, I will say one o'clock.

The motion to postpone the resolution until to-morrow, at one o'clock, was agreed to.

EXECUTIVE SESSION.

Mr. POWELL. I now move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *March* 13, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

REGIMENTAL BANDS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, in answer to a resolution of the House of Representatives inquiring as to the propriety of dispensing with regimental bands in the Army of the United States; which was referred to the Committee on Military Affairs, and ordered to be printed.

COST OF TRANSPORTATION.

The SPEAKER also laid before the House a communication from the Secretary of the Navy, in answer to a resolution of the House showing the average cost of transportation for the last five years from eastern and southern ports to the Pacific coast; which was laid upon the table, and ordered to be printed.

APPROPRIATIONS FOR THE WAR DEPARTMENT.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting a statement of the appropriations applicable to the service of the War Department for the years 1860 and 1861; which was laid upon the table, and ordered to be printed.

EMPLOYÉS OF NAVY DEPARTMENT.

The SPEAKER also laid before the House a

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. SATURDAY, MARCH 15, 1862. NEW SERIES.....No. 77.

communication from the Secretary of the Navy, giving a statement of the clerks and other persons employed by the Navy Department during the year 1861; which was laid upon the table, and ordered to be printed.

THANKS TO GENERAL CURTIS AND COMMAND.

Mr. DUELL. I ask the unanimous consent of the House to introduce a joint resolution tendering the thanks of Congress to Brigadier General Curtis and the officers and men under his command.

There being no objection, the joint resolution was received, and read a first and second time by its title.

The resolution tenders the thanks of Congress to Brigadier General Samuel R. Curtis, and the officers and men under his command, for their bravery at the recent brilliant victory at Pea Ridge, Arkansas, and expresses the sincere sympathy of Congress with the relatives and friends of the officers and soldiers of the army who so bravely fell in the service of their country. The resolution also requests the President to cause the resolution to be communicated to General Curtis, and through him to the army under his command.

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

JAIL FOR THE DISTRICT OF COLUMBIA.

Mr. DELANO, by unanimous consent, from the Committee for the District of Columbia, reported a bill to authorize the Secretary of the Interior, in conjunction with the Mayors of Washington and Georgetown, to build a jail for the District of Columbia; which was read a first and second time, recommitted to the Committee for the District of Columbia, and ordered to be printed.

CONDUCT OF THE WAR.

Mr. EDWARDS. By instruction, I desire to present certain resolutions adopted by the people of the town of Newport, in the State of New Hampshire, without distinction of party, approving the policy of the President in relation to the war. I ask that they be printed.

It was so ordered.

TAX BILL.

The SPEAKER stated the question to be upon the motion made last evening by Mr. STEVENS, that all debate upon the tax bill shall cease in five minutes after the Committee of the Whole on the state of the Union shall resume the consideration of the same; upon which Mr. RICHARDSON demanded the yeas and nays.

The yeas and nays were not ordered.

Mr. PHELPS, of California. Would that limit the debate upon amendments to five minutes?

The SPEAKER. The motion is to close the general debate in five minutes. That will allow five minutes debate upon amendments.

The question was taken on the motion to close debate; and there were—ayes 50, noes 30; no quorum voting.

Mr. STEVENS. I desire to say that I made this motion with no desire to cut off legitimate debate upon the question of the tax bill, and if gentlemen desire to discuss that, I will withdraw my motion, but I give them notice that I shall ask that they shall be confined to it, according to the rule, and that general debate shall not be allowed.

The SPEAKER. Does the gentleman withdraw his motion?

Mr. STEVENS. If, after what I have said, there is any indication of a desire to debate the tax bill, I will withdraw it.

The SPEAKER. The Chair does not understand whether the gentleman withdraws his motion or not.

Mr. STEVENS. No sir; not at present.

Mr. BROWNE, of Rhode Island. I desire to make an appeal to the gentleman from Pennsylvania. This is the most important bill that has been before this House. It is a bill which affects the interests of our constituents more than any other bill which has been before this House for years, and no one, if the debate is limited to five minutes, will be able to discuss the merits of it at all. I have no sort of objection to the gentleman's confining every member to a discussion of the merits of the bill, but it is an absolute impossibility that any one can discuss the merits of this bill in five minutes.

Mr. STEVENS. If there is any indication that the merits of the bill are to be discussed, I withdraw my motion.

Mr. WICKLIFFE. I was about to suggest to the gentleman from Pennsylvania to introduce a rule requiring the debate to be confined to the question under consideration.

The SPEAKER. That is the rule of the House now.

Mr. WICKLIFFE. Then I hope it will be enforced.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed the consideration of the special order, being the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

Mr. RICHARDSON. Mr. Chairman, under the intimation made by the chairman of the Committee of Ways and Means, that he intends to confine this discussion strictly to the subject under consideration, I feel constrained to offer an amendment to the bill, so that I may not transgress the rules of order in the discussion of this question.

I therefore offer the following proviso, to come in either at the end of the first section or at the end of the bill:

Provided, That two per cent. of the revenue derived from this bill shall be set apart for the purpose of obtaining, by treaty, territory outside of the United States for colonizing the free blacks and for the transportation of them to that territory.

Mr. MORRILL, of Vermont. I rise to a question of order. I submit that that amendment is not germane to the first section of the bill. That section provides for the appointment of officers for the collection of these taxes.

The CHAIRMAN. The Chair sustains the point of order in regard to the first section of the bill.

Mr. RICHARDSON. If I understand the proceedings of deliberative bodies, a proposition need not, of necessity, be germane to the particular section to which it is proposed. The amendment is germane to the subject under consideration, and it is in the power of Congress to turn over any portion of the revenue derived from these taxes to any particular purpose that it may see proper; and it is that that I wish to discuss.

Mr. MORRILL, of Vermont. I desire to say that this bill provides for the *collection* and not for the *disbursement* of any revenue; and therefore the amendment is not germane to any part of the bill, and much less to the first section.

The CHAIRMAN. The Chair sustains the point of order raised by the gentleman from Vermont, that the amendment is not germane to the first section of the bill.

Mr. RICHARDSON. Then I move it as a general proviso.

The CHAIRMAN. The first section of the bill is the only one now open to amendment. The Chair will state that although it endeavored yesterday to confine the debate to the special order, the committee, by unanimous consent, seemed to extend it. The Chair does not, therefore, feel at liberty now, in conflict with the views of the committee, to arrest the remarks of the gentleman from Illinois.

Mr. RICHARDSON. I am very much indebted to the Chair; but I think I can keep myself strictly within the rules of debate. I do not concur, Mr. Chairman, in suggestions that have been made in the course of this debate, either by the gentleman from Kentucky [Mr. WADSWORTH] or the gentleman from Pennsylvania, [Mr. HICKMAN,] who would withhold revenue because they have not confidence in the integrity of the Chief Executive officer of the United States.

Mr. STEVENS. I raise the point of order that the gentleman from Illinois is not discussing the merits of this bill.

The CHAIRMAN. The Chair decided yesterday that, by the rules of the House, this bill being a special order, debate must be limited to it; but the committee, by unanimous consent, allowed the debate to take a wide range, thus overruling the action of the Chair. The Chair, therefore, does not feel at liberty to arrest the remarks of the gentleman from Illinois.

Mr. STEVENS. I ask the Chair to decide whether the gentleman from Illinois is in order? If he is, I have nothing more to say.

The CHAIRMAN. The Chair will decide, as it did yesterday, that debate must be confined to the special order—that is, to the bill itself.

Mr. STEVENS. I intend to confine the debate, if I can, to the merits of the bill; but if the discussion go beyond that, I will call gentlemen to order.

The CHAIRMAN. The gentleman from Illinois must proceed in order.

Mr. RICHARDSON. The gentleman from Pennsylvania cannot tell what application I am to make of my argument. If he will wait and see, I will endeavor to make the connection.

Mr. STEVENS. The gentleman must not be behind time.

Mr. RICHARDSON. I repeat, Mr. Chairman, that the gentleman from Pennsylvania and the gentleman from Kentucky seemed to express some fears that the money raised under this bill might not be properly appropriated, because they had not sufficient confidence in the President of the United States. In my judgment the Chief Executive of the United States has shown by his public acts a disposition to abide by the laws and to uphold the Constitution, and while I may differ with him as to the best mode of doing either one or the other, I accord to him perfect honesty of purpose.

Mr. STEVENS. I call the gentleman to order. The merits or conduct of the Administration cannot be discussed on the merits of this bill.

The CHAIRMAN. The Chair overrules the point of order. So far as the remarks of the gentleman from Illinois have progressed, the Chair has not yet seen that they are out of order

Mr. STEVENS. I appeal from the decision of the Chair.

The CHAIRMAN. The gentleman from Illinois states, in the course of his remarks, that he has confidence in the Administration. The gentleman from Pennsylvania makes the point that that is not germane to the bill. The Chair decided that the gentleman from Illinois has not yet violated the rule. From that decision the gentleman from Pennsylvania appeals.

Mr. STEVENS. No, sir; if it be designed to let this debate go on forever, I withdraw the appeal.

Mr. RICHARDSON. I am amazed, Mr. Chairman, that the gentleman from Pennsylvania should find it out of order, in the discussion of this question, that I should say that I had confidence in the integrity of the President of the United States. Yesterday when gentlemen were assailing the Executive, and expressing want of confidence in him, the gentleman from Pennsylvania was mute.

Mr. STEVENS. Will the gentleman from Illinois allow me——

Mr. RICHARDSON. Certainly.

Mr. STEVENS. We tried once to restrain the debate. The gentleman from Kentucky [Mr. WADSWORTH] seemed to think it unkind; and after we had once tried, and the Chair had distinctly stated to the gentleman what the rule of order was, he persevered in his course of remarks. I did not believe them in order. But after he had

made a speech out of order on one side, and the gentleman from Ohio [Mr. BINGHAM] had made a speech out of order on the other side, I thought that it was a fair balance, and did not suppose it would be deemed unkind this morning to ask that debate be strictly confined to the question legitimately before the committee.

Mr. RICHARDSON. I trust the gentleman will permit me to proceed with the line of my argument. I am not yet very far from the record. I may give the gentleman evidences why I have this opinion. Recently, when a general, sent to the western department, avowed his purpose, without any military necessity, to violate a law passed by Congress, supported by gentlemen on the other side of the House, and resisted by gentlemen on this side, the President modified the proclamation, and made it conform to the law. I have watched the President of the United States with some disposition to find fault. It has been my misfortune through life, too often probably, to differ with the Executive which I had aided in placing in power. And while I differ with the President of the United States as to his policy, I accord to him perfect integrity of purpose. Gentlemen on the other side told us yesterday that the preservation of the Constitution and of the Union was secondary with them; that the primary object with them in this war was the destruction of slavery.

Mr. STEVENS. I again call the gentleman to order. I think he has got far enough now for the Chair to determine whether he is in order or not.

The CHAIRMAN. The gentleman will state the words to which he objects.

Mr. STEVENS. The gentleman from Illinois is going on to argue the whole question as to his confidence in the President and as to the dissolution of the Union, and for what causes it ought to be dissolved. Now this bill does not put into the hands of the Executive one dollar, does not appropriate one dollar to any purpose; and all this debate is out of order.

Mr. RICHARDSON. If the gentleman will wait a moment I will make the application of it.

Mr. STEVENS. I do not want to wait an hour or that. I make the point of order, and insist upon it.

Mr. RICHARDSON. Will the gentleman reduce to writing the remarks which he considers out of order?

Mr. STEVENS. I am not going to make a personal question with the gentleman from Illinois.

The CHAIRMAN. The gentleman from Illinois has a right to demand that the remarks objected to be reduced to writing. The Clerk will read the first part of the 62d rule.

The Clerk read, as follows:

"If a member be called to order for words spoken in debate, the person calling him to order shall repeat the words excepted to, and they shall be taken down in writing at the Clerk's table."

Mr. STEVENS. I always understood that to refer to words that are personally offensive. However, I object to the gentleman from Illinois for using, among other things, the following language:

"Gentlemen on the other side told us yesterday that the preservation of the Constitution and of the Union was secondary with them; that the primary object with them in this war was the destruction of slavery."

The CHAIRMAN. The Chair sustains the point of order.

Mr. RICHARDSON. I regret, Mr. Chairman, that such ruling was not made yesterday.

Mr. STEVENS. Must not the gentleman have the leave of the House before he can proceed?

Mr. RICHARDSON. Undoubtedly, sir.

Mr. STEVENS. Then, without any disrespect to the gentleman from Illinois, I object to his proceeding.

The CHAIRMAN. It is the opinion of those who are better versed in parliamentary rules than the Chair, that the position taken by the gentleman from Pennsylvania is correct; that the rule read applies only to indecorous language. At the same time, the Chair had the right to ask the gentleman from Pennsylvania to reduce to writing the words objected to, so that it might decide upon it strictly. The gentleman from Illinois must proceed in order.

Mr. RICHARDSON. Mr. Chairman, I only desire, for the benefit of our friends upon the other side of the House, to say that during the progress of the remarks made by the gentleman from Kentucky [Mr. WADSWORTH] yesterday, he was subject to the same interruptions that I am; but during the entire remarks of the gentleman from Ohio, [Mr. BINGHAM,] no interruption was interposed. Now, if I am to be subjected to these repeated interruptions, it will be useless for me to proceed.

MESSAGE FROM THE SENATE.

The committee here informally rose; and the Speaker having resumed the chair, a message was received from the Senate, by Mr. FORNEY, their Secretary, notifying the House that the Senate have passed a bill (No. 185) to define the pay and emoluments of certain officers of the Army, and for other purposes; in which he was directed to ask the concurrence of the House.

The committee then resumed its session, and proceeded again to the consideration of the

TAX BILL.

The CHAIRMAN. The Chair will state to the gentleman from Illinois that he sustained every point of order raised yesterday during the progress of the debate to which he alluded.

Mr. RICHARDSON. I am coming to that. I am not complaining of the Chairman; nor have I the right, I suppose, to complain of the gentleman who interposes these objections. It is his right under the rules. But I desire to serve notice now upon gentlemen on the other side—I have no desire to discuss the first section of the bill—so that I may bring them up by and by to the strict line of order. I will make them toe the mark, every hour of every day during the balance of this session.

Mr. BAKER. I move to amend the first section of the bill by striking out in the twelfth line, the words "Secretary of the Treasury," and inserting in lieu thereof the words "President of the United States;" so that the commissioner shall be an officer who shall be solely under the direction of the President of the United States, and that he shall do the duties specified in this section under the direction of the President. And to make the section complete, I move also to strike out from the twenty-fourth line the words "and the Secretary of the Treasury may assign to the office." I propose also to insert in the twenty-sixth line, after the word "revenue," the words "shall appoint under the direction of the President of the United States such number of clerks as he may deem necessary or the exigencies of the public service may require;" so that the section will read:

That for the purpose of superintending the collection of internal duties, stamp duties, licenses, or taxes imposed by this act, or which may be hereafter imposed, and of assessing the same, an office is hereby created in the Treasury Department to be called the office of the Commissioner of Internal Revenue; and the President of the United States is hereby authorized to nominate, and, with the advice and consent of the Senate, to appoint, a Commissioner of Internal Revenue, with an annual salary of $5,000, who shall be charged, and hereby is charged, under the direction of the President of the United States, with preparing all the instructions, regulations, directions, forms, blanks, stamps, and licenses, and distributing the same, or any part thereof, and all other matters pertaining to the assessment and collection of the duties, stamp duties, licenses, and taxes as may be necessary to carry this act into effect, with the general superintendence of his office, as aforesaid, and shall have authority, and hereby is authorized and required, to provide proper and sufficient stamps or dies for expressing and denoting the several stamp duties, or the amount thereof in the case of percentage duties, imposed by this act, and to alter and renew or replace such stamps from time to time, as occasion shall require. The Commissioner of Internal Revenue may appoint, under the direction of the President of the United States, such number of clerks as he may deem necessary or the exigencies of the public service may require.

The CHAIRMAN. The Chair will state to the gentleman that it is not in order to offer more than one amendment at a time.

Mr. BAKER. Then I will submit the first one I have indicated in the twelfth line.

I will add that this amendment will be in entire consonance with the provisions of the second section of the bill, which provides that the President of the United States shall divide the several States and Territories and the District of Columbia into convenient collection districts. Such duties having been imposed on the President, I think it is right and proper that he should have the whole control of the assessment and collection of the internal revenue imposed in this bill.

Mr. PHELPS, of California. I desire to say a word in relation to that amendment. I hope the amendment will not prevail. The President, it is true, in the second section is charged with the assignment of districts for the collection of the revenue; but it seems to me that in the financial arrangement necessary to be carried out in the Treasury Department, the officers for carrying it out should not be thrown under the supervision of the President of the United States. It appears to me that that officer has now, particularly during the continuance of this rebellion, as much on his hands as it is safe to confide to any one person. I believe that the bill will be better carried out by the Secretary of the Treasury than it can possibly be under the supervision of the President of the United States. It certainly is a duty appropriate to the Treasury Department.

Mr. BAKER. I do not propose by this amendment to separate this matter in regard to the disposition of the finances to be collected by this Commissioner, but to make the Commissioner an independent officer. The remark made by the gentleman from California that the duties of the President are already very onerous, will, in my judgment, very aptly apply also to the Secretary of the Treasury. He has quite as much as he can attend to. It seems to me too that the patronage existing already in his Department under his direction and control is quite sufficient.

Mr. HORTON. I merely wish to suggest that there may be an incongruity in this matter if the amendment of my friend from New York should be carried out. This Commissioner of Internal Revenue is at the head of an independent bureau by the gentleman's amendment. Without going into the argument, I wish simply to suggest that the Secretary of the Treasury ought to be at the head of the Treasury Department. If you are to have two heads of the Treasury Department it will be somewhat incongruous. I therefore hope that the House will vote down the amendment of the gentleman from New York.

Mr. ALDRICH. Let me inquire of my friend from Ohio if the heads of the various bureaus—the Comptrollers, the Auditors, and Register, are not appointed by the President?

Mr. HORTON. That does not apply to the point at all. The gentleman does not get at the point.

Mr. SHELLABARGER. It seems to me the effect which the gentleman from New York desires to reach in taking from the Secretary of the Treasury this patronage, is not accomplished by his amendment. He will observe, by simply reading the context, that the officers he proposes the President shall take the supervision of are charged simply with preparing instructions, regulations, directions, forms, blanks, stamps, and distributing the same. Now, I submit that it would be a very singular employment for the President of the United States to be directing the forms, blanks, and stamps that are to be used in carrying out this revenue scheme. It is simply the business transactions in getting up and operating the machinery of this bill in all its details that the amendment proposes the President of the United States shall take charge of.

Mr. THOMAS, of Massachusetts. I desire to ask the chairman of the Committee of Ways and Means what is the precise meaning of the word "assign," in the twenty-fifth line? Does it mean that he may appoint, or that he may simply assign clerks already appointed?

Mr. STEVENS. I suppose the meaning is that he may assign clerks already appointed, if there be supernumerary clerks already in the Department, and if not, appoint them. I have no objection to the word "appoint" being substituted, if the gentleman desires it.

Mr. THOMAS, of Massachusetts. I do not, if that is the meaning of it.

The amendment was disagreed to.

Mr. STEVENS. I wish to make one or two verbal amendments. I move, in the seventeenth line, to strike out the word "as," and insert the word "which."

The amendment was agreed to.

Mr. STEVENS. I move, also, in the eighteenth line, after the word "effect," to insert the word "and."

The amendment was agreed to.

Mr. LOOMIS. I move, in the eleventh line, to take out the word "five," and insert "three;" so as to make the compensation $3,000 instead of $5,000. I suppose it is the fixed policy of the House to reduce the salaries of all the officers of the Government, including our own. I hope, therefore, they will not begin by fixing a large

salary for this officer. I think $3,000 is sufficient.

Mr. WHITE, of Indiana. This will be one of the most important bureaus in the whole Government, and I think $3,000 is not perhaps a sufficiently large compensation. I move to amend the amendment so as to make the compensation $4,000.

Mr. THOMAS, of Massachusetts. I hope neither of the amendments will be agreed to. If there is any policy which is thoroughly humbug in my judgment, it is the reduction of the salaries of public officers. The idea of hiring a poor man because you can get him cheap is a policy which no man pursues in his private business. The whole policy of employing public officers at small salaries is, in my judgment, a humbug policy.

Mr. STEVENS. Mr. Chairman, I do not think that there has been more truth uttered in so few words in a long time as in those which have fallen from the lips of the gentleman from Massachusetts. The idea of saving money without requiring the highest talent is rather the way of spending money. I look upon the head of this department or bureau as equal to any in the Government for responsibility, and as requiring a man of as high qualifications and high talents as the position of the Secretary of State or any other Cabinet office. I hope, therefore, the bill will stand as it is in this regard, and that the salary of this Commissioner shall remain at $5,000 per annum, so that we may get a fit man, who may perhaps have to leave a large business. For a good man we ought to provide adequate compensation.

The question was taken on the amendment to the amendment, and it was rejected; and then the amendment was also rejected.

Mr. MORRILL, of Vermont. I move to add to the first section these words:

And the privilege of franking all letters and documents pertaining to the duties of his office, and of receiving free of postage all such letters and documents is hereby extended to the said Commissioner.

Of course, Mr. Chairman, while the franking privilege is extended to the other officers of the Government, at the head of various departments, it would be an absurdity to deprive this officer of it, who will probably need it more than any other.

The amendment was agreed to.

Mr. SHELLABARGER. I move to strike out the words "he may deem necessary or;" so that the section will read:

And the Secretary of the Treasury may assign to the office of the Commissioner of Internal Revenue such number of clerks as the exigencies of the public service may require.

Mr. Chairman, there seems to be two limitations upon the number of clerks which may be assigned to this department. One is such number as the Secretary of the Treasury may deem necessary, and the other is such number as the exigency of the public service may require. One would seem to give an unlimited discretion to the Secretary of the Treasury, while the other confines it to the number required by the exigencies of the service. It seems to me that the intention of the committee is accomplished by having the bill provide that he can only have such number as the exigencies of the public service may require. My amendment will take away what appears to be an unlimited discretion as to the number. No doubt the intention of the committee was that only the number should be provided required by the public service. My amendment best carries out that purpose.

Mr. STEVENS. If the gentleman thinks that his amendment will be a better guard on the provision leaving the department to the discretion of the Secretary of the Treasury, I have no objection to it. I have confidence in the Secretary of the Treasury; and I think that he would not assign too many clerks. The Secretary of the Treasury is from the gentleman's own State, and he may know him better than I do; and I therefore agree to his amendment.

Mr. SHELLABARGER. I have as much confidence in the discretion of the Secretary of the Treasury as the gentleman from Pennsylvania—as much confidence in him as if he came from the State of Pennsylvania, and no more. I think that it is proper in all cases where power is conferred upon officers to guard them carefully. It is wise legislation to do so. We ought to endeavor always to throw proper guards around every one intrusted with important powers.

The amendment was rejected; only twenty-five voting in the affirmative.

Mr. PHELPS, of California. I move to strike out the words, "an assessor and;" so that the section would read:

SEC. 2. *And be it further enacted*, That for the purpose of assessing, levying, and collecting the duties or taxes hereinafter prescribed by this act, the President of the United States be, and he is hereby, authorized to divide, respectively, the States and Territories of the United States and the District of Columbia into convenient collection districts, and to nominate, and by and with the advice and consent of the Senate, to appoint a collector for each such district, &c.

I do that for the purpose of hearing from the committee the reasons that have induced them to provide for an assessor in this bill. I have looked through the bill carefully, and I have failed to discover any sufficient reason for the appointment of an assessor. The whole duty of collecting this revenue may as well be devolved upon the collector as to have an assessor. By doing away with the assessors—if it can be done—we may make a saving of several millions of dollars in the collection of this revenue. So far as my experience goes, I have never known in any State where there has been provision fixing the collection of license taxes and taxes such as are provided in this bill, that it was customary to provide for an assessor. There are no duties to be discharged by an assessor under this bill which cannot as well be discharged by the collector. In the case of taxes upon malt and spirituous liquors, it is provided that they shall be paid directly into the hands of the collector, without the intervention of an assessor. Those taxes being paid monthly, it would be impossible to require of the assessor, and have performed every month, the service of going through the formula of assessment and returning an account. I therefore make the suggestion to the committee, and I desire to hear from the members of the Committee of Ways and Means the reasons which have induced them to provide for these assessors. So far as I have been able to discover, I see no necessity whatever for their appointment. There are no duties for them to perform which cannot as well be performed by the collectors. By dispensing with these assessors, three or four millions of dollars may be saved to the Government. If it can be done, then it ought to be done. I suggest the amendment for the serious consideration of the committee.

Mr. MORRILL, of Vermont. I think if the gentleman will look through the bill, he will discover that no money can be saved by this process. This labor has to be done by some one, and the pay of the assessor is so much per diem. If it is done by the collectors, of course an equal amount of money will have to be paid by the Government. In a bill for the collection of so large an amount of revenue it is important to hold the collectors to a rigid account of the taxes coming into their possession. These assessors make out lists, give them to the collectors, and take a receipt therefor, and they will have to return the same to the Commissioner of Internal Revenue. That makes a perfect check upon the whole system. If we desire to save money, I think that it can be done in this way, and not by doing away with assessors.

Mr. ROSCOE CONKLING. There is a suggestion about this which I desire to make some time, and to ask the attention of the chairman of the Committee of Ways and Means to it. I believe it is strictly in order on this proposition, and therefore I make it now. Of course, it is desirable, if we can, to dispense with all of these officers, and if we cannot dispense with all of them, then to dispense with as many as we can; and I want to direct the attention of the committee to this question, whether we can ingraft upon this bill a provision the effect of which will be to give to the States the opportunity of coming forward and binding themselves to collect and pay over these imposts by means of their own officers and tax-collecting instrumentalities? I know that we cannot impose that duty upon them. That question was discussed here last summer at the extraordinary session. I am aware of that, and make this suggestion with a knowledge of the fact that if we offer them this proposition they have a right to reject it. We cannot impose upon their officers to collect these imposts; but what I desire to present is whether, if we were to say in this bill that any State might, on or before a certain day, pledge its faith, give its bond, place its obligation in some form, that by the instrumentality of the assessors and collectors of that State, these imposts would be well collected and paid over to this Government, I ask whether by such a provision as that in the bill we should not either certainly do, or have the opportunity probably of doing, a thing which would be practically a great improvement to the bill, and diminish very far the objections to it? These taxes will be onerous, but I think not so onerous as the mode in which they are to be gathered. No army that ever marched through the country was more hated than that army provided for in this bill, and which is to go around and do the offices under it. I have not the proposition in a form to present. I desire to vote for this bill, and I desire to vote for it in the best form in which it can be put. I do not present my proposition now, but only call the attention of the committee to it.

Mr. ELIOT. I have before me one or two additional sections, which I propose to offer at the proper time, and also a proviso to this section which I should like to have read. I agree with the gentleman fully that this is a very important proposition, and that it is desirable that we should, as far as may be possible, ingraft a provision upon this bill to enable and authorize the States to collect within themselves and by their own officers, the taxes imposed by this bill. I think that should be done; at any rate, it is worth trying.

The Clerk read the amendments suggested by Mr. ELIOT, as follows:

At the end of the second section, add the following:

And provided further, That the provisions of this section shall not apply to any State the Governor whereof shall officially cause it to be notified to the President that such State will, pursuant to the terms of this act hereinafter set forth, cause to be duly assessed, collected, and paid over, the duties and taxes prescribed by this act.

Add at the end of the bill the following, as additional sections:

SEC. 111. *And be it further enacted*, That any State shall have the right to cause to be assessed, collected, and paid into the Treasury of the United States, all the duties and taxes prescribed by this act, and which would otherwise be assessed, collected, and paid over by the assessors, collectors, and other officers aforesaid, by assessors and collectors and other officers appointed or chosen within said State for assessment and collection of State taxes: *Provided*, That the Legislature of such State shall by law determine so to do: *And provided further*, That the Governor of such State shall notify the President of the United States of such determination prior to the 1st day of May next. And each and every State assuming as aforesaid to assess, collect, and pay into the Treasury of the United States the duties and taxes prescribed by this act, shall be responsible to the United States for the due and faithful performance of all and singular the obligations so assumed, and for the prompt and full payment of all moneys collected at the same time and in the same manner provided in this act for such assessment, collection, and payment, by the several officers therein named.

SEC. 112. *And be it further enacted*, That whenever official notice shall be given as aforesaid, by the Governor of any State that the Legislature of such State has duly determined to assume the obligations aforesaid, the Governor of such State shall have authority to declare by proclamation that the several officers within the State charged by law with the duties of assessing and collecting State taxes, or who shall be appointed pursuant to the provisions of any law of such State to discharge the duties of assessors and collectors aforesaid, shall have full power and authority to do and perform all acts and things in the premises, in making assessments and collecting the same, which the several assessors and collectors shall or can have by force of the provisions of this act: *Provided always*, That the faith of the State assuming the obligations aforesaid, shall be deemed to be thereby pledged to the United States for the enactment and enforcement of all needful laws to secure prompt and full assessment, collection, and payment of all duties and taxes leviable and collectable from the said State, and the inhabitants and property thereof, pursuant to the provisions of this act; and from the moneys collected and paid over monthly or from time to time, as may be required by the Commissioner of Internal Revenue, there shall be allowed to such State, and deducted at said time, the sum of ——— per cent., which shall be in full compensation for all labor and responsibility in the premises.

During the reading of the above amendments,

Mr. RICHARDSON said: I rise to a question of order. I inquire whether that amendment of the gentleman from Massachusetts is germane to the section of the bill now under consideration.

The CHAIRMAN. The amendments are only being read for information.

Mr. RICHARDSON. Does the Chair decide that section one hundred and twelve is germane to section two?

The CHAIRMAN. The amendments now being read propose a different mode of appointment of assessors and collectors from that provided for by the bill. The amendments are not now offered, but are only read as part of the remarks of the gentleman from Massachusetts.

The Clerk then resumed and concluded the reading of the amendments.

Mr. ROSCOE CONKLING. Mr. Chairman, from casual conversation with gentlemen around me, I see that the proposition which I presented, and which is, I should think, in very good form in the amendments presented by the gentleman from Massachusetts, is misapprehended by some members of the House; and now, in a very few words, I want to state distinctly, if I can, precisely my ideas upon this subject. It is, of course, impossible to provide in this bill that the States may assume each one its quota of taxation. That everybody will agree to upon a moment's reflection. At the extra session, when we were laying a direct tax, that could be done, because it could be determined how much of that tax would belong to each State. But this bill proposes the collection of internal duties, and that renders it impossible to predict or to foretell, by any process, how much of the sum total will belong to a given State, because the articles to be taxed are not fixed as land is fixed.

The House will see, therefore, that my idea and the idea of the gentleman from Massachusetts is not at all to allow each State to assume its portion of this total amount; for the reason, as I say, that the unknown element is so great that its proportions can never be determined; but the proposition is, to substitute for Federal instrumentalities the instrumentalities of the States, for the purpose of laying and collecting the identical imposts provided in this bill.

Mr. OLIN. I suggest that the one mode of collecting these taxes would be just as offensive and quite as expensive as the other. I would ask my colleague whether he proposes to return to the practice of the old Confederacy, instead of levying and collecting taxes in the mode prescribed by the Federal Constitution?

Mr. ROSCOE CONKLING. I answer my colleague, in the first place, that I am surprised that a gentleman of his thought and as good a lawyer as he is, should make that suggestion. Let us look at it for a moment. The great difference in this regard between the old Confederacy and the present Government is, that the Confederacy had no power whatever to do what this bill proposes.

Mr. RICHARDSON. I call the gentleman to order. He is not discussing the bill. He is discussing the difference between the old Confederacy and our present Government. I make the point of order, and I will reduce his language to writing if necessary.

The CHAIRMAN. The Chair will decide the point of order if the gentleman will reduce it to writing.

Mr. ROSCOE CONKLING. I do not think the gentleman from Illinois will seriously persist in his point of order, when I say to him that my purpose is to show that we have the power by an amendment of this section to do precisely what I propose. The point is made upon me that we cannot exercise the power in this way.

The CHAIRMAN. The Chair will not ask the gentleman from Illinois to reduce the words to which he objects to writing. The Chair overrules the point of order upon the ground that the second section of the bill provides that these officers shall be appointed by the President of the United States. The gentleman from New York suggests that another and a better way may be devised, to which point he is speaking. The Chair, therefore, thinks that his remarks are germane to the pending section of the bill.

Mr. ROSCOE CONKLING. My argument is precisely that suggested by the Chair, that there is a better mode of collecting these taxes, and a mode which never could have been suggested under the Articles of Confederation, and for the reason that we have powers which the Government under those Articles of Confederation lacked.

I was about to say, Mr. Chairman, that the mode which I suggest is, it seems to me, a competent and adequate mode, and not open at all to the criticism of my colleague; and for the reason that under the Articles of Confederation Congress had no power beyond requesting the States to contribute, and they had not the power to enforce collection. Under the Constitution we have the power to lay taxes upon the property of the country; we have the power to collect these taxes; we have also the power to submit to the States the alternative of either collecting them themselves, or else enduring their collection by Federal instrumentalities. We have not the power—and now I come to the distinct point made by my colleague—to impose upon the States the collection of these taxes. That was the point made with reference to the fugitive slave law of 1793, which imposed upon justices of the peace in the States certain duties. The point was made, which my colleague has in view now, that Congress had not the constitutional power to impose upon State officials any duties whatever, and the Supreme Court said, after great deliberation, and said it in the days of the great Chief Justice, that although Congress had not the power to impose those duties upon State officials, yet an act imposing them was constitutional, because if they saw fit to execute them, they were well executed, and no objection could be taken to it. Apply that to the suggestion of the gentleman from Massachusetts, [Mr. ELIOT,] if, under his amendment, we offer to the States the privilege of collecting these taxes, we provide for their collection, because we follow up that offer which we make with a provision that if they do not choose voluntarily to lay, collect, and pay over the taxes, we will proceed to do it ourselves. Well, then, my colleague's objection, that we are going back to the predicament of the old Continental Congress, vanishes. He loses sight of the fact that we all the time retain in the bill the power to collect the taxes in case the States do not choose voluntarily to assume their collection.

Assuming that I have answered my colleague's first point, he says, in the second place, that if we put into the hands of the States the collection of these taxes, we put in operation a system as hateful as that proposed in this bill. I say, no; and for these two reasons among others: in the first place, each State, as best it may, in the most economical mode and that least offensive to its own citizens, will collect these taxes, and therefore it is not true that the machinery will be as hateful as what Mr. Jefferson called a great central power; it is not true that when each locality elects its own assessor to be charged with additional duties to those which he ordinarily performs, it is exposed to a system as offensive as that of having sent over it a traveling tax gatherer of the Federal Government.

However, I admit that that is more a matter of feeling than of substance. But my colleague [Mr. OLIN] says that the process will be as expensive as it is now. I say it will not, and for the reason that each State may pay to its tax assessors and collectors a commission just as small as it pleases; and if any State, or if all the States can manage to have these taxes gathered for comparatively nothing, then they save the whole expense provided for here.

Mr. F. A. CONKLING. And there is no new machinery needed.

Mr. ROSCOE CONKLING. Precisely. There is no new machinery; and there is every reason to believe that the self-imposed mode of gathering taxes, which I prefer, would be far more economical to the States than this machinery can be made. We know that it would, in some cases, because we know that if a uniform rate of compensation were adequate in some cases, it is more than adequate in others. In other words, we know that it is far more labor in some districts to lay and collect a given amount of taxation than it is in others. Certainly we are quite warranted in saying that if we permit each State to assume the collection of its taxes in its own way it is more than likely that it will adopt a far more economical mode than this of transacting the business.

Mr. EDWARDS. Will the gentleman permit me to ask for whose benefit is this saving to be—that of the State or of the United States?

Mr. ROSCOE CONKLING. That suggestion is a very proper and a very pregnant one; and perhaps the most appropriate answer to it is that that would depend entirely on the particular provision of the bill—that being a consequence altogether uncontrollable. If the amendment is in one form, the saving would be to the United States; if in another form, it would be a premium offered to each State for its diligence and alacrity in collecting and paying these taxes. In either form it is a saving, more or less, to somebody, who ought to be regarded in this transaction.

Mr. SHELLABARGER. I favor the proposed amendment; but there is a difficulty presented to my mind which I am exceedingly anxious should be removed. The difficulty which I apprehend is this: what kind of control can the Federal authority retain over the fidelity and impartiality of the assessors appointed under State authority? What supervision does the amendment propose to retain over the assessors and collectors?

Mr. ROSCOE CONKLING. The suggestion of the gentleman from Ohio embraces, no doubt, two liabilities to the danger that he speaks of: first, a want of faith on the part of individual States themselves; and second, a want of faith in the officers to be employed to gather these taxes. First, then, as to the fidelity of the States themselves. The answer which I shall make to the gentleman is this: that if we adopt an amendment of this sort, we should, of course, hedge it around with those safeguards and securities that would exclude, to all practical purposes, that part of the danger which he apprehends. To illustrate what I mean: suppose the States are required to give their bonds and to pledge their faith for the execution of this law, minutely specifying the particulars in which they shall themselves take the responsibility, the labor, and the difficulty of collecting. Do we not then guard, as far as we do by the present bill, against a nefarious disposition on the part of the States as States?

Then, as to the gentleman's second source of doubt on this point, which I take to be that the officials, being State officials, and interested in the State, would be partial, or if not partial, that they would be unfaithful, and superficial in their scrutiny, so that a part of the taxable property of the State would escape. That, I presume, is more particularly the objection of my friend from Ohio.

Mr. SHELLABARGER. Both.

Mr. ROSCOE CONKLING. I submit to the gentleman from Ohio and to the committee, whether it is likely to add to the fidelity or efficiency of a given number of men taken from the State of Ohio, that they are appointed by the President, with the advice or consent of the Senate, rather than appointed by the State authorities, elected, or designated by the levy courts, taking the various modes of designating tax officers that prevail in the States and Territories. I think not. I think that a thousand men in the State of Ohio, appointed to execute this law, would be no more faithful because they are appointed under it, than those same thousand men would be if they were elected as officers of the State. And to carry the argument one step further, I think it no more likely that the General Government will select a given number of citizens of a State, of any higher character, of any fitter capacity, of any more assured qualifications for the purpose, than the State itself, or the people of the locality would be likely to hit upon, in the way which they resort to for the collection of their own taxes.

It will be remembered that every town, every school district, as well as every county and every large division of a State has now a deep interest in preserving the impartiality and the equality of assessment and collection of taxes. That leads, of itself, to a scrutiny, to avoid dishonesty and mistake with reference to State taxation, which would all the time be a self-adjusting check, a self-working guarantee and guard against the danger which the gentleman suggests. It seems to me, therefore, that his idea as to the danger to be incurred by the States, and his idea as to the remissness that there might be on the part of the officers to be elected or appointed in the States, are entirely met.

Now, Mr. Chairman, I know that there are considerations of practical convenience, which can readily be suggested, in opposition to the scheme that is proposed. I know that some changes in the different sections of this bill would be necessary; and I know that in some of the States the scheme may fail entirely. I cannot forget that the gentlemen by whom this measure is brought forward have bestowed upon it mature deliberation, and have used their best efforts to divest it of all its offensive features. I therefore submit, by way of suggestion merely, not venturing to be confident in it at all, that it would be a great point gained if we can, in some way, put it within the power of the States, by a practical and early payment of these taxes, to avoid the march of this army of officeholders, and to put into the hands of their officers the collection of these taxes. For this purpose, if feasible, we ought to offer inducements in the form of discount, providing that in

case the taxes be paid by a certain day a certain percentage will be deducted; and if not paid till a later day, then a less discount; in short, that we shall in every way hold out to the States all the opportunities of escaping what will be unquestionably the most odious feature of this bill.

Mr. OLIN. I will endeavor, if the committee will listen to me for a few moments, to make myself understood in regard to the objection which I have to the proposition of my colleague. I think it obvious to every man who has cast his eye over this bill, that a certain amount of machinery is necessary for the collection of the taxes by the General Government. I need not enumerate the thousand subjects that are to be liable to taxation. The system of taxation adopted in this bill is as entirely distinct from anything now existing in any State of the Union, to my knowledge, as it is possible to conceive. The gentleman, as I understand him, proposes by this change, not to destroy that machinery at all, nor to allow the State to collect the taxes according to its own machinery. That of course is not his idea, because every man sees that it is impracticable. Therefore, the machinery requisite to collect this tax must be put in operation. But the suggestion is that the State should assume to create and manage that machinery by officers appointed under State authority and collect the taxes in the mode provided under this bill, instead of the General Government undertaking to create that machinery and put it in motion for the collection of the tax.

Now, I will say in reference to the reply ingeniously made by my colleague—and as he is my particular friend, I will say a little disingeniously towards me—to my remark that this is returning from the plan of the Federal Constitution to that of the old Confederacy, that I meant by that remark nothing more than this: that it was surrendering the power of the General Government to collect taxes through its own forms and through its own instrumentalities to the State authorities, and that if that were the fact, it would, to that extent, be a return from the Constitution to the plan of the old Confederacy.

I did not intend to state, nor did I state, that the General Government might not say to a State, "if you choose to assume the responsibility of collecting these taxes, and will do so, very well; but if you do not choose to do so, we will set in operation our Federal machinery, and collect our own taxes;" but this is the point I make, and I think the House will see it in a moment. Suppose we should enact a provision that if any State should see fit to create the necessary machinery and officers for the collection of these taxes, it might do so, and that that machinery should take the place of that designated in the bill to be put in motion by the Federal Government; and further, that if they do not succeed in doing that, by and by the General Government would enforce, as soon as practicable, the collection of the taxes.

Mr. ROSCOE CONKLING. If my colleague will yield for a moment, I wish to say that he has reached now, as he did once before, the precise point in which he misapprehends both the proposition made by me and that made by the gentleman from Massachusetts, [Mr. ELIOT.] I do not propose at all, and I do not understand that the gentleman from Massachusetts on my right proposes to have a provision in this bill offering to a State the privilege of appointing officers—no such thing at all. I propose to leave untouched in the bill the power of the President to appoint these officers; but I propose then to ingraft upon the bill a provision that before they are appointed—the time being fixed—we should give to each State the opportunity of stepping forward with its own machinery that is already there, and say "we will take the difficulties and chances and responsibilities of collecting these taxes," and that if they do say it, they shall be permitted to try the experiment—not to appoint these officers; I do not say that, nor do I say that a State shall be allowed to assume that portion of the taxes that shall fall upon them. On the contrary, my whole proposition is that the States shall be permitted, with the officers that they have now or which they shall have at the time when we shall lay these imposts, to collect the taxes precisely as the Government officers would do, all the time preserving to the Government the right of appointing their officers the moment a State is in default, and to go on and collect the taxes to the uttermost, collecting precisely the amount, neither a farthing more nor a farthing less than the Federal officers would have done in the first instance. That is my position.

Mr. DIVEN. I should like to know of my colleague how the amount a State is to pay is to be ascertained?

Mr. ROSCOE CONKLING. The question propounded by my colleague from the Chemung district, shows that I have been so unfortunate as to fail entirely in making him, and perhaps in making others, comprehend the proposition I made. Why, sir, I propose that the State officers shall go on and collect these taxes, precisely as the Federal officers would do, the only difference being that, when the taxes are collected, the collectors would spell their names differently. In one case "A B" would sign his name as collector of the State, and in the other "C D" would sign his name as the collector for the General Government. Each levies precisely the same taxes upon precisely the same property, and my colleague will see that the amount each State is to pay will be ascertained by the State officers, in precisely the same way that it would be ascertained by Federal officers.

Mr. OLIN. Now, it seems to me that my colleague is somewhat unfortunate in supposing he is misunderstood in the propositions he makes. His proposition, as it strikes me, is so perfectly plain and so perfectly obvious that it is scarcely possible there should be any misunderstanding in reference to it. I understood my colleague to say he proposed that a State, through its State machinery, to be created or such as it has now, should go on and levy this tax in the mode prescribed in this bill—that is, that the same amount of tax on the same articles proposed to be taxed should be simply levied and collected by the State authority and State officers, instead of by officers appointed by the General Government—the officers to receive such compensation as the State should see fit to give them. And he says that proposition, if adopted, will prove one of great economy.

Now, let us look at it for a moment. I understood his proposition, and I think the House understood him, as he generally makes himself understood by the House. But, sir, what I assert is this: that no State in the Union has any machinery adequate to or adapted to the purposes of the levying and collecting of these taxes; and that if the duty imposed by this bill were to be devolved upon the officers now charged with the collection of State taxes, they could not discharge that duty. If these duties were to be imposed upon the assessors and collectors in the State of New York, it would not diminish at all the duties imposed upon them by the State. Nay, it would furnish them with an amount of duties and responsibilities wholly inconsistent with the discharge of their duties as State officers.

But, there is no economy in it. No man can assign a plausible reason for there being any economy in it; for it is obvious that if any man appointed by the State can do this work for a given amount of compensation, the same man in the same State appointed by the General Government can do it for the same compensation. It is, therefore, only a question as to who shall have the compensation, and not as to the amount itself.

Now, the objection I have to the proposition of my colleague is, in the first place, in the principle involved in it. I was in favor of the provision in the bill of the last session which left the collection of the tax to the States that should assume it. I was in favor of dispensing with the machinery of the Federal Government, of assessors and tax gatherers. I was glad the measure would admit of leaving it to the State Legislatures to collect the taxes by the State machinery, and thus avoid this offensive feature that always attends the collection of a direct tax. And if this bill assessed upon the State of New York a given amount of money, why, of all things in the world, I would favor the proposition to give the State an opportunity to assume the payment of that amount, and to levy and collect the tax as the taxes of the State are usually levied and collected, because, as I have observed, it would relieve the measure of the odium which, as I have said, accompanies the collection of a direct tax.

Mr. SHELLABARGER. I wish to submit to the gentleman from New York, this remark. The point he suggests is of great force: that the machinery employed by a State will cost just as much as the same machinery employed by the General Government; but I wish to suggest to him whether there are not now in the employ of every State assessors to assess the property of every tax payer, and whether these officers could not be employed by the State to assess the property required by this bill, at much less inconvenience than to employ other persons by the General Government?

Mr. OLIN. In answer to the gentleman's inquiry, I will state to the committee that the machinery employed by a State—I speak of my own State of New York and her regulations in reference to the collection of taxes, with which I am most familiar, and each gentleman will speak, of course, of the regulations in his own State——

Mr. THOMAS, of Massachusetts. There is not a State in New England which could collect these taxes without an entire change of the organization of their tax-collecting instrumentalities. An entire change of the machinery of the State would be necessary for that purpose. I have looked closely at the tax laws of New England, and I know that to be the fact.

Mr. OLIN. I was about to observe, Mr. Chairman, that the machinery now in operation in the State of New York, for the levying, assessing, and collecting of the taxes imposed by that State, is no more adapted to execute the provisions of this bill than to take it into the New Jerusalem. Suppose that they were entirely competent to do that; suppose the officers intrusted by the machinery of New York were ordered to levy and collect the taxes imposed by this bill; suppose that they were competent to discharge all the duties imposed by this bill: would they discharge the duties more intelligently than anybody else? Is that true?

Mr. ROSCOE CONKLING. The gentleman asks me whether that is true. I will state to him, in the first place, that the States have assessors and collectors who go round and visit every house and see every person. They travel all over the ground. They do that for State purposes. Therefore, I say that these same men would require as much compensation as men who would have to make out these lists *de novo*, and travel over this ground for the first time. Again, I say that in the large cities more particularly, the collection of taxes requires the renting of extensive offices—extensive places of business, where the tax payers come to the counter and pay their taxes. That machinery which already exists and needs not to be created, is of enormous expense, and is sufficiently capacious to take in all of this tax. I submit, for those two reasons, that it is true that it can be done more cheaply by the States.

Mr. OLIN. The gentleman knows as well as I do, that in the levying and collection of a State and county tax there are two descriptions of persons employed, the assessors and the collectors. The assessor is paid by the day for his work of going around and making out the assessments, and the collector is paid a percentage on the amount of the tax collected. The assessor goes through with the assessment as soon as possible. He is required to have it done on a certain day, and he is paid so much per day for doing it. As soon as that assessment is made out, it is handed in, and he gets his pay. The collector who collects the tax on that assessment is paid so much percentage on the amount of the tax that he collects. I want this thing thoroughly understood. One gets paid by the day, and the other receives so much percentage on the tax that he collects. There is, then, no more analogy between the duties imposed by the State of New York upon assessors and collectors and those imposed by this bill, than there is between them and the town pump.

Now, Mr. Chairman, after all of this discussion, the simple proposition is just this: whether this General Government shall have that necessary control of the collection of this tax, or whether they shall turn it over to the States. That is the proposition which we are now called upon to decide on the amendment of the gentleman from California. Whether we shall retain the power to do it in our own hands, or pass it over to the States to be done by them. I am opposed to it. I think that it is unwise. I believe whenever the General Government is called upon to exercise any power in the discharge of an indispensable duty,

that the General Government should exercise that power, and not the States. This is mere boys' play—it is worse than boys' play—to attempt to delegate this power to the States, and to officers over whom we have no control.

Mr. SHELLABARGER. Mr. Chairman, I know enough of the wishes of the people of the State which I in part represent, to know that they are exceedingly solicitous that some such scheme should be devised by which our people shall be spared the expense and the annoyance of these additional tax gatherers. Gentlemen from Ohio of long experience, not only in the State Legislature, but in this Congress, have come to me and conversed on this subject very recently, and they have pressed it upon me to give some attention to this amendment. The first question we are met with is, of course, what would recur to every mind, and that is in reference to the practical application of the amendment to the machinery proposed by this bill. I have felt, I acknowledge, embarrassed by the difficulties which meet us on every hand in devising some scheme by which it shall be made possible for one State or a number of States to return to the Federal Treasury the same amount of money that they would get by the provisions of this bill as it now stands, and do that without incurring the expense sought to be avoided. Is that practicable? I submit, in the first place, that there is nothing in the nature of things which renders it impracticable. We see at once that it is within the range of possibility for a State to make the same assessments upon the same blanks and forms furnished, and to make the same collections which this bill proposes shall be done by the Federal authorities. It is perfectly evident that that is true. Then comes the question of the amount of trouble it will involve, and whether it will result in any practical and useful economy.

Let me, in the first place, allude to a point or two stated by the gentleman from New York, who last addressed the committee. It is suggested that there is a total want of similarity between the duties that they would have to perform under the Federal system and the duties they would have to perform under the State laws. There is, it seems to me, no practical difficulty of the kind urged by the gentleman. Cannot the forms and blanks, the directions and specifications, be placed in the hands of the State assessor? Obviously they can. Therefore, when these forms and blanks are printed, it then becomes a question whether those employed for State collections are of sufficient intelligence to use them when furnished by the Secretary of the Treasury? I submit to the gentleman from New York, and every other gentleman, that it is not too much to say that the States do not employ such agents in their State collections as those who could not discharge these duties. We do, I believe, employ men of enough intelligence to do this work when they have the forms and the blanks, and the means of understanding what they have to do, placed in their hands by the Federal authorities.

Now, in regard to the other practical difficulty which the gentleman has suggested and earnestly pressed upon the committee, to wit: that this divests the Federal Government of its authority and control over its own affairs, and places that control in the hands of the State authorities. That is not an objection which needs to be analyzed. I submit to the Committee of Ways and Means that it is competent to say that, by a certain day in each year, this State machinery must be brought into play and discharge its duties, and that the Federal Government shall have supervision of the State agents, and that if it is not done by that day then, and not till then, the Federal machinery shall be set in motion.

Mr. LOOMIS. The whole theory of this bill will have to be changed if this amendment is adopted. There are taxes provided on many things printed in this bill which are to be collected monthly. The taxes are to be collected monthly, and the returns are to be made monthly. If gentlemen will look at the bill they will see that there are a great many instances of that kind. So, if the amendment be adopted, to make the bill congruous it will have to be entirely altered. It seems to me that, under the provisions of this bill, it would be utterly impossible for the General Government to know at any time during the year that a State had performed the duties with which it was commissioned, and that plan, therefore, seems to me to be impracticable under this bill.

If there was any way of conferring upon a State this duty of collecting the taxes, I should be as much in favor of it as any one; but it seems to me that it is impracticable, unless we can say beforehand the exact amount of taxes to be collected from any one State, and there is an obstacle in the way of that. Perhaps we could take the last census return, and base the taxes at a uniform rate upon that, and thus ascertain how much the taxes would be upon a given State; but these returns were obviously made without any reference to taxation, and would probably be too inaccurate for any purposes of taxation.

Mr. SHELLABARGER. It is very obvious that the proposed amendment of the gentleman from Massachusetts [Mr. ELIOT] would change essentially many provisions of this bill, and if it should prevail the bill would, of course, have to go back to the Committee of Ways and Means, and all the machinery would have to be readjusted to meet the new element introduced into the measure, and all this assessment and collection, whether monthly or annual, would have to be adapted to the new system introduced by the amendment. But it is not, in the nature of things, impossible to adjust the bill to the proposed amendment, and all that there is in the suggestion of the gentleman from Connecticut is this: that it would involve a great deal of trouble and labor on the part of the committee to do it.

But let me suggest to the gentleman the importance of this amendment. If you will sit down for a moment, by common arithmetic—not going beyond simple multiplication—you will find that a State of the magnitude of that which I, in part, represent will at least incur an expenditure of $1,000,000 annually by reason of these tax collectors, and if you can save, as I submit you can, at least two thirds of that expense, you will have saved enormously to the State, and it is exceedingly well worthy of this House, and of the Committee of Ways and Means, to endeavor to save us that enormous outlay, especially when it also removes an exceedingly odious visitation once in each month, if the bill stands in all respects as it is now.

Now, sir, let me suggest to the committee another thing in regard to the point that was up a moment ago. It might be said that the Government of the United States wants to retain control over the assessment and collection of these taxes, and wants the President to have the privilege of selecting the officers to whom that collection shall be intrusted; that it wants the power of removing them, of taking their bonds, and of throwing all other guards around its financial machinery.

MESSAGE FROM THE SENATE.

Here the committee rose informally; and the Speaker having resumed the chair, a message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a joint resolution expressing the thanks of Congress to Lieutenant J. L. Worden, of the United States Navy, and the officers and men under his command in the Monitor; and a joint resolution expressive of the thanks of Congress to Captain A. H. Foote, of the United States Navy, and the officers and men under his command in the western flotilla; in both of which he was directed to ask the concurrence of the House of Representatives.

The Committee of the Whole on the state of the Union then resumed its session.

TAX BILL—AGAIN.

Mr. SHELLABARGER. I shall detain the committee but a moment or two longer, and I regret that I have trespassed so long upon its attention. I desire to say a word in relation to this idea, that I was just meeting when I was interrupted, that we want, as the Federal authority, to retain all our power over the appointment and general conduct of the financial agents of the Government in these collections. Now, I submit that, by having a single officer in each State, who shall have the review of all the returns and of all the assessments and collections made in the State under the State machinery, you will have precisely the same control over the fidelity and the conduct of the Federal agents that this bill provides, and with one tithe of the expense; or if one is not sufficient in the larger States, you can have two such officers.

Sir, there is nothing impracticable in the proposition of the gentleman from Massachusetts, and it does seem to me that, without changing very materially the provisions of this bill, we may save in the several States the enormous expenditures that will be incurred by these tax collectors.

Before I take my seat, I wish to do myself the justice to say that I have read this bill carefully, and I do think that Congress and the country are indebted to the Committee of Ways and Means for the great ability and accuracy which they have displayed in its preparation. I think that it is harmonious and complete, and as nearly perfect as we can ordinarily get human legislation. But while that is true, I do yet think that the bill could be recommitted and this proposed amendment introduced into it without at all affecting the general result, to wit: the realization to the Government of the amount of revenue which the bill is designed to produce.

Mr. STRATTON obtained the floor.

Mr. EDWARDS. With the permission of the gentleman from New Jersey, I wish to ask the Chair what is the distinct question before the committee?

The CHAIRMAN. The amendment of the gentleman from California, [Mr. PHELPS,] to strike out the words "assessors and;" but debate not having been closed upon the bill, the whole section is before the committee.

Mr. EDWARDS. Is that the only amendment pending?

The CHAIRMAN. It is; the amendment of the gentleman from Massachusetts [Mr. ELIOT] is not before the committee.

Mr. ELIOT. I supposed that the amendment which I suggested, by way of a proviso to this section, was now before the committee.

The CHAIRMAN. No, sir; only one amendment can be pending at a time, and the amendment of the gentleman from California is now pending.

Mr. ELIOT. That is true.

Mr. STRATTON. Mr. Chairman, I may be permitted to state that the subject which is now under discussion was fully and carefully considered by the committee which has reported this bill. We felt that it would be, perhaps, more agreeable to the people of the different States who may be called upon to pay these taxes which the bill proposes to levy, if it could be done through the instrumentality of their own State officers. We had a great many suggestions sent to us by gentlemen who felt a deep interest in the machinery by which the provisions of the bill are to be carried out. We gave to those suggestions all the consideration to which they were entitled. We looked at them in every point of view in which they occurred to the committee, and we came to the conclusion, I may say unanimously, that it was impossible to carry out this bill, being a Federal measure, as it is, by any other than Federal machinery.

The gentleman from New York [Mr. ROSCOE CONKLING] has been pleased to say that an army of Federal tax gatherers are always odious to the people. I think that a Federal tax is always odious to the people; that a tax of any kind is always odious to the people. Perhaps there is no duty and no debt which the people are called upon to pay which they pay more reluctantly than a tax for the support of the Government, either State or General. But, sir, this is a Federal tax, and there is no disguising the fact and no escape from it. Would to Heaven that this necessity did not exist to-day for the imposition of this Federal tax! I submit that the odium, and the only odium that will attach itself to the minds of the people, is to the tax itself, and not to the persons who are sent as tax gatherers. I apprehend that if a man is condemned by law to be hung, it makes but very little difference to him whether the rope is put round his neck by the sheriff of his county or by the marshal of the United States, if the only object is to carry out the sentence of the law.

Mr. RICHARDSON. I desire to ask the gentleman from New Jersey a single question?

Mr. STRATTON. I do not often trouble the House, and I prefer not to be interrupted now.

The mistake into which gentlemen have fallen who advocate the reference of this matter to the States is that this tax is not a matter in which

the States as States have any interest. It is a matter in which the citizens of all the States, who may be tax payers, and who may be called upon to pay this amount of taxes, have an interest, but the States themselves, as States, have no interest in it. That is the difference between this tax and the direct tax required to be raised by the act of August, 1861, and by which a quota was assessed upon each State. It then became a matter in which the States themselves, as States, were interested, and it was right and proper that the States upon whom such quota of tax was imposed, should be allowed the opportunity of assessing, collecting, and paying that tax in their own way. But this is a tax which reaches individuals as individuals, and not as citizens of any particular State. I know not what the tax laws in other States may be, but if this proposition were tendered to the State of New Jersey, and if she were allowed to say whether she would assume, through her Governor, the collection of this tax, I am free to say that before that pledge could be carried out, the Legislature would be called upon to prepare a machinery as complex and as different from its present one, as that provided by the bill now under discussion. We have no means now known to the State of New Jersey by which her assessors can levy or her collectors collect the taxes provided for by this bill; and I apprehend that that would be found to be the case in every State where the tax will be collected.

But, again, sir, it will be borne in mind that by the provisions of this bill, the President has no right to send a stranger into any State, or into any collection district. He takes one of the people of the State or collection district. The provision of the bill in that respect is, that the assessor and the collector must be residents of the district where their duties are to be performed.

Again: Mr. Chairman, it has been urged by gentlemen that there would be a great saving of expense if the plan of allowing the States to assume the payment of these taxes, and collect them in their own way, were adopted. I do not see it so. I believe that the officers employed by the State governments receive as much pay for the services respectively rendered by them as do the officers appointed by the Federal Government for the same class of services. I believe that the assessors and collectors to be appointed by the Federal Government under this bill, if it become a law, can afford to perform their duty for just as small a compensation as equally competent men would discharge the same duty for, if appointed by the State authorities, and would discharge them with equal fidelity.

Again, Mr. Chairman, as I have already remarked, this is a Federal measure imposed upon the people by the necessities that now surround the Government; and, being a Federal measure, it strikes me that it is eminently proper—nay, that it is absolutely essential—for the purpose of carrying out the provisions of this bill that the measure, in all its features and in all its machinery, shall be under the control of the Federal Government; that there shall be a regular mode by which these taxes shall be assessed in one State as in another. It will not do to establish one system of assessing and collecting taxes in the State of Pennsylvania and another and different system of assessing and collecting taxes in the State of Ohio. It is necessary that the same mode shall be adopted throughout the whole country where this bill is to operate; that the officers shall be all under the same control, and responsible to the same Department of the Government.

I trust, sir, that the amendment suggested by the gentleman from Massachusetts [Mr. ELIOT] will not be adopted by the committee; but that the bill will be accepted as it now stands.

Mr. RICHARDSON. I rise, Mr. Chairman, for the purpose of submitting a remark or two in reference to the point now under consideration. The amendment offered by the gentleman from California proposes to strike from the bill the word "assessors." The gentleman from Vermont [Mr. MORRILL] replies to that, as I understand him, that the assessors ought not to be dispensed with, because they are checks on the collectors. It is certainly very desirable that there should be some checks on officers who collect public moneys; but if I understand the provisions of the bill, the answer of the gentleman from Vermont to the proposition of the gentlemen from California is not complete. A part of this revenue, as I understand, is to be collected each month; that is collected by the collector without the intervention of the assessor. Am I mistaken in regard to that?

Mr. MORRILL, of Vermont. The gentleman is mistaken.

Mr. RICHARDSON. Then I am mistaken in my construction of the bill. I am at a loss, however, to understand how it is that the assessor can be a check upon the collector, when a portion of this revenue is to be collected every month. If I am mistaken, I will afford the gentleman from Vermont an opportunity to correct me.

Mr. MORRILL, of Vermont. In the case of manufacturers and other persons who are assessed monthly, there is a return or list or schedule required to be made to the assessor. That list or schedule is delivered to the collector, and is also returned to the Commissioners of Internal Revenue.

Mr. RICHARDSON. I see no good reason for multiplying these offices.

Mr. MORRILL, of Vermont. If the return is not made right, there is a power on the part of the assessor to increase the assessment; or if he does not make it at all, the assessor can make it *de novo*.

Mr. RICHARDSON. Why cannot that return be made as well to that department of the Government which you create for this purpose, and dispense with this portion of the public officers? Why are these officers duplicated? I do not conceive that the reason assigned by the gentleman from Vermont is sufficient.

Passing from the consideration of this subject to the other branch of it, I desire to say, that however desirable it may be to collect this revenue through the intervention of State officers, it is simply impossible as it is proposed by the gentleman from Massachusetts. We all understand, Mr. Chairman, that where you impose new duties on an officer, his existing securities are not responsible for his due performance of those duties. I believe it has been so decided in all the States——

Mr. ELIOT. I think, Mr. Chairman, that it can hardly be needful to elaborate that, for certainly no gentleman can deny it. The bonds given by State officers for the performance of duties under State laws can certainly not cover any liability that may be assumed or undertaken under this bill or any amendment. But, I should like to inquire whether, supposing that a State should assume the burden of laying and collecting these taxes, and of providing by due and proper legislation—if legislation should be needed—for the mode of doing so, the State itself being pledged to the United States for the proper performance of all the obligations assumed, that liability as between the State and the General Government would not, in the judgment of the gentleman from Illinois, be altogether sufficient to meet the case; and if not, whether it could not, in the nature of things, be easily made perfect?

Mr. RICHARDSON. Mr. Chairman, I have bestowed some little reflection on this matter. I desired, myself, to arrive at the same conclusion to which the gentleman from Massachusetts has arrived. My opinion in regard to it is this, that under the provision proposed, where a State agreed to pay, you could collect no revenue. I am as desirous as either the gentleman from Massachusetts [Mr. ELIOT] or the gentleman from New York [Mr. ROSCOE CONKLING] that we shall, as far as possible, dispense with unnecessary office holders; but I think that the amendment proposed does not guard the General Government, and will not insure to it the revenue which is sought to be raised by this bill.

Now, sir, I give it as my opinion that where the Federal Government imposes duties upon State officers, it must enforce their performance; that where it empowers them to make collections, the State Legislature has not the power to secure and insure the payment of the money collected.

Mr. ELIOT. I do not desire to take the floor from the gentleman; but simply to ask him to be good enough to state in this connection why it would not be within the power of a State to make the United States wholly secure in the receipt of all money which could under any circumstances be collected within such State under this bill?

Mr. RICHARDSON. I do not doubt that you could frame a proposition here that would do it; but the proposition of the gentleman from Massachusetts does not do it.

Mr. ELIOT. The gentleman then admits that it can be done, as I understand?

Mr. RICHARDSON. Undoubtedly you may frame a provision that shall do it. You may provide that the sheriff of a county, for instance, who collects the taxes in some of the States, shall be the collecting officer of the United States. You may provide that the collector of the revenue of the State, whoever he is, shall collect the revenue provided by this bill. And with a proper provision and a proper bill, I am in favor of transferring, as far as possible, the duties devolved in this bill upon the State officers. I am not talking against all propositions of this kind. I am only speaking of that immediately before the committee; because, Mr. Chairman, it has been decided this morning that I shall not talk about anything else except that which is immediately before the committee. Gentlemen would call me to order if I were to discuss questions which are not before the committee.

Mr. MORRILL, of Vermont. The matter which is now and has for sometime been discussed before the committee, is not, as I understand, in any parliamentary sense before us, and the discussion is not, therefore, strictly in order. The proposition of the gentleman from California differs much from that which the gentleman from Massachusetts has had read for information; yet the proposition of the gentleman from Massachusetts seems to be the only one that is very much discussed.

The CHAIRMAN. The Chair will say that debate not having been closed upon the bill, the entire first section is under consideration.

Mr. MORRILL, of Vermont. I do not find fault with the discussion that has taken place upon the proposition of the gentleman from Massachusetts. It is an important question, directly connected with the bill, and I suppose may as well be discussed upon this occasion as any other, although it is already, perhaps, in the opinion of some gentlemen, sufficiently discussed.

Mr. Chairman, I fully appreciate the wishes of gentlemen who desire to transfer the duties enjoined in this bill upon Federal to State officers, if some plan could be devised by which the revenue could be collected with certainty and promptness by State officers. But I believe that if gentlemen will sufficiently consider the matter they will come to the conclusion that it is wholly impracticable, and that if it were practicable, entirely worthless. I say, then, to begin with, that we are not going to diminish the number of officers by a single one, by such a change of propositions. The same number of officers will be necessary to collect the duties, whether they are collected by State or Federal authority.

I assert, further, that it will take just as much to pay the State officers as it would to pay the Federal officers. We should pay just as much for the collection if the State officers were employed as we should pay the Federal officers if they collected the duties.

Mr. WICKLIFFE. As I understand the law, as expounded long ago by the United States courts, they have decided that this Government cannot impose any executive or judicial duties upon any State officer. Has that law been changed?

Mr. MORRILL, of Vermont. Not that I am aware of. Now, if the number of offices cannot be diminished, what advantage is there in the change? Why, sir, under the present system, under the bill of the last session, the State governments are paid a percentage for the collection of the taxes. Under the provisions of this bill we propose to pay the assessors a *per diem*, and the collectors a certain percentage. By the proposition of the gentleman from Massachusetts, he proposes to pay a percentage. Will that be a less percentage than we propose to give? Certainly not.

Then, Mr. Chairman, in relation to the efficiency of the bill, if it should pass, I submit it to the good sense of the business men of the House—and I take it they are all business men—whether the whole tax, if levied with the provision that it shall be collected by the officers of the several States, will be worth, in fact, seventy-five cents on the dollar of the gross amount? I do not believe myself it will be worth anything like what it will be if collected by the officers of the General Government. Now, in relation to the practicability of the thing, here are provisions giving licenses. Are you to delegate to each State the power to grant

licenses to whoever they please, according to their own construction of the law? Then, in relation to stamp duties; are these to be surrendered to the States? Are they to make provisions for going on and engraving the stamps and disposing of them?

Then, in relation to the various duties to which railroad companies and banking institutions are subjected; are these all to be surrendered to the States to arrange in their own way? Why, Mr. Chairman, although the object of the proposition is a worthy one on its face, yet when you come to examine it closely, it looks to me not only as utterly without practicability, but that if it were practicable, as entirely without that value which appears upon the first suggestion; and I hope it will not prevail.

Now, sir, what is the proposition of the gentleman from Massachusetts? It is merely a provision that the States may assume the collection of the tax upon notification to the General Government. Well, suppose they give the notice to the Government that they will assess the duties and collect them: then, of course, the Government suspends all further proceedings in the matter, appoints no officers, and takes no steps for entering upon the work of collecting the revenue. But suppose that, after waiting beyond the time appointed, they discover that a State has not entered upon the work of collection at all. Of course, the Government is in arrears, it is in the background in respect to the taxes of that State. All the business, then, has to be begun over anew, and all this time will have been lost.

But, suppose they utterly refuse, after having given notice that they will assess the duties required and collect them: what remedy have you? Certainly, we have no remedy at all. The gentleman from Massachusetts talks about the pledges of honor and good faith of the States that they will do this. How can you rely upon the honor of Mississippi? Has not she already repudiated her honest debts? Will she not repudiate a tax that is assessed by the General Government? Why, sir, the whole section tumbles to pieces upon examination, so far as I can discover, and I trust it will not be adopted.

Mr. HUTCHINS. I think, Mr. Chairman, that this is perhaps the most important question that will arise in the discussion of this tax bill, and it is therefore proper that it should be understood—I mean the proposition of the gentleman from Massachusetts, [Mr. ELIOT,] which, although not technically pending at this time, I suppose it is proper to discuss. And I will say in the outset, that if I am convinced that the scheme is practicable, I should be most glad to vote for it.

Now, what is the proposition? Let us understand it, and then let us see whether it will work well. If I understand the proposition, it is this: it proposes to allow this tax bill to stand, with all its machinery of enforcement, as the House may adopt it; and it is then proposed to provide that any State, if it will, may provide by its Legislature a similar machinery, to be executed by State authority, upon the written or verbal assumption of the taxes on the part of the State, instead of allowing the machinery of the Government of the United States to be put into execution in that State. In other words, that the governmental machinery of the United States shall be suspended, and the State machinery used for the collection of these taxes. It is proposed to constitute a wheel within a wheel, and to say that the Government wheel shall not commence its revolutions, provided the State wheel will commence its revolutions, and throw into the Government hopper the amount of taxes that are proposed to be collected by this bill. I believe that is substantially and, I think, fairly stating the proposition of the gentleman from Massachusetts. If it is not, I should like to know what it is. If the gentleman from New York [Mr. ROSCOE CONKLING] and the gentleman from Massachusetts [Mr. ELIOT] can satisfy me that it is practicable, then I will vote for it.

If we should say to a certain State, "so many dollars you are called upon to raise, and if you raise it in your own mode, we will not extend the arms of the Government within your jurisdiction," we might, perhaps, properly grant the permission; but still we should have no assurance that it would be faithfully executed, because we have no control over the State machinery. Is not this really going back to the imbecility of the old Government, under the Articles of Confederation? The General Government then proposed to the several States that they should tax themselves, but made no provision for enforcing the tax if they refused. Congress, under those Articles of Confederation, had no power to compel the States to do it. Now, if a State shall agree to set its governmental machinery in motion to collect this tax, and it does not do it honestly and fairly, what remedy has the Government against that State? None whatever under the Constitution. How will it work practically? We cannot shut out the idea and the fact, though we may desire to do it, that taxation is odious, and that individuals, corporations, counties, and States will shirk as much as possible the payment of all taxes. All men are anxious that all men but themselves shall be taxed.

What will be the effect, supposing that we allow the States to collect this tax without any authority or control over them? Is it not apparent that there will spring up jealousies between the States, and that each will naturally believe it has paid more than its true proportion? Will not the people of Ohio feel that they have paid more than the people of Pennsylvania or Illinois, if a certain rule be adopted? Each State will feel, if a certain rule be adopted, that then they will pay more than their share of the tax; and the tendency must be to make the valuation of property as low as possible, and to make incomes as low in value as possible, with a view to favor local communities by the arrangement. It is proper, therefore, that all of this matter should be under the supervision of the General Government, as provided by the first section of the bill. Under the direction of the Secretary of the Treasury, instructions will be issued to the assessors and collectors fixing a certain rule of valuation in all of the States, providing for an equalization of that valuation so as to have it fair and just so far as all of the States are concerned. If you undertake to leave this to the States alone, there will be a disposition on the part of each to shirk the tax and put it upon the others. I think that that will be the legitimate effect of the State machinery which this amendment proposes. I do not believe that the Government will realize seventy-five or sixty per cent. of the amount it would realize provided this tax is collected according to the provisions of this bill.

I think, sir, as a precedent, we should get rid of the idea that there is objection to the exercise of constitutional legitimate authority on the part of the General Government in the States. I know that we have been all carried away with the idea that State rights and all that sort of thing must be carried out at all times, and that we have been afraid of the concentration and consolidation of the power of the Government. I think that this Government ought, in order to maintain the Constitution, exercise all the proper and legitimate powers which that instrument grants and permits it to exercise. This is simply a voluntary proposition to the States: "If you will set your wheel in motion, and throw this money into our coffers, we will allow you to do it." Suppose that they do not do it; suppose New York raises the tax, has the United States any means of finding out whether it has been raised properly according to the plan of the Government? I think it is incumbent on the opponents of this measure, after they say that the Committee of Ways and Means have been unable to devise a plan that is suitable, to state some practicable way of carrying out what they suggest. I should like to see a way for this policy of collecting the taxes by the States; but I cannot. If the Committee of Ways and Means have failed in their attempt to devise a plan by which this tax could be collected voluntarily by the States, I say that it is incumbent upon the advocates of this amendment to submit to the committee the mode and manner of execution. It is an easy matter for me or anybody else to suggest that a certain thing could be done, but that is not exactly doing it. The gentleman from New York and the gentleman from Massachusetts believe that this matter can be done; and I ask that they shall give us the machinery by which it can be done. Do not let us undertake to tear down this extensive building which the Committee of Ways and Means have erected with a view to collect this tax until they give us a better plan for the collection of the revenue. I cannot see wherein it can be done one particle cheaper than it can now be done unless we pay higher salaries than the States; and if the salaries are too high, reduce them.

I think that the plan suggested by the gentleman who offered this amendment is impracticable. If he will bring it forward, however, and show that it will work, then I will vote for it. I do not propose to vote for the speeches of members, or for their suggestions. I desire to vote for any bill that will avoid the tax gatherer of the Federal Government. But as the gentleman from New Jersey has well remarked, it is not the tax gatherer to which the people will object; it is the tax, because the tax gatherer will be their neighbor and their fellow-citizen. It is the tax that they will object to, whether it be collected by the tax gatherer of the Federal Government or of the State government. I can see no difference in the economy of the two plans. The one is constitutional, and upon which the Government must rely to sustain itself, and the other is uncertain, impracticable, and I believe never can be executed.

Mr. ROSCOE CONKLING. With the gentleman's permission, I will ask him a question. The gentleman says that he can see no reason why the same officers now engaged and then to be engaged in the collection of taxes can collect those taxes cheaper than they can be collected by other persons. I want to inquire of the gentleman as a lawyer whether, if he is going away one hundred miles to try a cause for which he is to be paid a good sum, some other client comes and hands him his papers and asks him to try his cause, would he charge that man as much as the other, or would he think that his services would be worth as much as if he had been employed on purpose to make the journey to try that cause, and that cause only?

Mr. HUTCHINS. If I were like most lawyers, I would charge what I thought I would get. [Laughter.]

Mr. ROSCOE CONKLING. That is an answer which I have no doubt does entire justice to the gentleman; but it is cruel to his associates in the profession.

Mr. HUTCHINS. I do not see what the question has to do with the subject under consideration. If the gentleman will ask me a question which has any relation to the subject under discussion I will give, if I can, a correct answer.

Mr. DIVEN. I want to add a confirmation to the suggestion of the gentleman from Ohio, who has just taken his seat, in reference to the practical workings of the system proposed by this amendment. In the State of New York each county has its board of assessors to fix the valuation of property for taxation. In the exercise of that power, the assessors of every county come under the same general law. They are required to make their assessments under the solemnity of the same oath. Yet, sir, the disposition to shirk the payment of a fair valuation was so great a little while ago, that some counties received more for schools than they were required to pay in taxes. Now, I do not believe that the morality in other States is better than it is in the State of New York. If the system should be adopted of leaving each State to fix the valuation, some States, in fixing it, would escape a portion of their tax. So great had the evil become in New York, that we had to appoint a board of assessors to visit the counties and to look into the valuations made; and my word for it, this system of collecting the taxes by the States would not be in operation a year before this Government would find it necessary to establish some regulation to see that the States make their assessments equal.

Mr. EDWARDS. I understand the immediate proposition before the House to be to make the same person both assessor and collector, discharging the duties of both officers under this bill.

This seems to be obviously objectionable. It would lead most likely to irregularities and might lead to corruption, and, therefore, I think that the proposition ought not, and probably will not, be entertained. While this is the only legitimate subject before the committee, gentlemen have gone on to traverse the whole bill, and would under the ruling have had the right to discuss any feature of it even at this stage of its consideration.

But, sir, the question that has been introduced by the gentleman from New York [Mr. ROSCOE CONKLING] is probably more germane to the matter which is receiving now the attention of the House than some others that might have been pre-

sented; and as it has already been very fully discussed by others, I will endeavor briefly to give the views which I entertain in relation to the subject, which is the permitting the assessment and collection of these taxes by the several States and Territories, I suppose, and providing for their accountability to the Government of the United States.

Every member here would seem to desire, if he could, and if there were any advantage in it, to exclude as much as possible the action of the General Government within the limits of any State; but for myself, I have no great reluctance to the presence of the General Government where ever it has a right to be under the Constitution, to which it has owed its existence, and to the exercise of all its rightful powers in every portion of the Union, wherever it is expedient that they shall be exercised. And now, sir, unless there are some decided advantages in transferring this power and duty to the States, inasmuch as it is within the sphere of the action of the General Government, I am willing that the General Government shall exercise it.

Let it be remembered, in the first place, that this is probably not to be a single exercise of power. If it were, we might dispose of the question with, perhaps, very little consideration; but from the circumstances of the country, and from the prospect before us, it is evident that we are now inaugurating a measure which is, unfortunately, to be of a somewhat permanent character.

Now, sir, what are the advantages that are proposed by gentlemen who are advocating the transfer of this duty to the States? The first is, that it would satisfy the popular feeling in the States in favor of excluding the action of the General Government within their borders in relation to a measure of this description. Having already adverted to that point, I have nothing more which I desire to say upon it.

The next advantage which they suggest is, that it may diminish the expenses of the collection of the taxes, and may be so arranged as to save whatever the diminution may be to the people of the States. I admit that if the saving should be of any considerable amount that would be an advantage that should influence the action of the House, or at least that would be entitled to great consideration in connection with the other features of the plan; and I think it must also be conceded that if the provisions of this bill could be carried out by the States through their own agents the collection of this tax might be made with less expense than if it were collected through the machinery of the General Government. I think that, as a general rule, the management of our State affairs is more economical than the management of the affairs of the General Government. In the State governments all are accustomed to work for less compensation than in the General Government. But the amount which can be saved here could only be deduced by a careful consideration of the expenses which would be incurred in one way or another, and until that is done it is a mere general and indefinite view of the subject, and it cannot from such views be determined to how much weight this consideration would be entitled in comparison with the other considerations connected with the bill. But if there were no objections to be considered, I should be willing that the matter should take that course.

The question, however, here arises, are there any objections existing against this modification of the measure? Many objections have already been suggested. It is said that the provisions of the bill are of such a nature that its objects cannot be carried out if its execution is intrusted to State management. Well, I can see that there would be difficulties in relation to that matter. They are very obvious. Certain of the duties that are to be discharged by the officers to be appointed under this bill are so various, so directly connected with the Treasury Department and occur so frequently, that without the intervention of this intermediate agency there might be a want of promptness, accuracy, and accountability. Possibly this objection might be obviated on a redraft of the bill; but there is, to my mind, another consideration which has been adverted to, and which I think is far more important than this, and that is the want of accountability on the part of the States. Let us look at that for a moment. Suppose a tax of ten or fifteen or twenty millions of dollars is to be collected from the people of the State of New York; will the State of New York agree to become responsible to the General Government for the whole amount of that tax? The gentleman from New York [Mr. ROSCOE CONKLING] says of course she must, or she cannot avail herself of this proposed provision of the bill; that that may be made a condition precedent. I agree to that; but if you make this a condition precedent, no State will accept the duty. What then would be the use of incorporating such a provision in the bill? It is proper, therefore, at the outset to look at the condition precedent which you propose to make, and see whether any State will or ought to accept it. I confess that I am faithless upon that subject. I do not think that any State of the Union will step in between the General Government and the tax-payers and undertake to guaranty that the whole property of the inhabitants of the State shall be pledged to make up the full amount of the tax which ought to be assessed on it.

But, sir, there is another point made. It is said that if this trust is placed in the hands of the States it may be unequally administered. It seems to me that there is danger of that. I do not undertake to say that my State is more honest than other States, but I do undertake to say that some States, if they are controlled, as States too often are, by the interests of their own people, will try to shift the burdens that might otherwise properly fall upon them to other States, which, if not more honest, are less sagacious. This is unfortunately human nature, but *it is* human nature, and we must take it into account in our legislation.

Mr. ROSCOE CONKLING. If the gentleman's present suggestion is a good one, I hope that this amendment will fail. If there is any danger that New Hampshire and Rhode Island and these other States would be influenced by any such temptation, why then I should fear for the fate of New York, because I know that she would be the last State to have either the sagacity or the selfishness to which the gentleman refers. If there really is this danger, I certainly should not like the proposed amendment to prevail.

Mr. EDWARDS. Mr. Chairman, I had not supposed that the State of New Hampshire, or Rhode Island, or the honest State of Connecticut, or any of the old New England States, would be likely to shrink from their share of the public burdens, and I should not like to say that I thought the great State of New York would do it, although they have done almost everything in the last ten years that any State could do. [Laughter.]

Mr. Chairman, I think there is another consideration which will have some weight in the House. If you adopt this foreshadowed amendment, in what relation are you to place the States and the General Government? What accountability will there be on the part of the States to the Treasury of the General Government? Suppose that that accountability shall be fairly exercised; suppose a State shall collect all the taxes that fairly devolve upon it through its agents; suppose it shall pay it all over to the General Government promptly and faithfully, everything, then, is easy and friendly, if there is any friendship in political communities; at any rate, there will be no discord and no contest. But suppose the reverse to happen; suppose any State shall shrink from its duty; suppose any State is unable to make this collection, or shall fail to account to the General Government; will it not create at once a controversy between the General Government and the State government which will lead to embittered feelings, as have those controversies which have heretofore existed between the General Government and other State governments, and which would far outweigh all the pecuniary advantage which might result from the difference in the cost of collection?

These, Mr. Chairman, are some of the suggestions which, I think, are deserving of consideration; and nothing but their importance has induced me to trouble the committee for a moment in regard to this measure. Still, I did not feel that I would be doing my duty to my own State if I failed to present my general views.

Now, we are all talking about something that is not tangible. No one can undertake to say whether he would or would not sustain a measure of the character proposed, until that measure be presented in some specific form. If something of this kind were presented, and were seen to be practicable, and if its advantages overbalanced its disadvantages, then this committee might favor it, or perhaps members might express their opinions as to the general abstract question, whether we ought to pass the execution of this law over to the States or not, provided we could have a measure framed that made it safe and expedient to do so. But it is perfectly evident that if we should now vote to do so, we would have to wait till a new bill is framed, and then if we found that that bill did not answer, we should have to reject it. For myself, I will not undertake to express any opinion on that point now, because there is nothing before the committee on which to vote.

I have thrown out these suggestions, to be weighed on one side or the other, just as the suggestions made by other gentlemen are to be weighed, so that we may be ready to come to a conclusion whenever the question shall come before us in a form in which it can be passed upon and decided.

Mr. HOOPER. Would it be in order, Mr. Chairman, to propose an amendment to the amendment submitted by my colleague?

The CHAIRMAN. The amendment suggested by the gentleman's colleague [Mr. ELIOT] is not before the committee.

Mr. HOOPER. Well, I should like to have read an amendment which, at the proper time, I desire to propose.

The amendment was read, as follows:

And provided also, That in any State, the Governor whereof shall officially cause it to be notified to the President, that such State will cause to be duly collected the duties on imported goods, the provisions of law establishing and regulating custom-houses shall not apply to that State.

Mr. HOOPER. I am opposed to the amendment of my colleague; but if this change in the mode of collecting revenue is wise, I see no reason why it should not be extended to the collection of the revenue derived from the duties on imported goods.

It would certainly be a great convenience to any State that may hereafter propose to secede from the Union, to have all the machinery for collecting the national revenues under the control of the State; and it must be a matter of regret to all the friends of secession that such provision had not been introduced in the revenue laws before they commenced their rebellion.

Mr. WHITE, of Indiana. Mr. Chairman, the hour is late, and I am well aware that in this House nothing is more unbusinesslike than *bona fide* business. I think, however, that this tax bill is to be the touchstone of our patriotism. It is the price that we are to pay for being true and loyal to our country. It will be a better schoolmaster and will teach us more than a great many other lectures which we have heard in this Hall or received through the public press. I know very well that this formidable machinery of Federal collectors is going to be a more impressive argument in the country than any mutterings that have been heard; and while I would not add at all to the formidable character of that monster, still it is of the highest importance that this tax bill should be made effective. The gentleman from Massachusetts [Mr. HOOPER] has said enough just now, to show in whose hands it can be made effective.

Now, what are the duties of a collecting officer? Let any gentleman examine this bill, consider the various licenses to be granted, and the hundred and one various articles to be taxed, and the internal duties to be levied, and the numerous items of taxation embraced under the miscellaneous head, and then let him consider the system of taxation in Great Britain, and he will see how vast is the machinery required. Great Britain has in England and Wales not less than fifty-six collectors of excise, the whole kingdom being divided into a thousand districts. It is that which renders easy the collection of taxes there, because they are collected "by dribs and drabs," collected as they spring from day to day and from month to month. They are not suffered to accumulate, as our State taxes are, till the end of the year. Now, I am very well satisfied that the assessor will require fifty or one hundred assistants in each State, and that the collector cannot get along without double that number of assistants, even in small States. The duties of these officers are very onerous. It has been stated that in almost every township in the different States, under their local system of taxation, an assessor is appointed. Perhaps he is a county officer, with deputies in each township. After he makes his assessments and reports to the

collector, the collector may or may not be required to call in assistants for the collection of the tax. In Indiana the collector, after giving notice that he will receive the taxes of each township on a certain day, is only obliged to spend one day in each township, after that he sits in his office, and the delinquents are reported, the delinquencies forming a part of his credit. In this bill they do not go to the credit of the collector; he must account for the full amount of his roll.

What the provision is in regard to slaves, I do not know—whether they are to be turned over specifically or not, whether they are to be considered chattels or not, whether they are to be considered dutiable articles or not. These collectors have duties assigned them, running through the whole twelve months of the year, and through each of the thirty days of those twelve months, and it is utterly impossible that they can discharge their duties efficiently unless they have a large corps of deputies.

Now, who ever heard of employing more than one jurisdiction to perform the highest functions of government?—for of all the high functions of government the collection of taxes is the highest. It is the most arbitrary. It requires the most potent machinery. I am not certain that this learned committee has even introduced machinery enough in the bill to insure the safe and prompt collection of these taxes. I doubt very much if they have. Where is the *posse* to aid the assessors in entering into private premises and ascertaining whether there are any taxable articles there? Where is the tribunal to aid them? Where the penalties to be inflicted for opposing the exercise of their power? I do not find them in the bill.

But I wanted to call attention to the amount of duties to be performed in the collection of this $150,000,000 of taxes. How does that sum compare with the aggregate of all your State taxes? The largest of the States do not collect half their revenue from taxation. They get it from miscellaneous sources. The Empire State of the gentleman who makes this proposition, collects half her revenue from duties on salt, and other duties which do not require the employment of collectors. But here you have got to have a corps of collectors distributed throughout the entire confines of the Union. Can a collector in Indiana do the duties required of him? By no means. I should be most happy if he could.

Now, I want the people to know the price of war. I want to let them know the cost of patriotism. I want to let them philosophize on the subject. The Government cannot get along without revenue. It must be obtained.

At this late hour, Mr. Chairman, I shall not undertake to say how impracticable is the proposition of the gentleman from New York, [Mr. ROSCOE CONKLING.] So far as the expression of opinion goes, it is evident that that is the view which the committee takes of it. I should be glad if it could be adopted. I should be glad to relieve the Administration of the odium of sending the tax gatherer—for the third time only, I believe—through the confines of the Union. But this is one of the great necessities of the hour, and we are bound to submit to all the necessities and exigencies which this great occasion imposes. I have not yet seen a feeling equal to this high duty. I do not think that we have yet mounted to the height of that duty which the country calls on us to exercise. This is one of the most delicate duties we have to perform. I trust we shall meet it promptly, and that we shall not have a bankrupt Treasury, owing to delinquent collectors, collecting for their State and for the Federal Government at the same time.

I do not know what the estimate of the committee is of the expense that will be incurred in the collection of this revenue. I believe that in England it costs from four to ten per cent. In Ireland and Wales it reaches as high as ten per cent., and where their system is reduced to the utmost degree of efficiency, it reaches from four to ten per cent. I think it likely it may reach that amount in this country, and perhaps exceed it. But whatever it is, I trust we shall not enter upon a system for collecting it that will prove a discredit to the bill, and to the management of the war; that we shall not establish machinery that will prove wholly inadequate to the accomplishment of its purpose.

Mr. PENDLETON. I sympathize entirely with the spirit of the amendment, and with the spirit of the remarks of the gentleman from New York [Mr. ROSCOE CONKLING] accompanying it. I think it is important, if it is practicable, that the States shall collect these taxes, not because I desire to exclude from the States the officers of the Federal Government, or to prevent the Federal Government from exercising within State limits any of its legitimate functions, as the gentleman from New Hampshire suggested, seemed to be the desire of some who approve of this amendment, but because I believe these taxes can be collected through the agencies of State authorities, if indeed they can be so collected at all, with much less expense to the people and without that exasperation which I am sure will follow if this immense army of Federal tax gatherers are sent forth through all the States.

Now, in my own State we have a complete machinery by which our taxes are collected. The people are visited once every year by the assessor, and twice every year by the tax collector, and I am quite certain that if they are again to be visited by the assessor, and still again by the tax collector of the Federal Government, they will be harassed to a degree of exasperation of which gentlemen now can have but little conception.

I am not prepared to say, and I regret it, that the scheme is entirely practicable; and yet I am not prepared to say that the objections are such as cannot be overcome. I perceive at once the difficulty raised by the gentleman from Vermont, [Mr. MORRILL,] in relation to stamp duties, and in relation to licenses which are authorized to be issued; and yet I believe, I cannot help believing, that there is ingenuity enough among the gentlemen of this House to devise a scheme by which others than this army of Federal officers shall be called to perform the duties devolving upon the assessors and collectors provided by this bill.

The suggestion of the gentleman from Kentucky, [Mr. WICKLIFFE,] that it was an attempt to devolve upon State officers certain duties which could not be imposed upon them by the Federal Government, I think is without weight. There is no such proposition made. The proposition is to permit the States themselves, in the exercise of their State powers, to assume duties which otherwise the Federal Government would perform by its own officers, reserving, as the gentleman from New York well said, continually the power in the Federal Government to set in motion the machinery provided by this law in case any State should at any moment fail to perform the duties which it had assumed to perform.

I do not see why the assessors and collectors charged with the duty of assessing and collecting the State, county, and municipal taxes of the State of Ohio may not also, to a certain extent, and perhaps entirely, be charged with assessing and collecting the taxes levied by this bill. I do not rise, however, to discuss that question. I am not, myself, yet quite convinced of the practicability of this scheme; but I rise to call the attention of the House to the fact that strenuous opposition was made by gentlemen, when the tax bill was before us at the last session of Congress, to the proposition made to allow the States to assume and collect in their own way the taxes to be imposed.

Gentlemen cannot have forgotten that when the bill proposing a land tax was introduced, my friend from New York [Mr. ROSCOE CONKLING] submitted a proposition cognate entirely to this. He proposed to permit the several States which were willing to assume the duty of collecting this land tax in their own way, they in the mean time assuming to pay the money assessed upon them by the Federal Government. And, sir, we heard then the same statements that we have heard to-day. The members of the Committee of Ways and Means told us that it was utterly impracticable. Gentlemen of high legal attainments in the House told us that it was utterly impossible to charge that duty upon a State, or even permit a State to assume the performance of the duty. It was said that if a State undertook to collect these taxes, it would not be competent for it to levy upon the taxable property within its limits for that purpose. The same line of argument, and the same arguments which have been used here to-day were put forth on that occasion to prove the utter impracticability of the scheme. Yet what was the result? A debate followed which, considering the nature of the subject, was more warmly contested than upon any occasion since I have been a member of the House. The debate was as able in its character as any to which I have listened upon a subject of a practical character on any occasion. But the amendment was at last incorporated into the bill, and what has been the result? Every State which has taken any action on the subject up to this time has assumed the payment of its quota. I am told that every State whose Legislature has met since the passage of that bill has assumed its quota with the exception of Delaware.

I make this statement upon the authority of others; but I believe it to be true. If we had acted upon the suggestion of the Committee of Ways and Means, no State could have been relieved from the odium of the visits of the tax gatherers to be appointed under that bill, unless upon an actual assumption of the amount of the tax. But we found the scheme of the gentleman from New York practicable then, and, with this experience, I hope the House will not now determine that it is impossible to devise a scheme which shall relieve the State from the presence of the tax gatherer to be appointed under this bill.

Mr. EDWARDS. I would like to ask the gentleman from Ohio whether the objections to which he refers as having been overcome at the last session were not against investing the States with the power of collecting taxes—were not directed against a portion of the bill other than that which proposed a direct tax? I think they were not applied to the land tax.

Mr. PENDLETON. My impression is that they were not.

Mr. MORRILL, of Vermont. I desire to say, so far as the Committee of Ways and Means are concerned, that I believe that was the only point to which any objection was taken. No objection was urged to the power of the States to assume the payment of a direct tax; it was to the other portion of the bill that the discussion was directed.

Mr. PENDLETON. I have no disposition to do injustice to the Committee of Ways and Means, or to any gentleman upon it. If the gentleman says I was mistaken, I stand corrected.

Mr. ROSCOE CONKLING. If the gentleman from Ohio will allow me, I will say that it is of no importance except so far as it bears upon the question we are now discussing; but the gentleman from Vermont will certainly remember that when the proposition referred to was made in this House in the last session it was with regard to the direct tax bill, and that alone. The chairman of the Committee of Ways and Means says I am right. I am so in point of time certainly—the House will remember that, because it was a discussion in which the gentleman from Ohio, [Mr. BINGHAM,] and other gentlemen took part, in regard to the constitutional scope of the words "direct tax." Certainly that was so.

Mr. PENDLETON. I cannot be mistaken as to the point suggested by the gentleman from New York.

Mr. MORRILL, of Vermont. I think that the legal point made before the House at that time was, whether the State could have any power to levy the tax in any other mode—that is, whether it could levy it upon anything but land.

Mr. ROSCOE CONKLING. So far from the gentleman from Vermont being right, we were told that this bill was a copy of Mr. Gallatin's bill, and that so literally was it copied, that its nomenclature was carried into it, although totally inapplicable to our present geographical divisions. We were told that that was the mode suggested then, and that it was proved by experience to be the true mode. What the gentleman suggests was a subsequent consideration. It was, whether tax being put upon the land by the Government, the State could turn around and collect it upon personal property.

Mr. PENDLETON. I cannot be mistaken as to the point stated by the gentleman from New York, and which I was about to state when he asked me to give way. That discussion took place, as must be recollected by every gentleman who took an interest in the discussions of that day, and lasted for some time. My colleague [Mr. BINGHAM] made a long and able speech on the subject. The whole argument was gone over as to the right of a State to raise a tax thus assumed by it upon all its taxable property. It was suggested that the scheme was impracticable. Difficulties were suggested as to the means by which the State

could be compelled to pay the tax it had assumed to pay. That discussion is fresh in my mind.

Mr. STEVENS. The gentleman is greatly mistaken, so far as the direct tax is concerned. The committee agreed that it should be referred to the States, and they had a provision in the bill as reported at that time, which provided that the machinery should not go into effect if the State assumed the tax. All that was reported from the committee in the bill itself.

Mr. PENDLETON. My recollection is distinct, but I have no disposition to insist upon it. It is immaterial to the point I was suggesting, which was that when that proposition was before us we had the same class of arguments advanced against it, that we have against this proposition to-day. It was contested here most warmly in the House. It gave rise to a long discussion; it gave rise to a sharp controversy; and, if I am not much mistaken, to a pretty close vote.

Mr. ROSCOE CONKLING. That is so.

Mr. PENDLETON. I desire, and I only rose for that purpose, of saying that these difficulties disappear as men apply their minds to them. I think the object sought to be obtained by the gentleman from New York is so important, that it will tend so much to relieve the people from that which is so odious, relieve them from the sting which accompanies the visit of the tax gatherer, that it will go so far to ease the burdens, which God knows are to be great enough, to be imposed upon the people of the country under the calamitous condition of public affairs, that we ought not hastily to decide against it, but should bring the best energies of the best men in this House to its calm consideration and lengthy consideration, if necessary, in order to perfect and carry out this scheme.

Mr. FISHER. I understand that the gentleman, in referring to the action of the loyal States, stated that Delaware had not yet assumed to pay this tax. I deem it a matter of justice to Delaware, which State I represent here, to say a word in her behalf. The Governor of that State called the Legislature together on the 25th of last November, for the purpose of taking into consideration the propriety of assuming payment of the tax imposed upon her. The reason why the Legislature did not assume the payment of that tax was, as I have been informed by the members of the Legislature, because they anticipated that a change would be made in it, and they did not wish, therefore, to assume the payment of a tax until they had made provision for the payment of the money. In other words, they did not mean to promise to pay until they had made an arrangement to carry it out in good faith.

Mr. PENDLETON. I had no disposition to do injustice to the State of Delaware, and the statement by the gentleman goes to confirm the idea I had in my mind at the time I made the statement. It goes to show that the scheme was so practicable that every State will eventually adopt it and carry it out. If a scheme of a similar character can be devised by which the duty of collecting this tax can be devolved upon the officers of a State, if a scheme can be devised by which the State, rather than the Federal Government, shall take upon itself the duty of collecting this tax, I hope that it will be done. I think that it will accomplish a great good, and that we will avoid by it a great error. However much gentlemen may desire to try the patriotism of the people by their willingness to pay taxes; however much they may desire, and their constituents may desire, to express their patriotism in that way, let me tell you that when this vast system goes into operation, and these tax gatherers are abroad in the land, there will go up a voice in the country that will make this Legislature tremble. It is easy to talk about these things. Remember that never has the tax gatherer, in the history of this country, gone about under the Federal authority. Remember that never have the people been called upon to pay into the Treasury these taxes. I know that, during the war of 1812, there were some instances in which land taxes were raised. Perhaps there were instances of an earlier period. But a tax bill like this which goes into every house, into every business, every neighborhood, which taxes everything a man eats and all that he wears, which enters into the consideration of every man engaged in every business of the country, which puts a tax upon every conceivable subject of taxation; such a tax bill has never before appeared in this country. It belongs to gentlemen, then, to take every means to ameliorate the burdens which will necessarily be imposed upon the people of the country, to remove as far as possible every cause of offense or exasperation, to lighten in every way the necessary load which you must call on them to bear.

I desire to say in conclusion what I desired to call the attention of the House to when I rose, that, however great these difficulties may appear, we know that at the last session equally great difficulties were suggested, and they were met and overcome.

Mr. STEVENS moved that the committee rise for the purpose of closing debate on the pending amendment.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the tax bill, and had come to no resolution thereon.

Mr. STEVENS. I move that all further debate in the Committee of the Whole on the state of the Union on the pending amendment be closed in one minute after its consideration shall be resumed.

Mr. RICHARDSON. There is no necessity for that. Members are discussing the bill, and it ought to be discussed.

Mr. STEVENS. I only ask that debate be terminated on this amendment.

Mr. PHELPS, of California. If that motion is adopted, will it prevent me from being heard on the amendment I have offered? My amendment has not been discussed at all; but a rambling discussion has taken place in regard to other matters. The amendment on which the vote is to be taken has not been debated at all.

The SPEAKER. If the motion be adopted, all debate will be terminated on the amendment.

There were, on a division—ayes 40, noes 22.

Mr. MORRILL, of Vermont, demanded tellers.

Tellers were ordered; and Messrs. LEHMAN and SHELLABARGER were appointed.

The tellers reported—ayes 58, noes 22; no quorum voting.

Mr. RICHARDSON moved that the House do now adjourn.

The question was taken, and the House refused to adjourn.

CALL OF THE HOUSE.

Mr. STEVENS moved that there be a call of the House.

The motion was agreed to.

So it was ordered that there should be a call of the House.

The roll was accordingly called, and the following members failed to answer to their names:

Messrs. Allen, Arnold, Babbitt, Goldsmith F. Bailey, Beaman, William G. Brown, Burnham, Calvert, Conway, Cooper, Corning, Covode, Cox, Dawes, Delaplaine, Dunn, Ely, Fenton, Fouke, Franchot, Haight, Hall, Hanchett, Hickman, Holman, Horton, Jackson, Julian, William Kellogg, Kerrigan, Lansing, Leary, Logan, McKean, McPherson, Marston, Maynard, Mitchell, Noell, Nugen, Odell, Olin, Perry, John S. Phelps, James S. Rollins, Shanks, Sherman, Smith, Spaulding, William G. Steele, Trimble, Vallandigham, Vandever, Van Horn, Van Wyck, Verree, Vibbard, Washburne, Wheeler, Whaley, Woodruff, and Wright.

During the call of the roll,

Mr. DUNLAP stated that Mr. CONWAY was detained from the House by sickness.

Mr. DIVEN made a similar statement in reference to Mr. ELY.

Mr. LAW made a similar announcement in regard to Mr. Cox; and

Mr. RICE, of Massachusetts with regard to Mr. BAILEY, of Massachusetts.

Mr. CRAVENS stated that Mr. HOLMAN was absent from the city on business connected with the investigating committee.

The names of the absentees having been called,

Mr. TRAIN moved that all further proceedings under the call be dispensed with.

The motion was agreed to.

The question was then taken on Mr. STEVENS's motion to close debate on the amendment pending in the Committee of the Whole on the state of the Union to the tax bill; and it was agreed to.

ENROLLED BILLS AND RESOLUTIONS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

A bill (S. No. 80) to amend "An act to incorporate the Columbian Institution for the Instruction of the Deaf and Dumb and the Blind," and to make appropriations for the benefit thereof;

A bill (S. No. 150) for a joint commission for the preservation of the Atlantic fisheries;

A bill (H. R. No. 208) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th of June, 1863, and additional appropriations for the year ending 30th of June, 1862;

Joint resolution (S. No. 54) to amend an act entitled "An act to carry into effect conventions between the United States and the Republics of New Granada and Costa Rica;" and

Joint resolution (S. No. 57) providing for the custody of the letter and gifts from the King of Siam.

STATE MONEYS FOR THEIR VOLUNTEERS.

Mr. BLAIR, of Missouri. I ask the unanimous consent of the House to take up from the Speaker's table Senate resolution (No. 65) to authorize the Secretary of War to accept moneys appropriated by any State for the payment of its volunteers, and to apply the same as directed by such State. It will not occupy much time, and I am informed that it is necessary that it should be passed at an early day.

Mr. STEVENS. That is an important measure, and I think that it ought to be printed. I want to see what the resolution contains, and I hope it will be printed.

Mr. BLAIR, of Missouri. Of course, I have no objection to its being printed if any one wants to examine it. I ask that it be referred to the Committee on Military Affairs, and printed.

There being no objection, the joint resolution was taken from the Speaker's table, read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

WASHINGTON CANAL.

Mr. TRAIN, by unanimous consent, presented the following communication from the Commissioner of Public Buildings:

OFFICE COMMISSIONER OF PUBLIC BUILDINGS,
CAPITOL OF THE UNITED STATES,
WASHINGTON, *March* 11, 1862.

GENTLEMEN: In my annual report made to the Secretary of the Interior, and by him submitted to Congress at the commencement of the present session, I called his attention to the condition of the Washington canal in the following language:

"The Washington canal, constructed at so great an expense, and which was at the time it was made regarded as one of the greatest possible improvements to the city of Washington, is now nothing more nor less than a public nuisance. It is the grand receptacle of nearly all the filth of the city. The waste from all the public buildings, the hotels, and very many private residences is drained into it. It is now in many places filled with accumulations from such sources, so as to present beds of rank vegetation and offensive soil above the level of the water. Unless something be done to clear away this immense mass of fetid and corrupt matter, the good citizens of Washington must, during some hot season, find themselves visited by a pestilence! I regard the abatement of this nuisance of more importance, in a sanitary point of view, than almost any other improvement in the whole city. The health of the entire population and the lives of thousands depend upon it. The question is, 'What can be done?'

"In the first place, the canal must be thoroughly dredged. An immense amount of filling will be necessary about the Capitol as soon as the grounds come to be graded, and it will be found difficult to obtain the material for such filling. I had considerable experience when I had the honor of holding the office of Commissioner several years ago, and can speak from actual knowledge. The deposit in the canal will serve the purpose admirably. It can be taken up by a dredge boat, without any shoveling in carts, and hauled to the place where it is wanted. The actual expense of filling up on the south side of the Capitol square will be much less than it would be were the material for filling shoveled into carts, even if it could be procured at a reasonable distance and carried to the place where wanted, so that the dredging would really be a matter of economy. I have no means of submitting an exact estimate with this report of the sum necessary to do the work recommended, but will procure one as soon as possible, and submit it, either to you or to the appropriate committee of the House of Representatives.

"As soon as the canal is thoroughly cleaned out by the erection of a proper tide-gate at a proper place, which will shut of itself as soon as the water commences falling, and retain all the water above it, and then by the opening of it at low water the canal can be thoroughly swept out at least once every twenty-four hours, and always kept clean."

Congress has, as yet, done nothing in relation to this dreadful nuisance. In the pressure upon it of business of great importance to the interests of the country, it is not strange that local matters like this should be overlooked. This is, however, a thing that ought to be attended to, as it involves the health of Congress itself, and of all the inhabitants and sojourners in this city.

I am induced to write this letter at this time by the en-

treaties of citizens, who assure me that it is the opinion of the most eminent physicians of this city that unless some measures are taken to remove this bed of filth from the heart of the city, that, as soon as the heat of summer comes, a pestilence will accompany it such as we have seldom, if ever, been visited with. The canal has been very rapidly filling up during the past year, and never has been in anything like so offensive a state as it now is. I think an appriation of $12,000, honestly and judiciously expended, will so clean and purify the canal as to prevent any deleterious effects on the health of the city from it. If that sum of money could be placed at my disposal at once, sufficient progress could be made before summer arrives to prevent any sickness arising from that source.

I have called your attention to this subject as a duty I owe to yourselves and to all my fellow-citizens and sojourners here, and I hope you will deem it of sufficient importance to urge upon Congress the small appropriation for which I respectfully ask.

I am, with high respect, your obedient servant,

B. B. FRENCH,
Commissioner Public Buildings.

—

March 13.

After writing the foregoing I thought it proper to obtain the views of a practical person, and addressed a note, accompanied by this letter, to William Forsyth, Esq., the able and competent surveyor of the city of Washington.

I inclose a copy of his reply, by which you will see that he estimates the cost of the *complete dredging* of the canal at $35,000.

Still, I have no doubt that for twelve or fifteen thousand dollars so much of the offensive matter can be removed as to prevent it from being the cause of miasmatic sickness.

Respectfully, B. B. FRENCH,
Commissioner Public Buildings.

Hon. SOLOMON FOOT, *Chairman of the Committee on Public Buildings and Grounds, Senate.*

Hon. CHARLES R. TRAIN, *Chairman of the Committee on Public Buildings and Grounds, House of Representatives.*

—

SURVEYOR'S OFFICE,
WASHINGTON, *March* 13, 1862.

SIR: I herewith submit the information required in relation to the Washington city canal, referred by you to me this day.

I entirely concur with you in all you have said of the condition of the canal, and the consequences that may result from it, unless the accumulation of years of deposits from the surface drainage of streets and avenues and filth from the sewers leading from the Capitol and other public buildings (now exposed at low water) are removed. The amount asked for is not sufficient for what you purpose to do, which, in my judgment, is an imperative necessity. My estimate of the quantities to be removed is, in the aggregate, two hundred and thirty-three thousand cubic yards, which, at fifteen cents per yard, would, in round numbers, amount to $35,000. The whole amount of deposit will be required to grade the lot south of the Capitol and other public reservations which are below the established grade, and remove the nuisances which you so ably referred to in your letter to Hon. SOLOMON FOOT.

Very respectfully, your obedient servant,

WILLIAM FORSYTH, *City Surveyor.*

Hon. B. B. FRENCH, *Commissioner of Public Buildings.*

The communication was referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

TAX BILL—AGAIN.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed the consideration of the special order, being the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

The CHAIRMAN stated the pending question to be on the amendment of the gentleman from California [Mr. PHELPS] to strike out the words "assessors and" in the second section of the bill, and on which all debate had been closed by order of the House.

Mr. PHELPS, of California. I withdraw the amendment.

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

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the tax bill, and had come to no resolution thereon.

WASHINGTON AND NEW YORK RAILROAD.

Mr. JOHNSON, by unanimous consent, from the Committee on Roads and Canals, reported a bill to secure increased railroad facilities between the cities of New York and Washington; which was read a first and second time, recommitted to the Committee on Roads and Canals, and ordered to be printed.

RESOLUTIONS OF MAINE.

Mr. GOODWIN, by unanimous consent, presented resolutions of the Legislature of the State of Maine relative to coast and frontier defenses; which were referred to the Committee on Military Affairs, and ordered to be printed.

DISCHARGE OF STATE PRISONERS.

Mr. MAY, by unanimous consent, reported from the Judiciary Committee a bill to provide for the discharge of State prisoners and others, and to authorize judges of the United States courts to take bail or recognizances to secure the trial of the same; which was read a first and second time, recommitted to the Committee on the Judiciary, and ordered to be printed.

And then, on motion of Mr. SHEFFIELD, (at half past four o'clock, p. m.,) the House adjourned.

IN SENATE.

FRIDAY, *March* 14, 1862.

Prayer by Rev. J. S. KENNARD, of Washington.

The Journal of yesterday was read and approved.

ENROLLED BILLS SIGNED.

The VICE PRESIDENT signed the enrolled bill (H. R. No. 284) for the relief of Z. B. Caverly, late secretary of legation at Lima, Peru, which had heretofore received the signature of the Speaker of the House of Representatives.

HOUSE BILL REFERRED.

The bill (No. 355) to amend an act entitled "An act to further promote the efficiency of the Navy," approved December 21, 1861, was read twice by its title, and referred to the Committee on Military Affairs.

PETITIONS AND MEMORIALS.

Mr. WILKINSON presented a memorial of the Legislature of Minnesota, praying to be indemnified for certain expenses incurred prior to the admission of that State into the Union; which was referred to the Committee on Territories.

He also presented a memorial of the Legislature of Minnesota, in favor of the establishment of a mail route from St. Paul to Carver, in that State; which was referred to the Committee on the Post Office and Post Roads.

Mr. SUMNER presented a petition of citizens of Orleans county, Vermont, in which they say that "believing that slavery is the sole cause and main strength of the rebellion, they pray Congress in self-defense to restore to the slave his inalienable rights, and employ him in crushing the rebellion;" which was ordered to lie on the table.

Mr. RICE presented papers in relation to the claim of Colonel Abraham Emmett; which were referred to the Committee on Pensions.

REPORTS FROM COMMITTEES.

Mr. WILSON, of Massachusetts, from the Committee on Military Affairs and the Militia, to whom was referred a report of the Secretary of War, communicating a statement of the appropriations applicable to the service of that Department for the year ending June 30, 1861, submitted a motion that it be printed; which was agreed to.

Mr. WILKINSON, from the Committee on Indian Affairs, to whom was referred the petition of R. G. Murphy, late Indian agent for the Sioux Indians, praying to be relieved from certain vouchers erroneously given, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. COLLAMER, from the Committee on the Post Office and Post Roads, to whom were referred resolutions of the Legislature of California, in favor of the establishment of a mail route between San Francisco, in that State, and China and Japan; the petition of John Whipple and others, citizens of Wisconsin, praying for the establishment of a mail route by steamboat from Detroit to Superior, Wisconsin; the petition of citizens of California, praying for the establishment of an overland mail route from the Mississippi river to California, through New Mexico; and nine petitions of citizens of California, praying the establishment of an overland mail route from the eastern States, through New Mexico, to Los Angeles, in California, asked to be discharged from their further consideration; which was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. MORRILL, it was

Ordered, That Lydia Lord have leave to withdraw her petition and papers from the files of the Senate.

On motion of Mr. McDOUGALL, it was

Ordered, That the petition of D. G. Farragut, on the files of the Senate, be referred to the Committee on Naval Affairs.

PUBLIC LANDS IN KANSAS AND NEBRASKA.

Mr. LANE, of Kansas, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of taking measures to facilitate the surveys of public lands in the State of Kansas and Territory of Nebraska.

BILLS INTRODUCED.

Mr. HALE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 232) authorizing the construction of an iron-clad steam ram, iron-clad steam gunboats, and the completion of Stevens's battery; which was read twice by its title, referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 233) to confiscate the property of rebels, and for other purposes; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. HALE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 234) authorizing the President to transfer the money appropriated by an act approved February 20, 1862, for building or continuing fortifications, to the construction of iron-clad steam vessels of war; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. WILSON, of Massachusetts, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 235) providing for the organization of Army corps and of staffs attached to corps and divisions of the Army of the United States; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House had passed the joint resolution of the Senate (No. 64) expressive of the thanks of Congress to Captain A. H. Foote, of the United States Navy, and to the officers and men under his command in the western flotilla.

The message also announced that the House had passed the following bill and joint resolution; in which the concurrence of the Senate was requested:

A bill (No. 153) to provide for the appointment of clerks in the office of the Assistant Treasurer at Boston, to fix their salaries, and provide for the absence of the Assistant Treasurer, and for other purposes.

A joint resolution (No. 52) tendering the thanks of Congress to Brigadier General Curtis and the officers and men under his command.

PURCHASE OF COIN.

The message also announced that the House had agreed to the third and disagreed to the first amendment of the Senate to the bill (H. R. No. 341) to authorize the purchase of coin, and for other purposes; and had agreed to the second amendment of the Senate, with an amendment; in which the concurrence of the Senate was requested.

The Senate proceeded to consider its amendment to the bill (H. R. No. 341) to authorize the purchase of coin and for other purposes, disagreed to by the House of Representatives, and the amendment of the House to the second amendment of the Senate to the said bill, and

On motion of Mr. FESSENDEN, it was

Resolved, That the Senate insist upon its amendment to the said bill disagreed to by the House, disagree to the amendment of the House to the second amendment of the Senate thereto, and ask a conference on the disagreeing votes of the two Houses thereon.

Ordered, That the committee of conference on the part of the Senate be appointed by the Vice President.

The VICE PRESIDENT appointed Mr. FESSENDEN, Mr. COLLAMER, and Mr. WILLEY.

A subsequent message from the House of Representatives, by Mr. MORRIS, Chief Clerk, an-

nounced that the House had insisted upon its disagreement to the first amendment of the Senate, to the bill (H. R. No. 341) to authorize the purchase of coin and for other purposes, and upon its amendment to the second amendment of the Senate, and that the House had agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and had appointed Mr. THADDEUS STEVENS of Pennsylvania, Mr. HOOPER of Massachusetts, and Mr. JOHN W. CRISFIELD of Maryland, managers at the same on its part.

STEAM MACHINERY.

Mr. HALE. I am instructed by the Committee on Naval Affairs, to whom was referred House joint resolution No. 51, authorizing the Secretary of the Navy to inquire into the causes of the failure of certain contracts for steam machinery, and to remit penalties connected therewith, to report the same back to the Senate with a recommendation that it pass; and I am requested to ask the action of the Senate upon it at the present time. If the Senate will give me their ear for about two minutes, I will explain it to them. The Secretary of the Navy entered into certain contracts for steam machinery; and as it was necessary to have it as soon as possible, he fixed the shortest time in which he supposed it could possibly be constructed, and affixed a penalty of $100 a day for a failure. After that was done, the Government seized a great many vessels, and actually got a vessel which had been chartered to carry the machinery down East where some of the ships for which it was intended were being constructed. Thus they were actually unable, by reason of the interruption of the coasting trade by the Government, to comply with their contracts within the limited time. This resolution simply authorizes the Secretary of the Navy to inquire into the causes of the failures; and if he thinks it just or equitable, to remit the whole or any part of the penalty.

There being no objection, the joint resolution was considered as in Committee of the Whole. It was reported to the Senate without amendment, ordered to a third reading, was read the third time, and passed.

Mr. HALE. The same committee, to whom was referred Senate joint resolution No. 60, authorizing the Secretary of the Navy to appoint a commission to inquire into forfeitures incurred by contractors under that Department, have instructed me to report it back, with a recommendation that it be indefinitely postponed, as it relates to the same subject-matter. I make that motion.

The motion was agreed to.

COMMAND OF TROOPS.

Mr. WILSON, of Massachusetts. I am instructed by the Committee on Military Affairs and the Militia, to report a joint resolution (S. No. 68) to authorize the President to assign the command of troops in the same field or department to officers of the same grade, without regard to seniority. It is a very brief resolution, and I think it is very important that it should be passed speedily. I ask for its consideration now.

The joint resolution was read twice, and considered as in Committee of the Whole. It provides that whenever military operations may require the presence of two or more officers of the same grade in the same field or department, the President may assign the command without regard to seniority of rank; and also that he may dismiss from the service at his discretion, without the sentence of a court-martial, any officer of the Army, when, in his judgment, the efficiency of the service will be thereby promoted.

Mr. SHERMAN. I would ask if that has come from a committee?

Mr. WILSON, of Massachusetts. The Military Committee authorized me to report it.

Mr. SHERMAN. It is a very great power to confer upon the President, to dismiss an officer at his discretion.

Mr. WILSON, of Massachusetts. We have already passed a similar provision in another bill, but it will take some time to pass that bill in the House of Representatives.

Mr. McDOUGALL. I would rather consider the last part of the resolution and not have it passed so hurriedly. I see no objection to the first proposition contained in it; but the section authorizing the President, upon his own motion, to dismiss an officer from the service, is an exercise of power that I would rather consider before I act on it. I hope the chairman of the committee will allow it to lie over. It is a very extraordinary proposition.

Mr. WILSON, of Massachusetts. The other day we put the same provision in a bill here with the unanimous consent of the Senate. I have no doubt in my own judgment that the President has the power already, but he might not wish to exercise it without an expression from Congress. The Government desire that privilege, and we have already put it in a bill that has gone to the House of Representatives; but as there are a large number of provisions in that bill—some twenty-five sections—it may be some time before they reach it. I believe the efficiency and the good of the service demand that that provision be enacted at once, and if it be enacted, it will be very sparingly and carefully used. Its influence will be most beneficial to the efficiency of the service. The first part of the proposition I understand the Senator does not object to.

Mr. McDOUGALL. It may be that this has been before the Senate and passed upon. There have been a great many things brought before the Senate and carried through without consideration. I have no doubt as to the manner in which the present Executive would administer this authority in any given case. The Senator from Massachusetts has no more confidence in the Executive than I have; but it is, I think, a bad rule to allow an officer to be, at the motion of the Chief Executive, displaced without an inquiry for the ascertainment of facts. It strikes me so. I have never heard the proposition before advanced here; and if it has passed, it has passed without my knowledge. I would rather hear some better reason than I have heard as yet for it, therefore I shall object to its present consideration. It strikes me to be unnecessary. The first proposition covers all that is necessary at present; that is, that the President may appoint to command without regard to seniority.

The VICE PRESIDENT. The Senator from California objecting, the resolution cannot have its third reading to-day.

Mr. McDOUGALL. I do not wish to object, except that I want to consider it.

The VICE PRESIDENT. It will go over until to-morrow.

LAS ORMIGAS AND LA NANA GRANTS.

Mr. HARLAN. I move that the Senate proceed to the consideration of House bill No. 114. It is a bill that will not occupy much time. It was postponed at the request of the Senator from Maine, [Mr. FESSENDEN,] a few days since. I think it can be disposed of in ten minutes.

The motion was agreed to; and the consideration of the bill (H. R. No. 114) authorizing floats to issue in satisfaction of claims against the United States for lands sold by them within the Las Ormigas and La Nana grants in the State of Louisiana, was resumed as in Committee of the Whole.

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

JOHN SKIRVING.

On the motion of Mr. CLARK, the bill (S. C. C. No. 103) for the relief of John Skirving, was read a second time, and considered as in Committee of the Whole. It directs the payment of $1,142 in full for his services in making designs, drawings, working drawings, and measurements, in and about the public buildings in the city of Washington, from 1842 to 1862.

Mr. CLARK. I desire to say in behalf of the bill, that the claimant has been before the Court of Claims and established his claim by competent and proper proof. It was then referred to the Senate Committee on Claims, and I have examined the claim and think the bill ought to pass. And I desire to say further, in behalf of this claimant, that not having come near the Senate Committee on Claims nor beseeched anybody for the passage of his claim in this time of difficulty for the country, I desire to help him along.

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

RIGHT OF WAY OVER PUBLIC LANDS.

Mr. NESMITH. I move to postpone all prior orders and proceed to the consideration of Senate bill No. 123. It is very short, and I presume will not elicit any debate at all. It is merely a bill for the extension of the act to grant the right of way to all rail and plank road companies, through the public lands.

The motion was agreed to; and the bill (S. No. 123) to extend the provisions of the act of August 4, 1855, entitled "An act to grant the right of way to all rail and plank roads," &c., for the term of five years, and to amend the same, was considered as in Committee of the Whole.

It declares that the provisions of the "Act to grant the right of way to all rail and plank roads and macadamized turnpikes passing through the public lands belonging to the United States," approved August 4, 1852, and of the act extending the same to all of the public lands of the United States, approved March 3, 1855, shall be extended for the term of five years from the 4th day of August, 1862.

The second section of the bill provides that the privileges granted in the acts of 1852 and 1855 to chartered companies shall be granted to any corporations or companies organized and doing business as such within the State or Territory where public lands may be situated.

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

The VICE PRESIDENT. The Chair would suggest to the Senator from Oregon that the title of the bill and the text of the bill do not correspond as to the date of the act referred to in it. The title should be made to correspond with the text, probably.

Mr. NESMITH. The text is correct.

The VICE PRESIDENT. The title will be amended to correspond with the text, by substituting "1852" for "1855."

Mr. HARLAN subsequently said: I desire to enter a privileged motion. I move the reconsideration of the vote by which Senate bill No. 123 was passed. I am not satisfied as to the legal effect of the second section. I do not desire the motion to be considered now, but merely entered.

The VICE PRESIDENT. It will be entered.

ANNALS OF CONGRESS.

Mr. CARLILE. I move to postpone all prior orders and take up the resolution which I offered the other day, providing for the purchase of a certain number of the Annals of Congress and Register of Debates.

The VICE PRESIDENT. That resolution comes up in its proper order, and it will be read.

Mr. CARLILE. Before it is read, I move to insert twenty, instead of sixteen copies.

Mr. GRIMES. I suggest to the Senator from Virginia that as no one of the members of the Library Committee, who have special charge of resolutions of this kind and subjects of this character, is present, this matter should be laid over for the present.

Mr. CARLILE. I will act on the suggestion of the Senator from Iowa. I withdraw the motion.

RAILROADS IN WISCONSIN.

On motion of Mr. RICE, the joint resolution (S. No. 26) explanatory of a certain act therein mentioned was considered as in Committee of the Whole.

It had been reported from the Committee on Public Lands, with an amendment, to strike out all after the resolving clause, and insert:

That the word "northerly," contained in the first section of the act entitled "An act granting public lands to the State of Wisconsin," to aid in the construction of railroads in said State, approved June 3, 1856, shall be construed to authorize the location of the line of railroad in said section provided for upon any eligible route within ranges sixteen to twenty-three, inclusive, east of the fourth principal meridian. And the line of railroad now located upon the records of the General Land Office, in pursuance of said act, is hereby authorized to be changed within the foregoing specified limits: *Provided*, That upon the construction of the railroad upon said new line, the State of Wisconsin, its grantees or assigns, shall, however, receive the same lands in like quantity and manner, and no other, as it or they would have received if such railroad had been constructed upon the line now located upon the maps of the General Land Office.

SEC. 2. *And be it further resolved*, That so much of the public lands of the United States lying near the mouth of Fox river, in the county of Brown, and State of Wisconsin, known as the Fort Howard military reserve, as may be required for right of way tracks, turnouts, depots, workshops, wharves, or other uses, not exceeding eighty acres in quantity, to be selected by the agents of the Chicago and Northwestern Railway Company, (upon which the benefits of said grant have been conferred by said State of Wiscon-

sin,) so as to exclude the fort therefrom, be, and the same is hereby, granted to said company: *Provided*, That if said company shall fail to construct a railway from the present terminus of their road to said reservation within three years from the passage of these resolutions, then the aforesaid grant shall be void.

SEC. 3. *And be it further resolved*, That the Secretary of the Interior be, and he is hereby, authorized to cause all even sections, or parts of even sections, of land that may be brought within six miles of the new line of survey to be sold at the same price and in the same manner as those have been under the original survey, and that all purchasers within the six mile limits under the prior survey who shall be more than six miles from the contemplated survey, and who have paid the sum of $2 50 per acre, shall have the right to change their location to correspond with the change of survey.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. The joint resolution was ordered to be engrossed for a third reading. It was read the third time, and passed.

SYLVESTER CROOKS.

Mr. LATHAM. I move that the Senate proceed to the consideration of the bill No. 177. It will give rise to no discussion.

The motion was agreed to; and the bill (S. No. 177) for the relief of Sylvester Crooks was considered as in Committee of the Whole. The bill, as introduced, proposed to direct the Secretary of the Treasury to remit the penalty incurred by Sylvester Crooks, of New York, under his transportation bond given at the collector's office, in the city of New York, in the month of November, 1859, for a package of merchandise shipped by him to V. Marzion & Co., San Francisco, California, and marked "F. B., one case;" the amount of the penalty to be paid out of any money in the Treasury not otherwise appropriated.

The amendments of the Committee on Finance were in lines four and five, to strike out the words "remit the penalty incurred by Sylvester Crooks, of New York, under his," and insert "cancel the;" so as to make the clause read:

That the Secretary of the Treasury is hereby authorized and directed to cancel the transportation bond of Sylvester Crooks.

And in lines ten, eleven, and twelve, to strike out the words "the amount of said penalty to be paid out of any money in the Treasury not otherwise appropriated."

Mr. LATHAM. I will merely state that this bill has been reported unanimously by the Committee on Finance.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

SPANISH BARK PROVIDENCIA.

Mr. SUMNER. I move that the Senate proceed to the consideration of Senate bill No. 225.

The motion was agreed to; and the bill (S. No. 225) for the relief of the owners, officers, and crew of the Spanish bark Providencia was read the second time, and considered as in Committee of the Whole. It provides for the payment to the order of the proper functionary of her Catholic Majesty's Government, of the sum of $2,791 91, as full compensation to the owners of the Spanish bark Providencia, or their legal representatives, for damages occasioned by reason of the wrongful seizure and detention of the bark by a steamer of the United States blockading squadron, in the month of November last; and also as full compensation to the master, mate, and crew of the bark; the sum to be distributed agreeably to the two several awards of Moses Taylor, Esq., to whom the claim was referred for adjustment.

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

ADJOURNMENT TO MONDAY.

On motion of Mr. GRIMES, it was

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

PROPOSED EXPULSION OF MR. POWELL.

Mr. TRUMBULL. It is within a few minutes of one o'clock, and if there is no other business before the Senate, I move that we proceed to the consideration of the special order, being the resolution for the expulsion of the Senator from Kentucky.

The VICE PRESIDENT. The Chair will call up the special order now. It is the resolution for the expulsion of the Senator from Kentucky, [Mr. POWELL,] upon which the Committee on the Judiciary have made an adverse report.

Mr. POWELL addressed the Senate at some length, in his vindication, in reply to the speech delivered yesterday by his colleague. [His speech will be found in the Appendix.]

Mr. DAVIS. Mr. President, I have given a very careful attention to the defense of my colleague, and I will trespass a short time upon the patience of the Senate in answering some of the points which he has attempted to make in his defense.

My colleague thinks it was very ungracious in me not to have apprised him of my purpose to indict him. If my colleague did not know that I was opposed to his retaining his seat upon this floor, I presume he was the only member of the Senate that had not been apprised of it by what I had said on various occasions bearing upon that question. I did not know that it was necessary for me to consult my colleague in relation to the manner in which I should get up this indictment against him. I drew up that indictment. I left it in my handwriting expressly that my colleague might see it in my handwriting. I drew it up because I was compelled to do so, as I said yesterday, by a sense of the highest duty, as well as by the action of my Legislature on the subject. I admit that there is as much, and, indeed, more, propriety and fitness in my appearing as a prosecutor of my colleague upon the present occasion, as he chooses to denominate me, than there is in my honorable friend from Minnesota, [Mr. WILKINSON,] or any other person assuming that character. Why? We are both from the same State; we represent the same constituency. If there is to be treason or crime, I prefer it to be anywhere else than in my own household. If there is to be treason or crime, I prefer it to be anywhere else than in my own State; and if I find traitors in my own State, I feel it to be the peculiar and especial duty of every loyal and true man of the State of Kentucky to endeavor to purge that State from the presence of traitors.

It is more peculiarly the interest of Kentucky than it is the interest of any State in the Union or of the United States, that she should be properly and loyally represented in the Senate of the United States. The other States and the common Government of our country have a right to demand that of her. If she has elected a member of the Senate who was loyal at the time of his election, but who proves that he is disloyal afterwards, what course can the State of Kentucky, or any other State, take? All she can do is to instruct her representative to resign; and if he will not resign, all that she can do is to sustain the efforts of the House of which he is a member, to expel him from the body, and to purge and purify itself. My State has performed that duty. I am here as the true and loyal representative of my State to endeavor to bring about the consummation of this work, that the Senate shall be purified of a disloyal Senator from that State, and that the State shall be truly and properly represented in this body by the presence of some true man who will faithfully and loyally represent her principles. An honorable Senator on this floor some three or four weeks ago inquired incidentally of me if it was my desire or purpose that there should be any exemption of punishment to the traitors of the State of Kentucky. I answered promptly and at once that of all the traitors to receive punishment I preferred that those from my own State should first be punished; and that is my sentiment now, and ever will be.

My colleague in his preliminary remarks adverted to the concession which I made of his great personal popularity and his want of personal enemies. I did that in the best faith. He gives me a lesson that if I want to win like popularity, just to behave and to conduct myself as he does. My colleague must excuse me, if he pleases. As he said, we have long come into collision politically. I have known his public course, and I doubted not that it was conscientiously and honestly adopted by him; but, at the same time, I believed always that he was greatly in error; and never was he so much in error as he is in the present conjuncture of his life. If my colleague expects me to behave as he does, and to conduct myself as a citizen and as a Senator, as he has conducted himself since the commencement of this rebellion, or since the battle of Bull Run, he must be doomed to disappointment, for the Lord deliver me from such an example. [Laughter.] I cannot and I will not follow it.

My colleague adverts to the proceedings of two conventions that were held in the city of Louisville on the 8th of January of the last year, of one of which I was a member; and it was my fortune to be placed as chairman of the committee on resolutions. My colleague read a portion of those resolutions. If he had read them all, he would have found this to be true in relation to them all, and true in relation to the action of all Union conventions, and all Union assemblages of people in the State of Kentucky; and I defy my colleague, with all his interest in this question, and with all of his industry and astuteness in hunting up documents, to find an expression, either before the battle of Bull Run or since that battle, in which any Union convention or any Union meeting in the State of Kentucky ever expressed an opinion in favor of the disruption of these States. I ask my colleague to continue his researches, and to find me where any Union body in the State of Kentucky ever expressed their willingness to concede the independence of the confederate States.

My colleague says he is a Union man: John C. Breckinridge, Jeff Davis, and all the leaders and great lights of this rebellion proclaimed themselves to be good Union men ever. My colleague is a Union man, he says. Yes, like the arch conspirators, he is a Union man upon conditions, and those conditions are that the policy which he subscribes to and lays down shall be adopted by the Government; and unless those terms and conditions are acceded to, neither my colleague nor those acting with him in relation to these difficulties are Union men. And yet they are all loud and vociferous in proclaiming themselves upon all occasions to be Union men. My colleague seemed to take an exception, and to think it a little discourteous on my part that I should advert to the Breckinridge Democratic party in Kentucky in connection with this subject. Why, it is not at all strange, and I gave my reasons, and they were these: that there were about ninety-nine out of every hundred in the State of the Breckinridge Democratic party that were secessionists, and who gave their sympathies against their own Government, and to the government of the confederate States. Was not that a fact and a circumstance from which it might be inferred that my colleague gave his sympathies, and that he had a community of principles and policy with Mr. Breckinridge, the great leader and chief of that party not only in Kentucky but in the United States? I saw my colleague voting with Mr. Breckinridge on every occasion in Congress. I saw him acting in harmony and unison with his political position wherever they acted in the country. I saw my colleague following Mr. Breckinridge as the shadow follows the substance; and was it at all strange that I should consider that the shadow partook of the nature and of the form of the substance?

My colleague then goes on to speak of a Union meeting in the city of Louisville, and of resolutions that were passed by the central Union committee that was appointed for Louisville. Let me ask the attention of the Senate to this state of fact. Chronology is said to be the eye of history, and it is more true in relation to political history than to any other description of history. Opinions and essays may be published at one time and under one state of the case that would be innoxious and altogether unobjectionable, which, if published at another time and under another state of the case, would be in the highest degree culpable. I shall have occasion to illustrate that principle in a few minutes; but I had forgotten another point that my colleague made in his preliminary remarks.

He said that I had avowed myself as always being an unconditional Union man. It is true, sir. In October, before the presidential election, I denounced John C. Breckinridge in his own county and in his own city as a traitor, and I predicted with as much certainty and truth the issue of what would be his political and public life in the United States as it is now known. In the spring before the presidential election, there were public meetings in my own county, where I addressed my people, and all the principles of government and of constitutional construction which I have endeavored to uphold I there publicly promulged.

In February, after this convention of the Union party met at Louisville, I called a public mass meeting in my own county at the county seat, and I there offered a series of resolutions. I wish I had them here; but it would not be necessary because they are irrelevant to the issue. I there proclaimed that if Mr. Lincoln or Mr. Seward—who was then thought to be the arch demon, not of Republicanism or black Republicanism, but of abolitionism—was elected President of the United States, it would be the bounden duty of every citizen of the United States to acquiesce in the election; and that if mob violence and rebellion arose to defeat his inauguration, every loyal citizen ought to march to secure its being peacefully done, and old as I was I would shoulder my musket to engage in that war for the Constitution; and I would have done it. I will not say anything more in relation to my loyalty to the Constitution.

My colleague says that I am a lawyer and an advocate, and that he is too. He has proved that on the present occasion, because he has got off his own indictment, and is endeavoring to get up one against me, as dexterous advocates, you know, so frequently do.

But here is the point in chronology to which I wish to bring the attention of the Senate. Before the battle of Bull Run there were many men, who are as good and true Union men as any in the United States, who believed that an accommodation was possible, yea practicable. None of them looked to the sword as the ultimate and last arbiter in this unhappy national difficulty until after that battle took place; I ask the Senate what was the conduct of my colleague in this Senate Chamber after that battle was fought, after that last die had been thrown, and there was no resource and no hope of having this difficulty settled except by the arbitration of the sword? That is the question.

My colleague has not attempted to deny or evade the obligation which he took to support the Constitution of the United States when he was admitted as a Senator in this body. What is the substance and the pith of that oath? That he will support the Constitution of the United States which creates the Government; that he will stand by it; that he will be true and faithful to it. Does not that necessarily imply that, when it is attacked and assailed by domestic or foreign enemies, he will do everything he can do, both as a citizen and as a Senator of the United States, to uphold, protect, and defend that Constitution? My colleague endeavors to exculpate himself by certain positions assumed by the politicians of Kentucky before the August election of last year. He reads resolutions passed by each House of the Legislature of Kentucky, and he then reads a resolution or two passed by both Houses. What was that Legislature? What was its composition? If it does not offend the delicate nerves of my colleague, I will remark that both Houses of that Legislature had been elected a long time before, twelve or fifteen months previous, and both Houses consisted of a Breckinridge Democratic majority. He reads the resolutions and the propositions of a body of Breckinridge Democrats composing the Legislature of last year, and he seems to think himself acquitted upon the ground of those resolutions, and of their general effect. I will tell my colleague that every resolution which he has read, passed by either branch of the Legislature of Kentucky, by any Union convention of that State, by any Union meeting of that State, was passed before the battle of Bull Run; and I defy him, or I defy any man, to prove by record or any other evidence, that the Union party of the State of Kentucky ever assumed after the battle of Bull Run in any form the position even of neutrality. If my colleague had done nothing more, if all that is alleged against him had been done and said before the battle of Bull Run, and he had been true and faithful to the support of the Government and the Constitution as a man and a Senator since that disastrous battle, no man could ever have dreamed of arraigning him for disloyalty.

But, Mr. President, I ask you if the state of things was not altered by the battle of Bull Run? What then was the condition of the country and of the Government? There had been a rebellion without sufficient cause, in its magnitude unprecedented in the history of nations. This rebellion had put into the field about two hundred thousand armed men at that early day. A great battle had been fought within twenty-five miles of this city, upon which the stakes of empire in this Republic were put up. The stake that was put up in that battle of Bull Run was, shall fifteen slave States against the Constitution, in disruption of the Union, in subversion of the Government, be allowed forcibly and of their own wrong to tear themselves away from the Union and to establish a separate, alien, and hostile government? That is the question. I think my colleague from the way he has acted would not only be refused by the Almighty, but by any sensible individual to play vicegerent for him in his duty to support the Constitution of the United States. How could he support the Constitution of the United States after the battle of Bull Run? How could he support this Government and the integrity of this Union, after the battle of Bull Run? What acts could he do to redeem his oath? Now, Mr. President, I call upon the Senate to contemplate the effect and the meaning of the oath of that Senator. What could he do to support the Constitution, as a Senator? Was it not in peril? Was it not a doubtful question depending upon the issue of battle, whether that Constitution should continue or should fall? Had not that Constitution been assailed by the greatest enemy that it had ever encountered? Was there not a rebellion then in full force wielding a power that hardly any rebellion ever before had gathered together, for the purpose of overthrowing the Government and the Constitution?

What was the duty of my colleague in that crisis? The oath means something. Is there any Senator within the sound of my voice who will say that it was not the duty, and the bounden duty, and the meaning and effect and obligation of my colleague's oath, that he should sustain all the necessary measures that were called for, for the purpose of upholding and preserving and perpetuating the Government and the Constitution? Did he do it? No, Mr. President; when consternation seized upon this city, and upon most of the incumbents of the Government, and spread itself widely through the Union portion of this nation, when the Union heart of this great country was palsied, as it were, and struck down to the dust by the result of this great and disastrous battle, and was alarmed with apprehension that the rebels would prove victorious, and would establish their own independence by armed rebellion, if they did not overthrow the Government itself, when that was the consternation and the apprehension of this great nation, what did my colleague do? All the great and effective war measures that are now in operation, and that have given the Union and the Government the advantage in this war, were gotten up after that battle. A series of war measures was introduced into the Senate and into the House of Representatives; and what did my colleague do in relation to them? He voted against every one of them. Is that the support which a loyal citizen and faithful Senator, sworn to support the Constitution of the United States, should give to that Constitution and to his Government? That is the manner in which, that is the mete to which, my colleague has performed his duty. Every measure that was necessary to sustain the Government, to preserve the Constitution, and to put down the rebellion, he voted against.

Mr. President, I know that there are some Senators here at least, probably many, who sympathize with my colleague in this indictment, as he calls it. Now, I put it to each and all of them, as men and patriots, as Senators of the United States of America, sworn to support the Constitution, which is the fundamental law of our Government, if they could justify themselves to their conscience and to their God in voting as my colleague voted upon all these measures? I put the question yesterday and I put it to-day. My colleague had no more right to immunity from the performance of his constitutional duty in this great crisis than every member of the Senate had. Suppose every member of the Senate had voted as my colleague did, where now would be the Government? Sirs, I put it to you as constitutional lawyers; I put it to you as statesmen, patriots, members of the Senate, sentinels upon the watch-tower, charged with an important part of the power of this Government, without which it cannot be conducted—in the great crisis of this war, after the battle of Bull Run up to the present time—is there a man in the Senate who can justify himself to his country, his conscience, or his God, for voting uniformly against every measure calculated to raise supplies of men and of money to uphold the Government and the Constitution?

My colleague has made a very self-complacent and self-gracious speech. He always does. He has endeavored to carry the war into Africa in relation to the Union party of Kentucky. I will make this general remark on that point: if the Union party in the State of Kentucky, who were not members of the Senate, chose to be disloyal and false and faithless to their Government, and to abandon it in its struggle for its life, does it justify my colleague, as a member of the Senate, for acting the same part? That is the question. Now, I call upon my colleague to supply the evidence, if he can, that after the battle of Bull Run the Union party of Kentucky ever advocated neutrality in any form whatever. That was a great and a bloody fact. It brought to them the extent and the fullness of the war; it satisfied them that the rebels would never yield until they were made to yield by conquest in the bloody field; and from that time to this, the Union men of Kentucky have so spoken and they have so written; and the gentleman cannot find anything to the contrary. Suppose all the Senate had acted as my colleague has acted and voted in this Chamber since that disastrous battle, what would be the present condition of the United States; where would be the Government of the United States; where would be this body, the Senate? Where would have been my colleague? He would then have been received with open arms by secessia; but the rest of you would have been flying as exiles, or if you had been captured you would have been immured in dungeons or hung upon the gallows; hence the importance of paying due attention to that chronological fact. The only means accessible by the Government of the United States and by the American people, after the battle of Bull Run, to prevent the overthrow of their Government and the establishment of secessia as a hostile and an independent government, was to vote for men and money in large numbers and amounts. Did my colleague believe that moral suasion or any other suasion would bring back the confederate States after the battle of Bull Run? Is there any man so dull or so much of a dreamer as ever to have hugged that delusion to his heart? My colleague has too much intellect and ability not to know that it was a moral impossibility. He knew, he knew well, and the nation and the world knew, that the only agency by which the contest then was to be decided, and by which the seceding States could ever be brought back to the Union, was the sword; and he knew that that sword could not be effectively and potently wielded except in the hands of hundreds of thousands of troops, sustained by hundreds of millions of money. With all his knowledge of this great and extreme public exigence, when that was the only possible mode of saving the Constitution and saving the Government, whenever a proposition was introduced into the Senate Chamber to vote men or money, or to raise any means by loan or taxation or the issue of Treasury notes, or in any other form, to carry on this war effectively and successfully, my colleague voted against every such measure. I repeat the question I put yesterday: if Jeff Davis and the secessionists of the South in their confederate government could have prescribed the votes and the course of my colleague, would they have prescribed any different course or any other votes than those which he actually gave in opposition to these war measures?

My colleague stated that I had declared that, about the 10th of September last, he addressed the people in Owen county. I said no such thing. I never heard before that it was his purpose to address the people in Owen county; but I did hear at the time that, either directly before or immediately after the 10th of September convention, my colleague did address people in various counties—peace men, as they called themselves—in favor of all the principles that were promulged in the resolutions passed by that convention in September. I did not say that the barbacue in Owen county had taken place——

Mr. POWELL. If my colleague will allow me, I will state that I did not address a single meeting in any county in Kentucky except in my own county; for I was not at any meeting out of it, except at Frankfort.

Mr. DAVIS. I am obliged to my colleague for that disclaimer; I have no doubt it is true; but I was misinformed. My colleague admits that he did address the people in his own county. How did he address them? Did he address them as Union men, in favor of Union sentiments, preaching loyal doctrine for the citizen to perform his duties; or did he address them as the resolutions passed in Henderson in June, and the resolutions in Frankfort in September, read? My colleague says that, from the time Kentucky changed her position in relation to neutrality, he has correctly represented the State and the Union party there. The question was finally and fully decided by the people of the State of Kentucky at their August election of last year. A majority of about three fourths of both Houses of our Legislature were elected in opposition to Governor Magoffin's neutrality proclamation. My colleague will not controvert that position. The question was made upon that proclamation all over the State. The secessioners and Breckinridge men took the ground everywhere that they were for neutrality according to the Governor's proclamation. The Union party took the ground that they were against the Governor's proclamation, and all the neutrality they maintained was that the State of Kentucky should not send her men into the Union Army. The Union party expressly took the ground that Kentucky would not perform any act whatever in opposition to the Government; that she would not perform any act whatever inconsistent with her duty, and they only justified the Governor in his abstinence from sending troops, in response to the call of the President of the United States under his proclamation of April. That was the issue in the August election of 1861. How has my colleague voted since that time? In uniform opposition to the position of the Union party.

But, Mr. President, my colleague admits, as he could not deny, that he was present at the convention in Frankfort on the 10th of September, and he claims that in my indictment against him I did not include all the resolutions of the two meetings. I only included the resolutions which I deemed to be culpable and criminal; but in my speech yesterday I read all the resolutions of both meetings, so as to give my colleague the full benefit of them before the Senate. Now let us examine for a moment the part which my colleague acted in that famous peace convention at Frankfort, on the 10th of September. The Union members of the House of Representatives from Kentucky, one of whom, I perceive, is present, [Mr. DUNLAP,] know the character of those meetings. They held out the siren, the delusive cry of peace; but they meant nothing else than coercing Kentucky into the southern confederation. The secession party in Kentucky never had any other object nor any other purpose than that. They never departed from that purpose for a moment. Some ten days before that convention took place, the secession papers in Memphis proclaimed that Kentucky need not delude herself into the belief that she was not to form a part of the southern confederation; that her territory was necessary for that confederation, and that they would have Kentucky at the cost of blood and conquest. My colleague will not say that he did not read that proclamation of the secession papers, because it was published widely over the whole State of Kentucky, and in every Union paper in the State.

On the 9th of September the confederate armies invaded Kentucky at two points. General Prentiss immediately dispatched to the Legislature from Columbus, informing them of the fact. The fact was known in Kentucky on the 9th, a few hours after it took place, and the day before this convention met and performed its business. My colleague was in Frankfort, I believe, on the 9th —he certainly was on the 10th. On the 9th or the 10th it was known to everybody in Frankfort who read a daily newspaper, that the confederates had invaded Kentucky at two points to carry out their avowed doctrine of subjugating the whole South by blood and by conquest, to their own confederate government. On that day a resolution was introduced into the Legislature, requiring the confederate government to abandon Kentucky, and to withdraw their forces from the State, declaring that the State expected them to do it, and would insist that it should be done.

That was the state of things when my colleague appeared as a representative from his county of Henderson in this convention on the 10th of September, after these great events had happened, and after they were known in Frankfort. What resolutions did he vote for there, not only after the battle of Bull Run, but after the State of Kentucky had been invaded by Polk and by Pillow, and also by Zollicoffer from Eastern Tennessee? I read all those resolutions yesterday; and I will presently read those of them which I think bear on the point of his culpability. Before doing so, however, I will notice a point which was made by my colleague.

He adverted to a principle which I announced when the case of the Senator from Oregon [Mr. STARK] was up, and to which I still adhere, that a mere abstract opinion which is not carried out into action is not a sufficient cause for the expulsion of a Senator. Does that apply to the case of my colleague? After the battle of Bull Run, and when all these great and unprecedented war measures were introduced into the Senate, does my colleague say that he professed only an abstract opinion when he refused to vote for them? So far as his vote went, the conquering rebels would only have had to march on to this city for the purpose of taking possession of the capital and the archives of the Government, sacking the city, and then executing their boast of going on to Philadelphia, and eventually to Boston. That was their plan of campaign. Those were the objects which they had declared they would achieve. If every man in the Senate had acted as my colleague acted, and had voted against the raising of any men, any money, any means for the purpose of carrying on this war, would not that proud and insolent enemy, the rebels of the South, have long since executed their boast? Does my colleague call that an abstract opinion? He was a Senator of the United States, sworn to uphold the Constitution. His duty to his country, to God, and to man, was to sustain the Government in this issue of battle whether it should fall or survive. Was it not his duty to vote the means essential and indispensable for its protection and preservation? My colleague failed in that duty by voting against the entire series of war measures, eight or ten or twelve in number. He calls all those votes and all his acts of voting in the negative, abstract opinions. Why, sir, they would exceed any Virginia abstractions "all hollow!" They are just such abstractions as Jeff Davis and his followers in the State of Virginia would have desired not only my colleague, but the Senate of the United States to adhere to and to act upon.

My colleague said that since Kentucky took her present position, he has voted in conformity to the sentiment of Kentucky. I have here, in the laws of that State, a resolution passed at the session before the present one of the Legislature, pledging the State to raise her proportion of the tax which Congress has assessed to carry on this war. Has my colleague voted in conformity to that resolution of the State of Kentucky? The matter came up in a proposition in the form of a joint resolution by both Houses, which I read yesterday, and out of forty votes in this body, my colleague's was the only solitary vote that was cast against it. Every Union man in the Legislature of my State had voted for it, and thus indorsed it, and thus commanded it, as it were, to be obeyed by my colleague. This was the act of his constituency and mine; but he exercises the responsibility of voting against that necessary measure; and he still proclaims that he is a good and loyal Union man. May the Lord deliver this Union from such loyalty and from such friends!

But I will proceed to read the "indictment" which I drew up. I never disguised the fact that I drew it up. I got my friend from Minnesota to present it, not upon my own judgment, not upon my own sense of propriety, but upon the suggestion of one or two friends. I thought then, and still think, that I was the right and proper man to present an indictment against my colleague upon a charge of misrepresenting his constituency to the extent of disloyalty and treasonable intentions against his own Government. I will read a portion of it, at least:

Whereas LAZARUS W. POWELL, a Senator from the State of Kentucky, after eleven States had published their ordinances of secession, by which to sever themselves from the Government of the United States, had formed a confederation and provisional government, and made war upon the United States, did, on the 20th day of June last, at the city of Henderson, in the State of Kentucky, attend a large southern State rights convention, over which he was called to and did preside, and on taking his seat as president thereof, made a speech in which he stated the object of said convention, and then appointed a committee which reported to said convention a long series of resolutions that were unanimously adopted by it. Among those resolutions are the following:

"2. That the war now being waged by the Federal Administration against the southern States is in violation of the Constitution and laws"—

Is it a violation of the Constitution of the United States for the Government to attempt to put down armed rebellion? That is the war. This is a war of armed rebellion. It was commenced by traitors, and my colleague sanctioned, in June last, a resolution declaring that an attempt upon the part of the Government of the United States to put down rebels and traitors, with arms in their hands, was a violation of the Constitution of the United States. Can a man, entertaing that opinion and acting upon it in all his votes, be a proper and loyal representative of a State that is loyal herself in the Senate of the United States? That is the question. Men may say yes, they may answer the question in the affirmative; but I can comprehend no reason of the head, no sentiment of the heart, no duty of a man as a Senator or as a citizen, that could sanction such a conclusion.

"2. That the war being now waged by the Federal Administration against the southern States, is in violation of the Constitution and laws, and has already been attended with such stupendous usurpations as to amaze the world, and endanger every safeguard of constitutional liberty.

"That the recall of the invading armies and the recognition of the separate independence of the confederate States, is the true policy to restore peace and preserve the relations of fraternal love and amity between the States."

There is the measure of my colleague's loyalty to the United States Government. There is the sum and substance of his unionism. He says that he is a unionist, and a unionist upon the Kentucky platform. Sir, I defy him, I defy the world, to bring forth the proceedings of any Union convention or any Union meeting in the State of Kentucky that ever avowed the sentiments of this resolution. When he says that the duty of the Government of the United States, and his duty as a Senator of the United States, is to vote to withdraw the armies of the United States from the seceded States, and to acknowledge the independence of those seceded States, what sort of unionism and of loyalty to the Government is that? Is not that treason? It may not be according to the constitutional definition; but if it is not treason in purpose, if it is not treason in intention, if it would not be treason in its results, I do not know what else under God's heaven it could have indicated.

That was what I said you were in default in, when you taught the youths of your section of the State such treasonable sentiments as these: that they were not to obey the Constitution of the United States; that the United States Government had no power to enforce its laws against the seceding States in arms. Your policy for which you have always voted, to which you gave your sympathy, and every vote and act that you ever performed in the Senate or out of the Senate, was to uphold the two positions embraced in this resolution, namely: that the Government of the United States must withdraw their armies from the seceding States, and acknowledge the independence of those States. If that is not disunion, if that is not disloyalty in high place, if that is not a violation of a Senator's oath to support the Constitution of the United States, I have lost my reason:

"6. That we hereby approve the refusal of Governor Magoffin to furnish Kentucky troops to subjugate the South; and we cordially indorse his recent proclamation defining the position of Kentucky in accordance with the sentiment of her people, and forbidding the invasion of Kentucky by Federal or confederate troops."

What is that but counseling the people of Kentucky to rebellion and resistance against constitutional authority? What is that but teaching them treason? What is that but the grossest and most flagitious violation of duty that a Senator could be guilty of, short of the overt act of treason? Do you not here aid and counsel and abet treason? Do you not encourage it? Do you not call upon the people of Kentucky to make themselves traitors by expelling the armies and military power of the United States, that the proper authorities might choose to muster or to raise in that State? And still my colleague says he is a Union man! I will read on:

"7. That, although Kentucky has determined that her proper position at present is that of strict neutrality between the belligerent sections, yet, if either of them invade her

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. TUESDAY, MARCH 18, 1862. NEW SERIES.....No. 78.

soil against her will, she ought to resent and repel it by necessary force."

How could she get the force together except by organizing it in rebellion? You, sir, an American Senator, sworn to support the Constitution, counseled the people of your State to repel by force of arms a constitutional marching of troops into that State by the proper authorities of the Government; and yet you have the hardihood to stand here and proclaim yourself a Union man and loyal to the Union! I shall go on now to the September resolutions, and make a few remarks upon them. I quote from what is called the indictment:

On the 10th of September last, while the Legislature of Kentucky was in session in the town of Frankfort, and after her territory had been invaded at two distant points by the confederate armies, and while Humphrey Marshall was employed in organizing and drilling an armed body of rebels in the contiguous county of Owen, a large southern State rights convention assembled and held its sessions in Frankfort, for the apparent purpose of overawing the Legislature, controlling its deliberations, and deterring it from passing measures to support the Union and the Government of the United States. LAZARUS W. POWELL was a delegate to that convention from the county of Henderson, and was appointed on its committee of resolutions. Among other resolutions, that committee reported these:

I ask the serious attention of such portion of the Senate as is present to these resolutions:

"*Resolved*, That every material interest of Kentucky, as well as the highest dictates of patriotism, demand that peace should be maintained within her borders, and this convention solemnly pledges the honor of its members to do all in their power to promote this end."

Peace! Peace! Yes, that is the word they harped upon. And how did they propose to preserve the peace in that State? Let us see:

"2. That it is the deliberate sense of this convention and, it is believed, of an overwhelming majority of the people of Kentucky, that the best and perhaps the only mode of effecting this great object is by adhering strictly, rigidly, and impartially to her chosen and oft-declared position of neutrality during the existence of the deplorable war now raging between the sections, taking sides neither with the Government nor with the seceding States, and declaring her soil must be preserved inviolate from the armed occupation of either."

Look at it, Mr. President. After the battle of Bull Run had been fought, after the confederates had augmented their forces to four or five hundred thousand men; after the State of Kentucky, or the Union portion of it, had ceased to say one word in support of neutrality, the gentleman comes here as a Senator from that State and votes against every war measure; and when he admits that there is about to be a raid upon the capital of his own State by armed rebels, he goes into a convention, and again votes for a resolution reiterating the sentiment, that if the Government of the United States occupies the State of Kentucky with armed forces, the people of the State must repel them by force!

This is a point over which I think the gentleman cannot pass. Members of the Senate may vote to retain him here. If they do, I have no right to question the propriety and rectitude of their motives, and I do not presume to do it; but I ask the attention of those Senators who are inclined to take that course, to this point. All the pledges which my colleague read as having been given by the Union party in Kentucky to neutrality, were of the date of June, 1861, or anterior to that date. On the 20th of July the battle of Bull Run was fought. A change in the sentiments of thousands and hundreds of thousands of men upon the subject of this rebellion then came among the people of the United States. The just and true and impartial men who had no leaning to the southern confederacy, became satisfied that all accommodation, except by subjugating the military power of the confederate States was at an end. That was the only hope. That was the *dernier resort* by which this difficulty could be solved. There was no other mode in which it could be done, except by recognizing the independence of the confederate States. From that time the Union party of the State of Kentucky never uttered one word or one syllable in favor of neutrality. If they had, my colleague would have found that utterance in the newspapers or somewhere else, and he would have produced it for his exculpation here. His failure to produce such a record is persuasive and satisfactory evidence that it does not exist.

Then, after the battle of Bull Run, when every Union man in the country who had stood aloof and been neutral, took sides in favor of the Government, and when the entire Union party of the State of Kentucky took sides against neutrality, in favor of the unconditional support of their own Government and for putting down rebellion against it by force of arms, my colleague, as I before stated, came here and gave his votes against the necessary means to carry on the war and to save the Constitution and the Government. The extra session of Congress expired, and my colleague went home; and he united himself with the throng, with the host of traitors in that State, John C. Breckinridge at their head, who called this convention on the 10th of September, in the town of Frankfort, while the Legislature was in session, with a view to overawe that body and to prevent it from passing resolutions by which it intended to bring the State into line in the loyal support of their Government. The Legislature did pass such resolutions, and I have them here; but it was to prevent the passage of those resolutions that my colleague and his hosts of secessionists and of traitors got together in convention in Frankfort, on the 10th of September. After the disastrous battle of Bull Run, after his failure to perform any of his duties here as a Senator, after the issue was upon that battle alone whether the Government should perish or survive, he goes into that conclave of traitors and is a member of a committee who reports this resolution:

"2. That it is the deliberate sense of this convention, and it is believed of an overwhelming majority of the people of Kentucky, that the best and perhaps the only mode of effecting this great object, is by adhering strictly, rigidly, and impartially to her chosen and oft-declared position of neutrality during the existence of the deplorable war now raging between the sections, taking sides neither with the Government nor the seceding States, and declaring her soil must be preserved inviolate from the armed occupation of either."

Now, I ask the Senate what pledge is contained in these words used by my colleague on the 10th of September last, that if the United States Government dares to perform its constitutional right and duty, in the then condition of the country, of marching a body of its soldiery into the State of Kentucky, he will rise with force and drive them from our country? Is not that a declaration that he will become a rebel? He here counsels the people of that State that it is their duty to take that course. Many of them, in conformity and obedience to that counsel, did take that course, and the clash of arms took place in a few weeks among the people of Kentucky themselves. My position in my speech was that my colleague, by taking that position as late as September, and giving that counsel, had made himself and his co-workers in this mischief responsible for its consequences—and he is responsible for its consequences—before God and man, to the extent of his power and efficiency in the counsels and decisions of that body of traitors. There is no escape for him. On the 10th of September last he proclaimed that it is the duty of the people of Kentucky to repel the armies of the United States from that State by force. As I said yesterday, the Government had organized four regiments of armed men, natives of Tennessee and of Kentucky, for the protection of the State at that time. They had been at camp Dick Robinson since July previous. It was for the purpose of getting the Legislature to unite in a conjoint action with the secessionists to expel that body of men from Kentucky that this convention was gotten up. My colleagues in the House of Representatives know it; my colleague now under trial knows it. Is that loyal conduct on the part of a Senator? Is that the performance of his duty to his Government? Is that the keeping of his oath, of his obligation? Is that the way he supports the Constitution of the United States? Can you, Senators, who intend to vote for him; can you, according to your judgment and your conscience, justify yourselves to your country in voting to sustain in his seat a member of the Senate who acts that treasonable part? It may not be technically an overt act of treason; but it counseled to overt acts of treason; it resulted in multiform overt acts of treason; it resulted in a bloody, desolating civil war in Kentucky, which I said yesterday, and I now say, my colleague is in part responsible for. These were the natural consequences and fruits of his acts and the acts of his co-workers. It is upon these that he is arraigned by me, representing the sovereignty of the State of Kentucky and the Legislature of that State. It is a high duty that I feel myself bound to perform, and that I will perform to the best of the feeble ability I have. Put the case to yourselves, gentlemen Senators, who represent other States. Suppose one of your co-Senators had acted just such a part as my colleague acted in Kentucky in relation to your State and the General Government; suppose he had met in conclave with traitors and secessionists; he had told the people of his State that it was their right and their duty, by force of arms, to prevent the United States Government from marching any troops into the State, and that if the United States Government should presume to march troops into the State, he and his associates would rise in armed rebellion, and by force of arms would expel them from its borders. Could a Senator be more flagrantly delinquent in the performance of his duty? Could he give more plain or palpable evidence of treasonable purposes?

But I will finish reading this indictment. My colleague said that he was indicted for opinions. I say that these resolutions are not abstract opinions; his votes here are not abstract opinions. He is not arraigned and indicted for abstract opinions. He is arraigned and indicted for official malversation. He is arraigned and indicted for the act of meeting in a treasonable convention in the State of Kentucky, and there recommending treason to the people of that State. He is indicted upon his own declaration with that of his coworkers, that it was their purpose to repel by force of arms any forces of the Government of the United States if they came within the borders of the State of Kentucky. These are not abstract opinions:

"9. That we consider it incompatible with the neutrality avowed by Kentucky to vote money for the prosecution of the civil war, or to tax the people of the States, or augment its debt for a purpose so unwise, and for a cause so hopeless, as the military subjugation of the confederate States."

I think my colleague has changed his opinion on one point at least. I suppose he does not think the prospect of subjugating the confederate States quite so hopeless to-day as he did then. I imagine that change has come o'er the spirit of his dream at any rate. The indictment, as my colleague calls it, then goes on:

This was a convention of most intense secessionists, and was attended by John C. Breckinridge, and many of the leaders of that party from generally over the State.

That is another reason why I coupled John C. Breckinridge with these movements in Kentucky; he was the head devil of all of them, and the others were only smaller devils following in the same work of wickedness:

"William Preston and R. W. Wooley, Esqs., made speeches to it fraught with the rankest treason, and denouncing the fiercest war against the United States. Its resolutions were unanimously adopted, and its business closed with the following one offered by Senator POWELL:"

I will read that resolution, which my colleague says is only the ordinary and customary resolution passed on all such occasions:

"*Resolved*, That Colonel William Preston, George W. Johnson, Esq., General Lucius Desha, Richard Hawes, and Thomas P. Porter, Esqs., be, and they are hereby, appointed a committee of organization"—

for what?—

"in order to carry out the purposes of this convention; and full powers are conferred on them for that object."

The broadest discretion is given; full powers are conferred by this convention upon this committee organized upon the motion of my colleague and upon his written resolution, to carry out the purposes of the convention. One of the purposes of that convention, plainly and deliberately expressed, was to make war upon the United States

Government by expelling its troops that were then within the State by force of arms on the part of the rebels. The indictment goes on to say:

Those men were thus commissioned in the cause of conspiracy, treason, and rebellion. By the warrant given them, on the motion of Senator POWELL, they went forth and organized, or advised and assisted in the organization of armed bands of traitors, and soon thereafter led them into the confederate camps, where they are yet struggling to consummate the disruption of the Union and the overthrow of the Constitution and laws of the United States. From the beginning of this great rebellion to the present time, Senator POWELL has neither done or said anything in Congress or out of Congress to strengthen or sustain the United States in the mighty struggle for national life. While the true and loyal men of his own State were engaged in an arduous and protracted struggle to bring her to perform her duty to the nation and its Government, he not only withheld from them all assistance and sympathy, but gave to the rebels the moral force of his disloyal position and opinions, and all the aid and comfort which he could render them short of the commission of technical treason. His purposes, if not his acts, have been treasonable. Being an ex-Governor of the State of Kentucky, and one of her Senators in Congress, his example and counsel have doubtless been potential with her people, and of mischievous tendency in other States. Under the false and delusive cry of neutrality and peace, and the absurd purpose to protect the soil of the State against invasion from the military force of the United States, he has doubtless assisted to seduce hundreds and hundreds from loyalty and duty into rebellion and treason. He has not supported the Constitution of the United States, but he has sounded the charge to his recruits, and they have made the overt attack upon it.

Now, I ask the Senate, in serious judgment, whether every conclusion of the indictment is not supported by the facts upon which it is based. It seems to me that this case has five time the force, five times the evidence of guilt, that was established against Senator Bright. My colleague says that he might arraign me. Well, sir, whenever he can show such a record against me as I have exhibited against him, I shall expect him to indict me. No; he shall not have the satisfaction of indicting me. I would have too much sense of good faith to my own constituency; I would have too much sense of self-respect ever to retain a position where I was grossly and flagitiously misrepresenting the wishes and the opinions of my constituency. When the time ever comes that the separation between their opinions and their notions of duty and mine is so wide as is the difference that now exists between their views and those of my colleague, I shall have too much self-respect to hold my position longer.

If, Mr. President, any dereliction of principle or duty on the part of a Senator short of a palpable and overt act of treason, can disqualify him for holding a place as a member upon this floor, that case, I maintain, is clearly and conclusively, by undisputed and indisputable facts, made out against my colleague. If it requires proof of the technical act of treason, my colleague may be spared; and the gentlemen who believe in that mischievous and most absurd principle, may vote that he shall be spared; but as to myself, according to my reason and my judgment, I cannot conceive of any other principle or consideration upon which my colleague shall be made to pay the penalty of his disloyalty to the Government than by being expelled from his seat upon this floor.

Mr. WILKINSON. I have no remarks to make upon this resolution; I suppose it is best that the vote shall be taken to-night; but having introduced the resolution, I desire simply to say that I have but very little interest in it. When it was presented to me, I looked it over and came to the conclusion that no loyal man could participate in and preside over and indorse the meeting which adopted resolutions such as the one I shall read. As late as the 20th day of June, after this war had been begun, after Fort Sumter had been attacked, and after the rebels who sought to destroy the Government, had an army of one hundred thousand men and more than that in the field, the Senator from Kentucky participated in a meeting which adopted this resolution:

"That although Kentucky has determined that her proper position at present is that of strict neutrality between the belligerent sections, yet, if either of them invade her soil against her will, she ought to resent and repel it by necessary force."

Here is the simple, emphatic declaration of a convention over which the Senator from Kentucky presided, that it was the imperative duty of that State to raise an army and expel the forces of the United States by force of arms. It is not denied that he presided over this convention. Is not that disloyalty? If the Senator from Kentucky had assumed to raise a regiment in pursuance of this resolution, and had led it against the forces of the United States upon Kentucky soil, would it not have been actual treason? Could he not have been indicted under the Constitution and convicted of treason, if he, as a citizen of Kentucky, had performed the act which he by this resolution declared that it was the imperative duty of her citizens to perform?

This is not all. After the adjournment of the extra session of Congress, which met on the 4th day of July, after having acted here in this Chamber as a member of the Senate of the United States, and after the battle of Bull Run, he goes home and attends a meeting which, although it does not express it in quite so strong terms, expresses over again precisely the same idea, that of the State of Kentucky arraying herself against the forces of the United States if they come upon her soil. I believe that at that very time Minnesota had troops on the soil of Kentucky. I know that the bones of some of them lie there to-day. How then can I, how can anybody, advocate the retention of a Senator who urged his own people to resist our forces when they were upon the soil of his State defending the Constitution of the country?

But, sir, I did not intend to argue the question; I rose simply to say that the discussion to-day has taken a very curious turn. I listened very carefully to the Senator against whom this resolution is directed, and to what he said about the position that all the people of the State of Kentucky took. He showed that those who are now Union men, as well as those who are with the rebel army, advocated the same doctrine of neutrality. I was a little astonished at that; and I must say that it somewhat changed my feelings in this matter. It seems that pretty much the whole people of Kentucky at one time advocated this doctrine of neutrality. I suppose it was done by those who were truly Union men for the purpose of exercising a control over the public mind, and preventing that State from going out, as most of the other slaveholding States had done. In this state of the case, I must say that I have but very little feeling about this resolution. It is possible that the Senator from Kentucky [Mr. POWELL] may have been actuated, as some others in that State who are now for the Union were actuated; but it does not seem so to me. I shall vote for the resolution. At the same time, I regard the question in such a light that I shall have no feeling one way or the other as to the vote which Senators may give.

Mr. TRUMBULL. I consider it due to the committee whose organ I was in reporting adversely to the passage of this resolution, simply to state, not by way of argument, or of provoking reply, the ground upon which the committee reported adversely to the passage of this resolution. It was not because the committee approved of the doctrine of neutrality in Kentucky. In my judgment that was a most mischievous position, and one wholly untenable, either in April, or June, or September; but it is known that the people of Kentucky very generally assumed that ground, and the Government of the United States, if they did not recognize the neutrality of Kentucky, we may at least say paid some respect to it. The resolutions that were adopted, in which they declared that the United States had no right to pass its troops over the soil of Kentucky, were, in my judgment, preposterous. It was downright opposition to the constituted authorities of the Government; wholly unjustifiable. I have no excuse for it. I think it is without excuse. But, sir, such was the position of the great body of the people of that State; and many persons now believe that it was owing to this position of neutrality which was then assumed, that Kentucky has at last arrayed herself on the side of the Union. I do not think so; but good Union men doubtless did take that position.

Well, sir, the time came when, notwithstanding Kentucky had assumed this false attitude, it was necessary that her people should take sides either with the Government, or against those arrayed for its protection. Some men who got upon this neutrality platform left it sooner than others; some in June, if you please; some earlier; some stood on it till September; but when the time came that Kentuckians had to meet this thing face to face, go with their Government or against it, fight for one or the other, then, sir, the traitors arrayed themselves, and undertook to get up a provisional government in the State of Kentucky. Breckinridge and the traitors alluded to by the Senator on my right, [Mr. DAVIS,] went into that organization; they joined the rebels; the Senator from Kentucky, whose case is under consideration, came here—came to the Government of the United States to discharge his duties here. He does not agree with me in sentiment; his opinions are not my opinions; I do not agree with the views that he has so often announced here; but he is entitled to his own opinions; and no man is to be expelled from this body because he disagrees with others in opinion. Since Kentucky assumed this position and took sides with the Union, nothing has been shown to satisfy the committee, at least, that the Senator from Kentucky has had any communication or done anything to favor the cause of the rebellion. I think neutrality did favor it; but, sir, that is now over.

Mr. DAVIS. Will the honorable Senator permit me to ask him a single question?

Mr. TRUMBULL. I am not going to make any extended remarks.

Mr. DAVIS. So I understand; but I wish to ask this single question: did or did not the late Senator from Indiana come here to perform his duty, too?

Mr. TRUMBULL. I do not propose to argue the case of the Senator from Indiana. The Senator from Indiana was guilty of an overt act. He corresponded with the traitors. He addressed them as a government. He recommended to them a man with arms. However, I do not wish to argue that; but that is not this case.

These, sir, were the considerations that governed me, and I believe the committee, in reporting adversely to the resolution.

Mr. TEN EYCK. The remarks of the chairman of the committee render it necessary for me to say one word. If there had been no observation from the committee at all, I should not have made a single one myself; but as I am to vote upon this question, I must beg of the Senate the liberty for one moment to make this statement. It might appear that the vote I shall give shows a different view from the one I entertained when the report was made by the chairman, and it is to avoid that appearance of vacillation that I desire to say one word.

I did not agree with the committee. I cannot myself understand how it is that a Senator of the United States—one who had taken an oath to support the Constitution of the United States—should counsel and advise his fellow-citizens, on the 10th of September last, to resist the power of the United States in attempting to crush out treason and rebellion. This was long after the battle of Bull Run. It was after the whole North were in arms. It was after rebels were upon the soil of Kentucky by the connivance of her Governor. It was when the Federal troops were marching upon Kentucky for the purpose of rescuing the State from the ruin of rebellion—then it was that a Senator, who had taken an oath to support the Constitution, advised his fellow-citizens to resist the power of the United States by force of arms. All theories had gone by then. We had the solemn, stern, bloody fact of the existence of civil war; and even then we find a Senator counseling his people to resist the Government in crushing out that rebellion. Sir, I shall vote for the resolution.

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

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

Mr. HOWARD. I wish that the resolution might be read.

The Secretary read it, as follows:

Be it resolved, That the said LAZARUS W. POWELL be, and he is hereby, expelled from the Senate.

The question being taken by yeas and nays, resulted—yeas 11, nays 28; as follows:

YEAS—Messrs. Davis, Dixon, Harlan, Howard, Howe, Lane of Indiana, Pomeroy, Sumner, Ten Eyck, Wade, and Wilkinson—11.

NAYS—Messrs. Anthony, Browning, Carlile, Clark, Cowan, Doolittle, Fessenden, Foot, Foster, Hale, Harris, Henderson, Kennedy, King, Lane of Kansas, Latham, McDougall, Nesmith, Pearce, Rice, Saulsbury, Stark, Thomson, Trumbull, Willey, Wilson of Massachusetts, Wilson of Missouri, and Wright—28.

So the resolution was not agreed to.

SUTLERS FOR THE VOLUNTEER FORCES.

Mr. WILSON, of Massachusetts, from the committee of conference on the disagreeing votes of

the two Houses on the bill (S. No. 136) to provide for the appointment of sutlers in the volunteer service, and to define their duties, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (S. No. 136) "to provide for the appointment of sutlers in the volunteer service, and to define their duties," having met, after a full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the Senate recede from its disagreement to the first, fourth, fifth, sixth, and seventh amendments of the House, and agree to the same.

That the Senate recede from its disagreement to the second amendment of the House, and agree to the same with an amendment, as follows: In line twelve of said amendment, after the word "be," insert as follows:

Provided, That if any paymaster in the service of the United States shall allow or pay any greater sum to any sutler than that hereby authorized to be retained from the pay of the officers, non-commissioned officers, musicians, or privates for articles sold by any sutler during any one month, then the amount so allowed or paid by the paymaster shall be charged against the said paymaster, and deducted from his pay and returned to the officer, non-commissioned officer, musician, or private against whom the amount was originally charged. And any captain or lieutenant commanding a company who may certify any pay roll, bearing a charge in favor of the sutler against any officer, non-commissioned officer, musician, or private larger or greater than one sixth of the monthly pay of such officer, non-commissioned officer, musician, or private, shall be punished at the discretion of a court-martial.

That the Senate recede from its disagreement to the third amendment of the House, and agree to the same with an amendment as follows: In line third of said amendment, strike out the word "quarter," and insert in lieu thereof the word "sixth."

That the Senate recede from its disagreement to the eighth amendment of the House, and agree to the same with an amendment as follows: At the end of the said amendment add as follows:

And be ineligible to a reappointment as sutler in the service of the United States.

HENRY WILSON,
J. M. HOWARD,
J. A. WRIGHT,
Managers on the part of the Senate.

FRANK P. BLAIR,
EDWARD McPHERSON,
W. A. RICHARDSON,
Managers on the part of the House.

The report was concurred in.

HOUSE BILL REFERRED.

The joint resolution from the House of Representatives (No. 52) tendering the thanks of Congress to Brigadier General Curtis and the officers and men under his command, was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

ASSISTANT TREASURER AT BOSTON.

The bill (H. R. No. 353) to provide for the appointment of clerks in the office of the Assistant Treasurer at Boston, to fix their salaries, and provide for the absence of the Assistant Treasurer, and for other purposes, was read twice by its title.

Mr. FESSENDEN. I should like to have that bill passed. It merely provides for the reorganization of the office, and makes no additional appropriations.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Assistant Treasurer at Boston, from and after the 1st of July, 1862, in lieu of the clerks heretofore authorized and provided, to appoint, with the approbation of the Secretary of the Treasury, one chief clerk, at a salary of $1,500 per annum; one disbursing clerk, at a salary of $1,500 per annum; and one other clerk, at a salary of $1,200 per annum; and one messenger, at a salary of $700 per annum; and it appropriates a sum sufficient to pay the compensation of such clerks for the current and next fiscal year. In case of the sickness or unavoidable absence of the Assistant Treasurer, he may, in his discretion, authorize the chief clerk to act in his place, and to discharge all the duties required by law of the Assistant Treasurer.

The bill was reported to the Senate without amendment.

Mr. FESSENDEN. I stated to the Senate that the bill made no appropriation. I find that it does. Let it lie over until Monday morning, and I will look into it.

The VICE PRESIDENT. Does the Senator move to refer it to a committee?

Mr. FESSENDEN. No, sir; let it lie over for the present.

Mr. WILSON, of Massachusetts. I understand that it saves $1,200 from the expenses as they now exist.

Mr. FESSENDEN. We made an appropriation in the appropriation bill for these clerks in the Assistant Treasurer's office in Boston, and this bill makes an appropriation also.

Mr. WILSON, of Massachusetts. I cannot say now how that is; but I learn that it will save $200 in the expenses of the office.

Mr. FESSENDEN. There is really no objection to the bill, except that it makes an appropriation which I thought it did not. Let it lie over until Monday morning.

The VICE PRESIDENT. It cannot be read a third time to-day if objected to by any Senator, and it will lie over.

EXECUTIVE SESSION.

Mr. WILSON, of Massachusetts. I move that the Senate proceed to the consideration of executive business I will say before the motion is put, that it is for a single object that is pressed upon us as of great importance to the public service.

The motion was agreed to; and the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *March* 14, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

The SPEAKER stated that the regular order of business was the call of committees for reports of a private character.

Mr. ELIOT. I ask the unanimous consent of the House that the bills and resolutions upon the Speaker's table be taken up, and referred to the appropriate committees.

There being no objection, the following bills and joint resolutions were taken up and disposed of as indicated below.

COTTON LANDS.

A bill (S. No. 201) to provide for the occupation and cultivation of the cotton and other lands in possession of the United States, lying along the southern coast of the United States, was read a first and second time, and referred to the Committee on Agriculture.

PAY AND EMOLUMENTS OF ARMY OFFICERS.

A bill (S. No. 175) to define the pay and emoluments of certain officers of the Army, and for other purposes, was read a first and second time, and referred to the Committee on Military Affairs.

EXPENSES OF PUBLIC LANDS.

A bill (S. No. 187) to reduce the expenses of the survey and sale of the public lands in the United States, was read a first and second time, and referred to the Committee on Public Lands.

THANKS TO CAPTAIN FOOTE.

Joint resolution (S. No. 64) expressive of the thanks of Congress to Captain A. H. Foote, of the United States Navy, and to the officers and men under his command in the western flotilla, was read a first and second time by its title.

Mr. SEDGWICK. I ask the unanimous consent of the House to put that resolution upon its passage.

The joint resolution was read, and is as follows:

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the thanks of Congress and of the American people are due, and are hereby tendered, to Captain A. H. Foote, of the United States Navy, and to the officers and men of the western flotilla under his command, for the great gallantry exhibited by them in the attacks upon Forts Henry and Donelson, for their efficiency in opening the Tennessee, Cumberland, and Mississippi rivers to the pursuits of lawful commerce, and for their unwavering devotion to the cause of the country in the midst of the greatest difficulties and dangers.

SEC. 2. *And be it further resolved*, That the President of the United States be requested to cause this resolution to be communicated to Captain Foote, and through him to the officers and men under his command.

Mr. SEDGWICK. Mr. Speaker, the reason why I desire the passage of this joint resolution is this: at half past eleven o'clock last night Commodore Foote telegraphed that he would, this morning, move his boats to the attack on Island No. 10 and New Madrid. He expresses some confidence as to his being able to succeed; but he does not underrate the dangers which attend that expedition. It is possible that it may fail; I hope it may succeed. But probably, at this very hour, while this resolution is under consideration, his boats are thundering on the fortifications on Island No. 10. If he should fall, his heirs will treasure up with grateful memory the thanks voted to him in Congress to-day. I hope that the resolution will pass unanimously.

The joint resolution was read the third time, and passed unanimously.

VOTE OF THANKS TO LIEUTENANT WORDEN.

Joint resolution (S. No. 66) expressive of the thanks of Congress to Lieutenant J. L. Worden, of the United States Navy, and the officers and men under his command in the Monitor. Referred to the Committee on Naval Affairs.

EDWIN W. JONES.

Mr. WOOD, by unanimous consent, reported from the Committee on Invalid Pensions, a bill for the relief of Edwin W. Jones; which was read a first and second time, referred to a Committee of the Whole House on the Private Calendar, and ordered to be printed.

PACIFIC RAILROAD AND TELEGRAPH.

Mr. CAMPBELL, by unanimous consent, reported back from the special committee on the Pacific railroad a bill (H. R. No. 323) to aid in constructing a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes, and asked that it be made a special order for Tuesday week, and ordered to be printed.

The SPEAKER. Has not the bill been already ordered to be printed?

Mr. CAMPBELL. Yes; but it has been changed since.

It was so ordered.

PRINTING FOR PATENT OFFICE.

Mr. BAKER, from the Committee on Patents, reported the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire into the propriety and expediency of appropriating the sum of $50,000 for the purpose of reimbursing the Patent Office fund for moneys heretofore expended for printing, in pursuance of section fourteen of the act entitled an act to promote the progress of the useful arts, approved March 6, 1821.

PURCHASE OF COIN.

Mr. STEVENS, by unanimous consent, reported back from the Committee of Ways and Means the Senate amendments to the House bill to authorize the purchase of coin, and asked that the amendments be considered at this time.

There being no objection, the amendments were reported as follows:

First amendment of the Senate:

Strike out the words "bearing interest," and insert in lieu thereof "of the United States;" so that it will read, "bonds or notes of the United States."

The Committee of Ways and Means recommended non-concurrence.

The amendment was not concurred in.

Second amendment:

Add the following section to the bill:

SEC. 3. *And be it further enacted*, That the limitation upon temporary deposits of United States notes with any Assistant Treasurers or designated depositaries authorized by the Secretary of the Treasury to receive such deposits at five per cent. interest to $25,000,000, shall be so far modified as to authorize the Secretary of the Treasury to receive such deposits to the amount not exceeding $50,000,000.

The Committee of Ways and Means recommended concurrence, with an amendment, as follows:

After the word "dollars," at the end of the section, insert:

And that the rates of interest shall be prescribed by the Secretary of the Treasury, not exceeding the annual rate of five per cent.

The amendment to the amendment was agreed to; and the amendment, as amended, was concurred in.

Third amendment:

Add the following as an additional section:

And be it further enacted, That in all cases where the Secretary of the Treasury is authorized by law to reissue notes, he may replace such as are so mutilated or otherwise injured as to be unfit for use, with others of the same character and amount, and such mutilated notes and all others which by

law are required to be taken up and not reissued, shall, when so replaced or taken up, be destroyed in such manner and under such regulations as the Secretary of the Treasury may prescribe.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

MINT IN COLORADO.

Mr. STEVENS. I ask the unanimous consent of the House to take up a bill that has been a good while on file, agreed upon unanimously by the Committee of Ways and Means, by the Secretary of the Treasury, and by the authorities of the Mint at Philadelphia—a bill for establishing a mint at Denver City. It contains but a very short section. There are men now here from Colorado waiting to take out the machinery if they can get it. It is a highly important measure, and I cannot see that it will interfere with other interests. I hope there will be no objection to considering it now.

Mr. BAKER. I object.

MARY A. BERAULT.

Mr. DUELL, from the Committee on Revolutionary Claims, reported back by unanimous consent, the petition in the case of Mary A. Berault, administratrix of the late Joseph Wheaton, and asked that the committee be discharged from its further consideration, and that the papers be referred to the Secretary of the Interior for adjustment, no further legislation being necessary.

It was so ordered.

PROGRESS OF THE USEFUL ARTS.

Mr. DUNN, from the Committee on Patents, reported, by unanimous consent, a bill to amend an act entitled "An act to promote the progress of the useful arts;" which was recommitted to the Committee on Patents, and ordered to be printed.

SMALL BILLS IN THE DISTRICT OF COLUMBIA.

Mr. CALVERT. I ask the unanimous consent of the House to report back from the Committee for the District of Columbia, and to have put upon its passage, a bill (H. R. No. 331) to authorize the banks in the District of Columbia to issue circulating notes of a less denomination than five dollars.

Mr. BLAIR, of Missouri. I object.

REPORTS FROM COMMITTEES.

The SPEAKER announced the regular business in order to be the call of committees for reports of a private character.

ASSISTANT TREASURER AT BOSTON.

Mr. TRAIN, by unanimous consent, reported back from the Committee on Public Expenditures a bill (H. R. No. 353) to provide for the appointment of clerks in the office of the Assistant Treasurer at Boston, to fix their salaries, and provide for the absence of the Assistant Treasurer, and for other purposes, and asked that it be put upon its passage.

The bill was read. It authorizes the Assistant Treasurer at Boston, from and after the 1st of January, 1862, in lieu of the clerks heretofore authorized and provided, to appoint, with the approbation of the Secretary of the Treasury, one chief clerk at a salary of $1,500 per annum, and one disbursing clerk at a salary of $1,500 per annum, and one other clerk at a salary of $1,200 per annum, and one messenger at a salary of $700 per annum; and appropriates the compensation for such clerks for the current and next fiscal year.

The second section provides that in case of the sickness or unavoidable absence of the Assistant Treasurer he may, in his discretion, authorize the chief clerk to act in his place, and to discharge all the duties required by law of the Assistant Treasurer.

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

Mr. TRAIN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PILOTS, ETC., ON GUNBOATS.

Mr. DUNN, by unanimous consent, reported back from the Committee on Military Affairs a bill (H. R. No. 344) to secure to pilots, engineers, sailors, and crews upon gunboats and war vessels their bounty and pensions, and asked that the bill be put upon its passage.

The bill was read. It provides that the pilots, engineers, sailors, and crews upon the gunboats and war vessels of the United States, who have not been regularly mustered into the service of the United States, shall be entitled to the same bounty allowed to persons in the naval service, provided they continue in service to the close of the present war, and that all persons serving as aforesaid, who have been or may be wounded or incapacitated for service, shall be entitled to receive for such disability the pension allowed by existing laws, and that each and every such person shall receive pay according to corresponding rank in the naval service.

The second section provides that the heirs of all persons who have been and may be employed as aforesaid, or who have been or may be killed in battle, or of those who have died or shall die of wounds received while so employed, shall be paid the bounty and pension allowed under existing laws of the naval service, according to rank, as provided in the preceding section.

Mr. F. A. CONKLING. I wish to inquire whether the operation of this bill is confined to the western rivers, or is to apply to the entire country?

Mr. DUNN. It applies to all vessels.

Mr. F. A. CONKLING. On the coast as well as the western rivers?

Mr. DUNN. Yes.

Mr. F. A. CONKLING. Then I submit that the bill should properly go before the Committee on Naval Affairs. I move that reference.

Mr. DUNN. I should be glad to have the bill acted upon now.

Mr. GURLEY. This bill is to grant pensions and bounties to the pilots and engineers serving on gunboats in the western waters and elsewhere. You cannot take from the naval service that class of officers, particularly pilots, for they are not familiar with the channels of the western rivers. In the last battle at Forts Henry and Donelson four pilots were killed, and it was found difficult to supply their places. At least, that was the case two weeks ago. This bill simply places these pilots and engineers and sailors on the same footing as the same classes of persons in the naval service. I trust there will be no objection to the bill. It is important to the service.

Mr. SEDGWICK. So far as I understand the provisions of this bill, I think it is substantially just. The class of pilots to which the gentleman has referred have suffered very severely in proportion to their number. The pilot-houses on the gunboats on the western rivers are so exposed as to make them a very prominent mark for the guns of the enemy. That very thing has very materially delayed the departure of the new expedition down the Mississippi; the attempt having been made to strengthen the pilot houses of the gunboats.

But, sir, it is hardly possible for the House to understand the entire bearing of the bill without a larger opportunity for consideration than can be afforded at this time. I hope, therefore, the gentleman who reported it will not object to its reference to the Committee on Naval Affairs, especially as it relates entirely to that branch of the service. I have no doubt it would receive the favorable consideration of that committee, and that it would be reported back to the House at an early day, unless they shall discover something in the bill more than appears upon the mere reading of it. I do not desire to make any opposition to it if it has been considered thoroughly by the Military Committee; but it seems to me it should have the reference which has been moved.

Mr. GURLEY. This is a very short and simple bill, and I see no reason why it should be referred.

Mr. DUNN. I ask the gentleman from Ohio to permit me to say that I did not suppose there would be any opposition to this bill, or that the House would not be prepared to act upon it at this time. It has been printed, and is upon the desk of each member, and its provisions are so simple that I can scarcely understand why its consideration should be postponed. There is difficulty, I understand, in obtaining the requisite number of pilots and engineers on the western rivers, in consequence of the exposure to which they are subjected. However, if the chairman of the Committee on Naval Affairs desires to have it referred to his committee, and will report it back at an early day, I will not object to the proposed reference.

The bill was referred to the Committee on Naval Affairs.

WILLIAM STERRY.

Mr. HARRISON from the Committee on Invalid Pensions, reported a bill granting an invalid pension to William Sterry, of the State of New York; which was read a first and second time.

Mr. DUELL. I ask that that bill may be considered at this time.

The bill was read. It directs that the name of William Sterry, of the State of New York, shall be placed by the Secretary of the Interior upon the roll of invalid pensioners, at the rate of eight dollars per month, from the 1st of January, 1862.

The report states that William Sterry served continually as a private in the United States Army from the 13th of March, 1829, to the 5th of April, 1846. At the last mentioned date, he was discharged from the service upon the surgeon's certificate of disability. On the 28th day of May, 1846, he entered Captain Snell's company of Texas volunteers, and was discharged on the 24th August, 1846, by reason of defective vision. He enlisted again in the same year, but was discharged in consequence of disability, and is now totally blind.

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

Mr. DUELL moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ROBERT B. BRADFORD.

Mr. McKNIGHT. I was out of my seat for a moment when the Committee on Foreign Affairs was called. I ask the consent of the House to report from that committee a bill for the relief of Robert B. Bradford.

There being no objection, the bill was received and read a first and second time.

Mr. McKNIGHT. I ask that the bill may be put on its passage.

Mr. MORRILL, of Vermont. I object to that.

Mr. McKNIGHT. I move, then, that the bill be ordered to be printed, and recommited to the Committee on Foreign Affairs.

The motion was agreed to.

ARMY OF THE POTOMAC.

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

Resolved, That the Secretary of War be instructed to inform this House how many officers and men of the army of the Potomac have died since the 4th of March, 1861; what number of them have died in battle and from wounds, and what number from disease; also, how many officers and men have been discharged from the Army since the 4th of March, 1861, giving a classified statement of the grounds of discharge.

TAX BILL.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed the consideration of the special order, being the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt, the second section of the bill being under consideration.

Mr. ELIOT. I wish to move to strike out in the ninth line the words "freeholders and." The clause of the bill proposed to be amended is as follows:

That the President of the United States be, and he is hereby, authorized to divide, respectively, the States and Territories of the United States and the District of Columbia into convenient collection districts, and to nominate and, by and with the advice and consent of the Senate, to appoint an assessor and a collector for each such district, who shall be freeholders and residents within the same.

I understand the chairman of the Committee of Ways and Means has no objection to this amendment.

Mr. STEVENS. I have no objection to it.

Mr. THOMAS, of Massachusetts. I suggest to the gentleman from Massachusetts that in place

of the words he proposes to strike out, he insert the words "citizens of the United States."

Mr. ELIOT. I have no objection to insert that in the place of "residents" immediately following.

Mr. STEVENS. I hope the gentleman will leave in the word "residents." I think these officers ought to be residents of their districts.

Mr. ELIOT. I will retain my motion as I made it, to strike out the words "freeholders and." Then if gentlemen see fit to make any further amendment, it can be done subsequently.

Mr. BINGHAM. Is the amendment amendable?

The CHAIRMAN. It is.

Mr. BINGHAM. I move to amend by striking out the words "residents of the same," and to insert in lieu thereof the words "citizens of the United States."

Mr. ROSCOE CONKLING. I desire to ask the gentleman from Ohio whether his purpose is to allow the appointees from one State to execute their duties under this bill in another State, of which they are not residents?

Mr. BINGHAM. Undoubtedly. The design is, if a man cannot be found sufficiently loyal to collect the taxes in a rebel district, to allow a loyal appointee from New York or some other State, to collect them.

Mr. WOOD. I rise to a question of order. I understood the debate to be limited to half a minute.

The CHAIRMAN. That was upon the amendment yesterday pending, submitted by the gentleman from California, which has been withdrawn.

The amendment to the amendment was disagreed to.

The question recurred on the amendment.

Mr. SARGENT. I should like permission of the committee to show that the word "freeholder" should be stricken out, if gentlemen desire to collect any revenue in California. In my own State and in the Territories, there are comparatively few freeholders. The title to the land is, to a very great extent, in the United States, and I suggest that the same may be true, to a certain extent, in some of the other States. To make the bill applicable to that State, therefore, it is desirable that the word "freeholder" should be stricken out.

The amendment was agreed to.

Mr. ELIOT. I now submit the amendment which I suggested yesterday, to add at the end of the section, as follows:

And provided further, That the provisions of this section shall not apply to any State the Governor whereof shall officially cause it to be notified to the President that such State will, pursuant to the terms of this act hereinafter set forth, cause to be duly assessed, collected, and paid over, the duties and taxes prescribed by this act.

Mr. Chairman, when the gentleman from New York [Mr. ROSCOE CONKLING] was upon the floor yesterday discussing the amendment which had then just been offered by the gentleman from California, [Mr. PHELPS,] the suggestion was made by him that it might be desirable—as I believe it had been felt in the different parts of the House by many gentlemen that it might be desirable—that some provision should be incorporated into the bill, if it could be done without affecting its integrity or injuring its harmonious action, by which the States, if their Legislatures should see fit to do so, might take upon themselves the assessments and collection, within their State borders, of the duties and taxes prescribed by this act. He said he had prepared no amendment to illustrate his proposition, nor put in shape any plan such as was suggested. Some few days before my attention had been called to this matter by parties who were interested in the effective operation of the bill, and upon consultation with some friends upon the floor of the House, who thought with me that it might be desirable that some such plan should be offered, I had prepared an amendment which, by the courtesy of the gentleman from New York, I was permitted to have read at the Clerk's desk.

It had been my intention, Mr. Chairman, to propose the amendment in the form of additional sections to the bill at the proper time, and not to call up any discussion on the subject of the amendment at the time the second section was under debate. But, sir, by the second section of the bill the President is authorized to divide the States into convenient collection districts, embracing two or more States in one and the same district. I do not know whether it is intended that any State should itself be divided and more than one collection district established there. I suppose, from the last clause in the bill, that it is not the intention of the framers of the bill that the President should divide the States themselves into several collection districts, or have power to unite parts of different States, because the bill says that any of the States and Territories, as well as the District of Columbia, may, if the President shall deem it proper, be erected into and included in one district. The bill does not prohibit in terms the division of the States, unless the provision may be supposed to be contained in that where the power is given to the President to bring into one district two States. That would seem to preclude the power on his part to divide any of the States into several collection districts. It will also be observed that this section gives to the President power to embrace into one collection district two or more States. Several of the New England States, under the construction which may be given, may be embraced in the same collection district.

Mr. STEVENS. I desire to state to the gentleman that it was the intention of the committee who framed this bill that each of the States should be divided into several collection districts, and I think that is the fair construction of the provisions of the bill now before us.

Mr. ELIOT. If that is the intention of the committee, if it is the construction which they put upon their own bill, that each State should be divided into several collection districts, then I suppose it would follow that in the division of the States the half of one State might be joined to the half of another State, and it would be within the power of the President to make such collection districts geographically or territorially, as he might deem expedient, without reference to State lines. He would divide and district territorially, as he thought proper. I should not have supposed that such would be a fair construction of the bill. If it is the true one it renders it important that this section should be amended before any amendment should be incorporated in the bill to authorize the independent action by the several States in the assessment and collection of taxes. It is important if any provision is to be inserted into the bill, if any plan is to be adopted, that there should be an amendment offered to this section substantially similar to the one now pending. That is to say, if any plan be devised by which State authorities shall have the right to collect for itself these taxes, such State should not be subject to being divided and districted. If a State shall agree by its own machinery to collect these taxes, such State ought to be exempted from those provisions of this bill. Take, for instance, the State of New Hampshire. If that State sees fit to collect under the provisions which may be incorporated into this bill and pursuant to any plan which may be found on examination to be practicable—not mine, not the one I have offered, but the best that can be found and inserted—if that State should, herself, see fit to collect the duties, she should not be subject to be divided into two districts, or any part of her territorial limits be added to another State.

Mr. MORRILL, of Vermont. I think the gentleman from Massachusetts is entirely mistaken in his construction of the section. The provisions of the bill are plain, that a State may be divided or that it may not be divided. If the President thinks proper to have only one collection district in the District of Columbia or in the Territories he is not compelled to have two. He may have one, or he may have more districts in the States and Territories.

Mr. ELIOT. That is precisely my construction. I so understand the bill, after what has been said by the gentleman from Pennsylvania, [Mr. STEVENS.]

Mr. HARRISON. By one of the provisoes in section fifteen of this bill, it is made the duty of the assessor to attend at or near the court-house of each county within his collection district two successive days of the ten days, during which all appeals within his collection district are required to be received and determined. How, then, can a State be so divided as to place more than five counties in a collection district?

Mr. MORRILL, of Vermont. I suppose that in the practical administration of the law, the States will be divided into several collection districts, probably according to the congressional districts as they now are.

Mr. ELIOT. Of course that is a matter of detail, and also a matter of speculation. I understand from the gentleman from Vermont who reported this bill, that the States will be divided, if the President thinks proper, into collection districts, corresponding substantially with congressional districts. I have not, I confess, come to that conclusion. I had supposed that it was the intention of the bill that much larger districts than congressional districts should compose what are called by the bill "collection districts," because of the phrase in the bill, that if the President deem it proper, any of the States and Territories may be included in one district. However, that is on another point.

What I was about to state is this: whatever plan may be adopted to authorize the States to act, it would be necessary to amend this section. By the courtesy of the gentleman from New York, I proposed the amendment to this section on yesterday which I have now formally submitted for the action of the committee. I have offered it for the purpose of bringing before the committee this entire subject. With that view on yesterday I had read from the Clerk's table two sections not now before the House, which seem to me to be necessary for carrying out the general plan which I had in view.

I wish to say that these amendments, although it seems to me they embody, or rather suggest a plan which may be matured and incorporated into the provisions of this bill, do not affect its harmony, or interfere with its effective operation. I do not undertake to say that the amendments have assumed such form that we would desire to have them adopted without modification or change. It is in the nature of a suggestion. I did not want to be subject to the remark which afterwards fell from the gentlemen of the committee, of standing in opposition to the pending bill, so far as the mode for the collection of this tax is concerned, without presenting a different plan which may be better and more effective in its operation. But so far as the amendment to this section is concerned it is not material whether the plan itself be perfect or not as I have submitted it. It may be amended and by the action of the committee made perfect, and the means provided for the purpose of fully and fairly carrying it out. It is well enough for the committee to determine now, in advance, whether any plan of State action is practicable or not; whether any practicable plan can be devised by which the States will have the opportunity, if they see fit, to exercise the authority to collect this tax within their own limits. If the plan proposed is imperfect, let a better plan be devised and matured in this committee. However that may be, whether the plan proposed is the best that can be offered or not, this amendment is necessary to be acted on at this time. And it may be assumed that the best plan possible will be matured and annexed to this bill. I hope that that will be assumed by the committee in voting on this amendment.

If the committee shall determine, because of the arguments made yesterday and from an examination which they themselves may have given to this bill, that it is in the nature of things impossible that any such provision should be ingrafted upon it, it is fair enough to have that expression of opinion now. It is fair, in order that the committee who have this bill in charge should have no unnecessary trouble about it. It may be as well settled now as at any other time, what is to be done in this regard. It was to that end that the discussion yesterday tended. It must have been so, because this specific amendment could not have been in the minds of gentlemen who discussed the general principle of State action as applicable to this bill. It had not been examined; it had not been read except at the Clerk's desk, and when my colleague [Mr. HOOPER] introduced his custom-house amendment, he offered it for the purpose, in that ingenious way, of expressing his opinion that any plan of State action, however perfect, was impossible. It was his way of showing that he believed that the two measures were incompatible. If that be the judgment of the committee it had better be understood at this time. In my judgment, if the thing can be done, it ought

to be done. I say that the best talent of this body should be exercised to devise some plan, some perfect plan, if possible, by which the States can be permitted to assess and collect this tax. My wish has been to make this bill perfect and peaceable in its operation. I desired to have this tax collected in the most effective and at the same time the most satisfactory manner to all of the parties concerned.

Now, Mr. Chairman, one of the reasons assigned in favor of permitting the States to act by their own officers was, that these officials are at home; that they know the parties and the pursuits and the resources and business of those among whom they are at work; that they understand the nature of the work itself. Men conversant with the assessment and collection of taxes under State laws would more readily and more accurately do the work required by this bill. An expert assessor who has acquaintance with the industrial pursuits and the accumulated and invested property of his district, would more readily and could more efficiently assess persons and property, under this bill, than a stranger could do it.

To this argument it was replied that, under the bill as now presented within the districts, our own fellow-citizens would be the ones to carry it into operation. Well, Mr. Chairman, to a certain extent that is so; but not fully. By looking at this bill, you will find that one collector and one assessor are to be appointed in each district. Now, it depends upon the size of the collection district whether the point be one of importance or not. If more than one State be made into a collection district, it is obvious that, so far as the collector and the deputy collectors are concerned, that may not belong to the States within which they may be assigned their work. If the congressional districts are to be made collection districts, the collectors and assessors residing there would be citizens. But if two States are to be united in one collection district, a collector who may live in Providence, may, if Massachusetts and Rhode Island are embraced in one collection district, have duties to perform carrying him all through the area of both those States. And then it is observable that, under the provision in reference to deputy collectors, unlike the provision in regard to assistant assessors, the deputy collectors need not reside within the districts for which they are appointed. By reference to the bill on the 4th page, it will be found that it is provided by the fifth section—

"That each collector shall be authorized to appoint, by an instrument of writing under his hand and seal, as many deputies as he may think proper, to be by him compensated for their services, and also to revoke the powers of any deputy, giving public notice thereof in that portion of the district assigned to such deputy; and may require bonds or other sureties and accept the same from such deputy; and each such deputy shall have the like authority, in every respect, to collect the duties and taxes levied or assessed within the portion of the district assigned to him which is by this act vested in the collector himself."

But it is not provided that the deputy collector shall be a resident there. By the seventh section it is provided that the collector and the assessor and assistant assessors shall be resident within the district; but I do not see that there is any such provision limiting the collector in the appointment of his deputies so as to compel him to take them from within the district, and he may designate his deputies wherever he may choose, their residence and inhabitancy being not a matter of any consequence at all; so that it may turn out that one class of these officers will be called upon to operate within districts where they are not at home, and where they know nothing of the men or of the property, of the interests, or of the business where they are to work. The argument, therefore, in favor of State officers stands unanswered.

Mr. Chairman, I have not heard any gentleman deny that if an arrangement could be made by which such a system could be ingrafted upon this bill, it would be a great public advantage. I do not understand that the members of the committee themselves undertake to say that it would not be an improvement; but they contend that, from the nature of the business contemplated to be done, State action or inter-State action is incompatible with the proper discharge of the duties which are created by the act and the services required to be rendered. Now, sir, I have failed to see why not. Of course, the States which undertake this work must legislate in such a way as to secure the effectual assessment, collection, and payment of these taxes. That can be done. There is no difficulty in doing it. There is no difficulty in a simple act being prepared within the States where these duties are to be assessed and collected, by which all the provisions of this bill could be enforced within their limits. And if there were, it is not a question whether the thing be difficult or not, but whether it be *practicable;* because we are now undertaking to construct a bill, the provisions of which, it will be difficult to carry out. We are treading upon unknown ground. We are embarking upon an untried sea. Whether we shall make a profitable voyage, and safely return to port, depends somewhat upon the manner in which we now complete our outfit.

Mr. Chairman, we start practically with this admission, that the thing had better be done if it can be properly done. Now, then, I say that it can be done. It is competent for Congress to authorize the States to do it, and it is competent for the States to assume this work, and it is possible for the States so to legislate as that the work can be properly accomplished.

But it is asked who is to hold the States responsible? Suppose a State shall collect the duty; suppose it shall assume to assess and to collect and pay over? How, as between the United States and the State, is the United States to exercise that oversight that is proper? In the first place, the honor of the State is pledged that fit and apt laws shall be enacted and the guarantee of the State offered that all the work to be done under this bill shall be properly, promptly, and efficiently done by her own officers within her own borders. That is something; ay, sir, I undertake to say it is a better guarantee than the United States would have under the bill as it now stands that the work will be performed, and that it will be thoroughly and efficiently done. What is the oversight provided now? The President of the United States may divide the land into collection districts, putting together two or more States, if he shall see fit so to do, or dividing a State if he shall see fit so to do, taking one half of one State and annexing it to half of another State, and collectors are appointed for those districts. Who is to oversee them? Assessors are appointed. Who is to see that they do their work properly? They give bonds to the United States, and penalties and forfeitures are provided in case of certain non-performance of their duty, under this bill, but who is to oversee them? Who can tell whether the collector who goes into the district of my friend from Vermont does his duty, or that the assessor and the assistant assessors do their work? Nobody is there to superintend them.

On the other hand, it must be remembered that if a State undertakes to transact this business, and pledges itself to the General Government that it shall be properly, faithfully, and thoroughly done, the officers employed within the State will be overseen by the authorities of the State; the assessors and assistant assessors there employed will be at work under the eye of those who know them, and to whom they are directly responsible; so that it seems to me that, so far as that difficulty is concerned, by proper State legislation and a proper amendment to this bill, the advantage would be altogether on the side of the security of State action. If the work be done honestly, fairly, and faithfully, I cannot see why a larger amount of revenue would not be derived under the action of the States than under the action of Federal appointees. It is said that if it is left to the States, they would not collect fifty or seventy-five per cent. of these taxes. Why not? It is easy to say that; but why not? If the State officers are honest, the whole amount will be collected; if the Federal officers are dishonest, it will not be collected.

Then it is said, Mr. Chairman, that this would not be a saving of expense. How can that appear? Why not a saving of expense? I am now assuming that the State has agreed to act, that the Legislature of the State has, by fit and suitable legislation, framed a law under which its officers are acting, that its several assessors and collectors have been properly deputized to operate. Now, the question is one of expense. As it seems to me, it may be done for half the amount that it will be found to cost the United States under the provisions of this bill. I do not know whether any gentleman has undertaken to estimate the number of officers who will be employed under this act. It depends, of course, on the size of the districts. If one State constitutes one collection district, there will be but one collector in it. If the congressional districts are to be made collection districts, then there would be within each congressional district one collector with his deputies, and an assessor and assistant assessors. Who can tell the number of officers? Now, supposing that the State officers, men familiar with their duties, men who are now charged with the assessment and collection of taxes, are to be employed: will any one undertake to say that the work cannot be done under State law, under State action, under State supervision, at a vastly less cost than would be expended and chargeable to the United States if these different Federal officers, with nothing else to do, appointed for the purpose and devoting their whole time, theoretically, to the work, were charged with it?

Mr. ROSCOE CONKLING. Will my friend allow me to make a suggestion as to the number of officers?

Mr. ELIOT. Certainly.

Mr. ROSCOE CONKLING. I understand that the number of officers provided in this bill is the same precisely as that provided for in the original tax bill reported at the extra session; and at that time a gentleman, skilled in such subjects, went into a calculation which he gave to me, and which showed, according to my recollection, that about thirty-six hundred officeholders would be created in the State of New York; and that, in the whole Union, there would be some twenty-six thousand officeholders employed in the collection of these taxes.

Mr. MORRILL, of Vermont. In reply to the gentleman from New York, I desire to say that the bill contemplates the appointment of one assessor and one collector for each district, and that these officers may appoint whatever assistants may be necessary. I therefore do not see how it is possible for any gentleman, however ingenious, to calculate exactly the number of officers to be employed under this bill.

Mr. ROSCOE CONKLING. I know that it is not possible for anybody to calculate the number exactly; but, as I said before, a gentleman skilled in the matter of laying and collecting taxes, made that as a probable calculation. That calculation, too, was based on a bill which provided for taxes, the major part of them direct taxes, and which did not impose a labor anything like so great as this bill does. Therefore, the deputies necessary to collect them could not have been in that case as many as in this. Of course, the calculation could not have been certainly accurate.

Mr. STEVENS. This is very vague authority. I should like to know the data, the given numbers, on which this arithmetician figured out these many thousand officeholders. I can understand how, with one or two given numbers, he could find the others, but there must be some given numbers. There is to be one collector and assessor in each collection district, and they are to employ such assistants as they require.

Mr. ROSCOE CONKLING. I should like to say to the chairman of the Committee of Ways and Means that in that calculation the *minus* was so great and the *plus* so little, that although it was stated over and over again in debate in July last, no member of the Committee of Ways and Means suggested then that it was exaggerated or facile.

Mr. STEVENS. I think one of them whispered *de minimis non curat lex.*

Mr. ROSCOE CONKLING. Gentlemen have whispered so much that I cannot say what was whispered during the July session. But I know very well that this calculation was received then as a probable hypothesis.

Mr. ELIOT. I think it very obvious that, whether or not we admit the correctness of the calculation presented by the gentleman from New York, there will be a large body of men employed. The question is now one of expense—whether it would or would not involve less expense to have such of the States as chose to assume the responsibility, collect the taxes under their own State organizations. So far as the General Government is concerned, its interest would of course be protected by the amendment, because, whatever the amendment may be in detail, there would be some provision in it that so much deduction should be made from the amount to be paid over, which would be in full for all the labor and responsibility

of the assessment and collection. That percentum would be the amount which it would cost the United States. It is easy enough to have that accurately estimated. But the learned gentleman from Vermont—my friend from Vermont—stated, I believe, among other things, that he deemed it impossible to make such provision.

Mr. MORRILL, of Vermont, addressed a remark to Mr. ELIOT not audible to the reporters.

Mr. ELIOT. My friend from Vermont desires to know if I was personal when I took back the word "learned." I had applied the word "learned" to him, but recollecting that that is a phrase familiarly used in courts, and not here in committee, I withdrew the word. It attaches emphatically to my friend from Vermont. He is learned in tariffs and learned in taxes, beyond peradventure. In this connection I cannot but indulge myself in the pleasure of saying, that after examining this work as it came from the hands of the committee, I have felt that we, all of us, were under obligation to those gentlemen for the care and skill and labor bestowed upon it. Now, sir, it shall be considered that "learned" reattaches.

But, I was going to say that the gentleman from Vermont was under the impression that this amendment could not, in its nature, be made, because of the license and stamp and other provisions in the bill. I understood the question to be asked by him, how could the stamp system be carried out, or how could the license system be made effectual? Mr. Chairman, I have endeavored to see what possible difficulty there would be, so far as the license system is concerned, but I confess that thus far I am unable to see it. Licenses are to be paid for certain kinds of business, and the amounts thereof are fixed by the bill. I cannot see why State officers may not do the work as well as Federal officers—just as thoroughly and effectually. They will get as much money for licenses as Federal officers will, and they will be supposed to know more thoroughly the business and extent of it than Federal appointees. So far as the stamps are concerned, I believe, if I understand the bill, that this is a mere regulation like the regulation for post office stamps. That is to say, stamps for certain values and for certain purposes are to be prepared under the direction of the authorities at Washington, and are to be distributed for use. If I am right about that, then it would seem as if there was no difficulty about this matter. The State officers who now assess and collect taxes can carry out the provisions in regard to licenses and stamps as well as officers appointed by the General Government.

Now, Mr. Chairman, I believe I have noted, so far as I remember them, the various objections that have been made so far as the principle of the amendment is concerned. I have not discussed the particular plan which I have proposed. I do not care to do that in detail. The general idea of the plan is that any State which sees fit to accept the work of assessing and collecting this revenue by its own officers within its own borders, and will, by proper and suitable legislation, provide by a bill in its details for the execution of that work, shall have the authority so to do. The State would thus lift the load which would otherwise be carried by the General Government, performing the duties within its limits which otherwise the General Government, by the officers of its appointment, would perform; the State, as I have said, providing by proper legislation that the provisions of this act shall be properly and fairly carried out.

That is the theory of the amendment. The State having, through its executive, notified the President that it is determined to execute this work, the territory of the State would not be districted by the General Government, but, under the legislation of the State, the work would be done, and the money paid over exactly according to the provisions of the pending bill as it shall pass into a law. The State officers will pay over the money at the same time, and comply with this bill itself in all its provisions precisely as if the work was done by Federal officers, except so far as relates to the appointment of Federal officers.

Now, Mr. Chairman, whether that plan or any other plan to accomplish the object be adopted is immaterial. If any such plan can be adopted, now it seems to me is the time when this committee should say so. If in their judgment more can be adopted, let us ascertain the fact and then go to work harmoniously to perfect and complete the bill.

Mr. Chairman, if there are any persons who are disposed to throw obstacles in the way of this legislation, who are disposed to find fault in advance with the action of the committee or of the House, who are disposed now to begin a fight before the people of the United States through the Congress of the United States, and to declare reasons why this whole proposition ought not to be carried, political in their character, tending rather to results beyond the present than to the operations of the hour, I have no sympathy with them at all. It seems to me that what we want to do is to perfect this bill for the people at the earliest practicable time.

It is said that all tax bills are odious. I know it has been so said; but, sir, I hope the time will come when an exception will be found to that rule. This tax bill, if it be carefully prepared, and honestly matured with an eye single to carrying out the purpose of the people in sending us here will, I apprehend, find favor with the people. It is not the tax bill that is odious, but it is the rebellion which has made the tax bill necessary, that is odious with the people. That is odious, and that alone; and the people will look to us, whether it be done by Federal appointees or by the appointees of the States, with one eye; they speak to us with one voice saying, "tax us; we wait to be taxed, whatever property we have is at the service of the Government for the purpose of putting down the rebellion."

This war is a war of the people against rebellion, and to subdue treason; and being the people's war, the people's money should carry it on. I believe that a tax bill may be so made that it will not be an odious bill. That, in some respects, there will be interests which will suffer, must be the case; but upon the whole, I think if we go to work, like brothers, as we ought to go to work, and make the bill as perfect as we can, the people will receive it at our hands contentedly, and pay the amounts which by the bill they will be called on to pay.

Mr. STEVENS. I am glad the gentleman from Massachusetts announced that when this amendment is decided this question shall be considered as settled during the balance of the discussion upon this bill, for I remember it was discussed at great length at the extra session. The same proposition was then submitted; and after a long discussion the House decided that the scheme was impracticable, and it was rejected. If the House should come to the same resolution in relation to this proposition of the gentleman from Massachusetts, the main question will be settled, and I hope it will not be deemed discourteous in me in saying, that as it was discussed at great length, and I suppose by every person nearly who wishes to take part in it yesterday, when this same question was practically under consideration, it will be right in me when I have made a few remarks in reply to the gentleman, to ask the committee to rise and close the general debate upon this bill, having the right of course to offer amendments and discuss them, under the five minutes rule. It will be seen by every gentleman that at the rate of progress we are now making this bill will not be finished in ninety days.

Mr. ROSCOE CONKLING. I wish to trespass upon the gentleman's indulgence for a moment, if he will allow me, for the purpose of calling his attention to a point in reference to which his memory seems to be a little at fault. The gentleman says this proposition was made and rejected in the session of last summer. Now, sir, I have before me the fifty-third section of that act as it was ultimately passed, and which contained the section thirty-nine, to which reference was made yesterday, allowing the States to assume a certain quota of the taxes provided by the bill, and also contains the clause, being identical in its scope and meaning with that proposed now by the gentleman from Massachusetts. I have read it carefully. It is the provision which was afterwards accepted by the Committee of Ways and Means, reported to the House, and passed by the House. It was agreed to in the Senate, although the bill was amended in many other particulars, and stands in the act as it became a law. I will read it:

"That any State or Territory and the District of Columbia may lawfully assume, assess, collect, and pay into the Treasury of the United States the direct tax, or its quota thereof, imposed by this act upon the State, Territory, or the District of Columbia, in its own way and manner, by and through its own officers, assessors, and collectors; that it shall be lawful to use for this purpose the last or any subsequent valuation list or appraisal made by State or territorial authority for the purpose of State or territorial taxation therein."

That section is there, and the other section, the thirty-ninth section, to which the gentleman yesterday referred, relating to a State assuming its quota of the direct tax, is there also.

Mr. STEVENS. It is exactly as I said yesterday. The Committee of Ways and Means reported a proposition that the direct tax might be assumed by the States, and that when that was done there should be no proceeding to collect a direct tax by the Federal Government under this law. A direct tax imposed upon the State must be apportioned in a particular way, in accordance with the provision of the Constitution, and there could be no difficulty in ascertaining what should be the quota to be paid by each State, and there could be no difficulty, therefore, in allowing each State to assume its quota. But there was no provision by which the income tax could be assumed in that way, and it would be wholly impossible to make such a provision, because it is impossible to ascertain what that would be until the assessors had made their valuation in every instance.

Mr. ROSCOE CONKLING. Will the gentleman allow me once more to say a word, although I am exceedingly reluctant to interrupt him? I did not mistake the fact. I now have both bills before me, and I hope I shall be pardoned for calling the attention of the committee to the point I state. In the original bill reported by the Committee of Ways and Means, section thirty-nine contained the provision to which the gentleman refers, allowing each State to assume its quota of the direct tax and collect it in its own way. A discussion occurred on that section, as the gentleman says. But the proposition of other gentlemen, and which finally prevailed, was that the States ought to be allowed to collect not only their direct tax in their own way, but that they ought to be permitted to collect the income and other taxes by directing their assessors and tax gatherers to assess, collect, and pay over to the Federal Government whatever it directed to be collected. Upon that proposition a struggle arose, as was stated yesterday, but it prevailed in committee in the form of a resolution to recommit the bill to the Committee of Ways and Means, with instructions to report such a section. We went into the House, debated it, and then carried it on the yeas and nays. A sub-committee was appointed, consisting of the gentleman from Ohio [Mr. HORTON] and my colleague, [Mr. CORNING,] and perhaps one other gentleman, and by that sub-committee the bill was reported, leaving this thirty-ninth section standing, as the gentleman has said, but following it with section fifty-three of the bill, as it is now, to allow the States to assume their quota. It was a section distinct by itself, in accordance with the instruction which the House had given to the committee to enable the States, through their own tax gathering instrumentalities, without assuming their quota, to go on and collect their taxes. Thus the propositions were separate and distinct. The discussions upon them were separate and distinct, going upon different grounds. They were both reported and both adopted by the House, and now stand upon the statute-book as both being necessary in order to effect the purpose.

Mr. STEVENS. It amounts to this; that the whole discussion was on the direct tax which we allowed the States to assume, although it will be remembered, when we passed that bill and sent it to the Senate, that it had no portion of the income tax in it. It referred simply to the direct tax, and it came back with this income tax attached to it by the Senate. It was after that that all of this discussion arose.

Now, sir, I will discuss for a moment the feasibility of the present amendment offered by the gentleman from Massachusetts, [Mr. ELIOT.] In the first place, sir, it is well known that we have incurred or authorized a debt amounting to $800,000,000. A portion of the interest upon that debt will be due between this and the end of six months. The bonds of the United States must be based upon the assurance that this tax will be a tax made out in such a way that it can be col-

lected. That ought to be all done before Congress rises, or else you defer it until the new machinery comes into operation. How is this State machinery, if practicable at all, to come into operation. By the time we have passed this bill, in whatever shape it may be, all the State Legislatures, except perhaps that of New Hampshire, which meets later, will have exhausted their sessions and have adjourned, some for one and some for two years. Many of the States, Maryland among the rest, hold their sessions once in two years. The Kentucky Legislature has adjourned. The Legislature of Maryland will adjourn soon.

Mr. CALVERT. It has already adjourned.

Mr. STEVENS. Adjourned for two years. If we leave this to the States, one of two things must happen. Either we will have to wait for two years before we get a response from the States, or an extra session of every one of these States must be called. I submit to the gentlemen who are anxious about the cost whether they will not, for these extra sessions, consume more money than can possibly be saved in making a difference between the Federal and State collections. I submit that it will be so. So that in point of economy there would not be a dollar saved, but money would be lost. If you allow them to wait until the Legislatures meet by constitutional authority, then you have defeated the whole object of the bill. Then there is not a man in the country who has a dollar to lend who will lend it upon your bonds. They are based upon this taxation and its efficient mode of collection. That is one insuperable objection, if there were none other.

I ask the gentleman to inform me wherein this proposition differs from the proposition made in the old Confederation under the Articles of Confederation. By the Articles of Confederation, every State was to have designated by Congress the quota which was to be assessed upon it, and the States, under the Articles of Confederation, pledged their honor that they would faithfully carry out such requests. Yet, sir, so few of them complied promptly, so few of them complied at all, that that very defect in the organization of the old Confederation was one of the main causes which led to the calling of the convention to amend the Constitution, and produced our present Constitution, enabling Congress to act upon the individuals themselves in the States by its own legislation instead of operating through State machinery, which is so uncertain. Can the committee think that the States would now be more prompt in carrying it out than they were under the solemn pledge of the Articles of Confederation? There is no controlling power; there is no means of coercing the States to do it. If there be delinquencies, they are not delinquencies which can be remedied by this Congress or Government when you have once referred to the States in the manner suggested by the gentleman from Massachusetts. How idle it is to lay a tax which coercion cannot collect?

The gentleman from Ohio [Mr. PENDLETON] informs us in somewhat of a minatory manner of the tremendous clamor that his bill will raise. He told us that a voice is to come up here which will shake this Hall, and make even the firmest of us tremble in our boots. [Laughter.] How are you going to coerce those States which are to make such terrific clamor? I am not denying in this connection the remarks of the gentleman. I know how unpleasant taxes are, and the patriotism with which my friend from Massachusetts has assailed this bill. When they come to pay these taxes I know that they will make wry faces. They will dislike it. It is not, however, the tax gatherer they hate so much as the taxes. If you forgive them the taxes, you may send tax gatherers every day in the year. The only way that that difficulty can be avoided is to remit the tax. But we cannot do that. If this be looked upon as a party measure, and this Administration is to assume the responsibility of this tax, I fully understand the remarks of the gentleman that it will revolutionize this Government. I do not suppose that there is relieving energy enough in this Administration to take away the odium of this measure, and to return enough of its friends to the next House to make a majority. I do not expect that. I expect to see this majority superseded. Very well. If you have no provision in the bill by which the payment of these taxes can be coerced, they will never be paid. The Representatives here will act to represent their constituents, who will turn us out of power, and who will, of course, desire that no taxes may be collected. Some system will then be adopted more consonant to the feelings of the people, and more in accordance with the wishes of demagogues, than that which we are devising for the purpose of enforcing this tax. We intend to lay this tax, and to take the chances of that tremendous voice which is to hurl us from power.

There is another reason which compels us not only to lay the tax, but to provide the machinery for collecting it. I know that there will be changes of Congressmen and of Executives in the mutations of party and the revolutions in this House. I think that my friend will see when this House is revolutionized, when State after State has changed its aspect before the weight of this burden, that there is all the more necessity for laying this tax now and providing the means of coercing its payment. Let us have a tax that will last during this war, and which cannot be disturbed by mere resolutions of one branch of this Legislature. Suppose the Governor of Virginia should notify us that she would assume the payment of her portion of the tax. Which Governor are we to look to? "Under which King Bezonian?" Is Virginia under King Letcher or King Pierpont? I suppose that the Constitution is to be restored over that State, and I do not suppose that Virginia has any other constitutional Governor except Governor Letcher. When the Constitution is restored there, I have no doubt that under this bill we can district the State, and find loyal men enough to assess and collect this tax. If we do not collect it to-day, we will next year; and if not next year, we will the year after; and we will pile up on Virginia her full burden of the taxes which she has brought upon us. It will be a lien upon her real estate, and we can collect it.

How can we do that, if we allow those who have caused this trouble to make the assessment? We will not know then how much they are to pay. That is the reason why the President should be allowed to send agents there who will assess and collect it. I trust in the course of the summer we shall be able to assess them. We may not be able to collect them just yet; but we shall hold them bound for the taxes, unless our mild and benevolent friends are too humane to enforce collection after this people are brought back under the restored, rejuvenated, and unaltered Constitution. Now, it seems to me that there is an insuperable objection to that. We are to forgive our debtors, not as they forgive us; but to forgive our debtors as they forgive nobody on earth. [Laughter.] But even if there were no rebellion, how could you equalize your taxes? If every State is allowed to assess its own taxes, Pennsylvania would say, let us assess them so as to shirk our fair share, and throw it upon New York. I remember that in our State, under the old tax system, where every county assessed the State tax for itself, there was one county—I will not name it, for I do not wish to be invidious—where their assessors assessed the property at fifty per cent. of its value, and then their commissioners got together and readjusted it, and put it down to thirty per cent., while many of the counties in the interior taxed their property at its full value; and hence one county paid its full proportion of the State tax, while other counties did not pay theirs, and the State was driven to the necessity of establishing a board of revenue, to meet every year and bring up the sunken ones, and if any were too high—as I believe none were—to bring them down. Now, would it not be just so with the States? Have you any reason to suppose that State corporations would not be just as lenient to the States as the county corporations were to the counties? And if so, where is the equalizing power? But if you keep this machinery within the power of the United States Government, and they find that anything of this sort is going on, the Government can at once discard their unfaithful agents, and see that the matter is properly adjusted. I have seen the iniquity of this system in my own State, and I understand that it is the same in other States. Some seven or eight of our counties got about one third more out of the State Treasury from the school fund than the whole tax they paid into it. And I understand that there was a county in New York where the same thing occurred. What county was it—Oneida?

Mr. ROSCOE CONKLING. Oh, no.

Mr. STEVENS. Then was it Chemung? I believe it was. [Laughter.]

Mr. DIVEN. I can only say, then, that the gentleman is mistaken.

Mr. STEVENS. I am happy to be corrected. Was it St. Lawrence?

Mr. DIVEN. No, sir; it was not.

Mr. STEVENS. Then I am completely at sea. I know it was a county in New York.

Mr. DIVEN. The gentleman guessed it the first time he tried.

Mr. STEVENS. What was it?

Mr. DIVEN. Oneida.

Mr. ROSCOE CONKLING. Oh, no; the only pretext for saying that, is this, that there was a time when the county of Oneida, which is the most enlightened part of the State of New York, was assessed in such a way that its valuation was not a great deal higher than that of Onondaga, Chemung, and other third-rate counties. [Laughter.]

Mr. SEDGWICK. Oneida is the most ingenious county in the State of New York in avoiding taxes. [Renewed laughter.]

Mr. STEVENS. I give it all credit. But I merely mention these things for illustrations, for nothing illustrates an argument so well as a fact, and I hope that no one objects to the statement of facts merely as illustrations.

Now, sir, I think I have given reasons enough why this amendment should not be adopted. There have been objections made to the number of officeholders which this bill creates. Why, sir, will there be any more officeholders if they are appointed by the United States than if they are appointed by the States? Would they go to any more houses? Would they frighten any more people? I dare say, if the States had this matter under their control, these officers would not go to so many houses, and the people might in that way be relieved; but I cannot otherwise perceive where the difference is between the two. The President is to appoint but a single collector and a single assessor in each collection district, and they are to do the work. They have the power, if they cannot do it themselves, to appoint assistants for whom they are responsible. The assistant assessors make their returns to the chief assessor, and he makes a return to the collector as well as to the Commissioner of Internal Revenue here; so that it may always be known, by three different records, exactly what amount is collected, and how these officers are performing their duties. An assessor, if he can do all the work himself, may do it, of course.

Mr. ELIOT. The bill provides that he shall divide his district into a convenient number of sub-divisions, and shall appoint an assistant assessor for each.

Mr. STEVENS. He may make it one district.

Mr. ELIOT. There is a provision that the collector, if he can do so, may do the whole work himself; but the assessor must appoint assistant assessors.

Mr. STEVENS. Very well; he may make two districts, and appoint one assistant, and do the work of the other himself. There is no danger that he will appoint too many assistants, for their compensation is all to come out of his fees. It does not increase the expense to the Government one dollar.

I move that the committee do now rise, for the purpose of closing debate.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the tax bill, and had come to no resolution thereon.

Mr. STEVENS. I move that all debate in the Committee of the Whole on the state of the Union on the tax bill shall close in five minutes after the committee shall resume the consideration of the bill. That closes the general debate only, and leaves the five minutes debate.

Mr. OLIN. I beg of the gentleman from Pennsylvania that he will not press that motion. Undoubtedly the pending amendment has been sufficiently debated, and the committee is probably prepared to vote upon it. I have no objection to the gentleman's limiting debate upon that amendment to one minute if he chooses, but there are

features of this bill which I presume the members of the House will desire to discuss for a period of more than five minutes. We can limit the debate upon the pending amendment, and vote upon it now. The House can at any moment close debate upon any proposition that may be pending before the committee; and we can thus make progress in the consideration of the bill; but I hope the House will not consent to limit the debate upon the entire bill to a period of five minutes. I hope there are some gentlemen in this House who will be able to enlighten the House upon the various propositions that will come under discussion in this bill, and they may not be able to do it in the short period of five minutes.

Mr. STEVENS. I desire to say a word in reply to the gentleman from New York, [Mr. OLIN.] I am very far, Mr. Speaker, from desiring to cut off any debate that would enlighten us; but gentlemen are aware that under the five minutes rule there is not a section of this bill to which twenty amendments may not be moved, and twenty five-minute speeches made on them; and if gentlemen have any faculty of expression they can say all that they desire to say in these five minute speeches. I believe that the best debating I have ever heard in this House has always been under the five minutes rule. I hope, therefore, that the House will sustain the motion that I make.

Mr. OLIN. Let me say one word in reply to the gentleman from Pennsylvania. I know that very often occurs in this House, when there is no limit to debate, just what has occurred on this occasion. In my judgment, one of the most absurd propositions that could possibly be entertained by the House, has been made and discussed here for nearly half a day. I beg pardon of the gentlemen who were engaged in that discussion, myself included. But, after all, my friend from Pennsylvania is not quite accurate when he says that there is no principle involved in this bill which a gentleman may not discuss in five minutes. That is not true; nor is the proposition true that these discussions, however tiresome and idle they may sometimes appear to be, are always so. Some information is occasionally elicited, and the House is better prepared to act and vote intelligently after such discussion has been had, although the information obtained is, perhaps, not proportioned to the number of persons who engage in such discussions.

Now, I will be permitted to make one other observation. I have never, since I have been a member of this House, seen that when, in the course of proceedings, the subject of debate was exhausted, the House did not manifest its appreciation of that fact by an impatience, and a desire to vote on the question, such as would ordinarily silence any ambitious young gentleman who might desire to get the floor and occupy the time of the House. A friend suggests that there is the same impatience now. That is true; for I have no doubt that the House is prepared to vote on the particular proposition that has been discussed. That is precisely what I desire the House to do; but I do not desire that, in a measure of the magnitude and importance of this one, the House shall restrict any gentleman to a five-minute speech. It is better that a bill of the magnitude and importance of this one should have applied to it that investigation and consideration to which it is entitled. It is a subject which is almost entirely new to the House and to the country. It requires the most careful examination and supervision.

Now, Mr. Speaker, I have said all that I desired to say on the proposition of the gentleman from Pennsylvania. I trust the House will not, by its vote, close the debate on this bill at this time. There are certain provisions in it, with respect to the wisdom of which there will be great disagreement among the members of the House. I should extremely regret to have general debate closed on this bill now, and the discussion limited to five-minute speeches.

Mr. STEVENS called for tellers on his motion

Tellers were ordered; and Messrs. BINGHAM and CRAVENS were appointed.

The House divided; and the tellers reported—ayes 61, noes 39.

So the House ordered the debate to be closed in five minutes after the consideration of the bill should be resumed in the Committee of the Whole on the state of the Union.

ADJOURNMENT OVER.

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

The motion was agreed to.

TAX BILL—AGAIN.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed the consideration of the special order, being the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

Mr. BINGHAM. I desire to say a word or two in reference to the amendment now pending. As the committee may be aware, I favored a similar proposition at the extra session, touching the collection of direct taxes. I favored it on the principle simply of economy, and for the reason that the amount apportioned to each State was ascertained by the law, the Government having the means of knowing whether the particular State which assumed the payment of the tax discharged its whole duty in the premises. I oppose, however, the amendment now pending, for the reason that it makes the law inoperative in the hands of men, if such men can be found in the several States that would assume the duty, who would desire to shirk the provisions of the law, to some extent, or almost to the extent of the entire provision within that particular State. I know of no method known to the law of the United States by which the Government of the United States would not be at the mercy of the State assessors and collectors. I recognize the principle of the law as settled in the case of Prigg, to which reference has been made, that an appointment of this sort is well enough executed when it is executed. But the principle goes no further. You cannot compel a State officer to discharge his duties faithfully, and you have no means of ascertaining whether he performs them faithfully or not, for the simple reason that he is not responsible, and cannot be made responsible to the Government of the United States. He is responsible to his own State alone. Under the bill as it stands the Government appoints its own assessors and collectors and holds them to a strict accountability. By comparing the tax lists of the States which are always accessible to the Government of the United States, with the returns made from time to time from the several districts, the Government will be able to know whether their officers are dealing fairly or foully; whether they are discharging their duties honestly and faithfully, or dishonestly and corruptly. The Government will thus be able to have control over the official action of their officers.

Mr. Chairman, I have no idea of begging any one's pardon here for discharging the duties imposed upon me as a Representative of the people. I am not going to make apologies in advance for imposing on the people the burdens necessary to maintain this Government. I am not going to make apologies for getting up this army of officeholders, as it has been called, if it be essential to have an army of officeholders in order to execute the law. I have an abiding faith, which nothing on earth can shake, in the loyalty of the great mass of the people of the country to their Government, in their fixed purpose to maintain it, and to uphold it at whatever cost or sacrifice. I have no fear for myself that there will be any complaint among the people on account of the necessary appointments that may be made under the provisions of this bill for the purpose of collecting these taxes. I am not only for laying the taxes but I am for collecting the taxes—collecting them in the name and by the authority of the whole people, and by the direct action of the whole people, through their Representatives in Congress.

I did not intend, Mr. Chairman, to say anything further on the subject than merely to express my approval of the provisions of the act as it stands, and my opposition to the proposed amendment, which might result in the defeat of the purposes of the bill altogether.

The CHAIRMAN announced that general debate on the bill was now exhausted.

The question was taken on Mr. ELIOT's amendment, as follows:

And provided further, That the provisions of this section shall not apply to any State the Governor whereof shall officially cause it to be notified to the President that such State will, pursuant to the terms of this act hereinafter set forth, cause to be duly assessed, collected, and paid over the duties and taxes prescribed by this act.

The amendment was not agreed to.

Mr. EDWARDS. I wish to suggest a mere verbal amendment in this section. It is to strike out the words "as well as," and to insert in lieu of them the word "and." This will justify the construction which the chairman of the Committee of Ways and Means gives to the language. As it now stands, I think it is opposed to that construction.

Mr. STEVENS. I do not see any objection to the amendment.

The amendment was adopted.

MESSAGE FROM THE SENATE.

The committee here informally rose, and the Speaker having resumed the chair, a message was received from the Senate, by Mr. HICKEY, their Chief Clerk, notifying the House that the Senate had passed a bill and joint resolution of this House, of the following titles:

A bill (No. 114) authorizing floats to issue in satisfaction of claims against the United States for lands sold by them within the Las Omegas and La Nana grants in the State of Louisiana; and

Joint resolution (No. 51) authorizing the Secretary of the Navy to inquire into the causes of the failure of certain contracts for steam machinery, and to remit penalties connected therewith.

PURCHASE OF COIN.

The message further announced that the Senate insist on their first amendment disagreed to by the House to the bill of the House (No. 341) to authorize the purchase of coin, and for other purposes, disagree to the amendment of the House to the second amendment to the said bill, ask a conference with the House on the disagreeing votes of the two Houses thereon, and have appointed Mr. FESSENDEN, Mr. COLLAMER, and Mr. WILLEY, the said committee of conference on their part.

Mr. STEVENS. I move that the House insist on its former action on that bill, and agree to the committee of conference asked for by the Senate.

The motion was agreed to.

The SPEAKER thereupon appointed Mr. STEVENS, Mr. HOOPER, and Mr. CRISFIELD, as the committee on the part of the House.

The committee resumed its session, and proceeded again to the consideration of the

TAX BILL.

Mr. BLAKE. I move to amend the bill in the second section, after the word "district," in the twelfth line, as follows:

And provided further, That no collection district in any State where no insurrection exists, shall embrace more than one county, and that the collectors and assessors appointed under the provisions of this act shall be residents of the district to which they may be appointed.

Mr. Chairman, my object in offering this amendment is simply to provide that each county of the loyal States shall constitute a collection district. I think it is important that these collection districts shall be made as small as possible. Gentlemen have admitted that the law will be odious to the people. Now, sir, I do not believe any such thing. I do not believe that any loyal man in any State in this Union will complain of this tax. I do not believe that any man in this House has to lose his position either, by voting for a bill of this kind. I know that there are traitors and sympathizers with traitors even in the loyal States who will object to this bill and to any one who attempts to pass it. But, sir, I desire those who are to go round and assess and collect these taxes to be men who live in the neighborhood, and are known to the people among whom they are to perform these duties, and not that strangers shall be sent among them from other counties who do not know the men, and who do not know or understand the value of the property they are to assess.

I see no objection to this proposition. A gentleman says it is too expensive. Sir, it will not make the expense of administering the law one dollar more. The cost of performing the duties of collector and assessor will be precisely the same

whether a collector is appointed for each county or one for the whole State. It is true there may be some counties—like the county of New York, for instance, or the county in which the city of Philadelphia is located—that will be too large to constitute a single collection district, but I see no valid objection to a provision that no collection district shall comprise more than one county. If the collection districts are made the congressional districts, gentlemen will see that there will rarely be more than five counties in one district. But, sir, I do not desire to debate the proposition. I merely call the attention of the committee to it, and hope it will be adopted.

Mr. STEVENS. I hope this will be left to the discretion of the President. I do not see why we should take that discretion from him.

Mr. BLAKE. I do not see why we should not use that discretion ourselves.

Mr. STEVENS. We all have very great confidence in the discretion of the President, and confidence is the better part of valor. [Laughter.] Let the gentleman address his remarks to the President, and I have no doubt he will district his section of country as the gentleman desires. I hope the House will not adopt the amendment. There is one county in Pennsylvania in which there are but fifteen people, and I think it would be conferring too much honor, as well as trouble, to give them a whole collector for themselves. [Laughter.] But seriously I think it would be much better to leave this matter to the President.

The amendment was disagreed to.

Mr. WHITE, of Indiana. I move to amend by adding the following at the end of the section:

Provided further, That the collector and assessor herein provided for shall perform all the duties required in the act entitled "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," approved August 5, 1861, of the collector and assessor, provided for in the ninth section of said last recited act, which section is hereby repealed."

Mr. MORRILL, of Vermont. I think the gentleman will find that already provided for in the bill.

Mr. WHITE, of Indiana. I am aware that this bill repeals all the act of August last, except so much of it as authorizes a direct tax; but for that the bill provides for collectors and assessors.

Mr. SPAULDING. These officers are to perform that duty under this bill.

Mr. WHITE, of Indiana. I was not aware of that.

The CHAIRMAN. Does the gentleman from Indiana insist on his amendment?

Mr. WHITE, of Indiana. No, sir; I withdraw it.

Mr. PHELPS, of California. I move to strike out the third section of the bill, as follows:

SEC. 3. *And be it further enacted*, That each of the assessors shall divide his district into a convenient number of assessment districts, within each of which he shall appoint one respectable freeholder to be assistant assessor; and each assessor and assistant assessor so appointed, and accepting the appointment, shall, before he enters on the duties of his appointment, take and subscribe, before some competent magistrate, or some collector, to be appointed by this act, (who is hereby empowered to administer the same,) the following oath or affirmation, to wit: "I, A B, do swear, or affirm, [as the case may be,] that I will, to the best of my knowledge, skill, and judgment, diligently and faithfully execute the office and duties of assessor for, [naming the assessment district,] without favor or partiality, and that I will do equal right and justice in every case in which I shall act as assessor." And a certificate of such oath or affirmation shall be delivered to the collector of the district for which such assessor or assistant assessor shall be appointed. And every assessor or assistant assessor acting in the said office without having taken the said oath or affirmation shall forfeit and pay $100, one moiety thereof to the use of the United States, and the other moiety thereof to him who shall first sue for the same; to be recovered, with costs of suit, in any court having competent jurisdiction.

I make this motion for the purpose of bringing to the attention of the House the same matter to which I attempted to call their attention yesterday; but in which I failed because of the debate which arose on a proposition not then pending. I remark, then, sir, that I see no reason why the office of assessor under this bill cannot be wholly dispensed with. Nor is there any reason at all, as I apprehend I can clearly show if I were not limited to the five minutes rule. There is nothing, virtually, to be assessed under the bill. The law fixes the amount to be paid in every instance, leaving no discretion at all to the assessor. It requires that the assessment shall be made upon the statement of the party who is to pay the taxes. If the party refuses to make the statement, then the assessor is at liberty to make it from the best information he can obtain, and from that statement there is no appeal. It was asserted here yesterday that it was necessary to have an assessor, because it was necessary to adjust these taxes. Now, sir, so far as that goes, there can be no reason of the kind, from the fact that the assessment is made upon the statement of the parties who are to be assessed, and is not, in any instance, upon the judgment of the assessor except in case the statement has been refused, and in those cases no appeal is allowed.

I remarked yesterday that the only reason that I could discover why assessors should be retained in the bill was for the purpose of constituting a check upon the collectors. But I asserted also then that there were several articles with the duties upon which the assessor had nothing to do. That proposition was denied by the gentleman from Vermont, [Mr. MORRILL,] a member of the Committee of Ways and Means. But, sir, if he will examine the bill, he will ascertain that I was correct. If he will examine section forty-six and the following sections he will find that the amounts required to be collected upon several articles are, by the terms of the bill, required to be paid directly to the collectors, without the interposition of the assessor at all, with which the assessor has nothing whatever to do. His check is consequently broken in regard to that, and it is broken in regard to the whole bill. He is no check upon the collector at all. If the gentleman will examine this forty-sixth section, he will find that it requires the distiller to make his statement directly to the collector. The same is true in reference to the manufacturers of malt liquors. The statement is required to be sworn to and handed directly to the collector, and on that statement the duties are to be paid at the time of making it. The assessor, so far as that goes, has no duties to perform; and so far as that goes, it breaks the check which otherwise the assessor might be upon the collector. It is not only so in regard to that, but it is so in regard to malt liquors. It is the same if gentlemen will examine the bill, in regard to manufacturers. It is the same in regard to more than one half of the duties which will be collected under this act. There is nothing for an assessor to do, nothing for a board of equalization to adjust. The law fixes the amount to be charged on every subject, and consequently it may as well be laid by the collector as by the assessor.

Now, I submit to the committee, if we can do away with these collectors that we will do away with one half of the expense of collecting the revenue under this bill.

The CHAIRMAN. The gentleman's time has expired.

Mr. MORRILL, of Vermont. I think that the gentleman from California has entirely overlooked the ninth section of this bill. If he had looked at it he would have found that in cases of fraudulent valuation, or an attempt to avoid the duties, then the assessor may come forward and make the assessment upon the best information that can be obtained. It provides:

That if any such person shall deliver or disclose to any assessor or assistant assessor appointed in pursuance of this act, and requiring a list or lists, as aforesaid, any false or fraudulent list or statement, with intent to defeat or evade the valuation or enumeration hereby intended to be made, such person so offending, and being thereof convicted before any court having competent jurisdiction, shall be fined in a sum not exceeding $500, at the discretion of the court, and shall pay all costs and charges of prosecution; and the valuation and enumeration required by this act, shall, in all such cases, be made, as aforesaid, upon lists, according to the form prescribed, to be made out by the assessors and assistant assessors, respectively; which lists the said assessors and assistant assessors are hereby authorized and required to make according to the best information they can obtain, and for the purpose of making which they are hereby authorized to enter into and upon all and singular the premises, respectively; and from the valuation and enumeration so made there shall be no appeal.

Mr. PHELPS, of Calfornia. As this is a matter of much importance, I will ask the indulgence of the committee for five or ten minutes. I think I can make it perfectly clear that my amendment ought to be adopted.

Several MEMBERS objected.

Mr. PHELPS, of California. I withdraw my amendment; and move, in the fourteenth line, to strike out the words, "assessor and."

Mr. Chairman, I did not overlook the provisions of the ninth section of this bill. On the contrary, it is one of the sections I rely upon to bear me out in the statement I have made that we may do away with these assessors. That section provides for the punishment of a party who makes a false statement. I ask the attention of the committee to its provision. It is as follows:

SEC. 9. *And be it further enacted*, That if any such person shall deliver or disclose to any assessor or assistant assessor appointed in pursuance of this act, and requiring a list or lists, as aforesaid, any false or fraudulent list or statement, with intent to defeat or evade the valuation or enumeration hereby intended to be made, such person so offending, and being thereof convicted before any court having competent jurisdiction, shall be fined in a sum not exceeding $500, at the discretion of the court, and shall pay all costs and charges of prosecution; and the valuation and enumeration required by this act shall, in all such cases, be made, as aforesaid, upon lists, according to the form prescribed, to be made out by the assessors and assistant assessors, respectively; which lists the said assessors and assistant assessors are hereby authorized and required to make according to the best information they can obtain, and for the purpose of making which they are hereby authorized to enter into and upon all and singular the premises, respectively; and from the valuation and enumeration so made there shall be no appeal.

I submit to gentlemen that all this may as well be done by the collector as by the assessor. You rely in every instance upon the statement furnished by the party, and if that statement be false, you can only punish him under the bill for making a false return. The assessor has no power under any section of the act to readjust the statement made unless he thinks it to be fraudulent, and then the party is subjected to the pains and penalties for making a false statement. Then the assessor is authorized to make up another statement on the best information he can obtain.

I submit to the committee that in almost every thing throughout this bill there is no discretion to be exercised. The amount of the tax is made positive. There can be no variation from it. There is consequently no duty for an assessor to perform. This is the character of the assessments made. An apothecary shall pay ten dollars for a license. I ask, then, why the necessity of an assessor to ascertain what amount the apothecary shall pay under the terms of this bill? It is worth while to require an assessor to go around to the merchants and apothecaries to find the taxes which they will pay under this bill when they are positive, and to list them, and then to send the list to the collector and make him go around afterwards collecting the amount which he has listed. May not the collector just as well take his receipts in in his pocket and give them then and there for the money due to the Government?

There is no earthly necessity for an assessor under this bill, except as a check upon the collector. I ask the gentleman from Vermont to examine the provisions of his bill, so far as they relate to spirituous and malt liquors, the three per cent. to be paid on the interest of bonds &c., and he will find upon all of those, amounting to one half of the revenue which will be derived under this bill, that the statement is required to be made directly to the collector, and on that statement the money is then and there required to be paid. Consequently the check is then broken, and if it is broken at all, it is destroyed altogether and is worthless.

So far as these monthly collections are concerned, I submit to the gentlemen of the Committee of Ways and Means that it is utterly impracticable to avail ourselves of the service of an assessor. It is important that we should have monthly collections; for in many instances, such as dealers in spirituous liquors, numerous firms and corporations in the United States will be required to pay, under the terms of this bill, $100 per day.

[Here the hammer fell.]

Mr. ELIOT. I do not desire to discuss this amendment; but only to inquire whether the gentleman wants a vote on it?

Mr. PHELPS, of California. I do.

The amendment was rejected.

Mr. ELIOT. I move to strike out the words "respectable freeholder to be," and to insert the words "who shall be resident therein;" so that the section will read:

That each of the assessors shall divide his district into a convenient number of assessment districts, within each of which he shall appoint one assistant assessor, who shall be resident therein, &c.

The amendment was adopted.

Mr. SHEFFIELD. I move to insert, after the word "will," the words "support the Constitution of the United States, and that;" so it will read:

And each assessor and assistant assessor so appointed, and accepting the appointment, shall, before he enters on the duties of his appointment, take and subscribe, before some competent magistrate, or some collector, to be appointed by this act, (who is hereby empowered to administer the same,) the following oath or affirmation, namely: "I, A B, do swear, or affirm, [as the case may be,] that I will support the Constitution of the United States, and that, to the best of my knowledge, skill, and judgment, diligently and faithfully execute the office and duties of assessor for, [naming the assessment district,]" &c.

The reason for that amendment seems to me to be so apparent that I will not detain the committee with any remarks on it.

Mr. THOMAS, of Massachusetts. I have an amendment which I suggest in place of the gentleman's.

Insert the words:
That I will bear true faith and allegiance to the United States of America, and will support the Constitution, and.

Mr. SHEFFIELD. I accept that amendment as a modification of my own.

The amendment was adopted.

Mr. PORTER. I move after the word "collector" to insert the words, "shall faithfully perform the duties of his office according to the law and;" so that it will read:

SEC. 4. *And be it further enacted*, That before any such collector shall enter upon the duties of his office, he shall execute a bond for such amount as shall be prescribed by the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, with sureties to be approved as sufficient by the Solicitor of the Treasury, containing the condition that said collector shall faithfully perform the duties of his office according to the law, and shall justly and faithfully account for to the United States, and pay over, in compliance with the order or regulations of the Secretary of the Treasury, all public moneys which may come into his hands or possession; which bond shall be filed in the office of the First Comptroller of the Treasury, to be by him directed to be put in suit upon any breach of the condition thereof, &c.

Mr. Chairman, the liability of the sureties is limited under this act to a case where the collector fails faithfully to account for and pay over the moneys which come into his hands. It does not apply to the case where the collector omits to perform his duty. It does not apply to several of the duties which the collector is bound to perform under the provisions of this act. In section nineteen, where another bond is required, there is a provision that the collector shall faithfully perform all of his duties, and there is obviously an omission here which my amendment will supply.

The amendment was adopted.

Mr. PORTER. I move to amend the fifth section by inserting after the words "as such," in the fifteenth line, the words "and for every omission of duty;" so that it will read:

Each collector shall, in every respect, be responsible both to the United States and to individuals, as the case may be, for all moneys collected, and for every act done as deputy collector by any of his deputies while acting as such, and for every omission of duty.

That will make the collector liable not only for the acts done by his deputies, but for any omissions of duty or their part.

The amendment was agreed to.

Mr. WALTON, of Maine. I move to strike out the words "and seal," in the third line; so that the section will read:

SEC. 5. *And be it further enacted*, That each collector shall be authorized to appoint, by an instrument of writing under his hand, as many deputies as he may think proper, &c.

That will simplify the proceedings. If the appointments in writing are required to be sealed, and if, by accident, any of them should not be sealed, or the seal should be torn off, it might lead to disputes in case of litigation, and the seal really adds nothing.

The amendment was agreed to.

Mr. WICKLIFFE. Mr. Chairman, I suggest to the gentlemen who have this subject under their charge, whether it would not be well to put into the bond of the collector a stipulation that he shall be liable to individuals for violation of his duty as well as for neglect of duty? He may wrong you or me, or my constituent, and you want some security.

MESSAGE FROM THE SENATE.

Here the committee rose informally, and the Speaker having resumed the chair, a message from the Senate, by Mr. HICKEY, their Chief Clerk, announced that the Senate had passed bills and a joint resolution of the following titles; in which he was directed to ask the concurrence of the House:

A bill (No. 103) for the relief of John Skirving;

A bill (No. 177) for the relief of Sylvester Crooks;

A bill (No. 225) for the relief of the owners, officers, and crews of the Spanish bark Providencia; and

A joint resolution (No. 26) explanatory of a certain act therein mentioned.

The Committee of the Whole on the state of the Union having resumed its session.

TAX BILL—AGAIN.

Mr. WICKLIFFE. I propose to insert after the word "omission," the words "or violation," so as to make him responsible for violation of duty as well as omissions of duty.

Mr. WALTON, of Maine. I suggest to the gentleman from Kentucky and to the committee, that the simplest and most efficient condition that can be annexed to any official bond is that the obligor shall faithfully perform all the duties required of him by law relating to his office. I think that it would be well that that should be the condition of all bonds provided for in this bill. I think it would be well if all other conditions should be stricken out and that simple one inserted; and as we have passed the fourth section, I ask unanimous consent that that section shall be so amended.

The CHAIRMAN. The Chair will state to the gentleman that such an amendment was adopted to section four. After the word "collector" in the seventh line of the fourth section, the words "shall faithfully perform the duties of his office according to law and" were inserted.

Mr. RICE, of Maine. That is sufficient.

The question was taken on Mr. WICKLIFFE's amendment, and it was disagreed to.

Mr. MORRILL, of Vermont. I move to amend the sixth section by striking out the word "next" in the sixth line, and inserting, in lieu thereof, "1862," so that the section will read:

SEC. 6. *And be it further enacted*, That it shall be the duty of any person or persons, partnerships, firms, associations, or corporations, made liable to any duty, license, stamp, or tax imposed by this act, annually when not otherwise and differently provided for, on or before the 1st day of May, 1862, and in each year thereafter, and in all other cases before the day of levy, to make a list or return to the assistant assessor of the district where located, of the amount of annual income, the number of articles or objects charged with a special duty or tax, the quantity of goods, wares, and merchandise made or sold, and charged with a specific or *ad valorem* duty or tax, the several rates and aggregate amount according to the respective provisions of this act, and according to the forms and regulations to be prescribed by the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury.

The amendment was agreed to.

Mr. THOMAS, of Massachusetts. I would ask the gentleman from Vermont if he thinks that this section fixes the time for making the return in any other year but 1862?

Mr. MORRILL, of Vermont. I will move to insert after the word "and," the words "on or before the 1st day of May," so that it will read, "and on or before the 1st day of May in each year thereafter."

Mr. THOMAS, of Massachusetts. That will remove the difficulty.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I desire to offer the same amendment to the seventh section that I did to the sixth, so as to make them correspond. I move to strike out the word "next," and insert "1862;" and to insert after the word "and," the words "on or before the first day of May;" so that it will read:

SEC. 7. *And be it further enacted*, That the instructions, regulations, and directions, as hereinbefore mentioned, shall be binding on each asssessor and his assistants, and on each collector and his deputies, in the performance of the duties enjoined by or under this act; pursuant to which instructions the said assessors shall, on the 1st day of May, 1862, and on or before the 1st day of May in each year, and from time to time thereafter, in accordance with this act, direct and cause the several assistant assessors, &c.

Mr. PHELPS, of California. I suggest to the gentleman from Vermont that the amendment in this instance should be to insert the words "on or after the 1st day of May," otherwise you will authorize the collection of these taxes at any time after the 1st day of January.

Mr. MORRILL, of Vermont. I think the amendment is right as it stands.

The amendment was agreed to.

Mr. PORTER. It seems to me that there is a misprint in the eleventh line of this seventh section, and that the word "assessment" ought to be substituted for "collection." As the section now reads, the several assistant assessors are to "proceed through every part of their respective districts, and inquire after and concerning all persons being within the *collection* district where they reside, owning, possessing, or having the care or management of any property, goods, wares, and merchandise, articles or objects liable to pay any duty, stamp, or tax." That would extend their duties beyond their several assessment districts, and make it incumbent on them to inquire concerning all persons within the collection district.

Mr. THOMAS, of Massachusetts. The gentleman from Indiana will observe that the second section speaks only of collection districts.

Mr. PORTER. The gentleman will perceive that by this section the several assistant assessors who have limited districts, sub-divisions of the entire district, are required to inquire concerning all persons, not within their limited sub-divisions, but within the entire collection district. I move to strike out the word "collection," in the eleventh line, and to insert "assessment," to add an "s" to the word "district" in the same line, and to insert "respectively" after the word "they." It will then read:

Proceed through every part of their respective districts, and inquire after and concerning all persons being within the assessment districts where they respectively reside, owning, possessing, or having the care or management of any property, &c.

MESSAGE FROM THE PRESIDENT.

The committee rose informally, and a message was received from the President of the United States, by Mr. NICOLAY, his Private Secretary, notifying the House that the President had approved and signed bills of the following titles:

An act to fulfill treaty stipulations with Hanover;

An act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th June, 1863, and additional appropriations for the year ending 30th June, 1862;

An act making an additional article of war; and

An act for the relief of Z. B. Caverly, late secretary of legation at Lima, Peru.

The committee resumed its session.

TAX BILL—AGAIN.

The question was taken on Mr. PORTER's amendment, and it was agreed to.

Mr. STEELE, of New York. I move to amend the amendment of the gentleman from Vermont, by making the clause read, instead of "the 1st of May," "the first Monday in May." The 1st day of May might sometimes fall on a Sunday.

The amendment was agreed to.

Mr. PHELPS, of California. I desire to offer a verbal amendment to the ninth section, to strike out the words "not be prepared to," and to insert in lieu thereof the words "fail to make and;" so that it will read:

SEC. 8. *And be it further enacted*, That if any person owning, possessing, or having the care or management of property, goods, wares, and merchandise, articles or objects liable to pay any duty, tax, or license, shall fail to make and exhibit a written list when required, as aforesaid.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I am inclined to believe that there is something in the point made by the gentleman from California, and I propose to offer an amendment in that connection. I move to insert after the word "cases" in the ninth section, the words "and in all cases of neglect to furnish such list or statement, and in all cases of undervaluation or understatement in such lists or statements."

Mr. WHITE, of Indiana. The eleventh section provides for all cases of neglect, and that renders useless all the amendments already made, and half of that now offered. There is no provision for undervaluation; but all the rest of the amendments are provided for in the eleventh section.

Mr. MORRILL, of Vermont. I modify my amendment by striking out of it all but the words "in all cases of undervaluation or understatement."

Mr. SHELLABARGER. I wish to inquire whether there is any place in the bill which provides that these statements or returns made to the assessors shall be made on oath or affirmation?

Mr. MORRILL, of Vermont. Yes; in cases

of liquors, railroads, &c.; but every man is not to be put under oath.

Mr. SHELLABARGER. I propose to offer an amendment to the amendment, so that it will read, "which returns or statements shall be on oath or affirmation." It is not out of the line of observation of persons of experience that these oaths required as to matters of this sort are a proper precaution and safeguard. I can speak, at all events, from my own observation when I say that it has been found useful to throw around the fidelity of such returns that sanction which is furnished in the oath of the party. Now, it is impossible that those assessors should rely ordinarily on any other than the fairness and truth of the statements made in the returns. It requires such an examination of property, such an investigation of details, and such an amount of labor, that the officer will be very much dependent on the faithfulness of these returns; and although it is true that penalties and pains are attached to an unfaithful or inaccurate return, yet I do think that it will be found that that will not ordinarily be a very valuable check on partial or imperfect returns. It is suggested near me that it cheapens oaths; but, sir, there are various provisions in the bill requiring oaths to be taken, and it is certainly not a matter of less consequence that this very essential, radical provision of the bill, which furnishes the only means or instrumentality of taking hold of the property of a citizen, should require the solemn sanction of an oath.

Mr. EDWARDS. I desire to ask the gentlemen of the Committee of Ways and Means whether this is not already provided for in the sixth section of the bill? That section provides

"That it shall be the duty of any person or persons, partnerships, firms, associations, or corporations, made liable to any duty, license, stamp, or tax imposed by this act, annually when not otherwise and differently provided for, on or before the 1st day of May next, and in each year thereafter, and in all other cases before the day of levy, to make a list or return to the assistant assessor of the district where located, of the amount of annual income, the number of articles or objects charged with a special duty or tax, the quantity of goods, wares, and merchandise made or sold, and charged with a specific or *ad valorem* duty or tax, the several rates and aggregate amount according to the respective provisions of this act, and according to the forms and regulations to be made, as aforesaid, upon lists, according to the form prescribed, to be made out by the assessors and assistant assessors, respectively."

My question is, whether these forms may not prescribe an oath?

Mr. MORRILL, of Vermont. In regard to these oaths or affirmations, it is my opinion that we have multiplied them to the full extent that they ought to be. I am opposed to multiplying oaths where they are unnecessary. It will be found, in the course of this bill, that they are required for the income tax, for the distillers and brewers and manufacturers and railroad companies, banks, &c. That is to as great an extent as oaths ought to be required, and as the Committee of Ways and Means were disposed to go in requiring oaths. As to the question in regard to whether a man has a piano, or more than one watch, it is not required to be answered under oath. I do not suppose that the committee will think it necessary.

Mr. EDWARDS. It seems to me that there should be a provision in this bill to authorize somebody to require that these lists shall be verified by oath, if thought proper—not generally.

Mr. MORRILL, of Vermont. There is a provision which allows the Secretary of the Treasury to prescribe forms and regulations. I have no doubt that, under that provision, he can prescribe an oath if he choose.

Mr. SHELLABARGER. I have no objection to accepting the amendment suggested by the gentleman from New Hampshire—that the officer may require an oath when he deems it necessary.

Mr. THOMAS, of Massachusetts. That would be very invidious.

Mr. SHELLABARGER. Very well. I adhere to my original amendment.

The question was taken on Mr. MORRILL's amendment; and it was agreed to.

The question recurred on Mr. SHELLABARGER's amendment, as follows:

Add the words: "shall be on oath or affirmation."

Mr. NOBLE. I have no objection to that, but I would object to the proposition of the gentleman from New Hampshire. The assessor who might be very easy in his disposition would never require an oath. The consequence would be that whether he got all the property on his list or not would depend on his firmness or disposition. That I do not want to see.

Mr. WHITE, of Indiana. The manager of this bill has stated that in all those cases where the assessor cannot possibly know what is subject to taxation—as, for instance, manufactures and liquors which are often sent off before they are taxed or listed—returns are made under oath. This section refers to but few subjects in the bill, and those subjects of a permanent nature, to be taxed annually, and which the assessor can have at all times access to. It is desirable to avoid incumbering this bill with impracticable propositions. The returns are to be made on the first Monday in May, of each year, to the assessor; and the imposing upon him the duty to determine who shall report under oath and who shall not, would be onerous, impracticable, ill-judged, and unnecessary.

Mr. SHELLABARGER withdrew his amendment.

Mr. HUTCHINS. I move to amend, in the ninth section, by inserting after the word "deliver," in the second line, the word "to;" and to strike out, after the word "or," in the same line, the words "disclose to," and insert in lieu thereof the words "make out for;" so that the clause will read:

That if any such person shall deliver to or make out for any assessor or assistant assessor, appointed in pursuance of this act, and requiring a list or lists as aforesaid, any false or fraudulent list, &c.

It seems to me the word "disclose" may be construed to refer to the list of another man.

Mr. PORTER. The word "disclose" ought not to be struck out. It is meant, doubtless, to apply to the case of illiterate persons, where, they not being able to make out their lists, the assessor makes it out for them.

The amendment was disagreed to.

Mr. McKNIGHT. I move to amend, in the tenth section, by inserting after the word "discretion," in the sixth line, the following:

And in case no such person is found on the premises, shall place a note in the nearest post office addressed to the party interested.

I propose that amendment because it occurs to me in many cases, just as is now the fact with myself at my residence, the house of the person may be closed. There is no person there, and it may be that a person may suffer innocently from such absence. I propose, therefore, that in case no person shall be found about the premises, a note shall be deposited in the nearest post office, addressed to the party interested.

Mr. HARDING. I propose to substitute for the amendment proposed by the gentleman from Pennsylvania, as follows:

In line five, after the word "some," insert:
White person residing in his family of an age not less than fifteen years.

I then propose, in line six, to strike out the words "person of suitable age and discretion;" so that the clause will read:

It shall be the duty of the assistant assessor to leave at the place of residence of such person with some white person residing in his family, of an age not less than fifteen years, a written note or memorandum, &c.

Mr. McKNIGHT. I will suggest to the gentleman that his amendment and mine do not relate to the same thing at all, and that it would therefore be very well for him to wait until mine is disposed of.

The CHAIRMAN. The Chair is of opinion that the amendments relate to different subjects, and that therefore the gentleman from Kentucky had better wait until a vote shall have been taken on the amendment of the gentleman from Pennsylvania.

Mr. HARDING. It seems to me they provide different methods of doing the same thing, and that mine is therefore properly an amendment to the amendment of the gentleman from Pennsylvania, and I decline to withdraw it.

Mr. McKNIGHT. It makes no difference to me which is considered first, and as the gentleman refuses to withdraw his amendment I will withdraw mine.

Mr. MORRILL, of Vermont. I will suggest an amendment which I think will obviate the necessity of either. I suggest the striking out of the words "of suitable age and discretion." I do not see that they are needed there at all.

The CHAIRMAN. The question is on the amendment of the gentleman from Kentucky.

Mr. HARDING. This, Mr. Chairman, relates to a subject of some importance. The next section following provides that you may subject a citizen to a fine of $100 for refusing or neglecting to comply with the requirements of this section. Section ten requires the assessor to pass through the country, and when he comes to the house of an absent citizen he is required to leave a note or memorandum with some person of suitable age and discretion, requiring him to present his list to the assessor within ten days—that I suppose is a constructive notice—and the next section makes it a penalty of $100 to fail to present that list. And in addition to that, the assessor may enter and make out the list of the person so constructively notified.

Now, I desire to make this simple remark, that I propose, instead of leaving it to the discretion of the assessor as to who is the proper person, and as to what is the proper age, that we shall define it in this bill. I propose that when the assessor arrives at the residence of a citizen who is absent, he shall be required to give the notice to some person residing in the family of the citizen; that it shall be some white person, not a slave, and that the person shall be at least fifteen years old. That, I apprehend, would be a sufficient notice to proceed upon in accordance with the provisions of the next section. By the section as it now reads the assessor is simply to leave the notice with some person, whether he resides in the family or not, and he is to be the judge as to his suitable age and discretion.

Now, in many instances, it may turn out that the assessor is a person of strong prejudices and passions, and he will have it in his power by this section as reported to do great injustice and wrong to a citizen. I would not place the assessor in this position of absolute independence. I would strip him of his independence, and prescribe what shall be his duties. I would tell him with what person he may leave his notice. I would require that he shall be a member of the person's family, and shall be not less than fifteen years of age. It seems to me it will be much better for this House to use a little discretion than to leave it entirely to the discretion of the assessor.

Mr. RICE, of Maine. I concur in the amendment offered and withdrawn by the gentleman from Pennsylvania. Now, sir, there may be persons subject to taxation where the family is all black, and where it would be very difficult to find a white person with whom to leave the notice.

I am opposed also to the proposition suggested, but I believe not offered, by the gentleman from Vermont, [Mr. MORRILL,] to strike out the words "of suitable age and discretion." I think that qualification should remain. I think every reasonable pains should be taken to give this notice to bring in the lists, and I therefore move as a substitute for the amendment of the gentleman from Kentucky, to insert after the word "discretion" the following: "if such person be present, otherwise to deposit in the nearest post office," and also to add in line seven, after the word "memorandum," the words "addressed to such person;" so that the section as amended would read:

SEC. 10. *And be it further enacted*, That in case any person shall be absent from his or her place of residence at the time an assistant assessor shall call to receive the list of such person, it shall be the duty of such assistant assessor to leave at the place of residence of such person, with some person of suitable age and discretion, if such person be present, otherwise to deposit in the nearest post office, a written note or memorandum, addressed to such person, requiring him or her to present to such assessor the list or lists required by this act within ten days from the date of such note or memorandum.

The substitute for the amendment was agreed to.

The amendment, as amended, was then adopted.

Mr. McKNIGHT. It seems to me that the ten days provided for in the last clause of the section is a rather short notice. I move to strike out "ten," and insert "twenty."

Mr. STEVENS. I think it had better stand as it is.

Mr. POMEROY. I would suggest to the gentleman that he modify his amendment so as to make the notice ten days when served personally, and twenty days otherwise.

Mr. STEVENS. You will find that the whole machinery of the bill will be disarranged if these amendments are adopted. I hope the time will be allowed to stand as it is. It will not do harm in ninety-nine cases out of one hundred.

The amendment was disagreed to.

Mr. STEELE, of New York. It occurs to me that the person to whom the notice is to be delivered should be a member of the family of the person for whom it is intended; otherwise it might be delivered to some stranger who happened to be found there. I move to amend in line six, after the word "discretion," by inserting the words "being a member of the family."

Mr. LOVEJOY. Does the gentleman include servants in that expression, or otherwise?

Mr. SARGENT. I should like to know what is to be done in case the man has no family?

Mr. STEELE, of New York. If there is no person present with whom it is proper to leave the notice, it is to be deposited in the nearest post office, by the amendment which has just been adopted.

Mr. LOVEJOY. I oppose the amendment.

The amendment was disagreed to.

ENROLLED BILLS.

The committee here informally rose, and the Speaker having resumed the chair,

Mr. GRANGER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (H. R. No. 51) authorizing the Secretary of the Navy to inquire into the causes of the failure of certain contracts for steam machinery, and to remit penalties connected therewith; when the Speaker signed the same.

The committee then resumed its session and proceeded again to the consideration of the

TAX BILL.

Mr. THOMAS, of Massachusetts. I move to introduce, in the eleventh section, after the word "home," these words: "or failure to receive notice;" so that it will read:

And the person so failing or neglecting, unless in case of sickness or absence from home, or failure to receive notice, shall, moreover, forfeit and pay the sum of $100, except where otherwise provided for, to be recovered for the use of the United States, with costs of suit, in any court having competent jurisdiction.

I do not want to fine a man $100 when he has received no notice, and I hope that the amendment will be adopted.

The amendment was adopted.

Mr. BLAIR, of Pennsylvania. I move to insert, in the same section, after the word "license," the words, "and in case of such refusal, the assessor shall thereupon double the amount of the items therein and."

Mr. Chairman, the bill in this particular is not well guarded. The penalty of $100 is not enough. I can very well imagine that there may be many cases where a party would be willing to submit to a penalty of $100. Such are the cases where the tax honestly rendered would be largely in excess of that penalty. The amendment which I propose will cover all cases where there is a refusal to make a statement; and I think that the penalty it inflicts for that refusal is not too severe. A man who refuses to make a return to the assessors shows a desire to defraud the Government, and he has no right to complain of this penalty. I propose in all cases of a refusal to make a return to the assessor, that the assessor shall make a fair and equitable assessment of the items upon which the tax is to be assessed, and then double it. I think that that provision ought to be adopted to better guard this bill.

Mr. MORRILL, of Vermont. If the purpose of the gentleman be what he states it to be, I do not think that he accomplishes his object by his amendment. The section to which he applies his amendment not only provides for the penalty which the gentleman has stated in the case of a refusal to make a return to the assessor, but in case of a fraudulent list being returned a much higher penalty is annexed.

Mr. BLAIR, of Pennsylvania. I think that the gentleman from Vermont is mistaken about my amendment. This section provides if any person, on being notified or required, shall refuse or neglect to give such list or lists, then the assessor shall make one out. And there is a penalty provided for this refusal. If the party refuses to make out a list and hand it to the assessor, the assessor may make out a list, and moreover the party refusing will have to pay the sum of $100. I propose that the party refusing to make a return to the assessor shall be subjected to further penalties—that he shall pay double the amount that he otherwise would have to pay.

Mr. MORRILL, of Vermont. It will be seen by this section of the bill that the party refusing will not only have to pay upon the assessment of the assessor, but $100 of a fine.

Mr. BLAIR, of Pennsylvania. Suppose the assessor is perfectly ignorant of the nature of the business of the party assessed. If you compel your assessors to know everything about every man's business, you will have to have universal geniuses. But that is not to be expected. You will have an assessor going into a manufactory to assess upon the property who is utterly ignorant of its value. He will go and make out the statements on the refusal of the manufacturer to make it, and he may fall far short of making the just return of the amount due to the Government. I submit that there should be an additional penalty provided for all cases of refusal. There ought to be such a penalty as will prevent all refusal to make out statements for the assessors. I think that my amendment will accomplish that purpose.

Mr. MORRILL, of Vermont. I hope that the amendment will be rejected.

The amendment was disagreed to.

Mr. SARGENT. The words "absence from home" are rendered useless by an amendment by which a notice will be served through the post office, where the party is absent from home. I think that sickness should excuse him; and if he does not receive any notice, I think that he should be excused. Those words, then, being superfluous, I move that they be stricken out.

The amendment was agreed to.

Mr. CRISFIELD. I move to strike out the words "persons and," in the sixteenth line, and I desire to call the attention of the gentleman having this bill in charge to the propriety of striking out those words. This is a verbal criticism. By examining the sentence, it will be seen that those words are useless. I will read:

SEC. 11. *And be it further enacted*, That if any person, on being notified or required as aforesaid, shall refuse or neglect to give such list or lists within the time required as aforesaid, it shall be the duty of the assessor for the assessment district within which such person shall reside, and he is hereby authorized and required, to enter into and upon the premises, if it be necessary, of such persons so refusing or neglecting, and to make, according to the best information which he can obtain, and on his own view and information, such lists of property, goods, wares, and merchandise, and all articles or objects liable to duty or taxation, owned or possessed, or under the care or management of such person, as are required by this act, including the amount, if any, due for license; which lists, so made and subscribed by such assessor, shall be taken and reputed as good and sufficient lists of the *persons and* property for which such person is to be taxed for the purposes of this act; and the person so failing or neglecting, unless in case of sickness or absence from home, shall, moreover, forfeit and pay the sum of $100, except where otherwise provided for, to be recovered for the use of the United States, with costs of suit, in any court having competent jurisdiction.

I understand the word "persons," as well as the word "property," is descriptive of the thing to be taxed. The bill makes no provision for taxing slaves. The words "persons and" are not necessary, and I have moved, therefore, that they be stricken out.

Mr. STEVENS. It will be seen that this section includes those who are to be taxed for property which they hold other than their own. Such cases are those who hold trust, or are the guardians for others. The words which the gentleman proposes to strike out are necessary, and I hope that they will not be stricken out.

Mr. CRISFIELD. This bill taxes property which is in trust, and not the person or the individual. This can only refer to slaves.

Mr. WALTON, of Maine. I think the difficulty which the gentleman is laboring under can be obviated by inserting a comma after the word "persons," and one then after the word "tax." I move it as an amendment to the amendment.

The amendment to the amendment was disagreed to; and then the amendment was rejected.

Mr. SHEFFIELD. I want to call the attention of the chairman of the Committee of Ways and Means to this section. It may be that I will propose an amendment to it. Are the persons to be taxed for the property in the district where it may be, or are they to be taxed for it in the district where they may reside?

Mr. STEVENS. There is another provision by which the assessment is to be made and returned from one to the other—an assessment of the property in the district where it is located, which is to be transmitted to the district where the party resides.

Mr. SHEFFIELD. The difficulty, I understand, is provided for. If it is not, we can provide for it hereafter.

Mr. ALDRICH. In the absence of my friend from Indiana, [Mr. HOLMAN,] and your colleague, Mr. Chairman, I ask leave to move an amendment to the twelfth section, which has been passed by, which I know he would not have neglected if he were here. I hope there will be no objection.

Consent was granted.

Mr. ALDRICH. It will be seen that the letter "a," in the word "necessary," is bottom up, and I move that it be put right. [Great laughter.]

The amendment was agreed to.

Mr. STEVENS moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the tax bill, and had come to no resolution thereon.

INVALID PENSIONERS.

Mr. BLAIR, of Missouri, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Interior be requested to report to this House what charges, if any, are authorized by law to be made against invalid pensioners for periodical examination by physicians, or for any other purpose; and whether any charges have been habitually made by any of the pension agents in excess of those authorized by law.

MILITARY DEFENSES.

Mr. BLAIR, of Missouri, also submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs examine the whole system of permanent defenses of the country for the purpose of ascertaining what modifications of the old plans, if any, are required to repel the improved means of attack, and to report by bill or otherwise.

STATIONERY FOR COMMITTEES.

Mr. F. A. CONKLING submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Postmaster be requested to report to this House, at the earliest practicable period, the amount of stationery that has been furnished and charged to the several committees, respectively.

LEAVE OF ABSENCE.

Mr. MALLORY. I ask leave for my colleague, Mr. GRIDER, to be absent from this House, in order that he may go home. Although there is sickness in his family, yet he is so conscientious that he will not leave without the consent of the House. I move that he have that consent.

It was so ordered.

DUTIES ON WOOL.

Mr. RICE, of Maine, presented the joint resolutions of that State, in relation to the duties on wool; which were referred to the Committee of Ways and Means, and ordered to be printed.

PURCHASE OF COIN, ETC.

Mr. HOOPER, from the committee of conference on the disagreeing votes of the two Houses on the amendments to the bill to authorize the purchase of coin and for other purposes, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 341) to authorize the purchase of coin and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House of Representatives recede from their disagreement to the Senate's first amendment, and agree to the same, with an amendment, as follows:

Strike out all after the word "may," in the first line, to the word "at," in the third line, and insert as follows: "purchase coin with any of the bonds or notes of the United States authorized by law."

That the Senate concur in the amendment of the House to the second amendment of the Senate.

W. P. FESSENDEN,
J. COLLAMER,
W. J. WILLEY,
Managers on the part of the Senate.
S. HOOPER,
JOHN W. CRISFIELD,
Managers on the part of the House.

The report of the committee of conference was agreed to.

And then, on motion of Mr. RICHARDSON, (at twenty-five minutes after four o'clock, p. m.,) the House adjourned till Monday next.

IN SENATE.

MONDAY, *March* 17, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of Friday last was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 17th of December, 1861, information in relation to the number and names of major generals, and of the officers who are performing duty as such; also the number of officers and soldiers connected with their staffs, and the rent of the buildings occupied by them as offices; which, on motion of Mr. WILSON, of Massachusetts, was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. HARRIS presented a petition of citizens of the city of New York, praying that Congress will dispense with all further agitation of the slavery question, and confine its attention to measures for supporting the Government and supporting and maintaining the Constitution; which was ordered to lie on the table.

Mr. WRIGHT presented a petition of citizens of Indiana, praying for the establishment of a mail route from Annapolis to Covington, in that State; which was referred to the Committee on the Post Office and Post Roads.

Mr. ANTHONY presented the petition of Cornelius Wendell, praying for the settlement of his accounts for dry-pressing during the Thirty-Sixth Congress; which was referred to the Committee on Printing.

Mr. DIXON presented the petition of Sarah A. Ward, widow of Commander James H. Ward, United States Navy, praying for a pension; which was referred to the Committee on Pensions.

Mr. WILSON, of Massachusetts, presented a petition of one hundred and sixty legal voters and thirty-eight others, of Leominster, in the State of Massachusetts, praying for the total abolition of slavery under the war power; which was ordered to lie on the table.

Mr. POMEROY presented resolutions of the Legislature of Kansas, in favor of the passage of an act to secure the early completion of a railroad from the Missouri river to the Pacific ocean; the ratification of the treaty lately made with the Pottawatomie Indian nation; and a grant to that State of five millions of acres of the public lands to aid in the construction of railroads; which was referred to the Committee on Indian Affairs, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House had passed the resolution of the Senate (No. 65) to authorize the Secretary of War to accept moneys appropriated by any State for the payment of its volunteers, and apply the same as directed by such State.

Also, that it had passed a bill (H. R. No. 366) granting an invalid pension to William Sterry, of the State of New York.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 136) to provide for the appointment of sutlers in the volunteer service, and to define their duties.

BILLS BECOME LAWS.

The message also announced that the President of the United States had approved and signed, on the 13th instant, the following acts:

An act (H. R. No. 299) to make an additional article of war; and

An act (H. R. No. 326) to fulfill treaty stipulations with Hanover.

And on the 14th instant the following acts:

An act (H. R. No. 208) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1863, and additional appropriations for the year ending 30th of June, 1862; and

An act (H. R. No. 284) for the relief of Z. B. Caverly, late secretary of legation at Lima, Peru.

PURCHASE OF COIN.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 341) to authorize the purchase of coin, and for other purposes.

Mr. FESSENDEN submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 341) "to authorize the purchase of coin and for other purposes," having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the House of Representatives recede from their disagreement to the Senate's first amendment, and agree to the same with an amendment, as follows: Strike out all after the word "may," in the first line, to the word "at," in the third line, and insert as follows: "purchase coin with any of the bonds or notes of the United States, authorized by law."

That the Senate concur in the amendment of the House to the second amendment of the Senate.

W. P. FESSENDEN,
J. COLLAMER,
W. T. WILLEY,
Managers on the part of the Senate.
S. HOOPER,
J. W. CRISFIELD,
Managers on the part of the House.

The report was concurred in.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. FESSENDEN, it was

Ordered, That the petition of Folliet A. Whitney, on the files of the Senate, be referred to the Committee on the District of Columbia

On motion of Mr. SUMNER, it was

Ordered, That the petition of James G. Clarke, on the files of the Senate, be referred to the Committee on Foreign Relations.

On motion of Mr. MORRILL, it was

Ordered, That the resolutions of the Legislature of Maine, in relation to coast frontier defenses of that State, presented on the 13th instant, be referred to the Committee on Military Affairs and the Militia.

REPORTS FROM COMMITTEES.

Mr. CLARK, from the Committee on Claims, to whom was referred the bill (S. No. 85) to provide for the quieting of certain land titles in the late disputed territory in the State of Maine, and for other purposes, reported it with an amendment. He stated that he did not ask for the printing of the accompanying report, which was the report made at the Thirty-Fifth Congress, it being on the files of the Senate.

Mr. WILSON, of Massachusetts, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 235) providing for the organization of Army corps and of staffs attached to corps and divisions of the Army of the United States, reported it with amendments.

IRON-CLAD VESSELS OF WAR.

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

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency and propriety of appropriating money sufficient to make experiments in testing and proving iron cladding for vessels of war.

INDIAN TERRITORY.

Mr. LANE, of Kansas, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Indian Affairs be instructed to inquire as to the propriety and expediency of extending the southern boundary of Kansas to the northern boundary of Texas, so as to include within the boundaries of Kansas the territory known as the Indian territory; and to report by bill or otherwise.

BILLS INTRODUCED.

Mr. WILSON, of Massachusetts, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 236) to continue the pension of Christine Barnard, widow of the late major (by brevet) Moses J. Barnard, United States Army; which was read twice by its title, and referred to the Committee on Pensions.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; which thereupon received the signature of the Vice President:

A bill (H. R. No. 114) authorizing floats to issue in satisfaction of claims against the United States for land sold by them within the Las Ormigas and La Nana grants in the State of Louisiana;

A bill (H. R. No. 341) to authorize the purchase of coin, and for other purposes;

A joint resolution (S. No. 64) expressive of the thanks of Congress to Captain A. H. Foote, of the United States Navy, and to the officers and men under his command in the western flotilla; and

A joint resolution (H. R. No. 51) authorizing the Secretary of the Navy to inquire into the causes of the failure of certain contracts for steam machinery, and to remit penalties connected therewith.

HOUSE BILL REFERRED.

The bill from the House (No. 366) granting an invalid pension to William Sterry, of the State of New York, was read twice by its title, and referred to the Committee on Pensions.

OPENING OF SIXTH STREET WEST.

Mr. FOOT. I ask the Senate to consider a bill of mere local interest, and to which I presume there will be no opposition—a bill (S. No. 226) authorizing the opening of Sixth street west. I move that it be taken up for present consideration.

The motion was agreed to; and the bill was read a second time and considered as in Committee of the Whole. It directs that Sixth street west, from the canal to Maine avenue, be opened, and a bridge constructed across the canal on that street, under the direction of the Commissioner of Public Buildings, in accordance with the plan approved in May, 1822, by James Monroe, then President of the United States, and appropriates the sum of $3,000 for carrying out its provisions.

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

COMMAND OF TROOPS.

Mr. WILSON, of Massachusetts. I move to take up for consideration the joint resolution (S. No. 68) to authorize the President to assign the command of troops in the same field or department to officers of the same grade without regard to seniority.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution.

Mr. HALE. I want to inquire of the chairman of the Committee on Military Affairs if there is any necessity for the last clause of this joint resolution. If there is not, I should doubt the expediency of passing it. I remember that that subject was very much discussed here several years ago on a question raised by the then Senator from Mississippi, Mr. Davis, who contended—and I think it was the first time I ever heard it contended—that the President had not the power of dismissing an officer of the Army or Navy at his pleasure. It was a subject of considerable discussion here; and I think by a very decisive vote, almost unanimous, it was decided that the President had that power. It has been always supposed that he had it. The Government has always gone on the supposition that he had the power of dismissing any officer from the Army or Navy that he saw fit, and he has repeatedly exercised it. If that is so, what is the reason for reënacting it at this time? I wish the chairman would explain it.

Mr. WILSON, of Massachusetts. In a bill passed by the Senate a day or two since, there was a provision authorizing and requesting the President to remove officers when in his judgment the public service would be promoted by so doing.

Mr. HALE. That was in regard to the volunteer corps, was it not?

Mr. WILSON, of Massachusetts. It applied to both. That bill is now in the House of Representatives; but as it is a bill that contains twenty-five sections, it will take some little time probably before it will be reached. The Secretary of War is very anxious that this provision should go in this joint resolution. I believe myself that the President has this power, and I think he ought to exercise it in some cases; but it is a power that ought to be exercised with the greatest care, and I think it would be so exercised. But at the same time a question has been raised in regard to it; and perhaps the passage of this resolution might be an indication to the President that Congress was willing to clothe him with the power, and willing

that he should exercise it, and indeed desirous that he shall do so when it is necessary for the public service. Therefore, sir, we have reported it in this form. The Senate can take its own action in regard to it.

Mr. HALE. The very bill of which the Senator speaks, if I recollect aright, related to the volunteer corps, and it was manifestly proper to give the President the authority there, because he had it not without such a provision. Those officers are commissioned by the Governors of the several States, and whenever an officer in the volunteers is proved to be incompetent, he having a commission from his State, it is proper that the Department should not be under the necessity of writing home to the Governor to get him dismissed. There was a necessity, therefore, for giving the President that power in regard to the volunteers; but I think it would be unwise to put in any such provision in regard to the regular Army. I know that this power was exercised. I remember years and years after I first came to Congress there was a colonel in the Army hanging about Congress who had been dismissed by General Jackson by his simple word. The cause of his dismission was one that I think was highly creditable to General Jackson. He dismissed him for illegally punishing a soldier. The general did not stop for a court-martial, but dismissed him at once. That man was around Congress here for years and years after I came to Congress, to get redress. Jackson dismissed young men from the Navy for being engaged in duels. It has been a power exercised from the beginning of the Government down to this time, and it was never questioned until the late Senator from Mississippi, Jefferson Davis, did it. Notwithstanding the commissions say on the face of them that the officer is to hold during the pleasure of the President, the question was then raised; and it seems to me, to pass this provision now, would be, by implication at least, to cast a censure upon the Presidents who have gone before, and exercised the power at their pleasure.

Mr. WILSON, of Massachusetts. I received some time ago a letter from a detective giving an account of the conduct of a person in the service of the country, not in the Army, but one of our paymasters that we have appointed for the payment of the volunteer force, stating how he spent his days and nights, and warning us that we should have a defalcation. I placed that letter in the hands of the late Secretary of War. He said that they would immediately remove him and erase his name from the list. I supposed it was done. A few days ago I saw that man on the street with his uniform on. I made some inquiries about it, and I learned that they had a little doubt about the power of dismissing him as he was not in the regular service, but was brought in under the law for the payment of volunteers. I was told by the Secretary of War that if Congress passed such an act as this applying to that force, there would be no trouble in exercising the power. I believe myself that they have got it; I have no doubt of it; and I wish they would exercise it. I think they have a little doubt on that subject, and if there be any doubt upon it they ought to be clothed with the power expressly. If the Senate think there is no question about it, that it is unnecessary legislation, and that is so decided and so understood, there is no trouble about it

Mr. NESMITH. This resolution never was properly before the Military Committee. It is true, that the chairman, as he stated when he offered the resolution, had the authority of the committee to offer it. I know he presented it to me, and I stated that I had not time to make an examination of it, but I would consent that the resolution should be offered, reserving the right to vote as I pleased, not committing myself upon the action that should be taken in the Senate in regard to it. Since that time I have had no opportunity of carefully examining the resolution. It was submitted to me in manuscript, before it was printed, when I could not examine it. I think it should receive the attention of the committee, and I therefore, without intending any discourtesy to the chairman of the committee, move its reference back to the Committee on Military Affairs and the Militia.

The motion was agreed to.

POST OFFICE APPROPRIATION BILL.

Mr. FESSENDEN. I move that the Senate proceed to the consideration of House bill No. 259, being an act making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1863. It is a short bill, and I think we can pass it in a few minutes.

The motion was agreed to; and the bill was considered as in Committee of the Whole.

Mr. FESSENDEN. This bill was reported from the Committee on Finance without amendment; but I find that there is one amendment which ought to be made. I perceive, on examination, that the appropriation contained in the twenty-first and twenty-second lines of the first section of this bill has already been made in another bill. I therefore move to strike out those lines which are in these words:

For paper for blanks, $50,000.
For printing blanks, $12,000.

The amendment was agreed to.

Mr. COLLAMER. I have some amendments which I am directed to move to this bill by the Committee on the Post Office and Post Roads. The first one is, in line twenty-six, to strike out "$50,000," and insert "$75,000." This is an appropriation "for mail depredations and special agents." The Department estimated for this service $75,000, and the House of Representatives reduced it to $50,000. The House do not seem to have taken into consideration the great use which is now being made of the special agents of the Department in the renewal of the mail service in the States where it has been suspended, as our armies go on. The setting up of those mails is done entirely by these agents. They hunt up the old mail bags, get the locks and keys, reclaim the property belonging to the Department, as the armies go South, and reëstablish the mails and put them in operation. The estimate of $75,000 should not have been reduced, and probably should have been increased. All I ask now, however, is that this appropriation be restored to $75,000, instead of $50,000.

The amendment was agreed to.

Mr. COLLAMER. At the end of section one, I move to insert:

For compensation of twenty-five additional clerks in the Post Office Department, under the act "to promote the efficiency of the dead letter office," approved January 21, 1862, from the date of their appointment to the 30th of June, 1862, $8,000.

During this session, and after the estimates were sent in, an act was passed to authorize the appointment of twenty-five additional clerks in the dead letter office, and an appropriation was made in the bill for their payment for the next fiscal year; but there is no provision for their payment from the time of their appointment up to the 30th of June next. I move this amendment for the purpose of covering that.

The amendment was agreed to.

Mr. COLLAMER. I move to insert at the end of the bill, as an additional section:

And be it further enacted, That all acts and parts of acts heretofore passed requiring the Postmaster General, in causing the transportation of mails by steamships between the United States and any foreign port or ports, or between any ports of the United States touching at a foreign port, shall give preference to American over foreign steamships, when departing from the same port for the same destination, within three days of each other, be, and the same are hereby, repealed.

A law passed four or five years ago, and afterwards renewed in another act, provided that when sending mails by steamships abroad, the postmaster of the place shall give the preference to an American steamer, if she is going within three days after a foreign vessel that is ready to go. The Department think that is an unwise provision. We pay to American vessels a little more than to foreign ships, because to American ships we give both the inland and ocean postage, and we only give ocean postage to the foreign ships. It is no particular advantage to the nation; it costs us more for the American vessels. What has been the result of this? Dispatch is all important always with postal operations. To suffer news, information of any kind, to go ahead of your public mails, is to destroy your mails. If there is a foreign vessel ready to receive the mail, going across the Atlantic, and you can put the mail on board her, and you will not, but keep it for an American ship that is going three days afterwards, all the private letters will be sent by the foreign ship, and anticipate and destroy your public mails. I have a very full report of Mr. Holt on this subject, which is concurred in by the present Postmaster General, disapproving of this arrangement as decidedly injurious to the service, and desiring that these provisions of law may be repealed.

The amendment was agreed to.

Mr. COLLAMER. I have nothing further from the committee myself, but other gentlemen have.

Mr. LATHAM. I am instructed by the Committee on the Post Office and Post Roads to offer one or two amendments. I offer the following as an additional section:

And be it further enacted, That the Postmaster General be, and he is hereby, authorized to establish a coast mail, not less than semi-monthly, by steam vessels, between San Francisco and Crescent City, in the State of California, including service at the intermediate ports: *Provided*, That the sum to be paid for such service shall not exceed the sum of $25,000 per annum.

In relation to this amendment I will make a brief explanation. There are three ports including Crescent City to be supplied with mail matter, and a population ranging between thirty-five and fifty thousand people that have now no mail facilities whatever, especially during the winter season. The steamships which run from San Francisco to Oregon do not go into these ports at all; and the object of this amendment is to enable the Postmaster General to contract for the lowest possible sum that he can, to induce the steamship companies to touch at these ports and supply them with mail facilities. The reason of the vessels not going in there, I will state is simply that the navigation of the entrance to these harbors is dangerous, and the vessels are unwilling to go in unless they have some special purpose, such as would be the case if they were compelled to deliver the mails. I will state also to the Senate, that these ports are separated, as it were, from the rest of the State by a chain of mountains which is almost impassable and has been entirely so during the past season. It is sometimes so for five or six months of the year. The object of this provision is simply to allow the Postmaster General to contract for the delivery of the mail at these points, in order that this portion of our population may not be deprived of the same facilities that other portions of the State have.

Mr. FESSENDEN. I should like to inquire whether this is recommended by the Post Office Committee or simply comes from the Senator?

Mr. LATHAM. It is recommended by the Post Office Committee. I will state to the honorable chairman of the Finance Committee, that I have conversed with the Postmaster General, and he is desirous that such an amendment shall be put here.

Mr. FESSENDEN. I know nothing about the sum. I have observed that when a certain sum is appropriated, it is pretty apt to be used up. I should like to know if the committee has been economical in its calculations, and on what data the calculations have been made. I do not think this the proper place for it. It should be put on the post route bill.

Mr. LATHAM. I will state that I fixed the sum at the wish of the Postmaster General. He has made inquiries, and he will probably get it done for less, but I am not prepared so to state.

Mr. FESSENDEN. Is it left to his discretion?

Mr. LATHAM. Entirely.

Mr. FESSENDEN. I should like to hear it read once more.

The Secretary read the amendment.

Mr. LATHAM. It is entirely within the discretion of the Postmaster General.

Mr. FESSENDEN. If the Chair is of opinion that it is in order, I have nothing to say about it. I do not feel inclined to object to anything that is reasonable to the State of California, after the manner in which she has paid her quota of expenses.

The VICE PRESIDENT. The Chair does not see why it is not in order. It is reported by a committee.

The amendment was agreed to.

Mr. LATHAM. I am also instructed by the committee to move, as additional sections to the bill, the following:

And be it further enacted, That all American steamers and sailing vessels bound from any port in the United States to any foreign port, shall, before clearance at the custom-house, receive such mails as the Post Office Department shall cause to be placed on board, and shall promptly de-

liver the same to the proper authorities at such foreign port on arrival there; and as a compensation for this service they shall be entitled to receive from the Post Office Department the usual ocean postage on such mails: *Provided*, That this act shall be applicable only to steamers or sailing vessels having no contract for carrying the mails.

And be it further enacted, That any American vessel, clearing from a foreign port or place for or to any port or place in the United States, shall take and receive any mail or mail matter placed on board said vessel by the United States consul, or by the post office officers of such foreign port or place for the United States, and shall safely convey and deliver the same to the post office of the place of arrival in the United States.

And be it further enacted, That upon the entry of every steamer or sailing vessel from any foreign port, the master or commander thereof shall make a return, on oath or affirmation, showing that he has promptly delivered all mails placed on board of the steamer or vessel under his command for delivery. And in case the master or commander shall fail to make oath or affirmation as aforesaid, showing that he has delivered the mails placed on board his steamer or vessel in good faith, the said steamer or vessel shall not be entitled to the privileges of a steamer or vessel of the United States.

Mr. FESSENDEN. I should like to inquire what is the necessity for these provisions, and what their object is? Is any penalty affixed for their violation? I did not notice that any penalty was provided for refusing to receive a mail.

Mr. LATHAM. If they do not receive the mails, the penalty is that they cannot clear; and if they do not bring the mails on their return, they cannot enter.

Mr. FESSENDEN. A good deal of this legislation comes from committees without explanation. I think legislative provisions ought to be understood by the Senate before they are adopted, especially on appropriation bills. I do not like to have too much legislation on appropriation bills. I warn the Senator from California that the House of Representatives is very strict in regard to that; and any legislation which we attach here stands in danger there. I can raise no question of order, because I believe the amendment is in order when recommended by a committee. This legislation may perhaps be very necessary. I do not know; but unless it is, I shall object to it.

Mr. COLLAMER. If gentlemen desire to understand it, I will state briefly what this proposition is. We have a very important mail which is carried from New York to the Isthmus of Panama, and from Panama by the British mail steamers down the west coast of South America to Valparaiso, touching at intermediate points. That is a very important mail to all our people concerned in the whale fisheries, for Valparaiso is their great point of business. That mail has been brought by the British steamers up to Panama, across the Isthmus by railroad, and then by whatever steamers were running between New York and Aspinwall. Two weeks ago the Department received notice from Mr. Vanderbilt, of New York, that after the 21st or 25th of this month the company of which he is the head, owning the line of steamers from New York to Aspinwall, would no longer carry the mail on their steamers. They have carried this mail heretofore and received the pay provided by law, the ocean and inland postages. The Department were unable to make any arrangement with him. That was the great point of service we wanted of him. I believe—and here I am perhaps going at large on my belief—that Mr. Vanderbilt was not very well satisfied with the Government setting up the overland mail to California. Our mails to California were formerly carried by the way of the Isthmus, at very great expense, under a ten year contract, which was renewed for a short time on its expiration. When the daily overland mail was set up at an expense of $1,000,000 a year to carry all the mails to California, we ceased all other arrangements for carrying mails to California; nor do I know that the people there require or ask for another mail service. It is important, though, to have the mail carried from New York to Panama for the purpose of going down the west coast of South America. The committee saw no other way of securing it, but by providing that, if American ships will not take the mails at the price which the law fixes—that is, the ocean and inland postage—they shall have no clearance. There is no other way of accomplishing the purpose, unless we undertake to subsidize all the steam lines running across the Atlantic and everywhere else—a policy which has long since been given up.

That is the object of this amendment. It is not, to be sure, leveled particularly at the Panama service or at Mr. Vanderbilt, but makes it imperative that all American steamers shall carry the mails, for the ocean and inland postage, to those countries to which they are going, and only to the port or place which is their destination. They are not bound to go out of their way, nor do anything particularly for the Government; but it is simply provided that they shall carry the mail and deliver it, and if they do not take it to deliver they shall not have a clearance; and also that they shall bring home direct to their port of destination the mails that are delivered to them in a foreign port, and that if they do not they shall not have the privileges of American bottoms. That is the substance of the amendment. Though the occasion of passing it has arisen in the manner I have stated, still that occasion may be renewed again on other routes where we shall equally need service.

I ought here to say further that I have received information that Mr. Vanderbilt has withdrawn the notice to which I have alluded. He says he has been misunderstood. He had the impression that we were putting on his line the carrying of mails to Panama which were really to be sent up to San Francisco, and were thus making him do the work which the Overland Mail Company has agreed to do. I believe there is no foundation for saying that there has been any such misdirection of papers. That being the case, he says he withdraws the notice. Whether he will renew it or not, I do not know. Whether, if the session passes off without our making any law about it, he will not again give notice that he means to stop, I cannot say.

Objection is made to putting the provision on this bill. In regard to that, I can only say that the Post Office Committee regarded this amendment as much required for the public service, and just and right in itself, and we proposed to put it here, because in that way it would be more likely to go through the House of Representatives promptly than if we passed it in a separate bill. A separate bill has been reported and lies on the table now, containing these provisions. The committee were of opinion that we should get along quicker by putting this amendment on the appropriation bill, and that is the reason they have proposed it here.

Mr. LATHAM. I will state, in addition to what the chairman of the Committee on the Post Office and Post Roads has said, that it not only applies to those mails going to Panama that are to go to the South American coast, but it is also necessary for those mails coming from the South American coast to our Pacific ports. Letters are brought from South American ports to Panama; and if the steamship company saw fit to refuse to carry them, there would be no means of getting them from Panama to San Francisco unless they were sent to New York, and from New York across the country.

When I called the attention of the Senate to this subject the other day, I indulged in some very stringent remarks relative to the course of the gentleman who owns the entire line, I believe, plying between New York and Aspinwall, and has a considerable interest in the line going from Panama to San Francisco. I probably ought to have excepted in those remarks the company known as the Pacific Mail Steamship Company, plying between San Francisco and Panama. I have no reason to believe that there has been any disposition on the part of that company to be disobliging to the Government or to the public. On the contrary, I am perfectly aware that when the contract for carrying the mail by steamship expired a year ago this spring, that company continued to carry the mail for the accommodation of the public to the Isthmus, where it lay, I think, two trips, the company on this side being unwilling to bring it forward. The reason why I did not except this company in the general remarks that I made the other day was the fact that, in the communication directed by Mr. Vanderbilt to the Postmaster General, and to the Committees on the Post Office and Post Roads, he spoke, not only for his own line, but also for the line plying between San Francisco and Panama; and speaking as he did, as it were by authority, I did not except it. I now state to the Senate that, so far as the Pacific Mail Steamship Company is concerned, I have never seen, except in this instance, and probably then I did them injustice, any manifestation of a disposition not to oblige the public. The line is an admirable one, has polite and good officers; has not only benefited the Pacific coast; and I am sure there never would have been any misunderstanding with that company but for the interest and influence of Mr. Vanderbilt. This amendment is proper for the reason that no ship sailing from any port of the United States under the protection of our flag should refuse to carry the mails which belong to foreign ports. If they enjoy the protection of our laws and our flag, they ought, before they sail, to receive the mails destined to a foreign port, receiving therefor the usual ocean postage. It is not just or proper that either steamships or sailing vessels should be allowed to refuse to do this, and thereby hamper commerce. Therefore, I say Congress ought to pass a law of this kind as a matter of public policy.

Mr. SUMNER. After the very clear statements that have been made by the Senator from Vermont and the Senator from California, I believe the necessity of this amendment will be apparent to the Senate; but as I had the honor of introducing this provision as a bill some days ago, I venture to add a word or two to what has already fallen from Senators. I believe it meets an exigency of the public service at this precise moment. We understand that on the 21st of this month Mr. Vanderbilt will refuse to carry the mails, and there is no provision to meet that refusal. Under these circumstances, the Postmaster General has applied to Congress for some provision to enable him to carry the mails. Merchants in Baltimore, in Philadelphia, and in New York, have petitioned Congress for the same purpose. I have had the honor of presenting those petitions. The case, as presented by them, was strong. It was the same case that has been presented by the Senator from Vermont to-day. It seems to me there can be no question that it is a case on which Congress ought to act. The question then occurs whether it should act on this appropriation bill. Here comes the suggestion of the Senator from Maine, that the House may possibly hesitate to adopt this proposition when it finds it on the appropriation bill. Sir, I believe the House will see the exigency precisely as we see it; and they will see that, unless the bill is passed promptly, it will fail of its special object. But even if the House might hesitate, I do not know that that can be any reason why the Senate should. It seems to me, it belongs to us to pass such a bill as soon as possible; and as the best way of doing that is by attaching it to the appropriation bill, it seems to me it should be done in that way.

Mr. SHERMAN. I am friendly to the object of this amendment; but I wish to understand it before it is adopted, and I will make an inquiry of the chairman of the Committee on the Post Office and Post Roads on the subject. If I understand it, the letter postage to Valparaiso is twenty-four cents, or thereabouts.

Mr. COLLAMER. I do not know that I can answer what is the British mail postage on the other side to South America.

Mr. SHERMAN. But this is the point I wish to get at: by the amendment, the Government of the United States is bound to pay to the American vessels the ocean postage.

Mr. COLLAMER. And all inland postage on the same paper.

Mr. SHERMAN. Suppose a letter is sent from New York to Valparaiso; it is sent by an American vessel to the Isthmus, and after crossing the Isthmus is sent by a British vessel to Valparaiso; how is that postage divided?

Mr. COLLAMER. Suppose, for instance, the letter is mailed here in this city and sent to New York and put in that mail. We allow our mail steamer for carrying it, the ocean postage from here to Aspinwall and the postage from Washington to New York. At Panama, it goes on board the British steamer, and the postage is paid by those who receive it, at the post office at Valparaiso or Callao.

Mr. SHERMAN. There is another case. Suppose a letter is sent by way of Panama to San Francisco. If I understand it correctly, we would receive but ten cents postage. I will ask whether or not, under the peculiar phraseology of this amendment, the Post Office Department would not be bound to pay ocean postage on both sides?

Mr. COLLAMER. It was not intended or expected that any letter should be sent by that mail to San Francisco at all.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. WEDNESDAY, MARCH 19, 1862. NEW SERIES.....No. 79.

Mr. SHERMAN. They could be.

Mr. COLLAMER. They could be, but there is no inducement to send them that way, for the Post Office Department would have to pay ocean postage on them, whereas if they send them overland they do not. It would, therefore, be a great perversion of the public service if they should undertake to send letters to San Francisco by the way of this ocean mail. It was not intended, when we were paying $1,000,000 a year for a daily mail across the continent to San Francisco, that we should pay any other mail for carrying anything there. This difficulty arose because Mr. Vanderbilt supposed we did so; but the Post Office Department say they never have done so since that overland mail was put in operation last July, and it will not be done. I think the security against the Post Office Department perverting letters from the daily overland mail route and putting them on board these vessels, is, that they must pay the ocean postage, which would be a dead loss to the Government.

Mr. SHERMAN. That discloses the real trouble of the amendment as it is now framed. The Postmaster General may send at any time he chooses, or indeed a postmaster may send at any time he chooses, from New York, letters by way of Panama to San Francisco. On these letters the Government would receive ten cents postage, while, by the phraseology of this amendment, it would be compelled to pay ocean postage, which is twenty-four cents; so that the Government would pay two and a half times as much as it would receive. I am in favor of this amendment, and am very willing to vote for it; but I do not want the Government in any case to pay these vessels a greater amount than it receives from the citizen, and I think that ought to be guarded against. In the case I put a moment ago, if a letter is sent from New York to Valparaiso, and is carried by one of these vessels to Panama, I see nothing in the amendment to prevent them claiming the whole entire ocean postage of twenty-four cents, although we receive but five or eight cents according to treaty stipulation. All I desire is to guard against that construction of the law, and to prevent the Postmaster General from sending them in that way. I think that would be done by adding at the proper place a clause like this:

Provided, That the Government shall not pay a greater amount of postage than it receives upon the letters.

Mr. COLLAMER. I do not know that I understand the Senator; but it seems to me a very strange thing to be supposed that the postmaster at New York, which is the only place in America where they ship these letters, under the direction of the Postmaster General, is going to send California letters that way and subject them to ocean postage. We would have a very strange Postmaster General who would want to do that, when we have got the overland mail and have to pay for it any way.

Mr. SHERMAN. Suppose a private individual should request or desire on the face of the letter that it should be sent by way of Panama: might not the postmaster at New York, without thinking of the cost, send it that way? Then the Government would receive but ten cents and would have to pay twenty-four cents, while it is paying at the same time $1,000,000 a year to carry the mails across the plains.

Mr. COLLAMER. I think the postmaster would conduct himself according to the orders of the Postmaster General how to mail letters, and the Postmaster General would never direct letters to be mailed in that way. No man can suppose it.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) The question is on the amendment proposed by the Senator from California.

Mr. SHERMAN. I should like to have the words I spoke of added.

The PRESIDING OFFICER. The Chair did not understand the Senator from Ohio to propose an amendment.

Mr. COLLAMER. If the gentleman insists on that, I have another objection to it in addition to the one I have stated. It will open the door and pave the way again for supporting a mail by the Panama route, instead of the overland route; because if we can send them that way, without costing any more, and send them just as well as by the overland route, then the overland route is broken down again. It is merely an entering wedge for that purpose. I prefer that it should stand without those words, so that we shall confine our service to California to the mail we set up exclusively for that coast.

The PRESIDING OFFICER. Does the Senator from Ohio propose an amendment to the amendment?

Mr. SHERMAN. I am in favor of the overland mail, and do not desire to break it up in the slightest degree; but I am afraid that the Senate in its haste will be betrayed into a difficulty here, and that the Post Office Department will have to pay two or three times the amount it receives for postage, and that ought not to be. I think it is within the power of the Senate, and I am sure if the chairman of the Committee on the Post Office and Post Roads will give his attention to it for a moment, he will frame, in a few words, a clause which will exclude the evil that I fear. I think that probably what the Secretary has already written down will accomplish that purpose, and will not injure the amendment at all.

The PRESIDING OFFICER. Does the Senator from Ohio propose it as an amendment to the amendment?

Mr. SHERMAN. I do.

The Secretary read the amendment to the amendment: at the end of the first section of the amendment to insert:

And provided further, That the Government shall not pay a greater amount of postage than it receives.

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

The bill was reported to the Senate as amended, and the amendments were concurred in and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

SLAVERY IN THE DISTRICT.

Mr. WILSON, of Massachusetts. I move that the Senate proceed to the consideration of executive business.

Mr. MORRILL. Will the Senator yield to me for a single moment?

Mr. WILSON, of Massachusetts. Certainly.

Mr. MORRILL. I desire to call up Senate bill No. 108, for the release of certain persons held to service or labor in the District of Columbia, with a view of assigning a time for its further consideration.

The motion was agreed to; and the Senate resumed the consideration of the bill.

Mr. MORRILL. I move you now, sir, that the further consideration of the bill be postponed until to-morrow at one o'clock, and be made the special order for that hour.

The motion was agreed to.

PRIZE LAW.

Mr. TRUMBULL. Before going into executive session, I ask leave to make a report from the Committee on the Judiciary on the bill (H. R. No. 279) to facilitate judicial proceedings in adjudications upon captured property, and for the better administration of the law of prize; and if there be no objection, I should like to have it considered now. The committee report it back with sundry amendments, which are marked on the bill that I send to the desk. I ask for its present consideration.

The PRESIDING OFFICER. Is there any objection to the present consideration of the bill just reported by the Senator from Illinois?

Mr. WILSON, of Massachusetts. I suggest, as this is an important bill, that we have a little time to consider it.

Mr. KING. What is it?

Mr. TRUMBULL. I will state that this bill has passed the House of Representatives, and the Committee on the Judiciary of the Senate have unanimously agreed to it. It regulates the proceedings in prize cases, producing uniformity between the different courts and facilitating the proceedings in those courts, as is thought by those who have investigated it. The district attorneys in the cities where there are a great many prize cases now transpiring have been consulted in regard to it. It has passed the House, and the committee of this body have recommended its passage, with some slight amendments, which I have sent to the Chair. The reason why I asked for its consideration at this time was this: these cases are now occurring. There are some difficulties in the administration of the laws, and we have been written to by district attorneys all over the United States about it. If anybody wishes to examine it, I shall not urge it at this moment, though I have been telegraphed to in regard to it.

The PRESIDING OFFICER. Is there any objection to the present consideration of the bill?

Mr. HALE. Yes, sir; let it lie over.

The PRESIDING OFFICER. Objection being made, the bill cannot be considered to-day.

EXECUTIVE SESSION.

Mr. WILSON, of Massachusetts. I now renew the motion that the Senate proceed to the consideration of executive business.

The motion was agreed to.

Mr. HENDERSON. Before the doors are closed, as it will take but a moment, I ask the Senate to consider the bill (H. R. No. 148) to secure to the officers and men actually employed in the western department or the department of Missouri their pay, bounty, and pension.

Mr. COLLAMER. It is too late. There is no time now to consider it.

The PRESIDING OFFICER. Objection being made, the bill cannot be considered at the present time.

The Senate thereupon proceeded to the consideration of executive business; and, after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *March* 17, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of Friday last was read and approved.

WASHINGTON CENTRAL GUARD-HOUSE.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, in answer to the resolution of the House of Representatives making inquiry as to the condition of the central guard-house in Washington city; which was laid upon the table, and ordered to be printed.

CONTINGENT FUND.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Postmaster General transmitting a detailed statement of the expenditures of the contingent fund of the Post Office Department for the year ending June 30, 1861; which was laid upon the table, and ordered to be printed.

STATE MONEYS TO THEIR VOLUNTEERS.

Mr. OLIN. If the House will listen to me for but one moment, I am sure they will consent that I shall report back from the Committee on Military Affairs joint resolution S. No. 65 to authorize the Secretary of War to accept moneys appropriated by any State for the payment of their volunteers, and to apply the same as directed by such State, with a view to its being put upon its passage. The resolution provides simply that the Secretary of War be authorized to accept moneys appropriated by any State for the payment of its volunteer troops. The reason why I ask the passage of the resolution now is that it will authorize my own State to pay some ten thousand volunteers who have not received one cent of compensation since they were mustered into the service. They have been brought here to this city, and are

about to embark on board the expedition now in the Potomac. If the House will pass this joint resolution of the Senate, it will enable my own State to advance money to pay those soldiers, which the Legislature of the State has already appropriated, and these men will thus have means with which to provide themselves with those things which will be necessary upon such an expedition.

There being no objection, the report was received, and the joint resolution was read.

The joint resolution provides that if any State during the present rebellion shall make any appropriation to pay the volunteers of that State, the Secretary of War is authorized to accept the same, and to cause it to be applied by the Paymaster General to the payments designated by the legislative act making the appropriation, in the same manner as if it had been appropriated by act of Congress, and also to make any regulations that may be necessary for the disbursement and proper application of such funds to the specific purposes for which they may have been appropriated by the several States.

Mr. LOVEJOY. I would ask whether this joint resolution proposes to pay the same amount, and no more?

Mr. OLIN. Simply the same amount—if a State steps in and advances money to the General Government—that would otherwise be paid. The General Government not being in a situation just now to pay the troops at all, my State, knowing that fact, passed a resolution appropriating money to pay the troops in the same way that the General Government would have done; and the State will, of course, have a claim upon the General Government for the amount so advanced.

Mr. WADSWORTH. I would ask the gentleman why the General Government does not pay the troops? The State of Kentucky has some troops in the field who have been in service since the 7th day of November, and who have never been paid. I would ask the gentleman why the General Government itself does not pay these troops?

Mr. OLIN. I will say, in reply to the gentleman, that the difficulty, whatever it may be, does not originate in the military organization of the Government, but it originates in the present embarrassment of the Treasury of the Government. The Government will pay as fast as it can; and the reason why these troops have not been paid is that the Government is not in a situation to pay everybody. My State, knowing that fact, has stepped forward and advanced money to the General Government for the payment of its own troops, and this resolution simply enables the Secretary of War to accept moneys thus advanced by States, and appropriate them to the payment of the troops in the same way as though they were paid by the General Government. And the reason why I ask that the resolution shall be passed at this moment is, that about ten thousand troops from the State of New York would be able to receive their pay before they embark.

Mr. STEVENS. I do not quite understand this resolution. Has it been printed?

Mr. OLIN. Yes, it has been printed. It has been passed by the Senate. If the gentleman had listened to me a moment, he would have been satisfied.

Mr. STEVENS. I did listen, and it convinced me that the resolution ought not to pass.

Mr. OLIN. Well, the joint resolution is before the House. The report has been received, has it not?

The SPEAKER. The question is upon the third reading of the joint resolution.

Mr. STEVENS. I really wish it might be postponed and printed. If I understand the resolution it gives the States the discretion to pay whom they please.

Mr. OLIN. No, sir. Where?

Mr. STEVENS. I hope the gentleman will not be bellicose. [Laughter.] The resolution provides that the Paymaster General shall apply the money in the way that shall be designated by the legislative act making the appropriation.

Mr. OLIN. That is the troops to whom it shall be paid.

Mr. STEVENS. The State is to designate where the money shall be applied.

Mr. OLIN. Certainly; we do not propose to pay the troops of Pennsylvania, but our own troops.

Mr. STEVENS. We have already a law by which we agree to refund to the States what has been paid by them up to this time. Now, I understand this to be a further provision, that the States at their pleasure may make appropriations to pay their troops, designating the particular way, and then the General Government is to pay the money.

Mr. OLIN. Yes, sir.

Mr. STEVENS. Well, that strikes me as injudicious. I beg pardon of the gentleman for saying so, but I cannot help thinking that the General Government ought to say where the money shall be expended. I know the money is raised by the State, but is the State to take from the General Government the raising of troops and the payment of them? This is a provision for the future, and not for the past at all. I would like to know whether this does not apply to future operations? There seems to be some doubt about it.

Mr. OLIN. Certainly.

Mr. STEVENS. I so understood, but gentlemen around me thought otherwise.

Mr. OLIN. It is a general provision. Suppose, for instance, that the General Government is in no situation for months to come to pay the troops of Pennsylvania or Ohio, is there any plausible reason in the world why those States may not step forward and raise the money to pay their own troops, and simply ask the General Government, when they are able to do so, to refund the money? It does not appropriate a cent of money. The General Government would appropriate the money if they had it on hand, and the sole object of this resolution is to accommodate the troops by giving them some pay after they have served for months without receiving a fraction of pay.

Mr. LOVEJOY. I wish to ask the gentleman how these troops are to be paid—by the United States paymaster or by the State?

Mr. OLIN. It provides for the United States paymaster paying the money in pursuance of the Army regulations. What is done, is simply to furnish the money to the General Government to pay the troops, precisely as the General Government would pay the troops if it had the money.

Mr. LOVEJOY. Why cannot the money be paid into the United States Treasury as a loan?

Mr. OLIN. The United States Treasury has not got anything to pay the men with.

Mr. LOVEJOY. But the State of New York proposes to furnish the Treasury with money for this purpose.

Mr. OLIN. It does go there; but without this joint resolution, it might not be appropriated to New York troops

Mr. LOVEJOY. The loan might be made on condition that it should be paid to the New York troops.

Mr. OLIN. That is the whole effect of the resolution.

Mr. STEVENS. I suggest to the gentleman whether he will not consent to a proviso that the act shall only apply to troops already raised, and mustered into the service.

Mr. OLIN. Of course I cannot consent to any amendment; for, as I stated to the House half a dozen times, unless the resolution can be passed to-day, it might as well be thrown into the fire. My State appropriates the money, and asks the passage of this resolution. At least ten thousand of our troops have not yet been paid one dollar.

Mr. STEVENS. How would it do to provide that this resolution shall not apply to any future designation by the Legislature?

Mr. OLIN. I should not care much on the subject, for any future contingency may be provided for when the necessity occurs; but I am persuaded that if the House will listen for a moment to the proposition, no gentleman, unless he is disposed to be captious and to defeat a measure of the utmost necessity, will object for an instant to the passage of this resolution. It is a general resolution, authorizing simply this: that if any of the States choose to advance money to the General Government to pay its own troops, the Secretary of War may accept that loan, and appropriate it to the purpose in the same way as if it came direct from the Treasury. Gentlemen seem very much alarmed lest this should be a precedent for some other cases. Who knows what the future embarrassments of the Government may be? Is there, then, any impropriety in saying that any of the States that chooses to advance money for the payment of its own troops, when the General Government has not funds on hand, may do so? It does not alter the mode of payment, but simply provides that the General Government shall disburse these moneys in the same way as if it furnished them itself.

Now, I have stated what the necessities for the immediate action of the House are. These troops are ordered now to embark. They are waiting embarkation. Many of them have not received a cent of pay from the General Government. The State of New York, aware of the facts, offers to the General Government, by an act of its Legislature, an amount sufficient to pay these troops, and here we are higgling as to whether it is judicious to take this money and pay the troops, when the General Government itself has not money to pay them. Nobody objects to their being paid. I have no doubt that some ingenious gentleman might suggest a little amendment to this joint resolution by which, in a very adroit way, the measure would be defeated, because it could not possibly get through this House and then go to the Senate and be acted on there in sufficient time for the object proposed by it. I move the previous question on the third reading of the joint resolution.

Mr. EDWARDS. Will the gentleman yield to me for a question?

Mr. OLIN. I yield for a question.

Mr. EDWARDS. I do not assume that I come within the class adverted to by the gentleman from New York—that class of ingenious gentlemen who might, perhaps, suggest some amendment that would embarrass the bill. But I desire to ask a question for the information of the House, as the gentleman is a very good lawyer and has given attention to this bill. I understand it to allow the State to say to whom the money shall be paid, and that any State may, during the present rebellion, make appropriations to pay the volunteers of that State. If that means the volunteers raised under the law and accepted by the General Government, it is safe enough; but if it means any volunteers whom the State may put in service, it would be a bad precedent. Now, I wish to ask the gentleman what his construction is of the description of troops to be paid, because it relates to all time during the rebellion.

Mr. OLIN. The resolution certainly cannot be misapprehended. It would be a curious fraud to be perpetrated by the State of New York to advance money to troops who had never been in the service of the United States, and then to call on the General Government to refund the amount.

Mr. LOVEJOY. It applies to other States as well as to New York.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the act (S. No. 136) to provide for the appointment of sutlers in the volunteer service, and to define their duties.

STATE MONEYS TO VOLUNTEERS—AGAIN.

Mr. OLIN. In answer to the question of the gentleman from New Hampshire, I will say that such a construction as he suggests cannot possibly be put upon this act. It is an act to make provision for paying the volunteers in the service of the General Government during the present rebellion. It provides further that the act of the State may designate, as this act does, the troops to which the appropriation is to be applied. It authorizes the Secretary of War to accept the amount of moneys thus appropriated, and to have it paid in the same way as if it were appropriated by the General Government. There was no necessity for incorporating in this joint resolution a particular designation of the men. The act of the State designates the troops, and provides that the Secretary of War may accept the moneys offered. If the act of a State should provide for paying money to troops not mustered into the service, the Secretary of War would probably not accept it. I now demand the previous question.

The previous question was seconded, and the main question ordered; and under its operation the joint resolution was read a third time and passed.

Mr. OLIN moved to reconsider the vote by

which the joint resolution was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

SUTLERS IN VOLUNTEER SERVICE.

Mr. BLAIR, of Missouri, from the committee of conference on the disagreeing votes of the two Houses on the act (S. No. 136) to provide for the appointment of sutlers in the volunteer service, and to define their duties, made a report.

The report was read. It recommends that the Senate recede from its disagreement to the first, fourth, fifth, sixth and seventh amendments of the House, and agree to the same; that the Senate recede from its disagreement to the second amendment of the House, and agree to the same, with an amendment, as follows:

Add the following proviso:

Provided, That if any paymaster in the service of the United States shall allow or pay any greater sum to any sutler than that hereby authorized to be retained from the pay of the officers, non-commissioned officers, musicians, and privates, for articles sold by any sutler during any one month, then the amount so allowed or paid by the paymaster shall be charged against the said paymaster, and deducted from his pay, and returned to the officer, non-commissioned officer, musician, or private, against whom the amount was originally charged. And any captain or lieutenant, commanding a company, who may certify any pay roll bearing a charge in favor of the sutler against any officer, non-commissioned officer, musician, or private, larger or greater than one sixth of the monthly pay of such officer, non-commissioned officer, musician, or private, shall be punished at the discretion of a court-martial.

That the Senate recede from its disagreement to the third amendment of the House, and agree to the same, with an amendment, as follows:

In line three, of said amendment, strike out the word "quarter," and insert in lieu thereof the word "sixth."

That the Senate recede from its disagreement to the eighth amendment of the House, and agree to the same, with an amendment, as follows:

At the end of the said amendment add as follows:

And be ineligible to a reappointment as sutler in the service of the United States.

Mr. BLAIR, of Missouri. Mr. Speaker, it will be seen from the report of the committee of conference, that the Senate have receded from its disagreement to the first, fourth, fifth, sixth, and seventh amendments of the House. The third amendment, which allows to the sutler a lien to the extent of one sixth of the pay of the officer, non-commissioned officer, musician, or private, was agreed to with an amendment, and that amendment provides that any paymaster who shall allow to any sutler any larger or greater sum than that allowed by law, shall forfeit that amount himself. It also provides that the company officer who certifies to the pay roll, shall be punished if he certifies any larger or greater amount than one sixth of the pay of the officers, non-commissioned officers, musicians, or privates. That is the principal change which has been made in the third amendment of the House. It has been amended also to make the measure one of more stringency against the paymaster who allows and the officer who certifies on the pay roll to an extent of more than one sixth of the pay. Another amendment was agreed to by the committee of conference, limiting the legal liability of the soldier instead of to one fourth of the amount of his pay to one sixth. The punishment of the sutler is also provided for in case of his violation of the law. I demand the previous question on the adoption of the report.

The previous question was seconded, and the main question ordered to be put; and, under the operation thereof, the report was adopted.

ARRESTS OF NEGROES.

Mr. LOVEJOY. I ask the unanimous consent of the House to introduce the following resolution:

Resolved, That the Committee for the District of Columbia be instructed to inquire into the facts and ascertain and report to this House by what authority of law Mrs. Biscoe, living on Dunbarton street, Georgetown, seized, or caused to be seized, two men, to wit: Louis Ayres and Washington Watts; and also by what authority of law or legal process these men have been sent to Baltimore and immured in the jail, and whether their arrest and imprisonment is not a direct violation of that provision of the Constitution (fifth article of Amendments) which says that no person shall be deprived of life or liberty without due process of law.

Mr. JOHNSON. I object.

Mr. LOVEJOY. I move that the rules be suspended in order that I may introduce that resolution.

The SPEAKER. That motion is not now in order.

CENSUS RECORD.

Mr. FESSENDEN. I ask the unanimous consent of the House for leave to introduce the following resolution:

Be it resolved by the Senate and House of Representatives of the United States in Congress assembled, That the Superintendent of the Census be required to record or have recorded in books to be prepared for that purpose, the names of adult males, or heads of families, of the free population of the United States and Territories, in alphabetical order and in such manner as to admit of easy reference to their place in the original census returns, and also specifying *freeholders* by adding the word "freeholder" at the end of the name of each freeholder in said record.

Mr. CALVERT. I object to that resolution unless there is a provision added to it that it shall not be the means of incurring any additional expense.

CHARTER OF VESSELS.

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

Resolved, That the Secretary of War be requested to inform the House by whom the vessels recently chartered under the direction of the War Department, were chartered; what compensation such person has received, or is to receive, for such services; whether any persons have been acting under the authority or by direction or permission of the person authorized by the Department to effect such charters in regard to effecting the same; who such persons are; what compensation such persons have received, or are to receive, for such services; and whether in effecting such charters any persons acting directly or indirectly for the Government have charged the persons from whom such vessels have been chartered any percentage on the amount of the charter, or any other compensation, and what has been so charged.

MEDICAL DEPARTMENT OF THE ARMY.

Mr. BLAKE. I ask the unanimous consent of the House for leave to introduce the following resolution:

Resolved, That the committee on the conduct of the war be requested to inquire into the expediency of adopting immediate and efficient measures for such reform in the medical department of the Army as will secure to our sick and wounded soldiers the best and most effective medical treatment, and that said committee report by bill or otherwise.

Mr. COX. I do not object to the purpose of the resolution, but merely to the proposed reference to the committee on the conduct of the war.

Mr. BLAKE. I will accept any modification of my resolution in that regard.

Mr. COX. I move, then, that it be referred to the Committee on Military Affairs.

Mr. BLAKE. If I could have an opportunity to read an extract from the Cincinnati Gazette on this subject, I am sure there would not be a single objection in this House to my resolution. There ought to be speedy and efficient reform in the present mode of treating our sick and wounded soldiers. I modify the amendment so that it shall go to the Committee on Military Affairs, instead of to the committee on the conduct of the war.

The amendment, as modified, was then adopted

FORTIFICATION OF ST. LOUIS.

Mr. BLAIR, of Missouri, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to report a bill to pay the laborers employed in the construction of St. Louis fortifications, numbered from one to five inclusive, which said fortifications were constructed under the superintendence of Major Kappner.

CENSUS RECORD—AGAIN.

Mr. FESSENDEN introduced a joint resolution providing for a census record; which was read a first and second time.

The resolution was read.

Mr. FESSENDEN. I ask the Clerk to read the letter of the Superintendent of the Census.

The Clerk read, as follows:

CENSUS OFFICE, DEPARTMENT OF THE INTERIOR,
WASHINGTON, *March* 13, 1862.

MY DEAR SIR: In pursuance with your suggestion, I send the form of a joint resolution which appears to me to contain all necessary for the purpose indicated. The value of such a record cannot be realized now, but will before long be experienced; and its importance will increase with the lapse of time.

It will be of immense value as an aid to the Pension Office in warding off fraudulent claims for pensions, and afford facilities for verifying or defeating demands for countless thousands of dollars. It will be a good service to posterity in enabling future generations to establish their descent, which in a country so constantly changing is due to those who are to succeed us. These are but few of the benefits incident to the establishment of such a record.

With unaffected respect, your obedient servant,
JOSEPH C. G. KENNEDY.

HON. SAMUEL C. FESSENDEN, *M. C.*

Mr. JOHNSON. I propose to discuss the resolution.

The resolution was laid over under the rules.

APPEALS, ETC.

Mr. ELIOT introduced an act concerning appeals and writs of error; which was read a first and second time, and referred to the Committee on the Judiciary.

GENERAL RIPLEY'S REPORT.

Mr. ROSCOE CONKLING introduced the following resolution; which was read, considered, and referred to the Committee on Printing:

Resolved, That there be printed, for the use of the House, five thousand extra copies of the report of General Ripley, relative to contracts for fire-arms.

ALLOWANCES TO WITNESSES, ETC.

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

Resolved, That the Secretary of the Treasury be requested to communicate to this House a statement showing separately the mileage and per diem charged by the marshal and district attorney of the northern district of New York, of late years; and also the fees and mileage paid to witnesses by the United States, and the rate and amount charged for transporting criminals in said district.

MRS. MARGARET McDANIEL.

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

Resolved, That leave be granted to withdraw from the files of the House of Representatives the petition of Mrs. Margaret McDaniel, widow of Thomas McDaniel, a soldier of the Revolution, praying for relief, with accompanying documents; and that the same be referred to the Commissioner of Pensions.

FORTIFICATIONS OF ST. LOUIS—AGAIN.

Mr. STEVENS. A resolution was adopted on motion of the gentleman from Missouri instructing the Committee of Ways and Means to report a bill on a subject about which we know nothing. I move to reconsider the vote by which that resolution was adopted, in order that it may be modified so as to request the committee to inquire into the expediency of reporting on the subject indicated.

Mr. BLAIR, of Missouri. I do not think that it is a question of expediency at all, but rather a matter of justice to the laborers who have worked upon these fortifications. Those men ought to be paid the money that is their due, and I desire that the Committee of Ways and Means shall prepare a bill for that purpose. The facts have been reported by the committee of this House. One man, a certain Beard, of California, has received for five other fortifications of St. Louis $171,000, and afterwards $20,000 more, making in all $191,000; whereas $60,000 is all that was contracted to be paid for labor on these fortifications, which are equally as well constructed, and of the same dimensions. There is no necessity to inquire into the expediency of paying these men what the Government owes them; but there is upon our part an absolute necessity to provide for that payment.

Mr. STEVENS. I have great respect for the opinion of the gentleman from Missouri; but I do not think that any committee of this House ought to be instructed to report a bill to appropriate large sums of money without knowing any of the facts involved. I think that the resolution is one of the most extraordinary I have ever seen.

Mr. BLAIR, of Missouri. It is not an extraordinary proposition. It is extraordinary, on the contrary, that these men have not been paid for their work long before this.

Mr. STEVENS. The commission will report in a few days. It may be right to pay these men; but the committee ought to have the privilege of looking into the facts.

Mr. BLAIR, of Missouri. I have no disposition to be discourteous to the gentleman from Pennsylvania or the Committee of Ways and Means. I will modify the amendment to suit the gentleman in the respect he suggests—that the committee inquire what is due, and report a bill to provide for its payment.

Mr. STEVENS. To inquire into the propriety of *paying*, would be proper.

Mr. BLAIR, of Missouri. There is no doubt about the propriety of paying if there is anything due them.

Mr. STEVENS. I suppose that matter is all embraced in the word "propriety."

Mr. BLAIR, of Missouri. I do not know whether it is or not. If the gentleman will agree

to amend the resolution so that it shall instruct the committee to inquire as to what is due the laborers upon those fortifications, and if anything, to report a bill to pay it, I will be satisfied.

Mr. STEVENS. I only want what is right.

Mr. WICKLIFFE. I understand from that report and from other facts connected with the case, that the contractor has received more money upon five forts than all the works are worth upon a fair estimate, and I would ask if he was not bound by his contract to pay the wages of these laborers?

Mr. BLAIR, of Missouri. Five of these forts were built by the Californian, Beard, under a contract with General Frémont, and he has received $191,000. The other five were built under the superintendence of Major Kappner by day labor and they cost only $60,000, although larger than the five built by Beard. The day laborers have not been paid for their honest work, while this California contractor employed by Frémont has been paid three or four prices for less work.

Mr. WICKLIFFE. Was he not bound by the terms of his contract to apply the money put into his hands by the commanding general to the payment of these laborers?

Mr. HOLMAN. The contract in reality only applied, and should apply, to the last five forts, and not to the first five, although it was dated back and covered them all. The testimony taken upon that subject shows that a portion of the $60,000 which had accrued to these men who worked upon these first five forts night and day, was paid, while a portion of it still remains unpaid. The officer, Major Kappner, a man of integrity, who supervised the construction of these five forts, employed the men and kept an account of the amount paid to and of the amount still due to these laborers, so that it will not be at all difficult to ascertain the amount now due. Certainly, there is no question but what a portion of the $60,000 remains unpaid. Laborers were employed from various parts of the country, and money is still due them.

It is a well known fact that the five forts, constructed after these first five under the supervision of Major Kappner, and under the contract with Beard, cost an extraordinary amount of money. Those constructed by Major Kappner were constructed without any contract, and simply by the employment of day laborers, although the contract, with the extravagant rates afterwards made with Beard, covered all of the forts.

Mr. STEVENS. If the gentleman from Missouri will allow me, let me suggest that if we are to be imperatively ordered to report a bill without knowing what it is, the gentleman should be good enough to fix the sum for which we should report the bill. I think that if it is referred to the committee to inquire into what sum of money is due, the committee will try to do justice by examining into the matter, and reporting a bill to pay those men. But I do not like any imperative order to report to pay, without knowing something about what we are to pay.

Mr. BLAIR, of Missouri. It is the habit of the House, upon certain occasions, to instruct committees to report bills, and no committee that I am aware of, has shown any sensitiveness upon the subject except the gentleman from the Ways and Means Committee. The committee of which I happen to be a member have had absolute instructions sent to them to report bills upon specified subjects, and I might have made the same complaint which the gentleman from Pennsylvania now makes. I did not consider that as treating the committee with any indignity whatever.

Mr. STEVENS. I do not treat the matter in that light at all, but my principal objection is that I do not see how we can obey the directions.

The question was put upon the motion to reconsider, and it was agreed to.

The original resolution being thus before the House,

Mr. STEVENS moved to amend by striking out the word "instructions to report a bill," and to insert in lieu thereof the words "instructions to inquire into the expediency of reporting a bill" to pay, &c.

Mr. BLAIR, of Missouri. It should be "inquire into the amount due, and if any, to report a bill to pay what is found due."

Mr. STEVENS. I think my amendment covers the whole ground.

The amendment was agreed to.

The resolution, as amended, was then adopted

BANK NOTES IN THE DISTRICT OF COLUMBIA.

Mr. CALVERT. I desire to report back from the Committee for the District of Columbia, a bill (H. R. No. 331) to authorize the banks in the District of Columbia to issue and circulate notes of less denomination than five dollars, and in connection with it I desire to have a letter of the district attorney of the District read.

The SPEAKER. It is hardly in order to report a bill upon a call of States for resolutions.

INCREASED RAILROAD FACILITIES.

Mr. THOMAS, of Maryland, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be requested to communicate to this House a copy of the letter addressed to the Secretary of War by the President of the Baltimore and Ohio Railroad Company, concerning increased railroad facilities between the cities of New York and Washington.

PASSENGERS ON STEAMSHIPS.

Mr. CRAVENS introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of amending an act entitled "An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam, and for other purposes," approved August 3, 1852, so as to extend its provisions to all vessels navigating the Ohio river, whether propelled by steam or not, and to report by bill or otherwise.

ARREST OF NEGROES.

Mr. LOVEJOY. I now offer the resolution I offered some time since, and upon it I demand the previous question.

The resolution was read, as follows:

Resolved, That the Committee for the District of Columbia be instructed to inquire into the facts and ascertain and report to this House by what authority of law Mrs. Biscoe, living on Dunbarton street, in Georgetown, seized or caused to be seized two men, namely: Louis Ayers and Washington Watts; and also by what authority of law or legal process these men have been sent to Baltimore and immured in jail, and whether the arrest and imprisonment is not a direct violation of that provision of the Constitution (fifth article of Amendments) which says that no person shall be deprived of his life or liberty without due process of law.

The previous question was seconded.

Mr. CRISFIELD moved to lay the resolution on the table.

Mr. LOVEJOY. Upon that I demand the yeas and nays.

Mr. WICKLIFFE. I desire the unanimous consent of the House to make an inquiry.

Mr. BLAIR, of Pennsylvania, objected.

Mr. CRISFIELD. I withdraw my motion to lay the resolution on the table.

Mr. RICHARDSON. I call for tellers upon ordering the main question.

Tellers were ordered; and Messrs. CRISFIELD, and KELLOGG of Illinois, were appointed.

The House divided, and the tellers reported—ayes 53, noes 39.

So the main question was ordered to be put.

Mr. WICKLIFFE. I move to lay the resolution upon the table, as I cannot ascertain whether these are white men or black men.

The SPEAKER. Pending the main question, it is not in order to make any such statement.

Mr. WICKLIFFE. I take it all back, and call for the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 43, nays 68; as follows:

YEAS—Messrs. Joseph Baily, Biddle, Jacob B. Blair, Calvert, Casey, Cobb, Corning, Cox, Cravens, Crisfield, Crittenden, Dunlap, English, Fisher, Hall, Harding, Johnson, Kerrigan, Knapp, Lazear, Lehman, Mallory, Menzies, Morris, Noble, Noell, Norton, Pendleton, Perry, Price, Richardson, Robinson, Sheffield, Shiel, John B. Steele, Voorhees, Wadsworth, Ward, Webster, Chilton A. White, Wickliffe, Woodruff, and Wright—43.

NAYS—Messrs. Aldrich, Ashley, Babbitt, Baker, Baxter, Beaman, Bingham, Francis P. Blair, Samuel S. Blair, Blake, Buffinton, Campbell, Chamberlin, Clark, Clements, Colfax, Frederick A. Conkling, Roscoe Conkling, Cutler, Davis, Delano, Dunn, Edgerton, Edwards, Eliot, Fessenden, Franchot, Frank, Gurley, Hale, Hanchett, Harrison, Hickman, Hooper, Horton, Hutchins, Kelley, Francis W. Kellogg, Lansing, Loomis, Lovejoy, McKnight, Moorhead, Anson P. Morrill, Justin S. Morrill, Timothy G. Phelps, Pomeroy, Porter, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Shanks, Shellabarger, Sloan, Stevens, Stratton, Benjamin F. Thomas, Trowbridge, Van Valkenburgh, Charles W. Walton, E. P. Walton, Wheeler, Albert S. White, Wilson, Windom, and Worcester—68.

So the House refused to lay the resolution on the table.

During the call of the roll,

Mr. BIDDLE stated that Mr. ANCONA had been called home by illness in his family.

Mr. EDWARDS stated that Mr. RICE, of Massachusetts, was detained from the House by sickness.

The resolution was then passed.

ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled a joint resolution (S. No. 64) expressive of the thanks of Congress to Captain A. H. Foote, of the United States Navy, and to the officers and men under his command in the western flotilla; when the Speaker signed the same.

TAX BILL.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed the consideration of the special order, being the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

The CHAIRMAN stated that when the committee rose on Friday they were engaged in the consideration of the fourteenth section, to which amendments were still in order.

Mr. PHELPS, of California. I move to amend the section, in line twenty-two, by striking out the words "the assessors under the direction of," so as to leave the form of the list to be prescribed by the Commissioner of Internal Revenue alone.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to strike out, in the ninth line of the fifteenth section, the words "during ten days," and to insert, in lieu thereof, the words "within fifteen days;" so that the clause would read:

And that within fifteen days after the publication of the notification, as aforesaid, appeals will be received, &c.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend, in line fourteen of the same section, by striking out the words "during ten days after the date of publication to be made," and to insert, in lieu thereof, the words "at the time fixed for hearing such appeals;" so that the clause will read:

And it shall be the duty of the assessor in each collection district, at the time fixed for hearing such appeals as aforesaid, to submit the proceedings of the assistant assessor, &c.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to strike out the whole of the eighteenth proviso, as follows:

Provided always, That it is the duty of said assessor to advertise and attend two successive days of the said ten at or near the court-house of each county within his collection district, there to receive and determine upon the appeals aforesaid.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I now move as a verbal amendment to strike out the words "and" and "also," in the twenty-sixth line; so as to make it read simply "provided," instead of "and provided also."

The amendment was agreed to.

MESSAGE FROM THE SENATE.

The committee here informally rose, and the Speaker having resumed the chair, a message was received from the Senate by Mr. FORNEY, their Secretary, informing the House that the Senate have agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments to the bill of the House (No. 341) to authorize the purchase of coin, and for other purposes.

Also that the Senate have passed an act (No. 226) authorizing the opening of Sixth street west; in which he was instructed to ask the concurrence of the House.

The committee resumed its session, and proceeded again to the consideration of the

TAX BILL.

Mr. MORRILL, of Vermont. I move to amend the fifteenth section further by striking out in line thirty-one the word "collection," and inserting the word "assessment." The clause would then read:

Provided, That the question to be determined by the assessor, on an appeal respecting the valuation or enumeration of property, or objects liable to duty or taxation, shall

be, whether the valuation complained of be or be not in a just relation or proportion to other valuations in the same assessment district, or whether the enumeration be or be not correct.

The amendment was agreed to.

Mr. WHITE, of Indiana. I was going to call the attention of the committee to that very thing. I observe that the nomenclature which has been adopted for the bill calls the general districts collection districts, and the smaller subdivisions assessment districts. Now, if the plan should be adopted of making a whole State a collection district, it will be necessary to change the word "collection" to "assessment," or else it will be utterly impossible to comply with the requirements of the first section. The first clause of the bill now reads:

That immediately after the annual valuations and enumerations shall have been completed, as aforesaid, the assessor in each collection district shall, by advertisement in some public newspaper, if any there be in such district, or by written notifications, to be publicly posted up at least in four of the most public places in each collection district, advertise all persons concerned of the place where the said lists, valuations, and enumerations may be examined.

Now, I propose to strike out the word "collection" and insert "assessment" in this clause, and I desire to make the same motion where the word "collection" occurs in the same connection in the section.

Mr. MORRILL, of Vermont. The gentleman from Indiana states correctly in respect to the nomenclature used in the bill in relation to collection and assessment districts. I think, however, it may be well enough to have the words which the gentleman proposes to change as they are. The collection district is made to correspond with the jurisdiction of the collector, and of course the valuations which are required to be advertised will extend to that limit.

Mr. WHITE, of Indiana. The thing I object to is this: in many of the western States a collection district will cover half a dozen counties if they are made to correspond to the congressional districts; but if they are made to extend over a whole State, as I remarked, it will be utterly impossible to execute this provision for the equalization of taxation. It cannot be done. This thing ought to be done by assessment districts, so that as fast as the valuation is made in an assessment district the equalization may be also made.

Mr. STEVENS. I think the amendment of the gentleman from Indiana will do no harm, and that it may remove some difficulty. I think it had better be adopted.

The amendment was agreed to.

Mr. HARRISON. I move to strike out, in the thirty-first line, the word "or," and to insert, in lieu thereof, the word "and;" and in the same line, after the word "not," to insert the words "in all other respects;" so that the clause would read:

Provided, That the question to be determined by the assessor, on an appeal respecting the valuation or enumeration of property, or other objects liable to duty or taxation, shall be whether the valuation complained of be or be not in a just relation or proportion to other valuations in the same assessment district, and whether the enumeration be or be not, in all other respects, correct.

You will perceive that by the proviso as it now stands the assessor is to determine, on appeal, whether the valuation be or be not in a just relation or proportion to other valuations in the same collection district, or whether the enumeration be or be not correct. Now, it seems to me that he ought to be required not only to determine the appeal as to whether the valuation is in just the same proportion to other valuations in the same district, but also to determine whether in all other respects the valuation is correct.

Mr. STEVENS. Will the gentleman from Ohio allow me to suggest that all he desires will be gained by just changing the word "or" into "and?" The section, as it will then stand, will accomplish his purpose as well without as with the other portion of his amendment.

Mr. HARRISON. I will then modify my amendment to conform with the suggestion from the gentleman from Pennsylvania.

Before I sit down, however, I wish to ask the gentleman from Pennsylvania or the gentleman from Vermont, whether this section, as modified on the motion of the gentleman from Vermont by striking out the first proviso, will require, or whether there is any other section of the bill which will require, the assessor to visit the county seat of each county in his district to hear and determine questions of appeal? As I understand the effect of the amendment which has been adopted striking out the first proviso of the section, we have vested in the assessors of each district the discretion of determining whether they will have a single place within the district at which to hear and determine appeals, or whether they will visit the various counties for that purpose. If that result has been accomplished, I think some other provision ought to be inserted requiring the assessors to hear and determine appeals, certainly in each county, otherwise I am very sure the bill will operate prejudicially to the citizens of those counties at a considerable distance from the central point of the district, or from such point as the assessor for his convenience may select for this purpose. It seems to me that such amendment ought to be moved, unless the object is accomplished by some other clause of the bill.

Mr. MORRILL, of Vermont. The gentleman is correct in his statement that this fifteenth section, as now amended, will not require the assessors to advertise in or visit each county for the purpose of hearing appeals, unless they choose so to do; but it will also be observed that the assessors are allowed mileage under this bill; and they will no doubt have no hesitation in visiting the county seat of every remote county for this purpose. I do not myself see the necessity of adopting any such requirement as the gentleman suggests.

The amendment offered by Mr. HARRISON was agreed to.

Mr. JOHNSON. I move to amend the fifteenth section, fourth line, by striking out the word "some" and inserting in lieu thereof the word "two." I move further to make the word "newspaper" read "newspapers," and after the word "newspapers" to insert, "one German, one English, in all counties in which by law judicial sales are required to be advertised in such newspapers." The clause will then read:

That immediately after the annual valuations and enumerations shall have been completed as aforesaid, the assessor in each assessment district shall, by advertisement in two public newspapers, one German and one English, in all counties in which by law judicial sales are required to be advertised in such newspapers, if any there be, &c.

If this amendment be adopted, I shall follow it up by changing the subsequent portion of the section, to make it correspond.

In Pennsylvania, where we have a mixed population, German and English, in some portion of which the German predominates, and in others the English, wherever such a mixed population exists, the law requires that all judicial sales, sheriffs' sales, and sales of the orphans' court, be advertised in one German and one English newspaper. In some of the counties it is left in the discretion of the court, by law, whether to have such sales so advertised or not. And the courts make a general rule upon the subject which is as much the law as if it was an act of Assembly. My amendment is to require all these assessors' advertisements for each county to be advertised in one English and one German newspaper, and in order that the discretion left the assessor may be guided as to whether he is to advertise or not, I provide that he shall be governed by the law as it exists in the several counties in regard to judicial sales, considering that the courts of justice can best determine what will be necessary.

Now, in a county where it is necessary for judicial sales to be advertised in one German and one English newspaper, where the Legislature have thought it necessary, or the courts have thought it necessary, to pass a law that such sales shall be so advertised, I consider it to be a safe rule to govern the assessors in determining when and how they shall advertise these valuations, &c. What good does it do to advertise in a section where the German element largely preponderates in an English newspaper published, perhaps, out of the county, and no copy of which is very likely taken by a single person in that county? The local newspapers are read in the counties most generally, and, therefore, if it is necessary to advertise or give notice at all of these valuations, I think it important and necessary that the notice shall be given where it can be read by the parties affected by the assessment.

Mr. MORRILL, of Vermont. Of course it is, and the purpose of the assessor will be to accomplish that object. The Committee of Ways and Means have desired to reduce the expenses of the collection of this revenue as far as possible, and the only doubt in their minds in relation to this provision was whether or not to strike out the whole clause in relation to advertising in a lump. This is an annual advertising, it will be understood, occurring always on the first Monday in May, and it would, therefore, seem that everybody would understand, after the first year at least, that then was the authorized time to bring in their lists. I see no necessity of multiplying the number of papers in which the notice is to be published. Of course, the papers having the largest circulation will be selected; and if the German element in any county predominates, it will be the duty of the assessor to advertise in a paper published in the German language.

Mr. JOHNSON. Will the gentleman allow me to ask whether there is any provision in the bill requiring the assessor to advertise in the paper having the largest circulation?

Mr. MORRILL, of Vermont. There is not.

Mr. JOHNSON. Will the gentleman allow me to ask whether it is not a fact that in large counties in which there is no newspaper published under this provision the notice will not be advertised at all?

Mr. MORRILL, of Vermont. If there is no newspaper, of course it will not be advertised. The notice will be posted in writing in public places.

The amendment was not agreed to.

Mr. MORRIS. I move to amend, in line five, by inserting after the word "or" the words, "if there be no newspaper printed therein." The clause will then read:

That immediately after the annual valuations and enumerations shall have been completed as aforesaid, the assessor in each assessment district shall by advertisement in some public newspaper, if any there be in such district, or if there be no public newspaper therein, by written notifications, to be publicly posted up at least in four of the most public places in each assessment district.

As the section now reads, it is left with the assessor to publish the notice in a newspaper or post up a written notification in at least four of the most public places. It seems to me that it should not be left discretionary with the collector or assessor whether he should publish in a newspaper or post in writing. Where there is a newspaper published in a county, it seems to me he should be compelled to advertise in it. If there is no newspaper published there, of course he must give the notice by other means.

Mr. MORRILL, of Vermont. The gentleman will accomplish his purpose equally well by striking out the word "or," in the fifth line, and inserting the word "and."

Mr. MORRIS. I will so modify my amendment.

The amendment was agreed to.

Mr. WICKLIFFE. I was very much pleased to hear from the Committee of Ways and Means that they would not be opposed to striking out the whole provision of the bill requiring this assessment to be advertised in the newspapers. I am perfectly satisfied that you might just as well put the notice into the Bible in a church for general information as to advertise it in the newspapers. And I rise for the purpose of suggesting to the better experience and judgment of the gentleman from Vermont whether it would not be better to strike out this provision which requires the advertisement of the assessment in the newspapers, and to insert a provision requiring it to be posted in the form of a placard upon the court-house door in each county, where people will go to examine it who never read a newspaper perhaps once a year. I will not make the motion; I merely make the suggestion for the gentleman's reflection.

The CHAIRMAN. The Chair will suggest that there is no amendment before the committee.

Mr. MALLORY. I do not wish to propose an amendment; but I hope I shall be permitted to say a word in reference to the statement just made by my colleague.

There was no objection.

Mr. MALLORY. I was about to remark that I preferred the mode of advertising in the newspapers. And I will state, as my opinion in reference to the suggestion of my colleague, that in my district there are fifty men who would read the advertisement in the newspapers to where one would ever go to see the placard on the court-

house door. I certainly prefer the method of advertising. And if there are counties in Kentucky such as my colleague describes, of course there will be no objection to posting the notice on the court-house door.

Mr. WICKLIFFE. I suppose I should prefer the system of advertising if I had a favorite editor in my district, to whose paper I wanted to give the work.

Mr. MALLORY. I hope the editors in my friend's district are not all against him. [Laughter.]

Mr. WICKLIFFE. I beg leave to say that I could almost count the men in Kentucky who are readers of them. A great portion of the tax payers in my district do not take them; they are not able to do it; and if they are able now, they will not be when they have to pay the taxes you propose to levy upon them. I am perfectly satisfied that if the Committee of Ways and Means will examine the suggestion I have made, they will find that not only will the mode of advertising proposed be infinitely more expensive, but it will not accomplish so good an object as posting the notice in a placard on the court-house doors. Every man will go there to ascertain the character of his assessment. It is the only place in which the sales of lands in payment for taxes are advertised, and I am sure in my section of the country—and I only speak for that—it will be found the only practicable way of advertising these assessments. Every man visits the court-house, and if he can read these advertisements there, it will save him the trouble, perhaps, of riding twenty or thirty miles to borrow the Louisville Journal or the Louisville Democrat, to see how his property has been assessed. I will not, however, as I have said, make any motion. I do not desire in any way to embarrass the Committee of Ways and Means in reference to this bill.

Mr. MORRILL, of Vermont. I move to amend, in the fifth line, by inserting after the word "written," the words "or printed," so that it will read "by written or printed notifications," &c.

The amendment was agreed to.

ENROLLED BILLS.

The committee informally rose; and the Speaker having resumed the chair,

Mr. GRANGER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (H. R. No. 114) authorizing floats to issue in satisfaction of claims against the United States for lands sold by them within the Las Ormigas and La Nana grants, in the State of Louisiana; and a bill (H. R. No. 341) to authorize the purchase of coin, and for other purposes; when the Speaker signed the same.

The committee resumed its session, and proceeded again to the consideration of the

TAX BILL.

Mr. SHEFFIELD. I propose at the proper time to offer an amendment to this sixteenth section. I expected to be able to do it now or that some other gentleman would do it; but by some misunderstanding it has not been prepared. I suggest, therefore, that the section had better be passed over informally, as the section will have to be redrawn. The amendment is to provide that every person shall be taxed where he resides, no matter where his property may be. There would be infinite inconvenience in assessing persons for personal property at places other than those where they reside, especially under the manufacturer's tax. I therefore suggest that the section be passed over for the present.

Mr. STEVENS. I see what the gentleman's object is, and it seems to be a proper one. As he is not prepared with his amendment, the section had better be passed over.

There being no objection, the section was passed over informally, for the present.

Mr. HUTCHINS. I move to amend the seventeenth section by striking out, in the twenty-first line, the words "and ten cents per mile for each and every mile traveled;" so that the section will read:

SEC. 17. *And be it further enacted*, That there shall be allowed and paid to the several assessors and assistant assessors, for their services under this act—to each assessor two dollars per day for every day employed in making the necessary arrangements and giving the necessary instructions to the assistant assessors for the valuation; and three dollars per day for every day employed in hearing appeals, revising valuations, and making out lists agreeably to the provisions of this act; and one dollar for every hundred taxable persons contained in the tax list, as delivered by him to said collectors, and forwarded to the Commissioner of Internal Revenue; to each assistant assessor two dollars for every day actually employed in collecting lists and making valuations, the number of days necessary for that purpose to be certified by the assessor and approved by the Commissioner of Internal Revenue; and one dollar for every hundred taxable persons contained in the tax list, as completed and delivered by him to the assessor. And the said assessors and assistant assessors, respectively, shall also be allowed their necessary and reasonable charges for stationery and blank-books used in the execution of their duties, and the compensation herein specified shall be in full for all expenses not otherwise particularly authorized.

It seems to me that the compensation allowed the assessors here is too much. It is, if I understand this section. I think the compensation is sufficient without the mileage. I do not know precisely what it will amount to, but it seems to me that it is too high.

Mr. OLIN. I have examined this feature of the bill with some care, and my own impression is that although the salaries provided generally by this bill are perhaps adequate, the committee have fixed the salaries of the assessors too low. The services required to be performed are to be performed at a less expense than even the assessors in the districts in my State receive. They get $1 50 a day. Now, to enable a man to discharge the duties of these assessors requires not only a great and comprehensive knowledge of the questions to be submitted to them, but it requires men of ability and capacity properly to discharge the duties; and the House will make the greatest of all mistakes if they place the salary for the discharge of these duties at a rate that will not command the services of the best business capacity of the community. I know well, from my knowledge of those duties, as they have hitherto been discharged in our own State, that the greatest faults have been committed under our system of government by electing to office men who are wholly unfit for the discharge of the duties. As I have said before, the whole machinery of this bill is novel in its character so far as the administration of the affairs of our State or Federal Government is concerned, and it would be unwise and injudicious so to regulate that machinery that you will not make it an object for men to discharge these duties who have the ability to do so, by giving them a compensation such as they could earn in the business in which they are engaged.

Mr. MORRILL, of Maine. Will the gentleman point out to the House wherein the duties prescribed in this bill are more complicated and difficult to perform than the duties of assessors in the cities usually are?

Mr. OLIN. I will do it in an instant, I think, to the comprehension of my friend. The complication and difficulty arises, first, in the machinery provided in the bill, and from the multiplied objects of taxation.

Mr. MORRILL, of Maine. Are they not all specific taxes?

Mr. OLIN. They are; but they are novel.

Mr. STEVENS. Not all of them.

Mr. OLIN. Some of them are. As a general thing they are; but not all. In the ordinary taxation within the States, there has not only been a system created, but it has been administered for years; the people of the entire State have become accustomed to it, and an intelligent officer, having discharged his duties, has familiarized his successor with their proper discharge, and the whole system of taxation within the State has become familiar not only to the officers who administer it, but to the whole people of the State. This bill effects a radical change in that respect, and like every other radical change in the administration of the law, it will take a long time to imbue the whole community with a knowledge of the provisions of such a law, and until they are so instructed the administration of the law is always difficult and attended with great disadvantages and with gross errors. That is the reason why radical changes in the policy of the Government are always to be avoided, if practicable.

[Here the hammer fell.]

Mr. HICKMAN. I move to amend the amendment by striking out "ten," in the twenty-first line, and inserting "five" in lieu thereof.

If we could have any assurance that the persons to be employed in the assessment and collection of these taxes would comprise the best talent in the States, then I think the argument of the gentleman from New York would have a great deal in it; but I think we can scarcely aver that even the appointments to foreign embassies in these days of the Republic comprise the best talent in any State of the Union. I think that the men who will be employed eventually in carrying out the provisions of this bill will be about the same class of persons now employed in the assessment and collection of State taxes in the interior. We certainly have no reason to expect at present that they will be of that class of persons who are entitled to a higher rate of compensation, and it has struck me from the first moment that I read this bill that the compensation is entirely too large, considering that we are passing this bill, or considering it, in a day of retrenchment and reform. It is proposed to cut down the salaries of all officers, and now you propose, by the provisions of this bill, to enlarge the salary of officers of precisely the same grade as those provided for by this bill. I should prefer myself that the two dollars a day should be reduced to one dollar and a half, that the three dollars a day should be reduced to two dollars, and that the mileage should be reduced to five cents. You will find that there will be plenty of persons competent to carry out the provisions of this bill who will be applicants for the offices created by it. There is no danger at all upon that score. When you find hundreds of men here struggling for offices in this city that are worth only five or six hundred dollars a year, you need have no fear upon that score; and when we desire to raise the most money at the least expense, I suggest that the committee should be willing to agree to this reduction of the expenses created by the bill.

Mr. WRIGHT. If my colleague will withdraw his amendment, I have prepared a substitute which I think will meet his views.

Mr. HICKMAN. I withdraw the amendment.

Mr. WRIGHT. I move to strike out from line one to line eighteen, and to insert in lieu thereof the following:

That there shall be allowed and paid to the several assessors and assistant assessors for their services under this act, the following sums: to each assessor three dollars a day for every day necessarily spent in the discharge of his duties, and to each assistant assessor two dollars a day for every day necessarily spent in the discharge of his duties.

The CHAIRMAN. That amendment is not in order at this time. The amendment pending is to strike out the mileage in the twenty-first line, and the gentleman's amendment is not germane to that.

Mr. WRIGHT. Well, I will offer the amendment at the proper time. It takes off the mileage and also the extra compensation for making out these additional lists. In short, it only pays the assessor three dollars a day, and the assistant assessors two dollars a day for the time when they are necessarily employed. I think it had better be simplified in this way. I think that good men can be employed for these respective sums. It would give about a thousand dollars a year to the assessor, and about six hundred dollars a year to his assistants. I shall offer that amendment in the proper time, and I think it will commend itself to the good sense of the committee.

Mr. HUTCHINS. I renew the motion to strike out "ten," and to insert "five," so as to make the mileage five cents a mile.

Mr. HICKMAN. I understand the gentleman from Ohio to modify his motion. I prefer, therefore, to put my amendment in a more tangible form. I will state what I propose to do in order to perfect the amendment which I have in my mind. I propose, in line three, to strike out "two dollars," and insert "one dollar and fifty cents;" in line six, to strike out "three dollars," and insert "two dollars;" to strike out all in reference to allowing one dollar for every one hundred tax payers on the list; and to strike out the mileage entirely. I prefer to have the mileage stricken out; and I think the gentleman from Ohio should insist on his amendment as originally proposed.

Mr. HUTCHINS. I do insist upon it; but I want first to perfect the clause by reducing the rate of mileage.

Mr. HICKMAN. As the gentleman's proposition is to reduce the rate to five cents per mile, I propose to strike it out entirely.

Mr. MORRILL, of Vermont. I move a *pro forma* amendment for the purpose of saying this: the duties of assessors are going to be exceedingly important in various localities. I take it, that in

a city or manufacturing village, where the duties are returned once a month throughout the entire year, it will perhaps be indispensable that the assistant assessor shall devote nearly his whole time to his duties. It is, therefore, important that we should be able to employ men of the requisite ability and integrity to perform these duties; and we, therefore, must not reduce the pay to so low a point as that we should not be able to command the requisite talent and integrity. Two dollars a day is perhaps enough, possibly too much, for the rural districts; and yet higher rates are paid in some of the States. I understand that in Ohio they are paid three dollars a day.

As to the list of tax payers, the assessor is only to be paid one cent for each name on the list. That, certainly, is a very low rate of compensation. The mileage in cities and manufacturing towns would be very small; but in the country districts it would be large.

Mr. MORRILL, of Maine. I would inquire of the gentleman from Vermont whether the per diem pay of the assessor is not going on while he is making out the lists?

Mr. MORRILL, of Vermont. It will be seen that these lists have to be made out in a very speedy time. It will not be possible for any assistant assessor to make them out without assistance. I do not think the compensation too much.

Mr. VAN VALKENBURGH. I am opposed to the amendment of the gentleman from Vermont, as I am opposed to this whole system of mileage. This bill, as I understand it, proposes to pay assessors twenty cents a mile for every mile traveled in going to and coming from their places of residence —ten cents each way. I think that the compensation of these assessors, as the compensation of all officers, should be definitely fixed by the bill itself, under which they act. If two or three dollars a day be not sufficient per diem compensation, let it be fixed at a higher rate. But leave no room for quibbling about the number of miles that the assessors travel in making up their valuation. Let the thing be settled definitely in the bill itself. Otherwise there will be great frauds committed upon the Government, and the assessors will receive more mileage than they are entitled to. I am therefore opposed to the amendment to the amendment offered by the gentleman from Vermont, and am in favor of the original amendment to strike out the entire amount of mileage from this bill.

Mr. NOBLE. I understood the gentleman from Vermont [Mr. MORRILL,] to state that in Ohio the assessors are paid at the rate of three dollars a day. That is a mistake. By the laws of the State of Ohio the assessors are paid one dollar and fifty cents a day, and no mileage. In the rural districts there is no difficulty in getting men well qualified to discharge their duties, at that compensation; and in the cities, as has been justly said, there is very little mileage to be charged. I am therefore in favor of striking out the mileage altogether.

Mr. JOHNSON. As there seems to be some difficulty about this matter of mileage, I would suggest that the same calculation of mileage now fixed for marshals and deputy marshals—multiplying the square root of taxable persons by the square root of the number of square miles in the district—be applied to these assessors.

The question being on the amendment of Mr. MORRILL, of Vermont,

Mr. MORRILL withdrew the amendment.

Mr. STEVENS. I move to amend the amendment of the gentleman from Ohio, [Mr. HUTCHINS] by increasing the rate of mileage to fifteen cents per mile. I am content, to be sure, with the ten cents rate, but if it is going to be disturbed, I would prefer fifteen cents to five cents.

Now, there is a great sensitiveness about paying officials; and we are told that the men can be got to fill offices in this city at $600 a year. That may be so; but nine out of every ten of them can neither read nor write. They are men of the very lowest business capacity. They are respectable in their way; but are wholly unfit for duties of this kind. While my colleague, sitting in his office, will direct his clerk to make out a deed, and will charge five dollars for it, he thinks that $1 50 a day is quite enough for a man who performs the duties of an assessor. I cannot look upon things in that way. In the first place, the position requires men of intelligence and integrity. The assessor has not only to go around and assess horses and cows, &c., but he is to exercise his intelligence and discretion in assessing the *ad valorem* duties imposed by this act. Now, what kind of qualifications would these $600 a year men be supposed to possess? When the assessor goes into a distillery, he is to ascertain, in the first place, the grade of proof, and then he is to calculate the amount of duties, according to the table in which the rates are specified. It is not every man in the community who is fit for business of that kind. He has to make examination into intricate books and accounts, so as to be able to detect any errors or frauds. These duties require first rate men to perform them. Such men must be employed, if this bill is to have any efficiency at all. Woodjobbers may be got at $1 50 a day; but though they may be very respectable men, they would make poor work at assessing these taxes.

Now, as to the mileage question. In the cities the mileage would be nothing; but in the country, and especially in the less settled parts of it, a man cannot hire a horse, if he stays out over night, for the money allowed here.

As to the allowance for copying lists, the copying will be done by hired clerks; and I think that one cent a name—especially where there are long names, as in Chester county—is pretty poor pay for competent men. I believe that for every dollar you reduce the compensation of these assessors, you will reduce the revenue five dollars. Instead of being a saving to the Government, it will, on the contrary, be a great loss. You will then employ men who are fit for nothing else than to receive small means for very small abilities.

And what these assessors will receive will be taxed under this bill as a part of their income, at three per cent. Perhaps the bill will come back from the Senate with twenty per cent. more. But if we are to reduce all of these matters, as suggested, then there will be few if any left to pay a tax to the Government at all.

[Here the hammer fell.]

Mr. HICKMAN. Mr. Chairman, the gentleman's logic would be sound if it were not contradicted by every day's experience falling under his observation as well as my own. I conceive that I represent the best district in the United States, and I think that my colleague will not dispute that statement, yet I will undertake to find in that district enough men to carry out the provisions of this bill at such compensation as I have specified. If we could have any assurance that the appointments to be made would be of that class of persons referred to by my colleague, then I would say that there would strong reasons for retaining the pay as provided for in the bill. But you know, Mr. Chairman, as I know, that appointments have been made to offices, where salaries were paid of $1,500, $2,000, and $3,000 per annum, not only here, but abroad, where the men really would have been willing to work, if they had not got the offices they did, for $500 per annum. They are men entirely incompetent to fill the places to which they have been appointed. The same thing will occur here when you attempt to carry out the provisions of this act. It will not be the best men in the community who will be selected, but the men who can bring the most party influence to bear in favor of their appointment. They will be the men selected. They will not ask the man how well he can write, or with what facility he can compute. Not at all. But they will ask him what services he has rendered to the party in power. That will be the test of the man who will secure the appointment. You may take the rural districts of the United States, and unless it is a man engaged in merchandising, you will find in the different manufacturing operations or in farming business, any number of men whom you can hire for $300 a year.

You are to assume, under the provisions of this act, when the account comes to be made out, that every day in the year will be charged for his having been employed in the transaction of this business. You will find, then, these salaries amounting to a large sum. One half of the time at four dollars a day, and one third at three dollars a day.

Mr. STEVENS. The gentleman does not suppose that these assessors will receive pay for any days other than those they are entitled to be paid for?

Mr. HICKMAN. I know that the assessment is to be made in thirty days.

Mr. STEVENS. That is all they can charge for.

Mr. HICKMAN. Do I understand my colleague to say that in no event an assessor can charge for more than than thirty days at two or three dollars a day?

Mr. STEVENS. They cannot charge for anything after they have done their work, which they are required to do in thirty days.

Mr. HICKMAN. As I understand the bill, it is by no means provided that they shall complete their services in thirty days. At that rate you cannot provide the high talent which my colleague would require. If they are to work only thirty days, and are to be paid only so much per day for that time, of course he cannot have that high talent in the assessors of which so much has been said. But my colleague does not so read the bill, and does not so understand the bill; and members will find that the compensation under this bill will run up to thousands of dollars. Therefore it is that I insist on the amendment.

Mr. STEVENS's amendment was disagreed to.

The question recurred on Mr. HUTCHINS's amendment; and on a division, there were—ayes 56, noes 37.

Mr. MORRILL, of Vermont, demanded tellers.

Tellers were ordered; and Messrs. NOELL and SHERMAN were appointed.

The amendments were agreed to; the tellers having reported—ayes fifty-four, noes not counted.

Mr. RIDDLE. I move to insert the words stricken out, substituting five cents for ten cents. I do not think that I need long occupy the attention of the committee with this subject. Certainly I do not see why we should object to paying five cents or ten cents mileage to these assessors when we accept forty cents mileage ourselves. For one, I am in favor of doing away with the mileage paid to members; but I am entirely satisfied when the committee come to look at the kind of labor to be done by these officials purely in the capacity of travelers, that they will not deny them some compensation in the nature of mileage. To do the duties required of these assessors, some mode of conveyance must be provided. A horse or a horse and carriage will have to be used, and that, of course, will increase the expenses of the assessor.

I do not believe that it is very commendable, in shaping out a great measure like this, to endeavor to ascertain the lowest possible amount at which you can employ men to discharge the duties under it. It is poor, niggardly, and belittling this House. It is not worthy of the dignity of the House or of the United States. Let us give these officers an adequate compensation; and in view of the duties they will be called on to discharge, I do not believe that the amount provided by the committee is too much. Justice, it seems to me, would require the adoption of my amendment, at least.

Mr. MORRILL, of Maine. Gentlemen on the other side have agreed that this is a reasonable bill, but that it would take $1,000,000 to execute it. I agree there is nothing in the bill so commendable as the arguments for that item. I undertake to say to the gentleman from Ohio that he has more than five hundred men in his district who would be glad if he would tender to them the place of assessor at the compensation we have provided, men who would perform the work as well as the gentleman himself. All over New England we are in the habit of getting the very best men in our cities and towns for less than two dollars a day, and pay them no traveling perquisite. You propose here not only to pay them two dollars a day, but when they have got their lists ready, you provide for paying them one dollar for a single copy of one hundred names. I am satisfied, if the assessors are fit, that they can copy twenty hundred in a day, and thus make twenty dollars in addition. I refer to the copies of the list of the persons taxed. This mileage under the bill is an important item. I do not hesitate to say that you will get as good men in the community to perform this service as if a higher price had been provided.

Mr. HUTCHINS. I move to insert four instead of five cents. I move that amendment, Mr. Chairman, in order to reply to the argument that we are putting down below a proper limit the pay of the assessors. Our objection to this mileage is that we do not know how much we are going to

pay to the assessors. Will any one give us an estimate of the number of miles that are to be traveled under this bill? A million of dollars will have to be paid on account of this uncertain mileage. I am in favor of giving these assessors full compensation, but of making it certain. Do not let us give them a compensation which is liable to so much abuse as that provided by the Committee of Ways and Means. In regard to the mileage of Congress, it has been so much abused I think that it is a good argument against the plan being adopted in every other instance.

Mr. STEVENS. How are you to fix the compensation between the man who sits at home and works, and gets two dollars a day, and the man who is obliged to travel all around the country and bear his own expenses? Shall the latter only get as much as the former?

Mr. HUTCHINS. In regard to that case, the one may or may not have to do more work or to bear more expense; but in Ohio the assessors are paid so much per day—$1 50 I think it is.

Mr. JOHNSON. That is what they are paid in Pennsylvania.

Mr. HUTCHINS. I am willing to pay a liberal compensation—three, four, or five dollars, if necessary; but I do not intend to vote for this mileage in any shape. I withdraw my amendment.

Mr. WRIGHT. I move my substitute now.

The CHAIRMAN. That is not in order now. The pending amendment is to add to the twenty-first line a provision to give five cents mileage.

Mr. HICKMAN. I rise to a question of order. Is it in order to submit an amendment of that kind after a vote of the House to strike out the mileage matter entirely?

The CHAIRMAN. It would not be in order to move to insert the original amount which was stricken out; but it would be in order to insert any other sum.

Mr. HICKMAN. My understanding is that everything relating to mileage, included in the twenty-first and twenty-second lines, was stricken out.

The CHAIRMAN. That is so.

Mr. HICKMAN. Then I suggest that it is not in order afterwards to recur to the question of mileage and insert a new provision.

The CHAIRMAN. The Chair overrules the point of order.

Mr. WRIGHT. I move to amend the amendment by inserting the amount of three cents in lieu of five. I want the compensation of these assessors fixed at some certain sum. I do not want my colleague to understand me as desiring to have competent men to work without adequate consideration. I intend no such thing as that. I am willing that these assessors should be paid a per diem allowance as great as their services are worth. I am willing that there should be paid a sum which will enlist in the cause men who are entirely willing and competent to perform the duties. But if you adopt this system of mileage, you will adopt such a system of extravagance in regard to charges, such as the country, in any one of its departments, has never seen. The assessments of Pennsylvania, throughout all its districts, are made for one dollar a day; and I will tell my friend from the Lancaster district [Mr. STEVENS] that the assessments in his large agricultural district are made at a compensation of one dollar a day, and by the best citizens in his county; and without any traveling fees or extra allowance for making out lists.

Mr. STEVENS. The gentleman may know better about these matters than I do; but I think our laws of Pennsylvania allow a greater compensation than that.

Mr. WRIGHT. I am informed that it is so by two gentlemen who sit near me.

Mr. STEVENS. I think the gentleman had better refer to the law, rather than to the gentlemen near him.

Mr. WRIGHT. It certainly does not exceed $1 50 a day.

It has been said that the work of these assessors would be confined to thirty days in the twelve months. Let me tell you that when the assessor is appointed, if he has not a life office he has almost one—at least the office will run through one Administration, which will be four years. I had rather give them ten dollars a day than allow this mileage abused, as it will be abused. Why not on the start fix a compensation which will satisfy competent men? I do not want to talk of retrenchment and reform, because these things are worn threadbare. It seems to me that fixing a fair daily compensation will answer all the substantial purposes we have in view, and I shall move, at the appropriate time, that the assessors shall be allowed three dollars for every day necessarily spent by them, and that the assistant assessors shall receive two dollars for every day necessarily spent in the performance of their duties, without regard to travel. I withdraw my amendment.

Mr. JOHNSON. I now propose to move to amend the law so as to make it conform as nearly as can be to the law which governs the mileage of marshals in taking the census. I would strike out of the twenty-first line the words "for each and every mile traveled," and insert in lieu thereof the words:

For necessary travel, to be ascertained by multiplying the square root of the number of taxables in the division or district by the square root of the number of square miles in each division or district, and the product shall be taken as the number of miles traveled for all purposes in making this assessment.

Mr. HUTCHINS. I would suggest that the gentleman had better insert the *cube root*, instead of the *square root*. [Laughter.]

Mr. JOHNSON. I think if this plan of allowing and charging mileage is adopted, it will be found that these officers will return as much mileage as they please, or as much as their conscience will allow them; and there may be no means left of detecting the fraud. This amendment is copied from the act of 1850, which relates to the census, only substituting the word "taxables" for the word "dwellings." I presume that method of computation will be as nearly correct as any which we can adopt. It would be unfair to strike out mileage entirely, although I voted for striking it out. Perhaps the amendment under consideration is the best we can do. In the rural districts it would be unfair to require men to incur the expense of travel without any allowance for mileage. This proposition pays them exactly according to the number of miles traveled, as is susceptible of calculation and ascertainment beyond all manner of doubt.

It is known to gentlemen of the bar that, while sheriffs are prohibited by the decisions of the courts—at least that is the case in Pennsylvania—from charging double mileage, yet they will take with them a dozen writs, all to be served in the same locality, go from their office, serve them all in one trip, and charge and take mileage for each one of them. Now, what is to prevent these assessors from taxing mileage from their residence to the residence of every man assessed in their respective districts? And how are we to get at the actual distance traveled? Unless some limit is put to this, it will take all the money we can raise to pay the assessors. Leave it as it is, and it will make the office of the assessor better than any other under the Government, so far as pay is concerned.

Mr. PHELPS, of California. I would suggest to the gentleman that he should modify his amendment, inasmuch as the word "taxables" refers to things and not to persons.

Mr. JOHNSON. Then I will make it read "taxable inhabitants."

Mr. MORRILL, of Vermont. It will be seen, by noticing the provisions of this bill, that it may not be necessary for the assessors to travel much. If the persons to be taxed shall make their returns as required by the bill, there will be no travel. Therefore I hope the amendment of the gentleman from Pennsylvania will not be adopted.

In relation to the general matter of mileage, I will say that of course the accounts of the assessors and assistant assessors are to be adjusted according to the rules and regulations of the Commissioner of Internal Revenue. He will undoubtedly adopt some mode of ascertaining the number of miles traveled, and will allow for no more. It does seem to me that some mileage should be allowed in the country districts, where men have to travel mile after mile, with their own horses and carriages, or else we shall not give them a reasonable compensation. I hope the amendment of the gentleman from Pennsylvania will not prevail, as I think it will give too much mileage, while I think five cents a mile for the distance actually traveled will be sufficient.

The amendment to the amendment was not agreed to.

Mr. WHITE, of Indiana. I move to amend the amendment by adding one cent to it. I wish to call the attention of the committee to the law of last session. We have discussed this question as though there were no other duties imposed upon these assessors except those imposed by this bill; whereas they are to perform the duties of assessors of real estate under the law of August, 1861. I assume that there will be one assessor for each congressional district, and I assume that each assessor will have to have assistants in every county in his district. The States have for the present year assumed the payment of their quota of the direct tax, but I presume that there are very few of them but what will next year be on the debit side instead of the credit side, so that next year, at least, the tax upon real estate will have to be collected and, if any of the States are in default it will have to be collected this year also.

Now, I think there is some objection to this mileage. But in country districts in the West an assessor cannot walk round to perform his duties. He must have a horse, and will be at the expense of horse hire. And, then, we are not in the habit of entertaining the assessors free of expense, as I understand they do in the hospitable regions of Pennsylvania. They will have to pay for their board, and $1 50 a day will not more than pay for board and horse hire.

I think that the duty of making out these lists might possibly be devolved upon the collectors, as proposed by the gentleman from California, [Mr. PHELPS.]

Mr. STEVENS. The gentleman will observe that the collectors have also to make out these lists.

Mr. WHITE, of Indiana. The idea which I mean to convey is this, that while this work is going on the per diem will be duplicated or made manifold, because the assistant assessors in the ten or twelve townships of each county will be at work at once upon these lists.

The law of August, 1861, provides that the deputy assessors shall, after the assessments are made, all meet at such point in the State as the Secretary of the Treasury may determine, there to constitute a board of equalization, and the law allows them mileage only when going to and from that board of equalization. Now, the Committee of Ways and Means have allowed the same per diem in this bill that is allowed by the act of 1861, but they have increased the mileage. I propose that we shall adopt the provision of the thirtieth section of that act; and whenever it shall be in order, I shall propose the amendment, which I now ask the Clerk to read.

The Clerk read, as follows:

Strike out all after the enacting words of the section and insert:

Said assessors and assistant assessors shall respectively receive such compensation for their services as is provided in the thirtieth section of the act entitled "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," approved August 5, 1861.

Mr. WHITE, of Indiana. I now withdraw my amendment.

Mr. WRIGHT. I move to strike out all after the enacting words of the section, and to substitute therefor the following:

That there shall be allowed and paid to the several assessors and assistant assessors for their services under this act: to each assessor three dollars a day for every day necessarily spent in the discharge of his duties; to each assistant assessor two dollars a day for every day necessarily spent in the discharge of his duties; and said assessors and assistant assessors respectively shall also be allowed their necessary and reasonable charges for the stationery and blank-books used in the execution of their duties; and the compensation above specified shall be in full for all expenses not otherwise particularly authorized.

The CHAIRMAN. The Chair calls the attention of members to the rule that when it is proposed to amend by striking out a paragraph, the friends of the paragraph have a right to make it as perfect as possible by amendments before the question is taken on striking out. Amendments are, therefore, still in order to the section which the gentleman from Pennsylvania proposes to strike out.

Mr. EDWARDS. I move to amend the amendment by adding after the words "five cents a mile, for every mile traveled," the words "and all claims for mileage shall be audited by said Commissioner."

It is very evident that the House are not disposed to allow a very large mileage, and it is very evident that any allowance of this kind, uncon-

trolled, would be liable to very great abuses. Suppose an assessor chose to make the most out of this mileage that he could; he would visit first one and then another, charging mileage to and from his home in each case; he would make as many distances as he could in the performance of his duties. But, sir, there is also some indication that the committee are disposed to allow some mileage, and if they allow any, undoubtedly, they will not recommend less than is proposed by the gentleman from Ohio, [Mr. RIDDLE.] I have, therefore, submitted this motion in good faith, that it may take the fate of the motion of the gentleman from Ohio, so that if his motion shall prevail, there shall be at the same time provided some check upon the charges for mileage even at that rate.

Now, sir, it will be perceived that in this section there is a check provided in relation to the per diem compensation. That is to be subject to the examination and allowance of the Commissioner. But no such check is provided in the section in relation to the charges for mileage. If it is necessary in the one case, it is equally necessary in the other. I hope, therefore, that the House will adopt the amendment to the amendment, whatever may be the fate of the amendment after it is amended.

Mr. KELLOGG, of Illinois. I was inclined, Mr. Chairman, to vote for mileage until I heard the arguments made for and against it, but it occurs to me that those who are in favor of allowing mileage have entirely failed to show that there is any necessity for mileage in the rural districts, which does not exist in the cities also. It was upon the ground that there was such a necessity that I was at first disposed to vote for mileage. If there is no difference in the two cases, then, in my judgment, we should strike out the mileage altogether. The system of allowing mileage is doubtless liable to great abuses, and if it is granted, charges will be made and amounts allowed unjustly and improperly.

If the assessments are to be made within the time specified in this bill, it will be necessary, as seems to be conceded on all hands, that the assistant assessors shall take the supervision of very small districts of country, not to exceed a township five or six miles square. In a district of that size no considerable additional expense will be incurred for traveling. The assessor will be within three or four miles of his residence all the time, and can reach it every night, if he desires to do so. Hence there will be but very little difference between the compensation of assistant assessors in the rural districts and that of assistant assessors in the cities and large towns. If we can arrive at an equality in this matter, and yet avoid the question of mileage to assessors, we ought, in my judgment, to do so. It is a system which always has been, and I think always will be, subject to considerable abuse. Even this body, probably as honest a body as ever assembled, has sometimes, it is said, committed errors in regard to the number of miles that have been traveled by members. I do not believe that any member coming from the West ever did make such an error. Certainly, Mr. Chairman, no member from your State—Indiana—ever did; and I am sure that no member from my State did. It may be possible that members from Pennsylvania, where such difficulty in regard to the mileage of assessors is apprehended, may have made mistakes in calculating their mileage, over the mountains, around the hills, through the valleys, and over the rivers. It cannot have been in the district represented by the gentleman near me, [Mr. HICKMAN,] for he says it is the best district in the world.

Mr. HICKMAN. In the United States.

Mr. KELLOGG, of Illinois. That declaration of the gentleman's must have fallen with surprise and astonishment on the ear of the committee, but then wonders happen every day.

Now, Mr. Chairman, I am opposed to the mileage system for the reasons that I have suggested. But I am in favor of giving more than two dollars a day to the assistant assessor. He has to do the work. There is a responsibility resting upon him. He is the direct agent of the Government to fix the amount of taxation. The system of taxation to be inaugurated under this bill is such as has not been previously known in the history of this Government. It requires better business qualifications on the part of assessors than are required generally in the States. It requires men who can go into factories, distilleries, and workshops, and can ascertain exactly on what duties are to be paid—men who can fully comprehend all the machinery of business. Such men ought to be well paid. This assessment of property is not a matter that can be computed with such facilities as clerks compute and settle up accounts. The proper discharge of such duties requires judgment, integrity, honesty, and skill. It may be that we shall have to go to Chester county, in Pennsylvania, to find suitable men. If so, I hope that county produces enough for the whole country. Having procured men with the requisite qualifications, I am in favor of paying them well.

[Here the hammer fell.]

The question being on the amendment offered by Mr. EDWARDS—

Mr. EDWARDS. I withdraw my amendment for the present, and will offer it in case the amendment fixing the rate at five cents per mile, shall be adopted.

The question recurred on the amendment offered by Mr. HUTCHINS, reducing the mileage of assessors to five cents per mile.

The amendment was not agreed to.

The question recurred on Mr. WRIGHT's amendment, to strike out and insert.

Mr. HICKMAN. I understood the Chair to decide that the amendment offered by my colleague was not to be submitted to the committee until the section proposed to be stricken out is amended.

The CHAIRMAN. Certainly not. It is in order to offer an amendment to the section.

Mr. HICKMAN. Then I move to amend by reducing the pay of assessors from three dollars to two dollars per day.

The amendment was not agreed to.

Mr. WHITE, of Indiana. The compensation provided for assessors in the tax bill of 1861, varies from that provided in this bill in this: that the former gives mileage to assessors only when going to and coming from the place to be appointed for the meeting of the State board of equalization. I think the number of that board should be limited to one assistant assessor in each county. I propose now, in order to give the committee a chance to choose between that provision of the act of August, 1861, and the amendment offered by the gentleman from Pennsylvania, [Mr. WRIGHT,] to ask for a division of the question on striking out and inserting.

The CHAIRMAN. The motion to strike out and insert is not divisible.

Mr. WHITE, of Indiana. Then I move to amend by striking out the provision as to mileage, and inserting in lieu of it the provision on the same subject, contained in the thirtieth section of the act of August, 1861.

Mr. WRIGHT. I raise the question of order, that the gentleman cannot move to strike out after a proposition has been moved as a substitute.

The CHAIRMAN. The Chair overrules the point of order.

Mr. WHITE, of Indiana. I move to strike out the words in regard to the mileage, and to insert as follows:

> The said assessors and assistant assessors shall respectively receive such compensation for their services as is provided in the thirtieth section of the act entitled "An act to provide increased revenue on imports, to pay interest on the public debt, and for other purposes," approved August 5, 1861.

I ask the Clerk to read the clause in the section referred to.

The clause was read by the Clerk.

Mr. WHITE, of Indiana. My amendment is to insert the words just read, in lieu of those which I propose to have stricken out.

Mr. KELLOGG, of Illinois. I move to amend by increasing the compensation of assistant assessors from two to three dollars per day. In my judgment it is the assistant assessor who has really to do the work. He is the responsible agent standing between the Government and the property to be assessed. He who does that work faithfully and well, without mileage or perquisites, ought to be paid at least three dollars. The better pay will command the services of better men, and the Government will be more than compensated for paying these subordinate officers well.

The question was taken on Mr. KELLOGG's amendment; and it was not agreed to.

Mr. SARGENT. I suggest to the gentleman from Indiana to reduce his proposition to writing. The section from the act of August, 1861, as read by the Clerk, refers to machinery that is not embraced in this bill at all, such as a board of assessors, &c.

Mr. WHITE, of Indiana. I accept the suggestion, and offer the amendment which I offered originally.

The question was taken on Mr. WHITE's amendment; and it was not agreed to.

The question recurred on Mr. WRIGHT's amendment; and it was not agreed to.

Mr. PHELPS, of California. I move to amend by adding at the end of the section the following proviso:

> *Provided*, That the President of the United states shall be, and he is hereby, authorized to fix such additional rates of compensation to be made to assessors and assistant assessors in the States of California and Oregon, and in the Territories of Washington, Nevada, New Mexico, and Arizona, as may appear to him to be just and equitable, in consequence of the greater cost of living and traveling in those States and Territories, and as may, in his judgment, be necessary to secure the services of competent and efficient men.

Mr. Chairman, a provision of this kind is necessary in order to secure the levy and collection of these taxes in those States and Territories. The pay provided for assessors in this section would not pay the simple cost of living in those States and Territories. In the Territory of Nevada it is utterly impossible for a man to subsist himself on two dollars a day. That remark is equally true concerning other districts of country that I might mention. Two dollars a day, sir, will not pay the cost of living in that section. I object, therefore, to any general rule for fixing the compensation of these assessors all over the country. Such a rule may be followed in the different Atlantic States, but it will not do to apply such a rule to the mining districts of the Pacific. In the rural counties of Oregon and California the compensation may be much less than it is in Nevada or Washington Territory, or in the mining districts of California.

I have no desire, Mr. Chairman, to increase the compensation of these assessors unnecessarily—to increase them beyond what is absolutely necessary to secure the collection of the revenue. I am entirely willing to leave the matter to the discretion of the President.

Mr. CRADLEBAUGH. Mr. Chairman, I agree entirely with the gentleman from California in the suggestion he has thrown out in regard to the compensation of officers in the Territory of Nevada. In that Territory, which I have the honor to represent upon this floor, three dollars a day would be no compensation for any proper and efficient person to discharge this duty of making an assessment. We pay our ordinary men upon the ranches two dollars a day, and board them. Our miners get four dollars a day and their board. Mechanics get from seven to ten dollars a day. If this law is to be enforced in that Territory, then, by competent officers, it seems to me that there must be a higher compensation than is provided for as yet. To secure competent officers, it seems to me that there should be such a compensation provided as would correspond with the prices paid in that Territory for other services.

I have no personal interest in this matter. I have no idea that any person will be appointed from the Territory of Nevada to discharge any of the duties under this bill. We have in that Territory now no person belonging to it who is holding office. We do not expect any offices. Our people are engaged in other and more profitable matters than looking after political appointments. If officers, however, are to be sent to us for the purposes designated by this bill, we want them sent out at a proper compensation, and not so that they will be thrown as paupers upon the charity of the people of Nevada. Take, for instance, the Federal judges of that Territory. The compensation allowed to them is no compensation for them in that Territory. While I represent one of the youngest Territories of the Union, yet they want justice administered there as well as others do elsewhere. The compensation allowed to those Federal judges was not adequate, and they have turned in and increased it to double what it was. It was necessary to do so if they wanted to have their laws executed. I want, if this bill is to be passed, that adequate compensation shall be pro-

vided for these officers. Unless larger compensation is provided than that now contained in the bill, this bill cannot be enforced in Nevada.

Mr. SARGENT. Mr. Chairman, if there is any matter where the members of the House ought to listen with attention to the representations of those who come from the Pacific States, it is upon subjects of just this character. If I desired that this revenue should not be collected in California or upon the Pacific slope, I should oppose this amendment, for I know that it is impossible to collect any revenue there under the compensation allowed to the officers under this bill. You cannot employ men there at that price. I have men at work in the mines for me, and I pay them $4 50 a day. The lowest price at which I could get a man to work upon my claim would be four dollars a day. If, then, laboring men get four dollars a day, how are you going to employ men competent to discharge the duties under this bill for two dollars a day? We pay assessors in California various prices, from five to eight dollars a day. It is never less than five dollars a day, and the compensation is generally eight dollars a day. If you are to have this law executed, and men of character as officers under it, then you will have to pay at least eight dollars a day. If, then, the discretion is given to the President of the United States to pay what he considers adequate compensation to these officers, I undertake to say that five or six times more revenue will be collected under the bill than if the provision were to remain as it now is. I think that the prices fixed in the bill are adequate for the service in the Atlantic States, but it is entirely inadequate for the service in California. I presume that in this respect the bill has been drawn entirely with regard to the Atlantic States.

Mr. SHEFFIELD. What per cent. of the revenue to be collected in California will this compensation be?

Mr. SARGENT. I do not know. We expect to pay a large tax, and we will cheerfully do so. We have stepped forward already, and in the proper spirit made payment in gold of our portion of the land tax. We are ready to do our duty under the provisions of this tax bill; and in order that the revenue may be collected, I have advocated the pending amendment. It is necessary that adequate compensation should be provided or the United States will be without officers to execute the law in California. I do not advocate the amendment because of any officeholders in California. I would scorn any such purpose.

Now, sir, you pay a man seventy-five cents, a dollar, or a dollar and a quarter in the mills of Rhode Island, and that is looked upon as an adequate compensation there. But it would not be an adequate compensation in California. Why, sir, in California a man for doing the same kind of work would receive five, six, or eight dollars a day. You cannot apply the rule of little Rhody to California. You must, therefore, provide a higher compensation to the officers under this bill by adopting the pending amendment, or else there will be nobody to set it in motion in California, Oregon, and the Territories named in the amendment. I hope, therefore, that something will be done in this matter by the House, unless you design to excuse us from this tax.

Mr. STEVENS. If the amendment be adopted it will be giving more power to the President than ought to be confided to any one man under our system of Government. But you have made an unequal system of compensation by what the committee has already done. You cannot make any proper compensation without mileage. In New York one man may sit down in his room and make four times what can be made by the man who travels over two hundred miles in the upper part of Pennsylvania; that is, when the mileage provision is stricken out. I hold that there can be no equal compensation if the mileage provision be stricken out.

Mr. SARGENT. I presume the object of the chairman of the Committee of Ways and Means is to have the tax collected. I do not place this upon the ground of any benefit to California. If this revenue be not collected there, it will be in favor of the people of California; and I say that unless this compensation is increased the revenue cannot be collected there.

Mr. STEVENS. I do not expect that from half of the rural districts in the country we will collect more than one half of the revenue. I know that in towns and cities the tax will be collected. If instead of having bad men in California we do not have any at all, I do not think that much will be lost.

Mr. PHELPS, of California, obtained the floor.

Mr. WRIGHT. What is the compensation paid in California to assessors?

Mr. PHELPS, of California. I think that the price paid there is eight dollars a day. In most of the agricultural districts it is five dollars a day.

I move to amend the amendment by providing that such rates should not exceed the rates of compensation made to the State and territorial officers of the States and Territories.

Mr. Chairman, I desire to see provided in this bill such rates of compensation as will secure the collection of this tax in these States and Territories. It is no intention of mine that California or any one of the Pacific States shall be discharged from the payment of their portion of this tax. They do not desire it. There is not a man in California who will not pay every dollar of tax asked of him.

So far from desiring that California should escape from taxation, I have myself suggested to the Committee of Ways and Means in this House an increase on the rates of duties on articles which are consumed alone in California—the increased rates on which will amount to $300,000 per annum. I want nothing except that this tax may be collected and efficiently collected; and I want such rates of payment made to the assessors as will secure the services of efficient and honest men. If there is any better mode of arriving at what I have suggested, I am willing and anxious to see that mode adopted.

Mr. TROWBRIDGE. I would suggest to the gentleman that the Secretary of the Treasury should have control of this matter, and not the President of the United States. There is no other provision in this bill which carries it before the President at all.

Mr. PHELPS, of California. I have no objection to that, and I will modify my amendment accordingly.

The amendment was agreed to.

Mr. HARRISON. I move to amend section nineteen, in line sixteen, by striking out the word "the" before "bond," and inserting "any" in lieu thereof; and also by striking out the word "heretofore," and inserting in lieu thereof "theretofore;" so that the clause shall read:

Provided always, That nothing herein contained shall be deemed to annul or in anywise to impair the obligation of any bond theretofore given by any collector; but the same shall be and remain in full force and virtue, anything in this act to the contrary notwithstanding.

I wish to call the attention of the committee to the amendment because it is not merely a verbal amendment. As I understand this section, it will authorize the Secretary of the Treasury to require any collector annually to give an additional bond. If it does not so require, it should. Then the word "heretofore," as it stands in this section, will relate to the passage of the bill and not to the time of the execution of the first of the previously executed bonds. Therefore the proviso as it now stands will have no legal effect whatever.

The amendment was agreed to.

Mr. HARRISON. I also move to strike out all after the word "virtue," in the eighteenth line, which are the words, "anything in this act to the contrary notwithstanding." The words I propose to strike out were intended as a saving clause, and to prevent an additional bond from operating to annul any previously executed bond. Now, if anything would have that effect, it would not be this act; but it would be the act of giving the additional bond. By leaving in the words "but the same shall be and remain in full force and virtue," will prevent this act or any other act whatever from operating to destroy the legal effect of any previously executed bond.

The amendment was agreed to.

Mr. WRIGHT. I move to strike out in the fifth line of the section the word "one," and insert "two," in lieu thereof; so that the clause shall read:

That each collector, before receiving any list, as aforesaid, for collection, shall give an additional bond, if required by the Secretary of the Treasury, in such sum or sums as the Secretary of the Treasury may prescribe and judge sufficient, with two or more good and sufficient sureties, to be approved by the Solicitor of the Treasury.

In my judgment, there should be two sureties upon these bonds.

The amendment was not agreed to.

Mr. MORRILL, of Vermont. I move to amend the twentieth section, in line thirty-five, by striking out the word "tavern," and inserting "post office;" so that the officer shall cause a notification to be published in some newspaper within the district, or to be publicly posted up at the post office, &c.

The amendment was agreed to.

MESSAGE FROM THE PRESIDENT.

The committee informally rose, and received a message from the President, by Mr. KELLOGG, of Illinois, informing the House that he had this day approved and signed certain bills.

Mr. STEVENS. The only question with me is, whether this notification is official—whether it is proper to receive a message unless the gentleman [Mr. KELLOGG] has been appointed Private Secretary. [Laughter.]

The committee resumed its session.

TAX BILL—AGAIN.

Mr. SHEFFIELD. I move to amend, in line sixteen, by inserting, after the word "dwellings," the words "or usual places of business."

The amendment was agreed to.

Mr. FESSENDEN. I move to amend, in the fifth line, by erasing the word "one," and inserting "two." My reason is that, in all probability, this notice will be inserted in but one newspaper, and that perhaps a Republican newspaper, which would not be seen by a very large portion of the inhabitants, who perhaps seldom look at the local papers published by the opposite party. It seems to me that it would be better to have two newspapers, for as the object is to give information, it would more surely be done in that way.

Mr. STEVENS. The House must perceive, if they reflect for a moment, that this advertising through the whole nation is to be a heavy item of expenditure. We provide for advertising in one newspaper, and then for the posting up of handbills in four different places in each district. It seems to me that is enough.

The amendment was not agreed to.

Mr. VAN VALKENBURGH. I move to amend by inserting, after the word "demand," in the sixteenth line, the words "of some person of suitable age;" so that the clause shall read:

It shall be the duty of each collector, in person or by deputy, to apply once at their respective dwellings within such district, and there demand of some person of suitable age the duties payable by such persons.

The amendment was not agreed to.

Mr. RICE, of Maine. I move to amend, in line sixty-three, by inserting after the word "execution," the words, "for non-payment of taxes;" so that the provisions of the bill shall exempt only what is exempt by a State for the non-payment of taxes.

The amendment was agreed to.

Mr. RICE, of Maine. I move to amend by inserting after the word "State," in line sixty-four, the words "at the time of the passage of this act." The object is to put it out of the power of any State to nullify the provisions of this act by passing any law hereafter which may exempt a thing from seizure under the provisions of this bill.

The amendment was agreed to.

Mr. WORCESTER. After the word "profession," in the sixty-second line, I move to insert the words "kept for use by the owner thereof;" so that the clause shall read:

Provided, That it shall not be lawful to make distraint of the tools or implements of a trade or profession, kept for use by the owner thereof, &c.

That I suppose to be the intention of the bill as it now stands; but that intent does not seem to me to be sufficiently clear in the language which is used.

The amendment was agreed to.

Mr. PORTER. I offer the following amendment to the twentieth section:

After the word "advertise," in the fifth line, insert the words "in each county in his collection district;" strike out the words "in his collection district," in the sixth line, and insert the words "in such county;" after the word "in," in the eighth line, insert the words "each county in;" and in the eleventh line strike out the word "within," and insert the words "not less than;" so that it will read:

SEC. 20. *And be it further enacted*, That each of the said

collectors or deputy collectors shall, within ten days after receiving his collection list from the assessors, respectively, as aforesaid, annually, and whenever he shall be so required by the Commissioner of Internal Revenue, advertise in each county in his collection district, in one newspaper printed in such county, if any there be, and by notifications to be posted up in at least four public places in each county in his collection district, that the said duties and taxes have become due and payable, and state the times and places at which he or they will attend to receive the same, which shall be not less than ten days after such notification, &c.

As the section now stands, the very day after this notification has been made in the newspapers or by these notices that are to be posted up, the collector may go and demand the taxes. Now, what is the object of the provision? Obviously it is to give the tax payer time to collect his money in order to be ready when the collector arrives. I do not know how it is in the eastern States, but I know that in the western States generally ten days would be regarded as remarkably short notice, and the amendment that I offer provides that the collector shall not call upon the tax payer in less than ten days after the notification.

The amendment was agreed to.

Mr. F. A. CONKLING. I move to strike out in lines fifty-one and fifty-two, the words "allowed in like cases by the laws or practice of the State wherein the distraint shall have been made," and to insert in lieu thereof the words "prescribed by the Commissioner of Internal Revenue;" so that the proviso will read:

Provided, That in any case of distraint for the payment of the duties or taxes aforesaid, the goods, chattels, or effects so distrained shall and may be restored to the owner or possessor if, prior to the sale thereof, payment or tender thereof shall be made to the proper officer charged with the collection of the full amount demanded, together with such fee for levying, and such sum for the necessary and reasonable expense of removing and keeping the goods, chattels, or effects so distrained, as may be prescribed by the Commissioner of Internal Revenue, &c.

I will merely say in explanation of the amendment, that the law of distraint has long been abolished in the State of New York, and the same may be the case in other States.

Mr. STEVENS. I see no objection to that amendment.

Mr. WHITE, of Indiana. I have not practiced law for a long time, but my impression is that distraint is entirely abolished in our State. I think the amendment ought to prevail.

The amendment was agreed to.

Mr. BROWNE, of Rhode Island. I move further to amend the section by striking out, in lines fifty-eight and fifty-nine, the words "and a commission of five per cent. thereon for his own use." But for the amendment which has just been adopted the laws of the States would have provided for that also. They provide for a percentage on the sale of distrained property; but since the adoption of the amendment which has just passed, it becomes still less necessary than before. Under distraints and sales made under this act the assessor or collector might make a very large sum of money in addition to what is allowed him in other ways. He is already paid all his expenses and fees under the laws of the States or under the directions of the Commissioner.

Mr. STEVENS. I do not like to leave it entirely unlimited. I think we had better fix the fees that shall be allowed.

Mr. BROWNE, of Rhode Island. The section already provides that he shall have his fees for levying and all reasonable expenses attending the sale, and also such commission as the Commissioner of Internal Revenue shall prescribe, under the amendment just adopted. Why, then, should we add to all that five per cent. on the amount of the sale? If the gentleman from Pennsylvania will look to the fifty-sixth and fifty-seventh lines, he will find that it is provided there that he may retain his necessary and legal expenses of distraint and sale.

The amendment was not agreed to.

Mr. MORRILL, of Vermont. I move to amend in the fifteenth line by inserting after the word "deputy" the words "to make a demand personally or;" so that the clause will read:

It shall be the duty of each collector, in person or by deputy, to make a demand personally or to apply at once at their respective dwellings within such district, and there demand the duties or taxes payable by such persons.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend the same clause by striking out the word "their" in the fifteenth line and inserting "the," and by inserting after the word "dwellings," in line sixteen, the words "of such persons so neglecting."

The amendment was agreed to.

Mr. ELIOT. I move to amend in line thirty-seven, page 19, by adding after the word "two" the word "other;" so that it will read:

And the said officer shall forthwith cause a notification to be published in some newspaper within the district, or to be publicly posted up at the tavern, if there be one within five miles, nearest to the residence of the person whose property shall be distrained, and in not less than two other public places.

The amendment was adopted.

Mr. ELIOT. I move to amend in line forty-nine, same page, by adding after the word "removing" the word "advertising;" so that it will read:

Provided, That in case of distraint for the payment of the duties or taxes aforesaid, the goods, chattels, or effects so distrained shall and may be restored to the owner or possessor if, prior to the sale thereof, payment or tender thereof shall be made to the proper officer charged with the collection of the full amount demanded, together with such fee for levying, and such sum for the necessary and reasonable expense of removing, advertising, and keeping the goods, chattels, or effects so distrained as may be allowed in like cases by the laws or practice of the State wherein the distraint shall have been made.

The amendment was adopted.

Mr. HARRISON. I move to amend by adding in line sixty-four, after the word "necessary," the words "and kept;" so that it will read:

Articles exempted from distress or execution by the laws of any State, beasts of the plow necessary and kept for the cultivation of improved lands, arms, or household furniture, or apparel necessary for a family.

Mr. PHELPS, of California. I move to amend the amendment by striking out all about the beasts of the plow. We have already provided for the exemption from distraint of all property that is exempted by the laws of the State. I am myself a farmer, and have, I believe, some forty work animals, all of them necessary for the cultivation of the soil. I know of many who have a still larger number. It would not be right to exempt such property from distraint. I think we exempt, under this bill, a much larger amount of property than there is any necessity for. We exempt from forced sale all the property that is exempted under State laws, and in addition—where State laws do not make the exemption—household furniture, &c. I hope this clause about beasts of the plow will be stricken out.

Mr. HARRISON. I am opposed to the amendment offered by the gentleman from California. As I understand it, the clause to which he refers has been already so modified as that we only exempt from distraint such articles as are, by the laws of the several States, exempted from distraint for non-payment of taxes. In the State of Ohio there are no articles of personal property exempt from seizure, either by distraint or on execution, for the non-payment of taxes.

Mr. WADSWORTH. Does the gentleman know of any State where they are exempt?

Mr. HARRISON. I do not.

Mr. WALTON, of Maine. In our State there are the same exemptions from seizure and distraint for taxes as there are for any other liability or debt.

Mr. HARRISON. That, Mr. Chairman, is only as regards one State. But I was about to remark that if the amendment of the gentleman from California were adopted, we should be discriminating against the farmers of the country, and in favor of the mechanics and professional men.

Mr. PHELPS, of California. Will the gentleman allow me to make a suggestion?

Mr. HARRISON. Certainly.

Mr. PHELPS, of California. I suggest that under this bill there are no farmers who can be taxed, except such as have over $600 a year income.

Mr. HARRISON. I include in the term "farmers" that large class of persons in the western country who are denominated "renters" or "croppers," who do not own the farms, but who, in order to carry on their business, may have a team. The first clause of this proviso provides that it shall not be lawful to make distraint on tools or implements of a trade or profession. The cropper or renter would not be included within either of those terms. Certainly, if the section is to be so amended as that the agricultural classes to which I refer shall not have the benefit of the exemption, the other clauses of it ought to be also stricken out.

The question was taken on Mr. HARRISON's amendment; and it was not agreed to.

The question recurred on Mr. PHELPS's amendment, to strike out all in reference to beasts of the plow; and it was agreed to.

Mr. WHITE, of Indiana. I wish to call the attention of the committee and of the members of the Committee of Ways and Means to an amendment which is, I think, rendered necessary by an amendment adopted on the motion of my colleague, [Mr. PORTER.] That amendment was to strike out the word "within," in the eleventh line, and insert in lieu of it the words "not less than;" so as to make it read:

And state the times and places at which he or they will attend to receive the same, which shall be not less than ten days after such notification.

The section goes on to provide that:

With respect to persons who shall not attend according to such notifications, and such as are liable to pay duties or taxes at any other time or times, it shall be the duty of each collector, in person or by deputy, to apply once at their respective dwellings within such district, and there demand the duties or taxes payable by such persons, which application shall be made within twenty days after the receipt of the collection lists.

Now, this is impossible. The collector could not fulfill that appointment. I therefore propose to strike out the words "after the receipt of the collection list," and insert in lieu thereof the word "thereafter." As the bill now reads, by the amendment of my colleague, [Mr. PORTER,] the collector cannot fix a period within ten days to meet these parties and fix their taxes, but must postpone it to a later period than ten days.

Mr. STEVENS. I think that is a very bad amendment.

Mr. WHITE, of Indiana. And if the parties do not meet him, he is to make a personal demand, after the time he gets the list, which will be within ten days.

Mr. STEVENS. I hope the committee will not agree to the amendment.

Mr. WHITE, of Indiana. If you make it twenty days thereafter, it seems to me that that will meet the necessities of the case.

Mr. STEVENS. It seems to me that it will derange the whole order of the bill. I move that the committee do now rise.

Mr. BLAIR, of Pennsylvania. I ask my colleague to withdraw that motion for a moment to enable me to indicate an amendment which I desire to offer.

Mr. STEVENS. I withdraw the motion for that purpose.

Mr. BLAIR, of Pennsylvania. The amendment which I desire to submit is to strike from the proviso the words "or any other articles exempted from distress or execution by the laws of any State." There is no uniformity in the different States as to the property exempted from taxation.

Mr. STEVENS moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the tax bill, and had come to no resolution thereon.

And then, on motion of Mr. WRIGHT, (at half past four o'clock, p. m.,) the House adjourned.

IN SENATE.

TUESDAY, *March* 18, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

ASSISTANT TREASURER AT BOSTON.

On motion of Mr. FESSENDEN, the Senate resumed the consideration of the bill (H. R. No. 353) to provide for the appointment of clerks in the office of the Assistant Treasurer at Boston, to fix their salaries, and provide for the absence of the Assistant Treasurer, and for other purposes.

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

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, transmitting a copy of a correspondence between the Secretary of State and the Danish

charge d'affaires and the Secretary of the Navy, concerning the case of the bark Jorgen Lorentzen, a Danish vessel, seized on her voyage from Rio Janerio to Havana by the United States ship Morning Light and subsequently released; and recommending the appropriation of the amount of the award of the referees; which, on motion of Mr. SUMNER, was referred to the Committee on Foreign Relations.

PETITIONS AND MEMORIALS.

Mr. COWAN presented the petition of Harvey C. Marks, late postmaster at Somerset, Pennsylvania; praying for a settlement of his accounts, and the discharge of a judgment obtained against him in the district court of the United States for the western district of Pennsylvania; which was referred to the Committee on the Post Office and Post Roads.

He also presented the petition of Daniel Weyand and John D. Roddy, sureties of Harvey C. Marks, late postmaster at Somerset, Pennsylvania, praying to be released from their liability on Marks's official bond and from the payment of a judgment obtained thereon; which was referred to the Committee on the Post Office and Post Roads.

Mr. SUMNER presented a petition of wives, sisters, and daughters of Pennsylvania volunteers, residing in Warren and Crawford counties, Pennsylvania, praying for the total abolition of slavery throughout the country; which was ordered to lie on the table.

Mr. HENDERSON presented the memorial of James Craig, as agent for certain banks and savings associations in the State of Missouri, praying for the payment of certain bills of exchange, known as the Floyd acceptances; which was referred to the Committee on the Judiciary.

Mr. WILSON, of Massachusetts, presented a petition of the Massachusetts Homœopathic Medical Society, praying for the appointment of homœopathic surgeons in the Army and Navy; which was ordered to lie on the table.

Mr. SAULSBURY presented the memorial of Henry C. Wilson, remonstrating against the passage of the bill extending the patent of J. G. Mini, for the manufacture of lampblack; which was referred to the Committee on Patents and the Patent Office.

OPENING OF SIXTH STREET WEST.

On motion of Mr. FESSENDEN, it was

Ordered, That the Secretary be directed to request the House of Representatives to return to the Senate, the bill (S. No. 226) authorizing the opening of Sixth street west, which passed the Senate yesterday.

A message was afterwards received from the House of Representatives returning to the Senate the bill (S. No. 226) authorizing the opening of Sixth street west, agreeably to its request; and Mr. FESSENDEN moved to reconsider the vote by which the bill was passed, and the motion was entered.

REPORTS FROM COMMITTEES.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred the bill (H. R. No. 260) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1863, reported it without amendment.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. THOMSON, it was

Ordered, That the memorial of Lieutenant J. L. Browne, of the United States marine corps, on the files of the Senate, be referred to the Committee on Naval Affairs.

COMMITTEE SERVICE.

Mr. HARLAN. I move that the Vice President be authorized to fill the vacancy on the Committee on Public Lands occasioned by the absence of the Senator from Tennessee, [Mr. JOHNSON.]

The motion was agreed to; and the Vice President appointed Mr. WRIGHT.

STEVENS'S BATTERY.

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

Resolved, That the Secretary of the Navy be directed to communicate to the Senate, copies of all contracts made with Robert L. Stevens for the construction of a steam floating battery, with a statement of all payments and advances made to said Stevens upon said contracts; and also to furnish the Senate with a copy of the report of the commissioners appointed to examine the same battery under the joint resolution approved July 24, 1861.

BILL INTRODUCED.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 237) to remove all disqualification of color in carrying the mails; which was read twice by its title, and referred to the Committee on the Post Offices and Post Roads.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President had approved and signed, on the 15th instant, the following acts and resolutions:

An act (S. No. 80) to amend an act entitled "An act to incorporate the Columbian Institution for the Instruction of the Deaf and Dumb and the Blind," and to make appropriations for the benefit thereof;

An act (S. No. 150) for a joint commission for the preservation of the Atlantic fisheries;

A resolution (S. No. 54) to amend an act entitled "An act to carry into effect conventions between the United States and the republics of New Granada and Costa Rica;" and

A resolution (S. No. 57) providing for the custody of the letter and gifts from the King of Siam.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the Speaker of the House of Representatives had signed the following enrolled bill; which thereupon received the signature of the Vice President:

A bill (H. R. No. 353) to provide for the appointment of clerks in the office of the Assistant Treasurer at Boston, to fix their salaries, and provide for the absence of the Assistant Treasurer, and for other purposes.

COMMAND OF TROOPS.

Mr. WILSON, of Massachusetts. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (S. No. 68) to authorize the President to assign the command of troops in the same field or department to officers of the same grade without regard to seniority, to report it back with an amendment. I should like to have the joint resolution put on its passage now. I do not think there will be any objection to it.

The joint resolution was considered as in Committee of the Whole. The amendment of the Military Committee was to strike out the following words:

And he may dismiss from the service, at his discretion, without the sentence of a court-martial, any officer of the Army, when in his judgment the efficiency of the service will be promoted thereby.

Mr. COLLAMER. I suggest to the committee whether the word "Army" there should not be stricken out and the provision made to include the volunteers.

Mr. WILSON, of Massachusetts. We propose to strike out the clause so as not to raise the question.

The amendment was agreed to.

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

Mr. SUMNER. I should like to have the joint resolution read as it now stands.

The Secretary read it, as follows:

Resolved, &c., That whenever military operations may require the presence of two or more officers of the same grade in the same field or department, the President may assign the command of the forces in such field or department without regard to seniority of rank.

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

PRIZE LAW.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of House bill No. 279, which was reported from the Committee on the Judiciary yesterday, with two or three slight amendments.

The motion was agreed to; and the bill (H. R. No. 279) to facilitate judicial proceedings in adjudications upon captured property, and for the better administration of the law of prize, was considered as in Committee of the Whole.

The first section provides that whenever any property captured as prize shall be brought into any district of the United States for adjudication, it shall be the duty of the prize commissioners forthwith to receive, seal, and safely keep the same until process shall be issued out of the court, under which it shall be placed in the custody of the marshal. The prize commissioners, at the time of taking possession, and from time to time pending the adjudication, are to examine into the condition of the property, and report to the court if the same, or any part thereof, be perishing or perishable, or deteriorating in value; and if the same be so found by the court, upon the report or other evidence, the court may thereupon order an interlocutory sale by the marshal, and the deposit of the gross proceeds of the sale in the registry of the court, to abide the final decree, whether a claim to the property has or has not been interposed. The prize commissioners are also to receive from the prize master all papers and documents, and forthwith to proceed to take the testimony of the witnesses prescribed by law, pursuant to the rules and under the interrogatories adopted by the court, and separately from each other and unattended by counsel, and the papers, documents, and testimony they are securely to seal with their seals, and as soon as practicable deposit in the registry of the court; and thereafter, promptly and without unnecessary delay, the court is to proceed to the hearing and adjudication.

The second section provides that all reasonable and proper claims and charges for pilotage, towage, wharfage, storage, insurance, and other expenses incident to the bringing in and safe custody and sale of the property captured as prize, shall be a charge upon the same, and having been audited and allowed by the court, shall, in the event of a decree of condemnation or of restitution, on payment of costs, be paid out of the proceeds of any sale of the property, final or interlocutory, in the custody of the court. In case of a decree of restitution upon payment of costs, where no sale has been made, such charges and expenses are to constitute part of the costs to be paid by the claimant.

By the third section the prize commissioners, and the district attorney acting for the United States, and the counsel for the captors, are to be entitled to receive a just and suitable compensation for their several and respective services in each prize case or proceeding, to be adjusted and determined by the court upon due consideration of the facts and circumstances of each case and of the services actually rendered; and the same, when so adjusted, is, in case of final condemnation or restitution on payment of costs, to be paid out of the proceeds of the prize property in the custody of the court, or, when no sale has been made, in whole or in part, as the court may direct, by the claimant.

The fourth section provides that whenever a final decree of condemnation of property captured as prize shall have been made, unless an interlocutory sale has been made as before provided for, the property shall be sold by the United States marshal pursuant to the practice and proceedings in admiralty, and the gross proceeds of the sale be forthwith deposited in court; and thereupon the prize commissioners are to proceed, under the direction of the court, to take the requisite evidence to determine the rights of parties as distributees of the prize proceeds, and report to the court; and as soon as practicable thereafter a final decree of distribution is to be made, and within thirty days after the entry of the same the clerk of the court is to transmit to the Treasury of the United States the moneys so deposited in court, together with a certified copy of the decree of distribution, after deducting the costs of court and the charges and expenses before provided for.

The fifth section makes the provisions of this act applicable as well to cases now pending as to all future cases of maritime captures, and to captures and seizures made under the laws for the abolition of the slave trade.

The first amendment of the Judiciary Committee was in section one, line eighteen, to strike out the words "final decree," and insert "further order of the court;" so as to make the clause read:

The court may thereupon rule an interlocutory sale thereof by the United States marshal and the deposit of the gross proceeds of such sale in the registry of the court, to abide the further order of the court, whether a claim to said property has or has not been interposed.

The amendment was agreed to.

The next amendment was in section four, lines nine and ten, to strike out the words "to determine the rights of parties as distributees of such prize proceeds;" and in line eleven to strike out the words "and as soon as practicable thereafter," and insert "to the end;" and in line twelve to strike out the words "of distribution," and insert:

Determining what public ships of the United States are entitled to share in the prize, and whether the prize was of superior, equal, or inferior force to the vessel or vessels making the capture—

So that the clause will read:

And thereupon the prize commissioners shall proceed, under the direction of the court, to take the requisite evidence, and report the same to the court, to the end that a final decree shall be made determining what public ships of the United States are entitled to share in the prize, and whether the prize was of superior, equal, or inferior force to the vessel or vessels making the capture.

The amendment was agreed to.

The next amendment was in line sixteen of section four, to strike out the words "of distribution" after the word "decree."

The amendment was agreed to.

The bill was reported to the Senate as amended; and the amendments were concurred in and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

LOYALTY OF MR. STARK.

Mr. HOWE. I move to take up the resolution offered some time since by the Senator from Oregon, referring certain papers to the Committee on the Judiciary.

The motion was agreed to; and the Senate resumed the consideration of the following resolution, submitted by Mr. STARK on the 28th of February:

Resolved, That the papers relating to the loyalty of BENJAMIN STARK, a Senator from Oregon, be withdrawn from the files of the Senate and referred to the Judiciary Committee, with instructions to investigate the charges preferred against said STARK on all evidence which has been or may be presented, and with power to send for persons and papers.

Mr. HOWE. I have only to say that I hope the resolution will be adopted. I call the subject up now under some embarrassment, occasioned solely by what was said during the debate at the time the resolution was first introduced. It will be sufficient for me to say, however, that I urge the passage of the resolution with no hope and no purpose of relieving myself, as an individual, from any responsibility I incurred by the vote I gave upon the question of admitting the Senator from Oregon to his seat here. The responsibility, whatever it was, which I assumed then, I do not wish to be relieved from; I am entirely satisfied with the vote; and I really think Senators, if they would exercise a proper charity, might imagine some other motive than one of fear as actuating those Senators who urge the passage of this resolution. It seems to me that any one and every one might conclude that those who voted for the admission of the Senator from Oregon might, in spite of that vote, be just as anxious to preserve the character of the American Senate as those who voted against his admission, and that we might be as naturally disposed to take care, and that the probability is as great that we want to take care, of the character of the Senate, as that we are over anxious about our own individual course. I believe that is my own purpose, and I hope the resolution will be adopted.

Mr. HALE. What is the question before the Senate?

The VICE PRESIDENT. On agreeing to the resolution.

Mr. HALE. The resolution introduced by the Senator from Oregon some time ago?

The VICE PRESIDENT. Yes, sir.

Mr. HALE. I thought that was settled the other day, and settled very conclusively. I hope there will not be any more time of the Senate taken up with it.

Mr. SHERMAN. Let us take a vote, and that is the end of it. I supposed the resolution was passed the other day. Let us vote.

Mr. HALE. I suppose that is the end of every question. [Laughter.] That is a suggestion which might be made on every subject that comes up. I have some feeling on this subject, and I hope the Senate will not go into this investigation. It seems to me that the Senate have established a precedent, and—I will not use the word "stultify," because that offended the honorable Senator from Vermont the other day—but I think it would be an exceedingly inconsistent thing to say that a state of facts that was sufficient to warrant the Senate in voting a man into the Senate, and administering to him his oath, and enabling him to perform the high functions of a Senator, was not sufficient to keep him in his seat. It would be trifling. I ask for the yeas and nays on the adoption of the resolution. I hope it will not be adopted. It would make me ridiculous; how it would the rest of the Senate, I do not know.

The yeas and nays were ordered.

Mr. HOWARD. I understand, Mr. President, that this resolution is offered for the purpose of entering into a more full investigation of the facts of the case of the gentleman from Oregon, with a view to the enlightenment of the Senate respecting his position on the question of loyalty to this Government. The resolution was offered by the gentleman from Oregon in his seat. He, of course, has a deep personal interest in the resolution, and in any proceedings that may grow out of it, if it be adopted; and the purpose of my rising is merely to ask the gentleman from Oregon, inasmuch as he offered the resolution himself, whether it is his purpose to pursue the inquiry which the resolution itself authorizes, and to collect facts respecting his loyalty, in order to submit those facts to the Senate?

As I remarked upon a former occasion, I look upon the papers which are on our files as presenting *prima facie* an accusation and proof of disloyalty against the Senator from Oregon. If they do not present such a case, if he is of opinion that they do not present such a case, it strikes me that it is trifling with the time of the Senate to ask the Senate to proceed any farther in it. If he thinks they do present such a case, impeaching his loyalty, and he is anxious to exonerate himself from the charge, I shall certainly vote for the passage of the resolution with the utmost cheerfulness, and so far as may depend on me I shall extend to him every facility in my power for making a thorough and full investigation of the facts of the case. If he will say to the Senate that for this purpose he desires the passage of this resolution; I shall, for one, be very much obliged to him.

Mr. HOWE. The Senator from Oregon can answer for himself in due time.

Mr. STARK. I wish now to answer the question of the Senator from Michigan, if the Senator will allow me.

Mr. HOWE. Very well.

Mr. STARK. I stated distinctly when I presented the resolution to the consideration of the Senate the purpose which I had in view in its presentation, and I supposed that the Senator from Michigan was fully informed with reference to that purpose. I can only repeat now, sir, what I said then. It was that there might not appear to be on my part the slightest indisposition to meet the charge of disloyalty here or elsewhere; and I am prepared now, as I was then, to meet it. That I should be the prosecutor of myself, or that I should lay at my own door any charge of disloyalty, seems to me to be preposterous; but I say to the gentleman from Michigan that I am ready to meet the charge wherever it is urged, and to defend myself as becomes me, I trust, as a Senator and as a man. It was for that purpose I presented the resolution, and for none other.

Mr. HOWARD. The Senator from Oregon will pardon me for making this additional remark, that I do not see that his present observations really answer the question which I put to him. I do not understand him as saying that he desires the passage of this resolution, in order that he may prosecute this inquiry further himself. He simply announces to us that he wishes to show that he has no indisposition to allow other Senators to become his prosecutors in reference to this matter. Sir, I must be allowed to say that I regard this as, to say the least of it, a misuse of language. We are not his prosecutors. I know of no gentleman in this body who has any disposition to turn prosecutor against the Senator from Oregon; but what I wish to know is, whether, on his own account, with a view to the promotion of his own interests, the exoneration of his own character from the imputations which are cast on it by the papers before us, he desires an opportunity to exculpate himself, for I desire to use plain and significant language. If he will answer that question substantially, I shall feel obliged to him.

Mr. HOWE. I called up this resolution in pursuance of a purpose which, I think, I avowed during the discussion that preceded the admission of the Senator from Oregon. At the time he was admitted to his seat here by a vote of the Senate, nobody assumed the responsibility of saying that the Senator from Oregon was disloyal, that he was traitorous. Certain charges of that kind had been presented to the Senate, and by the Senate referred to a committee, over the signature of certain gentlemen said to reside in the State of Oregon. The Judiciary Committee took those papers into consideration, and in due time reported them back to the Senate, without undertaking to say whether they were true or false, without undertaking to say whether the Senator was proved to be disloyal or was not; and as I listened to that discussion, no Senator upon the floor who opposed his admission undertook to say that he had satisfactory evidence of his disloyalty. On the contrary, upon the assumption that there was no proof before the Senate of his disloyalty, the Senator from New Hampshire himself, if I mistake not, moved to recommit those very papers to the Judiciary Committee for the purpose of ascertaining and reporting upon the truth of those allegations, claiming that pending that inquiry and that investigation Oregon ought to be excluded from her representation here. Other Senators differed from the Senator from New Hampshire upon that point, and thought that until the Senate was prepared to say that the representative from Oregon was unfitted to sit here, the representative from Oregon ought to be allowed to sit here. So the Senate decided; and the representative is here. But while the Senator from New Hampshire would insist upon an investigation while Oregon was not represented, he now opposes an investigation simply because Oregon is represented here. So it seems to me. If the Senate were curious and felt anxious to know whether these charges referred to us by citizens of Oregon were true or false, then I see no reason why the Senate should not be as anxious to know now. If it was important for us to know whether this representative was faithful to the Constitution or not while he was outside the Senate, it seems to me all the more important that we should know and be resolved upon that question now that he is inside the Senate. Instead, therefore, of the importance of this investigation being diminished one whit, it seems to me to be increased tenfold; and I hope the resolution will be adopted.

Mr. HALE. I felt some interest in this question, but I took very little part in it, except to vote, when it was up before. I do not exactly agree, however, in the construction that the honorable Senator from Wisconsin has put upon what I said and did. I desire now to call the attention of the Senate to one or two facts. When this matter was reported back it was reported in these very brief words—most of the report was taken up in the preamble:

"The Committee on the Judiciary, to whom was referred the credentials of BENJAMIN STARK, as a Senator from the State of Oregon, with the accompanying papers, have had the same under consideration, and without expressing any opinion as to the effect of the papers before them upon any subsequent proceedings in the case, they report the following resolution."

The resolution is that BENJAMIN STARK was entitled to take the constitutional oath of office. The report proceeded upon the ground that the committee had formed no opinion upon the papers. The honorable Senator from Wisconsin will excuse me if I think the objections which he takes to the papers are rather puerile in their character, because they apply to every single petition that is presented here and that forms the basis of senatorial or legislative action. His objections are that we do not know the persons, do not know the handwriting, do not know that there are any such people, do not know that they reside in Oregon or elsewhere. That is very true, and it is true of every petition that is presented here, and we never can go along, we cannot proceed the first step with legislation if, before we take any notice of a petition, we stop to get to ourselves judicial evidence of the fact that every one of the signers to it is alive, and that he resides in the place where he purports to reside, and that the signature is his own proper, legitimate handwrit-

ing. We assume these things. Legislation would be impracticable unless we did.

But, then, sir, with this report based upon the assumption that the committee had formed no opinion upon these papers, which they must have taken *prima facie* to be *bona fide*, the honorable Senator from New York [Mr. HARRIS,] when this resolution of the honorable Senator from Oregon was introduced referring the matter back to the Committee on the Judiciary, got up and in his blandest manner begged to be excused from having it referred to the Committee on the Judiciary, because he said the Senate must know that he had formed an opinion upon it, and must know what his opinion was. How did they know? By the report. There was not a member of the committee who undertook to deny that that was the fact, and the honorable Senator from New York assumed that in the report which they had made he and the whole committee had passed upon the entire matter. The shakes of a hundred heads will not alter the fact. That was substantially what the Senator said, and no member contradicted it.

The honorable Senator from Oregon, I think, is a little unduly sensitive in this matter. I do not know but that he rather put himself in a warlike attitude against anybody and everybody that should presume to exercise what I considered to be the undoubted right and the unquestioned duty of every member of the Senate under the Constitution. I do not know anything about the truth of these charges, and do not pretend to know anything about it. I know that, according to the best of my ability, I have endeavored to treat the Senator from Oregon as courteously and as kindly as I have any member of the Senate. I go upon the papers. Now that the subject is up, I will refer to a remark made by the honorable Senator from Illinois, [Mr. BROWNING,] who took some interest in this case when it was under consideration before—a remark which I confess filled me with pain and astonishment. He said—I cannot quote his words; I have only got the idea; and if I misstate him he will correct me—that he, and he supposed the gentlemen who voted with him, went upon the ground that it was not competent for the Senate to proceed with any further inquiries into the qualifications of a man sent here other than those required by the Constitution, that he should be thirty years of age, nine years a citizen of the United States, and an actual inhabitant of the State at the time. He said that such a man constitutionally elected or appointed was entitled to take the oath, and that we had no right to raise the question of his loyalty before he took the oath. That is substantially what I understood the honorable Senator from Illinois to say; and he claimed that those who voted with him concurred in that. I hope I do not misrepresent him. The Senator does not correct me, and I suppose he will not. There was not a single Senator on the floor who questioned that.

Mr. COLLAMER. I wish, not merely for this occasion, but for all others, to protest against any man assigning a reason for my vote. Nobody has any right to give the reasons for my votes—neither the Senator from New Hampshire nor anybody else.

Mr. HALE. I have not undertaken to do it; and if I could give as good reasons as the Senator from Vermont, I never would put up with anybody else assigning reasons for me. [Laughter.]

Mr. COLLAMER. I protest against a reason being assigned for my vote by any other man.

Mr. HALE. I did not assign reasons for the Senator's vote. I can talk plainly, if I cannot give as good reasons as the Senator from Vermont.

Mr. BROWNING. I wish only to say now that I made no response to the Senator from New Hampshire, because I did not desire to interrupt him, intending, when he was through with his remarks, to make a reply to what he had stated, and to correct what is a total misapprehension of anything I said, thought, or intended. I will do it when he is through.

Mr. HALE. Very well, sir. I heard the Senator's remarks when he made them; I took pains to go and get the Globe containing them, and kept it on my desk till I thought this thing was dead and buried, and never would be called up again, for the purpose of quoting *verbatim et literatim* what the Senator did say; but as I supposed this was gone, I have not the paper here, and I quote now from my recollection. Now, let me say a word I was about to add for the benefit of the Senator from Vermont; but I have no doubt that if I should undertake to make a suggestion for his benefit, he would say as John Quincy Adams did to a member from Virginia when he undertook to say a word for his benefit, "*non tali auxilio;*" in other words, "mind your own business, and let me alone; I want none of your assistance." [Laughter.] But I will say this, sir: I did not undertake to speak for anybody else; but I am certain that the honorable Senator from Illinois did say that he supposed those who voted with him entertained the same views that he did; and I confess that, from my hearing and my reading of the speech—I heard it attentively and read it carefully—I did understand the honorable Senator from Illinois, in substance, to say that we had no right to inquire into the question of loyalty or anything else beyond the actual requirements of the Constitution. It was that which filled me with pain and astonishment, because it sounded to me like proclaiming that the high characteristics of loyalty was a matter of mere indifference; and I thought, carrying out the sentiment suggested by the honorable Senator from Illinois, St. Paul would have been just as fit for Christian conversion when he was traveling to Damascus with letters to persecute the Christians, as he was after the scales fell from his eyes, and miraculous light illuminated him.

That was the ground that I understood the honorable Senator to take. I do not want to make any professions of unwillingness to misrepresent anybody; for I trust that if I am not above that in point of morality I am in point of good sense, because I do not stand up here before the Senate certainly to represent a Senator as having said something entirely different from what he did say. I said to the honorable Senator from Illinois when I began that I had not his phraseology before me and I did not recollect it. But, sir, whether the Senator said it or not, the Senate substantially so decided that they would not inquire, that it was not pertinent to inquire, and they admitted the Senator from Oregon; and when they admitted him, having gone this all over, having passed upon it judicially, I consider the Senator from Oregon just as exactly and fairly entitled to a seat on this floor as myself or any member of the Senate. Of course, this is not a court of law and it cannot be pleaded as an estoppel, for we have no such thing here; but if this were a court of law and such an inquiry as that had been instituted, and such a result as that had been come to, I say it would be an estoppel; because if we do inquire into facts judicially, no matter what the plea is, if you have the parties before you, and on a proper plea you inquire into the facts and come to judgment, that judgment is conclusive. You may try the title to real estate upon an action of trespass just as well as upon a real action. So if the question of a Senator's loyalty is raised, and raised upon the issue whether he shall be admitted or not, and the finding of the tribunal is that he is loyal enough to take the oath, loyal enough to take his seat, loyal enough to sit here in the Senate under the high responsibilities of his position, to my mind nothing can be more absurd or unjust than for that same tribunal to undertake to try him over again.

Mr. HOWE. Will the Senator from New Hampshire allow me to put to him a question? I understood him to vote against the admission of the Senator from Oregon, and I wish to know simply if he voted against his admission upon the ground that he was satisfied that he was proved to be disloyal. I desire to know if that was the ground on which he voted against his admission.

Mr. HALE. No.

Mr. HOWE. Then why does he not want satisfaction?

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

Mr. HOWE. Certainly.

Mr. HALE. What on earth had he in his head in asking such a question? [Laughter.]

Mr. HOWE. A painful doubt what reason the Senator from New Hampshire could assign for excluding one half of the representatives of a State from this floor, when he did not know any objection to his taking his place, and did not want to take any proof upon the question of his fitness. I understand the Senator to say that he was not satisfied that the Senator from Oregon was disloyal. I understand him to say now that he is opposed to any investigation of that question; and yet he voted against his admission, and I had a painful doubt, and nothing that I am aware of more than a painful doubt.

Mr. HALE. The Senator must have had the headache, to put such a question. The case is just as clear as day-light. Here is a question as to the loyalty of a gentleman proposing to be admitted as a member of the Senate; here is a charge supported by the testimony of numerous witnesses; and while that charge is pending it is proposed to let the Senator take his oath. I thought differently. I thought the investigation should be had before he took it, and upon that opinion I moved to refer the matter back to the committee to have them do what they told us they had not done; and that was, pass upon the papers that we sent to them to pass upon; and carrying out that conviction, I voted against his admission because the committee and the Senate had refused to inquire. But, sir, they took a vote; they took a vote upon a matter on which it was competent for them to vote. I do not want to arraign a single member, nor a single reason of any member, for the vote he gave. It is enough for me that this high tribunal, the Senate of the United States, by a deliberate vote, declared that Mr. STARK was entitled to take his seat and become a Senator, and he is now a Senator, just exactly as much as any of us. They voted that they would not consider the charges. I will illustrate this by a matter which took place before the Senate of Rome, perhaps, when there was an officer nominated to the Senate of Rome for a commission in the regular army, to be a lieutenant colonel, and there was an impeachment of his loyalty. The Roman Senate considered the question as to the impeachment of that man's loyalty, who was proposed as a lieutenant colonel in the Roman army, and they voted that it was not sufficient, and they confirmed him. Subsequently one of the emperors proposed that lieutenant colonel to be a brigadier general of volunteers, and one of the Roman Senators got up in his place and said, "Inasmuch as we have considered this question once, considered the case of this officer and the charge of disloyalty brought against him and absolved him of it, it is not just to renew that old quarrel; we have forgiven him; we have placed him in the army, and we will not keep him now under suspicion; and when the supreme power has nominated him for a higher office, we will not go back of that matter which was settled; we will confirm him;" and I am told they did, though I never looked at the records of the Senate in that matter. [Laughter.]

Mr. HOWE. Allow me to suggest the difference between the cases——

Mr. HALE. Yes, one was in Rome, and the other here; that is the difference.

Mr. COLLAMER. Permit me to ask the gentleman if, in making his historical statement, he refers to a lieutenant colonel of artillery or cavalry in the Roman army? [Laughter.]

Mr. HALE. I do not remember, sir.

Mr. HOWE. I wish to suggest this difference: in that case, the Senate did pass upon the question of loyalty; and in this case, I understand the Senator to admit that neither the Senate nor he himself has passed upon that question.

Mr. HALE. No; I do not admit any such thing. I say the Senate did pass upon it by admitting him to his seat.

Mr. HOWE. It was the very question I put to the Senator, whether he voted against his admission on the ground that he was proved to be disloyal; and he said he did not.

Mr. HALE. Of course I did not, because the tribunal that, in my judgment, ought to have inquired into it, would not inquire; and the body that ought to have controlled the committee, would not control them; and therefore I voted against the admission. But I will not take up time about this subject. I shall vote against any further action upon it.

Mr. BROWNING. Mr. President, I have no intention of renewing any discussion upon this question. I simply want to correct a very gross error and misapprehension into which the Senator from New Hampshire has fallen. As far as I am concerned, I am willing to leave my record upon my vote when I shall have given it. I intend to vote for the resolution; and I intend to do so without any reference whatever to the wishes

of the Senator from Oregon, or the wishes of any other Senator, except my own. I certainly cannot be deterred from voting for an investigation, because the person in regard to whom the investigation is to be made may not chance to want or desire that any investigation should be had, for I understand the Senator from Michigan to place his action upon that ground. I should have no reference whatever to the wishes of the Senator from Oregon, but will vote for this investigation, because there is some reasonable ground to believe that it ought to take place.

The Senator from New Hampshire says, however, that no further examination ought to be had, because the evidence, which was not sufficient to prevent the Senate from voting the Senator in, ought not to be sufficient to justify them in voting him out. I desire to say in reply to that, that in my humble judgment this Senate has no more to do with voting the Senator from Oregon in than the City Council of the city of Washington has to do with it. The State Legislatures vote Senators in, and we can vote them out if we choose; but to vote them out we must have a two-thirds vote, and we cannot do it by a simple majority vote; and there is the whole question. The Senator from New Hampshire insisted upon turning the Senator out by a majority vote in direct violation of the Constitution; whereas I insisted that to turn him out, the Constitution required a two-thirds vote, and I in common with him had sworn to observe and support that Constitution. There is the whole question, sir. What I said in the discussion of the question was this: that State Legislatures, and not this Senate, elected Senators; that when they elected a man who was thirty years of age, a citizen of the United States for nine years, and an inhabitant of the State for which he was elected, he was a Senator in advance of taking the oath—we did not make him so; the Legislature made him so—and that we could get rid of him only by expulsion with the sanction of a two-thirds vote. That is what I said on that subject.

What I said on another branch of the same subject was this: that when a Legislature attempted to elect a man a Senator, and he was not thirty years of age; or, being thirty years of age, was not a citizen of the United States; or, being thirty years of age, and a citizen of the United States for nine years, was not an inhabitant of the State for which he was elected, that election was void, he was no Senator, and we could prevent him coming upon the floor and taking his seat by a majority vote. That is what I said. It seems to me that that is easy enough of apprehension and comprehension. I do not suppose the Senator from New Hampshire designedly would misrepresent any person——

Mr. HALE. Will the Senator give way a minute?

Mr. BROWNING. Certainly.

Mr. HALE. That is exactly what I understood you to say, and exactly what I represented you as saying.

Mr. BROWNING. Then I misunderstood you. I do not suppose the Senator would designedly or willfully misrepresent anybody, but I do think he very often permits his zeal to outrun his knowledge. He represented me as stating this, and speaking not only for myself, but for all the Senators who had voted with me: that in advance of a Senator coming upon the floor and taking the oath, I had contended that the Senate had no right or power to investigate his loyalty or disloyalty at all. That is what I understood him to say.

Mr. HALE. Provided he had the constitutional qualifications?

Mr. BROWNING. Yes, sir.

Mr. HALE. I did.

Mr. BROWNING. The Senator totally misunderstood me, for I took pains to say in most explicit terms, during the discussion, that if he possessed all the qualifications required by the Constitution, and had been legally elected by his State Legislature, still I conceded the power of this Senate, in advance of the administration of the oath to him, to institute an investigation in regard to his loyalty, or any other matter which would justify us in expelling him from the body; but to enable us to attain that end, we would have upon the vote to get a two-thirds vote, or he would not be expelled. I said further, what I now repeat, that if I had been reasonably satisfied of the disloyalty of the Senator from Oregon—a question that I have not investigated or considered at all, because it has not yet been proper for me to do so; it has not been before us—while I conceded the power of the Senate to investigate before he was admitted upon the floor, I should still vote against that investigation and for his admission, because it would be an outrage upon individual right, and an unheard of oppression, to try a Senator upon a charge of treason and deny to him the opportunity of defense; and that, as whether we investigated it before or after the administration of the oath, we could only expel him by a two-thirds vote, the most ordinary considerations of justice required of us that we should admit him upon the floor and hear his defense before we condemned or acquitted him. That is what I said, and I repeat it, and I am proud that I said it, and rejoice that a record has been made of what I did say. If the yeas and nays had not been demanded upon this question, I certainly should myself have called for them, for I am anxious to see the record made. There are those who say there was evidence enough against a man to justify us in a violation of the Constitution and in expelling him by a majority vote. I want to see them put it upon record that while that is their opinion, they are still unwilling that a fair investigation shall be had when the accused party will be admitted to his defense. I do not pretend to say whether the Senator is loyal or disloyal. I have not considered the question, and I will not consider it until it comes before us; but when it does come before us I will consider it as carefully and investigate it as thoroughly as any other man, and vote as firmly and as unhesitatingly for the expulsion of the Senator, if I shall believe him disloyal, as any other Senator here; and I will as fearlessly vote to retain him in his position if, after hearing the accusation and the defense, I shall be satisfied of his loyalty to the Government and the Constitution.

I am sorry, Mr. President, that I have been betrayed into occupying so much of the time of the Senate. I had no intention of entering upon the discussion. In conclusion, I simply desire to ask the Senator from New Hampshire whether the Roman senators to whom he referred had, or not, in his opinion, taken an oath to support the Constitution of the United States? I did not hear any expression of opinion from him on that subject. [Laughter.]

Mr. HALE. Before I answer that, let me ask the Senator a question. I want to ask him if he means what he said, that those Senators who had voted as I voted, not to admit the Senator from Oregon, voted contrary to the Constitution and in violation of the Constitution of the United States?

Mr. BROWNING. No, sir; the Senator grossly misunderstood me if he understood me to say that. I said we had nothing to do with his admission.

Mr. HALE. The Senator wanted the yeas and nays taken, that he might see whether those who voted to exclude him contrary to the Constitution were now ready to refuse a fair investigation.

Mr. BROWNING. Those who voted to exclude him contrary to the Constitution—the question of exclusion, not of admission.

Mr. HALE. I did not call the Senator to order when he made those remarks, because I did not feel very sensitive on the subject; but it seems to me it is hardly the thing, on this floor in public debate, to charge those who voted differently from the speaker, with voting in violation of the Constitution of the United States.

Mr. BROWNING. I understood myself simply as expressing my own opinion that the Constitution of the United States required a two thirds vote to expel a man, and that a vote expelling him by a majority vote would be in violation of the Constitution, in my opinion. That is all I said. I do not undertake to determine whether gentlemen violated it or not.

Mr. HALE. If the Senator thinks that is all he said, he will find himself in the situation he says I was in—that his zeal outran his knowledge, and he does not remember what he did say.

Mr. HOWARD. I think so, too. I certainly understood the Senator from Illinois as charging those who voted against the admission of the Senator from Oregon as having voted in direct violation of the Constitution.

Mr. BROWNING. Of my view of the Constitution.

Mr. HOWARD. That is a pretty serious charge, Mr. President. I have something to say to the Senator on that subject at the proper time on the very point which he has made: that the moment a man is elected by a State Legislature as a Senator of the United States, he is *ipso facto* and in all respects a Senator, and that he cannot be dealt with by this body; he cannot be expelled, or his seat cannot be refused him by this body except upon a two thirds vote. That constitutional principle I totally deny, and I shall be happy to debate it with the gentleman from Illinois on some future occasion, when it will be more convenient for us both, perhaps. I deny it.

Mr. BROWNING. It is proper that I should say I certainly intended no discourtesy to any Senator here, but understood myself only as expressing my individual opinion that a vote to expel a man by a majority vote was, in my opinion, in direct conflict with the constitutional provision. I still think so. I do not think that discourteous.

Mr. WILSON, of Massachusetts. I am instructed by the Committee on Military Affairs to move that the Senate proceed to the consideration of executive business, and I shall make that motion now, unless Senators desire to take a vote.

Mr. BROWNING. Let us have a vote.

Mr. HALE. I rise to a question of order. A special order was made for one o'clock to-day on motion of the Senator from Maine, [Mr. MORRILL,] upon which I was entitled to the floor. The Senator from Massachusetts, therefore, has no right to take the floor to make a motion to go into executive session.

The VICE PRESIDENT. There is now pending before the Senate a question which is not only a question of privilege, but also a privileged question. That overrides the special assignment after the expiration of the morning hour. After the Senate shall vote on this question, the special order will be before the Senate, and upon that the Senator from New Hampshire will be entitled to the floor. The question is on agreeing to the resolution submitted by the Senator from Oregon, and on that question the yeas and nays have been ordered.

Mr. TRUMBULL. If the vote is about to be taken on that resolution, I have a word or two to say upon it, for I do not wish a wrong impression to go out to the country in regard to this question. There seems to be a great deal of sensitiveness, I discover, about it; a great deal of feeling. The Senator from Wisconsin is uneasy, and my colleague speaks with some warmth. I have no feeling about it other than to be placed in a proper position before the country. What was the question that we decided? It was simply this: whether you will investigate disloyalty at the threshold, or whether you will receive it among you and investigate it afterwards. That is all that was decided.

The Senator from Wisconsin talks about the purity of the body. He voted to admit a man here charged with impurity. He voted that he would not investigate it, and then he talks of purity of the body! He voted upon the yeas and nays that he would not inquire into charges of disloyalty sworn to by fifty witnesses. It was said that they were *ex parte*. I have never argued this case upon the testimony; but, sir, a witness was before the Judiciary Committee; he was examined; he was cross-examined, and the testimony was before the Senator; and he told you who the witnesses were. He knew two thirds of them in Oregon, and he says they are respectable men and men of veracity. The Senator from Wisconsin does not know whether they are fictitious names or not! For one—I speak for myself and myself only—I voted against the admission of the Senator from Oregon to his seat here upon this ground and this ground alone: that he was charged by sworn affidavits and by one witness, examined in his presence and cross-examined by him, with disloyalty; and I believed it to be the duty of the Senate to pass upon that question of loyalty before he was admitted to a seat here. Others thought he had a right to be admitted, and they voted that they would not investigate these charges. That was the vote and there is no escape from it. The Senator from Massachusetts [Mr. SUMNER] offered an amendment to the resolution reported by the committee that the Senator from Oregon should not be admitted here when he was charged with these acts of disloyalty until their truth was investigated. The Senator from Wisconsin voted that he should

be admitted here without investigating those charges, because he voted against that very amendment, and there is no escape from it.

Sir, I am for investigating disloyalty anywhere and everywhere. I would keep it out of the presence of the Senate Chamber; it should not enter the threshold of the Capitol; but if it gets here and I cannot keep it out of doors, I will turn it out if I can afterwards. I do not wish in these remarks to pass upon the testimony. I give no opinion upon whether it amounts to disloyalty or not; but I say, in my judgment, it was the constitutional duty of this body to protect itself at the threshold from the entry into the body of any person against whom there was probable cause upon which to base a charge of disloyalty.

It was against the fearful precedent that was set that I protested. I think it was the most dangerous ever set in the American Senate—a precedent that will be more fatal to us, I fear, in the future, than any vote that has been given during my experience here, or any that I have ever read of in the annals of the country. The Senator from Oregon was admitted, the charges of disloyalty to the contrary notwithstanding. It is a precedent that a man dripping all over with disloyalty and treason, and felony, if you please, may present himself here, and his acts, his conduct, and his character, in these respects, however infamous, shall not be inquired into. As I said in the few remarks I had the honor of submitting to the Senate when the question was under consideration, a precedent was set which would admit the very chief of traitors upon this floor. It puts the Senate of the United States in the power of traitors. They may achieve a greater triumph over this Government, do more to destroy its institutions, and to subvert the Constitution, by sending their traitors here to-day armed with thirty years of life, nine years citizenship, and an inhabitancy of the States in rebellion, with credentials from their traitor Governors, than by continuing this war. I want to know, when you vote that a person charged with disloyalty shall be admitted here, those charges to the contrary notwithstanding, and say you will not investigate them, can you investigate the charge of treason made against Gideon J. Pillow when he comes here with the credentials of Governor Harris, of Tennessee, and it appears that he is thirty years of age, has been nine years a citizen of the United States, and is an inhabitant of Tennessee?

Sir, it was that dangerous precedent which I deplored; and I do not wish now to be placed in a wrong position by these positive declarations, that under the Constitution a person is entitled to a seat here, and that the State gives him a seat in this body, the authority of the Senate to the contrary notwithstanding. The State elects him; but it is here that he is admitted and qualified. I admit that the qualifications for a Senator are prescribed by the Constitution of the United States; but the Constitution of the United States contains no clause preventing a man suffering for the crimes he commits. If he is a traitor, guilty of the greatest crime which man can commit, I think it is a fitting and proper disqualification for his coming here.

If the Senator from Oregon desires an investigation of this matter I shall vote for the resolution, though I will not vote to refer it to the Committee on the Judiciary. We have had this matter once before us; and I trust if this resolution is to be referred it will go to some other committee. I do not think any good will arise from re-referring it to that committee. I am not prepared to speak for the others, but my own impression is that no member of the committee desires this resolution to be re-referred to them. I certainly do not.

Mr. HOWE. When I was a very little child, I learned somehow or other not to be much terrified at what was known as sheet lightning; and since I have grown older, I have learned to stand up tolerably well against what is known as home-brewed thunder.

Mr. President, the Senator from Illinois has remarked with a great deal more emphasis, I think, than accuracy, that he discovered strong symptoms of uneasiness in myself. I have not discovered the symptoms, and I do not know how he happened to do it. I have not felt at all uneasy about this matter. I did say to the Senate that I felt a little embarrassed in proposing to proceed to the consideration of this resolution, simply because of the effort that I thought had been made to place those in a false position who now favor this reference. That is all that occasioned my uneasiness, or anything like uneasiness. I disclaimed any embarrassment consequent upon the vote I gave the other day. I disclaim it again.

The Senator speaks somewhat sneeringly that I avowed myself to be as anxious as others for the purity of this body; and he announces, still I think with a great deal more emphasis than accuracy, that I voted to admit impurity upon this floor. When and how? I voted to admit the representative that Oregon sent here. Was that impurity? Who says so? Not the Senator from Illinois. He does not say there was any impurity in that representative. No man says it. Not the organ of the Senate; no member of the Senate has asserted it; and I say again, it was with more emphasis than accuracy he made the remark that I had voted to admit impurity upon this floor.

He talks of precedents, and the danger of the precedent we set here, because we admitted upon this floor a representative from a State entitled to the same privileges of representation that Illinois or Wisconsin has, and a representative she sent here against whose loyalty no member of the Senate asserts anything upon his responsibility. That, the Senator tells us—still I think with more emphasis than accuracy—is a precedent for admitting those who may come hereafter all reeking with treason. I think not. I think when a man comes up here reeking with treason, somebody will be found willing to assert it; it will be recognized.

The Senator has reminded the Senate that he was in favor of having the loyalty of the representative from Oregon investigated; and that I voted against the investigation. The Senator is mistaken again. I never voted against investigation. I never proposed for a moment to vote against investigation. I want investigation; but I would not say to Oregon, your representative shall not have a seat here until somebody is prepared to assert he is not fit to sit here. Until somebody was prepared to say that, I thought Oregon should have her representation upon this floor. If we want light upon this question, let us have it as light is ordinarily obtained, by inquiry, by investigation. I know of no other way to get it. Why should I assume that the representative from Oregon was disloyal, when no man said he was; when no man will say he was?

I think there is no danger from any precedent we have set. I think there is no occasion for any heat or any excitement not necessarily springing out of this question. I am not so entirely clear that occasion for heat and excitement may not spring out of the method of discussing it. I will give no occasion for it, if I can help it. I have impugned no man. I have charged no man's vote as disastrous. I have charged no man with assaulting the Constitution, except the Senator from Massachusetts, [Mr. SUMNER,] and while I charged him with it the other day, I admitted that I was just as guilty of it in his estimation as he was in mine. I thought I made that matter all square with him. Nobody else has had any occasion to find fault with what I said, and he had none, for he found no fault.

Mr. HALE. The Senator from Illinois [Mr. BROWNING] undertook to question the accuracy of a statement I made, and questioned it by wholesale. He said I totally misunderstood him, and so much so that he undertook to censure me for my general habit on the floor for letting my zeal outrun my knowledge. I want to meet that charge right here before the Senate, and before the country, not by any comments of mine, but by reading from the Globe exactly what he did say, and without comment to leave it to the Senate and the country to say whose zeal outran his knowledge:

"I of course accept the explanation; but I desire to say in connection with it, that I expressed no opinion whatever either of the loyalty or disloyalty of the Senator from Oregon, because, to my judgment, it was a question not before us, and it was not proper to be discussed, and not proper to be acted upon. The ground upon which I based my action was simply this—and I understood it to be the ground on which all those who voted as I did based their action—that, under the Constitution of the United States, any person who is thirty years of age, who has been nine years a citizen of the United States, and who at the time of his election is a resident of the State for which he is elected, and who has been elected or appointed, and has accepted the appointment, is a Senator of the United States, in advance even of taking the oath of office. That was the position I assumed yesterday, and, so far as I know, no one controverted it. I heard no Senator express his dissent from the position, that when a person is duly elected a Senator of the United States, if he possesses the qualifications of thirty years of age, of having been nine years a citizen of the United States, and of being a citizen of the State for which he was elected, and has accepted the office, he is then a Senator of the United States."

Mr. BROWNING. I repeated all that only a few minutes ago. The question between the Senator and myself was this: he asserted that I contended when this case was before us that the Senate had no power to investigate the case until after the Senator was admitted upon the floor and had taken the oath. That was the question.

Mr. HALE. I said he said the question of loyalty was an indifferent one; that it was no matter whether the Senator from Oregon was loyal or not. I will not comment on it. The record is there.

Mr. BROWNING. I am perfectly content with the record as it is.

Mr. HARLAN. I desire to say a word or two in vindication of my own vote. Since I have been a member of this body, on every occasion when the question has arisen, the Republican Senators have maintained that the eligibility of a Senator elect to a seat, or the validity of his election, may be investigated before his admission. It has been uniformally admitted that a Senator's credentials are *prima facie* evidence of his right to a seat; and if not called in question, a Senator presenting them should be qualified and admitted, but that this presumption of title may be overcome by rebutting testimony, and that in every such case the Senate has the right to investigate the whole subject in advance of his admission. This subject was discussed at great length in the cases of Messrs. Bright and Fitch, Senators elect from Indiana. In these cases, and I think in every other case which has arisen since I have had the honor of a seat, preceding the present case, every Republican Senator has sustained this position, as will be seen by reference to their recorded opinions and votes in the Congressional Globe. I believe that the lawyers on this side of the Chamber who took that position and defended and maintained it for so long a period and with such ability, were right. I still think so.

Hence, when the Senator from Oregon presented credentials raising a presumption of eligibility and title to a seat, and this presumption was confronted by the sworn testimony of a large number of witnesses tending to prove his disloyalty to the Government, I believed it to be my duty to vote to refer the question to the committee for investigation. The committee refused to investigate and report on the truth of the charges, but reported a resolution declaring that the Senator had a right to be admitted to a seat, notwithstanding these sworn allegations of disloyalty, in advance of an investigation. I voted against their resolution. In this I sustained the doctrines of the Constitution, which had been uniformly maintained by the Republican lawyers of this body. In casting this vote I did not suppose I was voting to expel a Senator by less than a two thirds vote, as required by the Constitution, as intimated by the Senator from Illinois, [Mr. BROWNING.] In fact that question had not been raised in this case. The import of my vote was that the Senate should investigate the truth of these sworn charges before the Senator elect is admitted to a seat. But a majority of the Senate decided otherwise. The Senator was admitted. But in voting to admit the Senator to his seat, the question of his loyalty was not necessarily decided. The report of the committee expressly repels such a conclusion. Many Senators in their arguments stated distinctly that their vote to admit the Senator should not be held as a bar to a future investigation of the truth of the charges of disloyalty. The Senator himself so understood the import of this decision of the Senate, and consequently offered this resolution. And the Senate has uniformly held that the admission of a Senator on the faith of his credentials, without inquiry or investigation, is no bar to future adjudication. The Senate having decided that these charges of disloyalty should not be investigated before the Senator's admission to a seat, does not, in my opinion, obviate its necessity now. I do not perceive that his admission has settled the question of the truth or falsehood of the charges made against him; and hence I feel it to be my duty to vote for the reference, although I then thought that the investi-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. THURSDAY, MARCH 20, 1862. NEW SERIES.....No. 80.

gation should have been made in advance of his admission.

I have felt it to be my duty to make this statement to exonerate myself from the implication of having voted to expel a Senator by a naked majority, in violation of the Constitution of the United States, as charged by the Senator from Illinois. As I understand the import of my own vote, it was, that the charges made against the sitting Senator from Oregon should be investigated in advance of his admission to his seat; nothing more. And the Senate, in admitting the Senator, have not decided, as I understand it, that the testimony then presented, or the charges then made, are untrue. The Senate has not decided that there is not now sufficient reason to proceed with the investigation. I believe there is sufficient reason; and hence I shall vote for the reference.

Mr. TRUMBULL. As the Senator from Wisconsin undertakes to say that no man has charged the Senator from Oregon with disloyalty——

Mr. HOWE. No member of the Senate.

Mr. TRUMBULL. No member of the Senate. That is now the limitation.

Mr. HOWE. That was the limitation.

Mr. TRUMBULL. I did not so understand the Senator; but of course I correct it. I will take his statement now. Then he will admit anybody, it seems, unless a member of the Senate charges him with disloyalty. Is that the position? Will he wait until the treasonable act comes within the personal knowledge of some member of the Senate? If he would do that, then what becomes of his constitutional principle and the constitutional principle of my colleague? Is the word of a member of the Senate better than the sworn testimony of fifty witnesses?

Now, sir, charges of disloyalty were made. I shall not take up the time of the Senate more than a moment; but I want to correct that impression, which might be made to the country, that no charges were made. The testimony was before the Senator from Wisconsin. It was all reported back by the Judiciary Committee in their report, printed and laid on the table of every Senator. It is stated there by some dozen or fifteen persons, one of whom is the superintendent of Indian affairs for Oregon, and others are gentlemen holding official positions in that State, that:

"Mr. STARK, who is a resident here and personally known to us all, has been for the past twelve months an ardent advocate of the cause of the rebellious States. He has openly avowed his sympathies with the South, declaring the Government disrupted, and openly expressing his admiration for the constitution of the confederate States, and advocating the absorption of the loyal States of the Union in the southern confederacy under that constitution, as the only means of restoring peace; thus advocating the surrender of our Government to the so-called confederate States."

That I regard as a pretty serious charge. Another witness swears:

"That in the month of February, 1861, he heard said BENJAMIN STARK make use of the following language in substance, at the post office in the city of Portland: 'If there is to be any war between the North and the South, all my property is for sale at fifty cents on the dollar, and I will go and help the *South* fight.'"

Another witness testifies that:

"In the latter part of April, 1861, I asked said STARK why he did not sell his property and go South: said STARK gave as a reason he could not find a 'black' who had money enough to buy him out; and affiant further says he has heard the said STARK say he was a secessionist, and all his sympathies were with the South."

Thirty witnesses make an affidavit, in which they state:

"The undersigned, each being first duly sworn, say that they are personally acquainted with BENJAMIN STARK, of the city of Portland, county and State aforesaid, and that he is well known and generally reputed to be an open and avowed friend of the southern confederacy as against the Union."

But, sir, I will not read all these affidavits. I will refer now to the testimony of the witness who appeared before the Judiciary Committee, and was examined and cross-examined. In his cross-examination he says:

"The parties making affidavits against Mr. STARK are all Republicans, and responsible men, as far as I know them; I know about two thirds of them; they are citizens of Portland, and are men of veracity."

This witness also testifies that he has heard STARK express his sympathy with the South.

I have read that much that the Senator from Wisconsin might know, if he had forgotten it, that there were charges, and serious charges, against the Senator from Oregon. He says that no Senator says he was disloyal. Sir, I was in favor of passing upon that question. I wanted to pass upon the question of disloyalty and these affidavits, but the Senator with others voted that they would not pass upon them. Let us see how he voted. My friend from Massachusetts offered an amendment to the resolution of the committee proposing to allow Mr. STARK to take his seat, to strike out the words, "is entitled to take the constitutional oath of office," and insert:

"And now charged with disloyalty by the affidavits of many citizens of Oregon, and also by a letter addressed to the Secretary of State, and signed by many citizens of Oregon, many of whom hold public trusts under the United States, is not entitled to take the constitutional oath of office without a previous investigation into the truth of the charge."

How did the Senator from Wisconsin vote on that amendment? I have before me the yeas and nays on the adoption of that amendment; and among the nays in opposition to it, and voting that Mr. STARK was entitled to take his seat without an investigation into the charge, I find the name of Mr. HOWE, of Wisconsin.

Mr. HOWE. Mr. President, I do not know but I shall have occasion to regret the motion I made some time ago before I get through with this matter. I certainly had not the slightest expectation of being put on trial myself when I proposed to proceed with the trial of the Senator from Oregon. It has taken me a little by surprise. I believe, however, I will brave it as rashly as the Senator from Indiana did a little while ago. I will not ask for counsel, and I will not ask for a reference. I do not know but I am as well prepared to go on trial now as I shall ever be; and I am a little curious to know if the Senator from Illinois is also prepared to go to trial. If the Senator from Illinois is seriously ambitious of convicting me before the Senate or before the country as an ally of rebels or traitors, it is an ambition which I apprehend will cost him the expenditure of whatever intellectual resources he has to achieve and to gratify.

I voted the other day in the Senate, as it was my constitutional duty to do, upon the question of letting the Senator from Oregon in here, or keeping the Senator from Oregon out of here. I said no organ of this body assigned any reason why he should be kept out; and I said no member of this body stated any fact why he should be kept out; and I repeat it. The Senator from Illinois brings in a pile of papers here, and reads to me what is not news to me at all, though it is found in a newspaper, that charges were preferred, in fact, against the representative from Oregon. Why, sir, before I had practiced law twelve months, I had learned to distinguish between a charge and a conviction, and I have not forgotten the distinction. The Senator from Illinois knew the other day that these charges were preferred, so did every Senator, and yet, in the face and eyes of those charges, one after another stood in his place here, and said they were not prepared to pass upon the truth or falsehood of those charges; that they did not assume to charge the Senator from Oregon with disloyalty, notwithstanding those charges were preferred here. The Senator from Massachusetts [Mr. SUMNER] came nearer than any other man, as I understood the discussion, in making that charge, and he said no more than this, if I remember his language aright: that if the declarations attributed in those papers to the Senator from Oregon were actually made by him, and were unexplained, they amounted to proof of disloyalty.

Mr. SUMNER. I said that on the testimony, uncontradicted, the Senator from Oregon was disloyal.

Mr. HOWE. The Senator, then, made his statement a little broader than I understood it.

Mr. WILKINSON. That is just what he said.

Mr. HOWE. I am not contradicting the statement at all; but I did understand the Senator to refuse, directly and absolutely refuse, to take the responsibility of saying upon any evidence before the Senate, or any evidence before him, that the Senator from Oregon was disloyal. I did not pass upon the question of his loyalty for two reasons: the first was that no facts had been reported to me or to the Senate upon which I could sustain myself in pronouncing a judgment upon the question of loyalty or disloyalty. Papers had been referred to them. Nobody, that I knew, vouched for their authenticity. That is one reason. Another reason was this: I thought if I had voted to keep him out of the Senate, and he was kept out in consequence of my vote or as the result of my vote, I did expel him, and thus the only decision we could have upon that question we would have by the determination of a majority; and that the effect of it was to expel the representative from Oregon by the vote of a majority of the Senate instead of by the vote of the only tribunal which I know of under the Constitution qualified to expel a man, and that is, a vote of two thirds. Those were the two reasons why I did not consider the question.

Now, Mr. President, it would not be the most astounding thing in the world if I had erred upon these matters, if my judgment might have betrayed me; and while I make this confession in all humility, I must say that if I ever become convinced that my judgment did betray me on that occasion, although, as I have said, it would not be the most astounding event in the world, yet it will astound me more than any event I ever heard of. But suppose I was mistaken. I suppose we are all fallible, all liable to err. Admit what I understand the Senator from Illinois now to contend for, that here was proof before the Senate of the disloyalty of the Senator from Oregon, which he wanted to have passed upon by the Senate, and which he was eager to pass upon for himself, was that proof more patent, more conclusive, better authenticated than the proofs which were urged here the other day against the loyalty of the Senator from Kentucky, [Mr. POWELL,] and upon which the Senator from Illinois also had to vote, as I did myself.

The Senator, to convict me as the confederate of traitors, has read to the Senate the statement of what certain letter-writers in Oregon have written of the conversations of the representative sent here by the Governor of that State—conversations which took place months ago, when this rebellion was in its infancy, and while that representative was a private citizen of the State of Oregon. That is construed here as conclusive proof of his disloyalty, and I am arraigned because I did not find it so, and because upon the strength of it I did not vote to keep him out of the Senate. I have before me certain declarations which have been reported to the Senate as actually made by political bodies of which the Senator from Kentucky [Mr. POWELL] was a member, later than the declarations ascribed to the Senator from Oregon. Let me read some of them. One of them was put forth in the State of Kentucky on the 20th day of June last, in this language:

"That the war being now waged by the Federal Administration against the southern States is in violation of the Constitution and laws, and has already been attended with such stupendous usurpations as to amaze the world and endanger every safeguard of constitutional liberty."

That declaration was put forth at a convention attended by the Senator from Kentucky, and over which he presided. The same convention declared:

"That although Kentucky has determined that her proper position at present is that of strict neutrality between the belligerent sections, yet if either of them"—

Either the Government of the United States or that government called the government of the confederate States—

"if either of them invade her soil against her will, she ought to resent and repel it by necessary force."

I am repeating to the Senate language for which the Senator from Kentucky is reported to the Senate to be responsible, and which the Senator from Illinois has thought not at all to stand in the way

of his qualifications to fulfill the functions of an American Senator; and this language was used while the Senator from Kentucky was himself under an express obligation to maintain the Constitution of the United States, was a Senator of the United States in fact, owed to the Government of the United States not merely his allegiance but his service—was in its pay. This was the language he used, and the Senator from Illinois finds in the use of this language no disqualification for continuing him in his seat here. But later than the 20th of June, on the 10th of September last, the Senator from Kentucky was one of a committee which reported to a political convention a series of resolutions, among which were these:

"*Resolved*, That every material interest of Kentucky, as well as the highest dictates of patriotism, demand that peace should be maintained within her borders, and this convention solemnly pledges the honor of its members to do all in their power to promote this end.

"2. That it is the deliberate sense of this convention, and, it is believed, of an overwhelming majority of the people of Kentucky, that the best and perhaps the only mode of effecting this great object is by adhering strictly, rigidly, and impartially to her chosen and oft declared position of neutrality during the existence of the deplorable war now raging between the sections, taking sides neither with the Government nor with the seceding States, and declaring her soil must be preserved inviolate from the armed occupation of either."

Thus a Senator of the United States tells the nation that the armies of the United States shall not occupy the soil of his own State, and the Senator from Illinois finds nothing in that sentiment or declaration incompatible with the honest discharge of the high and solemn functions of a Senator, and yet finds himself called upon to impeach me because I cannot exclude a representative from Oregon for language that he held, or is reported to have used, long before he assumed the duties of a representative.

Sir, I have indulged in these remarks with no purpose of rearraigning the Senator from Kentucky on the charges upon which he has been once tried and acquitted, and acquitted, too, in part by the vote of the Senator from Illinois. I have introduced them here for the simple purpose of saying to the Senator from Illinois, and to everybody else, that he who votes that such language and such sentiments uttered by a Senator in fact and in law are excusable and do not disentitle him to hold his seat here and to discharge the duties of a Senator, ought to be very slow and deliberate before he arraigns any man for not condemning a citizen for any language that he can by any possibility have used anywhere or at any time—very deliberate, indeed, before he prefers any such accusation. I comfort myself with saying that as long as the Senator from Illinois shall be able to defend himself for the vote which he gave to retain the Senator from Kentucky, I shall be able to excuse myself, I think, to the people of the United States for at least waiting to try the representative from Oregon before I utterly condemn him.

Mr. WILKINSON. Mr. President, since gentlemen have had a full opportunity this morning to explain themselves in regard to their action in the case of the Senator from Oregon, and I suppose that was the only object of bringing up this motion, I move to lay it on the table.

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

The yeas and nays were ordered.

Mr. WILKINSON. Mr. President——

The VICE PRESIDENT. The question is not debatable.

Mr. WILKINSON. I wish merely to state that I supposed the case stood on the motion of the Senator from Wisconsin to take up the resolution, and my motion was to lay his motion on the table.

The VICE PRESIDENT. The resolution is before the Senate; and the question is on the motion to lay it on the table.

The question being taken by yeas and nays, resulted—yeas 3, nays 35; as follows:

YEAS—Messrs. Hale, Saulsbury, and Wilkinson—3.

NAYS—Messrs. Anthony, Bayard, Browning, Clark, Collamer, Cowan, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Harlan, Harris, Henderson, Howard, Howe, Kennedy, King, Lane of Indiana, Lane of Kansas, Latham, Morrill, Nesmith, Pomeroy, Powell, Sherman, Simmons, Sumner, Ten Eyck, Thomson, Trumbull, Wade, Wilmot, and Wilson of Massachusetts—35.

So the Senate refused to lay the resolution on the table.

Mr. TRUMBULL. I move to amend the resolution by striking out "the Committee on the Judiciary," and inserting "a select committee." I think the case ought not to go to the Judiciary Committee again.

The amendment was agreed to.

Mr. HARLAN. I wish to inquire whether the committee will, under the resolution, have power to send for persons and papers.

The VICE PRESIDENT. The resolution so stipulates.

Mr. FOOT. The amendment which has been agreed to does not indicate the number which shall compose the committee. That ought to be fixed before the resolution is adopted.

Mr. TRUMBULL. I suggest three. ["Five."] I am not particular as to the number. I will say five. I wish to say, in this connection, that I moved the amendment because I do not wish to enter upon the reinvestigation of this matter myself, it having been once before me in the Committee on the Judiciary; and, of course, I should be unwilling to serve upon the select committee.

The VICE PRESIDENT. The resolution will be so modified as to make the number of the committee five, if there be no objection. The question is on agreeing to the resolution as amended.

The question being taken by yeas and nays, resulted—yeas 37, nays 3; as follows:

YEAS—Messrs. Anthony, Browning, Clark, Collamer, Cowan, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Harlan, Harris, Henderson, Howard, Howe, Kennedy, King, Lane of Indiana, Lane of Kansas, Latham, Morrill, Nesmith, Pomeroy, Powell, Rice, Sherman, Simmons, Sumner, Ten Eyck, Thomson, Trumbull, Wade, Wilkinson, Wilmot, Wilson of Massachusetts, and Wright—37.

NAYS—Messrs. Bayard, Hale, and Saulsbury—3.

So the resolution, as amended, was adopted.

On motion of Mr. COLLAMER, and by unanimous consent, the Vice President was authorized to appoint the committee; and Messrs. CLARK, HOWARD, WRIGHT, WILLEY, and HOWE were appointed.

SAILORS OF THE CUMBERLAND.

Mr. CLARK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 238) to furnish clothing and supplies to the sailors and men on board the sloop-of-war Cumberland; which was read twice by its title.

Mr. CLARK. I hope the bill will be passed now. It is a very small matter.

Mr. HALE. I do not know what the precedents are; but I suggest to my colleague that the Naval Committee meet to-morrow morning, and it seems to me that it would be as well to refer the bill to them. I have no choice about it, however; and if my colleague insists on passing the bill now, I shall not interpose any objection.

Mr. CLARK. I will say to my colleague that some of the sailors and men on board the Cumberland in the recent action near Fortress Monroe lost their clothing, hats, jackets, &c., and the Navy Department desire a small appropriation to supply them. That is the proposition. The Department asked for sixty dollars; I have made it $100.

Mr. HALE. I have no objection.

The bill was considered as in Committee of the Whole. It proposes to authorize the Secretary of the Navy to furnish to the sailors and men on board the Cumberland, who lost their clothing and other property in the late action with the Merrimac, supplies of clothing to an amount not exceeding $100.

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

SLAVERY IN THE DISTRICT.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 108) for the release of certain persons held to service or labor in the District of Columbia, the pending question being on the motion of Mr. DAVIS to amend the bill by inserting as an additional section:

And be it further enacted, That all persons liberated under this act shall be colonized out of the limits of the United States, and the sum of $100,000, out of any money in the Treasury not otherwise appropriated, shall be expended, under the direction of the President of the United States, for that purpose.

Mr. DOOLITTLE. With the leave of the honorable Senator from New Hampshire, who is entitled to the floor, I desire to offer an amendment to the amendment which was offered by the honorable Senator from Kentucky to the bill now under consideration, which I desire to have printed. I propose to so amend his amendment as to make it read:

And be it further enacted, That the sum of $100,000, out of any money in the Treasury not otherwise appropriated, shall be expended under the direction of the President of the United States to aid in the colonization and settlement, with their own consent, of free people of color from said District, in the republics of Liberia or Hayti or elsewhere.

The amendment was ordered to be printed.

Mr. HALE. Mr. President, I fear, from the long time that I have been entitled to the floor upon this subject, the expectation may have been indulged by some that I proposed to make some extended remarks on it; but I do not. I propose in a very brief manner to notice one of the objections raised by the honorable Senator from Kentucky [Mr. DAVIS] to this bill; and that is in regard to the consequences that are to ensue upon the enactment of the bill now before the Senate. I may remark that of all the forms skepticism ever assumed, the most insidious, the most dangerous, and the most fatal is that which suggests that it is unsafe to perform plain and simple duty for fear that disastrous consequences may result therefrom.

This question of emancipation, wherever it has been raised in this country, so far as I know, has rarely ever been argued upon the great and fundamental principles of right; the inquiry is never put, certainly in legislative circles, what is right, what is just, what is due to the individuals that are to be affected by the measure, but what are to be the consequences? Men entirely forget to look at the objects that are to be affected by the bill, in view of the inherent rights of their manhood, in view of the great questions of humanity, of Christianity, and of duty; but what are to be the consequences, what is to be its effect upon the price of sugar, tobacco, cotton, and other necessaries and luxuries of life? The honorable Senator from Kentucky looks upon it in that point of view entirely. Let me here read from his statement, for I shall not trust myself to state what a man said, after the censure I had from the Senator from Illinois, without reading from his own remarks. The Senator from Kentucky said, when this bill was last under consideration:

"The negroes that are now liberated and that remain in this city, will become a sore and a burden and a charge upon the white population. They will be criminals; they will become paupers. They will be engaged in crimes and in petty misdemeanors. They will become a charge and a pest upon this society, and the power which undertakes to liberate them ought to relieve the white community in which they reside, and in which they will become a pest, from their presence. This is a poor city at any rate. The total amount of wealth here is very inconsiderable for the number of the white population. The burdens and charges upon them are heavy, onerous, oppressive, and this measure will make those burdens greatly more so."

I would thank the honorable Senator from Kentucky, if I misrepresent him, to state so now. I do not misrepresent him. The honorable Senator went further, and not only expressed this as his firm and undoubting conviction; but he added, in his own emphatic manner, "I know that it is so." Now, it does not become me to say that I know to the contrary; it does not become me to venture my opinions against the opinions of that Senator who has lived among the population of which he speaks; but it is as much my prerogative as it is the honorable Senator's to read a little of history, and to know what is its teaching upon this question, and by that test to compare the predictions of the honorable Senator with some other predictions of a different character that have been made elsewhere on other occasions.

With those who assume the ground that is taken by the honorable Senator from Kentucky, the effects of emancipation in the British West Indies and St. Domingo are pointed at continually, as if they furnished unerring proof of the accuracy with which they estimate the consequences that are to follow emancipation. I ask the attention of the Senate for a few moments to some facts in relation to that matter. I know very well that upon the island of Jamaica, so far as that island is concerned, there has been a constant deterioration and diminution of its productive industry in regard to the great staples which formerly constituted its wealth; and that is pointed at triumphantly as proof that it is unsafe, unwise, and inexpedient to adopt any such measure. But, sir, if gentlemen will look at the statistical history of the island of Jamaica, they will find indisputable figures taken

from the highest authority, to wit, the colonial reports made to the Imperial Parliament of Great Britain, that the deterioration of Jamaica had commenced long and long before emancipation was even thought of, and that it went down in a constantly decreasing ratio until emancipation, and subsequently. To prove what I say, I will give you a series of statistics going back as far as the year 1801.

During the seven years ending in 1807, the exports of sugar from Jamaica amounted to an average of 133,000 hogsheads per annum. For the succeeding seven years, from 1807 to 1814, the annual exports of sugar fell off to an average of 118,000 hogsheads. During the next seven years, from 1814 to 1821, the annual average was 110,000 hogsheads. From 1821 to 1828, it ran down to 96,000 hogsheads, and from 1828 to 1835, it got down to 90,000 hogsheads; and it has been constantly decreasing ever since. More than one hundred estates had been abandoned on account of being overrun with debt long before the scheme of emancipation had been applied to Jamaica. The evils of this depreciation in the exports, and the abandonment of the estates of the planters were attributed, in the official reports that were made to the mother Government, and by writers upon the subject, to the fact that the island was holden and managed by absentee proprietors. The proprietors were rich, lived distant from their estates, and they were managed by their slaves, guided by overseers. The consequence of this system was a constant decrease in the exports, and a diminution of the wealth of the island and an abandonment of its estates, long and long before the measure of emancipation had been applied to it. But, sir, since emancipation, and since this diminution of the exports of its former great staple, the island has been divided into small proprietorships, and the proprietors of these estates have got up a system of exports of other things, such as cocoanuts, &c., which now amount to a very considerable sum. I have not taken the trouble to bring the tables with me, but there is a very considerable amount of exports from small proprietors of small articles, of which the island exported none at all until after emancipation.

But, sir, Jamaica is almost the only island that shows a comparative decrease of wealth from the effect of emancipation. It is different in the island of Barbadoes. That island has increased in its exports, in its value, in its wealth, more than double since emancipation, and I have before me a table taken from a recent writer who has traveled in that country and whose figures are compiled from the Parliamentary reports, for I have taken the pains myself to go to the Congress Library and compare them with the official reports, and therefore I know that the tables are correct. They give this satisfying result in regard to the leeward islands, Antigua, Dominica, Nevis, Montserrat, and St. Kitts: from the year 1820 to 1832, taking an average of twelve years immediately preceding emancipation, the total exportations of sugar from these islands averaged 45,420,000 pounds, while in 1858 the exports of sugar from these same islands amounted to 48,145,000 pounds, being an increase of nearly 3,000,000 pounds of sugar in the annual exports from the leeward islands. The imports show a much more favorable result. From 1820 to 1832, the average annual value of imports was £298,000 sterling, while the imports into the same islands in 1858, were £514,835 sterling, showing an excess of annual imports under free labor of £216,835 sterling.

That is the practical result of emancipation as applied to those five West India islands; and if gentlemen who think that the experiment of emancipation will not compare so favorably as that in other islands will go to the Library of Congress, and look at the official reports made by the governors of those islands, they will see that the result is even more favorable in many of the islands than that which is here exhibited in regard to the five leeward islands. It is a mistake, a very great mistake, and I hope that it will be gratifying to the humane feelings of the honorable Senator from Kentucky to find that he is altogether mistaken as to the effects that emancipation will produce upon this laboring class of population. I hope that it will do something to expel from his mind that skepticism which makes him shrink from looking at this measure in the light in which an enlightened and philanthropic statesman ought to look at it, and that is in regard to its bearings upon the great question of human rights.

Mr. President, it seems to me that, in the good providence of God, He presents to this nation to-day an opportunity never presented before. If the rebellion which is now rending this Republic, and which is strewing our plains with the dead of our young men who have gone out to do battle on the field, has horrors, if it has miseries, if it has everything or almost everything to make humanity weep, it is not without some aspects that relieve the dark shade of the picture. If this rebellion—I trust ere long to be crushed out—shall, in the progress of the great injury that it is doing, afford this Republic, these United States, the opportunity of trying here, in this little District of less than ten miles square, the experiment which other nations are trying upon a great scale; and if we are enabled to show to the world that it is sometimes safe to do right, and not always inexpedient; then, sir, we shall have achieved something at which humanity will rejoice, and something for which our posterity, to the latest generations, will bless us.

Sir, the Governments of the world the world over are trying this experiment. The Emperor of Russia on his throne and over his vast dominions, is now striking the bands of oppression from his long trodden down millions of serfs. The ameliorating influences of better principles and purer Christianity than have yet prevailed in the monarchies of the Old World are melting those iron despotisms, and carrying into practical effect that great lesson of Christianity, "to loose the bands of wickedness" and "let the oppressed go free;" and it would be a reproach that ought to mantle the cheek of every citizen of this Republic with burning shame, if, at this day and this hour, when the monarchies of the earth are waking up to the great questions of human rights, and making Christianity, instead of being a barren speculation, a practical and efficient principle of their government, this nation, at a time when the providence of God presents this opportunity to it, should, from any skepticism or fear of consequences, fail to meet the question and do justice by the oppressed.

Sir, I do not ask that the Government of the United States should trample upon the Constitution in any one of its provisions. I believe that up to a very late period in our history, it was the conceded doctrine of this Republic, by statesmen North and South, that the constitutional power to legislate upon the subject of slavery in this District existed in Congress. I know that in late years that has been questioned, and even denied. I know that within the last ten or twelve years this nation has been rent upon a new dogma, which denied the constitutional power of Congress to legislate for the Territories; and, while that question was rending the country, while it was tearing political parties in twain, dividing churches, bringing itself home to the hearts and consciences of this people, the Supreme Court of the United States undertook, with their puny efforts, to throw themselves in the way of the great question by the Dred Scott decision, and to say to the surging waves of humanity that, while washing out the stains of oppression from our history, they should go thus far and no further. The Supreme Court will find out ere long how much that has effected. Whether it has done more to wipe out the controversies that they wanted to crush out, or to obliterate whatever of respect there was remaining in the public heart for themselves, they will find out before the issue is settled.

But, sir, while by this decision the Territories of the United States were taken theoretically from the management of the Federal Government, I believe, though I never read the Dred Scott decision in reference to that particular view of it, it did not go to the extent of saying that Congress had no constitutional power to legislate in the District of Columbia. They did not say it, I am told. I am glad they did not. I think they would if they had thought of it. [Laughter.] But, sir, that is left to us. Over this little spot of ten miles square, or what there is left of it after the retrocession of the part ceded by Virginia, we have confessedly the right of legislation; and here in our midst, and by our laws, this system of human slavery exists, and we are called upon to-day to abolish it, to repeal the laws upon which it rests, and to the most limited extent to try what will be the effect of emancipation upon the few slaves that are in this District.

Now, sir, I do not question in the slightest degree the very strong convictions which the honorable Senator from Kentucky has upon this question; but I ask him, and I ask every man who hesitates upon it upon the grounds he has suggested, to take the trouble not to read the frothy speeches made upon the floor of the House of Representatives or the Senate during the last ten or twenty years, but to go to the facts as they are portrayed by the impartial pen of history. I ask them to look at the statistics which exist to-day as to the condition of the colored population in those islands in which emancipation has been tried. They will find that no such disastrous consequences have ensued. Sir, the account that was given of the final inauguration of emancipation in the British West Indies in 1838, ought to stand in all time to be read by every man that wishes to inform himself upon this subject as to the character of this much abused population, and the effects of this much abused measure. Twelve o'clock midnight that ushered in the 1st of August, 1838, to the British West India Islands——

Mr. WILSON, of Massachusetts. Do you not mean 1833?

Mr. HALE. No. The system of slavery was partially ended in 1833, but there was a system of apprenticeships from 1833 to 1838; and on the 1st of August, 1838, the whole system was wiped out; there was not a slave left in the islands. That was known; it was published in the islands long before the event occurred. In fact, the final blow to the system of slavery was given, not by the Imperial Parliament, but by the colonial Legislatures themselves, tired of the system of apprenticeships which the Parliament had inaugurated. When the midnight clock ushered in the 1st of August, 1838, the last manacle fell from the last slave in the British West India Islands. This population knew it, and what was the aspect they exhibited? Riots, drinking, acts of degradation and crime; such scenes as you might expect from what the Senator from Kentucky said when he predicted that they would become pests to society? Was there anything of that kind exhibited? No, sir; but on the preceding night almost the whole population gathered themselves together in their churches, in their places of worship, and when the hour of twelve struck, which told them that the slaves had been converted into British freemen, they rose and sent up one united shout of thanksgiving to Almighty God for the great boon He had conferred upon them; and the conduct that these emancipated slaves have exhibited in most if not all the islands since, has been such as indicates not only the wisdom and the justice but the expediency of this measure. Yes, sir, it justifies the expediency of the measure; and the situation which the islands present at this time, by the most abundant and incontrovertible evidence, is such as to show a state of facts very much like what I have read of in these tables.

Now, sir, if raising sugar and distilling molasses into rum were the chief end, the highest end for which human labor and human ingenuity can be employed, I concede that, in relation to some of these islands, the result would be disastrous to emancipation. They have made less rum and exported less rum than they did before; but they have established, in place of irresponsible, ignorant barbarians, as the slaves were said to be, an industrious, happy, contented, and prosperous peasantry; and those immense estates even in the island of Jamaica which were abandoned by their proprietors because they were burdened with debt, have been divided up into small proprietaries of a few acres, where peace and comfort and comparative industry reign, and a new system of things in regard to exports has been inaugurated, and they are now constantly increasing.

Mr. President, there is nothing on earth that is more unjust, nothing more unkind—of course I do not attribute personal unkindness to the Senator; I speak of a class, and I speak of it as a philosophical truth—than for this boasted white Caucasian race to enslave the colored race, to keep them in a state of ignorance, to keep them in a state where it is a penal offense to teach them to read so much out of the Bible as that they may learn that God made them and Christ died to redeem them; I say it is cruel and unjust to such a people, denied the right of bringing a suit in court,

denied the right of testifying as to their own personal rights and wrongs, the whole intelligence of the world shut out by the bar of an inexorable penal statute from enlightening their understandings; to pronounce them as degraded, ignorant, incapable of representation, because under the crushing weight of all these disabilities they have not made such progress as to enable them to step at once on an equality into a condition which their masters have enjoyed for many years. It is cruel. The injustice of it cannot be winked out of sight. It is as unjust as it would be to put out the eyes of a man and then taunt him with his blindness, as unjust as it would be to reproach any man with a personal deformity. It is as unjust as it is possible for perverted human intellect to be. Take off these burdens, give them a fair chance, let the light of science shine into their minds, make it no longer a crime punishable with imprisonment to open to them the pages of God's eternal truth, let them read something of the world that is about them, and something of the hope which leads to the world beyond them, give them the elevating influence of some of the motives that have elevated you, and then if against all that they fail to rise and fail to improve, then, and not till then, will it be time to reproach them with their inability to cope and contend with their white masters.

Sir, I have a great many times felt for the colored people the injustice of such accusations and such reproaches as these. We have it now in our power to put this experiment to the test. We have it in our power to satisfy the Senator from Kentucky, and those who sympathize with him, whether his apprehensions are well or ill founded; but let me tell him that there are predictions of a very different character. Any man who will read the old prophets will see that if there be any one sin against which they invoked the judgments of God, for the repentance of which they promised the divine blessing, it was this very sin of slavery. Strike that out of the old prophets, and there will be nothing of them left. I know that generally we do not read the prophets with any such idea. Let me tell you an incident which shed a good deal of light on my mind in regard to the manner in which men read the beautiful and eloquent denunciations of the old prophets against oppression. I was once in a small village in my own State, where there was to be a meeting in the evening, and the gentleman who conducted it asked me if I would not talk to the people in the evening. He was a clergyman. I told him I would if he would read out of the Scriptures what I suggested to him. He said he would; so I gave him one of the chapters of Isaiah, in which this patriarchal institution is pretty roughly handled. The old gentleman read it, with his spectacles on; and after a while he turned round and said: "Why, this seems to be against the national sin." Said I: "Exactly; that is what it was written for." "Well, I declare," said he, "I never thought of it before in that light." He never did. He had read the Bible for some seventy years, and the fact that the judgments of God were denounced against oppressions practiced in our nation never occurred to that poor old soul; and that is the way the Bible is read.

But now, sir, let me close by reading to the Senator from Kentucky predictions of the consequences that will follow emancipation exceedingly different from those which he has predicted. He predicts pauperism, degradation, crime, burdens upon society. That is the dark picture which fills his imagination as the consequences that are to follow the putting away of oppression from the midst of us. Let me read to him a different prediction:

"6. Is not this the fast that I have chosen?—to loose the bands of wickedness, to undo the heavy burdens, and to let the oppressed go free, and that ye break every yoke?

"7. Is it not to deal thy bread to the hungry, and that thou bring the poor that are cast out to thy house? When thou seest the naked, that thou cover him; and that thou hide not thyself from thine own flesh?"

What are to be the consequences? Not pauperism, degradation, and crime, but—

"8. Then shall thy light break forth as the morning, and thine health shall spring forth speedily; and thy righteousness shall go before thee: the glory of the Lord shall be thy rereward.

"9. Then shalt thou call, and the Lord shall answer; thou shalt cry, and he shall say, Here I am. If thou take away from the midst of thee the yoke, the putting forth of the finger, and speaking vanity.

"10. And if thou draw out thy soul to the hungry, and satisfy the afflicted soul; then shall thy light rise in obscurity, and thy darkness be as the noon-day.

"11. And the Lord shall guide thee continually, and satisfy thy soul in drought, and make fat thy bones: and thou shalt be like a watered garden, and like a spring of water, whose waters fail not.

"12. And they that shall be of thee shall build the old waste places: thou shalt raise up the foundations of many generations; and thou shalt be called, The repairer of the breach, The restorer of paths to dwell in."—*Isaiah*, chap. 58.

Now, sir, this nation has an opportunity, if I may say so—and I say it reverently—of putting the Almighty to the test, and of seeing whether the consequences that his prophet has foretold or his Senator has predicted will follow as the result of this measure.

Mr. WILSON, of Massachusetts. I move that the further consideration of this bill be postponed until to-morrow at one o'clock for the purpose of going into executive session to do some very important business.

The motion was agreed to.

EXECUTIVE SESSION.

On motion of Mr. WILSON, of Massachusetts, the Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *March* 18, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

EMPLOYÉS OF TREASURY DEPARTMENT.

The SPEAKER laid before the House a communication from the Secretary of the Treasury transmitting a list of the clerks and other persons employed in the various bureaus of the Treasury Department for the year ending December 31, 1861, as required by the act of Congress of 26th August, 1842; which was laid on the table, and ordered to be printed.

DISTRICT JAIL.

The SPEAKER announced the business next in order to be the consideration of Report No. 11 of the Committee for the District of Columbia, relative to the order of the marshal of the District of Columbia excluding visitors from the District jail, asking to be discharged from the further consideration of the subject.

No objection being made, the committee was discharged from the further consideration thereof.

ARMY MEDICAL DEPARTMENT.

The SPEAKER announced the next business regularly in order to be the consideration of Senate bill No. 188, to increase the efficiency of the medical department of the Army, reported on the 12th instant from the Committee on Military Affairs, with amendments, and postponed until this day.

Mr. DELANO. I rise to a privileged question. I move to reconsider the vote by which the Committee for the District of Columbia were discharged from the consideration of the matter relative to the admission of persons to the District jail, and move to lay that motion on the table.

The SPEAKER. The motion will be received and entered, but it cannot be considered at this time.

The first amendment of the Committee on Military Affairs was read, as follows:

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

That there shall be added to the present medical corps of the Army, ten surgeons and ten assistant surgeons, to be promoted and appointed under existing laws, twenty medical cadets, and as many hospital stewards as the Surgeon General may consider necessary for the public service.

SEC. 2. *And be it further enacted*, That the Surgeon General to be appointed under this act shall have the rank, pay, and emoluments of a brigadier general. There shall be one Assistant Surgeon General and one medical inspector general of hospitals, each with the rank, pay, and emoluments of a colonel of cavalry, and the medical inspector general shall have, under the direction of the Surgeon General, the supervision of all that relates to the sanitary condition of the Army, whether in transports, quarters, or camps, and of the hygiene, police, discipline, and efficiency of field and general hospitals, under such regulations as may hereafter be established.

SEC. 3. *And be it further enacted*, That there shall be eight medical inspectors, with the rank, pay, and emoluments each of a lieutenant colonel of cavalry, and who shall be charged with the duty of inspecting the sanitary condition of transports, quarters, and camps, of field and general hospitals, and who shall report to the medical inspector general, under such regulations as may be hereafter established, all circumstances relating to the sanitary condition and wants of troops and of hospitals, and to the skill, efficiency, and good conduct of the officers and attendants connected with the medical department.

SEC. 4. *And be it further enacted*, That the Surgeon General, the Assistant Surgeon General, medical inspector general, and medical inspectors, shall immediately after the passage of this act be appointed by the President, by and with the advice and consent of the Senate, by selection from the regular medical corps of the Army, without regard to their rank when so selected, but with sole regard to qualifications.

SEC. 5. *And be it further enacted*, That medical purveyors shall be charged, under the direction of the Surgeon General, with the selection and purchase of all medical supplies, including new standard preparations, and of all books, instruments, hospital stores, furniture, and other articles required for the sick and wounded of the Army. In all cases of emergency they may provide such additional accommodations for the sick and wounded of the Army, and may transport such medical supplies as circumstances may render necessary, under such regulations as may hereafter be established, and shall make prompt and immediate issues upon all special requisitions made upon them under such circumstances by medical officers; and the special requisitions shall consist simply of a list of the articles required, the quantities required, dated, and signed by the medical officers requiring them.

SEC. 6. *And be it further enacted*, That whenever the inspector general, or any of the medical inspectors, shall report an officer of the medical corps as disqualified, by age or otherwise, for promotion to a higher grade, or unfitted for the performance of his professional duties, he shall be reported by the Surgeon General for examination to a medical board, as provided by the seventeenth section of the act approved August 3, 1861.

SEC. 7. *And be it further enacted*, That all acts or parts of acts inconsistent with the provisions of this act be, and the same are hereby, repealed.

Mr. BLAIR, of Missouri. The Committee on Military Affairs have given to this subject a good deal of attention. It has been before them at different meetings a great many times. They have had the benefit of the counsel of some of the ablest medical men of the present Army board, and of the sanitary commission. They believe that this bill, as they propose to amend it, will do all that can be done by legislation here to prevent disease in the Army, and to cure it. It is impossible, however, for Congress, by the passage of this or any other bill, to secure an efficient medical staff for the Army without the coöperation of the Executive. But, if the Executive chooses, under this bill, such modifications of the present staff can be introduced, and the staff itself so extended in the direction of the sanitary care of the Army as that there will be no difficulty whatever in providing all that medical science can do for the Army.

The first section of the substitute reported from the Committee on Military Affairs, provides for a slight increase of the force of surgeons and assistant surgeons of the Army. We have thought this important, but if there should be a disposition on the part of the House not to grant this increase it can of course be stricken out without impairing the efficiency of the other provisions of the bill.

The second section of the substitute provides that the Surgeon General shall have the rank and pay of a brigadier general of the Army. The present law gives him only the rank and pay of colonel. We think some prize ought to be held out to the medical corps of the Army for efficiency, as well as to all the other officers in the Army. It is impossible to expect the requisite science and qualifications in this class of men without. It is one of the most responsible positions in the Army, and unless you can hold out some corresponding prize for efficient service, you cannot expect to secure the best men.

The Committee on Military Affairs believe that the policy of restricting the Surgeon General to the rank and pay of a colonel is a mistake; that if there is any object in holding out to our line officers the great prizes of brigadier generalship and major generalship—if there is any sense in holding out the prizes that are held out in almost every corps or bureau in the Army; at the head of each one, so far as I remember, is an officer with the rank and pay of a brigadier general—I say if there is any policy in holding out these prizes to the other branches of the service, it ought to be followed in this most important corps of the Army.

Mr. LOVEJOY. I desire to inquire of the gentleman from Missouri whether he proposes to promote these surgeons from one rank to another, provided they exhibit any more than an ordinary degree of skill and efficiency? I suppose he does not anticipate placing any one in the position of Surgeon General who is not now in the service.

Mr. BLAIR, of Missouri. I suppose not. But we propose to add something to the present force of this department. We propose to give the President power to select from the entire corps of surgeons and assistant surgeons of the Army, to fill the position of Assistant Surgeon General, and the other places created by the bill. And then we propose to draw to this service other eminent physicians who would not otherwise go into the service. Then we propose to do what is fair by giving to the Surgeon General a rank commensurate with the responsibilities of his office.

The substitute for the bill provides for one Assistant Surgeon General and one medical inspector general of hospitals, with the rank and pay of a colonel of cavalry, under whose direction and supervision will be all that relates to the sanitary condition of the Army. We have been informed and believe that more can be done in the direction of the prevention of disease, and efforts can be better directed to that end than to the cure of disease after it has been brought among the soldiers. We all know very well that, as our soldiers advance to the southern portion of the country, the malaria of that region will have its effect upon them. The seeds of this disease are already being planted among our troops. I have no doubt that, by proper treatment in the way of prevention, a great portion of this disease can be saved. But, if these causes are allowed to have their full effect as they now are, without any efforts to prevent the spread of the disease, we shall have our Army afflicted with it even to a worse extent than it has been up to this time.

The bill under consideration also provides for the appointment of eight inspectors of hospitals, to act under the Surgeon General, and that all these appointments shall be made by selection from the present corps of surgeons and assistant surgeons of the Army.

I hope the House will receive the substitute proposed by the Committee on Military Affairs with favorable consideration. I believe it will give greater satisfaction to the Army, to the sanitary commission, and to all persons who have given their attention to the subject, than any other measure which has been proposed.

Mr. F. A. CONKLING. I wish to ask the honorable chairman of the Committee on Military Affairs whether this provision contained in section four, to which he has referred, requiring these appointments to be made from selections from the surgeons and assistant surgeons of the Army, is, in his judgment, compatible with the main object of the bill as he has presented it to the House?

Mr. BLAIR, of Missouri. In response to the inquiry of the gentleman from New York, I will say that if I had not believed it so I should not have reported it. I believe there are men among the surgeons of the Army more competent to fill these offices than any other men in the country. I believe that the position of surgeon in the Army requires qualifications entirely different from those of physicians in private life. He must know the regulations of the Army and the manner in which business is done in the Army, which he cannot learn from any amount of experience in the profession in private life. The information which Army surgeons thus acquire, in addition to the high qualifications as physicians which prevail among the Army surgeons, would, in my judgment, better qualify them for discharging the duties of these offices than we can find elsewhere. If I had believed that there was, I would never have reported, by my own consent, this section to the bill.

Mr. McPHERSON. Mr. Speaker, I have no information, nor have I heard any facts going to show the necessity for the increase of the medical corps of the Army, provided by the first section of this bill. I do not know whether the Surgeon General's department recommend it, nor whence comes the pressure for its passage. I would be glad to have, in an authentic shape, an official recommendation from some branch of the Government, before pledging myself to the support of so important a measure. I cannot say that the increased force is unnecessary. But I do not know the grounds on which it is considered essential, or even important to the service.

During the last session, in July, Congress provided for an increase of the regular Army, but did not provide for an increased medical force, except of medical cadets. I understand that the passage of this bill is somehow claimed in consequence of such enlargement of the regular Army. If this be true, the point for the consideration of the House is, whether there is a necessity for so large an increase as ten surgeons and ten assistant surgeons.

Mr. CAMPBELL. Did we not pass, a few days ago, a bill establishing a medical director for each division?

Mr. McPHERSON. That bill applied to the volunteer force, and has not yet passed finally. This bill proposes an addition to the medical corps of the regular Army.

As I have already stated, we provided at the extra session in July last for an increase of the regular Army. I do not think, however, that we then provided for an increase of the medical corps except by creating the corps of medical cadets. Now, have we any information that the new regiments of the regular Army have been filled, or nearly filled, so as to require an increased medical force? I know that they have been organized, and that the officers have been appointed; but I would like to know from the chairman of the Committee on Military Affairs what has been the actual increase of the line of the Army since the legislation of July last?

Mr. BLAIR, of Missouri. The new regiments have been filling up rapidly during the last winter. At all events, most of them have now two full battalions in the field. The new cavalry regiment has been full for a long time. I know that the new regiments of infantry, which have been recruiting in Missouri and Ohio, are now nearly full.

Mr. HOLMAN. I understand from an officer connected with the Government that the sixth regiment of cavalry is nearly full, and that the fifth regiment of artillery is nearly full, but that the nine regiments of infantry consist of only about two thousand men.

Mr. BLAIR, of Missouri. That is a mistake, to my own knowledge. The regiment now in Kentucky is nearly full. That of itself has nearly two thousand men. One of the new regiments consists of three battalions of eight hundred men each, or two thousand four hundred in all. The regiment in Ohio was nearly full before Congress met. I have no doubt that many of the new infantry regiments are now nearly full. As I have said, they were recruited rapidly during the last winter.

Mr. HOLMAN. I received my information from General Van Vliet that there were now only two thousand men in the nine new regiments of infantry.

Mr. BLAIR, of Missouri. I think that the gentleman from Indiana is mistaken.

Mr. McPHERSON. If I recollect rightly, it was stated in the debate on this bill in the Senate that the force of the regular Army at this time is about twenty thousand men. If all of the new regiments were full, the whole force would be between thirty-five and forty thousand men. My friend is correct in regard to the cavalry and artillery regiments. I believe that those regiments are full, but I think that the infantry regiments are scarcely one third full.

Mr. BLAIR, of Missouri. If they are one third full then they are as full as the ordinary regiments of the regular Army, and would amount to nine thousand men. The new regiments are composed of three battalions, of eight hundred men each, or two thousand four hundred in all. If, then, they are one third full, they have now nearly nine thousand men. The regiments which have been recruited in Ohio and Missouri have, I know, more than two full battalions each, and that alone would make three thousand two hundred men. The fourteenth regiment now in the field has more than eleven hundred men. The twelfth has at least that number. The others are more than one third full. I am satisfied that during the winter the new regiments, under the circumstances, were recruited rapidly. I would not be surprised if the new regiments were two thirds full. At all events, according to the admission of the gentleman from Pennsylvania, they have more than nine thousand men.

Mr. McPHERSON. I merely suggested that as a probability. There is one conclusive point on which I would like to have some information, and that is whether the force of the regular Army exceeds twenty thousand men. It was asserted in the Senate, and not denied, that it did not exceed that number.

Mr. BLAIR, of Missouri. It may be true, as the gentleman has stated, that this bill is for the regular Army alone; but this bill provides for an organization that will affect the volunteer force as well as the regular force. It provides for a head of the medical department of the Army. It provides for an inspector general to be appointed over the regular and volunteer forces alike. This bill, if it creates an increase of the medical corps for the regular Army, also provides for the management of the medical staff of the Army, regular as well as volunteers. This is indispensable. Many of the wounded at Fort Donelson had to remain a week without any operation being performed upon them at all. That was because there was not a sufficient corps of surgeons. Physicians had to be sent for to Cincinnati and St. Louis and to portions of Indiana. Yet, then, there was not enough to attend to all the wounded immediately. As I have already stated, some of the wounded remained a whole week without receiving any surgical attention. There is an absolute necessity for an increase of the medical corps of the Army.

Mr. McPHERSON. That may be a good reason for increasing the number of regimental surgeons and assistant surgeons and of brigade surgeons in the field; but I do not see the pertinency of the statement to this bill. But I do not make any objection to the first section of this bill. I merely complain that the necessity for it has not been asserted or demonstrated by the Surgeon General's department, or some one representing it. It seems to me that we ought to recollect that the new regiments to which these twenty additional surgeons and assistant surgeons would be detailed, are not yet nearly filled, and that there should not be more additional surgeons created than are necessary.

My chief objections are to the substitute reported by the Committee on Military Affairs for the Senate bill. The substitute is precisely in the shape in which the bill was reported to the Senate. After debate and careful examination in that body, important and valuable amendments were made, but the Committee on Military Affairs have stricken out those amendments and submitted the bill as reported to the Senate, and not as it came from the Senate to us. I am opposed to the substitute, preferring substantially the Senate bill.

By the second section of the substitute now pending, it is provided that the Surgeon General, for whose appointment provision is made, shall have the pay and emoluments of a brigadier general. The medical corps now consists of one surgeon general with the rank of colonel, forty surgeons with the rank of major, twenty-eight assistant surgeons with the rank of captain, and seventy-five assistant surgeons with the rank of first lieutenant, besides the one hundred and twenty brigade surgeons in the volunteer service. I object to giving the head of so small a corps as this the pay and emoluments of a brigadier general. If you do that, then you will have to give to the chief of the subsistence department, and the chief of the pay department, the rank and pay of a brigadier general, for the medical corps is scarcely larger than the corps of the pay department or the commissary department. If you make this provision for the head of the medical department, I do not see how we can refuse to make the same provision for the heads of other like bureaus. This will be establishing the precedent, or rather confirming a bad precedent previously set. We have already established a great many unnecessary offices, and when this war shall be over, and we come to reorganizing the Army, it will be our duty to repeal many features of the legislation of the extra session of last July.

Mr. BLAIR, of Missouri. The head of the engineer corps is a brigadier general, the head of the quartermaster's department is a brigadier general, and the head of the ordnance department is a brigadier general.

Mr. McPHERSON. If the gentleman's argument is good for anything, it is good for more than is provided in this bill. If the head of the medical corps ought to be made a brigadier general, then the head of the pay bureau ought to be made a brigadier general. So ought the heads of the other bureaus. All ought to be put upon precisely the same basis, unless we reverse our policy, and

contract rather than expand. In my opinion, it is our duty to retrench, especially as the pay and emoluments of this Surgeon General are enough at this time. Moreover, I object to this irregular manner of reorganizing the Army, believing that upon the disbandment of the volunteer force, we will be better able to reorganize intelligently than we can now with our imperfect knowedge of the fitness of many members of the medical corps. The Senate having stricken out the provision making the head of the bureau a brigadier general, also struck out the provision giving the medical inspector the same pay as that of a colonel of cavalry, and inserted in lieu of it a provision that the Assistant Surgeon General and the inspector general of hospitals shall each have the rank, pay, and emoluments of a surgeon of ten years' service; and that the medical inspectors shall each have the rank, pay, and emoluments of an assistant surgeon of ten years' standing; which is in harmony with the present rule of payment.

There is another objectionable feature. It is found in the fourth section, which limits the President, in his power of appointment of those officers, to the present medical corps of the regular Army. It is provided by the bill that there shall be added to the present medical corps not only ten surgeons and ten assistant surgeons, but also an assistant surgeon general, a medical inspector general, and eight medical inspectors; and it is provided that all these shall be taken from the regular medical corps of the Army, without regard to their rank or service when so selected, thereby excluding from the presidential choice every member of the medical corps of the volunteer army.

Now, Mr. Speaker, the gentleman from Missouri [Mr. BLAIR] made the point that there were very few men in the volunteer service who have the necessary training to fit them for these positions. I do not propose, as I may not have the necessary information to enable me to do so, to draw a comparison between the two branches of the service.

Mr. BLAIR, of Missouri. The gentleman states my position entirely too broadly. I meant merely that the long experience of these men in the regular Army, and their knowledge of regular service, rendered them peculiarly qualified for these positions.

Mr. McPHERSON. I probably misunderstood the gentleman, and stated his position too broadly. I did not understand him to say that no other persons were competent, but that there were very few.

Mr. BLAIR, of Missouri. I stated that they had a large experience, and were, therefore, better qualified than those who have no such experience.

Mr. McPHERSON. Well, sir, as to that point, if you will examine the roll of surgeons in the regular Army, you will find but thirteen who have had an experience of over ten years in the service. If you will examine the list of the medical officers of the volunteer corps, you will find there many of the most distinguished medical men in the country—men of liberal education, and who have devoted their time to the study of their profession, not only in the hospitals of this country, but in Europe also. Some of them are very distinguished in their profession. I recollect that only a week or two ago, the Senate confirmed the appointment, as brigade surgeon, of one of the most accomplished gentlemen, who is in professional skill scarcely inferior to any in or out of the Army.

Mr. Speaker, the objection I make to this provision is, that if there be any person in the medical corps of the volunteer army, who, by previous education, by previous training, or by particular fitness, may be entitled to such positions and able satisfactorily to perform the duties, the President would be precluded from appointing them. This discrimination is practically against the efficiency of the service.

There is another feature of this bill which deserves attention. The Senate bill provides that its terms shall apply only during the existence of the present rebellion. If the bill be passed as it comes from the Committee on Military Affairs, the creation made under it will be a permanent one. Now, if there be any relation between this increased force and the existence of this volunteer force, why shall we provide that this increase shall continue after our volunteer army shall be abandoned? If the bill be a necessary one—and I am bound, in the absence of accurate information to the contrary, to suppose that the general principles contained in it are correct, and its general features desirable—yet I have to hear the first good reason assigned why we should make this a permanent increase of the regular medical corps of the Army. If it be assumed that an increased medical force will be necessary for an increase of our regular Army, which may be anticipated, it is but the dictate of prudence to postpone that increase of the corps until you have provided for an increase of the regular Army itself.

Mr. HOLMAN. Will the gentleman from Pennsylvania permit me to inquire what is the difference in the pay and perquisites of the Surgeon General, as provided by the original bill and by the amendment of the committee. By the original bill he receives the pay of a surgeon of ten years' standing; by the amendment the pay and emoluments of a brigadier general. What is the difference? What is the increase? By our system of legislation it is almost impossible to tell the pay of any given officer. A few days since the military men on this floor differed hundreds of dollars as to what was the pay of a chaplain under the act of last Congress.

Mr. McPHERSON. I understand that the pay of the Surgeon General, including subsistence, forage, and servants, is $2,740. He also has a commutation for fuel and quarters, and the present Surgeon General is entitled to a longevity ration. It was asserted in the Senate, and I think correctly, that the present pay of the Surgeon General, including this commutation, is $3,414. The pay of a brigadier, as provided by the committee's amendment to this bill, will be $3,954, exclusive of what he will be entitled to on the score of commutation for fuel and quarters. The latter item varies with the circumstances of the case. The commutation for these articles in this city for the last year has been high, on account of the high rates of rent and fuel. Brigadiers in the field of course have no commutation for those articles, as the Government furnishes them quarters in the shape of tents, and fuel is cut upon the spot and furnished by the quartermaster's department.

If the bill is passed in the shape in which it now is, the Surgeon General will receive not less than $1,000 a year more than he now does.

Mr. KELLOGG, of Illinois. I would inquire of the gentleman how many new officers are created by this bill?

Mr. McPHERSON. Ten surgeons, ten assistant surgeons, and twenty medical cadets, one Assistant Surgeon General, one medical inspector general of hospitals, eight medical inspectors, and as many hospital stewards as the Surgeon General may consider necessary, with increased rank and pay to several of the present officers.

Mr. KELLOGG, of Illinois. These are all in addition to the present force?

Mr. McPHERSON. Yes, sir.

Mr. KELLOGG, of Illinois. The only object seems to be an increase of the number of officers under pay. I would suggest to gentlemen that they had better put this bill through quick; for it seems, from the accounts we are getting from the West, that we shall soon, if General Halleck lives, crush out this rebellion, and then it may be somewhat difficult to create all these new offices.

Mr. SHEFFIELD. I would like to ask the gentleman from Illinois whether he has heard from the East also?

Mr. KELLOGG, of Illinois. Not much lately. "All quiet upon the Potomac."

Mr. MORRILL, of Vermont. The gentleman has not heard from Newbern.

Mr. McPHERSON. I have said about all I desire upon this subject. I have endeavored to obtain all the information I could in reference to this matter, though I am sorry to say that it is quite difficult to get correct information.

The point I have endeavored to impress upon the House is, that, under cover of the pretended necessity growing out of our large Army in the field, there is an attempt to procure a large increase of the medical corps in the regular Army. I am in favor of adding as many officers as may be necessary to the efficiency of our regular Army. I would be willing to vote for this bill as it stands, if I could persuade myself that there was any necessity for it. If it is necessary to pass this bill, I think there are many features in it which ought to be modified; and, at least, it should be brought back to the shape in which it came to us from the Senate.

Mr. SHERMAN. If the House will indulge me a few minutes I propose to speak to this bill, and to offer an amendment relative to a subject, with which I ought to be, if I am not, somewhat practically acquainted. I hold, in one of the volunteer regiments from my State, the Governor's commission as surgeon, and I have been with the Army since last April, except during the time this House has been in session. I do not see any particular harm in this bill recommended by the military committee, nor do I see any object in it except to allow the President an opportunity to reward favorites.

ENROLLED BILL.

Mr. COBB from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 353) to provide for the appointment of clerks in the office of the Assistant Treasurer at Boston, to fix their salaries, and provide for the absence of the Assistant Treasurer, and for other purposes.

ARMY MEDICAL DEPARTMENT—AGAIN.

Mr. SHERMAN. It may be necessary to have ten surgeons and ten assistant surgeons and ten medical inspectors in addition to what we now have, but instead of these men supplying any deficiency in the medical corps, they will be precisely what the drum major is to the band of a regiment, who marches before the band with his baton, but never strikes the drum. These men are not going to assist in dressing the wounds of the wounded on the field of battle or anything of the kind. They will be marching about from regiment to regiment to see that the subordinate medical officers do their duty. This may be all very proper, but you have already in every brigade a man precisely for that duty. Your brigade surgeons have nothing else to do but to see that the regimental surgeons do their duty.

Now, that there may be among the volunteers men in that capacity who are not qualified is likely enough, yet, so far as I know, all the surgeons in the volunteer regiments from the several States have passed the board of examination in those States and been licensed, and those men, so far as my experience goes, are very competent men. I have, from time to time, heard the medical officers of the Army aspersed here and arraigned as derelict in their duty, and I rose to say that there are no officers of your Army who are more faithful and competent than the medical officers.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, requested the return to that body of the bill (S. No. 366) authorizing the opening of Sixth street west.

By unanimous consent, it was ordered that said bill be returned to the Senate in accordance with their request.

ARMY MEDICAL DEPARTMENT—AGAIN.

Mr. SHERMAN. I aver here that you cannot find an instance of an army of the same size as the army of the Potomac, composed of raw and inexperienced troops, where there has been less mortality than there has been in that army during the last three months.

I desire to say further, that under the present law, any medical officer in our Army who does his duty, is perfectly able to arrange his hospital so that the comfort and care of the men, and their chance to get well of disease, is greater than nine tenths of them would have at home. I say, here, upon my honor, that if I were to-day taken with a fever, and it was possible for me to be transported to my camp and put into the hospital there, I would much rather go there than trust myself here. Now, that after a great battle, like that at Fort Donelson, the wounded should remain for some day or two before they are attended to, and that there should not be at hand all the comforts and appliances needed for the sick, is inevitable from the very condition of things. The fault is not that of the surgeons, but of the officers of the quartermaster's department, who have charge of the transportation. But in any camp within this army of the Potomac all that is necessary for the comfort and welfare of the sick can be obtained by the medical men on application to the purveyors of medical supplies. We have one in New York and one in Philadelphia and one in Baltimore and one here, and I suppose there are pur-

veyors also at Cincinnati and St. Louis. If not, the Surgeon General has a right to create them. All that is necessary for the perfection and welfare of the medical department is provided for under the existing law, and really I can see no reason whatever for adding these forty-eight officers, to say nothing of the hospital stewards, and thus increasing the expenses of the Army. It will not add anything at all to the practicable force of the medical department. None of these men will assist in prescribing for the sick or attending upon the wounded. I shall not vote against the bill; but I desire to propose an amendment, if the bill is to pass, to increase the pay of the hospital stewards. Any gentleman who will look into the Army Regulations will see that the office is one which involves responsibilities and requires qualifications that would fit a man to be the colonel of a regiment, and yet you propose to pay these men only twenty-two dollars a month—the pay of a sergeant. I propose, therefore, to amend the bill so as to give the hospital stewards the pay of a second lieutenant.

Mr. McPHERSON. I ask the gentleman to withdraw that motion until I can offer some amendments to the body of the bill.

Mr. SHERMAN. I withdraw my motion.

Mr. McPHERSON. I move to amend the first section of the substitute, by striking out the words "the Surgeon General to be appointed under this act shall have the rank, pay, and emoluments of a brigadier general." I move also to amend the second section, in the sixth line, by striking out the words "colonel of cavalry," and inserting "surgeon of ten years' service."

The SPEAKER. The Chair will state to the gentleman that only one amendment can be pending at a time.

Mr. SHERMAN. I move to add, at the end of the seventh line of the first section of the original bill, the words "the pay of a hospital steward to be the same as the pay of a second lieutenant of infantry."

Mr. HOLMAN. Will the gentleman from New York state what is the pay of a hospital steward now?

Mr. SHERMAN. Twenty-two dollars a month, and you require the same qualifications as you do of a medical cadet. I will, however, withdraw my amendment for the present, and offer it hereafter.

Mr. BLAIR, of Missouri. I desire to call the attention of the House to the fact that of all the subjects connected with our Army since the commencement of this war, the most concern in the public mind has been about this matter of the surgeons of the Army and the health of the Army. There is no other subject about which so much has been said, which has excited so much of the sympathy of our people, or which has touched us so nearly as this question in regard to the health of our Army. We know that the sanitary commission grew up spontaneously in an effort on the part of our people to attend to the wants of the Army, and I believe that it is the testimony of all connected with the Army that that commission has been of very great service. They may not have done everything in the best possible manner; they may not have discharged all the duties they attempted to discharge in precisely the right way; but I believe that by supplying comforts to the soldiers in the field and in hospital, that commission has rendered a great service to the community, and an unspeakable service to our soldiers. This is only one of the manifestations of the deep concern and interest felt by our people at large in this question in regard to the health of the Army.

The Committee on Military Affairs have not acted upon this matter with the promptitude with which they have acted upon others, because they found it surrounded by many and greater difficulties. They could not make up their minds to report any bill to the House, and ask the action of the House upon it without a great deal of consultation both with Army surgeons and with these gentlemen who have made themselves acquainted with the wants of the Army by their attendance upon the sanitary commission. A majority of the committee have finally, after giving all the attention to the subject of which they were capable, reported this substitute to the House.

The gentleman from Pennsylvania [Mr. McPHERSON] says that our substitute is the same bill that was originally reported to the Senate. It is the same bill, and I suppose it was reported by the Senate committee upon deliberate consultation with those best acquainted with the wants of the Army and the proper mode of supplying those wants. But the gentleman says that the bill was modified by the Senate after discussion. That is true. It was so modified that the inspectors provided for in the bill are absolutely degraded in rank. The amendment made in the Senate requires the surgeons who accept these inspector generalships to take absolutely lower rank than they now occupy in the Army. It is promotion backwards. I do not think that it could have been passed upon by the Senate after due deliberation, and I do not think that, even if it was, it deserves the encomium passed upon it by the gentleman from Pennsylvania.

I think that the men who are made inspectors general, and who are to exercise authority over the hospitals—the men on whom this great responsibility is placed—ought not to be promoted downwards. They ought not to have a rank inferior to the rank of the men whom they are sent to control. That is against all the military rules that I ever heard of. It is against all the rules of good sense that I ever heard of. The Committee on Military Affairs proposes to restore the bill to the form in which it came from the Senate committee. We propose, instead of promoting downward the men to be selected for the performance of the most responsible duties that can be devolved on these surgeons, to promote them one step upward—from the rank of major to that of lieutenant colonel. It does not add new officers, for these men are to be taken from the present medical corps of the Army. The only difference in expense is the difference in the pay of eight officers between that of major and that of lieutenant colonel. Under the Senate bill, the surgeon appointed to the position of inspector general would be reduced to the rank of assistant surgeon. The amendment reported by the Committee on Military Affairs is to promote him from a majority to a lieutenant colonelcy. That is the difference. The Surgeon General who now receives the pay and emoluments of colonel of cavalry, would, instead, receive the pay of brigadier general, without any longevity rations; because no general officer receives a longevity ration. With the longevity ration to a surgeon of long standing, his pay, with the rank of colonel of cavalry, would be pretty nearly the same as his pay as brigadier general. I do not believe that the difference in pay for these ten surgeons and ten assistant surgeons would be more than $2,000 a year above the present establishment. It simply, as I said before, increases the pay of eight officers from that of major to that of lieutenant colonel, and increases the pay of a Surgeon General from that of colonel of cavalry, with longevity rations, to that of brigadier general; in which there is no very great difference.

Now, sir, if there is anything in this clamor that has been raised against the efficiency of the medical corps—if our soldiers have been neglected, as has been asserted, if there has been no care taken to prevent disease, if the resolution offered the other day by the gentleman from Ohio [Mr. BLAKE] had any foundation in it, and if the tens of thousands of letters of the same character that come from all parts of the country are well founded, we ought to take some steps to remedy the defects in our present system.

Mr. BLAKE. Will the gentleman from Missouri yield to me for a moment?

Mr. BLAIR, of Missouri. Certainly.

Mr. BLAKE. If this bill can accomplish the objects which the Committee on Military Affairs designs by it, it is one of the most important bills that can be brought before the House. I have some knowledge of the matter from my own experience in the Army, and I know that what is said by the gentleman from New York [Mr. SHERMAN] about the army of the Potomac being well supplied with physicians, hospital stewards, and all the aids of the medical department—while I have no doubt that that is true of the army of the Potomac, it is not true of the western army. It is not true of the men who are in the field fighting the battles of the country, and who have met the enemy.

In order to show this, Mr. Speaker, I will send to the Clerk's desk to have read, an extract from an article published in the Cincinnati Times, reciting some facts that have recently occurred in the army of the west in relation to the very question now under consideration. This army of the Potomac, I have no doubt, has done all that it could do. But all that it has done has been simply to keep "all quiet on the Potomac." I do not blame the soldiers for that; but the fact is that they have not yet smelled gunpowder. When they do, it may be found that they need more surgeons, more hospital stewards, and more of what this bill provides for. I have letters from fathers and mothers of boys in our western army, beseeching me to have something done to save the lives of their children. I have received letters, written since the battle of Fort Donelson, showing that many have been absolutely murdered by neglect. But let us hear the extract read.

Mr. SHERMAN. I desire to know who is the writer.

Mr. BLAKE. It is an editorial in the Cincinnati Times.

Mr. SHERMAN. I wanted to have some responsibility about it.

The Clerk read, as follows:

"Our own observations, which have been extensive, justify the declaration, that in the western army, at least, a large per cent. of the surgeons are not practical operators, and are almost wholly ignorant of the proper means of removing and saving a shattered limb. A medical director, superintending the surgical department of a whole division, embracing sixteen regiments of infantry, one of cavalry, and three batteries of artillery, once informed us that he dare not leave his post when there was a prospect of action, as among the thirty-five or forty surgeons of the division, but one beside himself was a practical operator. Imagine this division in action, with hundreds, and, perhaps, thousands, of wounded, and two surgeons competent to dress the wounds!

"How many would die before relief came? We are persuaded that this is not a single exception. Fort Donelson was surrendered on Sunday. On Monday the news was received in Cincinnati. On Tuesday a steamer loaded with hospital supplies, and volunteer surgeons and nurses, proceeded to the fort on an errand of mercy. Fully a week had elapsed between the surrender of the fort and the arrival of this steamer, yet wounded soldiers were found there then who had not yet been the recipients of surgical attention. These facts, selected from thousands, show that in the present organization of the Army, both medical and surgical attention are most shamefully deficient.

"Again: no provision is made in anticipation of unusual sickness or disability. The ordinary provision is a small hospital tent, that will accommodate some forty persons laid close together, for each regiment. Here all manner of cases must lie side by side, and always in painful proximity. When, as is always the case under severe exposure, forced marches, or a battle, these tents become full, temporary hospitals are fitted up, sometimes in dwellings, sometimes in barns, sometimes in stables. Should disease increase, the next resort is to the nearest large city, where buildings can be procured for great numbers. To these the sick are transported.

"In Western Virginia, last fall, large numbers of patients, many afflicted with typhoid fever, were jolted twenty to forty miles over hard roads, then packed on small steamers and brought down the Kanawha and Ohio to Cincinnati, before they found rest. In the whole journey they were not accompanied by a single physician! The same terrible state of things existed at one time in Kentucky. Camp Nevin, so long occupied by our troops, is bordered with soldiers' graves. The deaths, at one time, were so numerous that interments were ordered at night, to prevent their observation. At last a military hospital was established at Louisville, and the log cabins and stables were relieved of the sick and dying. The afflicted soldiers bore a railroad ride of some fifty miles, provoking delays and dangerous exposure at Louisville, much more successfully than they did the awful hospitals at Nevin. On the same line, between thirty and fifty soldiers, afflicted generally with measles or typhoid fever, were conveyed to the railroad station to be transported to Louisville. They were taken from the ambulances and laid upon the damp ground, wrapped in their blankets. Through some misunderstanding the train left them. They lay there on the ground, suffering, groaning, and some of them dying, from ten o'clock in the morning until ten o'clock at night, before they received the attention of their surgeons. If a single one of them recovered it was a miracle."

Mr. BLAIR, of Missouri. Now, I do not pretend to have knowledge of the facts that have been stated, and which have been pressed upon the attention of the House and Senate, enforcing upon us the necessity of making some change in this medical staff. I say I do not know the facts to exist as they have been stated; but I believe that there must be some grounds for the number of complaints made. And now I should like to know from gentlemen who oppose this bill in what way they would propose to increase the efficiency of this department? If the complaint be that the department has not sufficient force, why ought we not to supply it? The gentleman from Pennsylvania [Mr. McPHERSON] says that additional force is not wanted.

Mr. McPHERSON. I said we had no information on the subject; that the Surgeon General had

not sent us such a statement. I said that I was not opposed to the bill, only to some of the details.

Mr. BLAIR, of Missouri. The gentleman says he is not prepared to say that we do not need an increase of the medical corps. What other mode shall we take to increase the efficiency of that corps? If neither he nor any other gentleman on the floor will take the responsibility of saying that this corps ought not to be increased, as the committee has recommended, I ask in what other manner is its efficiency to be increased?

Mr. SHERMAN. Does this bill increase the medical force of the Army?

Mr. BLAIR, of Missouri. Certainly.

Mr. SHERMAN. Then I misunderstand it.

Mr. BLAIR, of Missouri. The bill proposes to add ten surgeons and ten assistant surgeons.

Mr. SHERMAN. The bill reads that they are to be taken for the present medical corps. They are to be promoted, and the places from which they are to be promoted are to be left vacant.

Mr. BLAIR, of Missouri. I beg the gentleman's pardon. These inspectors are to be promoted, as the gentleman will see if he reads the first section of the substitute.

Mr. SHERMAN. These officers are to be promoted and appointed. The President may, if he choose, take them from the present corps of surgeons and assistants, if I understand the English language.

Mr. BLAIR, of Missouri. The gentleman may understand the English language, but he is not reading from the substitute reported by the Committee on Military Affairs. That, no doubt, accounts for the gentleman's mistake. These officers are to be promoted and appointed under existing law. As a matter of course, the ten surgeons will be promoted from the assistant surgeons. Then there are ten assistant surgeons to be appointed. That will leave twenty vacancies of assistant surgeons to be appointed from civil life.

Mr. EDWARDS. May I ask the gentleman from Missouri one question?

Mr. BLAIR, of Missouri. Certainly.

Mr. EDWARDS. I wish to know if this bill provides for the appointment of a Surgeon General?

Mr. BLAIR, of Missouri. It does.

Mr. EDWARDS. In what section of the bill?

Mr. BLAIR, of Missouri. It is in the third and fourth sections of the bill, both of them. Now, sir, I repeat that if there is no gentleman upon this floor who will take upon himself the responsibility of saying that we ought not to have these additions to the medical corps of the Army, after what has been said as to the inefficiency of this branch of the service in proportion to the wants of the Army, after what has been read by the gentleman from Ohio, [Mr. BLAKE,] and after what he has stated, and other gentlemen have stated, upon the subject, I have to ask this further question: I desire to know what further steps we can take to increase the efficiency of the medical corps of the Army?

It strikes me that the first measure to be taken is, if possible, to get the ablest men into the corps, then to furnish the requisite number for the wants of the service, and provide for giving vigor to the discharge of their duties. When we have done that, it strikes me we have done all that can be done by the Congress of the United States for the medical care of the Army. The Congress of the United States cannot, of course, declare by law that such or such man shall be appointed to such an office, but we can give that power to the President, and give him, from which to make the selection, the whole medical corps of the Army. And if gentlemen do not think that is broad enough, let them give him the whole medical corps of the volunteer army; and if that is not broad enough, open to him the whole medical profession of the country, and give him the widest choice. The Committee on Military Affairs have thought it just to the medical corps of the Army to confine the selection to that corps. They have thought that the office of Surgeon General, for instance, is one which requires a great faculty of administration, with a full knowledge of all the Army regulations, and with a large experience gathered with armies in the field—that such a man is required for this department. They are of the opinion that you may take such a man as was described by the gentleman from Pennsylvania [Mr. McPHERSON] as one of the most eminent physicians in Philadelphia; you may take the ablest physician in the United States, and if he has had no experience in administering a great department like this, he is not qualified for this office, although he may know all the diseases that exist among men, and may be able to administer the most skillful remedies in his practice in the cities of the country. The administration of this bureau does not consist at all in prescribing for sick men, but in presiding over a great bureau, and one of the most important in the country. It is that sort of experience which we expect to find in the medical corps of the Army, combined with great ability as surgeons and as physicians; as great, probably, as can be found in the best physicians who practice in our cities in private life. The committee think that these men can be best found in the regular Army as it exists; but if the House differ with the committee in that opinion, let them amend the bill so as to open the widest field from which to make the selection.

That, sir, is what the Committee on Military Affairs have done. They have believed that, in order to add to the efficiency of this corps, and obviate the complaints which have been made—if there be any truth in the statements which have been made in regard to the inefficiency of the medical corps as it exists—the first step is probably to add to the number of the corps; and then to give vigor and efficiency to the corps, they have deemed it important and essential that there should be added another department, as it were, for the prevention of disease, who are to have the care of the sanitary condition of the Army. This department should have a place in our medical staff, as it has, I believe, in the medical staff of all other civilized nations, and the necessity for which has been, in some sort, filled during this rebellion by the sanitary commission.

These are the grounds upon which the Committee on Military Affairs have acted in reference to this bill. They have not thought it would add to the efficiency of the medical corps to promote the surgeons of the Army back to assistant surgeons, as was virtually proposed by the gentleman from Pennsylvania, [Mr. McPHERSON.] Nor have they thought that we should be likely to get and keep in the Army the best medical talent of the country by denying to these men all opportunity of promotion, when we have given to nearly every other bureau in the Army an officer with the rank of brigadier general to be placed at the head of it. I say we have not thought it proper to make this, one of the most important branches in the service, an exception in this respect.

Mr. VAN VALKENBURGH. I see by this bill that these ten surgeons, ten assistant surgeons, and the other officers named are to be appointed and added to the medical corps of the Army—to the regular Army, I suppose. Now, I desire to ask the chairman of the Committee on Military Affairs what benefit the volunteer force is to receive from these appointments? I understand that the surgeons and assistant surgeons of the volunteer forces are appointed from civil life, and are not surgeons in the regular Army. I understand the object of this bill to be to increase the medical corps of the regular Army, as it existed when the rebellion broke out. I desire to ask the gentleman from Missouri if that be not the object?

Mr. BLAIR, of Missouri. I will tell the gentleman from New York that these proposed appointments are just as much for the benefit of the volunteer force as they are for the regular Army. They constitute a part of the staff corps of the Army, and the staff corps of the Army do not confine their labors to the regular Army by any means. For instance, the Adjutant General of the United States is at the head of one staff corps of the Army, and he is made a brigadier general. Yet he attends to the organization not only of the regular Army but of the entire military forces in the field, and all the assistant adjutants general under him are assigned, some of them to the regular, and others to the volunteer forces in the field. And the same thing is true of every staff corps of the Army. The Quartermaster General is the Quartermaster General just as much of the volunteer forces as he is of the regular Army; so is the Paymaster General, and so are all the paymasters who are appointed under him. It is the business of all the staff corps of the Army to provide for the wants of the soldiers, not only of the regular Army, but of the entire Army in the field. It is their business to see that all the different forces shall be supplied with whatever is necessary.

Mr. VAN VALKENBURGH. I wish to ask the gentleman from Missouri if he knows that any surgeon or assistant surgeon in the regular Army has been assigned to duty in any volunteer regiment or brigade in the service?

Mr. BLAIR, of Missouri. I do not happen to know any such instance. I do know, however, that in the hospitals where volunteer soldiers, as well as regulars, are brought, these surgeons provide for them. I know also that the medical purveyors, who belong to the regular Army, buy and give out supplies to the volunteer regimental surgeons. The medical inspectors, too, go round and inspect the camps and hospitals of the volunteer as well as the regular forces. And upon the battle-field, and everywhere else, these surgeons and other medical officers can be called upon to do duty as well for the volunteer as the regular forces. It is true that the volunteers have the benefit of their regimental surgeons in addition. But I repeat this medical corps is for the benefit of the service wherever they are needed, for the volunteer as well as the regular.

Mr. SHERMAN. I now propose the following amendment to the bill:

Add, at the end of the first section, as follows:

And that the pay of all hospital stewards in the volunteer as well as the regular service shall be forty-five dollars per month, and one ration, to be paid from the passage of this act.

Mr. KELLOGG, of Illinois. I do not design to detain the House by discussing the merits of this bill. It has already been pretty fully discussed. I think, however, the gentleman from Ohio, [Mr. BLAKE,] in the presentation of the article which was read from the Cincinnati Times, has done great injustice to the surgeons of the West. The charge is made there—if not directly, indirectly—that in all the western army there are but two surgeons who are competent to take care of the wounded soldiers.

Mr. BLAKE. The editor of that paper says that in one division of the Army there were but two surgeons who were competent to dress a wound or to set a broken leg. It does not apply to all of the western surgeons.

Mr. KELLOGG, of Illinois. I am glad that the gentleman from Ohio has made that statement. But that is not the spirit of the article of the paper which the gentleman had read from the Clerk's desk. It was a sweeping denunciation of the skill and efficiency of the whole medical staff of the West. It would make it appear that that was all the medical skill there. I protest against any such charges being read against the officers of the Government in this House. I do not believe that there is a surgeon in the army of the West who is so incompetent as not to be able to set a broken leg or to dress a wound. I wish to say that, in my opinion, that article read from the Clerk's desk was a scurrilous article upon a noble body of surgeons. It is a defamation of the surgeons of the volunteer army of the country, and ought not to have been read in any deliberative body. In my judgment it is a vile slander, without a particle of foundation. I hope that the gentleman from Ohio will know better hereafter than to submit such a slander to be read in this House.

Mr. BLAKE. I regret that I have not the good taste, in this respect, of the gentleman from Illinois.

Mr. KELLOGG, of Illinois. So do I.

Mr. BLAKE. I regret extremely that I have not the good taste and modesty of the gentleman from Illinois. I have received the rebuke which he has given to me, and I have profited, I assure him, by the lecture which he has read me. I am very grateful to him for what he has done. But I have been at a loss to perceive what could be found in the article which I had read from the Clerk's desk upon which the gentleman could base the remarks he has just made. I have been unable to perceive, and I doubt not other members have, anything in that article which can justly be termed scurrilous. It merely detailed the facts which came under the observation of the author of the article. It detailed facts in regard to one portion of our Army; and gentlemen who have mingled with the Army know that they are too often too true. I did not look upon the article as a reflection upon the surgeons of the West. If I had, I certainly would not have presented it. But it is not any reflection upon the western surgeons. I know many of the surgeons in the Army. Many of them are my personal friends. I know that they

are as skillful and scientific as any surgeons anywhere in the United States. It does not follow, because the most of our surgeons are skillful and scientific men, that there are not some who are entirely incompetent.

I hold that when defects are pointed out in the organization of the Army, defects palpable to every man who will take the trouble to look into the matter, the remedy ought to be instantly applied. That is the duty of this Congress. So it is in this case. Letters come to us every day from fathers and mothers, appealing to us to do something to protect the lives of their sons from disease who are bravely fighting the battles of the country against this rebellion. I have called the matter to the attention of this House, and it does not become any member to designate a simple article known to so many of us to be true as scurrilous and unworthy to be offered here. I think the House will not agree with the gentleman from Illinois in his criticisms.

Mr. KELLOGG, of Illinois. The scurrility of the article is palpable on the face of it.

Mr. STEVENS. As there is a guerrilla war growing up here, and as it is evident that we cannot get through with this bill this morning, I ask the gentleman from Illinois to yield to me to move to go into the Committee of the Whole on the state of the Union on the tax bill.

Mr. KELLOGG, of Illinois. I cannot yield for any such motion at this time. I will occupy but a few moments, and will then move that the bill be laid upon the table. I think that that will dispose of this whole subject.

Mr. Speaker, I think that the scurrility of the article which the gentleman from Ohio had read is patent on its face; and I hope that my friend has benefited by my judgment of the bad taste of having such articles read in this House. I trust that he will never again send such an article up to the Clerk's desk to be read. He admits the truth of my criticism, for he found it necessary to relieve the surgeons who were his friends from the imputation which that article cast upon the surgeons in our Army. He felt it to be his duty to come to the rescue of those friends. With that remark, I will leave the subject of the good or the bad taste of having that article read in this House.

If there be any necessity for an increase of the medical corps of the Army, I do not think that this is the way in which to accomplish that purpose. You cannot increase the skill and efficiency of the medical corps of the Army by promotion only. To take ten or fifteen or twenty surgeons from the regular Army, increase their pay and rank, and put stars or eagles upon their shoulder straps, is not the way to increase the skill and efficiency of the Army.

Mr. OLIN. Will the gentleman yield to me?

Mr. KELLOGG, of Illinois. Not now. The gentleman from New York, when he interjects himself into my remarks, makes such long speeches that I cannot yield to him now, because I want to have this question speedily disposed of.

This, I understand, is a bill to increase the efficiency of the medical corps of the Army. I do not think that promotion is the proper way to secure that object. It seems to me that this bill rather provides for increased rank and for increased officers than for any other purpose. I do not charge, however, that such has been the purpose of the Committee on Military Affairs. I have no doubt that they have had a laudable purpose in view, but this bill will not carry out the object they design. This bill will only swell the proportion of the medical corps of the Army without increasing its efficiency. At this time, when the rebellion is being so rapidly put down, and when, by the heavy blows it has received in the West, it is near its extinction, I do not think that it is proper to be increasing the corps of the Army which will have soon to be largely reduced. It is now time to stop the process which has been going on here of swelling the different corps of the Army.

Mr. SHELLABARGER. I ask the gentleman to yield to me for a moment.

Mr. KELLOGG, of Illinois. I have already refused to yield to the gentleman from New York, and I cannot yield to the gentleman from Ohio. I move that the bill be laid upon the table; and on that motion I demand tellers.

Tellers were ordered; and Messrs. KELLOGG, of Illinois, and CALVERT were appointed.

The tellers reported—ayes 30, noes 60.

Mr. KELLOGG, of Illinois, withdrew the motion to lay upon the table.

TAX BILL.

Mr. STEVENS. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union on the tax bill.

Mr. BLAIR, of Missouri. I ask the gentleman to withdraw that motion until we dispose of the pending bill. I will call the previous question on it.

Mr. STEVENS. I cannot withdraw the motion.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed the consideration of the special order, being the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

The CHAIRMAN stated that when the committee rose yesterday they were engaged in the consideration of the twentieth section, to which the following amendment was pending, moved by the gentleman from Indiana, [Mr. WHITE:]

Strike out the words "after the receipt of the collection list," and insert in lieu thereof the word "thereafter;" so that it will read:

With respect to persons who shall not attend according to such notifications, and such as are liable to pay duties or taxes at any other time or times, it shall be the duty of each collector, in person or by deputy, to apply once at their respective dwellings within such district, and there demand the duties or taxes payable by such persons, which application shall be made within twenty days thereafter.

Mr. WHITE, of Indiana. I do not know what the Committee of Ways and Means think in regard to the number of deputies that each collector will have to employ. As the bill now stands, each collector within ten days after he receives his list from the assessor, will be obliged to advertise that he will meet the people at a certain place in each assessment district. On the motion of the gentleman from Indiana, it has been amended so as to read, within not less than ten days after the notice. As I stated before, this is impossible, and I am now only searching for some mode which will make it practical to carry into execution this section of the bill. The people of the West are not much accustomed to taxation. I think that only a very few articles of household property are enumerated in annual assessments. As I understand the bill, licenses are to be applied for in the month of May. Whether the bill contemplates that licenses may be applied for for other purposes, I do not know, but at all events, the list of licenses which the assessor is to furnish in the month of May and the list of articles of household property, are all the lists which he has to furnish. Now the time for that purpose is too short, for it is an onerous duty, and requires the collector to call at the house of the party assessed. I doubt the wisdom of that provision. It can be done in populous cities, but it would be inconvenient if not impracticable at the West; and as every person knows what he has to pay, it should be his duty to call upon the collector or upon his deputy.

I would not object to withdrawing my amendment, and leaving it to the Committee of Ways and Means to make this section as it should be. To the amendment of my colleague, postponing the call ten days, there should have been added another provision, that it should not be more than twenty days; and then, as at the expiration of that time the collector has to call at the house, I propose by my amendment to give him twenty days to do it in.

Mr. MORRILL, of Vermont. I think it unfortunate that the amendment first proposed in reference to this matter was adopted by the committee. It is apparent that some time must be fixed when this tax shall be paid. Now, the objection that persons will not be ready within ten days might just as well apply to any other point as to that point of time. If persons are not ready at the time named in the bill, and further time is given to them, they will be just as unready then as at the time appointed.

Now, Mr. Chairman, I think it would be better that no further amendment should be adopted, and that we should make the bill correspond to this amendment; and that when the bill comes before the House we should reject the words, "not less than ten days," and allow the bill to stand as it was originally, "within ten days."

Mr. BLAIR, of Pennsylvania. I offered yesterday an amendment to this twentieth section, and I now renew it. It is to strike out in line sixty-two, after the word "profession," the words "or any other articles exempted from distress on execution by the laws of any State." I propose the amendment because I think this provision comes directly in conflict with the constitutional provision—that relating to internal taxes—which reads as follows:

"The Congress shall have power to lay and collect taxes, duties, imposts, and excises to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States."

I think this clause of the bill, as it stands, comes in conflict with that provision. The Constitution contemplates uniformity not only in the assessment of taxes, but in the mode and manner of their collection. Now, I understand that this bill has been amended so as to exempt from its provisions articles exempt from levy, seizure, and sale for taxes in the different States. If there was a uniformity in the different States in this regard, the bill would be well enough. But that uniformity does not exist. It was stated by a gentleman yesterday that in his State the articles exempt from levy and sale for taxes are the same as those exempt from levy and sale under execution. I dare say you will find different provisions in different States in that regard. In Pennsylvania we do not exempt any property from sale for taxes.

Mr. WADSWORTH. I asked a gentleman from Ohio the other day whether he knew of any State which exempts any property from sale for the payment of taxes. If the bill be amended by inserting in line sixty-three, after the word "execution," the words "for taxes," it would operate in this way: it would exempt property from restraint for taxes in one State which would not be exempt in another State. I think the whole proviso should be stricken out, or that we should specify the articles to be exempt.

Mr. BLAIR, of Pennsylvania. I was going to say that in Pennsylvania we exempt property to the amount of $300 from execution, while we make no exemption from the payment of taxes. The result of the provision will be that you can reach every dollar of property of a citizen of Pennsylvania for the purpose of paying taxes, while in other States, where exemption is allowed, you can only press the collection to a certain extent. Then it is not uniform. We can adopt but one of two courses—either specially designate a schedule of articles to be exempt from levy and sale for taxes, or to strike out this proviso altogether. I prefer the latter course. I think it better to pass a tax bill without any exemption whatever. I am inclined to think that the adoption of any exemption law will be found to embarrass the execution of the law. We all know that these exemption laws give rise to nice questions of litigation. If I supposed that no exemption would operate as a hardship to the poor, I might think differently about the matter, but I do not think it will. It will be observed that this bill very seldom reaches the poor man. They have very little to do with it. The tax is collected mostly from the manufacturers. The bill very properly, I think, adopts the indirect system of taxation.

Mr. STEVENS. I had thought this morning of offering an amendment of this kind, and I will offer it now as an amendment to the amendment of my colleague. I intended to move to strike out all between the word "profession," and the word "beasts." That, I believe, has already been stricken out, and I now move to insert, after the word "profession," the words "one cow, arms, or household furniture, or apparel necessary for a family," so as to make the articles exempt specific.

The CHAIRMAN. The Chair would state that all of the section from and including the words "beasts of the plow," has been stricken out.

Mr. STEVENS. And I now propose to make the articles exempt specific.

Mr. WADSWORTH. I would state that a plow beast is as necessary as a cow, and a plow as necessary as anything else. Many other articles also are as necessary as a cow. I think we

had better exempt no property at all, or provide a complete schedule of exempt articles.

Mr. STEVENS. Well, my amendment proposes a schedule. Those that have a couple of horses can afford to pay a small tax, and I think it is only the poor man with one cow who should be exempt.

Mr. WALTON, of Maine. I would like to inquire what the poor man with one cow would have to pay under this bill? Does the gentleman know of anything upon which he would be taxed under this bill?

Mr. STEVENS. Well, I do not know.

Mr. WALTON, of Maine. It would be a very small tax indeed.

Mr. STEVENS. It will be very small, I know.

Mr. BLAIR, of Pennsylvania. I am willing to accept the amendment of my colleague.

Mr. STEVENS. After the words "used by the owner thereof," insert the words "one cow, arms, or household furniture or apparel necessary for a family."

Mr. BLAIR, of Pennsylvania. I accept that modification of my amendment.

The amendment, as modified, was agreed to.

Mr. BROWNE, of Rhode Island. I move to amend the section in the fifty-eighth line, by striking out the word "five" and inserting "one." Under the bill as it now stands, five per cent. may be collected on the whole amount of the sale, and the sale may be of a very much larger amount than is necessary to pay the tax. The next section provides that the sale may be of a much larger amount than is necessary to pay the tax where a part cannot be sold without detracting from the value of the goods sold. Now, one per cent. upon the sale will be quite ample. It is desirable to make the bill as little onerous as possible to the tax payers, and if you allow five per cent. on the whole amount of goods sold it holds out an inducement to the tax collector to distrain more than is necessary in order to increase his per cent. I hope the amendment will prevail.

The amendment was agreed to.

Mr. WHITE, of Indiana. In consequence of the adoption of the amendment of the gentleman from Pennsylvania, [Mr. BLAIR,] that section now provides that you shall not distrain one cow—that it shall not be lawful to make a distraint of tools in use or of one cow, &c. That makes nonsense. I move to insert, in lieu of that phraseology, the words "that there shall be exempt from distraint."

The amendment was agreed to.

Mr. PHELPS, of California. I move to amend the twentieth section by striking out, in the nineteenth and twentieth lines, the words "or after the receipt of any other additional lists, from time to time, as aforesaid."

I offer that amendment hoping that the House and the Committee of Ways and Means will consent to separate the monthly collections from the annual collection, and dispense with the tedious process required to be gone through with in making the levy, hearing appeals, &c. By the terms of the act now, thirty days are allowed to the assessors to make the assessment, fifteen days are allowed for hearing appeals, ten days are allowed for the assessors to make up the lists and pass them over to the collector, and then the collector is allowed ten days to advertise and twenty days in which to make the collection; and if the taxes are not paid within ten days after the collector has made his demand, he may distrain—making in all ninety-five days allowed under the provisions of this bill, in which to make these monthly collections.

I remarked the other day, that as these collections are required to be made on the sworn statements of the parties, there is no necessity whatever for an appeal. This provision is antagonistic to the provision in regard to excises. As I then stated, the forty-sixth section provides, in regard to excises, that every person distilling

"Shall from day to day make true and exact entry, or cause to be entered, in a book to be kept by him for that purpose, the number of gallons of spirituous liquors distilled, which book shall always be open in the day time for the inspection of the said collector, who may take any minutes, memorandums, or transcripts thereof, and shall render to said collector, on the first day of each and every month in each year, or within ten days thereafter, a general account in writing, taken from his books, of the number of gallons of spirituous liquors distilled for the month preceding said day, or for such portion thereof as may have elapsed from the date of said entry and report to the said day which shall next ensue; and shall verify or cause to be verified the said entries, reports, books, and general accounts, by oath or affirmation, to be taken before the collector or some other officer authorized by the laws of the State to administer the same according to the form required by this act, where the same is prescribed; and shall also pay to the collector the duties which by this act ought to be paid on the spirituous liquors so distilled, and in said accounts mentioned, at the time of rendering an account thereof."

Now, that section is as it should be, and all these monthly collections ought to be separated from the yearly one. There is no necessity of going through the formality of an assessment and the hearing of appeals in these monthly collections; nor is there any necessity of allowing ninety-five days for the monthly collections. I hope the Committee of Ways and Means will themselves see the propriety of amending the bill in that way, and if we are to do that, we should strike out this provision which I now propose to strike out. If, on the other hand, we are to subject the monthly collections to all the formality of an assessment and a hearing of appeals, then the provision should stand as it now is. I offer the amendment partly for the purpose of hearing what the intention of the Committee of Ways and Means is in regard to that matter.

Mr. MORRILL, of Vermont. So far as concerns the monthly duties, it is now provided that they shall be paid within the month. This relates to the general provisions, and I hope the amendment will not prevail.

The question was taken on Mr. PHELPS's amendment; and it was not agreed to.

Mr. PENDLETON. I move to amend the twenty-first section by striking out the proviso, which is as follows:

Provided, That the owner or legal representative of the property aforesaid, after the same shall have been advertised for sale, and before it shall have been actually sold, shall be allowed to pay the amount of the duties or taxes thereon, with an addition of five per cent. on the same, on the payment of which the sale of the property shall not take place. And the collector shall render a distinct account of the charges incurred in offering and advertising for sale such property, and shall pay into the Treasury the surplus, if any there be, of the aforesaid addition of five per cent. after defraying the charges.

I make the motion for the purpose of calling the attention of the Committee of Ways and Means to the different rule prescribed in this section for the redemption of property which is levied upon from that prescribed in the twentieth section, which we have just passed. In that section it is provided that at any time before the sale of the property it may be redeemed by paying the amount of the tax together with the necessary and reasonable expenses of removing, advertising, and keeping the same. By this section it is provided, not that the addition to the tax shall be the necessary expense of removing and keeping the property, but an arbitrary sum, five per cent. on the whole amount. I do not know what the object of this difference in the rule may be. Indeed, I see no necessity at all for this proviso. This section seems to be intended to provide for a case where more property of an indivisible character is levied upon than is necessary to pay the debt.

The other section provides that whatever the property may be which is levied upon, it shall be redeemed in a particular manner. I see no necessity for the proviso in the twenty-third section, for without that section the property, under the limitation of the section just passed, would be liable to redemption on a rule just and proper, to wit: the amount of tax and the expense incurred by distress. I, therefore, move to strike out the following proviso:

Provided, That the owner or legal representative of the property aforesaid, after the same shall have been advertised for sale, and before it shall have been actually sold, shall be allowed to pay the amount of duties or taxes thereon, with an addition of five per cent. on the same, on the payment of which the sale of the property shall not take place.

Mr. MORRILL, of Vermont. My impression is that the objection made by the gentleman from Ohio is a proper one. But I would suggest to him that the latter part of the proviso it would be better to retain. I mean the following clause:

And the collector shall render a distinct account of the charges incurred in offering and advertising for sale such property, and shall pay into the Treasury the surplus, if any there be, of the aforesaid addition of five per centum, after defraying the charges.

Mr. PENDLETON. As I read the section, that is not contained in the proviso. If it be, I will limit my amendment to striking out all of the proviso down to that point.

The question was taken on Mr. PENDLETON's amendment, and it was agreed to.

Mr. LOOMIS. I move to amend the twenty-first section by adding, after the word "to," in the second line, the words "be distrained for," so that it will read, "that in all cases where the property liable to be distrained for duties and taxes," &c. I presume that is the precise meaning of the sentence.

The amendment was agreed to.

Mr. PENDLETON. I move to amend by striking out of the twenty-eighth line the following words: "of the aforesaid addition of five per centum." After striking out the proviso, this amendment is necessary to perfect the sentence.

The amendment was agreed to.

Mr. WORCESTER. I move to amend in the twenty-first section by adding, after the word "that," in the first line, the words, "the duties and taxes to be assessed in pursuance of this act shall be a lien on the property, and;" so that it will read:

SEC. 21. *And be it further enacted*, That the duties and taxes to be assessed in pursuance of this act shall be a lien on the property, and in all cases where the property liable to duties or taxes under this act may not be divisible, so as to enable the collector by a sale of part thereof to raise the whole amount of the tax, with all costs, charges, and commissions, the whole of such property shall be sold.

On looking through this bill, I see that the tax to be assessed is made a specific lien on certain articles of property proposed to be taxed under the bill. But the rule, so far as I have examined the bill, does not seem to be a general one. Now, as I understand the general policy of our tax laws, where the tax is specific, either on personalty or real estate, it is ordinarily made a lien on the property to be assessed. If this amendment be adopted, it will provide for a specific lien in regard to all the articles taxed under the law. As this is the first section of the law which provides for a sale of the property, it seems to me that it is the proper place to introduce this amendment.

Mr. MORRILL, of Vermont. I would say that a lien does attach upon the articles taxed under the bill; but it was not thought important that it should attach to pianos and articles of household furniture. However, I see no objection to the amendment.

The amendment was agreed to.

Mr. WORCESTER. As the bill now stands, it seems to me that it is made the duty of the collector in all cases to purchase property advertised for sale when it cannot be sold for the amount of the tax. It seems to me that that is unnecessary. I move to strike out the word "shall," in the eighteenth line, and to insert in lieu of it the words, "may, at his discretion;" so that it will read:

And if the property advertised for sale as aforesaid cannot be sold for the amount of the duty or tax due thereon, with the costs and charges, the collector may, at his discretion, purchase the same in behalf of the United States for the amount aforesaid.

It may not be, in all cases, the interest of the United States to have the purchase made by the collector for the amount of the tax. If my amendment be adopted it will leave the matter in the discretion of the collector.

Mr. BINGHAM. I oppose the amendment, and I hope it will not be adopted. I have no idea of allowing these collectors to accumulate a very large amount of the property of citizens, which is already subject to a lien, and to put it into a common warehouse and keep it indefinitely. I trust that the bill will stand as it is in that respect. If the taxes are not paid, let the property be sold. It seems to me that such legislation would bring the law into contempt among the people.

The question was taken on Mr. WORCESTER's amendment, and it was rejected.

Mr. WHITE, of Indiana. I desire to know from the Committee of Ways and Means whether it is intended, by this section that the collector shall bid off this property so distrained at the full amount of the tax for which it is distrained? That is my interpretation of it. Now, it may happen that the property distrained would not be half adequate to the payment of the tax, and a man might let his property go to distraint in order to get an acquittance for all taxes. If it do not sell for enough, the collector is to purchase it for the

United States. That is, it shall be sequestrated. But at what price? At the full amount of the taxes; or is the man still liable for the balance? The section is certainly defective in this respect, and leads to false conclusions.

The CHAIRMAN. Does the gentleman from Indiana move any amendment?

Mr. WHITE, of Indiana. No, sir; for the section requires a radical change, and I do not know what the Committee of Ways and Means desire in the premises. I merely wish to know what interpretation the Committee of Ways and Means gives it—whether this is to be an acquittal for all the taxes.

Mr. MORRILL, of Vermont. I move to amend by striking out of the nineteenth line, the words "for the amount aforesaid."

Mr. BINGHAM. Then I move to amend the amendment by substituting for the words proposed to be stricken out, the words "at an amount not exceeding the same;" so that it will read:

And if the property advertised for sale as aforesaid cannot be sold for the amount of the duty or tax due thereon, with the costs and charges, the collector shall purchase the same in behalf of the United States at an amount not exceeding the same.

Mr. MORRILL, of Vermont. If the gentleman from Ohio will read the first paragraph of the bill, he will see that that amendment is unnecessary. If it can be sold for a sum exceeding the amount due for taxes, the collector will not buy it in.

Mr. BINGHAM. But suppose there are no bidders at all, the law is imperative that the collector shall bid it off. I wish to put a limitation on that, so that he shall not buy it in at an amount exceeding the tax.

Mr. MORRILL, of Vermont. At all events there is no harm in the amendment.

Mr. BINGHAM. But there is good in it.

Mr. PENDLETON. I desire to ask whether it is contemplated that this levy shall be on other property than that on which the tax itself is laid? I am in a little doubt as to that.

Mr. LOOMIS. I would suggest that the committee has already adopted an amendment which removes all doubt about that. It was an amendment offered by myself.

Mr. MORRILL, of Vermont. I accept the amendment offered by the gentleman from Ohio [Mr. BINGHAM] to my amendment.

The amendment, as amended, was agreed to.

Mr. THOMAS, of Massachusetts. I move to amend the nineteenth line of the same section by inserting after the word "aforesaid," as follows:

And the collector shall have authority under the rules to be prescribed by the Commissioner of Revenue to sell all property so purchased.

My object is to give authority to sell such property as the United States is compelled to purchase to insure the payment of the taxes.

Mr. LOOMIS. As a substitute for the amendment of the gentleman from Massachusetts, I move the following amendment:

In the eighteenth line, after the word "shall," erase the words "purchase the same in behalf of the United States for the amount aforesaid," and insert the words "proceed to sell the same at public auction as in other cases, and after satisfying all legal costs, charges, and commission, shall apply the surplus of the proceeds of the sale in part payment of such tax or duty, and further distraint may be made by the collector of other goods and chattels of said delinquent persons at any time thereafter during the period allowed to the collector for the completion of his collections, until such tax or duty shall be fully satisfied.

It seems to me, Mr. Chairman, that it is better in all cases to require the collector to sell for what he can get; and as there is a doubt whether the provision as it stands, with the amendment which has been adopted, will not operate to satisfy the tax in full, by such purchase on the part of the Government, I think the collector ought to have the right to make another levy, because, as everybody knows, in a great many instances where distraint is necessary, it is necessary not so much because of the want of ability on the part of the tax payer, as for want of disposition; and if he knows about the time the collector is coming round he will begin to put his property out of his hands, so that the collector at the time of his first visit very likely may not be able to find property enough to cover the amount of the tax. In such case, I think it should be the duty of the collector to levy in the first instance upon as much property as he can find, and to make any subsequent levy whenever he is able, on a sufficient amount of property to cover the remaining portion of the tax.

Mr. THOMAS, of Massachusetts. I will suggest that my amendment does not cover the same ground as that of the gentleman from Connecticut, and that it will be better, probably, to offer them separately.

The CHAIRMAN. The Chair hardly thinks the amendment of the gentleman from Connecticut is germane to the amendment of the gentleman from Massachusetts.

Mr. LOOMIS. I will then withdraw mine and offer it subsequently.

Mr. PENDLETON. I would like to ask the gentleman from Vermont whether there is any provision in any part of the bill which provides for disposing, under the authority of the Commissioner of the Revenue, of the property which the United States shall buy under this act?

Mr. MORRILL, of Vermont. I think, perhaps, the amendment of the gentleman from Massachusetts had better be adopted.

The amendment was disagreed to.

Mr. LOOMIS. I now submit my amendment, which has just been read by the Clerk.

The amendment was disagreed to.

Mr. SARGENT. I believe the section as it now stands, with the amendment of the gentleman from Ohio, [Mr. BINGHAM,] which has been adopted, is not perhaps verbally correct, or as the gentleman intended it. It now provides that the collector may purchase property for the United States at a price not exceeding the amount of taxes due. I think it should provide for not exceeding the tax due and the cost and charges thereon.

Mr. BINGHAM. I think the amendment should be so modified.

The CHAIRMAN. If there be no objection, the amendment will be so modified.

There was no objection.

The twenty-second section was next read for amendment.

Mr. SHEFFIELD. I think that section had better be passed over, with the understanding that we may return to it subsequently. The change which may be made in the sixteenth section which has been passed over may require a change in this.

No objection being made, the section was informally passed over.

Mr. SHEFFIELD. For the same reason, I suggest that the twenty-third section be passed over.

There being no objection, section twenty-three was passed over informally.

Mr. PHELPS, of California. I see that section twenty-four makes provision that the deputy collectors shall make their returns to the Commissioner of the Revenue, and they would seem, from that provision, to be taken from the control of the principal collectors. To meet that difficulty, I will move to strike from the second line the words, "or deputy collectors;" so that the clause will read:

That the several collectors shall, at the expiration of each and every month, after they shall, respectively, commence their collections, transmit to the Commissioner of Internal Revenue a statement of the collections made by them, respectively, within the month, and pay over monthly, or at such time or times as may be required by the Commissioner of Internal Revenue, the moneys by them respectively collected within the said term, and at such places as may be designated and required by the Commissioner of Internal Revenue.

This will require all the returns made to the Commissioner of the Revenue to be made by the collectors. There may be further amendments required in the section, but I presume this was an oversight on the part of the Committee of Ways and Means in preparing the bill, and that there will be no objection to it.

The amendment was agreed to.

Mr. WORCESTER. I move to amend after the word "sold" in the thirty-fourth line of the twenty-sixth section, by inserting the words, "at public auction;" so that it will read:

And for want of goods and chattels, or other personal effects of such collector or his sureties, sufficient to satisfy any warrant of distress, issued pursuant to the preceding section of this act, the lands and real estate of such collector and his sureties, or so much thereof as may be necessary for satisfying the said warrant, after being advertised for at least three weeks in not less then three public places in the collection district, and in one newspaper printed in the county or district, if any there be, prior to the proposed time of sale, may and shall be sold at public auction by the marshal or his deputy.

The amendment was agreed to.

Mr. WORCESTER. I now move to amend the section further by striking out all after line thirty-four to the word "and" in line forty-one, as follows:

Who shall make return of such sale to the assessor of the district, who shall have all the powers of a court of law to adjudge its regularity; and the deed of said marshal or deputy marshal acknowledged before such assessor, and recorded in a book to be kept by him for that purpose, shall be final and conclusive as to the regularity of said sale, and shall vest in the purchaser all the title of the defendant.

And insert, in lieu thereof, as follows:

Who upon such sale shall, as such marshal or deputy marshal, make and deliver to the purchaser of the premises so sold a deed of conveyance thereof, to be executed and acknowledged in like manner as if said premises had been sold on execution issued on a judgment at law; which said deed so made, shall invest the purchaser with all the title and interest of the defendant or defendants named in the said warrant.

I understand this section as it now stands gives to the assessor judicial powers. The return is to be made to him as if he were a court, and he is to judge of the sufficiency of the sale and of the conveyance. Now I do not know whether that is a proper charge to give to the assessor. I can see no objection to making the deed that is to be made by the marshal or deputy marshal conclusive as to the interest that is to be conveyed by the deed to be made by him. He is not required by the amendment as proposed to make returns to anybody. He makes his deeds official to be sure as marshal, but he makes no return to the assessor or to any court, but the amendment would provide that the deeds so made by him should vest in the purchaser such title as the owner of the property had at the time the tax was assessed upon him.

Mr. MORRILL, of Vermont. It will be seen that this is a very summary process of disposing of real estate. It was thought, upon the part of the committee, that some legal or constitutional questions might arise in relation to the construction of such a provision. For instance: there may be a lien of another party upon the land, and in settling such a question in so summary a manner we might inflict great injustice. I think the object of the gentleman from Ohio might be attained by striking out of the twenty-eighth and twenty-ninth lines the words, "to be recorded in a book to be kept by him for that purpose." The deed would then be recorded in the book where all other deeds are recorded. I think the amendment of the gentleman from Ohio should not be adopted, and I hope it will not be. If it should not, I will then move to strike out the words I have indicated.

Mr. SARGENT. I move to amend the amendment by striking out the last word of it. I make this motion for the purpose of saying that I think this section as it stands, conferring judicial authority upon these assessors, will give rise to very grave questions of constitutionality. I doubt whether any transactions of that nature can be made valid. In reply to the suggestion of the gentleman from Vermont, that the lien of another party may be conveyed by such a deed, I will say that if there be such lien the question can be tried by the State courts, and the rights of such parties enforced. I do not think there is anything in that suggestion of the gentleman from Vermont.

Mr. WORCESTER. I wish to ask the gentleman whether any title can be conveyed in any way by such a deed than that vested in the defendant?

Mr. SARGENT. None whatever. The objection stated by the gentleman from Vermont, that the amendment of the gentleman from Ohio may do injustice to parties holding liens upon the property, is answered by the fact that the Government of course levies upon the property of the delinquent for the payment of the tax. The interest, and the interest only, which the defendant has in the property is sold, and the deed is given for the property sold. The evidence of that is the deed which the Government may give. We may sell the property, and after having sold it we may give a deed for that property; and if the rights of other parties are involved, they may be protected by the State courts. There is, therefore, no necessity for organizing these new courts throughout all the counties of a State. Wherever any injury is done by the Government, redress may be obtained in the State courts. This, I think, is the best amendment which has been proposed to the bill. It perfects it, and removes from it a feature that would be equally dangerous to the Govern-

ment and the citizen. I withdraw my amendment to the amendment.

Mr. WORCESTER's amendment was agreed to.

Mr. EDWARDS. I move to strike out, in the twenty-sixth section, the words "he abscond and," and to insert in lieu thereof the word "such;" so that it will read:

And the said marshal shall, himself, or by his deputy, immediately proceed to levy and collect the sum which may remain due, by distress and sale of the goods and chattels, or any personal effects of the delinquent collector; and furthermore, if such goods, chattels, and effects cannot be found sufficient to satisfy the said warrant, the said marshal or his deputy shall and may proceed to levy and collect the sum which remains due, by distress and sale of the goods and chattels, or any personal effects, of the surety or sureties of the delinquent collector.

It is of little importance whether the man absconds or not, if you do not find any goods and chattels upon which you can assess any tax.

The amendment was agreed to.

Mr. HARDING. I move the following amendment to the twenty-seventh section:

In line seven, after the word "court," add the words "State or Federal within the district of such collector or deputy collector;" and after the word "jurisdiction," in line eight, add "of such sum;" so that it will read:

SEC. 27. *And be it further enacted*, That each and every collector, or his deputy, who shall exercise or be guilty of extortion or oppression, under color of this act, or shall demand other or greater sums than shall be authorized by this act, shall be liable to pay a sum not exceeding $2,000, to be recovered by and for the use of the party injured, with costs of suit, in any court, State or Federal, within the district of such collector or deputy collector, having competent jurisdiction of such sum; and each and every collector, or his deputies, shall give receipts for all sums by them collected and retained in pursuance of this act.

My amendment is moved for the purpose of carrying out what was intended, I presume, by the Committee of Ways and Means. It is proper, I think, to give the State courts jurisdiction in many instances where the citizen may be oppressed. If referred to the United States courts alone, it would cost as much to go to that court as the damages would amount to.

Mr. MORRILL, of Vermont. We cannot impose these duties upon the State courts, and I hope that the amendment will not be agreed to.

Mr. MENZIES. I think that the gentleman from Vermont is mistaken. We can authorize the States to do these things, but we cannot compel them to do them. The State courts do now execute a great many laws of the United States; such, for instance, as the naturalization laws. We may authorize them to do it; but we cannot compel or enjoin them to do it.

Mr. MORRILL, of Vermont. It would be impolitic, to say the least of it, to give authority to the State courts to try these questions. In some States we may desire to exclude the possibility of any State having jurisdiction of the subject. It may be necessary to confine this entirely to the Federal courts. I hope that the amendment will not be adopted.

Mr. CRITTENDEN. I move to amend the amendment by striking out the last word; and I do so for the purpose of saying a word in reply to my colleague. He will find that our own court of appeals has decided that the State courts cannot exercise such jurisdiction. It was decided that they were not competent to receive or to exercise any such jurisdiction. Power was attempted to be exercised under the internal revenue bill of 1812, and judgment was rendered, but the court of appeals of Kentucky reversed that judgment, and decided that the State court had no right to exercise that jurisdiction.

Mr. THOMAS, of Massachusetts. It seems to me that the State courts have the right to exercise jurisdiction under the language of this section. I express the opinion that if a man, under the color of law, does an act void of itself, the State courts may have jurisdiction at any time, though it is under the color of the law of the United States.

Mr. MENZIES. I agree with the gentleman from Massachusetts. As the bill now stands, I believe that there is jurisdiction in both Federal and State courts. My colleague's amendment only makes the language of the section more explicit.

I am persuaded if my other colleague [Mr. CRITTENDEN] will again look at the case to which he has referred, he will find that the act of Congress did not confer jurisdiction upon the State courts, and that that is the ground upon which the court of appeals reversed the judgment of the lower court. I hold that a State court may carry out a Federal law, provided the Federal Congress gives it permission to do it. But the State courts cannot be compelled to do it. Nothing is better in point than the instance I have already referred to. Our State courts execute the naturalization law. Even the court of appeals, to which my colleague referred, carries that law out.

The amendment to the amendment was withdrawn.

Mr. HARDING's amendment was disagreed to.

Mr. PORTER. I move to insert after the word "or," in the third line of the twenty-seventh section the word "willful;" and after the word "shall," in the same line, the word "knowingly;" so that it will read:

SEC. 27. *And be it further enacted*, That each and every collector, or his deputy, who shall exercise or be guilty of any extortion or willful oppression, under color of this act, or shall knowingly demand other or greater sums than shall be authorized by this act, shall be liable to pay a sum not exceeding $2,000, to be recovered by and for the use of the party injured, with costs of suit, in any court having competent jurisdiction; and each and every collector, or his deputies, shall give receipts for all sums by them collected and retained in pursuance of this act.

Mr. Chairman, under this section, as it now is, it would seem that the collector might be liable to the severe penalty prescribed for an act of oppression done or an excessive demand made innocently through a misunderstanding of some provision in the act or other misapprehension. The amendments which I have proposed will obviate this objection.

The amendment was agreed to.

Mr. SHEFFIELD. I move to amend the twenty-seventh section by striking out "$2,000," and inserting in lieu thereof "not exceeding double the amount of damages accruing to the party injured."

The amendment was agreed to.

Mr. WICKLIFFE. I move to add to the twenty-seventh section the words, "and shall be dismissed from office, and disqualified from holding such office." I think that it is a proper amendment. The collector ought to be dismissed if he is found defrauding.

The amendment was agreed to; there being, on a division—ayes sixty-three, noes not counted.

Mr. THOMAS, of Massachusetts. Is it in order to move to strike out the word "double?"

The CHAIRMAN. It is not. To strike out what has been inserted is in the nature of a motion to reconsider, and it is not in order to reconsider in the Committee of the Whole on the state of the Union.

Mr. PENDLETON. I think that the provisions of this section would leave the party injured without any damage. The bill provides that the assessor shall pay double the amount of the injury the party sustained; but there is no provision about paying the amount of his damage to the injured party. I move to insert, "the amount of his damage shall be paid to him."

Mr. MORRILL, of Vermont. In another part it is provided that the amount shall be recovered by and for the use of the party injured.

Mr. PENDLETON. I withdraw my amendment.

Mr. RICE, of Maine. I move to amend section twenty-eight, line five, after the word "destroyed," by inserting the words "without design or fraudulent intent of such person or persons;" and in line fourteen, same section, after the word "destruction," the words "without design or fraudulent intent as aforesaid;" so that it will read:

SEC. 28. *And be it further enacted*, That in case any distillery or still or any other building used by any person or persons for any purpose requiring a license under the provisions of this act, and where a license shall have been granted as aforesaid, shall be burnt or otherwise destroyed, without design or fraudulent intent of such person or persons, so that the same shall not be in actual use for a period of six months or longer, during the time for which a license has been granted, the collector for the district wherein the same shall have been situated shall be empowered, and is hereby directed, to repay one half of the duties which may have been paid for the license granted therefor as would have accrued for the time between such burning or destruction thereof, and the expiration of the period for which such license was granted: *Provided*, That previous to such repayment, the said burning or destruction, without design or fraudulent intent as aforesaid, shall be verified by the oath or affirmation of the owner or superintendent of such distillery or still or other building, as aforesaid, before a judge or justice of the peace, &c.

Mr. Chairman, I move that amendment to perfect the section.

Mr. MORRILL, of Vermont. I think that the amendment is entirely unnecessary.

The amendment was disagreed to.

The following section being under consideration:

SEC. 28. *And be it further enacted*, That in case any distillery or still, or any other building used by any person or persons for any purpose requiring a license under the provisions of this act, and where a license shall have been granted as aforesaid, shall be burnt or otherwise destroyed, so that the same shall not be in actual use for a period of six months or longer, during the time for which a license has been granted, the collector for the district wherein the same shall have been situated shall be empowered, and is hereby directed, to repay one half of the duties which may have been paid for the license granted therefor as would have accrued for the time between such burning or destruction thereof and the expiration of the period for which such license was granted: *Provided*, That previous to such repayment the said burning or destruction shall be verified by the oath or affirmation of the owner or superintendent of such distillery or still, or other building, as aforesaid, before a judge or justice of the peace residing within the said district: *And provided*, That the said judge or justice shall indorse on said certificate his belief of the facts therein set forth, and that the burning or destruction did not arise from a fraudulent intent; and in case of such repayment of one half of the duties as aforesaid, the license previously granted for such distillery or other building, as aforesaid, shall be of no further avail—

Mr. MALLORY said: Unless I am satisfied that I am wrong in reference to my opinion of this bill, I shall move to strike out the whole section. I would inquire of the gentleman from Vermont, [Mr. MORRILL,] whether the same provision obtains in relation to other establishments or factories that are taxed, and to which licenses are to be granted according to this bill? If not, I cannot see why this exemption should be enjoyed by distilleries alone.

Mr. MORRILL, of Vermont. This provision applies to all buildings—some thirty different kinds—which are required to have licenses under this bill.

Mr. MALLORY. Then I will not move to strike out the section.

Mr. WORCESTER. I move to strike out the whole section. I see no good reason why the United States should pay back the money they have received from time to time for these licenses. As the gentleman from Vermont [Mr. MORRILL] has very properly said, this section applies to all buildings upon which a license may be granted. It embraces theaters, bowling alleys, groceries, stores of different kinds, as well as distilleries; and, as I understand the section, in case any one of these buildings is burned at any time within six months after granting the license, the collector is required to make an investigation of the matter and to pay back to the owner of the building one half of the amount that may have been paid for the license. This, in the case of a grocery license, which for the term of one year is ten dollars, would, in case the building is burned at the expiration of six months, be $2 50. The same principle is applied to all other licensed buildings. I see no reason why the Government should hold to these men who have licenses the character of insurers. I see no more reason for that than that they should be insurers of the business which is carried on in those buildings. I hope, therefore, the motion to strike out will prevail.

Mr. MORRILL, of Vermont. Under this bill, for instance, bankers pay a license of $100, wholesale liquor dealers pay a license of fifty dollars, hotels pay a very much larger sum. Now, suppose within a day, a week, or a month, the building in which one of these branches of business is carried on is burned, or otherwise destroyed by no fault of the owners, it is proposed by this bill to refund, not the whole amount, but one half. I take it that the committee will not refuse that justice to any person who happens to have his building burned; and that they will be willing to refund at least one half of the sum now paid. I hope the motion will not prevail.

Mr. EDWARDS. I move to amend the section before the motion is put upon striking out. I move to strike out the proviso. The section is somewhat complicated, and I suppose before we determine whether or not to strike it out, we ought to understand it; and I think that perhaps I may not be the only one that does not fully understand it. I understand that this provision does not apply at all unless the building shall have been occupied six months after the license. Is that so? The language is:

"That in case any distillery shall be burned so that the same shall not be in actual use for a period of six months

or longer, during the time for which a license has been granted."

Mr. MORRILL, of Vermont. It is possible that the language of the bill does not express the meaning intended. It was intended, if the building was destroyed in the manner stated in the bill so that it could not be used under the license for six months or longer, that the provisions of the bill should apply.

Mr. EDWARDS. Then I understand that if the building is burned in one, or two, or three months from the commencement of the license, one half of the license money, accruing between that time and the expiration of the license, shall be refunded; and that the provisions of the bill do not apply in case the building has been used for six months or more. If the building has been used only one month, then half of the license money for eleven months is to be refunded, in case the building is burned or otherwise destroyed, as mentioned in the bill. I do not see anything inequitable in that.

ENROLLED BILLS.

The committee informally arose, and

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (S. No. 136) to provide for the appointment of sutlers in the volunteer service and to define their duties, and a joint resolution (S. No. 65) to authorize the Secretary of War to accept moneys appropriated by any State for the payment of its volunteers, and to apply the same as directed by such State.

TAX BILL—AGAIN.

Mr. MALLORY. I am in favor of striking out the whole section. I think the principle embodied in the section, if it exists at all, should be carried out and applied to every description of articles taxed by this bill. For instance, if I have tobacco, which is taxed three cents a pound, and should have it burned by accident, I incur as great a loss as the distiller who has his distillery burned; and for the same reason I should have a remission of taxes. But if you should carry out this principle to all classes of articles taxed, you would make this bill very objectionable; and if you do not, you make an unjust discrimination. I see no reason for paying this particular regard to men who pay a license to carry on a particular kind of business. As it would be impolitic and impossible to apply the principle to every article taxed under this bill, I desire that the provision should be left out altogether.

Mr. EDWARDS. I withdraw my amendment.

Mr. FESSENDEN. I move to amend the section by striking out, "shall be of no further avail," and inserting in lieu thereof the words, "shall be given up to said collector and be by him properly indorsed, and held as a voucher of such payment." It seems to me that the collector should have something to show as a voucher for the payment.

Mr. STEVENS. Allow me to interrupt the gentleman. I think the committee are agreed, upon reflection, that this section shall be negatived altogether.

Mr. FESSENDEN. Then I withdraw the amendment.

Mr. THOMAS, of Massachusetts. This relates to the payment for a license to use a certain building for a year. It is not a tax upon goods. If you will refer to the first section, you will see that it provides for a license for six months as well as for a year. All that this provides is, that if a party fails to enjoy, he shall not be required to pay the amount specified; if he loses the opportunity of carrying on a particular business, he shall have an abatement.

Mr. MALLORY. It is a credit to him.

Mr. THOMAS, of Massachusetts. He has not got what he contracted for.

Mr. MALLORY. He may rebuild.

The motion to strike out was agreed to.

Mr. PORTER. I rise to make an inquiry as to the twenty-ninth section. It would seem that the only action possible under this section against a person who refuses to admit an officer to examine his buildings, is a civil action. That does not provide for punishing an irresponsible party at all; and we may expect that the execution of this law will be hindered and obstructed unless we provide some efficient remedy.

Mr. STEVENS. If the party refuses to admit the officer, the assessor can assess the property at three times its value. I think that is penalty enough.

Mr. PHELPS, of California. I move to amend the thirtieth section, in the third line, by striking out the words "of the," where they occur after the word "any;" so that it will read:

SEC. 30. *And be it further enacted*, That if any person shall forcibly obstruct or hinder a collector or deputy collector in the execution of this act, or of any power and authority hereby vested in him, or shall forcibly rescue, or cause to be rescued, any property, articles, or objects, after the same shall have been seized by him, or shall attempt or endeavor so to do, the person so offending shall, for every such offense, forfeit and pay the sum of $500.

The words are unnecessary.

The amendment was agreed to.

The Clerk read the thirty-second section, as follows:

And be it further enacted, That in case a collector shall die, resign, or be removed, the deputy of such collector longest in service at the time immediately preceding may and shall, until a successor shall be appointed, discharge all the duties of said collector, and for whose conduct, in case of the death of the collector, his estate shall be responsible to the United States.

Mr. BLAIR, of Pennsylvania. I think that section needs amendment. These deputy collectors will probably all be appointed on the same day. I move, therefore, to add at the end of the section these words:

And of two or more deputy collectors appointed on the same day, the one residing nearest to the residence of the collector at the time of his death, resignation, or removal, shall in like manner discharge said duties until the appointment of a successor.

The amendment was agreed to.

Mr. BINGHAM. I propose to amend that section, by inserting in the fifth line after the word "whose" the word "official," and by striking out the word "his" before "estate" in the sixth line, and inserting "the," and by inserting after "estate" the words "of the said deceased collector," so that the section will read:

That in case a collector shall die, resign, or be removed, the deputy of such collector longest in service at the time immediately preceding, may and shall, until a successor shall be appointed, discharge all the duties of said collector, and for whose official conduct, in case of the death of the collector, the estate of the said deceased collector shall be responsible, &c.

I suppose that it was really the intent of the drafter of the bill to make the estate of the deceased collector liable for the official conduct of his own deputy, who is fulfilling his office by reason of his death.

The amendment was agreed to.

Mr. PENDLETON. I move to strike out all after the word "collector" in the fifth line, including what has been inserted on motion of my colleague from the Steubenville district.

It seems to me that it is manifestly unjust to charge the estate of the deceased collector with the default of his successor in office. If it is thought proper by the committee to provide that the oldest assistant collector shall take the place of the collector in case of his death, resignation, or removal, I have no objection to that; but to provide that the estate of the deceased collector shall be liable for the official default of his successor in office after his death, seems to me so manifestly unjust that I do not understand the policy which guided the Committee of Ways and Means in inserting the provision. If any good reason can be given for it, I will withdraw my amendment; but as at present advised, I think these words ought to be stricken out.

Mr. MORRILL, of Vermont. The collector, under this bill, gives bonds to the United States. The deputy collectors give no bonds to the United States, but it is provided that they may give bonds to the collector. The collector is the only person who is held responsible to the Government of the United States, and he is authorized to take and require bonds and other securities of these deputy collectors. He appoints them and is responsible for them, and I see no impropriety in this provision.

Mr. BINGHAM. I move to amend the amendment of my colleague, if it is to prevail at all, by striking out the preceding lines which provide that the deputy shall discharge the duties of his deceased principal. I do it for the reason that if the deputy is to succeed to the office of his deceased principal, he ought to succed to the office upon the very conditions upon which that principal was originally appointed. As was well suggested by the gentleman from Vermont, these deputy collectors are to be appointed by the collector, and the collector is authorized to take bonds for his own indemnity. If he does so, his estate does not suffer under this provision. If he does not do so it is his own fault, and the public ought not to suffer by reason of his default. I hope, therefore, that the amendment of my colleague will not prevail, or if it does that it will be with the amendment I suggest, that the deputy's office shall cease with the death of the principal.

The general rule at the common law—and it is a wise one—is that the agent dies officially with his principal, and that all his official powers cease with him; but my colleague, as he proposes to proceed in this matter, would reverse the rule of the common law and allow the agency to continue after the death of the principal without any responsibility except the personal responsibility of the agent. I ask my colleague to remember that as the law now stands the deputy gives no bonds to the United States, and he would, therefore, succeed to the office of his deceased principal, under the amendment suggested by my colleague, without giving any security at all.

Mr. PENDLETON. I desire to say, in reply to my colleague, that I recognize the propriety of the principle adopted in every other section of this bill so far as it relates to the deputy collectors, that the principal collector shall be responsible for the defaults of the deputies whom he appoints, and who are kept in office by his authority. But if the gentleman will notice, he will perceive that after the death of the collector, these deputy collectors are no longer in office by virtue of his appointment. They then hold their offices under the provisions of the law. If their official terms expired at the moment of the death of the principal, there would be some justice in holding him responsible for their deportment during the period when he can supervise them. But if they hold their offices after his death by virtue of the law, then his estate ought not to be held liable.

Mr. HARRISON. I desire to suggest to my colleague that the collector will know at the time he appoints his deputies, that, in case either of these contingencies happens, his duties will devolve upon one of those deputies, and that the responsibility will devolve upon his estate.

Mr. PENDLETON. What greater propriety is there in a provision like this, that a man's estate shall be liable after his death, than there would be in a provision holding a man responsible for defaults occurring after his removal from office? If the President of the United States removes one of these collectors, and his deputy goes on and discharges the duties of the office, the collector is not liable after his removal. But, according to the provisions of this bill, you make the case of a man who dies infinitely worse than that of one who is removed from office by the President. Now, if the office of the deputy collectors expires at the moment the collector is removed, either by death or by the action of the President, it is perfectly right that, up to that time, he should be held liable, because he can supervise his deputies, and can see whether they are in default. But if you make him liable for their acts after the time has passed when he can supervise their conduct and see that they perform their duty, you do what I think is manifestly unjust.

Mr. BINGHAM. I withdraw my amendment to my colleague's amendment, so that the question may be decided on the merits of his proposition.

Mr. MALLORY. I move to amend the amendment by striking out "for whose conduct, in case of the death of the collector, his estate shall be responsible to the United States," and inserting in lieu thereof the words, "shall be required to give the security required from the principal collector." That will place the deputy collector, who succeeds the principal collector, under the necessity of giving such bonds for the performance of his duty as the principal collector gives. I do not want to hold the estate of the deceased collector responsible for the action of his successor; but I would require this successor to give the same security for the faithful performance of his duty as the original collector had given.

Mr. PENDLETON. I accept the modification suggested by the gentleman from Kentucky, and move it as my amendment.

Mr. HOLMAN. I suggest to the gentleman from Kentucky that the word "principal" is manifestly unnecessary.

Mr. MALLORY. Very well. Let the Clerk strike out the word "principal" before the word "collector" in the amendment.

Mr. HARRISON. The object of this section is manifestly to guard against the inconvenience which would result when a collector may die, or resign, or be removed, at a period of time in which he is discharging his duties, and to require that the duties which he ceases to discharge shall continue without any interruption. Such being the fact, if the provision be stricken out and the amendment offered by the gentleman from Kentucky [Mr. MALLORY] inserted, neither of the deputy collectors could continue in the discharge of the duties of the collector until this bond is given. To whom is that bond to be given? It must be approved by the authorities at Washington. Suppose a collector in the State of California dies. Before his successor can give a bond, and before that bond can be approved by the proper authorities, unless some special provision be made on the subject, it will be impossible to make the collections within the time prescribed by other sections of the bill. Now, I desire to suggest to the gentleman from Kentucky, and to my colleague, [Mr. PENDLETON,] who make the objections to this provision, that the collector can provide against the liability of his estate, by inserting in the bonds which he requires from his deputies a provision that will protect his estate from that contingent liability.

Mr. PENDLETON's amendment, as modified, was not agreed to.

Mr. WHITE, of Indiana. I move to amend, by adding to the section the following words:

And any bond or security taken of such deputy, by said collector pursuant to the fifth section of this act, shall be available to his heirs or representatives to indemnify them from loss or damage, accruing from any act of such deputy so succeeding to the duties of said collector.

Mr. STEVENS. I have no objection to the proposed amendment, but I submit whether there is any necessity for it. Is it not a consequence of law?

The amendment was agreed to.

Mr. EDWARDS. I understood the amendment offered by the gentleman from Ohio [Mr. BINGHAM] to be that the estate of the deceased collector should be held responsible for the acts of his deputy, during the time the latter may temporarily hold the office of collector. Am I right?

Mr. BINGHAM. Yes, sir.

Mr. EDWARDS. Well, it will be seen that that is very imperfect security to the United States. The collector may be possessed of no estate at all, and the bill does not provide that the securities of the collector shall be responsible as on the original bond.

The CHAIRMAN. Does the gentleman from New Hampshire move an amendment?

Mr. EDWARDS. I do. I move to add after the word "estate" the words "and his sureties;" so that it will read:

That in case of the death, resignation, or removal of the collector, a deputy shall be appointed, for whose conduct the estate of the collector and his sureties shall be responsible to the United States.

As the committee has taken this course in the matter, the section should be made perfect. The objection that has been made to it has been met by a suggestion that the collector can secure himself from the effect of the provision by the terms of the original bond which he takes from the deputy collector. That seems to be the position in which the committee has chosen to place the matter. If it is to rest there, there should be full indemnity to the United States; and the adoption of my amendment is necessarily to provide that.

Mr. POMEROY. That cannot be done. A surety is only liable to the extent expressed in the provisions of the bond.

Mr. STEELE, of New York. I move to amend the amendment, by striking out the words "and sureties," and inserting the words "such deputy collector shall immediately enter into a bond similar to the one provided for by the collector."

Mr. BINGHAM. I raise the question of order that that is substantially an amendment which has been already rejected by the committee.

The CHAIRMAN. The Chair sustains the point of order.

The question being on Mr. EDWARDS's amendment—

Mr. BINGHAM. I suggest to the gentleman from New Hampshire that by the consent of the committee he withdraw his amendment for the present. When we come to consider the section as to the formula to be observed by collectors, this matter can be attended to.

Mr. EDWARDS. I agree to that. I withdraw my amendment.

Mr. PENDLETON. I move to amend, by striking out the whole of the thirty-second section, as follows:

SEC. 32. *And be it further enacted*, That in case a collector shall die, resign, or be removed, the deputy of such collector longest in service at the time immediately preceding may and shall, until a successor shall be appointed, discharge all the duties of said collector, and for whose conduct, in case of the death of the collector, his estate shall be responsible to the United States.

The committee has taken the attitude that the estate of the principal collector shall be liable for all the defaults of his successor in office, until a new principal collector is appointed. This would leave it in the power of the Government to saddle on the executors and heirs of the principal collector, for months and years, it may be, the responsibility for the default of his deputy. My colleague [Mr. HARRISON] asked me what would become of this office in the interval between the time of the death of the principal collector and the appointment of his successor. That could not be a great length of time. It might be a week, or it might be ten days. Ten days would be sufficient for the appointment of a successor and for the execution of his bonds; and in that interval no great harm could happen to the Government. But let me ask what becomes of all the deputy collectors, except the man who succeeds to the office, when the principal dies? By the terms of this bill they go out of office. The deputy collector who succeeds the principal has no authority to appoint other deputies, and he alone must be the collecting officer for the whole district. This is an anomaly in legislation. So far as my experience goes —and I think it would puzzle any man to point to an example to the contrary—there never has been, in the history of the country, a proposition by which a predecessor in office and his estate were made liable for the defaults of his successor in office. I therefore move to strike out the whole section.

Mr. STEVENS. The gentleman from Ohio looks on this as a most extraordinary and unheard of provision. I should like to know whether the gentleman has seriously read—I suppose he has—or whether he has forgotten the provisions of the tax law in the last war. If he had read and recollected it he would have found, instead of this being an anomaly and an unheard of thing, that every letter and word and sentence in this section is also in a bill which has been practiced and acted upon, and which was carefully drawn up by the great man who was its author. I do not like to shelter this committee under any great names or authority, but as there are so many evils and blunders discovered in our action, I desire to mention in this one instance that the provision to which the gentleman from Ohio so seriously objects to has been on our statute-books ever since the last war with Great Britain. I beg gentlemen therefore not to give the Committee of Ways and Means credit for being quite so blundering as the remarks of the gentleman from Ohio would seem to imply.

Now, sir, this provision may not be perfect We do not claim that it is; but still I think it was unnecessary to declare that it was an unheard of anomaly in legislation. It may have been, so far as a portion of the members of the House are concerned, an unread of anomaly, but not unheard of. I think if gentlemen would read that law through before they undertake to criticise the action of the Committee of Ways and Means, they would ascertain whether we are right or wrong. At that time the provision was not nearly so necessary as it is now. Then we were bounded by the Rocky mountains in the west. Now we extend to the Pacific ocean, and if the work is to be suspended in Oregon and Washington Territory, in case of the death of a collector until we can hear from there and make a new appointment, I am afraid it will be a long time before the taxes will be collected.

Now, in order to avoid any difficulty that could possibly occur, as suggested by the gentleman from Ohio, let the collector when he is appointed, take care to appoint as his first deputy a man who is fit to be his successor, and for whose conduct he can safely be responsible. He is only responsible to the Government, or so intended to be by this bill as we reported it, and his deputies are responsible to him and nobody else. I hope the amendment will not be adopted.

Mr. SARGENT. I desire to offer an amendment, and I will state the nature of it in the course of my remarks.

The CHAIRMAN. The Chair will state that the rule requires the gentleman first to state his amendment.

Mr. WHITE, of Indiana. Before the gentleman submits his amendment I desire to amend the clause which has already been added to the section, so as to make it read, after the words "accruing from any act," as follows:

Of the proper deputy so continuing or so succeeding to the duty of the collector.

Mr. SARGENT. I will incorporate that into the amendment which I shall propose in the nature of a substitute for the section. I move to strike out all after the enacting clause of the section, and to insert the following:

That in case a collector shall die, resign, or be removed, the deputies of such collector shall continue to act until their successors are appointed, and the deputy of such collector longest in service at the time immediately preceding, may and shall, until a successor shall be appointed, discharge all the duties of said collector, and for the official conduct of such deputies in case of the death of the collector the estate of such deceased collector shall be responsible to the United States; and of two or more deputy collectors appointed on the same day, the one residing nearest the residence of the collector at the time of his death, resignation, or removal, shall in like manner discharge the said duties until the appointment of a successor; and any bond or security taken of such deputy by such collector pursuant to the fifth section of this act, shall be available to his heirs or representatives to indemnify them for loss or damage accruing from any act of the proper deputy so continuing or so succeeding to the duties of such collector.

It has been suggested with much force by the gentleman from Ohio that the deputies will go out of office by the death of the collector who appoints them.

Mr. BINGHAM. Under common law.

Mr. SARGENT. Yes, sir; they are the agents of the collector, and it is a principle of law with which every gentleman of the House is familiar, that when the principal dies the power of the agent dies with him. This section, therefore, as it stands in the bill, while it would continue one of the deputies in office, in case of the death of the collector, and promote him to the office of principal, would have the effect, virtually, of discharging from office all the other collectors. In order to remedy this state of things, I propose, in the amendment I have offered, to authorize the several deputies, in case of the death of the collector, to go on in the discharge of their duties as if he were alive.

Mr. STEVENS. I see that good may result from the amendment if the gentleman will make it read that they "shall continue in office."

Mr. SARGENT. "Continue to act" is the phrase I have employed.

Mr. STEVENS. Until they shall be removed by a new collector?

Mr. SARGENT. Until their successors are appointed. I move this amendment especially in view of the disposition which seems to prevail to make the estate of the collectors responsible for the acts of the deputies.

Mr. MENZIES. I only desire to say that I oppose the original amendment of the gentleman from Ohio.

The CHAIRMAN. Does the gentleman from Kentucky propose an amendment?

Mr. MENZIES. Yes, sir; I move to amend the amendment by striking out its last word. I move the amendment simply to enable me to say that I think it will be as well to allow the section to stand as reported by the committee. There is very little likelihood of any such difficulty as has been suggested happening in consequence of the death of a collector. Very few will ever die who are getting such a compensation as those collectors are to receive. I do not think anybody ever knew a man to die under such circumstances. [Laughter.]

A MEMBER. Or resign.

Mr. MENZIES. Or resign, either. I withdraw my amendment.

Mr. HARRISON. I move to amend the section

which the gentleman from California proposes to strike out by adding at the end of it as follows:

A successor of the collector who may die, resign, or be removed, shall be appointed as soon as practicable.

That is to obviate the objection which has been raised against allowing the section to stand as it is.

Mr. BINGHAM. Before the vote is taken on the amendment of my colleague, I wish to suggest that in the phraseology which he makes use of, his amendment may give rise to very grave difficulties. The question may be raised that the Government did not appoint a successor as soon as practicable, and the Government in consequence may lose a large amount of revenue. I will suggest to my colleague that it would be well to withdraw his amendment.

Mr. HARRISON. I will withdraw it.

Mr. VALLANDIGHAM. I move to amend the section by striking out the second line. I do it for the purpose of asking the chairman of the Committee of Ways and Means in which one of the sections of the act levying a direct tax, passed during the last war with England, the clause to which he has made reference occurs?

Mr. STEVENS. I will take pains to hunt it up and send it to the gentleman.

Mr. VALLANDIGHAM. I have taken pains to hunt up those acts, and I do not think the gentleman will find any such clause as he refers to in any section.

Mr. STEVENS. The gentleman has read the law through very quick to ascertain that fact.

Mr. PENDLETON. I have the law before me, and I shall be very happy to send it to the gentleman if he will point out the section.

Mr. VALLANDIGHAM. It is easy to answer an objection by sarcasm; but when the gentleman states what purports to be a fact, I have the right to know the authority.

Mr. WICKLIFFE. I rise for the purpose of seeing if I cannot make a suggestion which will compromise this difficulty. I have never seen any provision of any revenue law of the United States or of any State that made the estate of a deceased man responsible for the acts of his deputy or of his successor after his death. To remedy that objection to the section, I move to perfect it before the motion is taken on striking it out, by striking out the words "and for whose conduct, in case of the death of the collector, his estate shall be responsible to the United States," and inserting "and the securities of such deputy shall be responsible to the United States for his conduct;" so that it will read:

That in case a collector shall die, resign, or be removed, the deputy of such collector longest in service at the time immediately preceding, may and shall, until a successor shall be appointed, discharge all the duties of said collector, and the securities of such deputy shall be responsible to the United States for his conduct.

I would make the security take charge of the office, and be responsible for the collections made. I do not know whether I have made myself understood by the House.

Mr. MENZIES. I wish to ask my colleague whether the deputies are to have any securities?

Mr. WICKLIFFE. I understood they are required to by law.

Mr. MENZIES. Not unless the collector sees fit to require it of them for his own protection.

Mr. WICKLIFFE. Then of course my amendment will not apply.

The amendment was disagreed to.

The substitute proposed by Mr. SARGENT was adopted.

The question recurred on striking out the section, as amended.

The motion to strike out was not agreed to.

The thirty-third section was read, as follows:

SEC. 33. *And be it further enacted*, That it shall be the duty of the collectors aforesaid, or their deputies, in their respective districts, and they are hereby authorized, to collect all the duties and taxes imposed by this act, however the same may be designated, and to prosecute for the recovery of the same, and for the recovery of any sum or sums which may be forfeited by virtue of this act; and all fines, penalties, and forfeitures which shall be incurred by force of this act, shall and may be sued for and recovered in the name of the United States, or of the collector or deputy collector within whose district any such fine, penalty, or forfeiture shall have been incurred, by bill, plaint, or information; and, where not otherwise and differently provided for, one moiety thereof shall be to the use of the United States, and the other moiety thereof to the use of the person who, if a collector or deputy collector, shall first inform, of the cause, matter, or thing whereby any such fine, penalty, or forfeiture was incurred.

Mr. HOLMAN. I move to strike out the following words:

Or of the collector or deputy collector within whose district any such fine, penalty, or forfeiture shall have been incurred by bill, plaint, or information.

Mr. Chairman, it will be plainly seen what is the purpose of my amendment; it is to have all of these suits brought in the name of the United States, and not in the name of any collector or deputy collector. I know that in the old laws of 1815 and 1816, of which this probably is a transcript, it was allowed to bring suits in the names of the collectors and deputy collectors. But that practice has now gone out of use, I think, in nearly all of the States. There is no State in the West were such is the authority of the law at this time. I think that it would be best to let all these actions be brought in the name of the Government, rather than in the name of the collector or the deputy collector. Then the record is definite. You understand for whose use the recovery is made. It seems to me that, as many of these fines are not less than $500, this *qui tam* feature of the bill ought not to be retained, and I have therefore moved to strike it out. I think there are few States which have not prohibited it.

Mr. CRAVENS moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the tax bill, and had come to no resolution thereon.

POST OFFICE APPROPRIATION BILL.

Mr. STEVENS. I move that the amendments of the Senate to the Post Office appropriation bill be taken from the Speaker's table, and referred to the Committee of Ways and Means.

It was so ordered.

And then, on motion of Mr. MALLORY, (at half past four o'clock, p. m.,) the House adjourned.

IN SENATE.

WEDNESDAY, *March* 19, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

SENATE CONTINGENT EXPENSES.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Senate, communicating, in obedience to law, a detailed statement of the payment from the contingent fund of the Senate during the year ending December 2, 1861; which was ordered to lie on the table, and be printed.

PETITIONS AND MEMORIALS.

Mr. WILMOT presented a petition of citizens of Venango, Crawford, and Warren counties, Pennsylvania, praying for the abolition of slavery throughout the country; which was ordered to lie on the table.

He also presented a petition of merchants and other citizens of Philadelphia, praying for the abolition of slavery in the District of Columbia; which was ordered to lie on the table.

He also presented a memorial of Presbyterian ministers of the city of Philadelphia, remonstrating against lowering the pay and rank of chaplains in the Army; which was referred to the Committee on Military Affairs and the Militia.

Mr. HARLAN presented resolutions of the Legislature of Iowa in favor of the appointment of additional surgeons and nurses for the volunteer regiments from that State, and praying permission to provide suitable temporary hospitals within that State for the restoration of their sick and wounded soldiers; which were referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. WILKINSON presented a petition of citizens of Minnesota, praying for the establishment of a weekly mail route by steamboat from Detroit, Michigan, to Superior, Wisconsin; which was referred to the Committee on the Post Office and Post Roads.

He also presented a petition of citizens of Minnesota, praying for the discontinuance of the mail routes from St. Paul to Bayfield, and from Sunrise to Superior City, and that a mail route be established from St. Paul to Bayfield, via Superior in that State; which was referred to the Committee on the Post Office and Post Roads.

REPORTS FROM COMMITTEES.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the joint resolution (S. No. 67) in relation to the claim of Marshall O. Roberts for the loss of the steamer Star of the West, reported it with an amendment.

Mr. HALE. The Committee on Naval Affairs, to whom was referred a resolution instructing them to inquire into the circumstances of the escape of the steamer Sumter from Port Royal on the 24th of November last, have had the same under consideration, and instructed me to ask that they be discharged from the further consideration of it; and I will state as a reason of that report that the subject has been investigated by order of the Secretary of the Navy before a court of inquiry, and Captain Palmer, the officer, has been honorably acquitted and restored to active duty.

The motion to discharge the committee was agreed to.

Mr. HALE. The same committee, who have had under consideration the resolution of the Senate instructing the Committee on Naval Affairs to inquire what action ought to be taken in regard to John Davis, the sailor who distinguished himself by protecting the powder with his own body, have instructed me to report that they be discharged from the further consideration of the resolution, for the reason that the Secretary of the Navy has already taken notice of Mr. Davis, and has promoted him to be a gunner.

The motion to discharge the committee was agreed to.

OFFICERS ON THE NAVY RETIRED LIST.

Mr. HALE. The Committee on Naval Affairs, to whom were referred the memorial of Dominick Lynch, praying to be restored to the active list of the Navy; the joint resolution (S. No. 6) to place the name of Lieutenant Charles Thomas upon the active service list of the United States Navy; the joint resolution (S. No. 12) to place the name of Commander Amasa Paine upon the active list of the Navy; and the bill (S. No. 88) to restore Lieutenant M. B. Woolsey to the active service list of the Navy, have instructed me to report them back to the Senate, with a resolution that the Naval Committee be discharged from the consideration of these several subjects. I wish to say that there have been very many of these applications; and the committee have considered them all, and have adopted a general resolution applicable to all such cases, which I am instructed to present to the Senate. I wish that it may be read; and if there is no objection to its consideration, I hope it may be passed at once. By the law as it now exists, the Secretary of the Navy has authority to take any officer from the retired list or furlough list and put him on the active list. The committee unanimously came to the conclusion that it had better remain so; and that when a man was put on the active list in that way, if he vindicated the propriety of such restoration, it would be time enough to restore him by law.

There being no objection, the Senate proceeded to consider the following resolution:

Whereas certain officers of the Navy who have been heretofore placed on the retired list of the Navy, or put on furlough by the action of the board to promote the efficiency of the Navy, created by the act of February 28, 1855, have had opportunity, by an act of Congress passed for their relief, to be reinstated: Therefore,

Resolved by the Senate, That it is inexpedient to restore any such officer to the active list of the Navy until he shall, by the discharge of duty in battle or otherwise, have indicated the rightfulness and propriety of such restoration.

Mr. FESSENDEN. If I had heard that read in the first place, I should have objected. I do not see the propriety of passing it. Why not leave that matter altogether to the authorities?

Mr. HALE. They do come here repeatedly; there are a great many memorials here; and we simply wanted to indicate what should be the action of the Senate in such cases.

Mr. FESSENDEN. Does that resolution come from the Committee on Naval Affairs?

Mr. HALE. Certainly it does; it was agreed to there unanimously.

Mr. FESSENDEN. If that is the case, I have nothing to say about it.

The resolution was agreed to.

Mr. FESSENDEN. How does it apply to

those who have no opportunity to distinguish themselves.

Mr. HALE. By law the Secretary of the Navy has the right to place every one of those retired officers, either in peace or war, in the active discharge of duty; and the committee thought that the retired officers should go to the Department, and the Department might assign them active duty; and then if they vindicated the propriety of it, they might be restored. I will further state to the Senate that in one of these very cases that we have reported upon, this course was recommended by the Secretary of the Navy himself.

Mr. FESSENDEN. How does it apply to those who are not on active duty at sea, but are appointed to the command of navy-yards?

Mr. HALE. This says in "battle or otherwise." It leaves the widest scope for the discharge of their duties.

Mr. SHERMAN. I will state to my friend from Maine that the Committee on Naval Affairs are, I will not say annoyed, but much of their time is occupied by numerous applications from retired officers who wish to be at once reinstated in their old rank in the Navy. It is impossible to examine the individual cases, and it was thought better to apply a general rule to be perfectly fair and just to every one. The Secretary of the Navy has the power to employ them, and has employed many of them. By this resolution we declare that whenever they distinguish themselves in battle or otherwise on duty, then we will consider the propriety of restoring them to the permanent active list of the Navy. They are now restored, and have been on duty, many of them, and are distinguishing themselves; and in cases of that kind we propose to restore them permanently to the active list.

The motion to discharge the committee was agreed to.

PAPERS WITHDRAWN.

On motion of Mr. HALE, it was

Ordered, That leave be granted to withdraw the memorial and papers of M. B. Woolsey.

BILLS INTRODUCED.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 239) to provide for the public defense, and to accept a loan of money therefor from the several States; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 240) to provide for the public instruction of youth in primary schools throughout the county of Washington, in the District of Columbia, without the limits of the cities of Washington and Georgetown, and for other purposes; which was read twice by its title, and referred to the Committee on the District of Columbia.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the Speaker of the House had signed the following enrolled bill and joint resolution; which thereupon received the signature of the Vice President:

A bill (S. No. 136) to provide for the appointment of sutlers in the volunteer service, and to define their duties; and

A joint resolution (S. No. 65) to authorize the Secretary of War to accept moneys appropriated by any State for the payment of its volunteers, and apply the same as directed by such State.

REMISSION OF DUTIES ON ARMS.

Mr. KING asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 69) to authorize the importation of certain arms by States free of duty; which was read twice by its title.

Mr. KING. I ask to have the resolution read through and put upon its passage. It is merely a resolution to authorize the importation, free of duty, of arms ordered by the States, prior to the 1st of January, for their volunteers and militia.

The VICE PRESIDENT. The resolution will be read for information.

The Secretary read it, as follows:

Resolved, &c., That arms ordered prior to the 1st day of January, 1862, by the authority of any State which has furnished militia or volunteers for the suppression of the present rebellion, for arming the militia or volunteers of such State, may be imported into the United States and entered free of duty.

Mr. FESSENDEN. I think that resolution ought not to be passed without consideration. The subject has been before the Committee on Finance at this session, and a bill has been reported. I do not know whether it has been passed or not. It is in the hands of the Senator from Maryland, [Mr. PEARCE,] a member of the Committee on Finance.

The VICE PRESIDENT. If objected to, the joint resolution cannot be considered at this time.

Mr. FESSENDEN. Let it be referred to the Committee on Finance.

Mr. KING. I will give a reason for this resolution, which I think will satisfy the Senator. I have a letter from the commissary general of the State of New York, from which I will read:

"Immediately after the bombardment of Fort Sumter, the authorities of the State of New York dispatched an agent to Europe to purchase the most approved arms. He succeeded in purchasing nineteen thousand Enfield rifles, all of which were admitted duty free, and have since been issued to the troops of the State now in the service of the General Government. Subsequently, the State authorities authorized the same agent to purchase ten thousand additional rifles of the same pattern or model for the use of the State militia, and consequently for the general defense. Of these, six thousand arrived before the 1st of January, and were admitted free of duty. The remaining four thousand are either in bond or have not yet arrived."

So that there are four thousand of that order that have not yet been entered; two thousand of them, the commissary general informs me, are in bond at Portland. They want to use them as early as they can obtain them, and as these have arrived they desire to have them entered. I would as lief this resolution should be confined to those four thousand as not; but I have made it general, because heretofore it has been objected to passing these resolutions for special purposes, and it has been insisted that they should be general.

Mr. FESSENDEN. The bill which is in the hands of the Senator from Maryland provides for the admission, duty free, of all arms which were ordered prior to January 1; and that would cover this case. Therefore this resolution had better lie on the table or go to the Committee on Finance.

Mr. KING. If the Senator objects to it, it must go over; but I am anxious to have it acted on as early as practicable, and to have a provision enacted—no matter in what form it is made—that will allow these arms to come in. A single objection carries it over.

The VICE PRESIDENT. Is there any motion to refer it?

Mr. KING. No, sir; I do not think it is necessary to refer it.

SAILORS OF THE CUMBERLAND.

Mr. CLARK. I move to reconsider the vote by which the Senate yesterday passed the bill (S. No. 238) to furnish clothing and supplies to the sailors and men on board the sloop-of-war Cumberland.

The motion was agreed to.

Mr. CLARK. Is it necessary to reconsider the vote by which it was ordered to be engrossed and read a third time?

The VICE PRESIDENT. Yes, sir.

Mr. CLARK. I make that motion.

The motion was agreed to.

Mr. CLARK. I now move to amend the bill by striking out "$100," and inserting "sixty dollars each."

The amendment was agreed to.

Mr. SHERMAN. I should like to have the bill read as it now stands.

The Secretary read it, as follows:

Be it enacted, &c., That the Secretary of the Navy be authorized to furnish to the sailors and men on board the sloop-of-war Cumberland, who lost their clothing and other property in the late action with the Merrimac at Fortress Monroe, supplies and clothing to an amount not exceeding sixty dollars each.

Mr. SHERMAN. I do not see the chairman of the Committee on Naval Affairs in his seat; but a subject kindred to that was before that committee this morning, and it was agreed in the committee that a motion should be made to refer this bill to the Committee on Naval Affairs, with a view to embrace several classes of cases. In his absence, I move that the bill be referred to the Committee on Naval Affairs.

Mr. CLARK. Would it not be better to let it lie on the table until the chairman of the Naval Committee comes in?

Mr. SHERMAN. I have no objection to that. The bill was laid on the table.

WESTERN MILITARY DEPARTMENT.

Mr. HENDERSON. I desire again to ask the favor of the Senate to take up House bill No. 148, to pay certain soldiers in Missouri who were not regularly mustered into the service. I move to take it up.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 148) to secure to the officers and men actually employed in the western department, or department of Missouri, their pay, bounty, and pension; the question pending being on the amendment of Mr. CARLILE, in line ten of section one, after the word "Missouri," to insert "and also of the department of western Virginia."

Mr. HENDERSON. I dislike very much to make any objection to anything that is desired by my friend from Virginia; but I will state that this bill was introduced in the early part of the session into the House of Representatives and was critically examined there before the Committee on Military Affairs, was reported upon, and passed by that body; and it has been in this House now about three months. It has been carefully examined, it has been sent to the War Department and been reported by the Committee on Military Affairs of the Senate. I fear that the result of the adoption of the amendment will be to have this bill again go through the long process of examination which it has already been subjected to, and to deprive the men in Missouri who ought long since to have been paid for their actual services in the field, of that payment which is their due. I have no objection to voting as an original proposition for any similar bill that the Senator from Virginia may propose and which may undergo an examination before the Military Committee of this body as this has done; but he will see at a glance that the result of agreeing to his amendment will be to have this bill again go through all the forms that it has already gone through, and perhaps another three months be expended before we can actually pay these men. They rendered service; I believe some of them are in the field yet; and they would have been paid but for the fact that their mustering in rolls were irregular, and perhaps in some cases there were no mustering in rolls at all. They were called into service under the administration of affairs in Missouri by General Lyon. There are only twenty-five hundred of them, perhaps twenty-three or twenty-four hundred of them; and they have never yet been paid a single dollar because they cannot be paid while their mustering in rolls are defective or where they do not exist at all. The Senator will at once see that these men ought to be immediately paid. The bill has long been pending, and I hope it will pass without attaching to it any amendment whatever, the result of which will be to delay the payment of these men.

Mr. CARLILE. I think there is no ground for the apprehension of the Senator from Missouri. This amendment certainly cannot prejudice this bill; cannot delay it. The committee that reported this bill has reported an amendment which will have to go back to the House of Representatives for its concurrence.

Mr. HENDERSON. It is not an important amendment.

Mr. CARLILE. No matter what it is, it will require again the consideration of the House of Representatives; and therefore the adoption of this amendment cannot at all prejudice this bill either in this body or in that House. Now, I put it to the Senator how he can expect me to sit by, representing, as I do, a constituency who come within the principle of the bill, and who have, so far as suffering is concerned, stronger claims upon the Government, or certainly as strong, as any of those that are provided for in this bill who may reside in the department from which the Senator from Missouri comes, and allow this bill to pass without making an effort to provide for those to whom this amendment relates? Among those whom it is proposed to provide for by this amendment are one hundred and fifty or two hundred citizens of my own State and citizens of the State of Ohio and citizens probably of the State of Pennsylvania, who were captured at Guyandotte, and have been confined ever since last fall in prison in Richmond and elsewhere throughout the southern States, a portion of whom were released upon

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. FRIDAY, MARCH 21, 1862. NEW SERIES.....No. 81.

their parole and returned here the other day, and had not the means to get from this city to their respective homes, but were furnished by the Representative from that district in the other House with the means to get home, as I have been informed. Therefore there can be no prejudice whatever to the bill by adopting this amendment; it will not operate to delay it at all. The amendment is within the rule and within the principle settled by the bill; and the only reason I imagine why they were not provided for by the bill as it came to us from the House of Representatives was because the attention of the committee in that House and of the House itself was not drawn to this subject. I trust, therefore, that it will be the pleasure of the Senate to adopt the amendment.

Mr. FESSENDEN. I feel disposed to vote for the bill with certain amendments which are to be proposed in order to guard the bill as it ought to be guarded; but if the amendment proposed by the Senator from Virginia is put on, I shall certainly vote against it, not that I know or believe or understand that the case is otherwise than meritorious, but the difficulty is, which we have all experienced, that we are apt to fall into very great mistakes, and involve serious consequences, when, on the motion of a single Senator, without any examination by a committee, amendments of this kind, covering a class of persons, are put into any bill. Now, how does this bill stand? The bill itself has been examined by committees of both Houses, and approved by them. They have examined the whole subject; and I have taken pains since to reëxamine it, and to examine it upon papers shown me about which there can be no mistake. We know the number of men provided for; we know the nature of their services; we know the circumstances; and we know all this in the proper way, and that is by the examination of the proper committee. Under these circumstances, I am willing that the bill should pass; but if the Senator from Virginia, on his own motion and on his own statement, and the Senator from another State, on his motion and his statement, with reference to other cases, procure the addition of other provisions to this bill without an examination, I certainly must vote against the whole. It is an improper and a very dangerous mode of legislation. The fact is it is not right. It is not treating bills right, when they have been brought in here by gentlemen, and have been submitted by them to committees, and gone through the proper examination and are properly guarded, for the Senate or the House to put on amendments which are objectionable from having no examination, and which only tend, therefore, to embarrass and defeat a bill which has gone through the proper and requisite forms. I think, therefore, it being unsafe and dangerous, the Senate ought not to consent to it, for every one of these bills covering classes of people ought certainly to be examined by the proper committees before they are passed upon by either House.

Mr. KING. I will say in relation to this bill, that it was for a long time before the Military Committee of the Senate, having come from the House of Representatives. It was sent by the committee to the War Department for more specific information as to the facts and condition of the troops in Missouri, and the amount that was due; but the committee did not obtain the information; and after the bill had been for a long time before us, we reported it back. We were unable to obtain from the War Department the information which would enable the Senate to judge correctly on the subject.

The amendment was rejected.

Mr. HENDERSON. I move to amend the bill by adding at the end of the second section the following proviso:

Provided, That the length and character of their enlistment and service be such as to entitle them under existing laws to such pension.

So that the section will then read:

And be it further enacted, That the officers, non-commissioned officers, musicians, and privates so employed who may have been wounded or incapacitated for service, shall be entitled to and receive the pension allowed for such disability: *Provided*, That the length and character of their enlistment and service be such as to entitle them under existing laws to such pension.

The amendment was agreed to.

Mr. HENDERSON. I move to strike out the third section of the bill in the following words:

SEC. 3. *And be it further enacted*, That the heirs of those killed in battle, or of those who may have died from wounds received while so employed, shall be allowed the bounty and pay under existing laws: *Provided*, That the bounty herein allowed to officers, non-commissioned officers, musicians, and privates, their widows or heirs, shall not be payable unless their term of enlistment be of such duration as by existing laws would entitle them to bounty.

And in lieu of it to insert:

SEC. 3. *And be it further enacted*, That the heirs of those killed in battle, or of those who may have died from wounds received while so in service, shall be entitled to receive the bounty and pay which they would have been entitled had they been regularly mustered into service: *Provided*, That the bounty and pay herein referred to shall not be payable unless their term of service be of such duration as to entitle them to receive the same, according to existing laws.

Mr. FESSENDEN. I move to amend the amendment by inserting in the proviso, before the word "service," the words "enlistment and."

Mr. HENDERSON. I accept the modification.

Mr. FESSENDEN. I move also to strike out the word "herein," and after the words "referred to," to insert "in this act." The object is to make the proviso apply to the first section as well as to the third.

Mr. HENDERSON. I accept that.

The amendment, as modified, was agreed to.

The bill was reported to the Senate as amended; and the amendments were concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time and passed.

ARMY CORPS AND DIVISIONS.

On motion of Mr. WILSON, of Massachusetts, the bill (S. No. 235) providing for the organization of army corps and of staffs attached to the corps and divisions to the Army of the United States was considered as in Committee of the Whole. It authorizes the President to establish and organize army corps according to his discretion. It provides that each army corps is to have the following officers attached to it, to constitute the staff of its commander: one assistant adjutant general, one quartermaster, one commissary of subsistence, and one assistant inspector general, with the rank, respectively, of lieutenant colonel, and to be assigned from the Army or volunteer force, by the President; also three aids-de-camp, one to bear the rank of major, and two to bear the rank of captain, to be appointed by the President upon the recommendation of the commander of the army corps.

The bill also provides that each division of the forces of the United States, consisting of two or more brigades, shall have the following officers attached thereto, to constitute the staff of its permanent commander: one assistant adjutant general and one assistant inspector general, with the rank, respectively, of major, and to be assigned from the Army or volunteer forces; also three aids-de-camp, to bear the rank of captain, to be appointed by the President upon the recommendation of the commander of the division, and the appointment to cease upon the expiration of his division command. The division commander may detail an officer of his command, of the rank of captain, to act as judge advocate of the division, or a lieutenant of the command, upon the recommendation of the commander, may be assigned by the President to act as such division judge advocate, with the rank of captain while so assigned. These officers are to receive the same pay and allowances as are provided by law for officers of cavalry of corresponding rank. Officers of the regular Army assigned and detached to staff duty are upon the cessation of such service to resume their position in the regular Army, with the same rank and promotion as if they had continued to serve in their own regiments or corps. The senior officer of artillery in each division is, in addition to his other duties, to act as chief of artillery and ordnance at the headquarters of the division.

The first amendment of the Committee on Military Affairs was in section two, page 2, line ten, after the word "President," to insert "by and with the advice and consent of the Senate;" so as to make the aids-de-camp of commanders of corps subject to confirmation by the Senate.

The amendment was agreed to.

The next amendment was in section three, line ten, after the word "President," to insert "by and with the advice and consent of the Senate;" so as to subject the aids-de-camp of division commanders to confirmation by the Senate.

The amendment was agreed to.

The next amendment was in lines twelve and thirteen, of section three, to strike out the words "and the appointment to cease upon the expiration of his division command," as applicable to aids-de-camp of division commanders.

The amendment was agreed to.

The next amendment was in lines nineteen, twenty, and twenty-one, of section three, to strike out the words, which relate to judges advocate:

Said officers shall receive the same pay and allowances as are provided by law for officers of cavalry of corresponding rank.

The amendment was agreed to.

Mr. WILSON, of Massachusetts. I move to strike out in the third section, in the twenty-sixth, twenty-seventh, and twenty-eighth lines, the words:

The senior officer of artillery in each division shall, in addition to his other duties, act as chief of artillery and ordnance at the headquarters of the division.

I move to strike out this clause for the purpose of inserting the same provision, in substance, in the section relative to army corps, so that instead of having such an officer in each division, there shall be one for each corps. Then we shall have only one third as many. Each corps will have about fifty-four pieces of field artillery, and an officer should have command of that artillery. Therefore I propose to strike it out of the division and insert it in the corps.

The amendment was agreed to.

Mr. WILSON, of Massachusetts. Now I propose to add to the second section these words:

There shall be to each army corps a commander of artillery of said corps, with the rank of lieutenant colonel of light artillery.

Mr. FESSENDEN. I inquire whether it would not be better to provide that "the senior officer of artillery in each corps shall, in addition to his other duties, act as chief of artillery and ordnance at the headquarters of the corps," without creating a new officer for this purpose.

Mr. WILSON, of Massachusetts. The commander of artillery in a large corps, with fifty-four pieces of artillery, (which will be attached to each one of these corps, and perhaps there may be eighteen pieces more,) ought to be an officer of decided and unquestioned capacity; and the senior officer of artillery in the corps might not be an experienced man. I think in the French army, and nearly all the continental armies, this officer is a major general. They wanted a colonel here, and insisted upon making him a colonel. I have received a great number of letters from the Army officers, and I have had two this morning from the commanders of corps, desiring, as this officer is a very important officer, that he shall have the rank of colonel. I thought we could not get it through with a colonel, but that a lieutenant colonel would do.

The amendment was agreed to.

Mr. FESSENDEN. I ask the Senator from Massachusetts, the chairman of the Military Committee, whether it would not be as well to strike out in the second section the words "upon the recommendation of the commander of the army corps," and in the third section the words "upon the recommendation of the commander of a division." In practice, as a matter of courtesy, the commanders are ordinarily consulted as to these staff appointments; but I think that provision ought not to be made matter of positive law, so that it cannot be controlled by the President, if

he chooses to control it. I move, therefore, to amend the bill by striking out those words in the second and third sections.

The amendment was agreed to.

Mr. HALE. I should like to inquire—and I wish the attention of the chairman of the Committee on Military Affairs to the inquiry—whether it would not be practicable to amend this bill by saying that these army corps officers shall be detailed from the staffs of the generals. It has been said that the staff of our generals is very large, much larger than is necessary; and if they can detail officers from the staff to these places in the army corps, it seems to me it would be an improvement and a piece of economy which it would be worth while to consider; but I am not so well versed in these military matters as the Senator from Massachusetts.

The VICE PRESIDENT. The morning hour having expired, it becomes the duty of the Chair to call up the special order.

Mr. WILSON, of Massachusetts. I think we can get through with this bill in a few minutes. I move to postpone the special order for a short time for that purpose. The bill is of vital importance. The army corps are being organized, and yet there is no authority to select a solitary man for duty on their staffs. These positions require some of the first men of the Army.

Mr. MORRILL. I am unwilling that the special order shall lose its place.

The VICE PRESIDENT. The special order will come up immediately after this bill shall have been acted upon.

Mr. MORRILL. Then I shall not object.

The VICE PRESIDENT. The Chair will regard it as the sense of the Senate that the special order shall be postponed for the present.

Mr. WILSON, of Massachusetts. The Senator from New Hampshire has put a question to me, and I will answer him very frankly that there are no gentlemen on the staffs of general officers who can be spared for any purpose of this kind; and I am sure if that Senator will examine the matter carefully, he will so decide. The organization proposed in this bill is not what the men who are organizing the Army desire; it is the smallest possible staff corps that they can get along with. Would you organize an army corps of thirty or forty thousand men and not have a staff officer? The adjutant general of that corps must work twelve or fifteen hours a day. There ought to be a quartermaster of the corps, that should have control of all movements in that department; there ought to be a commissary of the corps; there ought to be an inspector general; and there ought to be a chief of artillery certainly. We give them only three aids, just what a major general now has. It is a very small staff, indeed. The staff of the seventh French corps has on it forty-two persons, three of whom are general officers, two brigadiers, and one a general of division.

Mr. GRIMES. I ask the Senator on what authority he says that?

Mr. WILSON, of Massachusetts. I give it on the authority of a book which states that Marshal Pellissier's corps had that number of staff officers.

Mr. GRIMES. I denied it on the authority of the French Army Register, which I had here the other day, and quoted from in reply to the Senator's colleague.

Mr. WILSON, of Massachusetts. The Senator from Iowa must certainly be mistaken. I have read it, I have had it copied, that the seventh French corps under Marshal Pellissier, had forty-two members of the staff, one of them a general of division, and two brigadier generals. In the French army the commander-in-chief of an army has as many personal aids as he likes, some permanently attached to him as aids-de-camp, others transiently, and with a lower rank, as orderly officers. The chief of staff, or major general, (a general officer,) the assistant chief of staff, and sometimes the under assistant chief of staff, (a general or superior officer,) have under their orders staff officers, divided into four bureaus, which have charge of the whole management of the army. Each bureau is composed of an officer directing it, and some of a lower rank under him—number determined by the amount of business. The commander of headquarters is a general or superior officer; the chief of artillery, a general officer; the chief of staff of artillery, a general or superior officer; the chief of the park of artillery, a general or superior officer, and under them a number of artillery officers, determined by the amount of business; the chief of engineers, a general officer; the chief of staff of engineers, a general or superior officer; the chief of the park of engineers, a general or superior officer, and under them a number of engineer officers, determined by the amount of business; the intendant general has the rank of a general; the provost marshal is a colonel of gendarmerie; the vaguemestre general, a lieutenant colonel. Independently of the officers employed in their offices, each of such staff officers, if he is a general, has his own aids-de-camp, whose number is not limited and determined except on the formation of the army. The organization of the *corps d'armée*, divisions, and brigades, is similar, the offices being filled only by officers of a lower rank.

You will find in the little army of fifteen thousand men sent by England to China—an army but little larger than one of our divisions—some twenty or thirty staff officers, some of them of high rank. Garibaldi's army of twenty-five or thirty thousand men had a staff of sixty-six officers, some of them officers of high rank. We have not got in the staffs of the generals of our armies one fifth the number of officers that they have in the best organized European armies. I hope there will be no opposition to this bill. You have organized *corps d'armée*, and there is no legal authority to assign a single man to duty or to fix the rank in the staff corps. The adjutant general, the inspector general, and the chief of artillery of an army corps ought to be fit to command troops; they ought to be men of decided and unquestioned ability.

The last section of this bill we passed by itself some time ago, and sent to the House of Representatives. They amended it by adding a quartermaster and commissary for each division, and the bill is now on the table of the Senate. I have no doubt we can do very well without those officers; the Adjutant General so states, and since the Army has been divided into corps, you can get along easier without them. But when you have a large corps, the commander ought to have men of responsibility with him as the head of the commissary and quartermaster's departments; and certainly an adjutant general, a chief of artillery, and an inspector general are absolutely necessary. We might as well undertake to get along in the Senate without clerks, and put the boys that wait upon us here into the clerk's desk, as to undertake to have the staff of these army corps made up of orderly sergeants, or officers of low rank.

Mr. SHERMAN. I should like to get a little information if I can, before I vote for this bill. I will inquire of the chairman of the Committee on Military Affairs what number of aids a major general has now by the present law?

Mr. WILSON, of Massachusetts. Three.

Mr. SHERMAN. A major general has the same number of these officers, if I understand him correctly, that is proposed to be given by this bill to a general commanding an army corps. The only purpose of this bill then is, not to increase the number but to increase the salaries of the staff officers. I do not know whether I can convince the chairman of the Military Committee of that; but that is the truth about it.

Mr. WILSON, of Massachusetts. It increases the rank of one of them.

Mr. SHERMAN. The rank is a matter of small moment. It is to increase the salary. It is to give to the staff of a head of an army corps the pay of a lieutenant colonel instead of the pay of a captain or major. It is to give to the staff officer of a brigadier general, who, for the time being serves as general of division, a higher rate of pay than he has for his rank. In other words, it is to increase the pay of the staff of the Army, and that is all there is of it. It does not increase the number, but it increases the rank and pay. Unless I am satisfied there is good ground for it, I shall not vote for it.

In the western country, brigadier generals have served as heads of divisions. A brigadier general is entitled to two aids. This bill would give to every person who served as major general three aids, thus increasing the number of staff officers. I believe there are some thirty or forty divisions, if I am not mistaken, now in the Army of the United States. Most of them are commanded by brigadier generals. This bill would increase the number of staff officers from twenty to thirty, perhaps more. The commissaries and quartermasters would increase it over a hundred; and it increases the salary of every one. The compensation now given to the aid of a brigadier general is the pay of a captain of cavalry. That is now proposed to be increased to the pay of a major of cavalry. There is a very large difference between the two. The pay of the staff officers of the head of an army corps is increased to the pay of a lieutenant colonel—again a considerable advance. I see no reason for this. These staff offices are always sought for, always desired, by officers of equal rank. There is scarcely an officer of the Army but what would exchange a position in the line for a staff appointment, even at the same pay. It gives them opportunities of distinction, opportunities of communication with higher officers. They all desire it. If this bill were entitled "a bill to increase the pay and number of staff officers," it would be correctly named. That is its purpose. Unless I can have some good reason for it, I shall not vote for it.

Mr. WILSON, of Massachusetts. The Senator from Ohio mixes up the officers upon the staff of these generals. By existing law, the aids of a major general are captains. By this proposition, two aids are to be captains, what the law now makes them, and one of them, intended to be chief and director, is made a major. That is all there is in that. The adjutant general of a major general, who is a commander of a division, is by existing law a major; and that is precisely what you make him by this bill. In a corps which consists of three or more divisions of the Army, you make him a lieutenant colonel. Officers are assigned for this duty, and it may be that every one of these officers will be assigned from the same rank in the regular Army or volunteers. It may be that the commander of a corps may take a lieutenant colonel of the regular Army of the United States for his adjutant general or his inspector. If he does that, not a farthing of additional expense will be incurred. If these persons to act as aids happen to be selected from the same rank in the volunteers or in the Army, then there is no increase of expense; but if a lieutenant is appointed an aid, and thus made a captain, then his compensation is increased from that of a lieutenant to that of a captain. The probable increase of compensation owing to the selection of these officers from the Army and from the volunteer forces will be very slight indeed; and certainly if we are going to give them any, they cannot get along with less than is proposed by this bill.

Mr. SHERMAN. If there is no increase in compensation, and no increase in number, what is the object of the bill?

Mr. WILSON, of Massachusetts. There is a slight increase in some of them. Does not the Senator believe there is a difference between having an acting adjutant general with the rank of major, and having an orderly sergeant or a lieutenant to do the duty?

Mr. SHERMAN. The present law authorizes captains to be detailed to act as aids. They are the proper persons to act as aids. Every captain in the Army would like very well to be the aid of a general; and I see no reason, when that wish is gratified, why he should be paid an additional price for that gratification.

Mr. WILSON, of Massachusetts. An aid is one thing; an adjutant general, an inspector, and a chief of artillery are entirely different. You may take an active, vigorous young man without a great deal of knowledge and make an aid of him. Some of the generals find it necessary to have not only the aids that the law directs, but they have to detail others in the service to act in that capacity. Some of them have volunteer aids, persons who serve for nothing. But the adjutant general is to a brigadier or major general, the commander of a brigade, division, or corps, what the Secretary of the Senate is to this body. He is the man that has to make the record; he is employed night and day; and it is important that he should be a man of capacity, and that he should have a rank and position corresponding with the importance of his duties. In reality, he ought to be a brigadier general; and in nearly all the armies of the world he is a colonel, and in some of them a general. In nearly all the corps of Europe there is a chief of staff, and that chief of staff is a general, and in most cases a general of division.

You authorize by this bill the organization of these corps; you appoint these officers to those corps; and in my opinion they do not add a great deal to the expenses of the Army. I believe that if proper men, men of experience, are selected as heads of these commissary and quartermaster departments in these corps, having the general direction and superintendence of them, they will save their compensation over and over again in those departments. If improper men are selected, of course they will not save anything. But the presumption is that the commander of thirty-five or forty thousand men would desire to have an adjutant general, an inspector general, a chief of artillery, a quartermaster, and a commissary, and for those five positions he would desire to have men he could lean upon, men of character, men of fitness for their places. The rank given them by this bill is certainly a very subordinate one for those positions in a large body of men.

Mr. GRIMES. Mr. President, I am sick and weary of attempting to resist these constant efforts to aggrandize the Army both in pay and in rank, and hereafter I intend to content myself with calling for the yeas and nays upon the passage of these bills. I wish to be permitted, if the Senate please, to record my name against the passage of this bill.

One of the arguments urged by the Senator from Massachusetts in favor of this bill strikes me as very singular, and that is, that the Army officers want it. I pray to God that the day is not very remote when this army will be removed out of our midst, and when influences to be exerted upon the chairman of the Committee on Military Affairs and upon the members of this body will not control the legislation of the country. Why, sir, this thing of army corps is no new thing. We have been having them in other sections of the country. A gallant and distinguished citizen of my State is in the command of a *corps d'armée* in the State of Arkansas to-day. He has won a great victory; he will win more. I think my relations to that gentleman are such that if he had desired such a staff as this, I would have known it. No appeal has come up from the chiefs of the *corps des armées* who are actually in the field, who are fighting battles, who are rendering service to the country; but they come solely from the aristocratic branch of the Army, that conquers its enemies by out-camping them, by staying longer in its position than its adversaries. They are the ones who want these magnificent, these brilliant staffs, and it is them that the chairman of the Committee on Military Affairs seems to represent on the floor of the Senate.

Mr. President, in my view, and I have tried to look into the thing dispassionately, there is not the slightest necessity for these officers. I know how desirable it is to these military gentlemen to have large and brilliant staffs. Their appearance upon parade seems much more imposing than with a small staff; but I do not believe it is our interest at this time, for the sake of gratifying them, that we should give them the privilege of selecting at their will half a dozen more, or that we should increase the pay, as this bill does, which the same officers are now enjoying.

But, sir, as I said before, I am not going to oppose this bill. I could go on and state various reasons why I think it ought not to be passed; but I shall content myself with recording my vote against it. I therefore ask for the yeas and nays on its passage.

The yeas and nays were ordered.

Mr. WILSON, of Massachusetts. I am glad that the Senator from Iowa has come to the conclusion to ask for the yeas and nays on the passage of this bill. I think, with all kindness and respect for that Senator, that his opposition to this bill is based on no reason whatever. The wisest nations of the world have organized their armies in a way to make them efficient. They organize their companies, and they have proper officers for those companies. They organize their battalions or regiments, and they have proper officers for those battalions or regiments. They organize their brigades with proper officers, their divisions with proper officers, and their corps with their proper officers. Those organizations have been made, not to give rank to men, not to create expenses, but to make those several corps most efficient for actual service. Sir, we have our company organizations, our regimental organizations, our brigade organizations. We have organized our brigades into divisions. We provide now by law that the adjutant general of a major general shall be a major. That is the law of the land to-day.

All or nearly all of our divisions are commanded by brigadiers. What do we give in one of these divisions by this bill? We give an inspector general, not to the general, but to the division of thirteen thousand men, with the rank of major, and allow him to be selected from the Army, and the selection may come from the rank of majors. We give him an inspector general with the rank of major, and he may be selected from the majors. We give to the commander of thirteen thousand men three aids with the rank of captains. To each of these divisions of thirteen thousand men, an army larger than General Washington or General Scott ever led on the field, we give five staff officers, and that is all. They need a dozen, and they will have to make them out of orderlies or detail them from line officers. All you allow by this bill is five officers.

Now, you have organized the armies into corps; and I see by the order published this morning that each corps consists of three divisions, and those three divisions will amount to about forty thousand men. By law the commander of those corps has no staff officers at all. He has no adjutant general, no inspector general, no head officer of the artillery, no head officer of the commissary department, or the quartermaster's department. We propose to give him a staff of eight officers, two of them to be captains, one of them a major, and five lieutenant colonels. These latter officers are to be selected from the regular Army or the volunteer forces, and they may all be selected from men of as high rank as that given to them by this bill, and then it will not increase the expenses of the country. It can cost but very little in any event. Sir, it is idle to suppose that a commander of forty thousand men is going into the field of action, or is in the field of action, without an adjutant general, without an inspector general, or without a chief of fifty-four pieces of artillery, without officers whom he can call around him, and upon whom he can rely. He should have a quartermaster, to whom he could say, "I want so much movable material to move or transport this army within so many hours; you must have it ready;" and that officer should be responsible for it. He should have another, to whom he could say, "I want so much provisions in such a place at such a time;" and the head of the commissary department should be responsible for it. He wants a man to whom he can say, "you must handle this artillery and I will hold you responsible for it;" and you ought to give him such a man. Then, as inspector general, you want an officer who shall go through that army and inspect the arms, equipments, clothing, everything connected with the material of the army. Such an officer, if he is the right sort of a man, instead of spending money, will save thousands of dollars to the country in one of these corps. As regards an adjutant general, the President might get along without a Secretary of State as well as a commander without an adjutant general. He is his hand, his pen; the officer who makes his record; the officer who is by his side, and with him all the time. This opposition to proper division and corps staffs has no solid foundation to rest upon; it has no reason to support it. In other armies such officers are given with greater rank than is proposed here.

Sir, I am not here to speak for Army officers. They, of course, make their wishes known to me, as officers of the Navy and Navy Department make their wishes known to the gentlemen of the Committee on Naval Affairs; and I take it that committee listen to what they have to say, and then make up their own judgments. It would be very unwise in that committee not to hear those officers and not to hear that Department. I choose to hear what these gentlemen have to say, and then to act according to the best lights we have here. The commanders of divisions, the commanders of corps, and the commander of the Army, all asked for much more than is allowed them by this bill. They said it was absolutely necessary that they should have more. We believe they can get along with this and nothing less, and therefore we have reported this bill to give them as little as they can get along with, without increasing the expense to the country.

The opposition this bill has received in the Senate convinces me that Senators do not appreciate the importance of division and corps staffs.

It being a physical impossibility for the commander of an army, however small, to make himself acquainted, by actual personal observation, with all the details which go to make up the discipline, strength, and efficiency of his forces, it has been found indispensable in all military organizations to intrust the personal observation of these details to confidential subordinate officers, who report the result of their investigations directly to the commander, thus giving him a clear view of the most minute matters concerning the condition of the troops. These officers are called the "general staff," and are subdivided and classed in different armies, according to their peculiar organizations.

But the duties of these staff officers are not confined to laying before the general the state of the troops under his command. They have extensive bureau and office duties in the preparation of campaigns. They also convey to inferior commanders the orders and so much of the designs of the general as he may desire to communicate to them. On the field, they not only carry orders and bring information to the commander of the state of his own troops and the dispositions of the enemy, but they must be prepared to rally broken columns and lead important attacks. Often, too, they are necessarily intrusted with considerable discretion as to the orders to be given in certain cases.

Duties and responsibilities of this nature require officers of experience and fidelity, and of rank sufficient to give weight and authority to their presence. These duties are second to none in the administration of the service, and on their faithful performance depends, in a great degree, the success of all military undertakings.

The more extended the field of operation, and the greater the number of troops under a single commander, the greater must be the capacity and number of his staff. This number is also varied by the kind and quality of troops forming an army; the greater number of staff officers being required when the troops are irregular and wanting in instruction and complete organization.

Mr. COWAN. I suppose it is not necessary that an argument should be made to the Senate to force upon us the necessity that the Army should be officered. We all agree upon that; but the difficulty I have in the present contingency of affairs is to know when this Army will be organized, when we shall ever get done with this thing. For some two months I have lost sight of all these military bills. I supposed a long while ago that a comprehensive system would have been adopted either by the War Department or by the Committee on Military Affairs, and that a great act of Congress would have been passed which somebody could have read, somebody could have understood, and that there would have been the end of it. But, sir, the trouble I have about this bill, as well as many others that have recently come into this body is, that it seems to me it is never to be done with. Every morning we are treated to a new dish, served up in this kind of way. I would be glad if the chairman of the Committee on Military Affairs would tell us whether, if we pass this bill, the Army will then be organized, whether the Army will then have what it wants, whether it will then be able to go into action?

Mr. WILSON, of Massachusetts. Do you want an answer now?

Mr. COWAN. I do. I should like to know that.

Mr. WILSON, of Massachusetts. I will answer the Senator by saying that early in the session I introduced a bill here, which was referred to the Committee on Military Affairs, to organize the divisions of the Army. That was before it was proposed to organize them into corps. It was recommended by the Secretary of War and by General McClellan. When it came up for action, the Senate would not permit it to pass. We had it up several times and tried to pass it, but we could not do it. We then reported it in a very modified form, substantially what it now is in this bill in regard to divisions. We had a unanimous vote of the committee for it, and carried it through the Senate by general concurrence. It went to the House of Representatives. The leading men in the Army were not satisfied with it, and so they went to the House, represented their case, and the House, perhaps influenced more or less by

their representations, amended the bill, and sent it back here in a shape in which we evidently cannot pass it. Senators all around me warned me that they would resist that bill. Then, sir, while that lay on the table, there came up this proposition to organize army corps. When you propose to organize army corps you must have, of course, proper officers for them. That, of course, brought that question up, and it is here for the first time. The question about the staffs for divisions has been lingering here all winter; but it is not our fault that it has not been acted upon, because it has been resisted all the time, and now it is here certainly in as humble a form as it could be presented.

Mr. COWAN. I am perfectly willing to vote for this bill, if this will settle the matter, if this is a finality, if we can once be assured that we have upon our statute-book such an act of Congress as will enable this Army to organize itself and become effective in the defense of the country; but really, sir, I have lost all hopes of being able to master these several bills; nor do I know how many of them there are. Perhaps the honorable Senator, the chairman of the Committee on Military Affairs, could tell us how many bills, since the commencement of the session, have been reported from that committee, and how many we have passed, on this subject. I was going to remark that as we have refused to allow anything like a homœopathic practice in the medical staff of the Army, I do not know why we should be obliged to have acts of Congress in infinitesimal doses here every morning; and I should like to have some one act of Congress made comprehensive enough to cover all the ground so that we could understand it.

Mr. WILSON, of Massachusetts. A word or two only in reply to the Senator. He complains of the large number of bills that are brought in here connected with the Army at this session, and probably at the called session. Now, sir, we have had to create an Army of five, six, or seven hundred thousand men. We have needed a great deal of action. Of course we had not in this country a great deal of experience in the War Office, and, perhaps not so much in Army officers as we should have had if we, as a nation, had been engaged in large military operations; and of course we passed some acts that we had to modify or change. Experience showed it was necessary to do so.

Now let me say a word in regard to the suggestion that we should bring the whole subject in one bill. We had a bill here the other day of twenty-five or twenty-six sections, one of the longest that ever passed through Congress, containing a great number of provisions, which we passed and sent to the House of Representatives. I thought those measures could properly go together, and they have gone to the House of Representatives. Then we had a bill here for the organization of the medical corps. Ought that to be mixed up with anything else? Certainly not. Then we had a bill in regard to the staffs, and a bill in regard to sutlers, each of which should go by itself. We had a proposition early in the session to amend the articles of war in a particular direction, called for by the necessities of our condition. That went of itself, and ought to have gone by itself in my opinion. I think when we can bring in measures that are of the same character, so that members can examine them and vote upon them by themselves, without complicating them with measures that have no connection with them, we ought to do so. In my opinion, that is the best way to act on these subjects. This is a very simple bill in itself. I will say further to the Senator, that two or three bills that we have sent to the House of Representatives may come back with amendments, and there may be some little controversy about those. We shall probably bring in a bill in a day or two to reorganize the engineer corps of the Army. I think that ought to be done, and it ought to stand by itself. It is much easier to deal with it by itself than when it is mixed up with half a dozen other matters that have no connection with it, and thus forcing Senators to vote against what they would like perhaps to vote for if they were not connected with things that they wished to vote against.

Mr. COWAN. I think the vice consists in the fact that the bill emanates from the wrong quarter. I do not know how it is with my honorable friend from Massachusetts. Certainly it is the case with myself, that I should not be competent to frame a bill, nor competent to determine upon a bill of this character, not being a military man. I think that the Department, in the first place, should have devised a general system, and that that should have been embodied in a bill comprehensive enough to cover all possible contingencies, and that that bill should have been sent here. Then I should have been perfectly willing to acquiesce in it, and then we should have devoted such time to it as would have enabled us to master, if not its details, its general principles, and to have acted intelligently upon it. But it is utterly impossible, I should think—I only speak for myself—that members of the Senate should make themselves familiar with the details of all this multifarious batch of military bills that come in here from time to time, and which I have no doubt are necessary. I have not a single reflection to make on the Committee on Military Affairs, because I suppose they would labor under the same difficulties that men not connected with the subject in a professional point of view must always labor under. I would hope, therefore, that for the future all the changes that are to be made in the organization of the Army, and these military bills, should be well considered, compacted, condensed into one, and submitted for our consideration, and then have done with it. The men who are at the head of the Army, the men whose business it is to be acquainted with all these things, ought of course to have some plan by which they are to be governed and organized, and they should furnish that plan and then let there be an end of it; because I am unwilling to vote here blindly day after day for all these things, and amidst the conflicting opinions of gentlemen who do undertake to know something about it.

Mr. WILSON, of Massachusetts. I will say to the Senator from Pennsylvania that nearly all the measures brought into the Senate have come here in some form from the Department, have been based on reports of the Secretary, or on reports sent in here by the different departments of the Army, or have had the sanction of the commander of the army here, or strong recommendations from those in official authority. I suppose the Senator would pay much more deference to recommendations of the War Department, perhaps, than he would to the recommendation of the committee. I think he would have a right to do so. During the present session, the committee have sat four or five days of the week every week, and have labored as best they could. I do not wish to speak of myself, but I will speak for the other members of the committee, and say that, in my judgment, they understand the matters connected with the Army quite as well as they are understood in the War Office, either under the last administration of that office or the present; and I think they are quite as able to instruct the gentlemen there as they are to be instructed on this subject. I say that without any reflection on the War Office or anybody else. They are engaged in a multiplicity of affairs there. When recommendations came to us from the Department, asking that such a thing might be done, we have prepared bills and sent them to the office, and sometimes they have lain there five or six weeks, because they have had no time to attend to them, and very few in the office understood anything about them when they were sent there; and we have been compelled to act in that way. That Department of the Government, as everybody knows, has been overborne by a multiplicity of business, and they have not yet been able to devote a great deal of time or attention to any one particular subject.

I will say further to the Senator from Pennsylvania, that I think we have got nearly through with all the matters we shall have this year, and I can assure him it will gratify me quite as much as it will him to be through with them; for the burdens that we have had to bear in these matters since this war commenced are certainly not very pleasant ones to bear.

Mr. SHERMAN. I trust the Senate will pardon me for making a very few observations; and I shall detain them but a moment. This bill contains three sections. I have read it carefully. The first section is entirely unnecessary. It provides:

That the President be, and he is hereby, authorized to establish and organize army corps according to his discretion.

That he can do as Commander-in-Chief, and there is no necessity for that section. The second section provides that each army corps shall have a certain staff, one assistant adjutant, one quartermaster, one commissary of subsistence, and one assistant inspector general, who are to have the rank of lieutenant colonels, &c. As a matter of course, an army corps would be commanded by a general of division, a brigadier or major general. The law fixes the number of the staff, and to each brigadier and each major general there is assigned a quartermaster, an adjutant general, a commissary of subsistence, and an assistant inspector general. The only purpose of the second section of the bill is to increase the pay of officers assigned to duty in the army corps. It increases the number of staff one, and increases the pay of all. That is the only effect of the second section.

The third section of the bill provides for the organization of division staffs. As a matter of course, the commander of a division will be either a brigadier or a major general—usually a brigadier general. The only effect of the third section is to increase by two the number of officers assigned to a division, and to increase the pay of each one. The law at present fixes the staff of a brigadier and of a major general, and the only effect of the second and third sections is to increase the number, or to increase the compensation paid to these staff officers.

I do not think there is any occasion for the passage of this bill. I know very many officers of the western army and very few of the army of the Potomac. We have very few western troops here; at least, none from the State of Ohio. I know one case where a captain is serving as a quartermaster for a division. He wrote to me the other day about it. He said he was first appointed quartermaster for a brigade, and then for a division, and now he is acting, I believe, for twenty or thirty thousand men. I have heard no complaint from any one in the western army that they were not receiving enough; but, on the contrary, many officers think they are receiving too much. The effect of this bill will be to give this friend of mine an increase of nearly double his pay. I know he does not desire it. I do not believe there is any complaint by these staff officers that they are not now receiving enough for the services that they perform. I can see no occasion therefore for passing this bill, and I shall vote against it.

The bill was reported to the Senate, as amended, and the amendments were concurred in, and the bill ordered to be engrossed and read a third time. It was read the third time.

The VICE PRESIDENT. On the passage of the bill, the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 29, nays 9; as follows:

YEAS—Messrs. Bayard, Browning, Carlile, Chandler, Clark, Collamer, Cowan, Davis, Dixon, Doolittle, Fessenden, Foster, Harris, Howard, Howe, King, McDougall, Morrill, Nesmith, Pomeroy, Saulsbury, Simmons, Stark, Sumner, Ten Eyck, Wade, Willey, Wilmot, and Wilson of Massachusetts—29.

NAYS—Messrs. Grimes, Hale, Harlan, Henderson, Lane of Kansas, Powell, Sherman, Trumbull, and Wright—9.

So the bill was passed.

COMMITTEE SERVICE.

Mr. HOWE. I see by the morning paper that I was appointed yesterday to serve on the select committee to whom were referred the papers in regard to the loyalty of the Senator from Oregon. I ask the Senate to excuse me from serving on that committee.

Mr. HOWARD. Have you any good reason?

Mr. HOWE. I have a good reason, as I think. I was assigned yesterday by the chairman of the Committee on Finance to act with other members of that committee as a sort of sub-committee to consider the tax bill, which is now pending in the other House, and which we are expecting here in due course of events; and those who are appointed to act with me propose to devote their whole time to it, and expect me to devote my time to it exclusively. I really shall not have an hour to give to this subject; and it is one which, owing to the remoteness of those who can be fairly supposed to be best competent to testify on the subject, will occupy considerable time, and I have it not to spare. I hope, therefore, the Senate will excuse me.

The motion was agreed to.

The VICE PRESIDENT. There is now a

vacancy upon that committee. In what manner shall it be filled?

Mr. FESSENDEN. By the Chair.

The VICE PRESIDENT. That will be taken as the sense of the Senate if there be no objection; and the Chair will appoint the Senator from Rhode Island, [Mr. ANTHONY.]

Mr. ANTHONY. I hope that the Senate will not insist upon my serving on that committee. I am upon three committees already; and I think I have made up my mind on that subject, so that I ought not to investigate it. Otherwise, I would not shrink from the duty.

The VICE PRESIDENT. The Senator from Rhode Island asks to be excused from serving on the committee.

The question being put, Mr. ANTHONY was excused.

The VICE PRESIDENT. The Chair will take a little time in making the appointment, and inquire who will serve. [Laughter.]

Subsequently, Mr. SHERMAN was appointed.

SLAVERY IN THE DISTRICT.

The VICE PRESIDENT. The special order of the day, being the bill (S. No. 108) for the release of certain persons held to service or labor in the District of Columbia, is now before the Senate, and upon that question the Senator from Massachusetts is entitled to the floor.

Mr. WILSON, of Massachusetts. It was my purpose to say a few words upon that bill to-day, but I am not in a condition to do it with any comfort to myself. I ought not, in reality, to be here to-day. I yield the floor to the Senator from Wisconsin, who desires to go on, and will endeavor to say a few words on this subject at some other time—perhaps to-morrow.

Mr. DOOLITTLE spoke in favor of the bill. [His speech will be found in the Appendix.]

Mr. POMEROY. It was not my intention at this time to make any extended remarks upon the bill before the Senate; but after what we have heard from the Senator from Wisconsin, it may not be inappropriate to say a few words in reference to the abolition of slavery in this District, which I suppose to be the object of this bill.

Mr. COLLAMER. If the gentleman will give way, I shall move that the further consideration of this subject be deferred until one o'clock to-morrow, when he can have the floor.

Mr. POMEROY. It is entirely immaterial to me whether I speak to-day or to-morrow.

Mr. BROWNING. We ought to have an executive session.

The VICE PRESIDENT. Does the Senator from Kansas give way?

Mr. POMEROY. Yes, sir; I give way for an executive session.

Mr. COLLAMER. I move that the further consideration of this bill be postponed until to-morrow at one o'clock.

Mr. TRUMBULL. I do not wish to have this matter now postponed until one o'clock to-morrow. I have abstained during the whole of this week from pressing the confiscation bill which we have had under discussion.

Mr. COLLAMER. I withdraw the motion.

Mr. KING. I think we had better go into executive session.

Mr. TRUMBULL. While I am up, I will say another word——

The VICE PRESIDENT. The motion to postpone being withdrawn, the Senator from Kansas is entitled to the floor.

Mr. KING. With the consent of the Senator, I move that the Senate proceed to the consideration of executive business.

Mr. TRUMBULL. On that motion I have a word to say. We have had under consideration for some days a very important bill, as its opponents think, providing for the confiscation of the property of rebels. It has been laid aside now for two or three days. I have not pressed it this week because there was an anxiety to go into executive session. We have spent nearly two days in executive session. There was an anxiety also to get action upon this bill to abolish slavery in the District of Columbia. But I consider it my duty to press the confiscation bill. If this is now to be put over until to-morrow, and we are to have one speech a day upon a bill to abolish slavery in the District of Columbia, I do not know when we shall get action on the other bill. I trust, therefore, that unless the Senator from Kansas desires a postponement, he will go on to-day.

Mr. POMEROY. I do not desire a postponement on my account.

Mr. TRUMBULL. If the Senator is willing to go on now, I hope that he may be permitted to do so, and that we may dispose of this District bill at the earliest moment and get it out of the way. I ask for the yeas and nays on the motion to go into executive session. It indicates a determination to do no other business.

Mr. KING. I am willing to leave the matter with the chairman of the Military Committee.

Mr. WILSON, of Massachusetts. I think at this hour, as we have this bill up we had better go on with it, and go into executive session some day at one o'clock.

Mr. KING. Very well; I withdraw the motion.

Mr. POMEROY. This bill is for the abolition of slavery in the District of Columbia, and I have been a little surprised to find that upon a bill of this character we should have the entire question of the colonization and condition of the races of the world brought into the discussion. I have noticed that persons who have some constitutional objections or difficulties in regard to having free colored men about them, never have any very severe difficulties to having slaves about them. Colored men are as sweet as "the balm of a thousand flowers" in slavery, but if they are free they have a tremendous odor, and men are anxious to colonize and to banish them! I should infer from the argument of the Senator from Wisconsin that he supposes that, if we abolish slavery in this District, we shall have an innumerable number added to the colored population of the District, and hence there must be immediately some way opened for their escape. I have the returns of the last census before me, and they show that there are in this District about eleven thousand colored persons, of whom three thousand are held as slaves. I should like to inquire if that number is likely to be greatly increased if the slaves are freed. I have spent some little time in this District, and colored persons, free or slave, have been no great nuisance to me. In fact, as there are eight thousand free colored persons and only three thousand slaves in the District, I have not known when I have met them whether they were free or slave. If this bill shall be passed, as I hope it will be, I do not believe it will affect materially the condition of things in the District so far as the number of colored persons is concerned, and I do not think we need go to any very great efforts to open a country for their colonization.

I am really a friend to the bill, and I desire at the proper time—I believe it is not in order now—to propose an amendment striking out all of the bill except the first and eighth sections. The first section of the bill extends over this District the ordinance of 1787; and I think there is no doubt as to the effect of that. The eighth section simply prohibits men from taking colored persons out of the District to sell them after they have been made free. The first section frees them; the eighth section prevents their being kidnapped. I do not know what necessity there is for any further provision in the bill. I am led to make this suggestion from the fact that I have a conviction in my own mind that there is really no slavery here by law. I may be mistaken; but it is a deep conviction in my own mind, as I have once before stated to the Senate, that slavery is not established here by law; and for that reason what I may say in regard to some features of this bill may not apply perhaps to a proposition relative to slavery in the States. If slavery has ever been established here, I want some one to tell me who established it, and when it was established.

We have been told that slavery was established in Maryland, and that the laws of Maryland have been extended over this District. I admit that slavery was established in Maryland by law. That is not true of all the slave States, but it is true of Maryland; and the law that established slavery in Maryland limited it. The law of Maryland was passed at an early day, in 1715, and it limited slavery to two generations. As slavery was not perpetual in Maryland, I should like to know who ever made it perpetual in this District. The act of Congress passed February 27, 1801, extended the laws of Maryland over this District, but did not extend perpetual slavery here, because it did not exist there at that time.

But supposing for a moment that perpetual slavery did exist in Maryland at that time, as in the other slave States, I want to ask Senators who are lawyers whether Congress could extend a law that it could not enact? Does it not require the same constitutional power to extend over this District a law passed by a State, as to enact that law originally? I think that certainly every Senator will say that we are unable to extend a law and make it valid which we could not enact in the first instance. Then, I ask, could Congress enact a law establishing slavery in this District? Could it make a slave? I know some one has said that Congress could no more make a slave than it could make a king. I want to know if to establish slavery is one of the powers given to the General Government. We have in the Senate, as we have everywhere else, many persons who talk about the implied powers, the incidental powers, but the written Constitution is what I am talking about. I know there is an unwritten constitution which men have, from which they draw the incidental powers of Government, the implied powers. Without discussing those, I want to ask, whether it is written down in the Constitution in any legitimate way that Congress can make slavery in this District? Was that one of the objects of Government? What was the Government established for? Was it not the reverse of that entirely? Can Congress do in this District one of the things which are entirely averse to the spirit and letter of the Constitution?

But I will turn to the law of Maryland, because I think it will be admitted by every Senator that when, in 1801, after Congress got here, it extended the law of Maryland over this District, it certainly extended no law that did not exist. Whatever Maryland passed after that is not of necessity the law of the District, because we did not agree that all the laws that Maryland might hereafter pass, but only the laws of Maryland as they then were, should be the law of this District. The act of 1715 was the only statute that was passed in Maryland creating or limiting slavery, until 1796, when Maryland passed a law preventing the importation of slaves, and restricting it. It is chapter forty-four, section twenty-two, passed in 1715, and it provides that—

> "All negroes and other slaves already imported or hereafter to be imported into this province, and all children now born or hereafter to be born of such negroes and slaves, shall be slaves during their natural lives."

If you will take pains to read the discussions that were had in the convention when they adopted that provision of the Constitution which ordained that the importation of Africans should cease in 1808, two or three speeches were made to show that slavery in Maryland would die out in two generations. It was said, "if you stop the importation in 1808, slavery will die out because we have confined it in our State to two generations." So said one of the delegates from Maryland.

Entertaining these views, I cannot see why we should be called upon to pay for liberating these persons, as slavery has never been established here, as it does not exist here by law, as the only law we have is the law of Maryland which limited it. Congress only extended that law to the District. If it had been a law to establish slavery Congress could not have extended it because Congress cannot pass a law creating slavery, and it requires the same constitutional power to extend the law of a State over this District as it does to enact a law. Therefore I say, that to my mind the conviction is that there is no slavery here by law, and as I have said before I think we rather need judicial decisions on this question correctly interpreting the law, and they would have long since abolished slavery here; but as we are not likely to get those decisions, I think passing the ordinance of 1787 as provided in the first section of this bill will set the matter at rest, and then the eighth section prevents any person from kidnapping these freed persons. At a proper time, I shall move these amendments, and I want to say one word in favor of them now.

The Senate will bear with me while I say that I think we ought not to appropriate $1,000,000 for this work, because there is no call for it, no demand for it. As I think my friend from Ohio [Mr. SHERMAN] will say, for he is always sound on such questions, the condition of the Treasury does not warrant us in appropriating $1,000,000 to pay for three thousand slaves in this District, when they are not held here by any law. We

have been concerned as to the pay of the pages on the floor of the Senate, and have succeeded in getting about four bits a day off their wages; and we have taken ten per cent. from our own salaries, and destroyed our mileage; and we have gone through the Army and taken ten per cent. from the earnings of every one, because we said the condition of the Treasury of the country demanded it; and yet we now propose to come forward gravely and appropriate from that Treasury $1,000,000 to free three thousand slaves who are not held by law, to wipe out slavery here when there are but three thousand slaves and the masters have no legal claim to them. I do not understand why we should appoint commissioners to adjust their claims. If, however, the Senate decide that there must be a payment made, that this redemption of a race here must be purchased and paid for, then I insist upon it that the men who have had this unpaid labor are not the men to have the money; and in that event I have another amendment which I shall certainly feel constrained to propose. I will read it. If the Senate decide that an appropriation of $1,000,000 must be made, and shall of necessity be put into the bill, in that event I shall move to strike out from section four all after the sixth line, and to insert this as a new section:

And be it further enacted, That the commissioners aforesaid, appointed under the provisions of this act, shall be, and they are hereby, authorized to make and effect an equitable and just settlement of all demands existing between the master or owner and the so-called slave, allowing the master a reasonable compensation for all supplies of food, clothing, or money he may have paid the slave, and for all expenses he may have incurred in consequence of his sickness or disability, as well, also, for all the master may have expended in his mental and intellectual education; and at the same time, to settle and adjust the account, the said commissioners shall allow the slave, and charge the same against the account of his master, a just and fair compensation for all service rendered and labor performed; and such balances as said commissioners may find to be actually due either master or slave, shall be paid to each, respectively, out of any money hereby appropriated for carrying into effect the provisions of this act. All persons under the age of twenty-one years appearing before said commissioners shall be represented by their parents, if living and within the District, and adjudged competent and responsible to act in behalf and in trust for others; if non-residents, or adjudged incompetent, guardians shall be appointed for them who shall act and receive their compensation for them: *Provided always*, That in no event shall the amount found to be due either master or slave exceed the average sum of $300 for each person liberated by the provisions of this act.

If the Senate shall come to the strange conclusion that money must be paid, that $1,000,000 must be appropriated by this bill, in the present condition of the Treasury, then I say let it be measured out in justice. There are families here holding slaves that have served their masters for forty years. Are you going to give the master of such a slave $300, and turn the slave loose without any settlement for his unpaid labor? I insist that it is time to have a settlement, if we propose to pay money for this transaction. I am willing to deal justly in this matter; but to make gratuities, to give a man $300 to which he has no claim, to give a man $300 to rid himself of some old slave that he does not like to keep any longer, is an act of injustice that I think the Senate will not commit.

I do not propose to continue the discussion of this question to-day; but at the proper time I shall submit the amendments which I have indicated in accordance with my own convictions.

Mr. SUMNER. Submit them now, and let them be printed.

Mr. POMEROY. I send the amendments to the table to be printed, and I shall ask for the yeas and nays upon them at the proper time when they shall be presented.

The proposed amendments were ordered to be printed.

Mr. WILLEY. I desire to submit some remarks upon this bill either now or at some other time that will suit the wishes and pleasure of the Senate.

Mr. GRIMES. In order to enable the Senator from Virginia to address the Senate to-morrow, I move that the further consideration of this bill be postponed until to-morrow at one o'clock.

The motion was agreed to.

DISTRICT OF COLUMBIA BUSINESS.

Mr. GRIMES. I move that to-morrow two weeks, the 3d day of April, be set aside by the Senate for the consideration of business relating to the District of Columbia, on which day the bills relating to the District shall be special orders.

The motion was agreed to, by a vote of two thirds of the Senators present.

EXECUTIVE SESSION.

On motion of Mr. WILSON, of Massachusetts, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *March* 19, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. T. H. STOCKTON.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The SPEAKER laid before the House a message from the President of the United States, transmitting a copy of a correspondence between the Secretary of State and the Danish chargé d'affaires and the Secretary of the Navy, concerning the case of the bark Jorgen Lorentzen, a Danish vessel, seized on her voyage from Rio Janeiro to Havana by the United States ship Morning Light, and subsequently released; and recommending the appropriation of the amount of the award of the referees; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

MARSHAL OF THE DISTRICT OF COLUMBIA.

Mr. DELANO. Yesterday I moved to reconsider the vote by which the Committee for the District of Columbia was discharged from the further consideration of the resolution in regard to the orders of the marshal of the District of Columbia for the exclusion of visitors from the jail, and I now call that motion up and move that it be laid upon the table.

The SPEAKER. That can only be done by unanimous consent, other business being now pending before the House.

Mr. DELANO. My only object is to get rid of the whole subject.

Mr. LOVEJOY. I object.

MEDICAL DEPARTMENT OF THE ARMY.

Mr. WILSON, by unanimous consent, submitted joint resolutions of the State of Iowa in relation to the medical department of the Army; which were referred to the Committee on Military Affairs, and ordered to be printed.

COTTON CULTIVATION.

Mr. LOVEJOY. I ask the unanimous consent of the House to take from the Speaker's table the Senate bill in reference to the cultivation of cotton.

Mr. DELANO. I object.

TAX BILL.

Mr. STEVENS. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union on the tax bill.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed the consideration of the special order, being the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

The CHAIRMAN stated that when the committee rose yesterday they were engaged in the consideration of the thirty-third section, to which the following amendment was pending, moved by the gentleman from Indiana, [Mr. HOLMAN:]

Strike from the thirty-third section the words "or of the collector or deputy collector within whose district any such fine, penalty, or forfeiture shall have been incurred," so that it will read:

SEC. 33. *And be it further enacted*, That it shall be the duty of the collectors aforesaid, or their deputies, in their respective districts, and they are hereby authorized to collect all the duties and taxes imposed by this act, however the same may be designated, and to prosecute for the recovery of the same, and for the recovery of any sum or sums which may be forfeited by virtue of this act; and all fines, penalties, and forfeitures which shall be incurred by force of this act, shall and may be sued for and recovered in the name of the United States, by bill, plaint, or information; and, where not otherwise and differently provided for, one moiety thereof shall be to the use of the United States, and the other moiety thereof to the use of the person who, if a collector or deputy collector, shall first inform, of the cause, matter, or thing whereby any such fine, penalty, or forfeiture was incurred.

Mr. HOLMAN. Mr. Chairman, I desire to state that the object of that amendment is merely to have all of these actions brought in the name of the United States, and not in the name of any collector or deputy collector. This *qui tam* form of action is an old one which has long since been abandoned, and it ought not to be retained in this bill. Therefore I have moved to strike it out.

Mr. STEVENS. These *qui tam* actions are usual ones, and I was not aware that they had passed out of existence. They are still found very useful in the State of Pennsylvania. I hope that the amendment will not be adopted.

Mr. HOLMAN. Pennsylvania may still retain this very ancient form of action, but I do not believe that it is retained by any State in the Northwest. I propose that all of these actions shall be taken in the name of the United States, and not in the name of any collector or deputy collector. I think that this is only a fair concession to those States which have long since abandoned the *qui tam* form of action.

Mr. STEVENS. Where A B sues for himself as well as for the United States, that is a *qui tam* form of action. If the States to which the gentleman has referred have not adopted it, then they are still behind the legislation of the age.

Mr. HOLMAN demanded tellers.

Tellers were ordered; and Messrs. HOLMAN and SHERMAN were appointed.

The tellers reported—ayes 23, noes 41; no quorum voting.

The CHAIRMAN. The roll will be called.

Mr. HOLMAN. Several sections were passed over yesterday for ultimate amendment in the committee or in the House, and I suggest that this section be also passed over in like manner.

The CHAIRMAN. That can only be done by unanimous consent.

Mr. STEVENS. This is an immaterial and not a radical amendment, and I object.

Mr. HOLMAN. It is not an immaterial amendment. I will explain.

The CHAIRMAN. Debate is not in order.

Mr. HOLMAN. I withdraw my amendment in order to permit the business of the committee to progress.

Mr. MORRILL, of Vermont. I move to insert, in the thirty-third section, after the word "information," the words "before any court of competent jurisdiction."

The amendment was agreed to.

Mr. WORCESTER. I move to strike out the words "if a collector or deputy collector," and to add:

And shall cause the same to be prosecuted: *Provided, however*, That the United States in no such case shall be liable for the cost of the prosecution.

So that the thirty-third section will then read:

SEC. 33. *And be it further enacted*, That it shall be the duty of the collectors aforesaid, or their deputies, in their respective districts, and they are hereby authorized to collect all the duties and taxes imposed by this act, however the same may be designated, and to prosecute for the recovery of the same, and for the recovery of any sum or sums which may be forfeited by virtue of this act; and all fines, penalties, and forfeitures which shall be incurred by force of this act, shall and may be sued for and recovered in the name of the United States, or of the collector or deputy collector within whose district any such fine, penalty, or forfeiture shall have been incurred, by bill, plaint, or information before any court of competent jurisdiction, and where not otherwise and differently provided for, one moiety thereof shall be to the use of the United States, and the other moiety thereof to the use of the person who shall first inform of the cause, matter, or thing whereby any such fine penalty, or forfeiture was incurred, and shall cause the same to be prosecuted: *Provided, however*, That the United States in no such case shall be liable for the cost of the prosecution.

The section as it now stands provides that a suit may be brought in the name of the United States. It also provides that the collector or assistant collector may bring this suit. In case the collector or assistant collector brings the suit, he is entitled to one moiety of the fine. But the section does not provide for the bringing of this suit by any other person. If the amendment is adopted any person other than the collector or assistant collector may bring a suit of this character as well as he, and the amendment added to the end of the section will provide that in case the suit is prosecuted successfully to judgment, the person prosecuting the offense shall be entitled to one moiety of the fine; but that in no case shall the United States be chargeable with the cost of prosecutions of this character.

Mr. SHEFFIELD. I desire to oppose this

amendment upon the ground that it will open the door to a great many frauds. For if this *qui tam* action may be brought by any one, a person knowing that he was going to be sued, would procure a friend to institute a suit against him. The individual who desires to promote the ends of justice, afterwards institutes his suit. The plea to the second suit will be that of a former action pending for the same cause. The two suits will go on together, and finally the genuine action will be discontinued, and after that is done, the other suit will be discontinued also. Thus all the purposes of this bill will be defeated by the adoption of this amendment.

Mr. HOLMAN. I move to strike out all of the section after the word "information;" as follows:

And where not otherwise and differently provided for, one moiety thereof shall be to the use of the United States; and the other moiety thereof to the use of the person who, if a collector or deputy collector, shall first inform, of the cause, matter, or thing whereby any such fine, penalty, or forfeiture was incurred.

I make this motion for the purpose of ascertaining whether the House is resolved to perpetuate this old form of action known technically as a *qui tam* action, in which one half of the recovery goes to the benefit of the informer, and the other half to the Government. I should be untrue to my own State, which repudiated many years ago that form of action as tending to corruption and perjury, if I did not submit this amendment. I believe there are but few States in this Union, beyond Pennsylvania and a few others—which my friend from Kentucky [Mr. MALLORY] suggests to me are somewhat old fogy in their tendencies—which retain this old form of common law action, which sprung up at a time when these prosecutions could alone secure the performance of public duties, the strong moral obligation which ordinarily controls the minds of citizens of a free country not being sufficient to secure fidelity in public duties.

I am opposed to this whole feature of the bill. I am not willing to say to the collectors, who invade every portion of the country, that they may resort to tricks and strategy for the purpose of inveigling unsuspecting citizens into a violation of this law, so as to enable them to receive the benefit of one half of the sums which they may recover for bringing this action. I do not believe there are half a dozen States in the Union where this form of action is recognized at all. I may be deceived about it, but I do not believe there are so many. I think the inducement growing out of the fact that it is a part of the duty of the collector to bring this action should be sufficient for him, without holding out to him a bribe to corruption suggesting a profit upon his own craft, or upon his own perjury. The informer, even under monarchical governments, has been ever odious. The very name of public informer is a word of dishonor, and yet while we are ingrafting upon our system of government a new feature, a system of permanent taxation, we here propose to accompany it with a feature which tends to increase intensely the centralizing power of our Government. This tax is inevitable, and you cannot avoid it. Your citizens must meet it like patriots and men; but in the name of liberty, I insist that as few of the old elements of centralized political power shall be submitted to in enforcing the collection of these taxes on the people as the nature of the subject will admit of. There is no necessity for this. American citizens are honest enough to perform their public duties without holding out this debasing bribe of one half of the recovery. I trust that this old and odious feature, the device of monarchies, will not be ingrafted upon our legislative system.

Mr. STEVENS. I do not think the counsel for a rogue could have made a better speech in his favor than the gentleman from Indiana has made in favor of those who incur penalties to enable them to escape. I do not know that such was the gentleman's object, but that is the effect of his proposition. I had not before learned that this was an antiquated and obsolete form under our laws. I find, running all through our revenue system, from beginning to end, that this form of action still exists. I observe that the officers of the Government in the custom-houses, and in the naval department everywhere, share a portion of the forfeiture, where a forfeiture occurs. I should like to know when this system was abolished? It may have been abolished in Ohio and Indiana. I am not aware how it is there. I have not particularly studied their laws, because I did not know that they had attained such perfection. But I do know, that if you take away the *qui tam* action as an inducement to men to prosecute for wrongs and give them no more than the ordinary fees, they will not prosecute at all. Who is going to carry on an action of this kind, hunt up witnesses, and prosecute to conviction and collect the fine, for a mere per diem of one and a half or two dollars? Who is going to incur the odium which attaches to this action and the hatred of these men who violate the laws? Men who will commit frauds will be vindictive; and a man who prosecutes for the penalty will incur their anger, and most likely their revenge. I believe, therefore, that when you strike out this form of action, there will, practically, be no penalty. The Government loses nothing by this course. The Government gains one half of the penalty. The gentleman from Indiana says this is a bribe to the prosecutor to be dishonest. If one man incurs a penalty and an inducement is held out to another man to take upon him the unpopular and perhaps dangerous task of prosecuting him for the penalty, I do not see how that is a bribe to dishonesty. I believe it is a wholesome regulation, and the only one by which you can enforce the laws. It is the life and vigor of our revenue laws at the present day. Except in Indiana, this system is in vogue, and we are not going back to barbarism by retaining this provision. I hope the amendment will not be adopted.

Mr. DUNN. I move to amend the amendment by striking out in the fifteenth line the words "if a collector or deputy collector." It seems to me that if the chairman of the Committee of Ways and Means wishes to make his bill effective by making it the interest of parties to prosecute those who attempt to evade its provisions, he ought not to confine the reward to the officers of the Government, but to extend it to all parties who may inform. As the bill now stands, no party who informs is to receive anything unless he is a collector or deputy collector.

Mr. WORCESTER. I have proposed an amendment which obviates that objection.

Mr. DUNN. Well, sir, I desire to have the section so amended that this reward shall not be given to officers of the Government. When a man is sworn to perform certain official duties, he ought to do it under the obligations of his oath, without any other pecuniary interest than his usual compensation. Let a public officer perform this duty without any other compensation than the regular compensation of his office. I think if we wish to make a public officer odious to the people there is no better way of doing it than by presenting him before the public as prosecuting cases for his own private benefit. While he is acting under his obligations as an officer of the Government, the people respect him, because he is merely attempting to discharge his official duties; but when he becomes a prosecutor for his own private benefit, he justly becomes odious to the community. I shall vote against the provision as it now stands. I withdraw my amendment.

The question was taken on Mr. WORCESTER's amendment; and it was disagreed to.

The question recurred on Mr. HOLMAN's motion to strike out all of the section after the word "information."

The amendment was disagreed to—ayes twenty-five, noes not counted.

Mr. HOLMAN. I move to strike out the word "person," in the fifteenth line, and insert "common schools of the States where collected."

My object is to prevent the holding out of this motive to the collectors and deputy collectors to enforce these penalties. I say to the chairman of the Committee of Ways and Means that this feature of allowing the informer to receive the benefit of these prosecutions will, as my colleague [Mr. DUNN] suggests, render this tax and this bill most odious. It is the most odious feature that could possibly be attached to the bill, and especially in those States where this *qui tam* form of action has been abolished as inconsistent with the fair administration of public justice. I say to the gentleman that in the State which I in part represent if anything would create almost a revolution in public sentiment, it would be the presence of collectors and deputy collectors who would visit the houses of our people with power to get up actions with a view to their own pecuniary interests. I trust that if it is necessary to create some motive for the prosecution of these actions for these penalties, that motive would be found ample and sufficient in the fact that half of the amount of the penalties collected would go to the benefit of the common schools of the State where the penalties are collected.

Mr. STEVENS. I cannot understand the gentleman's reasoning. I do not pretend to be so universally versed in the laws of the different States as to be able to contradict the gentleman's statement; but I never heard this fact before, that the *qui tam* actions have been entirely abolished in most of the States.

But the gentleman thinks it very odious that, when a man incurs a penalty of $500, any one should go to his house to collect evidence of the fact of the forfeiture. He seems to think that the man who had incurred the forfeiture would be very much vexed at any one coming to his house to collect evidence. Well, sir, I have no doubt of it, for I remember the doggerel that—

> "No rogue ere felt the halter draw
> With good opinion of the law."

But if the gentleman's amendment should be adopted, the clause would read: "And the other moiety thereof to the use of the common schools of the States where collected, *who, if a collector or deputy collector*, shall first inform of the cause, matter, or thing whereby any such fine, penalty, or forfeiture was incurred." That will never do.

Mr. HOLMAN. I move to amend my amendment, in order to perfect it, by striking out all the words after "person," and including that word, as follows:

Person who, if a collector or deputy collector, shall first inform of the cause, matter, or thing whereby any such fine, penalty, or forfeiture was incurred.

Mr. BINGHAM. I oppose the amendment. I was disposed, in the first place, if it met the approbation of the committee, to try the experiment of collecting the taxes without the *qui tam* provision; but when the point is made here, and it goes to the country that we are to change the uniform legislation of the Federal Government; uniform since the foundation of the Government; uniform since the gentleman had existence, on the ground that it is odious for an American citizen to go into a court of justice and inform, in behalf of his country, against a violator of its laws, and that it will excite something like insurrection or revolt, I want to meet it. I have no idea of the Government of the United States being scared from its propriety, or alarmed into a change of its uniform legislation, upon a suggestion from any quarter that the people of this country will revolt against legislation which conforms to the usage of the Government from its foundation to this hour.

It does not follow, because certain madmen have taken up arms against the Republic of the United States, that everybody else in the Republic is going to turn madman too. If it is so, if the mob is to rule and not the law, then the sooner the people find it out the better. If that is to be the rule, the Government is a sham. The idea is suggested here that we are to change the uniform legislation of the country that we may avoid what is called "centralization." Sir, the word "centralization" has no meaning in reference to American institutions. I can understand it well enough when applied either to the effete or existing institutions of European monarchies; but in my judgment it has neither sense nor reason in it when applied to the Republic of the United States. There is no such thing as centralization under our system, so long as we recognize the supremacy of our written Constitution. What loyal citizen does not acknowledge it as the supreme law? The whole fabric of American government rests upon the people—the majority of the people organized within their respective elective precincts, known as States organized under and in subordination to the Federal Constitution. There is no such thing as centralization in it; and it is simply a suggestion that you cannot trust the power where by the Constitution it is rightly lodged for wise and just purposes—in the majority of the whole people. The people speak, and always must speak, under our system of Government, through their Representatives and their ballots; they cannot speak in any other way. When by a constitutional law

the people speak, they are not to be met by the cry of "centralization."

The amendment to the amendment was disagreed to.

The question recurred on Mr. HOLMAN's amendment to strike out the word "person," and insert "common schools of the States where collected."

Mr. HOLMAN demanded tellers.

Tellers were ordered; and Messrs. HOLMAN, and KELLOGG of Michigan, were appointed.

The committee divided; and the tellers reported —ayes 23, noes 70.

So the amendment was rejected.

Mr. PHELPS, of California. I move to amend the thirty-fourth section, by striking out in the third and fourth lines the words "is required to be taken in virtue," and to insert in lieu thereof, "may be taken in pursuance;" so that the section will read:

SEC. 34. *And be it further enacted*, That any person who shall be convicted of willfully taking a false oath or affirmation in any of the cases in which an oath or affirmation may be taken in pursuance of this act, shall be liable to the pains and penalties to which persons are liable for willful and corrupt perjury, and shall, moreover, forfeit the sum of $500.

I will say to the chairman of the Committee of Ways and Means that I offer this amendment for the reason that we allow the Secretary of the Treasury to prescribe forms in which there may be oaths, and there should be some penalty for violating oaths prescribed by the Secretary of the Treasury, as well as for violating these specifically mentioned in this act.

The amendment was agreed to.

Mr. WORCESTER. I move to amend by striking out the whole of the section after the word "that," as follows:

Any person who shall be convicted of willfully taking a false oath or affirmation in any of the cases in which an oath or affirmation is required to be taken in virtue of this act, shall be liable to the pains and penalties to which persons are liable for willful and corrupt perjury, and shall, moreover, forfeit the sum of $500.

And to insert in lieu thereof, the following:

If persons in any case, matter, hearing, or other proceeding in which an oath or affirmation shall be required to be taken or administered under or by virtue of this act, shall, upon the taking of such oath or affirmation, knowingly and willingly swear or affirm falsely, every person so offending shall be deemed guilty of perjury, and shall, on conviction thereof, be subject to the like punishment and penalties now provided by the laws of the United States for the crime of perjury.

I suppose that it was the intention of the Committee of Ways and Means to report this section in such manner as to punish perjury as that crime is now punished by the laws of the United States; but I do not think that the crime is so defined or punished. Under the laws of the United States it is necessary, to constitute the crime of perjury, that the offense shall be committed knowingly and willfully. I suppose that it was also the intention of the Committee of Ways and Means to affix the same degree of punishment to the crime of perjury that is affixed under the laws of the United States. As the section now stands, it inflicts the same punishment, with the additional penalty of $500.

Mr. WHITE, of Indiana. I move to amend the amendment by adding to the section the words "nothing in this section contained shall be deemed to apply to official or prospective oaths."

The amendment to the amendment was rejected.

Mr. BINGHAM. I move to amend the amendment by inserting after the word "falsely," the words "or shall willfully or corruptly violate such oath or affirmation."

Mr. WORCESTER. My substitute defines the crime of perjury precisely as the definition of the offense is given in the laws of the United States.

Mr. BINGHAM. Certainly; but I want to make provision that it shall be perjury in law—and, of course, it is competent for the Government of the United States to make it so—for any official or person to violate the duties imposed upon him by his oath. If he does not violate his oath it will do him no harm, and if he does he shall be held guilty of perjury.

The amendment to the amendment was rejected.

Mr. WORCESTER's substitute for the section was adopted.

Mr. STEVENS. I move to amend the thirty-fifth section by striking out the words "assessors and assistant assessors," and inserting, in lieu thereof, the words "deputy collectors;" so that it will read:

SEC. 35. *And be it further enacted*, That separate accounts shall be kept at the Treasury of all moneys received from internal duties or taxes in each of the respective States, Territories, and collection districts; and that separate accounts shall be kept of the amount of each species of duty or tax that shall accrue, so as to exhibit, as far as may be, the amount collected from each source of revenue, with the moneys paid to the collectors, deputy collectors, and to the other officers employed in each of the respective States, Territories, and collection districts, an abstract in tabular form of which accounts it shall be the duty of the Secretary of the Treasury, annually, in the month of December, to lay before Congress.

The amendment was agreed to.

Mr. HUTCHINS. I move to amend the thirty-sixth section by striking out the word "four," in the fourth line, and inserting in lieu thereof the word "two;" so that it will read:

That there shall be allowed to the collectors appointed under this act, in full compensation for their services and that of their deputies in carrying this act into effect, a commission of two per cent. upon the first $100,000.

It seems to me that the compensation fixed in this section is entirely too large. I know that we have no exact data to enable us to calculate the amount which any given collector may have to collect; but these collections will be, in my opinion, in very large sums. Some manufacturing establishments will pay as high perhaps as from twenty to thirty thousand dollars per annum, and a large number from one thousand to fifteen hundred dollars per annum. It seems to me that a commission of four per cent. on such large sums is entirely too much. I think that a commission of two per cent. would be ample compensation for these collectors.

Mr. STEVENS. This is another move in the same direction—cutting down the pay of men in order that small men may get into office. Recollect that the collector has to pay all his deputies and all his expenses, and that no matter what the amount of his collections may be, his compensation cannot exceed $8,000. I think that that is too small, but the Committee of Ways and Means finally agreed upon it. I hope the rate will not be cut down, but that the collectors at least will be allowed a decent compensation.

Mr. MORRILL, of Maine. I move to amend the amendment by reducing the rate of compensation one and a half per cent. I am very sorry to disagree with the chairman of the Committee of Ways and Means, for I know that he is pretty generally right, and he always intends to be reasonable. But with due deference to him, I beg to say that I do not believe he has given to this portion of the bill that consideration which he ought to have given it, and which he probably would have given it, if he had not been pressed with other business. The Chairman of the Committee of Ways and Means says that the compensation is limited to $8,000. I wish to ask him how large is the district for which $8,000 is to be paid?

Mr. STEVENS. It may be half a State, it may be the quarter of a State, or it may be the whole of a State. It depends upon the President in making out the districts.

Mr. MORRILL, of Maine. The gentleman will see at once that for a whole State the compensation of $8,000 is quite too low. Nobody could afford to collect $3,000,000 or $4,000,000—as will have to be collected in some States—for $8,000. No one could afford to organize collections over an entire State for $8,000. Then again, if the President sees fit to cut up a State into counties and make them collection districts, $8,000 is evidently too large a compensation for the collectors. This limitation cannot be regarded as an essential feature in the bill, for it all turns upon the size of the districts which the President may think fit to make.

Mr. STEVENS. If the districts are cut up into counties, how much would be collected in counties generally?

Mr. MORRILL, of Maine. In certain counties it will amount to many thousands of dollars—to more than $100,000.

Mr. STEVENS. Not in many counties.

Mr. MORRILL, of Maine. If in only one county, would not the gentleman regret to see a man receive $4,000 for collecting $100,000? Would the gentleman give such compensation?

Mr. STEVENS. I would, for the responsibility, and I would think him very badly paid.

Mr. MORRILL, of Maine. I do not agree with the chairman of the Committee of Ways and Means, that in order to get good men you must give exorbitant compensation. Men are found in the eastern States to give bonds and collect faithfully our taxes, and they are generally paid only from one to two per cent., and no mileage. That includes every perquisite. These men collect faithfully. They go about and pick up their taxes, from fifty cents to $100. Here collectors will not have to pick up small sums; but will go to manufacturing establishments and collect, frequently, many thousands of dollars in a day. This bill, too, is much more stringent than the tax laws in States. Under this bill, advertisements will be published requiring persons to come in and pay their taxes to the collector. The collector is only to call once; after that he is paid for every step of travel he takes, and for every moment of time he spends in enforcing collection. Now, in all the New England States—yes, in nearly all the States—this tax can be collected for a commission of two per cent., without mileage. I know that the best qualified men in the country would be delighted to give bonds to collect all the taxes in New England for a commission of two per cent., without mileage.

Mr. SARGENT. If the gentleman will notice the proposition he will find that, on the average, the amount of commission allowed is less than one per cent.; and he proposes to take a contract for double the price which the Committee of Ways and Means proposes to pay. Suppose that these collection districts are fixed so that $1,000,000 of taxes will be collected in each; on the first $100,000 the commission would be $4,000; on the second $100,000 the commission would be $1,000. On the remaining $800,000, the tax would be $2,000; making a commission of $9,000 on the whole million, or nine tenths of one per cent. But when the aggregate exceeds $8,000, it is curtailed to that sum. Now, we provided in the tax bill passed at the extra session to allow fifteen per cent. to the States that would assume the assessment and collection of the tax, and here we are higgling at paying less than one per cent.

I think that this section is defective. I think that instead of giving the larger commission for the first $100,000 collected, the smallest rate of commission should be fixed for it. It is obvious to every one that the first collections can be made most easily. They will be collected from the large manufacturers. But the collection of every dollar afterwards becomes harder and harder. In order to stimulate the energies of the collectors, we ought to increase the rate of compensation for every additional $100,000 collected. I would reverse the rule. I would suggest to give one half or one per cent. for the first $300,000, and increase the commission for every additional $100,000, so as to induce the collection of all the remnants of taxes. But I submit, that when, under the provisions of this bill, you give to the collector who collects millions of dollars only $8,000, while you give the same compensation for the collection of a much smaller sum, you will find it impossible to collect the remaining portion of the taxes after the amount sufficient to secure the maximum compensation has been collected. It seems to me that gentlemen must see the difficulty of collecting what remains after the collector has once been over his district, and the injustice of requiring it, unless you give a reasonable compensation. The entire amount, as I have suggested, is only one fifteenth the amount provided to be paid in the provisions of the act of the last session.

Mr. MORRILL, of Maine. I ask the unanimous consent of the committee to say a word in reply to the remarks of the gentleman from California.

Mr. STEVENS. I think if the gentleman wants to say anything more he should withdraw his amendment and propose another. We shall never get through unless we conform to the rule.

Mr. MORRILL, of Maine. I withdraw my amendment.

The CHAIRMAN. The question then recurs upon the amendment of the gentleman from Ohio.

Mr. MORRILL, of Maine. I move to amend the amendment so as to make the compensation one and a quarter per cent. I desire to say that I still think this percentage is entirely too high, although the gentleman from California seems to be of the contrary opinion. So far as his State is concerned I am not certain but what he is right in saying that the compensation is not high enough.

I suppose it will cost very much more to collect these taxes in California than the other States; but I hope he will not drive the other States into paying too much for the sake of getting the proper compensation in California. I should much prefer to insert a clause in this bill giving the collectors in California, as we have already agreed to give the assessors, extra compensation, at the discretion of the Secretary of the Treasury.

Now, sir, the gentleman from California speaks of the large sums that will be received by these collectors in small districts, while $8,000 is all that they can receive in the large districts. The gentleman seems to be under the impression that these districts are to be very large. Now, sir, I ask the gentleman, and I ask the chairman of the Committee of Ways and Means again, what is to be the size of these collection districts? I admit that if each district is to embrace a State, the pay, limited to $8,000, provided for by the bill, is too low; but if States are to be cut up into counties then the compensation is a great deal too much. That is all. The size of the district and the amount of pay should be in proportion. Suppose, for instance, this city or District be divided into three or four collection districts, it is unreasonable to think of paying each collector four per cent. upon all the money he collects, though it might not make the amount of $8,000. And so go to the city of Boston or the city of Lowell. I ask the chairman of the Committee of Ways and Means if he does not think four per cent. is an unreasonable amount to pay in such cases?

Mr. STEVENS. I do not consider four per cent. quite enough anywhere. But the gentleman will understand that this bill is not intended to operate in the city of New York or in New England particularly, nor is the compensation to be paid the collectors to be paid by the State of New York or by New England particularly. It is to come out of the general tax. They do not pay it any more than we pay it. They pay the taxes which are assessed upon them and no more.

Now, I know that there may be a considerable difference in the price of labor, and in the price of professional services in the different parts of the country. No decent lawyer in Pennsylvania would undertake the collection of any sum of money from $100 to $1,000, and be at the responsibility of paying it over, for less than ten per cent. And yet I have no doubt that in Maine and New Hampshire you can get—at any rate I know when I lived in that country you could get—a lawyer to do all the work about a suit for about fifty cents, and he would consider himself pretty well paid at that. [Laughter.] It may be so now. I do not know how it is. But, sir, we must have a uniform rule. If the gentleman from Maine wants to except New England or any portion of it and provide that the collectors there shall receive two per cent. or any smaller amount, I will not object to it. But if you undertake to make a different rule for different States, see what will be the result. If you add on something for California you must take off something for Maine and New Hampshire. You cannot do that; you must take a fair average for the whole, and I say you cannot get good men, and men who will be responsible for the money for a less compensation than is provided in this bill. As I have remarked, this four per cent. may be too large in the large cities and in New England, but if gentlemen will take the adjoining States for instance, take Maryland and Pennsylvania, I think the amount of four per cent. upon the first $100,000 is entirely too small—too small in comparison with what is paid in private business for the labor and responsibility incurred. You must recollect that something must be allowed for responsibility. If a man is to collect $100,000 and be responsible for it, it is not the mere manual, physical labor that he is to be paid for, it is the responsibility; and I say it is a petty—I will not say niggardly—system. I say that it is not at all an adequate compensation. You save but little, and the chances are that you will lose a good deal. I do hope that the House will think that the Committee of Ways and Means have fixed the compensation low enough. I know that in some States it will be too low and in others too high; but upon the average I think it is about right.

The amendment to the amendment was disagreed to.

The amendment proposed by Mr. HUTCHINS was disagreed to.

Mr. SARGENT. In order to give the committee an opportunity to vote upon the sliding scale I have suggested, I will move to amend in line four, so as to make it read as follows:

A commission of a half per cent. upon the first $300,000, one per cent. upon the second $300,000, and three per cent. upon all sums more than $600,000.

Now, sir, I think that the committee will agree with me that the principle of this amendment is correct. I think that after a collector shall have once gone over a given district, the labor of collecting what remains will be very materially increased, and your collectors will not be disposed to encounter that labor, if you provide that where the labor is increased the compensation shall be diminished. Now, I know that in my own State this principle is adopted in the collection of the tax on foreign miners' licenses. The sum of five per cent. is paid for the collection of the first $30,000, and for the next $30,000 the commission is increased to ten per cent., and in this way a very large amount of revenue is collected by the State.

Now, if a collector has gone once over his district and collected the large sums, for which he receives a large compensation, he will not be disposed to go over it again and collect smaller sums for a less compensation, provided the smaller compensation is not sufficient to remunerate him for his trouble. For that reason I submit my amendment, and hope it will be adopted. Of course, I must defer to the larger experience of older members of the House, but I can see no reason why these men should be paid less compensation in proportion to the increase of the labor to be performed.

Mr. PHELPS, of California. I trust that the amendment offered by my colleague will not be adopted. I think he has overlooked this fact, that the result of the amendment would be to decrease the pay for the collection of those taxes in the smaller districts where it will be attended with the greatest labor and cost. His argument would be correct if only applied to the great cities, such as Boston, New York, and Philadelphia; but when you come to apply it to the whole country, there are districts where, if they are the largest which have been proposed, the whole amount collected will not exceed three or four hundred thousand dollars; and I submit to my colleague, therefore, that the effect of his amendment, if adopted, would be, in its general application, to give the least compensation to the districts where the duties of the collector will be attended with the greatest labor and expense, while in the larger districts, where the labor is comparatively small, the compensation will be greater.

The amendment was disagreed to.

Mr. HARDING. I move to strike out the words, "ten cents for each and every mile traveled, and."

Mr. Chairman, I offer this amendment for the purpose of raising the whole question of the propriety of providing compensation for collectors in this way. The collectors under this bill ought to have liberal compensation. There ought to be allowed such compensation to them as will secure the services of competent and honest men. The question is, whether compensation can be safely provided by allowing mileage at all? If four per cent. be not enough, then I am in favor of enlarging it so as to make the compensation adequate, and at the same time certain.

Under the clause as it now stands, allowing ten cents a mile for travel, I venture to say that in every solitary instance the collector will not only receive his four per cent. on the amount collected, but for every day engaged in making collections, at least three dollars in addition. He will receive three dollars mileage if he only travels fifteen miles from his residence and returns. There is not a solitary collector who will not receive that amount of mileage every day while he is engaged in collecting. Even the honest and conscientious collector will receive that amount. He will keep a true account of the number of miles that he may travel while he is out collecting. He will, under this bill, receive twenty cents a mile, and he will travel at least fifteen miles a day from his residence, or thirty miles, adding the fifteen miles of return, which would make three dollars. Some will secure more than that. Some may get ten dollars a day. This mileage, it will be found, will run up to an enormous amount.

The collector is to keep an account for himself of the miles that he has traveled. It is impossible, in the very nature of the case, to keep any check over him. Here, then, of itself is the source of great temptation. The greater the want of conscience on the part of the collector the greater will be his compensation. There will be no check on him, and he can charge what he likes. Let us, therefore, strike out this mileage provision. Four and five dollars a day, in some instances ten dollars a day, may be charged for mileage by the collectors under this bill. There is no sort of check upon the collector. He is to keep an account of his travel, and it is entirely left to his discretion to say what he will charge. Abuses of the most odious character will occur. They cannot be prevented. In the vast army of collectors to which this bill will give rise, it is to be expected that there will be numbers of dishonest, or at least unconscientious men. There is no check on them. I would therefore strike out this whole provision in regard to mileage. If four per cent. be not enough, make it five per cent. or six per cent. Make the compensation of these officers adequate, but I hope that it will also be made certain. Leave it not to these men to compute and charge their own mileage.

Mr. MORRILL, of Vermont. I would prefer that the mileage should be much reduced, rather than this feature of the measure should be stricken out. I move that it be reduced to five cents a mile.

Mr. MORRILL, of Maine. I hope that the amendment to the amendment will not prevail. Let us do away with this mileage provision here as we did in the case of the assessors. There is no necessity for it. We struck it out in the case of the assessors, and we ought to strike it out here in order to be consistent. We have had some experience about the trouble of ascertaining the number of miles traveled even among the members of Congress. I believe that if this House could look over the charges which have been made by members for mileage—and we must consider that members of Congress would not do what is wrong, and ask for more pay than they were really entitled to—if they could see the enormous and monstrous mistakes that have been made, I am sure that they would not retain this provision in this bill. Some members of Congress, sir, cannot tell within two thousand miles of the distance they have had to travel to attend the sessions of this House. I see that my friend from California [Mr. SARGENT] laughs. I do not refer to him.

Mr. SARGENT. I accept the apology.

Mr. MORRILL, of Maine. I mean the gentleman's predecessor. Is it reasonable to suppose, when members of Congress make such enormous mistakes as not to be able to tell within two thousand miles of the distance to this Capitol from their homes—that when honest and honorable members of Congress make such mistakes in their accounts—any of these collectors will be less free from that human weakness? There can be no good in this mileage arrangement; but, on the contrary, it will give rise to great abuses; and I hope that it will be stricken out.

Mr. MALLORY. There is a Committee of Mileage in this House, whose duty it is to fix the distances for which members are entitled to mileage; and I make this statement to relieve the members of the House from the serious imputation which it is attempted to put on them.

Mr. MORRILL, of Vermont. I believe that the gentleman did not get through that committee. But you cannot have a committee as a check upon these collectors in their accounts for mileage.

Mr. ENGLISH. I move to reduce it to four cents per mile. I desire, sir, to make a few observations in regard to the bill generally. I want its provisions amended and perfected as far as possible. At best it will be received by the people as an unpopular measure; but if there is one thing more than another which will make the bill distasteful, it is allowing this class of officeholders to go around the country and, for discharging not very heavy duties, receive the enormous salaries which are here contemplated. They will loudly protest against these collectors receiving $8,000 a year each, provided that the amounts of their collection will entitle them to that sum. There are no officers in the State from which I come, State or Federal, who receive any such compensation as that. We have the best men in the State for bank

presidents and occupying other high and responsible financial positions, who do not receive anything like that large salary. The collector of customs of the port where I reside does not usually receive more than $2,000 a year, the limit being $3,000. The postmaster and all of the other officers receive not higher salaries. That State, sir, has to contribute very largely toward furnishing the amount of tax to be raised by this bill. They are a manufacturing people, and in my district there are many establishments that will pay, under this bill, thousands of dollars weekly and monthly. It seems to me that this provision allowing ten cents a mile to these collectors as mileage, ought to be stricken out. I think that such an uncertain mode of compensation ought not to be entertained by this House, and I hope that the amendment of the gentleman from Kentucky will prevail.

Mr. MORRILL, of Vermont. I have no doubt that it is the intention of the committee to strike out this mileage provision, and I therefore withdraw my amendment.

Mr. ENGLISH. I withdraw my amendment.

Mr. HARDING. I move to reduce the mileage to one cent. I desire to call the attention of the House to the danger of providing compensation for these collectors in this way. It would be too great a temptation to dishonesty. A better illustration of the abuses to which this mileage system is subject could not be given than that which was cited by the gentleman from Maine, [Mr. MORRILL.] There has been an abuse of it when applied to this honorable and distinguished body. It has not been thought consistent with the interests of the national Treasury to permit members of Congress to fix the amount of mileage which they are entitled to, and, as a check, the mileage accounts of members of Congress are compelled to be considered and passed upon by the Committee on Mileage. If, then, the members of this House cannot be intrusted to say what mileage they shall receive, is it not a dangerous temptation which ought still less to be presented to these collectors? There will be, under the bill, as it now stands, no check upon these collectors at all in regard to their allowances for mileage. In the nature of the case there can be no check upon them. I object to this mode of compensation. If they do not receive pay enough by their four per cent., then make it larger, but make it certain. There is not a collector in Kentucky who is allowed mileage. There is no compensation of that kind provided in any State that I can remember. The thing in itself is monstrous. It just permits the collecting officer to make out his own charge, and whether more or less, it cannot be inquired into. And then, on the very face of it, there is not a case in which the collector will not report, however honest he may be, that he has traveled at least fifteen miles from his residence. This will entitle him to three dollars a day. But in most cases he will get five or ten dollars a day for travel. I withdraw my amendment.

The amendment to strike out the mileage was agreed to.

Mr. HUTCHINS. I move to insert after the words "eight thousand dollars" the words "per annum."

The amendment was agreed to.

Mr. NOBLE. I move to strike out "$8,000," and insert in lieu thereof "$4,000." In reference to this amendment, I will state that in the State of Ohio we have not a single officer who receives more than $2,500 per annum, and among these are judges of the supreme court, men of the highest capacity and qualifications, who have to hold their sessions at the capital one half of the year, and to travel the State almost the entire remainder of the year.

Mr. SARGENT. Has the gentleman taken into consideration the fact that the collector has to pay all his deputies out of this $8,000?

Mr. NOBLE. Yes, sir.

Mr. SARGENT. How much will be left to him after that?

Mr. NOBLE. The districts will be made so small as not to require many deputies.

I say that the highest officer of the State of Ohio gets only $2,500 a year. A man at a salary of $4,000 can keep at least two clerks, and that will be sufficient to do all the business. The treasurer of State of the State of Ohio gets a salary of only $1,500, and he is compelled by law to give a bond for $250,000. I am in favor, therefore, of limiting this amount to a sum below $8,000.

It is also suggested to me that the treasurer of State of the State of Ohio handles more than three millions of dollars annually. My recollection upon that subject is that the amount is much more than that, as the tax of the whole State of Ohio amounts to something like eleven millions of dollars annually.

Mr. MORRILL, of Vermont. There appears to be a little misapprehension in the minds of members of the committee in regard to these officers, the collectors. By this bill they are required to give bond for the faithful performance of their duties, and the payment of all duties and taxes collected by them. Now, unquestionably, in some of the districts several millions of dollars will be collected by each collector. It is important that they should be responsible persons—persons who can give this amount of security.

Then, again, it will be utterly impossible for one man to discharge the entire duties of his district. He will necessarily be compelled to employ a considerable number of persons in order to collect the tax—in the country districts, probably a man in every town.

Then, under the bill, he is compelled to compensate those men, and it cannot be possible to do it under the limitation suggested by the gentleman from Ohio. In my judgment, the compensation of the collectors, as fixed in this bill, is already too small. My only fear about it is, that the bill may be rendered ineffectual in consequence of the smallness of the sum fixed for compensation.

The amendment was not agreed to.

Mr. PHELPS, of California. I offer the following amendment:

At end of section thirty-six, add:

Provided, That the Secretary of the Treasury be, and he is hereby, authorized to fix such additional rates of compensation to be made to the collectors and assistant collectors in the States of California and Oregon, and the Territories of Washington, Nevada, New Mexico, Colorado, and Arizona, as may appear to him to be just and reasonable in consequence of the greater cost of living and traveling in said States and Territories, and as may, in his judgment, be necessary to secure the services of competent and efficient men.

I suppose no remarks are necessary in favor of this amendment. The same reasons precisely prevail in favor of the adoption of this amendment that did in regard to the compensation of the assessors. It will be impossible to collect this money in any of the States and Territories mentioned under the compensation fixed by this bill. My only object in moving this amendment is that we may provide for the efficient collection of these taxes in those States and Territories.

Mr. SARGENT. It appears to me that a verbal amendment is necessary in the gentleman's amendment. It provides that the Secretary of the Treasury shall fix the compensation of the collectors and deputy collectors. I believe the deputy collectors are paid by the collectors.

Mr. PHELPS, of California. I had overlooked that fact.

Mr. SARGENT. I move to amend the amendment by striking out the words "deputy collectors." In the discussion yesterday upon an amendment kindred to this some question arose as to the amount of taxes which California would be likely to pay in under this tax, and if I did not misunderstand the chairman of the Committee of Ways and Means, he stated that there would be no loss to the country, if, instead of having bad men, by inadequate compensation, to collect the taxes, we had none at all; that is, if I understood him, that he expected to collect no revenue from us in either case. He did not inform us whether our poverty or meanness would cause this.

But, as I said yesterday, I repeat, we intend to do our duty, and I want to call the attention of that gentleman and the gentleman from Rhode Island, [Mr. SHEFFIELD,] who seemed to think the increased compensation would swallow up the revenue, to some of the subjects of taxation which we have in California. We have there large manufactories of iron founderies, capable of forging heavy steamboat shafts and quartz machinery, manufactories of wool, tobacco, wine, hats, gold, gas, and flour. A stamp tax on advertisements will draw from us a large revenue, for we have many papers, with large advertising patronage. We have certificates of stock, conveyances, telegraphic dispatches, express companies, insurances, notarial acts, passage tickets, medicines, legacies, salaries, carriages, watches, billiard tables, slaughtered cattle. We have bankers and auctioneers, wholesale and retail dealers in liquors. Yes, sir, I am sorry to say, that retail liquor shops are set as thickly over our State as stars in the milky way. We have stationers, pawnbrokers, rectifiers, and brewers. Lager beer is manufactured by the thousand gallons. We have hotels and eating-houses, brokers and commercial brokers named in this bill, tobacconists, and theaters. Why, sir, "stars" of all magnitudes tread our boards, and the people of Shasta or Nevada are as familiar with Murdock or Madame Bishop, Biscaccianti or Booth, as the denizens of New York. We have circuses and bowling alleys, confectioners, horse dealers, peddlers, apothecaries, and photographers. We have nearly every form of business, every article of property taxed under this bill. I believe we have discovered no coal oil yet in our State; but upon a cursory examination of this bill, I do not discover, with that exception, another item which does not apply to and upon which taxes would not be collected in the State of California. If the taxation under this bill will produce $120,000,000, as estimated by the able gentleman from Vermont, [Mr. MORRILL,] I have no doubt that $3,000,000 of that will be paid by the State of California. In the San Francisco district alone, I estimate that the tax will amount to $1,500,000. I assure gentlemen that we do not wish to be excepted from the operation of this bill; but I think that if anybody is to be appointed in California to collect that tax, the compensation should be such as to secure the services of able and efficient men. And after you allow them an increased percentage for assessing and collecting the taxes in that State, the expenses of collecting will not exceed six and two thirds per cent., and under the law of 1861, at the extra session, as I remarked a while ago, Congress was glad to give the States fifteen per cent. for making the collection.

I make these remarks in justice to my own State, and to show that while we ask for increased compensation, we do not do it for the purpose of feathering the nests of our collectors, but in order to make the bill more efficient and the collection of the money more certain. If the views of the chairman of the Committee of Ways and Means are correct, that no revenue will be collected from California in any case, he had better amend so as to except that State. But if he pretends to collect, let him not try to do it under a system moddled for this side of the Rocky mountains, and which will fail in the other.

Mr. PHELPS, of California. I accept the modification.

Mr. STEVENS. I hope the amendment will not prevail. There was some reason for the amendment which was adopted the other day in relation to assessors, for that was a per diem compensation; but here, where it is a mere percentage for collection, I do not think that the amendment would be proper. If it is adopted I shall have to move an amendment that the Secretary of the Treasury shall pay so much less than the percentage provided for here in the State of Maine, and in portions of New York, as he shall deem proper, because there they can get the work done for half the amount. We must have something like a uniform system, and though I am satisfied with the amendment in relation to assessors, I think it would be a wrong principle to apply it to collectors.

Mr. SARGENT. I move *pro forma* to strike out the last word. It seems to me that the argument of the gentleman from Pennsylvania is something like that famous character we read of in fable, who used a Procrustean bed, and cut off the legs of some and stretched out others, in order to make them fit the measure of the bed. Now, it is well known to him, and to every member of this committee, that you cannot have uniformity of compensation for the public officers in the different States of the Union. You can get on very well on this side of the Rocky mountains; but the moment you go upon the other side of them you find an entirely different state of things existing. You find that if you pay men there at the same rate that you do in Maine, they would starve there, and could not afford to attend to the public business. I call the attention of the committee to the fact, that in the county of San Francisco it

will be necessary to have three deputy collectors and a book-keeper, at an aggregate cost, at least, of $9,000 per year to collect these taxes, and in each of the counties of Santa Clara and Santa Cruz, one deputy, at a compensation of $1,200 for the whole year; and in ten other counties one deputy will be required in each for a part of the year, at a compensation of $300 each. The whole expense of the collection on this estimate would be $14,400, and the amount which would be collected in that district, containing that large city, with some eighty thousand inhabitants, would be something over a million of dollars. Now, the expense which would be absolutely necessary for clerk hire, book-keepers, and deputies, in order to handle the machinery of this system of taxation would exceed by some six thousand dollars the highest compensation which could be had for the collection of $1,000,000, and leave the principal collector not one cent for his own services. Now, we know what it costs to collect these taxes in our own State, and the estimates which I have made are below what we pay there, although we have been cheapening the collection of taxes for the last ten years.

I look upon this amendment as an absolute necessity. You may get the assessments made under the increased compensation that you allow to assessors, but if you do not increase the compensation of the collectors, the tax will not be collected. It is as necessary in the one case as in the other. I warn gentlemen of these facts, and let them not hold me responsible if they disregard my suggestions, and then find their scheme does not work. I now withdraw my amendment to the amendment of my colleague.

Mr. HOLMAN. I offer the following amendment to the amendment, to come in immediately after it:

And the additional compensation so paid shall be paid by the States and Territories aforesaid respectively.

Mr. PHELPS, of California. I thank the gentleman for offering that amendment, as it enables me to say a single word.

In the Territory of Nevada, as I said the other day, a man cannot live for less than two dollars a day; and if he is traveling about, he cannot live for that; nor can he in the mining districts of California and Oregon, or in Washington Territory.

Now, sir, I am aware that some districts in those States and Territories will pay small amounts. But they are willing to pay all that is assessed upon them, so far as the loyal people are concerned; and I presume that so far as the disloyal ones are concerned, they will not be willing to pay it anywhere.

Well, now, sir, so far as the Territory of Nevada is concerned, it will probably not pay in all more than $40,000. To collect those $40,000, a collector will have to travel all over the Territory of Nevada, and the entire pay that he is allowed under this bill for himself, for his deputy, for his traveling expenses, for his office rent, and for everything, would be only $1,600.

Well, now, sir, it is known to every man who knows anything about it, that a man cannot live for three or four months there on $1,600, to say nothing about his deputies, office rent, and so forth. So far as the city of San Francisco is concerned, I presume it will pay, as my colleague has said, over a million of dollars under this bill. Perhaps, for the rates fixed in this bill, the tax can be collected there. But take the southern district of California, south of San Francisco, a district embracing a territory larger than the State of New York, and they will probably not pay more than thirty or forty thousand dollars; and at the compensation which is provided in this bill no collector will be enabled to collect the taxes in that extent of territory for five per cent. He cannot possibly do it. No one man can do the whole work; he must have deputies; and this provision would give him no compensation at all.

Now, sir, all I desire to provide by this amendment is that the Secretary of the Treasury may procure the services of efficient and competent men. If he can get men to collect the revenue under this bill for the pay provided, I apprehend that he will in no instance allow additional compensation. So far as my observation goes, he has shown a disposition to reduce the pay of officers of the Government to the lowest possible amount. I have offered this amendment in good faith; I have offered it for the purpose of securing the collection of this money; but if gentlemen are not willing to adopt it, and the money is not collected because of the inadequate compensation allowed to collectors, it will be no fault of mine or of my people.

So far as the amendment of the gentleman from Indiana [Mr. HOLMAN] is concerned, I have no doubt that if the Legislatures of these States and Territories were in session, they would do as they have done in some instances, and as the Legislature of California will propose to do in every case of taking the census—provide for additional compensation to the officers. We have attempted to take the census once in California under the law of Congress, and we found that it was not half taken, for the reason that the compensation given to the marshals was entirely inadequate to their services. We did propose to increase their compensation, and the only reason why the Legislature of California did not appropriate $75,000 for that purpose, as was proposed, was the fact that the loyalty of the marshal himself was suspected, and they were unwilling to place money in the hands of a disloyal man. I have no doubt that these States and Territories are all of them sufficiently patriotic not only to pay this tax but that, if Congress asks it, and if they have the opportunity, they will pay men for assessing and collecting it also. They seek to escape from none of the obligations of supporting this Government.

[Here the hammer fell.]

The question was taken on Mr. HOLMAN's amendment to the amendment, and it was disagreed to.

The question recurred on Mr. PHELPS's amendment.

Mr. SARGENT demanded tellers.

Tellers were not ordered.

The amendment was disagreed to—ayes 45, noes 49.

Mr. SARGENT. I ask unanimous consent to make a single remark.

Mr. STEVENS. Oh, no; we have had talk enough about this matter.

Mr. SARGENT. Will I have leave to move this amendment in the House?

The CHAIRMAN. That will depend on the action of the chairman of the Committee of Ways and Means.

Mr. SARGENT. I ask the chairman of the Committee of Ways and Means to consent that I may move this amendment in the House, so that we may have the yeas and nays upon it.

Mr. STEVENS. I cannot consent to that in advance. I think that California is taxing the patience of the committee a little too much.

Mr. SARGENT. I doubt whether California intrudes as much as Pennsylvania does.

Mr. NOBLE. In order to have the fees of these officers made distinct and limited, I move to amend by striking out "$8,000," where it occurs in the eleventh line, and to insert in lieu thereof the words "$3,000 per annum for the collector, and $2 50 for each of his deputies for the time they are actually and necessarily employed by them respectively;" so that it will read:

Provided, That in no case shall such commissions exceed the sum of $3,000 per annum for the collector, &c.

I wish to see the fees and emoluments of the collectors limited and uniform, and I also wish to see the pay of the deputies limited to the same sum provided to be paid to the assessors. I think that this compensation is enough. I have no question but that the first order of talent can be obtained in all the States and districts to perform these duties for the sums fixed in my amendment. I hope that this amendment will be adopted.

Mr. HOLMAN. The effect of that amendment may be to increase the aggregate sum largely beyond the $8,000 to which the section limits it. For the purpose of preserving that limitation, I move to amend the amendment by adding to it the words "not exceeding in the aggregate the sum of $8,000."

The amendment to the amendment was rejected.

The question recurred on Mr. NOBLE's amendment, and it was rejected.

Mr. WRIGHT. I move to amend the section by striking out "$8,000," and inserting "$5,000," so as to limit the amount of commissions to $5,000.

The amendment was rejected.

Mr. FRANK. I move to amend the thirty-seventh section by striking out the words "by any railroad companies or railroad corporations, banks, saving institutions, and insurance companies, or their officers or agents collecting said duties and paying over the same;" so as to make it read:

SEC. 37. *And be it further enacted*, That an allowance of five per cent. shall be made upon and deducted from the amount of all duties returned or accounted for and paid over to the Commissioner of Internal Revenue as hereinafter required by this act: *Provided*, Said returns and payments are made within the time prescribed by this act in relation thereto.

The amendment was adopted.

Mr. F. A. CONKLING. I move to amend by striking out the entire thirty-seventh section as amended.

The amendment was rejected.

Mr. HARRISON. I desire to suggest to the committee, and especially to the gentleman from New York who moved the amendment, [Mr. FRANK,] that as the section now stands it will apply to all moneys paid over to the Commissioner of Internal Revenue, as well those paid by the collector as those paid by the tax payers. There ought to be some provision which would limit its operation to that which was manifestly intended by the section.

Mr. MORRILL, of Vermont. I move a *pro forma* amendment. I cannot think that the committee understood the purpose of this section. If it did, it would not have adopted the amendment offered by the gentleman from New York, [Mr. FRANK.] The purpose of the section is to allow these railroad companies and banks to make up their returns and pay their taxes to the Government, without the intervention of any assessor or collector, entirely at their own expense; and this deduction is to be made. The tax upon them was regulated in that view. The assessors and collectors will have nothing to do in reference to these parties, provided they conform to the law in all respects, make their returns to the Commissioner of Internal Revenue, and pay over the amount of their taxes. It seems to me, therefore, that the section, as it was originally reported, was just and proper.

Mr. RICE, of Maine. Why should the benefits of it be confined to these particular corporations? Why should the section not apply to every tax payer, or to every manufacturer?

Mr. MORRILL, of Vermont. Because many of the manufacturers will have but a small amount to pay, and their establishments will be scattered over the country in a more diffused manner. It will be necessary to have assessors and collectors look after them. But in the case of railroads and banks, every one can know where they are, and what their capital and dividends are. If they do not avail themselves of the privileges of the section, they will be subject to the invasion of the assessor and collector.

Mr. MALLORY. I object to this section unless it be entirely changed. It seems to me that it is obviously wrong, when you allow to the collector only a commission of four per cent. for all his expense and trouble in collecting these taxes, that you should allow these corporations five per cent. deduction for coming forward and doing what it is the duty of the collector to do at four per cent. I do not see why the Government should relinquish, without necessity or cause, one per cent. on the amount to be raised in this way. It seems to me that the entire section should be stricken out, or else that its operation should be made general, so as to allow every person taxed by this bill to save five per cent. by coming forward and paying his tax to the Commissioner of Internal Revenue. I make these suggestions to my friend from Vermont, as this appears to me to be the true view of the matter.

Mr. MORRILL, of Vermont, withdrew his amendment.

Mr. SHEFFIELD. I move to amend, *pro forma*, by striking out the proviso. It seems to me that the reason suggested by the gentleman from Vermont for the section as reported is quite insufficient. I understood his principal reason to be that the tax to be paid by these railroad and banking institutions is much larger than that to be paid by manufacturing establishments. I do not think that that is so. I think that the capital involved in single manufacturing establishments is quite as large as that of single banking institutions. The reason for this section is quite as

applicable to manufacturing establishments as it is to banking institutions. I hope the amendment will stand, for I think that the section needed such amendment.

Mr. HOOPER. I oppose the amendment, for the purpose of calling the attention of the committee to the provision in regard to banks and savings institutions, in the eightieth and eighty-first sections. Those sections provide a special mode by which these institutions shall themselves collect and account directly to the Commissioner of Internal Revenue, for the income derived from their business. Three per cent. is to be paid on all dividends paid to stockholders as part of the earnings. For that an allowance of five per cent. is made, if the amount be paid directly to the Commissioner of Internal Revenue. I think that the committee has acted on the thirty-seventh section without understanding exactly the object of it. It will be perceived that the question rests on an entirely different basis from that of manufacturing and other companies. These require the direct attention of the assessors and collectors, whereas there is no service required of those officials in connection with the duties derived from dividends.

Mr. SHEFFIELD withdrew the amendment.

Mr. MORRILL, of Vermont. I move to amend the section by adding these words, "by any railroad company or railroad corporation, banks, savings institutions, insurance companies, and express companies, or their officers or agents collecting said duties and paying over the same." As the bill now stands there is no provision whatever for these companies making returns and paying their taxes to the Commissioner of Internal Revenue. It is utterly incongruous to the whole bill. It is therefore necessary to reinstate what has been struck out; or, if it be allowed to remain as it is, all the general provisions of the bill should be made to conform. I do think that, in respect to all these companies where the capital is known to the public, where the dividends are also known, where the returns are made and sworn to by the officers, and where the entire labor is assumed by the officers, this deduction of five per cent. ought to be made. If it be the purpose of the committee to allow all parties a per cent. for paying over, it should be a much less per cent. than that—perhaps not more than one per cent. But that matter has not been considered in the committee, and perhaps will not be. I hope, therefore, that the amendment which I now propose will be adopted.

Mr. SHEFFIELD. I desire to oppose the amendment of the gentleman from Vermont. The amendment seems to be supported upon two grounds—one by the gentleman from the Suffolk district of Massachusetts, [Mr. HOOPER,] and the other by the gentleman from Vermont. As I understand the argument of the gentleman from Massachusetts, it is that, by the eightieth and eighty-first sections of this bill it is provided that the savings banks and the managers of stock banks shall have the power and right by these sections to withhold the amount of the taxes levied upon those institutions from the funds of the stockholders in their hands. Pray, why may not the managers of manufacturing institutions have the authority to do the same thing in reference to the funds of their stockholders? Sir, the reason thus presented, it seems to me, has nothing in it.

And, again, it seems to me that the stock of the manufacturing establishments is as well ascertainable as the stock of banking institutions. But I trust this House will never incorporate this section, as it is proposed, into the bill, because, as another reason, it involves the injustice of taxing the greater part of the savings banks, which are the earnings of the poorer class of people, twice over; for most of their property is invested in the capital of the stock banks. Their income is therefore taxed once in the savings banks, and again taxed in the stock banks. The committee will therefore see that the earnings of this poor but most meritorious class of our population are to pay double taxes.

Mr. Chairman, I trust that this provision will not be adopted. The reason suggested by the gentleman from Vermont is, that to strike it out or not to insert it again, it having been stricken out, will make the bill incongruous. Well, sir, it seems to me that that reason is hardly a valid one. If any provision of the bill which we have not yet reached is not congruous, we will make it so when we reach it.

But, sir, it is not just, upon any such provision, to favor one class of our citizens to the detriment of another class. Is not the man who owns manufacturing stock entitled to be taxed precisely in the same way, and entitled to all the benefits which are conferred upon banking or any other institutions? You have already imposed upon banks the duty of paying every month, while other institutions have to pay only annually, and in this view it may be proper to give them the benefit here proposed, because you impose upon them additional burdens.

Mr. HOOPER. Will the gentleman allow me to say that the difference between the application of this provision to banks and manufacturing institutions is, that in the case of banks this amount is to be withheld from the stockholders? The eightieth and eighty-first sections refer to the dividends to be paid to the stockholders, while the duties to be paid by manufacturers are not predicated upon their dividends.

Mr. F. A. CONKLING. To what sections of the bill does the gentleman refer?

Mr. SHEFFIELD. The eightieth and eighty-first. I understand that these sections confer upon savings banks and stock banks the right of deducting from their dividends which they pay out to their stockholders the three per cent. which is assessed against these institutions.

Now, if manufacturing institutions make a profit of five per cent., they divide it among their stockholders just as the banks divide their earnings in the shape of dividends, and the manufacturing institutions may just as well have the privilege of paying over their three per cent. upon their five per cent. dividends as the banks upon theirs. If the eightieth and eighty-first sections do not apply to such a provision, we will make them apply.

Mr. MORRILL, of Vermont. With the permission of the committee, I will leave out "express companies" from my amendment.

Mr. SHEFFIELD. I rise to a question of order. That will make the amendment precisely what has been stricken out, and will make it out of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. MORRILL, of Vermont. I will then leave it as I offered it.

Mr. F. A. CONKLING. I move to amend the amendment by adding, "gas-light, manufacturing, mining, and other incorporated and joint stock companies."

Mr. HOLMAN. If the section is subject to further amendment, I would like to insert before the word "railroad" the word "persons."

The CHAIRMAN. The Chair will state that no further amendment is now in order.

Mr. FRANK. When I moved to strike out words from this section, I did so because I thought it was unjust to other institutions and *persons* who were not included in the section. My object was to make it apply to any person or persons, incorporated company or companies, and I do not care whether the whole section be stricken out or the amendment I now propose adopted. If the gentleman from New York will allow me, I will offer an amendment which will supersede the necessity of his, and will cover the whole case.

Mr. F. A. CONKLING. I will hear the gentleman's amendment.

Mr. FRANK. The amendment I propose is, to strike out after the words "internal revenue," in the fourth line, down to the word "provided," as follows:

By any railroad companies or railroad corporations, banks, savings institutions, and insurance companies, or their officers or agents collecting said duties and paying over the same as hereinafter required by this act.

And to insert as follows:

By any manufacturing or incorporated company, person, or persons, upon whom the same is assessed by this act.

Now, Mr. Chairman, I do not see the propriety in allowing "railroad corporations, banks, savings institutions, and insurance companies," a deduction of five per cent., while the same privilege is denied other incorporated companies, although, in many cases, paying a much larger tax. My friend, who sits near, [Mr. CHAMBERLIN,] tells me that within five miles of his residence there are incorporated companies whose combined tax will amount to $1,500 per day, and I ask, where is the propriety of compelling them to pay the full amount of tax, while the railroad, bank, or insurance company by their door is allowed a deduction of five per cent.? I do not see why one species of incorporated institution should be exempt from the visits of the assessor, and be allowed a discount on their taxes, and another made to pay the full amount assessed by the assessor. There are individuals, too, whose tax is larger than that of many of the banks, and I see no reason why they may not as well make their returns directly to the Commissioner of Internal Revenue, and after having their tax regularly made up, be allowed the discount in the same manner as is here provided for the banks. My only desire is, that all shall be placed upon an equal footing in this matter, and the amendment I have proposed would accomplish the object, by allowing *any person*, as well as incorporated company, to avail themselves of the benefits of the section, in a deduction of five per cent. from the amount of all duties returned or accounted for and paid over to the Commissioner of Internal Revenue.

Mr. F. A. CONKLING. I will accept the amendment of my colleague.

The CHAIRMAN. The question will then be upon the amendment of the gentleman from New York, as a substitute for the amendment of the gentleman from Vermont.

Mr. STEVENS. I think that all these amendments which have been offered to this section are wrong; probably because the gentlemen who offered them have not properly considered the whole bill. The bill, as it stood, provided for a class of persons who make their returns directly to the Commissioner of Internal Revenue. It was, of course, proper that they should go there and pay it, because the Commissioner had before him the amount of revenue which was thus to be paid. But it is now open to everybody who make no returns; and the Commissioner of Internal Revenue will therefore have no data before him on which to judge of the correctness of the amounts paid.

Mr. FRANK. These eighty-first and eighty-second sections could be made to apply to all companies or persons.

Mr. STEVENS. Oh, I admit that you can draw a bill so that everybody shall be required to make his returns to the Commissioner of Internal Revenue, but it would take a rather large amount of time to keep the books if everybody comes here to pay, and would involve something of expense in the way of clerk hire. The company from Massachusetts will come and pay very properly a certain sum; some gentleman from the district represented by my friend from Maryland will come up with a half dollar to pay. [Laughter.] He will come up to the Commissioner of Internal Revenue and cause various entries to be made, which will cost at least seventy-five cents for paper, and much more for clerk hire. So it will go through the country. I hope, therefore, that the amendment will not be adopted, and that when we go into the House the section will be restored to its original form.

Mr. F. A. CONKLING. Why were gas-light companies excluded from this enumeration?

Mr. STEVENS. Because it has been provided that the tax shall be paid by them on the manufacture of gas. They will pay to the collector directly.

The question recurred on Mr. FRANK's substitute.

On a division, there were—ayes 23, noes 30; no quorum voting.

Mr. FRANK demanded tellers.

Tellers were ordered; and Messrs. FRANK and LEHMAN were appointed.

Mr. FRANK. In order that the committee may not be broken up, no quorum being present, I will withdraw the amendment, provided that I can offer it again and have a vote of the committee on it hereafter.

Mr. HOLMAN. I object. I am in favor of granting the privilege, provided that it can be made general. I asked a similar favor this morning, and was refused.

The question was taken; and the amendment to the amendment was agreed to; the tellers having reported—ayes 58, noes 36.

The question then recurred on the amendment of Mr. MORRILL, of Vermont, as amended; and on a division, there were—ayes 36, noes 33.

Mr. MORRILL, of Vermont, demanded tellers.

Tellers were ordered; and Messrs. ELIOT and PRICE were appointed.

The question was taken, and the amendment, as amended, was agreed to; the tellers having reported—ayes 55, noes 40.

Mr. F. A. CONKLING. I move to strike out the entire section as it has been amended.

Mr. HARDING. I move that in lieu of what is proposed to be stricken out, there be inserted the section as it originally stood. Then we will have this whole matter clear again.

Mr. SHEFFIELD. I rise to a point of order. The section as it now is in the bill cannot be interfered with, as it has been passed upon by the committee. I make the point of order that the motion of the gentleman from Kentucky is not in order.

The CHAIRMAN. The Chair overrules the point of order raised by the gentleman from Rhode Island. The section as it was stricken out and substituted by the amendment of the gentleman from New York had been amended, and the proposition now is to insert the section as it originally stood in the bill.

Mr. PHELPS, of California. I hope that the section will be stricken out as it now stands. It provides that the assessor or the collector may go into any manufactory and make a personal examination. If the party who owns any manufactory may want to evade such visits, he may come forward with a statement, an evasive statement, and pay over the money. No question can be raised on that statement.

Mr. THOMAS, of Massachusetts. Nor is there any provision for its being sworn to.

Mr. PHELPS, of California. There is no provision for its being sworn to. If the assessor is disposed to, he can receive the statement unsworn to. Any person who desires to, may evade an answer by resorting to the trick which the section now permits. The whole section is wrong, wrong in theory and wrong in practice, and I hope that it will be stricken out.

Mr. WHITE, of Indiana. I move to strike out the last word of the amendment. The eightieth and the eighty-first sections provide that the tax upon railroad companies and these other corporations shall be paid by the parties who receive the dividends. In that way we will be enabled to receive a large part of our revenue in this regard from those in Europe who are large holders of these securities. But it is utterly impracticable to execute this section as it has now been amended. It cannot be done. The eightieth and eighty-first sections will stand perfectly if this section be stricken out, and I hope that the motion of the gentleman from New York will prevail. It will save to the Government five per cent. It will then provide that the parties shall account directly to the Commissioner of Internal Revenue. I withdraw my amendment.

Mr. FRANK. It will be time enough to discuss the eightieth and eighty-first sections when we reach them.

The question was taken on Mr. F. A. CONKLING's motion, and it was agreed to; there being, on a division—ayes seventy-two, noes not counted.

Mr. HARDING's amendment was then agreed to.

The thirty-ninth section was read, as follows:

SEC. 39. *And be it further enacted*, That should any of the people of any of the States or Territories of the United States, or the District of Columbia, be in actual rebellion against the authority of the Government of the United States at the time this act goes into operation, so that the laws of the United States cannot be executed therein, it shall be the duty of the President, and he is hereby authorized, to proceed to execute the provisions of this act within the limits of such State or Territory, or District of Columbia, so soon as the authority of the United States therein shall be reëstablished, and to collect the sums which would have been due from the persons residing or holding property, goods, wares, or merchandise, object, or article therein liable to any duty, license, or tax, with interest at the rate of six per cent. thereon from the time such duty, license, or tax ought to have been paid until paid in the manner and under the regulations prescribed in this act, so far as applicable, and, where not applicable, the assessment and levy shall be made and the time and manner of collection regulated by the instructions and directions of the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury.

Mr. HARRISON. I move to strike out in the fifth line the word "the," and insert the word "any;" and after the word "time" insert the word "after;" so that it will read, "at any time after this act goes into operation," &c. That amendment will make the section provide for any future contingency.

Mr. CLEMENTS. I do not think that the loyal citizens ought to be made liable to the payment of this six per cent., although it may be that the rebels ought to be.

The amendment was agreed to.

Mr. CLEMENTS. I move that the thirty-ninth section shall be amended by adding the following proviso:

Provided, That no loyal citizen shall be required to pay this six per cent. for the non-payment of this tax.

Mr. ELIOT. I do not see how it is to be ascertained whether a citizen is loyal or not. This amendment will necessitate a court of inquiry in every case, and I hope it will not pass, as I can see no necessity for it. I do not think that it is practicable.

Mr. HARRISON. I suggest that the language of the amendment be "any loyal citizen of any of the aforesaid States and Territories in rebellion."

Mr. CLEMENTS. I accept that as a modification of my own amendment.

Mr. WORCESTER. I move to add the words "who shall voluntarily pay said tax."

The amendment to the amendment was disagreed to.

Mr. MENZIES. I should be glad to do anything which could be done for the loyal citizens of the States and Territories to which reference is made. I do not, however, see that the section, if amended as proposed, can be executed. I would like very well, indeed I feel anxious to favor the loyal citizens of the disloyal States, but it cannot be done in this way. I think that they ought to be satisfied with the use of the money. It is worth six per cent. to them as well as to everybody else in the country. I move to insert after the words "per cent." "per annum."

The CHAIRMAN. The gentleman's amendment is not in order, not being germane to the pending amendment.

Mr. EDWARDS. I move to amend by inserting the words "all loyal citizens who can be ascertained to have been loyal citizens."

Mr. Chairman, I move that amendment for the purpose of making the section more definite, if the amendment of the gentleman from Tennessee is adopted. This is to be applied to the States and Territories after the rebellion has been suppressed and passed away. If I were to adopt the line of remark which sometimes characterizes the gentleman from Pennsylvania, the chairman of the Committee of Ways and Means, I should say that when the rebellion is suppressed it would be hard to find any who had not been loyal all of the time. When the question of taxation comes up, every man will profess to have been loyal. Who, then, will decide who shall be exempt from this six per cent. and who shall not? It seems to me, therefore, that the rule, although a very good one if it could be applied, is too indefinite for application. I withdraw my amendment.

The amendment offered by Mr. CLEMENTS was not agreed to.

Mr. MENZIES. I move to amend by inserting after the words "per cent.," in the fourteenth line, the words "per annum." I think the percentage should be paid every year the tax is withheld.

The amendment was agreed to.

The fortieth section was read, as follows:

And be it further enacted, That the officers who may be appointed under this act shall be, and hereby are, authorized to perform all the duties relating to or regarding the assessment and collection of the direct tax imposed by an act entitled "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," approved August 5, 1861, or any direct tax which may be hereafter enacted.

Mr. HOOPER. I move the following amendment, to come in as a proviso at the end of the section:

Provided, That the sum of $19,312, direct tax, laid upon the Territory of Nebraska by said act shall be paid and satisfied by deducting said amount from the appropriation for legislative expenses of said Territory of Nebraska for the year ending 30th of June, 1863, and no further claim shall be made by said Territory for legislative expenses for said year.

Gentlemen will remember that in the legislative and executive appropriation bill $20,000 was appropriated for the legislative expenses of Nebraska Territory, and this amendment proposes to deduct the direct tax from that appropriation by the consent and request of the Delegate from that Territory.

Mr. HOLMAN. I would inquire of the gentleman from Massachusetts why he should not extend the same principle to all the other Territories and to all States which have claims against the Government?

Mr. HOOPER. The reason the committee have not done the same thing in reference to other Territories is that they were not requested to do so.

Mr. MALLORY. I will state that I think there is great justice in the proposition submitted by the gentleman from Massachusetts. If I understand the matter, there is an appropriation of $20,000 to enable that Territory to defray the expenses of her Legislature and the codification of the laws of that Territory. I understand from the gentleman from Nebraska that the affairs of the Territory are in such a condition that it is almost impossible to pay those taxes, and——

Mr. STEVENS. The provision in relation to the codification of laws applied to New Mexico and not to Nebraska. This amendment was offered at the request of the Delegate from Nebraska.

Mr. MALLORY. I am supporting the amendment.

Mr. DAILY. There is now an appropriation of $20,000 for that Territory. It is contained in the regular appropriation bill.

Mr. MALLORY. I so understand, and I understand this to be a proposition by the Delegate from that Territory, to remit that appropriation in case the Territory is relieved from this tax of nineteen thousand and odd dollars. The proposition involves an actual saving to the Government of some $700. The Territory is willing to dispense with the appropriation which is usually made by Congress to defray her legislative expenses, if we will relieve her people to the extent of this tax. I see no reason why Congress should not consent to it.

Mr. HOLMAN. I would suggest that instead of applying this principle to only one Territory, it should be applied to all.

Mr. MALLORY. I do not know that the other Territories desire it. If they do, I suppose they will move an amendment to attain that end. I am for conferring benefits only on those who desire them.

Mr. HOLMAN. This principle is common to all the Territories of the country. I move to strike out the particular Territory, and insert "Territories of the United States."

The CHAIRMAN. The Chair would suggest to the gentleman that the object would be accomplished by adding at the end of the words, "that the same privilege be extended to the other Territories of the United States."

Mr. HOLMAN. That will be satisfactory.

Mr. DAILY. I have a word to say in regard to the amendment offered by the gentleman from Indiana. If the other Territories desire the application of this measure to them, I have no objection; but the other Territories may be differently situated from the Territory of Nebraska. For instance, other Territories may have no code of laws, and therefore it may be necessary that their Legislatures should meet. Our people are poor, and hardly able to pay this direct tax of $19,312, though we are willing to undergo any hardships for the support of the Government. We are in such a condition as to forego the meeting of our Legislature, and thereby we save this tax to our people. The appropriation has been made this year, and none of it has been expended. We therefore propose that $19,312 shall be deducted out of this appropriation, and applied to the payment of that tax, thereby saving that amount to the Territory. There will then be enough of the appropriation left to pay for the bare meeting and adjournment of the Legislature.

Mr. WATTS. I would remark in regard to the Territory of New Mexico, that we have an appropriation of $60,000 to complete our capitol building. We have also an appropriation of $35,000 for the construction of roads in New Mexico. We would have been entitled to draw it more than a year ago, but we have not done it, on account of the embarrassed condition of the Treasury. It remains there, and has been used by the Government. We desire to have it remain there, and our people desire to be relieved from the tax which is now being imposed upon them.

Mr. STEVENS. I suggest that this is a very awkward way to get at this matter. If the other Territories desire this same relief, let them pre-

pare a clause, specifying the amount from which they desire to be relieved, and we can introduce the amendments anywhere. The Delegate of no Territory, except the one from Nebraska, spoke to the committee about the matter. We agreed to the advice of that Delegate, and framed this amendment accordingly.

Mr. BENNET. As this matter is pending, I desire to say that there has been no action upon the part of the Legislature of Colorado Territory in relation to this subject; and I do not feel that it is my duty, without some instruction from the people of the Territory, to move such an amendment as has been moved in behalf of the gentleman from Nebraska.

I would say further, that we have never had an appropriation for that Territory out of which might be deducted the tax which the bill referred to imposes upon the people. We have had but one session of the Legislative Assembly in Colorado Territory. Under the law, the next session will be held next February, which will make the time about one year and four months from the first session of the Legislature to the second. I presume there were many laws passed at the first session, as they were passed hurriedly, which will require correction. I cannot consent, therefore, that the money which has been appropriated for the legislative expenses of Colorado Territory should be transferred to the extinguishment of this tax upon the Territory.

And while I am upon the floor, I desire to ask gentlemen by what authority Congress has the right to tax the people of a Territory? I have been taught by books upon political economy that taxation and representation went hand in hand; that it was because the mother country claimed the right to tax the people of the colonies without their being represented that the war of the Revolution sprung up. Now, we of the Territories are in similar relation with the United States that the colonies were to the mother Government before this Government was established.

The CHAIRMAN. The Chair will state that he doubts whether these remarks are in order. Consent was given only to hear from the Delegates whether they desired their Territories to share in the benefit proposed.

Mr. BENNET. I only throw out this remark at the present time, and protest—I am safe in doing that much—against the right of Congress to tax the Territories.

Mr. HOLMAN. I withdraw my amendment to the amendment.

The question was then taken on Mr. HOOPER's amendment; and it was agreed to—ayes fifty-five, noes not counted.

Mr. WICKLIFFE. I move to add at the end of the fortieth section the following:

And provided further, That the direct tax imposed by the thirteenth section of the act entitled "An act to provide increased revenue from imports to pay interest on the public debt, and for other purposes," approved August 5, 1861, shall be and is imposed upon the real estate and slaves in the States where that description of property exists and is recognized by the laws thereof.

Mr. BINGHAM. I rise to a question of order. I submit that that amendment is in effect to change existing legislation, to wit: the act of August last, and that cannot be done in the Committee of the Whole.

Mr. WICKLIFFE. Cannot I propose to repeal existing legislation?

Mr. BINGHAM. Not in the Committee of the Whole, I am thinking.

Mr. WICKLIFFE. Cannot I amend so as to bring it before the House?

Mr. BINGHAM. I am thinking not in committee.

Mr. WICKLIFFE. Let us see your law and gospel for that. [Laughter.]

The CHAIRMAN. The Chair overrules the point of order of the gentleman from Ohio, but he rules the amendment out of order for a different reason, and that is, that it relates to an entirely different tax bill; this not being a direct tax bill, it is not germane to the bill.

Mr. WICKLIFFE. It is an amendment to a section which has reference to that tax bill, and a section which refers to that bill specifically.

The CHAIRMAN. The Chair thinks the objection is not obviated by that.

Mr. WICKLIFFE. Is it not germane to the subject of the whole bill—taxation, and how it shall be collected?

The CHAIRMAN. The Chair thinks not. If the gentleman thinks the Chair is in error, the Chair hopes he will appeal. The Chair rules the amendment out of order, on the ground that it is not germane to this bill.

Mr. WICKLIFFE. Why, sir, could I not move to repeal the tax of last year by an amendment to this bill?

The CHAIRMAN. The Chair thinks not, this being a bill to provide internal revenue.

Mr. WICKLIFFE. Does not this bill change the law of last year? Does it not refer to it and recognize it?

Mr. MALLORY. I would ask the Chair if the proviso offered by the gentleman from Massachusetts, [Mr. HOOPER,] and which has been adopted, does not repeal a portion of the law of last session, and relieve Nebraska from the direct tax?

Mr. WICKLIFFE. Yes, sir; you can take the direct tax off Nebraska, but you cannot take anything off Kentucky.

The CHAIRMAN. The Chair thinks the gentleman from Kentucky is right; although he still thinks the amendment not germane to the bill.

Mr. WICKLIFFE. Oh, I do not care what the reason is, so I am right. [Laughter.] I do not offer this amendment for the purpose of making any factious allusion to the question of how this direct tax is to be collected. I offer it as an act of justice to the people of the State of Kentucky in which I live. I say nothing about other States. In consequence of some fastidiousness, or something of the sort, the direct tax imposed in the bill of August last was confined exclusively to the landed estate in the several States and Territories. The effect of that provision in the State of Kentucky is to exempt from the necessary and legal purview of the act all that description of estate which comes under the term of "persons held to service," or "slaves," if you choose to call them so. Is it right that the slaveholder in Kentucky—the man who owns fifty slaves, which are property there under the protection of the State laws of Kentucky, and the laws and Constitution of the United States—should not contribute his proportion, according to the estimated value of his property in that State, for the support of the Government that gives him protection? Will you put the whole burden upon the landed interest of the country, and let the holders of this other description of property be exempt from the payment of taxes? Has it ever been done by this Government since its organization? I have copied this amendment precisely from the law imposing direct taxation upon the United States in 1813, and there was a similar provision in every law that preceded that from 1792 down to that time, laying a direct tax upon "the land and slaves of the United States within the respective States."

Gentlemen seem to think that there is no right or power to impose this tax. They say there is no such thing as property in such an estate. Why, sir, they have forgotten the Constitution and the history of their Government. Go to your legislation, and you will find there that our fathers, who were as pure and as honest and as learned as we can pretend to be, treated them as property subject to taxation. If you omit to do it, you do injustice by imposing a tax upon the man who owns land, while you exempt from taxation his neighbor who may be worth twice as much, but who owns no land.

But, sir, I have some law upon the question of the liability of this property to taxation by the laws of the United States and the Government of the United States, independent of our State legislation. I will call your attention to the opinion of a man whose opinions have been quoted here upon every other branch of this subject, his opinion in his better days; I allude to John Quincy Adams, formerly President of the United States. In 1815 we had a treaty to execute with Great Britain. During the war of 1812, the British forces under Admiral Cochrane and others, in navigating the waters of Chesapeake bay and of the South, actuated by those feelings which seem now to be sympathetic here, issued his proclamation proclaiming freedom to all the slaves of the South who would connect themselves with the British army or enter British ships. Under that proclamation they took, before the close of the war, I think, four or five thousand slaves. In the treaty of peace made with Great Britain, the treaty of Ghent, there was a stipulation requiring her to return all the property she had taken from private citizens during the war. Her public men then, like some of our public men now, thought there could be no such thing as property in that description of human beings, and Great Britain refused to deliver up the individuals thus taken or to pay for them. The question of the right of the claim of the United States was submitted by the treaty between the two Powers to the Emperor of Russia, who was to settle the question whether England, under the terms of the treaty of Ghent, was bound to surrender the slaves, or pay the value of that property. The Emperor decided in favor of the United States; and it was upon the discussion of that question between the Government of the United States and that of Great Britain that Mr. Adams, in a letter to the then Secretary of State, took the position which I will read for the benefit of the country, and of those gentlemen who want to confiscate slaves in this war. His letter will be found in the State Papers, volume four, page 16, if any gentleman desires to look at it. He says:

"Public property, by the usages of war, is liable to be taken and removed, but as to private property and slaves, they ought never to be taken."

[Here the hammer fell.]

Mr. EDWARDS obtained the floor.

Mr. WICKLIFFE. A word or two more. I will not occupy much time.

The CHAIRMAN. The gentleman from New Hampshire [Mr. EDWARDS] has the floor to oppose the amendment offered by the gentleman from Kentucky.

Mr. WICKLIFFE. Will the gentleman let me get through?

Mr. EDWARDS. If it be the pleasure of the committee that the gentleman from Kentucky continue his remarks, I will wait till he gets through.

Mr. LOVEJOY. I will make no objection to the gentleman from Kentucky continuing his remarks, if I be allowed the same length of time to answer; although I must say that I am astonished that the gentleman should drag this negro question on every occasion before the House. [Laughter.]

Mr. EDWARDS. I cannot yield to a five minutes speech.

Mr. WICKLIFFE. Will the gentleman allow me so much time as to read an extract from Mr. Adams's letter?

Mr. EDWARDS. I yield for that purpose.

Mr. WICKLIFFE. Mr. Adams in the same letter says:

"Our object was the restoration of all property, including slaves, which by the usage of war among civilized nations, ought not to have been taken. All private property on land was of that description. It was entitled by the laws of war to exemption from capture. Slaves were private property. The act of seducing them from their masters by a promise of freedom was in violation of the laws of war."

I read for the benefit of the gentleman from Illinois, [Mr. LOVEJOY.] I think it right that the tax should be imposed on that description of property. That is necessary and just to those who live in the part of the country where such property is held.

Mr. EDWARDS. Mr. Chairman, this is the same proposition that was made at the extra session, and which was then overruled. It was incorporated in the bill of that session as it was reported from the Committee of Ways and Means, and was struck out by the deliberate action of the House. It was known then that in the past legislation of the country this particular species of property—if property it is to be called—had been connected with lands in the apportionment of a direct tax. But, sir, I trust that it seemed to the House, as it seemed to me then and as it seems to me now, that there is no more propriety in connecting this species of property—if property it is to be called—with land in the assessment of direct taxes, than there would be in connecting with it any other species of property in the country. And if it is not property, it certainly cannot be incorporated in connection with lands. If this labor takes the place of labor performed by some of the brute creation in the northern States—as it does to some extent—why not include beasts of burden, the animals that draw the plow or do the transportation, in connection with land, for the purpose of assessing and apportioning any direct tax? The fact, Mr. Chairman, that it has been so incorporated in the past legislation of the country furnishes no argument why it should be. I think that if it has been so incorporated—and I

admit that it has been—it was because that interest has had too much power and too much control in the legislation of the country. Exceptions were made in favor of that particular species of property that could not have been made in favor of any other. But I trust that now legislation of a more general character is to prevail. If gentleman from the States where this particular kind of property is held——

Mr. MALLORY. If it be property. [Laughter.]

Mr. EDWARDS. Choose to have the assessments made upon this species of property, let it be so. They can assume this portion of the tax, and lay it on whatever sort of property they choose.

Mr. F. A. CONKLING. The State has done it.

Mr. EDWARDS. What State has done it?

Mr. MALLORY. Kentucky has.

Mr. EDWARDS. Kentucky is not the only State south of Mason and Dixon's line that is affected by it. There are other States affected. The State of Kentucky has done this, and, therefore, so far as she is concerned, there is no necessity for this. But the gentleman from Kentucky [Mr. WICKLIFFE] acts from larger motives than regard for his own State. He represents the whole interests of the South, and has therefore introduced this amendment for the purpose of aiding those who are not immediately interested in our legislation. I trust that the bill will not be marred by making an exception between one kind of property and another kind. If we do it, we shall have to pass amendment after amendment, and to provide that the stock, the hay, the grain, and every description of property—if you choose to regard it as such—shall be connected with the land in laying direct taxes.

Mr. LOVEJOY. I move a *pro forma* amendment to the amendment of the gentleman from Kentucky, [Mr. WICKLIFFE.] I do this, Mr. Chairman, for the simple purpose of denying and controverting the assertion of the gentleman from Kentucky. I know that there is an effort being made, and that it has been made for the last quarter of a century, to palm off on this country a Constitution which the fathers never made—a traditionary Constitution—which is made of none effect through the perversion of slaveholders and their advocates, so that the real, genuine Constitution which the fathers made bears no more relation to this traditionary one which is attempted to be palmed off on the country than the genuine word of God did to the traditions of the elders. "They had made the word God of none effect through their traditions." They had substituted their traditions in such a way for the original revelation that they absolved a man from all filial obligations of supporting his parents by some theological trick, saying that "it was a gift."

Now, I deny directly, and in the teeth and face and eyes, the assertion that this Government has ever recognized property in man. It never has, and I trust in God it never will. When a Christian nation, based on the immortal principles of the Declaration of Independence, descends so far, and is so blinded and so bedeviled, as not to know a human being from a brute, then it ought to be dissolved and destroyed. But I call attention to the fact that when the discussions were being had on the Constitution, and when it was proposed to put in the words "slave" and "slavery," the proposition was rejected; and Mr. Madison declares, pointedly and directly, that it was rejected because they would not recognize the idea of property in human beings. Ever since the Government was organized, its uniform and uninterrupted practice has been not to recognize property in human beings.

There is a constant and persistent attempt on the part of slaveholders and their advocates to set up a certain falsehood. I mean by that, an erroneous statement and construction of the Constitution and of the action of the Federal Government, till the public mind has become saturated with this virus of pro-slaveryism, and believes that to be true which never was true. It is through that persistence in false statements and declarations spread all over the country that this generation has been educated into the belief that slavery has some sanction, some guarantee, some protection, some defense, in the Constitution of the Government, while, in fact, it has none. If the Constitution were honestly administered, in its direct and indirect influence it would destroy this system of slavery, and would have destroyed it long ago. Everybody knows, who knows the cotemporaneous history of the Constitution, who has not been blinded and led astray by the influence of holding slaves, that the universal belief, North and South, East and West, the universal expectation at the time the Constitution was adopted, was that the section prohibiting the slave trade had destroyed slavery, and that it would, immediately, at no very remote period at any rate, die out, and cease to curse the country, insult humanity, and pollute the earth.

[Here the hammer fell.]

Mr. MENZIES obtained the floor.

Mr. LOVEJOY. I wish the gentleman from Kentucky would allow me simply to say that I do not want to be charged with introducing this negro question at this time.

Mr. WICKLIFFE. I desire to say just a word.

Mr. MENZIES. I cannot yield just at this moment.

Mr. WICKLIFFE. I will not take up my colleague's time, but I wish to say that I do not know how it is, but I hear that, at a meeting of an association of blacks in the city, some member of Congress attended, and edified them with about such a speech as we have heard here to-day.

The CHAIRMAN. The Chair must decide that this discussion is out of order. The gentleman from Kentucky [Mr. MENZIES] is entitled to the floor.

Mr. LOVEJOY. I hope I shall be permitted to say that I think it very likely; for I have, during this session, twice addressed an assembly of colored people, and I said nothing to them which I would not say in this House. I told them they had just as much right to hang their masters as their masters had to hang them; just as much right to whip their masters as their masters had to whip them; just as much right to sell their masters' children as their masters had to sell theirs. I am, I presume, the member of Congress alluded to by the gentleman, and had, I think, a larger majority than all the votes in the gentleman's district.

The CHAIRMAN. The gentleman from Illinois is not in order, unless the gentleman from Kentucky yields to him.

Mr. MENZIES. No, sir; I do not yield. I have risen not to participate in this discussion which has just taken place. Nor do I rise for the purpose of expressing my approbation of the just positions taken by my colleague, nor of dissenting to the positions taken by the gentleman from Illinois. I rose for the purpose of saying that I do not think the amendment proposed by my colleague is a judicious one, or at all needed at this time. We have the option, under the act of August last, of assuming this direct tax, which our State has indicated she intends to do; and she has, therefore, the right of laying as much tax upon this species of property, if it be property, [laughter,] as ought to be levied upon it. I think, therefore, as the gentleman from New Hampshire [Mr. EDWARDS] has very justly suggested, that this proposition mars the symmetry of the bill, and that it can serve no good purpose, as all the States have assumed—or we have the right to believe they will assume—this direct tax and collect it in their own way. Kentucky can collect her tax upon this property—which I have no doubt is property, [laughter]—and when the owner comes up to pay the bills, he will certainly have no doubt about it; and when the Government of the United States receives the money collected from this species of property, they will have no doubt that it is property. [Laughter.]

Mr. EDWARDS. I have no doubt that it is property in Kentucky.

Mr. MENZIES. I do think that this proposition of my colleague is not called for at this time by our interests. He must understand me as making no objection to the great truths he has announced. I do not do that; I merely rose to say that I do not think there is any necessity of incorporating them into this bill.

The amendment offered by Mr. LOVEJOY was disagreed to.

Mr. WICKLIFFE. I renew the amendment offered by the gentleman from Illinois.

My colleague over the way says that Kentucky is about to assume her quota of the direct tax. I was aware of that fact. I was also fully aware of another fact, which is, that she will have to borrow the money to pay it. And I am also perfectly satisfied of another fact, that my colleague will find that when she has paid this tax, she will be soon called on to pay another, and that, if we do not look to it, she will have to pay more in the end than her income will justify.

Now, sir, in relation to my amendment, I have shown it to be in obedience to a fixed, settled, universal, undisturbed practice of legislation of the Congress of the United States, whenever a direct tax has been levied, in the better days of the Republic. And, sir, I have moved the amendment in justice to the people I represent, that if this direct tax ever should be collected by the General Government it may operate equally upon all.

But, sir, I will not go again over that question. I desire merely to answer the statement of the gentleman from Illinois that the Government never recognized this estate as property. Why, sir, the judicial department of the United States, the executive department of the United States, the legislative department of the United States, in all its action, in all its intercourse with foreign nations, has always taken the position that it was property and should be treated by the law of nations as property.

Mr. LOVEJOY. Will the gentleman allow me a moment?

Mr. WICKLIFFE. Not a moment. You can come in when I come down. [Laughter.]

Sir, I have not time to discuss the question whether the United States recognize the right of property in human beings, but I will refer to a single case. Take the case of the Creole. What was the action of the United States in its controversy with Great Britain in that case? The slaves on board that ship rose in mutiny upon the high seas; they murdered the officers, and the agent run the ship into—Nassau I believe was the name of the island—and turned them loose. This Government claimed indemnity of the British Government for these slaves thus set at liberty. That great statesman of whom Massachusetts is proud, and of whom the whole country is proud—Daniel Webster, then Secretary of State—took the ground in the negotiation which followed on that occasion, that they were property; and this Government did pay their owner their full value as property.

And so I could go over instance after instance to the same end. But, sir, when I hear gentlemen come here and declare that because the Declaration of Independence says that all men were born equal, the fathers of the country, the men who made that Declaration did not recognize the existence of property in this description of estate, I must confess I am somewhat surprised.

[Here the hammer fell.]

Mr. WICKLIFFE. I withdraw my amendment.

Mr. LOVEJOY. I object. Mr. Chairman, I have now the book before me, and if there is no objection I will read the paragraph to which I referred when I was before up:

"Mr. Madison thought it wrong to admit in the Constitution the idea that there could be property in men."

I will simply add, without consuming my five minutes, that in the case of the Creole, to which the gentleman from Kentucky alluded, although the Government, then virtually in the hands of slaveholders, did make some attempt to obtain pay for those slaves from the British Government, it was not granted to them; and I reiterate the statement that the General Government has never recognized the right of property in human beings. They have simply let it alone in the States because the Constitution, as they conceived, did not give them the power to interfere with it there. It has been simply skulking behind the doctrine of State sovereignty. The sentiment of the Constitution is that of Brougham, that—

"White men despise fraud and loathe rapine and abhor blood, they will reject with indignation the wild and guilty phantasy that man can hold property in man."

Mr. STEVENS. I move that the committee rise, for the purpose of closing debate upon this section.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the tax bill, and had come to no resolution thereon.

Mr. STEVENS moved that all debate upon the section under consideration in the Committee of the Whole on the state of the Union be closed in one minute after its consideration shall be again resumed.

The motion was agreed to.

Mr. STEVENS. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed the consideration of the special order, being the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

Mr. HOLMAN. I move that the committee rise for the purpose of adjournment.

The motion was disagreed to.

Mr. WICKLIFFE. I withdraw my amendment to the amendment.

The amendment was disagreed to.

The following section was reported by the Clerk:

SEC. 14. *And be it further enacted*, That every person who, on the 1st day of May next, shall be the owner of any still or stills, or other implements used in lieu of stills, for the purpose of distilling spirituous liquors, or who shall have such still or stills, or implements, as aforesaid, under his superintendence, either as agent or on his own account, shall, on or before said day, and every person who, after said day, shall use or intend to use any such still or stills, or implements, as aforesaid, either as owner, agent, or otherwise, shall, before he shall begin to use such still or stills, or other implements in lieu thereof, for the purpose of distilling spirituous liquors, apply for, in writing, and obtain from the collector appointed under this act for the collection district in which such person resides, or to the deputy of such collector duly authorized, a license for using such still or stills, or other implements, as aforesaid; and each such license hereafter to be granted shall remain in force until the 1st day of January next after the date thereof, and no longer; which licenses shall respectively be granted upon the payment, by such owner or agent, as aforesaid, of the sum of $100: *Provided*, That licenses applied for which terminate under the provisions of this act in less time than six months may be granted as aforesaid, upon the payment of the sum of fifty dollars.

Mr. WICKLIFFE. I have an amendment in writing to that clause, but I have mislaid it. I think I can make the substance of it, however, apparent in very few words. The committee in preparing the section have certainly overlooked a very important fact. They charge upon a distillery, large or small, containing twenty stills or one, the same sum in the shape of license. The amendment which I intended to propose was founded upon the principle of a provision in the tax bills of 1813 and 1815, which was to adjust the tax in proportion to the number of gallons capacity of the distillery, making the distillery with vessels equal to two thousand gallons capacity pay as much in proportion as the little establishment of a man who distills his own grain and that of his neighbors, having a capacity of from sixty to one hundred gallons. I do not know what sum to propose per gallon, but it strikes me that fifty cents per gallon will perhaps be a fair rate. I think they were taxed at that rate in 1813.

I have not time now to draw up an amendment in form, but if gentlemen upon the other side of the House will permit the committee to rise I will reflect upon the subject, and have an amendment prepared in the morning.

I do not think it is just to require the man in my neighborhood, who makes five or six hundred gallons of whisky a year, to pay the same license as one of the immense establishments in Cincinnati. But it is true that the man who makes $1,000 worth of liquor will have to pay as much for a license under this bill as the man who makes $50,000 worth.

A MEMBER. And the man in your district makes better whisky.

Mr. WICKLIFFE. Yes, sir, better and sounder liquor. A distiller in my district makes good, sound liquor in copper stills, and sells it to the dealer in Cincinnati, who distills it over again and makes three times the quantity out of it.

Mr. STEVENS. The Committee of Ways and Means adopted this section after careful consideration. It is a question, however, not entirely free from difficulty, and, in order to give the gentleman from Kentucky an opportunity to prepare his amendment, I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the tax bill, and had come to no resolution thereon.

ROBERT M. EVANS.

Mr. WHITE, of Indiana, by unanimous consent, introduced a bill for the relief of Robert M. Evans; which was read a first and second time, and referred to the Committee on Military Affairs.

And then, on motion of Mr. WHITE, of Indiana, (at twenty minutes after four o'clock, p. m.,) the House adjourned.

IN SENATE.

THURSDAY, *March* 20, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read.

Mr. GRIMES. I ask that the Journal may be corrected so as to correspond with the fact. I made a motion yesterday that two weeks from to-day be set apart for the consideration of District business. The Journal, I believe, reads two weeks from yesterday, owing to some misapprehension.

The VICE PRESIDENT. The correction will be made.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Navy, in answer to a resolution of the Senate of the 13th instant, in relation to the removal of the Naval Academy from Annapolis, Maryland, to Newport, Rhode Island; which was ordered to lie on the table and be printed.

Mr. ANTHONY. I move the printing of three thousand extra copies of this communication from the Secretary of the Navy in regard to the Naval School.

The motion was referred to the Committee on Printing.

TERRITORIAL LAWS.

The VICE PRESIDENT laid before the Senate a copy of the laws of the Territory of Nevada, passed at the first regular session of the Legislative Assembly, at Carson City, in October and November, 1861; which was referred to the Committee on Territories.

PETITIONS AND MEMORIALS.

Mr. KING. I present a petition of citizens of the cities of New York and Brooklyn. I ask that it be read.

The Secretary read it, as follows:

To the honorable the Senate of the United States; for the security of the liberties of the people of the United States.

Whereas the axioms of the declaration of our national independence "that all men are created equal; that they are endowed by their Creator with certain inalienable rights, among which are life, liberty, and the pursuit of happiness;" and the Constitution of the United States, which in its preamble declares that it was ordained to "establish justice, and secure to ourselves and our posterity the blessings of liberty," constitute the basis of our Government; and whereas, under the domination of the slave power, it has yielded to the guilty phantasy of property in man, and the baseless interpretations of the Constitution in conformity with the malign practice of slaveholders, who, conspiring against the Government in wicked rebellion, strike at the life of the nation. Your petitioners, inspired by the love of humanity, of liberty, and of our country, in view of these humiliating and astounding facts, pray your honorable body, the Senate of the United States, as true to God, to immortal man, and to this Government, that with a purpose corresponding to the magnitude of the occasion, you affirm and proclaim the basis principle of the Declaration of Independence, and set forth in the preamble of the Constitution of the United States as our bill of rights, inviolate, mandatory, and ruling, against all usages and interpretations of law contrary thereto; and to be maintained as the plighted faith of the nation, for the protection of all its inhabitants in freedom; dispelling forever the satanic hallucination of property in man, and the hope of the rebellion.

Signed by the petitioners, citizens of the cities of New York and Brooklyn.

SIMON S. JOCELYN.
WILLIAM GOODELL.
JOSEPH W. ALDEN.
M. B. WILLIAMS.
SAMUEL L. HARRIS.

NEW YORK, *March* 15, 1862.

Mr. KING. The subject to which the petition refers has been reported upon, and I move that it lie on the table.

The motion was agreed to.

Mr. COWAN presented the petition of James Johnson, of Philadelphia, praying for the allowance of his claim under the treaty of Guadalupe Hidalgo, for property taken possession of and destroyed by the Mexicans; which was referred to the Committee on Claims.

Mr. GRIMES presented a petition of citizens of the county of Jackson, State of Iowa, praying that homœopathic surgeons may be made eligible to at least one eighth of the surgical appointments in the Army and Navy; which was ordered to lie on the table.

Mr. SUMNER presented a petition of citizens of New York, praying for the passage of such laws as are necessary for the protection and improvement of the Indians; which was referred to the Committee on Indian Affairs.

Mr. HOWE presented the petition of A. C. Conn and others, citizens of Wisconsin, praying for the passage of a general bankrupt law, and that the exemption laws of the several States be recognized by the act; which was referred to the Committee on the Judiciary.

He also presented the petition of Daniel M. Whitney and others, citizens of Wisconsin, praying for the erection of a beacon light at the mouth of Fox river in that State; which was referred to the Committee on Commerce.

Mr. WILKINSON presented a memorial of the Legislature of Minnesota, in favor of the establishment of a semi-weekly mail from St. Paul to Mankato, in that State; which was referred to the Committee on the Post Office and Post Roads.

Mr. SIMMONS presented a petition of citizens of Rhode Island, praying for the total abolition of slavery throughout the country; which was ordered to lie on the table.

REPORTS FROM COMMITTEES.

Mr. MORRILL, from the Committee on Commerce, to whom were referred the resolutions of the Legislature of Michigan, in favor of the erection of a light-house at the entrance of Black Lake harbor, in Ottawa county, asked to be discharged from their further consideration; which was agreed to.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the petition of Antoine Du Nord, praying for a pension and bounty land, submitted an adverse report; which was ordered to be printed.

Mr. CHANDLER, from the Committee on Commerce, reported a bill (S. No. 242) changing the name of the American-built schooner Tom Dyer to that of Dolphin; which was read, and passed to a second reading.

He also, from the same committee, reported a bill (S. No. 243) changing the name of the American-built schooner Curtis Mann to that of Supply; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred a resolution directing the Committee on Commerce to inquire into the expediency of establishing a collection district at Eureka, California, asked to be discharged from the further consideration of the subject; which was agreed to.

Mr. TEN EYCK, from the Committee on Commerce, to whom was referred the bill (S. No. 195) to amend the "Act to amend an act entitled 'An act for the better security of the lives of passengers on board of vessels, propelled in whole or in part by steam,' and for other purposes," approved August 30, 1852, and for other purposes, reported it without amendment and adversely.

He also, from the same committee, to whom the subject was referred, reported a bill (S. No. 241) to change the location of the port of entry for the Puget Sound collection district; which was read, and passed to a second reading. An accompanying letter of the Secretary of the Treasury was ordered to be printed.

Mr. SIMMONS, from the Committee on Patents and the Patent Office, to whom was referred the bill (H. R. No. 269) to establish a Department of Agriculture, reported it without amendment.

SAILORS OF THE CUMBERLAND.

On motion of Mr. HALE, the bill (S. No. 238) to furnish clothing and supplies to the sailors and men on board the sloop-of-war Cumberland, was referred to the Committee on Naval Affairs.

COAST SURVEY REPORT.

Mr. ANTHONY. I am instructed by the Committee on Printing, to whom was referred the resolution to print six thousand two hundred copies

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. FRIDAY, MARCH 21, 1862. NEW SERIES....No. 82.

of the report of the Superintendent of the Coast Survey for 1861, to report it back without amendment, and recommend its passage, and also to ask for its present consideration. It is the same number as was printed last year, and that was a smaller number than had ever been printed before, I believe.

The resolution was considered and agreed to, as follows:

Resolved, That there be printed, in addition to the usual number, six thousand two hundred copies of the report of the Superintendent of the United States Coast Survey, of which twelve hundred copies shall be for the use of the Senate, and five thousand copies for distribution by the Superintendent.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President had approved and signed, on the 19th instant, the following act and resolutions:

An act (S. No. 136) to provide for the appointment of sutlers in the volunteer service, and to define their duties;

A resolution (S. No. 64) expressive of the thanks of Congress to Captain A. H. Foote, of the United States Navy, and to the officers and men under his command in the western flotilla; and

A resolution (S. No. 65) to authorize the Secretary of War to accept moneys appropriated by any State for the payment of its volunteers, and to apply the same as directed by such State.

L. F. CARTEE.

Mr. NESMITH. I move to postpone all prior orders and take up Senate bill No. 207, reported from the Committee on Public Lands.

The motion was agreed to; and the bill (S. No. 207) for the relief of L. F. Carter was read a second time, and considered as in Committee of the Whole. It authorizes the Commissioner of the General Land Office to pay to L. F. Carter the sum of $3,033 50, for services performed in surveys of the public lands in the State of Oregon in excess of his contract with the surveyor general of Oregon, dated October 14, 1860; but before any payment is made, the work performed by him is to be tested in the field by actual examination, under the direction of the surveyor general of Oregon, and any correction made necessary to make it conformable to the laws of the United States and the instructions governing the surveys of the public lands are to be made at his expense, and the balance only of the appropriation is to be paid him after deducting the expense of inspection and correction, if needed, and when the certificate of the surveyor general of Oregon is filed with the Commissioner of the General Land Office that the survey is complete according to the law and regulations governing public surveys.

Mr. NESMITH. There has been a mistake in printing the bill. The name is printed Carter; it should be Cartee.

The VICE PRESIDENT. That change will be made in the bill to conform to the fact, without a motion.

Mr. CLARK. I will only say that this bill was before the Committee on Public Lands, and was approved by them. There seems to be no objection to its passage.

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

REMISSION OF DUTIES ON ARMS.

Mr. KING. I ask the Senate to take up the joint resolution I introduced yesterday in relation to the duties on arms, the passage of which was objected to then by the Senator from Maine, [Mr. FESSENDEN.]

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. No. 69) to authorize the importation of certain arms by States free of duty.

Mr. KING. When I presented this joint resolution yesterday, the Senator from Maine, the chairman of the Committee on Finance, objected to its passage on the ground, as I understood him, that the subject was before the committee, and they desired to examine it with a view to security against any irregularities. Of course, I desire nothing but the passage of a proposition to admit these arms which were ordered prior to the 1st of January free of duty, although they may come into the country after that date. I will hear the Senator from Maine, if there be any reason about it, and let the resolution be referred to the Committee on Finance. All I want is early action on the subject. I ask the Senator from Maine to state to the Senate the facts.

Mr. FESSENDEN. There is a proposition of a similar character before the Committee on Finance at the present time; that is to say, it has been before the committee, and is now in the hands of one of its members, and I think it covers the whole ground. When that resolution was referred to us, we sent it to the Secretary of the Treasury, and he returned it with a suggestion of amendment to guard against irregularities in the execution of it, and to guard the Treasury. I think it proper that this resolution, which is on precisely the same subject, should go to that committee, and be considered by them. The committee is about ready to report on the subject.

Mr. KING. Then I move the reference of this resolution to that committee, and I only ask that it shall have the early attention of the committee. A portion of these arms have already arrived at the port of Portland, and they want to use them.

The joint resolution was referred to the Committee on Finance.

MARSHALL O. ROBERTS.

Mr. HARRIS. I ask the consent of the Senate to consider joint resolution No. 67, reported by the Committee on the Judiciary yesterday. I move to take it up.

The motion was agreed to; and the joint resolution (S. No. 67) in relation to the claim of Marshall O. Roberts, for the loss of the steamer Star of the West, was considered as in Committee of the Whole. The Secretary of War having declined to act upon a claim of Marshall O. Roberts for compensation for the loss of the steamship Star of the West while in the service and under the direction of the United States, upon the ground that before his appointment as Secretary of War he had been consulted as counsel in the case, the resolution proposes to refer the claim to the Attorney General, with authority to examine and audit the same.

The amendment of the Committee on the Judiciary was in line four, to strike out the words "to examine and audit the same," and to insert, "to act upon the same in the same manner as the Secretary of War would have done had he not been consulted as counsel in the case;" so that the resolution will read:

That the said claim be referred to the Attorney General, with authority to act upon the same in the same manner as the Secretary of War would have done had he not been consulted as counsel in the case, and that such sum as shall be ascertained to be due be paid in the same manner as if the same had been allowed by the Secretary of War.

The amendment was agreed to.

Mr. HARRIS. In the first line of the preamble I move to strike out the word "having," and insert "has," so as to correct the grammatical construction of the sentence.

The amendment was agreed to.

Mr. HARRIS. I also move to add, in order to make the resolution conform to the usual form of legislation, at the end of the resolution:

Out of any moneys in the Treasury not otherwise appropriated.

The amendment was agreed to.

The joint resolution was reported to the Senate, as amended, and the amendments were concurred in. The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

COMPENSATION OF DISTRICT ATTORNEYS.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred the bill (S. No. 166) regulating the compensation of district attorneys, have instructed me to report it back with an amendment. It is a very short bill, and will be understood by the reading of it. If there is no objection, I ask for its consideration at this time.

By unanimous consent the bill (S. No. 166) was considered as in Committee of the Whole. It provides that upon application made to the Attorney General by any attorney of the United States for any district, if it shall be made to appear that the costs and fees now allowed by law to such attorney are not an adequate compensation for the performance of the duties of his office, the Attorney General, with the assent of the Secretary of the Interior, may assign to him a salary not exceeding the rate of $6,000 per annum in any case, according to the nature and extent of his duties; and he is not to be allowed to retain any of the costs and fees he is now by law entitled to receive beyond the amount of the necessary expenses of his office, audited and allowed as heretofore, but is to continue to tax and return the same costs and fees and render the same accounts as now required by law.

The amendment of the Committee on the Judiciary was to add, as a new section:

And be it further enacted, That it shall be the duty of the Secretary of the Interior to report to Congress at the commencement of each session the amount of salary allowed to each and every district attorney, under the provisions of this act, together with the total amount of costs and fees by him received, and the amount retained for the expenses of his office.

The amendment was agreed to.

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

Mr. TRUMBULL. I think it is due to the Senate that I should state what the bill is. The committee reported the bill for passage; but I do not want it to pass without the Senate knowing what it is.

There is a great deal of complaint from the district attorneys all over the United States at this time in regard to the inadequacy of their compensation. The complaint was so great from the district attorney in the city of New York that, at the special session of Congress in July, we passed a special act in regard to his case, allowing him a compensation of $6,000 per annum, which is the limit in all cases. No district attorney of the United States anywhere can receive more than $6,000 compensation, which is to be paid out of the fees of his office. In the new condition of things in the country, the business has very greatly increased, and some of the prize cases require a great deal of attention, take the whole time of the district attorney, and yet he gets but twenty dollars as a fee in any of those cases. By a construction placed upon the law by the Secretary of the Treasury, a fee which district attorneys formerly received has been cut off, and the district attorney in the city of New York made a showing at the extra session by which it appeared that his expenses exceeded his actual receipts; that he got nothing whatever from the office; that the clerks and other persons connected with his office, whom he had to employ and who were allowed him by the proper officers and who had to be paid out of his fees, exhausted all that he received. The district attorney in the city of Boston has made a statement by which it appears that he actually receives a compensation of only about $1,200 per annum, which is entirely inadequate, and he will not continue to hold the office at that.

We have received letters on the subject from the Attorney General, and also from the Secretary of State, sending to the committee the communications of district attorneys in different parts of the country. There is one from the district attorney at Key West. They have recommended either that we should fix a compensation for particular attorneys who have written to them on the subject, or pass some general law. The bill which is now submitted meets the approbation of the Attorney General, and it throws upon him the responsibility of fixing the salaries. He is to fix a salary on the application of the district attorney

from any district, not to exceed in any instance $6,000, according to the exigencies of the case and the amount of business. The difficulty the committee had in fixing the salaries was, that we cannot tell, and the Attorney General cannot inform us at this time exactly what the salaries ought to be of the various attorneys in different localities. This bill provides that the Attorney General may fix the salary of any district attorney who applies to him, in conjunction with the Secretary of the Interior, before whom the accounts of the district attorneys pass. The accounts are returned to the office of the Secretary of the Interior, and he passes upon them. He makes all the allowances which are made, and the excess over $6,000 must be accounted for to him.

That is this bill, and the whole of it, except a provision which requires the Secretary of the Interior to report to Congress at the commencement of the next session what sum is fixed as a salary in each case, and what amount of fees and perquisites is received, and what incidental expenses are allowed. I have thought it due to the Senate to make this explanation, that the bill should not pass *sub silentio*, and it be afterwards announced that the Senate did not understand it.

Mr. GRIMES. Does the bill allow all district attorneys a salary of $6,000?

Mr. TRUMBULL. No. The law now is, that no district attorney in the United States can receive more than $6,000 a year.

Mr. GRIMES. But can any district attorney have that amount under this bill?

Mr. TRUMBULL. Any district attorney that the Attorney General and Secretary of the Interior shall decide is entitled to it, can have it. I do not suppose there will probably be any such case out of New York.

Mr. FESSENDEN. Do they take it out of the fees of the office or out of the Treasury?

Mr. TRUMBULL. This bill provides that they shall be paid a salary, and that they shall account for the fees the same as heretofore. We have had that question of fees before us. Several of the attorneys wanted a scale of fees arranged; but there is great difficulty in that and particularly in regard to condemnation cases. If you allow a percentage it might amount to a very large sum unless you imposed some limit. The opinion of the Attorney General was that it was better to fix a salary, and that you get better services from the men in that way. It will be more acceptable to the attorneys and in the end cost no more, and the duties will be better performed.

Mr. ANTHONY. I desire a little further information; and I hardly know enough about the bill to make my inquiries; but I have been told that the bill which has been passed heretofore was unjust to the district attorneys in the smaller districts, or at least that it did not render them the same relief that it did in the larger districts. I know that in the district of Rhode Island there was a prize case which the district attorney managed with very great ability against the most eminent lawyers of New York who received thousands of dollars for their fees, and his compensation was not sufficient to pay him for printing his brief. I want to know if the bill affords relief in a case of that kind.

Mr. TRUMBULL. If I made myself understood, the Senator from Rhode Island would have perceived that the bill does not interfere at all with the existing law unless a district attorney makes applications to have a better compensation than he now gets. Of course, therefore, it interferes with no district attorney except at his option. It authorizes him to make an application to the Attorney General stating that the emoluments of his office are insufficient—any district attorney anywhere in the United States—and if he makes that showing satisfactorily to the Attorney General that officer is authorized to assign him a salary, with the assent of the Secretary of the Interior.

Mr. FESSENDEN. I think it would be better to have the bill printed, so that we can look at it and examine it. It strikes me that the precedent is a very bad one to set.

Mr. SUMNER. I think the Senator is not aware that the bill has already been printed.

Mr. FESSENDEN. I have not seen it.

Mr. SUMNER. It is on our tables. Am I not right?

Mr. TRUMBULL. I am not sure whether it is or not.

The VICE PRESIDENT. The Secretary informs the Chair that the bill has not been printed.

Mr. TRUMBULL. Let it go over. I desire that the Senate should see it.

The VICE PRESIDENT. It will be printed without a motion.

Mr. COLLAMER. I wish to suggest a little amendment to the bill in the form of a proviso:

Provided, That no increased compensation shall be allowed under this act to any attorney unless in a district in which there is a port of entry.

If it is limited to that, it will be better. I am not sure that I will vote for it then, but it would improve it.

The VICE PRESIDENT. The amendment will be printed with the bill.

AID TO THE STATES IN EMANCIPATION.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the message of the President proposing coöperation with the States which may adopt the gradual abolishment of slavery, asked to be discharged from its further consideration; which was agreed to.

Mr. TRUMBULL. The same committee to whom was referred the joint resolution of the House of Representatives, (H. R. No. 48,) declaring that Congress ought to coöperate with, affording pecuniary aid to any State which may adopt the gradual abolishment of slavery, have instructed me to report back the joint resolution, with a recommendation that it pass. If no one wishes to discuss the resolution, as it is a question which everybody understands, and we can probably take a vote upon it at once, I should like to put it upon its passage.

Mr. POWELL. It had better lie over.

The VICE PRESIDENT. If objected to, it must lie over.

Mr. POWELL and Mr. SAULSBURY. I object.

ORGANIZATION OF THE NAVY DEPARTMENT.

Mr. GRIMES. I move that the Senate now proceed to the consideration of the bill (S. No. 171) to reorganize the Navy Department.

Mr. FESSENDEN. I hope the Senator from Iowa will consent to let that bill lie for a day or two, for this reason: the Senator from Maryland [Mr. PEARCE] takes a very deep interest in the bill in one particular, and that is in reference to the Light-House Board——

Mr. GRIMES. I have learned already the strength of the Senator from Maine and the Senator from Maryland, conjoined to the influence that I shall be compelled to resist if I insist on retaining the section to which the Senator alludes, and therefore I am going to move to strike it out.

Mr. FESSENDEN. Does the Senator propose to strike out all about the light-house system, and leave it as it is?

Mr. GRIMES. Yes, sir.

Mr. FESSENDEN. I have no further objection.

The motion was agreed to; and the consideration of the bill (S. No. 171) establishing two bureaus in the Navy Department, was resumed as in Committee of the Whole.

Mr. GRIMES. I move to strike out the seventh section, to which the Senator from Maine objects.

Mr. FESSENDEN. The words "and lights" in the seventh line of the first section should also be stricken out, where it says "a bureau of hydrography and lights."

Mr. GRIMES. Yes, but I move first to strike out the seventh section.

The section was read, as follows:

SEC. 7. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized and required to transfer, as soon as may be after the passage of this act, all the clerks, books, papers, archives, aids to navigation, and other property belonging or attached to the Light-House Board or under its control for the use or service of the Light-House Board, to the Navy Department, which Department shall hereafter be held responsible for the efficiency of the system of the aids of navigation established by the United States, and the duties and functions of the members of the Light-House Board and the secretaries thereof shall cease upon such transfer.

The motion to strike out was agreed to.

Mr. GRIMES. I now move in the seventh line of the first section to amend by striking out the words "and lights," after "hydrography."

The amendment was agreed to.

Mr. GRIMES. In the eighteenth line of the second section I move to insert the words "unless otherwise heretofore provided by law;" so as to make the clause read, "each of which chiefs of bureaus shall receive a salary of $3,500 per annum, unless otherwise heretofore provided by law." Congress has on two different occasions recognized the services that it is universally admitted Captain Dahlgren has rendered to the country by his improvements in the manufacture of cannon, by authorizing him to draw the pay of the grade next highest above him. In the pay bill which was passed two years ago this spring, a provision was incorporated which authorized him, being a commander, to draw the pay of a captain. My purpose in offering this amendment is to leave the President, if he sees fit to employ the services of Captain Dahlgren at the head of a bureau, the privilege of doing so without any diminution of the salary to which he is now by law entitled.

Mr. FESSENDEN. I ask the Senator to shape his amendment so as to cover another case. By the law as it stands—I do not understand how it was brought about—the chief of the Bureau of Yards and Docks receives only $3,400 per annum. He ought to receive $3,500, as the others do. I should like to have that provided for. There is no reason why the distinction should be made; but the amendment, as suggested by the Senator, will continue it.

Mr. GRIMES. I am willing to accommodate the Senator; he may put the amendment in a shape to suit himself; but while he is drawing it, I wish to submit another as an additional section.

The VICE PRESIDENT. The morning hour having expired, it becomes the duty of the Chair to call the special order.

Mr. GRIMES. I think this bill can be passed in ten minutes, if the Senator from Virginia is willing to extend that time to us.

Mr. WILLEY. I am entirely willing to conform to the wishes of the Senate.

The VICE PRESIDENT. If there be no objection, the Chair will regard the special order as suspended temporarily, subject to the motion of the Senator from Virginia to take it up at any time. The amendment of the Senator from Iowa will be read.

The Secretary read the amendment; to insert the following as a new section:

And be it further enacted, That when a fleet captain serves in or is borne on the books of any vessel of the Navy making a prize, such fleet captain, if of the rank of captain, shall be entitled to one twelfth part, and if of the rank of commander, to one fifteenth part of the prize money accruing to the captors from such prize; the said twelfth or fifteenth part, as the case may be, to be deducted from the amount due to the captors, and the remainder to be distributed as heretofore directed by law: *Provided*, That the allowance herein made to fleet captains shall take effect from the commencement of the present war; the share due them to be deducted from the moiety due to the United States in cases of captures made prior to the passage of this act.

Mr. FESSENDEN. Before the vote is taken on that, I will suggest to the Senator from Iowa the amendment that I propose to reach his case. It is to add at the end of the second section the following proviso:

Provided, That nothing herein contained shall be construed to affect any provisions heretofore made by law in special cases.

The VICE PRESIDENT. The question now before the Senate is on agreeing to the separate section proposed by the Senator from Iowa.

The amendment was agreed to.

Mr. FESSENDEN. Then I will move this proviso to the second section, as suggested by the Senator, if he will accept it as an amendment:

Provided, That nothing herein contained shall be construed to affect any provisions heretofore made by law in special cases.

The amendment was agreed to.

Mr. HALE. What was done with the amendment offered by the Senator from Iowa?

The VICE PRESIDENT. It was adopted.

Mr. HALE. I did not hear any vote taken on it. I want to suggest the propriety of altering the latter clause of the amendment.

The VICE PRESIDENT. The Chair put the question, and declared it a vote distinctly.

Mr. HALE. I was watching it, and I did not notice it.

The VICE PRESIDENT. That amendment will be excepted when the bill is reported to the Senate.

Mr. GRIMES. I move further to amend the bill, by inserting a new section in these words:

And be it further enacted, That the provisions of the act

entitled "An act to provide for the temporary increase of the Navy," approved July 24, 1861, be construed so as to include acting engineers as well as acting paymasters and other officers.

The Senate will observe, by reference to the 272d page of the statutes passed at the extra session, that provision was made for the appointment of acting lieutenants, acting paymasters, acting assistant surgeons, acting masters, and acting masters' mates, and ratifying all appointments that had been made of all these officers up to that time; but by some oversight or other the word "engineers" was not included, and it has never been discovered by the accounting officers of the Department until within the last ten days. The result is that all the accounts of the acting engineers have been stopped, and it is very essential that this amendment should be adopted.

The amendment was agreed to.

The bill was reported to the Senate as amended.

The VICE PRESIDENT. The Chair will put the question on concurring in all the amendments made as in Committee of the Whole together, with the exception of the one indicated by the Senator from New Hampshire.

The remainder of the amendments were concurred in.

The VICE PRESIDENT. The question now is on concurring in the amendment excepted by the Senator from New Hampshire, which will be read.

The Secretary read it, as follows:

And be it further enacted, That when a fleet captain serves in or is borne on the books of any vessel of the Navy making a prize, such fleet captain, if of the rank of captain, shall be entitled to one twelfth part, and if of the rank of commander, to one fifteenth part of the prize money accruing to the captors from such prize; the said twelfth or fifteenth part, as the case may be, to be deducted from the amount due to the captors, and the remainder to be distributed as heretofore directed by law: *Provided*, That the allowance herein made to fleet captains shall take effect from the commencement of the present war; the share due them to be deducted from the moiety due to the United States in cases of captures made prior to the passage of this act.

Mr. HALE. The only objection I had to that amendment was that the latter clause was made retroactive. I think it would be better to make it prospective than retroactive, and not disturb any settlements heretofore made in regard to prizes.

Mr. GRIMES. I do not think any settlements have been made, or that it will create any disturbance on the part of anybody. The law as it now stands makes no provision for an apportionment of any part of the prize money to a fleet captain, for the very substantial reason that at no time heretofore has this country ever been able to maintain a proper fleet, and there has been no necessity for any such officer; but I suppose everybody knows that there is no more valuable or efficient officer in any service than the fleet officer. He is really the right arm of the commanding commodore. That amendment, I can say, was drawn and sent to me for adoption by a gentleman connected with the service, although not interested in the adoption of the measure; and he believes it essential to the interests of the service and just to the men that it should be adopted.

Mr. HALE. I move to amend the amendment by striking out the latter clause of it which makes it retroactive.

The Secretary read the portion proposed to be stricken out, as follows:

Provided, That the allowance herein made to fleet captains shall take effect from the commencement of the present war, the share due them to be deducted from the moiety due to the United States in cases of captures made prior to the passage of this act.

Mr. SUMNER. Perhaps the Senator from New Hampshire has not observed that that is to be deducted from the moiety that comes to the United States, and therefore it is like a gratuity from the United States to these parties. I do not think that there is any injustice in it, and I do not think that there is anybody who has a claim that will be ousted of it by the retroactive character of the provision, as it is to come out of the United States. If it were to come out of the fund generally, then by its retroactive character it might oust some other parties; but as it is, it comes out of ourselves.

The amendment to the amendment was rejected.

The amendment was concurred in.

The VICE PRESIDENT. The question now is on concurring in the amendment reported by the committee as a substitute, as amended.

The amendment, as amended, was concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed. The title was amended so as to read: "A bill to reorganize the Navy Department of the United States."

OPENING OF SIXTH STREET WEST.

Mr. FESSENDEN. I desire to call up a bill which, on my motion, was returned from the House; a bill for the opening of Sixth street west. There will be no debate upon it. I wish merely to make an amendment to it.

The VICE PRESIDENT. Does the Senator from Virginia yield for that purpose?

Mr. WILLEY. Yes, sir.

The VICE PRESIDENT. Then the question is on the motion to reconsider the vote on the passage of the bill (S. No. 226) authorizing the opening of Sixth street west.

Mr. FOOT. I do not object to the reconsideration.

The motion was agreed to.

The VICE PRESIDENT. Does the Senator now propose to reconsider the vote ordering it to be engrossed for a third reading?

Mr. FESSENDEN. Yes, sir.

The motion was agreed to.

The VICE PRESIDENT. What disposition does the Senator now propose to make of the bill?

Mr. FESSENDEN. Let the Secretary read the bill, so that I can see how to amend it.

The Secretary read it, as follows:

Be it enacted, &c., That Sixth street west, from the canal to Maine avenue, be opened, and a bridge constructed across the canal on said street under the direction of the Commissioner of Public Buildings, in accordance with the plan approved in May, 1822, by James Monroe, then President of the United States, and the sum of $3,000 is hereby appropriated, payable out of any money in the Treasury not otherwise appropriated, for carrying out the provisions of this act.

Mr. FESSENDEN. I will suggest to my friend from Vermont to let the bill lie over until some modification of it can be prepared. He had consented that the appropriation should be struck out; but if the appropriation is stricken out it will stand as before, to be done under the direction of the Commissioner of Public Buildings, and it would lead necessarily to another appropriation if it is to be done under the authority of one of our officers. The intention is to allow the city corporation to open the street, if they choose to do so.

Mr. FOOT. That modification may now be made by amending the bill so as to allow this to be done by the Commissioner of Public Buildings, under the authority of the corporation of the city of Washington.

Mr. FESSENDEN. I move that the bill be amended so as to read:

That Sixth street west, from the canal to Maine avenue, may be opened and a bridge constructed across the canal on said street, under the direction of the corporation of the city of Washington, in accordance with the plan approved in May, 1822, by James Monroe, then President of the United States.

The amendment was agreed to.

Mr. HALE. I should like to know where is the necessity of passing this bill? Have not the corporation of the city authority to open its streets without the consent of Congress?

Mr. FOOT. It passes through four hundred feet of the public grounds. That is all the necessity for it.

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

LIGHT-HOUSE INSPECTORS.

Mr. CHANDLER. I ask the Senate to take up House bill No. 243, providing for the appointment of light-house inspectors. It will lead to no debate.

Mr. MORRILL. I hope not. I hope we shall proceed with the special order of the day.

The VICE PRESIDENT. It can only be done by the unanimous consent of the Senate.

Mr. CHANDLER. If there is objection, I will not ask it.

Mr. MORRILL. I object.

SLAVERY IN THE DISTRICT.

The VICE PRESIDENT. The special order of the day is the bill (S. No. 108) for the release of certain persons held to service or labor in the District of Columbia, and upon that the Senator from Virginia is entitled to the floor.

Mr. WILLEY. Mr. President, I listened yesterday with a great deal of pleasure to many of the remarks and arguments of the Senator from Wisconsin, [Mr. DOOLITTLE.] I concur entirely in one of the positions taken by him: that if we are to have the emancipation of the slaves in this country we must connect transportation and colonization with it. I do not concur with him, however, when he said that he would vote for this bill—not because, if I had the power to control it so as only to affect myself, in the consequences which might ensue, I should not be in favor of the abolition of slavery in the District of Columbia. I wish that it did not exist here; that it never had existed here. I believe that this great nation ought to have this District as common ground where the world might assemble without anything of a character to offend the sensibilities, the feelings, or the principles of mankind. And yet, sir, I cannot vote for this bill; and I rise now more for the purpose of filing a petition than with any intention of making an argument upon it; more for the purpose of addressing myself to the compassion of Senators than with any expectation of influencing their judgments and their opinions.

I shall speak to-day as a border slave State man, the humble advocate of the sentiments of the State that I represent. I shall have no reproaches to utter, no imputation of motives to make, no menaces, no angry words of defiance, which I am sorry to say too often enter into the discussions in Congress. But as a representative of the public sentiment of the loyal people of Virginia, and in their name, I beg Senators to pause long enough to consider the position which they occupy. Sir, they were the first to strike a blow in the field against the rebellion and in favor of the Constitution. The soil of Virginia, on my own native hills, received the first baptism of blood shed in defense of the Constitution, and that blood was drawn from the hearts of her own children. The loyal people of Virginia have withstood the shock of battle, they have endured the ravages of fire and of the sword, and they still stand to-day firm in their original integrity and true to their allegiance to the Government and the Constitution in the midst of the surrounding desolations of this cruel and unholy war, to which they point as the proud memorial of their loyalty. Sir, in the name of two hundred northwestern Virginians who have been immured for many months in the dungeons of rebellion at Richmond, I appeal to you to-day, to your generosity, to your forbearance, to your magnanimity.

The ship of State is, as it were, upon the ocean, tossed upon the mountain waves, every beam creaking and strained by the pressure that is upon her. Some of her crew have been washed or thrust from her decks, and are struggling in the midst of the sea to regain their foothold upon her sure planks; and what do we see, sir? Instead of throwing them a rope or a plank to aid them to recover their original position, almost daily every morning are there fresh invocations to the very storm king himself to breathe fresh blasts of his fiery breath upon the raging elements amidst which they are struggling for life and for security.

But, sir, I had not intended to make these preliminary remarks. I have a simple question to propose to the Senate; and it is to that question that I design to direct the attention of the Senate.

I may remark that the question of slavery in the United States is one of absorbing interest. With its intimate relation to the political welfare of the country, it connects moral and religious considerations appealing to the best sentiments and sensibilities of our nature. I am not disposed to quarrel with those who would bestow upon it a large measure of thought and deliberation; but it is just one of those questions whose tendency is to exclude from equal regard other questions of equal importance. A wise and comprehensive statesmanship carefully avoids the impolicy and danger of allowing any one of the interests of the State, however important, to monopolize the whole of its care to the neglect of other interests. It gives to each department of the public welfare the consideration it requires. Here I may be permitted to indulge in a reference to the words of wisdom and of warning of one of the greatest statesmen of our country. Mr. Webster, in his great speech in the Senate in 1850, animadverting upon the ultraism, impracticability, and exclusiveness which this question of slavery had then

engendered in the minds and in the policy of a certain class of individuals, said:

"There are men who, with clear perceptions, as they think, of their own duty, do not see how too hot a pursuit of one duty may involve them in the violation of another, or how too warm an embracement of one truth may lead to a disregard of other truths equally important. As I heard it stated strongly, not many days ago, these persons are disposed to mount upon some duty as a war-horse"—

Uncle Toby would have said a "hobby-horse"—

"and to drive furiously on, and upon, and over all other duties that may stand in the way. There are men, who, in times of that sort, and disputes of that sort, are of opinion that human duties may be ascertained with the precision of mathematics. They deal with morals as with mathematics, and they think what is right may be distinguished from what is wrong with the precision of an algebraic equation. They have, therefore, none too much charity toward others who differ with them. They are apt, too, to think that nothing is good but what is perfect, and that there are no compromises or modifications to be made in submission to difference of opinion, or in deference to other men's judgment. If their perspicacious vision enables them to detect a spot on the face of the sun, they think that a good reason why the sun should be struck down from heaven. They prefer the chance of running into utter darkness to living in heavenly light, if that heavenly light be not absolutely without any imperfection. There are impatient men—too impatient always to give heed to the admission of St. Paul, 'that we are not to do evil that good may come'—too impatient to wait for the slow progress of moral causes in the improvement of mankind."

Mr. President, the question which I wish to discuss is, is it wise or expedient, under existing circumstances, and at this time, to pass this bill? Sir, this bill is a part of a series of measures, already initiated, all looking to the same ultimate result—the universal abolition of slavery by Congress. This bill and the bill of the Senator from Illinois [Mr. TRUMBULL] for the confiscation of property in the seceded States, and the resolutions introduced by the Senator from Massachusetts [Mr. SUMNER] some weeks ago, contemplate the same purpose—unconditional, immediate, and universal emancipation. It is to the consequences which must inevitably result from these measures, if adopted, to which I solicit the attention of the Senate. These consequences, in my judgment, involve the lives of thousands of my fellow-citizens, and the happiness of all the loyal people of all the border slaveholding States. Perhaps I should be justified in saying that they involved in most serious peril the restoration of the Union and the Constitution.

The duties, interests, and relations of a people so numerous and enterprising as those of the United States, inhabiting a territory so extensive, and embracing so great a variety of climate, soil, pursuits, and staple productions, must necessarily be complex in their character, and give rise to diversity of opinions, passions, prejudices, and parties. It is manifest if we hope to preserve the Union, we must, in the striking language of Mr. Benton:

"Imitate the words and conduct of the wise, just, modest, patriotic, intelligent, and disinterested men, who carried their country through a momentous revolution—molded that country into one brotherly union—and then put the government they had formed into operation, in the same fraternal spirit of '*amity, mutual deference, and concession*,' in which they made it."

Mr. President, I shall not trouble the Senate with any argument respecting the constitutional power of Congress to pass laws emancipating slaves. The arguments already made against this power by Congress in the States where slavery exists, have not been answered, and I believe they never will be. But I do not think the argument against the expediency and practicability of such laws has been exhausted. Sir, I admit that the rebels, especially the leaders of the rebellion, should be punished. They ought, in some manner, to be made to bear the burdens of the war they have forced upon the country, as far as is possible, and to indemnify loyal men for the injuries inflicted upon them by the rebellion. But this punishment should be according to law. To punish treason by unconstitutional penalties is to be guilty of virtual treason ourselves, to say nothing of the inconsistency and danger of such a procedure. And it is worthy of remark, that no measure of emancipation yet proposed contains any indemnity for injuries received by the Government or individuals. Simply to emancipate the slave of the rebel, may be a punishment to him, but it affords no relief to the loyal man who has suffered by the rebellion. Nay, one of the fundamental provisions of the confiscation bill of the Senator from Illinois is to make the loyal people of the Union contribute of their means to transport and colonize the emancipated slaves of rebels. I cannot understand either the justice or expediency of such a policy. It seems to me to involve a manifest inconsistency. It punishes the traitor, indeed, but it only increases the burdens and taxes of the loyal people.

Mr. President, I doubt the expediency of agitating such questions at this time; and therefore I have regretted the introduction of all these measures. It is my opinion that the one great absorbing object of Congress should be to prosecute the war and to conquer a peace and a restoration of the Union. This is a work of magnitude and importance sufficient to employ all the energies and resources of Congress and the nation. It is no time to introduce those measures of legislation of a general character which, ordinarily, in times of peace and security, occupy the attention of Congress. Least of all would it be wise to introduce topics of discussion and measures of policy which would be of a nature to distract the counsels of the nation, or inflame party passions and prejudices.

The vital necessity of existing exigencies is unity of purpose and effort on the part of the friends of the Union. He who would introduce measures creating distraction in our counsels and purposes will be affording aid and comfort to the enemy more fatal than his arms.

Mr. President, things may be lawful which are not expedient sometimes. Some of these measures respecting slavery may violate no principle of constitutional law. I cannot say that the abolition of slavery in the District of Columbia would be unlawful. I do not believe it would be. I think we have the constitutional power to abolish it here. Yet I am equally satisfied that the exercise of this power would violate the obligations of good faith which we owe to the State of Maryland. But aside from this consideration the question arises, is it expedient, at this time, to agitate such questions? The wise man of old says "there is a time for all things." I think this is no time for legislating in reference to such matters. Such legislation is not essential, nor even beneficial, in prosecuting the war and restoring peace to the country. Nay, it will be positively injurious; it will hinder and delay, if not imperil, the accomplishment of union and peace. Why may we not wait until peace and the Union are restored, when, with the calmness and deliberation befitting subjects so grave and delicate in their relations, we may arrive at wiser and better results? Why thrust these questions upon the country and upon Congress now, when both are staggering beneath the pressure of exigencies involving the very integrity of our national existence? Are not the elements of revolution and disorganization sufficiently rife, without seeking additional causes of strife and collision?

Sir, in no degree can the agitation and adoption of the policy contained in these measures relating to slavery contribute to the success of our arms, the peace of the country, its physical or moral welfare, or to the restoration of the Union. Nay, sir, the agitation of these questions, under existing circumstances, must be positively mischievous. Will it not create strife and divisions here? Will it not disturb the country? Above all, will it not afford aid and comfort to the enemy? I am sure it will. It will be used by the leaders of the rebellion to "fire the southern heart." The people of the South have been taught to believe that the object and design of the Republican party was to abolish slavery in all the States. These propositions will be seized upon as evidence of this intention. They will say, "Look at their unconstitutional confiscation laws, making no safe or practical discrimination between Union men and secessionists. Look at the bill to abolish slavery in the District of Columbia; it is a stepping-stone to further encroachments." Especially will they point to the sweeping resolutions of the great apostle of abolition, the Senator from Massachusetts, [Mr. SUMNER,] which, by one dash of the pen, deprives every southern man of his slaves. This is what the rebel leaders will delight to say, and delight to have so much reason to say. Thus will the followers of Mr. Yancey "fire the southern heart." These propositions will fill the southern journals; they will furnish the staple of inflammatory editorial commentaries for months to come, as they are now doing. No recruiting officer will have such power to replenish the thinned ranks of the rebel army as these propositions. They will add thousands to the numbers of our foes in the field. No financial skill of southern statesmen will have such power to replenish the depleted treasury of the rebel government. Thus will these measures advance the cause of rebellion in the South; and so, consequently, will they prolong the horrors of war on our part, increase our expenditures, and augment the burdens of taxation. Worse than all, they will destroy that Union sentiment in the South on which we hope to reorganize the State governments and restore the authority of the Constitution. They will not only encourage our enemies in the South, but they will dishearten our friends there. Thus do the claims of our common humanity, deprecating the evils of war, suggest the impolicy of such legislation at this time.

Why prolong the war so unnecessarily? Why engage in legislation not essential either to the prosperity of the loyal non-slaveholding States or to the suppression of the rebellion in the southern States, the practical effect of which will be virtually to place weapons in the hands, soldiers in the ranks, and money in the coffers of the enemy? The cost of the war, the public debt created by it, the amount of taxation, will be large enough if the war were to cease to-morrow. Why should we, by legislation unnecessary for the prosecution of the war to a speedy and successful termination, increase the public debt and oppress the people with still heavier burdens of taxation? Is not every suggestion of prudence, economy, and, indeed, of patriotism, opposed to it?

Mr. President, is it desired to make this a war of total extermination? Let us beware how we drive our friends in the South, with hearts filled with desperation, into the ranks of our adversary! One year's experience has taught us that a divided South was no contemptible foe. What will it be united? Seven hundred thousand square miles of fruitful territory, full of natural resources, inhabited by six millions of united, desperate people, may not be easily overcome and brought back to their allegiance.

Besides, sir, there is no necessity for driving these people to such desperate extremities. Justice, moderation, generosity, will meet a joyful response in many a southern heart. They love the old flag; they love the old Union. Show them that their rights under the Constitution—their prejudices of education and habit, if you please to say so—are to be respected, and you will strike a blow more fatal to the rebel cause than a score of such victories as that at Fort Donelson. And this will be a victory without bloodshed. It destroys no valuable lives. It wastes no resources of the country's wealth. It makes no widows or orphans. It desolates no homes. Why should not the North be generous and forbearing? Are not moderation and forbearance the invariable characteristics of a great people?

I understand Mr. Lincoln himself to be actuated by such principles. I understand that these were his principles long ago. I understand that, in reference to this very matter of abolishing slavery in the District of Columbia, he was in 1858 and I hope is still governed by the same considerations of expediency. If in 1858 considerations of expediency were enough to cause the Republican party to pause in their course at that day, now with the storm and tempest of war upon us, and an accumulating debt pressing down the people, should we not also hearken to the suggestions of expediency? Mr. Lincoln, in 1858, in his discussion with Mr. Douglas, at Quincy, used this language:

"We have a due regard to the actual presence of slavery among us, and the difficulties of getting rid of it in any satisfactory way, and all the constitutional obligations thrown about it. I suppose that, in reference to its actual existence in the nation and to our constitutional obligations, *we have no right at all to disturb it* in the States where it exists, and we profess that we have no more inclination to disturb it than we have the right to do it. *We go further than that;* we do not propose to disturb it, where, in one instance, we think the Constitution would permit us. We think the Constitution would permit us to disturb it in the District of Columbia. Still, we do not propose to do that, unless it should be in terms which I do not suppose the nation is very likely soon to agree to—the terms of making the emancipation gradual and compensating the unwilling owners. Where we suppose we have the constitutional right, we restrain ourselves in reference to the actual existence of the institution and the difficulties thrown about it."

In the same speech, a little further on, Mr. Lincoln declared that—

"If there be any man in the Republican party who is impatient over the necessity springing from the actual pres-

ence of slavery, and is impatient of the constitutional guarantees thrown around it, and would act in disregard of these, he, too, is misplaced standing with us. He will find his place somewhere else for we have a due regard, so far as we are capable of understanding them, for all these things. This, gentlemen, as well as I can give it, is a plain statement of our principles in all their enormity."

Why may we not to-day, under the influence of the same suggestion of a wise expediency and forbearance, withhold our hands from meddling with the institution here, withhold from Congress all questions connected with this disturbing element, and unite hands and hearts in one common, undivided, vigorous effort to restore the Constitution, conquer a peace, and after that, in the language of Mr. Douglas just before he died, we shall have time to settle all these difficulties? I will quote his words:

"When we shall have rescued the Government and country from its perils, and seen its flag floating in triumph over every inch of American soil, it will then be time enough to inquire as to who and what has brought these troubles upon us. Let him be marked as no true patriot who will not abandon all such issues in times like these."

Again, I ask Senators to consider what may be the effect of these extreme measures upon the public sentiment of the loyal States. There is but one sentiment there now, but one mind, one purpose. Therein consists our strength and the surest guarantee of our success. But this unity of sentiment and purpose is predicated on the distinctly declared purpose of the war, to wit, the suppression of the rebellion and the restoration of the Constitution and the Government as they were prior to the rebellion, without change or modification. Sir, let it be understood that there is a different object to be accomplished—such as is indicated by some, if not all, of the measures to which I have alluded—and that unity and harmony of public sentiment will be instantly destroyed. We shall thereafter in the loyal States be "a house divided against itself." Distraction will disturb our proceedings here, division will enter the Army, and the cause of constitutional liberty will be imperiled with defeat and disgrace. Already are there indications of dissatisfaction in the public mind lest Congress should depart from the avowed purpose hitherto announced as the only object of the war.

Mr. President, the wisdom of a measure may be best ascertained from an examination of its practical results. The tree is known by the quality of its fruits. Now, what must be the practical effects of these measures of emancipation? And here I say that the welfare of the slave is not to be overlooked. As wise and humane legislators, as Christian statesmen, we are not authorized to disregard this. What then will be the effect upon the slave of the summary emancipation contemplated in any of the schemes before Congress? Suppose they are emancipated; what then? Are they freemen in fact? Will they have the rights of freemen? Sir, such an idea is utterly fallacious. It will practically amount to nothing. You cannot enact the slave into a freeman by bill in Congress. A charter of his liberty may be engrossed, enrolled, and passed into a law, with all the formalities of legislation, and still he must remain, virtually, a slave. The servile nature of centuries cannot be eradicated by the rhetoric of Senators, nor by an act of Congress. You may call "spirits from the vasty deep," but they will not come. You may emancipate the slave, and call him free, but he is still a slave. He can never be anything else in this country. A freeman has the right of locomotion; he has the right of going into any State, and of becoming the citizen of any State. Let me ask the Senator from Illinois whether, if I set my slave free, he will allow him to come to Illinois. Let me ask the same question of the Senators from Indiana. Sir, the constitutions of both of those States prohibit free negroes from becoming citizens of those States, or even residents thereof; and that is the liberty which you propose for the slave. Other States are agitating the question whether they will enact similar interdicts.

Now, sir, I ask, can the free negro be a freeman clothed with the rights of freemen in this country? In how many States is he entitled to the right of suffrage or to be a juror, or a judge, or to a seat in the Legislature; to make, interpret, or execute the laws of the State in which he lives? I understand there are some negroes living in the North who possess large estates, are well educated, and of good morals and manners. Do you receive them into your families on terms of equality? Do you give them your daughters in marriage? Why not? Are they not wealthy, intelligent, and polite, and, for aught I know, handsome negroes? Are not "all men born free and equal?" Sir, I am not going to discuss the dogma of the natural equality of men. I am only referring to facts—"fixed facts;" and I say, right or wrong, naturally equal or naturally inferior, the negro never can be a freeman in this country, enjoying social and political equality.

Now, I ask you to look with a candid eye upon the real condition of the southern slave. There he is, a slave by birth; a slave by law; a slave by education; a slave by habit; a slave in word, thought, and deed, in body and in mind; ignorant, degraded, poor, helpless, without the capacity of self-maintenance. You cry, what a pity! I heartily respond, what a pity! But still it is a fact. Your pity does not alter the condition of the slave, else he had been a freeman long ago. We must be guided by our judgment in these matters, not by our sympathies. We must take things as they actually exist, and legislating for the slave, we must conform to his actually existing character and condition, moral, intellectual, and physical. We shall not deserve the name of statesmen if we do not; nor shall we entitle ourselves to the character of philanthropists if we disregard such considerations. Sir, would you recommend the Chinese to adopt a republican form of government? Would you advise the native Africans, cannibals and all, to organize a government on the model of the Constitution of the United States? The idea is preposterous. And now, sir, candidly considering the ignorance, degradation, and helplessness of the four millions of slaves in the South, can you desire their immediate emancipation? Would it be wise? Would it not be an act of cruelty to the slaves? Sir, what would become of them? Think of it. Think of four millions of these degraded, helpless beings, without a dollar of money, without an acre of land or an implement of trade or husbandry, without house or home, thrust out upon the community to maintain themselves! Sir, they would starve to death, or they would steal, or they would murder and rob. Better drive them into the Gulf of Mexico, and end their sufferings at once, than perpetrate such a monstrous cruelty as this upon them.

We heard from our friends the other day—the honorable Senator from New Hampshire [Mr. HALE] and the honorable Senator from Wisconsin [Mr. DOOLITTLE]—in regard to the prosperity of the British West Indies and of the French West Indies. I shall rejoice in the perfect success of those efforts to elevate the African race; but I have read on both sides of the question, and I confess I am in doubt to-day whether the evidence be not stronger against the prospect of success than in favor of it. It is very easy to go into a subject and select here and there a fact, and skip a great many other intermediate facts, and make out a pretty fair record; but how the case really is I am at a loss to know from the conflicting accounts of travelers, and even of philanthropists, who have visited them. But did not the Senators know, did it not occur to them, how different was the position of the slaves in those States from that of the slaves in the United States? There were but few white men in those islands; the soil was all their own; implements of husbandry were put into their hands, and with the moral influence and watchfulness of great Christian nations standing beside them and breathing upon them encouragement and words of good will, affording them moral and physical aid and protection; and yet, with all these advantages; with a soil all their own; with no white man to overshadow them; with a government of their own; with the moral influence and aid of these Christian patrons that had set them free, it is to-day, after so many years, a question whether it will not be a failure rather than a success. God grant that it may be a perfect success!

And now you, men of the North, I beg to ask, what would be the consequences of this wholesale emancipation on your own communities? How long would it be until this miserable population, like the frogs of Egypt, would be infesting your kitchens, squatting in your gates, and filling your almshouses? Sir, are you willing to receive them? Will you set them free, you must receive them. Will If you operatives extend to them the right hand of fellowship, and receive them as coequals and co-laborers in your fields and shops? Meantime, what will become of the cotton fields of the South, and the cotton factories of the North? While you are increasing the number of your laborers, you will be destroying the sources of their employment. You will ruin the industrial interests of the South, and bring serious detriment on the labor of the North.

The answer to all this is, transport and colonize the emancipated slaves in some tropical country. What then? Whither shall they be sent? Where shall we find a tropical territory for four millions of inhabitants? And where shall we find the money to pay for a territory sufficient to settle four millions of inhabitants? How much will it cost? I say nothing of constitutional difficulties in the way. Let them pass, along with the suspension of the *habeas corpus et id omne genus*. Where is the money to come from? Rhetoric and philanthropic platitudes will not purchase territory. Then, sir, there is the cost of transportation and the cost of the outfit and the cost of houses to be built for the reception of four millions of people, and the cost of implements of husbandry and tools of trade, and the cost of food and clothing for the first year, at the least; for it cannot be supposed that the intention is to set these poor creatures down in the woods, without such provisions for their comfort and subsistence. And then, sir, our task is just commenced. We must provide for their continued supervision, direction, and protection. And how long must all this continue? How long will it be before this mass of ignorant and servile population will become capable of self-government and self-subsistence? How many generations will it require to divest the slave of his servility, and to clothe him with the independence of the freeman? And what will all this cost? Who can make the calculation? Who can pay the debt? The accumulating millions of the current war debt, now rising mountain high, and resting with the weight of mountains upon the people, sink into mole-hills before the Atlas-like dimensions of the sum that will be required for the accomplishment of this stupendous scheme of philanthropy. A pretty considerable job, truly, and a fine opportunity for some more Covode and Van Wyck committees.

Sir, why, in this hour of financial pressure and embarrassment, should we rush headlong into such wanton schemes of taxation? The country will not, cannot endure it. The thing is utterly impracticable. I am happy to perceive that the northern mind is beginning to appreciate the difficulties surrounding these schemes of immediate emancipation. I find the following in a recent number of a leading New York journal—The World. The editor says:

"The negro race is multiplying with such rapidity in this country that, in a few generations more, its relations to the white population will have become a question of fearful magnitude. At the time of our first census, in 1790, there were in the United States only seven hundred and fifty-seven thousand negroes; at our last census, in 1860, there were four million six hundred thousand. Before the end of the century there will be a negro population of twelve or thirteen millions. They are too numerous ever to be deported from the country. The intellectual, social, and political capacity of the negro race is not yet even approximately ascertained, and yet correct views on this subject must furnish the only light which can intelligently guide the legislation for determining the relation of the two races. It may never become the office of the General Government to emancipate the slaves. But Providence seems clearly to have laid on it the duty of contributing to the knowledge by which the great problem shall ultimately be solved. What is now wanted is an enlightened system, devised by men who appreciate its possible far-reaching results, for bringing to bear on a collective mass of ordinary plantation negroes all the educative and humanizing influences of which their condition is susceptible. To furnish facilities for such an experiment is work worthy of an enlightened Government. We feel quite sure that it can be conducted to best advantage only by being taken out of the coarse hands of soldiers and politicians and placed in charge of an unselfish commission of humane and able men."

I cannot conclude these remarks without some observations of a more general character. Sir, I fear we are drifting into dangerous extremes. I fear we are about to violate the pledged faith of the nation. Sir, what is the object of the present war? For what are we fighting? To what purpose are we taxing the people and expending the treasures of the country? Why are thousands of the noblest sons of the Republic yielding up their lives on the field of battle? I had supposed it was for the preservation of the Union. I had supposed that it was, in the language of the President, to "protect, maintain, and defend the Constitution." I had supposed that Congress meant what it said,

when, at the late special session, it declared, with a unanimity hardly ever paralleled, that the object of the war was to suppress the rebellion and restore the Union and the Constitution, and nothing more. Influenced by this public and official declaration and pledged faith of the nation, the loyal spirit of the nation silenced the clamors of party strife and political factions; and the people, abnegating all past differences and distinctions of political opinion, rushed to the rescue, shoulder to shoulder, in response to the call of our patriotic Chief Magistrate. Fixing their eyes and their hearts on the old flag, they determined that no star should ever be erased from its ample folds. The flag as it was, the Union as it was, the Constitution as it was—this was the universal sentiment. It has been consecrated by the blood of the noblest men of the country, whom no other or less worthy sentiment could have rallied to the conflict. This simple, distinct, avowed, and only purpose of this war has been baptized in the blood of Democrats and Whigs and Republicans, who fell, side by side, on every field and every deck where there has been a conflict of arms. Have they been betrayed? Were they the mere dupes of an ulterior purpose, hitherto concealed, and only now about to be avowed? Is their memory to be revered, not as the champions and martyrs of constitutional liberty, but as the filibusters of a mere sectional foray? Is it, after all, a partisan, a miserable sectional war?

Sir, a few weeks ago we expelled a Senator because, on the 1st of March last, he wrote a letter to Jefferson Davis, commending to his regard a friend who had a valuable fire-arm to sell, and who visited the South mainly for the purpose of selling it. This was deemed evidence of disloyalty sufficient to warrant his ejection from the Senate. But what do we now see? What, for instance, is the proposition of the distinguished Senator from Massachusetts, [Mr. SUMNER?] It is by one fell swoop of his pen to blot ten or twelve States out of the Union forever, to remit them back to a territorial condition, and thus to involve our muniments of right, the titles to our estates, our franchises, and municipal privileges, in a kind of *hotchpot*, begetting and superinducing an inevitable confusion as inexplicable and dark as original chaos.

Sir, we are told that rebels have forfeited their rights under the Constitution, that the States in rebellion have abdicated their authority as States, and may be no longer recognized as members of the Confederacy. I shall not pause to discuss such a monstrous proposition. It is enough to say that the Constitution provides that "the United States shall guaranty to EVERY State in this Union a republican form of Government;" and, therefore, the paramount and indispensable duty of Congress is to *preserve*, not to *destroy*, the States; and to do this ample powers are conferred to "suppress insurrection," &c.

But, sir, are we all traitors in the South? What is to become of the loyal inhabitants of Virginia and Tennessee and Louisiana and Alabama and North Carolina—loyal men and women, whose hearts have been swelling, swelling with hopes of deliverance from their thralldom—whose longing eyes have been turned towards us, day and night, to catch the first glimpse of their old flag coming back—loyal men, who have suffered contumely and persecution and confiscation and imprisonment for their enduring, unconquerable love of the Union? What is to become of the late Senator from Tennessee, [Mr. JOHNSON?] Is his seat here, so honorably filled, and recently so generously resigned by him, to be thus summarily vacated forever? Has he gone home to remain there in virtual banishment, with his State obliterated from the catalogue of the Union? Is it for this, that he and others have been driven into exile, enduring banishment from their families, and the loss of their estates? Is this the compensation and reward which loyal southern men are to receive, for the ruin of fire and sword and confiscation which have made their homes and hearths a desolation? If so, we may well pray, "save us from our friends." It would have been better to have been crushed to death at once beneath the iron heel of the rebellion. We should then have been saved from this sadder day, from this sadder calamity of beholding the final destruction of all our cherished hopes, not by the power of our foes, but by the hand of our protectors and friends.

Sir, I know not what the decision of the Senate will be in reference to these measures. But this thing I think I know: the public sentiment is against these distracting propositions at this time. The Senate may be for them; but the people are against them. That spirit of enlarged and generous patriotism, which, outside of this Hall, has rebuked the selfishness of party spirit, and triumphed over the influences of sectional prejudice, and melted and fused the hearts of the people all into one great heart, beating and throbbing with one great inextinguishable desire for the restoration of the Union as it was—that spirit of the people will yet triumph over all opposition. It will command obedience to its behests. It will hurl from power all who refuse to obey it. It is triumphing now with a glorious majesty worthy of a cause involving the existence of constitutional liberty in the world. It was this spirit which planted the ensigns of the Republic on the rebel redoubts at Roanoke, and carried them victoriously across the intrenchments of the traitors at Fort Donelson. Under God, I believe it will continue to triumph, *triumph*, TRIUMPH, until all treason and sectionalism, and all disorganizing schemes, North, South, East, West, everywhere, shall be overcome, and the Union shall be restored, and the Constitution, as our fathers ordained it, shall be reëstablished in all its original integrity and supremacy, and peace and concord shall again bring joy to the hearts and prosperity to the homes of the American people.

If anything can defeat this devoutly wished for consummation of the nation's hope, it will not be the arms of the conspirators in rebellion; it will be the more fatal influences of such schemes as that propounded by the Senator from Massachusetts, in the resolutions to which I have referred.

Mr. President, if slavery shall suffer from the incidental and necessary effects upon it of this war, let it be so; I shall not regret it. I am no pro-slavery man. I wish there were no slavery. I believe that slavery is doomed. I believe the time is coming when it will be abolished. Heaven hasten the day when, under the regenerating and reforming influences of Christian civilization, the slave shall be qualified for the enjoyment of freedom, and when it shall be practicable and humane to strike the fetters from the limbs of the last bondman of our race. But let us abide the appointed time of divine Providence. Let us not, in our eagerness to avenge the wrongs, real or imaginary, of the slave, repeat the folly of Samson, and in the frenzy of an indiscreet zeal pull down the pillars of the Constitution, and involve both the slave and ourselves in the ruins of our country.

There is another reason why we should pause at this time. The House of Representatives has passed, by a large majority, the resolution suggested by the President of the United States in his late message to Congress. That resolution is as follows:

> "*Resolved, &c.*, That the United States ought to coöperate with any State which may adopt gradual abolishment of slavery, giving such State pecuniary aid, to be used by such State in its discretion to compensate for the inconveniences, public and private, produced by such change of system."

For the reasons already alleged, I have regretted that the President has thought it was proper at this time and under existing circumstances to make this recommendation to Congress. But it has been made; and if, as is very probable, it was made to arrest those extreme, dangerous, and unconstitutional measures upon which I have been animadverting, we ought, perhaps, to be thankful to the President for his interposition, and to accept his proposition, being the least objectionable that has been presented.

The constitutional power of Congress to appropriate money for the purpose indicated has been seriously questioned, and I confess that I have supposed the power was doubtful. But I am willing to be controlled by the greater learning and wisdom of others; and certainly, if we have ever had an able constitutional lawyer, it was Mr. Webster. I beg to read another short extract from his speech already referred to—a speech made on Mr. Clay's compromise resolutions on the 7th of March, 1850:

> "I have one other remark to make. In my observations upon slavery as it has existed in the country and as it now exists, I have expressed no opinion of the mode of its extinguishment or melioration. I will say, however, though I have nothing to propose on that subject, because I do not deem myself so competent as other gentlemen to consider it, that if any gentleman from the South shall propose a scheme of colonization to be carried on by this Government upon a large scale, for the transportation of free colored people to any colony or place in the world, I should be quite disposed to incur almost any degree of expense to accomplish that object. Nay, sir, following an example set here more than twenty years ago by a great man, then a Senator from New York, I would return to Virginia, and through her for the benefit of the whole South, the money received from the lands and territories ceded by her to this Government for any such purpose as to relieve, in whole or in part, or in any way to diminish or deal beneficially with the free colored population of the southern States. I have said that I honor Virginia for her cession of this territory. There have been received into the Treasury of the United States $80,000,000, the proceeds of the sales of the public lands ceded by Virginia. If the residue should be sold at the same rate, the whole aggregate will exceed two hundred millions of dollars. If Virginia and the South see fit to adopt any proposition to relieve themselves from the free people of color among them, they have my free consent that the Government shall pay them any sum of money out of its proceeds which may be adequate to the purpose."

This matter has been referred by the Senate to the Committee on the Judiciary. They have only reported to-day. The sense of the Senate upon the proposition has not yet been ascertained. If it should be the same as that of the other House, a new policy will be inaugurated, which, we may hope, will measurably remove all strife on the question of slavery from the Halls of Congress. And why should such a policy not be inaugurated? Why shall we not adopt the resolution recommended by the President? "Such a proposition," says the President in his message, "on the part of the General Government, sets up no claim of a right by Federal authority to interfere with slavery within State limits, referring, as it does, the absolute control of the subject in each case to the State and its people immediately interested."

Thus is the exclusive right of the State over slavery where it exists distinctly recognized, and the question of emancipation is referred to the only authority competent to dispose of it. Any scheme of emancipation organized by the States will necessarily be gradual, allowing time to bring to bear upon the slave emancipated those moral and educative influences indispensable to his qualification for the duties and responsibilities of freedom, so that he may be judiciously and humanely colonized.

Now, sir, if this proposition of the President shall be adopted, and the State of Maryland shall avail herself of the benefit of it, then would all objection against the abolition of slavery in the District of Columbia be removed. Why not wait and see? At least, why not postpone action on this bill until the proposition of the President has been considered?

Some Senators have expressed surprise that loyal men in the South, who have suffered so much from this rebellion, should resist with so much zeal and pertinacity the abolition of slavery, which, it is alleged, is the cause of the rebellion, and therefore of their sufferings. Sir, my resistance to these measures is not on account of any attachment to slavery, but from my love and veneration for the Constitution. Moreover, we have suffered so much from the horrors of this war, that we deprecate whatever may increase and prolong its miseries, as the passage of these bills will assuredly do.

Mr. President, some twelve years ago, Henry Clay, who, take him all in all, stands, and perhaps will continue to stand, in history and in merit next to the "Father of his Country," went home from this city to prepare for his journey to "that undiscovered country from whose bourne no traveler returns." But he had not been there long until the country, alarmed at the progress of those sectional animosities which have at last culminated in treason and rebellion, called him back to the councils of the nation. I happened to be here when he returned, and it seemed to me as if the pillars of the Capitol were conscious of his presence, and stood firmer on their bases as they heard the footsteps of the "grand old commoner" again entering the Senate Chamber. Sir, it was his efforts here then to save his country which literally burst his great heart. The evils and dangers then only in prospect are now actually upon the country. May I not, therefore, conclude my remarks by recalling the dying utterances of that pure patriot, addressed to you, Sen-

ators of the North? How literally are his predictions now in progress of fulfillment:

"In the first place, sir, there is a vast and incalculable amount of property to be sacrificed, and to be sacrificed, not by your sharing in the common burdens, but exclusive of you. And this is not all. The social intercourse, habit, safety, property, life, everything, is at hazard in a greater or less degree in the slave States.

"Sir, look at that storm which is now raging before you, beating in all its rage pitilessly, on your family."

He was addressing a southern Senator in the chair.

"They are all in the South. But where are your families, where are your people, Senators from the free States? They are safely housed, enjoying all the blessings of domestic comfort, peace, and quiet in the bosoms of their own families."

Would to God that you could have witnessed the destruction, the desperation, the misery, the grief, the woe, the sorrow, that has swept through our hills in northwestern Virginia. You could then realize, perhaps, to some extent, the full import of these eloquent words:

"Behold, Mr. President, that dwelling house now wrapped in flames. Listen, sir, to the rafters and beams which fall in succession amid the crash, and the flames ascending higher and higher as they tumble down. Behold those women and children who are flying from the calamitous scene, and with their shrieks and lamentations imploring the aid of high Heaven."

What a prophetic sentence! We have witnessed the actual fulfillment of it amidst my own native hills.

"Whose house is that? Whose wives and children are they? Yours in the free States? No. You are looking on in safety and security, while the conflagration which I have described is raging in the slave States, and produced, not intentionally by you, but produced from the inevitable tendency of the measures which you have adopted, and which others have carried far beyond what you have wished." * * * * * * * * * *

"In the one scale, then, we behold sentiment, sentiment, sentiment, alone: in the other property, the social fabric, life, and all that makes life desirable and happy.

Mr. President, on the death of Mr. Clay the Whig party was dissolved. It has been generally absorbed in other party organizations. A few of us only remain, like fragments of a wreck, tossed to and fro on the billows of this revolution. Sir, the cup of life is seldom so bitter as that there may not be found in it some pleasant ingredient. It is some consolation to me to-day that no prejudice or influences of party spirit can mingle with the service which I owe to my country; that no trammel or impediment of party obligation can interpose between me and my fidelity to the Constitution; that I can, and that I will, with a devotion subordinate only to that which I owe to my Maker, support all measures and any party that will, in my judgment, best promote the preservation of the Union, and the true glory of the nation. If in such an hour of the country's peril as this I should be governed by motives less worthy and patriotic, I ought to be repudiated as a faithless public servant, and to be abhorred as a traitor forever.

Mr. MORRILL. If there is no disposition to discuss the question further to-day, I move that the bill be postponed until to-morrow at one o'clock, and be made the special order for that hour, to enable the Senator from Maryland, not now in his seat, [Mr. PEARCE,] to address the Senate, as he has expressed a desire to do. I desire to say that as the subject has lingered from day to day, I shall feel it my duty, if there is no desire then to discuss the question further, to press the matter before the Senate to a vote. I now move that the further consideration of the bill be postponed until to-morrow at one o'clock, and be made the special order for that hour.

Mr. CLARK. Before that motion is put, as it seems to be the intention of the Senator from Maine to bring the matter to an early vote, I desire to offer a substitute for the bill.

Mr. TRUMBULL. I hope the substitute will be printed.

Mr. CLARK. I desire that it shall be printed.

The proposed amendment was ordered to be printed.

Mr. LATHAM. I move that the Senate proceed to the consideration of executive business.

The PRESIDING OFFICER, (Mr. HOWE.) The first question is on the motion to postpone.

Mr. TRUMBULL. The bill will go over as unfinished business if we now go into executive session, without a formal postponement.

Mr. MORRILL. Very well.

EXECUTIVE SESSION.

Mr. LATHAM's motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *March* 20, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

BALTIMORE AND OHIO RAILROAD COMPANY.

The SPEAKER laid before the House a communication from the Secretary of War, transmitting, in compliance with a resolution of the House, copies of correspondence between the War Department and the Baltimore and Ohio Railroad Company; which was laid upon the table, and ordered to be printed.

TRANSPORTATION TO PACIFIC.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting, in compliance with a resolution of the House, the cost of the transportation between the Mississippi river and the Pacific coast during the last five years; which was laid upon the table, and ordered to be printed.

CENSORSHIP OF THE PRESS.

Mr. WILSON, from the Committee on the Judiciary, submitted a report in the matter of the telegraphic censorship of the press; which was ordered to be printed, and its further consideration postponed until the first Monday in April next.

CONFISCATION.

Mr. HICKMAN. I am directed by the Committee on the Judiciary to report back all the petitions, memorials, resolutions, and bills referred to them on the subject of confiscation, with the recommendation that they do not pass.

Mr. BINGHAM. I submit, from the same committee, a minority report on the same subject, and move an amendment to bill No. 107, one of the bills which has been reported—an amendment in the nature of a substitute. I presume the question now recurs on the third reading and engrossment of that bill; as it has been read twice, my amendment is now in order.

The SPEAKER. The difficulty is, that half a dozen bills and resolutions have been reported at once. The gentleman's substitute will be received, and also the report of the chairman of the Committee on the Judiciary, if there be no objection.

Mr. HICKMAN. I present a minority report, and also move a substitute for all of the propositions reported on the subject of confiscation. It will be remembered that all of the bills and resolutions which I have reported, with the recommendation that they do not pass, are substantially to accomplish a like purpose.

The SPEAKER. It is not in order to report upon so many bills and resolutions, so as to have them all at the same time before the House.

Mr. BINGHAM. House bill No. 107, to forfeit the property and slaves of persons who shall engage in or aid and abet armed rebellion against the United States, is now before the House, and the question is on its third reading and engrossment. For that bill I have moved a substitute, which I understand has been received, and is now pending before the House.

The SPEAKER. The Chair understands that the Committee on the Judiciary ask to be discharged from the further consideration of the subject.

Mr. HICKMAN. No, sir. I have reported the bills and resolutions with the recommendation that they do not pass. The object the committee had in view was to allow members of the committee to submit minority reports. As a minority report, I now introduce a joint resolution in relation to the powers of the President of the United States.

The joint resolution was read a first and second time.

Mr. BINGHAM. Is my substitute before the House?

The SPEAKER. It was received by unanimous consent.

Mr. SHEFFIELD. I call for the regular order of business of the morning hour.

Mr. STEVENS. I trust that the rules will be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union on the tax bill.

The SPEAKER. The subject of confiscation is before the House by unanimous consent.

Mr. WICKLIFFE. I understand that the gentleman from Pennsylvania has reported back various bills and resolutions, with the recommendation that they do not pass. I make the point of order that he cannot submit any amendment to any particular bill and take it up for consideration.

The SPEAKER. After the report has been received it is open for consideration.

Mr. WICKLIFFE. Has the report been received?

The SPEAKER. No objection was made to its reception.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

On a division, there were—ayes 30, noes 40.

Mr. BINGHAM demanded tellers.

Tellers were ordered; and Messrs. BINGHAM and PENDLETON were appointed.

Mr. STEVENS. If the only object is to get the question of confiscation before the House, I withdraw my motion to go into committee.

The SPEAKER. The question is before the House by unanimous consent, and the bill introduced by the gentleman from Pennsylvania, [Mr. HICKMAN,] as well as the substitute of the gentleman from Ohio, is now pending. They are now under consideration.

Mr. PENDLETON. I move that the whole subject be laid upon the table.

Mr. STEVENS. I suggest that the further consideration of the subject be postponed to a day certain.

Mr. BINGHAM. If we go into committee how will the question stand?

The SPEAKER. It will come up in its regular order.

TAX BILL.

Mr. STEVENS. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union on the tax bill.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed the consideration of the special order, being the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

The CHAIRMAN stated that when the committee rose yesterday, they were engaged in the consideration of the forty-first section, as follows:

SEC. 41. *And be it further enacted*, That every person who, on the 1st day of May next, shall be the owner of any still or stills, or other implements used in lieu of stills, for the purpose of distilling spirituous liquors, or who shall have such still or stills, or implements, as aforesaid, under his superintendence, either as agent or on his own account, shall, on or before said day, and every person who, after said day, shall use or intend to use any such still or stills, or implements, as aforesaid, either as owner, agent, or otherwise, shall, before he shall begin to use such still or stills, or other implements in lieu thereof, for the purpose of distilling spirituous liquors, apply for, in writing, and obtain from the collector appointed under this act for the collection district in which such person resides, or to the deputy of such collector duly authorized, a license for using such still or stills, or other implements, as aforesaid; and each such license hereafter to be granted shall remain in force until the 1st day of January next after the date thereof, and no longer; which licenses shall respectively be granted upon the payment, by such owner or agent, as aforesaid, of the sum of $100: *Provided*, That licenses applied for which terminate under the provisions of this act in less time than six months may be granted as aforesaid, upon the payment of the sum of fifty dollars.

Mr. WICKLIFFE. I ask the attention of the chairman of the Committee of Ways and Means for a moment. In looking over the bill I find that in section twenty-six, which has been passed over, power of distraint is given over a defaulting collector, but that power is confined to goods and chattels. Ought not real estate to be included? I think that such an amendment might be made by unanimous consent.

The amendment which I spoke of yesterday I have now prepared, and submit for the consideration of the committee. The bill, as it now stands, provides that no matter what the capacity the

license shall be $100. I move to amend, as follows:

Section forty-one, twentieth line, strike out "$100," and insert "of thirty cents per gallon for each gallon of the capacity of the still or stills or other vessel of wood or metal, or vessel used in the distillation of spirits, not including boilers or heaters of beer or water."

Mr. STEVENS. The gentleman is right in thinking that such a provision should be in the bill, and I think it will be found there already. If he will refer to page 26 of the bill, he will find a provision which, I think, meets his objection. It is as follows:

And for want of goods and chattels, or other personal effects of such collector or his sureties, sufficient to satisfy any warrant of distress, issued pursuant to the preceding section of this act, the lands and real estate of such collector and his sureties, or so much thereof as may be necessary for satisfying the said warrant, after being advertised for at least three weeks in not less than three public places in the collection district, and in one newspaper printed in the county or district, if any there be, prior to the proposed time of sale, may and shall be sold by the marshal or his deputy.

Mr. WICKLIFFE. I had overlooked that provision.

Mr. STEVENS. That provision is all that is necessary.

Mr. WICKLIFFE. I desire to ask the attention of the committee for a few moments to the provisions of this section, and to the amendment I have offered, because I deem the matter of great importance. This tax upon the distilleries is a matter of great interest to the agricultural interests of the country, and the material itself when made by them had better be poured out of the barrels upon the ground rather than drank, if bad. The reason which suggested itself to me for proposing this change, I indicated yesterday, and I will repeat it now; it is that the imposition of a license of $100 upon each distillery, whatever may be the capacity, is unequal, and will be unjust. I have made a calculation of what the license would be upon ordinary distilleries under the amendment I have proposed. Where men run two copper stills, their capacities usually vary from sixty-five to one hundred and twenty gallons. I find, by calculation, that where three such stills are run the license would amount to about one hundred dollars. When you come to the large manufacturers of whisky and spirits you find a capacity running up to thousands of gallons, and they should pay a license in proportion to their capacity of production. Taxes should be levied in proportion to the capacity of the materials employed. If I have succeeded in making myself understood, I will yield the floor.

Mr. KELLOGG, of Illinois. I wish to suggest to the committee, that if they will make an estimate of what a license will amount to upon the basis of production, it will be found so enormous that the committee will hardly be willing to adopt the proposition of the gentleman from Kentucky. His proposition is to require the payment for a license at the rate of thirty cents per gallon upon the capacity of an establishment to produce spirits. There are a great many stills the capacity of which is at least four thousand gallons per day. That would make the license amount to $1,200 per annum for every such establishment.

Mr. WICKLIFFE. I beg my friend's pardon. He misunderstands the amendment.

Mr. KELLOGG, of Illinois. I most clearly understand it.

Mr. WICKLIFFE. The gentleman certainly misapprehends the amendment, or I do. This amendment is not a tax upon the capacity per day or per year. Instead of paying $100 a year, I propose that there shall be paid thirty cents a year upon each gallon of capacity of the still, or of what is usually called the boiler. I confine the amendment to the vessel that boils the beer, and runs it into spirits, or runs the spirit out of it.

Mr. KELLOGG, of Illinois. If the gentleman's proposition is what he has now stated—that is, thirty cents per gallon per year—why, it will be merely a tax of thirty cents a gallon upon all the spirits manufactured. That, added to fifteen cents a gallon, would be rather a larger tax than anybody would desire to impose upon the article.

Mr. WICKLIFFE. It is a tax of thirty cents per gallon upon the capacity of the still, and not upon the liquor produced.

Mr. KELLOGG, of Illinois. And the capacity of a still is precisely what it produces.

Mr. WICKLIFFE. Oh, no. [Laughter.]

Mr. DUNLAP. I move to strike out this entire section.

The CHAIRMAN. The gentleman can move that as an original proposition, but it will be held in abeyance until all the propositions to amend are disposed of.

Mr. DUNLAP. I perceive there is no discrimination between stills of different capacities. My colleague remarked yesterday that some distillers carry on the business on a very large scale, and I was pleased to hear him say that the liquor manufactured in his county was of a pure character, and I hope it will reach this department before we adjourn. [Laughter.]

I propose to strike out this entire section, for this reason: I perceive that by section forty-four it is proposed to impose a tax of fifteen cents per gallon on each article that is manufactured of a spirituous character. That is in addition to the $100 tax proposed by section forty-one, which I have moved to strike out. By subdivision number three of section sixty-three I find that a wholesale dealer in spirituous liquors is to pay a license of fifty dollars, and a wholesale dealer is defined to be one who sells three gallons or more at any one time. I find in subdivision four of that same section that a retail dealer is to pay a license of twenty dollars, and a retail dealer is defined to be one who sells in any quantity less than three gallons. I presume the Committee of Ways and Means did not intend to impose this tax of fifty dollars upon manufacturers. But evidently, if they do not, the language of this bill is an oversight, for manufacturers are so taxed according to the language of the bill.

You can see now what it will cost to enter upon the distilling business. In the first place, there is the $100 which the distiller pays for a license. Then he pays fifteen cents a gallon upon the article manufactured. Then he pays fifty dollars a year as a penalty for selling in quantities greater than three gallons; and if he sells in quantities less than three gallons, he pays a penalty of twenty dollars—making $170, in addition to the fifteen cents per gallon for manufacturing the article. Now, I insist, this bill as it is now worded—though I know that was not the intention of the committee, for they meant well, and desired only to obtain the greatest amount of revenue upon principles of equality—will operate to the exclusion of the manufacture of the article by very many men who cannot afford to pay the tax upon their small manufacture. You tax a hotel dealer, for instance, according to the rent of his establishment, and there you stop with him. You do not tax him, in addition, a percentage upon the income of his building or property. Bowling alleys and such like buildings are taxed, and the tax is confined simply to the first license. But in reference to the distillers, you make them pay a tax three times over; and, in addition to that, make them pay fifteen cents per gallon upon the amount they manufacture. Now I think the greatest amount of revenue will be derived by striking out these provisions as to license, as far as they refer to distillers, and make them pay a percentage upon the amount they manufacture. And then those who make only a small quantity will pay no more than their proportion of the revenue of the country, instead of paying as much as the large manufacturers. I think you will thus best subserve the interests of the Government, and make something like an equality throughout the entire distillery operations of the country. When that is done, we shall obtain a larger revenue than by the other process, which drives from the market those manufacturers who cannot afford to pay so large a license.

Mr. WOODRUFF. Mr. Chairman, I rise to oppose the amendment of the gentleman from Kentucky, [Mr. DUNLAP,] and with a view of sustaining the proposition of the gentleman from Kentucky [Mr. WICKLIFFE] who was first up. There is in that portion of the State of Connecticut which I represent a manufacture of ardent spirits which is known as cider brandy, and it is carried on by small farmers who raise an excess of apples, and distill the cider themselves in a small way. Now, I think it highly proper that a tax should be laid upon these distillers for the support of the Government. But the object of the tax is to raise revenue, and I fear the Committee of Ways and Means have gone so far in this matter that they will defeat the object which they seek to attain; for if a tax of $100 is laid upon every still, it will amount to an absolute prohibition of a great number of distilleries.

Now, sir, I understand that distilleries vary in size from a hundred to two thousand gallons in capacity.

Mr. KELLOGG, of Illinois. Four or five thousand gallons.

Mr. WOODRUFF. The tax upon a still of one hundred gallons capacity, if I understand the amendment of the gentleman from Kentucky, would amount to thirty dollars, whereas the tax upon a still of two thousand gallons capacity would amount to $600. Now, it seems to me that, if this tax is distributed according to the capacity of the stills, it will do more entire justice to the distillers than it would if you were to lay the same tax upon small and large distilleries; and I think, also, that it would increase the revenue which the Government would derive from the tax, because, as I have said, this heavy tax of $100 upon these small distilleries—and there are a great many in some sections of the country not exceeding a hundred gallons capacity—would amount to an absolute prohibition, and produce a suspension of the business of the distilleries.

Now, sir, I think this class of business a very proper object to tax; but I think the tax ought to be laid in such a way as to do justice to those engaged in it, and also to secure to the Government the greatest possible amount of revenue, and that, I think, would be effected by the adoption of the amendment of the gentleman from Kentucky, [Mr. WICKLIFFE,] and by rejecting the motion to strike out the whole section.

Mr. PHELPS, of California. I move to amend the amendment of the gentleman from Kentucky, [Mr. WICKLIFFE,] by inserting before the word "capacity," the word "daily;" and I will state to the gentleman from Kentucky my reason for offering that amendment. As I understand the process of distilling as at present practiced, while the old copper still is charged only once or twice a day, the improved pattern of still may be charged forty times a day; and consequently the amendment should apply to the daily capacity, to the amount of liquor distilled. That is the object, I presume, of the gentleman from Kentucky.

Mr. WICKLIFFE. Oh, no, sir; that is not my object.

Mr. PHELPS, of California. The object is to reach the capacity of the still, and it matters not whether the capacity is five hundred gallons, if it is only capable of producing three hundred gallons.

Mr. WICKLIFFE. I do not mean by the capacity of a still the ability of making so many gallons of whisky a day. I mean the number of gallons that it measures. It is but one tax on the capacity of the still for one year of thirty cents per gallon.

Mr. PHELPS, of California. I understand the gentleman, Mr. Chairman, and I will suggest to him that he entirely fails to reach his object, for the reason, as I said before, that the old-fashioned copper still is charged but once or twice a day, whereas the still of improved pattern may be charged forty times a day, and consequently, while they are both of the same measurement, one will produce two thousand gallons of liquor a day, and the other but fifty gallons.

Mr. WICKLIFFE. You are wrong in that.

Mr. PHELPS, of California. One still is charged forty times a day, and the other only once or twice, and consequently, though the stills may be of the same measurement, the one may be of twenty times the capacity of the other.

Several MEMBERS. Oh, no.

Mr. PHELPS, of California. I am sorry that I cannot make myself understood; but what we want is to tax the ability of the still to produce spirituous liquor, and that depends upon the process used. A still measuring five hundred gallons, used by one process, may produce only a hundred gallons of spirit, and used by another process it may be capable of producing two thousand gallons.

Mr. WICKLIFFE. If the gentleman wanted to buy a copper still from the manufacturer, that would hold a hundred gallons, he would write to him, "send me a copper still *of the capacity* of a hundred gallons." That is what is meant by the *capacity* of a still, and not its production.

Mr. PHELPS, of California. I perfectly un-

derstand what the gentleman means by capacity, as he himself understands it; but I want to suggest to him this: that while a copper still of two hundred gallons capacity is operated by putting fire under it, and is charged but once a day, there is another kind of still which is operated by putting steam pipes through a wooden cylinder, and which may be charged fifty times a day.

Mr. WICKLIFFE. The question is, how much does the still hold?

Mr. PHELPS, of California. The object is to get at, not how much the still holds, but how much it produces. If it produces two thousand gallons a day, it is equal to twenty copper stills of the same capacity used by a different process.

Mr. MORRILL, of Vermont. I cannot think that this committee will regard any other proposition as more just than the one presented in the bill, and that is that the duty shall be levied upon the actual quantity produced and sold. It is obvious that one distillery may be kept running night and day, and may, therefore, produce very much more than another which is only used in the day time or for a very small portion of the year, and yet its capacity may be equal to the other. It is clearly just and proper that we should put the duty upon the actual quantity made.

Now, in relation to the amount of duty here proposed, the Committee of Ways and Means will recommend that it be reduced one half, placing it at fifty dollars for a year and twenty-five dollars for six months, and mainly for this reason, that there are many small distilleries, owned, perhaps, by agriculturists, and only used for a small portion of the year, for two or three or four months. It is obviously improper to tax these distilleries as much as those which are run six or nine months or, perhaps, the whole year; and yet it is considered better that we should put them at one rate. But as we had placed the duty at a very considerably higher rate than on any other article of property or production, we deem that it may not be improper to place this duty at fifty dollars.

Now, sir, in reference to the point made by the gentleman from Kentucky, [Mr. DUNLAP,] on page 60, in section sixty-four, it is provided that nothing contained in the section of this bill laying duties on licenses, shall be construed to extend to the sale of goods, wares, and merchandise made and sold by the manufacturer at his manufactory or place of business. The argument, therefore, of the gentleman from Kentucky that these men are going to be taxed double in consequence of selling their products, is not valid. But lest there should be any mistake about it, we propose to insert in the licenses for wholesale dealers in liquors, on page 52, line sixty, after the word "person," the words "other than distillers," and to make the same amendment on the same page in relation to retail dealers. If this amendment now pending shall not prevail, I will then move the amendments to this section which I have indicated.

Mr. DUNLAP. The gentleman referred, I believe, to section sixty-four, and not to the section which we have under consideration.

Mr. WOODRUFF. I wish to inquire of the gentlemen of the Committee of Ways and Means whether they do not conceive there is some impropriety in taxing a man who has a still of only one hundred gallons capacity as much as one who has a still of two thousand gallons capacity?

Mr. MORRILL, of Vermont. If we reduce the license to the sum indicated, I think that will be low enough.

Mr. WOODRUFF. Low enough for which?

Mr. MORRILL, of Vermont. Low enough for any.

Mr. WOODRUFF. But still it leaves the tax upon the large manufacturer precisely the same as the tax upon the small one.

Mr. MORRILL, of Vermont. Not at all; the main tax is on the article produced, and not upon the distillery.

Mr. HOOPER. If the gentleman from Kentucky [Mr. DUNLAP] will look at the sixty-fourth section of the bill, he will see that there is a verbal mistake, the leaving out of a single letter in the printing, making the word "section," instead of "sections."

Mr. DUNLAP. Of course I take the bill as I find it. I presume that the section is not intended to embrace the manufacture of this article, but the bill does embrace it.

Mr. STEVENS. Is it in order now to move an amendment to perfect the section?

The CHAIRMAN. It is not, as there is already an amendment pending, by which it is sought to perfect the section.

Mr. CRISFIELD. I ask unanimous consent to make an inquiry of the gentleman from Vermont.

There was no objection.

Mr. CRISFIELD. The gentleman from Vermont stated that he had prepared an amendment which he proposed to offer, but I did not hear distinctly what that amendment was. I would be very thankful to him if he would send his amendment to the desk and have it reported, as my vote may possibly be controlled by what that amendment may be.

Mr. STEVENS. The whole of it is this: we propose to reduce the license from one hundred to fifty dollars for a year, and from fifty to twenty-five dollars for six months, and to make "January" read "April."

The question was taken on Mr. PHELPS's amendment to the amendment, to insert the word "daily" before the word "capacity;" and it was rejected.

Mr. WICKLIFFE. I move to amend my amendment by reducing the rate from thirty cents to twenty-five cents per gallon, of capacity. I make this motion for the purpose of explaining the amendment and the operation of making whisky. I discover that some gentlemen know more about drinking it than they do about making it. My amendment proposed to graduate the license according to the capacity of the still. If a still will hold sixty gallons, the license for it at thirty cents per gallon will be eighteen dollars for the whole year's distillation. If it holds one hundred gallons, the license will be thirty dollars, and so on at the same ratio. I have had a missionary sent from the great distilleries of the western valley to convince me that it was to their interest to have the tax increased fifteen cents per gallon. He told me they could stand a higher tax than that. I thought he was mistaken; but on interrogating him I found that his object was to break up the great number of country distilleries, for the advantage of those distilleries in which what we call in Kentucky "river whisky" is made and sold for old Monongahela and old Bourbon, and which you can buy at twenty cents a gallon.

A MEMBER. Thirteen cents.

Mr. WICKLIFFE. Thirteen cents a gallon, I am told. They buy from the manufacturer of the copper-distilled whisky one barrel, which the distiller cannot afford to sell for less than sixty cents per gallon. The large distillers buy that barrel of whisky, and by some means—I do not know how it is—they make three barrels out of it, of this painted Monongahela whisky, at twenty cents a gallon.

My object was, that while the farmer, who raised the grain and distilled it into whisky, should get a fair price, and should pay a fair proportion of the taxation on the capacity of his still, not on what he makes the year round. If the capacity of his still would be one hundred gallons, he would have to pay, at thirty cents per gallon, thirty dollars a year for it; and when you come to these large distillers who make whisky by the housefull daily, he would have to pay at the same rate so much per gallon on the capacity of his vessels. My proposition is, not to charge the distiller for the number of gallons that he is able to make. You might just as well attempt to test the capacity of a steamboat boiler by the number of miles the boat can run in a day. You cannot fairly adopt a rule of a given sum for a license. Either strike the license feature out altogether, or make it equitable. Why should you tax the farmer for his two little stills fifty dollars, and when you come to tax the large distillers of "river whisky" at Louisville, Cincinnati, and in the grain-growing country of my friend from Illinois, [Mr. KELLOGG,] only exact the same license fee from them? Some call their whisky "rifle whisky." Some call it "whisky at sight"—warranted to kill at sight. Some will sell you "sixty days whisky," and give you sixty days to breathe. I ask you to tax the materials, the machinery by which they make this valuable article. Tax the still by its cubic measurement. We can all understand that. By this means justice will be done. There will be no inconvenience from it, for the still can be measured by the assessor or collector when he goes to take the bond or to receive the license fee. This is my object, and I think we cannot act justly on any other principle than that of laying the tax on the still itself. When you come to lay the tax upon the whisky itself, I do not know how a distinction is to be made between what we call "rot-gut" in Kentucky, and what is genuine whisky.

Mr. KELLOGG, of Illinois. The proposition made by the gentleman from Kentucky is, in principle, the same as that made by him before. I have no objection to the graduation of license. I have not supposed, nor do I now suppose, it to be right to make that establishment which manufactures but fifty gallons per day pay as much license as one which manufactures four hundred or four thousand gallons per day. But what I complain of is this: by the gentleman's process, he puts an enormous tax in the way of license on large establishments which have the capacity to manufacture from four to five thousand gallons per day. The capacity of an establishment is the number of gallons it can manufacture per day. The gentleman is mistaken in his idea that in these latter days all the whisky in the world is made in the little copper still. A great while ago that was so. But now it is manufactured by steaming the spirit out of the beer after the fermentation. That is done in as many tubs or stills as are necessary to work up the amount that is daily mashed and fermented. In large establishments that is from five hundred to one thousand bushels per day, making from three to four thousand gallons of whisky. Now, what I complain of is, that the gentleman, in his proposition, places the rate per gallon at so high a figure that it will impose an unjust tax in the way of license on large establishments. And then it is a little unjust to say that distillers in the West, who make whisky that sells at from ten to fifteen cents per gallon, should pay as much per gallon, in the way of license, as those who manufacture what is called "delicious Bourbon," which is worth from seventy-five cents to one dollar per gallon. Thus the gentleman will perceive, and the committee will perceive, that fixing the license of distillers on the capacity of their distilleries, would be a measure of great injustice to the large establishments.

Mr. WICKLIFFE withdrew the amendment to the amendment.

Mr. MORRILL, of Vermont. I move to amend, in the twentieth line, by striking out "$100" and inserting in lieu thereof "fifty dollars;" so as to make the license fee fifty dollars per year.

Mr. DUNLAP. I desire to make a remark or two.

Mr. MORRILL, of Vermont. Then I will reserve my right to reply.

MESSAGE FROM THE PRESIDENT.

The committee rose informally, and the Speaker having resumed the chair, a message was received from the President of the United States, by Mr. NICOLAY, his Private Secretary, announcing that the President had approved and signed an act (H. R. No. 353) to provide for the appointment of clerks in the office of the Assistant Treasurer at Boston, to fix their salaries, and to provide for the absence of the Assistant Treasurer, and for other purposes.

The committee resumed its session, and proceeded again to the consideration of the

TAX BILL.

Mr. DUNLAP. I understand the amendment proposed by the Committee of Ways and Means is to reduce the license for a year from one hundred dollars to fifty dollars, and to reduce the license for six months from fifty dollars to twenty-five dollars. I do not think that will at all relieve the difficulty under which we are laboring in reference to this whole matter. I still believe there should be some discrimination in this matter of licenses. The provision will still tax the distiller who manufactures fifty gallons per day just as much as you tax the distiller who manufactures ten times that quantity in a year or in a day. The original proposition required the payment of $100 for a license to distill liquors. The proposition now is to reduce that license to fifty dollars, but still makes no discrimination between the large and small distillers whatever. I beg again to insist that there should be a discrimination between the

manufacturers of the article, and that the small distiller should not be driven out of the trade because he is required to pay the same amount for the privilege of distilling that the large distiller pays.

It was for this reason that I moved when I was up before to strike out the whole section. That would leave the tax to be paid exclusively by the gallon, and would place the small manufacturer upon the same footing with the large one. I shall oppose the amendment of the gentleman from Vermont unless this discrimination is made.

Mr. MORRILL, of Vermont. The whole bill would have to be reorganized if the gentleman's idea should prevail. Why, sir, we do not make any discrimination in the licenses to be paid by the manufacturers as to the amount produced. We only make the license a merely nominal tax upon them as manufacturers. We thought that distillers were entitled to the preference in this matter, and that it was proper to tax them a little higher in this way than ordinary manufacturers. We tax the licenses of manufacturers ten dollars a year, and the man who manufactures goods to the extent of $1,500 a year pays precisely the same for his license as the establishment which manufactures to the extent of $1,500,000 a year.

Now, in reference to licenses for other pursuits, coal oil distillers, for instance, no discrimination whatever is made as to the amount of their sales. And so far as I know, the distillers themselves desire that this license should be required, and I do not understand that they think $100 is too much. I hope it will be permitted to remain as we have fixed it, and if these small distillers do not wish to take out a license for a year, they may take out one for six months.

Mr. WICKLIFFE. I wish to modify my amendment.

Mr. MORRILL, of Vermont. I object to that.

Mr. WICKLIFFE. Can I not modify or amend my own amendment?

The CHAIRMAN. Not until the amendment to the amendment has been voted on.

Mr. WICKLIFFE. Then I will move to amend the amendment of the gentleman from Vermont.

The CHAIRMAN. The amendment of the gentleman from Vermont is an amendment in the second degree, and cannot, therefore, be amended.

Mr. WICKLIFFE. I had always supposed that when a motion to strike out words was pending, it was in order to modify or amend the words proposed to be stricken out. The gentleman from Vermont moves to strike out my amendment; I desire to perfect that amendment before the vote is taken on striking it out. I claim the privilege of making it more acceptable before it is stricken out.

The CHAIRMAN. The Chair will state to the gentleman from Kentucky that as many amendments are pending already as are admissible under the rules. Three propositions are pending. The first is to strike out the entire section; the second is the amendment of the gentleman from Kentucky, to strike out words in the twentieth line of the section, and the third is the amendment of the gentleman from Vermont to strike out the amendment of the gentleman from Kentucky, and insert other words. That is as far as the rules permit amendments to be offered.

Mr. WICKLIFFE. With great respect to the Chair, I will state that I understand the condition of the question pending to be this: one gentleman moves to strike out the whole section. I have moved to strike out a part of the original section, and to insert certain words. The gentleman from Vermont proposes to strike out my amendment, and insert another in its place. Now, I submit that I have the right to perfect the clause the gentleman from Vermont proposes to strike out.

The CHAIRMAN. The Chair will state to the gentleman from Kentucky that it is impossible under the rule. The gentleman from Kentucky moves to perfect the original section before it is stricken out, and the gentleman from Vermont moves an amendment to the amendment. This is as far as the rules will permit amendments to go. The opinion of the Chair is sustained by other gentlemen more familiar with the rules than himself.

Mr. WICKLIFFE. I yield to the decision of the Chair.

Mr. MORRILL's amendment was agreed to—ayes sixty-three, noes not counted.

Mr. CRISFIELD. I now move to amend the amendment of the gentleman from Vermont which has been adopted as a substitute of the amendment of the gentleman from Kentucky, by adding at the end of it as follows:

Provided, That nothing in this section shall require licenses for stills used exclusively for distilling apple and peach brandies.

So that the clause, as amended, would read:

And each such license hereafter to be granted shall remain in force until the 1st day of January next after the date thereof, and no longer; which licenses shall respectively be granted upon the payment, by such owner or agent, as aforesaid, of the sum of $100: *Provided*, That nothing in this section shall require licenses for stills used exclusively for distilling apple and peach brandies.

Mr. Chairman, this is a very small business, but still to a part of my constituents it is a very important one. It is not conducted by them except in households. There are no large manufactures of these articles, but each farmer, or some of the farmers, at least, have small apple and peach orchards, from the surplus of which they distill a small quantity of brandy each year.

Mr. STEVENS. I ask the gentleman from Maryland if the practice in cases of the kind of which he speaks, is not to have one distillery in a neighborhood, in which the cider, &c., of all the neighbors is distilled?

Mr. CRISFIELD. I think it is not. I may be mistaken about that, but that is my opinion. The whole business, as I have said, is a very small one. A few hundred gallons only are distilled annually by small farmers. A man who has a small surplus of apples or peaches will convert them into brandy. It is a matter of not very great importance, but I assure this House that to require a license of fifty dollars to be paid by these men would destroy the business entirely. It cannot be made out of it. The tax of fifteen cents per gallon is a reasonable one, for that will only apply to the quantity manufactured; but this license tax upon the distiller will ruin the business of these men to whom I have referred.

Again, this bill proposes an annual license upon all distillers. Now, the business of distilling apple and peach brandies does not last more than two months in a year. Many do not distill for more than one month, and yet they must pay a license for twelve months to enable them to distill for that month.

Mr. STEVENS. Oh, no; they can take out licenses for six months.

Mr. CRISFIELD. That is true; but you are about making the year commence in April instead of January. It will be recollected that this business is carried on in the months of August and September; so that after all it will be necessary for these men to take out a license for the whole year, and I think it is an unjust provision to require them to pay such a tax in the shape of license. It is true that the whole business is a very small concern, but it is one of great importance to the farmers interested, and this provision will do great injustice to them.

Mr. WADSWORTH. If the gentleman will allow me, I desire to say that I can assure him that he is very much mistaken if he supposes that this class of distillers is confined exclusively to his district. It prevails extensively among the people in my district. It is true, as the gentleman says, that it is a very small business, but those who are engaged in it will be wholly unable to pay this tax. It is a business very much in vogue among my people, very much in favor, and I am satisfied that what my friend says is true, that it will break down these distillers.

Mr. CRISFIELD. I am obliged to my friend from Kentucky. He has given himself a new claim upon my regard. He has shown that he is not only a gallant Kentuckian, but that he has good taste. [Laughter.]

I appeal to the House, Mr. Chairman, not to interfere with this small business. It will injure a great many people without doing much good for the Government. My people are as loyal as any people in this country. They are willing to pay all of the taxes necessary to support this Government. But I will not be guaranty for their good feeling if you destroy their small supplies of peach and apple brandy for domestic use. I trust that my amendment will be adopted.

Mr. MALLORY. The only thing I object to in the gentleman's speech is the exclusiveness of its compliment. I want him to know that there is not a Kentuckian upon this floor who does not share in his sentiments in the amendment, but also in his good taste for apple and peach brandy. [Laughter.] He ought to have included all of us.

Mr. STRATTON. I think that the gentleman from Maryland has mistaken the construction to be put upon this section so far as the time is concerned. As I understand it, any man who desires to take out a license can do so at any time for a period of six months. He is not compelled to take out the license on the 1st day of April or on the 1st day of August, or at any other period of the year, for a longer period than six months. But that is the shortest period fixed by the bill.

Mr. CRISFIELD. Let me interrupt the gentleman from New Jersey. It is proposed by the Committee of Ways and Means to strike out the word "January," and in lieu of it to insert "April;" and in the concluding line to strike out "fifty dollars," and in lieu of it to insert "twenty-five dollars." What is the proviso? It reads as follows:

Provided, That licenses applied for which terminate under the provisions of this act in less time than six months may be granted as aforesaid, upon the payment of the sum of fifty dollars.

Within the six months the apple and peach brandy will not be distilled.

Mr. STRATTON. The gentleman calls it apple brandy. We, in New Jersey, stick to the old-fashioned designation, and call it apple whisky. It is the liquor that my people drink, and the kind of liquor that they think ought to be drank, when it can be obtained in its pure state.

There is a considerable quantity of apple and peach brandy or whisky manufactured in the State of New Jersey, and neither the Representatives of that State nor the people of that State are disposed to ask that they shall be relieved from the payment of their fair share of the taxes necessary for the support of the Government. I want to be levied upon my people a tax upon every article that is properly a subject of taxation. I know that in New Jersey, and it may be in some parts of New York and some of the eastern States, there are large quantities of this liquor distilled for sale, and that it has been found to be a very profitable business. I think that those who are engaged in the distillation of this liquor will sell enough to enable them to pay this small tax for a license. They surely can as well afford to pay it as those who distill liquor from grain. In my State there are thousands and thousands of gallons of that liquor made by separate manufactories. It is found to be a very profitable traffic, and there is no good reason why they should not pay the same license tax as those who distill liquor from grain. The small distilleries referred to by the gentleman from Maryland, [Mr. CRISFIELD,] I apprehend, sell the liquor that they distill and make a large profit out of it; and it strikes me that they ought to be willing to pay this small tax of twenty-five dollars.

ISLAND NO. 10.

The CHAIRMAN. The chairman of the Committee on Naval Affairs [Mr. SEDGWICK] has sent to the Chair a telegram relating to the attack upon Island No. 10, and if there be no objection the Chair will have it read. [Cries of "Read!" "Read!"]

The Clerk read, as follows:

Dispatch from Flag Officer Foote, twelve, p. m.

CAIRO, *March* 19—Midnight.

This place, Island No. 10, is harder to conquer than Columbus, as the island shores are lined with forts—each fort commanding the one above it.

We are gradually approaching, but still do not hope for much till Pope's army can make a simultaneous attack in the rear.

We are firing day and night on the rebels, and we gain on them; but a traverse is being tried, which, if successful, will astonish secesh.

We are having some of the most beautiful rifle practice ever witnessed. The mortar shells have done fine execution; one shell was fairly landed on their floating battery, and cleared the concern in short meter. A. M. P.

For Flag Officer Foote.

TAX BILL—AGAIN.

The amendment to the amendment was disagreed to.

Mr. NOBLE. I will move an amendment which will, I think, relieve the committee from the difficulty which has arisen here. It provides, I think, satisfactorily for the small distilleries referred to by the gentleman from Maryland. I move to add the words, "and also which may terminate in less than three months, on the payment of $12 50."

The CHAIRMAN. The section provides for licenses for a year.

Mr. NOBLE. My amendment will come in at the end of the section.

The CHAIRMAN. The Chair thinks that the amendment is not germane.

Mr. DUNLAP. I move the following amendment:

Strike out the words "fifty dollars," and insert in lieu of them, "twenty-five dollars on each still or other instrument used for distilling spirituous liquors."

Mr. Chairman, I do that for the purpose of relieving the committee of the difficulty they are laboring under. Some employ one still and others three or four, or more. My amendment will graduate the tax by the payment of so much on each still.

Mr. WICKLIFFE. Has my colleague ever been in a large distillery?

Mr. DUNLAP. I do not think I ever have been.

Mr. WICKLIFFE. They only use one still and use a great many tubs.

Mr. DUNLAP. As my colleague is better acquainted with the whole subject than I am, I yield to his better judgment, and withdraw my amendment.

Mr. WALLACE, of Pennsylvania. I move the following amendment:

Strike out "$100," and insert:
Of the sum of twenty-five dollars, where the capacity of such still or stills, or implements used in lieu thereof, does not exceed one hundred gallons per day; the sum of fifty dollars where the capacity exceeds one hundred and less than five hundred gallons per day; and the sum of $100 where the capacity exceeds five hundred gallons per day.

Mr. Chairman, I think that there ought to be a graduation of this tax, and that small distilleries ought not to pay the same as those which make four thousand gallons a day and more.

Mr. STEVENS. I hope that my colleague's amendment will be disagreed to. If we reduce the tax to fifty dollars, or twenty-five dollars for six months, nobody who has taste enough to keep a still will complain of it. As to the tax upon the capacity of a still I know that that system was adopted in 1814, but I never could see how it could fairly operate. In the next section we impose a tax upon the production. I do not think that anybody would complain of twenty-five dollars for a six months' license. If there be any, let them take another drink on it and complain. [Laughter.] I know that the practice is in my district for one still to be used by a whole township. The neighbors either sell their apples or take them to the still to be distilled. Surely twenty-five dollars is not too much for such a still to pay in the way of license.

The amendment to the amendment was disagreed to.

The amendment of Mr. MORRILL, of Vermont, was agreed to.

Mr. CRISFIELD. I move to strike out the proviso of the section, and in lieu of it to insert the following:

Provided, That licenses under this act may be granted at the same rate for any time not less than three months.

Mr. Chairman, I think that that amendment ought to be adopted. The bill, as it now stands, imposes upon the interest, which I have endeavored to protect, the highest rate of license tax. It makes the end of the year come on the 1st of April. Within the six months preceding the 1st of April the business I am seeking to protect cannot be prosecuted. This business is transacted within one or two months, and those one or two months precede the six months ending on the 1st of April.

Mr. STEVENS. Will the gentleman try to remedy that, and satisfy his section of country by fixing the time when the year shall end?

Mr. CRISFIELD. I prefer the matter to stand in the bill as it is; but I cannot see any reason why a business, which cannot be prosecuted more than one or two months during the year, should pay a license for a whole year. If this business could be prosecuted during the whole year, it would be reasonable to require those who carry it on to pay for a license for a year. But it is a business which every gentleman knows must be done, if it is done at all, within one or two months, and there is no reason why they should pay a license for a period longer than they can be employed in the business.

And again there is no inconvenience resulting from allowing that to be done. If you allow a license to be issued for six months, there is no difficulty in allowing one to be issued for two or three months. There can be no reason, founded in justice or propriety or common sense, why these people should be required to pay a license for six months, when their whole business cannot, in the nature of things, be carried on for more than three months.

The question being upon the amendment to the amendment,

Mr. CRISFIELD called for tellers.

Tellers were not ordered.

The amendment to the amendment was not agreed to.

Mr. STRATTON. I move to amend the amendment by striking out the proviso, and inserting the words:

Provided, That licenses may be granted under this act, at the same rate, for any time not less than six months.

The CHAIRMAN. The Chair would state that that is the proviso now.

Mr. STRATTON. I think the Chair is mistaken. The proviso only provides that licenses which terminate under this act in less time than six months may be granted upon the payment of fifty dollars; but there is no provision by which a license may be granted for a period exceeding six months.

The CHAIRMAN. The gentleman is correct.

Mr. MORRILL, of Vermont. I have no objection to that amendment.

Mr. STRATTON. I will modify my amendment by striking out the words "at the same rate," and inserting at the end the words "by payment of the sum of twenty-five dollars."

The amendment was agreed to.

Mr. HOOPER. I move to amend, in lines thirteen and fourteen, by striking out the words "such persons reside," and insert the words "they are located;" so that the clause shall read:

And obtain from the collector appointed under this act, for the collection district in which they are located, &c.—

referring to stills, &c.

Allow me to say that I propose to move, at the proper moment, an amendment to the forty-second section, beginning at line five, requiring licenses to be granted to any person resident in the United States, instead of to citizens of the United States; so that a person who is a resident of the United States shall be entitled to a license, if he desires.

The amendment was agreed to.

Mr. MALLORY. I offer the following amendment:

Provided, however, That no license shall be required for a still of less capacity than forty gallons per day.

This amendment covers a class of stills about which we of my country feel so great solicitude. It is designed to protect that class of persons who distill apples and peaches into a small quantity of whisky of the very finest quality. That class of persons do not engage in this business for profit. They do not know even when they will be able to do it, as that depends entirely upon the fruit crop; and they do not and cannot know, in advance, when they will have a crop which will justify them to enter upon the distillation of peaches and apples. It is a small matter, a domestic business, and we do not desire to be taxed for it. I hope the Committee of Ways and Means will consent to this amendment.

Mr. STEVENS. If I understand the class of people to which the gentleman refers, I do not desire to exempt them; for they are the fancy distillers, who make a good article for him and me and two or three others. They make that pure and ethereal kind which brings three and four dollars a gallon. We have a man in our country who makes that kind, and we call it the "J. B." whisky; it is a very superior kind.

Mr. MALLORY. I will state to my friend from Pennsylvania that we make in Kentucky a very fine quality of whisky; but we are more liberal with it than he is, or certainly more liberal than his friend "J. B." is; for I have understood that a gentleman followed him a whole day to get a drop of his fine whisky, and at the end of a long journey he succeeded in getting a snip at it. "Is not that the best liquor you ever drank?" said J. B. "Yes, sir, and the hardest to be got." [Laughter.] But in Kentucky, a man may get it by coming to our houses.

Mr. STEVENS. That is true everywhere—the most valuable thing is always the hardest to get. [Laughter.] The man to whom I have referred makes a valuable article, and it is hard to be got at. I have a little of it; and if my friend will come to my house I will—well, I will not say what now; but at some other time I will. [Laughter.] The man to whom the gentleman from Kentucky refers, as well as some of his friends, would not be hurt by being required to pay twenty-five dollars for the privilege of distilling such liquors, for they always get, I know, three, four, or five times the price of ordinary whisky. I think my friend had better let it stand as it is, and let the consumer pay the increased price as it is consumed.

The amendment to the amendment was not agreed to.

Mr. CRISFIELD. I move to amend by adding the following proviso:

Provided, That distillers of apples and peaches may take out a license for that business for the space of three months upon the payment of $12 50.

I desire to correct an error into which the gentleman from Pennsylvania and the gentleman from New Jersey seem to have fallen, in denominating this liquor *whisky*. If they were to go into the section of country where the people distill peaches and apples, and call the product whisky, they would be considered outside barbarians. We do not know the article by any such name; and if they were to go down there, and attempt to lay a tax upon it, I do not know what would become of them.

This is a very small business, and to lay a heavy tax upon it would injure the interests of a large number of people, while it would not advance the interests of the Government. There is no traffic in this article except in their own neighborhoods. It is a domestic consumption. It contributes to the wealth of a few, and it contributes to the taste and comfort of a great many. I do hope that this House will allow an exception to be made in favor of these articles, otherwise the business will be destroyed. Like every other distillation, it will pay its tax of fifteen cents per gallon, or whatever may be fixed upon by the House, and I cannot see either the justice or the propriety of imposing upon distillers who are unable to pay it a tax higher than is proposed in this proviso. I hope, therefore, that the amendment will be permitted to pass.

Mr. STEVENS. I thought a proposition similar to this had been voted down before.

Mr. CRISFIELD. No, sir; let me explain to the gentleman. The first proposition which I made was to allow the distillation of peach and apple brandy to be entirely free from the tax upon stills. That was voted down. The next proposition was to allow licenses to be taken out for distillation for any fraction of a year less than six months and over three; and that was voted down. That amendment was general and embraced all distillation. My proposition now relates to the distillation of apple and peach brandy only.

Mr. STEVENS. I submit whether we have not spent time enough about this matter for one morning, if we mean to go on with the balance of the bill? I submit whether it is worthy of the legislation of the House to have a contest like this about a little matter of two or three dollars a still?

Mr. CRISFIELD. I do not think it is, and therefore I think you ought to give way.

Mr. STEVENS. I do not know very much about the gentleman's constituents, but I believe they are high-minded men, who will not complain of having to pay this small tax. I hope we shall leave the bill as it is.

Mr. CRISFIELD. I can only say that if this tax is imposed, the business must stop.

Mr. NIXON. I call for tellers on the amendment of the gentleman from Maryland, [Mr. CRISFIELD.]

Tellers were not ordered.

The question was taken; and the amendment was agreed to—ayes 51, noes 47.

Mr. MORRILL, of Vermont. In line seventeen I move to strike out "January," and insert "April," so that it will read:

And each such license hereafter to be granted shall remain in force until the 1st day of April next after the date thereof, and no longer.

The amendment was agreed to.

Mr. HOOPER. I move to amend the forty-second section by striking out in the fifth line the

word "citizen," and inserting in lieu thereof, "resident;" and by striking out in lines six and seven the words "or a resident of the district in which the license is granted," so that it will read:

SEC. 42. *And be it further enacted*, That it shall be the duty of the collectors, within their respective districts, to grant licenses for distilling, which licenses shall contain the date thereof, the sum paid, and the time when the same will expire, and shall be granted to any person, being a resident of the United States, who shall desire the same, by application, in writing, to such collector, upon payment of the sum or duty payable by this act upon each license requested.

The amendment was agreed to.

Mr. STRATTON. I offer the following amendment, to come in at the end of the section:

And at the time of applying for said license, and before the same is issued, the person so applying shall give bond to the United States in such sum as shall be required by the collector, and with one or more sureties, to be approved by said collector, conditioned that in case any additional still or stills, or other implements to be used as aforesaid, shall be directed by him, his agent, or superintendent, before using, or causing or permitting the same to be used, he will report in writing to the said collector the capacity thereof, and information, from time to time, of any change in the form, capacity, ownership, agency, or superintendence which all or either of the said stills or other implements may undergo, and that he will, from day to day, enter, or cause to be entered, in a book to be kept for that purpose the number of gallons of spirits that may be distilled by said still or stills, or other implements; and said book shall be open at all times during the day (Sundays excepted) to the inspection of the said collector, who may make any memorandums or transcripts therefrom; and that he will render to the said collector on the first day of each and every month, or within ten days thereafter, during the continuance of said license, an exact account in writing taken from his book of the number of gallons of spirits distilled by him, his agent, or superintendent for the month then next preceding the date of said report, which said report shall be verified by affidavit in the manner prescribed by the forty-seventh section of this act; and that he will at the time of rendering said account pay to the said collector the duties which by this act are imposed on the spirits so distilled; and said bond may be renewed or changed from time to time in regard to the amount and sureties thereof according to the discretion of the collector.

This amendment is recommended by the Committee of Ways and Means as a part of the machinery necessary to carry out the provisions of the bill. On looking to the tax law of 1814, we found that Congress found it necessary, after the original bill was passed, to adopt a supplemental act corresponding substantially to the proposed amendment, in order to carry out that law.

The amendment was agreed to.

Mr. PHELPS, of California. I move to amend the forty-third section by inserting after the word "boilers," in the fourth line, the words, "and the name of the person, firm, corporation, or company using the same;" so that it will read:

SEC. 43. *And be it further enacted*, That the application in writing made by any person for a license for distilling, as aforesaid, shall state the place of distilling, the number and capacity of the still or stills, boiler or boilers, and the name of the person, firm, corporation, or company using the same; and any person making a false statement in either of the said particulars shall forfeit and pay the sum of $100, to be recovered with costs of suit.

The amendment was agreed to.

Mr. HOOPER. I move to amend the forty-fourth section by inserting after the word "distilled," in the third line, the words, "and sold or removed for sale," and to insert the same words at the end of the seventh line. The section will then read as follows:

SEC. 44. *And be it further enacted*, That, in addition to the duties payable for licenses hereinbefore provided, there shall be paid, on all spirits that may be distilled, and sold or removed for sale, of first proof, on and after the 1st day of May aforesaid, the duty of fifteen cents on each and every gallon, which shall be paid by the owner, agent, or superintendent of the still or other vessel in which the said spirituous liquors shall have been distilled, and sold or removed for sale; which duty shall be paid at the time of rendering the accounts of spirituous liquors so chargeable with duty, required to be rendered by the following section of this act, &c.

Mr. JOHNSON. It strikes me that that is wrong. If I understand the proposition, it is that spirituous liquors distilled and laid by by capitalits shall not be taxed.

Mr. STEVENS. If it is retained by the distiller, he does not pay the tax until he sells it or removes it from the distillery. The intention all through this bill is that manufactured goods shall not pay as they are manufactured, which would require a vast amount of capital sometimes; but that the duties shall be paid when the goods are actually sold or removed for the purpose of sale. This amendment proposes to perfect the section by inserting the same provision in it.

Mr. JOHNSON. On looking at the section of the bill which applies to the brewing of beer, it occurred to me that this would be unjust to the brewers.

Mr. STEVENS. We propose to amend that section in the same way as we are now seeking to amend this.

Mr. JOHNSON. Then I have no objection to the amendment.

The amendment was agreed to.

Mr. HOOPER. I move to strike out the word "aforesaid" where it occurs in the fourth line, after the word "May," and insert in lieu thereof "1862."

The amendment was agreed to.

Mr. KELLOGG, of Illinois. I move to strike out the word "fifteen," in the fifth line, and to insert "ten" in lieu thereof; and to add at the end of the seventh line the words:

And ten cents per gallon on all rectified spirits, and all spirits manufactured into brandy, rum, gin, and other liquors used as a beverage, to be paid by the person or persons rectifying the same or manufacturing such spirits into brandy, rum, gin, or other liquor, to be used as aforesaid.

The CHAIRMAN. The Chair can only entertain that as two amendments.

Mr. KELLOGG, of Illinois. Then I move, first, to strike out "fifteen," and insert "ten." My object in offering this amendment is not to reduce the tax on spirituous liquors below fifteen cents per gallon, but it is to divide it and graduate it, so that spirits used in the arts and manufactures, as solvents, in chemical operations, and for burning fluid, &c., shall be taxed only ten cents per gallon, while upon that, which is the larger portion, perhaps, which is used as a beverage, manufactured into articles called rum, brandy, gin, &c., and which are sometimes used as a luxury—a poor luxury, indeed, but called a luxury—shall be charged twenty cents per gallon, in effect making a tax of fifteen cents on every gallon of spirits.

If the committee understand the proposition, I do not believe there will be much objection to it. I think that ten cents per gallon is a fair tax upon that portion of distilled liquor that is used for manufacturing purposes, for chemical purposes, for burning fluids. This article, particularly so much of it as is used for burning fluid, comes into competition with oil, and should be charged only a fair tax on the capital used and the profit made. So far it is like any other business operation of the country.

Then, sir, that portion which is used as a beverage, whether it be a luxury or not, should be taxed as a luxury. I propose, when that comes to be manufactured the second time, to impose the additional tax of ten cents per gallon, which would average on the whole fully as high a rate of taxation as that now indicated by the Committee of Ways and Means. I hope the committee will assent to this proposition, because I believe it to be more just, and will bring a greater revenue than the basis of taxation proposed by the Committee of Ways and Means. I therefore propose to reduce the tax on spirits from fifteen cents to ten cents per gallon, with the view hereafter of offering an amendment to increase the tax on spirits to be consumed as a beverage.

MESSAGE FROM THE SENATE.

The committee rose informally; and the Speaker having resumed the chair, a message was received from the Senate, by Mr. FORNEY, its Secretary, announcing that the Senate had passed a joint resolution and bills of the following titles; in which he was directed to ask the concurrence of the House:

Joint resolution (No. 67) in relation to the claim of Marshall O. Roberts, for the loss of the steamer Star of the West;

A bill (No. 207) for the relief of L. F. Cartee, for services rendered in surveying the public lands in the State of Oregon; and

A bill authorizing the opening of Sixth street west.

The committee resumed its session, proceeding to the consideration of the

TAX BILL.

The question being on the amendment offered by Mr. KELLOGG, of Illinois.

Mr. HORTON. I ask the attention of the committee for a few minutes to this amendment. According to my view of the matter, this is a simple proposition to reduce the tax on spirits five cents per gallon on one hundred millions of gallons, which is equal to a reduction of the revenue by $5,000,000. But the gentleman from Illinois says that he is going to make up what is lost in this way, by increasing the rate of tax on spirits used as a beverage. According to all the information I can get, this thing is impracticable. This matter of the taxation of spirits has been before the Committee of Ways and Means for two or three months. We have examined the question, and heard suggestions from representatives of all the interests concerned—from the producer, the manufacturer, and the consumer. We have had before us dealers in the article in all its forms; and, according to all the information that we could get, there is no possible way of getting this tax for the benefit of the Government, except by taxing it in the simple shape of whisky.

Mr. KELLOGG, of Illinois. If the gentleman will permit me I will suggest to him how it can be done. Spirits are manufactured in the large establishments and run into what is called "high wines." There is another class of spirits as well defined as that. It is that which is rectified. Spirits are taken and rectified by individuals as a business. It is as easy, in my judgment, to reach rectifiers as it is to reach distillers, because they are a distinct class of operators. My proposition is, when spirits go into the hands of these rectifiers to add ten cents per gallon. It is the same in regard to the manufacture of spirits into rum, brandy, gin, &c., to be used as a beverage. Rectifying of spirits has become so distinct a business, is so well understood, and can be so easily reached, that the assessor can as well assess, and the collector can as well collect, on that branch of business as on any other.

Mr. HORTON. I would say, in reply to the gentleman from Illinois, that his information on that point is not, I think, as accurate as he supposes it to be. Instead of this business of rectifying spirits being so distinct, if you give men a chance or inducement to evade the law there will be no such business known as that of rectifier. According to the testimony before the Committee of Ways and Means it only requires a capital of ten dollars, and a sufficient degree of intelligence, to pour liquor into one end of a barrel and draw it out of the other end, to make common whisky into brandy, wine, or any other spirit that you choose to sell. There is no distinct trade about it.

Mr. ENGLISH. I would state to the gentleman from Ohio, that the ordinary expense of rectifying spirits in New York and other cities is only from two to four cents per gallon. It simply consists of running spirits through charcoal.

Mr. HORTON. We have had the testimony of experts on this subject. The whole amount necessary to be invested in the rectifying business is no more than ten dollars. As I said, it simply consists in pouring spirits into one end of a barrel and drawing it out at the other, through a layer of pulverized charcoal. Redistillation is another thing. That is covered by the tax proposed by the Committee of Ways and Means. Now, I submit, Mr. Chairman, that there is but one safe mode for the Government in this matter, and that is, to tax spirituous liquors, by whatever name they are called. I ask the gentleman from Illinois to recollect what took place half an hour ago, when the gentleman from New Jersey called one thing "apple whisky," and the gentleman from Maryland called it "apple brandy."

Mr. KELLOGG, of Illinois. I propose to guard against that by calling the manufactures of these articles "beverages."

Mr. HORTON. I submit that there is no way of getting at this tax except by laying fifteen cents a gallon on first-proof whisky, and in proportion for all higher rates of strength. I hope the committee will vote down emphatically the amendment proposed by the gentleman from Illinois.

Mr. NOBLE. I move to amend the amendment by striking out the words "ten cents per gallon" and inserting in lieu thereof the words "ten per cent. *ad valorem* on the amount manufactured."

With a view to show the operation of this law on the distillers of the country, I ask to have read by the Clerk a letter which I have received from a highly intelligent manufacturer in my district.

The Clerk read, as follows:

UPPER SANDUSKY, OHIO, *March* 16, 1862.

DEAR SIR: We have received the copy of the tax bill now before Congress which you sent us, for which please

accept our thanks. As far as the distilling interest is concerned, it may possibly be called a bill of abominations, for as sure as it passes in its present form, taxing distilled spirits fifteen cents per gallon, the object of the framers will be defeated. For our candid opinion is that there is not one distiller in a hundred that would run a single day longer than he could wind up his business. We will now give you our reasons for our opinion.

First. That the western distillers, as far as we are acquainted, made up their minds last August that distilled spirits would be one of the articles that would be heavily taxed. Acting on this, we all increased the quantity run, so that if the tax should be higher than we thought we could stand we would be in a position to shut down. The result is that the country is full of raw spirits, large amounts being held by speculators—fifty to sixty thousand barrels being held by this class alone in Philadelphia and New York, which was bought at low figures, and in other cities in the same proportion—enough, at least, to keep the price down for a year to come, for whenever there is a small advance, so that they can make a little money, they will let it go into market. The result will be that they will indirectly be the means of keeping prices at a point below which the manufacturer can make it until such times as the old stock now on hand is worked off, which will be one year or more. Now, friend Noble, our property cost us $18,500; pass this law, and we will sell it to you or any other individual for $6,000. You would probably like to know our reasons for this depreciation.

First, a large portion of our works, such as stills, and, in fact, everything about our works, with the exception of boilers, engine, burrs, and machinery, is composed of wood, which are daily heated up with steam or hot water; stopping one year would render everything connected with our establishment, with the exception of the engine, &c., &c., worthless.

Now, we will give you our ideas in regard to a tax that will yield the Government dollars where the present, as reported, would yield mills, and at the same time keep up a very important and useful class of men in the West. The reason we use the term important is that wherever you find a distillery in Ohio you will find that the farmer gets from five to ten cents more per bushel for his corn than in adjoining towns where there are no distilleries located. Take, for instance, your town and ours; you being some twenty-five miles nearer navigation, notwithstanding this, corn is generally worth from five to ten cents per bushel more in our town than in yours, owing to our having a home market.

Our plan is this: say put on a tax of two and a half cents the first year, five cents the second year, ten cents on the third, and fifteen cents on the fourth.

A tax of this kind would keep us going and save our property. But our candid opinion is that a tax of even five cents a gallon would stop one half of the establishments of the West, and very materially curtail the business of the balance.

Now, let us make a calculation showing the amount, at fifteen cents per gallon, we would pay per day and per year to the Government, should we run our establishment as we are now running it, which we should not do were the tax, as recommended, passed.

We run 400 bushels per day, which, at 3½ gallons per bushel or 14 quarts—which is not an average of the year—amounts to 1,400 gallons per day, at 15 cents per gallon, equal to $210 per day; or counting 362 days per year, less Sundays, which are 52, would make 310 days, at $210 per day, equal to $65,100 per year. Now, a tax of 2½ cents per gallon amounts to $35 per day, or, for 310 days, equal to $10,850 per year.

Now, you are probably aware that our establishment would not be considered an average in capacity of the western distilleries. We think that, take Ohio and Indiana distillers alone, and that for the number of distilleries that there is, five hundred bushels per day would not be an average. We have some in this State whose capacity runs from one thousand two hundred to three thousand six hundred bushels per day. Take the bill as reported, taxing distillers fifteen cents per gallon, and then pass a law compelling them to run their full capacity, and you can dispense with the balance of the tax bill, and the whisky tax would support the Government.

Hoping that you will give this your careful perusal, and that we may hear from you, we remain, truly your friends,

R. R. McKEE & CO.

W. S. NOBLE.

Mr. CHAMBERLIN. I hold in my hand a letter which I have received from a distiller who distills three thousand gallons a day, and who says that he is well satisfied to pay an additional tax of fifteen cents per gallon, if necessary, to bring this war to a successful termination.

The question was taken on Mr. NOBLE's amendment, and it was rejected.

Mr. RICE, of Maine. I move to amend the amendment by striking out "ten cents" per gallon, and inserting "fifty cents." There seems, Mr. Chairman, to be a sort of "whisky rebellion" here against the Committee of Ways and Means. I do not join with those who wish to reduce the excise duty on distilled liquors. On the contrary I would increase it. I understand that the excise duty on distilled spirits in England is eight shillings per gallon, equal to two dollars.

A MEMBER. Ten shillings.

Mr. RICE, of Maine. Ten shillings per gallon, equal to $2 50. Now, Mr. Chairman, I would not discriminate partially against any citizen engaged in any honest and reputable business; but I would, to the fullest extent, impose excise duty on liquor and tobacco, let it come from whatever source it may, or let it injure whom it may. If men are driven out of this business, it will be all the better for the country. I was in favor of the amendment proposed by the gentleman from Kentucky, because I understood it, though not so intended by him, to be an absolute prohibition against distillation. If Congress would only put down, either by direct or indirect means, these distilleries that pour out fire and death and hell over all the land, I think it would be performing a good act. It would be doing more good to the people than any other enactment it can pass.

I hope the day may come when a prohibition will be put upon all distillation, when such a tariff will be placed on spirituous liquors as will exclude their importation. That will be a glorious day for the country. We all know, in our every-day experience, what evil is brought upon us through the use of distilled spirits. The gentleman said they were used for burning fluids. They are burning fluids, burning up the souls and bodies of men throughout the length and breadth of the country. And, sir, I hope we shall go to the very verge in this excise duty upon spirituous liquors. If we are to collect any revenue from this source at all, let us have all we can get. Let us, if a tax will do it, grind down these liquor manufacturers to powder. Sir, I stand here in favor of the highest sum to be imposed upon each one of this class of manufacturers. If we can do anything here by our legislation to put a stop to this traffic and to these distillations, we shall, as I said, be doing a great benefit to all the interests of the country; we shall bring to every walk of life peace and happiness, where now stalk misery and distress. Now, a word in reference to the effect upon the Army.

[Here the hammer fell.]

Mr. HOOPER. I oppose the amendment. Mr. Chairman if I thought the amendment of the gentleman from Maine would have the effect which he anticipates, I might be in favor of it; but I do not anticipate that it would produce that effect. The real effect of his amendment would be to legislate money into the pockets of people who have been speculating in this article, who have been purchasing large quantities of liquors with a view of having a large duty laid upon the manufacture by this Congress. I think the only effect of fixing the duty of fifty cents per gallon upon these liquors would be to put money into the pockets of these speculators and not into the Treasury of the United States. The letter read a few moments since at the instance of the gentleman from Ohio, [Mr. NOBLE,] states that large quantities of liquor have been manufactured recently with express reference to this duty; that there is at this time bad liquor enough in the country to supply the wants of the country for two years. There certainly would be if we were to place the tax upon the manufacture of it so high as the gentleman proposes. I repeat, that the only effect of the adoption of this amendment would be to legislate money into the hands of these speculators and not into the Treasury of the United States.

The amendment to the amendment was disagreed to.

Mr. BABBITT. I move to amend the amendment so as to make the duty one dollar per gallon. I believe the reason why the last amendment did not prevail was because it did not propose a sufficient increase of duty. We are now establishing a system of revenue that is to last for all time, or at least so long as our immense public debt continues, and in fixing the tax upon these articles, we ought to do it in view of that long future, and not from the fact that some persons, for the purposes of speculation, may have manufactured a few hundred or thousand barrels in view of the tax expected to be laid.

Now, the learned and able gentleman from Vermont, [Mr. MORRILL,] who opened the debate upon this bill, informed us very truthfully, that a tax upon the habits and vices of men was the most reliable of all taxes; and I may add, with equal truthfulness, that of all descriptions of tax, it will be the most cheerfully and readily paid. In that undoubted fact, so properly enunciated by the gentleman from Vermont, we have what should induce us to base a system of revenue upon which is to last for all time, by taxing the luxuries, habits, and vices of men, instead of casting about anxiously, as the Committee of Ways and Means seem to have done, to seek the greatest number of subjects of taxation, many of them articles of primary necessity to the poorest and humblest class of men. I repeat, sir, let us tax the habits and vices and luxuries of men, and not their necessities.

Why, sir, if I am correctly informed, England raises the greatest portion of her immense revenue by a tax upon three articles alone—spirituous liquors, fermented liquors, and tobacco. The gentleman from Vermont told us, and such is my reading of the fact, that in England the tax upon spirituous liquors is $2 50 per gallon. He added, it was true, that no such tax could be collected in the United States.

Now, sir, I beg leave to enter to that statement my most emphatic dissent. Why could it not be collected as well in the United States as in England? No reason is given, and none exists. It is collected there, and it can be collected here. Why, sir, there is no such radical difference between the habits and vices of the men who live in our fathers' land and those of the United States.

[Here the hammer fell.]

Mr. BABBITT. I desire to oppose the amendment.

The CHAIRMAN. The gentleman's time has expired.

Mr. OLIN. I had hoped, Mr. Chairman, that some provision would be incorporated into this bill that should obviate the objection which the gentleman from Massachusetts stated to the House, to wit: that there is probably now in the country, on hand for consumption and use, an amount of spirituous liquors that would last for two years to supply all the wants of the people. I know of no objection to ascertaining what the amount is, and levying a tax upon it wherever it exists throughout the country. If that is omitted to be done the legitimate effect of this tax bill will be simply this: that for two years to come a duty will be imposed upon all manufactured liquors, which will almost amount to a prohibition, while there will be created upon all liquors on hand a bounty equal to the amount to be imposed upon the manufactured article hereafter.

Now, it certainly is within the power of Congress to reach that article and to impose a tax upon it, and no gentleman upon this floor can, I venture to say, find a plausible reason why it should not be done. The gentleman from Maine [Mr. RICE] stated truly that if this measure could amount to an annihilation of the trade, so far as the use of this article was concerned as a beverage, it would confer a greater benefit upon the country than all the victories that will be won within the next six months. But, while that is not the purpose or intention of the bill, it would certainly be an unwise measure for us to adopt a tariff upon the future manufacture of the article, the consequence of which would be simply the prohibition of the future manufacture, and to grant a bounty upon the quantity now on hand in the possession of speculators in the country.

The gentleman says—and I have no doubt truly—that there is enough now in this country to last for two years. I suppose, when he makes that statement, he speaks of there being enough to satisfy the ordinary use made of the article by the people under existing circumstances. Now, in another section of the bill, it is proposed to levy a duty of one dollar per barrel upon ale, a very onerous and very burdensome tax, which will impose upon a single individual in my district and in my city the payment of not less than $40,000 a year, amounting almost to a prohibition upon the manufacture of that article.

Now, in my judgment, this tax ought to be so arranged as rather to encourage the substitution of that description of article for that species of manufactured whisky and brandy which is so common in the country. It would conduce largely to the welfare and prosperity of the people if that could be so done. The tax is still more extravagant upon that variety of liquor than upon the various species of distilled liquors as manufactured in this country out of whisky.

I do hope before this measure is disposed of by the committee, or at least before it is passed by the House, that some provision will be adopted which shall reach and tax the amount of this kind of property in the country at the present time.

The amendment to the amendment was disagreed to.

Mr. MORRILL, of Vermont. I move to increase it to sixteen cents a gallon.

I move that amendment merely for the purpose of saying a word to the committee. This is a subject which has engaged the attention of the country perhaps more than any other now provided for in the bill now under consideration The committee who had the question in charge gave it very careful consideration. They had an elaborate investigation of everything concerning it. They received communications from all parts of the country engaged in this branch of manufacture. I suppose that it is true there may be enough of the article on hand to last the country for six months, if there were no more manufactured. But gentlemen err if they think that all of it is to be used as a beverage. A very large portion of it is used in the manufactures and arts.

So far as the duty is concerned, I think that fifteen cents is as high as it will bear. I trust that the committee will not be driven into extremes either way on this subject, neither to tax it too much, or to tax it at too low a rate. It must be apparent to the members of the committee that there are others besides interested in this matter than the mere dram-drinkers. This question more or less interests the agriculture of the country. The West is largely engaged in the raising of corn, and if there be any addition to this tax, then we will cripple to some extent the ordinary business of the agriculturist of that region. Those gentlemen who are engaged in agriculture there think that a duty of five cents a gallon is going to cripple them for some considerable length of time. The committee, however, think that the article will bear a tax of fifteen cents a gallon.

But a word in reply to the gentleman from Pennsylvania, [Mr. BABBITT.] If we are to reach anything like the rate of taxation produced upon liquor in England, as suggested by the gentleman, will it not be better to approach it gradually? Let us make this duty fifteen cents now, and next winter, if it is deemed proper, we can add ten cents a gallon to it. The only way in which the gentleman can produce the result which he desires, is to increase the tax gradually.

The putting on of the high rate suggested by the gentleman from New York [Mr. OLIN] will virtually put in the hands of the men who have for sale large quantities of this liquor enormous profits. And then what kind of inquisitorial process will have to be gone through with in order to carry out the provisions of the amendment? It provides that the assessors and collectors are to go into every store in the country and make an inventory of the quantity of liquor on hand. If they ought to go into the store and warehouse, why should they not also go into the cellar of J. B. and the cellar of my colleague on the committee to see how much they have on hand. Those who buy large quantities, and keep it to acquire for it a fineness of flavor by age, ought not to escape more than those who keep it for sale. I hope that we will settle down on the idea to put at this time only a moderate duty on this article. We have now proposed a tax thirty or forty times larger than we have proposed upon any other article. I think that that fact ought to be conclusive.

Mr. KELLOGG, of Illinois. The gentleman from Vermont has well stated that the large portion of the spirits manufactured in the country is not used as a beverage, but for the purposes of manufacture and the arts. I know that it is hard to get gentlemen to reflect on this subject, understand all of the facts, and vote intelligently on the propositions which may be presented. If it be moved that this article of liquor be taxed, immediately A B or C D arises and electrifies the House with novel temperance speeches. [Laughter.] It is charged that we ought to put down the traffic in spirits because some men use it to excess as a beverage. I have found that even in this debate it is difficult to get gentlemen to fix their minds in order to do even what they desire to do. My proposition was to tax more heavily liquor that was used as a beverage; to put a heavier tax upon that than was put upon spirits used for the purposes of manufacture and the arts. I wanted to make that distinction. It would accomplish the purpose designed by the gentleman from Maine, and, at the same time, make a distinction in favor of the manufacturer of spirits which do not enter into the demoralization of our people, but is one of the aids of industry. I venture the assertion that not one half of the spirits manufactured in this country is used as a beverage. The larger portion, sir, is used to make burning fluid, in the arts, and many of the manufactures.

Mr. MORRILL, of Vermont. We have provided in another part of the bill that liquors used as a beverage shall pay a higher rate of duty.

Mr. KELLOGG, of Illinois. My proposition will be of advantage to one of the large producing interests of the country. A great quantity of the corn raised in the West is used to make spirits; at least one half is made into spirits for the purposes of the arts and manufactures. This fact ought to be taken into account by the gentlemen who have made temperance speeches. Nor do gentlemen seem to be aware of how high the duty is that it is proposed to put upon spirits—fifteen cents a gallon is one hundred per cent. upon the value of spirits distilled in the West. The average price of liquor distilled in the West is about fifteen cents a gallon. That is the price which has ruled during the past eighteen months; so that the effect is, we shall have to pay a higher tax upon the corn we raise than will be paid by any other production of the country.

Now, I would not reduce the tax upon spirits used as a beverage, but I would reduce it upon spirits used for manufacturing purposes. Let the tax be heavier than it now is upon spirits used as a beverage. I do not agree with the gentleman from Vermont, that the bill provides for the case I have stated. I trust, therefore, that my suggestion will be pursued by the committee.

The amendment to the amendment was disagreed to.

The amendment was rejected; there being, on a division—ayes 27, noes 72.

Mr. BLAKE. I move to increase the tax to twenty-five cents a gallon. If gentlemen will reflect on this matter a moment, they will see that twenty-five cents a gallon is not too high a tax. There are sixty-four half gills in a gallon. If I am not correct, the chairman of the Committee of Ways and Means will correct me.

Mr. STEVENS. I need not tell you. You have counted it a hundred times. [Laughter.]

Mr. BLAKE. I have understood from the chairman of the Committee of Ways and Means that a gill is just a drink for an ordinary man. So then when a man takes a drink his heart will be moved with patriotic emotion when he thinks that he has paid one cent in behalf of the stars and stripes of our country. Gentlemen, under those circumstances, will often take a patriotic drink. There is not a man who takes a drink who will not console himself with the reflection that on every drink he takes he pays one cent to put down this accursed rebellion which now rages throughout the country. [Laughter].

Mr. MORRIS. I rise for the purpose of opposing the amendment of my colleague. The gentleman thinks that every one will feel patriotic if he knows that he is paying one cent tax upon every dram he may imbibe. Why does not the gentleman show the same devotion to the stars and stripes in regard to the productions of the Western Reserve, from which he comes? They manufacture there twenty-two million pounds of cheese out of the twenty-four millions manufactured in the State. Will he show his patriotism by putting a tax of three cents a pound on cheese, the same as is put on leaf tobacco, which is so largely grown in my district?

Mr. BLAKE. I desire to say to my friend that he seems to misapprehend entirely the character of my district. We manufacture a great deal of whisky. Cheese is an article which may also be manufactured into whisky, as well as apples and peaches.

Mr. MORRIS. I wished merely to call the attention of the committee to the statistics of the State of Ohio. In that State we manufacture 23,758,000 pounds of cheese, and in the Western Reserve 21,850,000 pounds of that cheese is manufactured.

Mr. HUTCHINS. *Good* cheese. [Laughter.]

Mr. MORRIS. I say to the gentleman when he proposes——

Mr. HORTON. I rise to a point of order. It is that there is no connection between cheese and whisky. [Laughter.]

Mr. MORRIS. Then I ask my colleague [Mr. BLAKE] when he is most patriotic, whether before or after he has drank the gill of whisky? He seems to think we ought to be patriotic enough to pay one cent a drink to uphold the stars and the stripes. Let him put from one to three cents per pound on cheese, and see how he likes it.

Mr. BLAKE. I did not hear the gentleman's remark.

Mr. MORRIS. I merely asked the gentleman a question, but I will waive it. I think when the gentleman proposes to tax our little distilleries fifteen cents per gallon, in addition to the license, he will do great injustice to many of our manufacturers, for some of them in my district do not manufacture three hundred barrels a year, while others manufacture three hundred barrels a day; and if he desires to be patriotic when he proposes to tax the agricultural products of my district—tobacco—three cents a pound, he should also tax the products of his own section the same amount.

Mr. DIVEN. I move to amend the amendment by inserting "twenty," instead of "twenty-one." I move the amendment for the purpose of making a remark in reference to the operation of this bill. I understand that it is proposed to grant a drawback upon all exported spirits. Am I right? If that be so, and there is no duty upon exported spirits, will not the spirits be sent abroad and sold, and then reshipped to this country, and thus, by paying transportation merely, avoid this tax?

I am reminded that a provision of the bill obviates this objection, and I therefore withdraw the amendment.

Mr. SHELLABARGER. I object to the withdrawal of the amendment. I have felt no sort of disposition to participate in this whisky discussion. There is a very large interest of the kind which is under discussion now in that portion of the country which I represent, and if the manufacture of the article could be continued, after the passage of this bill, to the extent to which it now exists, one single individual in my district will probably be called upon to pay about one hundred thousand dollars a year in taxes. It is my desire to see this bill so framed as that the end which has been indicated by the Committee of Ways and Means may be attained—to wit: the production of revenue. If we desire to frame this bill in such a manner that it shall operate by way of moral reformation of the country—and upon the propriety of doing that I have nothing to say now—we should fix the tax so high as most effectually to suppress the manufacture, and three hundred per cent. would be better than anything less to secure that end. But I understand this measure is not seriously contemplated as a measure of reform, but as a measure of finance; and I rose simply for the purpose of saying that, in my judgment, it would have been wise upon the part of the committee so to have framed this bill as that it should have commenced by assessing a moderate tax on this article the first year—a tax which would have been sufficient to allow that portion of the commodity which is now in the country to be disposed of, and which would not have had the effect anticipated by some portion of the committee—and I have no doubt wisely—of simply adding a large bonus to that portion of liquor which is now in the country, and of closing up temporarily the establishments of the country in consequence of their having to come into competition with the manufactured article now in the country.

If my remarks have any design, it is simply to indicate in my place, the propriety of so amending this bill—which can only be done by the Committee of Ways and Means, and therefore I propose to make no proposition to amend here—by graduating the tax, so that it shall not close up the manufactories, and by gradually raising it to the highest point which the article will bear. I agree with the design of the bill, which is to place upon what have been called in this debate, the luxuries of the country, just as high a tax as they will bear. And I agree entirely with the gentleman from Illinois, that there ought to be a great deal of pains taken to distinguish between such things and those things which are used in arts and manufactures.

Mr. DIVEN by unanimous consent withdrew his amendment.

Mr. POMEROY. I move to reduce the amount one cent. It seems to me that this debate has taken altogether too wide a range upon this section, because on page 68 I find a clause providing for a tax of twenty-five cents per gallon upon redistilled spirits, such as brandy, gin, wine, &c., and yet gentleman talk upon this section as

though it had an application to spirits for consumption. I do not understand that raw spirits enter into the consumption of the country as a beverage at all. On the contrary, three fourths of the distilled spirits referred to in the section under consideration are used in manufacture, as alcohol; and as such it is just as necessary and just as legitimate a branch of manufacture as that of cloth. It seems to me that the discussion we are having upon this section is simply a discussion of how much duty shall be laid upon spirits so distilled as to enter into manufactures. When we reach the 68th page this question will legitimately come up how much revenue shall be raised upon articles of luxury, which consist of wine, gin, brandy, &c., used as a beverage.

I withdraw my amendment.

Mr. BABBITT. I move to amend the amendment by making the tax seventy-five cents per gallon. Among all the arguments adduced here, I have failed to hear the first reason why we cannot here in these United States produce from spirituous liquors as large a revenue as is produced from the same article in England. There it is an indubitable fact that on the single article of spirituous liquors they raise a revenue sufficient, if we had it, in the course of a few years, to extinguish every dollar of our public debt. But it is said you will ruin the producer, and that he must suspend manufacture. Why, nobody would be hurt by the imposition of a heavy tax here. Not the producer; because the producer here, as in England, would put the increased tax upon the price of the article; not the vendor, who buys it of the producer, because he would add the increased amount by increasing the profits upon the article; and then we should find the drink for which we pay five cents now charged at ten cents, and the ten cent drink increased to fifteen or twenty cents. Who would be harmed by it? The consumer? No, sir; not he. He would be the last man to complain. Men complain of the high price of almost everything—of the bread they eat, the butcher's meat, the fuel they use, and even of the crinolines and bonnets of their wives and daughters; but mortal ear never heard a man complain that he paid too much for his liquor. [Laughter.] We never complain of that. We pay it cheerfully and gladly.

Well, it is said that this article of spirits is used largely in the arts and manufactures. Yes, sir, it is used very largely in arts and manufactures, but the art in which it is thus largely used is the art of composing what they call "mint juleps" and "slings" and "cocktails" and "punches," and the like artistic articles of luxury. [Laughter.] There is a great deal of humbug about the arts and manufactures other than these in which spirituous liquor is used.

Why is it that they can collect such a tax in England, and that it could not be collected here? Is there anything so radically different between the habits and vices of the people of England and the habits and vices of the people of these United States, particularly in the luxurious habit of imbibing spirituous liquors, as to warrant any such assumption? I say there is none.

I say, again, that it is our true policy, and it ought to have been the policy of the Committee of Ways and Means, to levy this revenue upon the habits and vices of the community, upon spirituous liquors and fermented liquors and tobacco, as is done in England almost entirely. These are the main sources of her revenue.

[Here the hammer fell.]

Mr. SEDGWICK. It strikes me that there is a great deal of misunderstanding in regard to the article which this section proposes to tax. Proof spirits as it comes from the distillery is not an article made for drinking at all. I suppose a gill of it administered to any of us who have been bothering the House with speeches this morning would effectually prevent our repeating them. [Laughter.]

My learned friend, the chairman of the Committee of Ways and Means, says that although this is a high duty, he would impose a tax of twenty-five cents a gallon on the article, and impose a tariff of the same amount on what is imported. Now, I undertake to say that there never was a barrel of proof spirits as described in this section imported into this country at all. It is not an article of import, but an article of export to a very large amount, because in no country on earth is grain so cheap that it can be manufactured into proof spirits and brought into this country.

I say that the article described in this section is not used as a beverage at all. You might as well tax corn twenty-five cents a bushel because it may be made into whisky to drink, or into adulterated wine, gin, or brandy to drink. This article is only one stage advanced from the corn that is produced by the farmers. There are hundreds of thousands of barrels of it made in the district that I represent perhaps every day, and yet not one single barrel of it is made into whisky. It is sent to the market at Albany or New York, and there purchased for divers purposes. My friend from Rhode Island [Mr. SHEFFIELD] tells me that one man in his district takes seventy-three thousand barrels of it a year in the shape of vinegar to set the colors in his printed cloths. At least seventy-five per cent. of the article described in this section never goes into any form of liquor that is used as a beverage. It is used in the arts, in the making of varnishes, and in the making of burning fluid—five sixths of it and one sixth of turpentine for the purpose of making burning fluid. If you impose a tax upon this article which is too large for revenue purposes, and which will prevent its being used for these manufacturing purposes, instead of getting increased revenue you will get no revenue at all; you stop manufactures, and put a bounty to the amount of the tax you impose into the hands of the speculators who have been buying proof spirits for months past for the mere purpose of speculation.

It seems to me that the principle suggested by the gentleman from Ohio [Mr. SHELLABARGER] is the true one; to impose upon this manufacture at first only a small tax—I think five cents a gallon would be sufficient—and impose the same tax upon those who have purchased it and are holding it for speculative purposes, which might easily be done; and then increase it as it will bear increasing. As the old stock goes out, increase it to ten and fifteen cents, if you find that it will bear that amount of tax. In my judgment a tax of fifteen cents a gallon will, for the next six months, decrease the manufacture of this article about three fourths, and you will not get the revenue, while you will make rich the speculators.

Mr. STEVENS. I move that the committee rise, for the purpose of closing debate upon this section.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the tax bill, and had come to no resolution thereon.

Mr. STEVENS moved that all debate upon the section under consideration in the Committee of the Whole on the state of the Union be closed in one minute after its consideration shall be again resumed.

The motion was agreed to.

Mr. STEVENS. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed the consideration of the special order, being the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

The question was taken on the amendment to the amendment proposed by Mr. BABBITT, and it was disagreed to.

The question recurred on Mr. BLAKE's amendment, to strike out "fifteen" and insert "twenty-five."

The question was taken; and the amendment was rejected—ayes twenty-nine, noes not counted.

Mr. HARRISON. I offer the following amendment:

Strike out the words "on and," in line four, and insert in lieu thereof the words "during the first year;" strike out "fifteen," in lines four and five, and insert "five," and insert, after the word "gallon," as follows:

And during the second year thereafter the duty of ten cents on each and every gallon; and during each and every subsequent year the duty of fifteen cents on each and every gallon.

The section will then read:

That, in addition to the duties payable for licenses hereinbefore provided, there shall be paid on all spirits that may be distilled, of first proof, during the first year after the 1st day of May aforesaid, the duty of five cents on each and every gallon, and during the second year thereafter the duty of ten cents on each and every gallon; and during each and every subsequent year the duty of fifteen cents on each and every gallon, &c.

The amendment was disagreed to.

Mr. BLAKE. I offer the following amendment, to come in after the proviso, at the end of the fifteenth line:

That all distilled spirits now manufactured in the United States shall pay the same sum per gallon when sold as provided by this act upon distilled spirits manufactured from and after the 1st day of May, 1862.

Mr. MORRILL, of Vermont, called for tellers on the amendment.

Tellers were ordered; and Messrs. WALTON of Maine, and ROBINSON were appointed.

The committee divided; and the tellers reported—ayes seventy-two, noes not counted.

So the amendment was agreed to.

Mr. DUNLAP. As the section now stands, all spirituous liquors now manufactured, and all that will be manufactured after the 1st day of May next are to be taxed. I propose to insert in the section as amended the words, "or that may be manufactured by the 1st day of May next."

The amendment was agreed to.

Mr. PHELPS, of California. I offer the following amendment to come in at the close of the section:

Provided, The provisions of this section shall only apply to the first distillation, and not to any redistillation made for the purpose of increasing the proof of the liquor so redistilled.

I will state the object of the amendment.

The CHAIRMAN. No debate is in order.

Mr. PHELPS, of California. I ask unanimous consent of the committee to explain my amendment.

The CHAIRMAN. The committee cannot give such consent. The debate upon this section is closed by the order of the House.

Mr. PHELPS, of California. I withdraw the amendment.

The forty-fifth section was read for consideration.

Mr. PHELPS, of California. I now offer to the forty-fifth section the amendment which I offered to the preceding one: that its provisions shall only apply to the first distillation. I offer this for the purpose of exempting alcohol, which goes into the general consumption described by the gentleman from New York, [Mr. SEDGWICK,] from having to pay a double duty. Alcohol is the only liquor that goes into that kind of consumption. If you require the payment of this double duty on alcohol, the effect will be to exclude it from use. The first tax imposed upon it here is thirty cents per gallon. If it be subjected, on redistillation, to a like tax, that makes it pay sixty cents per gallon, more than double the cost of the alcohol that goes into general consumption for burning fluid, chemicals, mechanical purposes, &c. It will so increase the cost that its use in these harmless ways must practically cease. All other liquors, I believe, may be reached by providing a special tax on liquors that are rectified; but we certainly should not exclude alcohol from use for those purposes for which it is now very largely consumed in the United States.

Mr. MORRILL, of Vermont. I believe that the amendment offered by the gentleman is a proper one, but I suggest that it would be more appropriate to insert it after line forty-seven, on the 68th page.

Mr. PHELPS, of California. I have examined that section, and I am afraid it will not reach this case. The consumption of alcohol for those useful purposes amounts to a thousand barrels a day. If subjected to this double tax it will be entirely excluded from consumption for these purposes. I hope my amendment will prevail.

The amendment was rejected.

Mr. HOOPER. I move to amend the forty-sixth section by inserting after the word "distilled," the words "and sold or removed for consumption;" and also to amend in the same way in the twenty-eighth line.

The amendment was adopted.

Mr. NOBLE. I ask the gentleman from Mas-

sachusetts, whether he did not also intend to add the words "or sale;" so as to make it read: "and sold, or removed for consumption or sale." It might be sent to New York for sale from some of the western States, and yet might not be sold.

Mr. HOOPER. I accept the suggestion.

By unanimous consent, Mr. HOOPER's amendment was so modified.

The CHAIRMAN. Does the gentleman from Massachusetts [Mr. HOOPER] desire to amend the forty-fourth section in the same manner?

Mr. HOOPER. Yes, sir.

By unanimous consent, the amendment was applied also to the forty-fourth section.

Mr. HOOPER. I move a similar amendment to the forty-seventh section.

The amendment was agreed to.

Mr. NOBLE. I desire to suggest to the chairman of the Committee of Ways and Means that the form of oath prescribed in this forty-seventh section only refers to the quantity of gallons distilled, without reference to the proof of the whisky.

Mr. STEVENS. I move to amend by adding at the end of the section the words "according to the proof herein mentioned;" so as make the oath, in substance, as follows:

I do swear [or affirm] that the foregoing entries were made by me on the respective days specified, and that they state, according to the best of my knowledge and belief, the whole quantity of spirituous liquors distilled at the distillery owned by ——, in the county of ——, amounting to —— gallons, according to the proof herein mentioned.

The amendment was agreed to.

Mr. JOHNSON. It strikes me that there is an omission in the forty-eighth section. It provides that the oath shall be taken by the person who has the management of the establishment. If that manager should be removed by death or otherwise, I see no mode provided for having the oath taken. Why not adopt the plan of having the books of original entry produced, and requiring the proprietor to make oath as to the handwriting. I have not examined the bill sufficiently to see whether that case is provided for or not; but there seems to be an omission here.

Mr. MORRILL, of Vermont. Of course, if the owner or agent die, there will be somebody left to manage the business.

Mr. JOHNSON. It is not so in the bill.

Mr. STEELE, of New York. I move to amend in the forty-ninth section, by striking out the words "on ale, beer, and lager beer," and inserting "on all ale, porter, and other similar fermented liquors, by whatever name such liquors may be called," and also to insert the words "except lager beer;" and to make the duty fifty cents instead of one dollar per barrel of thirty-one gallons, and the duty on lager beer twenty-five cents per barrel.

The CHAIRMAN. That is too much for one amendment.

Mr. STEELE, of New York. Then I move the amendment of twenty-five cents per barrel on lager beer, instead of one dollar. The other amendments I will offer in their proper places. This article of lager beer is very much used at this time, and I think with very good effect on the general health. It is the weakest of all the fermented liquors used. A tax of one dollar per barrel upon it would amount to a prohibition of it. I have in my possession a letter from one of the largest manufacturers of lager beer in the United States, who says, that under the proposed tax he could not manufacture or sell it any longer. My idea is to reduce the tax on those fermented liquors that have not the intoxicating effect which strong liquors have. Of all of them, lager beer is the least intoxicating. This question occasioned a very considerable discussion in our State a few years ago, as to whether lager beer was intoxicating or not. A great deal of evidence was introduced on the subject, among the rest the testimony of a man who swore that he drank seven gallons in a day without being intoxicated. I think that the duty on this weaker liquor should be reduced, and I therefore hope that my amendment will be adopted.

MESSAGE FROM THE SENATE.

The committee rose informally, and the Speaker having resumed the chair, a message was received from the Senate, by Mr. HICKEY, its Chief Clerk, requesting the House to return to the Senate the bill authorizing the opening of Sixth street west.

The request was complied with.

The committee resumed its session, proceeding to the consideration of the

TAX BILL.

The question being on the amendment offered by Mr. STEELE, of New York, to reduce the tax on lager beer to twenty-five cents per barrel,

Mr. JOHNSON said: Mr. Chairman, I was about to offer an amendment similar to that offered by the gentleman from New York, and which is now under consideration.

The CHAIRMAN. The gentleman cannot address the committee unless he opposes the amendment.

Mr. JOHNSON. I move to amend the amendment by reducing the duty from twenty-five cents to twenty-four cents per barrel. This article of lager beer, Mr. Chairman, is differently manufactured from other liquors that we have been talking about to-day. It cannot be kept as liquors are kept, and therefore the profits from it are not so great. There are more risks connected with its manufacture than there are with that of other liquors. I had intended to bring this matter to the attention of the committee, and had for that purpose laid by in my desk the report of the sanitary commission sent out to investigate the causes of disease in the Army.

In speaking of the effect which the use of intoxicating liquors has on the health of the soldiers, the report particularly mentions the fact that the use of lager beer in the Army was not only not deleterious, but was beneficial to the health of the soldiers in many instances. It is a tonic. One branch of the medical profession which seems to receive considerable favor at this time—the homœopathists—recommend it in many cases as the best tonic for persons in a certain condition.

A MEMBER. In what condition? [Laughter.]

Mr. JOHNSON. In such a condition as requires tonics. Where allopathists prescribe bitters, the homœopathists give lager beer. I have letters on my table which show that the imposition of this tax of one dollar per barrel on lager beer would prevent its manufacture, and prevent its being kept during the whole winter to be used in the summer season. I hope, therefore, that the amendment will be agreed to.

I am willing to consider this bill as intended to accomplish the one purpose for which it was introduced and received by the House—that of raising revenue. However willing we may be to make it conduce to the improvement of the morals of the community, we must consider it here solely as a measure for raising revenue. In this view of the bill, it is more than useless to attempt to put such a tax upon any article as will prohibit its manufacture or use. But such I think will be the effect of placing a tax of one dollar per barrel upon lager beer. As to the other articles of beer, I do not know what the bill refers to. The old article of strong beer, which used to be in use, has gone out of use, as I understand. Lager beer has taken its place, and it is a much more sensible drink and not as expansive in its effects. [Laughter.] If the bill refers to spruce beer, I have no objection to imposing a tax upon it, but I am afraid it will not produce much revenue.

[Here the hammer fell.]

Mr. FESSENDEN. I oppose the amendment to the amendment for the reason assigned by the gentleman from New York [Mr. STEELE] for opposing it. The gentleman said he was in favor of the amendment because the provision as it stood in the bill would amount to an absolute prohibition of the manufacture of the article. Now, sir, I am in favor of it for that very reason, if it be true that the tax proposed to be levied would amount to a prohibition of this traffic. If the sale of lager beer, strong beer, and porter, could be confined to the section of country from which the gentleman comes, I should have no objection to it in any aspect in which the gentleman might choose to consider it; but, sir, the kind of liquor of which he speaks, this beer, ale, and porter, is doing us far more damage in the East than your whisky and your brandy. Our young men take their first lessons in intemperance in the strong beer, lager beer, and porter which they get. They progress then to whisky, and finally graduate, such graduation as it is, with brandy.

Mr. BLAIR, of Missouri. I ask the gentleman to allow me to say that I do not think he understands the meaning of lager beer. It is not a strong beer at all.

Mr. FESSENDEN. I understand that; but does the gentleman say that lager beer is not intoxicating?

Mr. BLAIR, of Missouri. Has the gentleman ever drank any lager beer? [Laughter.]

Mr. FESSENDEN. I have.

Mr. BLAIR, of Missouri. Well, sir, I am satisfied the gentleman is laboring under a delusion. It was not lager beer that he drank; it was something spurious. [Laughter.]

Mr. FESSENDEN. Not at all. It was the genuine article.

Mr. BLAIR, of Missouri. The meaning of lager beer is laid beer. It does not mean strong beer at all.

Mr. FESSENDEN. I ask the gentleman if he is of opinion that lager beer possesses no intoxicating qualities?

Mr. BLAIR, of Missouri. I have drank a great deal of it, and never felt any effect from it, and I am surprised to hear the declaration made by the gentleman from Maine in regard to it.

Mr. FESSENDEN. The declaration that I made and repeat in regard to it is, that if there is anything intoxicating in it I shall be glad if a duty is imposed upon it sufficiently high to prohibit the traffic in it so far as my section of the country is concerned. That is all. The point I desire to present is, that I am in favor of imposing such a duty, if possible, as shall prohibit the manufacture or sale of all intoxicating liquors.

Now, sir, so far as ale, porter, and lager beer are concerned, I believe that if such a duty should be imposed upon them as should result in an absolute prohibition, the revenue of the Government would rather be increased than diminished thereby. I believe the men who use it in the section from whence I come would have the money wherewith to purchase other necessary articles upon which a larger revenue would be derived, by being deprived of the use of all intoxicating liquors. I am, therefore, in favor, in respect to these articles, and in respect to all articles of intoxicating liquors, of increasing the duty upon them to an extent that shall make it prohibitory; and in that way I believe we should increase our revenue rather than diminish it.

[Here the hammer fell.]

Mr. STEELE, of New York. I withdraw my amendment, and offer another in its place.

Mr. MORRILL, of Vermont. I object.

Mr. STEELE, of New York. I desire to say that I do it not for the purpose of speaking alone, but because I wish to offer it in a shape in which I can present it as a whole.

Mr. MORRILL, of Vermont. I will withdraw my objection.

Mr. STEELE, of New York. I then withdraw my amendment, and move to amend the first clause of the section by striking out as follows:

That on and after the 1st day of May next, there shall be paid on all beer, lager beer, ale, porter, and other similar fermented liquors, by whatever name such liquors may be called, a duty of one dollar for each and every barrel containing not more than thirty-one gallons, and at a like rate for fractional parts of a barrel, which shall be brewed or manufactured and sold within the United States or the Territories thereof, or within the District of Columbia, after that day.

And insert in lieu thereof as follows:

That on and after the 1st day of May, 1862, there shall be paid on all ale, porter, and other similar fermented liquors, by whatever name such liquors may be called except lager beer, a duty of fifty cents for each and every barrel containing not more than thirty-one gallons, and upon lager beer twenty-five cents a barrel, and at a like rate for fractional parts of a barrel, which shall be brewed or manufactured and sold within the United States or the Territories thereof, or within the District of Columbia, after that day.

I desire to say a word upon this amendment. This article of lager beer, as has been very justly stated by the gentleman from Missouri, [Mr. BLAIR,] is not so named as indicating that it has any intoxicating qualities, but because it is laid away in a cellar. It is true also that it will keep but a very short time. Lager beer manufactured for the month of July, for instance, must be used within that precise month, almost within a few days, or it will be entirely worthless. There is a great deal of drugged stuff sold as lager beer, but which is not the genuine article, as is the fact with every kind of liquor. The genuine lager beer is the least intoxicating of all the drinks used as a beverage, and not only that, but it is the most harmless. It may be used with impunity by any one if he obtains the pure article.

I have a letter in my possession from a man in

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. SATURDAY, MARCH 22, 1862. NEW SERIES.....No. 83.

my district, who is the largest manufacturer of lager beer in the United States. His cellar is dug out of the rocks where this lager beer is laid away for summer, and, as has been said, that designed for a particular month must be taken out and used that month, or it will be worthless. This man says that his business cannot stand such a tax as this; that if it is imposed, he cannot go on with the manufacture. The price of the article, taken from the manufacturer, is now only about three dollars per barrel, and to levy a tax of one third its value is, it seems to me, most exorbitant. For this reason, and for the further reason that I have stated that we should encourage the substitution of this article for whisky and brandy, I think the duty named in the bill should be reduced.

Mr. MORRILL, of Vermont. It is desirable, of course, not to make any of these taxes oppressive. In relation to this matter, I am perfectly willing to hear any eulogiums upon lager beer to any extent that gentlemen may see fit to go in its praise. They will observe, however, that lager beer sells at retail for precisely the same by the glass as common ale, which costs from one to two dollars a barrel more to manufacture. Now, in relation to driving this article out of the market by the tax we impose on it, how much does that tax amount to? About three cents per gallon. Persons who have this article for sale, such as the gentleman from New York mentions, get some eight or ten dollars per barrel; and I ask if it is unreasonable to make such gains as this contribute something per gallon for the support of the Government? I do not think the amount which the bill imposes upon this article is too much. There is certainly no propriety in making a discrimination between this article and ale, and if it were to be made, it should be made, for the reason I have stated, in favor of ale.

Mr. PENDLETON. I move to amend the amendment by reducing the amount to one cent a gallon.

Mr. Chairman, I desire to say that I have never known any beverage which is more healthful and deliciously refreshing than lager beer. I may be considered as a specimen of the result of lager beer. [Laughter.] Its praise ought to be sung by all good and generous men.

But the gentleman from Missouri [Mr. BLAIR] stated it was called *lager* beer because it was kept for a time. Let me remind him that the most classic page of history is connected with Wallenstein's lager, which, as I understand, means the camp of Wallenstein. If so, I commend to him and to my friends on the other side of the House that the name of *lager* beer may have had some connection with that famous event, and that the article itself may have proved in those days a most efficient aid in carrying on military operations. In that respect I commend it to the gentleman and to his friends to consider whether it is wise just now to discourage its manufacture or its use.

I move to reduce the tax to one cent, because I believe no beverage is more healthful in its effects or more effective in bringing out the good impulses of a man than lager beer. [Laughter.]

Mr. BLAIR, of Missouri. The gentleman misapprehended what I did say. I stated that it was called lager beer because it was kept a long time, until it grew clear and rich in color. With that exception, I agree in what the gentleman has said in favor of lager beer.

I want to say, Mr. Chairman, that I believe lager beer did more to elect Mr. Lincoln President of the United States than any other drink. [Laughter.]

Mr. PENDLETON. Then it was diverted from its original use. [Laughter.]

Mr. BLAIR, of Missouri. I think that it is the intention of the gentleman from Cincinnati to steal it away from us.

Mr. PENDLETON. God forbid that I should steal from them any legitimate right; but lager beer belongs to us.

Mr. STEVENS. It would appear from this debate that the influence of the whisky sections has not yet left the committee, and it would seem, too, contrary to the general theory, that lager beer is rather intoxicating. [Laughter.] I think that it is my duty to say a word, because I happen to know something on the subject of lager beer, as I own a lager beer establishment myself. [Renewed laughter.] In three wards of the city where I reside my constituents are three fourths of them regular lager beer drinkers. There is no better class of people; none more industrious or more honest. They will not drink whisky or strong liquors when they can get the clear, cold, refreshing lager beer.

Those who own a lager beer establishment know very well how lager beer is made. It is a fermentation of barley and hops alone. It is, therefore, different from other beer in that respect; but still it is a fermentation of barley. It is conceived to be better than other beers, because none of the drugs are infused into it, if honestly made, which are infused into those other beers; at least, that is the way the lager beer is made at my establishment. [Laughter.] But I must say that its effects are sometimes eccentric and amusing. The tavern which sells it, and which I also own, is next to my own house, and I must say that I have many a night looked out and seen the honest men who go there to drink beer stumble up against the fence. Once they knocked the fence entirely down. [Laughter.] I should, therefore, designate the effect of lager beer not as intoxicating but rather as exhilerating.

A MEMBER. It has the effect of exaltation. [Laughter.]

Mr. STEVENS. Yes, sir; exaltation. Lager beer gets its name from the verb *lager*, to lay, as those who understand German, as we all do, well know. It means that the beer is made and then stowed away in vaults thirty feet under ground, and kept there until it is fit for use. Some men may drink only a glass or two and feel its effects very sensibly, while others can drink dozens of glasses with impunity. I drank one or two glasses once, and I must say that its influence upon me was high. [Laughter.] A constituent of mine, Othinger by name, came to see me on New Year's day. "How are you?" "Vare goot. I have trank my twenty-seven glasses lager." [Great laughter.] The glasses out of which they drink this beer are small. There are round tables in the lager beer saloons, and these men go in, take a seat at a table, call for a glass of lager, and never utter a word except to call for another lager when their glass gets empty. Of course, in one evening they drink several glasses of lager each. How insignificant will be the tax upon them under this bill. If the tax be left at one dollar a barrel they would not have to pay each more than one mill a glass.

For fear that we go on with this debate and lose sight of the bill, I move that the committee rise to close the debate on this section.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the tax bill, and had come to no resolution thereon.

Mr. STEVENS moved that the debate on the pending section of the tax bill in the Committee of the Whole on the state of the Union should be closed within one minute after its consideration shall be resumed.

The motion was agreed to.

Mr. STEVENS. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed the consideration of the special order, being the bill of the House, (No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

Mr. HOLMAN. I move that the committee rise for the purpose of adjournment.

The motion was disagreed to.

The question was taken on Mr. PENDLETON's amendment to the amendment of Mr. STEELE, of New York, and it was disagreed to.

The amendment was disagreed to.

Mr. WHITE, of Indiana. I move the following amendment:

After the word "sold," in seventh line, insert the words "or removed for sale or consumption;" and after the word "act," in fourteenth line, insert:

Provided, That a drawback shall be allowed to the manufacturer at the time of each monthly accounting, as hereinafter provided for, for any such fermented liquors returned to him by the original purchaser or consignee in a spoiled or unmerchantable condition.

The amendment was disagreed to.

Mr. JOHNSON. I move to insert "forty" instead of "thirty-one," so that it will read, "every barrel containing not more than forty gallons."

The amendment was disagreed to.

Mr. HOLMAN. I move to strike out the word "beer" in the second line, so that it will read, "there shall be paid on lager beer, &c.," instead of "beer, lager beer, &c." It manifestly applies to common beer, used in the western country, which does not come under the denomination of lager beer.

The amendment was disagreed to.

Mr. WRIGHT. I move to strike out "one dollar," and insert "fifty cents;" so that it will read "fifty cents on a barrel of thirty gallons," &c.

The amendment was disagreed to.

Mr. EDWARDS. I move to strike out the words "divided into;" so it will read:

That fractional parts of a barrel shall be halves, quarters, eighths, and sixteenths, and any fractional part containing less than one sixteenth shall be accounted one sixteenth, &c.

The amendment was agreed to.

Mr. HOOPER. I move to amend the fiftieth section by inserting the words "and sold" after the word "made," wherever it occurs in the section.

The amendment was agreed to.

Mr. HOLMAN. It seems to me that the amendment just made is a proper one. The effect of this, however, with other amendments which have been adopted, would seem to give capitalists and large dealers great advantage over the small dealer. But I do not see how it is to be remedied.

Mr. JOHNSON. I move to insert the words "Sundays excepted" after the word "sun," in the thirteenth line of the fiftieth section; so that it will read:

SEC. 50. *And be it further enacted*, That every person who, on said 1st day of May, 1862, shall be the owner or occupant of any brewery or premises used or intended to be used for the purpose of brewing or making such fermented liquors, or who shall have such premises under his control or superintendence, as agent for the owner or occupant, or shall have in his possession or custody any vessel or vessels intended to be used on said premises in the manufacture of beer, lager beer, ale, porter, or other similar fermented liquors, either as owner, agent, or otherwise, shall, from day to day, enter or cause to be entered, in a book to be kept by him for that purpose, and which shall be open at all times between the rising and setting of the sun—Sundays excepted—for the inspection of said collector, who may take any minutes, &c.

Mr. STEVENS. I hope the amendment will not be adopted. These places are mostly kept open on Sunday. With some men it becomes a kind of worship to go to the lager beer saloon on Sunday.

The amendment was disagreed to.

Mr. HOOPER. I move to insert after the word "brewed," in the fifty-first section, the words "and sold," so that it will read:

I do swear [or affirm] that the foregoing entries were made by me on the respective days specified, and that they state, according to the best of my knowledge and belief, the whole quantity of fermented liquors brewed and sold at the brewery, &c.

The amendment was agreed to.

Mr. CRISFIELD. An amendment is necessary to section fifty-three to make it consistent

with what we have already done. We ought to provide for the seizure of fermented liquors that are now made, as well as those to be made, on which duties have not been paid. I move to amend by striking out the word "shall," and inserting "now are or may;" so that the clause will read:

That all beer, lager beer, ale, porter, and other similar fermented liquors which now are or may be made, and all spirituous liquors which shall be distilled within the United States or the Territories thereof, &c.

Mr. HOLMAN. Inasmuch as this is a very voluminous document anyhow, and words become a matter of some importance, I desire to suggest to the gentleman from Maryland that possibly the words are quite sufficient as they stand. In the sixth line of this section, to which I call his attention, I find the following words, "according to the true intent and meaning of this act." As a matter of course, these words embrace all the liquor, all the beer, and other articles enumerated in this section which are the subject of taxation, and those words would impose a construction upon this section which the other sections would seem to require. Now, gentlemen must perceive that this has come to be a very voluminous act, and we are not diminishing its volume at all; but, on the contrary, are increasing it. Ultimately it will be necessary to refer this bill to a committee of revision and phraseology, for it is manifest that we create great uncertainty in some sections by the manner in which we insert our amendments upon the original text.

The amendment was agreed to.

The fifty-fourth section was read, as follows:

And be it further enacted, That the owner, agent, or superintendent of any vessel or vessels used in making fermented liquors, or of any still, boiler, or other vessel used in the distillation of spirits on which duty is payable, who shall neglect or refuse to make true and exact entry and report of the same, or to do, or cause to be done, any of the things by this act required to be done as aforesaid, shall forfeit for every such neglect or refusal all the liquors and spirits made by or for him, and all the vessels used in making the same, or the stills, boilers, and other vessels used in distillation, together with the sum of $500, to be recovered with costs of suit; which said liquors or spirits, with the vessels containing the same, with all the vessels used in making the same, may be seized by any collector of internal duties, and held by him until a decision shall be had thereon according to law: *Provided*, That such seizure be made within three months after the cause for the same may have occurred, and that a prosecution or action thereupon shall have been commenced by such collector within twenty days after the seizure thereof.

Mr. JOHNSON. I move to amend that section by striking out after the word "in," in the ninth line, the words, "and all the vessels used in making the same, or the stills, boilers, and other vessels used in distillation, together with the sum of $500." If this amendment is adopted, I shall propose to amend further in line thirteen, by striking out the words, "with the vessels containing the same, with all the vessels used in making the same;" so as to make that part correspond with this amendment.

It seems to me that the section as it stands, imposes a very heavy penalty indeed for neglect—neglect either of the proprietor or of the employés, agent, or superintendent—for, perhaps, the miscarriage of a letter, or any fact by which the return shall not reach the place designated by the act. If the owner forfeits all the liquors that he has made during the time, I think it would be sufficient. Suppose the act stands as it was originally reported, it is in the power of one man to stop the whole establishment. The forfeiture here provided for is of the whole concern, the stills, the casks, and everything connected with it. If you take all these away, the Government will get no more revenue from that establishment. It is equivalent to breaking it up. Certainly it is unreasonable to require so heavy a forfeiture as that. The forfeiture indicated by my amendment is sufficient to compel obedience to the law, and a sufficient penalty for the infraction of it.

Mr. STEVENS. I hope this amendment will not prevail, for it will be seen that if the amendment prevails there will be nothing left but the liquor to seize. I should be afraid the liquor would run out before the tax gatherer got there. If you have the fixtures to levy upon, there is not so much danger that they will run away. As to stopping the manufacture by taking away the implements, I do not think that will be the result; but we had better do that than to get no revenue on account of fraud.

The amendment was not agreed to.

Mr. NOBLE. I move to amend in line fifth, by inserting after the word "shall" the words "willfully or corruptly," so that the clause shall read: "who shall willfully or corruptly neglect or refuse to make true and exact entry," &c.

The amendment was not agreed to.

Mr. MORRILL, of Maine. I move to amend by inserting after the word "occurred," in line seventeen, the words "and brought to the knowledge of the collector." The clause now reads:

Provided, That such seizure be made within three months after the cause for the same may have occurred.

The cause may have occurred, and yet not have been brought to the knowledge of the collector, and after that limitation expires the seizure cannot be made. Hence my amendment.

The amendment was agreed to.

Mr. WOODRUFF. I wish to call the attention of the committee to a mere verbal alteration. Perhaps no change is necessary, but it strikes me that it is. In line ten, the word "or" occurs, as will be seen by reading the clause, which is as follows:

Shall forfeit for every such neglect or refusal all the liquors and spirits made by or for him, and all the vessels used in making the same, or the stills, boilers, and other vessels used in distillation, together with the sum of $500, to be recovered with costs of suit.

Should not "or" be "and?"

Mr. STEVENS. Certainly.

Mr. WOODRUFF. I move to substitute "and" for "or."

The amendment was agreed to.

Mr. HOLMAN. I move to amend by adding at the end of the section the following:

One half of which penalty shall be for the use of the United States, and the other half thereof shall accrue to the benefit of the common schools of the State in which collected, and any collector or deputy collector who shall fail to prosecute any person to him known to be liable to the penalty of this section, shall be fined $100.

The object I have in view is to place, so far as this particular penalty is concerned, the motive of prosecution beyond the mere personal interest of the collectors or deputy collectors. And I am compelled to say, at the same time, that the House apparently prefers retaining the old feature—that of giving to the informer one half of the amount of the penalty. Here the penalty is an enormous one; and it is that kind of a penalty, also, which may frequently occur. It seems to me scarcely desirable that this penalty, consisting of so large a sum of money and so much property, should be permitted to inure to the benefit of the person interested in the prosecution, and upon whose testimony, indeed, the conviction of a citizen is brought about. Now, the argument is, that unless you give him one half of this penalty, he will not prosecute. I must be permitted to say that in Indiana, in the enforcement of the revenue system, it has never been deemed necessary to resort to any such measure as that of paying to a public officer anything more than his regular compensation, to stimulate him to perform his duty. Years ago, that State, in common with others, resolved to do away with the *qui tam* action, going upon the supposition that our citizens would perform their duties without any extra compensation; and, after many years of experience, I think I can assert, speaking with a reasonable limitation upon my own experience, that the citizens of that State have found that giving a public officer one half of the amount of a penalty recovered is not necessary to secure a faithful performance of duty upon his part.

I believe, sir, that the adoption of this principle will remove in the public mind, to a very great extent, one of the objections that will exist to this bill when it becomes a law—a law of universal public interest, a law which the people intend to rally upon and sustain. They intend to pay their taxes, but it does seem to me that any motive, any cause, any pretense for factious opposition to the Government, or to the payment of the taxes provided for by this bill ought to be removed. Give half of this penalty to the common schools of the State and you interest every citizen in the enforcement of the law, and in the collection of the penalties—a power infinitely stronger to secure the enforcement of the law than if you give half the penalty to the collector himself, making him the informer, and thus rendering him odious to the people.

[Here the hammer fell.]

Mr. STEVENS. There is nobody that admires perseverance and firm will in any one more than I do, but I would suggest to the gentleman from Indiana whether there is not a limit to it. We have already largely discussed this question of *qui tam* actions, very much to the consumption of the time of the House, and his amendment has been voted down in more than one shape and on more than one division.

Now, I suggest to the gentleman whether it would not be better to bow to the decision of the House, and let us go on and perfect the bill. Several amendments have been made here which were very unpleasant to me, and especially those concerning liquor; but I submit to it, and do not attempt to reverse what has been done. Although, as I said before, I admire perseverance, yet I remember, also, with what effect the great orator, whose language I do not very well understand, exclaimed, "*Quousque tandem abutere patientia nostra?*" [Laughter.]

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

Mr. STEVENS. Oh, I hope the gentleman will let us finish this section. The next section is on an entirely different subject.

Mr. VALLANDIGHAM. It is nearly five o'clock. I insist on my motion.

Mr. STEVENS. We have had a great deal of liquor and lager beer, and I think we ought to be able to hold out.

The CHAIRMAN ordered tellers on the motion to rise; and appointed Messrs. BINGHAM and VALLANDIGHAM to act as tellers.

The committee divided; and the tellers reported —ayes 33, noes 52.

No quorum having voted, the roll was called, and the names of the absentees noted.

The following named gentlemen failed to answer to their names:

Messrs. Ancona, Arnold, Babbitt, Goldsmith F. Bailey, Baker, Baxter, Beaman, Jacob B. Blair, Samuel S. Blair, William G. Brown, Burnham, Calvert, Casey, Clark, Conway, Cooper, Cox, Crittenden, Davis, Dawes, Delaplaine, Dunlap, Dunn, Ely, Fenton, Fouke, Franchot, Goodwin, Granger, Grider, Gurley, Hale, Hall, Hanchett, Harding, Hickman, Horton, Jackson, Kerrigan, Killinger, Knapp, Lansing, Lazear, Leary, Lehman, Logan, McKean, Mallory, Marston, May, Maynard, Menzies, Nugen, Olin, Patton, John S. Phelps, Price, Richardson, Riddle, Robinson, James S. Rollins, Sedgwick, Shanks, Shiel, Sloan, Smith, Spaulding, William G. Steele, Train, Trimble, Trowbridge, Vandever, Van Wyck, Verree, Voorhees, Wall, Wallace, E. P. Walton, Washburne, Wheeler, Wood, and Wright.

The committee then rose; and the Speaker having resumed the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt, and finding itself without a quorum, had caused the roll to be called and the absentees noted, and had directed him to report the names of the absentees to the House.

Mr. STEVENS. Did a quorum answer?

Mr. COLFAX. No, sir; three less than a quorum.

On motion of Mr. BLAIR, of Missouri, (at five minutes after five o'clock, p. m.,) the House adjourned.

IN SENATE.

FRIDAY, *March* 21, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. WRIGHT presented a petition of druggists and manufacturers and venders of proprietary medicines, in the city of Cincinnati, State of Ohio, praying that they may be placed on the same footing as other manufacturers of the country, and that the proposed stamp tax may not be applied to medicines; which was referred to the Committee on Finance.

Mr. TEN EYCK presented a petition of Theodore F. Mott, and other citizens of New Jersey, praying for the passage of a law to prevent all further traffic in and monopoly of the public lands of the United States, and that they be laid out in farms and lots of limited size for the free and exclusive use of actual settlers; which was referred to the Committee on Public Lands.

Mr. COWAN presented two petitions from citi-

zens of Blair county and adjacent counties in the State of Pennsylvania, praying for the establishment of a national armory and foundery at Hollidaysburg, in that State; which were referred to the Committee on Military Affairs and the Militia.

ARMY APPOINTMENTS.

The VICE PRESIDENT. The first business in order is a resolution submitted by the Senator from California, [Mr. McDOUGALL,] on the 17th of December last, for information in relation to any rule which has been adopted by the War Department in regard to the appointment of officers of the Army.

Mr. LATHAM. Let that be passed over informally in the absence of my colleague.

ENROLLMENT OF BILLS.

The VICE PRESIDENT. The next is a resolution submitted by the Senator from Massachusetts, [Mr. SUMNER,] on the 23d of December, which will be read.

The Secretary read it, as follows:

Resolved, That the Committee on Enrolled Bills shall consider the expediency of changing the joint rules of the two Houses of Congress, so as no longer to require that bills which have passed both Houses shall be enrolled on parchment; but that they shall be simply copied in a fair hand on linen paper, and be thus preserved in the Department of State, instead of being preserved in cumbersome rolls of parchment.

Mr. TRUMBULL. I do not see the Senator from Massachusetts who offered that resolution here. I move that it be passed over.

Mr. HALE. It is only a resolution of inquiry. Had we not better pass it?

The VICE PRESIDENT. It is a resolution of inquiry. It might, perhaps, more appropriately be referred to the Committee on Enrolled Bills.

Mr. HALE. I move that it be so referred.

The motion was agreed to.

ACCOUNTS OF NAVAL OFFICERS AND SEAMEN.

Mr. HALE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 244) to provide for the equitable settlement of the accounts of the officers and crews of the frigate Congress and other vessels; which was read twice by its title.

Mr. HALE. It is suggested to me that the bill I have just introduced had better be passed at once. I am against passing bills in that way myself; but I will state that this is a bill that has been sent to me by the Navy Department for the settlement of the accounts of the sailors of the Congress and Cumberland, whose books were lost in the late engagement.

The VICE PRESIDENT. It requires unanimous consent to consider the bill now.

There being no objection, the bill was considered as in Committee of the Whole. It directs the accounting officers of the Treasury to settle on the principles of justice and equity the accounts of the officers and crews of the United States frigate Congress and the sloop Cumberland, and any other vessel or vessels of war the books of which were lost or destroyed in consequence of the naval engagement at Hampton Roads on the 8th and 9th of March, 1862.

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

NATIONAL FOUNDERY.

Mr. KING. I desire to call up Senate bill No. 196, to establish a national foundery, for the purpose of assigning a day for its consideration.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 196) for the establishment of a national foundery and furnace for the fabrication of cannon and projectiles for the Government.

Mr. GRIMES. I move that the bill be referred to a select committee of five, to be appointed by the Chair. I shall follow that motion by making another motion that another bill on the table, authorizing the establishment of an armory in the western country, at Rock Island, be also taken up, and referred to the same committee.

Mr. KING. I hope not. I called up the bill, as I stated, with a view to assign a day for its consideration. If the bill is to pass, as I hope it may, it should be acted on promptly. It was introduced by the Senator from Massachusetts, [Mr. WILSON,] and has received the unanimous assent of the Committee on Military Affairs, and was reported by the chairman some time since, and I hope it will not be referred again. These bills are here, and may be discussed in open Senate as well as in committee.

The VICE PRESIDENT. The motion of the Senator from New York is first in order, deferring the bill to a day certain. It takes precedence of a motion to commit.

Mr. GRIMES. There are some very important questions connected with this subject that ought, it seems to me, to be laid before the Senate and before the country in the shape of a report. It is true that this bill comes from a committee. A great many other bills come from committees; but it comes unattended with any suggestions from that committee as to the necessity of the proposed foundery, as to its cost, as to the particular geographical location that it should have, all of which are very important considerations, and which should be presented to the Senate in some tangible shape. I am not particular about referring it to a select committee, but I understood the chairman of the Military Committee a few days ago to agree, and he made the suggestion himself, that both these bills should be referred to a select committee. He made that proposition to me a few days ago, and I supposed there was no objection to it.

Mr. KING. I have heard nothing of that; and it was with the consent of the chairman that I called up the bill this morning.

Mr. WILSON, of Massachusetts. The Committee on Military Affairs unanimously reported this bill in its present form. The Committee on Naval Affairs reported a bill for an arsenal or armory in the West. In a conversation the other day with the Senator from Iowa, who reported that bill, it was suggested that the whole matter might possibly be referred to a special committee. I thought then that it would be a good plan. I see now that there have been in the other House special committees on this subject, and they have made a great quantity of reports, and several propositions—propositions enough to frighten Congress almost from the consideration of the whole subject. The Senator from Iowa suggests that that may be a reason why this bill should go to a special committee. I shall not oppose a reference to a special committee. I am not sure that it would not be the best plan to refer both these bills to a special committee, and have the whole subject examined and reported upon. As was suggested by the Senator from New York, however, the proposition is very plain and very simple; the facts can be easily ascertained; and we might, if we had time, proceed to the consideration of the subject in open Senate; but the Senator from Iowa has made a motion to refer to a special committee, and as chairman of the committee that reported this bill, I certainly shall not object to that course if the Senate prefer it.

Mr. KING. I hope the chairman will not assent to that motion. Let us fix a day for its consideration.

Mr. WILSON, of Massachusetts. If it is the opinion of the committee who reported the bill to act on it in the Senate promptly, I do not wish to act contrary to the views of the committee. I have no particular wish or desire of my own on the subject. I think we may do either the one or the other, and one will be about as short a road as the other to attain the object we have in view. I do not really think it a matter of any great importance whether we proceed to the consideration of the whole subject in open Senate, or whether we refer it to a special committee for a report.

Mr. COWAN. I hope the motion of the Senator from Iowa will prevail. This is a subject which has attracted a good deal of attention throughout the country, and I shall be very glad to have it receive full and fair consideration.

Mr. KING. I move to fix Wednesday at half past twelve o'clock for the consideration of this bill.

Mr. CLARK. That requires a two-thirds vote, I think.

The VICE PRESIDENT. A mere postponement requires only a majority. To make it a special order requires two thirds.

Mr. KING. Without making it a special order, I move simply that it be postponed to Wednesday next.

The question being put on the motion to postpone, there were, on a division—ayes 15, noes 9; no quorum voting.

Mr. KING. I suppose the best mode of ascertaining the presence of a quorum is to ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CLARK. I think the main question in regard to these two bills, or the question which will perhaps require the most attention of the Senate and occasion the most delay, will be that of locality. I think if the whole matter is referred to a committee, made up from different sections of the country, it may advance the object and not delay the bill. The Senator from New York will permit me to suggest to him that I have no locality in my mind in regard to it; but if the bill be sent to a committee, it will advance it more than it will to come into the Senate here where each man will have a location for himself. I have no desire to delay the bill, but I think it will advance it to have the two go together, and have them considered with reference to each other. If you take up one bill, you will discuss that bill, and perhaps, incidentally, the other bill may be discussed; but if the two go to a committee, the whole subject may be considered together. It seems to me that is the best business arrangement.

Mr. KING. The question of locality was very fully considered by the Committee on Military Affairs, and has been the subject of a good deal of conversation. I only desire that that locality shall be selected which shall be the best for the whole country; and upon that, I do not think in the end there will be a very wide difference of opinion, although there will be some of course, as there always is on questions of locality. It seems to me a vote of the Senate is the only vote that can settle that question. If a committee be appointed to consider it, it will necessarily be expected that all interests and opinions shall be represented upon it; and, in my judgment, if that be the case, it is doubtful whether a committee can very well agree upon a locality. They would be likely to differ, they would go there with their local opinions. I, however, of course, must abide the action of the Senate. I think the bill had better come up on Wednesday; and as the location is the principal question, a vote of the Senate can be taken upon it and determine it. I hope, therefore, the bill may go over to Wednesday, when the subject can be more definitely and finally acted upon.

Mr. CLARK. It is suggested by the Senator from New York that a committee would not be likely to agree. I ask him, then, how he expects the Senate to agree? He says the locality was considered in the Military Committee. Very true, the locality of the establishment provided for in one bill was there considered; but the locality of the other establishment was considered in another committee. It would be well, it seems to me, that the same committee should have the two under consideration, because they are so intimately connected, and consider all the interests and all the localities, and make a report on the whole subject.

Mr. KING. This bill simply proposes to establish a national foundery. There are other propositions for an armory, for an arsenal, and for various other purposes in respect to the manufacture of arms, which have been presented. This bill has a single purpose, upon which the Military Committee were able to agree unanimously.

Mr. WILSON, of Massachusetts. This bill is simply for a foundery. It has no necessary connection with an arsenal. I have a very clear opinion that there is but one proper spot in this country for a foundery, and that spot is in the harbor of New York or on the Hudson river. You want a foundery at a point to which you can go with the largest vessels of the Navy, and you want it upon tide-water. That is absolutely necessary. In the next place you want it at a point that you can afford to defend; and the city of New York is a city that you can afford to and ought to defend. I think the question of the location of the foundery is settled beyond all dispute if we act simply on public considerations, for the interests of the country, without any local prejudices or attachments.

I think, further, that we need more than is now provided for in this bill. There was a section in the bill as I orignally introduced it, providing for

the purchase of a location, and the establishment of a furnace for the manufacture of iron, with which to make the large guns of our Navy. The Committee on Military Affairs, however, struck out that section of the bill. I believe that that provision is quite as necessary as the provision for a foundery. Our large guns should be made of the best iron in the country, and it should be of uniform quality. The reason why so many failures have been made by persons who have undertaken to make guns for the Government is that they have not a uniform quality of iron. I believe that the Government of the United States should, at the earliest possible moment, procure a proper place and put up an establishment for the manufacture of the best iron, for the making of these guns, that can be found in the country. I have no doubt upon that point. So much for this matter of the foundery.

The Committee on Naval Affairs, through the Senator from Iowa, have reported a bill for an armory, to be located in the West. I do not believe that at this time we need an armory. This may be considered, as coming from a Massachusetts man, an illiberal, a local opinion, as we have an armory at Springfield. But the necessities of the country have forced that Springfield armory to a capacity so large that I believe it will be able hereafter easily to manufacture all the muskets that we need. But, sir, looking to the sentiment of the country, I am of opinion that we shall have to yield an armory in the West. I believe there are several bills in the House of Representatives on that subject, some proposing Quincy, some Chicago, some a point in Pennsylvania, and various points west of the mountains.

Mr. GRIMES. Fifty of them.

Mr. WILSON, of Massachusetts. The Senator from Iowa says that there are bills there proposing fifty different places. If we are to have a location in the West, I do not know of any better place than that suggested by the Committee on Naval Affairs of the Senate; and I am willing, taking all things into consideration, to vote for this foundery, located where it is located in the bill, and to have an armory established somewhere in the western country, and I do not know of any spot that I would vote for sooner than the one proposed by the Naval Committee.

But I believe—I have no doubt upon it after reading the documents that I have read in regard to it, the report of Major Rodman to General McClellan, and the papers in the ordnance office—that we need as much a place for the manufacture of iron as we need a place for the manufacture of large guns. I am told by the Senator from New York that the War and Navy Departments both desire such an establishment. Although that provision was stricken out of this bill by the Military Committee, when it comes up for consideration I shall propose to restore the section authorizing the Government to purchase a place and manufacture the iron out of which to make these guns, and then, owing to the public opinion of the country and to the earnestness with which an arsenal is demanded in the West, I shall be willing to vote for the bill reported by the Committee on Naval Affairs.

Mr. GRIMES. It is true, sir, as the Senator from Massachusetts says, that this is a simple proposition to establish a foundery; but it is a simple proposition at the same time to appropriate $1,000,000 out of the public Treasury for the establishment of that foundery; and we are asked to do it without any data at all before us.

Now, the first question for us to consider is, is there a necessity that there should be any such foundery at all? Had the Government better rely, as it has heretofore relied, upon private enterprise, to manufacture our guns for us, and then bore them, and prepare them for service; or shall we establish a foundery where we shall cast the guns ourselves? I apprehend that we ought to have some data before us on that subject to justify us either in voting for or in voting against such a proposition as that. The Committee on Military Affairs have furnished us with no such information, and they do not propose to furnish us with any such information. Is there a necessity for any such foundery? Are we expected to vote in favor of the establishment of a foundery and appropriate $1,000,000 out of the Treasury, without having such information furnished us?

Then, after that information has been furnished to us, after it has been shown that it is to the public interest that we should manufacture these guns ourselves, and not rely as the French Government does, as the British Government does in most instances, and as I believe all foreign Governments almost invariably do except that of Austria, and as our Government has heretofore relied, upon private enterprise for the manufacture of our arms; if we determine that, then the next question that presents itself is, where shall the foundery be? The Senator from Massachusetts, the chairman of the Committee on Military Affairs, has satisfied himself that it should be in the harbor of New York, and for the reason that it can be more easily defended there than elsewhere. Well, sir, I apprehend that the Senators from New Hampshire, which State has the port of Portsmouth within its limits, would be in favor of establishing the foundery on the Piscataqua river, which they claim has a greater depth of water, admits ships of a greater draught, and is better susceptible of defense than any other port in the United States. The Senators from Maine would ask that it be established at Portland, because they say that they have a greater depth of water there than at any other port, and that that is more susceptible of defense than any other port of the United States. Now, let us have the information; let us see where the port is that is most susceptible of defense.

That is not all; another question is involved in it. Is it cheaper for us to manufacture the guns where the materials are to be obtained, or to transport the materials to another place? I believe all admit, at any rate Captain Rodman does, and the Ordnance Bureau of the Army admits, that the material of which the guns should be manufactured must come from the western part of Pennsylvania—I believe from Bloomfield. Then the question arises for us to consider, if we have got to use the Bloomfield material for the manufacture of guns, is it cheapest and best for us to take the metal and the coal from western Pennsylvania and carry it to New York to manufacture it, or shall we manufacture the guns where the metal is and where the ore is, and transport the guns in a manufactured state to the sea coast? Is the Senator from Massachusetts or the Committee on Military Affairs prepared to give us that information? It strikes me that that is information that it is not only desirable but important for us to have.

Now, sir, I am inclined to vote for a national foundery. I am not satisfied as to where it should be. I want some tangible testimony borne to me by a committee—I care not whether it be a select committee or a standing committee of the Senate—as to the advantages of such a foundery over the present system of manufacturing guns. Whenever I am satisfied of that, and satisfied as to the point from the data that they shall furnish me, then I shall be willing and ready to support the report of the committee.

Now, one word in regard to the national armory in the West that is proposed. I have no interest in any location that is here suggested. There is no proposition to establish it within the jurisdiction of the State which I have the honor in part to represent in this body. I do not want any such institution established, if it is not to the interest of the Government that it should be established. I am willing to refer it to any five dispassionate gentlemen of this body, of whom I shall not be one and of whom I do not desire to be one; and if they say that such an institution ought not to be established in the West, or if established that it ought not to go to the place which I have suggested, I shall be entirely satisfied with their judgment. It is solely the public interest that I ask shall be promoted, and no personal or local aggrandizement of any portion of the country; but I do not want to appropriate $1,000,000 out of the Treasury to lay the basis for the appropriation of untold millions hereafter, without any more information from a committee of this body than is before us.

Mr. COWAN. Mr. President, I hope, for my own part, if the committee shall be raised to consider this subject, that committee will not agree as to the location. I think we ourselves are not competent to determine upon the fit and proper location for this foundery. I had much rather that we should determine upon the foundery itself, and leave the location to be selected by commissioners to be appointed by the executive branch of the Government. The commissioners will then fix it at a proper point; and certainly, I think, they will hardly choose the location which seems to have satisfied the Military Committee. They will hardly choose the Hudson river, where there is no coal or iron, the very material out of which cannon are to be fabricated; nor will they choose it upon the ground that New York is worth defending. This foundery may be located in the neighborhood of the materials, and it may be located where it will not need any defense. If, for instance, it were located at Bloomsburg, there is not the slightest danger of an enemy ever entering into the mountains of Pennsylvania to attack that point; and in that way all arguments in favor of a particular seaboard locality are disposed of. I hope that a committee will be raised, and that it will take this matter into consideration, and simply recommend a foundery, and that the selection of the location be intrusted to commissioners selected by the President.

Mr. KING. As the Senator from Iowa remarked, the first question to be determined is, whether a national foundery is desirable for the construction of heavy ordnance. In my opinion it is; but that is a question for Congress to determine, and is of course a preliminary one to any question of location. It is one of the difficulties in reference to any measure of this kind at any time, that the local interests and the desires of the constituencies of gentlemen embarrass them in their action in Congress, and make it almost necessary for the representatives of a State, if a locality is suggested in that State, to advocate and vote for it.

Mr. COWAN. May I ask the gentleman if that is not one of the best reasons in the world why we should not attempt to fix the locality here?

Mr. KING. I think not. The locality must be determined, and it should be determined upon the best judgment which the country can give, and that is a vote of Congress. If there be any such location as presents itself with stronger arguments in its favor, and greater facilities in every respect for the use of the Government and for access to it than any other, it should be selected; but that is not the question which is now to be determined here. I desire that the Senate shall act upon the bill. It is important, if the Senate is to do anything upon the subject, that it should do it at a reasonably early day. I shall not therefore now undertake to present any views in relation to locality; I am content to abide whatever may be the judgment of the Senate upon that subject. I only ask that it shall act and decide the question in some way.

The VICE PRESIDENT. The question is on the motion of the Senator from New York to postpone this bill until Wednesday next.

The question being taken by yeas and nays, resulted—yeas 18, nays 20; as follows:

YEAS—Messrs. Anthony, Browning, Carlile, Davis, Dixon, Doolittle, Foster, Harris, Henderson, Howard, King, Latham, McDougall, Saulsbury, Simmons, Stark, Sumner, and Wilson of Massachusetts—18.

NAYS—Messrs. Chandler, Clark, Collamer, Cowan, Fessenden, Foot, Grimes, Hale, Harlan, Lane of Kansas, Morrill, Pomeroy, Powell, Sherman, Ten Eyck, Trumbull, Wade, Wilkinson, Willey, and Wright—20.

So the motion to postpone was not agreed to.

The VICE PRESIDENT. The question recurs on the motion of the Senator from Iowa to refer the bill to a select committee of five, to be appointed by the Chair.

Mr. WILSON, of Massachusetts. I have suggested to the Senator from Iowa that in order to get a very full expression on this subject, it would be better to unite the Naval and Military Committees, and refer the subject to those two committees to examine both these bills.

The VICE PRESIDENT. Does the Senator from Iowa so vary his motion?

Mr. GRIMES. Yes, sir; I am entirely satisfied with that.

The VICE PRESIDENT. The motion is to refer this bill to a select committee, consisting of the members of the Military and Naval Committees of the Senate.

Mr. HALE. I hope that will not be done. This subject was committed once to the Naval Committee, and was acted on by them.

Mr. GRIMES. There is another bill with it.

Mr. HALE. And then the Senate voted to discharge the Naval Committee and refer the matter to the Military Committee.

Mr. GRIMES. The Senator misapprehends.

This is the foundery bill. I propose to call up the other bill, and commit them both to the same select committee, consisting of the members of these two standing committees. This is the bill that came from the Military Committee; the other came from the Naval Committee.

Mr. COWAN. I do not like this modification of the motion. I do not see why we are not entitled to an independent committee; one that has not committed itself to any particular course on this subject. It seems that there is a pet project of the Naval Committee to provide for one point, and there is another one upon which the Military Committee has decided. Now, what chance has the rest of the country under such circumstances? I had a great deal rather that the Senator from Iowa would stand to his original proposition. That would give everybody an opportunity to be heard before the select committee, who would have the whole subject before them.

Mr. GRIMES. I have not the slightest inclination one way or the other.

Mr. COWAN. Then I hope the Senator will allow the motion to be put as he originally made it. That is fair to all parties, and it will give us a committee who are unprejudiced.

The VICE PRESIDENT. The question is on referring the bill to a select committee, consisting of the Naval and Military Committees.

The motion was not agreed to.

Mr. GRIMES. I now renew the original motion, to refer the bill to a select committee of five members.

The motion was agreed to.

Mr. GRIMES. I now move to take up the bill (S. No. 119) for the establishment of a national armory at Rock Island, and refer that to the same committee.

The motion was agreed to.

JAMES POOL.

Mr. POMEROY. I desire to have prior orders postponed to take up Senate bill No. 220, a small bill that will require no debate at all. It is a bill for the relief of James Pool, and has been reported by the Committee on Claims unanimously. It passed the Senate last year unanimously, but it did not become a law, not being acted on in the other branch.

The motion was agreed to; and the bill (S. No. 220) for the relief of James Pool was read a second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to pay to James Pool the sum of $1,987 10, of which $487 50 is to be paid out of any annuities or moneys payable to the Seneca and Shawnee Indians, if there be any, and if none, the whole sum is to be paid out of the Treasury of the United States.

Mr. TRUMBULL. Is there a report in that case?

The VICE PRESIDENT. There is.

The Secretary read the report made by Mr. POMEROY, from the Committee on Claims. It appears that the petitioner was employed by the United States, under the provisions of sundry treaties, as blacksmith for the Delaware, Shawnee, and Seneca tribes of Indians, from August, 1823, until November, 1838. During that period the various Indian agents often employed Mr. Pool in various capacities, such as transporting the moneys to be paid to the Indians, procuring supplies, &c., and oftentimes he advanced his own money in such purposes, which was in every instance refunded except one. He alleges that on the 29th of April, 1834, at the request of Governor Stokes, as commissioner of Indian affairs, (a copy of whose letter to that effect is annexed to the petition, and is sworn to,) he purchased for the use of the Seneca and Shawnee Indians four hundred and eighty-seven and a half bushels of seed corn, for which he paid out of his private funds one dollar per bushel, making $487 50, which sum he asks to have reimbursed. To sustain this the petitioner produces the copy of Governor Stokes's order for the purchase of the corn, sworn to as a copy; the receipt of John Brown, of whom he bought the corn, for the money, and attested by George T. Herron, Indian interpreter, and the certificate of five of the chiefs and head men of the nation, that the corn was received by them, and duly attested by W. J. Morrow, their agent.

It is further stated that, between the years 1833 and 1838, he was employed by contract as blacksmith for the Seneca tribe of Indians alone; that the mixed tribe of Senecas and Shawnees were also entitled to a smith, but had none; that one agent attended to both, and that agent (Vaisbon) verbally ordered him to put up a shop among the Senecas and Shawnees, and procure hands and run it; that he did so, and that he was paid for the service except for one year. He supposed he was being paid on his contract for the Senecas, but upon examination of the vouchers at the Department, he found that he had been paid for all his work for the mixed tribe, and that there was one year of service for the Senecas that he had not been paid for, and still remains unpaid. He now asks Congress to order the payment of the $800 due to him on that contract.

He further proves that in 1853 he took up his residence in the city of Washington, District of Columbia, and on the 18th day of June, 1855, he was appointed supervisor of the laborers in the Treasury Department, duly commissioned, and to be paid $480 per year; that on the 1st day of July, 1856, he was also appointed a watchman in the Treasury, at $600 per year; and that he occupied and fulfilled the duties of both these positions for one year nine months and ten days thereafter, or until the 10th of April, 1857; that on the 1st day of July, 1856, the pay of laborer was raised to fifty dollars per month; that he was paid up in full for his services as watchman, but was only paid $16 33 per month for his services as laborer, and that in his receipts therefor he would not receipt in full, and never did; that he made application to Secretary Guthrie for full pay, but he decided that claimant could not receive pay for both positions. He also applied to Secretary Cobb, who refused to take any notice of the matter. He now claims the difference. The Department does not dispute the fact that the service as laborer was performed; on the contrary, admitted it, and recognized him as a laborer throughout the entire period, by paying $16 33 per month. Nor is there any evidence in the commissions, or elsewhere, that either of them were rescinded, or that he was *transferred* from one position to the other. On the contrary, the whole evidence is that the service in each being such as not to interfere with each other, the one was an additional commission to the other.

The objection of the Secretary to paying the claimant in full seems to have been that the law interposed to prevent employés of the Government receiving pay for two positions. This is done away with by the claimant receiving full pay for one and part pay for the other; and also the decision of Attorney General Black, in case of Stackpole, of October 17, 1857, in which he says that laborers and watchmen are especially excepted, and are allowed to serve and receive pay for both positions; also, the decision of the Secretary of the Interior, in case of Whitfield & Woodson, May 8, 1861; and of the Supreme Court, in Converse *vs.* United States, 21 Howard's Reports. The committee therefore submitted a bill, and recommended its passage, paying the claimant $1,987 10.

Mr. TRUMBULL. Mr. President——

The VICE PRESIDENT. The morning hour having expired, it becomes the duty of the Chair to call up the special order.

Mr. POMEROY. I hope we shall be allowed to pass this bill.

Mr. KENNEDY. I will say to the Senator from Maine who has charge of the special order, that as my colleague who was to speak upon it to-day is sick, I hope it will be postponed.

Mr. MORRILL. I think that will hardly be necessary. We may make some progress, I think, with the bill, notwithstanding the fact that the Senator from Maryland is not present, and then we can consider the question of postponement at a later period. There are some Senators that wish to speak on the subject who are, perhaps, prepared to go on to-day.

Mr. KENNEDY. I do not intend to speak upon the bill myself, except to say two or three words. I should be glad if the Senator would consent to let it go over.

Mr. POMEROY. I hope the Senator from Maine will allow the bill which was taken up on my motion to be passed now. It will take but a few minutes.

Mr. MORRILL. I am willing to yield for that purpose, without displacing the special order.

The VICE PRESIDENT. If there be no objection, the consideration of the bill for the relief of James Pool will be continued. The Chair hears no objection.

Mr. TRUMBULL. I do not like to object to this private bill. A portion of the claim strikes me as manifestly proper; but I think it is very questionable whether all of it ought to be allowed. I am not upon the Committee on Claims; but this case looks to me as if there was a hunting after a variety of claims. This party has been acting for the Government in various capacities at the same time, and claims the pay of each office, which all the Departments have repeatedly rejected, it appears. I doubt very much the propriety of passing a special law to pay an individual, who has been employed by different Departments here, a sum larger than they agreed to pay him. It seems to me the Departments would be the proper place to settle these matters. I simply call the attention of the Senate to it. If the Senate think proper to pass it, I have nothing further to say about it.

Mr. CLARK. I desire to say, in behalf of the committee, that it did not appear to them that there was here a hunting after claims. So long ago as 1834, this man paid nearly five hundred dollars of his own money for the use of the Government; he has lain out of that money all that time, and he comes here asking the Government to pay him principal and interest. The committee, in accordance with the usage of the Government, rejected the interest, and report to pay him simply the amount which he paid out of his pocket nearly thirty years ago.

Mr. TRUMBULL. That is undoubtedly right.

Mr. CLARK. Then so long ago as 1838 he was employed as a blacksmith. It appears by books at your Department and by vouchers, that there is due him for one year's service under contract $800, which should have been paid him twenty years ago. We now propose to pay him simply the amount which was due him in 1838, without any interest.

Mr. COLLAMER. Why was it not paid then?

Mr. CLARK. On account of some overlooking or misapprehension of the vouchers.

Mr. POMEROY. Governor Stokes died.

Mr. CLARK. Then he has been employed for years past at your Departments; he has performed double service at different portions of time. It is not the case of a man who, in the time due by him to the Government, within the hours of ten or eleven and four, has performed the duties of two offices; but during the day he faithfully performed his duties as a laborer—there is no objection made to him on that score—and for half the night he performed the duties of a watchman. The Department accepted his services, and employed him, because he was a faithful watchman. He now simply asks to be paid for that time which he took out of his sleep. It seems to me eminently just. The Government loses nothing by it.

Mr. HOWARD. I simply rise to make an inquiry of the chairman of the Committee on Claims, whether there is not some evidence that this claimant has made his claim to Congress heretofore? It seems to me the claim is a very antiquated one. It would seem very strange that a person to whom such an amount is due has not heretofore made his claim against Congress. Is there not some proof that this claim has been in the hands of a committee heretofore, and that some evidence, not before us, was taken by that committee? I inquire for information. I am not very fond of these ancient claims myself, but am a little suspicious of them.

Mr. POMEROY. This claim has been presented year after year, and passed the committee unanimously two or three times years ago. I believe it passed the Senate once; but failed to become a law by not being reached in the other House. I think there is no doubt about the correctness of it.

Mr. TRUMBULL. Has it ever been reported against?

Mr. POMEROY. There has never been any adverse report.

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

LIGHT-HOUSE INSPECTORS.

Mr. CHANDLER. I ask the Senate to take up House bill No. 243. It will lead to no discussion,

and will not occupy five minutes. It is a matter of immediate importance.

Mr. MORRILL. If it leads to any discussion, I shall object to it.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 243) providing for the appointment of light-house inspectors. The bill, as it passed the House, authorized the President to appoint any person whom he may think duly qualified therefor to serve as a light-house inspector of any light-house district on the coasts of the United States, the person so appointed to receive pay and emoluments at the same rates as his predecessor in such service was compensated; but this act is to be in force only during the existence of the present rebellion, and for one year after the same is terminated.

The Committee on Commerce of the Senate reported the bill with an amendment, to strike out all of the bill after the enacting clause, and insert the following in lieu thereof:

That so much of the act entitled "An act making appropriations for light-houses, light-boats, buoys, &c., and providing for the erection and establishment of the same, and for other purposes," approved August 31, 1852, be, and hereby is, so far modified as to authorize the President to direct the detail of officers of the revenue cutter service to serve as light-house inspectors in any of the light-house districts created by the said act: *Provided*, That officers of the revenue cutter service so detailed shall not be entitled to any increase of compensation for such service.

Mr. CHANDLER. I move to amend the amendment in line nine, by inserting after the word "service," the words "or to appoint civilians;" so that it will read:

Authorize the President to direct the detail of officers of the revenue cutter service, or to appoint civilians, to serve as light-house inspectors, &c.

Mr. FESSENDEN. I hope that will not be adopted. The effect of it is simply to take money out of the Treasury, for no good reason at all—not the slightest in the world—and multiply the number of officers; and not only to extend patronage, but to increase the annoyance we all have in all quarters from those who want offices.

Mr. CHANDLER. I will state to the Senator from Maine, with his permission, that my reason for moving to insert these words was, that there is a present necessity, as I am informed, for the appointment of civilians on the southern coast, where there are no revenue officers to act in that capacity.

Mr. FESSENDEN. There is a single case on the southern coast where a member of the House wants an appointment. That is all the necessity.

Mr. CHANDLER. Is that the whole of it?

Mr. FESSENDEN. Yes, sir, that is the whole of it; and that is the origin of this bill. The bill is unnecessary in all its parts. I have taken pains to inquire into it, and I became satisfied that the whole movement arose simply from the desire of certain persons who cannot get any other offices to overcome the rules, and they are very beneficial ones, in regard to all these light-house matters for the sake of getting appointments. That is just the whole story from beginning to end. I looked into it last year, and it was under this state of facts: a gentleman in my own town came to me and suggested that this arrangement ought to be made; that civilians ought to be appointed to these offices; that there were not enough of the officers of the Army and Navy that could be spared to do this business; and therefore it was exceedingly desirable that this particular section should be repealed so that civilians might be appointed; and he suggested that he was a proper man for the appointment at the same time that he furnished me the information. Well, sir, he was a very proper man, and would make a good appointee. He was a friend of mine, and I should like to have had him appointed. When I came on here, I inquired of the Light-House Board to know how the fact was; and they stated that the system, as it had been found in its operation heretofore, had been very beneficial; that it was taken out of politics and political changes; that the whole light-house establishment, as we all concede, had been exceedingly well managed and economically, and was an exceedingly good system at the present time; and that if any interference of this sort was had, the result would be to throw it into political changes, and it would work evil. I inquired as to the necessity for it. They said there was no necessity for it; that they ordinarily had officers enough, who were not fit for any other duty, to attend to it, and where they had not, the engineers attended to it; that the whole system went on exceedingly well and economically, and that any change would be only for the worse. I became satisfied of it, and I opposed the change for that reason, although I had a personal friend that I should like to have had appointed.

When this subject was started in the House, it started really on a single case. The bill was got up for the purpose of having a certain man appointed down on the coast of Florida. I suggest to the Senator from Michigan that the Committee on Commerce had better look into the subject and inquire of the Light-House Board in regard to it. If they do, they will find there is no necessity for it, and that it will only lead to evil and the multiplication of offices.

Mr. CHANDLER. I will state to the Senator that the Committee on Commerce examined the subject very thoroughly, and the whole House bill has been stricken out by the committee, and the superintendence of the light-houses transferred to the revenue service. The Secretary of the Treasury stated to me that he could perform this service without any expense whatever to the Department; that the captains in the revenue service were continually cruising along the coasts where light-houses were located and could do this duty without any expense to the Government. The bill provides that there shall be no extra pay for superintendence; whereas, under the old system, officers of the Army and Navy who were on waiting-orders pay, or some other small pay, were exceedingly anxious to obtain these appointments because it placed them on active-service pay. Then, again, officers of the Army and Navy draw mileage while they are in this service; so that in fact you pay a larger extra sum to officers of the Army and Navy than you would pay if you appointed civilians. Under this proposition to transfer the service directly to the Treasury Department and authorize the employment of revenue officers, they are, as I said before, cruising about in the revenue cutters and can perform the service just as well, and without any expense whatever to the service.

Mr. GRIMES. I have an amendment which I should like to submit.

The VICE PRESIDENT. There is an amendment to an amendment now pending.

Mr. CHANDLER. I will withdraw that amendment to the amendment upon the representation of the Senator from Maine.

The VICE PRESIDENT. The amendment to the amendment is withdrawn, and the amendment of the Senator from Iowa is now in order.

Mr. GRIMES. I offer the following amendment to the amendment, as an additional section:

And be it further enacted, That all acts and parts of acts authorizing or requiring the detail of officers of the Army or Navy for service as inspectors or for the performance of other duty in connection with the light-houses of the United States be, and the same are hereby, repealed.

Mr. FESSENDEN. I should like to hear the Senator give some reason for that amendment. I hope it will not be adopted.

Mr. GRIMES. It is to perfect the bill.

Mr. FESSENDEN. I do not know what the gentleman means by perfecting the bill. I suppose he means to defeat it. The truth is, I am perfectly satisfied that any interference, any intermeddling with the light-house system as it exists at the present time will be very unwise indeed. As I said before, I examined this subject some time ago; and the Secretary of the Treasury, I am bound to think, at the time he made these recommendations, had not investigated the matter so fully as he has since, in connection with the Light-House Board, of which he is a member, and, I believe, the President. I know that since the proposition was made here to transfer the light-house system to the Navy the board were called upon to report on the subject. Before that report had been made the Secretary of the Treasury, on his own hook, not on consultation with the board of which he is a member, had the impression that this matter could be transferred to the revenue department. I am inclined to think that since that time he has changed his opinion on that subject, because since then he has had a full report from the board itself; and I am very much of the opinion that he would not express the same views now that he has heretofore. I cannot say so positively; but that is my impression. Since that time the Light-House Board have made a report, which has been laid on our table, and printed. I think it was presented by the chairman of the Committee on Commerce himself. I have read that report carefully since it was printed, from beginning to end. It satisfies me perfectly and strengthens my previous impression that it would be very unwise, without very great consideration, to meddle with it at all. There is not the slightest complaint about it as it is. The Secretary of the Treasury knows very little about it, comparatively, because his time has not permitted him to examine it; although, to be sure, he is president of the board; he is the head of it and has the management of it, and it is all under his supervision in point of fact.

Now, sir, if the Senator has read that report of the Light-House Board carefully, I think he must come to the same conclusion that I have. The whole light-house system is managed by the board itself. It has one or two secretaries, who are the executive officers. It is perfect in its operation as any system in the world, and has been productive of very great benefit to commerce and very great saving and economy in the public money. It has been managed by gentlemen of high character, and it has been managed well. They who know and understand the details of it make no application for any change. They do not desire it. The reasons are quite satisfactory to me why there should be none. To be sure, the officers of the Army and Navy cannot at this moment be detailed for this service; and if they do detail them, they are probably some who could not serve elsewhere; but it is under the charge of the engineers and the principal men in the office, and the system goes along perfectly well, just as it has heretofore.

Suppose you put it under the charge of revenue officers. I am bound to say that the revenue officers are not, as a general rule, so far as I have known anything about them, men capable of managing this business so well. They can manage a ship; they can attend to their business at sea; but they have not the requisite information and knowledge to attend to this duty in addition to their own. The Secretary might have had an idea that it could work under his direction, through the officers of the revenue; but I think he will find himself very much mistaken, and that he will be imposing upon them a business to which they would hardly be adequate. I suggest to the Senator from Michigan that he had better examine the matter further before he presses this bill. If he then remains of the same opinion, perhaps I shall make no objection to it.

Mr. CHANDLER. I have very carefully examined the same report to which the Senator alludes, and I confess that I came to a different conclusion, although not wholly from that report. The object of this bill is not to change—as the Senator from Iowa seems to be so desirous that it should—the service entirely; but to leave it optional with the Secretary either to appoint from Army or Navy officers or the revenue service. If there is an incompetent man in the revenue service, of course the Secretary would not appoint him. If he proved himself incompetent, of course the Secretary would remove him.

Then again, sir, we have actually paid starvation prices until this year to our revenue officers. We have raised their pay, and we are raising the grade of character in that service. Now, no man will say that Captain Faunce is not as capable to superintend a light-house as any captain in the Navy. There are other equally good officers in that service. The bill leaves it optional with the Secretary of the Treasury either to appoint an officer of the Army or Navy or of the revenue service; and that is all there is of it.

Now, sir, at this time we have not the Army or Navy officers to spare. We have three or four light-house inspectors upon the lakes, and there are no officers to be detailed to that service. We have revenue officers there who can perform this service, who are applying for it, who are anxious to perform it. It will be done without one shilling of expense to the Government. You pay no extra pay, no mileage, no perquisites. I see no reason why this bill should not be passed, and passed at once. I think it is for the interest of the service, and it will be an economical measure to the Treasury. I hope, however, the amendment of the Senator from Iowa will not be adopted.

Mr. GRIMES. The Senator from Maine desired me to state the reason why I offered this amendment. I will do so very briefly. It is to carry out, as I understand it, the principle of the Senator from Michigan and of the Committee on Commerce, who proposed the original amendment that we are now acting upon. They propose, as I understand it, to put the entire control, so far as the inspection and practical control of the light-house system is concerned, into the charge of the revenue officers, or in case there is a deficiency in the number of those officers, then into the hands of such civilians as the Secretary of the Treasury may select. Now, if that be so, neither the Navy Department nor the War Department ought to be required to hold a portion of the men attached to their services in reserve for the purpose of being used in connection with the light-house service; nor should either of those services, or the men who are attached to those services, be required to come in, as the Senator has just suggested before he took his seat, to piece out and to fill up vacancies that may occur in case the Secretary of the Treasury may not be able to find competent and skillful men in the corps which is under his special charge.

I understand that to be the objection that the Senator from Michigan urges to my amendment. He wants to have, as a general rule, as a principle, these inspectors and other officers selected from the revenue service or from civil life; but in case there should occur a vacancy which the Secretary cannot fill, then he shall be authorized to detail an officer either from the Army or Navy. I do not want any such disparagement as that thrown upon either the Army or the Navy. If you want the business conducted properly, let one service or the other be responsible for it. Then there will be a pride on the part of that particular service in having it properly performed. If you give it to the Treasury and the revenue service, let the revenue service be responsible, and in time the Senator from Michigan and the Secretary of the Treasury may make the revenue service respectable in the eyes of the country. As it is, we do not know anything about it. We are building up a sort of navy under the control of the Secretary of the Treasury of which no man on earth has any information. We do not know—I apprehend there is not a member of this body who knows—of how many that service is composed, how many captains there are, how many lieutenants, or what may be the number of sub-officers in it. They are not sent before the Senate for confirmation. We have no register of them published. We pay them, and that is all we do or have to do in connection with them. My impression has been that there was not the highest order of talent in that service. I may be mistaken. If I am mistaken, if the Senator from Michigan is willing to throw the entire responsibility of the light-houses upon them, he may in time, as I say, elevate the standard of that service.

If we are going to make this experiment again, I want this amendment adopted, because if we are going to make the experiment I do not want either the Army or Navy in any degree responsible for it. I want the revenue service and the Secretary of the Treasury—if he has recommended and made this suggestion to the Committee on Commerce—to have the entire credit that may fall to them; and in order that they may have the entire credit with the mercantile and commercial community, with the men of commerce, I want them to have the sole appointment from their own service of all these inspectors. Mr. President, we have tried this thing once. A few years ago the light-houses were under civil superintendence. I think a man by the name of Pleasanton was the chief.

Mr. FESSENDEN. The Fifth Auditor.

Mr. GRIMES. Gentlemen who represent commercial cities can bear testimony as to what the condition of the light-house service was when it was taken out of his hands, out of civilians' hands, and placed in the hands of the Army and Navy. If the Secretary of the Treasury and the Committee on Commerce are willing to make the experiment again, I am content that they should do it, but I do not want any other service to share any responsibility that may flow from it with them.

Mr. CHANDLER. The Committee on Commerce did not recommend the appointment of civilians. They simply recommended that revenue officers might be appointed in addition to officers of the Army and Navy. The other was my own proposition, which I withdrew at the suggestion of the Senator from Maine. The Senator from Iowa seems to have so exalted an opinion of the Army and Navy officers that he thinks they are to be degraded by coming in contact with revenue officers. Sir, they are public servants to do the duties to which they are assigned, and I do not think their dignity will be at all injured by coöperating with the revenue officers. I hope that the amendment to the amendment will not be adopted. Let them go as other servants do where they are ordered to go, and let the revenue officers do the same thing. I do not think that any service is degraded by coming in competition or in connection with the revenue service of this country. I deny it.

Mr. HALE. There is danger of our getting excited on this bill, and of its taking up considerable time and crowding out the regular order. There seems to be a difference of opinion about it, even among the distinguished gentlemen who have spoken on it; and I move that it be postponed for the purpose of taking up the regular order.

The VICE PRESIDENT. The Senator calls for the regular order of the day, and it is now before the Senate.

SLAVERY IN THE DISTRICT.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 108) for the release of certain persons held to service or labor in the District of Columbia, the pending question being on the amendment proposed by Mr. DOOLITTLE to the amendment of Mr. DAVIS.

The amendment of Mr. DAVIS is to insert, as an additional section:

And be it further enacted, That all persons liberated under this act shall be colonized out of the limits of the United States, and the sum of $100,000, out of any money in the Treasury not otherwise appropriated, shall be expended under the direction of the President of the United States for that purpose.

Mr. DOOLITTLE proposes so to amend the amendment as to make it read:

And be it further enacted, That the sum of $100,000, out of any money in the Treasury not otherwise appropriated, shall be expended under the direction of the President of the United States to aid in the colonization and settlement, with their own consent, of free people of color from said District in the republics of Hayti and Liberia, or elsewhere.

Mr. DOOLITTLE. At the suggestion of a friend, I desire to make a verbal alteration in the amendment to the amendment.

The VICE PRESIDENT. It is in the power of the Senator to do so.

Mr. DOOLITTLE. I desire to change it in this way: strike out in the amendment offered by the Senator from Kentucky, the words, "all persons liberated under this act shall be colonized out of the limits of the United States, and," and also the words "for that purpose," at the end of his amendment, and add the following at the end of it:

To aid in the colonization and settlement of such free people of African descent now residing in said District as may desire to emigrate to the republics of Hayti or Liberia, or such other country beyond the limits of the United States as the President may determine.

So that the amendment, if amended as I propose, will read:

That the sum of $100,000, out of any money in the Treasury not otherwise appropriated, shall be expended, under the direction of the President of the United States, to aid in the colonization and settlement of such free people of African descent now residing in said District as may desire to emigrate to the republics of Hayti or Liberia, or such other country beyond the limits of the United States as the President may determine.

And upon that amendment to the amendment, I call for the yeas and nays.

The yeas and nays were ordered.

Mr. HALE. I want to suggest to the Senator from Wisconsin that that amendment is exceedingly loose and indefinite, and it will be unsafe legislation to adopt it as it is. It simply appropriates $100,000 to aid in this colonization, and does not limit the direction it shall take, how it is to aid them, or how extensive the aid may be. According to the amendment as it now stands, the whole $100,000 might be taken to help one colored person off. There is no limit as to the amount per head that shall be paid, no direction given as to the manner in which it shall be paid—whether it shall be paid for supporting them after they get there, or for their transportation to go there—but simply in loose, indefinite, general terms, as I understand it, an appropriation of $100,000.

Mr. DOOLITTLE. It is to be expended under the direction of the President, just as these appropriations are always made.

Mr. HALE. No, sir; not as such appropriations are always made. When the Senator from Connecticut [Mr. FOSTER] introduced one in regard to taking possession of the cotton lands, there was a limit made how much *per capita* they should have; and my impression is that generally when we have made appropriations for sending back slaves who have been taken from slavers on the high seas, we have made them *per capita*—we have not left it to the discretion of the President.

SENATE SMOKED OUT.

Mr. GRIMES. It is impossible for us to sit here in this smoke; we can hardly breathe; and I therefore move that the Senate adjourn until Monday next.

Mr. FESSENDEN. Has a motion been made to adjourn over?

Mr. GRIMES. I make it now.

Mr. FESSENDEN. You should make that as a preliminary motion.

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

The motion was agreed to.

Mr. GRIMES. I now move that the Senate adjourn.

Mr. FESSENDEN. Before that motion is put, I should like to inquire what has become of our resolution to remove these bakeries? All this smoke comes from there. That resolution passed the Senate some time ago.

Mr. HALE. It failed in the House.

Mr. FOOT. I will answer the Senator. The Senate passed a resolution directing the Commissioner of Public Buildings to remove the Army bakeries from the basement story of this building. It was passed by the unanimous vote of the Senate, and went to the House of Representatives, and after lying there some weeks, was taken up, and upon consideration, on a vote by yeas and nays, it was voted down by a decided majority. I think the continuance of those bakeries is an outrage upon the occupants of this building, and upon the public at large.

Mr. ANTHONY. I move that the House of Representatives be respectfully informed that the Senate is compelled to adjourn on account of the smoke from the bakeries. ["Oh, no."] I think it ought to be called to their attention officially.

The VICE PRESIDENT. The bill of the Senate No. 108, is the subject before the Senate.

Mr. HALE. On which I had the floor, and gave way for a motion to adjourn.

Mr. GRIMES. I made that motion.

Mr. FESSENDEN. Allow me to make one remark. I think it would be advisable to request the House, since their patriotism will not allow them to have the bakeries removed, to remove them over to their side. It seems that they are willing that we should take all the injury on our side and be smoked out as long as it does not affect them.

Mr. GRIMES. I move that the Senate adjourn.

Mr. SHERMAN. I hope the Senate will not adjourn for so trifling a cause;

The VICE PRESIDENT. The motion is not debatable.

Mr. SHERMAN. I call for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. WILSON, of Massachusetts. I should like to have a brief executive session. There are one or two important cases that should be acted upon.

The question being taken by yeas and nays, resulted—yeas 18, nays 19; as follows:

YEAS—Messrs. Anthony, Carlile, Clark, Davis, Doolittle, Foot, Foster, Grimes, Howard, Kennedy, Lane of Indiana, Powell, Saulsbury, Simmons, Trumbull, Wilkinson, Wilson of Missouri, and Wright—18.

NAYS—Messrs. Browning, Collamer, Dixon, Hale, Harlan, Harris, Henderson, Howe, King, Latham, Morrill, Pomeroy, Sherman, Stark, Sumner, Ten Eyck, Wade, Willey, and Wilson of Massachusetts—19.

So the Senate refused to adjourn.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the

House had passed the following bill and joint resolution; in which the concurrence of the Senate was requested:

A bill (No. 344) to secure to pilots, engineers, sailors, and crews upon gunboats and war vessels bounty and pensions; and

A joint resolution (No. 55) authorizing the Secretary of the Navy to cause the steam frigate Roanoke to be iron clad and otherwise improved.

BILLS BECOME LAWS.

The message also announced that the President of the United States had, on the 17th instant, approved and signed the following acts and resolution:

An act (H. R. No. 114) authorizing floats to issue in satisfaction of claims against the United States for lands sold by them within the Las Ormigas and La Nana grants, in the State of Louisiana;

An act (H. R. No. 341) to authorize the purchase of coin, and for other purposes; and

A resolution (H. R. No. 51) authorizing the Secretary of the Navy to inquire into the causes of the failure of certain contracts for steam machinery, and to remit penalties connected therewith.

And on the 19th instant:

An act (H. R. No. 353) to provide for the appointment of clerks in the office of the Assistant Treasurer at Boston, to fix their salaries, and to provide for the absence of the Assistant Treasurer, and for other purposes.

COMMODORE DU PONT.

The VICE PRESIDENT laid before the Senate the following message from the President of the United States:

To the Senate and House of Representatives:

The third section of the "act further to promote the efficiency of the Navy," approved 21st December, 1861, provides "that the President of the United States, by and with the advice and consent of the Senate, shall have the authority to detail from the retired list of the Navy for the command of squadrons and single ships, such officers as he may believe that the good of the service requires to be thus placed in command; and such officers may, if upon the recommendation of the President of the United States they shall receive a vote of thanks of Congress for their services and gallantry in action against an enemy, be restored to the active list, and not otherwise."

In conformity with this law, Captain Samuel F. Du Pont, of the Navy, was nominated to the Senate for continuance as the flag officer in command of the squadron which recently rendered such important service to the Union in the expedition to the coasts of South Carolina, Georgia, and Florida.

Believing that no occasion could arise which would more fully correspond with the intention of the law, or be more pregnant with happy influence as an example, I cordially recommend that Captain Samuel F. Du Pont receive a vote of thanks of Congress for his services and gallantry displayed in the capture, since the 21st December, 1861, of various points on the coasts of Georgia and Florida, particularly Brunswick, Cumberland island and sound, Amelia island, the towns of St. Mary's, St. Augustine, and Jacksonville, and Fernandina. ABRAHAM LINCOLN.

WASHINGTON CITY, *March* 20, 1862.

The message was read.

On motion of Mr. GRIMES, it was referred to the Committee on Naval Affairs.

EXECUTIVE SESSION.

Mr. WILSON, of Massachusetts. I move that the Senate proceed to the consideration of executive business. It is important to have an executive session for a few moments, and then we can adjourn.

Mr. TRUMBULL. I hope the Senator from Massachusetts will let us proceed with the resolution from the House of Representatives tendering the aid of the General Government to such States as think proper to emancipate their slaves. Perhaps we can get a vote on that.

Mr. SAULSBURY. I will state to the Senator from Illinois that it is not to be expected that a resolution of that character, affecting as it does the interests of the border States, can be passed in one hour or two hours or a day. We must express our views upon it before such a resolution can be adopted here.

Mr. TRUMBULL. If it is to be discussed, we may as well hear the discussion now. As the Senator from Delaware designs to make a speech upon it, he can do so now.

Mr. WILSON, of Massachusetts. I renew my motion that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in the consideration of executive business, the doors were reopened.

PRINTING OF A BILL.

On motion of Mr. MORRILL, it was

Ordered, That the bill (S. No. 239) to provide for the public defense, and to accept a loan of money therefor from the several States, be printed.

HOUSE BILLS REFERRED.

The following bill and joint resolution from the House of Representatives were read twice by their titles, and referred as indicated below:

A bill (No. 344) to secure to pilots, engineers, sailors, and crews upon gunboats and war vessels, bounty and pensions—to the Committee on Pensions.

A joint resolution (No. 55) authorizing the Secretary of the Navy to cause the steam frigate Roanoke to be iron clad and otherwise improved—to the Committee on Naval Affairs.

On motion of Mr. HALE, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *March* 21, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, in reply to a resolution of the House of Representatives of March 17, 1862, calling for information in relation to the marshal and district attorneys of the northern district of New York; which was referred to the Committee on the Judiciary, and ordered to be printed.

STATIONERY OF COMMITTEES.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Postmaster of the House, in answer to a resolution of the House inquiring as to the amount of stationery furnished to committees; which was laid upon the table, and ordered to be printed.

DEPARTMENT OF THE WEST.

Mr. BLAIR, of Missouri, obtained the floor.

Mr. WICKLIFFE. I rise to a question of privilege, which I think belongs to a member of the House.

The SPEAKER. The gentleman from Missouri was recognized, and the Chair does not know how he can be taken off the floor by any question of privilege.

Mr. WICKLIFFE. Give me the floor, sir, and I will state it. It is a question of privilege, and I think I have a right to state it.

The SPEAKER. The gentleman will state his question of privilege.

Mr. WICKLIFFE. The day before yesterday in the debate upon a proposition to amend the tax bill, I referred to the action of this Government——

The SPEAKER. The Chair thinks that the gentleman's statement cannot involve a question of privilege. It is only a personal explanation, and a personal explanation can only be made by unanimous consent of the House.

Mr. WICKLIFFE. I am not going to make a personal explanation, but to call upon a member to know if he is correctly reported in the Globe, and then I will make my question of privilege.

The SPEAKER. It is a question of personal explanation and not of privilege.

Mr. WICKLIFFE. Then if I have to appeal to the justice of the House for unanimous consent, I ask it for the purpose of ascertaining from the member from Illinois [Mr. LOVEJOY] whether he is correctly reported in the Globe.

The SPEAKER. The gentleman from Kentucky asks unanimous consent to make a personal explanation. Is there objection?

Mr. BLAIR, of Missouri. Yes, sir. I want to ask the House to take up a bill for the benefit of some of our soldiers, and that is of more importance than any personal explanation. I ask the unanimous consent of the House to take from the Speaker's table the bill of the House (No. 148) to secure to the officers and men actually employed in the western department, or department of Missouri, their pay, bounty, and pension, which has been returned from the Senate with amendments. I desire that the amendments shall be concurred in.

There being no objection the bill was taken from the Speaker's table, and the amendments of the Senate were agreed to, as follows:

First amendment:

Page 1, after line sixteen, insert:

Provided, That the length and character of their enlistment and service be such as to entitle them, under existing law, to such pension.

Second amendment:

Strike out section three, and insert in lieu thereof the following:

SEC. 3. *And be it further enacted*, That the heirs of those killed in battle, or of those who may have died from wounds received while so in service, shall be entitled to receive the bounty and pay to which they would have been entitled had they been regularly mustered into service: *Provided*, That the bounty and pay referred to in this act shall not be payable unless their term of enlistment and service be of such duration as to entitle them to receive the same, according to existing laws.

Mr. BLAIR, of Missouri, moved to reconsider the votes by which the amendments of the Senate were agreed to; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

PERSONAL EXPLANATION.

Mr. WICKLIFFE. I ask unanimous consent of the House to make a personal explanation.

There was no objection.

Mr. WICKLIFFE. I desire to inquire of the gentleman from Illinois [Mr. LOVEJOY] whether he is correctly reported in the following paragraph from yesterday's Globe:

"I will simply add, without consuming my five minutes, that in the case of the Creole, to which the gentleman from Kentucky alluded, although the Government, then virtually in the hands of slaveholders, did make some attempt to obtain pay for those slaves from the British Government, it was not granted to them; and I reiterate the statement that the General Government has never recognized the right of property in human beings. They have simply let it alone in the States because the Constitution, as they conceived, did not give them the power to interfere with it there. It has been simply skulking behind the doctrine of State sovereignty."

I desire to state——

Mr. STEVENS. I do not see that there is any personal explanation in that.

The SPEAKER. The Chair has no control over it. The House has given the gentleman permission to make a personal explanation.

Mr. STEVENS. I understand the gentleman is about to get up a discussion on the Creole matter.

Mr. WICKLIFFE. No, sir; I wish to prove what I said in the debate was the fact; and the gentleman [Mr. LOVEJOY] ought to have known better. My statement in substance was, that the Government of the United States, in all of its departments, executive, legislative, and judicial, and in its foreign intercourse, had regarded slaves as property. As such the Constitution, the laws of the United States, and the laws of nations, had protected it as property.

I referred to the case of the Creole, and stated that the British Government had paid the owners of the slaves on that vessel. The gentleman does not withdraw his contradiction. I now produce a public document, printed by order of Congress. It is the proceeding of the joint commission, of Mr. Upham of the United States, and Mr. Hanby of England, and Mr. Bates of London, a jurist of great ability and character, which reads as follows. This adjudication embraced the slaves of two other ships. The British Government paid the money for the whole of these slaves:

Bates Umpire:

This case having been submitted to the umpire for his decision, he hereby reports that the claim has grown out of the following circumstances:

The American brig Creole, Captain Ensor, sailed from Hampton Roads, in the State of Virginia, on the 27th October, 1841, having on board one hundred and thirty-five slaves, bound for New Orleans. On the 7th November, at nine o'clock in the evening, a portion of the slaves rose against the officers, crew, and passengers, wounding severely the captain, the chief mate, and two of the crew, and murdering one of the passengers; the mutineers, having got complete possession of the vessel, ordered the mate, under threat of instant death, should he disobey or deceive them, to steer for Nassau, in the island of New Providence, where the brig arrived on the 9th of November, 1841.

The American consul was apprised of the situation of the vessel, and requested the Governor to take measures to prevent the escape of the slaves, and to have the murderers secured. The consul received reply from the Governor, stating that, under the circumstances, he would comply with the request.

The consul went on board the brig, placed the mate in command in place of the disabled master, and found the slaves all quiet.

About noon twenty African soldiers, with an African sergeant and corporal, commanded by a white officer, came on board. The officer was introduced by the consul to the mate as commanding officer of the vessel.

The consul, on returning to the shore, was summoned to attend the Governor and Council, who were in session, who informed the consul that they had come to the following decision:

"1. That the courts of the law had no jurisdiction over the alleged offenses.

"2. That, as information had been lodged before the Governor charging that the crime of murder had been committed on board said vessel while on the high seas, it was expedient that the parties implicated in so grave a charge should not be allowed to go at large, and that an investigation ought, therefore, to be made into the charges, and examinations taken on oath, when, if it should appear that the original information was correct, and that a murder had actually been committed, that all the parties implicated in such crime or other acts of violence, should be detained here until reference could be made to the Secretary of State to ascertain whether the parties should be delivered over to the United States Government; if not, how otherwise to dispose of them.

"3. That, as soon as such examinations should be taken, all persons on board the Creole not implicated in any of the offenses alleged to have been committed on board that vessel, must be released from further restraint."

Then two magistrates were sent on board. The American consul went also. The examination was commenced on Tuesday the 9th, and was continued on Wednesday the 10th, and then postponed until Friday on account of the illness of Captain Ensor. On Friday morning it was abruptly, and without any explanation, terminated.

On the same day a large number of boats assembled near the Creole, filled with colored persons, armed with bludgeons. They were under the immediate command of the pilot who took the vessel into the port, who was an officer of the Government, and a colored man. A sloop or larger launch was also towed from the shore and anchored near the brig. The sloop was filled with men armed with clubs, and clubs were passed from her to persons in the boats. A vast concourse of people were collected on the shore opposite the brig.

During the whole time the officers of the Government were on board they encouraged the insubordination of the slaves.

The Americans in port determined to unite and furnish the necessary aid to forward the vessel and negroes to New Orleans. The consul and the officers and crews of two other American vessels had, in fact, united with the officers, men, and passengers of the Creole to effect this. They were to conduct her to Indian Quay, Florida, where there was a vessel of war of the United States.

On Friday morning the consul was informed that attempt would be made to liberate the slaves by force, and from the mate he received information of the threatening state of things. The result was, the attorney general and other officers went on board the Creole. The slaves, identified as on board the vessel concerned in the mutiny, were sent on shore, and the residue of the slaves were called on deck by direction of the attorney general, who addressed them in the following terms:

"My friends," or "my men, you have been detained a short time on board the Creole for the purpose of ascertaining what individuals were concerned in the murder. They have been identified, and will be detained. The rest of you are free, and at liberty to go on shore, and wherever you please."

The liberated slaves, assisted by the magistrates, were then taken on board the boats, and when landed, were conducted by a vast assemblage to the superintendent of police, by whom their names were registered. They were thus forcibly taken from the custody of the master of the Creole and lost to the claimants.

I need not refer to authorities to show that slavery, however odious and contrary to the principles of justice and humanity, may be established by law in any country; and, having been so established in many countries, it cannot be contrary to the law of nations.

The Creole was on a voyage, sanctioned and protected by the laws of the United States and by the laws of nations. Her right to navigate the ocean could not be questioned, and as growing out of that right, the right to seek shelter or enter the ports of a friendly Power in case of distress or any unavoidable necessity.

A vessel navigating the ocean carries with her the laws of her own country, so far as relates to the persons and property on board, and, to a certain extent, retains those rights even in the ports of the foreign nations she may visit. Now, this being the state of the law of nations, what were the duties of the authorities of Nassau in regard to the Creole? It is submitted the mutineers could not be tried by the courts of that island, the crime having been committed on the high seas. All that the authorities could lawfully do, was to comply with the request of the American consul, and keep the mutineers in custody until a conveyance could be found for sending them to the United States.

The other slaves, being perfectly quiet, and under the command of the captain and owners, and on board an American ship, the authorities should have seen that they were protected by the laws of nations; their rights under which cannot be abrogated or varied, either by the emancipation act or any other act of the British Parliament.

Blackstone, fourth volume, speaking of the law of nations, states: "Whenever any question arises, which is properly the object of its jurisdiction, such law is here adopted in its full extent by the common law."

The municipal law of England cannot authorize a magistrate to violate the law of nations by invading with an armed force the vessel of a friendly nation that has committed no offense, and forcibly dissolving the relations which, by the laws of his country, the captain is bound to preserve and enforce on board.

These rights, sanctioned by the law of nations, namely: the right to navigate the ocean, and to seek shelter in case of distress or other unavoidable circumstances, and to retain over the ship, her cargo, and passengers, the laws of her own country—must be respected by all nations, for no independent nation would submit to their violation.

Having read all the authorities referred to in the arguments on both sides, I have come to the conclusion that the conduct of the authorities of Nassau was in violation of the established law of nations, and that the claimants are justly entitled to compensation for their losses. I therefore award to the undermentioned parties, their assigns or legal representatives, the sums set opposite their names, due on the 15th of January, 1855.

GUNBOATS, PILOTS, ENGINEERS, ETC.

Mr. SEDGWICK. I ask the unanimous consent of the House to report back from the Committee on Naval Affairs a bill (H. R. No. 344) to secure to pilots, engineers, sailors, and crews upon gunboats and war vessels their bounty and pensions.

The bill was originally reported from the Committee on Military Affairs and referred to the Committee on Naval Affairs.

There being no objection, the bill was reported back, and read. It provides that the pilots, engineers, sailors, and crews upon gunboats and war vessels of the United States, who have not been regularly mustered into the service of the United States, shall be entitled to the same bounty allowed to persons in the naval service, provided they continue in service to the close of the present war; and that all persons serving as aforesaid, who have been or may be wounded or incapacitated for service, shall be entitled to receive for such disability the pension allowed by existing laws; and that each and every person shall receive pay according to corresponding rank in the naval service. The second section provides that the heirs of all persons who have been and may be employed as aforesaid, or who have been or may be killed in battle, or of those who have died or shall die of wounds received while so employed, shall be paid the bounty and pension allowed under existing laws of the naval service, according to rank, as provided in the preceding section.

The Committee on Naval Affairs recommended amendments, as follows:

At the end of the first section insert the following proviso: *Provided*, That no person receiving pension or bounty under the provisions of this act, shall receive either pension or bounty for any other service in the present war.

In the second section, after the word "the," insert the words "widows and;" so that it will read: "That the widows and heirs of all persons," &c.

Amend the title by striking out the word "their;" so that it will read: "Bill to secure to pilots, engineers, sailors, and crews upon gunboats and war vessels bounty and pensions."

Mr. HOLMAN. I wish to inquire of the chairman of the Committee on Naval Affairs whether it is understood that this bill, of which the first section seems a little ambiguous, applies to pilots, engineers, and sailors on gunboats on the western rivers?

Mr. SEDGWICK. It does. That is the object of the bill.

Mr. HOLMAN. Then it is manifestly right, clearly right, no doubt of it.

The question was taken on the amendments to the bill; and they were respectively agreed to.

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

The amendment to the title was agreed to.

Mr. SEDGWICK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

IRON-SHEATHING THE ROANOKE.

Mr. SEDGWICK. I ask unanimous consent to report from the Committee on Naval Affairs a joint resolution, the propriety of which will appear. It is very short, and there is a necessity for its immediate passage.

The joint resolution was read. It authorizes the Secretary of the Navy to cause the United States steam frigate Roanoke to be iron clad and otherwise altered and improved, in his discretion, at the earliest day possible.

There being no objection, the joint resolution was reported, received its several readings, and passed.

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

The latter motion was agreed to.

BUSINESS OF THE SESSION.

Mr. STEVENS. Before moving that the rules be suspended and that the House resolve itself into the Committee of the Whole on the state of the Union, I desire to say that I hope no motion will be made to adjourn over to-morrow, or, if made, that the House will not agree to it. There are three or four very urgent matters that we cannot take up until we have disposed of the tax bill. But there are things that can be acted on to-morrow, such as amendments from the Senate, and one or two matters for the Treasury Department, which are important to have acted on. I intend, therefore, before we adjourn to-day, to move to postpone the tax bill until Monday, so that we may attend to those other matters to-morrow.

Mr. VALLANDIGHAM. May I ask the chairman of the Committee of Ways and Means this question: if we meet on Saturdays and work industriously on that day and other days, how soon, probably, will Congress be able to adjourn?

Mr. STEVENS. That depends upon how many objections there may be to the tax bill.

Mr. VALLANDIGHAM. I have made none. The gentleman will acquit me. I have a great many objections to it, but I see no use in making any.

Mr. STEVENS. I hope, so far as the Committee of Ways and Means is concerned, that we shall be able to adjourn by the 1st of May.

Mr. VALLANDIGHAM. I hope so.

Mr. STEVENS. But, in order to do that, we must work more days than we have done, and perhaps a little in the evenings.

Mr. VALLANDIGHAM. And extra hours on Sundays. [Laughter.]

Mr. STEVENS. I desire to get out of the way a few bills that cannot, without great detriment to the public service, be acted on until the tax bill is disposed of. Hence, I ask the House not to adjourn over to-morrow. Of course, it is not necessary for every member to be present when these bills are being acted on to-morrow. They are not quite so important as the tax bill, although they are quite important to the Department.

PAY, ETC., OF ARMY OFFICERS.

Mr. BLAIR, of Missouri, by unanimous consent, reported back from the Committee on Military Affairs, with amendments, an act to define the pay and emoluments of certain officers of the Army, and for other purposes; which was recommitted to the Committee on Military Affairs, and ordered to be printed.

CONFISCATION.

Mr. BINGHAM asked and obtained leave to have printed the substitutes reported by him yesterday for the bills (H. R. No. 107 and No. 126) reported from the Committee on the Judiciary in reference to the confiscation of property.

LAW OF PRIZE.

Mr. THOMAS, of Massachusetts. I ask unanimous consent to have taken from the Speaker's table a bill to facilitate judicial proceedings in adjudications upon captured property, and for the better administration of the law of prize, returned from the Senate with a few verbal amendments, which I ask may be concurred in.

There being no objection, the bill was taken from the Speaker's table, and the amendments reported, as follows:

Strike out the words "final decree," in the first section, and insert in lieu thereof the words "further order of the court."

Section four, after the word "evidence," insert the word "and."

Same section, strike out the words "and as soon as practicable thereafter," and insert in lieu thereof the words "to the end that."

Same section, strike out the words "of distribution," wherever it occurs.

Section five, after the word "trade," insert the words "determining what public ships of the United States are entitled to share in the prize, and whether the prize was of superior, equal, or inferior force to the vessel or vessels making the capture;" so that the sections will read:

And if the same be so found by the court, upon said report or other evidence, the court may thereupon order an interlocutory sale thereof by the United States marshal, and the deposit of the gross proceeds of such sale in the registry of the court, to abide the further order of the court, whether a claim to said property has or has not been interposed.

SEC. 4. *And be it further enacted*, That whensoever a final decree of condemnation of property captured as prize shall have been made, unless an interlocutory sale has been made as hereinbefore provided for, the property shall be sold by the United States marshal pursuant to the practice and proceedings in admiralty, and the gross proceeds of such sale shall be forthwith deposited in court; and thereupon the prize commissioners shall proceed, under the direction of the court, to take the requisite evidence and to determine

the rights of parties as distributees of such prize proceeds, and report the same to the court, to the end that a final decree shall be made, and within thirty days after the entry of the same the clerk of the court shall transmit to the Treasury of the United States the moneys so deposited in court, together with a certified copy of the said decree, after deducting from said moneys the costs of court and the charges and expenses hereinbefore provided for.

SEC. 5. *And be it further enacted*, That the provisions of this act shall apply as well to cases now pending as to all future cases of maritime captures, and to captures and seizures made under the laws for the abolition of the slave trade; determining what public ships of the United States are entitled to share in the prize, and whether the prize was of superior, equal, or inferior force to the vessel or vessels making the capture; and all laws and parts of laws inconsistent herewith are hereby repealed.

Mr. THOMAS, of Massachusetts. The only effect of the amendments is, that the decree of the court, instead of fixing the persons among whom the prize money is to be distributed, names merely the vessels, and leaves the distribution to be made by the Navy Department. I move that the House concur in all the Senate amendments.

The amendments were severally concurred in.

PUBLIC DEFENSE.

Mr. RICE, of Maine, by unanimous consent, introduced a bill to provide for the public defense and to accept loans of money therefor from the several States; which was read a first and second time, and referred to the Committee on Military Affairs.

TAX BILL.

Mr. STEVENS. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union on the tax bill.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed the consideration of the special order, being the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

The CHAIRMAN stated that when the committee rose yesterday, they were engaged in the consideration of the fifty-fourth section, as follows:

And be it further enacted, That the owner, agent, or superintendent of any vessel or vessels used in making fermented liquors, or of any still, boiler, or other vessel used in the distillation of spirits on which duty is payable, who shall neglect or refuse to make true and exact entry and report of the same, or to do, or cause to be done, any of the things by this act required to be done as aforesaid, shall forfeit for every such neglect or refusal all the liquors and spirits made by or for him, and all the vessels used in making the same, and the stills, boilers, and other vessels used in distillation, together with the sum of $500, to be recovered with costs of suit; which said liquors or spirits, with the vessels containing the same, with all the vessels used in making the same, may be seized by any collector of internal duties, and held by him until a decision shall be had thereon according to law: *Provided*, That such seizure be made within three months after the cause for the same may have occurred, and that a prosecution or action thereupon shall have been commenced by such collector within twenty days after the seizure thereof.

The CHAIRMAN. The pending amendment at the rising of the committee yesterday was, as follows:

Add at the end of the section the following:

One half of which penalty shall be for the use of the United States, and the other half thereof shall accrue to the benefit of the common schools of the State in which collected, and any collector or deputy collector who shall fail to prosecute any person to him known to be liable to the penalty of this section, shall be fined $100.

The committee divided on the amendment, and no quorum voted. The question will be again taken.

On a division there were—ayes 5, noes 60.

The CHAIRMAN. The Chair will order tellers.

Mr. HOLMAN. I moved the pending amendment yesterday, and I will not further press it upon the attention of the committee.

The amendment was disagreed to.

Mr. POMEROY. The proviso to this section reads as follows:

Provided, That such seizure be made within three months after the cause for the same may have occurred, and that a prosecution or action thereupon shall have been commenced by such collector within twenty days after the seizure thereof.

On motion of the gentleman from Vermont [Mr. MORRILL] that proviso was amended by inserting after the word "occurred," the words "and brought to the knowledge of the collector." The proviso, as I understand it, was in the nature of a statute of limitation. Is it not, then, a matter intolerable that the forfeiture is to be based, not upon willful neglect, but upon the mere neglect of the party? And the prosecution can be commenced years afterwards, and the person charged cannot escape unless he complies with this absurdity that he gave notice three months before of the very neglect or refusal on which the charge is made. The proviso as it now stands does away with the presumption of law of the innocence of the party accused, which applies to all criminal proceedings or *quasi* criminal proceedings, in the nature of which this is. I move, therefore, to strike out the proviso as it now stands, and to insert in lieu thereof the following:

Provided, That said seizure be made within ninety days after the cause for the same may have occurred, and the prosecution of the action thereupon shall be commenced by said collector within twenty days after the seizure thereof.

Mr. STEVENS. I suppose that the amendment applied to the prosecution, and not to the seizure. In all statutes of limitation in civil suits where the cause of action is fraudulently concealed, the statute of limitation never runs until after the fact becomes known. It is not so in criminal actions unless there is an express provision. I hope that the amendment will not be agreed to.

The CHAIRMAN. The gentleman will have to modify his amendment to bring it within the rule.

Mr. POMEROY. My object is to restore the proviso as it originally stood. I have made it ninety days instead of three months.

The CHAIRMAN. If there be no objection that will be considered as bringing the amendment within the rule.

The amendment was agreed to.

Mr. HARRISON. I move to strike out the words "together with the sum of $500, to be recovered with costs of suit; which said liquors or spirits, with the vessels containing the same, with all the vessels used in making the same;" so that it will read:

And be it further enacted, That the owner, agent, or superintendent of any vessel or vessels used in making fermented liquors, or of any still, boiler, or other vessel used in the distillation of spirits on which duty is payable, who shall neglect or refuse to make true and exact entry and report of the same, or to do, or cause to be done, any of the things by this act required to be done as aforesaid, shall forfeit for every such neglect or refusal all the liquors and spirits made by or for him, and all the vessels used in making the same, or the stills, boilers, and other vessels used in distillation, may be seized by any collector of internal duties, and held by him until a decision shall be had thereon according to law.

Mr. STEVENS. It seems to me that that part of the section has already been adopted by the committee, and that amendment to it is not now in order. I make the point of order on the amendment.

Mr. HARRISON. My recollection is that the gentleman from Pennsylvania moved to strike out all except that which had reference to the forfeiture of the liquors manufactured.

The CHAIRMAN. The Chair overrules the point of order.

Mr. HARRISON. It seems to me that this penalty is too enormous. It applies not only to the case where the distiller refuses to make a true and exact entry and report of the liquors by him distilled, but also to the case of mere neglect, which may not be willful. Now, it seems to me that if all the liquor or spirits by him made are forfeited, and he is subject to a fine of $500, that the penalty will be sufficient.

Mr. STEVENS. It seems to me that we acted on this same principle yesterday. It may be that the gentleman from Ohio has included a few more words to bring his amendment within the rule. I do not think that these vessels ought to be exempted from seizure if there has been a willful neglect of duty.

The amendment was disagreed to.

Mr. MORRILL, of Vermont, moved to amend the fifty-fifth section by inserting the words "and sold or removed for consumption or sale;" so that it will read:

And be it further enacted, That in all cases in which the duties aforesaid, payable on spirituous liquors distilled and sold or removed for consumption or sale, or beer, lager beer, ale, porter, and other similar fermented liquors, shall not be paid at the time of rendering the account of the same, as herein required, the person or persons chargeable therewith shall pay, in addition, ten per cent. on the amount thereof; and until such duties with such addition shall be paid, they shall be and remain a perpetual lien upon the distillery where such liquors have been distilled and sold or removed for consumption or sale, &c.

The amendment was agreed to.

Mr. NOBLE moved to insert after the words "per cent." the words "per annum."

The amendment was disagreed to.

Mr. RICE, of Maine. In order to make this section correspond with the previous sections, I move an amendment to the proviso. The proviso of the bill reads as follows:

Provided, further, That it shall not be lawful to make distraint of the tools or implements of a trade or profession, or any other articles exempted from distress or execution by the laws of any State, beasts of the plow necessary for the cultivation of improved lands, arms, or necessary household furniture, and apparel for a family.

I move to amend by substituting for it the following:

Provided, That there shall be exempt from distraint the tools or implements of a trade or profession, one cow, arms, or necessary household furniture, and apparel for a family.

Mr. HOLMAN. The language of this section seems to be ambiguous. Does the proviso exempt the books of lawyers and of the clerical profession? This bill ought to be uniform in its action. Do the words "tools or implements" mean the books of lawyers, medical men, and the theological student? I want to put upon the record the declaration on the part of this House that it was not the intention to exempt the libraries of lawyers, physicians, and members of the clerical profession.

Mr. THOMAS, of Massachusetts. The words of the section will exclude them from the exemption here provided, because it exempts those implements in actual use, which the lawyers' books ordinarily are not. [Laughter.]

Mr. MENZIES. I am opposed to the amendment offered by the gentleman from Indiana, [Mr. HOLMAN.] No court would decide that law books were tools or implements under the section as it stands, and in some professions tools and implements are used—for instance, dental surgery, surveying, engineering, and such employments. No man would call Blackstone a tool or an implement; the work might in some sense be an instrument in the hands of a lawyer, but would never be called a tool or instrument.

Mr. HOLMAN. Well, sir, I have accomplished my purpose by placing on record a commentary on the use of the word "profession." I withdraw my amendment to the amendment.

The amendment was agreed to.

Mr. EDWARDS. I wish to suggest an amendment in the fifty-second line. I move to insert after the words "public auction," the words "after due notice of the time and place of sale;" so that the clause would read:

But in case of non-payment or neglect to tender as aforesaid, the said officer shall proceed to sell the said goods, chattels, and effects at public auction, after due notice of the time and place of sale, and may and shall retain from the proceeds of such sale the amount demandable for the use of the United States, with the said necessary and reasonable expenses of said distraint and sale.

This amendment is obviously proper, and I presume no one will object to it.

The amendment was agreed to.

Mr. CLARK. I move to amend in the forty-fifth line of the section by inserting after the word "levying" the words "and advertisement." I will state, in explanation of the amendment, that we have amended the bill in a previous section, requiring advertisement of property to be sold under distraint, and I suppose therefore it will be proper to insert the cost of advertisement in the costs intended to be covered by this provision. The clause of the section, as I have proposed to amend it, will read:

Provided, That in every case of distraint for the payment of the duties aforesaid, the goods, chattels, or effects so distrained may and shall be restored to the owner or possessor if, prior to the sale thereof, payment or tender thereof shall be made to the proper officer charged with the collection, of the full amount demanded, together with such fee for levying and advertisement, and such sum for the necessary and reasonable expenses of removing and keeping the goods, chattels, and effects so distrained as may be allowed in like cases by the laws or practice of the State or Territory wherein the distraint shall have been made.

The amendment was adopted.

Mr. BROWNE, of Rhode Island. I move, in the fifty-sixth line, to strike out the word "five," and insert "one;" so as to make the clause read:

The said officer shall proceed to sell the said goods, chattels, and effects at public auction, and may and shall

retain from the proceeds of such sale the amount demandable for the use of the United States, with the said necessary and reasonable expenses of said distraint and sale, as aforesaid, and a commission of one per cent. thereon for his own use; rendering the overplus, if any there be, to the person whose goods, chattels, and effects shall have been distrained.

This amendment is necessary to make the provision correspond with an amendment which we have heretofore adopted.

Mr. STEVENS. I hope the amendment will not be adopted. This will be no compensation, as every one must know. I believe we did adopt some such amendment in a preceding section, but it was wrong, and I hope it will be restored in the House as reported in the bill.

Mr. BROWNE, of Rhode Island. Unless this amendment is made there will be a contradiction between the two sections.

Mr. STEVENS. But in the House that can be corrected.

Mr. BROWNE, of Rhode Island. Ah; but the committee has adopted one amendment, and I hope they will continue on in the same direction.

The amendment was not agreed to.

Mr. BLAKE. I move to amend by adding the following to the section, at the end of it:

And provided further, That the provisions of this act for the collection of taxes, imposed upon distilled spirits manufactured from and after the 1st day of May, 1862, shall apply to all distilled spirits now manufactured or that may be manufactured previous to the 1st day of May aforesaid.

Mr. BLAKE. This is necessary to make the section correspond with the previous action of the committee.

Mr. MORRILL, of Vermont. I think not. I hope the amendment will not be adopted.

Mr. BLAKE called for tellers on the amendment.

Tellers were ordered; and Messrs. BLAKE and ENGLISH were appointed.

The committee divided; and the tellers reported twenty-eight in the affirmative—a further count not being demanded.

So the amendment was disagreed to.

Mr. NOBLE. I move to add at the end of the following proviso to the section:

Provided further, That it shall not be lawful to make distraint of the tools or implements of a trade or profession, or any other articles exempted from distress or execution by the laws of any State, beasts of the plow necessary for the cultivation of improved lands, arms, or necessary household furniture, and apparel for a family:—

as follows:

Provided further, That when the same shall exceed in value $500, the excess over that sum shall not be exempt.

I do that to meet the objection of the gentleman from Indiana, [Mr. HOLMAN,] that there were certain professions or trades which may very likely have more than that amount of tools and implements. I think any such tools or implements of a trade or profession, whatever it may be, ought to be taxed. I hope the amendment will be adopted.

Mr. RICHARDSON. I am opposed to that amendment, and I desire to say a single word in reference to it. These western men have done most of the fighting, and I think they should be allowed to pay most of the taxes. This bill taxes them principally. You take from this bill the tax you impose upon the articles of tobacco, flour, whisky, and every other necessary of life, [laughter.] Well, Mr. Chairman, it is in order to allude to whisky as a necessary of life, is it not?

The CHAIRMAN. The gentleman is in order.

Mr. RICHARDSON. Exactly. Well, sir, when you have taken these articles from the bill which apply mostly to western men, you have taken nearly everything on which you are to raise revenue by this measure. The constituents of my colleague [Mr. KELLOGG] will pay $500,000 upon a single article, while your coal, your iron, and your cheese, remain untaxed.

Mr. STEVENS. I ask if the gentleman is speaking to the amendment?

Mr. RICHARDSON. I am not.

Mr. STEVENS. I hope he will confine himself to the amendment.

The CHAIRMAN. The gentleman will confine himself to exempting all tools, &c., over $500 in value.

Mr. RICHARDSON. Yes, sir. I think it ought to be limited to $500.

The CHAIRMAN. But the gentleman must oppose the amendment.

Mr. RICHARDSON. Yes, sir; I am opposed to the amendment, [laughter,] because I think $500 is too small. We tax the West upon every thing, and I think they will have as much as they can pay without that.

Mr. HOLMAN. I was about to inquire of my friend from Illinois, whether he does not see that this amendment cannot by any possibility operate prejudicially to western interests? On the contrary, I think western interests demand the adoption of this amendment, for very few lawyers, theologians, or doctors, in that country have so much in "tools and implements" as $500. But, sir, I rise not so much to debate the amendment as to offer an amendment to the amendment of the gentleman from Ohio, and which I trust he will accept. I move to strike out "$500" and insert "$300." Take the whole country through, I think when a man has more than that amount of property of this description he ought to be taxed on the excess of his property above that amount. Three hundred dollars is the ordinary amount exempted, I think, in the western States, and I presume elsewhere. It is certainly enough to exempt from taxation, and I hope my amendment will be concurred in.

Mr. NOBLE. I will make this single observation: the object of this limitation is that there shall not be too much property exempted, and inasmuch as the limitation applies to mechanics and artificers of every description, I think the tools and implements used by them will in many instances exceed $300 in value. I must, therefore, for that reason, decline to accept the amendment of the gentleman from Indiana.

The amendment to the amendment was not agreed to.

The amendment was disagreed to.

MESSAGE FROM THE SENATE.

The committee rose informally; and the Speaker having resumed the chair, a message was received from the Senate by Mr. FORNEY, its Secretary, announcing that the Senate had passed bills of the following titles; in which he was directed to ask the concurrence of the House:

A bill (No. 171) to organize the Navy Department of the United States; and

A bill (No. 244) to provide for the equitable settlement of the accounts of the officers and crews of the frigate Congress and other vessels.

The committee resumed its session, and proceeded again to the consideration of the

TAX BILL.

Mr. PHELPS, of California. I move to amend the fifty-sixth section by striking out in the sixth line after the word "the," down to and including the word "aforesaid," in the sixteenth line, as follows:

Assistant assessor of the district of the list of the person or persons to be licensed, with the rate of the license required stated therein, under the hand and seal of the collector or deputy collector of the district wherein the same is required, or of such person or persons as the Commissioner of Internal Revenue shall from time to time employ for that purpose, and the duty thereupon imposed as aforesaid shall be paid to such collector, or other person, as aforesaid, at the time of granting the license; and every collector, deputy collector, or other person employed by the Commissioner of Internal Revenue as aforesaid.

And insert in lieu thereof, as follows:

Assessor of the district of the list of the person or persons to be licensed, with the rate of the license required stated therein, to the collector; and shall be signed by the collector or a deputy collector of the district wherein the same is required; and the duty thereupon imposed as aforesaid shall be paid to the collector or his deputy, as aforesaid, at the time of granting the license, and every collector and deputy collector, &c.

I offer the amendment in that shape for the purpose of saving the necessity of offering two or three separate amendments. I strike out the words "assistant assessors" because the assessor really makes out the license, and I think he may as well deliver it. The assessor must make up the roll, and practically hand it over to the collector.

And again, the next amendment is to strike out the words "under the hand and seal of the collector or deputy collector of the district wherein the same is required." I think it is unadvisable to have these licenses granted under seal for various reasons.

The third amendment would be to strike out the words "or of such person or persons as the Commissioner of Internal Revenue shall from time to time employ for that purpose."

Under this bill, we authorize the Commissioner of Internal Revenue to employ no such persons, except the collectors themselves, nor should he have any such authority. The other branches of the amendment are to the same general effect. I hope my amendment, as a whole, will be adopted.

The amendment was agreed to.

Mr. HUTCHINS. I move to amend by inserting after the words "United States," in the fourth line, the words "and Territories thereof."

The amendment was agreed to.

Mr. BLAKE. I move to add also the words "and the District of Columbia."

The amendment was agreed to; so that the clause, as amended by the last two amendments, will read as follows:

And be it further enacted, That every license which is authorized or required to be taken out by this act shall be granted, and the duty thereon imposed shall be paid in and throughout the United States and the Territories thereof and the District of Columbia.

Mr. HOLMAN. I move to amend the fifty-seventh section by striking out, after the ninth line, the following words:

One moiety thereof to the use of the United States, the other moiety to the use of the person, who, if a collector, shall first discover, and if other than a collector, shall first give information of the fact whereby said forfeiture was incurred.

It will be seen that this is the same old relic of barbarism to which the attention of the committee has already been called—that of giving to a public informer one half of the proceeds of his own craft and cunning and testimony. If it were not for the remarkable local feeling which seems to exist among gentlemen from the great central portion of the Union, as well as in the Northwest, I think this matter could be easily adjusted. Because Pennsylvania perpetuates this *qui tam* form of action, it is to be perpetuated everywhere else. The part of the country which I represent has abolished this relic of a mediæval age entirely, and I cannot consent to remain silent and let this provision pass to pay the tax gatherer, who appears everywhere, and becomes one of the institutions of the country, one half of the amount of these recoveries as an inducement to the performance of a public duty. In a monarchy, where all the citizens are not interested in the performance of a public duty, this might be necessary. In a free and republican Government, where every citizen is interested in the performance of every public duty, there can be no argument in favor of giving one half of the amount recovered to the informer. I object to the effect which such a provision will have upon this bill. I think it will weaken the public determination to sustain this law; and as one of the parties upon this floor who is anxious that a bill shall pass which shall receive universal sanction and be fully sustained, I do protest against this provision.

Mr. STEVENS. I have only to say that this is "Monsieur Tonson come again;" for the ninth time turned out of this House, and I hope it will be again.

The amendment was not agreed to.

Mr. THOMAS, of Massachusetts. I ask the unanimous consent of the House to go back and offer an amendment to section fifty-five, to remedy what I think was an omission. It is to insert the word "provisions" after the word "land." It will be observed that while we exempt from distraint furniture, tools, and implements of trade, we have not exempted one dollar's worth of provisions.

No objection being made, the amendment was received and adopted.

Mr. MORRILL, of Vermont. By unanimous consent, I will move the same amendment to section twenty.

No objection being made, the amendment was received and adopted.

Mr. HARDING. Coming back now to section fifty-seven, I move to strike out the words "who, if a collector, shall first discover, and, if other than a collector, shall first give information, of the fact whereby said forfeiture was incurred," and to insert the words "who shall first sue for the same;" so that the clause shall read:

One moiety thereof to the use of the United States, the other moiety to the use of the person who shall first sue for the same.

As the section now stands, one moiety of the penalty is given to the person who, if a collector, shall first make the discovery. The difficulty is

to ascertain when the collector does make the discovery. Who shall determine when the collector makes the discovery?

Moreover, it is not politic to present this temptation to the collector. If one moiety of the penalty is to be given to anybody, it should be to him who first sues for the same without making any invidious distinction in favor of the collector. Why should he be entitled to a moiety of this large penalty on account of having made the discovery of the fact whereby the forfeiture was incurred? Why should there be a temptation held out to the collector to be prying into matters of this sort? Why make any provision for his particular benefit?

The amendment was not agreed to.

The fifty-eighth section was read, as follows:

And be it further enacted, That in every license to be taken out under or by authority of this act shall be contained and set forth the purpose, trade, or business for which such license is granted, and the true name and place of abode of the person or persons taking out the same, and the true date or time of granting such license, and (except in the case of auctioneers and peddlers) the place at which the trade or business for which such license is granted shall be carried on: *Provided always*, That persons in partnership and carrying on their trade or business in one place and set of premises only, shall not be obliged to take out more than one license in any one year for the purpose of carrying on such trade or business, save and except that each and every person whatsoever exercising or carrying on the trade or business of auctioneer or peddlers, or acting as such, shall take out a separate and distinct license for that purpose: *And provided further*, That no one license taken out under or by authority of this act by any person or persons, except auctioneers and peddlers, shall authorize or empower such persons to exercise or carry on the trade or business mentioned in such license in more than one separate and distinct set of premises, such premises being all adjoining or contiguous to each other, and situate in one place, and held together for the same trade or business, and of which he, she, or they shall have made lawful entry, to exercise or carry on therein his, her, or their trade or business, as aforesaid, at the time of granting such license, but that a separate and distinct license shall be taken out by all and every such person or persons as aforesaid, except as aforesaid, to exercise or carry on his, her, or their trade or business, as aforesaid, at or in any other or different premises than as before mentioned.

Mr. RICE, of Massachusetts. I would inquire of the chairman of the Committee of Ways and Means whether it is the intention that the provisions of this section shall exclude the storage of goods in places other than that where the business of the firm is carried on?

Mr. STEVENS. Not at all.

Mr. WHITE, of Indiana. I move to insert at the end of the first proviso, the words:

But all partners applying for a license shall furnish the full names of each member of the firm, with the county and State of their residence.

The amendment was agreed to.

Mr. RICE, of Massachusetts. I move to add at the end of the section, the words:

And provided further, That merchandise may be stored elsewhere than where the business of the firm is conducted.

Mr. STEVENS. I wish the gentleman would so modify his amendment as to require that such merchandise shall be taken to the place of business for sale.

Mr. RICE, of Massachusetts. I have no objection to that, and I will modify my amendment accordingly. Many men are obliged to store their merchandise in places other than where they have their counting-house.

Mr. STEVENS. If the gentleman will add to his amendment the words "to be sold at their place of business," I shall not object.

Mr. RICE, of Massachusetts. Certainly.

The amendment, as modified, was agreed to.

Mr. LOOMIS. I notice in line twenty-two, that there is a restriction upon the word "premises," as follows:

Such premises being all adjoining or contiguous to each other.

It seems to me that that restriction is an unreasonable one. I move to strike out the words: "such premises being all adjoining or contiguous to each other and situate in one place."

I move the amendment for the reason that I know that many manufacturers carry on different branches of their business in different buildings not contiguous to each other; for instance: a sorting house in one place, a drying house in another, and a grinding house, in some kinds of business, in another. It seems to me that that restriction will be sufficient if a license is required for one class of business. It will be inconvenient to require that each particular kind of business shall be carried on in one set of buildings, contiguous to each other.

The amendment was agreed to.

The sixtieth section was read, as follows:

And be it further enacted, That every person exercising or carrying on the trade or business of an auctioneer, or selling any goods or chattels, lands, tenements, or hereditaments, by auction, shall, over and above any license to him or her granted as an auctioneer, take out such license as is required by law, to deal in wholesale or retail, or to vend, trade in, or sell any goods or commodities for the dealing in at wholesale or retail, or vending, trading in, or selling of which a license is specially required, before he or she shall be permitted or authorized to sell such goods or commodities at private sale; and if any such person shall sell any such goods or commodities, as aforesaid, otherwise than by auction, without having taken out such license as aforesaid for that purpose, he or she shall be subject and liable to the penalty in that behalf imposed upon persons dealing in or retailing, vending, trading, or selling any such goods or commodities without license, notwithstanding any license to him or her before granted, as aforesaid, for the purpose of exercising or carrying on the trade or business of an auctioneer, or selling any goods or chattels, lands, tenements, or hereditaments by auction, anything herein contained to the contrary notwithstanding: *Provided always*, That where such goods or commodities as aforesaid are the property of any person or persons duly licensed to deal in or to retail, or to vend, trade in, or sell the same, such person or persons having made lawful entry of his, her, or their house or premises for such purpose, it shall and may be lawful for any person exercising or carrying on the trade or business of an auctioneer, or selling any goods or chattels, lands, tenements, or hereditaments by auction, as aforesaid, being duly licensed for that purpose, to sell such goods or commodities as aforesaid, at auction, for and on behalf of such person or persons, and upon his, her, or their entered house or premises, without taking out a separate license for such sale.

Mr. EDWARDS. For the purpose of making this section a little more accurate in form, I move to strike out the words "to vend" and "vending" wherever they occur in the section.

The amendment was agreed to.

Mr. WHITE, of Indiana. I move to amend this section by adding the following proviso:

Provided, That this section shall not apply to judicial or executive officers making auction sales, by order of any judgment or decree of any State court.

Mr. JOHNSON. I would inquire of the chairman of the Committee of Ways and Means whether any provision similar to this amendment is contained elsewhere in the bill?

Mr. STEVENS. My impression is there is such a provision, but I cannot say without looking all through the bill. I know such was the intention of the committee.

Mr. JOHNSON. I would inquire of the gentleman from Indiana whether his amendment covers sales by executors and administrators?

Mr. WHITE, of Indiana. I do not know that it does. It should, and therefore I will add to my amendment the words "or public sales made by executors or administrators."

Mr. MORRILL, of Vermont. The provision referred to by the gentleman from Pennsylvania, [Mr. JOHNSON,] will be found in the bill on page 52, under the head of "auctioneers."

Mr. WHITE, of Indiana. I think, notwithstanding, that the amendment is necessary, and I will adhere to it.

Mr. PORTER. I offer the following as an amendment to the amendment:

Add at the end "nor to any sales that may be made pursuant to the law of any State by an officer having the management or control of any public or trust funds of such State, or of any county, town, or township thereof."

I trust that this amendment will be adopted. In Indiana we have funds for the support of common schools, exceeding, in the aggregate, two millions of dollars. These funds are loaned to citizens in small sums, by the State or by the counties, according to the particular fund, and the interest is applied to the support of schools. The loans are secured by mortgages, and when the interest is not punctually paid, or the principal when due and demanded, the mortgaged lands are sold by the officers having the management or control of the particular loan at public auction, under a statutory power, and without any judicial proceeding. If this amendment shall not be adopted, every such officer will be required, before making any such sale, to take out a license as an auctioneer, and the amount paid will be so much subtracted from the scanty means for educating the children of the State.

All our western States have, it is believed, similar funds and similar statutory provisions, so that the argument applicable to my own State is applicable to all of them. It seems to me that no one can reasonably object to this amendment.

Mr. WHITE, of Indiana. I beg to make a verbal correction in my amendment, to strike out the words "by order," and insert "by virtue." It has been suggested by the learned gentleman from Massachusetts that the word "State" had better be stricken out. I thought, myself, that sales by judicial authority of Federal courts would be exempted by virtue of their prerogatives; but perhaps I am wrong, and therefore I will strike out the word "State."

There being no objection, the modifications of the amendment were made.

Mr. HOLMAN. I suggest to my colleague whether the object of his amendment could not be effected by simply using the terms "this provision shall not apply to any official or judicial sale?" That might abbreviate his amendment somewhat and still attain the object he has in view.

Mr. WHITE, of Indiana. Did I understand my colleague to use the words "official sale?"

Mr. HOLMAN. Yes, sir.

Mr. WHITE, of Indiana. With all due deference to my colleague, I am not aware that that is a technical term. I have used the term "judicial sales," which I suppose would include what he has in view. It is true that my amendment is limited to sales made by virtue of the order of any court. I scarcely know of any cases in my own State where such sales are made otherwise.

Mr. HOLMAN. It may be that in attempting to enumerate exceptions, unless you use terms that are broad enough, great injustice may be done.

Mr. WHITE, of Indiana. I have no objection to accept the amendment of my colleague.

Mr. STEVENS. Oh, I hope the gentleman will not accept it.

Mr. WHITE, of Indiana. Well, I will not accept it.

Mr. STEVENS. It embraces so many unknown things, that I think it would be a very dangerous amendment.

The question was taken on Mr. PORTER's amendment to the amendment, and it was disagreed to.

The question recurred upon the amendment of Mr. WHITE, of Indiana.

Mr. JOHNSON. I desire to suggest to the gentleman from Indiana whether it would not be proper to add, after the words "executors or administrators," the words "or assignees or trustees for the benefit of creditors."

Mr. WHITE, of Indiana. I cannot but recognize that as a judicial sale made by order of a court.

Mr. JOHNSON. It is not a judicial sale made by order of a court. I suggest to the gentleman that he allow these sales to be made without a license. It is pretty hard upon the creditor to make him pay four fifths of his claim to obtain a license for the purpose of selling the property of the debtor. I move to add, after the word "administrators," the words "or assignees or trustees for the benefit of creditors."

The amendment to the amendment was disagreed to.

Mr. HARRISON. I desire to inquire of the gentleman from Indiana, [Mr. WHITE,] whether his proposed amendment includes sales made by guardians under wills, made, not by virtue of an order or decree of a court, but by virtue of the provisions of the will itself?

Mr. WHITE, of Indiana. No, it does not extend to any of those details, because those sales are generally made by professional auctioneers. I did not attempt to include in the amendment every conceivable case.

Mr. MORRILL, of Vermont. I think if the committee will look to page 52, under the heading "auctioneers," they will see that all the exceptions that ought to be made are there included. It includes all sales, except such as may be ordered by the decree, order, or judgment of any judicial tribunal.

Mr. WHITE, of Indiana. I call the gentleman's attention to the fourth line of the sixtieth section, which requires an additional license, and it is to meet the exigency of this alternative or additional license that I propose this amendment.

The question was taken on Mr. WHITE's amendment, and it was agreed to.

MESSAGE FROM THE SENATE.

Here the committee rose informally, and the

Speaker having resumed the chair, a message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill for the relief of James Pool, in which he was directed to ask the concurrence of the House.

The Committee of the Whole on the state of the Union then resumed its session, and proceeded again to the consideration of the

TAX BILL.

Mr. RICE, of Massachusetts. I move to amend the sixty-second section, by inserting at the end of the first paragraph the words: "nor agents for the sale of merchandise for account of producers or manufacturers." It seems to me that under the provision of this paragraph every commission merchant who sells goods and has the proceeds to remit to his principal, would be obliged to take out a license as a banker, which I presume was not the intention of the committee.

The amendment was agreed to.

Mr. SEDGWICK. I move to add at the end of the paragraph the following proviso:

Provided, That any persons or firm carrying on business as bankers and brokers, shall pay only a banker's license.

Tellers were ordered on the amendment; and Messrs. BAKER and WADSWORTH were appointed.

The committee divided; and the tellers reported —ayes 48, noes 39; no quorum voting.

The CHAIRMAN. There being no quorum present, the roll must be called.

Mr. WICKLIFFE. I think there is no necessity for calling the roll. This proposition is not understood. I ask the unanimous consent of the House to make a suggestion.

There was no objection.

Mr. WICKLIFFE. I understand that the bill imposes a tax upon bankers and also upon brokers, and this is a proposition to allow bankers and brokers to do business under one license. I do not think that is right. If a man carries on two businesses, I think he should pay a tax for carrying on each business. Suppose I am a banker; I have to pay a license. My next door neighbor is a banker and also a broker and does a much more profitable business than I do, and yet he is to be let off with the same tax that I pay! I hope the committee will vote down this amendment.

Mr. SEDGWICK. I ask the unanimous consent of the committee to answer the gentleman from Kentucky.

There was no objection.

Mr. SEDGWICK. The business of a private banker is compelled by this provision to pay a license. The exclusive business of banking is probably carried on by very few persons. It is a business that I do not know of in any business city with which I am acquainted. The legitimate business of banking is carried on by incorporated banks or associations. There is a business carried on that includes brokerage, the buying of uncurrent money and dealing in bills, and those engaged in that business sometimes keep deposits. Upon all the paper that passes through those houses you have imposed a stamp duty. If you impose this tax of $100 on the business of a banker, and an additional tax of twenty dollars on the business of a broker, it strikes me that you will be imposing an onerous tax, which will tend to diminish the number of persons engaged in the business. The truth is, that the business of a broker, as connected with these private establishments, is much more extensive and profitable than the business of keeping accounts for depositors; and if the tax were properly regulated, the $100 tax would be placed on the broker, and the twenty dollar tax on the banker. But I think that it is quite enough to make the man who carries on both species of business pay the $100 and have both licenses.

Mr. ENGLISH. I ask the gentleman from New York whether he intends to include in the word "broker" brokers in merchandise?

Mr. SEDGWICK. I do not.

Mr. ENGLISH. Then the amendment ought to be so modified as only to apply to bill or money brokers.

Mr. SEDGWICK. I consent to that modification. I did not suppose that my amendment would be so construed. I modify it so that it will read:

Any persons or firms carrying on business as bankers and money or bill brokers shall pay only a banker's license.

Mr. WICKLIFFE. I understand that under this paragraph a banker is charged a license of $100, and a broker a license of twenty dollars. Thus, if the same man carries on the business both of banker and broker, he pays a license of $120. What is a banker? A banker takes deposits of money and keeps interest accounts with his depositors. Does he not buy and sell notes? Does he not buy and deal in exchange? Does he not lend money on interest? What is the business of a money broker? I would, if I had the power of changing it, put the broker's license at the same figure as the banker's license. A broker helps me to borrow money on the street or from private individuals, and receives from me a premium for his service. He sells my note and gets his brokerage for the transaction. It is proposed in this bill to charge brokers a license fee of twenty dollars; but if they go into the business of private banking, combining the two profitable businesses, the amendment proposes that they shall be only charged for both the license of a banker.

The gentleman speaks of this tax being excessive. Has the gentleman looked on the taxes imposed on the planting interests of this country? Has he regarded the tax on tobacco? Has he noticed the imposts on agricultural products? Talk about $100 being excessive for a banker's license! Why, sir, you charge a man fifty dollars for using a still to make his whisky, and then you tax his whisky so high that, I was going to say, he could not sell it. But when you come to fix the license fee for brokers, who suck the vitals of society, and who prey upon the misfortunes of the indebted and embarrassed, it is fixed at a less sum than a man can run a still for. Why, sir, the tax on leaf tobacco makes the land used in the cultivation of tobacco pay as much as twenty dollars per acre. That is not high, it is said; but a tax of $100 on a broker would break up his business. I wish to God the business of many of these shavers was broken up.

Mr. SEDGWICK. I am sorry the temper of my friend is so disturbed by the stopping of the whisky ration.

The CHAIRMAN. Debate is exhausted.

Mr. WADSWORTH. I offer an amendment, to add the following proviso:

Provided, That no other person who carries on more than one business in the one establishment shall pay more than one tax, and that the highest.

The objection that I have to the amendment offered by the gentleman from New York is this: the fifty-ninth section provides that—

In every case where more than one of the pursuits, business, or occupations hereinafter described shall be pursued or carried on in the same place by the same person at the same time, except as therein mentioned, license must be taken out for each kind, according to the rates severally prescribed.

The retailer in spirits and the wholesale dealer in spirits, the retail dealer in general trade and the wholesale dealer in general trade, and the rectifier, must all take out license. I know men who combine all those businesses in the one establishment, and who would thus have to pay five distinct licenses. I do not see any reason why we should discriminate in favor of brokers and bankers unless we carry out the same principle, and apply it to every branch of business. That is my only objection to this amendment. I am willing to exempt brokers, if general and retail dealers have the same principle applied to them.

The question was taken on Mr. WADSWORTH's amendment to the amendment, and it was rejected.

Mr. HARRISON. I move to amend the first paragraph by striking out the words, "but not to include incorporated banks or other banks legally authorized to issue notes as circulation." I make this motion in order that I may hear from a member of the Committee of Ways and Means why a discrimination is made between incorporated and unincorporated banking companies. It seems to me that if unincorporated banking companies are required to take out licenses, incorporated banking companies should also be required to take out licenses.

Mr. MORRILL, of Vermont. By the bill we tax the profits, the dividends, of all these incorporated banks, and not those of unincorporated banks. Therefore, a license fee is required of the latter.

Mr. THOMAS, of Massachusetts. If the gentleman will allow me, I will state a reason which appears to me to be quite conclusive. All the incorporated banks are doing business under charters granted by the State for that particular purpose, on contracts already made. To require these banks now to take out license would be to impair such contracts.

Mr. HARRISON. This bill, Mr. Chairman, imposes a tax on every other description of incorporated companies except incorporated banking companies. It taxes manufacturing companies, and requires them to take out licenses whether they are incorporated or unincorporated. In the State of Ohio many of our manufacturing and mining companies are incorporated. And yet under the provisions of this section of the bill, manufacturing companies, mining companies, and several other descriptions of incorporated companies, are required to take out a license. On what sound principle, then, are incorporated banking companies to be relieved from taking out a license? The amount to be paid for a license is in the nature of a tax, and I think that fact is an answer to the point of the gentleman from Massachusetts, [Mr. THOMAS.]

Now, sir, in reply to the suggestion of the gentleman from Vermont, [Mr. MORRILL,] I desire to submit that private bankers are taxed on their profits, in the shape of income, to the same extent as incorporated banks are. It seems to me, therefore, that the suggestion of the gentleman from Vermont is not an answer to the objection against making a discrimination between these two classes of bankers.

Mr. HARRISON's amendment to the amendment was rejected.

The question recurred on Mr. SEDGWICK's amendment; and it was rejected.

Mr. JOHNSON. I move to amend by adding at the end of the paragraph the following:

Nor incorporated savings institutions, which pay interest to depositors on their deposits, and are only authorized to loan such deposits and not to buy or sell notes, bills, bonds or other securities for the payment of money.

The amendment was rejected.

Mr. BLAIR, of Pennsylvania. I move to amend by striking out all of the paragraph after the words "bankers shall pay," and inserting in lieu thereof the following:

Each year for a license according to their yearly profits for the immediately preceding year, as follows: In all cases where such profits do not exceed the sum of $2,500, the sum of twenty-five dollars; where the same exceed the sum of $2,500 and do not exceed $5,000, the sum of fifty dollars; where the same exceed $5,000 and do not exceed $10,000, the sum of $100; where the same exceed $10,000 and do not exceed $15,000, the sum of $150; where the same exceed $15,000 and do not exceed $20,000, the sum of $200; where the same exceed $20,000 and do not exceed $25,000, the sum of $250; where the same exceed $25,000 and do not exceed $30,000, the sum of $300; where the same exceed $30,000 and do not exceed $35,000, the sum of $350; where the same exceed $35,000 and do not exceed $40,000, the sum of $400; where the same exceed $40,000 and do not exceed $45,000, the sum of $450; where the same exceed $45,000 and do not exceed $50,000, the sum of $500; where the same exceed $50,000 and do not exceed $75,000, the sum of $700; and where the same exceed $75,000, the sum of $1,000.

Mr. BLAKE. I rise to a question of order. I desire to know if this amendment is pertinent to the section under consideration? I think it is not germane.

The CHAIRMAN. The Chair thinks it is.

Mr. BLAKE. One is a license and the other a tax.

The CHAIRMAN. That is true. But the Chair thinks the whole matter may be considered as under consideration.

Mr. KELLOGG, of Illinois. I rise to a question of order. I submit that it is impossible for any reasonable body of men ever to suppose that a banker or broker or shark would ever report that amount as the profits of his concern. The amendment, I think, is a reflection upon the judgment of the House, and therefore out of order. [Laughter.]

The CHAIRMAN. The Chair overrules the question of order.

Mr. BLAIR, of Pennsylvania. I wish to ask the gentleman from Illinois how he ever expects to arrive at the income tax?

Mr. KELLOGG, of Illinois. I do not expect to arrive at an income tax by the reporting of any such amounts as their profits by these brokers and sharks.

Mr. BLAIR, of Pennsylvania. I think, Mr. Chairman, that this system of licenses, as reported by the Committee of Ways and Means, is not entirely equitable. Those persons who are in the

receipt of small profits, are taxed in the shape of licenses equally with those who are receiving the largest profits. I know that the Committee of Ways and Means undertake to equalize it by the income tax; but as the gentleman from Illinois observed, I do not think we shall be able to accomplish anything like equality by the income tax we are to levy, and it seems to me we ought to make some discrimination in regard to licenses; that we ought to make some classification. I observe that in regard to hotels, inns, and taverns, there is a classification made according to the rental of the house. Now, why should there not be a classification made in regard to the licenses of bankers? There is just as much reason in the one case as there is in the other. I do not choose to insist upon any particular classification, so that we secure some classification which will have the effect of equalizing, to some extent, the pressure of this license fee.

Now, I think the great art of taxation consists in extracting from the pockets of the people the most money with the least possible amount of discontent; and if you undertake to tax small bankers in the country towns, who are, I venture to say now, nine out of ten of them, not making $2,000 a year in the shape of profits, the same amount that you impose on the great institutions of the cities which make profits of $75,000 a year, you will produce a great amount of discontent, to say nothing of the intrinsic injustice that will be involved. I repeat, sir, that I do not insist upon this particular classification, but I do insist upon some classification; and if any better than I have proposed can be presented, I hope it will be as an amendment to my amendment.

[Here the hammer fell.]

Mr. MORRILL, of Vermont. I desire to call the gentleman's attention to the fact that the great amount of the tax that is to be collected from bankers, as from auctioneers and other descriptions of business, is upon the amount of business done. We thought it better to fix the licenses at a very small sum, which will impose no inconvenience upon any one, and then rely upon the extent of the business for the great proportion of the tax to be collected.

Mr. BLAIR, of Pennsylvania. I desire to ask the gentleman from Vermont whether he does not suppose that these bankers are not better able to pay taxes than almost anybody else? I think he will agree with me that the industry of the country never has and never will pay six per cent. upon the capital employed. Yet these bankers almost uniformly make from twelve to twenty per cent. upon their capital.

Mr. MORRILL, of Vermont. I will state to the gentleman in regard to these bankers that they are more severely taxed than any other class of men in the whole country. They cannot take a step without being charged for it. They are charged upon every certificate of deposit, upon every draft they make, upon every check they give. Why, sir, a banker doing even a moderate business will pay a tax of not less than $1,000. I certainly see no necessity for making any additional charges upon bankers.

Mr. BLAIR's amendment was disagreed to.

Mr. BLAKE. I desire to know if it is in order to move to strike out these words in the eighteenth, nineteenth, and twentieth lines of the first paragraph:

But not to include incorporated banks or other banks legally authorized to issue notes as circulation.

The CHAIRMAN. That amendment would not be in order. It has already been moved and rejected by the committee.

Mr. ARNOLD. I move to add at the end of the first paragraph the following:

Every bank bill, note, or draft, designed to be used as a circulating medium, shall be stamped and pay a stamp tax of one per cent. on the nominal value thereof, and if issued or paid out without such stamp shall be void.

Mr. Chairman, I am not aware whether this is the proper place to introduce this amendment, but I suppose it is perhaps as good a place as any in this section, which provides for laying a tax upon bankers. If it is the proper place, I desire to test here the sense of the committee in regard to levying a duty upon bank notes designed to be used as a circulating medium.

The amendment I have proposed may be defective in form; it may not be drafted so as to accomplish the purpose I design, but I desire to test the sense of the committee upon the broad proposition whether they will not, while they are taxing everything, every necessary of life, while they are taxing labor in every shape, also impose a tax upon bank notes intended to be used as a circulating medium? It seems to me that of all subjects of taxation, of all sources of revenue, none ought, in the present exigency of the country, to be made to pay so much as those who issue bank notes, and make their money in that form. We tax sugar, coffee, tea, candles, soap, and everything, and why should we exempt bank notes?

Mr. MENZIES. I wish to ask the gentleman if there is not a stamp act in the bill which will cover these bank notes?

Mr. ARNOLD. No, sir, I believe not; and I therefore hope the amendment will be adopted.

Mr. THOMAS, of Massachusetts. If this tax should be laid, I would like to ask the gentleman how many of the banks of the country would be able to pay these taxes.

Mr. ARNOLD. If it has the effect of restricting the circulation of bank notes, we will be able to circulate more largely the Treasury notes the Government has authorized the issue of. But I apprehend that when the banks are permitted to issue a circulation to the extent of three or four times the amount of their capital, and loan it out, reaping the profit of such loans—when they are permitted to do such a business as that, they can afford to pay a tax of one per cent. upon their circulation.

Mr. HARRISON. I should like to ask the gentleman if he knows of any State which authorizes banks to issue notes to the amount of three or four times their capital?

Mr. ARNOLD. I am very sure that banks do issue notes to the extent of more than three times their specie and securities—very much more than that. We have found, to our misfortune, that fact to be true in my State.

Mr. HOLMAN. If the gentleman from Illinois wishes me to answer that interrogatory, I will say that we have a few institutions in the West within my knowledge which are allowed to issue a circulation to the amount of $2 50 upon every dollar of gold and silver coin in their vaults, but not to two and a half times the amount of their capital stock.

Mr. HOOPER. I hope that the gentleman from Illinois will withdraw this amendment at this time. If he will look at the 103d page of the bill, he will see that there is a schedule expressly providing for this stamp duty. It seems to me, if that principle is to be introduced, it would come more properly in that place, making one of that schedule.

Mr. ARNOLD. I will adopt the gentleman's suggestion, and withdraw my amendment for the present.

Mr. POMEROY. I move to strike out "one hundred," and to insert "fifty," in line one of the pending paragraph.

When the gentleman from Ohio inquired of the gentleman from Vermont, of the Committee of Ways and Means, why this distinction between bankers and incorporated banks was made in the matter of a license, the answer was made that other provision was made for taxation of the income of the incorporated banks. By referring to section eighty, a tax of three per cent. is imposed upon the dividends of incorporated banks, and under section eighty-five, in reference to income duties, the stockholders in these incorporated banks are exempted from taxation on their incomes to the extent of such dividends, the three per cent. to this extent having been previously imposed upon the dividends in the possession of and declared by the banks. The tax upon the income of the stockholder, so far as his stock in an incorporated bank is concerned, is assessed to the bank and paid by the bank. Under the income clause, the income of the banker himself, embraced in the pending amendment, is taxed three per cent. There the stockholder in the incorporated bank, and the banker here referred to, are taxed each three per cent. upon their income, and no more. Now, I say that the thing evens itself.

The question recurs on what principle is it that a banker is charged $100 for a license, and an incorporated bank nothing, because there is no provision by which an incorporated bank is assessed or taxed upon the income where the banker is not assessed the same amount? I think that the gentleman from Vermont was right when he said that there was no class in this bill taxed like the banks and bankers. I think that this tax comes from a false idea that the banks represent the capital of the country. A great majority of the stock in the banks throughout the country—at least it is so in the country banks—is held not by capitalists, but by widows and orphans, persons having trust funds in their hands, and the farmers who save small sums from the proceeds of their farms. I venture to say that three fourths of the bank stock held in the rural districts of the State of New York is held by men who work with their hands for their daily bread. I cannot see why a tax of $100 is imposed upon these bankers, distinguishing them from incorporated banks, nor why either class should be subjected to the excessive taxation to which it is confessed they are subjected. I have moved to strike out "one hundred" and to insert "fifty," and I hope that the amendment will be adopted.

The amendment was disagreed to.

Mr. HAIGHT. I move to strike out the paragraph, as follows:

1. Bankers shall pay $100 for each license. Every person shall be deemed a banker within the meaning of this act who keeps a place of business where credits are opened in favor of any person, firm, or corporation, by the deposit or collection of money or currency, and the same, or any part thereof, shall be paid out or remitted upon the draft, check, or order of such creditor, but not to include incorporated banks or other banks legally authorized to issue notes as circulation.

The amendment was disagreed to.

Mr. MENZIES. I have an amendment to submit; and I think that it will come in properly here. It has been suggested to me that regular land-warrant brokers should be compelled to pay a tax as well as other brokers. I move to insert the following:

12. Land-warrant brokers shall pay for each license $100. Every person shall be deemed a land-warrant broker within the meaning of this act who makes a business of buying and selling land warrants, and furnishing them to settlers under contracts that the land procured by means of them shall be bound for the prices agreed on for the warrants.

Mr. WHITE, of Indiana. I suggest to the gentleman from Kentucky that he had better withhold his amendment until we reach paragraph thirteen, which provides for a tax upon brokers' licenses. I think that street and curbstone brokers ought also to be taxed.

Mr. MENZIES. I withdraw my amendment to submit it at the proper time and place.

The second paragraph was read, as follows:

2. Auctioneers shall pay twenty dollars for each license. Every person shall be deemed an auctioneer within the meaning of this act who shall offer property of any kind for sale to the highest or best bidder, excepting such sales as may be ordered to be made by the decree, order, or judgment of any judicial tribunal.

Mr. HOOPER. I move to strike out that paragraph, and in lieu of it to insert the following:

2. Auctioneers shall pay twenty dollars for each license. Every person shall be deemed an auctioneer within the meaning of this act whose business it is to offer property for sale to the highest or best bidder.

Mr. THOMAS, of Massachusetts. I suggest to my colleague to use the word "occupation" instead of "business."

Mr. HOOPER. I accept that as a modification of my amendment.

Mr. HOLMAN. Would not that apply to judicial sales? If it would apply to judicial sales, or other official sales by public officers, then, of course, it is wrong.

The amendment was agreed to.

The third paragraph was read, as follows:

3. Wholesale dealers in liquors of every description, including distilled spirits, fermented liquors, and wines of all kinds, shall pay fifty dollars for each license. Every person who shall sell or offer for sale any such liquors in quantities of more than three gallons at one time, to the same purchaser, shall be regarded as a wholesale dealer in liquors within the meaning of this act.

Mr. HOOPER moved to insert after the word "person" the words "other than the distiller."

The amendment was agreed to.

Mr. JOHNSON. I move to strike out the word "three," and to insert "ten;" so that it will read "ten gallons at one time." It seems to me that there ought to be some discrimination between the wholesale dealers and those who deal in liquor on a small scale. In the country towns and villages there are dealers in liquor who sell to the hotel keepers and others in amounts not exceeding ten gallons; and I make the point that they should not be classed with the large wholesale dealers of the

cities who sell to them. There ought to be some discrimination between those who sell by the tierce or barrel and those who sell by the gallon, and for that purpose I have submitted the amendment.

The amendment was disagreed to.

Mr. PHELPS, of California. I move to insert "any and" and "or wines;" so that it will read:

3. Wholesale dealers in liquors of any and every description, including distilled spirits, fermented liquors, and wines of all kinds, shall pay fifty dollars for each license. Every person who shall sell or offer for sale any such liquors in quantities of more than three gallons at one time, to the same purchaser, shall be regarded as a wholesale dealer in liquors or wines within the meaning of this act.

The amendment was agreed to.

Mr. EDWARDS. I move to increase the tax for a license from fifty dollars to one hundred dollars. It seems to me if there is any business in the country which can and will pay for the support of the Government liberally, it is this liquor business. The wholesale seller, whoever he may be, can pay $100 tax. It is the most profitable trade in the country, at least it is in the part of the country from which I come, and that, perhaps, is the most temperate section of the Union. That may be doubted by others, but I may assume it without offense. I do not know a wholesale dealer in liquors who has been any considerable time in the business who has not accumulated large property. I think that we may as well take a small portion of their vast profits to help the country in this emergency.

Mr. MORRILL, of Maine. I think that this is a move in the right direction, but I do not think that it goes far enough. I apprehend that there will be no objection to it. Yesterday, when the question of the selling of liquor was agitated, it seemed to move the House as though some peculiar domestic institution had been assailed. Every member seemed to have a still of his own, or to have a constituent that had a still, who would be absolutely ruined if the trade were interfered with. We have no distilleries in Maine, and we intend never to have any there. Therefore I forbore to participate in the discussion yesterday.

My friend from Illinois [Mr. KELLOGG] was earnest to have the market open for his constituents to convert their grain into spirits to be used for mechanical purposes. He would, however, tax spirits heavily which were used as a beverage; and I now ask that gentleman to redeem his promise and support this measure to tax the men who sell for that purpose.

Mr. MALLORY. I ask my friend whether he would not feel testy if we proposed to tax codfish and molasses. [Laughter.] His people may make rum out of one, but not out of the other.

Mr. MORRILL, of Maine. We will talk of molasses when we come to talk of cotton; but I admit fish should go with the Kentucky whisky. I was saying, when interrupted by my good-natured friend from Kentucky, that my friend was disposed to make the duty heavy upon the spirits used as a beverage and light upon those used for mechanical purposes.

Now, it has been well said by the gentleman from New Hampshire, that there is no business so profitable as this wholesaling of spirituous liquors, except that of retailing them. It has been certified by the gentleman from Ohio, [Mr. HORTON,] that they take these spirits, costing only ten or twelve cents a gallon, and by a simple process, involving a capital of not more than ten dollars, they convert it into brandy, gin, wine, and intoxicating drinks of every description, and sell it for a large price—he did not say how much, but we all know it is sold at from one to five dollars per gallon. He says the process is the simple one of turning the liquor into a barrel and immediately drawing it out again, and naming it whatever you please. It is simply *presto change*, and you have wine, brandy, gin, old Bourbon, &c. Now, do you object to making the men pay who deal in this article? Suppose we do make the license entirely prohibitory. Gentlemen need not get nervous about this matter, if we place a heavy license upon these liquors. Gentlemen have to pay, as I learn, ten cents per glass for the ordinary, and twenty-five cents a glass for what they term extra brandy. But what does that glass of liquor cost? Only about a cent, in its original form, as estimated by the gentleman from Ohio, [Mr. BLAKE,] before it undergoes this marvelous transforming process.

Now, Mr. Chairman, if you make this tax so high as to prohibit the traffic, which this does not propose to do, you can do no more valuable service for your country. I would make the tax so high that no wholesale or retail dealer could be found in the land, if it were practicable. If you would do that, if you could entirely stop the use of intoxicating drinks and the war rage on, your country would suffer less by the war than it has and does from the use of intoxicating liquors. [Here the hammer fell.] As my time has expired in opposing the amendment, I move to amend the amendment by making the amount $500. [Laughter.]

Mr. BINGHAM. I move to make the amount $5,000.

Mr. MORRILL, of Maine. Sit down; you are out of order. [Laughter.]

The CHAIRMAN. Debate is exhausted upon the amendment.

Mr. MORRILL, of Maine. I move to amend the amendment by making the amount $500.

The CHAIRMAN. That amendment is in order.

Mr. MORRILL, of Maine. This is a matter which I do not mean to discuss in a trivial manner. It is a matter in reference to which the object is to tax the people in such a manner that they shall bleed to the least possible amount. I believe there was one gentleman upon the other side of the House who considered liquor as an article of prime necessity. I presume no other gentleman in this House will agree to that sentiment.

Now, you may look over the whole list of articles which you have taxed, and you will find scarcely one which you can strike off as unnecessary and as not essential for the good of society. Here is one which no gentleman will contend is absolutely necessary to be used as a beverage; and only as a beverage am I contending against its use, and as such I would have it pay the very highest tax. I am not contending against its use for mechanical and medicinal purposes. Here you say a man may be licensed to sell that upon which he makes $100 a day by paying fifty dollars a year. Suppose you do put on a tax which shall strike out every little establishment; suppose you reduce the number of wholesale establishments by the imposition of this $500 tax: can any gentleman find any community that would be injured thereby? There is no such community. There is no man here who represents a community who would be injured if every shop which retails liquors as a beverage were closed. Why, then, should gentlemen vote against imposing the highest tax and thereby getting the largest amount of revenue? Let the tax be what it may, there will always be shops enough licensed to furnish all the liquor that may be wanted—at least, all that can possibly be needed.

[Here the hammer fell.]

Mr. MORRILL, of Vermont. The committee strove as far as it was in their power to entirely exclude the discussion of the Maine law in this House, and yet the gentleman from Maine, by very considerable ingenuity, has managed to get in two speeches on the Maine law. The bill does not provide for a license to sell a single drop of liquor in any part of the country. It is mainly to carry out the Maine law that this provision was inserted; for under the Maine law it is specially provided that liquors may be sold as a medicine, and to be used for mechanical purposes; and this provision relates of course to the Maine law, providing that parties may be permitted to sell liquors at wholesale for the purpose of carrying out the purposes of the Maine law. Now, the gentleman from Maine is very anxious to obtain the largest amount of revenue under the provisions of this bill, but how does he go to work to do it?

Mr. MORRILL, of Maine. I contended that if you did not get any revenue from this source, by reason of a high tax, you would be infinitely better off.

Mr. MORRILL, of Vermont. The object of the gentleman was to obtain revenue, as I understood him, by imposing the least possible burden upon articles of necessity; but as he contended that this was not an article of necessity, he was for utterly prohibiting its sale by the imposition of a heavy tax. Now, if we keep ourselves within the provisions of the Maine law, I cannot see where the objection of the gentleman applies. I hope we shall have no further discussion of this subject as far as it relates to beverages. Such discussion is certainly not germane to the provisions of this section.

The amendment to the amendment was not agreed to.

Mr. BINGHAM. I move to amend the amendment by making the amount $500,000; and I move the amendment for the purpose of expressing my surprise that a gentleman should stand here in his place and say we shall do a public service by prohibiting altogether the dealing in liquors for any purpose, and then come out with a pitiful and contemptible amendment to make the license $500. If he wants to prohibit the sale in order to do this great public service, let him put on a tax of $500,000. I make my motion in good faith, and I want a division of the House upon it, and I want the gentleman from Maine [Mr. MORRILL] to vote upon it. I want him to come up to the scratch.

Mr. BIDDLE. I was about to oppose the amendment of the gentleman from Ohio, thinking the tax *rather* too high. We have had some experience in Pennsylvania upon this subject, and we found it an illusory supposition that the sale of liquors could be totally prohibited. I think that the result of our experience was this: that you must make the tax such that it will be easier for a man to pay it than to sell without a license. Imposing a very heavy tax increases the amount of illicit sale, and instead of having the effect to regulate the sale of liquor, throws it into the hands of those who do it clandestinely. That is the reason why I think the proposition of the gentleman from Ohio is somewhat too high.

The amendment to the amendment was agreed to.

Mr. SHEFFIELD. I move to amend the amendment by reducing the amount to fifty-one dollars. I make the motion simply for the purpose of stating the fact that the United States have entered into treaties with certain foreign Governments, by which we have agreed to admit the consumption of their wines in the United States, and now to undertake to prohibit the sale of them would be a violation of such treaty obligations of the United States. I am therefore opposed to the amendment of the gentleman from Ohio, and in favor of reducing the license to about the sum named in the bill.

Mr. THOMAS, of Massachusetts. What treaty does the gentleman refer to?

Mr. SHEFFIELD. The treaty with France.

Mr. THOMAS, of Massachusetts. Does it require us to consume their wine?

Mr. SHEFFIELD. It requires us to admit their consumption.

Mr. STEVENS. I suppose we had better reject this whole amendment, instead of reducing the amount. But my purpose in rising was to protest against this doctrine that commercial treaties should govern us in regulating the taxes of the country. We have many of us too often fallen into the idea that a commercial treaty is to regulate the tariff, when that matter is confined exclusively to Congress.

I think now our thirsty friends had better *dry* up upon this subject. This is not a law to prohibit the sale of liquor or to correct the morals of the country. We never should attempt that in Congress. The object of this bill is to raise revenue, and the idea of raising revenue by preventing anything from being sold on which you raise taxes is what I do not understand. If the gentleman wishes to pass one of these sumptuary laws, let him bring in a bill, and then the gentleman can indulge himself in making speeches of this kind, and, perhaps, I will go with him in prohibiting the sale of all liquors, excepting, perhaps, old Bourbon, which has become a necessity to some of my constituents, and lager beer. [Laughter.]

Mr. MORRILL, of Maine. The gentleman, then, is in favor of the Maine law, but against its enforcement.

Mr. STEVENS. I am mainly for the law, but against its enforcement here. [Laughter.]

Mr. SHEFFIELD. I withdraw my amendment to the amendment.

Mr. EDWARDS. I move to amend the amendment, as it now stands, by striking out "$500,000," and inserting "$101." I offer this amendment for the purpose of saying that I did not introduce my original amendment with any reference to the Maine law, or any other law, prohibiting or allowing the use of ardent spirits. I did it, sir, in

good faith, because I believed that the wholesale dealer in liquors could well afford to pay the license which I propose. Why, sir, he can afford to pay the license which the committee have proposed out of the sale of a single hogshead of rum or liquor of that kind, or, at least, out of the sales he may make in a single day, and every day in the year. Fifty dollars is a paltry sum for a license to deal wholesale in liquors. It is a large business, so far as I am acquainted with it, and brings large profits to everybody engaged in it. We have just passed a provision requiring all bankers to pay $100 for a license, whether they deal in money to a large or small amount, and the profits of that class of business, whatever they may be in some parts of the country, so far as I am acquainted with it, are not equal to the steady profits of this class of business.

Mr. HARRISON. I would ask the gentleman this question, whether by the tax of fifteen cents per gallon on all spirituous liquors the profits of both wholesale and retail dealers in these articles will not be vastly diminished?

Mr. EDWARDS. Well, sir, I do not think that that tax will affect much—it may to some extent—the profits of the dealers. I think that tax is to be paid by the consumers. As was said by the gentleman from Vermont [Mr. MORRILL] at the outset, there is no prevention of the use of this indulgence throughout the country. Laws have been unable to do it. High prices will be unable to do it. Why, sir, I recollect a man who was addicted to the use of ardent spirits as a beverage, and, when long since it had risen to a very high price—I think four dollars a gallon—he said that he would drink rum until it cost four dollars a drop, and then he would stop using it; and sir, the tax of fifteen cents per gallon, when carried down to the retailer will hardly be felt in his profits; the retailer will first pay it to the wholesale dealer and then put it upon his customers.

[Here the hammer fell.]

Mr. HOOPER. I rise to oppose the amendment to the amendment. I desire to call the attention of the committee to the other sections of the bill. We have placed the license upon all wholesale dealers at fifty dollars, and we thought it right and proper not to place the wholesale dealers in liquors above other wholesale dealers by requiring double the amount for their licenses. Bankers generally consider themselves as in a higher class of business, and we thought they could afford, upon that consideration, to pay double duty; but we saw no propriety in exacting a double duty from liquor dealers. We wish to put wholesale dealers in liquor upon the same footing as we put all other wholesale dealers.

Mr. KELLOGG, of Illinois. I wish to ask the gentleman from Massachusetts if he thinks bankers are generally as high as dealers in spirits?

Mr. HOOPER. I spoke of their own estimation, and not of mine.

Mr. EDWARDS. I ask for tellers on my amendment to the amendment.

Tellers were not ordered.

The amendment to the amendment was rejected—ayes 46, noes 51.

The question was then taken on the amendment, and it was disagreed to.

Mr. McKNIGHT. I move to strike out "fifty dollars" and insert "$200."

The amendment was not agreed to.

Mr. McKNIGHT. I move to strike out "fifty dollars," and insert "$100."

Mr. STEVENS. Is not that the amendment which was first proposed by the gentleman from New Hampshire, [Mr. EDWARDS?]

The CHAIRMAN. It is; but it was never voted on by the committee. It was amended by substituting "$500,000" for "$100."

Mr. STEVENS. I hope the paragraph will be allowed to stand as it is. It will be recollected that this tax or license is for the man who sells the smallest quantity of liquor. The man who sells a large amount pays for it by the tax of fifteen cents per gallon. I trust the license will stand as it now is.

Tellers were ordered on Mr. McKNIGHT's amendment; and Messrs. FESSENDEN and CRISFIELD were appointed.

The committee divided, and the tellers reported—ayes 65, noes 38.

So the amendment was agreed to.

Mr. WRIGHT. I ask the unanimous consent of the committee to offer an amendment to the second paragraph of the section which we have passed.

Mr. MORRILL, of Vermont. I object.

Mr. WRIGHT. I hope the gentleman will allow it to be read for information.

Mr. MORRILL, of Vermont. I will hear it read.

The Clerk read the proposed amendment, as follows:

Auctioneers shall be divided into five classes, and pay the following licenses: the license to the first class shall confer the privilege of sales to any amount, and pay $300. The second class sales to the extent of $200,000, and pay a license of $200. The third class sales to the extent of $100,000, and pay a license of $100. The fourth class sales to the extent of $50,000, and pay fifty dollars. The fifth class sales for any sum under $50,000, and pay a license of twenty dollars.

Mr. MORRILL, of Vermont. I object to going back to that paragraph of the section.

Mr. WRIGHT. I would like to inquire of the gentleman if he would require an auctioneer in the country, whose sales amount only to a few thousand dollars a year, to pay the same for a license as a man whose sales amount to hundreds of thousands?

The CHAIRMAN. Debate is not in order. The amendment is objected to.

Mr. HOOPER. I move to amend the fourth paragraph of the section, by inserting after the words "every person," in the thirty-sixth line, the words "other than a distiller." It will then read:

4. Retail dealers in liquors, including distilled spirits, fermented liquors, and wines of every description, shall pay twenty dollars for each license. Every person other than a distiller who shall sell or offer for sale such liquors in less quantities than three gallons at one time to the same purchaser shall be regarded as a retail dealer in liquors under this act. But this shall not authorize any spirits, liquors, wines, or malt liquors, to be drunk on the premises.

Mr. CAMPBELL. I move to amend the amendment by inserting after "distiller" the words "or keeper of a hotel, inn, or tavern."

Mr. MORRILL, of Vermont. I ask the gentleman from Pennsylvania to add to his amendment the words, "and persons authorized by State laws to sell spirits for medical and mechanical purposes." In some States the traffic in spirits to be used as a beverage is utterly prohibited, while its sale for medical and mechanical purposes is permitted.

Mr. THOMAS, of Massachusetts. The persons who sell it for these purposes make large profits out of the business. Why then should they not pay license?

Mr. EDWARDS. In the State of New Hampshire these persons have no direct interest in the profits.

Mr. WADSWORTH. I want to know why, if it is sold for medicinal purposes, any one cannot get it to drink? [Laughter.]

Mr. HOOPER. I should prefer to have my amendment adopted, without that addition. In regard to the amendment offered by the gentleman from Pennsylvania, [Mr. CAMPBELL,] I would say that, if he will look at the forty-first line, he will see that his amendment, even if adopted, will not meet the object designed by it, because it is specially provided there that this license to retail dealers shall not authorize any spirits, liquors, wines, or malt liquors, to be drank on the premises.

Mr. CAMPBELL. I do not see that that meets my object.

Mr. CAMPBELL's amendment to the amendment was rejected.

Mr. KELLOGG, of Michigan. I move to amend the amendment, by striking out the word "distiller."

The CHAIRMAN. The Chair will state that a vote against the amendment offered by the gentleman from Massachusetts will be equivalent to what he proposes.

Mr. KELLOGG, of Michigan. I am opposed to the amendment of the gentleman from Massachusetts. The effect of it would be to give the distiller the privilege to retail liquor in any quantity, if not drank on the premises. He can sell a pint bottle of whisky, or any quantity called for. I think the distiller should not be allowed to transact retail business.

The question being on Mr. HOOPER's amendment—

Mr. HOOPER. I withdraw my amendment.

Mr. WRIGHT, I move to amend by striking out the last sentence in the paragraph, as follows:

But this shall not authorize any spirits, liquors, wines, or malt liquors to be drunk on the premises.

Mr. WHITE, of Indiana. I move to amend the sentence proposed to be stricken out by adding the words "except when so authorized by the laws of the proper State."

Mr. WRIGHT. I do not think that that meets the objection. Under the laws of all the States, taverns, restaurants, and other establishments of that kind are licensed. As a matter of course the liquors sold by them are to be drank on the premises. This provision, I venture to say, will interfere with the license laws of every State in the Union. According to the terms of this bill, everybody licensed to sell less than three gallons is a retailer; but if you give a license to sell, and prevent the liquor being drank on the premises, it amounts to no license at all. I think, however, that if the sentence be stricken out, as proposed by my amendment, this bill will not come in conflict with any of the State laws in regard to licenses.

Mr. MORRILL, of Vermont. I think the gentleman from Pennsylvania totally misapprehends the meaning of the words which he proposes to strike out. Either he or the Committee of Ways and Means misunderstands it. The sentence was introduced for the sole and exclusive purpose of not interfering with any State laws. It was to guard against any party claiming, under color of a United States law, a right to retail liquor to be drank on the premises, that this proposition was introduced. So that if any person obtaining a United States license to retail liquors is required by a State law also to get a license, he will be compelled to get a State license before he can carry on the business.

Mr. WHITE, of Indiana. It will be observed that there is a provision in the bill that where any business is prohibited by the law of a State it is not to be deemed licensed by this bill. That of itself would be enough, so far as prohibitory action is concerned. The clause now under consideration seems to be without meaning, unless you give an interpretation to it by the adoption of such an amendment as I have offered. My object is only to render clear the meaning that is claimed for it by the Committee of Ways and Means.

Mr. SARGENT. I propose an amendment to the amendment offered by the gentleman from Indiana, by substituting for the words which he proposes to insert, the words "in any State where the same is now prohibited by law," so that it will read:

But this shall not authorize any spirits, liquors, wines, or malt liquors to be drunk on the premises, in any State where the same is now prohibited by law.

The remarks of the gentleman from Vermont [Mr. MORRILL] show that the intention of the Committee of Ways and Means was to give to this clause the meaning which my amendment gives to it. If it does not mean that I do not know what it does mean.

Mr. MORRILL, of Vermont. That is right.

Mr. THOMAS, of Massachusetts. I suggest to the gentleman to insert after the word "liquors" the words "or persons;" so that it will read:

But this shall not authorize any spirits, liquors, wines, malt liquors, or persons to be drunk on the premises.

The CHAIRMAN. No further amendment is in order. There is an amendment to an amendment pending.

Mr. SARGENT. I modify my amendment so as to make it read:

But this shall not authorize any person to sell any spirits, liquors, wines, or malt liquors, to be drunk on the premises, in any State where the same is now prohibited by law.

Mr. HARRISON. I desire to make a suggestion to the gentleman from Indiana, [Mr. WHITE.] I do not think his amendment will reach all the cases that ought to be provided for. I suggest to him to move to strike out in the forty-first line "drunk on the premises," and insert in lieu of it "sold contrary to the laws of any of the several States;" so that it will read:

But this shall not authorize any spirits, liquors, wines, or malt liquors to be sold contrary to the laws of any of the several States.

Mr. WHITE, of Indiana. If the text had embraced a subject so extensive as that, I would have proposed my amendment in those terms; but it applies only to the authority to drink on the prem-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. TUESDAY, MARCH 25, 1862. NEW SERIES.....No. 84.

ises. My object is to give to the provision precisely the interpretation claimed for it on behalf of the Committee of Ways and Means.

Mr. CRISFIELD. I propose to amend the amendment suggested by the gentleman from California.

The CHAIRMAN. That is not in order, as that is to amend an amendment, which is as far as it can go.

Mr. CRISFIELD. Is not his proposition amendable?

The CHAIRMAN. No, sir.

Mr. WRIGHT. I propose to oppose the amendment. Under the laws of Pennsylvania the courts of quarter sessions grant licenses to sell liquor in small quantities. Under this section the persons so licensed are dealers in liquor. You can give them no other name. But if you prohibit them to sell liquor to be drank on the premises, you violate the terms of their license.

Mr. KELLOGG, of Michigan. Will the gentleman allow me to make a suggestion? This clause reads that it shall not authorize any spirits, liquors, wines, or malt liquors to be drank on the premises. But if the persons who have those licenses have license also from the State, they will be authorized by that State license to sell liquor to be consumed on the premises. This bill does not interfere with that right. I therefore see no difficulty in the matter.

The question being on Mr. SARGENT's amendment to the amendment—

Mr. SARGENT. Before the question is taken upon it, I desire to modify it so as to meet the suggestion of the gentleman from Maryland [Mr. CRISFIELD] and several other members. I want it to make provision for the future. I wish, therefore, to make it read:

But this shall not authorize any spirits, liquors, wines, or malt liquors to be drunk on the premises in any State where the same is or shall be prohibited by law.

The amendment to the amendment was agreed to.

Mr. HARRISON. I move to amend the amendment by striking out what is proposed, including the first line, and to insert in lieu thereof, "sold contrary to the laws of any of the several States;" so that the clause would read:

4. Retail dealers in liquors, including distilled spirits, fermented liquors, and wines of every description, shall pay twenty dollars for each license. Every person who shall sell or offer for sale such liquors in less quantities than three gallons at one time, to the same purchaser, shall be regarded as a retail dealer in liquors under this act. But this shall not authorize any spirits, liquors, wines, or malt liquors to be sold contrary to the laws of any of the several States.

I desire in a word to explain that amendment. By the laws of Ohio it is a misdemeanor for any person to sell spirituous liquors in any quantity to be drank on the premises where sold, or on the adjoining premises. Now, sir, this amendment will have simply this effect: it will provide that the licenses of retail dealers in liquors, when granted in virtue of this act, shall not authorize them to sell any such liquors contrary to the laws of any of the several States.

Mr. KELLOGG, of Michigan. Section sixty-five provides for that, and makes the amendment entirely unnecessary in my judgment.

Mr. HARRISON's amendment to the amendment was disagreed to.

Mr. WOODRUFF. I move to amend the amendment of the gentleman from California, for the purpose of giving the laws of the various States full power and effect over this subject, and not to confine it merely to drinking upon the premises, by striking out all after the word "but" in the thirty-ninth line, "this shall not authorize any spirits, liquors, wines, or malt liquors to be drank on the premises," and to insert:

Nothing in this act shall be held to authorize in any State the sale of any spirituous liquors, wines, or malt liquors contrary to the laws of such State.

Mr. MORRILL, of Vermont. If the gentleman will look to section sixty-five, he will find that all he desires is provided for.

Mr. WOODRUFF. If that is the fact, I will withdraw my amendment.

Mr. WHITE's amendment, as amended by the adoption of the proposition of Mr. SARGENT, was disagreed to.

The question recurred on the motion of Mr. WRIGHT to strike out the last sentence of the paragraph.

Mr. MORRIS. It seems to be the object of many members to provide against the evils arising from the sale of intoxicating liquors, instead of providing revenue for the support of the Government. To aid them in accomplishing that laudable purpose, I submit the following as a substitute for the last sentence of the paragraph under consideration:

That the United States ought to coöperate with any State which may adopt gradual abolishment of the evils resulting from the sale of intoxicating liquors, giving to such State pecuniary aid to be used by such State, in its discretion, to compensate for the inconveniences, public and private, produced by such change of system.

The CHAIRMAN. The Chair hardly thinks that would be in order in the present stage of the bill.

Mr. MORRIS. "If the proposition contained in the" amendment "does not meet the approval of Congress and the country, there is the end." [Laughter.]

Mr. EDWARDS. I move to amend in thirty-eighth line, by inserting after the word "purchaser," the words, "except for medical, mechanical, or sacramental purposes, under the authority of State laws;" so that the clause would read:

Every person who shall sell or offer for sale such liquors in less quantities than three gallons at one time to the same purchaser, except for medical, mechanical, or sacramental purposes, under the authority of State laws, shall be regarded as a retail dealer in liquors under this act.

The amendment was disagreed to.

Mr. JOHNSON. I move to add at the end of the paragraph the words, "nor prohibit the same from being done;" so that the clause will read:

But this shall not authorize any spirits, liquors, wines, or malt liquors to be drunk on the premises, nor prohibit the same from being done.

Mr. Chairman, there seems to be an object—if I can discern what the committee are driving at—to leave this matter to State regulation. I thought the amendment of my colleague was proper, and would accomplish the desired purpose. That was the affirmative; now, I propose to try the negative, so that the inference may not be drawn to interfere with State laws upon the subject.

The amendment was disagreed to.

Mr. RICE, of Maine. I move to amend the paragraph, by increasing the license from twenty to fifty dollars. I desire to say, Mr. Chairman, that I do not stand here—nor does my colleague stand here—expecting to get any amendment to this bill which would amount to a prohibition of the traffic in liquor, and I wonder that my friend from Ohio [Mr. BINGHAM] should have adjudged either of us so dull of comprehension, so obtuse, so little observant, as to suppose we could get any such provision through this House. But I had supposed the members of this House had patriotism enough to increase their daily expenses somewhat for the good of the public revenue. [Laughter.]

Now, sir, what I ask is, that if this sin is to be permitted and the nation are to take the wages of sin, the wages should be made as high as possible. While I do not expect, therefore, to place the tax high enough to prohibit the traffic, I propose to put it up to the revenue standard for that purpose. I think it is incumbent upon us to raise the license up to fifty dollars, and I hope the amendment will prevail.

Mr. BINGHAM. I hope that neither the gentleman nor his colleague will suppose that I supposed they did not mean what they said. On the contrary, I did suppose they meant exactly what they said. When they said they desired to place the tax upon liquors at such a rate as would prohibit the traffic in them, I supposed them to be in earnest, but as the amendments advocated by them would do little to accomplish that purpose, I made a motion to fix the license at $500,000, which, in my judgment, would be a prohibitory duty. I understand now, however, that they do not intend to prohibit the traffic.

Mr. RICE, of Maine. I mean to say that I would like to see it prohibited, but that was not the intention of my amendment.

Mr. BINGHAM. I do not think whether the license is fixed at twenty dollars or fifty dollars will make any difference in prohibiting the sale, and I therefore oppose the amendment.

Mr. MORRILL, of Maine. I move to amend by increasing the license to sixty dollars, simply for the purpose of saying that the gentleman from Ohio misunderstood the position taken in my remarks this morning. What I said was that while I would be glad to have the duty raised to such a point, if we could do it successfully, as to make it prohibitory, I did not say that my amendment was designed to do it. I proposed to raise the tax to a point where it would produce the most revenue, and which, while it would not be prohibitory, would do no harm to the community.

Mr. STEVENS. I oppose the amendment. The gentleman from Maine says he wants the wages of sin to be as high as possible. I want them to be low. I think the bill makes the price of sin as high as it ought to be, and I therefore oppose the amendment. Now, how high does the gentleman suppose the price of sin ought to be?

Mr. RICE, of Maine. If the gentleman is a better judge upon that subject than I am——

Mr. STEVENS. Well, sir, the gentleman places it higher than I do. I think it ought to be low. And now, as the committee has spent about an hour upon this "pint" of bad liquor, [laughter,] I move that the committee rise for the purpose of closing debate upon the paragraph.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the tax bill, and had come to no resolution thereon.

Mr. STEVENS moved that all debate upon the paragraph under consideration in the Committee of the Whole on the state of the Union be closed in half a minute after its consideration shall be again resumed.

The motion was agreed to.

Mr. STEVENS. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the State of the Union, (Mr. COLFAX in the chair,) and resumed the consideration of the special order, being the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

Mr. MORRILL, of Maine. I withdraw my amendment.

The question recurred upon the motion of Mr. RICE, of Maine, to increase the license from twenty to fifty dollars.

Mr. RICE, of Maine, demanded tellers.

Tellers were ordered; and Messrs. KELLOGG of Illinois, and DUNLAP were appointed.

The committee divided; and the tellers reported —ayes 44, noes 54.

So the amendment was disagreed to.

Mr. MORRILL, of Maine, moved to increase the tax on a license from twenty to forty dollars.

The amendment was disagreed to—ayes 35, noes 60.

Mr. VAN HORN moved to increase it to thirty dollars.

On a division there were—ayes fifty-eight, noes not counted.

Mr. MORRILL, of Vermont, demanded tellers.

Tellers were ordered; and Messrs. MORRILL of Vermont, and CORNING were appointed.

The amendment was disagreed to; the tellers having reported—ayes 48, noes 54.

The fifth paragraph was read, as follows:

5. Retail dealers shall pay ten dollars for each license. Every person whose business or occupation is to sell or offer to sell groceries, or any goods, wares, or merchandise of foreign or domestic production, in less quantities than a

whole original piece or package at one time, to the same person, (not including wines, spirituous or malt liquors, nor excluding stationery, drugs, medicines, cigars, snuff, or tobacco,) shall be regarded as a retail dealer under this act.

Mr. HOOPER. I move to strike out the word "nor," and to insert in lieu of it the words "but not." It will make the paragraph more definite.

Mr. McPHERSON. I do not know what will be the construction of this section. It will not require, I trust, that the small storekeeper, who opens and sells an original piece of stationery, to pay two license taxes, one under this paragraph, and one under the paragraph in reference to wholesale dealers.

The amendment was agreed to.

Mr. CRISFIELD. I move to strike out the words "not including wines, spirituous or malt liquors, nor excluding stationery, drugs, medicines, cigars, snuff, or tobacco." If I understand the true meaning of the committee, it will be carried out by adopting that amendment.

Mr. MORRILL, of Vermont. It is the practice of every country store to keep on hand small quantities of drugs and medicines, stationery, &c., and this provision is to prevent them being called upon to pay for separate licenses. Unless something is included like the words in brackets, they will be compelled to pay two taxes for distinct licenses.

The amendment was disagreed to.

Mr. BIDDLE moved that the committee rise.

The committee refused to rise.

Mr. BLAKE moved to amend by adding the following:

Whose sales shall exceed $2,000, and not exceeding $5,000 per year, shall pay three dollars for each license; five dollars to all whose sales shall exceed $2,000 and not exceeding $5,000; ten dollars to all whose sales shall exceed $5,000, and not exceeding $10,000; twenty dollars to all whose sales shall exceed $10,000, and not exceeding $20,000; forty dollars to all whose sales shall exceed $20,000, and not exceeding $50,000; fifty dollars to all whose sales shall exceed $50,000, and not exceeding $100,000; and upon all whose sales shall exceed $100,000, there shall be paid for each license seventy-five dollars.

The amendment was disagreed to.

Mr. WALTON, of Maine. I move to strike out the word "stationery." If that word be allowed to remain there will then be no necessity for paragraph seven in reference to stationers. If a person by taking out this license can sell stationery also, nobody will take out a license simply to sell that one thing of stationery. If the seventh section is to be retained, this ought to be stricken out.

Mr. SARGENT. I move to strike out "drugs, medicines," &c. It will be seen that the bill makes apothecaries, stationers, and other persons pay a tax of ten dollars each. The words I have indicated, therefore, ought to be stricken out.

Mr. BLAKE. The small stores here provided for sell cigars, drugs, medicines, stationery, and many other things, and they ought not to be compelled to pay for more than one license. They are not, like city merchants, confined to one branch of business. They keep an assortment of goods and merchandise. I think, therefore, that this provision is a proper one, and ought to be retained.

The amendment to the amendment was disagreed to; and then the amendment was rejected.

The sixth paragraph was read, as follows:

6. Wholesale dealers shall pay fifty dollars for each license. Every person whose business or occupation is to sell, or offer to sell, groceries, or any goods, wares, or merchandise of foreign or domestic production, by one or more original packages or pieces at one time, to the same purchaser, not including wines, spirituous or malt liquors, shall be deemed a wholesale dealer under this act; but having taken out a license as a wholesale dealer, such person may also sell, as aforesaid, as a retailer.

Mr. STEELE, of New York. I move to add the following:

And nothing in this section shall be so construed as to compel ordinary retail dealers to take or pay for licenses to sell at wholesale who may occasionally desire, in the ordinary course of business, to sell an original piece or package.

Mr. BLAIR, of Missouri, moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the tax bill, and had come to no resolution thereon.

ADJOURNMENT OVER.

Mr. BLAIR, of Missouri, moved that when the House adjourns to-day, it adjourn to meet on Monday next.

Mr. STEVENS demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 65, nays 47; as follows:

YEAS—Messrs. Aldrich, Allen, Ancona, Arnold, Joseph Baily, Baxter, Biddle, Francis P. Blair, Jacob B. Blair, George H. Browne, William G. Brown, Campbell, Clements, Cobb, Colfax, Corning, Cravens, Crisfield, Cutler, Delano, Diven, Dunlap, Dunn, English, Fessenden, Fisher, Granger, Haight, Harding, Horton, Johnson, William Kellogg, Kerrigan, Law, Lazear, McKnight, Mallory, Menzies, Justin S. Morrill, Morris, Noble, Noell, Olin, Pendleton, Timothy G. Phelps, Porter, Potter, Robinson, Sargent, Sedgwick, John B. Steele, Benjamin F. Thomas, Francis Thomas, Train, Trowbridge, Vallandigham, Wadsworth, E. P. Walton, Ward, Albert S. White, Chilton A. White, Wickliffe, Woodruff, Worcester, and Wright—65.

NAYS—Messrs. Alley, Ashley, Babbitt, Beaman, Bingham, Samuel S. Blair, Blake, Buffinton, Chamberlin, Clark, Frederick A. Conkling, Roscoe Conkling, Duell, Edgerton, Edwards, Franchot, Frank, Harrison, Hooper, Hutchins, Kelley, Francis W. Kellogg, Lansing, Loomis, Lovejoy, Mitchell, Moorhead, Anson P. Morrill, Nixon, Patton, Pike, Pomeroy, Alexander H. Rice, John H. Rice, Edward H. Rollins, Sheffield, Shellabarger, Sherman, Sloan, Stevens, Van Horn, Van Valkenburgh, Wallace, Charles W. Walton, Wheeler, Wilson, and Windom—47.

So the House agreed to adjourn over until Monday next.

During the call of the roll,

Mr. RICE, of Massachusetts, stated that his colleague, Mr. ELIOT, was detained from the House by illness.

Mr. CRISFIELD made the same statement in reference to his colleague, Mr. MAY.

The vote was then announced as above recorded.

EXCLUSION FROM THE JAIL.

Mr. DELANO called up his motion to reconsider the vote by which the Committee for the District of Columbia was discharged from the further consideration of the resolution relative to the order of the marshal for the exclusion of visitors from the Washington city jail; and moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

And then, on motion of Mr. MALLORY, (at half past four o'clock, p. m.,) the House adjourned until Monday next.

IN SENATE.

MONDAY, *March* 24, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of Friday last was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Navy, in answer to a resolution of the Senate of the 18th instant, in relation to the contracts made with Robert L. Stevens for the construction of a steam floating battery; which, on motion of Mr. FESSENDEN, was ordered to lie on the table, and be printed.

NATIONAL FOUNDERY.

The VICE PRESIDENT appointed Messrs. GRIMES, KING, COWAN, DIXON, and HENDERSON the select committee to consider the bills relative to a national foundery and armory.

RESOLUTIONS OF STATE LEGISLATURES.

Mr. TEN EYCK. I present joint resolutions of the Legislature of the State of New Jersey, relative to the defense of the States of New Jersey, Delaware, and Pennsylvania. I ask for their reading:

The Secretary read them as follows:

Joint resolutions relative to the defenses of the States of New Jersey, Pennsylvania, and Delaware.

1. *Be it resolved by the Senate and General Assembly of the State of New Jersey*, That the Government of the United States be, and it is hereby, earnestly requested to immediately provide suitable and sufficient defenses for the Delaware river and bay and the harbors thereof by the construction of gunboats and other improved means of defense.

2. *Resolved*, That if necessary, to enable the Government of the United States to enter upon and complete the said work immediately, Congress be requested to authorize a special loan for that purpose, and that this State will unite with the States of Pennsylvania and Delaware in taking the whole of said loan in the following proportions, namely: the State of Pennsylvania to take twenty-four parts thereof, the State of New Jersey to take five parts thereof, and the State of Delaware the residue, being in the proportion of the representation of said States in the House of Representatives of the United States.

3. *Resolved*, That the Senators and Representatives of this State in the Congress of the United States be, and they are hereby, requested to press this subject earnestly and immediately upon the attention of the Congress and Executive of the United States, and that a copy of these resolutions be sent to each of the said Senators and Representatives, to the President of the United States, to the presiding officers of the Senate and House of Representatives of the State of Pennsylvania, and to the Governor of the State of Delaware.

Mr. TEN EYCK. I move that the resolutions be printed, and referred to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. MORRILL. I ask leave to present resolutions of the Legislature of the State of Maine, and ask that they be read.

The Secretary read them, as follows:

Resolves relating to national affairs.

Resolved, That we cordially indorse the administration of Abraham Lincoln in the conduct of the war against the wicked and unnatural enemies of the Republic, and that in all its measures calculated to crush this rebellion speedily and finally, the Administration is entitled to receive the unwavering support of the loyal people of Maine.

Resolved, That it is the duty of Congress, by such means as will not jeopard the rights and safety of the loyal people of the South, to provide for the confiscation of estates real and personal of rebels, and for the forfeiture and liberation of every slave claimed by any person who shall continue in arms against the authority of the United States, or who shall in any manner aid and abet the present wicked and unjustifiable rebellion.

Resolved, That in this perilous crisis of the country it is the duty of Congress, in the exercise of its constitutional power to "raise and support armies," to provide by law for accepting the services of all able-bodied men of whatever *status*, and to employ them in such manner as military necessity and the safety of the Republic may demand.

Resolved, That a copy of these resolutions be sent to the Senators and Representatives in Congress from this State, and that they be respectfully requested to use all honorable means to secure the passage of acts embodying their spirit and substance.

J. G. BLAIR,
Speaker of House of Representatives.
JOHN H. GOODENOW,
President of Senate.

March 15, 1862. Approved:
ISRAEL WASHBURN, jr.,
Governor.

STATE OF MAINE.

OFFICE OF SECRETARY OF STATE,
AUGUSTA, *March* 15, 1862.

I hereby certify that the foregoing is a true copy of the original as deposited in this office.

JOSEPH B. HALL,
Secretary of State.

Mr. MORRILL. I ask that the resolutions be printed, and referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. SHERMAN. I present joint resolutions of the General Assembly of Ohio, relating to the execution of leading rebels. I ask that they be read, and laid on the table.

The Secretary read them, as follows:

Joint resolutions relative to the execution of leading rebels.

Whereas wicked and ambitious traitors have, without cause, plunged our nation into civil war, disregarding all fraternal obligations; falsifying the most sacred injunctions that can be applied to the conscience—their solemn oaths; forcing upon us an expense of millions of money and incalculable loss in the prostration of business, and untold miseries in the sacrifice of human life; and whereas recent developments manifest a disposition on the part of some of the leaders of the rebellion to ask terms and sue for peace: Therefore,

Be it resolved by the General Assembly of the State of Ohio, That, in view of the loss of loyal blood and treasure, our Government cannot, without loss of character and injustice to the noble dead that have fallen in defense of its authority and the rights of humanity, accept less than an unconditional submission to the supremacy of the Constitution and the laws.

Resolved, That the future peace of the United States and the permanency of the Government, as well as the best interests of humanity throughout the world, demand the speedy trial and summary execution of all leading conspirators in the attempt to destroy the Government; and in the name of the people of Ohio, who have given their money and lives without stint for the preservation of our liberties, we protest against the entertainment of any proposition for settlement other than unconditional submission to rightful authority and the condign punishment of the authors of the rebellion.

Resolved, That the Governor be requested to transmit a copy of the foregoing to the President and to each member of the Cabinet and to each of our Senators and Representatives in Congress.

JAMES R. HUBBELL,
Speaker of the House of Representatives.
B. STANTON,
March 14, 1862. *President of the Senate.*

Mr. SHERMAN. I move that the resolutions be printed, and referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. POWELL. I present resolutions of the Legislature of Kentucky, relative to the proposed tax on tobacco, and ask that they be read.

The Secretary read them, as follows:

Resolutions in relation to the proposed tax on tobacco.

Whereas the congressional Committee of Ways and Means have reported a bill to raise internal revenue for the support of Government and the payment of interest on the public debt, in which leaf tobacco is taxed three cents per pound, and all its manufactures five cents, which bill is to go into operation on the 1st of May; and whereas it is computed that at least seventy millions of pounds of tobacco are held in the State, which would be subject to taxation to the amount of $2,100,000, falling with great severity upon portions of our State which are suffering from the present war, and discriminating most prejudicially against the agricultural interests of the State: Therefore,

1. *Resolved by the General Assembly of the Commonwealth of Kentucky*, That the tax as proposed by the bill now pending in Congress is greatly disproportionate to the tax on other property, and ought to be reduced.

2. *Resolved*, That owing to the great difference in the value of different qualities and grades of tobacco, the tax on it ought to be *ad valorem*, and not specific.

3. *Resolved*, That our Senators in Congress be instructed and our Representatives requested to act upon the matter in accordance with views presented in these resolutions.

4. *Resolved*, That the resolution heretofore passed by this Legislature on this subject, approved March 15, is rescinded and repealed.

5. *Resolved*, That the Governor be requested to send copies of these resolutions to each of our Senators and Representatives in Congress.

RICHARD A. BUCKNER,
Speaker of the House of Representatives.
JOHN F. FISK,
Speaker of the Senate.

Approved March 17, 1862.

B. MAGOFFIN.

By the Governor:
NAT. GAITHER, Jr., *Secretary of State.*

Mr. POWELL. I move that the resolutions be printed, and referred to the Committee on Finance.

The motion was agreed to.

Mr. LANE, of Kansas, presented resolutions of the Legislature of Kansas in favor of an appropriation to extend the line of the public surveys over the unsurveyed portion of the State, and the extinguishment of Indian titles to certain lands in that State; which were referred to the Committee on Indian Affairs.

He also presented resolutions of the Legislature of the same State, in favor of the passage of an act to secure the early completion of a railroad from the Missouri river to the Pacific ocean, the ratification of the treaty lately concluded between the United States and the Pottawatomie Indian nation; also a grant to that State of five millions of acres of land to aid in the construction of railroads; which were referred to the Committee on Public Lands.

He also presented resolutions of the Legislature of the same State in favor of the passage of an act granting to that State public lands in lieu of the sixteenth and thirty-sixth sections embraced in all of the Indian country lying within that State; which were referred to the Committee on Public Lands.

He also presented resolutions of the Legislature of the same State in favor of the passage of a law to legalize the preëmption of certain lands in that State; which were referred to the Committee on Public Lands.

PETITIONS AND MEMORIALS.

Mr. KING presented a petition of merchants, traders, and citizens of the city of New York, praying for the passage of a general uniform bankrupt law; which was referred to the Committee on the Judiciary.

Mr. HOWE presented a petition from citizens of Michigan, praying for the construction of a military road from Little Bay de Noquet, or some other point on Green bay, on Lake Michigan, to Marquette, on Lake Superior, and from thence to Portage lake on the copper range; which was referred to the Committee on Military Affairs and the Militia.

Mr. POMEROY presented additional papers in relation to the claim of Lydia S. Hall; which were referred to the Committee on Claims.

Mr. LANE, of Kansas. I present a petition of citizens of Linn county, Kansas, which I ask to have read.

The Secretary read it, as follows:

"Proclaim liberty throughout the land to all the inhabitants thereof.

"*To the Congress of the United States:*

"The undersigned, citizens of Linn county, State of Kansas, respectfully submit:

"That as the present formidable rebellion against the General Government manifestly finds its root and nourishment in the system of chattel slavery in the South; as the leading conspirators are slaveholders, who constitute an oligarchy avowedly hostile to all free institutions; and as, in the nature of things, no solid peace can be maintained while the cause of this treasonable revolt is permitted to exist; your honorable body is urgently implored to lose no time in enacting, under the war power, the total abolition of slavery throughout the country—liberating unconditionally the slaves of all who are rebels, and, while not recognizing the right of property in man, allowing for the emancipated slaves of such as are loyal to the Government a fair pecuniary award, in order to facilitate an amicable adjustment of difficulties; and thus to bring the war to a speedy and beneficent termination, and indissolubly to unite all sections and all interests of the country upon the enduring basis of universal freedom."

The petition was ordered to lie on the table.

Mr. GRIMES presented the memorial of Thomas Sunderland, part owner of the rancho Carmel, granted to William Knight by the Governor of California, praying that he and other claimants to that tract may be permitted by act of Congress to file a new petition in the United States district court for the northern district of California for a confirmation of the title; which was referred to the Committee on Public Lands.

Mr. WILMOT. I present a memorial of the Board of Trade of the city of Philadelphia, praying for a revision of the tax bill reported by the Committee of Ways and Means of the House of Representatives, with a view to a reduction of the proposed tax on manufactures and other products of industry. I move that the petition and accompanying report be printed.

Mr. GRIMES. It seems to me there is a question involved in the printing of this paper that may lead to the expenditure of a great deal of the contingent fund, and I think it is not in accordance with the rules of the Senate. I have no objection to the printing of this particular paper; but there is not an interest or a trade in the country that is not going to petition us on the subject, and if we set the example of printing one petition we shall have to follow it up by printing all the others.

The VICE PRESIDENT. The question of printing will be referred to the Committee of Printing under the rules of the Senate.

Mr. WILMOT. May not that be dispensed with?

The VICE PRESIDENT. By the unanimous consent of the Senate it may.

Mr. WILMOT. I ask the unanimous consent of the Senate. If the Senator from Iowa objects, of course it must be referred.

Mr. GRIMES. I do not object. I only want to have some rule established for our guidance hereafter. If we print one, we shall have to print all.

Mr. WILMOT. This emanates from a very respectable source, and is a very elaborate and carefully prepared paper.

The VICE PRESIDENT. Does the Senator from Iowa withdraw his objection?

Mr. GRIMES. I shall only insist, if we are to print this petition, that all similar petitions upon the same subject shall also be printed. With that understanding, I withdraw the objection.

The VICE PRESIDENT. That will be subject to the single objection of any Senator under the rule. The Chair hears no objection.

The motion to print was agreed to; and the petition was referred to the Committee on Finance.

REPORTS FROM COMMITTEES.

Mr. WILSON, of Massachusetts, from the Committee on Military Affairs and the Militia, to whom was referred the petition of John Walters, a messenger at the headquarters of the Army, praying for additional compensation, asked to be discharged from its further consideration, and that it be referred to the Committee on Finance; which was agreed to.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a motion to print three thousand copies of the report of the Secretary of the Navy, in answer to a resolution of the Senate of the 13th instant, in relation to the removal of the Naval Academy from Annapolis, Maryland, to Newport, Rhode Island, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That there be printed, in addition to the usual number for the use of the Senate, three thousand copies of the report of the Secretary of the Navy, in answer to a resolution of the Senate in relation to the removal of the Naval Academy from Annapolis, Maryland, to Newport, Rhode Island.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. MORRIS, Chief Clerk, announced that the House had agreed to the amendments of the Senate to the bill (H. R. No. 148) to secure to the officers and men actually employed in the western department, or department of Missouri, their pay, bounty, and pension.

Also, that the House had agreed to the amendments of the Senate to the bill (H. R. No. 279) to facilitate judicial proceedings in adjudications upon captured property, and for the better administration of the law of prize.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills, which thereupon received the signature of the Vice President:

A bill (H. R. No. 148) to secure to the officers and men actually employed in the western department, or department of Missouri, their pay, bounty, and pension; and

A bill (H. R. 279) to facilitate judicial proceedings in adjudications upon captured property, and for the better administration of the law of prize.

BILLS INTRODUCED.

Mr. POMEROY asked, and by unanimous consent obtained leave to introduce a bill (S. No. 245) for the removal and consolidation of certain Indian tribes; which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

He also presented a letter from the Secretary of the Treasury, relating to the subject of the bill; which was referred to the Committee on Indian Affairs.

Mr. WILSON, of Massachusetts, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 246) to promote the efficiency of the Army corps of engineers; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 247) for the relief of Thomas Sunderland and others; which was read twice by its title, and referred to the Committee on Public Lands.

ENROLLMENT OF BILLS.

Mr. HALE. On my motion on Friday, a resolution offered by the Senator from Massachusetts [Mr. SUMNER] relative to enrolling bills on linen paper instead of parchment, was referred to the Committee on Enrolled Bills. I move to reconsider the vote by which it was so referred.

The VICE PRESIDENT. The motion will be entered.

DEPARTMENT OF AGRICULTURE.

Mr. WRIGHT. I move to take up House bill No. 269 to establish a Department of Agriculture, with a view to refer it back to the committee.

The motion was agreed to; and the bill was recommitted to the Committee on Patents and the Patent Office.

RAILROAD AND TELEGRAPH LINES.

Mr. BROWNING. I move to postpone all prior orders for the purpose of taking up House joint resolution No. 39, which has been before the Committee on Military Affairs and been reported on adversely. I merely want to have it taken up in order to have that report concurred in and the resolution defeated.

The motion was agreed to; and the joint resolution (H. R. No. 39) to declare the meaning of "An act to authorize the President of the United States in certain cases to take possession of railroads and telegraph lines, and for other purposes," approved January 31, 1862, and to repeal a part of said act, was considered as in Committee of the Whole. It provides that the act of January 31, 1862, shall not be so construed as to authorize the construction of any railroads, or the completion of any road of an extended line, the greater part of which remained uncompleted at the time of the approval of the act, or to engage in any extended work of railroad construction; and repeals so much of the act as authorizes the President of the United States to extend and complete any railroad.

Mr. WILSON, of Massachusetts. I hope the Senator from Illinois will state why he desires

action on this joint resolution. I incline myself to the belief that we had better let the whole matter remain precisely as it is, without any further action.

Mr. BROWNING. That is exactly what I think, and I wanted the resolution disposed of, so that it would be out of the way.

Mr. GRIMES. That is a question upon which there may be two opinions here, and I propose to debate it whenever it comes up. I am opposed to concurring in the report of the committee.

Mr. BROWNING. I think it important that there should be some action on the resolution; that it should be either defeated or passed. It is embarrassing, while it remains undecided, to those who have charge of these matters.

The VICE PRESIDENT. The joint resolution is before the Senate as in Committee of the Whole, and open to amendment.

Mr. WILSON, of Massachusetts. I will move that the resolution lie on the table.

The motion was agreed to.

CHANGE OF NAME OF A VESSEL.

Mr. CHANDLER. I move to take up Senate bill No. 242. It will lead to no debate, and will not occupy a moment of time.

The motion was agreed to; and the bill (S. No. 242) changing the name of the American built schooner Tom Dyer to that of Dolphin, was read a second time, and considered as in Committee of the Whole. It authorizes the collector of the customs of the port of Detroit, under the direction of the Secretary of the Treasury, to issue a new register, license, or enrollment, to the American built schooner Tom Dyer, in the name of the Dolphin; the vessel being owned by H. N. Strong.

Mr. COLLAMER. I will ask the gentleman what is the occasion for this change of name?

Mr. CHANDLER. This vessel was wrecked, but has been overhauled and rebuilt, and is substantially a new vessel.

Mr. COLLAMER. The changing of the names of vessels, especially sea-going vessels, creates a great deal of difficulty. The insurance companies have the names of all these vessels, and when they are changed it makes a great deal of confusion.

Mr. CHANDLER. It is substantially a new vessel, and it has been customary for us to grant this permission in such cases.

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

AID TO THE STATES IN EMANCIPATION.

Mr. TRUMBULL. I move to take up House joint resolution No. 48.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 48) declaring that Congress ought to coöperate with, affording pecuniary aid to, any State which may adopt the gradual abolishment of slavery. The resolution is as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States ought to coöperate with any State which may adopt gradual abolishment of slavery, giving to such State pecuniary aid, to be used by such State in its discretion, to compensate for the inconveniences, public and private, produced by such change of system.

Mr. SAULSBURY. If the object be to put that resolution on its passage, I desire the yeas and nays on that question. I do not propose to enter into any lengthy discussion on this resolution, or the principles involved in it. It is to my mind the most extraordinary resolution that was ever introduced into an American Congress; extraordinary in its origin; extraordinary in reference to the source from whence it proceeds; extraordinary in the object which it contemplates; mischevious in its tendency; and I am not at all sure that it is anywise patriotic, even in its design. Sir, it is an ignoring of the policy which has always been proclaimed by the party now in power. I am not a member of that party, and I thank my God to-day that I never was and never expect to be, especially after the introduction of such a resolution as this into the Congress of the United States. What was the declaration made by that party before the recent presidential election? What have been their declarations ever since they came into power? It was that they did not intend nor contemplate any interference with the subject of domestic slavery within the States.

It is folly to say that this is not an interference with the domestic institution of slavery in the States. To be sure, it does not propose, by force and in terms, to liberate the slaves in the slaveholding States. It does not say, "if you do not emancipate them, we will;" but it is an interference in this wise and to this extent: it is an attempt to awaken a controversy in those States, to initiate emancipation in those States, to commence the work of abolition in those States, by holding out pecuniary aid to the States, by holding out an inducement. That is virtually as much an interference as though they had proposed directly and by force to liberate the slaves in those States. It is not an interference of the same character and of the same kind; but still it is an interference with the subject of domestic slavery within the States.

Now, sir, where is the propriety for the introduction of such a resolution as this? Has any one of those States asked your aid? Has any one of them suggested that they would like to be relieved from this incubus of slavery, if incubus it be? Have they called upon you for advice? Have the persons interested in this question sent any petition here asking the Congress of the United States to aid them in the work of emancipation? If they have not asked your aid, I submit that your proffered aid is not very delicate, to say the least of it; and when I say this, I say it because representing one of those States, the smallest slaveholding State in the Union, I have a right to say it, because my State has said it.

Mr. President, this is no new thing suggested by the President of the United States; I have reason for believing that he contemplated it sometime before he sent in his special message to Congress. The Legislature of my State has recently been in session; and somehow or other a printed bill found its way to the capital of my State, with the generous offer of the sum of $900,000, or bonds to that amount at least, payable in ten years, in consideration that the State of Delaware would emancipate her slaves. Influential outsiders were employed and engaged in the effort to engineer that bill through the Legislature; but before the session closed, it was found that it would not meet with much popular favor. Some members of the House of Representatives, however, obtained a printed copy of the bill, incorporated it into a set of resolutions—which I had here some time ago, but which was taken from my table—in which they said distinctly that they believed this scheme had its origin in the city of Washington, that the State of Delaware had not asked the General Government for any aid in the work of emancipation, that whenever she wished to emancipate her slaves she would do it her own way and without any expense to the General Government; and until she asked the aid of the General Government in a work of that kind, the General Government might keep its proffered aid to itself. The matter was not expressed in these words, but that was the substance.

Now, Mr. President, what is the design of this resolution? I submit that it can have but one design; and that is to renew and intensify the agitation of this subject of abolition and emancipation, in the States where slavery now exists. It is to create a party in those States who, for the sake of the pecuniary aid proffered by the General Government will organize themselves and fight the battles of abolitionism in those States; and we are to have, through the direct agency and invitation of the General Government, this whole question of abolitionism again intensifying the people of the border States. This fall, when the election comes off in my State, what will be the fight, what will be the issue? Shall the State of Delaware emancipate what few slaves she has got, and the inducement will be held out that "the General Government has generously tendered you pecuniary compensation if you will do so?" Is not this an interference with the domestic institutions of the States? Is this not a direct attempt by the President—for it originates with him in his special message—and by the Congress of the United States to abolitionize the States; and if it be such, where is the faithfulness of the declaration made by the party now in power, that however much they might oppose the extension of slavery, they would not interfere with that institution where it already exists?

But, sir, there is another consideration involved in this resolution. I should like some one of the members of the Judiciary Committee, who are presumed to be gentlemen learned in the law, to show me any authority in the Constitution of the United States for this Government to apply money in freeing the slaves in the States. You are now about by your tax bills to impose burdens upon the people which they will hardly be able to bear. You propose still, if you mean really and faithfully to fulfill your promise, to add to those burdens by imposing taxes for the purpose of giving money to the States to aid in the work of abolition. Where do you get the authority for that? Was it ever designed by the founders of this Government that the Government should tax the people for the purpose of freeing the slaves in the States? Has any writer upon the Constitution of the United States, has any man of national reputation ever heretofore asserted it to be within the constitutional competency of Congress to adopt a measure of this kind?

What is the spectacle, sir, which this resolution presents? That this Government is about to become a great negro trader and slave buyer! It is true, not a slave buyer for the purpose of holding them in slavery; but still a slave buyer, going into the wholesale negro trading business; and all for the love of the poor slave! I suggest, as a representative from the feeblest of the slaveholding States, that it would be better for Congress to wait until those States ask its aid. In reference to my own State, I feel free to say that, after having by solemn resolution rejected a proffer recently made, and which can be traced, as I believe, directly to Federal authority, it is, to say the least of it, very indelicate to offer your aid the second time. We shall never accept it, sir. Upon this issue, and this issue alone, the Constitution-loving people of my State, the true Union men of my State—because no man is a true Union man who is not in favor of the preservation of the Constitution of his country—will go before the people of that State, and not a vestige of this Republican party will be left within the borders of that State, if we are allowed to have a free election.

But, sir, notice the terms of this resolution:

Resolved, &c., That the United States ought to coöperate with any State which may adopt gradual abolishment of slavery, giving to such State pecuniary aid, to be used by such State in its discretion to compensate for the inconveniences, public and private, produced by such change of system.

Now, Mr. President, if it be the design of the Administration and of the party in power to give this aid, why do they not say in more definite form and in more definite terms what it is they will do? Why do they introduce a resolution vague in its terms, simply declaring that Congress ought to do it, not saying that Congress will do it, not saying how Congress will do it, not giving the people an opportunity to see that the thing will be done, if they choose to coöperate with the Federal Government in this work, but simply passing a resolution that Congress ought to do it. Why, sir, from the terms of this resolution, its vague character, its uncertain language, I have a right to infer that it is nothing but words intended to be thrown into a political campaign; a promise in some sense made never to be performed. If the border slave States were so unwise, so unjust to their people, as to enter upon the work of emancipation trusting to the fidelity of the Federal Government to redeem this *quasi* promise, I ask you do you mean ever to perform your part of it? Do you believe that the people of Wisconsin, and the people of Illinois, and the people of the other free States, are ever going to allow themselves to be taxed to buy the slaves of Kentucky and Maryland and Virginia and Delaware and Missouri? Will they not have taxes enough at the end of this war, and during its existence, to pay, without paying to buy slaves in these States? Sir, the promise will never be kept by the Federal Government, even should these States unwisely enter upon this project of emancipation. It is not designed in my opinion to be kept. The only design of this resolution in my judgment—and I have a right to say so here—is to continue the agitation of the slavery question, now that the Territories are disposed of, within the border slave States; and after they get parties divided on that issue, and the work of abolitionism progresses in the border slave States, and is perhaps ultimately, by agitation and continued agitation, accomplished, then the representatives of the people from the free States, already taxed to support this

war to their utmost ability to pay, will not vote a dollar to redeem this promise which you are about to make.

It is not my intention, however, Mr. President, to discuss this question at length. I had hoped that it would not be called up in the morning hour, that a question of so much importance, one in which such consequences are involved, would at least be allowed to be considered more fully than it can be in the morning hour. Of one thing, however, I wish to assure gentlemen: you may make your promise; we know what it means; we know the fidelity with which it will be preserved; as far as my State is concerned, she has already rejected it, and she will reject it whenever and as often as it is made. One other remark, Mr. President. Why is it that Congress cannot confine its attention to the prosecution of the war for the restoration of the Union, leaving the States that are peaceable and quiet alone in the management of their domestic institutions? Why is it that this question of slavery, slavery in the States, slavery in the District of Columbia, slavery everywhere, must be brought into all your legislation? In my opinion, had you let this question of slavery alone, had you not attempted by your bills the work of liberating slaves in the seceded States, had you not attempted by your bills to abolish slavery in this District, had you not attempted by a resolution of this kind to reawaken the agitation of slavery in the States, had you devoted yourselves to legitimate legislation, and proclaimed to the American people, and adhered honestly to it, that your only object was the preservation of the Union and the constitutional rights of the people of the States everywhere, including the right of the master to his slave as well as his right to other property, your war would have been nearly over by this time. This would have awakened the public confidence everywhere that the great battles of the present day were being fought for the restoration of the Union and the preservation of the Constitution. But by your bringing in this question of negro slavery upon every occasion, hundreds and thousands of men honestly think, and your legislation gives them the right to think, that you have other objects in the prosecution of this war than the preservation of the Union, because by such propositions as this you indicate that you mean to attack the constitutional rights of the people in the States. Adopt these measures, continue your work of emancipation, and the war upon which you have just entered, instead of being speedily closed, will not be closed in your day or mine, sir. It is folly to suppose that the people of this country, the peaceable quiet citizens at home, are going to allow you to interfere with their domestic institutions, and under the pretense of prosecuting a war for the restoration of the Union and the preservation of the Constitution, to destroy their constitutional rights. But if Congress think it is wise to proceed in this manner, if they think that this is the way to restore the Union, if they think that this is the way to create and strengthen an attachment in the border States to a union with you, of course their judgment must control their action, and they will continue this same course of conduct. I cannot, however, withhold the expression of opinion that these measures, instead of being calculated to bring about a speedy close of the present war and to deepen the attachment of the people everywhere for the Union of their fathers, will only have a tendency to weaken that attachment and to prolong the war.

Mr. DAVIS. I move an amendment as a substitute for the resolution, to strike out all after the word "that," and insert:

Although the whole subject of slavery in the States is exclusively within the jurisdiction and cognizance of the government and people of the States respectively having slaves, and cannot be interfered with directly or indirectly by the Government of the United States, yet when any of those States or their people may determine to emancipate their slaves, the United States will pay a reasonable price for the slaves they may emancipate, and the cost of their colonization in some other country.

I ask for the yeas and nays on this amendment.

The yeas and nays were ordered.

Mr. DAVIS. I will only say a word on the proposition which I have submitted. My mind is not made up definitely and conclusively upon the question of the power of Congress to appropriate money for the purposes indicated in the original resolution. I, therefore, in the substitute which I offer, put it in the words that "the United States" will give the aid which is afterwards specifically expressed in the proposition. If Congress has not the power to appropriate money for the objects indicated in the original resolution, if it be a subject of vital importance and necessary to the continuance of the national peace and the national Union, the States may perhaps submit to an amendment of the Constitution that would authorize Congress to appropriate money towards such a great object——

The VICE PRESIDENT. The morning hour having expired, it now becomes the duty of the Chair to call up the special order.

Mr. SHERMAN. Before the special order is taken up, I suggest whether the joint resolution under consideration ought not to be postponed to a day certain? Would not that be better? Let us fix on some day during the week when we can take it up, and vote upon it.

The VICE PRESIDENT. If there be no objection, the Chair will entertain such a motion.

Mr. SHERMAN. I move that the joint resolution be postponed until Thursday at half past twelve o'clock.

Mr. TRUMBULL. I object to its being made the special order for that day. I think we had better let it go over until to-morrow. The moment the bill to abolish slavery in the District of Columbia is out of the way, I shall insist upon going on with the confiscation bill, and this will, perhaps, come in the way of it. Let this resolution go over until the morning hour to-morrow.

The VICE PRESIDENT. The motion of the Senator from Ohio cannot be entertained, objection being made.

SLAVERY IN THE DISTRICT.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 108) for the release of certain persons held to service or labor in the District of Columbia, the pending question being on the amendment proposed by Mr. DOOLITTLE to the amendment of Mr. DAVIS.

The amendment of Mr. DAVIS is to insert, as an additional section:

And be it further enacted, That all persons liberated under this act shall be colonized out of the limits of the United States, and the sum of $100,000, out of any money in the Treasury not otherwise appropriated, shall be expended under the direction of the President of the United States for that purpose.

Mr. DOOLITTLE proposes so to amend the amendment as to make it read:

That the sum of $100,000, out of any money in the Treasury not otherwise appropriated, shall be expended, under the direction of the President of the United States, to aid in the colonization and settlement of such free people of African descent now residing in said District as may desire to emigrate to the republics of Hayti or Liberia, or such other country beyond the limits of the United States as the President may determine.

Mr. MORRILL. This bill has been delayed somewhat, at the request of the Senator from Maryland, [Mr. PEARCE,] not now in his seat, and I have been somewhat reluctant to press the matter in his absence.

Mr. DOOLITTLE. If the Senator from Maine will allow me a moment, I desire to modify my amendment. The Senator from New Hampshire has suggested to me that there should be a limitation as to the amount of expenditure. I am willing to modify my amendment by adding a proviso that the expense shall not exceed $100 for each emigrant.

The VICE PRESIDENT. That modification will be made if there be no objection. The Chair hears none.

Mr. MORRILL. I was saying that I felt some reluctance in pressing the consideration of the bill at this time; but as several amendments have been proposed, which may or may not elicit discussion, I shall ask the action of the Senate on those amendments at the present time.

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from Wisconsin to the amendment of the Senator from Kentucky.

Mr. HARLAN. Before the question is taken, I would suggest to the Senator from Wisconsin that I think it a little doubtful whether the phraseology used in his amendment will include the persons proposed to be liberated by this bill. Hence I suggest to him to insert, at the proper place, the words "including those to be liberated by this act."

Mr. DOOLITTLE. I accept that modification.

The VICE PRESIDENT. The amendment will be so modified.

Mr. SAULSBURY. Although, if the slaves are liberated, I should prefer to see them colonized, yet, not believing that Congress has any constitutional power either to pass a bill to liberate the slaves in this District or to appropriate money to colonize them, I shall not vote for any such amendment as this, and shall vote against the bill itself.

Mr. MORRILL. I have nothing to say upon this question, as it is a proposition to amend the original amendment; but when it comes to the question of amending the bill, I shall appeal to the Senate to preserve the integrity of the bill against the various amendments of friends and opponents. I am indifferent in regard to this question, as it is an amendment to an amendment.

Mr. KING. I intend to vote for this bill, and I prefer to vote for it in the simplest shape in which it can be presented. Although I am disposed to look with favor upon the proposition submitted by the Senator from Wisconsin, when this subject comes to be considered upon a more extended scale than as it relates merely to the District, I am inclined to vote against any amendments which go to extend the character of the bill beyond a simple proposition to emancipate the negroes in the District.

The question was taken by yeas and nays on the amendment to the amendment.

Mr. DIXON. I am requested by my colleague [Mr. FOSTER] to state that he has been called home in consequence of the death of a relative.

Mr. KENNEDY. I wish to state that my colleague [Mr. PEARCE] is detained from his seat to-day by sickness.

Mr. POWELL. I desire to have the amendment read before I vote upon it.

The VICE PRESIDENT. It is not in order to read a paper while the Senate is dividing.

Mr. POWELL. I am opposed to the whole bill, but I will vote for the amendment.

The result was announced—yeas 23, nays 16; as follows:

YEAS—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Cowan, Davis, Dixon, Doolittle, Foot, Harlan, Harris, Howard, Howe, Lane of Indiana, Lane of Kansas, Latham, Powell, Sherman, Ten Eyck, Trumbull, Wade, and Wright—23.

NAYS—Messrs. Bayard, Carlile, Fessenden, Grimes, Hale, Henderson, Kennedy, King, McDougall, Morrill, Stark, Sumner, Wilkinson, Wilmot, Wilson of Massachusetts, and Wilson of Missouri—16.

So the amendment to the amendment was agreed to; and the question recurred on the amendment as amended.

Mr. COLLAMER. Let the amendment as amended be read.

The Secretary read it, as follows:

Insert as an additional section:

And be it further enacted, That the sum of $100,000, out of any money in the Treasury not otherwise appropriated, shall be expended under the direction of the President of the United States, to aid in the colonization and settlement of such free people of African descent now residing in said District, including those to be liberated by this act, as may desire to emigrate to the republics of Hayti and Liberia, or such other country beyond the limits of the United States, as the President may determine: *Provided*, The expenditure for this purpose shall not exceed $100 for each emigrant.

Mr. TRUMBULL. I notice that the language of the amendment is, that the sum of $100,000 "shall be expended." It seems to me that word "shall" ought to be "may." We ought not to compel the President to expend $100,000 unless it shall be necessary. I suggest to the mover of the amendment to make that alteration.

Mr. MORRILL. The whole appropriation is entirely contingent. I am opposed to the amendment, and shall vote against it.

Mr. TRUMBULL. I am for the amendment, and therefore I should like to have it in good shape.

Mr. MORRILL. Whether the President can expend a dollar or not, depends on whether he gets the consent of the slave to be colonized.

The question being taken by yeas and nays, resulted—yeas 19, nays 19; as follows:

YEAS—Messrs. Anthony, Browning, Collamer, Cowan, Davis, Doolittle, Harlan, Harris, Henderson, Howe, Lane of Indiana, Lane of Kansas, Latham, Powell, Sherman, Ten Eyck, Trumbull, Wilson of Missouri, and Wright—19.

NAYS—Messrs. Carlile, Chandler, Clark, Dixon, Fessenden, Foot, Grimes, Hale, Howard, Kennedy, King, McDougall, Morrill, Stark, Sumner, Wade, Wilkinson, Wilmot, and Wilson of Massachusetts—19.

The Senate being equally divided, the Vice President determined the question in the negative; and the amendment was rejected.

Mr. DAVIS. Mr. President, I have had some experience in legislation, and I have always made it a principle to guide my course, that where a measure was objectionable to me and I intended to vote against it, still I would vote for every proposition of amendment which, in my judgment, would improve it and make it less objectionable. It was in conformity to that principle that I voted for the amendment proposed by the Senator from Wisconsin to the amendment I had the honor of offering to the Senate, and then voted for the amendment as amended; but at the same time it was my purpose to vote against the bill on the question of its final passage, because, even as amended, I thought the bill was subject to much more of objection than approval. I do not consider that there is anything wrong in that mode of legislation. A measure may be likely to pass a deliberative assembly, and a man may be opposed to the whole principle of it and to its general provisions, yet, if in his judgment there be amendments offered which will improve the bill, he may fairly and honorably vote for those amendments, and then vote against the bill. I make this explanation for the purpose of showing my true position in relation to the matter.

Mr. President, I am opposed to this bill, and I shall proceed to give some reasons upon which I base my opposition to it. The reason and the judgment of men constitute a very curious subject of study. We conceive a project beforehand. We have a favorite purpose or end to subserve, and, instead of honestly and in good faith hunting out for truth and for principle and testing the validity and the propriety of our project or our ends by truth and principle, we endeavor to wrest truth and principle and do violence to both by bringing them to the support of our theories and our acts. I am as much subject to this error as any other gentleman. It is a very common one, so much so as to be almost universal. But, sir, I shall endeavor to ascertain the true principles and the facts of the case that apply to the proposition now under consideration, and by that standard I shall endeavor to try and to test the proposition itself which is involved in the bill.

The Senator from Kansas [Mr. POMEROY] took the position that there was no law in the District of Columbia that sanctioned or recognized the existence of slavery. I think that that is a very erroneous position. What law is there that declares that any particular thing shall be the subject of property? What law is there in any of the States of this Union that declares that land or horses or any other description of property which is recognized by usage shall be property? There is none. You will find in the bodies of the laws of the different States various acts that recognize property in particular things by name. So it is in relation to land; so it is in relation to horses; and so it is in relation to slaves and many other subjects. The origin of the law by which property was established in these various subjects grew out of the usages, practice, and uniform custom of the civilized world. There is the origin and sanction of property in every subject of property, and that sanction exists in relation to slaves as undeniably as it does in relation to lands, horses, or any other subject, and I shall proceed to prove it.

The Constitution itself recognizes this property in providing that Congress may pass laws to reclaim fugitive slaves, or persons who are fugitives, to whose service other persons have the right. The Government of the United States and the courts of the United States have in many cases recognized property in slaves. I will mention a signal instance. In the war of 1812 the British forces invaded this District and portions of Maryland and Virginia, and they deported from the country a large number of slaves. By the terms of the treaty of Ghent our Government assumed that those slaves were to be paid for by the English Government. The English Government controverted the proposition; and the question, together with the amount to be paid, was submitted to the arbitration of the Emperor of Russia, and the Emperor of Russia awarded in favor of the United States for those deported slaves about $1,250,000, or something like that amount.

Mr. COLLAMER. To put that matter exactly right, that decision of the Emperor of Russia was made upon the construction of the treaty of peace between us.

Mr. DAVIS. So I said.

Mr. COLLAMER. The provision in relation to slaves was not the result of the Emperor's decision; it was the result of the treaty itself.

Mr. DAVIS. So I said.

Mr. COLLAMER. I did not understand you so.

Mr. DAVIS. I have just stated that that treaty by its terms provided for the payment to the United States Government of the value of the slaves that had been deported from the country by the enemy. The arbitration of the Emperor of Russia was upon the point, whether the treaty did create that obligation. In various cases that have come before the Supreme Court of the United States, that tribunal has recognized the existence of slaves as property and has required foreign Governments to answer to our Government for the payment of slaves as property. The case to which I intend particularly to ask the attention of the Senate and of the honorable gentleman from Kansas, is the case of the Antelope, decided in the Supreme Court of the United States. I will read from the opinion rendered in that case by Chief Justice Marshall, one of the ablest jurists that has ever graced a court in this or in any other country. He says:

"The question, whether the slave trade is prohibited by the law of nations, has been seriously propounded, and both the affirmative and negative of the proposition have been maintained with equal earnestness.

"That it is contrary to the law of nature, will scarcely be denied. That every man has a natural right to the fruits of his own labor, is generally admitted; and that no other person can rightfully deprive him of those fruits, and appropriate them against his will, seems to be the necessary result of this admission. But from the earliest times war has existed, and war confers rights in which all have acquiesced. Among the most enlightened nations of antiquity, one of these was, that the victor might enslave the vanquished. This, which was the usage of all, could not be pronounced repugnant to the law of nations, which is certainly to be tried by the test of general usage. That which has received the assent of all, must be the law of all.

"Slavery, then, has its origin in force; but as the world has agreed that it is a legitimate result of force, the state of things which is thus produced by general consent cannot be pronounced unlawful.

"Throughout Christendom, this harsh rule has been exploded, and war is no longer considered as giving a right to enslave captives. But this triumph of humanity has not been universal. The parties to the modern law of nations do not propagate their principles by force, and Africa has not yet adopted them. Throughout the whole extent of that immense continent, so far as we know its history, it is still the law of nations that prisoners are slaves. Can those who have themselves renounced this law, be permitted to participate in its effects by purchasing the beings who are its victims?

"Whatever might be the answer of a moralist to this question, a jurist must search for its legal solution in those principles of action which are sanctioned by the usages, the national acts, and the general assent, of that portion of the world of which he considers himself as a part, and to whose law the appeal is made. If we resort to this standard as the test of international law, the question, as has already been observed, is decided in favor of the legality of the trade. Both Europe and America embarked in it, and for nearly two centuries it was carried on without opposition and without censure. A jurist could not say that a practice thus supported was illegal, and that those engaged in it might be punished, either personally or by deprivation of property.

"In this commerce, thus sanctioned by universal assent, every nation had an equal right to engage. How is this right to be lost? Each may renounce it for its own people, but can this renunciation affect others?

"No principle of general law is more universally acknowledged than the perfect equality of nations. Russia and Geneva have equal rights. It results from this equality that no one can rightfully impose a rule on another. Each legislates for itself, but its legislation can operate on itself alone. A right, then, which is vested in all by the consent of all, can be divested only by consent; and this trade, in which all have participated, must remain lawful to those who cannot be induced to relinquish it. As no nation can prescribe a rule for others, none can make a law of nations, and this traffic remains lawful to those whose Governments have not forbidden it."

In conformity to these principles, Mr. President, that enlightened court decided that Africans captured in war on the continent or peninsula of Africa and sold to traders in the New World, and shipped for the purpose of slavery, were legitimate subjects of property, and as such they were decreed to be surrendered to those who claimed them as their property.

Mr. MORRILL. Will the Senator give me the authority from which he reads?

Mr. DAVIS. Yes, sir. It is the case of the brig Antelope, 10 Wheaton, pages 121, 122, and 123.

But, sir, I shall now assume a position which my honorable friend from Maine and most of the gentlemen on this floor will think a bold one; but it is a position which I assumed in 1840; and if there be any gentleman curious enough to examine what my opinions were at that day on this subject, in the files of the National Intelligencer of May, he will find them plainly and clearly expressed to this effect: that the Congress of the United States have no power to emancipate a slave anywhere in a State or in the District of Columbia; and I shall argue that position in a few minutes.

The natural law gives no right of property to a man in anything save that which he is using at the moment. What law secures to us our property in our different States and homes? What law is there that authorizes the great land barons of this country to appropriate hundreds and thousands and tens of thousands of acres to themselves? What law is it that secures to the owner every subject of property recognized by the law and usages of civilized society? It is either statutory law or public national law, and, as a general rule, it is public national law, growing out of the practice, usages, and uniform customs of the civilized world, just as they have been stated by Chief Justice Marshall in the case of the Antelope. My right to my land and my right to my slave are of the same origin and nature. They are identically the same. The same principles of law which entitle me to eject a trespasser from my land, authorize me to hold my slave, and to retain my property in that slave against all trespassers whatever; and that principle of law has been recognized by the civilized world. It was recognized by the courts and the Government of England before the case of Somersett was decided by Lord Mansfield. Slaves have been bought and sold in London and in other portions of that island. African slaves were introduced more than two centuries ago into this country by Las Casas, in humanity to the Indian race. The Spaniards were enslaving the Indians and making them work in mines, and treating them with great cruelty; and, in tenderness towards the Indian race, Las Casas himself originated the slave trade in Africans, and he marshaled the way to the introduction of the negro from his native country to this country to serve here as a slave. Slavery was in that way introduced into the thirteen colonies, except Pennsylvania; and slavery existed in all the thirteen colonies until it was abolished—not by their legislative enactments, not by their colonial laws, but by the general law of nations—previous to the Revolution and to the troubles that we had with the mother country. Slaves have been bought and sold in Boston, and in all the States of the United States, except Pennsylvania; and the history of those States will show it. The traders of Massachusetts and Rhode Island brought more slaves from Africa to the continent of North America than the shippers and traders of any other portion of the world.

Then our difficulties with the mother country commenced. Slavery was existing as an institution and slaves were recognized as property, just as horses and cattle were recognized as property, in all the colonies except Pennsylvania at that time. They united together as slaveholding colonies to resist the aggressions of England. That war was waged through seven years and upwards without any attack upon the institution of slavery or the rights of property which the slave owner held in his slave. Then the present Constitution came to be formed. The existence of slavery is recognized in that instrument under a mild phrase, but just as clearly and as certainly recognized as though the term "slave" itself were used. Hence it is a delusion, it is an unsound position, not true in fact or in law, when gentlemen assume that slavery is local and that freedom is universal. I am speaking now according to law. The converse of the proposition is true. It is true, as laid down and decided by Chief Justice Marshall, that the slave trade and the existence of slaves as property was recognized at one time throughout the whole civilized world, according to the usages and the practices of every European Power that had a colony either on the continent or on the islands of North America. It therefore results that this proposition is true: slavery is general; slavery, to use a fashionable phrase, is the normal condition in the United States, and the abolition of slavery or the abrogation of slavery is the exception. I will illustrate that proposition, which my most excellent and able friend from New Hamp-

shire [Mr. HALE] smiles at, by the present condition of Brazil.

Mr. MORRILL. Will the honorable Senator allow me to ask him whether I understand him to say that the existence of slavery is recognized in the Constitution, or that the legality of slavery is recognized in the Constitution?

Mr. DAVIS. I think they are synonymous. I think when the existence of a thing is recognized by the Constitution its legality is recognized, and when its legality is recognized its existence is recognized.

Mr. HOWARD. The existence of treason is recognized by the Constitution.

Mr. DAVIS. Yes, sir; but not by such a provision as that which directs and requires that fugitive slaves shall be surrendered to those who have a claim upon them for their service. That is my position.

Now, sir, to return to the point which I stated a few moments ago, and it is this: that the Congress of the United States have no power to abolish slavery in the States, in the District of Columbia, or anywhere. Will my honorable friend from Maine, for whom I have the greatest regard, in his reply to me indicate the source of power from which the Congress of the United States may abolish slavery in the District of Columbia? I will proceed to answer that question myself so far as I have ever heard it answered. It is answered by referring a person who assumes that position to the clause which gives Congress the exclusive power of legislation over such district of country as might be ceded by the States for the seat of the General Government. That is not a general, indefinite, unshackled, universal power. So far as the Constitution adopts certain great principles, and secures certain great rights, that grant of power is limited and restricted by those principles and by those rights, as are all the other powers of Congress. Has the Congress of the United States the power to establish a national religion in this metropolis? Has the Congress of the United States the power to establish titles of nobility in this District?

Mr. MORRILL. The provisions of the Constitution prohibit in those instances.

Mr. DAVIS. That is exactly what I say. I say that the prohibitions of Congress restrict that general power of legislation in the District. My proposition was broader than that. The great rights which are secured by the Constitution to the citizen and to the States, and the great restrictions upon the powers of Congress by the Constitution also limit and restrict the grant of legislative power to Congress in the District of Columbia. That is my proposition. It is one founded in the Constitution itself. It is immovably moored in that instrument, and no lawyer can tear it from its firm anchorage. It is upon that position that I now propose to draw my deduction, and it is this: I say that all the great rights secured by the Constitution to the citizen exist in the District of Columbia as they exist in all the States of the Union, notwithstanding the clause in the Constitution which gives Congress the exclusive power of legislation in the District. That exclusive power means necessarily in subordination to and within all the prohibitions and the rights made and secured by the Constitution itself. What is one of those rights secured universally in this District as well as in the States? It is the right of property. Is not the right to the writ of *habeas corpus*, the right to trial by jury, the right to freedom of conscience, the freedom of speech, and the liberty of the press guarantied to the people of the District of Columbia as inalienably, as inviolably, as inextricably, as they are guarantied to the citizens of any of the States? I say they are; and I say among other rights that are guarantied to the people of the District of Columbia, and to every citizen of the United States, is the right of property. He cannot be deprived of his property except in the mode prescribed and authorized by the Constitution of the United States. I will now read that clause in the amendments to the Constitution:

"No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compenstion."

I concede that whenever it is necessary in the administration of the Government, in carrying forward the great business of the Government of the United States, that the Government should have private property for public use, it has the right to take that private property on the condition of making compensation for it, and upon no other condition. The point in that provision of the Constitution is this, and I ask the attention of my honorable friend from Maine to it: the Government of the United States cannot take the citizen's property capriciously; it cannot take it without a purpose, even by making just compensation for it; it cannot take it to burn it, if it may be consumed, or to destroy it; it may take it for public use. That is the simple and sole condition upon which the inviolability of private property can be broken by the Government itself; it must be necessary for public use. What is use? It is employment. To use is to employ. To employ is to apply as an instrument or an agent the thing that is taken for public use; and unless in good faith and in strict truth the thing or the property is taken for public use in the sense in which I have stated it, there is no constitutional right on the part of the Government to take the property at all.

I admit that if it was necessary to take negroes to build fortifications, or to do any labor to which slaves could be properly put, as horses or cattle are, (because, in a legal sense, they are all property,) it would be perfectly proper and within the pale of the power of the General Government to authorize that property to be so used. The point which I make upon this provision of the Constitution is this: you cannot capriciously, you cannot to carry out dreams or realities of humanity, you cannot to emancipate slaves, you cannot for any purpose of overturning the institution of slavery, take a slave who belongs to a citizen under any such pretext or purpose as that; you cannot do it constitutionally and upon principle and in good faith. When you take a slave, you must in good faith and in truth intend to apply that slave to the uses, to the business, to the operations of the General Government in some of its services, as you would apply land where you build your forts, or horses to haul for your armies. That is the true, constitutional logic, in my humble judgment; and I believe no man can by sound logic and reasoning overturn it. So far as the public use, the public employment, the business of the Government in any of its legitimate operations may require the appropriation of slaves, you may so appropriate them; but you must continue them in that use, in that service, in that governmental operation, without which you have no authority whatever to take the slave.

Mr. MORRILL. Will the honorable Senator pardon me for interrupting him a moment?

Mr. DAVIS. Certainly.

Mr. MORRILL. I will ask the honorable Senator whether he will carry this prohibition of the Constitution so far as to prohibit the States from abolishing slavery? The Constitution being the supreme law, can the States abolish slavery, according to his argument?

Mr. DAVIS. I will come to that presently.

Mr. MORRILL. My point is this: the Constitution of the United States being the supreme law, and there being, according to the Senator's argument, a prohibition against taking the property without compensation, and then a limitation to public uses, my query is, can the States abolish slavery?

Mr. DAVIS. I will come to that feature of the case in a few moments. Will the gentleman allow me to take my own course of remark?

Mr. MORRILL. Certainly; I beg pardon for the interruption.

Mr. DAVIS. I am now arguing the power of the Constitution of the United States over the subject of slavery. The sovereign power of the States to act on the subject is a different power altogether, because slavery is a domestic institution in the States, and is peculiarly and exclusively within the cognizance of the States themselves. But I will proceed now with this argument.

I admit that in this position I differ with most of the lawyers and statesmen of the United States; nevertheless, it is a conclusion which my own intellect and my own powers of reasoning have reached, and reached more than twenty years ago. I adhere to it still, and I shall adhere to it until my mind is satisfied of its fallacy and unsoundness. Why was this power of exclusive legislation in this District given to Congress at all? It was simply to prevent the business of Congress, the proceedings of the two Houses, the sittings of the courts, and the administration of the Executive and the executive departments being interfered with by local legislation. That was the reason for which this exclusive legislation was given; and when you construe the extent to which that power of exclusive legislation is granted, you must consider the reasons and the object for which it was granted, and you must not give it a scope and an operation outside of and beyond those reasons and operations. My honorable friend and other Senators know the difficulty which the convention which framed the Constitution had in adjusting the subject of slavery. Suppose that all the projects in relation to that subject now before the two Houses of Congress had been offered and had been insisted upon in that convention, would any one of them have been adopted? No, sir. It never entered within the scope of the imagination or the fancies of the men of that day that such measures in relation to the subject of slavery as are now gravely proposed and urgently pressed in the two Houses of Congress would ever be offered in either of them. If the possibility of such a state of the case had been suggested by the presentation of propositions similar in effect to those measures by members who were favorable to the emancipation of slavery at that time, the Constitution of the United States would never have been formed. It was with great difficulty it could be formed and the subject of slavery adjusted according to its compromises, as those compromises were recognized and understood by the framers of the Constitution. If, in that assemblage of wise statesmen, the proposition had been made that a provision should be introduced into the Constitution of the United States authorizing Congress to abolish slavery in the District that might be ceded to the General Government for the seat of that Government, it not only would not have been accorded, but an express provision prohibiting it would no doubt have been incorporated into the Constitution itself.

But, sir, without regard to the power and the jurisdiction of the States, we are now testing the power of the Congress of the United States and of the General Government—a Government of limited powers; limited to those that are expressly delegated, and to those that are necessary and proper to carry the expressly delegated powers into effect and operation. Gentlemen will all concede the truth of the position that the Constitution of the United States nowhere expressly authorizes Congress to emancipate slaves anywhere. I presume the honorable Senator from Maine will not controvert that position: that the Constitution of the United States nowhere in any of its language expressly delegates to Congress the power to abolish slavery in the District of Columbia.

Mr. MORRILL. No, sir; not in terms.

Mr. DAVIS. If it confers that power at all, it confers it as an incidental power to some express power.

Mr. MORRILL. I beg pardon; but if the Senator appeals to me, I do not concede that. I say the general terms are broad enough to embrace it, and they do embrace it.

Mr. DAVIS. Which general terms?

Mr. MORRILL. The general terms of the provision already cited by the Senator from the Constitution. The power to legislate in all cases whatsoever, necessarily embraces the power to legislate in regard to the institution of slavery, or to this relation.

Mr. DAVIS. There is no difference between the position of the honorable gentleman and myself, that I perceive.

Mr. MORRILL. Perhaps not.

Mr. DAVIS. My position is simply this: that Congress nowhere is expressly vested with the power to abolish slavery in the District; that, if it possesses that power at all, it possesses it as an implied power, as an incidental power, as one subsidiary and ancillary to some express power.

Mr. MORRILL. I do not give my assent to that.

Mr. DAVIS. My honorable friend thinks the power of exclusive legislation in the District is broad enough to comprehend it.

Mr. MORRILL. Yes, sir. My position is,

that the power to legislate in all cases whatsoever must necessarily embrace this, if this be a case of legislation.

Mr. DAVIS. My honorable friend does not maintain the position that in every case where Congress might choose to legislate, and upon every subject, they could legislate in the District of Columbia. He will not maintain that it could establish an order of nobility here.

Mr. MORRILL. The Constitution prohibits that.

Mr. DAVIS. So I say; and my argument is based upon that idea, that where the prohibition is either express, or results from conferring certain great personal rights on the citizen, in both cases the restriction applies to the power of exclusive legislation in the District of Columbia. This was my proposition a while ago, and I merely repeat it here that I may be a little more distinct; that as Congress is, in other words, expressly prohibited from taking private property, except for public use, and as private property cannot be taken from the owner without due process of law, and without making the owner compensation, those two provisions taken together necessarily restrict the exclusive power in the District so as to prohibit it from emancipating the slaves here.

But, sir, I will proceed with my argument. Suppose I am wrong, and that the gentleman is right in relation to this matter, then I am opposed to his bill upon other grounds. Even if Congress has the power to emancipate slaves, I ask if that is not taking from the owners of those slaves their private property? How is that private property to be taken from them? The Constitution provides that no citizen shall be compelled in any criminal case to be a witness against himself,

"Nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation."

This is my position: that the Congress of the United States have not the right to declare arbitrarily a mode, and arbitrarily a limit of price, even if they have the power to emancipate slaves in this District, by which these slaves will be taken from their owners and manumitted. If the slaves are taken for the purpose of being emancipated, of being liberated, they must be taken by due process of law. What is that due process of law? It is this: just as a citizen's property of any other class or description is taken from him for any purpose of the Government, so is the negro to be taken from his owner, even conceding that Congress has the power to liberate him. You must take that slave and you must have him appraised judicially, and by a mode that is quasi judicial; you must have a court to act in the matter; you must have a court to summon a jury; you must have a court to appoint commissioners, and under the supervision and sanction of this court, this matter of valuing the property in slaves is to proceed, as it does in relation to any other property of a citizen that may be taken by the exercise of the power of Congress or of the General Government over him.

But, sir, I have another objection, and of a constitutional character, to this bill. It is becoming obsolete to quote the Constitution. The man who does it, and who throws himself within its provisions for the protection of his or the citizen's rights, is regarded as an old fogy. I know how constitutional restrictions are scorned and defied by dominant and ruling parties where they stand in the way of their party purposes. I have witnessed that scene enacted in the other House again and again; and it will be enacted as long as there is a Constitution, and as long as there is a Congress. It is deep in human nature, in the passions of man, in his zeal, in the manner in which his reason and his judgment are beclouded and led captive by his cherished purposes, and by the passions that inflame and give energy to him in pursuing those purposes. Every man who throws himself upon a constitutional provision for the purpose of claiming any protection to his slave property or to the slave property of any part of the country, is denounced and bitterly denounced by the organs of a particular party. I know it to be the fact; but even at the peril of this denunciation I will endeavor to throw myself upon the Constitution, and upon one of its provisions which my honorable friend cannot controvert. It is conceded by a provision of this bill as a condition upon which these slaves are to be emancipated, that those who have a claim on their service are to be compensated. That right to their service is a property. The Constitution recognizes it as a property. The bill itself recognizes it as a property. What is the provision of the Constitution in relation to this property? It is, that you shall not deprive the citizen even of this right of property, the right which he has, the claim which he has, to the labor of his slave, without making him compensation.

Mr. MORRILL. If the Senator will allow me a moment, I desire to say that I maintain, and shall so argue, that Congress may liberate the slaves without compensation, if it chooses, and that the power of Congress is not to depend upon the compensation in the bill. So far as that goes, it is a matter of gratuity, if you choose so to consider it.

Mr. DAVIS. I am obliged to my honorable friend for his frankness; but in that position I differ from him totally. I challenge the dominant party of this Senate, and of the House of Representatives, to pass a bill for the liberation of slaves, and to submit it fairly and honestly to the decision of the courts.

Mr. MORRILL. And perhaps I ought to say, exactly on this point, that I shall contend in that line of the argument, that it is in no constitutional sense to be regarded as property, and therefore we have the right to dissolve the relation whenever we choose.

Mr. DAVIS. Well, sir, the gentleman's position would not be a frostwork in any independent and intelligent court. It would not receive any attention or any consideration whatever. Property exists in slaves in this country as it does in horses or lands. The courts have all decided it to be so. The Supreme Court of the United States has decided it to be so. But whatever the gentleman's abstract opinions may be, his bill concedes in effect, at least, that the owners of slaves are entitled to compensation. He regards it as a gratuity. I regard it as no such thing. I say they are entitled to compensation, and to full compensation. My honorable friend may earn a thousand dollars, and he may invest it in land. I may earn a thousand dollars, and may invest it, in my State, in a slave. If the General Government requires his lands for its use, it has to make compensation for it. If the General Government requires my slave for any purpose whatever, and takes him from me, even in the District of Columbia, it is only upon the condition, according to the Constitution and the law, that I am to receive compensation for the slave. That is the difference between the honorable gentleman and myself. I now proceed upon the concession of this bill on its face. It concedes that the owners of slaves are entitled to have compensation for them upon their liberation.

Now, sir, what is that provision of the Constitution? As I understand it, not that they shall have compensation, but that they shall have a full and a fair compensation. What is the compensation that this bill provides for the owners of slaves? It requires that all the slaves in the District shall be valued by commissioners, and at no greater price than an aggregate of $300 per head. Well, sir, slaves are at every variety of value, from nothing at all to the highest value of a slave. How is the sum to be proportioned? I think the bill is a little too obscure on that point; but I am not disposed to make a question about it. But it establishes the principle that all the owners of slaves in the District of Columbia shall receive compensation only at the average price of $300. I say that that is not full compensation. I say it is only half compensation; or was before these war times. If the slaves of this District, old and young, healthy and decrepid, of every class and grade, had been put in the market eighteen months ago they would have averaged a sum of something like six hundred dollars per head; and the same remark is true of my own State. What does the gentleman do? It is very kind to the slaveholders, on his principle and his understanding of constitutional law, to allow them to receive half of the loaf, because the old proverb is that half a loaf is better than no bread. But, sir, whenever you liberate a slave on that principle, and arbitrarily regulate the maximum value, and that maximum value is only one half of the average price, you are guilty of a violation of the Constitution, according to my construction of the instrument, which requires you to make compensation to the owner of the slave for his property. Whenever you presume to emancipate slaves on that principle, you make such a palpable and plain violation of the Constitution itself that the courts of the country would decide that your act of liberation was null, and they would not only refuse to carry it into effect, but would enjoin the execution of it. You have a horse that is worth $100. An Army officer takes it and offers to give you fifty dollars for it. You have a right to refuse it. You have a claim upon your Government for the value of the horse. You may not have the right of suit to enforce your right to the full value of the horse, but a just Government that would protect its citizens equally would make to you that compensation. I say that precisely the same measure of compensation that you, sir, or any other citizen would be entitled to for your horse taken for public use, the owner of a slave is entitled to, if Congress, under the power of exclusive legislation in this District, has authority to take that slave, and will take him and manumit him.

Gentlemen who believe that property does not and cannot exist in slaves, who believe that Congress have the power to manumit slaves without making compensation for them, may act upon the principle of my honorable friend; but they who believe that slaves are property and that slaves cannot be taken from their owners, any more than any other property without making proper compensation to their owners, ought, in my judgment, to vote for a bill with provisions to have the value of each slave fairly ascertained by proceedings in courts or quasi judicial proceedings. If the principle that property does not and cannot exist in slaves is the principle upon which the legislation of Congress is to proceed, where will it lead us to?

But, Mr. President, I will proceed with the argument. There is a very different spirit and there are very different purposes now in the dominant party in relation to slavery, to what were declared a few months ago. If the present policy in relation to slavery had been declared before or immediately after the battle of Bull Run, what now would be the condition of this Government and of your Army? I do not know the state of public sentiment, either generally or restrictedly, in the army of the Potomac. I understand, though, that there are emissaries busily engaged in that army disseminating abolition principles. In the West, I know that the great mass of the army believe that the owners of slaves are entitled to pay for their property. I know the great army of the West are not engaged in any crusade against slavery; and if such a crusade as has been fulminated against that institution from the two Houses of Congress at the present session had been honestly outspoken after the battle of Bull Run, you never would have got one fourth of the hardy, brave, true, and just men of the West, that are now in your armies, to enlist in any such crusade—never.

Mr. MORRILL. Will the honorable Senator allow me to ask him whether his remark applies to this particular bill or to a general policy?

Mr. DAVIS. The general policy.

Mr. MORRILL. Then I have nothing to say.

Mr. DAVIS. In relation to this particular bill, I will make a few other remarks. The people of this District are not free. They are not as free as you want to make their slaves. What right of self-government have the people of this District? The Government of the United States, and of the States is a complex system. You never could have had a consolidated Government in such an extensive country as this. There is no common Legislature that could legislate wisely and safely, and to the satisfaction of the people in all the concerns of property, society, and government, that are embraced in this vast nation of ours. How was that difficulty sought to be obviated? By claiming for the General Government a few general but some of the highest powers of legislative and political sovereignty—the power to regulate all the relations and all the concerns between the United States as a nation and foreign States or nations, and the right to regulate all the relations between the different States as States among themselves, and the relations between the United States and the Indian tribes. My honorable friend, I am certain, will concede that the Government of the United States is a limited Government; that it has no powers except what are expressly conferred upon it by the Constitution

itself, or such as are necessary and proper to carry out the powers that are expressly delegated—

"The powers not delegated by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

I imagine that that is an authority conclusive on this point and one which cannot be disputed by my honorable friend or any other gentleman. The Government of the United States, then, is a Government of limited powers. Within the scope of these powers, I admit, it is supreme, and that all State governments and authorities are subordinate to it; but there is in the vast domain of legislation in this country a great variety of domestic and local political powers that are not vested and were never intended to be vested by the framers of the Constitution in the General Government. I lay down this further proposition in relation to those reserved powers: they are as much the right of the States, of the people of the States, and of the State governments, as the power to declare war, to coin money, and to regulate commerce are rights that belong to the Government of the United States.

What is this war waged for by the Government of the United States? It was commenced by the seceded States in violation of the Constitution. They are insurgents and rebels. They ought to be put down and I trust will be put down, because they have infringed upon the Constitution of the nation and the powers of the General Government. But let me put this question to my honorable friend: Suppose the General Government should infringe upon the proper State domain of legislation or of political power; suppose the General Government should pass laws outside of the pale of the Constitution, for which it had no warrant in that instrument, and which laws violated the rights of the States or of the people of the States: would not the people of the States have the right to resist even by armed force such unconstitutional legislation of Congress?

Mr. HOWARD. The courts are to judge.

Mr. DAVIS. Yes, sir, that I admit; but I was putting a case about which there could be no controversy. The very ground upon which this war is prosecuted by the General Government against the insurgent States, and the people of the insurgent States is, that they have violated the Constitution of the United States. That is a true and legitimate ground, and upon that ground it is the duty of the General Government to prosecute this war. If the General Government transcends the scope of its limited powers and passes laws without the sanction of the Constitution that infringe the rights of the States, the power to decide in this conflict of opinion, I admit, is in the courts of the United States; but before the decision by the courts, in the absence of that decision, have not the people and the States themselves the right, upon their own responsibility, to judge the question, and to resist unconstitutional laws?

Mr. HOWARD. Will the honorable Senator allow me to ask him a question on this point of his argument?

Mr. DAVIS. Certainly.

Mr. HOWARD. In what respect does his present position differ from the claim of the right of nullification or secession—the South Carolina doctrine?

Mr. DAVIS. In this, if my friend will permit me: whenever a question of right on the part of the States, or of the people of the States, and of power on the part of the General Government is submitted to the courts of the United States, their decision must be submitted to.

Mr. HOWARD. My friend will pardon me. I understood him to announce that before a decision should be made in such a case as the one he put, or in the absence of such judicial decision, it would be the right of the States or the Legislatures of the States to take the remedy into their own hands.

Mr. DAVIS. To this extent: I say they attempt a remedy at their own peril.

Mr. HOWARD. Then that is the right of revolution.

Mr. DAVIS. No. If they are right, and the courts sustain them, of course they will be sanctioned by the proper authority of the General Government; but if they are wrong, and the courts decide against their position and their action, they will have to submit to the judgment of the courts and to the principles laid down by the courts. That is the general and the admitted doctrine. Gentlemen have asked me so many questions that they really bother me a little. I will trim my sails and get under way again, if I can.

Mr. HOWARD. I beg the Senator's pardon for having interrupted him.

Mr. DAVIS. I do not object to the questions further than that they disconcert me a little. The General Government is a Government of limited powers; so far as the Constitution has delegated to it powers expressly, or so far as powers are necessary as incidental and subsidiary powers to carry the expressly delegated powers into effect, the General Government has all power within that scope. Beyond that limit the General Government has no power whatever; and my general proposition is that if the General Government transgresses this limit and infringes upon rights that are reserved to the States, that belong to the States or to the people of the States, the General Government is as much a usurper and a wrong-doer in relation to those acts of trespass as the confederate government now is a wrong-doer; and that proposition cannot be controverted, I think, by sound logic.

At this point, let me inquire what express power delegated to the General Government by the Constitution of the United States, is required to be carried into effect and operation by the liberation of slaves. You take property for the use of the General Government, because of its fitness and capabilities to be applied to some purpose or operation of the Government. You do not propose to make any such application of the slaves. You do not propose to use them at all. You do not propose to employ them in the business of the General Government. The other position upon which I plant myself is, that every slaveowner in this District has a property in his slave; and before that property can be taken by Congress, even under the clause which gives it exclusive power of legislation over the District of Columbia, the owner is entitled to have full compensation for his slave; and your bill proposes to give but half. The bill will work great injustice in this District; and there is a particular case of a lady, who applied to me in relation to this bill a few days ago, that illustrates it very forcibly. She is a Mrs. Beall, of this city—a lady of about forty-eight years of age, as she told me—in very feeble health, having a goitre—the largest I ever saw—and a diseased heart. Her husband died a few years ago, insolvent, but possessed of some real estate. She claimed her right of dower, as the law gave her a right to claim, in that real estate, and from that source the good lady realized a sum that enabled her to purchase five slaves, and some small amount of household property. She informs me that one of her slaves she hires to Mr. Carlisle, of this city, at twenty dollars per month. The hire of that slave, then, produces her $240 a year. A negro girl she hires as a nurse at some infirmary at six dollars a week. That slave would yield her $312 a year at that rate. She has a negro woman, a seamstress, that she hires at eight dollars a month. That slave would produce her, at that rate of hire, ninety-six dollars a year. She has a house servant, who is now sick, that she hires when he is well at twelve dollars a month. That slave would produce her $144 a year. She has a negro woman who is a cook, and whom she hires also as a nurse in some hospital or infirmary occasionally, at the rate of six dollars a week. That slave, then, would produce her at the rate of $300 a year. Here are five slaves that would produce that good lady eight or nine hundred dollars per year; and this bill proposes to take them from her by giving her something like that amount of compensation. She is a woman of intellect, of cultivation, of lady-like manners, whose condition makes her as just a subject of sympathy as any negro that lives on the face of God's earth. Her husband died and left her three children—a son and two daughters. The son was casually drowned. The elder daughter is now nineteen years of age. She was attacked with scarlet fever, which fell upon her eyes and produced partial blindness, and has prevented her from receiving any education, and the other child is now in her tender girlhood, about nine years of age, to be raised and educated. This is but one of the hundreds of such cases that will occur in this city. Now, sir, you propose to take from that woman these valuable slaves, yielding her such an annual revenue. They would have brought her an average of a thousand or twelve hundred dollars each before these troubles commenced. Is she to be deprived of that property for the pittance that is proposed in this bill, and to be turned out with her helpless children in her condition of health, when she is no longer able to labor for a livelihood, upon the cold charities of the world; and all that, in the name of humanity? Sir, the men who remove these slaves from their plentiful and contented home will outrage humanity and benevolence by the act. They will place them in a condition where they will not have the comforts and happiness they now have.

But, sir, a new party has come into power. Your leader and your chief is an honest and true hearted man. He published to the nation his opinions in relation to this subject before his candidacy, and I will read some of those opinions as expressed in his speeches. I will first read an extract from Mr. Lincoln's speech at Quincy, Illinois, to be found at page 197 of Follett and Foster's edition of Political Debates—a speech made during his canvass for the Senate with Mr. Douglas. It shows that consistency and good faith should restrain the party in power from violating principles, the profession of which gave them power:

"I suppose that in reference both to the actual existence of slavery in the nation and to our constitutional obligations, we have no right at all to disturb it in the States where it exists, and we profess that we have no more inclination to disturb it than we have the right to do it. We go further than that; we do not propose to disturb it where, in one instance, we think the Constitution would permit us. We think the Constitution would permit us to disturb it in the District of Columbia. Still we do not propose to do that, unless it should be on terms which I do not suppose the nation is very likely soon to agree to—the terms of making the emancipation gradual and compensating the unwilling owners. Where we suppose we have the constitutional right, we restrain ourselves in reference to the actual existence of the institution and the difficulties thrown about it."

If his followers in this and the other House would have the justice and the humanity and the manliness to occupy, and continue to occupy, the positions upon which he was elected, it would be better for them and for the country. Such were the professions upon which you got into power. Such were the principles and the declarations of your chief. Such was his platform. You are now about to violate that position. As late as February 27, 1860, in New York, Mr. Lincoln claimed the Republican party to be conservative in contradistinction to the Democratic party. He said:

"We, Republicans, stick to, contend for, the identical old policy on the slavery question which was adopted by our fathers, who formed the Government under which we live; while the Democrats, with one accord, reject and scout and spit upon that old policy, and insist upon substituting something new."

The continuation of slavery in this District was a part of the old policy of the fathers who formed our Government. In the compromise measures of 1850, the subject of slavery in the District of Columbia was provided for, and the provision then made was intended to be a finality. It was so proclaimed by the Democratic convention and by the Whig convention that met soon afterwards in the city of Baltimore.

But, sir, I will read a little further in connection with this subject. On the 11th of February, 1861, Mr. Palmer offered in the House of Representatives these resolutions:

"*Resolved*, That the Federal Government, nor the people or governments of the non-slaveholding States, have a purpose or a constitutional right to legislate upon or interfere with slavery in any of the States of the Union.

"*Resolved*, That those persons in the North who do not subscribe to the foregoing propositions are too insignificant in number or influence to excite the serious attention or alarm of any portion of the people of the Republic, and that the increase of their numbers and influence does not keep pace with the aggregate population of the Union."

A division of the question was called for, and the vote taken on the first resolution was—yeas 116, including my honorable friend from Ohio, [Mr. SHERMAN,] who was then a member of the House of Representatives; the nays were 4; they consisted of Messrs. Barr, Phelps, Scott, and Woodson. On the same day the Senator from Ohio, then a member of the House, offered this resolution:

"*Resolved*, That neither Congress nor the people or governments of the non-slaveholding States have a right to legislate upon or interfere with slavery in any of the slaveholding States in the Union."

Upon this the yeas were 161, and the nays none.

I will read from the platform adopted by the Chicago convention, upon which Mr. Lincoln was elected, two of the resolutions—the third and fourth:

"3. That to the Union of the States this nation owes its unprecedented increase in population; its surprising development of material resources; its rapid augmentation of wealth; its happiness at home and its honor abroad, and we hold in abhorrence all schemes for disunion, come from whatever source they may; and we congratulate the country that no Republican member of Congress has uttered or countenanced a threat of disunion, so often made by Democratic members without rebuke and with applause from their political associates; and we denounce those threats of disunion, in case of a popular overthrow of their ascendancy, as denying the vital principles of a free Government, and as an avowal of contemplated treason, which it is the imperative duty of an indignant people strongly to rebuke and forever silence."

There is nothing in that resolution that I do not heartily approve.

"4. That the maintenance inviolate of the rights of the States, and especially the right of each State to order and control its own domestic institutions according to its own judgment exclusively, is essential to that balance of power on which the perfection and endurance of our political fabric depends, and we denounce the lawless invasion by armed force of the soil of any State or Territory, no matter under what pretext, as among the gravest of crimes."

There is nothing in that resolution that I do not heartily approve. And yet the gentlemen who adopted the platform containing these resolutions, who unfurled their banner with these resolutions inscribed upon it, and went forth conquering and to conquer, and achieved the possession of the Government of the United States, are now about to violate them; are seeking to violate them. At the extra session of Congress in July last, the Senator from Tennessee, now absent from his seat, [Mr. JOHNSON,] offered this resolution:

"*Resolved*, That the present deplorable civil war has been forced on the country by the disunionists of the southern States now in revolt against the constitutional Government and in arms around the capital; that in this national emergency Congress, banishing all feelings of mere passion or resentment, recollect only its duty to the whole country; that this war is not prosecuted upon our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor for the purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution and all laws made in pursuance thereof, and to preserve the Union, with all the dignity, equality, and rights of the several States unimpaired; that as soon as these objects are accomplished, the war ought to cease."

There is a noble resolution containing the true principles of the Constitution and embodying the sentiments of justice and humanity. This resolution was passed on the 26th of July, 1861, a few days after the battle of Bull Run. The yeas were—

Messrs. Anthony, Browning, Chandler, Clark, Cowan, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Harlan, Harris, Howe, Johnson of Tennessee, Kennedy, King, Lane of Indiana, Lane of Kansas, Latham, Morrill, Nesmith, Pomeroy, Saulsbury, Sherman, Ten Eyck, Wade, Wilkinson, Willey, and Wilson—30.

And the nays were—

Messrs. Breckinridge, Johnson of Missouri, Polk, Powell, and Trumbull—5.

Here is as solemn a pledge as men ever gave, on a great national subject. Do they intend to keep it? When they made this promise, did they make it in truth and in good faith?

Mr. CLARK. Will the Senator allow me to inquire what was the promise that we made?

Mr. DAVIS. I have just read it.

Mr. CLARK. It was about the prosecution of the war; was it not?

Mr. DAVIS. Yes.

Mr. CLARK. We did not promise that we would not legislate at all.

Mr. DAVIS. I have just read the promise.

Mr. CLARK. That was about fighting.

Mr. DAVIS. Well, I will read it again:

"*Resolved*, That the present deplorable civil war has been forced on the country by the disunionists of the southern States now in revolt against the constitutional Government and in arms around the capital"—

I agree to that; and so does the gentleman from New Hampshire, I presume.

"That in this national emergency, Congress, banishing all feelings of mere passion or resentment, will recollect only its duty to the whole country."

Mr. CLARK. Certainly.

Mr. DAVIS. That is a mighty good sentiment:

"That this war is not prosecuted upon our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor for the purpose of overthrowing or interfering with the rights or established institutions of those States; but to defend and maintain the supremacy of the Constitution and all laws made in pursuance thereof, and to preserve the Union, with all the dignity, equality, and rights of the several States unimpaired; that as soon as these objects are accomplished the war ought to cease."

Now, sir, here is my position: if you intended to make and did make that pledge in good faith, you have no right now to enlarge the purposes of the war.

Mr. CLARK. Does the Senator understand this to be a purpose of war that we are now about?

Mr. DAVIS. Yes, sir; this is a purpose of war now. It is an entering wedge. You want to get the head in, and then you intend to push the monster through. That is what you are after. If there was to be no other movement upon slavery, we never should have heard of this bill to abolish slavery in the District of Columbia. It is extreme men that bring parties and nations to ruin. Men in a body will violate pledges that they would never dream of violating as single individuals. Here are your pledges, as strong and as emphatic as they can be made, defining the purpose for which you intended to wage the war. I say that you cannot with a due regard to your pledged word, to your faith, to your honor as men and as patriots, enlarge materially the purposes of the war. The object of such enlargement is not to limit and to spend the force of your action upon this downtrodden and oppressed District, but it is to extend your usurpations into the States. This is but a preliminary operation. You are endeavoring to experiment now how far you can go, and how far the moderate men of your party will go with you.

Mr. President, as I have said; it is the extreme and the violent men of parties and of factions that bring both parties and nations to ruin; and hence caucuses are held by parties, not by the party now in power particularly, but by all parties. They get together in caucus; the hot spirits, the energetic wills, the vaulting, towering men of ambition in the party, have their schemes ahead, and to work out these schemes successfully it is necessary to command the support of their party, and they, therefore, get their party together, and they establish "whippers in" to bring the moderate and just and conscientious men up to the work of violence. That is what is done, and every man who has had any experience in parties knows it. There are men in the Senate Chamber and in the other House—yea, a majority of them, and a large majority—to whom, if they would just throw far from them the extreme and fanatical men of their party, and would act upon the suggestions of their own reason and their own hearts, I would be willing to submit this whole subject.

Mr. President, there is no greater truth than this, that there are few forces that corrupt so speedily and so rapidly this human heart of ours as power, and especially irresponsible power. We have had experience of that for a long time in this country. I knew a proud party in this country of long endurance that became so much intoxicated with the possession and extent of its power that it proclaimed itself the power of permanence; and within a few short months after this proud boast it was overthrown. The party in power now is just about to become as much or even more intoxicated with power, and a little more corrupted by it. I do not intend anything that is offensive to this party. You are men. You act as all parties do. The possession of power intoxicates you as it intoxicates all others. You abuse it; you trample upon the Constitution in the exercise of powers of Government that it gives you; you commit acts of injustice and oppression; you go to such extremes and excesses as to revolt the public mind, and sooner or later the people will rise in their majesty, and overthrow you as they have overthrown the parties that preceded you.

Mr. WILSON, of Massachusetts. Will you point out some of those excesses and extravagances?

Mr. DAVIS. I think there is one about to be perpetrated now.

Mr. CLARK. This is not done yet.

Mr. DAVIS. I hope it will not be done. If it is not done, it will be because the moderate and just men of the Senate take the power of the party into their own hands. I would hope for my country that they would do so on all occasions. But the leaders want you to follow their counsels of violence and aggression and oppression to enable them to keep up the questions of agitation that constitute their political capital and that have brought them into power and upon the existence and continuance of which they hope to continue in power. Now, I will read to my friend from New Hampshire [Mr. HALE] a quotation from the good book, as he read one to me the other day:

"The pride of thine heart hath deceived thee, thou that dwellest in the clefts of the rock, whose habitation is high; that saith in his heart, who shall bring me down to the ground?

"Though thou exalt thyself as the eagle, and though thou set thy nest among the stars, thence will I bring thee down, saith the Lord."—*Obadiah*, 3 and 4.

Yes, you will be brought down.

Mr. HALE. Was not that addressed to slaveholders?

Mr. DAVIS. It was addressed to the Edomites, the Ishmælites—the abolitionists of that day. [Laughter.] Now, Mr. President, there is one gentleman in this body of the Republican party, who gives this subject the consideration of a philosophic statesman, and that is the Senator from Wisconsin, [Mr. DOOLITTLE.] He made an able, statesmanlike, and patriotic speech a few days ago, and he took views in that speech true as God's throne and eternal as the world. He said that the negro and the white race never can and never will amalgamate in this land and have a community, socially and politically, of rights and privileges. As he justly and truly remarked, there is a question beyond that of abolitionism in this District, beyond that of manumitting the slaves in the States, if you please; and that question is the separation of the races. He said, very correctly, that God, who made both races, has in effect decreed that they shall be separate. They can never live together in any considerable numbers except as master and slave, and all the puny efforts of man, however great in reason, however fanatical in spirit, however misguided by ambition or hypocracy, can never repeal that law. Whenever a liberation comes, separation must follow. If it does not follow, the war of races is inevitable, and one or the other must and will be exterminated. We have two hundred and twenty-five thousand slaves in Kentucky. They are owned mostly by Union men. They are owned by men true to the Constitution as our fathers made it, and willing to live up to all of its obligations. If you proceed upon the principle of manumitting all the slaves in that State that have belonged to persons who were in the rebel army, or who sympathized with the rebel cause, you will find that it is impossible, you will have no power to enforce the law, and you never will enforce it. There is no being in that State who would not rise up in revolt, and in deadly and in continuous and never dying hostility to any such system. We would hold the party in power, we would hold the misguided men in power, that would endeavor to force that state upon us as the worst enemies with which the God of Heaven had ever cursed us. We oppose the secessionists, and we want to fight them to subjection, to unconditional submission to the Union; but the spirit and perseverance and desperation with which we would fight secessionists is nothing to that with which we would fight that condition of things.

When you liberate the slaves in the seceded States, as I have said, I fear you give up that country to the slaves, or you put their owners in the condition that they will again reduce them to slavery, or if they cannot do that they will exterminate them. The honorable Senator from New Hampshire [Mr. HALE] spoke of the emancipation of the slaves of the West India Islands and of the emancipation of the Russian serfs. The cases are not parallel. As the honorable Senator from Wisconsin said a few days ago, the population in the British West India Islands is mainly negro, and the tropics belong to the negro; their constitutions are homogeneous to the climate; it is their home to which their Creator assigned them, and sooner or later they will have undisputed possession there I have no doubt. They were as five to one on the island of Jamaica. The honorable Senator spoke of the island of St. Domingo. I will make but a single remark on that. In the year 1789 the exports of that island were $28,000,000; now they are only between five and six millions.

Mr. President, honorable Senators have adverted to Roman slavery. Russian serfdom and Roman slavery are not at all analogous to our case. The slaves there were all of the same color

and the same race; and when the slave became a freeman, he rose to the dignity of a citizen, and was then a member of the community in which he lived, and all the places of honor, profit, and power were open to him. Even Decimus Brutus, who stabbed Cæsar, was Cæsar's freedman. In Russia the slaves were of the same color. They might mingle and amalgamate with their masters and mistresses; they might become part and parcel of the same great and liberated empire and people. But it is not so in America, and it never will be so. Then the duty which you owe to the slave, which you owe to your own race, is, wherever you have the power to manumit the slave, and you choose to exercise that power, to make a provision for the separation of the races. Your bill makes no such provision; and in that point of view, according to my judgment, it is subject to insuperable objection.

You all profess to be lovers of free government; you all say that every people should have the right to govern themselves. Should not the people of the District have the right to say whether they want to continue slavery or not? There is no more reason now—indeed, there is less reason since 1850—than there ever was before why slavery should be abolished in this District. Regulate it, if you please, according to the laws of humanity and of a wise and decorous policy; but these people, who are unrepresented, whose masters you are, have a right to be heard. I have seen them under various factions and parties, like rats in an exhausted receiver, as it were, experimented upon in relation to their currency and their slaves. Let the people of the District have the power of self-government in relation to this institution. If they want slaves, why should you seek to deprive them of them? You have originated in the Northeast Mormonism and free love, and that sort of ethereal Christianity that is preached by Parker and by Emerson and by others, and all sorts of mischievous isms; but what right have you to force your isms upon us? What right have you to force your opinions upon slavery or upon any other subject on an unwilling people? What right have you to force them on the people of this District? Is it from your love for the slaves, your devotion to benevolence and humanity, your belief in the equality of the slaves with yourselves? Why do you not go out into this city and hunt up the blackest, greasiest, fattest old negro wench you can find and lead her to the altar of Hymen? You do not believe in any such equality; nor do I. Yet your emissaries proclaim here that the slaves, when you liberate them, shall be citizens, shall be eligible to office in this city. A few days ago I saw several negroes thronging the open door listening to the debate on this subject, and I suppose in a few months they will be crowding white ladies out of these galleries.

An honorable member of the other House has proclaimed, audaciously proclaimed, that he has attended and harangued negro meetings here, that he has told them they had the same right to their masters' labor that the masters had to theirs; that they had the same right to sell their masters as their masters had to sell them; that they had the same right to sell their masters' children as the masters had to sell their children. Are these the dogmas, destructive to society, that you intend to preach and establish in this District? Was there anything in British oppression upon the colonial inhabitants of this country at all comparable in grievance, in real wrong and outrage, to what you are endeavoring now to force upon the people of this District? Have they not as much right to say they will have slaves as you to say that you will not have slaves? If you will not allow them that privilege, will you not allow them the poor privilege of voting whether free negroes shall stay here among them or not, a curse to the soil, a blight upon this small and poverty-stricken society.

I have some statistics on the subject of slaves and free negroes in this District. The free negroes, by the census of 1860, are reported to be 11,548; the slaves 3,181. I have a table of the amount of free negroes in this city at various times. All these 11,548 were not manumitted here; how did they come here? This is a general receptacle for the free negroes, refugee negroes from Virginia and Maryland; they crowd here until their numbers had run up to 11,548 before this war commenced, and I suppose their number has increased several thousand since. Here are 3,181 slaves, and the whole negro population is 14,729. The white population of the District in 1850 was 37,941, in 1860, 60,788. Are you willing to take that proportion of free negroes into your communities? If you are so humane, so benevolent, buy the slaves of Mrs. Beall and the other poor helpless widows in this city, buy them at fair prices with your money and take them to your homes, and there make them your neighbors, if you choose, your equals in politics and in the social circle. When you do this, the world will give you credit for benevolence and philanthropy, but now it is all cant, it is all ambition. You and the men in the South are trying to make the same use of the slavery question. The business of both parties is to agitate, agitate, and never cease to agitate, because it becomes an element of political power by which individuals or parties may vault into office. Out, out, with such benevolence and philanthropy as that.

But, Mr. President, I will draw to a close. I say, conceding the power of Congress to emancipate slaves in this District, they ought not to exercise that power. If they exercise it at all it ought to be in conformity to the wishes of the true people of the District, and not of the emissaries of abolitionism who have been imported into this District since the war. Go to the residents of the city, to the tax payers, to those who have a stake in the hedge, to those who have been here for years, and consult them as to their wishes and pleasure in relation to this matter. If you will not do that, in the name of grace and justice give them the power to show by their votes whether they want emancipated slaves or free negroes to remain with them. If they do not want them to stay here, take measures for their removal; carry the African to a country which he can govern himself, where the upholding of his society, of his government, of his laws and liberty, if he possesses them, will devolve upon him as his own individual and personal privilege. While you retain him here he will ever be in a subordinate state; you cannot lift him above it; no legislation can place him above it. Here, even if he is free, his condition, in nine cases out of ten, in a much larger proportion so far as I have observed them, is made worse in every sense of the term for him than if he was a slave. It is not for the advantage of the white man in the agricultural States that slavery exists. It is expensive labor; it would be better for the country if it had never been there. I am no friend to slavery as an abstract question. If now I could decide whether slavery should exist or not, or whether it should cease with the colonization of all the negroes, I would colonize them all. If my own will could prevail, I would put into operation in my own State a system of gradual emancipation that it would take about a hundred years to consummate, and the thing should die out so gradually that nobody would be injured by it. But I say in relation to this District and these people, give them a fair compensation for their slaves. It is a poor city; they have a vast and cumbrous city and corporation to support. The very keeping of their streets in order is enough to grind them into poverty. Congress at different times has been generous to them, but that is no reason that you should be unjust now. Give them a fair compensation for their slaves if you will vote to emancipate them; and when you get them, remove them from the country; let the races be separated; let the negro go to a land where, when he is buried, memory may raise some trophies over his tomb. None, none can ever be raised over his tomb in this land.

Having given these views, Mr. President, upon this subject, I shall vote against the bill in its present form most decidedly.

Mr. WILSON, of Massachusetts. I desire to address the Senate briefly upon this question, and I will do so to-morrow morning, as I now desire to move that the Senate proceed to the consideration of executive business.

Mr. ANTHONY. I move that the further consideration of this subject be postponed until to-morrow.

The motion was agreed to.

EXECUTIVE SESSION.

On motion of Mr. WILSON, of Massachusetts, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *March* 24, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of Friday last was read and approved.

COMMODORE DU PONT.

The SPEAKER laid before the House the following message from the President of the United States:

To the Senate and House of Representatives:

The third section of the "act further to promote the efficiency of the Navy," approved 21st December, 1861, provides "that the President of the United States, by and with the advice and consent of the Senate, shall have the authority to detail from the retired list of the Navy for the command of squadrons and single ships, such officers as he may believe that the good of the service requires to be thus placed in command; and such officers may, if upon the recommendation of the President of the United States they shall receive a vote of thanks of Congress for their services and gallantry in action against an enemy, be restored to the active list, and not otherwise."

In conformity with this law, Captain Samuel F. Du Pont, of the Navy, was nominated to the Senate for continuance as the flag officer in command of the squadron which recently rendered such important service to the Union in the expedition to the coasts of South Carolina, Georgia, and Florida.

Believing that no occasion could arise which would more fully correspond with the intention of the law, or be more pregnant with happy influence as an example, I cordially recommend that Captain Samuel F. Du Pont receive a vote of thanks of Congress for his services and gallantry displayed in the capture, since the 21st December, 1861, of various points on the coasts of Georgia and Florida, particularly Brunswick, Cumberland island and sound, Amelia island, the towns of St. Mary's, St. Augustine, and Jacksonville, and Fernandina. ABRAHAM LINCOLN.

WASHINGTON CITY, *March* 20, 1862.

The message was referred to the Committee on Naval Affairs.

HON. JOSEPH SEGAR.

Mr. BLAIR, of Virginia. I rise to a privileged question. I present the credentials of Hon. Joseph Segar, member elect from the first congressional district of Virginia, and move that he be sworn in.

Mr. BINGHAM. I object.

Mr. DAWES. I ask that the credentials be read.

The Clerk read the certificate, as follows:

It is hereby certified that at an election held on the 15th day of March, 1862, in the counties of Middlesex, Westmoreland, Richmond, Essex, Northumberland, King and Queen, Lancaster, Gloucester, Matthews, James City, the city of Williamsburg, New Kent, York, Warwick, Northampton, Accomac, and Elizabeth City, comprising the first congressional district of Virginia, Joseph Segar was duly elected to represent the same in the Congress of the United States.

Given under our hands this the 22d day of March, 1862.

WILLIAM MEARY,
Conductor at the Court-House of Northampton.
MICHAEL H. HIGGINS,
Conductor at the Court-House of Accomac.
JOHN O. EVANS,
Conductor at the Court-House of Elizabeth City.

Mr. BINGHAM. I move to refer this whole matter to the Committee of Elections.

Mr. BLAIR, of Virginia. I hope the gentleman will withdraw that motion. I see no reason why this matter should be referred to a committee. The certificate is in the exact form required by law, setting forth that Mr. Segar has been duly elected from the first congressional district of Virginia. All that the law of Virginia requires is that the conductors of the election shall certify the election of the individual. The election has been held, and I present the certificate which, as I before remarked, is in due form of law. Why, then, the necessity of referring this matter to any committee? I do hope my friend from Ohio will withdraw the motion, and allow Mr. Segar to be sworn in without any further delay.

Mr. BINGHAM. I cannot withdraw the motion. The Committee of Elections has reported upon the claim of this individual to a seat at another election. The House is already advised, by the official report of the committee, of the state of affairs in Virginia. We know by that report that under the laws of Virginia no election could have been held in that State on the 15th day of this month. That is not the time designated by law; and for anything that appears to this House by that certificate, this was an *ex tempore* election, held by such persons as chose to engage in it, in a certain district of Virginia. I move the reference of the matter to the Committee of Elections, and upon that I call the previous question.

Mr. BLAIR, of Virginia. I hope the gentleman will withdraw that demand for a moment.

Mr. BINGHAM. I cannot.

On seconding the demand for the previous question,

The SPEAKER ordered tellers; and appointed Mr. BINGHAM, and Mr. BLAIR of Virginia.

The House divided; and the tellers reported—ayes 52, noes 23; no quorum voting.

CALL OF THE HOUSE.

Mr. ASHLEY. I move that there be a call of the House.

The motion was agreed to.

The roll was called, when the following-named members failed to answer to their names:

Messrs. Alley, Arnold, Goldsmith F. Bailey, Samuel S. Blair, Burnham, Campbell, Conway, Cooper, Covode, Delaplaine, Ely, English, Fisher, Fouke, Frank, Goodwin, Granger, Grider, Gurley, Hale, Hanchett, Jackson, Kelley, William Kellogg, Kerrigan, Killinger, Knapp, Lansing, Leary, Logan, McKean, Marston, May, Maynard, Nugen, Perry, John S. Phelps, Pomeroy, Richardson, Riddle, James S. Rollins, Sargent, Shanks, Smith, William G. Steele, Stratton, Trowbridge, Vandever, Van Horn, Van Wyck, Verree, Vibbard, Wall, Webster, Whaley, and Wood.

The roll having been called, the doors were closed, and the names of absentees called for excuses, as follows:

JOHN B. ALLEY. No excuse offered.

ISAAC N. ARNOLD.

Mr. ROBINSON. I met Mr. ARNOLD, when on my way to the Capitol, hunting for his child, which was lost. I move he be excused.

The motion was agreed to.

GOLDSMITH F. BAILEY. No excuse offered.

SAMUEL S. BLAIR. No excuse offered.

ALFRED A. BURNHAM. No excuse offered.

JAMES H. CAMPBELL. No excused offered.

Mr. DAWES. I desire to go back and excuse my colleague, Mr. BAILEY. He has been obliged to leave the city on account of severe indisposition. I move he be excused.

The motion was agreed to.

MARTIN F. CONWAY.

Mr. SHEFFIELD. Mr. CONWAY is confined to his room by severe indisposition. I move he be excused.

The motion was agreed to.

THOMAS B. COOPER.

Mr. JOHNSON. I move that Mr. COOPER be excused, as he is detained from the House by sickness.

The motion was agreed to.

JOHN COVODE. No excuse offered.

ISAAC C. DELAPLAINE. No excuse offered.

ALFRED ELY.

Mr. DIVEN. Mr. ELY is confined to his room by sickness. I move he be excused.

The motion was agreed to.

JAMES E. ENGLISH. No excuse offered.

GEORGE P. FISHER. No excuse offered.

PHILIP B. FOUKE. No excuse offered.

AUGTSTUS FRANK. No excuse offered.

JOHN N. GOODWIN. No excuse offered.

BRADLEY F. GRANGER. No excuse offered.

HENRY GRIDER.

Mr. WICKLIFFE. Mr. GRIDER has leave of absence.

JOHN A. GURLEY. No excuse offered.

JAMES S. HALE. No excuse offered.

LUTHER HANCHETT. No excuse offered.

JAMES S. JACKSON.

Mr. WICKLIFFE. Mr. JACKSON is in the Army, and I move he be excused.

The motion was agreed to.

WILLIAM D. KELLEY. No excuse offered.

WILLIAM KELLOGG. No excuse offered.

JAMES E. KERRIGAN. No excuse offered.

JOHN W. KILLINGER. No excuse offered.

ANTHONY L. KNAPP.

Mr. ROBINSON. I move that Mr. KNAPP be excused, as he is confined to his room by sickness.

The motion was agreed to.

WILLIAM E. LANSING. No excuse offered.

CORNELIUS L. L. LEARY. No excuse offered.

JOHN A. LOGAN. Mr. LOGAN being in the Army, was excused.

JAMES B. MCKEAN.

Mr. WHEELER. Mr. MCKEAN has embarked on board a vessel at the head of his regiment. I move he be excused.

The motion was agreed to.

GILMAN MARSTON.

Mr. EDWARDS. Mr. MARSTON is in the military service of his country, at the head of his regiment. I move he be excused.

The motion was agreed to.

HENRY MAY.

Mr. CRISFIELD. I move that Mr. MAY be excused, on account of indisposition.

The motion was agreed to.

HORACE MAYNARD. No excuse offered.

ROBERT H. NUGEN.

Mr. COX. Mr. NUGEN is absent on important public business. I move he be excused.

The motion was agreed to.

NEHEMIAH PERRY. No excuse offered.

Mr. DUNN. I move that all further proceedings under the call be dispensed with.

The motion was agreed to.

So all further proceedings under the call being dispensed with, the doors were ordered to be opened.

JOSEPH SEGAR—AGAIN.

The question recurred upon seconding the demand for the previous question.

The previous question was seconded, and the main question ordered to be put, and under the operation thereof the subject was referred to the Committee of Elections.

Mr. BINGHAM moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ELIGIBILITY TO OFFICE.

Mr. WILSON introduced a bill declaring certain persons ineligible to office; which was read a first and second time, and referred to the Committee on the Judiciary.

PAYMENT OF THE PUBLIC DEBT.

Mr. WICKLIFFE introduced a bill to provide funds in part to pay the interest and principal of the public debt; which was read a first and second time, and referred to the Committee of Ways and Means.

PUBLIC LANDS.

Mr. TRIMBLE introduced a bill to repeal an act entitled "An act to graduate and reduce the price of the public lands to actual settlers and cultivators;" which was read a first and second time, and referred to the Committee on Public Lands.

EXECUTION OF LEADING REBELS.

Mr. EDGERTON introduced a joint resolution of the Legislature of the State of Ohio, relative to the execution of the leading rebels; which was laid on the table, and ordered to be printed.

GENERAL BURNSIDE AND COMMANDER ROWAN.

Mr. COX introduced the following joint resolution; which was read a first and second time:

Resolved by the Senate and House of Representatives, That the thanks of Congress are eminently due and are hereby tendered to General Burnside and the officers and soldiers of his command, and to Commander Rowan and the officers and sailors under him, for the dutiful and gallant manner in which they "carried out the very minute instructions of the general commanding the Army," thus fulfilling his expectations, as well as those of the country, in the triumphant victory of the Union forces at Newbern.

Mr. HUTCHINS. I move that the resolution be referred to the Committee on Military Affairs.

Mr. COX. I hope the gentleman will not object to the passage of this resolution.

The SPEAKER. Under this call all bills and resolutions must be referred, and they cannot be brought back under a motion to reconsider.

The resolution was referred to the Committee on Military Affairs.

Mr. PHELPS, of California. I was temporarily absent when the State of California was called, and I now ask leave to introduce a bill for reference only.

Mr. SHELLABARGER. I call for the regular order of business. I object.

DEFENSE OF DELAWARE RIVER AND BAY.

Mr. NIXON introduced joint resolutions of the Legislature of the State of New Jersey, relative to the defenses of the Delaware bay and river, proposing to make the necessary expenditures for this object, in conjunction with the States of Pennsylvania and Delaware, provided that Congress shall by its action authorize the same; which were referred to the Committee on Military Affairs.

LIEUTENANT G. U. MORRIS.

Mr. F. A. CONKLING offered the following resolution; which was read a first and second time, and referred to the Committee on Naval Affairs:

Resolved by the Senate and House of Representatives in Congress assembled, That the thanks of Congress are hereby presented to Lieutenant George U. Morris, his officers and men, for gallant services on board the United States ship Cumberland in her engagement in Hampton Roads, on the 8th of March, A. D. 1862, with the rebel frigate Merrimac.

HALF PAY TO WIDOWS AND ORPHANS.

Mr. DUELL introduced a joint resolution, giving a construction to the second section of the act of February 3, 1853, to continue half pay to certain widows and orphans; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

RESOLUTIONS OF MAINE.

Mr. FESSENDEN, by unanimous consent, presented joint resolutions of the Legislature of the State of Maine relating to national affairs; which were laid upon the table, and ordered to be printed.

FREEDOM NATIONAL, SLAVERY SECTIONAL.

Mr. ARNOLD introduced a bill to render freedom national and slavery sectional; which was read a first and second time, and referred to the Committee on Territories.

The SPEAKER then proceeded to call the States and Territories for resolutions.

PRINTING OF EXECUTIVE DOCUMENTS.

Mr. BLAIR, of Missouri, submitted the following resolution; which was read, and referred to the Committee on Printing:

Resolved, That Executive Document No. 243, first session Twenty-Fourth Congress, Executive Document No. 124, first session Twenty-Sixth Congress, and Executive Document No. 5, first session Thirty-Second Congress, be printed.

INDIAN DISTRICTS IN CALIFORNIA.

Mr. PHELPS, of California, by unanimous consent, introduced a bill to consolidate the Indian districts of the State of California, and to quiet the title to one of the reservations therein mentioned; which was read a first and second time, and referred to the Committee on Indian Affairs.

INDIAN DEPARTMENT OF UTAH.

Mr. ALDRICH submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Interior be, and is hereby, requested to furnish to the House of Representatives a list of the property belonging to the United States in the Indian department of the Territory of Utah, returned by Brigham Young at the close of his term of office as superintendent of Indian affairs for that Territory, together with such evidence, receipts, or vouchers as may be on file in the Indian department, showing the disposition made of such property at the close of his said term; also, that the Secretary furnish the property-return made by Jacob Forney first after he assumed the discharge of his duties as superintendent of Indian affairs in the Territory of Utah.

GOLD MINES OF THE WEST.

Mr. DUNN submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of the Government organizing a large force of miners, fully provided with all the machinery and provisions necessary for mining successfully, to proceed to the gold mines of the West, and work the same for the benefit of the Government, as a means of defraying the expenses of the war.

ARMY PAYMASTERS.

Mr. HOLMAN submitted the following resolution; which was read, considered, and agreed to:

Whereas on the 12th day of December, 1861, the following resolution was adopted by the House, to wit:

"*Resolved*, That the Secretary of War be requested to furnish to this House a list of the paymasters and additional paymasters now in the service of the United States, and of all other persons connected with the paymaster's department, specifying the States and Territories from which they have been respectively appointed, the amount of money disbursed by each since the commencement of the present war, and for what purpose, and the amount of money now in their hands respectively, or unaccounted for; and that he also be requested to state the salary and compensation of each paymaster and additional paymaster per month, including office rent, clerk hire, and all other compensation and expense chargeable to the Government, except mileage; and also the average mileage of the paymasters per month, or for any other definite period, as may be most convenient; also whether, in his opinion, any of said officials can be dispensed with."

To which resolution no response has been made by the Secretary of War: Therefore,

Resolved, That the Secretary of War be directed to in-

form the House why the information required by the House has not been furnished, and that he be directed to furnish the same, with a statement of such changes as have occurred in reference to such paymasters and additional paymasters since the 12th day of December, 1861.

POST ROUTE IN MARYLAND.

Mr. CRISFIELD submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads inquire into the expediency of establishing a post route from St. Michael's, in Talbot county, in the State of Maryland, to Broad Creek Neck, in the same county.

RAILROAD FACILITIES.

Mr. LEHMAN submitted the following resolution:

Resolved, That the Secretary of War be requested to furnish to this House, in addition to the correspondence with the Baltimore and Ohio railroad, that between the War Department and other railroads between Baltimore and New York, concerning increased railroad facilities between New York and Washington.

Mr. VALLANDIGHAM. I move to strike out "requested," and insert "directed."

Mr. LEHMAN. I accept that amendment.

The resolution, as amended, was agreed to.

EXCHANGE OF COLONEL CORCORAN.

Mr. ANCONA submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be requested to inform this House the cause, if any, for the protracted delay in the exchange of Colonel Corcoran, a prisoner of war at Richmond since July last, and that he be, and is hereby, directed to stop all exchanges of prisoners until Colonel Corcoran be released.

PRINTING OF RECIPROCITY TREATY.

Mr. MOORHEAD submitted the following resolution; which was read and referred to the Committee on Printing:

Resolved, That five thousand copies of the reciprocity treaty with Great Britain of June 5, 1854, and the laws in relation thereto, be printed for the use of the members of the House.

EXCHANGE OF COLONEL CORCORAN—AGAIN.

Mr. BLAKE. I understand that the resolution of the gentleman from Pennsylvania, [Mr. ANCONA,] adopted just now, directs the Secretary of War to stop all exchanges of prisoners until Colonel Corcoran shall be released.

The SPEAKER. Debate is not in order. The gentleman can move a reconsideration.

Mr. BLAKE. I move, then, to reconsider the vote by which the resolution was adopted. It is the last part of the resolution that I object to.

The SPEAKER. If the motion to reconsider gives rise to debate, it goes over under the rule.

Mr. BLAKE. I desire to discuss it.

The SPEAKER. Then the motion to reconsider goes over.

WILLIAM H. NOBLES.

Mr. OLIN submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the report of the Secretary of the Interior made to Congress in the case of William H. Nobles, and the original vouchers accompanying the same, be delivered to the Second Auditor of the Treasury to enable him to state the account for payment under the act approved March 8, 1862.

INVULNERABLE SHIPS AND BATTERIES.

Mr. RICE, of Massachusetts, introduced a joint resolution, authorizing the Secretary of War to test the plans and materials for rendering ships and floating batteries invulnerable; which was read a first and second time, and referred to the Committee on Naval Affairs.

THE CAPITOL BAKERIES.

Mr. TRAIN. I ask the unanimous consent of the House to take from the Speaker's table the joint resolution from the Senate (No. 32) directing the removal of the Army bakeries from the Capitol.

Mr. LOVEJOY. I guess we had better have the regular order of business until the Senate speaks respectfully of the House.

Mr. TRAIN. I move to suspend the rules so that the joint resolution may be taken up.

Mr. ROSCOE CONKLING. Has the morning hour expired?

The SPEAKER. It has not.

Mr. ROSCOE CONKLING. Then I make the point of order that the motion to suspend the rules is not in order.

The SPEAKER. The Chair sustains the point of order. One hour is to be devoted to the call of the States for bills and resolutions, and to the call of committees for reports, and during that hour a motion to suspend the rules is not in order.

Mr. WASHBURNE. I do not understand the decision of the Chair. The gentleman from Massachusetts moves a suspension of the rules.

The SPEAKER. That is not in order during the first hour after the reading of the Journal on Mondays.

Mr. WASHBURNE. The gentleman from Massachusetts moves to suspend the rules that provide for that morning hour.

The SPEAKER. He cannot make that motion during the morning hour.

Mr. WASHBURNE. I do not so understand it. I understand that on Monday any one can move to suspend the rules at any time.

The SPEAKER. The Chair had better have the rule read.

Mr. WASHBURNE. I hope the Chair will have the rule read.

The Clerk read a paragraph from the 145th rule, as follows:

"Nor shall the Speaker entertain a motion to suspend the rules, except during the last ten days of the session, and on Monday of every week at the expiration of one hour after the Journal is read."

MESSAGE FROM THE SENATE.

A message from the Senate by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill (S. No. 226) authorizing the opening of Sixth street west, and an act (S. No. 242) changing the name of the American built schooner John Dyer to that of Dolphin, in which he was directed to ask the concurrence of the House.

POST ROUTE BILL.

Mr. COLFAX. I desire to state to the House that the Committee on the Post Office and Post Roads will next week report the annual post route bill, and we desire any members who have petitions for post routes to hand them in this week, so that the bill may be reported and passed next week, and sent to the Senate.

The SPEAKER then proceeded, as the regular order of business, to call the committees for reports, beginning with the Committee on Territories.

TERRITORY OF ARIZONA.

Mr. ASHLEY, from the Committee on Territories, reported back bill of the House No. 357 to provide a temporary government for the Territory of Arizona, and moved that the bill be recommitted to the Committee on Territories.

The bill was read. It provides that all that part of the present Territory of New Mexico situate west of a line running due south from the point where the southwest corner of the Territory of Colorado joins the northern boundary of the Territory of New Mexico, to the southern boundary line of said Territory of New Mexico, be, and is hereby, erected into a temporary government, by the name of the Territory of Arizona; but that nothing contained in the provisions of the act shall be construed to prohibit the Congress of the United States from dividing said Territory, or changing its boundaries, in such manner and at such time as it may deem proper; and that said government shall be maintained and continued until such time as the people residing in said Territory shall, with the consent of Congress, form a State government, republican in form, as prescribed in the Constitution of the United States, and apply for and obtain admission into the Union as a State, on an equal footing with the original States.

The second section provides that the government of the Territory shall consist of an executive, legislative, and judicial power. The executive power shall be vested in a Governor. The legislative power shall consist of a Council of nine members and a House of Representatives of eighteen. The judicial power shall be vested in a supreme court, to consist of three judges, and such inferior courts as the Legislative Council may by law prescribe; there shall also be a secretary, a marshal, a district attorney, and a surveyor general for said Territory, who, together with the Governor and judges of the supreme court, shall be appointed by the President, by and with the advice and consent of the Senate, and the term of office for each, the manner of their appointment, and the powers, duties, and the compensation of the Governor, Legislative Assembly, judges of the supreme court, secretary, marshal, district attorney, and surveyor general aforesaid, with their clerks, draughtsman, deputies, and sergeant-at-arms, shall be such as are conferred upon the same officers by the act organizing the territorial government of Washington, which subordinate officers shall be appointed in the same manner, and not exceed in number those created by said act, and which, where it is not inapplicable, is hereby extended to the Territory of Arizona.

Section three provides that there shall neither be slavery nor involuntary servitude in the said Territory, otherwise than in the punishment of crimes, whereof the parties shall have been duly convicted; and that, from and after the passage of this act, slavery or involuntary servitude is hereby forever prohibited in all Territories now organized; and all acts and parts of acts, either of Congress or of any organized Territory, establishing, regulating, or in any way recognizing the relation of master and slave in any of said Territories, is hereby repealed.

Mr. CRAVENS. I move to lay the bill on the table.

The SPEAKER. The gentleman from Ohio [Mr. ASHLEY] is entitled to the floor.

Mr. ASHLEY. Mr. Speaker, I desire, with the consent of the House, to have a day certain fixed for the consideration of this bill; if that be not agreeable to members, I shall ask to have it put upon its passage this morning.

Mr. WICKLIFFE. May I ask the gentleman from Ohio a question?

Mr. ASHLEY. I will yield for a question.

Mr. WICKLIFFE. This country which it is proposed to erect into a Territory—does it not now form a part of the New Mexican Territory?

Mr. ASHLEY. Yes, sir.

Mr. WICKLIFFE. Is it not in the adverse possession of the enemies of the Union, and can it be now organized by Congress? If it cannot be, why should we create a batch of offices for men who cannot go there? I understand that the forces of the United States in New Mexico have been driven from their original position, and are now seeking safety at a distant fort in that Territory; and that this Territory of Arizona is now solely and exclusively in the military occupation of the confederates. Why should we, then, create a Territory there, and appoint a Governor and judges who cannot exercise their functions, unless it be to make offices for men who ought to find employment at home?

Mr. ASHLEY. So far as I am advised, or as the Committee on Territories is advised, there are no enemies of the United States in that part of the Territory which we propose now to erect into Arizona, except Indians.

Mr. WICKLIFFE. And they are at war with the United States.

Mr. ASHLEY. There are not in that Territory any organized white enemies of the United States, nor have there been so far as I am advised. The Indians have possession of the Territory, and large interests, not only in my own State, but in other States, have been destroyed by these Indians. We propose now to organize a territorial government there for the protection of interests of citizens of the United States in the western portion of the Territory of New Mexico.

Mr. WICKLIFFE. Are not those Indians, of whom the gentleman speaks, under the government and influence of agents appointed by the confederate States?

Mr. ASHLEY. They are not, so far as I am advised.

Mr. WICKLIFFE. Have the United States any agency there?

Mr. ASHLEY. If gentlemen on the other side do not desire to have a day fixed when this bill may be put upon its passage, I shall call the previous question on its passage now.

Mr. COX. I shall vote to postpone this bill as long as possible—indefinitely. I shall object to any consideration of it at all. I would not consent to have it taken up now. The bill has in it the famous Wilmot proviso, which has given rise already to so much trouble in the country; and this is not a time to bring such a matter before Congress.

Mr. ASHLEY. That is my colleague's opinion.

Mr. COX. Yes; that is my opinion.

Mr. MALLORY. I ask, Mr. Speaker, whether this bill can be considered now?

The SPEAKER. The bill is before the House for its action.

Mr. MALLORY. It could only be brought up, I suppose, by a suspension of the rules this morning.

The SPEAKER. It comes up as a regular report from the Committee on Territories.

Mr. MALLORY. Well, sir, I must protest against a bill of this character. That is all I can do.

Mr. ASHLEY. I move the previous question on the third reading of the bill.

Mr. CRAVENS. I move to lay the bill on the table.

Mr. MALLORY. On that I call for the yeas and nays.

The yeas and nays were ordered.

Mr. WHEELER. As a member of the Committee on Territories, I ask the consent of the House to make a statement.

Mr. ASHLEY. I cannot consent just now. It would take us over the morning hour.

The question was taken; and it was decided in the negative—yeas 49, nays 76; as follows:

YEAS—Messrs. Allen, Ancona, Biddle, Jacob B. Blair, Calvert, Clements, Cobb, Corning, Cox, Cravens, Crisfield, Crittenden, Dunlap, Dunn, English, Franchot, Granger, Haight, Hall, Harding, Johnson, Law, Lazear, Leary, Lehman, McPherson, Mallory, Menzies, Morris, Nixon, Noble, Noell, Odell, Pendleton, Timothy G. Phelps, Porter, Robinson, Shiel, John B. Steele, Vallandigham, Vibbard, Voorhees, Wadsworth, Ward, Wheeler, Chilton A. White, Wickliffe, Woodruff, and Wright—49.

NAYS—Messrs. Aldrich, Alley, Arnold, Ashley, Babbitt, Joseph Baily, Baker, Baxter, Beaman, Bingham, Francis P. Blair, Samuel S. Blair, Blake, George H. Browne, Buffinton, Chamberlin, Clark, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Cutler, Davis, Dawes, Delano, Duell, Edgerton, Edwards, Eliot, Ely, Fenton, Fessenden, Gooch, Harrison, Hickman, Hooper, Hutchins, Julian, Francis W. Kellogg, William Kellogg, Loomis, Lovejoy, McKnight, Mitchell, Moorhead, Anson P. Morrill, Olin, Patton, Pike, Potter, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Sheffield, Shellabarger, Sherman, Sloan, Spaulding, Stevens, Benjamin F. Thomas, Francis Thomas, Train, Trimble, Trowbridge, Van Valkenburgh, Wallace, Charles W. Walton, E. P. Walton, Washburne, Albert S. White, Wilson, Windom, and Worcester—76.

So the House refused to lay the bill on the table.

During the vote—

Mr. CHAMBERLIN stated that his colleague [Mr. WALL] was detained from the House by illness.

Mr. DAWES stated that Mr. STEELE, of New Jersey, was absent from the House on business connected with the committee on Government contracts.

Mr. NORTON stated that he had paired off with Mr. GURLEY.

Mr. CRISFIELD stated that his colleague [Mr. WEBSTER] was necessarily absent from the city.

Mr. ROBINSON stated that his colleague [Mr. RICHARDSON] was confined to his room by illness.

Mr. FRANK (not having been within the bar when his name was called) asked leave to vote.

Mr. COX objected.

Mr. FRANK stated that he would have voted in the negative.

The vote was announced as above recorded.

ENROLLED BILLS.

Mr. GRANGER, from the Committee on Enrolled Bills, reported as truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (H. R. No. 148) to secure to the officers and men actually employed in the western department, or department of Missouri, their pay, bounty, and pension; and

A bill (H. R. No. 279) to facilitate judicial proceedings in adjudications upon captured property, and for the better administration of the laws of prize.

TERRITORY OF ARIZONA—AGAIN.

The question recurred on seconding the demand for the previous question.

Mr. CRAVENS. Is a motion to amend the bill in order?

The SPEAKER. It is not, pending a demand for the previous question.

Mr. COX. With the permission of my colleague, I should like to ask him a question.

Mr. ASHLEY. Very well, sir.

The SPEAKER. Does the gentleman withdraw his demand for the previous question?

Mr. ASHLEY. No, sir.

The previous question was seconded.

Mr. OLIN. I desire to appeal to the gentleman from Ohio——

The SPEAKER. The gentleman has declined to withdraw the demand for the previous question.

Mr. OLIN. He has not declined on my appeal.

Mr. ASHLEY. I decline now.

Mr. OLIN. Let me say then—[Cries of "Order!"]

The SPEAKER. When a gentleman declines to withdraw a demand for the previous question debate is not in order.

The question being on ordering the main question to be put,

Mr. OLIN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 56, nays 75; as follows:

YEAS—Messrs. Aldrich, Arnold, Ashley, Babbitt, Baker, Beaman, Bingham, Samuel S. Blair, Blake, Buffinton, Chamberlin, Clark, Colfax, Frederick A. Conkling, Cutler, Davis, Edgerton, Edwards, Eliot, Ely, Fenton, Fessenden, Frank, Hickman, Hutchins, Julian, Francis W. Kellogg, William Kellogg, Loomis, Lovejoy, Mitchell, Anson P. Morrill, Justin S. Morrill, Patton, Pike, Potter, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Sherman, Sloan, Spaulding, Stevens, Francis Thomas, Train, Trowbridge, Van Valkenburgh, Wallace, Charles W. Walton, Washburne, Albert S. White, Wilson, Windom, and Worcester—56.

NAYS—Messrs. Allen, Alley, Ancona, Joseph Baily, Baxter, Biddle, Francis P. Blair, Jacob B. Blair, William G. Brown, Calvert, Campbell, Casey, Clements, Cobb, Roscoe Conkling, Corning, Cox, Cravens, Crisfield, Crittenden, Dawes, Delano, Diven, Duell, Dunlap, Dunn, English, Fisher, Franchot, Granger, Haight, Hale, Hall, Harding, Harrison, Horton, Johnson, Law, Lazear, Leary, Lehman, McKnight, McPherson, Mallory, Menzies, Moorhead, Morris, Nixon, Noble, Noell, Odell, Olin, Pendleton, Porter, Price, Alexander H. Rice, Robinson, James S. Rollins, Sheffield, Shellabarger, Shiel, John B. Steele, Benjamin F. Thomas, Trimble, Vallandigham, Vibbard, Voorhees, Wadsworth, E. P. Walton, Ward, Wheeler, Chilton A. White, Wickliffe, Woodruff, and Wright—75.

So the House refused to order the main question.

Mr. STEELE, of New York, stated that his colleague [Mr. SMITH] was still absent from the House on business.

Mr. WHEELER. I move that this bill be postponed until one week from to-day in order that I may make some remarks upon it which were denied me to-day by the courtesy of the chairman of the Committee on Territories, [Mr. ASHLEY,] and upon that motion I demand the previous question.

Mr. LOVEJOY. I ask the gentleman so to modify his motion as to make the bill a special order for that day.

Mr. WHEELER. I am willing to do that. My only object is to have the opportunity to submit some reasons for my own course as a member of the Committee on Territories in reference to this bill.

Mr. VALLANDIGHAM. I object to that part of the motion which makes the special order.

Mr. WHEELER. Then I will simply move to postpone.

Mr. COX. I suggest to the gentleman that he make the motion to postpone two weeks.

Mr. WHEELER. I think one week will be sufficient.

Mr. COX. Is it in order to move to postpone indefinitely?

The SPEAKER. It is not at this time.

The previous question was seconded, and the main question ordered to be put.

The bill was postponed for its further consideration until one week from to-day.

Mr. WHEELER moved to reconsider the vote by which the further consideration of the bill was postponed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

TAX BILL.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of resuming the consideration of the tax bill.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed, as a special order, the consideration of the bill (H. R. No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

The CHAIRMAN stated the following paragraph of the bill to be under consideration:

6. Wholesale dealers shall pay fifty dollars for each license. Every person whose business or occupation is to sell, or offer to sell, groceries, or any goods, wares, or merchandise of foreign or domestic production, by one or more original packages or pieces at one time, to the same purchaser, not including wines, spirituous or malt liquors, shall be deemed a wholesale dealer under this act; but having taken out a license as a wholesale dealer, such person may also sell, as aforesaid, as a retailer.

The following amendment, submitted on Friday last by Mr. STEELE, of New York, was pending:

Add, at the end of the paragraph, as follows:

Nothing in this section shall be so construed as to compel ordinary retail dealers to take or pay for a license to sell at wholesale who may occasionally desire, in the ordinary course of their business, to sell an original piece or package.

The amendment was disagreed to.

Mr. MOORHEAD. I move to amend the paragraph, by striking out of the fiftieth and fifty-first lines the words "wholesale dealers shall pay fifty dollars for each license," and insert in their place as follows:

Wholesale dealers whose sales do not exceed $100,000 per annum shall pay twenty-five dollars for each license; when their sales exceed $100,000 and do not exceed $250,000 per annum, they shall pay fifty dollars for each license; and upon sales exceeding $250,000 per annum, they shall pay $100 for each license.

Mr. Chairman, I think the licenses of wholesale dealers should be graduated so that the small dealers shall not be made to pay as much for their licenses as the large dealers. The principle of the amendment has been pretty fully discussed upon other amendments, and I will not, therefore, detain the committee further than to say that I hope the amendment will be adopted.

Mr. BLAKE. I move to amend the amendment as follows:

Strike out all in the fiftieth line after "wholesale dealers," and in the fifty-first line "each license," and insert the following:

Whose sales shall amount to $30,000 or less per annum, but not exceeding $50,000, shall pay fifty dollars for each license; whose sales shall amount to more than $50,000, and not exceeding $100,000, shall pay for each license $100; and for any amount of sales exceeding $100,000 per year, shall pay in the same proportion for each license.

I offer that as a substitute for the amendment of the gentleman from Pennsylvania. My amendment provides for a tax of one per cent. upon the sales of these wholesale dealers, which I think is quite sufficient.

The amendment to the amendment was disagreed to.

The amendment was rejected.

Mr. MORRILL, of Vermont. I ask the consent of the committee to go back for a moment to the twenty-ninth section of the bill.

There was no objection.

Mr. MORRILL, of Vermont. I move to strike out in the sixth line the words "for the purpose of examining the same," and to insert in lieu thereof "so far as may be necessary for the purpose of examining such property, articles, or objects." I move also to amend in the eleventh line, to make the remaining portion of the section correspond, by striking out the words "the premises," and to insert in lieu thereof the words "such property, articles, or objects." The section would then read:

SEC. 29. *And be it further enacted*, That a collector or deputy collector shall be authorized to enter, in the day time, any brewery, distillery, manufactory, building, or place where any property, articles, or objects, subject to duty or taxation under the provisions of this act, are made, produced, or kept, within his district, so far as may be necessary for the purpose of examining such property, articles, or objects, or inspecting the accounts required by this act from time to time to be made. And every owner of such brewery, distillery, manufactory, building, or place, or persons having the agency or superintendence of the same, who shall refuse to admit such officer, or to suffer him to examine such property, articles, or objects, or to inspect said accounts, shall, for every such refusal, forfeit and pay the sum of $500.

The amendment was agreed to.

Mr. CLEMENTS. I ask the consent of the committee to recur to section forty, for the purpose of offering an amendment.

There was no objection.

Mr. CLEMENTS. I move to amend by adding at the end of the section, as follows:

Provided, That the State of Tennessee shall have until the 1st day of December next to assume the payment of her portion of said direct tax

Mr. Chairman, the thirteenth section of the act of August, 1861, provides that the portion of the direct tax of $20,000,000 assigned to each State shall be laid upon the value of the lands of each State.

The fifty-third section of the same act gives to each State until the second Tuesday of February last the right to assume the payment of this tax. That time having expired, the States, as the law now stands, have no right to assume the payment of the tax. Now, sir, in the southern States, by laying this tax upon the lands only, some three or four thousand millions of dollars of other property will remain untaxed. I ask the attention of the committee to the following statement:

Proportion of the direct tax which falls to the share of the southern States under the act of August 6, 1861; also, three fifths of the number of the slaves in each State, and the proportion of the tax properly belonging to them.

States.	Federal population.	Tax, per act August 5, 1861.	Number of slaves in 1860.	Three fifths of the slaves.	Proportion of tax due the whites.	Proportion of tax due slaves.
Delaware	111,495	$74,683	1,798	1,077	$73,691	$721
Maryland	692,157	436,823	87,188	52,311	400,771	36,049
Virginia	1,389,723	937,550	490,887	294,531	730,214	197,336
North Carolina	880,204	576,194	331,081	198,648	433,190	132,994
South Carolina	542,795	363,570	402,541	241,524	201,749	161,821
Georgia	872,425	584,367	462,999	277,398	308,546	185,891
Alabama	760,913	509,313	435,132	261,078	354,690	174,923
Mississippi	616,717	413,083	436,696	262,017	237,533	175,551
Louisiana	570,486	385,886	333,010	199,806	252,016	133,870
Kentucky	1,065,517	713,695	225,490	135,294	623,949	90,646
Tennessee	999,527	669,498	275,785	165,471	558,854	110,834
Missouri	1,136,231	761,127	114,965	68,979	715,913	46,915
Arkansas	300,983	201,688	111,104	66,660	217,323	44,663
Texas	530,158	355,106	180,589	108,408	289,472	72,634
Florida	116,736	77,522	61,753	37,050	54,698	24,824
Total	10,635,140	$7,140,310	3,953,344	2,370,196	$5,551,230	$1,588,980

Now, sir, it will be seen from this statement that the amount of direct tax apportioned to Tennessee is $669,498. The portion of that which should in equity be paid by the free white citizens of the State is $558,664, and the portion that should properly be paid by the slaveholders, upon the three fifths of the slave population which is made a part of the basis of taxation, is $110,834, which should be paid by the slaveholders in proportion to the number of slaves each has. Yet, sir, under the law as it now stands, the whole $669,498 will have to be laid upon the lands of the citizens of that State. I desire, therefore, that the State shall have the opportunity of assuming the payment of this direct tax, so that she by her own laws may levy upon her slave population its just proportion of the amount. The House the other day voted down the proposition of the gentleman from Kentucky that this tax should be laid on slaves as well as lands; and as this is a slaveholders' rebellion, I think that the slaveholders should be required to sustain their proportion of the cost of putting it down. I therefore submit this amendment to enable Tennessee to so apportion the tax by her own laws as to accomplish that object.

Mr. STEVENS. I suppose there has been delay in assuming this tax in Tennessee in consequence of the disturbances there. I see no objection to the amendment.

The amendment was adopted.

The committee then resumed the consideration of the sixth paragraph of the sixty-first section.

Mr. PIKE. I move to amend in the fifty-third line by striking out the words "one or more," and inserting in lieu thereof the words "more than one." The clause would then read:

Every person whose business or occupation is to sell, or offer to sell, groceries, or any goods, wares, or merchandise of foreign or domestic production, by more than one original package or piece at one time, to the same purchaser, not including wines, spirituous or malt liquors, shall be deemed a wholesale dealer under this act; but having taken out a license as a wholesale dealer, such person may also sell, as aforesaid, as a retailer.

Mr. MORRILL, of Vermont. I suppose that amendment may very properly be adopted.

The amendment was agreed to.

Mr. RICE, of Maine. I move to strike out the whole of the seventh paragraph; as follows:

7. Stationers shall pay ten dollars for each license. Every person who keeps for sale, or offers to sell, in any store, house, or other building, books, paper, quills, pens, sealing-wax, wafers, ink, account-books, or articles usually called stationery, shall be regarded as a stationer under this act.

I make this motion for the reason that our country dealers sell a little stationery and almost every thing else. It seems to me that this ought to be stricken out, and every description of duties included in "wholesale and retail dealers."

Mr. WILSON. I move to add to the end of the seventh paragraph the following:

Except so far as this definition is modified by the fifth paragraph of this section.

It is provided in the fifth paragraph as follows:

5. Retail dealers shall pay ten dollars for each license. Every person whose business or occupation is to sell or offer to sell groceries, or any goods, wares, or merchandise of foreign or domestic production, in less quantities than a whole original piece or package at one time, to the same person, (not including wines, spirituous or malt liquors, nor excluding stationery, drugs, medicines, cigars, snuff, or tobacco,) shall be regarded as a retail dealer under this act.

It will be seen, therefore, that my amendment is necessary.

Mr. MORRILL, of Vermont. I suggest that the gentleman from Iowa adopt these words:

But retail dealers shall not be required to take out an additional license as stationer.

Mr. WILSON. I accept that as a modification of my own amendment.

Mr. RICE, of Massachusetts. It seems to me that we ought to strike out the paragraph altogether, not for the reason last stated, but for the reason that every stationer is either a wholesale or retail dealer; and, under the section already adopted, he is compelled to take out and pay for a license. He is as much a wholesale or retail dealer in stationery as in hardware, groceries, or anything else. I hope, therefore, that the motion of the gentleman from Maine will prevail, to strike out the entire paragraph.

Mr. ROLLINS, of New Hampshire. I move the following amendment:

Add these words:

But retail dealers having taken out a license therefor, shall not be required to take out a license as stationer, anything in this act to the contrary notwithstanding.

Mr. WILSON. I accept the gentleman's amendment as a modification of my own.

Mr. MORRILL, of Vermont. I hope that the amendment will be adopted.

The amendment was adopted.

Mr. TRAIN. I move to strike out the words "or offers to sell." Otherwise, peddlers will be subjected to a tax under this as well as under a following section.

Mr. HOOPER. I move to strike out the words "or keep for sale or offer," and to insert in lieu of it the words "whose business or occupation is to sell." I think that will cover the whole point.

Mr. TRAIN. I do not think so. I do not accept the amendment. The twenty-third section requires peddlers to pay a license, and if the words I have indicated are not stricken out they will have also to pay tax under this section. There is a large business done in the country towns in stationery by these peddlers. If they come into my house and offer to sell stationery, they will be included in the seventh paragraph as it now stands.

The amendment was agreed to.

Mr. HOOPER. I move to strike out the words "who keeps for sale," and in lieu thereof to insert "whose business or occupation is."

The amendment was adopted.

Mr. RICE, of Massachusetts. I move to strike out the last three words of the paragraph. I call the attention of the committee to the fact that a stationer is either a wholesale or a retail dealer. Therefore I do not see the justice or any good object to be attained by retaining this paragraph.

Mr. BINGHAM. The gentleman says that there is a paragraph already in the bill requiring retail dealers to pay for a license. In what paragraph?

Mr. RICE, of Massachusetts. In the fifth paragraph, as follows:

5. Retail dealers shall pay ten dollars for each license. Every person whose business or occupation is to sell or offer to sell groceries, or any goods, wares, or merchandise, of foreign or domestic production, in less quantities than a whole original piece or package at one time, to the same person, (not including wines, spirituous or malt liquors, nor excluding stationery, drugs, medicines, cigars, snuff, or tobacco,) shall be regarded as a retail dealer under this act.

I withdraw my amendment.

The question recurred on the motion of Mr. RICE, of Maine, to strike out the paragraph; and on a division there were—ayes 37, noes 28; no quorum voting.

Mr. MORRILL, of Vermont, demanded tellers.

Tellers were ordered; and Messrs. CHAMBERLIN and MORRIS were appointed.

The motion was agreed to; the tellers having reported—ayes fifty-four, noes not counted.

The eighth paragraph was read, as follows:

8. Pawnbrokers shall pay fifty dollars for each license. Every person whose business or occupation is to take or receive, by way of pledge, pawn, or exchange, any goods, wares, or merchandise of any description whatever, for the repayment or security of money lent thereon, shall be deemed a pawnbroker under this act.

Mr. KELLOGG, of Michigan. I move to strike out "fifty" and insert "one hundred." If there be any who make money it is these pawnbrokers.

The amendment was rejected.

Mr. WORCESTER. I move to strike out the words "of any description," and in lieu thereof insert "or any kind of personal property."

The amendment was adopted.

Mr. MORRILL, of Vermont. In order to make the fifth paragraph conform to what we have just done I move, by unanimous consent, to strike out the word "stationer."

There was no objection, and it was so ordered.

The ninth paragraph was read, as follows:

9. Rectifiers shall pay $100 for each license. Every person who rectifies, purifies, or refines spirituous liquors or wines by redistillation or other process, or mixes and adulterates spirits, brandy, gin, or wine, with any other materials for sale under the name of rum, brandy, gin, wine, or any other name or names, shall be regarded as a rectifier under this act.

Mr. WILSON. I move to strike out these words:

Or other process, or wines and adulterated spirits, brandy, gin, or wine, with any other materials for sale under the name of rum, brandy, gin, wine, or any other name or names.

The amendment was disagreed to.

Mr. HOLMAN. I move to strike out "one hundred," and in lieu thereof to insert "fifty." It seems to me, too, that all after the word "redistillation" ought to be stricken out. It stands now as a kind of congressional indorsement of the adulteration of spirituous liquors. The adulteration of liquors and wines is an infamous practice, and ought not to have any favor at our hands. We have taxed the corn of the northwestern section of the country high enough already. Four gallons of whisky can be made out of a bushel of corn, and the tax now fixed is sixty cents on that much whisky. This additional tax, then, is rather severe. It seems to me that fifty dollars is enough for a rectifier to pay for a license.

Mr. KELLOGG, of Illinois. I think that the license tax in this instance ought not to be reduced as proposed. I agree with the gentleman from Indiana, that our agricultural industry of the West is very heavily taxed under this bill. I hope, however, that the tax will be so modified by the committee that the tax will be mainly imposed upon spirits made into beverages, rather than upon those used in the arts and mechanical pursuits of the country. The amendment of the gentleman from Indiana is not the way to reach that result, and I hope that it will be disagreed to. I want the manufacture of spirits for mechanical purposes to have the tax upon it reduced to a reasonable rate, and treated like any ordinary business of the country. I will not oppose, on the contrary, any proposition of tax upon liquor manufactured or adulterated for the purpose of being used as a beverage.

Mr. HOLMAN. While I indorse much that the gentleman from Illinois has said, yet I do not agree with him in what he says about my amendment. I hope that the amendment will be adopted.

The amendment was rejected.

Mr. HOLMAN. I move to strike out all of the paragraph in relation to the adulteration of liquors. I do not think that Congress ought to give any indorsement to a practice so unnatural.

Mr. MALLORY. I move to strike out the word "adulterate."

Mr. STEVENS. Move to strike out the word "redistillation" also.

Mr. MALLORY. I cannot do that. Redistillation may improve, but adulteration injures liquor. Now, what is the construction of this section? Gentlemen are in the habit of mixing liquors in various ways. Sometimes they mix it with sugar and call it *toddy;* and if gentlemen consider them as rectifiers who are required to take out a license, I want them to add a proviso prohibiting them from making a mixture more than three times a day.

Mr. STEVENS. If the gentleman will say four times I will agree to it. [Laughter.]

Mr. MALLORY. I will agree to that. [Laughter.]

The amendment to the amendment was agreed to.

Mr. HOOPER. I move to amend by inserting, before the word "spirits," the word "distilled;" after the word "spirits," the word "whisky;" and after the word "rum" the word "whisky;" so that the clause shall read:

Every person who rectifies, purifies, or refines spirituous liquors or wines by redistillation or other process, or mixes distilled spirits, whisky, brandy, gin, or wine, with any other materials for sale under the name of rum, whisky, brandy, gin, wine, or any other name or names, shall be regarded as a rectifier under this act.

The amendments were agreed to.

Mr. HORTON. I move to amend by striking out the words "redistillation or other," and inserting in lieu thereof the word "any."

The amendment was agreed to.

Mr. FESSENDEN. I move to amend, in line seventy-one, by inserting, after the words "one hundred," the words "and fifty;" so that the license shall be $150, instead of $100.

The amendment was not agreed to.

Mr. HOLMAN. I withdraw my amendment now.

The CHAIRMAN. The Chair would state that the amendment of the gentleman was amended by the committee by striking out a less number of words than he proposed to strike out.

The following clause was read:

10. Brewers shall pay fifty dollars for each license. Every person who manufactures fermented liquors of any name or description for sale from malt, wholly or in part, shall be deemed a brewer under this act.

Mr. LAW. I move to strike out that clause. I think we have already taxed sufficiently the manufacturers of beer. You have put a tax of one dollar a barrel upon every barrel manufactured, and it seems to me that the imposition of this additional tax, in the nature of a license fee, will break up many manufacturing establishments of the country. This article is one of general consumption all over the East and West, and I think that a tax of one dollar a barrel is sufficient to be laid upon the brewer.

Mr. MENZIES. This tax appears to be very heavy. I can tell the gentleman from Indiana that in the town where I reside one of the very largest establishments of the country is engaged in this business. There are a great many small works which, I have no doubt, will fall if this license tax is imposed. The destruction of these smaller establishments will be for the benefit of this and other monster establishments. Therefore my belief is that my opposition to his proposition ought not to prevail, and that his amendment ought to be adopted. [Laughter.]

Mr. MORRILL, of Vermont. The license for brewers only applies to those who make fermented liquors for sale. If they make it for sale, clearly they ought to pay for a license.

The motion to strike out was not agreed to.

Mr. DUELL. I move to amend by inserting at the end of this subdivision the following:

Provided, That licenses may be granted under this subdivision, for any time less than six months, by payment of the sum of twenty-five dollars.

Mr. STEVENS. So far as I know, that will cover pretty much all the time that they can brew. Brewing is not carried on during the hot months; so that six months virtually includes the whole working year. So that you might just about as well reduce the license, in general terms, to twenty-five dollars as to adopt this amendment.

The amendment was not agreed to.

Mr. HOLMAN. I move to amend by striking out "fifty" and inserting "twenty." I move the amendment in good faith. I concur, in the main, in the views of my colleague that when you take into consideration the excise duty of one dollar a barrel of thirty-one gallons, this is a very severe measure. This tax applies to all kinds of beer—lager beer, strong beer, and every kind of brewed drink of that nature. This has become an article of absolute necessity in many parts of the country, as much so as tea and coffee. Among the German population, and especially among the constituents of my friend from Pennsylvania, the chairman of the Committee of Ways and Means, lager beer seems to have become an article of absolute necessity, and it becomes somewhat burdensome to impose this tax after imposing a tax of one dollar a barrel, which, according to a statement I hold in my hand, is about three cents a quart.

Mr. STEVENS. Does the gentleman say that a tax of one dollar a barrel is three cents a quart?

Mr. HOLMAN. I am not a brewer, like my friend from Pennsylvania, the chairman of the Committee of Ways and Means, and therefore I cannot be supposed to be so conversant with the matter as that gentleman; but I find in a newspaper published in the very heart of a beer manufacturing country the following statement:

"Congress refuses to reduce the proposed tax on lager beer. On a motion, in Committee of the Whole, to reduce the tax from one dollar to twenty-five cents per barrel, there were only twenty-four votes in favor of the proposition. A tax of one dollar per barrel is about *three cents* per quart."

Now, I can speak with confidence of the reputable character of this newspaper among the newspapers of Cincinnati.

Mr. MORRILL, of Vermont. If the gentleman had been educated in Dabol's or Adams's arithmetic, he might have computed it himself.

Mr. HOLMAN. Unfortunately I am not quite as familiar with the matter under consideration as the chairman of the Committee of Ways and Means, [Mr. STEVENS,] who runs an establishment of this character, or as the gentleman from Vermont, [Mr. MORRILL,] who necessarily was largely associated with him in the preparation of this bill. But it seems to me that this tax of fifty dollars per annum upon the manufacture of beer, taking all things into consideration, is rather too large. In my own county, at almost every point where a pure spring gushes out of the hills, there is a brewery. At almost every cross road there is an establishment—not a large establishment like that referred to by the gentleman from Pennsylvania, but small establishments. It seems to me that after you have imposed a tax of one dollar upon a barrel of thirty-one gallons, to add this additional tax of fifty dollars upon the manufacture of that which has become a necessity through the entire country—especially in Pennsylvania, where the chairman of the Committee of Ways and Means tells you a man drank twenty-eight glasses without feeling it [laughter]—I say, it strikes me that it is rather oppressive. Therefore, I trust that the license tax will be reduced from fifty dollars to twenty.

Mr. STEVENS. I must oppose the attempt of the gentleman to tax beer between three and four dollars a barrel, [laughter.] My constituents will not bear it. They cannot stand it to pay that amount. Three cents a quart is more than they can bear if they drink what is necessary for a healthy human being, [laughter,] and I am astonished that the gentleman should attempt to impose upon our German population a burden of that kind. It seems to me it is a bold proposition upon the part of the gentleman from Indiana, that they should be required to pay three cents a quart upon their necessary liquor.

Mr. HOLMAN. Do I understand the gentleman to call in question the correctness of this statement of the Cincinnati Daily Enquirer, [laughter,] a paper published right under the eyes of some of the Committee of Ways and Means, and the truthfulness of which was never before called in question? Or do I understand him to call in question the mathematical deductions of that paper, [laughter?]

Mr. STEVENS. Oh, no; but I am opposed to putting a tax of three cents a quart upon lager beer—for that is his argument. Now, my constituents will not stand that, for they are a beer-drinking, excellent, healthy community, [laughter.] And this would take away nearly all their medicine; and I am afraid if I should vote for it, it would take away a very excellent member of this House. [Laughter.] I must, therefore, oppose the proposition of the gentleman from Indiana, and I am in favor of letting that stand at one or two mills a drink, and of imposing this license tax of fifty dollars.

Mr. HOLMAN. This seems to be a question of mathematical veracity between the chairman of the Committee of Ways and Means and the Cincinnati Daily Enquirer. [Laughter.]

Mr. STEVENS. Not at all.

The amendment was not agreed to.

Mr. JOHNSON. I move to amend by striking out "fifty" and inserting "thirty." I hold in my hand the report which I referred to the other day, of the sanitary commissioners appointed by the President or Secretary of War, to examine the camps of our Army and to report upon their sanitary condition, cause of disease, &c. That commission was composed of the following gentlemen: Rev. H. W. Bellows, D. D., president; Professor A. D. Bache, LL. D., vice president; George T. Strong, treasurer; Frederick Law Olmsted, general secretary; J. S. Newberry, M. D., J. Foster Jenkins, M. D., J. H. Douglas, M. D., associate secretaries; A. J. Bloor, assistant secretary; E. B. Elliott, actuary; John Bowne, accountant. These gentlemen made a report, which has been printed and laid on our table. In that report I find the following on page 34:

"In certain regiments containing a large percentage of Germans, lager beer has been freely used. There is evidence before the commission tending to show that its use (at least during the summer) was beneficial, and that disorders of the bowels were less frequent in companies regularly supplied with it in moderation than in other companies of the same regiment."

I commend that part of the report to gentlemen upon the other side of the House, who seem so bilious upon the mere mention of lager beer.

I find also, in another part of that report, that they have recommended another article, under the head of "quinine as a prophylactic." I will read it:

"*Quinine as a Prophylactic.*—In connection with the subject of malarial disease, above alluded to, attention is respectfully called to the evidence collected in a report prepared for the commission, on the value of quinine as a prophylactic against disorders of that class.

"In conformity with the views therein expressed, the commission has, at a cost of $500, since September last, in various urgent cases, issued to regimental surgeons, at their request, two hundred and twenty gallons of the solution of sulphate of quinine in spirits ('quinine bitters') for the use of their men, under their own supervision. This has been done in the case of regiments which, from the peculiarly exposed situation of their camps, or from an inspection of their sick list, seemed in peculiar danger from disease of a malarious type. A reduction of the sick list, and a marked improvement in the health and efficiency of the men, has followed in every instance. The results of this trial induced the medical director of the army of the Potomac to request from the Surgeon General authority to supply quinine for use as a preventive, and not merely as a remedy; and this request has been so far complied with as to authorize its use for that purpose in certain specified regiments alone."

They state, as the result of their experience, that these bitters issued to the men and drunk by them proved an antidote to fever. Now, I presume intelligent gentlemen will not contend that it makes much difference whether you give people Peruvian bark or dogwood bark, or any other kind of bitters. As I said the other day, it is a tonic which they need.

Now, it will be conceded that most of the opposition which we have met with upon this floor has come from the State of Maine. If she had never been celebrated before for her opposition to the use of spirituous and malt liquors, she is justly so celebrated now. A reference to this same report of the sanitary commission shows that the average number of men constantly sick in regiments one thousand strong, from the several States respectively, was as follows: New York 52; Pennsylvania 57; Massachusetts 52; Connecticut 49; Vermont 88; and Maine 124! [Laughter.] That is evidence which I commend to gentlemen upon the other side.

[Here the hammer fell.]

Mr. JOHNSON's amendment was disagreed to.

Mr. DUELL. I offer the following amendment:

Provided, That any person who manufactures less than five hundred barrels per year shall pay the sum of twenty-five dollars for a license.

I have a letter here from a very intelligent gentleman in my State, who tells me, what is known to every gentleman upon this floor, that there are

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. WEDNESDAY, MARCH 26, 1862. NEW SERIES.....No. 85.

many small establishments of this kind which manufacture less than one hundred and fifty barrels yearly, while others manufacture as high as many thousands of barrels; and by this provision those who manufacture five thousand barrels are required to pay no more than small manufacturers. It is to obviate that objection that I offer this amendment.

Mr. MORRIS. I move to amend the amendment by striking out "twenty-five dollars" and inserting "ten dollars." There are many brewers in my district who do not manufacture more than from one hundred and fifty to two hundred barrels yearly, and in my county they retail beer at two cents per glass. If brewers are required to pay a duty of a dollar per barrel, and fifty dollars for a license to retail, it will at once, in my judgment, strike out of existence all the breweries in my county; and in place of deriving revenue under this paragraph of the bill, it will decrease the revenue that might be derived under this provision if it was properly amended.

The question was taken on Mr. MORRIS's amendment to the amendment; and it was disagreed to.

The question recurred on Mr. DUELL.'s amendment.

Mr. MORRILL, of Vermont, demanded tellers.

Tellers were ordered; and Messrs. CRISFIELD, and RICE of Massachusetts, were appointed.

The committee divided; and the tellers reported —ayes 51, noes 43.

The amendment was agreed to.

Mr. PENDLETON. I move to amend the eleventh paragraph of the section by striking out all after the words "to wit," in the eighty-fifth line, down to and including the word "license," in the one hundred and ninth line, as follows:

All cases where the rent or the valuation of the yearly rental of said house and property shall be $10,000 or more shall constitute the first class, and shall pay $200 for each license; where the rent or the valuation of the yearly rental shall be $5,000 and less than $10,000, the second class, and shall pay $100 for each license; where the rent or the valuation of the yearly rental shall be $2,500 and less than $5,000, the third class, and shall pay seventy-five dollars for each license; where the rent or the valuation of the yearly rental shall be $1,000 and less than $2,500, the fourth class, and shall pay fifty dollars for each license; where the rent or the valuation of the yearly rental shall be $500 and less than $1,000, the fifth class, and shall pay twenty-five dollars for each license; where the rent or the valuation of the yearly rental shall be $300 and less than $500, the sixth class, and shall pay fifteen dollars for each license; where the rent or the valuation of the yearly rental shall be $100 and less than $300, the seventh class, and shall pay ten dollars for each license; where the rent or the valuation of the yearly rental shall be less than $100, the eighth class, and shall pay five dollars for each license.

And to insert in lieu thereof, the following:

And shall pay at the rate of two per cent. on the rental; and said rental shall be assessed by the assessor of the proper district.

There are no means provided in this paragraph by which the rental shall be determined, and I notice, also, that while a hotel or tavern of the class whose rental shall be $10,000 is assessed at two per cent., the per centum gradually increases as you go down, so that those inns and taverns which pay the least rental pay the most in proportion for their licenses.

Tellers were ordered on the amendment; and Messrs. PENDLETON and SEDGWICK were appointed.

The committee divided; and the tellers reported —ayes 37, noes 56.

So the amendment was rejected.

Mr. WRIGHT. I move to amend the paragraph by inserting after the word "rated," in the eighty-second line, the words "by the proper assessor;" so that it will read:

11. Hotels, inns, and taverns shall be classified and rated by the proper assessor, according to the yearly rental, or, if not rented, according to the estimated yearly rental of the house and property intended to be occupied for said purposes, &c.

Mr. WHITE, of Indiana. I would inquire of the gentleman from Pennsylvania if by that amendment it is meant to impose upon the assessor the duty of fixing the amount of the rent? Because, if so, I do not think it accomplishes that object.

Mr. WRIGHT. I will withdraw that amendment, and move to add at the end of the paragraph the words "the rental or valuation shall be fixed and established by the assessor of the proper district."

Mr. EDWARDS. With all deference to the gentleman, it seems to me that that will not express the idea. As the paragraph now stands it refers to both classes of rentals. I suggest to the gentleman that he move to insert in the eighty-third line the words "the estimated yearly rental to be made by the assessor."

Mr. WRIGHT. I will inform the gentleman that I have withdrawn my original amendment, and offered one to come in at the end of the section.

Mr. STEVENS. I suggest to the gentleman that he insert the words "if it be not actually rented," because where it is actually rented, the actual rent ought to be taken. I move to amend the amendment by inserting these words.

Mr. COX. The gentleman from Pennsylvania can accomplish his purpose by putting in the word "ascertained." If the house be already rented the assessor must find out what the rent is.

Mr. STEVENS. If it is rented, then the actual rent ought to cover it.

Mr. COX. Well, the assessor must determine that.

Mr. STEVENS. If it be not rented, then the assessor is to fix what the rent will be.

Mr. COX. The assessor must return what the rent is if it be rented, and we want to provide now for that. Where the man owns the hotel or tavern himself the assessor fixes the actual value of the rent.

Mr. WRIGHT. The amendment, as it now stands, will prevent any fraud or collusion between the landlord and tenant. It puts it in the power of the assessor to say what the rental ought to be, not what it is.

Mr. STEVENS. Suppose the actual rental is $500, and the assessor is invited to put it down and say that the house ought to rent for $300. The actual rent ought to be the governing one.

Mr. WRIGHT. That is all very true; but the gentleman must contemplate another state of things which may exist. A house may be nominally rented for $500 when the tenant may be paying $5,000, and there should be some discretion somewhere to fix the amount, as there will be a disposition, as a matter of course, to evade all of these excise laws. The assessor has a sworn duty to perform. He is acting under oath. If there should be collusion between the landlord and tenant, the assessor has it in his power to say what the valuation or rental ought to be.

Mr. JOHNSON. I am opposed to this method of ascertaining the valuation of premises by actual rent, for I have seen its operation before. Perhaps my colleague [Mr. STEVENS] will remember that by the license law of 1856 the State of Pennsylvania fixed a standard similar to this. It fixed the license according to the rental or valuation. The term "rental" meant the valuation of the premises, and not the actual rent. I remember one case which I myself had charge of in which a hotel keeper in my town rented to another party stables and a billiard room belonging to his hotel, and got for them enough to cover the rent of the whole. Now, in such a case the hotel keeper would, under the amendment proposed by my colleague, [Mr. STEVENS,] go free. I think it better to be governed by the estimated rental rather than by the actual rent.

Mr. WHITE, of Indiana. I desire to make one suggestion to the gentleman from Pennsylvania, [Mr. STEVENS.] If his amendment prevails, it will bring the section back precisely to where it is in the original bill. Rents are sometimes uncertain, depending on payment of taxes, and on other considerations. I think that the proposition of the gentleman from Pennsylvania [Mr. WRIGHT] is the only one to meet the case of fraud.

Mr. STEVENS. I withdraw my amendment to the amendment.

Mr. EDWARDS. I move to amend the amendment by striking out the words "or valuation." The first lines of the paragraph are that—

Hotels, inns, and taverns shall be classified and rated according to the yearly rental, or, if not rented, according to the estimated yearly rental of the house and property intended to be occupied for said purposes.

The amendment offered by the gentleman from Pennsylvania [Mr. WRIGHT] refers to both these conditions—to the rental and to the valuation. Now, it is evidently necessary to touch the rental, because that means a rental established by the parties. Therefore his provision goes too far. If he will insert, after the word "rental," in the third line, the words "to be made by the assessor of the district in which the same is situated," his amendment will then apply only to the estimated rental. That will deprive it of its double application.

Mr. WRIGHT. May I ask the gentleman from New Hampshire a question?

Mr. EDWARDS. Yes, sir.

Mr. WRIGHT. I desire to ask the gentleman whether he would be willing to take it for granted in all cases that the amount which appears on the face of the lease should govern the matter? I ask him whether there ought not to be some power, in case of collusion and fraud, to fix the rent at what it ought to be? My amendment is offered with a view to appoint an authority to say what the rental is or ought to be. I ask the gentleman from New Hampshire whether he does not consider it better to have some one authorized to determine that question, and not leave it open to be arrived at by what appears on the lease?

Mr. EDWARDS. I shall have no objection to providing against frauds or to giving a power to go behind appearances and to ascertain the actual rental. But where there is an actual *bona fide* rental I hold that that is better evidence of the value of the property than any estimate which any assessor can make.

Mr. WRIGHT. I will state a case which will enable the gentleman to see that he is clearly wrong. A father may rent to his son an establishment at a nominal rent of ten dollars a year, which may be worth $10,000 a year. Now, is the assessor to be governed by the terms of the lease, or is the actual value of the premises to guide him? I ask leave to modify my amendment by striking out the word "valuation," and inserting in lieu of it the words "estimated rental."

Mr. EDWARDS. I withdraw my amendment to the amendment; but I desire to state that if it be the pleasure of the committee that all these rentals, and all these valuations, where there are no rentals, shall be submitted to the assessor, the amendment of the gentleman from Pennsylvania would be right. But if it be only intended to apply the amendment to the valuation, and to leave the rental to be taken as conclusive unless there be evidence of fraud, then I think the amendment is wrong.

The question was taken on Mr. WRIGHT's amendment, as modified; and it was agreed to.

Mr. WHITE, of Indiana. As the section now reads, it would not carry out the idea of the gentleman from Pennsylvania. In order to perfect it, I move to strike out the words, "or, if not rented, according to the estimated yearly rental," and to insert in lieu thereof the words, "to be ascertained as hereinafter directed."

Mr. WRIGHT. That does not meet the spirit of the proposition which I offered, for the reason, that if the rent be fixed, then the assessor would have no power over the subject even though there should be fraud and collusion. If there be a rental fixed by collusion and fraud, it ought to be in the power of the assessor to fix the rent at what it should be. If the amendment offered by the gentleman from Indiana [Mr. WHITE] should prevail, that would leave the question still subject to the imputation of fraud, and there would be no way of remedying it.

Mr. WHITE, of Indiana. If I apprehended the meaning of the amendment offered by the gentleman from Pennsylvania, it would give the

assessor full power in every instance to determine what the amount of rent should be on which the license should be fixed. My amendment is merely to execute that idea, and to strike out words in the bill which are in conflict with it, or which, in connection with it, have no meaning. If it were the decision of the committee that all contracts made between landlord and tenant should be taken as the standard of rent, then my amendment should not be adopted; but if the assessor is to have power to determine the question, then my amendment becomes absolutely necessary, to give consistency to the section.

Mr. WRIGHT. If the gentleman will amend his proposition so as to make it read, "if already rented at a proper value," I shall have no objection to it.

Mr. WHITE, of Indiana. That addition would come very properly in the amendment which the gentleman offered, but would not cohere in the one which I offered. The gentleman can move it as a modification of his own amendment.

The question was taken on Mr. WHITE's amendment; and it was rejected.

Mr. WOODRUFF. The amendment offered by the gentleman from Pennsylvania [Mr. WRIGHT] was to guard against collusion between parties. Now, I propose an amendment which is intended to guard against wrong on the part of the assessor. It is to add to the amendment of the gentleman from Pennsylvania these words, "at its proper value, but not less than the actual rent agreed upon by the party." It is possible that the assessor may assess the rental at a less sum than is agreed upon to be paid. I desire to prevent that.

Mr. WRIGHT. That is right.

The amendment was agreed to.

Mr. MORRILL, of Maine. I offer the following amendment as a proviso to the eleventh paragraph:

Provided, That no keeper of any hotel, inn, tavern, or eating-house, shall be permitted to sell, to be drunk on the premises, any distilled spirits, fermented liquors, or wines of any kind, without first paying for each license so to sell the same amount which such retailer or party is required to pay by the provisions of this act, as keeper of a hotel, inn, tavern, or eating-house, and in addition thereto.

I trust the committee will consider that a reasonable amendment. It is certainly in accordance with other provisions of the bill in regard to retailers I want, if possible, to have one class of tavern-keepers who shall not be encouraged to sell; in other words, a class who shall be encouraged not to sell. The Committee of Ways and Means evidently contemplated this, for they declare, in this eleventh paragraph, that every place where food and lodging are provided for and furnished to travelers and sojourners, in view of payment therefor, shall be regarded as hotels, inns, or taverns, under this act.

Now, what I want to add is that you shall in this instance, as you have in the other instances, prohibit them from selling intoxicating drinks without a license. I think the Government will make a very large sum in the way of revenue by doing that. It will give you revenue, and it will not be a discouragement for those who are disposed to keep temperance houses to do so. The proposition is so very reasonable that it cannot require an argument to convince the House of its propriety. I think there can be no objection to it on the part of the Committee of Ways and Means, and I understand they are in favor of it.

Mr. MORRILL, of Vermont. I think we had better keep this act in a shape where it will be as little offensive to people as possible. So far as licensing taverns to sell liquor is concerned, the Committee of Ways and Means have endeavored to steer clear of this difficulty. We have left it to the various States to say whether these taverns shall sell liquor or not. In Pennsylvania, Maryland, and other States, they demand a license for the privileges of selling liquor, from which they derive quite a large revenue. In other States no license at all is required. It will therefore clearly be an unequal tax if we undertake to fix a license for the selling of liquor in taverns, and it may interfere with the State regulations in that regard.

Mr. PIKE. I move, *pro forma*, to amend the amendment by striking out the last three words of it. I make the motion for the purpose of affording me an opportunity to suggest to my colleague, that by implication his amendment if adopted might authorize taverns to sell liquors by paying the license notwithstanding any State laws to the contrary. As the lower class of taverns, by this bill, only pay a tavern license of five dollars, if my colleague's amendment should prevail, by the payment of five dollars more they would be authorized by the laws of the United States to sell liquor. Unless, therefore, my colleague wishes to accomplish that object, I would suggest that he had better not insist on his amendment. I withdraw my amendment to the amendment.

The amendment was disagreed to.

The following paragraph of the sixty-first section was read, as follows:

12. Eating-houses shall pay ten dollars for each license. Every place where food or refreshments of any kind are provided for casual visitors and sold for consumption therein, shall be regarded as an eating-house under this act.

Mr. ROLLINS, of New Hampshire. I move to amend by adding at the end thereof, as follows:

But the keeper of an eating-house having taken out a license therefor shall not be required to take out a license as confectioner, anything in this act to the contrary notwithstanding.

I desire only to say in relation to this amendment that the Committee of Ways and Means, I understand, favor its adoption.

The amendment was agreed to.

Mr. MALLORY. I ask the consent of the committee to go back to the preceding paragraph for the purpose of enabling me to strike out the word "rental" wherever it occurs, and to insert "rent."

Mr. JOHNSON. I object to that.

Mr. COX. I ask the consent of the House to recur to the eleventh paragraph of this section providing for licensing taverns, for the purpose of moving to add to it the following proviso:

Provided, That if, in the judgment of the assessor, there be any fraud or collusion in returning the actual rent to him, there shall be a penalty equal to double the amount of license required by this section, to be collected as other penalties under this act are to be collected.

There was no objection, and the amendment was received.

Mr. PHELPS, of California. I am opposed to that amendment—certainly in its present shape—because it leaves the whole matter in the hands of the assessor. If the assessor believes or pretends to believe that there has been fraud or collusion, there is no appeal from him, but the penalty must follow. It seems to me the amendment by its terms will open the doors to the practice of very great injustice.

Mr. COX. I hope the gentleman will not satisfy himself then by objecting to the whole amendment because of its imperfect phraseology, but will amend it so that it will guard against the objection which he suggests. I believe that fraud will be committed under the paragraph as it now stands. I will modify the amendment to meet the difficulty of the gentleman from California, so that it shall read as follows:

Provided, That if there be any fraud or collusion in returning the actual rent to the assessor, there shall be a penalty of double the amount of license required by this act.

The amendment as modified was agreed to.

Mr. COX. I move to amend the thirteenth paragraph in the one hundred and twenty-second line by striking out the word "twenty" and inserting in its place the word "fifty." The clause of the paragraph, as amended, would read, "brokers shall pay fifty dollars for each license."

The amendment was agreed to.

Mr. WORCESTER. I move to amend the same paragraph in the twelfth line by inserting after the word "stocks" the words, "coin, money, bank notes;" after the word "notes," in the same line, the word "promissory;" after the word "securities," in the same line, the words, "for the payment of money;" and after the word "or," in the one hundred and twenty-fifth line, the word "who." The paragraph, as amended, would then read:

13. Brokers shall pay fifty dollars for each license. Any person whose business is to purchase or sell stocks, coin, money, bank notes, drafts, promissory notes, or other securities for the payment of money for themselves or others, or who deals in exchanges relating to money, shall be regarded as a broker under this act.

I suppose there can be no objection to this amendment.

The amendment was agreed to.

Mr. WHITE, of Indiana. I will suggest that there is a class of persons in the country who are in reality brokers, and who ought to be included in this paragraph; but I am not certain whether they are or not by its terms. In order to make it quite sure, I submit this amendment. After "sell," in line one hundred and twenty-three, add "or who is habitually engaged in buying or selling;" and at the end of the paragraph add, "whether he keeps an office or not;" so that the paragraph, as amended, would read:

13. Brokers shall pay fifty dollars for each license. Any person whose business is to purchase or sell, or who is habitually engaged in buying or selling stocks, coin, money, bank notes, drafts, promissory notes, or other securities for the payment of money for themselves or others, or who deals in exchanges relating to money, shall be regarded as a broker under this act, whether he keeps an office or not.

The amendment was disagreed to.

The next paragraph was read, as follows:

14. Commercial brokers shall pay fifty dollars for each license. Any person who purchases or sells goods or produce, or seeks orders therefor, in original or unbroken packages, or manages business matters for the owners of vessels, or the shippers or consignors of freight carried by vessels, or purchases or sells real estate for others, shall be regarded a commercial broker under this act.

Mr. PHELPS, of California. I move to amend, by striking out the words "commercial brokers shall pay fifty dollars for each license," and inserting in place thereof, "merchandise brokers shall pay twenty dollars for each license." I think the committee did right when they raised the licenses of money brokers from twenty to fifty dollars; but so far as these merchandise brokers are concerned, they are a different class of persons altogether. They are generally dealers upon a comparatively small scale—men who buy and sell for others—having some knowledge of commercial matters, but who have not the capital themselves to enter into business. So far as my knowledge goes, they are generally poor men; their operations are small, and I think that twenty dollars is as great a license as they can pay. I hope the amendment will be adopted. I believe the Government will realize a larger revenue by placing it at twenty than at fifty dollars.

Mr. WRIGHT. There is a class of real estate brokers in Pennsylvania who deal in very large sums of money.

Mr. PHELPS, of California. I do not refer to them. There should be another paragraph introduced here to provide for real estate brokers and ship brokers.

Mr. WRIGHT. The section as it stands includes both real estate brokers and ship brokers, who, as far as Pennsylvania and New York are concerned, do a very large and profitable business. As far as they are concerned, I think the license should be increased rather than made smaller.

Mr. PHELPS, of California. If the amendment is adopted I shall move that a distinct license tax shall be placed upon real estate brokers. As the gentleman from Pennsylvania says, they should be assessed at a higher rate.

The amendment was rejected.

Mr. RICE, of Massachusetts. I move to insert the words "except when holding a license as wholesale dealer or banker."

Mr. STEVENS. I suggest the words be inserted, "whose business it is to purchase or sell."

Mr. WILSON. I move to strike out all after the word "license," and insert in lieu thereof the following:

Any person whose business or occupation is to sell goods or produce, or seek orders therefor, in original or unbroken packages, and manage business matters for the owners of vessels or for shippers or consignors of freight carried by vessels, or purchases or sells real estate for others, shall be regarded a commercial broker under this act.

I accept the amendment of the gentleman from Massachusetts as part of mine.

Mr. WRIGHT. I move to insert after the word "purchases" the words "or rents." Those whose business it is to rent houses ought to be included.

The amendment to the amendment was adopted.

Mr. MALLORY. I do not quite understand this section. It seems to me that under that section those wholesale merchants who simply buy these articles will be included.

Mr. STEVENS. The amendment of the gentleman from Iowa removes that difficulty.

Mr. PENDLETON. I move to insert after the word "or" the words "whose business it is to purchase, rent, or sell real estate;" so as to make the section conform to a very proper amendment suggested in a previous part of the section. It will have the effect not to require a man who is only employed in one transaction, and where his

profits may only be twenty-five dollars, to pay a license tax, but to require it of those whose business it is to purchase, rent, or sell real estate.

The amendment to the amendment was agreed to.

Mr. PHELPS, of California. I move to strike out the words "in original or unbroken packages."

The amendment to the amendment was disagreed to.

Mr. DUNLAP. I move to strike out the word "produce." With that word in it would embrace every farmer. It reads, "to sell for themselves or others."

The amendment to the amendment was disagreed to.

The amendment was then agreed to.

Mr. THOMAS, of Massachusetts. I move to insert after the word "who," in line one hundred and twenty-eight, the words "as agent of another." If I understand the meaning of the term *broker*, he is not a man who makes a purchase on his own account, but he is a go-between the purchaser and seller, and an agent for both.

Mr. PHELPS, of California. That is the proper definition of the word broker, but not of the word under this bill. Here it includes forwarding merchants and others.

Mr. HOOPER. The words "or others" in the paragraph cover my colleague's point.

The amendment was agreed to.

The fifteenth paragraph was read, as follows:

15. Tobacconists shall pay ten dollars for each license. Any person who shall offer for sale, at retail, cigars, snuff, or tobacco in any form, shall be regarded a tobacconist under this act. But retail dealers, having taken out a license therefor, shall not be required to take out a license as tobacconists, anything in this act to the contrary notwithstanding.

Mr. WILSON. I move to insert after the word "but" the words "wholesale and retail."

The amendment was agreed to.

Mr. PIKE. I move to strike out the whole paragraph, because it is provided for in the fifth paragraph already adopted.

The motion was disagreed to.

Mr. SHEFFIELD moved to insert after the words "retail dealers," these words, "keepers of hotels, inns, and taverns."

The amendment was agreed to.

Mr. WORCESTER moved to strike out the words "who shall offer for sale," and in lieu thereof to insert "whose business it is to sell."

The amendment was agreed to.

Mr. MENZIES. I move to insert the following:

12. Land-warrant brokers shall pay for each license $100. Every person shall be deemed a land-warrant broker within the meaning of this act who makes a business of buying and selling land warrants, and furnishing them to settlers under contracts that the land procured by means of them shall be bound for the prices agreed on for the warrants.

As I am informed, there is a class of persons who buy land warrants and have them located by settlers, taking a lien upon the land to an amount largely in advance of their outlay, and that in that way they reap great profits. I think that they ought to pay a license tax.

Mr. DUNN. I move to strike out "one hundred," and insert in lieu thereof "twenty-five."

The amendment to the amendment was agreed to.

Mr. MALLORY. I move to insert after the word "settler," "or other persons."

The amendment to the amendment was agreed to.

Mr. STEVENS moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the tax bill, and had come to no resolution thereon.

ARMY BAKERIES.

Mr. TRAIN moved that the rules be suspended to take up and put on its passage Senate joint resolution No. 32, directing the removal of the Army bakeries from the Capitol.

The rules were not suspended, only forty-two voting in favor thereof.

OFFICERS OF THE CUSTOMS, ETC.

Mr. WICKLIFFE. I ask the unanimous consent of the House to submit a resolution.

Mr. LOVEJOY. I object.

Mr. WICKLIFFE. There is no *nigger* in it. [Laughter.]

The resolution was read, as follows:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of fixing by law the fees of officers of the customs and agents of the Government, not to exceed fifty cents for each permit or license granted under the fifth section of an act to provide for the collection of duties on imports, and for other purposes, approved July 13, 1861.

Mr. WICKLIFFE. That is a matter in which the valley of the Mississippi is deeply interested.

The resolution was adopted.

And then, on motion of Mr. LOVEJOY, (at thirty-five minutes past four o'clock, p. m.,) the House adjourned.

IN SENATE.

TUESDAY, *March* 25, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. SUMNER presented a memorial of citizens of Mount Holly, New Jersey, in favor of such measures as will insure emancipation to all the people throughout the land; which was ordered to lie on the table.

Mr. HENDERSON presented a memorial of the stockholders of the Bank of the State of Missouri, and a memorial of the directors of the Franklin Savings Institution of St. Louis, praying for the payment of drafts drawn on the War Department by Russell, Majors & Waddell, and accepted by the Secretary of War, known as the Floyd acceptances; which were referred to the Committee on the Judiciary.

REPORTS FROM COMMITTEES.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred the bill (S. No. 81) to secure homesteads to actual settlers on the public domain, and for other purposes, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 125) to secure homesteads to actual settlers on the public domain, and to provide a bounty to soldiers in lieu of grants of the public lands, reported it with amendments.

Mr. GRIMES, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 231) amendatory of an act entitled "An act to provide for the care and preservation of the works constructed by the United States for bringing the Potomac water into the cities of Washington and Georgetown, for the supply of said water for all governmental purposes, and for the uses and benefit of the inhabitants of the said cities," reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 230) to amend an act entitled "An act to continue, alter, and amend the charter of the city of Washington," reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 240) to provide for the public instruction of youth in primary schools throughout the county of Washington, in the District of Columbia, without the limits of the cities of Washington and Georgetown, and for other purposes, reported it without amendment.

Mr. SUMNER, from the Committee on Foreign Affairs, to whom was referred the bill (S. No. 229) to provide for the administration of the oath of allegiance to American citizens in foreign countries, reported it without amendment.

CAPITOL EXTENSION.

Mr. FOOT. As there seems to be no other business of the morning hour, I ask the Senate to take up the joint resolution for the transfer of the superintendency of the Capitol building from the War to the Interior Department. It will be recollected that this resolution was taken up and considered several days since, and the yeas and nays ordered upon its third reading, when its further consideration was interrupted by the expiration of the morning hour and the consideration of the special order. I hope it may now be taken up and considered and disposed of. I move that it be now considered.

The motion was agreed to; and the Senate resumed the consideration of the joint resolution (S. No. 50) transferring the supervision of the Capitol extension and the erection of the new dome, to the Department of the Interior; the pending question being on ordering it to be engrossed for a third reading, on which the yeas and nays had been ordered.

Mr. FESSENDEN. I stated my objections to this joint resolution the other day, and if I can get the ear of the Senate for a moment, as it is a matter of business and involves the expenditure of money, I wish to state them again. I do not propose to argue the question further, or to insist upon my own views being adopted, but simply to state the question in order that the Senate may understand it, and then the responsibility will be off my shoulders at any rate.

The erection of the Capitol extension has been under the charge of the War Department; it is under the charge of the War Department now. The interior of this part of the Capitol and of the other wing, so far as it is occupied, has been finished, with a very few exceptions, and turned over to Congress. There are certain places, undoubtedly, which require care, where the water gets in and where some other finishing ought to be done, and some more blocks put in. We see several leaks about the Capitol. I have conversed with General Meigs on the subject, and he states that all that mending which is necessary to take care of the building (and it undoubtedly needs looking after every year) is now perfectly within the control of the Commissioner of Public Buildings, and an appropriation has been made and placed at the control of the Commissioner of Public Buildings for that purpose. If any larger appropriation is necessary in order to take care of the Capitol, of course it ought to be made. When there are, as we know, miles of gutters about the building, it must get out of order more or less every year; imperfect places will be found where there are leaks, and those ought to be looked after and kept in repair every year. The frost also operates on the work. It should be looked after just like any other building. It requires an appropriation for that purpose, and there should always be an appropriation for that purpose. There are certain places where the connection takes place between the old building and the new, on both sides, which are imperfect, and something more should be done. With these exceptions—and they are all mere matters of repair—all that is necessary to meet that which is an immediate purpose may be done and should be done within the perfect competency of the Commissioner of Public Buildings at the present time, and if money enough has not been appropriated it is his business to ask for more, and it can be appropriated.

But this proposition involves more than that, and my friend from Vermont will admit that it involves more. It involves changing the superintendence with a view to have the work go on, to finish the Capitol building, to finish the dome, to finish the east front and construct steps where the brick work is, to put up the pillars, &c., finish the outside, and put ornamental work on the building, of which, perhaps, there is no immediate necessity. That will take a large sum of money. There are several hundred thousand dollars now appropriated which have not been spent, and it will be necessary to appropriate more in process of time for the same purpose. General Meigs decided that, with the exception of these temporary repairs, it was not advisable to go on with the building in the present state of the public funds. He said, for instance, it would take, I do not know how much, but several hundred thousand dollars to put up the pillars and finish the outside. The answer of my friend is, that the brick work which we see deteriorates every year, and so it does; but the idea of General Meigs was, that it was better to lose four or five thousand dollars on the brick work than to go on and finish the Capitol in the present state of the public funds—I mean to finish the mere outside work of the Capitol, which can as well be deferred.

The object and the effect of this change, to take the superintendence out of the hands of General Meigs, who has thus far gone on with it, and put it in the hands of the Secretary of the Interior, is simply to go on with the building, put up the pillars, &c. That, I suppose, my friend will admit to be the design. It is for the Senate to decide whether, after the building has got to the position

in which it now is, it is advisable at the present time, in the present state of the Treasury, to expend the large sums of money that will be necessary in order to finish the work on the outside of the building. I do not think it is treating General Meigs exactly right to take it out of his hands without his consent and against his opinion; but at the same time he is a public officer, and must submit to any change that Congress orders in reference to the matter. I understand that it is in the power of the President now, if he pleases, to change the superintendency without an act of Congress from the War Department to any other Department he chooses. In that, however, I may be mistaken; but it is a question for Congress to settle in reality. My own judgment is, that we had better leave it where it is, and not make any appropriation of more than is necessary to keep the building in repair.

Mr. HALE. My attention has been called to this matter, and I think the Senator from Maine is a little mistaken in some of his historical statements in regard to it. He says this is now and was under military superintendence. The fact is that when this addition to the Capitol was commenced—I think you were a member at the time, sir; I was certainly—it was put under civil superintendence and so remained through the administration of Mr. Fillmore. A Christian and civilized plan of a room was designed, and the foundation walls were laid for the whole work, on an estimate of about two and a half millions of dollars; and it was going on to perfection upon that plan, when the administration of Franklin Pierce and Jefferson Davis came in. Then the progress of the building under civil superintendence was arrested; the whole plan was changed, and instead of going on as the foundations were laid for a room for the Senate which should have some light and air from the sides, it was altered to this trap in the middle of the house. The expenditures were more than doubled; they have already spent more than twice what was estimated to complete it under civil superintendency. It went on, and I think that the most fastidious worshipers at the shrine of military superintendence cannot but admit that a great blunder was made when the alteration was made from the first plan to that which we now have. It went on and was progressing to completion when this war broke out. Now, I know, as a matter of fact, that the Committees on Public Buildings of the House of Representatives and of the Senate, the President of the United States concurring, all were desirous that some progress should be made in the completion, I think, of the dome, and so expressed themselves in writing; but General Meigs overruled it, refused to carry it out. Now, sir, what is the state of this building to-day? Here is a building that has cost twice and will cost three times what it would have cost if it had continued under civil superintendence. We are leaving open the upper part of the building, the roof, so that the valuable and costly stucco in the various parts of the building, which any of the Senators can see who will take the trouble to go around, is actually being saturated with water and dropping. The work of destruction has commenced, so that these finely wrought walls are dropping to pieces from the effect of rain, which comes in all over the building. I suppose it is so left as a matter of economy! If you go down into the basement, two or three stories below, where the light and air of heaven never get, where there is no light except gas-light, and no air but that which is pumped up, during all this time, and at this moment while I speak to you, Italian artists are employed, at an extravagant compensation, making pictures down in the vaults and alleys of this Capitol, two or three stories below daylight, while the walls are left open and the progress of destruction is going on and going on rapidly, and it will not be long before this building will be comparatively a mass of ruins, so far as all the ornamental work on the walls is concerned. This condition of things is to go on simply that when General Meigs gets through with this war, if ever he does, and gets his leisure, he may then take hold and show us what military superintendence can do in completing the building.

I have not had any communication with the military department in reference to this question, but I am told that the Secretary of War is perfectly willing that this change shall be made. I have that from authority which satisfies my own judgment, though I have it not in such an official form that I can state it to the Senate. My own conviction is, about which I have no mistake at all, that Mr. Stanton is perfectly willing that this shall be done. I think that the public interests require it; and I think if there is a single Senator, not excepting the Senator from Maine, who will take the trouble to go with the chairman of the Committee on Public Buildings and Grounds, up above these Chambers and through the aisles and see what the weather is doing and has been doing for more than a year to this building, he will be convinced that this transfer ought to be made, and that something ought to be done to carry on the work. It is a mistake to suppose that all that the building wants is what the Commissioner of Public Buildings can do. I think myself that the propriety and fitness of the thing is that it should be handed over to civil superintendence. I think General Meigs has enough to do and will have enough to do as long as he is at the head of the quartermaster's department, without keeping this little job in perspective for him that he can turn his hands to, by way of amusement, when he is through with the rebellion. I think the public interest on every consideration requires that the change recommended by the committee should be made.

Mr. FOOT. Mr. President, I must confess to some surprise at the manifestation of any opposition to the passage of this resolution, and especially from my honorable friend from Maine. The necessity of its passage is apparent and urgent. The new portions of this Capitol are suffering daily an almost incalculable injury from exposure to the weather in their unfinished and unprotected condition. This is manifest to the observation of any one who will take the pains to examine it. Six millions of dollars have been expended upon these new wings, or extensions, as they are called. The work has been brought too near completion and has cost too much money to be allowed to remain any longer in its present exposed condition.

These extensions ought now to be completed, finished. As a mere question of economy they ought to be finished. Nothing short of this, Mr. President, will fully protect this building from the injurious effects of the weather. The water from every rain that falls is continually running into the interior of the building on every side of it, as is admitted by the Senator from Maine; and let me say to my honorable friend that this is not owing, in any considerable degree, if at all, to defects and openings in the iron gutters around the roof, as suggested by him, and which can be repaired under the direction of the Commissioner of Public Buildings with a small appropriation for that purpose. I would be glad if every Senator could examine this point for himself, and then to say whether this building can be properly protected and preserved from the injurious influences of the elements until it is carried to a more advanced state of completion. I would be willing to submit this question to the judgment of my honorable friend from Maine himself, and abide his decision upon it, on his personal examination of the subject. It is not a question for disputation that, if you would save and protect this costly building from continual and incalculable damage, this work must be speedily resumed and carried forward to the extent at least of completing the outer walls, of placing the cornices, of carrying up the facings of the pediments, and of finishing the connections of the corridors which connect the wings with the center building, and to complete some other portions of the wings. But I will not enlarge upon a matter which is open and apparent to every man's observation.

Now, then, if the Senate shall be of opinion that this ought to be done; that this building ought to be so far completed as to protect it from this injury, they will adopt this resolution to transfer the superintendency of the work from the War Department, which has no time to look after it and to give it the necessary attention, to the Department of the Interior, where it was originally placed, and to which it properly belongs, and from which it never ought to have been transferred, and never would have been, but to gratify the personal pride and ambition of Jefferson Davis; and was continued in the War Department only to gratify the rapacity of John B. Floyd. Sir, I venture to assert here that the transfer of this work from a civil to a military superintendency has cost this Government, at least, from three to four millions of dollars. Had it been continued under a civil superintendency, as it was commenced, I hesitate not to say that we should have had a better building, in better taste, and better adapted to the uses and purposes for which it was designed, than we now have, and at less than one half the cost, and that it would have been completed, at least, five years ago.

I have been here in the Senate, Mr. President, as well as yourself, from the commencement of this work, and profess to know something about it, and of the manner in which it has been conducted. The original estimate of the cost of these extensions, upon the plan then approved and adopted, was but $2,675,000. Permit me to present this point a little more in detail. The first appropriation for the Capitol extension was made in September, 1850, in the following words:

"One hundred thousand dollars for the extension of the United States Capitol, to be expended under the direction of the President, by such architect as he may appoint."

Nothing was said about ever putting it under the superintendency of the War Department. No one at that time dreamed of placing it under such a superintendency. In pursuance of this act, Mr. Fillmore appointed Thomas U. Walter, of Philadelphia, a gentleman of the highest eminence in his profession, as the architect, and placed the work under the jurisdiction and general supervision of the Department of the Interior. Upon the accession of Mr. Pierce to the Presidency, and the appointment of Jefferson Davis as Secretary of War, the superintendency of this work was immediately transferred from the Interior Department to the Department of War, and an officer of the Army was detailed to take it in charge. This transfer was made on the 4th of April, 1853, at which time all the foundations of the building were completed, and a part of the basement story erected. Immediately after the transfer of the work from the Interior Department to the Department of War, the Secretary of War, or the superintendent, by his direction, ordered the architect to change the original plans of the building, so as to remove the halls of Congress from the western fronts to the center of the wings. This necessarily involved the construction of additional foundations at vast expense, and of an indefinite delay in the completion of the work. He also ordered the introduction into the plans of four grand stairways, to be constructed of fancy polished marble, and also the construction of a marble corridor, extending through the southern wing; and other material and expensive changes were ordered. So that it appears, from an estimate submitted to Congress in 1856, the total cost of the building was estimated at $5,510,000, of which $2,675,000 had then been appropriated, requiring $2,835,000 still to be appropriated in order to complete the work upon the changed plans—*the military plans, the Jefferson Davis plans.* But instead of this sum being sufficient, there have been appropriated $3,606,000, or $771,000 more than this estimate, and to which there must be added at least $1,000,000 more, in order to bring the work to completion.

The architect's original estimate, made before the work was commenced, and with the qualification that it was not to be finished more expensively than the old Capitol, was, as I have already stated, $2,675,000. The new estimate under the War Department, after the contracts had been made and the work partly executed, was the sum of $2,835,000 *in addition to the original estimates.* The appropriations already made exceed this sum by $771,000, and adding $1,000,000 more, which will be required to bring the bilding to completion, its cost will exceed the estimate of the War Department by $1,771,000, making the total cost of the building when completed $7,281,000 which is an excess over the original estimate upon the plan of the Department of the Interior of $4,605,000. In making these computations, let me remark that I omit sums or fractions of less than $1,000, as they do not materially affect the result in the computation of millions. There have been appropriated for the Capitol extension, from time to time, the following sums: September 30, 1850, as I have already said, $100,000; April 4, 1852, $500,000; 1853, $400,000; 1854, $600,000; 1855, $750,000; 1856, $325,000; 1857, $750,000; 1858, $900,000; 1859, $750,000 at one time, and again, on the 3d

of March of that year, $400,000; May 24, 1860, $3,700 for some specific purpose, and in addition to that on June 25, $552,421 74; March 2, 1861, $250,000; making an aggregate of appropriations already made for the Capitol extension of $6,281,124 74, of which there are remaining now unexpended something over $300,000.

Mr. COLLAMER. Does that include the dome?

Mr. FOOT. That does not include the dome. Adding $1,000,000 to this amount, it makes $7,281,124 74 as the cost for the entire completion of the building. That, let me remark here, is entirely exclusive of the dome and exclusive of the extension and improvements of the public grounds around the building. The estimate of the War Department, as I said, was $5,510,000, which was an under estimate of at least $1,771,000, and is over and above the original estimate of the Interior Department more than four and a half millions of dollars. Aside from all this there have been appropriated $700,000 for the new dome, about six hundred thousand of which have been expended, leaving one hundred thousand yet unexpended, and which is sufficient for its completion. It ought now to be finished. The dome is suffering as the whole building is suffering in its present condition. As a matter of economy, it ought to be finished. The iron for it has been cast and paid for, and much of it is lying upon the ground about the Capitol, rusting, corroding, and consequently deteriorating in strength and value. The derrick and machinery for lifting the iron and placing it upon the dome have been erected at a large expense, an expense of some thirty thousand dollars, as I am told. These are made mostly of wood work, and, exposed as they are to the influences of the weather, are decaying in consequence of this exposure, and in one, or two, or three years would become unsafe and unfit for use; and new derricks and machinery would have to be made, if the work should hereafter be resumed, at an expense of at least one third of what it would now cost to complete the dome.

Sir, every consideration of economy, every consideration of protection to this building, every consideration of expediency requires that it should be completed, and that it should be done now. To let these works remain in their present condition is, in my judgment, to say the least of it, the most inexcusable, needless, and extravagant waste and destruction of property. Sir, why shall we allow this great and expensive work to remain untouched in its present condition? Why shall we suffer it to go to ruin as it is fast doing in many portions of the interior of the building? Why not finish it up, at any rate so far as to protect and preserve what has cost this Government already by far too much? Why not do it now? What is the argument against it? What reason is assigned for postponing it, and, perhaps, for years to come? It has been said in answer that while the Government is so deeply in debt, and borrowing money to carry on the war, it ought not to be expending money upon works of this kind. Sir, this is no answer at all against the expenditure of a comparatively small amount, a few thousands, or even a few hundred of thousands of dollars, when it is necessary to do it in order to complete a structure which has cost you six or seven millions of dollars, and with a view to prevent it from going to ruin. Besides, if this work is not to be resumed until the country is out of the war, and out of the war debt, it will not be resumed for twenty years to come. If it is not to be resumed now, because, and by reason of the country being deeply in debt, the same reason will apply with equal pertinency, and with equal force, ten years hence as it does this morning. No, sir; our true economy is to go on, and complete this work, so far forth, at least, as may be necessary for its protection and preservation; and we are as well able to do it at this time as we shall be ten years hence, and as we can do it now at less than one half the cost of it.

Now, I ask the Senator from Maine, does he propose to allow this building to remain in its present situation for ten years to come? If so, I have only to say that at that time it will hardly be worth finishing or hardly worth repairing. At all events, it will cost more ten years hence to repair the damage to the building than it will cost now to finish the work.

It has been said also that this building has been fully completed for all purposes of use and occupation, and that nothing now remains to be done except the ornamental parts of the building; and the question has been asked, will you expend money upon mere works of art and ornament while the Government is obliged to borrow money to pay the poor soldier who is fighting the battles of the country? I emphatically answer, no! but the question itself is a disingenuous one, and carries with it a false assumption.

Sir, it is not proposed to expend money—not a dollar—upon mere works of art and ornament. We have had quite too much of gaudy decoration upon this building already. It is proposed to expend money now only for the purpose of saving money. It is proposed to expend money now only for the purpose of saving, of protecting, of preserving what has cost you more than six millions of dollars. The objection implied by this inquiry, let me say, comes with an ill grace, and, I fear, not with entire sincerity, when at this very time the Government is employing an artist upon a decorative painting on the wall at the head of one of the stairways in the southern wing at a cost of $25,000, by contract, as I am informed, to be followed by three others, of like character, and each of them at the same cost; and while the Government—as has been already remarked by the Senator from New Hampshire—is employing artists upon ornamental fresco painting upon the walls of the dark passage ways below us, where it cannot be seen, even in the day time, except by gas light. While this sort of expenditure is going on I have little patience with being told by anybody that we are asking for an expenditure of money upon works of ornament, when we are asking only for an expenditure of money for the preservation of this costly building. It is somebody else that is expending money for mere works of art and ornament. Sir, let this kind of expenditure, let these works of art and decoration be stopped, and let the money be appropriated to the more substantial and necessary work of the building—for its covering, its protection, and preservation. This is the dictate of common prudence and of common sense, as well as of strict economy.

The VICE PRESIDENT. The morning hour having expired, it is now the duty of the Chair to call up the special order.

Mr. FOOT. I will be obliged to my friend from Massachusetts if he will allow me a very short time, for I desire to conclude what I may have to say on this question.

Mr. WILSON, of Massachusetts. Certainly.

Mr. FOOT. I will remark here in passing, Mr. President, that the work upon the Treasury building has not been suspended on account of the war, but is being carried on now. Why may not the work on this building be carried on as well? That work has never been placed under a military superintendency, but is carried on under the direction of the Government architect, Mr. Young; and I undertake to say here, that that building, in point of convenience, in point of taste, in point of architectural beauty and elegance, and also in point of cost, will compare most favorably with this one. I will say, too, that the necessity for carrying on the work on the national Capitol is as urgent and more so than upon the Treasury building. Upon this, however, I have nothing more to say.

I will say here, Mr. President, that I have good reason to believe that the Secretary of War would be quite pleased to be relieved from the charge and responsibility of this work. I have no reason to doubt that General Meigs himself would not be unwilling to be relieved from it. Both of these gentlemen have other duties enough to engage all their time and attention; duties which directly and more appropriately pertain to their official positions. Besides, they will still be left in charge of the Washington aqueduct and of the General Post Office building, works which involve an expenditure of eight or ten millions of dollars.

Mr. HALE. And the Treasury.

Mr. FOOT. The Treasury is not under the War Department.

Why, then, shall we insist upon keeping this building under the charge of the War Department, where it never properly belonged, and where it can receive no attention whatever? Certainly I cannot possibly conceive why, unless it be to subserve some purpose of personal ambition at the sacrifice of the public interest. But I will impute so unworthy a motive to no man. Let the proposed transfer be made; let this work be resumed; let it be carried on so far, at any rate, as to protect this building from the injurious effects of its present exposed condition; let so much be done, and this costly edifice will be saved from the daily injuries it is sustaining from its exposed condition, and which it will continue to sustain so long as it is left in the state in which it now is; and thousands and many times tens of thousands of dollars will be saved by it.

I repeat, if this work is ever to be done, it cannot be done too quickly. If it is ever to be done, it ought to be done now; it has been neglected already quite too long. Mr. President, this national Capitol of ours, in its present condition, instead of being the boast and the pride of the country, instead of being an ornament and a credit to the country, stands to-day, after twelve years, an unfinished and an unsightly pile; at once a testimony and a confession, a humiliating confession, to the country and to the world, of a national weakness and imbecility, of a national impoverishment and bankruptcy, which, for the credit of my country, I am not ready to admit, and which, for the honor of my country, I am not willing to acknowledge. Sir, we are strong enough yet, thank God, to put down this rebellion and to put up this our Capitol at the same time. And when the rebellion shall have been suppressed—as suppressed it soon will be; when this war shall have been terminated—as terminated it soon will be; and when this Union of ours shall have been restored—as restored it soon will be; it will furnish a fitting and appropriate occasion to celebrate that welcome event by crowning the American Capitol with the statue of the Goddess of Freedom.

Mr. FESSENDEN. I have but one word to say. I can have very little hope of defeating this proposition in the very face of the eloquence of my friend from Vermont and my friend from New Hampshire, although the eloquence of the latter Senator was rather of a peculiar character. It was the old story about military superintendence and all that. That I do not care anything about at all. I take no interest in it. I never felt, and do not now feel, alarmed at these encroachments of the Army in being put in charge of a few buildings. I thought that was very good occupation for them if they had nothing else to do. I shall not attempt to answer any part of the argument made with reference to that. I rose, in the first place, simply to say, that if the Senate is disposed, in the present condition of the country, to spend $1,500,000 in finishing this Capitol, with all the difficulty that we have to raise money for our immediate necessities; if they are disposed to do that, and to take it out of the tax we are levying upon everybody's production, so be it; I shall have done my duty in voting against it.

Now, sir, I do not want to be misrepresented. I stated in the beginning that I was perfectly ready to make any appropriation that might be necessary to protect the building, no matter what it is, to prevent this effect of the weather upon it; and a very small sum of money comparatively could accomplish that purpose. Certainly forty or fifty thousand dollars would be ample; I believe $20,000 would. But the question is—and that is involved in this proposition, and I do not want the Senate to lose sight of it; my friend from Vermont admits it—whether we shall go on and spend the remaining $1,500,000 which are requisite to complete the building, to put up the pillars, &c., at the present time? If the Senate are disposed to do it, in the face of what they know with reference to the finances of the country, so be it. I will vote with pleasure for an appropriation to protect the building to any amount that may be necessary, if the committee will confine itself to that; but I am not willing to give my assent at the present time to complete all the outside, to put up these elegant pillars, when we have so much difficulty in meeting our claims from day to day, and when our soldiers to-day are not paid and many of them cannot get any money. I think it would not look well. I think we can afford to sit in a building the outside of which is a little rough; and in my judgment, it is no imputation on the Congress of the United States, in the present crisis, that it chooses to dispense for a little while with outside ornament, and look out for the absolute necessities of the day for a year or two longer, more or less. That is my opinion, sir; and having expressed that opinion, it is all I have to say.

Mr. SHERMAN. I desire to submit an amendment to enable me to vote for the resolution:

Provided, That no money heretofore appropriated shall be expended upon the Capitol until authorized by Congress, except so much as is necessary to protect the building from injury by the elements, and to complete the dome.

I will say a single word in regard to the matter. I think the building should be transferred from the charge of the War Department to the Interior Department, because General Meigs, who has had charge of the building, is now fully occupied, and cannot pay any attention to the subject. It therefore ought to be placed in the charge of some other officer. But, at the same time, I do not think that any more money ought to be expended than simply to preserve the buildings from the elements, and to complete the dome. The dome is in so advanced a condition that it would be safe and wise economy to complete it. In regard to other parts of the building, especially the outer portions of the building, they ought to be completed to preserve the building. I think beyond that, we ought to wait at least until further events develop themselves.

The VICE PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Ohio.

Mr. FOOT. I have no objection to the limitation proposed by that proviso

The amendment was agreed to.

The VICE PRESIDENT. The question now is on ordering the joint resolution to be engrossed for a third reading; and on that question the yeas and nays have been ordered.

Mr. FESSENDEN. The bill in its present shape is not so much open to the objection I stated; but as I am opposed to the transfer, I will vote "nay."

The question being taken by yeas and nays, resulted—yeas 34, nays 3; as follows:

YEAS—Messrs. Anthony, Browning, Carlile, Clark, Collamer, Cowan, Davis, Dixon, Doolittle, Foot, Hale, Harlan, Harris, Henderson, Howard, Howe, Kennedy, King, Lane of Indiana, Latham, Morrill, Pomeroy, Powell, Saulsbury, Sherman, Simmons, Stark, Sumner, Ten Eyck, Trumbull, Wilmot, Wilson of Massachusetts, Wilson of Missouri, and Wright—34.

NAYS—Messrs. Fessenden, Grimes, and Lane of Kansas—3.

So the joint resolution was ordered to be engrossed for a third reading. It was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House had passed the bill of the Senate (No. 244) to provide for the equitable settlement of the accounts of the officers and crews of the frigate Congress and other vessels, with amendments, in which the concurrence of the Senate was requested.

Mr. HALE. Let that be referred to the Committee on Naval Affairs.

The PRESIDING OFFICER, (Mr. MORRILL in the chair.) It will be so referred.

RECIPROCITY TREATY.

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

Resolved, That the Secretary of the Treasury be requested to communicate to the Senate a statement of the quantity and value of the different articles of merchandise imported into the United States from the British North American colonies during the fiscal years ending on the 30th of June, 1859 and 1860, under the treaty of reciprocity concluded with Great Britain on the 5th day of June, 1854.

SLAVERY IN THE DISTRICT.

The VICE PRESIDENT. The special order of the day, being the bill (S. No. 108) for the release of certain persons held to service or labor in the District of Columbia, is now before the Senate, as in Committee of the Whole, upon which the Senator from Massachusetts is entitled to the floor.

Mr. WILSON, of Massachusetts. Mr. President, the first Congress under the Constitution of the United States was summoned to the consideration of questions of transcendant importance, which excited the profound interest of the nation and of the statesmen of that age. Hildreth, in his History of the United States, tells us that "of all the questions discussed at this session, none produced so much excitement as one started towards the close of it, respecting the permanent seat of the Federal Government." The eastern States would have been content to retain the seat of Government in the city of New York, where the Continental Congress had established it; but Pennsylvania sought to win it back to Philadelphia; and Maryland, Virginia, and the Carolinas sought to fix it on the banks of the Potomac. The members of the East, supported by Pennsylvania, hoping to conciliate the dissatisfied members of the South, proposed to fix the permanent seat of Government on the Susquehanna, but the proposition was sternly and violently opposed; and they were told by even the moderate Madison, that "if that day's proceedings had been foreseen, Virginia would never have ratified the Constitution."

The House bill, locating the capital on the Susquehanna, amended by the Senate so as to fix the seat of government in a district ten miles square adjoining Philadelphia, failed through the growing opposition and manifest dissatisfaction of the men of the South. Thus the Congress of 1789 was stirred to its profoundest depths by the absorbing question whether the national capital should be located on the banks of the Delaware, the Susquehanna, or the Potomac. These conflicting claims of sections and of interests defeated in 1789 all propositions for the location of the seat of the national capital; but at the next session, in 1790, a bargain, a compromise, was consummated between the advocates of the assumption of the State debts, under the lead of Hamilton and Morris, and a few members of Virginia, by which the House of Representatives, after taking the yeas and nays thirteen times, determined, by a vote of thirty-two to twenty-nine, to locate the permanent capital of the Republic on the banks of the Potomac. This victory over the North, won by the skill and determination of the statesmen of the South, placed the permanent capital of the new Republic on soil polluted by the footsteps of bondmen. This early victory of the leaders of southern sentiment and opinion has cast its malign influences over the policy of the national Government. Here, for two generations, the statesmen of republican and Christian America have been surrounded by an atmosphere tainted by the breath of the slave, and by the blinding and perverting influences of the social life of slaveholding society.

The Constitution gave Congress the "power to exercise exclusive legislation in all cases whatsoever," over this ceded ten miles square we call the District of Columbia. Instead of providing a code of humane, equal, and uniform laws for the government of the capital of a Christian nation, Congress enacted, in 1801, that the laws of Maryland and Virginia, as they then stood, should be in force on the north and south sides of the Potomac. By this act the inhuman and barbarous, the indecent and vulgar colonial slave codes of Maryland and Virginia became the laws of republican America for the government of its chosen capital. By this act of national legislation the people of Christian America began the first year of the nineteenth century by accepting, reaffirming, and reënacting for the government of their capital, the colonial legislation, enacted for the government of the wild hordes of Africa, which the colonial and commercial policy of England forced upon Maryland and Virginia.

The national Government, by reënacting the slave codes of the ceding States for the government of the ceded territory, accepted as its creed the wicked dogma that color in the national capital is presumptive evidence of slavery. In 1827 the Committee for the District of Columbia, in the House of Representatives, reported that "in this District, as in all slaveholding States in the Union, the legal presumption is, that persons of color going at large without any evidences of their freedom are absconding slaves, and *prima facie* liable to all the legal provisions applicable to that class of persons." The committee state that, in that part of the District ceded by Virginia, "a free negro may be arrested and put in jail for three months on suspicion of being a fugitive; he is then to be hired out to pay his jail fees; and if he does not prove his freedom within twelve months he is to be sold as a slave." In the territory ceded by Maryland, the committee say that "if a free man of color should be apprehended as a runaway, he is subjected to the payment of all fines and rewards given by law for apprehending runaways, and upon failure to make such payment is liable to be sold as a slave." "The legal presumption" that persons of color are "absconding slaves;" that, if arrested as runaways, they are "subjected to the payment of all fines and rewards given by law for apprehending runaways;" that, failing to pay such "fines and rewards," they are "liable to be sold as slaves," are the recognized doctrines in the national capital of this democratic Republic. For two generations has Christian America recognized in her capital the wicked and guilty dogma that color is legal presumption that man, whom God made, and for whom Christ died, walking the earth in the pride of conscious manhood, is an "absconding slave," to be "apprehended as a runaway," "subjected to the payment of fines and rewards," or "to be sold as a slave to pay jail fees."

Clothed, Mr. President, with the authority of legislation by the national Government, the corporation of Washington, not content with this monstrous legal presumption that color is evidence of slavery, enacted on the 31st of May, 1827, that

"Every negro and mulatto found residing in the city of Washington, who shall not be able to establish his or her title to freedom, shall be committed to the jail of the county of Washington as absconding slaves."

In what age of the world, in what land under the whole heavens, can you find any enactment of equal atrocity to this iniquitous and profligate statute—this "legal presumption" that color is evidence that man, made in the image of God, is an "absconding slave?"

This monstrous doctrine, abhorrent to every manly impulse of the heart, to every Christian sentiment of the soul, to every deduction of human reason, which the refined, humane, and Christian people of America have upheld for two generations, which the corporation of Washington enacted into an imperative ordinance, has borne its legitimate fruits of injustice and inhumanity, of dishonor and shame. Crimes against man, in the name of this abhorred doctrine, have been annually perpetrated in this national capital which should make the people of America hang their heads in shame before the nations, and in abasement before that Being who keeps watch and ward over the humblest of the children of men. Men and women of African descent, no matter in what State they were born, no matter what rights and privileges they possessed under the laws and institutions of the States from whence they came, have annually been seized, imprisoned, fined, and sometimes sold into perpetual servitude.

This doctrine, that color is presumptive evidence of slavery—this ordinance, consigning its victims to imprisonment, offers a tempting bribe to the base, the selfish, the unprincipled, to become men-stealers and kidnappers. This bribe has converted Government officials, justices of the peace, constables, and police officers into manufacturers of slaves. This bribe has annually filled your jail with its victims, making it the workshop where the selfish, the base, the ignoble have plied their trade in the souls and bodies of men. Hundreds, ay, thousands of men of African descent have been seized, arrested, imprisoned, since the District of Columbia became the seat of the national capital. In January, 1829, the United States marshal, in a letter addressed to the Committee of the House of Representatives for the District of Columbia, reported that in the three years from the 1st of January, 1826, to the 1st of January, 1829, one hundred and seventy-nine persons in Washington and Georgetown were arrested and committed to prison as absconding slaves. Of this number, twenty-six proved themselves to be free, and, being fortunate enough to pay jail fees, were discharged. Six of these persons were sentenced by the jailor, without trial, and sold as slaves, and the proceeds pocketed by the marshal of the United States. Mr. Miner, of Pennsylvania, in a speech in the House of Representatives, in 1829, states that "a black man was taken up in August, 1821, and imprisoned as a runaway four hundred and five days. In this time, vermin, disease, and misery had deprived him of the use of his limbs. He was rendered a cripple for life, and finally discharged, as no one would buy him." More than one thousand of the citizens of the District of Columbia, on the 24th of March, 1828, in a memorial to Congress, declared "that it was not alone from the rapacity of slave traders that the colored race in this District were doomed to suffer; that the laws sanction and

direct a procedure unparalleled in glaring injustice by anything among the Governments of Christendom." They state that in the summer of 1827—

"A colored man, who stated that he was entitled to freedom, was taken up as a runaway slave, and lodged in the jail of Washington city. He was advertised; but no one appearing to claim him, he was, according to law, put up at public auction for the payment of his jail fees, and sold as a slave for life! He was purchased by a slave trader, who was not required to give security for his remaining in the District, and he was soon after shipped at Alexandria for one of the southern States. An attempt was made by some benevolent individuals to have the sale postponed until his claim to freedom could be investigated; but their efforts were unavailing; and thus was a human being sold into perpetual bondage, at the capital of the freest Government on earth, without even a pretense of trial or an allegation of crime."

The men of New England, New York, and Pennsylvania of that generation were responsible before God for that deed of inhumanity.

But, sir, we of this age in America are not guiltless of like enormities. Senators will remember that when Congress assembled in December last, we found nearly sixty human beings immured in our jail, under the authority of our marshal and his officials, as fugitive slaves, and that of this number one man, admitted by all to be free, had been confined more than six months. Colored men of the free States, who have come with northern regiments to the defense of the national capital, have been seized and imprisoned in our jail as runaways by constables, and by that race of man-stealers, the legitimate offspring of this doctrine that color is presumptive evidence of slavery. Men who have escaped from the camps of armed treason, who have given our military commanders important intelligence of the movements of rebel forces, appearing in the streets of Washington, are pounced upon, seized, and thrust into jail by the creatures who see "slave" written on the forehead of every man through whose veins courses a drop of African blood. In this national capital lurks a race of official and unofficial man-hunters, greedy, active, vigilant, dexterous, ever ready, by falsehood, trickery, or violence, to clutch the hapless black man who carries not with him a title-deed to freedom. Only a few days ago, these harpies of the land, more merciless than the wreckers of the seas, pounced upon and hurried to your jail two men your officers in the field had sent to Washington to give important intelligence to your generals. For these deeds of inhumanity and injustice, the intelligent, patriotic, and Christian freemen of America are responsible before man and before God! And if we, their representatives, who now for the first time have the power, do not end these crimes against man forever, the guilt and shame will rest upon our souls, and we shall be consigned to the moral indignation of Christendom.

Justice to a wronged and oppressed race demands that this corrupt and corrupting doctrine, that color is presumptive evidence of slavery in the capital of the Republic, shall be condemned, disowned, repudiated by the Government of the United States. For two generations it has pressed with merciless force upon a race who mingled their blood with the blood of our fathers on the stricken fields of the war of independence. In those days of trial, black men, animated by the same mighty impulse, fought side by side with our fathers to win for America a place among the nations. They rallied at the tap of the drum on the morning of the 19th of April, 1775, to meet the shock of the first battle of the Revolution. They poured their unerring shots into the bosom of the veteran troops of England as they moved up the slopes of Bunker Hill. They met, and three times, by their steady valor repulsed, the charges of British veterans on the battle-field of Rhode Island, which La Fayette pronounced "the best fought battle of the Revolution." They fought and fell by the side of Ledyard, at Fort Griswold. They shared in the glorious defense and victory of Red Bank, which will live in our history as long as the Delaware shall flow by the spot made immortal by their valor. They endured with our fathers, uncomplainingly, the toils and privations of the battle-fields and bivouacks of the seven years' campaigns of the Revolution, from Lexington to Yorktown, to found in America a Government which should recognize the rights of human nature. For more than sixty years, unmindful of their rights and ungrateful for their services in our hour of weakness, we have recognized in the capital of the nation the wicked and insulting dogma which writes "slave" on the brow of all who inherit their blood. Let us of this age hasten to atone for this great wrong, by erasing that word from the brow of this proscribed race here, and making manhood, here at least, forever hereafter presumptive evidence of freedom.

By the act of the 27th of February, 1801, Congress continued in force in this capital the statute of Maryland, enacted in 1717, that—

"No free negro or mulatto shall be admitted and received as good and valid evidence in law, in any matter or thing whatsoever, wherein any Christian white person is concerned."

This statute, enacted nearly a hundred and fifty years ago, reënacted by Congress on the 27th of February, 1801, is the law in the capital of this nation, that professes to recognize the sublime creed of human equality. This law places the property, the liberties, the lives of twelve thousand free persons of color in the District of Columbia at the mercy of the avaricious, the violent, and the abandoned. It puts in peril the rights of property and of person of every free colored man whose feet shall press the soil of the District of Columbia. Here the oath of the black man affords no protection whatever to his property, to the fruits of his toil, to the personal rights of himself, his wife, his children, or his race. Greedy avarice may withhold from him the fruits of his toil, or clutch from him his little acquisitions; the brutal may visit upon him, his wife, his children, insults, indignities, blows; the kidnapper may enter his dwelling and steal from his hearthstone his loved ones; the assassin may hover on his track, imperiling his household; every outrage that the depravity of man can visit upon his brother man may be perpetrated upon him, upon his family, his race; but his oath upon the Evangelists of Almighty God, though his name may be written in the Book of Life, neither protects him from wrong nor punishes the wrong-doer. This Christian nation, in solemn mockery, enacts that the free black men of America shall not bear testimony in the judicial tribunals of the District of Columbia. Although the black man is thus mute and dumb before the judicial tribunals of the capital of Christian America, his wrongs we will not have righted here will go up to a higher tribunal, where the oath of the proscribed negro is heard, and his story registered by the pen of the recording angel.

What wrongs, what outrages may not be perpetrated upon a race of men where "color is legal presumption of slavery," where they "may be arrested as absconding slaves," where their oath cannot be received as "good and valid evidence in law," where "every person seizing and taking up runaways shall receive two hundred pounds of tobacco, or the value thereof," where, "if any slave strikes a white person, he may, upon the oath of the person so struck, have one of his ears cropped?" What wrongs, what outrages may not be perpetrated upon a race where, upon "information to any justice of the peace that any free negro or mulatto is going at large without any visible means of subsistence, such justice is required to issue his warrant to any constable, directing him to apprehend such free negro or mulatto; and if such free negro or mulatto shall fail to give security for his good behavior, or to leave the State within five days, or if, after leaving the State, he shall return again within six months, such justice may commit said free negro or mulatto to the common jail; and if such offender so committed shall not, within twenty days thereafter, pay his or her prison charges, the sheriff, with the approbation of any two justices of the peace, may sell such free negro or mulatto to serve six calendar months?"

The wrongs, the outrages, the enormities which the cupidity, the dark passions of the sordid and the base have visited for the last sixty years upon the unoffending, the helpless, under these laws of Maryland, reaffirmed by the Congress of the United States, will never be known until the secrets of the last day are revealed.

Congress, in 1820, gave to the corporation of Washington "power and authority to restrain and prohibit the nightly and other disorderly meetings of slaves, free negroes, and mulattoes, and to punish such slaves by whipping, not exceeding forty stripes, or by imprisonment, not exceeding six months for any one offense; and to punish such free negroes and mulattoes by penalties, not exceeding twenty dollars for any one offense, and in case of the inability of any free negro or mulatto to pay any such penalty and costs thereon, to cause him or her to be confined to labor for any time not exceeding six calendar months; to prescribe the terms and conditions upon which free negroes and mulattoes may reside in the city; to punish corporally any colored servant or slave for a breach of any of their laws or ordinances;" "and to pass all laws which shall be deemed necessary and proper for carrying into execution the powers vested by this act in the said corporation." Clothed by the Federal Government with this power of legislation, the corporation of Washington have passed ordinances relating to persons of color, bond and free, more oppressive, more inhuman, more degrading than the colonial black code of Maryland, which Congress reaffirmed in 1801.

By an ordinance passed on the 31st of May, 1827, the corporation of the city of Washington enacted that—

"If any free colored person is found going at large after ten o'clock at night without a pass from some respectable citizen, he shall be fined not exceeding ten dollars, and locked up until morning."

This act, often executed upon honest, toiling men and women whose callings or duties require them to enter the streets after that hour, is profligate, burdensome, oppressive. Officials, who too often look upon the black race as the prey of avarice and passion, under color of this enactment, seize their victims going to or returning from their lawful callings. Since I have held a seat in the Senate I have known colored men, trusted and employed by the Government, while quietly hastening to their homes after ten o'clock from their duties in the public service, to be arrested under color of this ordinance. An ordinance so oppressive, so barbarous should be annulled by the Congress of the United States.

On the 29th of October, 1836, the corporation of the city of Washington enacted that—

"Free colored persons must exhibit to the Mayor satisfactory evidence of his or her title to freedom, and enter into bond with five good and sufficient sureties, in the penalty of $1,000, for the good and orderly conduct of his or her entire family, the bond to be renewed every year; and on failure so to do, may be fined twenty dollars, and sent to the workhouse."

A statute like this, which requires every free colored person to furnish the Mayor of the city of Washington evidence of his or her title to freedom, and to give bonds annually for his or her orderly conduct, and failing so to do, to be sent to the workhouse, places ten thousand free persons of color at the mercy of the corporation officials of this city, who may exercise, under color of this law, the most oppressive acts of petty tyranny.

On the 29th of October, 1836, the corporation of the city of Washington, under the authority conferred upon it by the Government of the United States, enacted that—

"All secret or private meetings or assemblages whatsoever, and all meetings for religious worship beyond the hour of ten at night, of free negroes, mulattoes, or slaves, are declared to be unlawful; and any colored person or persons found at such assemblages or meetings, or who may continue at any religious meeting after ten o'clock at night, shall for each offense pay the sum of five dollars; and in the event of any such meeting or assemblage, it shall be the duty of any police constable to enter the house where such assemblage is held and employ all lawful means immediately to disperse the same; and in case any police constable, after full notice and knowledge of such meeting, shall neglect or refuse to execute the duty hereby required, he shall forfeit and pay the sum of fifty dollars, and be incapable of holding any office of power or trust under the corporation for one year thereafter."

The Christian men of New England, of the central States, of the West, must not forget that they are not free from responsibility for the existence, in their national capital, of a statute which imposes a fine of five dollars upon Christian men and women who may be found in a religious meeting after the hour of ten o'clock at night; that in the capital of this Christian Republic it is made the duty of police constables, under penalties of fine and disfranchisement, to enter a religious meeting after the hour of ten at night and disperse Christian men and women listening to the story of salvation, or offering up to Him who made the humblest of the race in His own image, the praises and gratitude of contrite hearts.

On the 28th of July, 1831, the corporation of the city of Washington passed an ordinance "empowering the Mayor to grant any person a license to trade and traffic in slaves for the sum of $400."

This ordinance legalized in the national capital the revolting slave trade which had dishonored the District of Columbia from the day it had been selected as the seat of Federal Government. The grand jury of Alexandria as early as 1802 had presented these "dealers in the persons of our fellowmen, who exposed their victims loaded with chains in the public streets." In 1816, Judge Morell, of the circuit court of the United States, in his charge to the grand jury, declared that "the frequency with which the streets of the city had been crowded with manacled captives, sometimes on the Sabbath, could not fail to shock the feelings of all humane persons." John Randolph, in the same year denounced this traffic in slaves "as inhuman and illegal." The Alexandria Gazette, in 1827, denounced this "traffic which filled the streets not unfrequently by men, women, and children, handcuffed and chained together." In 1828, more than one thousand of the citizens of the District of Columbia implored Congress "to suppress a traffic disgracing and demoralizing in its effects;" and in 1829, the grand jury of Washington made a communication to Congress in which they declared that "the whole community would be gratified by the interference of Congress for the suppression of these receptacles and the exclusion of this disgusting traffic from the District." The Washington Spectator, in 1830, indignantly denounced the "processions so often seen in the streets of Washington, of human beings handcuffed in pairs or chained in couples," wending their way to the slave ships which were to bear them to the distant South. Yet this traffic, denounced by judges and grand jurors, citizens and presses, was legalized in 1831 by the corporation of the city of Washington; and Williams, Birch, Neal, Kephart, Richards, Franklin, and Amfield polluted the capital of the nation with this brutalizing traffic, under the sanction of law, until it was made illegal by the legislation of 1850.

The corporation of the city of Washington, from 1829 to 1841, enacted cruel and brutal laws for the punishment of slaves within the limits of the city. I quote from these brutal and bloody laws these enactments:

"If a slave break a street lamp, he shall be punished by whipping on the bare back."

"If any slave ties a horse to any of the trees on any of the public grounds in the city of Washington, he shall be punished by whipping on the bare back."

"If any slave willfully injures any dwelling-house, or any of the appendages thereof, he or she shall be punished by whipping on his or her bare back, not exceeding thirty-nine stripes."

"Any slave offending against any of the laws regulating the public markets, shall be punished with not less than five nor more than twenty lashes on his or her bare back."

"If any slave sets on fire in any open ground or lot any straw or shavings, between the setting and the rising of the sun, whereby a false alarm of fire may be created, he shall be whipped, not exceeding thirty-nine lashes."

"If any slave sets off any fire crackers within one hundred yards of any dwelling-house, he shall be punished by whipping, not exceeding thirty-nine stripes."

Do Senators believe that there can be found in the laws and ordinances of any Christian nation on the globe enactments so brutal, degrading, inhuman, indecent? It is time these bloody statutes for lashing men and lashing women should be obliterated from the laws and ordinances of the capital city of the Republic.

The acts of Congress of March 3, 1805, and March 3, 1809, confirmed to the corporation of Georgetown all the rights, powers, and privileges theretofore granted to the corporation by the General Assembly of Maryland, among which was the power to "pass, make, and ordain all laws necessary to take up, fine, imprison, or punish any and all vagrants, loose and disorderly persons, *free negroes*, and persons having no visible means of support." Under this authority of Congress the corporation of Georgetown enacted that every free black or mulatto person who should come to Georgetown to reside should exhibit to the mayor satisfactory evidence of freedom, and enter into bonds for good conduct. On the 22d of August, 1845, the corporation of Georgetown passed an ordinance prohibiting, under the penalty of thirty-nine lashes for slaves and thirty days' imprisonment for free colored persons, all assemblages by day or night of black or colored persons, except religious meetings, conducted by white men and terminated before half past nine o'clock at night. From 1827 to 1845, while slavery in America was in the zenith of its power, the corporation of the city of Georgetown passed many ordinances hardly less brutal, degrading, and indecent than the statutes of the metropolis of the Republic. These colonial statutes of Maryland, reaffirmed by Congress in 1801, these ordinances of Washington and Georgetown, sanctioned in advance by the authority of the Federal Government, stand this day unrepealed. Such laws and ordinances should not be permitted longer to insult the reason, pervert the moral sense, or offend the taste of the people of America. Any people mindful of the decencies of life would not longer permit such enactments to linger before the eye of civilized man. Slavery is the prolific mother of those monstrous enactments. Bid slavery disappear from the District of Columbia, and it will take along with it this whole brood of brutal, vulgar, and indecent statutes.

In spite, however, of these oppressive and cruel enactments which have pressed with merciless force upon the black race, bond and free, slavery, for more than half a century has grown weaker, and the free colored stronger, at every decade. Within the last half century, the free colored population of the District of Columbia has increased from four to twelve thousand. In spite of the degrading influences of oppressive statutes, and a perverted public sentiment, this free colored population, as it has increased in numbers has increased also in property, in churches, schools, and all the means of social, intellectual, and moral development. This despised race, upon which we are wont to look down with emotions of pity if not of contempt or of hate, are industrious and law-abiding, loyal to the Government and its institutions. To-day the free colored men of the District of Columbia possess hundreds of thousands of dollars of property, the fruits of years of honest toil; they have twelve churches, costing some seventy-five thousand dollars, and eight schools for the instruction of their children. They are compelled to pay for the support of public schools for the instruction of the white children from which their own children are excluded by law, custom, and public opinion. Some of these free colored men are distinguished for intelligence, business capacity, and the virtues that grace and adorn men of every race. Some of these men have in possession considerable property, real and personal. If Senators will go to the office of this city where deeds are recorded, they will find there recorded a mortgage deed, dated the 30th of January, 1858, in favor of Alfred Lee, a colored man of this District, to secure a debt of $12,000, signed by two Senators of the United States, and their wives. One of those Senators, signing a mortgage deed to secure to a colored man of this District a loan of $12,000, is a member of the Senate to-day, the other now sleeps on the shores of Lake Michigan, in the city and State of his adoption.

This bill proposes to strike the chains from the limbs of three thousand bondmen in the District of Columbia, to erase the word "slave" from their foreheads, to convert them from personal chattels into free men, to lift them from the degradation of personal servitude to the dignity and responsibilities of manhood, to place them in the ranks of free colored men, to perform with them the duties and bear with them the responsibilities of life. This bill, if it shall become law, will simply take three thousand men from humiliating and degrading servitude and add them to the twelve thousand free colored men of this District, to be absorbed in that mass of industrious and law-abiding population. The passage of this bill by the Congress of the United States will not, cannot, disturb for a moment the peace, the order, the security of society. Its passage will excite in the bosoms of the enfranchised not wrath nor hatred nor revenge, but love, joy, and gratitude. These enfranchised bondmen will be welcomed by the free colored population with bounding hearts, throbbing with gratitude to God for inspiring the nation with the justice and the courage to strike the chains from the limbs of their neighbors, friends, relatives, brothers, and lifting from their own shoulders the burdens imposed upon them by the necessities, the passions, and the pride of slaveholding society.

This bill, to give liberty to the bondman, deals justly, ay, generously, by the master. The American people, whose moral sense has been outraged by slavery and the black codes enacted in the interests of slavery in the District of Columbia, whose fame has been soiled and dimmed by the deeds of cruelty perpetrated in their national capital, would stand justified in the forum of nations if they should smite the fetter from the bondman, regardless of the desires or interests of the master. With generous magnanimity this bill tenders compensation to the master out of the earnings of the toiling freemen of America. In the present condition of the country the proposed compensation is full, ample, equitable.

But the Senator from Kentucky [Mr. DAVIS] raises his warning voice against the passage of this measure of justice and beneficence. He assumes to speak like one having authority. He is positive, dogmatic, emphatic, and prophetic. He repeatedly assured the Senate that he gave utterance to what he knew, that his warnings and predictions were infallible prophecies. The Senator predicted in excited, if not angry tones, that the passage of this bill, giving freedom to three thousand bondmen, will bring into this District beggary and crime, that the "liberated negroes will become a sore, a burden, and a charge;" that they "will be criminals;" that "they will become paupers;" that "they will be engaged in crimes and petty misdemeanors;" that "they will become a charge and a pest upon this society." The Senator emphatically declared "I know what I talk about!" "I speak from what I know!" Assured, confident, defiant, the Senator asserts that "a negro's idea of freedom is freedom from work;" that after they acquire their freedom they become "lazy," "indolent," "thriftless," "worthless," "inefficient," "vicious," "vagabonds."

The Senator from Kentucky, who speaks with so much assurance, may have the right to speak in these terms of emancipated slaves in Kentucky; but he has no authority so to speak of the twelve thousand free colored men of the District of Columbia. One sixth part of the population of this District are free persons of color. Under the weight of oppressive laws and a public opinion poisoned by slavery, they have by their industry, their obedience to law, their kindly charities to each other, established a character above such reproaches as the Senator from Kentucky applies to emancipated bondmen. As a class, the free colored people of this District are not worthless, vicious, thriftless, indolent, vagabonds, criminals, paupers, nor are they a charge and a pest upon this society. The Senator from Kentucky, sir, has no right to apply to them these disparaging epithets. Do they not support themselves by their industry and thrift? Do they not support their own churches? Do they not support their own schools? Do they not also support schools for the education of white children, from which their own are excluded? Do they not care for their sick and their dying? Do they not bury their dead free of public charge? What right, then, has the Senator from Kentucky to come into this Chamber and attempt to deter us from executing this act of emancipation, by casting undeserved reproaches upon the free colored population of the District? Their condition this day demonstrates the utter absurdity of the doctrines and prophecies so oracularly announced by the Senator from Kentucky.

But the Senator from Kentucky, upon this simple proposition to emancipate in the national capital three thousand bondmen, with compensation to loyal masters, chooses to indulge in the vague talk about "aggressive and destructive schemes," "unconstitutional policy," the "horrors of the French Revolution," the "heroic struggle of the peasants of La Vendée," and the "deadly resistance" which the "whole white population of the slaveholding States, men, women, and children would make to unconstitutional encroachments." Why, sir, does the Senator indulge in such allusions? Have not the American people the constitutional right to relieve themselves from the guilt and shame of upholding slavery in their national capital? Would not the exercise of that right be sanctioned by justice, humanity, and religion? Does the Senator suppose that we, the representatives of American freemen, will cowardly shrink from the performance of the duties of the hour before these dogmatic avowals of what the men and the women of the slaveholding States will do? Sir, I tell the Senator from Kentucky that the day has passed by in the Senate of the United States for intimidation, threat, or menace, from the champions of slavery.

I would remind the Senator from Kentucky that

the people, whose representatives we are, now realize in the storms of battle that slavery is, and must ever be, the relentless and unappeasable enemy of free institutions in America, of the unity and perpetuity of the Republic. Slavery—perverting the reason, blinding the conscience, extinguishing the patriotism of vast masses of its supporters, plunged the nation into the fire and blood of rebellion. The loyal people of America have seen hundreds of thousands of brave men abandon their peaceful avocations, leave their quiet homes and their loved ones, and follow the flag of their country to the field, to do a soldier's duties, and fill, if need be, soldiers' graves, in defense of their periled country; they have seen them fall on fields of bloody strife beneath the folds of the national flag; they have seen them suffering, tortured by wounds or disease, in camps and hospitals; they have seen them return home maimed by shot or shell, or bowed with disease; they have looked with sorrowful hearts upon their passing coffins, and gazed sadly upon their graves among their kindred, or in the land of the stranger; and they know—yes, sir, they know—that slavery has caused all this blood, disease, agony, and death. Realizing all this—ay, sir, knowing all this, they are in no temper to listen to the threats or menaces of apologists or defenders of the wicked and guilty criminal that now stands with uplifted hand to strike a death blow to the national life. While the brave and loyal men of the Republic are facing its shots and shells on the bloody fields, their representatives will hardly quail before the frowns and menaces of its champions in these Chambers.

The Senator from Kentucky proposes by his amendment to remove from the District, from the United States, the persons emancipated under the provisions of this bill. He tells us that, "whenever any power, constitutional or unconstitutional, assumes the responsibility of liberating slaves where slaves are numerous, they establish, as inexorably as fate, a conflict between the races that will result in the exile or extermination of the one race or the other." "*I know it!*" exclaims the Senator! How does the Senator know it? In what age and in what country has the emancipation of one race resulted in the extermination of the one race or the other? In what chapter of the history of the world is such exterminating warfare recorded? Nearly a quarter of a century ago England struck the chains from eight hundred thousand of her West India bondmen. There has been no conflict there between the races. Other European nations have emancipated their colonial bondmen. No wars of races have grown out of those deeds of emancipation. One sixth part of the population of the District of Columbia are free colored persons—emancipated slaves or the children of emancipated slaves. The existence of this numerous class of liberated slaves has not here established, "as inexorably as fate," a conflict between the races. More than one sixth of the population of Delaware are free colored persons—emancipated slaves, or the descendants of emancipated slaves. The existence in Delaware of this large class of emancipated slaves has not produced a war of races. The people of Delaware have never sought to hunt them like beasts and exterminate them. One eighth of the population of Maryland are free men of African descent. No exterminating warfare of races rages on the soil of Maryland. No, sir; no! Emancipation does not inevitably lead to an exterminating war of races. In our country, the enfranchisement of the bondman has tended to elevate both races, and has been productive of peace, order, and public security. The doctrines so confidently proclaimed by the Senator from Kentucky have no basis whatever to rest upon, either in reason or history. The Senate, I am sure, will not close the chapters of history which record the enfranchisement of bondmen, nor will they ignore the results of their own experience and observation, under the influence of the positive, impassioned, and emphatic assertions of the Senator from Kentucky.

This bill, Mr. President, for the release of persons held to service or labor in the District of Columbia, and the compensation of loyal masters from the Treasury of the United States, was prepared after much reflection and some consultation with others. The committees on the District of Columbia in both Houses, to whom it was referred, have agreed to it, with a few amendments calculated to carry out more completely its original purposes and provisions. I trust that the bill, as it now stands, after the adoption of the amendments proposed by the Senator from Maine [Mr. MORRILL] will speedily pass, without any material modifications. If it shall become the law of the land, it will blot out slavery forever from the national capital, transform three thousand personal chattels into freemen, obliterate oppressive, odious, and hateful laws and ordinances, which press with merciless force upon persons, bond or free, of African descent, and relieve the nation from the responsibilities now pressing upon it. An act of beneficence like this will be hailed and applauded by the nations, sanctified by justice, humanity, and religion, by the approving voice of conscience, and by the blessing of Him who bids us "break every yoke, undo the heavy burden, and let the oppressed go free."

Mr. KENNEDY. Mr. President, I did not design offering any remarks upon this bill, being willing to trust to the greater experience of my colleague to do justice to the cause of our State; but I should not acquit myself of a high duty devolved upon me if I were to suffer this question to pass from the Senate with a silent vote. My colleague, from his long experience, is more fully competent to discuss the legal questions involved in the bill before the Senate. His indisposition, however, renders it uncertain when he may be able to take the floor; and in view of that consideration, I will proceed to submit a few views of my own upon this question.

I do not mean to detain the Senate in the vain attempt to influence the conclusions to which I fear a majority of this body have come in favor of this bill, nor to attempt an argument to show the existence of the right of property in slaves. Nor, sir, shall I attempt to make an argument to show the dangerous consequences and unhappy results which must flow from this and kindred measures now in progress of adoption. These must be apparent to every right-minded and candid man, whose judgment is not warped by prejudice or influenced by party considerations. I shall content myself with the simple purpose, in a very few words, of entering the most solemn protest, in the name of my State, against the adoption of this measure which I have ever yet made as one of the representatives of her sovereignty on this floor. The State of Maryland is most deeply interested in the result of this unhappy and unnatural war. All of her prosperity, present and to come; all of her historical renown in the past, connected with her bloody struggles for this Union; all of her dignity as a State, is involved in the policy by which this contest is to be conducted and finally settled.

In one point of view she is more deeply interested in a just settlement of the great issues of this contest than any other State. Her geographical position and small white population preclude the possibility of a successful maintenance of or resistance for any policy of her own against the unscrupulous exercise of power by a majority of northern States, which at any time might be used to interfere with her local institutions or interests. She has no reliance or hope except upon the full enforcement of the pledged faith of the Constitution. The Constitution faithfully maintained is all that Maryland demands. She asks for nothing more than a just consideration of her rights as an equal in the Government. Through her Senators she has expressed her apprehension of the dangers which must result "to the future general welfare and domestic tranquillity" of the country from the adoption of any policy of a sectional character. Through her Legislature she has stated her position to the General Government in deliberate resolutions, one of which reads thus:

"4. *Resolved*, That the loyalty of the people of Maryland to the General Government, established by the Constitution, is untouched by any shade of servility, and they must ever regard with extreme jealousy all attempts, from whatever quarter, to make the present war for the restoration of the Union, the means of interfering with the domestic institutions of the States; and they solemnly protest against all schemes the object or tendency of which is to excite insurrection among the slaves, declaring the same illegal, and calculated, if put in practice, to produce results too horrible to contemplate."

Through her Union Governor, elected by thirty thousand majority on the direct issue of Union or disunion, the same sentiments have been expressed upon kindred measures bearing on the subject of emancipation. I will take the liberty of reading to the Senate the views of our Governor, who was elected as an unconditional supporter of the Union. Upon the occasion of his inauguration at the seat of government of Maryland, alluding to measures which had been introduced soon after this Congress met, he used this language:

"It is not so much the fear of any assistance that secession is likely to receive from abroad, nor the aid and comfort which treason at home may convey to it, as the possibility of a treason far more potent for mischief, and which, if not suppressed, is calculated to inflict upon the cause of the Union the severest blow it has yet encountered. I refer, of course, to that emancipation policy lately thrust so unexpectedly on popular attention.

"The early assurance given to the country by the President in his inaugural address that he had 'no purpose directly or indirectly to interfere with the institution of slavery in the States where it existed;' that 'he had no lawful right nor inclination to do so,' secured at once the confidence of the people in the purity and patriotism of his intentions. I rejoice to believe that this confidence is still unshaken, and that his whole subsequent course has justly confirmed us in the conviction that he means to conduct this war with the single purpose of preserving the nation. Congress, too, by the resolution which they adopted with such singular unanimity at the late extra session, added immensely to the strength of the Union cause by their unqualified assurance that the war should be confined to the legitimate purpose of maintaining the supremacy of the Constitution and preserving the Union.

"It will be impossible to convince conservative men that the proposed emancipation of the slaves in the seceded States, by force of the Federal arms, has any other aim than to make the success of these arms subservient to the purposes of abolition; and so considered—if suffered to control to any extent the operations of the Army—it will be equally impossible to avoid its blighting effects upon the hopeful prospects at present before us.

"The unanimity with which the northern people have rallied around the Constitution, ready to sustain it by any number of men and any amount of money, can no longer be counted on when they see that the cause to which these efforts have been consecrated is to be perverted to the purpose of a political faction; while, in the South, on the other hand, we must abandon at once the hope to which we have hitherto confidently clung, of assistance from that latent Union element, which undoubtedly there exists, and is only awaiting a Federal power to set it free. But the power that liberates it must be an unquestionable exercise of constitutional authority; and the slightest manifestation of a purpose to make that authority tributary to the cause of abolition would inevitably unite that latent element at once under the banner of secession."

Mr. President, through these various channels the State of Maryland has given full expression of her views upon this question of governmental interference with slavery, while at the same time she has expressed her devotion to the Union, and her firm purpose to maintain, uphold, and defend the Constitution as it was originally made and guarantied to the States. But, sir, if this bill passes—of which I have now but little doubt—her voice on this floor has commanded, I fear, but little respect, and her solemn protests but little consideration. She is without the power to enforce obligations to a compact to which she has ever been willing to stand faithful. I earnestly hope I may be mistaken in the purposes and power of the majority to pass this measure; but if otherwise, then, sir, it no longer remains to her, either by argument or protest, to obtain her rights as a sovereign State, or just consideration for her dignity or interests as an equal in this Union under the Constitution. To show that the faith of this Government has long been pledged to the States of Maryland and Virginia not to interfere with slavery in this District, I will take the liberty of presenting to the Senate the views of an able committee of the House of Representatives presented in 1836, a committee composed of distinguished gentlemen from every section of the country. I desire to be allowed to read at some length from this report, even at the expense of being considered tedious and somewhat prolix, for the reason that I have seen nowhere an argument so conclusive, so calm and well considered as that to which I now refer, as well as of presenting the points of this able report, made so long ago, to the view of the people of Maryland. The committee was composed of Mr. Pinckney of South Carolina, Mr. Hamer of Ohio, Mr. Pierce of New Hampshire, Mr. Hardin of Kentucky, Mr. Jarvis of Maine, Mr. Owens of Georgia, Mr. Muhlenberg of Pennsylvania, Mr. Dromgoole of Virginia, and Mr. Turrill of New York. In their report they say:

"Do the great national objects which were intended to be secured to the Federal Government by the cession of the territory require such action on the part of Congress?"

* * * * * * * * *

"Can any reason whatever be given for the abolition of slavery in this particular District, which does not apply with equal force to every other slaveholding section of the country? Can any cause be shown why the States of Maryland and Virginia would have abolished, or would now abolish, slavery in this District, had it continued to form a

part of those States respectively, which would not have warranted or produced general abolition throughout those States? Most unquestionably not."

I wish the Senate and the country to bear in mind that these views were expressed as early as 1836, before men's minds and opinions were warped by sectional prejudices or by any violent motives of partisanship. This report goes on further to say:

"Your committee must go further, and express their full conviction that any interference by Congress with the private interests or rights of the citizens of this District, without their consent, would be a breach of the faith reposed in the Federal Government by the States that made the cession, and as violent an infraction of private rights as it would have been if those States themselves, supposing their jurisdiction had remained unimpaired over their territory, had abolished slavery within those portions of their respective limits, and had continued its existence upon its present basis in every other portion of them. And surely there is no citizen in any quarter of the country, who has the smallest regard for our laws and institutions, State and national, or for equal justice, and an equality of rights and privileges among citizens entitled to it, who would attempt to justify such an outrage on the part of those States. The question then is, are the citizens of the District desirous of a change themselves? Has any request or movement been made by them that would justify an interference with their private rights on the part of Congress? None, whatever!"

That is the state of the case to-day. No such application has yet been made to Congress.

"The citizens of the District not only have not solicited any action on the part of Congress, but it is well known that they earnestly deprecate such action, and regard, with abhorrence, the efforts that are made by others, who have no interest whatever in the District, to effect it. It is impossible, therefore, that any such interference on the part of Congress could be justified, or even palliated, on the ground that it was sought or desired by those who are alone interested in the subject. If, therefore, Congress were to interfere with this description of property against the consent of the people of the District, your committee feel bound to say that it would be as gross a breach of public faith, and as outrageous an infraction of private rights, as it would have been if such interference had been committed by the States of which the District was formerly a part, supposing that it never had been ceded to the United States." * * * * * *

"Hence your committee believe they have proved, beyond the power of contradiction, that an interference by Congress with slavery in the District of Columbia would be a violation of the public faith—of the faith reposed in Congress by the States which ceded the territory to the Federal Government, so far as the rights and interests of those citizens residing within the ceded territory are concerned.

"Your committee will now consider this proposition with reference to the interests of the States of Maryland and Virginia. They were slaveholding States at the time they made their cession, and they are so still. They entirely surround this District, from which they are only separated on all sides by imaginary lines. They made the cession for the great national objects which have been already pointed out, and they made it from motives of patriotism alone, and without any compensation from the Federal Government for the surrender of jurisdiction over commanding positions in both States. The surrender was made for purposes deemed sufficiently important by all the original States to be provided for in the Constitution of the United States; and it was made in conformity with that provision of the Constitution. It is surely unnecessary after this statement of facts to undertake to show that those patriotic States made this cession for purposes of good to the Union, and consequently to themselves, and not for purposes of evil to themselves, and consequently to the Union; and that the Government of the United States accepted the cession for the same good, and not for evil purposes."

* * * * * * * * * * *

"If, then, it can be demonstrated that the abolition of slavery in the District of Columbia would produce evil, and not good, to the States that made the cession, the conclusion is inevitable that such an act on the part of Congress would be a violation of the faith reposed in it by those States." * * * * * * * * *

"It only remains under this head to show that Congress could not interfere with slavery in the District of Columbia without a violation of the public faith in reference to the slaveholding States generally, as well as to the States of Virginia and Maryland. The provision in the Constitution authorizing Congress to accept the cession of a territory for a seat of the Federal Government, and to exercise exclusive jurisdiction over it, was as general and universal as any other provision in that instrument. In its national objects all the States were equally interested, and so far as there was any danger that the powers of local legislation conferred on Congress might interfere with, or injuriously affect, the institutions of the various States, each State possessed an interest proportioned to the probable danger to itself. As far as your committee know or believe, however, no apprehension of an interference on the subject of domestic slavery was entertained in any quarter, or expressed by any statesman of the day. An examination of the commentaries on the Constitution will show that various apprehensions were entertained as to the powers conferred on Congress by this clause, such as that privileged classes of society might be created within the District; that a standing army, dangerous to the liberties of the country, might be organized and sustained within it, and the like; but not a suggestion can be found that, under the local powers to be conferred, any attempt would be made to interfere with the private rights of the citizens who might be embraced within the District, or to disturb, or change, directly, or by consequence, the municipal institutions of the States, or that the subject of domestic slavery, as it existed in the States, could be in any way involved in the proposed cession." * * * * * * * * *

"Your committee have already shown that an interference with slavery in the District of Columbia would involve a violation of the public faith, as regards the rights and interests of the citizens thereof. They recur to this topic, however, on account of its importance, and for the purpose of putting it in another light, and, as they consider, upon unanswerable ground. They are aware that, under the Constitution, Congress possesses 'exclusive legislation' over the aforesaid District; but the power of legislation was given to be exercised for beneficial purposes only, and cannot, therefore, be exercised, consistently with public faith, for any object that is at war with the great principles upon which the Government itself is founded. The Constitution, to be properly understood, must be taken as a whole. Wherever a particular power is granted, the extent to which it may be carried can only be inferred from other provisions by which it may be regulated or restrained. The Constitution, while it confers upon Congress exclusive legislation *within* this District, does not, and could not confer unlimited or despotic authority over it. It could confer no power contrary to the fundamental principles of the Constitution itself, and the essential and inalienable rights of American citizens." * * * * * *

"The inhabitants of this District are a part of the people of the United States. Every right and interest secured by the Constitution to the people of the States is equally secured to the people of the District. Congress can, therefore, do no act affecting property or person, in relation to this District, which it is prohibited to do in relation to the citizens of the States without a direct violation of the public faith. For instance, it is a well-settled constitutional principle that 'private property shall not be taken for public use without just compensation.' Now, the true meaning of this provision obviously is, that private property shall be taken only for public use, but shall not be taken, even then, without adequate remuneration. It is evident, however, in reference to slavery, either that the Government would use the slaves or that it would not. If it would use them, then they would not be emancipated; and it would be an idle mockery to talk of the freedom of those who would only cease to be private, to become public slaves. If it would not use them, then how could it be said that they were taken for the public use, consistently with the provision just recited? But even if they could be taken without reference to public use, they could not be taken without just compensation. It is exceedingly questionable, however, whether Congress could legally apply the public revenue to such an object, even with the consent of the owners of the slaves. As to emancipation without their consent, and without just compensation, your committee will not stop to consider it. It could not bear examination. Honor, humanity, policy, all forbid it. It is manifest, then, from all the considerations herein stated, (and there are others equally forcible that might be urged,) that Congress could not abolish slavery in the District of Columbia without a violation of the public faith." * * * *

"The Federal Government was the creation of the States of the Confederacy, and the great objects of its creation and organization were 'to form a more perfect union, establish justice, insure domestic tranquility, and provide for the common defense and general welfare.'

"Apply these principles, then, to an interference by Congress with slavery in the District of Columbia. Such action, to be politic, must be in accordance with some one of those great objects; and it will be the duty of the committee, in as concise a manner as possible, to show that it would not be in accordance with either of them.

"First, then, as to the District itself.

"It has already been shown that any interference, unsolicited by the inhabitants of the District, cannot 'establish justice,' or promote the cause of justice within it, but directly the reverse. No greater degree of slavery exists here now than did exist when the Constitution was adopted, and then the inhabitants of the District were citizens of the States of Maryland and Virginia, and had a voice in the adoption of that instrument. Surely their subsequent transfer to the jurisdiction of Congress, made in conformity with that Constitution, could not deprive them of the protection to which they were entitled by these great leading principles of it. On the contrary, they had every right to expect that Congress would 'establish justice,' as to them, in strict compliance with the great charter under which it acted, and by which it is forbidden to interfere with their rights of private property without their consent, or in any way to affect injuriously their domestic institutions. Of those institutions, slavery was and is the most important; and any attempt on the part of Congress, acting as the local Legislature of the District, to abolish it would not only be impolitic, but an act of gross injustice and oppression."

* * * * * * * * * * *

"They have also shown that the abolition of slavery here, so far from tending to 'insure domestic tranquillity,' would have a direct tendency to produce domestic discord and violence, and servile war, in all the slaveholding States. As these consequences, then, would follow such action in reference to the States, your committee need not say that, instead of providing for 'the common defense' *by it*, Congress would be called upon 'to provide for the common defense' *in consequence of it*, and to an extent which cannot now be foreseen." * * * * * *

"The same provision which enjoins it on the Federal Government to 'guaranty to each State a republican form of government, and to aid and protect each State against domestic violence,' evidently implies the correlative obligation to take no step of which the direct and inevitable tendency would be to overthrow the State governments, and to involve them in wide-spread scenes of misery and desolation. In one word, if it be the duty of Congress, as it most clearly is, to support and preserve the Constitution and the Union, then it is manifest that it is bound to avoid the adoption of any legislation which may lead to their destruction." * * * * * * * *

"We have said that the scheme of general emancipation is impracticable. The slightest reflection must satisfy every candid mind of the truth of this assertion.

"Admitting that the Federal Government has a right to act upon this matter, which it clearly has not, it certainly never could achieve such an operation without full compensation to the owners. And what would probably be the amount required? The aggregate value of all that species of property is not less probably than $400,000,000! And how could such an amount be raised? Will the people of this country ever consent to the imposition of oppressive taxes, that the proceeds may be applied to the purchase of slaves? The idea is preposterous; and not only that, but it is susceptible of demonstration, that even if an annual appropriation of $10,000,000 were actually applied to the purchase and transportation of slaves, the whole number would not be sensibly diminished at the expiration of half a century, from the natural growth and multiplication of the race. Burden the Treasury as we might, it would still be an endless expense, and an interminable work. And this view of the subject surely is sufficient of itself to prove, that of all the schemes ever projected by fanaticism, the idea of universal emancipation is the most visionary and impracticable." * * * * * * *

"Would it contribute to the wealth or grandeur or happiness of our country? On the contrary, would it not produce consequences directly the reverse? Are not the slaves unfit for freedom; notoriously ignorant, servile, and depraved? And would any rational man have them instantaneously transformed into freemen, with all the rights and privileges of American citizens? Are they capable of understanding the nature of our Government, or exercising judiciously a single political right or privilege? Nay, would they even be capable of earning their own livelihood or rearing their families independently by their own ingenuity and industry? What then would follow from their liberation, but the most deplorable state of society with which any civilized country was ever cursed! How would vice and immorality and licentiousness overrun the land! How many jails and penitentiaries, that now seldom hold a prisoner would be crowded to suffocation! How many fertile fields, that now yield regular and abundant harvests, would lie unoccupied and desolate! How would the foreign commerce of the South decline and disappear! How many thousands of seamen, of whom southern agriculture is the very life, would be driven for support to foreign countries! And how large a portion of the Federal revenue, derived from foreign commodities exchanged for southern products, would be lost forever to this Government! And, in addition to all this, what would be the condition of southern society were all the slaves emancipated? Would the whites consent that the blacks should be placed upon a full footing of equality with them? Unquestionably not! Either the one class or the other would be forced to emigrate, and in either case the whole region of the South would be a scene of poverty and ruin. Or, what is still more probable, the blacks would every where be driven before the whites, as the Indians have been, until they were exterminated from the earth. And surely it is unnecessary to remark that decay and desolation could not break down the South without producing a corresponding depression upon the wealth and enterprise of the northern States. And here let us ask, too, what would be the condition of the non-slaveholding States themselves, as regards the blacks? Are they prepared to receive myriads of negroes and place them upon an equality with the free white laborers and mechanics, who constitute their pride and strength? Will the new States consent that their territory shall be occupied by negroes instead of the enterprising, intelligent, and patriotic white population, which is daily seeking their borders from other portions of the Union? Shall the yeomanry of those States be surrounded by thousands of such beings, and the white laborer forced into competition and association with them? Are they to enjoy the same civil and political privileges as the free white citizens of the North and West, and to be admitted into the social circle as their friends and companions? Nothing less than all this will constitute perfect freedom, and the principles now maintained by those who advocate emancipation, would, if carried out, necessarily produce this state of things! Yet, who believes that it would be tolerated for a moment? Already have laws been passed in several of the non-slaveholding States to exclude free blacks from a settlement within their limits, and a prospect of general and immediate abolition would compel them, in self-defense, to resort to a system of measures much more vigorous and effective than any which have yet been adopted. Driven from the South, then, the blacks would find no place of refuge in the North, and as before remarked, utter extermination would be the probable, if not the inevitable fate of the whole race. Where is the citizen, then, that can desire such results? Where the American who can contemplate them without emotion? Where the abolitionist that will not pause, in view of the direful consequences of his scheme, both to the whites and the blacks, to the North and the South, and to the whole Union at large?"

* * * * * * * * * *

"The first great object enumerated in the Constitution, as an inducement to its adoption, was to 'form a more perfect union.' At that time, all the States held slaves, to a greater or less extent; and slavery in the States was fully recognized and provided for, in many particulars, in that instrument itself. It was recognized, however, and all the provisions upon the subject so regarded it, as a State, and not a national institution. At that time, too, as has been before remarked, the District of Columbia constituted an integral part of two of the independent States which became parties to the Confederacy and to the Constitution itself. Since that time an entire emancipation of slaves has taken place in several of the old States; but in all cases this has been the work of the States themselves, without any interference whatever by the Federal Government. New States have also been admitted into the Union, with an interdiction in their constitutions against involuntary servitude. In this way, the slave States have become a minority in representation in the Federal Legislature. Their interests, however, as States, in the institution of domestic slavery, as it exists within their limits, have not diminished, nor has their right to perfect security under the Constitution in reference to this description of property, been in any way, or to any degree, surrendered or impaired, since the adoption of that instrument by themselves and their sister States.

"The operation of causes to a great extent natural, and proceeding from climate, soil, and consequent production, has rendered slavery a local and sectional institution, and

has thus added another to the most alarming apprehensions of patriots for the perpetuity of this Union—the apprehension of local and geographical interests and distinctions. How immensely important is it, then, that Congress should do no act, and assume no jurisdiction, in reference to this great interest, by which it shall ever appear to place itself in the attitude of a local, instead of a national tribunal—a partial agent, providing for peculiar and sectional objects and feelings, instead of a general and paternal legislature, equally and impartially promoting the general welfare of all the States. No one can fail to see that any other course on the part of Congress must weaken the confidence of the injured States in the Federal authority, and, to the same extent, prove dangerous to the Union."

In further support of these views, I beg to refer to the resolutions of Mr. Clay, which were adopted by the Senate in 1838:

"*Resolved*, That when the District of Columbia was ceded by the States of Virginia and Maryland to the United States, domestic slavery existed in both of those States, including the ceded territory, and that, as it still continues in both of them, it could not be abolished within the District without a violation of that good faith which was implied in the cession, and in the acceptance of the territory, nor, unless compensation were made to the proprietors of slaves, without a manifest infringement of an amendment to the Constitution of the United States, nor without exciting a degree of just alarm and apprehension in the States recognizing slavery, far transcending in mischievous tendency any possible benefit which could be accomplished by the abolition.

"*Resolved, therefore*, That it is the deliberate judgment of the Senate, that the institution of domestic slavery ought not to be abolished within the District of Columbia; and it earnestly hopes that all sincere friends of the Union and of harmony and general tranquillity, will cease to agitate this disturbing question."

Mr. President, such were the views so earnestly pressed by great statesmen of all parties nearly a quarter of a century ago, and upon these views Maryland rests her protest against any interference with slavery in this District at this day. Slavery, in my judgment, is a doomed institution in Maryland, doomed by the irreversible laws of political economy, and further affected by causes arising out of the rebellion, and it needs no unnecessary stimulant to accelerate its decline; but, at the same time, it is surrounded by circumstances which will not admit of interference with the question in this District without producing the most disastrous consequences to the resources and social organization of the State, but most especially to the free negroes themselves. Mr. President, Maryland, with a total population of 687,034, has a free colored population of 83,718, nearly double as many as New York, and 27,345 more than Pennsylvania:

Colored Population of Maryland.

	1850.	1860.
Free	74,723	83,718
Slave	90,366	87,188
Total	165,089	170,906
Decrease of slaves in ten years		3,178
Increase of free negroes		8,995
Increase of total colored population		5,815

Now, sir, these figures show that we have a larger free colored population than any other State in the Union, and if any measures should be adopted, against the consent of Maryland, by which this class of persons should be suddenly augmented and the slaves rapidly decreased, it would lead to the certain adoption of violent measures for the expulsion of the free blacks beyond the limits of the State. The question has already assumed such a magnitude that laws which would almost have disgraced the statutes of barbaric ages have been proposed in our State, and only by the interference of the conservative sentiments of enlightened and humane people have these violent measures been averted, purely out of considerations of humanity to this oppressed class of people.

Slavery abolished in this District, and laws passed against the recovery of absconding slaves, the decrease would be rapid in Maryland, while the free negroes would remain; and from the natural increase alone we would find in a few years one sixth of our whole population of this class, to say nothing of the great injustice to the people of this District which would result from the immense increase of fugitive negroes here by the passage of this bill.

I have some curious statistics here, which accidentally met my eye in the last few days, which I have taken the trouble to investigate, from the census tables; and with the indulgence of the Senate I will present a few of them. The six eastern States, as is shown by the census returns of 1850—Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut—have 65,440 square miles; and in 1850 they had 23,021 colored people in the six States. By the census taken in 1790, they had 17,042 colored people. The State of New York has 46,220 square miles, and had 49,069 free colored people in 1850. She has to-day, under the census of 1860, 49,031—a decrease. The six New England States, and New York, have 111,660 square miles, and 72,090 free colored people. The little State of Maryland, which I have the honor in part to represent upon this floor, has but 10,755 square miles; and in 1850 she had 74,723 free colored people; to-day, as I have shown, taken from the census tables this morning, nearly 84,000. The State of Pennsylvania, a free State, has 46,215 square miles, lying upon the northern border of the State of Maryland, only divided by an imaginary line, and she had 53,626 free colored people in 1850. Thus we see that the State of Maryland has not one fourth as many square miles as Pennsylvania, and yet Maryland has, by the census of to-day, 27,345 more free blacks than the State of Pennsylvania. The State of Delaware has, by the census of to-day, 19,000 and a large fraction of free blacks. The District of Columbia has to-day over 11,000 free blacks, and 3,000 slaves.

By these measures of emancipation, and the utter futility of any laws of colonization which can be adopted, what will be the result? The facts that are shown from the census department prove that the free negroes increase more rapidly and more certainly in this latitude than they do in the North—increasing in the State of Maryland to an alarming degree. The State of Pennsylvania joins us, with the laws of a free State to protect them; but they prefer to remain and take their chances in the State of Maryland—a State under the control of slave laws and slave institutions. These facts present to us the alarming consideration that we are likely to become, by this interference on the part of Congress, the great free negro colony of this country. Then, sir, what becomes of the argument that slaves tend to demoralize the laboring class of white people? What must be the embittered state of feeling in Maryland when they find that this Congress, departing from every principle of good faith and of constitutional obligation to the compact of the Union, interferes to throw more of this class of free negroes in direct competition with the white labor of our own State?

Sir, while I am on that particular point, let me advert a little to the condition of the State of Maryland before this revolution took place or this rebellion broke out, for the purpose of showing how the great material interests of my State are to be kept down, or possibly to be forever and entirely ruined. In 1860, the city of Baltimore had a trade, according to the authentic report of our Board of Trade, of $168,000,000. Thirty-six millions of that was transported over the Baltimore and Ohio railroad to and from the West, as shown by the annual report of that great company. For that one year, the Board of Trade shows that the amount of northern manufactured goods of various classes and kinds sent to the city of Baltimore, to be sold by intermediate agents in that city to persons residing South and West, was $40,000,000. The trade of that year in dry goods alone, was between thirty and thirty-five millions, $4,500,000 of that being of the manufactures of our State. Sir, this rebellion has nearly obliterated that trade. The great commercial houses of our emporium, which have heretofore accumulated fortunes, are now almost tenantless, without business, without trade, and many suspended and closed. The State of Maryland in 1850 had $45,000,000 of manufactures of her own production of all kinds; her agricultural productions that year were $22,000,000; her exports of agriculture were not quite five and a half millions of her own raising, including $2,250,000 of tobacco—the balance was made up of breadstuffs; while her trade with Virginia and North Carolina brought within her borders between twelve and fourteen millions of grain and flour. Ten and a half millions of this trade was shipped coastwise to the northern States, and our foreign trade was about twenty-two and a half millions. Our northern trade directly with goods exported and sold to the North did not reach more than ten or twelve millions, while we received from the North nearly forty millions of northern productions to be sold to States South and West.

Now, Mr. President, the point that I wish to present is, that by this hemming in of the State of Maryland, by this interference with the institution of slavery, you not only disorganize the agricultural interests of my State, you not only produce convulsions and contentions which will forever prevent the kindly restoration of feeling upon which commerce must depend for its successful operation, but you will produce an exodus of such of the slaveholding population from my State as can leave, and you will force those who cannot emigrate either to manumit or to take the little pittance that is proposed by your bill, if, after a long struggle of political excitement, we can arrive at the point of the President's proposition for gradual emancipation in the State of Maryland. But, sir, the worst of it all is, that you will produce an exodus of that class of people upon whom the State of Maryland has rested more than all others for her great material prosperity—I mean her great mechanical and manufacturing class. Sir, the State of Maryland deprived of her markets South and West for her manufactures, cannot compete with the great workshops that lie north of the State. The lines of communication from Pennsylvania, from New Jersey, from New York, and from all of New England, percolating the great Northwest with a population of eight or nine millions of people, have the advantage over us, while we had only the advantage over them in the markets that lay adjacent, south of us, for our forty-five millions of manufactures; and instead of the city of Baltimore being, as she has been heretofore, the third commercial emporium of this country, I fear that the day is to come when the grass may grow in her streets and her vessels lie rotting at her wharves.

Then, Mr. President, let me ask why seek to impose upon us principles and measures of policy which we do not want, and which tend only to still further derange and embarrass us—tend further to surround us with complicated questions from which we have no escape? Why not allow us to work out our own destiny, and to accommodate ourselves as best we can to the disadvantages which this unhappy revolution has thrown around us?

Sir, I think the statement I have made in regard to the condition of the population of Maryland is the correct one: that the tendency of our population will be, even upon the settlement of this war, to emigrate, because I fear there is no hope of a restoration of that kindly feeling upon which we depended so largely for our commercial prosperity with the people who are south of us. This agitation must break down slavery; it must throw waste whole regions of country. There are to be imposed on us heavy burdens of taxation. We have already assumed an amount of taxation to defray the expenses of this war equal to the expense of our State government; we have assumed to pay as part of our proportion of the expenses of this war, within a fraction of one million of dollars a year, while the whole annual expenses of the State of Maryland are only about one million one hundred thousand dollars. Then is it not plain to be seen that the people of Maryland, already taxed high, must meet these increased burdens from what is left of her depreciated property and ruined trade.

But, may I not be allowed, Mr. President, to ask one question here. What possible benefit can occur to the North by the abolition of slavery in this District, when it is to be so deleterious and so injurious in its results to a sister State of this Union? What earthly consideration of good is to result to the people of the North that does not bring a tenfold corresponding evil, not only upon the people here, but upon the people of my State?

Sir, I will not detain the Senate longer. The day for argument upon this question has long since passed. It would be vain in me, as I think it would be for any other Senator on this floor to attempt to change the foregone conclusions of a majority in reference to this question. I shall leave it, however, to abler and wiser men to show the illegality and the unconstitutionality of this measure. This Government was created to promote domestic tranquillity and to insure the general welfare. The passage of this bill does not promote either the general welfare or insure the domestic tranquillity of my State; it will create strife in our borders as a forerunner of that other question, which is shortly to become a leading and important question in the future discussions and organizations of parties, and that is the emancipation pol-

icy of the President. You can show me no possible way by which emancipation can be effected without colonization. If you do not carry with emancipation colonization at the same time, if you emancipate these eighty-seven thousand slaves in the State of Maryland, making one hundred and seventy-five thousand colored people to remain there, one race or the other will ultimately perish; and scenes of blood and carnage that we have little idea of will result from it. With the free negroes we have now in the State of Maryland, we have to encounter the prejudices and worst passions of a large class, in order to prevent laws violent and inhuman in their operations upon them. You say you will not receive them; that when this policy shall be adopted they will not be allowed to remain with us. That is a fixed purpose on the part of the people of the State of Maryland. In making that remark, I will say here that there is not a gentleman on the northern side of the Chamber who has a higher consideration for this class of oppressed people than myself; indeed, sir, I will say more: I challenge any gentleman in this country, or any abolitionist in this country, to prove, that he has as much sympathy for them as I have.

Mr. President, from the character of the various measures of this class which have been proposed to Congress from time to time, deemed as necessary to put down the rebellion—measures of more than doubtful expediency as well as constitutionality—I fear that my worst anticipations will be realized over my hopes for the permanency of our institutions. We are certainly at the culminating point of the crisis. I had hoped that in this struggle for the Constitution, the forms of our Government might at least survive the shock of revolution; I had hoped that after the storm had swept away, the bright spirit of these once beautiful stars of the morning would again shine out and open up a new pathway to a higher and more durable national glory. But, sir, I confess the faith that was within me is fast giving way when I see measures like the present pressed against the remonstrance of all the States alone affected by it, but especially in disregard to the deep interest Maryland has at stake, and whose position has at least a claim upon the magnanimity of the controlling majority in this Congress. In the painful and anxious scenes of last winter we relied upon the assurances of honorable members of this majority that we should receive full consideration and acknowledgment for our good faith and devotion to the cause of the Union. We have stood by the Union under all circumstances. We relied further upon the broad and emphatic pledge of the President in his inaugural, that he meant to administer this Government in a spirit of justice and equality to all the States, that no rights should be assailed, that he meant to uphold, maintain, and defend the Constitution. I trust he is firm in his purpose to do so still. We relied upon assurances of this Congress, in its solemn declaration of last July, that the rights of every State should be respected, and that none should be assailed. We met at this session amidst the roar of cannon and the din of battle, still trusting that the honest pledges of your President would prevail over the spirit of sectional partisanship, which it seems now must be appeased by the inauguration of a sectional policy, which, if established, must finally involve this unhappy country in one wild carnival of fratricidal blood and universal ruin, and instead of restoring the Union to its original grandeur and power, it will be but the beginning of a revolution which may enact such horrors in this once happy country as those of the French revolution were but the type. God grant we may be saved from such a fate.

Sir, I am constrained to submit to the people of Maryland, if this measure passes, how far good faith has been kept with their trusting confidence; how far their honor and devotion to principle has been respected in the taunts and low flings which have been made at various times in both branches of Congress against their loyalty to constitutional obligations. I do not desire to deal in recrimination. I do not desire to offend the sensibilities of any one. I barely claim the right as a Senator on this floor to express my contempt and disgust at the low means that have sometimes been resorted to to bring discredit upon my State to effect partisan purposes. Sir, I may speak warmly, for I feel deeply. I feel that whatever of consideration my State has had heretofore she has lost it; that no respect or consideration is given to the very weakness of the position she holds in this Government.

Mr. President, may I not, in conclusion, express the fear that while we of Maryland avoided the rock of secession, still clinging to the Constitution upon which we were embarked, we may find ourselves fast drifting into the dark and overwhelming whirlpool of a relentless, unyielding, and reckless sectional policy, which will end forever, in my humble judgment, the last hope of bringing together the dismembered and broken ties that bound this great and prosperous nation in one fraternal bond of union and power? In the name of my State I protest against this measure.

Mr. SAULSBURY. It is not my intention to go into the discussion of this question at present; I may have something to say in reference to it before the discussion closes; but I will remark now that if this bill passes it is to pass by the votes of Senators from the non-slaveholding States, gentlemen representing States that are not afflicted with the great curse of a free negro population. I wish to relieve this city, if this bill should pass, from what I consider one of the greatest curses that can afflict any people—a free negro population; and I rise now to propose an additional section to the bill with a view that this District may be relieved from that curse, and that the gentlemen whose philanthropic feelings are so great as to induce them to pass this bill may have an opportunity of taking the persons liberated to their own keeping. I now offer the following amendment to the bill. It is to insert as a new section:

And be it further enacted, That the said persons liberated under this act shall, within thirty days after the passage of the same, be removed at the expense of the Federal Government into the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, Vermont, New York, Pennsylvania, New Jersey, Ohio, Indiana, Illinois, Michigan, Iowa, Wisconsin, Minnesota, Kansas, Oregon, and California, and that said persons shall be distributed to and among said States *pro rata* according to the population of the same.

I ask for the yeas and nays on that amendment.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) The Chair is informed there is no quorum voting, and that there are several Senators in the Chamber who have not voted. The Chair will therefore direct the call of the absentees, to ascertain who are not voting.

The Secretary proceeded to call the names of the Senators who had not voted.

Mr. KENNEDY, when his name was called, voted in the affirmative.

Mr. POWELL, when his name was called, said: I would vote for this amendment if I did not think it contained a feature that is unconstitutional. I do not think we have any constitutional power to take money out of the Treasury to buy negroes. I really think that gentlemen in the free States who free them ought to receive them; but believing it is unconstitutional in that respect, I shall have to vote "nay."

The result was then announced—yeas 2, nays 31; as follows:

YEAS—Messrs. Kennedy and Saulsbury—2.
NAYS—Messrs. Anthony, Browning, Carlile, Chandler, Clark, Davis, Dixon, Foot, Grimes, Harlan, Harris, Henderson, Howard, Howe, King, Lane of Kansas, Latham, Morrill, Pomeroy, Powell, Sherman, Stark, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Wilmot, Wilson of Massachusetts, Wilson of Missouri, and Wright—31.

The PRESIDING OFFICER. There is no quorum voting; and the business of the Senate must be arrested for the want of a quorum.

Mr. WRIGHT. I ask leave to introduce a bill with a view to reference, and then I shall offer an amendment to this bill.

The PRESIDING OFFICER. No business can be transacted, a quorum not being present.

Mr. SAULSBURY. I move that the Senate adjourn.

Mr. TRUMBULL. I imagine there is a quorum in the rooms about the Capitol. Certainly there has been a quorum about the Senate.

Mr. SAULSBURY. I move that the Senate adjourn.

Mr. TRUMBULL. I hope not. I call for the yeas and nays on the motion to adjourn.

The yeas and nays were ordered.

Mr. WILKINSON. I should like to ask the Senator from Delaware whether he wishes to speak on this question to-morrow.

Mr. SAULSBURY. No, sir; not at all.

Mr. WILKINSON. I desire to submit some remarks on this bill.

Mr. SAULSBURY. I am willing for the Senator from Minnesota to take floor. Perhaps I may say something before the discussion closes; but I do not propose to do so to-morrow. What I shall say will be very short.

The PRESIDING OFFICER. The question is on the motion to adjourn, which is not debatable.

The question being taken by yeas and nays, resulted—yeas 8, nays 27; as follows:

YEAS—Messrs. Carlile, Henderson, Kennedy, Latham, Pearce, Saulsbury, Wade, and Wilson of Missouri—8.
NAYS—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Davis, Dixon, Doolittle, Foot, Grimes, Harlan, Howard, Howe, King, Lane of Kansas, Morrill, Pomeroy, Powell, Sherman, Stark, Sumner, Ten Eyck, Trumbull, Wilkinson, Wilmot, Wilson of Massachusetts, and Wright—27.

So the Senate refused to adjourn.

The PRESIDING OFFICER. A quorum now being present, the question will return on the adoption of the amendment proposed by the Senator from Delaware.

Mr. WILKINSON. I move that the Senate proceed to the consideration of executive business.

Mr. TRUMBULL. I hope not. Let us vote on this amendment and dispose of it.

Mr. WILKINSON. I withdraw the motion.

Mr. LATHAM. I move that the Secretary call the roll now of absentees, to see whether there is a quorum present.

The PRESIDING OFFICER. It is necessary to call the roll again on the amendment of the Senator from Delaware, and that will show the presence or absence of a quorum.

Mr. DOOLITTLE. I beg to inquire what is the pending question?

The PRESIDING OFFICER. The amendment of the Senator from Delaware, which will again be read.

The Secretary read it, to insert as a new section the following:

And be it further enacted, That the said persons liberated under this act shall, within thirty days after the passage of the same, be removed at the expense of the Federal Government into the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, Vermont, New York, Pennsylvania, New Jersey, Ohio, Indiana, Illinois, Michigan, Iowa, Wisconsin, Minnesota, Kansas, Oregon, and California, and that said persons shall be distributed to and among the said States *pro rata* according to the population of the same.

Mr. SAULSBURY. While I speak in support of that amendment, I will simply say, to be frank with the Senate, that I intend to vote against the bill in any shape in which it can be presented. I offer this amendment, however, upon the principle adopted by the Senator from Kentucky [Mr. DAVIS] yesterday, of perfecting the bill, as far as I can, before the final vote; and I do think that if gentlemen who are not interested in this question will persist in freeing the slaves in this District or elsewhere, they ought to be willing to take them among themselves; that they ought not to throw this class of persons, idle and vicious and worthless, as we know they will be, upon this District, which already, I am told, has a population of eleven thousand free negroes. If they should persist in setting the additional number of three thousand free, the nineteen free States ought certainly, having so few among themselves, to be willing to share the burden with the people of this District, by dividing the freed slaves among themselves, still leaving this District with the burden of eleven thousand free persons of color. It would be one of the most sublime examples of philanthropy I have even seen. I have read in the newspapers recently that missionaries have been sent from the free States to Port Royal, and that such was the happiness of those missionaries from the free States at meeting the persons of color who resorted to the Federal Army, that they actually embraced them and called them brothers and sisters, and declared that they were their equals and as free as themselves. If such be their love for the liberated slaves of South Carolina, why should they have less love for the liberated slaves of the District of Columbia? By your fruits you shall be known. If it is a spirit of philanthropy and a love of freedom that prompts you, gentlemen, to set these three thousand slaves in the District of Columbia free; render that philanthropy and that love of freedom sublime in the sight of all human kind, by taking

into your own embrace, in your own midst, the slaves thus liberated. Prove that you are sincere. If you will adopt this amendment, you will give practical evidence to the people of this country, both North and South, that it is a genuine spirit of philanthropy and a genuine love of freedom that governs your counsels and directs your action; but if you are unwilling to receive them to yourselves, if you are unwilling to take them in your own midst, why should you force this class of people upon an unwilling population?

But, sir, I will not discuss this question. I thought at one time, when the former vote was taken, that I should be alone. I recollect that Cicero once said, he never was less alone than when alone. Fortunately my friend from Maryland [Mr. KENNEDY] came to my rescue. I cannot hope that my amendment will be adopted, but I offer it for the purpose of enabling gentlemen, if they are really governed by a love of freedom and by a philanthropic spirit, to give evidence to the world that it is genuine.

Mr. HARLAN. Mr. President, I regret very much that Senators depart so far from the proprieties, as I consider it, of this Chamber, as to make the allusions they do. It is done merely to stimulate a prejudice which exists against a race already trampled under foot. I refer to the allusions to white people embracing colored people as their brethren, and the invitations by Senators to white men and white women to marry colored people. Now, sir, if we were to descend into an investigation of the facts on that subject, it would bring the blush to the cheeks of some of these gentlemen. I once had occasion to direct the attention of the Senate to an illustrious example from the State of the Senator who inquired if any of us would marry a greasy old wench. It is history that an illustrious citizen of his State, who once occupied officially the chair that you, sir, now sit in, lived notoriously and publicly with a negro wench, and raised children by her.

Mr. SAULSBURY. Let me interrupt the gentleman a moment. Does he refer to any citizen of Delaware?

Mr. HARLAN. I referred to the Senator from Kentucky, [Mr. DAVIS.]

Mr. SAULSBURY. I beg your pardon.

Mr. HARLAN. I referred to a gentleman who held the second office in the gift of the American people; and I never yet have heard a Senator on this floor denounce the conduct and the association of that illustrious citizen of our country. I know of a family of colored or mulatto children, the children, too, of a gentleman who very recently occupied a seat on the other side of the Chamber, who are now at school in Ohio. Yes, sir, the children of a Senator who very recently, not to exceed a year since, occupied a seat on this floor, a Senator from a slave State.

I do not desire to consume the time of the Senate and of the country in calling attention to these facts; it is humiliating enough to know that they exist; but if Senators who represent slaveholding States will perpetually drag this subject to the attention of the Senate and of the country, let them take the logical consequences of their own folly, and bear the shame which an investigation of facts must inflict on themselves and their constituents.

I know there is a newspaper slander—written, printed, and published as a slander—on those who went down to South Carolina for a benevolent purpose, at least a desire to look after the welfare of those who had been cast off by their masters and had no means of support, the armies of the Republic furnishing them no protection, and, as it is said, actually robbing them of the scanty supplies left them by their absconding owners. Benevolent gentlemen have gone, as it is said, and I believe truly, to furnish them temporarily with food and raiment, and also employment, to enable them to provide, in part at least, by the labor of their hands, for their own wants. I confess I can perceive nothing objectionable in this; nor do I believe that the Senator himself who drags up that subject, as it seems to me, unnecessarily, in the discussion of the provisions of this bill, can point out anything improper in it. Does he desire that those persons who have been deserted by their masters should be left there to starve and die like brutes? I know he does not. Then what other means can he devise for their protection and support; or does he desire the President to withdraw the Army and permit the rebels, who are now striking at the life of the nation, to return to their possessions under the folds of a rebel flag, reasserting their ownership over their deserted slaves? If he desires the armies of the Republic to push forward until the supremacy of the laws of the Union shall be acknowledged, under the protecting folds of the stars and stripes, to its utmost limits, what does he propose to do with these destitute people? Does he propose to support them directly from the national Treasury? Would this be more wise than to permit benevolence to provide for their temporary wants, and to permit the labor of their own hands to supply their necessities for the future?

I do not deem it proper on this occasion to enter into a labored investigation of the probabilities of amalgamation of the white with the negro race if the negroes should all be set free. How is it in point of fact? Do you find white gentlemen and white ladies marrying the free negroes that are now in this District? Do you find them marrying the negroes that are now free in Maryland, and I understand the Senator says there are over eighty thousand of them in that State? Do Senators find that the amalgamation of the white and the negro race is in progress in the States they represent? And if so, does it progress more rapidly in the free than in the slave States? And in the slave States does it progress more rapidly among the free negroes than among the slaves. I have known of but three cases in my own State, and all three of those men married to wenches have been residents of slave States, where, I doubt not they acquired their tastes. [Laughter.] Liberating the negroes carries with it no obligation to marry their wenches to white men. Gentlemen may follow their tastes afterwards as now.

The Senator from Massachusetts [Mr. WILSON] has furnished me with the figures showing the exact number of free negroes in the States of Delaware and Maryland. In the former there are 19,723 free negroes, and but 1,798 slaves, and in Maryland 83,718 free persons of color, and but 87,700 slaves. If the white population of Maryland does not intermarry and amalgamate with the 83,718 free negroes now in the State, would their tastes in that regard be changed if more of them were liberated? If the people of this city, the capital of the nation, are not now insulting our delicate sensibilities by intermarrying with nearly twelve thousand free negroes here, would their tastes be changed in that regard by the liberation of about fifteen hundred others, for I understand on consultation with the chairman of the Committee on the District of Columbia that there are not now probably to exceed fifteen hundred slaves in the District. There were when the census was taken but a trifle over three thousand.

This is merely a fling intended on the part of those who use it to arouse a prejudice that they know is deep-seated in the minds of the people of the free States against association with the colored population. They know what I know and here state, that there is in all the free States a deep-seated prejudice against an association with the colored population—a prejudice that does not exist in the slave States. There you find this association together, not in the social circle, it is true. You find them, however, at work together in the same shop, at the same bench, on the same farm, in the same buildings, at the same kind of toil. You find their children on the same play grounds, at the same games, at the same amusements, not unfrequently eating, sleeping, quarreling, and fighting with each other without reference to color. It is so in this District. We all observe it every day we live. Any man who will take the trouble to walk up Pennsylvania avenue at this moment will see the white hackman and the negro standing side by side, whip in hand, waiting for a job. He will see the white man and the negro on the cross streets, sitting on wagon or cart, side by side, waiting for employment. Go into the hotels, and you will find them there, white men and negroes, white females and colored females, in the employment of the same landlord. Go into the Government workshops, into your own navy-yard, as I doubt not all have done, and as I have done, and you will see black men and white men working side by side, swinging the same kind of hammer, forging the same piece of iron.

It is here in a slave District and in the slave States that men learn to associate familiarly as laborers and mechanics with the colored population; and as a result of that familiar association at the daily toils of life, there is less shrinking away from them; less reluctance at receiving them into their embrace, so handsomely described by the Senator from Delaware but a moment since. No, sir; if you inquire for those willing to receive colored persons into their embrace, you will find a large majority of them born, brought up, and educated in the midst of a slaveholding community; and as a result of this familiar association, you will find in every slaveholding community a much larger number of mulattoes than in the free States.

But, then, what is to be done with these fifteen hundred liberated slaves? If they are to be liberated we are told they must be expatriated; they must be sent into some other country, into a strange community, and there compelled to provide in a land of strangers for the supply of their daily wants? Where are they now? In the bosom of the families of this metropolis. They are the house servants and the field hands of those who now claim to be their owners. Whence, then, a necessity for expatriating them? It does not increase their number to liberate them. If their labor is now necessary for the industrial purposes and comfort of the people of this District, will it not be as necessary after they shall have been liberated? If they are now needed as house servants and hotel servants, laborers and mechanics, in shops and fields, will they not be as necessary afterwards? The only change in this regard that I can perceive is that after their liberation, and those who now enjoy their labor gratuitously will then, if their services are continued, be compelled to pay them reasonable compensation, the Government paying them a bonus of $300 each to relinquish the supposed right to their labor without the payment of wages. This is the only wrong that will have been inflicted on those who now own them. They now employ them, and give them food and raiment and shelter for their services, without reference to their own wishes, coercing obedience with the lash when found necessary. Afterwards they will be compelled to consult the will and wishes of the employed, and to pay them probably stipulated wages, with which the servant will provide his own supplies. No injury is inflicted on society, no change is wrought on its organization, and no change is made in the political condition of the emancipated. They will have acquired no political rights or franchises. They will have acquired simply the right to enjoy as they choose the proceeds of their own labor. But if you confer this right on fifteen hundred more negroes now slaves in this District, we are gravely warned by Senators, in most eloquent and pathetic strains, that we will thus inaugurate a war of extermination between the white and black race! Yes, if you confer on these fifteen hundred poor negroes the right now enjoyed by more than eleven thousand of their colored brethren now living in the District, allow them to collect and use the wages of their own labor, you will incite a spirit of wholesale murder! Rather than pay them just compensation for their services, their former masters, who have lived on the proceeds of their unpaid toil, will take down their rifles and shoot them! A war of extermination is to arise! Sir, I have understood that it was murder now in this District to kill a colored man; that so far from justifying the indiscriminate murder of those poor people who are now free, you regard it as a very grave offense against society to shed his blood, and would arrest, indict, try, and hang the felon who would perpetrate it in a single case. I inquire if it is not also a felony now in Maryland? I inquire of the Senator from Maryland, who predicts a war of extermination immediately on the liberation of the slaves in this District, why it has not heretofore commenced; and if it would not be murder to shoot or otherwise maliciously destroy the life of a free negro of his own State under the laws of Maryland as they now exist?

Mr. KENNEDY. If the honorable Senator desires to answer, I will say in a very few words that there is now a bitter antipathy between the laboring white people and the free blacks, and that it has been so strong heretofore in the State of Maryland that we have had great difficulty in restraining the passage of what we consider inhuman laws. The antipathy is very strong between the two classes of people, and I do not know how far they might be excited to deeds of violence, if the

proportion of free blacks that now exists was greatly increased.

Mr. HARLAN. I am very much obliged to the Senator for his explanation; and yet I beg leave very respectfully to differ from him in relation to the fact which he has stated. In my opinion, these feelings are not excited by the laboring men. I see laboring white men standing side by side with laboring negroes in the District seeking for jobs, for employment——

Mr. KENNEDY. The Senator will allow me to say right there that I employ both classes, and one of the troubles that I have is to restrain that very feeling. I speak from experience.

Mr. HARLAN. I am inclined to think that any improper results which might grow out of this prejudice could be readily controlled by that part of the community enjoying high social and official position, like the Senator from Maryland and the Senator from Kentucky and the Senator from Delaware, who has spoken to-day. What is the inference to be drawn by the less reflecting from this statement made in this discussion. They declare "if you liberate slaves, allow them to become free, the free white people will rise and exterminate them;" and, is not the inference legitimate that it would, in the opinion of the speaker, be proper for this to be done? Is it not indirectly saying to every laboring white man of Maryland, "you may murder indiscriminately those that come in conflict with your interests, in competition with you in the various avocations of life?" You say to them "you will do so;" you say to this entire population in this District, "you will arise and murder the free colored people if we set a few more free;" and this statement thus far has not been accompanied even with so much as a regret at the supposed existence of such vindictiveness. Sir, the slaveholders of Maryland control its legislation; those that hold slaves in nearly all the slave States control the legislation of those States, and they control, to a fearful extent, the opinion of the masses; and they can as readily give to public opinion the right as the wrong direction; they can as readily conform it to the plain principles of a christianized humanity as to degrade it to the standard which controls the policy of communities in a savage condition.

Why, sir, I know a people not many hundred miles from my own home that are to-day engaged in a war of extermination. The Chippewas and the Sioux never meet each other on the plains, but to murder and massacre each other. A war of extermination with all the vindictiveness and atrocities common to savage life, is in progress. They meet only to imbrue their hands in their brothers' blood.

Mr. KENNEDY. Will the honorable Senator allow me to make to him a single statement in further answer to the question he put just now?

Mr. HARLAN. Certainly.

Mr. KENNEDY. One of the worst riots we have had in Baltimore for many years arose from the fact that free negroes were employed in the ship-yards as caulkers. They came in competition with a class of men who had before done work of that sort, who determined to drive them out of those yards, and from that cause a tremendous riot ensued. I do not even now know whether a single free negro is allowed to work in the ship-yards. There is a feeling against them on the part of a class of people who regard them as interfering with their own exclusive privilege to do work of that sort themselves.

Mr. HARLAN. And in that I see an explanation of the suggestion I made. Of course the Senator's knowledge of facts existing in his own State, and in the metropolis of that State, is better than mine. I will not dispute the truth of his statement; but he winds it up by saying that even now he does not know that a "free negro" is permitted to work in the yards of that city; and why? Because the owners of the slaves cultivate this prejudice for the purpose of driving out the free negroes who come in competition with their own slave hands, so frequently hired out for wages to be placed in their owners' pockets.

Mr. KENNEDY. The slave interest of the State of Maryland, I may be allowed to say, is a very small one—seventeen thousand altogether. That interest does not prevail anywhere in Maryland except in the tide-water counties. The Senator is entirely mistaken in supposing that it prevails in Maryland. It is in a minority.

Mr. HARLAN. As to the fact, of course the Senator's knowledge is more perfect than mine could be. I have in my hand, however, a statement furnished me by the Senator from Massachusetts, which gives the number of slaves in Maryland as eighty-seven thousand one hundred and eighty-eight.

Mr. KENNEDY. Yes, sir.

Mr. HARLAN. I know the institution is going down in Maryland; it is sinking under the quiet influence of emigration from the free States and enlightened public opinion; but even in Maryland the slaveholding portion of the community controls its legislation, controls public opinion, and stimulates and sustains the savage doctrines which we have heard advanced on this floor from their Senators—I use the word with respect; but I illustrate it by the example I have just cited. As I have said, among the savages on our western plains, wars of extermination are going on day by day; these tribes are melting away by this vindictive and savage strife, which they keep up between belligerent tribes. Now, is it possible that Senators will teach the Senate and the country and the Christian world that the people of Maryland are not elevated in civilization above the condition of the Chippewas and Sioux; that there, too, we have hundreds of thousands of savages with white skins who will immediately commence a war of extermination—on whom? On men with whom they have lived their lives through, men who were born with them on the same soil, men who were brought up with them under the same roof, who played with them in childhood on the same grounds; who did not accompany them to the same schools for they have been excluded from the means of mental culture, who did not accompany them to the same church for they have been excluded also from a high order of religious culture.

Mr. KENNEDY. Does the honorable Senator mean to apply that remark to Maryland?

Mr. HARLAN. I am applying to Maryland the doctrines the Senator has advanced to-day. He says that in Maryland, if the slaves be set free, the white population will arise and massacre the entire colored population. If the people of Maryland will do this savage act, they are not to-day elevated above the condition of the Chippewas and the Sioux; no, they are below the civilization of these savages, because they murder their enemies, not their friends, their servants, and the people of their own households.

Mr. KENNEDY. I trust the honorable Senator will allow me to make a statement.

Mr. HARLAN. Certainly.

Mr. KENNEDY. I think the Senator entirely misapprehends the scope of my remarks, and I desire to say here now, that we have some of the best regulated and best established churches and schools for negroes in the city of Baltimore that are to be found in the United States. We have, further than that, highly educated men who were slaves who are preaching to the free colored people of Baltimore. I have this day in my family a manumitted slave who has the privilege of teaching school. A manumitted slave of my own family is with me now, and is a teacher of a school. There is no restriction whatever in Maryland upon education of any sort in regard to the colored population.

Mr. HARLAN. I would inquire at the heel of that remark of the Senator if he has any disposition to murder them?

Mr. KENNEDY. None whatever; but there is a natural opposition that exists between two antagonist races of people; and the colored race has been protected by the well ordered and well regulated people of my State, men, like myself and other gentlemen who represent the State, who are struggling everywhere to prevent the dominance of a rule that might be exercised by an antagonistic class.

Mr. HARLAN. And if the Senator does not feel a savage disposition to murder his freed man, does he say that the mass of the slaveholders of his State are less civilized than himself?

Mr. KENNEDY. Not one particle more than the people of the gentleman's own country seem disposed to murder the white people of my section.

Mr. HARLAN. Then, if neither he nor his fellow-slaveholders in Maryland now entertain such a disposition, I apprehend that no such cruel result will flow from the liberation of slaves that do not live in his own State, but live under a different jurisdiction. No, sir; these Senators have misrepresented their own people; they are not the savages they have portrayed on this floor. I doubt not they are in possession of all the elements of humanity, a humanity that has been cultivated highly, cultivated well, and that they would be as far from murdering colored men, merely because they are free, as would I or the people whom I represent.

Mr. DAVIS. Will the gentleman allow me a word?

Mr. HARLAN. Certainly.

Mr. DAVIS. The gentleman certainly misconceives or misrepresents the argument that I made. The position I assumed, and which I endeavored to sustain by argument was this: that if slaves were liberated in States where they exist in great numbers, without colonization, it would give rise to a war of races that would lead to the results which the gentleman is now deprecating; and I maintain that that is a true position.

Mr. HARLAN. I think that that might possibly be brought about through the teachings of such gentlemen as those who now represent these States on this floor. They declare on the floor of the American Senate in the face of a Christian nation, in the face of two hundred millions of Christians now living on the earth, that if men are to be liberated from a slavery that is more galling and degrading than any that has ever existed on the face of the earth from the commencement of time down to this moment, their people will rise and murder the poor freed men. They say so without expressing so much as a regret. They declare it as a prophecy. They thus inculcate its rightfulness. They thus teach their people, that in their opinion this wholesale murder would be right, or at least, the result of a weakness to be tolerated. They thus approve and justify this savage feeling—if it exists; but, sir, it does not exist; I will defend the people of Kentucky, of Maryland, of Delaware, and of this District, from any such slanderous aspersion. They entertain no such purpose on their part as the indiscriminate murder of the colored population, if they should become free. I doubt not but that the public sentiment that now exists, induced by the slaveholders themselves, in the States to which I have referred, is bitterly opposed to the liberation of the slaves; but if these slaves should be set free, it will be effected by their own Legislatures; and if thus set free, no such savage war would arise. Nor is it probable that their liberation by the exercise of arbitrary power, of which there is not the slightest apprehension on the part of these Senators themselves, could such an historical anomaly be produced.

The Senator from Massachusetts very aptly inquired of Senators who have rung the changes on this supposed calamity, to inform the Senate when such a wholesale murder ever commenced between members of the same community on account of race? Can any Senator put his hand on the page of history that records it? None have, and none can. You say that if two races are thrown together as freemen, they will necessarily engender a war of extermination. Such a war never did commence between two races of free people; and until the laws of the human mind and the human heart change, never will. You cannot point to any great people that has ever existed that has not been composed to a greater or less extent of, so called, different races. You may refer to any of the great empires of antiquity—the Chaldean, the Persian, the Assyrian, the Grecian, and the Roman empires, and you will find that they each embraced people of every kindred, tongue, and race, and from every clime. It has been so of every highly enlightened and prosperous people since civilization dawned. It is so now of the most polished and powerful nations of Europe and Asia. In proof, I need but cite the British and French empires. To say that men of different, so called, races are natural enemies to each other, and will commence and wage a war of extermination when brought into contact, is a libel on humanity. It is a libel on the Author of the human race. The Almighty never implanted such feelings in the human heart. They never have been cultivated by an enlightened people. Wars of extermination exist only among savages; and with them only between belligerent tribes.

But I was drawn away from the argument of

the Senator from Delaware, that if the fifteen hundred slaves who are now the chambermaids, and the bootblacks, and the barbers, and the hostlers, and the wood choppers and wood sawyers, and coal carriers, and cart drivers, and carriage drivers, and laborers on the gardens and grounds that surround this magnificent palace shall be liberated, somebody will commence a wholesale murder.

Mr. SAULSBURY. I said no such thing. If the gentleman is alluding to me, I did not say a word about it.

Mr. HARLAN. I am most happy to hear the Senator recant the doctrine I have attributed to him.

Mr. SAULSBURY. I do not recant anything. I said nothing of the kind.

Mr. HARLAN. The negroes then will be saved. There is no danger of this wholesale murder.

Mr. SAULSBURY. I will reply to the gentleman when he is through.

Mr. HARLAN. There is no danger of this war of extermination, at least in the streets of this capital; and the fifteen hundred slaves now laboring quietly under the control of their masters will probably not be murdered by their former owners if they should be liberated. I would almost guaranty that the liberated slaves will not murder their masters if their masters will not murder them. The mere fact of their liberation could hardly incite them to such a diabolical course of conduct. Why should it? If they prefer to live under the shelter that their masters have provided for them, and to labor day by day without wages for the gratuity they may receive from the hand of their former owner, their legal freedom will not compel a severance. I will not vote for a law to compel them to leave. The Senator desires us to do so; he proposes an amendment to this bill that will compel these poor men to leave their kind masters, to go homeless and penniless and friendless into a land of strangers. I voted against his proposition. I am disposed to leave them where they now are, and let them work on for their masters; if their masters choose to pay them for their labor, all well; and if they decide to work on without pay, be it so. I perceive no motive that can arise out of the removal of the legal shackles that bind them, calculated to stimulate a disposition to murder and destroy. They would be anomalous human beings if the mere act of liberating them would convert them into savages and murderers.

If neither their masters nor they are disposed to engage in such strife, I apprehend there is no great danger. I never yet have met a white man or white woman in the District who manifested this species of vindictiveness against the colored people. I am glad for the sake of humanity that it is so. Why should they? Do you answer because they are poor and ugly and ignorant and feeble. Is it possible that an American Senator will teach here to-day that because the white race is said to be more powerful and more highly endowed, and has acquired a high position in the scale of civilization, he may with impunity trample on the feeble and the defenseless? The advancement of such a dogma ought to mantle the statesman's cheek with the blush of shame. It is at war with every manly impulse. Why, sir, I have occasionally in passing through the rough society which sometimes congregates on the frontier, observed a strong, powerful man stepping into the ring in the midst of a broil "to pick up the glove," as it was called, in defense of a gray-haired man, or a boy, or a feeble person, about to be assailed by some thoughtless person of superior physical strength, with the declaration, "sir, if you must have a fight take a man of your inches," and such an act never failed to secure the applause of the crowd. This is true humanity; it is moral courage; it is a kind of natural religion, superior to much we hear from the pulpit. It is true courage; it prompts to personal sacrifice in the defense of the feeble. And I have never yet witnessed a crowd of frontiersmen, however rough and uncultivated, who could be induced to applaud the victor in a contest with an inferior. This principle of humanity it is thought by many was illustrated on a grand scale when the English nation and the French people stepped in between Russia and the Turks. Here was a great and powerful nation attempting to crush out a feeble people. The contest was unequal; it was the athlete champion with iron muscles in deadly strife with the child or decrepid age, and two other powerful nations stepped in between them and commanded peace, and took up the glove in defense of the weaker. I suppose this element of humanity to be the foundation of that manly pride that most men experience when they stand in defense of their own families, in defense of their wives and children and parents. They stand between the feeble and the strong, and peril their existence in defense of their rights. As a nation we act from these generous and manly impulses in our intercourse with the children of the prairies and forests. They are comparatively a feeble people, incapable of taking care of themselves, and you organize a bureau under the Government and appoint a Commissioner and appropriate millions of dollars year by year to pay agents to stand between them and your own citizens who might be stimulated by avarice to become their oppressors. And this policy usually receives the applause of Christian men. It is but another illustration of better impulses of an enlightened humanity—a powerful nation stretches out its strong arm to protect the feeble.

Here is another feeble people, a race of men that are inferior to us, not equal to us in beauty, not equal to us in symmetry of body, not equal to us possibly in original mental and moral capacities or endowments. They are supposed not to be as capable of taking care of themselves as the Anglo-Saxons or others of the Caucasian race; and on that account you tell me they are to be trampled under foot. You are to trample them into the earth because they are feeble! Do you treat your own feeble people in this way? I have sometimes stepped into a probate court, and I have seen a judge sitting on the tribunal of justice appointing a guardian for the persons and property of orphan children, and requiring him to give bond and security for the proper execution of the trust. They have neither father nor mother; these natural guardians have been called hence. They may become the victims of avarice or malice. The officer of the law steps in for their protection. You, sir, see this evidence of a Christian civilization! And two hundred millions of Christians scattered up and down in the earth unite in applause. Orators and statesmen chime in with the axiom, the very object of the organization of civil society is the protection of the weak from the aggressions of the strong.

Now if this be so in relation to every other people, in relation to weak members of your own race, would it not be equally humane to provide for the protection of feeble colored people that have been born in our midst without any fault surely of their own; who have been cast here, you may say, as waifs on society, by an act of Providence? Are we to crush them with the iron heel of a civilization that brings only blessings to all others? And if their shackles shall be stricken off, are we indeed doomed to witness their indiscriminate murder because they are weak, because they are less capable of providing means of their own defense than we? This is an illustration of what is sometimes styled the superior civilization of the slave system, and a conception of an enlightened humanity that I could not have believed a few years since would have been exemplified on the floor of the American Senate; because a people are weak, therefore you have a right to oppress them, and if the hand of humanity does obtrude for their protection, then you have a right to murder them, murder them indiscriminately, murder them *en masse*, only because they are no longer slaves.

Mr. SAULSBURY. Mr. President, the Senator from Iowa reminds me very much of an anecdote I once read in the papers, of a good brother in a church who had a most inveterate habit of responding to everything which the minister said by a hearty, whole-souled "amen;" and this "amen" was very frequently put in at a not very appropriate place. Being cautioned by the preacher one day not to be so free in his responses of "amen" to anything that might fall from his lips, he held his peace for awhile; but on one occasion, feeling a disposition to say it, he hallooed out in church, "amen at a venture." [Laughter.] I have been at a loss to discover whom it is that the Senator from Iowa has been replying to. When he first commenced, he alluded to something that I said. My only solution of that question is, that he has been making a speech "at a venture," and without replying specifically to anybody.

In the few remarks I made I alluded to a newspaper account of the joy which was manifested by certain persons who had gone down from the free States into South Carolina, and to their embracing, in their joy, negroes who had there congregated, and telling them that they were now free as they were, and calling them brothers and sisters. I used the word "embrace." The Senator takes up the word "embrace"—a word innocent in its meaning—a word innocent in its signification; and lo and behold, he entertains the Senate with a long tirade in reference to the subject of amalgamation. The word "embrace" has no criminality in its meaning; and it was not referred to by me in any such sense. My reply, therefore, to all the Senator has said upon that subject, is simply this: "evil to him who evil thinks."

Mr. President, I said nothing in reference to the war of races that must ensue from a general system of emancipation in this country, although the philosophic student of history will not fail to discover in her teachings that a deep and powerful and solemn warning voice comes up to the American people in this hour of the agitation of this question, and tells them in reference to that, even, "beware." Never have I been on the floor of the American Senate fighting the battles of slavery, although I am one of those men who dare say, in the face of the American Senate and the American people, that, as the system of American slavery had an existence in this country without our fault, and as it now exists, it is far preferable to both races that those who are slaves should continue to be slaves, even to the end of time, than that they should be released and thrown broadcast upon society, free men, to disturb the harmony and the peace of the communities in which they may be placed.

Sir, I say further, that so far from fighting this question simply as the advocate of slavery, I should be perfectly willing this day to see the few slaves in my State liberated and go free, provided the gentlemen who are in favor of that policy would only take the free negroes off our hands. The Senator from Maryland has alluded to the large free negro population which Maryland has. Sir, we are not so large a State as Maryland; we have not so many white people; we have not so many negroes; but in proportion to the white population, the State that I have the honor to represent has a larger free negro population in it than any State of this Union. More than one fifth of our whole population are free negroes. I say to the Senator from Iowa that I speak of what I know; I speak of what I see; I speak of what I have felt. He speaks simply of that in reference to which he speculates. There is the difference. I was born in a slave State; I presume he was born in a free State. My ancestors were slaveholders; and if there is any sin in being one, I am a small one myself; and let me tell that Senator that we in the slave States know this fact, however much it may contradict his theory, that the worst species of population with which any people can be afflicted is a free negro population.

The gentleman professes to know something on this subject. I wonder how many free negroes there are in his State. What sources of information has he? The State of Iowa talking about the character of a free negro population, the State of Iowa talking in reference to the character of a slave population, and she has not got free negroes enough to make milestones along one of the public roads within her limits, perhaps! Why, sir, official duty for five years caused me to be well acquainted in my State with the character of this population. For five years it was my lot to prosecute in all the criminal courts of that State. I say to the Senator that the criminal courts of my State are occupied constantly with trying these persons for every grade of offense, from murder even to the lowest upon the criminal calendar. We know what it is to suffer from an excessive free colored population. My amendment was offered not because I intend to support this bill under any circumstances, but to benefit the city of Washington, where I hope, notwithstanding the present unfortunate condition of the times, the American capital may ever remain, and remain as the capital of the whole nation, North, South, East, and West. It is to free the people of this District from the blighting curse of a powerful free negro popu-

lation within their limits, that I have offered this amendment.

The Senator asks what I would have done in South Carolina if I object to their missionaries going down there. I do not object to their missionaries going down there. In my schoolboy days I learned an old maxim, *de gustibus non disputandum est*. Those who have a taste for such a calling are welcome to pursue it. But while I have no quarrel with them in reference to that, I tell the Senator what I would have them do. When rebellion raises its head in this Government, when the patriotic heart of the country is stirred from one end of it to the other, when the old love of the American heart is reanimated and clusters around the old national flag which the Senator and those who think with him profess so much to honor, when the very continuance of your Union is not only endangered but rendered doubtful, when men of all political parties are rushing to the field, I would have but one spirit animate them all; I would have but one spirit animate the members of the American Congress, and that is, the preservation of the American Union by strictly observing the Constitution and the constitutional rights of the people in every section of this country, North, South, East, and West; for, sir, it is only by the preservation of the constitutional rights of the people, North, South, East, and West, that you ever can preserve the American Union; and he—I refer not by the word "he" particularly to the Senator from Iowa, but that man wherever he exists within this Union—who would make the emancipation of the slave population a paramount consideration to the preservation of his country is a disloyal man, and he cannot cover up his disloyalty under the cry of Union, or by wrapping around himself the American flag and thanking God that he is not as other men or even as these poor slaveholders. [Applause in the galleries.]

The PRESIDING OFFICER called to order.

Mr. SAULSBURY. Sir, if when this battle for the preservation of the Union commenced the dominant party in power had given assurance to the people of this country everywhere that they were invited to fight for the preservation of the Union and Constitution of their fathers; if you had not invited them to join in this general crusade against the institution of domestic slavery; if you had guarantied to them that their rights under the Constitution and in the Union should be preserved from all assaults, whether they came from southern secessionists or northern disunionists, who are constantly preaching this doctrine of abolition, today there would have been but one heart animating the whole American people in every section of this country, and this Union never would have been allowed to be destroyed. But, sir, what have we seen? We have found gentlemen differently circumstanced from you, raised under different influences, brought up under a different state of society and in different associations—because they have dared, amidst the tumult of civil war and the violence of revolution, to raise a voice in defense of the preservation of their constitutional rights and the constitutional rights of the people everywhere, we have seen them dragged from their families under the pretext that they were secessionists and disunionists, and cast into loathsome bastiles. On the other hand, we have seen a man hailing from a northern State but recently coming to the Federal capital, getting up in the lecture-room of an institution devoted to the propagation of science and learning and declaring that for nineteen or twenty years he has been endeavoring to dissolve this Union, and to drag nineteen States out of the Union; we have seen that same man, contrary to the rules of the Senate, walk into this Senate Chamber, and he, proclaiming himself a disunionist and that the labor of his life has been to dissolve the Federal Union, is allowed to go at large; and this day peaceful, quiet citizens, who never dreamed of harm or thought a wrong to the Federal Government, even in my own State and from the capital of my own State, have been dragged from their homes and their families by Maryland home guards—I beg the pardon of the Senators from Maryland; I do not mean any offense to them—who will fight on Maryland soil but will not fight off Maryland soil—dragged by them, glorious patriots as they are, from their homes and their families within the limits of the State of Maryland and confined there.

Senators, abandon now at once and forever your schemes of wild philanthropy and universal emancipation; proclaim to the people of this whole country everywhere that you mean to preserve the Union established by Washington and Jefferson and Madison, and the fathers of the Republic, and the rights of the people as secured by that glorious instrument which they helped to frame, and your Union never can be destroyed; but go on with your wild schemes of emancipation, throw doubt and suspicion upon every man simply because he fails to look at your questions of wild philanthropy as you do, and the God of heaven only knows, after wading through scenes before which even the horrors of the French revolution "pale their ineffectual fires," what ultimately may be the result.

Mr. WILKINSON. I move that the Senate adjourn.

Mr. MORRILL. Oh, no; I want a vote on this question.

Several SENATORS. There is no quorum.

Mr. MORRILL. I think there is a quorum present.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *March* 25, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, transmitting a list of the number and names of persons employed in the Coast Survey for the fiscal year ending the 30th of June, 1861, with the expenditures made by the direction of the Superintendent in that time; which was laid upon the table, and ordered to be printed.

The SPEAKER also laid before the House a communication of the Secretary of War, transmitting, in answer to a resolution of the House, a report of the Adjutant General, embracing the names of all chaplains which appear upon the rolls on file in his office; which was laid upon the table, and ordered to be printed.

The SPEAKER also laid before the House a communication of the Secretary of War, transmitting, in response to a resolution of the House, the report of Major General Wool, of the number, age, and condition of the Africans in his department; which was laid upon the table, and ordered to be printed.

The SPEAKER also laid before the House a communication of the Secretary of the Navy, transmitting a detailed statement of the expenditure of the contingent fund of the Navy Department; which was laid upon the table, and ordered to be printed.

FRIGATE CONGRESS, ETC.

Mr. SEDGWICK. I ask the unanimous consent of the House to take up and put on its passage Senate bill No. 244, to provide for the equitable settlement of the accounts of the officers and crew of the frigate Congress, and of other vessels destroyed at Hampton Roads.

There was no objection; and the bill was taken up and read a first and second time.

Mr. SEDGWICK. I am directed by the Committee on Naval Affairs to move the following amendments:

Insert in first section, after the words "officers and crews," the words "sailors and marines;" and add as an additional section the following:

Be it further enacted, That the Secretary of the Navy be, and he is hereby, authorized to furnish to the sailors, marines, and crews of any of the vessels engaged in the naval actions in the foregoing section mentioned, the bedding, clothing, or other property lost or destroyed therein, with an amount sufficient to cover their losses, not exceeding sixty dollars to each man, to be paid in kind or in money at the discretion of the flag officer of the North Atlantic squadron.

The amendments were agreed to.

The bill, as amended, was ordered to be read a third time, and it was accordingly read the third time.

Mr. THOMAS, of Massachusetts. Is it customary to make good the losses of officers?

Mr. SEDGWICK. It does not provide for the payment of any losses to officers.

Mr. THOMAS, of Massachusetts. To whom, then?

Mr. SEDGWICK. To the common sailors.

Mr. THOMAS, of Massachusetts. Is that according to the established usage of the Government?

Mr. SEDGWICK. I understand it to be so. The Department recommended that this provision should be made.

The bill was then passed.

Mr. SEDGWICK moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

COAST SURVEY, ETC.

Mr. WALTON, of Vermont, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

Resolved, That there be printed five thousand extra copies of the report of the Superintendent of the United States Coast Survey for the year 1861; three thousand of which shall be for distribution by the Superintendent, and two thousand for the use of the House.

Mr. WALTON, of Vermont, also, from the same committee, reported the following resolution; which was read, considered, and agreed to:

Resolved, That there be printed for the use of the House five thousand extra copies of the report of the Secretary of War, dated March 3, 1862, on the purchase of arms.

Mr. TRAIN. I ask the unanimous consent of the House to offer a resolution of inquiry.

Mr. BINGHAM. I call for the regular order of business.

PACIFIC RAILROAD.

Mr. CAMPBELL. On behalf of the select committee on the Pacific railroad I move to postpone the special order of to-day, which is the consideration of House bill No. 364, to aid in the construction of a railroad and telegraph line to the Pacific ocean, for one week, and that it be the special order at that time.

The motion was agreed to.

TAX BILL.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of resuming the consideration of the tax bill.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed, as a special order, the consideration of the bill (H. R. No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

The CHAIRMAN stated the following paragraph of the bill to be under consideration:

16. Theaters shall pay $100 for each license. Every place or edifice where dramatic or operatic representations, plays, or performances are exhibited shall be regarded as a theater under this act.

Mr. ROLLINS, of New Hampshire. I move to amend by inserting after the word "edifice," the words, "not including halls or rooms rented and used occasionally for concerts or exhibitions." I understand the Committee of Ways and Means have no objection to the amendment

The amendment was agreed to.

Mr. LEHMAN. I move to amend by adding the following to the clause under consideration:

And all saloons of entertainment, by singing or dancing, and all lager beer saloons and ice cream gardens shall pay a license of ten dollars.

Mr. COX. I move to amend that amendment by adding the following proviso:

Provided, That the "performances" of this House be not included under this section, nor under the subsequent section with reference to "acrobatic sports."

The CHAIRMAN. That amendment to the amendment having reference to the House, and this being a committee, the Chair rules the amendment out of order. [Laughter.]

The amendment was not agreed to.

Mr. WHITE, of Indiana, moved to amend by adding to the paragraph the following:

Transient companies shall pay a license of five dollars for each performance, or ten dollars for one week.

The question being put, and no quorum voting—

The CHAIRMAN ordered tellers; and appointed Mr. WHITE of Indiana, and Mr. COX, as such tellers.

The committee divided; and the tellers reported—ayes twenty-six, noes not counted.

So the amendment was not agreed to.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. THURSDAY, MARCH 27, 1862. NEW SERIES.....No. 86.

Mr. SARGENT. I move the amendment which has just been rejected, with the following additional words:

Where their representations are not held in buildings regularly licensed as theaters under this act.

The amendment was not agreed to.

The seventeenth clause of the section was read, as follows:

17. Circuses shall pay fifty dollars for each license. Every building, tent, space, or area where feats of horsemanship or acrobatic sports are exhibited shall be regarded as a circus under this act.

Mr. WADSWORTH. That clause seems to me incomplete, and for the purpose of correcting the definition of circus, I move to amend by striking out "or" in line one hundred and forty-six, and inserting after "sports" the words "the zampillærostateur, prestidigitateur, ring master, and clown, or Artemus Ward's wax figgers." [Laughter.]

Mr. COX. I am opposed to that amendment. It looks like a tax upon luxuries. I think we have commenced this tax business at the wrong end. We commenced last summer by levying a tax upon tea, coffee, sugar, and other necessaries of life, and now we are working into the luxuries. We ought to have begun with these luxuries. We commenced with necessaries last summer and are now finishing off with the luxuries of life this winter. Now, the gentleman from Pennsylvania, the chairman of the Ways and Means, has worked in hooped skirts, circuses, lager beer, whisky, and all those things which ought to have been taxed last summer. Now, I think this class of tax comes a little late. Here is a tax upon theaters and circuses. Why, it seems to me the Committee of Ways and Means must have forgotten all their days of sunny childhood. A man must be lost to all sensibility who will tax a circus. I appeal to the gentleman from Pennsylvania, [Mr. STEVENS,] a man who seems, by his jokes at least, always to be young, whether he will now tax theaters and circuses, and destroy those agreeable recreations amidst our social and national troubles. By taxing the theater you tax the legitimate drama; you tax Hamlet; you tax Falstaff; and I wish my friend from Pennsylvania [Mr. WRIGHT] was here to oppose this matter. We tax not only the buskin, but the sock also. The London Assurance has to pay for its presumption.

Mr. THOMAS, of Massachusetts. We tax a New Way to Pay Old Debts.

Mr. COX. Yes, sir; we tax Box and Cox, and that of course I am opposed to. [Laughter.] Why, we tax the opera, and that, too, after the performance in Cincinnati last night with Wendell Phillips in his worst character. I think we ought hardly to levy a tax upon eggs, addled eggs, any more than upon opera houses, after that performance.

There are various luxuries which I think ought to have been taxed last summer. There is whisky, which ought to have been taxed, but is now in danger of being taxed so high as to bring no revenue. It is not necessary that I should go further into detail. I oppose this amendment of the gentleman from Kentucky. Tax a prestidigitateur! I would like to see you collect that tax! Tax this other man—I forget his name—who turns three somersaults in the air and catches the rings as he goes! *Tax him?* It is entirely chimerical. The definition of the committee is as good as can be made, and I hope the committee will stand upon that definition, and reject the amendment of the gentleman from Kentucky.

Mr. LOVEJOY. Do I understand the gentleman to oppose a tax upon any person who turns a somersault? [Laughter.]

Mr. COX. I am therefore opposed to taxing such gentlemen as the gentleman from Illinois. [Laughter.] I should have said I was opposed to taxing theaters, because it taxes Othello, and the gentleman will see how that comes home to him. [Laughter.]

Mr. WADSWORTH, by unanimous consent, withdrew his amendment.

Mr. McKNIGHT. I move to amend, by inserting after the word "exhibited," the words "for pay."

The amendment was not agreed to.

Mr. McKNIGHT. I move to amend by adding the following proviso:

Provided, This shall not include agricultural or gymnastic associations which may occasionally exhibit for the benefit of said associations.

I desire to say in relation to that amendment, that it is well known that in all the States of the Union there are agricultural associations which are accustomed to hold their annual fairs, and that they usually have exhibitions of horsemanship. I think these exhibitions should be encouraged now more than ever. We found, when this war broke out, a need for cavalry, and we could not find the proper material prepared to our hand. I desire hereafter to see this practice of horsemanship encouraged among our farmers and others, so that whenever hereafter we need cavalry we shall be able to get it. We also know that our farmers take an interest in the propagation of good stock and a good breed of horses. In that view I think this amendment should pass.

Mr. STEVENS. I do not see any necessity for this amendment. Everybody knows what a circus is, and agricultural exhibitions will not be called circuses, I apprehend, by anybody. I trust the amendment will not be adopted.

The amendment was not agreed to.

Mr. RICE, of Maine. I move to amend, by inserting after the word "circuses," the words "caravans or menageries," and after the word "where" the words "animals and." Gentlemen know that large amounts are invested in cities in these kinds of shows, and I think they ought to be made to pay a license fee.

Mr. STEVENS. All gentlemen know that these menageries are the same as those that travel in the summer for the purpose of keeping their animals alive in the summer, when they cannot be kept alive in the cities. I hope the amendment will not be adopted.

Mr. RICE, of Maine. I would suggest that they are almost always separate in large cities.

The amendment was disagreed to.

Mr. WHITE, of Indiana. I wish to renew the amendment which I offered to the last paragraph. The remarks which have been made in reference to the amendment of the gentleman from Maine [Mr. RICE] will not apply to it. I think that as the paragraph now stands all theaters and circuses among the people of the West would be excluded, and both the United States and the local municipalities would lose all revenue from this source. I move, therefore, to add at the end of the paragraph the following:

But transient circuses or theaters shall pay a tax of five dollars for each performance, or ten dollars per week when not held in buildings or pavilions where a yearly license is taken.

Mr. WORCESTER. I move to amend the amendment by substituting therefor the following:

But the proprietors of the same circus may make their exhibitions at one or more places, at their option, without being required to purchase a new license under this act: *Provided, however*, That nothing in this act contained shall be understood or construed so as to interfere with or impair the laws of any State licensing or regulating circuses.

As the paragraph now stands, a circus is defined as being any building, tent, space, or area, where feats of horsemanship or acrobatic sports are exhibited; so that any person who exhibits what is called a traveling circus that goes from one place to another, will be required under this paragraph to pay this license of fifty dollars at each place. Now, I suppose that that was not the intention of the Committee of Ways and Means, but that the intention was that the same license should answer the purpose of the proprietor of the circus for the whole year. My amendment, I think, obviates that objection.

Mr. WHITE, of Indiana. I accept that in lieu of my amendment; but I wish the gentleman would embrace theaters in it.

Mr. WORCESTER. I would do so, but I do not see how it would be germane to this paragraph.

Mr. HARRISON. I suggest to my colleague that at the end of the section a proviso may be inserted, something like this:

Nothing herein contained shall be so construed as to affect the laws of any State, or the ordinances of any city or town requiring a license to be taken out by theaters, circuses, bowling alleys, hotels, auctioneers, and peddlers.

There ought to be such a provision applicable to all this class of licenses.

Mr. WORCESTER. So far as the ordinances of cities and towns are concerned, I think the amendment as it now stands provides for them. They are certainly laws of the State, and are embraced in the phraseology used.

Mr. STEVENS. I think we had better strike out all these licenses. We shall spend more money in debating them than they will ever bring into the Treasury.

Mr. WORCESTER's amendment was rejected.

Mr. TRAIN. I move to strike out the words, "every building, tent, space, or area where feats of horsemanship or acrobatic sports are exhibited shall be regarded as a circus under this act." The paragraph will then read, "circuses shall pay fifty dollars for each license."

The amendment was disagreed to.

Mr. MORRIS. I offer the following, to come in at the end of the paragraph:

And all lecturers who speak for pay before literary or other associations or assemblages shall be taxed five per cent. upon the amounts received by them.

The CHAIRMAN. That amendment is scarcely germane to this paragraph relating to circuses.

Mr. NOBLE. I move to add at the end of the paragraph these words:

Provided, That traveling theaters and circuses shall not be required to pay more than one license per annum.

Mr. MORRILL, of Vermont. If the gentleman from Ohio will look at the first part of the sixty-second section, he will see that all these licenses are only to be paid annually.

Mr. STEVENS. Every license covers a year.

Mr. NOBLE. I understand that perfectly well, but as I understand this paragraph I think it denominates every particular place where an exhibition may be held as a circus or theater. Now, I apprehend that if a circus or theater migrates from New York to Cincinnati or other places, the proprietors would be bound to pay for new licenses unless they exhibited in a regularly licensed theater in every town in which they performed. My amendment is designed to remove that difficulty. We have a class of men who travel all over the country for the purpose of exhibition, and they should not be required to pay more than those who exhibit in one place only.

Mr. BLAKE. I move to amend the amendment, so as to provide that they shall take out a license in each State in which they travel. They travel all over the United States.

Mr. NOBLE. I do not think that that would would be right. I think that all licenses and all taxes should operate equally upon all persons of the same class. Now, exhibitors are a single class of individuals. An exhibitor in the city of New York, where he holds his exhibition at a single place throughout the whole year, pays but one single license; but one who travels, under the amendment proposed by my colleague, will have to pay for one in every State in which he travels. I think that is wrong. I think that all should be placed upon terms of exact equality; one theatrical proprietor should pay no more than another; and one that travels all over the country should pay no more than he who has his location at a single place.

Mr. BLAKE. I suggest that if the amendment of my colleague shall prevail, there will be but one circus company in the United States. They will unite in one company and travel as branches of that company.

The amendment to the amendment was rejected.

Mr. NOBLE's amendment was then disagreed to.

Mr. EDWARDS. I move to insert after the word "circus," the word "menagerie."

The CHAIRMAN. The amendment has been moved and voted down.

Mr. EDWARDS. I beg leave to differ from the Chair. The motion that was voted down was to insert the words "menagerie or caravan."

The CHAIRMAN. The Chair decides the amendment out of order. Does the gentleman appeal?

Mr. EDWARDS. Oh, no; I should be unwilling to appeal upon such a subject.

The nineteenth paragraph was read, as follows:

19. Confectioners shall pay ten dollars for each license. Every person who sells at retail confectionery, sweetmeats, comfits, or other confects, in any building, shall be regarded as a confectioner under this act.

Mr. ALLEN. I move to amend that paragragh by inserting after the word "building" the following:

And who has a stock therein of any of the articles aforesaid of $200 or more.

Mr. Chairman, there are many retail establishments throughout the country where they keep a small assortment of confectionery in connection with other articles which they sell at retail, such as dry goods and groceries, for instance; and it seems to me that it would be wrong to compel those persons, who keep these articles for the mere purpose of affording variety, to pay a license of ten dollars per annum, which would, in many instances, exceed the amount they had invested in confectionery.

Mr. JOHNSON. The gentleman will find that his amendment is provided for in the sixty-third section, on page 59.

The CHAIRMAN. It applies to confectioners whose stock exceeds $1,000.

Mr. ALLEN. I insist upon my amendment. I think that those persons who keep but a small stock of confectionery should not be taxed. In the rural districts, as we all know, there are many places where a person would not be justified in keeping confectionery alone, or groceries alone, and where it is necessary that they should unite the two.

Mr. ALLEN's amendment was rejected.

Mr. ROLLINS, of New Hampshire. I move to amend the nineteenth paragraph, by adding the following words:

But wholesale and retail dealers, having taken out a license therefor, shall not be required to take out a license as confectioners, anything in this act to the contrary notwithstanding.

This is the same amendment that has been adopted to the other paragraphs by the consent of the Committee of Ways and Means.

The amendment was adopted.

Mr. RICE, of Massachusetts. I move to strike out the nineteenth paragraph, as amended, as follows:

19. Confectioners shall pay ten dollars for each license. Every person who sells at retail confectionery, sweetmeats, comfits, or other confects, in any building, shall be regarded as a confectioner under this act. But wholesale and retail dealers, having taken out a license therefor, shall not be required to take out a license as confectioners, anything in this act to the contrary notwithstanding.

Mr. WORCESTER. I move to amend by striking out of the paragraph the words "who sells," and to insert in lieu thereof the words "whose business it is to make and sell." I do not understand that a confectioner is a person who merely sells, but is a person who makes and sells the articles in which he deals.

The amendment was rejected.

The question recurred on Mr. RICE's motion to strike out the paragraph.

Mr. RICE, of Massachusetts, withdrew the motion.

Mr. HOOPER. I move the following as an additional paragraph:

Livery stable keepers shall pay ten dollars for each license. Any person whose occupation it is to keep horses for hire or to let, shall be regarded as a livery stable keeper under this act.

The amendment was adopted.

The twentieth paragraph was read, as follows:

20. Horse dealers shall pay for each license the sum of ten dollars. Any person whose business it is to buy and sell horses and mules shall be regarded as a horse dealer under this act.

Mr. MALLORY. I wish to inquire of the chairman of the Committee of Ways and Means what, in the estimation of that committee, is the meaning of this paragraph? I know that, in my State a large number of men who are commonly called farmers or graziers are engaged very extensively in the business of buying and selling horses and mules. The phraseology of this paragraph might include them. I wish to know whether that is the intention of the Committee of Ways and Means?

Mr. STEVENS. I suppose the paragraph does not include the raisers of stock, but simply those who are professional buyers and sellers of stock.

Mr. ALLEN. I move to amend the paragraph by inserting before the word "business" the word "exclusive;" so that it will read, "any person whose exclusive business it is to buy and sell," &c.

The amendment was rejected.

Mr. POMEROY. I move to amend the paragraph by adding as follows:

Provided, That if such dealer shall have taken out a license as a livery stable keeper, no new license shall be required.

In country places these two branches of business are almost invariably united. There is hardly a livery stable where dealing in horses is not connected with it to a greater or less extent. I do not think that it should be the policy of the committee to duplicate licenses. I suppose that their intention is to classify business, as nearly as may be, into wholesale and retail dealers, and to let one license cover, as far as possible, all the business carried on under it.

The amendment was adopted.

Mr. MORRILL, of Vermont. I move to amend the twenty-third paragraph, by striking out after the words "sell as aforesaid," the words "at wholesale," and inserting in lieu thereof the words "dry goods, foreign or domestic, by one or more original packages or pieces, at one time to the same person;" so that the paragraph will read:

23. Peddlers shall be classified and rated as follows, to wit: when traveling with more than two horses, the first class, and shall pay twenty dollars for each license; when traveling with two horses, the second class, and shall pay fifteen dollars for each license; when traveling with one horse, the third class, and shall pay ten dollars for each license; when traveling on foot, the fourth class, and shall pay five dollars for each license. Any person who sells or offers to sell at retail, goods, wares, or other commodities, traveling from place to place in the street, or through different parts of the country, shall be regarded a peddler under this act: *Provided*, That any peddler who sells, or offers to sell, as aforesaid, dry goods, foreign or domestic, by one or more original packages or pieces, at one time, to the same person, shall pay fifty dollars for each license.

The amendment was adopted.

Mr. SHERMAN. I offer the following amendment, to come in at the end of the twenty-third paragraph:

Provided further, That street venders of newspapers, magazines, or periodical publications, matches, apples, oranges, or any description of fresh fruits, or confectionery, or nuts, who sell such commodities at certain stands upon the street, or by perambulating the streets, whose gross receipts shall not exceed $1,000 per annum, shall not be deemed or taken to be peddlers, within the intent and meaning of this act.

The amendment was rejected.

Mr. HORTON, by unanimous consent, offered the following amendment, to come in between the twentieth and twenty-first paragraphs:

Cattle brokers shall pay for each license the sum of ten dollars. Any person whose business it is to buy and sell and deal in cattle, hogs, and sheep, shall be regarded as a cattle broker.

The amendment was adopted.

Mr. HICKMAN, by unanimous consent, offered the following amendment as a new paragraph, to come in after the seventeenth:

Jugglers shall pay for each license twenty dollars. Any person who performs by slight of hand, or feats of prestidigitation, shall be regarded as a juggler under this act.

Mr. SEDGWICK. I move to amend the definition so as to make it include everybody who owns a jug. [Laughter.]

The amendment to the amendment was rejected.

The amendment was adopted.

Mr. BLAKE, by unanimous consent, offered the following as a new paragraph to come in after the twentieth:

Dog dealers shall pay for each license the sum of one dollar. Any person who keeps a dog of any kind shall be regarded as a dog dealer under this act.

I am informed, Mr. Chairman, that during the past year there have been seventy-five thousand sheep killed by dogs in the State of Ohio. Although the amendment may excite the mirthfulness of members, yet I regard it as a very important proposition. A very large tax might be raised from it, and we would be taxing a very useless animal.

Mr. MORRILL, of Vermont. I suggest to the gentleman from Ohio that his amendment would come in more properly on page 76, schedule A, under the heading of "slaughtered cattle, hogs, and sheep."

Mr. STEVENS. I would suggest to the gentleman that if he puts a tax of one dollar on each dog, instead of on each dog holder, I will vote for it.

Mr. BLAKE. I think that we can get a tax much easier from the dog holder than from the dog.

Mr. STEVENS. But a man may keep ten dogs under this amendment, and pay but one dollar. I think he should be made to pay a dollar for each.

Mr. BLAKE. I withdraw my amendment for the present.

Mr. JOHNSON. I move to amend the twenty-third paragraph, by adding the following proviso:

Provided further, That brewers and bottlers or manufacturers of mineral waters who deliver their goods and wares to their customers shall not be deemed peddlers within the meaning of this act.

We already tax brewers in several ways. I desire by this amendment to prevent the taxing of their wagons which go about the streets to deliver goods to their customers. To guard against difficulty on that score I offer this amendment.

Mr. MORRILL, of Vermont. The gentleman will see on looking at the sixty-fourth section that this paragraph does not apply to persons who sell their own productions.

The amendment was rejected.

Mr. TRAIN. I move to strike out all after the word "shall" in line one hundred and seventy-five, down to and including the word "shall" in line one hundred and eighty-one, so that the paragraph will read, "peddlers shall pay five dollars for each license." We have already imposed a tax of fifty dollars on every wholesale merchant. Mr. Stewart, the eminent New York merchant, pays fifty dollars a year, and does a business of $10,000,000. It is the same with Mr. James M. Beebe, of Boston. A peddler who runs a couple of wagons and does a business of $10,000 a year, has to pay, under the bill, twenty dollars. In New England it is not always the man who owns the goods who peddles them; but merchants employ men who own wagons and horses to sell goods for them by peddling. These merchants have regular lines of customers in this way, as well as the men who do business in regular establishments. For instance, a manufacturer of cigars has a line of customers whom he supplies through the agency of peddlers. And so with confectioners, and so with stationers, and with all the various classes of business that such men would do. Their whole business would not amount to $50,000 a year, yet under this provision of the bill you would require such an establishment to pay a license of eighty dollars. My proposition is, that such an establishment shall pay five dollars for every man whom they employ to drive a peddler's wagon.

Mr. MORRILL, of Vermont. I will say a single word to show the injustice of the amendment of the gentleman from Massachusetts. Here is a man who is only able, from his own means, to fit up a peddler's wagon, which he drives himself; and here is another man who is able to fit out twenty wagons, which he employs persons to drive. Now, does not justice require that he should pay as much in proportion to the amount of business done by him as the poor man pays for his one wagon? I see no impropriety in requiring these men to pay for their licenses in proportion to the amount of business they do. I hope the amendment will not be adopted.

The amendment was not agreed to.

Mr. EDWARDS. I move to insert in the one hundred and eighty-second line, after the word "license," these words:

Provided, That any person who shall pay for any license in this paragraph mentioned, shall not be liable to pay for any license in the same of less price.

Mr. Chairman, I do not suppose the intention of the Committee of Ways and Means, in drawing this amendment, was to require peddlers to pay two licenses, and it may be that the paragraph will bear the construction intended. I think, how-

ever, from the reading of it, a construction may be given which would require a single peddler to pay every license the paragraph provides for. The bill reads:

23. Peddlers shall be classified and rated as follows, to wit: when traveling with more than two horses, the first class, and shall pay twenty dollars for each license; when traveling with two horses, the second class, and shall pay fifteen dollars for each license; when traveling with one horse, the third class, and shall pay ten dollars for each license; when traveling on foot, the fourth class, and shall pay five dollars for each license.

Now, the same peddler may a portion of the year travel with four horses, another portion of the year he may travel with two horses, another with one horse, and perhaps another portion on foot. I am not sure that this provision, as it stands, would not require him to pay the license attached to each class of peddlers. To make the provision more definite, therefore, I hope this amendment will not be adopted.

Mr. STEVENS. If there is any doubt on that subject, the gentleman's object could be better accomplished by inserting in the clause providing for the second class the words "when not traveling with more than two horses," and so, in the paragraph relating to the third class, insert "when traveling with not more than one horse."

Mr. MORRILL, of Vermont. I cannot see the difficulty the gentleman from New Hampshire suggests in comprehending this section as it stands. The licenses upon peddlers are rated according to the class within which they come. Now, if a man pays for the highest license, of course he would not be called on to pay anything further. I see no necessity, therefore, for the amendment, and hope it will not be adopted.

Mr. EDWARDS. Suppose he travels a portion of the year with two horses, and then travels with four horses, will he not have to take out new licenses for the different class within which he brings himself?

Mr. MORRILL, of Vermont. I think, if he desires four horses any portion of the time, he ought to pay the highest license.

Mr. EDWARDS. But he ought not to pay for two licenses.

Mr. MORRILL, of Vermont. If he pays the highest license, that is all he will have to pay.

The amendment was disagreed to.

Mr. SHEFFIELD. I move to amend by adding a fifth class, namely: "any person who peddles jewelry shall pay twenty-five dollars." My reason for offering this amendment is that a great number of persons who travel with three or four horses—as some of them do in New Hampshire—carry stoves, and carry very little in value. The Jew who travels on foot, and peddles jewelry, may carry goods of much more value, and they can a great deal better afford to pay a large license than the person who may drive four horses. I hope the amendment will be adopted.

The amendment was disagreed to.

Mr. SHERMAN. I move to insert in the one hundred and eighty-second line, after the word "persons," the words "excepting persons peddling newspapers." I do not think we ought to tax the newsboys.

The amendment was agreed to.

Mr. WRIGHT. I move to amend in line one hundred and eighty-four, by striking out after the word "place," the words "in the street, or through different parts of the country." The clause now reads:

Any person who sells or offers to sell, at retail, goods, wares, or other commodities, traveling from place to place, in the street, or through different parts of the country, shall be regarded a peddler under this act.

As I understand the section as it now stands, a peddler may erect a booth, or may go into a building, and thus evade the requirement that he shall pay a license, because he does not come within the definition traveling "through different parts of the country." I desire to provide that where ever he is he shall pay his license. If gentlemen will look at the section as it stands they will see that the construction I place upon it is right. A peddler may come into a town with his establishment, and by selling in a booth or building evade the requirement of the law.

Mr. STEVENS. If he evades the payment of a peddler's license by that means, he will have to pay a retailer's license.

The amendment was disagreed to.

Mr. SEDGWICK. I move to amend by adding at the end of the paragraph, as follows:

Provided further, That any person who has a license as wholesale dealer, may employ peddlers to sell his goods without further or other license.

I desire to say in answer to what has been said by some member of the Committee of Ways and Means, that this bill does not undertake to charge men for licenses in proportion to the amount of business done, or capital employed by them, because wholesale dealers or wholesale merchants doing a business of five or ten millions of dollars do not pay in proportion to the amount of their business; but it is for carrying on a certain business, whether more or less is done by them.

Now, the wholesale merchants who pay fifty dollars license under this bill, and send their clerks through the country from one end of the year to the other, selling goods by sample, selling hundreds of thousands of dollars worth of goods, pay no more than if the goods were sold at the counter to their city customers, yet the man who instead employs a peddler with a wagon and two horses to sell the goods themselves, although he does not sell a hundredth part as much as the clerk who goes about the country selling goods by sample, must pay five, ten, fifteen, or twenty dollars in addition, in the shape of an additional license. I therefore hope this qualification will be made.

Mr. MORRILL, of Vermont. The gentleman from New York is entirely mistaken in the illustration which he gives. In the fourteenth paragraph it will be seen that any person who receives orders for unbroken packages is charged a license of fifty dollars. In section sixty-four it is provided that the manufacturer shall not be compelled to take out a license for the sale of his goods, but it is entirely unreasonable that the wholesale dealer should fill up the whole country with as many peddlers as he shall see fit.

Mr. SEDGWICK. The paragraph to which the gentleman refers relates to a description of commercial brokers, which does not at all describe the class of persons who go about the country selling goods by sample; it describes an entirely different class of persons.

Mr. STEVENS. For the purpose of enabling me to say a word, I move to amend the amendment by striking out the word "persons." Mr. Chairman, we require the country merchants to take out licenses every where, and if these peddlers are to be permitted to come into competition with them from the large cities, and do the business which they ought to do, it seems to me that we should be doing a great injustice. In the States almost everywhere peddlers are taxed. I think that peddlers who come into the country from the large establishments in the cities to interfere with the regular business of the country ought to be required to pay a license. I withdraw my amendment to the amendment.

The amendment offered by Mr. SEDGWICK was disagreed to.

Mr. EDWARDS. I move to add the following:

And any peddler of a lower class may, during any year, have a license for a higher class by paying the difference in the licenses for the two classes for the residue of said year.

If we are to legislate in relation to peddlers, I think that we ought to legislate consistently and justly, as we would so far as any other class is concerned. If they change their business during the year, they ought not to be compelled to pay for the different licenses under the several classifications in this bill. It seems to me to be equitable to charge them only the difference between their present licenses and the ones they may desire to exchange for. The Government will not be the loser under my amendment, and justice will be done to this class. They will pay the difference between the amount of the license they hold and the amount of the one they desire for the remainder of the year. I hope the amendment will be agreed to.

Mr. KELLOGG, of Illinois. The object, or at least the effect of the amendment, is to permit peddlers to take out licenses for less than a year.

Mr. EDWARDS. No, sir.

Mr. KELLOGG, of Illinois. The gentleman may not intend that, but that will be the effect of it. The peddler may change his license if he changes his business. If he increases his business then he can change his license. If he only had two horses he can change and take out a license for four horses. Now, I am against this whole thing; and I do especially object to this class of peddlers. They pursue an illegitimate kind of traffic, and I think that they are taxed too low in the bill. I would tax them heavily. They are mostly a class of sharpers, who go out into the country with an inferior stock of articles, which they impose upon all whom they can overreach. I mean the clock peddlers, the peddlers of pinchbeck jewelry, and so on. They swindle all they can, and they ought to be made to pay the heaviest tax, even if it were to destroy them altogether. I do not think that they deserve any consideration at our hands. If there be any who favor the peddlers of wooden clocks and nutmegs, I want the committee to know that there are none such in Illinois. I am opposed to the amendment of the gentleman from New Hampshire, and I hope that it will be rejected.

On a division there were—ayes 20, noes 60; no quorum voting.

Mr. EDWARDS demanded tellers.

Tellers were ordered; and Messrs. EDWARDS and CRISFIELD were appointed.

The committee was divided; and the tellers reported—ayes 17, noes 15; no quorum voting.

Mr. EDWARDS. I withdraw the amendment.

Mr. WICKLIFFE. There was an exception from the action of this paragraph in favor of the dealers of newspapers, and I desire to have excepted another class of benevolent persons—I mean the colporteurs of Bibles and religious tracts. They do not go upon the principle of compensation. If they cannot sell their Bibles and religious works, then they give them away. They are the agents of Bible societies and other religious associations. I do not think that this class of persons ought to be taxed, and I therefore move to except them from the operation of this paragraph.

Mr. BIDDLE. The word *colporteur* is the French for peddler, or any one who carries articles for sale suspended around his neck, and I suggest to the gentleman from Kentucky the use of English words. I move to amend his amendment by inserting the words "tracts or other religious works," which will cover all that the gentleman designs to accomplish.

Mr. WICKLIFFE. I presume that the word *colporteur* is as well understood as any other word in our language. It means those who are employed by Bible societies to go around the country for the purpose of distributing Bibles and religious tracts. They sell their books if they can, and if they cannot, then they give them away. They are known everywhere as colporteurs. But I am willing to adopt any language that will carry out the object I have in view. I want all of those excepted from the operation of this paragraph who are engaged in distributing copies of the Bible and religious tracts. They generally are the agents of Bible societies.

Mr. BIDDLE. My amendment to the amendment is to insert the words "Bibles or religious tracts."

The amendment to the amendment was agreed to; and then the amendment, as amended, was adopted.

The twenty-fourth paragraph:

24. Apothecaries shall pay ten dollars for each license. Every person who keeps a shop or building where medicines are compounded or prepared according to prescriptions of physicians, and sold, shall be regarded an apothecary under this act.

Mr. ROLLINS, of New Hampshire. I move to add the following:

But wholesale and retail dealers having taken out a license therefor shall not be required to take out a license as apothecary, anything in this act to the contrary notwithstanding.

The amendment was agreed to.

The twenty-fifth paragraph:

25. Manufacturers shall pay ten dollars for each license. Any person or persons, firms, companies, or corporations, who shall manufacture by hand or machinery, and offer for sale any goods, wares, or merchandise, exceeding annually the sum of $1,000, shall be regarded a manufacturer under this act.

Mr. WALLACE, of Pennsylvania. I move to strike out "$1,000," and in lieu of it to insert "$3,000." These small manufacturers may not be able to pay the tax of ten dollars for a license, and I think that it will be seen that my amendment is a proper one.

Mr. RICE, of Massachusetts. It seems to me that the whole paragraph ought to be stricken out,

and I make that motion. It appears to me that one of the features of this bill is to impose special burdens upon the manufacturing industry of the country. Those who have given attention to the bill will not have failed to discover that the manufacturers are to be taxed already upon their income, and three per cent. upon the amount of their manufactures. I cannot see any reason myself why to the tax for the privilege of doing business, the tax on income, and the tax specifically on the manufactures, there should be added this additional tax.

Mr. HOOPER. The object of the committee in putting in this paragraph was not so much to impose a tax as to regulate the business of manufacturers to a certain extent. The manufacturers are required to pay a tax on their products, and it was supposed that it would facilitate the operations of the assessor and collector to compel the manufacturers to take out a license. The gentleman will notice that the rate of license is the lowest one in the bill. It is only ten dollars, and can hardly be considered burdensome upon the manufacturers.

Mr. WICKLIFFE. I oppose this amendment. By the law of the last session, a man who owns only $500 worth of real estate is exempted from taxation. I am against that system of taxation. It is not necessary for us to adopt it in this bill. There is no man who is fit to be an American citizen, and owns a house fit to live in, who is not willing to be taxed to the extent of his property. Why exempt him?

I see a further objection to this exception in favor of manufacturers. There are a great many manufacturers in this country who do not make and vend goods to the amount of $1,000. Why should they not be taxed upon the articles they manufacture in the proportion that others are taxed? This is a Government of law. The people of the United States are all protected by them in theory, and they ought all to be in practice. Taxation, therefore, should be imposed upon all fairly and equitably. Every man ought to pay according to his property and possessions. I venture to say that you may go through all portions of the country and find thrifty men, men of energy, men of industry—that class where you will find more of patriotism than you will find among the men of wealth. I do not know how it is in that part of the Union where manufactures are principally carried on. If, sir, it is right to tax large manufacturers of shoes, for instance, the small manufacturer, who does not make $1,000 worth a year, will transfer his products to the large shoe merchant wherever he may be found, and that product of his labor will be excepted from taxation, though the consumer will be charged the same amount as though the tax had been paid. Therefore, I am opposed to the amendment.

Mr. MORRIS. I move to amend the amendment by striking out $1,000," and inserting "$600." My object in moving the amendment is to compare this twenty-fifth paragraph with the seventy-first section. This paragraph provides that any person who shall manufacture and offer for sale any goods, wares, and merchandise exceeding, annually, the sum of $1,000, shall be regarded as a manufacturer under this act. By the seventy-first section it is provided that all goods, wares, and merchandise, or articles manufactured or made and sold, except spirituous and malt liquors, and leaf, stem, or manufactured tobacco, where the annual product shall not exceed the sum of $600, shall be exempt from duty. Now, I cannot reconcile these provisions. By this twenty-fifth paragraph it is provided that any person who shall manufacture $1,000 worth of goods shall be regarded as a manufacturer, and pay a license of ten dollars. By the seventy-first section any person who manufactures not exceeding $600 worth, shall be exempt from duty. It seems to me that these provisions ought to harmonize, and therefore I move to strike out "$1,000" and insert "$600."

Mr. SHEFFIELD. If the only reason for keeping this paragraph in the bill is the one suggested by the gentleman from the Suffolk district on the Committee of Ways and Means, it seems to me it ought to be stricken out entirely; and therefore I am opposed to the amendment. The reason suggested by him is to enable the tax to be assessed upon all persons who are manufacturers.

Now, it seems to me that as every manufacturer is required by a subsequent section of this bill to make a certain return monthly, it will be very easy to ascertain who are manufacturers by these returns. At any rate, it is very unjust that we should tax those persons who are manufacturers ten dollars for a license. This manufacturers' tax will operate as severely upon the constituency I represent as upon any other constituency which is represented upon this floor. I intend, at the proper time, to present an amendment to the bill, with a view of relieving them—if the House shall see fit to do so—from some part of the burden which it is proposed to impose upon them. If it is necessary that this extraordinary burden should be imposed upon the manufacturing interest for the purpose of supporting and sustaining the Government, why we accept the burden. But unless it is, for one I shall endeavor to do what I can to ameliorate the condition of this important interest of the country, and I begin here by favoring the proposition of my friend from Massachusetts to strike out this section of the bill.

The amendment to the amendment was not agreed to.

Mr. EDWARDS. I move to amend the amendment by striking out "$3,000" and inserting "$2,000." I shall not undertake to support this motion by declaiming against manufacturers for the purpose of determining the question by exciting prejudice. I do not think that is the character which our legislation should assume. But, if I were governed by the action of this House a few moments since, I should be in favor of the amendment, because it would be likely to yield the least revenue. The amendment I proposed, and which might induce a man to take a higher class of business, and thus bring more money into the Treasury, was rejected, and for no earthly reason, as I could determine, except that it would hold out an inducement to a class of our citizens to raise their business and bring more money into the Treasury than otherwise would be brought in. If, therefore, I shall vote for the amendment which has been proposed by the gentleman from Massachusetts, it will be on these two grounds: first, because there is in the community considerable prejudice against manufacturers, who are supposed to roll in wealth; and secondly, because it will bring less money into the Treasury, if adopted, than will be brought in if the bill stands as it is.

I withdraw my amendment to the amendment.

The amendment was not agreed to.

The question recurring upon the motion to strike out the amendment,

Mr. RICE, of Massachusetts, withdrew the motion.

Mr. RICE, of Massachusetts. With the design to meet the views of my venerable friend upon the other side of the House, in whose views my judgment very generally concurs, I will move, in order to equalize taxation upon all the interests of the country, to insert after "manufacturers," the words "farmers, planters, and miners."

The amendment was not agreed to.

Mr. WORCESTER. I move to amend by inserting after the word "merchandise," in line one hundred and ninety-six, the words "or other commodities;" and after the word "exceeding" striking out the words "annually the sum of one thousand," and inserting "the annual value of six hundred;" so that the clause shall read:

Any person or persons, firms, companies, or corporations, who shall manufacture by hand or machinery, and offer for sale, any goods, wares, or merchandise, or other commodities, exceeding the annual value of $600, shall be regarded a manufacturer under this act.

The amendment was not agreed to.

The twenty-sixth subdivision was read, as follows:

Photographers shall pay ten dollars for each license. Any person or persons who makes for sale photographs, ambrotypes, daguerreotypes, or pictures on glass, metal, or paper, by the action of light, shall be regarded a photographer under this act.

Mr. PATTON. I move to amend by inserting after the word "license," the words, "when the receipts do not exceed $500; when over $500 and under $1,000, fifteen dollars; when over $1,000, twenty-five dollars." There are many persons engaged in this business whose receipts do not exceed $500. I propose to tax them ten dollars, while I would impose upon such establishments as Brady's of this city, twenty-five dollars. I do not think it fair that small establishments which go about the country taking daguerreotypes should pay as high a tax as the one to which I have referred.

The amendment was agreed to.

Mr. PENDLETON. I move the following amendment, to come in at the end of subdivision No. 26:

27. Lawyers shall pay ten dollars for each license. Every person who, for fee or reward, shall prosecute or defend any cause in any court of record of the United States, or of any of the States, or give advice in relation to any cause or matter pending therein, shall be deemed to be a lawyer within the meaning of this act.

28. Physicians shall pay ten dollars for each license. Every person (except apothecaries) who shall for fee or reward prescribe medicine or perform any surgical operation, for the cure of any bodily disease or ailing, shall be deemed a physician within the meaning of this act.

29. Preachers and lecturers shall pay ten dollars for each license. Every person who shall have charge of a congregation, or who shall deliver any sermon, lecture, speech, or oration for compensation or reward, shall be deemed a preacher or lecturer within the meaning of this act: *Provided*, That preachers in charge of a congregation, whose annual salary does not exceed $500, shall not be required to take out a license.

Mr. WHITE, of Indiana. I call for a division of that amendment.

Mr. WILSON. I move to amend the twenty-seventh subdivision, by striking out the same, and inserting the following:

27. Lawyers who have been engaged in the practice of their profession for more than five years, shall pay for each license ten dollars; those who have been engaged in practice for three years and less than five years, shall pay for each license five dollars; and those who have been engaged in practice one year and less than three years, shall pay for each license three dollars.

Mr. WICKLIFFE. I am opposed to that amendment. I want to place all lawyers upon an equality. They all claim equality in the courts, and if they are not able to pay ten dollars they should give up the profession. I think it would be a good thing to drive a good many of them out of practice. [Laughter.]

The amendment to the amendment was not agreed to.

Mr. DELANO. I move to amend the amendment by adding to it as follows:

Provided nevertheless, It is not only not forbidden, but expressly recommended by this House that lawyers shall charge the amount of said license to their clients.

The CHAIRMAN. The Chair thinks that amendment is not in order.

Mr. MENZIES. I move to amend the amendment by striking out "ten dollars," and inserting "twenty-five dollars." As my colleague [Mr. WICKLIFFE] has suggested, a lawyer who cannot afford to pay this amount for a license, has no business to be a lawyer at all. If it is proper to make lawyers pay a tax to the Government for a license, it is just as reasonable to make the license twenty-five dollars as to charge that amount for any other license required by the bill.

Mr. PENDLETON. I am opposed to the amendment to the amendment, for the reason that I believe it will tend to defeat the amendment altogether. I am willing to impose as high a tax upon professional men as any gentleman here who desires in good faith that such a tax should be imposed; but inasmuch as I think the object of the amendment to the amendment is to defeat the whole, I am opposed to it, and hope that it will be rejected.

Mr. MENZIES's amendment to the amendment was rejected.

Mr. WICKLIFFE. I move to amend the amendment by inserting after the words "court of record," the words "or other judicial tribunal." We have a great many lawyers who never go into a court of record, but who practice in the country courts. I do not know what they are called.

The amendment to the amendment was agreed to.

Mr. WADSWORTH. I offer the following as an amendment to the amendment:

Each and every candidate for office, either municipal, State, or Federal, shall pay a license of three dollars.

The CHAIRMAN. The Chair doubts whether this amendment is germane to the pending amendment. As a new paragraph it would be in order.

Mr. WADSWORTH. I will offer it as a distinct paragraph. I do it in perfect good faith, and I think it ought to be adopted. If as many men run for office hereafter as run now, we shall gain

a large revenue; and if it decreases the number, so much the better. [Laughter.]

The CHAIRMAN. The amendment is not now in order.

Mr. WILSON. I move to amend the amendment by striking out that part of it which defines what a lawyer is. I think that the term lawyer is well enough understood, without the statutory definition and limitation embraced in the amendment. This license will certainly work great benefit to the lawyers, because it will compel all persons to go to a lawyer, to those engaged exclusively in the profession, for advice. It will prevent persons all over the country—justices of the peace and others—from attending to legal business, or giving any counsel or advice. I think the term "lawyer" is well enough understood without the definition.

The amendment to the amendment was disagreed to.

Mr. PENDLETON. If it is in order, I will so modify my amendment as that it shall read, "whose business it is to prosecute and defend or to give advice," &c. That will obviate the objection of the gentleman from Iowa. [Cries of "Object!"]

The CHAIRMAN. The gentleman from Ohio can move to amend his amendment, but as votes have been taken on the amendment, he cannot modify it, except by unanimous consent.

Mr. PENDLETON. I move, then, to amend the amendment by inserting the words, "whose business it is."

The amendment to the amendment was agreed to.

Mr. PORTER. I move to amend the amendment, by adding at the end of it the following:

And no lawyer who refuses to pay such license shall be allowed to practice in any such court or tribunal.

The amendment to the amendment was agreed to.

Mr. POTTER. I move to amend the amendment, by adding to it as follows:

Members of Congress shall pay a license of ten dollars: *Provided*, That if they have been returned to more than two consecutive Congresses an additional license shall be paid for. Any person who shall consent to be a candidate for Representative in Congress with the expectation of being elected, shall be considered a member of Congress under this act.

The CHAIRMAN. The Chair decides the amendment out of order at this stage. It would be in order as a new paragraph, but not as an amendment to the amendment.

Mr. BLAIR, of Missouri. I propose to insert what I send to the Clerk's desk as a new paragraph.

The CHAIRMAN. The gentleman from Ohio [Mr. PENDLETON] has moved to add three new paragraphs. A division of the question was called for, and we are now considering the first of those paragraphs.

Mr. SARGENT. I suggest an amendment to the amendment. It now reads "every person," &c., who gives advice "in relation to any cause or matter." I move to strike out the words "any cause or matter," and insert "causes or matters."

Mr. PENDLETON. I accept that amendment.

Mr. MENZIES. I move now to amend the amendment by striking out "ten dollars" and inserting "twenty dollars." I will say to the gentleman from Ohio [Mr. PENDLETON] that I made the other proposition to increase the charge to twenty-five dollars with no purpose whatever to defeat his amendment. But I think it more reasonable and just that the price of a lawyer's license should be twenty or twenty-five dollars than ten dollars, because that is as cheap a license as any that has been inserted in the bill.

But I wish to make another suggestion. Will not the payment of this license to the Government of the United States authorize a man to practice whether he has procured a license upon an examination under the State law or not? I think the gentleman from Ohio ought to have accepted the suggestion of the gentleman from Iowa, and let the term lawyer go without any definition. In every State a lawyer must have a license from a court upon an examination, before he can practice. Now, after we have defined what shall be the business of a lawyer, if a man pays this fee and says that he intends to follow that business, is he not a lawyer whether he has passed an examination and procured a license from the court or not?

Mr. PORTER. The gentleman is mistaken in saying that in every State a man is required to pass an examination and obtain a license from a court before he can practice. In Indiana, by constitutional provision, every citizen is allowed to practice law.

Mr. MENZIES. They are *constitutional* lawyers, then. [Laughter.]

Mr. PENDLETON's amendment as amended was read, as follows:

Lawyers shall pay ten dollars for each license. Every person whose business it is, for fee or reward, to prosecute or defend any cause in any court of record or other judicial tribunal of the United States or of any of the States, or give advice in relation to causes or matters pending therein, shall be deemed to be a lawyer within the meaning of this act; and no lawyer who refuses to pay such license shall be allowed to practice in any such court or tribunal.

Mr. RICE, of Maine. I move to amend the amendment by inserting the words "or before the Executive Departments of the United States Government."

The CHAIRMAN. The amendment is not in order at this stage.

Mr. ROSCOE CONKLING. Would it be in order to amend so as to include all other public teachers and benefactors?

The CHAIRMAN. No further amendment is in order at this time.

The question was taken on Mr. MENZIES's amendment to the amendment, and it was rejected.

Mr. RICE, of Maine. I now move to amend the amendment by inserting in its proper place the words "or Executive Departments of the United States Government." I want to bring pension agents and land-warrant agents within the definition of lawyers.

Mr. PENDLETON. I hope that amendment will not be adopted. I have no objection to it at all as a separate section; but it seems to me that claim agents do not come properly within the definition of lawyers. Persons who are lawyers may prosecute these claims; and if they do they pay their license. If the gentleman from Maine will propose his amendment as a separate paragraph I will vote for it; but I hope it will not be ingrafted on this paragraph.

Mr. RICE, of Maine. I cannot see why my amendment is not germane and appropriate here.

The CHAIRMAN. It is in order.

Mr. RICE's amendment to the amendment was rejected.

Mr. WHEELER. I offer the following amendment to the amendment:

No member of Congress shall make a set speech upon any other subject than that directly before the House without a special license, for which he shall pay the sum of fifty dollars.

The CHAIRMAN. The Chair doubts whether that is in order.

The question was taken on Mr. PENDLETON's amendment, as the twenty-seventh paragraph, and it was adopted.

Mr. PENDLETON's amendment, as the twenty-eighth paragraph, was reported, as follows:

Physicians shall pay ten dollars for each license. Every person, except apothecaries, who shall for fee or reward prescribe remedies or perform any surgical operation for the cure of any bodily disease or ailing, shall be deemed a physician within the meaning of this act.

Mr. WALLACE, of Pennsylvania. I oppose the amendment. I understand that the object of this bill is to tax luxuries, and exempt, as far as possible, necessities.

Mr. PHELPS, of California. I would like to inquire in what category the gentleman would place lawyers, whether as luxuries or necessities?

Mr. WALLACE, of Pennsylvania. I deem law a luxury, and medicine a blessing; and I think that medicine should not be taxed.

Mr. WHITE, of Indiana. I move the same amendment as was adopted to the other paragraph, to make it read "whose business it is," &c.

Mr. PENDLETON. I accept that modification.

Mr. WRIGHT. I move to amend by including dentists.

Mr. SHERMAN. I shall vote for introducing this paragraph, and I shall do so in good faith. Every regularly-educated physician will be perfectly willing to pay the license. I know that every quack will be anxious to pay it. A license from the Federal Government for these men to practice would be the best, and in most cases the only diploma they have. I shall vote for this paragraph.

The question was taken on Mr. WRIGHT's amendment to the amendment, and it was adopted.

Mr. VAN HORN. I move to amend the amendment by reducing the license from ten to five dollars.

The amendment to the amendment was rejected.

Mr. WILSON. I move to amend the amendment by including surgeons.

Mr. PENDLETON. I do not think that proposition material; but if the committee thinks that it is, I have no objection.

Mr. WILSON's amendment to the amendment was adopted.

Mr. DELANO. I move to amend the amendment by adding the words "veterinary surgeons in good and regular standing."

The amendment to the amendment was rejected.

The question recurred on Mr. PENDLETON's amendment, as amended, as the twenty-eighth paragraph, and it was adopted.

Mr. PENDLETON's amendment, as the twenty-ninth paragraph, was reported, as follows:

Preachers and lecturers shall pay ten dollars for each license. Every person who shall have charge of a congregation, or who shall deliver any sermon, lecture, speech, or oration, for compensation or reward, shall be deemed a preacher or lecturer within the meaning of this act: *Provided*, That preachers in charge of a congregation, whose annual salary does not exceed $500, shall not be required to take out a license.

Mr. LOVEJOY. I suppose that amendment cannot be offered in earnestness, so far at least as preachers are concerned. Everybody knows that they labor almost gratuitously, or, at most, earn but a fair living; and I suppose that no one seriously thinks of taxing them. I hope, therefore, without occupying the time of the committee, that the amendment will be voted down.

Mr. WRIGHT. I move to amend the amendment by striking out all referring to preachers.

The amendment to the amendment was adopted.

Mr. DAVIS. I move to amend the amendment by striking out the word "lecturers," and inserting in lieu of it the words "mothers of families."

Mr. WRIGHT. Within the last few years the lecturing business has become a distinct occupation in this country. All the literary institutions which issue invitations to distinguished gentlemen are in the habit not only of paying their expenses but of giving them liberal compensation. If we tax other occupations and professions I do not see any reason why we should not tax public lecturers. I am opposed, as the committee has almost unanimously shown itself to be, to any tax upon the Gospel. That ought to come free and without restraint. I rejoice that the committee has shown such good sense in its conclusion on this subject.

The question was taken on Mr. DAVIS's amendment to the amendment, and it was rejected.

Mr. HOOPER. I move to amend the amendment by inserting "authors." While I do so I am opposed to the amendment entirely. On the seventy-fourth page of the bill, in the section in regard to manufacturers, we have exempted all printed books, magazines, map prints, views, and other publications. I think that while we have exempted from taxation the diffusion of knowledge by printed documents, we should not undertake to tax the diffusion of knowledge by the oral process. I hope the paragraph will be rejected.

Mr. MORRILL, of Vermont. The proposition under consideration is confined to lecturers, comprising something less, I suppose, than one hundred persons. Now, I put it to the committee whether it is disposed to tax such men as Artemus Ward ten dollars for going around and amusing the country? This proposition would place a tax on every gentleman who might be called upon to give a lecture anywhere. No one knows better than yourself, Mr. Chairman, that even members of Congress are sometimes called on to take a little fee and reward for delivering a lecture. I hope no such amendment will be adopted.

Mr. HOOPER. I withdraw my amendment to the amendment.

Mr. CAMPBELL. There is another class of meritorious citizens entirely overlooked. I move to insert, after the word "lecturers," the words "bachelors of twenty years' standing." [Laughter.]

Mr. MALLORY. Does the gentleman from Pennsylvania mean to say, "bachelors without fee and reward?"

The CHAIRMAN. The Chair will state that that amendment would be disrespectful to the Speaker of the House, and therefore cannot be regarded as in order. [Laughter.]

Mr. CAMPBELL. Then I withdraw it.

Mr. EDWARDS. I move to insert after the word "lecturers," the word "schoolmasters." It is true, Mr. Chairman, that there are some persons in the community who are, I understand, doing a very good business by lecturing around the country at the request of certain literary associations. Perhaps a few of them could afford to pay the small amount in the shape of license which it is proposed to require out of their receipts, but the number is very small. The gentleman has spoken of the number to whom the amendment would apply as one hundred. In my judgment, there are not fifty who could pay the tax.

Then the inquiry arises, if you require the license, who pays it? It is those who are paying these other taxes. If you send for a lecturer he fixes the price, and there is not competition enough in the business, or perhaps not disposition enough upon the part of the public, to reduce the price he asks. Then, again, I say, who pays it? Why, the people who go to hear the lecture. It comes from the ten, fifteen, or twenty-five cents which each hearer pays for the lecture, and it is these people that you are taxing and not the lecturer. They may be a distinct class or profession in the future in the country, but for the present I would about as soon tax the schoolmaster as the lecturer.

Mr. STEVENS. I do not rise to oppose the amendment but to express my regret that a bill of this character should be treated with the frivolity and levity, the melo-dramatic levity, that has characterized the treatment of this bill all the way through. We have not this day made progress to the extent of two pages in the most unimportant portion of the bill. If the House is to continue to indulge in this course of proceeding we shall become the laughing-stock of the country.

Mr. EDWARDS. I hope the gentleman does not allude to me.

Mr. STEVENS. I do not allude to the gentleman particularly. I allude to everybody.

Mr. EDWARDS. I withdraw my amendment.

Mr. MORRILL, of Vermont. I move as a substitute for the whole amendment submitted by the gentleman from Ohio, [Mr. PENDLETON,] the following:

29. Bakers shall pay ten dollars for each license. Any person whose business it is to bake bread for sale shall be regarded as a baker under this act.

The CHAIRMAN. The Chair will state that the two paragraphs in relation to lawyers and physicians have been voted in the bill, and it is not in order to move to strike them out.

Mr. MORRILL, of Vermont. Then I will offer it as a substitute for the paragraph pending.

Mr. PENDLETON. Is that amendment in order?

The CHAIRMAN. The Chair thinks it is not germane, and therefore not in order.

The last paragraph of Mr. PENDLETON's amendment, as amended, was disagreed to.

Mr. MORRILL, of Vermont. I now move as an independent paragraph the amendment I indicated in relation to bakers.

The amendment was disagreed to.

Mr. MORRILL, of Vermont. I submit the following as an independent paragraph:

29. Brick-makers shall pay ten dollars for each license. Any person who makes brick for sale shall be regarded a brick-maker under this act.

The amendment was disagreed to.

Mr. BLAIR, of Missouri. I move to amend by adding the following as an independent paragraph:

All persons claiming to hold any persons to service for life or a term of years, under the laws of any State, shall for each person so held for life pay the sum of five dollars, and for every person so held for a term of years shall pay the sum of one dollar.

I simply wish to make the remark that some of my friends on the other side of the House on a former occasion showed great anxiety to tax a certain class of persons, and some of our friends on this side of the House showed an equal anxiety to tax them, but they could not agree upon the exact mode by which it should be done. I have offered this amendment hoping it would satisfy them all.

Mr. WILSON. I move to amend the amendment by adding at the end of it, as follows:

And a failure to pay said sum as required by the provisions of this act, shall forfeit the claim of the delinquent to the services of the person or persons so held by him to service, and the person or persons so held shall be forever discharged from such service.

MESSAGE FROM THE SENATE.

The committee rose informally; and the Speaker having resumed the chair, a message was received from the Senate, by Mr. FORNEY, its Secretary, announcing that the Senate had passed a joint resolution of the following title; in which he was directed to ask the concurrence of the House:

Joint resolution transferring the supervision of the Capitol extension and of the erection of the new dome to the Department of the Interior.

The committee resumed its session, proceeding again to the consideration of the

TAX BILL.

Mr. ROSCOE CONKLING. I understood, Mr. Chairman, at the last session, and I understand now, that those who object to a tax of this sort, do it upon the ground that by some implication it would recognize the right or existence of property in man. Now, for one, I want to signify my dissent to that proposition in all its bearings, as constituting an objection to a tax of this description. I am aware that since 1828, when, I believe, the discussion commenced, there has been in both Houses of Congress a grapple for the mastery between those who have asserted and those who have denied that slaves are to be deemed property. And although I know that in one aspect it has been made an important question, I cannot but believe that in this present instance it is a question of metaphysics rather than anything else.

Whether I should say that I have in my minor child or apprentice a special property, or whether the phrase be that I have a right to the service of that child or apprentice, I cannot believe is, for a purpose like this, a very important question. "Property" is a word susceptible of very many shades of distinction, qualification, and definition. I may throw my cigar in the fire and burn it. It is my property to the extent of absolute right. If I choose to annihilate it, as far as matter can be annihilated, nobody can deny my right to do so. Not so with my horse. I have no right to beat him cruelly nor to destroy him; the law will punish me for such an act of ownership. Yet both are my property. And so in respect to other descriptions of property, the term is subject to a great variety of limitations, conditions, and qualifications.

Now, sir, I do not care whether it be true or false that we recognize in slavery the existence of property, so far as regards mere correctness of expression. We tolerate, by usage and legislation, the right, if not the right the power, and the exercise of the power, which allows one man to enjoy the services of another. Whether it be correct or not to use the phrase "property" in that connection, I contend that no objection, growing out of that criticism, can be assigned to the imposition of taxes such as the amendment of the gentleman from Missouri contemplates.

Now, for illustration: that class of animals, described as *ferœ naturæ* are not subjects of property. At common law, you cannot sue for and recover damage to a dog, and I am not aware that it can be done under the laws of any State.

A MEMBER. You can in my State.

Mr. ROSCOE CONKLING. You cannot in my State, and I apprehend that in most of the States you will find that dogs are in no legal sense recognized as property. It has been so decided in New York by the court of *dernier* resort.

Mr. SARGENT. They may be special property.

Mr. ROSCOE CONKLING. They are, perhaps, property by statute in some of the States. Well, sir, rattlesnakes are not property, yet when a man has a collection of rattlesnakes, or other reptiles and similar curiosities, you may impose a tax upon them. Air is not the property of any individual, except that which he breathes, yet air has been taxed in England, first and last, for more than a hundred years. The elements are not property, yet they are taxed in many different modes of enjoyment. From these illustrations I shall be understood in declaring that I do not care now whether slaves, in the strict sense of the word, are property or not. I maintain that, for all purposes involved in the pending amendment, the distinction is rather one of words than constitutional law. Whether they are property or not you have the right to tax them in a suitable mode and measure, and you can do it without solving the problem of casuistry or ethics, if there be ethics in it, appertaining to the vexed query about the proper name whereby to know the interest a master has in the service of his slave.

I will vote with as much pleasure to tax this recognized claim to service, which gentlemen on the one side call property, as to tax bullion; and I would like, if I could, to induce the House to reconsider the opinion which was expressed by a vote in July last. I would be glad to reverse the opinion which the House seems to have adopted, that no tribute can be levied of the relationship of master and slave without making some fatal admission. I would chase away the idea that a tax on slaves will by some hook or crook or the other be spelled into a recognition of the right of man to hold property in man. The particular amendment now pending may be open to objection, but there seems to me no difficulty in voting upon it without taking sides on the question whether slaves are property or not.

The question recurred on Mr. WILSON's amendment to the amendment; and on a division there were—ayes 42, noes 52.

Mr. WILSON demanded tellers.

Tellers were ordered; and Messrs. WILSON and CALVERT were appointed.

The amendment to the amendment was rejected; the tellers having reported—ayes 42, noes 59.

Mr. BINGHAM. I move to amend by reducing the tax to four dollars. I make that motion for the purpose of opposing the amendment of the gentleman from Missouri, [Mr. BLAIR.] I submit that the tax proposed is a tax upon persons, not upon property, or profession, or business; and I should like to be informed where an attempt was before made in the history of the Government to impose a tax upon persons except as a direct tax, which, by the terms of the Constitution, is to be apportioned among the several States, according to their respective numbers of representative population. At the last session this question was up, and the tax then imposed upon slaves was, by the terms of the bill, apportioned among the several States according to representative population. It was then conceded to be a *per capita* or *capitation* tax. Whenever you levy a tax to be assessed upon the person, and not upon his property or business, such a tax is a *capitation* tax. I care not whether the persons named are slaves or apprentices held for a term of years, as the subjects of taxation, such a tax is, by the terms of the Constitution, a *capitation* tax, and must be apportioned.

The Constitution declares that:

"No *capitation* or *other direct tax* shall be laid unless in proportion to the census or enumeration hereinbefore directed to be taken."

The first article of the Constitution provides for this census, and declares:

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

Slaves, it will be observed, are included in that provision. They are included by the words "three fifths of all other persons," and they are included as "persons." It is provided that a capitation tax, which is a *direct tax*, shall be "apportioned," as stated, among the several States. The amendment proposes *a capitation* tax, *without apportionment*. It provides to tax slaveholders upon their slaves, in other words, to impose a *capitation* tax upon each slaveholder according to the number of his slaves. If the slaveholder owns ten slaves, he is to be taxed for ten slaves at the rate of five dollars for each, and if he has only one slave, he is only to be taxed for one, that is only five dollars. I am ready to strike at the institution of slavery under the Constitution, and in accordance with the Constitution.

I want to strike at it without violence to the

Constitution. But, sir, I do not wish, even to strike down slavery, to accomplish it through a broken oath and a violated Constitution. No capitation tax either upon slaves as such, or upon apprentices as such, or upon their masters as such, can be laid without an "apportionment among the several States," in the mode prescribed. The amendment excludes an apportionment, and is therefore unconstitutional in my judgment.

Mr. BINGHAM withdrew his amendment.

Mr. CRISFIELD. I renew it. Mr. Chairman, I am exceedingly astonished that this proposition should have been presented to the committee. There is no proposition which could be submitted which is calculated to excite more bitter feeling and to do more injury in the region of country from which I come. I think if gentlemen will examine the bill they will see that this is the only instance where it is proposed to tax property as property. The bill proposes to tax those who manufacture and those who sell—those who do business; but it does not propose to lay a tax upon any particular article of property, except where it is used for the purpose of manufacture.

Sir, we of Maryland have had a great deal to stand. I wish to say to this committee that there is no other portion of the country, except Missouri and Kentucky, in which the people have stood by the Union under circumstances more calculated to drive them from it. We have interests of property with the people of the South. We have feelings in common with them. We have a divided society, yet we have stood firm from the time that these troubles commenced. We still stand firm to the Union, and expect to stand firm to it to the last. Yet loyal as we are, we may be goaded into exasperation. What is it that is now proposed to be enacted? To lay a tax of five dollars a head upon our slaves. Have gentlemen considered the position in which it places us? We have nearly ninety thousand slaves in Maryland, and the amount of tax this amendment will levy upon that State alone will be more than her portion of the direct tax imposed at the last session We will have to pay this and our share of the other taxes too. This proposition is not for the purpose of raising revenue, but for the purpose of striking at an institution which we cherish. What have we done? Maryland has come forward and raised her share of the direct tax. She has raised it on this description of property. She has assumed the direct tax in her corporate capacity, and made provision to pay it—not only to pay it for this year, but for the next year and five years to come. That is only one half of what she has done. She has assumed that the direct tax will be doubled, and she has made arrangements to meet that condition of facts. Yet loyal as we are, and have been, here is this proposition to strike at our interests and to tax us double what other States are taxed. I protest against it in the name of the Constitution. I protest against it in the name of Maryland's loyalty. I protest against it in the name of our oppressed people. I hope that the House will not put us to too severe a test.

I withdraw my amendment.

Mr. KELLOGG, of Illinois. I move the adoption of the following amendment to the amendment:

Provided, That all revenue so raised shall be applied under the direction of the President in aiding in the colonization of free negroes and such persons as are now held to service and may be made free by the action of any State where such persons are held to service.

Mr. LOVEJOY. I make the point that that makes an appropriation, and is therefore not in order.

Mr. KELLOGG, of Illinois. It only provides how this revenue shall be disposed of.

The CHAIRMAN. The Chair ruled a similar amendment out of order a few days ago; but on reflection, and after an examination of the precedents, he has come to the conclusion that such an amendment is in order. He therefore overrules the point of order.

Mr. MALLORY. This is a bill to raise money to defray the expenses of the Government, and to pay the public debt.

The CHAIRMAN. The Chair thinks that it is in order to make the limitation provided by the amendment of the gentleman from Illinois.

Mr. WICKLIFFE. During the last session, when a similar question was before the House, the gentleman from Ohio [Mr. VALLANDIGHAM] moved in an amendment the provision that none of the money to be raised should be used for the subjugation of any State, and that was ruled out of order.

The CHAIRMAN. That was ruled out of order, because it was not germane to the pending bill.

Mr. WICKLIFFE. Let us see who they are who prefer the extinction of slavery to the preservation of this Union.

Mr. MALLORY. I take an appeal from the decision of the Chair.

Mr. KELLOGG, of Illinois, demanded tellers.

Tellers were not ordered.

The decision of the Chair was decided not to be the judgment of the committee; and the amendment to the amendment was ruled out.

Mr. LOVEJOY. I move to increase the amount one dollar. I failed altogether to see the force of the remarks of the gentleman from Ohio, [Mr. BINGHAM,] in regard to the unconstitutionality of this amendment. I leave, however, that view of the question for the discussion of those who are better prepared and better able to discuss legal questions than myself. I have no more doubt that we have a right to tax this relation than that we have to tax a man for killing a pig.

In regard to the suggestion of the gentleman from Maryland, [Mr. CRISFIELD,] I have to say that it is in his power, as it is in the power of every other individual affected by this tax, to relieve himself of it by an act of righteousness which every one of them ought to perform.

For one, I am weary of these protestations of loyalty, accompanied by a menace, which, if I heard distinctly, was more than intimated by the gentleman from Maryland, [Mr. CRISFIELD,] and more distinctly uttered by the gentleman from Kentucky, [Mr. WICKLIFFE,] that if we do not leave them in the full and unmolested possession of those victims, whom they are robbing of their wages, whom they are converting into brutes, among whom legal marriage is impossible—if we do not allow them to perpetuate that system of concubinage and unrighteousness, they will dissolve this Union. I am tired of such talk. We have just as much right to tax this wrong as we have to tax any other, for the purpose of putting an end to it. Loyal! What if you are? It is only your duty. It is no more for Maryland to be loyal than it is for Illinois to be loyal. How does it happen that these men appeal to our sympathies because they are loyal States? We never boast of our loyalty. It is because this system of slavery exists among them—a system of robbery; a system of rapine and outrage, which the civilization of the world has got tired of; which is a stench in the nostrils of God, and which the whole universe is clamoring to have done away. That is the reason why it is difficult for them to be loyal. They want to be let alone, just as the wolf wanted to be let alone when he was about to devour the lamb, just as the demons cried, "Let us alone; what have we to do with Thee, Thou Son of God; art Thou come to torment us before the time?" When we come to touch upon this system of robbery and outrage, we hear these men lifting themselves up with swollen crests, and threatening to dissolve the Union. And when you come to the bottom of it, it is God's truth that they love this system more than they do the Union; and when it comes to the pinch, many will go with the secessionists. Kentucky boasts of her loyalty, and then sends her sons to fight for slavery in the rebel army with bullet and bayonet, and her fathers here to fight for the same thing with voice and vote.

[Here the hammer fell.]

Mr. MALLORY. I shall not pretend to offend the ears of the gentleman of Illinois by indulging in any allusion to the subject about which he has been talking. I do not intend to reply at all to the farago of nonsensical fanaticism which has fallen from his lips during the last five minutes. I rise simply as a member of this House, engaged in deliberation upon the most important measure that ever came before it, to give the reasons why I think this tax should not be imposed upon this description of property. Now, sir, I know the gentleman from Illinois, and other gentlemen in that fanatical line, would like to impose upon the property which we claim and which we own, in slaves, a tax so burdensome that we would be willing, by any means which he and other fanatics like him might indicate or devise, to get rid of them. But against this intention and purpose of the gentleman from Illinois, and those who act with him, I appeal to the great mass of the conservative, honest, conscientious gentlemen upon that side of the House.

I ask, then, the question here to-day whether, in fixing the terms of this tax bill, they are disposed to discriminate against this particular species of property, and by a covert attack drive it out of existence. Do not you know you tax no other property in this way in this bill? Do not you know that this is an exception to the rule which the Committee of Ways and Means have laid down for its action in relation to this matter? I ask you, then, why make this exception? Why do you propose to burden that section of the country where this institution exists with an amount of taxation which I tell you now candidly they are utterly unable to bear? My State of Kentucky has been desolated by this war, her fair fields laid waste, and her plantations reduced to such a condition that those who have heretofore made not only a competency, but a large income, from farming, will this year be scarcely able to raise their bread and the necessaries of life. I ask if you are going to vote, in addition to the sufferings we now experience from this calamitous war, this enormous burden of taxation which is proposed by the amendment of the gentleman from Missouri? I utter no menace and no threat. I call upon you as sensible gentlemen, as conscientious, honest, fair-dealing gentlemen, to vote down this amendment, and I believe you will do it.

Mr. LOVEJOY. I withdraw my amendment.

Mr. ARNOLD. I move to amend the amendment by increasing the amount to five dollars. I move the amendment for the purpose of making one or two remarks in regard to this proposition. It is a fact almost universally conceded that but for these four millions of persons held in service this Congress would not be to-day deliberating in regard to the means of raising this enormous tax. Had not this institution of slavery been in existence the fair fields of Kentucky—so feelingly referred to by the gentleman [Mr. MALLORY]—would not have been desolated by this war. But for this institution all would have been peace, prosperity, harmony, and fraternal feeling all over the land. Well, sir, while the American Congress is to-day deliberating as to the ways and means of raising this enormous tax, which this institution has brought upon the country, is it not our obvious policy, if we have the constitutional power, to raise as much of it as is practicable from the very source of all these evils? It is upon that ground I ask gentlemen to vote for this amendment.

There is another reason why, it seems to me, we ought to lay this tax. It is this: that most of these persons held to labor and service are held by rebels. Now, sir, you go through the industrial communities of the North, and you lay upon them a heavy burden, a burden they can scarcely stagger under, and all because this institution of slavery has brought about this rebellion and brought on this war. Let me ask the Representatives of the North whether they can go home and defend this tax in your school districts and among your neighborhoods, if you leave free and undisturbed the cause of this taxation. Of all the objects of taxation which have been presented to this House, none, it seems to me, ought to be taxed so heavily, none is so proper a subject of taxation, as that which has produced all the evils, all the debts, and all the difficulties under which the country is laboring.

Feeling, myself, no constitutional difficulty in imposing this tax, and feeling that it is a relation which may be taxed independent of the constitutional provisions which have been referred to by the gentleman from Ohio, I have no difficulty in voting for this tax, and I hope it will be carried.

Mr. CRISFIELD. There are many things which fell from the gentleman from Illinois [Mr. LOVEJOY] which I do not feel myself called upon nor shall even permit myself to notice. I, sir, do not admire that taste which can use in this presence, or anywhere the term lecher, and other terms of that description, of which the gentleman has made free use. I have no taste for the ideas they suggest; they are unbecoming the place and the occasion, and I leave them to the source from whence they come.

Sir, these troubles which agitate and afflict the

country have been brought upon us by two classes of people. One of these classes, whom I condemn as sincerely and will denounce as severely as any gentleman upon this floor, is now found in the ranks of the rebellion, aiming its blows against the Constitution and national existence. The other class, quite as mischievous and equally as detestable, is found in the North constantly agitating and disturbing the harmony and peace of the country, and of this class the member from Illinois is a prominent and leading member.

He says that I can, by an act of righteousness, discharge myself from the burden of slavery. I may emancipate them. Sir, he does not know anything about which he talks. In the existing state of society in Maryland, instead of being an act of righteousness to emancipate the slaves, it would be an act of cruelty and oppression. Sir, Maryland is doing to-day, and through every day of her history has done more to elevate the condition of the black man than the whole of that miserable class to which he belongs has done in all time, or is capable of conceiving. For an age she has been trying to rid herself of this race; she has taxed and is taxing herself to find an asylum for them; but she and her statesmen know, and every sensible man must see, that while they remain where they now are they must be preserved in a state of slavery, or submit to a condition far worse. The choice for them is between slavery on the one hand, and degradation, poverty, suffering, and ultimate extinction on the other. Humanity, to say nothing of other considerations, recoils from the consequences which would be inflicted upon that race by emancipation of it without some provision for its removal from the presence of the superior race. What would the gentleman have us do? Why, sir, I am the owner of slaves; they are the descendants in a great degree of the woman who nursed me. They have grown up around me, and look upon me as their protector. I am in truth their only friend. Am I to turn them off as outcasts on the world? I have been my whole life engaged in their protection. I have an affection for them, and have a duty to perform for them. Their children who have grown up around them—can I turn them into the street without protection or support? They have labored for me, it is true, but they have in turn received from me quite as much as they have given me. I am not enamored of slavery; if it did not exist, I should not desire its existence. And I have no wish to continue it longer than it can with safety and advantage to both races be extinguished. Provide the means by which I can be remunerated for raising these slaves; provide the means adequate for their removal, and satisfy me that their condition will be bettered, and I say to-day that mine, at least—and I believe I speak the general sentiment of Maryland—may all go to that happier condition, and I shall rejoice that an asylum has been found for them. An act of righteousness! Sir, emancipation, without such removal and such provision, is an act of inhumanity. We must either keep them as they are, or turn them off to be brutalized, and after a season of degradation and suffering to become extinct. But I cannot dwell on this point; there is another one to which I wish to refer.

The gentleman from Illinois says that we speak the language of threat. He more than suspects our loyalty. Why, sir, it is not an act of merit in him to be loyal. He cannot be anything but loyal, if indeed he be loyal. But I hold that the man who stands up here day after day, and year after year, using his powerful talents to disturb the peace and harmony of the country, is as disloyal as the man who draws the sword to strike down the Constitution. The gentleman from Illinois has nowhere to stand but under the stars and stripes; and there he agitates and labors to embitter the national life. That is the only field for the exercise of his evil passions. But we of Maryland have interests, attachments, and social relations which draw us in another direction; and yet there is no State in the Union that has given more solid evidences of her loyalty than Maryland. Look at her elections, in which she has twice expressed her attachment and devotion to the Union; look at her statute-books, and you will see that she has assumed all the taxes you have imposed, and more than as much more, and made ample provision to pay them. She has wiped out the stain upon her good name caused by the mob of April last, and made ample provision for families of Massachusetts troops who were slain in the streets of Baltimore; she has undone all the mischievous work of the deluded men who trifled with her loyalty, and had well nigh driven her into revolution. Look at all these things, and then answer whether it is not a slander to say that Maryland is not loyal to the Union.

[Here the hammer fell.]

Mr. MALLORY. I rise to a question of order. This amendment proposes to lay a direct tax, and the Constitution of the United States provides that direct taxes shall be levied on the several States according to their Federal population.

The CHAIRMAN. That may be a very sufficient reason for the committee to vote down the amendment.

Mr. MALLORY. Is it not a reason why the amendment should not be received?

The CHAIRMAN. It is not a reason for the Chair to decide a constitutional question, but a parliamentary question.

The question was taken on Mr. ARNOLD's amendment to the amendment; and it was rejected.

Mr. BLAIR, of Missouri. I move to amend the amendment by reducing the tax one dollar. I make the motion *bona fide*, for the purpose of showing my disposition in the matter. If gentlemen, instead of raving about the unconstitutionality of the tax, and about the hardship of taxing this class of people at all, will show in what respect this is an onerous imposition on them, as compared with the taxes imposed on all the rest of the country, I stand ready to vote to reduce the rate so that it shall be in moderation, so that these gentlemen shall be put upon an equality in that respect with the people of other portions of the country. I do not understand, sir, the excitement that springs up among these gentlemen when anything of this kind is proposed. Why, it was but the other day that the gentleman from Kentucky [Mr. WICKLIFFE] moved in his place on this floor to impose a tax on this species of property.

Mr. WICKLIFFE. Will the gentleman from Missouri allow me to explain my position on that matter?

Mr. BLAIR, of Missouri. The committee understood the position which the gentleman took. His words were reported, and are before the country. I cannot afford out of the five minutes allowed me, to give the gentleman an opportunity to explain.

Mr. WICKLIFFE. When the gentleman gets through, I will correct that matter.

Mr. BLAIR, of Missouri. Very well, sir. I say, Mr. Chairman, that I do not understand why it is that these gentlemen should get into paroxysms of excitement whenever it is proposed to impose a tax on this property. They call it property, and they know it is used as property. Do they not know that the landed property of the North has been taxed as well as the landed property of the South, and that the incomes of the people of the North have been taxed as well as the incomes of the people of the South? Do they not know now that the part of this bill which imposes taxes on personal property will fall with almost entire force on the northern portion of the country?

Mr. MALLORY. We do not know that.

Mr. BLAIR, of Missouri. Well, sir, I think I know it. The manufacturing interests of the North will be taxed to the highest extent.

A MEMBER. The consumers will have to pay for it.

Mr. BLAIR, of Missouri. I know one thing very well, that these negroes on whom it is proposed to raise a tax, and of whom gentlemen talk so much, consume very little of the manufactures of any portion of the country—nothing in comparison with what is consumed by the laboring men of the North. The bulk of these taxes are to be drawn from the northern States; and when gentlemen are called upon to vote for their own taxation they fly into paroxysms of passion and say we do this thing because of a vengeful feeling toward their institution of slavery. Sir, we are under no obligations to slavery.

Mr. CRISFIELD. I made no remark reflecting on the gentleman from Missouri in any shape.

Mr. BLAIR, of Missouri. I think the gentleman did. If not, I misapprehended him very much.

Mr. CRISFIELD. It was not in all my thoughts.

Mr. BLAIR, of Missouri. My object in offering the amendment which the gentleman from Maryland criticised in that way was, simply, that there might be something like equality and equity in this matter. Here is a large amount of property. They consider it property. It is used as such. Other gentlemen who do not consider it as such may vote for this proposition on reasons that appear better to them; but I can candidly say that this property, which has been used as such and held as such by these very gentlemen themselves so long, ought to be taxed, and there is no other way to reach it than this. I supposed, when the gentleman from Kentucky [Mr. WICKLIFFE] offered a resolution in this House the other day to tax the slave property of the country, and when it was objected to on this side of the House, that we might probably make a compromise on this question and might come together with the desire of doing equity in the matter, and taxing service, which is a legitimate object of taxation. We have taxed all the franchises in the North; taxed all rights, property, manufactures. Everything that is tangible is taxed under this bill. And here is a thing which gentlemen themselves consider as property, which they use as such, of which they enjoy the benefits, and yet for which they desire to claim exemption from taxation.

[Here the hammer fell.]

Mr. LOVEJOY. I have listened to a good deal of abuse from the other side. I have been called a fanatic twenty years and more, and it has no terrors for me. When a person is hard pushed for argument, he usually takes to abuse, and therefore I do not mind it much. But I want to notice one thing which the member from Maryland said. He said there are two classes equally detestable in this country—the anti-slavery men and the rebels. I have no doubt he thinks so. I have heard the same sentiment uttered here and in the Senate. At least I have read it after it was uttered and published. A petulant old man in the other wing of the Capitol is uttering this kind of sentiment all the while. He wants to hang the Greeleys and the Cheevers side by side with secessionists and rebels. If it were not for the anti-slavery men of the country, the soldiers, who are risking and laying down their lives, men whose sentiments are represented by the very individuals whom that Senator says he wants to hang—and I judge that this gentleman's [Mr. CRISFIELD's] sympathies are with him—neither the gentleman from Kentucky [Mr. MALLORY] nor the one from Maryland would have a home to-day. The gentleman could not go home and live in peace if it had not been for these very anti-slavery men, these fanatics, my neighbors, of whom we the other day buried forty in one grave, every one of whom, fanatics as they were, fought and lost their lives in defending Kentucky, in defending the gentleman's home while he was here calling me a fanatic.

We caused it! We are the source of this war equally with these rebels! Just what a wicked king of the olden time said to the prophet who had foretold the judgments that would come upon the land in consequence of the sins of the reigning family. The prophet met the king riding in his carriage, lordly and pompous—a high-toned, chivalrous gentleman, I presume. The monarch looked out upon the prophet as he walked along, and said, "Art thou he that troubleth Israel?" The prophet turned, and pointing his finger at the crowned sinner, replied, "I have not troubled Israel, but thou and thy father's house, in that ye have forsaken the commandents of the Lord, and thou hast followed Baalim."

Sir, it is not I, but slavery. There will be no peace, there can be no peace, until slavery is placed where the public mind will rest in the assurance that it is in process of ultimate extinction.

What do I propose to do with the slaves? I propose to let them alone; I propose to let them take care of themselves, and they are abundantly able to do it. It is a miserable slander upon the poor slaves, toiling and drudging from morning till night to earn a scanty pittance, half fed and half clothed—though I do not stick upon that point, I am willing to concede that you do feed and clothe them—I say it is a miserable slander upon him to say that he cannot take care of himself. Sir, they can not only take care of themselves, but they can get along without their masters much better than their masters can without them. There is no doubt about it. If there is any

gentleman who wants to rid himself of these incumbrances, I am ready to take them——

Mr. MALLORY. I have no doubt you are.

Mr. LOVEJOY. And enter into bonds, with good and sufficient security, to take care of them and place them where they are well off.

[Here the hammer fell.]

Mr. STEVENS. I move that the committee rise, for the purpose of going into the House and terminating this debate.

Mr. WICKLIFFE. I ask the gentleman to yield to me for just a moment, to enable me to make a correction.

Mr. STEVENS. No, sir; I move that the committee rise. I want to see if we cannot do something to-day.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the tax bill, and had come to no resolution thereon.

Mr. STEVENS moved that all debate upon the section under consideration, and down to the sixty-sixth section, in the Committee of the Whole on the state of the Union be closed in one second after their consideration shall be again resumed.

The motion was agreed to.

Mr. COLFAX. Do I understand that debate has been closed upon all down to the sixty-sixth section? We are now in committee only considering the sixty-second section.

The SPEAKER. The Chair did not, at the moment, notice the precise form in which the motion was made. The House, however, seemed to acquiesce in it, and it was put and carried as made. It is therefore ordered that the debate be closed upon all down to and including the sixty-fifth section.

Mr. JOHNSON. I hope that will not be the understanding. I have an amendment which I desire to propose.

The SPEAKER. The order will not preclude the offering of amendments.

Mr. JOHNSON. If that is true, I am willing the debate shall be stopped.

Mr. STEVENS. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed the consideration of the special order, being the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

The question pending was upon the amendment offered by Mr. BLAIR, of Missouri, to the amendment.

Mr. BLAIR, of Missouri. I will withdraw that amendment.

Mr. MALLORY. I move to amend by substituting fifty cents as the tax.

Mr. WICKLIFFE. Well, sir, I oppose that amendment.

The CHAIRMAN. No debate is in order.

Mr. WICKLIFFE. I understood the amendment upon which the debate was closed as having been withdrawn.

The CHAIRMAN. All debate is closed upon the whole section, and upon the three following sections.

Mr. MALLORY. I desire merely to say that I am opposed to the whole amendment; but if we are to be taxed upon our slaves, I want it to be made as light as possible.

The CHAIRMAN. The Chair repeats that all debate is out of order.

The amendment to the amendment was disagreed to.

Mr. MENZIES. Do I understand that I can debate the amendment for one second?

The CHAIRMAN. The gentleman cannot under the order of the House.

Mr. MENZIES. I move to amend so as to make the tax three quarters of a dollar.

The amendment was disagreed to.

Mr. CRISFIELD. I move to amend so as to make it a dollar.

The motion was agreed to.

Mr. WHITE, of Indiana. I move to amend so as that the tax upon each person held to service for a term of years shall be fifty cents.

The amendment was disagreed to.

Mr. WILSON. I move to amend by striking out all that portion of the amendment of the gentleman from Missouri relating to a term of years.

The motion was agreed to.

Mr. MALLORY. I move to amend so that the tax shall apply only to those between the ages of twelve and forty.

The amendment was disagreed to—ayes 45, noes 51.

Mr. HARDING. I move to amend so as to confine the tax to those between the ages of eight and fifty.

Mr. POTTER demanded tellers on the motion.

Tellers were not ordered.

The amendment was agreed to.

Mr. CLEMENTS. I move to amend so that the tax shall be one dollar upon all under fifteen and over forty years of age, and three dollars upon all between the ages of fifteen and forty.

Mr. CRISFIELD. I rise to a point of order. I understand the rate of taxation to have been fixed by a vote of the committee at one dollar. I ask then if it is now in order to move to strike that out and substitute another provision?

The CHAIRMAN. If the provision had been inserted in the bill the Chair would hold that it was not, but the committee may amend the amendment in any way they please, before taking the final vote upon it.

Mr. LOVEJOY. Is it in order to inquire if there is any mode of ascertaining these ages? [Laughter.]

The CHAIRMAN. All debate is out of order, and an inquiry is in the nature of debate.

The committee divided; and there were—ayes 44, noes 53.

Mr. POTTER called for tellers.

Tellers were ordered; and Messrs. POTTER and PRICE were appointed.

The committee divided again; and the tellers reported—ayes 42, noes 53.

So the amendment to the amendment was disagreed to.

Mr. WICKLIFFE. I move to amend, by adding the following at the end of the amendment of of the gentleman from Missouri:

The amount of the tax so collected shall be deducted from the quota of the direct tax assessed against the States in which such persons reside.

They have already been taxed.

The CHAIRMAN. All debate is out of order.

The amendment was rejected.

Mr. WILSON. Inasmuch as we have already exempted a large portion of these persons, I move to amend, by striking out "one dollar," and inserting "two dollars."

The amendment was disagreed to.

The question now being upon the amendment of Mr. BLAIR, of Missouri, as amended,

The CHAIRMAN ordered tellers, and appointed Messrs. FISHER, and KELLOGG of Illinois

The committee divided; and the tellers reported—ayes 41, noes 52.

So the amendment, as amended, was rejected.

The Clerk read the sixty-third section, as follows:

SEC. 63. *And be it further enacted*, That where the annual gross receipts or sales of any apothecaries, confectioners, eating-houses, tobacconists, or retail dealers shall not exceed the sum of $1,000, such apothecaries, confectioners, eating-houses, and retail dealers shall not be required to take out or pay for license, anything in this act to the contrary notwithstanding.

Mr. HALE. I move to insert after the word "tobacconists," in the third line, the words "lawyers, physicians, surgeons, dentists."

The amendment was not agreed to.

Mr. WALLACE, of Pennsylvania. I move to insert after the word "tobacconist," the words "tallow chandlers and soap-makers, coal oil distillers, and photographers."

The amendment was disagreed to.

Mr. WHITE, of Indiana. I should like to hear from the Committee of Ways and Means how they propose to ascertain what the annual sales are?

The CHAIRMAN. Debate is out of order by direct order of the House.

Mr. WHITE, of Indiana. I move to amend the section by adding the following:

The amount or estimated amount of such annual sales shall be ascertained in such manner as the Commissioner of Internal Revenue shall direct.

The amendment was agreed to.

Mr. SHEFFIELD. To prevent frauds and the defeat of the object of the bill, I move that the section be stricken out.

The motion was not agreed to.

The sixty-fourth section was then read, as follows:

SEC. 64. *And be it further enacted*, That nothing contained in the preceding sections of this act, laying duties on licenses, shall be construed to extend to the sale of goods, wares, and merchandise made and sold by the manufacturer at the manufactory or place where the same is made; to winedressers who sell, at the place where the same is made, wine of their own growth; to physicians who keep on hand medicines solely for the purpose of making up their own prescriptions for their own patients; nor to apothecaries, as to wines or spirituous liquors, which they use in the preparation or making up of medicines for sick, lame, or diseased persons only.

Mr. JOHNSON. I move to insert, after the word "made," in the fifth line, these words:

To brewers and bottlers and manufacturers of mineral water who deliver their goods and wares or commodities to their regular customers; nor to butchers who travel for the purpose of selling fresh meat.

The amendment was rejected.

Mr. HOOPER. I move to amend, in the third line, by striking out the words "extend to," and inserting "require a license for;" so that it will read:

That nothing contained in the preceding sections of this act, laying duties on licenses, shall be construed to require a license for the sale of goods, &c.

The amendment was agreed to.

Mr. HOOPER. I move to amend, in the fifth line, by changing the word "wine" to "vine;" so as to make it read "vinedressers." It is a typographical error.

The amendment was agreed to.

The CHAIRMAN. The gentleman from Delaware [Mr. FISHER] sent up an amendment to the sixty-second section, which was postponed, and has been overlooked. It will now be voted on. It is to insert the following as an additional paragraph:

Claims agents shall pay ten dollars for each license. Every person whose business it is to prosecute claims in any of the Executive Departments of the Federal Government shall be deemed a claims agent under this act.

Mr. POTTER. I move to amend the amendment by striking out "ten dollars," and inserting "one hundred dollars."

Mr. STEVENS These claims agents are the poorest set of devils on the face of the earth. [Laughter.] I trust they will not be taxed at all.

Mr. POTTER's amendment to the amendment was disagreed to.

Mr. FISHER's amendment was agreed to—ayes fifty-five, noes not counted.

The Clerk then read the sixty-fifth section, as follows:

SEC. 65. *And be it further enacted*, That no license hereinbefore provided for, if granted, shall be construed to authorize the commencement or continuation of any trade, business, occupation, or employment therein mentioned, within any State or Territory of the United States in which it is or shall be specially prohibited by the laws thereof.

Mr. DAWES. I move to amend that section by adding thereto the following:

Provided, That nothing in this act shall be held or construed so as to prevent the several States, within the limits thereof, from placing a duty, tax, or license for State purposes on any business, matter, or thing on which a duty, tax, or license is required by this act.

The amendment was agreed to.

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

The motion was agreed to.

So the committee rose; and Mr. DAWES having taken the chair as Speaker *pro tempore*, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt, and had come to no resolution thereon.

MEMORIAL OF HOMŒOPATHISTS.

Mr. THOMAS, of Massachusetts. I desire to present the memorial of the Massachusetts Homœopathic Medical Society.

The SPEAKER *pro tempore*. It can be presented under the rule.

Mr. THOMAS, of Massachusetts. I desire to have it printed.

Mr. WASHBURNE. I object to the printing of it.

The SPEAKER *pro tempore*. The memorial can be presented under the rule.

EXPLANATORY RESOLUTION.

On motion of Mr. SLOAN, by unanimous consent, joint resolution of the Senate No. 26, explanatory of a certain act therein mentioned, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Public Lands.

OPENING OF SIXTH STREET WEST.

On motion of Mr. TRAIN, by unanimous consent, bill of the Senate No. 226, authorizing the opening of Sixth street west, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Public Buildings and Grounds.

SUPERVISION OF CAPITOL EXTENSION.

On motion of Mr. TRAIN, also by unanimous consent, joint resolution of the Senate No. 50, transferring the supervision of the Capitol extension and the erection of the new dome, to the Department of the Interior, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Public Buildings and Grounds.

CERTIFICATES OF INDEBTEDNESS.

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

Resolved, That the Committee of Ways and Means be requested to inquire into the propriety and expediency of authorizing and directing the Secretary of the Treasury, when issuing certificates of indebtedness for purposes long since due and in exchange for quartermasters' certificates of inspection, to date the same at the time, as it will appear by the certificates of inspection, that the articles and supplies were inspected and accepted by the Government of the United States.

And then, on motion of Mr. HUTCHINS, (at twenty-five minutes to five o'clock, p. m.,) the House adjourned.

IN SENATE.

WEDNESDAY, *March* 26, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

AGRICULTURAL PATENT OFFICE REPORT.

The VICE PRESIDENT laid before the Senate a communication from the Commissioner of Patents, transmitting the annual report of the agricultural division of the Patent Office for the year 1861; which was ordered to be printed, and a motion of Mr. TRUMBULL to print ten thousand additional copies was referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

Mr. KING presented a petition of citizens of New York, praying for the passage of a law to establish a uniform system of bankruptcy throughout the United States; which was referred to the Committee on the Judiciary.

He also presented a petition of German citizens of Jefferson county, New York, praying that thirty thousand copies of the agricultural report of the Patent Office may be printed in German; which was referred to the Committee on Printing.

Mr. CHANDLER presented the petition of Lockwood & Co. and others, bankers in the city of New York, praying for the return of their deposit of one per cent. on bids for the loan of June, 1860; which was referred to the Committee on Finance.

He also presented a memorial of manufacturers and wholesale dealers in confectionery in Detroit, Michigan, remonstrating against the passage of the clause in the tax bill laying a tax of two cents per pound on all confectionery manufactured; which was referred to the Committee on Finance.

Mr. TRUMBULL presented the petition of Isaac R. Diller, of Illinois, late United States consul at the port of Bremen, Germany, praying reimbursement for private funds spent by him in order properly to conduct the official duties of his office; which was referred to the Committee on Foreign Relations.

Mr. HARRIS presented a petition of citizens of New York, praying that the "freedom of speech and of the press shall not be abridged," and that the New York Caucasian and all other Democratic papers now excluded from the mails in all the loyal States, have the same privileges now enjoyed by the Republican and abolition papers; which was ordered to lie on the table.

He also presented a petition of citizens of New York, praying for the passage of a general uniform bankrupt law; which was referred to the Committee on the Judiciary.

Mr. LANE, of Kansas, presented the petitions of William Church, George M. Gillett, and William J. Gillett, of Iowa, praying compensation for damages incurred from depredations of Ink-pa-du-tah and his band of Santee Indians; which were referred to the Committee on Indian Affairs.

Mr. HARLAN presented resolutions of the Legislature of Iowa, in favor of the establishment of a tri-weekly mail route from Des Moines to Magnolia in that State; a tri-weekly mail route from Des Moines, Iowa, to St. Joseph, Missouri; a daily mail route from Eddyville, Iowa, to Nebraska City, in Nebraska Territory; and a daily mail route from Eddyville to Des Moines City, Iowa; which were referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

He also presented resolutions of the Legislature of Iowa, in favor of the establishment of a tri-weekly mail route from Des Moines City to Council Bluffs, in that State; which were referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

He also presented resolutions of the Legislature of Iowa, in favor of the organization or construction of one Federal or United States circuit for judicial purposes out of the States of Minnesota, Iowa, Nebraska, and Kansas; which were referred to the Committee on the Judiciary, and ordered to be printed.

Mr. HALE submitted a letter of the Secretary of the Navy, addressed to the chairman of the Committee on Naval Affairs, relative to the construction of iron-clad steamers; which was ordered to be printed.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. CHANDLER, it was

Ordered, That the memorial and papers in the case of Captain John B. Montgomery, of the United States Navy, on the files of the Senate, be referred to the Committee on Claims.

REPORTS FROM COMMITTEES.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred a message of the President of the United States, with accompanying papers, relative to the seizure of the Danish bark Jorgen Lorentzen, by the United States ship Morning Light, reported a bill (S. No. 248) for the relief of the owners, officers, and crew of the Danish bark Jorgen Lorentzen; which was read, and passed to a second reading.

ACCOUNTS OF NAVAL OFFICERS AND SEAMEN.

Mr. HALE. I am instructed by the Committee on Naval Affairs, to whom were referred the amendments of the House of Representatives to the bill (S. No. 244) to provide for the equitable settlement of the accounts of the officers and crews of the frigate Congress and other vessels, to report them back, with a recommendation that the Senate concur in the amendments; and as this is a small bill that it is necessary should be passed, I will ask for immediate action, and state what the amendments are. The amendments are simply to insert the words "sailors and marines," and then to adopt as an amendment to this bill a bill already passed by the Senate that was introduced by my colleague. The committee recommend that the Senate concur in those amendments of the House.

The Senate proceeded to consider the amendments of the House of Representatives. The first amendment was in line six, after the word "officers," to insert the words "sailors and marines;" and the next was to add as an additional section:

And be it further enacted, That the Secretary of the Navy be, and he is hereby, authorized to furnish to the sailors, marines, and crews of any of the vessels engaged in the naval action in the foregoing section mentioned, whose bedding, clothing, or other property was lost or destroyed therein, with an amount sufficient to cover their loss, and not exceeding sixty dollars to each man, to be paid in kind or in money, at the discretion of the flag officer of the north Atlantic squadron.

The amendments were concurred in.

Mr. HALE. The Committee on Naval Affairs, to whom was referred the bill (S. No. 238) to furnish clothing and supplies to the sailors and men on board the sloop-of-war Cumberland, ask to be discharged from its further consideration, as its provisions have been adopted in an amendment just concurred in to the bill which has been disposed of.

NEW POST ROUTE.

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

Resolved, That the Committee on the Post Office and Post Roads be directed to inquire into the expediency of establishing a post route direct between Downieville, in the State of California, and Virginia, in the Territory of Nevada.

BILLS INTRODUCED.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 70) presenting the thanks of Congress to Major General Ambrose E. Burnside, and to the officers and men under his command, for their gallantry and successful services in North Carolina; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

He also asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 71) presenting the thanks of Congress to Commander Stephen C. Rowan, and to the officers, petty officers, seamen, and marines under his command, for their gallantry and successful services in North Carolina; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. WRIGHT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 249) to establish a Department of Agriculture; which was read twice by its title, and referred to the Committee on Patents and the Patent Office.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 250) to amend an act entitled "An act to create a metropolitan police district of the District of Columbia and to establish a police therefor," approved August 6, 1861; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

CONSPIRACY AGAINST THE GOVERNMENT.

Mr. LATHAM. I have a resolution that I shall offer, and I beg the indulgence of the Senate while I make a brief preliminary statement, as I shall ask for its immediate consideration. In the Boston Journal of Saturday evening, March 22, 1862, appeared the following article:

"TREASONABLE PLOT IN MICHIGAN.—The Detroit Tribune publishes a curious document revealing an attempt in that State last fall to organize a league for the purpose of overthrowing the Federal Government. This object is plainly avowed in a secret circular, which declares the purpose of the movement to be 'to rise and unite, if necessary, with the a— [army] of the S—, [South,] overrun the N— [North] like a hurricane, sweeping the A— [Administration] into eternity, or, at least, driving them into complete and unconditional submission.' The document is dated October 5, 1861, and says the league is doing a noble work in Maryland and among the soldiers at Fort Monroe, and that 'President P— [President Pierce] in his passage has drawn many brave and influential men to the league.' The Tribune says the original of the document is now in the State Department at Washington, and that it led to the arrest and imprisonment of several persons in Fort La Fayette. It was discovered that secret organizations existed in many towns in Michigan, and in numerous places in Canada West."

This morning I received the following letter from ex-President Pierce:

CONCORD, NEW HAMPSHIRE, *March* 24, 1862.

MY DEAR SIR: I inclose a short article from the Saturday evening edition of the Boston Journal, (March 22,) the substance of which it is quite probable you may have seen before. Having originated in Michigan, and been reproduced in Boston, it can hardly be doubted that it has already secured a wide circulation.

The subject is not new to me. It was the occasion of a correspondence between the Secretary of State and myself as early as December last. I thought it reasonable to suppose, at the close of that correspondence, that the matter would cease to attract notice.

This expectation not having been realized, and the offensive charge alleged to be based upon a document, the original of which "is now in the State Department at Washington," having been revived and extensively published, will you do me the favor to introduce in the Senate a

resolution calling for the correspondence to which I have referred.

It will strike you, I am sure, both upon public and personal grounds, that such imputations should not be permitted thus to circulate unchallenged, especially when an answer to them, at least so far as I am concerned, has been for months upon the files of the first Department of the Government.

I am, very truly your friend, &c.,

FRANKLIN PIERCE.

Hon. MILTON S. LATHAM,
United States Senate, Washington, D. C.

Mr. President, I shall offer the resolution in my hand, and I trust the Senate will permit its consideration now, for I deem it nothing more than proper, not only to this distinguished individual, but to the country, that the truth in relation to this charge should be known, and if a malignant and base calumny, that it should be branded as such:

Resolved, That the Secretary of State be requested to transmit to this body copies of any correspondence which may have taken place between Hon. William H. Seward, Secretary of State, and Hon. Franklin Pierce, ex-President of the United States, having reference to a supposed conspiracy against the Government.

Mr. CHANDLER. Mr. President——

The VICE PRESIDENT. The Senator will allow the Chair first to ascertain whether there is any objection to the consideration of the resolution now.

Mr. CHANDLER. I wish to make some remarks in regard to the resolution.

The VICE PRESIDENT. They are not in order unless the resolution is before the Senate.

Mr. HOWARD. I hope there will be no objection to it.

The VICE PRESIDENT. The Chair hears no objection, and the resolution is before the Senate.

Mr. CHANDLER. A copy of that letter was furnished by me to the State Department, I think as early as November last, and it has been in my hands since the 7th or 8th day of October. I should desire to read to the Senate the whole of the letter, of which that is an extract, but it is at my room, and I have not got it with me at this time. The organization was most treasonable and infamous; it was wide spread; and it received the attention of the State Department, as I think it should have done. The writer of that identical article—a Dr. Hopkins—was on his way to accept a commission as surgeon in the Federal Army when he was arrested and sent to Fort La Fayette. About that time "the Knights of the Golden Circle," as I was informed and believe, came to the resolution that they would be more patriotic than anybody else; that they would rush into the Federal Army; that they would put men, if possible, in every regiment of the Federal Army; and, to my certain knowledge, they did succeed in getting a large number of the worst traitors in the United States into the Federal Army; and they are there now. This man Hopkins acknowledged the writing of the letter, but undertook to call it a joke. Well, sir, it was a pretty serious joke. I have, perhaps, more information than it is necessary for me to divulge at this time in reference to the matter.

Mr. LATHAM. I do not gainsay anything the gentleman has said. What I wish, and what I feel is due to the Government and the country, is to know whether a person who has filled the highest office within the gift of the American people, an ex-President of the United States, was in any manner connected with such an organization. It is due to him, and it is due to the country, that it should be known whether such is the fact; and that is simply the object of my resolution.

Mr. HOWARD. I am very glad, Mr. President, that the Senator from California has presented this resolution. I think it is alike due to ex-President Pierce and to the country that the facts, so far as they are attainable at the State Department, should be obtained by the Senate and spread before the country. I do not undertake to say, nor to intimate, that the papers to which allusion is made by the Senator from California will in any way implicate ex-President Pierce. I do not know how that may be; I will not undertake to say. That there is such a letter as has been referred to by my colleague is certainly true; for I have seen the original with my own eyes, or that which is called the original. I believe, however, that the resolution of my friend from California does not require a copy of that particular letter—the letter of Dr. Hopkins. I would inquire of him whether it is broad enough to cover that letter. It calls simply for any correspondence that may have taken place between ex-President Pierce and the State Department, and I think stops there; but I may be mistaken.

Mr. LATHAM. At the suggestion of the honorable Senator from Michigan, I will amend my resolution, so as to add at the conclusion of it, "and all other papers relating to the same."

Mr. HOWARD. I hope that amendment will be made, so that we may have all the documents before the Senate. I will go further—I do not know that my friend from California will—and suggest to him to extend his resolution so far as to require the production of any written or printed document in the possession of the executive department of this Government relating to the organization and purposes of a secret combination known commonly as the Knights of the Golden Circle. I will not move such an amendment now myself; but I suggest it to him, and if he will move it, I shall be very glad to have him do that also.

Mr. LATHAM. I think the resolution is broad enough as it is. That might involve matters which the State Department might not deem conducive to the public interest to lay before this body. I should certainly vote for such a resolution if it were brought in independently of my own; but I think it is embarrassing the resolution I now offer.

Mr. HOWARD. I will not offer it myself. I am quite satisfied with the extent of the resolution as amended by my friend from California. I hope it will pass.

Mr. CHANDLER. Will the Secretary read the resolution as it now stands?

The Secretary read it, as follows:

Resolved, That the Secretary of State be directed to transmit to this body copies of any correspondence which may have taken place between Hon. William H. Seward, Secretary of State, and Hon. Franklin Pierce, ex-President of the United States, having reference to a supposed conspiracy against the Government, and all other papers relating to the same.

The resolution was agreed to.

GENERAL SHIELDS'S REPORT.

Mr. BROWNING read to the Senate the following telegraphic dispatch, which he had received from Mr. RICE, who was not able to be present:

WINCHESTER, VIRGINIA, *March* 26, 1862.

To Hon. H. M. RICE, *United States Senate*:

On the morning of the 23d my command, between seven and eight thousand strong, was attacked near this place by Jackson, with eleven regiments of infantry and Irish battalion, about fifteen hundred cavalry, and twenty-eight pieces of artillery. After a severe fight, the enemy was put in complete rout, leaving behind them two pieces of cannon, four caissons, and a large number of small arms, and about three hundred prisoners. Our loss was one hundred and fifty killed and three hundred wounded; enemy's loss five hundred killed and one thousand wounded.

JAMES SHIELDS, *Brigadier General*.

AID TO THE STATES IN EMANCIPATION.

Mr. TRUMBULL. I move to take up for consideration the joint resolution of the House of Representatives tendering the aid of the Government to such States as wish to abolish slavery.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 48) declaring that Congress ought to coöperate with, affording pecuniary aid to, any State which may adopt the gradual abolishment of slavery; the pending question being on the amendment of Mr. DAVIS to strike out all after the word "that" in the resolution, and to insert:

Although the whole subject of slavery in the States is exclusively within the jurisdiction and cognizance of the government and people of the States, respectively, having slaves, and cannot be interfered with directly or indirectly by the Government of the United States, yet, when any of those States or their people may determine to emancipate their slaves, the United States will pay a reasonable price for the slaves they may emancipate and the cost of their colonization in some other country.

Mr. SHERMAN. I do not see any substantial difference between the resolution framed by the President and the resolution as proposed by the Senator from Kentucky. The resolution as framed by the President is more terse and I think much better expressed, and it contains the same ideas, except the idea of colonization; and in my opinion, it had better be adopted as it was framed by the President. I think the President's resolution carefully excludes the idea that Congress has any right to interfere with slavery in the States. It contains two or three simple propositions. One is that whenever any State desires to relieve itself of the existence of slavery, the General Government will help that State to the extent of its ability, without pointing out the mode or manner. It is a simple proposition. It recognizes the right of each State to regulate and control its domestic institutions in the broadest terms. The language is simple and plain. I hope, therefore, that no amendment will be allowed to pass.

Mr. DAVIS. I admit that the general principle both of the original resolution and of the substitute which I have offered is the same; but the substitute proceeds to define the nature and the extent of the assistance that the Congress of the United States is disposed to give to the States where slavery exists or to individual slaveholders in those States provided they should proceed in the work of emancipation. I want Congress to express its will and its purpose in relation to that particular view of this subject. The original resolution on that point is wholly indefinite. The extent of the assistance, the nature of the assistance, except that it is to be pecuniary, is not at all defined or attempted to be defined by the original resolution. The substitute provides in explicit terms that if the slave States themselves or the slaveholders in those States undertake the work of manumitting their slaves, the United States at least will give them assistance to the extent of paying them a reasonable compensation for their slaves and further contribute money to the colonization of those slaves outside of the United States.

I want to know whether gentlemen are in earnest in that proposition, and I want to know to what extent they are in earnest. If the border States, or individual citizens of the border States who own that description of property, can receive a satisfactory assurance that they will be compensated to something like the reasonable value of their slaves, and that a system of colonization will be undertaken at the cost of the United States Government, by which the emancipated slaves will be removed from the country and established in a community to themselves or in a mixed community in some of the Central American Governments, it would be a very great inducement and encouragement to them to enter upon the work. But the general proposition will not commend itself in any considerable degree, in my judgment, to the favor of the States holding slaves, or the slaveholders of those States, unless there is a specific and a definite pledge of the extent of assistance to something like the measure that is indicated in my proposition.

Mr. DOOLITTLE. I desire to say in a word that, as I understand it, the resolution suggested by the President covers two ideas: first, emancipation by the States at their own pleasure, in their own way, either immediately or gradual; and, second, the idea of colonization, a thing believed to be necessary to go along side by side with emancipation by nine tenths of the people of the States interested, and without which they declare emancipation impossible. The resolution does not mention compensation nor colonization either, but implies and looks to both. I shall vote for the resolution without amendment. I do not desire to go into details at present. I regard it but a declaration of a purpose on the part of Congress.

Mr. President, within this District of Columbia, where we have exclusive legislative power, there is no doubt about the power of Congress to raise money to compensate the owners of slaves when emancipated, or to raise money to aid in colonizing them. Within the States, however, a question may be made as to the power of Congress to raise money to compensate for slaves within the States; but on the question of raising money to aid in their colonization there can be no question whatever. The Constitution denies to the States all powers to make treaties with foreign States. They can be made by this Government alone. The Constitution expressly gives Congress power to regulate commerce with foreign countries. By treaties with foreign countries we have power to encourage and to aid this population to go there and aid in developing their resources, and, in consideration of these advantages, they will give us by treaty, not only the rights of citizenship to these persons who are colonized, but give us great commercial advantages, repaying us all our expenditure fourfold.

But, Mr. President, I do not intend to discuss the question now. I rose simply to say that I

believe this resolution of the President covers all which is necessary to be done to accomplish the purposes both of gradual emancipation and of gradual colonization, without which, as I have said, nine tenths of all the people within the slaveholding States declare emancipation in those States absolutely impossible. Yes, sir; nine tenths of all the people in those States, and probably more than nine tenths, refuse to entertain the idea of emancipation within the States without the idea of colonizing the negroes in some country by themselves.

Mr. WILLEY. Mr. President, as I remarked the other day, I cannot withhold the expression of my regret that the President has deemed it to be his duty to make such a proposition to Congress at this time. I regret that any proposition should be made in the present distracted state of the country the tendency of which would be to produce still further distraction in all probability. But, sir, I find myself now constrained to express further regret that I must differ from my friend from Kentucky in such a matter as this. I pay great respect and deference to his better judgment and experience; but I simply rise to say that, as between these propositions, I prefer the original resolution, and must vote against the amendment. The original resolution distinctly recognizes the absolute right of the States themselves to control this whole matter. It would be a repeated recognition on the part of Congress of that principle, and I would rather see it pass in the form of the original resolution than with any amendment that would prescribe any conditions, any mode by which the States would be expected to carry into effect their designs in the premises. The original resolution, as it stands, leaves the matter entirely to the discretion of the States as to what mode they shall adopt in the premises, as to what kind of legislation they shall adopt in regard to slavery, and leaves them without any difficulty of any implication that might be raised hereafter in the exercise of their power in consequence of any action on the part of Congress as to the manner in which it should be exercised.

Sir, I shall, under the convictions of my judgment, vote for the original proposition, not without hesitation, not without the deepest regret, for I fear that it may lead to consequences which may be disastrous to the peace of the country; but I believe that these consequences will be much less pernicious and injurious than the results of other measures which are before the Senate and before the country; and if my vote for the proposition of the President (for it is his proposition) shall lead to its adoption, and thereby in any manner tend to assuage the strife that is in the land, to put down contention, to prevent or to modify distraction, I shall have accomplished a purpose that will be exceedingly gratifying to me. I, therefore, under the circumstances, have risen simply to say that I regret to be compelled under these views of the case to vote against the proposition of my friend from Kentucky, to whose better judgment in almost any other case I would be willing to defer.

Mr. SAULSBURY. I expressed my views very briefly the other day in reference to this resolution, its constitutionality, and its propriety. I shall not repeat now what I said then. I believe that the original resolution, as presented by the Judiciary Committee, which has been denominated the President's proposition, is unconstitutional if it is ever to be performed. It may not be unconstitutional to make a promise, but the honest and truthful man when he makes a promise intends to regard it. I look upon the performance of any such promise on the part of the General Government as unconstitutional. I have the same view in reference to the proposition submitted by the Senator from Kentucky. I think it is equally unconstitutional. If I could have a choice between two unconstitutional propositions I should infinitely prefer the proposition of the Senator from Kentucky; and if I believed either one of these propositions was constitutional, if I supposed Congress had any such power as is contemplated by either one, I should vote for the proposition of the Senator from Kentucky as the least of two evils.

Now, it is all folly to say that the proposition made by the President is the same as that made by the Senator from Kentucky. The Senator from Kentucky proposes, in plain words, to pledge the faith of this Government that the value of the slaves shall be paid upon emancipation. The proposition of the President promises nothing. It does not say that slaveholders, when the slaves are liberated, shall ever receive a dollar. It is a vague, unmeaning proposition, saying that Congress ought to coöperate; not saying that Congress will, not saying how Congress shall coöperate, not saying that Congress shall pay the value of the slaves, as is said by the proposition of the Senator from Kentucky. This Congress says that Congress ought to coöperate; the next Congress, after some State, acting upon the inducement held out, shall have emancipated the slaves within its limits, may say, "well, we are not bound by that; that Congress did not say the appropriation should be made, and we are not going to make an appropriation for any such purpose." I think, however, those who are in favor of a proposition of this kind ought—they will pardon me for saying so, it is not for me to dictate, but I may make a modest suggestion—to say in definite terms, as proposed by the Senator from Kentucky, that the money shall be paid upon the liberation of the slaves.

Mr. BROWNING. Mr. President, I have examined and considered this joint resolution very carefully, and I cannot perceive any objection that can reasonably be taken to it by any person or upon any account. It does not propose any interference whatever on the part of the General Government with the question of slavery in the States or elsewhere. It is simply a declaration that in the event of any State hereafter choosing to enter upon a system of gradual emancipation of slaves, or gradual abolishment of slavery, the United States ought to coöperate with that State by giving to it pecuniary aid, to be used by the State, in its discretion, to compensate for the inconveniences, public and private, produced by such change of system. The resolution, which is understood to have been prepared by the President, does not attempt to indicate in what way the pecuniary aid to be given by the General Government shall be appropriated—how it shall be used, in what manner it shall be disposed of—but it leaves that entire question to the discretion of the State when she shall have entered upon a system of gradual emancipation, if she ever chooses to do so. No State may ever act in reference to this matter at all. If a State does act upon this subject, and does adopt a system of gradual emancipation, it will be time enough then for us to discuss the question of the pecuniary aid to be given; but even in that event, the resolution does not contemplate that we should make any appropriation of it other than pass it over to the State and leave her to dispose of it. It is for her to say what application shall be made of it—whether it shall be distributed to those whose slaves have been manumitted, or whether it shall be appropriated for colonization. That is all left to be considered and disposed of by the State Legislature in its discretion, uncontrolled and untrammeled by any action of the General Government. This resolution does not contemplate that the General Government shall interfere in any manner, shape, or form, or to any extent whatever, with the subject of slavery. It is simply a declaration that in the event of such a contingency occurring, it would then be proper for the General Government to afford pecuniary aid.

Now, sir, I do not think the resolution indicates that there is to be payment for slaves to masters, or that there is to be an appropriation of money for their colonization; but it leaves that whole question to be disposed of by the State Legislatures themselves, as it should be. That is the proper place for it. A State Legislature may choose to adopt a system of apprenticeship; in that event, if she gets pecuniary aid from the General Government, she may do with it as she pleases, it would not be necessary to appropriate any portion of it for colonization. She may choose to adopt a system of gradual emancipation; if she did that, her application of any pecuniary aid she might receive from the General Government would consequently be modified; or she may choose to adopt a system of instant and immediate emancipation, and in that event there would be a still further modification of the appropriation of pecuniary aid afforded her by the General Government. The State is left to do as she pleases in that regard. She may appropriate it to compensate the former owners, to effect the colonization of the manumitted slaves, or to settle them somewhere in her own country, or to distribute it among all these objects, she having the entire and unlimited control of the whole subject and the whole amount of means that are afforded her, whenever the time comes.

Now, sir, I cannot perceive that there is any just objection to this resolution, as it is a mere declaration of an opinion. The Senator from Delaware objects to it as in conflict with the Constitution, upon what particular ground I do not know.

Mr. SAULSBURY. I will state it to the Senator. If it is meant to keep this promise, then money must be appropriated out of the Federal Treasury. In my view the performance of the promise, the appropriating of money out of the Federal Treasury to give to the States to free their slaves, would be unconstitutional. I think you might just as well appropriate money out of the Federal Treasury to a State to set her horses loose upon the prairies.

Mr. BROWNING. I supposed that was the constitutional objection the Senator had; but that is anticipating a question that has not yet arisen. This resolution does not now propose any appropriation at all, and it will be time enough to discuss that when it comes before us; but I am surprised that such an objection should be urged by the Senator from Delaware to-day, when no longer ago than yesterday he was as fully and thoroughly convinced, as it is possible to convince a man of the truth of any proposition, that it was competent and constitutional for the General Government to appropriate money to remove slaves. No longer ago than yesterday, the Senator himself proposed an amendment to the bill for the abolition of slavery in the District of Columbia, to the effect that it should be the duty of the General Government, at her expense and cost, to remove all the manumitted slaves from the District of Columbia to the free States, and to settle them there.

Mr. SAULSBURY. Will the Senator from Illinois allow me a moment?

Mr. BROWNING. Certainly.

Mr. SAULSBURY. I am very glad the Senator has alluded to that, because I indicated very clearly when I offered that amendment the reasons why I did it. I stated distinctly that I acted on that occasion on the principle laid down by the Senator from Kentucky, [Mr. DAVIS,] to make an unconstitutional measure as unobjectionable as possible. I did regard and do now regard the proposition to abolish slavery in the District of Columbia as made in that bill unconstitutional. I regarded my own amendment in the same light; but I thought if you would adopt an unconstitutional bill, an unconstitutional amendment improving it might be innocent, by way, as far as you can, of perfecting an unconstitutional bill. I stated distinctly however, that I intended to vote against the bill under any circumstances.

Mr. BROWNING. Mr. President, I did not then conceive, and I do not now conceive, that the Senator supposed his amendment to be a violation of the Constitution. I cannot comprehend how a Senator acting under oath to keep and observe the Constitution, to preserve it inviolate, should himself propose a measure which he believed at the time to be a violation of the Constitution, and give it the sanction of his vote. I did not comprehend it then, I do not now; and I think the Senator is mistaken in supposing that he was under the impression that his amendment was unconstitutional. It went very much further than this resolution does, and went quite as far as the General Government would go if the contingency contemplated by this resolution should hereafter arise and the General Government should then execute her promise by appropriating money for this purpose.

I only intended to say, Mr. President, that deeming this resolution much less objectionable than the amendment proposed to it, I shall adhere to the original resolution. It does not propose in the slightest degree, in any shape or form, or to any extent, or to any intent, to interfere with slavery in the States. It leaves that where the Constitution left it and where it ought to be left. I do not think the resolution goes at all beyond the constitutional and appropriate powers of Congress.

Mr. SAULSBURY. I will simply say, in

addition to what I have already said in reference to my action yesterday, that I believe it is the universal custom in legislative bodies—in fact I consulted with some friends in reference to the propriety of such a course—to offer an amendment to the bill which you believed to be unconstitutional, although the amendment itself might be unconstitutional, provided the amendment will make the bill less injurious to the public than it would be without the amendment. That I understood to be the principle upon which the Senator from Kentucky acted the other day; and I expressly stated that I adopted that principle in reference to the bill before the Senate yesterday. The Senator from Illinois cannot understand why I should do that, acting under the oath to support the Constitution. I can see very readily how I might do it, although the Senator might not see how he could do it. If a majority of this Senate believed they had a right to pass that bill, I had no doubt they would believe they had the right to pass the amendment, and then, if it were adopted, it would be the judgment of the Senate that it was a constitutional measure. At the time I offered the amendment, I distinctly stated to the Senate that, under any form in which the bill could be presented, with the adoption of that amendment or any other that could be made to it, I should vote against it. I conceived, according to the principles of legislative bodies, and according to the judgment of those with whom I consulted, that I had a perfect right to render an obnoxious measure less injurious by any amendment which I could propose.

Mr. DAVIS. If the proposition of the President is as broad as the substitute, it seems to me that those who are of that opinion cannot have any valid objection to voting for the substitute, unless the substitute is broader in its operation than the resolution of the President, or the resolution reported by the Committee on the Judiciary. Now, sir, in relation to the objection made by the honorable Senator from Illinois, he says that the proposition of the President does not pretend to direct or to control the manner in which the assistance that is there promised to the States that may act on this system of emancipation shall be expended by those States.

The VICE PRESIDENT. The morning hour having expired, it becomes the duty of the Chair to call up the special order of the day.

Mr. SUMNER. I hope the Senate will proceed with this subject. I think we can soon get a vote upon it.

The VICE PRESIDENT. The Senator from Minnesota is entitled to the floor on the special order.

Mr. WILKINSON. I have no objection to waiving the special order temporarily for the purposing of allowing a vote to be taken on this resolution.

The VICE PRESIDENT. That will be considered the sense of the Senate, if there be no objection.

Mr. DAVIS. I shall not occupy the attention of the Senate more than a few minutes. As I was proceeding to state, the objection of the honorable Senator from Illinois to the substitute is that the original resolution does not pretend to control or direct the manner in which the assistance that is offered by it to the States shall be expended by the States. Neither does the substitute. It merely defines and ascertains the amount of assistance that is promised by that resolution to the States and to the citizens of the States who own slaves and who may emancipate them. That measure of assistance is declared to be the value of the slaves and the cost of their colonization. That is the standard by which the amount of assistance that is promised to this work is to be ascertained, and that is the only effect of those words in the substitute. If assistance should be given to the States or to the citizens of the States to the extent of the value of the slaves that may thus be manumitted and the cost of their colonization, that sum would be as independent of the control or direction of the General Government in its expenditure as any assistance that might be obtained by the original resolution. The material difference is this, that the one fails to ascertain to any extent or by any standard or measurement the amount of assistance that is promised. It may be the smallest amount, or it may be an amount equivalent to the standard that is offered in the substitute. It is for the purpose of ascertaining the standard and the measure of assistance that the Congress of the United States, in the passage of such a resolution, may propose to the States as an inducement for them to enter upon this work of emancipation, that I have proposed this substitute in definite terms to ascertain that amount and that standard.

I will ask that the original resolution and the substitute also be read; but I will make a remark or two before they are read. Sir, I hold, and have always held, and have always seen gentlemen of the utmost fairness and honor in legislation, legislate on this principle: a measure is proposed in a deliberate assemblage, of which they are members; that measure is wholly objectionable to them, and they are opposed to it in its general principle, and intend to vote against it; but, avowing distinctly and frankly the position which they occupy, and the course which they ultimately intend to take in relation to the measure, I hold that it is a perfectly consistent and legitimate mode of legislation for them to offer amendments which, in their judgment, will improve it, and render it less objectionable, at the same time avowing distinctly and frankly their purpose to vote against the measure even when thus amended. Such a course of legislation as that does not violate my system of political or legislative ethics at least; and I suppose it does not violate the system of political or legislative ethics of any gentleman when he is placed in a position that will authorize him to take such a course.

I intend to vote for my substitute to this resolution, if I vote alone. Why, sir, to vote alone has no sort of terror for me. I would prefer to have company; and I would prefer to have enough of company to sustain me in what I believe is a proper principle and a proper measure; but if I cannot get that amount of company, and my principle or my measure is important and right in itself, I hesitate not one instant of time to vote for it, though I vote alone. I once voted against a very indifferent and a very vicious constitution of the State of Kentucky, in a convention of one hundred members, and I voted alone; and that vote is the proudest recollection of my life in all of my political career. I would not give the honor of that vote, the solace which it gives me, my confidence in its rectitude and in its wisdom, for all the little, meager political laurels that I have ever won, if won any I ever have.

I intend to vote for the substitute that I have offered; and if that fails, I intend to vote for the resolution as it was reported by the Committee on the Judiciary, because it is an emanation, not of a measure, but of a sentiment and an abstract principle of the President of the United States, in whose integrity and political rectitude I have entire confidence. With the Senator from Virginia I would have greatly preferred that this proposition had not been thrown before Congress. I would have greatly preferred that this Congress should have restricted itself exclusively—with inexorable exclusion—to every measure and question that appertained to the successful prosecution of the war alone, and that no other subject, or no other question, except what was inseparably and properly connected with the war, should have been thrown into either House of Congress to produce diverse discussions or differences of opinion among the members of both bodies of all parties who are honestly, truly, and faithfully for the successful prosecution of the war to the final and utter subjugation of the rebellion.

Mr. President, if that course had been pursued this Congress would have saved months of the duration of this war to the country, and they would have saved not only millions, but hundreds of millions, in my judgment, to the Treasury of the United States. They would have restricted the continuance of this war months and months, when its expenditures amount probably to fifty millions for every month. Gentlemen have not chosen to pursue that policy in reference to the war. The responsibility is not upon the minority in this body; it is upon the majority. They think that that responsibility is now nominal; but, sir, when this enormous and stupendous tax bill is imposed upon the country, and the people of the United States have to walk up to the shouldering of that burden, and to the payment of the vast and various and most onerous taxation that will be imposed by it, the day of responsibility will then come, and it will come with a vengeance. The people then will begin to inquire how came this war to be protracted to such a length? How came its expenditures to exceed beyond fancy or imagination the costs of all the other wars in which this country has been engaged? Here, sir, is a fact in relation to the cost of this war in blood and treasure, and in relation to the heavy burden of taxation that will be imposed on the people to carry it on. It is stranger in reality and in truth than any previous fiction ever was in relation to the expenditures of this Government. It is the madness and the folly and the ambition and the disregard of former pledges by the party in power, and a trampling upon the principles of the Constitution, that will have led the country into this great abyss of taxation, and nothing less than that, to a great extent, will have produced this enormous evil. There is no doubt about it at all. But, sir, I did not rise here to discuss this subject at any length, but merely to make a point or two of explanation.

The VICE PRESIDENT. The resolution and the amendment will both be read.

The Secretary again read them.

Mr. McDOUGALL. Mr. President, before voting on the resolution reported to the Senate from the Committee on the Judiciary, I think it my duty briefly to present the reasons which will govern my action.

There is no Senator on this floor who more highly approves the sentiment conveyed by the resolution than myself. There is no Senator on this floor who would be more rejoiced to see our border slave States relieved from an institution which to them is an incubus; and no one personally, I think, according to my own means, would go further to aid in such a purpose. I appreciate the generous purposes on the part of the Executive that induced the communication of which this resolution is the result. But I have learned in the school wherein I studied the Constitution of my country, that this Federal Government was one of limited powers, contained and defined in the grant of powers, and that nothing was granted to this Federal Government but for the purposes of administration and government—for public and general purposes. Is there or is there not any limitation upon the Federal Government in disposing of the moneys assessed upon the people, and brought into the Federal Treasury? May it or may it not be expended for any and for every purpose? If they can be expended for all purposes or for any purpose in the will of Congress, then there can be no objection to this measure, so far as the question of power is concerned. But if there be a limitation, I would ask what limitation? And then, if I were to answer the question I asked, I would for its resolution look to the Constitution. It is not at this time denied but that the Federal power is power granted by the terms, express or implied, in the Constitution. The power granted is the limit of power. The question then is, is this a power granted? That is, the power to take money from the Federal Treasury, not for the purposes of government, not for any purpose indicated in that instrument, but as a charity to any one of the States of the Union who may come and ask a particular charity at its hands. I do not myself, with the instructions I have had, understand that we have the constitutional right to make ourselves almoners for the States of this Union any more than we have for the States of Europe. Could we appropriate $20,000,000 to maintain the rights of the Government of Italy, as against France allied, if you please, with the Government at Rome? We would neither have the right nor the constitutional power, but we would have both the right and the constitutional power to the same extent as to be almoners of the bounty of the Government by distributing millions to the States of this Union.

However beneficent these acts of charity might be, however much they might subserve the harmony and peace of the Union, it is our office only to go to the extent of our commission. The Constitution of the United States is the commission under which we act, and going beyond it is a violation of it, and much more so than falling short of meeting its full requirements. If we can inaugurate such a policy as this, we can inaugurate any other like policy for the mere purpose of charity. The Senator from Kentucky says that these institutions belong entirely to the States. The

Executive affirmed the same doctrine that these institutions belong entirely to the States. If they are evils in the States, and if they are hard to be borne, it is not for us to throw the burden of that evil upon the people of Maine or of California. It is not the right of this Senate to impose upon the people on the shores of the Pacific a tax for the purpose of emancipating the slaves of Kentucky, Missouri, or Maryland. There is no such power vested in this Government, in one or in all of its departments. These are times of war, when great latitude is indulged in, both in legislation and administration. However far such latitudinarian policies may be generally approved, I feel myself called upon when there is a plain rule, as I think, of constitutional limitation, to conform myself to it.

I have another objection to this measure. As much, I say again, as I approve of the sentiment expressed in the communication of the President and the pending resolution, it would, in my judgment, better become some place of discussion outside the Halls of Congress. It is brought forward now; and what is its character? It is not legislation; it is the affirmation of a policy; and what does it inaugurate? It inaugurates a continuous systematic policy on the part of this Government to engage in the manumission of slaves in the slave States. Is there anything of benefit to be derived from the inauguration of such a policy? Have not questions, if not the same, to which this is collateral, disturbed Congress and the country for years—discussion unprofitable, illegitimate, and mischievous. It is now proposed to make them permanently legitimate. The Government is to go into the business of emancipating the slaves in the slave States. That will be the great absorbing topic, and the great questions that belong to really legitimate legislation, our inter-State relations, our relations abroad, our general policy and measures of necessary administration will be absorbed in this question of manumitting the slaves of the border slave States. Sir, I think we have had enough of this character of business, and I, for one, am not disposed to make this order of business legitimate by any vote of mine. I am not disposed by my act to approve of its superseding the proper business of the Federal Congress. I protest against the discussion in every form. It can accomplish no good; and I undertake to say, although I know that this measure was brought forward with the purpose of accomplishing great and beneficent results, it can accomplish no good. I have seen the time when I hoped Missouri would soon provide for the gradual emancipation of her slaves, and it would have been done but for agitation. I have seen the same thing in Kentucky. The same thing has been known in the history of Kentucky, Virginia, Maryland, and Delaware. I believe that by the just administration of the Government of its own affairs, the legitimate course of events will accomplish all these results yet; but they never will be accomplished by legislation. We may have this subject agitated session after session, year after year, Congress after Congress, angry discussions, expensive discussions, profitless discussions—Federal legislation cannot cure this evil; it cannot be reached by any such medicine; for favorable times, circumstances, events, we may hope; but if we here undertake the management of this great social problem, we will find that we are not merely anticipating, but that we are usurping the ways of Providence, and assuming an office higher than any to which we have been yet elected.

Mr. POWELL. I have examined very carefully the message and resolution of the President, and I confess, the more I investigate, the more strongly am I opposed to it. I can see no good, but great mischief, to come from it. I regard the whole thing, so far as the slave States are concerned, as a pill of arsenic, sugar-coated. I am opposed to it in every form in which it may be presented. In the first place, no practical good can result from the resolution. It does not propose anything specific and certain. It is merely an annunciation of what Congress ought to do in certain contingencies, without even saying that it will do it. The whole scope and tendency of the resolution is to keep up agitation in the border slave States; and that can result in no good, but it will inevitably do much harm. It will be injurious to our property, and create a feeling of uneasiness there that cannot possibly work anything but mischief; and that, in my judgment, is its scope and design. I think its object is to inaugurate abolition parties in the border slave States.

I confess I much prefer the amendment of my colleague to the original resolution, and for that I shall vote; but it is due to candor that I should say, that even if the amendment of my colleague should prevail, I shall vote against the resolution, for I will not vote for it in any form whatever. I prefer the amendment of my colleague, because it is more direct, more specific; and while, in my judgment, I think it is very wrong, still it is better than the resolution. Now, sir, what is this resolution?

Resolved, That the United States ought to coöperate with any State which may adopt gradual abolishment of slavery, giving to such State pecuniary aid, to be used by such State in its discretion, to compensate for the inconveniences, public and private, produced by such change of system.

What good will be accomplished by the adoption of that resolution? None whatever. It will result in agitation, and it will lead the people of the slave States to believe that this is but one of a series of measures to destroy their domestic institutions. You have now before the Senate, which I suppose will be very speedily passed, a bill abolishing slavery in the District of Columbia. That the people will couple with this resolution. Now, sir, if you are going to do anything of the kind, why not pass a law stating distinctly and specifically what you intend to do? You do not do that; you merely throw this resolution out as a kind of tub to the whale, to let slavery agitators sport with it for the purpose of injuring the people of the border slave States. If you were to pass a solemn pledge that you would not do it, I would not give a fig for your political pledges. What are they? We know something about them. In my judgment, when the President sent this message and resolution to the two Houses of Congress he plainly and palpably violated the doctrine announced in his inaugural address, which I will read. I know that the Senator from Illinois [Mr. BROWNING] says that this measure is no interference, directly or indirectly, with slavery in the States. I greatly differ from the honorable Senator when he made that announcement. I think it is an interference, an indirect and most insidious interference. What did the President say in his inaugural address?

"Apprehension seems to exist among the people in the southern States that by the accession of a Republican administration their property and their peace and personal security are to be endangered. There has never been any reasonable cause for such apprehension. Indeed, the most ample evidence to the contrary has all the while existed and been open to their inspection. It is found in nearly all the published speeches of him who now addresses you. I do but quote from one of those speeches when I declare that 'I have no purpose directly or indirectly, to interfere with the institution of slavery in the States where it exists. I believe I have no lawful right to do so, and I have no inclination to do so.'"

Is not this resolution an interference? Is it not an indirect interference? Is it not holding out an inducement to the people of the border States that if they will emancipate their slaves they shall receive aid from the General Government? That man must be stupid indeed who does not know that that is an interference. It is an unmistakable interference; and the sole object of it is to keep up the slavery agitation, which I have always thought should be banished from these Halls. If the measures before the two Houses of Congress do not look as if it were wished to interfere with slavery in the States where it exists, I am at a loss to know what will cause the people to think that interference is not desired.

Now, let us look at this message a little further:

"The Federal Government would find its highest interest in such a measure as one of the most efficient means of self-preservation."

What does that mean? It is a distinct annunciation by the President of the United States that the abolition of the institutions of the slave States is necessary for the preservation of the country. It is that; nothing more, nothing less. It is a clear and distinct annunciation that to preserve our institutions and the Union, you must abolish the institution of slavery in those States. That is the object, the meaning, the intent. Let us read a little further:

"The leaders of the existing insurrection entertain the hope that this Government will ultimately be forced to acknowledge the independence of some part of the disaffected region, and that all the slave States north of such part will then say, 'the Union for which we have struggled being already gone, we now choose to go with the southern section.' To deprive them of this hope substantially ends the rebellion; and the initiation of emancipation completely deprives them of it as to all the States initiating it."

That language cannot be misunderstood; and, after that, he treats us with a modest intimation—I admit very artfully and very cautiously couched—that if we do not take this offer, something worse might come; that is, if we do not choose to take the meager amount that Congress in its great liberality may choose to give, there might exist a contingency in which they would take our property anyhow.

Again, the President says:

"In the annual message last December I thought fit to say 'the Union must be preserved; and hence all indispensable means must be employed.' I said this not hastily, but deliberately. War has been made, and continues to be an indispensable means to this end. A practical recognition of the national authority would render the war unnecessary, and it would at once cease. If, however, resistance continues, the war must also continue; and it is impossible to foresee all the incidents which may attend and all the ruin which may follow it. Such as may seem indispensable, or may obviously promise great efficiency towards ending the struggle, must and will come."

Now comes the modest intimation of the President, and I call it most direct interference:

"The proposition now made, though an offer only, I hope it may be esteemed no offense to ask whether the pecuniary consideration tendered would not be of more value to the States and private persons concerned than are the institution and property in it, in the present aspect of affairs?"

What does he mean by those words "in the present aspect of affairs?" He told you distinctly in the previous sentence that the necessity might exist for abolishing this institution as a Union-saving scheme.

It is not my purpose to make any extended remarks on this resolution. I know that it will pass; but I could not permit it to pass without making my earnest protest against it. If it does pass, what will be its effect? As I before stated, nothing but to agitate, to depreciate, and to injure the domestic institutions of the border States, for it affords nothing practical; and I never did and never will believe that gentlemen representing the free States of this Union will come here and vote an adequate compensation to those who may be deprived of their slaves. If I were a member of the Senate from a free State, I would not vote money out of the national Treasury to buy the negroes of other people. I would not do it, in the first place, because I do not believe it is constitutional. I do not think we have the constitutional power to devote the money of the public in that way any more than we should have to devote it to pay the State of Illinois for her horses or neat cattle. We have no right or power under the Constitution to do it. Then, as a matter of policy, if I were a representative from a free State, I would not do it.

I have heard interpretations of the message given by some gentlemen of very great distinction of the extreme anti-slavery party. I heard a distinguished member in the other end of the Capitol give an interpretation of it. He construed it to mean that if we did not accept this proposition the Government would take our slaves anyhow. Well, sir, I happened a few nights ago, through curiosity, to go to the Smithsonian Institution, to hear a man of some distinction as an orator and lecturer in this country. I took my seat in the gallery, and there I heard this man, Wendell Phillips, for half an hour, and he distinctly announced, after eulogizing the President very highly for this message, that the interpretation of it was simply saying to the border slave State men: "Gentlemen, if you do not take this we will take your negroes anyhow." That was the interpretation given to it by Mr. Wendell Phillips. That was the interpretation given to it by some gentlemen of the House of Representatives, and that, in my opinion, is the plain, distinct, and proper interpretation of the message, when you take it as a whole. Believing that it will result in no good, but much harm and very great mischief, and believing that it is unconstitutional, I shall oppose it in every form. As I said, I shall vote for the amendment of my colleague, because I think it is better; but should the amendment of my colleague prevail, I shall vote against the resolution as amended. In no form in which it can be fixed shall it receive my support.

Mr. LATHAM. Mr. President, I am very free to say that I believe the motive which prompted the sending of this resolution by the President to

Congress was a proper and a patriotic one. I have seen nothing in the Chief Magistrate of this nation that would induce me to believe that he is governed by any other than an anxious desire to restore peace to the country, and to promote its best interests.

If a State of the Union had a proposition now before this body, praying for aid from the General Government to assist in emancipating its slaves, in a tangible form, I should feel, of course, that it was my bounden duty to act upon it; but the proposition now before the Senate is pledging in advance, on the part of the States where slavery does not exist, the taxation of their citizens to assist any State who may see fit hereafter to engage in a general scheme of emancipation. I know nothing whatever of the wishes of my constituency in this respect. It is a new proposition. I have no doubt they would go as far as the citizens of any other of the loyal free States of the country in assisting any State in removing an incubus, an affliction, or in aid of any proposition that a State might submit for relief from slavery—the great bone of contention between the sections—within, of course, the power of the Constitution of the country. But, sir, I am not prepared, as a representative of one of the States on the Pacific coast, to pledge the people thereof to submit to any kind of taxation that the Government may see fit to impose in a general scheme of emancipation. This is but an abstract proposition; and, in the absence of any light in relation to the wishes of the constituency that I represent, I shall vote in the negative against this and all similar propositions.

Mr. MORRILL. I am greatly surprised at the course of this debate. I had supposed it was possible for somebody in some way to allude to the subject of slavery without eliciting indignation or without rendering it a subject for discussion, for latitudinarian discussion, for discussion in various directions, for discussion in which gentlemen must think it necessary to define their positions. The honorable Senator from Kentucky [Mr. DAVIS] thinks this proposition fraught with so much mischief that while he regrets exceedingly that it is introduced, he takes occasion to admonish us on this side of the Chamber, and to repeat—I do not mean to say it in any offensive sense—what he has asserted here so often on the floor, how responsible we are for the troubles in the country for just such propositions as these, how much better it would have been if we had confined ourselves within the legitimate sphere of legislation, and how much of the many millions that are being expended are attributable to us and to this sort of legislation. I have no objection if Senators think it proper to repeat this sort of speeches, time after time, upon any subject and upon all occasions; but they must not complain if they are admonished in return that we take different views of this subject than they do.

Mr. President, how can it be possible that any Senator here can hold, or that any public man anywhere can hold, that this simple proposition of the President of the United States is an offense to any one, is an offensive proposition in any sense, considering the circumstances that surround us? Here we are in the midst of a gigantic rebellion that shakes the pillars of the Government. It is produced directly by slavery. Nobody denies that. Slavery is the main-spring and cause of it. Slavery in these States has produced the whole of it. If we are spending millions and hundreds of millions to maintain this Government, slavery has done it. If our men are slaughtered, slavery is responsible for it.

Now, sir, the President, the first man in the nation, surveying the whole field of difficulty and danger, says to the nation, responsive to the great voice uttered long ago by the Father of his Country, it is desirable that this nation should be rid of this great evil. He says it in no offensive sense. He does not ask the Congress of the United States to legislate on the subject; he does not ask that we should put it in the form of legislation; but as a statesman standing at the head of the nation and surveying the whole field of difficulties, he intimates to the slave States whether it is not an opportune time to consider the question, and whether Congress, being the source of all power in this country, will not so far adopt his suggestion as to commit itself in some degree to these slave States or to the nation; in other words, that the legislature of the nation will embody the sentiments of the President of the United States, that it is well now, amid these difficulties and while the nation understands its great troubles and the cause of these troubles, that the nation should consider whether it is not wise to devise some plan for the legitimate extinction of slavery in so many of the States as are willing to adopt it. I cannot conceive that such a proposition as that is offensive, or can possibly be offensive to any man or any class of men who have not made up their minds that above all things, Constitution, country, everything, they hold slavery to be supreme. They will stand on that, no matter what becomes of the country. They will not only resist all legislation on the subject, but they will treat with scorn and contempt every invitation to consider the subject. That is the attitude in which Senators place themselves here. They are indignant that the President of the United States proposes that these States in their own way shall consider whether it is not expedient to get rid in the future of the cause of our present troubles.

Having said so much, sir, on the subject generally, I want to add just another word, and that is, that it seems to me the propriety of the thing is, if we are to give legislative expression to this voice of the President, we should give it in his own words, in the words he proposes to us. I hope, therefore, that the amendment will be rejected.

The VICE PRESIDENT. The question is on the amendment of the Senator from Kentucky, on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. BROWNING (when Mr. RICE's name was called) said: The Senator from Minnesota, whose name has just been called, has been confined to his room for a week past with severe illness, and he requested me to make that announcement to the Senate, if his name should be called, as explanatory of his absence.

The result was then announced—yeas 4, nays 34; as follows:

YEAS—Messrs. Davis, Henderson, Powell, and Wilson of Missouri—4.

NAYS—Messrs. Anthony, Browning, Carlile, Chandler, Clark, Collamer, Cowan, Dixon, Doolittle, Fessenden, Foot, Grimes, Hale, Harlan, Harris, Howard, King, Lane of Indiana, Lane of Kansas, Latham, McDougall, Morrill, Pomeroy, Simmons, Stark, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Willey, Wilmot, Wilson of Massachusetts, and Wright—34.

So the amendment was rejected.

Mr. HENDERSON. I desire to offer an amendment, to insert at the end of the resolution the following proviso:

Provided, That nothing herein contained shall be construed to imply a willingness on the part of Congress that any of the States now composing the Union shall be permitted to withdraw permanently their allegiance to the Government; but it is hereby declared to be the duty of the country to prosecute the war until the Constitution shall have been restored over every State professing to have seceded.

Mr. DAVIS. I ask for the yeas and nays on that amendment.

The yeas and nays were not ordered, but four Senators seconding the call.

The amendment was rejected.

The joint resolution was reported to the Senate without amendment.

Mr. HENDERSON. I move that the resolution be laid on the table. I desire to say something upon it; but I do not feel able to do so to-day.

Mr. COLLAMER. I take it the gentleman does not really mean to lay it on the table. He means to postpone it.

Mr. HENDERSON. Yes, sir.

Mr. COLLAMER. I suppose the Senator means to postpone until to-morrow, as he wants to speak upon it.

The VICE PRESIDENT. Does the Senator so vary his motion?

Mr. HENDERSON. Yes, sir.

The motion was agreed to; and the further consideration of the resolution was postponed until to-morrow.

SLAVERY IN THE DISTRICT.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 108) for the release of certain persons held to service or labor in the District of Columbia, the pending question being on the amendment proposed by Mr. SAULSBURY, to insert as an additional section:

And be it further enacted, That the said persons liberated under this act shall, within thirty days after the passage of the same, be removed at the expense of the Federal Government into the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, Vermont, New York, Pennsylvania, New Jersey, Ohio, Indiana, Illinois, Michigan, Iowa, Wisconsin, Minnesota, Kansas, Oregon, and California, and that said persons shall be distributed to and among the said States *pro rata*, according to the population of the same.

Mr. WILKINSON. Mr. President, I am prepared upon this, as upon all other questions, to conform my action to the plain dictates of justice and of right. I believe that no one questions the constitutional power of Congress to abolish slavery in the District of Columbia, except the Senator from Kentucky, [Mr. DAVIS;] nor have I heard it asserted on this floor that the bill now before the Senate is, either in detail or in its general scope, in contravention of any principle of constitutional law. I do not believe that the measure in question is violative of any great principle of justice or humanity, or that it essentially violates those lofty principles by which nations as well as individuals should be governed.

But, sir, it is opposed by gentlemen on the grounds of expediency; and we are warned in tones not altogether destitute of passion and prejudice, of the evil consequences which will result from the freedom of the slaves of this District. Believing, as I do, that human slavery is the great sin of this country, that it is in violation of every principle of justice and of truth, that its influence upon this country, and upon the world, has a tendency alike to encourage everything that is evil, and to repress everything that is good in the State; that its evil influences are visited alike upon the master and the slave; that it affects us for evil in our political as well as in our social relations, and that it is the primary cause of the wicked rebellion which has risen up against the constitutional authorities of the Government, I feel bound, by every vote which I am called upon to give, and by every word which I may utter upon this question, to do everything in my power towards its final extinction; and, so far as my influence goes, to blot out the last remains of slavery on this continent.

Thus believing, I cannot place expediency in the scales against justice, nor shall I fail to perform a simple duty for fear of the consequences which may result from such action. I believe with the hero of New Orleans, that "the right is always expedient." Indeed, it is safer to follow the unerring light of truth than to blunder along in the uncertain, devious path of expediency.

The bill before the Senate provides for the abolition of slavery in the District of Columbia. It goes no further; it does nothing more; it does not propose to interfere with the institution in any of the States, nor does it in anywise affect the relation of master and slave in any portion of the communities beyond the limits of this District.

If there is a place upon the face of the earth where human slavery should be prohibited, and where every man should be protected in the rights which God and nature have given him, that place is the capital of this great Republic. It is an insult to the enlightened public sentiment of the age, that those who meet here from the free States of the Union, and the representatives of the free Governments of the earth—lovers of liberty—should be compelled in the capital of this free Republic daily to witness the disgusting and shocking barbarities which a state of human slavery continually presents to their view. It is a shame that here, upon common ground, the representatives of the loyal and free North, those who have never failed to discharge every duty to their country, should be treated with contumely and contempt, and even hissed, as they have been in the Capitol of the nation, and in the galleries of the Senate, by the slaveholding influence of this District.

Yea, more, when the hour of peril came upon the country, when acts of treason followed each other in quick and rapid succession, when the slaveholders were stabbing at the very heart of the nation, when the heavens were all black with the impending storm, and no one knew whither to turn to escape the coming danger, we were here surrounded by slaveholding traitors who were daily plotting for the destruction of the Government which had fed them. A little more than a year ago these galleries were daily filled with a mob ready to cheer every eulogy pronounced for slavery and to applaud every utterance of trea-

son. Senators well remember the terrible scenes through which we passed when such vile traitors as Toombs, Davis, Wigfall, and Breckinridge were lionized by the slaveholders of this city; and when, upon this floor, these men defiantly proclaimed their treason, there was no power to check them, for the whole authorities of the city were on their side. The city police was in sympathy with the traitors, and there was no security until the freemen of the North rushed to the defense of the capital. Why was this? Had this Government been unkind to the people of this District? No; the Government had built them up. It had given them all the prosperity they had. Why, then, were they opposed to its existence? There is but one answer to this question: this rebellion is the slaveholder's rebellion, and this District was under the influence of slaveholders. That is the reason why so many of the people here were on the side of treason.

We all remember the fearful night when members of Congress and other citizens of the free States then in this city met in the large hall of one of the hotels here, and, organizing themselves into a company under the lead of the noble and brave Cassius M. Clay, and sending to the War Department for arms, they resolved that they would peril their lives in the defense of this capital. This little company was nearly all the defense against treason that this city at that time had. But, sir, they were not long held in suspense. The telegraph conveyed to them the cheering intelligence that the freemen of the North were rushing to their support.

Mr. President, the Senator from Virginia who spoke in opposition to this bill the other day, [Mr. WILLEY,] said that he spoke as a border slave State man, the advocate of the sentiments of the State which he represents; "as a representative of the public sentiment of the loyal people of Virginia, and in their name" the honorable Senator begged "Senators to pause long enough to consider the position which they occupy." That is just what I propose to do. I ask that honorable Senator to tell me if he can how many of the loyal people of Virginia rushed to the defense of this capital in that perilous hour when it was in danger of falling into the hands of the rebels. How many of the loyal people of Maryland rose up to uphold the Government in their very midst? Not one—no, sir; not one.

Mr. WILLEY. Will the Senator allow me, since he makes the appeal to me and asks me the question, to say that there was a very good reason why we should not come? We were the very first part of loyal territory invaded by the adversary; we had to stay at home to defend our wives and children, whom we held dearer even than the capital; but I can tell the honorable Senator that the two hundred and seventy thousand Western Virginians, including the disloyal among them, have a greater percentage of men in the field this day than any other portion of territory or people of the United States. We have more than nine thousand men in the field out of a population of two hundred and seventy thousand, one third of whom were secessionists. Can Minnesota beat that?

Mr. WILKINSON. Mr. President, that is very good; but I think that if the loyal men of the northern States had not gone into Western Virginia, the Senator himself would not have dared to return there.

Mr. WILLEY. That is a fact, and I desire to express my obligations from the deepest recesses of my heart to the noble loyal neighbors we have had, who have come to our rescue; but our own blood has been mingled with theirs.

Mr. WILKINSON. I think I can safely say that there was not a single arm from a slave State raised in defense of this capital until after the freemen of the North came rushing down through peril and great danger, some of them to meet death on their way, to guard and protect it. Maryland, now claiming to be loyal; now interposing her objection to the passage of this bill; now asserting her right to prevent the abolition of slavery in this District, and the progress of free sentiments here, then lay as a wall of fire between the seat of Government and those who were determined to uphold it, determined to repel and drive back the loyal people of the North. In her own metropolitan city of Baltimore, where there should have been a Union sentiment if anywhere in the State, Maryland resisted the passage of the freemen of the North who were quietly hastening to the defense of the Government. I believe that the first blood shed in this wicked rebellion was poured out in Baltimore by the brave troops of Massachusetts while a little band of them, not more than one hundred in number, were forcing their way through the maddened and infuriated mob of from eight to ten thousand, which resisted their passage through the city.

I will read a brief account of the bloody events of the 19th of April last, as recorded at the time; but before doing so, I will say that my argument is, that we should root out slavery here because it is the only protection which freedom has in the Government, that there should be a loyal sentiment to surround and protect the capital of the nation against treason. I will read a graphic account of the first slaughter that took place in this war:

"A portion of the sixth Massachusetts, and the seventh Pennsylvania, were attacked in the streets of Baltimore by a mob upon their passage through that city. The Massachusetts regiment occupied eleven cars. Upon their arrival at the President street depot, the cars were permitted to leave with the troops still on board, and proceeded quietly through the streets of Baltimore, on their way to the depot at the other side of the town. But they had not gone more than a couple of blocks before the crowd became so dense that horses attached to each car were scarcely able to push their way through. At this point the mob began to hoot and yell frightfully, and loud threats were uttered against the military. The troops, however, maintained a strict reserve, and the crowd then commenced to throw stones, brickbats, and other missiles in a perfect shower, against the cars. Many of the troops were severely wounded in this manner. However, the first nine cars reached the depot, and departed for Washington. The remaining two cars of the train, with about one hundred men, were thus cut off from the main body, and the men found themselves encompassed by an infuriated mob of over eight thousand. These isolated cars were immediately attacked, and several of the soldiers had their muskets snatched from them. At this moment news came that the Philadelphia volunteers had arrived, and the report excited the mob to a fearful degree. The road was now obstructed, and the soldiers alighted, formed a solid square, and advanced with fixed bayonets in double quick time, the Mayor of Baltimore at their head, all the while surrounded by the mob—now swelled to at least ten thousand. The military behaved admirably, and still abstained from firing upon their assailants. The mob now commenced a perfect shower of missiles, occasionally varied by a random shot from a revolver or one of the muskets taken from the soldiers. The soldiers suffered severely from the immense quantity of stones, brickbats, paving stones, &c.; the shots fired also wounded several. When two of the soldiers had been killed, and the wounded had been conveyed to the center of the column, the troops at last, exasperated by the treatment they had received, commenced to return the fire singly, but at no one time did a platoon fire in a volley.

"The volunteers, after a protracted and severe struggle, at last reached the depot, bearing with them in triumph their killed and wounded, and immediately embarked.

"Two of the Massachusetts men were killed and eight wounded. Seven rioters were killed and many wounded, but the number is not known. When information was received at the depot of this attack, the Pennsylvania regiment, which was unarmed, was sent back. Some were slightly wounded."

On the same day of this outbreak, the Governor of the State and the Mayor of Baltimore, finding themselves entirely at the mercy of the secessionists and rebels of the city, decided that no more troops should be permitted to pass through the town, and in pursuance of that decision addressed a joint communication to John W. Garrett, president of the Baltimore and Ohio Railroad Company, requesting him to send the troops which had arrived at the town on their way to this city back to the borders of Maryland. The following is a copy of that letter:

MAYOR'S OFFICE, CITY HALL,
BALTIMORE, *April* 19, 1861.

SIR: We advise that the troops now here be sent back to the borders of Maryland. Respectfully,

GEORGE WILLIAM BROWN,
THOMAS H. HICKS.

JOHN W. GARRETT, Esq.,
President Baltimore and Ohio Railroad.

Mr. President, the people of the city of Baltimore were, at this critical hour, arrayed against the Government of their common country, and on the side of treason and rebellion. That those who were engaged in this affair were at once traitors and murderers, no true man, no honest mind can doubt. The authorities of the State of Maryland were for the Union; the people were for treason. The wicked and rebellious people of Maryland regarded the peaceful passage of northern troops through their State, to defend the capital of our common country, as an invasion of their "sacred soil;" and breaking loose from all restraint, they forgot their duty to the Government which had protected them. The constituted authorities of the State were as impotent as little children. The events of the 19th of April, 1861, were inevitable; there was no power in the State to check them. The people, debauched by slavery, corrupted by its degrading influence, and maddened by the evil passions which it engenders, broke loose from all the restraints of law, and wildly trampled civil authority under their feet. The morning after the day on which this fearful tragedy occurred, the Mayor of Baltimore, humiliated and disgraced by the events of the preceding day, though himself suspected of being a secessionist, addressed the Governor of Massachusetts as follows:

BALTIMORE, *April* 20, 1861.

SIR: No man deplores the sad events of yesterday in this city more deeply than myself, but they were inevitable. Our people viewed the passage of armed troops to another State through the streets as an invasion of our soil, and could not be restrained. The authorities exerted themselves to the best of their ability, but with only partial success. Governor Hicks was present, and concurs in all my views as to the proceedings now necessary for our protection. When are these scenes to cease? Are we to have a war of sections? God forbid. The bodies of the Massachusetts soldiers could not be sent out to Boston, as you requested, all communication between this city and Philadelphia by railroad, and with Boston by steamers, having ceased; but they have been placed in cemented coffins, and will be placed with proper funeral ceremonies in the mausoleum of Greenwood cemetery, where they shall be retained until further directions from you. The wounded are tenderly cared for. I appreciate your offer, but Baltimore will claim it as her right to pay all expenses incurred.

Very respectfully, your obedient servant,

GEORGE W. BROWN,
Mayor of Baltimore.

JOHN A. ANDREW, *Governor of Massachusetts.*

The Governor of Massachusetts returned this beautiful and touching reply:

DEAR SIR: I appreciate your kind attention to our wounded and our dead, and trust that at the earliest moment the remains of our fallen will return to us. I am overwhelmed with surprise that a peaceful march of American citizens over the highway to the defense of our common capital should be deemed aggressive to Baltimoreans. Through New York the march was triumphal.

JOHN A. ANDREW,
Governor of Massachusetts.

His Honor GEORGE W. BROWN, *Mayor of Baltimore.*

Mr. President, I will pursue this record no further. There is nothing in it to cheer the heart of the true patriot; there is no bright spot here upon which the eye of the lover of the Union can rest. It is said that Maryland is a loyal slave State. If she is loyal, what made her so? Is her position in the Union to be attributed to the Union-loving sentiments of her people? Is it to be attributed to their hatred of treason and rebellion? No, sir; no. Maryland has been kept in this Union by the strong arm and by the majestic power of the people and Government of the United States. Baltimore was never loyal until the mortars of Fort McHenry were turned upon her walled streets and her magnificent palaces, nor until the eagle eye of General Dix sought out Federal Hill and planted upon it the guns of the Union. Had Maryland been a free State, had not her people been carried away by the influence of slavery upon them, we should need no forts and no armed men to-day to guard the city of Baltimore.

Mr. President, the Senator from Virginia, who spoke upon this bill the other day, [Mr. WILLEY,] seemed to regard it as his especial duty to reprove the representatives of the free States for the course which they have seen fit to pursue, and particularly for their desire to abolish slavery in this District. That Senator, in announcing his opposition to this bill, stated what to me at the time appeared rather inconsistent with his avowd purpose, when he said, in relation to the slaves in this District:

"I wish that it did not exist here; that it never had existed here. I believe that this great nation ought to have this District as common ground, where the world might assemble without anything of a character to offend the sensibilities, the feelings, or the principles of mankind. And yet, sir, I cannot vote for this bill."

The honorable Senator here declares that he is in sympathy with the principles of the bill, and yet he opposes it. He admits it to be right, and yet he makes a violent and inflammatory speech against those who advocate this measure. I have never, since I have had the honor of a seat upon this floor, listened to a speech so utterly inconsistent with itself, so much at war with every sound and lofty principle of human action, so unworthy the person who made it, and so unbecoming the time, the place, and the occasion, as was the speech of the honorable Senator from Virginia, if I except some speeches which have been made here since that date.

Sir, the Senators from Virginia who owe their position here and their quiet at home to the inflexible determination of the people of the free

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. FRIDAY, MARCH 28, 1862. NEW SERIES.....No. 87.

States to uphold this Union, are a little wanting in delicacy when they charge upon the loyal Senators here that they, in giving their support to the measure before the Senate, are firing the southern heart, and are rendering "aid and comfort to the enemy." This is what the Senator [Mr. WILLEY] said:

"Nay, sir, the agitation of these questions, under existing circumstances, must be positively mischievous. Will it not create strife and divisions here? Will it not disturb the country? Above all, will it not afford aid and comfort to the enemy? I am sure it will. It will be used by the leaders of the rebellion to 'fire the southern heart.'"

Here the Senator charges us with supporting a treasonable measure—and he admits himself to be in favor of its principles—and that in his judgment it is entirely constitutional.

Mr. President, considering the circumstances under which the Senators from Virginia were admitted to seats on this floor, and the condition of the State and the people which they pretend to represent, I think common delicacy, at least, would suggest to them the propriety of being somewhat guarded in their expressions of censure towards the representatives of the people who have protected and defended them.

Mr. President, I admit that I grow impatient and restless under the censure which so often falls from the lips of the Senators of the border slave States, from those Senators who claim to be true Union men, because I perceive in every such expression a total want of any recognition on their part of the great services the people of the North have rendered them——

Mr. CARLILE. I do not wish to interrupt the Senator, unless it is agreeable to him; but the Senator has referred particularly to the speech of my colleague, and has thought proper to include both the Senators from Virginia in his reference.

Mr. WILKINSON. Before the Senator goes on, I will say that, although I did not point out, in my remarks, the Senator now on the floor, I meant to include also his general course.

Mr. CARLILE. I so understood the Senator. Mr. President, allow me to say that I have indulged in no taunts; it is not my habit, and I trust, whenever I occupy any position representing a people, that I shall have the manliness and the independence to utter in proper language what I believe. I claim to have as great an interest in the preservation of this Government as the Senator from Minnesota. I claim to hold my seat upon this floor by as good a tenure as he or any other Senator holds his; and whenever, in the opinion of the Senate, I am not entitled to that seat, they have but to resort to the constitutional mode to take it from me. I do not hold my seat at the pleasure of Senators here. I maintain that I hold it by virtue of the right of my State to be represented in this body; and I maintain that the Congress of the United States, the Supreme Court of the United States, and the Executive of the United States, had settled, by prior decisions, the action of the people of Virginia through their representatives, when they elected my colleague and myself to represent them here.

Mr. WILKINSON. We all understand, Mr. President, perfectly well how much of the State of Virginia the Senators represent, and how many of her people participated in sending them here. I will not stop to say anything further upon that point except this: I voted to admit the Senators from Virginia to seats in this body, and would probably do so again; I am not speaking of that transaction; but I am speaking of their conduct and the course they see fit to pursue here.

Mr. WILLEY. I beg the indulgence of the Senator to make an inquiry. I was out of the Hall for a time, and when I came in there seemed to be some controversy between the honorable Senator and my colleague about the uttering of taunts and menaces. Did the honorable Senator include me in any such allusions?

Mr. WILKINSON. I did, sir; and if the Senator had remained in his seat, as he should have done, he would have heard precisely what I said, because there was no evasion about it. I cannot now stop to answer his question, because he was not here attending to his business, as he should have been.

Mr. WILLEY. I plead guilty to so much of the Senator's allegation and indictment. I was hastening here as rapidly as I could from taking a little refreshment, with a view of getting back to hear the conclusion of my friend's speech, and I expect to hear it with a great deal of pleasure; but if any charge be made against me of uttering menaces or taunts to this body, I appeal to the Senate to say if I am not innocent of such a charge. I expressly denounced the habit the other day in my speech. I denounce it again; and I regret on all occasions to see other Senators from the North or the South indulging in expressions of that character. It is not to my taste; it is not my nature; it is not my habit, my principle, or my sentiment. At the same time, when I entertain a belief conscientiously, I claim the privilege, although the humblest member on this floor, to utter it freely, fully, explicitly—no more, sir, no less.

Mr. WILKINSON. Mr. President, I will state for the benefit of the Senator, that in my reference to him, I quoted his language. I have made no general statements in regard to the Senator without referring to the language he used in his speech.

But, sir, to pursue the line of my argument. Where would Virginia have stood to-day had not the devotion and valor of northern troops rescued her from the grasp of the vilest traitors that ever afflicted mankind? There would not have been one square foot of her soil upon which the Senators could have stood in safety and given utterance to their love of this Union—not one.

Mr. WILLEY. There would have been a very small portion of soil upon which one of the Senators from Virginia would have been standing on his feet, and he would ask no higher boon or privilege than to be resting beneath it a victim to this vile treason. This is the fact, sir, and I will take this occasion to say that I render my heart's deepest gratitude to our noble friends who came to our rescue. I admit the fact which is alleged, that we would not have been standing upon our territory—we could not have stood there without the aid of those generous friends who came to our relief; and, sir, a thousand times in my deepest heart's devotions, have I called for the blessing of Almighty God to rest upon the generous men who not only rushed to our rescue, but have laid down their lives in our defense. I wish to express my obligations to the fullest extent to those noble men, and to say that, but for their rescue, utter ruin would have swept throughout our northwestern hills. We will ever surround the monuments of those brave men, whose memory we cherish in our midst, and whose names we will ever defend in the Senate—and I wish they had a more worthy defender to pronounce their merits—forever we will gather around the monuments of their fidelity to the Constitution and friendship to us, and teach our children to revere the names of the States from whence they came. I am not one of those that can be driven from rendering honor to whom honor is due, and all honor to my noble friends from Ohio and from Indiana especially, who saved us from ruin and from treason. [Applause in the galleries.]

The PRESIDING OFFICER, (Mr. CLARK in the chair.) Order!

Mr. WILKINSON. Mr. President, I have no doubt that the feelings expressed by the Senator from Virginia are heartfelt and sincere; but assuming that they were so, I was shocked the other day when the Senator opposed a measure, and censured us for favoring it, which he admitted to be right, and accused us of rendering aid and comfort to the enemy when we did it. He admitted upon this floor that this bill was right in principle; that he wished there was no slavery here, and that there never had been any slavery here; and yet he charged, before he got through with his speech, that we were rendering aid and comfort to the enemy when we voted for this measure. That is what startled me. I did not want the Senator from Virginia, representing a State whose rivulets have been made red with the blood of northern soldiery, and whose every sod presses upon the grave of northern troops, to taunt me with rendering aid and comfort to the enemy, because I saw fit to vote for abolishing slavery in this District. I hope the Senator understands me now.

As I have already said, I appreciate the feelings of the Senator and the utterances which he has just given in favor of the northern troops. I am glad that he feels so, and I believe him to be sincere; but Virginia has been so long in the habit of dictating to this Senate, of telling Senators what they must do and what they must not do, what is treasonable and what is right, that it has seemed to me as if her Senators here were copying the dictatorial action of those who occupied seats here a little while ago, and thought they, too, must tell us what we may do and what we may not do. I venture the assertion, and without any fear that it can be successfully contradicted, that without the protection of northern troops neither of the Senators from Virginia could at any time since they have been members of the Senate have found a place upon the soil of the State which they represent upon which they could with safety have rested the soles of their feet. Even in what is called the loyal portion of their State there have been enacted scenes the brutality of which has no parallel in the annals of civilized warfare, and has seldom been equaled by our most savage western Indians.

Let me read an account of the massacre of Union troops at Guyandotte, Virginia, on Sunday night, November 10. Guyandotte is on the Ohio river, in the extreme western part of Virginia; it is in loyal Virginia; it is where slavery is supposed to have had but very little influence; and I assert that there is no record in history so black as this. I have never read an account that had so great a tendency to make my blood curdle in my veins as the account which I will now read to the Senate; but before I read it I will state that the reason why I pursue this argument after the statement of the Senator from Virginia is that I hold that slavery corrupts the human heart, demoralizes the people of this District and the people of his State, and induced them, or enabled them rather, to commit acts of barbarity in the prosecution of this rebellion against the Government, which never could have existed in a free community.

"CINCINNATI, *November* 12, 1861.—The defeat of the Union forces at Guyandotte, on Sunday night, was accomplished by trickery on the part of the inhabitants. It seems that a force of rebel cavalry, variously estimated at from five hundred to one thousand, had concentrated in the country back of the town, and it was proposed, with the assistance of the rebel inhabitants of Guyandotte, to annihilate the Federal forces in that town. The Federal troops consisted of two hundred and fifty men of the Virginia regiment and a few of Zeigler's Virginia cavalry. It was arranged between the rebel cavalry and rebel citizens to massacre our troops in cold blood. Accordingly the rebel citizens became very courteous to our troops, and, on last Sunday evening, invited them to their houses on various pretexts. The invitations were accepted by all who were off duty, and, while they were being entertained, at about half past eight o'clock at night, the rebel cavalry dashed into the town. Signals were displayed from every house where the loyal Virginians were unsuspiciously enjoying themselves, and into these the rebels rushed, *murdering the unarmed soldiers in cold blood.* The rebel citizens, men and women, rushed to arms, and aided the cavalry in the slaughter."

Nothing but the barbarity of human slavery could ever so turn men and women into brutes!

"The Federal troops who were in camp prepared as soon as possible for their defense, but were overpowered, and had to break lines and retreat. Very few of our men were killed in the engagement with the cavalry, nearly all the killed being murdered in the houses. When Colonel Zeigler arrived and ascertained the particulars of this fiendish outrage, he ordered the destruction of the town. The buildings were immediately fired, and the whole town reduced to ashes."

Mr. President, the Senator from Virginia says that if we pass this bill we shall "fire the southern heart." In listening to him the other day, and observing the zeal which the Senator manifested in the delivery of his speech, it almost seemed to me that he regarded the assassins of his own State as very amiable gentlemen, who could easily be won back to their allegiance and their ancient love for the old flag, as he termed it, by a

little tender treatment on the part of the Government. He seems to think rebel assassins are not very bad men after all, if we do not by the passage of this bill—freeing a few slaves in the District of Columbia—drive them to desperation! The honorable Senator has discovered the way in which this war can be settled without bloodshed, without the destruction of valuable lives, and without making widows and orphans. This is his plan; he says:

"Besides, sir, there is no necessity for driving these people to such desperate extremities. Justice, moderation, generosity, will meet a joyful response in many a southern heart. They love the old flag; they love the old Union. Show them that their rights under the Constitution—their prejudices of education and habit, if you please to say so—are to be respected, and you will strike a blow more fatal to the rebel cause than a score of such victories as that at Fort Donelson. And this will be a victory without bloodshed. It destroys no valuable lives. It wastes no resources of the country's wealth. It makes no widows or orphans. It desolates no homes. Why should not the North be generous and forbearing? Are not moderation and forbearance the invariable characteristics of a great people?"

Sir, the Senate well knows that the hearts of those who are engaged in this rebellion are already set on fire of hell; that they are moved forward in their wicked purpose by a malignity such as never filled the hearts of men before, and that there is no way to defeat their designs but to meet and crush them in the storm of battle; and that, sir, is what we northern men propose to do.

But, sir, the honorable Senator from Kentucky [Mr. DAVIS] and the honorable Senator from Maryland [Mr. KENNEDY] have entered into this debate, and have each exhibited a great deal of feeling in opposition to the passage of this bill. If I understood the Senator from Maryland correctly, he said that, in the event of the passage of this measure, he will feel constrained to submit to the people of his State the question whether the Government of the United States has kept its faith with them. I do not know that I fully understood that honorable Senator, but it sounded to me very much like the threats which have been so frequently made upon this floor in times past. Suppose this question is submitted to the people of Maryland for decision, what then? And suppose the people of that State decide that the United States has not kept its faith with them, what will the Senator then propose to the people of Maryland? Does he mean to assert that the people of his State have the right to determine for themselves their relations with the Federal Government, and to withdraw from the Union if they decide that the Government has broken its faith with them? If this is his position, if this is what the Senator intends to assert, let me say to him that his position covers all the ground assumed by the traitors of the South in their advocacy of secession. It is secession; and if practically carried out it would become *treason*, and subject those engaged in it to the penalties of treason. Her people have made one effort to carry Maryland out of the Union and they have signally failed; and I warn the Senator now that if he renews the effort in the form that he seems to indicate, the people will find an obstacle in the way of the consummation of their scheme more formidable than those which to-day frown upon the city of Baltimore.

Sir, I will not stop to argue the propriety of this monstrous proposition. Mr. Webster ended the argument more than thirty years ago. It would be folly for me now to revive it. We have now to treat the question practically. It is simply a question of power and of authority. If a State has the power under the Constitution to interfere with and stop the progress of the General Government by force of the action of her own people, perhaps the Senator from Maryland is justified in declaring that he will appeal from the action of the United States to his own people, and leave the future action of the State he represents to their decision so made.

Mr. President, if I am right in the construction which I place upon the position of the Senator in his speech of yesterday, I declare that he has planted himself upon the ultra secession doctrine of the South. This doctrine was started by that arch traitor, John C. Calhoun, thirty years ago; and has been from that day steadily pressed upon the attention of the people of the South, until it has brought about the most wicked and unjustifiable war the world has ever witnessed. And, sir, I must say that I was amazed to hear the honorable Senator who, I believe, was an old Clay Whig, make a threat here, while actual war is being waged in the land, which fully sanctions, if carried out, the most wicked doctrine of Henry Clay's life-long traducers.

But, sir, if the Senator does submit this question to the people of Maryland, and their decision is against the action of the United States, what remedy will the Senator propose for the benefit of his people? A mere decision without any intention of carrying such decision into practical effect, will be of no significance whatever. But if the people of a State seek to avail themselves of a remedy as against the action of the Federal Government, then the issue becomes a simple question of power, and in that event, in my humble judgment, the good people of his State will, in the end, find that they have imperiled everything and have gained nothing.

Mr. President, the Senator from Kentucky [Mr. DAVIS] has shown a great deal of feeling in opposition to this measure, and I think that in his zeal he has gone further in his censure of the friends of this measure than, in his cooler moments, his judgment will sanction. His defense of human slavery is more offensive in manner and in argument than any that I have listened to on this floor, if we except the foolish fulminations of the crazy Wigfall. The honorable Senator from Kentucky contends that the natural right to a slave is the same and rests upon the same authority as our right to a hog, a sheep, or a piece of land.

Mr. DAVIS. Mr. President——

The PRESIDING OFFICER. Will the Senator yield to the Senator from Kentucky?

Mr. WILKINSON. If you will not be too long. [Laughter.]

Mr. DAVIS. That is a good admonition. The honorable Senator from Minnesota mistakes me. I did not say that the natural right of a man to a slave was the same as it was to a horse or a hog. I said the right which the people of this District have to their property, and the right which every citizen has to his property, is the same in relation to a slave or a horse; but I said distinctly that that was an artificial right, not a natural right. It is a right created by law, by the usages and customs of the world.

Mr. WILKINSON. I shall not enter into any argument to show the fallacy of the position of the honorable Senator from Kentucky.

Mr. DAVIS. Permit me one moment further while I am on my feet. I would ask the honorable Senator if the Congress of the United States have the right to take all the lands, and all the houses and lots in this District from their owners?

Mr. WILKINSON. No, sir.

Mr. DAVIS. They have not. What prohibits them from exercising that power?

Mr. WILKINSON. I think the provisions of the Constitution prohibit them. Still I am not prepared to enter into that argument now, and I do not wish to get into it with the Senator.

Mr. DAVIS. Very good.

Mr. WILKINSON. I will state my views as I go on. I shall not enter into any argument to show the fallacy of the honorable Senator's reasoning. It is enough for me to know that his theory is utterly and entirely opposed to every lofty principle of justice, and that it tramples in the dust the most sublime and lofty sentiments of the age. Yea more; this abhorrent doctrine would compel us to close our eyes to the cheering lessons of Christianity, and forever close the door of our holy religion against millions of our fellow creatures. The simple statement of his proposition carries with it its own condemnation. The Senator says:

"We have two hundred and twenty-five thousand slaves in Kentucky. They are owned mostly by Union men. They are owned by men true to the Constitution as our fathers made it, and willing to live up to all of its obligations. If you proceed upon the principle of manumitting all the slaves in that State that have belonged to persons who were in the rebel army, or who sympathized with the rebel cause, you will find that it is impossible, you will have no power to enforce the law, and you never will enforce it. There is no being in that State who would not rise up in revolt, and in deadly and in continuous and never dying hostility to any such system. We would hold the party in power, we would hold the misguided men in power, that would endeavor to force that state upon us as the worst enemies with which the God of heaven had ever cursed us. We oppose the secessionists, and we want to fight them to subjection, to unconditional submission to the Union; but the spirit and perseverance and desperation with which we would fight secessionists is nothing to that with which we would fight that condition of things."

I am sorry that the Senator made this violent remark, because it is fraught with mischief, and with nothing but mischief. The honorable Senator well knew that no one on this floor proposes to abolish slavery in Kentucky. No one proposes to bring about the state of things which he so much deplores. Why then attempt to excite the prejudices of the people of his State against their Government? Has there been anything in the past that would justify the people of Kentucky in turning away from, and dissolving all connection with, the people of the northern States? When did the people of the North ever fail to do honor to her great statesman and patriot, Henry Clay; and when, if ever, did they fail to rally to his standard?

And, sir, if we recur to more recent events, I think the honorable Senator will be compelled to admit that they should bind Kentucky in sympathy still closer to the Union. In defending her soil against those vile traitors, who would have betrayed that noble State into the hands of her enemies, thousands of the best young men of the North have enriched her soil with their blood, and laid their bodies down to rest in her bosom.

Sir, it seems to me as if the honorable Senator entirely ignored the sacrifices which the liberty-loving people of the Northwest are making to save the Union men of Kentucky. Sir, I have no hesitation in saying, and I do not think the Senator will dispute what I say, that but for the courage and devotion of northern troops in Kentucky the rebels to-day would have entire control of the State.

But, sir, the Senator does not stop with this bill. In his violent speeches he has seen fit to rake up and animadvert upon every proposition which has been introduced, and as if to excite a still stronger prejudice in the hearts of the people of the South, he holds them as expressive of the avowed object of the party in power. He even goes further than this, and assumes to decide upon what the dominant party intends to do in the future, and bases his argument upon his own mere conjecture. Listen to his reply to the Senator from New Hampshire:

"Mr. CLARK. Does the Senator understand this to be a purpose of war that we are now about?

"Mr. DAVIS. Yes, sir; this is a purpose of war now. It is an entering wedge. You want to get the head in, and then you intend to push the monster through. That is what you are after. If there was to be no other movement upon slavery, we never should have heard of this bill to abolish slavery in the District of Columbia. It is extreme men that bring parties and nations to ruin. Men in a body will violate pledges that they would never dream of violating as single individuals."

Sir, I think this course is unworthy the honorable Senator from Kentucky. What right has he to talk thus to me and other northern Senators on this floor? When our constituents are defending the soil of his State with their lives, what right has he to taunt us, and assume to divine what we intend to do? I apprehend that when the proper hour comes the Republicans in this body will be bold enough and outspoken enough to say what they mean, and not leave it to the Senator from Kentucky to conjecture what they are about.

The confiscation bill is very obnoxious to him. If I understood his position the other day in a speech which he made, it is this: he is in favor of confiscating the property of the rebels in the South upon condition that you should take that property, slaves and all, and hand it over to the loyal men there. I have his amendment here which he offered, and which is to that effect. But he violently objects to the confiscation bill now pending in the Senate for the reason that it declares that the slaves of rebels shall be made free, and this he affirms will estrange from the Union cause the entire Union sentiment of Kentucky. This I do not believe; and if it should turn out that the honorable Senator is right, I should be very much surprised at it. Well, sir, in order to appease the Union sentiment of the State of Kentucky, and in order to satisfy them with a confiscation measure, he proposes to turn the slaves over to the Union men, and then it will be all right!

Mr. DAVIS. I made no such proposition.

Mr. WILKINSON. Well, sir, I will read the language.

Mr. DAVIS. It is much broader than you state it.

Mr. WILKINSON. Here it is; I will read it from the Senator's printed amendment, as I do not

wish to misrepresent him, and I hope he does not suppose that I wish to misrepresent him.

Mr. DAVIS. I do not, sir.

Mr. WILKINSON. Without reading the whole provision, his amendment provides that—

"All the property and estate of every kind soever, real, personal, or mixed, corporeal or incorporeal, and every right whatever, legal or equitable, in possession, reversion, or remainder, or in action, of each and every person being a citizen of the United States, who shall then be engaged in levying war against the United States, or shall be adhering to their enemies, giving them aid and comfort, shall be forfeited for and during the natural life of the owner or owners thereof, to each and all the loyal citizens of the United States, who may have heretofore, or who shall hereafter, suffer loss and damage by reason of any forfeiture, confiscation, conversion, appropriation, or seizure of any property, estate, or rights of what kind soever."

Mr. DAVIS. And all who fall in battle, or who are disabled permanently in service.

Mr. WILKINSON. But the Union men who suffer the loss must be the people in the slave States, because as the southern army has not gone into the North, there will be no northern claimants for any portion of these slaves or this property. Now I am at a loss to believe that the people of Kentucky are so mercenary as that, I am at a loss to believe that the magnanimous and noble people of the State of Kentucky can be induced by any such compensation held out to them to support a measure which they would otherwise oppose.

Mr. DAVIS. Will the Senator allow me to interpose a single word of explanation?

Mr. WILKINSON. I am nearly through.

Mr. DAVIS. Very well.

Mr. WILKINSON. I should hate to think so poorly of the people of Kentucky as the Senator would have me think of them. I cannot believe that the Senator is correct in the estimate which he places upon his own constituents. But, sir, he alluded the other day to the case of a certain lady in this city, a Mrs. Beall, who had some slaves and hired them out for an aggregate sum of about nine hundred dollars a year, as an instance of the hardships that would arise under this bill. The Senator stated that this woman, who now receives annually for the services of her slaves about nine hundred dollars, would under this bill receive as compensation not much more than that sum. I thought the statement made by the Senator was a little singular, and this morning a gentleman of high character handed me a memorandum explaining who this Mrs. Beall is. It turns out that she is a woman who has been rendering aid and comfort to the enemy. I will read it:

"Mrs. Beall and her daughter, during the months of May and June, were the bitterest kind of secessionists; they said repeatedly that they hoped Jeff Davis and the confederate army would march into the capital and drive out Lincoln and all his Cabinet. They exulted over the death of Ellsworth, and said they hoped every 'Lincoln soldier' would be served in the same manner; they hoped General Scott would be killed or poisoned, and called him a traitor to his native State; they boasted of having written letters to Jeff Davis conveying valuable information; they called the soldiers of the Union army dirty, miserable trash—in short, exhausted the vocabulary of epithets in denouncing the Union army and the present Administration. They said if the confederate army would take the city they would throw open their house for the Virginia chivalry; they said they would convey information to the confederates at every opportunity, and boasted that they knew of channels through which they could and did send intelligence to the confederates; they said the South had a right to secede, and that the North had no right to object; they hoped the Union army would all be poisoned or die of disease."

This paper was handed to me by a very respectable gentleman, and it was written by a man who boarded in the house of this woman this summer, a friend of his. That is the authority to which the Senator referred for the purpose of proving the hardship of this bill.

Mr. President, I regard this measure to abolish slavery in the District of Columbia as eminently just, humane, and Christian, and as tending to obliterate all treasonable sentiments in this District, and to rear up here the standard of the Constitution and the Union. For this reason, I support the measure.

The PRESIDING OFFICER. The question is on the adoption of the amendment proposed by the Senator from Delaware, [Mr. SAULSBURY,] on which the yeas and nays have been ordered.

The Secretary called the roll.

Mr. SAULSBURY, (who at first voted in the affirmative.) I will change my vote, and vote nay.

The result was announced—yeas 0, nays 35; as follows:

YEAS—0.

NAYS—Messrs. Anthony, Browning, Carlile, Chandler, Clark, Collamer, Davis, Dixon, Doolittle, Fessenden, Foot, Grimes, Harlan, Harris, Henderson, Howard, King, Lane of Indiana, Lane of Kansas, Latham, Morrill, Pomeroy, Powell, Saulsbury, Sherman, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Willey, Wilmot, Wilson of Massachusetts, Wilson of Missouri, and Wright—35.

So the amendment was rejected.

The VICE PRESIDENT. Two amendments have been submitted, and ordered to be printed, one by the Senator from New Hampshire [Mr. CLARK] and one by the Senator from Kansas, [Mr. POMEROY.] The Chair does not recollect which was first proposed.

Mr. MORRILL. That of the Senator from Kansas.

The VICE PRESIDENT. The amendment of the Senator from Kansas will be read.

The Secretary read it, as follows:

Insert, as a new section:

SEC. —. *And be it further enacted*, That the commissioners provided for in this act shall be, and they are hereby, authorized to make and effect an equitable and just settlement of all demands existing between the master or owner and the so-called slave; allowing the master a reasonable compensation for all supplies of food, clothing, or money he may have paid said slave, and for all expenses he may have incurred in consequence of his sickness or disability, as well also as for all the master may have expended for his moral or intellectual education. At the same time, to settle and adjust this account, said commissioners shall allow the slave (and charge the same against his master's account) a just and fair compensation for all services rendered and labor performed; and such balances as the said commissioners may find to be actually due, either to master or slave, shall be paid to each respectively, out of the money hereby appropriated for carrying into effect the provisions of this act. All persons under the age of twenty-one years appearing before said commissioners shall be represented by their parents, if living, and within the District, and adjudged competent and responsible to act in behalf of an interest for others. If non-residents, or judged incompetent, or not trustworthy, said commissioners shall appoint trustees or guardians for all minors and incompetent persons, whether master or slave, under such rules and regulations as they may prescribe: *Provided, always*, That in no event shall the amount found to be due either master or slave exceed the average sum of $300 for each person liberated by the provision of this bill.

Mr. WILSON, of Massachusetts. I think we have some business to do in executive session to-day, and perhaps it would be as well to submit now a motion to proceed to the consideration of executive business.

Mr. SUMNER. As I should like to make some remarks on this bill, and particularly on the constitutional questions involved in it and this very question of compensation, and as it is too late to proceed to-day, I move that the further consideration of the bill be postponed until to-morrow at one o'clock.

Mr. FESSENDEN. Perhaps I ought to notify the Senate that in the existing state of business I shall feel obliged to ask the Senate to-morrow to take up the naval appropriation bill.

Mr. SUMNER. Then I would ask my friend if he understands that the question of iron-clad steamers will be discussed in connection with that bill?

Mr. FESSENDEN. I do not know anything about that. The bill itself is a very short one, and will probably not elicit much discussion. I do not know what the Naval Committee may have. I hope they will not endeavor to embarrass the bill with any untenable proposition.

Mr. GRIMES. I desire to say in answer to the inquiry of the Senator from Massachusetts, and the suggestion of the Senator from Maine, that the Naval Committee do not desire to embarrass the naval appropriation bill, but they intend to attempt to make it acceptable to the people of the country by offering an appropriation of very considerable magnitude for the construction of iron steamers, and I apprehend there are several questions growing out of that bill that will probably occupy the entire time to-morrow.

Mr. FOOT. There is the purchase of the Stevens battery.

Mr. GRIMES. Yes, and other propositions.

Mr. FESSENDEN. That only shows that the sooner the naval appropriation bill is taken up the better. We certainly cannot wait for the termination of this debate.

Mr. SUMNER. I do not wish to make a motion that shall come in conflict with the business of the Senate in charge of my honorable friend from Maine; and if it be agreeable to the Senate—though I make the motion with regret, for if I took counsel of myself I should rather proceed with the consideration of the question now in hand—I move that it be postponed until Friday next.

Mr. FESSENDEN. It would be better, perhaps, to postpone it simply until to-morrow, and then I can make my motion.

Mr. SUMNER. I think it is better that we should have an understanding in advance, and I therefore move that the further consideration of this bill be postponed until Friday at one o'clock.

Mr. FESSENDEN. Perhaps it would be as well to adopt the ordinary course, postpone this bill until to-morrow, and then at one o'clock to-morrow I shall move to postpone the prior orders for the purpose of taking up the naval appropriation bill. However, I have no objection to the motion of the Senator from Massachusetts, if he insists upon it.

Mr. SUMNER. I think it will be more convenient, in view of what has been stated by my friend, if the measure now in hand shall be postponed until Friday at one o'clock.

Mr. WILLEY. I have an amendment which I propose at the proper time to offer to the bill now pending, and inasmuch as it seems likely that the matter will be discussed to some extent further, and inasmuch as I have no doubt that the proposition by way of amendment which I shall offer will lead to discussion, I ask leave to submit it now and have it printed.

The proposed amendment was ordered to be printed.

The VICE PRESIDENT. The question is on the motion of the Senator from Massachusetts to postpone the further consideration of the bill until Friday next.

Mr. MORRILL. Before the bill is dispatched by arrangements which I see are being made here, I desire to say that the bill having been so long before the Senate, I shall consent with very great reluctance to its being postponed. Of course, if it is the pleasure of the Senate to take up the consideration of other bills, I must yield; but I think this bill had better go over until to-morrow, and we can see what business we have for to-morrow, and we may then consider the question whether the Senate will postpone this bill to give place to other business.

Mr. TRUMBULL. I hope there will be no understanding by which this subject is to be put off for any other subject. We make very little progress when we take up a bill like this and discuss it for a number of days, and then lay it aside to take up something else. When it is again taken up, the discussion has to be gone over again. I have been very anxious to have this bill disposed of, and I discover that I have myself made a mistake in suffering a bill which was under discussion for a week to be pushed out of the way by this District of Columbia bill. The confiscation bill will come up again, and that will be discussed, whereas if we had held on to that bill when it was before the Senate, I doubt not we could have concluded the discussion upon it before this. And now if this very important bill, which, in my judgment, is altogether more important than the question of passing the naval appropriation bill this week, unless there is something I know nothing about—I suppose this is the naval appropriation bill for the next fiscal year——

Mr. FESSENDEN. No, sir; for this year.

Mr. TRUMBULL. If it is needed now, if there is urgency about it, I do not know of it. I was not aware there was any special reason why the bill should pass this week; and I doubt not if the Senate will turn its attention to this bill to abolish slavery in the District of Columbia, which is, in the judgment of the Senate and in the judgment of the country, in my opinion, one of the most important bills pending, we may finish it this week. If you lay it aside and take up another measure which is to be discussed, as we are now informed by the Senator from Iowa, this bill will come up and the whole story be gone over again. I hope that unless there is something that the Senate is not apprised of impelling the Senator from Maine, he will not insist, until we get through with this bill, upon bringing up the naval appropriation bill. If there is anything in the exigencies of the country connected with naval movements that requires us to act, we shall have to give way. But my judgment is that we shall accomplish more by holding on to this bill until we finish it; and if the Senate will come here to-morrow

with a determination to have a final vote upon the bill now pending, we can get it. Let us stay here a little late. We have that to do sometimes. We have no previous question here in the Senate. The only way to bring a question to an issue is for Senators to remain in their seats. But if we are to go on with a speech a day, some gentleman getting the floor perhaps at two or three o'clock and saying that he has something to say but it is rather late now, and an adjournment takes place until the next day, and then he makes his speech, and another gentleman pursues the same course, and perhaps forty speeches are to be made, I know not how many, it will take to midsummer to get rid of this bill. I trust that the bill under consideration will not be postponed for any measure until we get a final vote upon it.

Mr. WADE. I move to go into executive session now.

Mr. SUMNER. Before that question is put, I desire to make a remark. It seems to me we had better settle this question now rather than have it come up to-morrow. The Senator from Maine and the Senator from Ohio say we can settle it to-morrow. I do not want to have it settled to-morrow. I prefer to settle it to-day; and let us have a plain understanding whether the business the Senator from Maine has in charge shall be proceeded with to-morrow, or whether this shall be.

Mr. WADE and Mr. FESSENDEN addressed the Chair.

Mr. WADE, (to Mr. FESSENDEN.) Your motion will prevail if you say the Treasury demands it. We know that; and why take up time about it now?

Mr. FESSENDEN. I am willing to yield to my friend's motion. I think it is a proper motion. I simply gave notice before that to-morrow at one o'clock I shall make the motion.

The motion of Mr. WADE was agreed to; and the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *March* 26, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

CHARTERED VESSELS.

The SPEAKER laid before the House a communication from the Secretary of War, transmitting, in compliance with a resolution of the House, a report in regard to the vessels chartered by the War Department; which was laid upon the table, and ordered to be printed.

INVALID PENSIONERS.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting, in answer to a resolution of the House, a report in reference to the charges for periodical examination of invalid pensioners; which was referred to the Committee on Invalid Pensions, and ordered to be printed.

UNITED STATES COURTS IN VIRGINIA.

Mr. BLAIR, of Virginia, by unanimous consent, introduced a bill to regulate the time for holding the district court of the United States for the western district of Virginia; which was read a first and second time, and referred to the Committee on the Judiciary.

ALEXANDER CUMMINGS.

Mr. DAWES. I ask the unanimous consent of the House to make an explanation touching the character of one of its committees.

There was no objection.

Mr. DAWES. Mr. Speaker, on the 17th of December last, the committee appointed by this House on the subject of Government contracts made a report to the House, in which they called attention to the manner in which a person by the name of Alexander Cummings had been expending certain money deposited in New York subject to his order, based upon the testimony furnished by that gentleman to the committee on the 6th of September last. That report was before the House without notice from that gentleman, until the 6th day of the present month, a period of about three months, when it so happened that every member of the committee had, by order of the House, absented himself from the city in discharge of his duty. Then, in the absence of every member of the committee, this Mr. Alexander Cummings, through his representative, the gentleman from Pennsylvania, [Mr. KELLEY,] put upon the records of the House charges against the personal character and integrity of that committee. It was done in the absence of the committee.

There have been frequent allusions to these charges in the editorial columns of the press throughout the country, couched in such particular and similar language as to leave no doubt of their common origin. A few days since there appeared an editorial in one of the leading papers of the city of New York, before any member of the committee had as yet arrived in the city of Washington, calling particular attention to the fact that it had made no answer in the House to these allegations, and that therefore they must be taken as confessed. The House will therefore excuse the committee for embracing this the first moment after their return to this city in asking its indulgence, while they respond to these charges against their personal integrity.

The committee do not propose to take up the time of the House, so engrossed by other subjects, with any sort of discussion of the arguments and reasons—if anything in his document may be called arguments and reasons—offered by this gentleman in justification of his course. They will let all he has offered in his own defense stand by the side of his own story told under oath on the 6th of September last, and only desire to call the attention of the House to the grounds and evidence upon which he saw fit, in the absence of the committee, to attack their integrity. These charges were made on the 6th day of March, and in the course of business since transacted in the House, they have doubtless passed out of the minds of all except those interested in the nature of those charges. They are in brief and in substance, as follows: that the committee, after having examined him and prepared their report to be made to this House, refused him, on his application, the permission to have examined before the committee a gentleman who would explain all matter contained in that report reflecting upon his expenditure of that money; that they refused to have presented to the committee and to examine into the vouchers furnished by him that would explain all of those transactions. That the committee also, in pursuance of its purpose, altered and falsified the record testimony furnished by him to the committee; and that they did all of this willfully and perversely, and for the purpose of creating a sensation in the House and before the country at his expense, and of convicting him of charges which the committee knew were false.

These, in substance, are the grave charges in the document presented by the gentleman from Pennsylvania, signed by Mr. Cummings, and it is to those charges, and those alone, if the House will permit me a few moments, that I desire to call attention. That document, occupying some eight pages of a pamphlet, has been industriously circulated throughout the country; and I have the honor to acknowledge myself the receipt of a copy from the distinguished gentleman. Its beauty and force and truth can only be entirely appreciated by being compared and read in connection with the sworn testimony of this gentleman before the committee on the 6th day of September last, and occupying thirty-five pages of the printed book of testimony, beginning on page 390. As I cannot believe that the gentleman would swear falsely, whatever he may say in any document not sworn to, I am compelled to examine this sworn testimony in connection with this paper to show wherein the two may differ in order that we may know how much reliance and truth there may be in the written statement now made to the House through the gentleman from Pennsylvania.

The gentleman starts out in his pamphlet with an assertion of this sort:

> "Towards the middle of December, not long after Congress had convened, hearing, greatly to my surprise, through a friend, that the report of the committee, about to be made, contained statements injuriously affecting my reputation, I came to Washington from a sick bed, against the earnest protest of my physician, with the view of seeing the members of the committee, to ascertain, if possible, what was the question, if any, in their minds in relation to my transactions."

He is laboring in the outset under a mistake. The gentleman alleged that before he came to Washington the report of the committee contained statements injuriously affecting his reputation. Now, when he came to Washington there had been no report made to this House, and no report in existence which could contain such statements. He came to Washington in this wise. The testimony he gave in September had been printed, and a copy of the proof-sheets of that testimony had, by courtesy of the committee, been placed in the hands of the late Secretary of War. In consequence of the impression his printed testimony in proof-sheets made upon the late Secretary of War in reference to the manner in which he had expended a portion of the $2,000,000 at the request of the late Secretary of War, placed to his credit in New York, Mr. Cummings came to Washington. The testimony Mr. Cummings gave on the 6th day of September, after it had been taken down in short-hand by the clerk of the committee, was written out by that clerk and placed in the hands of Mr. Cummings for revision, and was kept by Mr. Cummings for four days, and until he became entirely satisfied with the position in which he left himself in that testimony. He returned it to the clerk of the committee with such amendations and alterations as he desired to make, and he left himself upon the record just precisely as he desired to be left. There he rested comfortably and satisfied from the 6th day of September until December, when a copy of the proof-sheets was placed, as I have said, in the hands of the late Secretary of War.

The testimony struck the late Secretary of War very differently from the impression it made upon Mr. Cummings, and consequently Mr. Cummings came to Washington in haste to see what could be done. Neither he nor the late Secretary of War nor any other living man had at that time heard with any truth that the report contained statements touching him, because at that time no report had been made by the committee. He says that finding out this fact he sent straightway to New York for the gentleman who could explain all of the matters about which there was any trouble, and that he requested the committee to permit that gentleman to appear before it with his vouchers, but that the committee ruthlessly, is the word he uses, and willfully in another place, bent on creating a sensation, refused to permit his witness to be examined, and the vouchers which he had in his possession to be opened.

Now, sir, about what was this witness to be examined, and about what was he to produce vouchers? There had been placed in the hands of three distinguished and upright gentlemen of New York city $2,000,000, subject to the order of Alexander Cummings, without stint or restriction. He had expended an indefinite, and, to the committee, an uncertain sum, out of that $2,000,000, and the committee were trying find out two things—and they found great difficulty in finding out these two things—it was first, how much of that $2,000,000 he had actually expended; and second, what he had expended it for; and it was in the vain endeavor to ascertain these two facts that they drew out by examination, and by direct and pointed interrogatories, the long story of Alexander Cummings, occupying thirty-five pages of this printed document; and that was submitted to him to add to, or subtract from, to his own heart's content, and he left it there.

One would suppose, with that simple object in view, that an honest transaction was capable of being so explained in half that number of pages. One would suppose that if a man had an opportunity to put the matter in his own language, he could have no cause to complain when he got through. But it seems that, after all, he was not satisfied, and he complains that we would not permit him to show his vouchers. Now, sir, upon pages 396 and 397 of this testimony, you will find that he promised to deliver these vouchers to the committee himself. On the last page of the testimony you will find that he did deliver the vouchers, and that they are now in the appendix.

The committee would fairly be authorized, then, I think, in coming to their conclusion that he did deliver all the vouchers he desired. But in point of fact this gentleman is mistaken when he says that he produced a witness with vouchers, and asked us to examine that witness, and that we refused to examine him. When this man came before the committee from New York, after his attention had been called to the way he had left

his own testimony, he asked us to examine a certain gentleman in New York. He forgets to state in his pamphlet that he brought with him the affidavit of another person to explain that transaction, and proposed to offer that in explanation of what became of that wandering $140,000, about which he had omitted to state anything in his examination. He forgets to state that he brought in his pocket the affidavit of another man to explain what became of that; but that, upon the advice of his friends, he concluded not to submit it to the committee. He forgets, also, to state that when he proposed to have this Mr. Blatchford examined, with his vouchers, that the committee told him that they would examine him at any time; and when this Mr. Blatchford arrived in the city of Washington, and we were notified by Mr. Cummings that he was here, that we appointed a meeting of our committee for the very purpose of examining him in our committee room; but that the moment it was found the committee was ready to examine him, the anxiety of being examined at once died away, and there was not the slightest desire or disposition, either upon the part of Mr. Blatchford or Mr. Cummings that Mr. Blatchford should be examined. So completely did that indifference possess both of them, that they both omitted to come to the committee room at all on the day appointed, and that, too, before we had made our report.

Mr. KELLEY. Will the gentleman tell me about what date he speaks of?

Mr. DAWES. I speak of a time about two hours and a half after we were notified that Blatchford had come into the city in the morning train from New York.

Mr. KELLEY. In December?

Mr. DAWES. In December, I think. We were informed at nine o'clock in the morning that Mr. Blatchford had come in that morning, and we immediately appointed a meeting in our committee room, and repaired there, for the purpose of hearing Mr. Blatchford's statement; but neither Mr. Cummings nor Mr. Blatchford appeared there at all. Mr. Cummings was notified. We did not see the light of Mr. Blatchford's countenance at all. Having spent two hours of time, or thereabout, that day waiting for this Mr. Blatchford to come with his vouchers, which Mr. Cummings had himself promised to bring on the 6th of September, and which we supposed he had brought when he brought his vouchers, the committee made their report the next day. But coming to the conclusion that this was merely a preparation on their part for some subsequent scene or complaint against them, the committee concluded that they would summon this Mr. Blatchford themselves, and see whether there was anything behind all this. They therefore issued their summons for Mr. Blatchford the next day, and that summons I have in my hand. On the back of the summons is the return of the officer, stating that the summons was served at the place of Mr. Blatchford's residence in this city that very day. And that return fixes the day as the 18th of December, 1861. This transaction with Mr. Cummings occurred, if I remember aright, on Monday morning. I am not certain of the day of the week; but it was before the report was made, which was on the 17th day of December.

But notwithstanding that summons, Mr. Blatchford has failed to this hour to present himself, as has also Mr. Cummings to present any witness at the committee room.

Mr. STEVENS. Does not the gentleman know that Mr. Blatchford has had all his vouchers settled at the exact amount stated by Mr. Cummings?

Mr. DAWES. I am not discussing that matter.

Mr. STEVENS. But the gentleman leaves the impression that they were not; that there was a deficiency. Does not the gentleman know it?

Mr. DAWES. The gentleman shall be accommodated. I do not know that fact.

This gentleman swears on the 6th day of September, as appears by the printed testimony to which I refer, that of the $2,000,000 placed to his order in New York, $1,750,000 of it was paid back into the Treasury of the United States in New York; that $250,000 of it was expended, $90,000 by Mr. Blatchford and $160,000 by himself, and that he will produce the vouchers. He now states in this pamphlet of his that the amount expended by Mr. Blatchford is $165,071 99. Here is a slight discrepancy between his sworn testimony on the 6th of September and his statement made in this House. He stated also in his sworn testimony that he had himself expended $160,000 of that $250,000. He states here, in his statement to the House, that he expended $221,734 40, and that both together had spent $390,000, instead of $250,000. His sworn testimony, after he had taken it home and compared it with the vouchers, and added to it and subtracted from it as he pleased, and returned it to the clerk of the committee to his entire satisfaction, shows a discrepancy between it and the statement he made here on the 6th of March of the modest sum I have stated, the difference between $250,000 and $390,000. He takes care in the outset to say that this money was placed in the hands of these men subject to the order of Governor Morgan and himself, in a manner that the House and the country may infer that Governor Morgan and himself had so expended it, forgetting that upon the 415th page of this testimony he had answered a certain interrogatory in this way:

"*Question.* Did Governor Morgan act in this business at all?

"*Answer.* No, sir."

He forgot that Governor Morgan, in the very outset and at the very first moment he heard of it, declined to have anything to do with it, and that it was Mr. George D. Morgan and not Governor Morgan, who had helped to expend this money. Whether it was in order to compliment Governor Morgan that he so persisted in coupling Governor Morgan's name with his in the expenditure of this money or not, I do not know; but it is certain that the name of George D. Morgan, just at this time, would have little weight in the public mind in creating confidence in the propriety of this expenditure. So closely connected is the name of George D. Morgan, at this moment, with commissions and private fortunes made out of the public necessities and the public Treasury, that I commend his sagacity in omitting to mention the fact that it was by the help of George D. Morgan that he expended this money and endeavored to gain credit from the name of Governor Morgan.

But, sir, this is not all. I ask the Clerk to read from the paper which I send up what is marked in pencil.

The Clerk read, as follows:

"There retained, under the authority of the Secretary of the Treasury, by Messrs. Dix, Blatchford, and Opdyke, $140,000, besides what I have stated in my testimony, which is accounted for by vouchers. A. CUMMINGS."

Mr. DAWES. The document which I have alluded to, introduced by the gentleman from Pennsylvania, [Mr. KELLEY,] goes on to state that the committee altered what has been read by the Clerk; and that they not only altered it, but falsified it; and not only altered and falsified it, but that they did it purposely, and for the unworthy and wicked purpose of creating a sensation in this House and in the country, and of convicting him of that which they knew was false. Now, sir, I wish to state that the note which has been read by the Clerk is at the bottom of the paper upon which the clerk of the committee wrote out his testimony, and upon one of the leaves which was submitted to Mr. Cummings by the clerk, after he had written it out, for his correction and amendation, if he saw fit. After having corrected and altered it as he saw fit, he put at the bottom what the Clerk has read. He then returned it to the clerk of the committee, and the clerk took it to the printer, and the printer set it up, and not a member of the committee ever saw it till yesterday. Now, I ask the Clerk to read what is on the back of that sheet of paper, from the public printer himself.

The Clerk read as follows:

GOVERNMENT PRINTING OFFICE,
WASHINGTON, *March* 25, 1862.

I hereby certify that this manuscript page of the testimony of Mr. Alexander Cummings, given before the investigating committee, was placed in the hands of a compositor of this office, who set up the sixth line from the bottom of the page, "I have retained," &c., believing it to be thus stated in the copy, and that it was so understood by the proof-reader, and passed as correct; that no other person, other than the compositor and proof-reader, had anything to do with thus rendering the meaning of the copy, and that this page of copy has not been out of this office until now, except on one occasion, when it was given to Mr. Cummings, who afterwards returned it.

JOHN D. DEFREES,
Superintendent of Public Printing.

Mr. DAWES. Now, all there is in this matter is that where he says he wrote "there retained," the printer set it up "I have retained." Anybody may look at the manuscript, and half the men who read it will read it "I have retained." I never saw it myself until yesterday. It looks a great deal more like "I have retained" than it does like "there retained." Mr. Cummings admits that he left out the word "was;" that he meant to write "there was retained;" so that nobody could make it intelligible as he had written it; and the copy itself looks as much like "I have retained" as it does like "there retained."

But this man saw fit to charge the committee with making this alteration, and he repeats it over and over again in his statement; and not content with that, he charges them with doing it willfully. I have before me his language. He says:

"It is made equally evident that the statement of the report—still more plainly and offensively repeated in congressional speeches by members of the committee—that a large balance of $140,000 was retained in my possession, is destitute of the slightest semblance or shadow of truth; the only seeming ground for which, at any time, appears to have been a singular misapprehension or an *ingenious and willful alteration of the language of my note to the committee*, and appended to my testimony. The note, as written to the committee, and which is now in *their* possession, is literally and legibly as follows."

Everybody can see how *legible* it is. He says it is now in the possession of the committee. This document of Mr. Cummings bears date the 25th of February, and it not only was not then in the possession of the committee, but was at that very moment in the possession of Alexander Cummings, as the receipt which was given by him for it to the public printer will show. But, sir, it makes no difference in point of fact whether the note shall be printed just as it is printed, or printed just as Mr. Cummings wants to have it printed, and says he intended to write it. It makes no difference in point of fact whether the note is printed "I have retained" $140,000 in the hands of Messrs. Dix, Blatchford, and Opdyke, or "there was retained" in the hands of Messrs. Dix, Blatchford, and Opdyke $140,000, because he says himself that all the money was left there subject to his order. They were his vault, but he carried the key. When, where, and to whom he directed, they must pay, asking no questions, and demanding no vouchers; and he produces here the authority of the Secretary of the Treasury touching this very $140,000. Here is the authority of the Secretary of the Treasury:

WASHINGTON, *May* 11.

Your reservation of fund to meet requisition of War Department, through Mr. Cummings, approved.

S. P. CHASE,
Secretary of the Treasury.

To this he adds:

"It was to this sum, and to the action in relation to it, that I referred in my note, so strangely garbled and misused."

He refers to a sum then left in their hands subject to his order, to answer his expenditures in behalf of the War Department, and therefore it is that it will make no difference whether you read this note one way or the other. But it does affect the personal integrity of a committee of this House when a man charges upon that committee an intentional and willful alteration and falsification of the record testimony, and that for so base and unworthy a motive as is intimated in this pamphlet. I submit the paper to the inspection of the House. I submit the statement of Mr. Cummings by the side of his own sworn statement on the 6th day of September, and I leave that portion of the subject to the candid judgment of the House.

One or two words more touching this pamphlet, and I will relieve the House from this unpleasant matter. The gentleman, towards the close of this document, says:

"The accusations of the report do not stop with those matters with which I was connected, but there seems to be a desire to drag me into others with which I had no connection whatever. Of these, the most unjustifiable is the insinuation that I had some connection with the chartering of the steamer Cataline—an insinuation made indirectly, but significantly, after I had on oath averred that I had no connection whatever, in any way, direct or indirect, with that steamer, nor even knowledge of its ownership or charter."

Now, allow me to ask the House to look at that language critically; "of these, the most unjustifiable is the insinuation that I had some connection with the *chartering* of the steamer Cataline."

Now, sir, I have to say that there is not a word

in the report of the committee, and that there is not a word in any interrogatory put to him in this testimony touching his connection with the *chartering* of the steamer Cataline. The peculiarity of Mr. Cummings during all his long examination was that he could much better answer questions that were not put to him than he could questions that were put to him, and no man can read his testimony without being filled with admiration at the skill and ability with which he could answer questions that were not put to him and his utter inability to answer the questions that were.

Now, sir, who *chartered* the steamer Cataline was never a question of doubt. Nobody had ever any trouble to find that out. It was a matter of record. It was the question as to who *freighted* her that involved great difficulty and long examination. The committee had become satisfied that she was freighted originally on private speculation, and that when the owners could not get her through the custom-house on private speculation down to Annapolis, they got her chartered for the Government through General Wool and Quartermaster Tompkins. Then her freight became the property of the United States through the agency of Alexander Cummings. It was that fact which the committee sought diligently and faithfully to get out of Mr. Cummings. He knew very well that we did not want to know of him who chartered her, but that we did want to know of him who freighted her. The only allusion in the testimony to that subject in connection with him is that which I am about to read from page 412:

"*Question.* Have you any knowledge of the *loading* of the steamer Cataline?

"*Answer.* Not a particle."

The committee then pressed the examination, and asked him about this matter in all varieties of shapes, till they came to the 421st page; and then they put this other interrogatory to him:

"*Question.* If neither the assistant quartermaster in this city, nor the assistant commissary, nor yourself, nor George D. Morgan, nor the Union Defense Committee can inform this committee who loaded with Government supplies the steamer Cataline, can you inform the committee of any mode in which they can ascertain that fact?"

The question is pretty broad. The answer is "I cannot."

And he repeats it emphatically in the document submitted to this House. He says:

"I repeat the averment in the most emphatic and unqualified manner."

Now, I ask the House to listen to a letter of his, which we obtained, not through him but through the Commissary General's department. It is a letter dated May 3, 1861, signed by Alexander Cummings, addressed to the then Secretary of War, which he himself has seemed entirely to forget:

NEW YORK, *May* 3, 1861.

SIR: Acting under your instructions to me under date of April 21, 1861, I have purchased and shipped the following articles for the Government by the conveyances named:

By steamer Cataline: 25 boxes soap, 6 barrels dried beef tongues, 25 casks Scotch ale, 12 barrels pickles, 200 cheeses, 35 quintals codfish, 210 barrels hard bread, 600 hams, 12 barrels white beans, 10 casks London porter, 6 barrels split peas, 25 firkins good butter, 300 boxes selected herring, 18 head beef cattle.

The letter then goes on to state what was shipped by other vessels.

And I have made some other purchases, of not large amount, a list of which I will forward to you when shipped, and a similar list will be sent to the quartermaster, commissary, and ordnance officers here.

I have the honor to be, respectfully, your obedient servant,

A. CUMMINGS,
Agent of the War Department.

HON. SIMON CAMERON, *Secretary of War, Washington.*

If the House were not too tired, I should like to read over again the emphatic and solemn denial of Mr. Cummings that he knew anything as to who loaded the Cataline. But I do not feel at liberty to omit a statement of his in connection with that note attached to the bottom of the last page of his testimony. It commences, it seems, "there retained under the authority of the Secretary of the Treasury." Now, he says that that was originally written, "there was retained," because he prepared an original draft of it before he copied it, and has got that draft now. Well, now, in view of the imperfections of his memory as touching the steamer Cataline, and as touching the expenditures of money—he not coming within $140,000 of the right sum—in view of the fact that my honored friend from Pennsylvania [Mr. KELLEY] does not say that he saw that original draft before this question was raised, or at all, and in view of the fact that Mr. Cummings is so ready a writer—he having been, as his friend says, editor of a daily paper for fifteen years—the idea that he should draw up an original draft of this little thing before trusting himself to put it upon this paper, is so preposterous that all I can say about it is that while I would do anything to accommodate my friend from Pennsylvania, still, if it does not make any difference to him, I will not believe that. If it is true that he did study and prepare that note in the way he now claims he did, it is evident to my mind that he intended some game, and that the paper was studied and prepared to cover up what he had failed to explain in his testimony. It can be construed in no other way. No sensible and reasonable man can hold the position that the editor of a daily paper for fifteen long years could find it necessary to make two copies of such an insignificant note as that. If he did, it could only be because he thought it necessary to study his words so as to catch the committee. He admits, after all, that at last he left out one word, which caused all the misunderstanding of its meaning, if there was any. I exceedingly regret that so much pains on his part to get it correct failed so signally.

Sir, the history of this case would be imperfect if I did not allude to another matter which figures so extensively in this document. There is a constant allusion in it to the severe and painful sickness through which Mr. Cummings had gone, as a sort of fiery ordeal, during the past winter, out of which, as soon as he emerged into health and vigor, he embraced the earliest opportunity to make this attack upon the committee in its absence. Sir, the committee was advised through friends of Mr. Cummings during the winter that he was sick, that he was very sick, that the testimony which he had given before our committee troubled him and weighed upon his mind; that the effort which he had there made to screen and cover up transactions was a thing that rested heavily on his mind, and the committee was assured through his friends that if he ever recovered he would make a full and free statement of the whole matter, and that the men who had put him up to this, and had taken the money and expended it themselves, should bear the burden. The committee was waiting anxiously to know that which they had failed to get from him.

Mr. STEVENS. If that statement were made to the committee it is right that the person who made it should be named, that the statement may be refuted if it were false, as I have no doubt it was.

Mr. DAWES. After the kind remark of the gentleman from Pennsylvania, he can hardly expect that I should be tempted to take advice from him.

Mr. STEVENS. I did not mean to apply the word "false" to the statement of the committee, but to that which was conveyed to the committee.

Mr. DAWES. Let me go through with my story.

Mr. STEVENS. Well, I should like to have the name.

Mr. DAWES. I say that through the friends of this man we had assurances that he was about to make a full statement, a clean breast of it, and to make plain and clear that which was so mystified in his testimony, so that the world might know who expended that money. But when he came to get well, the political necessities of his principal in this matter happened, at the time, to be so pressing that it was necessary that that which was early promised to be a full statement of what had been done with that money was turned into an accusation and assault upon the integrity of the committee. As has been suggested by a friend near me, this was only an exemplification of the lines:

"When the devil was sick, the devil a monk would be,
When the devil was well, the devil a monk was he."

When Mr. Cummings leaves the House to infer that that is the only transaction which he had with the Government, he omits to state, what appears in the printed testimony, that, through the instrumentality of this same Secretary of War, he obtained a little modest contract for seventy-five thousand pairs of shoes, at the still more modest price of $2 20 a pair, and that he made a present of that contract to a friend of his in New York, who had done him no other favor than occasionally to indorse a note for him and lend him five hundred or a thousand dollars. The profit on each of these seventy-five thousand pairs of shoes above the ordinary profits of others was thirty cents—making the nice little sum of $22,500 over and above the profits of the manufacturer of shoes under other contracts made about the same time.

Sir, he is not the only one who has desired to have the opportunity to appear before the committee to explain this testimony. It is but just, in order that there may be a full history of this matter, to state that the late Secretary of War just about the same time Mr. Cummings was preparing this attack upon the committee, signified his great desire to appear before the committee that he might explain his connection with these transactions. But when the committee appointed a meeting for that purpose, and notified the late Secretary of War of the time, place, and appeared there themselves ready to examine him to his heart's content, he entirely forgot to appear before them. They sent their messenger to his lodgings to remind him of the appointment, but the messenger could not find him. The moment the committee manifested a readiness, a willingness, an anxiety—and I think I may properly say a commendable anxiety—to search for the truth, and so signified to the late Secretary of War, he seems to have lost all disposition to appear before the committee, but contented himself, instead, with picking a public quarrel of a Sunday with the late chairman of the committee, [Mr. VAN WYCK,] in a public hotel; and satisfied himself with calling the committee liars and thieves, and with giving him notice that Mr. Alexander Cummings was preparing on the first convenient opportunity to show us up.

Sir, neither of these men has as yet appeared before the committee to explain matters contained either in the evidence or report. But when a few days ago a portion of the committee had occasion to appear in Harrisburg, these two men were found there walking arm in arm through the beautiful streets of that city *par nobile fratrum;* and I might add, some of the time at least, "*recubans sub tegmine fagi,*" [laughter,] reposing on their laurels—the one on those won in his Sunday quarrel with our late chairman, the other on those won in his attack upon the committee in its absence. But, sir, although every opportunity was presented, on this as on other occasions, for each of these men to appear before the committee, so as to make this matter plain, neither of them has intimated any desire to appear, at least at any time when they found the committee ready to examine them.

I will state before I sit down, in reply to the suggestion of my friend from Pennsylvania on my right, that these accounts have been passed at the War Department and all settled, that I do not doubt it in the least. It was the easiest thing in the world, the connection was so intimate. The whole matter was so perfectly connected through the whole transaction that it followed quite naturally; there was not the slightest difficulty; the late Secretary of War had so thorough a personal knowledge of the whole thing, as well as his agents and instruments, that it would have been strange if the accounts had not been all settled, and settled satisfactory to Mr. Cummings and his friends. What my friend says, therefore, may be all true, but that does not alter my opinion of the transaction.

I apologize to the House for the time consumed in this matter, though from its intimate connection with the tax bill, which so labors, drawing its slow length along, it is not altogether inappropriate. I apprehend that the people, when they come to pay this tax, will inquire quite as anxiously as the committee did, what became of this money.

Mr. STEVENS. I want to move to go into the Committee of the Whole on the state of the Union. I am sorry that the morning has been taken up in this way, as the whole question will come up for discussion upon some other occasion, I suppose, under these resolutions. I hope, however, I shall be pardoned for detaining the attention of the House for just three minutes in exposing one of these fallacies, as a sample of the whole.

No objection was made.

Mr. STEVENS. Mr. Speaker, the gentleman from Massachusetts informs us by a note, which was read from the public printer, how the error in regard to the publication of that note occurred; that the fault was not with the committee. Now,

it seems to me that when the committee made up their report, they inserted in their manuscript what they call a copy of this note. They have not stated whether they did or not. I find in their printed report they say:

"I have retained, under authority of the Secretary of the Treasury, by Messrs. Dix, Blatchford, and Opdyke, $140,000, besides what I have stated in my testimony, which is accounted for by the vouchers.

"A. CUMMINGS."

The gentleman from Massachusetts says that the use in the printed report of the words "I have retained," was the fault of the printer. Mr. Speaker, I must be permitted to doubt that, and for this reason: whoever will examine what the committee say in reference to this note, will see that they use the expression, "Mr. Cummings stated that he had retained in his hands."

Mr. DAWES. I will remark to the gentleman in explanation of that, that the testimony was printed before the committee made up their report, and they used the printed copy in making up their report.

Mr. STEVENS. And yet here is a report which has gone forth to the world to damn a man's reputation founded upon a statement of fact which is false upon its face. The committee take the mistake, and found upon it their censure of this man as if he had really in his own possession $140,000 of this money; and they go on to state that the money remains unaccounted for, when, if they had read the paper before them at all, they would have known that he had never had a dollar of it in his hands. The gentleman from Massachusetts says the committee, in making up their report, adopted the note as it was printed, with the error in it, without knowing that it was an error. Yet they send forth to the world a report calculated to injure and destroy the reputation of this man, and when their attention is called to the error they excuse themselves by saying that the mistake was not theirs but that of somebody else. They go on to say in their report:

"Mr. Cummings expressly stated that he had drawn out of the hands of Messrs. Dix, Opdyke, and Blatchford $250,000 of the $2,000,000 placed in their hands, and had paid to them $90,000 to cover the supplies they had purchased, and had expended himself $160,000, and that the residue, $1,750,000, by order of the Secretary of the Treasury, was redeposited with Mr. Cisco, the sub-Treasurer. Still, we are informed by this note that Mr. Cummings has retained $140,000 of the money, over and above that stated in his testimony, ($250,000,) 'which is accounted for by the vouchers.' This item seems to have been overlooked by him in his testimony. One hundred and forty thousand dollars is in his hands, over and above the $160,000 for which he has filed vouchers in the War Department, and over and above the $90,000 for which the vouchers are retained by Mr. Blatchford; and he deems it sufficient to state in general terms that it is 'accounted for by the vouchers.' What vouchers; and who has got them? Can the Secretary of War pretend that the national peril and the necessity for immediate action justified these irresponsible expenditures of the public money, with no settlement for four months afterwards, even if there had been no responsible and experienced public officers in New York to perform the duties?"

Now, I say that here is a gross falsification of the record. The committee on Government contracts in their commentary upon the testimony, charge that he had retained in his hands $140,000 unaccounted for, when the testimony itself before them shows that he never had a dollar of it in his possession. I leave the public to judge who falsified the record. I now move to go into the Committee of the Whole upon the tax bill.

Mr. KELLEY. I ask the gentleman to withdraw the motion for a moment.

Mr. STEVENS. I cannot withdraw it.

EXPOSURE OF TROOPS.

Mr. FENTON. I ask the unanimous consent of the House to submit the following resolution:

Resolved, That the joint committee on the conduct of the war be instructed to inquire into the cause of the exposure of large bodies of our troops belonging to the army of the Potomac, consisting of regiments, brigades, and in some instances of whole divisions, who have been deprived of shelter for days and weeks in consequence of having their orders to march countermanded, then again ordered to march and again countermanded, without adequate food and protection, and as to who is responsible for this apparently needless exposure and suffering of our troops.

Mr. WICKLIFFE and others objected.

Mr. FENTON. I move to suspend the rules.

The SPEAKER. That motion is not in order at this time.

TAX BILL.

Mr. STEVENS. I ask that the vote may be taken upon my motion.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed, as a special order, the consideration of the bill (H. R. No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

The CHAIRMAN stated the sixty-fifth section of the bill to be under consideration.

Mr. PORTER. I propose the following as an additional section:

SEC. 66. *And be it further enacted*, That nothing contained in any of the preceding sections shall be construed to require a license to be taken out by any public officer, in order to authorize him to sell at public auction lands, tenements, or hereditaments held in mortgage to secure public or trust funds of any State or county.

I will state that in most of the western States there are trust funds held, some of them by the State and others by the counties, for the support of common schools. These funds are loaned, in small sums, to citizens, upon mortgage security; and upon the non-payment of the interest, when due, or of the principal, when due and demanded, the lands are sold, not under any judicial proceeding, but under a statutory power, upon notice. The officers who have the management and control of this fund, on the non-payment of the interest, or of the principal, when overdue and demanded, expose these lands for sale, not under a decree of any judicial tribunal, but under the statutory power conferred upon them. As the bill now stands, all these officers, whose duty it is to cry off these sales of land for the benefit of these trust funds, will be required to take out a license. Paragraph two, on page 52, provides that—

Auctioneers shall pay twenty dollars for each license; and that every person shall be deemed an auctioneer within the meaning of this act who shall offer property of any kind for sale to the highest or best bidder, excepting such sales as may be ordered to be made by the decree, order, or judgment of any judicial tribunal.

Mr. HOOPER. That paragraph was amended.

Mr. PORTER. I think that the amendment only applied to persons who were administrators, and not to those who have the control and management of these trust funds.

Mr. HOOPER. The paragraph was amended to provide that those should be considered auctioneers whose business and occupation it is to offer for sale, &c. That accomplishes the object the gentleman has in view.

Mr. PORTER. I was necessarily absent a few moments when the section in question was pending, and did not know that that amendment had been offered. I withdraw my amendment.

Mr. HOOPER. I move to amend the pending paragraph by inserting the words "or delivery;" so that it will read:

Second. He shall on the first day of each and every month after the day on which this act takes effect, as hereinbefore mentioned, make return of the products and sales or delivery of such manufacture in form and detail as may be required, from time to time, by the Commissioner of Internal Revenue.

The amendment was agreed to.

Mr. BIDDLE. In the same paragraph it will be observed that these returns are to be made on the first day of every month. These returns in many cases will be voluminous, and sometimes it may be impossible for a manufacturer to make his return on the first day of each and every month. Therefore I suggest that the words "within ten days after" be inserted instead of the word "on;" so that it will read, "he shall within ten days after the first day of the month," &c.

Mr. HORTON. There is a provision in the bill already that the notice shall issue only in case of a failure to make a return within ten days after the first day of the month.

Mr. BIDDLE. Where does that appear?

Mr. HORTON. I cannot point to it at this moment, but I know that it is in the bill.

Mr. LOOMIS. I think this duty of making the manufacturer submit monthly returns is unnecessary and burdensome, and I move to amend the section by providing that the returns shall only be made quarterly.

The Clerk read the amendment to the amendment, as follows:

Strike out the words, "on the first day of each and every month," and in lieu thereof insert "at the end of each quarter year, namely, on the first Monday of the months of August, November, February, and May in each year."

Mr. LOOMIS. It will be just as well for the Government to have these returns made quarterly, as every month, while it will be much more convenient for the manufacturers. My amendment will also obviate the objection of the gentleman from Pennsylvania.

Mr. HORTON. I hope that the amendment will not prevail. There are many manufacturers who ought to make their returns monthly. It is necessary that some of them should be made every month. Take, for instance, those who are engaged in the whisky business. It will do no harm to have them make their returns monthly. The amendment of the gentleman from Connecticut will be injurious to the revenue and of no benefit to the manufacturers, and I hope that it will not prevail.

The amendment to the amendment was rejected.

Mr. HALE. I move to insert the words "at such time as they may be required." That will obviate the objection of my colleague, and it will leave it with the Commissioner of Internal Revenue to regulate the making of these returns as he may see proper. I think that it is a proper discretion to confide to him.

Mr. HORTON. I submit to the committee that it is not wise to put the whole management of this legislation into the hands of the Secretary of the Treasury or of the Commissioner of Internal Revenue. Those who pay taxes want to look into the law and to see what the law exactly prescribes. Therefore I think that no discretion ought to be conferred not absolutely necessary.

The amendment to the amendment was disagreed to.

Mr. BIDDLE. After the scrutiny of the bill by several gentlemen around me, we have not been able to discover the provision referred to by the gentleman from Massachusetts. If it is in the bill it is where it cannot easily be found, and I hope, therefore, that my amendment will be adopted.

Mr. HORTON. I am quite sure that there is in the bill a provision for certain days of grace. It is necessary to fix the day when they shall commence. If the gentleman's amendment be adopted, ten days will be given here and ten in another place.

Mr. ENGLISH. I have looked through the bill, and I can find no such provision as that referred to.

Mr. HORTON. I am not mistaken about there being such a provision in the bill. If there is not, I will go for putting one in at the proper place.

Mr. RICE, of Massachusetts. It seems to me that the amendment of the gentleman from Pennsylvania ought to be adopted, for in many cases it will be impossible to make returns on the first day of the month. No matter whether the provision is in the bill or not, it will do no harm to have the amendment inserted at this place.

On a division there were—ayes 40, noes 20.

Mr. BIDDLE demanded tellers.

Tellers were ordered; and Messrs. LOOMIS and COX were appointed.

The amendment was adopted; the tellers having reported—ayes 49, noes 44.

Mr. BLAKE. I move to add at the end of the paragraph the following:

Provided, That this section shall apply to the manufacturers of all distilled spirits manufactured previous to the 1st day of May, 1862, and sold after the passage of this act.

That is necessary to make the paragraph conform with amendments already adopted.

Mr. HORTON. I hope that the committee will not adopt this amendment, for the simple reason, in my apprehension, that it is against sound principles of legislation to spring any snap judgment because the subject-matter is whisky. This tax is to be a part of the permanent policy, I am afraid, of the country. But do not let us impose a tax upon a man without a moment's notice, simply because the subject-matter is one about which some people have peculiar opinions. I would as soon do wrong to one class of men as to another. I think the amendment is wrong, and I hope that it will not be adopted.

Mr. BLAKE. It is not because of any peculiar opinion I have on this subject that I offer this amendment. The manufacturers of whisky have for months been springing a trap on this House in piling up hundreds of thousands of gallons of whisky manufactured before the bill could take effect to collect the tax.

I do not believe with my colleague that a bill

of this kind is to become the permanent policy of this country—I should be sorry to believe any such thing. It is a temporary measure to meet the expenses of the war now upon us, and when the war is terminated it will be done away with. I hope that no such measure will be put upon us as a permanent policy; but God forbid that this bill shall be a permanent policy for this country. While war is upon us, while rebellion is raging, let us impose a tax wherever we justly can. Let us tax every article that will bear taxation. This is an article which can and ought to bear taxation.

Mr. SHEFFIELD. I move to amend the amendment by striking out the last word. It appears to me that there are a great many things in this bill which are coming in collision with the prejudices of the people of this country, and which are calculated to make the bill odious. The amendment suggested by the gentleman from Ohio seems to me a very unjust one, and one which will result in no practical good if it is adopted, for the reason that it can be avoided very easily. It is only the manufacturer who is to return the amount of whisky on hand, and no one else; and the tax will be imposed upon the manufacturer who holds the whisky at that time, and no one else. All the manufacturer then has to do is, to transfer the whisky to some other person, and thereby avoid the tax. The duty then will be only held out as a lure to evade the law, and the law will be evaded, and no practical good will result. Whenever a law can be evaded, my experience is, the law is brought into disrepute, and is deprived of that moral power which is the strongest guarantee of its being observed. If a law upon its face commends itself to the judgment of the people, it carries with it a moral power which will do more than a whole army of police officers towards its execution.

Mr. KELLOGG, of Illinois. My excuse for speaking upon this subject is, that a very large amount of the productions of our country are manufactured into high wines, as they are called. Corn is selling in the western country at ten and twelve cents a bushel. Whisky is taxed fifteen cents a gallon. Now, it is proposed to tax this article, not as all other articles are taxed under the principle of the bill, but to tax all of it that may be made between this time and the time when this bill goes into operation. It is singling out that article which is manufactured from the productions of the agricultural portions of the country, and fixing upon it a tax three months in advance of the tax upon all other articles. Now, I ask the good sense of this committee, not whether this is proper, but whether it is honest? Is it honest to tax the productions of my country three months in advance of all other productions of the country? I do not oppose this amendment because the subject of it happens to be whisky, but because it proposes a tax upon the productions of my constituents; and I will not remain silent when an effort is made, unjustly and unfairly, to tax their productions three months in advance of any other articles.

A part of the spirits is made into beverages. When that is done, and when the proper time to tax it comes, tax it as high as you please, and I will never open my mouth or utter a word in opposition to it. For if you tax it so high that not a drop of it will be drank you will confer a benefit upon the country. But when you step out of the line of policy pursued in this bill, and take any production of the people and put upon it a ruinous taxation three months in advance, I can only rise in my place, which I do now, and protest, in the name of my constituents, against this unjust and unparalleled mode of taxation.

Mr. SHEFFIELD, by unanimous consent, withdrew his amendment.

Mr. WADSWORTH. I renew the amendment. The objection I have to this course of legislation is, that when you impose a tax upon whisky or any other article in existence, as onerous as this tax bill will be, you will ruin a great many men. In my judgment, any tax which is levied ought to be put off to as remote a day as possible, in order to give the business of the country an opportunity to arrange itself and accommodate itself to the change. It is no answer whatever to say that a great many persons will speculate in whisky or any other articles. You must give the business of the country, through the manufacturers, venders, &c., by postponing the operation of the bill, time to adjust itself to the coming crisis. Under the prospect of a tax by this bill of fifteen cents a gallon upon liquors, the cheap whisky manufactured at the West went up from thirteen and fourteen to twenty cents a gallon, and the tax has already been paid by those who have purchased it. Now, to change the general policy of this bill, and to throw the burden of taxation immediately upon any particular article, or upon any particular business engaged in the manufacture of that article, is unjust and ruinous. The whole principle is wrong. As remarked by the gentleman from Illinois, [Mr. KELLOGG,] it discriminates against one branch of industry. It is applying a tax to corn which is manufactured into whisky which is not applied to anything else, and it is throwing an unexpected burden upon one branch of manufacture which will prove ruinous to very many persons. It is a gross departure from the principle of the bill, which is that the taxes shall be indirect as far as possible. The principle of the bill never applies the tax directly to an article in existence without giving day to the business of the country. Because whisky is distasteful to some persons is no reason why it should be taxed onerously. If gentlemen do not want whisky they need not drink it.

Mr. HARRISON. As I understand the proposition of the gentleman from Ohio, it is not to levy a tax upon whisky that is now manufactured, and which may be disposed of prior to the taking effect of this bill, but only to whisky which may be on hand at the time the act takes effect.

Mr. WADSWORTH. It will apply to all whisky which is now manufactured, and which may be sold after the time the tax takes effect. That will suspend the sale of it, and in a great measure the manufacture of it.

Mr. WICKLIFFE. I can relieve the gentleman in reference to this matter. We have already got this provision in the bill, and it is not necessary to put it in a second time. This labor all goes for nothing.

Mr. MALLORY. I am opposed to the amendment of my colleague. I only desire to say, in addition to what he has said, that we have had some experience since the adoption of this amendment the other day, which shows the extent to which this course of legislation upon the part of the House disarranges the business of the country. Before that amendment was introduced the stock of whisky on hand had advanced in the markets of both the East and the West, I think, some nine cents a gallon. Since the adoption of that amendment by the House, it has fallen six cents a gallon. By playing this game of battledoor in this House you see how we are disarranging the business of the country. It is a kind of play which I hope the House will see the impropriety of continuing.

Mr. WADSWORTH, by unanimous consent, withdrew his amendment.

Mr. BLAKE. I move to amend by striking out the last two words of the amendment. I will say to the House that I have no desire to make war upon any particular article of manufacture in this country. Such a thing is not within the range of my thoughts; but this bill goes upon the principle of sifting out certain articles for the purpose of raising a revenue to support the Government in our present emergency, and in doing that it is sought to reach such articles as will pay the burden with the least inconvenience to the people. Do not talk about having a uniform tax upon all the business of the country. The bill which I hold in my hand is a living, moving, and active commentary against any such idea as that. It does discriminate, and it does pick out a variety of articles and impose a tax upon them in order to raise a revenue.

Mr. ENGLISH. Will the gentleman point out one single instance in which the bill discriminates in the manner in which he proposes to discriminate?

Mr. BLAKE. Perhaps it does not discriminate in the same way, for there is no article in reference to which speculators can so readily take advantage of our legislation as whisky, and therefore arises the necessity of this kind of legislation. Now, gentlemen are fully aware—it has come home to the knowledge of us all—that distilleries have been running night and day for months in order to accumulate a stock on hand and escape taxation under this bill.

Mr. WADSWORTH. Do I understand the gentleman to say that no other business could do the same thing?

Mr. BLAKE. Not with the same facility.

Mr. WADSWORTH. What is the reason why flour mills, woolen mills, and cotton mills cannot do the same thing?

Mr. BLAKE. In the first place, they have not got the cotton.

Mr. WADSWORTH. They have the wool, though.

Mr. BLAKE. In the second place, there are none of those manufactures on which there is as much profit as on the manufacture of whisky, and it cannot be done with so much facility.

Now, the gentleman from Kentucky [Mr. MALLORY] says that whisky had risen nine cents a gallon, and that it has fallen six cents a gallon since this proposition was introduced into the bill. Who is to pay the tax? If you do not tax whisky, does the man who consumes whisky get it any cheaper than if you do impose the tax? The gentleman from Kentucky says that since this amendment was inserted in the bill whisky has fallen six cents a gallon. The whisky dealers intend to get this tax of fifteen cents a gallon from the people, but they intend to escape paying their tax to the Government. If you do not insert this provision, every man who buys whisky will pay the tax; but if you put it in the bill, we get the tax from the manufacturers for the support of the Government, which I insist we ought to have.

Mr. KELLOGG, of Illinois. The gentleman from Ohio assumes that there is a determination on the part of the manufacturers of spirits to accumulate stock between this time and the time when the bill goes into operation. I do not know where the gentleman gets his information. There are very many distillers in my part of the country, and I have been compelled to have some knowledge of their feelings and of their course of procedure; and I say to the gentleman that my information is that they are falling off and preparing to wind up, for they tell me that this tax will stop their business, and that they cannot survive it. I believe that that is so, and that instead of increasing they are diminishing the manufacture of spirits. But I ask the gentleman whether the manufacturers of the East, the manufacturers of cloth and other articles, cannot, and if they will not adopt the very same course with a view to their profits upon their manufactures? I ask him why the interests that guide men in their business operations will not guide the manufacturers of all other articles in the same line that it guides the manufacturers of spirits. The gentleman is willing that manufacturers shall accumulate and pile up their manufactures to avoid taxation in everything but that which strikes directly at the corn-growing interest. That interest is to be singled out, and the tax imposed upon it to-day instead of two months hence. All I ask for the corn-growing interest is that they shall have meted out to them that common justice that you mete out to every other branch of industrial pursuits in the country.

[Here the hammer fell.]

Mr. BLAKE. I withdraw the amendment to the amendment.

Mr. HORTON. I move that the committee rise, for the purpose of closing debate upon this section.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt, and had come to no conclusion thereon.

Mr. HORTON. I move that all debate in Committee of the Whole on the state of the Union on the sixty-sixth section of the tax bill close in one minute after the committee shall resume the consideration of the same.

The motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate by Mr. FORNEY, its Secretary, announced that the Senate had agreed to the amendments of the House to Senate bill No. 244, to provide for the equitable settlement of the accounts of the officers and crews of the frigate Congress, and of other vessels destroyed at Hampton Roads.

TAX BILL—AGAIN.

Mr. HORTON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of resuming the consideration of the tax bill.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed, as a special order, the consideration of the bill (H. R. No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

Mr. COX. Mr. Chairman, I have but one minute. There is danger of the whisky tax of fifteen cents per gallon failing of its object. It may lessen production and therefore consumption and therefore revenue. As I have no time to discuss, I beg to have printed for the information of the committee this from constituents who are distillers. Their views show that the farming interest is involved in this tax. I hope the letter may be appended; and, *pro forma*, I move it as an amendment to have it inserted, and will then withdraw it.

The Clerk read the letter, as follows:

LOCKBOURNE, OHIO, *March* 17, 1862.

SAMUEL S. COX, Esq.:

We beg leave to call your attention to the war tax bill, which your honorable body will soon be called to act upon, particularly that clause that taxes our business, and, as we conceive, the great corn-growing interest of our own State and of the entire West. We wish to notice a few facts and incontrovertible inconsistencies in this bill as we have it reported by the newspapers, and hope by so doing you will not consider us as intruding on your valuable time. In the first place, you will notice that the bill proposes a tax of ten cents per barrel on flour, while on whisky it is fifteen cents per gallon; in other words, two cents per bushel on wheat, and sixty cents per bushel on corn. The value of the wheat in this State is generally about one dollar per bushel, while the value of corn is generally from twenty to thirty cents; these two articles are produced from the two great staples of the West. Now, why should the corn be taxed so much, while the wheat goes nearly scot free? It evidently seems to any reasoning mind to be a deadly blow aimed at the great corn-producing portions of the middle and western States, while no people are more loyal to the Union, and no people could be any more willing to pay their share of the tax.

It may be argued by some of your New England compeers on the floors of Congress, that this is a tax on spirituous liquors and not on corn, and consequently they class it among the luxuries of the country, which, they contend, ought to be taxed the heaviest. This argument is based on the presumption that spirits distilled from grain are all, or nearly all, used by drinking as a beverage. Now, sir, nothing could be further from the truth. Alcohol, you know, is manufactured from the high wines—or whisky, as it is sometimes called—which is manufactured out of the corn, and alcohol forms a component part in medicine, chemical operations of nearly all kinds, mechanics, and, in fact, in most of the arts and sciences. Now, sir, we do not claim to be prophets, nor any relation thereto; but it does seem to us that the working of this tax will be about as follows: as soon as the tax law goes into operation, the consumer will be slow to advance the price, and will immediately commence making less of it do, and substituting something else; the manufacturer cannot afford to pay the tax, and he will immediately commence manufacturing less, and, finally, stop altogether. Now, what is the result on the corn market? It is true that a little will be manufactured at points most favorably situated, and where the proprietors of distilleries have peculiar advantages in the way of being located in a cheap corn market, close proximity to a good market for the manufactured article, cheap railroad freights, &c. There is not the shadow of a doubt but that it will almost annihilate the corn market. You know there is a large surplus after supplying the foreign market and fattening all the pork that a market can be found for.

The framers of the bill certainly cannot be aware of the immense tax levied on this article in proportion to the capital invested in all others; for instance, we consume daily one thousand bushels of grain, eight hundred of which is pure corn, balance the offal from wheat, rye, and barley, producing about four thousand gallons of proof high wines, on which we are to be taxed only $600, while the whole stock operated on costs about three hundred dollars besides the labor and use of machinery and coal. The New England savans have arranged a tax of three per cent. on the products of their constituents, while we of the clod-hopping fraternity are taxed a great deal more than the true value of the article, and at all times more than one hundred per cent. on the whole capital invested. A New England factory pay three per cent. on the manufactured article. Say if they turn out $1,000 worth per day, their tax would be thirty dollars, while ours would be $600 per day on less than half the capital. If we have to have a heavy tax, in the name of common sense let it be as nearly equal all around as possible. We have not seen any tax arranged for the vast shipping and fishing interest of New England, except what little comes under the stamp head.

Mr. RICE, of Massachusetts. I move to amend the section by striking out the word "uses," in the seventeenth line, and inserting in lieu thereof the word "name;" so that it will read:

Setting forth the place where the manufacture is to be carried on, the name of the manufactured article, the proposed market for the same, whether foreign or domestic, and generally the kind and quality manufactured or proposed to be manufactured.

The amendment was agreed to.

Mr. PENDLETON. I ask the unanimous consent of the committee to go back to section sixty-four, to offer an amendment which is obviously necessary in consequence of an amendment which has been introduced into a preceding section.

There was no objection.

Mr. PENDLETON. I move to strike out the words "to physicians who keep on hand medicines solely for the purpose of making up their own prescriptions for their own patients," and insert at the end of the section the following:

Nor shall the provisions of paragraph No. 24 extend to physicians who keep on hand medicines solely for the purpose of making up their own prescriptions for their own patients.

The amendment was agreed to.

Mr. WADSWORTH. I move to amend the sixty-sixth section by inserting in line twenty-nine, at the end of the third subdivision, the following:

Provided, Such returns, statements, descriptions, memoranda, &c., shall not apply to and embrace spirits manufactured before this act takes effect.

The amendment was rejected.

The Clerk then read the sixty-seventh section, as follows:

SEC. 67. *And be it further enacted*, That upon the amounts, quantities, and values of goods, wares, merchandise, and articles manufactured and sold, hereinafter enumerated, the manufacturer thereof shall pay to the collector of internal revenue within his district, monthly, or on a day to be prescribed by the Commissioner of Internal Revenue, the duties on such manufactures; and for neglect to pay such duties, after demand, either personal or written, left at his, her, or their house or place of business, or manufactory, the amount of such duties may be levied upon the goods, wares, and merchandise manufactured by any such manufacturer. And such duties, and whatever shall be the expenses of levy, shall be a lien in favor of the United States upon such manufactured articles in whatsoever hands found. Such lien may be enforced by distraint as provided in the general provisions of this act.

Mr. STEELE, of New York. I offer the following amendment to that section:

Provided, That in all cases of goods manufactured in whole or in part upon commission, if the manufacturers shall be required to pay under this act the tax hereby imposed, such person or persons so paying the same shall be entitled to collect the amount thereof of the owner or owners, and shall have a lien for the amount thus paid upon the manufactured goods.

I wish to say in regard to that amendment that a large class of manufactured goods are manufactured upon commission, and that the commission in many instances would not suffice to pay the amount of the tax. Of course it is intended that this tax shall be paid by the owner and not by the manufacturer; but the bill provides that it must, in the first instance, be collected from the manufacturers. I am aware that the committee suppose that the bill already provides for it substantially, but I know the fact that already an issue has been made upon this subject between owners and manufacturers, and a dispute has arisen; and if it is the intention of the committee that the owner shall pay the tax, and not the manufacturer, I cannot see why it should not be so expressed in words in the bill.

Mr. HOOPER. I am opposed to the amendment proposed by the gentleman from New York, because the Committee of Ways and Means intend to offer an amendment to the section which they think will provide more effectually for the object which the gentleman has in view.

Mr. STEELE, of New York. I am willing to withdraw my amendment until I hear what the Committee of Ways and Means have to offer, with the understanding that if it is not satisfactory I shall have a right to renew my amendment.

Mr. HOOPER. I ask the gentleman from New York to accept, instead of his amendment, the following:

After the word "manufacturers," in the seventh line, insert:

Provided, That when cloth is sold and delivered exclusively for dyeing, printing, bleaching, or to be finished in any other manner, and thread is manufactured and sold or delivered exclusively for knitted fabrics or for weaving, as provided for in the — section of this act, the duties shall be assessed on articles finished and prepared for use or consumption to the parties so finishing or preparing the same; and any parties so finishing or preparing any cloth or other fabrics of cotton, wool, or other material, whether imported or otherwise, shall be considered the manufacturers thereof for the purposes of this act.

Mr. WRIGHT. I ask the gentleman from Massachusetts to include also "hides furnished for tanning."

Mr. STEELE, of New York. I must insist on my amendment. That suggested by the gentleman from Massachusetts does not make a general provision. I do not see any objection to providing generally, without specifying particulars. The principle applies as well to the manufacturers of all kinds of goods as it does to the manufacturers of woolen and cotton goods. I insist on my amendment.

Mr. WHITE, of Indiana. There is one interest, Mr. Chairman, which I think ought to be protected in this particular manner. It is a very large interest, especially in the rural districts. I mean that of millers, who manufacture for their country customers for a certain amount of toll. If the amendment of the gentleman from New York were to prevail, the consequence would be that the farmers would have to be charged on each grist their *pro rata* of the tax. I think this matter will equalize itself, and that the miller, instead of charging one tenth, will charge one eighth. It is better he should settle the account himself with his principal than that we should do it for him.

Mr. HOOPER. I withdraw my amendment.

Mr. BROWNE, of Rhode Island. I move to amend the amendment by adding "or where the material is furnished by one party and manufactured by another." This is done under what is called "stocking contracts."

Mr. STEELE, of New York. I accept that modification.

Mr. WADSWORTH. Are there not a good many contracts now made for delivery at certain prices?

Mr. BROWNE, of Rhode Island. I do not know. I only know that a large majority of contracts made with manufacturers of goods are not of the character proposed to be affected by the pending amendment, but are of the character which I have indicated.

The question was taken on Mr. STEELE's amendment as modified, and it was agreed to.

Mr. HOOPER. I now move the amendment which I submitted a few moments ago, to come in after the word "manufacturers," in the seventh line of the sixty-eighth section.

Mr. ELIOT. I move to amend the amendment by inserting after the word "weaving," the words "or for spooling."

Mr. HOOPER. I accept the amendment.

The amendment, as modified, was adopted.

Mr. HOOPER. I move to amend by inserting after the word "sold," in the third line, the words "or delivered;" so that it will read:

SEC. 67. *And be it further enacted*, That upon the amounts, quantities, and values of goods, wares, merchandise, and articles manufactured and sold, or delivered, hereinafter enumerated.

The amendment was adopted.

Mr. HOOPER. I move to amend by adding, after the word "thereof," in the fourth line, the words "when manufactured for himself or for others;" so that it will read:

The manufacturer thereof, when manufactured for himself or for others, shall pay to the collector of internal revenue within his district, monthly, or on a day to be prescribed by the Commissioner of Internal Revenue, the duties on such manufactures.

The amendment was adopted.

Mr. BLAIR, of Pennsylvania. I move to amend by striking out the words "goods, wares, and merchandise manufactured by" and inserting in lieu thereof the words "real and personal property of;" so that it will read:

And for neglect to pay such duties, after demand, either personal or written, left at his, her, or their house or place of business, or manufactory, the amount of such duties may be levied upon the real and personal property of any such manufacturer.

It will be observed, Mr. Chairman, that under this bill taxes are assessed not only on goods manufactured, but on goods sold or delivered. The provision that the goods shall be taxed only when sold is certainly a very good one, because it keeps in view a cardinal rule of taxation—that is, that the tax shall be levied when it is most convenient for the tax payer to pay it. Of course he is better able to pay it when he is in funds from sales made by him than at any other time. But the bill goes on to provide that there shall be a lien on the goods taxed. Now, the goods taxed are the goods sold, and the consequence of this provision would be that after the goods had

been sold, the collector makes his statement, goes to the purchaser, and executes his levy on the goods in the hands of the purchaser. To avoid this I propose my amendment. There is no reason why all the property of the manufacturer should not be made liable for the payment of taxes.

The amendment was adopted.

Mr. BLAIR, of Pennsylvania. I move to amend by striking out the words "such manufactured articles in whatsoever hands found," and inserting in lieu thereof the words "the said real and personal property of such manufacturer;" so that it will read:

And such duties, and whatever shall be the expenses of levy, shall be a lien in favor of the United States upon the said real and personal property of such manufacturer.

The amendment was adopted.

Mr. BLAIR, of Pennsylvania. I move to amend by inserting after the word "enforced," the words "against said personal property;" so that it will read:

Such lien may be enforced against said personal property by distraint, as provided in the general provisions of this act.

Mr. THOMAS, of Massachusetts. This would render it quite impossible for a man to get a good title to real estate from a manufacturer, for there is no record of these taxes to be kept anywhere. No man could purchase real estate with any certainty that he was getting an unincumbered title.

Mr. BLAIR, of Pensylvania. The purchaser can inquire of the tax collector.

The amendment was rejected.

Mr. BLAIR, of Pennsylvania. I move to amend by adding at the end of the section the following:

And against the said real estate in the manner provided by law for the collection of taxes assessed on lands: *Provided nevertheless*, That the lien aforesaid shall not affect the said personal property in the hands of a *bona fide* purchaser without notice thereof: *And provided further*, That the tax on goods, wares, and merchandise manufactured in pursuance of contracts made before the passage of this act, shall be paid by the purchaser on delivery thereof; and a statement of the names and places of residence of such purchaser or purchasers shall be furnished by the said manufacturer, as may be required by the Commissioner of Internal Revenue.

I understand that the amendment which was rejected was that making the tax a lien on real estate. There was no objection, as I understand, to the enforcement of a lien on personal property.

Mr. THOMAS, of Massachusetts. I think that the objection to making the tax a lien on personal property is still stronger than to making it a lien on real estate. Without providing any means of recording these incumbrances, a manufacturer could not sell a dollar's worth of real or personal property.

Mr. BLAIR, of Pennsylvania. Then I withdraw all of my amendments, except that applying to goods manufactured on contracts made prior to the passage of this act.

The amendment, as modified, was adopted.

Mr. NOBLE. The gentleman from Massachusetts offered an amendment, coming in in the seventh line, after the word "manufacturer," which has been adopted by the committee, and which is undoubtedly very proper, so far as it extends; but it applies to only one or two classes of goods. I desire now to offer an amendment to make the application of the same provision to other articles where they are similarly manufactured. I move to add, at the end of the proviso adopted on motion of the gentleman from Massachusetts, as follows:

And provided further, That where any other article constituting an ingredient merely of any principal thing to be manufactured, shall be made or delivered for the express purpose of the manufacture of such principal thing, in every such case the tax hereby imposed shall be assessed upon the principal thing and not upon such ingredient.

Mr. THOMAS, of Massachusetts. I move to amend the amendment by substituting for the section as it has been amended the section as it was reported in the bill by the Committee of Ways and Means.

The CHAIRMAN. Does the gentleman propose to strike out what has been inserted?

Mr. THOMAS, of Massachusetts. Yes, sir, everything, and leave the section as we found it.

Mr. NOBLE. I do not know but the amendment of my excellent friend from Massachusetts is the best one that can be adopted. But if the provision incorporated in the amendment which has been adopted on motion of the gentleman from Massachusetts is to prevail, it should apply certainly to all other articles manufactured under similar circumstances. There is no reason for giving to the cloth manufacturer the privilege of having the tax levied upon the cloth itself, excluding any other tax upon the ingredients that enter into the principal thing in that item, which does not apply with equal force to every other manufacturer. If we apply the principle to the manufacture of cloth, it should apply to the manufacture of everything else; and to accomplish that object I submit this amendment.

Mr. HORTON. I am opposed to the amendment of my colleague, and I propose to adopt as the substance of my remarks in opposition to it, the remark of the gentleman from Massachusetts, [Mr. THOMAS,] that the best thing we can do is to go back to the original section and start anew. The amendments proposed by the gentleman from Pennsylvania, [Mr. BLAIR,] which have been adopted, have confused the section so much that the proper construction will be almost inaccessible. I do not think it can be got at, and I agree with the gentleman that the best thing we can do is to restore the section in its original form.

Mr. NOBLE. I agree entirely with my colleague in the propriety of restoring the section as it originally stood. But if the amendment of the gentleman from Massachusetts, which has been adopted, is to stand in the bill, I think my amendment should be also inserted.

Mr. STEELE, of New York. I rise to a question of order. I submit that the amendment having been incorporated into the section, it is not now in order to move to strike it out. I understand the rules to require that when a clause has been incorporated into a bill, a motion to strike it out cannot be entertained. I think, therefore, the motion of the gentleman from Massachusetts, to strike out the section as amended, and insert the section as originally reported, is not in order.

The CHAIRMAN. The Chair overrules the question of order. The committee can do the very thing which the gentleman from New York says they cannot do. Whether they ought to do it is another question.

Mr. STEELE, of New York. The Chair, the other day, ruled out of order an amendment which I proposed, on the ground that it had been substantially voted on before.

The CHAIRMAN. The Chair would again rule the same way. If the gentleman from Ohio had moved simply to strike out the proviso which had been adopted, the Chair would have decided the motion out of order.

Mr. STEELE, of New York. If the substitute which the gentleman proposes is adopted, I shall have to move my amendment again.

The CHAIRMAN. The gentleman has that right.

Mr. NOBLE's amendment was disagreed to.

Mr. WICKLIFFE. I do not propose to preface the remarks I shall make with an amendment, because if the section as it stands can be explained by the draughtsman of the bill so as to meet the objection to which it seems to me it is liable, I do not wish it to be changed. The section reads:

That upon the amounts, quantities, and values of goods, wares, merchandise, and articles manufactured and sold, hereinafter enumerated, the manufacturer thereof shall pay to the collector of internal revenue within his district, monthly, or on a day to be prescribed by the Commissioner of Internal Revenue, the duties on such manufactures.

Now, why is it necessary to fix it here in our statute that there shall be monthly payments, and then give to the Commissioner of Internal Revenue the unlimited discretion of fixing any other time he may please. The objection, it strikes me, to that provision is this: it enables the Commissioner, while it requires me to pay my tax monthly, to give to my competitor six months in which to pay his. To enable the Committee of Ways and Means to explain away that objection, I will move to strike out the clause of the section I have read.

Mr. HORTON. The object of leaving some discretion in the hands of the Secretary of the Treasury or of the Commissioner of Internal Revenue is this: there are many branches of business that make their returns quarterly, and we think it is proper to give the Secretary of the Treasury power, if he shall see fit to use it, to collect the revenue in such cases quarterly instead of monthly. But as a general rule we have thought best to require monthly collections. For instance, in the city of Louisville, the gas company may furnish the city with gas for street lamps, and they make their returns to the city quarterly only. Now, we propose to give to the Secretary of the Treasury power to require the gas company to pay as they receive. We give him power to conform his action to the various requirements and customs of the business of the country. I take it for granted that this discretion will be used properly, that there will be no abuse of power under it.

Mr. WICKLIFFE. If I knew my friend from Ohio would be Commissioner of Internal Revenue, I should be willing to take that for granted. But I can see that great abuses may be practiced under the section as it stands. The Commissioner of Internal Revenue, for instance, will have the discretion of giving to the cloth manufacturer in Massachusetts sixty days in which to pay his tax, while he may require of the shoe manufacturer the payment of his tax at the end of thirty days. It will enable him to practice any amount of favoritism that he may be disposed to practice.

Mr. HORTON. I am oppssed to the motion of the gentleman from Kentucky, to strike out the clause he names, for the reason that it is impossible in a bill of this sort to designate every instance or case where a discrimination ought to be allowed. It is out of the question for us here, in committee or in the House, to say that in one business the collections shall be made each month, and that in another postponed for a longer term. I think it is much safer and better to leave the Secretary of the Treasury and Commissioner of Internal Revenue some margin for the exercise of a sound discretion. Nor do I think, where that is done, one branch of manufacturers will have any chance to complain of favoritism toward another, unless it may be in a case where the Commissioner is satisfied that a variation from the rule is required for the public good. It cannot make any great cause of complaint, for instance, in the case I mentioned, with the private citizens of Louisville, who have to pay for their gas every month, because the city receives the bonus which arises from its having to pay only once a quarter. And so it is in every branch of business. It is true that you may suppose a case in which injustice may be done. You can imagine that an officer can do wrong; but it is far better to presume in favor of the sound judgment and discretion of our public officers.

Mr. THOMAS, of Massachusetts. To enable me to say a word upon this subject, I move to strike out the last word in the amendment of the gentleman from Kentucky.

The gentleman from Ohio speaks of discretion being vested in the Secretary of the Treasury. There is no discretion vested in the Secretary of the Treasury. The Commissioner of Internal Revenue has entire control over the matter under this section of the bill.

I beg leave, also, to call attention to the remarks of the gentleman from Ohio, [Mr. HORTON,] this morning, upon another proposition, in which he advocated fixing by law the duties that are to be performed by these officers, and placing as little discretion in them as can possibly be avoided.

Mr. HORTON. The Commissioner of Internal Revenue is the instrument of the Secretary of the Treasury. The gentleman is a lawyer, and I will not quote the old law maxim.

Mr. WICKLIFFE's amendment was disagreed to.

Mr. SHELLABARGER. I move to amend the substitute by inserting in the thirteenth line these words:

From the day prescribed by the Commissioner for their payment, as aforesaid.

I believe that the amendment meets with the concurrence of the Committee of Ways and Means. It fixes definitely and certainly the day on which this lien shall attach to property, and will prevent all difficulty in reference to its transfer.

Mr. SHEFFIELD. Is there any necessity for this provision in regard to a lien? Could not a man who performed work or expended money upon a property have a lien under the common law without any such statutory provision as this?

Mr. SHELLABARGER. Even if I answer the gentleman's question in the affirmative, as I do, it has no application to this section.

The amendment to the amendment was agreed to.

Mr. SHELLABARGER. I move to strike out

the word "or," in the fifth line, and to insert in lieu thereof the words "and on or before."

The amendment to the amendment was agreed to.

Mr. BLAIR, of Pennsylvania. I move to add the following:

Provided, That the tax on all articles manufactured and sold in pursuance of contracts made *bona fide* before the 3d day of March, 1862, shall be paid by the purchasers thereof under regulations to be established by the Commissioner of Internal Revenue.

Mr. Chairman, I know that manufacturers are in the habit of making contracts a long time ahead. The manufacturers of railroad iron are especially in the habit of making contracts a long way in advance; and unless some such provision as I have proposed be adopted, they will be compelled to pay the tax upon the railroad iron which they are to manufacture instead of the purchasers. It has been said that, in the spirit of this law, the taxes are to be levied upon the consumers and purchasers, and not upon the manufacturers. The chairman of the Committee of Ways and Means stated in his speech that the manufacturers were only the agents of the Government to collect this tax from the consumers. My amendment carries out that idea, and is in itself a just provision which I hope will be adopted.

The amendment to the amendment was adopted.

Mr. HORTON. I move that the committee rise. I want to see if we cannot do something to-day.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the tax bill, and had come to no resolution thereon.

Mr. HORTON moved that all debate upon the sixty-seventh section in the Committee of the Whole on the state of the Union be closed in one minute after its consideration shall be again resumed.

The motion was agreed to.

Mr. HORTON. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed the consideration of the special order, being the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

The CHAIRMAN stated the section pending to be the sixty-seventh, to which various amendments had been offered.

Mr. RICE, of Massachusetts, moved to insert the words "within ten days;" so that it would read:

SEC. 67. *And be it further enacted*, That upon the amounts, quantities, and values of goods, wares, merchandise, and articles manufactured and sold, hereinafter enumerated, the manufacturer thereof shall pay to the collector of internal revenue within his district, monthly, or on a day to be prescribed by the Commissioner of Internal Revenue, the duties on such manufactures; and for neglect to pay such duties within ten days after demand, either personal or written, left at his, her, or their house or place of business, or manufactory, the amount of such duties may be levied upon the goods, wares, and merchandise manufactured by any such manufacturer, &c.

The amendment to the amendment was agreed to.

Mr. HOOPER. I hope that my colleague's substitute will be defeated as the best thing we can do.

The CHAIRMAN. Debate is not in order, even by unanimous consent. The Manual provides that—

"Debate having been closed at a particular hour by order of the House, it is not competent for the committee, even by unanimous consent, to extend the time."

Mr. THOMAS, of Massachusetts. Can my colleague express an opinion, and especially if it is a bad one, on this subject? [Laughter.]

The CHAIRMAN. He cannot.

The substitute was rejected.

Mr. SHELLABARGER moved his amendments to the section as it now stood.

The amendments were agreed to.

Mr. RICE, of Massachusetts. I move the amendment I offered to the substitute, and which was adopted to the section as it now stands.

The amendment was agreed to.

Mr. BLAIR, of Pennsylvania. I also move my proviso to this section.

The amendment was agreed to.

The sixty-eighth section was read, as follows:

SEC. 68. *And be it further enacted*, That, for neglect or refusal to pay the duties provided by this act on manufactured articles, as aforesaid, the articles on which such duties shall have accrued, or should accrue, may be forfeited to the United States, and may be sold or disposed of for the benefit of the same, in manner as shall be prescribed by the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury. In such case the collector or deputy collector may take possession of said articles, and may maintain such possession in the premises and buildings where they may have been manufactured, or deposited, or may be. He shall summon, giving reasonable notice to, all parties interested, enjoining them to appear before the assessor, or assistant assessor, at a day and hour in such summons fixed, and then and there to show cause, if any there be, why, for such neglect or refusal, such articles should not be declared forfeited to the United States. Such persons or parties interested shall be deemed to be the manufacturers of the same, if they shall be at the time of taking such possession upon the premises where manufactured; if they shall at such time have been removed from the place of manufacture, the parties interested shall be deemed to be the person in whose custody or possession they shall then be. Such summons shall be served upon such parties in person, or by leaving a copy thereof at the place of abode or business of the party to whom the same may be directed. In case no such party or place can be found, which fact shall be determined by the collector's return on the summons, such notice, in the nature of a summons, shall be given by advertisement in one or more newspapers in the district nearest to the place of such sale. If, at or before such hearing, such duties shall not have been paid, and the assessor or assistant assessor shall adjudge the summons and notice, service and return of the same, to be sufficient, the said articles shall be declared forfeit, and shall be sold, disposed of, or turned over to the use of any department of the Government, as may be directed by the Secretary of the Treasury, who may require of any officer of the Government into whose possession the same may be turned over the proper voucher therefor. The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may review any such case of forfeiture, and do justice in the premises. If the forfeiture shall have been wrongly declared, and sale made, the Secretary is hereby authorized, in case the specific articles cannot be restored to the party aggrieved in as good order and condition as when seized, to make up to such party in money his loss and damage from the contingent fund of his Department. Immediate return of seizures so forfeited shall be made to the Commissioner of Internal Revenue by the collector or deputy collector who shall make any such seizure. Articles which the collector may adjudge perishable may be sold or disposed of before declaration of forfeiture.

Mr. HOOPER. In the eighteenth and twenty-second lines, I move to strike out the word "they," and in lieu of it to insert "the articles."

The amendment was agreed to.

Mr. TRAIN moved to add the following at the end of the section:

Said sale shall be made at public auction, and notice thereof shall be given in the same manner as is prescribed in this section in case of forfeiture.

The amendment was agreed to.

Mr. STEELE, of New York, moved to strike out the words "reasonable notice," and in lieu thereof to insert, "not less than five nor more than ten days."

Mr. RICE, of Massachusetts. I move to correct the phraseology by making the section read:

He shall summon all persons or parties interested by giving notice, &c.

The amendment to the amendment was disagreed to.

The amendment was agreed to.

Mr. BLAIR, of Pennsylvania. I move to strike out all after the word "aforesaid," to and including the word "income," and in lieu thereof to insert the words, "all goods, wares, and merchandise manufactured and unsold by such manufacturer."

The amendment was agreed to.

Mr. OLIN. I move to strike out the word "or." I make the motion merely for the purpose of saying a word on this section. The language employed seems to me to be indefinite and exceedingly objectionable. It provides that reasonable notice shall be given to all parties enjoining them to appear before the assessor. What kind of notice does the bill propose to give? Personal notice or notice by publication? The bill does not say. This section should be amended in some way, so that the person in possession could be notified, and so that that notice may be valid. Where the law does not provide the kind of notice to be given, the notice, in contemplation of law, is notice by personal service, not notice by publication, not notice in newspapers, nor any other kind of notice, except that which is brought to the observation of the person upon whom it is served. The section reads, "he shall summon, giving reasonable notice." What is reasonable notice?

Mr. HORTON. What is the question before the committee?

The CHAIRMAN. The gentleman from New York moved an amendment.

Mr. OLIN. I moved to strike out a certain word in order to call the attention of the gentleman to this provision to which I have been speaking. My remarks have not been confined to the particular word I moved to strike out, but they were directed to some matters of importance, as the gentleman from Ohio will see, if he pays attention to what I say. The words are, I repeat, "he shall summon, giving reasonable notice." Let me call the gentleman's attention to the meaning of that. What is reasonable notice in law? Who is to determine that? Why, the assessor, in the first place, and then the court, if controversy shall arise, will determine, as a question of law, whether the notice is reasonable.

Again: it is provided that notice shall be given to "all parties interested." How? Let me take a case of a manufacture or sale of goods by a firm where there are half a dozen silent partners whose names never appear in the transaction of business, and whom nobody knows are interested. Now, unless you give the notice to every person so interested in the goods, your whole proceeding is void. It is a proceeding under a statute, and a strict compliance with its provision is necessary. Then, if fifty persons are interested in the goods, and you give notice to forty-nine, and the fiftieth person is not served, your proceeding is void.

[Here the hammer fell.]

Mr. HORTON. I will say, before making a motion to amend, that I should take it very kindly if the gentleman from New York would make a motion which would accomplish his purpose. I appreciate his object, and would like to have him point out the mode by which his object can be accomplished.

Mr. OLIN. I will do so, if the gentleman will give me an opportunity. I withdraw my verbal amendment. In the first place, I would say that "he shall give notice not less than five, nor exceeding ten days;" and then I would say, "he shall give notice by personal service, in writing, to the person in possession of the goods, and who shall be deemed, for the purpose of serving such notice, the owner."

Mr. HORTON. I should have no great objection to that. I will only state that if the gentleman had read two or three lines further on, he would have found the persons in interest specially designated. He would have found that the party having custody and possession of the goods is the party interested.

The CHAIRMAN. Will the gentleman from New York indicate his amendments?

Mr. OLIN. I move, in the twelfth line, to strike out the word "interested," and insert "parties in possession of such goods."

The amendment was agreed to.

Mr. OLIN. In the twentieth line I move to strike out after the word "manufactured" the words, "if they shall at such time have been removed from the place of manufacture."

Mr. HARRISON. I would suggest to the gentleman from New York whether the object he seeks to accomplish will not be attained by inserting after the word "States" in the seventeenth line, the words, "service upon one member of a firm or company shall be deemed service upon such firm or company."

Mr. OLIN. I prefer my amendment.

The amendment was not agreed to.

Mr. RICE, of Massachusetts. It will be observed that there is no provision made in this section for refunding any excess that there may be from the sales of goods that have been seized and forfeited for the non-payment of taxes. It seems to me such a provision should be incorporated in the bill, and for that purpose I move the following amendment, to come in after the word "therefore" in the thirty-ninth line:

Provided, That the proceeds of the sale of said articles, if any there be, after deducting the duties thereon, together with the expenses of summons, advertising, and sales, or the excess of the value of said articles after deducting the duties and expenses accruing thereon, when turned over to the use of any department of the Government, shall be refunded and paid to the manufacturer or to the person in whose custody or possession the articles were when seized.

The effect of the amendment is to provide that if there be an excess of value after all the duties have been paid, and all the expenses of levy and sale, that excess shall be turned over to the ori-

ginal proprietor or owner of the goods. That, I suppose, will meet with no objection.

The amendment was agreed to.

Mr. WORCESTER. The committee has fixed the time of notice, when served personally upon the party, at not less than five nor more than ten days; but where the notice is by advertisement no time of notice is prescribed by the bill as it now stands. I therefore, for the purpose of fixing the time, move to amend, in the twenty-ninth line, by inserting after the word "advertisement" the words "for the term of three weeks;" so that the clause shall read:

Such notice, in the nature of a summons, shall be given by advertisement for the term of three weeks, &c.

The amendment was agreed to.

Mr. WORCESTER. In line twenty-nine, I move to strike out the words "or more;" so that the clause shall read, "in one newspaper."

The amendment was agreed to.

Mr. TRAIN. After conference with the gentleman from New York, [Mr. STEELE,] upon whose motion the words "reasonable notice," in the twelfth line, were stricken out, and the words "not less than five nor more than ten" inserted, it was concluded that five days might be too long a notice in case of perishable property. I therefore move to strike out "five," and insert "two."

The amendment was agreed to.

Mr. RICE, of Massachusetts. I move to amend the sixty-ninth section, by striking out the words "neglect" and "neglecting" wherever they occur, and inserting in lieu thereof the words "refusal" and "refusing." It seems to me that so large a penalty as $500 ought not to be enforced upon a mere neglect, but only upon a refusal. If the amendments are agreed to, the section will read:

And be it further enacted, That any violation of, or refusal to comply with, the provisions of the sixty-sixth section of this act, shall be good cause for seizure and forfeiture, substantially in manner as detailed in the section next preceding this, of all manufactured articles liable to be assessed under the provisions of this act, and not otherwise provided for; and such violation or refusal to comply shall further make any party so violating or refusing to comply, liable to a fine of $500, to be recovered in manner and form as provided in this act.

The amendment was agreed to.

The seventieth section was read, as follows:

SEC. 70. *And be it further enacted*, That in case of the manufacture and sale of any goods, wares, merchandise, or articles as hereinafter mentioned, without compliance on the part of the party manufacturing the same with all or any of the requirements and regulations prescribed in this act in relation thereto, the assistant assessor may, upon such information as he may have, assume and estimate the amount and value of such manufacturers, and upon such assumed amount assess the duties, and said duties shall be collected in like manner as in case the provisions of this act in relation thereto had been complied with, and to such articles all the foregoing provisions for liens, fines, penalties, and forfeitures, shall in like manner apply.

Mr. HOOPER. I move to amend in the second line, by inserting after the word "sale" the words "or delivery."

The amendment was agreed to.

Mr. LAW. I move to amend by inserting after the words "assistant assessor," the words "with the aid of two freeholders." It seems to me that this section gives a tremendous power to the assessor. He is to view the property and make his own estimate. I think he ought to have connected with him two freeholders to assist in the performance of that duty. We cannot tell who the assessor may be. He may be an honest man, but he may also be a scoundrel.

Mr. HORTON. I do not see what knowledge two freeholders would have in matters of manufactures and things of that kind. I believe I may safely say that in all State legislation this same power is conferred upon the same officer. It is so in the State of Ohio. I hope the amendment will not prevail.

The amendment was not agreed to.

The seventy-first section was read.

Mr. HORTON. I move to strike out the word "stem," in the sixth line, and insert "stemmed," as applied to tobacco.

The amendment was agreed to.

Mr. HORTON. I move to insert after the word "product," in line seven, the words "made by any one person or by his family, who shall be dependent thereon for support." The section will then read:

SEC. 71. *And be it further enacted*, That all goods, wares, and merchandise, or articles manufactured or made by any person or persons not for sale, but for his, her, or their own use or consumption; and all goods, wares, and merchandise or articles, manufactured or made and sold, except spirituous and malt liquors, and leaf, stemmed, or manufactured tobacco, where the annual product made by any one person, or by his family who shall be dependent thereon for support, shall not exceed the sum of $600, shall be and are exempt from duty: *Provided*, That this shall not apply to any business or transaction where one party furnishes the materials, or any part thereof, and employs another party to manufacture, make, or finish the goods, wares, and merchandise or articles, paying or promising to pay therefor, and receiving the goods, wares, and merchandise or articles; but in all such cases the party furnishing the materials and receiving the goods, wares, merchandise or articles, shall be liable to and charged with all accruing duties thereon.

The object is to exempt from taxation goods to the extent of $600 in any case where the manufacturer produces that amount by his own labor, or by the help of his family whom he supports.

The amendment was agreed to.

Mr. MORRIS. I offer the following as an amendment to the seventy-first section:

Strike out all after the word "consumption," in the fourth line, to the word "provided," in the eighth line, and insert, "shall be exempted from duty, and all producers or manufacturers of all goods, wares, and merchandise, or articles manufactured or made and sold, shall have exempt from duty an annual value not exceeding $600;" so that it will read:

That all goods, wares, and merchandise or articles manufactured or made by any person or persons not for sale, but for his, her, or their own use or consumption, shall be exempt from duty; and all producers or manufacturers of all goods, wares, and merchandise, or articles manufactured or made and sold, shall have exempt from duty an annual value not exceeding $600.

Mr. Chairman, by the twenty-fifth paragraph of the sixty-second section we have provided that manufacturers shall pay ten dollars for each license, and that any person or persons, firms, companies, or corporations, who shall manufacture by hand or machinery, and offer for sale any goods, wares, or merchandise, exceeding annually the sum of $1,000, shall be regarded a manufacturer under this act. This section as it now stands, provides:

That all goods, wares, and merchandise, or articles manufactured or made by any person or persons not for sale, but for his, her, or their own use or consumption; and all goods, wares, and merchandise or articles manufactured or made and sold, except spirituous and malt liquors, and leaf, stemmed, or manufactured tobacco, where the annual product shall not exceed the sum of $600, shall be, and are, exempt from duty.

I cannot conceive why it is that a manufacturer who manufactures less than a thousand dollars' worth should be exempt from paying a license, and the farmer or small manufacturer, who does not pay a license, but who manufactures between six hundred and a thousand dollars' worth, should be required to pay a tax upon his products. I cannot conceive why the farmer, who produces six hundred dollars' worth of tobacco, for instance, should not have exempt from duty as much in value as the manufacturers of shoes, or calico, or anything else. It seems to me that this provision excluding the farmer who produces tobacco to the value of $600 from exemption, is an odious distinction, and one which should not obtain in this House. Why is it that the man who produces tobacco should be liable to a tax of three cents per pound, while the small manufacturers of shoes and other articles are exempt from taxation? I say, Mr. Chairman, that this law ought to operate equally and justly upon all interests; it should make no invidious distinctions. The man who is engaged in the cultivation of tobacco is as much entitled to an exemption as the man who is engaged in manufacturing any other article which is subject to taxation.

[Here the hammer fell.]

Mr. HORTON. I beg that my colleague will not suppose that the Committee of Ways and Means have any special enmity towards the farming interest. We have stood up here against our friends who were anxious to tax liquor extravagantly and have defended the farmer. We have not levied taxes upon the farmer in any shape or form that I am aware of to any greater extent than we have upon other classes, and, perhaps, not to so great an extent. I think there is no provision in the bill that taxes anything that the farmer raises until it goes into the hands of the consumer, excepting, perhaps, the item of tobacco; and I suggest to my colleague, who is so zealous in the tobacco interest, that if he chooses to strike a balance he will find it in favor of the farming interest. Perhaps, next to my colleague, I represent the largest tobacco interest in the State of Ohio, and I take the responsibility of saying that the farming interest cannot fairly find any fault with the Committee of Ways and Means or with this bill. If any allegation can be made against the Committee of Ways and Means, it is that the manufacturing interest has been taxed to the utmost, and if any interest has been exempted it is the farming interest.

Mr. MORRIS's amendment was rejected.

Mr. MORRIS. I move to insert after the word "duty," in the eighth line, the following:

Provided, That each and every producer or grower shall have exempt from duty an annual value of leaf tobacco not exceeding the sum of $600.

In continuation of the remarks which I have already made upon this subject, I wish to say that my region of country is emphatically a tobacco-growing country, and produces more tobacco than any other district in the free States. More than the whole six New England States put together—nearly double as much as the whole State of New York, and more than three times as much as the whole State of Pennsylvania; and representing that interest, I cannot sit here and give my assent to a proposition that will exempt from taxation all manufacturers who manufacture less than six hundred dollars' worth, and tax this interest whether the producer produces more or less.

I would say further, that we have scattered over the State of Ohio, as my colleague well knows, a large number of farmers who produce, only for their own manufacturing purposes, broom corn. They raise it in summer and manufacture it in winter. If one of these manufacturers produces four hundred dozen brooms, he is taxed ten cents a dozen. If he sells them at $1 50 a dozen, amounting to $600, he pays no tax; but if he sells them at $1 55 a dozen, making $620, he is taxed on the whole amount without any exemption whatever. Now, is that fair? Is it just, that a man who manufactures $700 worth should be taxed, and the man who manufactures $600 worth should be exempt?

Mr. HORTON. I am very anxious that no injustice shall be done to my colleague's constituents; but I suggest to him that every one of his constituents in the farming interest—and he represents a very rich district—is already exempted $600 in the income tax. I would suggest to him further, that his friends who raise broom corn are taxed upon the manufacture and not upon the growth. They are not taxed if they make them on their own account, but only as manufacturers, and as farmers they are not taxed at all. I suggest to my colleague further, that he is mistaken in his statistics. His district does not raise more tobacco than all the New England States. Connecticut alone, perhaps, produces more in value from tobacco than my friend's district. However, that is neither here nor there.

Mr. MORRIS. I beg to correct my colleague on that point.

Mr. HORTON. Then there is another thing. We allow a drawback on tobacco. The tobacco grown in my colleague's district is all consumed in other countries, and his constituents get the drawback when it is exported.

Mr. MORRIS. I beg the gentleman's pardon. This bill *does not* provide that there shall be a drawback on leaf tobacco.

Mr. HORTON. I think that my colleague will allow that I understand the bill pretty well. I say to him that a drawback is allowed in this bill, *or*, if it is not now, it *will* be, surely.

Mr. MORRIS. Ah! That is a very different thing.

Mr. HORTON. I hope the amendment of my colleague will be voted down.

Mr. MORRIS. I ask unanimous consent to reply to my colleague.

There was no objection.

Mr. MORRIS. Mr. Chairman, this bill taxes tobacco by the pound, and not by the value. Now, I repeat that, according to the statistics furnished me from the Census Bureau, my district *does* raise more pounds of tobacco than all the six New England States put together. It raises nearly double what is raised in the whole State of New York, and three times as much as is raised in the whole State of Pennsylvania. And I say that this bill, as printed, *does not* provide a drawback on leaf tobacco. I admit that on manufactured tobacco there is a drawback provided, if the gentleman

from Vermont [Mr. MORRILL] is correctly reported, and speaks by authority.

Mr. HORTON. In the one hundred and ninth section the committee has provided a drawback on all tobacco exported.

Mr. MORRIS. If the committee has provided that, I have only to say *that it is not in the bill* as printed, and my colleague has no right to say that such is the fact. I have been basing my argument on the presumption that there is no drawback allowed on leaf tobacco.

Mr. DELANO. If there be, then the committee has been misled in this matter, for it will recollect that when the debate was opened it was expressly stated by the member of the Committee of Ways and Means who opened it [Mr. MORRILL, of Vermont] that it was not intended to allow a drawback on leaf tobacco. It so stands in his reported speech, so that it was nothing but fair for some gentleman of the Committee of Ways and Means to announce here, before an interested and anxious portion of the committee who represent constituencies concerned in the raising of this crop, that it was intended to allow drawback on leaf tobacco. I believe that that fact was not announced until this moment.

Mr. WICKLIFFE. I want to make an inquiry in reference to the drawback on leaf tobacco. After the farmer has sold it and paid the tax, does not the exporter get the drawback, and not the man who paid the tax?

Mr. HORTON. That is one of those cases which the Committee of Ways and Means could not entirely provide for. In all cases where a tax is levied and a drawback allowed on exportation —which is in all cases of spirituous liquors and tobacco, manufactured and in leaf—we have allowed as a drawback the whole amount of the tax. The tax enters into the original price, and the farmer gets it from the purchaser. The exporter has, of course, paid it when he became possessed of the tobacco, and it is to him, therefore, that the drawback is to be allowed.

Mr. WICKLIFFE. Then, why levy the tax upon the farmer, to be paid back when the tobacco is exported? Why not simply levy the tax on consumed tobacco in its manufactured state, and let the raw leaf alone?

Mr. HORTON. The Committee of Ways and Means has considered that question, but may not have decided it correctly. It was supposed that this was the mode in which the Government could best raise a tax on tobacco consumed in the country. A good deal of tobacco is exported in leaf, and a vast amount of it in the manufactured state. We have allowed a drawback on all leaf tobacco and manufactured tobacco exported.

Mr. WICKLIFFE. Let me state to my friend one fact. This bill requires that all tobacco grown in Kentucky shall pay a tax when it is grown. This tax will amount to $3,220,000. That sum is to go into the Treasury, and is to be paid back in part to the exporter when the tobacco is exported. Now, of what benefit is this process to the country? If the tax were confined to the manufactured tobacco which enters into the consumption of the country, it would be much more simple and quite as effectual, and would not compel the man who raises five hogsheads or twenty hogsheads of tobacco to pay so much per pound on it, only that that money should go into the Treasury and be afterwards refunded to the exporter.

Mr. MORRIS. I ask unanimous consent of the committee to state further what the bill really is, and that it does not provide for a drawback.

Mr. HORTON. I object, if we are to get through this bill at all.

The question was taken on Mr. MORRIS's amendment, and it was rejected.

Mr. GRANGER. I move to amend by striking out the following words of the section:

And all goods, wares, and merchandise or articles manufactured or made and sold, except spirituous and malt liquors, and leaf, stemmed, or manufactured tobacco, where the annual product shall not exceed the sum of $600: *Provided*, That this shall not apply to any business or transaction where one party furnishes the materials, or any part thereof, and employs another party to manufacture, make, or finish the goods, wares, and merchandise or articles, paying or promising to pay therefor, and receiving the goods, wares, and merchandise or articles; but in all such cases the party furnishing the materials and receiving the goods, wares, and merchandise or articles, shall be liable to and charged with all accruing duties thereon.

So that the section will read:

SEC. 71. *And be it further enacted*, That all goods, wares, and merchandise, or articles manufactured or made by any persons not for sale, but for his, her, or their own use or consumption, shall be and are exempt from duty.

It seems to me, Mr. Chairman, that this section, if unamended, will operate injuriously, not to say disastrously, on many interests that are sought to be taxed in the subsequent sections of the bill. To illustrate: there are, in one point in my district, many persons and a large amount of capital employed in the manufacture of candles and soap. By the provisions of this bill, these commodities are taxed at from five mills to three cents per pound. There are also many persons employed in my district in the manufacture of cigars, which are taxed at from ten to twenty cents per pound. There are many other manufactures which I might name. If this section pass as reported, there will be a bounty offered on limited manufactures. Petty manufacturing establishments will spring up all through the country, and will come into competition with the regular manufacturing establishments. I propose no exemption of these manufactures from taxation, but I propose that they shall be exempted from destruction; for if the market for them be destroyed, it follows, as a matter of course, that they are themselves destroyed, and the objects of the bill will be, in a great measure, defeated. The retailer who will not sell annually more than $600 worth of manufactures will go into the business of manufacturing and compete with the regular manufacturers. It is, therefore, unjust to the regular manufacturer, and destructive of the objects of the bill.

Mr. SHELLABARGER. I move to amend the part proposed to be stricken out, by striking out the word "product," and inserting in lieu of it the word "profits," so that it will read "where the annual profits shall not exceed the sum of $600." Let me suggest to the Committee of Ways and Means and to the Committee of the Whole, that although this appears to be rather a small business, yet it does reach to and affect a very large mass of population who will not be very well able to pay these taxes. They include all the small class of manufacturers who do not make their wares by the aid of machinery. Those who do use machinery will always exceed the amount proposed to be exempted. It does include everybody who manufactures by hand, or weaving, the vast variety of articles that enter into the consumption of the country. Therefore it does affect a very large class of people. Now, I suggest to the committee that an exemption of $600 on the manufactures of these poorer people—whether brooms or shoes or baskets or the thousand and odd other things that are made—is entirely too small. The other provisions of the bill show it to be so, because it exempts $600 of a man's income, which is his net earning. Here you exempt only $600 of the gross earnings, which would probably represent only $100. I think that this exemption ought to be enlarged to $2,000 or $3,000, or else my amendment ought to be adopted to strike out the word "product," and insert the word "profits."

Mr. SHEFFIELD. I desire to oppose the amendment offered by the gentleman from Ohio. If it be adopted, nobody will be taxed for manufactures. No one will profess to have made $600 profits. That is very certain. Everybody will be exempt from taxation under this provision of the bill. I am in favor of the amendment suggested by the gentleman from Michigan, [Mr. GRANGER,] for it seems to me to be a very proper amendment. Why, we have exempted these people from the necessity of obtaining a license under another section of this bill, and it seems to me but just that we should subject their manufactures to a tax, for the reason that it would make the system of taxation uniform. Every description of property, it seems to me, properly the subject of taxation should be taxed under this bill.

There is, however, another reason. When a bill like this goes out to the country, it will certainly encounter the prejudices of the community. Everybody will, if possible, avoid the application of the tax to them. Wherever there is the opportunity many people will be induced to commit frauds. Many contrivances will be resorted to, to avoid taxation, and hence, I think, we should be careful in framing the bill to not hold out an invitation to people to commit fraud as, it seems to me, this provision does. For instance: A, B, C, and D are engaged really in a manufacturing establishment, but they each carry on different branches of the business, and in order to bring themselves without the rule of taxation here laid down, they will declare themselves each carrying on an independent business, as suggested by the gentleman from Michigan, [Mr. GRANGER,] and the object of the bill will be defeated. It seems to me entirely proper that this provision of the bill should be stricken out.

Mr. SHELLABARGER. I propose, if I can have the consent of the committee without the necessity of offering a new amendment, to make an inquiry of some member of the Committee of Ways and Means.

It is suggested by my colleague that the object of the amendment I have offered is provided for in an amendment which has been adopted. If that be so I should like to have it stated.

Mr. HORTON. An amendment was adopted on my motion which accomplishes a portion of the gentleman's object. It inserts, in the third line of the section, the words "made by any person or his family, who shall be dependent thereupon for a support." This amendment has been inserted in the section on my motion.

Mr. SHELLABARGER. That does not reach the object. A man may still make goods to the value of $600, and not realize a profit upon them of five dollars.

Mr. SHELLABARGER's amendment was disagreed to.

The committee divided upon Mr. GRANGER's amendment, and there were—ayes 40, noes 48; no quorum voting.

Mr. KELLOGG, of Michigan, called for tellers.

Tellers were appointed; and Messrs. KELLOGG of Michigan, and ROBINSON were appointed.

The committee again divided; and the tellers reported—ayes fifty-three; a further count not being demanded.

So the amendment was agreed to.

Mr. HORTON. I move to amend the seventy-second section, in the seventh line, by inserting after the word "consumption," the words "or delivery to others."

The amendment was adopted.

Mr. HORTON. I move to amend the section, in the fourteenth line, by striking out the word "stem," and inserting the word "stemmed."

The motion was agreed to.

Mr. ALLEY. I move to insert, in the ninth line, after the word "manufacturers," the words "or his or their agent or agents." This is necessary to conform the section to amendments already adopted. The section, as amended, would then read:

SEC. 72. *And be it further enacted*, That the value and quantity of the goods, wares, and merchandise required to be stated, as aforesaid, and subject to an *ad valorem* duty, shall be estimated by the actual sales made by the manufacturer, or by his, her, or their agent, or person or persons acting in his, her, or their behalf; and where such goods, wares, and merchandise have been removed for consumption or delivery to others, placed on shipboard, or are no longer within the custody and control of the manufacturer or manufacturers, or his or their agent or agents, not being in his, her, or their factory, store, or warehouse, the value shall be estimated by the average of the market value of the like goods, wares, and merchandise during the time when the same would have become liable to and charged with duty: *Provided*, That in estimating the duty on leaf, stemmed, or unmanufactured tobacco, the quantity actually sold, removed for consumption, or placed on shipboard, by the producer, shall be the quantity or amount upon which said duty shall be assessed, paid, and collected.

The amendment was adopted.

Mr. LOOMIS. I move to amend the section by striking out all after the word "behalf," in the sixth line, down to the end of the thirteenth line of the section. My object in moving this amendment is to make the manufacturers liable for the actual amount of sales they make. A great many manufacturers send their goods to commission merchants, and they lie in their warehouses a long time without being sold. I think it would be unjust to tax them upon any goods except what are sold.

Mr. ALLEY. That has been provided for in my amendment.

Mr. LOOMIS. If that be so, I will withdraw my amendment.

Mr. SHEFFIELD. I move to amend, in the fourth line of the section, after the word "actual," by inserting the words "cost thereof;" and to strike out from that point down to and including the word "warehouse," in the tenth line, as follows:

Sales made by the manufacturer, or by his, her, or their

agent, or person or persons acting in his, her, or their behalf; and where such goods, wares, and merchandise have been removed for consumption or delivery to others, placed on shipboard, or are no longer within the custody and control of the manufacturer or manufacturers, or his or their agent or agents, not being in his, her, or their factory, store, or warehouse.

I move this amendment for the purpose of asking the Committee of Ways and Means whether they have taken into consideration a proposition which I will bring to their attention. It is this: a manufacturing establishment, including the real estate and permanent machinery, may amount in value to $100,000. Under the direct tax that is already taxed. The annual rent of the real estate, however, forms a basis which enters as an element into the cost of the manufactured article, and as such is taxed again three per cent., and in addition to that the manufacturer is to be taxed three per cent. on his income, thus taxing him thrice upon his real estate.

The amendment was rejected.

Mr. HORTON. I move that the committee rise.

The motion was agreed to.

So the committee rose; and Mr. VAN VALKENBURGH having taken the chair as Speaker *pro tempore*, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt, and had come to no resolution thereon.

RESTAURANT EXPENSES.

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

Resolved, That the Commissioner of Public Buildings be directed to inform the House what amount of coal and gas is consumed by the restaurant in the Capitol, and by whom the expenses therefor is paid.

SMITHSONIAN REGENT.

Mr. McPHERSON. I ask the consent of the House to make a unanimous report from the Committee on the Library of a joint resolution appointing Theodore D. Woolsey, of Connecticut, a regent of the Smithsonian Institution, in place of Cornelius C. Felton, deceased.

Mr. WASHBURNE. I object.

EXTRA COPIES OF DOCUMENTS.

Mr. WALTON, of Vermont. I rise to a privileged question. I am instructed by the Committee on Printing to submit the following resolutions:

Resolved, That fifteen hundred and fifty copies of Executive Document No. 243, first session Twenty-Fourth Congress, and Executive Document No. 5, first session Thirty-Second Congress, on fortifications, floating batteries, and other means of defense, be printed for the use of the House.

Resolved, That five thousand additional copies of the report of the Committee on Commerce, on the reciprocity treaty with Great Britain, together with the treaty and the acts of Congress in relation thereto, be printed for the use of the House.

The resolutions were adopted.

INVULNERABILITY OF SHIPS.

Mr. RICE, of Massachusetts, from the Committee on Naval Affairs, by unanimous consent, reported back joint resolution (H. R. No. 59) authorizing the Secretary of the Navy to test plans and materials for rendering ships and floating batteries invulnerable.

The joint resolution was read. It appropriates $50,000, to be placed at the disposal of the Secretary of the Navy, for the purposes specified in the resolution.

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

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

The latter motion was agreed to.

SMITHSONIAN REGENT—AGAIN.

Mr. McPHERSON. The gentleman from Illinois withdraws his objection to the resolution for the appointment of a regent for the Smithsonian Institution. I will simply say that the person named in the resolution is the president of Yale College. I ask that the joint resolution may be put on its passage.

Mr. COX. I object.

Mr. FESSENDEN moved that the House adjourn.

The motion was agreed to; and thereupon (at half past four o'clock, p. m.) the House adjourned.

IN SENATE.

THURSDAY, *March* 27, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

PETITIONS.

Mr. SUMNER presented a petition of citizens of Chester and Lancaster counties, Pennsylvania, praying for the total abolition of slavery as the best means of ending the war; which was ordered to lie on the table.

He also presented a petition from citizens of McKean county, Pennsylvania, praying for the total abolition of slavery throughout the country; which was ordered to lie on the table.

Mr. SIMMONS presented the petition of Rev. Charles A. Merrill and one hundred and three others, citizens of Little Compton, Rhode Island, praying for the total abolition of slavery throughout the country; which was ordered to lie on the table.

He also presented a petition from citizens of Philadelphia, praying for the passage of a general bankrupt law; which was referred to the Committee on the Judiciary.

REPORTS FROM COMMITTEES.

Mr. COLLAMER, from the Committee on the Post Office and Post Roads, to whom was referred the bill (S. No. 237) to remove all disqualifications of color in carrying the mails, reported it without amendment.

Mr. PEARCE, from the Committee on Finance, to whom was referred a petition of the officers of the twenty-second regiment New York State militia, praying for a remission of the duty on their arms, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 120) in addition to "An act to refund and remit the duties on arms imported by States," approved July 10, 1861, reported it with amendments.

Mr. TEN EYCK, from the Committee on Commerce, to whom was referred the memorial of Francis Hüttmann, praying remuneration for losses sustained in consequence of the illegal proceedings of the collector of customs at San Francisco, reported a bill (S. No. 251) for the relief of Francis Hüttmann; which was read, and passed to a second reading.

THE SLAVE VESSEL AUGUSTA.

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

Resolved, That the Secretary of the Interior be instructed to furnish to the Senate copies of all correspondence in the possession of his Department relating to the slave vessel the bark Augusta, and also the evidence taken by direction of the Government in said case.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House had passed a joint resolution (H. R. No. 59) authorizing the Secretary of the Navy to test plans and materials for rendering ships and floating batteries invulnerable.

HOUSE BILL REFERRED.

The joint resolution (No. 59) authorizing the Secretary of the Navy to test plans and materials for rendering ships and floating batteries invulnerable, was read twice by its title, and referred to the Committee on Naval Affairs.

DEPARTMENT OF AGRICULTURE.

On motion of Mr. SIMMONS, it was

Ordered, That the bill (S. No. 249) to establish a Department of Agriculture, be printed.

EFFICIENCY OF THE BLOCKADE.

Mr. HALE. I offer the following resolution, and if there be no objection, I ask its immediate consideration:

Resolved, That the Committee on Naval Affairs be instructed to inquire whether there has been any laxity on the part of our naval officers charged with the blockade of the southern Atlantic coast, and particularly at the port of Charleston, and whether there be any foundation in truth for the statement made by the British consul to his Government that "armed troop ships of the confederate States, carrying munitions of war, have been allowed to go in and out of Charleston, and no attempt made to stop them;" and that the committee have power to send for persons and papers.

I desire to make a short statement to the Senate, for I consider this an exceedingly important matter. On the 7th of this month the following statement was made in the British House of Commons by the Solicitor General, in reference to the blockade:

"We have the report of Commander Lyons from Charleston, on the 19th of December, and he reports a strict blockade. It is true that accompanying his report is an additional statement that five or six ships had contrived to escape, for which he could not account. When letters were written to all those consuls to inquire whether there had been any intentional laxity, any intention on the part of the Federal commanders to allow vessels to break the blockade, the answer, with a single exception, which I shall mention, was, that there had been nothing of the kind. [Hear, hear.] The single exception is so extraordinary that I must express my opinion that the fact stated by Mr. Bunch could not be accepted without further inquiry. It is that, although no permission had been given to other ships to go in and out, yet armed troop ships of the confederate States, carrying munitions of war, had been allowed to go in and out, and no attempt made to stop them."

The speaker goes on to state that if that be the fact it will present the blockade in a new phase entirely. If it be true, sir, there is something worse than laxity—there is treason; and I think it is due to our national character, and due to the character of our naval officers, that the matter should be strictly inquired into, and the truth appear. I must be permitted, however, to say, sir, that I am perfectly satisfied there is no truth in these allegations; but presented as they have been they cannot be passed over without notice, and hence I have offered this resolution.

The resolution was considered by unanimous consent, and agreed to.

AID TO THE STATES IN EMANCIPATION.

The VICE PRESIDENT. The unfinished business of the morning is House joint resolution No. 48, declaring that Congress ought to coöperate with, affording pecuniary aid to, any State which may adopt the gradual abolishment of slavery, upon which the Senator from Missouri is entitled to the floor.

Mr. HENDERSON. If it be in order, I desire again to offer the amendment that I submitted yesterday in the beginning.

The VICE PRESIDENT. It is in order to renew it in the Senate.

Mr. HENDERSON. Then I offer the amendment.

The VICE PRESIDENT. The amendment of the Senator from Missouri will be read.

The Secretary read it, to insert, at the end of the resolution, the following proviso:

Provided, That nothing herein contained shall be construed to imply a willingness on the part of Congress that any of the States now composing the Union shall be permitted to withdraw permanently their allegiance to the Government; but it is hereby declared to be the duty of the country to prosecute the war until the Constitution shall have been restored over every State professing to have seceded.

Mr. HENDERSON. Mr. President, I have offered that amendment to the resolution in good faith, and with no view whatever to make any record for myself, or to attempt to get others upon the record in order to affect them. I perhaps shall take a different course on this resolution from that taken by a majority, at least, of those representing the border slaveholding States; I feel disposed to cast my vote for the resolution. But an objection has been urged to the resolution, and Senators ought to remember that it has been urged with a great deal of power in the border slaveholding States, that the design of it is to effect the emancipation of the slaves in the border slaveholding States, and then to consent to a dissolution of the Union. I have no idea that any such thing is really contemplated. I know it is not contemplated by the President; I am satisfied that it is contemplated by but few, if any, of the members on this floor. I can see no objection to putting the declaration which I propose upon the record with the resolution, particularly inasmuch as it is said in the argument of the President in support of the proposition, that he submitted it with a view to the preservation of the Union. The institution of slavery in the State of Missouri has not been sufficient, notwithstanding it has been deemed by Senators here to be sufficient in

a great many of the States—because slavery has been charged to be the cause of all our troubles—to withdraw the people of my State from their allegiance to the Federal Government. There are other interests in Missouri besides the interests of slavery, and, although it is an institution existing there, our people look upon other institutions that exist there as of equal if not superior importance. One of the great reasons inducing them to remain firm and fixed to the Union is, that they will never consent to surrender their right to the Mississippi river, over every inch of it, from the borders of Missouri to the Gulf of Mexico; and, sir, if they lose all idea that that is to be an object of the majority here, it will inevitably affect their feelings in the future.

Mr. President, since I have been a member of this body I have carefully abstained from all discussion of the slavery question. There are several reasons inducing me to pursue a course of silence upon the subject. In the first place, the diseases of the country have resulted from slavery agitation, and however effectual the administration of remedies in ordinary cases upon the theory that "like cures like," I must be permitted to demur to the practice in the present case. Additional slavery agitation will do no good but great harm. In the second place, I have thought that the great object of the country should be to put down this rebellion, and to do it successfully demands the united energy of all the friends of Union throughout the nation. In this good work Congress, at its present session at least, might find enough to tax its wisdom and engage its thoughts. In the third place, I represent in part a people who recognize slavery as a local institution among them, and I am at a loss to see how I shall be able to advance their interest in any manner by provoking a controversy on slavery ethics with the majority on this floor, who seem to have satisfied themselves that the institution is wrong. I am willing to abstain from all reflections upon their opinions, provided they will abstain from all interference with the subject itself in the States, where I am satisfied it will be best intrusted for the good of all concerned.

I might give other reasons for my course in reference to this subject; but those named combining, as they do, the interest of my immediate constituents and a sense of patriotic duty on my own part, are deemed sufficient. I opposed the introduction of the bill to abolish slavery in the District of Columbia, not because I regarded it an unconstitutional exercise of power, or an act of such gross bad faith to Maryland or the people of Maryland; not because I was so much attached to the institution as to desire its continuance where ever it existed, or because I thought the free institutions of our country would be endangered by the abolition of slavery in the nation's capital; I did not believe any of these things, and yet I was conscientiously opposed to the discussion of this measure at the present session of Congress. My information on the subject led me to believe that the act would be acceptable to the owners of slaves—almost, if not quite, as desirable to them as to the slaves themselves. Slavery cannot be otherwise than nominal in this District, largely dependent on the will of the slave himself. The interest is a very inconsiderable one, the slave population in 1860 being only 3,181, while the whites numbered 60,788. To show the utter worthlessness of the institution, in a pecuniary point of view, it is only necessary to state the fact that the free colored population at the same period numbered 11,107; and that while the white and free colored classes have for many years been rapidly on the increase, the slave population has been and is now rapidly on the decline. The laws of labor would soon have disposed of it here, when all those intricate questions of good faith and constitutional law, the discussion of which to gaping crowds both North and South has made and unmade Senators and Congressmen and Governors and sheriffs and constables and town trustees, would silently have taken their place among the things of the past.

To me it was a matter of extreme doubt whether at this period of time, when the educated and enlightened white man can with difficulty find means of support for himself and family, true charity to the black man required that his former owner should be absolved from the obligation to support and protect him until this rebellion is over. It was a matter of even still greater doubt whether genuine benevolence was sufficiently combined with good policy, as to demand the immediate payment of $1,000,000 from the Treasury for the purpose of effecting what was almost accomplished in the very nature of things, and especially while the necessaries of life were being taxed to prohibition and denied to millions of suffering white men throughout the land. I thought, too, that the discussion of the subject, in the absence of any real practical good, at the present time might be misunderstood and misconstrued by many real friends of the Union. It might be urged, as it has always been heretofore, that this is but the beginning of the end, the first act of the abolition monster in his work of destruction. We of the South have been annually frightened by some imaginary plot for the overthrow of slavery in the United States. We have been regularly informed by a race of politicians, whose watchful and jealous regard for our true interests has been about equal to that of the abolitionist for the negro, that unless they were continued in power the whole institution would be immediately upset, the owner robbed of his property, and the negro made equal, if not superior, to the white man. We have listened to these stories, and been made alike to fear and hate the most unsubstantial and harmless thing on earth. It is true, that abolition has talked largely in the North of the horrors of African slavery, of which it was almost wholly ignorant, and promised diseased sentimentality an elysium of universal freedom and social delights, as broad as the nation itself; but the fruit of its professions no man has been able to discover, except it be found in the miseries of the present rebellion. No slave has yet been legally emancipated through its instrumentality, and many of us begin to believe that it never intended to reduce its theories into practice.

However, if, after thirty years of agitation and excitement on the negro question, after thousands of promises unperformed, our northern friends shall determine to throw a tub to the abolition whale, by giving freedom to three thousand slaves in the District of Columbia, the first act of the kind of which they have ever been guilty, I have no idea that Missouri will undertake to secede from the Union, especially since her late experience in secession has lost her people near one third of their slaves, rendered the remainder worthless, and destroyed for them property amounting in value to more than all their slaves were worth in periods of prosperity preceding the war.

Even after the consummation of the act, I am not sure that the anti-slavery men can take much credit for what shall have been done in the way of emancipation, for if the Senator from Kansas [Mr. POMEROY] be correct, a plea of "confession and avoidance" may be entered to the claim, admitting the passage of the act, but setting up the fact that the negro was already free. Whether this position be true or not, the future may demonstrate that the present nominal slavery of the three thousand is but little worse, if any, than that boasted heaven-born freedom which makes the negro a social and political outcast in every northern State of the Union.

I thought it ill-timed and unwise to open up in Congress the slavery agitation, and I therefore opposed it. But if you northern gentlemen are determined to disregard my counsels on this subject, I hope you will act as promptly as possible, lest in the angry discussions arising from the momentous question involved—the freeing of a few hundred negroes that are already free—the great State of Delaware may be enabled to take a peep behind the curtain, and, discovering the terrible plot matured by the abolitionists for the overthrow of its sacred institutions and the destruction of its vast interests in slave property—which, at a fair valuation, amounts to at least $200,000—may be induced to secede and join the southern confederacy, where constitutional rights are religiously guarantied unto all men. And unless you dispose of this subject at an early day, it is impossible to tell what effect may be wrought on the mind of my very excellent friend from Kentucky who sits on the other side of the Chamber—and when I call him my friend, I mean what I say. He is evidently already excited on this subject, and no doubt will be more so as the discussion progresses. Excitement engendered upon this subject, too, is exceedingly dangerous; it never cools, but rushes on with intemperate haste to the destruction of its opponents, ending frequently in the overthrow of its own victims. The other Senator from Kentucky, [Mr. POWELL,] also my friend, who has witnessed these things for a greater length of time than his colleague, seems almost to have despaired of arresting the prevalent rage of the day, and has concluded to submit with manly resignation to the fate to be imposed by the dominant majority. The Virginia Senators have become quite restive, and Maryland looks with suspicion upon this reckless disregard of national faith towards its ancient citizens.

The usually quiet Senator from Iowa [Mr. HARLAN] becomes shocked at the intimation from a southern Senator that the laboring whites of the South may commence a war of extermination against the freed blacks, and without largely cultivating the virtue of consistency I must think, at once enters upon a labored argument to prove that northern hostility to the negro is and should be greater than at the South. If this be so, the condition of the negro is really deplorable. If he remains in the South, he must remain as a slave, or he is in danger of total extermination, and if he goes North, it is but to meet a fate more terrible still, if such can be, resulting from the superior prejudices of the northern people. Whatever else these arguments may prove, the Senator from Wisconsin [Mr. DOOLITTLE] will claim that they establish one fact beyond controversy, to wit, that the negroes, when freed, should be colonized and placed beyond the dangers indicated.

Mr. President, another measure received the sanction of this body, to which I was opposed, but I contented myself with a silent vote. Its provisions, I presume, are really harmless, except so far as they may fleece the Treasury, (and just here it is my duty to acquit its friends of any design so to do,) but I was satisfied, and am now, that it will be used by the enemies of the Union for the purpose of cementing southern sentiment into that compact and solid mass of hatred and malignity against the Government which cannot be subdued before the burdens of taxation, followed by some reverses to our arms, which must come ever and anon as the fortune of war, will raise a clamor throughout the land against those who maintain the war as a means of restoring the Union.

I allude to the measure introduced by the Senator from Connecticut, [Mr. FOSTER,] and providing "for the occupation and cultivation of the cotton lands of the southern States," and for the protection and support of the indigent slaves abandoned by their owners. The apparent object of the measure was one of a charitable nature, and gave strong evidence of the Senator's kindness of heart. Whether the results will afford equal evidence of good judgment in the premises, the future alone must determine. To preserve consistency on this negro question, I believe is an utter impossibility, so much so that I begin to doubt my own consistency, a confession that men do not ordinarily make in these days. From day to day I have heard it announced on this floor, by members belonging to the majority, that the negro's mental capacity and habits of industry are such as to enable him, if free, not only to provide for himself the necessaries, but the comforts and conveniences of life. In Georgia and South Carolina, where the measure was intended to operate, the foolish masters had fled from their plantations, leaving their splendid mansions and farms in an improved state of cultivation. They left their slaves, and in their possession their stock and implements of industry. In addition to this, the country itself is one in which bountiful nature, supplying its fruits in richest profusion, almost exempts its inhabitants from the decree demanding labor at the hands of men.

Under these circumstances it seemed to me that the slave might support himself—that our armies, marching North in pursuit of the fleeing whites, might suffer the slaves to fall behind them and proceed to the cultivation of the lands of their respective owners. But the bill provided for the dispensation of charities from the Government coffers, for the distribution of food, clothing, bedding, &c. It enters upon an immense system of Government farming, dividing these cotton lands into plantations of from one to three thousand acres, appoints a superintendent of each farm at

$1,200 per year, and enables him to employ the negroes, men, women, and children, each at fifty cents per day, and appropriates ten dollars for each acre of land for the purpose of procuring seeds, farming implements, &c. It appropriates money for building warehouses, while the cities of the South are being evacuated, leaving dwellings and warehouses to be used by the new planters. It gives a broad discretion to the Secretary of the Treasury to use the means of the Government—unwillingly paid by a suffering people—for the purpose of extending these Government operations, which will prove to be a cancer upon our resources, that should rather be used in giving comfort to the soldier engaged in the overthrow of the rebellion.

Sir, in my own State there are thousands of white men, women, and children thrown out of employment and made beggars in the world by this war. They have left their farms, their property has been taken, their slaves have gone to Kansas, and they, the merest objects of charity, were made the beneficiaries of forced levies upon the secessionists in other parts of the State. If the Government should desire to go into a farming business, no lands can be found on the continent more fertile than those of Missouri, now abandoned by their owners; and if charity be the object, no people are more deserving than those who have periled and lost everything in consequence of their devotion to the Union. I feared the effect of such legislation upon the loyal sufferers in the border States, and I am satisfied that it will not be without its effect upon a large class in the northern States, who do not believe that, in the exercise of the Government's charity, discriminations should be made in favor of the black man. But I consoled myself in the belief that before this measure could be passed through the House of Representatives, and the necessary machinery provided by the President and Secretary for the operations of this season, "seed time would have passed," and the country be spared the humiliation of another blunder on the negro question. If, however, it becomes a law, I hope the Senator from Connecticut will use his influence in securing a lease of the lands by the Government for money, and not have them cultivated for a share of the proceeds. The lessee will reap no profits, and the Government's share will be but a fair proportion of nothing. Should he fail in this, and the worthy Secretary, infatuated with the exploded humbug that "cotton is king," shall undertake its culture on Government account, I still hope that the board of curators or guardians may be induced to employ the laborers "by the piece," and not by the day; for although this plan may result in a failure of the crop, it will secure the Government against any payment, for no work will be done in either event.

The commendable feature of the bill, Mr. President, is that which makes it the special duty of the board to beg and beseech the blacks, in language, however, "decent and humane," to betake themselves to honest labor, and live in a manner usual with respectable people. It is to be hoped the board will not neglect this important duty.

Another proposition was made in the Senate, which I find has been used for the purpose of exciting the public mind, and reanimating the dying spirit of rebellion. I allude to the resolutions of the Senator from Massachusetts upon the relations of the seceding States to the Union. If Senators knew the power with which these things are used to the prejudice of the loyal element of the country, they would exercise a little more caution in the introduction and discussion of these measures. But already some Senator, honestly believing that every drop of blood shed in the war has been drawn by slavery; that every weeping mother or wife throughout the North may lay her woes at the doors of this accursed institution, and that every dollar expended in the prosecution of the war is so much demanded by the cause of liberty in its contest with slavery, is ready to exclaim, "my patience is exhausted; I am tired of these admonitions from slaveholding States." So far Senators will remember that I have offered no counsel. I feel my own weakness in the terrible storm surrounding us. If my views are rejected, I shall readily defer to the superior wisdom of those around me. I may differ with you as to the best mode of preserving the Union and perpetuating it with all its hopes and all its blessings; but that difference, with whatever of excitement and angry debate it may engender, shall never, *never* impel me to lift a hand against my country. If you commit errors, or outrage public sentiment, I want no other right of revolution than the right of the ballot-box. With the Constitution unimpaired, we may yet appeal to the popular heart for the approval of right and the redress of wrong.

I fear I can discover a growing want of charity toward the position occupied by the border State men. If you ask of me the denunciation of slaveholders—thousands of whom from my State are in the armies of the Union, and who are this day willing to turn loose their slaves and lay themselves and their property as a sacrifice upon the altar of the country—I tell you I cannot and will not do it. If you ask of me or of loyal Missourians an unqualified condemnation of the iniquitous assumption made by Mr. Stephens in the organization of the confederate government, "that its foundations are laid, its corner-stone rests upon the great truth that the negro is not equal to the white man; that slavery, subordination to the superior race, is his natural and normal condition;" and that this is a "great physical, philosophical, and moral truth, upon which governments should be founded;" we are ready to join you in its denunciation, and to war upon the government thus founded until its flag shall be lowered and the flag of our fathers shall take its place. This is enough; it is all that should be asked.

The Senator from Massachusetts should remember that the most effective weapon with which loyal men fought the battles of the Union was the fixed and unalterable attachment of good men to the Constitution of the country. We urged that the act of secession was void; that no State could withdraw without an amendment of the Constitution; that such an ordinance, like any other act of a State contravening the provisions of the Federal Constitution, was absolutely null and of no effect whatever; that by such act no right was acquired by the State, no right was *abdicated* or *forfeited* by it; that a State is but a municipal corporation, without will, without malice, without the *animus* necessary to guilt or the commission of crime, and cannot therefore in the eye of the law be *felo de se*. We urged upon the people what we regarded as the true construction of the Constitution; that the Federal laws operated upon the individual citizen and not upon State governments; that no act of secession could transfer the allegiance of the citizen or remove the obligation from the Federal Government to protect him. We assured him if he stood alone in the seceding State the Government must protect him in person and in property; that no State law could *forfeit* his—the citizen's—rights, and that any attempt to sustain such void act by force would subject the offender to the punishment due to the crime of treason. Shall we now go back to our constituents and say to them, in shame and humiliation, we were mistaken in the law? The State had no right to pass the act, it conferred no right upon anybody, it is totally void; but we must confess that although you periled your life in the midst of mobs by defending your Government in defiance of the act, it having passed, you are thereby stripped of your property. Sir, we cannot do this thing. Self-respect forbids it; the true interests of the Government forbid it; the cause of truth and a proper regard for the Constitution, in my view, forbid it.

With these measures pending before us, the President submits for our consideration a proposition entirely new. It is a resolution in the following language:

Resolved, That the United States ought to coöperate with any State which may adopt gradual abolishment of slavery, giving to such State pecuniary aid to be used by such State, in its discretion, to compensate for the inconveniences, public and private, produced by such change of system.

The interpretations given to this measure are, of course, as various as the views of the different individuals who venture upon its construction.

My friend from Delaware, [Mr. SAULSBURY,] alive to the interests of his State, and fully determined that no abolition inroads shall be made upon it, concurs in many particulars with the view of it taken by Wendell Phillips. He assumes it to be the design of the President to renew slavery agitation in the border States, by holding out a false promise of money consideration for property rendered precarious by the condition of the country; that the Constitution prohibits the payment of such consideration, and that none such is designed by the friends of the measure.

The Senator from California, [Mr. McDOUGALL,] on the other hand, gives the President credit for honesty and purity of purpose, but refuses his support on the ground, *first*, that it is unconstitutional, and *second*, that he will not commit his State to the policy of paying money for the emancipation of the slaves of other people. The Senator from Maine [Mr. MORRILL] is astonished that any opposition should be made to a measure so just and conservative.

It is impossible for me to know the secret designs of the President, or any other friend of the measure. I can only judge of their intentions from the reasons assigned by themselves. The President, in his argument in favor of the resolution, uses language which is construed by some as a threat against the institution—an intimation that it must be destroyed by force if not peaceably abolished. He says:

"In the annual message last December, I thought fit to say 'the Union must be preserved, and hence all indispensable means must be employed.' I said this not hastily, but deliberately. War has been made, and continues to be an indispensable means to this end. A practical reacknowledgment of the national authority would render the war unnecessary, and it would at once cease. If, however, resistance continues, the war must also continue, and it is impossible to foresee all the incidents which may attend, and all the ruin which may follow it. Such as may seem indispensable, or may obviously promise great efficiency towards ending the struggle must and will come. The proposition now made, though an offer only, I hope it may be esteemed no offense to ask whether the pecuniary consideration tendered would not be of more value to the States and private persons concerned than are the institution and property in it, in the present aspect of affairs?"

Mr. President, I do not construe this language to be a threat, or intended to be offensive to the representatives from the border States. It asserts a fact which, however unpleasant to us, has long since been demonstrated as truth upon the soil of Missouri. Every man is now ready to admit that he did not, and could not "foresee all the incidents" which thus far have attended this war, and past experience forbids that we should be astonished at any result in the future.

Why was this war forced upon us, and who are its authors? However opposed I may be to the radical measures which I have indicated, and which, no doubt, are largely attributable to the feelings engendered by this unjustifiable war, yet candor compels the Union men of the border States to do justice to the President, and even to his friends in Congress. This terrible revolution was brought about by Mr. Yancey and his confederates, by inflaming the southern mind against the dangers of abolition, which they knew to be false. They drove the South to madness, to self-destruction; and in the letter of Messrs. Yancey, Rost, and Mann, to Lord John Russell, they have erected a monument of infamy to these conspirators. They say, what every sensible man must now admit, that:

"It was from no fear that the slaves would be liberated that secession took place. The very party in power has proposed to guaranty slavery forever in the States, if the South would but remain in the Union. Mr. Lincoln's message proposes no freedom to the slave, but announces subjection of his owner to the will of the Union—in other words, to the will of the North. Even after the battle of Bull Run both branches of the Congress at Washington passed resolutions that the war is only waged in order to enforce that (pro-slavery) Constitution, and to uphold the laws; (many of them pro-slavery;) and out of one hundred and seventy-two votes in the lower House, they received all but two, and in the Senate all but one vote. As the Army commenced its march, the commanding general issued an order that no slaves should be received into or allowed to follow the camp."

Now, sir, what has been the result of this unnecessary strife upon my State. In 1860 our slave population was one hundred and fourteen thousand nine hundred and sixty-five, and although we stood as a peninsula in the great ocean of free soil around us, I hazard the assertion to-day that no property was more secure in the State than slave property. It was so regarded by everybody. Our white population at the same period was upwards of one million. How is it now? I doubt whether there are fifty thousand slaves in the State. The secessionists charged that the brigade commanded by the Senator from Kansas, sitting near me, seized their slaves and took them out of the State, and in order to retaliate they, as I learn, have taken hundreds, perhaps thousands, into Arkansas from Union men in the State, to be delivered over to their injured friends. In addition

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. FRIDAY, MARCH 28, 1862. NEW SERIES.....No. 88.

to this, many of the largest slaveholders of the State, fearing the result of the war, in the earlier stages of the rebellion hurried off their slaves to the South. Others again, waiting until they were surrounded by hostile armies, abandoned negroes and everything else for the protection of themselves, their wives, and children.

The true value of real and personal property in Missouri in 1860 was $501,214,398. Aside from the depreciation of value, which no man can now estimate, and beyond the loss of slaves to which I have referred, I think it safe to say that ten per cent. of this vast amount of property has been destroyed and forever lost to the owners in consequence of this war—an amount equal to the aggregate value of all the slaves in the State at the commencement of hostilities.

If I were to add to this the loss occasioned to the people of the State by the utter prostration of its agricultural, commercial, and manufacturing interests for the last twelve months, I might add fifty millions more to the sum already named.

Looking, then, to my own State, and I speak for it alone, I am not disposed to take issue with the President in regard to the future results of the war. I regard his expression as a prophecy, and not as a threat—a prophecy that I feel will be realized if this war continues. That it shall continue until the Union be restored, I have already expressed my wish in the amendment offered. Whether you adopt it or not, the great West will never be content until every mile of the Mississippi river, from St. Anthony's Falls to the Gulf of Mexico, shall be under the jurisdiction of our Government. Let the question be settled now. But the President negatives, positively negatives, the construction given, in the following language:

"Such a proposition on the part of the General Government sets up no claim or right by Federal authority to interfere with slavery within State limits, referring as it does the absolute control of the subject in each case to the State and its people immediately interested. It is proposed as a matter of perfectly free choice with them."

In this view of the matter, sir, I am perfectly willing that the proposition may go before the people of my State, without at present expressing an opinion as to what course they should pursue. It is a new pledge of faith by the representatives of the people that this vexed question shall be left with the people of each State. It comes not in the spirit of arrogance, demanding conformity with the views of others, but with humility acknowledging if slavery be an evil it is a sin for which we are all responsible, and for the removal of which we are willing to come with practical benevolence. It means more than all this. It intimates to the States that the nation would prefer gradual to immediate emancipation, and that the measures now pending in Congress, looking to such results, should be superseded by one of conciliation and good will.

If this spirit had been more largely cultivated in days gone by, we would not this day be forced to witness a ruined South and a deeply oppressed North. Why, sir, ninety-six days of this war would pay for every slave, at full value, in the States of Kentucky, Missouri, Maryland, Delaware, and the District of Columbia. Nine months of the expenditures of this strife would have purchased all the slaves in the States named, together with those in Arkansas, Tennessee, Mississippi, and Louisiana, thus preserving in peace the whole of the Mississippi to the Gulf. Less than two years of these expenditures would have paid for every slave that treads the soil of the nation. If northern men had treasured these things, and learned that kind words can accomplish more than wrath, and if southern men had resolved to look upon slavery, as upon other questions of moral and political economy, and both had determined to examine this as all other subjects, in calmness and deliberation, we would have been spared the evils that now oppress us.

Mr. President, I desire that the amendment I have offered may be adopted. I want my views expressed as I vote for this resolution. If a majority of the Senate, however, shall differ with me upon that subject, I have made up my mind to cast my vote for the resolution, and to leave it with the people of my State. I am indifferent as to the result upon myself. I feel that it is altogether a change from what we have witnessed for the last number of years on the floor of this and the other House. Instead of that wrangling controversy, instead of those rushing waves of tumult, of ill feeling, and of anger that have been engendered in the discussion of this question, it marches up and takes hold of the slavery question as a practical one, worthy of the calm, cool, and deliberate judgment of those in whom the nation has trusted its prosperity and its future greatness. Then, sir, I shall cast my vote for it. I regard it as no insult to the people of my State; I regard it as no threat; but I regard it as a measure that is conciliatory, and looks to the future peace and harmony of the country, and to the early restoration of the Union.

NAVAL APPROPRIATION BILL.

The VICE PRESIDENT. The special order of the day, being the bill (S. No. 108) for the release of certain persons held to service or labor in the District of Columbia, is now before the Senate.

Mr. FESSENDEN. I move to dispense with all previous orders for the purpose of taking up the bill I indicated yesterday, the naval appropriation bill.

The VICE PRESIDENT. The Senator from Massachusetts [Mr. SUMNER] is entitled to the floor on the special order. Does the Senator yield to the Senator from Maine to allow him to make his motion?

Mr. SUMNER. Certainly.

The VICE PRESIDENT. Does the Senator from Maine make a motion to postpone the further consideration of the special order until to-morrow?

Mr. FESSENDEN. Yes, sir.

The motion was agreed to.

Mr. FESSENDEN. I now move to take up the naval appropriation bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 242) making appropriations for the naval service for the year ending 30th of June, 1863, and additional appropriations for the year ending 30th of June, 1862, which had been reported from the Committee on Finance with amendments.

The Committee on Finance propose to strike out the first section of the bill, which contains appropriations for the naval service for the year ending June 30, 1863, after the enacting clause, and the enacting clause of the second section, so as to make the second section (which contains additional appropriations for the present fiscal year) the first section.

The VICE PRESIDENT. The first section, which is proposed to be stricken out, will not be read unless some Senator shall request it.

Mr. FESSENDEN. I will state that the first section relates simply to appropriations for the next fiscal year. The committee thought it advisable to take up only the deficiencies for this year, and leave the appropriations for the next year to be considered in another bill.

The VICE PRESIDENT. The reading of that section will therefore be dispensed with, unless some Senator shall request it.

The amendment was agreed to.

The next amendment was to strike out in the second section before the word "appropriated" the words "in like manner."

The amendment was agreed to.

The next amendment was to make the appropriation "for repairs at Observatory, freight, and transportation," $3,000 instead of $30,000.

The amendment was agreed to.

The next amendment was in line sixteen, to strike out the letter "s" at the end of the word "ordnances;" so that the clause will read:

For ordnance, $1,000,000.

The amendment was agreed to.

The next amendment was to strike out the following item:

For building additional gunboats, $15,000,000.

Mr. FESSENDEN. Before the question is put on that amendment, I wish to say a few words in explanation of it. I see it has been stated in some of the newspapers, which seem to know a great deal more about the business of Congress, even when before committees, than Congress or the committees themselves, that that appropriation of $15,000,000 was intended for the building of iron-clad vessels, that the action of the Senate committee has been at this critical period of time to strike out that appropriation, and they desire that it may be restored. Now, sir, it so happens that this appropriation of $15,000,000 was not intended for the purchase or the building of iron-clad vessels. It was for the building of wooden gunboats. It was so stated in debate in the House, so clearly inferable from the letter written by the Secretary of the Navy, and was so stated distinctly by Mr. SEDGWICK, the chairman of the committee of the House that reported the amendment, that it was not intended for iron-clad vessels, but for wooden gunboats of, I think, a smaller class than those now built, or which were built during the last year. Coming up at the time it did, it was thought to be unnecessary to build any more wooden boats; and as a member of our committee was also a member of the Committee on Naval Affairs, which had the subject of making an additional appropriation for the purpose of building iron-clad vessels under consideration, it was suggested by him, and agreed to by the committee, that it was best to strike this appropriation, which was intended originally for wooden vessels, out of this bill, and leave the whole subject of making an additional appropriation for the building of iron-clad vessels to be considered by the Committee on Naval Affairs, and reported by that committee as an amendment to this bill. To that suggestion the Committee on Finance agreed, and it was accordingly struck out in order to give the Committee on Naval Affairs a clear field to bring forward their own proposition. That is the simple secret of it, and the whole of it. I hope it will be agreed to.

The amendment was agreed to.

Mr. FESSENDEN. These are all the amendments of the Finance Committee.

The VICE PRESIDENT. The section will now be read as amended.

The Secretary read it, as follows:

Be it enacted, &c., That the following sums be, and the same are hereby, appropriated for the service of the year 1862:

For the purchase of vessels, and necessary alterations incurred in fitting them for service, $2,530,000.

For the purchase of additional vessels, $2,000,000.

For the purchase of nautical instruments, books, maps, and charts, $20,000.

For repairs at Observatory, freight and transportation, $3,000.

For the ordnance foundery at the Washington navy-yard, $50,000.

For ordnance, $1,000,000.

Mr. HALE. I want to ask the chairman of the Committee on Finance a single question in regard to the eighth line, whether these $2,000,000 for the purchase of additional vessels are for vessels that have already been purchased, or those the Department propose to purchase for the remainder of the year?

Mr. FESSENDEN. We supposed it was for vessels they proposed to purchase.

Mr. HALE. I am instructed by the Committee on Naval Affairs to move some amendments to this bill, and the one that I suppose will occasion the most discussion I shall move now. The amendment which I propose, is to insert as an additional section:

SEC. 2. *And be it further enacted*, That the sum of $783,294, being the amount necessary to be provided, as estimated by a board appointed for that purpose, to finish the Stevens battery, now partially constructed at Hoboken, New Jersey, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the immediate completion of said battery.

I will state the views of the committee in submitting this amendment. There was not a uniformity of opinion in the committee in regard to the propriety and expediency of fitting up Stevens's battery. Indeed, I think I may be justified in saying that there was no member of the com-

mittee in the vote which he gave upon the resolution to offer this amendment in the Senate, who considered himself pledged to sustain that action in the Senate; but the committee thought that, considering the extraordinary circumstances and emergencies of the time and the service, it was expedient to report it to the Senate that they might have the action of the Senate upon it; and that is the way in which it is now presented, that the Senate may give their deliberate action upon it; and I shall be obliged if gentlemen for a few moments will give a little attention to this matter, as it is a matter of some considerable consequence in the war in which we are now engaged.

The history of the Stevens battery is tolerably well known to those members of the Senate who have been here for some time. It is an experiment which has been nearly twenty years in the progress of perfection, and it is not perfected yet. The report of the last board that was appointed by Congress to examine it was adverse to it, although it was not unanimous. Mr. Stevens thought there was not exactly fair play given to him, and he has made some additional experiments, and submitted them in the form of a pamphlet, containing the objections of the board and his answers to them.

But, sir, the extraordinary fact of the contest between the Merrimac and the Monitor, which occurred a few weeks since, has seemed to open a new state of things entirely in regard to naval warfare, and the idea seems to be pretty generally entertained now, and indeed such is the suggestion of the Secretary of the Navy, that the work of building wooden vessels for war purposes is practically abandoned. That seems to be the suggestion of the Secretary of the Navy in a letter which he sent to the Naval Committee, and which was submitted to the Senate and ordered to be printed yesterday, and that the contest for naval supremacy and for coast defenses must be trusted almost entirely to iron-clad steam vessels of war. Indeed, it seems that they will supersede not only all sailing vessels and steam vessels, but coast and harbor defenses by stone forts or earthworks, and that the great instrumentality of aggressive and defensive war must hereafter be iron-clad vessels. Under these circumstances it was thought advisable, as there is very little experience to guide us in these matters, and it was believed to be in accordance with the public demand at this time, that the great sums which have already been spent upon the Stevens battery should not be thrown away and the work abandoned, but that we should expend what is necessary to complete and finish it for the purposes for which it was intended.

The vessel is a very different one now from what it was first contracted to be. Instead of being about two hundred and fifty feet long, it is now between four hundred and five hundred feet; and it carries some six or eight engines, I am not entirely certain which; and the whole thing is arranged on a different plan from what it was originally. My own impression is, though I do not profess to be skillful in these matters, that it would be wise to make the experiment with this battery, to put it afloat, and if everything that is said about it by boards that have sat upon it, or by scientific and skillful men, or those who pretend to skill, be true, it would be somewhat strange, for I think that Stevens's battery has not been more ridiculed, nor half so much said about it as was said by professional gentlemen against the Monitor when her model was first submitted to them.

The matter is with the Senate and they will judge of it. The cost as they see is nearly a million of dollars to complete it. When it is completed, even the board that last examined it and who reported against it, as I said before, not unanimously, admit that it will be a vessel of great strength and will be a sea-going vessel. Mr. Stevens, who is a man certainly with a good deal of knowledge in these matters, has such confidence in it as a sea-going vessel that he would be willing to go around Cape Horn in it. The question is before the Senate, and they can take their own action.

Mr. CHANDLER. I was talking the other day with a very distinguished naval officer about this battery, and was rather impressed with the idea that we could expend a million of money to far better advantage in building one or two new gunboats like the Monitor, but of a larger size, than in perfecting this battery. He told me that the guns were all exposed upon this battery, and that no guns could withstand the shot of such a vessel as the Merrimac at close quarters; that necessarily a broadside, or even a single large shot, must dismount and displace one of these guns. He said it was utterly impossible to bring a vessel into close quarters, as were the Merrimac and the Monitor, with guns exposed. I do not know but that some provision might be made for protecting the guns upon the Stevens battery.

Mr. THOMSON. Will the Senator allow me a word? Provision has been made, and the guns and gunners are both protected now. The plan for their protection is perfect.

Mr. CHANDLER. That will perhaps obviate the difficulty. The expense of the Monitor, which proved of so much service the other day, was only $275,000. Half a million of dollars, of course, would build a very much larger ship and a much more efficient one; and I believe to-day that two new ships upon that plan, or some similar plan, costing $1,000,000, would be far more efficient, far more serviceable, than would the Stevens battery if completed. Still, I do not know enough about it to express a decided judgment; but I know what I obtained from conversing with one or two experts in shipping and in iron war ships, and I was convinced in my own mind that economy would dictate the building of new vessels rather than the perfecting of this old battery.

Mr. HALE. If the Senator from Michigan does not know much about this, he is not peculiar in that respect; and I will tell him further than that, that the more he talks with experts the less he will know. [Laughter.]

Mr. CHANDLER. Very likely.

Mr. HALE. It is confessedly an experiment. I was about to suggest the difficulty which has occurred to the Senator from Michigan; I mentioned it to Mr. Stevens himself, and he showed me the arrangement that he had made, which it struck me would be a good one, a perfect one for protecting the guns. We have not adopted this rashly; but in view of the different state of things which has occurred, I do not know that I am betraying any confidence at all when I say that I called at the Navy Department in reference to this matter, and had a conversation with the Assistant Secretary, and, as I understood him, though I had no written communication with him, and did not go especially for instructions about that, he was of opinion that if the difficulty suggested by the Senator from Michigan could be obviated, it might not be an unwise experiment to try the Stevens battery. In regard to these other vessels, that work is going on. We are building other vessels; I think the Navy Department has already contracted for six under a bill which we have passed this session; and the Naval Committee have instructed me to propose a further amendment to this bill on that subject.

Mr. CLARK. I have been at some pains to examine the experiment as proposed by Mr. Stevens; I have examined it upon his own showing. I think he has published and sent around—he certainly has sent to me—a large pamphlet on this subject, and I desire to say to the Senator from New Jersey that in that pamphlet he leaves the guns and the gunners entirely exposed.

Mr. THOMSON. That has been remedied since.

Mr. CLARK. I understand that he has since got a plan for meeting that evil. Now, does any Senator know anything about that plan? We are called upon to appropriate $750,000 for a vessel upon a plan which was very objectionable; but which he says is now remedied, without letting us know what the remedy is. I understand that this vessel is to be protected by water; that is to say, when she goes into action she is to sink into the water. Now, can any Senator tell what she will draw when she is in sailing trim; and can any Senator tell what she will draw when she is in fighting trim?

Mr. President, this subject came before the Senate at the last session of Congress. The two Houses then directed a board to be appointed by whom this vessel should be examined. She has been examined, and the board have reported that it is inexpedient to finish her; that she is not fitted for the purposes for which she was intended. And now what is the proposition submitted to the Senate? My colleague says that Senators know but very little about it if they have got all the information they have from experts. I do not believe they have got any from any other quarter unless from Mr. Stevens, who has an interest of some two hundred and fifty thousand dollars in this matter, and I do not think he is any more disinterested than the experts. After this board have reported against the vessel, the proposition now is that we shall spend $750,000 to finish her.

We have had an experiment tried. We have had the Monitor in action. We know her capacity and her capabilities. For the same money that you propose to put into the Stevens battery to complete her you can build three Monitors, and I would rather have one of them than have this monster when she is finished. The Senator from Kansas [Mr. POMEROY] shakes his head. He may have this vessel if he wants her, and if he can get her; but that does not alter my judgment against her; and I have studied the proposals and plans, as put forth by the builder himself, very carefully; I have gone from end to end of his pamphlet; I have considered all the advantages he set forth; I have considered all the objections set forth by the board, and all the ways in which he proposes to meet them; and still he fails to convince my judgment that this thing ought to be finished. It is confessedly an experiment—a large and costly experiment. We have expended three quarters of a million of dollars upon it already; that is to say the Government has expended half a million and Mr. Stevens a quarter of a million. In my judgment we had better let the thing stay where it is, on the stocks, and take the money which we propose for it and build three vessels like the Monitor, which we can have for the same money; which will be more effective than this vessel will be when she has been finished. I submit to the judgment of the Senate whether, in the condition in which the country now is, with a demand for iron-clad vessels—and I have no doubt that the whole naval architecture of the country is to be revolutionized—it is not better for us to take this money to build vessels which we know will answer the purpose than run the risk of finishing this battery which, after all, is but an experiment and may fail. Is it not prudent for us Senators to take the money and use it in that way which we know will answer a good purpose rather than run the risk of throwing it away in this manner? That is my judgment. I think we had better reject the amendment, and if necessary appropriate any amount of money to procure iron-clad steamers, which we know will be serviceable and will answer the wants of the country.

Mr. POMEROY. I only desire to say that I consider the iron-clad steamers an experiment never yet fully tested, and I did not intend that the Senator from New Hampshire should infer that I was committed even to the Stevens battery. The objection which all these steamers present to my mind is this: when you propose to fight with them, you must sink them in the water; and I have said, and I think it will shortly be susceptible of demonstration, that any wooden vessel, a common large steamer that runs on the ocean, can strike any of these iron steamers and sink her. I will venture the assertion that the Merrimac may come out any day, and when the Merrimac gets ready to fight and sinks herself in the water, the Minnesota can run her down.

Mr. GRIMES. The Merrimac does not sink herself.

Mr. POMEROY. She sinks herself by her weight. The railroad iron put in the shape of a roof upon her weighs her down. If the Minnesota can be lightened, and if I were captain of her—I never aspired to much of an office, but I would take the captaincy of that vessel—I would have the Minnesota made light, excepting in the stern. She can run twenty miles an hour; and I would get up a big head of steam, and with her bow out of water I would run over the Merrimac and sink her without firing a gun. It is so with all iron-clad steamers; the moment you get them down in the water so that you can run over them with a large light steamer, they can be sunk. It is perfectly safe to run on to one of these low vessels. You cannot fire into them when they are coming to you; but there is not the least difficulty, in my opinion, in taking one of the large ocean steamers and running over and sinking any iron-clad steamers in the world. I only intended to say, in reply to the Senator from New Hampshire, that, as these are experiments, I am slow to go largely into an investment in these vessels until they have been more thoroughly and fairly tested.

Mr. CLARK. I misunderstood the Senator from Kansas.

Mr. SHERMAN. At the last session of Congress I opposed strenuously this experiment. I read all that had been written and all that had been printed about it, and also, at the request of the builder, Mr. Stevens, examined the model. The most radical objection that occurred to me was the one mentioned by the Senator from Michigan, and other objections also occurred to myself and to others who examined it at the time. However, at the last session we authorized a board to examine the vessel, and I intended to abide by the action of that board. A majority of that board reported against the practicability of the measure, that it was not expedient to complete it, that it would be an unwise expenditure of money; and the objections were pointed out very fully, and stated in detail. Since that time, Mr. Stevens has written, or caused to be written, a very excellent pamphlet on the subject—a book, indeed, that I have glanced over. I am not yet satisfied that the Stevens battery will be of any very great value. The objections made to it are very serious. They have now been sanctioned by some of the best officers of the Navy. But here is the position in which we are placed: the great difficulty of the present war at this moment is the fear of iron-clad steamboats on the Mississippi river, and the fear of the Merrimac in the harbor of Norfolk. The Merrimac is a dangerous competitor. The idea of the Senator from Kansas I think will prove to be a fallacy. Any person who is accustomed to managing or seeing steamboats will know how easy it is to avoid a direct collision. Any man who is accustomed as a pilot to managing his boat, can, by a simple turn of the wheel, give it a direction which would impair entirely the force of a blow. One vessel striking another at a right angle will sink it, I have no doubt. I have no doubt the weight and momentum of the Minnesota would sink the Merrimac at any moment; but the trouble will be to strike it in such a way as to sink it. If you strike it at a more acute angle than say forty degrees, the blow will be thrown off, and will scarcely be felt. When two vessels are brought in collision together at an acute angle, they very seldom do each other damage, unless there is some timber or something to catch upon which must be torn away. That is the law of collisions; and very many cases of the kind have been tried in the courts of our western States occurring on rivers and lakes. Wherever the collision is direct, as a matter of course one or the other vessel must sink. Wherever it is so angular that the blow can be evaded, even a small vessel may escape injury from a very large vessel. Now, I am satisfied that if the Merrimac is capable of being turned in a quarter of a mile, it may evade any blow that can be aimed at it by the Minnesota or any other vessel. This, as a matter of course, may be tested by actual experiment. I think it is a danger we ought to guard against.

To come back again to this subject, the whole system of our Navy is revolutionized, wooden vessels are no longer worth anything, they are no longer worth anything for attack or for defense. What shall we resort to? We resort to gunboats; we have appropriated $15,000,000 to build them of various plans. I am told that the Navy Department have adopted various plans; but those boats cannot be made effective for a long time to come. I perhaps do not disclose anything improper when I state that the Navy Department are now engaged in building vessels of various kinds, not only for offensive but for defensive war, not only for collision but for guns, to try all the experiments that have been pointed out. They are trying various experiments.

The question after all comes to this: had we not better appropriate the sum of money asked for in order to try and test this experiment? The officers that have examined this boat say that it has great power, and that but for certain difficulties and defects it would accomplish all its purposes. They say it will run rapidly, with great force and with great power; and the most serious objection is the one I have named, that the guns themselves are not protected. I do not myself see how Mr. Stevens can protect the guns. The whole theory of his vessels rests upon the idea that the guns must be exposed, and that the gunners must be below. Unless he makes another deck to protect the guns, I do not see how he can do it. But if he adopts that plan of putting on another deck or another cabin so as to protect the guns, then he loses the great advantage of his boat, which is that the guns may revolve on a pivot and fire in any direction.

On the whole, Mr. President, I am strongly inclined to vote for this proposition, and let Mr. Stevens try the experiment. I am afraid it will be a loss of a large sum of money; but as I see no way of avoiding it, as we must enter into experiments, as the Merrimac was an experiment, and for a long time believed to be a failure, as the Monitor was pronounced by officers of the Navy an experiment which would be a failure, and was jeered at even after it went out into open water. I do not see but that it would be better to complete this experiment of Mr. Stevens, that is supported at least by some good practical engineers, supported at least by one distinguished citizen on the commission which examined it. It strikes me it would be better for the Congress of the United States to try the experiment and run the risk of losing the three quarters of a million of dollars needed for that purpose. On the whole, therefore, I shall vote for the proposition.

Mr. CHANDLER. I desire to ask the Senator from Ohio a question. Did I understand him to say that the protection to these guns would destroy the whole theory of the vessel?

Mr. SHERMAN. I say I do not know what plan Mr. Stevens may fall upon to protect the guns; but if he protects the guns by building another cabin above, and covering it with railroad iron, he destroys the great virtue of his boat. One of the great merits of the boat is, that the guns may revolve on an axis and fire in any direction without turning the boat; and, as a matter of course, if he surrounds the guns by a deck, he cannot turn them.

Mr. CHANDLER. If I understood the Senator, the guns are taken below deck and turned below, are they not?

Mr. SHERMAN. Oh, no; the guns are on deck and turned by machinery.

Several SENATORS. They are loaded below.

Mr. HALE. Let me explain that. These guns are on a pivot, and the muzzle is lowered down. The gun itself remains on deck, but simply the muzzle goes underneath and there it is loaded. The protection that is devised by Mr. Stevens for these guns at present does not alter their quality as pivot guns at all. I cannot entirely explain it. I have seen the model.

I have the greatest respect certainly for all my brother Senators that express their doubts about this matter, because I do not profess to have any great knowledge on it; but ever since I have read the history of Christopher Columbus when he undertook to explain his theory of a sphere before the learned council of doctors at Salamanca, I have had my reverence for experts and boards and learned doctors and pundits a good deal shaken. You know how they met him. He argued from the nature of the case that the earth must be round, and then they quoted to him a text of Scripture to show that God had spread the heavens like a tent over the earth. Very similar it strikes me to objections of that character, are some of those which are brought here. Now, I want to read to the Senate the opinion of a man whose judgment I think will be of weight with some gentlemen—Colonel Delafield, of the engineer corps of the Army. Colonel Delafield says, speaking of this vessel:

"The design is a fast steamer, capable of approaching a ship of the line without being injured, armed with the heaviest guns arranged to concentrate their fire at the water line when within twenty feet of the desired object. One round from three such guns so concentrated must destroy the buoyancy of any sea-going vessel of which we at present have any knowledge. That you can construct such a vessel, and that you can attain and secure all these particulars with some modification of the steamer on which yourself and brothers have labored for so many years past, and our power of national defense will be greatly increased thereby, I most sincerely believe."

The date of that is February 8, 1862, little more than a month ago. There is another thing about this vessel in which she is entirely different from the Monitor, and has a great advantage. She is a vessel that, by the confession and admission of the board that advised against the expediency of completing her, has very great speed; greater, I think, than any other known steamer.

Mr. WADE. When can she be completed?

Mr. HALE. The vessel can be finished in the ordinary mode of working in about four months; but by doubling hands and working at nights, which would make some additional expense, it could be finished in about sixty days. Gentlemen speak about the Merrimac. Mr. President, it seems as if this Merrimac constituted a night-mare that sits upon us all, and as if we thought that when we get rid of the Merrimac we shall have nothing to do but return thanksgiving for our deliverance. In the new state of things that is upon us the Merrimac is not the only enemy we have to compete with, and protection against her is not all that in this emergency of our affairs we must look to. We have got to depend on iron-clad steamers; we have got to go without the light of experience. If you had judged and determined by the reports of these experts—I have myself got sick of the name; I am glad it is not an old Saxon word—we never should have had the Monitor; we should have had nothing but a horse laugh from learned pundits over the very idea, instead of having what we now have.

I do not pretend, as I said before, to have much knowledge upon this subject; but according to the unsophisticated judgment which I have been able to form by examining this vessel, and I have done it very carefully, I think she will achieve very much that is expected of her; I think she will be the most powerful vessel on the face of the earth for offense or defense, and it consists in the fact that her guns are all pivot guns and the whole force of her armament may be made to concentrate upon a single point at a moment's warning. She may turn on her own center in about a minute and a half or two minutes, but independent of her power of being turned on her own center, her guns may be brought to bear, every one of them, to the same point in a moment's time. I think that if we should suffer any great injury from any of the iron-clad steamers to which we are liable, for the Merrimac is not the only one our enemies have, we should reflect upon ourselves to the last day of our lives that, from timidity and apprehension, we hesitated to make this experiment. Sir, we must make some experiments in the emergency that is upon us; and when there is no light of experience to guide us, we must strike out some experiments; and it is only those that have the courage and the judgment and the foresight to make such experiments that succeed. We have made one, the Monitor; we have succeeded, and she is not the product of any experts or any board, but she is the result of the energetic action of the brain of a private individual, having no connection with your Government or any of its Departments. So with this vessel of Mr. Stevens; it is the product of a man who was no visionary enthusiast, a man who tested his own practical wisdom in the peculiar business to which he devoted his life by eminent successes in the path in which he struck out, and it is upon such men that the country must rely, and I do hope that in this case the experiment will be made.

Mr. LATHAM. I agree with the honorable Senator from New Hampshire and the honorable Senator from Ohio that if Congress takes into consideration in making all these appropriations the certainty of success we had better not appropriate a dollar. I believe with the Senator from New Hampshire, that there will be millions of dollars expended in experiments, and that the Government will be compelled to undergo a loss before any certain result will be attained. I read a few weeks ago an article in one of the English reviews upon this subject of iron-clad vessels, which I tried to get (as it contained some very important facts) to lay before the Senate in the consideration of the subject now pending. The Emperor of the French, the present Napoleon, was the first, through his engineers, to conceive the idea of building iron-clad vessels of war. He submitted to a board of engineers a certain series of experiments upon wrought iron to see the capacity of resisting projectiles from guns of different caliber. These experiments proved satisfactory to him, and he immediately commenced the construction of iron-clad steamers, such as the French navy now has. The English Government with that usual jealousy which it exercises over a rival maritime Power, learning of the construction of these vessels, determined to submit the question to a board of engineers, also, to see whether they were capable of resisting, as it was said in the French papers they could, any kind of projectiles that might be pro-

pelled against them. What was the result? Why, sir, the board of English engineers placed the iron plates at a given distance, and found that they would not resist the projectiles as stated in the French papers, and they treated the whole subject with scorn and derision. Notwithstanding, the work went on upon the part of the French Government, and a second board was called in England. Then when the iron plates of a given thickness were placed in support of heavy oak timber which had been neglected before, with the additional resisting power of wood combined with that of iron, it was found that the projectile fell upon it perfectly harmless, and when the shots were repeated a number of times in directly the same spot at a given distance the resistance was perfect. And then it was that the English Government saw that there was something in the resistance of iron to any kind of projectiles, and commenced building the vessels which they now possess.

I only cite this illustration to show that after all it is a matter of experiment. These experiments have been carried to a further point by the French Government than by any other Government upon the face of the earth. The experiments they have made are matters of secrecy on the part of those Governments. If we expect to place our Navy upon a footing to compare with that of England or France or any of the Powers that are resorting to iron-clad vessels, we must expect to not only experiment, but experiment at a great cost. For one, sir, I am perfectly willing—and I feel that I am doing nothing more than my duty in it—to vote for any reasonable appropriation in order to carry out the design as contemplated by the Senator from New Hampshire in making this proposition.

Mr. CHANDLER. I am perfectly satisfied we shall be compelled to spend a great deal of money in experiments. When this debate first arose I was in great doubt myself as to the propriety or impropriety of making this appropriation; but the argument thus far has satisfied me that it ought not to be made. When the Senator from New Hampshire stated that a protection could be placed over the guns on this battery, I supposed that it might be done; but the Senator from Ohio has convinced me that it cannot practically be done. I do not say it cannot be done, but I do not see how it can be done. These are pivot guns. They are intended to point in every direction.

Now, sir, I believe that there is to be a revolution not only in vessels, but in projectiles. We have already cast the fifteen-inch gun; we have already experimented with the fifteen-inch gun, and we now throw a shot weighing four hundred and eighty pounds. Why, sir, one of these four hundred and eighty pound shot would, perhaps, sink a vessel, when a broadside would have no effect upon it whatever. How do we know that we may not next year have a twenty-inch gun throwing a ball weighing eleven hundred pounds? We shall be compelled to experiment in gunnery until we find a projectile that will crush an iron ship. I believe that we may experiment with less expense than with this battery. The Senator from New Hampshire tells us that it has some eight or ten or twelve engines.

Mr. HALE. Oh, no; eight.

Mr. CHANDLER. Well, eight engines. As a matter of course, it is going to be a very expensive toy after we get it, whether it is good for anything or not. Now, would it not be better for us to experiment with a couple of vessels like the Monitor, or on some similar plan, that we know will work, and put on them a couple of immense guns that we think will crush an iron ship, rather than with this machine, invented twenty years ago, and which we know, as at present advised, will not answer. We know that at close quarters, as between the Merrimac and the Monitor, she could not stand one shot. Take a single projectile from one of these fifteen-inch guns, and it would clear the deck of the Stevens battery. Why go on and expend nearly a million of dollars upon what has up to this day proven a failure, and which has been reported adversely upon by a competent board of your own engineers? The Senator from New Hampshire expresses his profound contempt for experts. Well, sir, my contempt is not so profound as his. I admit my own ignorance, and I admit that other people may know something. He admits his ignorance, and claims that everybody else is just as ignorant as he is. That is the difference between us. I have a profound respect for men who have experimented, and who have devoted their lives to the study of this subject. The man from whom I derived my information was the very man who advised the construction of the Monitor. I do not think this experiment ought to be made. I think we can make a cheaper experiment, and a better one; and I shall, therefore, vote against the proposition.

Mr. GRIMES. Mr. President, I was a member of the committee that consented to the introduction of this amendment, although it was agreed to when I was absent, but with the understanding, I believe, that each member, when the proposition should be submitted to the Senate, should be permitted to vote as his own judgment might dictate. I therefore feel no restraint in voting as I choose to vote, from having been a member of that committee, upon the proposition now before us.

When this proposition was before the Senate in July last, I then expressed the opinions that I entertained upon it, and I have had no occasion to change those opinions. I did not think then, and I do not think now, that the best interests of the country require that we should make this appropriation. I think that it will be squandering the public funds to the precise amount that this appropriation calls for.

I am pretty well satisfied that the amendment will be adopted. I am aware of the pressure that has been made upon Congress to secure its adoption. I know that the public press of the country, without knowing anything about the merits of the proposition, have been calling upon members of Congress to vote for its adoption; and I know that we are, to a certain extent, legislating here to-day under duress. Why, sir, there is a perfect panic in our northern commercial cities. New York, at any rate, seems to think that, in the course of a few days, the Merrimac is going to be seen sailing up Broadway. The city council have been making appropriations for the public defense. Their Union defense committees and other private associations are attempting to do the same thing, all with the view, I apprehend, that the Government shall finally reimburse them for the money they shall expend. They have had, perhaps, some reason for excitement growing out of the advent or the egress of the Merrimac from Elizabeth river; but they ought to remember, and we ought to remember, that the Government has done something, and is doing something, to protect the commerce of the country, and to protect these commercial cities against any danger that may arise from the Merrimac coming out again.

Mr. President, it is well enough to know exactly what the Department has done. In the first place, we have now the Monitor. She has been tested. She has been tested in such a manner as no English or French vessel ever has been tested. We know exactly her capacities in actual warfare, and we know exactly what her sea-going capacities are. We have, therefore, some basis upon which to build a system. If we go on and improve upon or build up upon that foundation which the Monitor and her success seems to have laid, then we can establish something that will be creditable and useful to the country.

The Monitor was built by Mr. Ericsson—he was the contractor—and cost the Government $275,000, about one third of the amount that is sought to be appropriated by this amendment for the completion of Stevens's battery. He did it at his own risk. He entered upon the contract, and the Government did not agree to receive the vessel from him until she had been tested. She was on the way round to be tested upon the batteries at Pig Point and on the Potomac when the Merrimac came out from her retreat. She was contracted to be built in forty-six days before she was built and delivered. Gentlemen will, therefore, see that it was no fault of the Department that the Monitor was not at Hampton Roads forty-six days before she was there. I need not state, for I presume every gentleman here is familiar with, the construction of the Monitor. They know how she is built.

Then we have the Mystic, which cost the Government by contract $235,000—less than one third the sum that is sought to be appropriated by this amendment. She was to have been completed on the 27th day of January last. You will see, therefore, that it is no fault of the Department or of the Government that she is not now at Hampton Roads or in a position to defend the commerce of the country against hostile attacks. By the contract, she was to steam at the rate of ten knots an hour, covered with three and a half inches of iron, to carry four nine-inch shell guns, and two fifty-pounders, rifled.

Then we have the Ironsides, I believe they are to call her, at Philadelphia, of twenty-four hundred tons burden, two hundred and fifty feet long, fifty-six feet beam, sixteen feet draft, to cost $780,000, to steam nine and a half sea miles per hour, covered with solid plates four and a half inches thick, and designed to carry sixteen large eleven-inch guns; but the armament will probably be changed.

You will thus observe, Mr. President—and I say this for the benefit of our friends in New York, Philadelphia, and Boston, as well as for the Senate—that of the appropriation that was made by Congress in July last, of $1,500,000, we have constructed the Monitor, costing $275,000, the Mystic, $235,000, and the Ironsides, $780,000, making a total of $1,290,000, leaving $210,000 for contingent expenses and for armament.

In addition to that, Mr. President, from the appropriation of $10,000,000 already made at this session of Congress, the Government have contracted for four steamers, iron clad, to be built and delivered by Captain Ericsson, upon the general plan of the Monitor, but much larger and with much heavier armament, each of them to carry two fifteen-inch guns, and to be delivered in four months, before you can, under any possible circumstances, no matter how valuable she may be, complete the Stevens battery. Then, taking the success of the Monitor as the basis upon which to act, they have contracted for two more, to be delivered in five months. Another they have contracted for, to be delivered in four months, to be covered with four-inch iron, and to carry two eleven-inch guns. In addition to that, they have entered upon the armament of the Roanoke.

I have stated these facts, Mr. President, in order to satisfy the public that there is not any very great danger to be apprehended from the Merrimac, and to satisfy my friend from Ohio, who seems disposed to vote for this appropriation because he thinks that by some sort of circumstances this battery may prevent the Merrimac from doing injury to the country, that we shall have plenty of iron-clad vessels built upon a plan which we know must be successful, for the plan has already been sufficiently tested, as early, and I think earlier, than you can, under any circumstances, complete the Stevens battery.

Mr. President, one great objection that I have to entering on this new and untried experiment—for it is such—of making this appropriation for the purpose of completing this battery is, that we do not know anything about it. I have examined that plan. The plan, as I examined it in July, is altogether different from that which has been described here to-day. In July, she was not to carry as heavy guns as it is said she is to carry now. In July, she was to be loaded by men who were to be inside of a casemate; and the guns were whirled by a pivot, so that the muzzle approached the mouth of the casemate. There she was loaded, and then, by some machinery, the gun was swung round, and the muzzle presented to the enemy.

Mr. THOMSON. That is not so now.

Mr. GRIMES. No, sir; I understand that now she is changed, and they now lower the muzzle and load her from below, forcing the ball up by some sort of process; and how they keep it there when it is forced up until the gun is put in position and brought up, is more than I am able to comprehend. Nobody has explained it here to-day. In July last the gun was wholly exposed, or it was represented that the guns were to be exposed when it was examined by the commission appointed under the authority of the resolution adopted at the extra session; but we are told here to-day that they are to be changed; that the guns and the gunners are to be protected. How? Are they going to build iron turrets or casemates upon the plan of Captain Cowper or upon the plan of Captain Ericsson? If they do, it is very important for us to know it, because one of the arguments urged in favor of the adoption of the amend-

ment is that the vessel is to have a great rate of speed, and to draw a certain depth of water. Now, if you are going to place upon the vessel five turrets, one for each gun, and each of them to have a weight of fifty or five hundred tons, of course the draught of the vessel will be much greater, and her speed will be correspondingly diminished. If we are going to vote for this amendment, not upon the statement of the board, not upon the recommendations of the Department, not upon the recommendations of any one appointed by our own authority, but upon the representations of gentlemen here in the Senate as to what this thing is, let us know specifically what it is; let us know what is the weight and dimensions of these new attachments; these new casemates, or these new protections, or whatever they may be, that are to be placed upon it. Do not gentlemen see that the thing that we are asked to vote for is altogether different from that which our committee examined, that which we have been solicited to examine, and have ourselves individually examined; and are we to be asked or to be expected to vote for the thing perfectly in the dark? I trust not.

I do not think that anybody has any right to suppose that I am opposed to protecting by proper naval defenses our Atlantic and Pacific sea coast; nor is any one here justified in supposing that I am opposed to the construction of iron-clad vessels of war. I believe that I have been as ready and as willing as any other man has been, to embark in experiments of that kind; but when I do act, when I do vote the money that is to be contributed by direct taxation by my constituents, I do want some data to act upon. We have it in the Ericsson battery. We have it not in this matter. I know, sir, that a great revolution has taken place in our defenses. I do not know where it is going to end. I believe that it will end in a complete reorganization of our Army and Navy. I have my own theories on that subject, which probably would not be acceptable to any other man.

Mr. COLLAMER. Let me ask the gentleman whether the Merrimac can go out of the capes with safety to sea, and go round to another port?

Mr. GRIMES. I am not prepared to answer that question; but I am prepared to give the Senator the opinion that I have heard expressed by naval officers on the subject. I am no seaman, and I never saw the Merrimac; but I have seen several gentlemen who have seen her. I have conversed with several gentlemen who saw her in the engagement with the Monitor, and it is their uniform opinion, so far as I have been able to learn, that she could not go to sea.

Now, sir, a word in regard to the merits of this proposition. Mr. Stevens is entitled to one credit which the Senator from California, or the review which he quoted, does not give him. The French Emperor was not the man who inaugurated the experiments with iron-plated ships. Robert L. Stevens is entitled to the credit of having done that as early as 1842, and he was the first man to propose it. At an early day he came here to Congress asking for a law to be passed by which he might be permitted to enter into a contract with the Government for the construction of an iron-plated ship. The law was passed, and he agreed to construct a certain vessel, of a certain model, of a certain capacity for speed, and with a certain armament for the mean sum between what the Mississippi and the Missouri, two wooden war vessels that the Government was then building, should cost. By subsequent contract entered into between him and the Secretary of the Navy it was agreed what that mean sum should be, and I think it was $584,000 or somewhere in that neighborhood, of which sum, $500,000 has been already paid him. Well, sir, he hung on, and expended the money. We have a report before us of a commission appointed under the authority of an act of Congress passed at the extra session showing how far that vessel is complete. He has been making constant applications to Congress for an appropriation of money to go on and complete it. We concluded to have the thing thoroughly investigated. The Secretary of the Navy, under the resolution we passed at the last session, was authorized to appoint a commission of five persons to examine this battery. He appointed Commodore Stringham of the Navy, a very excellent and intelligent officer as everybody knows; Captain Inman, of the like reputation, Captain Dornin, also of the line of the service, a man who has seen more sea service, I think, than any man in it, or certainly within a few months as much as anybody else; and Mr. Stimers, a chief engineer of the Navy, the person who superintended the construction of the Ericsson battery, and who came upon her around to Fortress Monroe, and worked her during her engagement with the Merrimac. The fifth person was Professor Henry, of the Smithsonian Institution. Why, or how, or in what manner this gentleman became attached to this board I am unable to divine. I believe he was originally a New Jersey man.

Mr. THOMSON. A New Yorker.

Mr. GRIMES. He used to be a professor in Nassau Hall college. This board, after giving the subject a thorough examination, report that:

"She differs from the ordinary war vessels with which we are acquainted:

"1. In having long slender ends.

"2. In employing two independent propellers, with several engines attached to each.

"3. In depending entirely upon a fan-blower for the ventilation of the lower part of the vessel when in action.

"4. In employing a heavier armament than has ever yet been put afloat, and training and loading these guns by steam machinery, below the deck, manipulated by persons who do not see the guns.

"5. In having the guns exposed to the direct fire of the enemy, upon the top of, instead of within, an iron-clad vessel."

We are told now that there is a deviation from that plan, but when our commission inspected it, the guns and the gunners were exposed on the deck of the vessel. Suppose that this Stevens battery had been completed and had been brought into conflict with the Merrimac as the Monitor was two weeks ago last Sunday. Why, sir, there would not have been a gun or a man left on her deck:

"6. In settling the vessel when going into action; and in several other respects which will develop themselves in the course of this report."

One of the peculiarities of this vessel is that she is made, or is proposed to be made, of great length. It must be borne in mind by the Senate, when Senators talk about the speed with which she is to go, that this will be her speed and her celerity of motion provided she comes up to the high-sounding expectations of Mr. Stevens's manifesto. We do not know that she is going to do this. This is only what Mr. Stevens hopes she will be able to do, and hopes she will be able to do in view of the magnitude of this appropriation, which he hopes we will make for it. This report continues:

"1. The great length of this vessel, compared with her transverse strength, strikes a nautical man at once, and a careful investigation clearly indicates that it would be the height of professional imprudence to send such a vessel to sea."

This is the opinion of gentlemen who are thoroughly acquainted with the subject; who are nautical men; who are not military engineers, like Colonel Delafield; who are not scientific chemists, like Professor Henry; but men who have spent their lives upon the sea, and know something of the power and danger of the elements when they are excited:

"The action of the waves would cause her to writhe and twist to an extent that would soon open the seams of her light iron sides. Her use, if completed, would therefore be confined to the defense of the harbor. Here her inconvenient length and her draught of water, which could not be reduced to much less than nineteen feet, even for this service, when fully equipped, would militate against her usefulness to a certain extent."

The draught of this vessel, when examined by this committee of ours of experts, could not be reduced to less than nineteen feet. I ask gentlemen who are in favor of this amendment, how much is she going to draw when you put on turrets or casemates over these five guns that shall thoroughly protect them, with hundreds of tons of weight added? Can anybody tell us? Are we to make this appropriation merely upon the representation that this weight is to be added, that the guns and the gunners are to be protected, without knowing anything more about it than we now know?

"2. The employment of two independent propellers instead of one would appear to possess great advantages in effecting great rapidity of maneuver when in presence of the enemy, and would be all the more useful to her from being compelled to confine her operations to the defense of the harbor, the channels of which would be rendered comparatively restricted by her great length and draught of water."

Here you have a vessel that probably cannot be made to draw less when she is in fighting condition, according to their own representation, than twenty-four feet. If you have her, for instance, in New York harbor there is but a very small space that she can occupy. She can only be used right up and down the main channel. But you build another Monitor, drawing only ten feet of water, and costing only $275,000, and put her on one side of the channel, and another Monitor on another side of the channel, and so on, putting three or four of these vessels in light water commanding the channel where you can have a cross fire upon the vessels that are attempting to come in, and you have something that will resist the attack of an enemy; but this will not.

"The application of more than two engines to one propeller shaft, arranged, as in the case of this vessel, to occupy a considerable portion of the length, has its advantages and disadvantages. It no doubt distributes over a greater area the reactive strains which the engines bring upon the vessel when they are in operation, but it also adds to the first cost of the machinery, the space occupied, and the labor of attendance.

"3. In ventilating the lower part of the vessel by artificial means during action, it must not be forgotten that fresh air is a constant necessity to human life, and to maintain it in this vessel there must be always steam up, and the fan in operation.

"4. One of the most important features of the vessel is that of using very heavy guns. The five fifteen-inch smooth bore and the two ten-inch rifle guns throw fifty per cent. greater weight of metal per broadside than our heaviest forty-four gun steam frigates armed with heavy Dahlgren guns.

"5. It being a part of the design of this vessel that these guns shall be large enough for their own protection against the shot of the enemy, it would be well to examine the question of how large must be the mass of cast iron to secure it against injury from such a source."

It is hardly necessary to read this, because this part of the report was in answer to the suggestions of Mr. Stevens and his friends, that the mass of iron in these large guns would be so great, that a cannon ball thrown from a vessel would not be able to throw them out of position; but I understand, from the admissions that have been made here to-day, that they have themselves become convinced of the possibility of doing that, and now propose to protect the guns.

Mr. FESSENDEN. By protecting them in that way, do they not lose the advantage of turning round and firing in every direction?

Mr. GRIMES. Nobody knows. Nobody can tell that. That is one of the troubles that we have here. Nobody knows whether they are going to adopt Captain Ericsson's plan or not. If they are going to protect the guns, they have not told us how they are going to protect them. If they are going to protect them by a turret, and adopt Captain Ericsson's plan, then it may be that they can turn the turret so as to throw their shot either to the right hand or to the left; but, as I understand it, they cannot throw them forward nor aft.

Mr. THOMSON. I hope the Senator will allow me one moment.

Mr. GRIMES. Certainly.

Mr. THOMSON. I have, as many of my friends, and among others the Senator from Iowa, know, been unwell for several days, and have not been able to see Mr. Stevens, but I mentioned to him some days ago that one of the objections, and a very great objection was, that the guns and gunners were not protected. He mentioned to me yesterday that they had adopted a plan since that was exhibited at our committee room, by which they were entirely protected. If I understood him rightly, for I had but a short conversation with him, it was by means of an iron case inclined, and of a thickness, I think, of eight inches of iron.

Mr. GRIMES. Does it revolve?

Mr. THOMSON. I have never seen it. It was to be entirely circular or semicircular.

Mr. GRIMES. It is very evident we cannot tell much about that. It is to be an iron case of some description, but the Senator does not know whether it is to revolve.

Mr. President, another peculiarity of this vessel is that it is being built in water-tight compartments, and the vessel is to be sunk when it goes into action. It will be borne in mind by the Senator from California, who is in favor of iron-clad ships, that this is not an iron-clad ship. She is iron clad at her bulwarks and for a certain depth below.

Mr. LATHAM. It is the same way with the Monitor.

Mr. GRIMES. No, sir; she is iron clad all the way. This Stevens battery is built with water-tight compartments. I suppose little gates are to be opened which are to admit the water through

the coal and through certain apartments that are not needed, or that are supposed not to be needed for ammunition or stores; when they go into action these gates are raised and the water is admitted. The action is fought, and then the water is pumped up and the vessel is to be raised to its proper height. That is the theory. It might be a very good theory if everything else worked well. If you were certain that the enemy would wait until you got the water in, and your vessel was sunk properly, and if you could sink it so that you would have the proper amount of water in each compartment, and so that it would not careen either way, then it might be of value. But with the water in the hold, as is proposed by Mr. Stevens's plan, the vessel loses the buoyancy that the Monitor has, and therefore would be much easier sunk, as proposed by the Senator from Kansas, than a vessel built upon the plan of the Monitor. The Merrimac did attempt to sink the Monitor; but she was so buoyant that she was just like a corked bottle in the water, and when she was struck she slid right off the prow of the enemy, and hurt the enemy's vessel more than she was injured herself; but if she had been sunk in the water, deadened in her weight by water in the hold, she would most inevitably have gone under.

There are various arguments urged by this commission in opposition to this portion of the project of Mr. Stevens; but their report is in the hands of every Senator, and no doubt has been read. In conclusion, the commission say:

"We look with the deepest interest upon every addition to the efficiency of our Navy, of whatever character; gladly hail every improvement made to any department of it; but at the same time we cannot recommend the expenditure of important sums of money upon projects of more than doubtful success when put into practical execution; and therefore we do not deem it expedient to complete this vessel upon the plans proposed."

That is the judgment of the commission. Now, what are we going to act upon? Are we going to take this opinion of our own professional officers, who are competent to judge on this subject, who, at any rate, we in July last believed to be competent to judge on this subject, and I believe them now to be competent, or are we to take the mere declarations of gentlemen in regard to a matter upon which no two of them, according to the statements made here to-day, seemed to be agreed? Are we going to appropriate between seven and eight hundred thousand dollars out of the public Treasury for the completion of a vessel, the plan of which is not before us, the plan of which has been changed time and time again, and the specification of which no gentleman here is now able to tell us anything about?

Mr. SHERMAN. I always listen with attention and respect to the remarks of the Senator from Iowa, because I know he is always sensible and practical, and his speech to-day illustrates it. But here is the difficulty in which we are placed: my friend is willing to risk $15,000,000 in the experiment of building iron-clad vessels; and yet they are all experiments, every one of them. The Warrior, and all that have been built in England and France, are experiments. The Monitor itself was a mere experiment; and I should have wanted no easier task than to demonstrate to the Senate the absurdity of running such a tub upon the sea. The idea of a vessel built of iron, sunk within eighteen inches of the top of the vessel, navigating the sea from the city of New York to the city of Norfolk, could be made more ridiculous than any proposition connected with the building of this vessel; and yet it was done. It was a successful experiment. Now, here is a vessel upon which a gentleman of admitted capacity has been devoting some twenty years of his life.

Mr. FESSENDEN. The originator of it is dead.

Mr. SHERMAN. He died, and it is continued by his brother, a practical man. The condition of the vessel is this: the United States has spent $500,000 upon it, and that is gone. Mr. Stevens has spent, out of his own means, two hundred and fifty or two hundred and sixty thousand dollars upon it. Having confidence in the experiment, believing that it would succeed, believing that it was a valuable investment, he continued to expend money upon it, and it is now proposed that the United States shall furnish half a million to complete it, and that we shall also reimburse Mr. Stevens the amount he has risked in this experiment. As a practical proposition, I believe it is the simplest, cheapest, and best experiment that could be made. My friend from Iowa is willing to risk $15,000,000 on an experiment that is no more tried, that is no more tested, that is no more certain, than this Stevens battery. I am willing to expend $500,000 to complete that battery, and then, in case it is completed and is successful, I am willing to reimburse Mr. Stevens the money he has expended upon it from his own means.

I will state that I had prepared an amendment to the proposition so as to require the Navy Department to make it a condition of the contract to be entered into, that in case it should not prove a successful experiment, to be determined by the President, the amount already expended by Mr. Stevens over and above the amount paid him, shall not be refunded to him. I think he still ought to bear his share in the experiment. He has now two hundred and fifty or two hundred and sixty thousand dollars invested in this vessel that to him is valueless, and to the Government is valueless, until it is completed. I am willing that the United States should join with him in the experiment, and expend $500,000 more upon it, and in case the experiment is successful, refund to him the whole amount he has invested; but I think he ought to bear that share of the risk. It is a safe and wise investment of money.

At the last session of Congress I opposed this proposition, because we had no examination of it; we had no report by a committee. It is true that since that time we have had a report of a committee against it. They give their reasons; but they admit that this vessel would be very valuable. If we had the vessel completed now, there is no Senator here but what would give $1,500,000 for it. There are certain advantages in the vessel that are admitted by the committee. Its great speed is admitted. It will attain from fifteen to twenty miles an hour. They admit its capacity for speed. As a propelling vessel to run into another vessel, it is admitted on all hands it is a success. It is a sharp vessel of rapid motion, of great momentum; and if we had the vessel completed now as a battering ram, and useful for no other purpose, without mounting a gun, it being iron clad, would probably resist any shot that could strike it, and having great speed, great weight, great momentum, as a battering ram it would be worth all it cost to the Government, if it was now complete. The only doubt I have had about it is that it will take two or three months to complete it, in which time we may have other experiments and other vessels to try that operation. A large amount of work has been expended on this vessel, and a large amount of money invested in it. It can be completed sooner than any of the large vessels proposed to be built. It can be completed in from sixty to one hundred and twenty days, according to the number of men put upon it.

Mr. GRIMES. Who says so?

Mr. SHERMAN. That is what Mr. Stevens says. As a matter of course, all these details will be provided for by the contract. We do not fix the definite terms of the contract by this appropriation, except the amount of money to be expended. The Navy Department can name the time within which it shall be completed and the terms upon which it shall be accepted. I propose, in addition to that, to make it conditional that if it does not prove a success, to be determined by the President, Mr. Stevens shall not receive the amount he has already invested in the vessel over and above the amount paid to him by the Government.

It does seem to me that as a matter of wise economy it would be better for us to risk half a million of dollars, and complete this vessel. I know that if I, as a citizen, could have the probable advantages of this experiment to me as a citizen, I would undergo the risk. We are risking a great deal now from the fear of the Merrimac and from the fear of various vessels on the Mississippi river. There is no one but what admits that fear. We are guarding against it. The whole energy of our country, the mechanical ingenuity of our people, North and West, is now engaged in the construction of vessels to guard against offensive blows. We do not look beyond that for the present. We cannot build large vessels to cope with the Merrimac in two or three months. We must therefore make experiments. We must risk money. I do not think we can do it in any better way than by completing this experiment. The author of it spent many years of his life upon it. He and his brother have risked nearly a quarter of a million of dollars over and above the money the Government invested, upon it; and I think we cannot do better than complete it. The public demand it. I think the public voice ought to be heeded even in the Senate Chamber. The commercial interest demands it; and where so much is at stake we ought not to stand for half a million of dollars—a sum that your generals would waste in half a day's delay. A single day's operations of this army lying now within ten miles of the Capitol would be more than this Government would risk in finishing this vessel. I say, therefore, unless we are willing to undergo that risk and appropriate this money, I do not think we are doing our full duty.

Mr. GRIMES. The Senator from Ohio in reply to the remarks of the Senator from Kansas labored some time to show that where a vessel met another used as a ram, being propelled with great power, she could not injure the vessel that she attempted to crush or run over, unless she struck her amidships or at the proper angle. I think he was successful in that. Striking a vessel in the bow, you might not run over or crush her. Striking her in the side, you might do it.

Mr. SHERMAN. Will the Senator allow me to answer that now?

Mr. GRIMES. Yes, sir.

Mr. SHERMAN. The value of a ram to strike a vessel depends entirely on its speed. A vessel running at the rate of twenty miles an hour can strike another vessel running eight miles an hour wherever it chooses, amidships or anywhere else.

Mr. GRIMES. The Senator proposes to build for a ram a vessel that will draw at best twenty-four feet of water, when the depth of water over the bar at New York is only twenty-six feet, and therefore she could be used as a ram only in extreme floods, extreme high tides.

Mr. SHERMAN. I will take this instance, if my friend will allow me. Suppose she was now off Fortress Monroe where the depth of water is ample, where there is forty feet of water, and she was stationed there as a guard, and the Merrimac should approach her, and where she must pass her, standing as a guard; I say, as a mere battering ram, she could prevent the passage of the Merrimac, coming into deep water, where she must come in order to pass the batteries at Fortress Monroe.

Mr. GRIMES. I think I can explain to the Senate about that. In the first place, these four naval officers, who I apprehend know a great deal more about the capacity of this vessel than either the Senator from Ohio or I do, say she cannot go to sea; that it is utterly impossible to take her to sea; and, therefore, if she can be used at all, she must be used in New York harbor. The Senator's argument is based upon her great power of propulsion, from the fact that she has eight steam engines in her; and he proposes to use her as a ram. At the best, she will draw nineteen feet of water. In fighting trim, in the condition in which she would be if she was to meet an enemy, she draws twenty-four feet of water, without these now projected casemates of which the Senator from New Jersey speaks. How much she would draw with them nobody knows; but without them she draws twenty-four feet of water. Now, the entire depth of water over Sandy Hook bar is twenty-six feet. She must, therefore, only be used as a ram upon a small portion of the channel, and must meet all these vessels with bow on, and the Senator himself, in his argument in reply to the Senator from Kansas, said it was impossible to destroy a vessel if you met it at that angle.

But suppose she gets around to Fortress Monroe; yes, sir, suppose she was in the place of the Monitor the other day: she could not have moved a foot. The Merrimac was aground. The Monitor only drew ten feet of water. She was here and there and everywhere. She was passing around her. She stuck close to her all the time, just as such an iron-plated vessel ought to stick.

Now, I say to the Senators from New York, and I say to the commercial men of New York, and I do not believe there is a wise, prudent, practical man in the city of New York who will not agree with me, that if they want to protect their harbor, instead of building these immense ships costing $1,500,000, they should build half a dozen small ones, not costing one half as much as these

large ones, drawing ten or twelve feet of water, and then place them in different portions of the harbor where they can have an enfilading fire on any vessels that may approach with a hostile purpose. That is the kind of coast defense we want. That is the kind of naval maritime defense we have got to have, sooner or later.

The Senator seemed to indicate that I was, perhaps, a little inconsistent in opposing this proposition, while I was willing to vote for a proposition for an untried experiment in the shape of an appropriation of ten or fifteen millions for gunboats. Now, if the Senator from Ohio will agree to put the same limitations and restrictions upon this appropriation that we put upon that, I will vote for it. In the first place, it is not an experiment, the appropriation of $10,000,000 heretofore made being the basis on which to act. We do know now that this Monitor is a sea-going vessel. We do know now that she is impenetrable to the balls of the enemy, even when thrown from a hundred-pound rifled cannon, or from one of those destructive engines, the Whitworth gun. We therefore have that basis to work upon. Now, all we have got to do is to increase the capacity and dimensions, and improve upon the facts and the experience which the last few weeks have given us, and then we shall have an iron-plated Navy that will be worthy of the country.

But, Mr. President, we did not, I certainly did not, vote for that ten or fifteen millions of appropriation to be expended under a private contractor; to be expended upon men of whom we know nothing; to be expended by men who do not wear the livery of the Government; to be expended by those who have not a reputation at stake in this matter; to be expended by men who do not thoroughly understand what they are about, and have not their plans and specifications specifically detailed before them before they act. We intrust this ten or fifteen millions of dollars to the Navy Department. That Department calls to its aid all the wisdom and experience that can be found in the Department before it acts. It acts, therefore, understandingly. What are we acting upon? Nobody can tell us what the facts are in regard to this vessel. Nobody can tell us how she is to be built. We have no plans; no specifications. No one knows how her guns are to be protected, how the gunners are to be protected, what her draught of water is, or anything of that kind; and yet Senators are willing to vote for an appropriation of $700,000 out of the Treasury to complete it.

If the Senator from Ohio will agree to say that this money shall be expended, if expended at all, under the direction and control of the Navy Department, I am willing to agree to it; I will vote for the amendment; but what I object to is that we shall appropriate money out of the Treasury in this loose, indefinite way for a project of which we know nothing, or, so far as our knowledge does extend, that we know unfavorably. The Senator from Ohio says he voted against it last July, because he did not know much about it, because he had no tangible evidence before him as to its merits; and yet now, when, under the authority of a resolution adopted at the extra session, we have appointed a commission of skillful experts to examine it, and they report against it, he votes for it. I leave it to the Senate to say whether the Senator from Ohio shows the more consistency or whether I do.

Mr. FESSENDEN. Mr. President——

Mr. SHERMAN. I hope my friend will allow me a moment to answer the charge of inconsistency.

Mr. FESSENDEN. Yes, sir.

Mr. SHERMAN. In regard to that, I never care much about consistency when I think I am right. I am willing now to try an experiment that I would not try six weeks ago, in iron-clad vessels, and I know my friend is revolutionized in the same manner, only he goes off in another direction. Six months ago I was opposed to this experiment, because I did not know anything about this Stevens battery, or its merits; but I can now take up the report made by these officers, and show from that report that they admit that it has many merits that I did not dream of. When we come to look over our work of last summer, I ask Senators whether it would not probably have been wiser for us to have tried the experiment? If last summer we could have looked six months ahead, I ask would we not have tried this experiment and a great many others? We could accomplish a great deal if we had now four or five gunboats built like the Monitor and Stevens battery. With two or three of that kind of vessels we could go right down to New Orleans by the batteries that now stop us at Island No. 10. If we had iron-plated vessels at Fortress Monroe we could have gone right in between Craney Island and Sewall's Point at any time within the last six months, and have taken Norfolk, as I think our army ought to do without endangering our vessels. We could have bombarded and shelled Norfolk right in the presence of the Merrimac, if we had had iron vessels of that kind. We could not foresee all these things; I did not foresee them. If I had, I should have voted with others in favor of building any number of steam gunboats. I had not the foresight to foresee it, nor had any one else. I believe the Senate voted down a proposition to build vessels of that kind.

Mr. FESSENDEN. No, sir; we passed it.

Mr. SHERMAN. At any rate, we voted down this proposition to complete Stevens's battery. We could have had it completed by December. I ask Senators whether, in order to preserve our consistency, merely because we occupied a position like that six months ago, we should now endanger the safety of the country? I think not; I am perfectly willing to change my vote and change my action whenever I am convinced that I was wrong.

Mr. FESSENDEN. I think my friend from Ohio has got himself into rather an unfortunate position, and every explanation he makes only plunges him in deeper. He certainly is the last man in the Senate I should have looked to for support to a proposition of this kind. He has uniformly been for great care in expenditures, against trying experiments with the public money; and yet he selects the strangest proposition, and the one having the least appearance of success about it, that has ever been brought before Congress, either from its history or from opinions with regard to it, as the one upon which to spend three quarters of a million by way of experiment; and he says the reason is, that things have changed with respect to it. How have they changed? Last summer he would not vote for it because he knew nothing about it, and insisted with me upon having a commission to examine it. The commission have reported. The substance of their report is, that although it has many merits, yet it has so many absolute and unconquerable defects that they must report against it; and now he says he is satisfied because they say it has merits if they can be carried out, and he is willing to make the experiment. That is a singular process of reasoning, one which would not be satisfactory to me, and I am surprised how, with my friend's clear vision, he can possibly see things in that light. However, that is for him to settle, and not for me.

Now, sir, I want the Senate, or those of them who are present and who choose to listen, to learn a little more about the history of this transaction and see how much dependence is to be placed upon it. As I stated last summer, I happened to be a member of Congress and a member of the Committee on Naval Affairs when this matter was first undertaken. I favored it at that time. Congress in 1842 made an appropriation of $250,000 to enable Mr. Stevens to try this experiment; he contracting substantially, and it was upon that condition, that the whole cost should not exceed the mean cost of two wooden vessels then building. It was to be completed and delivered to Congress for that amount of money within two years. That was the report made to the committee. The two years expired and he had not struck a stroke; he had not expended the first dollar. It is now twenty years ago since that law was passed; and at the end of two years, in which he had contracted to deliver that vessel to Congress, he had not expended the first dollar.

What he did was this: just before the two years expired he made a new contract with Mr. John Y. Mason, in which the terms were somewhat varied, and varied very much to his advantage; and he was then to have two years more in which to build the vessel. What were the terms then? The contract was this: he was to have the vessel done in two years, but he was to be paid as he brought in his bills to the amount of $5,000; and how was he to be paid? The contract is before me. He was to have on every day's labor expended by every man in his employ upon it the usual profits paid in yards for the construction of vessels; he was to have the profits on all his machinery—the rate per day was fixed—and he was to have the pay and thirty-three and one third per cent. in addition upon all the gross materials and raw materials that he brought into the yard for the purpose. That was his contract. He went on for two years under that contract, and had made but very little progress at the end of two years. It hung up then until 1848, when he came forward again and obtained an extension of four years more in which to expend this money. Congress about that time made another appropriation of $250,000, which would bring it up to $500,000. At the end of four years he had spent a part of the money, but the vessel then was in no state of forwardness. Then he went on his own hook, drawing the money, and he took out, under the contract, the $500,000; receiving his profits upon every day's work of every man in his employ; receiving the pay for his material and thirty-three and one third per cent. advance, receiving the profits on all his machinery, and he spent the money.

Mr. THOMSON. Where is that shown?

Mr. FESSENDEN. The contract shows it, and I am assured the fact is so, because he brought in his bills, and those were the bills he was to present.

At the end of four years, in 1848, the vessel was not completed; but he kept on until he had spent $500,000, and the thing was hung up. In the mean time the amount to be paid for the completion of the vessel was ascertained. It was about five hundred and eighty-six thousand dollars by the contract, and he gave a mortgage for its faithful performance. By the contract, $500,000 was to be paid him, and then the balance was to be paid if it was found that he could build her with the additional $86,000; if not, it was to be withheld. He spent the $500,000 in this way, taking his profits out of it. At the end of that time, it was found that the $86,000 would not begin to finish her, and, of course, it was not paid over; but $500,000 was spent on the imperfect, unfinished concern that he had there upon the stocks. That was the condition of it when the money was all spent for which, within $86,000, he had contracted to build the vessel, and deliver her to Congress in two years. It the mean time the work has been kept up for about eighteen years after the time when, according to the contract, she was to be finished, and the money was spent in the way I speak of. That is the history of the transaction.

Much has been said about his genius, his work, &c. Why, sir, in the process of the work on this vessel, the thing was changed over and over again. He retained the power in the contract to make changes to suit himself, only he was not to lessen the size. In process of time, he increased the length of the vessel nearly double, and made several other changes, and left it all unfinished. He came here last year to finish it upon a certain plan which is certain and sure, gentlemen tell us, to be the result of great genius, and to effect a great work. He obtained this appointment of a commission to examine it. The commission say that the plan will not do. He substantially admits it, and now comes here with another, and, upon his mere word, with no proof, asks us to adopt the other. That is the state of the experiment; and what is the amount of money that he asks? He says he has expended two hundred and thirty or two hundred and forty thousand dollars out of his own pocket upon it. This amendment takes that for granted. It takes the amount of $554,000, which the commission say is necessary to complete her, and the two hundred and thirty or two hundred and forty thousand dollars, whatever it may be, in addition, without an investigation of accounts, without anything in the world except his bare say-so that he has spent the sum of between two and three hundred thousand dollars, as the gross sum to be paid for the completion of this experiment, whenever delivered.

Mr. THOMSON. Will the Senator allow me a moment?

Mr. FESSENDEN. Certainly.

Mr. THOMSON. I believe the accounts were audited by a post captain in the Navy, who was selected by the Secretary of the Navy to superintend the construction, and not one dollar was paid except in that way.

Mr. FESSENDEN. That was so with respect to the $500,000; but the other amount he spent on his own hook. That has never been audited and never had a right to be audited. He had no claim on anybody, or anybody on him for that. We have it on his mere say-so; it is his mere statement.

Now, sir, we are to pay this sum for this man's genius, or the genius of the family; for the genius that begun it is dead, but it is supposed to run through all the brothers, cousins, and nephews, I suppose; and if this man dies another of the family is to take it on the ground that the genius is there. The genius changes its operation and direction from month to month and year to year and still exists, and Congress is to vote $750,000 on account of the genius of the family thus exhibited which has been twenty years in growing and eternally changing. Sir, I have quite as much respect for what my friend from New Hampshire calls learned pundits, that is, men who have spent their lives in the investigation of particular things and assume to know something about them, as I have for this kind of exhibition of genius.

I do not pretend to know anything about this matter. I do not know anything about it. I am no mechanic, and I cannot judge of it one way or the other, and have nothing to say about it in that particular of my own opinion. I will not even give an opinion, as my friend from New Hampshire does, and say on the whole, from the best consideration I can give it, it is either good or bad. But, sir, I want to call the attention of the Senate to these facts that I have stated: the mode in which it was begun, the mode in which it has gone on, the way in which the money has been expended, the time that has elapsed, and everything with reference to it. Then I want to call their attention again to the fact, that at the request of Mr. Stevens himself we appointed a commission, of which he did not complain at all, of men capable of forming an opinion on this subject by which we intended to be bound. They come here and tell us in their report, that although this vessel has very good points about it, which, if successful, will be of great benefit, it has clearly such bad ones that they cannot recommend it; and those bad ones nobody except Mr. Stevens pretends can be avoided. He says he can avoid them, but what has he and his brother been telling us from the beginning? I ask gentlemen, have we had any such experience, any such valuable results, from what these gentlemen have been telling us for the last twenty years that we can take it upon their bare say-so against the testimony of witnesses we have selected—the men who know, or who ought to know—and who come to Congress and tell us what the result of this thing will be? And yet the Senate, in the face of the report of their own commission, in the face of all this expenditure, in the face of all this uncertainty, are called upon to put three quarters of a million into Mr. Stevens's hands for the purpose of finishing what, after all, no man can undertake to say will be of any benefit whatever. My friend from Ohio himself, in addition to his other positions, says he is willing to make the experiment, although he sees one fatal defect himself with regard to the guns, and does not see how that defect is to be remedied. All I have to say is that men reason differently. One man comes to a different conclusion on the same premises from another; but with regard to myself, watching a little the expenditure of public money here, I cannot understand how I can be justified in wasting or risking, if you please, three quarters of a million upon an experiment like this, which thus far has been so miserably conducted, and in support of which we have nothing but the word of Mr. Stevens against the results of inquiry and against experiments.

Mr. President, I do not know but I should be willing to do this with reference to it. Genius will effect everything, and Mr. Stevens says he is sure he can conquer all these difficulties. Mr. Stevens is a man of great wealth; the family is known to be a family of great wealth; they can command any amount of money. Let him finish it, if he sees fit. I will agree to contract with him then, if he will finish this vessel, and deliver it to us, and she is what he says she will be, and is proved to be so, that we will pay him; but he shall do it at his own risk. After keeping the Government waiting twenty years, after these repeated failures and repeated changes in his own mind, ought he ask us to take the risk upon ourselves, and expend this large amount of money for his benefit?

Mr. HOWARD. Will my friend from Maine allow me to inquire what is the date of the contract to which he refers?

Mr. FESSENDEN. The date of the first contract is February, 1842. The next one was made I think in September, 1843; and from that time to the present day it has gone on on mere extension of time.

Mr. HOWARD. Are the materials, the work which he now has on hand, and the vessel he has on the stocks covered by that same contract?

Mr. FESSENDEN. Yes, sir; the vessel is on stocks in that unfinished condition.

Mr. HOWARD. Covered by that contract?

Mr. FESSENDEN. Yes, sir; he gave a mortgage of his property to secure the performance of his last contract in two years from September, 1842.

Mr. HOWARD. A mortgage on what?

Mr. FESSENDEN. On all his property in Hoboken, New Jersey.

Mr. THOMSON. His real estate there?

Mr. FESSENDEN. Whether it is enough to cover it or not, I do not know. He says he has expended from two to three hundred thousand dollars since upon it. I dare say he has. I am not disputing his word about that. I presume he is a gentleman of truth and veracity. But we are dealing with him on this subject as contractors. I do not wish to be hard upon him. I do not know but I would consent to give up the mortgage and let him deliver up what he has done to us if he wants to have his property relieved. What I complain of is, that in the face of all these facts, after he has thus baffled Congress and the country for years and years in relation to this matter, and after he has had a commission of competent men, whose competency he did not dispute, to examine the vessel, and those men come in and tell us this money cannot be safely expended, he should have the impertinence—for I do not look at it as anything else—to come in here and ask us to make an appropriation to pay for it absolutely and take the risk upon ourselves. I have said that I know nothing about this matter, I mean about the mechanical work, that I do not pretend to know anything about it; but I take precisely what gentlemen have said here, and there is not one of the gentlemen who have argued this matter who has not shown that there were difficulties in his own mind that he had not been able to overcome which were not explained, and he was not able to say they were explainable. And yet, sir, Senators are willing in the face of all these facts to expend, I think, between eight and nine hundred thousand dollars. I do not remember the exact amount.

Mr. THOMSON. Between seven and eight hundred thousand dollars.

Mr. FESSENDEN. Between seven and eight hundred thousand dollars additional upon the completion of this work. The argument of my friend from Ohio is this: it is an experiment, and we must try all these experiments. Is it necessary that we should try experiments on such a very large scale? As my friend from Iowa remarked, the experiment has been tried with regard to the Monitor, and it was tried upon a small scale. I suppose that even I, ignorant as I am, may venture to say that, keeping the proportions, what is true on a small scale would be true to a certain extent on a large one, and to that extent we have the results of absolute experiment.

But it is urged that we are in danger. Why, sir, has not the Government done already as much as could be done to get the country out of danger from this source? Look and see what we have got. We appropriated $1,500,000 at the extra session for the construction of iron-clad vessels. We have three vessels—two of them complete, and the other almost completed. We appropriated $10,000,000 at the beginning of this session for the same object, and in four or five months we shall have six or seven more iron vessels, sooner than this vessel can be completed, and built on models that we know something of, and which have been successful. I undertake to say that when we have those finished, they will be good against any navy in the world that can be sent here, without Stevens's battery. No force of iron-clad vessels can be sent across the Atlantic that could beat it, because these vessels are not made to cross the Atlantic. Iron vessels are for home defense. They are not made to navigate the ocean; that is to say, on these very long voyages. They cannot, as everybody says, carry coal enough without having tenders alongside of them to supply them. We are, therefore, in no danger of attack from iron vessels abroad.

Can the confederates do anything with us? We shall have at least ten iron vessels in the course of a few months finished. Is it necessary for us, to quiet the fears of the country, to throw this three quarters of a millions of dollars more on this vessel, which thus far has failed and has not given the least prospect of success? Gentlemen must be more careless, or at least more indifferent as to where our money goes than would seem to be reasonable at this time if they agree to any such thing. I confess I was so frightened, like a great many other people, on the day that the Merrimac attempted to get out that I could not eat my dinner; but since she did not get out then, but was driven back, and considering how much force we shall have in a short time ready for her and ready for any vessels built by them, my mind has settled down into a comparatively quiet state on the subject. I have no doubt of our power to protect our vessels; at any rate I have not so much anxiety that I am willing to take a vessel which has been already twenty years in building and finish her by paying this immensely large sum of money, even although four months more will complete this experiment which has changed more times than you can readily count since it commenced. However, I do not feel disposed to enlarge on this subject further. If Senators think it is wise to spend our money in that way, so be it.

Mr. TEN EYCK. Mr. President, I have delayed taking part in this debate, and I am almost afraid now to participate in it; but, as a Senator from New Jersey, I can hardly consent to be silent after hearing the exception which has been taken to one of the commissioners who signed the minority report on the ground that he was at one time a professor in a college in the State of New Jersey. I do not know how far the fact of his having held a distinguished professorship in Nassau Hall will destroy his reputation for skill, genius, scientific attainments, and every other adornment which sheds luster upon the human mind. It may be that the fact of his former residence there has so warped his judgment that he could not give a correct opinion with respect to the merits of a vessel whose keel was laid in the waters of New Jersey. I have to regret also that this discussion has taken place this morning. I had not the slightest idea that the matter of the Stevens battery would come up upon this bill; and although I had designed, when the measure should come before the Senate, to submit some views upon the subject, I had not put my thoughts in shape, or made any preparation whatever. Still, sir, as the opposition to this appropriation seems to be pressed, and as it seems there is a pretty strong hostility to the measure, I must meet the occasion, so far as I may, and submit the views I have in accordance mainly with my recollection of the facts as they were disclosed at the time when the former discussion took place here last summer.

It may not be amiss, as the Senator from Maine has referred to the history of this transaction, that I for a few moments also give a glance at the origin of the construction of this vessel. It is true that the original agreement was made a long time since, and that a vessel not to exceed two hundred and fifty feet in length, and of certain other dimensions in breadth, specified in the first contract, was to be built for a certain sum of money, not to exceed the average amount of the cost of two vessels, the Mississippi and the Missouri, which were then in process of construction, and the cost of which, as it has since been discovered, amounted to over four hundred and fifty thousand dollars each. That was the mean or average amount of the cost of those vessels. But, sir, that contract has from time to time been varied. Two years afterwards a new contract was entered into, extending the time considerably and entering into minutiæ and details, specifying the particular mode and way, in a great variety of respects, in which this vessel was to be constructed. Originally the main plan was that a vessel of a certain size was to be constructed in a certain way, to be covered with a certain description of iron, to repel certain balls then in use and known to naval warfare. From time to time, as improvements

occurred in naval warfare, not only in the manufacture of vessels of war, but in the use and manufacture of projectiles which were to prove destructive in that warfare, the contractor and the agent of the Government, (the Secretary of the Navy for the time being,) sometimes in written contracts and sometimes, I believe, with understandings and in consequence of letters, agreed——

Mr. FESSENDEN. Will my friend allow me to say that it is all before me here, all in print? I sent for the whole of the papers to the Department. There never was but one variation of the contract, and that was two years after the first one was made. There were no letters whatever.

Mr. TEN EYCK. I see that there is a copy of a contract as late as 1848, among the papers, and the Senator from Maine referred only to one in 1842 and one in 1843. I have here on page 10 of this published document (Executive Document No. 34, Thirty-Seventh Congress, second session) which I have first seen this morning, an agreement entered into between John Y. Mason, Secretary of the Navy, and Robert L. Stevens, bearing date the 9th day of September, 1848, which does not, so far as I know, vary materially the character of the work, but even then extended the time for the completion of the vessel for four years, which carried it over to 1852.

Mr. FESSENDEN. That I stated; but it does not change the contract a particle.

Mr. TEN EYCK. What, then, are the facts? The Government contracted for this vessel with a distinguished naval builder; for, notwithstanding the little allusions which have been made by the Senator from Maine as to the high character and genius of Robert L. Stevens not running through his family to the latest generations, I beg to say that it has extended to some remote branches of the original family, beginning with the father of Robert L. Stevens; and they are to-day among the most distinguished scientific men in the country. Here was the project of a large naval vessel to be constructed for the defense of the United States in any wars that we might be involved in. There was no immediate necessity for the completion of the vessel; there was no immediate necessity for drafts upon the Treasury. I do not perceive, from any of the documents printed and laid on the table, that the Government ever urged the completion or finishing of this vessel, or ever complained or found fault with Robert L. Stevens for not completing the vessel within the time originally specified; but on the contrary, we find that, at two different times, on his application, the period was extended without the slightest objection; and on the last occasion the proper authorities stated that the application was reasonable. No injustice should be done to Robert L. Stevens, the original contractor, or those who came after him, because he did not complete the vessel within the period of time originally limited, when it is well known, and must be manifest to the Senate from the published documents, that there was no greater anxiety on the part of the Government to have the vessel completed than there was on the part of Robert L. Stevens to complete it.

The contract was changed after it was originally entered into, from the necessities of the service, for as vessels of war were improved, and as shot and projectiles became more and more dangerous, it became necessary to clothe this vessel with a more permanent and substantial garniture to protect her from the force and effect of an enemy's balls. So it was that as improvements took place in naval warfare, changes were made from time to time by Robert L. Stevens, and which eventuated in the vessel being extended from the length of two hundred and forty feet to something like four hundred and twenty feet, her breadth was increased, her clothing or clading, if I may use the expression, was strengthened, the shot or shell which were prepared for her were changed, her armament was increased and strengthened, almost every particular connected with the vessel was changed; and all this was done with the knowledge and at least the tacit understanding and assent of the Navy Department, although it may not have been reduced to writing and may not have been placed upon our desks. On that point let me call the attention of the Senate to a well recognized principle which should apply as well to the Government as to an individual. Suppose a man undertakes to build for another a house of a certain size and dimensions, with materials of a certain description, for a particular price; and afterwards the contract is from time to time changed, the time limited for its completion is extended, and the person for whom the house is being built seeing a necessity for a change of the plan growing out of the altered circumstances of the times stands by and tacitly assents to (without actually authorizing) the construction of a house of an entirely different character costing twice or three times the amount originally stipulated: is not the owner bound in point of law to pay for the work and labor done and materials furnished? Here the Government and the contractor felt a common interest in the experiment, and the Government really agreed, though not technically by written contract, to the enlargement of the plan. Would not the Government under such circumstances be legally liable to pay to the person thus constructing the vessel the actual cost incurred in work and labor and in materials furnished, if the Government could be sued in court? If I recollect the decisions of the Supreme Court of the United States aright, they are distinctly and directly to that point; and so are the decisions of the several State courts of the Union. In my judgment, as an unpretending lawyer, under the circumstances, Robert L. Stevens or his executor this day has a strictly legal as well as an equitable claim on the Government of the United States for the expenditures he has been at in completing this vessel, for the work and labor bestowed upon it, for the materials furnished in its construction. It is well enough, perhaps, for the Senate to take that element into consideration in view of the suggestion that has been made, that Robert L. Stevens incurred this vast amount of expense upon his own mere motion, or to please his own fancy, or to carry out the vagaries of his own ideal, skillful mechanism!

But it is said that since the last session of Congress we have had the report of a commission on this subject—a commission of scientific, skillful men—naval officers. Well, sir, how far the sailing of a ship, even as a commodore, or education in the Navy upon the deck of a vessel (the object of which is to give the officer a knowledge of the mode in which the enemies of his country are to be met and overcome) will qualify a man to judge of the sailing capacities, characteristics, and qualities of the vessel itself, I am not able to say. We have here the report of the commission, signed by Commodore Stringham, Commodore Inman, and Captain Dornin. We have heard since the commencement of this session that a distinguished commodore of our Navy—no man will question his ability in the line of his duty—was appointed to purchase certain vessels for the Navy of the United States in the city of New York, and that he committed most grave and egregious errors in the purchase of those vessels, with regard to their character, their sufficiency for the purpose for which they were designed, and their value.

Mr. GRIMES. I suppose the Senator alludes to Commodore Breese.

Mr. TEN EYCK. I cannot allude to any other person.

Mr. GRIMES. I have carried for several weeks a letter from Commodore Breese, which he handed to me, desiring that it should be made public in justice to him, in connection with this subject. I have not had an opportunity before to present it; I have been waiting for somebody to allude to the subject that I might do so. If the Senator will allow me, I will now send it to the desk to be read.

Mr. TEN EYCK. The Senator can submit it after I get through. I had not the slightest idea of reflecting in any way upon the character or reputation of Commodore Breese. I only alluded to him by way of illustration, and in no other way.

Mr. GRIMES. I understand that; but I have been carrying this letter for some time; and I have been waiting for an opportunity to occur that I might legitimately get it before the Senate and the country.

Mr. TEN EYCK. Although I desire to be as pleasant and courteous to my friend from Iowa as I know how, I do not think that this is exactly the proper time for him to interpolate that letter.

Mr. GRIMES. When the Senator alludes to Commodore Breese as having been guilty of very great dereliction of duty in the purchase of ships, it is legitimate for me——

Mr. TEN EYCK. Oh, no; I disclaim any such idea. I know he is a gallant officer; he is efficient in the performance of his peculiar duties as a naval officer; but I say that, from the evidence which has been before the Senate during the present session, with all this ability and all this skill and all this gallantry, he was a very poor judge of the character of the very planks upon which he had walked, and of the value of vessels which he had commanded, or which he was charged with the procurement of for the purpose of being placed in the American Navy to be commanded by naval officers.

Mr. GRIMES. The Senator will permit me to say that there is no such evidence as that before the country; there is a mere declaration that some vessels which were bought, not that Commodore Breese had ever walked upon or sailed in them, were bought at too great a price. That is the only allegation.

Mr. TEN EYCK. Some of them were inefficient, and he paid by far too large a price for them, as I understood the evidence.

Mr. GRIMES. No, sir; it is not charged at all that any of the vessels he bought were not perfectly seaworthy and adapted to the purpose for which they were bought. The only allegation is, that he paid too great a price for them.

Mr. TEN EYCK. I know the Senator feels a lively interest in the officers of the Navy, but he cannot feel more than I do for them. No one would be less apt than myself to say a single word to their detriment or that would be calculated to rob them of their character.

Mr. GRIMES. I am but slightly acquainted with Commodore Breese. I only thought, in justice to him, as the allusion had been made, that this letter should be made public.

Mr. TEN EYCK. That was not the point. I only made the allusion by way of illustration to show that even a commission of naval officers, when they are acting outside of the line of their own peculiar duties for which, and for which alone, they have been qualified by their education, are not to be entirely relied upon when they give their opinion upon extraneous matters, or matters which are outside of the particular line of their investigations.

Mr. GRIMES. How did the Stevenses get their knowledge of these matters?

Mr. TEN EYCK. The Stevenses got theirs by being mechanics from the start. Old John Stevens, the father of Robert L. Stevens, was a man of strong mind, great intellect, extensive information, and hard study; and he was originally, if I understand aright, a mechanic, a self-made man, with muscle to carry out the designs which a strong mind had framed, and his children have partaken of the characteristics of their father.

The other gentleman upon this commission, besides those naval officers whom I have named, except the one who dissented, was Alban C. Stimers; and if there can be any allegation to the prejudice of a person like Professor Henry upon the ground that his mind could be possibly warped by the consideration of his having occupied for a few years a professorship in a college in the State of New Jersey, it may possibly be the case that the fact of Mr. Stimers being the engineer of the Monitor, called upon to make this investigation at the very time that the Monitor was in process of construction, the Monitor lying on one side of the city of New York and the Stevens battery upon the other, when there was growing up under his hand, guided by the superior genius of Ericsson, this Monitor, which was so soon to come into public notice and into the public service, may account in some slight degree for a feeling of hostility which he might have to the Stevens battery, or afford some reason why his judgment should be biased with respect to its character.

Mr. THOMSON. Will my colleague allow me to say that perhaps the occupation of a room in Captain Ericsson's house might have had something also to do with it?

Mr. TEN EYCK. I know nothing about that. I only mention his connection with the Monitor in response to the allegation which has been made against Professor Henry; and if that is entitled to any weight or consideration, I adduce these facts in connection with Mr. Stimers, who is no doubt a scientific man, to show that by possibility he may be somewhat biased and improperly influenced in the judgment which he has given in

relation to the Stevens battery. And, sir, that the majority of the commission were wrong, and that Professor Henry was right, has been established by actual proof and demonstration in regard to four of the five exceptions that these gentlemen took to the Stevens battery. They said that this battery was not sufficiently strong to support the armor upon it; that the sides of the vessel would be crushed by the weight of the armor to be imposed upon it. They also stated that the efficiency of the armor was not such as to turn the slightest kind of projectiles now in known use. They also stated that the pumps would not work in consequence of the coal which was to be used in the bottom of the vessel, which would obstruct their operation. They made one or two other exceptions. Edwin A. Stevens, knowing that these conclusions were wrong, appointed a day, while this commission was still in the city of New York, and published a circular directed to them in which he proposed to test the accuracy of every exception they made, and to have a public and open investigation of the matter. That investigation took place; but these gentlemen found it convenient to leave the city four days before the experiments came off, if I am not erroneously informed, and refused to witness the experiments. They were made in open daylight, in the presence of a large number of scientific and other persons; and in those particulars that could be tested the battery was proved to answer the purposes for which it was designed, as Mr. Stevens contended.

A section of the wall or side of the vessel was placed in position, and the heaviest projectiles that are now in use were discharged from cannon, and they made no visible or sensible impression upon it. They took other sections of the side of the vessel, and they put upon it armor of the dimension and weight it is designed to put on the whole vessel and added to it, and it had no visible effect upon the side of the vessel. The men who witnessed these experiments, scientific men, practical men, who have for years been engaged in the business of steamboating and naval architecture and construction, have certified in large numbers that in their judgment this vessel will answer every requirement that Mr. Stevens proposes it shall answer, with the single exception of its seaworthiness; and that, from the very nature of the case, they have not been able to experiment upon, though they give it as their opinion that there is no shadow of doubt from her strength and character that she will be able to ride the sea as safely as any other vessel now in the use of our Navy.

These objections which this commission started, and upon which the Senator from Maine and the Senator from Iowa and others, now base their objections, have all been answered and overturned; and Senators, if they have taken the trouble to read the memorial of Mr. Stevens which has been printed for a month past, will see by evidence incontrovertible that the whole opposition has been refuted and overthrown, so that the matter stands now as it stood in July last, when we asked for this appropriation.

The Senator from Iowa said that if we had given the appropriation and had completed this vessel according to the plan as proposed in July last, and she had been in that engagement with the Merrimac, every man and every gun would have been swept from her decks. I recollect perfectly well examining the plan of this vessel and its model last July; and if I am not mistaken the pivot guns were to be fired and loaded and refired without a single man being exposed to the winds of heaven, every one of them under protection and every one of them beneath deck, every one of them protected by a wall of iron perfectly impervious to the best shot and shell now known to modern invention. The cannon are so arranged that they can be turned on a pivot after being fired, and the muzzle brought within or directly up against the side of an armament, or rather an iron house; I do not know what an engineer would call it. There are erections upon the deck so placed in juxtaposition with the pivot guns, that after they are fired they can be turned by machinery and the muzzle brought to the aperture in these houses upon the deck, and there they are to be loaded, turned again to their position, and fired. It is stated now that some change has been made in respect to the depression and elevation of the guns different in the time of loading from what they are in the time of firing. It is stated also that Mr. Stevens has expressed his firm conviction that he has obviated any difficulty which would arise from the objection submitted by the Senator from Iowa. I, myself, had some doubt with respect to the ability of these guns to remain in their position if they were to be struck fairly and squarely by shot from the enemy; but it is to be borne in mind that they are of immense weight, they are of immense size, they are to be fixed upon carriages or pedestals of the most substantial character and structure. The projector of these engines of war and defense had his eye directed to that very point, and his reasoning and his arguments were sufficient to satisfy me at least, if no one else, that even shot from the Merrimac herself within a reasonable distance would not have sufficient force to dislodge the guns from the positions in which they are placed.

But it is an experiment, and therefore it is not to be tried! Why, sir, the Monitor was an experiment, and had it not been for the experiment of the Monitor, the Merrimac would have had her own way not only in the harbor of Norfolk, and committed destruction and havoc broadcast everywhere; and I am not so certain that this Senate to-day, instead of being here disputing over the capability and capacity of the Stevens battery, would not have been upon its flight, or have been occupying a position in some northern city; for nothing under heaven but the want of depth of water in the Potomac would have prohibited the Merrimac, after she had done her work of destruction in Hampton Roads, from coming up the Potomac and shelling this Capitol over our heads. Although a beleaguering army for nine months has not had the effect of moving us from our seats, this Merrimac, stolen from the harbor of Norfolk, would have driven Congress and the authorities of the General Government to seek refuge in some northern city inland. We should have been perfectly defenseless against her had it not been for an experiment, which scientific men derided and denounced and scoffed at. But that cost only some two hundred and fifty thousand dollars, and it will cost some seven hundred and fifty thousand dollars to complete this vessel, gentlemen say. Suppose it will, is not the protection of the harbor of New York and the adjacent towns and cities of sufficient consequence to justify the expenditure of $750,000? Taking no other fact into consideration, is not that object alone sufficient to justify the expenditure? But, as I understand it, this vessel is so constructed that she is to run with great speed and velocity; and if she should come into conflict with the Merrimac, it would be altogether upon her own consent whether the Merrimac approached her side to come in contact with her or not, because she could play about her far and near, and hold her just where she pleased. It is believed that she is a worthy sea-going vessel, and that we can not only use her in the harbor of New York, but in the harbor of Boston or Portland, or any other harbor North or South, for the protection of commerce and the protection of the inhabitants engaged in mercantile and other pursuits who may be subject to the destruction that the vessels which have been stolen from us and remodeled and refitted, might be able to inflict upon us but for the aid and assistance we expect from this source.

Besides, sir, protection from foreign aggression is not to be overlooked. Who, on the 25th day of December last, would not have been willing to give millions out of the public Treasury for the Stevens battery armed and fully equipped in the harbor of New York? I certainly would have been willing. At a time when we expected an attack from Great Britain on account of our difficulties growing out of the Trent affair, and when, for aught we knew, the first nod of recognition we should receive would be at the hands of a British armed vessel, armor clad, who would not have been glad if millions of dollars had been expended since the last session of Congress for the protection of that harbor? After all, $750,000 is not the expense of a single one of your hundreds of regiments for a single year; it is one fourth less than the expense of one regiment for a single year, and you have over five hundred of them.

It is a large sum it is true, and it would be a very large sum to put into the pocket of Edwin A. Stevens. Edwin A. Stevens, as the Senator from Maine justly remarked, does not need any public munificence. He is a man of great wealth, and he is liberal. He has already constructed, at a large cost, some $60,000, a vessel called the Naugatuck on his own account, and tendered her to the Government as a present—a vessel built partly upon the plan of the floating battery, but much smaller, and designed to show the character of the larger vessel in regard to sinking in action and turning upon her own center.

Mr. HOWARD. Has he made a free gift of it to the Government?

Mr. TEN EYCK. I so understand.

Mr. HALE. It is so.

Mr. THOMSON. I apprehend the Naugatuck is at Fortress Monroe to-day.

Mr. TEN EYCK. She is a vessel designed to illustrate some of the advantages of the Stevens battery, though on a smaller plan and model—to show that, instead of taking a mile or two to turn in, she can turn upon her own axis, so to speak, and that the sinking in action will be of great advantage when she shall be called upon either by way of attack or defense in the service of the country.

I think, sir, we should pay some little attention to the protection of the seaboard as well as the protection of our internal rivers. The idea now seems to be, that we must have small iron-clad vessels. I know they are very important. It is very desirable that we should have them. They have rendered great and efficient service on the Mississippi river. I trust they will be the means of relieving the city of New Orleans from her enthrallment. They may have aided in that work by the present time, for aught I know; if they have not, I hope the time will speedily come when they will. They have rendered great and important service. I have supported and have been in favor of increasing that peculiar mode of naval defense; but, at the same time, I have not an eye solely to that sort of protection to the utter disregard of our commerce and our towns and cities upon the sea coast.

If, after all, Mr. President, Edwin A. Stevens has gone ahead too fast; if he has followed the pursuit of his own idea; if genius has beckoned him on to produce the most complete and effective system of modern warfare on the ocean, and he has expended $250,000 of his own money over and above the amount appropriated by the Government, shall we not complete the vessel if we want her? You may impeach the conduct of the Messrs. Stevens if you see fit to do so. They cannot be harmed where they are known. You may question the accuracy and propriety of their conduct if you please; and yet if we need the vessel, and if we believe that her completion in sixty or ninety days will render great and efficient aid and service to the country during the rebellion, for the protection of our sea coast and in carrying the war into Africa, why shall we not expend the additional sum of $750,000? It is a large sum standing alone; but in view of the immense expenditure of this war, it is but a drop in the bucket; and I apprehend the Senate will not hesitate longer in adopting the amendment which has been proposed by the Committee on Naval Affairs.

Mr. THOMSON obtained the floor.

Mr. HOWARD. I would ask the Senator from New Jersey [Mr. TEN EYCK] what surety we have that this vessel will be furnished to us within the coming twenty years?

The VICE PRESIDENT. The Senator from New Jersey [Mr. THOMSON] was recognized by the Chair.

Mr. HOWARD. I was not aware of it.

Mr. TEN EYCK. With the permission of my colleague, I will say to the Senator from Michigan that the exigencies of the war that is upon our hands, and the anxiety of the Stevenses and of the Government, both contracting parties, to have an efficient agent of warfare, will insure the very early completion of this vessel. Up to this time there has been no special urgency for its completion, and the Government has never complained of the delay, so far as I know.

Mr. THOMSON. I have been requested by several of my friends to give way for a motion to adjourn. I would rather have the vote taken to-day on this question myself; but as I have been unwell for several days, and am not quite well yet, I cannot refuse to give way.

Mr. HALE. I hope we shall have an executive session.

Mr. LATHAM. I move that the Senate now

proceed to the consideration of executive business.

Mr. SUMNER. Will it be impossible to have a vote on this question to-night?

Mr. THOMSON. I do not know. I am perfectly willing to stay as long as the Senate thinks proper.

Several SENATORS. There is not a quorum here.

Mr. SUMNER. I think there is a quorum in the building.

Mr. McDOUGALL. I think it is hardly probable that we shall get a vote to-night.

Mr. ANTHONY. I desire to know what is the wish of the Senator from New Jersey himself.

Mr. THOMSON. I have no wish at all on the subject. I am perfectly willing to go on and say now what few words I have to say; but if it is the wish of the Senate to go into executive session or to adjourn, I am perfectly willing to accommodate myself to that.

Mr. FESSENDEN. If the Senator is perfectly willing to go on to-night, perhaps we had better finish this subject.

Mr. LATHAM. I understood that it would be more agreeable to the Senator from New Jersey to speak to-morrow; but if he is ready and willing to go on now, I withdraw my motion.

Mr. THOMSON. I have been unwell.

Mr. FESSENDEN. If the Senator says he is unwell, I have no desire to press the bill now.

Mr. LATHAM. Then I renew my motion.

Mr. SHERMAN. Before that motion, I desire to offer the amendment I indicated. I move to add, as a proviso to the amendment of the Senator from New Hampshire:

Provided, That in the contract for the completion of said vessel, it shall be stipulated that the payment by the United States of the sum already expended by Edwin A. Stevens upon said vessel shall be contingent upon its success as an iron-clad sea-going war steamer, to be determined by the President.

Mr. GRIMES. I notify the Senate that I shall propose to amend the proposition so as to declare that this money shall be expended at the option and under the direction and control of the Navy Department, where it belongs. Let them take the responsibility of it.

The VICE PRESIDENT. The question is on the motion of the Senator from California, that the Senate now proceed to the consideration of executive business.

Mr. SUMNER. I shall not oppose that if it is understood that this measure cannot go on this afternoon. I should like to have it voted on this afternoon.

Several SENATORS. It cannot be.

Mr. LATHAM's motion was agreed to.

Mr. THOMSON. Before the doors are closed, I wish to offer a resolution, to which I presume there will be no objection:

Resolved, That the Secretary of the Navy be directed to communicate to the Senate copies of all correspondence between Edwin A. Stevens, executor of Robert L. Stevens, and the Secretary of the Navy, in reference to the steam floating battery contracted to be built by the said Robert L. Stevens, with an abstract showing the sums expended respectively on the hull and on the machinery of said vessel.

Mr. FESSENDEN. In the documents already communicated we have all that information.

Mr. THOMSON. Not these letters.

The resolution was considered by unanimous consent, and agreed to.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT, by unanimous consent, before the closing of the doors, laid before the Senate a message from the President of the United States, transmitting a communication from the Governor of Nevada Territory to the Secretary of State relative to affairs in that Territory; which was referred to the Committee on Territories, and ordered to be printed.

The VICE PRESIDENT also laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the 30th of January, lists of vessels purchased and chartered for the use of the War Department since April 1, 1861, with a copy of a letter of Colonel D. D. Tompkins in relation thereto; which was referred to the Committee on Military Affairs and the Militia.

After some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *March* 27, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

PATENT OFFICE REPORT.

The SPEAKER laid before the House the annual report of the Commissioner of Patents on agriculture; which was laid upon the table, and ordered to be printed.

MERCHANTS OF ST. LOUIS.

Mr. BLAIR, of Missouri, by unanimous consent, submitted the following letter from the secretary of the Union Exchange, in explanation of some allegations made by the gentleman from Indiana [Mr. COLFAX] in regard to the character of the merchants of St. Louis:

ST. LOUIS, MISSOURI, *March* 20, 1862.

MY DEAR COLONEL: My attention has been directed to what Hon. S. COLFAX in his Frémont speech had to say concerning the prevalence of disloyalty in this city, and especially as demonstrated by the vote "on change" in January last, at the time of the birth of the Union Merchant's Exchange. I judge from your reply to COLFAX on that point that you had not a correct understanding of our position on that question, and will briefly advise you. Under the rules of the old chamber five negatives would reject an applicant for membership. Eighty Union firms were blackballed on the day the election was to be held; *five secesh* could keep us all out. We had borne much of rebel insolence for months; had been threatened with exile, extermination, &c. The refusal to admit us to voting membership ripened the fruit we had been waiting to pluck. All the Union merchants withdrew from the election, leaving only secessionists to vote, and only forty-five votes were cast at the election over which COLFAX talks so much; and even at that election they voted for Albert Pearce for president, a good and sterling Union man. But Pearce at once left the *unclean thing*. The loyal merchants proceeded to establish a new organization, the Union Merchants' Exchange, and a grand success has been made of the movement. We now have four hundred firms on our books, and there is but *one firm* left on the old chamber who receive consignments of produce. The solid merchants of this city *are not secessionists*, but they are *Union*—mark that. Among all our millers one only is a secessionist. I inclose you our list of officers for 1862, and will send you complete membership list as soon as published. Our president, Captain H. J. Moore, although largely interested in southern property, has ever been *true* to the cause of the nation, and most manfully has he battled for Union, associating with himself the wealthiest and most respectable merchants in this city in the establishment of an institution in the metropolis of the *great valley*, where the trade shall be conducted under the *old flag*.

Very truly, yours, CLINTON B. FISK.

Hon. FRANK P. BLAIR, Jr., *Washington, D. C.*

ENROLLED BILL.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill (S. No. 244) to provide for the equitable settlement of the accounts of the officers and crews of the frigate Congress and other vessels; when the Speaker signed the same.

TAX BILL.

Mr. HORTON moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed as a special order the consideration of the bill (H. R. No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

The CHAIRMAN stated the seventy-third section of the bill to be under consideration.

Mr. HORTON. I move to strike out the following:

On candles, made wholly or in part of tallow or lard, and valued at not above twelve cents per pound, five mills per pound; when valued at above twelve cents per pound, and on wholly or in part spermaceti, paraffine, refined stearine, and adamantine candles, one cent per pound.

And, in lieu thereof, to insert the following:

On candles, of whatever material made, when valued at not above fifteen cents per pound, five mills per pound; when valued above fifteen cents per pound, and not above twenty-five cents per pound, one cent per pound; and when valued above twenty-five cents per pound, one cent and a half per pound.

Mr. SHEFFIELD. I move to amend the amendment by inserting the following:

Upon sales of goods, wares, merchandise, and other property and estate, to be used, consumed, or for investment, including exchanges of property and excluding sales to jobbers or middlemen, one per cent. on the amount of such sales.

Mr. Chairman, I present this proposition at this stage of the bill that the committee may act on it before it passes to the consideration of the items which are to be specifically taxed under the following provisions. There is in the bill great inconsistencies. It is a fact, that a poor woman who has two pigs and sells one of them to buy a barrel of flour is taxed under it, when the man who receives $1,000,000 for the profits of his sales, will not pay one mill of tax. A measure containing such an inconsistency upon the face of it will not commend itself to the approbation of the country.

I offer this amendment with a view of hereafter modifying certain other portions of this bill as we shall hereafter reach them. I know that it may be said this tax will be difficult to be collected. My answer to that is, that it can be collected in precisely the same way and as easily as the other taxes provided by this bill. And this tax bears equally upon all sales of property which are made. It imposes and distributes the burdens of the Government equally among those who sell property, thus reaching a class of persons who speculate in stocks and other classes not provided to be taxed under this bill. It imposes a burden upon them. It reaches divers interests, and imposes burdens upon all of them.

This bill proposes to tax flour ten cents a barrel manufactured in this country; and by the reciprocity treaty flour can be introduced into the States without taxation from Canada, and therefore it discriminates against the products of our agriculturists. I propose to move to strike out that proposition. The bill proposes to tax divers other articles embraced in that treaty. I design to move at a proper time that many of these inconsistencies shall be removed.

We have to meet the burden of this tax; and if we impose it equally upon all of the industry and property of the country—not with exact equality, for I do not expect that—but if we will distribute fairly the burdens, then the people will quietly bear them.

I want to tax the sales of cotton. I do not think that they should be exempt from taxation, nor do I see why various other things should be exempt. If my amendment prevails, then they will be taxed.

It seems to me, Mr. Chairman, that if we undertake to send out this bill with all of its inconsistencies the people will meet it with great disfavor. Men who will stand up to the cannon's mouth and gallantly brave death will shrink from the approach of the tax collector. I am glad that it is so, for it has its compensations. It will put the people upon their guard to see that all powers connected with the Government are economically administered. When the tax gatherer goes among the people they will see to it that their Representatives and those who have control of their money properly expend it. Nevertheless, the fact exists that this bill discriminates against the workshops and against the agricultural interests of the country for the purpose of favoring the mere speculative interests. The people of the country will have just cause of complaint if this bill is permitted to go out as it now stands; and I therefore hope that my amendment will be adopted that the tax may be put upon more equitable principles.

Mr. LAW. I desire to move an amendment.

The CHAIRMAN. An amendment to an amendment is now pending.

Mr. HORTON. I take it for granted, Mr. Chairman, that the member from Rhode Island does not expect the committee to adopt his proposition, because it will be seen, if gentlemen look at the matter, that it will take away the whole character of the pending measure, and will substitute a new principle and require new machinery and a new bill to carry it out. I call the attention of the committee to this fact. The principle which he has announced, and which is being discussed by the public, may be correct. I am not prepared to discuss that question now. It requires more attention than can be given to it in a few moments, and I hope that if this new principle is to be brought into the bill that it will be done hereafter when the committee can carefully consider and act upon it. I hope that the gentleman from Rhode Island will allow his proposition to come in at another time and in another form, so that it may be thoroughly understood and fairly decided.

Mr. SHEFFIELD. I move to strike out the last word of the amendment, in order to enable

me to say a word in reply to the gentleman from Ohio. I know, if my amendment be adopted, some change will have to be made in the machinery of the bill, or rather some of the machinery of the bill will have to be applied to carrying out my amendment. That is an imperfect answer to my amendment, if it is the only answer which the Committee of Ways and Means have to make. It seems to me that my amendment ought to be adopted, and that it ought to be adopted at this time, or at some other time during the progress of the consideration of this bill, when the attention of the committee is given to this important subject. It is an important subject. It is important to New England. As the bill now stands it makes the workshops of that section of the country pay one fourth of the tax it levies. That, sir, is unjust, and before you proceed to tax some other or any other class of property enumerated in this schedule, it seems to me we ought to pass upon this question, for there is not a single article named in this bill which will not be affected by the principle contained in this bill. If the principle contained in the bill, as it now stands, is correct, it still ought to be modified by the adoption of the amendment, I suggest, in order that we may not tax the manufacture more than its just proportion, and that the materials entering into manufactures may not be taxed more than the bill proposes to tax it. I desire the attention of the committee to this principle of taxing the sales of all property, so that all property may be taxed, including cotton, coal, and other kinds of property. The ordinary principle of taxation is that property shall not be taxed more than once, and, therefore, if there are any sales by middle men, such sales shall not be taxed; and so, if we are to tax manufactures, we ought to exempt from taxation the elements which enter into manufactures. Property is to be taxed but once by this amendment, and that as it comes to the consumer, and then the consumer shall pay the tax. It seems to me that a proposition so just should recommend itself to the committee, and that it deserves to be adopted.

The gentleman from Ohio [Mr. HORTON] suggests that I do not expect that the proposition will be adopted. Sir, I do not offer any proposition here which I do not desire to have adopted. I offer no proposition here, I advocate no proposition here, and I trust I never shall, unless I believe it to be right. I certainly should not have presented a proposition of this character to this committee at this time unless I believe it to be right and unless I desired it to be adopted. I know it is hard to press a matter upon this committee which has not received the approbation of the Committee of Ways and Means, but it seems to me that the bill which they have presented to the House contains so many deformities upon its face, if it is permitted to pass to our constituents as they have brought it to us, that it will receive their disapprobation, and I fear that its effect upon the country will be very different from what the Committee of Ways and Means suppose it will be.

I propose to vote for the bill which the House shall agree upon. I do not propose to offer any factious opposition to any system of taxation. I would not, if it were in my power to do so, relieve one of my constituents of a single burden which justice and equity require shall be imposed upon them. I would rather, by far, that they should bear more than their proportion of the burdens of this war, than that they should be relieved from an undue proportion of them. I believe, sir, I represent their feelings when I say that.

Mr. LOVEJOY. I have no doubt the gentleman is entirely sincere in his views upon the subject; but that has nothing to do with the correctness of them. Men are very sincere in erroneous opinions.

I want to say that I think the statement of the gentleman upon the Committee of Ways and Means is correct—that this is entirely a new principle, and that although it may be good by way of a substitute for the bill, it is certainly a very poor amendment to the bill, and that we had better go through this bill upon the principle upon which we have started, and then, if a tax upon sales is the best way, we can adopt that as a substitute for the entire bill.

As to the manufacturer bearing this taxation, it is a very great mistake. They who manufacture an article primarily pay the tax, but the consumer is ultimately taxed, and he has to pay the tax. There is no question about that. I hope the amendment will not be adopted.

Mr. SHEFFIELD. I withdraw my first amendment, and now move to amend by striking out the last two words. I move the amendment for the purpose of answering the gentleman from Illinois. The gentleman says that the consumer ultimately pays this tax. That proposition is an exceedingly erroneous one in my judgment. It is true that the cost of production is an element which enters into the selling price of an article, but there are so many speculative causes, so many other causes which intervene to affect the price, that the cost of production is sometimes not even the principal element which enters into the selling price. For instance, you may take brown cotton goods, which are used for printing purposes. Last December they cost something like nine and a half cents a yard. Now, three weeks ago they might have been purchased for something like fifty per cent. less. Now, when a person who printed his goods, which were bought at nine and a half cents, undertakes to sell them now, is the original cost the element which regulates the selling price? Not at all. Subsequent events which have intervened reduce the selling price.

Mr. LOVEJOY. What was the price of those goods a year ago?

Mr. SHEFFIELD. I do not know. I think perhaps four and a half or five cents a yard. I am obliged to the gentleman for asking the question, because it shows how the market fluctuates between the time of purchasing the raw material and the time when the manufactured article comes into the market.

Mr. LOVEJOY. I have no doubt that such may be the case; but it does not enter into the calculation of the manufacturer when he manufactures the article.

Mr. ENGLISH. While I agree with the motives of the gentleman from Rhode Island [Mr. SHEFFIELD] in offering his amendment, at the same time I am not in favor of allowing it to come in at this stage of the bill, and in the proposed manner. I do hope that the committee will entertain, at the proper time, some proposition similar in its nature to the one proposed by the gentleman from Rhode Island. I do not favor that proposition because I happen to come from New England. Looking at the bill before the House, I hope I shall comprehend it, and I hope other gentlemen will, as a great national measure intended to affect all the interests of the country; and I believe the Committee of Ways and Means have had that object in view, and that they desired to make this bill bear as equally as possible upon every interest of the country, although, at the same time, they have made some exceptions distasteful to those who represent those sections of country to which those exceptions apply.

It is true that we of New England are a manufacturing people. It is also true that three fourths of the amount to be raised under the bill is to be raised from the manufacturers of the whole country; not from those of New England alone, for I regard the manufacture of whisky at the West as much a manufacture as is the manufacture of cotton in New England.

But if gentlemen will turn to the statement made by a member of the Committee of Ways and Means [Mr. MORRILL] when he presented this bill to the House, they will find that more than sixty millions of dollars of this contemplated tax is to be raised upon the manufacturing interests. The committee estimate that $30,000,000 is to be raised under the provision which levies a tax of three per cent., and that is about one third of the entire amount to be raised under the bill. The objection to that is this: it assesses three per cent. upon the entire manufactures of the country, and the gentleman from Illinois says that will be paid by the consumers. In some instances they will, if the bill is passed. But that will not apply to manufactures generally, for the reason that three per cent. is not enough to affect the price of the manufactured article, except in a very few cases, indeed. There is no gentleman connected with manufactures at all who does not know that three per cent. added to the price of the raw material does not raise the price of the manufactured articles, except where the raw material approximates very nearly to the value of the manufactured article. Take the great manufacturing interests of the country generally, and three per cent. upon the price of the raw material will never be assessed in the value of the goods. It comes out of the manufacturers, and the manufacturers, to escape from paying it, will do what? They will reduce the price of the wages of the workmen. It will actually come out of the laboring men of the country. So far as I have any interest in manufactures—and it is small—I would prefer a tax of five or ten per cent. to three, because then it will be more likely to be added to the cost of the fabric. For instance: a man who manufactures shoes in Massachusetts and sells them now at one dollar, will he add the three per cent. and sell them at $1 03? No, sir. There is no such thing as assessing this tax of three per cent. upon the manufactured articles of the country generally.

Hence I propose that when we reach the proper point the gentleman from Rhode Island will be prepared to offer some general measure to meet this case.

Mr. HOOPER. I move to amend the seventy-third section in the fifth line, by inserting after the word "consumption" the words, "or for delivery to others."

The CHAIRMAN. There are now two pending propositions, one from the Committee of Ways and Means, and the other by the gentleman from Rhode Island.

Mr. HORTON. I will withdraw my amendment.

Mr. HOOPER. Mr. Chairman, it may be proper, in this stage of the bill, to state the principles which have influenced the committee in arranging its details.

The whole subject was carefully considered in the sub-committee, of which I was a member. After much deliberation, it was decided to put a large duty on liquors and tobacco, as articles that were considered by all to be luxuries, and by many the use of them is deemed to be deleterious, if not vicious. It was also decided to put a duty on manufactures, in the belief that such a duty, judiciously arranged, would operate like duty on imported goods, as a tax upon the consumer, and not as a burden upon the manufacturer; that it was simply making the manufacturer the instrument through whom the Government should collect from the people at large the additional revenue required by the Government.

I notice that this proposed duty on manufactures has been referred to as unjust towards the manufacturers; it is stated that while the manufacturer is thus taxed, no corresponding burden is imposed on the farmer, the merchant, and many others.

If this view is a correct one, our legislation heretofore in regard to the collection of revenue has always been unjust, for while we have taxed importers of foreign merchandise twenty, thirty, and in some cases more than fifty or even a hundred per cent. on their importations, all other classes of merchants and the manufacturers and farmers have been free from such taxation.

But this is an absurdity, for it is well understood that the duty imposed on foreign merchandise is not a tax on the importer; it is simply an item in the cost of an article imported, and is always expected to be added to the price which the consumer is to pay for that article. And so, too, with the duty which this bill proposes on manufacturers; it is not a tax on the manufacturer, but will be added to the price, as one of the items of the cost of the manufactured article, to be paid by the consumer. It is, like the duties paid on importations, a tax on consumers, but cannot, in any sense, be considered a tax on the manufacturers.

Who has ever supposed the tax in Great Britain, of one thousand per cent. or more imposed on distilled liquors and tobacco, to be a tax on the dealers in those articles? It is quite the contrary; and liquor dealers and tobacconists are among the most flourishing and wealthy traders in that kingdom. Your law imposing a duty of twenty cents a pound on tea is equal to more than one hundred per cent. on the cost in China of much of the tea imported, and is fully equal to a hundred per cent. on the average cost of the whole importations of the past ten years. Have any remonstrances been presented from the importers of tea for this grievous tax upon them? No, sir; it is understood to be an item in the cost of the tea imported; that it is a tax on the consumer,

to be added to the price at which the tea is sold for consumption. An examination of the price currents will show that the price of tea of all kinds is now at least twenty cents per pound higher than the price of the same kinds and qualities of tea twelve months ago; and so it will be with tobacco, distilled liquors, and manufactured goods twelve months hence, if this bill is passed; an examination of the price currents will then show that all the articles on which this bill imposes a duty will be, at least, as much higher than now, as the amount of duty you impose, unless some other causes have occurred, which this bill could not control or have prevented, to depreciate the value or price of those articles.

The committee having decided to tax consumers, by imposing a duty on manufactures, the question as to the most judicious and equitable mode of doing it then presented itself, and received the patient and careful consideration of the committee. They adopted what they considered the most direct and the most just and equal mode—that of taxing each article, as far as possible, in the form in which it was usually consumed, and in which it possessed the highest value. For example, many articles of manufacture are only one step in the advance of the crude material towards a condition in which it goes into direct consumption, and simply prepares it for use, as the material, or one of the materials, in some other manufacture. Some articles go through several of these stages or processes of manufacture before they are advanced to the condition in which they are ready to be used to administer to the necessities or convenience of the people for actual consumption. These different processes or states of advance from the crude material to the article ready for consumption, in many cases are conducted by some parties as one manufacture, while in other cases each process of the manufacture of the same article is conducted by different persons, as a distinct branch of manufacture. A duty, therefore, without discrimination, on each manufacturer, would operate with great injustice, by imposing a duty on the manufacture in each process or stage toward the article ready for consumption, while in the case of large manufacturers, with ample means to carry on the business through all its processes, the article would pay but one duty when finished and ready for consumption.

As an illustration, let us take the article of railroad iron, and of iron known in commerce as bar or rolled iron, which is in the same stage of manufacture as railroad iron. Some iron works in Pennsylvania are located near the mines of iron ore and of coal, which are owned by the proprietors of the works. This ore and coal is mined, the pig iron is made, the iron converted into slabs or blooms by puddling or boiling, and finally it is rolled into bars, or rails, or such other form as may be required, for consumption; and in this last condition the bill imposes on it a tax of $1 50 per ton.

I have heard it suggested, in fact some one, either through ignorance or malice, has gone so far as to have a document printed and circulated through the country, denouncing the able chairman of the Committee of Ways and Means for injustice and partiality towards the interests of his own State, because this bill did not impose a separate, distinct duty on the ore, the coal, and the pig iron, and the puddled or boiled iron, as well as on rolled iron; so that the article of rolled iron made in the New England States, and generally in the State of New York, where the ore, the coal, and the pig iron, and often the puddled iron constitute a separate manufacture, should have paid five duties when sold ready for consumption as rolled iron. I think this bill would have operated very unjustly towards the iron mills of New England and of New York, if the duty had been imposed in this way. But whether right or wrong, I will say, in justice to our able chairman, that he had nothing to do with this arrangement of the bill—which, as I before stated, was decided upon in the sub-committee without his knowledge; and when this part of it was submitted to the committee he opposed it, until these reasons for imposing the duty in this way were explained to him.

I have detailed the operation of the bill in this respect, in reference to iron, because it illustrates what exists to a greater or less extent in reference to many other articles of manufacture, and to inform the House in regard to the principles which influenced the committee in levying the various duties on manufactures, as they have in this bill. The principle adopted in the committee was to levy the duty on the manufactured article in the condition in which it was usually sold for consumption, and to avoid as far as possible levying any tax on the materials used for the manufacture upon which the duty is imposed.

There is a point, however, beyond which the committee did not propose to carry this principle; and that is, where an article of manufacture has various uses, and is used both as an article of direct consumption, and also as a material for some other manufacture.

I have stated the general principles which have guided the committee in imposing the duties as proposed in this bill; at the same time they have not adhered closely to them in all cases, but have exercised their discretion in modifying them in some cases to meet necessities and expediencies, which from their own knowledge, or from representations made by the parties in interest, were commended to the judgment of the committee.

Since this bill was printed, the committee have been constantly engaged in preparing amendments to perfect it, which will be submitted, as the portions of the bill to which they refer come under consideration.

Mr. KELLOGG, of Illinois. Mr. Chairman, of course, in five minutes I could not expect, even if I were as conversant with the subject as the gentleman from Massachusetts, [Mr. HOOPER,] to reply in detail to the several propositions which he has presented; but I desire to say a few words, inasmuch as this proposition, from a member of the Committee of Ways and Means, seems to develop the policy and the principles of this bill. I had judged differently of its principle, its policy, and its proposed operation. I had hoped it was different from the position taken by the gentleman from Massachusetts. I desire to vote for this bill. I am willing to vote for almost any tax to raise revenue to carry on our Government; but I do insist that there ought to be some justice and some fair distribution of the burdens of this Government among the people, so that it shall reach the capital of the country as well as individuals.

Mr. Chairman, I have heard it said, since I have heard anything said upon the subject of the tariff, that the consumers do not pay all the duties levied. I had believed that. I had been educated in the old Whig school until my judgment was convinced, by the operation of the various tariff laws, that the consumers did not pay all the duties levied upon goods. The opponents of the tariff system have always claimed that the consumers paid the duties, and hence that it was unjust. If I am now to be converted from that doctrine and satisfied that the consumer does pay all the duties and taxes upon articles of consumption, I must renounce forever my adhesion to the doctrine of taxation by imposts.

It is said, Mr. Chairman, that the object of this bill is that the consumers and not the producers or manufacturers shall bear the burdens of this taxation. Who are the consumers? A single glance will satisfy any man of the injustice of this measure. The consumers of the country belong to that great class who are the laborers and the workers. Six hundred thousand of them are today bearing their muskets upon their shoulders in the field, others are tilling the ground at home; they are the poor men; they are the hope, the strength, the safety of the country. They do consume, they must consume, they will consume, and if this bill is carried out according to the principle of the gentleman from Massachusetts, they will pay the entire tax of the country. I ask you, Mr. Chairman, in God's name, is that just, and shall that be the policy of our Government in this the hour of immense expenditures and immense taxation? I hope and trust the gentleman from Massachusetts is mistaken, for I do not want him to convince me that it is my duty, under the oath that I have taken, to vote against this measure. I have been in favor of this bill, sir, because I believed that it did tax the capital of the country—the live capital, the profitable capital, that capital which is carrying on the business of the country; and for that reason I have been a friend and advocate of it from the time that its principle was announced. I am unwilling to tax manufacturers more than any others, but I want to tax them according to their profits, according to their capital, according to their interest in the country—nothing more and nothing less. I was gratified when this bill was introduced that it did impose taxation upon manufacturers, for the reason that such a tax would fall equally on the manufacturer, the producer, and the consumer; entering, as it is justly said, into the price of the article manufactured, it must reach about equally the producer who supplies the material, the manufacturer, whose capital is invested and whose labor is employed, and the consumer, who, with the exceptions of actual necessaries of life, controls at will the amount of sales of manufactured articles, and thus by the laws of competition and supply and demand, and the dependence of one branch of industry on another, you approximate more nearly to equality in taxation than by any other system. I am, therefore, constrained, notwithstanding the argument of the gentleman from Massachusetts, to sustain this bill.

Mr. DIVEN. I move to amend the amendment by adding thereto the words "for sale." I offer this amendment for the purpose of saying that while I have followed the Committee of Ways and Means on this bill, trusting to the fidelity with which they have discharged the duties imposed upon them, while I have voted for a tax upon liquors, and while my vote will stand recorded in favor of the passage of this bill, I am influenced in this course by no such considerations as those given by the gentleman from Massachusetts, [Mr. HOOPER.] If I understand him aright these duties are imposed upon the country as a police measure. Sir, I protest against the right of this Congress to impose police measures upon the country. If, in the opinion of the people of any State, the sale and use of intoxicating liquors is injuring the morals of the people, it is for the State to correct the evil; it is not for this Congress to do it.

I vote for this bill and for the imposition of these taxes because I believe it will increase the revenue of the country, and it is no part of my business to correct the morals of the people.

Now, sir, a word in regard to a remark of the gentleman excusing the exemption from duty of an article which, in my judgment, would bear taxation, and upon which the tax would be more equally distributed than upon any other article which the ingenuity of the Committee of Ways and Means could suggest. I mean the article of coal. Sir, it is a specious argument that coal should be exempted from taxation because it enters into the manufacture of iron. I can tell the gentleman from Massachusetts that but a small portion of the coal mined from the rich mines of this country enters into the manufacture of iron. It produces steam; it propels our vessels on the ocean; it warms our hearths; it is diffused all through society; and there is no article upon which a small tax, say of ten cents per ton, would be so equally distributed and so little felt as upon coal. I trust that the fact that the manufacture of iron in some of its more refined forms requires coal, will not be considered as a reason for exempting from taxation this article which will, without imposing any perceptible burden upon the people, produce millions of revenue.

Mr. RICE, of Massachusetts. Mr. Chairman, I oppose the amendment of the gentleman from New York, and I wish to say a few words in reply to the carefully prepared remarks of my respected colleague, [Mr. HOOPER;] and, sir, I do so with considerable diffidence, because it is with extreme reluctance that I differ from his judgment in any opinions which I may form. But, sir, as I do not assent to some of the views which he has presented to the House, and as I do not wish by my silence to appear to assent to them, I desire to improve this opportunity to state some of the reasons why I cannot do so. I do not now propose to discuss the wisdom of the plan adopted by the Committee of Ways and Means; but it does seem to me that, instead of singling out the manufacturing interests of the country, the products of the skill and mechanical industry of the country, and making them the special objects of taxation through which this enormous revenue shall be received, it would certainly have been equally just, and perhaps equally wise, to have seen whether there were not certain great articles furnished by nature herself which may be objects of taxation before we come down to the products of human ingenuity and handicraft.

Sir, I have been at a loss to know why, when the products of the soil and all those sources of material wealth which are hidden beneath the surface of the earth are exempted from taxation under this bill and from the burdens which belong to them, in some cases at least, equally as much as to the manufacturing industry of the country, these burdens should all be transferred to the latter. It seems to me that there is no reason why this should be so; and while the constituency which I represent and the people of the State which I have the honor in part to represent have no desire to escape their just and equitable portion of this tax, and while they have manifested from the beginning of the existing hostilities up to the present hour every disposition to contribute by men and means to the full extent of their obligation to the carrying on of this war, and are desirous to do so to the end, yet I do not think they should be expected, much less compelled, to assume an unjust and unequal portion of these burdens, or to take upon their shoulders that part which belongs to some other section of the country.

Now, sir, my friend and colleague says that the tax which is imposed upon the manufacturers of the country is not a tax upon the manufacturers themselves, because it comes from the consumers in the end. Well, sir, I know that that is the principle upon which the bill has been framed. I know very well that that is the idea which was suggested to us, but I believe it to be entirely fallacious as a maxim for universal application. It is perfectly true that, in some instances, the tax which is imposed upon manufactured articles does come out of the consumers, but it is equally true that in a great number of cases the tax imposed upon manufactured articles does not and cannot come out of the consumers.

The gentleman asks me for an illustration. I will premise that by saying that demand and supply are elements entering into the price of articles, as well as their cost. It is not sufficient that you add to the cost of an article with the expectation of deriving that additional cost from the consumer, unless there be a scarcity of the article in the market. If the quantity of goods in the market is greater than the demand, or just equal to the demand, you cannot enhance the price of that article so long as that condition of things remains unchanged. Therefore, I say that the question of the tax coming out of the consumer depends not simply on the cost but on other elements, namely, on demand and supply.

[Here the hammer fell.]

Mr. RICE, of Massachusetts. I desire to say a few words further.

Mr. SHEFFIELD. As the gentleman's colleague [Mr. HOOPER] was permitted to go on after the expiration of his five minutes, I hope the same privilege will be granted to the gentleman, [Mr. RICE.]

There was no objection.

Mr. RICE, of Massachusetts. Suppose that it be admitted, for the sake of argument, that the tax does come out of the consumer in the end—although I do not admit that as a fact of universal application—I want to know what authority this Congress has, or what authority any department of this Government has, to impose on one class of the citizens of the country the responsibility and labor of collecting from the people the enormous tax provided for in the bill? This bill provides for the organization of an army of officeholders who are to be paid a very large percentage for the collection of the taxes imposed by it. And yet gentlemen tell us that, after all, this tax is not to be collected by this army of officeholders but by the manufacturers of the country.

Now, that is not the whole of it. It is not only putting the burden of collection on the manufacturers, but it also compels them to guaranty the taxes imposed on the articles manufactured by them; and this Congress proposes to say to the manufacturer, "pay this tax, and get it out of the consumer if you can." But suppose the manufacturer cannot get it out of the consumer, what then? The gentleman from Connecticut [Mr. ENGLISH] has said very correctly and pertinently that if this tax does come out of the manufacturer, and if he fails to get it out of the consumer—as he will fail in a great number of cases—there will be a reaction in the mind of the manufacturer, and he will seek, by lessening the cost of production, to avoid a portion of that burden which would otherwise fall upon him. The onus is thereby laid, at one further remove, on the laboring classes of the country, on those who earn their bread by the sweat of their brow.

My colleague instances an analogy between the duty on imported articles and the duty on articles of domestic manufacture. I was a little surprised to hear that suggestion come from a gentleman of such acknowledged business experience and of such intelligence as my colleague unquestionably possesses; for it seems to me that there is a clear, palpable, and well-defined distinction between imported articles and articles of domestic produce, in respect to the operation of a tax. If I am looking across the water for articles to be imported and made the subject of sale, it is a matter of comparatively small importance whether there be a duty imposed upon them or not; because, when I make my investment, or when my ship arrives, I may add that to the cost, unless the market be glutted. If the latter be the case in respect to one cargo, what is my remedy? Why, I will turn that cargo to the best possible advantage, and will import more, or not, according as there may be promise of profit. If there be a loss at all, it is simply a loss on one cargo, or on the stock which I have on hand. But how different is the case in regard to articles of domestic manufacture. I may have $50,000, or $100,000, or $500,000 invested in a manufactory designed for the creation of articles of domestic manufacture and domestic taxation. What am I to do if there be an oppressive and irrecoverable internal tax laid on the articles of manufacture which I produce? I can dispose of the quantity which I have on hand, to be sure; but what am I to do with my investment, if it be no longer profitable to manufacture these articles? What am I to do with the pursuit to which I have been educated all my life—with that pursuit to which I have devoted all the energies of my existence, so far as they have been given to a temporal pursuit? More than all, what am I to do with the five hundred or one thousand men and families who have planted themselves around this manufactory, and who look to it for their daily bread? It seems to me, sir, that there is a clear and manifest distinction between a duty imposed on articles imported and on articles of domestic manufacture.

Now, sir, I hope that before we get through with this delicate and onerous and complicated subject some plan will be, in entire good faith and entire good feeling, submitted to the House which will command more universal assent among its members than I fear the bill prepared by the Committee of Ways and Means will do. I further hope, sir, that that result will be accomplished, because I should esteem it to be one of the greatest of all possible calamities if any measure adopted by Congress should, in the present state of our country, be sent forward to divide the sentiment of the people of the country or to abate in one jot or tittle that noble enthusiasm which now pervades the minds of the entire community in suppressing this infernal rebellion and in furnishing the money and the means necessary to accomplish that object. Sir, we have seen some of the results that have arisen from a divided public sentiment. Let us, by no means, sow here the seeds of discord, which shall to-day or to-morrow or in any future year, I will not say, lead to rebellion, because I do not believe that there is any northern community that would rise up in rebellion against this Government; but, sir, I say let us plant no seeds of disaffection which shall slacken the zeal or lessen the love and enthusiasm of any man, woman, or child in any part of the country in behalf of the Government.

Mr. SHEFFIELD. With the consent of the committee, I will withdraw my amendment. My object has been accomplished by calling the attention of the committee to it. I will offer it again in another form.

Mr. DIVEN also, with the consent of the committee, withdrew his amendment to the amendment.

The question was taken on Mr. HOOPER's amendment; and it was adopted.

Mr. LAW. I move to amend the seventy-third section, by inserting after line eight the words "on every ton of pig iron fifty cents." I offer this amendment in good faith. I have looked over this bill and have not seen the article of pig iron mentioned in it at all. I know very well that in an after part of this section there is a provision of three per cent. *ad valorem* duty on the manufactured article.

Mr. HORTON. The Committee of Ways and Means has prepared an amendment on the subject of iron; and when we come to that the gentleman from Indiana can move his proposition as an amendment to it.

Mr. LAW. I think my amendment comes in properly here.

Mr. HORTON. The Committee of Ways and Means propose to offer an amendment at the one hundred and thirty-sixth line, placing a duty on railroad iron, bar iron, hoop iron, hollow ware, and other descriptions of iron. The gentleman's amendment will come in properly there.

Mr. LAW. This is a separate matter.

The CHAIRMAN. The Chair would beg to submit, whether it would not be better to reserve all amendments proposing taxes on articles not included in the bill until the committee comes to the close of the section?

Mr. LAW. These items in the bill apply to articles of manufactured iron, but not as I understand upon the original article, and that is the reason why I introduced this amendment here. The question may be for the committee to decide whether the tax shall be laid upon iron in its manufactured condition only, or whether it shall be taxed also in its original form as it comes from the ore.

The CHAIRMAN. The Chair will state that the amendment at the point to which the gentleman applies it, is in order; but the Chair thinks it will certainly be better to offer these amendments at the close of the section than at the commencement.

Mr. LAW. I have no disposition to press this amendment upon the committee against their will; but we are to be taxed to death in the West, and I want to provide, if I can, that other sections of the country shall also bear a portion of the burdens of the Government.

The CHAIRMAN. The Chair will submit the question to the committee, whether amendments proposing to add new paragraphs to the section shall be offered at its close.

The question was put, and decided in the negative.

The CHAIRMAN. The amendment of the gentleman from Indiana will therefore be received.

MESSAGE FROM THE PRESIDENT.

The committee informally rose, and Mr. NOELL having taken the chair as Speaker *pro tempore*, a message, in writing, was received from the President of the United States, by Mr. NICOLAY, his Private Secretary.

The message also announced that the President had approved and signed bills of the following titles:

An act (H. R. No. 148) to secure to the officers and men actually employed in the western department, or department of Missouri, their pay, bounty, and pension; and

An act (H. R. No. 279) to facilitate judicial proceedings in adjudications upon captured property, and for the better administration of the law of prize.

The committee resumed its session, and proceeded again to the consideration of the

TAX BILL.

Mr. LAW. Now, Mr. Chairman, I presume there never has been an instance in the history of the country where a direct tax has been levied by the Congress of the United States upon the people of the United States from which the article of pig iron has been excluded. It has always been taxed. I have had occasion recently to look into the action of Congress in former years upon this subject, and I find that in the tax laid to meet the expenses of the war of 1812, and in the law passed in 1818 providing for continuing the taxes upon the country for the purpose of liquidating the expenses that had been incurred in the war of 1812, this article of pig iron was heavily taxed.

In the act of April 20, 1818, I find this provision:

"That from and after the 30th day of June, 1818, the duties now levied by law, levied, collected, and paid on iron in pigs, iron castings, nails, on iron in bars and bolts, excepting iron manufactured by rolling, and on alum imported into the United States, shall cease and determine; and there shall be levied, collected, and paid in lieu thereof

the several and specific duties hereinafter mentioned, that is to say, on iron, in pigs, fifty cents per hundred weight."

Yes, sir, fifty cents per hundred weight upon pig iron. I should like to know what my friends from Pennsylvania would think of a tax upon this article of fifty cents per hundred weight, if they object to the tax which I propose of fifty cents per ton. I read again from the same law:

"On iron castings, seventy-five cents per hundred weight; on nails, four cents per pound; on spikes, three cents per pound; on iron in bars and bolts, manufactured without rolling, seventy-five cents per hundred weight; on anchors, two cents per pound; and on alum, two dollars per hundred weight."

These, sir, would be considered as pretty heavy taxes in these days. Now, sir, how stands this matter in the bill? The Committee of Ways and Means provide various rates of duty upon the several descriptions of manufactured iron, but I do not understand that pig iron comes within or is included in that definition. If it is, then I have nothing to say, because the article which I propose is already taxed. But I understand that pig iron is classed among the original articles, and is not included among the articles which it is proposed to tax.

Now, Mr. Chairman, I have before me the report of the pig iron produced in a single State, taken from the census returns. I have not the report of the products in the whole United States; but I ask the committee just to look at the tax which will be received from iron under the amendment I have offered from the single State of Pennsylvania. The amount of pig iron produced in that State is no less than five hundred and nineteen thousand two hundred and forty-four tons, valued at the immense amount of $10,829,794; not a cent of which is taxed under this bill as reported by the Committee of Ways and Means. Thus, upon this article in the State of Pennsylvania, the tax which I propose, of fifty cents a ton, would produce an annual revenue of more than a quarter of a million of dollars. I see a gentleman over the way who smiles at the statement; but, sir, if you will look at the statement which I have made, at the figures which I have produced, you will see that this amount of revenue will be raised upon this immense amount of capital which now pays not a cent of revenue. And unless the Committee of Ways and Means mean, by the definition they give, to include pig iron in some description of manufactures enumerated by them, this amendment should be, in my judgment, adopted; for never, from the creation of the world down to the present day was a tax bill passed from which pig iron was excluded as a dutiable article.

Now, Mr. Chairman, let me say a word upon another point. I regret exceedingly that the Committee of Ways and Means—and I am sorry that I do not see the chancellor of the exchequer (the chairman of that committee) in his place, so that I could pay my respects particularly to him—I say I seriously regret, and I believe the country regrets, that the gentlemen composing that committee had not made some provision for a tax bill before they reported the bill authorizing the issue of the $150,000,000 of Treasury notes. It is always better in raising an edifice to lay the foundation first; but instead of adopting that policy, they come in with a proposition for the issue of $150,000,000 of Treasury notes, which I understand are now being supplied by the Treasury of the United States, and now they bring in a tax bill for taxing everything under the canopy of heaven.

[Here the hammer fell.]

Mr. F. A. CONKLING asked unanimous consent for the gentleman from Indiana to proceed with his remarks.

No objection was made.

Mr. LAW. I wish to say further, in reference to this matter, that we have not yet quite come up to a perfect system of taxation. Sidney Smith some time ago wrote an article upon America, in which he took occasion to allude to the system of England in the following terms:

"We can inform Jonathan what are the inevitable consequences of being too fond of glory: taxes upon every article which enters into the mouth, or covers the back, or is placed under the foot; taxes upon everything which it is pleasant to see, hear, feel, smell, or taste; taxes upon warmth, light, and locomotion; taxes on everything on earth, and the waters under the earth; on everything that comes from abroad or is grown at home; taxes on the raw material; taxes on every fresh value that is added to it by the industry of man; taxes on the sauce which pampers man's appetite, and the drug that restores him to health; on the ermine which decorates the judge, and the rope which hangs the criminal; on the poor man's salt, and the rich man's spice; on the brass nails of the coffin, and the ribbons of the bride; at bed or board, couchant or levant, we must pay. The school-boy whips his taxed top, the beardless youth manages his taxed horse with a taxed bridle on a taxed road, and the dying Englishman, pouring his medicine, which has paid seven per cent., into a spoon that has paid fifteen per cent., flings himself back upon his chintz bed, which has paid twenty-two per cent., and expires in the arms of an apothecary, who has paid a license of £100 for the privilege of putting him to death. His whole property is then immediately taxed from two to ten per cent. Besides the probate, large fees are demanded for burying him in the chancel; his virtues are handed down to posterity on taxed marble, and he is then gathered to his fathers, to be taxed no more. In addition to all this, the habit of dealing with large sums will make the Government avaricious and profuse; and the system itself will infallibly generate the base vermin of spies and informers, and still more pestilent race of political tools and retainers of the meanest and most odious description, while the prodigious patronage which the collecting of this splendid revenue will throw into the hands of Government, will invest it with so vast an influence, and hold out such means and temptations to corruption, as all the virtue and public spirit, even of republicans, will be unable to resist."

Now, sir, it does appear to me that we are getting along pretty well towards that state of things. And I say that I sincerely regret that the members of the Committee of Ways and Means had not, during the recess, after we adjourned in August, provided for coming together and preparing a tax bill. That has not been done, and now, without the opportunity of due consideration, a bill comes before us which it is apparent to every one we cannot get through with by the 1st of May, at the rate at which we are progressing. And when we get through with the bill here, it will go to the Senate. Mr. Secretary Chase has prepared a bill which is to be considered as a substitute. The Senate will have a policy of their own to consider, and there is little hope of passing any bill for raising the revenue that the Government needs before the 1st of June. If the Committee of Ways and Means had considered the measure at their leisure, they could have kept clear of the army of lobbyists who are now here besieging the committee for the purpose of having billiard tables and every other conceivable description of article exempted from duty.

If this bill had been passed first, and the bill for issuing Treasury notes had followed, we should have gone on swimmingly. But let this bill be defeated or be postponed until midsummer, and what will be the effect upon the Treasury notes? They will have gone down in the market to fifty cents on the dollar. It cannot be otherwise. Just look at it. We are now spending $3,000,000 a day. The $150,000,000 of Treasury notes will all be expended in two months, and before the war is ended we shall have to pass another Treasury note bill. How can it be otherwise? The war is in progress, and I admit that we must carry it on until the rebellion has been put down. I go for war to the death in order to put down this accursed rebellion. Still, at the same time, in regard to all of our physical resources, let them be taxed, and the matter arranged so that the whole country will be satisfied, and then I will be satisfied.

Mr. MALLORY. I do not know that the proposition of the gentleman from Indiana [Mr. LAW] will not cut like a two-edged sword. It may be true that it will derive an enormous revenue from the State of Pennsylvania, but then we must recollect that in the end that tax will have to be borne by the people of the section from which the gentleman from Indiana and myself come. I submit to him and to the members of the committee that we consume this article of iron as much in Kentucky and the West as they do in Pennsylvania and in the New England States. And look at the enormous protection that the iron manufacturers enjoy under the Morrill tariff bill, passed at the last session of Congress, and if gentlemen reflect on it, they will see that this tax will have to come out of the pockets of the western farmer and the western manufacturer as much as it will come out of the pockets of the citizens of Pennsylvania, where this enormous iron interest exists. Under the Morrill tariff bill passed a year ago, Pennsylvania has a monopoly of the iron making in this country. That bill, sir, has stopped the importation of iron into the United States, and under the advantages which the ironmasters of Pennsylvania enjoy under that bill over all of the other industrial interests of the other States, they enjoy a monopoly of this article of iron. We of the West are dependent upon them because of the various uses to which we apply iron. We are dependent upon Pennsylvania for railroad iron and for all of the iron which enters into the every day uses of life. If the amendment of the gentleman from Indiana be adopted, the ironmasters of Pennsylvania will increase the price of pig iron to the consumers of the article to the extent of this tax. We would then at last have to pay this tax, and not the people of Pennsylvania. For that reason I am doubtful if the amendment as it now stands ought to be adopted. If the gentleman will provide for the reduction of the protective duty upon iron under the Morrill tariff bill I will go with him. Then foreign iron will be brought into competition with the iron of Pennsylvania, and then this tax will not be paid by the consumers, because the ironmasters will be afraid.

Mr. HALE. Does not the gentleman from Kentucky know that since the passage of the Morrill tariff bill at the last session, iron has sold at a less price than it was ever before sold for in this country? That is a historical fact.

Mr. MALLORY. If it is a historical fact, then it is one of the most remarkable that could be brought to the attention of this House. The gentleman supported the Morrill tariff bill because of the protection that it afforded to the iron interest of Pennsylvania. He contended for its passage most strenuously upon that ground. Now he says that it has had the effect to reduce the price of iron. If that be so, then I expect him to go with me to have the duties on iron reduced, if they have had the ill effect on Pennsylvania stated by the gentleman from that State.

Mr. ENGLISH. In reply to the remark of the gentleman from Pennsylvania, it ought to be stated that iron can be brought more cheaply from Liverpool to New York than it can be from Pennsylvania to New York.

Mr. WADSWORTH. I move to reduce it to one cent. Mr. Chairman, I object to the principle of taxing any article occupying the position of pig metal—an article that is so far from the consumer. I listened to the remarks of the gentleman from Massachusetts [Mr. HOOPER] with a great deal of attention and with a great deal of pleasure. I believe this duty should be levied as near the consumer as possible. I do not object to the taxing of any article of property, real, personal, or mixed. I think the duty should be levied near the consumer, and upon the consumer if possible. Hence I object to taxing pig metal. Hence I object to taxing leaf tobacco. Hence I object to taxing corn and everything of that sort. I do not object to taxing all descriptions of manufactured iron and manufactured tobacco and corn. That is the principle of the bill which ought to be adhered to. I am so much in the habit of agreeing with my friend from Indiana, that I am exceedingly sorry to have to differ with him on this subject. If we tax pig iron, with the same propriety we ought to tax leaf tobacco and corn and like articles. You tax corn in the shape of whisky, you tax leaf tobacco in the shape of cigars and plug tobacco, and you tax iron in the shape of hoop-skirts, and in whatever form it is manufactured for the uses of the country. I want the principle of the bill adhered to, and I want the tax to be imposed not upon the unmanufactured article, but upon the manufactured article, so that the tax will have to be paid by the consumers and not by the manufacturers.

Mr. MALLORY. Is pig iron manufactured iron?

Mr. WADSWORTH. It is not manufactured iron, and it ought not to be taxed as manufactured iron. You can raise as much revenue from the manufactured article as upon the unmanufactured article. If we want revenue, as we do, I do not object to the Government imposing these taxes upon any articles of manufactured iron. If the consumer is to pay the tax under the provisions of the bill, will he not pay it as much upon the manufactured article as upon it in its unmanufactured state?

I also listened to the observations of the gentleman from Massachusetts, [Mr. RICE,] and I subscribe to and indorse them. I think it would be wrong to make the furnaces of the country be the collectors of the taxes of the country. It would be wrong in addition to the other burdens of that distressed interest to make them do it. As soon as you adopt the principle of this amendment

you must apply it to everything else. Then indeed we may be in the condition described by the gentleman from Indiana. Then everything we wear may be taxed—the bed we lay on, the shroud in which we are buried, and the tombstone upon which our epitaphs are written, may be taxed. I do not understand that to be the principle of the bill, but when you adopt such a principle you will have to carry it out.

Mr. HORTON. I wish to say that the Committee of Ways and Means did not place a tax upon pig metal, not because they wish to save the iron interest, but because they propose to levy a duty upon manufactured iron, which proposition they will offer at the proper time and place. If we have omitted any form of manufactured iron, I will be obliged to any gentleman who will suggest the omission.

Mr. F. A. CONKLING. Does the gentleman consider pig iron manufactured iron?

Mr. HORTON. Pig iron represents only human labor. There is no machinery about it. It is the raw material which enters into the production of manufactured iron. The amendment that the committee proposes to submit on the subject of manufactured iron is as follows:

On railroad iron and all other iron advanced beyond slabs, blooms, or loops, and not advanced beyond bars or rods, and band, hoop, and sheet iron, not thinner than No. 18 wire gauge, and plate iron not less than one eighth of an inch in thickness, one dollar and fifty cents per ton; on band, hoop, and sheet iron, thinner than No. 18 wire gauge, plate iron less than one eighth of an inch in thickness, and cut nails and spikes, two dollars per ton: *Provided*, That bars, rods, bands, hoops, sheets, plates, nails and spikes, manufactured from iron upon which the duty of one dollar and fifty cents has been levied and paid, shall be subject only to a duty of fifty cents per ton in addition thereto, any thing in this act to the contrary notwithstanding. On stoves and hollow ware, one dollar and fifty cents per ton of two thousand pounds. Steel in ingots, bars, sheets, or wire, not less than one fourth of an inch in thickness, valued at seven cents per pound or less, four dollars per ton; valued at above seven cents per pound, and not above eleven cents per pound, eight dollars per ton; valued above eleven cents per pound, ten dollars per ton.

I submit to the gentleman from Indiana, that if he adds to that a tax of fifty cents upon pig iron, the consumers of iron in his own State and elsewhere will be taxed to their heart's content. But it is better for them to pay a tax upon the manufactured iron rather than upon pig metal. The tax of fifty cents upon pig metal would amount to about half a million of dollars. It would be so much the more into the Treasury of the United States, and so much the more out of the pockets of the consumers of iron. If the gentleman from Indiana wants to tax his constituents to that extent, then of course we ought not to object. I wish the leave of the committee to say one word now in relation to the tax bill generally.

[Here the hammer fell.]

Mr. KELLOGG, of Illinois. I move that the gentleman be permitted to proceed.

The motion was agreed to.

Mr. HORTON. I wish to say, in relation to the tax bill generally, that early in the session, and along for two or three months, gentlemen were asking the Committee of Ways and Means why they did not bring in a tax bill. All sections of the country demanded a tax bill, gentlemen saying they would vote for anything we wanted; that they wanted to vote a tax; that they wanted to be taxed, and that they demanded a tax. We replied that we were doing the best we could; and now every person in the House and every person in the country is very desirous of being taxed, but they do not like the form in which the Committee of Ways and Means have presented the bill. Should we continue to go on at the rate we have been going since this bill was introduced into the House, it will take us six months to perfect the bill. We are told that new bills will be brought in. They will be no more perfect than this one; and if it takes as long in proportion to perfect three bills as it requires to perfect this, we will not pass a tax bill by the time our term of service here expires, and we will fail to redeem a solemn pledge made by this House and the Senate, that we would raise a certain amount of revenue by internal taxation. Therefore I ask the committee that they will come up to the work of perfecting this bill in serious earnest, and produce a result that will be satisfactory to the country, and not devote their time in finding fault, which every one may find, but for the purpose of perfecting a measure whose burdens shall bear as equally as possible upon all the people of the country.

I ask, then, that the committee may go to work, and if the Committee of Ways and Means have not worked with a sufficient degree of earnestness and ability, let their omission be made up by the ability and earnestness of the Committee of the Whole on the state of the Union. You are as much bound to earnest action as we were. We have worked to the extent of our ability, and if the Committee of the Whole have more ability, as they no doubt have, I ask them to exert it, not for the purpose of seeing if they can find some small fault, some slight defect, and make remarks which may be considered as criticism upon the bill, but for the purpose of perfecting a bill which I assure gentlemen it was no slight task to construct.

Mr. THOMAS, of Massachusetts. I desire to ask the gentleman from Ohio a practical question. It is this, whether the bill which is now before the committee, in its substantial features and principles, with such modifications of form as the Committee of the Whole on the state of the Union may suggest, is the bill which the Committee of Ways and Means finally mean to put to vote in the House?

Mr. HORTON. I will answer the question of the gentleman with the utmost candor and readiness. So far as I know and believe, there is no purpose whatever entertained by the Committee of Ways and Means, or any member of it, to offer any other bill. There never has been any such idea entertained by the committee; and if any person supposes that there has been, it is an imputation—unconsciously, no doubt—upon the good faith of the committee. We have acted with good faith and earnestness; and if this bill does not pass the House, there will be no bill, so far as I know, brought forward by the Committee of Ways and Means; for they have not the time; and if they had, they do not wish to do so.

Mr. THOMAS, of Massachusetts. I beg leave to say that I asked the question for the purpose of relieving ourselves from the common rumor which prevails that another bill will be offered by the Committee of Ways and Means in lieu of this bill.

Mr. WADSWORTH. I withdraw the amendment to the amendment.

Mr. NOBLE. I move to amend the amendment by inserting the following:

Also, upon every ton of coal which may be mined and sold, twenty cents.

The CHAIRMAN. The Chair doubts whether that is in order as an amendment to the amendment. An amendment must be germane to the pending proposition. It may be entertained as an independent proposition after this amendment is disposed of.

The question was taken on the amendment offered by Mr. LAW; and it was not agreed to.

Mr. HORTON. I now move the amendment which I withdrew temporarily. It is to strike out the following words:

On candles, made wholly or in part of tallow or lard, and valued at not above twelve cents per pound, five mills per pound; when valued at above twelve cents per pound, and on wholly or in part spermaceti, paraffine, refined stearine and adamantine candles, one cent per pound.

And insert the following:

On candles, of whatever material made, when valued not above fifteen cents per pound, five mills per pound; when valued above fifteen cents per pound and not above twenty-five cents per pound, one cent per pound; and when valued above twenty-five cents per pound, one and a half cents per pound.

The amendment was agreed to.

Mr. NOBLE. I offer the following new paragraph, to come in directly after the paragraph just adopted:

On anthracite coal, twenty-five cents per ton; on bituminous coal one half of one cent per bushel.

I offer this amendment merely for the purpose of having a very wealthy class of producers pay an equal proportion of this tax. The coal producers of the country are among the most wealthy men we have. Unless this article is taxed the same as other productions, they escape entirely; and I have offered the amendment for the purpose of compelling them to pay their proportion.

Mr. CAMPBELL. I am opposed to the amendment offered by the gentleman from Ohio. The remarks made by the gentleman from Kentucky [Mr. MALLORY] in relation to pig metal, apply with equal force to the production of anthracite and bituminous coal. I invite the attention of the committee to the consideration of a few facts which I shall submit in the brief period allotted for debate. The annual production of anthracite coal in the country reaches seven millions of tons, if it does not exceed that amount. I speak without the statistics before me, but believe that to be about the annual production. One of the counties which I have the honor to represent (Schuylkill) has produced one half that amount, and now it will not fall much short of that amount. The average cost of production of a ton of coal is about one dollar and sixty-one cents. This will include cost of mining, wear and tear of machinery, oil, and powder, coal rent, and transportation on lateral roads.

Gentlemen may inquire, if coal is worth so little per ton at the mines, why is the price so largely enhanced in the cities of the East and West? It is on account of the cost of transportation by rail and water. Our transportation companies and coal brokers pocket the profits, while the operator and the miner hardly realize enough, particularly of late years, to keep soul and body together. My people have lost money for the last three years in this rather unfortunate business, or have not realized on an average one cent per ton profit. If coal is high, it is owing entirely to the cost of transportation. It costs $1 37 a ton to carry a ton of coal from Mount Carbon in my district to Port Richmond near Philadelphia, and so on in greater or less proportion to the towns and cities of the Atlantic coast.

The coal lands of Pennsylvania are worth very little for agricultural purposes, yet they are assessed at a very high rate in view of taxation. Every dollar of tax laid upon coal land is a direct tax upon coal itself, for the lands are only valuable on account of the coal they contain. Landlords who pay high taxes increase the rents upon the coal, and the rent is necessarily added to the cost of production. The lands pay an enormous tax for State, county, school, and road purposes, and the *direct* tax laid by Congress last session, and again contemplated at this, was and will be a *direct tax upon coal*. It is the same as if you in the East and in the West, in addition to paying the direct tax which rests upon your farms, should have a tax placed upon your wheat, corn, rye, and your hemp and barley, for they are all obtained from the soil. We pay the direct tax of last session, and you pay the direct tax upon lands in all sections of the country; but your wheat, your corn, and your flax is not taxed in addition, as you propose to tax our coal.

Again: this contemplated tax will not bear upon us alone, but it will bear upon the consumer of every article in which coal is used in the manufacture of as fuel. If you place a tax of twenty-five cents per ton upon anthracite coal, that amount will be added to the price of the manufactured article; for the manufacturer, having to pay that sum in addition to the duty he has to pay under this bill for the privilege of manufacturing any given article, will add the additional price of fuel to the cost of the article. Whether the manufactured article be of cotton, wool, hemp, iron, copper, or lead, he must pay twenty-five cents per ton for the fuel which is used in its manufacture, and he will protect himself by adding that sum to the price. Now, I submit to this committee whether it is fair to tax the manufacturer upon any article he manufactures, and then add a tax of twenty-five cents a ton upon his fuel; or whether our New England and western friends desire to pay more for fuel, whether used in their manufacturing districts or for domestic purposes? It is for them to consider this question well; for, in my judgment, they will have to pay the tax. Coal is one of the articles included in the schedule of the reciprocity treaty with Great Britain; and the coal from the British provinces, from the mines of Pictou, comes in free of duty, and is used as low down the coast as New York and Philadelphia. Some three or four hundred thousand tons come in annually free of duty. This tax of twenty-five cents per ton on coal will have one of two effects: it will either add that much to the cost of fuel in the manufacturing districts of New England and of the West, or it will close our mines and give the whole coal trade to the British provinces. I submit that that would be unjust and unfair to the domestic interests of the country.

[Here the hammer fell.]

Mr. LEHMAN. I move to amend the amend-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. SATURDAY, MARCH 29, 1862. NEW SERIES.....No. 89.

ment so as to reduce the tax to twenty cents. I do so for the purpose of opposing the pending amendment. I have no doubt that this subject has been carefully considered by the Committee of Ways and Means, and that, as was stated by a member of that committee, it was not for the purpose of exempting Pennsylvania or any other State that there was a discrimination in the imposition of these taxes or duties. Pennsylvania, not only in herself, but in all her products, is willing and able to pay any tax that may be necessary for the purpose of carrying on this war and supporting the Government. But I have no doubt that the reason which actuated the Committee of Ways and Means was one which will be received favorably by this House. There has been a general complaint made by members from every section of the country that manufacturers have been largely and unnecessarily taxed, and in some cases unjustly. But it should be considered by this House that in manufacturing almost every article upon which a tax is laid, coal is essentially an article which comes into general use, and if you make it a costly article to the manufacturer, you impose an additional duty upon the articles he manufactures. I do not think that it was with any view of discriminating favorably for Pennsylvania that the article of coal was left untaxed, but inasmuch as it enters into use in every private house and every factory and every place where any manufacturing is carried on, it was thought proper to exempt it. We would be willing to pay any tax which it may be necessary to impose upon coal or any other product of Pennsylvania; but I think that this reason, if it did enter into the mind of the Committee of Ways and Means, is certainly a just one, and a sufficient reason for exempting this article of coal from taxation.

Mr. WRIGHT. The amendment of the gentleman from Ohio imposing a tax of twenty-five cents per ton upon coal, is an imposition upon an article which he does not understand, and which, perhaps, very few members of the House understand. The district of my colleague [Mr. CAMPBELL] and the district that I represent embrace the whole of the anthracite coal, I may say, in North America. I believe there is no anthracite coal outside of these two districts. I have some knowledge, therefore, with regard to the value of coal. The value of coal in my district ranges from forty cents to a dollar and twenty-five cents per ton at the pit's mouth—say an average of a dollar per ton at the pit's mouth. You put a tax of twenty-five cents upon the coal mined and delivered at the pit's mouth. Now, does any gentleman here suppose that any product can stand taxation equivalent to one fourth of its value? I should like to know what would become not only of the producers of the article, but of the consumers?

A MEMBER. We did the same thing about whisky.

Mr. WRIGHT. Oh, we can get along without whisky; but we cannot very well get along without coal.

Now, if it be thought right and proper that a tax shall be imposed upon coal, I trust that Congress will put such a tax upon it as will not ruin everybody connected with coal operations. A tax of twenty-five cents per ton, or one quarter of its value, will effectually ruin every person concerned in the mining of coal.

I speak with full knowledge upon this subject. I know the value of coal in the county of Luzerne, which is the principal county in my district, and I know that the value I have put on it, of one dollar per ton at the pit's mouth, is its proper value. Now, upon what other article have the Committee of Ways and Means proposed in this bill to impose a tax equivalent to one fourth of its value?

Mr. McKNIGHT. Petroleum or rock oil is taxed one thousand per cent.

Mr. WRIGHT. Very well; if coal oil or whisky has been taxed in too great a ratio, it does not follow, as a matter of course, that this great staple of the country is to be classed with those articles. Our steamers are propelled by it; our manufactories, East and West, are driven by it; it is necessary to the life and existence of the nation; and I tell gentlemen that when they come to select the articles of light and heat as proper subjects upon which to impose a heavy tax, they are imposing burdens that they will not be able to justify to their constituents. Those are not the objects that should be sought out for taxation. When this bill first came from the Committee of Ways and Means it contained a provision imposing a tax upon bread—a tax of ten cents per barrel upon flour. The clamor against it throughout the whole country was immense, and the committee were driven from their position upon that question because bread was a thing that would not stand taxation. And I submit, that if you cannot put a tax upon bread and sustain yourselves, neither can you put a tax upon light and heat, which are also necessary to existence.

Mr. Chairman, I am not aware what was the reason that operated on the minds of the Committee of Ways and Means to induce them to exempt coal from taxation. It is a measure which I doubt not was canvassed, and I take it for granted that it was rejected as it was not embodied in the bill.

[Here the hammer fell.]

Mr. F. A. CONKLING. I move to amend the amendment by reducing the amount of the tax to twenty-one cents.

Mr. Chairman, in order that the committee may be in possession of accurate information in regard to this question so far as it relates to the State of Pennsylvania, I wish to submit a few statistics which have been handed to me by my friend from Indiana [Mr. LAW] showing the product of coal according to the census returns of 1860. The gentleman from Pennsylvania [Mr. CAMPBELL] has stated the product of anthracite coal, in round numbers, at seven millions of tons.

Mr. CAMPBELL. My information is much more correct than any derived from the census tables. I have it from the weigh-scales, made out annually, and the product of anthracite coal is, in round numbers, about seven millions of tons.

Mr. F. A. CONKLING. It is very likely, Mr. Chairman, that the returns in the possession of the gentleman from Pennsylvania may be more recent; but as those before me are official, I submit them to the committee for what they are worth. The production of anthracite coal in the year embraced in the census returns in the State of Pennsylvania amounted to 9,297,292 tons; and I may remark here that the valuation was $11,719,574.

Mr. WRIGHT. Its valuation where?

Mr. F. A. CONKLING. I suppose at the place of production. I do not know. I am not able to answer the inquiry of the gentleman from Pennsylvania. The production of bituminous coal amounted to 66,994,295 bushels, valued at $2,833,859. Now a tax of twenty-five cents per ton on anthracite coal, as proposed by the gentleman from Ohio, [Mr. NOBLE,] according to these returns, amounts to $2,324,333, and the tax on bituminous coal, at half a cent a bushel, amounts to $334,971—making an aggregate of $2,659,304, on the production of Pennsylvania alone.

One word, now, in reply to the argument of the gentleman from Pennsylvania, [Mr. WRIGHT.] He estimates the value of anthracite coal at the place of production at ninety cents or thereabouts per ton; and he informs the committee that the imposition of a tax of twenty-five cents a ton, is a tax of twenty-five per cent. I apprehend that the average cost of coal to the consumers throughout the country is something like five dollars a ton, and I am of the opinion that the proper light in which to regard this matter is to estimate the amount of tax on the cost of the article to the consumer. If it be so estimated, the percentage will be five per cent., and not twenty-five per cent.

Mr. McKNIGHT. In opposing the amendment offered by the gentleman from New York, I have to say that I think the Committee of Ways and Means has rightly judged and rightly decided, when they reported a bill not imposing a tax on raw materials, particularly on raw materials that enter into the consumption and manufacture of all the people. If a tax be laid on coal, all manufactured articles will be increased in price in a corresponding ratio. Does not the gentleman from New York see that if the price of coal be raised by this tax, every poor widow, every seamstress, every person in the city of New York and elsewhere, who shivers over the embers during a hard winter, will be compelled to pay from her and his honest earnings that increased price? The gentleman certainly cannot have reflected on that. My friend from Pennsylvania [Mr. CAMPBELL] has spoken of the reciprocity treaty which admits coal and ore from the British possessions in Canada free of duty; and if gentlemen will refer to the report of the Secretary of the Treasury on Commerce and Navigation, they will find that even England and Scotland, Australia, the Azores, and Chili, are able to send coal to this country, which comes into competition with that produced here. The amount of this importation for one year was two hundred and forty thousand tons, or $839,000 worth. This table only exhibits that which pays *ad valorem* duty. It makes no mention whatever of the coal imported from Canada.

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

Mr. McKNIGHT. Certainly.

Mr. SHEFFIELD. I ask the gentleman whether the importations of coal that he alludes to are not simply brought in as ballast by vessels returning without cargoes?

Mr. McKNIGHT. There is no doubt that much of it is brought in as ballast. We have also in competition with us all the coal imported from the British provinces, on which no duty whatever is paid. If so much is imported now, its importation would be immensely increased when a tax is laid on the coal produced in the country. I therefore think that this would be a tax upon the poor.

Mr. F. A. CONKLING. I withdraw my amendment to the amendment.

Mr. BLAIR, of Pennsylvania. I move to amend the amendment by reducing the tax to one cent per ton. I simply wish to state one fact in reference to bituminous coal, which it is proposed to tax one half of a cent per bushel. Now, the fact is, that in the whole Alleghany coal region the rent for coal pits is from one third to two thirds of a cent per bushel. The proposed tax would therefore equal the entire rent of the coal region. I think, sir, that if that fact were kept in mind this proposition would not receive one moment's consideration.

Mr. NOBLE. I sympathize very deeply with the members from the State of Pennsylvania, and I am exceedingly sorry that the prospect is that the poor widows and orphans of New York and the other cities of the land are likely to suffer from cold, because a tax of twenty-five cents per ton is proposed to be laid on coal. Why, Mr. Chairman, a ton of coal would be as much as a poor family in the city of New York would consume in a couple of months during the coldest weather that we have in the winter. And yet gentlemen from Pennsylvania cry out terribly because it is proposed to tax coal at the rate of twenty-five cents per ton. They say that coal is a production of the earth, and should not be taxed.

Mr. HORTON. Will my colleague allow me to ask him a question?

Mr. NOBLE. Certainly.

Mr. HORTON. I ask my colleague whether he proposes to tax wood?

Mr. NOBLE. That is not the question before the committee now. We do tax wood; but we do not tax it merely as wood. But here is a production of immense value, which ought to be taxed. The member of the Committee of Ways and Means who asked me that question proposes to tax leaf tobacco; and yet leaf tobacco is a production of the soil. I ask why coal should not bear a proportion of this burden as well as other productions of the soil? It has been said that by this amendment coal would be taxed twenty-five per cent. Now, if it were true that transportation were increased twenty-five per cent.,

that allegation might be correct. But does it follow under this proposition? Why gentlemen have themselves answered that argument, by saying that the principal ingredient in the price of coal is the cost of transportation. Then I say, that the imposition of a tax of twenty-five cents per ton on coal would not add anything to the cost of transportation. Hence, the price of coal consumed in manufactories, on steamers, and for domestic use is not increased in a like ratio; but is simply increased twenty-five cents per ton. If I remember aright, coal has been selling in this city, since I have been here, at the rate of from eight to nine dollars per ton. Gentlemen would lead the committee to believe, from their arguments, that if this tax were imposed, coal would sell here at twenty-five per cent. higher. Now, is that so? Why, no. Every one will see at once that the cost would only be increased twenty-five cents per ton over its present cost.

[Here the hammer fell.]

Mr. BLAIR, of Pennsylvania. I withdraw my amendment to the amendment.

Mr. DIVEN. I move to amend the amendment by making the tax on coal ten cents per ton. I am sincere in offering the amendment. I do not offer it for the purpose of making a speech. I wish to say that if this tax be imposed, the State which I in part represent, will, I believe, pay as much of it as the State of Pennsylvania, whose Representatives are opposing this proposition so strenuously. I believe that neither of the theories contended for here is strictly true—that the consumer pays all the tax, or that the producer pays all the tax, or that the transporter pays all the tax. On the contrary, I think that the tax is distributed among them as nearly equal as can be conceived. If a tax be so onerous as to shut out the article or prevent its production, then of course it falls on the producer; but a light tax of ten cents on a ton of coal is so trivial that, in my judgment, not one ton less will be consumed in the country in consequence of its imposition. Nothing has advanced with such rapid strides in consumption as has the article of coal in this country. It is now produced at a rate that brings it into competition with wood, and has indeed almost excluded the use of wood, except in forest countries where wood is worth nothing and costs nothing except the trouble of cutting it and preparing it for fuel; and gentlemen will bear in mind that the forests of the country are all the time growing less and less, and that the competition to the use of coal is consequently more and more being removed; and the coal will bear the taxation so far as the miner is concerned as well as any other article.

Now, with regard to this reciprocity treaty and this competition of other countries, it is true there is a kind of coal purchased in Nova Scotia and some of the British possessions which goes to all parts of the country. But it comes here, not because they can bring it here cheaper than we furnish our anthracite coal, but because it possesses peculiar properties which the coals mined in the United States do not possess. And I wish to ask my friend from Pennsylvania if he believes that one ton more will come from Nova Scotia if this ten cents per ton is put upon our anthracite? In my judgment there will not. Now, it is true that the tax upon this coal will fall upon the poor woman who shivers in the cold; but she is taxed too upon the tea and sugar with which her exhausted frame is refreshed. And so with many other articles which the poor more or less consume.

Mr. McKNIGHT. I desire to ask the gentleman from New York whether the same reason does not apply for leaving coal out of this bill, under the reciprocity treaty, which applies to the flour of New York?

Mr. DIVEN. There is not, for the reason that if you do not leave out New York flour, all the flour of the West will be ground by Canadian mills, instead of being ground by western mills and New York mills. The reason applies with equal force to the West and to New York State.

[Here the hammer fell.]

Mr. DAVIS. Mr. Chairman, I am opposed to the amendment, because I hold it an erroneous policy to tax the *sources* of power, the very foundations of national prosperity and development. There is no people that has prospered and grown to power and consideration among the nations of the earth who ever dreamed of levying a tax upon the foundations on which their productive industry was based. Our manufacturing industry is struggling for existence under the close competition in our own markets, of nations who are eagerly developing the power of machinery and the force of steam applied to production and transportation. England has so developed this power that she is this day enabled to levy her enormous taxes on a power equal to eight hundred millions of men. Through her steam machinery she is directing this immense power to the conversion of the raw materials of the earth to the uses of man; thus rendering all nations, more or less, tributary to her enterprise, skill, and power. She does not tax her coal; she is too wise for that. She well knows that the ton of coal is capable of producing more revenue through the products of the manufactories. She needs cheap power in her contest for supremacy; and experience has taught her that *coal* and *iron* are the right and left hands of her domination. Let us gather wisdom from her experience, and learn how cheap productive power may become. In 1850, she employed in producing the coal used in the steam engines of England about sixty thousand men; the boiler-makers and makers of steam engines were forty thousand; total engaged in producing the steam power of England, about one hundred thousand men. Yet the natural power produced by the labor of the above men is sated in Government reports as equaling that of six hundred millions of men. This was in 1850; since then, doubtless, it has increased to the enormous power I have before stated. The entire population of England at that time was twenty-one millions, each one of whom, were the power thus acquired equally divided, would have the equivalent of thirty men employed in the execution of his will; and we find the astonishing result, that the capacity of one hundred thousand miners and machinists to furnish power, through coal and the engine, is equal to thirty times the population of the free States. She does not care to tax the product of the labor of her sixty thousand miners, when she knows through her superiority in cheap power she can tax the products of the hundreds of millions of men embodied in her machinery. We are contending with this formidable power in our own markets, and the *markets of the world;* and it is improper that we should do aught that might enhance the cost of productive power. Were this competition confined to our domestic markets, we might protect ourselves by an increased duty upon her products; but we cannot so guard ourselves when we bring our taxed power to compete with her cheap power in the foreign market.

Sir, the policy of the amendment is wrong. Tax as you may deem wise and necessary the products of machinery in the manufactured articles consumed in our own country, but leave entirely free and untaxed all productions of our skill and power that may have to compete with other nations in the markets of the world. In illustration: the tax you propose of twenty-five cents per ton on coal will be about equal to one dollar a ton on bar iron, as about four tons of coal are consumed in the production of the iron. Now, while we could easily protect the American maker in our new tariff, yet this difference in price might give our competitors the entire foreign market.

With regard to the consumers of coal, those who burn it in the stove will not so much feel it, for it forms so small a proportion of their annual expenses, or the cost of the coal. The gentlemen from New York and Ohio were perfectly correct in supposing the poor woman in New York, who shivers over her little fire in the nipping cold of the northern winter, will not much feel the pittance of twenty-five cents per ton, for the reason that it is but the one hundred and twentieth part of the price that she is accustomed to pay. I have it from good authority that many thousand tons of coal are retailed "by the small," that is, by the handful, hatful, quart, pound, or apronful, at rates from twenty to forty dollars per ton. At these prices, it is not probable that the poor buyer would feel the additional twenty-five cents per ton that the Government of the United States places on it; and we might charitably suppose that the honest dealers would shoulder the tax as their profits are quite liberal. Gentlemen urge this amendment as though it were a proper punishment to Pennsylvania for something which she may have done, as though this were a special tax which she must bear; this is not so. You tax the nation when you tax her products. And I do not stand here to shield my State from her quota of men or money in suppressing this rebellion, but to save the nation from what I consider a wrong policy in taxing that, the cheap production of which is the source of national prosperity and national independence and power.

The question being upon Mr. DIVEN's amendment,

Mr. SHEFFIELD demanded tellers.

Tellers were not ordered.

The amendment was disagreed to.

Mr. CAMPBELL. I move to amend the amendment by reducing the amount to one fourth of one cent per ton. I submit this amendment to afford me the opportunity of saying an additional word upon the general subject before the committee, for I am strongly impressed with the belief that coal should not be taxed, unless it is the intention of the committee to abandon the leading principles upon which this bill was framed, and which, up to this time, have controlled our deliberations, and proceed to place a tax upon all the necessaries of life, of which fuel is among the chief, as well as to impose burdens upon raw materials.

The Committee of Ways and Means, in reporting the bill before us, evidently aimed at avoiding as far as possible placing a tax on necessaries and raw materials. The argument that a tax on coal is a tax upon a raw material has not been answered by any member of this committee. Coal is emphatically a raw material. We may differ as to whether pig iron is or not, though I have no doubt that it is; but coal dug from the earth without change is unquestionably so. It enters into the manufacture of almost everything. Little or nothing can be made without heat, and therefore to tax coal is to put an additional tax upon everything in the manufacture of which fuel is necessary.

Again: as I have already remarked, we have not adopted the policy in this bill of taxing the necessaries of life. This bill proposes mainly to tax the luxuries of mankind—their pleasures as well as vices. We do not propose to tax wheat, corn, or wood, nor any of the necessary articles without which life would be a burden or could not be supported. Now, coal is beyond question a necessary of life, and should come within the rule.

Mr. LOVEJOY. I wish to ask the gentleman whether a tax upon coal would not cheapen it upon the same principle that a tariff upon every article has the effect to cheapen it? [Laughter.]

Mr. CAMPBELL. If the gentleman is serious I would reply certainly not. A duty upon coal would make that much additional burden upon the manufacturer and the consumer generally, while the experience of all countries goes to show that to protect home industry by a specific tariff cheapens the articles protected to the public, because it builds up the home production by shutting out the competition of the foreign manufacturers, and enables home competition in a short time to produce a better article at a less price. That is the reason why iron is now so cheap; so says my colleague, [Mr. HALE.] We have to thank the Morrill bill for that. But we must excuse the gentleman from Illinois, as he lives in the backwoods. It is too late now—the world has advanced somewhat in experience—to question the duty of the Government to protect home industry. But the propriety of taxing the necessaries of life is quite another question. We have gone far enough in that direction by taxing tea, coffee, and salt. Unless it shall become indispensable, we had better not proceed in that direction. If you tax coal, why not tax wood and flour and hemp? Sir, I do not propose to do the one or the other. And yet Pennsylvania asks nothing but even-handed justice. She does not, as the gentleman from Ohio intimates "shirk a duty upon her productions." She shirks from nothing, asks nothing, but demands equality and justice. She is against this accursed rebellion from the tops of her mountains to the depths of her valleys, and will vote all her sons and all her treasure to crush out rebellion and sustain the Union. Myself and colleagues would be ashamed to return to our people and tell them we had refused to vote the necessary supplies to sustain the Government and pay our victorious volunteers.

Then, Mr. Chairman, what I ask is that gentlemen should stand by the principle of the bill. We do not propose to tax the lead of Illinois, nor

the copper of Michigan, nor the flour of New York, nor the hemp of Kentucky. It would be a disastrous tax, affecting every manufacturing district and every hearthstone where coal is used as a fuel in the whole country.

I differ with the gentleman from New York [Mr. DIVEN] on the subject of the reciprocity treaty with Great Britain and the coal from the mines at Pictou. Every ton of coal brought into the United States from the British provinces drives one ton of domestic coal out of market. It is true that the Pictou coal is semi-bituminous, but it is used for manufacturing purposes, in the steam marine, to manufacture gas, and for various other purposes. It comes into competition with both anthracite and bituminous coal. Place the tax provided for in this amendment on anthracite coal and it will go up in the market, and at the same time it will so stimulate the production of the Pictou coal that, to the extent of that increased production, it will drive the domestic article from the market. It is, in effect, a tariff on the *domestic* article in favor of the foreign article. I trust we shall avoid the grave mistake of taxing necessaries and raw materials. We have difficulties enough in our path in devising a judicious tax bill. Let us not increase them.

I withdraw my amendment, as I am opposed to placing any tax upon coal.

[Here the hammer fell.]

Mr. COX. I move to insert the following after line fourteen:

On anthracite coal, fifteen cents per ton, and on bituminous coal one eighth of one cent per bushel.

Mr. Chairman, I offer the amendment in good faith, and I hope that it will be adopted. I think that it strikes the proper medium. It would produce $1,000,000 of revenue upon the seven millions of tons of coal referred to by the gentleman from Pennsylvania. I think that it would be a proper imposition upon Pennsylvania for a good many reasons which I have not time now to enumerate. This is a tax easier laid, easier collected, and less felt than any tax that we can put into this bill.

Some gentleman said that no tax has been put upon wood, and it ought not to be put upon coal. I suppose it is because both produced caloric. But we know that coal has become an article of manufacture. It is a manufactured article. It is not the raw material. The gentleman says this part of the question has not been met. The man who mines it manufactures it. He puts labor on it; makes it into different grades and sizes.

Mr. CAMPBELL. Then so is wood a manufactured article.

Mr. COX. I have not time to go into the consideration of all of the articles embraced in this bill. I could show a great difference between wood and coal as objects of taxation.

Pennsylvania seems to be aroused when this tax is proposed to be levied. The blood will follow where the knife is driven. The members from that State say that almost every dollar of it will be paid out of that State by those who consume it. And one gentleman feelingly referred to the shivering widows and seamstresses of New York city. Pennsylvania ought not to pay this tax! Oh no! I would reduce the tax upon her because she has received so few favors from the Federal Government. She has nobody in office and nobody stealing from the public crib. She has had all of the burdens and none of the benefits of the Government. Being in that state, I am in favor of reducing this tax.

Some member stated that coal was brought here from abroad, and he gave some statistics of coal brought from Chili, the Azores, and other parts of the world. Everybody knows that all the coal brought here from abroad is brought in ballast, except that which is brought from Pictou, in Nova Scotia. It is bituminous coal, and when brought here it has the effect to reduce the taxes upon the widows and orphans of New York, in reference to whom the gentleman from Pennsylvania has expressed so much sympathy.

I am one of those who believe in the largest liberty of interchange, and I am in favor of buying where we can buy cheapest, and selling where we can sell dearest. I am in favor of carrying out that doctrine wherever it is feasible, and I believe that it is feasible here.

Mr. KELLEY. Mr. Chairman, I am ready to admit that a good many Pennsylvanians have stolen from the Government. J. B. was a son of that State, and I think that the gentleman from Ohio [Mr. Cox] applauded all the acts of his administration. [Laughter:]

Mr. COX. That is a mistake. I think that I was under a cloud all the time he was here.

Mr. KELLEY. It was only a cloud with a silver lining. [Laughter.] England's power is in her coal. It is the fact that her hills and valleys are rich in coal and water power that has made her the commercial mistress of the world. Our men of California dig gold, our men of the Northwest raise wheat, and our men of the rebel States grow cotton, and we send our cotton to England to be wrought, our wheat to England to feed her workmen, and our gold to England to pay for enough of our cotton to clothe us.

Mr. KELLOGG, of Illinois. What does the gentleman say to a tax upon cotton?

Mr. KELLEY. I will come to that directly. It was said by the gentleman from Vermont, when he explained the bill, that the steam engine was to pay the heavy taxes of the country. I think that he was right. You tax the material of the steam engine. You tax the capital of the man who owns it; and now you are about to tax the food that keeps it in motion. Coal is the source of this country's growing commercial power. England has done as much as the leaders of the southern rebellion to bring our country to its present unhappy condition; and I am not in favor of legislating for her advantage. I am in favor of taxing cotton; I am in favor of taxing every article, without exception, which we export largely, because I believe, though the gentleman from Illinois does not, that the consumer pays the tax. I would make the Englishmen who work and wear American cotton pay tribute. I would make the Englishmen who live upon American wheat pay tribute. Through the wily policy of England in the reciprocity treaty, aided by her southern confederates, we have entered into an entangling alliance, and now find that we cannot tax a great many articles that would bring us in a large revenue from foreign consumers. Do not let us, in addition, tax the food of the steam engine which alone has made us able to cope with the Power which has sought our destruction, and whose competition we meet in the markets of the world.

Mr. HORTON. I move that the committee rise, for the purpose of closing debate upon this section.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt, and had come to no resolution thereon.

Mr. HORTON. I move that all debate in Committee of the Whole on the state of the Union on the pending section of the tax bill close in one minute after the committee shall resume the consideration of the same.

The motion was agreed to.

Mr. HORTON. I move that no amendment to the section under consideration in Committee of the Whole on the state of the Union, proposing a new paragraph, shall be in order except at the end thereof.

Mr. VALLANDIGHAM. I rise to a question of order. The House cannot prescribe such a course of action for the committee, except by unanimous consent.

The SPEAKER. The Chair sustains the point of order, and rules the motion out of order.

Mr. HORTON. I move that the rules be suspended; and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of resuming the consideration of the tax bill.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed, as a special order, the consideration of the bill (H. R. No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

The CHAIRMAN stated that the question recurred on the amendment offered by Mr. Cox.

Mr. HORTON. I now ask the unanimous consent of the committee to postpone all new paragraphs until we shall have got through with this section, so that they may come in at the end thereof.

Mr. VALLANDIGHAM. I objected in the House, and I am now obliged to do it again. The effect of it would be to cut off all amendments.

Mr. COVODE. I desire to correct a misstatement.

The CHAIRMAN. Debate has been closed by order of the House, and no debate is now in order.

The question recurring upon the amendment to the amendment,

Mr. CAMPBELL demanded tellers.

Tellers were ordered.

Mr. NOBLE. With the consent of the committee, I will accept the amendment to my amendment.

The CHAIRMAN. Then the proposition recurs upon the amendment as modified.

Mr. WADSWORTH. I move to amend the amendment. I desire to except coal used for manufacturing purposes from this tax of fifteen cents, and therefore I move to add the words "except coal used for manufacturing purposes."

The amendment to the amendment was not agreed to.

Mr. WRIGHT. I move to increase the tax on bituminous coal from one eighth to one quarter of a cent per bushel, and I move that amendment to the amendment.

The amendment to the amendment was not agreed to.

Mr. MORRILL, of Vermont. I move to amend by excepting coal used for the manufacture of gas. As we have taxed that enormously we ought not to tax it again.

The amendment to the amendment was not agreed to.

Mr. ANCONA. I move to increase the tax on bituminous coal from one eighth to one half cent per bushel.

The amendment to the amendment was not agreed to.

Mr. F. A. CONKLING. I move to amend by making the tax one quarter of a cent. per bushel on bituminous coal, which is equal to ten cents a ton.

The CHAIRMAN. That amendment has already been offered and rejected, and it cannot be moved again.

Mr. CAMPBELL. I move to reduce the tax on anthracite coal to five cents a ton; not that I advocate any tax on coal, but if any is to be imposed I desire that it shall be as small as possible.

The amendment to the amendment was not agreed to.

Mr. CALVERT. I move to amend by taxing bituminous coal the same as anthracite—fifteen cents a ton.

The amendment to the amendment was not agreed to.

Mr. WRIGHT. I move to amend by increasing the tax on bituminous coal to five cents a ton.

Mr. F. A. CONKLING. I rise to a point of order. It is the same proposition——

Mr. THOMAS, of Massachusetts. I call the gentleman to order. No debate is in order.

Mr. F. A. CONKLING. My point of order is that this amendment has already been offered in another form and voted down—five cents a ton being the same as one eighth of a cent a bushel.

The CHAIRMAN. The Chair is not informed as to tons and bushels, and therefore he rules the amendment in order.

The amendment to the amendment was not agreed to.

The question recurring on the amendment offered by Mr. NOBLE,

The CHAIRMAN ordered tellers; and appointed Mr. CAMPBELL and Mr. COX.

The committee divided; and the tellers reported—ayes 61, noes 54.

So the amendment was agreed to.

Mr. MORRILL, of Vermont. I move to add to what has just been adopted, the following proviso:

Provided, That no duty shall be collected on coal until the expiration of the reciprocity treaty with England.

Mr. DIVEN demanded tellers.

Tellers were ordered; and Mr. ENGLISH and Mr. SHERMAN were appointed.

The committee divided; and the tellers reported—ayes 61, noes 59.

So the amendment was agreed to.

Mr. HORTON. I move to amend the next paragraph, in the sixteenth line.

Mr. KELLOGG, of Illinois. I desire to offer a new paragraph before we proceed to the next one.

Mr. HORTON. I believe I have the consent of the committee that new paragraphs shall be appended at the end of the section. ["No!" "No!"]

The CHAIRMAN. The Chair understood the gentleman from Ohio [Mr. VALLANDIGHAM] to object to that.

Mr. HORTON. I am informed that no objection was made in committee, but only in the House.

Mr. BROWNE, of Rhode Island. I objected before, and I object now.

Mr. KELLOGG, of Illinois. I move the following amendment as a new paragraph:

That on and after the 1st day of May, 1862, there shall be levied, collected, and paid a tax of three cents per pound on all cotton held or owned by any person or persons, corporation, or association of persons; and that such tax shall be a lien thereon in the possession of any person whomsoever. And further, that if any person or persons, corporations, or association of persons, shall remove, carry, or transport the same from the place of its production before said tax shall have been paid, such person or persons, corporation, or association of persons shall forfeit and pay to the United States double the amount of such tax, to be recovered in any court having jurisdiction thereof: *Provided, however*, That the Commissioner of Internal Revenue is hereby authorized to make such rules and regulations as he may deem proper for the payment of said tax at places different from that of the production of said cotton.

Mr. Chairman, in my judgment, this crop of the South is about the only element of wealth from which we shall derive a revenue for the Government, and I have thought it just and proper that we should levy upon the products of the South a reasonable tax. And cotton being the great staple, and really being about all their production, I have thought that we should put the tax on that, and I have proposed three cents per pound. The production and export of cotton from the South is over two hundred millions of dollars per annum; and I see no reason in the world why the South should not pay a revenue upon that amount of wealth, while we of the North are to pay it upon every conceivable species of property.

I move the amendment in perfect good faith, and ask that a vote be taken on it. However, if any gentleman deems it too high, I am willing for one that it should be reduced in amount.

Mr. MALLORY. I move to amend by inserting "burn or destroy," after the word "remove." I understand that they are burning up all the tobacco and cotton in the South as we advance; and I want to impose a penalty upon them for doing that.

Mr. KELLOGG, of Illinois. When they burn it up there is very little hope of our getting a tax out of them. However, I will accept the amendment.

Mr. BROWNE, of Rhode Island. I hope the proposition of the gentleman from Illinois will not be adopted, and the reason is simply this, that he does not in that way effect his object, but on the contrary, he taxes to a still greater degree, and makes this bill still more onerous upon the manufactures of the North.

There are but two ways in which the cotton crop can be taxed so as to affect the men who raise and hold the cotton there. It is an article used entirely at the North and abroad, and the people of the South can control and will control the price, so that the purchaser must pay it; and they cannot, as upon other articles, divide the tax between the producer and the consumer. One way in which it can be reached is the way proposed by my colleague this morning, by taxing the sales of cotton as we would tax the sales of anything else. Then whenever it is sold, the three per cent., or whatever per cent. you determine upon, will be paid by men who own the cotton.

Mr. KELLOGG, of Illinois. Let me ask the gentleman this question: what difference would it make to the manufacturer whether you put that same amount upon the sale of cotton or the same amount upon the cotton per pound?

Mr. BROWNE, of Rhode Island. I will tell the gentleman how it is. Whenever it is sold for export, it is taxed just the same as it is when it is sold to the manufacturers of the North. Under the provisions of the Constitution as it now stands, an export duty cannot be laid upon cotton; and I propose, sooner or later, before this session closes, to introduce a proposition to enable this Congress or any subsequent Congress, during the next twenty or thirty years, to lay an export duty on any article, and that would furnish to this Government a revenue of at least sixty or seventy millions of dollars upon this single article of cotton, and will get it out of those who during this rebellion have shown a lack of sympathy with the loyal States of this Union, and a desire to overturn this Government and separate us into fragments.

Mr. KELLOGG, of Illinois. I suggest to the gentleman from Rhode Island that if he had heard all the provisions of this amendment, he would have seen that there was no constitutional difficulty in the way. This is not an export duty, and yet all cotton exported or sold anywhere will be compelled to pay this tax. A tax of three cents per pound is levied and made a lien upon cotton, whether exported or sold. It is a tax upon production; and that part of the cotton crop which goes to England for manufacture will be taxed in precisely the same manner as that which is sold to the New England manufacturer. My friend from Rhode Island, I know, is not willing that two thirds or three fourths of the cotton should go to English manufacturers free of duty for the mere purpose of avoiding the tax upon that portion which goes to the manufacturers of New England.

Mr. WICKLIFFE. I wish merely to make a suggestion to my friend from Illinois. He proposes to tax cotton three cents per pound. As a general principle, Mr. Chairman, I am opposed to taxing agricultural products of any kind in this country in their raw state; but if he expects his amendment to be adopted, I beg him to add a proviso to his proposition. I see that the Government of the United States is about to embark largely in the business of cotton growing in the South, and I beg him to except from the operation of his amendment the products of the United States cotton plantations at Port Royal and other places. [Laughter.]

Mr. KELLOGG, of Illinois. The gentleman from Kentucky certainly does not charge me with belonging to that class of politicians who propose that this Government shall engage in leasing out small farms to cotton growers?

Mr. WICKLIFFE. I excuse the gentleman. I do not mean him. I only want him to frame his amendment so as not to tax those men who are about to embark in the cotton business down there, because if you tax them they will surely be ruined.

Mr. KELLOGG, of Illinois. The gentleman is a little facetious; but I suppose he has really no objection to the amendment which I have offered.

Mr. MORRILL, of Vermont. I move to amend the amendment so as to reduce the tax to five mills per pound. This, Mr. Chairman, is perhaps one of the gravest matters that will come before the committee, and it requires calm and dispassionate consideration. I confess that in the outset I was in favor of taxing cotton; but upon more mature deliberation I have arrived at the conclusion that it would be impolitic and unjust, and certainly not in accordance with the general character of this bill. Is it becoming in this House to institute a species of legislation that would be invidious and partial towards any portion of the country?

Now, under the provision of this bill, we have not taxed agricultural productions in any quarter of the country.

Mr. MORRIS. How about tobacco?

Mr. MORRILL, of Vermont. The single exception is tobacco; and that is an article which ministers to a habit which is very nearly a vice. [Loud cries of "Oh, no!" from all parts of the Hall.]

Mr. Chairman, it is from no favor to the cotton or rebel States that I would exempt cotton from this tax. But I would rather that our Army should confiscate every pound of cotton which they can obtain than to impose this petty tax of three cents per pound. I am in favor of confiscating it where ever we can reach it; but what are the facts in relation to this matter? There are other countries which produce cotton since this rebellion commenced. The cotton supply committee of England have ascertained that there are at least sixty new places where cotton can be cultivated with advantage. Now, I have no question that when this war shall be ended, we shall find the cotton planters the poorest men in this whole country. I do not doubt that they will come to us in all parts of the country for charity. We are going to strip them entirely of all their resources; and this Cotton Supply Association of England will have so far progressed that they will be able in that country to obtain their cotton from other quarters than those from which they now obtain it, and at a diminished price. Levying a tax upon this article is, in fact, levying it upon ourselves. We shall have to pay an advanced price upon every article of manufacture which is produced from cotton. This tax would not be laid upon the cotton planter at all. It would fail to reach him. It would only increase the price of manufactured articles. I think we should pause to consider whether we will step out of our ordinary course of legislation, and deviate from the principles which we lay down as the proper ones to legislate upon in other portions of the country for the mere purpose of grinding the South.

[Here the hammer fell.]

Mr. VALLANDIGHAM. I am opposed to the amendment of the gentleman from Vermont. The gentleman from Kentucky [Mr. WICKLIFFE] has objected that the United States seem to have engaged in the business of producing cotton. If the past and the present rate of expenditure shall continue a year or two, I desire to say to him, that the Government will be obliged to carry on all the agricultural and manufacturing interests of the country, and that the people will have become mere tenants or employés of the Government, paying a high rent in the one case, and receiving but an insignificant compensation or salary in the other. This subject, however, has already been discussed, and I do not propose at this time to continue its discussion further. We are informed by reports of conversations with the Secretary of the Treasury that the expenditures are now about four millions of dollars a day, and at that rate, under the taxation which will be necessary to pay the interest upon the public debt and to create a sinking fund, if ever it is to be discharged at all, all the lands of the country, all the business of the country, its agricultural products and its manufactures, will fall into the hands of those who will be appointed by the Government, because it will not be worth the while of those engaged in these several pursuits to continue them with the enormous amount that will be subtracted from them for the purpose of paying these expenditures and the interest upon the public debt.

The amendment to the amendment proposed by Mr. MORRILL, of Vermont, was rejected.

Mr. ARNOLD. I move to amend the amendment, for the purpose of making two or three remarks, by increasing the rate of taxation one cent per pound. The gentleman from Ohio [Mr. VALLANDIGHAM] says that if the present rate of expenditure continues for two or three years longer, the entire agricultural operations of the country will be necessarily carried on by the Government. The way to prevent the continuance of this tremendous expenditure, is for us all to bend all our energies to the putting down in the most speedy manner possible of this rebellion, and those who desire to stop these expenditures may do so by giving vigor and power to the Administration in crushing out this rebellion. This rebellion, sir, originated in the idea that cotton was king. The fallacy of that idea is being demonstrated by events. Cotton is not king, nor are the peculiar friends of cotton to rule this country hereafter. I am in favor of the amendment proposed by my colleague for the reason that three quarters, if I am correctly advised of the cotton crop is taken abroad. A very large proportion then of the revenue to be derived from this most important product will come ultimately from those who use it abroad.

It is objected by some of my friends from New England, that we should not lay this impost on cotton because it is used to a considerable extent in manufactures there. I think that that objection ought not to influence the action of the committee, because it is but just that some portion of the tax, besides that derived from the direct tax,

should be imposed on that most wealthy section of the country. Under the operation of the constitutional provision by which the direct tax is apportioned, not in proportion to the value of the property, but to the number of the population, the tax falls heavily on the West and lightly on the East. According to the direct apportionment, property in Illinois pays at the rate of something like six mills on the dollar, whereas in Rhode Island, which is wealthy but not so populous—her citizens having emigrated largely to the West—property only pays two mills on its valuation. If, then, the imposing of this tax on cotton will operate to derive from that most wealthy section of the Union some additional portion of the public revenues, it will be but fair and just.

[Here the hammer fell.]

Mr. BROWNE, of Rhode Island. Mr. Chairman, in reply to the gentleman from Illinois, I will ask him to turn his eye a section or two further on in the bill, and he will find that, by its provisions, manufacturers are taxed three per cent. on the full amount of their productions. Now, if he will take the census returns for 1860, and will sit down and make a calculation of the amount which Rhode Island will have to pay to the Federal Government in taxes, I think he will be quite satisfied that she does her whole duty in the matter of taxes as well as in that of soldiers.

Mr. ARNOLD. Will the gentleman allow me to say a word?

Mr. BROWNE, of Rhode Island. Yes.

Mr. ARNOLD. We all agree that Rhode Island is doing her whole duty nobly in the field, from her Governor down—particularly her Governor.

Mr. COX. And General Burnside.

Mr. ARNOLD. I trust that the men of Rhode Island and those that are fighting in the valley of the Mississippi and elsewhere will speedily put down the cause of this vast expenditure. But I think my friend from Rhode Island does not state the case fairly in claiming that this tax bill will fall onerously on the East. Look at the tax on distilled spirits. According to an estimate which I believe reliable there are distilled of the corn grown in the State of Illinois ten millions of bushels a year, yielding a revenue under the provisions of this bill of nearly ten millions of dollars. That tax falls very severely on that new, populous, but as yet comparatively poor State. There is accumulated capital in Rhode Island and in New England generally which can better afford to pay taxes than the new States can. I therefore hope that my friend from Rhode Island will not seek to evade the burden which this amendment may impose upon his section. Three fourths of the cotton goes abroad; much of it goes to England, and we should not regret to see England compelled, by the operation of this amendment, to pay so much higher for cotton than she has been accustomed to pay heretofore.

Mr. BROWNE, of Rhode Island. My object in opposing the amendment offered by the gentleman from Illinois [Mr. ARNOLD] and the amendment of his colleague, [Mr. KELLOGG,] is that England and all other foreign countries that have interfered against us in this rebellion may have to bear a portion of the expenses of this war, and that we may, at the same time and by the same act, protect the manufacturers of this country by a better tariff than has ever yet been devised. If the Representatives from Illinois, or if the people of the country, will so provide as that we can lay an export tax on this or any other article, no tariff can be devised which would so protect the manufacturers of the country as that method. Impose three cents export duty on every pound of cotton and there never will be another yard of cotton cloth imported into this country. But the more you raise the price of the raw material by a uniform tax upon cotton, the more you discriminate against your own manufacturers. When cotton is fourteen cents a pound at the North it cannot be manufactured comparatively so cheaply as when it is but ten cents per pound. The labor being so much cheaper in England, the increased cost of the cotton operates in favor of the English manufacturers and against our own. For that reason, and in the hope that another and better system of taxing cotton will be devised, I oppose this amendment.

[Here the hammer fell.]

Mr. VALLANDIGHAM. I move the gentleman from Rhode Island be allowed to proceed.

There was no objection.

Mr. BROWNE, of Rhode Island. Now, one word in reply to the gentleman from Illinois [Mr. ARNOLD] as to the taxes of the New England States. One of the great objections, Mr. Speaker, which I have to this bill is, that its burden falls almost entirely on the older States of the Union. The States that are in rebellion against the Government, the States that have caused all this enormous expenditure, go comparatively scot free under this bill. The States that have caused this war are, under the very provisions of the bill, almost entirely exempt from taxation. It is within my memory that the State government of our little State cost only about forty thousand dollars a year to administer it, whereas under the provisions of this bill we are bound to pay $2,000,000 a year towards the revenue of the Federal Government.

Mr. LOVEJOY. Do I understand, Mr. Chairman, that the gentleman is in favor of confiscating the property of rebels in order to make them help to bear the burdens of the war?

Mr. BROWNE, of Rhode Island. I do not propose to introduce the nigger question on this floor. [Laughter.]

Mr. LOVEJOY. I did not say a word about niggers. I spoke only of confiscating the property of rebels.

Mr. BROWNE, of Rhode Island. The gentleman objected the other day to the introduction of that subject, and I do not propose just now to be instrumental in introducing it.

Mr. LOVEJOY. I beg the gentleman's pardon; it is he that is introducing it now. I asked him whether he was in favor of confiscating the property of these rebels to pay the expenses of the war? I did not say a word about niggers.

Mr. THOMAS, of Massachusetts. I raise the point of order that the gentleman from Rhode Island has a right to proceed without interruption.

The CHAIRMAN. The Chair sustains the point of order.

Mr. LOVEJOY. Then, the gentleman ought not to misrepresent what I stated.

Mr. BROWNE, of Rhode Island. Mr. Chairman, you may take many a little manufacturing establishment in the State of Rhode Island, and find that its annual profits to the operator do not reach the amount of taxes that will be levied on it under this bill. When you come to put on the other additional taxes, this tax on cotton, the tax on gas, the tax on stamps, the tax on all the business it does, the operator will have to close his establishment. Business will be suspended, the Government will lose its revenue, and the community will lose its prosperity. That is an inevitable consequence. Gentleman say that this tax is to be paid mainly by the consumer. That is not so. It happens many a time that the price of an article is going down in the market while the price of the raw material from which it is produced is going up. As a general principle, the proposition is true. But where the tax is imposed as in this bill, it is always divided more or less equally between the manufacturer and the consumer. In the present condition of business, manufacturers could not stand up under this bill. They would be certainly compelled to succumb to this additional weight. There are very few mills now running more than quarter time. They are kept running just to give their operatives a means of subsistence, in hopes of more prosperous times. If you add to their burdens those which you propose to add under this bill, the result will be that the manufacturing business of the country will be prostrated. The best plan will be to collect export duties, so as to make those countries of the Old World which have nursed and fed this rebellion pay their share of the expense of putting it down, and pay the entire expenses of the Government in time of peace.

Mr. MORRILL, of Vermont. I move to reduce the tax one cent per pound, simply for the purpose of adding another word, and then, so far as I am concerned, I leave the subject to the committee. I do not propose to discuss the subject dwelt particularly upon by the gentleman from Rhode Island; but I will say this: if Congress should reduce the tariff on a manufactured articles from thirty to fifteen per cent., which we, of course, have a perfect right to do, we might obtain a much larger revenue for a time—though I admit it would be a suicidal policy to pursue, and will not be done, so far as my vote is concerned—the manufacturer would prefer to have the tax placed upon him directly to having such a course pursued, for certainly, unless the consumer pays the increased price, our whole theory has been wrong. The profit of the manufacturer depends much more upon whether there is or is not competition than upon the price which he pays for his raw material; and unless there is a glut in the market, the consumer pays the price whether it be high or low. But in relation to cotton, there is a single kind grown—the sea island—in the supply of which this country retains the monopoly. Upon that I admit we might, so far as the policy is concerned, impose a duty and not interfere with its production. But I merely rise to call the attention of the committee to the plain provision of the Constitution upon this question of export duty. The Constitution says, "no tax or duty shall be laid on articles exported from any State." Now, I would like to know how you are to get over so plain a provision of the Constitution as that? Certainly this is either a duty or a tax; and if it is either one or the other, there is the Constitution prohibiting you from taking a step in that direction. This provision, it is well known, was inserted in the Constitution to prevent an export duty on cotton. What we cannot do directly ought not to be done indirectly. In effect, any internal duty on cotton, with no allowance or drawback on its exportation, appears to me simply an evasion of the Constitution.

Mr. DELANO. I would like to know, then, of the gentleman, upon what principle he proposes to lay a duty upon tobacco raised for exportation?

Mr. MORRILL, of Vermont. So far as I am concerned, I intend to abandon the idea of levying a duty on tobacco without allowing a drawback on exports.

Mr. KELLOGG, of Illinois. We are admonished by the Committee of Ways and Means that this is a very important matter, and that we should not consider it now. I do not believe it is any more important than any other article upon which it is proposed to lay a tax, and I care but little for the admonition coming from that or any other committee. We have already had two lectures to-day from the Committee of Ways and Means in regard to our duty in not interfering with the principle or provisions of this bill; and they may fall with a great deal of weight upon the ears of some gentlemen, but I confess they affect me but little.

It has also been said by one gentleman that this proposition is unconstitutional. Yes, sir; they have been driven at last round to the Constitution to find a shelter under which to shield a few cotton manufacturers. The Constitution provides that no export duty or tax shall be laid or collected. That, sir, is a requirement that no tax shall be levied upon an article intended to be exported, upon condition of its exportation. That is an export tax, and nothing else is. This is a proposition to lay a tax upon an article to the entire extent of its production, without reference to whether it is to be used in the country or exported, and will the gentleman tell me that it is unconstitutional? I think no gentleman will maintain that proposition.

I have not much time to argue this question of constitutionality; but I do assume that the gentleman from Vermont, with all his ability, has failed utterly in his constitutional argument. I think he did not believe it himself. I do not believe it, you do not believe it, Mr. Chairman.

The next proposition is that it is invidious to tax cotton. They are poor is one argument, and they will come to us for charity. Ay, sir, they will come to us for forgiveness when the halter is about their necks, and I am afraid not before. Invidious to tax cotton in the southern States! If it is, I will not vote for it. But let us test this question of invidiousness upon cotton. In the border slave States, where the great article of produce is tobacco, and where this wicked rebellion has burned and scorched the very soil, where loyal men are struggling to sustain themselves and to sustain the Government, where they are yet with all their power clinging and hanging to the Union, this Committee of Ways and Means, who think it is invidious to tax cotton, have laid a tax upon

tobacco equal to the value of the article itself; but when we come to the article of cotton, produced in States where they refuse to pay and never did pay their just proportion for the support of the Government, when I propose to tax that upon the same principle upon which you propose to tax the beef cattle, the sheep, and the hogs in my own State, which are as unquestionably agricultural products, I am told that it would be a wicked and invidious tax.

Now, who can tell the reason of that? Is it invidious to tax a man because he lives in a southern State? I think that must be a reason. But I think I can find another. With that complacency which commends itself to all of us, the complacency of the Committee of Ways and Means, they have laid a tax upon almost everything which the farmers of the West and North produce, and they tell us we must fold our arms and bear the tax.

[Here the hammer fell.]

Mr. KELLOGG, of Illinois. I hope the committee will permit me to continue my remarks for a very few minutes.

There was no objection.

Mr. KELLOGG, of Illinois. I was proceeding to say that they tax everything in the West that the farmer can raise. They tax our cattle, our hogs, our sheep, when we kill them and send them to market, and if they are not agricultural productions, I do not know what is. It may be they are manufactures. If they are, then I ought to flare up just as gentlemen from the Northeast do when the word "manufactures" is mentioned. But I will not, for I believe they are agricultural productions. And yet I am told that it is proper that they should be made to bear these expenses of the Government. What, then, is the reason why cotton should not be taxed? Can it be because it indirectly taxes the manufacturer of New England? Why, I am told by one distinguished gentleman of the Committee of Ways and Means, and he has been sustained by two others from the Northeast—it has been asseverated by every gentleman who has spoken upon the subject from that portion of the country, with one exception—that the manufacturer does not pay the tax. Pennsylvania tells us that her coal diggers do not pay the tax upon coal, but that we outside barbarians pay it. The manufacturer says he does not pay the tax, the consumer pays it; but it is nevertheless a fact standing out everywhere, that the moment you propose a tax that directly or indirectly affects the manufacturer, the moment any proposition is made to afford the consumer an opportunity of sustaining a portion of the burdens of the Government, these gentlemen hurry to the floor and denounce with bitter denunciation the attack upon manufacturers. Now, sir, why this double talk? Why this two-sided argument? Is there no means of escape? I tell you that in this provision is the merit and justice of the bill. I tell you that when you tax the article in the hands of the manufacturer, the manufacturer pays a portion, the producer a portion, and the consumer a portion; and I am glad of it. That is why I am going to vote for this bill.

Mr. Chairman, the secret is simply this, and I desire to get at the point: in the southern States they produce $200,000,000 worth of cotton, and they produce scarcely anything else, and we propose to make them pay a proportion of the taxes of the country according to a fair valuation. Gentlemen from New England say that that is an invidious distinction. It is invidious, because it makes the manufacturers pay higher. My friend is willing to confiscate the cotton of the South. Oh yes! Then it would slide into their hands and it would not increase the burdens of the manufacturers. That would not be invidious!

Mr. MORRILL, of Vermont. I am willing to confiscate the cotton of the rebels, but I am not willing unjustly to tax the property of our own citizens.

Mr. KELLOGG, of Illinois. That does not meet my point. The rebels are burning their cotton up rather than it should reach your spindles. The gentleman says that it is honest to take their cotton, but that it is not honest to tax it. It would be invidious to tax that property of the rebels. Confiscate their property would be all right, for that would inure to the benefit of the manufacturer, but it would be invidious to tax that same property. There is the point. I am glad that this development has been made to the country from the Committee of Ways and Means.

Two hundred millions worth of cotton has been annually exported from the South. It is the only property of the cotton States. One fifth or one sixth of it goes to the spindles of New England, and the remainder goes to Europe, and never has and never will go to New England. Yet to make the burdens of the spinners there easy, it is stated that it is invidious to tax this cotton. I am opposed to all such legislation. You tax the cattle of the country; you tax our property in the West of every character, but when it is proposed to tax cotton, we are told that it is invidious. I see that the committee are anxious to get the floor. I must have hit the birds somewhere, or they would not flutter so much. You tax, sir, the agricultural products of the West. You tax tobacco in Maryland, Kentucky, Tennessee, and little Delaware. You tax their staple products.

Mr. ENGLISH. We produce a large quantity of tobacco in Connecticut, and the gentleman ought not to leave us out.

Mr. KELLOGG, of Illinois. Connecticut is willing to be taxed in that part of her interests.

Mr. ENGLISH. And every other.

Mr. KELLOGG, of Illinois. It is fair to tax tobacco, to tax corn, and to tax every other agricultural interest of the country, but it is invidious, the gentleman says, to tax cotton. That tax is most earnestly opposed by gentlemen from New England, where they hate *niggerdom* worse than the devil. [Laughter.] They are for emancipation, for taxing every other industrial and agricultural product of the country, but when king cotton is proposed to be taxed, the spindles rise higher than the negro, higher than emancipation, and they say that it is invidious to tax the rebels. [Laughter.]

Mr. HORTON. I move that the committee rise, for the purpose of closing debate upon this paragraph.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt, and had come to no resolution thereon.

Mr. HORTON. I move that all debate in Committee of the Whole on the state of the Union on the pending paragraph of the tax bill close in one minute after the committee shall resume the consideration of the same.

The motion was agreed to.

Mr. HORTON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of resuming the consideration of the tax bill.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed, as a special order, the consideration of the bill (H. R. No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

Mr. MORRILL, of Vermont, withdrew his amendment to the amendment.

Mr. KELLOGG, of Illinois, modified his amendment by striking out "three" and inserting "two" cents a pound.

Mr. BLAKE moved to amend by making it one cent.

The amendment to the amendment was agreed to.

On a division on the amendment as amended there were—ayes 19, noes 41.

Mr. KELLOGG, of Illinois, demanded tellers.

Tellers were ordered; and Messrs. KELLOGG of Illinois, and MALLORY, were appointed.

The amendment was disagreed to, the tellers having reported—ayes 53, noes 55.

Mr. HORTON moved to add the following proviso:

Provided. That red oil and oleic acid produced in the manufacture of candles, and used as material in the manufacture of soap, paraffine oil, and fish oil, shall be exempted from this duty.

The amendment was agreed to.

Mr. HORTON moved to strike out the following:

On burning fluid, composed of alcohol and spirits of turpentine, wholly or in part, five cents per gallon.

The amendment was agreed to.

The Clerk read, as follows:

On gas, illuminating, made of coal, wholly or in part, or any other material, twenty-five cents for one thousand cubic feet: *Provided*, That all gas furnished for lighting street lamps, and for lighting single dwelling houses, when specially made by the owners or occupants thereof for that purpose and not for sale, shall be exempt from duty: *Provided*, That all gas companies are hereby authorized to add the duty or tax imposed by this act to the price per thousand cubic feet on gas sold, any limitation which may exist in the charter of said companies or laws of any State to the contrary notwithstanding.

Mr. HORTON. I move to strike out all after the word "material," and to insert the following:

When the product shall be not above five hundred thousand cubic feet per month, five cents per one thousand cubic feet; when the product shall be above five hundred thousand and not exceeding five millions of cubic feet per month, ten cents per one thousand cubic feet; when the product shall be above five millions and not exceeding fifteen millions of cubic feet per month, fifteen cents per one thousand cubic feet; when the product shall be above fifteen millions of cubic feet per month, twenty cents per one thousand cubic feet; and the general average of the monthly product for the year preceding the return required by this act, shall regulate the rate of duty herein imposed; and where any gas company shall not have been in operation for one year next preceding the return as aforesaid, then the rate shall be regulated upon the estimated average of the monthly product: *Provided*, That the return required by this act shall be understood to mean a return of the bills actually rendered by any gas company during the month preceding said return; and all gas companies are hereby authorized to add the duty or tax imposed by this act to the price per thousand cubic feet on gas sold, any limitation which may exist in the charter of said companies or laws of any State to the contrary notwithstanding: *Provided*, That all gas furnished for lighting street lamps and not measured may be estimated, and if the returns in any case shall be under-stated or under-estimated, it shall be the duty of the assistant assessor of the district to increase the same as he shall deem just and proper.

Mr. HORTON. I move that the committee rise.

The motion was agreed to.

So the committee rose; and Mr. VAN VALKENBURGH having taken the chair as Speaker *pro tempore*, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt, and had come to no resolution thereon.

AGRICULTURAL REPORT.

Mr. LOVEJOY, by unanimous consent, submitted the following resolution; which was referred to the Committee on Printing, under the rules:

Resolved, That the usual number of extra copies of the agricultural part of the Patent Office report be printed for the use of the House.

Mr. COX moved that the House adjourn.

The motion was agreed to; and thereupon (at half past four o'clock, p. m.) the House adjourned.

IN SENATE.

FRIDAY, *March* 28, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. MORRILL presented resolutions of the Legislature of Maine, in relation to the reciprocity treaty; which were referred to the Committee on Commerce, and ordered to be printed.

Mr. FESSENDEN presented resolutions of the Legislature of Maine, in relation to revenue necessary for the support of the Government; which were referred to the Committee on Finance, and ordered to be printed.

Mr. BAYARD. I desire to present a petition which I received this morning; and I do so without reference at all to my own opinions on the subject-matter, which probably hardly agree with it. It comes from Camp Farnham, from a number of volunteers, I presume, praying for the passage of what I suppose may be called a homestead law, to prevent all further traffic in and monopoly of the public lands of the United States, and that they may be laid out in farms and lots of limited size for the free and exclusive use of actual settlers. It is signed by about sixty persons. I move its reference to the Committee on Public Lands.

The VICE PRESIDENT. The Chair will suggest to the Senator that the committee have reported on the subject.

Mr. BAYARD. Then I move that it lie on the table.

The motion was agreed to.

Mr. TEN EYCK presented a petition of citizens of New Jersey, praying for the passage of a law to prevent all further traffic in and monopoly of the public lands of the United States, and that they be laid out in farms and lots of limited size for the free and exclusive use of actual settlers; which was ordered to lie on the table.

Mr. WRIGHT presented a memorial of a meeting of citizens of Madison, Indiana, praying for a modification of the tax bill in regard to the proposed tax on whisky; which was referred to the Committee on Finance.

Mr. WADE presented the petition of mothers, wives, and daughters of the Ohio volunteers, praying that a law may be passed prohibiting officers of the Army surrendering fugitive slaves, and also for the abolition of slavery; which was ordered to lie on the table.

Mr. HARRIS. I present the petition of citizens of Nelson, Madison county, New York, praying that the "freedom of speech and of the press shall not be abridged," and that "the New York Caucasian, and all other Democratic papers now excluded from the mails, in all the loyal States, be allowed the same privileges now enjoyed by Republican and abolition papers." I move that it lie on the table.

Mr. SAULSBURY. I move that it be referred to the Committee on the Post Office and Post Roads.

The VICE PRESIDENT. The first question will be on the motion to lay on the table, the second on referring to the Committee on the Post Office and Post Roads.

Mr. HARRIS. I have no objection to its going to the Committee on the Post Office and Post Roads.

The petition was referred to the Committee on the Post Office and Post Roads.

Mr. NESMITH presented the petition of Lieutenant Colonel C. F. Ruff, (late major in the regiment of mounted riflemen, United States Army,) praying for the payment of two checks given by Paymaster Henry Hill, United States Army, to him, one No. 54, and dated April 1, 1861, for $226, and one No. 174, dated April 30, 1861, for $223; which was referred to the Committee on Military Affairs and the Militia.

Mr. LANE, of Indiana, presented a memorial of the manufacturers, distillers, and dealers in spirits, of Madison, Indiana, praying for a modification of the tax bill in regard to the proposed tax on whisky; which was referred to the Committee on Finance.

COMMUNICATION REFERRED.

On motion of Mr. KENNEDY, it was

Ordered, That the communication from the Secretary of the Navy, relative to the removal of the Naval Academy from Annapolis, Maryland, to Newport, Rhode Island, be referred to the Committee on Naval Affairs.

BILL INTRODUCED.

Mr. WRIGHT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 252) abolishing slavery in the District of Columbia; which was read twice by its title, ordered to lie on the table, and be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House had passed the following joint resolutions, in which the concurrence of the Senate was requested:

A joint resolution (No. 49) for the appointment of Theodore D. Woolsey, of Connecticut, a regent of the Smithsonian Institution, in place of Cornelius C. Felton, deceased.

A joint resolution (No. 50) presenting thanks of Congress to Captain John Ericsson for the enterprise, skill, energy, and forecast displayed by him in the construction of his iron-clad boat the Monitor.

BILLS BECOME LAWS.

The message also announced that the President of the United States had approved and signed, on the 25th of March, the following acts:

An act (H. R. No. 148) to secure to the officers and men actually employed in the western department, or department of Missouri, their pay, bounty, and pension; and

An act (H. R. No. 279) to facilitate judicial proceedings in adjudications upon captured property, and for the better administration of the law of prize.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed an enrolled bill (S. No. 244) to provide for the equitable settlement of the accounts of the officers and crews of the frigate Congress and other vessels; which thereupon received the signature of the Vice President.

HOUSE RESOLUTION REFERRED.

The joint resolution (No. 49) for the appointment of Theodore D. Woolsey, of Connecticut, a regent of the Smithsonian Institution, in place of Cornelius C. Felton, deceased, was read twice by its title.

Mr. HALE. I hope that resolution will be passed at once.

Mr. KING. It had better go to a committee.

Mr. KENNEDY objected to the present consideration of the resolution, and it was referred to the Committee on the Library.

REVOLUTIONARY PENSIONS.

Mr. KING. I am instructed by the Committee on Revolutionary Claims, to whom was referred the bill (H. R. No. 318) to prohibit the allowance or payment of pensions to the children of officers and soldiers of the Revolution, to report it back without amendment, and with a recommendation that it pass, and I ask the Senate to put it on its passage now.

By unanimous consent, the bill was considered as in Committee of the Whole. It directs that from and after its passage, no claim for a pension, or for an increase of pension, shall be allowed in favor of the children or other descendants of any person who served in the war of the Revolution, or of the widow of such person, when such person or his widow died without having established a claim to a pension.

Mr. POMEROY. I have thought that there was perhaps an omission in this bill. There are some few cases where the claims are already being adjudicated.

Mr. KING. This bill originated in a communication from the Interior Department, stating that a great variety of claims that they regard as improper have, by the rules there established recently under laws previously passed, been presented; and with a view to make it certain that this bill did cover all those cases, I called myself upon the Secretary of the Interior and submitted the House bill to him, asking him if it did cover all the cases to which objection existed. He stated that he thought it did; but if the Senator will mention anything——

Mr. POMEROY. I have had some conversation myself with the Secretary of the Interior. I spoke of some claims that I thought ought to be allowed, and he admitted them to be just. I drew up a line or two which I thought might be put in as an amendment to cover all those cases. I will read the amendment which I have thought of proposing for the information of the Senate. It is to add:

Except in those cases where the claims were presented and filed in the Department during the life of the officer or soldier.

There are some claims which were presented and filed and were being adjudicated during their lifetime, which have not been acted upon, that will be cut off by this bill as it now stands.

Mr. KING. I hardly think they will be. This bill relates to claims presented by descendants for pensions on account of the services of their ancestors. I understood the Secretary to state that this bill accomplished precisely the purposes which he desired, and that that would be the construction which he would give it.

Mr. POMEROY. The bill now reads:

That from and after the passage of this act no claim for a pension, or for an increase of pension, shall be allowed in favor of the children or other descendants of any person who served in the war of the Revolution, or of the widow of such person, when such person or his widow died without having established a claim to a pension.

My amendment is intended to make it read, "when such person or his widow died without having filed a claim to a pension." There are some that have filed, but have not yet established their claim.

Mr. KING. I should prefer that the bill should pass in its present form, for it is one which is the result of a good deal of examination in the Department and the committee of the other House. If there are claims of that sort, they can come as they have often done to Congress for relief, and obtain it. I understand from the Department that there has been a great variety of these claims, where the testimony is and must necessarily be *ex parte*, remote, uncertain, and vague; and their opinion is, and I think it entitled to great respect, that this bill should be passed.

Mr. POMEROY. I admit that the opinion of the Department is entitled to great respect, and I thought I was speaking in harmony with that opinion. To try the sense of the Senate, I move that the word "established" be stricken from the bill, and the word "filed" inserted. That will accomplish the object I desire.

Mr. KING. I hope not. There are a great mass of papers there out of which a great variety of these claims that have been rejected may be revived under this amendment. I think it better to leave claims as ancient as these to be examined by Congress; and that is the opinion of the Department. I submitted the bill itself to them, so that I know this is the bill that meets their approval.

The amendment was rejected.

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

Mr. TRUMBULL. I should like to hear the bill read. I do not know what it is.

The VICE PRESIDENT. It will be again read.

The Secretary read the bill.

Mr. ANTHONY. The language of the bill seems to cut off those who have applied for pensions before the passage of the bill but have not established their claims. Is that the intention of the committee?

Mr. KING. Yes, sir; and the vote has been taken on that very proposition.

Mr. ANTHONY. To cut off all the pending applications without examination?

Mr. KING. The proposition to exclude them from the operation of the bill has been voted down.

Mr. POMEROY. The Senator from Rhode Island perhaps did not pay attention to the fact that I moved an amendment to the bill to substitute the word "filed" for the word "established," so as to save certain meritorious claimants that did file their claims during the lifetime of these men, but were not able to establish them before their death. There was a manifest justice in that proposition, which I thought the Senate would at once see, but they voted it down. Because some persons have been so fortunate as to establish their claims, they are saved by this bill. There are others perhaps that have not pressed their claims with as much pertinacity, but they filed them during their lifetime, and their descendants are as much entitled to pensions as any one, and yet by this bill they would be cut off unless my amendment be added. If the amendment that I suggested could be adopted, it would save those cases, which are as meritorious as any other cases which have ever been presented.

Mr. KING. I did not desire to speak in relation to any of these claims, or the manner in which they were got up; but it is perhaps proper for me now to say that it is the enormity in the view of the Department of some of the cases already filed that has induced them to ask for the passage of the act and a return to the ancient rule. No claims of this sort were formerly allowed. It is a recent change of the practice of the Department to open these claims after the prior adjudications upon them. It is the character of some of those which have been filed that has produced the necessity for the passage of this act.

Mr. POMEROY. If we simply provide that these claims shall not be cut off, it does not necessarily follow that they will be allowed. I have proposed simply to say, that if they have been filed during the lifetime of the soldier or officer, they shall not be cut off. That does not provide that they shall be allowed, but that they shall be considered. This bill, as it stands, prevents the Department from considering them, from investigating them at all. I do not think Congress ought to forever exclude persons simply because they

may not have prosecuted their claims successfully, but have filed them and done everything they could do in the premises.

Mr. KING. All that this bill does is to refer the claimants, under the old rules and practices of the country, to Congress for relief in those cases; but if they are reserved to be acted upon by the Department on *ex parte* testimony, vague and uncertain, and without any ability to reach the facts by a conclusive evidence and examination all around, they may, according to the practice and decisions there under rules recently adopted, be allowed, although really in the judgment of the Department they ought not to be. If they come to Congress they will have full and thorough examination, and be decided on quite as liberal rules as they are ordinarily decided at the Department. I think they had better come to Congress.

The bill was read the third time, and passed.

APPOINTMENT OF GENERALS.

Mr. GRIMES. Some days ago, sir, I introduced a resolution on the subject of the appointment of brigadier generals in the United States Army, which was referred to the Committee on Military Affairs and the Militia. That resolution has not been reported upon either favorably or unfavorably by the committee, and I now move that the committee be discharged from its further consideration, in order to bring it before the Senate.

The VICE PRESIDENT stated the question to be upon the motion to discharge the Committee on Military Affairs and the Militia from the further consideration of the following resolution, submitted by Mr. GRIMES on the 10th of March, and then referred to that committee:

Resolved, That in the opinion of the Senate no persons should be commissioned as generals of divisions or brigades except such as shall exhibit superior competency in the command of men, or gallantry in action against the enemy.

Mr. GRIMES. Mr. President, I do not profess to believe that the resolution, as I submitted it, is as perfect as it ought to be. I merely desire to get it before the Senate in order that we may put it in the proper form, and then express to the country and to those who have the authority to appoint general officers in the Army, what are our convictions as to the proper course to be pursued. I wish the Senate and the country to know that at this time there have been appointed one hundred and eighty brigadier generals in the United States Army—one hundred and seventy-two irregular or volunteer brigadier generals and eight brigadiers in the regular Army. The pay of these officers is $3,954 a year, including their legitimate pay proper and a portion of the commutation of their rations; but in addition to that, they draw upon an average, as I have learned by investigation, a commutation for quarters amounting to $300 each, a commutation for fuel amounting upon an average to ninety-six dollars each, a small commutation for lights; and besides they receive medical attendance, drugs, medicines, and stationery free. I think it safe to say that the expenses to the United States growing out of the appointment of brigadier generals alone is $1,000,000 a year.

Now, sir, I am prepared to say, and I think the facts justify me in saying, that the necessities of the Army and the country do not require one half of this number of brigadier generals. We went through the Mexican war with only three generals in the field. Brigades and divisions were then commanded by colonels. Regiments were commanded by captains. In some instances regiments were commanded by first lieutenants. They acted bravely; they vindicated the honor of the country; they upheld the honor of its flag upon every field. The comparative expense, therefore, of conducting that war with officers enjoying those ranks was nothing at all by the side of the expense that we are now incurring.

I want to have it understood that I, for one, am opposed to this constant aggrandizement of the Army. I know that if we are to encourage and agree to and assent to this constant increase of officers, it will be impossible for us, when we get them established upon us, to shake them off, for they will stick to the country and to the Treasury like leaches, and I know that if they do the resources and the energies of this country will soon be exhausted.

In addition to this number of brigadiers—and I think the number ought to appall any lover of his country—we have twenty major generals; and all the staffs, composed of commissaries and quartermasters, and brigade surgeons, and adjutant generals and paymasters, are upon a corresponding magnitude and attended with a corresponding expense. We have to-day brigadiers enough, if they had the command which is supposed to belong to a brigadier, that is three regiments, to be placed at the head of seven hundred and twenty thousand men. We all know we have not got any such number as that. What, therefore, is the necessity for constantly increasing this number? Can anybody tell us? I apprehend not.

I say, Mr. President, that the number of staff officers, corresponds with the number of general officers and we have got to-day the largest Army, the best fed Army, the best clothed Army, the best paid Army on the globe.

Mr. CLARK, and others. How is it commanded?

Mr. GRIMES. I am not going to say how it is commanded. I am only talking now as I want to put myself upon the record, because I know that in the course of a few months this question and some other questions of economy have got to come home to us when our constituents shall be called upon to pay the direct taxes that they will be required to pay to support these brigadier and major generals and their adjuncts and assistants. There is one class of officers that ought to be increased instead of diminished—I allude to those that are connected with your hospitals—your surgeons. I confess that I am willing to go as far as any gentleman will go in increasing the number of that class of officers; but I want to stop, and I desire the Senate to know that I want to stop, I desire my constituents to know that I want to stop where we are in the appointment of brigadier generals and other general officers.

Mr. WILSON, of Massachusetts. I concur with the Senator from Iowa in the opinion that we have had quite enough general officers nominated. Still, sir, I think the Senator is somewhat mistaken in some of the views he has expressed. We have in the field something more than six hundred regiments, making one hundred and fifty brigades, and, of course, they require one hundred and fifty brigadier generals. We have forty-five or fifty divisions of the Army, and they require so many general officers. Then we have several departments or *corps d'armée* in the service, which require some ten or fifteen general officers. We have had nominated one hundred and seventy-five brigadier generals for the volunteers, and about twenty major generals. I believe the one hundred and seventy-fifth brigadier general was nominated this morning, and his name will be down here by and by. A few of these nominations, I believe, we have rejected; a few more I certainly hope we shall reject for the good of the service and the credit of the country.

The Senator says that we went through the Mexican war with only three generals. Can the Senator have forgotten the generals we made in that war? There were a larger number of generals made in that war than has been made in this, according to the number of men. Has he forgotten Pierce and Pillow and Lane and Cushing and Quitman and Shields and Patterson and Cadwalader, and a large number of brigadiers nominated during that war? Why, sir, we had more general officers in the Mexican war than we have had in this, and we had more in the Revolution, according to the number of men employed. We have had really fewer general officers in this war, in proportion, than in any war that this country has ever been engaged in; and it is only lately that we began to have the number of general officers requisite to take their proper places and have their proper commands. I believe that the efficiency of the military service of the country requires that every department of the Army, from a company to a *corps d'armée*, should be properly officered, officered according to law and to military rules, for the number and grade of officers so fixed is the result of the best military experience of the world.

I am inclined to think with the Senator that we are making too many brigadiers out of untried men; that upon the battle-fields which are yet to be fought there may be a display of military capacity which ought to be recognized and encouraged by the country. We have confirmed, I think, one hundred and thirty-one brigadiers of volunteers. There are something like forty before us who have not been confirmed. Some of these are men of unquestioned capacity and fitted for the position. I think they ought to be confirmed and sent into the field. But we have here the names of a class of men who I think ought to be rejected, and I think we ought to reject them soon.

I do not see what can be gained by passing any special vote on the subject; but if the Senator from Iowa believes that he can arrest the tide that comes in here every day bearing upon its bosom a brigadier general or a number of brigadiers, certainly I have no objection. I think we have gone at present quite far enough.

Mr. FESSENDEN. I concur generally in the views that have been expressed by the Senators who have preceded me, upon this subject; and if any other mode could have been well adopted, than that proposed by the honorable Senator from Iowa, to bring this question before the Senate, I should have been glad; but I see no other.

Sir, the difficulty is in part with us, and it arises from the fact that we are so ready to lend our names and our influence to certain gentlemen because they belong to our own States, who desire to be appointed brigadier generals. I do not say that it is not a weakness on the part of the executive officers, whoever they may be, who control this matter, to yield to such solicitations; but if there is blame anywhere it ought not to rest wholly with them; we ought to be ready to take our share of it. Why, sir, I had a paper sent to me yesterday, and I suppose every other Senator had one of a like description, a large printed paper, with recommendations from different gentlemen in New York, Mr. This and Mr. That—I did not read all the names, but there were the aldermen of New York, the common council of New York, divers important companies, and representatives and senators in the Legislature of New York, and so on—recommending a certain gentleman for the office of brigadier general. Now, sir, I undertake to say that, so far as I am concerned, if a man wants to be a brigadier general, and he is actually in service, and is not willing to leave it upon his merits, but troubles himself to get up recommendations from corporate bodies and different kinds of people to bring him to the notice of the country, and will take that, being a military man, as a mode of advancement, it is enough of an argument for me to vote against him. The presumption is, as a friend suggests to me, that when an officer in service takes this course, he is sensible that he needs something outside of his merits as an officer in order to advance him.

The difficulty goes beyond that. We are delicate in our sensibilities with regard to our friends at home, and I am perfectly willing to say that perhaps I am as much so as anybody; and if a gentleman's name is presented here as a candidate or a nominee for a military office from our own States, of course our patriotism extends to getting him in, although it may go far enough to exclude others from other States, where the matter is not particularly interesting to us.

Now, sir, with these difficulties pressing upon us, and the difficulty resting with Senators and Representatives who continually recommend people and press them upon the Executive for appointments to these military offices, as it is notoriously the fact that they do, something ought to be done in order to establish a rule about it, or, at any rate, on an abstract question to express the general opinion of the Senate that this thing ought to be stopped, if it is going too far; and then the President will know that our recommendations are mere matters of form, and do not mean anything after that, if they apply simply to gentlemen from our own particular locality.

It is absolutely necessary, in my judgment, that Congress should bring itself to consider the question of expense, and as well with reference to their own particular friends as to anybody else. They should remember that the country has to pay for it, and that we should not have any more of these gentlemen appointed, if we can help it, than are necessary in order properly to command the Army. It is not for me to say how many may be necessary; but let gentlemen look at the question for a moment. My honorable friend from Massachusetts says there are so many brigades in the Army. We all know there are a great many more than Congress ever intended there should be; that we

intended in the beginning, and we so legislated, that the number of volunteers to be raised should be limited to five hundred thousand; but although Congress in its language expressed the idea, and it was stated so over and over again, it accidentally gave a power which extended to a million, or was so construed as to extend to a million, and under that our Army has been swollen up to over seven hundred thousand men. At this day I do not think a man can be found any where who will say that half a million are not all that we can possibly need or use; and yet we have this number of troops in the service, though not actually in the field. There are regiments in my own State to-day that have been raised, staying there—who have been staying there for months—paid by the Government, efficient men, the choice men of our State, waiting and begging to be called into the field and not to be left there doing nothing; not armed; ready to do everything, anxious to be in service; and the answer is, "we have no occasion for you; we have got so many men here—more than we know what to do with;" men who make a most elegant appearance on days of review, and who undoubtedly would fight well if they could only get a chance. There are more men than the Government knows what to do with here on the Potomac to-day. What occasion is there to send for others? So it is in every State in the Union; there are men who are paid from month to month, and who have been paid for months, not armed, not called into the field, absolutely for the reason that the Government has no occasion to use them; and yet no step is taken to disband these men. Why not disband them, if they are not wanted? Because we have seven hundred and fifty thousand, if that is the number—two hundred and fifty thousand more than we ever intended to have—therefore my friend from Massachusetts argues you must have a number of generals to correspond! I dare say we have more brigadier generals to-day than there are brigades organized. Can he tell me that we have not?

Mr. WILSON, of Massachusetts. We have at least forty or fifty brigades commanded by colonels.

Mr. FESSENDEN. Then I suppose they are making some other use of the generals. Probably some of them are not fit to command.

Mr. SHERMAN. The generals are buying pork and beans for the Army.

Mr. FESSENDEN. Many of them are employed in various descriptions of service and not in the field. What is the reason why we should go on and appoint generals to correspond with a number of men that are not needed and are not used? It is extravagance of the most wanton kind; and we may as well express our opinions upon it openly and let the country understand it. I mean to wash my hands of it. I have tried to do so here over and over again repeatedly. I offered a proposition the other day to stop all enlistments until the Army should be reduced to the proper level, until we should get down to the number we wanted, and no more. My friend from Massachusetts said we should have a bill soon where I could put on my amendment. I have not seen his bill yet; as soon as he brings it along so that I can put on my amendment I will, and I hope it will be forthcoming very soon. I understand, however, that the Department has absolutely stopped enlistments; but whether that be so or not, it is best to reduce it to shape and have a law on the subject. The country is ready to raise, I am ready for my constituents to say and we will all say that they will raise, whatever number of men may be needed, and put them in the field, and set them to doing the work we want done; but why should we saddle the country with a quarter of a million of men more than are needed, and simply for no other reason than because A, B, C, D, E, and F, and so on through the alphabet, are continually pressing for authority to raise men who are not needed? I for one thank my friend from Iowa for introducing this resolution, for if it has no other effect it gives an opportunity for those of us who desire to do so, to express to the country our anxious wish to stop this wanton waste.

Mr. WILSON, of Massachusetts. The Senator from Maine the other day proposed to reduce the number of men authorized by law down to five hundred thousand. I agree with him in that. Still we have not been able to do it. It was suggested also that we ought to stop recruiting. I agree to that; I have over and over again been to the War Office and urged upon the Department to stop recruiting in every part of the country. We have had the promise that it should be done; yet every day in different parts of the country we have accounts of men being raised and brought forth to fill up the ranks of regiments. The papers tell us that in Tennessee and other parts of the country where our armies move, we are filling up the ranks of the Army. I believe we have to-day one hundred and fifty thousand more men under the pay of the Government than we need or can well use. I have not a doubt of it; and I think it ought to be checked. I think the War Department ought to issue peremptory orders forbidding the enlistment of another soldier into the volunteer force of the United States until the time shall come when we need them. We can obtain them any time when we need them.

Then, sir, there is another thing that ought to be done; and I have pressed that on the War Office for weeks; and I suppose they are trying to do it; for I want it to be understood I make no complaint of the manner in which business is done in that office. They have a great deal to do, and a great deal must necessarily escape their attention. It is this: we have thousands of men in the volunteer force of the country unfit for duty. I know regiments that have moved down the river that have left forty and fifty men behind them about Washington who want to be discharged and who ought to be discharged, and who would be discharged if the medical men would attend promptly and vigorously to their business. We have in this Army, with a great deal of energy and vigor, a great deal of this how not to do a thing. I think we have a great deal of that in that portion of the Army. We have thousands of men who ought to be discharged from the Army of the United States, for they are physically unfit to bear the burdens of a campaign, and most of these men desire to be discharged.

Now, sir, the Senator from Iowa thinks it will be difficult for us to get rid of these generals. We make them easily. I do not think, as a general rule, any difficulty will grow out of making them, more than other officers. I think we shall get rid of them just as easily as we make them.

Mr. GRIMES. They are very much like bad habits, easily contracted, but hard to get rid of.

Mr. WILSON, of Massachusetts. Well, sir, it may be so; but I apprehend, after all, that the Congress of the United States that makes armies and makes generals, can unmake armies and unmake generals. Although I know there are men who think this army will not be easily disbanded, and I have heard general officers express that opinion, I believe that when this war is over you can disband the army and send these men to their homes as easily as you can turn your hand over. I have no fear of it at all. The great part of the officers and the men of this army are here for patriotic purposes, are doing the duties of patriots, and they desire to go home to their private avocations as soon as the war is over. It may be rather hard for some of these gentlemen that we have taken from the ranks of the regular Army, the captains whom we have made generals, to go back and be captains again; but they will have to do it, or go out of the service. I have no fears in that direction. The only anxiety I have in regard to the army is this: in the first place, to have the force that it is necessary to raise to crush this rebellion well and properly officered, and to manage the whole matter with as much economy as we possibly can. I have no other anxieties than that, no fears of the future.

Mr. COLLAMER. I have listened to the gentleman with some interest. He says we can make such and such efforts, but the gentleman himself does nothing. He goes to the War Department and they do not carry his views into effect. Bills are passed here, but no legislation is had on the subject. I observe that there was an effort made to try to organize, and reduce if we could, and embody the cavalry. I do not even know what has become of that.

Mr. WILSON, of Massachusetts. It has passed the Senate, but they cannot pass it in the House.

Mr. COLLAMER. I knew it had passed here, and was pending between the two Houses; but I believe it amounted to very little or nothing when we got done with it. The Senate, I know, tried to reduce it to thirty regiments. Now we talk about generals, and nothing is done on the subject. I do not wish to make any remarks on this topic; but it is said we have enlisted in various parts of the country a great many more men than are needed, and more than we intended: It is done—I mean legislatively done. We talk about it and talk about it; but there is no bill, no law, to stop it; we do not act on anything to stop it. Having this amount of men raised, the President is authorized to appoint generals for as many brigades as that number of men make; and while we do not mean to have the number of men, yet he makes the number of generals. We cannot even talk in this body at this time on this subject of generals. The nominations we have before us are in executive session, and it seems to me this is a proper topic for consideration in executive session. If we find our number of troops coming up to an amount of brigades that we do not mean to have and do not intend to have, I think we ought to communicate with the Executive on that subject in executive session. I cannot even talk about that here. It has got so now that even the President says he does not make the nominations. He nominates A B because C D has requested it. It has got even to that; and that is entertained by the Senate; at least I have not known any of that kind rejected. Now, sir, I think this topic ought to be discussed in executive session; I think we ought to consider it there; and I desire to be understood as voting against the resolution on that ground simply, because I think that is the place where the proper measures should be taken on this subject.

The motion to discharge the committee from the further consideration of the resolution was not agreed to.

REMISSION OF DUTIES ON ARMS.

Mr. KING. I ask the Senate to take up and consider the bill in relation to the remission of duties on arms imported by States, which was reported by the Committee on Finance yesterday.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 120) in addition to an act to refund and remit the duties on arms imported by States, approved July 10, 1861. The bill proposes to extend the authority given to the Secretary of the Treasury to refund and remit the duties and imposts on all arms imported into the United States by or for the account of any State, as provided in the act of July 10, 1861, to all arms which may be imported during the existing war.

The Committee on Finance reported the bill, with an amendment, to strike out the words "to all arms which may be imported during the existing war," and in lieu thereof to insert the following:

> Only to arms for which orders or contracts were made prior to the 1st day of January, 1862: *Provided*, That said Secretary shall have satisfactory proofs exhibited to him that the said arms were actually purchased in a foreign country for account of a State, and that the price paid for the same by the State was only the first cost, and the usual and customary charges attending the purchase and importation of the same, exclusive of duty.

Mr. KING. I think the word "only" in the amendment had better be omitted. It is a restraint upon the provision. The object of the bill is to extend the provision of the law passed July 10, 1861, which I will read:

> That the Secretary of the Treasury be, and he is hereby, authorized and directed to refund and remit the duties and imposts on all arms imported into the United States since the 1st day of May last, or which may be imported before the 1st day of January next, by or for the account of any State: *Provided*, The Secretary of the Treasury shall be satisfied that the said arms are intended, in good faith, for the use of the troops of any State which is or may be engaged in aiding to suppress the insurrection now existing against the United States.

The object of this bill is to provide for the admission into the country free of duty of all arms which were ordered prior to the 1st of January, and the importation of which was not completed until since that date. The State of New York has four thousand, two thousand of which have arrived, as I am informed, and one object of the bill is to extend the provision to them. I apprehend the literal and proper construction of the word "only" would be a confinement, a still further restraint upon the original bill. Let it be extended to arms that were ordered prior to the 1st day of January, and to them only. I do not want it extended to

arms that were not ordered prior to that time. This bill does not change the old law so as to admit arms that were imported after the 1st day of January.

The VICE PRESIDENT. The morning hour having expired, it becomes the duty of the Chair to call up the special order of the day.

Mr. KING. I hope we shall be allowed to dispose of this bill. It is a very simple one, and will not take five minutes. These arms are now on their way, and it is necessary that the bill should be passed at once.

The VICE PRESIDENT. If there be no objection, the consideration of the subject will be proceeded with. The Chair hears no objection.

Mr. KING. I ask the attention of the Senator from Maine, the chairman of the committee which reported this bill. I called his attention to this point.

Mr. FESSENDEN. I thought at first, when the Senator showed it to me, that the bill stood well enough; but on looking at it, I confess I do not exactly understand it. The first bill confined the remission of duties to arms which should be actually imported prior to the 1st day of January, 1862. The object of this bill is to extend it to arms which were ordered prior to that time, but which had not reached the country.

Mr. KING. Exactly.

Mr. COLLAMER. Does it extend to arms ordered by authority of any State?

Mr. KING. Yes, sir; and only to those ordered by authority of any State.

Mr. FESSENDEN. I will thank the Secretary to read the bill as it would be if amended, and then the Senator from Vermont will understand it.

The Secretary read, as follows:

Be it enacted, &c., That the authority given to the Secretary of the Treasury to refund and remit the duties and imposts on all arms imported into the United States by or for the account of any State, as provided in the act to which this is an addition, shall extend only to arms for which orders or contracts were made prior to the 1st day of January, 1862: *Provided*, That said Secretary shall have satisfactory proofs exhibited to him that the said arms were actually purchased in a foreign country for account of a State, and that the price paid for the same by the State was only the first cost and the usual and customary charges attending the purchase and importation of the same, exclusive of duty.

Mr. COLLAMER. I have no objection to it.

Mr. KING. The omission of the word "only" will leave it as it ought to be.

Mr. FESSENDEN. I think there can be no objection to striking out that word.

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted. The bill was reported to the Senate, as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

NAVAL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 242) making appropriations for the naval service for the year ending 30th of June, 1863, and additional appropriations for the year ending 30th of June, 1862, the pending question being on the amendment of Mr. SHERMAN to the amendment of Mr. HALE. The amendment of Mr. HALE, from the Committee on Naval Affairs, was to add to the bill:

SEC. 2. *And be it further enacted*, That the sum of $783,294, being the amount necessary to be provided, as estimated by a board appointed for that purpose, to finish the Stevens battery, now partially constructed at Hoboken, New Jersey, be, and the same is hereby, appropriated out of any money in the Treasury, not otherwise appropriated, for the immediate completion of said battery.

Mr. SHERMAN proposed to amend the amendment by adding as a proviso:

Provided, That in the contract for the completion of said vessel, it shall be stipulated that the payment by the United States of the sum already expended by Edwin A. Stevens upon said vessel shall be contingent upon its success as an iron-clad sea-going war steamer, to be determined by the President.

The VICE PRESIDENT. Upon this question the Senator from New Jersey [Mr. THOMSON] is entitled to the floor.

Mr. FESSENDEN. Before the Senator from New Jersey proceeds, I wish to lay on the table an amendment which I intend to propose and antagonize with the amendment offered yesterday by the Senator from Ohio, [Mr. SHERMAN.] I should like to have it read.

The Secretary read it, to insert at the end of the additional section offered by Mr. HALE, the following proviso:

Provided, That no part of said appropriation shall be paid until said battery shall have been completed and shall have been proved to the satisfaction of the Secretary of the Navy to be fully adequate to the purposes of her construction, and shall have been approved and accepted by said Secretary.

The PRESIDING OFFICER, (Mr. FOOT in the chair.) The amendment will lie on the table subject to be called up at the instance of the Senator from Maine.

Mr. THOMSON. Mr. President, the distinguished Senator from Maine [Mr. FESSENDEN] yesterday desired that the history of this battery from the beginning should be placed on record. So, sir, do I; and I will ask the Secretary to read the report which I send to him as the unanimous report of the Committee on Naval Affairs in the Senate in the year 1852, and the resolution adopted by this body, which will be the authentic history up to that time. I shall after that undertake to continue the history to the present time.

The Secretary read it, as follows:

"The Committee on Naval Affairs, to whom was referred so much of the President's message and accompanying documents as relates to naval affairs, having had under consideration that part of the report of the Secretary of the Navy which refers to the construction of a war steamer by Robert L. Stevens, report:

"That on January 13, 1842, the board of commissioners of the Navy recommended Mr. Stevens's plan for a steamer, to be ball and bomb proof, to the consideration of the Secretary of the Navy. Shortly afterwards Mr. Stevens submitted to Congress a printed copy of his plan. The Chamber of Commerce of New York, on the 15th of February, 1842, recommended to Congress the plan of Mr. Stevens.

"A joint board of officers of the Army and Navy, to wit: Colonels Totten, Thayer, Talcott, and Captain Huger, Commodores Stewart and Perry, Captain Stringham, and Lieutenant Newman, appointed for that purpose, convened in New York the 8th of July, 1841, to witness, superintend, and report upon Mr. Stevens's experiments with a bomb and ball proof target, suited to the sides of a vessel. The experiments were made in their presence, and a report of the board submitted to the Department in favor of Mr. Stevens's proposed plan of construction.

"On the 14th of April, 1842, Congress passed an act authorizing the Secretary of the Navy to contract with Mr. Stevens for a war steamer, shot and shell proof, to be constructed principally of iron, upon the plan of Mr. Stevens, not to cost more than the average of the steamers Missouri and Mississippi, and appropriated $250,000 for the purpose.

"On the 10th of February, 1843, Mr. Stevens entered into contract with Mr. Upshur, Secretary of the Navy, to build a war steamer, 'to be shot and shell proof against the artillery now in use on board vessels of war.'

"In order to launch a vessel of the size and description of the one contracted for, Mr. Stevens found it necessary to excavate, and erect at his own, and an enormous expense, a dry-dock of capacity sufficient to build her in and float her out. This, of course, involved the necessity of delay in construction; though while engaged in making the dry-dock, he was also assiduously engaged in procuring the materials, fashioning the patterns, and organizing the preliminary details for an undertaking of such magnitude and importance.

"In December, 1843, Mr. Henshaw, who succeeded Mr. Upshur as Secretary of the Navy, declined making the necessary payments for materials. In November following, a second contract, very full, minute, and particular, was made with Mr. Stevens, which was followed by a supplemental contract with John Y. Mason, Secretary, in December, 1844, and which provided for the payments on account of the contract. Mr. Stevens then prosecuted with vigor the performance of his duties; and while so engaged, on the 9th of December, 1845, was again arrested in the execution of his contract, by an order from Mr. Bancroft, stopping all further proceedings under the contract, and refusing further payments until the plan for the steamer was furnished. Yet, at this very time, the Department was in possession of the plan of Mr. Stevens, furnished when the original contract was first made, and a further statement of his plan furnished in November, 1844. Thus a second time was he stopped in his work. His health being seriously impaired, he was ordered to Europe by his physician.

"In January, 1847, Mr. Stevens applied to Mr. Mason, then Secretary, for an extension of time in which to complete the steamer, and satisfactorily accounted for the causes of whatever delay had been suffered. After more than eighteen months, an additional contract was made, reciting the former, and extending the time of completion to four years from the date of the last. By these several contracts the most minute details of the work were given, and the complete security for the execution of the project, and every proper safeguard was provided against loss by the United States.

"Hardly a year, however, was permitted to elapse, when, in August, 1849, Mr. Secretary Preston refused to make any further payments to Mr. Stevens on account, and the work was again stopped. Mr. Stevens was then in Europe, engaged in obtaining better materials for some portions of the steamer than could be obtained in this country. Contracts were made by him in Europe for such materials. After which he immediately returned home, and urged the Secretary to permit him to proceed according to contract. Mr. Preston, however, declined taking any other step than to refer the matter to Congress.

"Whatever delay took place in the performance of this contract was indispensable to its faithful and successful execution. The necessity for these delays was not, it is believed, properly appreciated by the Navy Department. The experiments necessary to test the quality of the materials, and demonstrate the details of the plan, involved the consumption of much time. The experiments necessary to establish and improve the character of the propeller which was finally adopted also required much time. Even from this delay the Government derived the advantage of availing itself of this propeller in the construction of the Princeton, which was thus proved to be superior to any other then in use, or indeed since adopted. Workshops, together with a steamboat, were required to be built for those experiments. Also, a large dry-dock was constructed, with a steam-engine, punching and drilling machines, tools, &c., and large pumps, which have kept the dock free from water ever since its completion, at very great expense. One third of the dry-dock, within which the Government iron steamer was to have been built, was excavated from solid rock. All this consumed and required unremitting personal exertion and supervision, and large expenditures of money, for which no remuneration has been made. But all delay was satisfactorily explained before the several renewals of the contract at each period of such renewal.

"When the contractor was first arrested, by Mr. Secretary Bancroft, he was in advance and liable for materials—principally for heavy plates of iron from Pennsylvania, about $40,000, which was subsequently paid to him. He is now in advance about $30,000, also for heavy plates and tubes for the boiler, &c., from England. Yet the Government now proposes to sell his property to reimburse itself for previous payments on his contract, for non-performance of the same, performance of which has been prevented by the action of the Government itself.

"On the 21st January, 1851, Commodore Skinner addressed Mr. Stevens, and informed him that the Navy Department, considering the contract void, desired to sell, shortly, the materials collected by him for the purpose of executing it according to his several agreements.

"To sum up the whole subject, it appears that Congress, by the act of 14th April, 1842, directed the Secretary of the Navy to make a contract with Robert L. Stevens for a war steamer, and appropriated a specific amount of money towards the construction proposed. The contract was executed. Mr. Stevens, in good faith, proceeded to perform all his obligations. The contract was afterwards made more specific, its minutest details enumerated, and the time for its completion extended by a succeeding Secretary. The amplest security for its faithful execution was required and given. Officers of the United States were appointed to superintend the receipt of materials provided, and payments for such materials were made by the Government from time to time. A subsequent Secretary of the Navy, without any previous notice to the contractor, suddenly suspended the execution of the contract, and refused the payments stipulated therein to be made; leaving the contractor bound to pay large sums for the materials for which he had contracted in the prosecution of his work. Another Secretary renewed the contract, and extended the time for its execution. The contractor again vigorously and actively applied himself to the execution of his contract. While thus industriously employed, another Secretary again arrested his work, and finally suspended all payments, and referred the subject to Congress. The present Secretary considers himself bound by the acts of his predecessor, and treats the contract as at an end; and Congress having omitted to act on the subject, he has given notice to Mr. Stevens, under the power to sell, contained in the mortgages executed by the contractor, that materials collected by him will be sold for the benefit of the Government.

"It is therefore apparent that without some legislative action by Congress, the contractor, who is willing and desirous of fulfilling all engagements in good faith, entered into by the *direction and under the authority* of Congress, will, by executive interposition, be subjected (against right, as your committee believe,) to very heavy and unjust losses, while the Government will lose the advantages to be derived from the genius, skill, and science of one of the most accomplished naval architects in the country in the construction of that very sort of war steamer which the service requires.

"Your committee, therefore, on full consideration of the whole subject, recommend the adoption of the following joint resolution:

"*Resolved by the Senate and House of Representatives in Congress assembled*, That the Secretary of the Navy be, and he is hereby, authorized and required to have completed, without any unnecessary delay, the war steamer contracted for with Robert L. Stevens, in pursuance of an act of Congress passed April 14, 1842."

Mr. THOMSON. After the passage of this resolution, which was concurred in by the House and approved by the President, the contractor proceeded with zeal and skill to complete the battery, as far as the means appropriated would enable him to do so. It was his ambition to make it the admiration of the world as an American production, and the sure defense of his country against foreign invasion. To attain this he had labored, and alone, in an untried field of science for more than a quarter of a century, and had expended large sums of money in experiments, and is admitted by foreign writers to have been *the first* to suggest the superiority of iron-clad vessels and inclined armor over all other descriptions of vessels. This credit generously awarded to the late R. L. Stevens by foreigners, by the report of the board of commodores, has been withheld from him, and to their shame given to French and English inventors.

The Crimean war in 1853–54, inaugurated a revolution in the material and construction of ships of war, and of the weight and caliber of ordnance. The old-fashioned ships were found good for nothing when opposed to modern artillery. Even the

celebrated Paixhan sixty-two pounders fell into disgrace, and we had Armstrong one hundred pound guns, and Lancaster guns, and rifled guns of enormous extent of range and weight of metal.

Under such a state of things Mr. Stevens, to carry out his original idea of furnishing his Government with a more formidable battery than possessed by any other Power, capable of resisting and overcoming any force that might insult our coast or attempt a passage into any of our harbors, found it necessary to enlarge very greatly the proportions and capacity of his battery. With the knowledge and consent of the Government this was done; and the battery, instead of being one which would now be considered a third class one, such as that of the Mississippi, is to be the most formidable in all respects in the world. To accomplish this, an entire change had to be made in the size, power, and armament. Her locomotive power was multiplied tenfold; her increased length and strength enabled her to carry a more powerful battery than old-fashioned forty-twos, or even new-fashioned Paixhans; and all this involved an additional cost over the previous estimates as reported by a board appointed by the Secretary of the Navy—Captain Hudson, of the Navy, and William Kemble, of New York—of $812,000; $500,000 had been appropriated and expended on the battery on the new and enlarged scale; $812,000 further became necessary. At about this time the original contractor died, and left as his executor his brother, Edwin A. Stevens, a gentleman little inferior in mechanical genius to his brother, to carry out his plans. Had the ready means been in his possession, I know full well that he would have completed the vessel and trusted to the justice of Congress to repay him the amount which had been expended over and above the sums he had received from the Government. But, Mr. President, the estate, large as it was and is, is principally in real estate, and it is not necessary to mention to this body the difficulty, within the past few years, except at ruinous rates of interest, in raising so large a sum of money upon real property, and especially (no matter what is its value) if it is not productive. Hence the necessity which Mr. Stevens felt to ask the aid of the Government to furnish the means to complete her. How his applications have been received it is not necessary for me to state. A prejudice stronger and more intense I have never known to exist against any man, measure, or thing, than that against this battery. I think it can be accounted for. In the first place, if old commodores could have had their way, we never should have had a war steamer in the Navy. In the next place, every naval constructor regards as an invasion of his rights and contempt of his position any effort to construct a ship except upon his plan and under his direction, at a public dock-yard. And again, sir, there are others, mean and envious spirits, who, conscious of their own inferiority, endeavor to pull down their superiors to their own base level. The success of Mr. Stevens in all his steamboat operations was a crime in their eyes; and from all the various classes of persons referred to there has been a constant clamor against him and his plans, which has at length absolutely disturbed, if not destroyed, the judgment of right-minded, honest individuals on this subject.

But, Mr. President, it is not worth our while to consume time in endeavoring to explain the reasons of the opposition to his battery. Let us look at it, and see what is best to do with it. There it is, at Hoboken, half finished. The Government has already expended $500,000, and it will require $780,000 more to render this vessel effective. Shall we throw away $500,000, or shall we pay an additional sum of $780,000 for its completion? It has been said in the debate on this subject that this additional sum of $780,000, called for to complete the Stevens, would put afloat three Monitors, and it would be better to expend the money in this way. Now, Mr. President, I differ "*toto cœlo*" in this suggestion. Let us compare the efficiency of the vessels to obtain a right idea on this subject, and the comparative cost of the two classes of steamers. The Stevens will cost, say $1,280,000; four Monitors will cost $1,100,000; the weight of broadside thrown by the Stevens, directed to a single point, will be equal to twenty-five hundred or three thousand pounds; that of four Monitors, if directed to the same point, one hundred and seventy pounds each, only six hundred and eighty pounds. And then the speed of the Stevens will be equal to twenty miles an hour, so great as to enable her to choose her position to fight against any adversary; while the speed of the Monitors, not exceeding six miles, would render them, one and all, an easy sacrifice to a steamer of greater weight, power, and speed. But I have not time to pursue this branch of the subject. I turn to another.

The Senator from Iowa says that the pressure that has been brought to bear upon Congress, by the press and other influences, will pass the battery. Now, Mr. President, the pressure, so far as I have been able to understand it, is all the other way. The number of contractors waiting to build such vessels as the Monitor, upon which, it is said, there was a clear profit of $100,000, must be very large, if such report be true. Now, an appropriation to complete a vessel half built would take from them the proportion of the appropriation which this would cover, or about two Monitors and $200,000. Hence the wonderful exertions to defeat the Stevens battery.

And now, Mr. President, for I dislike to trespass upon the time of the Senate, I must speak of the monstrous injustice which was done to Mr. Stevens by that board which was appointed to examine and report upon the expediency of completing his battery. In reading the report, in connection with the reply to it, the first impression made upon my mind was, that the report of the board had been made to order, and their verdict agreed upon before a hearing of the case. How else can you account for the extraordinary proceeding of the board refusing to remain three days before making that report, to witness the result of certain experiments by Mr. Stevens in regard to the battery, that might have caused them to make some changes in their report? They did not do so, though specially invited, but hurried to Washington to lay their report—an *ex parte* report—before the Navy Department before these experiments were made. And what was the result of these experiments which they refused to witness? They demonstrated that all, or, if not all, nearly all, of the objections to the completion of the battery were perfectly groundless. The only one which could not possibly be obviated, was as to the capacity of an unlaunched vessel to go to sea. Here they were safe. I do not blame the old commodores for the report, because I do not think they knew much about it. Gallant souls, they would fight on the decks of their ships as long as a spar remained, or they would go down as the Cumberland did, with her flag flying, before surrendering to a rebel vessel. But, then, education surely did not qualify them to act as judges on great questions of naval construction—steam power, and the other things, which certainly had not been very familiar to them or much studied by them in their active professional life, before steam as a motive power had gained the victory over wind.

But, Mr. President, the recklessness with which assertions were made in regard to matters susceptible of easy demonstration and disproof astonished me. For instance: they say in their report that "firing guns over the light deck fore and aft loading-house would demolish it, as every artillerist knows." Now, sir, when I read this I could not but believe that a fact had been stated in regard to the effect of firing guns over a light deck—such as every artillerist knew—was conclusive against the whole plan of the battery. Every artillerist knew it! Well, what was the result of the experiment, made in the presence of hundreds of the most distinguished citizens and authorities of New York, Jersey City, and Hoboken, and Mr. Stimers and Commodore Stringham, two members of the board, who acknowledged no damage was done, in regard to a fact which "which every artillerist knew?" "A platform was made to represent the deck of the battery, composed of white pine planks two and a half inches thick, resting on pine beams five inches square and two feet apart, from center to center, and caulked and pitched in the usual manner." This precisely represented the deck to be destroyed by firing over it. This deck was three and a half feet below the line of fire, and the result was that after the firing no injury or change could be perceived in the deck or its caulkings.

An objection, which struck me with much force at first, was that in reference to her sea-going qualities. Her great length seemed to one unskilled in such matters a serious objection, and that she might at sea "writhe and twist to an extent that might open the seams of her light iron sides." But, sir, I remember well when the first sea steamers were run between New York and Liverpool hearing the most distinguished naval officers say that they were so long and so sharp that they would twist to pieces in a seaway, and that if they were caught in the trough of a heavy sea they must inevitably perish. But, sir, these sage predictions have not been fulfilled. Year after year longer and sharper and swifter steamers are put upon the ocean, and have not been twisted to pieces or swamped in the trough of a sea. The truth seems to be that long and sharp as the Stevens is, the Australian, three hundred and thirty-two feet long and forty-two feet beam, which has seen a great deal of very hard service, is more slender than the Stevens, having a greater comparative length of beam; and the board intimate that the battery is too slender, and, although she has nearly twenty per cent. more strength than the Australian, is not fit to go to sea.

Before concluding, Mr. President, I will say something in reference to the armament of the Stevens. The guns, by reason of their great size and the superior metal of which they are formed, are believed to be their own protection. The size and great strength of these guns may be inferred from their weight, being over sixty thousand pounds each, including the carriage. If the guns upon trial should not prove strong enough, they may be strengthened by wrought-iron bands so shaped as to present an oblique surface to the line of an enemy's fire, without impairing the efficiency of the guns; or they may be protected by wrought-iron structure, of any desired strength, placed over the guns, without any alteration in the ship, and still preserve all the qualities of pivot guns, which can be fired in any direction or at any elevation. This last plan would add only seven inches to the draught of the vessel, making her draught twenty-one feet one inch to her load line, instead of twenty feet six inches, as now, and requiring two hundred and fifty-nine tons less water in her tanks to settle her to her fighting line.

Mr. President, the recent glorious achievement of the Monitor in arresting the Merrimac in her attempt to destroy our fleet in Hampton Roads I fear may lead us into grave mistakes. It is impossible for a vessel of the size and weight of the Monitor to resist a vessel of the power of the Merrimac, if properly directed against her, unless she had so much more speed as to enable her to escape from her. The Merrimac must have been disabled on the day of the first battle, or the result of the conflict would probably have been different. There is also, sir, a mistake in regard to the qualities of the Monitor as to speed and seaworthiness. The utmost speed of this vessel, with full head of steam, and assisted by a powerful tow-boat, was but five knots an hour. It will not do to trust the defenses of our great cities to such vessels. We must have weight, size, speed, and invulnerable armor; and such a one I honestly believe the Stevens battery will prove to be.

Mr. CLARK. The objection was made yesterday, and I thought with some force, that the guns of the battery were left entirely unprotected. I suppose the Senator from New Jersey has access to those who know what are the plans of this battery; and I desire to ask him if he can inform us what is the plan by which the guns are to be protected. We were told yesterday that a plan had been devised or suggested by which they could be protected.

Mr. THOMSON. Would the Senator like to see the model and plan? I am no mechanic, and therefore cannot explain it.

Mr. CLARK. I do not ask him to bring a model here, but to explain to the Senate what it is. In the pamphlet presented by Mr. Stevens, one of which has been laid on my desk this morning—I suppose by parties interested in this battery—it is said that the guns may be protected by angular armament, conveying the idea that the guns are to be protected in some way. I got the same idea from the Senator; for he says they may be protected by bands of iron, as though there was some armament or some iron bands to be thrown about these guns by which they are to be protected. The same idea is suggested by Mr. Stevens in his pamphlet, where he says that the

guns standing on the top of the deck are to be their own protection. The gunner is to be on that open deck with those guns, exposed to the fire of the antagonist, and if he finds himself in danger he can seek protection by getting down behind the friendly side of the gun. That carries the idea that the seven guns composing her armament are to be on top of the deck, as represented in the plan, are to be revolved by a shaft below, and directed by a man at each gun entirely exposed and unprotected from the shots of the antagonist. I desire to ask the friends of this measure, or any one of them, what will become of those gunners if they come so near an antagonist as that they can be picked off by Minié balls? A man could not live there a moment; the guns could not be handled.

I want to know what is the plan by which these guns are to be operated and protected? I understand how they are to be loaded. They are to be depressed, the muzzle turned down to the deck, at a hole in the deck, and loaded from below; but there is to be a gunner on deck to manage the gun, and, as I understand by this pamphlet, when he sees a ball coming, he is to get down beneath the gun to protect himself. That is the plan proposed in this revolutionized state of warfare that is to conquer all the vessels of war. The gunner is to manage his gun, and he must keep watch, and when he sees a ball coming he is to dodge down beside the gun. Suppose he is shot at with a Minié ball, which he could not see, if the enemy should get so near, how is he going to dodge that? I want to know how the guns are to be protected before we try this experiment. Can gentlemen tell us?

Mr. WILSON, of Massachusetts. How would you like to dodge a cannon ball?

Mr. CLARK. I think dodging these balls would be a good deal as the man said about straightening a negro's hair: it would be busy work, but not very hard. [Laughter.] This might be both busy and hard, especially in close conflict. I desire to know if there is a plan by which these guns are to be protected?

Mr. THOMSON. Did I not tell you that I was no mechanic and had no plan of it? There is one about here, which I have sent for and you shall have it before long, and may examine it.

Mr. CLARK. I did not suppose the Senator was a mechanic; but I did suppose he understood whether it was by armor or building a casemate over it, or whatever the plan was. A man can understand whether a house is to be built over a gun without being a mechanic. I wish only to know what the plan is; but it seems we are not to know.

Now, one word in regard to the capacity of this vessel as compared with four Monitors. The Senator admits that she will cost more than four Monitors, but he says she will be worth more than four vessels like the Monitor. I ask any Senator to imagine this vessel in battle with the Merrimac, and then to imagine four Monitors engaged with the Merrimac: which would be the most efficient? In the one case, you would have a ship with seven guns all exposed; in the other case, with four Monitors around her, they would be digging at her in every corner, and would completely riddle her. Then, again, when you have four vessels like the Monitor, you have the advantage of having four positions. You can have one in New York, one in Philadelphia, one at Fortress Monroe, and one somewhere else; you can divide your force; but if you have the Stevens battery, you must always have your force in the same place; you can have only one vessel; you cannot have that variety of service nor that convenience of service that you can have with the other vessels.

These are questions for the consideration of the Senate, because we desire to make the Navy effective; we desire to spend our money in the most economical way. It is admitted that we can get three Monitors more for the sum necessary to finish this vessel, and I submit to Senators whether it would not be better to construct them than to complete this battery. But if this vessel must be built, I do not know that I shall very much object to it if they will take the plan suggested by the Senator from Maine. Let Mr. Stevens agree to build this vessel on his own responsibility, and if she proves to be seaworthy, if she proves to be efficient, if she proves to be built according to the contract and acceptably to the Government, then let the Government take her. I know Mr. Stevens is confident his plan will succeed. I think he is an honest man. I do not believe he would ask the Government to take her if she was not what he represents her to be. Let him, having had so much money from the Government, now amounting to half a million of money, take it upon his own risk, if he is so very confident in regard to it; let him do as Ericsson did—build her at his own cost; and if she proves to be what he says she will be, let the Government take her, and then we shall have the benefit of the whole experiment, and not ask the Government to run this risk.

Mr. HALE. I do not want to say a word in derogation of the Monitor or any of our craft; but gentlemen are entirely mistaken, utterly mistaken, if they think that the Monitor, or as many of the Monitors as can be built, *ad infinitum*, will answer the wants and necessities and emergencies of the service, and for this reason—I am sorry to say it, because I do not like to say anything except what is calculated to glorify us and all our people, and all our instruments of war on the land and on the sea—but in the matter of speed, the Monitor is a failure, an entire failure. She does not make much more than half the speed she was contracted to make. I think by the contract it was understood that was to make eight knots an hour. I ask the Senator from Iowa if it was not so?

Mr. GRIMES. Yes, sir, she was to make eight knots an hour, and made somewhere in the neighborhood of six. But I want to ask the Senator a question.

Mr. HALE. Certainly.

Mr. GRIMES. The Monitor was contracted to make eight knots an hour, and does not make quite six. The Government has made divers and sundry contracts for the construction of engines which were to propel vessels with a certain velocity. No one of them has ever come up to the contract. Now, my friend is advocating a measure here on account of the extraordinary celerity of its motion, on account of the speed it will have. What assurance has he that the Stevens battery will come up any more to the representations that are made of it than the Monitor?

Mr. HALE. In regard to that, I will say that I have no assurance on that point; but I notice this fact in looking over the report of the commission that examined this battery, and who knew the speed that was expected of her: they made no suggestions that there was anything in her that was in contravention of that, or that would contradict it.

Mr. GRIMES. They said they thought eight engines might do it, provided the character of the engines were changed from those which Mr. Stevens proposed; but the engines, as proposed by Mr. Stevens, they did not believe could do it. They go on and state, further, that the propellers, by which she is to be driven through the water, have not only not been made, but even plans of them have not been furnished, and they therefore had no means of judging as to what might be the ability of the propellers to force her through the water.

Mr. HALE. It is no part of my object to decry the Monitor, or to build up this battery, but simply to allude to the fact that the Monitor was not everything we wanted, and that an infinite number of vessels of that class would not answer the emergencies of the service. Frequent allusion has been made to the conflict of the Monitor with the Merrimac. Well, sir, everybody on board of her was evidently astonished at meeting with the opposition they did, and they undertook to fight her, and overcome her; but if, instead of doing that, and the Merrimac was a sea-going craft, and she had concluded to put to sea, the Monitor could not have helped it.

Mr. CHANDLER. Most certainly she could.

Mr. HALE. The Senator yesterday said he did not know anything about this subject. I thought it was modesty in him then; but now I know he does not. [Laughter.] The Merrimac, according to the report from the captain of the Monitor, makes from six to eight knots an hour. The Monitor made but five knots with a full head of steam, aided by a powerful tug-boat. That was the memorandum put into my hands as coming from the captain of the Monitor himself.

Mr. GRIMES. What is the Merrimac's?

Mr. HALE From six to eight knots an hour.

Mr. GRIMES. She could make that when she was a wooden vessel in our own service, before she was cut down and before she was armored.

Mr. HALE. I do not understand it so.

Mr. GRIMES. When she was in our service that was the height of her speed.

Mr. HALE. I understand she makes it now.

Mr. GRIMES. How does he know?

Mr. HALE. By seeing her; and I think it is the opinion of everybody who saw the vessels at the time, that the Merrimac is considerably the faster vessel, and that if she chose to run away from the Monitor she might. She did. This craft, the Stevens battery, it is expected, and I think anybody who will read the report will see, that the officers who examined her had the opinion that she would have, to say the least of it, more speed than the Monitor or the Merrimac either.

Mr. CHANDLER. The Senator from New Hampshire saw fit to be a little facetious at my expense just now, because I admitted my ignorance. I wish the Senator had been as frank; but he has demonstrated it without admitting it. [Laughter.] The facts are, that the Merrimac before she received her armor, made the speed that he states. Mr. Fox, the Assistant Secretary of the Navy, told me he saw her in the fight; that she was a faster vessel than the Merrimac; that she could outmaneuver her and go all around her, and do with her just what she pleased; that her speed was two miles greater than that of the Merrimac. That is all I know about it.

Mr. SUMNER. Why did she not pursue her?

Mr. CHANDLER. Because her guns were hot.

Mr. WADE. Mr. President, I profess to know but very little about the construction of vessels of any kind; but I think it is palpable to everybody that the system of naval warfare as it has heretofore been practiced, is to be entirely done away with, and a new system inaugurated. Believing that to be so, I suppose we shall have to pay a good deal of money in order to ascertain what form or construction of these new-fashioned craft will be the best. For a long time, I suppose, they will be but experiments. Although the Monitor did exceedingly well, and commended herself strongly to the public by the exhibition she made of herself in the fight with the Merrimac, I am not satisfied that she is the best construction for all purposes whatever. She may be; but I am anxious to see different models and different fashions tried, even if it does, and no doubt it will, cost a great deal to make the experiment.

Sir, the old navies that were afloat at the commencement of this century would be of no account at the present day. That famous navy which made England the mistress of the world, and was the wonder and astonishment of the world some fifty years ago, if it existed now in the same form would be of no account whatever. Even her wooden steamships, which succeeded to her old formidable navy, would be of little service. Their power seems to have culminated, and seems now to have been superseded by these new iron-clad steamers in some shape or form. I do not believe that the vast steam navy she has now, consisting, I believe, of some five hundred steamships of the old wooden construction, is going to be of much account. I do not know how far these new iron-clad vessels are to be sea-going vessels. I hope they will not answer for that purpose; because, if they do not, we are about to start an even race with the greatest of the maritime nations on the face of the earth. If they cannot avail themselves of this kind of ship with which to cross the ocean, it will be easy for us to defend ourselves against the most formidable nation of the world, and at a comparatively small expense. I hope it will be so; that they will not be a sea-going vessel; and if that shall be proved, we need not fear any nation on the face of the earth. In that case, I think Great Britain will very soon cease to threaten us when they think we are in trouble.

As we are about to commence an even race or nearly so with all the formidable maritime nations of the world on this subject of a new constructed navy, I am very anxious that we should begin aright even if it cost us something; that we should try the experiment in different forms. I believe it is not denied that naval architects of the greatest skill and genius have long been employed upon this craft. I do not profess to understand it so as to explain it, or so as to show why it is the best, if it is the best; but this I know, that a man, acknowledged to be one of the best naval architects

in this country, a man of great inventive genius, has laid out much of his own funds in its construction; the Government has also spent a large sum upon it; and even those who have criticised it closest have found good points in it, and are doubtful and almost equally balanced whether she ought not to be completed and put to service even at the expense that it will cost. If it does turn out that this most formidable battery can accomplish what those who have constructed her expect of her, she will be of immense use in protecting our harbors.

Now, with regard to the expense, it will take a large sum to complete this work; but when we compare it with other expenditures, we need not be much alarmed at this particularly. I suppose that that review of our army on the Potomac yesterday cost us about as much as it will cost to complete this vessel. I suppose every day of unnecessary delay in the movement of this great army will cost us as much as it will to complete this naval structure, and try the experiment. Sir, I would infinitely rather try this experiment than the experiment they are trying with this formidable army of ours; for they are trying the new experiment, whether an army cannot conquer without moving, and it is quite as expensive as it would be to build these ships. I am not unaware or unmindful of the expense. I wish we could get along and try the experiment without expense; but we cannot do it, and when compared with the enormous expenses of this war, the expenditure now under consideration is but a mere trifle.

This question has been up at different periods since I have had a seat on this floor, and I believe I have once or twice voted to complete this battery, and to try it as an experiment. I was always anxious to ascertain whether we could not, without the expense of these vast naval armaments, contrive a way whereby we could defend our cities on the seaboard; and this vessel seemed to promise that it might be useful for such a purpose. I think it is. I am willing to try the experiment, and I shall vote for it.

Mr. TEN EYCK. I do not mean to extend the discussion; but the Senator from New Hampshire [Mr. CLARK] proposed a question to my colleague, who at the time, unfortunately, was absent from the Chamber, and an answer was not given. It is to that question that I desire to return an answer, feeling that there was pertinency and force in the question propounded by the Senator from New Hampshire, which struck my mind, and perhaps struck the minds of other Senators who heard the question. He wants to know how these guns, this armament upon the deck of the battery, are to be protected from the force of the enemy's balls. In the idea of the constructor, if I have received his idea aright, it is his opinion that these guns being themselves of the weight of sixty thousand pounds, will afford their own protection, and that they cannot be removed from the pedestal or base upon which they are placed according to the proposed plan. But if this should not be sufficient, the contractor proposes to inclose them with bands angular in their shape. The whole character of the vessel is angular. It is an angle from deck to keel, and almost from bow to stern, so that any missile that strikes it anywhere will be cast aside. The guns, then, if they are not sufficiently protected by their weight, and also from their form, which is somewhat angular and calculated to cast off any projectile that may strike them, may be further protected by these bands of iron, which are to be angular in shape. If still further protection is required, the contractor proposes to place over them what he calls a hood, an iron shield or structure to protect them from the ball of the adversary. These shields may be brought even in contact with the gun, or be six inches or a foot distant from it, surrounding it, it matters not which; and they are to be so placed that as the gun is moved upon its pivot they move with the gun, and as its muzzle is elevated or depressed, they move also. This, in my judgment, if the idea of the constructor is correct, is an answer to the question proposed by the Senator from New Hampshire on this point.

I will attempt to answer his other question. The Senator is greatly distressed about what is to become of the gunners, the men who are to discharge these pieces. According to his idea, they are to stand on the deck and there be exposed to the shot of the enemy; and he has given us a very amusing idea of the effect of these gunners dodging behind the pieces to avoid the balls. He says it will be as difficult a thing as straightening a negro's hair. Sir, if the Senate will allow us to put this experiment in practice, we will undertake to make the negro hair fly, or the hair fly from the heads of their masters.

Mr. CLARK. Will the Senator allow me one moment to read a passage from this pamphlet? I suppose it contains the truth. It is put here by Mr. Stevens, and, I take it, it means what it says.

Mr. TEN EYCK. I have no doubt it is true, for he is a man of honor, and would state nothing but what is the truth.

Mr. CLARK. If the Senator will permit me, I will read from page 63 a part of the report of the commission which he has embodied in this pamphlet and given us here:

"It is expected there will be one man on this upper deck in time of action to each gun, who will direct, by appropriate signals or indicators, its training to those below, and aim and fire it. It is considered by Mr. Stevens that guns of this size will not be injured even when struck by the enemy's shot. This, however is to be the subject of experiment before the completion of the vessel, and if an opposite result should be arrived at from these trials, they are to be protected by wrought iron armor, in a manner about which he has no doubt; and that when a gunner sees a shot coming he can stand on the friendly side of the gun for his protection, the carriage underneath being made shot proof by wrought iron armor plates."

This is part of the report which the gentlemen who examined it made, and which he has adopted into his pamphlet and laid on our table.

Mr. THOMSON. Allow me one moment. It is as I supposed. That is the report of the majority of the board; it is not Mr. Stevens's report.

Mr. CLARK. Exactly; but what he nowhere contradicts.

Mr. TEN EYCK. I was perfectly aware of the fact that that statement appeared on the face of this report, and that the structure of this vessel, like the structure of every other engine of this description, and its plans, have somewhat varied from the time of its commencement until the time of its completion, no matter whether it has been in progress for many years or for a few months. I have not a shadow of doubt that vast improvements will be made on the Monitor or vessels of a like description. I know that the inventive genius of Ericsson and his engineer, upon seeing defects, will supply deficiencies; and this little hornet, which has been so effective and so destructive to her adversary, will, under the exercise of their genius and talent, grow to be a much more destructive and effective vessel of war. It has been so with regard to the Stevens battery. From time to time, as this battery has progressed in its construction, difficulties have arisen, defects have occurred, objections have been raised, and genius has been found competent and ready to overcome them. It does not appear to me, land-lubber as I am, to be necessary that a man should stand exposed on the deck of that ship for the purpose of discharging this gun. About two years since I happened to be on board of the ill-fated Congress when she was just about leaving the port of Philadelphia for a South American station; and I there saw in the hand of Commodore Louis Goldsborough a little contrivance that looked like a button with a stem to it; and to that was affixed a string of some ten feet in length, and at the end of the string stood the commodore, and with a little jerk discharged the cannon ten feet distant. I want to know why these pivot guns on the deck of this battery cannot be discharged by means of the patent primer. Gentlemen can make a great many difficulties and can start a great many objections which I, a landsman, cannot answer; but I happened to see that little contrivance two years since, and I know it was effective in discharging the gun. It was done to gratify myself and some ladies who had paid a visit to the ship in consequence of an invitation of the commodore.

Mr. GRIMES. How was it aimed?

Mr. TEN EYCK. It was aimed by persons inside the vessel through the port hole. As I stated yesterday, in the plan I saw of the Stevens battery that was exhibited here last fall, and that was the only plan I saw, there were elevations on the surface of the deck, clad themselves with iron, so arranged that these guns could be turned upon their pivots, and the muzzles brought to the orifice for the purpose of being loaded. I want to know why the gun after being loaded and turned away from this little iron house upon the deck could not be directed and aimed against its adversary as effectually as the guns from the turret of the Monitor are aimed by a person standing inside, and looking through an orifice?

Mr. GRIMES. It could, if there was anybody behind to sight it; but how are you going to sight it?

Mr. TEN EYCK. I understand that the persons who are inside of these erections upon the deck, and who load the gun, or superintend its loading, can also stand there to look through the orifice to direct it.

Mr. GRIMES. That is exactly what I want to get at. I have seen that model, too. The turret, or casemate, or whatever it is, in which these men are who load the gun is at right angles with the gun itself, and off, perhaps, ten feet from the gun, on one side. Now, what I want to know, if the Senator can explain it, is, how it is that those men, standing ten feet off at right angles with the gun, can sight it. That is an important piece of information which I should like to have.

Mr. TEN EYCK. The model I saw has placed upon the deck of this battery six guns in a line, each of them on a pivot; and this house or erection is so placed that when the guns are turned with their muzzles toward each other, they approach the opposite side of this house or structure upon the deck; and I do not see why the breech of the gun—it being one that can turn upon a pivot, and can be brought to any position that is desired by the person who intends to aim or direct it—cannot be brought in such a position with reference to this orifice, that the man who is to fire it can give it the proper direction for its discharge to the detriment of his adversary. That is the way it strikes me. I know nothing about the Monitor; but from the little reading which I have had on that subject, I understand that the guns of the Monitor are sighted by some person standing inside of the turret.

Mr. GRIMES. Yes, sir. In the Monitor the gun itself is in the turret; and the men are in the turret. In the Stevens battery the men are in the turret; but the gun is twelve feet off, at right angles from the turret.

Mr. TEN EYCK. I do not so understand it. I understand that it cannot be so from the very fact that when the gun turns upon its pivot, which is about the center of the gun, the muzzle comes up to the very side of this house. If you turn the muzzle away, I want to know if the breech does not come to the side of the house; and I want to know if a man cannot look through the orifice in the turret or house on the deck of this battery directly over the breech and muzzle, and direct it against the adversary. As I said before, it is hardly worth while for me, not being familiar with these things, to attempt to explain it; but, if the orifice is sufficiently large to enable the gun to be loaded through it, it is sufficiently large to enable a person to look out of it and to direct it when it is about to be discharged. That is the way I understand it, sir; and I only rose for the purpose of answering these difficulties which might appear to persons who had not looked into the subject somewhat formidable, but which, after all, when they come to be examined appear to be of very little consequence.

The Senator from Iowa yesterday found great difficulty in loading these guns by machinery. I understand, and so the report will show, that during these investigations, the very largest shot, double, perhaps treble, the size of any shot the Monitor can discharge, has been loaded in guns answering to the description of those that are to be placed on this battery without the slightest difficulty and with the utmost speed and celerity.

My object in rising was simply to answer the objections stated by the Senator from New Hampshire and to answer the question propounded by him to my colleague when my colleague had left the Chamber at the time, and when, if an answer were not given, it might be said that there was no answer to it.

Mr. GRIMES. Mr. President, when this subject was under discussion yesterday the Senator from New Jersey, [Mr. TEN EYCK,] by way of illustration of his argument, referred to some transactions that occurred many months ago at New York in the purchase of vessels; and the reference, of course, was made to Commodore Breese, for he has been alluded to on several occasions. I desire to say that in all the controversies growing out of

that subject I have no particular interest, and I apprehend that they have ceased to be of much interest to the public, for as long ago as the 16th day of February last Commodore Breese addressed me a letter, with a request that if the subject should be alluded to in the Senate I should let it be spread upon the records of this body, and I have not had an opportunity till now. I think that in justice to him I should avail myself of this opportunity to present his letter and ask that it may be read.

The Secretary read the following letter:

WASHINGTON, *February* 16, 1862.

SIR: I had hoped that the assertion of the purchasing agent in New York of vessels for Government use, and indorsed by the honorable Secretary of the Navy in his reply to the Senate, in effect that I had "contracted" for the purchase of certain steam vessels, namely, Monticello, Mount Vernon, Huntsville, Montgomery, R. R. Cuyler, Daylight, Dawn, Freeborn, Resolute, Reliance, Penguin, and Albatross, had been sufficiently shown by the reports of committees to be mere assumption, and the agent's claim to have saved the Government by his interposition therein from a loss of $90,000 equally so. I see, however, that Senator DIXON, in a recent speech on the subject, reiterates the assertion, and feel that in consequence I owe it to myself and to truth to state the facts very briefly. They are simply these: in compliance with an order from the Navy Department, dated 21st April, 1861, (copy of which is appended hereto,) I made purchase of the five last named, but merely chartered the seven others for three months, making no contract for their purchase at all, as the speech of Senator DIXON assumes I did; the charter parties for the Huntsville, Montgomery, and R. R. Cuyler, as well as, I believe, those for the Monticello and Mount Vernon, having inserted in them the prices at which their owners obligated themselves to limit their demand, in the event of the Government thereafter contracting to purchase; but there was nothing in those instruments obligating the Government to buy them then or thereafter at any price. The honorable Senator says "Mr. Morgan purchased every one of these identical vessels" (in his printed speech specified and enumerated as above) "at a price, in the aggregate, $93,000 less than that agreed on with these same parties by Commodore Breese;" an assertion made doubtless under a wrong impression as to the nature of the charter parties. I repeat, I wrote no agreement with parties to purchase any others than the five already mentioned as having been bought by myself; indeed, I had not the authority to do so.

Besides a copy of my order from the Department to purchase ten steamers, I append extracts of others which may tend to make the matter more clear, and certainly a little *fairer* toward myself; and I beg leave to request, if there be no impropriety in my doing so, that you may be kind enough, should the matter be again before the Senate, to disabuse it of any erroneous opinion that may have been induced by the speech referred to.

Very respectfully, sir, your obedient servant,

SAMUEL L. BREESE.

Hon. J. W. GRIMES, *United States Senate.*

—

NAVY DEPARTMENT, *April* 21, 1861.

SIR: By order of the President of the United States you will forthwith procure ten steamers, capable of mounting a nine-inch pivot gun, with light draught, about ten or twelve feet, having particular reference to strength and space. You will consult with Commodore Foote, the naval constructor, and such other officers and persons as are capable of giving information and advice. Charter on the best terms possible for three months, with the *option* of the Government purchasing them within that time at a stipulated price. These vessels to be immediately removed to the navy or private yard, with the necessary alterations and equipments to render them efficient for the service required.

GIDEON WELLES.

Commodore S. L. BREESE,
Commandant Navy-Yard, Brooklyn.

—

NEW YORK, *April* 23, 1861.

SIR: In reference to the order of the Secretary of the Navy, dated April 21, 1861, in relation to the procuring of steamers, the Secretary wishes you to use your discretion, coming as near as may be to the tenor of the order. He wishes the steamers to leave for the waters of the Chesapeake as soon as they or any of them shall be ready, unless other orders shall be previously received. Mr. W. H. Aspinwall has offered his services to the Secretary of the Navy, who wishes you to call on him if you need assistance in the matter of the steamers, as well as to acknowledge his courtesy.

H. BRIDGE,
Chief of Bureau of Provision and Clothing.

Commodore BREESE.

—

NAVY DEPARTMENT, *April* 29, 1861.

SIR, Your several communications of the 24th and 25th are received, stating that you have chartered the Monticello, Mount Vernon, and Huntsville, with the privilege of purchasing. The Department approves your action, and also that of dispatching the Monticello to Chesapeake bay.

GIDEON WELLES.

Captain S. L. BREESE.

Mr. GRIMES. I have not a word to say in addition to what I have said in connection with that subject. I have only offered this letter as a duty which I conceived that I owed to a very worthy and gallant officer of the Navy, and allowed him to speak for himself.

Mr. President, I have only a few words to submit in regard to the proposition now before the Senate. Yesterday, when speaking of the commission that was appointed by the Secretary of the Navy to investigate the Stevens battery, I stated that it was impossible for me to divine for what reason, or how, or in what manner, Professor Henry should have been made one of the commission. Some gentleman sitting in the neighborhood of me remarked that he was from New Jersey; the Senator from New Jersey said he was from New York; and I added that he certainly had been a professor of Nassau Hall. I did not intend to say he was a citizen of any State, or to convey the impression that he would be improperly influenced in the judgment he might reach by the fact that he was a citizen of any State. What struck me as very peculiar was that Mr. Henry should be selected to compose one of the members of this commission to investigate a subject which is not of his specialty, unless it be supposed, as some gentlemen do seem to suppose, that he is possessed of all knowledge, both human and divine. I supposed that when the commission was appointed, none would be selected but gentlemen who were learned in that particular profession—these commodores, these captains, who have been alluded to here by the two Senators from New Jersey, men who have spent their lives upon the quarter deck, men who are not only nautical men but who understand steam engineering. There is not a man on that board who has not commanded steam vessels; and if gentlemen will inquire into the education of naval officers, they will find that there is not one of them who is a genuine naval officer who is not familiar with the most minute details of steam engineering; not only that, but for the last ten years these gentlemen have paid particular attention to the subject of iron-clad vessels. The aspersions that have been cast on these naval officers are unjust, when it is said that they were opposed to the introduction of steam vessels into the Navy, and that if we had waited for them to favor it, steam would never have been introduced into our naval service.

Mr. TEN EYCK. The Senator did not understand me to say that.

Mr. GRIMES. No, sir; but your colleague And it is equally unjust to say that naval officers were opposed to the introduction of iron-clad vessels into the Navy. I know something about that. I happened to be one of the first members of this body who suggested the subject, and I tried to bring the attention of the country to the necessity of having iron-clad vessels, and I know that I consulted with gentlemen of eminence in that profession, and I did not meet with one with whom I did consult who was not enthusiastic in favor of the proposition; and it is due to that service and to the men in that service to say that a board composed of Commodore Smith, who is at the head of the Bureau of Yards and Docks, of Captain Davis, familiarly known in the country as having been so long connected with the Nautical Almanac and the Coast Survey, and Commodore Paulding, were the men to whom the plans for Ericsson's steam battery and for the other iron-clad vessels that the Government is now building were submitted, and that those plans met their full approbation. It has been said here by some one—I do not remember by whom—that if naval officers had had their way these iron-clad vessels would never have been constructed. The appropriation bill of $1,500,000 that we passed at the extra session was drawn by a naval officer, was sent to us with the solicitation of a naval officer that we should pass it; and as soon as we passed it the whole question was referred to some officers of the line, and they determined as to the character of the vessels we should construct, and they are now imploring us to abandon wooden vessels and adopt iron-clad vessels. I say this in justice to the officers of the Navy. They have been foremost in attempting to introduce the very kind of improvements which Senators have said they are anxious that we should not introduce, so far as my observation and experience go, and I think they go as far as anybody's here.

Mr. President, I stated yesterday that the Senate was legislating upon this subject under a kind of duress, and that I had no doubt that this appropriation, in some shape or other, would be got through Congress. I have seen no longer ago than this morning articles in the newspapers, in which it is tauntingly said that Congress is waiting for another demonstration of the Merrimac before it will do its duty in regard to iron-clad vessels. They do not seem to comprehend the subject; they do not know how much money it is necessary for us to expend before this vessel can be completed; they do not know how long a time will be required to complete it. Can anybody tell us how long a time will be required? Does the Secretary of the Navy tell us? Do commissioners who have examined it tell us? No one of them. Nobody tells us. I believe that the Senator from New Hampshire said that it might be completed in from sixty days to four months.

Mr. HALE. That is in the report.

Mr. GRIMES. It is in the report that Mr. Stevens says so. Mr. Stevens says it may be completed in from sixty days to four months; but it must be borne in mind that Mr. Stevens is an interested witness in this matter. There is $1,500,000 in this measure. For the money which the Government has already advanced we hold a mortgage upon the Hoboken property, or a portion of the Hoboken property of Mr. Stevens, and if the vessel is not completed according to contract we have the power to foreclose it; and according to Mr. Stevens's own showing, it will require $780,000 more to complete it, so that there is a million and a quarter or a million and a third of money in the project. He is therefore a tolerably interested witness. If we were examining this question in a court of law we, as lawyers, would all say that he would be exceedingly interested in his representations to us to induce us to make this appropriation.

Those gentlemen who are so anxious to have us make this appropriation to protect our harbors and to defend the vessels that we have and our fortifications against the attacks of the Merrimac, do not reflect that in the opinion of those who have had an opportunity to investigate the subject we can in a shorter time complete some of the other vessels which we have contracted to build, and which nautical men believe will be more efficient for coast defense than this will, and thus do away with any argument from that fact which might be derived in favor of this appropriation.

Now, Mr. President, who recommends this appropriation? Does the President of the United States? Does the Secretary of the Navy? Do the members of the commission that were authorized to examine this subject? No. Who does? Nobody but the man who I have shown has an interest to the amount of $1,250,000 in it, and those men who are acting under the inspiration which they have received from him; and there is where we get all our advice. Nobody outside of the Senate has asked that this appropriation should be made, except those who are directly interested in it, or who are supposed to have been influenced by those who are interested in it; at any rate nobody in whom we are justified in placing confidence has recommended it.

And then, Mr. President, what is it to be when completed? Nobody can tell us. Either the Senator from New Jersey, who just took his seat, [Mr. TEN EYCK,] does not understand the model, or I do not. According to the model as Mr. Stevens exhibited it here in July, and as it was represented and as shown to the board of commissioners that were appointed under the act of Congress, one man only was exposed upon the deck, and he was placed there for the purpose of sighting the gun, and there was connected with each one of the guns a little turret, in the side of which was a small aperture, through which just exactly the muzzle of a gun might be presented, and through which it was loaded. The man exposed at each gun put on the cap and sighted the gun. The turret in which the loading was done was ten or fifteen feet from the gun and at right angles with its breech. The Senator from New Jersey says that if the muzzle could be turned around to the turret, surely the breech might be turned around to it when it was swung around. That is true; but if it was swung around in that way and discharged it would be discharged against the other four turrets, which were almost in a line with it, and it thus would have proved its own destruction.

Mr. President, the Congress of the United States have had some experience in this kind of experiments. No one experiment of this kind that has ever been adopted in connection with the Navy has been successful. They have all been failures. Some years ago, it was said that the men of the profession, the naval constructors, had not genius enough; that we ought to go outside of the naval

constructors in order to have some of our vessels built, and Congress appropriated money, and George Steers was authorized to draw the plan of a large ship, the Niagara. She cost us upwards of a million of dollars, nearly three times as much as the Merrimac, the Wabash, or the Minnesota, which carry forty nine-inch guns, and with that expense she only carries eleven guns, and for all purposes of war is a perfect failure.

Then, in Mr. Buchanan's time, Mr. Buchanan desired to allow a gentleman by the name of Griffith, I believe, to construct a vessel called the Pawnee. She was to have a certain amount of speed with a peculiar sort of engine, and she turned out to be a failure. The gallant Captain Rowan, who has distinguished himself so much in the waters of North Carolina, and who was on her upon the trial trip, told me that when the contractors were on board and tried to bring her up to the neighborhood of the speed which they had contracted to give her, it was impossible for a man to stand on deck without holding on.

Your next experiment was on the Pensacola. The result is that you have got a vessel with an engine that has cost you a fabulous sum, more than the engines of any two vessels of the same class in the Navy. She is perfectly disabled; the vessel is entirely useless; you cannot get her home by steam power from where she now is. You have virtually thrown away in that vessel between four and five hundred thousand dollars. And now, without the recommendation of any naval officer, and against the recommendation of every naval officer who has been brought in contact with this vessel or that has ever examined it, you propose to try another experiment, and vote three quarters of a million of dollars out of the public Treasury.

Mr. McDOUGALL. Mr. President, I did not propose to embark in this discussion; but some remarks have been made and some suggestions have been thrown out which induce me to say a very few words. In the first place I should like to ask the Senator from Iowa, who speaks *ex cathedra* with regard to all matters belonging to the Navy, what he means by saying that Senators are under duress in their support of this proposition.

Mr. GRIMES. I thought I explained that yesterday. I said that there was a tremendous pressure made through all the commercial newspaper circles in favor of iron-clad vessels, that we have been requested by the common councils of cities, by the boards of trade, by——

Mr. McDOUGALL. I think I understand the Senator. He means to say that public opinion demands this kind of improvements.

Mr. GRIMES. Not exactly.

Mr. McDOUGALL. I wish the Senator to understand this for me: I approved of this measure last summer in my place and approve of it now; but instead of being sought after and being applied to on the subject, I have sought information and been laboriously engaged in considering the subject. So far as I am concerned, the duress that has been employed has not been on me but by me. I do not know, I have not heard that any gentleman of the Senate or of the House of Representatives has been approached on this subject except as the opinion of the country may have approached him and may have controlled his course.

When this question came up during the extra session in July last, I took occasion to examine the model presented by Mr. Stevens. I do not profess, like the gentleman from Iowa, to be a master of naval architecture, nor like him to be a master of artificial forces; nor to understand, as he does, how artificial force can be applied to machinery; nor do I understand like him all the laws of projectiles or all the laws of resistance. He is master of these things, and instructs us about them. I thought the gentleman had pursued other avocations, for each one of these specialties is sufficient for any man of science. I must be permitted to say (though the gentleman is not at present in his place) that this is dogmatism. I do not know that the gentleman from Iowa knows more about naval architecture than the Senator from California; nor do I understand that he knows anything more about the law of forces than the professor at the Smithsonian Institution, nor that he is a master of the laws and relations of machinery, nor that he understands the resistance and power of propulsion that may be attained by forces. About all these things I admit I am ignorant, and I think it would be well for us if we would all admit a certain amount of ignorance, and understand that there are a great many things we have yet to learn. We have learned something from the experiment of the Monitor.

In a large field of science, at an early day, Robert L. Stevens advanced a proposition, realizing, or undertaking to realize, an idea that lies as a myth in Swedenborg—for I dare quote him even in this Hall—of the age of iron and the uses of iron in all its appliances—that iron for purposes of offense and defense, for the purposes of navigation on sea and for purposes of communication on land, was to be the great agent, and he tried to realize it in a proposition which he made to the Government. Into that proposition at that day was brought all the intelligence there was in that department of science, for in it he had no master. He suggested to this Government, in order that his own Government might be in advance of other nations, this plan of armed vessels for offense and defense. I take it, it was not for any hope of gain to himself, because at that time he was above seeking for the chances of profit, but for the honor and dignity and strength of his country. He suggested the idea; he submitted it to the Government; it received their consideration. His project, small in its beginning, for he did not then dare to affirm anything, grew with consideration.

The Senator from Maine objects to changes of contract and to delay as to time. There was then no war upon us; nothing demanded the immediate production of this vessel of war; and therefore it was delayed through a course of years, accepting and adopting all the improvements in science. For instance, when it was found that projectiles were invented and that guns were in use which would overcome the amount of resistance calculated upon in 1842, it was necessary to make new calculations. When it was proposed to make a vessel that would go outside of the harbor of New York and have great speed, it was increased from six or eight hundred horse-power to eight thousand horse-power, not by the projector alone, but by and with the advice and consent of the Government. Confidence grew with the production, and that confidence continued along through a series of years. The idea of this vessel, I have said, embraced all the science of the time of its projection; and into it has since been brought all the science that has accumulated to demonstration, if you please, by practical experiments. It is my judgment, though I may be in error, that this same work now under discussion will be found to embrace everything in this line that France and England and the United States have produced, Ericsson included. Ericsson's boat has only one novel feature, I believe, and that is the revolving tower. This has the advantage of being a revolving ship.

I will not, like the Senator from Iowa, undertake to speak of these things as a man of science. I know that this battery has been designed and constructed thus far by men who have done more towards putting our steam fleets afloat upon the high seas than any equal number of men in our country—men who have done more for this country in that respect than any man has done for England or for any foreign nation. I know they have employed their genius on this vessel; that they are men of great science and great thought; that their changes have come up to the standard of the age. I think that this is worthy of our consideration. I have strong faith; I have not an exact opinion, because I am not, like the Senator from Iowa, an exact judge of such matters; but I have strong faith that this battery, afloat, will be one of the great demonstrations of the age, and that Stevens, when it shall be realized in all its force, may write his name Archimedes.

Sir, we are too much in the habit of trifling about these matters; we are too much in the habit of accepting authority. The authority quoted to us by the Senator from Iowa is a report of a commission. On that let me submit an observation, with no disrespect to the Navy, no disrespect to the Army, but an observation which is founded, I think, in truth. Suppose I have an improvement in naval architecture. I go to prominent officers of the service; I submit it to them; it is approved; they say it is an admirable invention, an excellent thing, a great aid to the service. I go round and consult with them, and they all respond in the same way. I then go to the Navy Department, and I get a reference of the question to a commission of naval officers. Then those gentlemen who before so positively affirmed that the whole matter was right, will say, "this particular thing is right and that is right, but this is doubtful, and as to that we cannot say;" and therefore they say "no," upon the principle of conduct that governed a gentleman known to most Senators here, who once represented Tennessee in the other House of Congress, who always voted "no," because he thought it was safe. Army and Navy boards always refuse an assent to an improvement unless they have actual practical demonstration of the thing. Therein I say Professor Henry was an exception. The gentleman from Iowa inquires why Professor Henry was placed upon this board. He might have asked why was not he himself placed there, because he seems to know all about these matters. What did that examination involve? It involved an exact knowledge of the laws of resistance and force. Will any man tell me that there is an officer in the Navy, unless he is an exception to the general rule, who understands the laws of resistance and force as well as a man who has pursued that department of science all his life, as that professor has done? He is a man skilled in natural science and in mathematics, with him the laws of force have been a specialty. The Senator from Iowa questions his right to pronounce upon the very point in issue. I am not here to defend Professor Henry. I will say, however, that he is not particularly "a gentleman from New Jersey," for he taught me a part of the humanities somewhere in the State of New York when I was a boy, and perhaps he might be called a New York man; but in my estimation, all such great men belong to the world; not only to our own country but to civilization. I regard him as a man who has reflected great honor on our country, more than has been reflected by men holding and occupying and maintaining the most dignified positions even upon this floor.

Now, sir, I object to the authority of reports that affirm nothing. This is a negative report against the Stevens battery. I may state here to the Senate that after I had examined this model last summer I examined the plan of every iron-clad vessel that was proposed. I went to Brooklyn and examined the iron-clad vessel there; I went to the Monitor and examined that; I went West and examined the gunboats which were being there constructed. I have shown earnest disposition to inquire into this question. I have not the skill to be master of the subject; but I do believe that if there is any experiment that this Government should try, this is the very one. I do not care what may have been the past history of this contract, whether it is stated justly and fairly by the Senator from Maine. That is not material. It has employed the best intellects of the country in this department of science. This is a time when such things are to be produced. In my opinion this will come nearer than anything else to uniting all the improvements of a like kind of which we have any knowledge. I believe it will embrace everything that is valuable in the English, French, and American demonstrations. Each Government has had its engineers; Ericsson has been carrying out his own views. I think that nearly everything, and substantially everything of value, in those experiments will be embraced in this. I may be wrong; it may be an entire failure; but it is certainly permissible for us, ignorant as we are, uninformed as we must admit ourselves to be, to recognize eminent science employed on a specialty, and employed on it for twenty years under a contract with the Government, and then changing that contract in the course of years to adapt it to new improvements, at the suggestion perhaps of the projector, but with the acquiescence of the Government, for the purpose of making it a perfect thing. My impression is, my belief is, that when this vessel shall be launched and afloat upon the sea it will be the most formidable armament in the world, and with that conviction I shall vote for the proposition.

Mr. HARRIS. Mr. President, I am in favor of making the necessary appropriation to complete this battery. It may prove a failure; it may be a success; but whether it shall be the one or the other, in my judgment it ought to be completed. We have just finished the Monitor. It has proved a greater success than most people would have anticipated. It was only the most hopeful and

sanguine that expected such results from it. We are constructing the Mystic, another iron-clad steamer. It is an experiment. It may succeed; it may not succeed; but it is best to finish it and see. We are constructing a still larger vessel of the same character—the Ironsides, I think I have heard it called. It is an experiment. I hope it will succeed; I have my apprehensions about it; but it is best to finish it. So in respect to this battery; it is an experiment; let us finish it and see what it will come to. At least we shall get this lesson from it: if it does not succeed, we shall learn why it does not succeed; its defects, its imperfections will be developed, and thereby we may profit much in the construction of other similar structures.

The conflict the other day in the waters of Hampton Roads between the Merrimac and the Monitor has initiated a new era in naval warfare and harbor defense. Every maritime nation has now to enter upon a series of experiments of this kind, and it has been well said, we are to start on equal terms with other nations, and that nation which shall be most successful in making these experiments will have the greatest advantage.

Now, sir, in view of all this I am disposed, without being able to form an opinion whether this thing will succeed or not, I think it wise, to try this experiment. The public opinion clearly demands it; a wise reference to what is before us demands it; a wise forecast in my judgment demands that this and every other promising experiment in this direction should be tried. I think it is well worth the money it will cost. In my judgment it promises as well as any other experiment that we are about trying. It is the contrivance of one of the greatest geniuses in mechanics that our country has ever produced—a genius whose inventions have hitherto always, so far as I have learned, proved successful. If I understand aright, his mind was the first to suggest this kind of warfare; and therefore, relying as I do very much upon the character of the inventor, upon what he has accomplished in other inventions, I hope this experiment will be tried, and if it fails we shall have at least the benefit of the points in which it proves defective, and thus we shall be enabled to profit even by the failure, and thus perhaps realize the full value of the expenditure that we make upon it.

Mr. FESSENDEN. I wish to ask the honorable Senator from New York what evidence he has that public opinion demands that we should try this experiment? He so stated.

Mr. HARRIS. Well, sir, I will answer the Senator from Maine as well as I can. I have a way of my own of ascertaining what public opinion is. It is by conversing with intelligent gentlemen, by reading the newspapers, and learning as well as I can what is operating and working in the public mind; and so far as I have been able to gather what is going on in the minds of the public, I have come to the conclusion that the public opinion demands that this experiment should be made.

Mr. FESSENDEN. Well, Mr. President, I have no disposition to quarrel with the Senator for forming his own opinion in his own way, but I confess that I have failed to see that public opinion demanded anything of the kind. I believe the Senator lives in the neighborhood of the exhibition of the model—indeed, lives where it has been on exhibition for some weeks.

Mr. HARRIS. I never saw it.

Mr. FESSENDEN. The Senator lives in the same house, I believe.

Mr. HARRIS. I never saw it.

Mr. FESSENDEN. It is very likely he has fallen in with a good many intelligent gentlemen who have the idea that this experiment ought to be tried. Sir, I never knew a scheme before Congress for getting money out of the Treasury, provided the sum was large enough, that did not find very many intelligent gentlemen all around through this city who were exceedingly fixed in their opinion upon the subject.

Mr. HARRIS. Will the Senator from Maine allow me to say in that connection for his benefit, that I never saw the model, I never conversed with Mr. Stevens in relation to the merits of this battery, nor, so far as I know, with any one who had any personal or private interest in advancing this measure?

Mr. FESSENDEN. So far as the Senator knows, I presume he has not; but we converse with a great many intelligent gentlemen that we do not know to be interested in these schemes until we find it out afterwards; and, so far as the newspapers are concerned, I never knew a scheme of this kind before Congress, or of any kind which involved the expenditure of a large sum of money, that did not command the support, and I dare say the very honest support, of a good deal of the public press. They have their opinions, and have a right to express them. The same thing has been shown ever since I have been here on all questions involving the expenditure of money, provided the sum was large enough to make it a matter interesting to the public, because in those cases the public attention is necessarily turned to the consideration of the subject; and I suppose that is the explanation of it.

Now, sir, I have all respect for public opinion. I am perfectly aware that it will not do for a man in this country who occupies a public position not to have a respect for it, or profess to have at any rate. But upon matters of this kind before Congress upon which I am to act, involving the public Treasury to a large extent, I take it that I am bound to act on my own opinion, and I am bound to see that that opinion is an intelligent one, at any rate that I understand it myself, and not be influenced by the outside pressure. Sir, I have been here long enough to know how bills are carried through Congress very much by outside pressure of all kinds and descriptions, and in a very great degree, in my judgment, often irrespective of the merits of the thing itself. I have experienced it; and there is no man who has been member of Congress for any length of time who has not felt it. Hence, in my judgment, it becomes the more necessary that we should ourselves understand these questions, and act upon our own understanding of them, without reference to what may be said to us outside, and to the neglect of the opinion that the Senator from New York has reference to.

But enough of that, sir. I rose more to reply to a suggestion of the Senator from California. He makes this matter of more importance than I was aware of, for he says that it comprehends substantially all the results of science upon this question, from the beginning of the world up to the present day; that it has been continually changing, because it has been adopting all the improvements of science. Well, sir, that may be a very good idea, but let us look at the effect of it. We want a vessel to be in operation in the course of three or four months; the sooner the better. We began with this vessel twenty years ago, and it was to be done in two years. As I stated yesterday, at the end of two years nothing had been done. It is said we were not at war then, and therefore there was no immediate haste. Sir, was there not some reason that the contract should, at any rate, be attempted to be performed? It seems the men of that day thought that if we were to have an experiment for which we were to pay $500,000, there should be some time fixed within which the experiment should result in something; but it went on from two years to two years, and from two years to four years, and on and on, ever going on, and we see no end to the experiment at the end of twenty years; and it seems, from the appearance of things, that we are nearly as far off as ever. What is the answer to be made to all this? Why, it is said this comprehends the results of science from year to year. Is all science to stop at the end of four months from the present time? Is there to be nothing else to be comprehended? Mr. Stevens, this genius that the Senator from California speaks about, began and kept on changing his plans, not, let me here say to the Senator from California, with the assent of the Government or the Navy Department, but upon his own judgment. He retained the power in his contract, not to vary the time in which he was to perform the contract, but to vary the plan, so that he did not lessen the size of the vessel to be built. He went on adopting the results of science, it seems, of the French and English, and all others in the world, as well as his own; and at the end of twenty years he is at a point, not where science ends, because even now he comes in and tells us that he has got some improvements to adopt in the course of the next four months. We put $500,000 into his hands to incorporate the results of science into one vessel twenty years ago; and now we propose to give him seven or eight hundred thousand dollars more to complete the thing, and give us the results of all other science that may have accumulated since. When are we to see the end of it? Does anybody believe he can spend this money in four months, and give us this vessel? The result, in my judgment, will be precisely the same; nothing will be done except the pledge given in the appropriation to spend the money; and we shall see the vessel, not while the war is going on, but after it is ended; unless we have the argument after the war is ended that "it is now a time of peace, and there is no particular hurry."

The result is simply this: we propose nothing more or less than to appropriate nearly eight hundred thousand dollars in the first place to pay Mr. Stevens what he expended upon his own motion, without consulting anybody, and without anybody's assent; in the next place to finish the vessel as he says according to the present scheme, and one upon which he professes that up to this day, this moment, he has got no plan that he may not change, to meet I suppose the changes of scientific discovery.

The Senator from New York talked about the Monitor, and said that was an experiment; but that was to be finished, when? In four months from the time it was commenced, at the risk of the contractor; and it was done within a few days, some twenty days after that time, and it proved to be a success. Should we have tried that experiment if two years were to be given, or if we supposed that twenty years were to elapse and that changes were to be made from day to day to accommodate themselves to the ideas that might be suggested to the builders? Not at all. Has it been so with the Mystic? Has it been so with the other vessels? Senators undertake to talk about our holding back and our unwillingness to appropriate money. Sir, for the purpose of building these iron boats, we have appropriated already $11,500,000, and the Committee on Naval Affairs will propose on this bill, an appropriation, as I understand, in addition to that, of I do not know how much; the Senator from Iowa can tell me.

Mr. GRIMES. Fifteen millions.

Mr. FESSENDEN. Fifteen millions in addition at the call of the Department to build iron-clad vessels. That will be $26,000,000. Besides all this money which is to be appropriated and which can build an iron navy, superior, if the money is decently spent, to that which the British and French both have at the present time, taken together, we are to spend $750,000 more on an experiment which up to this time has been a failure, and for which there is no argument except that it gives a chance of making something that will comprehend all the improvements of science from the beginning. Well, now, sir, if this is not a wild scheme, and if there is not a mere taking advantage of the panic in the public mind at the present time to force it upon Congress, I cannot comprehend what it is. But sir, I do not feel disposed to argue it further.

Mr. DIXON. Mr. President, the Senator from Iowa has introduced to the Senate a letter from Commodore Breese, in which, although he had not before exhibited it to me, I find some reference to myself. I do not find, however, anything in that letter which needs a particular reply at this time. Commodore Breese states that he did not complete the contract to which he refers. I said so, also. He did his part in completing the contract, as I understand. The contract required the additional signature of Mr. Morgan. Mr. Morgan declined to give his signature. The purchase, therefore, was not made at the price specified in the contract, which was to be signed by Mr. Morgan before it should become binding. Mr. Morgan afterwards purchased the same vessels at a deduction of about ninety thousand dollars. However, I did not intend in the slighest degree to reflect on the judgment, and certainly not on the integrity, of Commodore Breese. I merely wished to show that Mr. Morgan's services had been of some value.

But, sir, that is not the question before the Senate. I agree with the Senator from New York, [Mr. HARRIS,] that this is an experiment which ought to be tried; that this battery of Mr. Stevens should be completed. It is calculated that the Government has already expended nearly half a million of dollars on this experiment. It is now

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. SATURDAY, MARCH 29, 1862. NEW SERIES.....No. 90.

unfinished. It can be completed by an expenditure not much greater than has already been made.

The course of the argument on this subject has seemed to me, I must confess, somewhat peculiar. The Senators from Maine and from Iowa have opposed this appropriation with an energy and with an ability which certainly shows that they are in earnest in their opposition.

The Senator from Maine commenced by giving us a history of the early transactions relative to this vessel. He says it has been under contemplation for a period of nearly, if not quite, twenty years. That is true. It is true that Robert L. Stevens twenty years ago conceived the idea of iron-clad vessels, an idea which other nations proceeded to put into execution, though we did not. The Senator says that Mr. Stevens did not complete his contract with the Government. Did the Government urge him to make that completion? Did they desire him to go on? Did they make payments to him? It appears that he did not receive a dollar until 1845, and then only a small sum. We all know that during these twenty years the country was in the stagnation of peace. We had no idea that we should need this kind of defense. Mr. Stevens was therefore not called upon to complete the work. He undoubtedly was ready. It is certainly to be very much regretted that he was not urged by the Government to complete it, and furnished with the means of so doing. Suppose he had done so, suppose he had gone on with his idea, that he had convinced this Government that iron-clad vessels could accomplish what we have lately seen they can accomplish, and suppose we had had at the breaking out of this rebellion twenty or thirty of that kind of vessels which Mr. Stevens suggested. Instead of having now been driven to the expenditure of four or five hundred millions of dollars to put down this rebellion, we could, with twenty of these iron-clad vessels, have taken every port in the rebellious States, and we should scarcely have needed an army. These vessels could have done the work themselves. Twenty vessels like that proposed by Mr. Stevens twenty years ago, if we had had the wisdom and foresight to go forward and complete them, could have done the work of suppressing this rebellion without raising a single regiment of armed men. It is certainly unfortunate that we did not proceed in that manner; but I cannot see that there is anything criminal in the conduct of Mr. Stevens in regard to it. The Senator from Maine has held him up here before the Senate for opprobrium. He has denounced him as being almost criminal for having proposed changes in his model, for having discovered improvements, for having enlarged and modified his plans. Indeed, sir, he has actually accused him of impertinence—that was his word—in coming here at this time and proposing that the Government should now, at this critical period, under our present circumstances, proceed to finish this vessel. I see no impertinence in Mr. Edwin A. Stevens coming here if he chooses. I believe he is in the city of Washington. I take it he has a right to come to the city of Washington. I dare say he has called the attention of the committee to this proposition. I stand not here defending him; I know him very slightly; but I must confess that I see no impertinence in his appearing here to propose to the Government of the United States to complete the great work on which he has voluntarily expended of his own means $250,000, and for which the Government is in arrears to him already for their portion of the contract more than eighty thousand dollars. To make such advances of money is not the usual proceeding of men who are attempting to obtain money from the Government on contracts for pretended improvements. On the contrary, Mr. Stevens exhibits here the spectacle of a man of immense fortune, and a man of genius, who has been willing to devote his genius and his fortune to the great public improvement which we now propose to finish. Such is the man who is denounced as impertinent for appearing here!

Again, the Senator says that this is a question of contract, a question between the Government and the contractor. Now, sir, with all deference to that Senator, it does not seem to me to be a question of contract at all. There is no claim made at this time, as I understand, upon a contract. The question is this: does the Government of the United States at this time need the vessel, and is there a probability that if we proceed to finish it, it will prove successful in what we desire to accomplish? That is the question, and the only question with me. I know nothing of public opinion with regard to this matter; no human being has spoken to me on the subject; I have seen nothing in the papers; I do not think there has been any very great exhibition of public opinion, except so far as this, that we know the public mind is intent on the prosecution of this war by the most effectual and energetic means, at any expenditure which may be reasonable and necessary. That is the feeling which I believe the public have upon the subject.

Well, sir, what are the objections to this experiment? Objections have been stated, some of which are formidable, and have struck my mind very powerfully. One of them is, that the guns of this vessel will be exposed to the attack of an enemy. That is an objection which requires an answer, and I think it can have an answer. I think the Senator from New Jersey has given it a sufficient answer. Consider for a single moment the enormous size of the guns, their monstrous weight—sixty thousand pounds, I think, the Senator stated. Everybody knows that guns of that size and construction will receive a shot of very great power and force without injury. As the sides of the vessel can receive the shot; as the sides of the Merrimac and the sides of the Monitor, and the turret of the Monitor, received powerful shots without being affected in the slightest degree, so I have no doubt, though I am no more skilled on this subject than other Senators, that the enormous guns upon this battery will receive a shot without injury. But, sir, how much are they exposed? The guns of the Merrimac were exposed, and not only that, but they were struck, and not only so, but we are told that at least seventeen men, as has been ascertained, were killed in the Merrimac by the bursting of a shell which entered the port holes. A gun must have a port hole, and it is liable to be hit, and if it is hit it is liable to be dismounted. That is a portion which needs protection, but which in battle, as a general rule, cannot have protection. This vessel is not unprotected in the parts which do not touch the gun. In that portion of the gun which is left unprotected by reason of the port hole, there is, undoubtedly, a liability to its being hit, and, possibly, dismounted, although I do not believe that any force is likely to be brought against these guns which would dismount them. We should recollect, however, that this vessel has the peculiarity of great speed; it can choose its own position; it is not compelled to receive a shot in any manner which an antagonist may happen to desire. It may take its own position, and undoubtedly may take a position where it can command an adversary, and not itself be subject to attack, so that I am satisfied that this objection that these guns will be liable to be struck by balls from an adversary's cannon is not a sufficient objection, especially when we consider that further provision for the protection of the guns is to be made.

I think we may have a little confidence in Mr. Stevens's judgment on this subject; but I for one am perfectly willing that a provision shall be made that no money shall be paid until the vessel is finished, and we shall have an opportunity to judge whether it is successful or not.

Again, it is said that this battery is an experiment. Of course it is an experiment. It is brought forward as such. The Monitor was an experiment. The Merrimac was an experiment; and with regard to that experiment, I happen to know one very peculiar and significant fact. On the day when the battle was raging between the Merrimac and the Congress and the Cumberland, before the Monitor had reached the scene of action, one of the most distinguished of our naval officers was in conversation with a gentleman in this city, and was proving to him by mathematical demonstration that the Merrimac was a failure, that it never could come out of the harbor where it then lay; that it could produce no effect whatever; that it was, as he said, a monstrous humbug. At that very time, when that distinguished naval officer was declaring that opinion, the Merrimac was marking a new era, an epoch in all naval warfare, revolutionizing the whole naval history of the world.

It is true, sir, this is an experiment. That too was an experiment, and one that came very near being fatal, I may almost say to this Government. If it had not been for the providential appearance of the Monitor at that critical period on the next day, what might have been the result we cannot say. We all remember how the bravest among us "held our breath for a time" when we heard the news that the Merrimac was engaged in its terrible work of destruction. We know how we felt then. Suppose we could have had a few invulnerable steamers at that time; suppose we could have had Stevens's battery at Norfolk then; a single iron-clad vessel—how should we have been relieved in that day of anxiety and uncertainty! How did we then long for a few iron-clad gunboats!

"Of the three hundred, grant but three
To make a new Thermopylæ."

The whole country would have rejoiced, and would have breathed freer. Viewed in this light, when we see what has already been expended; when we see what may, by a comparatively small additional expenditure, be done; when we see not only that this is an experiment, but that we are now in an age of experiment, and that we must try a variety of experiments, in order, within a very short period, to ascertain what is the best mode of arming vessels with iron, we ought to proceed and finish this vessel, at the earliest possible moment.

But, sir, it is further said, by way of objection, that in the firing of the guns of this battery, a single man is exposed to danger. I do not know how you can carry on naval warfare without some danger to men. I wish it might come to that point that war could be carried on without danger, although I do not know exactly what effect that would have upon warfare. There is certainly no such thing now as carrying on naval warfare without danger. The men in the Merrimac were exposed to danger. Even in that iron-clad Monitor, the gallant commander himself came very near losing his life, and I fear it may turn out even yet that he has lost, to some extent, his sight. Invulnerable as was the Monitor, more than one man of her force was struck down by a blow which might have proved fatal.

It is probably true that in the manning and firing of the guns in the Stevens battery a single man may be exposed to danger. I am astonished that not more than one man is thus exposed. You cannot escape that entirely. There will be some danger; there must of course be. Nobody pretends to avoid it entirely. The question is this: is this vessel so armed, so equipped that there is a probability that she will be successful? I have seen the models; they have been exhibited here; and to me they do seem, I must say, not only ingenious in the highest degree, but formidable to an extent which is surprising. I do not see how such a vessel as this can be resisted effectually. Possibly a shell might be thrown in such a way as to fall in the orifice, the aperture above; but so a shell might be thrown in such a manner as to fall into the smoke-pipe of the Merrimac or the Monitor. That is a chance which would not probably be one in ten thousand. There is a bare possibility, and only that.

I therefore, without being conversant particularly with this subject, and without being perfectly sure that this will be a success, do feel a very great degree of confidence in it. I think, at all events, having expended what we have, we ought to go on and finish it. I believe the exigencies of the country require it, and that we shall not be justified if we do not complete it. I have

felt myself very great regret, and I may say almost guilty, for my part of the neglect to finish this battery at the last session of Congress. We might then have appropriated a sufficient sum for its completion, so that it now might be ready for action. I, for one, did not then know the importance of the subject. Other Senators, I presume, did not know much more than I did. It is no reflection on them to say that what the whole country were ignorant of they also were ignorant of. The importance of this species of vessel was not then known, at least on this side of the Atlantic, although on the other very great advances and improvements had been made in this species of naval architecture.

The sum to be expended, I am aware, is a large sum at this particular crisis. It is nearly a million of dollars; but believing, as I do, that it is a wise expenditure, that it ought to be made, that this battery ought to be finished, that the experiment ought to be tried, that good economy even requires that we should not lose what has already been advanced, but that we should go on and finish the work, I shall vote for the amendment which is pending for the completion of this battery.

Mr. COLLAMER. I had hoped, Mr. President, that we should reach a vote on this question earlier in the day than this; but it seems gentlemen have thought proper to discuss it till this hour. That is all right enough, and I find no fault with it. I know but little about this Stevens battery more than what has fallen to the ordinary lot of men who have had anything to do with public affairs; but I know the proceedings of this body in relation to it within this very Congress.

Every day that I live adds to the conclusion which I long since formed that all attempts in Congress by legislation to direct the Executive Departments of the Government in the detail and order of their business are always productive of evil. Whenever Congress undertakes to interfere with the management of the war, the mere direction of it, the engineering of it, not providing the supplies, the result is evil. So it is with any Department. Whenever Congress undertakes to say how the Post Office Department shall make their contracts, how they shall enforce the fines they impose, how their special agents shall conduct themselves, or to direct anything of that kind in relation to the executive management of the Department, it always produces evil. Congress should be content with doing its legitimate business of legislation, and leave the Executive Departments to the proper performance of their functions.

At the last session of this Congress—I mean the called session in July—an act was passed which covered the case of this very battery. I voted for it partly with a view to that, as much was said about it. In the act making an appropriation for the construction of armored ships or floating batteries, we provided:

"That the Secretary of the Navy be, and he is hereby authorized and directed to appoint a board of three skillful naval officers to investigate the plans and specifications that may be submitted for the construction or completing of iron or steel clad steamships or steam floating batteries, and on their report, should it be favorable, the Secretary of the Navy will cause one or more armored or iron or steel-clad steamships or floating steam batteries to be built; and there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $1,500,000."

The words "or completing" were put in that law in view of this very ship, that it might be completed if it should be found proper on suitable examination. But not content with that, before the session ended a joint resolution was passed specifying this particular ship in these terms:

"That the Secretary of the Navy be authorized to appoint a board of examiners to examine the iron steam battery now building at Hoboken, New Jersey, and ascertain what will be the cost of completing the same, how soon it can be completed, and the expediency thereof, and report thereon for the next meeting of Congress."

Here were two acts passed that covered in fact this very measure, and passed by us at this Congress. What has been the result? Commissioners have been appointed, and they have made their report, and made an unfavorable report, and, therefore, nothing has been done in the way of expending money for this purpose.

Now, sir, in relation to the subject of iron-clad steamers, the recent event which has transpired at Hampton Roads has, in a great measure, waked up the public mind to the greater importance of that species of defense. I participate in that feeling; but I have no desire on that account to take an unusual course. I am willing to vote all the money that the proper Executive Department says it can use to advantage in the building of iron-clad steam batteries or steamers of any form; but in voting that money I desire to leave the plans and the execution of the plans to the Executive. That is the proper place in which to leave it, and the only safe place to leave it. Why is it that we should have taken this course, in this Congress, of passing the laws to which I have referred, covering the case of this very vessel, and that now we do not leave it to the discretion of the Executive at all? We, in the first place, passed a law which would leave it to the Executive entirely. Then we passed a resolution to raise a commission to inquire into this vessel specially; and then we have an unfavorable report from that commission; and thus we see that the Executive will not complete the vessel; and now we propose to make it an exception from our legislation generally, and to say that we will take it out of the hands of the Executive, and that it shall be built whether it be reported against or not. I am not prepared to do such a thing. It seems to me to be an unusual and extraordinary course of legislation, such a one as I think would be a bad precedent, dangerous to us, and dangerous in all our legislation. We shall have hereafter every man's plan urged by him and his friends, and instead of leaving it to the proper Departments, who can call into their service all the intelligence that is wanted on such subjects, we undertake in this Hall to settle down upon particular plans that should be adopted. I am unprepared to do it.

I will add another word. I do not believe in getting securities against the action of the Merrimac by this or any other vessel we can now build. It is too late for that. We cannot do it in season. We are told that iron vessels are being built at Mobile, and that the Merrimac is preparing to come out again, and perhaps is already prepared. If we have not already a security against them, we cannot get it by any iron-clad vessels we may now construct—this or any other. The only security we have, and I hope and think it will be sufficient, is to go and take Norfolk, ship and all, and go and take Mobile, by our army. That seems to me to be the only resource left to us.

I cannot but say in this connection that the surrender of Norfolk last year was perfectly disgraceful to this nation, and every hour our enemies have held it has been equally so. So bad, indeed, is it, that the very committee we appointed to examine into it, unwilling to expose to the world the history of that transaction to our disgrace, have never brought forward to this day their report, and I believe they never will, and I do not know that they ever ought.

Mr. HALE. Allow me to say a word about that right here. That committee have not been idle. They have been taking evidence during the present session of Congress unrelieved, and they will be ready to report, I think, in less than a week.

Mr. COLLAMER. I am astonished that the gentleman should make the least objection to the remark I made.

Mr. HALE. I make not the slightest objection.

Mr. COLLAMER. I made the most honorable suggestion I could possibly find, and that was that you had reserved yourselves on that point for the honor of the nation, and I rather wish you always should; I hope it never will be exposed. Our only security is that Norfolk should be taken, and taken immediately.

Mr. HOWE. I have listened to this debate as far as I could, but have not heard the whole of it. Still, from what I have heard, it has struck me as about the most extraordinary one I ever listened to. It really seems as if we had suddenly grown in love with mere experiment; that the only recommendation to be urged in support of this appropriation was, that it was for an experiment about which nobody knew anything. If a distinguished shipbuilder who had never betrayed the Government or any employer, if the Secretary of the Navy, if the Naval Committee of the Senate, if anybody in a time like this who had a character to put at stake to mortgage on the success of what he proposed to us, were to come before the Senate and to ask for an appropriation of $750,000, and should promise upon that character that he would produce something of great value to the country, I should think it worth while to entertain it; and if the proposer really had some character to put up on the project, I would not hesitate a great while about appropriating $750,000 to make the experiment. I know that, hard up as we are, loud as is the call upon the public resources, the nation can stand $750,000 more, and not stagger much; the nation can stand it, if we can.

But, sir, that is not this case. This is very different from that. If this were the first appearance of Mr. Stevens before the national legislature, if he came here to-day for the first time, or if any other gentleman came, if Mr. Ericsson came, or if Mr. Donald McKay, having built some vessels, never having betrayed the Government, never having trifled with the public credulity, were to come for the first time and say, "I propose to do what I never have done, what nobody has ever done; I propose to build a new kind of vessel such as the world has never seen, and better than the world has ever seen, and I want you to appropriate out of the national Treasury three quarters of a million of dollars to enable me to do it, and I will do it," I do not risk much in saying that there is not a Senator on this floor who would entertain the proposition fifteen minutes. If it came from Mr. Ericsson, if it came from the most distinguished shipbuilder you have in the country, there is not a man who would entertain it fifteen minutes. But that is not this case. Here comes a man before the Senate, not for the first time, nor for the second, nor for the third—I trust I may say for the last time. If it is not his first appearance, I hope it is his last. He proposes to build, to be sure, what the world has never seen, a new style of war vessel. He says it shall combine all the excellences that all shipbuilders have ever produced, and that all speculators on shipbuilding have ever dreamed of. He promises sufficient. Unfortunately he has been here a great many times; you have been tampering with this experiment, or something kindred to it, bearing some relation to it, for the last twenty years. The promises of this proposer have been repeatedly made and repeatedly violated. This is not his first one. What right have we to expect any better results from this proposal urged upon us to-day, than we have had from the proposals which he has presented before?

But this is not all. We are not called upon to distrust and to discredit this proposition simply because the proposer himself has discredited other and former propositions. That is not the only reason we have for distrusting it. He came before us last summer. We said we did not understand these things, and we did not propose to appropriate money upon our own responsibility and upon our knowledge of shipbuilding, and therefore we appointed a commission of scientific men, supposed to be capable and competent men, to look into this matter and advise us upon it. The Secretary of the Navy does not ask for this appropriation, The Naval Committee hardly ask for it. I believe this proposition does come *pro forma* from the Naval Committee, but they do not undertake to stand responsible for it; they do not tell you it will succeed; they do not indorse it. You have not the character of the Naval Committee mortgaged here. On the contrary, the chairman of that committee, as I understand him, tells you distinctly that he does not know anything about it, that it is only an experiment; and the only member of that committee who undertakes to speak with any degree of confidence, speaks very confidently against it. So far as I have listened to the debate, nobody indorses it; and your commission which you appointed for the express purpose of advising the legislation, advise you against it; and now we have debated for nearly two days the question, whether upon the simple proposition of the builder himself, discredited as his propositions have been by his own acts heretofore, we shall overrule the Navy Department, the Naval Committee, and our own commission, and appropriate three quarters of a million of dollars upon the simple invitation of this builder himself.

It is more than that that we are asked to do. We are not only asked to appropriate the sum of money which he tells us is required to put upon the waters this boat, but we are called upon to appropriate, and we are discussing the propriety of appropriating, something like a quarter of a mil-

lion of dollars to refund to this builder an expenditure which he says he has already incurred. Has it been the habit of the legislature to settle bills in that loose way heretofore? I understand that there has been no examination as to the validity of that claim. If a man came before you and presented a claim of $150, or ninety dollars, or ninety cents, upon an allegation of services rendered to the country in any way whatever, you would refer it to a committee of this body, you would have it examined into, and you would have a report upon it before you ordered it to be paid. I understand that here is a proposition to appropriate $250,000 to a claimant who simply says that he has expended that amount of money, and, in addition to that, to give him another sum which he says is necessary to finish this boat.

Now, sir, it is possible that this boat will prove a success if completed. I concede that there is a possibility of it. The extraordinary thing is that Senators, every one of whom tell us they do not know anything about it; that they have no judgment on it; that they rely upon no knowledge of this kind of architecture; giving that account of themselves, which authorized me to suppose they would not invest $100 of their own money upon any judgment they have upon this matter, really talk about their readiness to vote $750,000 out of the pockets of the people upon a matter which they disclaim having any knowledge about or any fixed opinion about.

Now, let it be remembered, sir—and we must remember it—that money does not come this year, and will not next year, as it has come in years before. You got money in the public Treasury, and the people never knew how, and you paid it out, and the people never knew where, and never cared to ask. It is not going to be so hereafter. These $750,000, or whatever the sum is, which you propose to invest in this experiment to-day, you have got to send your collectors throughout the land, and draw directly on the pockets of the people for. Hereafter we are going to be questioned as to the expenditure we make of the public treasure. Hereafter our constituencies will want to know what we do with their money, and we have got to tell them; and what sort of an answer will you give them as to the disposition you have made of these $750,000? If it happens to succeed, you will have a good answer to make; but if it happens to fail, they will want to know why you appropriated the money. They will want to know if you know enough of naval architecture to warrant you in voting for this. "No, we did not know anything about it; we all said said so at the time." "Had you ever seen or heard of a boat of the kind?" "No; there had not been one built." "Who told you it would succeed? Did the Secretary of the Navy?" "No, he did not; he said nothing like it." "Did the Naval Committee?" "No; they told us, as far as they said anything about it, that it would not succeed." "Did any great mechanics, shipbuilders, or naval architects tell you it would succeed?" "No; we appointed a commission to examine the matter, and tell us whether it would or not, and they told us it would not succeed." It seems to me that this is a very unsatisfactory sort of explanation to be given to the people as to the disposition you have made of these $750,000.

Now, sir, $750,000, although it is a large sum, is a sum which individuals can command. It is said by the Senator from Connecticut that this builder himself is a man of immense fortune. He either has or he has not faith in this thing. He has examined it; he has slept upon it, I should suppose; he believes in it or he does not. If he does believe in it——

Mr. DIXON. The Senator will allow me to say that I did state that he was a man of fortune, and he has expended of that fortune a large sum —nearly three hundred thousand dollars—of his own money, showing his faith in the enterprise.

Mr. HOWE. I hope the Senator from Connecticut is not mistaken in his supposition that this builder has actually expended a quarter of a million of dollars.

Mr. DIXON. Nobody doubts it.

Mr. HOWE. I never have seen the evidence of it, and although I am not in the habit of disputing propositions which I am not prepared to urge in evidence against——

Mr. DIXON. The report states so.

Mr. HOWE. What report?

Mr. DIXON. The official report of the Secretary of the Navy.

Mr. FESSENDEN. It states it as Mr. Stevens's assertion.

Mr. HOWE. I have not examined that report. It is said that it is reported here on the statement of the claimant himself. I understand that there has been no examination of any such expenditure, and if the Secretary has made any such statement, he cannot have known anything about it; he cannot have examined the vouchers; he cannot have known the fact himself. Now, this is what I was about to say: if he is a man of this immense fortune, and backs it up by this immense faith, he can command the means of completing this boat.

Mr. TEN EYCK. For the purpose of giving the information, I will state that I think my colleague read this morning the report of a committee appointed by the Secretary of the Navy, who reported as a fact that Mr. Stevens had advanced that amount of money. It was read at the desk this morning.

Mr. HOWE. Those who are most familiar with the record dispute about it. I will not take any side in that debate. Let it stand as my friends from New Jersey and Connecticut state it; let it stand as reported here, that he has expended $250,000. It is an enormous argument why he should command the means to complete the boat. There is no manner of doubt that if he can produce a boat which will achieve what he prophesies of this, he can name his own figures. The Government is purchasing all such material and paying liberally. He can command his own price. But to ask of a body like this, which claims to know nothing about the subject of which it is talking, to appropriate this sum of money in favor of a project not commended by anybody but the originator himself, and condemned by everybody who has examined it, seems to me to be unwarrantable. Without undertaking to condemn this project myself, I am like all the rest who have preceded me in the debate, knowing nothing whatever about it, and it is because I do know nothing about it that I shall vote to let the money remain in the Treasury.

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

Mr. FESSENDEN. I think we ought to settle the question whether we can pass this bill to-day or not. If not, I think we ought to meet to-morrow.

The PRESIDING OFFICER, (Mr. Foot.) The motion cannot be entertained except by unanimous consent. The question before the Senate now is on the amendment moved by the Senator from Ohio to the amendment moved by the Senator from New Hampshire.

Mr. SHERMAN. I desire to modify my amendment by adding to it the words "and such contract shall stipulate the time within which the vessel shall be completed."

The PRESIDING OFFICER. It is competent for the mover to modify his own amendment, and it is so modified.

Mr. FESSENDEN. I am opposed to the Sentor's amendment. I should be in favor of it if I could get nothing better, but I think its adoption in its present form will have a tendency to aid in carrying the original proposition. If it could be so amended as to make the payment of any part of the money contingent upon the success of the thing, I should not object to it; but it is now in such a shape that if it be adopted it will exclude any amendment afterwards to that effect; and for that reason although it is an improvement on the original proposition, as it stands I shall vote against it because I think something better can be done.

Mr. SUMNER. I should like to have the amendment of the Senator from Ohio in its present form read.

The PRESIDING OFFICER. The amendments will be read in their order, the original amendment proposed by the Senator from New Hampshire and the amendment proposed by the Senator from Ohio to that amendment.

The Secretary read the amendments.

Mr. FESSENDEN. I wish simply to state to the Senate that the original amendment of the Senator from New Hampshire states what is not the fact, that the amount of $783,294 is estimated by the commission as necessary to complete the vessel. They state no such thing. They state that $554,858 is necessary to complete it. They state that so much has been expended by the Government, $500,000; so much by Mr. Stevens, $228,435, and that $554,858 is necessary to complete it. The amendment states that the commission say that $783,294 is necessary to complete it. They say no such thing. It is simply a proposition which, in that shape, pays Mr. Stevens what he says he has expended.

Mr. HALE. It is of course altogether a matter of taste for a man to express his dissent from a proposition in such terms as he chooses. Some put it in the shape of an absolute contradiction, sounding like an impeachment of a man's veracity——

Mr. FESSENDEN. I did not intend anything of that sort. The Senator need not be sensitive.

Mr. HALE. I was only going to say that it was put in that shape——

Mr. FESSENDEN. That is the fact any way.

Mr. HALE. It is repeated now more offensively than it was said at first.

Mr. FESSENDEN. The Senator will not take the explanation.

Mr. HALE. There can be no mistake and no misapprehension in regard to what the commission have reported, because they report the very figures that have been stated by the committee, and the language of the amendment was taken from the report of the commission. It has been explained over and over again in debate, and would so be understood by reading the report, that the sum named in the amendment proposed by the committee is the sum necessary to complete the vessel, paying to Mr. Stevens what he has already advanced. If there had been any attempt at covering it up or concealing it, or if it had not been stated over and over again, there might have been occasion for saying most emphatically that the committee had stated what was not the fact.

Mr. FESSENDEN. I take it there can be no mistake about this matter. The amendment says that the sum of $780,000, being the sum stated by the commission as necessary to complete this vessel, shall be appropriated. That is what it says, in so many words. Now, what do the commission state? They state that the total cost of the vessel complete, except stores, is estimated to be $1,283,294; of this amount there has already been paid by the Government $500,000; leaving yet to be provided for $783,294. Of this latter sum Mr. Stevens states that he has expended, from his own resources, towards the completion of the ship, $228,435 87; leaving as a representative of the amount of work yet to be done $554,858 13.

Now, sir, as the amendment stands, nothing being said about the amount to be paid to Mr. Stevens for what he has done, it says distinctly that the commission has reported that sum of $783,294 as necessary to complete the vessel. There should be no misunderstanding about it. The result is simply that if we pass the proposition in the present shape, we complete the vessel and pay over, on the statement of Mr. Stevens, without proof, without explanation, without examination, what he states that he has expended, $228,000. That is the result of it.

Mr. McDOUGALL. Cannot the Senator from Maine draw an amendment that will enable us to have that account audited?

The PRESIDING OFFICER. The Chair will state to the Senate that the question now before the body is the amendment proposed by the Senator from Ohio to the amendment of the Senator from New Hampshire, and it does not involve the question embraced in the original amendment.

Mr. SHERMAN. There should be no difficulty about the phraseology of this proposition. If I understand it, the Government is called upon to appropriate $554,000 to complete the vessel, and also to appropriate $228,000 to reimburse money already paid by Mr. Stevens, alleged to be a private claim. The amendment offered by me stipulates that the money that Mr. Stevens has already invested in this vessel and that is now to him a dead loss, shall not be reimbursed to him unless the President shall be satisfied that the vessel is a complete success as a war steamer, so that under the operations of the provision as it stands there cannot be paid more than the amount of $554,000, unless the vessel proves to be a successful experiment. In that event I think Mr. Stevens ought to be amply reimbursed; but whether

the language as it now stands precisely conveys that idea, I am not prepared to say.

Mr. FESSENDEN. As it stands now, if the vessel is a success, Mr. Stevens gets on his own statement, without audit, without anything but his word, $228,000. If that is the way Senators vote the public money, so be it.

Mr. TEN EYCK. I desire nothing but accuracy in relation to this matter, and that is my sole object in rising. I understand that a board, appointed some years ago by the Secretary of the Navy to investigate this matter, made a report, and among the statements contained in that report, they set forth the fact distinctly that they had investigated and ascertained that the Stevenses had expended this additional sum of money, which they claimed to have expended, out of their own pockets. My colleague read that report this morning; and if I heard it aright, it stated that fact distinctly that that account was investigated, and that was reported by the board as one of the facts ascertained by them. If that is so, I apprehend the case is not as it is represented by the Senator from Maine.

Mr. THOMSON. My colleague will excuse me. What I said was that the Secretary of the Navy appointed Captain Hudson, of the Navy, and Mr. William Kemble, of the city of New York, for the purpose of investigating this battery and reporting the amount necessary for its completion, and they investigated that matter and made their report.

Mr. TEN EYCK. Do they not state on the face of that report that the amount of $230,000 was expended by the Messrs. Stevens over and above the $500,000 drawn from the Treasury? The original appropriation was the mean cost of the two vessels, the Mississippi and the Missouri, which was afterwards found on their being completed to amount to over five hundred and eighty thousand dollars. It appears that the Messrs. Stevens have drawn at different times $500,000 in round numbers, leaving $86,000 unpaid. The same report establishes the fact, as I understand, that they had advanced over and above the amount received from the Treasury about two hundred and thirty thousand dollars. Clearly if the Navy Department is satisfied that that expenditure of money was made by the Stevenses, and we wish the work to be completed and carried out, and wish to appropriate a sum necessary to finish the vessel and to do justice to the Messrs. Stevens, we ought to appropriate a sum sufficient to finish the work and reimburse the expenditures already made by them, and which I believe the Secretary of the Navy has recognized.

Mr. GRIMES. It is very easy to settle this matter by first raising the question whether or not the claim for $228,000, or whatever may be the sum advanced by Mr. Stevens, is not in the nature of a private claim, and whether it can be attached to this bill. If the Chair shall decide that it is not in the nature of a private claim, as I think the Chair will not decide, then all we have to do is to change this appropriation from $783,000 to $554,900.

The PRESIDING OFFICER. The question now before the Senate is on the amendment of the Senator from Ohio to the amendment of the Senator from New Hampshire.

Mr. HALE. I want to say a word in regard to the matter that has been raised by the Senator from Maine. I did not draft the amendment, though I reported it; but it is drawn in exactly the very words of the report of the majority of the commission. It proposes to appropriate "the sum of $783,294, being the amount necessary to be provided as estimated by a board appointed for that purpose." I will read from the report of the board:

The total cost of the vessel complete, except stores, is estimated to be	$1,283,294
Of this amount there has already been paid by the Government	500,000
Leaving yet to be provided for	$783,294

The very identical words the majority of the commission have used in their report are the words embodied in the amendment of the Naval Committee. There cannot be the slightest mistake on earth in understanding it. I do not think that anybody who tries to misunderstand it can really misunderstand it, because it is made in figures as plain as it can be. As to the suggestion of the Senator from Iowa, I will say that it is a private claim just exactly as much as the compensation paid to the Senator for his travel and attendance here is a private claim—a private claim as much as the salary of any officer or the pay for any supplies that are furnished is a private claim—just exactly as much and no more.

Mr. GRIMES. It is money advanced without any authority of law, and without the approbation of any officer of the Government, and is in my view as much a private claim as any claim we ever passed upon as a private bill.

Mr. FESSENDEN. I should like the Senator from New Hampshire to read the remainder of the passage which he has just read. Leaving what "to be provided for?"

Mr. HALE. There is not another word in this sentence.

"Leaving yet to be provided for, $783,294."

Mr. FESSENDEN. And what is the language of the amendment?

Mr. HALE. "Being the amount necessary to be provided, as estimated by a board appointed for that purpose."

Mr. FESSENDEN. For what?

Mr. HALE. "To finish Stevens's battery."

Mr. FESSENDEN. But the board say that to finish it requires only $554,000.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Ohio to the amendment.

Mr. GRIMES. I ask the Senator from Ohio if he is not willing to modify the amendment so as to allow the money to be expended by our own officers under our own control, as in every other case.

Mr. SHERMAN. The Senator can offer that amendment himself afterwards.

Mr. GRIMES. I cannot do that unless the Senator is——

Mr. SHERMAN. The Senator does not object to the amendment I offer. He desires to change the word "finish," as I understand, and to use some other word that will accomplish the object of the Senator from Maine.

Mr. GRIMES. I desire that all the money we shall expend hereafter on this vessel to be expended by our own officers. If we can make anything out of this thing, I am willing to do it; but I want the money, if there is to be any more expended, expended by our own officers, who are responsible to us for the manner and method in which they do expend it.

Mr. HALE. You can put that in subsequently.

Mr. THOMSON. The amounts of money which have been paid, with the single exception stated by the Senator from Maine yesterday, are audited and controlled and paid by an officer of the United States Navy, who has been regularly appointed by the Secretary of the Navy as the superintendent of this battery being constructed at Hoboken. I take it for granted, therefore, that it will not be necessary to adopt any such amendment as has been indicated by the Senator from Iowa, because if this proposition, if it should happen to pass, goes into operation the Secretary of the Navy will do what he has been in the habit of doing heretofore, appoint an officer to superintend the whole matter, so that the funds will pass entirely through his hands.

Mr. FESSENDEN. For the reason which I before stated, that I think this amendment will shut out one which would improve the proposition much more and make it safer, I shall vote against it, and ask for the yeas and nays.

The yeas and nays were ordered.

Mr. GRIMES. I wish to suggest to the Senator from Ohio, that by his amendment he recognizes the existence of an indebtedness on our part towards Mr. Stevens of which we know nothing; we have no evidence of it.

Mr. SHERMAN. I do not recognize any such thing.

Mr. GRIMES. Yes, sir. Let it be read again.

Mr. SHERMAN. I recognize this fact, which is urged here and has not been disputed, that Mr. Stevens has advanced some money on this vessel.

Mr. GRIMES. We have no evidence of that.

Mr. McDOUGALL. I will say to the gentleman from Iowa, that if it were a legal question, a question of law—I know the Senator from Iowa is a fine lawyer——

Mr. GRIMES. Oh, no.

Mr. McDOUGALL. A better lawyer than he is master of mechanics. [Laughter.] I would undertake to demonstrate to him that, as a legal question, by the law of contracts, considering the Government bound by that law, this money is due to Mr. Stevens. If we could possess ourselves with the idea that the Government was an individual, subject to the law of contracts, and obligated as I may be, or any other person may be, we should get to understand that there is a contract outstanding against us, fulfilled entirely, I think, on the part of the other contracting party, and not fulfilled by the Government. I respond to the Senator from Iowa as to that point of observation simply. This contract has been continued down, and changes made by the Government itself, or at least with its approbation.

Mr. FESSENDEN. Will the Senator allow me to correct him there? There has been no change made with the consent of the Government except as to the time of completion, not a particle. As to the amount to be paid, or the delivery, or the manner, there has been no change.

Mr. McDOUGALL. Will the Senator from Maine inform me, I being ignorant, whether when a change was made as to the dimensions of the vessel and her capacity from the first contract, it was not made with the approval of the Government?

Mr. FESSENDEN. And that very contract says he is to deliver it for the sum originally specified, $500,000.

Mr. McDOUGALL. And has not that continued down from time to time, without money being paid according to the contract?

Mr. FESSENDEN. He has received every dollar of the whole $500,000, except what he himself agreed should not be paid unless the Government were satisfied that it could not be completed within the time limited; and that not being shown to the Government, of course they did not pay him the $86,000 reserved. That is a part of his own contract. It appears on the papers sent here.

Mr. McDOUGALL. The Senator may have more accurate knowledge on this subject, and undoubtedly has, than myself.

Mr. FESSENDEN. I simply take the facts from the papers sent here by the Secretary of the Navy in answer to my call for the contracts, payments, &c.

Mr. McDOUGALL. I want to get at the exact merit of this thing. I think it has merit in it. I have thought, as I have been informed, that these contracting parties were not in default; that they have accommodated themselves to the Government with reference to making improvements and advancing a work that was an experiment, understood to be such, to embrace all the advantages that could be obtained.

Mr. FESSENDEN. I apprehend the Senator is mistaken about that. I have read the contract, and all the papers, and the matter is perfectly plain. He made one contract in 1842 to build the vessel within two years for a specified sum of money——

Mr. McDOUGALL. The appropriation for that lapsed, I understand.

Mr. FESSENDEN. No; the papers show that he has received that appropriation of $500,000.

Mr. McDOUGALL. Did not the appropriation of 1842 lapse?

Mr. FESSENDEN. No.

Mr. McDOUGALL. Allow me to ask the question more carefully. I understand that the appropriation of 1842 lapsed and went into the Treasury again, and that no money was paid until 1852, ten years afterwards.

Mr. FESSENDEN. Money was paid in 1845.

Mr. THOMSON. The first payment was in 1845.

Mr. McDOUGALL. Did not the first appropriation lapse?

Mr. FESSENDEN. If it did it was reappropriated; but in regard to the contracts the Senator is mistaken. Mr. Stevens made one contract in 1842 on a given basis, and before the two years expired within which he was to build the vessel for a certain sum, he made another contract in 1844. The terms of that contract were specific; they extended the time for two years, but did not vary the amount to be paid at all. He was to deliver it for the same amount; but it gave him certain privileges in regard to it, that he might alter it to suit himself. He was to act his own pleasure about that, provided he did not make it any

smaller than he had agreed; he might make it as much larger as he pleased, but it was all to be done for the same amount of money, within two years more. He has received the whole amount of money appropriated.

Mr. McDOUGALL. Allow me to ask whether in changing the machinery from about six or eight hundred to eight thousand horse power, there was no provision made for additional payment by the Government on account of that extraordinary change?

Mr. FESSENDEN. Not the slightest. He was to do as he pleased about it; it was at his own option to do as he liked in regard to all those matters.

Mr. McDOUGALL. Then I am more strongly convinced than ever that he is entitled to be reimbursed what he has expended in view of the great increase of expense incurred by the changes of the original plan.

Mr. FESSENDEN. It may be so; but he has not performed his contract with the Government.

The PRESIDING OFFICER. The question is on the amendment to the amendment, upon which the yeas and nays have been ordered.

The Secretary commenced to call the roll, and Mr. ANTHONY responded.

Mr. SHERMAN. Perhaps I can make this provision satisfactory to the whole Senate, if they will allow me a minute to modify it.

The PRESIDING OFFICER. The call will be suspended for that purpose.

Mr. GRIMES. I move that when the Senate adjourns to-day, it be to meet on Monday next.

The PRESIDING OFFICER put the question, and declared the motion was agreed to.

Mr. FESSENDEN. I addressed the Chair before the result of the vote was announced.

The PRESIDING OFFICER. Then the Chair will regard the motion as not having been put.

Mr. FESSENDEN. I shall call for a division on the motion if it be insisted upon, unless we finish this bill to-night.

Mr. SUMNER. I hope we shall be able to finish this bill to-night.

Mr. FESSENDEN. I shall object to the motion unless we dispose of this bill.

Mr. SUMNER. I suggest to my friend that it can be reconsidered before we adjourn if we do not finish the bill.

The PRESIDING OFFICER. That question is not now before the Senate. The motion could only be entertained by common consent.

Mr. FESSENDEN. I addressed the Chair before the announcement of the vote on the motion to adjourn over.

The PRESIDING OFFICER. The Chair does not entertain the motion.

Mr. HALE. The Chair did entertain it, put the question, called for the affirmative and for the negative, and announced the decision.

The PRESIDING OFFICER. The Chair further announced, on being notified that a division had been called for, that the question was still before the Senate. It was leading to debate, to disorder, to the displacement of the proper business before the Senate, and the Chair declined to entertain it.

Mr. SHERMAN. I have modified the phraseology of my amendment so as to avoid the objections to it. It now reads:

Provided, That in the contract for the completion of said vessel it shall be stipulated that no part of the money claimed by Edwin A. Stevens to have been heretofore expended by him upon said vessel shall be refunded until the amount of said claim shall be established to the satisfaction of the Secretary of the Navy; and the payment of said sum shall be contingent upon the success of said vessel as an iron-clad sea-going war steamer, to be determined by the President; and such contract shall stipulate the time within which the vessel shall be completed.

This requires the account to be submitted to the proper accounting officer.

Mr. GRIMES. The question of her sea-going capacities is to be determined by the President.

Mr. SHERMAN. The amount to be paid is to be determined by the Secretary of the Navy.

Mr. GRIMES. The President is not the man to determine the question of the sea-going capacities of this vessel. Why not leave it to the Secretary of the Navy, who has around him men capable of judging such a question?

Mr. SHERMAN. It will be substantially determined by the Secretary of the Navy.

Mr. GRIMES. Then, why not put him in?

Mr. THOMSON. I prefer the President.

Mr. GRIMES. I have no doubt the Senator from New Jersey prefers it to be left with the President, but that is not where it belongs. I do not want to have the President annoyed with importunities on this subject, or to settle this question of which he knows nothing, and of which he cannot be expected to know anything. I move to modify it, if it is susceptible of further amendment——

The PRESIDING OFFICER. It is not open to further modification.

Mr. COLLAMER. I perceive there is no other way for us to get along on this subject than to reject this amendment of the Senator from Ohio, with a view of offering another. I have no particular objection to this amendment. If the amendment proposed by the committee is to pass, I would rather it should pass with this amendment, because it is better than nothing; but inasmuch as I altogether prefer the amendment which has been presented for consideration by the Senator from Maine, that all payments shall depend on the acceptance of the vessel, and inasmuch as that cannot be adopted if this one is, because it will be inconsistent with it, I shall vote against this amendment with the view of voting for the other.

I wish to say further, that I shall vote against this appropriation in every shape, unless there is inserted in it before we get through with it a provision that the money shall not be expended unless the Secretary of the Navy is of opinion that we shall thereby obtain an effective steam battery. If that is not inserted in some form, I shall vote against any appropriation for this battery.

The question being taken by yeas and nays on the amendment of Mr. SHERMAN to the amendment of the committee, resulted—yeas 24, nays 18; as follows:

YEAS—Messrs. Anthony, Bayard, Carlile, Davis, Dixon, Foot, Hale, Harris, Henderson, Kennedy, King, Lane of Kansas, Latham, McDougall, Powell, Saulsbury, Sherman, Sumner, Ten Eyck, Thomson, Trumbull, Wade, Wilkinson, and Willey—24.

NAYS—Messrs. Browning, Chandler, Clark, Collamer, Doolittle, Fessenden, Grimes, Harlan, Howard, Howe, Lane of Indiana, Morrill, Pomeroy, Stark, Wilmot, Wilson of Massachusetts, Wilson of Missouri, and Wright—18.

So the amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the committee, as amended.

Mr. GRIMES. I now move to reduce the amount from $783,294 to $554,858 13, the sum specified in this report.

Mr. TEN EYCK. I consider that to be entirely inconsistent with the amendment we have just adopted. We propose that this sum of $250,000, or whatever it is that has been expended by Mr. Stevens, shall be held in abeyance, subject to the final decision of the President. If he is satisfied that the vessel is a failure, that money is irretrievably lost.

Mr. GRIMES. I withdraw the amendment.

Mr. COLLAMER. I wish to offer the amendment to the amendment which I suggested. It is to add as a proviso:

Provided nevertheless, That said money shall not be expended unless the Secretary of the Navy is of opinion that the same will secure to the public service an efficient steam battery.

I ask for the yeas and nays on that.

The yeas and nays were ordered.

Mr. TEN EYCK. I hope the Senate will pardon me a moment. It seems to me that that also is directly inconsistent with the amendment as it now stands.

Mr. FESSENDEN. Not at all.

Mr. TEN EYCK. It entirely destroys the whole thing. I trust I may be permitted to say that, if that amendment should be adopted, all the work we have done will be of no avail, because I am inclined to believe there is opposition to this whole thing in a certain quarter to which the amendment is designed to refer it.

Mr. COLLAMER. I do not entertain any particular hope about this amendment; but I wish to have it clear on the record what gentleman are willing to say that this experiment of a steam battery shall go on, whether the Department agrees to it or not; that whether, in their opinion, it is good for anything or not, we will make it absolute on the Government, and we will run the risk. I wish to know who will go for that.

Mr. DIXON. I shall vote against the amendment offered by the Senator from Vermont, for the reason that I do not wish to throw the responsibility on the Secretary of the Navy. I do not think it ought to be thrown upon him. I am willing to take the responsibility, so far as my vote on this subject is concerned. I think this battery ought to be completed; and I have no desire to throw the responsibility on the Secretary of the Navy, although I should have perfect confidence in his judgment in regard to it.

Mr. COLLAMER. One word in reply to the Senator from Connecticut. He need not have said that he would vote against this amendment. We understood that before. We were perfectly aware that he would not vote for it. According to his doctrine, we will not permit the Secretary of the Navy to judge in relation to the building of anything; we will take it all on ourselves, so as to throw no responsibitity on him.

Mr. McDOUGALL. Mr. President, I should like to have had a Secretary of War who knew something about squadrons in the field. I should like to have had a Secretary of the Navy who understood something about the naval service. I am compelled to say that I do not know that the Secretary of the Navy knows anything more about this subject than I do; and I am compelled to say I am not sure that he knows anything more about it than the Senator from Vermont. I think that we may affirm something ourselves. Sir, I have a vast disgust with the condition of things that has grown up in our country; that we have a council of eight instead of a President, a Senate, and a House of Representatives, and that I am to be learned in naval affairs by a person who never knew the difference, possibly, between a square-rigged ship and a sloop on the North river. I think that we may be permitted here with our various counsels and our accumulated knowledge to know something ourselves. I protest against submitting everything that comes into council to persons who are not experts or informed in their specialty, either in the War Department or the Navy Department. Where is it in Europe, or where is it in any civilized country known in history, that a man at the head of the naval department knows nothing of naval affairs, and a man at the head of the military department knows nothing of military affairs, and where the chief executive pretends to no knowledge specially, and where he cannot bring counsel about him informing himself. I am compelled to say that I must act upon my own judgment; I cannot accept others.

Mr. DIXON. I beg leave to say one word in reply to the Senator from Vermont. The Senator said it was not necessary for me to say that I should vote against this amendment, because it was known beforehand. The Senator is entirely mistaken. There was a strong presumption that I should vote for it, because he offered it. I have very seldom voted against any amendment which he offered, or any proposition made by him in this body; and therefore it was necessary, or at least proper, for me to say that I should vote against this.

Now, with regard to this amendment, I wish to say one word. It is entirely inconsistent with the amendment of the Senator from Ohio. If I understand it, it leaves the matter, which has already been left to the President, to the Secretary of the Navy. I suggest that it seems to me that inconsistency, at least, ought to be provided against.

Mr. HALE. It seems to me it is time that this Congress vindicated its right to some opinion in regard to their own action in reference to the war in which we are engaged. I think, sir, if we had exercised more judgment, and had infused into the conduct of the Army something of the judgment which we entertained on this subject, the country would not have been any worse for it. I have as great respect for the Secretary of the Navy as any man ought to have. [Laughter.] Mr. President, I do not think it is necessary for me to say anything to vindicate the Secretary from the horse-laugh with which that remark has been greeted. I say, I trust I have as high respect for him as any man ought to have, and that is as much as any man ought to demand. But, sir, I do not think I say anything inconsistent with high respect for his character when I say that he himself has no more peculiar knowledge, no more peculiar experience, to fit him to form a judicious opinion on this subject than very many gentlemen on this floor—the Senator from Vermont himself. I think

the Senate will be derelict in their duty if they abandon their own convictions on a public measure of great importance and great necessity, and say they will not adopt it unless it suits the views of the Secretary of the Navy, or anybody else.

Sir, the Congress have uniformly reserved to themselves the right of saying what kind of vessels shall be built, and have not left it to the Department; and whenever the Department have undertaken to act upon it, they have acted in derogation and usurpation of the rights of Congress. Who order gunboats to be built? Congress. Who order iron-clad boats to be built? Congress. Congress get the information that they think necessary, and then they judge, and judge of the character of the vessels, whether they shall be side-wheel or propellers; they judge of the depth of water that they shall require. In all these matters, it has been the invariable practice for Congress to exercise their own judgment and determine what the character of the vessels to be built shall be; and they have in no instance given it up to the arbitrary discretion of the Executive or anybody else. In doing this now, the Senate do no more than it has been their invariable practice to do; and I hope that upon this great question, in the new era that is upon us, in the new emergency which presses upon us, we will not abandon our right of judgment to the Secretary of the Navy or anybody else.

Mr. COLLAMER. It is due perhaps in courtesy to the honorable Senator from Connecticut, especially after the manner of his last remarks, to say that in saying we all understood how we would vote in relation to this amendment, I meant no more than that we knew it from the speech he had already made on the subject—not that there was any peculiar perverseness in the gentleman.

Mr. DIXON. I did not suppose it was possible for that Senator to say an unkind thing, especially to me, for I have a great regard for him.

Mr. COLLAMER. Certainly; I did not intend anything of the sort.

Now, in relation to the Senator from New Hampshire, I do not view this amendment in the same light that he does. It is true that when requisitions specially have been made upon us, and not of our own motion, we have ordered vessels to be built. We have passed laws to build seventy-fours; authorized their building, and made appropriations for that purpose and for building gunboats. It has generally been done at the requisition and request of the Executive. But, sir, when has Congress ever undertaken upon themselves to say that they would direct the Executive or the Department, in any of its branches, how that seventy-four or gunboat should be built; what her dimensions should be, what should be the materials of her construction, and what facilities there should be about her? Never. The details and the execution of it have always been left to the Executive.

Now it is not because I have any peculiar confidence in the present head of the Navy Department that I offer this amendment; but it is because I have the same respect for the head of that Department that I have had at all time heretofore; because he is the head of that Department, because he is the Department. It is not necessary or very important that the Secretary of the Navy should really know whether a ship was hollow or not. The truth is, the Secretary of the Navy has about him, at his command, within his control, and in the proper bureaus all the executive talent and information of the country to consult, in order to bring out practical results. Can we do that? Are we to be enlightened or to call to our aid the skill of adepts and experts in all the departments of practical knowledge? Not at all. We cannot do it; we do not do it; or if we do it, individually, it is only to govern ourselves by it, not to govern the body by it. I make this remark merely for the purpose of explaining why it is that I desire this thing to be in the discretion of the Executive Department, as has been usual in other cases, and not say we are become infallible absolutely, and that this vessel shall be finished whether anybody that really knows anything about it thinks it ought to be done or not.

One further remark. It is said that this amendment is inconsistent with the provision already adopted. Now, there is nothing in that objection at all. To be sure it reads, according to the amendment of the Senator from Ohio, that the sum which is claimed by Mr. Stevens shall not be paid over to him until the vessel is accepted by the President; but this amendment is, that the money shall not be expended, that the work shall not go on at all, unless the head of the Department believes we are going to get an effective battery by it. They are entirely consistent with each other.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont to the amendment, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 20, nays 19; as follows:

YEAS—Messrs. Browning, Chandler, Clark, Collamer, Doolittle, Fessenden, Foot, Grimes, Harlan, Howard, Howe, King, Lane of Indiana, Latham, Morrill, Pomeroy, Saulsbury, Wilmot, Wilson of Massachusetts, and Wright—20.

NAYS—Messrs. Anthony, Carlile, Davis, Dixon, Hale, Harris, Henderson, Lane of Kansas, McDougall, Powell, Sherman, Stark, Sumner, Ten Eyck, Thomson, Trumbull, Wade, Willey, and Wilson of Missouri—19.

So the amendment to the amendment was agreed to.

Mr. SHERMAN. I move further to amend the amendment in the fourth line by inserting after the word "to" the words "pay for and;" so that it will read:

That the sum of $783,294, being the amount necessary to be provided, as estimated by a board appointed for that purpose, to pay for and finish the Stevens battery, &c.

As it now stands, the whole sum might be spent in completing the vessel.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the committee as amended.

Mr. HOWARD called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 26, nays 10; as follows:

YEAS—Messrs. Anthony, Browning, Carlile, Clark, Collamer, Davis, Dixon, Doolittle, Foot, Hale, Harris, King, Lane of Kansas, Latham, McDougall, Morrill, Sherman, Stark, Sumner, Ten Eyck, Thomson, Trumbull, Wade, Willey, Wilmot, and Wilson of Missouri—26.

NAYS—Messrs. Chandler, Fessenden, Grimes, Harlan, Howard, Howe, Lane of Indiana, Pomeroy, Wilson of Massachusetts, and Wright—10.

So the amendment, as amended, was adopted.

Mr. HALE. I am instructed by the Committee on Naval Affairs to offer another amendment, upon which they were unanimous. It is to insert as an additional section:

And be it further enacted, That the sum of $13,000,000 be appropriated out of any money in the Treasury not otherwise appropriated, to enable the Secretary of the Navy to construct iron-clad steam gunboats.

A single word in reference to this amendment. The Secretary of the Navy had sent a communication to Congress recommending an appropriation of $15,000,000 for the construction of gunboats, which was inserted in this bill as it came to the Senate, but which was stricken out on the recommendation of the Committee on Finance. That recommendation for these gunboats was sent to Congress before the fight of the Merrimac and Monitor. The Secretary of the Navy has sent a communication to us since that action, which has been printed, recommending an appropriation of $30,000,000 with what has been heretofore appropriated. The committee did not think it wise to go to that extent; but they recommend this appropriation of $13,000,000, in lieu of the $15,000,000 that were appropriated by the House of Representatives for gunboats before that action took place.

The amendment was agreed to.

Mr. HALE. I am instructed by the same committee to offer another amendment, to insert at the end of the second section of the bill the following:

For casting heavy ordnance at the Washington navy-yard, $250,000.

I will state that this amendment is offered in accordance with the recommendation of Captain Dahlgren, at the head of the ordnance department, and also of the head of the bureau, Captain Harwood, and indorsed by the Secretary of the Navy. It is not connected with any foundery or anything of that sort; it is simply to enlarge the operations of the yard and enable them to cast what they cannot get from private enterprise, and that is heavy ordnance. This sum of $250,000 will be appropriated simply to casting, not to any buildings. Since that, the Secretary of the Navy, in a communication which we have ordered to be printed, has recommended an appropriation of double that sum, but the committee only recommended $250,000.

The amendment was agreed to.

Mr. HALE. I have another amendment that I am instructed to offer by the same committee, to insert as a new section:

SEC. —. *And be it further enacted*, That the Secretary of the Navy be authorized to commute the Navy ration of coffee and sugar for the extract of coffee combined with milk and sugar, to be procured in the same manner and under like restrictions and guarantees as are preserved meats, pickles, butter, and dessicated vegetables, if he shall believe it will be conducive to the health and comfort of the Navy, and not more expensive to the Government than the present ration, and it shall be acceptable to the men.

The amendment was agreed to.

Mr. GRIMES. I wish to ask the chairman of the Committee on Finance when he proposes to bring in the regular naval appropriation bill for next year?

Mr. FESSENDEN. I can only say that the committee thought it prudent under existing circumstances to defer the appropriations for the next year until towards the close of the session, and as the matter stands now, that bill will have to originate again in the House of Representatives. We did not know what changes might take place between this time and the end of the session. The appropriations in this bill as it came to us were very large—in all some sixty or seventy millions, and we were in hopes something might occur to render a less appropriation necessary.

Mr. GRIMES. I will state my object in addressing that inquiry to the chairman of the Committee on Finance. I was not aware that the Committee on Naval Affairs had agreed to this appropriation of $250,000 for ordnance purposes at the Washington navy-yard. I suppose, I do not know, that it looks toward the permanent establishment of a large foundery here. It is very questionable in my mind whether this is the proper place for it; and it is a question which a select committee of this Senate has been empowered to investigate. I am willing to make an appropriation of $50,000 for ordnance purposes, to allow it to go on.

Mr. FESSENDEN. That is in the bill.

Mr. GRIMES. And that was all I understood, two or three weeks ago, was asked. I am pretty well satisfied it was. I was not aware that this appropriation of $250,000 was agreed upon. If the regular appropriation bill is coming up at an early day, it seems to me this amendment had better be left to be put on that bill, provided we should agree to it.

Mr. HALE. All the explanation I can give about that amendment is this: it was asked for by letters addressed by Captain Dahlgren to the head of the Ordnance Bureau, Captain Harwood; and Captain Harwood and the Secretary of the Navy both indorsed and recommended it. At the suggestion of the committee, I went to the navy-yard and saw Captain Dahlgren, and asked him specially and particularly what he wanted it for, and he explained to me that it was utterly impossible from any of the founderies that were now in existence in the country to get the heavy ordnance they wanted, and those that were in the country were occupied principally by the Army; that he proposed with the appropriation of $50,000 to enlarge the building, and this sum was to be devoted to furnaces and casting, and that it had nothing at all to do with the establishment of a permanent national foundery. Since that, as I said, the Secretary, in a letter which is printed and on your tables, recommends double the sum.

Mr. FESSENDEN. From the explanations which have been made, I apprehend there is a misunderstanding about it somewhere. During the debate in the House of Representatives on the motion, as I remember it, of the chairman of the Committee on Naval Affairs, the appropriation of $50,000 was transferred from the appropriations for next year to the appropriations for this year, on the ground that it was necessary to expend the $50,000 immediately, and in the manufacture of ordnance. Now, the Senator from New Hampshire himself states that the object of this amendment is to enlarge the foundery. There is a foundery there now, and they have been casting. This $50,000 will enlarge it, and the $250,000 may be expended in enlarging it—it is under the direction of the Secretary—or in casting. We cannot tell

anything about that. My own opinion is that as we shall have the other bill before us undoubtedly within five or six weeks at most, we had better defer this appropriation of $250,000 until the bill for next year comes in. Fifty thousand dollars is certainly about all that can be expended in the mean time.

Mr. GRIMES. And that is to be expended in erecting buildings.

Mr. FESSENDEN. It cannot possibly be done. We shall have more time to consider it when the other bill is before us; and I am inclined to think the recommendation made was for an appropriation in the bill for next year, instead of this, which is merely for deficiencies for this year, because $50,000 was all that was asked as a deficiency for this year. I think it had better be deferred until we understand more about it.

Mr. GRIMES. Move to reconsider it.

Mr. FESSENDEN. We can have another vote on it in the Senate.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. The question is on concurring in the amendments made as in Committee of the Whole. The Chair will put the question on the aggregate amendments, unless some Senator should indicate one or more on which he desires a separate vote.

Mr. LANE, of Kansas. I should like to have a separate vote on the proposition in regard to the Stevens battery as amended. I want to vote against it, now that it is perfected.

The PRESIDING OFFICER. The amendment in reference to the Stevens battery will be reserved for a separate vote.

Mr. GRIMES, (to Mr. FESSENDEN.) Do you not want another vote on the proposition for ordnance at the navy-yard here?

Mr. FESSENDEN. I shall not take the matter out of the hands of the gentlemen who started it. It is on their responsibility, and not upon mine. I only gave my opinion in regard to it. If none of the Naval Committee choose to make an exception of it, let it go.

Mr. HALE. With the consent of the Senate, I desire to read the letter of the Secretary on that subject. It is a very brief one:

NAVY DEPARTMENT, *February* 15, 1862.

SIR: In consequence of the extraordinary demand for heavy ordnance, and the fact that private establishments cannot produce near the quantity required, I most earnestly ask the committee to recommend an appropriation of $250,000, to enable the Department to commence at once the casting heaviest ordnance at the Washington navy-yard.

I am very respectfully, your obedient servant,

GIDEON WELLES.

HON. J. P. HALE,
Chairman Naval Committee, United States Senate.

Mr. FESSENDEN. I shall make no objection to it. It can go to the House and they can determine it.

Mr. HALE. Before I sit down, I will state that this letter of the Secretery was accompanied with a letter from Captain Dahlgren and one from Captain Harwood. I have not the letters here.

Mr. CLARK. It is within my knowledge that they applied to a private establishment in my State for heavy ordnance, but that establishment could not do it; they made a second application to that foundery, they were so much in need of it. I transmitted that application, but they could not do it.

The PRESIDING OFFICER. The question is on concurring in all the amendments made as in Committee of the Whole, with the exception of the one in reference to the Stevens battery.

The remainder of the amendments were concurred in.

The PRESIDING OFFICER. The question now is on concurring in the following amendment:

And be it further enacted, That the sum of $783,294, being the amount necessary to be provided, as estimated by a board appointed for that purpose, to pay for and finish the Stevens battery, now partially constructed at Hoboken, New Jersey, be and the same is hereby appropriated out of any money in the Treasury not otherwise appropriated, for the immediate completion of said battery: *Provided*, That in the contract for the completion of said vessel it shall be stipulated that no part of the money claimed by Edwin A. Stevens to have been heretofore expended by him upon said vessel shall be refunded until the amount of said claim shall be established to the satisfaction of the Secretary of the Navy; and the payment of said sum shall be contingent upon the success of said vessel as an iron-clad sea-going war steamer, to be determined by the President; and such contract shall stipulate the time within which the vessel shall be completed: *Provided, nevertheless*, That said money shall not be expended unless the Secretary of the Navy is of opinion that the same will secure to the public service an efficient steam battery.

Mr. LANE, of Kansas. I ask for the yeas and nays on concurring in that amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 27, nays 11; as follows:

YEAS—Messrs. Anthony, Browning, Carlile, Clark, Collamer, Davis, Dixon, Doolittle, Foot, Hale, Harris, Henderson, King, Latham, McDougall, Morrill, Powell, Saulsbury, Sherman, Sumner, Ten Eyck, Thomson, Trumbull, Wade, Willey, Wilmot, and Wilson of Missouri—27.

NAYS—Messrs. Chandler, Fessenden, Grimes, Harlan, Howard, Howe, Lane of Indiana, Lane of Kansas, Pomeroy, Wilson of Massachusetts, and Wright—11.

So the amendment was concurred in.

Mr. WILMOT. I move that when the Senate adjourns to-day, it be to meet on Monday next.

Mr. FESSENDEN. I object to that motion now. Let us pass the bill first.

The amendments were ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed; and its title amended so as to read, "A bill making additional appropriations for the naval service for the year ending 30th of June, 1862."

ADJOURNMENT TO MONDAY.

Mr. POWELL. I move that when the Senate adjourns to-day, it be to meet on Monday next.

The motion was agreed to.

Mr. GRIMES. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *March* 28, 1862.

The House met at twelve o'clock, m. Prayer by B. F. TEFT, D. D., of Bangor, Maine.

The Journal of yesterday was read and approved.

MESSAGE FROM THE PRESIDENT.

The SPEAKER, by unanimous consent, laid before the House a communication from the President of the United States, transmitting a copy of a communication of the 21st of December last, addressed to the Secretary of the State by the Governor of the Territory of Nevada, and commending to the particular attention of Congress those parts of it which show that further legislation is desirable for the public welfare; which was referred to the Committee on Territories, and ordered to be printed.

MARY A. BERAULT.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, in answer to a resolution of the House of Representatives of the 14th instant, relative to the claim of Mary A. Berault, administratrix of the late Joseph Wheaton; which was laid on the table, and ordered to be printed.

MEDICAL DEPARTMENT OF THE ARMY.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, in answer to a resolution of the House of February 10, 1862, relative to the efficiency of the medical department of the Army; which was laid on the table, and ordered to be printed.

PUBLIC RESTAURANT.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Commissioner of Public Buildings, in answer to a resolution of the House of the 26th of March, in reference to the gas and coal used in the public restaurant; which was referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

REGENT OF SMITHSONIAN INSTITUTE.

Mr. McPHERSON, by unanimous consent, from the Committee on the Public Library, reported back a joint resolution (H. R. No. 49) for the appointment of Theodore D. Woolsey, of Connecticut, regent of the Smithsonian Institution, in the place of Cornelius C. Felton, deceased.

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

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

The latter motion was agreed to.

COPY-RIGHTS.

Mr. NOBLE. I ask the unanimous consent of the House to have printed a bill which I reported to the House a few days ago from the Committee on Patents and the Patent Office. It is House bill No. 343, to amend an act respecting copy-rights, approved February 3, 1831.

No objection being made, the bill was ordered to be printed.

LAKE DEFENSES.

Mr. GRANGER. I ask the unanimous consent of the House to report from the select committee on lake defenses a bill making appropriations for the construction, preservation, and repair of certain fortifications, and other works of defense, on the northern frontier, for the fiscal years ending June 30, 1862, and June 30, 1863; and that it may be printed, and recommitted to the committee.

No objection being made, the bill was reported, ordered to be printed, and recommitted to the special committee on lake defenses.

PENSION TO WIDOWS OF SOLDIERS KILLED.

Mr. WASHBURNE. I wish to ask a question of the chairman of the Committee on Invalid Pensions. I understand that the Attorney General has decided that under existing laws the widows of the officers and soldiers killed in battle are not entitled to a pension. I desire to inquire of the chairman of the Committee on Invalid Pensions if any action has been taken by that committee to remedy that defect in the law?

Mr. EDWARDS. A bill for that purpose has been reported.

Mr. WASHBURNE. Has it been passed?

Mr. EDWARDS. It has not.

Mr. WASHBURNE. I hope it will be passed at once.

JOHN ERICSSON.

Mr. SEDGWICK. I ask the unanimous consent of the House to report back, with a substitute, a joint resolution acknowledging the enterprise, skill, energy, and forecast of Mr. John Ericsson in the construction of his iron-clad gunboat Monitor, and tendering to him the thanks of Congress for the great service he has thus rendered. The original resolution was introduced by the gentleman from New Hampshire, [Mr. EDWARDS,] and referred to the Committee on Naval Affairs. Subsequently, the same gentleman presented to us a substitute, which the committee now desire to report as a substitute for the original resolution.

No objection being made, the report was made, and the substitute was before the House for consideration. The substitute was read, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is fit and proper that a public acknowledgment be made to Captain John Ericsson for the enterprise, skill, energy, and forecast displayed by him in the construction of his iron-clad boat the Monitor, which, under gallant and able management, came so opportunely to the rescue of our fleet in Hampton Roads, and perchance, of all our coast defenses near, and arrested the work of destruction then being successfully prosecuted by the enemy with their iron-clad steamer, seemingly irresistible by any other power at our command—and that the thanks of Congress are hereby presented to him for the great service which he has thus rendered to the country.

Mr. VALLANDIGHAM. I do not object to this resolution, but I would prefer that it be deferred a few days, as it is understood that another trial of the qualities of that vessel will be made in a few days.

Mr. SEDGWICK. I ask to have the substitute put on its passage now.

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

Mr. EDWARDS. Mr. Speaker, the consideration of this resolution has been delayed by the pressure of the financial measure, which occupies daily attention, and other business, some eight or ten days; but as the transaction to which it relates, though it has lost something of its novelty, has lost none of its interest or importance, I now submit some remarks which I had intended to offer at an earlier day.

Sir, we have had of late so many brilliant achievements by our Army and Navy that votes of thanks have got to be quite frequent tributes to bravery and skill. For successes of the usual character these complimentary expressions, however much deserved, may well be made without accompanying comments. In the present case, however, the transaction which has suggested the resolution now before us was of so thrilling, so extraordinary, and so important a character, that

I trust I may be allowed briefly to commend it to attention at this time, and to ask the adoption of the resolution by more than a formal and cold response. It has been long known that, at Norfolk—where, and near where, we have experienced nothing but disaster since the outbreak of treason until the closing scene of this late desperate naval engagement—one of our war steamers, which we attempted to destroy to save it from capture when that naval station was seized by armed rebellion, had been recovered and was being converted into an armored frigate. We had given but little heed to the progress of this work, reposing upon the mistaken confidence designedly encouraged by false reports, that the enterprise was to prove a failure.

The intelligence, then, which reached us in the quiet hours of a past Sabbath, that the conversion referred to had been accomplished, and that the new structure thus created was then already rioting in the work of destruction for which it was designed; that she was moving among our fleet lying off that coast, in their wonted consciousness of strength and security, in her mail-clad vestment, as if invulnerable, and unconquerable by any force that could be pitted against her; that wherever she moved, resistance was unavailing; that heedless of shot and shell, and as if bearing a charmed life, she had burned, sunk, and destroyed whatever opposed her march upon the deep, could not fail to excite wonder and alarm.

Sir, no one will forget the impress made upon him on that day by the scene, which the telegraph so vividly portrayed, of resistless power on the one side and utter impotency on the other.

The riding down and crushing and sinking of the Cumberland; the capture and burning of the Congress; the Minnesota and the St. Lawrence aground and helpless, and apparently out of reach of succor; the attendant loss of life—all these, with unenacted horrors in the perspective, and superadded to these, national disgrace seemingly unavoidable, all presented to us in a single revelation, unheralded by any note of warning, could not fail to darken and cloud, for the time, the *present* with dismay, and the *future* with discouragement.

The Merrimac, or the Virginia, as she has been newly christened, yet unscathed, was ready at her pleasure to renew her unfinished work with the coming day. Who did not feel, as he reflected upon that intelligence, a sinking of the heart, a dark foreboding, a deep sense of unrelieved humiliation? We had just begun to lose sight of our early reverses, and were making head against the rebellion at so many points that the end of the unnatural strife, which had been forced upon us, had begun almost to be visible, and now, by our neglect of a preparation in our power to have made, and the necessity of which we ought to have foreseen, we were allowing the enemy this terrible success, to reassure their dispirited forces, and to awaken in them new courage and determination to prolong the contest. Who did not feel that all our ships within reach, that all our coast defenses, and the property under their protection, were at the mercy of this marine monster, whose power and voracity had been so fearfully exhibited?

Why, sir, if the intelligent business men of the city of New York, coolly measuring the power of the assailant and their own peril, could suggest as a measure of security the sinking of vessels to obstruct the water approach to their harbor, as we are informed they did, who may not have felt that any other locality, which could be thus reached, was still more in danger of attack?

Sir, it was when this feeling was upon us the strongest, and was already wide-spread and still spreading, that there succeeded, by the same swift medium of communication, the grateful, the reassuring, the heart-cheering intelligence that the work of destruction was stayed; that the victor, in the pride of his strength and in the flush of his triumph, had been met and been vanquished, and that security from further assault had been achieved. All incredulous, it seemed almost as if some miracle had been wrought for our deliverance; and when told that all had been accomplished by a seemingly inadequate instrumentality, that a combatant of inferior size and of lighter armament had gallantly thrown itself into the conflict and overmatched its foe, a thrill of joy and admiration welled up from the depths of every loyal heart. The apprehensions which had settled down so thickly upon us were at once dissipated, and our wonted sense of safety returned.

Sir, we owe all this change to the Monitor, and to the projector and proprietor of that concentration of naval power and efficiency, and to the bold and skillful conduct of her commander and his command in that day of desperate strife. Incidents in war less striking in their aspects and less important in their consequences than the one we are commending have been rewarded by more than a nation's thanks and a nation's gratitude. Under other Governments they have won for the actors rank and titles; under ours they should at least command for them public recognition and all merited appreciation. This it is the object of this resolution to bestow.

I have thus far, Mr. Speaker, confined my remarks to the transaction which has called forth this notice, as viewed in connection with the parts played by the actors immediately or more remotely concerned in it. There is, however, another and a vastly more important aspect in which it is to be regarded. It is a new exhibition on the theater of the world. Heretofore there have been mailed warriors, covered with defensive armor; there have also been defenses on land, made seemingly impregnable by strength of material and skill of workmanship; but never before in naval warfare has there been witnessed a conflict between combatants full cased in iron, and each seemingly impregnable and invulnerable. That the conflict should have been desperate, and the result comparatively indecisive, upon a little reflection should excite no surprise. Terrible as either combatant would have been to war ships of the usual character, of any size, each to the other proved to be invincible.

Sir, this conflict and the result is full of instruction to the country and the world. To us the little boat which defended our interests and saved our honor is, what its name imports, a "monitor," and it speaks to us in a voice as loud and emphatic as that which it addressed to the Merrimac from the mouths of its Dahlgrens. It admonishes us to arouse from our lethargy, to attend to what is going on in the world around us, at home and abroad, and to keep pace in the march of nations, no less in the changes and improvements in the dread arts of war, than in the mild and beneficent arts of peace. It assures us that what we have done in this direction is right, but too little, and that we must hasten to make amends in the future for our apathy, nay, almost stupidity in the past. It teaches the world that a new era has been inaugurated in naval warfare, a new chapter added to naval science; that all the established axioms and rules and ideas touching the construction and management and relative power of ships of war, and of fleets and navies, the accumulation of centuries, have been brought to a new test, and will all have to be modified and adjusted to this new revelation. It will teach our great rival across the water that the foundation of her power and her glory is being loosened and weakened, and may moderate her usually arrogant and imperious tone. How terribly does this exhibition detract from all our accustomed estimates and conceptions of her boasted naval superiority.

Sir, the intelligence of this single-handed and seemingly impromptu contest between two combatants of comparatively inconsiderable magnitude at this distant point, when it shall reach the fast-anchored isle, will send a thrill of apprehension to every British heart, and almost hush the boast that "Britannia rules the waves."

And when a brief period of preparation shall have passed, and when we shall have lined our coast with these impregnable defenders, we shall be reinstated in our wonted dignity and power, and shall give neither apologies or reasons to the English premier "upon compulsion" for the manner in which we shall choose to treat our own traitorous citizens or for any liberties we may indulge in in obstructing some of the numerous approaches to our extended coast, when, in our judgment, the safety or the interests of the country shall require it.

Sir, this lesson may not be unprofitable even to that proud nation itself. If it shall lower her pride, and reduce her pretensions, and make her more considerate and regardful of the rights of other nations, and shall lead her to cultivate their good will instead of inviting and defying their hostility, she will better promote her own present welfare and better provide for her future security.

But these last matters are only collateral to the main object I have in view, and I will not, therefore, enlarge upon them, but defer to what I do not doubt is at this time the desire of the House, namely, to proceed to the consideration of the important measure which is now daily occupying its attention.

The resolution was then passed.

Mr. SEDGWICK. I move to amend the title so that it will read:

Joint resolution presenting thanks of Congress to Captain John Ericsson for the enterprise, skill, energy, and forecast displayed by him in the construction of his iron-clad boat, the Monitor.

The amendment was agreed to.

INCREASE OF CERTAIN PENSIONS.

Mr. DUNN, by unanimous consent, from the Committee on Military Affairs, reported a bill for the increase of pensions in certain cases; which was ordered to printed, and to be recommitted to the Committee on Military Affairs.

SPRINKLING OF STREETS.

Mr. DELANO. I ask the unanimous consent of the House to offer a resolution which I think every gentleman, who has seen the condition of the streets this morning, will acknowledge the propriety of.

The resolution was read for information, as follows:

Resolved by the Senate and House of Representatives, That the Secretary of the Interior be, and he is hereby, directed to cause that part of Pennsylvania avenue between the Capitol grounds and the Presidential Mansion to be thoroughly sprinkled during the present session of Congress, and that he be authorized to make all necessary provisions and contracts for that purpose. The sum of $2,000 is hereby appropriated for the purpose above indicated.

Mr. COX. I believe an appropriation is already made for that purpose.

Mr. DELANO. But no person has been appointed to attend to it.

Mr. COX. I have no objection to the resolution. I think the thing ought to be done.

Mr. McKNIGHT. I desire to say that persons upon the avenue have raised a subscription for this very purpose.

Mr. DELANO. I venture to say to the gentleman from Pennsylvania that no such subscription is on foot, and that no such sum will ever be raised. It has been attempted repeatedly, and it has invariably failed.

Mr. JOHNSON. I would suggest to the gentleman that he modify his resolution so as to authorize the Secretary to clean the streets also, and remove the dirt.

Mr. DELANO. I do not care how the resolution is amended, provided this single object is not defeated. The resolution is now before the House, and it so obviously meets the wish of every gentleman that I hope it will be passed.

Mr. JOHNSON. I move to amend by inserting the words "cleaning and" before the word "sprinkling."

Mr. COX. An appropriation is already made for that purpose, and this resolution only provides the mode in which the appropriation shall be applied.

Mr. BUFFINTON. I rise to a point of order. This resolution contains an appropriation, and must first be discussed in the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair sustains the point of order.

Mr. DELANO. Then I modify the amendment by leaving out the appropriation.

The SPEAKER. Is there any objection to the introduction of the resolution as modified?

Mr. BUFFINTON. I object.

Mr. DELANO. I hope the gentleman will withdraw his objection.

Mr. BUFFINTON. I cannot. I am opposed to watering the streets of Washington by the Federal Government.

The SPEAKER. Objection being made, the resolution cannot be received.

TAX BILL.

Mr. HORTON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of resuming the consideration of the tax bill.

The motion was agreed to.

So the rules were suspended; and the House

accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed, as a special order, the consideration of the bill (H. R. No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

The CHAIRMAN stated the question to be upon the amendment to the seventy-third section proposed last evening by Mr. HORTON, to strike out all after the word "material," and to insert the following:

When the product shall be not above five hundred thousand cubic feet per month, five cents per one thousand cubic feet; when the product shall be above five hundred thousand and not exceeding five millions of cubic feet per month, ten cents per one thousand cubic feet; when the product shall be above five millions and not exceeding fifteen millions of cubic feet per month, fifteen cents per one thousand cubic feet; when the product shall be above fifteen millions of cubic feet per month, twenty cents per one thousand cubic feet; and the general average of the monthly product for the year preceding the return required by this act, shall regulate the rate of duty herein imposed; and where any gas company shall not have been in operation for one year next preceding the return as aforesaid, then the rate shall be regulated upon the estimated average of the monthly product: *Provided*, That the return required by this act shall be understood to mean a return of the bills actually rendered by any gas company during the month preceding said return; and all gas companies are hereby authorized to add the duty or tax imposed by this act to the price per thousand cubic feet on gas sold, any limitation which may exist in the charter of said companies or laws of any State to the contrary notwithstanding: *Provided*, That all gas furnished for lighting street lamps, and not measured, may be estimated, and if the returns in any case shall be under-stated or under-estimated, it shall be the duty of the assistant assessor of the district to increase the same as he shall deem just and proper.

Mr. HORTON. I wish to offer an amendment to the amendment.

Mr. ROSCOE CONKLING. I wish to speak in opposition to the amendment before the gentleman does that. I want to oppose it for the purpose of ascertaining from the gentleman from Ohio first, whether the proposition is to tax all the gas produced as contradistinguished from a proposition to tax all the gas consumed?

Mr. HORTON. The proposition is to tax all gas made and sold, all consumed; and the proof of the amount consumed is found in the bills rendered for consumption.

Mr. ROSCOE CONKLING. Then I quite agree to that part of the amendment. I want also to inquire, as I could not ascertain from the reading at the Clerk's desk, whether the amendment strikes out the proviso beginning on line twenty-second, and which is as follows;

Provided, That all gas furnished for lighting street lamps and for lighting single dwelling-houses, when specially made by the owners or occupants thereof for that purpose and not for sale, shall be exempt from duty.

Mr. HORTON. It strikes all that out. The company are to pay a tax on the gas consumed in street lamps.

Mr. ROSCOE CONKLING. Then, if I understand the gentleman's amendment, it is to tax gas only upon consumption, and it excludes the exemption contained in the original section.

Mr. HORTON. That is it.

Mr. ROSCOE CONKLING. Then I entirely approve of it.

Mr. HORTON. I move to amend the amendment by adding to it the following:

Provided, That coal tar produced in the manufacture of illuminating gas and the products of the redistillation of the coal tar thus produced shall be exempt from duty.

Mr. LOVEJOY. I do not know that I understand the purport of this last amendment, but it seems to me that the amendment is unjust in this, that while the profits of these gas companies are enormous, it does not propose that they shall pay any part of this tax, but allows them to impose it upon the consumers. Now that is not right. It is manifestly unjust. Every one knows that the gas company of this city, for instance, make enormous profits. I think also that the provision ought to be retained exempting gas produced by persons for their own consumption.

The amendment to the amendment was agreed to.

Mr. HUTCHINS. I move to amend the paragraph of the original bill by striking out the proviso authorizing the gas companies to collect the tax imposed upon gas by this act from the consumers. I move to strike out the words:

Provided, That all gas companies are hereby authorized to add the duty or tax imposed by this act to the price per thousand cubic feet on gas sold, any limitation which may exist in the charter of said companies or laws of any State to the contrary notwithstanding.

I think we are undertaking by that proviso to do what we have really no right to do—to authorize gas companies to charge this tax to the consumers.

Now, as a matter of fact, most of our towns and cities are supplied by contracts, made under the authority of law between the companies and the townships or corporations; and these contracts provide that the gas companies may charge not to exceed a given sum per thousand cubic feet. They are limited by their contracts or charters to a given amount.

This bill proposes, if I understand it, and if I do not of course the Committee of Ways and Means will set me right, to raise the price of gas over and above the price provided in the contracts now in existence between the parties who furnish and the parties who consume gas. Now, I say that as a matter of law we have no right to do that, and even if we had a legal right to do it, it would be unjust and impolitic.

Mr. MORRILL, of Vermont. Gas is a manufactured article. In all cases in which we impose a duty upon manufactures, it is optional with the manufacturer whether he will increase the price of his article or not. Certainly the manufacturers of gas ought to have the same privilege. But how is the fact? Why, the gas companies, under their charters, are frequently compelled to furnish gas to cities where they are located at a price even below the cost of manufacture. In some cities, where the gas companies charge $2 50 per thousand cubic feet to the ordinary consumers, they are compelled, by their charters, to furnish it to the cities for $1 50 per thousand cubic feet. We only propose, by this amendment, not to force an extraordinary loss upon companies which furnish cities or corporations with gas upon such conditions.

Mr. HUTCHINS. Does the gentleman mean to say that we can interfere with the agreement between gas companies and cities or corporations under their contracts?

Mr. MORRILL, of Vermont. I have no doubt whatever that a law of Congress would supersede any State law or charter providing that a company shall sell gas at a certain rate.

Mr. DIVEN. I would inquire if this amendment does not propose to alter the laws of States and to impair existing contracts?

Mr. CAMPBELL. It is a constituent part of all contracts that they shall be subject to such changes as the law-making power may from time to time make.

Mr. THOMAS, of Massachusetts. I very respectfully dissent from the position of the gentleman from Ohio. I undertake to say that this section does not impair contracts in the slightest degree. It provides only that the tax which we assess upon a certain article shall be paid by the consumer ultimately, and not by the manufacturer, and all estates and all property are held subject to this right of the public to tax it. No contract is impaired by the exercise of this municipal power.

Mr. MORRILL, of Vermont. There is a great error existing in the public mind and in the mind of this committee in relation to the profits of these gas companies. There are very few in the country which are making extravagant profits, and upon these we have imposed very heavy taxation. We tax all other illuminating products, candles, petroleum, coal oil, &c. Coal oil is one of the most powerful competitors that gas has ever met with. In many places it is taking the place of gas. Many persons are using it in preference to any other light. So far as our investigations have gone on the subject, we find that not more than half the gas companies are making even the ordinary profits which other manufacturing companies make.

One word now in reply to the suggestion of the gentleman from Illinois as to the lighting of dwelling houses. While we impose a tax on candles and illuminating oil, is it not just that the man who evades all such taxes and who has the means of putting up a separate gas house for the purpose of lighting his own house with gas, should be subject to some sort of tax? Gentlemen who are able to put up their own private establishments for the manufacture of gas, are certainly the last men to claim any exemption from this tax.

The question being on Mr. HUTCHINS's amendment to the amendment,

The CHAIRMAN ordered tellers; and Messrs. HUTCHINS and RICHARDSON were appointed.

The committee divided; and the tellers reported —ayes 36, noes 63.

So the amendment to the amendment was rejected.

MESSAGE FROM THE SENATE.

The committee rose informally, and Mr. ROSCOE CONKLING having taken the chair as Speaker *pro tempore*, a message was received from the Senate by Mr FORNEY, its Secretary, announcing that the Senate had passed, without amendment, the bill (H. R. No. 318) to prohibit the allowance or payment of pensions to the children of officers and soldiers of the war of the Revolution.

The Committee of the Whole on the state of the Union resumed its session, and proceeded to the consideration of the

TAX BILL.

The question being on the amendment offered by Mr. HORTON, as amended, as follows:

Strike out all after the word "material," and insert the following:

When the product shall be not above five hundred thousand cubic feet per month, five cents per one thousand cubic feet; when the product shall be above five hundred thousand and not exceeding five millions of cubic feet per month, ten cents per one thousand cubic feet; when the product shall be above five millions and not exceeding fifteen millions of cubic feet per month, fifteen cents per one thousand cubic feet; when the product shall be above fifteen millions of cubic feet per month, twenty cents per one thousand cubic feet; and the general average of the monthly product for the year preceding the return required by this act shall regulate the rate of duty herein imposed; and where any gas company shall not have been in operation for one year next preceding the return as aforesaid, then the rate shall be regulated upon the estimated average of the monthly product: *Provided*, That the return required by this act shall be understood to mean a return of the bills actually rendered by any gas company during the month preceding said return; and all gas companies are hereby authorized to add the duty or tax imposed by this act to the price per thousand cubic feet on gas sold, any limitation which may exist in the charter of said companies or laws of any State to the contrary notwithstanding: *Provided*, That all gas furnished for lighting street lamps and not measured may be estimated, and if the returns in any case shall be under-stated or under-estimated, it shall be the duty of the assistant assessor of the district to increase the same as he shall deem just and proper: *Provided*, That coal tar produced in the manufacture of illuminating gas, and the products of the redistillation of the coal tar thus produced, shall be exempt from duty.

Mr. LOVEJOY. I move to amend the amendment by inserting the following proviso:

Provided, however, That all gas for lighting single dwellings, when specially made by the owners or occupants thereof for that purpose, and not for sale, shall be exempt from duty.

The gentleman from Vermont has shown us no sufficient reason why the amendment proposed by the gentleman from Ohio [Mr. HORTON] should be adopted.

Mr. DIVEN. I oppose the amendment. In my judgment, the provision could not be enforced in courts of law. I do not deny that you may collect of the consumer a tax on the amount of gas consumed by him, but you cannot do it in this way. Here you levy the tax directly on the producer, and then you provide that contracts existing between the producer and the consumer may be violated. You cannot do that. My friend from Massachusetts [Mr. THOMAS] shakes his head. But let us try this question.

Mr. HORTON. I raise the question of order that the gentleman is not speaking to the amendment offered by the gentleman from Illinois.

The CHAIRMAN. The Chair sustains the point of order.

Mr. LOVEJOY's amendment to the amendment was rejected.

Mr. HUTCHINS. I move to amend by inserting the following proviso:

Provided, That nothing herein contained shall be so construed as to allow the gas-light companies to add such tax to the rates authorized by law to be collected from consumers.

Mr. MORRILL, of Vermont. I raise the question of order that this proposition has been substantially voted on already.

The CHAIRMAN. The Chair sustains the point of order.

Mr. BLAIR, of Pennsylvania. I understood the gentleman from Ohio [Mr. HORTON] to say, in answer to an inquiry, that his amendment proposed to tax the gas produced and sold. I have looked at the amendment, and if I understand it, it imposes a tax on the gross products of the gas works. Now, I suggest that if it was the gentle-

man's intention to tax only what is sold, they should change the word "product" into the word "sale," because there is a good deal of gas manufactured which is never sold.

Mr. FESSENDEN. I was unable to understand fully the nature of the amendment, and I ask the gentleman from Ohio [Mr. HORTON] whether the amendment is so worded as to impose the tax on the net profits of the business, according to the quantity consumed?

Mr. HORTON. That is the design. The gentleman will find the amendment in the Globe.

Mr. RIDDLE. I move to amend the amendment, by exempting all gas companies between whom and the consumer exists a contract regulating the price thereof. If I understand the proposition, it authorizes the various companies to charge over to the consumer the tax imposed on gas. I propose to exempt those companies between whom and the consumer a contract exists as to the price. I am not certain that my amendment covers exactly what I want to provide for. Many gas companies have been merely experiments. Contracts have been entered into by gas companies with proposed consumers that the gas should be furnished at a given price. Sometimes it is incorporated in the charter, and sometimes it is not; but whether it is or not, it does not, in my judgment, make any difference. Unexplained, the proviso already adopted by the committee would seem to authorize the gas company to charge over on their consumers the tax which it pays. The ingenious gentleman from Massachusetts thinks that that will not be the effect of it; but I submit, with all due deference to his better judgment and learning, that his purpose would be better accomplished by expressing it in plain terms. You undertake to authorize one of the parties to a contract to violate it. The consumer, if he finds that the increased price does not warrant his continuing to use gas, has a right to discontinue it; but in cases of contract, the consumer has no such right. It is to provide for such cases that my amendment is offered. I will, however, withdraw that amendment and substitute for it one which a friend has placed in my hands.

Mr. MORRILL, of Vermont. I object to that.

Mr. RIDDLE. Let it be read for information.

The substitute was read, as follows:

Provided, That it shall not be added to the price of gas now stipulated by any existing contract.

Mr. MORRILL, of Vermont. If the gentleman from Ohio had looked at the amendment proposed by the Committee of Ways and Means he would have seen that it does not propose to interfere with any contract existing. It is only with the law, and with the charter of companies that we propose to interfere.

Mr. LOVEJOY. I would like to ask the gentleman whether there is not a gas company in this city—an exclusive company—which has no charter whatever?

Mr. MORRILL, of Vermont. They have their interests in their own hands, and will have after we have got through the business of the session, for I do not suppose that Congress is going to regulate the prices of any manufactures whatever.

The question was taken on Mr. RIDDLE's amendment to the amendment; and it was rejected.

Mr. DIVEN. I move to amend the amendment by striking out the words "any limitation which may exist in the charter of said company or the laws of said State to the contrary notwithstanding."

Mr. BROWNE, of Rhode Island. I rise to a question of order. That amendment, in substance, has once been offered and voted down.

The CHAIRMAN. It proposes to strike out only a portion of the words included in the motion to which the gentleman refers, and therefore is in order, in the opinion of the Chair.

Mr. DIVEN. Now, sir, I desire to state this legal question to the gentleman who proposed this original amendment. I have made a contract, for instance, with a gas company to furnish me with gas for my consumption at the rate of $100 per year. At the end of the year, in consequence of this tax, the gas company bring in a bill charging me $110, I refuse to pay it, and the company sue me. The contract is produced, by which the company agree to furnish me with gas for the year for $100. The company claim that they have been taxed ten dollars on their works, and that they have the right to collect that tax from me, the consumer. Now, I submit to any legal gentleman whether such a claim can prevail? I do not deny that the legislative power of the country has the right to tax me, but it has not done it. It has taxed the gas company. The tax has been laid upon their establishment, and the company have no right to collect the tax from me. It is a change of their contract with me. When they entered into a contract with me to furnish me with gas for $100 a year, they did it subject to whatever duty or tax they might have to pay. You might as well talk of collecting an additional price for turpentine because, between the time the contract was made and the time of delivery, the market price of turpentine had advanced.

Mr. BROWNE, of Rhode Island. The gentleman from New York cannot have examined critically the language of the section, else he would not have made the argument which he has. The proposition is not to tax the manufacturers of gas; the proposition is to tax the gas, and the section fixes who shall pay the tax. You say what tax shall be levied, and you say that the companies shall collect it from the consumers; and how any legal question can be raised upon that proposition I am unable to comprehend.

But suppose it were otherwise, the party when he contracts does it subject not only to the law as it existed when the contract was made, but subject to the supreme law of the land as it may be, in the mean time, changed by the legislative power of the country. I take it that no gentleman will contend that Congress cannot make a law of the land which shall authorize the collection of the tax from the consumers by the gas companies. The principle has been acted on several times, in substance, in various portions of the bill where we have provided for collecting the tax in that manner. The whole of this proposition is, that we provide for laying a tax upon gas, to be paid by the consumer, to be collected by the companies, and paid by them into the Treasury of the United States. The tax, I repeat, is levied upon the consumers and not upon the companies.

Mr. VALLANDIGHAM. The gentleman says the tax is levied upon the consumer, and not upon the gas company. Who pays the tax to the Government, the consumer or the company? The company, of course.

Mr. BROWNE, of Rhode Island. The Government has the right to use gas companies as well as persons to collect its taxes.

Mr. VALLANDIGHAM. The section does not, however, place the companies merely in the position of agents.

Mr. DIVEN's amendment to the amendment was disagreed to.

Mr. HUTCHINS. I move to amend the amendment by adopting the following proviso:

Provided, That nothing herein contained shall be so construed as to allow the Washington City Gas-Light Company to add such tax to the rates authorized by law to be collected from consumers.

Mr. Chairman, I have moved that amendment in order that the committee may understand, if I am able to make it appear, what the matter in issue is, as I comprehend it. I do not contend that any contract entered into between individuals, or between companies and individuals, can prevent Congress from assessing a tax upon gas. I contend for no such thing as that. But I do say that Congress has no right to say to the gas company "you may add to the price you have contracted to furnish gas to your customers, the tax which we have levied upon you." That proposition I deny, if it is the proposition which the Committee of Ways and Means propose to incorporate in this bill.

Mr. THOMAS, of Massachusetts. Does the gentleman from Ohio contend that Congress has no power to pass a law impairing the obligation of contracts. There is such a prohibition in the Constitution upon the States, but I know of none upon Congress.

Mr. HUTCHINS. I understood the gentleman from Massachusetts to oppose the legal tender clause to the Treasury note bill, among other reasons because Congress had no power to impair the obligations of contracts.

Mr. THOMAS, of Massachusetts. The gentleman misunderstood what I said then upon that measure. If he will examine my speech upon that bill he will find no such legal grounds taken by me.

Mr. HUTCHINS. If Congress have that power I am not for its exercise. It is an injudicious exercise of power at any rate. It is an arbitrary exercise of power which Congress should never attempt to exercise.

Now, for instance: the Washington City Gas-Light Company charge, if I am correctly informed, $3 50 per thousand cubic feet—an extravagant price. The company has a monopoly of the business in this city, not only as to private citizens, but as to the Government itself, which is its customer, and which we propose to tax along with private individuals twenty-five cents per thousand feet, which will make the aggregate price of $3 75 per thousand feet, which the Government and citizens of this city will have to pay in consequence of this provision. I say it is unjust, not only in relation to Washington, but in relation to every village and city in the country in which gas is made and used.

Now, what I propose is, that the tax shall be assessed upon the gas, and let the gas companies and the consumers make their own arrangements as to who shall pay it. But if you design to tax the consumer, why not make that provision in plain terms, and make the gas companies the collectors of the tax by the terms of the bill, if that is what you intend; for that is, as I understand it, the effect of this provision as explained by the gentleman from Rhode Island.

Mr. HORTON. I move that the committee rise, for the purpose of closing debate upon this section.

The motion was agreed to.

So the committee rose; and Mr. ROSCOE CONKLING having taken the chair as Speaker *pro tempore*, Mr. COLFAX reported that the Committee of the Whole on the state of Union had, according to order, had under consideration the state of the Union generally, and particularly the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt, and had come to no resolution thereon.

Mr. HORTON. I move that all debate in the Committee of the Whole on the state of the Union on the pending section of the tax bill close in one minute after the committee shall resume the consideration of the same.

Mr. BROWNE, of Rhode Island. I move to amend the motion by striking out "section," and inserting in place thereof the word "paragraph."

The amendment was agreed to.

The motion, as amended, was agreed to.

Mr. HORTON moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed, as a special order, the consideration of the bill (H. R. No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

The CHAIRMAN. Debate is closed on the pending paragraph in one minute.

The question was taken on Mr. HUTCHINS's amendment to the amendment; and it was disagreed to.

Mr. PORTER. I move to strike out the words "that the return required by this act shall be understood to mean a return of the bills actually rendered by any gas companies during the month preceding said return," and in lieu thereof to insert the following:

That the product required to be returned by this act shall be understood to be the product derived in the bills actually rendered by any gas company during the month preceding the return.

Mr. HORTON. I accept that as a modification to my own amendment.

Mr. MORRILL, of Vermont. I move to insert the words, "and all gas made for and used by any hotel, inn, tavern, and private dwelling-house shall be subject to duty and;" so that it will read:

Provided, That all gas furnished for lighting street lamps, and not measured, and all gas made for and used by any hotel, inn, tavern, and private dwelling-house, shall be subject to duty and may be estimated; and if the returns in any case shall be under-stated or under-estimated, it shall be the duty of the assistant assessor of the district to increase the same as he shall deem just and proper.

The amendment to the amendment was agreed to.

Mr. HORTON's amendment, as amended, was then adopted.

Mr. HORTON. I move to strike out the following paragraph:

On crude coal oil or tar, produced by the distillation of coal, asphaltum, shale, peat, and other bituminous substances, used for like purposes, and on crude petroleum or rock oil, five cents per gallon.

The amendment was agreed to.

The Clerk read the following paragraph:

On coal oil or illuminating oil, refined, produced by the distillation of coal, asphaltum, shale, peat, petroleum, or rock oil, and all other bituminous substances used for like purposes, when the same from any cause has not been charged with the duty in a crude state, ten cents per gallon.

Mr. HORTON. I move to strike out the words "oil or," so it will read "on coal illuminating oil;" strike out the words "when the same from any cause has not been charged with the duty in the crude state," and add at the end of the paragraph the following:

Provided, That oil refined and produced by distillation of coal exclusively shall be subject to and pay a duty of eight cents per gallon, anything in this act to the contrary notwithstanding.

Mr. McKNIGHT. I ask the gentleman from Ohio whether it is the design of the Committee of Ways and Means to provide for a drawback in the case of this oil being exported from the country?

Mr. HORTON. We propose to allow a drawback upon all exportations.

Mr. McKNIGHT. Then we can ask nothing further.

Mr. WADSWORTH. Would it not be proper to insert in the proviso before the word "oil" the word "such;" so that it will read, "Provided, that such oil," &c.?

Mr. HORTON. I accept that as a modification of my amendment.

The amendment was agreed to.

Mr. ROSCOE CONKLING. I move to strike out "ten cents" and in lieu thereof to insert "fifteen cents," to test the sense of the committee on it, believing, as I do, from information I have received from several quarters, that this article of refined oil will bear a higher tax than ten cents.

The amendment was rejected, there being, on a division—ayes twenty-one, noes not counted.

Mr. PHELPS, of California. I move to insert after the word "oil," the words "naphtha, benzine, or benzole."

Mr. HORTON. I oppose the amendment. I will state, for the information of the committee, that the articles mentioned in the amendment of the gentleman from California, as the result of the distillation or refining of petroleum or rock oil, are worth little. They are the refuse of the distillation of petroleum, and are used as a substitute for spirits of turpentine, when we cannot get that article from our neighbors of North and South Carolina. Three per cent. is more than they can afford to pay. You can buy any quantity of them for one half of this tax.

Mr. PHELPS, of California. I have been informed by manufacturers that it was proper to embrace these articles here. I have no disposition unnecessarily to press this amendment. So far as this oil is concerned, I understand that it can be obtained at a less price than the tax upon it. I believed that the amendment of the gentleman from New York ought to have been adopted. I think it can bear a heavier duty than fifteen cents, and then be the cheapest burning fluid in the country.

The amendment was adopted.

The Clerk read the following:

On spirits redistilled, mixed with other liquors or materials, or adulterated, or prepared in any way to be sold as brandy, gin, wine, or by any other name, twenty-five cents per gallon, on the basis of first proof, and so in proportion for any greater strength than the strength of first proof.

Mr. HORTON. I move to strike out the words "redistilled" and "adulterated, or;" insert the word "whisky" before the word "brandy;" and strike out the word "twenty;" so that it will read "five cents per gallon," &c. Mr. Chairman, the committee concluded to offer this amendment for the reason that a duty on redistillation would be a double duty on alcohol. We think that the tax of fifteen cents a gallon, or thirty cents a gallon on alcohol is sufficient; and those persons who indulge in mixed liquors will have to pay five cents in addition to what is paid on simple whisky.

Mr. WICKLIFFE. Does the committee propose any change in the bill in reference to the tax upon original distilled whisky?

Mr. HORTON. The committee are of the opinion that the duty now proposed is what it can bear.

Mr. WICKLIFFE. I understand that the proposition is to reduce the duty on rectified whisky, that miserable stuff which kills almost quicker than the original article. If any article ought to be taxed high, it is this very article of rectified whisky. Whisky adulterated is the proper expression, and it ought to be retained in the bill. It is proposed that we shall pay upon the original distillation of whisky fifteen cents per gallon. That is a tax which reaches the producer, and falls especially upon the man who grows the corn and the rye which are distilled into whisky; and when it gets into the hands of the speculators and adulterators of whisky, they are only taxed five cents per gallon. If the producers are taxed fifteen cents, then these adulterators ought to be taxed a like amount.

Mr. HORTON. We agree with the gentleman from Kentucky, but we have put this tax up to the revenue standard. This is a practical question, and while I would like to get all the revenue we could from this source, I think that we have imposed all the tax that we can get. If we put it at five cents we will collect it, but if we put it higher we will collect nothing.

Mr. LOVEJOY. I move to strike out the word "redistilled," and insert "rectified." Now, sir, if I understand that word *redistilled* it means just this, to wit: the process by which high wines or raw spirits from the still is made into alcohol for manufacturing, mechanical, and medicinal purposes. In redistillation, the oil which enters in as an ingredient in the products of the still is separated from the alcohol or pure spirits. *Rectifying* is another process. This is done by mixing water with the raw product of the still and then filtering it through charcoal. All that is rectified in this way is made into different kinds of liquor for drinking purposes. *Rectified* spirits, therefore, ought to bear the tax, and not that which is used for other purposes than that of drinking. I am told that only fifteen per cent. of the high wines is used to manufacture any kind of beverages, and that the rest is used for manufacturing and other purposes. It dissolves the gums used in making hats, and sets the colors that adorn our prints. I may say also, that I am informed that Illinois manufactures one third of the high wines made in the United States. There ought, I think, to be also some drawback on the loss which high wines sustain in going to market.

Mr. HORTON. I move to strike out the word "redistilled," in line forty-two; so that the clause shall read:

On spirits mixed with other liquors or materials, or adulterated or prepared in any way to be sold as brandy, gin, wine, or by any other name, twenty-five cents per gallon, on the basis of first proof, and so in proportion for any greater strength than the strength of first proof.

The amendment was agreed to.

Mr. LOVEJOY. I move to amend by inserting the word "rectified" after the word "spirits."

Mr. WADSWORTH. I would inquire of the Chair if the words "prepared in any way" do not include rectified spirits?

The CHAIRMAN. The Chair cannot say.

Mr. WADSWORTH. Well, that is my objection to the amendment.

The amendment was not agreed to.

Mr. HORTON. I move to amend by striking out the words "or adulterated."

The amendment was agreed to.

Mr. HORTON. I move to amend by inserting the word "whisky" before the word "brandy," in line forty-four.

The amendment was agreed to.

Mr. HORTON. I move to amend by inserting after the word "name" the words "not otherwise provided."

The amendment was agreed to.

Mr. HORTON. I move to amend by striking out "twenty-five," and inserting "five."

Mr. KELLOGG, of Illinois. If I have kept the run of this matter, as amendments have been made and adopted, it strikes me that gentlemen have got their bill into a shape which they will not exactly like themselves. Having struck out the word "redistilled," and refused to insert the word "rectified," they have left, as I catch it from the amendments which have been hastily made, that part of spirits which is used and known as whisky, pure and unmixed, entirely without any increase of taxation above spirits or high wines. I agree with my colleague, and insist that pure spirits, high wines, which enter into the arts for manufacturing purposes very considerably, should not be taxed so high; while I was willing, and am now, to tax, to a greater extent, that which becomes a beverage. Now mark that spirits do not become a beverage until they are rectified, and when they are rectified they become an article used as a drink; and yet it is unmixed liquor. It is pure whisky rectified. It is not what is known as mixed liquor. I repeat, that we ought to tax rectified spirits higher than we do high wines, for the reason that all rectified whisky is used entirely, or nearly so, as a beverage; while high wines are used very much for mechanical purposes; and as it is distilled into alcohol it is used in the same way, and almost exclusively. All I make this suggestion for is, that gentlemen who have charge of this bill may look over the amendments they have made, and see to it that they do not leave out the article of rectified whisky, which is used almost exclusively as a beverage, from the increased taxation which they put upon mixed and adulterated liquors.

Mr. MORRILL, of Vermont. I would call the attention of the gentleman from Illinois to the language of the section as already amended in the forty-third line. As amended, it reads, "or prepared in any way to be sold as whisky, brandy, gin, wine, or by any other name." I think that covers the objection of the gentleman.

Mr. KELLOGG, of Illinois. The gentleman sees the difficulty in which he will be placed. It will read, "on spirits, mixed with other liquors or materials, or prepared in any way to be sold as brandy, gin, wine, or by any other name." Do I understand that the word "whisky" is inserted before "brandy?"

Mr. MORRILL, of Vermont. It has been inserted there.

Mr. KELLOGG, of Illinois. Then that will leave the section open to the difficulty of construction as to whether the liquor is adulterated or mixed and prepared to be sold as whisky, or whether it is whisky itself. He will find that difficulty of construction, and the easiest way to obviate that is to say "rectified whisky." Then it will be named so that every gentleman will know what is meant. I am in favor of taxing mixed liquor sold as brandy, prepared gin, &c., higher than spirits.

Mr. SHELLABARGER. I move to amend the amendment, by making the tax six cents per gallon. I suppose the amendment offered by the committee will prevail, as the recommendations of that committee generally do, and as they generally ought to; but I wish to say that the reason given by the committee to my colleague is not satisfactory to my mind, and that is, that it will be impracticable to collect the proposed tax of twenty-five cents. If that be a valid reason for introducing this amendment, the same reason will be found to apply to a large class of manufactures which can escape assessment with equal facility. I am of opinion—and it is a mere matter of opinion, upon which gentlemen must form their own judgments as well as they can by their observation—that it will be practicable to collect the tax now assessed by the bill, for the reason that the class of products which is indicated in this paragraph is a very large interest in this country, unfortunately. The men who produce it are not only numerous, but their productions, in the aggregate, are enormous. They, therefore, cannot very readily find those places of cover and concealment which will enable them to escape the eye of the officers whom the law has provided to make this assessment.

But, sir, my great objection is, that while this is an enormous interest, it is, I venture to say to the committee, of all the interests which will be seized upon by this tax, the one above all others that is most able to pay this assessment. Why, sir, in reference to this production, the price of twelve and a half cent whisky, when converted into brandy, is raised from one dollar to three dollars a gallon. The profit is enormous, and it is simply because it is one of those articles appealing to the appetites of men which will always be gratified, that enables these manufacturers to produce in enormous quantities, and to sell at enor-

mous profits, these adulterated and vitiated commodities. Hence, while it is a simple matter, and while the assessment will fall upon a very large class of consumers, it is the very class of articles which, of all others, should pay a very high tax, and the tax will make no perceptible difference in the amount of production. While I think it is not wise in us to become moral reformers in matters like this, yet every gentleman will conceive that it would be much better for us were its use prohibited, and I hope the committee will conclude, at least for the present, to try to collect this twenty-five cents.

Of course my amendment is merely formal, and made simply for the purpose of enabling me to make these few remarks.

Mr. BIDDLE. I am opposed to the amendment to the amendment. I heard with pleasure the amendment offered by the Committee of Ways and Means, after the mature deliberation which they have no doubt given to this subject. As we intend this bill to be a bill for revenue, and not a bill upon the prohibitory principle, which was advocated a few days ago upon this floor by the gentleman from Maine, [Mr. MORRILL,] I think this amendment is necessary in order to give effect to what I believe we then concluded was the true principle upon this subject.

Those of us who represent populous cities have a good deal of correspondence upon this subject, and all my correspondents concur in representing this as a duty which will either lead to a prohibition of the sale of these articles, or to an extensive illicit trade. Now, sir, we have had considerable experience in Pennsylvania, from our original whisky insurrection down to our ineffectual and futile attempt to incorporate something like the Maine liquor law into our license system. We have found always that when you make the tax for a license or a tax on the sale of liquors too high, you foster an immense illicit trade, and you ruin the honest dealer who complies with the law.

For that reason I hope there will be no accumulation of charges upon the sale of this article. First you have, on page 35, a tax of fifteen cents per gallon on spirits. Then, on page 54, you recognize this very class of persons, rectifiers, as engaged in a legitimate business, and lay a tax of $100 for a license. And now upon the top of that it was proposed, until the Committee of Ways and Means reconsidered the matter, to add twenty-five cents per gallon on redistilled liquors.

I therefore concur in the amendment offered by the committee, and am opposed to the amendment to the amendment, which raises the tax to forty cents a gallon, with a view, it seems to me, more to prohibition than revenue.

Mr. SHELLABARGER, by unanimous consent, withdrew his amendment to the amendment.

Mr. MALLORY. I move to increase the amount to fifty cents. I want to increase the tax upon that class of men instead of diminishing it. I concur heartily in the remarks of the gentleman from Ohio nearest me, and I have failed utterly to see the reason for this reduction recommended by the Committee of Ways and Means, and supported by the gentleman from Pennsylvania [Mr. BIDDLE] who has just addressed the committee. I know that the class of business proposed to be taxed by this section realizes more profit upon handling liquors than any other class. You tax the original distiller fifteen cents a gallon for all the whisky produced. He sells it, after having bought the corn of the farmers and manufactured it, to the rectifier for fifteen or twenty cents a gallon, and the rectifier takes it in hand and makes it bring in the market from one and a half to three dollars a gallon. Thus this class of men realize these enormous profits, which you propose to screen by an amendment to this section.

The gentlemen of the Committee of Ways and Means tell you that if you make this tax higher than five cents per gallon it will result in the collection of no revenue at all from this source. The gentleman from Pennsylvania tells you that it will encourage illicit transactions and the evasion of the law; that these men will resort to criminal actions in order to cheat the Government out of the revenue. Well, sir, meet that difficulty in the same way that you meet all similar difficulties—impose a heavy penalty upon these men for evading the law, and you will secure the revenue. Will not the distiller, who is taxed by this bill an amount equal to the value of his article, evade the collection of the tax? Why is it that every man taxed by this bill will not evade the collection of the tax in the same way that it is supposed these rectifiers will evade it? It is true that they are, generally speaking, a class of men who will resort to any subterfuge or evasion to secure their end; but their profits are enormous; they can afford to pay a heavy tax because of those profits. The Committee of Ways and Means ought so to shape this bill as to guard against the evasion of this tax; they ought to impose heavy penalties upon rectifiers who evade it. I would be willing to impose a fine of five hundred or five thousand dollars upon rectifiers for each violation of this law. You can catch these thieves as easily as you can catch any other thieves. There is nothing peculiar in their business that gives them facilities for disguise. I cannot, for my life, see why this exception should be made in their favor, and for the reasons assigned by the gentlemen who advocate it.

Mr. MORRILL, of Vermont. The Committee of Ways and Means were perfectly willing to place as large a duty on spirits to be used as a beverage as it was possible to collect, and with that view the bill, as originally presented, imposed a tax of twenty-five cents per gallon on spirits redistilled or prepared in any way. But upon further examination, the testimony of parties engaged in the sale of liquors, and of every distiller who said anything upon the subject was, that we could not collect anything except what we should collect on spirits as first distilled; that the law would be evaded; that this matter of rectifying and mixing liquors could be done by any grocer, in however small quantities, in cellars or garrets or in any building whatever, and that it only required an expenditure of ten dollars to make a perfect apparatus for the purpose of rectifying spirits. It was upon these considerations, and upon the testimony of those most interested, the distillers, that we could not collect any other tax than that which we collected from them, that the committee consented at last to put down the duty to five cents, with a view of trying at least to collect something further from this article. I believe that if we raise it at all above that, we shall make the traffic even more illicit than it is at the present time.

Mr. MALLORY. I would ask the gentleman from Vermont how, under all these difficulties, he proposes to collect the tax of five cents?

Mr. MORRILL, of Vermont. No whisky is drank as a beverage until it is rectified. There are certain men engaged in the business of rectifying, and those parties say that if we put this duty upon them we shall entirely destroy their business. We thought that if we imposed a tax of only five cents per gallon we might very possibly obtain something from the men engaged in this business. I call for tellers on the amendment to the amendment proposed by the gentleman from Kentucky, [Mr. MALLORY.]

Tellers were ordered; and Messrs. MALLORY, and BLAIR of Missouri, were appointed.

The committee divided, and the tellers reported—ayes 58, noes 39.

So the amendment to the amendment was agreed to.

The amendment as amended was then adopted.

Mr. VAN VALKENBURGH. I offer the following as a substitute for the entire paragraph:

On spirits rectified, mixed with other liquors or materials, or prepared in any way to be sold as whisky, fifteen cents per gallon; to be sold as brandy, rum, gin, wine, or by any other name not otherwise provided for, thirty cents per gallon on the basis of first proof, and so in proportion for any greater strength than the strength of first proof.

Mr. EDWARDS. I move to amend the paragraph as it now stands, by adding to it the following:

And that this tax shall be assessed on all such spirits held by any person or persons for sale at the time this act shall take effect.

I am desirous of placing the highest tax upon this article of manufacture that can be collected without doing injustice to any class of the community. If we are to place a tax upon this article, I think we should place one that will accomplish the purpose for which we impose taxes. If we are to collect revenue from spirits, we must so frame our tax that when we undertake to apply the law we shall find the subject from which we are to draw the revenue.

Now, sir, it has been remarked—and it is apparent to all—that if this tax is to take effect only upon spirits that shall be manufactured after the law takes effect, for a time at least, and for the time when the necessities of the country will be the greatest, we shall have no merchandise of this description from which we can derive revenue. I am not familiar with the manufacture of this article, nor have I any statistics by me from which I can state the amounts that are now in the country, or that can be accumulated before the 2d day of May, or whenever this bill shall be completed and shall be operative upon the interests of the country:

Mr. WICKLIFFE. I would ask the gentleman if there is a provision in this bill taxing any other manufactures that may be on hand?

Mr. EDWARDS. I am coming to that.

Mr. MALLORY. All distilled whisky is.

Mr. WICKLIFFE. I understand that. I mean articles manufactured by looms. Is there any provision of the bill which taxes manufactures of that kind which may be on hand?

Mr. EDWARDS. In the brief space of time allowed me I prefer not to be interrupted, as it breaks up the continuity of my remarks. I say that I have reason to believe, from statements of those who ought to know, that there will be a large accumulation of this article on hand when the bill passes, and that there will be a forced manufacture for the very purpose of accumulation. I understand that the capacity of the distilleries now in successful operation is sufficient to produce an amount that will enable the distillers, if they continue to hold their product, to be at ease for some time after its passage, and to realize the increased profits that may be given to them by this bill. I would defeat if I could that object, and I would also disappoint those who have been speculating largely in anticipation of the enactment of this law. I have been told that an immense quantity of this article has changed hands under the conviction that some tax will be imposed on the future manufacture of it; and just in proportion to the amount of that tax will be the speculation in reference to it.

Now, let me ask what are the objections to the levying of this tax on the article on hand at the time the law is to take effect? The first objection is that made by the gentleman from Illinois, [Mr. KELLOGG.] He says such a measure would oppress the farming interest, that it would depreciate the price of the agricultural products that enter into the manufacture of whisky. Now, if this law were to take effect to-morrow, I would ask the gentleman how it would affect the corn that has been already purchased and made into whisky? And if it takes effect months hence, will not its effect be limited, so far as the farmer is concerned, to the corn purchased after the passage of the law? Whatever effect, therefore, is to result from this bill in the future manufacture of spirits, is already established, and it will make no difference in that respect whether we do or do not lay the tax upon the quantity on hand.

Another objection that has been urged is, that this proposed taxation of property on hand at the time of the passage of the law, is an exception to the rest of the bill. I will admit that it is, perhaps, an exception to the general principle on which manufactures are taxed; but still it is not the only exception to the taxation of property which will be on hand at the time the law shall go into effect.

[Here the hammer fell.]

Mr. ENGLISH. It is quite evident, Mr. Chairman, that there is very little diversity of opinion in the committee in reference to the taxation of whisky or liquors, whatever name they may assume after they have gone through the process of rectification. But in my mind the question before the committee is as to the manner in which whisky shall be taxed, and to what amount, with a view of raising the most revenue from the article taxed. In my judgment, the imposition of a tax of forty cents a gallon on adulterated liquor—call it whisky or any other name—will not bring half as much revenue as a tax of ten cents a gallon. Members of the Committee of Ways and Means have informed the committee how these liquors are converted. It is the most simple process in the world. Every corner grocery can, with a barrel in the cellar, a little charcoal at the bottom of it, and some drugs and coloring stuff purchased at the druggists, convert spirits into brandy, gin, whisky, or whatever else is desired in that line. Is there then

a gentleman on this floor who supposes that forty cents a gallon on whisky thus rectified is ever going to be collected by the Government? It is impossible. An illicit business in liquors would spring up which it would be hard to restrain. We have heard enough of "smelling committees" under the Maine law. Those who keep corner groceries are smart enough to protect their own interests, and they will do it in spite of all Government officials.

Mr. MALLORY. Will the gentleman from Connecticut allow me to ask him whether the same objection does not apply to a tax of five cents per gallon?

Mr. ENGLISH. Not to the same extent. There are extensive rectifying establishments in the large cities, which rectify spirits at a charge of from two to four cents per gallon. The charge is so small that grocers are willing to go to rectifiers and pay that charge; but I do not think that that will be the case if we impose a tax of forty cents per gallon.

Mr. PHELPS, of California. I move to amend the amendment by striking out the last word. I do that for the purpose of offering a few suggestions as to the propriety of the amendment. I am very sorry that the committee has come to the conclusion to act the part of a temperance society, instead of carrying out its original purpose of passing a tax bill. I deprecate the laying of any tax upon any branch of business the effect of which will be to destroy that business in the country. That should not be the object of Congress in passing a tax bill. Particularly, sir, should we not attempt to impose a tax on an article on hand, discriminatingly, when we refuse to do it in reference to all other articles. We have had many learned discussions, both in the House and in the Senate, during this session, maintaining the proposition that we have not the right to confiscate the property of rebels. But this is a proposition most effectually to confiscate the property of our friends. There is no doubt about it. We have put a tax already on spirituous liquors equaling fully their cost. It is now proposed, in addition, to place a tax on them of three times their original cost.

I concur in all that the gentleman from Connecticut has said in regard to the propriety of taxing liquors in this shape. If it were a proposition for the sake of morals, I would go as far as he who goes furthest to suppress dram-drinking in the United States. But this is not such a question. The business of rectifying spirits is carried on extensively, as the gentleman says, at a cost of two or three cents per gallon. But now it is proposed to lay a tax of forty cents per gallon on that process. Now, what will the result be? Why, sir, the result will be that not a single dollar will ever be collected on rectified spirits. The tax will be evaded, except as to the quantity now on hand; and, so far as that is concerned, it is fully equal to a confiscation of all that kind of property in the country. The exporting business in this product has become very large within the last two or three years. It is estimated that from a quarter to a half of all the liquors made in the United States are exported. So far as rectified liquors are concerned, there is no drawback provided. We may send our raw liquors to France, where they are rectified, and returned at a less cost, after paying one hundred per cent. duty, than the American brandy made here. Is that right? Is that politic? Most certainly not. In my judgment, the most politic thing for the committee to do would be to strike out that whole provision. If you put on this tax, the rectifying will be done in the retail shops; the large rectifying establishments will be shut up, and no license will be derived from them. It is impolitic and unwise to carry out this theory of taxing liquors with a view of suppressing that kind of business. I withdraw my amendment.

Mr. EDWARDS. I object to the withdrawal of the amendment, but only that I may complete the remarks which I was making on my amendment. It has been asked whether any other property is taxed in this bill, that will be in existence at the time the bill takes effect. I say, sir, that there is other property, and that the same principle which is applied to that would apply to this. I hold that the same principle that is applied, for instance, to carriages, watches, plate, billiard tables, and piano fortes which have been manufactured at some time, and shall be on hand when this bill passes and shall be taxed as it now stands, will as well justify a tax on all spirits of prior manufacture.

Mr. PHELPS, of California, rose.

Mr. EDWARDS. I must decline to yield to the gentleman, for I have not the time for what I desire myself to say.

Then again, Mr. Chairman, let me refer to another matter. This bill proposes to tax salaries, and it proposes to impose that tax soon after the bill goes into operation. The tax is to the extent of three per cent. upon such salaries. And I ask you to take into consideration the fact that the tax is not alone upon what has been received, but upon all that is established for the year even just commencing, however subject to being terminated by various contingencies. Is not that a departure from what is said to be the principle of the bill, or rather does it not show that no one principle pervades all its different provisions? It does not even tax salaries *pro rata* for the time they are enjoyed, but as one and entire for the whole year, even if the recipient shall die or be displaced from office, or any contingency whatever shall happen by which he fails to receive his salary, which is the basis on which the tax is levied, and no refunding or abatement is to be made by the Government.

But there is another principle upon which I think we can make this exception to the general principle of the bill as has been stated. Admitting the correctness of the principle as one generally to be followed, we may make this exception upon the same principle upon which some of the States prohibit the traffic entirely in this description of property. We may tax it upon the ground that the traffic is of itself injurious to the community. Although I will not advocate the practice of passing moral reform laws by Congress, yet I think it is proper on any ground that will justify it to avail ourselves of a source of taxation which will afford a large revenue, and at the same time do no injustice to any class of the community. I am therefore in favor of making our exception to the general principle, if it is such, upon the same ground that the exception is made in State Legislatures.

Now, sir, I am told that there are some one hundred and fifty-six millions of gallons—I think that is the quantity—of this article manufactured annually in the country, and that a tax of half a dollar a gallon would produce a revenue of $75,000,000 and more. Why, sir, it would give one half the revenue asked to be raised by this bill upon a single article, and will impose, as I think, no hardship upon any class of the community; no class would be oppressed by the tax. It has been pretty well demonstrated, I believe, to the satisfaction of every one, that whatever tax you impose upon this article will be paid by the consumer, and he, therefore, if any one, is to be injured by it. If he paid none of it, by using none, it would undoubtedly be better for him. But it is not to be paid by the manufacturer, and will be paid by the consumer when he uses it. It is, therefore, immaterial to him whether the tax is imposed upon the article that shall be on hand or only upon that which is manufactured in the future. In one case he would pay the additional price to the Government, in the other to the manufacturer, dealer, or speculator.

But if the effect of this amendment should fall heavily upon persons who, it is said, have been purchasing large quantities of the article in anticipation of the legislation of this bill, I have to say that they will only have taken the chances that all take who indulge in the practice of gambling in any shape, one or another—the chances of loss as well as gain.

I have no sympathy with that class of persons, especially on a subject of this character. If they are speculating upon the legislation of the country, they must take the hazard of the die. If we see fit so to legislate as that the Government shall derive revenue from this article from the time the bill goes into operation, and by so doing shall defeat the plans of those who have been studying the chances of realizing fortunes from enhanced prices occasioned by the action of the Government, such persons will have but little cause of complaint, and can expect but little sympathy from any one. I have offered this amendment to test the sense of the House upon this question—which has already been decided by it either way—believing that this further and third decision may be regarded as final.

Mr. HORTON. I move that the committee rise, for the purpose of closing debate upon this paragraph.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt, and had come to no resolution thereon.

Mr. HORTON. I move that all debate in Committee of the Whole on the state of the Union on the pending paragraph of the tax bill close in one minute after the committee shall resume the consideration of the same.

The motion was agreed to.

Mr. HORTON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of resuming the consideration of the tax bill.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed, as a special order, the consideration of the bill (H. R. No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

Mr. PHELPS, of California, by unanimous consent, withdrew his amendment to the amendment.

The question being on the amendment,

Mr. EDWARDS called for tellers.

Tellers were not ordered.

The amendment was disagreed to.

The next paragraph was read, as follows:

On vinegar, or fluids purporting to be vinegar, the acidulent properties whereof shall be derived in whole or in part from any materials other than cider or wine, five cents per gallon.

Mr. HORTON. I move to strike out that paragraph, and I will very briefly state my reasons for making the motion. We find, on examination, that a great portion of the vinegar that is used is manufactured from whisky and as we have taxed whisky already pretty liberally, and as vinegar goes largely as an element into the manufactures of the country, and as we might be charged with taxing the manufacturers somewhat more than their share, [laughter,] the Committee of Ways and Means have, therefore, concluded that vinegar ought to go "scot free."

The amendment was agreed to.

The following paragraph being under consideration:

On ground coffee, and all preparations of which coffee forms a part, or which is prepared for sale as a substitute for coffee, one cent per pound,

Mr. HORTON moved to amend, by striking out in the fifty-fourth line "one cent," and inserting in place thereof "three mills."

The amendment was agreed to.

The following paragraph being under consideration:

On ground pepper, ground pimento, ground cloves, ground cassia, and ground ginger, and all imitations of the same, one cent per pound,

Mr. HORTON moved to amend, by inserting after the words "ground pepper," the words "ground mustard."

The amendment was agreed to.

Mr. LOOMIS. I move to amend, in the fifty-seventh line of the same paragraph, by striking out "one cent," and inserting "five mills." I move the amendment for the reason which I suppose prevailed with the Committee of Ways and Means in regard to ground coffee; because the process of grinding these things is so exceedingly simple that the revenue will be lost altogether if the tax is fixed at too high a rate.

Mr. HORTON. I will say in reply to the remarks of the gentleman from Connecticut that, upon a full consideration of this question, after examining experts in the matter, who thought it would bear this tax, and that it could be collected, we fixed the rate as it is in this section.

The amendment was disagreed to.

MESSAGE FROM THE SENATE.

The committee informally rose; and the Speaker having resumed the chair, a message was received from the Senate, by Mr. FORNEY, their Secretary, notifying the House that the Senate had passed a bill (No. 120) in addition to "An act to refund and remit the duties on arms imported by States," approved July 10, 1861, in which he was directed to ask the concurrence of the House.

The committee resumed its session; and proceeded again to the consideration of the

TAX BILL.

The following paragraphs being under consideration:

On sugar, refined, whether loaf, lump, granulated, or pulverized, two mills per pound.

On sugar, refined or made from inferior qualities, and from molasses, sirup of molasses, melado, or concentrated melado, two mills per pound.

Mr. HORTON moved to strike out the words "inferior qualities, and from."

The amendment was agreed to.

Mr. DAVIS. I move to insert in line sixty-two, after the word "pound," the words "on all brown, Muscavado, or clarified sugars produced directly from the sugar cane, (and not from sorghum or imphee,) other than those produced by the refiner, one cent per pound."

Mr. Chairman, I think the proposed tax is just and equitable for the following reasons: under the tariff of 1846 and 1857, the duty upon foreign raw sugars was one half cent per pound, and was deemed adequate protection to the producers of domestic sugar, and the business flourished—the production of the country averaging for the past five years about two hundred and ninety thousand hogsheads of one thousand pounds each for Louisiana, and three thousand for Texas, being equal to two hundred and ninety-three millions of pounds. By act of July, 1861, we levied an *additional duty* of two cents on grades known as Muscovado or brown sugar not advanced above No. 12, Dutch standard—the whole duty being two and a half cents—and when advanced above No. 12, by whatsoever process, but not refined, an *additional* duty of two and a half cents per pound—whole duty being three cents. This excess of two cents in one case and two and a half cents in another is in excess of and above needful protection, and is added at once to the profits of the maker. In a word, the value of the crop of two hundred and ninety-three millions of pounds is enhanced in price by the new duties at least $5,800,000. This much more is paid by the consumers and goes directly to the producers. Now, I propose to divide the profits with the producer, and while by the increased duty the people pay $5,800,000 more for the crop of New Orleans and Texas, they have the satisfaction and relief afforded by the fact that $2,900,000 goes into the public Treasury. Thus, by this amendment, I propose to add to the revenue this important amount, $2,900,000; yet it is without an additional burden on the people, and it is leaving a like amount to be divided among the planters, over and above the profits that they have heretofore been satisfied with. The most liberal protective tariff would never exceed one and a half cents per pound; all in excess of this is levied exclusively as a *revenue* measure. This being the case, it is only right that the protected manufacture should add its quota to the revenue, that quota being the amount of duty levied upon the competing foreign article, in excess of duty needed for protection. I trust the committee will concur with these views, and adopt this amendment.

Mr. WILSON. I ask the gentleman to except sorghum and imphee cane in his amendment.

Mr. DAVIS. The amendment does not include them. It refers expressly and exclusively to sugars made from sugar cane. Sorghum is not known as sugar cane, nor does it properly come under that head, as sorghum is used only for making sirups. It has not yet been made to produce sugar, so far as I am aware, except, perhaps, in one or two instances.

Mr. WILSON. The gentleman is mistaken. Several thousand pounds have been made from it in my State and district within the last year.

Mr. DAVIS. I will accept the gentleman's amendment.

Mr. HORTON. I ask the attention of the committee for a moment to this question, which is a very important one. The question is whether we shall tax Louisiana sugar. I for one see no good reason why the growth of Louisiana should not be taxed when it is possible to collect the tax. One of the reasons which operated upon the committee, inducing them to omit from this bill a tax upon the sugar of Louisiana as one of the excise duties was that it would not at present produce any revenue to the Government, and we did not want to anticipate the matter. We hoped that as the House progressed with this bill, and it advanced toward perfection, we would hear of the success of the movement which has been so long in contemplation, and that our forces would be in possession of New Orleans and all of Louisiana. When that was done we thought it would be time to provide for the tax to be levied and raised upon Louisiana sugar.

The principle of the amendment of the gentleman from Pennsylvania is undoubtedly right. It is simply a question of expediency whether we shall lay the tax now or wait until we reduce the rebels in Louisiana. I am not strenuous about it myself, but I think that this excise is too high. It is a larger excise duty in proportion than any other that I am aware of. I only wish to call the attention of the committee to this question, whether we shall impose the duty on Louisiana sugar now, or wait a little longer. I have no doubt that the tax will be ultimately levied. It is only a matter of time and of expediency.

Mr. BAKER. I move to increase it to two cents. Mr. Chairman, by the action of this Congress, the sugar planters of Louisiana enjoy or have enjoyed a bounty of two and a half cents a pound upon their sugar, and I want to get back some portion of that bounty, and therefore I have moved my amendment to the amendment.

Mr. DAVIS. Mr. Chairman, I rise to oppose the amendment to the amendment; that I may correct an impression left by the honorable gentleman from Ohio, [Mr. HORTON,] that the amendment to the original paragraph now before the committee is premature. He admits the justice of the principle embodied in the amendment, but thinks that as we have not possession of the sugar fields of Louisiana and Texas, such amendment will be inoperative.

This is certainly the fact at the present moment; yet from the progress made by the brave boys of the West, his objection promises to be ephemeral in its nature. The sharp instincts of the trader already realizes that the strong hand of northern power is stretched forth to remove the obstructions which rebellion has planted in this national highway, and the anticipation of an early occupation of New Orleans, and the possession or command of the sugar crop, has already, in some measure, modified the sugar markets of the East. If I am correctly informed, the reasonable expectation that the gallant troops now engaged in the valley of the Mississippi will prove victorious and sweep away every obstacle, makes men cautious in embarking in sugar speculations, and few care to carry large stocks at the present high prices. Large holders have in view the capture of New Orleans and the release of the present crop; the trade believe that it will speedily flow up the Mississippi and its tributaries to the full supply of the western markets. Should the telegraph announce the capture of Island No. 10, now besieged by the gallant Foote, and the consequent occupation of Memphis, the trade would be justified in their anticipations that a fair proportion of the present crop would find its way to the northern and western markets to compete with the heavily taxed foreign and refined sugars. As it is entirely within the range of probability that such of the present crop as may escape the inundations of broken levees or the fire and desolation of war will come under the action of this bill, I hold it is proper and timely that this amendment should be adopted, as it may add several millions to the revenue should we succeed in our certain expectations, while it harms no one should our anticipations be delayed for a season; as it adds nothing to the taxes on sugars, other than the product of Louisiana and Texas.

The amendment to the amendment was rejected.

Mr. WICKLIFFE. I move to strike out the word "cane." I do that for the purpose of imploring my friend from Pennsylvania, who has moved this amendment, to be a little patient. Before we tax the cotton and the sugar of the South we had better first get possession of the country where they are grown.

As I have already said, I am opposed to the practice of taxing the agricultural products of this country of any character in the hands of the producer. I need not give any reasons for that.

The gentleman said that when we have taken Island No. 10, New Orleans can be gained. I wish it were so. Even when we have captured Island No. 10, we will have a stony road to New Orleans. I tell you, that until the wild scheme to carry on this war is abandoned, you, Mr. Chairman, and I, will never see the end of it.

Mr. DUNN. We are now preparing a tax bill to cover all sections of the country, and I have no idea that the South, which has been the main cause of this wicked rebellion, shall escape from its share of the burdens of this war. The authority of this Government will be maintained, and its jurisdiction over the rebellious States restored. We should make our laws with reference to that fact. It cannot be expected that while we are laying our taxes heavily upon the property and the incomes of the North, that sugar and cotton, the great staples of the South, are to escape taxation. I agree with the gentleman from Kentucky [Mr. WICKLIFFE] in the policy of avoiding the taxation of the products of the soil in the hands of the producers, and I only arose to dissent from his intimation that we should not legislate with a view of collecting taxes from the South. This is the Congress of the nation, and its legislation should cover its whole territory.

The amendment to the amendment was disagreed to.

The amendment was then adopted.

The Clerk read as follows:

On sugar candy and all confectionery, made wholly or in part of sugar, two cents per pound.

Mr. WHITE, of Indiana. I move to reduce the duty to one cent.

The amendment was disagreed to.

The Clerk read as follows:

On starch made of potatoes, two mills per pound; made of corn, four mills per pound; made of rice, or any other material, six mills per pound.

Mr. HORTON. I move to change the paragraph, so that it will read as follows:

On starch made of potatoes, one mill per pound; made of corn, two mills per pound; made of rice, or any other material, four mills per pound.

The CHAIRMAN. The amendments will be voted on separately.

The amendment in reference to potato starch was agreed to.

Mr. DUNN. I move to reduce the tax on corn starch to one mill per pound. I ask the Clerk to read an extract from a letter which I send to his desk. The letter is from a very intelligent firm of starch manufacturers in the city where I reside.

The Clerk read the following:

"Corn starch has for some years entered largely into competition with potato farina in supplying the cotton factories of the East. The low price of corn in the western country, together with improved machinery in the manufacture of starch made from it, enables us now to command a fair share of this trade; but the margin of profit is very small, and our competitors, the New England potato starch makers have an immense advantage in being close to their market, while we have a long and expensive inland carriage to contend with. If to this disadvantage there is now added a discriminating tax of two mills per pound against us, the effect will be to shut us out from a large and increasing outlet for our manufacture.

"A tax of four mills per pound may appear, at first sight, a very insignificant matter; but it will give you some idea of its importance to us when you learn that, had this tax been imposed last year, the duty payable by this establishment alone would have amounted to upwards of nine thousand dollars; half of which amount, or $4,500, would represent the additional burden laid upon us in one season, from which potato starch makers are exempted.

"There may exist some misconception as to the comparative value of the two articles. Potato starch being used almost exclusively for manufacturing purposes, is generally sold in large quantities at wholesale price, while corn starch being retailed for family uses, has an apparent value (the grocer's profit) which it does not possess in the producer's hands. We are selling corn starch now at three cents per pound; and we question very much whether potato starch could be bought cheaper where it is made. If, therefore, an assumed difference of value is the basis on which the tax is adjusted—as we presume it is—the distinction is altogether illusory.

"It appears to us that four mills, or nearly fourteen per cent. on the present value of the article in first hands, is an excessive tax; but of that we do not complain. We only want to be placed on a fair footing with our eastern rivals. If four mills is retained as the duty on corn starch, there is no reason why potato starch should not pay the

same. It will be an injustice to the western makers of the former if an *exclusively eastern* manufacture is thus protected to their injury."

Mr. DUNN. A friend by my side suggests that the letter just read will defeat my amendment, as it discloses the fact that New England has an interest in making a discrimination in favor of potato starch. I do not charge that the Representatives from New England are trying to secure to their constituents any undue advantages under this tax bill; but I do not think it will do any harm to watch them. I know the West is very able to take care of its interests. Corn is our "peculiar institution." This bill taxes it in every form. Corn is taxed in whisky, into which channel, I am sorry to say, a vast amount of it runs; it is taxed in beef; it is taxed in pork; it is taxed in starch. So be it, provided other staples and manufactures are ratably taxed. We are willing to bear our full share of the public burdens. We sustain the war with our money as well as with our men. But I see no just reason why corn starch should be taxed higher than potato starch. My reasons for my opinion are so well stated in the letter from which an extract has been read, that I trust I need only call the attention of the House, and particularly of the members of the corn-growing sections, to those reasons, in order to have the proposed amendment sustained.

Mr. HORTON. I believe that corn starch is worth about twice as much as potato starch. Now, as the West can raise corn as cheap as potatoes, and as corn starch is worth twice as much, I do not see any good reason for objecting to this tax.

Mr. DUNN. What is the price of potato starch?

Mr. HORTON. I refer the gentleman to the price current.

Mr. DUNN. I supposed that the gentleman now representing the Committee of Ways and Means would be able to answer that question. We have a right to look to him for such information. In the letter which was read, it was stated that there was no great difference in the price of corn and potato starch.

Mr. HORTON. If the gentleman denies my statement, I will hunt up the price current.

I wish the committee to understand that the Committee of Ways and Means represent the whole country, and they have tried to lay these taxes equally upon all of the interests of the country. It is agreeable to have a pleasant joke upon this side or upon the other side of the House; yet when gentlemen come to look at the bill they will see that the committee, while they have known no East or no West—to adopt an expression in vogue some time ago—yet they have known a little North or a little South.

The amendment to the amendment was rejected.

Mr. DUNN. I move to amend the amendment by striking out "two mills per pound on corn starch," and inserting "one and a half mills per pound." The amendment now proposed by the Committee of Ways and Means is a reduction of the tax on potato starch from two mills to one mill per pound, and on corn starch from four mills to two mills per pound. This reduces the tax, but preserves the discrimination in favor of potato starch. Starch is largely used in the manufacture of cotton goods. Those manufactories being located in the eastern States, give to the manufacturers of potato starch the advantage of being near the market. The corn starch has to bear the expenses of long transportation. Now, if in addition to the expenses of transportation corn starch is subjected to a heavy adverse discrimination, the effect may be to exclude it altogether from the eastern market, materially diminish its manufacture, and to that extent reduce the revenue of the country.

Mr. MORRILL, of Vermont. This is too small a matter to detain the committee long about. So far as the representative value is concerned, the committee took pains to investigate it. They found that potato starch is only made when there is an abundant crop of potatoes. During the past year, corn has been exceedingly low and starch could be produced much cheaper from corn than from potatoes. By looking at the price current it will be seen that corn starch commands almost invariably twice the price of potato starch. The price of potato starch is from two to two and a quarter cents a pound, while that of corn starch may be, in some places, as low as three cents, but oftener four to six. But it must be borne in mind that both articles are exceedingly depressed, because the manufacturers do not now require them to the extent they usually do.

The question recurring on the amendment to the amendment,

The CHAIRMAN ordered tellers; and appointed Messrs. ROLLINS of New Hampshire, and DUNN.

The committee divided; and the tellers reported —ayes 54, noes 41.

So the amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The question recurred upon the next amendment offered by the Committee of Ways and Means, which was to reduce the tax upon starch made of rice from six mills to four mills per pound.

The amendment was agreed to.

The next clause was read, as follows:

On tobacco, leaf or stem, unmanufactured, three cents per pound: *Provided*, That the payment of this duty shall not exempt tobacco from a further duty when manufactured.

Mr. HORTON. I move to strike out the whole of that paragraph, and I wish to state the reason for it. We found, Mr. Chairman, after a great deal of deliberation, and after taking the sense of the committee and the sense of the various interests in the country, that it would be better to levy all the tax on tobacco, which we levy at all, upon the manufactured article. All the taxes in this bill were levied upon the manufactured article, with the exception contained in this paragraph. The committee have directed me to move to strike out this clause, thinking that thereby we will get as much revenue by increasing the tax upon the manufactured article. I hope all the gentlemen who vote for striking this out, will vote for putting the additional tax in the next paragraph—specially not excepting my colleague from the Monroe district, [Mr. MORRIS.]

Mr. KELLOGG, of Illinois. The Committee of Ways and Means seems to have made some arrangement upon this matter, and have apparently traded on tobacco capital. Now, sir, I object to any combination of that kind. I think I can see the smoke, if not of the cigar, most clearly of trade. And while this clause was urged yesterday as a reason why cotton should be taxed, it was a pretty hard point to get over when they said that you must not tax the agricultural productions of the country—this clause standing up in the face of that assertion. And the gentlemen, with a shrewdness which becomes gentlemen who manage the financial affairs of the country, before I could get my amendment presented again, have struck a bargain with the tobacco men, expecting to defeat us in getting a tax upon cotton. And I wish now to serve a notice upon the gentlemen [a VOICE. Serve it in writing] that the cotton tax combination is growing, and will overcome this tobacco combination; and I shall present the proposition before this Congress is over, and I shall, in some way, get a vote by yeas and nays upon the cotton tax, and I will bring gentlemen up to the bull-ring upon the subject. [Laughter.]

The amendment was agreed to.

The next clause was read, as follows:

On tobacco, cavendish, plug, twist, fine cut, and manufactured of all descriptions, not including snuff, cigars, or prepared smoking tobacco, five cents per pound.

Mr. HORTON. I move to amend that clause by inserting "ten" in place of "five." I merely wish to disclaim having been persuaded to this change by any bargain with tobacco makers, or tobacco growers. I must say that a greater influence upon my mind was produced by the argument of my eloquent colleague, [Mr. MORRIS,] who advocated the exemption of leaf tobacco, and by the argument of my friend from Illinois, [Mr. KELLOGG,] who argued in favor of a tax upon cotton. I was very much in the condition of the Indian who says, "the more you say 'bow and arrow,' the more I won't do it;" and the more earnestly my friend argued in favor of that particular tax upon agricultural products, the more I was convinced he was mistaken, and that we had better take out of the bill the only anomaly there was in it, and let the cotton product stand or fall upon its own merits; and I will say to my friend that I will vote for a high or low tax as I think right when the time comes.

Mr. KELLOGG, of Illinois. The gentleman says I convinced him I was wrong, and that he was right—that the more I said "tax cotton," the more he said "no." That is always the condition of a stubborn man. The more potent the truth I hurl at him, the more he becomes confirmed in his stubbornness; and that is the character of my friend. [Laughter.] There are no questions, except cotton and tobacco, but what he and I agree about. We go pretty well together upon the nigger question, [laughter,] and upon all other questions. But the committee having put their foot down upon the question of cotton, it would be a great surrender by the Committee of Ways and Means, to be convinced by any gentleman, or by any number of gentlemen from the far West, that they were wrong; and while I do not admire the gentleman's logic, I do admire his spunk.

(The amendment was agreed to.)

Mr. HORTON. I move to amend in the seventy-seventh line by striking out "three" and inserting "five;" so that the clause will read, "on tobacco, prepared smoking, five cents per pound."

The amendment was agreed to.

The next clause was read, as follows:

On snuff or tobacco, ground dry or damp, of all descriptions, (except aromatic or medicinal snuff in vials, pots, boxes, or packets,) five cents per pound.

Mr. HORTON. I move to amend that clause by striking out "five" and inserting "eight."

The amendment was agreed to.

The next clause was read, as follows:

On cigars, valued at not over five dollars per thousand, ten cents per pound.

Mr. PENDLETON. I move to amend by striking out "ten" and inserting "five." I ask that an extract from a letter which I send to the Clerk may be read in support of my amendment. It is from one of the largest dealers in tobacco in the western country. It is so just and judicious, so discriminating in its criticisms, that I desire to present it as my argument in behalf of the amendment which I have proposed. If this amendment shall prevail, I will offer others to perfect the section; if not, I will not further press the matter on the attention of the committee.

The letter was read, as follows:

"3. The want of uniformity in the operation of the rates on the manufactured articles of plug, six twist, fine cut chewing, smoking cut, and cigars. Thus the rate in all classes: cavendish plug, twist, fine cut, and manufactured of all descriptions, is five cents per pound. Now, sir, the inequality: six twist is worth to-day twelve cents; dark fives, cavendish, as the bill means it, are worth thirty, and the best brands of natural leaf in plug say fifty. In the one case the per cent. is forty-two, in the next it is sixteen and two thirds, and in the next it is ten, and the ratio of per cent. is inverted; it ought to be forty-two on the best, sixteen and two thirds on the next, and ten on the six twist, for the reason that the common grades are used by the poorer classes, who are but illy able to pay it, as soldiers, laborers, boatmen, and such; while the other grades are used by classes who are better able to pay. The fine cut chewing runs in price from nine to forty. You can see the difference in per cent. is about as it is in plug; in smoking cut the price runs from four and a half to fifteen, a still greater disproportion in rates. In cigars it is still worse; common cigars, valued at not over five dollars, ten cents per pound; not over ten dollars, fifteen cents; at over ten, twenty cents per pound. This is really ridiculous. Thus, common half Spanish cigars, made from the commonest grades of tobacco, by women and small boys learning the trade, and used by the poorer classes, weight twelve pounds to the thousand; this makes them pay $1 20 per thousand. Now, they are not worth in the shops over three dollars per thousand, making them pay forty per cent; while the other grades weigh about ten pounds to the thousand, and pay in the one instance $1 50 per thousand, or a per cent. of fifteen, and in the better grades from ten up, costing an average of twenty-five dollars, $2 50 or ten per cent., wrong end foremost again. A moment's reflection will show you that the rate on the common grades of plug, chewing cut, smoking cut, and common cigars will drive them out of the market, deprive thousands and thousands of women and children of their accustomed resources from labor, take away from the poor laborer and soldier and boatman his solace in wet and war and woe, and defeat the very object of the bill by destroying the production of these articles.

"4. Foreign tobaccos, as Cuba, Havana, Yara, Sagua, and such like, seem to escape altogether; or at any rate the bill does not seem to have them in contemplation in any of its provisions. They pay a tariff, it is true, but still they ought to pay tax besides as domestic tobaccos. They pay a tariff to get *into* the country; when *in*, let them pay to *support* the country."

Mr. HORTON. If the committee likes the sort of treat they have just now had, I can give them fifty or sixty letters expressing all varieties of opinion. I am aware that we cannot make a tax bill that will suit all interests. We have taken the average of all the opinions we could get, and from that light have made out the best sched-

ule of taxes we could. Experience will doubtless prove that we have made many mistakes; but it is not safe to allow the legislation of the committee to be determined by the opinion of one individual interested, no matter how intelligent and worthy he may be. We have examined dozens of men and hundreds of letters.

The amendment to the amendment was not agreed to.

The next clause was read, as follows:

On cigars, valued at over five dollars and not over ten dollars per thousand, fifteen cents per pound.

Mr. LOOMIS. If the Committee of Ways and Means would so alter this duty as to make the tax upon the thousand, instead of upon the pound, it would be a very great convenience to the manufacturers. They always sell their cigars by the thousand, and they sell them sometimes when they are very green, in which state they weigh much more than when they are dry. It seems to me the criterion of so much per pound is an inaccurate as well as a very inconvenient one. I move to strike out all these clauses relating to cigars, and insert in lieu thereof the words "on all cigars fifteen per cent. *ad valorem*," so as to make the tax more just.

Mr. MORRILL, of Vermont. The evil which the gentleman desires to remedy can only be exchanged for another equal, if not greater one. The ordinary, or what are called London sized cigars, weigh ten to twelve pounds to the thousand; the principe cigars are much larger; and American manufacturers often make cigars which weigh twenty pounds to the thousand.

Mr. ROSCOE CONKLING. I would inquire of the gentleman whether, according to the tax contained in the bill, cigars will not bear one tax at one time and another tax at another time, according to the time when they are sold?

Mr. MORRILL, of Vermont. That of course depends upon the time of selling. If the manufacturer sells his cigars as soon as he makes them, and when they are not ripe, of course they will weigh much more than when they are dry. But that is a matter entirely under the control of the manufacturer.

The CHAIRMAN. The Chair would state to the gentleman from Connecticut, that one clause in reference to cigars has been passed, and his amendment could not apply to that except by unanimous consent.

Mr. LOOMIS. Then I move my amendment to the second paragraph—the one now under consideration.

The amendment was not agreed to.

Mr. HORTON. I move to strike out the following paragraphs:

On gunpowder, called rifle or sporting powder, five cents per pound.

On gunpowder, common, and all other not provided for, one cent per pound.

And to insert in lieu thereof the following:

On gunpowder, and all explosive substances used for mining, artillery, or sporting purposes, when valued at eighteen cents per pound, or less, five mills per pound; when valued above eighteen cents per pound, and not exceeding thirty cents, one cent per pound; when valued above thirty cents per pound, six cents per pound.

Mr. OLIN. I hope the gentleman will modify that amendment, by striking out "eighteen cents," and inserting "twenty cents," which is the price of gunpowder used for cannons and muskets.

Mr. HORTON. The gentleman is mistaken as to price.

Mr. OLIN. Oh, no; I know I am not.

Mr. HORTON. I can only say that I had my information from a powder manufacturer who is a contractor with the Government.

Mr. OLIN. Up to the time of the recent threatened difficulty with Great Britain, all the powder manufactured for the Government was furnished at the rate of eighteen cents per pound. After that there was a rise in the article of saltpeter from nine cents to sixteen and twenty cents per pound, and it is now about twelve cents per pound; and under all the contracts which the Government has made with manufacturers since that time they have paid twenty cents per pound, although prior to that time they did pay only eighteen cents per pound. There can be no mistake about this matter. The gentleman was perhaps correctly informed, because his informant probably had a contract for the manufacture of powder prior to this very great rise in the article of saltpeter. I move to amend the amendment by striking out "eighteen cents" and inserting "twenty cents."

Mr. MORRILL, of Vermont. In relation to this article, we took the testimony of various gentlemen engaged in the business, and were very desirous to fix this rate, instead of at eighteen cents, at fifteen cents; and at twenty-five, instead of thirty cents. It appeared that if there was to be no rise in the price of saltpeter, they would be perfectly willing that it should be so, but they anticipated that there might be a rise, and that it might be onerous to put it at a lower rate than eighteen cents.

Mr. OLIN. When did the committee take the testimony of these gentlemen in respect to the value of powder?

Mr. MORRILL, of Vermont. In relation to the uses of the Government, I regard this as a matter of very small importance. We do not now, with all our cannon and muskets, consume as much powder this year as we do in ordinary years. In times of peace there is more powder used for blasting purposes and in mining coal and iron than we are using at the present time. I hope the amendment will not prevail.

The amendment to the amendment was rejected.

Mr. OLIN. I move *pro forma* to amend the amendment simply for the purpose of replying to the gentleman from Vermont. The gentleman says that we use less powder now than we do in ordinary years. Certain it is that the Government is using an immense quantity of gunpowder now; and the direct effect of this amendment will be to charge this tax upon the Government itself, for the Government is using all the powder that is now manufactured in this country.

Mr. HORTON. Then the Government loses nothing by it.

Mr. OLIN. That is ridiculous. [Laughter.] The gentleman from Vermont is mistaken when he asserts that the Committee of Ways and Means have taken the testimony of anybody in reference to the price at present paid by the Government for powder. We may have taken testimony in reference to this subject early in the session; and the testimony given then would have been literally true if given as the gentleman has stated it. But in view of the apprehended difficulty with Great Britain, the price of saltpeter rose from nine cents per pound to twenty cents per pound, and it subsequently fell.

Mr. MORRILL, of Vermont. The principal manufacturers of powder in this country have already obtained a stock of saltpeter at a cost of ten cents per pound, and it is now about eleven cents and a half.

Mr. OLIN. I think it very likely that one of the principal manufacturers of powder, either Dupont or Hazard, has probably saltpeter enough to keep his works supplied for the next two years, and perhaps both of them have; and if you now tax everybody else on powder and saltpeter, you will give those men an entire monopoly of the manufacture of powder, and that seems to be the object of the gentleman. The price of saltpeter in the market now is not eleven cents per pound, as the gentleman asserts. I have some knowledge and information on this subject, acquired at the expense of much labor and inquiry, and I assert that the market price varies from twelve and a half to thirteen cents per pound. While it was at nine cents per pound the Government was paying eighteen cents per pound for gunpowder, and now, while it has been up to thirteen cents per pound, the Government has been paying twenty cents per pound for powder. That is precisely the present condition of the market. I am not at all surprised that Dupont and Hazard, who have saltpeter enough on hand to keep their works in operation to the fullest extent for two years, should be willing that every pound of gunpowder manufactured for the Government should be subjected to this tax. They can afford to pay it, but no other manufacturers can, because other manufacturers have to go into the market and purchase their saltpeter at the present market rates.

[Here the hammer fell.]

Mr. HORTON. It is rather difficult to make an argument after being called ridiculous, but still we can command facts. The reasoning of the gentleman from New York would be very conclusive, if he only started right. The mistake he has made is in regard to the price of powder. We not only had the largest powder manufacturers before us, but we had a committee representing nine tenths of the powder manufacturing interest of the United States, and we have fixed the *maximum* and *minimum* precisely according to the recommendation of that committee. Mr. Dupont, a well known powder manufacturer, was chairman of that committee, and you will find in the schedule here that we have adopted his suggestions.

Mr. OLIN. Does the gentleman undertake to assert to the House that I am mistaken as to the price that the Government has been and is paying for every pound of powder that has been manufactured under contracts made since the threatened difficulty with England?

Mr. HORTON. I will answer the gentleman. I asked a committee of manufacturers of powder, representing three fourths of the powder manufacturing interest of the United States, what was the market price of powder usually called blasting or cannon powder at that time, which was about the 18th day of March, and the answer was that it was $3 50 per keg of twenty-five pounds, which is fourteen cents per pound; and I will say further that I have some little knowledge on the subject myself, for I have bought powder in my own business, and paid $3 50 per keg for it.

Mr. OLIN. It would have been very easy for the gentleman, if he had had any disposition to do so, to have answered the question which I put to him; but he has not done so. I did not ask him the market price of powder or what he had paid for powder. I simply asked whether he undertook to deny what I asserted, that the Government, since the apprehended difficulty with England, has been paying to every manufacturer the price of twenty cents per pound?

Mr. HORTON. I thought I had answered the gentleman. I say the manufacturers told me they were furnishing powder to the Government, at this time, at $3 50 per keg of twenty-five pounds.

Mr. OLIN. That may all be so. As I stated before, if they had entered into a contract previous to that time, they were undoubtedly fulfilling that contract.

The CHAIRMAN. Debate is exhausted.

Mr. HORTON's amendment was adopted.

Mr. HORTON. I move to amend by striking out, in the ninety-first line, the words "dry or ground in oil;" so that the paragraph will read, "on white lead twenty-five cents per one hundred pounds."

The amendment was adopted.

Mr. HORTON. I move to amend, in the ninety-third line, by striking out "fifty" and inserting "twenty-five;" so that the paragraph will read, "on oxyd of zinc, twenty-five cents per one hundred pounds."

The amendment was adopted.

Mr. HORTON. I move to amend by striking out "fifty," in the ninety-fourth line, and inserting "ten;" so that it will read, "on sulphate of barytes, ten cents per one hundred pounds."

The amendment was adopted.

Mr. HORTON. I move to amend, by inserting as a proviso to the last three paragraphs, the following:

Provided, That white lead, oxyd of zinc, and sulphate of barytes, or any one of them, shall not be subject to any additional duty in consequence of being mixed or ground with linseed oil, when the duties on all the materials so mixed or ground shall have been previously actually paid.

The amendment was adopted.

Mr. PENDLETON. I move to amend by striking out the word "pounds," in the ninety-third line. I do so for the purpose of asking to have printed in the Globe some statistics in reference to an amendment already adopted by the committee in relation to the tax on candles, in the hope that gentlemen may read them, and may, when we come to vote upon the amendment in the House, be ready to act understandingly upon it.

CINCINNATI, OHIO, *March* 24, 1862.

GENTLEMEN: We, the undersigned manufacturers of candles in the city of Cincinnati, wish to respectfully present for your consideration certain facts in relation to our trade in view of the proposed excise.

Owing to the introduction of gas into most of the towns and cities of the country, and to the late large production of coal oil, a large number of candle factories have been compelled to cease operations entirely, and many of those now running are but partially employed.

There is now far more machinery for the manufacture of candles than can be profitably employed, as has been evinced by the numerous failures. This has been the state of the trade throughout the country since the year 1857.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. TUESDAY, APRIL 1, 1862. NEW SERIES.....No. 91.

As the cheapness and brilliancy of coal oil as an illuminator are such as to cause its use to be almost universal, the prospect for the future prosperity of the candle trade is gloomy.

We do not desire exemption from taxation, being perfectly willing to bear our proper portion of the expenses of the war; but we see no good reason why candles should be taxed more than twice as much as other manufactured goods.

We respectfully suggest that the proposed specific duty be removed, and they be taxed three per cent. *ad valorem*. This we think, in view of the depressed condition of our trade, would be a heavy tax.

In a previous communication to a member of the committee, no reduction was asked for, because of the prevalent opinion that no diminution of the rates proposed would be allowed. The amendments and exemptions since made in regard to various articles emboldeu us to make this representation to you now, believing that none have a better claim or stand in more need of it.

GEORGE HUBBLE & CO.
HICATT & WOODS.
PEEBLES & BROTHER.
PROCTOR & GAMBLE.
THOMAS EMERY & SONS.
A. G. CHEEVER & CO.
N. ROPES & CO.

The HON. COMMITTEE OF WAYS AND MEANS, *Washington.*

CINCINNATI, OHIO, *March* 26, 1862.

DEAR SIR: Herewith we hand you a petition for the reduction of the proposed tax on candles to the three per cent. *ad valorem*, for which we solicit your aid. It is a matter of very vital importance to the trade, for the statements there made as to its depressed condition and over production are facts. Its history of the past few years has been one of failures East, here, and at St. Louis. We do not hesitate to say that no manufacturing interest of the same magnitude can show such a large percentage of failures. In addition to this, notwithstanding the stoppage of machinery now idle from this cause, or from fires, and not rebuilt, we have to contend with a constantly decreasing demand. All these can be accounted for by the increased consumption of gas through most of the country towns, and the astonishing production of coal oil. Our machinery is very valuable, ranging from twenty-five to sixty thousand dollars per factory, and all of such a nature that, with the exception of the boilers and engines, they are useless for any other purpose, and yet of such a nature from the use of acids and alkalies as to be destroyed if left to lie idle for any length of time; so, when once in, we have to stay there and also have to keep at work.

From the experience of the past, we are confident our only chance to keep at work is to make a candle as cheap as possible, there being so many substitutes we have no hope for sale at advanced figures, and there is no margin of profit for us to absorb part of the tax in the cost of our product, as must be obvious in any article where supply so far exceeds the demand. There is enough machinery now in repair sufficient to make double the quantity that can possibly be consumed. Of the ten factories here, but three are running full time, three entirely stopped, and the other four making about half their capacity. At Louisville, of two factories one has been running part time, and the other has just commenced. This is the case at St. Louis, and nearly the same on East.

Now, we claim there is nothing in the prosperity of the trade, present or future, to justify our being taxed more than other ordinary manufactures. This we are willing to stand, and will cheerfully pay, though we consider even that a *very heavy excise* for our trade. We are few in number, and cannot perhaps bring the same influence to bear in our favor that some of the stronger and larger associations can, but we hope that the *justice* of our plea will make us *mighty*, for we do not think it is the design of Congress to put unequal burdens on us. * * * * *

We hope you will be able to induce them to grant our request, and by so doing confer a great favor on your constituents and friends.

HICATT & WOODS.
H. P. BOWMAN.

Hon. G. H. PENDLETON.

Mr. PENDLETON. I withdraw my amendment.

Mr. HORTON. I move to amend, by striking out the following paragraph:

On printers' ink, and ink of all other descriptions, three per cent. *ad valorem*.

The amendment was adopted.

Mr. HORTON. I move to amend, in the one hundredth line, by striking out the words "ten cents per dozen," and inserting in lieu thereof the words "three per cent. *ad valorem;*" so that the paragraph will read, "on corn brooms, three per cent. *ad valorem.*"

Mr. WICKLIFFE. I hope the gentleman will except these corn brooms that are made by families for their own use.

Mr. HORTON. Those are excepted.

Mr. WICKLIFFE. Then I am satisfied.

The amendment was adopted.

Mr. HORTON. I move to amend, in the one hundred and first line, by inserting after the word "pails" the words "tubs and buckets," and striking out the words "ten cents per dozen," and inserting "three per cent. *ad valorem.*"

Mr. WICKLIFFE. I have another favor to ask: that the gentleman will except those made by hand.

Mr. HORTON. All that are taxed are made for sale. I call the attention of the gentleman to the fact that the tax is only on manufactures of which more than $600 worth is annually produced.

Mr. WICKLIFFE. Then I am satisfied again.

Mr. FESSENDEN. I move to amend the amendment, by inserting "casks and churns;" so that the paragraph will read, "on wooden pails, tubs, buckets, casks, and churns, three per cent. *ad valorem.*"

Mr. HORTON. I accept the amendment to the amendment.

The amendment, as modified, was adopted.

Mr. HORTON. I move to amend by striking out the words "valued at not above four dollars per dozen, twenty cents per dozen; when valued above four dollars per dozen, fifty cents per dozen;" and inserting in lieu thereof the words "three per cent. *ad valorem;*" so that the clause will read, "on straw, palm leaf, and grass hats, caps, and bonnets, three per cent. *ad valorem.*"

The amendment was agreed to.

Mr. HORTON. I move to amend by striking out the words "wholly or in part, and valued at not above six dollars per dozen, twenty-five cents per dozen; valued at above six dollars per dozen and not above ten dollars, fifty cents per dozen; valued at above ten dollars and not above twenty dollars per dozen, one dollar per dozen; valued at above twenty dollars per dozen, one dollar and fifty cents per dozen;" and inserting in lieu thereof the words "cotton, glazed muslin, or India rubber, three per cent. *ad valorem;*" so that the paragraph will read: "on hats and caps made of fur, felt, wool, silk, cotton, glazed muslin, or India rubber, three per cent. *ad valorem.*"

The amendment was adopted.

Mr. HORTON. I move to amend by striking out the words "with any metallic hoops, valued at not above ten dollars per dozen, two dollars per dozen; valued at above ten dollars and not above eighteen dollars per dozen, three dollars per dozen; valued at above eighteen dollars per dozen, four dollars per dozen," and inserting in lieu thereof the words "of metal or other material, three per cent. *ad valorem;*" so that the paragraph will read, "on steel hoop-skirts or skirts of metal or other material, three per cent. *ad valorem.*"

Mr. WRIGHT. I move to amend the amendment, by striking out the whole paragraph. I am surprised that the honorable gentleman from Ohio should, in his anxiety to provide revenue, resort to such an object of taxation as this. That a gentleman of his address, of his cultivation, and of his time of life, should do such a thing, is a matter of utter surprise to me. There might be some excuse for the chairman of the Committee of Ways and Means, who is an old bachelor, and who left the House to-day, perhaps, with a view of avoiding this question. But the gentleman from Ohio I know to be a favorite with the ladies, and to have a reputation of being not only the best looking man in the House, but the best behaved man in the House; and that he should have attempted to put a tariff of this kind on the ladies, is a matter which strikes us on this side of the House with astonishment. I beg that the gentleman will not only support my proposition, but will get up and do it magnanimously and openly.

Mr. RIDDLE. Does the gentleman from Pennsylvania suppose that this tax is to apply to the contents of the article? [Laughter.]

Mr. HORTON. I wish the committee, as well as the gentleman from Pennsylvania, to understand that I am to-day, for the time being, what is called a representative man. I represent the chairman of the Committee of Ways and Means, and must, as well as I can, perform the duties which he would perform if he were present. I must therefore insist that the measure of the Committee of Ways and Means is a wise, just, and proper one. I do not believe that it will be opposed by any one who will reflect and consider that this is an article of luxury, in regard to which price is of no account. With the tax now proposed to be levied on it the article will not be one fourth the price of what it was four years ago, without any tax. This tax will produce a revenue to the country of $500,000. And what, I ask, would gratify those who use this article more than sustaining, in an indirect way, the Government which is sustaining them?

Mr. PENDLETON. I desire to ask my colleague whether the amendment of the Committee of Ways and Means, changing the duty from specific to *ad valorem*, will tend to raise or lower the price of skirts?

Mr. HORTON. I am very much surprised that my colleague should ask such a question.

The CHAIRMAN. Further debate is not in order.

Mr. HORTON's amendment was agreed to.

Mr. WRIGHT's motion to strike out the paragraph was disagreed to.

Mr. HORTON. I move to insert at this point as an independent paragraph, the words "on ready-made clothing, three per cent. *ad valorem.*"

The amendment was agreed to.

The following paragraph was read:

On clocks valued at not above five dollars, twenty-five cents each; valued at above five dollars, fifty cents each.

Mr. HORTON. I move to amend by striking out all after the word "on," and inserting "clock movements made to run one day, five cents each; made to run over one day, ten cents each;" so that it will read, "on clock movements made to run," &c. My reason for offering that amendment is that the manufacture of clocks in the large establishments in the country is, to a great extent, restricted to the movements. The finishing is done by persons and smaller establishments who purchase the movements of the wholesale manufacturers and finish them at home or in their small shops, according to fancy. So that in order to get the tax we have to tax the clock manufacturer, who does not finish the clocks, on the movements.

The amendment was agreed to.

The following paragraphs being under consideration—

On pins, solid head or other, valued at not over one dollar per pack of one dozen papers, five cents per pack; valued at over one dollar per pack, ten cents per pack.

On pins, solid head or other, in boxes, packets, bundles, or other form, not provided for, five cents per pound—

Mr. HORTON moved to amend by striking out all after the word "other," in the one hundred and twenty-second line, and inserting in place thereof "five per cent. *ad valorem;*" so that it will read: "on pins, solid head or other, five per cent. *ad valorem.*"

Mr. POTTER. I desire to call the attention of the gentleman from Minnesota [Mr. ALDRICH] to the word "dolla," in the one hundred and twenty-second line. There seems to be a letter missing, which I suppose he will see is set right. [Laughter.]

Mr. ALDRICH. I observe it; and I wish to call the attention of the gentleman from Wisconsin to the word "packr," in the one hundred and twenty-third line, in which there seems to be the same difficulty, and which I hope he will attend to. [Laughter.]

Mr. HORTON's amendment was agreed to.

The following paragraphs being under consideration—

On umbrellas made of cotton, ten cents each.

On umbrellas made of silk, or any other material not provided for, twenty-five cents each.

On parasols made of any materials except silk, five cents each.

On parasols made of silk, ten cents each—

Mr. HORTON moved to amend by striking out all after the word "umbrellas," in the first line of the first clause, and to insert in place thereof, "and parasols made of cotton, silk or other material, five per cent. *ad valorem;*" so as to make it read, "on umbrellas and parasols, made of

cotton, silk, or other material, five per cent. *ad valorem.*"

The amendment was agreed to.

The following paragraph being under consideration—

On screws, commonly called wood-screws, two inches or over in length, one cent per pound; less than two inches in length, one cent and five mills per pound—

Mr. HORTON moved to strike out "one cent," where it first occurs, and insert in place thereof, "one and a half cents;" and to strike out "one cent and five mills," and insert, in place thereof, "two cents."

The amendment was agreed to.

Mr. WICKLIFFE. I desire to ask some member of the Committee of Ways and Means what is the impost duty upon that description of screws under the tariff which is now in force?

Mr. MORRILL, of Vermont. The highest duty is eight cents per pound, and the lowest is five cents per pound.

Mr. WICKLIFFE. I think we ought to lay a duty here to exactly correspond with those rates.

The following paragraph being under consideration—

On railroad iron, $1 50 per ton"—

Mr. HORTON moved to strike out the paragraph, and insert in place thereof the following:

On railroad iron and all other iron advanced beyond slabs, blooms, or loops, and not advanced beyond bars or rods, and band, hoop, and sheet iron, not thinner than No. 18 wire gauge, and plate iron not less than one eighth of an inch in thickness, $1 50 per ton; on band, hoop, and sheet iron, thinner than No. 18 wire gauge, plate iron less than one eighth of an inch in thickness, and cut nails and spikes, $2 per ton: *Provided*, That bars, rods, bands, hoops, sheets, plates, nails, and spikes, manufactured from iron upon which the duty of $1 50 has been levied and paid, shall be subject only to a duty of 50 cents per ton in addition thereto, anything in this act to the contrary notwithstanding. On stoves and hollow ware, $1 50 per ton of two thousand pounds. Steel in ingots, bars, sheets, or wire, not less than one fourth of an inch in thickness, valued at seven cents per pound or less, $4 per ton; valued at above seven cents per pound, and not above eleven cents per pound, $8 per ton; valued above eleven cents per pound, $10 per ton.

Mr. OLIN. Before the question is put upon that amendment, I should like to hear the gentleman conducting the proceedings upon this bill on behalf of the Committee of Ways and Means explain the reasons for the very radical proposition now before us. It is doubtless all right, or may be so, if the House understand it; but the objection—and it is a serious objection to my mind—to such an amendment is that it takes the House by surprise and the whole country by surprise. Nobody has had an opportunity to consult or advise or to present whatever objections there may be in reference to a proposition of that description.

What was done originally was to print this bill and present it not only to the House for our consideration, but to the whole country, that every person interested in any particular branch of industry likely to be affected by it should have the opportunity of presenting to the House or to the Committee of Ways and Means such considerations as their practical acquaintance with the particular matter concerned might suggest, for the information of the committee and for our information.

But now we find a very important and radical amendment presented as a substitute for this paragraph, and the gentleman who proposes it does not take the necessary pains to inform the House why it is proposed, what are its objects, or what will be its results. I repeat that the amendment is a radical and important one. It may be all right, and it is, so far as I know. My profession and avocation would not naturally give me much information upon the subject; but I say it is due to the House that when an amendment of that description is proposed, without any notice to any one so far as I know that it was to be proposed, that the gentleman responsible for it should explain the reasons and motives which dictated its presentation.

Mr. MORRILL, of Vermont. I believe debate has been exhausted upon this amendment which I had expected the gentleman from Ohio would explain, but I suppose I may be indulged in a few words of explanation.

No objection was made.

Mr. MORRILL, of Vermont. This amendment it will be seen includes something more than merely railroad iron. It was important in considering this article that there should be some definite provision in relation to iron, embracing all its various grades and descriptions.

The classification which has been adopted by the Committee of Ways and Means is a similar one to that adopted in the tariff as it now exists. It was deemed better that we should take all those articles of iron that sell at a price near that of bar iron, and that all articles of that description should be taxed once and no more.

It was also deemed best to tax steel in the same way, and we have embraced in this description all of the articles so as to include everything that will not cost more than about fifty dollars per ton at $1 50 a ton. Upon another class of articles costing more than that price, we have added fifty cents to the tax, and where the article rises in the cost of manufacture above a certain limit, we tax it three per cent., the same as all other manufactures. It will be observed that in the very great number of different articles of manufacture from iron, and in the great variety of quality and cost of manufacture, it was necessary to have some classification such as we have adopted, so that the manufacturer should know precisely what he will be called on to pay.

The amendment was agreed to.

Mr. CAMPBELL. I move to add the following:

Provided, That no tax shall be collected on any coal or other fuel used in the manufacture of any article included in this paragraph.

Mr. Chairman, I will say a word in explanation of that amendment.

Mr. MORRILL, of Vermont. I raise the point of order that the amendment is not germane.

The CHAIRMAN. The Chair sustains the point of order. If it were germane to this paragraph it would have been germane to the para graph on gas companies and other paragraphs.

Mr. HORTON. I move to strike out the following:

On bank note paper, five cents per pound; on writing, letter, note, plate, map, card, and account-book paper, two cents per pound; on printing paper, unsized, three mills per pound; on printing paper sized, and colored, and uncolored calendered paper, five mills per pound; on hanging paper, five mills per pound; on pasteboard and binders' board, made of junk, straw, or any other materials, wrapping-paper, made of manilla hemp, or other similar hemps, or made in imitation thereof, and all other descriptions of paper, three mills per pound.

And in lieu thereof to insert the following:

On paper of all descriptions, including pasteboard and binders' board, three per cent. *ad valorem.*

Mr. COX. Are playing cards included in that?

Mr. HORTON. They are taxed specifically in another part of the bill.

Mr. BLAKE. I move to amend the substitute by adding the words, "except printing paper valued at eleven cents per pound and under." My object is to except from this tax the paper upon which newspapers and school-books are printed. It ought not to be taxed. We may as well tax the light of heaven as newspapers and school-books. I hope the amendment to the amendment will prevail.

Mr. HORTON. I will not occupy the attention of the committee long. The Committee of Ways and Means have carefully considered this matter, and they have been unable to see any reason why newspaper proprietors should not contribute their share to support the Government as well as all others. I hope the amendment of my colleague will not prevail.

The amendment to the amendment was disagreed to.

The Clerk read, as follows:

On soap, castile, palm-oil, erasive, and soap of all other descriptions, white or colored, except soft, and soap otherwise provided for, five mills per pound.

Mr. HORTON moved to insert the word "soap" after the word "soft," and to strike out the words "five mills per pound," and to insert in lieu thereof "valued not above three and one half cents per pound, one mill per pound; valued above three and one half cents per pound, five mills per pound."

The amendment was agreed to.

The Clerk read, as follows:

On soap, fancy, scented, honey, cream, and all descriptions of toilet and shaving soap, three cents per pound.

Mr. HORTON moved to amend by inserting the word "transparent" before the word "cream," and strike out "three," and in lieu thereof insert "two."

The amendment was agreed to.

The Clerk read, as follows:

On salt, four cents per one hundred pounds.

Mr. WICKLIFFE. I ask the Committee of Ways and Means whether we cannot get along without taxing salt? It is an article of general consumption which I think ought rather to be favored than taxed. We not only consume all that is made in the United States, but we import large quantities of it. We cannot do without it. Why cannot we increase the duty upon some of the luxuries of life, so as to get rid of this tax of four cents upon a hundred pounds of salt? Salt has risen to so great a price in the West that the farmers of the West—and I suppose it is so elsewhere—have been compelled to abstain to a great extent from giving it to the stock raised by them. We cannot live without salt. We may lessen the use of tea, coffee, sugar, and other things, but we must have salt. I move to strike it out.

Mr. HORTON. The consumption of salt in the United States is about thirty millions of bushels a year, and every man, woman and child uses, on the average, about one bushel of salt. This tax would be about two cents a head.

I will say, in reply to the gentleman from Kentucky, that the high price which I know our friends along the Ohio river had to pay for salt last fall and winter, was not caused by anything which may be considered permanent. I believe I may say that salt is now as cheap upon the Ohio river as any reasonable man can want it to be, notwithstanding it cannot come up the Mississippi river.

The committee had to do in this case as they were obliged to do in many others. We have had numerous applications to put a tax upon salt as high as fifty cents; and the same argument was used as that which was used yesterday by the gentleman from Indiana, [Mr. LAW,] in reference to the duty of fifty cents a ton upon pig metal, because it paid that duty in 1812–13. Salt has been cheaper in the United States the last few years than it ever has been before. It is a permanent interest. It is largely produced in New York, Pennsylvania, and Ohio; and I think that it is right and proper to tax that interest. I hope, as a matter of policy and justice, that it will not be stricken out. To put myself right upon the record, I will say that I am a salt manufacturer myself. It would be to my interest to have this tax stricken out. But I take the ground that it ought to be taxed like every other article of manufacture.

Mr. McKNIGHT. I move to make it three cents, for the purpose of saying that I suppose there are as many salt wells in my district as there are in the district of any gentlemen upon this floor. Those who manufacture salt there have no disposition to shirk any tax; but when the tax is levied, they want the duty upon foreign salt increased to the extent of that tax. My impression is, that such a proposition ought to be attached to this bill, instead of letting it go over to another bill. I think that I will move such a proposition to this bill.

Mr. WICKLIFFE. I know that the salt manufacturers would have no objection to this tax, because if the tax were twenty-five or fifty cents they know that we would have to buy it. It is not on their account that I make my motion, but on account of the great mass of the people. These salt manufacturers have a monopoly of this article. Human ingenuity and nature itself has provided no substitute for it. I know, without there being any reason for it, that salt sent to my State by the Ohio river and the Alleghany has been increased one hundred per cent. This tax will give them a chance to increase it another one hundred per cent. I hope that my motion will prevail.

Mr. McKNIGHT withdrew his amendment.

Mr. WICKLIFFE's motion was disagreed to.

Mr. COX moved to reduce it to two cents.

The amendment was disagreed to.

Mr. BLAIR, of Virginia, moved to reduce it to one cent.

The amendment was rejected.

The Clerk read, as follows:

On blacking and paste, usually called shoe or boot blacking, of all descriptions, five per cent. *ad valorem.*

Mr. HORTON. I move to strike out "five," and insert "three."

The amendment was agreed to.

Mr. HORTON. I move to strike out the words "on glue and cement, prepared or in sheets,

liquid or solid, of all descriptions, five per cent. *ad valorem*," and in lieu thereof to insert:

On glue and gelatine of all descriptions in a solid state, five cents per pound; on glue and cement made wholly or in part of glue to be sold in the liquid state, twenty-five cents per gallon.

The amendment was agreed to

The Clerk read the following:

On patent or enameled harness leather, two cents per pound; on patent or enameled leather, made from what are usually called cow hides, one cent per pound; on sole leather, of all descriptions, one cent per pound; on morocco, goat or kid skins, curried, manufactured, or finished, seventy-five cents per dozen; on sheep skins, tanned, curried, or finished, twenty-five cents per dozen; on bend and harness leather, one cent and five mills per pound; on tanned and curried calf skins, two cents per pound; on upper leather, and all other descriptions of leather not provided for, one cent and five mills per pound.

Mr. HORTON. I move to strike out what has been read, and in lieu thereof to insert the following:

On patent or enameled leather, five mills per square foot; on patent japanned splits used for dasher leather, four mills per square foot; on patent or enameled skirting leather, one and one half cent per square foot; on all sole and rough or harness leather made from hides imported east of the Cape of Good Hope, and all damaged leather, five mills per pound; on all other sole or rough leather, hemlock tanned, eight mills per pound; on all sole or rough leather tanned in whole or in part with oak, one cent per pound; on all finished or curried upper leather, except calf-skins, made from leather tanned in the interest of the parties finishing or currying such leather, not previously taxed in the rough, one cent per pound; on bend, butt, and harness leather, one and one half cent per pound; on offal leather, five mills per pound; on tawed or oil dressed leather, two and one half cents per pound; on tanned calf skins, six cents each; on Morocco, goat, kid, or sheep skins, curried, manufactured, or finished, five per cent. *ad valorem: Provided*, That the price at which such skins are usually sold shall determine their value; on buckskins, tanned or dressed, two dollars per dozen; on doeskins, tanned or dressed, one dollar per dozen; on deer skins, dressed and smoked, six cents per pound; on horse and hog skins, tanned and dressed, four per cent. *ad valorem;* on American patent calf skins, five per cent. *ad valorem;* on patent or enameled cloth, three per cent. *ad valorem.*

Mr. HORTON. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having taken the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt, and had come to no resolution thereon.

Mr. HORTON moved that the House do now adjourn.

Mr. WASHBURNE moved that when the House adjourns to-day it adjourn to meet on Monday next.

Mr. HUTCHINS. I demand the yeas and nays.

The yeas and nays were not ordered.

The motion was agreed to.

So the House resolved that when it adjourns it will adjourn to meet again on Monday next.

And then (at four o'clock and forty minutes, p. m.) the House adjourned until Monday next.

IN SENATE.

MONDAY, *March* 31, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The SECRETARY. The Senate will please come to order. The Secretary begs to state that he has received the following note from the Vice President:

WASHINGTON, *March* 29, 1862.

SIR: Finding it necessary to be absent from the Senate on Monday next, I have to request that you will announce the fact at twelve o'clock, the hour of meeting, with a view to the appointment of a President *pro tempore*.

H. HAMLIN,
Vice President of the United States.

Hon. J. W. FORNEY, *Secretary of the Senate.*

The Senate will now choose a President *pro tempore*.

Mr. GRIMES. Mr. Secretary, I move that the Senator from Vermont [Mr. FOOT] be selected to act as President *pro tempore*.

The motion was agreed to *nem. con.;* and Mr. FOOT took the chair as President *pro tempore*.

The Journal of Friday last was read and approved.

PETITIONS AND MEMORIALS.

Mr. WILLEY presented the memorial of George Koonce and others, late citizens and workmen at Harper's Ferry armory, setting forth the calamities which themselves and families have suffered in person and property, and suggesting the propriety and expediency of renovating and restoring that national establishment; which was referred to the Committee on Military Affairs and the Militia.

Mr. HOWE presented a petition of citizens of Polk county, Winconsin, and a petition of citizens of Milwaukee county, Wisconsin, praying for the passage of a general bankrupt law, recognizing the exemption laws of the States; which were referred to the Committee on the Judiciary.

Mr. CHANDLER presented a petition of citizens of the upper peninsula of Michigan, praying for the discontinuance of certain steam mail routes in that State during the interruption of navigation by ice, and the establishment of land routes during such interruption; which was referred to the Committee on the Post Office and Post Roads.

He also presented a petition of citizens of Michigan, praying for an appropriation for the improvement of White Lake harbor, in that State, and the erection of a light-house at that point; which was referred to the Committee on Commerce.

Mr. KING presented the petition of James Sperry and twenty-four others, citizens of Rochester, New York, praying for the total abolition of slavery throughout the country; which was ordered to lie on the table.

He also presented the petition of Joseph Higgins and twenty-four others, citizens of Rochester, New York, praying for immediate emancipation under the war power; which was ordered to lie on the table.

He also presented the petition of George W. Rose, praying for the passage of an act declaring that the States in armed rebellion against the Government shall be governed by territorial officers, and for the abolition of slavery; which was ordered to lie on the table.

Mr. FESSENDEN presented resolutions of the Legislature of the State of Maine, in favor of the United States coöperating with any State which may adopt gradual abolishment of slavery, giving to such State pecuniary aid, to be used to compensate for the inconveniences, public and private, produced by such system; and in favor of the speedy emancipation of all slaves in the District of Columbia, giving reasonable and just compensation for the losses of loyal citizens resulting from such emancipation; which were ordered to lie on the table, and be printed.

HOUSE BILL REFERRED.

The joint resolution from the House of Representatives (No. 50) presenting thanks of Congress to Captain John Ericsson, for the enterprise, skill, energy, and forecast displayed by him in the construction of his iron-clad boat, the Monitor, was read twice by its title, and referred to the Committee on Naval Affairs.

THE ENGAGEMENT WITH THE MERRIMAC.

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

Resolved, That the Secretary of War is hereby directed to furnish the Senate a copy of the report of Brigadier General Joseph K. F. Mansfield, relative to the engagement with the rebel steamer Merrimac, on the 8th of March, 1862.

REPORT FROM A COMMITTEE.

Mr. WILSON, of Massachusetts, from the Committee on Military Affairs and the Militia, to whom was referred the report of the Secretary of War relative to vessels purchased or chartered for the use of the War Department since the 1st day of April last, submitted a motion that the report be printed; which was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House had passed the bill (S. No. 120) in addition to "An act to refund and remit the duties on arms imported by States," approved July 10, 1861.

BILLS INTRODUCED.

Mr. LATHAM asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 253) to create a bureau of transportation; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. WADE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 254) to provide a temporary government for the Territory of Arizona; which was read twice by its title, and referred to the Committee on Territories.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 255) to quiet titles to certain lands in Kansas; which was read twice by its title, and referred to the Committee on Public Lands.

REGENT OF SMITHSONIAN INSTITUTION.

Mr. COLLAMER. The Committee on the Library, to whom was referred a House resolution for the appointment of Dr. Woolsey, president of Yale College, as regent of the Smithsonian Institution, have directed me to report it back and unanimously recommend its passage. This is a joint resolution which has been passed by the House, and we recommend the concurrence of the Senate in the resolution. I desire to have it put on its passage now.

By unanimous consent, the joint resolution (H. R. No. 49) for the appointment of Theodore D. Woolsey, of Connecticut, a regent of the Smithsonian Institution, in the place of Cornelius C. Felton, deceased, was considered as in Committee of the Whole. It directs that the vacancy in the board of regents in the Smithsonian Institution, of the class other than members of Congress, caused by the decease of Cornelius C. Felton, be filled by the appointment of Theodore D. Woolsey, of Connecticut.

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

CHANGE OF NAME OF A VESSEL.

Mr. CHANDLER. If there be no other business before the Senate, I move to take up for consideration Senate bill No. 243. It is a bill that will occupy no time at all.

The motion was agreed to; and the bill (S. No. 243) changing the name of the American-built schooner Curtis Mann to that of Supply, was read a second time, and considered as in Committee of the Whole. It authorizes the collector of the customs of the port of Detroit, under the direction of the Secretary of the Treasury, to issue a new register, or enrollment, to the American-built schooner Curtis Mann, owned by H. N. Strong, in the name of the Supply.

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

PUGET SOUND COLLECTION DISTRICT.

On motion of Mr. TEN EYCK, the bill (S. No. 241) to change the location of the port of entry for the Puget Sound collection district was read a second time and considered as in Committee of the Whole. The bill proposes, from and after the 1st day of May, 1862, to abolish the port of Port Townsend, in the district of Puget Sound, Washington Territory, as a port of entry; and to establish Port Angelos as the port of entry and delivery for that district.

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

LIGHT-HOUSE INSPECTORS.

Mr. CHANDLER. I now move to take up House bill No. 243, providing for the appointment of light-house inspectors.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill. The Committee on Commerce reported an amendment to the bill to strike out all of it after the enacting clause and insert the following in lieu thereof:

That so much of the act entitled "an act making appropriations for light-houses, light-boats, buoys, &c., and providing for the erection and establishment of the same, and for other purposes," approved August 31, 1852, be, and hereby is, so far modified as to authorize the President to direct the detail of officers of the revenue cutter service to serve as light-house inspectors in any of the light-house districts created by the said act: *Provided*, That officers of the revenue cutter service so detailed shall not be entitled to any increase of compensation for such service.

Mr. GRIMES moved to amend the amendment of the committee by adding as an additional section:

And be it further enacted, That all acts and parts of acts authorizing or requiring the detail of officers of the Army or Navy for service as inspectors, or for the performance of other duty in connection with the light-houses of the United States, be, and the same are hereby, repealed.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Iowa to the amendment reported by the committee.

Mr. CHANDLER. I hope that amendment will not prevail. I shall make no remarks upon it.

Mr. GRIMES. Mr. President, fortunately for the people of the section in which I reside, we have no necessity for these artificial lights. I believe it is a necessity that exists only in certain sections of the country, and where it is believed that the people of those sections should have the exclusive control of them; and in order to carry that idea out more perfectly, I shall withdraw my amendment, and allow the Senator from Michigan to perfect his bill to suit himself.

The PRESIDENT *pro tempore*. The amendment to the amendment being withdrawn, the question recurs on the amendment reported by the Committee on Commerce.

Mr. FESSENDEN. I very much prefer the amendment of the Committee on Commerce to the original bill, because it relieves the bill from the great difficulty of making the matter political entirely, so far as regards the appointment of these officers. Notwithstanding what has been said by the honorable chairman of the Committee on Commerce with reference to the views of the Secretary of the Treasury, I am yet of the opinion that it is unwise to make the proposed change. I have very great confidence in the management of the Light-House Board; I have read the reports carefully, and I am personally cognizant of the very great improvements in all particulars with reference to light-houses that have taken place in the last ten years under the management of that board. It is unquestionably true that from having a very bad system, they have brought it to be one of the very best, if not the best, in the world, making the greatest improvements in all particulars as to lights, oil, and everything connected with light-houses; and at the same time they have diminished the cost comparatively. The number of lights has been increased from necessity; but the cost per light, when you come to examine the average, has been reduced, I think, something like $180. The system has been recognized as a most admirable one, not only in our own country but by foreigners. From a very bad one, it has been brought by the board to as good a system probably as it can very well be made.

The organization of the board is such as necessarily to bring about that result. The Secretary of the Treasury is at the head of it and nominally the president of the board; but the business is done by the board itself, consisting of officers of the Navy, of officers of the engineer corps, and of scientific men who attend to the matters of detail and matters of improvement. That is the simple state of the case. Officers of the engineer corps for instance are employed in erecting the buildings, in which there has been very great improvement. Substantial, although comparatively cheap, buildings have been erected wherever needed, to a very great extent. Officers of the Navy are employed in examinations, and in various matters connected with the business. One of the members of the board is the Superintendent of the Coast Survey, whose knowledge of the coast furnishes him with information as to proper places where light-houses should be erected. And the whole board together, consisting of men of character and eminence, act upon the contracts and the expenditure of money; and the money has been expended without any complaint from anybody, with very great ability and very great carefulness.

Now, sir, I do not see the necessity of interfering with the arrangement which has worked so well; and it is the opinion of the board itself that any interference with it will be likely to produce injury rather than good. I have very much greater confidence in the opinion of those men who have been managing it for ten years and under whom it has arrived to its present state of perfection, than I have in the opinion of the Secretary of the Treasury, who although president of the board is merely nominally so, and has not, as he informed me, personally taken pains to study the question at all and to inform himself upon it, because he has not had the time to do so; and therefore, whatever may be my respect for him and his opinion on a matter that he has investigated, I think it ought not to overweigh the opinion of men who have for years been devoted to the business itself.

Under these circumstances, I do not believe in the good sense of interfering with the system and appointing revenue officers inspectors of light-houses. It is said they can attend to the duties. They can attend to a certain part of the duties perhaps. The system perhaps might be changed to that extent; I do not know how that is, but to allow the revenue vessels to visit the different light-house establishments and to make their commanders superintendents, (which involves the whole management on shore of everything connected with the system and looking over the districts, and the light-house districts are more extensive than the revenue districts,) I think is incompatible with the duties they have to perform. Besides they are under different direction; they are under the direction of the collectors of the different ports; they must go where they are sent and attend to the business which is peculiar to themselves, and the number is very limited comparatively. I do not believe they can possiby have the time to attend to this business in addition to their own.

Again, sir, I do not think that the revenue officers are generally men of sufficient education to fill the office of superintendent of light-houses. They are now filled by officers of the Army or Navy ordinarily, men of scientific attainments and who are capable themselves of regulating the affairs of the light-house district. The revenue officers as a general rule—there may be some exceptions among them—are not of that class of men. They are smart men in their way; some of them are perhaps fit for these places; but ordinarily, they are not men of the knowledge requisite to oversee such extensive establishments and become acquainted with all the questions necessarily involved in the superintendency of a light-house district. I do not know but that a little money could be saved by the change, though I do not see how. It may be that a little money may be saved on the travel, but that can be regulated very easily. The pay of military and naval officers is not increased when in this service; they have the same pay precisely that they have as officers of their proper grades; and it will be so with the revenue officers.

I believe, therefore, on the whole, I have no hesitation in expressing my own opinion, that the movement of the Secretary to interfere with this system by putting into it the revenue service will be attended with injury; that it is safer, very much safer, when you have a system that has worked admirably and produced good results, to leave it where it is, rather than to interfere with it by infusing into it a new element. It is of course for the Senate to do what it sees fit on the subject. My own opinions are fixed.

Mr. CHANDLER. I concur entirely with the Senator from Maine in his high encomiums on the present organization and conduct of the light-house system. This proposition is a very simple one. It does not interfere in the slightest degree with the present organization, except to this extent: as is well known to every member of Congress, and to almost every man in the country, we have a greater demand for officers both in the Army and Navy than we have a supply at the present time; and this bill simply authorizes the Secretary of the Treasury to select, at his discretion, officers of the revenue service for this duty who are necessarily compelled to be upon their stations at this time. If there are incompetent officers of the revenue service, as there undoubtedly are, the Secretary of the Treasury would certainly be the last person to select such men to fill these positions. Upon the lakes this spring we require these officers to act as superintendents of lights. The light-houses must be supplied; they must be inspected. They must prepare for lighting our lakes immediately, and we have no officers of the Army or Navy to detail to that service. It will be a matter of economy for this reason: officers of the Army and Navy, as Senators well know, while waiting orders are on small pay comparatively; but when in active service they draw a very largely increased pay. If a man is incompetent for active service at this time in any capacity in the Army or Navy, he is certainly incompetent to superintend our lights, and I object to a man who is so utterly incompetent as to be incapable of even recruiting or mustering soldiers into service at this time being detailed to this duty. I had a conversation no longer ago than Saturday with the Secretary of the Treasury, and he told me that he deemed it of very great importance that this bill should pass, and pass now; that the service required it, and I believe it. If the talent, if the *materiel* in the revenue service is so low, as the Senator would seem to intimate, that it is not competent to superintend light-houses, I think it should be raised. As I said the other day, it is being raised. We increased the pay of these officers fifty per cent. last summer, and as I am informed by the Secretary and Assistant Secretary of the Treasury, they are getting a higher grade of talent in the revenue service than they have been heretofore able to obtain at the former compensation. At any rate, I think it is no more than an act of justice to the Secretary to let him make the trial in this his time of need and necessity. I hope the amendment will prevail. I believe it is important.

Mr. FESSENDEN. There must be some very great mistake about this. Everybody knows that the executive officer of the Light-House Board is a man of the very highest capacity in his line, and he has been the executive officer most of the time for the last ten years. I allude to Commander Jenkins, of the Navy. He is the man who, under the direction of the board, has managed the whole business. I conversed with Commander Jenkins, and he knows more about the system, its wants, its necessities, everything in connection with it, than forty Secretaries of the Treasury, situated as Mr. Chase is, and I say it with all respect to him.

The Senator tells us that the Secretary of the Treasury says he is in great need of this change. He has nothing to do with the Light-House Board at all except to preside, if he chooses to attend the meetings. He does not know to-day the condition of it, or comparatively anything about it, if I may trust to his own word. Mr. Jenkins told me not three days ago—for I went up to consult him—that there was not the slightest need of interfering with it in any way whatever, for the simple reason that, notwithstanding the engagements of the officers of the Army and Navy at the present time, everything went on perfectly well without them, under the direction of the board with the engineers in charge, as they are called. There is an engineer—a civil engineer—employed in every district. In the district which comprehends the line of coast where I live, the engineer, a gentleman with whom I am acquainted, is a man of the highest capacity; he manages the whole thing under the board, and there is no need of a revenue officer or any other officer there. Mr. Jenkins says there is no need of them anywhere at present. The business of the light-house concern goes on perfectly well, without the slightest difficulty arising from the engagements of the officers of the Army and Navy at the present time. Suppose you wanted one who was an officer not in absolutely active service, it is a perfect *non sequitur* that, because he is not fit to go to sea, therefore he cannot in an office manage a light-house district, with the engineers and the captains of light vessels and all the machinery which is connected with it. It is a mistake to suppose any such thing, and if Mr. Chase, the Secretary of the Treasury, has such an idea, I undertake to say he must be laboring under some strange delusion. He does not pretend to know anything of the light-house system. What he may want to make with his new revenue fleet that he is building up, and what power he may want to give to them, I do not know; but it is not connected with the Light-House Board; it is connected with the revenue fleet. That is the amount of it; and that, unquestionably, he knows all about; but the difficulty is the interference with the light-house system; it is to that I object.

How is it now? All these officers are detailed by the board, the whole board, acting as a board, not by the Secretary of the Treasury. He is not the all in all in the light-house establishment. It is under the control of a board of men, and men of the highest character. General Totten is a member, Professor Bache is a member, Professor Henry is one, and there are several other gentlemen, officers of the Army and Navy—Captain Humphries, Mr. Jenkins himself, and others. They detail these men. They apply to the War Department or the Navy Department for an officer of a particular kind, and they detail him and send him out. The Secretary of the Treasury does not do it. Now, what does this bill propose? It proposes that the Secretary of the Treasury shall

not only retain his power as president of the board, to act with the others in relation to the light-house establishment as it has been going on for ten years, but to give him the absolute power of interference; to take men out of his own revenue fleet and put them upon the board at his discretion. It is breaking up the system.

Now, sir, with all my respect—and no man entertains more—and all my personal regard for the Secretary of the Treasury, I think the whole thing would be excessively injurious to an interest in which I feel a very deep concern, and that is the interest of light-houses on our coast. We know that a great many light-houses and lights have been broken up and destroyed on the southern coast. They are soon to be rebuilt, and soon to be relighted. To put this matter in the hands of the revenue officers, who have business enough of their own, in the first place, in my judgment, if carried out, will require a very vast increase of the revenue force in order to attend to it. It is bad, I think, in every aspect; and notwithstanding all that has been or can be said, I must remain of that opinion. I hope the bill will not pass. When you have a system that in an experience of ten years has been found to work admirably, to the satisfaction of everybody, both with regard to its cheapness and the perfection of its operations, I believe it is unsafe, on the recommendation of any Secretary of the Treasury or anybody else, to break into it by measures of this description.

Mr. KING. This bill had passed the House of Representatives and was referred to the Committee on Commerce of the Senate, when the committee took it up. Without having sufficient information themselves to determine on the propriety of it, it was referred by the committee to the Treasury Department for information. The clerk took it up, and then the chairman himself went and consulted the Secretary of the Treasury. On a very full interview with him, the information communicated to us in relation to the character of these officers and the economy of the service, which was one of the points considered by the committee, the committee were satisfied that the recommendations of the Secretary of the Treasury were entitled to respect, and unanimously assented to the bill as it has been reported. This is the condition of it.

Mr. McDOUGALL. I have been informed that the Secretary of the Treasury has recently, upon a more careful examination of this subject and fuller consideration, changed his mind on this subject, and prefers now that the light-house system should remain as it is.

Mr. CHANDLER. Permit me to say to the Senator from California that I had an interview with the Secretary on Saturday, and that no such change had taken place then. If it has taken place, it has occurred since.

Mr. McDOUGALL. I do not propose to argue the question; but as the Senator from Maine has said, this board has now been organized for a number of years; it has led to great results, to a perfect system. As I understand, the members of the board receive no compensation for their services as such.

Mr. FESSENDEN. None at all.

Mr. McDOUGALL. They embrace men of various descriptions of science. They have divided off the various departments of their business, organized into committees those who have charge of the location of lights, the construction of light-houses, the lights themselves, and experiments in lights. They have been carrying on a series of experiments that have greatly advanced the service, and made it far more economical. It is now admitted to be a perfect system; and a change such as is indicated would be an abandonment of the system. Why should the change be made? An officer of the revenue service is selected for his skill in navigation, simply handling his ship, being a reliable and intelligent gentleman, and a good sailor. Now, however, we select for this kind of service persons who have studied the specialities belonging to it. There is no question about the system having been economically administered. It has accomplished great results. I think it would be a public misfortune to abandon it at the instance of no matter how high an officer of the Government, who is not master of this particular subject. The Secretary of the Treasury lives in the interior; he has had very little to do with the business of light-houses, probably has never studied any one of its specialties, and he comes into the Department now and makes his suggestions. He may see some causes why he would prefer this change; but I think it would be a great misfortune to abandon a successful organization and make a change at the instance of an officer of the Government who certainly is not familiar with the particular subject.

Mr. CHANDLER. The Senator from California says that these officers receive no increase of pay. He is mistaken about that.

Mr. McDOUGALL. I spoke of the board.

Mr. CHANDLER. The officers who are put on this duty are on leave of absence, and the Senate knows very well that when an officer of the Army or Navy is on active duty he receives a great deal more pay than when he is on leave of absence; and they get a much larger salary than we pay to the revenue officers. They have quarters; they receive mileage; they receive the difference between leave of absence pay and active service pay, all of which swells the expense of the system. This bill will effect a saving of many thousands of dollars to the Treasury, and will, in my estimation, actually improve the service. The officers of the revenue cutters are continually moving about in their revenue districts. The Senator from Maine is mistaken in supposing they are busily employed in watching the revenue. As I am informed by the Secretary of the Treasury, they have ample time for this service, and it is provided that they shall have no increase of pay for attending to it; they will simply continue to receive the pay to which they are entitled as captains or lieutenants of the revenue service as the case may be. Upon the lakes at this time I know it would save many thousands of dollars, and actually improve the service. The same engineers that have heretofore been superintending the building of light-houses will continue. Civilians have heretofore been employed in many cases; most of our light-houses have been built by civil engineers employed by the superintendent of lights to build them. I think the Committee on Commerce spent at least two months in a thorough examination of this subject, and they unanimously came to the conclusion that it would be beneficial to the service, economical to the Treasury, and better in every respect that this bill should pass.

Mr. GRIMES. If the committee have spent that length of time on this subject, they can probably give the Senate some information that would be desirable before we proceed to vote upon it; and I should like to know how many more officers will be required to be appointed into the revenue service, if we adopt this bill, than are now appointed.

Mr. CHANDLER. I can answer that at once. Not one.

Mr. GRIMES. Then I should like to know how they are going to do the business when the light-house districts do not at all correspond with the revenue districts. There are only twelve light-house districts. One of them is on the California coast, for instance. There are several revenue districts. Now, how is the revenue officer on the California coast going to perform all his duties on that entire coast, and yet attend to all the duties in connection with the light-houses? I think the committee have not got very accurate information on that subject.

Mr. CHANDLER. Very.

Mr. GRIMES. Then I should like to have the Senator explain it.

Mr. CHANDLER. Does the Senator desire an answer now?

Mr. FESSENDEN. I should like to ask one question of the chairman, and that is whether he or the Committee on Commerce has ever consulted with the Light-House Board on this subject?

Mr. CHANDLER. We had their report before us, the same as the Senator had.

Mr. FESSENDEN. That is on another subject; but have you ever consulted them on this point, as to giving this service to the revenue officers?

Mr. CHANDLER. No; we did not deem it necessary.

Mr. GRIMES. The Senator spoke about the present inspectors drawing mileage. Does he mean to say that the officers of the Navy who are on the inspecting vessels—the light-house vessels—have been drawing mileage?

Mr. CHANDLER. If they take a Government vessel, they do not draw mileage; but if they do not, they travel, and are paid for it.

Mr. GRIMES. Then, does the Senator suppose that the revenue officer, when he is not on a revenue vessel, is not going to draw mileage?

Mr. CHANDLER. The revenue officer goes with his vessel.

Mr. GRIMES Exactly; and so does——

Mr. CHANDLER. Pardon me. The Army or Navy officer has not a vessel, and cannot get one belonging to the Government.

Mr. GRIMES. That is where the Senator is mistaken. The committee have not thoroughly investigated the subject.

Mr. CHANDLER. Yes, we have.

Mr. GRIMES. The Senator will pardon me——

Mr. FESSENDEN. We have two of these vessels in my town.

Mr. GRIMES. The Senator from Michigan has not thoroughly examined that subject, nor has his committee. There is a vessel put in charge of each one of these inspectors. The Senate will remember, doubtless, that some of these very vessels were captured by the rebels, one at Charleston a year ago this spring, one at the mouth of the Mississippi river, one in Texas, and one in the waters of North Carolina. The Senator from Maine says that there are two of them to-day in the harbor of Portland. As the board is at present organized, the inspectors draw no mileage when they are on these vessels; nor will the revenue officers when they are on the revenue vessels; but when you transfer them from the revenue vessels, and make them pay their own expenses, the revenue officers, as well as the Navy officers, will draw mileage, so that the Senator is altogether mistaken, I apprehend, on that subject. I do not see any purpose in this bill except to create, first, a new batch of officers, and second, to make the place of light-house inspector a political office rather than a profession. If that is the purpose, we had better pass the bill, not otherwise.

Mr. CHANDLER. The Senator from Iowa is making a very large mountain of a very small mole-hill. There is nothing compulsory about this at all. There is no change forced upon the Secretary of the Treasury or upon the Light-House Board. Here is a simple proposition permitting the Secretary of the Treasury, in case the exigencies of the service require it, to appoint a captain of a revenue cutter to perform this duty. If it is more economical or better that an officer of the Army or Navy should be appointed in any district, he will be appointed. If there is any case where it is better, where it is for the interest of the Treasury, to appoint a revenue officer, he will be appointed. Perhaps two, or three, or half a dozen revenue officers, perhaps not any, will be appointed under this bill. It simply gives the power to the Secretary of the Treasury to select one of his own officers to perform a duty which is in his hands, and ought to be there. It is not the Army or the Navy, it is the mercantile marine that is benefited by the light-house system. Of course it is for the interest of the Secretary of the Treasury to keep up this service to the highest standard at which he can keep it. I hope the amendment of the committee will prevail. I ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. CLARK. I did not propose to interfere in this debate; but the proceeding of the Committee on Commerce strikes me so singularly that I cannot forbear to say a word or two in opposition to this amendment. We have confessedly had a Light-House Board now for some eight or ten years that have managed the system of the light-houses and the lights admirably well; I think no fault is found with them anywhere; and now, not upon the suggestion of that board, not upon any requirement of the service by those who have charge of it, but from outside influence, it is proposed to interfere with that board, and take from them the control of it in the manner in which they have had it heretofore. I understand the chairman of the Committee of Commerce to say that this allows the Secretary of the Treasury to appoint. I do not so understand his bill. The bill says the President shall detail——

Mr. CHANDLER. Certainly.

Mr. CLARK. Suppose, then, the President of the United States undertakes to interfere with the Light-House Board, or the movements of the

Treasury Department, and appoint these officers wherever he chooses: the least you will have will be an interference of one service with another; and it seems to me it will be a great deal better to leave this service precisely where it is now, and where it has worked so well. If you let it go on as it is, you know that it will work well, because it has worked well for the last eight or ten years. If you interfere with it, you do not know that it will work well, because you are trying an experiment. Now, I hold it is better in legislation, as in other things, to "let well enough alone;" and if you find your lights well cared for, your harbors well lighted, your commerce well protected in that particular, it is better to let the thing stand as it is.

Mr. CHANDLER. Mr. President, here is an emergency; your Army and your Navy require every man you have got, and more, immediately, in the field and on the water; and now we ask what? Simply that the men who are placed as the guardians of commerce, commanders of your revenue cutters, shall have the privilege of inspecting your lights. Senators say it is well enough as it is. It has been well enough because you have had one hundred and fifty or two hundred officers of the Army and Navy with nothing on God's earth to do. Now, you have none, and we simply come in and ask that the Secretary of the Treasury—I say the Secretary of the Treasury because the President always fixes such appointments in accordance with the requests of the heads of Departments—shall have the privilege, during this emergency, of selecting his own revenue officers, appointed by himself or by the President, to do labor which you have nobody else to do; and Senators now get up and say let well enough alone. It is not well enough; you have got nobody to do the work now.

Mr. CLARK. One answer to the Senator from Michigan, the chairman of the Committee on Commerce, is, that his bill does not provide for any emergency. Who has told us anything about this emergency? Has the President of the United States said that he has not got Army officers or Navy officers for this service? Has the Secretary of War said "I cannot spare an Army officer on this service?" Has the Secretary of the Navy said "I cannot spare a naval officer?" No, sir; but the Secretary of the Treasury says "I can spare you a revenue officer." Now, without the President saying a word about it, without the Secretary of War saying a word about it, without the Secretary of the Navy saying there is any scarcity of men to perform this service, the Secretary of the Treasury wants to put his men in the service. That is where the emergency comes from.

Mr. CHANDLER. Permit me to ask the Senator, does he not know himself that there are not officers enough for the Army and the Navy? Is it not apparent to every member of this body, and to every man in this nation, that you have no Army or Navy officers to spare? You are appointing them here by dozens and hundreds almost every day.

Mr. CLARK. I do not understand that there is any fault about the officers of the Army or the Navy that they are not numerous enough. That is not the trouble. If there is any trouble, it is that there is not quite fight enough in them. I do not believe they will fight any better, if you put revenue officers upon light-house duty. That will not cure them. If these men are not put to fight, let them manage the lights, let them be doing something. The difficulty is not there; the difficulty is in the want of the *animus*. You have got men enough to lead your armies anywhere, and to carry your ships anywhere. You will not help it by putting revenue officers on light-house service. Does the Senator expect that Army or Navy officers will fight better because you put revenue officers on this board? Has he heard that this board wanted or suggested any medicine of that kind? I think the Senator would not agree to that. I think he knows as well as I know, that the cause lies deeper, and that he may cover the Light-House Board all over with revenue officers, he may put a revenue officer as inspector in every sea and every harbor, and it will not make your armies fight. That is not the light they want; they want a little of the light of courage and zeal.

Mr. CHANDLER. I agree with you there.

Mr. CLARK. Very well; take the proper remedy.

Mr. TEN EYCK. We have heard a great deal during the present session about extravagance in the expenditure of the public money, extravagance everywhere, nay, something more than extravagance, until it has been said that this nation is becoming so involved in debt that it will not be relieved from the consequences for many generations. Now, as this bill was originally proposed, it was designed to make this change only during the existing rebellion. The Committee on Commerce, having heard and realized the fact that there was vast extravagance and vast expenditure, thought it desirable, highly important, that a change should be made in this system by which thousands of dollars might be saved annually to the Government, provided the service could be performed as well. That was the great leading feature of this movement, and when we strip it of all these collateral matters about fighting, who is ready to fight and who is not, and bring the question back again to the true point in issue, it strikes me that there is merit in this bill. I do not know that the committee have considered the subject two months continuously; I frankly admit for myself that I have not critically examined it; and perhaps if I had, I should not understand all its minute particulars; but the great, prominent, striking fact was that we desired to have this service performed, as well, we believed, as it is now being performed, at a vast saving of public expenditure. That was the idea of the Secretary of the Treasury, and that was the idea of the committee, and it strikes me that, under existing circumstances, the idea was a correct one. The amendment proposed by the committee changes the character of the bill from a temporary one to a permanent one; but if it shall be found hereafter, after the rebellion is over, that there has been a mistake in this change, Congress will have nothing to do but to restore the system back to its original state, and there will be no difficulty growing out of our legislation upon the subject. My object simply was to recall the attention of the Senate to the point involved in the bill and to strip it, if I could, from extraneous influences.

Mr. MORRILL. As this bill has given rise to a debate which seems likely to continue, and as the bill abolishing slavery in the District of Columbia was put aside the other day to give place to the naval appropriation bill, I appeal to my friend from Michigan to allow this bill to subside and let the Senate proceed with the consideration of that bill.

Mr. CHANDLER. If this bill leads to any further debate, I certainly shall not press it now; but I think the debate is ended; I believe we are ready to vote.

Mr. MORRILL. If the Senator will allow it to go over, I think it will be better. It deserves further consideration.

Mr. CHANDLER. Very well.

Mr. MORRILL. I move to lay aside this bill and take up Senate bill No. 108.

The motion was agreed to.

SLAVERY IN THE DISTRICT.

The Senate, as in Committee of the Whole, accordingly resumed the consideration of the bill (S. No. 108) for the release of certain persons held to service or labor in the District of Columbia.

Mr. SUMNER. Mr. President——

Mr. DAVIS. Will the honorable Senator allow me just a minute to suggest a matter to him before he proceeds?

Mr. SUMNER. Certainly.

Mr. DAVIS. It may be that the speech which the honorable Senator intends to pronounce may cover the points which I have embodied in some questions to him. If they do not, I should take it very kindly if the honorable Senator will answer the questions. I will read them.

1. Are slaves in the District of Columbia, and in the slaveholding States, legally the subject of property?

2. Has Congress the power to deprive the owners of lands and houses and lots situated in the District of Columbia of that property?

3. What law or laws give the owners of real estate in the District of Columbia their right to such property? Inform us where such law or laws may be found and read.

4. What law or laws give a different right and title to slaves and to real estate? Where can such law or laws be found?

5. Is or not the Constitution, and the laws of the United States made in pursuance thereof, and all the treaties made under the authority of the United States, the supreme law of the land, which all persons, without any exception whatever, are bound to obey?

6. Is or not the Supreme Court of the United States the proper and final tribunal to judge and determine all questions, whether in law or equity, under the Constitution and laws of the United States?

Mr. SUMNER. Mr. President, with unspeakable delight I hail this measure and the prospect of its speedy adoption. It is the first installment of that great debt which we all owe to an enslaved race, and will be recognized in history as one of the victories of humanity. At home, throughout our own country, it will be welcomed with gratitude; while abroad it will quicken the hopes of all who love freedom. Liberal institutions will gain everywhere by the abolition of slavery at the national capital. Nobody can read that slaves were once sold in the markets of Rome, beneath the eyes of the sovereign Pontiff, without confessing the scandal to religion, even in a barbarous age; and nobody can hear that slaves are now sold in the markets of Washington, beneath the eyes of the President, without confessing the scandal to liberal institutions. For the sake of our good name, if not for the sake of justice, let the scandal disappear.

In early discussions of this question there were many topics introduced which now command little attention. It was part of the tactics of slavery to claim absolute immunity. Indeed, without such immunity it had small chance of continued existence. Such a wrong, so utterly outrageous, could find safety only where it was protected from inquiry. Therefore, slave masters always insisted that petitions against its existence at the national capital were not to be received; that it was unconstitutional to touch it even here within the exclusive jurisdiction of Congress; and that if it were touched, it should be only under the auspices of the neighboring States of Virginia and Maryland. On these points elaborate arguments were constructed; but it were useless to consider them now. Whatever may be the opinions of individual Senators, the judgment of the country is fixed. The right of petition, first vindicated by the matchless perseverance of John Quincy Adams, is now beyond question, and the constitutional power of Congress is hardly less free from doubt. It is enough to say on this point, that if Congress cannot abolish slavery here, then there is no power anywhere to abolish it here, and this wrong will endure always, immortal as the capital itself.

But as the moment of justice approaches we are called to meet a different objection, inspired by generous sentiments. It is urged that since there can be no such thing as property in man, especially within the exclusive jurisdiction of Congress, therefore all now held as slaves at the national capital are justly entitled to freedom, without price or compensation of any kind to their masters; or, at least, that any money paid should be distributed according to an account stated between masters and slaves. Of course, if this question were determined according to divine justice, so far as we may be permitted to look in that direction, it is obvious that nothing can be due to the masters, and that any money paid belongs rather to the slaves, who for generations have been despoiled of every right and possession. But if we undertake to audit this fearful account, pray what sum shall be allowed for the prolonged torments of the lash? What treasure shall be voted to the slave for wife ravished from his side, for children stolen, for knowledge shut out, and for all the fruits of labor wrested from him and his fathers? No such account can be stated. It is impossible. If you once begin the inquiry, all must go to the slave. It only remains for Congress, anxious to secure this great boon, and unwilling to embarrass or jeopard it, to act practically according to its finite powers, in the light of existing usages, and even existing prejudices, under which these odious relations have assumed the form of law; nor must we hesitate at any forbearance or sacrifice, provided freedom can be established without delay.

Testimony and eloquence have both been accumulated against slavery; but on this occasion I

shall confine myself precisely to the argument for the ransom of slaves at the national capital; although such is slavery that it is impossible to consider it in any single aspect without confronting its whole many-sided wickedness, while the broad diversified field of remedies is naturally open to review. But at some other time the great question of emancipation in the States may be more fitly considered, together with those other questions in which the Senator from Wisconsin [Mr. DOOLITTLE] has allowed himself to take sides so earnestly, whether there is an essential incompatibility between the two races, so that they cannot live together except as master and slave, and whether the freedmen shall be encouraged to exile themselves to other lands or to continue their labor here at home. It is surely enough for the present to consider slavery at the national capital; and here we are met by two inquiries so frankly addressed to the Senate by the clear-headed Senator from Kansas, [Mr. POMEROY:] *first, has slavery any constitutional existence at the national capital?* and, *secondly, shall money be paid to secure its abolition?* The answer to these two inquiries will make our duty clear. If slavery has no constitutional existence here, then more than ever is Congress bound to interfere, even with money; for the scandal must be peremptorily stopped, without any postponement or any consultation of the people on a point which is not within their power.

It may be said that, whether slavery be constitutional or not, nevertheless it exists, and therefore this inquiry is superfluous. True, it exists as a MONSTROUS FACT; but it is none the less important to consider its origin, that we may understand how, assuming the form of law, it was able to shelter itself beneath the protecting shield of the Constitution. And when we shall see clearly that it is without any such just protection, that the law which declares it is baseless, and that in all its pretensions it is essentially and utterly brutal and unnatural, we shall have less consideration for the slave tyranny, which, in satisfied pride, has thus far—not without compunction at different moments—ruled the national capital, reducing all things here—public opinion, social life, and even the administration of justice—to its own degraded standard, so as to fulfill the curious words of an old English poet:

> "It serves, yet reignes as King;
> It lives, yet's death; it pleases full of paine.
> Monster! ah, who, who can thy being faigne?
> Thou shapelesse shape, live death, paine pleasing, servile reigne."

It is true, there can be no such thing as property in man; and here I begin to answer the questions propounded by the Senator from Kentucky, [Mr. DAVIS.] If this pretension is recognized anywhere, it is only another instance of the influence of custom, which is so powerful as to render the idolator insensible to the wickedness of idolatry, and the cannibal insensible to the brutality of cannibalism. To argue against such a pretension seems to be vain; for the pretension exists in open defiance of reason as well as of humanity. It will not yield to argument; nor will it yield to persuasion. It must be encountered by authority. It was not the planters in the British islands or in the French islands who organized emancipation, but the distant Governments across the sea, far removed from the local prejudices, who at last forbade the outrage. Had these planters been left to themselves, they would have clung to this pretension as men among us still cling to it. Of course, in making this declaration against the idea of property in man, I say nothing new. An honored predecessor of the Senator from Maryland, [Mr. KENNEDY,] whose fame as a statesman was eclipsed, perhaps, by his more remarkable fame as a lawyer—I mean William Pinkney, and it is among the recollections of my youth that I heard Chief Justice Marshall call him the undoubted head of the American bar—in a speech before the Maryland House of Delegates, spoke as statesman and lawyer when he said:

> "Sir, by the eternal principles of natural justice no master in the State has a right to hold his slaves in bondage for a single hour."

And Henry Brougham spoke not only as statesman and lawyer, but as orator also, when, in the British Parliament, he uttered these memorable words:

> "Tell me not of rights—talk not of the property of the planter in his slaves. I deny the right—I acknowledge not the property. The principles, the feelings of our common nature, rise in rebellion against it. Be the appeal made to the understanding or to the heart, the sentence is the same that rejects it. In vain you tell me of laws that sanction such a claim. There is a law above all the enactments of human codes—the same throughout the world, the same in all times: it is the law written by the finger of God on the heart of man; and by that law, unchangeable and eternal, while men despise fraud and loathe rapine and abhor blood they will reject with indignation the wild and guilty phantasy that man can hold property in man."

It has often been said that the finest sentence of the English language is that famous description of law with which Hooker closes the first book of his Ecclesiastical Polity; but I cannot doubt that this wonderful denunciation of an irrational and inhuman pretension will be remembered hereafter with higher praise; for it gathers into surpassing eloquence the growing and immitigable instincts of universal man.

If I enter now into a brief analysis of slavery, and say familiar things, it is because such exposition is an essential link in the present inquiry. Looking carefully at slavery as it is we shall find that it is not merely a single gross pretension, utterly inadmissible, but an aggregation of gross pretensions, all of them utterly inadmissible. They are five in number: first, the pretension of property in man; secondly, the denial of the marriage relation, for slaves are "coupled" only, and not married; thirdly, the denial of the paternal relation; fourthly, the denial of instruction; and fifthly, the appropriation of all the labor of the slave and its fruits by the master. Such are the five essential elements which we find in slavery; and this fivefold Barbarism, so utterly indefensible in every point, is maintained for the single purpose of compelling labor without wages. Of course such a pretension is founded in force, and in nothing else. It begins with the kidnapper in Guinea or Congo; it traverses the sea with the pirate slave trader in his crowded hold; and it is continued here by virtue of laws which represent and embody that same brutal force which prevailed in the kidnapper and the pirate slave trader. Slavery, wherever it exists, is the triumph of force, sometimes represented in the strong arm of an individual, and sometimes in the strong arm of laws, but it is always the same in principle. Depending upon force, he is master who happens to be the stronger, so that if the slave were stronger he would be master and the master would be slave. For according to reason and justice every slave possesses the same right to enslave his master which his master possesses to enslave him. If this simple statement of unquestionable principles needed confirmation, it would be found in the solemn judgments of courts. Here, for instance, are the often-quoted words of Mr. Justice McLean, of the Supreme Court of the United States: "Slavery is admitted by almost all, who have examined the subject, to be founded in wrong, in oppression, in *power* against *right*." (Jones *vs.* Vanzandt, 2 McLean's Reports, 645.) And here are the words of the supreme court of North Carolina: "Such services [of a slave] can only be expected from one who has no will of his own, who surrenders his will in implicit obedience to that of another. Such obedience is the consequence only of *uncontrolled authority over the body*. There is nothing else which can operate to produce the effect." (Jarman *vs.* Patterson, 7 Munroe's Reports, 645.) And the Supreme Court of the United States, by the lips of Chief Justice Marshall, has openly declared in a famous case, read the other day by the Senator from Kentucky, [Mr. DAVIS,] that "slavery has its origin in *force*." Thus does it appear by most authoritative words that this five-headed Barbarism is derived not from reason, or nature, or justice, or goodness, but from *force*, and nothing else.

Of course, here in the national capital, which is under the exclusive jurisdiction of Congress, the FORCE which now maintains this unnatural system is supplied by Congress. Without Congress the "uncontrolled authority" of the master would cease. Without Congress the master would not be master; nor would the slave be slave. Congress, then, in its existing legislation giving sanction to slavery, is the power behind, which, here in the national capital, enslaves our fellow-men. Therefore does it behoove Congress to act in order to relieve itself of this painful responsibility.

But this responsibility becomes more painful when it is considered that slavery exists at the national capital absolutely without support of any kind in the Constitution; and here again I answer the Senator from Kentucky, [Mr. DAVIS.] Nor is this all. Situated within the exclusive jurisdiction of the Constitution, where State rights cannot prevail, it exists in open defiance of most cherished principles. Let the Constitution be rightly interpreted by a just tribunal, and slavery must cease here at once. The decision of a court would be as potent as an act of Congress. And now, as I confidently assert this conclusion, which bears so directly on the present question, pardon me if I express the satisfaction with which I recur to an earlier period, shortly after I entered the Senate, when, vindicating the principle now accepted, but then disowned, that *freedom and not slavery is national*, I insisted upon its application to slavery everywhere within the exclusive jurisdiction of the Constitution, and declared that Congress might as well undertake to make a king as to make a slave. That argument has never been answered; it cannot be answered. Nor can I forget that this same conclusion, having such important bearings, was maintained by Mr. Chase, while a member of this body, in that masterly effort where he unfolded the relations of the national Government to slavery, and also by the late Horace Mann in a most eloquent and exhaustive speech in the other House, where no point is left untouched to show that slavery in the national capital is an *outlaw*. Among all the speeches in the protracted discussion of slavery, I know none more worthy of profound study than those two, so different in character and yet so harmonious in result. If authority could add to the force of irresistible argument, it would be found in the well-known opinion of the late Mr. Justice McLean, in a published letter, declaring the constitutional impossibility of slavery in the national Territories, because, in the absence of express power under the Constitution to establish or recognize slavery, there was nothing for the breath of slavery, as respiration could not exist where there was no atmosphere. The learned judge was right, and his illustration was felicitous. Although applied at the time only to the Territories, it is of equal force everywhere within the exclusive jurisdiction of Congress; for within such jurisdiction there is no atmosphere in which slavery can live.

If this question were less important, I should not occupy time with its discussion. But we may learn to detest slavery still more when we see how completely it has installed itself here in utter disregard of the Constitution, and compelled Congress ignobly to do its bidding. The bare existence of such a barbarous injustice in the metropolis of a Republic, which has gloriously declared that "all men are entitled to life, liberty, and the pursuit of happiness," is a mockery which may well excite surprise; but when we bring it to the touchstone of the Constitution, and consider the action of Congress, surprise is deepened into indignation.

But how, sir, was this foothold secured? When and by what process did the national Government, solemnly pledged to freedom, undertake to maintain the slave master here in the exercise of that *force* or "unrestrained power" which swings the lash, fastens the chain, robs the wages, sells the child, and tears the wife from the husband? A brief inquiry will show historically how it occurred; and here again I shall answer the Senator from Kentucky.

The sessions of the Revolutionary Congress were held, according to the exigencies of war or the convenience of members, at Philadelphia, Baltimore, Lancaster, York, Princeton, Annapolis, Trenton, and New York. An insult at Philadelphia, in 1783, from a band of mutineers, caused an adjournment to Princeton, which was followed by the consideration, from time to time, of the question of a permanent seat of Government. On motion of Mr. Gerry, of Massachusetts, it was resolved, 7th of October, 1783, that buildings for the use of Congress be erected on or near the banks of the Delaware, or of the Potomac, near Georgetown, provided a suitable district can be procured on one of the rivers aforesaid for a Federal town; that the right of soil, and an exclusive or such other jurisdiction as Congress may direct shall be vested in the United States. (Journals of Old Congress, vol. 4, p. 299.) Thus did the first proposition of a national capital within the exclusive jurisdiction of Congress proceed from a representative of Massachusetts. The subject of slavery, at that time, had attracted little attention; but at a later day, in the Federal convention, this

same honored representative showed the nature of the jurisdiction which he would claim, according to the following record in the Madison Papers, (p. 1395:) "Mr. Gerry thought we had nothing to do with the conduct of the States as to slaves, *but ought to be careful not to give any sanction to it.*" In these words will be found our own cherished principle—*freedom national, slavery sectional*—expressed with homely and sententious simplicity. There is something grateful and most suggestive in the language employed, "we ought to be careful not to give any sanction to it." At a still later day, in the first Congress under the Constitution, the same representative, in the debate on slavery, gave further expression to this same conviction, when he said that "he highly commended the part the Society of Friends had taken; it was the cause of humanity they had interested themselves in." (Annals of Congress, vol. 2, p. 489.)

The proposition of Mr. Gerry, after undergoing various modifications, was repealed during the next year. But shortly afterwards, in 1784, three commissioners were appointed to lay out a district not exceeding three nor less than two miles square "on the banks of either side of the Delaware, not more than eight miles above or below the falls thereof, for a Federal town." At the Congress of the succeeding year, which met at New York, great but unsuccessful efforts were made to substitute the Potomac for the Delaware. The commissioners, though appointed, never entered upon their business. At last, by the adoption of the Constitution, the subject was presented in a new form under the following clause: "Congress shall have power to exercise exclusive legislation in all cases whatsoever over such district, not exceeding ten miles square, as may by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States." From the report of the debates in the convention it does not appear that this clause occasioned discussion. But the discussion broke out in the earliest Congress. Virginia and Maryland each, by acts of their respective Legislatures, tendered the ten miles square, while similar propositions were made by citizens of Pennsylvania and New Jersey. After a long and animated discussion, Germantown, in Pennsylvania, was on the point of being adopted, when the subject was postponed till the next session. Havre-de-Grace and Wright's Ferry, both on the Susquehanna; Baltimore, on the Patapsco; and Connogocheague, on the Potomac, divided opinions. In the course of the debate, Mr. Gerry, who had first proposed the Potomac, now opposed it. He pronounced it highly unreasonable to fix the seat of Government where nine States out of the thirteen would be to the northward, and he adverted to the sacrifice the northern States were ready to make in going as far south as Baltimore. An agreement seemed impossible, when the South suddenly achieved one of those political triumphs by which its predominance in the national Government was established. Pending at the same time was the great and trying proposition to assume the State debts, which being at first defeated through southern votes, was at last carried by a "compromise," according to which the seat of Government was to be placed on the Potomac, thus settling the much-vexed question. Mr. Jefferson, in a familiar letter, thus sketches the "compromise:"

"It was observed that this pill [the assumption of the State debts] would be peculiarly bitter to the southern States, and *that some concomitant measure should be adopted to sweeten it a little to them.* There had before been a proposition to fix the seat of Government either at Philadelphia or at Georgetown on the Potomac, and it was thought that, by giving it to Philadelphia for ten years, and to Georgetown permanently afterwards this night, as anodyne, calm in some degree the ferment which might be excited by the other measure alone. So two of the Potomac members (one with a revulsion of stomach almost convulsive) agreed to change their votes, and Hamilton undertook to carry the other point."—*Memoirs and Correspondence of Jefferson*, vol. 4, p. 449.

Such was one of the earliest victories of slavery in the name of "compromise." It is difficult to estimate the evil consequences which it has entailed upon the country.

The act establishing the seat of Government having already passed the Senate, was adopted by the House of Representatives, after vehement debate and many calls of the yeas and nays, by a vote of 32 to 29, on the 16th of July, 1790. A district of territory, not exceeding ten miles square, on the river Potomac, was to be accepted for the permanent seat of the Government of the United States; "*Provided, nevertheless*, That the operation of the laws of the States within such district shall not be affected by this acceptance until the time fixed for the removal of Government thereto, *and until Congress shall by law otherwise provide.*" Here, it will be seen, was a positive saving of the laws of the State for a limited period, so far as Congress had power to save them, within the exclusive jurisdiction of the Constitution; but there was also a complete recognition of the power of Congress to change these laws, and an implied promise to assume the "exclusive legislation in all cases whatsoever" contemplated by the Constitution.

In response to this act of Congress, Maryland by formal act ceded the territory which now constitutes the District of Columbia "in full and absolute right, as well of soil as of persons residing or to reside therein;" provided that the jurisdiction of Maryland "shall not cease or determine *until Congress shall by law provide for the government thereof.*" (Acts of Maryland, 1791, cap. 45, sec. 2.)

In pursuance of this contract between the United States of the one part and Maryland of the other part, expressed in solemn statutes, the present seat of Government was occupied in December, 1800, when Congress proceeded to assume that complete jurisdiction which is conferred in the Constitution by enacting, on the 27th February, 1801, "that the laws of the State of Maryland, *as they now exist*, shall be and continue in force in that part of the said District which was ceded by that State to the United States, and by them accepted for the permanent seat of Government." Thus at one stroke all the existing laws of Maryland were adopted by Congress in gross, and from that time forward became the laws of the United States at the national capital. Although known historically as the laws of Maryland, they ceased at once to be the laws of that State, for they draw their vitality from Congress alone, under the Constitution of the United States, as completely as if every statute had been solemnly reënacted. And now we shall see precisely how slavery obtained its foothold here.

Among the statutes of Maryland thus solemnly reënacted in gross by Congress was the following, originally passed as early as 1715—in colonial days:

"All negroes and other slaves already imported or hereafter to be imported into this province, and all children now born or hereafter to be born of such negroes and slaves shall be slaves during their natural lives."—*Laws of Maryland*, 1715, ch. 44, sec. 22.

But slavery cannot exist without barbarous laws in its support. Maryland, accordingly, in the spirit of slavery, added other provisions, also reënacted by Congress, in the same general bundle, of which the following is an example:

"*No negro or mulatto slave*, free negro or mulatto, born of a white woman, during his time of servitude, by law in this province, *shall be admitted and received as good and valid evidence in law, in any matter* or thing whatsoever depending before any court of record or before any magistrate within this province, *wherein any Christian white person is concerned.*"—*Laws of Maryland*, 1717, ch. 13, sec. 2.

At a later day the following kindred provision was added in season to be reënacted by Congress in the same code:

"No slave manumitted agreeably to the laws of this State shall be entitled to give evidence against any white person, or shall be received as competent evidence to manumit any slave petitioning for his freedom."—*Laws of Maryland*, 1796, ch. 67, sec. 5.

And such is the law for slavery at the national capital.

It will be observed that the original statute, which undertakes to create slavery in Maryland, does not attaint the blood beyond two generations. It is confined to "all negroes and other slaves," and their "children," "during their natural lives." These are slaves, but none others, unless a familiar rule of interpretation is reversed, and such words are extended rather than restrained. And yet it is by virtue of this colonial statute, with all its ancillary barbarism, adopted by Congress, that slaves are still held at the national capital. It is true that at the time of its adoption, there were few slaves here to whom it was applicable. For ten years previous the present area of Washington, according to received tradition, had contained hardly five hundred inhabitants, all told, and these were for the most part laborers distributed in houses merely for their temporary accommodation. But all these musty, antediluvian, wicked statutes, of which you have seen a specimen, took their place at once in the national legislation, and under their supposed authority slaves multiplied, and slavery became a national institution. And it now continues only by virtue of this slave code borrowed from early colonial days, which, though flagrantly inconsistent with the Constitution, has never yet been repudiated by court or Congress.

I have said that this slave code, even assuming it applicable to slaves beyond the "natural lives" of two generations, is flagrantly inconsistent with the Constitution. On this point the argument is so plain that it may be presented like a diagram.

Under the Constitution, Congress has "exclusive jurisdiction in all cases whatsoever" at the national capital. The cession by Maryland was without condition, and the acceptance by Congress was also without condition, so that the territory fell at once within this exclusive jurisdiction. But Congress can exercise no power except in conformity with the Constitution. Its exclusive jurisdiction in all cases whatsoever is controlled and limited by the Constitution, out of which it is derived. Now, looking at the Constitution, we shall find, first, that there are no words authorizing Congress to establish or recognize slavery; and, secondly, that there are positive words which prohibit Congress from the exercise of any such power. The argument, therefore, is twofold: first, from the absence of authority, and, secondly, from positive prohibition.

Of course, a Barbarism like slavery, having its origin in force, and nothing else, can have no legal or constitutional support except from positive sanction. It can spring from no doubtful phrase. It must be declared by unambiguous words incapable of a double sense. In asserting this principle I simply follow Lord Mansfield, who, in the memorable case of Sommersett, said: "The state of slavery is of such a nature that it is incapable of being introduced on any reasons, moral or political, but only by *positive law*. It is so odious that nothing can be suffered to support it but POSITIVE LAW." (Howell's State Trials, vol. 20, p. 82.) This principle has been adopted by tribunals even in slaveholding States. (See Horey *vs.* Decker, Walker's R., 42; Rankin *vs.* Lydier, 2 Marshall, 470.) But I do not stop to dwell on these authorities. Even the language, "exclusive jurisdiction in all cases whatsoever," cannot be made to sanction slavery. It wants those positive words, leaving nothing to implication, which are obviously required, especially when we consider the professed object of the Constitution, as declared in its preamble, "to establish justice and secure the blessings of liberty." There is no power in the Constitution to make a king, or, thank God, to make a slave, and the absence of all such power is hardly more clear in one case than in the other. The word king nowhere occurs in the Constitution, nor does the word slave. But if there be no such power, then all acts of Congress sustaining slavery at the national capital must be unconstitutional and void. The stream cannot rise higher than the fountain head; nay more, *nothing can come out of nothing;* and if there be nothing in the Constitution authorizing Congress to make a slave, there can be nothing valid in any subordinate legislation. It is a pretension which has thus far prevailed simply because slavery predominated over Congress and courts.

To all who insist that Congress may sustain slavery in the national capital, I put the question, where in the Constitution is the power found? If you cannot show where, do not assert the power. So hideous an effrontery must be authorized in unmistakable words. But where are the words? In what article, clause, or line? They cannot be found. Do not insult human nature by pretending that its most cherished rights can be sacrificed without solemn authority. Remember that every presumption and every leaning must be in favor of freedom and against slavery. Do not forget that no nice interpretation, no strained construction, no fancied deduction, can suffice to sanction the enslavement of our fellow-men. And do not degrade the Constitution by foisting into its blameless text the idea of property in man. It is not there; and if you think you see it there, it is simply because you make the Constitution a reflection of yourself.

A single illustration will show the absurdity of this pretension. If under the clause which gives to

Congress "exclusive legislation" at the national capital slavery may be established, if under these words Congress is empowered to create slaves instead of citizens, then, under the same words, it may do the same thing in "the forts, magazines, arsenals, dock-yards, and other needful buildings" belonging to the United States, wherever situated, for these are all placed within the same "exclusive legislation." The extensive navy-yard at Charlestown, in the very shadow of Bunker Hill, may be filled with slaves, whose enforced toil shall take the place of that cheerful, well-paid labor whose busy hum is the best music of the place. Such an act, however consistent with slaveholding tyranny, would not be regarded as constitutional near Bunker Hill.

But if there were any doubt on this point, if the absence of all authority were not perfectly clear, the prohibitions of the Constitution would settle the question. It is true that Congress has "exclusive legislation" within the District; but the prohibitions to grant titles of nobility, to pass *ex post facto* laws, to pass bills of attainder, and to establish religion, are unquestionable limitations of this power. There is also another limitation, which is equally unquestionable. It is found in an amendment proposed by the First Congress, on the recommendation of several States, as follows:

"No PERSON shall be deprived of life, LIBERTY, or property, without *due process of law*."

This prohibition, according to the Supreme Court, is obligatory on Congress. (Barron *vs.* Baltimore, 7 Peters's Rep., 243.) It is also applicable to all who are claimed as slaves; for, in the eye of the Constitution, every human being within its sphere, whether Caucasian, Indian, or African, from the President to the slave, is a *person*. Of this there can be no question. But a remarkable incident of history confirms this conclusion. As originally recommended by North Carolina and Virginia, this proposition was restrained to the *freeman*. Its language was:

"No *freeman* ought to be deprived of his life, *liberty*, or property, but by the law of the land."

Of course, if the word freeman had been adopted, this clause would have been restrained in its effective power. But in deliberately rejecting this limitation, the authors of the amendment recorded their purpose that no *person*, within the national jurisdiction, of whatever character, shall be deprived of *liberty* without due process of law. The latter words are borrowed from Magna Charta, and they mean without due presentment, indictment, or other judicial proceedings. But Congress, in undertaking to support slavery at the national capital, has enacted that *persons* may be deprived of liberty there without any presentment, indictment, or other judicial proceedings. Therefore, every *person* now detained as a slave in the national capital is detained in violation of the Constitution. Not only is his liberty taken without due process of law, but since he is tyrannically despoiled of all the fruits of his industry, his property also is taken without due process of law. You talk sometimes of guarantees of the Constitution. Here is an unmistakable guarantee, and I hold you to it.

Bringing the argument together, the conclusion may be briefly stated. The five-headed Barbarism of slavery, beginning in violence, can have no legal or constitutional existence, unless through positive words expressly authorizing it. As no such positive words can be found in the Constitution, all legislation by Congress supporting slavery must be unconstitutional and void, while it is made still further impossible by positive words of prohibition guarding the liberty of every *person* within the exclusive jurisdiction of Congress.

A court properly inspired, and ready to assume that just responsibility which dignifies judicial tribunals, would at once declare slavery impossible at the national capital, and set every slave free—as Lord Mansfield declared slavery impossible in England, and set every slave free. The two cases are parallel; but, alas! the court is wanting here. The legality of slavery in England during the last century was affirmed by the ablest lawyers in professional opinions; it was also affirmed on the bench. England was a slave State, and even its newspapers were disfigured with advertisements for the sale of human beings; while the merchants of London, backed by great names in the law, sustained the outrage. Then appeared Granville Sharp, the philanthropist, who, pained by the sight of slavery, and especially shocked by the brutality of a slave hunt in the streets of London, was aroused to question its constitutionality in England. For two years he devoted himself to an anxious study of the British constitution in all its multifarious records. His conclusion is expressed in these precise words: "Neither the word *slaves* or anything that can justify the enslaving of others can be found there, God be praised!" (Hoare's Life of Sharp, vol. 1, p. 58, cap. 1.) Thus encouraged, he persevered. By his generous exertions the negro Sommersett, claimed as a slave by a Virginia gentleman then in London, was defended, and the court of King's Bench compelled to that immortal judgment by which slavery was fore*ver* expelled from England, and the early boast of the British constitution became a practical verity. More than fifteen thousand persons, held as slaves in 1772 on British soil—four times as many as are now found in the national capital—became instantly free, without price or ransom.

But the good work which courts have thus far declined remains to be done by Congress. Slavery, which is a barbarous anomaly and an anachronism here, must be made to disappear from the national capital; if not in one way, then in another. A judgment of court would be simply on the question of constitutional right, without regard to policy. But there is no consideration of right or of policy—from the loftiest principle to the humblest expediency—which may not properly enter into the conclusion of Congress. The former would be the triumph of the magistrate; the latter of the statesman. Let it come from magistrate or from statesman, it will constitute an epoch in history.

But the question is asked, shall we vote money for this purpose? I cannot hesitate. And here there are two considerations, which with me are prevailing. First, the relation of master and slave at the national capital has from the beginning been established and maintained by Congress, everywhere in sight, and even directly under its own eyes. The master held the slave; but Congress, with strong arm, stood behind the master, looking on and sustaining him. Not a dollar of wages has been taken, not a child has been stolen, not a wife has been torn from her husband, without the hand of Congress. If not a partnership, there was a complicity on the part of Congress, through which the whole country has become responsible for the manifold wrong. Though always protesting against its continuance, and laboring earnestly for its removal, yet gladly do I now accept my share of the promised burden. And, secondly, even if we are not all involved in the manifold wrong, nothing is clearer than that the mode proposed is the gentlest, quietest, and surest in which the beneficent change can be accomplished. It is, therefore, the most practical. It recognizes slavery as an existing fact and provides for its removal. And when I think of the unquestionable good which we seek; of all its advantages and glories; of the national capital redeemed; of the national character elevated; and of a magnanimous example which can never die; and when I think, still further, that, according to a rule alike of jurisprudence and morals, *liberty is priceless*, I cannot hesitate at any appropriation within our means by which all these things of incalculable value can be promptly secured.

As I find no reason of policy adverse to such appropriation, so do I find no objection to it in the Constitution. I am aware that it is sometimes asked where in the Constitution is the power to make such appropriation? But nothing can be clearer than that under the words conferring "exclusive jurisdiction in all cases whatsoever," Congress may create freemen, although it may not create slaves. And, of course, it may exercise all the powers necessary to this end, whether by a simple act of emancipation or a vote of money. If there could be any doubt on this point, it would be removed when we reflect that the abolition of slavery, with all the natural incidents of such an act, has been constantly recognized as within the sphere of legislation. It was so regarded by Washington, who, in a generous letter to La Fayette, dated May 10, 1786, said: "It is certainly might and assuredly ought to be effected, and that, too, by *legislative* authority." It is through legislative authority that slavery has been abolished in State after State of our Union, and also in foreign countries. And I have yet to learn that the power of Congress for this purpose at this national capital is less complete than that of any other legislative body within its own jurisdiction.

But while not doubting the power of Congress in any of its incidents, I prefer to consider the money which we pay as in the nature of *ransom* rather than *compensation*, so that freedom shall be yielded rather than purchased; and I place it at once under the sanction of that commanding charity proclaimed by prophets and enjoined by apostles, which all history recognizes and which the Constitution cannot impair. From time immemorial every Government has undertaken to ransom its subjects from captivity, and sometimes a whole people has felt its resources well bestowed in the ransom of its prince. Religion and humanity have both concurred in this duty, as more than usually sacred. "The ransom of captives is a great and excelling office of justice," exclaims one of the early fathers. And the pious St. Ambrose insisted upon breaking up even the sacred vessels of the Church, saying, "the ornament of the sacraments is the redemption of the captives." The power thus commended has been exercised by the United States under important circumstances with the coöperation of the best names of our history, so as to be beyond question. The instance may not be familiar, but it is decisive, while from beginning to end it is full of instruction.

Who has not heard of the Barbary States and of the pretension put forth by these Powers to enslave white Christians? Algiers was the chief seat of this enormity, which, through the insensibility or incapacity of Christian States, was allowed to continue for generations. Good men and great men were degraded to be captives, while many, neglected by fortune, perished in barbarous slavery. Even in our colonial days there were cases of Americans whose fate, while in the hands of these slave masters, excited general sympathy. It was only by ransom that their freedom was obtained. Perhaps no condition was more calculated to arouse indignant rage. And yet the disposition so common among us to palliate slavery in Washington has shown itself with regard to slavery in Algiers; and, indeed, the same arguments to soften public opinion have been employed in the two instances. The parallel is so complete that I shall require all your trust to believe that what I read is not an apology for slavery here. Thus a member of a diplomatic mission from England, who visited Barbary in 1784, speaks of the slavery which he saw: "It is very slightly inflicted, and as to any labor undergone, it does not deserve the name." (Keatinge's Travels, p. 250.) And another earlier traveler, after describing the comfortable condition of the white slaves, adds, in words to which we are accustomed: "I am sure we saw several captives who live much better in Barbary than ever they did in their own country. Whatever money in charity was sent them by their friends in Europe was their own. And yet this is called insupportable slavery among Turks and Moors. But we found this, as well as many other things in this country, strangely misrepresented." (Braithwaite's Revolutions in Morocco, p. 353.) And a more recent French writer asserts, with a vehemence to which we are habituated from the partisans of slavery in our country, that the white slaves at Algiers were not exposed to the miseries which they represented; that they were well clad and well fed, *much better than the free Christians there;* that special care was bestowed upon those who became ill; and that some were allowed such privileges as to become indifferent to freedom, and even to prefer Algiers to their own country. (*Histoire d'Alger*, Paris, 1830, cap. 27.) Believe me, sir, in stating these things, I simply follow history; and I refer to the volume and page or chapter of the authorities which I quote, that the careful inquirer may see that they relate to slavery abroad, and not to slavery at home. If I continue to unfold this strange, eventful story, it will be in order to exhibit the *direct and constant intervention of Congress for the ransom of slaves;* but the story itself is an argument against slavery, pertinent to the present occasion, which I am not unwilling to adopt.

Scarcely was our national independence established when we were aroused to fresh efforts for

the protection of our enslaved citizens. Within three years no less than ten American vessels were seized. At one time an apprehension prevailed that Dr. Franklin, on his way home from France, had been captured. "We are waiting," said one of his French correspondents, "with the greatest impatience to hear from you. The newspapers have given us anxiety on your account, for some of them insist that you have been taken by the Algerines, while others pretend that you are at Morocco, enduring your slavery with all the patience of a philosopher." But though this apprehension happily proved to be without foundation, it soon became known that there were other Americans, less distinguished, but entitled to all the privileges of new-born citizenship, who were suffering in cruel captivity. The sentiments of the people were at once enlisted in their behalf. The newspapers pleaded, while the slave corsairs were denounced sometimes as "infernal crews," and sometimes as "human harpies." But it was through the stories of sufferings told by those who had succeeded in escaping from bondage that the people were mostaroused. As these fugitive slaves touched our shores, they were welcomed with outspoken sympathy. The glimpses opened through them into the dread regions of slavery gave a harrowing reality to all that conjecture or imagination had pictured. It was, indeed, true that our own white brethren, entitled like ourselves to all the rights of manhood, were degraded in unquestioning obedience to an arbitrary task-master; sold at the auction block; worked like beasts of the field, and galled by the manacle and lash. As our power seemed yet inadequate to compel their liberation, it was attempted by ransom.

Informal agencies at Algiers were organized under the direction of our minister at Paris, and the famous *Society of Redemption*, established in the thirteenth century, under the sanction of Pope Innocent III, offered their aid. Our agents were blandly entertained by the chief slave-dealer, the Dey, who informed them that he was familiar with the exploits of Washington, and as he never expected to set eyes on this hero of freedom, expressed a hope that, through Congress, he might receive a full-length portrait of him, to be displayed in the palace at Algiers. But amidst such professions, the Dey still clung to his American slaves, holding them at prices beyond the means of the agents, who were not authorized to go beyond $200 a head, being somewhat less than is proposed in the present bill; and I beg to call the attention of the Senator from Maine [Mr. MORRILL] to the parallel.

Their redemption engaged the attention of our Government early after the adoption of the Constitution. It was first brought before Congress by a petition, of which we find the following record:

"*Friday, May* 14, 1790.—A petition from sundry citizens of the United States, captured by the Algerines, and now in slavery there, was presented, praying the interposition of Congress in their behalf. Referred to the Secretary of State."—*Annals of Congress*, First Congress, p. 1572.

An interesting report on the situation of these captives, dated December 28, 1790, was made to the President by the Secretary of State, in which he sets forth the efforts of Government for their redemption at such prices as would not "raise the market," it being regarded as important that, in "the first instance of redemption by the United States, our price should be fixed at the lowest point." I quote the precise words of this document, which will be found in the State Papers of the country, (vol. 1, p. 101,) and I call special attention to them as applicable to the present moment. It appears that at this time the number of white slaves at Algiers, belonging to all countries, was nearly identical with the number of black slaves at Washington whose redemption is now proposed. The report of Mr. Jefferson was laid before Congress, with the following brief message from the President, (State Papers, vol. 1, p. 100:)

UNITED STATES, *December* 30, 1790.

Gentlemen of the Senate and House of Representatives:

I lay before you a report of the Secretary of State on the subject of the citizens of the United States in captivity at Algiers, that you may provide on their behalf what to you shall seem most expedient.

GEORGE WASHINGTON.

It does not appear that there was any question in any quarter with regard to the power of Congress. The recommendation of the President was broad. It was to provide on behalf of the slaves what should seem most expedient.

Another report from the Secretary of State, entitled the Mediterranean Trade, and communicated to Congress December 30, 1790, related chiefly to the same matter. In this document are the estimates of different persons with regard to the price at which our citizens might be ransomed and peace be purchased. One person, who had resided very long at Algiers, put the price at sixty or seventy thousand pounds sterling. This was the lowest estimate. But another authority put it at $570,000; and still another said that it could not be less than $1,000,000, which is the sum proposed in the present bill.

Mr. Jefferson, after considering the subject at some length, concludes as follows:

"Upon the whole it rests with Congress to decide between war, tribute, and ransom. If war, they will consider how far our own resources shall be called forth. If tribute or ransom, it will rest with them to limit and provide the amount, and with the Executive, observing the same constitutional forms, to make arrangements for employing it to the best advantage."—*State Papers*, vol. 1, p. 105.

Among the papers accompanying the report, is a letter from Mr. Adams, while he was minister at London, from which I take the following words:

"It may be reasonably concluded that this great affair cannot be finished for much less than £200,000."

In pursuance of these communications, the Senate proceeded to tender its advice to the President, in the following resolution:

"*Resolved*, That the Senate advise and consent that the President of the United States take such measures as he may think necessary for the redemption of the citizens of the United States now in captivity at Algiers: *Provided*, The expense shall not exceed $40,000; and also that measures be taken to confirm the treaty now existing between the United States and the Emperor of Morocco."—*State Papers*, vol. 1, p. 128.

By a subsequent message, dated February 22, 1791, the President said:

"I will proceed to take measures for the ransom of our citizens in captivity at Algiers, in conformity with your resolution of advice of the 1st instant, so soon as the moneys necessary shall be appropriated by the legislature and shall be in readiness."—*Ibid.*

Still later, the same subject was presented by the following inquiry proposed to the Senate by President Washington, under date of May 8, 1792: "If the President of the United States should conclude a convention or treaty with the Government of Algiers, for the ransom of the thirteen Americans in captivity there, for a sum not exceeding $40,000, all expenses included, will the Senate approve the same? Or is there any, and what, greater or lesser sum which they would fix as the limit beyond which they would not approve the ransom?" The Senate promptly replied by a resolution declaring it would approve such treaty of ransom. (State Papers, vol. 1, p. 136.) And Congress, by the act of May 8, 1792, appropriated a sum of $50,000 for this purpose. Commodore Paul Jones was intrusted with the mission to Algiers, charged with the double duty of making peace with this Power and of securing the redemption of our citizens. In his letter of instructions, dated June 1, 1792, Mr. Jefferson expresses himself as follows:

"It has been a fixed principle with Congress to establish the rate of ransom of American captives with the Barbary States, at as low a point as possible, that it may not be the interest of those States to go in quest of our citizens in preference to those of other countries. Had it not been for the danger it would have brought on the residue of our seamen, by exciting the cupidity of these rovers against them, our citizens now in Algiers would have been long ago redeemed without regard to price. The mere money for their particular redemption neither has been nor is an object with anybody here."—*State Papers*, vol. 1, p. 292.

In the same instructions, Mr. Jefferson says:

"As soon as the ransom is completed, you will be pleased to have the captives well clothed and sent home at the expense of the United States, with as much economy as will consist with their reasonable comfort."—*Ibid.*

Commodore Paul Jones—called admiral in the instructions—died without entering upon the performance of these duties, which were afterwards undertaken by Colonel Humphreys, our minister at Lisbon, who was honored especially with the friendship of Washington, as an accomplished officer of his staff during the Revolution. But the terms exacted by the Dey were such as to render the mission unsuccessful.

Meanwhile other Americans were seized by the Algerines, who are described as "employed as captive slaves on the most laborious work, in a distressed and naked situation." (State Papers, vol. 1, p. 418.) One of their number, in a letter to the President, dated at Algiers, November 5, 1793, says:

"Humanity towards the unfortunate American captives, I presume, will induce your excellency to co-operate with Congress to adopt some speedy and effectual plan in order to restore to liberty and finally extricate the American captives from their present distresses."—*Ibid.*

At this time there were one hundred and nineteen American slaves in Algiers, who united in a petition to Congress, dated December, 1793, in which they say:

"Your petitioners are at present captives in this city of bondage, employed daily in the most laborious work, without any respect to persons. They pray that you will take their unfortunate situation into consideration, and adopt such measures as will restore the American captives to their country, their friends, families, and connections."—*Ibid*, p. 421.

The country was now aroused. A general contribution was proposed. People of all classes vied in generous efforts. Newspapers entered with increased activity into the work. At public celebrations the toasts "happiness for all," and "universal liberty," were proposed, partly in sympathy with our wretched white fellow-countrymen in bonds. On one occasion, at a patriotic celebration in New Hampshire, they were remembered in the following toast: "Our brethren in slavery at Algiers. May the measures adopted for their redemption be successful, and may they live to rejoice with their friends in the blessings of liberty." The clergy too were enlisted. A fervid appeal by the captives themselves was addressed to the ministers of the Gospel throughout the United States, asking them to set apart a special Sunday for sermons in behalf of their enslaved brethren. Literature, too, added her influence, not only in essays, but in a work, which, though now forgotten, was among the earliest of the literary productions of our country, reprinted in London at a time when few American books were known abroad. I refer to the story of The Algerine Captive, which though published anonymously—like other similar works at a later day—is known to have been written by Royall Tyler, afterwards chief justice of Vermont. Slavery in Algiers is here depicted in the sufferings of a single captive—as slavery in the United States has been since depicted in the sufferings of Uncle Tom; but the influence of the early story was hardly less strong against African slavery than against white slavery. "Grant me," says the Algerine captive—who had been a surgeon on board a ship in the African slave trade—from the depths of his own sorrows, "once more to taste the freedom of my native country, and every moment of my life shall be dedicated to preaching against this detestable commerce. I will fly to our fellow-citizens of the southern States; I will on my knees conjure them, in the name of humanity, to abolish a traffic which causes it to bleed in every pore. If they are deaf to the pleadings of nature, I will conjure them, for the sake of consistency, to cease to deprive their fellow-creatures of freedom, which their writers, their orators, Representatives, Senators, and even their constitutions of government, have declared to be the unalienable birthright of man," (cap. 32.) In such words was the cause of emancipation pleaded at that early day.

Colonel Humphreys, from his distant mission at Lisbon, while yet unable to reach Algiers, joined in this appeal by a letter to the American people, dated July 11, 1794. Taking advantage of the general interest in lotteries, and particularly of the custom, not then condemned, of resorting to these as a mode of obtaining money for literary or benevolent purposes, he suggested a grand lottery, sanctioned by the United States, or particular lotteries in the individual States, in order to obtain the means required for the ransom of our countrymen. He then asks:

"Is there within the limits of these United States an individual who will not cheerfully contribute in proportion to his means to carry it into effect? By the peculiar blessings of freedom which you enjoy, by the disinterested sacrifices you made for its attainment, by the patriotic blood of those martyrs of liberty who died to secure your independence, and by all the tender ties of nature, let me conjure you once more to snatch your unfortunate countrymen from fetters, dungeons, and death."

Meanwhile the Government was energetic through all its agents, at home and abroad; nor was any question raised with regard to its constitutional powers. In the animated debate which ensued in the House of Representatives, an honorable member said, "If bribery would not do, he should certainly vote for equipping a fleet."

(Annals of Congress, Third Congress, p. 434.) At last, by act of Congress of the 20th of March, 1794, $1,000,000 was appropriated for this purpose, being the identical sum now proposed for a similar purpose of redemption; but it was somewhat masked under the language "to defray any expenses which may be incurred in relation to the intercourse between the United States and foreign nations." (Statutes at Large, vol. 1, p. 345.) On the same day, by another act, the President was authorized "to borrow on the credit of the United States, if in his opinion the public service shall require it, a sum not exceeding $1,000,000." The object was distinctly avowed in the instructions of Mr. Jefferson, dated the 28th of March, of the same year, "for concluding a treaty of peace and liberating our citizens from captivity," and in other instructions, dated the 19th of July, of the same year, in which the wishes of the President are thus conveyed:

"Ransom and peace are to go hand in hand, if practicable; but if peace cannot be obtained, a ransom is to be effected without delay," * * * * "restricting yourself, on the head of ransom, within the limit of $3,000 per man."—*State Papers*, vol. 1, p. 529.

The negotiation was at last consummated, and the first tidings of its success were announced to Congress by President Washington in his message of 8th December, 1795, as follows:

"With peculiar satisfaction I add, that information has been received from an agent deputed on our part to Algiers, importing that the terms of a treaty with the Dey and Regency of that country had been adjusted in such a manner as to authorize the expectation of a speedy peace, and the restoration of our unfortunate fellow-citizens from a grievous captivity."—*State Papers*, vol. 1, p. 28.

The treaty for this purpose was signed at Algiers 5th September, 1795. It was a sacrifice of pride, if not of honor, to the necessity of the occasion. Among its stipulations was one even for an annual tribute from the United States to the barbarous Slave Power. But amidst all its unquestionable humiliation, it was a treaty of emancipation; nor did our people consider nicely the terms on which such a good was secured. It is recorded that a thrill of joy went through the land on the announciation that a vessel had left Algiers having on board the Americans who had been captives there. The largess of money and even the indignity of tribute were forgotten in gratulations on their new-found happiness. Washington in his message to Congress of December 7, 1796, thus solemnly dwelt on their emancipation:

"After many delays and disappointments arising out of the European war, the final arrangements for fulfilling the engagements to the Dey and Regency of Algiers will, in all present appearance, be crowned with success; but under great, though inevitable, disadvantages in the pecuniary transactions occasioned by that war, which will render a further provision necessary. *The actual liberation of all our citizens who were prisoners at Algiers, while it gratifies every feeling heart*, is itself an earnest of a satisfactory termination of the whole negotiation."—*State Papers*, vol. 1, p. 30.

Other treaties were made with Tripoli and with Morocco, and more money was paid for the same object, until at last, in 1801, the slaveholding pretensions of Tripoli compelled a resort to arms. It appears by a document preserved in the State Papers of our country, that from 1796—in the space of five years—appropriations had been made for the liberation of our people, constituting a sum total of upwards of two millions of dollars. (State Papers, vol. 2, p. 372.) To all who now question the power of Congress or the policy of exercising it, I commend this account, in its various items, given with all possible minuteness. If we consider the population and the resources of the country at the time, as compared with our present gigantic means, the amount will not be considered inconsiderable.

The pretensions of Tripoli aroused Colonel Humphreys, the former companion of Washington, who was now at home in retirement. In an address to the public, he called again for united action, saying:

"Americans of the United States, your fellow-citizens are in fetters! Can there be but one feeling? Where are the gallant remains of the race who fought for freedom? Where the glorious heirs of their patriotism? *Will there never be a truce to political parties? Or must it forever be the fate of the free States, that the soft voice of union should be drowned in the hoarse clamors of discord?* No! Let every friend of blessed humanity and sacred freedom entertain a better hope and confidence."—*Miscellaneous Works of David Humphreys*, p. 75.

Then commenced those early deeds by which our arms became known in Europe—the best achievement of Decatur, and the romantic expedition of Eaton. Three several times Tripoli was attacked; and yet, after successes sometimes mentioned with pride, our country consented by solemn treaty to pay $60,000 for the freedom of two hundred American slaves, and thus again by money obtained emancipation. But Algiers was governed by slavery as a ruling passion. Again it seized our people; but even the contest in which we were engaged with Great Britain could not prevent an outbreak of indignant sympathy for those who were in bonds. A naval force, which was promptly dispatched to the Mediterranean, secured the freedom of the American slaves without ransom, and stipulated further that hereafter no Americans should be made slaves, and that "any Christians whatever, captives in Algiers," making their escape and taking refuge on board an American ship of war, should be safe from all requisition or reclamation. Decatur, on this occasion, showed character as well as courage. The freedmen of his arms were welcomed on board his ship with impatient triumph. Thus, not by money, but by war was emancipation this time secured.

At a later day, Great Britain, weary of tribute and ransom, directed her naval power against the Barbary States. Tunis and Tripoli each promised abolition; but Algiers sullenly refused, until compelled by irresistible force. Before night on the 27th August, 1816, the fleet fired, besides shells and rockets, one hundred and eighteen tons of powder and fifty thousand shot, weighing more than five hundred tons. Amidst the crumbling ruins of wall and citidal the cruel Slave Power was humbled, and consented, by solemn stipulation, to the surrender of all the slaves in Algiers, and to the abolition of white slavery forever. This great event was announced by the victorious admiral in a dispatch to his Government, where he uses words of gratulation worthy of the occasion:

"In all the vicissitudes of a long life of public service, no circumstance has ever produced on my mind such impressions of gratitude as the event of yesterday. To have been one of the humble instruments in the hands of Divine Providence for bringing to reason a ferocious Government and destroying forever the insufferable and horrid system of Christian slavery, can never cease to be a source of delight and heartfelt comfort to every individual happy enough to be employed in it."—*Osler's Life of Lord Exmouth*, p. 432.

And thus ended white slavery in the Barbary States. A single brief effort of war put an instant close to this wicked pretension. If, in looking back upon its history, we find much to humble our pride—if we are disposed to mourn that our Government stooped to ransom those who were justly free without price, yet we cannot fail to gather instruction from this great precedent. Slavery is the same in its essential character, wherever it exists, except, perhaps, that it has received some new harshness here among us. There is no argument against its validity at Algiers which is not equally strong against its validity at Washington. In both cases it is *unjust* FORCE organized into law. But in Algiers, it is not known that the law was unconstitutional, as it clearly is here in Washington. In the early case, slavery was regarded by our fathers only as an existing FACT; and it is only as an existing FACT that it can be now regarded by us in the present case; nor is there any power of Congress, which was generously exerted for those distant captives, which may not now be invoked for the captives in our own streets.

Mr. President, if in this important discussion, which seems to open the door of the future, I have confined myself to two simple inquiries, it is because practically they exhaust the whole subject. If slavery be unconstitutional in the national capital, and if it be a Christian duty, sustained by constitutional examples, to ransom slaves, then your swift desires cannot hesitate to adopt the present bill. It is needless to enter upon other questions, important perhaps, but irrelevant. It is needless also to consider the bugbears which Senators have introduced, for all must see that they are bugbears.

If I have seemed to dwell on details, it is because they furnished at each stage instruction and support; if I have occupied time on a curious passage of history, it is because it was more apt even than curious, while it sometimes held the mirror up to our own wickednesses, and sometimes even seemed to cry out, "Thou art the man." Of course, I scorn to argue the obvious truth that the slaves here are as much entitled to freedom as the white slaves that enlisted the early energies of our Government. They are *men* by the grace of God, and this is enough. There is no principle of the Constitution, and no rule of justice, which is not as strong for one as for the other. In consenting to the ransom proposed, you will recognize their manhood, and, if authority be needed, you will find it in the example of Washington, who did not hesitate to employ a golden key to open the house of bondage.

Let this bill pass, and the first practical triumph of freedom, for which good men have longed, dying without the sight—for which a whole generation has petitioned, and for which orators and statesmen have pleaded—will at last be accomplished. Slavery will be banished from the national capital. This metropolis, which bears a venerated name, will be purified; its evil spirit will be cast out; its shame will be removed; its society will be refined; its courts will be made better; its revolting ordinances will be swept away; and even its loyalty will be secured. If not moved by justice to the slave, then be willing to act for your own good and in self-defense. If you hesitate to pass this bill for the blacks, then pass it for the whites. Nothing is clearer than that the degradation of slavery affects the master as much as the slave; while recent events testify, that wherever slavery exists, there treason lurks, if it does not flaunt. From the beginning of this rebellion, slavery has been constantly manifest in the conduct of the masters, and even here in the national capital, it has been the traitorous power which has encouraged and strengthened the enemy. This power must be suppressed at every cost, and if its suppression here endangers slavery elsewhere, there will be a new motive for determined action.

Amidst all present solicitudes, the future cannot be doubtful. At the national capital slavery will give way to freedom; but the good work will not stop here. It must proceed. What God and nature decree rebellion cannot arrest. And as the whole wide-spread tyranny begins to tumble, then, above the din of battle, sounding from the sea and echoing along the land, above even the exultations of victory on well-fought fields, will ascend voices of gladness and benediction, swelling from generous hearts wherever civilization bears sway, to commemorate a sacred triumph, whose trophies, instead of tattered banners, will be ransomed slaves.

Mr. WRIGHT. Mr. President, I propose to say something on this subject, and I move that it be postponed until one o'clock to-morrow.

The motion was agreed to.

Mr. MORRILL. Of course I am disposed to give every opportunity for debate upon this question, but I desire now to call the attention of the Senate to the fact that this measure has been greatly procrastinated, and that a single speech a day where there are so many to speak, it seems to me is hardly reasonable, and that after to-day I shall press this measure upon the consideration of the Senate, and ask its action by voting upon the bill.

REVOLUTIONARY PENSIONS.

Mr. POMEROY. I desire to enter a motion to reconsider a bill that passed here during the morning hour on Friday in a very thin Senate. It is House bill No. 318.

The PRESIDENT *pro tempore*. Will the Senator from Kansas indicate the title of the bill?

Mr. POMEROY. It is entitled "A bill to prohibit the allowance or payment of pensions to the children of officers and soldiers of the Revolution." I merely desire to have the motion to reconsider entered to-day, and the question may be taken at some future time.

The PRESIDENT *pro tempore*. The Chair is informed that the bill has passed from the presence of the Senate and has gone to the House of Representatives, and will require a motion that the House be directed to return that bill to the Senate.

Mr. POMEROY. It is a House bill, and could not have gone back to the House of Representatives, for we made no amendment to it. If, however, the bill has really gone back, I will make a motion that the House be requested to return it to the Senate, and then I shall desire to have a motion to reconsider entered.

The PRESIDENT *pro tempore*. The motion of the Senator from Kansas to request the return of

the bill from the House of Representatives will be entered, and the request will be made.

Mr. POMEROY. Will the motion to reconsider be entered?

The PRESIDENT *pro tempore*. The motion to reconsider cannot be entered until it shall be returned. It being a House bill, and having passed the Senate, it was returned to the House to receive, when enrolled, the signature of the Speaker of the House.

The motion was agreed to, and it was

Ordered, That the Secretary be directed to request the House of Representatives to return to the Senate the bill of the House (No. 318) to prolibit the allowance or payment of pensions to the children of officers and soldiers of the war of the Revolution, which was passed by the Senate on the 28th instant.

EXECUTIVE SESSION.

Mr. WILSON, of Massachusetts. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in the consideration of executive business, the doors were reopened, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *March* 31, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of Friday last was read and approved.

The SPEAKER announced the regular business in order to be the call of committees for reports.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

CONTESTED-ELECTION CASE.

Mr. DAWES. I appeal to the gentleman from Pennsylvania to yield to me one moment to call up a report from the Committee of Elections. I would like to call up the report in reference to the right of J. Ferguson Beach to a seat in the Thirty-Seventh Congress from the seventh congressional district from Virginia. I have a note from Mr. Beach, stating that he does not desire to be heard upon the subject, and I suppose no one desires to debate the matter; and, if not, I will put the resolution on its passage. The people of that district desire to have that matter disposed of.

Mr. STEVENS. To-day?

Mr. DAWES. Yes, sir; but if any one desires to debate it, I will not press the matter.

Mr. STEVENS. I will yield with that understanding.

The resolution was taken up, and read, as follows:

Resolved, That J. Ferguson Beach is not entitled to a seat in this House as a Representative in the Thirty-Seventh Congress from the seventh congressional district of Virginia.

The question was put, and the resolution was adopted.

Mr. DAWES moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. BLAIR, of Missouri. I appeal to the gentleman from Pennsylvania to give way a moment. I desire to call up a bill, which was passed over some time ago, for the reorganization of the medical staff of the Army. It seems to me it is quite as important to take care of the health of the Army, as it is to pass this bill.

Mr. STEVENS. I think we had better get through with this bill first, and therefore I decline to yield.

Mr. BLAIR, of Missouri. Then I hope the House will vote down, in favor of the sick soldiers, the motion to go into committee.

REMISSION OF DUTIES ON ARMS.

Mr. OLIN. Will the gentleman from Pennsylvania allow me to take from the Speaker's table and to put upon its passage a bill in reference to the remission of duties on arms?

Mr. STEVENS. I will; but it is positively the last time.

Mr. OLIN. I ask the unanimous consent of the House to take from the table and put upon its passage the bill (S. No. 120) in addition to an act to refund and remit the duties on arms imported by States, approved July 10, 1861.

No objection being made, the bill was taken up, read a first and second time, and ordered to be read a third time. It was accordingly read the third time, and passed.

Mr. BLAIR, of Missouri, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

TAX BILL.

Mr. STEVENS. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of resuming the consideration of the tax bill.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed, as a special order, the consideration of the bill (H. R. No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

The CHAIRMAN stated the question to be upon the amendment to the seventy-third section, proposed on Friday last by Mr. HORTON, to strike out the following words:

On patent or enameled harness leather, two cents per pound; on patent or enameled leather made from what are usually called cow hides, one cent per pound; on sole leather of all descriptions, one cent per pound; on morocco, goat, or kid skins, curried, manufactured, or finished, seventy-five cents per dozen; on sheep skins, tanned, curried, or finished, twenty-five cents per dozen; on bend and harness leather, one cent and five mills per pound; on tanned and curried calf skins, two cents per pound; on upper leather, and all other descriptions of leather not provided for, one cent and five mills per pound.

And to insert in lieu thereof the following:

On patent or enameled leather, five mills per square foot; on patent japanned splits used for dasher leather, four mills per square foot; on patent or enameled skirting leather, one and one half cent per square foot; on all sole and rough or harness leather made from hides imported east of the Cape of Good Hope, and all damaged leather, five mills per pound; on all other sole or rough leather, hemlock tanned, eight mills per pound; on all sole or rough leather tanned in whole or in part with oak, one cent per pound; on all finished or curried upper leather, except calf skins, made from leather tanned in the interest of the parties finishing or currying such leather, not previously taxed in the rough, one cent per pound; on bend, butt, and harness leather, one and one half cent per pound; on offal leather, five mills per pound; on tawed or oil-dressed leather, two and one half cents per pound; on tanned calf skins, six cents each; on morocco, goat, kid, or sheep skins, curried, manufactured, or finished, five per cent. *ad valorem: Provided*, That the price at which such skins are usually sold shall determine their value; on buckskins, tanned or dressed, two dollars per dozen; on doeskins, tanned or dressed, one dollar per dozen; on deer skins, dressed and smoked, six cents per pound; on horse and hog skins, tanned and dressed, four per cent. *ad valorem;* on American patent calf skins, five per cent. *ad valorem;* on patent or enameled cloth, three per cent. *ad valorem*.

Mr. ALLEY. I move to amend the amendment by striking out the word "five," and inserting "four," in the following clause of the amendment:

On morocco, goat, kid, or sheep skins, curried, manufactured, or finished, five per cent. *ad valorem*.

I move the amendment because I believe it is but justice to that branch of the leather manufacturing interest. That rate will be but in proportion to the tariff upon the rest of the leather trade. In fact, I think that if it were but three and a half per cent. it would be more just than, perhaps, any other rate; but I do not desire to split hairs, and therefore I have moved that the tax be four per cent. All this interest comes in direct competition with patent and enameled leather and patent and enameled cloth, and also with most descriptions of upper leather, the tax upon which averages from three and a half to four per cent. I know that the committee desire to do no injustice to any branch of this manufacturing interest, and I think that if a tax of five per cent. should be adopted it would be an injustice. I hope the committee will adopt the amendment to the amendment, and allow the tax to be four instead of five per cent.

I feel that I know all about this interest. I have been largely engaged in times past in the manufacture of most descriptions of morocco leather. I have not the slightest interest, directly or indirectly, in its manufacture at the present time. I am a manufacturer of other descriptions of upper leather, and the amendment which is proposed by the Committee of Ways and Means certainly would be for my personal advantage and interest; but I know that it would be unjust to the manufacturers of morocco leather. I think they would be satisfied with four per cent., although nearly all of those I have conversed with think it should not be more than three, and many contend that it should be only two. But if the tax is put at four, I think it will be and should be reasonably satisfactory. Although it is but a trifling difference, yet I know that, as compared with the tax on all other descriptions of leather, this amendment proposed by the Committee of Ways and Means would be unjust, and I hope my amendment will prevail.

The manufacturers of morocco leather are as patriotic and willing to be taxed as any other class; but those of them who contended for two per cent. instead of a higher rate, did so upon the ground that a tax was levied upon the raw material imported of ten per cent., therefore the internal tax should be moderate, and not, I confess, without some show of reason. Knowing as I do all about this branch of the leather business, and the competition it is subjected to, and its relative bearing to the other branches of the leather business, I should be faithless to my trust if I did not thus briefly call your attention to it. It is all important that all the tax should be so laid that it will bear equally, at least, upon every branch of the same interest, otherwise you build up the manufacturers of one class of goods upon the ruin of another equally worthy. I trust I have said enough to establish the justice and propriety of the reduction I propose, and hope my motion will be adopted.

The amendment to the amendment was agreed to.

Mr. VAN VALKENBURGH. I move to amend the amendment by striking out "eight" and inserting "five" in that part of the amendment which reads as follows:

On all other sole or rough leather, hemlock tanned, eight mills per pound.

I ask to have a letter, which I hold in my hand, read, as the reason for moving this amendment.

The Clerk read the letter, as follows:

DANSVILLE, LIVINGSTON COUNTY, NEW YORK.

DEAR SIR: * * * * I am in the leather manufacturing, in a general business for home and eastern markets, and would call your attention to this in particular as in which I am most interested. You will see by reference to the bill that it proposes a tax of one cent per pound on sole leather, and one and one half cent per pound upon other kinds of heavy leather, namely: harness, upper, and rough leather, &c. Assuming twenty cents as the average price for the different kinds and qualities of hemlock sole leather, which is as near as may be for a term of years, and you will see that the tax as proposed is equal to five per cent. *ad valorem* in all our business in this line. And it is about the same on upper, harness, and rough leather—a little less on calf skins and light stock.

I have just run through our small business for the last year, taking actual figures, and find the result, under the proposed tariff, $1,118, as our tax for one year's business. I know single parties, of which there are two at Buffalo, that would have to pay from forty to sixty thousand dollars each upon the same basis of taxation. I am aware that many reply at once that we do not suffer in this amount, but add it directly to the price, and get it again from the consumer. We hold this is not true in this case. If we simply bought to-day and sold the same to-morrow, it would necessarily follow; but between the purchase of the raw material and the time of sale from six to twelve months transpires, and the price of purchase has little to do with the market when we go to market. We would ask if there are any guarantees that the man that pays a large price for his seed wheat shall get a large price for his coming crop? The history of our trade, if investigated, proves this position correct.

I cannot see why my neighbor, selling by my side twenty or thirty thousand dollars in goods, should not pay an *ad valorem* tax of five per cent. as well. Or why the farmer not as well pay five cents per bushel on his crop of wheat. Permit me to refer to one fact in the past. When the rebellion broke out, it took from our branch of business one third of our customers, as the South never made their leather or boots and shoes. And leather went down in price in a few days from fifty to seventy-five per cent. And it is estimated that one fourth to one third of all the capital in our business was "wiped out." I only refer to this as the first installment of the war tax to our business. The *increased consumption* of those that make up our own Army here, perhaps, gives back to us at a late moment one fourth of this. Still our business is struggling under the general prostration. I would not complain of *any tax*. No, sir; I am willing (and believe I speak the feeling of most, if not all, of our trade) that my tax may be quadrupled, and if that is not enough, **then** add more, for we should not shrink from the just demands of our Government in its peril. And I want to say further, ours is no *fancy business*, but requires capital and a solid class of men to succeed in it. If you will look into Boston, New York, or Philadelphia, or any other of our principal towns, you will find the men in our line *solid men*, and so far as I know, as a class, ardent supporters of the present Administration, who will *cheerfully pay* their just proportion of any burden Congress may put upon them; but why we should, after the heavy sacrifices already sustained, be singled out for a special burden, I can-

not see. I cannot but think all that is necessary is to put the matter in its true light to receive justice at the hands of our Congressmen.

Yours, very respectfully,

THEO. LEONARD.

Hon. R. B. VAN VALKENBURGH.

Mr. HORTON. In reference to the proposed reduction of the tax upon that particular description of leather, I would say that the Committee of Ways and Means consulted with a great number of experts in the matter of leather. I for one have no particular knowledge upon the subject. The committee came unanimously to the conclusion, I think, that the amendment which we have offered was right and equitable to all interests connected with the leather business, after hearing delegations from various parts of the country, and experts themselves. I hope, therefore, without taking up any further time of the committee, that they will consider that the Committee of Ways and Means have had representatives before them of all the varieties of interests connected with the leather trade, that they have made the tax equitable to all; and I hope the Committee of the Whole will vote down the amendment upon that ground.

The amendment was not agreed to.

Mr. STEELE, of New York. I move to amend at the same point by striking out "eight," and inserting "seven." I understand that in the gradation of taxes to be imposed upon leather, the tax was fixed for this kind of leather at three quarters of one per cent., which is not quite eight mills. I think that this kind of leather interest is taxed out of proportion, and I think that gentlemen upon this floor, who are acquainted with the leather business, will agree with me that eight mills is out of proportion with the tax on other leather interests. As they have already voted that they will not reduce it to five, I propose now to put it at seven instead of eight, because on this very large interest even one mill on a pound is an important matter.

The amendment to the amendment was rejected.

The amendment of the Committee of Ways and Means, as amended, on motion of Mr. ALLEY, was then agreed to.

Mr. HORTON. I move to amend the one hundred and seventy-sixth line by striking out "ten" and inserting "five;" so that it will read:

On wine made of grapes, five cents per gallon.

Mr. ALLEN. I oppose the amendment for the purpose of asking the indulgence of the committee to have a letter read, which I hold in my hand, from a firm in my district engaged largely in the manufacture of liquors. It would have been more appropriate when the paragraph relating to the duty on whisky was under consideration; but as I was not in possession of the letter at that time, I hope the committee will permit it to be read now for the benefit of a large class of my constituents affected, directly or indirectly, by this tax on liquors.

Mr. HORTON. I raise the point of order that the letter is not germane to the subject before the committee.

Mr. ALLEN. It refers to wines. I should like to have it read as part of my remarks.

The Clerk read the first sentence of the letter.

Mr. STEVENS. That is not germane to the amendment.

The CHAIRMAN. The Chair rules the letter out of order. It relates to whisky.

Mr. VALLANDIGHAM. A large portion of the wine of the country is manufactured out of whisky. It must, therefore, be in order.

The CHAIRMAN. The Chair is not aware of that fact.

Mr. VALLANDIGHAM. Nor am I experimentally, but I am so informed.

Mr. ALLEN. I ask, then, that the letter may appear in the Globe.

There was no objection.

The letter is as follows:

TIPPECANOE, MIAMI COUNTY, OHIO,
March 17, 1862.

DEAR SIR: We address you as our Representative in Congress in relation to the excise tax on whisky, being distillers and having a large capital invested in the business, as many others of your constituents who are engaged in the same business, to consider the matter well before casting your vote on a question of such great and vital interests to your constituents at large; not only the distiller is affected, for he can stop at any time; but not so with the poor farmer or poor mechanic who earns his daily bread by his labor. It is proposed by your Committee of Ways and Means to levy, as you are well aware, a duty or tax of fifteen cents per gallon, the manufacturer to pay it. Whether he will be able to do so, I leave you to say. I here will give you the exact cost of running a house of one thousand bushels per day, as there are several of that capacity in your district. The prices I give you here is the exact cost of the corn, and the price or cost of manufacturing and putting in Cincinnati market. Every man who has ever manufactured a barrel of whisky knows that it cannot be done for less.

Cost of grain, 1,000 bushels of corn, at thirty cents per bushel	$300
Cost of manufacturing and putting in Cincinnati market	300
Excise tax on 3,500 gallons proof whisky, at fifteen cents per gallon	525
Total cost of running a thousand-bushel house is	1,125
Receipts of a thousand bushel house are—	
3,500 gallons proof whisky, at eighteen cents per gallon	$630
1,000 bushels slop, at five cents per bushel	50
	680
Total loss per day of	$445

leaving a direct daily loss to the manufacturer of $445 per day, after allowing a price for whisky far above the average of Cincinnati market since the fall of Fort Sumter. Now, how long do you suppose a manufacturer would continue in the business when his daily losses are far in excess of the yearly income of one half of the people of your own State? Or take the State statistics of our State, which I believe ranks only second in the Union as regards the manufacture of high wines: the average annual amount of grain consumed by the distillers of your State has been, in round numbers, fifteen millions of bushels annually for the last three years, and the product of whisky has been, in round numbers, fifty millions of gallons annually, or a little less than three and a half gallons of proof whisky to the bushel of grain consumed. Now, such a tax as proposed by your committee virtually closes every house in your State engaged in the manufacture of whisky the very day it takes effect, and not only closes the manufacturer, but defeats the very object our Government is now sorely in need of, *a revenue;* and if our Government is defeated in her object, as she most assuredly would be, to whose benefit would it redound? Why, to a few hundred speculators, who no doubt haunt you daily, beseeching you with tears in their eyes, saying it must be done or our Government will soon become bankrupt; a class of politicians who *would* bankrupt our Government if they could and then sell it out to Jeff Davis & Co. at a great profit. They—the speculators—want the highest duty passed that can possibly be, hoping to stop the manufacturer, that they who hold large amounts of high wines may control the market to suit their interests, to the detriment of the manufacturer, with whom the entire community is connected where he is located, wherever it is. And, further, we would say that as far as our acquaintance goes, which is pretty extensive, not only in our own State but in the States of Indiana and Illinois, the feeling is the same; there is none that objects to the levying of a moderate duty on manufactures, but they say let it be a reasonable one, that we may continue our business, which is a vital and important one to the West. Levy a moderate duty at first, and as the prices of whisky advance let them increase the duty, and not levy a tax that closes the manufacturer and only redounds to the benefit of the speculator, and entirely against the interests of every man in the West, not only your constituents, but against the constituents of every man in your House from the West. It is also very unjust to this particular business; for instance, a barrel of ale, whose value is seven dollars, is taxed only one dollar, but a barrel of whisky, whose value is $7 60, is taxed to the tune of six dollars. Now, what equality is there in the tax on these two articles? If one is a luxury is not the other equally so. We have already written more than we intended, but a subject of such vital importance to the people of our country cannot be too carefully scrutinized and examined; and that you will give it your undivided attention on the day of trial, is the wish of your constituents.

Yours, very respectfully, &c.,

S. L. CHAFFEE & BRO.

Hon. WILLIAM ALLEN, *Member of Congress Fourth Congressional District of Ohio.*

Mr. VAN HORN. I move to amend the amendment so as to make it two cents instead of five. I think we should encourage, as much as possible, the manufacture of native wines.

The amendment to the amendment was disagreed to.

Mr. BLAKE. I move to amend the amendment so as to make it twelve cents instead of five. I can see no reason why we should reduce the tax upon wine. That portion of our people who drink wine will pay this tax as freely and as generously as any other class of the people of the country. Why we should reduce the tax on wine is to me unaccountable. We have taxed whisky liberally and bountifully, a drink which the poor men of the country use, and now an effort is made to reduce the tax upon wine, which the wealthier classes of the community use. I am opposed to it.

The amendment to the amendment was disagreed to.

Mr. KELLOGG, of Illinois. I move to amend the amendment so as to make the tax fifteen cents per gallon. I ask this committee to compel wine-bibbers to pay as much as they compel whisky-drinkers to pay. I ask this committee to put upon wine, which is much more valuable per gallon than whisky, precisely the same tax that is laid upon whisky. I want gentlemen to be consistent in this matter.

Mr. HORTON. Mr. Chairman, my friend from Illinois is very sensitive on the whisky tax, but there are gentlemen who pay three and four and five dollars per gallon for the whisky they drink, and pay a tax of fifteen cents per gallon. The alcohol in a gallon of wine is about one eighth part what there is in a gallon of whisky. We put a tax of five cents on a gallon of wine and fifteen cents on a gallon of whisky; and there is, therefore, about twice as much tax on the wine for the amount of spirit it contains as there is on the whisky.

Mr. KELLOGG, of Illinois. Where does the gentleman get his information that alcohol is used in the manufacture of wine?

Mr. HORTON. I did not say there was any alcohol used in the manufacture of wine. I said there was so much spirit or alcohol in wine; and if the gentleman denies it, we will get the chemists and prove it.

Mr. KELLOGG, of Illinois. Then, if the gentleman's argument is true, he should raise the tax at least as high upon the alcohol in wine as he put it upon the alcohol in high wines.

Mr. HORTON. It is higher. The gentleman is losing his arithmetic. I hope he will vote right, although he does not talk right.

The amendment to the amendment was disagreed to.

Mr. RICE, of Maine. I move to amend the amendment, so as to make the tax sixteen cents per gallon. Mr. Chairman, I have felt and still feel a disposition to stand by the Committee of Ways and Means in all their recommendations in this bill; but I rise to express my surprise that they should come in here now and propose to reduce this tax upon wine, a mere luxury, and which does no earthly good to anybody under heaven. There seems to be a disposition here to pursue a different course of policy from that which all other nations on the face of the earth pursue in this matter of excise duties. The universal practice of other nations is to put heavy excise duties upon articles of mere luxury, and here the committee come in and propose to reduce the tax to five cents a gallon on this wine which goes into the consumption of the rich and opulent of the country. I stand here to protest against such measures. Let the wine-bibbers of the country pay these taxes. It will not injure the manufacturers either, because every one knows that those men who drink rum and wine will pay anything for it, and never make any faces at the price. They are always willing to pay it. They complain of the price of flour or pork, or any other necessary of life, but when you come to these beverages which they buy to minister to their vitiated appetites, they never inquire the price. They are always willing to pay just whatever is charged.

Mr. POTTER. Does the gentleman really mean to say, and to have it go upon record, that wine never does anybody any good? I understood him to make that remark.

Mr. RICE, of Maine. I have never known it to do anybody any good; but I will except the gentleman from Wisconsin, if he wishes it.

Mr. HORTON. Encouragement of the manufacture of wine is one of the most efficient modes of carrying out the idea of the Maine law; that is, the pure, native Catawba wine, which, I suppose, is to be taxed here. It is a product of the grape, and the gentleman is mistaken when he states that it is only the rich who drink wine. The wine made in Ohio is not drank generally by the rich, but by the laboring people. It is made for that purpose, and is not a very expensive liquor. It is very much cheaper than the whisky which is called tolerably good, and it is better. I take the responsibility of saying that it has a greater tendency to prevent the excessive use of ardent spirits than any agent I have known to be appealed to for the last ten years. The moderate and habitual use of good native American wine produces a distaste for the use of deleterious spirituous liquors. I think, therefore, that all those gentlemen who believe as the gentleman from Maine does, that the Maine law is a benefit to the country, and that it advances civilization, should come up to the help of the Committee of Ways and Means in this instance, and vote for a small tax on native wine as a promotive of temperance.

Mr. RICE, of Maine. I would ask the gentleman if he thinks wine is a better promotive of temperance than pure cold water?

Mr. HORTON. We do not propose to tax water. We put a tax of five cents on wine and none on water. I do not think there is much choice between the two.

The amendment to the amendment was rejected.

The question recurred on Mr. HORTON's amendment.

Tellers were ordered; and Messrs. MORRIS and CHAMBERLIN were appointed.

The committee divided; and the tellers reported—ayes sixty, noes not counted.

So the amendment was agreed to.

Mr. EDWARDS. I move further to amend the paragraph by adding thereto the following: "including all such wine on hand when this act shall take effect." I merely wish to say, Mr. Chairman, that as I did not move this amendment to the tax on liquor for the purpose of promoting the cause of temperance, so neither do I refrain from moving it to the tax on wine for the reason assigned by the gentleman from Ohio, that it will promote the cause of temperance to impose a small tax upon this article. I offer the amendment because I believe that this tax is now altogether below what should be imposed on an article which is an article of luxury, and without any reference to the temperance question. I think it will well bear a tax on the amount that shall be on hand when this law goes into effect, inasmuch as there will be the same accumulation of this article for the purpose of subsequent sale as there was of the article to which the other amendment was proposed.

Mr. STEVENS. I hope that amendment will not prevail. It is contrary to the whole principle of the bill. The bill is founded generally upon the supposition that articles hereafter to be manufactured and sold are to be taxed. It is true that upon the article of whisky the Committee of the Whole, by a very meager majority, reversed the action of the Committee of Ways and Means, putting the tax upon the article on hand; but when the same motion was afterwards made in reference to other manufactured articles it failed; and I trust that when we get into the House this amendment in regard to whisky will be voted down. We know very well that a large quantity of the wine now on hand has been manufactured for years without any expectation of a tax at this time. The western wine-growers, I think, ought to be encouraged. If I could have my way in the arrangement of a tariff, I would exclude all foreign wines by a duty that would be prohibitory, so that every wine drank in the country should be produced here. Wine would then be much cheaper than it is now. Besides, there is nothing that goes so far to promote temperance as the general introduction of wine among the people. Those who have traveled in foreign countries all agree that in the wine-growing regions, where wine is the common beverage among the laboring classes, there is no intemperance. You may go through Germany and through those portions of France where wine is made and you will find no drunkenness. In order to find drunkenness you must go to England or come to America, where wine is not the common beverage of the people. In my judgment, if you could make wine the common beverage of the people here, you would be conferring a great benefit on the cause of humanity. I hope, therefore, that no obstruction will be thrown in the way of the production of native wine; and I also trust that when we come to modify the tariff we will take notice of this matter. This country is as well adapted to the growth of wine as any other country, and there is no necessity for our sending a dollar abroad to purchase wine.

Mr. EDWARDS. Before the vote is taken on my amendment, I propose to modify it by adding after the words "on hand" the words "held for sale."

The question was taken on Mr. EDWARDS's amendment as modified, and it was rejected.

Mr. WICKLIFFE. I should like to have an explanation of this clause from the Committee of Ways and Means. As the clause is worded, it strikes me that wine is subject to be taxed more than once. I suppose that that is not the intention of the Committee of Ways and Means. They know that the manufacturers of wine have to keep it on hand for two or three years before it is fit for sale, and it cannot be intended that it should be taxed every year. I think that some explanation of that clause should be made.

Mr. HORTON. The gentleman from Kentucky will see from the first part of the section, that the duties laid on it are to be imposed on goods "made and sold, or removed for consumption." That covers the gentleman's objection.

The Clerk proceeded with the reading of the bill.

Mr. HORTON. I move to amend in the one hundred and seventy-eighth line by striking out the words "twenty-five cents per gallon," and inserting in lieu of it the words "five per cent. *ad valorem;*" so that the clause would read, "on varnish, made wholly or in part of gum copal or other gums or substances, five per cent. *ad valorem.*"

The amendment was adopted.

Mr. WALLACE, of Pennsylvania. I move to amend by adding as a new paragraph the words, "on furs of all descriptions, not otherwise provided for, five per cent. *ad valorem.*"

The amendment was adopted.

Mr. SPAULDING. I wish to submit a few remarks in regard to the amendment as to furs.

The CHAIRMAN. That amendment has already been adopted.

Mr. SPAULDING. Then I move to reconsider the vote by which it was adopted.

The CHAIRMAN. That motion is not in order.

Mr. SPAULDING. Then I ask unanimous consent to make an explanation.

There was no objection.

Mr. SPAULDING. Mr. Chairman, the reciprocity treaty, so called—which, by the by, is a very one-sided bargain—made by Great Britain with this country, enumerates furs among the articles that may come in free of duty; and I may as well, in this connection, make a few general remarks on the treaty itself, as applicable to the tax on flour, furs, and other articles mentioned in the tax bill.

This one-sided bargain, made between William L. Marcy, Secretary of State, on behalf of the United States, and Lord Elgin, on behalf of the British Government, misnamed a "reciprocity treaty," admitting certain articles, being the "growth and produce" of the British provinces of North America, into the United States free of duty, operates very injuriously upon the people of the United States. This treaty, in effect, places the people of Canada on an equal footing with the citizens of the United States in all their commercial intercourse, without imposing upon them any taxation or other burdens. "Grain, *flour*, breadstuffs, and furs," of all kinds grown in Canada are admitted into the United States free of duty. We cannot levy any impost duty on flour and furs imported from Canada without violating this treaty. If we impose an internal tax of ten cents a barrel on flour manufactured in the United States, the Canadian millers will have just ten cents a barrel the advantage over our own millers. When the Canadian miller brings his flour into our markets free of duty, he can, whether friendly or unfriendly, undersell our own loyal citizens if we impose this tax on flour.

Mr. STEVENS. Mr. Chairman, this is a little irregular. I suggest to the gentleman from New York to move a proviso that this tax on furs shall not be collected till after the expiration of the reciprocity treaty.

Mr. SPAULDING. I accept the suggestion of the gentleman, and move the proviso which he indicates, not because I approve of the proviso, but so as not to be out of order in the few remarks I am making. Now, Mr. Chairman, I wish the Committee of the Whole on the state of the Union to understand that I am opposed *in toto* to this reciprocity treaty. The effect of it is to put the citizens of Canada and of the British possessions adjoining our country on an equal footing with our loyal people. The people of Canada bring all their surplus productions into all our cities and villages, to be sold, without being taxed at all to support our Government. They enjoy all the benefits of our markets, our railroads, and canals, the same as our own citizens, without any allegiance to our Government, and without sustaining any of its burdens. They become, in effect, for all trading and commercial purposes, citizens of the United States, without having to pay taxes for the support of the Government. It is one of the most one-sided and ill-considered treaties in its practical workings that ever was negotiated. I have examined it with a good deal of care, and I find that it imposes upon us, and upon all our manufactured articles, a heavy tax to be collected on everything which we desire to export into Canada, while we admit into our markets almost everything which the Canada people have to export, free of duty. Since this treaty went into effect, the Treasury of the United States has lost over fourteen millions of dollars, which it ought to have received from Canada in the shape of duties on imports, and without any corresponding benefits to our Government. The time has come when we must husband all our resources. The people of Canada ought not to enjoy these great advantages while our people are to be so heavily taxed.

Now, we cannot with any propriety continue this treaty beyond the time fixed for its termination. We are undoubtedly bound to observe its provisions so long as they are observed by the British Government during the time specified for its continuance. It was negotiated on the 5th of June, 1854. It was ratified by the two Governments, and proclamation made of it, on the 11th of September, 1854. The fifth article provides that the treaty shall continue in force ten years from the time the treaty goes into effect, and until the expiration of twelve months after either party shall give notice to the other of its wish to terminate the same; such notice to be given at the end of the term, or at any time afterwards. The ten years from the time when President Pierce made proclamation of the treaty will expire September 11, 1864, and if our Government gives the required notice, then the treaty may be terminated September 11, 1865, and not before.

Mr. MALLORY. I ask the gentleman from New York if there is not a proviso in the treaty that it may be annulled by either party's giving six months' notice?

Mr. SPAULDING. No, sir; there is no such provision. I have the treaty before me. It is in volume ten of the United States Statutes-at-large. It is provided in the fifth section that it may be terminated after ten years by a year's notice being given; but that notice cannot be given until the expiration of the ten years. If notice is given September 11, 1864, the treaty may be terminated on the 11th of September, 1865.

Now, almost every article on which we impose an internal duty by our tax bill is more or less affected by this treaty. I have before me a table showing how the treaty operates. [See table on next page.] On all manufactured articles which we carry into Canada, they impose a tariff of duties that is almost prohibitory. Our export of manufactures to Canada is constantly falling off, by reason of these high duties imposed by the Canadian Parliament. The trade between Canada and the villages and cities on the frontier is such that the Canadians can trade in our ports and cities and villages without paying any impost duty; while we, trading with them, have to pay impost duty on everything that we exchange with them. I take, for instance, boots and shoes. The Canadians have, since the treaty, increased the duty on these from twelve and a half to twenty-five per cent.; on molasses, from sixteen to thirty per cent.; on refined sugar, from thirty-two to forty per cent.; on harnesses, from twelve and a half to twenty-five per cent.; on cotton goods, from twelve and a half to twenty per cent.; on iron goods, stoves, hollow ware, tools, and all kinds of iron manufactures, from twelve and a half to twenty per cent. They have also increased their tariff on silk goods, woolen goods, and all kinds of manufactures.

This great increase in the Canadian tariff has been made in violation of the spirit of the treaty, and it has operated most unjustly upon our manufacturers. Under this tariff the Canadian government collect of our people over one million of dollars in the shape of impost duties towards the support of their government. While we have levied annually since the treaty only about forty thousand dollars on Canadian manufactures, the average amount of duties levied on our manufactures carried into Canada has been more than one million of dollars. Consequently, the manufactures of this country exported into Canada have diminished nearly one half during the last five years in consequence of this high Canadian tariff.

One of the beneficial effects which Governor

Marcy supposed would accrue to us in making the treaty was the free navigation of the St. Lawrence, and yet the Canadian government discriminate against us in the tolls on their canals, while their people have used our canals and railroads without any discrimination against them. In consideration of this concession of the so-called free navigation of the St. Lawrence, we gave them the free navigation of Lake Michigan, which is far more valuable to them than the privilege granted to us as its equivalent. The free navigation of the St. Lawrence has been to us of very little value.

[Here the hammer fell.]

Mr. SPAULDING. I ask the consent of the committee to extend my remarks for a minute or or two.

Mr. STEVENS. I must object.

Mr. SPAULDING. Then I must avail myself of the opportunity of finishing my remarks upon another amendment.

The amendment was agreed to—ayes forty-five, noes not counted.

Mr. KELLOGG, of Illinois. I desire to propose the following as an independent paragraph:

On all diamonds, emeralds, and all other jewelry, a tax of three per cent. *ad valorem*.

The amendment was agreed to.

The next paragraph of the bill was read, as follows:

On flour, manufactured from wheat, ten cents per barrel of one hundred and ninety-six pounds, and in like proportion for less or greater quantities put up for sale in sacks or other packages: *Provided*, That flour made or manufactured at any mill for customers, for their own consumption, and not for sale, shall be exempt from duty.

Mr. STEVENS. I move to strike out that paragraph. The Committee of Ways and Means agreed at first upon this tax, and it was reported in the bill, but they immediately afterwards came to the conclusion, after examination, that their first action was erroneous, and they agreed to strike out the paragraph. Their reasons for coming to the position which they now assume are these. In the first place, a tax upon this article would be a tax upon an article of food used by all classes of the people, flour entering largely into the consumption of the very poorest classes.

In the next place, a tax upon flour would be adding so much to the burdens of the manufacturers of the country. England took off all duty upon breadstuffs as a protective measure, and not as a matter of free trade, as has been erroneously asserted. It was a measure designed for the protection of her manufacturers, in order that they might have cheap food.

But the most powerful reason which induced the Committee of Ways and Means to recommend the striking out of this tax was that flour is one of the articles included in the reciprocity treaty. If we put a tax upon flour the result will be that Canada will send in her flour free of duty and free of taxation. There is no method of reaching the taxation of articles included in that treaty, and hence such a tax would be discriminating against our farmers and our millers.

Mr. MALLORY. I wish to ask the gentleman from Pennsylvania whether there is no way by which we can impose a tax upon the articles included in that reciprocity treaty? Can we not reach the object by imposing the tax when the goods have come to the hands of the purchasers?

Mr. STEVENS. I am sure that my friend from Kentucky is a good enough lawyer to know that in no indirect way can we honorably avoid the stipulations which we have solemnly entered into in our treaty with Great Britain.

Mr. MALLORY. So far as I am concerned, the question of honor does not come under consideration when we are dealing with a so notoriously dishonorable Government in its dealings as the Government of Great Britain. The only question with me is whether we can reach this object without a technical violation of our treaty obligations.

[Table referred to on preceding page.]

Statement exhibiting the value and amount of duties on articles which were imported during the fiscal year ending 30th of June, 1854, and now made free by the reciprocity treaty.

Articles.	Rate of duty per cwt.	Value of articles.	Duties.
Grain, flour, and breadstuffs.	20	$3,906,073	$781,214 60
Animals, free	....	75,406	
Animals, dutiable	20	225,642	45,128 40
Fresh, smoked, and salted meat	20	5,184	1,036 80
Cotton, wool, free	....	125	
Seeds, plants, shrubs, &c., free	....	18,210	
Seeds, plants, shrubs, &c., dutiable	20	555	111 00
Vegetables	20	102,806	20,561 20
Undried fruits	20	13,692	2,738 40
Dried fruits	20	31	6 20
Fish of all kinds	20	901,671	180,334 20
Products of fish and of all other creatures living in the water.			
Poultry	20	1,016	203 20
Eggs	20	5,500	1,100 00
Hides and skins	5	34,729	1,734 45
Furs, undressed	10	13,920	1,392 00
Tails, undressed	20	8	1 60
Unwrought stone	10	10,758	1,075 80
Unwrought marble	4	4	80
Butter	20	126,811	25,362 20
Cheese	30	127	38 10
Tallow	10	37	3 70
Lard	20	837	167 40
Horns	5	1,421	71 05
Manures.			
Ores of metals, free	....	18,790	
Ores of metals, dutiable	20	516	103 20
Coal	30	254,775	76,432 50
Pitch, tar, and turpentine	20	75	15 00
Ashes	20	4,441	888 20
Fire and other wood	30	728,688	218,606 40
All other wood	20	574,051	114,810 20
Pelts	20	24,639	4,927 80
Wool	30	69,182	20,754 60
Fish oil	20	110,402	22,080 40
Rice.			
Broom corn.			
Bark	20	978	195 60
Gypsum, ground	20	353	70 60
Gypsum, free, unground	....	113,312	
Grindstones	5	23,265	1,163 25
Dyestuffs	5	14,717	735 85
Hemp, flax, tow, unmanufactured.			
Tobacco, unmanufactured.	30	2,915	874 50
Rags	5	12,696	634 80
Total	....	7,398,358	1,524,457 40
Deduct for British North American provinces	....	1,301,154	231,054 00
Leaving for Canada	....	$6,097,204	$1,293,403 40

Thus it will be seen that by this unwise treaty we released to Canada an annual duty on imports of $1,293,403, in 1854, which by the ordinary increase would now be at least $2,000,000 annually in 1862. This would be a very handsome sum to add to our revenues at this time, and which the people of Canada could well afford to pay for having the advantages of our markets.

MESSAGE FROM THE SENATE.

The committee informally rose; and the Speaker having resumed the chair, a message was received from the Senate by Mr. FORNEY, its Secretary, announcing that the Senate had passed bills of the following titles; in which he was instructed to ask the concurrence of the House:

A bill (No. 241) to change the location of the port of entry for the Puget Sound collection district; and

A bill (No. 243) changing the name of the American-built schooner Curtis Mann to that of Supply.

The message also announced that the Senate, in the absence of the Vice President, had chosen Hon. SOLOMON FOOT President of the Senate *pro tempore*.

The message also announced that the Senate have passed, the first without and the latter with amendments, (in which he was directed to ask the concurrence of the House,) a joint resolution and bill of the House of the following titles:

Joint resolution (No. 49) for the appointment of Theodore D. Woolsey, of Connecticut, a regent of the Smithsonian Institution, in place of Cornelius C. Felton, deceased; and

A bill (No. 242) making appropriations for the naval service for the year ending 30th of June, 1863, and additional appropriations for the year ending 30th of June, 1862.

The committee resumed its session, and proceeded again to the consideration of the

TAX BILL.

Mr. STEVENS. I am willing to do anything which is honorable and just to relieve our people from the injustice of that treaty. But, sir, the reciprocity treaty expressly enumerates flour and grain, and says that no duty shall be laid upon either. Now, suppose you could lay a duty upon flour which is made in this country: do you not discriminate against our own millers and in favor of the Canadian millers, and will not the result be that our farmers along the border will carry their grain over into Canada to be ground? It will, it seems to me, be doing great injustice to our millers.

There is, however, another reason. If this duty is to be laid upon flour, as this matter affects our western friends particularly, I think the tax ought also to be imposed upon grain.

I wish to say further, that I have seen it stated by these numerous letter writers, who are so truthful and so intelligent, that the Committee of Ways and Means had come to the conclusion to strike out this paragraph in consequence of the pressure brought to bear upon them by a delegation of Rochester millers. All I have to say in reference to that statement is that the committee never heard of any delegation from the Rochester millers, nor that any such delegation was here or in existence until they learned it through the newspapers. They would have been, and will always be, ready to listen to the suggestions of gentlemen coming from any quarter whatever. But the impression seems to have gone forth that this Rochester delegation has been so potent and so powerful in its influence upon us, when, in truth, it never came before us at all, nor have we ever heard of it, other than through the medium of the newspapers.

Mr. McKNIGHT. In rising to oppose the amendment of the committee, I do not wish to be understood as desiring to oppose the interests of New York and of the great West. I think I can readily see what operated on the minds of the Committee of Ways and Means to induce them to strike off the tax on flour, as the same reason, doubtless, operated to lead them to strike out that on coal and pig iron. But I am a little surprised that the gentleman from Chemung, [Mr. DIVEN,] and other gentlemen from the flour regions, do not rise to oppose striking out this tax, as they did that on coal, both being alike embraced in the Canadian reciprocity treaty, and alike affecting our own products. Is it the difference as to whose ox is gored? Why should the flour escape a tax rather than the coal which bakes it? But as I concur with the Committee of Ways and Means now, and usually, and think flour ought not to be taxed, I shall vote for striking out the paragraph.

Mr. WICKLIFFE. I move to amend the paragraph proposed to be stricken out, by adding a proviso, that the tax shall not go into effect until the expiration of the treaty between this country and Great Britain, known as the reciprocity treaty.

You have provided a tax upon some of the agricultural products of the country, and I cannot think the reasons assigned by the Committee of Ways and Means are sufficient to justify the striking out this tax altogether. It may be unjust to collect the tax while the reciprocity treaty remains in force, but it may be collected properly after the expiration of that treaty.

The argument presented by the chairman of the Committee of Ways and Means to-day in support of this amendment applies with increased force to the amendment which I proposed the other day to strike off the tax upon salt, which was opposed by him or by his committee. It is true, sir, that the article of flour goes largely into the consumption of the people of the country generally, and that it enters to some extent into the manufactures of the country. But, sir, while that is true in reference to flour, it is true also that salt enters into the consumption of everybody, whether manufacturers or not, whether rich or poor; yet you have voted to lay a tax upon that article, of vital interest to society, something like four per cent. But when you come to tax flour, which is used not only in this country very extensively, but which is an article of large exportation, the gentleman tells us that we must not impose a tax upon an article of so universal consumption, and which affects particularly the manufacturers.

Now, sir, I admit that if you could raise the money required by the Government without touching the agricultural products or raw material produced in any State, you ought to do so; but I think, in any event, you should not levy a tax upon that without which a man cannot live. A man can live without flour, but he cannot live without salt. It is just as much a proper subject of taxation as any other article of production in the United States. That is the reason I move to postpone the duty to the expiration of that treaty,

which I understand is to be terminated by notice, or in three years from this time.

Mr. SPAULDING. Mr. Chairman, I oppose the amendment of the gentleman from Kentucky. It will create a class of men in our own midst who will be for continuing this treaty. Every proviso that we put on this bill will render it necessary for those who desire to get rid of this treaty to combat not only opposition from Canada, but opposition from a class of our own people. I desire to have that treaty abrogated as speedily as possible.

The fact stated is true in reference to a great number of articles. In every step in the committee room we found this difficulty growing out of our taxing our own internal productions—that we would give advantage to the Canadian over our own producer. It is of immediate importance that we should take steps to abrogate this treaty; and I will say now that I design at an early day to introduce a joint resolution requesting the President of the United States to give notice for the termination of that treaty as soon as it can be done by its terms. As an evidence of the working of the treaty I will show how our manufactures going into Canada have constantly been diminishing. In 1856, the manufactured articles from this country which went into Canada, were about eight millions, while last year they were only about four millions under the prohibitory tariff of the Canadian Parliament:

Canadian Minister of Finance officially avows a policy adverse to reciprocity with the United States.

It was indeed expected, when the treaty was made, that Canada would continue to impose moderate duties upon American manufactures; but if, at that time, she had announced a determination to enact laws especially discriminating against all forms of our industry, except those which are nominated in the bond, the benefits we have conferred upon her would never have been granted, nor can she expect their continuance beyond the time required by the treaty. Yet this tendency and intention to isolate herself and exclude us, except so far as we may be purchasers of her products, was not only commonly proclaimed by a large party in the province, but was officially avowed by the Canadian Minister of Finance, and various alterations have been made in the method of levying duties on merchandise of foreign origin for the avowed purpose of checking the trade of New York and Boston.

Canadian taxation of American productions in contrast.

The statistics of the Canadian government show that for the first three years after the treaty Canada taxed forty-five times as large an amount of American productions as the United States taxed of Canadian productions. Since that time, our exports of manufactures to Canada have diminished. Having deducted from the importations from Canada into this country the articles of iron, hardware, and salt, as they are not produced for exportation in Canada in appreciable quantities, but are evidently of foreign origin, the following is a tabular statement for each fiscal year since the treaty went into full effect to January 1, 1861:

	1856.	1857.	1858.	1859.	1860.
Products of the United States on which duty was paid in Canada	$7,931,984	$6,903,320	$4,524,503	$4,197,316	$4,495,001
Products of Canada on which duty was paid in the United States	136,370	160,086	119,358	173,478	174,259
Value of American products charged with duty in Canada above that of Canadian products charged with duty in the United States	$7,844,914	$6,043,234	$4,405,145	$4,023,838	$4,320,742

As another evidence of how unjustly the treaty operates, look at the tonnage passing through the St. Lawrence river and at the tonnage which clears from Chicago in British bottoms. The offset of the free navigation of the St. Lawrence river is not equaled by the advantages they get by the navigation of the straits of Mackinaw and Lake Michigan. I have some statistics on that subject. The number of British vessels cleared from Chicago alone and passing through Lake Michigan, was one hundred and nine, while the number passing through the St. Lawrence was only forty. So you see that there is very little reciprocity so far as that is concerned; that the advantage accruing to this Government from the free navigation of the St. Lawrence river is not equal to what we have surrendered in the free navigation of Lake Michigan. And upon almost everything where we come into competition with Canada, they have discriminated against us, although they agreed in the treaty to extend a liberal policy towards us. They have discriminated in the canal tolls. They have established free ports designed to divert trade from us and to promote smuggling upon the frontier by persons engaged in the British and American trade. They have discriminated against us upon the freights upon the Grand Trunk railroad, as well as upon passengers. They have avowed a discriminating policy against us, openly avowed it, in the report made to the Canadian Parliament by the Minister of Finance. They have discriminated against us on the Welland canal:

"It was enacted by Congress, March 3, 1817, sec. 4, that 'no 'goods' shall be imported under penalty of forfeiture thereof from one port in the United States to another port of the United States in a vessel belonging wholly or in part to a subject of any foreign Power;' and the evasion of this law by these railroads enabling Canadian to compete with American vessels may be illustrated by the case of the Welland railroad, a line only about twenty-eight miles in length, and running alongside of the Welland canal. Its owners carried a large proportion of the grain sent last year from Chicago to Oswego, receiving it at one end of their line from Canadian vessels, and delivering it to vessels of the same nationality at the other, thus by the simple process of transhipment, evading and frustrating the laws by which no foreign vessel could carry directly from Chicago to Oswego. In this competition of shipping interests there can be no equality so long as Canadian legislation makes the price of ship-building material cheaper in their country than in this."

In every possible way they have discriminated against us; and so odious has the reciprocity treaty become upon the frontier that our people are unanimously in favor of its speedy termination.

I am in favor of striking out the provision in regard to tax on flour, for the reason stated by me this morning, and for the reasons stated by the committee. The discrimination against us would be so strong that our millers could not stand up in competition against the Canadian millers. A tax of ten cents a barrel would greatly injure all our millers, if it did not shut up all our mills upon the frontier.

Mr. OLIN. I wish to make an inquiry. I ask my colleague whether a tax upon the sales of flour in the United States would not obviate all the difficulty in this matter? Would not that prevent any discrimination against us?

Mr. SPAULDING. It has been suggested to the Committee of Ways and Means, desiring to have flour taxed in some form, that the sales of flour in the United States might be taxed and the barrels branded at the time of sale; but they have not deemed proper to adopt it. They have doubted whether a tax on the sale of flour might be considered as an evasion of the treaty. I am not now prepared to say that it cannot be done; but thus far the committee have deemed it inexpedient to tax flour in that way. If we cannot get sufficient revenue without, it may be deemed best to try the experiment hereafter.

Mr. MENZIES. Mr. Chairman, I believe that the Committee of Ways and Means in their original report had come to a proper and just conclusion on this subject, and I was unable to hear any reason from the chairman of that committee which would make me change my opinion. It is a matter of just taxation, and one well calculated to produce revenue. Because it can pay is no reason against this; on the contrary, it is a good reason why the tax should be imposed. But it is said that the difficulty in the way is that this is one of the articles enumerated in the reciprocity treaty, which has been so much referred to. I do not believe that this tax would cause our wheat to be sent to Canada to be manufactured. I have no doubt that the greater portion of the wheat grown in this country will be manufactured at home. I have no doubt that I can acquit my conscience of any immorality in voting for the plan suggested by my colleague, [Mr. WICKLIFFE.] I would have no squeamishness of conscience on that subject whatever. It occurs to me that this is a tax moderate and just. Ten cents a barrel is not an onerous tax, and it will not, I think, have the effect to drive our wheat into Canada to be manufactured into flour. I have not seen any proposition to raise revenue by imposing a tax upon any manufactured article which seems to me to be more reasonable and just. I want to vote for the proposition as it came originally from the Committee of Ways and Means.

Mr. DELANO. I oppose the amendment to strike out this tax upon flour, and I do it agreeing entirely with the gentleman from Kentucky who has just taken his seat. This provision was inserted by the Committee of Ways and Means because it was an article of prime necessity, and would yield revenue upon a fairer basis than any other article which could be the subject of an imposition. If there is any sentiment in that part of the country which I represent, and especially among the poorer classes, stronger than another, it is that these articles of prime necessity may be taxed. They desire that they may share in the privilege of bearing the burdens of this Government. I am not able to say why it is that in this stage of the discussion the Committee of Ways and Means, after recommending this tax upon full investigation, should now propose to withdraw it from the bill. Were they ignorant when this matter was before them in committee that there was a reciprocity treaty? Was not the gentleman from New York [Mr. SPAULDING] equally well informed what was necessary to save his constituents against Canadian competition? Yet this provision was put deliberately before the House. I believe that it is obvious to gentlemen cognizant of the subject, that an imposition of ten cents upon a barrel of flour manufactured in the United States will not prejudice the manufacturers of that article so that competition from the Canada side will drive our millers from the market. That is the single question before us. If ten cents is too high a tax, then let the Committee of Ways and Means tell us what is the maximum imposition that will save our border counties from successful competition from the other side. It seems to me that it is their duty to let us have a tax upon this article of prime necessity.

Mr. WICKLIFFE, by unanimous consent, withdrew his amendment to the amendment.

Mr. SHEFFIELD. Is it in order to move a substitute for this paragraph at this time?

The CHAIRMAN. Any amendment offered must be an amendment to an amendment. The Committee of Ways and Means have moved to strike out the clause.

Mr. WICKLIFFE. When I was up before I was not able to specify the articles which had been exempt from taxation until this treaty was annulled. I have since ascertained that they are coal and iron; and I propose now, by my amendment, to put flour upon the same footing.

The question was taken upon the proviso; and it was not agreed to.

Mr. SHEFFIELD. I move to strike out all after the word "on," as follows:

Flour, manufactured from wheat, ten cents per barrel of one hundred and ninety-six pounds, and in like proportion for less or greater quantities put up for sale in sacks or other packages: *Provided*, That flour made or manufactured at any mill for customers, for their own consumption, and not for sale, shall be exempt from duty.

And insert:

The sales of all flour and coal, one half of one per cent. on the amount of such sales.

My impression is, that the difficulty the Committee of Ways and Means have encountered in this reciprocity treaty, is a difficulty which is incidental to the bill rather than to the treaty. Certainly it can be no infraction of the terms of the treaty or a breach of good faith, after the flour is imported into the United States from Canada and after it has become subject to our internal police regulations, to levy an excise upon it, in the same way precisely as we levy an excise upon the sales of our own country. I think, therefore, that the infirmity is with the bill rather than with our power to assess this tax.

While all the vast mineral interests of this country, while all the carrying trade, with the excep-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. WEDNESDAY, APRIL 2, 1862. NEW SERIES.....No. 92.

tion of a slight tax upon passengers, while all the producing interests of the country, with the exception of a slight tax upon sugar, are to be completely exempt from taxation, if we except that which is produced in the workshops, you let this bill go out to the people with this infirmity upon it. And I assure gentlemen of the committee that it will be exceedingly unpalatable to the people. While the people of this country are willing to be taxed justly and fairly, when they find that Congress proposes to discriminate against this industrial interest which, from its infancy, has been struggling against the fickle policy of the Government, it seems to me they will receive with exceeding disfavor this inconsistency upon the face of our legislation which we send forth to the country; and the people will create in the public mind a rebellion against this system of taxation, which will revolutionize completely this whole system, if it is in the power of those against whom it discriminates to work such a revolution.

I stated the other day when I was upon the floor, that nearly one fourth of the tax proposed to be levied by this bill is levied upon the industrial interests of New England alone. The manufacturing products of the country amount to $1,900,000,000, as appears from the census, while about $500,000,000 of those products of industry are produced in New England alone.

Why, sir, the manufacturing business of New England was not one they entered into of choice. Early after the formation of the Government, their interest was commercial, and not manufacturing. The policy of the Government drove their commerce from the seas, and their ships rotted at the wharves. Manufacturing was forced upon New England by the southern States and by others, whose interests were antagonistic. But no sooner were they forced into manufacturing than the legislation of the country began to discriminate against the industry of New England. The policy of the country has become so unstable that that interest, taking into consideration the industry, energy, and enterprise with which it has been prosecuted, has become the least favored and least prospered under that system. There is scarcely a manufacturing establishment in New England, which has been in operation for a series of years, which has not been broken down, and which has not succumbed before the policy of the country.

And, sir, this interest, prosecuted with so much skill, with so much industry, and with so much enterprise, is now to have visited upon it one fourth of all the taxes which are to be levied under this bill upon the whole country.

It seems to me that that is unjust, and when we undertake to enact an unjust law, and send it to the people, it will not meet their approbation. Why should not the carrying trade be taxed; why should not the vast mineral interests of Pennsylvania, and the agricultural interests of the West and South be taxed, as well as the manufacturing interests of New England? I ask gentlemen to give some reason for this discrimination which shall commend itself to reasonable men. Many of the products of our manufactories are taxed as many as three or four times under the provisions of this bill.

[Here the hammer fell.]

The CHAIRMAN. The Chair would state to the gentleman from Rhode Island that that part of his amendment which refers to coal is not in order, as the paragraph in reference to that matter has been passed.

Mr. SHEFFIELD. It has not been acted upon in this form. It has been taxed by the ton; but I withdraw that portion of it.

Mr. MORRILL, of Vermont. I am opposed to the amendment of the gentleman from Rhode Island, as I regard it as a small installment of a proposition to supersede the whole bill, and will introduce what I intended to have done in my speech, but was precluded for want of time.

The question of taxing home manufactures is, perhaps, entirely novel, and therefore deserves to be treated with great care and the utmost candor. At the present time no greater calamity could befall us than a measure which should prevent the active employment and adequate reward of labor in every field, mine, and workshop of our country. If the present bill is liable to cripple labor more than a tax of equal amount raised in some other way—for it has got to be raised—then it ought to be rejected.

The only prominent competing idea that has been suggested is a tax on sales, and it is argued that a tax of one per cent. on sales would produce, in the aggregate, nearly an equal revenue, and, being upon foreign goods as well as domestic, would obviate the necessity of any further addition to the tariff. This plan has preëminent merit in the simplicity with which it can be stated, and there, it will be found, all its merit ends.

If goods are first sold by the manufacturer and by the importer to the jobbers, by the jobbers to the retailers, and by the retailers to the consumers, with one per cent. tax on each sale, you have obtained the three per cent. and added it to the cost of the goods, provided you have framed a net with skill enough to catch it. At the same time the success of the manufacturer depends upon his ability to sell, and that rests entirely on the ability of some one else to buy. The price to the consumer being the same three per cent. advance in either case, provided both plans could be each successfully worked, it follows that consumption would be as much checked by the tax being laid on piecemeal as it would be if put on in a lump and at once. In either case the manufacturer would have to adapt himself to the market, and I submit that the project of one per cent. on sales would not relieve the debit side of his profit and loss account at the end of the year a single dime.

But once establish a law imposing one per cent. on sales, and, if rigidly enforced, you would speedily annihilate the present race of jobbers and retailers. The mammoth importing houses and manufacturers would become their own distributors, combining the wholesale and retail business, in order to save the intermediate percentages. One sign would monopolize whole blocks and whole squares.

Let us for a moment see how this scheme would operate in practice. A miller, for instance, at Peoria, Illinois, sells five hundred barrels of flour at five dollars per barrel, and pays one per cent. tax, or twenty-five dollars. The purchaser takes it to Chicago, and sells it at $5 50 per barrel, and pays one per cent., or $27 50. From there it goes to New York, where it may be sold for seven dollars per barrel, and pays one per cent. more, or thirty-five dollars. Here it goes out in lots of ten, twenty, or fifty barrels at a time, and pays another one per cent., this time perhaps $37 50; and when it is at last retailed, a barrel at a time, it pays one per cent. more, or forty dollars. Now, if this flour had paid three per cent. in the first instance, the duty would have been seventy-five dollars only; but under the process of repeated sales, in the usual channels of trade, it accumulates until it reaches the sum of $165.

This shows what hinderances would be placed in the way of the Yankee nation's universal propensity to trade, if such a scheme were to be adopted; and the article cited does not pass through more hands than a large share of the merchandise bought and sold. All commerce, instead of being free, would find a ball and chain clogging every step.

But how is this tax on sales to be collected of these traders, who either cannot or will not keep an account of sales? Commercial colleges would have an ample field of labor, for there are traders yet who with a piece of chalk indicate a cheese by a circle, or a grindstone by a circle with a dot in the center. It is true the great majority would, beyond doubt, make honest and correct returns; but these would soon be ruined by being undersold by reckless adventurers, whose ignorance in book-keeping would find its own reward. We propose to license peddlers. How could we expect these cosmopolitan moralists to give accurate returns of their heterogeneous sales? And if they did not, then stationary merchants would soon be a rarity. All would make haste to get on wheels.

If there are no advantages to be gained in any way by the percentage on sales scheme, the disadvantages are nearly insurmountable. In the case of a manufacturer, he may make and sell $500,000 worth of goods, and by the present bill you would collect the duty from him alone. But, by the scheme of a tax on sales, wait until the goods reach the retailer, and you have to hunt for the last one per cent. among a little army, and to get an equal amount not less than one hundred and fifty persons must make up their accounts and pay their taxes. Any one can see that these little rivulets would be very likely, many of them, to evaporate and dry up in hot seasons. The Government, with triple the labor, might expect at last to find large deficiencies in the actual receipts.

If all sales were to be taxed in such a scheme, the manufacturer would be taxed on his raw materials one per cent., the tanner on his hides, the shoe manufacturer on his leather, the paper-maker on rags, the printer on his paper, the woolen manufacturer on wool, the farmer on his wheat and stock, the linseed oil manufacturer on flaxseed, and so on to the end of the chapter. I think the whole country, and manufacturers especially, would say, in less than six months:

"Ha! an' thou lovest me, no more of that."

There would be some nice law questions mooted as to what is a sale. Our juveniles swap knives at precocious ages, and swap horses before they are out of their teens. Now, are these such sales as are legally understood to be sales? A peddler exchanges a load of tin for a load of rags, bristles, and old pewter. Is this a sale? If not, we might soon have no sales, but all trade would degenerate to the early Virginia mode of exchanges or contracts made for so many pounds of tobacco.

A very respectable gentleman from Boston came here with a *notion* to "simplify taxation," and his proposition is this same notable scheme of a tax on sales, only he proposes to collect it by stamps on all sales over ten dollars. This scheme, with its stamp improvement, is liable to all the objections to the tax on sales, with many others superadded. But, suppose the thing to be all understood; a merchant has his goods all marked; the purchaser goes and takes what he wants, and leaves the money. There is no talk; no writing, bargain, or sale. Where, then, is the place for a stamp? But, if sales less than ten dollars be exempt, how many purchases would be made of over ten dollars? As the bill of purchases neared the ominous line, that sale would be closed and another commenced, and if the tax would warrant the trouble, many silk dresses and other articles would be bought and paid for, a quarter daily—not all at once.

The question returns, will the present bill be oppressive upon manufacturers, or is it unjust?

The duty on home manufacturers will be the same if they make the same goods. No one can take any advantage by this law. The relative position of parties will still continue, and it is proposed to so adjust the tariff that the present relative position as to foreign competition shall be made no worse in our own markets nor in the markets of the world, as a drawback is proposed to the full extent of any duty imposed. Now, if this is done, what have the manufacturers really to complain of? Nothing except the possible results of competition among themselves, and that they have to endure now to the very same extent they will have after the passage of this bill. It may be said that not in a single instance has any manufacturer objected to the Committee of Ways and Means to a three per cent. *ad valorem* tax.

Mr. SHEFFIELD. I move to amend my amendment by inserting after the word "sales," the words "made for consumption." I move the amendment for the purpose of making a suggestion or two in reply to the remarks of the gentleman from Vermont. The argument which the gentleman advances, and with which he expects to satisfy this committee that this amendment

ought not to prevail is, that it is a tax upon intermediate sales between the producer and consumer. The amendment I have proposed obviates that, and makes the retail dealer pay the tax; and the retail dealer will pay it precisely as the manufacturer pays it in other instances.

The other objection which the gentleman makes—and he makes but one other—is, that the tax will be difficult to collect. I ask that gentleman, and I ask any gentleman upon this floor, if the same machinery which is to be put in operation to collect the tax against manufacturers cannot be as well applied to retail dealers? I ask gentlemen if any alteration is necessary to be made in the bill, except to strike out the word "manufacturer," and insert "retail dealer," to accomplish the object which I suggest?

Again: no advantage is gained by the proposition which is here suggested by the committee. It is said, and has been said again and again upon this floor, that these taxes are ultimately to be paid by the consumer. If that is true—and I do not agree that it is true in the sense in which it is asserted—but if it is true, here you bring the tax as near to the consumer as is practicable under any system of taxation which we may adopt; and the facilities will be the same for collecting the tax as are provided for collecting the tax from the manufacturers.

But the gentleman says that the retailers do not keep books. I do not know how it may be in the State of Vermont; but I know of no such dealers within the extent of my district, and I have heard of no such from any intelligent gentleman from any part of the country, except the gentleman from Vermont. I do not apprehend any difficulty upon that score.

Then how difficult it will be to collect the manufacturers' tax, the gentleman has not told us. Their books are of entirely a different character from those kept by retailers. In the retailer's books you have the amount in dollars and cents for which each article sells. The manufacturers' accounts are made up of a great many items. They have a stock account, a labor account, a rent account, an interest account, and many other accounts; and it will be very difficult indeed for them to ascertain what amount they manufacture, unless they take the work as they finish it, for they have the articles in many different stages of preparation at different times. You will find no more difficulty in ascertaining the amount of sales of the retail dealer than you will in ascertaining the amount of manufactures of the manufacturers.

I desire the committee to pass upon this amendment as they think is right. I shall vote for the bill, as I said the other day, as it shall be framed by the House, when it is put upon its final passage, let it be what it will. If it is necessary to run our business for the purpose of prosecuting this war, and sustaining this Government, I accept it. Let it come. We shall sustain the Government, but we shall do what we can to perfect this bill, so that it may bear as equally as possible upon all.

Mr. STEVENS. I do not quite understand the argument of the gentleman from Rhode Island. I understand him to advocate his amendment because the manufacturing interests of New England are heavily taxed. Now, sir, I know they are taxed, and I think fairly taxed; but I cannot for the life of me see how it is that his proposition would not add to that taxation.

Mr. SHEFFIELD. My answer is that I propose to move to amend the next section so as to relieve the manufacturing interests of New England of a portion of the tax, and to impose it upon flour.

Mr. STEVENS. Then, of course, whether it will relieve the manufacturing interests or not depends upon whether the gentleman succeeds in reducing the duties on manufactured articles. But suppose he fails in that, will not the gentleman, if this amendment prevails, have imposed an additional burden upon the manufacturing interests of the country? The gentleman knows better than I do the amount of flour used in cotton factories; but I do know that the amount used for sizeing alone is beyond what most men who have not examined into the subject have any idea of; and upon that he proposes to put this tax, in addition to the three per cent. which the bill now imposes upon manufactures.

The effect of this amendment will be to increase the price of the labor that goes into the factories. Every dollar that you add to the fuel used by the manufacturer, and every dollar that you add to the material that enters into manufacture, you increase the burden on the manufacturers themselves, and you cannot get rid of that conclusion. Hence it was that England repealed her corn laws, for the avowed purpose of reducing the burdens upon her manufacturing interests, and of competing with us in the only thing which we could compete with them, cheap food. It was a measure of protection to her own manufacturers. But the moment you adopt the idea of taxing these elements which enter into the manfacturing interests—I would instance coal, if I did not live in Pennsylvania—the moment you tax that fuel which drives the spindles throughout half this nation, not so much in New England as in other parts of the country; the moment you add to the price of food and thus increase the price of labor, you add to the burdens of the manufacturing interests. The very proposition of the gentleman from Rhode Island is suicidal to the interests of his own section of the country, unless he shall succeed further in striking off a portion of the three per cent. which is laid upon manufacturers. I suggest to him that he had better await the result of the amendment he intends to propose to the next section, for he might put in the one without being able to reduce the other. I hope, however, that these articles of prime necessity will not be taxed.

Mr. SHEFFIELD's amendment was rejected.

The motion to strike out the paragraph was then agreed to.

Mr. HORTON. I move to insert as a separate paragraph, in place of the one which has been stricken out, the following:

On cloth and all textile or knitted or felted fabrics of cotton, wool, or other materials, a duty of three per cent. *ad valorem*: *Provided*, that when cloth is sold or delivered exclusively for dyeing, printing, bleaching, or to be finished in any other manner, the duty shall be assessed on the article as finished and prepared for use and consumption; and thread or yarn manufactured and sold or delivered exclusively for knitted fabrics or for weaving, when the spinning and weaving of the manufacture of cloth is carried on separately, shall not be regarded as manufactures within the meaning of this act; but all fabrics of cotton, wool, or other material, whether woven, knit, or felted, when finished for sale shall be regarded as manufactures, and subject to the duty as above of three per cent. *ad valorem*.

Mr. SHEFFIELD. I move to amend the amendment by striking out "three" and inserting "two."

The amendment to the amendment was rejected.

Mr. HORTON's amendment was agreed to.

Mr. KELLOGG, of Illinois. I offer the following as a new paragraph:

That on and after the 1st day of May, 1862, there shall be levied, collected, and paid a tax of one and a half cent per pound on all cotton held or owned by any person or persons, corporation, or association of persons, and that such tax shall be a lien thereon in the possession of any person whomsoever; and further, that if any person or persons, corporation, or association of persons, shall remove, carry, or transport the same from the place of its production before said tax shall have been paid, such person or persons, corporation, or association of persons shall forfeit and pay to the United States double the amount of such tax, to be recovered in any court having jurisdiction thereof: *Provided, however*, That the Commissioner of Internal Revenue is hereby authorized to make such rules and regulations as he may deem proper for the payment of said tax at a place different from that of the production of said cotton: *And provided further*, That all cotton owned and held by any manufacturer of cotton fabrics on the 1st day of May, 1862, and prior thereto, shall be exempt from the tax hereby imposed.

I do not desire to discuss this question again, having offered some remarks upon it the other day. I merely wish to call the attention of the committee to the proposition and to the proviso attached to it which I have offered here. The proviso is that all cotton on hand on the 1st day of May, 1862, and prior thereto, shall be exempt. I have been during this discussion opposed to taxing any article before that time; in other words, I have been opposed to discriminating against any article in relation to time or whether held by one man or another. I am satisfied that the principle of this amendment is correct and that it is sufficiently guarded, and I hope the committee will adopt it.

Mr. CHAMBERLIN. I move to amend the amendment by striking out "one and a half," and inserting "one;" so as to make the duty one cent per pound.

Mr. DUNN. Mr. Chairman, I really feel greater difficulty in determining what is the best policy in regard to taxing cotton than in regard to the taxation of any other product of our country. It is a large interest; and if we should impose the burdens of this war mainly upon any two articles they are cotton and sugar, provided that in doing it we do not impose too heavy a burden upon the people. There seems to be one reason why cotton should be made an exception to the rule which has been adopted by the House in regard to taxing agricultural products in the hands of the producers. The great amount of the cotton raised goes abroad, or would do so if the trade was open and uninterrupted. If we lay a duty on cotton that is to be manufactured in our own country, we lay an additional duty upon an article which goes very largely into the consumption of the people; but the greater proportion of the cotton produced is to go abroad, and I do not see how we are to raise any revenue from this article unless we vary from the rule which we have adopted against taxing the products of the soil in the hands of the producers. I shall, therefore, vote to impose a reasonable tax upon cotton. I do not know what is the proper rate. I have spoken in opposition to the proposition to reduce the tax to one cent per pound merely for the purpose of indicating the difficulties in my own mind in relation to the subject.

Mr. KELLOGG, of Illinois. I will state that at the usual price of cotton for a few years past, the tax I propose of one and a half cents per pound will be about ten per cent. That was the reason I fixed it at that rate.

The question was taken on the amendment to the amendment reducing the tax to one cent per pound; and it was agreed to.

Mr. McKNIGHT. I move, *pro forma*, to increase it a quarter of a cent. I will state that when the gentleman from Illinois [Mr. KELLOGG] offered his proposition the other day, I voted against it, but not because I thought that cotton ought not to be taxed. On that one item I am willing to depart from the rule which has been laid down by the House in relation to taxing raw material, partly for the reason assigned by the gentleman from Indiana, [Mr. DUNN,] and partly because I am willing to make a distinction between cotton, which has been called king of this country, and other products. The difficulty in my mind has been whether we ought to impose the tax this year. The product is so scarce, and so much has been burned by the owners, and it would raise the price of cotton manufactures so much that, for my own part, I am inclined to think that we ought to provide that the tax shall not take effect for one year after the bill goes into operation. I am anxious to see cotton taxed; I am willing that it shall be taxed even higher than this amendment proposes, but just now I doubt, although I am open to conviction, whether we ought to impose it at all.

Mr. KELLOGG, of Illinois. I really cannot see why the tax upon cotton, if it is to be taxed at all, should not, in relation to time, follow the same principle as other articles. This amendment will not really affect the next crop. It does not affect by express provision the amount that may be in the hands of manufacturers on the 1st day of May next. The objection was made that the manufacturers had bought in good faith all the cotton they had on hand, and I therefore inserted a proviso exempting from taxation all the cotton they may have on hand at the time the bill goes into operation, so that there can be no question in regard to that.

Mr. McKNIGHT. I suggest to the gentleman that the difficulty does not seem to be as to the amount of cotton in possession of the manufacturers. But the gentleman will observe that there are many loyal cotton growers at the South—not a great many perhaps; but, no doubt, there are some. These men are perhaps driven from their plantations. They are unable to plant this season for the reason that southern Legislatures and the confederate congress have passed acts recommending—which is really directing—that no cotton shall be planted this season.

Mr. KELLOGG, of Illinois. I will say to the gentleman from Pennsylvania, that if he expects to find many cotton growers loyal, he is, in my judgment, very much mistaken.

Mr. McKNIGHT. That is my own view.

Mr. KELLOGG, of Illinois. I will further say to the gentleman that until our armies penetrate

the southern States, the cotton grower cannot sell his cotton or make it of any value; and I insist that, even though the cotton grower be loyal himself, he should be made to help to bear the burden of this war. In no other way can the people of the South ever be made to bear to any considerable extent their share of the burdens of the Government except by taxation on cotton, which is really their only element of wealth. I therefore really think that if my friend is open to conviction he will now conclude to support this bill and help to pass it.

Mr. McKNIGHT. I withdraw my proposition.

The question being on the amendment offered by Mr. KELLOGG, of Illinois,

Mr. WASHBURNE demanded tellers.

Tellers were ordered; and Messrs. WASHBURNE and PERRY were appointed.

The committee divided; and the tellers reported —ayes fifty-four, noes not counted.

So the amendment was agreed to.

Mr. HORTON. I move to amend by inserting after the word "wood," the word "willow," so that the clause will read:

On all manufactures of cotton, wool, silk, worsted, flax, hemp, jute, India rubber, gutta percha, wood, willow, glass, pottery ware, leather, paper, iron, steel, lead, tin, copper, zinc, brass, gold and silver, horn, ivory, bone, bristles, wholly or in part, or of other materials, not in this act otherwise provided for, a duty of three per cent. *ad valorem*.

The amendment was adopted.

Mr. HORTON. I move to amend by striking out the following:

Provided, That all articles manufactured as aforesaid, and not otherwise provided for or charged with duty in this act, which are entitled to the privileges and immunities of patent under the laws of the United States, shall pay and be subject, in lieu of three per cent. *ad valorem*, as aforesaid, to a duty of five per cent. *ad valorem*.

And inserting in lieu thereof the following:

Provided, That in estimating the duties on all articles manufactured when removed and sold at any other place than the place of manufacture, there shall be deducted from the gross amount of sales the freight, commissions, and expenses of sale actually paid, and the duty shall be assessed and paid on the net amount after the deductions as aforesaid.

The amendment was adopted.

Mr. HORTON. I move to amend by inserting in the second proviso, after the word "publications," the following:

Boards, shingles, and all other lumber and timber; staves, hoops, headings, and timber, when partially wrought and unfinished, for chairs, tubs, pails, snaths, lasts, shovel and fork handles; umbrella stretchers; pig iron and iron not advanced beyond slabs, blooms, or hoops; repair or rerolling of railroad iron; plaster or gypsum; malt; burning fluid; printer's ink; flax, prepared for textile or felting purposes until actually woven or felted into fabrics for consumption; all flour or meal made from grain; bread and breadstuffs; cheese; concentrated milk; bullion in the manufacture of of silverware; bricks; marble; slates; building stone.

So that the proviso will read:

And provided, further, That printed books, magazines, pamphlets, newspapers, reviews, and all other similar printed publications, boards, shingles, &c., shall not be regarded as manufactures within the meaning of this act.

The amendment was adopted.

Mr. SHEFFIELD. I offer the following amendment as an additional proviso:

Provided, further, That the tax paid upon any property used in producing such manufactures shall be deducted from the gross amount of duties assessed upon such manufactures.

The reason for this amendment, Mr. Chairman, is, that various articles entering into manufactures are already taxed under the provisions of this bill, and in addition thereto a tax of three per cent. is imposed on the goods manufactured. It seems to me that that, again, is unjust, and that the materials which enter into the production of the article manufactured should be exempted from taxation.

Mr. STEVENS. Mr. Chairman, the Committee of Ways and Means have had this subject under consideration, but could see no possible way in which that provision could be carried out. How can it be ascertained how much had been paid on materials put into a steam engine? How can it be ascertained how much had been paid on materials worked into a pitch-fork? And so as to all articles of manufacture. The raw material is not generally taxed; but there may be some things which would be called raw materials, entering into manufactures, that have been taxed. The Committee of Ways and Means did not see how it was possible to execute a provision of this kind; and they thought that it would not only be perplexing, but would be nugatory.

The amendment was rejected.

Mr. HORTON. I move to amend by striking out, after the word "gold," in the one hundred and eighty-ninth line, the word "and;" so that it will read:

On all manufactures of cotton, wool, silk, worsted, flax, hemp, jute, India rubber, gutta percha, wood, willow, glass, pottery ware, leather, paper, iron, steel, lead, tin, copper, zinc, brass, gold, silver, horn, ivory, bone, bristles, wholly or in part, or of other materials, not in this act otherwise provided for, a duty of three per cent. *ad valorem*.

The amendment was adopted.

Mr. CLARK. I move to amend the proviso adopted on the motion of the gentleman from Ohio, [Mr. HORTON,] by including among the articles exempted, pearl barley, and split peas.

Mr. HORTON. I accept that.

Mr. BROWNE, of Rhode Island. I move to amend by inserting after the word "cotton," the words "two per cent. *ad valorem*." I do not know, Mr. Chairman, that it is of any use to offer reasons to the committee why this amendment should be adopted. After the tax just imposed on the raw material, it seems no more than proper that the manufactured articles should be exempted to that extent. There is no tax on wool, or upon any other raw material entering into manufactures; but this duty of three per cent. is made to apply as well to the cotton manufactures as to all others. The manufacture of cotton goods is now operated at a loss. Take an average for ten years, and the profits of the business do not exceed the amount of the tax now imposed.

It may be said that it is because we come from a manufacturing State that we ask for the reduction. That is not so. We want to pay our whole share of the burdens of the war, but we do not want to have "the hen that lays the golden egg" killed. We prefer that you should have this revenue from year to year, and not destroy the very manufactures which it is the object of this bill to raise revenue from. This tax of three per cent. and the other taxes imposed, would, on an average for ten years, exceed the net profits of an establishment. We of Rhode Island have an interest in this matter beyond that of the great States of New York, Illinois, Ohio, or Indiana. We have an interest in sustaining this Union; and we want to pay our full share of the burdens of the war in men and money. Those others are empire States of themselves. In case of a dissolution of the Union, they can take care of themselves. With our limited population it would be impossible. It is not, therefore, because the burden weighs upon us that we object to this. We do it because of the manner in which this tax is proposed to be levied on us. We never could pay it. I trust, therefore, that after the tax thus laid on raw cotton, the tax on cotton manufactures will be reduced.

Mr. HORTON. I desire to oppose the amendment for this reason, and I beg the attention of the committee for a moment. I think that the tax upon raw cotton is wrong in principle and injurious in practice.

Mr. BROWNE, of Rhode Island. So do I.

Mr. HORTON. I hope that when we go into the House the House will in its good sense strike it out. That is the best way. Let us now as far as we can preserve the harmony and congruity of the bill. When we get the bill into the House we can, on the yeas and nays, strike out the provision which taxes the raw material in the shape of cotton. I hope that will be done, so that cotton manufacturers may not be twice taxed, and that they may stand upon the same platform as the manufacturers of all other articles. I think the better way is to vote down the amendment of the gentleman from Illinois, and for the manufacturers of cotton, wool, and all other articles to pay the same per cent. *ad valorem*. That is my judgment, and I think that it will meet with the sense of the House.

Mr. BROWNE, of Rhode Island. Suppose, in the language of my colleague, that the House should not happen to do that, what then?

Mr. HORTON. The motion to strike out can be made in the House; and amendments can also be made in the House; and it is for a majority to say what shall be done. I have no doubt we can get force enough to carry this point. I think it is best for the committee to get through with this bill, so that when we come to vote upon the tax upon cotton, we may see it in all its length and breadth.

The amendment of Mr. BROWNE, of Rhode Island, was rejected.

Mr. MALLORY. I move to insert "five" instead of "three;" and I do so for the purpose of making an inquiry of the gentleman from Ohio. I ask what amount of revenue, in the judgment of the Committee of Ways and Means, will be raised by this tax upon manufactures?

Mr. HORTON. According to the best estimate we have been able to make, it would give us $30,000,000. It may be more; it certainly cannot be less.

Mr. MALLORY, by unanimous consent, withdrew his amendment.

Mr. SHELLABARGER. I move to add at the end of the section:

Provided also, That manufacturers of tools and implements of agriculture shall pay upon such manufactures a duty of one per cent. upon patented, and of one half per cent. upon unpatented articles, *ad valorem*.

Mr. Chairman, I have moved this to test the sense of the committee on the propriety of lightening the tax upon agricultural tools and implements. I do not think that it is wise for us to add anything to the direct assessment already made upon the agricultural interest by the bill of the last session. I think that in framing a bill for the collection of internal revenues the principle alluded to so frequently upon this floor should be strictly adhered to, and that is to tax as lightly as possible the universal and original sources of the wealth of the country. From the ground we derive all the original source of wealth. I believe that the agricultural and producing interest of the United States is taxed as heavily under the direct tax which we have imposed as it is proposed to tax any other interest of the country, As was stated by the gentleman from Vermont, the consumer will have to pay a large proportion of the duties. While that is true in a limited, it is not true in an unlimited sense. It is true at all events to this particular class of article. They are a class of articles with which the articles of foreign manufacture do not come into competition. They are those articles where the manufacturer will add to the previous value the tax that is proposed by this bill. I believe, sir, that it would be wise to exempt these agricultural tools and implements from taxation. They are essential to the great producing interest of the country. It has passed into an adage in political economy, that the person who invents a way by which two blades of grass can be made to grow where only one grew before, should be held as a public benefactor. It is upon that idea that I think this interest of agriculture should at this time be regarded by this House, so far as this tax bill is concerned. I hope that my amendment will be adopted.

Mr. HORTON. I am sorry I deem it my duty to oppose the amendment of my colleague. It would gratify me to vote for it. We are compelled, however, to do a great many unpleasant things in the discharge of our duty upon this tax bill. A few moments ago I was compelled to vote against my colleague on an agricultural product, that is in reference to the duty upon cotton. My colleague forgot the agricultural interest in that vote, and now in order to sustain the manufacturing interests he moves that they shall not be taxed upon agricultural tools and implements. I am a friend of the farmer, because I am a farmer myself, and I know something about the agricultural interests of the country. I know that these manufacturers make the agriculturist pay a good price; and I think that a small tax upon these agricultural instruments can be raised with as little detriment as any other. Certainly, sir, if my friend and colleague is so tenacious for the agricultural interest, I shall call upon him hereafter to be a little more consistent in his votes.

Mr. SHELLABARGER. I reply to my colleague by quoting the speech he has just made as to amending the cotton tax in the House, on a call of the yeas and nays. In that speech he assures us that the tax on cotton will fall on the manufacturers or the consumers, and I think in that he was, perhaps, substantially right. Besides there are now reasons for taxing the authors of the rebellion, if the cotton tax should, to any extent, fall on them, which does not apply to agriculture generally.

The amendment was rejected.

Mr. MALLORY. Mr. Chairman, I desire to have included in this paragraph some favorable provision in behalf of hemp, which may be called for in a short time to do the patriotic duty of hanging those who would destroy this Government. I come from a hemp-growing region in Kentucky, and I can assure this committee that, under the operation of the present tariff, the foreign-grown hemp so competes with the hemp grown in this country, that the farmers can scarcely indemnify themselves by raising it and selling it. It is now taxed three per cent. The manufactured article is taxed three per cent. by the bill. I hope, therefore, in consideration of the great burden resting upon us, that hemp will be exempted from the payment of any duty.

Mr. HORTON. I move to insert these words: "copper in ingots or pigs, lead in pigs or bars."

Mr. WASHBURNE. What will be the effect of that amendment?

Mr. HORTON. To exempt them from duty.

Mr. MALLORY. I move that hemp be also exempted from the payment of this tax.

Mr. HORTON. Let the gentleman in his amendment describe the kind of hemp that he wishes to be exempt from the payment of this tax.

Mr. MALLORY. I want the tax removed from raw hemp, and also from the manufactured article. The argument which gentlemen have been making with so much relish in reference to cotton is stronger in reference to hemp. But there is a duty so light upon foreign hemp that it comes into active competition with hemp grown here. In addition to that burden I hope that the House will not impose this additional one.

Mr. STEVENS. It is proper for me to say that it is the purpose of the Committee of Ways and Means to introduce an additional section laying an equivalent upon the imported article to counterbalance the tax which we lay upon the home article.

Mr. MALLORY. I do not like to hear the gentleman refer to that, for I fear that he may have it in contemplation to still further increase the heavy duties now imposed upon imported iron. If he does, I fear that I will be compelled to vote against him. I want rather to relieve some articles from the excessively high duties imposed by the present tariff, than still further to increase them.

The amendment proposed by Mr. MALLORY was disagreed to.

Mr. SHEFFIELD. I propose the following as an independent paragraph:

On gold and silver coin at any mint of the United States, one per cent.

Mr. DELANO. Before that amendment is received, I desire to move an amendment to the paragraph preceding. I move to strike out the word "silk," from line one hundred and eighty-six, and insert after the words "*ad valorem*," in line one hundred and ninety-two, the words, "and on the manufacture of silk thread, sewing and twist, a tax of one per cent. *ad valorem;*" so that the clause, as amended, would read:

On all manufactures of cotton, wool, worsted, flax, hemp, jute, India rubber, gutta percha, wood, glass, pottery ware, leather, paper, iron, steel, lead, tin, copper, zinc, brass, gold and silver, horn, ivory, bone, bristles, wholly or in part, or of other materials, not in this act otherwise provided for, a duty of three per cent. *ad valorem*, and on the manufacture of silk thread, sewing and twist, a tax of one per cent. *ad valorem: Provided*, That all articles manufactured as aforesaid, and not otherwise provided for or charged with duty in this act, which are entitled to the privileges and immunities of patent, under the laws of the United States, shall pay and be subject, in lieu of three per cent. *ad valorem*, as aforesaid, to a duty of five per cent. *ad valorem*.

I offer this amendment, not knowing how far the silk interest has been represented before the Committee of Ways and Means; but upon the authority of some of the most respectable manufacturers of my district, on whose judgment I entirely rely, it is represented to be an interest which struggles to maintain its existence at best; that it requires a very large capital in order to realize the same income derived from other species of manufactures in which an inconsiderable sum has been invested. They represent that great injustice will be done unless the rate per cent. *ad valorem* mentioned in the bill is decreased.

The amendment was disagreed to.

Mr. SHEFFIELD. I now move my amendment as an independent paragraph. I have modified it so that it will read:

On all gold and silver produced at any mine within the United States, one per cent. *ad valorem*.

Mr. SARGENT. Mr. Chairman, California is peculiarly taxed under this bill. The State itself is, in fact, simply a market. There is not an item of merchandise the price of which you have enhanced by taxation, that the people of California do not buy, and they have to pay that enhanced price.

Gentlemen talk about the heavy tax that is laid in this bill upon the manufacturers of New England. The State of California, sir, is an important market for the manufacturers of New England, and we have to pay the increased price that will be levied upon these articles of manufacture. They send their manufactures to us for sale, and in return we send them the gold, which is the product of our labor at the mines; and the more you enhance the price of every such article, the more heavily you tax our State. But now it is proposed, in addition to the largely advanced price we shall be compelled to pay upon almost every article we consume, that the product of our mines shall be taxed to the extent of one per cent. upon the whole amount

Mr. Chairman, I ask the committee to remember that the article of gold is unlike any other article upon which a tax is levied, or proposed to be levied. It has a standard value in the market, and you cannot dispose of it to customers at anything above that standard value, no matter how high it may be taxed. It is simply an article of merchandise with us, of fixed price, which we produce and give in exchange for the products of other States that we require for our consumption. If, like manufactures, by taxing it we could add to its intrinsic value, and give to it a greater price in the market, I should not object to its being a subject of taxation. But, instead of that, a tax upon gold is but another form of income tax. Your income tax, so named in this bill, requires the payment of three per cent. upon the entire income of every man above a certain amount. You have fixed that amount at $600, a sum for which no man in California can maintain his family, and the cost of living being much higher in California than in any other State, the relative amount of income tax must, of course, be higher than in other States, and now, if in addition to this, you levy a tax of one per cent. upon the entire product of the labor of the miner, you in effect add that to his income tax; so that if you had stated that the income tax should be three per cent. in all the States except California, and that there it should be four, five, or six per cent. you would have stated the action you propose truly.

Again: the manufacturer collects the tax imposed upon him from the consumer. Whatever you impose upon him is added to the price for which he sells his goods to his customers. But not so with the gold producers. The standard value of gold is fixed, and whatever tax is levied upon it is simply subtracted from the profit of the producer. He cannot divide his burden or shift it to another.

Another reason why this amendment should not prevail is, that, as I believe, no considerable revenue will be derived from it by the Government. I think the injustice of the bill towards that State will be so apparent that there will be very little disposition to yield the revenue you will have required the people of that State to pay; for, as I have remarked, nearly every tax which you have imposed upon any article bears more heavily upon California than any other State; and now you single out an interest peculiar to our State, and ask us to bear an unequal burden.

A few days ago, when I appealed to the chairman of the Committee of Ways and Means and others to grant an increased compensation to the officers designated to collect the revenue in California, in consequence of the greater cost of living in that State, my request was refused. It was said that the amount of compensation which would collect it in other States would collect it there. I then warned gentlemen that the revenue could not be collected for that compensation, and I now venture the further prediction that if this amendment is adopted in the bill, in addition to the other onerous burdens which you will have imposed upon California, that it will be found impossible, with any compensation of officers, to collect this percentage from the miners in California, or Colorado or Nevada Territories. They will deem it unjust and unfair, and will evade it. It is impolitic for the Government to grind down any portion of the country by seeking out peculiar pursuits, local in their character, and burdening them with taxation. As long as your laws are general in their operation, they will be respected. You lay upon us all the burdens that you require any section of the country to bear, and in fact more, for we are merely consumers of products which you tax, and now you propose to take also the means we coerce by hard toil and dearly-earned skill from the earth, by a tax differing in name only from an increased tax upon incomes. You would burn our candle at both ends; make us pay the tax you levy upon your products; keep us from supplying ourselves elsewhere by an enhanced tariff; and then take a lion's share of what gold remains to us.

[Here the hammer fell.]

Mr. VALLANDIGHAM. I move to amend the amendment by adding thereto the words: "legal tender shall be taxed one per cent. at the mill where manufactured." I think legal tender notes will supplant gold by and by, and I suggest to the gentleman from California that it may very properly be substituted in place of the original proposition. [Laughter.]

Mr. STEVENS. I suppose the gentleman from Ohio expects a vote upon his amendment.

Mr. VALLANDIGHAM. I should certainly prefer it to the amendment of the gentleman from Rhode Island, [Mr. SHEFFIELD.] However, I will withdraw it.

Mr. STEVENS. I move to amend so as to make the tax one and a half per cent. I do not concur with the gentleman from California, that this tax will be burdensome to the people of California. It must be remembered that the lands of miners in every other part of the world are largely taxed, but that in this country they get their lands for nothing. The miner everywhere else pays for his claim, and is obliged to pay for it into the revenues of the Government. It is the practice, I believe, of nearly all Governments to levy a royalty upon the products of the mines, but in California, and in the Territories of the United States where gold mines exist, no tax of this kind is levied. Individuals are permitted to go on the lands and work their claims free of charge, and I think it is no hardship to them to require them to pay a tax upon the product of their labors. It seems to me, therefore, that the tax is certainly just, and a light one. They are being taxed for what they got for nothing in the first place. The miners are like all other speculators, and I suppose many of them fail; but when they produce anything it is very valuable. Some of them produce princely amounts, which run up nearly to millions. According to the laws of nations, the mines belong to the United States, instead of to individuals. We have forgotten that wholesome rule, and allowed individuals to hold the lands, and I believe they ought to be taxed. I withdraw my amendment.

Mr. SARGENT. In all instances in other countries where royalty has been levied upon mines some protection has been given by the Government to the persons upon whom the tax was levied or the royalty collected, in the possession of their property. Here it is not so. The Government gives us no protection; it has simply let us alone. Not a miner in California at the present day has any title whatever to the land from which he may not be ousted at any moment by the Government. If the Government would give us some title to these lands, something on which we could depend; give us a right that would enable us to maintain our possessions beyond contingencies, then there might be some justice in the amendment proposed by the gentleman from Rhode Island, and so eagerly seized upon by the chairman of Ways and Means. This is done in Mexico, it is done in Russia, and wherever private persons work mines by governmental permission. In this case your do-nothing policy gives us no title to our lands, no acknowledged possession, no guarantee, but you propose to impose upon us a tax simply because we employ our own labor and capital in working the mines that you neglect to turn to account.

This amendment is unfair and unjust for this reason: this tax is levied upon every ounce of gold which is produced, while I know, and every other man knows, that thousands and thousands of dollars, a very large proportion of the amount taken out of the miners' claims, are absorbed in working them, in digging extensive ditches and canals among rugged mountains, for the conveyance of

water to the claims; in expenses for labor, quicksilver, lumber, iron, &c. Does the Government pay us anything for all that? Not a cent. We have to use our lumber and our iron and our labor in developing the mines, and the result is that when one of these principalities, which the gentleman's fancy gives him such exaggerated idea of, is brought down to the real fact, it is found that if half a million of dollars of gold is taken out of a certain district, four hundred and fifty thousand or more has gone to the development of the mine itself. You hear of a million shipment, and think it is profit. You forget the toil and sweat, the labor and expense, that has produced it. You have no record of the disappointed and unrequited toil. The people of California are not rich, in consequence of the vast expense of working the mines. There are many instances to my knowledge where claims have been worked for four, six and eight years by running extensive tunnels, without getting an ounce of gold, though finally the company may succeed after all this toil and years of deferred hope. You must estimate the final yield by the previous expense. Now, does the Government allow anything for that? And yet you say that every ounce of gold taken out shall be taxed for the full amount. If a tax of this kind is to be levied, it is no more than just that that portion of the proceeds of the mines shall be exempt which is absorbed in improving and developing the mines; that the net yield only shall be taxed, not that lost in the operations.

What has been the effect of this mining business? It has preserved the balance of trade. It is by the amount of gold which we send you that you are enriched, and your system of business is kept in operation. Without this supply your prosperity could not have attained its magnitude; let it cease and many of your commercial houses would fall. The loss of a single steamer in the stormy Atlantic a few years since, that went down with a million of treasure, and many gallant hearts worth more than all, caused extensive bankruptcy in Pennsylvania and New York, in New England and the West. Our miners pour their golden streams into the trade channels of the world, and the Government is directly benefited by it, for we not only pay heavy duties at our custom-house, but furnish the sinews of war. The Government can borrow at easy rates, for our gold keeps the money market healthy. You tax our miners already three per cent. on every dollar they take out of the mines. Do not add another burden. Do not discourage the production of gold. You can better afford to accord additional privileges to stimulate its production, than bankrupt your money market by taxing oppressively its producers, as you now propose to do. I ask gentlemen, is it not onerous, when you consider that all the articles which are taxed in this bill are to be paid for by our people who buy all their manufactures from the East, and must pay enhanced prices; and when in addition to that you propose to levy an income tax upon us; and besides all the sources of taxation through which we contribute to the support of the Government through the means of this bill, you select out a single interest of ours, and say that we shall pay a tax upon that also, ignoring the fact that by means of it we are enriching the whole country, and not ourselves only. We enrich ourselves less than we do the rest of the country.

I say the people of California are willing and ready to bear any reasonable burden, by any provision which bears upon the whole country in the same manner that it bears upon them. The mere fact that we take this gold from the public lands does not change the matter. You have this session given away millions of acres of public land as homesteads in order to build up communities, and create markets. Do you propose to levy a special tax on wheat and corn raised on those donated lands, because the lands cost the occupiers nothing? Their wheat and corn are their source of wealth, as gold is ours—as hardly realized and as justly ours. Every gentleman would reject such a proposition, but I ask where is the difference?

[Here the hammer fell.]

Mr. BLAIR, of Pennsylvania. I move to amend the amendment by inserting:

Gold and silver coined at the Mint or any of its branches, or converted into bullion bars, either at the Mint or any assay office, from the deposits of gold or silver ore, to be paid by the depositor and deducted from his deposit by the treasurer of the Mint or assay office.

It is suggested, upon hearing this amendment read, that it would not apply to gold shipped abroad. I suppose it would not. I will withdraw it and offer another. I move to amend so as to except all gold manufactured into jewelry.

Mr. STEVENS. I would suggest merely that this tax is in lieu of royalty rather than anything else.

Mr. BLAIR, of Pennsylvania. I suppose there are many instances where the mines are owned by the individuals. Certain mines are owned in that manner in the States of North Carolina and Virginia, and I suppose there is $500,000 coined at the Mint, and that as much more is used to manufacture into jewelry—all owned by individuals who are the owners of the mines.

The amendment to the amendment was not agreed to.

Mr. PHELPS, of California. I move to amend the amendment, by reducing the tax to one half of one per cent. This is a very important matter to my constituents, and I cannot allow action upon it without saying a single word. I concur fully in my colleague's remark that the people of California are willing to be taxed as much and as fully as any other people. I venture the assertion that there is not a single State in the Union which, in proportion to its population, will pay to the Government more than one half of the amount that California will. Of this I do not complain. It is owing to circumstances which cannot be avoided. California will pay to New England, under the bill as it now stands, $500,000 per annum upon her manufactured goods. We buy annually of the eastern States $45,000,000 of her merchandise, mostly manufactured articles. On that the duty will certainly average more than one per cent., and on that we will pay $500,000. We are under the necessity in California of importing almost all the articles we consume, and if gentlemen will look at the custom-house statistics, they will find that there are but four States in the whole Union that pay as much through their custom-houses as the little State of California with her five hundred thousand inhabitants—or less than three hundred thousand, as shown by the census. You will find that only the States of Pennsylvania, Massachusetts, New York, and Louisiana pay as much through their custom-houses as the State of California. It is owing, it is true, to the fact that we are under the necessity of importing almost all the manufactured articles which we consume. We are not only under the necessity of importing largely from abroad, but we are under the necessity, as I said before, of paying under this bill $500,000 of the amount which is levied upon the manufactures of New England.

Now, sir, the whole theory of this bill is that the tax laid upon the article is to be paid by the consumer. There was some justice and propriety in taxing coal, for the reason that there is none exported from the country, but all is consumed within it, and the tax laid upon it is added to its price; but as my colleague remarked, in the case of gold that cannot be done. It has a standard value, and the tax you put upon it comes directly from the miners. Now, so far as the miners of California are concerned, it is true that some of them are in the receipt of large incomes, but the great majority of them are poor. They get no more for their labor than do the agriculturists of California, as is abundantly proved by the fact that some forty or fifty thousand of them, during the last four years, tired of the mining business with all its uncertainty, have left that business and turned their attention to agricultural pursuits. The miners cannot and ought not in justice to pay this tax. If gold was such a product that we could place the amount of the tax upon the parties who purchase it from us, if its value was to be enhanced by it, I would say tax it; but it is not so. There is much truth and much force in the remark of my colleague, to any one who has ever been in California, that the gold taken from these mines has as much enriched the States of the Atlantic sea-board as it has California. There is very little of wealth in California that has been obtained by mining operations. It is true some have made small fortunes of two, three, and five thousand dollars, and have returned here to invest it; but there are very few remaining there who have made much money, and, as a class, they never have made money very rapidly. There are more poor men to-day in the mines of California than in any other part of the United States.

But again, it is utterly impracticable to collect this tax of the miners, if you are to levy it at all. The only way in which you can collect it practicably is by levying it at the mints. You cannot go through the mountains of California and collect it of the miners there who are receiving one, two, and three dollars a day. It is wholly and utterly impracticable to do it, and I hope the House will see the justice and propriety of voting down this amendment.

Mr. SHEFFIELD. I oppose the amendment to the amendment. The argument submitted by the gentleman from California against the proposition which I had the honor to offer is that the products of the mines of California should not be taxed, and that the products of the workshops of Rhode Island should be taxed.

Now, I do not think that sufficient reasons have been assigned to deter the committee from adopting this amendment. The products of the industrial communities of California ought to be taxed precisely as the products of the industry of every other section of the country. I agree with these gentlemen that California has done much to add to the wealth of this country, but is that any reason why she should be exempt from her fair proportion of the burdens of the Government? Because she has done so much for the country, is that any reason why the industry of her people should be relieved from its just proportion of the burdens of the Government any more than the industrial interests of any other portion of the country? It seems to me not.

Sir, California has been the petted child of this Government; she has had much done to advance and promote her interests, and to develop her resources, while my constituents have had but very little expenditure made for the purpose of advancing and promoting their interests. The Government has been lavish of its means for the purpose of developing the resources of the Pacific States. It seems to me that it is peculiarly just that we should tax this interest, because the source of their product is the property of the Government of the United States. I have heard no reason assigned which ought, in my judgment, to weigh one single moment in the mind of any gentleman against the adoption of this amendment.

Mr. STEVENS. I think we have debated this question long enough. I move that the committee rise, for the purpose of closing debate.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt, and had come to no resolution thereon.

Mr. STEVENS. I move that all debate in Committee of the Whole on the state of the Union on the pending paragraph of the tax bill close in one minute after the committee shall resume the consideration of the same.

The motion was agreed to.

ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (S. No. 120) in addition to an act to refund and remit the duties on arms imported by States; when the Speaker signed the same.

NAVAL APPROPRIATION BILL.

On motion of Mr. STEVENS, by unanimous consent, bill of the House No. 242, making appropriations for the naval service for the year ending 30th of June, 1863, and additional appropriations for the year ending 30th June, 1862, returned from the Senate with sundry amendments, was taken from the Speaker's table and referred to the Committee of Ways and Means.

TAX BILL—AGAIN.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of resuming the consideration of the tax bill.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed, as a special order, the

consideration of the bill (H. R. No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

The amendment to the amendment reducing the tax to one half per cent. was disagreed to.

Mr. SARGENT. I move to amend the amendment by adding thereto the following proviso:

Provided, That the United States relinquishes its right to all mineral lands to the persons owning the improvements thereon who shall pay the tax herein levied.

The amendment to the amendment was rejected.

The question recurred on Mr. SHEFFIELD's amendment.

Mr. STEVENS demanded tellers.

Tellers were ordered; and Messrs. ALLEY and SHEFFIELD were appointed.

The question was taken; and the tellers reported—ayes thirty-two, noes not counted.

So the amendment was rejected.

The seventy-fourth section was then read, as follows:

SEC. 74. *And be it further enacted*, That on and after the 1st day of May next there shall be levied, collected, and paid on all sales of goods, wares, merchandise, articles, or things at auction, including all sales of stocks, bonds, and other securities by brokers or at any board of brokers, a duty of one tenth of one per cent. on the gross amount of such sales, and every auctioneer, broker, or other person making such sales, as aforesaid, shall, at the end of each and every month, make a list or return to the assistant assessor of the district of the gross amount of all such sales, made as aforesaid, with the amount of duty which has accrued, or should accrue thereon, which list shall have annexed thereto a declaration under oath or affirmation, in form and manner as may be prescribed by the Commissioner of Internal Revenue, that the same is true and correct, and shall at the same time, as aforesaid, pay to the collector or deputy collector the amount of duty or tax due thereupon, as aforesaid, and in default thereof shall be subject to and pay a penalty of $500. In all cases of delinquency in making said list or payment the assessment and collection shall be made in the manner prescribed in the general provisions of this act.

Mr. HORTON. I move to amend the section, in line five, by striking out the words "by brokers or any board of brokers."

The amendment was agreed to.

Mr. HORTON. I move to amend in the seventh line, by striking out the words "broker or other person."

The amendment was agreed to.

Mr. HORTON. I move to amend, in the ninth line, by inserting after the word "month" the words "or within ten days thereafter;" so as to make it correspond with an amendment in a former part of the bill.

The amendment was agreed to.

Mr. WILSON. I offer the following as a proviso to the section:

Provided, That no duty shall be required to be paid under this section upon any sales not included in the provisions of the second subdivision of section sixty-two of this act.

The amendment is intended to exempt from duty judicial sales, and those made by public officers holding public funds in trust.

Mr. HORTON. There is no objection to that amendment.

The amendment was agreed to.

Mr. DIVEN. I move to amend by striking out the whole of the seventy-fifth section, as follows:

SEC. 75. *And be it further enacted*, That from and after the said 1st day of May next, there shall be levied, collected, and paid by any person or persons owning, possessing, or keeping any carriage, watch, piano forte, and billiard table, the several duties or sums of money set down in figures against the same respectively, or otherwise specified and set forth in schedule (marked A.)

SCHEDULE A.

Carriages, Watches, Piano Fortes, Billiard Tables, and Plate.

	Duty.
Carriage, gig, chase, phaeton, wagon, buggy-wagon, carryall, rockaway, or other like carriage, the body of which rests upon springs of any description, kept for use, and which shall not be exclusively employed in husbandry or for the transportation of merchandise, and valued at fifty dollars or over, including the harness used therewith, when drawn by one horse	$1 00
Carriages of like description drawn by two horses, and any coach, hackney coach, omnibus, or four-wheel carriage, the body of which rests upon springs of any description, which may be kept for use, for hire, or for passengers, and which shall not be exclusively employed in husbandry or for the transportation of merchandise, valued at fifty dollars, and not exceeding $200, including the harness used therewith, drawn by two horses or more	2 00
Carriages of like description, when valued above $200, and not exceeding $600	5 00
Carriages of like description, valued above $600	10 00
Gold watches, kept for use	1 00
Silver watches, kept for use	50
Piano fortes, kept for use	4 00
Billiard tables, kept for use	20 00
Plate of gold, kept for use, per ounce troy	50
Plate of silver, kept for use, per ounce troy	3

Provided, That silver spoons or plate of silver, to an amount not exceeding forty ounces, as aforesaid, belonging to any one person, shall be exempt from duty.

Mr. Chairman, if this be not a direct tax, then I am totally unable to comprehend what is. I understand the difference between a direct and an indirect or incidental tax to be, that a direct tax is where the tax is levied directly on the piece of property or on the amount which a man possesses, and an indirect tax is that which is imposed for the right to produce, for the right to deal in, or for the right to import an article. Now, I know that there is a decision of the Supreme Court from which it is inferred that it has been decided that the framers of the Constitution only meant land and negroes when they declared that direct taxes should be distributed according to population. All that I can say is, that if that is what they meant, they have adopted a most singular way of expressing their meaning. It would have been easy to say "land and negroes," but they have said "direct taxes." And now, whether you say that a man shall pay so much on every horse he owns, so much on every acre of land he owns, or so much on every negro he owns, it is alike a direct tax. There is nothing indirect about it. You come up and tax the thing itself directly. I have no ingenuity to conceive what is a direct tax, if this is not. I do not propose to discuss the question at length, but will content myself with stating my objection.

MESSAGE FROM THE SENATE.

The committee informally rose; and the Speaker having resumed the chair, a message was received from the Senate, by Mr. FORNEY, their Secretary, requesting the House to return to the Senate a bill (H. R. No. 318) to prohibit the allowance or payment of pensions to the children of officers and soldiers of the war of the Revolution.

ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same, viz:

A bill (H. R. No. 318) to prohibit the allowance or payment of pensions to the children of officers and soldiers of the war of the Revolution;

A joint resolution (H. R. No. 49) for the appointment of Theodore D. Woolsey, of Connecticut, a regent of the Smithsonian Institution, in place of Cornelius C. Felton, deceased.

The committee resumed its session, and proceeded again to the consideration of the

TAX BILL.

The pending question being on Mr. DIVEN's amendment to strike out the seventy-fifth section,

Mr. HORTON. I do not propose to enter into a legal discussion with the gentleman from New York, [Mr. DIVEN,] for I do not pretend to be much of a lawyer. I will, however, state for his edification or information that that question has been decided by the Supreme Court of the United States, and that the decision is against his opinion. I think it is safe for us to act on the decision of the Supreme Court. At some other time I will furnish the gentleman with the decision.

Mr. EDGERTON. The Supreme Court of the United States decided unanimously, in 1796, that a direct tax is a poll tax and a tax on land; and under that decision the Government has acted from that day to this.

Mr. DIVEN. Here is the book. I ask the gentleman to show me that decision.

Mr. DIVEN's amendment was rejected.

Mr. HORTON. I move to amend by striking out the twenty-first line, namely: "piano fortes kept for use, four dollars," and inserting in lieu thereof the words:

On organs and melodeons kept for use—	
Valued at $50 or less	$0 50
Valued above $50 and not exceeding $100	1 00
Valued above $100	1 50
On piano fortes kept for use—	
Valued at $50 or less	50
Valued above $50 and not exceeding $100	1 00
Valued above $100 and not exceeding $200	2 00
Valued above $200 and not exceeding $300	3 00
Valued above $300 and not exceeding $400	4 00
Valued above $400 and not exceeding $500	5 00
Valued above $500	6 00

Mr. NOBLE. I move to amend the amendment by striking out all after the word "on" and inserting "pianos, organs, and melodeons, one-half of one per cent. *ad valorem*." In the State of Ohio, Mr. Chairman, almost every family in the country that is able to keep a piano has one. They are taxed now the same as any other property, and there is no reason in the world why they should be taxed on any other basis than that relating to their value. The richer people sell out their old pianos and buy new ones, while the poorer classes buy these inferior instruments. And yet, by the bill, the poor man who owns a piano costing fifty dollars, that his children may learn music, is compelled to pay as much tax for it as the rich man who owns one worth $1,000. That is not equality. That is not the principle on which we should tax what is denominated by the Committee of Ways and Means a luxury. If a piano be a luxury let it be taxed in proportion to its value.

Mr. STEVENS. I think that if the gentleman from Ohio had looked at the amendment reported from the Committee of Ways and Means, he would have seen that this tax is graduated, as he contends it should be, according to value.

Mr. DELANO. I should like to have general consent to make an inquiry of the chairman of the Committee of Ways and Means.

There was no objection.

Mr. DELANO. I desire to inquire what is to be the operation of the bill in regard to the instruments now kept for hire. It strikes me that there is an ambiguity in respect to them, and that, as the bill now reads, the tax would be confined to those who own, and keep for use, pianos, while the reason for the tax would certainly apply much more strongly to those who keep pianos for hire, and who realize the largest profits made by any class of dealers in the article.

Mr. STEVENS. It will be seen that the bill proposes to levy a tax on those kept for use.

Mr. DELANO. But how is it about those kept for hire?

Mr. STEVENS. I suppose the owner would pay the tax. He keeps them for use, by hiring them out.

Mr. DELANO. It strikes me that that would be a forced construction to give to the bill. I would suggest the employment of the words, "pianos kept for use or hire."

Mr. EDWARDS. I ask the gentleman whether there could be any doubt that a horse kept at livery could be taxed to the owner as kept for use?

Mr. DELANO. That is not a parallel case.

Mr. RICE, of Massachusetts. It seems to me the point of inquiry of my colleague is as to the interpretation to be given to the words of the third and fourth lines of the section, which read, "and paid by any person or persons owning, possessing, or keeping any watch, piano forte," &c. Now, the point of inquiry of my colleague is, who is to pay this tax: the owner or the possessor of the piano forte? It is within my knowledge that the loaning of piano fortes is a very considerable branch of business. I know of some gentlemen who let several hundred of them annually; but the question is whether the owner or possessor of such an instrument is to pay the tax under this amendment of the gentleman from Ohio.

Mr. DELANO. It strikes me that it will admit of so much doubt as to the proper construction, that I suggest to the chairman of the Committee of Ways and Means whether it would not be better to make it definite one way or other.

Mr. STEVENS. I think perhaps it is better to make it definite, and for that purpose I suggest that it be made to read, "keep for use or rent."

The CHAIRMAN. If there be no objection the amendment will be incorporated into the amendment of the gentleman from Ohio, [Mr. HORTON.]

There was no objection.

Mr. NOBLE's amendment to the amendment was disagreed to.

Mr. POMEROY. I move to amend the amendment by inserting "one fourth of one per cent. *ad valorem*." I make this motion in view of the action just taken by the committee, for it seems to me that next to taxing family prayers, taxing the instruments of family music has less justification than any thing this House could enact. Do you mean to tax the organs of churches? You might a great deal better tax them than to tax the

melodeon, or piano forte, or any other instrument used for the purpose of family music. Why, sir, there is not an article of household furniture that you may not more properly tax. I do not know but the chairman of the Committee of Ways and Means would be in favor of taxing cradles. [Laughter.] I can think of nothing else in the way of household furniture that would come in the same category.

I move my amendment in good faith, and hope it will be adopted, for I can see no reason in the world why the piano forte or other musical instrument of small value used in the family should be taxed.

The amendment to the amendment was disagreed to.

Mr. LOVEJOY. I move to amend the amendment, so that all musical instruments not valued at over $100 shall be exempt from taxation.

Mr. DELANO. If it were in order, I should like to amend that proposition by providing that it shall not include hand-organs.

Mr. LOVEJOY. I should have included that, except out of kindness to my friend over the way.

Mr. STEVENS. I hope we shall have no more of these propositions offered, but that the vote will be taken upon the amendment of the gentleman from Ohio, [Mr. HORTON.] I can see no reason why these musical instruments should not be considered as luxuries. If they are enjoyed in the family, there is no reason why the family should not pay for them. A cradle may be an article of luxury, too, and it is suggested that it is an instrument from which music proceeds. [Laughter.] But, sir, I think that of all things in the world these musical instruments which rich people, or those in good circumstances generally buy, ought to pay their proportion of tax. I hope, therefore, the amendment of the gentleman from Ohio will be adopted in the form in which it was proposed; and for the purpose of stopping further debate upon it, I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt, and had come to no resolution thereon.

Mr. STEVENS. I move that all debate in Committee of the Whole on the state of the Union on the pending section of the tax bill close in one minute after the committee shall resume the consideration of the same.

The motion was agreed to.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of resuming the consideration of the tax bill.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed, as a special order, the consideration of the bill (H. R. No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

Mr. LOVEJOY's amendment to the amendment was disagreed to.

Mr. NOBLE. I move that in all cases where the instrument is valued above $600, the tax shall be one per cent. *ad valorem*. I make this motion, because when I spoke a few moments since, I was told that the amendment of my colleague [Mr. HORTON] would tax these instruments one per cent., which I find is not done beyond the value of $600.

The CHAIRMAN. The Chair must state to the gentleman that debate is out of order.

The amendment to the amendment was disagreed to.

Mr. ALDRICH. I move to amend by adding to the amendment proposed by the Committee of Ways and Means, "harps of a thousand strings, five dollars." [Laughter.]

The amendment was disagreed to.

Mr. VAN HORN. I move to amend the amendment, by adding to it the following:

Provided, That no tax shall be laid upon any musical instrument mentioned in this section, used in churches or places of public worship.

The amendment to the amendment was agreed to.

The amendment, as amended, was then adopted.

Mr. DAVIS. I move to amend by inserting at the end of line eighteen, in schedule A, as follows:

Pleasure or racing vessels known as yachts, whether propelled by sails or steam, valued at not more than $600, five dollars; valued at more than $600, and not exceeding $1,000, ten dollars; and for each additional $1,000 in value, ten dollars.

I will state the object of the amendment in a single word.

The CHAIRMAN. No debate is in order.

Mr. DAVIS. I ask the consent of the committee to make a short statement.

The CHAIRMAN. The House has ordered the debate to be closed, and the committee could not, even by unanimous consent, allow it to proceed.

Mr. WHITE, of Indiana. I move to amend by adding, "pleasure sleighs valued at fifty dollars or over, one per cent. *ad valorem*."

The CHAIRMAN. The Chair doubts whether the amendment is in order while the amendment of the gentleman from Pennsylvania is pending, as an amendment to his amendment.

The amendment proposed by Mr. DAVIS was agreed to.

Mr. WHITE, of Indiana. I now submit my amendment.

Mr. NOBLE. I move to amend the amendment by striking out the words "valued at fifty dollars or over."

The amendment to the amendment was disagreed to.

Mr. STEVENS. I think the gentleman from Indiana had better withdraw his amendment, or insert "pungs and lumber boxes, at ten cents each," for they are the same kind of vehicles.

Mr. WHITE, of Indiana. It being competent for the gentleman to move an amendment to the amendment, I leave him to do it.

The amendment was disagreed to.

Mr. HORTON moved to amend by striking out "twenty dollars," and inserting "ten dollars," in the paragraph, "billiard tables kept for use, twenty dollars."

Mr. PENDLETON moved to amend the amendment by striking out "ten dollars" and inserting "five dollars."

The amendment to the amendment was disagreed to.

Mr. BABBITT moved to increase the tax to twenty-five dollars.

The amendment to the amendment was rejected.

Mr. HORTON's amendment was rejected.

Mr. WHITE, of Indiana, moved to add the following proviso:

Provided, That billiard tables not kept for hire shall be taxed only ten dollars.

The amendment was rejected.

Mr. BLAKE. I move the following amendment:

From and after the 1st day of May, 1862, there shall be levied, collected, and paid by any person or persons owning, possessing, or keeping a dog of any kind, a tax for each and every dog so owned or kept, one dollar.

In support of that amendment, I ask the Clerk to read a communication which I have received from a gentleman from Payson, Illinois, on the subject of taxing dogs.

The Clerk read, as follows:

One war tax desirable in itself.

1. While the necessities of the nation demand that every source of revenue should be made to contribute its full quota, there is one tax for which there are many and pressing demands. This is a tax upon dogs. A tax of one dollar on male and three dollars on female dogs, besides paying a day's expenses of the nation by a stroke of the pen, would secure other most desirable results. In the newer sections of the land, the farmers are constantly harassed by a throng of worthless dogs; many of them wholly wild, others harbored here and there, and others raised in groups by the most shiftless families. For a large part of their subsistence they forage upon domestic animals, chiefly sheep. The knowledge of the worst habits of plunder often will not induce the owner to kill one, while the killing one on suspicion is furiously resented. In all those regions where sheep are most needed to clear and clean and subdue and improve the land, it is impracticable to keep them, as, unless constantly watched, they are sure to be torn in pieces. The farmers of the West need protection from this intolerable nuisance. A suitable tax would speedily abate it. It would add probably $2,000,000 to the revenue, as one person in every ten or fifteen might still keep a dog. In larger proportion than any other this tax will come from secessionists, as they all—cur, wolf, spaniel, and hound—have a strong affinity for the canine race.

2. A tax would secure the immediate slaughter of the most worthless curs. This would tend to the purity and excellence of the rest, and promote their value for hunting, herding, and protection.

3. This slaughter would diminish poor rates and demands on charity, and increase the comforts of many of the most destitute families, as the most shiftless have the most dogs about them.

4. It would remove the only obstacle to the *general* keeping of sheep in the Northwest. In many sections sheep would yield a handsome profit, if raised like swine or cattle, for their flesh, leaving the wool a clear gain. A man can keep all he can herd. They are greatly needed in a new country to help subdue the wild plants, to keep the cleared land from growing up to brush, and to restore to the soil the waste of cultivation. On many farms a small flock can be kept without diminishing other products. The hog cholera and the closing of the southern markets have crippled many farmers, and they are eagerly looking for some new source of profit to enable them to bear the burdens of the war. The able-bodied young men are in the Army, and something is needed with less of hard work than grain requires. The loss of the cotton, and the demands of the Government, make wool higher than ever in proportion to other products. Sheep demand oversight and care and very little hard work. Wool is easily marketed, commands a ready sale for cash, and will bear transportation any distance. By the aid of sheep, the soldier's family, or the family which has sent all its help to the Army, may carry on the farm, and prevent the vacant fields from being wholly overrun with brush and weeds. The care of them will furnish employment to the disabled or wounded soldier, and enable him at once to locate his quarter section.

It is the genius of our institutions to protect the rights of *all*, and to give the utmost freedom in the pursuit of all laudable avocations. Here is an employment within the reach of all, even the poor, the maimed, and the ignorant—pleasant, profitable, useful—from which large sections, which have given their men most freely to the war, are virtually excluded by an untaxed nuisance.

5. An increase of wool would assist in bearing the burdens of the war. It would assist the western farmer to market his straw piles and coarse grains; it would afford a market for eastern sheep; it would add to the taxable value and productions of western lands; it would furnish wool for home working to innumerable families; it would substitute wool for cotton and shoddy in many products, thus lessening our dependence and outgoes; it would stimulate our woolen manufacturers, and lessen their dread of a crash at the return of peace and cotton. It would also lessen the expense of clothing for the Army, while improving its quality by the superiority of home-grown wool. It would lessen our dependence on foreign wool and our danger from a check to its importation by a foreign war. No one who has not given attention to the subject can have any adequate idea of the desirableness of sheep husbandry to the western farmer, or the absolute prohibition of it by the throng of worthless curs. There is nothing else so combining ease, safety, profit, sure market, and quick returns, and requiring so little capital, preparation, ability, or time. It would at once become general were it made practicable and safe by a tax upon dogs. This tax would yield a handsome revenue. It would speedily increase other revenues; it would add to the value of property; it would aid in paying other taxes; it would furnish employment to capital, to classes, and to families; it would aid soldiers' families, and disabled and wounded soldiers to work; it would lessen the expenses of the nation and citizens; it would lighten the loss of cotton, relieve our dependence on foreign nations for a staple commodity, and our privations in case of a foreign war; it would rid us of an intolerable nuisance and imposition.

C. A. LEACH.

Mr. ALDRICH moved to strike out "dog," and insert "dorg." [Laughter.]

The amendment to the amendment was disagreed to.

The amendment was adopted.

Mr. MALLORY moved to exempt from the payment of the tax just voted, "pointer dogs, setter dogs, lap dogs, hound dogs, poodle dogs, bull dogs, and all other valuable dogs." [Laughter.]

Mr. WRIGHT moved to add the words "provided it does not interfere with the reciprocity treaty with Great Britain. [Renewed laughter.]

The amendment to the amendment was agreed to.

The amendment, as amended, was then rejected.

The Clerk read, as follows:

SEC. 76. *And be it further enacted*, That on and after the 1st day of May next, there shall be levied, collected, and paid by any person or persons, firms, companies, or agents or employés thereof, the following duties or taxes, that is to say: On all horned cattle exceeding eighteen months old, slaughtered for sale, fifty cents per head; on all hogs, exceeding six months old, slaughtered for sale, ten cents per head; on all sheep, exceeding six months old, slaughtered for sale, five cents per head: *Provided*, That all cattle, hogs, and sheep slaughtered by any person for his or her own consumption shall be exempt from duty.

Mr. COX moved to strike out "fifty cents per head," "ten cents per head," and "five cents per head," and to insert in lieu thereof, "one half per cent., *ad valorem*."

The amendment was rejected.

Mr. PENDLETON. I move to strike out "on all hogs exceeding six months old slaughtered for sale, ten cents per head." I desire to have the Clerk read the representation upon the propriety

of this proposed tax, of the principal houses in Cincinnati employed in this business. The number of hogs killed last year, was four hundred and seventy-three thousand, and the tax proposed to be levied by this section on that number would amount to $47,300.

The Clerk read, as follows:

To the Committee of Ways and Means,
House of Repreresentatives:

A bill to provide a revenue for defraying the expenses of the national Government, contains one section that makes it the duty of those engaged in slaughtering hogs to make monthly returns under oath, and pay a tax of ten cents per head on all hogs killed.

Now, we wish to call your attention to the following facts in regard to the slaughtering business as conducted in this city.

The hogs are driven into our pens by the owners or drovers, are killed and delivered by us to the purchasers, for which we only receive the offal made in the killing; we have nothing further to do with them, and no money passes through our hands.

We do not see how it will be possible for us to pay the tax of ten cents per head, as, during the season just past, we have paid no premiums and made only a bare living by the business. As the bill now reads we have no power to collect the amount from either owner or drover, from whom we think the tax ought to be collected, as it would manifestly be unjust for the few persons engaged in slaughtering to pay a tax of some forty-five thousand dollars per annum on a business the profits of which are divided among the hog raisers and sellers of Ohio, Kentucky, Indiana, Illinois, and the States west and north of them.

Therefore, we, the undersigned slaughterers of Cincinnati, respectfully suggest that the bill be so altered as to relieve the hog slaughterers from the payment of the said tax, as the same is clearly unjust.

BOWMAN & CO.
RICHARD BERESFORD.
P. ANDREW & CO.
JOSEPH WHITAKER.
SAMUEL DAVIS, Sr.
KIRBY & CO.
CHARLES FLACH.
ROGERS & CO.
SAMUEL SMITH.
F. BERESFORD.

CINCINNATI, OHIO, *March* 24, 1862.

Mr. PENDLETON. I ask the Clerk to read this letter on the same subject.

The Clerk read, as follows:

CINCINNATI, OHIO, *March* 26, 1862.

DEAR SIR: Inclosed please find a petition which I have been at some trouble to get up, for the purpose of trying to have the proposed tax of ten cents per head on hogs killed, transferred from the slaughterer to the raiser or drover, where we think it properly belongs, as we are taxed on the amount of our business the same as others; and then to have to pay this additional tax would be a double load to carry.

The profits of hog killing is not sufficient to enable us to pay the proposed tax and get out even at the end of the season, and if any profits are made from raising and curing hogs, the tax should be put upon those who derive that profit, or at least upon those supposed to derive it, and not upon the one who is only a go-between, preparing the hogs in a suitable shape for a business purpose. The business is not like that of any other, for we do not own the hogs, nor do we buy them for purpose of making a profit on them; we only act as a hired man for the owner. We prepare one party's merchandise to enable him to sell it to another, the same as a tailor hires a cutter and hands to make up his cloth into a shape which enables him to dispose of it and make a profit by doing so. Certainly the committee does not think of taxing the cutter for the number of coats and pants he may cut during the year; but the tailor who makes the profit out of the cloth and the man's labor should pay a tax therefor. So it is with our business; we prepare a man's hogs for market, he makes or is supposed to make a profit thereby; he is surely the party who should pay the tax. We pay tax on the amount of capital employed and amount of business done already, and why should we be compelled to pay the drover's tax for him when we do not make enough by his killing to pay it with.

I have left the top of the petition blank so you could direct it to the proper committee, and we would be glad if you would use your influence in having them take a proper view of the matter.

Please acknowledge receipt of this, and oblige, yours, truly, H. A. BOWMAN.

Hon. G. H. PENDLETON, *Washington, D. C.*

The amendment was rejected.

Mr. MALLORY. I move to reduce the tax to one half on every article. This seems to be a discrimination against the general tenor of the bill. Here the tax is not put upon the manufactured article at all. Now, why should it not be fixed at so much a hundred upon hams, or so much upon pork by the barrel. I think that the tax ought to be applied here as in other branches of manufactures.

The amendment was rejected.

Mr. BLAKE moved to strike the whole section out.

The motion was disagreed to.

The Clerk read, as follows:

SEC. 77. *And be it further enacted*, That on and after the date on which this act shall take effect, any person or persons, firms, or companies, or agents or employés thereof, who shall slaughter for sale any cattle, sheep, or hogs, shall be required to make and render a list at the end of each and every month to the assistant assessor of the district where the business is transacted, stating the number of cattle, if any, the number of hogs, if any, and the number of sheep, if any, slaughtered, as aforesaid, with the several rates of duty as fixed therein in this act, together with the whole amount thereof, which list shall have annexed thereto a declaration of said person or persons, agents or employés thereof, as aforesaid, under oath or affirmation, in such manner and form as may be prescribed by the Commissioner of Internal Revenue, that the same is true and correct, and shall, at the time of rendering said list, pay the full amount of duties which have accrued or should accrue, as aforesaid, to the collector or deputy collector of the district, as aforesaid; and in case of default in making the return or payment of the duties, as aforesaid, the assessment and collection shall be made as in the general provisions of this act required; and in case of fraud or evasion, the party offending shall forfeit and pay a penalty of ten dollars per head for any cattle, hogs, or sheep so slaughtered upon which the duty is fraudulently withheld, evaded, or attempted to be evaded.

Mr. HORTON. I move to add the following proviso:

And provided further, That the Commissioner of Internal Revenue shall prescribe such other rules and regulations as he may deem necessary for the purpose of ascertaining the correct number of cattle, hogs, and sheep liable to be taxed under the provisions of this act.

Mr. Chairman, this proviso is added that the collection may be made more certain. The committee could not provide all of the means for carrying out this provision, and they have thought it proper to confer upon the Commissioner of Internal Revenue the power to make rules and regulations prescribed in my amendment.

The amendment was agreed to.

Mr. KELLOGG, of Michigan. I move to insert after the words "person or persons, firms or companies, or agents or employés thereof," these words, "whose business or occupation it is to slaughter." There are, sir, a great number of farmers in the western States who kill a few hogs and cattle and carry them into the lumber region. My amendment is to protect that class from the operation of this section. I think that this tax ought only to be imposed upon those whose business is to slaughter.

The amendment was adopted.

Mr. STEVENS. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having taken the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt, and had come to no resolution thereon.

And then, on motion of Mr. STEVENS, (at twenty minutes past four o'clock, p.m.,) the House adjourned.

IN SENATE.

TUESDAY, *April* 1, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Interior, communicating, in compliance with a resolution of the 27th of March, information in relation to the slave vessel the bark Augusta; which was ordered to lie on the table.

He also laid before the Senate a report of the Secretary of State in answer to a resolution of the 26th of March, in relation to a correspondence between the State Department and Hon. Franklin Pierce, ex-President of the United States, upon the subject of a supposed conspiracy against the Government; which, on motion of Mr. LATHAM, was ordered to lie on the table, and be printed.

He also laid before the Senate a report of the Secretary of War, in answer to a resolution of March 31, calling for a copy of General Mansfield's report concerning the engagement with the rebel steamer Merrimac, on the 8th of March, stating that it is deemed inconsistent with the public interest at the present time to furnish a copy of that report; which was ordered to lie on the table.

PETITIONS AND MEMORIALS.

Mr. GRIMES. I present a remonstrance of the City Council of the city of Washington against the passage of a bill now pending in the Senate, reported upon by the Committee on the District of Columbia, authorizing persons who have resided only six months within the city of Washington to exercise the elective franchise at the city elections. As that bill is now before the Senate, having been reported from the committee, I move that the memorial of the Common Council lie upon the table.

The motion was agreed to.

Mr. GRIMES also presented a petition of citizens of Iowa, praying for the establishment of a mail route from Atranto to Saratoga, in that State; which was referred to the Committee on the Post Office and Post Roads.

Mr. DOOLITTLE. I have received, through the Secretary of the Interior, a copy of a letter addressed by the Bishop of Minnesota to the President of the United States, which was deemed by him of so much importance that it was referred to the Secretary of the Interior, and his special consideration was requested to it. The Secretary of the Interior has given it that consideration, and has addressed me a letter suggesting certain matters of legislation in relation to the condition of the Indian tribes upon the northern Mississippi. I move that this communication of the Secretary of the Interior, and the accompanying papers, be printed and referred to the Committee on Indian Affairs.

The motion was agreed to.

Mr. BROWNING. I present a memorial from the constitutional convention of the State of Illinois, recently in session at Springfield, in that State, relating to the enlargement of the Illinois and Michigan canal, praying that it may be so enlarged as to afford passage to ships, making a ship canal of it. I move that it be referred to the Committee on Commerce.

The motion was agreed to.

PAPERS WITHDRAWN.

On motion of Mr. POWELL, it was

Ordered, That Clement L. Lukens and Hugh Maxwell have leave to withdraw their petition and papers.

REPORT FROM A COMMITTEE.

Mr. GRIMES, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 250) to amend an act entitled "An act to create a metropolitan police district of the District of Columbia, and to establish a police therefor," approved August 6, 1861, reported it with amendments.

BILLS INTRODUCED.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 256) for the relief of the widows and orphans of the officers, seamen, and marines of the United States ships Cumberland and Congress; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. WILSON, of Massachusetts, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 257) for the better organization of the militia of the District of Columbia; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 72) for the adjustment of certain land claims; which was read twice by its title, and referred to the Committee on Private Land Claims.

GENERAL WOOL'S COMMAND.

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

Resolved, That the Secretary of War be instructed to submit to the Senate the correspondence of General Wool with the War Department, relative to a movement of the Army, or a part thereof, since he has been in command of Fortress Monroe.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the Speaker of the House had signed the following enrolled bills and joint resolution:

A bill (S. No. 120) in addition to "An act to refund and remit the duties on arms imported by States," approved July 10, 1861;

A bill (H. R. No. 318) to prohibit the allowance or payment of pensions to the children of officers and soldiers of the war of the Revolution; and

A joint resolution (H. R. No. 49) for the

appointment of Theodore D. Woolsey, of Connecticut, a regent of the Smithsonian Institution, in place of Cornelius C. Felton, deceased.

REBEL BARBARITIES.

Mr. SUMNER. I offer a resolution, and ask that it be considered now:

Resolved, That the select committee on the conduct of the war be directed to collect evidence with regard to the barbarous treatment by the rebels at Manassas of the remains of officers and soldiers of the United States killed in battle there, and to report the same to the Senate, with power to send for persons and papers.

The resolution was considered by unanimous consent.

Mr. SUMNER. We have all been shocked during the last few days by the evidence that has accumulated with regard to the treatment of our dead at Manassas. Instead of those honorable rites which generous soldiers in all ages have bestowed upon enemies fallen in battle, we have been disgusted by barbarities which remind us of savage life. Bodies have been dug up and human bones have been carried off as trophies. The skull of a gallant Massachusetts soldier has been converted into the drinking-cup of a Georgia colonel, that he may, far away among his slaves, renew those barbarous proceedings which, in another age, have gone under the name of "The Feast of Skulls." It is obvious, sir, that we are now in conflict with beings who belong to a different plane of civilization from ourselves, and it is important that this unquestionable fact should be made known to the country and to the world. All familiar with recent events will remember the effect with which that great minister, Cavour, when on the eve of the war of Italian liberation, put forth his circular setting forth the outrages of the Austrian soldiers to the Italian inhabitants. Through that appeal, sir, he secured the general sympathy of Europe and of the civilized world. Our cause needs no such document; but I am anxious, nevertheless, for the sake of history, that the record should be made. Let it be made, too, also, that the country and mankind may see that slavery in all its influences is barbarous—barbarous in peace, barbarous in war, barbarous always, and nothing but barbarism.

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

Mr. HOWARD. I desire that the resolution may be again read. I think there are other subjects which the committee ought to inquire into as well as the atrocities which are referred to in the resolution.

The Secretary read the resolution.

Mr. HOWARD. Mr. President, I move to amend the resolution by adding to it a clause requiring the same committee to inquire into the question of fact whether the insurgents have employed the savages for the purpose of prosecuting their unholy war against the United States, and to report to the Senate the facts which may be obtained upon that very important inquiry. It is a matter of perfect notoriety, if we are to believe the public journals of the day, that the rebels have not only committed the atrocities to which the honorable Senator from Massachusetts has so graphically and eloquently referred, but that they are in the habit, and have been in the habit since the commencement of the insurrection, of employing and arming against the Union people on the frontier the murderous savage, and placing in his hands not only the tomahawk and the scalping-knife, but other arms; and that there are numerous instances of the grossest, the most inhuman atrocities having been committed by these armed savages, most, if not all, of whom are merely pensioners upon the Government of the United States. I refer particularly to the newspaper accounts which we have received of the terrible scenes that existed at the battle of Pea Ridge, in which numerous savages are reported to have been employed upon that bloody field against the Union troops. And I desire to say here in my place, as an American Senator and as a friend of honorable, civilized war waged in a just and holy cause, that if I had the command of a body of men in a hostile territory, I would never make prisoner of a man, officer, or private who was found upon that field fighting side by side with an Indian. I would give him the same treatment which General Harrison proposed to administer to British soldiers in Canada who should be found fighting side by side with Indians. I desire that this amendment may be made, and I especially desire that the attention of the committee may be given to the subject, and that we may have whatever facts exist upon this subject also.

The PRESIDENT *pro tempore*. The Senator from Michigan will prepare his amendment.

Mr. SUMNER. I hope my friend from Michigan will allow me to suggest that perhaps it would be better to introduce his inquiry in the form of a separate resolution. Mine is specific in its character, relating to incidents which, it is said, have occurred in our own neighborhood, and I would suggest that it be allowed to stand by itself. Another inquiry like that suggested by the Senator may properly be made the subject of another resolution.

Mr. HOWARD. If it is not agreeable to my friend from Massachusetts, I will not insist upon my amendment; but I desired to say thus much at least on the subject of these Indian atrocities.

Mr. WILSON, of Massachusetts. I should like to hear the resolution read, and I should like also to hear the amendment.

The Secretary again read the resolution, and also the amendment of Mr. HOWARD, which is as follows:

And that the said select committee also inquire into the fact whether Indian savages have been employed by the rebels in their military service against the Government of the United States, and to report the same to the Senate, with power to send for persons and papers.

Mr. SUMNER. I have no objection to the amendment.

Mr. HOWARD. I think I shall insist on my amendment. I do not see any incompatibility in it to the resolution.

Mr. COLLAMER. I suggest to the Senator that that amendment should be a little modified in this: that the committee should not only inquire whether the savages have been employed, but how their savage warfare has been conducted.

Mr. HOWARD. I accept that as an amendment to my amendment. I certainly think it is due to the age in which we live and the nation to which we belong that history should record these reported continual violations of the principles of honorable war.

The PRESIDENT *pro tempore*. The Senator from Michigan accepts the modification of his amendment suggested by the Senator from Vermont; and the question now is on agreeing to the amendment, as modified, to the resolution of the Senator from Massachusetts.

The amendment was agreed to.

The resolution, as amended, was adopted.

REGENT OF SMITHSONIAN INSTITUTION.

Mr. DIXON. Yesterday, I think, during my absence from my seat, or when my attention was not directed to it, the Senator from Vermont [Mr. COLLAMER] called up a joint resolution appointing President Woolsey, of Yale College, a regent of the Smithsonian Institution. I had previously offered a resolution for the appointment of Mr. Barnard, of Connecticut. Mr. Barnard had requested me to withdraw his name. I ought to have done it, and should have done it yesterday in justice to him, if I had been present when that joint resolution was passed. I ask the consent of the Senate to allow the reading of a letter from Mr. Barnard, in which he requests that his name may be withdrawn, and Mr. Woolsey be appointed.

The PRESIDENT *pro tempore*. No objection being made, the letter will be read at the request of the Senator from Connecticut.

The Secretary read it, as follows:

WASHINGTON, *March* 27, 1862.

MY DEAR SIR: I thank you for the kind manner in which you was pleased to present my name to the Senate in nomination for the post of regent of the Smithsonian Institution. I see by the papers that the name of President Woolsey, of Yale College, has been presented to the House for the same vacancy. As an "older and a better soldier" in the cause of good learning, Dr. Woolsey should receive that appointment by the vote of every friend of my nomination; and I beg, therefore, you will, in your own time and way, withdraw my name, and give your vote and influence heartily for his appointment.

Very truly yours, HENRY BARNARD.

Hon. JAMES DIXON.

Mr. COLLAMER. I merely wish to say that the gentleman is mistaken in one idea. I know he was present when this resolution was called up. He was sitting in his seat.

Mr. DIXON. I presume I was; but my attention was not called to it.

Mr. COLLAMER. The Senator might not have heard it; but he was present.

Mr. DIXON. I was not aware of its being called up.

HEIRS OF STEPHEN JOHNSTON.

Mr. WADE. I move to discharge the Committee on Private Land Claims from the further consideration of House bill No. 265, and I shall then move that the Senate take up the bill for consideration.

The PRESIDENT *pro tempore*. The Senator from Ohio moves that the Committee on Private Land Claims be discharged from the further consideration of the bill (H. R. No. 265) to authorize the Court of Claims of the United States to hear and determine the claim of the heirs of Stephen Johnston, deceased.

Mr. FESSENDEN. I should like to hear some explanation. Has there been a report from the committee?

Mr. WADE. The committee assent to this motion.

The PRESIDENT *pro tempore* put the question, and declared that the motion to discharge the committee was agreed to.

Mr. FESSENDEN. The Senator from Ohio was addressing the Chair. I desired to have an explanation of the motion.

Mr. WADE. I was going to say in support of the motion, that I believe the Committee on Private Land Claims did not contemplate a formal meeting of the committee to consider the bill. Their chairman [Mr. HARRIS] had thoroughly considered it and said it was all right. He so told me, and that he was ready to report it at any time. The other members of the committee, with the exception, I believe, of the Senator from Connecticut, [Mr. FOSTER,] who had not an opportunity to examine it, were willing that this motion should be made. I think they did not intend to go into a formal meeting for the purpose of considering it, but, each one satisfying himself that the bill was right, they intended to report it. The chairman of that committee has gone away, and I understand will not be here for some time. Believing the bill to be entirely right, that no reasonable objection can be made to it, and it not being a very great matter for consideration, I was anxious to dispose of it now, for the reason that this claim, in one shape or another, has passed both branches of Congress quite a number of times, and the equity and justice of it have been repeatedly assented to by both branches. Believing that it would be some time before that committee would assemble so as to make a formal report, after consulting the members of the committee who are present, and they were willing I should do so, I have made this motion.

The PRESIDENT *pro tempore*. Does the Senator from Maine insist on a division on the motion to discharge the Committee on Private Land Claims from the further consideration of this bill?

Mr. FESSENDEN. No, sir; I merely wanted to hear an explanation of it.

The PRESIDENT *pro tempore*. Then the motion is carried.

Mr. FESSENDEN. I will state, by way of explanation, that I have been on this Committee on Private Land Claims myself, and I know very many bad claims are presented there. I know that heretofore a great many fraudulent claims have got through, and I am therefore desirous that every one should be examined. The Senator from Ohio says this is all right, and of course I shall not object.

The PRESIDENT *pro tempore*. The Senator from Ohio further moves that the Senate now proceed to the consideration of this bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 265) to authorize the Court of Claims of the United States to hear and determine the claim of the heirs of Stephen Johnston, deceased. As by an act of Congress passed on the 20th of July, 1840, for the relief of the children of Stephen Johnston, deceased, they were authorized to surrender to the United States certain lands, and to receive in lieu thereof a certificate "receivable in payment at any land office of the United States for any half section of land not subject to preëmption;" and as those heirs, in pursuance of the provisions of that act, did, on the 2d day of February, 1841, surrender the land, and did receive a certificate, and did thereafter twice make

application to the Commissioner of the General Land Office for the purchase of one half section of the public lands of the United States with the certificate, which applications were refused by the Commissioner, although at the time of the applications the lands applied for were duly authorized to be sold; and as it was the manifest intention of Congress, by the passage of the act, to give to the heirs the right to make choice of and purchase with the certificate any half section of the public lands of the United States, in order to compensate the heirs for the loss of a judicious selection of land granted to them by the provisions of a treaty made by the United States with the Pottawatomie Indians on the 16th of October, 1826; and as since the passage of the act, and the issuing of the certificate, the most valuable lands of the United States have been disposed of and made subject to preëmption, and the holders of the certificate have been deprived of the use thereof in the purchase of such valuable lands by reason of the decisions; and as there are now no public lands of the United States upon which the certificate could be used, affording anything like a just compensation to the heirs for the loss of a judicious selection for them under the provisions of the treaty; the bill refers back the claim of the heirs of Stephen Johnston, deceased, to the Court of Claims of the United States, together with the record and papers of the case of Stephen Johnston and others against the United States, formerly heard in that court; and thereupon the court is to be authorized and directed to order proof to be taken of the value of such a selection of one half section of land within the boundaries of the recited treaty as the heirs were justly and equitably entitled to, as it was on the 2d of February, 1841; and in estimating the value of such a selection as it was on that day, all or any improvements upon the land so valued are not to be considered, but the value of such a selection is to be estimated considering its natural advantages of position, &c., and any increase of value from extrinsic and general causes to that date.

When the value of such a selection shall be so ascertained by the proof, and thereupon determined by the court, which is required by the bill, the court is to add interest upon the value so determined from February 2, 1841, and thereupon to ascertain and determine what amount of land scrip of the United States may be necessary to be issued to the heirs in compensation and satisfaction of the amount so ascertained and determined by the court, and thereupon the court is to order the amount so ascertained to be issued; and the Secretary of the Interior is required, upon that order, and the surrender of the land certificate now held by the heirs to the United States, to cause to be issued to the heirs—Stephen Johnston and his heirs and assigns and Eliza Winans and her heirs and assigns—in equal proportions, severally, land scrip of the United States to the amount ascertained and determined by the court, which scrip is to be receivable in payment for any lands of the United States subject to private entry, the minimum price of which does not exceed $1 25 per acre for each acre mentioned in the certificates of scrip so issued; and this land scrip, if offered, is to be receivable in payment of any lands of the United States the sale of which is authorized by law, the value of the scrip to be estimated at $1 25 for each acre of land therein named; that is to say, scrip for eighty acres of land is to be deemed to be of the value of $100, and is to be received as so much money when offered in payment of land worth more than $1 25 per acre, and the same rule is to apply to the scrip issued for a greater or less number of acres; and the land scrip is, moreover, to be assignable by indorsement, attested by two witnesses, and is to be issued in legal subdivisions, in the following manner: for each section to be issued one certificate of scrip for one hundred and sixty acres, four certificates for eighty acres each, and four certificates for forty acres each; but if there should be any fraction less than forty acres to make up the amount to be issued, it is to be so issued; and when so issued and delivered, is to be in full satisfaction and adjustment of the claim.

Mr. FESSENDEN. It is a new idea to give interest on private land claims. I never heard of it before. It would be a very bad precedent to establish, and a dangerous one, that we should pay interest on these old claims from the time it is said they ought to have been settled. This bill provides for the allowance of any increase of the value of the land from natural causes from that time to the present, and to give them interest on the amount beside. I move that the clause giving interest be stricken out.

Mr. WADE. I hope that will not be agreed to. I think the Senator, when he comes to understand it, will withdraw that motion. At the time mentioned, from which interest is to commence, the Government had made these parties a title to certain lands, and they have been kept out of all their property in that land from that time until the present. If they had been thus deprived by an individual, of course they would be entitled to recover interest on the amount, and I think it is no more than equitable that this Government should do the same. They certainly have kept this man and his sister out of this land for almost an entire generation, by selling the land that he had levied upon before his title was perfected. He would make his location, and then it would be passed over to somebody else, and so it has been all along. I hold in my hand a report on this subject, and I wish that it might be read. It is a report of the House committee, who were unanimous upon it, and I believe if the Senate will hear that report read, they will say that the claim is an equitable and just one. It is a very small matter. I ask for the reading of the report.

The Secretary read it, as follows:

The Committee on Private Land Claims, to whom was referred the claim of the heirs of Stephen Johnston, having had the same under consideration, report as follows:

The committee find that in a treaty between the United States and the Pottawatomie Indians, made October 16, 1826, was reserved to the heirs of Stephen Johnston a half section of land, (three hundred and twenty acres,) to be located under the direction of the President of the United States. These heirs were two children, a son and a daughter, then minors. The consideration for this grant was the fact that the father of these children had been cruelly murdered by these Indians while in the service of the United States, and while engaged in a heroic attempt to convey a dispatch from Fort Wayne, then besieged, to the Government forces under General Harrison. A hundred and sixty acres of wild land each was certainly a small consideration to these children for such a loss; and every principle of honor, justice, and humanity, required that, in the selection of these lands, great care should be taken that no injustice was done them. Such, however, was not the case. A half section of land was selected for them, deficient both in quality and quantity.

Congress interfered, and to compensate for this injustice, by an act approved July 20, 1840, provided that upon the surrender of the lands thus selected, a certificate should issue to these children, receivable in payment at any land office in the United States, for any half section of land not subject to preëmption.

The lands were surrendered, and the certificate authorized by said act issued February 2, 1841.

These lands, when relinquished to the United States, were worth from five to seven dollars an acre.

In view of this fact, and the sacred character of the trust, it is certain that Congress expected and intended that the certificate thus issued should secure to these children lands worth at least as much as those surrendered. Otherwise, the injustice would have been magnified, not remedied. And it will be observed that the language of the certificate is very comprehensive: "This certificate shall be receivable in payment at any land office of the United States for any half section of land not subject to preëmption." It is clear, therefore, in view both of the surrounding circumstances and the language used, that if this certificate was in all other respects properly tendered in payment of a half section of land, it could not properly be rejected on account of the value of the land.

This certificate has been several times offered, and twice tendered in payment of a half section of land, not subject to preëmption, and in each instance refused.

The heirs first selected a half section in what is known as the Wyandotte reserve in Ohio, the minimum price of which was $2 50 an acre; and offered their certificate in payment; but it was refused. Afterwards, in September, 1844, at a public sale, they bid off a half section of said lands at twenty-five dollars an acre, and tendered their certificate in payment, and it was again refused. In March, 1847, Congress again interfered, and by joint resolution authorized the certificate to be received in payment of any half section of the Wyandotte reserve. But before they could avail themselves of the benefits of this resolve, the lands were all sold; and thus the good intentions of Congress were defeated.

In August, 1854, these heirs again applied to the Commissioner of the General Land Office for leave to locate their certificate on a half section of the Fort Snelling lands in Minnesota, then advertised for sale, and were refused. These lands were very valuable; the half section selected by them is estimated by witnesses to have been worth at that time at least $75,000; and one witness having good opportunities to know estimated it as high as $500 an acre. And, although they were afterwards put into market and sold by the United States for $1 25 an acre, it was to enrich other parties, and not the heirs of Stephen Johnston.

Believing they had a right to purchase with their certificate a half section of these lands, these heirs, on the day of the sale, as advertised, caused their certificate to be tendered at the land office in payment therefor; and this was repeated from day to day during the time within which they were advertised to be sold; but the certificate was refused, and no sale was then had.

Claiming that this refusal was wrong and in violation of their rights, the heirs next applied to the Court of Claims to be allowed in money the value of the half section of the Fort Snelling lands in payment of which they had tendered their certificate. This claim was rejected by the Court of Claims. The reason assigned is that the Fort Snelling lands were to be sold under special provisions of law, and not under the general land laws. The committee do not find it necessary to call in question the correctness of the decision of the Court of Claims, but it certainly places a restriction upon the use of the certificate in question, not found upon the face of it or in the act authorizing its issue. The language both of the act and the certificate is, that it shall be receivable in payment of any half section of land not subject to preëmption. The decision of the court makes it read, in effect, that it shall be receivable only in payment of any half section sold under the general land laws, and that it cannot be so received in payment of land sold under special provisions of law. This is certainly a very sharp limitation upon the language of the certificate; and more especially observable, as, on a careful examination, the committee do not find that the sale of the Fort Snelling lands, authorized by special act of Congress, differed materially from the sale of other lands under the general land laws.

The committee, however, do not find it necessary to go into technicalities. The justice of the petitioners' claim, and the necessity of furnishing them relief, in some form, lie upon the surface and may be seen at a glance. For a consideration, which upon every principle of honor and humanity, ought to have been guarded and protected by the Government of the United States, these orphan children were entitled to a half section of land, equal in quantity and quality with other lands included in the treaty. Their rights were not regarded. Such a selection was not made for them. Every attempt of Congress to remedy the wrong done them, has thus far proved a source only of vexation and expense. They surrendered to the United States lands worth from five to seven dollars an acre; and to compel them at this time to take a half section of land authorized to be sold by the general land laws, for $1 25 an acre, and owing to the fact that the country is now flooded with land warrants, can be bought for fifty cents an acre, is not to remedy the wrong that has been done them. It only increases the wrong; and to call it a remedy is a misnomer, and an insult to the parties affected.

The committee therefore report such a bill as in their opinion will do justice to these parties, and recommend that it be passed.

The basis of the intended relief is that the Court of Claims shall ascertain the value of such a half section of land as these heirs were justly and equitably entitled to under the treaty, at the time when their claim to said lands was surrendered to the United States, and to such value and interest from that time to the time of making the computation; and to pay them the amount thus ascertained in land at its fair value.

Mr. FOSTER. As the Senator from Ohio has referred to me as being one of the committee who had not examined this subject, it may be proper that I should say a word in explanation. Soon after the bill came from the House of Representatives, the chairman of the Committee on Private Land Claims, to which committee the subject was referred, handed the papers to me with a request that I would examine the subject. I did so and came to the result from the papers before me that the bill ought not to pass without additional testimony, and suggested to the chairman and to the party prosecuting the claim my difficulties in regard to the question. Sometime after, a number of documents were brought to me by the party presenting the claim, who stated that they were full and explicit upon all the points in respect to which I had suggested difficulties, and assured me if I would examine them I would be satisfied that the bill ought to pass. Within a day or two after that, I was called out of the city by the death of a relative, and was absent during the whole of last week, and have not therefore since my return—returning yesterday—had any time to make any further examination. That is the reason why I have not united with the committee in coming to the result to which the committee have arrived.

Mr. WADE. The reason that the proofs were not here, as I understand and believe, was that there was an omission to send them with the papers from the House of Representatives; but they were afterwards furnished to the chairman of that committee, [Mr. HARRIS,] who informed me that he was entirely satisfied in regard to the bill, and on his part was ready to report it. I went to the other members of the committee, who also said they were entirely satisfied, with the exception of the Senator from Connecticut, as I have already stated, who had not an opportunity to examine it on account of his absence. It is not a very large matter, and it only asks that these persons shall be indemnified for this claim in land scrip. They have been dancing attendance on Congress I think about as long as we ought to permit them to do. I suppose they have expended five times more than they can ever recover by this bill. I think it would have been better for them if they had abandoned it in the first place, and

never attempted to get anything. It is no act of generosity on the part of the Government. The fact is that this land donation came from the Pottawatomie Indians, who had barbarously murdered the father of these children, and gave this land to the Government in trust for them, according to their custom, as I understand it, that when they commit a murder they must make a gratuity or pay the price of that murder, in their own language, or they expect retaliation will take place, and they will be murdered themselves. They made this donation in accordance with their own principle. They murdered the father of these children, and then they made this grant of land, and stipulated in the treaty that these children should have this amount of land. The Government has had it all the time. They have sold it. They have kept these parties out of it. As often as they have made a levy anywhere, they have found that the Government had appropriated the land previously, and they cannot keep up with the Government anywhere. If they discover a good location, and attempt to put their warrant upon it, they find it sold, and are refused, and have been refused repeatedly.

I repeat, sir, that this is not a very large matter, and I hope the bill will be suffered to pass. I believe it is right. I do not think there is anything wrong about it, though I do not profess to have studied it thoroughly; it has not been before me. But when I see that it has several times passed through both branches of Congress, and when I see the report which the House committee have made, and the unanimous conclusion they have come to, and also the conclusion of our own committee who have examined it, I think we ought to let it pass.

Mr. FESSENDEN. Although this may be a small matter in itself, it involves a principle that I apprehend may take millions out of the Treasury. It is establishing the principle that where a man is entitled at a particular time to a piece of land, and does not get it from any cause with reference to the action of the Government, he may have interest on his claim from the time he was so entitled to receive his land. Sir, if you undertake to establish a principle of that sort, with all the private land claims there are against the Government—it is a new principle entirely unheard of in the administration of our affairs—gentlemen must see what the effect upon the Treasury will be.

I am not so clearly convinced that the bill itself is right, for I think the effort to levy this title upon a part of the Fort Snelling reservation was one which was very properly repudiated by the Court of Claims some years ago. It clearly was not intended, and would convey lands of vastly greater value than could ever have been supposed to be intended. It is, therefore, in that view, by the decision of the Court of Claims, very much the fault of these persons themselves, who attempted to get what they had no right to; and I think we may take the decision of the Court of Claims, who have examined the subject, as correct, so that the delay of a very large portion of it, for a certain length of time, has been owing rather to their own action than the action of the Government. But be that as it may, Congress has never yet recognized a principle of this sort with reference to lands under any circumstances; and the reason is perfectly manifest, and that is, the door that would be opened to a large number of claims which would sweep a much larger proportion of our public lands than was intended. I think it is wrong; I think it is very dangerous. The Senate can do what they please.

Mr. WADE. I believe that the Senator states the rule about interest more rigidly in behalf of the Government than it has been practiced. I know that during the six years I was upon the Committee on Claims, our rule then, that was enforced in all cases, was that where the Government acknowledged themselves to be in default, we always paid interest.

Mr. FESSENDEN. No, sir.

Mr. WADE. From the time that there was a manifest default——

Mr. FESSENDEN. We never paid it on a land claim in the world.

Mr. WADE. I do not know that it applied to land claims. I know that was the rule as to all claims, and I do not know that a land claim differs materially from any other claim.

Mr. FESSENDEN. I am not aware that there has been any interest allowed in any case except where a judgment has been recovered before a court which has not been paid.

Mr. WADE. We always reported in favor of paying interest wherever the Government acknowledged themselves to owe the money because they were out of funds, because there was not an appropriation, or anything of that kind. Where they admitted the justice of the account, but had not the means of paying it, frequently for want of appropriation being made for it, we allowed interest. In all these cases, so long as I know anything about the decisions, that was the rule. Of course we did not allow interest on unliquidated claims while the evidence was being prepared, and if the officers had been a great while coming to a conclusion on them, we did not allow interest. Perhaps we allowed it in no case where the claim had been delayed for the purpose of ascertaining whether the party was entitled to it, let the period be long or short; but from the moment the claim was liquidated and acknowledged by the Government, and they refused to pay for any reason, either want of funds or anything else, we always allowed interest. That was the distinction.

Suppose a man presents his claim to Congress, and he does not make it out to the satisfaction of Congress, but he takes evidence; it passes along from year to year; it passes one branch and not the other. I have known claims of that description for twenty or thirty years. We do not pay interest on those, though we ultimately conclude the party was entitled to the money; he had not made it manifest at first; but from the very moment the Government admitted themselves in default, we always gave interest. That is the understanding I have always had of the rule, and believe it has always been so administered. Now here the Government have been in default all along; these parties were entitled to this land a long time ago, but they do not seek any interest from that period, but only from the time when they did make a location and when the Government admitted that their claim was just, and yet sold the land and took the benefit of it themselves, thus depriving them of the location they had made.

As to the Fort Snelling claim, the last grant of Congress was broad enough in terms to include that or any other land situated in like manner; and they were justified in endeavoring to obtain it. The committee of the House of Representatives now conclude that the decision of the court was wrong, although they do not intend to controvert it, because they say the grant was sufficiently large to enable these persons to levy and to hold land there. The court supposed that it would be unreasonable to give them so good an opportunity, but did not really find any restraint in the terms of the grant. I can hardly see how any lawyer can say that they were not entitled to levy on the land at Fort Snelling. I should like to know where the limitation is. The court so found, and I do not controvert that; I am not seeking to overturn that decision, but I do think that from the time the Government had conveyed away the land that these people had selected, they ought to pay interest, especially if these persons are willing to take it in land scrip. I think the title is just. They have been perplexed long enough. As I said before, it would be much better for them if they had never had any grant. If they had suffered their father to be killed in the service of the country and not attempted to receive any kind of benefit for it, they would be better off to-day than they are.

The PRESIDENT *pro tempore*. The morning hour having expired, the Senate will proceed with the regular order of the day, which is the bill (S. No. 108) for the release of certain persons held to service or labor in the District of Columbia, on which the Senator from Indiana is entitled to the floor.

Mr. WRIGHT. I trust the Senate will go on with the present bill. I feel some solicitude about it.

Mr. WADE. I will not press it now if there is to be much debate; but I should like to have it disposed of.

Mr. HARLAN. I think it would be better for this bill to go over. It is an entirely anomalous case. I have never known the Senate to pass such a bill, and I would prefer, individually, to have an opportunity to look at it. I move that the bill be postponed until to-morrow.

The motion was agreed to.

SLAVERY IN THE DISTRICT.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 108) for the release of certain persons held to service or labor in the District of Columbia, the question pending being on the amendment of Mr. POMEROY to insert as an additional section:

SEC. —. *And be it further enacted*, That the commissioners provided for in this act shall be, and they are hereby, authorized to make and effect an equitable and just settlement of all demands existing between the master or owner and the so-called slave; allowing the master a reasonable compensation for all supplies of food, clothing, or money he may have paid said slave, and for all expenses he may have incurred in consequence of his sickness or disability, as well also as for all the master may have expended for his moral or intellectual education. At the same time, to settle and adjust this account, said commissioners shall allow the slave (and charge the same against his master's account) a just and fair compensation for all services rendered and labor performed; and such balance as the said commissioners may find to be actually due, either to master or slave, shall be paid to each respectively, out of the money hereby appropriated for carrying into effect the provisions of this act. All persons under the age of twenty-one years appearing before said commissioners shall be represented by their parents, if living, and within the District, and adjudged competent and responsible to act in behalf of an interest for others. If non-residents, or judged incompetent, or not trustworthy, said commissioners shall appoint trustees or guardians for all minors and incompetent persons, whether masters or slaves, under such rules and regulations as they may prescribe: *Provided always*, That in no event shall the amount found to be due, either master or slave, exceed the average sum of $300 for each person liberated by the provision of this bill.

Mr. WRIGHT. Mr. President, I can assure the gentleman who introduced this bill that I will not embarrass the action of the Senate by a lengthy speech upon it. I feel somewhat embarrassed, however, though I have been a good while in public life, in rising here to speak on a subject of this character. I am well aware that I am not equal to the magnitude of the question the occasion presents; but I have a few plain thoughts that I desire to submit.

I earnestly hoped when I took my seat here, that during this trouble, this unnatural strife, I should see my way clear, and in every vote, in every act, while I was a member of the Senate, to do something that would tend in some form, directly or indirectly, to the putting down of this rebellion; and I hoped that these embarrassing questions which have disturbed our country for years—the question involved in this bill among the others—would, at least, not be presented in the present unfortunate condition of our country. I have no tastes which would be gratified by going back to the past. I leave other Senators, of different disposition and desires, to speak of the history of the organization of the Government of our fathers, and to talk about this act or that act being the result of the slaveholding interest of the country. I was taught early in life to regard as a maxim in politics, the truth that there is evil enough in every section of our country to be looked at with regret, but that the better duty of the citizen and the politician is to look at the bright side of the picture which our nation presents. I know that your fathers and mine had trouble in forming the principles of this Government. This evil which we have now in our land, which is now so much the subject of discussion, was then among us. I believe in relation to it the founders of our Government did the best they could. I have no predisposition to hunt up records; I leave that to gentlemen who with care turn over books and devote hours after hours of their time to inquire what was done by the South or by the North. They are all past. I know, as a matter of history, that that remarkable provision in our Constitution which continued the slave trade up to 1808, was not placed in the Constitution by the unanimous votes of any one section of this country. I remember that old Virginia and Delaware voted against it; and I remember that Massachusetts voted for it. But I apprehend our fathers did the very best they could; I apprehend that at the time they formed this Government they did what they believed was right; and I leave to other gentlemen the pleasure of turning over the records and attributing special provisions to this or that section of the country. I represent in part here a people who belong to no section of this country. So far as these ultra questions are concerned, we belong neither to the North nor to the South. If there be any portion of this country that is loyal and conservative, it is the people of the State of Indiana. Perhaps this results from their geograph-

ical position and the fact that they have interests both North and South. Such, however, is the fact; and in what I say to-day I shall try to represent what I regard to be the views and opinions of my own loyal and conservative State.

Since I came here, what have I found? Instead of Senators avoiding questions which are calculated to enlist the bitterest feelings in particular sections of the country, bill after bill is presented which is calculated, in my judgment, to inflame and irritate and occasion sectional discord; and my purpose is to-day to give the reasons for the votes I shall give upon them. I find here a bill on the subject of carrying the mail by colored people. I find here a bill on the subject of the elective franchise in the District of Columbia, reducing the residence required to six months. I find a proposition here to reduce States of this Union to Territories. Turn which way I will, I meet questions of this sectional character all around me.

I must say, with all due respect to gentlemen who take a different view, that it seems to me there are other questions which ought to be looked into by the Senate, and that are, at least, as pressing and important as these. I surely regard the confiscation bill as of more moment, and more interest for the suppression of the rebellion than any question before the Senate. Such a bill properly guarded is essentially called for by the country, and is, in my judgment, imperatively demanded as one of the means to put down this rebellion. Besides, there are questions of revenue, and questions affecting the payment of our troops, which earnestly and loudly call for our speedy attention. At this very hour, while we are discussing this bill, there are portions of our Army that for months have received no pay. I think it would become us more properly if our time were devoted to such questions as are connected with the proper prosecution of the war.

I have presented a bill on the subject of the abolition of slavery in the District of Columbia. It is not my bill. It is a copy, as I am advised, of a bill introduced by the present worthy President of the United States when he was a member of the House of Representatives in 1848. I do not say that I favor all its provisions; but it is so much better than the bill before the Senate, and the indications are that some bill will be passed on this subject, that I have thought proper to submit it. I need not say that if there had been no bill introduced in this Congress on the subject of slavery in the District of Columbia by any other member, there would have been none presented by myself. I greatly prefer, in the present distracted condition of our country, that questions of this character should be passed by. I have presented this bill because it has two features which I regard as very important, and indeed, essential, if any such measure is to pass. It provides for the gradual emancipation of the slaves in this District, and upon this point I desire to call the attention of the Senate to a precedent made in a similar case by the distinguished patriot and statesman of Pennsylvania, who was on yesterday alluded to by the Senator from Massachusetts, Benjamin Franklin. Pennsylvania, in 1790, with less than half a million of white population and less than four thousand slaves, did not see proper to make a sudden and radical change in her domestic or social systems. In a statute of two or three short sections, preceded by a terse and beautiful preamble, a portion of which I shall here read:

"We esteem it a peculiar blessing granted to us, that we are enabled this day to add one more step to universal civilization, by removing, as much as possible, the sorrows of those who have lived in undeserved bondage, and from which, by the assumed authority of the kings of Great Britain, no effectual legal relief could be obtained. Weaned, by a long course of experience, from those narrow prejudices and partialities we had imbibed, we find our hearts enlarged with kindness and benevolence towards men of all conditions and nations; and we conceive ourselves at this particular period extraordinarily called upon, by the blessings which we have received, to manifest the sincerity of our profession, and to give a substantial proof of our gratitude."—*Purdon's Digest*, p. 864.

A striking and beautiful preamble, one worthy of the man, worthy of the occasion. This is followed by two short and simple sections, providing that slaves born in Pennsylvania, when they arrived at twenty-eight years of age should be free, and hence slavery existed in Pennsylvania until 1840. The point, however, is this: here was a State with five hundred thousand white population, with less than four thousand slaves, and that eminent statesman who, it is said, drafted the preamble I have just read, did not see fit to change the condition of things then existing by a sudden law, but left it to work by that gradual process which I think it would be proper for us at this time to rely upon to accomplish the result which gentlemen have in view. The great misfortune is that we have a class of men in this country who are never satisfied with gradual results. The history of the world is full of instances of men rushing along and tearing down in their impetuous course the pillars of society, and actually retarding the very thing which they aimed to accomplish. A wise and prudent statesman takes things as he finds them, and endeavors to adapt his legislation to the condition of society.

I propose in the bill which I have submitted, to adopt a provision looking to the gradual abolishment of slavery in this District. I believe that no sudden change should be made.

I cannot vote for the bill presented by the chairman of the Committee for the District of Columbia for various reasons. If that bill passes in its present form, there is nothing to hinder a man from Virginia, in a portion of which slavery is now practically extinguished, bringing in his slaves, or purchasing them at twenty dollars, and selling them at $300 to the Government. The bill does not prohibit anything of that kind. But, sir, allusion was made yesterday by the Senator from Massachusetts to Mr. Adams. So far as I know Mr. Adams—and I had the pleasure of serving with him in the Twenty-Eighth Congress, where I agreed with him on the subject of the right of petition, and voted with him to repeal the rule prohibiting the reception of such petitions—his public record, if I mistake not, is certainly against the abolishing of slavery in this District. When he was arraigned before the House of Representatives in 1837, he said:

"Sir, it is well known to all the members of this House, it is certainly well known to all petitioners for the abolition of slavery in the District of Columbia, that from the day I entered this House down to the present moment, I have invariably here, and invariably elsewhere, declared my opinions to be adverse to the prayer of petitions which call for the abolition of slavery in the District of Columbia."—*Congressional Debates*, vol. 13, part 2, p. 1579.

Subsequently, on the 21st of January, 1839, when the question came up in another form, he is thus reported to have spoken:

"Mr. Adams then made his statement, in the course of which he distinctly averred that, though he had so earnestly advocated the right of persons to petition for the abolition of slavery in the District of Columbia, yet he was not himself prepared to grant their prayer. On the contrary, if the question were presented at once, he should vote against it. He knew not what change might be wrought upon his mind by a full and fair discussion; but as yet he had seen no reason to change his opinion, though he had read all that had been written and published on this subject by the Abolitionists themselves."—*Congressional Globe*, Twenty-Fifth Congress, third session, vol. 7, p. 137.

Mr. Adams said this in 1837 and 1839, when the slave population of this District was double what it is now—when there were slave pens and slave markets here. He said this in view of the facts then before him. He was a man of discernment, a man of comprehensive mind, and this was the manner in which he looked at the question.

Look at slavery in this District, and see the process through which it is going, and I think gentlemen will be satisfied that if we let it alone, in ten years or less there will be no slavery here. One would have supposed from the remarks of a Senator the other day, that there had been no legislation on this subject here; but the fact is that Congress, by a law passed in 1850, make a black man free the moment he is brought here for sale. The slave pens and the slave markets have been abolished. I am told that it is a very rare thing to see a slave sold here. I am no apologist for slavery. I am opposed to it by prejudice and by education. It has destroyed the Democratic party, and through its destruction has paved the way to the destruction of our Government itself.

If the friends of humanity will only take the world as it is and let influences operate that are now operating, and not undertake to hasten these things, there will very soon be no slavery in the District of Columbia.

There is another reason why I cannot vote for this bill. It is, that the Senate has decided against the principle of colonization. In Indiana we have settled this question explicitly and firmly by constitutional provision. Illinois is doing it. Ohio will do it, in my judgment. We tell you that the black population shall not mingle with the white population in our States. We tell you that in your zeal for emancipation you must ingraft colonization upon your measure. We intend that our children shall be raised where their equals are, and not in a population partly white and partly black; that they shall see those around them who are on an equality, and we know that equality never can exist between the two races. Never can I vote for this bill unless the principle of colonization is ingrafted upon it. The people of Indiana, in 1850, decided in favor of prohibition and colonization by ninety thousand majority, and the question was understood by every voter in the State. The State of Illinois has just ingrafted a provision in her constitution which, I have no hesitation in saying, from my knowledge of her people, represents their views. It is in these words:

"Sec. 1. No negro or mulatto shall migrate or settle in this State after the adoption of this constitution.

"Sec. 2. No negro or mulatto shall have the right of suffrage, or hold any office in this State.

"Sec. 3. The General Assembly shall pass all laws necessary to carry into effect the provisions of this article."

We in the Northwest feel the force of the idea that was alluded to by my friend from Wisconsin [Mr. DOOLITTLE] the other day, when he told an anecdote respecting the Senator from Vermont, [Mr. COLLAMER.] When that distinguished member of Congress told his constituent that one sixth of all the population in his town was likely to be black, if they took their share of the negroes, he exclaimed, "do not name the subject of slavery in Congress." The reason of this is clear: this man knew, if slavery was abolished, and in his town they should receive their *pro rata* of these freed slaves, one sixth of his population would be black. Thus do we understand this matter; and in the relation which we sustain to the South, as one of the central States, we do not intend to allow our region of country to be overrun by the black race. Such is the prejudice, such is the settled conviction of our people, that the wall which we have erected is to stand. We intend to have in our State, as far as possible, a white population, and we do not intend to have our jails and penitentiaries filled with the free blacks.

It is now proposed, so far as the action of the Senate is concerned, to turn the slaves loose, and make the District of Columbia the receptacle of the free blacks of the neighboring States. I received a letter this morning saying, that if you must pass this bill you should insert a provision prohibiting free black men from entering the District, which I know some gentlemen would dislike very much to vote for; and yet I think you will find that it will be called for by the people of this District. I am also under the impression that in 1837, Mr. Adams, in addition to what I have already read from his speeches, took the ground that whenever such a bill should be passed by Congress, it ought to be submitted to the people of the District of Columbia before going into operation. I know gentlemen may have a good deal to say about the doctrine of popular sovereignty, which I am not going to discuss; but if the legal voters of this District have any rights at all, if there be any subject upon which they should be consulted, surely this question of their domestic policy is one concerning which their views ought to be regarded.

In this connection, as I do not desire to trouble the Senate with remarks as the various measures come up, I desire to say a word in regard to the recent message of the President of the United States. There is one thing in that message that I approve of most distinctly, and that is his assertion that—

"Such a proposition on the part of the General Government sets up no claim of a right by Federal authority to interfere with slavery within State limits, referring, as it does, the absolute control of the subject in each case to the State and its people immediately interested. It is proposed as a matter of perfectly free choice with them."

But so far as I know, this is the first effort in the history of this country where the President of the United States, or the Government of the United States, in power, has ever proposed to a sovereign State of this Union anything connected with her domestic policy. I am not aware of any precedent like this. It may be that I read erroneously when I was in Europe; but I remember, before I left the Old World, reading of a distinguished gentleman who, having crossed over the

Potomac, and looking at the army of one hundred and fifty or two hundred thousand glittering bayonets, and then looking back at this Capitol, exclaimed: "this is the last of this Government; State lines will be blotted out." It may be so; but never, by my vote, shall any step towards this end be taken. The Senator from Massachusetts yesterday repeated the sentiment, which I suppose was proclaimed in this country a thousand times in 1860, "freedom is national, and slavery is sectional." But there is another sentiment, to every true American as endeared and beautiful—*the Constitution is national, and the right of the people of the States to make their own domestic institutions is national.*

The proposition of the President is at variance with all my recognized notions of State rights. Mr. Jefferson as early as 1809 seemed to comprehend the effort that might be made in after time to strike down the State governments, and in one of his letters used language like this: "Our State governments, which are the very best upon earth, are now almost swallowed up by the General Government." If Mr. Jefferson said this at so early a day, I do not know what he would say now when the House of Representatives, by a decided majority, has passed a resolution, suggested by the President, telling the people of a certain section of this country, on a subject of their own domestic policy, "do this, and we will do that." It will be time enough for us to act on this question, if it must come up here, when the people of a State shall have presented it to the Congress of the United States. I never intend, as a public man, under any circumstances, to do anything which will strike a blow at one of the rights of the States. I am for the old-fashioned State-rights doctrine—I do not mean the Kentucky State-rights doctrine that denies the right of the President to send his Army there—but I mean that each State has a right to regulate its domestic policy, including all the social relations and the internal government of the State, and that the national Government has no right to intimate, to suggest, or to make the first step towards interference; and whenever that is done, I have no hope of this Government. Jefferson comprehended it all when he said:

"You have seen the practices by which the public servants have been able to cover their conduct, or, where that could not be done, delusions by which they have varnished it for the eye of their constituents. What an augmentation of the field for jobbing, speculating, plundering, office-building and office-hunting would be produced by an assumption of all the State powers into the hands of the General Government. The true theory of our Constitution is surely the wisest and best, that the States are independent as to everything within themselves, and united as to everything respecting foreign nations."—*Jefferson's Works*, vol. 4, p. 331.

The idea he goes on to elaborate in his letters is, that, in relation to the powers that belong to the States, they are independent, and they are to be left free; but he grasped with his mighty intellect this thought—and who has not seen it exemplified in our day—that in proportion as you take hold of these powers, in proportion as you assume them, you open the field for corruption, for jobbing, for office hunting, and plundering, and speculating; and if I had to sum up, in a few words, the origin and history of this rebellion, I would say that it resulted from this very disease of plundering and office hunting by bad men. I have no hope of this country one hour longer than we rigidly adhere to the great doctrine of leaving the States to manage their own concerns, and confining the General Government appropriately within its own sphere.

When I have looked at the condition of my country, I have thought of a little memento that I brought from the Old World. [The honorable Senator held in his hand a beautiful glass ornament, which gentlemen use to prevent the displacement of their papers, in the center of which was a shield representing the General Government, encircled by highly colored armorial bearings of the respective Cantons of which the Swiss Confederation consists, with the name of each.] It is a beautiful little memorial of the Swiss Republic. Here are twenty-two different Cantons, differing in their religion, some of them Catholics, some of them Protestants, differing in their language, some speaking the French, some the German, some the Italian, some the Romäusch, and yet there is a central Government, and its President is paid $1,500 a year, if I remember aright. They differ in all their domestic policy. They have had two secession movements in the last forty or fifty years, both of which have been put down by the central power. I have thought, when wandering through her beautiful villages and fields, looked upon her lovely lakes and grand mountain scenes, and the happiness of her people, that we could learn from this peaceful, contented country the great lesson: attention to our own domestic policy at home in our several States, and have a central Government with a few powers; this central Government properly to apply these powers, and not undertake in any manner to invade the rights of the different States.

Mr. President, there is another argument against this measure. In the present condition of our country, and in the state of things around us, I think it is the part of wisdom to consult the border States in relation to their views on measures of this kind. In 1812, when New England became very near wild upon the commercial policy, if we had seen proper to ask any one to come in to settle the controversy, we should not have looked to South Carolina. If you propose to settle any of these questions at this day, I think it is the part of wisdom to look to the border States—Maryland, Delaware, Virginia, Kentucky, Missouri. I do not know that we could refer to a safer arbitrament, a more disinterested judge; and I say to my friends of the North, while we are looking at this question in relation to its colonization features, looking to abolition in the District of Columbia, it is the part of wise statesmen to regard the views and sentiments of the border States. I believe they are all arrayed against this measure as ill-advised and inexpedient, and they think it ought to be postponed to some other time, when it can be presented fairly before all the members of this Confederacy, and the public mind can consider it calmly.

It may be asked what do you propose to do with these questions when they come up. I do not know any better principle for my government than to prosecute this war and let time, that great arbiter, determine the proper remedies. There are certain silent forces at work which I am willing to allow to operate. You have this population in your cities now, more than you know what to do with. Your Army is going to teach the people of the South certain things and to learn certain things in return. There are two witnesses on the stand. There are four hundred thousand privates and officers from the northern States now in the South on slave territory. They will see slavery as it is, not as they hear of it from politicians; they will see it with their own eyes. You have in the North twenty thousand prisoners who were raised in the South; there are five thousand of them in my own State. They will see our institutions as they are. They will be witnesses against you and me. In the next ten years they are to fill these seats; they are to come into Congress. There are other elements at work. If I am not misinformed, seventy men belonging to one northern regiment were married in the State of Maryland in the last six months. I know men from my State and New York who have bought land in Maryland in the last three weeks. Within fifty miles of where I am talking to you to-day, northern men will be found in less than sixty days turning up the earth and putting in clover and furnishing this market. If you will only let the Army and the war alone, and not disturb the peace and harmony of the country with questions that have nothing to do with the prosecution of the war, all will go well. These are the silent forces to which I allude; these are the elements that are at work. These are some of the views that will govern me in my opposition to this measure if it shall be pressed to a vote.

Here let me refer to a late proclamation of General Sherman in the South, which has the ring of the true metal. He says that "the sole desire and intention of the Government is to maintain the integrity of the Constitution and laws, and to reclaim the States revolted from the national allegiance to their former prosperous condition." He expresses great satisfaction at the evidence of loyalty, and recommends the citizens to assemble in their cities and towns and precincts and throw off the sham government forced upon them, and swear true fidelity and allegiance to the Constitution of the United States, organize a State government, and elect officers in the good old ways of peace. Mr. Underwood, for many years a member of this body, now a leading Union member of the Kentucky Legislature, in sending to the editor of the Louisville Journal a copy of a letter from General Buell, says, and it is the true doctrine:

LOUISVILLE, *March* 17, 1862.

GENTLEMEN: Be pleased to publish the inclosed letter received to-day from General Buell. I am sure it will meet the hearty approval of every Kentuckian.

The rebellion is now kept alive by the apprehension that the national Government and its armies intend to render insecure and ultimately to destroy the institution of slavery in the southern States, and for that purpose the Constitution of the United States is to be utterly disregarded. In my judgment, the people of the South engaged in the rebellion will readily lay down their arms and submit to the re-establishment of our national Constitution over the whole country whenever they are convinced that the General Government and the non-slaveholding States will in good faith adhere to the principles of the Constitution in relation to slavery. I hail General Buell's letter as a manifestation of the right spirit.

Respectfully yours, J. R. UNDERWOOD.

To the Editors of the Louisville Journal.

I have the kindest feelings towards the Senator from Massachusetts who spoke yesterday, [Mr. SUMNER;] but he will suffer me, as a plain western man, to tell him that I believe the resolutions introduced by him, which contemplate treating the revolted States as Territories, have done more harm to the Union cause than the addition of fifty thousand soldiers to the rebel army. This is plain talk; but feeling as I do I cannot but speak plainly and candidly.

I refer to this rather as an indication of the opinion of the Union men of the South, and to give some exhibition of the sentiment of the border States. I do not believe that Congress intends to pass these various bills; but this continual agitation at such a time is unnerving the country, and is calculated to estrange from our cause the entire Union men of the South. My friend from Kentucky [Mr. POWELL] requests me to read General Buell's letter, and I will do so.

HEADQUARTERS DEPARTMENT OF THE OHIO,
NASHVILLE, *March* 6, 1862.

DEAR SIR: I have had the honor to receive your communication of the 1st instant on the subject of fugitive slaves in the camps of the army.

It has come to my knowledge that slaves sometimes make their way improperly into our lines, and in some instances they may be enticed there, but I think the number has been magnified by report. Several applications have been made to me by persons whose servants have been found in our camps, and in every instance that I know of, the master has recovered his servant and taken him away.

I need hardly remind you that there will always be found some lawless and mischievous persons in every army; but I assure you that the mass of this army is law-abiding, and that it is neither its disposition nor its policy to violate law or the rights of individuals in any particular.

With great respect, your obedient servant,

D. C. BUELL,
Brigadier General Commanding Department.

Hon. J. R. UNDERWOOD, *Chairman of the Military Committee, Frankfort, Kentucky.*

I hardly ever refer to the course of the newspaper press; but I voted some weeks ago for a measure that met my hearty approval, for which I have been severely criticised. I would vote for it to-morrow. I allude to the article of war prohibiting the Army from returning fugitive slaves to disloyal men. I am willing to leave the Constitution as it is, and to leave the civil authorities to carry it out. I am for every effort calculated to put down this rebellion, and every measure having that object in view, in my judgment, will receive my support. I voted cheerfully for the bill to which I allude. I do not want the Union Army to engage in catching slaves. I want it to go on and meet the enemy, and let slavery take care of itself.

Mr. President, I have no doubt we shall succeed in putting down this rebellion. I have never doubted that. Ultra measures may prolong it; measures that have nothing to do with the legitimate prosecution of the war, and which ought not to be introduced into Congress may prolong it; but by a united, prompt effort for the great object in view, in my judgment, we can put down the rebellion. It is my conviction that in ninety days from now, if this Congress will attend to what appropriately belongs to it in this hour, we can have peace in every county in Tennessee, and in ninety days more we may have a Governor in every one of the slaveholding States. If Congress stands by and leaves the Constitution as it is, without bringing up questions on which the country has been divided for years, and leaves the institution of slavery to take care of itself, and leave the Army to proceed with the energy and nerve

and courage which it possesses to do the things we require of it, we shall put down this rebellion.

Shall I ask gentlemen to walk out of the south door of this Capitol and look southward and see one million six hundred thousand miles of slave territory and four millions of blacks, all in the United States; and am I then to be told that we cannot live together with slavery and freedom? If there is a man here who believes that we cannot live peaceably together under one Government, one State of the Union having slavery and the other having none, I advise him as an honest man to call the Army home to-morrow. I believe we can do it; we have done it in the past and we may do it in the future. Do your duty here to-day, and by certain inevitable laws the result you desire to accomplish will be brought about; but it is not to be accomplished in a hasty way, by appealing to the passions and prejudices of the day.

We shall succeed. Do you ask why? Because such a people have never failed. Tell me that twenty millions of people in this country will fail in putting down this rebellion! Fail! No, sir. What is the strength of our country? Is it our Army? Is it our money? Is it our houses? No, sir, it is something besides money and men and houses and lands. It is that benevolent system of integrity, so to use the word, that has made this country with more strength, with more of the elements of power, than any people on the face of the earth. We have more benevolent institutions for the blind, the deaf, and the dumb, than any hundred millions of people on the continents of the world. These are some of the elements of strength. The moral power of these twenty millions of people will never fail in putting down this infamous rebellion; and with this strength we ought to be magnanimous and just, looking to the restoration of the Government as it was without crossing a *t* or dotting an *i*.

Mr. President, if a gentleman will go from the New World to the Old, and wander amidst some of the old palaces, he will find a variety of curiosities to attract his attention. He will find in some of the large rooms a collection of the flags of the world—flags five hundred years older than the flag of the United States; and what will most deeply impress him and engage him when he enters those ancient halls? Not their walls, not the oldness of the site, nor the mosaic or the fresco; but when he sees the flag of the United States he will stop and in silence ask why was it that our fathers put the stars on that honored ensign? and intuitively he will exclaim, in the language of one of our great men, "we were the first nation that looked up to God and caught the eye of the star and placed it upon the national flag." The God that was with our fathers will be with us, if we live up to the principles of our Government, and do not attempt to destroy that edifice, trusting that He will continue to keep us one people, and make us the admiration of the world again as we have been before.

I shall vote for the direct tax bill. I believe the people of Indiana, as well as of the whole country, will sustain this war, and will cheerfully contribute of their means to carry it on. I love that bill, because it will introduce what I always wanted to see in this Government—a direct accountability between the people and the representative. It will work wonders; it will purify our public men. But to hasten on, if no other member of the Senate makes the proposition, I shall, at the proper time, propose to postpone the bill under consideration until next December. We are now reaping the fruits of a high sectional excitement that culminated in 1860. I think it is the part of wisdom to let these questions that disturb the peace and tranquillity of the country pass away until the people shall be heard from in the fall elections.

I have felt my own position to be one extremely embarrassing; being out of the country for four years, I came home and saw treason stalking upon the highways and threatening the overthrow and destruction of the Government. The first emotion of my heart was that this wicked, accursed rebellion must be put down, let it cost whatever of blood and treasure it may. I intend to sustain every measure that will tend to crush this rebellion, and set aside every opposing obstacle to the victorious march of the armies of the Union.

Here let me say that if there be any State in this Union that is loyal, that is conservative, it is the State of Indiana. I believe I am representing the sentiments of her people when I say that until the rebellion is put down they desire to have none of these side issues presented, issues calculated to divide the Union feeling in the South and to destroy the prospect of a harmonious reëstablishment of this Government. Although she is conservative in every feeling and pulsation of her heart, rendered so by her central geographical position, by her material wealth and her commercial interests; by the education and patriotism of her brave sons and fair daughters, uninfluenced by sectional prejudice or pride, she was anxious to avert, if it were possible, from our land the horrors of civil war by fair and honorable compromise; but when the traitors of South Carolina dared to raise their impious hands against the flag of the nation and shed the blood of American citizens upon American soil, and for no other crime than for standing true and loyal to that flag which they had sworn to protect and defend with their lives, it was too much; it was more than they could bear. The day of compromise had then passed, and the freemen of the North accepted the gage of battle tendered them by the traitors of the South. The nation, as if by some enchantment, awakened as if from its slumber of calm repose to a realizing sense of its danger, and the call to arms by the Executive of the nation met with a prompt and almost universal response. Indiana's noble sons were found in the front in tendering their lives for the nation's defense, and her soldiers were ready to be mustered into the service and marched to the battle-field sooner than those of any other State. We have now sixty thousand troops in the field, nobly doing their duty as brave and efficient soldiers, and Indiana is this day ready and able to send sixty thousand more to the field if our Government should need them to assist in quelling this most foul and unnatural rebellion. In every battle where victory has perched upon the standard of the Union, the brave sons of Indiana have divided its dangers and shared its glory, and in no single instance where her soldiers have been engaged in the fight have our troops met with a reverse. Good fortune seems to go with them wherever they go, and victory is sure to crown their brave deeds with glory. Whether in Western Virginia, at Philippa, at Romney, or at Cheat Mountain; at Somerset, at Fort Donelson, or at Winchester: wherever the battle rages fiercest there the brave sons of Indiana are found in the midst of the conflict, sharing its dangers and helping to win its glory.

While Indiana is one of the most conservative States, she is at the same time one of the most loyal of all the loyal States of the Union. She makes no professions of fidelity to the Constitution and the Union that she is not ready to make good by the sword. She points with exulting and a just pride to her sixty thousand soldiers in the field as a proof of her loyalty. She points to her material prosperity, her railroads, her rich and cultivated farms, her cities, her villages, her manufactures, as proof of her industry, her energy, her internal strength and prosperity. Let me here state a single fact as an evidence of the energy and public spirit of my people. Indiana, without the assistance of the General Government by a single dollar or an acre of land, has built and stocked more miles of railroad per square mile than any other single State in the Union. National in her feelings, knowing no sectional lines, East, West, North, or South, within our national boundaries, she can never consent to a disruption of our Federal Union. Her motto is the declaration of the immortal Jackson: "The Federal Union, it *shall* be preserved."

In the great Northwest, containing a free white population of more than ten millions, one third of the whole population of the United States, we have not a single armory or arsenal; and at the commencement of this rebellion there were not arms of any kind in all that vast region of country sufficient to arm and equip a single regiment of soldiers. But we have schools and colleges and other seminaries of learning; we have newspapers, public libraries, and temples of worship; these are the citidels of our strength, and the times are now demonstrating their efficiency and security in times of danger. In the virtue and intelligence of her people Indiana relies for her safety, trusting to their virtue and intelligence as a sure guarantee for their loyalty, and to their brave hearts and strong right arms for her shield and defense against every danger that may threaten her, whether it comes from traitors within or from armed rebels without. Incorruptible in her integrity, impregnable in her loyalty, she stands true to herself and true to the Constitution and the Union.

I do not know that I can describe them better than by giving the statement of a man whose letters I have in my drawer, who had a son in the battle of Pea Ridge. Before he had learned who was killed or wounded, he wrote me a letter, saying, "my oldest son is in the Army; I do not know whether he fell or not; but if he has fallen, I shall send the only other son I have; and if he falls, I will go myself." Such is the feeling of my people. We regard this struggle as a struggle for existence, a struggle for country, for Government, and for everything we hold sacred. We do not intend to be diverted by any issues on the wayside. We do not intend to be crippled by any of these side questions. We mean to put down the rebellion, to reëstablish the Government, and then, if there are other questions necessary to be discussed in order to give peace and tranquillity to the different sections of the country, meet them as members of one confederacy, and meet them in that spirit which should characterize us as a people at all times looking to the interest and happiness of the whole country. My constituents regard money and property and everything they have as nothing, if they have no country. As I said before, they do not belong to any portion of this country in its sectional aspect. Do you tell me that we cannot live together peaceably, slave States and free States! There, sir, sits a Representative from a slave State [Mr. CRITTENDEN] who was for four years the Executive of Kentucky; and there sits his successor in the gubernatorial chair, [Mr. POWELL.] There are a million of people in Kentucky, and a million and a half in Indiana, and I believe I state nothing but the truth when I say that for eight years, while those two gentlemen were Governors of that State, and I, the humble Executive of Indiana, not a solitary difficulty occurred between the two States.

Sir, you may divide, you may destroy the peaceful relations between some portions of this country; but when you destroy the peaceable relations between the people of Indiana and the people of Kentucky, you will have very little Government left. We are bound together by ten thousand cords, and differing, as we do, in our domestic policy, although separated alone by the beautiful Ohio, we are essentially one people. We live up to the compact of our fathers. You have seen no trouble about giving up fugitives there under the civil authority. We have no personal liberty law. We are a law-abiding and peaceable people. We desire that the Government of our fathers may be reëstablished, and that we may have peace and harmony in every State.

I should be willing to have Congress adjourn at once, if a properly adjusted and efficient confiscation bill was passed, a tax bill, and the proper appropriations were made to carry on the war. There is more danger that we shall do too much than too little. I know that this measure is an exciting one. I am aware that while I am talking, there are violent partisans who are taking different views upon the question. That is a matter of very little moment to me. I have discharged my duty when I have thus given to you my sentiments, as the sentiments of one member of this body, in relation to these matters. I see no hope for our country except in adhering to the Constitution as it came to us from our fathers, and in the restoration of the Union as it stood. That is my hope and desire. I have no other object in view than to restore the Government without destroying any one of the ligaments or ties that bound us together. I am for adhering to the principles of the Constitution until the Union shall be restored, the rebellion put down, and peace shall once more gladden the land.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Kansas.

Mr. POMEROY. I offered the amendment at the opening of this discussion in perfect good faith, with no intention of interrupting the passage of the bill, but, as I thought, to improve it. I said in the beginning that I thought there was no law for slavery in this District, and that on that account I did not wish to vote compensation to slave-

holders here. I said that I did not believe we had a right to give away without claim $1,000,000 from the public Treasury. I said, also, that I did not think the condition of the Treasury justified us in making any such appropriation. There are, in my opinion, no obligations upon us to the parties who claim to own these slaves, calling upon us to appropriate any money to them. For that reason, I proposed this amendment.

In the discussion which we have had, I do not think any Senator has pretended that there was a specific law for slavery here. It is true there was a law for slavery in Maryland, but that law limited slavery; but if there had been a law for perpetual slavery in Maryland, I do not know how Congress could have extended that law over this District. Surely, it requires the same constitutional power to extend the statute of a State as it does to enact that statute. If Congress could not enact the statute, Congress could not extend it. Hence, I have said that there was no law for slavery here; but as the courts have not decided that question, the Senate have concluded to put it at rest by abolishing slavery in the District. I think that expedient and wise and just. I do not see that abolishing it at once will work any great hardship here. If the slave population of this District was larger than the white population, as is the case in South Carolina and some other States, the argument of the Senator from Indiana would have force in it; but the slave population in this District has been so reduced as to be but a mere handful. The holders of slaves here are running them out every day. I am told that two hundred a day are taken away daily, for the fear that they will in some way obtain their freedom. It has been said, since the discussion opened, that there are but fifteen hundred left to be paid for under the provisions of this bill. I live in a State where slavery was abolished at once. When the clock struck twelve on the 29th day of March of last year, at midnight, every slave in our State passed from a condition of slavery to freedom. They all went to bed slaves, if, indeed, they had any beds, and in the morning they got up and walked about in God's own image—freemen. I did not see any trouble arising from that.

Mr. SUMNER. How many were there, I should like to ask the Senator?

Mr. POMEROY. I am unable to say precisely how many. I know the masters took care to run off most of them, but I suppose there were some hundreds left. Those whom I saw next morning, when they had assumed the habiliments of freemen, looked to me as if they had heard the whispering of angels during the night; for they were pleasant and joyous, and it seemed to me that their new condition of freedom was altogether preferable to that of slavery in which they had before been. I do not apprehend any trouble here.

I offered this amendment to settle the account between master and slave. If we are to give compensation—and the Senate seem desirous to do that—I say, in the name of common justice, why not give the compensation where it is due. The Senator from Vermont [Mr. COLLAMER] said that the Supreme Court had decided that negroes had no rights that white men were bound to respect. Do the Senate intend to enact that decision of the court? By giving compensation to the slaveholders and dealing out not one dime to the men who have spent their lives in slavery and rendered labor which has been unpaid for, I say that is reenacting the dogma that negroes have no rights that white men are bound to respect. I have provided in this amendment that this commission shall weigh out justice. I am willing that the master, although he had no claim for the services of his slave, there having been in the beginning no law for it, as he has had the benefit of this unpaid labor, shall be compensated for all he has spent for the education of the negro and for his food and clothing; but I do insist that the slave should have some remuneration for the labor he has performed. I call the attention of Senators to the fact that there are men here who have spent forty years in slavery, and during all this time have never had more than what was necessary to support them; and now, at an advanced age, this Senate proposes to turn them out without a dollar. I insist upon it that we should weigh out justice to these parties, that if there is anything due it is due to him who has rendered service and has received no compensation for it.

I know very well that the Constitution of the United States tells us that fugitives should be returned to the party to whom service or labor is due. I now catch that very phrase and say that we should pay the party to whom the pay may be due. I do not know what is due to these slaveholders. I came here on the 12th day of last April elected to this Senate, and the second night after I got here I had to enlist as a common soldier, as a private, in order to preserve this capital, and the only loyal Union men I found on the street, residents of this District, were slaves or colored men. I have never been in a city where, if the slaves were out of it, there would be any difficulty about there being a Union sentiment there. There would have been no necessity for an armed force to protect this capital if there had never been any slaves here. There is no rebellion where there is no slavery. The Senator from Virginia has very beautifully said here that in his section of the State the loyal sentiment is predominant, and they are earnest for the Union. That is very true; but it will be remembered that in that portion of the State the free population is largely in the majority; but the other portion of the State, where there is a preponderance of slave population, is as disloyal as South Carolina to-day. What has rendered that portion disloyal? It is the existence of this institution in their midst.

As I have said, on the 12th day of April last, when I came here, the only loyal residents here that I could find were the colored men of this District, for as I passed by one of their churches on that evening I remember hearing—the sound coming to me through the window—most devout supplication to God for the preservation and perpetuation of this Government.

Mr. President, if we propose to deal out anything like justice to these men in the District, I insist that it be dealt out to those to whom the service and labor may be due; that in the compensation we propose to render, we shall settle fairly the account between the masters and the slaves. I do not intend to embarrass the passage of this bill. I desire it to pass, and it was on that account that I introduced this amendment. I think it eminently just, and I indicate now that I propose for my own action to vote for the amendment.

Mr. FESSENDEN. I do not propose to discuss the question of the pending amendment, or to consider the main question at any considerable length; but, sir, as I presented yesterday the resolutions of my State on this subject and the subject also of the resolution which was sent us by the President, I deem it my duty to say a few words with reference to both those points, if the Senate will excuse me in speaking of both on the proposition now pending, in order to save myself the trouble of speaking again, and the Senate the pain of listening to me again upon either of the questions referred to in the resolutions, and now before the Senate.

The resolves from my State which I laid on the table yesterday, approve the resolution under consideration in the Senate, which emanated from the President, tendering aid to such States as might see fit to initiate the policy of abolishing slavery in those States. The Legislature of Maine approve it, and express the willingness of the people of Maine to be taxed for that purpose. That resolution of the Legislature relieves me, if I had any difficulty at all on the subject, of any question that might arise with regard to the propriety of a Senator or a Representative from the State of Maine voting affirmatively upon a resolution which proposes to pay money to the States for their use if they should see fit to initiate a measure of that description. They are a very much more competent authority to decide upon that question than their Senators and Representatives in Congress, and it seems they have decided upon it.

Now, sir, there have been two questions raised with reference to that proposition, and if the Senate will excuse me, I wish to say a word or two upon that proposition before proceeding to the measure now under consideration. One is the constitutional power of Congress to vote money for that purpose, and the other is in regard to its propriety. As to the constitutional power, I think it is too early to discuss that question. The resolution proposes nothing but an expression of opinion on the part of the Congress of the United States that the United States ought in a certain contingency, provided the people of any State should see fit to initiate this policy of abolishing slavery, to aid them in so doing to a certain or reasonable extent. It does not even say that it will be the duty of Congress to vote that money, but that it would be the duty of the United States to extend that aid. My constituents have declared that they coincided in that sentiment. It is very obvious that whether Congress now possesses the power or not, if the people of the United States should be of opinion that it is their duty, they can very easily put Congress in such a position as to carry out their will. Therefore, sir, voting simply that it is the duty of the United States to do it involves no constitutional question whatever with reference to the power of Congress. Senators will see that very easily by looking at the terms of the resolution itself. Even if it should, there would be no very particular difficulty about it, because the matter would be left for after consideration. It is a mere expression of opinion. It is holding out a helping hand, or showing a disposition to hold out a helping hand to the people of any slave State which might see fit of itself to initiate a policy of the kind referred to.

I might have had some doubt, perhaps, whether, as a Senator sent here at a time when this question had not been considered at all—a Senator representing the State of Maine—I was authorized, even indirectly, to pledge that people to a policy of this description, involving an expenditure of money; but, sir, the people themselves, through their representatives, their Legislature, have taken that question out of my hands, and advised me that it would be the disposition and will of the people of Maine so to act. I am satisfied with that decision. I had little doubt with regard to the matter of that resolution before receiving this authoritative exposition of the opinions of the people I represent, and I should probably have voted for the resolution, believing it to be sensible and wise in its terms and in its meaning, even if I had not received, not the instructions, but the advice that I have received on the subject.

Now, sir, let me ask honorable Senators who represent slave States here, what objection can be taken to it? Is it an insult to you? Does it propose, directly or indirectly, to interfere with your authority upon your own soil? Does it claim for the Congress of the United States, or for the people of the United States as a whole, the right, in any way, directly or indirectly, to interfere with your constitutional privileges, or your domestic institutions, as a matter of legislation? Not at all; you cannot pretend that. Is it anything more or less than saying to you that, if you choose to act in a given direction, and you find yourselves involved in pecuniary difficulties in consequence of that action too great for you to bear, it is the opinion of the people of the free States that, under the circumstances, as brethren connected with you by the tie of a common country, and not suffering under the burden which you bear, and as this measure is for the general good, as we have always contended, we think it no more than right that we should bear a part of the burden? Is that an insult to you in any way? Is it an injury to you? Is it, in the slightest possible degree, breaking our pledge that we will not interfere with slavery in the States of the Union? You can hardly so pretend it.

What, then, is the argument? It is this, as I understand it: "the result is that you get up two parties in our States. You encourage a party in favor of abolishing slavery; you hold out a helping hand to such as live among us who may believe it is an evil, and desire to initiate steps by which it may be destroyed." Well, sir, I reply to you frankly, if that is to be the effect so much the better. I hold myself restrained by no law of any kind or description from saying to such of your people, if any there are, who desire to initiate a policy of that description and to accomplish that purpose, that to that end and to that effect I am with them. I believe it to be a great measure; one which would tend strongly to the elevation of the people of this country in more particulars than one. I hold that the institution is injurious to you. I have a right to that opinion. I hold that while it exists among you, and to so large an extent as it does, it is injurious to the people of the country; it is injurious to us as a nation, it weakens our force, it creates discords, it has produced rebellion and war, and, therefore, if there is any portion of your people

who desire to restrain or overthrow it, so far as, under the Constitution, I can lend them aid, and so far as I can assist in building up a party who aim to accomplish this great object, I have a right to express my sympathy with them, and to extend to them all the aid in my power to bestow.

It is no argument to me, therefore, that if this is to be done, the effect will be to make a party in favor of abolition among yourselves, where that party has a right to exist. So much the better if it is so. With all good feeling towards you, and with the best wishes for the prosperity of your States, I desire that a party shall arise and become a majority in your own States who desire to abolish slavery. That is perfectly consistent with all I have said on this floor, and all that every member of the Republican party has said, that we disclaim any right to interfere ourselves in your domestic affairs, on that subject. Therefore, sir, that argument falls upon my ear not only without force, so far as it is addressed to me as against the President's proposition, but it is a recommendation of it. It makes it so much the better and so much the stronger; for, as I have said more than once on this floor, I do desire to see slavery abolished in this country as soon as may be, by constitutional methods, and by those who have the power to act upon the subject.

But, sir, leaving that subject, the bill now under consideration proposes the abolition of slavery in this District. Can any man doubt the constitutional power of Congress over that subject? Have not we, the Congress of the United States, the right to abolish slavery in this District if we see fit? I never heard a man attempt to make a constitutional argument against it. The fundamental law of the land is broad and clear. We need no excuse on the subject at all. Congress, under the Constitution, is gifted with all power of legislation over this District, and may do anything in it that any Legislature can do in any State of the Union, unless expressly restrained by the Constitution, which gives it its powers; and there being a specific grant of all powers of legislation in this District, and there being no restraint upon it which would touch the question, it follows as a matter of necessity that the constitutional power exists; and it includes as well the power to vote money. Sir, where do we get our constitutional power to vote money to open the streets, to light the streets, and to build bridges in this city? I never heard of anybody here in this District who objected to the exercise of such powers. This people always seem to think that the constitutional power of Congress is ample to vote money for the District of Columbia. Well, sir, if this is a great public measure, if Congress has come, or should come, to the conclusion that the good of the people of the District and the good of the people of the country require that slavery should be abolished, and should think it reasonable that a certain sum of money should be appropriated for that purpose, that is a constitutional measure. I have yet to hear from any Senator an argument against the constitutionality of the measure proposed, which, to my mind, has even the appearance of legal force. I believe the power has been conceded long ago, and I have no idea of arguing the constitutional question over again at this late day; I take it for granted.

Now, sir, as to the other question, the question of expediency and propriety. I wish to say that from the earliest period, when my mind was brought to bear on this question, long before I entered Congress, and from that time to the present, there never has been a moment when, if it had been in my power, I would not have abolished slavery in the District of Columbia upon the instant, in one form or another. As to the particular mode in which it should be done, that was another question; but as to the exercise of the power whenever the opportunity should present itself, whenever it should be possible from the constitution of Congress itself, I never had a moment's hesitation, either as to the right of Congress, or as to the duty of Congress to exercise that right.

I know what the argument has always been in opposition to it: "you are affecting the institution of slavery; you are weakening its power; you are doing something that will have a tendency to injure it; you are giving an example that may produce evil to the institution of slavery in the States themselves." So be it. Is there any obligation binding on me that, in exercising a constitutional power, in doing that which I have a right to do under the great charter which I have sworn to support, I should do nothing which indirectly might affect the institution of slavery in the States of the Union?

I have said during the last canvass repeatedly, and I aided in passing a resolution through Congress to the effect, that the object and purpose of this war was not to affect slavery in the States, but to uphold the Constitution and the laws of the land. I have said at this session that that pledge has been made by me; that the party to which I belonged had pledged itself that it did not come into power and would not prosecute this war for the purpose of abolishing slavery in the States; and I said that, so far as I was concerned, I meant to keep my pledge. But, sir, I did not say, nor did the party to which I belong ever say, that it pledged itself to do nothing that indirectly might affect the institution of slavery. Do gentlemen call upon us, because we are prosecuting this war, to forget all we have said, and all we have been struggling to accomplish for years? What, sir, have we been struggling for? It was to place this Government in a position where it should not lend its aid to the support of slavery. Since its formation, it has been devoted to that object; and what the Republican party contended for, as I understood it, was to free the Government from the incubus that had been laid upon it through its unnatural connection with this peculiar institution.

Now, sir, are gentlemen so unreasonable as to ask us, in this particular crisis of our affairs, and because of the peculiar existing state of things, that we shall forget all we have heretofore said on this subject; that we shall forego all we have tried to attain; that we shall at once ignore the question of slavery altogether; that we shall do nothing directly or indirectly which is calculated to effect our own purpose, and that a constitutional purpose, which we declared long ago. In my judgment, it is asking too much of us; and the process of reasoning by which gentlemen attempt to meet this question, it strikes me, is hardly a fair one. Let me ask the Senator from Virginia, [Mr. WILLEY,] for whom I have very great respect, does it follow, when we act constitutionally in one direction, that therefore we mean to act unconstitutionally in another direction? Does it follow, because we adopt one measure, that we mean to adopt another, and a different one? The honorable Senator has connected all the measures before Congress together, and he views them as parts of a whole. In the first place, here is the recommendation of the President; in the next place, here is the bill for the abolition of slavery in the District of Columbia; and in the third place, here are the questions with regard to the confiscation of property; and again, the resolutions of the honorable Senator from Massachusetts [Mr. SUMNER] with regard to the States themselves; and the honorable Senator from Virginia takes it for granted that they are parts of a system. Let me tell him it is not so; and he acts unwisely in leading his people to suppose, because we carry out, or attempt to carry out, what we believe to be a constitutional power and a duty resting upon us with regard to this particular measure, that therefore we mean to exercise a power which may not belong to us under the Constitution. Each measure should be left to be judged, to stand or fall, upon its own merits, and according to its issue.

Why, sir, I do not hesitate to say here most distinctly for myself that I dissent entirely from the conclusions of the honorable Senator from Massachusetts, as stated in his resolutions. I do not look upon the States of this Union as gone and destroyed. The fundamental idea upon which we started in this contest was, that no State could take itself out of the Union; no State could destroy its existence as a State, or change its relations to the Union. We have not recognized State action. From the beginning we have considered all action as individual action, as having nothing whatever to do with the States as such. But, sir, I do not intend to argue that question now. It is enough to say, in this connection, that upon this particular point the opinions of the honorable Senator from Massachusetts are his own, for which he alone is responsible, and which he is, undoubtedly, well able to defend. What right, then, has the honorable Senator from Virginia to say that he considers all the propositions that have been made as parts of a system, and designed as an attack on the institution in the States where it exists, and a breach of the obligations under which the dominant party held itself with reference to this particular question?

Mr. WILLEY. If the honorable Senator will allow me, he misinterprets me as having said that the party designed to commit a breach of its pledge. The main position—if the Senator did me the honor to attend to my poor remarks—will be remembered by him to have been, that in the excited condition of the public sentiment in the slave States, these measures would be construed as parts of a system taken together, and in that way the Union sentiment by which it was hoped to reorganize the State governments would be destroyed. I expressly put it in the mouths of the secessionists as using these opinions in that sense.

Mr. FESSENDEN. Then I misunderstood the honorable Senator, and I am very glad to hear his explanation; but let me tell him that it is his duty and the duty of his colleague to see that their people are not deceived.

Mr. WILLEY. I will say to the Senator that I, with all my feeble powers, in the center of secession, at the risk of my personal safety, have said that it was no part of the purpose of the Republican party to interfere with the institution of slavery in the southern States. It has been the labor of my life for eighteen months past to disabuse the public mind of the South on that point.

Mr. FESSENDEN. Mr. President, that the Republican party would rejoice to see slavery abolished everywhere, that they would rejoice if it no longer existed, that they feel it to be a blot upon our fair institutions and a curse to the country, there is no doubt. I can answer, for one, that has been my opinion always, and I have expressed it here and elsewhere; but, sir, I have held, and I hold to-day, and I say to-day what I have said in my place before, that the Congress of the United States, or the people of the United States through the Congress, under the Constitution as it exists now, have no right whatever to touch, by legislation, the institution of slavery in the States where it exists by law. I have said that, and I say it again, boldly; for my position never has been misunderstood on this subject. But, sir, I say further, that so far as the people of this country have the power, under the Constitution, to weaken the institution of slavery; to deprive it of its force; to subject it, as an institution, to the laws of the land; to take away the political influence which it has wielded in this country, and to render it, so far as they can, a nullity, they have the right to do so, and it is their solemn duty to exercise it. And I say, moreover, that honorable Senators mistake in endeavoring to excite the sensibilities of their people by complaining of any constitutional action of ours upon this subject, and charging us with a breach of our plighted faith.

Why, sir, do you suppose we came into power to sit still and be silent on this subject; that we came into power to do nothing; to think nothing; to say nothing lest by some possibility a portion of the people of the country might be offended? That was the argument of the honorable Senator from Indiana [Mr. WRIGHT] this morning, as I understand it. Sir, it is no more than ought reasonably to be expected—no matter whether in the progress of this war or not; no matter where it touches—if the people of this country should see that the institution of slavery has been the prolific cause of all that we now suffer, the ground upon which this rebellion originated, and has been carried on, that they will, wherever they can constitutionally strike at it, do so. All that anybody ought to ask is, "hands off wherever the Constitution prohibits you from touching it at all."

I do not grow restive, sir, because on this question I am no longer restive; but I cannot help feeling a little wonder that Senators here or gentlemen out of this Hall should undertake to suppose that this cry, which we have heard so long and which has produced so much effect, that we must not touch the question at all, whatever may be its condition and whatever may be ours, is to be listened to. I will hold, as I have always said before, strictly and strongly to every pledge that I gave individually, or that my party gave and that I assented to; but you must not expect me to take back all my opinions; you must not expect me to hold

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. WEDNESDAY, APRIL 2, 1862. NEW SERIES.....No. 93.

back my hand where I can strike at the institution as an institution; you must not expect me to restrain myself when I see an opportunity in any way to dissever this Government from the support of that institution directly or indirectly. I should be false to my own principles if I did so. I should be false to all the professions that I have made from my youth up. I should be false to all the instincts of my nature, and all the duty which I owe to my country, believing as I do that the institution is, has been, and ever will be a curse.

I did not intend even to be drawn to this length of discussing this question; but I wish to say to gentlemen frankly that they must not expect us to yield them too much. I will give them credit for believing, as undoubtedly they do believe, that all these things will be taken advantage of by the enemy; and I will give them this credit, too, that the greater part of their anxiety arises from that source. I am certain it is so with my friend from Virginia, [Mr. WILLEY.] I make all allowance for that. But, sir, reflect: have we not duties to perform with our opinions? Can we defer the consideration of some of these subjects? Are they not before us every day? Do they not meet us at every turn? Why not, then, meet us upon proper grounds, and say, "as long as you keep yourselves within the limits of the Constitution, do what seems to you best; we acknowledge with you that this has been the moving cause of the rebellion and of the evils we now suffer; be careful then to give no occasion for any man to say that you are forgetting your pledges to support the Constitution and the laws of the United States; but within that limit we cannot expect you to do otherwise than to use all the power you have to strike at slavery so far as you may." Why, sir, I should deem myself neglectful of all my duties if I should hesitate for one moment on a question like this.

One moment more, sir, and I shall have done. This question of the abolition of slavery in the District of Columbia, I have stated, has been one that has always been near to my heart. Gentlemen say it is a bad time to take it up: it will be attended with injury. With regard to one point of injury, I have spoken; but do gentlemen believe any other injury is to follow. Whom do we injure? The slaves? The slave will bear the injury. Do we injure the owner? What claim have the owners of slaves in the District of Columbia upon us? They have, in my judgment, been holding slaves here without law since the foundation of the Government, and they have been able to do it, because it has been in their power to secure a majority always in Congress which was invincible, that could not be overcome. They knew the day would come some time or other. What injury do we do to them? How many of them who hold slaves in this District are loyal men to-day? What sympathy have those who support the Constitution from them—men, women, or children, who happen to be the owners of slaves? Gentlemen all know that if you could get at the real sentiments of those who are slaveowners, there are very few in this District, in my belief, who do not hope and pray for the success of this rebellion. But, sir, they stand as loyal men in profession, and perhaps are to be treated as such. We would not do them wrong. Whether there is an obligation or not, whether they hold slaves by law or not, it is unquestionable that by common consent, by custom if you please, under the eye of the law, under the eye of the Government, they have held them as if legally since the foundation of the Government. We cannot disregard that. We cannot ignore the fact. It has the force of law to a certain extent, and having the force of law, it is fitting and proper that we should recognize it.

If I had any doubt on this subject, as I said before, I am instructed by my people. They say that slavery ought to be abolished in this District. They say they are willing to help to pay for it. If they are willing, I am. We have the constitutional power to make the appropriation; and the question then arises, and the only question: has the time come, and is there any other consideration which should restrain us? Why, sir, what do the enlightened people of the world expect of us? Do we not all know that our enemies have already argued to the people of Europe that "this party in power, this people who are endeavoring to coerce them, are not in earnest; they are attempting now, as they say to support the Constitution and enforce the laws; they have no idea of touching the subject of slavery?" I read no longer ago than yesterday an article in one of the leading British Reviews, in which it is said that the only chance for the abolition of slavery is in the success of the southern States in acquiring their independence; that so long as the Government of the United States exists its force is applied to the protection of slavery. Sir, there are many good people in this world outside of the United States, and across the water, and those good people have been looking for a long time for something like an indication that the Government of the United States was not bound to the protection of slavery and to the support of it. We are now in a condition when we can give that indication. We can at any rate strike it out from the national capital. We can break it down here. We can say that this thing shall no longer exist where Congress has the power to operate upon it. I do not know how long that power will exist. It is the first day that I have seen when there was an indication that that power existed in Congress, and I am for improving the first day. I would not let this opportunity slip. I do not know what is to be to-morrow. If we restore the Constitution and the laws, who knows what the majority will be, or of what character it will be, in this Congress of the United States? I do not. All that I know is, that the day has arrived, the hour has presented itself when, to all appearance, there is power to take one step in reference to this great object, and that step I hope Congress will take.

It is no answer to me, let me tell my friend from Virginia, [Mr. CARLILE,] that it is to exercise a moral force upon the institution itself; that it is to weaken it somewhere; that it is to be regarded as a blow at the institution. So much the better, for so much nearer shall we be to the final accomplishment of the object, by exercising the power we have. I am not without hope that the benefit of the example will be of great use to my friend from Virginia himself; that the next step will come from him and from his region, and that he will be found in the ranks of those who will say it is time to initiate a party for the abolishment of slavery, to make his own great State of Virginia what it would have been but for this institution long ago. Let me call my friend's attention to one fact; I have mentioned it here in argument a long time ago on this subject; and then let me ask a question as to his own duties. Virginia has as much territory as all New England, or within a very few thousand square miles. It is vastly superior to it in every particular. It has mines in its bosom; it has water power unequaled, certainly unsurpassed; it has facilities for trade which are not surpassed in any quarter; it has all the elements of greatness to an extent which no other territory of equal dimensions can be said to have, for manufactures, for commerce, and for agriculture. In the days of the Revolution it had more population than all New England; it had more commerce; it had more wealth. Compare the State of Virginia as it was when this rebellion broke out, with New England, and see the difference between the two. At that day you had less than a million of white population and we had three millions. In all the branches of national life, even in agriculture, we were vastly your superiors; and as to commerce and manufactures you had, comparatively, none.

What is the reason of this? Can you give any for the difference except the fact that you had an institution which we had not; and if that has been the effect, why not begin among yourselves to make of that territory the great empire which she is capable of making, instead of on all occasions when we mention the subject of slavery on this floor, flying into a flame as if we designed to attack your institutions instead of merely appealing to you to place yourselves where you ought to be in comparison with the nations of the earth? What I say with regard to Virginia is true in a less degree of many other southern States, Kentucky particularly. It seems to me the most marvelous thing in the world—I cannot understand it; I have not been able to comprehend it—how enlightened statesmen, such as I have seen on this floor representing these great States, should exhaust themselves in saying hosannas to the institution of slavery, which has belittled them, while other people, not so well situated as themselves, have been growing comparatively great.

I would rather wish that all men were like my friend from Missouri [Mr. HENDERSON] in some particulars, so far as I can judge. He made a speech here the other day which was worthy of all praise. I did not agree with all he said, but the tone, the temper, and the kindness with which it was spoken, the whole spirit of the speech from the beginning to the end was such that if it could have been imitated on both sides of this Chamber for the last ten years, it might possibly have averted the trouble we are now enduring; and if it could be imitated now by those who come into this Chamber from one section of the country and another, and we could approach this question and discuss it with kindness, such as we ought to feel towards each other, at the same time with firmness and a resolution to tell the whole truth with regard to it, looking upon the matter as a national question, there would soon be an end of bickering at this Capitol. With such a spirit, thus carried out, by those who come here, not with the feelings which the honorable Senator from Indiana seems to suppose will be brought by those who are to come after us, but with the catholic spirit of looking at the interests of the whole country with reference to anything peculiar in either section, this nation would be placed upon a foundation so strong and sure that nothing in the world, nor all the nations of the world, could move it from its base.

Mr. President, I have been wandering far beyond anything that I intended to say on this subject. The question before the Senate, as I said before, does not admit of argument. The simple question to be presented, in my judgment, is, have we the constitutional power to abolish slavery in this District? To that I have answered, so far as I am concerned. Is it expedient? I say it is not only so, but necessary—necessary now that we have the power to carry out the principles upon which we have acted for many a day; necessary with regard to public opinion at home; necessary with regard to public opinion abroad. We could not hold up our heads before the nations of the world if we should lose this opportunity; and therefore I am for taking advantage of it. To be sure, I might have a choice as to the particular provisions of the bill. I might prefer, if it suited others, that the emancipation should be gradual. I am not, however, fixed at all upon that. I am not certain I should prefer it. Our reputation would be better, in my judgment, to do it instantly, because then no danger can come. Therefore, sir, I am disposed to take any bill that will accomplish the purpose which does not undertake to do manifest injustice to those upon whose interests we are to act. At any rate, the great and broad interests of humanity and the necessity of upholding our national character in the eyes of all men, and showing to the world that we have not been dealing with mere falsehoods, but are in earnest, demand this much at our hands; and for one I am ready to exercise my share of power in putting an end to African slavery upon this spot, at once and forever.

The PRESIDENT *pro tempore*. The question is on the amendment moved by the Senator from Kansas.

The amendment was rejected.

The PRESIDENT *pro tempore*. The next amendment in order is the one presented by the Senator from New Hampshire.

Mr. CLARK. I offer the following amend-

ment, to strike out all after the enacting clause of the bill, and insert the following in lieu thereof——

Mr. DAVIS. Before the substitute of the Senator from New Hampshire is offered, I desire to propose an amendment.

The PRESIDENT *pro tempore*. The proposed substitute has first to be read before it is open to amendment. It will then be open to amendment before the vote is taken on substitution.

Mr. DAVIS. I do not propose the amendment to the substitute, but to the original bill that is under consideration.

The PRESIDENT *pro tempore*. Both the original bill and the substitute will be open to amendment; but it is first in order to read the substitute offered. The Secretary will read the amendment.

Mr. CLARK. As this amendment has been printed, with the exceptions of a few slight alterations, perhaps the reading might be dispensed with if I state what the alterations are, and save the time of the Senate.

Mr. POWELL. Let it be read.

The PRESIDENT *pro tempore*. The reading of the amendment is called for, and it will be read.

The Secretary read it; to strike out all after the enacting clause of the bill, and to insert the following in lieu thereof:

That neither slavery nor involuntary servitude, except for crime whereof the party shall have been duly convicted, shall hereafter be in the District of Columbia; and all persons held to service or labor within said District, and owned therein, commonly called slaves, are hereby discharged from such service or labor, and are set free.

SEC. 2. *And be it further enacted*, That any person resident in said District, whose slave may be set at liberty by the provisions of this act, may, within six months after the passage thereof, and not afterwards, apply by petition in writing to the Court of Claims for remuneration for the loss of the services of such slave; setting forth in said petition, which shall be under oath, first, that the petitioner is a resident of the District of Columbia; is and always has been true to his or her allegiance to the United States; that he or she has not borne arms against the Government of the United States in the present rebellion, nor in any way given aid or comfort thereto; second, the title of the petitioner to the labor or service of said slave; when and how obtained; whether there is any dispute about the same, or whether any other person is interested in said services or slave, or makes any claim thereto, and if so, who; and what claim is made; and, thirdly, the name, age, sex, habits, usual health, defects, and all other personal peculiarities of said slave, which may enable said court to identify him or her, or determine the value of his or her services.

SEC. 3. *And be it further enacted*, That said court shall receive and hear said petitions, and any competent evidence in regard to the same, and determine the truth of the allegations therein, and the validity of the respective claims of the petitioners to the services of the slaves therein described, and, if determined in favor of any of said petitioners, fix and apportion the value of the services of the slaves of said petitioners, respectively, in money, and make a record thereof: *Provided, however*, That the aggregate sums allowed for children under ten years of age shall not exceed a sum equal to $150 for each slave child set free under that age; and the aggregate sums allowed for slaves over ten years of age and under sixty shall not exceed a sum equal to $300 for each slave set free between those ages; and for slaves over sixty a sum equal to $150 for each slave thus set free: *And provided, further*, That in estimating the number of slaves set free only those shall be counted to whose services a loyal resident of said District has a valid claim, which has been allowed by said court.

SEC. 4. *And be it further enacted*, That every slave child under ten years of age shall be delivered to its mother or father, if alive; and if there be no father or mother alive, or within said District, to its next of kin, or some person who will take charge of and care for the same; and said child shall forever, after the passage of this act, be a free person. But if there be no one to care for or take charge of said child, the mayors of Washington and Georgetown, and the levy court of Washington county, in the District of Columbia, in their respective jurisdictions, may apprentice said child to some suitable person until said child shall be eighteen years of age.

SEC. 5. *And be it further enacted*, That no person who has borne arms against the United States in the present rebellion, or who has in any way given aid or comfort thereto, or who has advocated the cause of said rebellion, shall receive any compensation of the United States for the loss of any slave set free by the provisions of this act, but his claim shall be wholly disallowed by said court; nor shall anything be allowed for any slave brought into said District since the 1st day of January, 1862, except in cases where persons may have removed into said District for permanent residence since that time, bringing their slaves with them.

SEC. 6. *And be it further enacted*, That when there shall be any dispute in regard to the ownership of any slave, or one or more persons may be interested in his services, or have any lien upon the same, the said court in any case which may arise shall have full power to summon all the parties before it, and to make such order in the premises, and such disposition and division of the sum allowed for the services of the slave, as justice and equity may require; but in no case shall the slave be deprived of his freedom, and to this end, and for a correct judgment in any case arising under this act, said court may examine all parties under oath, and bring the slave before them for identification and valuation

SEC. 7. *And be it further enacted*, That said court shall, within twelve months from the passage of this act, make a full and final report of the findings, appraisement, and orders to the Secretary of the Treasury, embracing in said report the names, ages, owners, and valuation of all slaves thus set free, and belonging to loyal owners in said District, and the names, ages, and owners, but no valuation, of slaves belonging to disloyal owners, when petitions have been presented to, and disallowed by, said court; and the Secretary shall thereupon cause the sums so apportioned to loyal claimants for services of slaves under sixty years of age to be paid from the Treasury of the United States to the parties entitled thereto, under the provisions of this act.

SEC. 8. *And be it further enacted*, That the sums fixed and apportioned as aforesaid for the services of all slaves over sixty years of age, set free by the provisions of this act, shall not be paid by the Secretary of the Treasury to the claimants or owners of said slaves; but the said sums shall be paid to the mayors of Washington and Georgetown, and the levy court of Washington county, in the District of Columbia, respectively, to be expended by the mayors and court aforesaid for the time being for the support and maintenance of said slaves, from time to time as they may need. And if the owner of any such slave, over sixty years of age, neglects or refuses to apply to said court to have his value so fixed, said slave may appoint an attorney, who may apply for him: *Provided, however*, That any part of the valuation of any such slave remaining unexpended on the death of such slave, shall be paid to his or her former owner by said mayors or court.

SEC. 9. *And be it further enacted*, That there is hereby appropriated from the Treasury of the United States a sum not exceeding $1,000,000 to carry this act into effect.

SEC. 10. *And be it further enacted*, That any person or persons who shall kidnap, or in any manner transport or procure to be taken out of said District, any person or persons discharged and freed by the provisions of this act, or any free person or persons with intent to reënslave or sell such person or persons into slavery, or shall reënslave any of said freed persons, the person or persons so offending shall be deemed guilty of a felony, and on conviction thereof in any court of competent jurisdiction in said District shall be imprisoned in the penitentiary not less than five nor more than twenty years.

SEC. 11. *And be it further enacted*, That all laws or ordinances inconsistent with the foregoing provisions are hereby repealed.

The PRESIDENT *pro tempore*. This is a motion to strike out and insert, to strike out the original bill after the enacting clause, and insert a new one in the form of new matter. Before the vote on substitution is taken, both the original bill and the substitute are open to amendment by way of perfection.

Mr. DAVIS. I move to amend the original bill by inserting at the end of the first section of the bill, the following proviso:

Provided, That all persons having the right to the service of any person or persons to be discharged by this act from service or labor shall have the right to hold possession, and have the service of the person or persons so to be discharged as heretofore until the person or persons entitled to such service shall have received the amount of compensation herein provided to be paid them.

Mr. MORRILL. I desire to make an explanation for a single moment in regard to this amendment. I hope it will not prevail. I hardly see the necessity of it. It is true, the bill in the first section provides for the immediate discharge of these persons; but it gives an instant remedy. It gives the claimant a right instantly to apply to the authority established by the bill for his compensation, so that he has his remedy the instant the bill takes effect. I submit, therefore, that it does not appear that such an amendment to this bill is necessary to protect the rights of the claimant. I therefore hope that the amendment will not be adopted.

Mr. DAVIS. The good lady whose case I mentioned a few days ago, was the owner of five slaves, one of which has since died. Will the honorable Senator explain to me when she could get her money under this bill when it becomes a law, and what amount would she be entitled to?

Mr. MORRILL. She may make her claim instantly, as soon as the commission is instituted. The bill authorizes the commission to pay what they estimate the value of the slave to be, within the limitation of this act. In the aggregate, the average amount is not to exceed $300. Of course, it cannot be estimated precisely.

Mr. DAVIS. According to the operation and effect of this bill, I suppose the commissioners would have to ascertain the value of all the slaves in the District, and then would have to get the proportion of the value of each slave, as the value each slave would bear to the aggregate amount of the value of the slaves at $300, average price. That is a work that would require a good deal of time to perform. I do not see what other mode could be adopted for the purpose of ascertaining the amount each slaveholder would be entitled to receive under the act. This might take six months, nine months, twelve months; we do not know how long.

Mr. MORRILL. If the Senator will allow me, the limitation in the bill is nine months. The report must be made within nine months. It may be made much sooner.

Mr. DAVIS. The simple proposition I offer is this: that the owners of this property shall have the use of the property until they receive their money. That is the whole of it; and I suppose if there is any justice in the bill, or in the claim to service, that that is an equitable principle.

The amendment was agreed to.

Mr. DAVIS. I will move another amendment to strike out the proviso in the third section of the bill in the following words:

Provided, however, That the entire sum so appraised and apportioned shall not exceed in the aggregate an amount equal to $300 for each person shown to have been so held by lawful claim.

Mr. MORRILL. I only desire to say to the Senate that the first part of that section provides for the compensation to be fixed and determined by the commissioners. The lines embraced in the amendment provide a limitation on the power simply, that they shall not exceed $300 in the average. I am satisfied from what I have learned of the character of the slaves in this District and of their condition, that the bill in its present shape affords abundant compensation to the owners. I hope, therefore, that the amendment will not prevail.

Mr. DAVIS. A simple word in reply. The amendment, if it should prevail, would just leave the owner of every slave to have the value of the slave. The effect of it would be to provide that the commission proposed to be raised by the bill should appraise each slave according to their best judgment, and that the owner of each slave should have his or her value. If the limit is sufficient to cover the actual value of every slave there will be no injustice done. It would simplify the proceeding a good deal. It adopts the principle which prevails in all the slave States in relation to the sale and appraisement of slaves, that every slave shall represent his or her value, and that the owner of each slave shall have the particular and identical value of such slave.

Mr. POWELL called for the yeas and nays on the amendment; and they were ordered; and being taken, resulted—yeas 11, nays 30; as follows:

YEAS—Messrs. Bayard, Carlile, Davis, Henderson, Latham, McDougall, Nesmith, Powell, Saulsbury, Willey, and Wilson of Missouri—11.

NAYS—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Howard, Howe, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Rice, Sherman, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Wilmot, Wilson of Massachusetts, and Wright—30.

So the amendment was rejected.

Mr. BROWNING. I desire to propose an amendment to the amendment of the Senator from New Hampshire. I believe that is in order at this time.

The PRESIDENT *pro tempore*. It is.

Mr. BROWNING. I design prefacing the presentation of the amendment with a very few remarks. I do not doubt at all, Mr. President, the constitutional power of Congress to pass this bill. It is a question that has on some former occasions been before Congress for its consideration, perhaps not unfrequently at different times from the organization of the Government until the present day. I have taken some pains to look back into the records of congressional proceedings, and I find that on every occasion when this proposition has been made it has been very earnestly resisted by some portion of the representatives of the slave States; but I have not found that in any one instance opposition has been made to it on the ground of a want of constitutional power to pass the measure, but upon grounds of expediency alone. I have never myself doubted the existence of the power in Congress under the Constitution to pass this or any other legislative measure affecting the District of Columbia. The grant of power is as broad and ample as it is possible for our language to make it. I therefore have no difficulty at all on the score of the power of Congress to adopt the measure.

I do not think, Mr. President, that our friends who differ from us in their views upon this bill have any cause of complaint that we choose to exercise a power which we may constitutionally exercise. They may differ from us upon the ground of expediency; but in reference to a mat-

ter of expediency, each one must form his own judgment for himself; and it certainly ought to constitute no ground of complaint on the part of anybody that we differ from him in our views as to the time when the measure is expedient, and the manner of executing the measure.

I think, furthermore, that our friends from the border slave States attach very undue importance to this measure. I cannot myself conceive that it involves all the direful and disastrous consequences that they picture to us. The manumission of a few slaves in the District of Columbia cannot, in my estimation, materially affect the slaveholding interest anywhere. It can do them no possible injury. The District of Columbia will be no more open to the ingress of fugitives from the adjoining States than it is now; and it will be just as easy, I apprehend, to reclaim fugitives from the District after a measure of this sort has passed as it is to do it now. The law on that subject will remain the same. It remains on the statute-book unchanged, unimpaired in any of its provisions; and all the power of the Government will be as efficient for the execution of those provisions after the passage of this act as it is now. I think, therefore, a very undue importance has been given to the measure.

I have no intention of going into any lengthy discussion of the question. There have been two or three different suggestions made connected with this bill, all of which are perhaps entitled to consideration. Compensation of masters the bill itself provides for; compensation of the slaves has been suggested in another quarter; and colonization of the manumitted slaves in another. I intend submitting an amendment which to some extent combines all these three different ideas and measures; and I beg leave to state that this amendment did not originate with me—that is, the idea of it did not originate with me—but it was suggested to me by one of the most respectable and influential citizens of the District of Columbia, who has resided here, I believe, the whole of his life, and who is a slaveholder, a man of very fine intelligence, who has thought much on this subject. He suggested to me the propriety of the amendment which I am about to submit for the consideration of the Senate. I do not know that it will meet with favor from anybody but myself. It does meet my own views of what would perhaps be a wise amendment to make to the amendment of the Senator from New Hampshire.

I propose, then, to amend the amendment in the third section in the thirteenth line, by striking out the word "three" and inserting the word "five." It so changes the section as to make it read, "the aggregate sums allowed for slaves over ten years of age and under sixty, shall not exceed a sum equal to $500 for each slave," &c. The amendment of the Senator, as it now stands, being not to exceed "a sum equal to $300 for each slave set free between those ages." The other amendment I propose is to the seventh section by inserting in the tenth line after the word "cause," the words "one half." It now reads, "and the Secretary shall thereupon cause the sums so apportioned to loyal claimants," &c., to be paid to the former owner. I propose to make it read, "the Secretary shall thereupon cause one half of the sums so apportioned to loyal claimants for services of slaves under sixty years of age to be paid" to the owners; and further to amend by adding to the section these words:

And the other half of the sum so appropriated to loyal claimants for persons under sixty years of age, shall be retained by the Secretary of the Treasury, and whenever any one of said persons under sixty years of age shall remove to and settle in any country outside of the United States, and satisfactory evidence thereof shall be filed with the Secretary of the Treasury, the half of the valuation of such person retained by the Secretary of the Treasury, as aforesaid, shall be paid over to such person for his or her own use forever.

The compensation that is made under this amendment to the owners of slaves, falls very little below the compensation that would be made by the amendment of the Senator from New Hampshire, or the original bill. In addition to that, it offers an inducement to manumitted slaves to colonize themselves, to migrate to some country outside of the United States; and, upon so doing, they are to receive some compensation—that would meet the views of the Senator from Kansas—for their past services. It combines these two objects. It certainly offers an inducement for voluntary emigration and colonization, and will, perhaps, be more likely to result in the beginning of a system of that sort than any proposition that has yet been suggested. I may add, further, that the aggregate expense to the Government, I think, will not be at all increased by this proposition. The $1,000,000 appropriated by the bill will, in my judgment, be entirely adequate to meet all the exigencies and all the demands that will arise under the bill if this amendment should be adopted; for, if it should pass, some will die, some will not desire to emigrate, and so far as they do not emigrate there will be nothing to be paid; so that there would be a diminution of the appropriation on the one hand, while there is an apparent increase of it upon the other. The measure is as just, or very nearly so; it gives to the owners of slaves at present very nearly as large a compensation as the original bill proposed. As I have already remarked, the amendment was suggested to me and urged upon my consideration by a most intelligent slaveholder of the District of Columbia, and it commended itself to my judgment and my approval upon his assurance that if this proposition were submitted to the people of the District of Columbia, he entertained no doubt that it would receive the indorsement of a very large majority of them.

Mr. GRIMES. Does the $500 compensation proposed by the Senator apply to slaves of all ages?

Mr. BROWNING. No, sir; to those between ten and sixty.

Mr. GRIMES. Is there any proposition made for colonizing those below the age of ten years when they shall have arrived at twenty-one?

Mr. BROWNING. This does not provide for that. It ought, perhaps, to have gone to that extent; but drawing up the amendment in haste at my table, as it was recently suggested to me, I made it applicable to persons between these two ages, as the valuation of $300 was applicable to them in the proposition of the Senator from New Hampshire. It may be, as is suggested by my friend from Minnesota, [Mr. RICE,] that parents in emigrating would desire to take their children, and that the amendment ought to be extended so as to embrace them. That can be easily done. If the idea meets the approval of the Senate, it will be very easy to put it into shape.

I am the more reconciled to voting for this measure now by the assurance that was given to me by the gentleman to whom I have alluded than I otherwise could have been without consulting the wishes of the people of the District, an assurance that I believe to be true, and I act upon it, that the measure would meet the approbation of a large majority of the people of this District, and would relieve the bill from any objection on that score. I have never doubted the power of Congress to pass a bill of this sort. I have always myself, however, believed that it would be inexpedient to do it without consulting the wishes of the people of the District, and acting in harmony with their views, and that whenever a majority of them desired it, then Congress not only possessed the power, but it would be its duty to exercise the power. I have always had hesitation about entering upon this measure without obtaining the assent of a majority of the people of the District; and I go now cheerfully for some measure on this subject from a conviction fixed on my mind by information derived from sources that ought to know—persons who are informed, persons who have no motive to deceive—that this measure does meet the approval of the people of this District, and that there is no necessity for delay by submitting the question of approval or rejection to them.

I have no intention to detain the Senate longer. I submit this amendment, and trust it may meet with the favor of the Senate, though I do not know that it will.

Mr. CLARK. Will the Senator allow me to inquire to which proposition he offers it, to the substitute or to the original bill?

Mr. BROWNING. I offer it as an amendment to the Senator's amendment.

Mr. CLARK. Then, before he offers it, I ask the Senator to allow me to submit an amendment.

Mr. BROWNING. Certainly.

The PRESIDENT *pro tempore*. The Senator from New Hampshire can modify his own amendment.

Mr. CLARK. I desire to add this, as an additional section:

And be it further enacted, That if any person shall knowingly swear falsely in regard to any matter or thing under this act, it shall be taken and deemed to be perjury, and punished accordingly.

The PRESIDENT *pro tempore*. That will be regarded as an additional section added by the Senator from New Hampshire to his own substitute. The amendment of the Senator from Illinois to that substitute will now be read.

The Secretary read Mr. BROWNING's amendment.

Mr. BROWNING. I perceive that the amendment does include in the colonization provision all persons under sixty years of age; but it does not apply in the valuation to any under ten.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New Hampshire, as amended, as a substitute for the original bill.

Mr. CLARK. Mr. President, I feel some delicacy in offering an amendment to the original bill, because I am aware of a desire on the part of certain Senators that no amendment should be made to the bill. I desire to say that I do not propose this amendment for the purpose of impeding the passage of the bill, or of impeding the abolition of slavery in this District. I desire to accomplish it. It is a measure to which I gave my heart long ago, and it is a measure to which I am ready and desirous to give my hand now. I do it with the intention of offering to the Senate a better bill, as I conceive it to be—a more perfect bill than that proposed by the committee.

In the first place, it provides that instead of three commissioners being appointed for the purpose of assessing the value, it shall be done by the Court of Claims; and the reason of this is, that it seems to me better that we should take a court already existing and appointed for other purposes, and who can well attend to this matter, and let them do the business, and then prevent the suggestion which may be made that they were appointed for this particular purpose. There will be fault found with them. It will be said this commissioner was appointed with reference to this matter, and that commissioner with reference to that man or that purpose; but if you take a court already established they will not be liable to that suggestion, and besides you will save to the Treasury some six or seven thousand dollars, not a great matter, to be sure. I find many Senators say six or seven thousand dollars is of no consequence now when we are spending millions and hundreds of millions. It is very true that $6,000, compared with hundreds of millions, is a very small sum, but I beg Senators to remember that it is the last ounce that breaks the camel's back, and it becomes us to save everything we can save.

The next thing I desire by my amendment to accomplish is to prevent disloyal owners from getting pay for slaves. The bill originally proposed and reported by the committee does not do that. I desire to call the attention of the Senator from Maine to that point; it does not prevent a disloyal person from getting pay, that is a person who has been disloyal, a person who has borne arms against the Government. Such a man may come in now and say, "I am loyal; I will give my allegiance to the Government of the United States; this rebellion has gone far enough; I am satisfied that it is going to end in disaster; I am now loyal to the Government, and I want my pay for my slaves." I ask the Senator what there is to prevent his getting it? He comes in and swears to all that is required of him, "I am loyal, I declare my allegiance to the Government of the United States: true, six months ago I was a rebel, but now I am satisfied the rebellion will end in disaster." How is he going to be prevented from getting his pay? The only provision of the original bill is that he shall declare himself to be loyal and acknowledge his allegiance; but the provisions of my substitute are that no person who has ever been disloyal, who has borne arms against the Government, who has given aid and comfort to the cause of rebellion, or who has advocated it, shall ever be allowed pay for any slave, and it provides that any testimony may be offered on that subject. You are not to be confined to the petition, and the statements and allegations in the petition; but you may receive any other evidence that this person or that person

has been disloyal, and the court are ordered to find the fact. The original bill proposed by the Senator from Maine does not require the commissioners to pass upon anything in the world except the validity of the claim of the party to the slave. They are to pass on that, and it does not require them to pass on the other facts alleged in the petition. It does not require them to pass upon the question of loyalty at all, but, simply upon the validity of the claim. These are the words in the original bill in section three:

"That the President of the United States, with the advice and consent of the Senate, shall appoint three commissioners, residents of the District of Columbia, any two of whom shall have power to act, who shall receive the petitions abovementioned, and who shall investigate and determine the validity and value of the claims."

The power they have is, to determine the validity and value of the claim; that is, the worth of the slave.

Mr. HOWARD. But does not the validity of the claim plainly imply loyalty? Is there not a clause in this bill which requires that the claimant shall be a loyal man?

Mr. CLARK. Not as I understand it.

Mr. HOWARD. I think you will find it so.

Mr. CLARK. I think I have in my mind what the Senator refers to: "that all persons loyal to the United States holding claims," &c., may apply.

Mr. HOWARD. Nobody but a loyal citizen can have any valid claim.

Mr. CLARK. Very well; but the evidence of the loyalty is the statement in the petition. There is no provision for anything else. The petitioner's own allegation is sufficient.

Mr. HOWARD. Do I understand my friend to say that that simple allegation is conclusive evidence on the question of loyalty?

Mr. CLARK. I understand it to be so.

Mr. HOWARD. I think not.

Mr. CLARK. I will thank the Senator to point me out any other provision in the bill. That is what I am at.

Mr. HOWARD. On the principles of common law——

Mr. CLARK. What is the principle of the common law?

Mr. HOWARD. It is not a principle of the common law that an averment in a mere petition shall be held to be conclusive evidence of the truth of the fact stated in it.

Mr. CLARK. But when the law requires the petition to state a certain thing and requires no further evidence, I do not see but that it is to be conclusive.

Mr. HOWARD. I do not so understand the bill.

Mr. CLARK. I do so understand the bill, and I have looked through it with care.

Mr. HOWARD. There we differ.

Mr. COLLAMER. May not every material allegation of the petition be put in issue?

Mr. CLARK. The question may be what may be material under it. I do not say. Even take the Senator's own statement; if a person says, "I am loyal to-day, I declare my allegiance to the Government of the United States," if the fact is found by the commissioners that he is loyal to-day, though he was engaged in aiding the rebellion six months ago, is he not entitled under the bill to his pay? Does the Senator contend that he would not be under the bill?

Mr. HOWARD. What was the question?

Mr. CLARK. Suppose a man was engaged in aiding the rebellion six months ago, and he comes into court to-day, and says, "I am entirely loyal; I am satisfied that the rebellion was a mistake and a disaster; I yield my allegiance to the Government;" and the court is satisfied that he now does yield his allegiance, is he entitled to pay?

Mr. HOWARD. Under such a state of facts, I should hold it to be the duty of the commissioners to regard the applicant as disloyal. He having once been disloyal, I think that would be quite sufficient to satisfy the judgment of a court. If a claimant has borne arms against the Government of the United States, or taken part in any way in aiding and abetting the rebellion, he is *ipso facto* a disloyal man, and guilty of treason. I take it, that one commission of the act of treason is quite sufficient to constitute a person a dislyoyal person, and that evidence would be conclusive, however frequently he might change his opinions in the future—repenting to-day, and committing the same sin perhaps again to-morrow; it is the first act; *Ce n'est que le premier pas qui coute*, as the French say; it is the first step that costs.

Mr. CLARK. I have accomplished my purpose in showing that there may be a disagreement about this matter. I desire to remove entirely all doubt and hesitation about it, and hence I have provided in my substitute that no person who has borne arms against the Government, or who has ever aided the cause of the rebellion, shall have one dollar. There can be no harm in setting it out plainly and certainly.

Then the bill which I have offered as a substitute provides what the other bill does not provide for, that no person who is not a resident of the District of Columbia shall be entitled to pay for slaves. There will be this difficulty, I apprehend: there will be found to be fugitives here in the District, and after the passage of this act people may come from Maryland, from Virginia, from any other State, and set up a claim to some slave who they say has been set free by the operation of this bill, and then you have got to pay them. There may be another objection. The people of Maryland and Virginia who have old slaves that they want to get rid of will run them in for the very purpose of having them set free and paid for in this way. They will not send any slave that is of any account to them; but they will send in slaves of no value, for the very purpose of having them set free and making a claim under this bill. I desire to provide against that, to shut the door to fraud, to provide that no person not resident in this District shall be entitled to come in here and claim pay for slaves. Everybody must be aware that those who have slaves in this District and have rented them out for some time past have been taking them away from this District, so as not to suffer the bill to operate on them, if they are of any value. I understand that hundreds have been carried out of this District in the last week or two, so that this act shall not operate on them.

Again: the proposition which I offer makes provision for the slave child who shall be set free. The bill reported by the committee makes no provision in regard to the slave child. The child of one year of age, two years, three years, or four years, who has nobody to care for it, may be set free and left upon the world, and suffer, be deprived of any education, care, or support. The bill I offer makes provision for it, that the Mayor of the city of Washington, or the Mayor of Georgetown, or the levy court of the county of Washington, as the case may be, shall have power to apprentice these children to some person who will care for them, (if they have nobody to care for them,) until they shall be eighteen years of age.

There is also further provision in regard to the aged. The bill coming from the committee makes no provision at all in regard to the aged. There were at the time of the last census in this city three hundred and sixty-nine slaves over sixty years of age. In the largest number of these cases the owners would be willing to part with them to almost anybody who would take care of them. The bill reported by the committee proposes to set these slaves free, to leave them without support in their old age, to take the money which should be given to them and give it to the master. The bill which I offer leaves that money with the Mayor of Washington, or the Mayor of Georgetown, or the levy court respectively, for the support of the slave so long as he may live, and if there is anything remaining at his death it provides that it shall go to the owner, but it secures to the slave, so far as that amount goes, a support during his old age.

These are the main provisions of my bill. It does not give so large a price for the child as the bill reported by the Senator from Maine from the committee. It does not give so large a price for the old, but I am satisfied that it gives quite as large a price as the Government ought to pay. I am satisfied that $300 as an average price for slaves between ten years of age and sixty was quite large enough as they existed in the District two weeks ago. I am satisfied that it is quite too large now, because, if reports be true, they have run out of the District one thousand or twelve hundred or fifteen hundred slaves of the most value, and left only the young, the aged, and the infirm to be paid for. They are still running them out. No doubt they will run out of the District every slave of any value, and you will have under this bill to pay for only the sick and the decrepid, the aged and the infirm. I think we give enough when we give, as limited by my bill, $150 for every child. Some may be worth one dollar, some ten dollars, and some may be much more valuable. So in regard to the aged. Some of them are worth nothing, some may be worth a good deal, and having such an average you have a great range.

Mr. GRIMES. Poor property!

Mr. CLARK. Pretty poor property, I admit. Some of them are of very little value. Some of them the Senator from Iowa would not take if he could have the pay.

These are the general provisions of the bill I have offered as a substitute. If the Senate prefer the original bill, of course I have nothing to say. My only desire has been to offer a bill making provision for the aged and for the young, and sending it to the Court of Claims, a court already established.

Mr. MORRILL. Perhaps I ought to explain to the Senate the provisions of the bill as reported by the committee in the particulars alluded to by the Senator from New Hampshire. All I can say is, that this bill originally, as submitted to the committee, was prepared with very great care; and it has received the best consideration that the committee was able to bestow upon it; and I will say to my honorable friend who criticises the original bill, and who thinks that his is much better, that there was not a single question to which he alludes that did not receive the attention of the committee; and if I understand the bill of the committee, there is not a single provision of his bill but that is provided for in the bill of the committee, except the feature of referring it to the Court of Claims.

The objection to referring it to the Court of Claims, and the preference which the committee gave to a commission was, that this thing should be kept wholly distinct and apart from the duties of courts or the business of courts; that you should have a clean commission who should have a specific duty to perform, to be performed within a given time, and when that is performed there is an end of it. It is an arbitrament, it is not a court; it has not such duties as are common to courts. I submit to the Senate that it is a great deal better when this thing is done and finished, that there should be an end of it; that there should be no exceptions, no appeals, none of the machinery of courts; and for that reason the committee preferred the institution of a commission, and for that reason I submit to the Senate that the bill of the committee is preferable to the substitute proposed by the honorable Senator.

The next objection brought against the bill by the Senator from New Hampshire is that we do not provide against the claim of a disloyal owner of slaves.

Mr. CLARK. Sufficiently.

Mr. MORRILL. That we do not provide a sufficient bar against such a claim. I beg to say to the honorable Senator that he has read my bill very indifferently if he has come to that conclusion, for, if it is possible to make it clear, that point is made clear in the latter clause of the third section of the bill. In the first place, allow me to say upon that precise point, the object of the committee was to provide simply for the claims of loyal owners of slaves and none other. Accordingly we provided that none but a loyal person should be permitted to prefer his claim at all, that the claim should be stated in writing, and should be preferred under oath, which is not true of the substitute of the Senator from New Hampshire. He does not require the claims to be presented under oath. We provide that the man shall not approach the court, unless he approaches it saying, in writing, "I am loyal."

Mr. CLARK. The Senator is mistaken. I require it under oath.

Mr. MORRILL. I stand corrected. The Senator's bill provides for the petition being submitted under oath. Then we provide that it shall be subject of proof, and he is to be adjudged loyal by the commissioners before he is entitled to receive his claim, and then we go one step further to provide for the precise contingency referred to by the Senator. This bill provides—and I will read the language, for I think it is concise enough—in the last clause of the third section:

And provided further, That no claim shall be allowed for any slave or slaves brought into said District after the pas-

sage of this act, or which originates in or by virtue of any transfer heretofore made, or which shall hereafter be made, by any person who has in any manner aided or sustained the rebellion against the Government of the United States.

Mr. CLARK. Will the Senator pardon me?

Mr. MORRILL. Certainly.

Mr. CLARK. I want to call the Senator's attention to that very provision, because, that in my judgment is a very defective one. The Senator says it provides exactly for the case. I ask him if it provides for the case of a person who is disloyal in this District but has owned a slave all the life of that slave, and inherited him. It only provides for a case of transfer; it does not provide for any other case but one of transfer.

Mr. MORRILL. That is precisely the case it does provide for.

Mr. CLARK. I know it is.

Mr. MORRILL. The first part of the section provides, as I have already stated, that the loyalty of every claimant shall not only be alleged by the presentation of the petition under oath, but it is made a subject-matter of investigation upon which the commissioners are to pass. The claimant is to be found to be loyal to the Government. I submit, therefore, that the honorable Senator's substitute provides nothing new. It repeats in that particular what is already provided for in this bill, and I submit that it is as thoroughly provided for as it is capable of being, provided the commissioners perform their duty aright.

The next objection which is brought against this bill is that it does not provide for the care and custody of infant children discharged from service under its provisions; and we are told that this bill will be very likely to discharge infants; and that they will be turned out upon the world as free, without being put into the charge or custody of any particular person whose duty it shall be to care for them. In my investigations, one fact has been most obvious, and that is that almost all the infants—I believe in every instance, without an exception—had mothers, though it is a little questionable about their fathers. To relieve the solicitude of the honorable Senator on that subject, I can assure him that if you confer on the black population of this District the boon of freedom, give them their rights; they ask no favors of you; they do not ask your charity; they do not ask you to assign guardians; they do not ask you to find persons to take charge of them. Sir, there is no class in this District who care for themselves and for each other as the colored population do; and precisely on this point allow me to say that they are the only self-sustaining and self-supporting class in this District; the only class who ask no favors and get no favors. This charity is all mistaken and all misdirected. Just take your feet off these people, let them up, give them their rights, and my word for it they will take care of themselves without your appointing guardians for the infants or the old. All these infants are cared for in slavery; they have mothers, next friends, relatives; and when they are freed, those who have care of them have the capability, in addition to the inclination, to take care of them. This bill, when it frees the mothers and fathers and friends of these children, gives them the opportunity which they have not had; that is all. That provision which the Senator would make, in my judgment, degrades the measure; it is a confession which I would not see made in the legislation of Congress. It is a provision which the condition of the colored population in this District, and their capacity to sustain themselves, does not require. Give these people their rights simply to take care of themselves, and they have the capacity to do it; and that is the answer to that provision of the Senator's bill. There need be no new undue solicitude on that subject.

The next provision of his bill, which the Senator claims to be superior to the bill reported from the committee, is that which graduates the compensation for infants under the age of ten years, $150, and for infants or old children over the age of sixty years the same sum. Now, what is the reason of such a provision as that, and how does such a provision as that commend itself to the judgment of the Senate in preference to that provision which says to the commissioners, "appraise these people without regard to age, precisely at their value?" Is it anything better than that? According to the figures I have made on this subject, the facts will turn out to be about these: There are not to-day over fifteen hundred slaves in this District; they are disappearing daily, and before this bill takes effect all the most valuable slaves will have left the District. Of this number, at least one fourth are under ten years of age; about one eighth are over sixty. What are they worth? How has the Senator from New Hampshire ascertained that their fair value is $150? What is there in the discussion here that indicates that that is a fair sum for these persons? My judgment is that in regard to those who are over sixty, they are worth nothing; I mean on the average. There are persons, undoubtedly, who would be an exception, but as a general proposition, these persons over sixty are worth nothing. No provision need be made in regard to them. You may safely trust the men who will be appointed by the President on this commission to say what would be a fair compensation to owners for persons over sixty years. That would depend on constitution, capacity, &c., which they can consider; but how can we say that that class of persons over sixty are worth $150? It occurs to me that any standard of that sort is entirely arbitrary; and I very much prefer the provision of the bill which leaves it entirely to the judgment of the commissioners to investigate in each case.

Then in regard to infants, those of tender years, how is the child in the mother's arms to be appraised? Just as in the judgment of the commissioners it ought to be appraised.

I do not therefore perceive in any of these particulars to which the honorable Senator has alluded any superiority, so far as the safety of the public is concerned, or so far as the safety of the individual slave is concerned, which influences me to yield the preference to his bill. Hence, after great consideration that I know has been given to this bill, the great interest that has been taken in it, and the attempt to perfect it in all possible ways that could be suggested by friends inside and outside, I am constrained to appeal to the Senate to prefer the bill as reported by the committee to the substitute proposed by the Senator from New Hampshire. With these remarks, I submit the matter to the Senate.

Mr. CLARK. I do not doubt that the honorable Senator from Maine, personally, has given great attention to this bill; I do not doubt that the the Committee on the District of Columbia has well considered it. Still I think the Senator will pardon me if I say that the bill may, perhaps, be amended in the judgment of some people; that it may not be the best bill that could be perfected. I dare say it may be better than the bill I have offered as a substitute; but I desire to bring my bill before the Senate that the Senate may have an opportunity of deciding whether or not some of the provisions I have proposed may not well enough be put into this bill.

In regard to the court, the Court of Claims will secure all the objects aimed at by the honorable Senator from Maine and by the committee. It is a court that has abundance of time for trying these questions. It is a court accustomed to weighing testimony. It is a court accustomed to the affairs of this District. More than that, it is a court accustomed to keep a record, and it is of very great importance in regard to identity and the questions that will grow out of the abolition of slavery in the District that the records should be kept, and kept safely. Very important questions may arise as to the freedom of persons; and the court have a place for keeping a record and will keep a record. I provide that they shall keep a record of their proceedings. If you have commissioners, where will the records go? They are taken here and there; they have no particular place of doing business, and for keeping their records. What becomes of these records? By and by it is important that there should be a record. As to the suggestion of the Senator that the thing should be closed up at once without appeal, it is closed as early in the Court of Claims and without any appeal. There is no appeal from their judgment; the judgment is made final and conclusive, exactly as it is made by his bill. The bill I have offered requires the statements of the petition to be much more particular and much more numerous; as, for instance, the petitioner must state the title to his slave, he must state when and how he acquired the title, so that you can see whether he has been brought into this District from outside within the last month or two. All the particulars in regard to it must be stated, so that the court can judge.

I wish to make one remark to the honorable Senator in regard to these children. I have no doubt he has given some attention to it; but my attention was brought to the want of this provision by a suggestion made by the Superintendent of the Census in regard to the defect in the bill in that particular. I can go and point him out an instance, I think, in this District, of a little slave girl four years of age. She has neither father nor mother in the District, or anywhere about, nor brother, or sister, or any relative. She has nobody in the world to depend upon or look to but her mistress. You set her free. What is to be done with her? The mistress says, perhaps, "I will not keep her," and where is she to go? She is houseless, homeless. She may find friends among her black acquaintances; somebody may take care of her. My bill only provides for the condition of those who have nobody to look after them. If they have next of kin, if they have relatives to take care of them, then no guardian is to be appointed; but if there are cases like the one I suggest, where there is nobody to look after them, this provides somebody for them. I agree with the Senator that if you take off your hand from these people they will rejoice; it is all, perhaps, that many of them will want; it will be the greatest boon ever conferred upon them; but still there may be people so abject, and so forsaken, and so forlorn that they will need the aid of somebody else. There are white and free people that require the very aid we seek to provide for these black people. It certainly does no harm to make the provision. It does not degrade the bill to say that if there be any poor child so friendless that there is nobody in the world to care for it, the Mayor of Washington may care for it, or the Mayor of Georgetown may care for it, or the levy court may care for it, until it is eighteen years of age. Is that degradation? It seeks to lift up these people, and to put them in the way of acquiring a livelihood, instead of permitting them to be trodden down. It not only says to them "you are free," but it reaches out the hand of aid and charity to put them in places and give them that instruction which shall enable them to maintain themselves in life.

Now, in regard to the provision for old men, I admit that the price of $150 is arbitrary; but let me say to the Senator from Maine that his price of $300 is entirely arbitrary. He judges that to be sufficient. I judge the other sum to be sufficient. I understand the Senator from Vermont [Mr. COLLAMER] to say it is too much—$150 is, perhaps, too much as a fixed price for a slave over that age. I have, it is true, fixed it liberally, because it is to support the slave; it is to be set aside for him, and I think all will agree with me that the fund of $150 is not too much to take care of persons sixty or seventy years of age. It is not too much in that aspect of it, but it may be perhaps more than the slave is worth. However, when these people have been used their life long in the service of another, it seems to me at least to be enlightened charity to provide this much for their support when they are to be set free. That was my desire in regard to it, that there might be some little fund to support these poople.

Mr. WILLEY. I submitted an amendment the other day, and I wish to make an inquiry of the Chair as to whether this is the proper time to offer it. If the amendment of the Senator from New Hampshire should prevail, would it then be in order to offer my amendment?

The PRESIDENT *pro tempore*. If the substitute offered by the Senator from New Hampshire shall be adopted, it will not be open to further amendment in Committee of the Whole, but when the bill shall have been reported to the Senate the question will recur again, and it will be open to further amendment.

Mr. WILLEY. Is it in order to offer it now as an amendment to the substitute?

The PRESIDENT *pro tempore*. Now is the proper time to offer amendments either to the substitute, or to the original bill, by way of perfection.

Mr. WILLEY. I then offer my amendment as an amendment to the substitute, preferring it to the original bill.

The Secretary read the amendment, as follows:

Insert as an additional section:

SEC. —. *And be it further enacted*, That before this act

shall take effect the President of the United States shall cause it to be published in two daily newspapers printed and published in the District of Columbia for the period of thirty days; and when the same shall have been so published, the President of the United States shall, by his proclamation, appoint a time and places in the said District for taking the sense of the citizens thereof for or against the adoption of the said act; and he shall cause judges to be selected, who shall preside at such election, and he shall provide and proclaim the manner and rules of conducting the same: *Provided*, That every free white male citizen of the United States above the age of twenty-one years, who has resided in the said District for one year next preceding said election, shall be permitted to vote thereat. And the result of the said election shall be reported by the said judges to the President; and in case it shall appear by the result of the said election that the citizens of the said District have, by a majority of votes, decided in favor of the said act, that thereupon the said President shall, by his proclamation, declare it to be in force as a law of the said District of Columbia; and the same, when so proclaimed, shall, from the day of the date of said proclamation, be and remain the law of said District, without any further act or proceedings to that effect, but not otherwise. And that the expenses incurred in carrying out the provision of this section shall be paid out of the Treasury of the United States.

The PRESIDENT *pro tempore*. Had the Chair been aware of the nature of the amendment offered by the Senator from Virginia, he would have ruled it to be in order to offer it after the substitute of the Senator from New Hampshire should have been adopted, because it is mere additional matter without qualifying or modifying any of the original amendment. It is quite proper, however, to consider it now, and the question is on the amendment to the substitute, proposed by the Senator from Virginia.

Mr. WILLEY. I desire to offer a very few observations in explanation of the amendment. It is very likely that the bill will pass. I have heretofore announced to the Senate that I could not vote for it, but I understand it to be parliamentary and entirely proper to make the bill as acceptable as the nature of the case may be, although thereafter I shall feel it to be my duty to vote against the whole bill.

One of the reasons why I think this amendment ought to be adopted is, that the people of the District of Columbia occupy an anomalous relation to this Government. They have no representative upon the floor, nor have they any in the other end of the Capitol. They are without representation in Congress; their voice cannot be heard upon this floor; their wishes cannot be made known through any agency of their own. I think, therefore, in a matter so fundamental in its relations to their interests as this bill, it would be eminently proper to allow the people of the District of Columbia to express their wishes in the premises, more especially as it seems to me that the District of Columbia is soon to be very seriously affected by this class of free population. The passage of this bill may not increase the number of free negroes in the District of Columbia very greatly. I have no doubt it is true, as is alleged by Senators, that the apprehension of the passage of the bill is already leading and will continue to lead to the removal of the most valuable part of the slave population from the District; but then the progress of this war, the result of freedom and free principles, the inevitable result of the fact, not far distant, that Virginia will be free, will lead to this District ere long being overwhelmed with a free negro population, to the great detriment and to the great inconvenience of the white population. The people of this District see this; they have apprehended this a great while, and it seems to me that they ought to be consulted respecting a measure which even leads in a small degree to the increase of the evil thus apprehended.

So much, very briefly, for that reason. Another reason, Mr. President, I will state in brief. It is a fact recognized in this country, that all just government derives its authority from the consent of the governed. I have looked into the acts of cession of the States of Virginia and Maryland of this territory which is now the District of Columbia, and I can find nothing in them that would, in my mind, interpose any absolute legal objection to the exercise of this power on the part of Congress. There was no reservation; they ceded this territory to the General Government for the purposes set forth in the constitutional provision and in the acts of cession themselves, without any limit and without any condition; but, sir, I imagined that it never entered into the consideration of the Legislature of Virginia or Maryland which passed these acts of cession at that day, that such a question as this would ever arise. At that time almost every State in the Union—I believe every State but one—was a slaveholding State. The Legislatures of Virginia and of Maryland ceded this territory to the United States, and with it they ceded a portion of their population to the jurisdiction of the United States, with all their rights and immunities, never dreaming, perhaps never conceiving, that the time would arrive when it might become necessary, in the administration of the General Government, to interfere with the fundamental rights of property guarantied to them by the laws and constitutions of Virginia and Maryland at the time of the acts of cession; and now it seems to me eminently proper that this people, in a matter like this, should be consulted. If, as the honorable Senator from Illinois says he has no doubt is the case, a majority of them are in favor of this measure, no harm can be done; but it seems to me that they ought to be allowed to express their opinion in this matter.

There is another reason—and I merely mention these reasons briefly without elaborating them—and a reason which comes home personally to myself with greater influence than any other reason. I rejoice in the inmost recesses of my heart in the noble sentiments expressed by the distinguished Senator from Maine [Mr. FESSENDEN] a little while ago. Sir, I shall send his speech into my State wherever it can reach a loyal man, and it will carry joy and confidence from the character of the source from which it emanated into the minds and the hearts of the loyal people. I do not pretend to say that I did not know that he entertained the sentiments which he so well expressed. I do not pretend to say that I had any apprehension that a majority of the Republican party intended by any legislation here to interfere with the institution of slavery in the States where it exists, but I rejoice to-day that we have a further expression from so high an authority as his that I may send home to my constituents to allay their apprehension and excitement, which all must acknowledge are natural under the circumstances at this day. There is a sensitiveness there which Senators who have not been in the South perhaps are not aware of. There is an apprehension there that more is meant by this bill than appears on the face of it. There is a widespread suspicion and dread that it is the intention of the dominant power in Congress at this time to carry emancipation into the States. I am willing to admit that it is an apprehension that has no just foundation in truth; I rejoice in that belief; but nevertheless that does not alter the fact that such an apprehension exists in the southern States.

Now, sir, all our hopes of reorganization depend on the Union sentiment of the South. Let Senators remember that never, never, while the sun shines, can this Government be reorganized if the whole sentiment of the South is consolidated against it. You may slay every man, woman, and child, and reëstablish the Government afterwards; but it cannot be reëstablished if you instill into those people that it is your intention to trample beneath your feet summarily their dearest and most cherished constitutional rights. Now, sir, in this matter all I ask is, that you will pay some regard to an unfounded and unjustifiable misapprehension. There is wisdom, sometimes, in conceding to an apprehension that is unjustifiable, when great mischief must grow out of the fact that you do not concede something to it.

I want to apply these remarks to this amendment. My friend and colleague knows how frequently we heard the old maxim of government repeated last spring in the convention, that "all authority of government is derived from the consent of the governed; we wish to secede; the people have a right to secede in the South, because they do not consent to be governed by the Constitution of the United States any longer; they wish to withdraw." I want to put the argument into the mouths of the loyal men to meet the influence of your action here, all through the border States, and let them say: "this matter was submitted to the people of the District of Columbia, and they have ratified and confirmed the bill by their express vote at the polls," and silence the objection. The great object I have in offering this amendment is to put that argument into the mouths of the loyal people of the slaveholding States to meet the denunciations and charges of disloyalists there that this measure is a stepping-stone towards universal emancipation in the South. Why can you not give us that argument? Is it not just and right in itself? Does it violate any principle to refer this matter to the vote and wishes of the people? If, as my friend from Illinois said awhile ago, it is true that the majority of the people in this District are in favor of this measure, your wishes will not be prevented from their accomplishment by the adoption of this amendment, while you will give us an argument to sustain ourselves in the border slaveholding States, and to resist the charges that will be made against us when we go home, for having been perhaps unfaithful public servants in not resisting more steadfastly and steadily this movement here.

There is one other objection which I shall simply allude to, and then take my seat. The resolution, called the President's resolution, I intend to vote for. It meets my approbation; and the more I think about it, the more I believe it is correct, and that it will be a balm to heal the bleeding wounds of our country at last. I can say to my honorable and distinguished friend from Maine, [Mr. FESSENDEN,] that if the moral, legitimate influence of such a resolution, and such action on the part of Congress, does affect slavery in the South and lead to its ultimate extinction, I here, as a Virginia Senator, boldly avow that I do not object to it on that ground. It has my heart's approbation. I stand for the Constitution, and only for that. That resolution will pass the Senate undoubtedly. Why not let the same principle apply to the District of Columbia, composed of parts of the States of Virginia and Maryland originally, which we propose to apply to the States themselves? Let the people ask for it, and then give them the aid. Let the people vote in favor of this proposition, and if they do, then give them the aid. That is all I have to say.

Mr. POMEROY. I have listened with some interest to the remarks of the Senator from Virginia. I think, if I understood his amendment, he proposes to submit this law, if it shall become a law, to a vote of the people. The question occurred to me, if that were so, whether the existence of the law was to depend upon a vote of the people, whether the people could be said to have enacted the law, or Congress.

Mr. WILLEY. Both.

Mr. POMEROY. I apprehend myself that if we make a law, it becomes a law by act of Congress, and not by a vote of the people. The people of this District are not the law-making power. They are not even represented, as the Senator says. They cannot make laws through their representatives, for they have not any. Now, I ask if they can make laws at the ballot-box by voting that certain bills shall be laws?

But if this matter was really to be submitted to the people of this District it would be different. It is proposed to submit a question of a change of relation between master and slave. I ask the Senate in all fairness whether one party alone should vote; whether it is not as much for the interest of one of these parties to be heard at the ballot-box as the other? I still say that there are some rights that even black men have. If we are going to leave this question to the people to vote upon it, I insist that the Senator from Virginia should amend his amendment by striking out at least two words—"free white." If he will strike out those two words, and let every person who has arrived at the age of twenty-one years vote, there will at least be fairness in submitting this question to a vote of the people. As the question affects both parties alike, and as it is as much for the interest of the colored man as the white man, I should like to know why he may not vote on it. I suggest, therefore, to the Senator from Virginia to amend his amendment by striking out those two words, "free white;" and if we are to have an election in this District on the subject, let us have a fair vote of all the parties in interest. These men who are to receive some three hundred dollars apiece for all their slaves, on an average, are going to vote, and I should like to know why those who are subject, those who are to become free, if they are to become free at all, by this law, may not also vote. It is as much an object for them to get their freedom as it is for the other party to get their $300; and both parties being interested, they both should vote alike. That is the point. I only want to hold the balance even and fair, and I insist that before I vote for this amendment, the amendment I have suggested shall be made to it.

Mr. TRUMBULL. It is very apparent, I may say, that not only will the people of the District have no opportunity to vote, but we shall never get a vote upon this question ourselves, if we are going to discuss all these amendments. I apprehend the Senate understands these amendments; and I wish I could appeal to the Senate, when amendments are offered which we all understand, to let us vote and settle this bill. I desire to offer an amendment, which will explain itself, to the original bill that is pending, which I believe is now in order.

The PRESIDENT *pro tempore*. It is not now in order. There is an amendment to an amendment pending. It will be in order after the question now pending shall be disposed of.

Mr. TRUMBULL. What is the question now pending?

The PRESIDENT *pro tempore*. There is an amendment pending in the form of a substitute, by the Senator from New Hampshire, for the original bill, and to that there is an amendment pending, offered by the Senator from Virginia.

Mr. TRUMBULL. I understand that is an amendment to the substitute. I do not propose to amend the substitute, but to amend the original bill.

The PRESIDENT *pro tempore*. The Senator's amendment cannot be entertained until the pending amendment is disposed of. It will then be strictly in order.

Mr. TRUMBULL. I appeal from the decision of the Chair. There is a bill pending here, and it is in order, and has always been so held by the Senate, to perfect the original bill before you vote on the substitute. There is no amendment pending to the original bill, as I understand. If I am misinformed, I, of course, am in error. There is no amendment pending to the original bill, except a substitute for it. If that is so, then it is competent to amend the original bill, because we cannot tell whether we will adopt the substitute or not, until we know how the original bill is to be.

Mr. SUMNER. There is an amendment pending to the substitute.

Mr. TRUMBULL. But there is no amendment pending to the original bill. If the original bill shall be made satisfactory to the Senate, the Senate will not adopt the substitute. I do not understand it to be in order to perfect the substitute before you perfect the original bill. Such is not my understanding of the practice or the mode of proceeding in the Senate.

The PRESIDENT *pro tempore*. If the Senator's last suggestion be correct, his amendment cannot be in order anyway. The original bill was open to amendment. Two questions, at least, were taken upon amendments, moved by the Senator from Kentucky, [Mr. DAVIS.] No further amendment being moved to the original bill, the Chair then received amendments to the substitute. But the practice has been to move amendments to the substitute and original bill alternately, although the better practice is to perfect the original bill in the first instance, and the substitute afterwards. The Chair has made no ruling that the original bill is not open to amendment, and to further amendment; but when there is an amendment offered, and an amendment to that amendment, it is not in order to drop those amendments in order to take up an original proposition to amend the original bill. But from this decision the Senator from Illinois appeals. The question is, "Shall the decision of the Chair stand as the judgment of the Senate?"

Mr. TRUMBULL. I understand the Chair, then, to rule that after the vote is taken upon the amendment to the substitute, it will be in order to move to amend the original bill.

The PRESIDENT *pro tempore*. Before the question is taken upon the substitute, it will be in order further to amend the original bill.

Mr. TRUMBULL. Do I understand the Chair that it will never be in order to amend the original bill so long as anybody proposes an amendment to the substitute?

The PRESIDENT *pro tempore*. While an amendment is pending as an amendment to an amendment, the Chair cannot entertain another proposition of amendment, either to the original bill or to the substitute.

Mr. TRUMBULL. The practice of the Senate has not been that way. I do not wish to have a controversy with the Chair, but I am very clear that in all my experience here, it has always been competent to offer an amendment to the original bill.

The PRESIDENT *pro tempore*. The Chair has made no ruling to the contrary, but has repeated to the Senator from Illinois that it was so.

Mr. TRUMBULL. Then I am certainly unable to comprehend the Chair. If it is so, I propose an amendment to the original bill.

The PRESIDENT *pro tempore*. That amendment is not now in order.

Mr. TRUMBULL. Then I understand it is not in order to propose an amendment to the original bill because an amendment to the substitute is pending.

The PRESIDENT *pro tempore*. Because an amendment to an amendment is pending.

Mr. TRUMBULL. If it is an amendment to an amendment, I agree mine is not in order. I will not have a controversy with the Chair about it. I withdraw the appeal.

Mr. WILLEY. I should like to have the yeas and nays on my amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 13, nays 24; as follows:

YEAS—Messrs. Carlile, Davis, Henderson, Kennedy, Latham, McDougall, Powell, Rice, Saulsbury, Ten Eyck, Willey, Wilson of Missouri, and Wright—13.

NAYS—Messrs. Anthony, Browning, Chandler, Clark, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Harlan, Howard, Howe, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Sherman, Sumner, Trumbull, Wade, Wilkinson, and Wilson of Massachusetts—24.

So the amendment of Mr. WILLEY was rejected.

Mr. TRUMBULL. Now I propose, not an amendment to the substitute——

The PRESIDENT *pro tempore*. The Chair understands the Senator.

Mr. TRUMBULL. But an amendment to the original bill; which I send to the Chair.

The PRESIDENT *pro tempore*. That is in order.

Mr. TRUMBULL. In section three, after the word "act" in the fifteenth line, I move to insert what I send to the Chair. The amendment is offered to meet the objection of the Senator from New Hampshire, which I think had some force in it, that persons who had been disloyal could claim for the value of the slave under this bill.

The Secretary read the amendment, to insert after the word "act," in the fifteenth line of the third section, the following:

Nor for any slave claimed by any person who has borne arms against the Government of the United States in the present rebellion, or in any way given aid or comfort thereto.

So that the proviso will read:

And provided further, That no claim shall be allowed for any slave or slaves brought into said District after the passage of this act; nor for any slave claimed by any person who has borne arms against the Government of the United States in the present rebellion, or in any way given aid or comfort thereto, &c.

Mr. MORRILL. Though I hardly deem that necessary, I certainly will not object to it. It is in harmony with what I understand the bill to be, and therefore I accept it.

The amendment was agreed to.

Mr. CLARK. I offer the following amendment to the original bill, to strike out the second section, and insert as the second section—it is only in regard to what the petition shall contain—this provision:

That any person resident in said District, whose slave may be set at liberty by the provisions of this act, may, within three months after the passage thereof and not afterwards, apply, by petition in writing, to the commissioners hereinafter mentioned, for remuneration for the loss of the services of such slave, setting forth in said petition, which shall be under oath, first, that the petitioner is a resident of the District of Columbia, is, and always has been true to his or her allegiance to the United States; that he or she has not borne arms against the Government of the United States in the present rebellion, nor in any way given aid or comfort thereto; second, the title of the petitioner to the labor or service of said slave; whether there is any dispute about the same, or whether any other person is interested in said services or slave or makes any claim thereto, and if so, who, and what claim is made; and thirdly, the name, age, sex, habits, usual health, defects, and other personal peculiarities of said slave, which may enable said commissioners to identify him or her, or determine the value of his or her services.

Mr. MORRILL. I do not know that I ought to agree to that amendment. I do not think the amendment secures anything to this bill not secured already by the second section. If there can be any choice about it, it is a choice of phraseology.

Mr. CLARK. It requires more.

Mr. MORRILL. I do not think it requires anything in addition. I believe the terms of this bill sufficiently secure us against claims of any but loyal persons, and I have some little choice, I must confess, as to the phraseology. In the second section of the bill as reported by the committee, they have carefully avoided the word "slave." "All persons loyal to the United States holding claims to service or labor against persons," &c., is the language. The objection I have to the amendment is, that it uses a phrase which we have not been accustomed to use in the legislation of Congress. Still, I am not going to argue the matter. I do not accept the amendment.

Mr. CLARK. It simply requires that more shall be stated in the petition under oath than is required by the bill—facts necessary to be known.

Mr. SHERMAN. It is manifest from what has been said that unless the Senate desire to have a very late session, the bill will not be passed to-night. The Senator from Indiana [Mr. WRIGHT] indicated a desire to have a vote on his substitute for the bill. I intended to say a few words in regard to the merits of this bill; but I shall forego saying them, if it is the desire of the Senate to pass it to-night. I have been up for three nights past, and am not in a condition to go on now; but I shall not ask for a postponement on my account, if the Senator from Maine thinks he can get through with the bill to-night. ["Oh, no!"]

Mr. CHANDLER and Mr. TRUMBULL. Let us finish it to-night.

Mr. COLLAMER and others. We may as well do it to-morrow as to-night.

Mr. TRUMBULL. Then we shall lose another day; that is all.

Mr. COLLAMER. There is not such a mighty distress about this matter that we must have a night session for it, particularly when the Senator from Ohio desires a little time. I wish, however, to make one suggestion before the question passes away for to-day. It seems to me that one thing is very necessary to the perfection of this bill, which I have not heard mentioned in the discussion. In some way or other there should be a record made of whose slaves are liberated, what their names are, what their ages are, and that should be preserved in some safe and proper place and further, the liberated slave himself should be furnished with a certificate, some evidence or muniment that he can carry with him. Suppose he goes away from this District into Maryland, and he is arrested? Being a man of color he is presumed to be a slave, because the people of color there generally are slaves. He is presumed to be a slave, and it is for him to rebut that presumption by showing his free papers, as they call them. A man who is manumitted, it seems to me, should be furnished with some muniment by the proper authority, and a record should be kept, so that if it is lost he can go and get another. It seems to me that this is absolutely necessary to the security of the people whom we are liberating. I desire to call the attention of gentlemen who have this bill in charge to the importance of providing something of this kind, which appears to me so necessary to the perfection of the plan.

Mr. SHERMAN. I move that the Senate adjourn.

Mr. SUMNER. I hope the Senator will withdraw that motion, and allow us to have an executive session.

Mr. SHERMAN. I have no objection.

EXECUTIVE SESSION.

On motion of Mr. SUMNER, the Senate proceeded to the consideration of executive business; and after sometime spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *April* 1, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

PAYMASTERS IN THE ARMY.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a report from the Paymaster General, in answer to a resolution of the House of Representatives, passed December

12, 1861, relative to paymasters in the Army; which was referred to the special committee on Government contracts, and ordered to be printed.

COMMISSION ON WAR CLAIMS.

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

Resolved, That the Secretary of War be requested to furnish this House with a copy of the final report made by the commission on war claims at St. Louis, which commission consisted of Hon. David Davis, Hon. Joseph Holt, and Hon. Hugh Campbell, which report gives a summary of the labors of the commission, and the reasons for their action on the different classes of claims brought before them.

MICHIGAN AND ILLINOIS CANAL.

Mr. WASHBURNE. I desire to present to the House the resolutions of the constitutional convention of Illinois in relation to the enlargement of the Michigan and Illinois canal. I move that they be referred to the Committee on Military Affairs, and printed; and I desire to say that I shall call up this subject at the earliest possible moment, and ask Congress to pass this great work of national and military importance.

The motion to refer and print was agreed to.

PACIFIC RAILROAD.

The SPEAKER stated that the regular order of business was the consideration of the Pacific railroad bill.

Mr. STEVENS. I desire to move to go into the Committee of the Whole on the tax bill.

Mr. CAMPBELL. I regret to be compelled again to postpone the special order, which is the consideration of the Pacific railroad bill. I do so, however, for the purpose of giving way to the tax bill. I move to postpone the special order until Tuesday next, and that it be made the special order for that day, and from day to day thereafter until disposed of.

The motion was agreed to.

FUGITIVE SLAVES.

Mr. HUTCHINS. I ask the gentleman from Pennsylvania to allow me to offer a resolution, to which I presume there will be no objection.

Mr. STEVENS. I withdraw my motion for that purpose.

Mr. HUTCHINS asked unanimous consent of the House to offer the following resolution:

Whereas Brigadier General Hooker, commanding division of the Army of the United States, lower Potomac, Maryland, on the 26th day of March, 1862, issued an order of which the following is a copy:

HEADQUARTERS, HOOKER'S DIVISION, CAMP BAKER, LOWER POTOMAC, *March* 26, 1862.

To Brigade and Regimental Commanders of this Division:

Messrs. Nally, Gray, Dummington, Dent, Adams, Speake, Price, Posey, and Cobey, citizens of Maryland, have negroes supposed to be with some of the regiments of this division; the brigadier general commanding directs that they be permitted to visit all the camps of his command, in search of their property, and if found, that they be allowed to take possession of the same, without any interference whatever. Should any obstacle be thrown in their way, by any officer or soldier in the division, they will be at once reported by the regimental commanders to these headquarters.

By command of Brigadier General Hooker,

JOSEPH DICKINSON,
Assistant Adjutant General.

And whereas by directions of Brigadier General Daniel E. Sickles a report was made in relation to said order of General Hooker, of which the following is a copy:

HEADQUARTERS SECOND REGIMENT, EXCELSIOR BRIGADE, CAMP HALL, *March* 27, 1862.

LIEUTENANT: In compliance with verbal directions from Brigadier General D. E. Sickles, to report as to the occurrence at this camp on the afternoon of the 26th instant, I beg leave to submit the following:

At about 3.30 o'clock, p. m., March 26, 1862, admission within our lines was demanded by a party of horsemen, (civilians,) numbering, perhaps, fifteen. They presented the lieutenant commanding the guard with an order of entrance from Brigadier General Joseph Hooker, commanding division, (copy appended,) the order stating that *nine* men should be admitted. I ordered that the balance of the party should remain without the lines; which was done. Upon the appearance of the others, there was visible dissatisfaction and considerable murmuring among the soldiers, to so great an extent that I almost feared for the safety of the slaveowners. At this time General Sickles opportunely arrived, and instructed me to order them outside the camp, which I did, amidst the loud cheers of our soldiers. It is proper to add, that before entering our lines, and within about seventy-five or one hundred yards of our camp, one of their number discharged two pistol shots at a negro, who was running past them, with an evident intention of taking his life. This justly enraged our men.

All of which is respectfully submitted.

Your obedient servant, JOHN TOLEN,
Major Commanding, Second Regiment, E. B.

To Lieutenant J. L. PALMER, jr.,
A. D. C. and A. A. A. General.

Therefore,

Resolved, That the joint select committee on the conduct of the war be requested to inquire whether said order of General Hooker is not a violation of the recent article of war passed by Congress and approved by the President, concerning the action of the Army in the return of fugitive slaves, and to report such remedy as in the judgment of the committee will prevent the issue of similar orders, which, while they outrage the feelings of loyal officers and men, necessarily tend to demoralize the Army.

Mr. CALVERT objected.

PENSION LAWS.

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

Resolved, That the Attorney General be requested to furnish to this House the opinion furnished to the Secretary of the Interior on the 11th of March instant, relative to the laws conferring pensions on wounded and disabled volunteers, and on the widows and children of such volunteers as die or may be killed in the service.

PERSONAL EXPLANATION.

Mr. STEVENS obtained the floor.

Mr. WICKLIFFE. I desire to ask the gentleman from Pennsylvania to allow me to make a personal explanation, which, I think, is due to myself. It will be very short.

Mr. STEVENS. I yield for personal explanation, of course.

The SPEAKER. The gentleman from Kentucky desires unanimous consent to make a personal explanation. Is there objection?

There was no objection.

Mr. WICKLIFFE. A motion was made by the gentleman from Missouri [Mr. BLAIR] some days since to impose a tax of five dollars upon each slave. In his remarks, as it occurred to me at the time, and I find them as reported, he charged me with having introduced a proposition into this House to impose a tax upon slaves similar to his own. I then asked him to give way for an explanation, but he declined to do so, and since then I have sought in vain for an opportunity to explain what was the motion I did make.

The proposition, it will be recollected, was to change a section of the direct tax law of last year so as to embrace that description of property in the States where it existed. My reasons for this motion were given at the time. The slaves of Kentucky, under such a provision, would pay nearly one hundred thousand dollars. That was the form in which every direct tax had been imposed by the Government. My proposition was to impose a direct or capitation tax upon that description of property. I wish to put this upon record, that I may not be charged with such an absurdity and outrage upon the Constitution of the United States.

TAX BILL.

Mr. STEVENS. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of resuming the consideration of the tax bill.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed, as a special order, the consideration of the bill (H. R. No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

The CHAIRMAN stated that when the committee last rose, it had under consideration the seventy-eighth section relating to railroads, steamboats, ferry boats, and omnibuses.

Mr. LAW. I ask the unanimous consent of the House to offer an amendment to a section which has been passed—the twentieth section. I will say that I have had a consultation with the chairman of the Committee of Ways and Means, and he says the amendment is a right and proper one.

Mr. STEVENS. I think we had better go ahead instead of going back. The amendment can be made hereafter in the House.

Mr. HORTON. I move to amend the heading of the seventy-eighth section by striking out the words "and omnibuses" and inserting "and" after the word "steamboats."

The amendment was agreed to.

Mr. HORTON. I move to strike out in the twenty-ninth line the words:

And omnibuses or carriages whose business it is to run hourly or at any other stated intervals of the day from one part or place of a town or city to some other point or place in the town or city, or out of it, and return.

Mr. DELANO. I would like to ask the gentleman whether it is not proposed, in some part of the bill, to tax either ferry boats or steamboats that carry passengers?

Mr. HORTON. We tax ferry boats and steamboats in the bill, and we strike out the tax on omnibuses.

The amendment was agreed to.

Mr. HORTON. I move to strike out the word "three," in the thirty-third line, and insert "one and a half;" so that the clause will read:

And any person or persons, firms, companies, or corporations, owning, possessing, or having the care or management of any railroad or railroads, the motive power of which not being steam, ferry boats, or vessels used as ferry boats, propelled by steam or by horse-power, whose business it is to run hourly or at any other stated intervals of the day from one part or place of a town or city to some other point or place in the town or city or out of it, and return, shall be subject to and pay a duty of one and a half per cent. on the gross amount of receipts derived from carrying passengers in any manner as aforesaid.

The amendment was agreed to.

Mr. HORTON. I move to strike out the words "or carriages" in the thirty-seventh line.

The amendment was agreed to.

Mr. HORTON. I move to strike out the words "or omnibuses or carriages," in the forty-second line.

The amendment was agreed to.

Mr. HORTON. I move to strike out the same words, "or omnibuses or carriages," in the fifty-second line.

The amendment was agreed to.

Mr. HORTON. I move to strike out the words "or omnibuses or carriages" in the sixty-first and sixty-second lines.

The amendment was agreed to.

Mr. HORTON. I move to insert after the word "duty," in the ninety-fifth line, the words "for foreign immigrants traveling inland from the seaboard one hundred miles or more, when carried at reduced rates of fare, and." The proviso will then read:

Provided, That all persons, firms, companies, or corporations, as aforesaid, shall be exempt from any duty for foreign immigrants traveling inland from the sea-board one hundred miles or more, when carried at reduced rates of fare, and for any passenger or passengers carried by them, or any of them, as aforesaid, when carried free or without charge.

The object of this amendment is to exempt from the passenger tax persons immigrating into the country who are carried into the interior at reduced rates of fare.

The amendment was agreed to.

Mr. BLAIR, of Pennsylvania. I move to insert, after the word "ticket," in line sixteen, the following:

And such person or persons, firms, companies, or corporations shall likewise pay a duty of two mills per ton for each ton of freight carried on said railroads.

Mr. Chairman, I do not know whether the Committee of Ways and Means have had their attention directed to the question of a tonnage tax or not. It is very likely they have, since they have taxed passengers, and that would naturally suggest a tax on tonnage; but it occurs to me that there is no one thing within the range of taxable objects that would bear a moderate duty as well as this, and press with such equable and gentle weight upon the people. You may name any article you please which enters into the consumption of the people, and I care not how far it may enter into that consumption, you will find always a large class of people from whom you would realize no tax whatever; but there is no person and there is no class of persons within the bounds of the Republic who do not consume articles on which freight is paid. I think, therefore, that it is an eminently just and desirable tax. It is one which will be paid upon a great many articles which escape taxation altogether; and it ought to commend itself, I think, to those gentlemen who erroneously, as I think, prefer a tax on sales to the scheme of the committee. We had in Pennsylvania a tax of this description, imposed by the charter, upon the Pennsylvania Railroad Company. It was a tax which was growing in great favor with the public mind, and one which would have eventually relieved the people from a very

grievous burden of taxation. But it was repealed a year or two since by the Legislature; though that was a measure, I am free to say, not at all acceptable to the people of that Commonwealth, as I perceive that by a recent effort of the Legislature the tax has been restored by one branch thereof.

I think, sir, that the ground on which the repeal of that tax was passed would not be found to operate in the case of a general tax. It was alleged by the Pennsylvania Railroad Company that they were compelled to impose the tax which was properly assessable upon the through freight, upon the way freight, in their efforts to compete for the western trade with the parallel railroads of New York and Maryland, so that a tax which was first designed to be just and equal, finally imposed a great hardship upon the local or way freight. This was not the effect of the tax, but an abuse of it. It arose from a perversion of the law, and I am free to say that if such an abuse would be likely to arise in the case of a general tax, it would be a question of great consideration, whether such a tax should be adopted. But I do not think it would. I think it will be found that these railroads would have a good understanding upon this matter, and that they would tax through freight as through freight, and way freight as way freight.

Besides, sir, if they should even adopt the policy of the Pennsylvania Railroad Company, the effect of it would be that the tax paid by the local freighters in Pennsylvania, New York, and Maryland, would all be put upon a par. So with the local freighters in Ohio, Indiana, and Illinois. The same inducements held out to a railroad in one State would be held out in another State. I hope this amendment will be adopted. I prefer it to the provision for a tax upon passengers, for I am disposed to look with great favor upon the traveling habits of our people. I think it is a feature in our character which is calculated to strengthen the unity of the nation, and ought not to be discouraged; and if the railroads cannot bear both taxes, I prefer to strike out the tax upon passengers and adopt that upon freight.

Mr. HORTON. I am opposed to the amendment of the gentleman from Pennsylvania. This subject of taxing the earnings of railroads and steamboats has, of course, been before the Committee of Ways and Means. We could not very well tax the tonnage of railroads without levying a similar tax upon the tonnage of steamboats and coasting vessels along the lakes. It was concluded on the whole—and I beg the ear of the committee to this statement—that this provision of the bill would attain the object of the Government, and be less onerous upon the people, than a tax upon the tonnage or freight of railroads and steamboats, and that in this way the tax could be better got at; that the ratio between the two could be better arrived at, than by taxing the gross revenues of railroads and steamboats.

Any person who lives west of the Alleghany mountains, in looking over the whole agricultural productions of the West which come East, and at the proceeds of those productions in the eastern market, and which return in the shape of freight, will see that the matter is somewhat complicated. A part of it goes by rail, a part by water; some of it by all water, or by part water and part rail, and you find it is a very difficult matter to get at. Besides, it taxes additionally agricultural products which my friend [Mr. BLAIR, of Pennsylvania] and myself are so very tenacious about. The provision of the bill simply charges a person for traveling. If he does not travel he pays no tax; if he travels upon business he can afford to pay the tax; and if he travels for pleasure, of course he will be willing to pay the tax. Under the amendment, while the farmer of Iowa has to pay the freight upon his wheat to New York market, you propose to add to that a tax for every mile which it is carried, and it reduces, of course, the production of the wheat crop in Iowa. So it is with corn in Illinois, and the alcohol, high wines, and whisky of that State. And so it will be with all other productions. Upon all the heavy products of manufacture scattered all up and down the Mississippi, from the manufacturing districts of the East and West the tax will be difficult to get at, and the aggregate hard to ascertain, and the pay will be very onerous.

Hereafter, when we have more experience in this matter of an internal tax bill, if it is found necessary to tax tonnage and freight there will be ample time and opportunity to impose it before this law will expire from the absence of necessity for money.

Mr. KELLOGG, of Illinois. For the purpose of saying a word or two more, I move to reduce the amount one mill. I adopt, with great pleasure, what has been said by the gentleman from Ohio, and I rise merely to say to the committee, that if they will look over the various kinds of productions which have to be transported from the West, they will find that they are now more heavily taxed in the matter of transportation than anything else in our own country. Since the breaking out of this rebellion, during which some of the railroad communications between the East and the West have been obstructed or closed, and others somewhat occupied with Government transportation, freight has run up so high that it has cut off our sales for transportation east, until, in the West, where we have the credit at least of raising corn, our corn, our wheat, our food, and our pork, are a drug in the market. It is impossible to transport them because of the high prices of freight.

Mr. LOVEJOY. I desire just here to remind my friend, that while corn with us is worth only ten cents a bushel, the price in New York is about the same as ever.

Mr. KELLOGG, of Illinois. I was going to remark that during this whole time—as my colleague says—our corn, wheat, and other productions have brought a good price in the eastern markets, but so enormously high are the rates of freight that corn is worth only ten cents a bushel with us, and wheat has almost disappeared from the market, and our granaries are of no profit to their owners. To get our property to market, we are obliged to pay two or three times the value of the article itself; and it would be, in my judgment, bad policy for the country generally, and unjust to our section of the country, to impose this tax. It would be bad policy for the whole country, because there is in this matter a community of interest everywhere. There ought to be no sectional interest in this matter. I know that the gentlemen from New England have some little interest in getting the crops of the West, and I know we have some considerable interest to pay in getting the productions of their manufactories, and we ought so to adjust this matter that there shall be no severe and burdensome tax upon any portion of the country. The rates of transportation are such now as to cut us off from our sales; and to lay this tax is virtually to lay it upon the agricultural productions of the country, and I think the committee will not impose it if they will only look over the list of agricultural productions which have to be transported, and which we have been unable to transport for a few months past.

Mr. SPAULDING. The question was asked by the gentleman from Pennsylvania [Mr. BLAIR] whether we propose to impose any tonnage duty upon vessels. That matter was a subject of consideration by our committee this morning; and for the purpose of bringing it more definitely and in a convenient form before the Committee of the Whole, as well as the Ways and Means, I propose, as a part of my remarks, to hand to the reporters for publication this schedule of rates which I hold in my hand, and which the committee may perhaps offer at the proper time.

We are considering a scale of tonnage duties upon vessels, which will operate upon all, both internal and external, which we may hereafter propose to substitute in the place of stamp tax on manifests. I am opposed to this idea of taxing freights; for I agree with the gentleman from Ohio [Mr. HORTON] that that will operate in many instances unjustly; that it would be complicated, and very difficult to collect. Therefore, I think, it would be impolitic to impose it.

But my chief object in rising was to answer the question of the gentleman from Pennsylvania, by saying that the Committee of Ways and Means are very likely to propose a tonnage duty upon vessels, in the place of the proposed stamp duties on manifests. It is believed that this proposed scale of tonnage duties will be more equitable than the stamps. The stamp duty on short routes would be very unjust. The short voyages on the great lakes would pay a very high tax on their manifests unless we change the items of stamp duties as they now stand in the printed bill.

The following is the schedule of tonnage duties above referred to, and which I desire to have printed for further consideration:

On all ships, vessels, steamboats, and propellers there shall be levied, collected, and paid annually upon the tonnage thereof the following duties, namely:

On each ship, vessel, steamboat, and propeller under 20 tons burden	$5
Over 20 tons and under 50 tons	10
Over 50 tons and under 100 tons	15
Over 100 tons and under 200 tons	20
Over 200 tons and under 300 tons	30
Over 300 tons and under 500 tons	50
Over 500 tons and under 800 tons	75
Over 800 tons and under 1,000 tons	100
Over 1,000 tons and under 1,200 tons	125
Over 1,200 tons and under 1,500 tons	150
Over 1,500 tons and under 2,000 tons	175
2,000 tons and over	200

The tonnage duty required to be paid under this section shall be due and payable on or before the time of the taking out or renewal of the license of such ship, vessel, steamboat, or propeller, and shall be paid to the collector of the customs for the port where such license shall be taken out or renewed, and a receipt for such tonnage duty shall be indorsed thereon, and signed by said collector or his deputy, and the tonnage duty so received by such collector shall be paid over monthly to the Commissioner of Internal Revenue, and at the expiration of one month from the time this act shall take effect no ship, vessel, steamboat, or propeller shall be permitted to clear from any port within the United States without first paying to the collector of customs the tonnage duty required by this section.

Mr. KELLOGG, of Illinois, by unanimous consent, withdrew his amendment to the amendment.

Mr. ROSCOE CONKLING. I renew the amendment. I looked hurriedly at the schedule sent to the reporters by the gentleman from New York. He sends it up in order to draw the attention of the committee to it, and the attention of all gentlemen representing States which have any capital invested in boats plying between the United States and the British provinces. It is a matter of very great interest. Inasmuch as this amendment has been offered, I want to make this suggestion for the consideration of gentlemen. I am not certain whether any of the navigation acts allowing British bottoms to come and go in our lake harbors are referred to in our treaties with England and made a part of those treaties. My impression is that the reciprocity treaty is silent on the subject. The other treaties may be. Yet it may also be that these navigation acts are referred to in the treaties so as to be read *in pari materia*. If they are, we cannot impose, as this amendment proposes, a tonnage duty on British vessels coming into our harbors; and if this amendment should be inoperative as to them, then the effect will be to impose on those of our citizens engaged in this carrying trade an onerous burden, which burden British vessels will escape.

I hope, sir, that some gentlemen to whom this subject is familiar will be prepared, against the time that it shall come up for action, to state to the committee exactly how far we have the power, in spite of treaty stipulations and navigation acts referred to in treaties, to impose a tonnage duty on these British vessels. I renewed the amendment for the purpose of making this statement; and if there be no objection, I will now withdraw it.

Mr. STEVENS. I object to its withdrawal. I do not exactly know how the amendment can apply to this section of the bill. The Committee of Ways and Means has never considered the proposition.

Mr. SPAULDING. I do not offer it to this section; but merely sent it up for information.

Mr. STEVENS. I do not know that the Committee of Ways and Means has come to any conclusion on the subject. Of course, any member has a right to offer any amendment he pleases.

The amendment was withdrawn.

Mr. PIKE. I ask the gentleman from New York [Mr. SPAULDING] what amount he supposes this tonnage duty would yield?

Mr. SPAULDING. The amount that would be raised is uncertain; but it is intended in lieu of the stamp duty on manifests. It has been suggested by the shipping interest as a more equitable mode of taxation.

Mr. STEVENS. I raise the point of order that the gentleman must confine himself to the question before the committee.

The CHAIRMAN. The Chair sustains the point of order.

Mr. WRIGHT. I move to amend the amendment by inserting after the word "ton" the words "except agricultural productions."

The amendment to the amendment was rejected.

Mr. BLAIR's amendment was rejected.

Mr. EDWARDS. I move to amend by striking out the words "two mills per mile for each and every passenger carried on said railroad or railroads," and inserting in lieu thereof the words "three per cent. on the gross amount of passenger earnings on the said railroad or railroads;" so that it will read:

SEC. 78. *And be it further enacted*, That, on and after the 1st day of May next, any person or persons, firms, companies, or corporations owning, possessing, or having the care or management of any railroad or railroads using steam power thereon, shall be subject to and pay a duty of three per cent. on the gross amount of passenger earnings.

I believe, Mr. Chairman, that this amendment ought to be adopted, and yet I have not the confidence that I shall be able to satisfy the House of that fact, against the influence of the Committee of Ways and Means, if its proposition be insisted on. Railroads are generally as little understood in the community as almost any other subject that is daily before our eyes, and less. It is only because I have had some little experience in the matter that I have been disposed to undertake to offer and sustain an amendment which, I think, is deserving of consideration and adoption.

I have only undertaken to present this single question to the committee: will it diminish the burden which the bill proposes to lay on this class of business? Railroad companies are not rich. A majority of them are poor and embarrassed. While railroads are contributing to the prosperity of the country to an almost immeasurable extent, and benefiting every other class of industry, they are themselves unproductive, and are generally a charge on and a loss to those who have provided them for public use. I have before me a list of railroads in some fourteen of the States. Out of two hundred and five of them, only seventy make any return to the stockholders; and one hundred and thirty-five pay nothing to those who have furnished the money to build them.

Now, I say that if taxation be laid on railroads it must not be with the idea that they are generally profitable. The tax proposed may seem to be a small one—two mills per mile for each passenger. When we get down to talk about mills it is difficult to make an impression on the judgment of anybody; but in the manufacturing business of the country a mill per yard is regarded by manufacturers as the difference between profit and loss. And so of railroads; a mill per mile is a matter of considerable importance. If it was important enough for the gentleman from Indiana the other day to propose to reduce the duty on starch to a half mill per pound, it is certainly of importance for the railroads of the country to have the tax on passengers reduced to one half, one quarter, one tenth, or one twentieth part of a mill.

Now, it has been said that this tax will be imposed on the public, as railroads may add it to their rates of fares, notwithstanding any limitation of the State law. On some railroads it can be added, but on others it cannot be from the very nature of the case. For instance, the great New York Central railroad, which is under the management of one of the members of the Committee of Ways and Means, carries passengers at the rate of two cents per mile, being prohibited by statute from charging any higher rate; and that road can well add this tax to its regular fares, and collect it from its passengers without their making any complaint, for then the fare will be lower than on any other railroad in the country. The general average price is two to three cents per mile. Poor roads are obliged to go to the very highest point in order to sustain themselves.

[Here the hammer fell.]

Mr. HORTON. The Committee of Ways and Means has considered this matter very carefully, has weighed it in all its forms and aspects, and has come to the conclusion, fully and deliberately, that the form of taxation provided in the bill is the most certain and definite, the most easily collected, the surest, the best for the Government, and the best for the railroad—in this, that where the fare of passengers is limited on railroads they are authorized to add this tax to the rate which the passengers usually pay. The bill merely makes the railroad officers the agents of the Government in the collection of this tax. If a railroad company be able to pay it, and choose to pay it without any additional charge to the passenger, that is all right; if not, then the bill gives to the railroad companies the power to collect it from the traveling public

Mr. OLIN. I would like to inquire of the gentleman how it is that Congress can impose a tax on the receipts of a railroad company created by statute, and authorize the company to collect it from passengers, when, by the law creating the railroad, the amount to be charged is prescribed by law? The gentleman will see that the whole matter, even the existence of the corporation itself, is within the control of the State. The company is the creature of the State. I do not think it by any means clear that when a State Legislature says that the creature of its own creation shall not charge more than a certain rate per mile as fare, Congress can authorize it to charge a higher rate.

Mr. HORTON. The gentleman has asked a question, but the suggestions and explanations pertaining to it are so long that I do not know how to get at the point of his question, but I take it that it is something like this. Can the United States tax citizens of the United States, and can they empower railroad corporations to collect the tax from the citizens?

I take it, Mr. Chairman, without going into any legal argument upon the subject, that the Government of the United States has the right to tax the citizen; that it has the right to prescribe the mode by which this tax shall be collected, and appoint agents to collect that tax. If there is any conflict between State rights or State power and the taxing power of the United States, I do not propose to explain the whole operation of the system in a five minutes' speech. Every person who has doubts upon that subject must vote according to his own judgment, giving the value or weight he pleases to his doubts upon this subject. I believe—and I think the Committee of Ways and Means have no doubt upon the subject—that the Government of the United States can tax its citizens, can collect that tax, and can appoint such agents, as it may see fit to designate, to collect the tax.

Mr. MORRILL, of Maine. I move to amend the amendment by striking it out and inserting in its place the following:

In line five strike out the word "two," and insert "one to five;" and after the word "railroads," in the seventh line, insert "and said railroads shall be classified and rated according to their net earnings and the general standing and value of their stocks, as near as may be, not exceeding five classes."

So that the clause, as amended, will read:

Shall be subject to, and pay a duty of, one to five mills per mile for each and every passenger carried on said rail road or railroads; and said railroads shall be classified and rated according to their net earnings and the general standing and value of their stocks, as near as may be, not exceeding five classes.

The gentleman from Ohio has informed the House that the Committee of Ways and Means have given to this subject a good deal of consideration, and he comes to the conclusions which are expressed in this bill, without giving us any of the special reasons for coming to the conclusions at which he has arrived.

Now, sir, I differ with the gentleman in his conclusions, and I think if he, and if the Committee of Ways and Means will examine one or two facts which are within the knowledge of every one, they will see that the tax which is imposed in this section upon railroads in comparison with that imposed by the bill upon steamboats and other property is unjust and unequal. Your two mills per mile upon passengers traveling on railroads will be a tax of about fifteen per cent. upon the net earnings, or seven and a half per cent. upon their gross earnings.

Now, on the other side of the page, the committee propose a tax upon steamboats of three per cent. upon their gross earnings. You tax that property really less than one half the amount which you impose upon railroads, and yet every one who is conversant with this species of property knows that steamboats are much the better paying species of property everywhere in the country.

And moreover, it should be borne in mind that the steamboats come in direct competition with the railroads in many parts of the country, both in respect to passengers and freight, and it should not be the policy of this bill to tax those great interests so unequally.

Now, as has been properly said by the gentleman from New Hampshire, [Mr. EDWARDS,] there are hardly any roads—certainly in New England—which are paying anything to the stockholders. In my own State all the railroad stock there is not worth a dollar. And you propose to place a tax of two mills per mile on a passenger, or a tax of fifteen per cent. upon their net earnings, when no stockholder without that tax receives a dollar in the shape of dividends. They have carried their list of rates for passengers and freight so high that they absolutely come into competition with horse and carriage travel.

In this state of facts, is it just to take this tax of two mills per mile from the pockets of the shareholders? No, sir; not from their pockets, for they have already lost their stock or given it up, and the roads are hardly able, in most cases, to pay their first mortgage bonds.

I say, too, in all deference to the Committee of Ways and Means, that aside from the injustice of the tax, it is evident that they could not pay this fifteen per cent. upon their earnings, especially if steamboats which come into competition with them are taxed not more than half the amount.

My proposition is that the rates of taxation upon railroads shall be graduated in accordance with the circumstances and ability of each road. There are some of the roads which can pay a tax of five mills per mile per passenger without injury, because they have no competition and a large business. Take for instance the road from New York to Washington: a tax of five mills per mile per passenger upon this road would inflict no injury upon the corporations affected, because the passengers would pay the tax; but the effect of the tax is certainly different upon roads of comparatively small business, and to which other modes of travel come into competition. In the section of country from which I come—as I have already remarked—the railroads have already carried their rates to so high a figure that they will not bear the addition which the tax imposes, and you cannot, in justice, compel them to pay the same taxation which you impose upon other roads having a large margin of profits and localities that will permit them to increase the rates of fare to the amount imposed by this bill.

Mr. MORRILL, of Vermont. I suppose if we were to go upon the principle of not charging a tax upon any branch of industry which was not now productive, we should exempt nearly every interest to which reference is made in this bill. If there has been a policy pursued by some of the railroads of the country by which they have reduced their rates of fare below remunerative prices, it is their own fault. I am aware that some of the railroads have seen fit to charge less than remunerative prices.

Mr. EDWARDS. I desire to ask the gentleman if there is any railroad in Vermont which pays a dividend?

Mr. MORRILL, of Vermont. I am not aware that there is; but that is no reason why this is not an interest that should not be taxed. If people will travel for pleasure or business, they can well afford to pay this tax.

In relation to the point suggested by the gentleman from Maine, [Mr. MORRILL,] as to the difference in the tax on railroads and steamboats, I will say that it is well understood, in all parts of the country, that the fare on steamboats is not, as a general rule, more than one half the rate which is charged upon railroads. It is true that in certain localities they are competing lines of travel, as, for instance, between Boston and Portland, or between Portland and Bangor; but the steamboats generally carry for a less fare, and furnish meals to passengers without additional cost.

Mr. MORRILL, of Maine. Does not the gentleman from Vermont understand that the steamboat property of the country is very much more remunerative than the railroad property?

Mr. MORRILL, of Vermont. That may be a reason why steamboats should be taxed higher. But, sir, I think the tax upon railroads as it stands in the bill, is perhaps as well as it can be made by the committee. It will be remembered that while we have taxed railroads two mills per passenger per mile, we have exempted their freight business entirely from tax, leaving them to adjust the matter as they see proper.

The amendment to the amendment was disagreed to.

Mr. OLIN. I propose to reduce the amount of tax upon railroads to one tenth of a mill per mile per passenger. I make the motion simply for the purpose of calling the attention of the House to

the principle adopted in the bill, to which I attempted to call the attention of the gentleman from Ohio [Mr. HORTON] during the progress of his remarks. My objection is, that this is essentially a tax upon railroad corporations, and not upon the traveling public which use the railroads.

My objection was sought to be answered by the assertion that the railroad company, although taking all the fare that the law of the State creating the corporation authorized it to take, might take the additional amount imposed by this tax. I say, as a legal proposition, that cannot be maintained. The railroad company is simply the creature of State legislation, and within the control and supervision of the State Legislature; and, sir, it can no more transcend the powers conferred by the Legislature than can any other creature of the Legislature wholly within the control of that Legislature. If Congress could authorize a larger amount of receipts than that authorized by the State Legislature, could not the State Legislature repeal the act of incorporation at once, and take away the right to collect any fare at all?

The gentleman says that if all kinds of non-productive property within the limits of the United States were exempted from taxation under this bill, a large proportion of the property of the country would be exempted from taxation. That does not answer the objection at all. I admit a man may hold property, say a valuable wood lot, and from which he receives no present income at all. He is reserving it, perhaps, until some future period, when it will be still more valuable than any present use he could make of it. Now, such property ought to be taxed. But it is a different thing where a corporation is running a railroad which pays no revenue, and the stock of which is worth nothing, and which company runs the road exclusively and wholly for the public convenience. There is no reason why such road ought to be taxed. This tax ought to be graduated in reference to the actual value of the property proposed to be taxed, or it ought to be regulated by the amount of income realized from such property; but the provisions of this bill accomplish neither of these purposes, and I think it is essentially wrong. It will be found to be unjust in its application in nine cases out of ten. There is no reason why this tax should not be imposed upon railroads that are valuable in proportion to the actual value of the property, or in proportion to its net receipts.

Mr. BEAMAN. I call the attention of the committee to the point made by the gentleman last up. Now, sir, this tax, upon the face of it, purports to be upon the railroad company. It seems to me you cannot tax my property and then collect the tax upon my neighbor. This is a tax upon the railroad company, or it is a tax upon the passenger. If the tax be upon the railroad company, can you collect it upon the passenger? If upon the passenger, can you collect it upon the railroad company?

There is another point. The proviso in this section does not propose to levy the tax upon the passenger; but proposes, in so many words, to add so much to the fare of passengers. The question is whether, the corporation being limited in the amount of fare, this Congress can increase that amount. That is the question which we are to decide in our vote on this amendment.

Mr. OLIN, by unanimous consent, withdrew his amendment to the amendment.

Mr. CUTLER. I move to add the following proviso:

No railroad shall be taxed under the provisions of this act, unless it pays a dividend.

The reason I move that amendment is to call the attention of the committee to what I regard as a just and proper discrimination in regard to this matter of a tax upon railroad property. Up to the time when a railroad company begins to pay a dividend it is not such a property as will justify the sovereign Power in laying a tax upon it. Up to the point when it begins to remunerate the owners it is simply a public convenience. The operators, besides having expended their money, are expending their time for the purpose of operating the road as a public necessity, with the hope that it will ultimately compensate them for their outlay of money and time. I think that this is a proper view of the subject. I do not think that this House would desire that it should be taxed where it is managed only as a public convenience and without remuneration. I know that if the provision is allowed to remain in the bill as it now is, that it will stop hundreds of miles of road in the country from running. There are roads which gentlemen in this committee know cannot pay the tax that is here provided. I know many companies who are compelled to expend every dollar of their receipts in the most economical manner in order to keep their roads running. If they be taxed fifteen or twenty thousand dollars under this bill they will not be able to run at all, and, of course, will pay no revenue to the Government at all.

Mr. ROSCOE CONKLING. I oppose the amendment of the gentleman from Ohio, in order to put a question to the chairman of the Committee of Ways and Means. I wish to know why it is that horse railroads and ferries are taxed only one and a half per cent. of the gross earnings, and the New York Central railroad is taxed ten per cent.; and when the chairman of the Committee of Ways and Means answers that question, I should like to know whether horse railroads are not more profitable than steam railroads in proportion to the amount invested?

Mr. STEVENS. Upon an examination of the horse railroads it has been found that they cannot afford to pay the same amount of tax that longer steam railroads can. And it is impossible almost to get at the number of miles traveled upon these short horse railroads. It is much easier to get at the gross receipts. These horse railroads carry passengers only a few squares as a general thing.

Mr. ROSCOE CONKLING. It was not to know why that in one instance the tax is upon the gross receipts and in the other so much a mile of travel that I put the question to the chairman of the Committee of Ways and Means, but to know why horse railroads and ferries are taxed only one and a half per cent., and the New York Central railroad is taxed ten per cent.?

Mr. STEVENS. I do not know the fact to be so. Gentlemen seem to go upon the ground that the railroad companies are to be made poorer by this tax. Now, these railroad companies will not pay a dollar less because they pay this tax. It is those who travel upon these roads that will have to pay the tax. It is all idle to say that because the railroad companies pay little now they will pay less when this tax is imposed, for they will be nothing more than the collectors of this tax from the traveling community for the Government.

I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt, and had come to no resolution thereon.

Mr. STEVENS. I move that all debate in Committee of the Whole on the state of the Union on the pending section of the tax bill close in one minute after the committee shall resume the consideration of the same.

Mr. PENDLETON demanded the yeas and nays.

The yeas and nays were not ordered.

Mr. VALLANDIGHAM demanded tellers.

Tellers were ordered; and Messrs. VALLANDIGHAM and WORCESTER were appointed.

The question was put; and the tellers reported —ayes 47, noes 29; no quorum voting.

CALL OF THE HOUSE.

Mr. BUFFINTON moved that there be a call of the House.

The motion was agreed to.

The roll of the House was then called; and the following members failed to answer to their names:

Messrs. Ancona, Arnold, Goldsmith F. Bailey, Francis P. Blair, Burnham, Clark, Conway, Cooper, Covode, Cox, Crisfield, Crittenden, Delaplaine, Diven, Duell, Ely, English, Fenton, Fessenden, Fisher, Fouke, Frank, Gooch, Goodwin, Gurley, Holman, Jackson, Johnson, Killinger, Knapp, Lansing, Leary, Logan, McKean, McPherson, Marston, May, Maynard, Noell, Odell, Patton, John S. Phelps, Pike, John H. Rice, Richardson, James S. Rollins, Shanks, Sloan, Benjamin F. Thomas, Train, Vandever, Van Wyck, Wall, Charles W. Walton, E. P. Walton, and Whaley.

The SPEAKER then caused the doors of the Hall to be closed, and the names of the absentees to be called, for excuses; when the following proceedings took place:

SYDENHAM E. ANCONA.

Mr. BAILY, of Pennsylvania. Mr. ANCONA has paired off with Mr. PATTON for this day.

Mr. WASHBURNE. I move that all further proceedings under the call be dispensed with.

Mr. F. A. CONKLING. Is that motion debatable?

The SPEAKER. It is not.

Mr. F. A. CONKLING. I would like to say a few words about enacting this farce here every little while. I call for the yeas and nays.

The yeas and nays were not ordered.

Upon a division of the House, no quorum voting,

Mr. WASHBURNE called for tellers.

Tellers were not ordered.

Mr. WASHBURNE withdrew his motion.

The Clerk proceeded with the call of the list of absentees, as follows:

ISAAC N. ARNOLD. No excuse offered.

GOLDSMITH F. BAILEY.

Mr. DAWES. Mr. BAILEY has been compelled to leave the city on account of indisposition. I move that he be excused.

The motion was agreed to.

FRANCIS P. BLAIR.

Mr. ELIOT. I move that Mr. BLAIR be excused, as I understand he is not well this morning. He came into the Hall after his name was called.

The motion was agreed to.

ALFRED A. BURNHAM. No excuse offered.

MARTIN F. CONWAY.

Mr. SHEFFIELD. Mr. CONWAY is confined to his room by indisposition. I move that he be excused.

The motion was agreed to.

THOMAS B. COOPER.

Mr. MORRIS. Mr. COOPER is detained from the House by sickness. I move he be excused.

The motion was agreed to.

JOHN COVODE. No excuse offered.

SAMUEL S. COX. No excuse offered.

JOHN W. CRISFIELD. No excuse offered.

JOHN J. CRITTENDEN. No excuse offered.

ISAAC DELAPLAINE. No excuse offered.

ALEXANDER S. DIVEN. No excuse offered.

S. HOLLAND DUELL. No excuse offered.

ALFRED ELY. No excuse offered.

JAMES E. ENGLISH. No excuse offered.

AMBROSE W. CLARK.

Mr. WHEELER. Mr. CLARK was sent for this morning to go to Alexandria. I move that he be excused.

The motion was agreed to.

REUBEN E. FENTON. No excuse offered.

SAMUEL C. FESSENDEN. No excuse offered.

GEORGE P. FISHER. No excuse offered.

PHILIP B. FOUKE.

Mr. OLIN. It is known that Mr. FOUKE is at the head of his regiment. I move that he be excused.

The motion was agreed to.

AUGUSTUS FRANK.

Mr. POMEROY. Mr. FRANK has been called home on account of sickness. I move that he be excused.

The motion was agreed to.

DANIEL W. GOOCH.

Mr. ALLEY. My colleague, Mr. GOOCH, is absent upon the committee on the conduct of the war. I move that he be excused.

The motion was agreed to.

JOHN N. GOODWIN. No excuse offered.

JOHN A. GURLEY. No excuse offered.

WILLIAM S. HOLMAN.

Mr. CRAVEN. Mr. HOLMAN is absent on Government business. I move that he be excused.

The motion was agreed to.

JAMES S. JACKSON.

Mr. WICKLIFFE. Mr. JACKSON is in the Army. I move that he be excused.

The motion was agreed to.

PHILIP JOHNSON.

Mr. LAZEAR. My colleague, Mr. JOHNSON, has been unexpectedly called home on important business. I move he be excused.

The motion was not agreed to.

JOHN W. KILLINGER. No excuse offered.

ANTHONY L. KNAPP.

Mr. WASHBURNE. Mr. KNAPP is detained at home on account of sickness. move he be excused.

The motion was agreed to.

WILLIAM E. LANSING. No excuse offered.

CORNELIUS L. L. LEARY. No excuse offered.

JOHN A. LOGAN.

Mr. KELLOGG, of Illinois. My colleague, Mr. LOGAN, is in the Army. I move he be excused.

The motion was agreed to.

JAMES B. McKEAN.

Mr. VAN HORN. Mr. McKEAN is in the military service, and I move that he be excused.

The motion was agreed to.

EDWARD McPHERSON.

Mr. MOORHEAD. Mr. McPHERSON has gone home on important business. I move he be excused.

The motion was not agreed to.

GILMAN MARSTON.

Mr. ROLLINS, of New Hampshire. Mr. MARSTON is in the Army. I move that he be excused.

The motion was agreed to.

HENRY MAY. No excuse offered.

HORACE MAYNARD.

Mr. SHERMAN. Mr. MAYNARD is absent on duty for the country. I move he be excused.

The motion was agreed to.

JOHN W. NOELL. No excuse offered.

MOSES F. ODELL.

Mr. HAIGHT. Mr. ODELL is absent in attendance upon the committee on the conduct of the war. I move he be excused.

The motion was agreed to.

JOHN PATTON.

Mr. McKNIGHT. My colleague, Mr. PATTON, is called home by business, which he said required his immediate attention; also to see a child that has been sick, and to see his wife; and for this triple reason, I move that he be excused.

The motion was agreed to.

Mr. BAILY, of Pennsylvania. Mr. ANCONA was paired off with Mr. PATTON, and as he has been excused, I move that Mr. ANCONA be excused.

The motion was not agreed to.

JOHN S. PHELPS.

Mr. BLAIR, of Missouri. Mr. PHELPS is with his regiment in southern Missouri or northern Arkansas, and I move he be excused.

The motion was agreed to.

FREDERICK A. PIKE. No excuse offered.

JOHN H. RICE. No excuse offered.

WILLIAM A. RICHARDSON.

Mr. PENDLETON. Mr. RICHARDSON is confined to his room by indisposition. I move he be excused.

The motion was agreed to.

JAMES S. ROLLINS. No excuse offered.

JOHN P. C. SHANKS. No excuse offered.

A. SCOTT SLOAN.

Mr. POTTER. Mr. SLOAN was called away by sickness. I move he be excused.

Mr. KELLOGG, of Illinois. He may have been called away by sickness, but he is now kept out of the Hall because the doors are closed. [Laughter.]

The motion was not agreed to.

BENJAMIN F. THOMAS.

Mr. ALLEY. Judge THOMAS was called home suddenly, by telegraph, on unavoidable business. I move, therefore, that he be excused.

The motion was not agreed to.

CHARLES R. TRAIN. No excuse offered.

WILLIAM VANDEVER.

Mr. WILSON. Mr. VANDEVER is in the military service of the country. I move that he be excused.

The motion was agreed to.

CHARLES H. VAN WYCK.

Mr. BAKER. Mr. VAN WYCK is absent with his regiment. I move that he be excused.

The motion was agreed to.

WILLIAM WALL.

Mr. SMITH. Mr. WALL is detained at home by sickness. I move that he be excused.

The motion was agreed to.

CHARLES W. WALTON.

Mr. VAN HORN. Mr. WALTON is absent from indisposition. I move that he be excused.

The motion was agreed to.

E. P. WALTON. No excuse offered.

KELLIAN V. WHALEY.

Mr. BROWN, of Virginia. I move that my colleague be excused. He was in his seat a few moments ago, and was called on by a constituent to go with him to the Departments on business, and he left the House for that purpose.

The motion to excuse Mr. WHALEY was disagreed to.

The SPEAKER. That completes the call of the absentees.

Mr. WASHBURNE. I move that further proceedings under the call be dispensed with.

The motion was agreed to.

TAX BILL—AGAIN.

The question recurred on the motion of Mr. STEVENS to close debate in the Committee of the Whole on the state of the Union on the pending section of the tax bill in one minute after the committee should resume its consideration.

The motion was agreed to.

Mr. HORTON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of resuming the consideration of the tax bill.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed, as a special order, the consideration of the bill (H. R. No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

Mr. ROSCOE CONKLING. I desire to occupy the one minute allowed for debate, by saying, in answer to the chairman of the Committee of Ways and Means, that if the motion be that this tax is to be paid by the public, and not by the companies, there can be no reason in the world why they should not pay the same tax for riding in horse railroads as in steam railroads; therefore, the tax does go upon the idea that the road is to pay it, and if the road pays it, I submit to the committee that we ought not to tax steam railroads ten or fifteen per cent., and horse railroads one and a half per cent. on their gross earnings. If the public are to pay the tax, let them pay alike on all the roads.

Mr. CUTLER's amendment to exempt non-dividend-paying railroads was rejected.

The question was taken on Mr. EDWARDS's amendment; and the amendment was rejected—ayes 28, noes 65.

Mr. WICKLIFFE. I move to strike out all after the word "next" in line two, down to and including the word "railroads" in line seven, as follows:

Any person or persons, firms, companies, or corporations owning, possessing, or having the care or management of any railroad or railroads using steam power thereon, shall be subject to and pay a duty of two mills per mile for each and every passenger carried on said railroad or railroads.

And to insert in lieu thereof the following:

There shall be imposed and collected upon each passenger two mills per mile for each mile carried on a railroad where steam is used as a propelling power, and the said tax shall be collected and paid to the United States, under such rules and regulations as shall be prescribed by the Commissioner of Internal Revenue.

Mr. EDWARDS. I move to amend the amendment by striking out "two" and inserting "one."

The amendment to the amendment was disagreed to.

Mr. WICKLIFFE's amendment was rejected.

Mr. DELANO. I move to insert after the word "aforesaid," in line twenty-five, the following:

And all persons, firms, companies, or corporations which are proprietors of bridges, and, as such, authorized to take toll for the transit of passengers, beasts, carriages, teams, and freight of any description over such bridges, shall be subject to and pay a like duty of one and a half per cent. on the gross receipts derived from the toll so imposed.

And after the word "vessels," in line thirty-seven, the words, "or bridges as aforesaid."

The amendment was agreed to.

Mr. DELANO. In order to perfect the section as thus amended, I move to insert after the word "railroads," in line forty-one, the word "bridges;" and after the word "thereupon," in line forty-six, to insert, "and the proprietors of bridges as aforesaid shall make a like return of the monthly gross receipts and earnings from toll as aforesaid."

The amendment was agreed to.

Mr. KELLEY. I move to insert after the word "thereon," in line five, the following:

The length of whose railroad, from its commencement to its termination, shall exceed twenty miles.

The amendment was disagreed to.

Mr. KELLEY. I move to insert in line twenty-eight, after the word "steam," the following: "or of any railroad, the length of which shall not exceed thirty miles from its commencement to its termination, although its motive power be steam;" so that the clause will read:

And any person or persons, firms, companies, or corporations, owning, possessing, or having the care or management of any railroad or railroads, the motive power of which not being steam, or of any railroad, the length of which shall not exceed thirty miles from its commencement to its termination, although its motive power be steam, ferry boats or vessels used as ferry boats, propelled by steam or by horse power, and omnibuses or carriages whose business it is to run hourly or at any other stated intervals of the day from one part or place of a town or city to some other point or place in the town or city or out of it, and return, shall be subject to and pay a duty of one and a half per cent. on the gross amount of receipts derived from carrying passengers in any manner as aforesaid.

The amendment was disagreed to.

Mr. PENDLETON. I move to strike out the words "gross amount of receipts," in the thirty-third and thirty-fourth lines, and to insert in lieu thereof, the words "net profits;" so that it will read:

Shall be subject to and pay a duty of one and a half per cent. on the net profits derived from carrying passengers in any manner as aforesaid.

The amendment was disagreed to.

Mr. WEBSTER. I move to strike out "two mills," and insert "four mills;" so that the tax will be four mills per mile.

The amendment was disagreed to.

Mr. PENDLETON. I move to strike out the last proviso to the section, which is as follows:

Provided further, That all railroad companies are hereby authorized to add the duty or tax imposed by this act to the rates of fare, any limitation which may exist in the charter of said companies or laws of any State to the contrary notwithstanding.

Tellers were ordered on the amendment; and Messrs. PENDLETON and SEDGWICK were appointed.

The committee divided; and the tellers reported—ayes 37, noes 60.

So the amendment was disagreed to.

Mr. PENDLETON. I move to add the following as an additional proviso to the section:

Provided further, That the provisions of this section shall not apply to any railroad lines, steamboats, or ferry boats which do not pay dividends or net profits to the owners thereof.

Mr. MORRILL, of Vermont. I rise to a question of order. That amendment has already been voted on.

Mr. PENDLETON. No, sir; the former amendment applied only to railroads; this applies to steamboats as well.

The CHAIRMAN. The Chair overrules the point of order, the fact being, as stated by the gentleman from Ohio, that the first amendment related to railroads only, and this includes steamboats.

The amendment was rejected.

Mr. HORTON. I move to amend the seventy-ninth section, relating to railroad bonds, by inserting after the word "paid," in the ninth line, the following:

And all dividends in scrip, or money, or sums of money thereafter declared due or payable to the stockholders of any railroad company as parts of the earnings, profits, or gains of said company.

So that the section will read:

SEC. 79. *And be it further enacted*, That on and after the 1st day of May next any person or persons owning or possessing, or having the care or management of any railroad company or railroad corporation, being indebted for any sum or sums of money for which bonds or other evidences of indebtedness have been issued, payable in one or more years after date, upon which interest is, or shall be, stipulated to be paid, or coupons representing the interest shall be or shall have been issued to be paid, and all dividends in scrip, or money, or sums of money thereafter declared due or payable to the stockholders of any railroad company as parts of the earnings, profits, or gains of said company, shall be subject to and pay a duty of three per cent. on the amount of all such interest or coupons.

The amendment was agreed to.

Mr. HORTON. I move to insert after the word "coupons," in the eleventh line, the words "or dividends whenever the same shall be paid."

The amendment was agreed to.

Mr. HORTON. I move to amend by inserting after the word "coupons," in the seventeenth line, the words "or dividends;" so that it will read:

And said railroad companies or railroad corporations, or any person or persons owning, possessing, or having the care or management of any railroad company or railroad corporation, are hereby authorized and required to deduct and withhold from all payments made to any person, persons, or party, after the 1st day of May, as aforesaid, on account of any interest, or coupons, or dividends, due and payable as aforesaid, the said duty or sum of three per cent.

The amendment was adopted.

Mr. HORTON. I move to amend by inserting after the word "thereof," in the twenty-third line, the words "on dividends and;" so that it will read:

And the duties deducted as aforesaid, and certified by the president or other proper officer of said company or corporation, shall be a receipt and discharge, according to the amount thereof, of said railroad companies or railroad corporations, and the owners, possessors, and agents thereof, on dividends and on bonds or other evidences of their indebtedness, upon which interest or coupons are payable, holden by any person or party whatsoever.

The amendment was adopted.

Mr. HORTON. I move to amend by adding at the beginning of the twenty-eighth line the words "or dividends;" so that it will read:

And a list or return shall be made and rendered within thirty days after the time fixed when said interest or coupons or dividends become due or payable, and as often as every six months, to the Commissioner of Internal Revenue.

The amendment was adopted.

Mr. WICKLIFFE. I move to amend by adding the following proviso:

Provided, This section shall not apply to railroad bonds where the railroad company is insolvent and unable by its receipts to pay, and do not pay the interest upon their bonds.

I think, Mr. Chairman, that the amendment which I propose is a proper one, and should be adopted. I do not think it fair that part of a man's income shall be taxed in the hands of railroad companies, and then the whole of it taxed again in his own hands. I mention that as an objection to this proposed tax itself. But what I want to do by my amendment is, to guard the managers and directors of railroads in respect to this tax. I suppose it cannot be the intention of the Committee of Ways and Means or of the Committee of the Whole to have collected from a railroad company a tax on the interest of its bonds when the company is unable to pay such interest. I am acquainted with some railroads that are wholly unable to pay their debts from their income; and therefore I propose this proviso, that the section shall not apply to railroads that are insolvent, and do not make profits enough to pay their dividends. I know some railroads that do not pay a cent of interest on their bonds, and do not pay their expenses.

Mr. HOOPER. Will the gentleman allow me to direct his attention to the fact that the amendment offered by the gentleman from Ohio [Mr. HORTON] to the eleventh line provides for the case which he puts, by adding the words, "whenever the same shall be paid." Therefore the corporation that does not earn enough to pay dividends or interest on its bonds, will not have to pay this tax.

Mr. WICKLIFFE. That is, perhaps, one mode of attaining the object which I have in view; but I would rather put the exception on the principle of insolvency. A company may be able to pay and not be willing to pay. Now, I take it for granted that the roads of Missouri, from the injury done to them, will not be able to pay the interest on their bonds for the next five years. I think I know two other railroads that are in the name condition. I know that the Nashville and Louisville road—one of the principal roads in Kentucky—cannot pay dividends for the next ten years, owing to the injuries which it received. There was a little road feeding it which I know cannot pay interest on its bonds. I therefore think that we had better exempt these roads till they are able to pay.

Mr. MORRILL, of Vermont. I think the amendment of the gentleman goes further than he himself designs. By the amendment already adopted there is no tax to be paid on dividends, interest, or coupons, until they are paid. Now, if we were to restrict this tax to roads that are solvent, we must exempt a very large amount of capital existing in the country in the shape of railroad bonds. For instance, a great number of railroads have had their mortgages foreclosed, and the mortgagees are running the roads on their own account. They are able to collect dividends and interest on their bonds, while the original stockholders themselves are not receiving a dollar. I hope the amendment offered by the gentleman from Kentucky will not prevail.

Mr. WICKLIFFE's amendment was rejected.

Mr. EDWARDS. I do not think that the amendment proposed by the gentleman from Ohio [Mr. HORTON] to the eleventh line is explicit. I may be mistaken, and ask that it be read again.

The amendment was again read.

Mr. EDWARDS. I think, Mr. Chairman, that it is perfectly apparent, from an examination of the section, that that amendment does not meet the objection. I had prepared an amendment to meet it. The section provides that the companies shall pay three per cent. on the coupons, whether they have earned the amount or not.

Mr. HOOPER. They are only taxed when the coupons are paid.

Mr. EDWARDS. The language of the bill is to be construed elsewhere and hereafter. Our construction may be correct, or it may not be. I do not pretend that mine usually are. In order to make it certain, I propose to amend by exempting railroads, if sufficient net profits shall not be earned for such payment. As the bill stands, the railroad companies must pay the three per cent. on the coupons, whether it has any money in its treasury or not. The language of the amendment relates to the dividends when they are paid. Without the amendment which I offer, there is an obligation on railroads to pay three per cent. on their coupons and interest, even though they do not earn enough to pay their running expenses. I hope my amendment will be adopted. If not, I shall have the benefit of having proposed it to the committee.

Mr. EDWARDS's amendment was rejected.

Mr. WHITE, of Indiana. This duty is a species of income tax; but it differs a little from the general provisions in regard to the income tax, which is, in a subsequent section, assessed only against citizens of the United States. It is evidently the intention, by this section, to tax the interest on bonds and the dividends on stock, whether held by citizens or foreigners.

Now, there is one class of railroad bonds to which I doubt whether the provisions of this act extend. I refer to sterling bonds, payable abroad. If applied to them, I question whether the fact would not be the cause of reproducing a little of the repudiation scenes of former years. That, however, it is for the Committee of Ways and Means to determine. But there is another class of bonds that will escape taxation altogether under the present provisions of the bill. In the western, and in many of the southern and central States, a large amount of railroad credit rests on bonds issued by States and loaned to these railroad companies. I desire to make this tax apply to the coupons paid on those bonds.

Mr. MORRILL, of Vermont. When the coupons are paid by the railroad companies, the tax will be paid on them.

Mr. WHITE, of Indiana. I believe that in most instances the railroad companies do not undertake to pay the interest on these State bonds. Now, this is not a tax on railroad companies—not at all. Hence, I voted against the amendment offered by the gentleman from New Hampshire [Mr. EDWARDS] proposing to limit the tax to solvent companies. It is intended as a tax on the holders of railroad bonds and on stockholders on dividend-paying roads. If that be not so, I have misinterpreted its phraseology.

I have prepared an amendment to the section. There is much in the law which will have to be left to the discretion of the Commissioner of Internal Revenue. With all due deference to the Committee of Ways and Means, I consider that the bill is imperfect, and that, perfect and elaborate as it might be, much must necessarily be left to interpretation, and to rules which the Commissioner of Internal Revenue must himself devise. I do not know that my amendment would be practicable; but I desire some such proviso as this: that the section shall be extended and applied to the bonds of any State loaned or advanced to railroad companies. Unless I hear from the Committee of Ways and Means or some member that the execution of such a provision would be impracticable—the disbursing agents being State officers, on whom we could not operate—I shall take the sense of the committee on this proposition.

Mr. HOOPER. It seems to me, so far as my own knowledge in reference to this subject goes, that this amendment is unnecessary to accomplish the purpose for which the gentleman offers it. It seems to me that the clause in the fourth, fifth, and sixth lines of the section covers the object:

"Any railroad company or railroad corporation, being indebted for any sum or sums of money for which bonds or other evidences of indebtedness have been issued, payable in one or more years after date, upon which interest is, or shall be, stipulated," &c.

Now, in the few cases with which I am acquainted of the kind to which the gentleman alludes, where the credit of the State has been loaned to the railroad company, the State holds the bonds or some obligation of the railroad company, to guaranty to the State the payment of the interest on the bonds for which the State has loaned its credit.

Mr. WHITE, of Indiana. I think that is not the general rule in the western or southern States. It may be, and I think likely it is true in New England, where a State has loaned its credit to a railroad company, the railroad is to pay the interest to the bondholder, but in my own State, and I think in most of the other western States, the State pays the interest directly to the bondholders.

Mr. HOOPER. The railroad company issues its bond of indebtedness, and whether it is indorsed by the State or not, there will be no difficulty when the interest is to be paid in withholding three per cent. upon it. I see no difficulty in the matter.

Mr. WHITE, of Indiana. My object was to call the attention of the Committee of Ways and Means to this point. I am not at all certain that my amendment can be executed, and I will therefore withdraw it.

Mr. HORTON. I move to amend the heading prefixed to section eighty by striking out the word "and" where it occurs after the word "banks," and inserting the words "trust companies," and after the word "institutions" insert "and insurance companies;" so that it will read: "banks, trust companies, savings institutions, and insurance companies."

The amendment was agreed to.

Mr. HORTON. I now move to amend section eighty by inserting in the third line, after the word "banks," the words "trust companies."

The amendment was agreed to.

Mr. HORTON. I move to amend in the fourth line of the same section by inserting, after the word "life," the word "inland."

The amendment was agreed to.

Mr. HORTON. I move to amend the same section in the eighth line by striking out the words "or sums of money," and inserting in place thereof the words "in scrip or money thereafter."

The amendment was agreed to.

Mr. HORTON. I move to amend the same section in the ninth line by inserting, after the word "stockholders," the words "or policy holders."

The amendment was agreed to.

Mr. HORTON. I move to amend the section further by inserting in the tenth line, after the word "banks," the words "trust companies."

The amendment was agreed to.

Mr. HORTON. I move still further to amend the eightieth section by inserting in the eleventh line, after the word "companies," the words "and on all sums added to their surplus or contingent fund."

The amendment was agreed to.

Mr. HORTON. I move to amend in the same line by adding, after the words "per cent.," as follows:

Provided, That the duties upon dividends of life insurance companies shall not be deemed due or be collected until such dividends shall be payable by such companies; and all said banks, trust companies, savings institutions, and insurance companies are hereby authorized and required to deduct and withheld from all payments made to any person, persons, or party, on account of any dividends or sums of money that may be due and payable as aforesaid,

after the 1st day of May, 1862, the said duty or sum of three per cent.

The amendment was agreed to.

Mr. HORTON. I move to insert in the twenty-third line of the same section, before the words "savings institution," the words "trust company."

The amendment was agreed to.

Mr. HORTON. I move to amend, in the twenty-seventh line of the same section, by inserting, after the word "bank," the words "trust company."

The section, as amended, would then read:

SEC. 80. *And be it further enacted*, That on and after the 1st day of May next, there shall be levied, collected, and paid by all banks, trust companies, and savings institutions, and by all fire, marine, life, inland, stock, and mutual insurance companies, under whatever style or name known or called, of the United States or Territories, specially incorporated or existing under general laws, or which may be hereafter incorporated or exist as aforesaid, on all dividends in scrip or money thereafter declared due or paid to stockholders, policy holders, or to depositors, as part of the earnings, profits, or gains of said banks, trust companies, savings institutions, or insurance companies, and on all sums added to their surplus or contingent fund, a duty of three per cent.: *Provided*, That the duties upon dividends of life insurance companies shall not be deemed due or be collected until such dividends shall be payable by such companies, and said banks, trust companies, savings institutions, and insurance companies are hereby authorized and required to deduct and withhold from all payments made to any person, persons, or party, on account of any dividends or sums of money that may be due and payable as aforesaid, after the 1st day of May, 1862, the said duty or sum of three per cent.; and a list or return shall be made and rendered within thirty days after the time fixed when such dividends or sums of money shall be declared due and payable, and as often as every six months, to the Commissioner of Internal Revenue, which shall contain a true and faithful account of the amount of duties accrued or which should accrue from time to time, as aforesaid, during the time when such duties remain unaccounted for, and there shall be annexed to every such list or return a declaration, under oath or affirmation, to be made in form and manner as shall be prescribed by the Commissioner of Internal Revenue, of the president, or some other proper officer of said bank, trust company, savings institution, or insurance company, respectively, that the same contains a true and faithful account of the duties which have accrued or should accrue, and not accounted for; and for any default in the delivery of such list or return, with such declaration annexed, the bank, trust company, savings institution, or insurance company making such default shall forfeit, as a penalty, the sum of $500.

The amendment was agreed to.

Mr. ELIOT. I move to amend in line eleven of the section, to come in immediately after the proviso just adopted on motion of the Committee of Ways and Means, as follows:

And provided, That when said duty has been levied or paid upon dividends or gains of banks, on stock held by any savings institution, such payment shall be deducted from the duty otherwise payable on that part of their earnings, by such savings institution.

I will state the object of the amendment. It is very well known that our savings banks place a very large portion of their deposits in bank stocks. By the section as it now stands the duties on the dividends coming to those savings banks from such stocks will be paid before they come into their hands. The earnings of the savings banks themselves, too, are to be taxed, and thus you will perceive the savings banks will be compelled to pay a double tax upon their dividends. It is to prevent this that I offer my amendment.

To illustrate the effect of the section as it stands, suppose a savings bank has invested $100,000 of its deposits in bank stock upon which a dividend of six per cent. is declared and three per cent. deducted in the shape of a tax. The dividend on $100,000 would amount to $6,000, and the duty on that dividend would, under this bill, be $180. So, then, the dividend, before it has been paid to the savings bank, would be reduced from $6,000 to $5,820, and before the savings bank can pay that sum to its depositors by this bill, it is subject to another duty or deduction of $174 60. The amount paid by the savings bank, then, would be $5,645 40, or, in other words, the $6,000 less two duties. The object of my amendment is to provide against that injustice. I think that the committee will correct it. It is an injustice which ought to be guarded against.

The committee divided on the amendment, and there were—ayes twenty-one.

Mr. ELIOT demanded tellers.

Tellers were not ordered.

The amendment was disagreed to.

Mr. WHEELER. I move to strike out the words "or paid to stockholders or to depositors as part of the earnings." As the bill now stands we would only reach that portion of the earnings of a bank indicated by the dividend declared.

Mr. HORTON. We have accomplished the purpose which the gentleman has in view by the words which we have inserted. We tax the surplus or contingent fund except ten per cent.

Mr. WHEELER, by unanimous consent, withdrew his amendment.

The Clerk then read, as follows:

SEC. 81. *And be it further enacted*. That any person or persons owning or possessing, or having the care or management of any railroad company or railroad corporation, bank, savings institution, or insurance company, as heretofore mentioned, required under this act to make and render any list or return to the Commissioner of Internal Revenue, shall, upon rendering the same, pay to the said Commissioner of Internal Revenue the amount of the duties due on such list or return, and in default thereof shall forfeit as a penalty the sum of $500; and in case of neglect or refusal to make such list or return as aforesaid, or to pay the duties as aforesaid, for the space of thirty days after the time when said list should have been made and rendered, or when said duties shall have become due and payable, the assessment and collection shall be made according to the general provisions heretofore prescribed in this act.

Mr. HORTON moved to insert before the word "savings," in the fourth line, the words "trust company."

The amendment was agreed to.

Mr. HORTON moved to add the following additional sections:

SEC. 82. *And be it further enacted*, That on and after the 1st day of May, 1862, there shall be paid for and in respect of every insurance from loss or damage by fire which shall be made, renewed, or continued, or which shall be indorsed upon any open policy by any company or its agents, or by any association or individual after this act shall take effect, a duty of ten cents upon each and every $100 insured for one year, and at and after that rate for any fractional part of $100, and for each and every year, or fractional part of one year, as well as for any number of years for which the insurance shall be made, renewed, or continued, or shall be indorsed upon any open policy: *Provided, however*, That any such insurance made, renewed, or continued, by any company or its agents, for a period of time not limited, shall, for the purpose of this act, be taken, and be deemed to be an insurance for ten years; and for and in respect of every insurance from loss or damage, which shall be made, renewed, or continued, or which shall be indorsed upon any open policy by any marine or inland insurance company, or its agents, or by any association, or individual, after this act shall take effect, a duty of one dollar upon every $100 of premium on such insurance, and at and after that rate, for any fractional part of $100 of premium for any insurance made, renewed, or continued, or indorsed upon any open policy; and for and in respect of every insurance upon any life or lives which shall be made, renewed, or continued, or which shall be indorsed upon any open policy by any life insurance company, or its agents, or by any association, or individual, after this act shall take effect, a duty of ten cents upon each and every $100 insured for one year, and at and after that rate for any fractional part of $100, and for each and every year, and fractional part of one year, for which the insurance shall be made, renewed, or continued, or indorsed upon any open policy.

SEC. 83. *And be it further enacted*, That a quarterly account shall be made and rendered to the Commissioner of Internal Revenue by all insurance companies, or their agents, or associations or individuals making insurance, including agents of all foreign insurance companies, which shall contain a true and faithful account of the insurance made, renewed, or continued, or indorsed upon any open policy by said companies, or their agents, or associations, or individuals during the preceding quarter, setting forth the amount insured and the duties accruing thereon under this act; and there shall be annexed to and delivered with every such quarterly account an affidavit, in the form to be prescribed by the Commissioner of Internal Revenue, made by one of the officers of said company, or association, or individual, or by the agent in the case of a foreign company, that the statements in said account are in all respects just and true, and such quarterly accounts shall be rendered to the Commissioner of Internal Revenue within thirty days after the expiration of the quarter for which they shall be made up, and upon rendering such account with such affidavit, as aforesaid, thereto annexed, the amount of the duties due by such quarterly account shall be paid to the Commissioner of Internal Revenue; and for every default in the delivery of such quarterly account with such affidavit annexed thereto, or in the payment of the amount of the duties due by such quarterly account, the company, or agent, or association, or individual making such default shall forfeit and pay, in addition to such duty, the sum of $5,000.

The sections were severally agreed to.

Mr. WHITE, of Indiana. I ask the unanimous consent of the committee to go back to the eighty-first section to make an amendment.

There was no objection.

Mr. WHITE, of Indiana, moved to strike out the words "Commissioner of Internal Revenue," and, in lieu thereof, to insert the words, "collector of the proper district;" so that the lists and returns shall be made to the latter officer, to whom they ought properly to be made.

Mr. STEVENS. I do not believe that there is the least necessity for that amendment.

Mr. WHITE, of Indiana. I modify my amendment so as to insert the words "collector of the proper district or," before the words "Commissioner of Internal Revenue."

The amendment was disagreed to.

The Clerk read, as follows:

SEC. 82. *And be it further enacted*, That, on and after the 1st day of May next, there shall be levied, collected, and paid, by any person or persons, firm, or company, publishing any newspaper, magazine, review, or other literary, scientific, or news publication, issued periodically, on the gross receipts received or charged for all advertisements, or all matters for the insertion of which in said newspaper or other publication, as aforesaid, or in extras, supplements, sheets, or fly-leaves accompanying the same, pay is required or received, a duty of five per cent.; and the person or persons, firm or company, owning, possessing, or having the care or management of any and every such newspaper or other publication, as aforesaid, shall make a list or return, commencing as heretofore mentioned, within thirty days after the end of each and every month, containing the gross amount of receipts or charges, as aforesaid, and the amount of duties which have accrued or should accrue thereon, and render the same to the assistant assessor of the respective districts where such newspaper, magazine, review, or other literary or news publication is or may be published, which list or return shall have annexed a declaration, under oath or affirmation, to be made according to the manner and form which may be from time to time prescribed by the Commissioner of Internal Revenue, of the owner, possessor, or person having the care or management of such newspaper, magazine, review, or other publication, as aforesaid, that the same is true and correct; and shall also, monthly, and at the time of making said list or return, pay to the collector or deputy collector of the district, as aforesaid, the full amount of said duties; and in case of neglect or refusal to comply with any of the provisions contained in this section, or to make and render said list or return, as aforesaid, for the space of thirty days after the time when said list or return ought to have been made, as aforesaid, the assistant assessor of the respective districts shall proceed to estimate the duties, as heretofore provided in other cases of delinquency; and in case of neglect or refusal to pay the duties, as aforesaid, for the space of thirty days after said duties become due and payable, said owner, possessor, or person or persons having the care or management of said newspapers or publications, as aforesaid, shall pay, in addition thereto, a penalty of five per cent. on the amount due; and in case of fraud or evasion, whereby the revenue is attempted to be defrauded or the duty withheld, said owners, possessors, or person or persons having the care or management of said newspapers or other publications, as aforesaid, shall forfeit and pay a penalty of $500 for each offense or for any sum fraudulently unaccounted for; and all provisions in this act in relation to liens, assessments, and collections, not incompatible herewith, shall apply to this section and the objects herein embraced: *Provided*, That in all cases where the rate or price of advertising is fixed by any law of the United States, State, or Territory, it shall be lawful for the company, person, or persons publishing said advertisements to add the duty or tax imposed by this act to the price of said advertisements, any law, as aforesaid, to the contrary notwithstanding.

Mr. STEVENS moved to strike out the words "received or charged," in the sixth line; to strike out "five," in the tenth line, and in lieu thereof to insert "three," and to strike out, in the sixteenth line, the words "or charges."

The amendments were severally agreed to.

Mr. STEVENS moved to add the following proviso:

Provided, further, That all receipts for advertisements to the amount of $600 by any person or persons, firm, or company publishing any newspaper, magazine, review, or other literary, scientific, or news publication issued periodically, shall be exempt from duty.

The amendment was agreed to.

Mr. COLFAX, (Mr. SEDGWICK temporarily in the chair.) Mr. Chairman, I now move to strike out the entire section; and I will try to show to the House why my motion ought to prevail. I believe that newspapers ought to bear their full proportion of the taxes necessary to put down the existing unholy rebellion in our country. I think that they should even be willing to make sacrifices for the purpose of sustaining the Government; and for one, I am ready to do my complete share, for I do not expect my own taxes, voluntary and involuntary, toward the support of this war to be limited by the provisions of this act. But I do think that this special advertising tax on the press at large is not just, and so thinking, and reluctantly differing from the Ways and Means Committee, I will briefly explain the reasons for my conviction.

By this bill there are four classes of taxes upon the printing offices of the United States. First, it imposes a tax upon the printing paper upon which the newspapers are printed. Second, it imposes a tax upon gas, oil, and candles which they have to use, for every one knows that a large portion of the work of a printing office is done in the night; perhaps a larger share of it than that of any other mechanics; and on morning daily papers, the largest portion of the work is performed at that time. Third, we tax the telegrams sent to newspapers, by which their interest to the reader is increased, and which cause them to be sought for. Then, in the fourth place, we tax the income of the establishment, as of all other professions, three per cent.

I state the fact, and I think it is true, that, if you take all of the newspapers of the United States in the aggregate, for the last year, you will find they have not made one dollar of clear profit. Not a dollar, sir; and very many of them have been kept up at an absolute loss. It is true that the circulation of the daily metropolitan press has been increased, but every member is aware that it is the advertisements and not the circulation of a paper that is profitable, and the advertising has decreased greatly because of the almost total paralysis of many branches of business.

The most powerful and hitherto most profitable newspapers in the Union have, in consequence, not made a dollar of profit, but, on the contrary, have sunk money. So it is all over the country. In my district a year or a year and a half ago there were twenty-four papers published, for they are an intelligent, reading population. During that time no less than seven have been discontinued, leaving but seventeen in existence to-day; and I fear, when you put this tax upon their advertisements, on the most profitable part of the business, that it will cripple if not destroy many of the remaining seventeen. I am not speaking now in the interest of any paper with which I am connected. That paper, I may say, will probably live as long under taxation as any of its country cotemporaries; but I speak as for the press generally of all parties. I have at this very session advocated what the press insisted was a burden, that they should pay postage on papers sent by United States mail trains outside of the mails, because I believed, despite their attacks on it, that it was just that they should do this when they used our mail trains, and I think their attacks did not induce me to swerve from what seemed to me right. I oppose this advertising tax now, because I do *not* believe it is right or expedient.

One objection to this tax is that it is an intermediate tax between the tax on the raw staple, the printing paper, and the tax on the income that is derived from manufacturing it into papers, which you do not impose on other trades or professions. I could give many illustrations. One will suffice Shoemakers you tax on the leather they use, and also on the income of their business, if over $600 per year. But you do not put on an intermediate tax on some portion of their business by which this income is obtained. Another point. You tax first-class city hotels $200, and why should you not, if the principle of this proposition is correct, as well tax them five per cent. upon the amount received from boarders? But while I am in favor of striking out this advertising section entirely, as I fear, with the influence of the Ways and Means Committee against it, that it will not all be stricken out, I shall vote, of course, for every modification of its provisions which will lessen the rigor of its taxation.

The receipts of newspapers, Mr. Chairman, are from three sources; first, from their subscribers; second, from their advertisements; and third, from their job work. Many newspapers have no income from the third source, leaving that class of work for separate job work establishments, and have to rely upon their subscribers and advertisements alone. You say they shall pay a tax upon the staple—the printing paper—they work up, while you except the tobacco manufacturer alongside of the printing office from a tax upon the staple which he works up. Is not this an adverse discrimination? That the press have submitted to; but is it right to add another? The press has a fourfold tax imposed on it—on paper, on light, on telegrams, and on income. Should a fifth be added?

You tax the wholesale merchant fifty dollars for his license, and he, perhaps, has a thousand customers; but you do not tax them. His business may amount to $1,000,000 per year, while a paper, with only a hundredth part of that amount of income from advertisements, will have to pay three to five hundred dollars on them, (according as the tax is three or five per cent.,) besides the tax on paper and on income. A newspaper may have a hundred advertising patrons, perhaps five hundred, perhaps a thousand. Why do you tax those customers, while you do not tax the customers of the hotel keeper or the merchant? You might as justly tax a school teacher upon the number of his patrons.

Why do you not tax the customers of the lawyer? The lawyer has two classes of patrons—one in civil cases, and the other in criminal cases. The press have two classes of customers—one who patronizes it by subscribing, and the other by advertising. You propose to tax the receipts from one class of these patrons; why not tax one class of the lawyer's patrons, and say that he shall pay five dollars for every criminal suit? All these special taxes on special classes of patrons—of lawyers, doctors, hotel keepers, &c.—would be unjust, as all concede. Why is it more just in the case of the printer's patrons?

The wool manufacturer is taxed three per cent. upon his income, but you do not tax his staple; while you do tax the staple, the paper, which the press work up into newspapers, and then insist on this extra tax in addition.

I wish to say to the Committee of Ways and Means that I give them credit for the manner in which they have performed their labors, and for the modifications of the bill which they have made to-day. I know theirs is a thorny and painful pathway. But they are like all other men, fallible. I intend to vote for their bill, whatever shape it may assume, believing it a duty to the Government to sustain it. Still, I am free to say that I do not agree with all its details, nor with all the amendments adopted in the Committee of the Whole, though I have not felt at liberty to leave the chair, to which the Speaker called me, during the weeks it has been under discussion, till this section came up, when I felt it a duty to offer these suggestions.

One thing more. The bill discriminates against newspapers proper, and in favor of literary papers. Here are Bonner's Ledger, the Boston Waverly, and other papers of that class, all composed of reading matter exclusively, and they are consequently entirely exempt from this advertising tax.

Mr. WRIGHT. The gentleman from Indiana, I understand, is a practical printer.

Mr. COLFAX. I have been in the business some seventeen years; but am not as good a printer as I ought to be, even yet. [Laughter.]

Mr. WRIGHT. According to the terms of this bill, this tax is only to be imposed upon advertisements put into the paper for which the editor or publisher receives pay. It is not imposed upon any other character of matter contained in the newspaper. Now, the gentleman knows very well that, in receiving notices to put into the paper, he will charge this tax in addition to the price which the person advertising would otherwise have to pay. Therefore, he cannot complain that the tax is doing the press any injury, as it is only put upon that class of articles for which he receives pay; and the tax comes out of the person who brings such matter to the paper. Now, let me ask the gentleman in what way the business of a publisher is injured thereby?

Mr. COLFAX. I will answer the gentleman with pleasure. Upon legal advertisements—advertisements which the law requires to be published—I grant you, you could add the additional amount, for the price of such advertisements is fixed by law, and the advertising is compulsory, not voluntary. But upon other classes of advertisements—merchants' advertisements, occasional advertisements, special notices, and everything of that sort—you could not impose the additional tax. For I tell the gentleman that even without a tax, but simply by the pressure of the times, that class of business has diminished in many instances one half and three quarters. And the moment you have it understood throughout the country that advertisements are to be taxed, those who are about advertising will curtail that class of their expenditures, because they understand that when they go to have their advertisements inserted they will have to pay this additional tax. By this means you assist in breaking down the weaker newspapers of the country, and thus throw numbers of men out of employment. You will also decrease the amount of tax received upon printing paper, because less will be consumed if the number of papers is decreased. You will lessen the income tax, because you deprive many men of an income which they would otherwise receive.

Mr. WRIGHT. The press of the country, under the circumstances, ought to come up to the mark and shoulder its full share of the public burdens; and unless it is put upon the press in this shape, I know of no way in which it can be done. The gentleman complains that professional men escape their share of the burden.

Mr. COLFAX. Not at all. The gentleman certainly misunderstood me. I said a tax, similar in its operations, would be unjust on professional men.

Mr. WRIGHT. The gentleman referred to that class. The editors of the country should bear their full share, and nobody wants to put upon them more than their share; but because they are newspaper editors, because they can complain in regard to this thing when we cannot always be present to meet the objection, they ought not therefore to to escape.

Mr. COLFAX. I agree with the gentleman that they ought not to escape their fair proportion of the public burdens. The question is, whether they are not required to pay more than their share. According to this bill they pay through the advertising tax, I think, more than that proportion. They pay a tax upon the staple which they work up. The wool manufacturer does not do that. The copper manufacturer does not do that. The flour manufacturer does not do that. And I am glad that none of these classes do. But the press do. And then it pays besides, a tax upon light, it pays a tax upon the matter put into its papers, telegraphic messages, &c.; and in addition to that, it pays, as all other professions do, a tax upon its income.

Mr. WRIGHT. Let me say to the gentleman that every person engaged in every branch of business is taxed just as much as those who are engaged in printing newspapers.

Mr. COLFAX. That is just the question at issue between us.

[Here the hammer fell.]

Mr. STEVENS. The motion now is to strike out the entire section. Before the vote is taken on that I move to amend the proviso by making the amount which shall be exempt $1,000, instead of $600. It seems to me, sir, that the gentleman from Indiana [Mr. COLFAX] is striking at one of the main sources, or at least a very considerable source of the revenue of the Government. I believe that in England a very large income is derived from the tax upon advertisements as well as from the newspaper stamp duty.

Now, sir, we have already put down the duty on printing paper very low, supposing that we should thereby avoid the opposition of the gentleman from Indiana, and we struck out the tax upon ink altogether. We had supposed that we had propitiated all opposition by these liberal concessions; but the gentleman from Indiana having gone so strongly for taxing newspapers some time ago, is, of course, obliged to go the other way now, I suppose.

If my amendment prevails, it will exclude all those newspapers whose income is less than $1,000, and it will be seen that there are very few country newspapers, and those must be flourishing ones, that will pay anything of this tax. And the tax which will be laid upon their paper will be very trifling. The gentleman says that we discriminate between books and magazines, printed on fine paper, and newspapers. I do not know what kind of paper my friend from Indiana prints upon. The paper on which the magazines are printed is of the very finest quality, costing a very high price. My friend, I presume, prints his paper as we print the papers in my neighborhood, on straw paper.

Mr. COLFAX. Rag paper.

Mr. STEVENS. Well, the lowest kind of rag paper, and the percentage will amount to an almost invisible sum. The difficulty the Committee of Ways and Means had in fixing the tax upon that kind of paper was that the Supreme Court have decided once that you cannot divide a mill, and that any contract made for less than a mill is void, and whether we could get at it at all was the great question with us. Some were for taxing the circulation of newspapers; but that we thought was not a fair way, because the great profit of all newspapers is in the advertisements. I dare say that the receipts for circulation of some of the city papers do not more that pay for the cost of the composition, ink, and paper; but when you come to the advertisements, that department swells up the receipts until the concern is worth, like the London Times, hundreds of per cent. above the cost. I believe that an enterprising man in New York, starting with nothing, has made a princely fortune out of the advertisements of a paper which he owns there. Other papers in New York are

held in shares by fifty or a hundred shareholders, and one man tells you he owns $100,000 of its stock, and another $90,000, and so on. That is the kind of stock which we are asked now to exempt from taxation, and its value is all derived from advertisements, and not from circulation. I think, therefore, there is no reason on earth why there should be any relaxation of this tax. We have cut it down from five to three per cent., and I think that low enough; indeed, I feel almost provoked, since this opposition is manifested, to propose to make it seven per cent. [Laughter.]

Mr. COLFAX. Mr. Chairman, as I cannot oppose the amendment of the chairman of the Ways and Means Committee, I move to amend the amendment *pro forma*, so as to provide that the section shall not take effect until the reciprocity treaty with Great Britain expires. [Laughter.] I believe that amendment was first introduced here to other sections by the Committee of Ways and Means. I am glad that the chairman of the Committee of Ways and Means has made the speech which he has, although the last part of it, in which he said that, for the sake of retaliation, he thought of proposing to raise the tax to seven per cent., I know is not in accordance with his sense of justice. Here all of us must be allowed to make our suggestions frankly and in good faith, without being retaliated on. Nor need I allude to the bygone postal controversy, which only proves that I can oppose the press when I think it wrong, as well as stand by it when I think it is right.

The gentleman says that in England they raise a large amount of revenue by this tax. I thank him for reminding me of the fact, to which I forgot to allude in my hurried five-minute speech when I was up before, that England, which looks all over her dominions to seek objects of taxation from which to collect revenue, did originally have a tax upon newspapers, upon advertisements, and upon printing paper, and what was the result? Why, although they are overloaded with debt and it is constantly increasing, and although they have to look to every source of revenue to meet their expenses, yet the experience of that people has been that these taxes operated as a tax upon knowledge, and instead of reducing them to the amount that we are willing to bear here in company with all other professions, they abolished them altogether. The gentleman is entirely mistaken in supposing that they still exist there.

As I said before, we are content to bear this tax of three per cent. *ad valorem* on printing paper, and when the gentleman says that the Committee of Ways and Means reduced that tax last week in the section referring to it, he forgets the fact that in the West printing paper costs about eleven cents by the pound, and in the eastern cities only about nine cents per pound, and that when he changed the tax to three per cent. *ad valorem*, he required us of the West to pay a higher tax on printing paper than we should have done under the original proposition of three mills a pound on printing paper. We are willing, however, to pay that, and we are willing also to pay the income tax and the tax upon telegraphic messages; but we think that this other tax ought not to be imposed.

Let us look at the experience of England in relation to this matter. From 1712 to 1855 she laid a stamp tax on newspapers, and the public judgment of the country finally rose up and wiped it out. From the last century down to 1853, she laid a tax upon advertisements, so that the poor woman could not advertise in the London Times for a situation as housemaid without paying a tax on that advertisement; and at last, in 1853, the public judgment of the country wiped that out, too, and no man now stands up in all England and asks that it shall be restored. They had a tax on printing paper, but last year they completed the work by wiping that out, too, and at this hour, although England is the worst taxed nation in the world, everything relating to newspapers is free there.

Mr. STEVENS. When the tax was taken off printing paper, it was taken off all paper.

Mr. COLFAX. That is true; I grant that. A stamp tax only partially remains for postal purposes. Newspapers can, if they choose, have a stamp put on, which operates as a prepayment of postage throughout Great Britain; but when the papers are not intended to circulate through the mails, they have to pay no stamp tax whatever. All these taxes have been abolished in England, and the English press is to-day free. I might stand up here and say that after this experience, lasting through a century, the newspapers of this country ought to be treated similarly. I do not do it. I say, on the contrary, that they ought to bear a part of this burden; but after you have taxed them at the commencement and close of their business, first on paper and then on income, and again intermediately on telegraphic messages, you ought not to compel them to pay an additional tax upon one special class of their customers. Having said thus much in reply to the gentleman from Pennsylvania, I will not further trouble the committee, and I withdraw my amendment to the amendment. The section, I suppose, as the Committee of Ways and Means insists on it, will not be stricken out; but I hope, with the facts I have stated, it will at least be materially modified before it is passed.

Mr. HUTCHINS. In order to perfect the section and make it more in accordance with the views of the Committee of Ways and Means, I move to amend, by inserting the following proviso:

Provided, That the tax on advertisements may be collected by newspaper owners of those who advertise, any custom, law, or contract to the contrary notwithstanding.

Mr. SARGENT. That is in the bill now.

Mr. COLFAX. The committee have got that in the right form in the section as it now stands.

Mr. HUTCHINS's amendment to the amendment was rejected.

Mr. STEVENS's amendment was agreed to.

The question recurred on Mr. COLFAX's motion to strike out the entire section.

Mr. WALTON, of Vermont. Before the question is taken on that motion, I move to strike out the words "or should accrue," in the seventeenth line. That amendment is necessary in order to make the whole section consistent with an amendment which has been already adopted.

Mr. MORRILL, of Vermont. That is right.

The amendment was agreed to.

Mr. WOOD. I move to add at the end of the section the following proviso:

Provided, That all newspapers that have been or shall be arbitrarily and unconstitutionally denied the use of the mails be exempted from the tax provided by this section.

Mr. BLAKE. I move to amend the amendment by inserting, after the word "mails," the words "for their disloyalty to the Government."

Mr. WOOD. That would include abolition papers, and we do not desire that. [Laughter.]

Mr. BLAKE. I could add another amendment providing that the editors of those papers shall be hung. [Renewed laughter.]

The CHAIRMAN. Only one amendment to an amendment can be offered at a time.

The amendment to the amendment was agreed to.

Mr. COLFAX. I move to amend the amendment by striking out the first syllable in the word "unconstitutionally;" so that the amendment will read, "arbitrarily and constitutionally." I move that in good faith.

The amendment to the amendment was adopted.

Mr. DAVIS. I move to amend the amendment by striking out the word "arbitrarily."

The amendment to the amendment was adopted

Mr. HUTCHINS. I now move to insert instead of the word "arbitrarily," just stricken out, the word "properly."

The amendment to the amendment was adopted.

Mr. STEVENS. I move to amend the amendment by adding to it the words, "and that the Attorney General of the United States be directed to prosecute the editors and proprietors of said papers."

Mr. VALLANDIGHAM. That would reach a good many of your friends before long.

Mr NOBLE. I raise the question of order, that the amendment offered by the gentleman from Pennsylvania is not germane to the subject.

The CHAIRMAN. The Chair sustains the point of order.

Mr. STEVENS. I admit, if the question of order is raised, that it is not in order for this Government to punish traitors, and therefore I withdraw the amendment.

Mr. TROWBRIDGE. I move to amend the amendment by striking out the words "shall be exempted from the operations of this tax," and inserting in lieu thereof the words "shall be required to pay ten per cent."

The amendment to the amendment was adopted.

The question recurred on the amendment as adopted.

Mr. VALLANDIGHAM. All this is going into the Globe, and will read very well, by and by.

A MEMBER. I ask that the amendment, as amended, be read.

The amendment, as amended, was read, as follows:

Provided, That all newspapers that have been or shall be properly and constitutionally denied the use of the mails on account of disloyalty, be required to pay a tax of ten per cent.

Mr. VERREE. I move to amend the amendment by adding, "and should the proprietor of such a paper prove to be a member of Congress, that he be expelled from the House."

Mr. VALLANDIGHAM. I believe it requires a vote of two thirds to carry that amendment. I propose that it shall be voted on accordingly.

Mr. COLFAX. I raise the point of order that the amendment is not in order. I do not desire to resist the amendment; but certainly it is a matter which must be done in the House.

The CHAIRMAN. The Chair sustains the point of order.

The amendment, as amended, was rejected.

Mr. ROLLINS, of New Hampshire. I move to amend the section so as to make the tax payable quarterly instead of monthly.

The amendment was adopted.

Mr. ROLLINS, of New Hampshire. I move to amend by striking out, in the fourteenth and fifteenth lines, the words, "within thirty days after the end of each and every month."

The amendment was adopted.

Mr. LOOMIS. I move to amend by striking out the word "monthly," in the twenty-sixth line, and inserting in lieu thereof the word "quarterly."

The amendment was adopted.

The section, as thus amended, reads:

SEC. 82. *And be it further enacted*, That, on and after the 1st day of May next, there shall be levied, collected, and paid, by any person or persons, firm, or company, publishing any newspaper, magazine, review, or other literary, scientific, or news publication, issued periodically, on the gross receipts received or charged, for all advertisements, or all matters for the insertion of which in said newspaper or other publication as aforesaid, or in extras, supplements, sheets, or fly-leaves accompanying the same, pay is required or received, a duty of five per cent.; and the person or persons, firm or company, owning, possessing, or having the care or management of any and every such newspaper or other publication, as aforesaid, shall make a list or return quarterly, commencing as heretofore mentioned, containing the gross amount of receipts or charges, as aforesaid, and the amount of duties which have accrued or should accrue thereon, and render the same to the assistant assessor of the respective districts where such newspaper, magazine, review, or other literary or news publication is or may be published, which list or return shall have annexed a declaration, under oath or affirmation, to be made according to the manner and form which may be from time to time prescribed by the Commissioner of Internal Revenue, of the owner, possessor, or person having the care or management of such newspaper, magazine, review, or other publication, as aforesaid, that the same is true and correct, and shall also, quarterly, and at the time of making said list or return, pay to the collector, &c.

Mr. KELLOGG, of Michigan. I move to amend, by adding at the end of the section the following proviso:

Provided, That all newspapers whose circulation does not exceed two thousand copies shall be exempted from all taxes on advertisements.

I hope that if the section be retained, this amendment will be adopted. I believe that the tax on advertisements would destroy every small newspaper in the country. We need them. It is impossible for us to get along without one paper at each county seat. In all the western States many of the county towns are new, and papers having a circulation of six or seven hundred are compelled to publish advertisements very cheaply. A good deal has been said as to taxing every class in society. It seems to me, Mr. Chairman, that in this case not only is the printer taxed, but the community is taxed. We want newspapers. We want them cheap. We will need the influence of all the newspapers in the country to defend this law and explain it to the people; and it is not well for us to impose an onerous tax on those whom we expect to do what they can in defense of this measure, which is necessary for the salvation of the Government. I hope that this tax on advertisements will not be imposed at all; or if it be, that the country

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. THURSDAY, APRIL 3, 1862. NEW SERIES.....No. 94.

newspapers will be exempted from it entirely. If papers are to be taxed, tax those of the great cities, which circulate in every part of the country. We are compelled to pay five cents for the New York Herald, the New York Tribune, and the New York Times anywhere in the country. To be sure, the subscription price is less; but if we subscribe, the news is stale before the papers reach us, and we therefore have to buy them in the street at that price. These papers can afford to pay a large tax. But a tax on advertisements would destroy nearly all the country papers. I think that we should go to work and put on other taxes to sustain the Government. I think some tax should be imposed on those generals who are holding the armies of the Republic still, month after month, at an enormous expense, doing nothing. Let us do something in that direction, and we will save more money than we can possibly gain by taxing all the newspapers and advertisers and subscribers in the United States.

The amendment was adopted.

The question recurred on Mr. COLFAX's amendment, to strike out the section; and it was rejected.

Mr. RICE, of Massachusetts. I move to amend the section by striking out "three per cent.," in the tenth line, and inserting "one per cent."

Mr. STEVENS. I raise the point of order that the "three per cent." has been inserted by a vote of the committee, and it is not in order to move to substitute any other amount.

The CHAIRMAN. The Chair sustains the point of order.

Mr. COLFAX. I move to amend by fixing the tax on all advertisements other than legal at one and a half per cent., the rate at which the committee fixed the tax on street railroads.

Mr. BLAKE. I move to amend the amendment by striking out one and a half and inserting one per cent.

Mr. COLFAX. I accept the amendment.

Mr. STEVENS. Then I move by making it five per cent. We have already exempted all the smaller newspapers. If those papers that are making their hundreds of thousands a year are not willing to bear their share of the burdens of the Government, they deserve to sink. I think the tax ought to be five per cent. instead of one.

Mr. COLFAX. If there be any newspaper in the country now making $100,000 a year, it pays three per cent. on its income. It pays, besides, a tax on every one of the thousands of reams of paper that it works off. If it were right for the Committee of Ways and Means to reduce the tax on street railroads, and a variety of other things, to one and a half per cent. on their income, I do not see why the same percentage would not be right as applied to newspapers. If this were confined to a tax on legal advertisements it would be less objectionable, because a higher rate can be charged for them. They are required by law to be inserted. They are not voluntary but compulsory advertisements. The luxury of litigation has to be paid for. But when you come to tax all other advertisements, where a poor man advertises a lost cow, or a woman advertises for a situation—these advertisements which even Great Britain has ceased to tax—the tax ought to be put down to the lowest possible figure, if it is to be retained at all.

Mr. STEVENS. May I ask the gentleman whether he means to except the advertisements of quack doctors and pill venders? One man tells me that he pays $40,000 a year for these advertisements. I think these advertisements ought to be excepted.

The amendment to the amendment was rejected.

The amendment was disagreed to.

Mr. DELANO. I desire to call the attention of the chairman of the Committee of Ways and Means to additional sections which I propose to introduce at this point, to be headed "gas companies, telegraphic companies, bridge companies, and canal companies." The amendment applies the same principle of taxation on income which is made applicable by the bill to railroads and other institutions which declare regular dividends. I think it must have been overlooked by the Committee of Ways and Means. I move to add at the end of the eighty-first section as follows:

SEC. 83. *And be it further enacted*, That, on and after the 1st day of May next, there shall be levied, collected, and paid by all gas companies and corporations, all telegraph companies and corporations, and all bridge companies, canal companies and corporations, under whatever style or name known or called, of the United States or Territories, specially incorporated or existing under general laws, or which may be hereafter incorporated or exist as aforesaid, on all dividends or sums of money declared due or paid to stockholders, as part of the earnings, profits, or gains of said companies or corporation, a duty of three per cent.; and a list or return shall be made and rendered within thirty days after the time fixed when such dividends or sums of money shall be declared due and payable, and as often as every six months, to the Commissioner of Internal Revenue, which shall contain a true and faithful account of the amount of duties accrued or which should accrue from time to time, as aforesaid, during the time when such duties remain unaccounted for, and there shall be annexed to every such list or return a declaration, under oath or affirmation, to be made in form and manner as shall be prescribed by the Commissioner of Internal Revenue, of the president, or some other proper officer of said companies or corporations respectively, that the same contains a true and faithful account of the duties which have accrued, or should accrue, and not accounted for, and for any default in the delivery of such list or return, with such declaration annexed, each company and corporation making such default, shall forfeit, as a penalty, the sum of $500.

SEC. 84. *And be it further enacted*, That any person or persons owning or possessing, or having the care or management of any company or corporation, as mentioned in the foregoing section, required under this act to make and render any list or return to the Commissioner of Internal Revenue, shall, upon rendering the same, pay to the said Commissioner of Internal Revenue the amount of the duties due on such list or return, and in default thereof, shall forfeit as a penalty the sum of $500; and in case of neglect or refusal to make such list or return as aforesaid, or to pay the duties as aforesaid, for the space of thirty days after the time when said list should have been made and rendered, or when said duties shall have become due and payable, the assessment and collection shall be made according to the general provisions heretofore prescribed in this act.

My simple purpose is to place all joint-stock companies paying dividends upon the same footing.

Mr. STEVENS. I would suggest that the amendment is a very long one, and that it will perhaps be better to see it in print. There may be something in it; but I do not think the committee will be prepared to act upon it on the mere reading.

Mr. DELANO. I will say to the gentleman that it follows precisely the language adopted by the Committee of Ways and Means in reference to railroad companies.

(Mr. COLFAX here resumed the chair.)

Mr. ALLEN. I desire to amend the eighty-second section still further.

The CHAIRMAN. The Chair doubts whether the amendment is in time. The section has been passed by, and a new section read, which the gentleman from Massachusetts proposes to insert. The Chair will hold that it is too late to amend the eighty-second section further, except by unanimous consent.

Mr. STEVENS. I object.

Mr. VALLANDIGHAM. I will say that my colleague addressed the Chair before the gentleman from Massachusetts obtained the floor to offer his amendment.

The CHAIRMAN. If the gentleman from Ohio will say that he sought to obtain the floor before the committee had passed from the section, he will receive the gentleman's amendment.

Mr. ALLEN. I certainly sought to attract the attention of the Chair before the gentleman from Massachusetts obtained the floor.

The CHAIRMAN. The gentleman will offer his amendment.

Mr. ALLEN. I move to strike out the following proviso of the section:

Provided, That in all cases where the rate or price of advertising is fixed by any law of the United States, State, or Territory, it shall be lawful for the company, person or persons, publishing said advertisements, to add the duty or tax imposed by this act to the price of said advertisements, any law, as aforesaid, to the contrary notwithstanding.

It seems to me that this proviso is an encroachment upon State authority; that when a State law may have affixed a certain price upon legal advertisements, that the General Government has no right to fix or authorize a higher charge for advertising than that provided by State law. Again the tax on the class of advertisements named in this proviso, must either be taxed against the General or State government, or against individuals. If taxed against the Government, it simply collects money of the Government to pay back into its own Treasury; if taxed against individuals, it is simply in most cases of legal advertising adding to the burden of those already oppressed by costs and charges, and who having already paid their proportion of taxes, should not be compelled to pay the tax of others.

The amendment was disagreed to.

The CHAIRMAN. The question is now upon the amendment submitted by the gentleman from Massachusetts, [Mr. DELANO.]

Mr. STEVENS. To enable the committee to see the amendment of the gentleman from Massachusetts in print, I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having taken the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt, and had come to no resolution thereon.

CALIFORNIA COLLECTION DISTRICTS, ETC.

Mr. WASHBURNE. I ask the consent of the House to report a bill from the Committee on Commerce, which, if passed, will save the Government some $30,000 a year by abolishing certain ports of entry on the Pacific coast, which are useless, and reducing the compensation of the officers of the customs there.

Mr. VALLANDIGHAM. I object, for the reason that I want the committees called in their regular order.

Mr. WASHBURNE. Then I trust the House will proceed to the call of committees for reports.

The SPEAKER. The regular order of business is the call of committees for reports, the undisposed of reports of committees, however, to be first disposed of in their order on the Calendar. The first bill in order is the report of the Committee on Military Affairs (No. 88) for the organization of the medical department of the Army.

Mr. PENDLETON. I move that the House adjourn.

The motion was disagreed to—ayes 34, noes 44; no quorum voting.

Mr. WASHBURNE. I call for the regular order of business.

The SPEAKER. No business is in order without a quorum of the House.

Mr. ALLEY. I move that there be a call of the House.

The motion was disagreed to.

Mr. ALLEY. I move that the House adjourn.

The motion was agreed to; and thereupon (at a quarter past four o'clock, p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, *April* 2, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Navy communicating, in compliance with a resolution of March 27, copies of correspondence between Edwin A. Stevens and the Navy Department, in reference to the steam floating battery contracted to be built by Robert L. Stevens; which was ordered to lie on the table.

CONSPIRACY AGAINST THE GOVERNMENT.

Mr. LATHAM. Mr. President, I rise to what I believe is a privileged question. On the 26th of

last month I introduced a resolution calling for a correspondence which was supposed to have taken place between the Secretary of State and ex-President Pierce. That resolution has been responded to, and the correspondence is now on the tables of Senators; but in looking over it I find that one of the material letters, so regarded by Mr. Pierce's friends, is omitted in the return made by the Secretary of State. I know of no means by which I can get that communication before this body and the country, except by availing myself of the privilege which I hold here as a Senator, of reading the last response of Mr. Pierce to Mr. Seward to the Senate, that it may go upon the record.

The Senate will find, by glancing at the printed correspondence, that the first communication of the Secretary to Mr. Pierce is dated on the 20th day of December, 1861. The response of Mr. Pierce to Mr. Seward is dated on the 24th day of December, 1861, Andover, Massachusetts. To that communication Mr. Seward makes a reply dated the 30th of December of the same year. The answer of ex-President Pierce to this letter of Mr. Seward's does not appear among these papers. The letter of Mr. Seward to Mr. Pierce is a very short one; I will read it to the Senate, as probably all the Senators may not have had time to glance over it:

WASHINGTON, *December* 30, 1861.

MY DEAR SIR: An injurious aspersion on your fair fame and loyalty came into my hands. Although it was in an anonymous letter, the writer was detected, and subsequently avowed the authorship. The document must become a part of the history of the times.

I desired that you might know how your name was made use of by a traitor to increase the treason he was encouraging. Unable to prepare a note to you personally, I devolved the duty on the chief clerk of this Department. The manner in which it was done has given you offense. I regret it, and apologize for it with the only excuse I can make, namely, the necessity of employing another head to do what ought to be done, and which I had not time to do personally.

I place your answer on the files of the Department of State, as an act of justice to yourself. And I beg you to be assured that all the unkindness of that answer does not in the least diminish the satisfaction with which I have performed, in the best way I was able, a public duty, with a desire to render you a service.

I am, with great respect, your obedient servant,

W. H. S.

FRANKLIN PIERCE.

It may be proper to state that, adopting the form of address to ex-Presidents of the United States used by the late Mr. Webster, I have invariably left off all titles of address, as being most respectful.

To that Mr. Pierce replied, as follows:

CONCORD, NEW HAMPSHIRE, *January* 7, 1862.

DEAR SIR: I have the honor to acknowledge the reception of your letter of the 30th ultimo.

It could hardly have surprised you to learn that I failed to discover in your official note a desire to render me a service. You will excuse me if I regard even the suggestion from a source so eminent that I am "*a member of a secret league, the object of which is to overthrow this Government,*" as rather too grave to have been sent off with as little consideration as a note of rebuke might have been addressed to a delinquent clerk of one of the Departments.

The writer of the anonymous letter, it seems, "was detected, and subsequently avowed the authorship;" and yet I am not advised whether he disavows reference to me, or whether there was an attempt to inculpate me in his disclosure. These were the only facts connected with him, his treason, or his confession at all material for me to know. I suppose I am left to infer the latter, because, although my name does not appear in the "extract," to which my attention was particularly called, you still state that an aspersion upon my "fair fame and loyalty" came into your hands.

I think you will, upon reflection, arrive at the conclusion that the whole ground upon which the allegation is *repeated* should, as a simple act of justice, have been placed before me.

It was not the manner of your official note, as you seem to suppose, nor any form of address, which awakened on my part a deep sense of wrong. These, whatever they may have been, were not worthy of serious notice. The substance was what I intended, as courteously as I could, but very *distinctly*, to repel.

I am, very respectfully, your obedient servant,

FRANKLIN PIERCE.

Hon. W. H. SEWARD,
Secretary of State, Washington, D. C.

This is the letter to which I referred, omitted by the clerk who prepared this communication for the Secretary of State. It is not my purpose to say that the honorable Secretary of State would do an act of this kind intentionally. This letter and the printed correspondence will show the country how great a calumny has been uttered against one of our most distinguished citizens.

Mr. President, I am now done with this subject; but before I close, out of justice to a large number of respectable gentlemen in the State of Michigan who have forwarded communications to me, I feel it my duty to state to the Senate that I have been urgently pressed to introduce a resolution for the appointment of a committee to investigate the facts relative to this so-called order of Knights of the Golden Circle. These gentlemen, one or two of whom have occupied places of great prominence in our country and filled offices of high distinction, distinctly allege that so far as the State of Michigan is concerned there is not, in their belief, an order in existence, that it is a mere creation of the brain, and that they feel it due to the good people of that State to have an investigation; but this is not within my province, and I have quite enough to do to attend to the interests of my constituents. I would cheerfully vote for such a resolution, and might give my time and service in ferreting out any secret organization which has for its object disloyalty, or the overthrowing of our Government; yet, sir, I cannot with my sense of duty to my own constituents bring forward and father a measure of that kind which would necessarily consume more time than I could possibly give. I feel that this statement is proper and due to the distinguished gentlemen whose communications lie upon my table, as well as to myself.

ENROLLED BILLS SIGNED.

The PRESIDENT *pro tempore* signed the following enrolled bills and joint resolution, which had heretofore received the signature of the Speaker of the House of Representatives:

A bill (S. No. 120) in addition to "An act to refund and remit the duties on arms imported by States," approved July 10, 1861;

A bill (S. No. 244) to provide for the equitable settlement of the accounts of the officers and crews of the frigate Congress, and other vessels;

A bill (H. R. No. 318) to prohibit the allowance or payment of pensions to the children of officers and soldiers of the war of the Revolution; and

A joint resolution (H. R. No. 49) for the appointment of Theodore D. Woolsey, of Connecticut, a regent of the Smithsonian Institution, in the place of Cornelius C. Felton, deceased.

NEW COLLECTION DISTRICT.

Mr. LATHAM presented resolutions of the Legislature of California, in favor of the establishment of a new collection district, to be called the district of Humboldt, with a port of entry at Eureka, and ports of delivery at Trinidad and Crescent City; which were ordered to be printed, and lie on the table.

PAPERS WITHDRAWN.

On motion of Mr. HARLAN, it was

Ordered, That A. H. Jones and H. M. C. Brown have leave to withdraw their petition and papers.

FLOYD ACCEPTANCES.

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

Resolved, That the Secretary of War be directed to inform the Senate what drafts were drawn by Russell, Majors, and Waddell, or other parties, on the War Department, and accepted by John B. Floyd, late Secretary of War, and their amounts respectively, for transportation or for money thereafter to become due, and what is the amount of such acceptances now outstanding and unpaid, and to communicate to the Senate any other facts in the possession of the Department respecting said drafts and acceptances, and the circumstances under which the same were made.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. MORRIS, Chief Clerk, returned, in compliance with a request of the Senate, the bill (H. R. No. 318) to prohibit the allowance or payment of pensions to the children of officers and soldiers of the war of the Revolution.

INDIAN ESTIMATES.

Mr. DOOLITTLE. I have received from the Secretary of the Interior some additional estimates made by that Department for the defraying of the expenses of Indian affairs. As the estimates are quite large, and cover very numerous items, I desire to have the paper printed, and the accompanying documents I also desire to have printed, as they contain many facts that will be of interest and necessary to be examined in passing on the various questions that will be raised on these additional estimates. The gross amount of the additional estimates is about one million four hundred thousand or one million five hundred thousand dollars. There are, among these papers, two documents of considerable interest, which have reference to the abstracted Indian bonds; and one question arises, whether the Government of the United States, the bonds having been abstracted, stolen by our own agents, should not be liable properly to the Indians for the payment of the interest upon the bonds.

In presenting these special estimates, I move that they be printed for the use of the Senate.

The motion to print was agreed to.

Mr. DOOLITTLE. I move that they be referred to the Committee on Indian Affairs.

The motion was agreed to.

BARK JURGEN LORENTZEN.

Mr. SUMNER. I move that the Senate proceed to the consideration of the bill (S. No. 248) reported from the Committee on Foreign Relations—a bill for the relief of the owners, officers, and crew of the Danish bark Jurgen Lorentzen.

The motion was agreed to; and the bill was considered as in Committee of the Whole. It provides for the payment to the order of the proper functionary of the Government of his Majesty the King of Denmark, of the sum of $1,850, as full compensation to the owners of the Danish bark Jurgen Lorentzen, or their legal representatives, for damages occasioned by reason of the wrongful seizure and detention of the bark by the Morning Light, a vessel of the United States blockading squadron, in the month of December last, and also as full compensation to the master, mate, and crew of the said bark. The sum is to be distributed agreeably to the award of Moses Taylor and H. Dollner, Esqs., to whom the claim was referred.

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

AID TO THE STATES IN EMANCIPATION.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of the House joint resolution in regard to furnishing aid to States who may wish to emancipate their slaves.

The motion was agreed to; and the Senate resumed the consideration of the joint resolution (H. R. No. 48) declaring that Congress ought to coöperate with, affording pecuniary aid to, any State which may adopt the gradual abolishment of slavery.

Mr. SHERMAN. I design to address some remarks to the Senate upon the bill relating to the District of Columbia, and the class of measures of which this is one; but if it is the pleasure of the Senate I will say what I have to say upon this resolution, or I will wait until the other comes up.

Mr. TRUMBULL. I hope the gentleman will consult his own convenience. It will be quite as agreeable to me if he will make his remarks upon this resolution.

Mr. SAULSBURY. If the Senator from Ohio will permit me, I wish to offer an amendment before this resolution is put upon it passage, because I wish a distinct declaration of opinion as to whether the Constitution of the United States confers upon the United States the authority to give the aid which is recommended by the President. I therefore, before the Senator from Ohio proceeds, propose the following amendment, to come in after the last word in the resolution:

It being hereby declared that the Constitution of the United States does not give to the United States authority so to coöperate.

The PRESIDENT *pro tempore*. The Chair will take leave to state to the Senate the position of the question as appears from the record. This resolution was considered as in Committee of the Whole, and no amendment was made to it. Some amendments were rejected. It was reported to the Senate, when the Senator from Missouri [Mr. HENDERSON] renewed an amendment which had been offered and rejected in Committee of the Whole. The question pending before the Senate now is upon the amendment moved by the Senator from Missouri. Does the Senator from Delaware move an amendment to that amendment?

Mr. SAULSBURY. No, sir. I will offer my amendment at another time.

The PRESIDENT *pro tempore*. The question before the Senate then is on the amendment offered by the Senator from Missouri.

The amendment of Mr. HENDERSON is to add to the resolution the following proviso:

Provided, That nothing herein contained shall be construed to imply a willingness on the part of Congress that any of the States now composing the Union shall be permitted to withdraw permanently their allegiance to the

Government; and it is hereby declared to be the duty of the country to prosecute the war until the Constitution shall have been restored over every State professing to have seceded.

Mr. SHERMAN. Mr. President, I have not heretofore deemed it my duty to discuss any of the pending propositions relating to slaves or slavery. It is a difficult question, the bane of American politics, the most troublesome subject that has ever excited the attention of Congress. The war has thrown upon us the necessity of passing a variety of bills of the most important character, the details of which it was necessary to carefully consider. I have deemed it my duty to pay attention, so far as I could, to the details of those measures, avoiding all political discussion. But, sir, I am called upon to vote; and representing a constituency of two millions and a half of people, who have deep and abiding convictions upon the subject of slavery and its relations to the General Government, I probably should not do my duty to them did I not seek some proper occasion to express my views, and so far as I know the views of the great body of the people of Ohio. I shall therefore take this occasion to state as briefly and as distinctly as I can my opinions upon the several propositions pending in this body on the subject of slaves and slavery. They are so intimately connected together that I may as well discuss the whole in discussing one.

The first practical question that comes before us is the question of slavery in the District of Columbia. It is proposed to emancipate the slaves of this District. Two years ago when the census was taken, there were 11,107 free negroes, 3,181 slaves, and 60,788 white people in this District. Since that time I am informed by very credible authority that the number of free negroes has been increased to something like fifteen thousand—some of them brought from the States as servants by officers of the Army; some of them belonging to that class of persons known as "contrabands," running away from disloyal masters in Virginia and Maryland, and seeking safety in our lines, and finding employment in this District, and probably some coming here for temporary employment; so that I am told from very credible authority that the number of free negroes now in this District is about fifteen thousand.

I am also informed by equally credible authority that the number of the slaves in the District now is less than fifteen hundred. Many of the most healthy, active, valuable slaves were removed by their masters before the difficulties occurred; some have been removed since. Many of those that were hired here by masters living in Virginia and Maryland, have been taken away, and have either gone South or returned to their homes. The number of slaves in this District probably does not now exceed fifteen hundred, and may not be over one thousand. It is apparent, therefore, that this question is an unimportant one, if we look only to the number of persons affected by it. To add one thousand to the number of free negroes in this District is a matter of very small importance; and to take from the owners of these one thousand negroes their property, is also a matter of less importance, as the bill provides ample compensation and remuneration. It is obvious, therefore, that the chief importance attached to the measure is that it involves the idea of EMANCIPATION. It is for this reason that it has excited the hostility of the Senator from Kentucky, [Mr. DAVIS,] and the opposition of the Senator from Virginia, [Mr. CARLILE,] and no doubt would excite the opposition of the great body of Senators from slaveholding States, if here to speak.

The first question that we should discuss is to satisfy ourselves of the power of Congress to abolish slavery in this District. I feel the force of the appeal made by the Senator from Kentucky to the free States: that now, when our power is absolute, when the slave States are not represented here, we should not use any unconstitutional means to abolish or interfere with slavery. We should be careful not to exercise any authority over the subject of slavery that is not clearly delegated to us by the Constitution. I admit, also, that this is not one of those high measures that a Government may resort to for its own preservation. The freedom or slavery of a thousand or fifteen hundred negroes in this District is not a measure of that high necessity which would justify us in usurping doubtful powers. But, sir, if I am correct in my view, the abolition of slavery in this District is a simple municipal regulation, clearly delegated to the Congress of the United States by the Constitution, and embraced by the same clause of that instrument which authorizes us to open roads, to build poor-houses, to construct jails, or do any other legislative act in this District. The Constitution fortunately is plain and clear upon the subject, and that I may have it upon the record, I will read the clause to which I refer:

"Congress shall have power to exercise exclusive legislation in all cases whatsoever over such district as may by cession of particular States and the acceptance of Congress become the seat of the Government of the United States."

Here the power is given to Congress to exercise exclusive legislation in all cases whatsoever. The words "in all cases whatsoever" might have been stricken out, and still the language is plain enough. The framers of the Constitution very rarely used surplusage, and the fact that they did in this case shows clearly that they intended to confer upon Congress all legislative power that could be exercised either by a State government or by the national Government. When you look to the history of this clause of the Constitution, you find the reason for it. Even when the Constitution was framed there was a struggle in the convention as to where the seat of Government should be. One of the objections afterwards made against establishing the seat of Government where we now stand was that it was establishing it in a slaveholding State. That argument was obviated by showing that Congress might at any time, at its own discretion, remove the institution of slavery, and make the laws of the District conform to the wishes and the will of the great body of the people of the United States in that respect.

Congress has power to exercise exclusive legislation. If the argument of the Senator from Kentucky is true, slavery never could be abolished in this District in all time to come. Maryland might abolish slavery, Virginia might abolish slavery, all the States might abolish slavery, and yet here it would stand as a perpetual monument beyond the reach of any legislative power; because if Congress has not this power then nobody can have it. The people of this District have no political power except such as is given to them by the Congress of the United States. They have their personal rights secured to them by the bill of rights; but they have no political power whatever except what you choose to give to them for municipal purposes. The argument is absurd. The power is plain. I might support my opinion by the opinions of such eminent statesmen as Henry Clay, Daniel Webster, and many others. I believe, until Mr. Calhoun doubted or denied the power, it never was doubted.

The next question for us to consider is whether this is the time for emancipation? I think it is eminently the time, and the reasons are as obvious as the power. There are now very few slaves in this District, fewer than there have been at any time within the last forty years. There are fewer now than there will be one year hence, unless you abolish slavery here, because after the rebellion is subdued, after things are quieted, if slavery is not prohibited in this District, slaves will again be brought here in competition with the free negroes and the free whites of the District. There are fewer now than there have been in the past, and fewer than there are likely to be in the future. That is an argument which ought to induce even the Senator from Kentucky to favor emancipation now, as it will operate on comparatively few persons.

Another reason is, that many of the owners of these slaves are disloyal, traitors; many of them have gone off, and are now in the army of the confederate States; and there is at this time among the class of slaveholders a very strong and powerful sympathy with the men who are in rebellion against this Government. The social influence of this city, controlled in a great measure by the owners of slaves, has always been against the Government of the United States. Ever since I have had the honor of a seat in either House of Congress any one could feel it. The social influence, the influence of social position, and of wealth and property, controlled and owned, in a great measure, by slaveholding residents here, has always been against the Government of the United States, and is now in favor of this rebellion. This bill operates upon them, and I am very glad that it does.

Another reason is, that as long as slavery exists in this District it will be a constant source of annoyance and irritation; we shall have constant excitement and agitation about it. The great mass of the people of this country are opposed to slavery—morally, socially, politically. They feel that it is wrong, and they cannot change their opinion. As long as slavery exists in this District, where they have the power to abolish it, agitation and excitement will be ceaseless. This is a potent reason why now, when many of the owners of these slaves are disloyal, when the number of the slaves is few, we should make the institutions of this District conform to the moral sentiment of the great mass of our people. All the people of the northern States, I may say, are opposed to this institution theoretically, and very many of the most intelligent people of the southern States. Now is the time when this moral conviction should be heard and heeded by the national Legislature.

There is another reason. We are the legislators for this District, we are bound to consult the material interests of the people of the District. Emancipation will add to the value of the property of the people of the District, and will also add to the population of this city. As a legislator framing a mere municipal act of incorporation for this city, I would abolish slavery simply for its effect upon property. The abolition of slavery in this District will bring here active, intelligent mechanics and laboring men, who never will compete with the labor of slaves, and who, finding none here but free men, will develop the great advantages of this city. I see no reason why Washington, with a free population and as a free city, situated here at the head of the Potomac, with remarkable facilities of navigation, with great conveniences of communication, reaching to the West by the Baltimore and Ohio railroad, the political capital of the country, might not be a great free city, illustrating by its progress the operation of free institutions. But, sir, it can only be done by the active, interested labor of free people. Simply as a municipal regulation it would be wise to abolish slavery in this District, because slavery is opposed to the moral convictions of the great mass of the people of this country, and the existence of slavery here keeps out of this District an active, loyal, true, manly, generous body of laborers, who will never compete in their labor with the labor of slaves.

There is still another reason. This is the best place to try the experiment of emancipation. I have always thought since I could reason on this subject, that the law of God proclaimed emancipation as the ultimate end of this question. Here we have the power to try the experiment. Let us try it. I would not interfere with the right of the States over this subject in the slightest degree; but I have no doubt that the slave States, as I shall show you hereafter, will after a while follow the example of the Government of the United States, or rather the example of Pennsylvania and the other States that have abolished slavery; but we cannot expect the slave States to follow in the cause of emancipation, or even look to their doing it until we, the legislators of this District, shall set the example ourselves.

This is a good place to begin emancipation for another reason. This is a very paradise for free negroes. Here they enjoy more social equality than they do anywhere else. In the State where I live, we do not like negroes. We do not disguise our dislike. As my friend from Indiana [Mr. WRIGHT] said yesterday, the whole people of the northwestern States are, for reasons, whether correct or not, opposed to having many negroes among them, and that principle or prejudice has been ingrafted in the legislation of nearly all the northwestern States. Here there is but little prejudice against them, and that class of people who are hated and spurned all over the country North and South, have a better opportunity to develop their capacity for freedom than anywhere else in the United States. Here they perform many of the duties necessary to be performed in all civilized society. Here they are the laborers, the hackmen, the servants, and do a great deal of good, and are of great service. I have never examined the

criminal statistics here; but so far as my observation has gone, I feel bound to say that the free negroes of this District have behaved themselves very well. They are useful, good citizens, all of them, so far as I know, loyal, faithful, and willing and ready to do the duties that devolve on them in their callings and business. I am willing to give the free negroes here the highest possible development. Here they do not interfere with the peculiar prejudices that will always mark them as a degraded caste in other communities. In States they must always be held on a lower level. Here they have rights, and those rights are respected more than in any portion of the United States. I am willing to give them the advantage of their position.

Mr. President, until within the last year or two if the question had been put to me, are you in favor of the abolition of slavery in the District of Columbia? I should have answered, and perhaps did answer in the other House, that I was opposed to it for the present. And why? Because I believed that the abolition of slavery here would be injurious to Maryland, and that as this territory was received from Maryland as a free gift for the seat of Government, I thought we ought not to interfere with slavery in this District without the consent of Maryland. But, sir, it seems to me the course of events has changed that position. Maryland herself, as her Senator has proclaimed upon this floor, must look to emancipation. It is a matter of social necessity. She will look to emancipation; and if she adopts the policy of emancipation, with or without the aid of the General Government, I have no doubt the resources of Maryland will be largely increased. I know that there is a strong disposition in Maryland to try the experiment of emancipation. I believe it would be for their interest to try it. I do not think that the addition of a small number to the free negroes of this District and the relieving of a few slaves from their bondage can operate injuriously to the State of Maryland, and therefore I feel relieved from all obligation to respect the wishes of the people of Maryland exclusively on this matter, but to take a broader view of the subject, and look at its effect throughout the United States.

If the State of Maryland will but try the experiment that has been tried in other States, they will find the benefits of this policy of emancipation. There was in the State of Ohio a very large portion of the State set aside for Virginians, called the Virginia Military District. Nearly all of the people of that portion of the State of Ohio are the descendants of Virginians. They have gone there with their slaves. I have often heard from the earlier settlers of Ohio about large families from Virginia and Maryland coming to the State to settle on the lands granted to them for services in the revolutionary war, and bringing their slaves with them. Their slaves became free under the operation of the laws of Ohio. They have settled upon their lands, divided according to the laws of Virginia, and the lands are worth threefold what they would have been if they had held the negroes still as slaves. That part of Ohio is now among the most intelligent, enlightened, and enterprising portions of the State, rich in all resources. It embraces the Sciota valley and some of the very best lands in our State, held under Virginia titles, under Virginia laws. Some of the negroes carried by Virginians into Ohio are still there, entitled to the rights of freedom. I believe that if Maryland and Virginia this day would proclaim emancipation by some gradual system that would not break too much on the prejudices of their people the mere value of their lands would be enhanced twice the amount of all the nominal value of their slaves.

These reasons are sufficient to induce me to vote for any bill providing for the abolition of slavery in this District.

The question now occurs, what is the best mode of emancipation? If the duty had been imposed upon me to frame a bill for the abolition of slavery in this District, I should have provided for a gradual emancipation. I should have taken that famous law of the State of Pennsylvania referred to yesterday, framed by Franklin and a committee of his associates. I should have declared that all children born after the 12th day of April, 1861—the day when the rebels fired upon the flag at Fort Sumter—should be free. I would establish it as a permanent record on the statute-books of my country that the first sound of the cannon against the flag of our country was the signal of the emancipation of the slaves in this District. I think there would have been a poetic justice in it. Then I should have provided by some general provisions similar to the statute of Pennsylvania for the guardianship and apprenticeship of minor children, and also for the liberation of slaves who are now under the age of twenty-one, when they arrive at the age of twenty-eight, or some provision of that kind. I would have given no compensation, because, as the legislative power of this District, we have the right to make this system of gradual emancipation without compensation. It was not granted by any of the States; and I think whenever you have a precedent to follow, it is always safer and wiser to follow that precedent.

If the Senator from Indiana could so modify his bill as to meet the condition of the times in this District, I would vote for it as an amendment. The bill introduced by him is imperfect. I have read it with great care. It was written some fifteen years ago, and intended for a different state of facts from what exist now. He will see himself, if he examines it carefully, that it would not do to pass his bill without modification. But whether that proposition is adopted by the Senate or not, I am willing to vote for any other measure which will emancipate the slaves in this District, and provide a reasonable and limited compensation to the owners.

The objections to gradual emancipation ought not to be overlooked, although they are not insuperable. One objection is, that it would continue the agitation of this question for a short time. It probably might induce efforts to repeal or modify the law before it took effect on all the slaves in the District. It would be difficult to guard against evasions of the law. The children now growing up, a few years hence might be smuggled out of the District, and it would be very difficult to follow them and trace them, or enable them to assert their freedom. There would be no inducement in that case to the owners to educate them. There would be no legal guardians for their children. Their mothers being slaves, as a matter of course, they could not have legal guardians, unless you should make the masters their guardians; and then there would be no inducement for the masters to educate them. These are practical objections against gradual emancipation; but still, as I said before, if I were framing a bill, I would provide for gradual instead of immediate emancipation, and without compensation.

A proposition was made yesterday by the Senator from Virginia [Mr. WILLEY] to submit this matter to the people. I think it would have been unwise to have adopted that suggestion. The people in this District are now in a chrysalis state; they are changing. You could not submit this question to the people without at once bringing up the question of suffrage. Who shall vote upon the proposition? Shall those residents who have come here within the last six months, in view of the present difficulties, vote?

Mr. WILLEY. The amendment provided who should vote—all over twenty-one years of age, who had been residents of the city for one year.

Mr. SHERMAN. Then that would have been clearly unjust. You limit the right of suffrage to the people who have been residing here one year. How many of them are there? How many of them are directly interested in the question on which they would be called to vote? How many of them would be the owners of slaves, or the relatives of the owners of slaves? You do not allow a man to sit upon a jury who is interested to the amount of one cent in the matter in controversy. You do not allow a man to sit as judge who has a relative a party in a suit. And yet nearly all those who have been here one year are either interested in slaves themselves or have relatives who are interested in slaves. Besides, if you submitted this question to the people, you would stir up strife and contention in this District. I think it would be far better for us to take the responsibility. The Constitution invests in Congress the exclusive power over this subject, and, for one, I am not willing to transfer that responsibility to the people of the District, but would rather take it myself than submit it to the people, and thereby create contention and strife among them.

The PRESIDENT *pro tempore*. The Senator from Ohio will suspend his remarks. It is incumbent on the Chair, at this time, under the rules, the morning hour having expired, to call up the special order of the day, which is the unfinished business of yesterday.

Mr. TRUMBULL. As this is germane to the same question, I trust the Senator from Ohio will be permitted to go on with his remarks. It does not delay the District bill. He is speaking upon the other question. I move that the special order be laid aside informally, until the Senator from Ohio concludes his remarks.

The PRESIDENT *pro tempore*. If that be the sense of the Senate, the special order will be postponed for the time being.

Mr. SHERMAN. I have read carefully all the bills on this subject, and I will state frankly to the Senator from Maine [Mr. MORRILL] one or two objections that occurred to me in regard to his bill, that rather induced me to think that the bill framed by the Senator from New Hampshire [Mr. CLARK] was the preferable one. The bill of the Senator from Maine does not define loyalty, or did not when I read it some days ago. Perhaps he has modified it in that particular. It did not sufficiently define loyalty, a word of such various meaning that I think it ought not to be adopted in a statute without a definition limiting and confining the meaning. Perhaps that has been modified. I think it was, yesterday, to some extent.

Mr. MORRILL. You will find the terms used in the two bills are equivalent.

Mr. SHERMAN. Another objection to the bill is, that it establishes new courts. It establishes a court of commissioners, when, in my judgment, the Court of Claims is the very tribunal, of all others, to try the question. I am willing to trust this matter to the Court of Claims, thus saving the creation of a new tribunal. I can see no reason for the appointment of commissioners, whom we do not know in advance, who are not officers of the Government, but who have to be made officers of the Government, at a considerable additional expense. I, therefore, think it would be much wiser to leave this question of the assessment of compensation to the Court of Claims, a court already constituted for the investigation of this class of business.

There is another objection to the bill of the Senator from Maine which I hope will be obviated; and that is, it does not provide for colonization. If it is our duty to emancipate these slaves, it is equally our duty to give the negroes of this District, and, indeed, of the whole country, the right of choice whether they will live here in a land where they will always be held as a subordinate race, or try the experiment of freedom in another and a more favorable clime. I think it is a just and politic idea that if we, as a nation, owe these people freedom, we also owe them a further obligation to allow them to develop their freedom and their capacity to govern themselves in a country where they will not be met at every step with caste and prejudice, hate and contumely; where they can exercise no political rights; where they cannot vote; where they cannot serve as jurors; where they cannot exercise any of the rights of freemen. When you give negroes freedom in this country you give them freedom stripped of everything but the name. You make them freemen without the right to govern themselves. Therefore, sir, I hold that in this bill, and in every bill which looks to emancipation, there ought to be some provision which will enable any person affected by it to seek freedom elsewhere, where he may have all the benefits of free society of his own color, of his own kind; where he will not have to meet the prejudices of caste all the days of his life. Although the proposition of the Senator from Wisconsin [Mr. DOOLITTLE] was voted down by a tie vote, I yet hope that he will see that that provision is ingrafted in the bill, and then I shall vote for it much more readily.

Mr. President, I have now said all I designed to say on the subject of slavery in this District; and if I were speaking alone to that bill I might here end my remarks. But the Senator from Kentucky [Mr. DAVIS] sees in this bill a disposition in Congress to interfere with slavery in the States. He thinks this is an entering wedge, a part of a

system of policy which will lead to interference by Congress with slavery in the States. That is his theory. He did not regard the bill in itself as of so much moment; for I have already shown that it can operate upon comparatively few persons and cannot do any injury; but he fears that it is part of a policy of the dominant party now controlling all the organs of the Government to violate their pledges and interfere with slavery in the States. Let us see whether there is any ground for that fear.

If the Republican party has been distinguished for anything at all, it has been for its moderation, almost its timidity. It has never assumed an affirmative policy on this question of slavery since its organization to this hour—never. It has always been defensive. It never affirmed a single proposition of a legislative character until this proposition to abolish slavery in the District of Columbia was brought forward, perhaps as a Republican measure, or at least it will be voted for by the great body of Republicans. In the whole contest in regard to Kansas, it was simply defensive. In the Lecompton controversy and in all the controversies that have occurred in regard to slaves and slavery since the organization of the Republican party, it has been purely and simply a defensive organization. I think the Senator will find great difficulty in pointing out the allegations for his indictment to show that this party every proposed any offensive or aggressive measure of any kind whatever in regard to slavery in the States.

I have had the honor of holding a seat in Congress since the organization of the Republican party, and I know from observation here that this party, as a political organization, has never proposed any aggressive measure. It has always been defensive. It has stood here fighting with the prejudices of the people of this District against it, with a powerful Democratic organization against it, with a strong caste in the southern States against it, simply on the defensive in endeavoring to prevent the extension of slavery, and to prevent the practical overthrow of a line which has been framed by our fathers against the extension of slavery north and west of Missouri. I do not know any measure on which it has taken an aggressive position.

Mr. DAVIS. Will the gentleman allow me to make a disclaimer? I did not intend to impute against the Republican party that line of policy. I only intended to make that imputation against the abolition party. I trust that there is now a line of separation between the Republican party and the abolition party.

Mr. SHERMAN. Well, Mr. President, I know it is easy to state distinctions of this kind; but in my experience our opponents have generally denounced us under whatever name they chose to call us, and put us all in the same category. They do not draw very nice distinctions. As for example, the Senator from Massachusetts, [Mr. SUMNER,] as he has a perfect right to do, introduced a series of resolutions giving his idea about the effect of the war upon the political status of the States, and at once those resolutions are seized upon as the dogmas of the Republican party and we are denounced for them, although candid men must know that they are but the emanation of a single individual who has decided convictions on this subject, and who is far in advance of any political organization in this country.

Now, Mr. President, in the platform of the Republican party, at Chicago, we adopted a resolution which declared in the strongest terms and in the most emphatic language the rights of the States. After Mr. Lincoln's election, it was manifest that we were in the face of a civil war; the plot of these seceding traitors had begun to be developed. They had aided us in the election of Mr. Lincoln. Such men as Keitt and that class of seceding conspirators in the southern States, for the purpose of exciting the prejudices of the southern people, after misrepresenting the Republican party, and making it a bugbear in the southern States, then aided the Republican party in gaining a political victory. After having accomplished that purpose, they sought to overthrow the Government because the Republican party had succeeded. All this was foreseen. It was the anxious desire of nearly every man in Congress at the last regular session to avoid this civil war. We in the northern States thought it was inevitable, because we knew that no concession which we would dare to yield to them would be satisfactory to this class of people; that they intended to precipitate this country into a civil war. We did all we could to prevent it. We yielded and yielded, until yielding was a humiliation and a shame. When I look over the Journals of the last Congress and see how far I went myself in this policy of conciliation, I am almost surprised. Why, sir, no sooner was Mr. Lincoln elected than South Carolina commenced acts of hostility against the Government of the United States. The first matter of complaint against the people of the northern States was that they had passed personal liberty bills. In order to set them at rest on that point, a preamble and resolution were introduced into the House on the 17th of December, 1860, which I will read:

"Whereas the Constitution of the United is the supreme law of the land, and its ready and faithful observance the duty of all good and law-abiding citizens: Therefore,

"*Resolved*, That we deprecate the spirit of disobedience to that Constitution wherever manifested, and that we earnestly recommend the repeal of all statutes, including personal liberty bills, so-called, enacted by State Legislatures, conflicting with, and in violation of that sacred instrument, and the laws of Congress made in pursuance thereof."

This resolution, calling upon all the States to repeal their personal liberty bills, was passed by a unanimous vote; and the States acting in the same spirit did proceed to reconsider them, and, in some cases, repeal them, although they were shown to be totally ineffective; and for ten years they had never caused the escape of a single fugitive slave.

Then, when that was done, they complained that Congress would interfere with slavery in the States. We had placed it in our platform that such was not our purpose. We had told them in all our speeches that such was not our purpose. Still they pretended not to believe us. The conspirators did believe us; but they wanted to agitate their people. In order to put an end to that complaint, a resolution was introduced into the other House of Congress by me, as follows:

"*Resolved*, That neither Congress nor the people or governments of the non-slaveholding States have the right to legislate upon or interfere with slavery in any of the slaveholding States in the Union."

That resolution was adopted by a unanimous vote, and these men knew it.

A committee was appointed to see if further measures of conciliation could not be adopted in order to avert this civil war, and Mr. Corwin, a distinguished citizen of my own State, reported various propositions. All the Territories of the United States were organized on laws passed by Congress which, I believe, received the unanimous vote of both Houses. These laws were framed by Mr. Green, of Missouri, and by Mr. GROW, one a Democrat and the other a Republican, and were passed by the unanimous vote of both Houses; and therefore that question was out of the way.

Then it was said that although Congress now disclaimed its purpose to interfere with slavery, yet at some time in the dim future, when the number of free States should become very large, Congress would then interfere. We knew that was an idle fear, expressed for the purpose of agitating the southern mind; but to appease it, both Houses of Congress, after several States had seceded, passed an amendment to the Constitution declaring that the Constitution never should be so altered as to allow Congress or any non-slaveholding State to interfere with slavery in the slave States.

After Mr. Lincoln was inaugurated, after he had proclaimed the same doctrine in words familiar to the Senate—after he had made every pledge and promise, after this party then assuming for the first time the functions of the Government had made every pledge and promise, these conspirators commenced a civil war. Even then the Republican party evinced every disposition to conciliate. Even then the Administration did what I never approved—negotiated with South Carolina for leave to feed our soldiers in Fort Sumter. They even submitted to that humiliation. So anxious were the northern people and the Republicans of this country to avoid a civil war, that I believe they would have done anything in reason to convince their southern brethren that it was not their purpose to oppress them or injure them in the slightest degree. That was the feeling in the House; I know it was my own. It was the feeling of the people of my State. The anti-slavery sentiment of this country would have been satisfied by the defensive victory of the Republican party, for that is all it was, and this country would have made rapid advances to prosperity, unparalleled in ancient or in modern times. But these conspirators, who, losing the fruits of office, sought to drag their country into civil war, would not let it be so, and the loyal people of the country were compelled to appeal to God and the arms that God gave them.

Not only did we do everything to avoid this trouble, but even after it came upon us the liberality of the Republican party has been manifested on this subject of slavery. When a resolution was introduced at the last session of Congress, by Mr. CRITTENDEN, declaring the purposes of the war, that it was not the purpose to interfere with slavery, that resolution was voted for by all. Every one voted for it; and this was after our brothers' blood had been shed, and after the heat of the contest had commenced. Not only that; all our generals, Halleck, Buell, Sherman, McClellan—all the generals who were at the head of departments and divisions—proclaimed the same doctrine wherever they went. The flag of our country never entered into a slave State unless it was proclaimed by the general commanding, by the political authorities, and by the President, that it was not the purpose to interfere with slavery in the States. Not only that; but we have now the testimony of a remarkable document, which I will ask the Secretary to read, in which the conspirators confess that they led their people to war and revolution by false pretenses; in which they stamp themselves with the stain of dishonor. I refer to the communication of Yancey, Rost, and others, to Earl Russell, dated the 14th of August, 1861.

The Secretary read, as follows:

"It was from no fear that the slaves would be liberated that secession took place. The very party in power has proposed to guaranty slavery forever in the States if the South would but remain in the Union. Mr. Lincoln's message proposes no freedom to the slave, but announces subjection of his owner to the will of the Union; in other words, to the will of the North. Even after the battle of Bull Run, both branches of the Congress at Washington passed resolutions that the war is only waged in order to uphold that (pro-slavery) Constitution, and to enforce the laws, (many of them pro-slavery,) and out of one hundred and seventy-two votes in the lower House they receive all but two, and in the Senate all but one vote. As the Army commenced its march, the commanding general issued an order that no slaves should be received into or allowed to follow the camp. The great object of the war, therefore, as now officially announced, is not to free the slave, but to keep him in subjection to his owner, and to control his labor through the legislative channels which the Lincoln Government designs to force upon the master. The undersigned, therefore, submit with confidence that, as far as the anti-slavery sentiment of England is concerned, it can have no sympathy with the North; nay, it will probably become disgusted with a canting hypocrisy which would enlist those sympathies on false pretenses."

Mr. SHERMAN. Mr. President, as a further evidence, and a very peculiar evidence, to show that on this subject of slavery the Republican party has not forgot its promise to respect and obey the laws, I will refer to a case in my own State. The president of one of the colleges of our State, a man of learning and character, is now held in the jail in the city of Cleveland, convicted—convicted under your fugitive slave law, in the Western Reserve—convicted at Cleveland—of aiding a fugitive to escape. That conviction was rendered long after this war commenced; and a judge sitting in Cleveland sentenced him to six months' imprisonment and to a fine of $300. This educated clergyman is now suffering the penalty of his conviction in the jail of the city of Cleveland. So careful have been the people of Ohio to respect the laws in favor of slavery, that they have done what at least appears to be, if it is not, gross injustice. The Rev. George Gordon is now there, and has suffered four months in that jail; and although hundreds and thousands of people have petitioned for his pardon, although the general sense of the community in which he lives was against the conviction, although he took no part in the crime, but simply stood by and did not raise his hand to prevent it, yet so careful have been the Administration to protect the rights of the South, and the duties and the obligations of the free States to the slave States, that that clergyman, the head of a college, a man of high character, now suffers as a felon in your jail. If ever a free people in

the world gave an evidence of their obedience to law, and if ever an Administration showed its regard for law in enforcing it in a hard case, this has. I cannot but think, and I do not utter it in any complaining spirit, that when clemency has been dealt out so liberally to men who have taken up arms against the Government, when open traitors have been treated with marked distinction, that this person, who committed his offense from his excess of conscience, ought to be pardoned.

We have shown our forbearance on all these questions to our open enemies. We have treated the prisoners captured in this war with the most marked distinction. An extraordinary case has occurred in Ohio which now excites a great deal of feeling there, and which illustrates the mode and manner in which prisoners are treated. It seems that some thirteen or fourteen hundred of the Fort Donelson prisoners were sent to Columbus, Ohio, under the authority of the United States, and put in charge at Camp Chase. In order to illustrate the unjustifiable liberality of our Government in dealing with slaves and slavery I desire to have a portion of the report made to the Senate of the State of Ohio on the subject read. It is a remarkable document.

The Secretary read, as follows:

"Subsequently your committee visited Camp Chase, and by the worthy commandant of the post, Colonel Granville Moody, were shown through the three prisons, and kindly allowed all the liberties necessary to further the object of their visit.

"Your committee found some thirteen hundred persons confined in the three prisons, mostly from Tennessee, Kentucky, Missouri, and Mississippi. Their quarters were in all respects as good, and in some a little better, than those of the soldiers outside, and your committee were assured that the rations distributed were the same in quantity and quality as those given to our own men. No complaint was made as to any of these things, but there was a general expression of satisfaction therewith.

"Your committee found seventy-four negroes in the prisons, mostly taken at Fort Donelson. Of these, from what they could learn, a few were free when taken, having been hired by officers as cooks and servants. The remainder, perhaps fifty in number, were slaves in attendance upon their masters, and while so employed were taken along with their masters. None of them were in arms; all of them having been retained for menial service merely. Since their capture they have traveled with their masters, attending and serving them as before. On their arrival at Columbus they took charge of and carried the baggage of their former masters from the depot to Camp Chase, the men, having no servants, being compelled to carry their own, as our soldiers do on similar occasions. Arrived at the camp, the privates were, as far as possible, separated from the officers, and for obvious reasons placed in different prisons; but the negroes were placed in the same prisons with the officers, who were their former masters. Why? Unless that they might continue to attend and serve their former masters; and they have ever since done so—cooking, washing, waiting upon and serving them just as before their capture—the relation of master and slave being as rigorously maintained by the master, and as fully recognized by the negroes and the other inmates of the prison, as it ever was in the State of Tennessee.

"But why were these slaves taken at all? They were not, and had not been in arms against the Government—their presence at Fort Donelson was not even voluntary. Why are they retained in prison? They have done no wrong—they deserve no punishment. Is it to furnish rebel officers with servants? And was it for this, they were transported at the expense of the Government and are now subsisted at her cost? Is our constitutional provision thus to be made a nullity, and slavery practically established in Ohio? And this under the protection and at the expense of the Federal Government.

"As to the rebel officers released on parole, your committee could not get much definite information, other than that, with few exceptions, these paroles were granted by order of General Halleck. That the clemency so shown was mistaken, the following facts as to the conduct of these officers while at Columbus will show. They came wearing their side arms; stopped at the principal hotels, registering their names as 'Col.,' 'Maj.,' or 'Capt.,' with the significant letters 'C. S. A.' added; appearing from day to day in rebel uniforms (some of them gaudy—all of them noticeable) in the offices and parlors and at the public tables of these hotels, and in the streets and drives of the city; frequenting the theater and other places of public amusement, and visiting the Senate and House Chambers, where, with marked consideration, they have been invited to privileged seats within the bar; at all these places, and on all these occasions, giving expression to sentiments of continued adherence to the rebel cause, and of bitter hostility to the Government and people of the United States."

* * * * * * * * * * *

"But who is to blame? Your committee is satisfied that Colonel Moody has done his whole duty in the premises. They are equally satisfied that the Governor has endeavored to discharge his duties honestly, faithfully, and impartially. His position has been one of great delicacy; his control over the camp and prisons being by courtesy of the Federal authorities, and not by any right as Governor of Ohio. He has probably done all he well could in the premises. The responsibility, then, rests with the Federal authorities, and our only remedy is by protest to the President."

Mr. SHERMAN. Sir, that report shows that the fears of my friend from Kentucky of this Administration, or of the Republican party, under their present leadership, are groundless, when even in Ohio, where our laws and our constitution forbid slaves and slavery, where the public sentiment of our people is all against slavery, where there is not one in ten thousand who believes that any man ought to be intrusted with the ownership of another man; that there, under the authority of the Federal Government, slaves are held to wait on rebel officers taken in arms against the Government, and are fed, and have been transported at the expense of the Government. If that does not evince liberality, I do not know what will. Why, sir, contrast the conduct of our Government in this war with the barbarity shown by the rebels. Think of the scenes that have occurred in this war—of skulls taken as drinking cups—carrying us back to the barbaric ages. Think of the burning of the beautiful village of Guyandotte and the murder of its citizens, women as well as men. Think of the injuries done in the State of Kentucky by the hordes that have overrun that State under Hindman and Buckner and others, burning and ravaging. Sir, contrast the conduct of these rebel authorities seeking to overthrow our Government, with the conduct of this Government stretching forth its hand with mighty power, and yet as gently and as mildly as any Government ever conducted war, always with marked respect to the peculiar institutions of every community in which its army marches, everywhere respecting the local law, and even carrying the local law into other States. I tell my friend from Kentucky that as long as this Administration is in power he need not fear any injury to his State or its institutions. If any have a right to complain, and I think they have, it is the people of the free States, whose sentiments are outraged by such a case as that in Columbus, a transaction that will not be tolerated if it can be avoided, although we will not secede, even if rebel masters of Tennessee should still hold the slaves of Tennessee to serve rebel masters in Ohio.

Not only that, sir; this Republican party, which is the bugbear of all the southern people, is the most liberal of all to political adversaries. Who is at the head of your Army, dispensing patronage with a lordly hand and lavish profusion? A Democrat appointed by a Republican administration. Who receive that patronage? Who hold the high offices in your Government? Who fill the offices in your various Departments here? The majority of them Democrats, men who hissed Republicans here over and over again in the other House. Was there ever such forbearance? What Republicans dispense your patronage? Certainly not the young, active, zealous spirits of the party who in the heat and turmoil of political strife won a victory. These men stand aside, lest their names might frighten timid, conservative Union men of the border States, while the middle men, who watch the varying chances of the contest, new converts, old politicians, or patriotic Democrats fill the offices, and dispense the patronage. Why, sir, so anxious was the Republican party to conciliate the conservative sentiment of the northern States and the sentiment of the southern States, that we chose as standard bearer a gentleman who had but little experience in public life, who had given no cause of prejudice, who was himself a Kentuckian by birth, who was but two years in Congress, who had no record against slavery; and he, following the same policy, has revived many gentlemen of the past generation, and placed them in power around him. We do not complain of that. I simply introduce it to show that there never was a party more magnanimous, more liberal, and more generous to everybody but its own personal and partisan friends.

What did this party get for all this? I noticed in the papers the other day a remarkable thing. It was this:

"A Democratic conference was held last night, continuing in session until a late hour. The call was signed by all, excepting four or five, of the members of Congress who were elected as Democrats."

I also notice in the papers, much to my regret, that

"A paper has been circulated, and signed by nearly all the Democratic members of Congress, and by Senator CARLILE, having in view the rallying of the Democratic party, and a convention in this city at an early day, to give direction to its future movements."

In the meeting I have just mentioned,

"Representative CORNING presided, and Representatives PENDLETON and SHIEL acted as secretaries."

Resolutions were introduced by my colleague in the other House, Mr. VALLANDIGHAM——

Mr. CARLILE. If my friend will allow me, so far as I had any connection with that meeting, I am ready to explain it. I signed a paper here at my desk, handed to me by some one, without looking at it further than to see that its object was for some gentlemen to meet at the room of a member of Congress at a hotel in this city for the purpose of conference; I went there. No action looking to a party organization as a party was had, so far as my knowledge extends. There was a free interchange of opinions among gentlemen who were there; and I was glad to see, so far as I could ascertain, a determination to support the Administration in all proper efforts to suppress this rebellion, maintain the Constitution, and restore the Union. If there was anything concluded upon, I think that was the conclusion at which that conference arrived. Resolutions, I believe, had been prepared—or, when I went in I understood they were in course of preparation—but I know of no resolution having been adopted and sent forth by that meeting to the country. I do not think it is justly chargeable with being an effort to organize a party movement in opposition to the constitutional efforts now being made to restore the Union.

Mr. SHERMAN. Mr. President, my kindly relations, as a matter of course, with the Senator from Virginia, induced me to give the Senator an opportunity to say what he has on this subject. I do not accuse him of any impropriety; but here are the resolutions——

Mr. LATHAM. Will the Senator allow me to say a word?

Mr. SHERMAN. Certainly.

Mr. LATHAM. I was called upon, and I believe both my colleague and myself signed the call referred to by the honorable Senator from Ohio; but so little impression did it make on either of us as to its being a party organization, that, I believe, neither of us attended. I certainly did not; and I believe he did not either.

Mr. SHERMAN. As a matter of course I have only the public prints for what I say; but I take it from a Philadelphia paper that resolutions were introduced by Mr. VALLANDIGHAM from a committee of which he was chairman, declaring in substance "that the restoration of the Union and maintenance of the Constitution require that the organization and principles of the Democratic party of the United States should be fully and faithfully adhered to, and inviting all citizens, without distinctions of sections or party, to coöperate with the Democracy in supporting the Constitution and restoring the old Union."

Now, sir, I have no right to complain of the reorganization of the Democratic party, or anything that belongs to it. It is very well known that I never belonged to the Democratic party, and have no sympathy with it. Although some of its members are my personal friends, yet I have no faith in it. All the disunionists, so far as I know, were opposed to the Republican party. The great body of the men now fighting against the Government belonged to the party proposed to be revived. I do not know that a single member of the Republican party—the organization to which I am proud to belong—ever took up arms against his Government, or ever threatened to take up arms against his Government. I have shown you, sir, by facts that no man can controvert, that there never was a party more liberal and generous to open enemies and manly foes, or to political adversaries. Indeed we have surrendered them everything, we have given them offices, honor, power, patronage in a self-sacrificing spirit without example. I do not care how soon they reorganize the old Democratic party. But does it not show to us, Republican Senators, that it is necessary that we should have a party organization; that instead of wandering some here, some there, some everywhere, we should say what we will stand upon, and what we ought to do on the various questions growing out of the prosecution of this war?

I say, then, Mr. President, that it is important that the party controlling the action of this Government should have a definite policy. We cannot avoid the responsibility, and we ought not to

do so if we could. We are in the majority in this body. We are in the majority in the other House. We have a Republican Administration. If we do not show to the people of the United States that we have a definite policy, and have manhood to stand by it, and intelligence enough to administer it, we ought to be overthrown. I would not weep over the grave of a party that will not stand by its friends and by its principles. I would not belong to a party that has not the manhood to proclaim all that it intends to do, all that it seeks to accomplish, and to use its power to accomplish that purpose. Parties can only be justified when they are used as instruments to accomplish some great purpose; and unless we use ours to accomplish some noble and great purpose, the Republican party will melt away like a storm of snow on a bright April day. We ought to adopt a policy, and adhere to it. Let me state some few simple propositions that we ought to adopt, and then I shall not trespass further on the Senate.

We ought now to abolish slavery in this District. We have the right, and it is our duty to do it; and if we had wasted less time in doing it, it would probably be just as well. We ought, then, religiously to adhere to the promises we made to the people of this country when Mr. Lincoln was elected President. We ought religiously to abstain from all interference with the domestic institutions of the slave or the free States. We ought to stand by the Constitution as it is, by the Union as it is. Whether rebels are in arms or not, our duty is to stand by our pledges, to stand by our manhood; and I, for one, will do it. No temptation shall swerve me from that straight and narrow path. Our recorded promise is not only a bond of political faith, but it is the word of honor, binding on us as honorable men to each other and to our country. We must not be driven to interfere with the relation of master and slave, or with any other local institution of any State, one step further than the Constitution gives us the just authority and power to do.

But it is said that the resolution of the President now before us looks to an interference with slavery in the States. I do not so construe it. It does not assert the power or advise us to interfere with slavery in the States. On the contrary, it by necessary implication as strong as express denial, denies the power. The language is that the United States ought to coöperate with any State which may adopt gradual abolishment of slavery. If the State of Maryland should, in its wisdom, see fit to commence a system of gradual emancipation of slaves, would they not have the right to call upon us for aid and assistance? We here announce beforehand that we will give them pecuniary aid, but not until they call for it. It is right that we should announce that doctrine. It is right that they should inaugurate that system; and I believe that in the providence of Almighty God the system will be inaugurated more rapidly even than we now hope for. If I were a citizen of the State of Maryland, or any of the border States, with my present convictions, I would raise the banner of emancipation full high extended, and never lower it until there was not a slave in the State. But as a citizen of the State of Ohio, as a member of the Senate of the United States, I have no power over this subject, and I will not be dragged or induced to interfere with that relation until the States themselves, by their own voluntary action, abolish slavery, or propose to abolish it, and call upon us for aid.

Why should we not give them aid? By giving them aid we accomplish great purposes. If by aiding these border States to remove slavery, we get rid of it, we banish from the Halls of Congress a disturbing element which in some form or other will permeate this body and every political organization in this country. It is for the peace and quiet and comfort of our people we should aid any State desiring to emancipate their slaves.

Besides, the policy of emancipation would tend to develop the resources of the States in a wonderful degree. Why, sir, I visited the other day the Chesapeake bay, James river, and York river. It surprises me beyond expression that that magnificent region, with resources unrivaled in this country, is not now peopled by a million of men. When I look upon those deep bays, those fertile fields, requiring only energetic labor to develop them, when I see those marts of commerce in the very center of our Atlantic coast, I wonder in amazement that a million of men are not now crowded there, delving and striking and working with honest toil for an honest reward. I never was impressed with it until I saw it. I could not comprehend how Virginia had lost all the natural advantages that her position, her climate, her beautiful coasts, her beautiful rivers and bays gave her. But, sir, there is no other cause except simply that labor, upon which all civilization depends; labor, upon which everything depends; which has built up New York, New England, and the West, is there degraded by the presence of slaves, so that the master must live on the labor of the slaves, and the slaves must work for the master without hope of reward.

Why, sir, as my friend from Maine [Mr. FESSENDEN] said very eloquently yesterday, if the State of Virginia could be relieved from this burden she would grow like a giant. Sixty years ago Ohio was a wilderness, now she has two and a half millions of people. I believe that if Virginia was a free State now, in thirty years from this time she would contain three or four millions of people. Therefore I say that, if I were a citizen of a border State, I would at once raise the banner of gradual emancipation; I would be just to the owner of slaves and treat him fairly. I would then call on the General Government for aid, and for one, if I should happen to be a member of this body, or of any political body in this Government, I will give that aid cordially and freely.

But it is said that Congress by giving this aid would interfere with slavery. The resolution of the President does not say that Congress shall render this aid, but that the United States ought to coöperate. It does not say Congress, nor the Senate, nor the President. It may be necessary to call upon the States; and I think I can say in advance that if Kentucky should free her slaves, Ohio would gladly respond to anything that Kentucky would ask. She would gladly pay the debt she owes from the war of 1812 by any aid that Kentucky might ask of her. Whether Congress has the power or not is a question that I do not now discuss, because it is not yet matured, but that the United States as a Government, this aggregate of States, this great Government, ought to aid in the gradual abolition of slavery in the States when the States themselves call for it, I have not a particle of doubt.

But, sir, there is another reason why this Government ought to aid the border States whenever they desire it, in emancipating slaves. It is a reason that stands higher than any other merely pecuniary reason. It is one which is implanted in the minds of the civilized world. Slavery is wrong. That is a reason that stands back of all others; one which would induce me as a member of a Christian civilized community to extend the aid when it is asked, not before; because I have no power to do it before. Slavery is wrong. That is the moral conviction of our people. It is the moral conviction of the civilized world. England, France, and all the countries whose commercial sympathies are with the South, dislike to aid the South because they would thereby aid slavery. Where ever you find that sentiment pervading all classes of society, there must be some foundation for it. There is no class of people in the world who defend slavery except the southern slaveholders.

I heard my friend from Kentucky the other day speak of slavery. His very speech would convince me that what he was speaking of was the exception and not the rule. He spoke of his own kindness to the slaves, of the relations that existed between him and his slaves—a patriarchal and kindly relation. That would not be interfered with in the slightest degree, if these slaves had the right to their own persons, to their own families, and their own children. Slavery in Kentucky to my certain knowledge is in the mildest form in which it can exist in any community; but still there is that legal right of the master to sell the slave, to tear asunder the domestic relations, to banish forever the husband from the wife, the parent from the child, the child from the mother. There is the absolute subjection of the slave to the will of the master. These things are not justified by the moral sentiment of the civilized world. They are not justified by the sentiment of any of the people of the northern States. I do not think they are justified by the sentiment of all the people of the southern States. But however that may be, I stand here upon my recorded promise, upon my recorded oath. Whatever I may think of this institution, I am bound in honor, by every obligation which can rest upon a man, not to interfere with it in the slightest degree in the States, but leave it to the action of the States unless they themselves call for our aid, and then that aid shall be freely given, to the extent of my ability.

The policy and the effect of emancipation in the States would undoubtedly be to induce the slaves to go southward. I have no doubt the slaves would be gradually moved from the border States. They would commence a kind of hegira southwards, and free people from the Old World and from the northern States would go down to the border States. I have no doubt that the tide of emigration, having now met the vast plains and deserts of the West, will gradually seek a home southward. If you will welcome it, avail yourself of it, use that labor to develop your resources, it will make the people of Kentucky and of these border States rich, prosperous, and happy. The owner of seventeen hundred acres of land will be worth three times as much as his lands and his slaves are now worth. Labor makes everything and not the mere possession of land.

Having stated my views of what we can do, let me say in all kindness now to my political friends what we ought not to do. I think we ought to oppose all useless and unconstitutional measures of legislation. They can be of no service, and they may be of a good deal of harm; we are under obligations not to interfere with slavery in the States. We ought not to do it indirectly under any circumstances, unless it should be a last desperate cast to preserve the Government under which we live.

I, therefore, cannot help but say that, while I respect the motives of the honorable Senator from Massachusetts, while I give him credit for consistency, ability, and a great deal of culture, and am always glad to hear him speak, yet I must confess that, when I looked over his resolutions, they struck me with surprise and regret. They would revolutionize this Government. Sir, strike the States out of this system of government, and your Government is lost and gone. I cannot conceive of the United States governing colonies and provinces containing millions upon millions of people, black and white. I do not think such a thing can exist. I do not believe it is in the power of secession to bring us to such a state of things. I can draw no distinction between the resolutions of the Senator from Massachusetts and the doctrines that are proclaimed by Jefferson Davis. If a State can secede, the people of the State can make a new government. If the people of South Carolina are firm and united in their policy, which no man doubts; if they have power to secede, they have seceded, and their doctrine is true. But I do not believe they have the power to secede. They may go in banishment, wandering all over the face of the earth, but they cannot take with them a single foot of the soil of this country over which our flag ever floated. The doctrine of the Senator from Massachusetts is substantially an acknowledgment of the right of secession, of the right to secede. He, however, puts the States in the condition of abject Territories, to be governed by Congress. Jefferson Davis puts it in the power of the people of the States to govern the States themselves. As to which is the most dangerous or obnoxious doctrine, I leave every man to determine.

I am willing, therefore, to adopt the policy of the President in regard to slavery in the States, to abolish slavery in this District, to promote a system of voluntary colonization. I am in favor of confiscation; I think such a measure should be passed promptly. We must seize upon the property of these men who have taken up arms against the Government. Our people, when they come to pay taxes, will demand it. These men know it. They themselves are confiscating all the property of their own citizens who will not take up arms. In a paper laid on your desk this morning, there was a notice of proceedings showing that they seized upon all the property of men who will not take up arms, and confiscate the property of people living in the northern States. You must in war adopt the laws and policy of war. I am, therefore, in favor of the most rigid law of confiscation against the leaders of this rebellion; but I would, as an act of wisdom, of amnesty, of wise forbearance, and moderation, authorize the President at

any time to proclaim an amnesty to the great masses of the rebels. As to those who have led, the captains of companies, the members of congress, the leaders in the rebellion, all those who have staked their property upon it, men of intelligence and character, I would, without mercy, prosecute the laws of confiscation and war against them to the furthest extent. Let us adopt this policy, guided by wise moderation, controlled by a manly earnestness and a determination to stand by each other, and I believe the Republican party will not only save the country, but will put the country in a march of prosperity of which we have heretofore had no example. If, on the contrary, any useless measures of legislation, looking to extreme means, be adopted, prejudicing the great mass of the people of the southern States, destroying their rights as citizens of those States, or reducing the States to Territories, it will only exasperate the people of those States more and more, will make conquest impossible, and a reunion of all the States utterly futile. I believe that by a wise system we may, one by one, gather these States again into the folds of the Union; and if the Republican party, through its wisdom and ability, shall carry the country through this revolution, I do not fear for the verdict of the popular will. I have heard some of my friends express a doubt, and say, "let us do this now, because after a while we may not have the power." I will do what I think is right, and I have an abiding confidence in the people of the United States that they will stand by those who follow their convictions of duty with moderation and good sense.

Mr. GRIMES. The Senator from Ohio made a statement in the course of his argument about which I am not certain that I obtained accurate information. Did I understand the Senator to say that there are persons now retained at Columbus as the servants or slaves of rebel officers who have been captured with arms in their hands, and that they have been transported at the Government expense, are fed at the Government expense, clothed at the Government expense, and retained by the force of our arms in that capacity in servitude?

Mr. SHERMAN. I do most emphatically. The report I had read was the report by one of the leading members of the Senate of Ohio on this particular subject. This thing excited the attention of the Legislature. They appointed a committee to go to the camp and investigate this matter, and the document I had read at the Secretary's desk was the report of that committee, composed of three gentlemen of the very highest character.

Mr. GRIMES. Will the Senator be kind enough to state whether there is any law of Ohio under which these persons are held, or any law of Congress, or whether it is done by order of the commanding general?

Mr. SHERMAN. I will ask the Secretary to read a single paragraph of the report, which shows that the State authorities have no authority over the matter, but it is under the control of the General Government. I ask the Secretary to read the passage I have marked.

The Secretary read, as follows:

"As to rebel officers released on parole, your committee could not get much definite information, other than that, with few exceptions, these paroles were granted by order of General Halleck. That the clemency so shown was mistaken, the following facts as to the conduct of these officers while in Columbus will show. They came wearing their side-arms; stopped at the principal hotels, registering their names as 'Col.,' 'Major,' or 'Capt.,' with the significant letters 'C. S. A.' added; appearing from day to day in rebel uniforms (some of them gaudy—all of them noticeable) in the offices and parlors and at the public tables of these hotels, and in the streets and drives of the city; frequenting the theater and other places of public amusement, and visiting the Senate and House Chambers, where, with marked consideration, they have been invited to privileged seats within the bar: at all these places, and on all these occasions, giving expression to sentiments of continued adherence to the rebel cause, and of bitter hostility to the Government and people of the United States."

* * * * * * * * *

"But who is to blame? Your committee is satisfied that Colonel Moody has done his whole duty in the premises. They are equally satisfied that the Governor has endeavored to discharge his duties honestly, faithfully, and impartially. His position has been one of great delicacy—his control over the camp and prisons being by courtesy of the Federal authorities, and not by any right as Governor of Ohio. He has probably done all he well could in the premises. The responsibility, then, rests with the Federal authorities, and our only remedy is by protest to the President."

Mr. HENDERSON's amendment was rejected.

Mr. SAULSBURY. I am satisfied that this resolution is going to pass, but I am certain in my mind that the Government of the United States cannot constitutionally coöperate with the States in this measure; yet I shall not take up the time of the Senate in offering any further amendment, but content myself with recording my vote against the passage of the resolution.

The PRESIDENT *pro tempore*. The question is on ordering the resolution to a third reading.

Mr. THOMSON. I should like to have the resolution read.

The joint resolution was ordered to a third reading; and was read the third time, at length, as follows:

Resolved, &c., That the United States ought to coöperate with any State which may adopt the gradual abolishment of slavery, giving to such State pecuniary aid to be used by such State, in its discretion, to compensate for the inconveniences, public and private, produced by such change of system.

The PRESIDENT *pro tempore*. The question is, "Shall the resolution pass."

Mr. SAULSBURY called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 32, nays 10; as follows:

YEAS—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Henderson, Howard, Howe, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Sherman, Sumner, Ten Eyck, Thomson, Trumbull, Wade, Wilkinson, Willey, Wilmot, and Wilson of Massachusetts—32.

NAYS—Messrs. Bayard, Carlile, Kennedy, Latham, Nesmith, Powell, Saulsbury, Stark, Wilson of Missouri, and Wright—10.

So the joint resolution was passed.

Mr. BROWNING. The title ought to be amended, by striking out the word "Congress" and inserting "the United States."

The amendment was agreed to.

SLAVERY IN THE DISTRICT.

The PRESIDENT *pro tempore*. The bill passed over informally now comes up for consideration. It is the bill (S. No. 108) which is before the Senate as in Committee of the Whole. The immediate question, on the adjournment of the Senate, was the amendment offered by the Senator from New Hampshire [Mr. CLARK] to the original bill.

Mr. WRIGHT. I ask leave to present a memorial from the Board of Aldermen of the city of Washington on this subject, and ask that it be read.

The Secretary read it, as follows:

IN BOARD OF ALDERMEN.

Joint Resolution of Instruction.

Be it resolved by the Board of Aldermen and Board of Common Council of the City of Washington, That these councils, disclaiming any desire improperly to interfere with the business of the national Legislature, deem it not impertinent respectfully to express the opinion that the sentiment of a large majority of the people of this community is adverse to the unqualified abolition of slavery in this District at the present critical juncture in our national affairs.

And be it further resolved, That the joint committee representing the interests of this corporation before Congress be, and are hereby, instructed to urge respectfully upon the members of that honorable body, as the constitutional guardians of the interests and rights of the people of this District, the expediency and the justice of so shaping any legislation affecting the African race here as to provide just and proper safe-guards against converting this city, located as it is between two slaveholding States, into an asylum for free negroes—a population undesirable in every American community, and which it has been deemed necessary to exclude altogether from some even of the non-slaveholding States.

Z. RICHARDS,
President of the Board of Common Council.
W. T. DOVE,
President of the Board of Aldermen.

Approved: RICHARD WALLACH,
Mayor.

The PRESIDENT, *pro tempore*. The amendment offered by the Senator from New Hampshire to the original bill, by way of perfecting that bill will be read.

The Secretary read the amendment of Mr. CLARK, which is to strike out the second section of the bill in the following words:

SEC. 2. *And be it further enacted*, That all persons loyal to the United States holding claims to service or labor against persons discharged therefrom by this act may, within ninety days from the passage thereof, but not thereafter, present to the commissioners hereinafter mentioned their respective statements or petitions in writing, verified by oath or affirmation, setting forth the names, ages, and personal description of such persons, the manner in which said petitioners acquired such claim, and any facts touching the value thereof, and declaring his allegiance to the Government of the United States.

And in lieu thereof, to insert:

SEC. 2. *And be it further enacted*, That any person resident in said District, whose slave may be set at liberty by the provisions of this act, may, within three months after the passage thereof, and not afterwards, apply by petition in writing to the commissioners hereinafter mentioned for remuneration for the loss of the services of such slave; setting forth in said petition, which shall be under oath, first, that the petitioner is a resident of the District of Columbia; is and always has been true to his or her allegiance to the United States; that he or she has not borne arms against the Government of the United States in the present rebellion, nor in any way given aid or comfort thereto; second, the title of the petitioner to the labor or service of said slave, whether there is any dispute about the same, or whether any other person is interested in said services or slave, or makes any claim thereto, and if so, who, and what claim is made; and, thirdly, the name, age, sex, habits, usual health, defects, and all other personal peculiarities of said slave, which may enable said commissioners to identify him or her, or determine the value of his or her services.

Mr. CLARK. I desire to say simply that the object of this amendment is to make the petition more specific. It does not affect the general arrangement or foundation of the bill; it does not refer the claim to any different tribunal; but simply makes the petition more specific.

Mr. MORRILL. I do not intend to oppose any amendment to this bill that really perfects it, or that makes it more specific in any particular part; but I do object at this period, and I shall not accept an amendment which is simply a preference as to the mode of expression; and there is nothing else in this amendment. Let me analyze the two provisions. In the first place, the bill reported by the committee provides that all loyal masters may have a claim; nobody else—"all persons loyal to the United States." That is the provision of the bill from the committee. Now, the first clause of the second section of the amendment of the Senator from New Hampshire requires the petitioner to allege that he is a resident of the District of Columbia, and is, and always has been, true to his or her allegiance. In the bill from the committee, the phrase is "has been loyal;" in the amendment it is that the person "has been true to his allegiance." Are these terms equivalent? That is the question. I submit that they are. If there is any choice about it, it is a mere choice of phrases. That is all, and to that I do not yield.

The amendment further specifies that the claim shall not extend to any person who has borne arms against the United States, or given aid or comfort to the rebellion. Now, what is the provision of the bill? As amended in the manner proposed by the Senator from Illinois, [Mr. TRUMBULL,] it provides that the commissioners shall examine the question of loyalty; it shall be a subject of proof and a subject of investigation; and they shall award no claim to any person who is not found to be loyal; and then it further provides:

That no claim shall be allowed for any slave or slaves brought into said District after the passage of this act, or which originates in or by virtue of any transfer heretofore made or which shall hereafter be made by any person who has in any manner aided or sustained the rebellion.

Now, I submit whether the phrase "aided or sustained," is not as strong, to say the least of it, as the phrase "has borne arms during this rebellion;" and there is no other controversy involved in this amendment.

I submit, therefore, that upon the most careful investigation I have been able to give it, the amendment of the Senator does not enlarge the section at all; it does not guard it, and it is not more specific than the section of the bill as it is, and therefore I adhere to the bill.

Mr. TRUMBULL. If the Senator from Maine will allow me, I will state that I copied the very words of the Senator from New Hampshire in my amendment, so that we have got the precise words of that part of the amendment of the Senator from New Hampshire in the bill, and hence I think there need be no dispute as to particular phrases.

Mr. CLARK. I am only surprised how much these two Senators are mistaken, Mr. President——

Mr. DAVIS. Will the gentleman from New Hampshire permit me a moment?

Mr. CLARK. If it is only for a moment.

Mr. DAVIS. Only for a moment. Mr. President, the two gentlemen when I occupied the floor on this subject a few days ago, very courteously, and without any sort of exception by me, propounded sundry questions to me. I now ask their courtesy to permit me to return the compliment.

Mr. CLARK. Whom does the Senator want to question?

Mr. DAVIS. Both of you.

Mr. CLARK. You may begin with me.

Mr. DAVIS. I will take you alternately. I wish the gentlemen to tell me—both of them—whether property in slaves can exist or not, whether those who are called the owners of slaves can have a property in them or not? Second, whether this Congress can take from the citizens of this District who own real estate, that real estate, or not? If the gentlemen answer the last question in the negative, I will thank them to favor me with the law or the clause of the Constitution which forbids Congress from taking from the owners of real estate that description of property, and I will thank them to refer me to the laws that create a different title to slaves and real estate. I hope that I have rendered myself intelligible, and I assure them that I put these questions to them with the most perfect respect.

Mr. MORRILL. If I understand the Senator he inquires of me whether I recognize the right of property in a slave?

Mr. DAVIS. That is the first question.

Mr. MORRILL. Well, sir, the bill is not specific, of course, on that subject, but the bill does recognize the right of the commission to receive a claim for the right of service which the owner has in the slave, and is predicated upon that relation.

Mr. DAVIS. If my honorable friend will allow me, I will say that I am not asking the meaning of the bill; I can read that and understand it myself. I am asking for his own principle.

Mr. MORRILL. My personal views?

Mr. DAVIS. Yes, sir.

Mr. MORRILL. Very well, sir; I will answer you in a trice. I do not hold in the common acceptation of the term that an owner has property in his slave. I do not hold that the owner of a slave owns his slave as he owns his horse. I hold that the sense of mankind does not regard property in a slave as in a horse or in lands. That is repugnant to the common sense of mankind throughout the civilized world; and in this instance I hold that the title or claim which the owner of a slave has to his slave in this District rests solely and entirely upon an act of Congress, and that act of Congress does not establish the relation of owner and property, but establishes the relation of master and slave. I allude to the act of Congress extending the laws of Maryland over the District of Columbia, upon which alone slavery rests in this District; it has no other legal basis whatever. It has no claim to existence here except under the act of Congress of 27th of February, 1801, extending the laws of Maryland over this District. Repeal that law, and slavery topples and falls instantly to the ground. Therefore my answer is, that I do not recognize the right of property in slaves; but I do recognize, under the act of Congress of 1801, the relation of master and slave. That relation is absolved by this bill, and we provide for such compensation as the commissioners shall say is reasonable. That is as specific as I can make my reply.

Mr. DAVIS. My friend's answer was not quite as broad as my question. It was not limited to slaves in this District, but it was a question of general application, whether the owners of slaves in the District and out of the District have a property in slaves or not.

Mr. CLARK. Does the Senator desire an answer from me?

Mr. DAVIS. My friend from Maine did not answer the other question at all.

Mr. MORRILL. I have not the slightest objection to being interrogated upon any question that is germane to the bill; but I think that to go further would be traveling out of the record. I may say, however, that the principles I have now laid down in my answer to the Senator's question would be applicable to any case in the States. I hold that there is no precise property in slaves, in the sense in which we have property in lands, or property in horses or other animals. It has a different origin; slavery is founded in force, originates in force, never is maintained anywhere except by a statute which is founded in force. Slavery is abhorrent to the common sense of mankind.

Mr. DAVIS. My friend will permit me to say that I did not ask him to define the nature or the extent of property which a man may hold in a slave. My question was generally and broadly whether there should be property held in a slave or not—property of any character or any amount.

Mr. MORRILL. I will say that I had designed to address myself to the Senate upon this subject, covering some of the objections that have been brought against this bill. If I shall conclude to do so, I will endeavor to travel over that part of the subject indicated by the interrogatory of the Senator; but for the present I think I shall content myself with what I have already said.

Mr. CLARK. I do not know whether the Senator from Kentucky desires me to answer the question he propounded to both of us.

Mr. DAVIS. I do; and I hope your answer will be a little more satisfactory than that of the gentleman from Maine.

Mr. CLARK. I do not know that it will be any more satisfactory. I deny entirely the property of man in man.

Mr. DAVIS. Your answer is more intelligible, at any rate.

Mr. CLARK. I hold it to be a municipal regulation confined to the power which undertakes to exercise it, either by positive enactment or sufferance which allows one man to take another and make him toil for him; much less one man to take another's wife and sell her, and sell his children, and it ought to be abolished in the capital of a nation like ours.

Mr. DAVIS. Mr. President——

Mr. HALE. I rise to a question of order. I desire to know whether it is in order for one Senator to catechize another on these abstract questions *ad infinitum*. I think gentlemen should address themselves to the Chair, and discuss the subject before the Senate. It may be very interesting to know what are the abstract opinions of gentlemen on some questions; but they have nothing to do with the subject now before us.

The PRESIDENT *pro tempore*. As a question of practice and a question of courtesy, it has been usual for a Senator addressing the body to yield to another propounding a question. Unless the Senator on the floor does yield, it is not in order for another Senator to put questions.

Mr. DAVIS. Of course. These questions may be abstract to the Senator from New Hampshire, but they are not so to me, and I think they are germane to the subject before the Senate. The next question I put to the two gentlemen was this: whether Congress can deprive the owners of real estate in this District of their property? If Congress cannot exercise that power, what provision of the Constitution or what law prohibits Congress from the exercise of that power, and what law creates a difference between property in a slave and any other subject of property?

Mr. CLARK. The answer is implied in what I have already said, that I do not believe one man can hold any property in another. If the gentlemen desires me to go further and answer the question whether Congress can take a man's property, as we understand property, for public use without paying for it, I will say that I understand the Constitution to be plain that Congress cannot do it.

Mr. DAVIS. Now, will the honorable gentleman state what clause or provision of the Constitution prevents Congress from taking the real estate of the owners of real estate in this District?

Mr. CLARK. I refer to the clause of the Constitution which prohibits Congress taking private property for public uses without compensation. Mr. President, I was a little surprised to find how much the Senator from Maine was mistaken in regard to the purpose and character of my amendment, and also to find that the Senator from Illinois was mistaken in regard to it. A moment's consideration will show the Senate that the words cited by both these gentlemen are not in the section proposed to be stricken out. They have wandered into other parts of the bill. I desire to include in the petition a declaration that the man has not borne arms against the Government, and has not given any aid or comfort to the rebellion, for the purpose of making the petitioner swear to it when he comes into court. I submit to the Senator from Maine whether his bill does that, whether by the provisions of his bill the petitioner is required to swear that he has not borne arms against the Government or given aid and comfort to the rebellion. I think it very desirable that when a man comes into court he should state his case in regard to that under oath. It does not shut out other evidence; it does not exclude the court from trying the issue; but it obliges the petitioner when he comes into court, not only to declare that he is now loyal, but that he has never borne arms against the Government or given aid or comfort to the rebellion. I submit to Senators if it is not desirable to have that in the petition. If it is not, they will reject the amendment; if it is, let it be adopted.

Mr. DAVIS. Mr. President, I will say a few words upon the subject of the power which Congress claims to exercise over this question. It seems to me that the reason why this power has been so uniformly and so generally conceded is that the question of power has never been carefully examined. I laid down a few days ago this proposition—and I defy the Senator from Maine or the Senator from New Hampshire to refute it—that there is no positive written law which establishes property in a slave or in land or in a horse or in any other subject of property, that the law upon that subject arises from the uniform custom and usage of the civilized world. And I laid down this further proposition: that my legal right to my slave was precisely of the same nature and character with my legal right to my land; and that if I were a citizen of the District of Columbia Congress would have no more right to deprive me of the one subject of property than of the other.

Both the gentlemen deny that property can exist in a human being. That is their broad proposition. Upon that point I am totally at issue with them, and I am sustained by the Constitution of the United States, and by the judgment of the Supreme Court and of all the circuit judges of the United States wherever the question has been mooted and decided. The Senator from New Hampshire now concedes explicitly that Congress has no power to take from the people of the District their houses or their lands, or any other property but their slaves, as I understand him. I ask the gentleman for the law or the provision of the Constitution which forms the interdict, and he explicitly gives it to me. It is the provision that no citizen's property shall be taken for public use except by due process of law and upon just compensation. I maintain that that prohibition on the power of Congress applies as legitimately and with as much truth and logic to slaves as it does to real estate.

My proposition a few days ago was that slavery was general, that the abolition of slavery was local; and that proposition I sustained by reading from the opinion of Chief Justice Marshall in the case of the Antelope, and he sustained the opinion which he rendered in that case by quoting from the decrees of Lord Stowell of the admiralty court of England, who was a greater judge than ever Chief Justice Mansfield was. They both decide this principle broadly and without any sort of reservation or condition, that slavery and the slave trade existed by public national law.

Mr. COLLAMER. The gentleman will permit me to say that I take issue with him on that point. It is acknowledged by international law only in such nations as recognize it.

Mr. DAVIS. No, sir; my honorable friend is mistaken there, and I will tell him wherein, in my judgment, he is mistaken. I differ always with great diffidence from one whom I deem to be the ablest lawyer in this body; but I do differ with him on this point. The Supreme Court of the United States, in this decision rendered by Chief Justice Marshall, decided that slavery and the slave trade existed by national law, and that this national law may be repealed locally by the proper legislation of every country upon the earth; and that this national law, recognizing slavery and the slave trade, exists in every country save in those countries where, by positive enactment, it has been repealed.

Mr. COLLAMER. That, to my mind, amounts to precisely the same proposition that I stated.

Mr. DAVIS. No, sir. I will read from the opinion in the case of the Antelope again, and I will read from several other opinions. I know that gentlemen are becoming impatient for the sacrifice; but here, sir, I stand up in my place in the Senate Chamber of the United States, and I maintain the rights of a people who have no self-government, and who have no representation in this Chamber; and although gentlemen may be restive under the exercise of this right of mine, which I claim, to appear here in defense of the rights of property of the people of this District, they will have to submit to that restiveness. In

the case of the Antelope, (10 Wheaton's Reports, 120,) the court say:

"The question whether the slave trade is prohibited by the laws of nations has been seriously propounded, and both the affirmative and negative of the proposition have been maintained with equal earnestness.

"That it is contrary to the law of nature, will scarcely be denied."

I never denied it myself; but I say that the law created by the usages of mankind overrules the law of nature in relation to this subject. What is the law of nature? My honorable friend from Vermont might have one code of the law of nature, and other gentlemen might have other codes of the law of nature. When this traffic was indulged in by the civilized world, and the States of Massachusetts and Rhode Island were inundating the colonies with slaves torn from Africa, and selling them for a price, what was the law of nature then in Massachusetts that indulged such a traffic; and what was the law of nature then in the civilized world? What is the law of nature now in Turkey and in China? What was the law of nature in Europe two centuries ago? What is the law of nature in Utah? The law of nature varies with the altered condition of civilization and the condition of the world; and what is the law of nature in one age and in one country and in one generation, is not the law of nature universally. It is because of this want of uniformity in the law of nature, and because there is no common tribunal to ascertain and define and establish what the law of nature is, that it has been uniformly decreed to be subservient to the positive laws of any country, and to the laws of nations, as established upon the usages of the civilized world. But I will read:

"That it is contrary to the law of nature will scarcely be denied. That every man has a natural right to the fruits of his own labor, is generally admitted; and that no other person can rightfully deprive him of those fruits, and appropriate them against his will, seems to be the necessary result of this admission. But from the earliest times war has existed, and war confers rights in which all have acquiesced. Among the most enlightened nations of antiquity, one of these was, that the victor might enslave the vanquished."

That was once a principle of the law of nations as recognized by the whole world. I admit that that principle has been exploded and properly exploded by the Christian civilization of this age.

"This, which was the usage of all, could not be pronounced repugnant to the law of nations, which is certainly to be tried by the test of general usage. That which has received the assent of all, must be the law of all.

"Slavery, then, has its origin in force; but as the world has agreed that it is a legitimate result of force, the state of things which is thus produced by general consent, cannot be pronounced unlawful."

What does Chief Justice Marshall here decide? That although slavery has its origin in force and is against the law of nature, yet as it has been universally recognized by the civilized world, it exists and is acknowledged by the law of nations.

"Throughout Christendom this harsh rule has been exploded, and war is no longer considered as giving a right to enslave captives. But this triumph of humanity has not been universal. The parties to the modern law of nations do not propagate their principles by force; and Africa has not yet adopted them. Throughout the whole extent of that immense continent, so far as we know its history, it is still the law of nations that prisoners are slaves. Can those who have themselves renounced this law, be permitted to participate in its effects by purchasing the beings who are its victims?"

Here is a principle to which the honorable Senator from Maine referred:

"Whatever might be the answer of a moralist to this question, a jurist must search for its legal solution in those principles of action which are sanctioned by the usages, the national acts, and the general assent of that portion of the world of which he considers himself as a part, and to whose law the appeal is made. If we resort to this standard as the test of international law, the question, as has already been observed, is decided in favor of the legality of the trade. Both Europe and America embarked in it; and for nearly two centuries it was carried on without opposition and without censure. A jurist could not say that a practice thus supported was illegal, and that those engaged in it might be punished either personally or by deprivation of property."

Now, I ask the attention of the Senator from Vermont to this point in the decision:

"In this commerce, thus sanctioned by universal assent, every nation had an equal right to engage. How is this right to be lost? Each may renounce it for its own people; but can this renunciation affect others? No principle of general law is more universally acknowledged than the perfect equality of nations. Russia and Geneva have equal rights. It results from this equality that no one can rightfully impose a rule on another. Each legislates for itself, but its legislation can operate on itself alone. A right, then, which is vested in all by the consent of all, can be divested only by consent; and this trade, in which all have participated, must remain lawful to those who cannot be induced to relinquish it. As no nation can prescribe a rule for others, none can make a law of nations; and this traffic remains lawful to those whose Governments have not forbidden it."—10 *Wheaton*, pp. 120-122.

There is the principle.

Mr. COLLAMER. The gentleman has a peculiar way of reading that decision.

Mr. DAVIS. I read it according to the letter.

Mr. COLLAMER. Gentlemen who are tenacious about that particular form of reading, are utterly incapable of being answered to their satisfaction. I cannot, by any version I can give it, satisfy the gentleman; but every lawyer who read that case and other cases cognate to the same subject in other books, understands it thus: when a question comes before a court in relation to a prize of a vessel engaged in the slave trade, upon the broad law of nations they cannot declare it a prize if the nation to which the vessel belongs make that business legitimate. That is all there is in that decision. It is that the law of nations recognizes slavery as existing and lawful in those nations that make it so; and that is all.

Mr. DAVIS. There is a little more, Mr. President, notwithstanding the gentleman's position. It decides that the slave trade was once practiced by all the civilized nations of the world, and it decides, furthermore, that it cannot be restricted except by positive legislation of the countries that choose to restrict it.

Mr. COLLAMER. Will the gentleman permit me one moment on that point? When it was universal, it was because it was made so by the acts of the several nations themselves. It was not a law of nations; it was the law of each nation, and therefore of all; but it was a law for each nation that made it, not an international law; and the very fact that some nations may repeal that law, and prevent its being operative on them, while others may retain it and have it operative on them, shows that it is not a part of the law of nations, for that law cannot be changed in that way. Another thing: it never was a law of nature. The laws of nature can never change, until nature and nature's God change.

Mr. DAVIS. The gentleman is still mistaken. I admit that the law of nations was made by the practice of nations, and that is what this opinion says. I will read an opinion directly that will show it conclusively—an opinion of Judge McLean himself. Neither the Senator from Vermont nor any other Senator here can find any positive express law of any nation upon the earth sanctioning the slave trade, except the Constitution of the United States, which continued the traffic until the year 1808.

Mr. COLLAMER. Allow me to say to the gentleman that on that point I take distinct issue with him. The Constitution never continued the slave trade one day. It merely said that Congress should not interfere with the importation or immigration of such persons as the States might think proper to admit until after a certain time.

Mr. DAVIS. The Senator from Vermont has informed me that he cannot convince me. I agree with him in that proposition; and there is another proposition on which there is even less doubt than on that in my mind, and that is that I cannot convince him. Therefore I will proceed with my speech as though my honorable friend was not a hearer at all.

The Supreme Court of the United States, in the case of the Antelope, laid down the doctrine and the principle that the law which regulates the slave trade and establishes it as a legal traffic arises from custom and usage alone, not from positive enactment; and further, that the law of nations recognizing the validity of the slave trade once existed among all the civilized nations of the world. France had colonies in the West India Islands; England had colonies there; so had Spain, Portugal, Denmark, Sweden, Holland; and each one of those nations was engaged in the slave trade. Their usage for two centuries, according to the language of this decision, established the slave trade as a legal traffic. It existed, not by positive law, but by usage and custom conformed to by all the civilized nations of the world; and having that authority and that extent of existence, the only way in which it ceased to exist anywhere in any of the countries of the earth, was by positive local prohibition. I believe that Brazil still continues the trade. By what authority? By the law of nations. So far as any nation has not by its own positive legislation, or by its treaty stipulations, prohibited the slave trade, it still exists in that nation, and with its people and subjects as a legitimate trade sanctioned by the law of nations. The court say:

"No principle of general law is more universally acknowledged than the perfect equality of nations. Russia and Geneva have equal rights. It results from this equality that no one can rightfully impose a rule on another. Each legislates for itself alone. A right, then, which is vested in all by the consent of all, can be divested only by consent; and this trade, in which all have participated, must remain lawful to those who cannot be induced to relinquish it. As no nation can prescribe a rule for others, none can make a law of nations, and this traffic remains lawful to those whose Governments have not forbidden it."

Suppose the United States Government had never made the slave trade piracy, would it not still exist as a legitimate trade to the people of the United States, in which they might enter? Most certainly. The Supreme Court have decided this principle again and again. It is true that where a nation, either by its positive enactments or by its treaty stipulations, proscribes the slave trade, it is not lawful for the subjects or people of that State or nation to enter into that trade; but that constitutes the exception. This case just as explicitly and as undeniably establishes the position that if a single nation upon earth stands out, and fails or refuses by its legislation or by its treaty engagements to proscribe the slave trade, the slave trade still exists in relation to that nation as a legitimate traffic. So much for the decision in the case of the Antelope.

Now, sir, I will read another authority, and it is the authority of the judge dwelt upon with so much pleasure and high approval by the honorable Senator from Massachusetts [Mr. SUMNER] the other day, Judge McLean. In the case of Henry Miller *vs.* George McQuerry, (5th McLean's Reports, p. 472,) he said:

"No proof, it is contended, has been offered to show that Kentucky is a State in which slavery is authorized by law. And a discussion in the Senate of the United States is referred to, in which certain Senators declared there was no law in the South expressly establishing slavery. It is with regret that I hear this argument relied on in this case. It was used by gentlemen of the South to justify the introduction of slavery into our Territories without the authority of law. In Groves *vs.* Slaughter, a Mississippi case, reported in 15 Peters's Reports, 450, the Supreme Court of the United States declared that slavery was local, and that it could not exist without the authority of law; that it was a municipal regulation."

I observe that gentlemen smile at this quotation. Let them wait a moment and they will see that it is explained, and it is shown that the position here quoted is not the true position. Slavery is not a municipal regulation, and the learned judge shows it in this very opinion, as you will see presently. What is a municipal regulation? It is a regulation that is made by local, civil law. Here is the slave trade, not founded, not created, not having its origin or sanction in local law at all, but by the universal custom and usages of the civilized world, as decided in the case of the Antelope, and as this learned judge himself recognizes:

"Whether this law was founded upon usage, or *express enactment*, is of no importance. Usage of long continuance, so long that the memory of man runneth not to the contrary, has the force of law. It arises from long recognized rights, countervened by no *legislative action*."

That is the whole case. Usage makes national law, usage makes public law; that establishes in what subjects property exists, and establishes what is legitimate trade among the nations of the earth. This opinion so decides, and it decides that when usage has established these principles they cannot be abolished, or varied, or modified, except by legislative enactment.

"It arises from long recognized rights, countervened by no *legislative action*. This is the source of many of the principles of the common law. And this for a century or more may constitute slavery, though it be opposed as it is to all the principles of the common law of England. I speak of African slavery."

The same opinion continues:

"But such a law can only acquire potency by long usage. Now, it may be admitted that in some of the southern States, perhaps in all of them, there cannot be found a statute which contains the words: 'And be it enacted, that slavery shall exist.'"

That is a historical and a legal fact. So far as I know or have read—and I admit that my reading has been very limited compared with that of the learned gentleman from Massachusetts—there is not a positive written law in any of the States of Europe that ever indulged in this traffic, sanctioning and legalizing it. That law which most directly comes up to the point of establishing the slave

trade is found in the Constitution of the United States which permitted its continuance until 1808, and that at the instance of Massachusetts and other northern States. They were sustained in that action by Georgia, South Carolina and North Carolina; Virginia, Pennsylvania, and New Jersey went for the immediate abolition of the slave trade, and it would have been abolished at the time of the adoption of the Constitution by a provision to take immediate effect if it had not been for the resistance and the opposition made to it by South Carolina, North Carolina, and Georgia, and Massachusetts and Connecticut and some of the other northern States. Judge McLean in this decision says:

"Now, it may be admitted that, in some of the southern States, perhaps in all of them, there cannot be found a statute which contains the words: 'And be it enacted that slavery shall exist;' and this was what was denied in the Senate. But this does not shake the decision of the Supreme Court above referred to. Usage of great antiquity acquires the force of law. The denial therefore that slavery existed by virtue of an express law, or by statute law, which was intended to be denied, was no denial at all."

That is what Judge McLean decided. It was a case of this character: a slave had eloped from the State of Kentucky; there were certain citizens of the State of Ohio who gave aid to that slave in making his escape to Canada; they were sued under the law of Congress for giving that aid, and they were held to pay damages for having aided the slave to escape. The counsel for the defense assumed as one of the grounds of defense that there was no positive law, no statute enacted in Kentucky, at least none shown upon the trial, which established slavery. Judge McLean conceded that to be the fact; but instead of that being a denial that the right of property existed in the claimant, he expressly stated in words that it was no denial at all. In the case of Jones *vs.* Vanzandt (2 McLean, 602) the same learned judge said:

"In our colonial governments, and under the confederation, no general provision existed for the surrender of slaves. From our earliest history, it appears that slavery existed in all the colonies."

How did it exist in all the colonies? Not by positive enactment, not by any positive law; it existed only by public, national law, based upon the usage of the civilized world, and the engaging in the slave trade of the whole civilized world. That is the origin and foundation of the slave trade; that is the origin and foundation of the property of the owner of a slave to that slave; and Judge McLean decided in this case that, for the defense to assume that there was no statute, no positive law giving to the claimant of a slave a right of property in the slave was no denial whatever of his right of property. In the case I last referred to—Jones *vs.* Vanzandt—Judge McLean said:

"From our earliest history it appears that slavery existed in all the colonies; at the adoption of the Federal Constitution it was tolerated in most of the States.

"Property, real or personal, takes its designation from the laws of the States. It was not the object of the Federal Government to regulate property. A Federal Government was organized by conferring on it certain delegated powers, and by imposing certain restrictions on the States. Among these restrictions it is provided that no State shall impair the obligation of the contract, nor liberate a person who is held to labor in another State from which he escaped. In this form the Constitution protects contracts and the right of the master, but it originates neither."

There is a decision in which the right of the master to his slave is expressly recognized, and it is recognized to the form and extent of giving a judgment for a large sum of money against a citizen of Ohio who had aided a slave to make his escape; and yet the honorable Senator from New Hampshire and the honorable Senator from Maine assume that there can be no property in slaves.

Well, sir, I have got some more law upon that subject. We are all familiar with the provision of the Constitution that authorized the reclamation of fugitive slaves from the States. We are familiar with the provision that establishes the ratio of representation on the basis of three fifths of the slaves, including all the white population and the free population. We are all familiar with the provision that bases direct taxation on the same basis of population. We are all familiar with the provision that continued the slave trade up to 1808. What did Congress do? In 1793 it passed a fugitive slave law to authorize the owners of slaves to reclaim them. That law was decided by the Supreme Court to be constitutional. Now, sir, if property cannot exist in a slave when a slave escaped from the State of Kentucky and went to Ohio, a free State, what principle of law, or of reason, or of common sense would authorize the courts of the country to render a judgment in favor of the claimant, the owner of that slave, who pursued him into the State, against a man who aided in his escape? In 1850 another and a more efficient fugitive slave law was passed. The constitutionality of the previous fugitive slave law of 1793 came up in the case of Prigg against the State of Pennsylvania, in which the opinion of the court was rendered by Justice Story, and the other judges gave their opinions *seriatim*. Every judge of the Supreme Court decided that law to be constitutional. It would be absurd and nonsensical for the court to decide that a law is constitutional for pursuing a subject of property in a State in which subject the right of property cannot possibly exist! I will read a clause from that decision. The provision of the Constitution is in these words:

"No person held to service or labor in one State under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

I admit that the Legislatures may regulate the property of the owner of a slave in the slave. I admit that the Constitution treats slaves as persons as well as property; that it is murder, in my State, to kill a slave; that if a slave is treated with inhumanity, the laws provide a mode by which the slave may be taken from the inhuman owner and sold; but the law may make the same provisions in regard to horses and stock. If horses are treated with cruelty and brutality by the owners, the Legislatures of the State in which such owners live may regulate the usage which the owner may make of his horse, and compel him to observe the laws of humanity and mercy in the use even of a dumb beast, as well as of a slave. That only proves that the law makes different regulations in relation to different subjects of property, according to their nature. The law may regulate the use which the owner of real estate may make of his real estate in towns, and does. He cannot establish a potter's field upon his lot; he cannot, I believe, in my State, treat his beasts, horses at least, with barbarity. If he does, he is subject to a penal law that fines him. He cannot murder his slave. He holds possession of the slave, and has the right to the service of the slave, and that is all the property that could exist practically in a slave. A man cannot kill a slave, and barbecue him and eat him. He would not be disposed to do that. These laws do not interfere with the just use of slave property at all. They permit to the owner of the slave every free and proper use of the slave of which that slave is capable, notwithstanding their object is to preserve the laws of humanity and mercy in the ownership of the slave; and so of a horse. But because the law makes different regulations in relation to different species of property, according to the nature and essence of that property, it does not at all prove that the property in all the classes has the same origin. That origin, as I said before, is in universal usage and custom.

Mr. HOWARD. I would ask the gentleman from Kentucky, with his permission, whether all property has its origin in force? Slavery certainly has.

Mr. DAVIS. Property in a horse has its origin in force. The horse has to be subdued, broke, and reduced to obedience to the laws and usages of his owner; and so of many other things. There is property in wild beasts, in the lion that once prowled in the forest. In many articles property can exist only by force, and does exist by force.

But that is immaterial to the issue. Here is first the Constitution declaring, and then here are the courts in all their judgments in which the question came up, deciding that property does exist in slaves, although it has its origin in force and against natural law. Let me read from the decision in the case of Prigg *vs.* Pennsylvania. After quoting the clause of the Constitution for the rendition of fugitive slaves, the court say:

"The last clause is that, the true interpretation whereof is directly in judgment before us. Historically, it is well known that the object of this clause was to secure to the citizens of the slaveholding States the complete right and title of ownership in their slaves, as property, in every State in the Union into which they might escape from the State where they were held in servitude. The full recognition of this right and title was indispensable to the security of this species of property in all the slaveholding States; and, indeed, was so vital to the preservation of their domestic interests and institutions, that it cannot be doubted that it constituted a fundamental article, without the adoption of which the Union could not have been formed. Its true design was to guard against the doctrines and principles prevalent in the non-slaveholding States, by preventing them from intermeddling with, or obstructing or abolishing the rights of the owners of slaves."—16 *Peters's Reports*, p. 611.

Could anything be more clear or specific? Here the right of property of the owner in a slave is fully recognized by the decision of the Supreme Court. That decision was rendered by Mr. Justice Story, and all the other members of the court sanctioned and approved the same principle. He states it as a matter of history that the incorporation of the article recognizing the full right of the owners of slaves to that property and providing that if they escaped and went into other States the laws of those other States should in no degree and to no extent interfere with the right of the owner to the slave, was the essential condition upon which the Constitution was formed and without which it never would have been formed. Any gentleman who reads Mr. Madison's Papers, in which he gives the propositions and debates of the convention upon the subject of slavery, will, if his mind is not wholly obfuscated by prejudice, give immediate consent to the proposition here laid down by Judge Story. I could refer to a dozen cases decided by the Supreme Court of the United States and by the circuit court of Ohio, of which Judge McLean was presiding judge, recognizing in the most distinct and unqualified terms the right of property of the owner of a slave. There have been various cases tried in that State and in Indiana, and in Michigan, in which all these questions came up, and in every solitary case it was urged in the clearest and most conclusive legal logic that the right of the master to pursue his slave and take him wherever he found him without committing a breach of the peace, was secured to him by the Constitution and by the fugitive slave law; and that if any citizen interfered with that right and aided the slave in making his escape, that citizen should respond to the claimant of the slave in the amount of the damages which he sustained by such interference. The ordinance of 1787 has a peculiar provision in relation to the reclamation of slaves. There was a slave sought to be reclaimed from Indiana in contravention to that provision—I have the case here—and Judge McLean decided explicitly that the provision of the Constitution of the United States and the fugitive slave law controlled and overruled the provision in the ordinance of 1787, and authorized the reclamation of the slaves precisely according to the letter of the Constitution and of the fugitive slave law.

Now, Mr. President, we are entering upon a new epoch. We have had some great and abominable and most mischievous heresies attempted to be put into practice in the southern States, in the State of Kentucky, and I believe without a solitary exception every one of those heresies had its origin in the State of Massachusetts, and I will give the honorable Senator from Massachusetts some facts directly, too, which he well knows, for he is a very learned historian. The State of Massachusetts and the commercial States of New England entered early and largely, and with great profit, into the slave trade; they brought the mass of the slaves that were imported from Africa, into the colonies and into the States up to the year 1808. There was a celebrated shipper of Rhode Island, Mr. De Wolf, who continued the traffic largely, with enormous profits, up to the time that was prescribed by the Constitution for its cessation. It is a very different matter now. The British statesmen admit that neither the States of the United States nor colonies were responsible for the existence of slavery in them, but that slavery owed its origin to the cupidity and to the commerce of the mother country; but as that traffic arose and extended, and became profitable, the enterprising shippers and colonists of the North entered largely and with great remuneration into it. They brought in their hundreds and their thousands, and they sold them for cash at large prices. After having themselves planted this noxious weed in society, violative of the principles of humanity, if you please, and of the law of nature, so soon as the Constitution prohibits them from continuing this lucrative traffic they turn around and want to emancipate the slaves that they had before sold to innocent persons!

The honorable Senator [Mr. SUMNER] said in

his splendid oration upon the subject of slavery the other day, that slavery was not destroyed by local legislation either in the British West India Islands or in San Domingo. That is true. If the people of England and of France had had the same interest in slavery, and in the sugar and cotton and coffee plantations of those islands, that the residents of the islands had, they never would have entered upon that work of emancipation. Suppose the honorable Senator from Massachusetts now and every one of us owned two thousand acres of cotton land, and had upon it a hundred hands, and the annual produce of this estate of land and labor was one thousand or one thousand two hundred bales of cotton a year, yielding an income of $50,000. Suppose every Senator was thus possessed of this property, I ask how many of these Senators, without regard to their locality or their present opinions, would be willing to give up such an estate for nothing? The man is green indeed who believes that one of them would. [Laughter.] Why, Mr. President, these gentlemen, New Englanders, with all their hardiness, their thrift, their intellect, their energy, their inventive genius, their great and glorious development of mind, go to the South and they possess themselves of cotton and sugar estates, and of large numbers of slaves; they make the most energetic and successful planters in the land; they bring all the hardy attributes of their own habits and characteristics to push these cultivations with success; and they are notoriously the hardest masters in the whole land.

Who is Albert Pike, who is now employing a brigade of Indians to take part in this war, and scalping our dead soldiers to the disgrace of the age? Who is he but a Yankee—and I use the phrase in no derogatory sense; I honor the name of Yankee, I admire it, and I do homage to it. It was that race and that name and their bravery and energies that carried us through the war of the Revolution, and that bore the stars and the stripes victoriously upon the highway of nations in every battle during the war of 1812 where there was anything like an equality of force. Who is this man Slidell? He is a northern man. I know him. I believe he is the boldest and the worst man I ever knew. You, gentlemen, when you claim distinctive characteristics from the southern men, do not base that position upon truth and philosophy. We are the creatures of the circumstances that surround us, and of education. If you and I had been born and reared in Constantinople, we should have been Mussulmans. If we had been brought up in desolate Utah, the honorable Senator might have been a polygamist; I never would have been. [Laughter.]

But the Senator from Massachusetts says truly that the legislation which disenthralled the slaves in the West India Islands was alien legislation—it was not the legislation of the people who owned the property. I read many years ago the history of the troubles of San Domingo, and I have reviewed very cursorily some of the facts within the last few days. It was the madness and the fanaticism and the wild notions of the right of mankind, as promulged by the French atheists and revolutionists of 1789 and 1793, that precipitated the island of San Domingo into revolution and brought on all the horrors there that were the most shocking to humanity of which I ever read. There were three classes in that island; there were negroes in servitude; there were mulattoes who were free, and who occupied something like a middle position; and then there were the proprietors of the lands. When the States General resolved itself into the National Convention, the members assumed the right to regulate, upon their own wild and mischievous and volcanic theories, the religion, the society, and the concerns not only of France, but of all their islands. They adopted a constitution in general terms that would embrace the slave and mulatto population just as our Declaration of Independence in the broadest terms would embrace slaves and negroes; but we all know, as a historical fact, that neither the one nor the other instrument was ever intended to embrace or does embrace negroes at all.

What took place then in San Domingo? The mulattoes first claimed that as they owned one third of the real estate of the island and one fourth of the personal property, they should have equal rights with the whites. Ogeé came from London. He had been a colonel in the service of one of the German Powers. He placed himself at the head of his caste, and he struck for equal rights. That commenced the revolution in Hayti. In a few months afterwards a society calling themselves "the friends of the negro," that had its origin under the auspices of Brissot, commenced their mischievous operations, and claimed the universal liberation of the slaves. What were the consequences? That servile war which afterwards ensued, and which has subjected that island, the queen of the Antilles, I might almost say, to negro dominion; and that has decreased its annual productive industry from $28,000,000 to five or six millions.

Now, Mr. President, we have a party in this country called abolitionists, analogous to these incendiaries in France, "the friends of the negro." Brissot abandoned the "Mountain" party. We are getting a Mountain party in the United States, and we too have the "Girondists," a moderate party. I never intended to charge that the mass of the Republican party in Congress or out of Congress belonged to the "Mountain," in this country—that they were abolitionists; but there is a party in this country who believe that their mission is to overthrow slavery, and they are marching to this work regardless of the Constitution of the United States, of all its compromises, and of all the rights which it secures to the States and to the citizens. Sir, it is in defense of the Constitution of the United States, with all its limitations of power, with all the rights that it secures to the States and to the people, with all its restrictions upon Congress as a Government of limited and delegated powers, that the great Union party of the United States have drawn the sword, and my State has entered into this grand army of Union men to put down rebels and conspirators against the Constitution. She has one hundred and seventy to one hundred and eighty thousand military population. She has only, as I before said, from five to eight thousand of that population who have entered into the secession armies; and she has sent thirty thousand, about one sixth of her entire military population, into the Union Army. That population will fight there side by side with the hardy and brave soldiery from Iowa, and the whole Northwest, until this work of subjection and bringing back the rebels to their obedience to the Government is consummated once and forever.

But, Mr. President, we stand upon the Constitution; we are fighting for the Constitution as Washington and his associates made it, and as it has been expounded by the Supreme Court; we are fighting for those immortal constitutional principles of liberty and of security to the rights of property, without which that sacred instrument could never have been formed and agreed to by the States. The Constitution is the ark of our liberty; it is the bond of our Union. When that magic bond is broken and severed into fragments, the Union and liberty are gone forever. The Constitution and the Union are now assailed by two enemies. They are assailed by the confederate States; by the immense army which they have brought into the field. I never apprehended any ultimate danger there. On the day that I heard of the battle of Bull Run, I felt equally confident, and more determined, as an humble citizen of the United States, that the war should be waged and should continue to be waged until the rebels were brought to obedience to the Constitution and the laws. And that is my purpose now; and it is the purpose of the Union men of my State.

But there is another enemy to the Constitution. That enemy is the abolition party. I do not know whether it has any real followers in the Senate or not. I hope it has not, but it has in the country. Phillips and Cheever and Greeley and others we know belong to that abolition party. They are determined to overthrow slavery; they are determined to overthrow the Constitution, if it be necessary, to abolish slavery. They want no Union, no reconstruction, except upon the condition of the total abolition of slavery. What do they say of the Constitution? That it is a covenant with death and a league with hell, and that they have no compromise for slaveholders. I say to the men who hold to that position and who act upon it, who make that position the impulse of their action in civil or military life, that they are worse enemies of the Union and of the Constitution than Jeff Davis and all his hosts in battle. True Union men will make the like war on both. I know that that is the sentiment and the purpose of the soldiery of the West. It is of my own people. We will never abandon the deck of the ship of State. The Union we will never abandon.

Mr. HOWARD. I hope you will keep that pledge.

Mr. DAVIS. I will keep it, sir, and so far as I have voice and power the Union shall never be dissolved by an abrogation of the Constitution by the abolition party or by Jeff Davis and his hosts. I hold them to be equally enemies to constitutional liberty, to the peace of the country, and to reconstruction. Yea, the men who make this insidious war upon the Constitution, under the guise of humanity and philanthropy, are the worst enemies of the two; they are the most dangerous. The heart of the Union men in Kentucky keeps time to the music of the Union, and so long as their hearts beat they will keep time to that glorious music, and under that consecrated flag they are ready to meet all enemies, domestic or foreign, avowed or secret; enemies that have the manliness to take the open field in battle array against it, or those who seek insidiously and covertly, under the guise of philanthropy and humanity, to overthrow that sacred instrument and this Union, which ought to be immortal. We have planted ourselves upon the Constitution. Our ensign and our only ensign is the stars and the stripes. If fall it must, either by the attacks of the secessionists or by the attacks of the abolitionists, we will endeavor, each one for himself, to tear a glorious fragment from that flag, wind it around our bodies as we fall in death in its support, and it shall be our winding sheet.

But, Mr. President, I said to the honorable gentleman from Massachusetts that his State was the hot-bed, the very place of origin of every political heresy that has been set up in any part of the country. I am satisfied that this is the fact, unless, perhaps, in relation to the Virginia doctrine of State rights, and I believe that in point of priority of time Massachusetts is even ahead of old Virginia herself in that noxious principle. I will give the gentleman some examples in a few minutes. I hardly know of any political, religious, or social mischievous and noxious ism but what had its origin in Massachusetts. The first secession flag that was ever formed and reared in the United States and thrown to the breeze, was in Massachusetts against the embargo law, previous to the last war with Great Britain. Many statesmen and newspapers of Massachusetts then advocated secession from the Union; and they proposed that the old thirteen should secede from the Union, leaving the West to itself. I have the book before me that contains these facts.

Look at the course of Massachusetts and Vermont in the war of 1812. I am sorry to introduce the State of Vermont. She was that "bright particular star" which, in the days of old Whigism, never set. She committed some early errors, lured by the example and the moral power of Massachusetts; but she soon disenthralled herself from the fatal toil and has been acting a constitutional, patriotic, and conservative part ever since; and I wish to God that all the men in this Congress from New England were of the same stamp as her two noble Senators on this floor. The militia of Vermont and Massachusetts were called out to go to New York, some of them to Plattsburg. Governor Strong took the ground that he would recall the militia of his State from the service of the United States, notwithstanding they had been mustered into that service, and he instigated Governor Chittenden to take the same position, and he did take the same position, and they both issued proclamations recalling their troops from the border where they had marched out of the boundaries of their own States to meet our common enemy. What did that noble and gallant soldiery do? They declared that their allegiance to the Government and authorities of the United States was higher than their allegiance to their own State Governments and their own State Governors, and they refused to march back.

Again: Mr. Quincy, in the Legislature of Massachusetts, proposed a resolution that it was unbecoming a Christian people to rejoice over our victories by sea and by land. What else? Many of our soldiers and our tars were made captives, and they were placed upon British ships, in crowded and unwholesome holds, where many

of them perished by disease, and by the want of pure air; and they were taken to England in these miserable prison-ships, that were worse than even the inhuman practices of the secessionists now. A colonel in the United States service put in the jail of Worcester, Massachusetts, by way of retaliation, some of the British captives; and the men of Massachusetts there interfered and liberated a portion of these captives, some of whom escaped; and the Legislature of Massachusetts passed a resolution withholding from the General Government the use of their jails for the confinement of captives from the British ships and armies in retaliation for the same usage with which they were treating our soldiers and our seamen whom they had captured; and they passed a resolution declaring that the keepers of those jails should upon a particular day discharge those captives.

Massachusetts originated a project—and it was strenuously and urgently recommended to the people of all New England—that New England should form a separate treaty with Great Britain, retiring from the war and from the other States, and providing that after the conflict was over, if the United States prevailed and were victorious, the seceding or neutral States should again return to the Union.

We have, then, in the example of that State, nullification. She attempted to nullify the laws of Congress and the Constitution of the United States which gave to the President, as Commander-in-Chief, the absolute command over her militia when it was mustered into the service of the United States. She attempted to nullify a law of Congress that established an embargo; she declared that it was of no validity and obligation upon the State of Massachusetts. It was proposed that the New England States should make a separate and distinct treaty with Great Britain, and abandon the other States in that war for the liberty and freedom of the seas. Massachusetts passed laws withholding her prisons from the use of the United States military officers to confine British captives in, notwithstanding the cruel and inhuman manner in which our prisoners were treated by the English authorities; and she aided those prisoners to escape. The gallant Lawrence whose last and dying words were, "Don't give up the ship," moved out of a harbor of Massachusetts in an unequal contest against the Shannon, and when he fell upon that bloody quarter-deck, a delegation consisting of Crowninshield and others came from Boston or Salem, I have forgotten which, to bring his remains to the city to be interred. Governor Strong and other men high in authority refused to attend the funeral cortege and join the last rites of sepulture to that hero, and did all they could to suppress it.

Here, Mr. President, is the secession flag; here is nullification; here is neutrality, if you please, in the history of Massachusetts; for Massachusetts wanted to be neutral in the war of 1812. All these doctrines had their origin in that State. What did the citizens of that State do in addition? They spread themselves along the coast, and when it was beleaguered by British ships they held out blue lights, as signals to the enemy of their country; they proclaimed that Great Britain was the bulwark of our religion, and that it did not become a Christian people to rejoice over our victories. Now, Massachusetts comes forward to school us, to teach the Union States and the Union men who abide by the Constitution and laws of the United States, their duties and their loyalty. Why, sir, as late as the annexation of Texas, the Legislature of Massachusetts passed resolutions declaring that Massachusetts had never delegated the power to admit into the Union Territories which did not belong to the Union at the adoption of the Constitution of the United States—

"And that in whatever manner the assent of Massachusetts may have been given or inferred to the admission of States which, by general consent, form a part of the Union, from such territory, the admission of such States, in the judgment of Massachusetts, forms no precedent for the admission of Texas, and can never be interpreted to rest on the powers granted in the Constitution.

"*Resolved*, That there has hitherto been no precedent of the admission of foreign territory into the Union by legislation."

That is true; and it is a very proper position; but the first position assumes that the acquisition of Louisiana was without constitutional authority, that the acquisition of Florida was without constitutional authority:

"And as the powers of legislation granted in the Constitution of the United States to Congress do not embrace the case of the admission of a foreign State or foreign territory by legislation into the Union, such an act of admission would have no binding force whatever on the people of Massachusetts.

"*Resolved*, That the power never having been granted by the people of Massachusetts to admit into the Union States and Territories not within the same when the Constitution was adopted, remains with the people, and can only be exercised in such manner as the people shall hereafter designate and appoint."

There is nullification for you, with a vengeance. The treaty-making power is given expressly to the President and two thirds of the Senate by the Constitution. That treaty-making power had been exercised in the acquisition of Louisiana in 1803, and of Florida, by John Quincy Adams, when he was Secretary of State, in 1817. The exercises of the treaty-making power on these two subjects had been sanctioned by all the departments of the Government, by the people of the United States; and yet, in 1845, Massachusetts fathers a resolution to nullify the treaty-making power as vested by the Constitution, and to nullify the exercise of that power in the acquisition of Louisiana and Florida.

Now, is not she a beautiful State, and are not her statesmen behaving consistently, and showing their love for the Constitution in a most eminent degree when they set themselves up as the political Gamaliels of the land, to teach everybody the path of duty? Sir, I have always been opposed to nullification; I always expect to be. I have always been opposed to secession. I always intend to be. My destiny is with the whole Confederacy. I have nailed my flag to the mast, and if the old ship goes down, I will go down on her, and I will strike at the mutinous crew who would nullify the Constitution of the United States and deprive us of our rights with all the feeble powers that I have, as I would strike against Jeff Davis and Toombs and all that host.

There are two parties among the Republicans. I do not know who belong to the Mountain. I have a strong suspicion of some that I believe belong to it, and I know some who have declared their sentiments and position very distinctly, out of doors, who belong to it. But I trust and believe, and have faith and confidence, that the most of that party are conservative, that they are disposed to abide by the Constitution and its compromises, that they want it restored as it left the hands of Washington, and as it has been administered and adjudged by all the Presidents since, and by Story and Marshall. I believe they will take that conservative ground. I trust, for the peace of the country and the perpetuity of the Government, that they will. I have no idea that they are going to act the part of extreme men. But when it comes to such men as Greeley, and Phillips, and Cheever, I know they are men regardless of the constitutional sanction, regardless of justice, regardless of fraternity, regardless of the compromises of the Constitution and the rights that were secured by it, and who are determined to march over the ruins of this Constitution, to the consummation of their nefarious projects. I believe that these men who belong to the Mountain will be hurled far from power by the Union conservative Republican party. The men that I have named are endeavoring to throw themselves at the head of that party and its movements; they want to get the political power that is wielded by that party. They remind me of the fable, when the whole host of apples went swimming down the current, some of them exclaimed, "how we apples swim." [Laughter.]

Mr. President, it has come to this, that if a man gets up here, a Senator representing two hundred and twenty-five thousand slaves, and at least six hundred thousand of as devoted white people to the Union as there are within its broad limits, and plants himself upon the Constitution for the security of the rights of property in his country, he is denounced, denounced in this Senate Chamber, denounced in the newspapers, and men work themselves up into a frantic passion because I had the hardihood to say that the same law which gives me my title to my horse and to my land gives me my title to my slave. I give utterance to that sentiment yet. The questions that I propounded to the honorable Senator from Massachusetts, he did not notice specially; and of the seven, he did not notice five at all. I excuse him for it, because I am satisfied that he could not notice them satisfactorily to himself. But these gentlemen get up and work themselves into a rage. Now, I am an earnest man; I am an ardent man. I do not mean any disrespect to any gentleman in what I say. It is my manner to be ardent; but because I manifest the ardor of my nature, gentlemen get up and break out into a paroxysm of denunciation and fury. They remind me of a mad dog when he comes right upon a pool of water, and I think if those gentlemen would attempt to propagate their condition and their principles by biting like the dog, they would have much better success than by their speeches and arguments.

I was surprised at the course of remark indulged in by the honorable Senator from Minnesota [Mr. WILKINSON] the other day. I have great respect for that Senator. I cherish feelings of the utmost kindness and friendship for him. I must, however, be allowed to maintain the rights of property of my own State according to my judgment and conscience; and when I do so, I do not intend to offend any man. The honorable Senator from Minnesota reproaches me that our State is now free from rebels by the prowess of northwestern men. That is true. We never have denied it. We have sung their praises in the newspapers and in our social circles. Our orisons have gone up to heaven for their preservation and happiness, because of this work of duty and of patriotism and of good neighborhood that they have executed towards us. If we had been unmindful of this obligation, it would have become the honorable Senator to vaunt it; but a brave and generous people never remind the beneficiaries of their promise and of their service, of the obligation that has been conferred. I do not charge the honorable Senator from Minnesota with having intended anything of the kind; but it looked so. I am certain his people never intended it, and I believe he did not. He is a fine specimen of manhood, physically and intellectually and in heart. He has won a large share of my respect and esteem since I have been a member of this body. I still entertain these sentiments toward him; but when we were so loud and so unanimous in singing the praise of Minnesota, and of the whole Northwest, and of all their chivalry in their glorious deeds of arms in defense of "the bloody land" that in former years sent forth its sons and its soldiery to the protection of the West, it seemed to me to be a little ungracious in my honorable friend to remind us so ostentatiously of what we owed to them, and what would be our condition if they had not come to our rescue.

I believe Ohio did much more for us than Minnesota; I believe Illinois did much more for us than Minnesota; and most of all, the State of Indiana did more for us than any other State. We had done most for that State; we had sent more of our people, more of our sons and daughters, more of the blood of Kentucky flowed through the veins of that population than in any other State, and therefore they felt nearer and more kindly to us. One of the honorable Senators from that State and myself were born within five miles of each other. I have known him from his early childhood; his father and mine were friends sixty years ago; and I have declared often that never, never would I bow the knee to Jeff Davis and the secession flag; never will I; and if the time shall come when I cannot maintain my position as an American freeman and citizen in the State of Kentucky, I will hunt out the neighborhood of the friend of my youth, who represents the State of Indiana as one of its Senators in this body; but I hope never to be driven to such a strait as that.

I am satisfied that this work of conquest in the field will be done speedily and effectively. It is not that war that I fear; it is the war upon the Constitution that I fear. It is that which now menaces us with every danger. The danger resulting from the warriors in the field in the South is but a phantom; but there is a spirit in the two Houses of Congress, and abroad in this land, that has cultivated sedulously and boldly the sentiment of submitting to none of the compromises of the Constitution in relation to slavery, but to bind slavery as a victim, and bring it bound hand and foot and sacrifice it upon the altar. I tell gentlemen they will find that they have a much harder work than subduing Jeff Davis. I think I understand something of the head and the heart of the freemen of this nation, even of the free States; I know I do in the Northwest; and I know that that numerous and invincible host that have gathered

from every household in the Northwest to uphold the stars and the stripes and maintain the Constitution, will never permit a domestic enemy, even though under the guise of philanthropy and humanity, to immolate the Constitution; but they will seize it as the ark that bore the laws of Moses, and they will preserve it with their steel blades, and their more invincible hearts.

I said the other day, it might have been heatedly, that this thing of liberating slaves and permitting them to remain in the country never could take place. I said it would lead to a war of races, which would result in the extermination of one or the other. This bill is not a proper subject for a dissertation on that point; I therefore will not say anything further upon it, except this: I stated that the negro race and the white race could never occupy the same country in large or anything like equal numbers without the negro being in a state of slavery, and if it were otherwise, the conflict of races would inevitably come. My experience of the negro population, all my reading, teaches me that truth; and it is a truth recognized by Earl Russell a few days ago in the British Parliament. I will just read a single sentence from a speech that he made on American affairs:

"Though he did everything he could to remove the effect of false and calumnious assertions against the Federal Government and President Lincoln, yet he cautiously abstained from any incitement to the slaves to rise against their masters. But if, by any misfortune, it had become necessary to vindicate our honor, if we had been obliged to take part in this war, any hope of seeing an end to the system of slavery by peaceable means would have vanished. In that case the North would have proclaimed a general emancipation of the slaves, and though it is our earnest wish that the sin and stain of slavery should cease, yet there is nothing we should regard with greater horror than the devastation, the burnings, the murder, and pillage among a population of four millions of slaves that, in the name of liberty to the negro, might have been perpetrated."

There was in the West, some years ago, a man by the name of Elwood Fisher, who anticipated the end of our imperial and free Republic. I thought at the time that it was a vagary of the imagination, or of disappointed feeling; but from the way things are progressing I do not know that it may not yet come about. He wrote the epitaph of the Union somewhat to this effect, if I remember aright: "To the memory of a nation of white people, who in their struggle to give freedom to the negro race lost their own." More unlikely and extravagant things than that have happened.

Mr. President, it has been frequently inquired what brought about this war. I shall not enter into that subject at any length, but I will tell you what I religiously believe, that the States of Massachusetts and South Carolina and their mischievous isms have done more to bring about our present troubles than all other causes. I believe that if it had been possible to unmoor those two States and drift them away into the ocean together, and let them fight out their antagonism side by side in some distant sea, the rest of the States would have got along most harmoniously. I religiously believe that these two States have been the hot-bed of ambition, of religious, social, and political heresies and isms, and they have been pressed upon the rest of the United States with an energy and perseverance that have brought the country to its present great and deplorable difficulties. If there is any people that ought to be held to a special responsibility for the present condition of the country, I believe it is the people of Massachusetts and of South Carolina

I approved of most of the speech made to-day by my honorable friend from Ohio, [Mr. SHERMAN.] It struck chords in my heart that vibrated to his manly and conservative tones. I wish his counsels could seize on the minds of the moderate portion of the Republican party. I have no hostility to any of you. I never expect to fill another office. I have got one higher than my deserts. I have no dream, no wish beyond it. I want the Constitution administered according to its spirit and its letter. I want wise and just laws passed, respecting the compromises of the Constitution and the rights by it secured to the citizens of the United States. I believe that if the moderate Republican party would disentangle themselves from the extreme men, and would obey the behests of the Constitution as it has been expounded by the courts, and by those who have preceded us, and would exercise the political power of which they are now in possession, according to their own judgment and reason and patriotism, and in fraternal feeling to all the States of the Union, they would get along without any difficulty whatever, and would perpetuate their power for a considerable number of years. If they would act their part upon those principles, I should have no hostility to them; and I would just as soon they should be in possession of the Government and all its offices and power, as any other party in the land.

Mr. MORRILL. Mr. President, I am too anxious to have a vote on this bill to detain the Senate by any remarks; and yet the Senator has appealed so directly to me on two or three questions, that I shall detain the Senate about five minutes.

First, the Senator seems to have a constitutional difficulty in regard to this bill; and I take it for granted that he seriously believes we are in danger of violating the Constitution in the passage of this act. If he will give me his attention for a moment, I will undertake to demonstrate that, by all the ingenuity he can devise, and with all his great powers of research, he cannot, if he will confine himself to the facts in the case, dignify this proposition into a respectable constitutional question. There is no constitutional question in it. I start with this proposition: slavery in Maryland and in this District exists by the law of Maryland originally, and it exists in no otherwise. The fact that Maryland passed a law establishing slavery is conclusive upon that point. You do not go back of it. It existed by positive statute.

Mr. DAVIS. If the honorable Senator will permit me, did it not exist in Maryland before that act was passed?

Mr. MORRILL. It had no legal existence, is my answer to that; and the fact that Maryland passed a statute on the subject is conclusive evidence on that point, and those who argue otherwise are estopped from denying it. Starting with that position, in 1788 Maryland ceded the District of Columbia to the United States. That cession was absolute, unconditional; there was no reservation and no limitation whatever. The legal effect of that, the honorable Senator will agree with me, was to vest the absolute and unqualified title to this territory in the United States. The further effect of it was to transfer the absolute and unqualified jurisdiction over the territory to the United States. The laws of Maryland were inoperative, of course; the jurisdiction of the United States was perfect and complete. Now, what becomes of slavery in this District—slavery that existed by force of the laws of Maryland? Why, sir, by the act of 1801, the Congress of the United States undertook to extend this law of Maryland, and did extend it; that is, upon the assumption that the law was constitutional; and slavery was continued here. Slavery existed here originally by the statute of Maryland, and slavery was continued by the statute of the United States of 1801. If slavery existed here to-day, it exists by force of that statute, and in no other wise. I ask the honorable Senator whether it is not competent for Congress to repeal the act of 1801 without raising any constitutional question by any possibility whatever, or without raising this question of compensation for property taken? I ask the honorable Senator, as a lawyer, whether he will contend, where a statute creates simply a relation between master and slave, that that relation is in any constitutional sense property? All we propose is simply to repeal the act of 1801 so far as it affects the question of slavery, and thus put an end to it. I maintain and submit, therefore, with great respect to the honorable Senator, that by no possibility whatever can he raise a constitutional question on the facts in this case.

Mr. DAVIS. Will the honorable gentleman permit me to say a word in answer?

Mr. MORRILL. Certainly.

Mr. DAVIS. My position is this: that slavery existed in Maryland and in all the colonies, according to the opinion of the Supreme Court rendered by Chief Justice Marshall, Judge Story, and Judge McLean, from the origin of the colonies; that it existed before the law of 1715, passed by Maryland, was enacted; that it existed independent of that law, and that if that law was repealed, slavery would still exist under the public national law which those great jurists had decided to have created slavery.

A single word further. I admit that the words that Congress shall have exclusive legislative jurisdiction in all cases whatsoever in this District, would, by necessary implication, carry the power to legislate on the subject of slavery, even to the manumission of the slaves, but for the fact that the Constitution secures the right of property to every citizen, and forbids any power from taking it without just compensation being made. The honorable gentleman admits that Congress could not take the houses and lands of persons in this District, because of that clause of the Constitution which provides that no citizen shall be deprived of his property except by due process of law and upon just compensation being made. I say that that restrictive clause of the Constitution limits and controls the general power of legislation vested by the clause to which the gentleman has referred in Congress, and that that restriction applies as well to slaves as to any other description of property, that neither a slave nor any other property can be taken without just compensation.

Mr. MORRILL. I have so understood the honorable Senator to argue before. I do not think he is in the slightest danger of being misapprehended on that position. The whole difficulty arises from his idea of the origin and sanctions of property, and upon that question I desire to say a single word. I understand that the proposition the Senator maintains is this: that he has precisely the same right to his slave that he has to his horse or his lands, and that the origin of the right of property in slaves and the origin of the right of property in lands is one and the same. It all comes from occupation.

Mr. DAVIS. The same law gives me my right and title to both.

Mr. MORRILL. I am aware that there are two sets of opinions in the world in regard to this question of property. I know that for centuries upon centuries the idea inculcated or attempted to be argued here by the Senator from Kentucky has prevailed in many nations, perhaps at some time in all nations, but these are not the notions common to civilized nations. These are not the notions common to American jurisprudence; nor are they notions that are common to the country from which we originate. Instead of a man's having the same claim, the same sanction, and the same right to a slave that he has to his property, the law of England, the law of the mother country and the law of this country has always held that the right to slaves, that property which was claimed in slaves, was in violation of natural right, and was in violation of natural law. Why, sir, the great commentator on English law—good authority, I trust, with the honorable Senator—lays down this proposition. I have not looked at his work with reference to this argument, but according to my recollection he maintains this proposition: that the origin of the right of property or dominion over property springs from the Deity. That is his distinction. The origin of the right of dominion springs from the Almighty, maker of heaven and earth; and there is no origin outside of it. When you come to the question of occupancy, that is another question altogether; but we are considering the rights of property.

Now, the sentiments which the honorable Senator puts forth here are sentiments directly averse to these principles of the common law. I know they are opinions and principles reaching far back into the early period of the world; but allow me to say to the honorable Senator they are barbarian in their origin; they were never inculcated and never adopted in civilized nations. Where civilization has advanced, where the doctrines of Christian civilization are recognized, these notions are held to be antiquated, barbarian, and they do not enter into the jurisprudence of any civilized or Christian nation on the globe.

The honorable Senator says, show me a statute on this subject, giving me a right to my horse, which does not give me the same right to my slave. Well, I will refer him to a positive statute on this subject—a statute that I know will command his respect and his veneration:

"And God blessed them"——

Mr. DAVIS. Will the honorable Senator permit me to ask him a question?

Mr. MORRILL. When I have read my authority I will.

"And God blessed them, and God said unto them, be fruitful and multiply, and replenish the earth, and subdue it; and have dominion over the fish of the sea, and over the fowl of the air, and over every living thing that moveth upon the earth."

The commentary of the great English commen-

tator runs back to that as the origin of the right of property; and here is the obvious distinction between the right of persons and the right of things. Man has dominion over things; he has no dominion over persons——

Mr. DAVIS. Would the courtesy of the gentleman allow me a word now?

Mr. MORRILL. Certainly.

Mr DAVIS. I will ask the honorable Senator from Maine if he ever knew any property to be recovered in a court of justice upon that law, or ever knew a claim to property to depend on the law which he has just read, in a court of justice?

Mr. MORRILL. We never had any occasion to plead that statute in my part of the country, yet it is always recognized. [Laughter.] This reasoning of the honorable Senator is not new. He will not suspect me of running any offensive parallel here; but I will read from another work which not only recognizes the reasoning of the honorable Senator, but recognizes the principle to which I refer. Here is the reasoning of the spirit of evil, as told by the angel Michael to Adam, according to England's great poet. It ran in this wise. He was relating to Adam what should take place after the fall, and he says:

"Till one shall rise
Of proud ambitious heart; who, not content
With fair equality, fraternal state,
Will arrogate dominion undeserved
Over his brethren, and quite dispossess
Concord and law of nature from the earth;
Hunting (and men not beasts shall be his game)
With war and hostile snare such as refuse
Subjection to his empire tyrannous:
A mighty hunter thence he shall be styled
Before the Lord; as in despite of Heaven,
Or from Heaven, claiming second sovranty;
And from rebellion shall derive his name,
Though of rebellion others he accuse."

Now, let us hear the answer:

"Whereto thus Adam, fatherly displeased:
O execrable son! so to aspire
Above his brethren; to himself assuming
Authority usurp'd, from God not given:
He gave us only over beast, fish, fowl,
Dominion absolute; that right we hold
By his donation; but man over man
He made not lord; such title to himself
Reserving, human left from human free."

Mr. HOWARD. That was a Republican poet.

Mr. MORRILL. Yes, sir; a Republican poet.

Mr. DAVIS. Not a Black one, though.

Mr. MORRILL. I only state in opposition to the notions of the honorable Senator what every lawyer knows to be the common learning of the law, and that is the distinction between persons and things. Things were subjected to the dominion of man: persons, never, never. Whenever a man sets up dominion over man he departs from the law of nature; and allow me to say to the Senator that the law of nature is never repealed. Men may disregard it as in the instances he refers to; communities may disregard it; but the law stands. The honorable Senator is extremely unfortunate in his illustrations from the Constitution. In furtherance of his argument that the Constitution recognizes property in man, he cites us to the fact that the framers of the Constitution, as he says, authorized the slave trade until 1808. Not at all. They did not control it; they did not deny it; in other words they did not make provision against it until 1808. They found the evil; and, in other words, they permitted it to exist. They did not sanction it, or authorize it.

The other illustration drawn from the same instrument is equally unfortunate; and that is, the authority in the Constitution, or the duty, if you please, in the Constitution for one State to return fugitives escaping from another State, or not to make any law prohibiting it, as it is suggested to me. Return what? Return property is the inference from the argument of course; but what is the fact? "Persons" escaping from service from one State into another are to be returned, clearly negativing the presumption that they were to be regarded as property. The distinction for which we contend, and the distinction which relieves this case from all difficulty whatever, and which renders it impossible for one to raise a constitutional difficulty in the case is, the common learning of the law; a distinction which runs through all jurisprudence of all civilized and Christian nations—a distinction between the rights of persons and rights of property.

Now, sir, I have accomplished all I desire; and this much it seemed to be needful enough to say in reply to the argument of the gentleman that there is really a constitutional difficulty in the way of passing the bill, either as regards the power of Congress over it, or as regards its operation on the relation of masters and slaves.

Mr. McDOUGALL. It is nearly five o'clock. I should like to make some few remarks on this subject. I am suffering somewhat from a severe attack of neuralgia and would prefer saying what I have to say to-morrow; but I will go on if the Senate desire to take a vote to-night.

The PRESIDENT *pro tempore*. Does the Senator make a motion?

Mr. WILSON, of Missouri. I move that the Senate do now adjourn.

Mr. GRIMES. I do not object to the adjournment; but I wish the Senate to remember that to-morrow, by special assignment, is set apart for the transaction of business relating to the District of Columbia.

Mr. McDOUGALL. I will go on, then, now.

Mr. GRIMES. I am willing to adjourn, if it is understood that this subject will be taken up the day after to-morrow.

Mr. McDOUGALL. I will go on with my remarks.

The PRESIDENT *pro tempore*. The Senator from Missouri moves that the Senate do now adjourn.

Mr. MORRILL. I hope not.

Mr. TRUMBULL. Let us have the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. McDOUGALL. I ask my friend to withdraw the motion. I will go on now.

Mr. WILSON, of Missouri. I withdraw the motion.

The PRESIDENT *pro tempore*. The motion is withdrawn, and the Senator from California is entitled to the floor.

Mr. McDOUGALL. I should have preferred very much to present the few remarks I desire to address to the Senate on this subject under circumstances when I could feel myself altogether capable of presenting my views definitely, clearly, and to my own satisfaction, so that I should be thoroughly understood by Senators to whom I address myself. I am laboring under much embarrassment; for some days past I have suffered from severe indisposition, which interferes very much with my capacity of thinking, and even of stating what I do think.

However, sir, this is not with me a very complicate subject. I will state in the first place, that I regard the——

Mr. MORRILL. Of course, it is the furthest thing possible from me to compel the Senator to proceed.

Mr. McDOUGALL. I have commenced now, and am ready to proceed, if the Senator desires to have a vote this evening. However, I am assured by Senators about me that a vote cannot be had, and probably we might as well adjourn.

The PRESIDENT *pro tempore*. Does the Senator yield the floor to the Senator from Maine?

Mr. McDOUGALL. Yes, sir.

Mr. MORRILL. Although extremely solicitous to come to a vote this evening, yet, if there are other persons who desire to speak, or if the honorable Senator himself does not incline to speak at this hour——

Mr. McDOUGALL. I will state to the Senator from Maine that as I have taken the floor to address the Senate, I will, as other Senators object to postponement, endeavor to conclude my remarks now, although from severe pain I may express my views obscurely.

Mr. MORRILL. Very well, then; it is optional with the Senator.

Mr. McDOUGALL. Mr. President, I regard this measure as I have regarded all measures bearing upon the same subject introduced into this Senate, as inopportune at this time. In saying that I regard them as inopportune, I intend to express no opinion as to their several merits. There are many measures that I would vote against at this session of Congress on the ground that this was not the time to present or consider them. This I regard as one of those inopportune measures, not necessarily, however, as governing my conduct in the same direction.

Again, sir, I think that during this session of Congress there have been hurried upon the Senate imperfect, unmatured measures, measures undertaking to administer vast interests, which in any other council of Government where laws were to be established would have commanded the gravest and most deliberate consideration and complete and exact legislation. A great deal of immature legislation has been presented for our action, and of those measures, this bill, as it is presented to the Senate, is a specimen.

As for the power of Congress to abolish slavery in the District of Columbia, I think there cannot, at this time, be any question. That the power belongs to this Congress, to the Government here, I think is unquestionable as a question of power. Slavery is a creature of positive law; and when the law whereby the master has the right of manucaption, the right of power over the subject slave, is repealed, slavery ceases. That is unquestionably the law. We have the general administration of the laws of the District. We have the right—that is, the legal right—to abolish slavery in the District at any time we please. This cannot be matter of argument. I have no scruples or trouble on that subject.

But, sir, as I have had occasion to say frequently in the Senate, I have thought it wise that all these disturbing questions should be postponed to some time after we have conquered our imminent difficulties. When we have disposed of the enemies of the Republic arrayed against us in the field, in the effort to accomplish which we want all the united opinion we can bring to bear about and in support of the Government; when with that united opinion we have hurled down treason, and reëstablished the power of the Government throughout the Union, then would be the time to take up and consider these matters of local legislation which have been thrust on us with hurried haste.

Now, so far as slavery in the District of Columbia is concerned, it is a positive evil. I know it. We all know it. We have neither free labor nor slave labor in the District. We have neither the benefit of one system nor the other. We are hybrid in our relation to service of any kind, or the employment of labor here. This is an evil that ought to be corrected. While this is my opinion, it is also my opinion that this is not the time to correct it. Whenever the proper time should have come, in my judgment, for the abolishment of slavery in this District, I would have been found its earnest advocate. I would have avoided it now; but as it is brought forward, I will meet it to-day. I am for meeting it, however, as wisely as I can. I am not for inconsiderate measures calculating none of the contingencies that belong to such important legislation.

This bill, as it is now presented, is a simple declaration of the immediate right of all persons held to service and labor in the District to be manumitted. In the first place, apart from its operation on the individual rights of owners, and saying nothing of that, one patent fact is, that, according to the latest statistical information we have, there are sixteen hundred persons held to service in the District under fifteen and over fifty years of age—persons who, either from youth or old age, are unfit and unable to maintain themselves. How does this measure, said to be a beneficent measure, provide for them? By the law now in force, the old and young have a legal right to protection and support from the persons who hold them. There are sixteen hundred of them who will be immediately set free by this bill, and all the relations between master and servant immediately dissolved. Did the gentlemen who projected this bill consider that the moment they pass this law, they must provide—if not in this bill—for establishing places and providing clothing, subsistence, and the entire support of about sixteen hundred persons in this District, on account of their youth or old age, independent of those who may be, from disease or other causes, unable to sustain themselves. Are we prepared to build an establishment here larger than our Treasury building, larger and more extensive than our Treasury and Post Office buildings, as quarters for the young, old, and indigent, besides assuming the burden of their clothing, subsistence, and management?

The result of this legislation has not been considered. No such measure as this should be adopted without great consideration and without particular legislation. While I am prepared to go as far as I think any prudent person can in favor of establishing free institutions here, and

relieving the District of an institution that is an incubus, I am for doing it in some legitimate mode. My attention was called some days since to the measure introduced as a substitute for this bill by the Senator from Indiana. I examined it section by section. I found it a carefully devised bill. I found it, if not a complete, a careful remedy for the evil—for the disease which it was proposed we should cure. It was prepared by a person familiar with the condition of the disease as it in fact exists. The gentleman from Maine is a physician, probably, of all the diseases in the political system that exist in the State of Maine. He does not understand the political diseases that exist on the banks of the Mississippi. The same difficulty exists in politics that exists in medical science. Take a physician from the State of Maine and set him down to prescribe for fevers on the banks of the Mississippi, and he would kill most of his patients. He does not understand the climate or the diseases of the country. When you come to prescribe for diseases that are local in their character, it requires some person who understands the climate and the conditions of the country where the disease has originated, and where the medicine is to be administered. I undertake to say that skilled physicians have not prescribed the remedy contained in this bill, and that its application would be extremely mischievous. Without undertaking to elaborate an argument on the subject—for I am not historical, as is the Senator from Kentucky, nor poetical, as is my friend from Maine——

Mr. POWELL. With the permission of the Senator from California, I will move that the Senate do now adjourn.

The PRESIDENT *pro tempore*. Does the Senator from California yield the floor?

Mr. McDOUGALL. Yes, sir.

The PRESIDENT *pro tempore*. It is moved that the Senate do now adjourn.

Mr. WILSON, of Massachusetts. Let us have the yeas and nays.

The yeas and nays were ordered.

Mr. POWELL, At the instance of the Senator from California, I withdraw the motion.

Mr. McDOUGALL. If any Senator insists upon it, I shall proceed to finish my argument.

Mr. BROWNING. I dislike to see the Senator, when he is manifestly, and has so informed us, very much indisposed, too unwell to go on this evening, forced to proceed with his remarks. While I am very anxious to have a vote on this bill, I think it is a courtesy we ought to extend to the Senator.

Mr. MORRILL. I am willing to extend any courtesy——

The PRESIDENT *pro tempore*. Does the Senator from California yield the floor? The floor is at the control of the Senator from California.

Mr. McDOUGALL. Yes, sir.

Mr. MORRILL. I certainly intended to extend that courtesy——

Mr. McDOUGALL. I so understood the Senator from Maine.

Mr. MORRILL. But I understood the Senator to say he was disposed to go on to-night.

Mr. McDOUGALL. I will endeavor to close to-night, if any one objects to a postponement.

Mr. MORRILL. If the Senator has any wish on the subject——

Mr. McDOUGALL. I am suffering from indisposition; but I will endeavor to go on.

Mr. MORRILL. If the Senator desires to yield the floor——

The PRESIDENT *pro tempore*. The Senator declines to yield the floor.

Mr. POWELL. The Senator yielded to me because he wished an adjournment.

The PRESIDENT *pro tempore*. The Chair understood the Senator to withdraw the motion.

Mr. POWELL. I did after he indicated a wish not to adjourn.

Mr. MORRILL. If the Senator from California will allow me a word, I understood him to say he was perfectly disposed to go on to-night, and rather preferred it. I saw the solicitude of the Senator from Kentucky, and that the motion was made at his request was the only reason I offer for opposing the adjournment. Now, if the honorable Senator from California desires an adjournment, I do not object.

Mr. McDOUGALL. Allow me to say to the Senator from Maine that if there is any particular motive for proceeding now, I am willing to continue. I always make it a rule not to delay action in the Senate myself, and I will go on if it is supposed it will promote the business of the Senate. If any Senator makes an objection to a postponement, and thinks it will promote business to go on, I will go on now.

Mr. MORRILL. We were extremely desirous to take a vote on this bill to-night.

Mr. McDOUGALL. Then I will go on and finish my remarks.

Mr. SAULSBURY. With the consent of the Senator from California, I will say it it is impossible to finish this bill to-night, because I know the fact that my colleague intends to speak upon it.

Mr. MORRILL. I am informed of that fact.

The PRESIDENT *pro tempore*. As no motion to adjourn has been interposed, the Senator from California will proceed.

Mr. BAYARD. I move that the Senate adjourn, if it is necessary to make the motion.

Mr. McDOUGALL. I yield the floor for that purpose.

The motion was agreed to; there being on a division—ayes 21, noes 10; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *April* 2, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

WAR CLAIMS.

The SPEAKER laid before the House a communication from the Secretary of War, transmitting the report of the commission of war claims at St. Louis; which was laid upon the table, and ordered to be printed.

Mr. WASHBURNE moved that ten thousand extra copies of the report be printed.

The SPEAKER. The motion, under the rules, will be referred to the Committee on Printing.

EMANCIPATION.

Mr. WASHBURNE. I move that two thousand extra copies of the President's message, recommending Congress to pass a resolution in reference to the emancipation of slaves be printed. I understand that they are much sought after by the people of the border States, who are deeply concerned in this subject.

The SPEAKER. The motion, under the rules, will be referred to the Committee on Printing.

UNITED STATES MILITARY DEPARTMENTS.

Mr. DUNN, by unanimous consent, from the Committee on Military Affairs, reported a joint resolution extending the provisions of certain acts to the military departments of the United States; which was read a first and second time, ordered to be printed, and recommitted to the Committee on Military Affairs.

REORGANIZATION OF THE NAVY DEPARTMENT.

Mr. SEDGWICK. I ask the unanimous consent of the House to take from the Speaker's table Senate bill No. 171, to reorganize the Navy Department of the United States.

There was no objection, and the bill was taken up and read a first and second time.

Mr. SEDGWICK moved that the bill be referred to the Committee on Naval Affairs.

The motion was agreed to.

SENATE BILLS REFERRED.

Mr. FENTON, by unanimous consent, moved that the House proceed to the consideration of the bills from the Senate upon the Speaker's table for reference.

It was so ordered.

The SPEAKER laid before the House the following Senate bills; which were severally read a first and second time, and referred as indicated below:

A bill (No. 235) providing for the organization of army corps, and of staffs attached to corps, and divisions of the Army of the United States—to the Committee on Military Affairs.

A bill (No. 103) for the relief of John Skirving—to the Committee of Claims.

A bill (No. 177) for the relief of Sylvester Crooks—to the Committee of Claims.

A bill (No. 207) for the relief of L. F. Carter for services rendered in surveying the public lands in the State of Oregon—to the Committee on Public Lands.

A bill (No. 225) for the relief of the owners, officers, and crew of the Spanish bark Providencia—to the Committee on Foreign Affairs.

A bill (No. 220) for the relief of James Pool—to the Committee of Claims.

A bill (No. 241) to change the location of the port of entry for the Puget Sound collection district—to the Committee on Commerce.

A bill (No. 243) changing the name of the American-built schooner Curtis Mann to that of Supply—to the Committee on Commerce.

A bill (No. 242) changing the name of the American-built schooner Tom Dyer to that of Dolphin—to the Committee on Commerce.

ASSIGNMENT TO COMMAND.

The SPEAKER also laid before the House a joint resolution (S. No. 68) to authorize the President to assign the command of troops in the same field or department to officers of the same grade without regard to seniority; which was read a first and second time.

Mr. BLAIR, of Missouri, moved that the bill be put on its passage.

Mr. FENTON moved that the bill be referred to the Committee on Military Affairs.

The latter motion was agreed to.

STAR OF THE WEST.

The SPEAKER also laid before the House a joint resolution (S. No. 67) in relation to the claim of Marshall O. Roberts for the loss of the steamer Star of the West; which was read a first and second time.

Mr. FENTON moved that the resolution be referred to the Committee of Claims.

Mr. SEDGWICK moved that it be referred to the Committee on Naval Affairs.

Mr. FENTON. It is a claim for the loss of a steamer in the service of the United States, and ought to be referred to the Committee of Claims.

Mr. SEDGWICK's motion was disagreed to.

The bill was referred to the Committee of Claims.

MESSAGE FROM THE SENATE.

The SPEAKER. The Senate ask the return of House bill No. 318, to prohibit the allowance or payment of pension to the children of officers and soldiers of the war of the Revolution.

Mr. STEVENS moved that the request of the Senate be complied with.

The motion was agreed to.

ILLINOIS AND MICHIGAN CANAL.

Mr. KELLOGG, of Illinois, by unanimous consent, presented the resolutions of the constitutional convention of Illinois in favor of the improvement of the Illinois and Michigan canal and the Illinois river; which were referred to the Committee on Military Affairs, and ordered to be printed.

WAR CLAIMS—AGAIN.

Mr. WICKLIFFE. I desire to ask whether the report of the commission on war claims at St. Louis, ordered to be printed this morning, embraced the evidence taken.

Mr. WASHBURNE. It does not. The reporter was sick, and was unable to write out the evidence. I presume that it will be printed when it comes in.

CONTUMACIOUS WITNESS.

Mr. DAWES. I rise to a privileged question. At the instance of the committee on Government contracts, a subpena was issued by the Speaker of the House on the 11th of March, 1862, to Aaron Higgins, among others, of Boston, Massachusetts, summoning him to appear before that committee at the United States Hotel, Boston, Massachusetts, forthwith. It was served on the same day, but the party refused to appear; and I am now directed by the committee on Government contracts to ask that an attachment issue against Aaron Higgins, for the purpose of bringing him before the bar of this House to answer for contempt of its authority.

The SPEAKER. The gentleman must submit a resolution in form.

ASSIGNMENT TO COMMAND—AGAIN.

Mr. OLIN. I ask to have entered a motion to reconsider the vote by which Senate joint resolution (No. 68) to authorize the President to assign

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. FRIDAY, APRIL 4, 1862. NEW SERIES.....No. 95

the command of troops in the same field or department to officers of the same grade without regard to seniority was referred to the Committee on Military Affairs.

ROBERT M. WINSLOW.

Mr. RICHARDSON, by unanimous consent, from the Commtitee on Military Affairs, reported a bill for the relief of Robert M. Winslow; which was read a first and second time, referred to a Committee of the Whole House on the Private Calendar, and with the accompanying report, ordered to be printed.

RESOLUTIONS OF MAINE.

Mr. RICE, of Maine, by unanimous consent, submitted joint resolutions of the State of Maine, in reference to extending pecuniary aid to States abolishing slavery; and in relation to the collection of internal revenue; which were laid upon the table, and ordered to be printed.

SALE OF ANNUITIES.

Mr. DIVEN, by unanimous consent, introduced a bill to authorize the sale of annuities for life, and to fix the value thereof; which was read a first and second time, and referred to the Committee of Ways and Means.

RECIPROCITY TREATY.

Mr. PIKE, by unanimous consent, submitted joint resolutions of the State of Maine, in relation to the reciprocity treaty; which were laid upon the table, and ordered to be printed.

ASSIGNMENT TO COMMAND—AGAIN.

Mr. OLIN. There being no objection, I call up my motion to reconsider the vote by which Senate joint resolution No. 68 was referred to the Committee on Military Affairs.

On a division, there were—ayes forty-seven, noes not counted.

Mr. OLIN demanded tellers.

Tellers were ordered; and Messrs. PHELPS of California, and CLARK were appointed.

The motion to reconsider was agreed to, the tellers having reported—ayes 67, noes 25.

The resolution provides:

That whenever military operations may require the presence of two or more officers of the same grade in the same field or department, the President may assign the command of the forces in such field or department without regard to seniority of rank, and he may dismiss from the service, at his discretion, without the sentence of a court-martial, any officer of the Army, when in his judgment the efficiency of the service will be promoted thereby.

Mr. WASHBURNE. I do not know that this bill is not right, but I desire that its provisions may be thoroughly understood before it is passed. It may be that it will involve serious consequences. I hope that it will lie over until to-morrow.

Mr. WICKLIFFE. I desire to move the reference of this resolution to the Committee on Military Affairs, and I will state my reasons for that motion. I do not know of any possible case which is likely to arise in which the exercise of this power can be beneficially exercised. I only know of two major generals in the service of equal grade whose commissions are of equal date; there may be other officers to whom properly this bill can apply, and I am inclined to think that some reflection ought to be had before we vest this power in a President of the United States, however competent he may be. I do not know that an occasion has heretofore occurred where such a discrimination or power has been necessary to be made or given. I know that an officer of senior grade might be thus suddenly set aside in the face of the enemy, and thus be deeply wounded and mortified. What effect it might have upon his honor, of course, I cannot say; but it seems to me that were I a senior officer in command, and were thus, without cause and without reflection, suddenly superseded, I should consider it equivalent to censure, and would lead to a prompt resignation.

I hope, therefore, the gentleman will not press this matter upon the House now. My opinion is that, in our legislative capacity, we have taken too much control and management of the Army of the United States now in the field. I would like to know of the member who presses this measure what use is to be made of this power. I say Congress has assumed too much power in this respect; too much in the management of the Army and conduct of the war. Whenever a general has violated a rule or article of war, if he has issued an order which does not suit the political views of gentlemen in this House, instead of leaving his punishment, if guilty, to the administration of the War Department, Congress essays to assume the duties of the Executive. We have created a very able committee of both Houses to superintend, if not to take charge of the management and conduct of the officers and of the war, and they are to report to the House their actings and doings, implying thereby that the Executive, the head of the Army, will not do his duty unless he is goaded to it by the two Houses by a joint committee, or may not be able to control the operation of the Army unless watched and overseen by this House or its committee.

Now, sir, we have a law which regulates the Army of the United States, and by that law the senior officer in the field is entitled to command. If he is not fit for the command he ought not to be sent into the field. The officer in command has his plans and his measures completed, and just before an advance upon the enemy some power unseen or behind the throne is put in operation, and the officer in command is superseded by an officer not his superior in rank or grade. What act of indignity and outrage might not be committed upon an officer who had a just pride of character or a desire for military fame in that hour of trial? You had better dismiss such a man for incompetency, and without trial, than thus to supersede him in the field and degrade him in his own estimation and in the estimation of his brother officers. I hope the House will not pass this bill without more deliberation at least. Let Congress keep its hands off the operations of the Army. Furnish the means, furnish the men, and let the Executive authority take care of Army operations. When Congress does this their constitutional duty will be discharged in the premises. Do not, however, invite him to do wrong by giving a power which may be exercised to the injury of the *esprit de corps* of the officers.

Mr. OLIN. I have no disposition, of course, to force a measure of this description through the House, until the House, by attention to this subject, shall fully understand it, and be able to vote understandingly upon it. But I am persuaded that so soon as the House does understand and comprehend the measure, there can be, of necessity, no possible objection to it.

The resolution simply proposes that whenever military operations may require the presence of two or more officers of the same grade in the same field or department, the President may assign the command to either of them.

Mr. BIDDLE. Is it provided that he may assign the command to either of them?

Mr. OLIN. To either officer of the same grade.

Mr. BIDDLE. Is that the language of the act?

Mr. OLIN. The language is:

"Whenever military operations may require the presence of two or more officers of the same grade in the same field or department, the President may assign the command of the affairs in such field or department, without regard to seniority of rank."

Mr. BIDDLE. Allow me to interrupt the gentleman once more. The meaning and intent of this bill are by no means clear to me. I desire to call the attention of the gentleman who is about to explain the object of it, to the singular ambiguity of the language in which it is expressed. The law does not read as the gentleman conveyed his impression of it to the House. It says, if there are two officers of the same rank in the field, the President may assign the command not to either of them, but to any one without regard to seniority of rank.

Mr. OLIN. It says no such thing.

Mr. BIDDLE. I do not say that is the intention of the bill, but that its loose language admits of that construction.

Mr. OLIN. It does not say any such thing. The law simply says that "where there are two or more officers of the same grade"—does the gentleman understand that?

Mr. BIDDLE. I do, that part of it.

Mr. OLIN. "The President may assign the command without regard to seniority of rank." What does that mean? Simply this: suppose there are three major generals in the same department, one commissioned to-day, one yesterday, and one the day before, the President may assign the command to either of those major generals, without regard to the date of their commissions. That is all plain.

Mr. BIDDLE. That is what I think is not expressed in the act. I say, the act is not plain, but obscure and ambiguous; the intention of it is not clearly expressed.

Mr. OLIN. Certainly it is.

Mr. COX. I want to ask the gentleman from New York a practical question in reference to the effect of the resolution upon certain generals now in the field. Does the bill give the President the power or the right, at any time, to place over General McClellan, either General McDowell or General Frémont, or any other general commanding in any part of the United States, or only in the same department?

Mr. OLIN. It is claimed by some that General Frémont ranks General McClellan. Their commissions bear date the same day. General Frémont when he was in the Army and before he resigned held a rank superior to that held by General McClellan at the time of his resignation from the Army. So some of his friends claim—and perhaps with justice—that being of higher grade in the Army when he resigned, and his commission bearing the same date with that of McClellan, that he ranks McClellan, and that whenever these two generals should come into the same department, that he would be entitled to the command.

I will give another illustration of the same matter. Major General John E. Wool is major general by brevet. He bears that brevet commission from 1847, and when in the field and in command, according to his brevet rank, he is to all intents and purposes a major general, and I think he should be in command of the forces now at Fortress Monroe, in his department. My opinion is that he should be in such command, according to the rules and regulations of war. But the President thinks differently, and he thinks that the army that has now gone there (I suppose I state nothing which is not publicly known) should be still commanded by McClellan, although they go into the department of which Major General John E. Wool is the commanding officer.

Mr. RICHARDSON. I want to suggest to the gentleman from New York that he has fallen into an error. I wish to say that *brevet rank* confers no command.

Mr. OLIN. I say it does, as I understand it.

Mr. RICHARDSON. I say it does not

Mr. OLIN. It not only does confer rank, but whenever he is in command, according to his brevet rank, he draws pay as major general according to his brevet rank; but it is by no means a settled question in military law, whether, by virtue of his brevet rank, when he comes into the field with a major general appointed since he held the brevet rank, he ranks him and is entitled to supreme command. Without taking any part in this controversy as to who is right, it is to obviate like difficulties that this bill is before the House to-day.

Mr. ROSCOE CONKLING. I wish my colleague would state to the House whether the President has not now the power, when the occasion occurs, to assign to a given command one general who is ranked by another in the same department?

Mr. OLIN. I will answer the gentleman with pleasure so far as I understand him. I have not examined carefully the regulations and articles of war, but in conversation with Secretary Stanton—I suppose I may say that much—I understood

from him that under the existing rules and regulations of war the President might to-morrow assign to the command of the army of the Potomac the colonel of any volunteer regiment in the service if he saw fit to do so. I suppose he has that authority, and the reason for the passage of this law is that he may exercise this authority at least in pursuance of law, and thus set aside at once all heart-burning or contention upon this subject of rank, which is often a most difficult and embarrassing one, and one of frequent occurrence.

Mr. ROSCOE CONKLING. What is the authority by which he does it now?

Mr. OLIN. His authority as Commander-in-Chief of the Army. By virtue of that absolute authority that the Commander-in-Chief of the Army must of necessity have, the President may assign to the command of any division of the Army any person in the service, if he sees fit.

Mr. MALLORY. We did not hear the gentleman from New York very distinctly in this part of the House. Did I understand him to say that as the Army regulations now stand, it is claimed by the Secretary of War that the President of the United States, as Commander-in-Chief of the Army, can assign to the command of any department any colonel in the Army he chooses, and make him outrank a major general?

Mr. OLIN. I so asserted. I so understood the Secretary.

Mr. STEVENS. Well, if that be the case, I should like to know the necessity for this law, unless it is to direct the President to do a particular thing?

Mr. OLIN. I have already stated, if the gentleman had listened to me, that the necessity and the propriety of it is this: the exercise of such authority would be pretty arbitrary and well calculated to give uneasiness to every officer over whom another of his rank is placed. The necessity of passing this law is to show the world and the Army that the President acts in pursuance of law.

Mr. RICHARDSON. A question arose between the gentleman from New York and myself in reference to this brevet rank. I desire to call the attention of the House to the Army regulations upon this subject:

"6. Officers having brevets or commissions of a prior date to those of the regiments in which they serve may take places in courts-martial and on detachments, when composed of different corps, according to the ranks given them in their brevets or dates of their former commissions; but in the regiment, troop, or company to which such officers belong they shall do duty and take rank, both in courts-martial and on detachments which shall be composed only of their own corps, according to the commissions by which they are mustered in said corps.

"7. If upon marches, guards, or in quarters, different corps of the Army should happen to join or do duty together, the officer highest in rank of the *line* of the Army, marine corps, or militia by commision, there on duty or in quarters, shall command the whole, and give orders for what is needful to the service, unless otherwise specially directed by the President of the United States, according to the nature of the case."

Mr. OLIN. I will say to the gentleman that that does not alter the proposition at all. It does not change at all the authority of the President in reference to this matter.

I believe I have said now perhaps all that I need say upon this subject. If the House is not prepared to vote upon this proposition—one which I understand to be of pressing exigency, and calculated to facilitate the management and control of the Army in the various military departments of the Government—I have no objection, I am sure, that its consideration should be assigned to some future day.

Mr. COX. I think the gentleman can remove a misapprehension, or rather an apprehension, about the effect of this resolution. If I understood the drift of his remarks a moment ago, he gave us to understand that the object of this resolution was to allow General McClellan, if the President so willed it, to command in General Wool's department.

Mr. OLIN. No; I did not.

Mr. COX. If it became necessary.

Mr. OLIN. No, I did not; the gentleman misunderstood me.

Mr. COX. I understood the gentleman to say that that would be the effect of it.

Mr. OLIN. No, I do not know that that would be the effect of it. The gentleman certainly misapprehended me. I stated, as an illustration of what might occur under this resolution, that as I understood the military regulations, I supposed that General Wool was entitled, by virtue of his brevet commission as major general, to command in that department until removed by the President. Now, that is denied on the other hand. Both the President and the Secretary of War, without deciding that question at all, without going into a conflict of claims in reference to it, want authority to assign to the command of the army of the Potomac whoever they choose—of officers of the same grade, I mean.

Mr. COX. I would suggest to the gentleman from New York, as the resolution is not very fully understood by the House, and as I believe from reading it carefully there is the ambiguity in it that was pointed out by the gentleman from Pennsylvania, [Mr. BIDDLE,] that it be referred again to this committee, to be reconsidered by them. The last sentence reads:

"The President may assign to command of the forces in such field or department without regard to seniority of rank."

Mr. OLIN. What does seniority of rank mean? Simply the date of commission, does it not?

Mr. COX. Yes; the date of commission in the whole line of the Army.

Mr. OLIN. It means the date of the same grade, does it not?

Mr. COX. It reads "the same grade" in the first part of the resolution, but the term "without reference to seniority of rank" seems somewhat doubtful. I think a proviso might be added to remove that ambiguity, and I think, therefore, the gentleman had better let it go back to his committee. At any rate, it proposes an important change in our military system, and to give additional and arbitrary power to the President, which we ought to be careful about giving just at this time.

Mr. OLIN. I will now call the previous question unless some gentleman desires to make any further inquiry.

Mr. ROSCOE CONKLING. Will my colleague yield to me for a few moments?

Mr. OLIN. I will do so.

Mr. RICHARDSON. I object to this yielding of the floor.

Mr. ROSCOE CONKLING. Then if my colleague will yield the floor unconditionally I will demand the previous question.

Mr. OLIN. I yield the floor.

Mr. ROSCOE CONKLING. I am very desirous to vote for every bill necessary to quicken or expedite in any way the military operations of the Government. I am willing at this late stage, as I hope it is, of the present war, to vote for bills radically and partially to reorganize the Army, or different parts of the service, in general or in detail. But I confess that, with the light which has been thrown upon the present measure, I am entirely unable for one to see its necessity, or even to see clearly the propriety of reaching the point in this way, even if there be some tangible aim in view which has not been avowed.

If I understand aright my colleague who has the management of this bill, he says that under the rules and articles of war as they are now, the President of the United States, as Commander-in-Chief of the Army, has the very power which he seeks to impart to him anew. These rules and articles of war, if I understand the matter, taken together, have the authority of an act of Congress. Nothing more and nothing less. I have here the last revision, which was in 1861, approved on the 10th of August, 1861. By operation of law the rules and articles of war thus revised and approved are part and parcel of the statutes of the country.

Now, the admission of my colleague is, in so many words, that the President of the United States has now, by virtue of authority equivalent to act of Congress, precisely, absolutely, and, to use his own expression, necessarily, as Commander-in-Chief, the very power which it is sought to give him. Well, sir, if this be so, I submit to my colleague, and to the House, that the resolution falls to the ground. It has seemed to me of late that upon slight cause, upon vague suggestions, we have fallen into a habit of legislating change after change, some of them radical, some not so radical, in the existing military organization of the country.

Now, if this power, which the President is admitted to possess, is cramped, if he has it only *cum onere*, if he has it only in certain contingencies, and if it is desired to amplify it, that is quite another thing. But if he has the power absolutely, to be exercised whenever occasion requires—as I understand my colleague to affirm, giving the Secretary of War as authority—and if, as my colleague adds, he has it necessarily, then he has it under the rules and articles of war, which stand on a par with, and, indeed, stand as part of, the legislative enactments of the country, and that is enough.

Mr. WADSWORTH. Does the gentleman from New York deny the proposition of his colleague?

Mr. ROSCOE CONKLING. No, sir; I do not feel at liberty to deny it, because when a proposition is stated by my colleague, as a member of the Military Committee, I presume he states it advisedly. I do not profess to know myself what is, in this behalf, the latitude of the President's authority. I have had no opportunity to examine it.

Mr. BLAIR, of Missouri. Will the gentleman permit me to state what I conceive to be the distinction in regard to this matter?

Mr. ROSCOE CONKLING. Certainly.

Mr. BLAIR, of Missouri. The President cannot, under the articles of war, assign an inferior officer to command a superior officer; but he may assign an inferior officer to a specific duty, which, however, would not enable him to outrank a superior officer.

Mr. ROSCOE CONKLING. The statement which I understand the gentleman from Missouri to make is, that the President, as Commander-in-Chief, has the power to assign an officer of inferior rank to a specific duty—that is, for the execution of specific orders—but that he has no right to give him a discretionary command which would enable him to outrank a superior officer.

Mr. BLAIR, of Missouri. That is my understanding.

Mr. ROSCOE CONKLING. I understood my colleague to say that the statement he made was in accordance with the understanding of the Secretary of War; the gentleman from Missouri and my colleague refute each other, and it is painful to see gentlemen, so distinguished as civilians and military chieftains, differ with each other.

Mr. BLAIR, of Missouri. I do not think that we differ. I understood the statement of the gentleman from New York [Mr. OLIN] to be in the same sense which I have endeavored to convey to the House.

Mr. ROSCOE CONKLING. Then I am sure that the gentleman from Missouri did not understand the statement of my colleague as the House understood it. But, take it either way. I want to make this remark on the statement of the gentleman from Missouri. If these articles of war, which are the accumulated wisdom and the result of the accumulated experience of many men, which are the products of several wars, of the military experience of the country several times tested, which are drawn also from the experience of military Governments abroad, if these articles of war have been left thus long providing for assigning commands only to the extent suggested by the gentleman from Missouri, then I will venture to suggest, without subjecting myself I hope to the imputation of being what is called in the House a "military critic," that there is some excellent reason for it existing all this time, and that it has not been left to be discovered suddenly, casually, now in this year of grace, that it is necessary for the Commander-in-Chief of the Army to have some power more absolute than has ever before been assigned to a Commander-in-Chief.

Mr. BLAIR, of Missouri. The rules and articles of war are adapted to an old army, in which rank has been well defined; but the present condition of things is very different from that which existed at the time they were made, or that existed in the country from which they were borrowed. We have an Army drawn together hastily. Many officers of the same grade were appointed on the same day, and have the same date of commission; and questions have arisen as to priority between such officers, which make it necessary that this power should be defined. We think it essential. For instance, it may be the case that three major generals, holding commissions of the same date, may come together in the same field. That case may be existing now; and there may be a doubt which of these three major generals is commanding in the face of the enemy.

Mr. ROSCOE CONKLING. Does the gentleman think that that is peculiar to our service?

Mr. BLAIR, of Missouri. I do think it is. I think it peculiar to such a case as we have here. A number of our generals have been appointed on the same day, a thing which hardly ever occurs in any nation but our own, because, in other services, commissions of general officers range through a long series of years, and rank is settled by the facts of the case. In our service we have a number of major generals made on the one day.

Mr. DAWES. I would like to ask the gentleman from Missouri what difficulty would there be in arranging as Floyd and Pillow and Buckner did?

Mr. BLAIR, of Missouri. I should dislike very much that officers in our Army should have to arrange in that way.

Mr. ROSCOE CONKLING. I have endeavored to appreciate the force of what the gentleman from Missouri says. His statement, if I comprehend it, divides itself into two bearings on this subject. In the first place he says that a number of officers of like rank have been appointed on the same day, and that their commissions bear the same date. My answer to that is that this act is totally inapplicable to every such case—because the proposition here is said to be to enable the President to give to an inferior officer—not an officer of the same rank, at any rate, not the same date of rank—precedence of a superior officer, or one of older date.

Mr. BLAIR, of Missouri. The gentleman is mistaken as to the purport of the resolution. It does not do any such thing. It requires, in the first place, that the officer shall be of the same grade. It applies only to the point of seniority.

Mr. ROSCOE CONKLING. Do I understand the gentleman from Missouri to assume in his proposition that the President has now the power, under these articles of war, to assign an officer in a department to the command of that department, as against an officer of the same rank, but of greater seniority in commission?

Mr. BLAIR, of Missouri. Certainly he has.

Mr. ROSCOE CONKLING. Then I repeat that this act has no sort of reference to the case which the gentleman puts. And why? Because if the officers are created on the same day, unless in rare exceptional cases, there is no seniority as between them, and then the gentleman confesses that the President has the power now to assign just what officer he pleases to the command. Now, if so, it is always so except in the case which this bill is intended to provide for. What case is that? It is the case spoken of on the 9th page of the Army Regulations, where two men are appointed on a given day to a given rank, and where one, in his previous connection with the Army, held a rank superior to that held by the other. In that case, the one outranks the other, and I did not until now understand the object avowed to be to reach any such exceptional case as that.

Mr. OLIN. Will my colleague yield to me?

Mr. ROSCOE CONKLING. Certainly.

Mr. OLIN. I desire to say that it is by no means a certain proposition that because a man may have held a colonel's commission in the Army and resigned, and been afterwards appointed from civil life, he outranks an officer of the same grade who may have previously held a captain's commission, resigned, and been appointed from civil life. I only alluded to this as a matter of claim, and if I failed to throw light on the subject, the gentleman need not make me say what I do not say, or make me assert as military law what is not conceded to be military law by anybody.

Mr. ROSCOE CONKLING. Now, Mr. Speaker, if these two distinguished gentlemen from the Military Committee have not demonstrated the impossibility of seeing on this showing the use of the bill, I am no judge of the weight of argument. Just look at what they say. The distinguished gentleman from Missouri says that the bill is intended to reach a case where, owing to the fact that one officer's preceding commission was higher, although the present rank is the same, he is entitled to command as against his associate in rank. That is his case. And my colleague admits that in the case of officers succeeding to their rank on the same day, the rank being the same—and thus far the gentleman from Missouri agrees with him—the President has the undoubted power to assign the command as he pleases. Then there is no case left for this bill to act upon on the joint case made by these two gentlemen. But my colleague says he does not admit even that antecedent rank confers any precedence unless the officer asserting this precedence was not in civil life when appointed, but was then actually belonging to the Army. Now, then, I venture to say there is no such case in the service. I venture to say so because I have heard the general subject discussed, and I have heard no such case cited.

Mr. OLIN. I ask my colleague to allow me to say that it would seem to any one who had casually read the bill that there could be no mistake as to what its object was, or to what class of officers it would apply. It was designed to apply to to every major general in the Army, without regard to the date of his commission, when two or more major generals came into the same department. It was designed to apply to every brigadier general of the Army, without respect to the date of his commission, whenever two or more brigadier generals came into the same department of the Army where their commands might otherwise conflict.

Now, the gentleman from New York is entirely mistaken when he supposes the object of this bill was to assign rank as between Major General McClellan and Major General Frémont. The War Department and nobody else, so far as I know, ever anticipated the application of the bill to any such case.

Mr. ROSCOE CONKLING. Do I understand my colleague as stating that I made that suggestion?

Mr. OLIN. I understood the gentleman to say that there was no case to which this bill could apply except where the commissions were issued on the same day, and where one officer who was appointed from civil life formerly held a commission in the Army superior to that of another officer, appointed also from civil life to the same grade, but who held a lower rank at some time in the Army. I understood the gentleman to assert that; and if he did not assert that, I have failed to understand him, or he has failed to make himself so well understood, perhaps, as he fancies he has. But, sir, the object of the bill is simply what I have stated. It applies, as the House will see it must of necessity apply, to a vast variety of cases. Almost all of the commissions of the brigadier generals in the service of the United States now bear date almost at the same time. All of them have been created within a year.

But the gentleman inquires why a provision of this kind should now be presented when the Army Regulations contain nothing of the kind, and they have been in operation substantially as they now exist since the foundation of the Government, when they are the accumulated wisdom not only of this country, but of all European countries. Mr. Speaker, I do not profess to know much upon the subject of military law. It has not been my profession, it has not been my avocation, and I have not had occasion to study or examine this subject, except so far as the discharge of my duties here has called upon me to do so; and in that respect I have done less than I ought to have done. But, sir, it is a singular spectacle to see a gentleman here who I am quite sure knows as little as I do upon this subject assume to instruct the House in a most dogmatic manner upon the subject of military science and military law. I have no feeling upon this subject at all. So far as my feelings could influence my action is this House, I should be disposed, so far as I am concerned, to let certain individuals who present certain claims to rank and command, exercise that rank and command, if the rules and regulations would permit them to do it. I only know that this measure is proposed both by the President and the Secretary of War, for the reason as I have stated, that it will facilitate the organization and march of our troops. It seems to be the object of some gentlemen in this House to embarrass every military measure that comes before this House; and if my colleague chooses to place himself in that category he is at liberty to do so.

Mr. WICKLIFFE. I should like to know whether the gentleman includes me in that remark?

Mr. ROSCOE CONKLING. I believe I am entitled to the floor.

Mr. OLIN. Yes, sir; the gentleman obtained the floor by my courtesy, and occupies it for the purpose of abusing me and the measure which I bring here, and which is recommended by both the President and Secretary of War.

Mr. STEVENS. I rise to a question of order. I submit that it is not in order to invoke the opinion of the President in support of any measure.

The SPEAKER. The Chair sustains the question of order.

Mr. OLIN. Then I suppose it is out of order to discuss in this House any measure recommended by the Administration.

The SPEAKER. The Manual is express in requiring that, in Parliament, the opinion of the King shall not be cited in support or opposition of a measure.

Mr. MALLORY. Does the Chair decide that the President is King? [Laughter.]

Mr. ROSCOE CONKLING. If I did not know as well as I do the goodness of heart of my colleague, I should feel a little hurt at what he has said. My colleague understands as well as any other gentleman that the last thing I want to do is to embarrass the march of the Army or to embarrass the generals or any of the distinguished personages to whom he has alluded. He knows that this is the last thing I would do, unless the last thing is to attempt to embarrass or hinder him in any unfriendly way.

But my colleague speaks of others being dogmatic. I want to ask him when he delivers his next lecture to the House to inform us to what extent precisely we are at liberty to go in considering and discussing the merits of legislative measures proposed for our action. He delivered a lecture the other day to convince the House that no man, unless he was a lawyer, could tell whether another lawyer managed his business successfully or not; and that no man, unless he was a general, and capable of fighting battles himself, could judge at all whether military affairs were ably and successfully conducted. I have no issue with him on this now; but to-day he delivers a lecture to convince the House of the presumption and impropriety of a member who ventures to rise and discuss or ask for light upon an important measure of legislation, which my colleague proposes to put forth with upon its passage. Now, sir, I really hope the next time my colleague assumes the rostrum, and instructs the House, he will define, plainly and specifically, how far we may make objections or indulge in doubts, because, if I can only find out where the lines run, I will keep inside of them.

Now, I want to say to him in good part, and not at all in the spirit which seems to have prompted his remarks, that neither he nor any other gentleman has furnished to the House any good reason for adopting thus hastily this measure. And the little debate which has sprung up on it shows that he and his colleague on the Committee on Military Affairs are entirely at loggerheads in regard to the construction of the law as it stands, and the necessity of the law proposed. One quotes a distinguished personage in the Government to back up his opinion. This authority is the only argument he presents for the bill, and in presenting it at all here he is out of order; and the other states his belief to be just the contrary. My purpose is to call the attention of the House for a moment to this point, and then I will yield the floor, which I did not design holding so long. I want to bring to the attention of the House the single point deducible from this rambling discussion. It is this: the bill is not believed by any one to be necessary in order to assign precedence between those of the same rank and same date of commission. No one will say that the President of the United States has not the power now to assign precedence, as he pleases, between officers of the same rank and same date of commission; and there seems little or nothing else for the bill to act upon.

In one point I was mistaken. The bill does not enable the President of the United States to assign an officer of inferior rank to take precedence in command of a superior officer. Where the date of commission is the same and the rank is the same, precedence, according to my colleague, is determined by the last preceding rank of the officers concerned, provided, and only provided, both actually belonged to the Army at the time their increased rank was conferred. Assuming this pro-

viso, I believe such a case cannot be found in an instance of high rank in our service.

But my colleague seems to have something sticking in his crop about Major General Frēmont—something that distresses him. I am not aware that I have mentioned the name of this gentleman in the House, and I know that he was not in my mind when I took the floor in this discussion. Upon my colleague's own argument, the bill does not touch the case of Major General Frēmont. He was taken from civil life at the time he was made major general, and my colleague says it does not touch such a case, and as it does not touch Major General Frēmont, I do not see why my colleague should lug him in, or get agitated about him at this particular time.

Mr. OLIN. Will my colleague yield to me?

Mr. ROSCOE CONKLING. I will, if he will be civil, and not embarrass me by getting excited.

Mr. OLIN. The bill, as it stands, will apply between General Frēmont and General McClellan. Their commissions bear date the same day.

Mr. ROSCOE CONKLING. I ask my colleague whether, under the law as it now stands, he does not think that the President has the power to assign precedence of command among officers of the same rank and same date of commission in all senses and respects?

Mr. OLIN. I know very little about this subject myself, but I have been informed by those who are supposed to know that the President had the power, in absence of law, to assign to command without reference to the actual date of commission. To obviate all question or difficulty, it was deemed best to confer this power upon the President.

I have had no hostility to Major General Frēmont, and I have never avowed any, and, therefore, I am at a loss to know why my colleague should have used the *civil* expression towards me that his name was sticking in my craw. I think, however, that I have done as much for Major General Frēmont and his cause as my colleague. I think that it is due to myself to say that much in explanation

Mr. STEVENS. I ask the gentleman from New York to permit me to move that we go into the Committee of the Whole on the state of the Union.

Mr. OLIN. Let us dispose of this question to-night.

Mr. STEVENS. I want the gentlemen to have another opportunity to dispense their courtesies.

Mr. ROSCOE CONKLING. I will not stand in the way of the House going into committee. I think, so far as any reason is assigned, this bill is unnecessary. If there be a reason for it that any one knows, he has kept it still. One other word. General Frēmont seems to haunt my colleague; he lives in his waking thoughts, apparently, and, I judge, appears to him in his sleep. He thinks and speaks of him when no one else mentions his name. He says that he has done a great deal for General Frēmont—that he has done more for him than I have. He seems to think some one doubts him. For one, I yield the palm; I will yield my colleague an exclusive monopoly of it. I have never done anything for General Frēmont that I claim credit for. I never went out of my way, or even in my way, to intimate that I had. To my colleague alone is due the gratitude of the general and his friend, if no one but me contests it. In compliance with my promise, I renew the demand for the previous question.

Mr. STEVENS. I move that the joint resolution be laid upon the table. I do not believe that it is necessary.

On a division, there were—ayes 44, noes 61.

Mr. VALLANDIGHAM demanded the yeas and nays.

The yeas and nays were not ordered.

The House refused to lay the joint resolution upon the table.

The previous question was seconded, and the main question ordered; and, under the operation thereof, the joint resolution was ordered to be read a third time, and it was accordingly read the third time.

The House refused to refer the joint resolution to the Committee on Military Affairs; there being, on a division—ayes 48, noes 60.

Mr. VALLANDIGHAM demanded the yeas and nays on the passage of the joint resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 81, nays 40; as follows:

YEAS—Messrs. Alley, Arnold, Ashley, Babbitt, Baker, Baxter, Beaman, Bingham, Francis P. Blair, Samuel S. Blair, Blake, Buffinton, Casey, Chamberlin, Clark, Clements, Colfax, Cravens, Davis, Dawes, Delano, Diven, Dunlap, Dunn, Edgerton, Eliot, Fisher, Goodwin, Granger, Hall, Hanchett, Harrison, Hickman, Hooper, Hutchins, Julian, Kelley, Francis W. Kellogg, William Kellogg, Law, Loomis, Lovejoy, McKnight, Mallory, Menzies, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Nixon, Noell, Olin, Timothy G. Phelps, Pomeroy, Porter, Price, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, Sedgwick, Sheffield, Shellabarger, Sherman, Sloan, Stratton, Francis Thomas, Train, Trowbridge, Van Horn, Van Valkenburgh, Verree, Wallace, Charles W. Walton, E. P. Walton, Webster, Wheeler, Whaley, Albert S. White, Wilson, and Windom—81.

NAYS—Messrs. Allen, Ancona, Biddle, Jacob B. Blair, William G. Brown, Calvert, Cobb, Frederick A. Conkling, Roscoe Conkling, Corning, Cox, Crittenden, Edwards, English, Fenton, Grider, Haight, Horton, Kerrigan, Lazear, Lehman, May, Morris, Noble, Nugen, Pendleton, Potter, Shiel, Smith, John B. Steele, William G. Steele, Stevens, Vallandigham, Vibbard, Wadsworth, Washburne, Chilton A. White, Wickliffe, Wood, and Woodruff—40.

So the joint resolution was passed.

During the vote—

Mr. WEBSTER stated that his colleague, Mr. LEARY, was detained from his seat by illness.

Mr. RICE, of Maine, stated that his colleague, Mr. FESSENDEN, was detained from the House by illness.

Mr. LAZEAR stated that his colleague, Mr. BAILY, was detained from the House by illness in his family.

Mr. ANCONA stated that his colleague, Mr. JOHNSON, was detained from his seat by illness.

The vote was then announced, as above recorded.

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

The latter motion was agreed to.

PERSONAL EXPLANATION.

Mr. ANCONA. I wish to state to the House that I was detained from the House yesterday by the sickness of a member of my family, and I offer that as my excuse for being absent yesterday upon the call of the House.

CONTUMACIOUS WITNESS.

Mr. DAWES. I now call up the preamble and resolution which I offered a short time since.

The preamble and resolution were read, as follows:

Whereas on the 14th day of March last, a subpena was issued by the Speaker of this House, summoning, among others, one Aaron Higgins, sometimes called Aaron A. Higgins, by the name of A. Higgins, to appear before the committee on Government contracts, forthwith, at the United States Hotel in Boston, Massachusetts; but that the said Higgins has hitherto, and still does refuse or neglect to obey such summons: Therefore,

Resolved, That the Speaker of this House be directed to issue his writ of attachment against Aaron Higgins, of Boston, Massachusetts, sometimes called Aaron A Higgins, and cause him to be brought to the bar of this House, to answer for his contempt in not obeying the subpena of said Speaker, issued March 14, 1862.

Mr. DAWES. I move the previous question upon the passage of the resolution.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the resolution was agreed to.

TAX BILL.

Mr. STEVENS. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of resuming the consideration of the tax bill.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed, as a special order, the consideration of the bill (H. R. No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

The CHAIRMAN stated that when the committee last rose, it had under consideration the amendment offered by the gentleman from Massachusetts, [Mr. DELANO] to insert after the eighty-second section the following:

SEC. 83. *And be it further enacted*, That on and after the 1st day of May next, there shall be levied, collected, and paid by all gas companies and corporations, all telegraph companies and corporations, and all bridge companies, canal companies and corporations, under whatever style or name known or called, of the United States or Territories, specially incorporated or existing under general laws, or which may be hereafter incorporated or exist as aforesaid, on all dividends or sums of money declared due or paid to stockholders, as part of the earnings, profits, or gains of said companies or corporations, a duty of three per cent.; and a list or return shall be made and rendered within thirty days after the time fixed when such dividends or sums of money shall be declared due and payable, and as often as every six months, to the Commissioner of Internal Revenue, which shall contain a true and faithful account of the amount of duties accrued or which should accrue from time to time, as aforesaid, during the time when such duties remain unaccounted for, and there shall be annexed to every such list or return a declaration, under oath or affirmation, to be made in form and manner as shall be prescribed by the Commissioner of Internal Revenue, of the president, or some other proper officer of said companies or corporations respectively, that the same contains a true and faithful account of the duties which have accrued, or should accrue, and not accounted for, and for any default in the delivery of such list or return, with such declaration annexed, each company and corporation making such default, shall forfeit, as a penalty, the sum of $500.

SEC. 84. *And be it further enacted*, That any person or persons owning or possessing, or having the care or management of any company or corporation, as mentioned in the foregoing section, required under this act to make and render any list or return to the Commissioner of Internal Revenue, shall, upon rendering the same, pay to the said Commissioner of Internal Revenue the amount of the duties due on such list or return, and in default thereof, shall forfeit as a penalty the sum of $500; and in case of neglect or refusal to make such list or return as aforesaid, or to pay the duties as aforesaid, for the space of thirty days after the time when said list should have been made and rendered, or when said duties shall have become due and payable, the assessment and collection shall be made according to the general provisions heretofore prescribed in this act.

Mr. DELANO. It is hardly necessary for me to state to the House that if the bill reported by the Committee of Ways and Means recognizes any principle, it is that dividend-paying companies and corporations shall be assessed three per cent. upon the amount of their dividends declared. They having applied that principle to railroad corporations, to bank and savings institutions, and to insurance companies, I take it to be a mere inadvertence upon their part that they have not included a large class of corporations standing upon the same footing, so far as the propriety of applying this principle is concerned. And while it has occurred to me that the four classes of corporations or companies should be as much included in the scope of the bill as those which have been enumerated in the bill, it may also occur to other members of the committee that a variety of other corporations or companies should also be added.

I could not move an amendment to either one of the paragraphs relating to the various corporations and companies enumerated in the bill, and therefore it occurred to me that the only practical method of introducing the matter was by a distinct section. I have endeavored to adopt the phraseology of the eightieth section, as it stands in the reported bill, to this new class of companies and corporations.

Mr. MORRILL, of Vermont. I move to amend the amendment, by striking out the words "gas companies and corporations, all telegraph companies and corporations." If the section is to pass at all, these corporations ought to be stricken out, because we have already sufficiently taxed gas companies, and we propose to tax telegraph companies in a subsequent section. But I rather hope that the whole section will be voted down. There will be considerable difficulty in levying tax upon canal and bridge companies where they are owned by States. I hardly think there is sufficient in this matter to warrant our including such a section in the bill. And if the income portion of the bill is passed, the tax will be gathered in that way and there will be no real necessity for this section

Mr. DELANO. I am opposed to the gentleman's motion to strike out. He has given no good reason for his motion, except that these companies have been, or will be taxed in other parts of the bill. I believe that is true of every corporation. They have all been taxed over and over again in different forms, and it is to put these corporations upon precisely the same level with those, and to give them no advantage and no preference, that I ask to have this provision inserted in the bill. If that gentleman or any gentleman of the committee, will state that these specific corporations have been or will be taxed up to the degree to which taxes have been imposed upon other corporations, I will agree that this amendment ought not to be adopted. But until that is demonstrated, I cannot see any reason why this amendment should not be adopted.

The amendment to the amendment was agreed to.

Mr. SHELLABARGER. I move to amend the amendment by inserting, after the word "Territory," the words "District of Columbia."

The amendment to the amendment was agreed to.

The question recurring upon inserting the first section of the amendment—

Mr. MORRILL, of Vermont, called for tellers.

Tellers were ordered; and Messrs. MITCHELL and RICHARDSON were appointed.

The committee divided; and the tellers reported —ayes twenty, noes not counted.

So the first section of the amendment was not agreed to.

Mr. DELANO. The first section being rejected, I withdraw the remainder of the amendment, as it hinges upon the first part.

Mr. STEVENS. I ask the unanimous consent of the committee to pass over for the present the part of the bill relating to income duty, and to proceed immediately to the subject of stamp duties, upon the 94th page. There is some difficulty in determining the exact language which should be used in reference to the income tax. Upon consulting the authorities, we find that there may be, and probably will be, a liability to conflicting construction upon the section as it now stands in the bill. We have not yet agreed upon the language which we should use in order to render the section satisfactory. I hope the Committee of Ways and Means will be allowed further time to perfect the bill so far as it relates to income duties.

No objection being made, the income tax was passed over for the present; and the committee proceeded to consider the sections relating to stamp duties.

Mr. EDWARDS. I move to amend the ninety-second section, in line twenty, by striking out "privately and secretly," and inserting "knowingly;" so that the clause shall read:

If any person shall knowingly use any stamp or die which shall have been so provided, made, or used, as aforesaid, with intent to defraud the United States, &c.

The amendment was agreed to.

Mr. PORTER. I move to amend by inserting the word "fraudulently" after the word "act," in the twenty-third line; so that the clause shall read:

Or if any person shall fraudulently cut, tear, or get off, or cause or procure to be cut, torn, or got off, the impression of any stamp or die which shall have been provided.

The amendment was agreed to.

Mr. HORTON. I move to amend the ninety-third section by inserting, after the word "act," in the third line, the words "except as hereinafter provided for in section one hundred and one of this act;" so that the clause shall read:

That in any and all cases where an adhesive stamp shall be used for denoting any duty imposed by this act, except as hereinafter provided for in section one hundred and one of this act, the person using or affixing the same, shall write thereupon the initial letters of his name, &c.

The amendment was agreed to.

Mr. PORTER. I move to amend the section, in the tenth line, by inserting after the word "stamp," the words, "except as before mentioned;" so as to adapt this part of the section to the amendment just adopted.

The amendment was agreed to.

Mr. HORTON. I move to add the following as a proviso to the ninety-third section:

Provided nevertheless, That any manufacturer or manufacturers of proprietary articles, or articles subject to stamp duty under schedule C of this act, shall have the privilege of furnishing without expense to the United States, in suitable form, to be approved by the Commissioner of Internal Revenue, his or their own dies or designs for the stamp to be used thereon, to be retained in the possession of the Commissioner of Internal Revenue, for his or their separate use; that in all cases where such stamp is used, instead of his or their writing his or their initials thereon, said stamp shall be so affixed to the box, bottle, or package that in opening the same, or using the contents thereof, said stamp shall be effectually destroyed, and any default thereof shall be liable to the same penalty imposed for neglect to affix said stamp as hereinbefore provided in this act; any person forging, or counterfeiting, or causing or procuring the forging or counterfeiting of any representation, likeness, similitude, or colorable imitation of said last mentioned stamp, or selling the same, or who, being a merchant, broker, peddler, or person dealing in whole or in part in similar goods, wares, merchandise, manufactures, or articles, or those designed for similar objects or purposes, shall have in his, her, or their possession any such representation, likeness, similitude, or colorable imitation of the said last mentioned stamp, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be subject to all the penalties, fines, and forfeitures prescribed in section ninety-two of this act.

The amendment was agreed to.

Mr. PORTER. I move to insert before the word "make," in the eighth line, the word "fraudulently;" so that the clause will read:

And if any person shall fraudulently make use of an adhesive stamp to denote any duty imposed by this act without so effectually canceling and obliterating such stamp, he, she, or they shall forfeit the sum of fifty dollars.

The amendment was agreed to.

The Clerk read section ninety-four, as follows:

SEC. 94. *And be it further enacted*, That if any person or persons shall make, sign, or issue, or cause to be made, signed, or issued, or shall accept or pay, or cause to be accepted or paid, any bill of exchange, draft or order, or promissory note for the payment of money, liable to any of the duties imposed by this act, without the same being duly stamped, or having thereupon an adhesive stamp for denoting the duty hereby charged thereon, he, she, or they shall, for every such bill, draft, order, or note, forfeit the sum of $200.

Mr. SHEFFIELD. It seems to me that that section needs amendment. I move to insert after the word "paid," in the fourth line, the words "with design to evade the payment of any stamp duty." It seems to me that it would be very unjust to impose this heavy penalty on a person who might never have read the statute or known of its existence.

The amendment was agreed to.

Mr. HORTON. I move to insert in the fourth line, after the word "exchange," the word "check;" so that it will read:

That if any person or persons shall make, sign, or issue, or caused to be made, signed, or issued, or shall accept or pay, or cause to be accepted or paid, with design to evade the payment of any stamp duty, any bill of exchange, check, draft or order, or promissory note for the payment of money, liable to any of the duties imposed by this act, &c.

Mr. SHEFFIELD. I am opposed to that amendment, for the reason that I hope the House will not impose a stamp duty upon bank checks. The effect of any such duty would be to destroy completely the deposit interest in the banks. The people will not deposit their money, but will keep it in their safes, to avoid the payment of the stamp duty. It seems to me that, as you tax the income of the banks, you ought not to impose a tax upon checks. It would embarrass the business of the country very much; and I am surprised that gentlemen, so familiar with business as some of the members of the Committee of Ways and Means are, should attempt to impose upon the country any such system.

The amendment was rejected—ayes twelve, noes not counted.

Mr. HORTON. I move to amend the ninety-fifth section by striking out after the word "for" in the seventh line the words "promissory notes or inland," so that it will read:

That the acceptor or acceptors of any bill of exchange or order for the payment of any sum of money drawn, or purporting to be drawn, in any foreign country, but payable in the United States, shall, before paying or accepting the same, place thereupon a stamp, indicating the duty upon the same, as the law requires for bills of exchange, &c.

The amendment was agreed to.

Mr. HORTON. I move to amend the ninety-sixth section by adding to it the following:

The Commissioner of Internal Revenue may from time to time make regulations for allowances for such of the stamps issued under the provisions of this act as may have been spoiled or rendered useless, or unfit for the purpose intended, or for which the owner may have no use, or which through mistake may have been improperly or unnecessarily used, or where the rates of duties represented thereby have been paid in error or remitted, and such allowance shall be made either by giving other stamps in lieu of the stamps so allowed for, or by repaying the amount or value, after deducting therefrom, in case of repayment, the sum of five per cent. to the owner thereof.

Mr. HICKMAN. I desire to suggest to the gentleman from Ohio [Mr. HORTON] that I see no guard here against the second use of one of these stamps. We know that in the Post Office Department they require a stamp which has been once used to be obliterated or marked. These stamps, as they are to be adhesive, will be very easily removed, and will be used a second time. You have, to be sure, imposed a penalty upon the fraudulent use of one of these stamps, but you must first catch the rogue before you punish him. I suggest, therefore, that either in this section or in some other section there should be a provision that when a stamp has once been used it shall have a mark upon it of obliteration.

Mr. HORTON. The object suggested by the gentleman from Pennsylvania is accomplished by a specific direction that the stamps shall be written upon and obliterated in the same way precisely as postage stamps are.

Mr. HICKMAN. Is that provision applicable to all cases? Take, for instance, the case of a person who cannot write.

Mr. HORTON. You will find that it is provided in the ninety-third section that he shall write his initials upon the stamp "or otherwise deface the same." I suppose a mark across it would do as well.

The amendment was agreed to.

Mr. EDWARDS. I move to amend the section by inserting before the word "five," in the tenth line, the words "not exceeding;" so that it shall read:

That the Commissioner of Internal Revenue be, and is hereby, authorized to sell and supply collectors, deputy collectors, postmasters, stationers, or any other persons, at his discretion, with adhesive stamps or stamped paper, vellum, or parchment, as herein provided for, upon the payment, at the time of delivery, of the amount of duties said stamps, stamped paper, vellum, or parchment, so sold or supplied, represent, and may thereupon allow and deduct from the aggregate amount of such stamps, as aforesaid, the sum of not exceeding five per cent. as commission to the collectors, postmasters, stationers, or other purchasers, &c.

It seems to me that five per cent. is too large a commission, as I suppose some of these dealers will make very large sales.

Mr. HORTON. I see no objection to that amendment.

The amendment was agreed to.

Mr. SHELLABARGER. I move to strike out "five" and insert "three," so as to make the commission "not exceeding three per cent." It seems to me that five per cent. is too much, and I would not allow a discretion to pay that much. In our State, as my colleague knows, that is the highest percentage that attorneys charge for the responsibility of collecting, and it is graduated down lower. It seems to me, inasmuch as there is very little responsibility and very little trouble about this matter, that three per cent. would be a liberal allowance.

The amendment was disagreed to.

Mr. HICKMAN. I desire, although it is perhaps not strictly in order, to call the attention of the committee, and particularly of the gentleman from Ohio, [Mr. HORTON,] to the ninety-third section of this bill, and I think he will discover that there is a radical defect in the framing of that section. It does not obviate the difficulty which I suggested a moment ago. It requires the person using a stamp to write across it his initials, or in some way to obliterate the stamp to show that it has been used; but it will be seen at once that the person having used the stamp once and written his initials across it, may, by removing the stamp, use it a second time just as if it had not been written across at all. There is really no guard against the use of a stamp for any number of times by the same individual. The stamp is affixed to the paper which I use. I put on the edge of it the initials J. H. After it has served my purpose, I remove the stamp and use it on another paper. One stamp is all that I require for the same character of paper. I think that in that particular the committee has not guarded against fraud. You can punish after detection, but the great difficulty is to detect the frauds.

Mr. HORTON. I would be obliged to the gentleman from Pennsylvania to suggest the remedy.

Mr. HICKMAN. My suggestion is, that it requires an entirely different section from the ninety-third in order to prevent frauds of the kind referred to. It requires a new section of an entirely different phrascology. I would suggest that the date of the use of the stamp should be put on the stamp indelibly, so as to show the precise time at which the stamp was first used. It is not likely that I could use the same stamp twice on the same day. It would be, perhaps, impracticable to do so. There should be some way to designate the particular paper on which it was used. Unless that be done, it is my impression that frauds will be innumerable, and that punishment for these frauds will be impossible.

Mr. HORTON. Well, the Committee of Ways and Means will consider the matter, and I presume this committee will permit us to do so.

Mr. EDWARDS. I move to amend by striking out the word "five," in the thirteenth line, and inserting in lieu thereof the word "the;" so that it will read:

But the cost of any paper, vellum, or parchment shall be added to the amount, after deducting the allowance of the per cent., as aforesaid.

The amendment was adopted.

Mr. HORTON. I move to amend the ninety-eighth section by striking out the words "deliver to any person," and inserting in lieu thereof the words "receive from any person and transmit to any person."

The amendment was adopted.

Mr. HORTON. I move to amend in the fourth line by striking out the words "first affixing thereto."

The amendment was adopted.

Mr. HORTON. I move to amend in the fifth line by inserting after the word "act," the words "being affixed to a copy thereof."

The amendment was adopted.

The section, as amended by the three preceding amendments, reads as follows:

SEC. 98. *And be it further enacted*, That on and after the date on which this act shall take effect, no telegraph company or its agent or employé shall receive from any person and transmit to any person any dispatch or message without an adhesive stamp, denoting the duty imposed by this act being affixed to a copy thereof, or having the same stamped thereupon, and in default thereof shall incur a penalty of ten dollars.

Mr. HORTON. I move to amend by inserting at the end of the section the following proviso:

Provided, That only one stamp shall be required when sent through one or more companies.

The amendment was adopted.

Mr. HORTON. I move to amend the ninety-ninth section by striking out the words "deliver to any person, or deliver at any place for any person, any bale, bundle, box, or package of any description, without affixing thereto an adhesive stamp or label denoting the duty imposed by this act, and in default thereof shall incur a penalty of ten dollars," and inserting in lieu thereof the following:

Receive for transportation from any person any bale, bundle, box, or package of any description, without delivering to the consignor thereof a printed receipt, having stamped or affixed thereon a stamp denoting the duty imposed by this act, and in default thereof shall incur a penalty of ten dollars: *Provided*, That but one stamped receipt shall be required for one shipment from one party to another party at the same time, when such shipment consists of one or more packages: *And provided also*, That no stamped receipt shall be required for any bale, bundle, box, or package transported for the Government, or for any bale, bundle, box, or package transported by said companies without charge thereon.

So that it will read:

SEC. 99. *And be it further enacted*, That on and after the date on which this act shall take effect, no express company or its agent or employé shall receive for transportation, &c.

The amendment was adopted.

Mr. HORTON. I move to amend the one hundred and first section by striking out in the second line the words "date on which this act shall take effect," and inserting in lieu thereof the words "1st day of May, 1862."

The amendment was adopted.

Mr. HORTON. I move to amend in the third line by striking out the words "utter or vend," and inserting in lieu thereof the words "make, prepare, and sell, or remove for consumption and sale."

Mr. McKNIGHT. I desire to understand that a little further. Would the amendment proposed by the gentleman impose the tax on articles already made, whenever they are removed for consumption or sale? Is that the intention of the Committee of Ways and Means?

Mr. HORTON. The object is to exempt from taxation the articles already gone into market, and to tax the articles that are already made but have not entered into consumption.

The amendment was adopted.

Mr. HORTON. I move to amend, by inserting in the fifth line the words "including perfumery, cosmetics, and playing cards."

The amendment was adopted.

The section, as amended by the preceding amendments, reads:

SEC. 101. *And be it further enacted*, That on and after the 1st day of May, 1862, no person or persons, firms, companies, or corporations, shall make, prepare, and sell, or remove for consumption and sale, drugs, medicines, preparations, compositions, articles, or things, including perfumery, cosmetics, and playing cards, upon which a duty is imposed by this act, as enumerated and mentioned in schedule C, without affixing thereto an adhesive stamp or label denoting the duty before mentioned, and in default thereof shall incur a penalty of ten dollars.

Mr. HORTON. I move to amend the one hundred and first section, by striking out the proviso, as follows:

Provided, That nothing herein contained shall apply to any medicinal drug sold entire and without mixture or composition with any other drug, fluid, essence, spirit, or other form or denomination of medicine or drug, nor to medicines compounded according to the forms prescribed in the United States Pharmacopœia, Wood & Bache's Dispensatory, or any homœopathic or other professional text books now in use of like character, and not sold, offered for sale, or advertised under any other name, form, or guise, than that under which they may be severally denominated and laid down in said pharmacopœias and dispensatories and text books, as aforesaid, nor to medicines sold to or for the use of any person which may be mixed and compounded according to the written recipe or prescription of any physician or surgeon practicing his profession in the vicinity where such medicine, so prescribed, shall be compounded and sold, and specially for such person prescribing said medicine.

And inserting in lieu thereof, as follows:

Provided, That nothing herein contained shall apply to any uncompounded medicinal drug or chemical, nor to any medicine compounded according to the United States or other national pharmacopœia, nor of which the full and proper formula is published in either of the dispensatories, formularies, or text books in common use among physicians and apothecaries, including homœopathic and eclectic, or in any pharmaceutical journal now issued by any incorporated college of pharmacy, and not sold or offered for sale, or advertised under any other name, form, or guise, than that under which they may be severally denominated and laid down in said pharmacopœias, dispensatories, text books, or journals, as aforesaid, nor to medicines sold to or for the use of any person which may be mixed and compounded specially for said person, according to the written recipe or prescription of any physician or surgeon.

Mr. ROSCOE CONKLING I desire to know whether it is the intention of the amendment to exempt patent medicines or to diminish the imposts laid on them?

Mr. HORTON. It does not exempt patent medicines; but it does diminish the tax on them. It exempts such patent medicines as have already gone into market for consumption.

Mr. ROSCOE CONKLING. Will the gentleman from Ohio be good enough to explain how it diminishes the tax on patent medicines?

Mr. HORTON. This amendment does not, but a subsequent part of the bill does.

Mr. ROSCOE CONKLING. Well, as the gentleman is up, I desire to know the fact at this time.

Mr. HORTON. I will explain it when we come to it.

Mr. SHELLABARGER. If I understand correctly the substitute proviso, it exempts from taxation only that class of prescriptions which are now to be found in medical books. It seems to me that if that is the effect of the amendment, it ought not to be so.

Mr. HORTON. It has not been decided precisely in that form by the Committee of Ways and Means; but if the prescriptions are found, either now or at any time during the operation of this law, in the books referred to, they will be exempted. That is my understanding.

The amendment was agreed to.

Mr. TRAIN moved to amend by inserting the word "manufactured" after the word "commodity" where it first occurs in the following section:

SEC. 103. *And be it further enacted*, That every maker or manufacturer of any of the articles or commodities mentioned in schedule C, as aforesaid, who shall sell, send out, remove, or deliver any article or commodity, as aforesaid, before the duty thereon shall have been fully paid, by affixing thereon the proper stamp, as in this act provided, or who shall hide or conceal, or cause to be hidden or concealed, or who shall remove or convey away or deposit, or cause to be removed or conveyed away from or deposited in any place, any such article or commodity, to evade the duty chargeable thereon, or any part thereof, shall be subject to a penalty of $100, together with the forfeiture of any such article or commodity.

The amendment was agreed to.

Mr. HORTON. I move to amend the section further, by adding at the end of it, as follows:

Provided, That medicines, preparations, compositions, perfumery, and cosmetics, upon which stamp duties are required by this act, may, when intended for exportation, be manufactured, sold, or removed without having stamps affixed thereto and without being charged with duty, as aforesaid; and every manufacturer or maker of any article, as aforesaid, intended for exportation, shall give such bonds and be subject to such rules and regulations to protect the revenue against fraud as may from time to time be prescribed by the Secretary of the Treasury.

The amendment was agreed to.

Mr. ARNOLD. I move to amend by adding at the end of section one hundred and four as follows:

SEC. 105. *And be it further enacted*, That after the 1st day of July next, no bank or banking institution or person acting as banker in the United States, shall issue or reissue or pay out, or cause to be issued or reissued or paid out, any bill or promise to pay, unless the same be duly stamped to indicate the duty imposed on the same by this law, as per schedule B, under a penalty of fifty dollars.

Mr. Chairman, the amendment which has been offered will test the sense of the committee in regard to the question as to whether they will lay a stamp duty upon bank notes. The amendment, it will be observed, does not fix the rate of duty at all. That, if the amendment be adopted, will be added in the schedule which immediately follows. I now present the simple question as to whether it is the sense of this committee that these bank notes shall pay any stamp duty at all. If the amendment which I have presented shall be adopted, it will then be for the House to insert in the schedule the rate of stamp duty to be affixed to these bank notes. I believe that there is no subject of taxation more proper to be rendered available for the revenue of the Government than those associations of capital which derive their income from the circulation of these promises to pay.

If the effect of the amendment shall be to diminish the circulation of bank notes, and, to that extent, introduce into more general circulation the Treasury notes of the Government which have been authorized by Congress, I think a great good will be accomplished.

We all know that under all the systems of banking which have been in operation in the different States of the Union, very great losses have occurred to the people in consequence of the failure of the various banks to redeem their promises to pay; and if, in the place of such a currency, the people should take Treasury notes, having the responsibility of the Government, they will be free from any liability of that character. The Government is responsible, and will continue responsible, because they represent the aggregate wealth of the country.

It was represented, when this proposition was introduced in another shape on a former day in the sitting of this committee, that the effect would be to discriminate in favor of Treasury notes and against bank bills. So far from that being an objection to the amendment, in my judgment it is a very strong reason in its favor. It will be observed that the amendment does not propose to go into operation until the 1st day of July next. It provides that all bank notes issued subsequent to that day shall have stamps affixed to them, and that all banking institutions which, after that day, shall issue bank notes without compliance with this requirement, shall be subject to a penalty for their delinquency.

I hope, therefore, for these reasons, and many others that could be urged, that this amendment will receive the favorable consideration of the committee.

MESSAGE FROM THE SENATE.

The committee informally rose, and the Speaker having resumed the chair, a message from the Senate was received by Mr. FORNEY, their Secretary, notifying the House that the Senate have passed a joint resolution of the House (No. 48) declaring that Congress ought to coöperate with, affording pecuniary aid to, any State which may adopt the gradual abolishment of slavery, with an amendment to the title of the said joint resolution; in which he was directed to ask the concurrence of the House.

The committee resumed its session, and proceeded again to the consideration of the

TAX BILL.

Mr. STEVENS. I trust that the amendment of the gentleman from Illinois will not prevail. If I understand it correctly, every time a note is issued there is to be a stamp attached to it in some way or other, and then when it comes back in the morning, to be reissued in the afternoon, it must have another stamp attached to it.

Mr. ARNOLD. My friend from Pennsylvania misunderstands the amendment in that particular. The design is that there shall be but one stamp affixed to one note. When it has been once stamped, it may be reissued as many times as the bank may please.

Mr. STEVENS. If the gentleman intends to make banks of issue pay a tax upon their circulation, he has adopted a very poor proposition to accomplish that purpose; for, of course, after the banks have once put a set of notes in circulation there will be no new issues.

But, sir, I think that banks and their customers are sufficiently heavily taxed under this bill as it stands. In the first place, we tax very heavily the paper from which the bank notes are made. In the next place, we lay a tax upon their dividends, and not only upon their dividends actually paid out, but we have provided for taxing all that is carried to their reserve fund beyond a certain amount, which will reach a very large class of the banks of the country which save an excess beyond their dividends. Then, we tax their customers, which is the same thing as taxing them. We tax every check which is drawn upon these banks upon which they pay out a dollar of money. We tax every bill of exchange which passes the bank; we tax the banks upon everything connected with their business that can possibly be taxed, and I think we tax them very liberally.

Now, if gentlemen want to tax bank notes, it will be better to wait until we have established a national bank, which is probably in their contemplation, and then tax these notes by way of prohibition. I can see no other reason for it. As a revenue measure, we have already taxed the capital of banks to about the extent which they will bear. As I have said, we tax their capital, we tax their dividends, we tax their income, we tax every instrument of theirs, every bank note that is presented to them for discount. We tax every check; and the paper upon which their notes are issued is taxed much higher than any other paper. As a revenue measure, therefore, I ask the gentleman how much he will derive from the banks if he undertakes in addition to put such a tax upon their circulation as will prohibit their issue of notes altogether? I have no doubt the result would be an influx of Canadian bank notes. I hope the gentleman will at least insert a provision that his amendment shall not take effect until after the expiration of the reciprocity treaty. [Laughter.] He, at least, should wait until we can exclude Canadian notes, or we shall have nothing but foreign bank paper in circulation. Perhaps it may be considered that these wild-cat notes are foreign notes. In that case, it would be well to tax them a little higher. But in the middle and eastern States it has been a long time since much has been lost upon banks or their circulation. I think, therefore, as they are a great department of business and a great instrument for the promotion of commerce, manufacturing, and every other branch of business, they are sufficiently burdened in the bill; and ought not to be further taxed.

[Here the hammer fell.]

Mr. EDWARDS moved to amend by adding a proviso that the banks be authorized to charge to every person who delivers their notes the cost of the stamps.

The amendment to the amendment was disagreed to.

Mr. ARNOLD's amendment was rejected; there being, on a division—ayes eleven, noes not counted.

Mr. VALLANDIGHAM. What was the affirmative vote?

The CHAIRMAN. Eleven.

Mr. VALLANDIGHAM. Well, sir, I am one of the eleven, and that was just the number of the apostles after Judas "seceded."

The Clerk read, as follows:

Bill of exchange, (inland.)—Promissory note, check, draft, or order for the payment of any sum of money drawn upon any bank, trust company, or any person or persons, companies or corporations, at sight or on demand, two cents.

Mr. SHEFFIELD. I move to strike out the word "check," and when that is stricken out, I will move to strike out the words "or order." Mr. Chairman, I desire the attention of the committee while I endeavor to support the motion which I have made. The poor people in New England—those who are engaged in the manufacturing establishments and who otherwise gain their livelihood by their labor—are in the habit of depositing money in the different savings banks. It is known that they cannot deposit more than $500 in any one institution. The proposition now is to tax the orders which they make in order to draw out their hard earnings from those charitable institutions. It seems to me that this is indeed wringing away the hard earnings of the poor, and that it is exceedingly unjust. I am surprised that the Committee of Ways and Means would undertake still further to tax this class. It is, no doubt, the wish of the larger banking institutions that this system should be adopted, for it will give them a monopoly, and crush out the ordinary banking institutions of the country. I cannot see any other reason for the paragraph of the bill. I do not say that that is the object of the committee; but I have no doubt that it was the object of the banks which suggested the provision to them. If it be adopted, you will destroy the whole system of making deposits in savings banks and like institutions, which is of great advantage to the business community and to the depositors themselves. You will make it so expensive that the system will have to be discontinued, and then every man will deposit his money in his own safe. It is a matter of individual convenience and safety, and the question is whether we will deprive the poor people of this privilege, by imposing this tax?

But there is still another objection to this provision of the Committee of Ways and Means. A great many of the poor people at work in the manufacturing establishments give the grocer and others orders upon their employers, in order to secure them for the advances during the month for the support of their families. This bill proposes a tax upon those orders. I am surprised that such a measure should be reported by the Committee of Ways and Means at this time.

The gentleman from Illinois [Mr. ARNOLD] seems to be terribly exercised about these banking institutions. It seems to me that his apprehensions are without foundation. He proposes to discriminate against them. The Committee of Ways and Means have already taxed them heavily. They are taxed upon their dividends, and those who receive the dividends are taxed upon their incomes. You have already imposed upon banking institutions almost every disability that you can impose on them. You impose a great disability upon them by the legal tender note bill, which will drive a large portion of their circulation from the market. And now you undertake to deprive them of their deposits. It is unjust, and it will ruin their business.

Mr. STEVENS. I did not think that this two-cent tax would be taken so much to heart by the gentleman from Rhode Island. Now, I do not see how it is going to affect the poor. It is the man who makes the deposit who draws the check. It is the man who has the money and not the poor man who will have to pay this small tax.

Mr. SHEFFIELD. The poor of New England are in the habit of depositing their earnings in savings banks where they cannot have more than $500 at one time, and this provision taxes them upon their orders for small sums. Then it taxes the orders which they give upon their employers.

Mr. STEVENS. Those orders are not taxed under this bill. In those cases the workmen create debts, and give a lien upon their pay as security.

It seems to me that this tax will be paid principally by those who have large amounts on deposit in the banks, and draw checks every day for hundreds and thousands of dollars. The great income from this source of taxation will be derived from the large capitalists of the country; and this two-cent tax will be hardly felt by the small institutions of the country. I do not think that it will lessen the amount of deposits in any of the banks one dollar. I do not suppose that the great capitalists of the country will keep their money about them or in their houses, in order to save this small two-cent tax. While it will yield a large amount of revenue to the country in this time of distress, it will not distress any interest or class in the country. It will be paid by those who can afford to pay it.

Mr. DIVEN. I move to insert, "except checks drawn on banks of deposit." Mr. Chairman, I merely want to say that unless this or some such amendment be adopted to this clause it will change the entire method of business men keeping their money and transacting their financial business. Every storekeeper now keeps his bank account, and pays out his checks for five, six, or ten dollars. Now, if they are charged a tax upon every one of their checks, they will run the risk of keeping their money in their safes instead of keeping it at the banks. My amendment will relieve those who keep small bank accounts.

Mr. ENGLISH. I submit to the committee that if this tax be reduced to one cent, the Government will receive more revenue than by letting it remain at two cents, and I therefore move to reduce it to one cent. It will have the result to induce the small storekeepers to keep their accounts in the banks. So high a tax would make them withdraw their deposits from the banks.

The CHAIRMAN. The amendment of the gentleman from Connecticut is not in order.

The question was taken on Mr. DIVEN's amendment to the amendment; and on a division, there were—ayes 41, noes 34.

Mr. DIVEN demanded tellers.

Tellers were ordered; and Messrs. NOELL and DIVEN were appointed.

Mr. STEVENS. We withdraw objection to the amendment to the amendment. Let it be adopted, and then we can vote the whole thing down.

Mr. HOOPER. I move to amend by inserting the word "bank" before the word "check;" so that it will read, "bank check, draft," &c. The object of my amendment is to call the attention of the committee to the slight extent to which any individual will be incommoded by this tax of two cents on checks. Parties who draw checks are generally people in business. They have a check book, consisting of two or three quires, containing fifty pages, with four or five checks to each page, upon which book, sufficient to last for six months, the tax would be about ten dollars. I suppose a house doing a large business would pay a tax of about that amount in six months. I do not think that many houses engaged in business would be deterred from paying this, and I do not see how it is going to affect poor men.

Mr. DIVEN. I would like to ask the gentleman how it would affect the builder, for instance, who pays off his laborers every night by checks upon his bank?

Mr. HOOPER. It would not amount to anything that would be perceptible. In reference to checks upon savings banks, they will not be drawn more than once or twice a year. Checks are used generally by houses engaged in commerce and manufactures. They are not used by poor people. I hope the word "check" will not be stricken out, because I think a large amount would be received from this source, and without any inconvenience to anybody.

Mr. KELLOGG, of Illinois. I do not know exactly how these amendments stand; but I presume my remarks will be in opposition to them. I am in favor of the bill as it stands, if it goes against bank checks and everything else which relates to these banking operations.

Mr. STEVENS. I desire to state one fact to the committee. I understand that statistics have been taken showing that twenty-eight millions of checks are drawn each year in the loyal States. Of course, very few of these are upon savings banks. A tax of two cents each upon that amount would yield $560,000 revenue yearly. Now, I leave it to the committee whether they will strike out this provision.

Mr. KELLOGG, of Illinois. I suppose there is some kind of necessity for this practice which has grown up of depositing money every night in the hands of some one other than the man who owns this money. The only reason for that is that we have so poor a set of banks that no poor man feels able to run the risk of keeping their bills for fear of their failing before the rising of the morning sun. For that reason he puts his money into his neighbor's hands, and thereby puts the responsibility upon him. Now, if we could persuade men to keep the money in their own pockets twenty-four hours, there would be no kind of necessity for fostering and keeping alive this army of little leeches that are sucking the life blood, in small quantities, out of the laboring people of this country.

If there is, however, a necessity, in the business economy of the country, to have them, then I suppose we should tax the banking institutions, these broker shops, these huckstering banks, which induce their neighbors to deposit with them over night. It would not be a large tax, and I do not believe these institutions would be able to collect the tax out of those who make the deposits. The practice is, to deposit with a broker or banker over night, and they induce the deposits thus made by making the depositors believe, upon some sort of pretext, that the money is more safe with them than in their own hands. What is the result? The result is that little men, without money, start a concern and induce their neighbors to deposit with them, and upon those de-

posits they traffic. It is the deposits of money which these concerns operate upon, and it is this which makes the deposit system a crying evil in the country. I will not by my vote encourage that kind of business. I would make these institutions pay, and they will be compelled to bear the tax in nine cases out of ten. They cannot charge the tax to the depositors, because the depositors could not be induced to put the money into the hands of these concerns unless it goes out to them again without charge. I would, in every possible way, aside from the question of revenue, discourage this kind of money traffic; and, on the other hand, I would fix the currency of the country upon such a basis as would make every man believe that the money is as safe in his own hands as it is in the coffers of the broker who lives beside him.

[Here the hammer fell.]

Mr. HOOPER. I withdraw my amendment to the amendment.

Mr. DIVEN. I move to amend the amendment by inserting, after the word "money," the words "exceeding fifty dollars;" so that to small sums this tax shall not apply.

The CHAIRMAN. The Chair would state that the amendment is not in order at this time. The original amendment is based upon the single word "check," and to that all amendments must refer.

Mr. DIVEN. Then I move to amend the amendment by inserting after the word "check," the words "under fifty dollars."

The CHAIRMAN. That will be in order.

Mr. DIVEN. While I am in favor of the amendment, if these checks must be taxed, I want to avail myself of this opportunity, in response to the repeated allegations which have been brought against the business of banking as dishonest, disreputable, and against the banks as dangerous places for men to deposit money, to protest against applying those remarks to the banking business of honest States, [laughter,] because the bankers of one State—I need not single out the State—have rendered that business disreputable. I protest against such terms being used against the banks of States where no money has been lost, where no billholder can lose. There has been no place where money has been so secure and safe as in the State of New York and the New England States, and I think I may add Pennsylvania, Ohio, Wisconsin, and I perhaps might include all the States except that one whose Representative is here availing himself of this opportunity to degrade the business of banking.

Mr. KELLOGG, of Illinois. What State does the gentleman allude to? [Laughter.]

Mr. DIVEN. In the State in which I live, the men who are engaged in the business of banking are as honest, as loyal, and have come forward and as freely lent their money to the Government, as any class of men that I know of. The people of the State in which I live have no such prejudice against these banks. They have no fear of leaving their money in the banks. They have no wild-cat banks among them; and when men here remonstrate against this pursuit and hurl their anathemas against bankers, they should confine them to their own bankers and not to all the bankers of the United States.

Mr. KELLOGG, of Illinois. I did not hear what my friend said, but when lawyers get to that pass that they advocate banks and banking, I always suspect——

Mr. HORTON. I rise to a question of order. The gentleman is not speaking to the amendment.

The CHAIRMAN. The amendment is in regard to remitting the tax on all checks under fifty dollars.

Mr. KELLOGG, of Illinois. I was upon that point. It was in reference to the reduction of this tax that I was speaking, and I was about saying that when a lawyer gets to advocating banks and banking, I always suspect his want of loyalty to the profession, if not to the country.

Some allusion was made to Illinois. Sir, we have had great burdens to bear there; we have lost an immense amount of money.

Mr. STEVENS. The gentleman is now clearly out of order, because the universal rule is *de minimis non curat lex*. [Great laughter.]

The CHAIRMAN. The gentleman must reduce his point of order to English. [Laughter.]

Mr. KELLOGG, of Illinois. It is too late in the day for the gentleman to use good English. [Renewed laughter.] I am not here to say very much in defense of Illinois. We certainly had a very hard burden to bear. We had to be checking all the time the influences brought to bear upon us. We are a new community, but have made considerable progress, and it seems as if all the sharp bankers in the country, and especially from New York, had put their wild-cat banks in operation in our country. If we can only keep New York banking operators out of the State, we shall get along first rate. If we can keep out the wild-cat money we shall have the good sound currency that has been created by this Congress, Treasury notes; and having such a currency, we will forever put a *check*, of more than a two-cent stamp, upon the new-fangled bankers of New York, who, having reaped the harvest there, come to us to take all we have left.

The question was taken on Mr. DIVEN's amendment; and it was agreed to—ayes sixty, noes not counted.

Mr. MORRIS. I offer the following as an amendment to the amendment:

Provided, That hereafter the patience of the House shall not be *taxed* by more than one speech from the same member on the same subject.

The CHAIRMAN. The Chair doubts whether the amendment is in order.

Mr. EDWARDS. I move to strike out all after the word "check" that has been inserted by the committee, and to insert the words "payable to order."

The CHAIRMAN. The gentleman cannot move to strike out what has been inserted by a direct vote of the committee.

Mr. STEVENS. Will the Chair state how the section now stands?

The CHAIRMAN. The original motion is to strike out the word "check," and, pending that, amendments have been adopted to qualify it if it remains in the paragraph. The pending question now is on striking out all in relation to the subject.

Mr. MORRILL, of Vermont. As I understand it, as the paragraph now stands, it taxes all checks under fifty dollars, and none above.

Mr. DIVEN. That is not what I intended. What I intended was that checks under fifty dollars should be exempt from taxation.

The CHAIRMAN. That will be the effect of the amendment.

Mr. BINGHAM. I ask that the amendment, as it is recorded at the desk, may be read.

The amendment was read, as follows:

Check under fifty dollars, except checks drawn on bank deposits.

Mr. EDWARDS. I move to amend the amendment by striking out also the word "draft."

The CHAIRMAN. The Chair would state to the gentleman that the word "draft" is not included in the original amendment, and therefore his amendment is not in order.

Mr. EDWARDS. I move then to add the word "draft" to what is to be stricken out.

The CHAIRMAN. The Chair holds that that amendment is not in order.

Mr. EDWARDS. Is it not in order to move any amendment?

The CHAIRMAN. Only such amendments as are germane to the original proposition, which is to strike out the word "check," and which has been qualified by the committee by the adoption of two or three amendments.

Mr. EDWARDS. I move then to strike out the words "check, above fifty dollars."

The CHAIRMAN. There are no such words in the amendment.

Mr. BINGHAM. I would inquire if it would not be in order to move to strike out the entire amendment and substitute something for it?

Mr. EDWARDS. My motion is in order, I think.

The CHAIRMAN. That is not the opinion of the Chair.

Mr. BINGHAM. For the purpose of raising the question, I move to strike out what has been inserted by the committee, and to insert "money check."

The CHAIRMAN. The Chair would say that as the amendment has not yet been incorporated in the bill, the motion of the gentleman from Ohio is in order.

Mr. BINGHAM. Then I submit the amendment. I have heard no reason advanced by the gentleman from New York [Mr. DIVEN] or any one else who has spoken on this subject, why checks drawn upon banks or upon any one else for the payment of money for less than the sum of fifty dollars should bear a tax of two cents, while checks for $2,000 or $5,000 bear no tax at all.

Now, with all deference to the Chair, I undertake to say that the amendment, as the Clerk first reported it was precisely this: that checks not exceeding fifty dollars shall be subject to a tax of two cents, and if it be inserted in that way, and the section adopted in that way, the effect will be that checks for sums exceeding fifty dollars will be subject to no tax at all. I ask that the Clerk read the amendment as a part of my remarks.

The Clerk read the paragraph, as amended, as follows:

Bill of exchange, (inland.)—Promissory note, check under fifty dollars, except checks drawn on bank deposits, draft, &c.

The CHAIRMAN. The gentleman from Ohio is certainly correct.

Mr. BINGHAM. If the committee are of the opinion that we ought to tax money checks at all, why not make the man who draws a check for $2,000 pay a tax as well as the man who draws for less than fifty dollars? Why discriminate? Let us strike out these words and insert what I have offered.

Mr. EDWARDS. I do not intend to discuss upon this amendment the subject of Illinois banks. I wish to confine the few remarks which I propose to make to the question before the House, and to state what I believe would be the proper legislation in relation to this matter.

Now, sir, I am against requiring a stamp tax for ordinary bank checks. I think that it would disarrange the business of the country very much. It would affect the small local banks throughout the country, whatever might be its effect on the city banks, and I think it would affect them in proportion, though not so materially as it would the country banks. If you impose this tax upon bank checks, the depositors throughout the country who never have large deposits individually, but whose deposits in the aggregate make a considerable amount, will stop drawing checks. Will any merchant in the country who has two or three hundred dollars deposited every week, and who, perhaps, draws it out at the end of the week after, deposit his money in a bank? He had better buy a safe than do it. It is certain that throughout the interior people think too much about their small change, and especially are too averse to stamp taxes, to be willing to incur this tax when they can evade it by keeping their money in their own possession until they desire to use it. In that case you diminish the business of the banks without bringing anything into the Treasury. I think there should be an amendment to the word "check" in order to prevent the tax on drafts being evaded. If the clause be left as it is, checks will be drawn payable to order, and will be sent through the country as drafts; and no stamp duty will be paid on them. The checks that are merely drawn for accommodation in business and for withdrawing a man's money for his own use should not be taxed at all. I would have them escape taxation altogether.

Mr. STEVENS. In order to close debate on this paragraph, I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt, and had come to no resolution thereon.

Mr. STEVENS. I move that all debate in Committee of the Whole on the state of the Union on the pending paragraph of the tax bill close in one minute after the committee shall resume the consideration of the same.

The motion was agreed to.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of resuming the consideration of the tax bill.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed, as a special order, the consideration of the bill (H. R. No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

The question being on Mr. BINGHAM's amendment, the amendment was rejected.

Mr. SHEFFIELD. For the purpose of untying the knot, I move to amend by striking out the whole paragraph.

The CHAIRMAN. That motion has to be reserved until the question be taken on the gentleman's own motion to amend the paragraph.

The question being on Mr. SHEFFIELD's amendment, as amended, to strike out the words "checks under fifty dollars, except checks drawn on banks of deposit,"

Mr. HORTON demanded tellers.

Tellers were ordered; and Messrs. SHEFFIELD and GOOCH were appointed.

The committee divided; and the tellers reported —ayes 53, noes 45.

So the amendment was adopted.

Mr. WOODRUFF. I move to amend the paragraph by inserting, after the word "demand," the words "except drafts or orders under fifty dollars;" so that it will read:

Bill of exchange, (inland.)—Promissory note, draft, or order for the payment of any sum of money drawn upon any bank, trust company, or any person or persons, companies or corporations, at sight or on demand, except drafts or orders under fifty dollars, two cents.

The amendment was adopted.

The question recurred on Mr. SHEFFIELD's amendment, to strike out the whole paragraph; and it was rejected; there being, on a division—ayes 36, noes 54.

Mr. WALTON, of Maine. I now move to amend the paragraph by inserting, after the word "note," the word "check."

The CHAIRMAN. The amendment is not in order. The word "check" has already been struck out by the committee, and it is not in order to move to restore it.

Mr. WALTON, of Maine. It was stricken out because it was found in bad company, on account of an amendment.

The CHAIRMAN. The gentleman's remarks are not in order, debate being closed.

Mr. WALTON, of Maine. I ask unanimous consent to make an inquiry.

The CHAIRMAN. The Chair will state again what it has stated several times already, that, according to the authority of Barclay's Digest, even unanimous consent cannot authorize remarks to be made in committee when the House has ordered the debate to be closed.

Mr. WALTON, of Maine. If it be in order, I move to insert, after the word "note," the words "bank check."

The CHAIRMAN. That amendment is in order.

Mr. WALTON, of Maine. Is it in order to say anything about it?

The CHAIRMAN. It is not.

The question being on the amendment offered by Mr. WALTON, of Maine,

The Chairman ordered tellers; and Messrs. WALTON of Maine, and COBB were appointed.

The committee divided; and the tellers reported —ayes 53, noes 40.

So the amendment was adopted.

Mr. WOODRUFF. The words "bank checks" having been added, and the committee having decided to exempt drafts or orders under fifty dollars, it is necessary to include checks also. I therefore move to amend by inserting, before the word "drafts," the words "bank checks," striking out the word "or," and inserting in lieu thereof the word "and;" so that it will read, "except bank checks, drafts, and orders under fifty dollars."

The amendment was adopted.

Mr. VAN VALKENBURGH. I move to amend by inserting, before the words "bank checks," the words "promissory notes;" so that it will read, "except promissory notes, bank checks, drafts, and orders under fifty dollars."

The amendment was rejected.

Mr. BLAKE. I move to amend by inserting after the word "demand," the words "payable at any place without the State where drawn."

Mr. BINGHAM. I am opposed to that amendment.

The CHAIRMAN. The gentleman cannot debate it.

The amendment was rejected.

Mr. CUTLER. I move to amend the next paragraph by inserting, after the word "order," in the ninth line, the words "over fifty dollars or;" so that it will read:

Bill of exchange, (inland.)—Promissory note, draft, or order over fifty dollars, or for the payment in any other manner than at sight, or on demand, of any sum of money not exceeding $500, five cents.

The amendment was rejected.

Mr. HORTON. I move to amend in the seventeenth line by striking out the words "three or," and inserting in lieu thereof the words "than one;" so that it will read, "more than one."

The amendment was adopted.

Mr. HORTON. I move to amend in the eighteenth line by inserting, after the word "set," the words "or drawn in any foreign country, but payable in the United States."

The amendment was adopted.

The paragraph, as amended by the two last amendment, reads:

Bills of exchange, (foreign,) or letter of credit drawn in but payable out of the United States, if drawn singly; or if drawn in a set of more than one, according to the custom of merchants and bankers, for every bill of each set; or drawn in any foreign country but payable in the United States where the sum made payable shall not exceed $500, or the equivalent thereof in any foreign currency in which such bills may be expressed, according to the standard of value fixed by the United States, five cents.

Mr. HORTON. I move to amend the paragraph as to express companies by striking out the following:

Any bale, bundle, box, or package of any description, carried by any express company or carrier, or person acting as such, if the freight or charge upon the same shall not exceed fifty cents, three cents; if exceeding fifty cents and not exceeding one dollar, five cents; exceeding one dollar, ten cents.

And inserting in lieu thereof the following:

For every receipt issued by any express company or carrier or person whose occupation it is to act as such, for every single box, bale, package, or bundle, two cents; for any number of packages more than one, five cents.

The amendment was adopted.

The following paragraph being under consideration—

Certificate of profits, or any certificate or memorandum showing an interest in the property or accumulations of any incorporated company, twenty-five cents,

Mr. HORTON moved to amend by striking out the words "twenty-five cents," and inserting in lieu thereof as follows:

If for a sum not less than ten dollars and not exceeding fifty dollars, ten cents; for a sum exceeding fifty dollars, twenty-five cents.

The amendment was agreed to.

The following paragraph being under consideration—

Conveyance, deed, instrument, or writing, whereby any lands, tenements, or other things sold shall be granted, leased, assigned, transferred, or otherwise conveyed to, or vested in the purchaser or purchasers, or any other person or persons, by his, her, or their direction, one dollar,

Mr. HORTON moved to amend by striking out "one dollar," and inserting in lieu thereof as follows:

When the consideration does not exceed $500, fifty cents. When the consideration exceeds $500, one dollar.

Mr. DIVEN. I wish to inquire of the Committee of Ways and Means whether by the words "or other things," in this paragraph, they intend to include every bill of sale by which any article of property whatever is transferred? It seems to me that the paragraph as it reads would scarcely bear any other construction. I move to strike out the words "or other things."

The CHAIRMAN. The Chair will suggest that the amendment proposed by the gentleman from New York is hardly germane to the pending amendment offered by the gentleman from Ohio. It will be in order as an original amendment when the amendment of the gentleman from Ohio shall have been disposed of.

Mr. MENZIES. I desire to propose an amendment to the amendment. I propose to insert after the word "consideration" the words "exceeds $100 and;" so that it will read, "where the consideration exceeds $100, and does not exceed $500, fifty cents." The effect of my amendment will be that there will be no tax where the consideration is $100 or less, but that between one hundred and five hundred dollars it will be fifty cents. I do not think there ought to be this tax upon conveyancers where the thing conveyed is of so little value. It very often occurs that these conveyances do not represent a consideration of more than ten, fifteen, or twenty dollars, and on such conveyances I think this tax of fifty cents ought not to be required. I hope the amendment will be adopted.

The amendment was agreed to.

Mr. HORTON. I move to amend the amendment, as amended, by striking out the word "consideration," and inserting the word "value;" so that it will read, "where the value does not exceed," &c.

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

The CHAIRMAN. The Chair will suggest to the gentleman from New York that his amendment will now be in order.

Mr. DIVEN. No, sir. I am satisfied with the clause as it is.

Mr. HORTON. I move still further to amend the paragraph by striking out the word "leased," and inserting in place thereof the word "granted." We have provided for the other in another place.

The amendment was agreed to.

Mr. HORTON. I move again to amend the same paragraph by striking out the word, "thing," and inserting the word "realty."

The amendment was agreed to.

Mr. RICE, of Massachusetts. I move to amend, in the fifty-seventh line, by striking out the words "conveyance of any goods or merchandise on board," and inserting in place thereof the word "charter." The paragraph, as amended, would then read:

Charter party.—Contract or agreement for the charter of any ship or vessel, or steamer, or any letter, memorandum, or other writing between the captain, master, or owner, or person acting as agent of any ship or vessel, or steamer, and any other person or persons for or relating to the freight or charter of such ship or vessel, or steamer, if the registered tonnage of such ship or vessel, or steamer, does not exceed three hundred tons, three dollars.

The CHAIRMAN. The committee have passed that paragraph. If there be no objection, however, the gentleman will be permitted to offer his amendment.

There was no objection.

Mr. RICE, of Massachusetts. It is very often that there is no agreement for the conveyance of merchandise on board a vessel, except the bill of lading, and I think the wording of the paragraph would require the payment of three dollars for every bill of lading. I therefore offer this amendment for the purpose of accomplishing what was obviously the intention in framing the clause of the bill.

The amendment was agreed to.

The following paragraph of the bill being under consideration—

Dispatch, (telegraphic.)—Any dispatch or message sent by telegraph: *Provided*, That all messages and dispatches sent or forwarded, on the business or for the use of telegraph companies or railroad companies, such as may be sent and received free of charge, and such as may be for the use of any fire or police department of any city or town, shall be exempt from duty, three dollars,

Mr. HORTON moved to amend by striking out the word "companies," and inserting the word "express;" so as to make it read, "telegraph, express, or railroad companies."

The amendment was agreed to.

The following paragraph of the bill being under consideration—

Entry of any goods, wares, or merchandise at any custom-house, either for consumption or warehousing, one dollar,

Mr. HORTON moved to amend by striking out "one dollar," and inserting in place thereof as follows:

Not exceeding $100 in value, twenty-five cents; exceeding $100, and not exceeding $500 in value, fifty cents; exceeding $500 in value, one dollar.

The amendment was agreed to.

The following paragraphs of the bill being under consideration—

Insurance, (life.)—Policy of insurance, or other instrument by whatever name the same shall be called, whereby any insurance shall be made upon any life or lives—

Where the sum insured shall not exceed the sum of $2,500, fifty cents.

Exceeding the sum of $2,500, and not exceeding $10,000, one dollar.

Exceeding the sum of $10,000, $2 50,

Mr. HORTON moved to amend by striking out all after the word "lives," at the end of the first paragraph, and inserting in place thereof as follows:

When the amount insured shall not exceed $1,000, twenty-five cents; exceeding $1,000, and not exceeding $5,000, fifty cents; exceeding $5,000, one dollar.

The amendment was agreed to.

Mr. STEVENS. I am instructed by my friend here to move that the committee rise. I make that motion.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt, and had come to no resolution thereon.

EMANCIPATION.

Mr. ROSCOE CONKLING. I ask the unanimous consent of the House to take from the Speaker's table House joint resolution No. 48, declaring that Congress ought to coöperate with, affording pecuniary aid to, any State which may adopt the gradual abolishment of slavery. The Senate have made an amendment to the title, striking out the word "Congress," and inserting the words "United States." I ask the House to concur in the Senate amendment.

Mr. WICKLIFFE. I object.

Mr. PENDLETON moved that the House adjourn.

The motion was agreed to; and thereupon (at four o'clock and thirty-five minutes, p. m.) the House adjourned.

IN SENATE.

THURSDAY, *April* 3, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. KENNEDY presented the memorial of one hundred and forty-three tobacco planters of the State of Maryland, remonstrating against the proposed tax of three cents per pound upon leaf tobacco when in the hands of the producer; which was referred to the Committee on Finance.

Mr. WILMOT. I present resolutions of the Legislature of Pennsylvania on the subject of the defenses of the river Delaware, which I ask to have read.

The Secretary read, as follows:

EXECUTIVE CHAMBER, HARRISBURG, PENNSYLVANIA, *March* 27, 1862.

SIR: I have the honor to transmit herewith a copy of resolution adopted by the Legislature of this State, agreeably to the requirements of said resolution.

Most respectfully, your obedient servant,

A. G. CURTIN, *Governor.*

Hon. HANNIBAL HAMLIN,
President of the United States Senate.

—

Resolution relative to the defenses of the Delaware river and bay and the harbors thereof.

Resolved by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, That it is the sense of the people of this State that it is due to the great national interests involved in the navigation of the Delaware, and especially due to the patriotic and loyal people who have contributed so largely to the general defense, that no time should be lost in providing such securities for their metropolis, and the great interests connected therewith, as shall remove all apprehension of injury from sudden invasion by either domestic or foreign enemies.

SEC. 2. That looking to the dangers by which our harbor was so recently threatened on our sea-board frontier from the introduction of new and formidable means of maritime offense, it is the opinion of this Legislature that the immediate construction of one or more iron-clad gunboats, or such other means of defense as may be adequate to the occasion, is an essential measure of precaution for the protection of the city of Philadelphia and all the important region of country bordering upon the Delaware.

SEC. 3. That in case of any difficulty arising out of the possible pecuniary embarrassment of the General Government, the State of Pennsylvania will lend its credit in aid thereof for such proportion of any expenditure which may be required for the purposes aforesaid, not exceeding $1,000,000, as would correspond with her federal numbers as compared with the other States bounding upon the same national highway, and especially interested with herself in the protection thereof.

SEC. 4. That the Governor be requested to forward a copy of these resolutions to the President of the United States, and also to the Presiding Officers of both branches of Congress, with the request that the same may be laid before their respective bodies; and that his Excellency the Governor and the chairman of the Committee on Federal Relations of the Senate and House respectively be requested to proceed in person to the Federal capital with a view to a conference with the proper Departments and the appropriate committees of Congress in relation thereto.

JOHN ROWE,
Speaker of the House of Representatives.
G. V. LAWRENCE,
Speaker of the Senate pro tempore.

Approved the 26th day of March, anno Domini 1862.

A. G. CURTIN.

The resolutions were referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. DOOLITTLE. I have received, and been requested to present, resolutions of the Legislature of Wisconsin, which I ask to have read, printed, and referred to the Committee on Finance.

The Secretary read, as follows.

Resolution requesting Senators and Representatives in Congress to oppose any stamp tax on newspapers, or any interdiction of free exchange.

Resolved by the Senate, the Assembly concurring, That our Senators and Representatives in Congress be respectfully requested to oppose the passage by Congress of any act imposing a stamp tax on newspapers, or the interdiction of free exchange.

Resolved, That a copy of this resolution be transmitted by the Governor to each of our Senators and Representatives in Congress.

J. W. BEARDSLEY,
Speaker of the Assembly.
EDWARD SALOMON,
President of the Senate.

Approved, February 15, 1862.

LOUIS P. HARVEY.

—

STATE OF WISCONSIN, *Secretary's Office, ss:*

The Secretary of State of the State of Wisconsin hereby certifies that the foregoing resolution has been compared with the original enrolled resolution deposited in this office, and that the same is a true and correct copy thereof and of the whole of such original.

In witness whereof, I have hereunto set my hand and affixed the great seal of the State, at the capitol, in Madison, this 17th day of February, A. D. 1862.

[L. S.]

EDWARD ILSLEY,
Assistant Secretary of State.

The resolution was referred to the Committee on Finance, and ordered to be printed.

REPORTS FROM COMMITTEES.

Mr. BAYARD, from the Committee on the Judiciary, to whom was referred the petition of Pedro Chaboya, praying Congress to authorize the Supreme Court of the United States to adjudicate and decide upon his claim to a tract of land in California called Posa de San Juan Bautista, together with a bill (S. No. 106) to authorize the Supreme Court of the United States to adjudicate and decide upon its merits the case now pending therein of Pedro Chaboya against the United States, reported the bill, with an amendment, and submitted a report; which was ordered to be printed.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the petition of citizens of New Jersey, praying for the passage of a law to prevent all further traffic in and monopoly of the public lands, asked to be discharged from its further consideration, the homestead bill having been reported; which was agreed to.

He also, from the same committee, to whom was referred a memorial of citizens of Wisconsin, remonstrating against any diversion of the northeastern land grant in that State, asked to be discharged from its further consideration, the committee having reported a joint resolution adverse to the petition; which was agreed to.

PRINTING OF A DOCUMENT.

Mr. HALE. There was laid upon the table the other day, while I was out, a communication in answer to a resolution of mine calling on the Secretary of the Interior for information in relation to the slave bark Augusta. I move that those papers be printed. Let the motion be referred to the Committee on Printing.

It was so referred.

PUBLIC LANDS IN KANSAS AND NEBRASKA.

Mr. HARLAN. The Committee on Public Lands, to whom was referred a resolution of the Senate of March 14, 1862, directing them to inquire into the expediency of taking measures to facilitate the surveys of the public lands in the State of Kansas and Territory of Nebraska, have had the same under consideration, and after full investigation cannot recommend any additional appropriation for this purpose for the fiscal year ending June 30, 1863. I move that the report of the committee and the accompanying papers be printed, and that the committee be discharged from the further consideration of the subject.

The motion was agreed to.

Mr. POMEROY. The report of the Commissioner shows the amount of lands surveyed in Kansas and Nebraska; but the greater part of the surveys has been in Nebraska and not in Kansas, and though it shows some seventeen millions of acres of surveyed land that have not been sold, they are not in Kansas. Nebraska is about three times as large as Kansas, and I do not understand why we should not have lands surveyed in Kansas, although they may not need surveys in Nebraska. When this report of the Commissioner is printed, there may be some action taken on it.

SURRENDER OF SLAVES BY THE ARMY.

Mr. WILSON, of Massachusetts. I submit a resolution, which I shall call up to-morrow or Monday:

Resolved, That the Committee on Military Affairs and the Militia be directed to consider and report whether any further legislation is necessary to prevent persons employed in the military service of the United States from aiding in the return or control over persons claimed as fugitive slaves, and to punish them therefor.

HARPER'S FERRY ARMORY.

Mr. WILLEY. I offer a resolution which may lie on the table to be called up hereafter:

Resolved, That the Committee on Military Affairs and the Militia inquire into the present condition of Harper's Ferry armory, Jefferson county, Virginia, what damage has been done thereto during the existing rebellion, by whom, and by what authority, the value of the United States property there in its present condition, the amount of money necessary to repair the said damage, and whether it is expedient to repair and restore the said armory to be employed as heretofore; and that said committee report by bill or otherwise.

BILLS INTRODUCED.

Mr. WILSON, of Massachusetts, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 258) to create a Bureau of Clothing; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. DAVIS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 73) declaring the purposes for which the present war for the suppression of rebellion is prosecuted to be to maintain the Constitution and to preserve the Union; which was read, and passed to a second reading, and ordered to lie on the table.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House had passed the joint resolution of the Senate (No. 68) to authorize the President to assign the command of troops in the same field or department to officers of the same grade, without regard to seniority.

INVULNERABILITY OF SHIPS.

Mr. HALE. I am instructed by the Committee on Naval Affairs, to whom was referred a joint resolution (H. R. No. 59) authorizing the Secretary of the Navy to test plans and materials for rendering ships and floating batteries invulnerable, to report the same back, with a single amendment, striking out "fifty" and inserting "twenty-five;" and if the Senate will indulge me, I should like to have it considered now. It is an important matter, and I wish the Senate would pass it at once.

By unanimous consent the joint resolution was considered as in Committee of the Whole. It authorizes the Secretary of the Navy to expend a sum not exceeding $50,000, for the purpose of testing plans and materials for rendering ships or floating batteries invulnerable.

The amendment of the Committee on Naval Affairs is to strike out "fifty" and insert "twenty-five;" so that the clause will read, "a sum not exceeding $25,000," &c.

The amendment was agreed to.

The joint resolution was reported to the Senate, as amended, and the amendment was concurred in, and ordered to be engrossed, and the resolution to be read a third time. It was read the third time, and passed.

CUMBERLAND AND CONGRESS.

Mr. HALE. The same committee, to whom was referred the bill (S. No. 256) for the relief of the widows and orphans of the officers, seamen,

and marines of the United States ships Cumberland and Congress, have instructed me to report the same back, with a recommendation that it pass; and as this is the same provision that has uniformly been made by the Government to the widows of seamen and officers in a similar condition, I hope the Senate will pass the bill now.

There being no objection, the bill was considered as in Committee of the Whole. It provides that the widow, or child, or children, and in case there shall be no widow, or child, or children, the parent or parents, and if there be no parents, the brothers and sisters of the officers, seamen, and marines, and others in service, that were lost in the United States ships Cumberland and Congress, (including captain's clerks) shall be entitled to and shall receive a sum equal to twelve months' pay of their respective deceased relations, in addition to the pay due to the deceased at the date of the loss of the vessels.

Mr. HALE. I will state that this is no extraordinary provision. The same provision was made for the widows and children of the officers and seamen of the Levant, which perished at sea. This was a most gallant action on the part of the officers and seamen of the Cumberland and Congress, but we have not made any extra allowance. It is the usual allowance where ships are lost at sea by any mischance or accident.

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

REVOLUTIONARY PENSIONS.

Mr. POMEROY. Some days ago I made a motion to reconsider the vote by which a bill was passed in reference to the payment of pensions to the children of deceased widows of officers and soldiers of the revolutionary war. I understood the bill was not in the possession of the Senate at the time, but was in the House of Representatives. I then made a motion to have it returned. In the mean time the bill has been enrolled and sent to the President, I believe. I understand it is too late now to enter the motion to reconsider. If that is so, I withdraw the motion and suggest that the bill be returned to the House of Representatives.

The PRESIDENT *pro tempore*. It is moved that the bill (H. R. No. 318) to prohibit the allowance or payment of pensions to the children of officers and soldiers of the war of the Revolution be returned to the House of Representatives.

The motion was agreed to.

STEAMSHIP LINE TO CHINA.

Mr. LATHAM. I move to postpone all prior orders for the purpose of proceeding to the consideration of the bill (S. No. 75) to establish a line of steam mail ships between San Francisco, in California, and Shanghai, in China, touching at the Sandwich Islands and Japan. I will state, in making this motion, that I merely propose to get the bill up and postpone it to some future day, at which time I shall wish to address the Senate upon it; and in doing so I will also state that if, at the time to which it may be postponed, (in case the Senate shall so far indulge me,) it interferes with any appropriation bills, or the confiscation bill, or those measures which I know the Senate has at heart, I, of course, shall give way and not press it.

The motion was agreed to.

Mr. LATHAM. I now move that the further consideration of the bill be postponed until next Thursday at one o'clock, and be the special order for that hour.

The motion was agreed to, (two thirds concurring therein.)

OATH OF ALLEGIANCE TO CITIZENS ABROAD.

Mr. SUMNER. There is a little bill here that it is better the Senate should act upon early than late, reported from the Committee on Foreign Relations—Senate bill No. 229. I move that it be taken up.

The motion was agreed to; and the bill (S. No. 229) to provide for the administration of the oath of allegiance to American citizens in foreign countries was considered as in Committee of the Whole. It proposes to require every citizen of the United States in foreign countries, before receiving a passport, or any authentication thereof, from any representative of the United States abroad, during the continuance of the present rebellion, to take the oath or affirmation of allegiance and the oath or affirmation to support the Constitution of the United States, as prescribed to persons in the civil service of the United States by the act of Congress approved August 6, 1861, and it authorizes the representatives of the United States abroad, now empowered to issue or authenticate passports, to administer such oath or affirmation.

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

HUGH H. HOWARD.

On motion of Mr. NESMITH, the bill (S. No. 219) granting an invalid pension to Hugh H. Howard, of Hockingport, State of Ohio, was read the second time and considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place the name of Hugh H. Howard, a soldier in the Oregon war, upon the pension roll, and allow him a pension at the rate of eight dollars a month from the 1st day of January, 1860.

Mr. THOMSON. If there is a report in that case, I should like to have it read.

The Secretary read the report made by Mr. FOSTER, from the Committee on Pensions, which states that Hugh H. Howard was a regularly enrolled soldier in company I, first regiment of Oregon mounted volunteers, enlisted for the term of the war, or until discharged, as appears by the certificate of the adjutant general of Oregon Territory; that on the 28th day of October, 1855, near a place called the Cascades, in the Territory of Oregon, while actually in service and in the line of his duty, (being about to escort and guard a train of pack animals *en route* to the Dalles,) while mounting his horse his gun was accidentally discharged, fracturing his shoulder so that his left arm became entirely useless, and wounding his leg so that amputation became necessary. It appears from the surgeon's certificate that the petitioner is totally disabled from obtaining his subsistence. The committee are of opinion that the petitioner is entitled to a pension for a total disability.

Mr. NESMITH. The papers in this case were voluminous, setting forth all the facts. They were submitted to the Committee on Pensions, and that committee reported the bill. The facts are stated in the report. This young man Howard, being then in Oregon, enlisted in company I, first regiment Oregon mounted volunteers, in 1855. In the discharge of his duty he was accidentally shot and lost his leg; at the same time he was thrown from his horse and his shoulder was dislocated. He was formerly in fine physical health; but now he has entirely lost his health. Amputation became necessary. He was an object of charity, supported in Oregon three or four years by contributions, and finally, by public contribution, funds were raised to send him home to his friends in Ohio, and he is now living on their charity. He is rendered perfectly incapable of performing any sort of labor. The facts are substantially set forth in the report. I move to amend the bill by inserting, after the word "Oregon," the word "Indian," and after the word "war," the words "of 1855 and 1856;" so as to make the bill read, "a soldier in the Oregon Indian war of 1855 and 1856," in order to render this description more certain.

The amendment was agreed to.

Mr. FESSENDEN. This seems to be a very meritorious case; and if it comes within the law or custom of the Government with reference to pensions, I, of course, make no objection to it; but I should like to know under what rule it comes. Were these volunteers mustered into the service of the United States at all, or were they called out by the authority of Oregon?

Mr. NESMITH. In answer to the Senator, I will state that those volunteers were called into service in response to a requisition made by the commanding officer of the United States forces in Oregon, for the defense of settlers against the incursions of hostile Indians in 1855. This young man was regularly mustered into service, was wounded and lost his leg while in the service. The war has since been recognized by the United States, and the troops paid for their services. There is not any general law under which this application comes, except under the general principle that a man who is wounded in the service, and rendered incapable of obtaining his livelihood, shall receive some sort of remuneration from the Government. That is the rule under which the application comes. I know of no law that applies to the case. This bill was introduced for the purpose of applying a remedy to that state of the case.

Mr. FESSENDEN. Has there been any precedent for giving pensions by the Government of the United States in similar cases? I merely ask for information.

Mr. POWELL. I served on the Committee on Pensions, and I think there are many precedents of pensions being granted for services in this very same war. That is my recollection.

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

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

MONTHLY PAYMENT OF TROOPS.

Mr. WILSON, of Massachusetts. I find four or five bills on the orders here that I wish to get rid of, and I want to call them up and move their indefinite postponement. I do not like to see them here on the Calendar. I move to take up House bill No. 88, providing for the monthly payment of the troops. The Committee on Military Affairs reported it adversely, and I desire to have it indefinitely postponed.

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

Mr. WILSON, of Massachusetts. I now move its indefinite postponement.

The motion was agreed to.

ARMY AND VOLUNTEER MILITIA.

Mr. WILSON, of Massachusetts. Now I move to take up the Senate bill No. 70, for the same purpose. The substance of the bill has been incorporated in another measure.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 70) in relation to the Army and volunteer militia of the United States.

Mr. WILSON, of Massachusetts. I move that it be indefinitely postponed.

The motion was agreed to

MILITARY ARRESTS OF FUGITIVES.

Mr. WILSON, of Massachusetts. I move to take up Senate bill No. 126, a bill in relation to the arrest of persons claimed to be held to service or labor by the officers of the military and naval service of the United States.

The motion was agreed to; and the Senate proceeded to consider the bill.

Mr. WILSON, of Massachusetts. I move its indefinite postponement.

The motion was agreed to.

Mr. FESSENDEN. Before the Senator proceeds further, I wish to ask him whether he is going to leave any of these military bills on the Calendar. He stated a short time since that he should have one very soon on which I could introduce an amendment that I had proposed to another bill in reference to stopping further enlistments.

Mr. WILSON, of Massachusetts. I think that by to-morrow or next day we shall get a bill before the Senate on which the Senator can offer that amendment. I think we shall have it to-morrow.

Mr. FESSENDEN. Very well.

ARTICLES OF WAR.

Mr. WILSON, of Massachusetts. I move to take up Senate bill No. 152, to amend the fifty-fifth article of the first section of the act of the 10th of April, 1806, and the second section of the same, with the intention of moving its indefinite postponement.

The motion to take up the bill was agreed to.

Mr. WILSON, of Massachusetts. I move that it be indefinitely postponed.

The motion was agreed to.

SALE OF GOODS BY WAR DEPARTMENT.

Mr. WILSON, of Massachusetts. I now move to take up the joint resolution (H. R. No. 46) relating to sale of goods unfit for use by the War Department. The Committee on Military Affairs unanimously reported against its passage.

The motion was agreed to; and the Senate proceeded to consider the joint resolution.

Mr. WILSON, of Massachusetts. I move that it be indefinitely postponed.

The motion was agreed to.

ORGANIZATION OF A NATIONAL GUARD.

Mr. WILSON, of Massachusetts. I now move to take up Senate bill No. 5, for the organization of a volunteer militia force to be called the national guard of the United States. This bill was introduced at the called session, and was postponed to the first Monday in December of the present session. The Committee on Military Affairs reported a substitute for the bill as an amendment. What I desire to do, with the consent of the Senate, is, to adopt the substitute in lieu of the original bill, and then recommit the whole subject to the committee. I think we can improve the substitute, and I should like to get it into the hands of the committee.

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

Mr. WILSON, of Massachusetts. I move, without reading, if the Senate will consent to it, that the amendment proposed by the committee be adopted; and then that the bill as amended be recommitted to the Committee on Military Affairs for further consideration.

The PRESIDENT *pro tempore*. The bill is now before the Senate, and the question is on agreeing to the amendment reported by the committee. The amendment will be read at length.

Mr. WILSON, of Massachusetts. If anybody objects to the course I suggested, I will not ask it. I thought it would simplify the matter before the committee very much if the amendment, which is a great improvement on the original bill, should be adopted, and then the bill be recommitted; but if there is any objection to it, I will not ask it. However, I do not think it is worth while to read the amendment.

The PRESIDENT *pro tempore*. The Chair will suggest to the Senator from Massachusetts that the reference of the bill carries with it all substitutes and all amendments.

Mr. WILSON, of Massachusetts. Very well. Then I move its reference to the Committee on Military Affairs.

The motion was agreed to.

BRITISH SHIP PERTHSHIRE.

Mr. SUMNER. There are one or two orders on the Calendar which I should like to have discharged in the same way; and, with that view, I move to take up Senate bill No. 116, for the relief of the owner of the British ship Perthshire.

The motion was agreed to.

Mr. SUMNER. A House bill on the same subject has already been passed, and I therefore move the indefinite postponement of the bill.

The motion was agreed to.

ARREST OF MESSRS. MASON AND SLIDELL.

Mr. SUMNER. There is a special order for January 6, 1862, which I find was made on my motion, and I now move that it be discharged, and that the subject be indefinitely postponed. It is this:

"On motion by Mr. SUMNER, that the message of the President, with the correspondence between Secretary of State and authorities of Great Britain and France, in relation to the arrest of Messrs. Mason and Slidell upon the British mail steamer Trent, be referred to the Committee on Foreign Relations."

I move that this special order, made specially for January 6, 1862, be discharged, and that the whole subject be indefinitely postponed.

The PRESIDENT *pro tempore*. The first motion is unnecessary, inasmuch as the time having passed, it is no longer a special order. The Senator moves that the Senate proceed to the consideration of that subject.

The motion was agreed to.

The PRESIDENT *pro tempore*. It is now before the Senate, and subject to motion. Does the Senator move the indefinite postponement of that motion?

Mr. SUMNER. Yes, sir.

The motion was agreed to.

ARMY APPOINTMENTS.

Mr. McDOUGALL. There is a resolution in the order of business that has no further office, and I move that it be indefinitely postponed. It is a resolution introduced by myself, during the time of the late Secretary, asking for information relative to any rule adopted by the War Department for the appointment of officers of the Army. I ask that that resolution be taken up and indefinitely postponed.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

Whereas it is represented to the Senate by Senators, that the honorable the Secretary of War has refused to entertain or consider the subject of appointments to be made to the Army, until the Army appointments already sent to the Senate shall have been acted upon:

Resolved, That the honorable Secretary of War be directed to inform the Senate whether or not any such rule has been adopted in his Department, and if so, his reasons therefor, also his authority.

Mr. McDOUGALL. I move that it be indefinitely postponed.

The motion was agreed to.

DISTRICT BUSINESS.

Mr. GRIMES. It will be remembered that to-day was set apart by special assignment for the transaction of business relating to the District of Columbia. As there is a bill now left as the unfinished business of yesterday that pertains specially to this District, I am content that the Senate should go on with that bill if the understanding be that it shall be followed by the business that the Committee on the District of Columbia have specially in hand. I should like to have an understanding of that kind, and then I wish to give way to the Senator from Maine to call up his bill, if there is no objection to that understanding.

Mr. MORRILL. I do not believe there will be any objection.

Mr. GRIMES. I therefore move that the special assignment for to-day be made the order of business following the vote on the bill No. 108.

The PRESIDENT *pro tempore*. The Chair would suggest that that would follow under the special order assigning this day for District business without a motion.

Mr. GRIMES. But if it goes over until to-morrow it will lose its place. I wish to have it understood that if we finally get a vote on that bill just before we adjourn, that then the other business which would come up legitimately before the Senate under the special assignment as it now stands, shall be taken up to-morrow morning in lieu of this morning.

Mr. MORRILL. The unfinished business being a part of the business of the District of Columbia, if we should proceed with it and finish it to-day, still the general subject, I submit, will be before the Senate, and therefore no motion is necessary. The bill which is the unfinished business being completed, and it being a part of the District business, then we should continue the general business of the District, the business of the special assignment.

The PRESIDENT *pro tempore*. To-day is assigned by special resolution to business pertaining to the District of Columbia, and if that business should not be completed it would require another assignment of another day in order to consider it in preference to other business.

Mr. GRIMES. I simply desire to have an understanding that we shall go on with that business to-morrow if to-day is entirely occupied with the bill in relation to slavery in the District. I presume there will be no objection to that.

The PRESIDENT *pro tempore*. The Chair presumes it is sufficient for the Senator to indicate his desire in that regard.

SLAVERY IN THE DISTRICT.

Mr. MORRILL. Then I move that the Senate proceed to the consideration of Senate bill No. 108, for the release of certain persons held to service or labor in the District of Columbia.

The PRESIDENT *pro tempore*. The Chair will take that to be the sense of the Senate, as the morning hour has very nearly expired, and that being the unfinished business. That bill is now before the Senate as in Committee of the Whole, and the question is on the amendment moved by the Senator from New Hampshire [Mr. CLARK] to the original bill; and on that question the Senator from California is entitled to the floor.

Mr. McDOUGALL addressed the Senate. [His remarks will be found in the Appendix.]

The PRESIDENT *pro tempore*. The question is on the amendment moved by the Senator from New Hampshire, [Mr. CLARK,] to the original bill.

Mr. SUMNER. The original bill is open to amendment.

The PRESIDENT *pro tempore*. An amendment to the original bill is now pending.

Mr. SUMNER. I thought the amendment now pending was a substitute.

The PRESIDENT *pro tempore*. The Senator from New Hampshire has moved a substitute to the bill; but the original bill and the substitute being open to perfection, the Senator from New Hampshire himself has moved a separate amendment to the original bill, which is the pending question.

Mr. CLARK. I desire to say in reference to the inquiry of the Senator from Massachusetts, that I have moved to strike out the second section of the original bill, and to insert the second section of the substitute, so that I might perfect this bill and get some provisions upon it that are in the substitute, if I do not get the substitute itself adopted. This amendment is only in regard to what the petition shall contain, making it more specific.

Mr. TEN EYCK. I do not rise at this time for the purpose of making a speech, yet I trust the Senate will extend to me their indulgence for a few minutes while I submit my views, partly on the measure before the Senate, and partly to make an explanation. I think they will accord to me their attention, although this debate has been protracted and they are impatient for a vote. I am myself very impatient for a vote.

I shall vote, if the question comes to that, for the bill reported by the Committee on the District of Columbia as it has been amended. I should have preferred, and I say it frankly, a bill something like the one offered as a substitute by the Senator from Indiana, [Mr. WRIGHT.] I approve of its general features. I think it might be amended in several particulars, and should be amended in several particulars in order to make it accord with the present existing state of things. But, sir, I favor the idea of gradual emancipation upon a vote of the people of this District, accompanied with proper remuneration to the loyal owners of the persons proposed to be set free.

In 1858 a worthy, honest, and distinguished gentleman of Illinois, in many speeches, and especially in a speech delivered by him at Freeport in August of that year, in answer to certain questions propounded to him by another distinguished citizen of that State who is unhappily now no more, declared his views on this subject. This question was put to him:

"4. I want to know whether he stands to-day pledged to the abolition of slavery in the District of Columbia?"

The answer was:

"The fourth one is in regard to the abolition of slavery in the District of Columbia. In relation to that I have my mind very distinctly made up. I should be exceedingly glad to see slavery abolished in the District of Columbia. I believe that Congress possesses the constitutional power to abolish it. Yet, as a member of Congress, I should not, with my present views, be in favor of endeavoring to abolish slavery in the District of Columbia unless it would be upon these conditions: First, that the abolition should be gradual; second, that it should be on a vote of the majority of qualified voters in the District; and, third, that compensation should be made to unwilling owners. With these three conditions, I confess I would be exceedingly glad to see Congress abolish slavery in the District of Columbia, and in the language of Henry Clay, 'sweep from our capital that foul blot upon our nation.'"

Sir, I fully accord and agree with the sentiments contained in this answer. The three leading ideas are, gradual emancipation, compensation to unwilling owners, and the submission of the question to the lawful voters of the District to be affected thereby. Such is the general character of the bill proposed by the Senator from Indiana. Nay, if I am not incorrectly informed, the bill is almost an exact copy of a bill introduced in the House of Representatives in 1848 by the gentleman to whom I have already made allusion; and I hope that the Senator will modify his amendment or substitute to the bill, so as to make it accord with the existing state of affairs.

In June, 1860—but two years following these discussions to which I have made allusion—one of the largest, most respectable, and intelligent conventions of a political character, and perhaps of any other character, ever assembled in this country, composed in part of Senators who now have and others who then had seats upon this floor, met in convention at Chicago; and there, after having established a platform, in which, among other things, they declared that the object

of the Republican party was not to interfere with the institution of slavery in the several States where it existed, conveying the general idea that that was not to be interfered with, and declaring that slavery should not be extended or carried into the Territories, they put in nomination the eminent individual to whom I have already made allusion, with his declarations on the subject of slavery, uttered only two years before, with respect to the abolition of slavery in the District of Columbia, fresh in their minds. In the canvass which followed in the fall of 1860 in the middle States—I speak of them particularly—where parties were more nearly balanced, and where the people have perhaps, if I may be allowed the expression, rather more of a conservative tendency than they have in the northern and eastern sections of the Union, the people and those who addressed them understood these views as uttered in 1858. I myself met the opposition of the Democratic party with them, who charged that the object of the Republican party was to interfere with and overthrow the institution of slavery everywhere in this country; and I referred them to the declarations of the standard bearer of our party made only two years before over and over again in his memorable contest and controversy with his able and skillful rival, who was contending with him for the honors of a seat upon this floor, as an assurance, as a guarantee that no extravagant or ultra measures would be resorted to by an administration such as might be constituted upon the election of the individual thus selected. I conscientiously believe that in my State, little and unimportant as she comparatively is in a political point of view, hundreds of men who had voted the Democratic ticket prior to that time, voted in that election for the candidate of the Republican party, because they liked the man, and with the understanding that that was to be the general outline of the policy of his administration. Sir, having declared that to my fellow-citizens, during the public canvass, with approbation, in the State where I live, I should feel that I had not performed my duty here to-day if I had not expressed my preference for the system of gradual emancipation in the District of Columbia upon the terms and conditions specified in these declarations of the standard bearer of the Republican party, made but two short years before, and which he had not withdrawn or retracted.

A day or two ago I had the misfortune to differ from my associates on this floor in relation to a vote that was given in connection with this bill, and that was on the proposition to submit the bill to a vote of the people of the District. I thought that was a proper provision. The bill proposes radical changes in the laws, systems, and institutions of the people of this District. These are ancient. They have existed almost from time immemorial. They have existed from a time long anterior to the formation of the Constitution and the establishment of the seat of Government in this spot. They existed under the laws of Maryland. I grant you that there are many statutes and many laws here which, like other early statutes and laws in the northern States that have vanished away before an enlightened public sentiment, ought to be repealed, and repealed at once; and I do not say that this institution of slavery here ought not to be abolished and done away with. I only question the mode proposed. I only expressed my preference for another mode—its gradual abolition; but if the unanimous or prevailing sense of this body is otherwise on a question of public policy like this, why I must defer to that prevailing sense.

I may be pardoned for repeating the oft-stated fact that the people of this District have no representation in Congress. They are taxed without representation—a subject upon which our fathers went to war with Great Britain. They, at the same time, it is true, have received large benevolences and large gratuities at the hands of the Government. They have no vote in Congress; they have not even so much as a voice on the floor of Congress, as the Territories of the United States enjoy. I think upon a question of so grave and vital importance as a radical change of the laws, systems, and institutions of the people of this District, now composing some seventy thousand white persons, it would be no more than reasonable to submit it to their consideration. I think it is in accordance with the spirit and nature of our institutions, which are based on popular suffrage. Although I would not be willing to adopt that principle with respect to a Territory, where everything is fresh and new as the morning, and where new institutions are about to be planted, and new domestic relations to be formed, where the laws and Constitution of the United States have full control, sway, and authority; yet in this District, where the existing laws and institutions were found at the time the Government settled down here and took possession of this tract of ten miles square, it seems to me that there is a propriety in submitting such questions to the people, inasmuch as they have grown up and been associated all their lives with these institutions and these laws, and do not look upon and regard these things in the same light that we who happen to have been born further north look upon and regard them. Such a course has been already taken in this District in two instances: the act of Congress for the recession of that part of the District south of the Potomac to Virginia, and the act revising the code for the District, were both submitted to a vote of the people for adoption or rejection.

I could express my preference that Congress, in endeavoring to relieve this District from this vestige of servitude, will not feel disposed to impose a badge of vassalage upon the people of the District. I know they would not design any; I know there is no such disposition. Sir, the most complete vassalage that a conqueror even could impose upon vanquished people would be to change their laws and institutions without their consent or approbation. When William the Norman overcame the Saxon power in the field of Hastings, he by no means so effectually conquered the English people as he did afterwards when he changed their laws, abrogated their customs, altered their institutions, partitioned out their lands, and recorded these surveys as a perpetual memorial in his famous book of Doomsday. I do not pretend to say that the situation of this people, even under this law, would be at all parallel with the people mentioned in this historical reference; but it serves to illustrate my idea and to convey my meaning. I know perfectly well, however, that upon this subject the wisest, ablest, and purest statesmen that this Union has ever produced and sent to these Halls—at the head of whom stood the late John Quincy Adams—questioned the propriety of interfering with the institution of slavery in this District, or at all events without the consent and approbation of the people residing here. Still, sir, as I have said before, I shall not be controlled finally by these considerations in my action upon this subject.

Mr. TRUMBULL. If the Senator from New Jersey would allow me, I should like to ask him a question. As he has dealt on the idea of submission to the people of the District, I should like to inquire what propriety there is in five thousand voters, assuming that to be the number here in the District of Columbia, determining for my constituents in Illinois, and his constituents in New Jersey, whether the capital of this great nation shall be in a slaveholding district? If it is to be submitted to the people at all, should it not be submitted to the people of this whole Union? Is there any justice in allowing the few inhabitants settled here to determine for the people of this whole Union whether their capital shall be in a slaveholding community? And, in the next place, why submit it to the voters here? Suppose that an individual residing out of this District owns a slave in the District of Columbia, ought he not to be permitted to vote? There are many such cases, and my friend, I know, will not take it unkindly when I say that I have heard it intimated that perhaps he himself may have some interest in this institution. I do not mean to intimate by that, that it controls his vote at all; but if such were the case, ought not he to be consulted as much as a person who happens to live here? It strikes me there is no propriety in submitting to the people of this District to determine whether the owner of a slave living in Maryland or New Jersey should be affected by their votes or not, and I think there is just as little propriety in allowing the people of this District, some five thousand voters, very few of whom own slaves, to determine for the whole nation whether slavery shall exist at the capital. I am not informed as to the number of slaveholders here. There are said to be fifteen hundred slaves owned in the District, and probably there are not more than one hundred or two hundred slave owners here. Why submit it to the other five thousand voters to determine? It seems to me there is no propriety in submitting such a question as this to the voters of this locality.

Mr. TEN EYCK. I will endeavor to respond to the questions of the Senator from Illinois. The Senator asks me what propriety there is in confining the vote upon the question of the abolition of slavery in this District to the people of the District of Columbia; why should not the whole people of the United States have a voice in this matter, and an opportunity of determining whether the capital of the country shall any longer remain in a slaveholding district. Sir, the capital has remained within a slave district since its establishment here in 1801; and although there has been, from time to time, great complaint made of this fact on the part of some—and that complaint is growing, perhaps, more strong from day to day—yet I am not aware that the fact that the Congress of the United States has been compelled to meet in a district surrounded by such circumstance, has impeded the progress of this Government or the execution of its functions here, or has impeded the onward progress of this nation in a stretch of grandeur and power such as the world has never witnessed before. It would, at first blush, seem to be proper that the people of the United States, interested in a question of this kind, should have a vote upon it; but there would be no more propriety in their voting upon it than there would be in a citizen of Illinois, who happened to own a house in the city of Washington, being permitted to vote in the charter elections here, or on other questions affecting property in this city. It would seem theoretically to be fair enough, but practically it would not. It is not deemed desirable anywhere to extend the right of suffrage to an inhabitant of one State and suffer him to exercise it in another merely because he may happen to be the owner of some property in that other State. This answers the Senator's first two questions. The other question of the Senator I will answer before I take my seat.

Let me now, for a moment, allude to this subject in connection with the interests of the citizens of the adjoining border States. I have spoken of it in connection with the people of this District. Sir, in view of the President's recent message, and in view of the resolution which we adopted yesterday, tendering the aid of this Government to the border slave States, in the adoption of a system of gradual emancipation, it seems to me that there is great propriety in our taking the same course with respect to this District. We have already a bill on our tables proposing aid by the General Government to the States of Delaware and Maryland on this very subject; and doubtless we shall be called upon to vote on that question before Congress adjourns. The question affecting the District is similar to the question as involved in these two States; and I, sir, as a friend of the Union, would be exceedingly desirous that we should take no step that might prevent, hinder, or impede so wise, beneficent, and statesmanlike a measure as that proposed by the President of the United States. If Congress should refrain from passing a law for the immediate abolition of slavery in this District, the enemies of this measure in the border States will be deprived of that argument, which they will passionately seize hold of and use among their people, that Congress has, with its own iron will, undertaken to interfere with this matter, instead of leaving it to the people themselves; and I have not the slightest doubt, that if this question could be submitted to this District, four out of five of the lawful voters of this District would vote for the gradual abolition of slavery here. Perhaps I may make the proportion too great; but I have not a doubt that a large majority of the legal voters of this District to-day are in favor of the gradual abolition of slavery here.

I have been in some doubt with respect to the propriety of passing this bill now, although I shall not stand in the way of the passage of the bill. I am not sure but that the postponement of this measure until after the border slave States shall have acted on the question, would of itself effect a cure. If Maryland and Delaware should vote to abolish slavery according to the plan proposed by the President and the resolution we passed

yesterday, slavery in this District would speedily die out of itself; like an exhausted candle, it would flicker in its socket, and soon be gone forever, and not a single wave of popular feeling be created to disturb or agitate the surrounding sections of country interested in the institution.

I have also had some doubt in my mind whether gradual abolition without compensation, as has been the course pursued in most of the northern States, and in my own State in particular, would not be better than immediate abolition with compensation, taken in connection with the fact of the enormous taxes that the people of this country will now have to pay in consequence of the war, and of the increased burdens that are imposed upon them. I do not see my way exactly clear in agreeing to tax the people of New Jersey, New York, Pennsylvania, or any other northern State which has abolished this system for the purpose of compensating persons in the District of Columbia; and yet I shall not stand in the way, but shall vote for the bill as proposed by the committee. I do not know, as the Senator from Maine [Mr. FESSENDEN] does, what the wishes of the people of New Jersey are on this subject.

Now, sir, I will answer the last question propounded to me by the Senator from Illinois. It is somewhat personal in its character, but the question is not a new one to me. The matter has not only been brought to my attention in the way of questions before, but I have been traduced and denounced in the public prints and privately, and my position and action upon this floor questioned and criticised in consequence of the charge repeatedly made, that I have some interest in slavery within this District. Sir, upon the whole, I am rejoiced that the Senator from Illinois has propounded the question to me, and I will answer it frankly. Sir, I have no interest in any such institution. It did happen that by the death of an aged citizen of this District a few years since, two persons, between one of whom and myself there exists a very near and dear relation, became somewhat interested in a few family servants. The number, as God is my judge, I do not now recollect, so little interest have I taken in it; it was not less than ten, nor more than twenty—some of them aged, some decrepit, some young, but all family servants who had lived in the family of an aged lady in this city for many years. It is well known to persons residing in this city, that from the hour of this occurrence I declared that I would have no connection with or part in the matter, and would assume and have no control over it whatever. I have stated to my friends these facts, privately and everywhere; but as that seems not to have been sufficient, I avail myself of this occasion to say now and here upon this floor, in the face of the American Senate, in the face of the American people, that if I ever had any technical right, I renounce and release and abjure every and any possible, imaginable, present, contingent, future, or other interest that by possibility might legally have been cast upon, or may have attached to me, as property in persons of this description; and I hope it may go upon the records of the Senate that I here this day declare that if there is any possible connection that I have unwillingly had with this institution, that I absolve myself entirely from it, now and forever. Let others do as they may, or think and act as they may. Many differ with me in this, I know. I do not impeach them; I only speak for myself. So far as I am concerned, these persons may go as free as air, and go with God's blessing, as I am sure they will with mine.

Perhaps I may be permitted to say, further, that if this bill, as reported by the Committee on the District of Columbia, should pass, authorizing persons to receive reward or compensation for persons of this description, neither myself, nor the person to whom I have alluded, would ever prefer a claim or touch the first dollar to be appropriated by the Treasury of the United States, or raised by taxation from the people of the State of New Jersey, New York, Illinois, or any other State, North or South, for the purpose of carrying out this beneficent measure. Never! never! For myself, as an individual, standing alone and isolated, I rejoice that the Committee on the District of Columbia have introduced this bill. As a citizen of the United States, as a Senator upon this floor, having regard to the views and feelings and rights of my fellow-citizens living in other and different sections of the country, charged, in a measure, with the interests of all, and fearing the effect of extreme, sudden, and radical measures, I preferred, and on that ground alone, that we should do nothing that would interfere with the prosecution of this war, or interfere at present with the rights and wishes of those true, loyal, warm-hearted southern Union-loving men who have risked their lives, and who are risking their all, for the purpose of restoring this Union to its former position, and reëstablishing the authority of the Government over the whole United States. I do not believe that because a man happens to be a slaveholder, he, therefore, is of necessity a rebel or a traitor. It is true that the vast majority of them in the extreme South are so this day; but there are true and loyal men like Andrew Johnson, of Tennessee, and hundreds of others, who have still, to a greater or less extent, an interest in this institution, either themselves or through their friends, and in view of their position, I was desirous that we should proceed to a gradual process of emancipation according to the course heretofore pursued throughout all the northern States; that we should do nothing that would be calculated to excite, irritate, agitate, and retard the great and beneficent measures which we have now in hand—the rapid and speedy suppression of this rebellion.

Mr. President, having said this much, and apologizing to the Senate for remarks so personal in their nature, I leave the subject with the Senate and the country, and I dismiss it now and forever.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) The question is on the amendment of the Senator from New Hampshire, [Mr. CLARK,] which will be read.

The Secretary read the amendment, which is to strike out the second section of the bill, in the following words:

SEC. 2. *And be it further enacted*, That all persons loyal to the United States holding claims to service or labor against persons discharged therefrom by this act may, within ninety days from the passage thereof, but not thereafter, present to the commissioners hereinafter mentioned their respective statements or petitions in writing, verified by oath or affirmation, setting forth the names, ages, and personal description of such persons, the manner in which said petitioners acquired such claim, and any facts touching the value thereof, and declaring his allegiance to the Government of the United States.

And in lieu thereof, to insert:

SEC. 2. *And be it further enacted*, That any person resident in said District, whose slave may be set at liberty by the provisions of this act, may, within three months after the passage thereof, and not afterwards, apply by petition, in writing, to the commissioners hereinafter mentioned for remuneration for the loss of the services of such slave; setting forth in said petition, which shall be under oath, first, that the petitioner is a resident of the District of Columbia; is and always has been true to his or her allegiance to the United States; that he or she has not borne arms against the Government of the United States in the present rebellion, nor in any way given aid or comfort thereto; second, the title of the petitioner to the labor or service of said slave, whether there is any dispute about the same, or whether any other person is interested in said services or slave, or makes any claim thereto, and if so, who, and what claim is made; and, thirdly, the name, age, sex, habits, usual health, defects, and all other personal peculiarities of said slave, which may enable said commissioners to identify him or her, or determine the value of his or her services.

The amendment was rejected.

Mr. SUMNER. When I had the honor of addressing the Senate the other day on this bill, I called attention to one of the old barbarous, wicked statutes of Maryland, which were, if I may so say, surreptitiously adopted here in this District, and which have ever since been recognized as the law of the District. I refer now to the statute which rendered the testimony of all colored persons incompetent in any question where a white was a party. I quoted the precise words of those statutes; they are still the law of this District. Language too strong cannot be employed to express the detestation which such statutes are calculated to arouse in every just bosom. Now, sir, it seems to me, as we are providing for the emancipation of those who are here, as I hold unconstitutionally, detained in slavery, we ought to enable the proceedings which shall take place in determining the relations between them and their masters to go on without any embarrassment from that old and wicked statute. I therefore shall propose a slight amendment—and I believe I shall have the consent of my friend who has conducted the bill thus far, the Senator from Maine, [Mr. MORRILL]—with the view of removing this grievance in the inquiries which may be conducted under this bill. I propose to introduce in the fifth section and seventh line, immediately after the words "courts of justice," the words "without any exclusion of such testimony on account of color;" so that the whole sentence will read:

They [the commissioners] shall have power to subpena and compel the attendance of witnesses, and to receive testimony and enforce its production, as in civil cases before courts of justice, without any exclusion of such testimony on account of color.

Mr. COLLAMER. There is no such thing as the color of testimony. It should be, "without any exclusion of witnesses on account of color." The color applies to the witnesses and not to the testimony.

Mr. SUMNER. I will say "without the exclusion of any witness on account of color."

Mr. HOWARD. I inquire of the Senator from Massachusetts whether he has the Maryland statute to which he refers. I really have never seen it; and if he has it by him I shall be gratified to hear it.

Mr. SUMNER. I have not got it by me now; I had it the other day and I read it. It is an excessively barbarous statute; but such as it is, it is the law here in this District.

Mr. MORRILL. This bill makes provision in part for the difficulty suggested by the Senator from Massachusetts. Of course I recognize the principle, and I have no objection to its being extended if it is thought necessary; but I should like to call the attention of the Senate to the existence of the provision in the bill. It provides that the claimant may be summoned before the commissioners and examined on oath, and that the party for whose service compensation is claimed, may also be examined before the commissioners and may testify. This amendment extends that to other persons of color.

Mr. SUMNER. The Senator sees that the language of the bill with reference to witnesses is general. The commissioners "shall have power to subpena and compel the attendance of witnesses;" not merely the parties, but witnesses.

Mr. MORRILL. I see the distinction, and I do not object to the amendment.

Mr. SUMNER. I presumed the Senator would not object to it.

Mr. SAULSBURY. I ask for the yeas and nays upon the amendment.

The yeas and nays were ordered, and being taken, resulted—yeas 26, nays 10; as follows:

YEAS—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Harris, Howard, Howe, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Wilmot, and Wilson of Massachusetts—26.

NAYS—Messrs. Bayard, Carlile, Davis, Kennedy, Nesmith, Powell, Saulsbury, Willey, Wilson of Missouri, and Wright—10.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the substitute of the Senator from New Hampshire, [Mr. CLARK.]

The substitute was rejected.

Mr. WRIGHT. I now move to strike out all after the enacting clause of the bill, and insert, as a substitute, the bill which I have already proposed.

The PRESIDING OFFICER. The amendment proposed by the Senator from Indiana will be read.

Mr. MORRILL. The amendment proposed by the Senator has been printed and upon the tables of Senators for several days.

Mr. LATHAM. It has been read once, I think.

The PRESIDING OFFICER. It will not be read unless it be called for.

Mr. WRIGHT. I ask for the yeas and nays upon the question.

The yeas and nays were ordered.

The amendment of Mr. WRIGHT is to strike out all after the enacting clause of the bill, and insert:

That no person not now within the District of Columbia, nor now owned by any person or persons now resident within it, nor hereafter born within it, shall ever be held in slavery within said District.

SEC. 2. *And be it further enacted*, That no person now within said District, or now owned by any person or persons now resident within the same, or hereafter born within it, shall ever be held in slavery without the limits of said District: *Provided*, That officers of the Government of the United States, being citizens of the slaveholding States, coming into said District on public business, and remaining only so long as may be reasonably necessary for that object, may be attended into and out of said District, and

while there, by the necessary servants of themselves and their families without their right to hold such servants in service being thereby impaired.

SEC. 3. *And be it further enacted*, That all children born of slave mothers within said District on or after the 1st day of ——, in the year of our Lord 1862, shall be free, but shall be reasonably supported and educated by the respective owners of their mothers, or by their heirs or representatives, and shall serve reasonable service as apprentices to such owners, heirs, and representatives until they respectively arrive at the age of twenty-one years, when they shall be entirely free; and the municipal authorities of Washington and Georgetown, within their respective jurisdictional limits, are hereby empowered and required to make all suitable and necessary provisions for enforcing obedience to this section on the part of both masters and apprentices.

SEC. 4. *And be it further enacted*, That all persons now within said District lawfully held as slaves, or now owned by any person or persons now resident within said District, shall remain such at the will of their respective owners, their heirs and legal representatives: *Provided*, That any such owner or his legal representatives, may at any time receive from the Treasury of the United States the full value of his or her slave of the class in this section mentioned; upon which such slave shall be forthwith and forever free: *And provided, further*, That the President of the United States, the Secretary of State, and the Secretary of the Treasury, shall be a board for determining the value of such slaves as their owners may desire to emancipate under this section, and whose duty it shall be to hold a session for the purpose on the first Monday of each calendar month; to receive all applications, and, on satisfactory evidence in each case that the person presented for valuation is a slave, and of the class in this section mentioned, and is owned by the applicant, shall value such slave at his or her full cash value, and give to the applicant an order on the Treasury for the amount, and also to such slave a certificate of freedom.

SEC. 5. *And be it further enacted*, That the municipal authorities of Washington and Georgetown, within their respective jurisdictional limits, are hereby empowered and required to provide active and efficient means to arrest and deliver up to their owners all fugitive slaves escaping into said District.

SEC. 6. *And be it further enacted*, That the election officers within said District of Columbia are hereby empowered and required to open polls at all the usual places of holding elections on the first Monday of April next, and receive the vote of every free white male citizen above the age of twenty-one years, having resided within said District for the period of one year or more next preceding the time of such voting for or against this act, to proceed in taking said votes in all respects not herein specified, as at elections under the municipal laws, and with as little delay as possible to transmit correct statements of the votes so cast to the President of the United States; and it shall be the duty of the President to canvass said votes immediately, and if a majority of them be found to be for this act, to forthwith issue his proclamation giving notice of the fact; and this act shall only be in full force and effect on and after the day of such proclamation.

SEC. 7. *And be it further enacted*, That involuntary servitude for the punishment of crime whereof the party shall have been duly convicted shall in nowise be prohibited by this act.

SEC. 8. *And be it further enacted*, That for all the purposes of this act, the jurisdictional limits of Washington are extended to all parts of the District of Columbia not now included within the limits of Georgetown.

Mr. MORRILL. I shall not detain the Senate by any discussion of this proposition; but I still think it is necessary to say a word or two in regard to it. I do not suppose any Senator proposes to vote for the bill, now presented by the Senator from Indiana, as a measure. I think I am authorized to say so from the manner of the discussion; for all who have argued it, even the Senator from Indiana, who introduced it, confess to its imperfection, and those who have preferred it to the bill reported by the committee, themselves think it imperfect. When I characterize it as crude, I do not mean any reflection upon anybody, nor upon the origin of the bill, of course, because, understanding the circumstances of its introduction into the other branch fifteen years ago, those who do understand them would infer at once that I intend no reflection whatever. It originated not as a bill; it never was introduced as a bill until it was introduced here; it never had the sanction of a committee, nor was it ever introduced as a distinct proposition; but notice was given that if the rules could be suspended so that an opportunity could be had, some member from Illinois would introduce a bill of which this was a sketch. But if any Senator will take the trouble to run his eye over this proposition, he will perceive that no man fifteen years ago, with the slightest pretensions to statesmanship, would ever present such a bill as a measure expecting anybody to pass it; and what was then not perfect, considering the change in the circumstances, nobody pretends is perfect now. My honorable friend from Indiana confesses to its imperfection when he offers it. Therefore the bill offered as an amendment to the present measure, I must regard not as a bill designed to perfect the measure and put it in a condition where it will be practicable to pass it, or where it would be practicable to execute it if it should become a law, but that it is presented as one mode of assailing the bill from the committee, and upon that ground, of course, I must object to it.

Mr. WRIGHT. I beg to state that the bill I have submitted as a substitute is offered merely because it embodies two principles which I like. The object of presenting it as an amendment is, that if adopted, it may be referred back to the committee for perfection. It provides for gradual emancipation and for the submission of the question to the people of the District. I agree with the Senator from Maine, that this was not presented as a bill to the House of Representatives by the distinguished gentleman who is now President. It was never before a committee of the House, it is true; but it was submitted by him for consideration. I only offer it, and ask for a vote on it now because it involves two points that I am for. I am for no system of this kind unless it is a gradual system. If this proposition shall be adopted, I shall move to refer the question back to the committee, for the purpose of perfecting a bill embodying the principle of gradual emancipation, and submitting it to a vote of the people of the District.

Mr. SAULSBURY. As the yeas and nays are called for on this question, I wish simply to make a remark explanatory of the course I shall pursue in reference to it. If there can be any difference between two measures which are obnoxious, I think the proposition submitted by the Senator from Indiana is the preferable one; but as I never intend to vote for the principle of abolition in this District, or anywhere else, I shall not vote upon his amendment. I intend to vote against the bill to abolish slavery in this District. I will not vote for any proposition, although it may be a preferable one, which still recognizes the principle of abolition; therefore I shall decline to vote upon this question.

Mr. TEN EYCK. If this proposition were shaped so that it did not give compensation to disloyal as well as to loyal owners, and were corrected in some other respects, I would vote for it; but as it is, I must vote "nay."

The question being taken by yeas and nays, resulted—yeas 10, nays 27; as follows:

YEAS—Messrs. Bayard, Carlile, Davis, Kennedy, Latham, Nesmith, Powell, Sherman, Willey, and Wright—10.

NAYS—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Dixon, Doolittle, Fessenden, Foster, Grimes, Harris, Henderson, Howard, Howe, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Wilmot, Wilson of Massachusetts, and Wilson of Missouri—27.

So the amendment was rejected.

Mr. CLARK. I now offer the following amendment, to be added at the close of the second section:

And that he has not borne arms against the United States during the present rebellion, nor in any way given aid or comfort thereto.

Mr. BAYARD. How will the section read then?

The Secretary read the section as it would be with these words added, as follows:

SEC. 2. *And be it further enacted*, That all persons loyal to the United States holding claims to service or labor against persons discharged therefrom by this act may, within ninety days from the passage thereof, but not thereafter, present to the commissioners hereinafter mentioned their respective statements or petitions in writing, verified by oath or affirmation, setting forth the names, ages, and personal description of such persons, the manner in which said petitioners acquired such claim, and any facts touching the value thereof, and declaring his allegiance to the Government of the United States, and that he has not borne arms against the United States during the present rebellion, nor in any way given aid or comfort thereto.

Mr. TRUMBULL. I concur with the object which the Senator from New Hampshire has in view, namely, that we should pay no one but a loyal citizen, and one who has not borne arms against the United States or given any aid or comfort to this rebellion, for his slaves; but I am not quite sure that this amendment will not have a contrary effect. The bill already contains a provision in the very words which the Senator from New Hampshire introduces as an amendment. It requires that the commissioners shall be satisfied that the claimant has not borne arms against the United States, or given aid and comfort to the rebellion, before he shall be paid for his slaves. That is in the bill now; the commissioners must be satisfied of that fact. Now, the Senator from New Hampshire proposes to put that into the petition and make the claimant swear to it. If that is done, will not the commissioners decide that that is *prima facie* evidence, at all events, of the fact, and require no other proof; whereas if that is left out, will not the burden of proving this fact be put upon the claimant, and really the bill be safer with leaving it out than putting it in?

That is the suggestion I have to make in regard to it. I apprehend a great many persons will now claim to have been loyal all the time, and perhaps think they were loyal, who really did give aid and comfort to the enemy during the progress of the rebellion; and if the claimant's statement is to be taken, and the commission is to rest satisfied with that, I think it would be better to leave the bill as it is without this amendment.

Mr. CLARK. This amendment does not exclude any testimony from the commissioners which may be offered under the bill now.

Mr. TRUMBULL. I understand that.

Mr. CLARK. But it provides that every person coming before the commissioners shall declare, under oath, that he has not borne arms against the Government; and after he has done that, the question is open for further testimony to ascertain the fact.

Mr. TRUMBULL. But will not that change the burden of proof?

Mr. CLARK. I do not understand it so by any means; but suppose a person comes before the commissioners declaring that he recognizes, and always has recognized his allegiance to the United States, and nobody makes any question in regard to it; he may be a disloyal person, and yet may slide through easily under the bill as it is; but if you adopt this amendment, you oblige every person to swear in the start that he has not borne arms against the Government, or given aid to the rebellion; and that is my object, that a person who may have been disloyal shall not escape *sub silentio* without anything being said about it. It puts everybody to this test, requires him to take the oath that he has been loyal, and has not borne arms against the Government. I have no feeling about it. I desire only to guard the bill. If the Senate think it is perfectly guarded without the amendment, very well.

Mr. MORRILL. I agree with the Senator from New Hampshire, that it will still be the duty of the commissioners to examine evidence when they adjudicate upon the question; but, with the Senator from Illinois, I do not think that this amendment adds one particle of strength to the bill, or guards it. Still, if the Senator from New Hampshire considers it important, I shall not object to it.

Mr. HOWARD. I beg to say that I think this amendment offered by the Senator from New Hampshire furnishes some additional security against frauds that may be practiced under this bill. At all events, whatever its effect may be as a pleading, it furnishes us the security of the oath of the applicant, and exposes him if he swears falsely to the pains and penalties of perjury; and inasmuch as it does furnish some additional security against fraud, it seems to me it ought to be adopted. It is perhaps merely cumulative to the other provisions of the bill, but I think it can do no harm, but do a great deal of good, and it strikes me we had better adopt it.

Mr. KING. There is some reason, I think, in the suggestion made by the Senator from Illinois; but that may be obviated perhaps by adding to this amendment the words:

Provided, The oath of the party in interest shall not be conclusive or *prima facie* evidence of his loyalty.

Mr. CLARK. I have no objection to an amendment of that kind.

Mr. KING. Let these words be added, to preclude this oath being evidence of loyalty, but only requiring it to be taken by every applicant before he can be heard:

Provided, That this oath of the party in interest shall not be conclusive or *prima facie* evidence of his loyalty.

The PRESIDING OFFICER. The amendment of the Senator from New Hampshire will be modified by the addition of these words, if he accepts them.

Mr. SAULSBURY. I wish to inquire of the Senator from New York, if this is not conclusive or *prima facie* evidence, what kind of evidence is it?

Mr. KING. It will be evidence of a man's desire to come in under this bill—evidence of his submission to the Government.

Mr. SAULSBURY. I understand that in a court of justice an oath administered to a competent witness, unimpeached, uncontradicted, is *prima facie* evidence, at least, and generally conclusive evidence in reference to the matter as to which he testifies; but here is an oath that is not to have a conclusive character nor even to be considered of sufficient weight to have any influence upon the judgment of the commissioners: it is to be neither conclusive nor *prima facie*. However, sir, this is a progressive age, and the law is in motion like everything else, and the principles of evidence will keep pace with the improvement in other matters.

Mr. CLARK. Let the amendment as modified be read.

The Secretary read as follows:

Insert at the end of section two:

And that he has not borne arms against the United States during the present rebellion, nor in any way given aid or comfort thereto: *Provided*, That the oath of the party in interest shall not be conclusive on this subject.

Mr. CLARK. That is the way I want it.

Mr. KING. I would rather have the proviso I suggested left out, than simply to provide that the statement shall not be conclusive, because that will make it *prima facie* evidence. That is the objection which the Senator from Illinois raised. As it makes the statement *prima facie* evidence, it practically leaves the whole subject with the party in interest.

Mr. SAULSBURY. I am very glad the modification has been made, for by an amendment to the bill heretofore adopted the testimony of a negro is allowed to be taken, and there is no such condition to his testimony, so that it will certainly be *prima facie* evidence at least; and a distinction was about to be made in this case which would give greater weight to the testimony of a negro than of a white man. If that is withdrawn, I am very glad of it.

Mr. KING. Does the Senator from New Hampshire accept the proviso as I suggested it?

Mr. CLARK. I do not accept it with the phrase "or *prima facie*."

Mr. KING. Then I withdraw it altogether.

The PRESIDING OFFICER. The question is on the amendment as originally proposed by the Senator from New Hampshire.

Mr. TRUMBULL. In regard to the proviso suggested by the Senator from New York, I think it very proper that it should be in the bill. It excludes a conclusion which the commissioners may act upon, and I think it very proper to insert a proviso that the oath of the party to the petition shall not be taken as evidence, either conclusive or *prima facie*, of the facts therein stated. There is no contradiction in that. You require an oath to allow him to come into court. That is what the oath is for. You will not hear him; he shall not prefer a claim, if he will not swear that he has been loyal all the time to this Government; and when he has made that oath, we simply propose that it shall be no evidedce on the trial, to establish his loyalty, either *prima facie* or conclusive. The object of the oath in the first instance is to enable the claimant to get into court; but it is not and it ought not to be any evidence whatever of the allegations contained in his paper, any more than the declaration of a party in a civil action is evidence on the trial of the cause. In order that a party may bring his suit in court he must allege certain facts, and allege them in a proper form; but his alleging them is no evidence of their truth on the trial. So here, and this proviso is to exclude the idea that by having sworn to this paper he has made out a *prima facie* case, and thereby relieved the commissioners from inquiring into it. I move to amend the amendment of the Senator from New Hampshire by inserting at the end of it these words:

Provided, That the oath of the party to the petition shall neither be conclusive nor *prima facie* evidence of the facts therein stated.

Mr. HOWARD. Let me suggest to my friend from Illinois to make it briefer, and say that it shall not be evidence of the truth of the petition. Does not that cover the whole ground?

Mr. TRUMBULL. Perhaps it does. I will put it in this form:

Provided, That the oath of the party to the petition shall not be evidence of the facts therein stated.

Mr. HOWE. The bill, as I understand it, proposes to make compensation to the loyal owners of these slaves. That I do not find any fault with. I think that is right. It proposes that before any man shall come before the tribunal as a claimant for compensation, he shall make an affidavit that he has been loyal. That I think is proper enough. I think it is right. The proposition now is to provide that that shall not be regarded as evidence at all. That, as a general proposition, I think is very right; because a pleading, whether sworn to or not, ought not to be evidence of its truth. The difficulty suggested to my mind is just this: that the whole effect of the proviso is to be to throw upon the claimant the burden of proving a negative, and such a negative as I do not see how the proof could be marshaled.

Mr. MORRILL. On that point the Senator will allow me to say that this section further provides that he may come into court and be a witness on that claim himself, and may be examined by the commissioners.

Mr. HOWE. I was not aware of the fact. This proviso my mind was called to, and it seemed to me to throw upon the claimant the burden of proving that he had not given aid or comfort to the enemy.

Mr. MORRILL. And that he is at liberty to do by coming into court and giving testimony himself.

Mr. HOWE. If he is made a witness on that point, that will enable him to prove it. I do not know of anybody else that could swear to it.

Mr. MORRILL. He is made a witness.

The amendment to the amendment was agreed to, and the amendment, as amended, was adopted.

Mr. BROWNING. I move to amend the bill in section three, line twelve, by striking out the word "three" and inserting "five;" and in section four, line eight, by inserting, after the word "cause," the words "one half," and by adding at the end of line eleven the words which I send to the Chair.

Mr. TRUMBULL. I ask that we vote separately on each amendment. We shall understand them better by voting separately.

The PRESIDING OFFICER. The amendment to the third section is, in line twelve to strike out "three" and insert "five;" so that the clause will read:

That the entire sum so appraised and apportioned shall not exceed in the aggregate an amount equal to $500 for each person shown to have been so held by lawful claim.

Mr. BROWNING. I do not intend to detain the Senate with any additional remarks upon the subject. I explained very briefly when I offered this proposition a few days ago as an amendment to the substitute of the Senator from New Hampshire, the purpose and object of it. I desire now only to repeat what I then said, that the adoption of these amendments, all of them, will not increase at all, and will perhaps diminish, the expense to the Government, while they will, if adopted, at least inaugurate or offer an inducement for the inauguration of a system of colonization. It will be the beginning of a work that we all seem to have at heart, for I believe men of all parties concur——

Mr. WILSON, of Massachusetts. I should like to ask the Senator if $300 is not ample and full compensation for the average of the people who will be liberated.

Mr. BROWNING. I do not know whether the Senator from Massachusetts was in his seat the other day. Under this amendment the compensation received by the owners of slaves will be something less than under the present bill. They will receive only an average of $250 apiece for manumitted slaves, while the other half of the appraisement will be paid to the slave himself upon satisfactory evidence being furnished to the Secretary of the Treasury of his having removed to and settled in some country outside of the United States. It offers an inducement to them to emigrate, and it at least is an attempt to begin a system of colonization.

I believe, myself, that we cannot do any substantial good to the colored people of this country without combining with whatever action we take upon this subject a system of colonization, or adopting measures that will lead to voluntary colonization on their part. It is not legal and political equality and emancipation alone that can do much for the elevation of the character of these people. We may confer upon them all the legal and political rights we ourselves enjoy, they will still be in our midst a debased and degraded race, incapable of making progress, because they want that best element and best incentive to progress—social equality—which they never can have here. There are repugnances between the two races that forbid, and will forever forbid, their admission to social equality; and without social equality they never can attain to a full development of their mental and moral natures, or lift themselves to any tolerable degree of respectable social *status*. We may manumit them, we may give them legal and political equality, but they are free negroes, and nothing but free negroes, as long as they remain among us. They are shut out from all the avenues of honorable industry; they are not permitted to come in fair and open competition with the white race in any of the more respectable employments of life.

This is a subject that I feel very much disposed to talk upon when I have taken the floor upon it; but I will not do so. I barely make these suggestions. It is not necessary to go into a discussion. I have no doubt every Senator's mind has been attracted to the subject, and perhaps every one has his course definitely marked out; but this proposition commended itself to my own judgment, and I would really think we had accomplished far more by the adoption of this amendment than we shall accomplish without it. It will not impair in any degree the force or effect of the bill. It leaves it to operate in all other respects as efficiently as it would without the amendment, and it does offer some slight inducement to these people to remove themselves from our midst.

Now, sir, I know that communities of free negroes are not a very desirable population anywhere. We owe something to these people more than simply to strike from them the fetters of bondage that now hold them, and turn them loose among us, with scarcely the means or the ability of providing the most ordinary necessities of life, much less with the means of any advance in the exaltation of character and in the attainment of a position in society. They never can do that. The laws of many of the States, and of my own State, are rigid against the admission of a free negro population into our communities. Indeed, most of the States are closed by legal enactments, by statutes enacted by their Legislatures, against the admission of this class of people. They are hunted from State to State. They are driven from the slave States when they are manumitted, and in many of the slave States they have been proposing for years to recapture and reduce the free negroes among them again to slavery, or to drive them from the State. They can be permitted to remain in some of them only on the condition of being again reduced to slavery; and when they are driven from the slave States, where are they to go? Most of the free States are closed against them. They are hunted from State to State as the wild beasts of the forest. Persecuted by the people of the slave States until they are compelled to leave there, and persecuted by the people of the free States until they are compelled to leave there, where are the poor, miserable creatures to go? Where are they to find shelter or an asylum? They can do it no where in our country, without a change in our policy; and they can do it nowhere outside of our country, without pecuniary aid from us. Let us begin with this bill to give it. I think even this proposition would have some tendency to stimulate them to removal, and to form a sort of nucleus of emigration and settlement elsewhere, which we might see strengthening, enlarging, and increasing year after year. It might be the beginning of a system that would ultimately result in a separation of the races.

Mr. President, I may be mistaken in my view of this subject, but I do not believe that the races ever can live together in harmony and with mutual advantage to each other; and, hostile as every feeling and sentiment of my nature is to a system of human bondage, I am by no means sure, while the races do continue together, that it is not better for them both to continue together in the relation of master and slave. That we can do them a substantial good only by a separation of the races, I entertain no doubt.

Mr. WILMOT. Will the gentleman from Illinois allow me to make an inquiry?

Mr. BROWNING. With pleasure, sir.

Mr. WILMOT. Why does not the gentleman make his amendment consistent with his argu-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. SATURDAY, APRIL 5, 1862. NEW SERIES.....No. 96.

ment, and propose compulsory emigration or colonization? If the races cannot live together, then surely we should adopt compulsory emigration. The amendment of the Senator goes but a short way towards the argument that he advances.

Mr. BROWNING. Well, Mr. President, it is a sufficient answer to that to say that there is nothing in the few disjointed remarks I have submitted which require me to advocate a system of compulsory colonization to make myself consistent. This inducement for voluntary emigration is perfectly consistent with all that I have said on that point. I do not propose now to discuss a system of compulsory emigration. We are acting upon too small a scale to justify us in broaching so momentous a question as that is at this time. The time may come, the time possibly will come, when compulsory colonization may be found necessary for the good of both races; and if it does come, I apprehend I for one shall be found ready to meet it, and to take my share of the responsibility of enforcing it. If we were in a condition to remove the colored race from our midst and place them elsewhere, where they would be better provided for, where they would be given the full stature of freemen—they never can attain to the full stature of freemen in our midst—if we were prepared to remove them, give them pecuniary aid, settle them, for a time protect them and school them until they were enabled to protect and take care of themselves, I would have no scruple about making it compulsory emigration or colonization.

But, sir, we are not in a condition to do that, and it is not necessary to enter upon a discussion of that question, and give the reasons either for or against it. The subject now before us is so small a matter, scarcely a drop in the bucket; the few slaves that there are to-day in the District of Columbia and the still less number that there will be when this bill shall have passed into a law, is quite too insignificant to draw into the discussion the question of compulsory colonization. Why, sir, I look upon this as so insignificant that I would vote for almost any bill in any form that proposed to abolish slavery in the District of Columbia; and while I listened with great interest to my friend from Maryland, [Mr. KENNEDY,] I cannot bring myself to reflect with any degree of solemnity or seriousness upon the picture of disaster to Maryland, and Delaware, and other slave States that he drew for our contemplation a few days ago. I think they have given an undue importance to this measure. It is a very little thing. You may strike off the bonds from every slave in the District of Columbia to-day—a thing that we have the undoubted power to do, and which I think we ought to do—and there is not a slave State in the Union that will feel the effect of it one atom more than the great ocean itself would feel the agitation of a pebble cast upon its bosom. All the States will go on just as they have gone on before, with every constitutional guarantee for their property that they had before. Not a slave will escape that would not have escaped before they were manumitted in the District of Columbia. Not an obstacle to the reclamation of a fugitive slave will be encountered afterwards that would not have been encountered before. It is really so insignificant a thing in comparison with the great question of slavery in the States that I have never contemplated, or scarcely contemplated it in that view at all.

While I assert the unqualified and unlimited power of Congress over the entire subject of slavery in the District, and while I further assert that it is the duty of the national Legislature to abolish it in the District, I still avail myself of this occasion to repeat what I have often before said, that it does not justly expose the national Congress to the charge of any intention, however remote, of interfering with the institution of slavery in the States. We disclaim the power to do so, we disclaim the right to do so, and we disclaim the intention to do so. With slavery in the States we have nothing on earth to do. It is a thing of local law. We must let it alone to be managed by them; to be perpetuated and kept forever if they choose to keep it; to be abolished to-morrow if they choose to abolish it; but whether they shall do the one or the other is to be at their own option. They are to be governed by their own judgment, their own views of what is right and proper, without any interference on the part of the national Government with them. We claim no right, and we do not intend to assert any right over the subject. Sir, I would to-day as cheerfully give to every loyal man in the slave States of this Union all the facilities for enforcing his rights over that species of property as I would have given ten years ago, or in any period in the history of our country. I do not want to intermeddle with it at all.

But here in the District of Columbia we have the right to deal with it, and it is our duty to exercise that right. Then, sir, it is only a question, when we come to manumit them, whether we shall take them, old and young, sick and healthful, all alike, from under the protection of those who are to some extent their protectors now, and who are under legal as well as moral obligations to provide for them; whether we shall just remove these obligations and leave them a poor, degraded, penniless, poverty-stricken, vagrant set, to become the victims of the vices into which they so easily fall; or whether we shall, in connection with that measure and associated with it, make some little provision, insignificant as it may be, to assist them in settling themselves elsewhere, and encouraging them in providing for themselves elsewhere, where they will be clothed really with the attributes of freemen. Just as long as they remain among us they are free negroes; they are nothing else; they are a poor, degraded set, and I am afraid always will be. I should like to see them making moral and intellectual progress in our midst, but I do not expect to see it. I doubt whether there ever has been, from the foundation of the Government, one solitary instance of an individual of the negro race being admitted to all the privileges and immunities of a free man in the United States of America. There are many negroes whose intellectual and moral worth far transcends that of the white men around them, and yet they do not take a position in society that is accorded unhesitatingly to the white man who is in no respect their equal. It is because, I apprehend, of the repugnance of the races that the Almighty has implanted in our bosoms, and the strong instincts which we cannot eradicate.

When you come to propose that higher and better test of a catholic and universal philanthropy, the admission of the negro to social equality and to family alliance, it is a test that reduces all our sympathies and all our philanthropy to dross and ashes. It is a test that none of us can bring ourselves up to. It is a sentiment too sublime for our attainment that admits them to the full brotherhood of the race, and takes them into the bosom of our families. Well, sir, just as long as they are socially degraded they will be otherwise degraded. It is social equality more than political and legal equality that tends to the elevation of our race; and that we may do some little, make a beginning on this subject, I propose these amendments.

Mr. President, I have been led away on this subject to say a great deal more than I intended.

Mr. MORRILL. Just a single word, by way of explaining this proposition as I understand it. In the first place, the amendment proposes to give $500, instead of $300. That is too large. Three hundred dollars as the average is enough, I am satisfied—a full compensation.

Mr. BROWNING. Will the Senator permit me to say that, as a compensation to the owners, I think an average of $300 is a little too large. I propose to increase it to $500, not on account of the owner, but of the slave himself.

Mr. MORRILL. Then it will have this effect: it will give $500 to the owner in all cases where the slave does not choose to go out of the country.

Mr. BROWNING. No, sir; the other half would lapse to the Government.

Mr. MORRILL. Then it occurs to me, as I have read the amendment, that it is liable to this difficulty: the sum of $250 is to be kept by the Treasurer to be paid the slave in case he elects to go outside of the limits of the United States. Suppose he puts it in his pocket and goes to Canada, or goes to Canada first, and draws the money and returns the next day; what is there to prevent that? I think the amendment would prove to be ineffectual.

Mr. BAYARD. I simply ask for a division of the amendment. The first proposition is to increase the amount to $500. The matters are distinct in themselves. What is to be done with the $500, is another question.

Mr. MORRILL. If the Senator from Delaware will allow me, the amendment, as explained by the Senator from Illinois, is decreasing the amount to the owner. It is to give him $250 instead of $300.

Mr. BAYARD. I thought the amendment was to make it $500 instead of $300.

Mr. COLLAMER. Not to the master.

Mr. BAYARD. I speak of the first amendment. I ask for a division of the question. The propositions are distinct in themselves.

Mr. BROWNING. In response to the objection suggested by the Senator from Maine that the slave, after he had emigrated and got his bonus for doing so, might choose to return the next day, I will say that is true, and it is true of every system of colonization, I suppose, we shall adopt. But there is this guarantee, and it is the only one that can be given on that subject: it is to be paid by the Secretary of the Treasury (who, I suppose, will always be a man of intellect enough to arrive at just conclusions upon evidence that is produced to him) when satisfactory evidence shall be produced to him that the party has removed and settled outside of the United States, to which I have no objection to having the word "permanently" added. When that is done, every guarantee is given that he is gone from us, no longer to be a part of our community that we can secure in any case. The objection, if it is valid to this, is valid to every system of colonization, whenever we may adopt it, or however we may attempt to execute it, unless it becomes a compulsory one, and the compulsion is exerted not only to remove them, in the first instance, but to keep them away after they have been removed.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) The question before the Senate is the motion of the Senator from Illinois to amend the third section by striking out the word "three" and inserting the word "five;" and, in the opinion of the Chair, in reply to the suggestion of the Senator from Delaware, it is impossible to see how the question can be divided. It is simply striking out one word and inserting another.

Mr. BAYARD. That is all I desire; that the question shall first be taken on striking out the word "three" and inserting "five."

The PRESIDING OFFICER. That is the question, and the question will be taken in that manner.

Mr. COLLAMER. I understand further, that the amendment is also to add words to other sections of the bill. He does not care about the first unless he has the others.

Mr. BROWNING. No, sir; it is all one.

Mr. COLLAMER. It is all one, and not capable of division. The words to be stricken out and inserted are never divisible.

The PRESIDING OFFICER. So far as the individual section is concerned, that is true, and perhaps it is true as regards the whole bill. The question now is on amending the third section by striking out the word "three," and inserting "five."

The amendment was not agreed to.

Mr. COLLAMER, (to Mr. BROWNING.) Withdraw the rest.

Mr. BROWNING. No, sir; I will ask the yeas and nays on the other amendment.

Mr. BAYARD. I will withdraw my objection. If it is the pleasure of the Senate to take the question on the whole amendment proposed by the

Senator from Illinois, I shall not object. It is the right of the majority of the Senate to frame this bill as they see fit. I have offered no amendment, and I shall have none to offer; but when it has been put in the condition in which the majority desire to have it, I have something to say about the measure itself and the principles embodied in it.

Mr. BROWNING. I am obliged to the Senator from Delaware for withdrawing the call for a division, and I ask that the question may be taken on the whole amendment, and on the entire amendment. I will ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Illinois asks for the yeas and nays on adopting the subsequent amendment offered by him.

The yeas and nays were ordered.

Mr. COLLAMER. I understand the question is to be on his whole amendment together.

The PRESIDING OFFICER. It is so.

Mr. TRUMBULL. We have already voted on striking out "three," and inserting "five." This is a complex amendment, extending to several sections of the bill, and most manifestly it cannot all be offered at once. There is the first amendment to the third section, and then to some other sections; I do not know which. We have voted on the amendment to the third section to strike out "three" and insert "five."

The PRESIDING OFFICER. That question has been taken; and the amendment was not agreed to

Mr. TRUMBULL. My colleague proposes several amendments. If one is adopted, we can make the other portions of the bill conform.

The PRESIDING OFFICER. The question will be taken on the residue of the amendments as one amendment, unless some Senator asks for a division.

The question being taken by yeas and nays, resulted—yeas 10, nays 31; as follows:

YEAS—Messrs. Browning, Davis, Harris, Henderson, Kennedy, Latham, McDougall, Nesmith, Willey, and Wright—10.

NAYS—Messrs. Anthony, Bayard, Carlile, Chandler, Clark, Collamer, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Howard, Howe, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Sherman, Stark, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Wilmot, Wilson of Massachusetts, and Wilson of Missouri—31.

So the amendment was rejected.

Mr. COLLAMER. In pursuance of a suggestion made by me a few days since, in relation to what I regarded as necessary for the security of the emancipated persons themselves, I have prepared a couple of sections to effect that object, for their benefit, which I desire to have read, and which I offer as an amendment to this bill:

The Secretary read the amendment, to insert as new sections the following:

And be it further enacted, That within ten days after the passage of this act a statement, in writing or schedule, shall be filed with the clerk of the circuit court for the District of Columbia, by the several owners or claimants to the service of the persons made free or manumitted by this act, setting forth the name, age, sex, and particular description of such persons severally; and the said clerk shall receive and record in a book by him to be provided, and kept for that purpose, the statements or schedules, on receiving fifty cents each therefor; and no claim shall be allowed to any claimant or owner who shall neglect this requirement.

And be it further enacted, That the said clerk, or his successors in office, shall from time to time, on demand, and on receiving twenty-five cents therefor, prepare, sign, and deliver to each person made free, or manumitted by this act, a certificate under the seal of said court, setting out the name and description of such person, and stating that such person was duly manumitted and made free by virtue of this act.

Mr. COLLAMER. I will modify the first section of that amendment by putting in twenty instead of ten days.

The PRESIDING OFFICER. That modification will be made.

Mr. COLLAMER. It will then require that the claimants to these manumitted persons shall, within twenty days, file a schedule in the circuit court of the District, giving the name, age, sex, condition, &c., of those persons, and that that schedule shall be recorded on their paying fifty cents for each one. The next section provides that the clerk of the court shall, from time to time, whenever demanded, furnish a certificate of that manumission upon receiving twenty-five cents.

Mr. MORRILL. I have no objection to the amendment.

Mr. COLLAMER. I wish to say a word more in explanation. A gentleman asks me how that duty of the masters to make this record is to be enforced. It is provided in the amendment that no claim shall be allowed to any master that rejects it.

Mr. HALE. It seems to me that that provision is a little too stringent. There is almost always in all statutes of limitations some provision by which, where a person fails, by mistake, by being absent, or anything of that sort, to comply with the law, power is given to the court to extend the time.

Mr. COLLAMER. I have no objection to that, if the gentleman offers it as an amendment.

Mr. HALE. I think justice requires something of that sort, if we regard these people as property. This provision is imperative. There may be persons who may be absent from the city for more than twenty days after the passage of the act. I would add, "unless the court shall for due cause extend the time," or something of that sort.

Mr. COLLAMER. The commissioners.

Mr. HALE. Well; unless the commissioners for good cause shall extend the time. I think such a provision ought to be inserted, provided we treat these people as property.

Mr. COLLAMER. Insert after the words "twenty days" these words, "or within such time as the said commissioners herein provided for shall limit."

Mr. HALE. I agree to that.

The PRESIDING OFFICER. That modification of the amendment will be made.

The amendment, as modified, was agreed to.

Mr. McDOUGALL. By way of presenting to the Senate the views I entertain, and putting them in exact form, I will now offer an amendment to strike out all after the enacting clause of the bill, and insert what I send to the Chair as a substitute. I have discussed the measure in detail. It is the same that I discussed from my place here, and I desire a vote of the Senate upon it. I think it makes a far more complete bill than the one presented by the committee, and I think its provisions ought to commend themselves to the Senate. In taking the vote upon it, I should like to have the yeas and nays that I may have an exact expression of the opinion of the Senate on the subject. I wish to say further that a bill of this kind I will support, and would like to see made a law; but the bill reported by the committee I cannot and will not support.

The Secretary proceeded to read the substitute.

Mr. WADE. I believe we have voted on that same amendment once before. If I remember how it reads, it is the same thing.

Mr. McDOUGALL. There are some similar provisions, but it is in substance a different bill.

The PRESIDING OFFICER. The reading will proceed.

The Secretary continued the reading of the amendment, which is to strike out all after the enacting clause of the bill, and insert the following as a substitute:

That no person not now within the District of Columbia, nor now owned by any person or persons now resident within it, shall ever be held in slavery within said District, except as hereinafter provided.

SEC. 2. *And be it further enacted*, That no person now within said District, or now owned by any person or persons now resident within the same, or hereafter born within it, shall ever be held in slavery without the limits of said District: *Provided*, That officers of the Government of the United States, being citizens of the slaveholding States, coming into said District on public business, and remaining only so long as may be reasonably necessary for that object, may be attended into and out of said District, and while there, by the servants of themselves and their families, without their right to hold such servants in service being thereby impaired: *And provided further*, That citizens of slaveholding States visiting or temporarily remaining in the said District may be attended into and out of said District, and while there, by the servants of themselves and their families, without their right to hold such servants in service being thereby impaired.

SEC. 3. *And be it further enacted*, That the children born of slave mothers within said District on or after the 1st day of ——, in the year of our Lord 1863, shall be free, but shall be reasonably supported and educated by the respective owners of their mothers, or by their heirs or representatives, and shall serve reasonable service as apprentices to such owners, heirs, and representatives, until they respectively arrive at the age of twenty-one years, when they shall be entirely free; and the municipal authorities of Washington and Georgetown within their respective jurisdictional limits, are hereby empowered and required to make all suitable and necessary provisions for enforcing obedience to this section on the part of both masters and apprentices.

SEC. 4. *And be it further enacted*, That all persons now within said District lawfully held as slaves, or now owned by any person or persons now resident within said District, shall remain such at the will of their respective owners, their heirs and legal representatives: *Provided*, That any such owner or his legal representatives may at any time receive from the Treasury of the United States the full value of his or her slave of the class in this section mentioned, upon which such slave shall be forthwith and forever free: *And provided further*, That the Court of Claims shall receive all applications, and on satisfactory evidence in each case that the person presented for valuation is a slave, and of the class in this section mentioned, and is owned by the applicant, shall value such slave at his or her full cash value, and give to the applicant an order on the Treasury for the amount, and also to such slave a certificate of freedom.

SEC. 5. *And be it further enacted*, That all slaves and free persons of color, residents of the said District, may be colonized, with their consent, out of the limits of the United States, and the sum of $250,000, out of any money in the Treasury not otherwise appropriated, may be expended under the direction of the President of the United States.

SEC. 6. *And be it further enacted*, That the election officers within said District of Columbia are hereby empowered and required to open polls at all the usual places of holding elections on the first Monday of April next, and receive the vote of every free white male citizen above the age of twenty-one years, having resided within said District for the period of one year or more next preceding the time of such voting for or against this act, to proceed in taking said votes in all respects not herein specified, as at elections under the municipal laws, and with as little delay as possible to transmit correct statements of the votes so cast to the President of the United States; and it shall be the duty of the President to canvass said votes immediately, and if a majority of them be found to be for this act, to forthwith issue his proclamation giving notice of the fact; and this act shall only be in full force and effect on and after the day of such proclamation.

SEC. 7. *And be it further enacted*, That involuntary servitude for the punishment of crime whereof the party shall have been duly convicted shall in nowise be prohibited by this act.

SEC. 8. *And be it further enacted*, That for all the purposes of this act, the jurisdictional limits of Washington are extended to all parts of the District of Columbia not now included within the limits of Georgetown.

The PRESIDING OFFICER. On the adoption of this amendment the Senator from California asks for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 10, nays 25; as follows:

YEAS—Messrs. Bayard, Carlile, Davis, Kennedy, Latham, McDougall, Powell, Sherman, Willey, and Wright—10.

NAYS—Messrs. Anthony, Browning, Clark, Collamer, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Harlan, Harris, Howard, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Sumner, Ten Eyck, Trumbull, Wilkinson, Wilmot, Wilson of Massachusetts, and Wilson of Missouri—25.

So the amendment was rejected.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. The question now is on concurring in the amendments made as in Committee of the Whole. The question will be taken on the whole of them collectively, unless some Senator asks for a separate vote on any of them.

The amendments were concurred in.

Mr. DOOLITTLE. While this bill was in Committee of the Whole, I moved an amendment to it, proposing the appropriation of $100,000 to aid in the voluntary emigration of such free persons of color from this District as desired of their own free consent to go either to the republics of Hayti or Liberia, or such other country outside of the United States as the President might determine. After the question had been taken upon it some gentlemen in the Senate stated to me that they did not, in voting upon it, fully understand the proposition. They connected it with a compulsory colonization, and therefore voted against it. I desire to renew that amendment in the Senate, in order that we may have another vote upon it, and upon the amendment I will ask for the yeas and nays. It is to insert as a new section:

And be it further enacted, That the sum of $100,000, out of any money in the Treasury not otherwise appropriated, is hereby appropriated, to be expended under the direction of the President of the United States, to aid in the colonization and settlement of such free persons of African descent now residing in said District, including those to be liberated by this act, as may desire to emigrate to the republics of Hayti or Liberia, or such other country beyond the limits of the United States as the President may determine: *Provided*, The expenditure for this purpose shall not exceed $100 for each emigrant.

The PRESIDING OFFICER. On this amendment the yeas and nays are asked.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. WILKINSON (when his name was called) said: I paired off on this question with my colleague, who is in favor of the amendment, while I, if I voted, should vote against it.

The result was then announced—yeas 27, nays 10; as follows:

YEAS—Messrs. Anthony, Browning, Collamer, Davis,

Dixon, Doolittle, Foot, Harlan, Harris, Henderson, Howe, King, Lane of Indiana, Lane of Kansas, Latham, McDougall, Nesmith, Sherman, Stark, Ten Eyck, Trumbull, Wade, Willey, Wilmot, Wilson of Massachusetts, Wilson of Missouri, and Wright—27.

NAYS—Messrs. Chandler, Clark, Fessenden, Foster, Grimes, Hale, Howard, Morrill, Pomeroy, and Sumner—10.

So the amendment was adopted.

Mr. POWELL. Mr. President, I do not propose to enter into any lengthy discussion against the passage of this bill; but I desire to assign very briefly the reasons why I shall vote against it. I regard the bill as unconstitutional, impolitic, unjust to the people of the District of Columbia, and bad faith to the people of Virginia and Maryland. In the fifth article of the Constitution you find this language:

"No person shall be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation."

In my judgment, this bill plainly and palpably violates that provision of the Constitution. If there is anything especially written in the Constitution, it is that no man shall be deprived of his property without due process of law. What is the due process of law? We all know that that has been adjudged time and again, not only in this country but in England, to be judicial process, judicial investigation. By this bill, you deprive the people of the District of Columbia of their property without process of law; you do it by legislative enactment. I am aware that gentlemen meet that argument by the assertion that there can be no property in slaves. It is too late to make any such assertion. It has been decided over and over again by the Supreme Court of the United States that, under our Constitution, there is property in slaves. It has been so recognized by our laws in various forms. It is so expressly stated in the treaty of 1782, signed at Paris, making peace between Great Britain and the Colonies. It is again so expressly stated in the treaty of peace between the United States and Great Britain, in 1815, signed at Ghent. It has been decided and so held by all the courts, I believe, of all the States, as far as that subject has been litigated. I will read one single extract from a decision of the court in Massachusetts. Chief Justice Parker, of Massachusetts, one of the most eminent jurists of that State or of the Union, in the case of the Commonwealth *vs.* Griffith, which you will find in the second volume of Pickering's Reports, page 19, says, speaking of the Constitution of the United States:

"That instrument was a compromise. It was a compact by which all are bound. We are to consider, then, what was the intention of the Constitution. The words of it were used out of delicacy, so as not to offend some in the convention whose feelings were abhorent to slavery; but we there entered into an agreement that slaves should be considered as property. Slavery would still have continued if no Constitution had been made."

That is as clear an exposition as language can make it. I could refer to half a dozen decisions of the Supreme Court of the United States, and I could, if I chose, give you a cart load of authorities from the various State courts in the Union. It is too late to meet us with the dogma that there can be no property in slaves. We know that the British courts held that there could be property in slaves. Sir William Scott, one of the most eminent English jurists, in the case of Le Louis, decided, I think, in 1817, so pronounced distinctly. But, sir, the gentlemen who advocate this bill are precluded from asserting that there is no property in slaves, because by the bill they propose to pay the owners a consideration—I admit a very inadequate one—for this very property. You recognize property in slaves when you pay the owner this sum of $300—the highest amount, I believe, mentioned in the bill. How, then, can you, when you pay money out of the national Treasury for that purpose, say they are not property?

There can be no doubt, in my judgment, but that this bill plainly and palpably violates the provision of the Constitution that I have read. It is also declared in the Constitution that you shall not take private property for public use without just compensation. You do not take this private property for public use; but you take it to turn it adrift, to turn it afloat upon the country, and you give the party no just compensation. I hold that you cannot deprive the citizen of his property except by process of law, and you cannot even take it for public use except by making just compensation. You do not give them just compensation by this bill. I shall say no more on the constitutional point. To my mind, it is clear; it is beyond doubt.

This bill is unjust to the people of the District of Columbia; because it deprives them of one of their domestic institutions. It is unjust to them in another respect; because, while you pretend to pay them, you do not give them a fourth of the value of their property. The highest amount you give a citizen for his negro is $300, while every one in this Senate knows that many of those negroes are worth three or four times that amount.

Mr. WILSON, of Massachusetts. The Senator is mistaken on that point. The average is to be $300; but for some may be paid eight or nine hundred or a thousand dollars; and for others but a very small sum indeed.

Mr. POWELL. That may be; I was not aware that it was so; but I have no doubt the Senator from Massachusetts is correct. At all events, sir, it is unjust to these people to deprive them of their property in this way. They have no representation here; and this Congress should be the peculiar guardians of their interests.

It is in bad faith to the people of Virginia and Maryland; because, when they ceded this District, they never dreamed or contemplated that you would make it a free negro colony in their midst; and while the institution exists in those two States, it is certainly bad faith to them to free the negroes here. I venture the prediction, that if this bill is passed, this District will become a free negro colony; for the clause in regard to voluntary colonization that you have inserted in the bill, will amount to nothing. They will remain here; and all the negroes from the surrounding country will flock here. If you wish to protect the people of this District from that worst of all population—free negroes—you should put in a clause requiring the expulsion of all the free negroes who shall attempt hereafter to come here. As the Senator from Illinois [Mr. BROWNING] has very well remarked, many of the States have passed laws—nay, they have constitutional provisions by which they prohibit this description of population entering their States; and when gentlemen, who now seem to favor the negro very much, shall enjoy a little more of this negro population in their States, in my judgment, they will all have such provisions. But if you have no law of that kind here, it will become a free negro colony, a city of refuge for all runaway negroes from all the surrounding States.

I do not think that at this time the people are in a condition to receive such legislation as this. You bring it on the country at a time when the slave States have very limited representation here. You bring it forward at a time when the people are taxed to the utmost extent that they are able to pay for the purpose of supporting the war; and at such a time you propose to take money out of the Treasury for the purpose of paying for these negroes to turn them adrift to become a worthless vagabond population. It will be regarded as an interference with the slavery question, and the people of the slave States will justly look upon it with alarm. They would be stupid indeed if they did not. The Senator from Massachusetts [Mr. SUMNER] announced in his speech that this was but the first installment. There is much meaning in that announcement. I suppose we shall have the second installment to-morrow, and, it may be, the third installment the next day. Some Senators, and among them the Senator from Ohio, [Mr. SHERMAN,] declare that when you get through with this bill, perhaps you have done with the subject; but, sir, we had a kind of first installment yesterday, in the passage of the resolution from the President holding out a bonus to the people of the border slave States to enter on this work of emancipation. That, in my judgment, was a direct interference.

Mr. President, it was not my purpose to make any lengthy discussion on this bill, but I could not permit it to pass without stating my opinions very briefly, and making my earnest protest against it. It is calculated to do much harm, and in my judgment can do no good.

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

Mr. POWELL. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. BAYARD. Mr. President, I had hoped that I should be enabled to obtain the floor on the passage of this bill at rather an earlier hour than the present; and although it is not my intention to detain the Senate long, it is certainly personally very inconvenient to me to be obliged to speak at this time. However, I made the suggestion to one of the honorable Senators on the other side, and assigned to him the reasons, and although those reasons would, in my judgment appeal to the sense of courtesy, if not to the humanity, of almost any man, I find that it is declined. I have, therefore, to perform a duty which I owe, not to my own constituents, for they have no particular nor immediate interest in the bill, but a duty that I think I owe, as a member of this body, to my country. I shall endeavor not to detain the Senate long in the remarks that I shall make, though I am now, in some measure, cut free from any obligation of that kind by the late hour at which I am obliged to address the Senate, and the denial of the right to be heard on a future day.

Mr. President, Congress has declared that the object of this war is the restoration and preservation of the Union of these States; and I assume that in the restoration and preservation of the Union, they mean the preservation of the Constitution and of a republican form of government. If this be so, then many of the measures which have been proposed in this body, particularly the one now before you, which is about to be adopted, seem, to my judgment, very injudicious, very unfortunate, and but ill-adapted to the purpose for which it is said this war is to be carried on.

I concede, without the slightest reservation, that the authority of the General Government over the District of Columbia is precisely the same as the authority of a State over its territory; that no constitutional objection can arise to the action of Congress in abolishing slavery in this District other than those that could be made within the boundaries of a State under similar provisions of a State constitution. It is true, but I shall not dwell upon it, that, in accordance with our form of government, one might suppose that in reference to a measure which in its direct effect operates on the property of the citizens of this District, and deprives them of that property, and affects their habits, their customs, and their manners, they being entirely unrepresented in either House, some deference would be paid by Congress to the wishes, the habits, and the customs of the people here. Though not a State, they constitute a separate community; and if I understand the theory of our Government, which is based on the welfare of the people at large, its great general principle is discentralization; leaving local matters, which affect directly local interests, to the wishes and the will of the people who are to be affected by the legislation. But I pass from that.

Nor, sir, shall I dwell on the question of implied faith arising out of the original cession of this District to the United States by two slaveholding States of this Union. No man can doubt that had it been announced to the Legislatures of Virginia and Maryland when they voluntarily ceded their jurisdiction over the District of Columbia to the United States, that the United States, while they retained the institution of slavery, would abolish it within the District of Columbia, no such cession would have been made. Therefore, in past times, whenever this question has arisen, though the constitutional power has been seldom, and I admit wherever it has been contested, inefficiently contested, the great objection to such a measure has been founded on the implied faith of the nation arising out of the original cession by the States of Maryland and Virginia that no interference with the institution of slavery as existing in this District should be made while those States were opposed to such interference. But, sir, when the personal rights and the personal liberties of every citizen of this country have been trampled upon by the Executive of the United States and by the military authority; when the plainest provisions of the Constitution meant to guaranty those rights have been utterly avoided, if not with the approval certainly with the connivance and with utter disregard on the part of Congress, it is idle folly to expect that the question of implied faith would interpose any barrier to the legislation now contemplated. I pass all those questions.

There is another matter which addresses itself

to our consideration: in the performance of an act which the majority of this Chamber believe to be rightful and proper, the mode of its performance, at least, ought to be regarded. I suppose in this day we are not more moral, we are not wiser, we do not understand constitutional law better, than did our forefathers. In all the States of this Union in which slavery formerly existed, at the time of the formation of the Constitution, in dealing with that institution, they adopted the principle of gradual emancipation in contradistinction to this principle or rule of immediate emancipation. In the States of Rhode Island, Connecticut, New York, Pennsylvania, and New Jersey, the only States, I believe, that by statutory enactment have abolished slavery, the rule and principle adopted was not to affect existing rights of property in slaves, but to declare all born after the passage of the law free, so as to terminate an institution that they believed no longer compatible with the interests of their communities, or with their judgment, or with what was the proper relation of the races as it existed among them; but without any violation of the rights of property whatever, without any interference with the rights of property whatever. It seems, however, we have grown wiser in our day. Perhaps we have grown more philanthropic; that is, more philanthropic where we can deal with the property of others without any expense to ourselves.

The honorable Senator from Ohio [Mr. SHERMAN] has well and appropriately designated this as an experiment. Where I differ from him is, that I think this is the most inauspicious time at which you can attempt to deal in experiments, when you are in the midst of a civil war; and that, too, in relation to a question which, from the differences of opinion that have existed in the country, has had a great bearing on the disastrous state of affairs that now exists. But, sir, I know—I can see from the votes in this Chamber and the opinions expressed—that objections to this bill are idle. Besides, I might well ask when did power in its headlong course ever pause in the pursuit of its object?

There are some questions connected with this bill that have not been presented to the Senate; and I shall now proceed to address myself to the structure of the bill. I am opposed to the measure, without reference to its structure, because I think it unwise, not unconstitutional. I am opposed to this particular bill, because I think it both unwise and unconstitutional as it is brought before the Senate; and I shall endeavor to establish that proposition. The constitutional objection is not to the authority of Congress over the District of Columbia, but it relates to the mode in which this bill is constructed. The last clause of the fifth article of the amendments to the Constitution, which at the time it was adopted it was supposed would be some guarantee—but, alas! it has been found to be a feeble one against the aggressions of power—is in these words:

"Nor shall [any person] be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation."

I admit the right in the Government of the United States to take property in this District or elsewhere for public use, precisely as it exists in the States within their jurisdiction; but they are all subject to the restriction which exists in our Constitution, and which exists in every State constitution in this country. It is a principle of internal justice, which no nation ever violated with impunity, that no State can seize upon the property of its citizens for public purposes without compensation to the individual whose property is taken. Is this bill as framed within the restriction imposed by that clause of the Constitution?

Now, sir, what has been the judicial construction of that clause in reference to other property in several of the States of this Union? I think I cannot be mistaken, that there are but two modes in which a State, by virtue of its right of eminent domain—and the restriction applies as well to Congress as to the States whose constitutions also contain such a provision—can take private property for public use. One is by agreement with the owner, by which they pay him a sum agreed upon; the other is where they take the property and provide an impartial tribunal which shall act judicially in ascertaining the value of the property so taken. What does this bill do? It adopts the second mode; it provides a tribunal. I concede that it is not necessary that that tribunal should consist of a jury, that you may provide a tribunal, whether of three or five men for the purpose; but, sir, look at the restriction. The provision of the Constitution is not worth the paper on which it is written if the power which takes the property can impose a restriction upon the impartial ascertainment of the value by the tribunal it constitutes. Such have been the decisions of the courts in reference to other property in the States of this Union. If you can impose one restriction, you can impose more.

If you can say that the slave shall not be valued above $300 a man, or that the aggregate amount shall not exceed $1,000,000, you may just as well say the aggregate amount shall not exceed $1,000, or that the value shall not exceed fifty dollars for each slave. You have the same right under that clause of the Constitution to impose one restriction as the other. You destroy and subvert entirely the effect of the restriction the moment you attempt to limit the power of the tribunal acting judicially for the purpose of ascertaining value. Such is the doctrine of the courts. You will find it decided by Judge Curtis in reference to the temperance law in Rhode Island in a case involving a similar principle precisely: that a restriction upon a right, no matter how minute, no matter how little it weighs upon the party, if prohibited by the constitution of the State, makes the law invalid and unconstitutional. So it does here.

If your law had stopped with providing that this tribunal might adjudicate the value of these slaves, and pay the parties their value, it would have been valid and constitutional; but the moment Congress step in and say that that tribunal shall be fettered in its judgment, that it shall not allow more than so much as the average, or so much in the aggregate, you destroy the judicial character and capacity of the tribunal altogether. If you can destroy it to a minor extent, you may make the limitation what you please; and then what is the restriction in the Constitution worth? The result is, that the power which takes the property may impose its own terms. There is no longer any restriction whatever. If you can take it at a sum to be prescribed by yourselves, and you can limit the tribunal you appoint, so that it shall not allow the value of the property taken, but shall be restricted by your legislative action, then, of course, the principle is precisely the same, and the violation of the Constitution is just the same. The extent, as regards the injury to the individual, may be less; but the violation of the letter and spirit and intent of the Constitution is just as strong in the one case as in the other. I suppose this to be a fatal objection to the bill as framed. But, sir, it does not stop there. I do not mean to dwell as I could do, and expatiate on this subject further. I have other objections to state, and which equally look to the unconstitutionality of this bill, and I shall proceed with them. I believe the bill now before the Senate, as amended—the amendments are immaterial to my argument—is the bill entitled, "a bill for the release of certain persons held to service or labor in the District of Columbia." In the second section of that bill it is provided:

"That all persons loyal to the United States holding claims to service or labor against persons discharged therefrom by this act may, within ninety days from the passage thereof, but not thereafter, present to the commissioners hereinafter mentioned their respective statements or petitions in writing, verified by oath or affirmation, setting forth the names, ages, and personal description of such persons, the manner in which said petitioners acquired such claim, and any facts touching the value thereof, and declaring his allegiance to the Government of the United States."

There was another amendment adopted to that, but as they all come within the same principle, though it would strengthen the argument, it does not alter it. You abolish slavery in the District of Columbia; you declare every slave to be free; and you must do it, I suppose, under the principle that you are bound to make compensation, for you tender compensation in the second section, and you provide for the tribunal to give that compensation. I pass over the restrictions now, for the purposes of this argument; but in that section you provide that loyal citizens alone shall be entitled to present their claims. I do not know, from the frame of the bill, whether it is the commissioners, or the Secretary of the Treasury, or the Secretary of the Interior, or the President, who has the right to determine this question of loyalty; but the party is to be loyal, and to make certain declarations, or else he is not to be compensated. Now, sir, let us look again to the provisions of the fifth article of the amendments to the Constitution, and see how such legislation as that tallies with it. No man is to be deprived of life, liberty, or property without due process of law; and in a previous portion of the article it is declared:

"No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person for the same offense be twice put in jeopardy of life or limb."

Well, sir, what is the effect of this bill? Gentlemen seem to find it necessary, when they are abolishing slavery in the District of Columbia, to mix up with it their ideas of confiscation. On what principle is it, sir, that you can undertake to require from any man if you take his property, a condition that he shall do anything extraneous to the proof of property? That is the case which Judge Curtis decided in Rhode Island—that you could require no extraneous condition. You say that he must be loyal, or he shall not be paid. Is that loyalty to consist in sentiments? Is it to be evidenced by spoken words or by acts? No matter which, if it is not a crime, if it is not an offense against your laws, or if it is an offense against your laws which do not prescribe confiscation of property as the penalty of that offense, what right have you to take the property of a convicted murderer, if you please, and confiscate it because he is a murderer? The law makes no discrimination. The Constitution guards the rights of the guilty as well as the innocent in reference to all other matters. A man may have been guilty of murder, of felony of any kind, of treason; but until his conviction you have no right under the Constitution to confiscate his property. It is confiscation, if you value his property, which you say is to be valued, and refuse to pay him that value. You admit the right to compensation, by your bill; but if you allow this board of commissioners to determine on the question of loyalty, and to withhold payment because of disloyalty, what is that but punishment of the party by the verdict of three men, without trial, without offense known to the laws. Mr. President, you cannot, no man can answer the objection. It is nothing more than the exercise of arbitrary power which seizes upon the property of the individual and confiscates it for the public use while it holds out the nominal idea of compensation. If a man has aided and abetted the enemy he ought to be punished, and he may be punished under the laws of the land.

Recollect, sir, I am speaking of a law applicable to property in this District, where the courts are open, where the laws are in full force and capable of being enforced against any man whatever. What right, then, have you—for I shall notice presently this question whether slaves are property—to take the property of a man in this way for disloyalty? Suppose it is land. Could you take the land of a man because he was not loyal, and confiscate it without trying him? But how absurd would this doctrine about loyalty be when applied as a question of crime. Would you pass a law authorizing a man to be indicted for want of loyalty, for disloyalty? Why, sir, you would have the most capricious verdicts imaginable, and you would have every court in the country differing as to what constituted disloyalty. It is indefinite in its nature. Your Constitution meant to guard against that. It prescribes in what treason consists, and disloyalty is only a crime under the definitions of the Constitution. It may subject a man to reproach; it may subject him, in the opinion of his fellow-citizens, to merited reproach; but it is not a crime under the laws, nor could you pass any law which would justify the trial of a man on so general and indefinite a charge without violating every principle of justice that is known to civilized nations.

But suppose you deny compensation to those who have aided and abetted the enemy. I put it in the strongest position there. Those who have aided and abetted the enemy I admit are guilty of treason; they are to be punished; but does the law authorize you here in the District of Colum-

bia, without trial, without the verdict of a jury, to pronounce a man guilty by the award of three men who choose to pass upon him, or even without pronouncing him guilty, to rob him of his property? Yet that is your bill. Disguise it as you may, this bill, when it inserts that clause which requires a condition that a man shall do some act extraneous to his right of property, such as a declaration of allegiance, or requires that he shall be a loyal citizen to recover compensation, undertakes to forfeit the value which he is justly entitled to when you abolish his right of property in slaves, without trial and without a crime. This may be the law and principle of a free country. It is different from what I understood the principle and law under a Government of laws and under a free Government to be.

I can easily understand that under the despotism of Austria such an event might occur. It does amaze me that such a proposition, not necessary for the purposes for which this bill is introduced, not connected with the question of abolition in any way whatever, should stand before the Senate of the United States with the probability of its approval. Sir, I know that personal liberty has been infringed; nay, personal liberty is dead in the United States under the stale plea of State necessity; but with the single exception of the action of General Halleck in Missouri, which might be paliated, not justified, from the condition of things there, I am not aware that the Government of the United States, in any State in which the courts are open, and the parties are amenable to process, has undertaken to confiscate the property of the citizen without trial, and without any offense known to the laws. It is an onward step; it is a further step to the destruction of free government, and the establishment of a government of will in this country, depending on the will of the existing Administration. No general rules or principles, no written Constitution, meant, as it is, to guard against the violation of private rights, seems to have the slightest control over the actions either of the Executive or of Congress. Sir, I might go on and declaim on this subject—no, not declaim, but argue upon it, and I wish—I never wished it before—I had the capacity and the eloquence that abler men possess that I might enforce upon my countrymen the dangers arising from this principle, that because an object is desired by a majority, that that object is to be effected without regard to the provisions of the Federal Constitution or the law of the land.

But, sir, this bill contains in its third section another provision to which I wish to allude. I know nothing of the object or the motive that inserted it. It came from a committee, I believe. I can only give to it its legal construction; but I will venture to say that in the records of civilized nations, so barbarous, so utterly unjust a provision was never found in any law that has been passed by any Legislature of the civilized world. In the third section, after providing that the President is to appoint these commissioners, who are to determine and investigate the validity and value of the claims, and apportion the money, and that the entire sum is not to exceed $300 for each person, it is provided further:

"That no claim shall be allowed for any slave or slaves brought into the said District after the passage of this act."

That is right. It is in accordance with the power and with the view of Congress in prohibiting slavery in the District of Columbia. Then the section proceeds:

"Or which originates in or by virtue of any transfer heretofore made, or which shall hereafter be made, by any person who at any time has aided or sustained the rebellion against the Government of the United States."

What is the effect of this provision? That if a loyal holder—if the honorable Senator from Ohio [Mr. SHERMAN] was living in this District, and his moderate principles did not prevent him from being the owner of a slave, and he had held that slave for ten years, if his title had originated in a purchase from a man who, eight or nine years afterwards, committed the offense of rebellion, then his property is to be confiscated for the act of that man. That is the principle of this measure. That is what this bill provides in its legal effect. It matters not when the title originated; there is no limitation; five years, ten years, twenty years; it is all the same thing. Apply the principle to land. If, then, any man living in the District of Columbia was the owner of a house which he had purchased from a person now in rebellion against the United States, the principle embodied in this bill would authorize the confiscation of the property of that man, however loyal, because he had purchased ten years before from a party who was a disloyal citizen of the United States. In other words, one man is made responsible in the property he purchased for the subsequent acts of the party from whom he purchased. I dare say this may be justice in the opinion of gentlemen; it may be all right; but I do not think that any tribunal, I do not think that any civilized community would pronounce it anything else than a barbarous violation of every principle of justice, applied to any species of property whatever.

Mr. President, I am aware that there is a kind of answer given by certain members of this body that slaves are not property. Well, sir, it is not worth an argument. If the decision of Sir William Scott, that slavery was recognized in all nations, and in all times, and by the common compacts and conventions of nations, as legal property, is to be rejected—if the decisions of the Supreme Court of the United States, and the court of King's Bench, in the case of Madrazo *vs.* Willes is to be rejected, and we are to substitute "higher law" for the acknowledged doctrines of law; then you may say slaves are not property, and therefore what you give is merely voluntary, and that my argument does not apply.

But, sir, there is a further argument. If it be true that slaves are not property by law, and cannot be property, why not leave it to the courts—where is the necessity for this bill? If they are not legally property, they can be discharged on *habeas corpus*. If there is no right to hold them, no right of the owner to property in his slave, no legislation is required for the purpose of abolishing slavery. If that were so, in Pennsylvania, in 1780, they passed a very useless law. If that were so, in Rhode Island, in 1782, they passed a very foolish and ridiculous law. If that were so, they passed similar ridiculous laws, in 1799, in New York, and I believe, subsequently, in New Jersey. But further, if that were so, the Government of the United States has committed an atrocity; it has plundered the Government of Great Britain, because in the treaty of Ghent, through its diplomatic agents, it stipulated for the payment of the value of slaves, as well as other property taken by Great Britain during the progress of that war. Sir, the argument is not worth answering which is attempted to be made on this fallacious ground that slaves are not just as much property as any other property that a man can hold.

Mr. President, the foundations of property do not rest in the law of nature; they rest on the complex relations of civilized society. You would find it very difficult, indeed, by any law of nature to establish the principle that because A holds five hundred acres of land during his life, cultivated or uncultivated, and excludes the rest of the world from its occupation and enjoyment, it is therefore to be transmitted to B, C, and D, who happen to be his children or his collateral relatives. It results from positive law, founded either on statutory regulations or on the customary usages of nations; and all property among civilized nations rests upon that. Destroy property, strike out of the heart of man the passion for acquisition, and you destroy the civilization of the world, and may return at once to a state of savageism. It is the hope of the future connected with a man's posterity, it is the passion for acquisition, it is the desire to accumulate for those who are to follow him, that forms the basis of all human civilization.

Sir, I submit to the Senate that the objections I have urged to this bill as it stands are sufficient to secure its rejection, if they mean to regard the Federal Constitution. If the war is to be prosecuted for its preservation, its principles must be adhered to during the prosecution of the war. We are not wantonly to violate them because gentlemen may have a theory that it is necessary for the benefit of the District of Columbia and for the cause of freedom to set free the slaves here, or because they may have the further theory that it is necessary to punish, without due process of law, without trial by jury, those whom they suppose sympathize with the confederates, and not to be loyal citizens. Are you to punish men without charge alleged, or crime proved, or offense known to the laws? Gentlemen may entertain these opinions, and yet they will violate the Federal Constitution if this bill is passed, and the attempt is made to inflict punishment and deprivation of property in that mode. Honorable Senators may think that adherence to the provisions of the Constitution is of little moment now when they are in power; but I tell them that hereafter they will find that there is a Nemesis in all human affairs, and that it is far easier to throw away the precious jewel of civil liberty than to recover it when it is once lost.

Mr. President, I have no hope of defeating this bill; I do not expect to defeat it; but I hold it to be a duty on my part, as I stated, not to my State, not to my constituents, but to my country, to oppose that which I believes violates the Constitution of that country, and not only violates it, but is unwise and tends to the destruction of that very Union which you say you are making war to preserve.

I pass now, for a few moments—and then I shall spare you any further remarks—to some questions connected with the relations of race. The honorable Senator from Ohio expects that the passage of this bill is to produce a paradise in Washington. To the people of Delaware, it is of no moment whatever whether you pass this bill or not; it will affect them in no way; it is not as their representative that I object to this bill. I am opposed to it, because of its deleterious and destructive consequences to the country at large; because it tends to increase and invigorate opposition to the war on the part of the revolted States. It may be that the honorable Senator, with the profuse imagination which he appears to enjoy, may be right in his idea that Washington is to be the paradise of negroes; but I tell him that, in my judgment, he will find that it will be anything but the paradise of white men in the course of two or three years hence.

Mr. SHERMAN. My friend did not hear me exactly, or did not understand me aright. I said that Washington was already the paradise of free negroes in this country; because here they now enjoy more social rights and privileges than they do in any portion of the United States. I do not suppose that it will be any more a paradise for them hereafter than it has been heretofore.

Mr. BAYARD. I will suppose then that Washington is now the paradise of the free negroes of the United States, and I presume in the passage of this bill the honorable Senator does not mean to deprive them of their paradise; I presume he intends to increase their enjoyments. It is meant for their benefit, certainly not for the benefit of the white race in any way that I can perceive. The effect of this bill, in my judgment, will be deleterious, and most deleterious first to the city of Washington, next to the State of Maryland, then to the State of Virginia, and then by the effect of its indirect influence to the State of Kentucky and the State of Missouri; and if you succeed in compelling by force of arms the other slaveholding States to return into the Union, the effect will permeate through the entire mass of those States. I have said that to my State it is of but little moment, and I will tell you why. In the State of Delaware I admit that slavery does not exist as a valuable source of property. I admit unhesitatingly that if to-morrow we could substitute for the negro population of Delaware, slave and free, the same number of white men, or half the same number of white men, and get rid of the inferior race, our wealth would be quadrupled. In Delaware slavery is of little value; the slaveholder has little if any political influence; but in that State exists a fact which has existed hitherto in relation to no other State in this Union, and it makes her people appreciate the dangers of the relations of race, where there is a superior and inferior race in large numbers in the same community, whether that inferior race is in a state of bondage or in a state of freedom. Delaware is the only State in this Union, in which, down to 1850, the black race increased more than the white race. Though the slaves in that State had diminished three fourths in number, the black race down to 1850 had increased in the State of Delaware six per cent. more than the white race. Fortunately for us the tide has turned, and since 1850 the white race is beginning gradually to assume its numerical supremacy in reference to the black race. We then had one fifth of our population free negroes, and we still have that proportion in round numbers,

as near as may be—one free negro to every four white men. We believe we understand the relation of race better than those gentlemen who live in States where they exist in the proportion of one in one hundred, one in five hundred, or, as in the State of Iowa, one in six hundred and seventy-three; and we believe that gentlemen misapprehend the entire difficulties of this question when they suppose that by abolishing slavery they are going to remedy all the evils arising out of the existence of an inferior race.

In my own judgment, it is perfectly true that the State of Delaware is prejudiced by the existence of so large a number of the inferior race; and being, as she is, simply a cereal-growing State, where white men can live and can endure open field culture, I have no doubt that the substitution of the white for the black race, so far as the latter race exists, would add infinitely to her wealth and prosperity. I am equally confident that the existence of the free negroes would be far less beneficial to her and to them than if they stood in a state of bondage. It is very easy for gentlemen to indulge in advice and in theories and speculations in reference to things of which they have no practical knowledge, arising from the peculiar relations of race in their own States. The honorable Senator from Ohio, for whose judgment and intellect I have a high respect, has compared Maryland and Ohio; and he has told us that in Ohio, though they dislike negroes, they have set all their slaves free, and that therefore the great experiment of emancipation should be tried in Maryland, and that it would result equally in benefit to her in the increase of the value of her lands and the general prosperity of the State. The honorable Senator reasons falsely there, in my judgment, as I may readily illustrate. If he were to throw a drop of brandy into a hogshead of water, no sense which belongs to humanity would enable him to detect any adulteration in the character of the liquid; perhaps even chemical analysis would fail; but mix it in the proportion of one third, one fifth, one tenth, or even twenty-fifth part, and the purity of the liquid is utterly gone. The question of the relation of the races depends upon relative numbers. The honorable Senator from Ohio, with thirty-six thousand negroes in his State out of two millions three hundred and fifty thousand population, can form no opinion as to what would be the effect of emancipation in the State of Maryland with one fourth of the population negroes. In the State of Delaware we have one fifth of our population negroes, and free negroes at that, and I can tell the honorable Senator what is the effect. He tells us that if we abolish slavery here the skilled labor of other States will come here, and that there is no reason why Washington should not become one of the most prosperous cities in the country. Sir, I tell him that the skilled labor will not come where the black race exists as freemen half as soon as where they exist as slaves. It is the principle of equality which the white man rejects where the negro exists in large numbers. It is that which creates the antagonism of race. The antagonism of race does not take place where but few individuals exist who do not affect the structure of society, as is the case in Ohio, as is the case in all, or nearly all, the non-slaveholding States. It does not arise until the relative numbers of the two races are such as to affect the social relations and the whole body politic. We have felt it in our State, and we know what the antagonism of race is. Sir, the skilled labor of Delaware, the mechanics of Delaware, would scorn the idea of equality in their occupations with the negro. They would not permit the negro as an equal, whether he had equal rights by the law or not, to be forced into the same occupations in which they are engaged. No employer dare make the attempt. In my State we understand the characteristics of the negro race. Gentlemen may choose to judge negroes by individual cases, but they amount to nothing; you must judge of the mass. It would be just as reasonable to infer because now and then you meet a boy of sixteen or eighteen who has more capacity than the average of men of fifty, that therefore all boys of sixteen or eighteen ought to be put on an equal footing with men, and have the same rights and privileges, as to infer, because you now and then meet a free negro who stands above his race, who has the passion for acquisition that belongs to the white man, who has the capacity for steady labor that belongs to the white man, that therefore these are characteristics of the race. I can produce ten exceptions in the case of boys where you can produce me one in the case of the negro.

The reasoning of the honorable Senator is incorrect of itself, because it is reasoning founded on ignorance of the relations of race. But, sir, if I understand the statistics of the last census, the honorable Senator's State will soon have that knowledge. The honorable Senator from Illinois, [Mr. BROWNING] I think, now perceives it. The people of Indiana restricted the immigration of the inferior race into their State years ago by constitutional provision. The people of Illinois have done so recently. The people of Ohio will do it yet; the people of New Jersey will do it yet; the people of Pennsylvania will do it yet; and this bill and similar bills will force it upon them. You cannot overcome the law of nature; I speak of the primary law of nature, the instinct of race. The white man will not consent in this country, with his intelligence and his education, that the mass of the white people shall amalgamate with the blacks, and be reduced to a level with the Mexicans; and unless that result comes, what is to be the consequence? The records of history teach you that where two races of men inhabit the same country, incapable of amalgamation or unwilling to amalgamate, the inferior race must perish before the superior race, unless it remains a subject race. Such has been the case with your own Indians; such will be the case with the negroes, if you set them free on this continent in the large numbers in which they exist here. In their normal condition they accustom themselves to subjection far easier than the Indian. The negro's idea of freedom as a race is not the freedom that the white man desires; but it is freedom from labor. Gentlemen may war, if they please, against the law of nature and the characteristics of the race; but though they may have the power to-day to enforce by legislation doctrines and measures which will be injurious to the country, rely upon it its reacting sense will teach them that their doctrines and their theory are a fallacy.

But, Mr. President, I have said that the State of Ohio would follow the path of Indiana and Illinois. Is the honorable Senator aware that in the State of Ohio in the last decade the free blacks have increased forty-three and three tenths per cent., and the whites but seventeen per cent.? The relative progress is rapid. It is not felt yet. Two decades more, and you will feel it sufficiently to apply the remedy. With this species of legislation, with these theories that are abroad in reference to the relation of races; with this attempt to place the negro on an equality with the white man, it will come home to Pennsylvania, it will come home to New Jersey, and you will find that those States will not be satisfied to sit quietly down under the effect of your legislation; and further, precisely in proportion to the density of population, will the antagonism of race exist. The antagonism arises not from the fact of the difference of race, but from the assertion of equality on the part of the inferior race. The white man cares nothing that he labors in the same occupation that the slave does; but place the slave in the position of equality by making him a freeman, and you at once create the antagonism of race, if the two races exist in large relative numbers. If the numbers of the inferior race are few, like the drop of brandy in the hogshead of water, it has no appreciable effect; but whenever the numbers begin to approximate to anything like a large proportion so as to affect the body politic and the general structure of society, you will find that antagonism will come and it will come from the mass of the people, from the skilled labor, from the laboring class. The free negro does not interfere with what are called the educated classes. He comes in competition with labor; and when he comes in competition with the labor of the white man to any great extent you will find that the masses who will govern this country will reject the association.

Mr. President, I have been led further than I intended in this discussion, but it has been forced upon me by some of the remarks that have occurred in the course of this debate and more by the tone of the arguments than by the individual arguments which have been used. No one deplores more than I do the state of things that exists in this country; no one would make greater sacrifices to remedy it to the extent of his power. I may, I do differ from the Administration and from the majority in this Chamber as to the measures that are necessary for that purpose; and when I see a bill pressed here which involves, no matter in what shape you put it, the distinct idea of advancing the notion of the equality of all men without regard to race, and when I see other propositions involving the same doctrine in my opinion, I cannot but say that every measure which tends in that direction in my judgment places a barrier against the restoration of the Union.

Sir, I do not question the honesty of purpose, I do not question the sincerity with which honorable Senators entertain their opinions in reference to this matter. I have lived long enough to know that the utmost contrariety of human opinion may exist consistent with perfect purity of motive upon both sides. We all know that it does in religion. Why may it not in reference to matters connected with State policy? Gentlemen, therefore, will not understand me in the remarks I have made, as arraigning the motives of any man, but I am combatting the policy of the dominant party which I really believe will ruin my country if persisted in. I am one of those who think that there is no extravagance of human opinion that may not be indulged in without impropriety or insincerity of motive. It is not in religion alone that the answer of the fanatic is "*credo quia impossibile est.*" It applies to a thousand other matters in which the beliefs of men vary as to matters of theory or policy; and very often it will happen that those most ignorant are the most confident in their belief.

I would suggest to honorable Senators on the other side, who live in States in which there is merely a sprinkling of free negroes, whether they ought not to pause a little when they undertake to interfere, by legislation, for the purpose of direct or indirect action upon the question of slavery in other States in which negroes exist in large numbers. In Indiana and Illinois, where they have few, they choose to exclude any more from coming within their boundaries; and if in Iowa, with a population of six hundred and seventy-three thousand, there are only a little more than a thousand negroes, I submit that it is too much for Senators from those States to advance their theories to States like Maryland, in which the negroes exist in the proportion of one fourth of the whole population. Whether you look to our form of government or to the reason of the case, is it not manifest that the experience of those men who live there where the relation exists, and where the two races exist in large numbers, must enable them to judge fairly of the proper mode of dealing with this relation for the benefit of both races, and that their judgment will be more accurate than that of those who live in communities where the inferior race does not exist to any appreciable extent relatively? I beg gentlemen to weigh that idea; and surely no rational man can doubt that his *à priori* reasoning upon any subject must be corrected by inductive reasoning from human experience, or else he will fall into the wildest errors of opinion. There is no reason why this should not apply to political affairs and to the relations of races as well as to the inductions of science.

The PRESIDING OFFICER. The question is on the passage of the bill, upon which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. KENNEDY, (when Mr. PEARCE's name was called.) I desire to say that my colleague is now at his home detained by extreme illness. No doubt if he were here he would vote in the negative.

Mr. BROWNING, (when Mr. RICE's name was called.) I desire to state on behalf of the Senator from Minnesota, whose name has just been called, that the condition of his health has compelled him to leave the city for a few days. That is the reason why he is not here.

The result was announced—yeas 29, nays 14; as follows:

YEAS—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Howard, Howe, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Sherman, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Wilmot, and Wilson of Massachusetts—29.

NAYS—Messrs. Bayard, Carlile, Davis, Henderson, Kennedy, Latham, McDougall, Nesmith, Powell, Saulsbury, Stark, Willey, Wilson of Missouri, and Wright—14.

So the bill was passed.

On motion of Mr. WILSON, of Massachusetts, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *April* 3, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

BALTIMORE AND OHIO RAILROAD.

The SPEAKER laid before the House a communication from the Secretary of War, in response to a resolution of the House relative to the Baltimore and Ohio railroad; which was laid upon the table, and ordered to be printed.

FOREIGN FINANCE.

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

Resolved, That the President be requested, if in his opinion compatible with the public interest, to communicate to Congress any information that he may have received at the Department of State, showing the system of revenue and finance now existing in any foreign country.

REORGANIZATION OF THE NAVY DEPARTMENT.

Mr. SEDGWICK, by unanimous consent, from the Committee on Naval Affairs, reported back Senate bill No. 171, to reorganize the Navy Department of the United States; which was ordered to be printed, and recommitted to the Naval Committee.

NAVAL ACADEMY.

Mr. SEDGWICK moved that the report of the academic board of the Naval Academy be printed.

The motion was agreed to.

ABELARD GUTHRIE.

Mr. LOOMIS, from the Committee of Elections, reported a bill for the relief of Abelard Guthrie; which was read a first and second time, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

TAX BILL.

Mr. STEVENS. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of resuming the consideration of the tax bill.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed, as a special order, the consideration of the bill (H. R. No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

The CHAIRMAN stated that when the committee rose, it had under consideration the following:

Insurance, (marine and inland.)—Policy of insurance, or other instrument, by whatever name the same shall be called, whereby any insurance shall be made upon any ship or vessel, or upon any goods, merchandise, specie, or other property on board of any ship or vessel, or upon the freight of any ship or vessel, or upon any other interest in or relating to any ship or vessel which may lawfully be insured; or upon any goods, merchandise, specie, or other property transported by any conveyance whatsoever from any port or place to any other port or place, where the amount insured shall not exceed the sum of $2,500, fifty cents; exceeding the sum of $2,500, and not exceeding $10,000, one dollar; exceeding the sum of $10,000, $2 50.

Mr. HORTON moved to strike out all after the words "or upon any goods," in the third line, and in lieu thereof to insert the following:

Where the amount insured shall not exceed $1,000, twenty-five cents; exceeding $1,000, and not exceeding $5,000, fifty cents; exceeding $5,000, one dollar.

The amendment was agreed to.

The Clerk read, as follows:

Insurance, (fire.)—Policy of insurance, or other instrument, by whatever name the same shall be called, whereby any insurance shall be made of or upon any building, goods, wares, merchandise, or other property from loss or damage by fire, or arising therefrom, by any insurance company, or its agent or other person, where the amount insured shall not exceed the sum of $2,500, fifty cents; exceeding the sum of $2,500, and not exceeding $10,000, one dollar; exceeding the sum of $10,000, $2 50.

Mr. HORTON moved to strike out all after the words "or its agent or other person," in the fifth line, and in lieu thereof insert the following:

Where the amount insured shall not exceed $1,000, twenty-five cents; exceeding $1,000 and not exceeding $5,000, fifty cents; exceeding $5,000, one dollar.

The amendment was agreed to.

The Clerk read, as follows:

Lease, agreement, memorandum, or contract for the hire, use, or rent of any land, tenement, or portion thereof, if for a period of time not exceeding three years, fifty cents; if for a period exceeding three years, one dollar; manifest of part of the cargo of any vessel, (clearance,) twenty-five cents; manifest of the cargo of any ship, vessel, or steamer, if the registered tonnage of such ship, vessel, or steamer does not exceed three hundred tons, one dollar; exceeding three hundred tons and not exceeding six hundred tons, three dollars; exceeding six hundred tons, five dollars; mortgage of lands, estate, or property, real or personal, heritable or movable whatsoever, where the same shall be made as a security for the payment of any definite and certain sum of money lent at the time, or previously due and owing or forborne to be paid, being payable; also any conveyance of any lands, estate, or property whatsoever, in trust to be sold or otherwise converted into money, which shall be intended only as security, and shall be redeemable before the sale or other disposal thereof, either by express stipulation or otherwise; or any personal bond given as security for the payment of any definite or certain sum of money, one dollar.

Mr. HORTON moved to insert after the above the words "not exceeding $500, fifty cents; exceeding $500, one dollar."

The amendment was agreed to.

Mr. TROWBRIDGE. I understood that the Committee of Ways and Means were going to introduce an amendment in regard to manifests.

Mr. HORTON. I move that the paragraph be made to conform to the paragraph in reference to deeds, as it was amended, so that when under $100 there shall be no charge.

It was so ordered.

Mr. POMEROY., The paragraph in regard to deeds was also amended by introducing the word "realty" instead of the words "or other things."

Mr. MORRILL, of Vermont. That will not apply here.

Mr. POMEROY. I move to strike out the words "or persons." I presume, sir, there is hardly a State where mortgages upon chattels are not recognized. They are rather an unsafe security anywhere. They are given by those who are poor, and have nothing else upon which to give a lien for money borrowed in a sudden emergency. In the State of New York I do not believe that more than $100 in money is ever borrowed upon chattel mortgages. I therefore move to strike out the words, "or persons," so as to confine the operation of the paragraph to the realty.

Mr. MORRILL, of Vermont. I rise to oppose the amendment of the gentleman from New York. There are those who own valuable personal property upon which they can and do borrow thousands of dollars. I do not see any reason why they should be exempted from taxation any more than the poor man who may happen to own a small piece of real estate. I hope the amendment will not prevail.

The amendment was disagreed to.

Mr. SHERMAN. I move to add the following proviso:

Provided, That any mortgage given to secure the payment of purchase money for real estate shall be exempt from any such charge.

I move this amendment for this reason: the party will have to pay a tax upon the deed of conveyance, and then he will have to pay a tax upon the mortgage securing the payment of the purchase money, thus making him pay a double tax, which I think is not just.

Mr. STEVENS. The man who gives a deed is a different man from the man who gives a mortgage.

The amendment was rejected.

The Clerk read, as follows:

Notarial act, any whatsoever, not otherwise charged in this schedule, twenty-five cents.

Mr. HORTON moved to strike out the line, and insert in lieu thereof the following:

Protest.—Upon the protest of every note, bill of exchange, acceptance, check, or draft, whether protested by a notary public or any other officer who may be authorized by the laws of any State or States to make such protest, twenty-five cents.

The amendment was agreed to.

Mr. SHEFFIELD. I did not catch the language of the amendment, but I think that it does not provide for marine protests. I move to add the words "and marine protests."

Mr. HORTON. I hope that the amendment will be agreed to.

The amendment was adopted.

The Clerk read, as follows:

Passage ticket, by any vessel from a port in the United States to a foreign port, if less than thirty dollars, fifty cents; exceeding thirty dollars, one dollar.

Mr. BINGHAM. I suggest to the Committee of Ways and Means whether it would not be well enough to insert a provision charging for passage tickets granted upon railroads over foreign territory. Gentlemen are aware that the eastern and western roads are upon the borders of a foreign country, where railroads run parallel with our own, and if they are permitted to carry passengers free of tax they come in conflict with the interests of our roads, both East and West, and the profit of travel will, by our own legislation, be thrown directly into the coffers of those who live beyond our limits. I move, therefore, to amend by inserting at the end of the paragraph, the words, "and for passage tickets granted or sold by any railroad company or agent thereof for transit upon any railroad without the limits of the United States, one dollar."

Mr. RIDDLE. I do not fully understand this provision, but I wish to say a word or two in reference to the matter in which my people are interested. It is well known by every member of the committee, that the roads which run on the southern shore of Lake Erie, run directly in competition with the Canada road. Those roads now carry freight and passengers at as low a rate as it is safe for them to do, on account of that competition. A tax of two mills a mile upon passengers is a discrimination against the American roads to the amount of nearly one dollar and fifty cents a head. I am advised by a gentleman upon my left, that I have stated this matter a little too high. But at any event, even at one half of that, it will be utterly impossible for the roads upon the southern shore of Lake Erie to compete with the railroads north, and a single dime of tax, or a quarter, at any rate, would dispose of the entire through travel. It will be to those roads, in my judgment, perfectly ruinous; but I do not exactly know how the difficulty can be remedied. I do not know that there is any remedy.

Mr. DIVEN. The amount can be collected at the Detroit ferry.

Mr. RIDDLE. The gentleman suggests that the amount can be collected at the Detroit ferry. I suppose by that he would assess a sort of countervailing duty at that point. If that could be done, I would be entirely content; but in order to do that you would have to go across the Detroit river. The travel from Detroit west is chiefly upon our own territory, but upon the travel going east from that, I do not see how you get around the difficulty. Now, obviously this is so large an interest which is to be affected seriously, I hope the committee will well consider this amendment, and also, if possible, devise some plan by which this difficulty can be ultimately remedied.

[Here the hammer fell.]

Mr. EDWARDS. I move to amend the amendment by reducing the amount fifty cents. I move the amendment for the purpose of opposing the proposition entirely. In the first place, to me the amendment is almost unintelligible; but it may be perfectly clear to the gentleman from Ohio. It proposes a stamp tax upon any tickets held by any railroad or their agent——

Mr. BINGHAM. The gentleman will excuse me. I do not propose any such thing. I propose a tax upon tickets granted or sold by any company for the transit of passengers over any railroad without the limits of the United States.

Mr. EDWARDS. If the gentleman had heard my statement through, he would have seen that I was correct. The amendment proposes a stamp tax of one dollar on any railroad ticket held and disposed of by any railroad company, or any agent thereof, in the United States, which ticket is intended to meet the charge for passenger travel outside of the United States. That is the substance of the amendment.

Now, sir, in the first place, the tax could be avoided and the provision rendered entirely nugatory by the parties, because no agent would hold such tickets. He would sell a ticket only to the line of the foreign State, and then the railroad outside of the United States would supply the connection. Thus the provision would amount to nothing, and be rendered entirely useless for any purpose of revenue. And even if it could amount to anything, I should hold it objectionable, because it would embarrass the travel on the railroads within the United States and the railroads outside of the United States, which, I believe, are only those running into Canada for the convenience of the inhabitants on both sides. I

might say further that it would not be good policy to adopt a measure of this character, unless the gentleman should put into his amendment the common provision that it shall not go into effect until the expiration of the reciprocity treaty. As I see the gentleman who made the amendment rising, I will say I do not wish to be understood as making this last remark seriously, but only as an allusion to the frequent use of that limitation in relation to other subjects which have been before us.

If I have a minute or two left, I desire to say a word which I desired to say the other day, and which I can now say as an additional reason why this additional embarrassment should not be put upon railroads, and that is that the tax which was assessed the other day is enormous. I trust it never will get through both branches of Congress and become a law. Look at it for a moment. A tax of two mills per mile upon each passenger on railroads is from eight to twenty per cent. upon the gross receipts of railroads. Railroads usually charge from two to three cents per mile, and on some passengers, for long distances, they receive less than two. Take three cents per mile, which is the highest, and two mills per mile is one fifteenth of the fare, and that is about seven per cent. of the gross receipts, and at least fourteen per cent. on net receipts. At two cents per mile, which is the lowest usual fare, it is one tenth of the fare, and, of course, ten per cent. on gross receipts, and more than twenty per cent. upon net receipts. It takes more than one half of the gross receipts to pay the expenses of operating the road. This accounts for the great severity of the tax when we get down to the real basis of ability, *not income*. I think there should not be imposed so enormous a tax upon any embarrassed and useful interest of the country.

I make these remarks now, not because they will have any effect upon this particular motion, but because I could not make them the other day, and because I trust they may have, with other considerations I would be glad to present if there were time, an effect elsewhere, if not here.

[Here the hammer fell.]

Mr. EDWARDS I withdraw my amendment.

Mr. BINGHAM. I move to amend my own amendment by inserting, after the words "United States," the words "for each passenger." I do not suppose that any person comprehending the real object and purport of my amendment will oppose it, except it be upon the ground simply that railroad companies may evade it. If they do, it cannot be helped. All I can say is, that we can take away from the American railroad companies operating within the limits of the United States, by the force and effect of this law, as I propose to amend it, the opportunity of cheating the Government out of an immense amount of revenue for their own gain. Stop them from selling tickets in New York and Boston, in Cincinnati and St. Louis, for the transit of persons going either east or west over the *Canada road*—that they may thereby evade the tax of two mills per mile if they traveled to the same points over the railroads within the limits of the United States.

Mr. MORRILL, of Vermont. If the object of the gentleman could be accomplished by imposing this additional tax, it might be well for the committee to adopt it. In practice, it would be avoided and be rendered entirely nugatory. For instance: it is the practice now of parties who get tickets from the United States into and through Canada, to exchange those tickets as soon as they cross the line. All that would be necessary to avoid the provisions of this amendment would be to buy a ticket to the State line and then buy a new ticket at an understood price, because it would be published all through the country what such tickets could be bought for.

Mr. BINGHAM. The gentleman can see very well by his own showing that his argument proves too much, for the reason that almost every provision for income tax may be evaded by rascality. I do not think we should for that reason refuse to so guard this bill as to prevent railroad companies, within the limits of the United States, selling through tickets over the Canada railroad, and without the limits of the United States, without paying the same rate for each passenger that they would pay on the same passengers if carried within the limits of the United States.

The amendment to the amendment was agreed to.

Mr. TROWBRIDGE. I move to reduce the amount to fifty cents. I do this in order to oppose the entire proposition. I do not see why the people of northern Wisconsin, and of almost all Michigan, should be subjected to this additional charge in their passage to the sea-board. There is a little railroad across the State of Michigan which accommodates all the northern part of Wisconsin, and a large portion of Minnesota. By it their access to the sea-board is more direct than by the southern road. At Milwaukee the travel could be diverted and driven down to Chicago; and at Detroit and Toledo they would be compelled to pass over the south shore road. But I cannot see what reason there is to compel these men to pay an additional dollar, and for driving them a roundabout way to get to New York. I think it is unreasonable; and I hope the amendment will be entirely defeated, and that the railroad business of the country will be allowed to take its natural course.

The amendment to the amendment was not agreed to.

The amendment offered by Mr. BINGHAM was not agreed to.

Mr. WRIGHT. I move to amend, in line one hundred and forty-one, by adding the words "except charitable, religious, literary, and cemetery societies;" so that the clause will read:

Power of attorney or proxy for voting at any election for officers of any incorporated company or society, except charitable, religious, literary, and cemetery societies.

The amendment was agreed to.

Mr. LAZEAR. I move to insert after the paragraph beginning in the one hundred and forty-sixth line, which is as follows:

Probate of will, or letters of administration.—Where the estate and effects for or in respect of which such probate or letters of administration applied for shall be sworn or declared not to exceed the value of $2,500, fifty cents;

the following proviso:

Provided, That when the estate and effects for and in respect of which such probate or letters of administration applied for shall not exceed $1,000, no tax shall be required.

The amendment was rejected—ayes 43, noes 50.

Mr. STEELE, of New York. I move to amend the paragraph so as to provide that estates of less than $500 shall be exempted.

The amendment was disagreed to.

Mr. HARDING. I ask unanimous consent of the committee to go back to the paragraph in relation to powers of attorney, so that I may offer an amendment to reduce the tax from one dollar to fifty cents.

Mr. STEVENS. I objected to a similar request made by one of my colleagues, and I must object now.

Mr. DAVIS. I move to amend the paragraph in relation to probate of will by inserting, after the one hundred and fifty-eighth line, the words "exceeding $100,000, one tenth of one per cent. for such excess."

The CHAIRMAN. The purview of the gentleman's amendment would except estates of $100,000 entirely.

Mr. DAVIS. No, sir. I propose it as a separate line, to come in after line one hundred and fifty-eight. I would merely call attention to the fact that in the taxes laid in this paragraph it is supposed that there will be no probate of wills above $100,000, or if there are, that they cannot afford to bear their fair proportion of the tax.

Mr. MORRILL, of Vermont. I would merely call the attention of the committee to the 108th page, where we have specifically levied a tax upon all legacies.

The amendment was disagreed to.

Mr. RICE, of Massachusetts. I move to strike out, in line one hundred and fifty-nine, the words "or memorandum of," and to insert "for;" so that the paragraph will read:

Warehouse receipt for any goods, merchandise, or property of any kind held on storage in any public or private warehouse or yard, twenty-five cents.

Mr. HORTON. I should like to hear a reason for that amendment.

Mr. RICE, of Massachusetts. I suppose the object of the provision is to impose a tax upon the receipts for storage; but if a merchant is required, every time he makes a memorandum of the goods, wares, and merchandise that he has on hand in his storehouse, to pay twenty-five cents for making that paper, I am unable to see the reason for it.

The amendment was agreed to.

Mr. WRIGHT. I move to amend the amendment by adding to it the words "where the storage exceeds one dollar." It seems to me that it be unjust to require a man to pay twenty-five cents upon a package worth less than one dollar.

Mr. STEVENS. If men think it worth while to store goods where the storage is less than one dollar, I think they had better pay this tax.

The amendment was rejected.

The Clerk then read the following paragraph:

Legal documents.—Appeal from the decree of any court to a higher or appellate court, fifty cents; writ, summons, subpena, or other original process commenced in any court of law or equity, fifty cents.

Mr. HORTON. I move to add to that paragraph the following proviso:

Provided, That no writ, summons, or other process issued by any justice of the peace, or issued in any criminal suit by the United States or any State, shall be subject to the payment of stamp duty.

The amendment was agreed to.

Mr. HORTON. I move to add the following additional proviso:

Provided further, That the stamp duties imposed by the foregoing schedule on manifests, bills of lading, and passage tickets shall not apply to steamboats or other vessels plying between ports of the United States and ports of British North America.

The amendment was agreed to.

Mr. STEVENS. I move to strike out the word "subpena." It might be mistaken for subpenas for witnesses. It was intended for original processes, and the words "original process" seem to me to embrace everything.

The amendment was agreed to.

Mr. HOOPER. I ask unanimous consent to go back to a paragraph on page 105, to make a verbal amendment that will more precisely express the meaning of the Committee of Ways and Means.

There was no objection.

Mr. HOOPER. On line one hundred and eighteen, after the word "vessel," and within the brackets, I move to insert the words "for custom-house;" so that it will read:

Manifest of part of the cargo of any vessel, (for custom-house clearance.)

The amendment was agreed to.

Mr. HOOPER. I move to insert after the word "manifest," in line one hundred and nineteen, the words, "for custom-house entry or clearance;" so that the paragraph will read:

Manifest for custom-house entry or clearance of the cargo of any ship, &c.

Mr. SHEFFIELD. I wish to ask the members of the Committee of Ways and Means a question, as I am not familiar with the subject myself. I desire to know whether the clause requires a stamp duty to be paid upon the manifests of cargoes or on the freight of steamboats plying, for instance, between Boston and Salem.

Mr. HOOPER. Coastwise vessels are not required to have a manifest for entry or clearance; they sail under a license.

Mr. BEAMAN. I wish to state that under the practice on the northern frontier, particularly so far as the ports of Michigan are concerned, there is a manifest required.

The amendment was agreed to.

Mr. WICKLIFFE. I desire to call the attention of the gentleman from Ohio [Mr. HORTON] to the proviso which he offered to the tax upon legal process. I think his proviso only exempted from the tax all process in criminal causes. I move to insert the words "or penal" after the word "criminal." There is a distinction in my country between the two. There may be a great many cases in the Federal courts under this law that would not be exempted by the word "criminal."

Mr. HORTON. I have no objection to that amendment.

Mr. HARRISON. I move, as an amendment to the amendment of the gentleman from Kentucky, to amend the proviso, so as to except from the operation of the paragraph all original process issued in any cause commenced in the name of the United States or in the name of any State, or for the use of either the United States or of any State. The proviso does not include civil causes.

The CHAIRMAN. That amendment would

not be germane to the amendment of the gentleman from Kentucky.

The question was taken on Mr. WICKLIFFE's amendment; and it was rejected.

Mr. RICE, of Maine. I move to amend, in the one hundred and sixty-fifth line, by inserting, after the word "of," the words "record, either;" so that the paragraphs will read:

Legal Documents.—Appeal from the decree of any court to a higher or appellate court, fifty cents.

Writ, summons, or other original process commenced in any court of record, either law or equity, fifty cents.

The amendment was agreed to.

Mr. HARRISON. I move to insert, after the word "decree," in the one hundred and sixty-third line, the words "or judgment, or final order." The word "decree" has a well defined legal signification, and it does not include judgments or final orders.

The amendment was agreed to.

Mr. HARRISON. I move to add, at the end of the proviso, the following:

Or any civil cause commenced in the name and for the use of the United States or of any State.

Mr. BIDDLE. I oppose the amendment merely for the purpose of inquiring of the mover whether it is not almost equivalent to striking out lines one hundred and sixty-four and one hundred and sixty-five. Almost all processes will be found to issue in the name of the United States or some State.

Mr. HARRISON. The amendment applies to causes commenced in the name *and for the use* of the United States or of any State.

The amendment was agreed to.

Mr. DUNLAP. I move to insert after the word "equity," in the one hundred and sixty-fifth line and before the proviso, the words "where the amount in controversy is $100 or upwards."

Mr. STRATTON. I think the proviso offered by the Committee of Ways and Means meets that case. It exempts all suits which are commenced before justices of the peace or magistrates having civil jurisdiction from the payment of this tax. In my own State their jurisdiction extends to $100, and that I think is pretty generally the extent of their jurisdiction all over the country.

Mr. DUNLAP. In my State the jurisdiction of a justice of the peace does not extend beyond fifty dollars. I do not think this tax should be imposed in cases where the amount involved is less than $100. It should extend only to cases where the amount in controversy is $100 or upwards.

Mr. WALTON, of Maine. I move to amend the amendment, by reducing the amount from $100 to twenty-five dollars. I do this for the purpose of suggesting the inequality that exists as the section now stands. If there is to be no duty imposed on suits commenced before justices of the peace, it will operate very unequally in different States; for in some States the jurisdiction of justices of the peace extends to the amount of $100. It is so in Vermont. In my State it is only twenty dollars.

Mr. RIDDLE. In Ohio the jurisdiction of justices of the peace extends to $300.

Mr. WALTON, of Maine. It will be, therefore, very unequal in different States. I think that the amount exempted should be definitely fixed; and I hope this proposition will meet with the acquiescence of the Committee of Ways and Means.

Mr. MORRILL, of Vermont. Justices of the peace may have very different jurisdictions; but it will be seen that in all cases of appeal from decrees of justices of the peace there is another duty levied. It will, therefore, perhaps, be as regular in its present shape as in any other. If a suit is of sufficient importance to be carried up to a higher court, it will be important enough to have a tax paid on it.

Mr. WALTON, of Maine. It is not that of which we are speaking. It is in reference to writs at the commencement of suits. My remarks did not apply to appeals, but to the commencement of suits. Why should persons in Maine have to pay fifty cents for commencing a suit where only twenty dollars is involved, and persons in other States pay no more where $300 is involved?

Mr. HORTON. They are exempt from tax in all cases where the process is before a magistrate.

Mr. WALTON, of Maine. That will exempt a controversy in Ohio relating to $300, and only exempt a twenty-dollar controversy in Maine.

Mr. HORTON. That is very easily remedied by an alteration of the law of Maine, and making it as wise as that of Ohio.

Mr. WALTON, of Maine. It can be easily remedied now by fixing the amount exempted at a certain sum in dollars and cents, and not put us in Maine to the trouble of calling the Legislature together for such a small matter.

Mr. WALTON's amendment to the amendment was rejected.

Mr. DUNLAP's amendment was rejected.

Mr. SHELLABARGER. I move to amend by inserting after the word "court" in the one hundred and sixty-third line, the words "of record;" so that it will read, "appeal from the decree, judgment, or final order of any court of record to a higher or appellate court, fifty cents." My object is that appeals from justices of the peace shall not be subject to stamp duty.

Mr. STEVENS. The paragraph has been amended, I believe, so as to insert the words "judgment or final order" after the word "decree."

The CHAIRMAN. Yes.

Mr. STEVENS. Then I think it ought to stand as it is. If a man desires, after judgment has been given against him before a magistrate, to have any further amusement in the way of litigation, he must pay for it. I know a man in my county whose wife would not let him go into town as often as he wished, for he used to get drunk. So he determined to have a suit brought for a horse-collar, that he might have an excuse for going into town every third or fourth week, but really that he might get away from his wife and get drunk.

Mr. SHELLABARGER. In our State, appeals are not allowed to run down to so low a standard as they do in Pennsylvania. They must be for something more than the price of a horse-collar.

Mr. SHELLABARGER's amendment was rejected.

Mr. DUNLAP. I move to amend by adding to the exceptions made on the motion of the gentleman from Ohio [Mr. HORTON] the words "or quarterly courts."

The amendment was rejected.

Mr. WORCESTER. I move to amend by inserting after the word "court" in the one hundred and sixty-third line, the words "error, certiorari, and injunction bonds, and all other bonds required or used in instituting or conducting suits or proceedings in any court of record." It seems to me, Mr. Chairman, that the Committee of Ways and Means has omitted a very important class of documents used in judicial proceedings, and I move this amendment for the purpose of calling the attention of the Committee of Ways and Means to it. My amendment embraces a class of bonds which are of great practical importance and of very common use. Some of them are specifically named in the amendment proposed, and the others will be understood by every lawyer; such, for instance, as bonds given in attachments, trustee's process, &c. I can see no good reason why bonds of this class should not be subject to duty as much as bonds ordinarily given in cases of appeal. I move the amendment partly for the purpose of calling the attention of the Committee of Ways and Means to this class of bonds which are, it seems to me, proper subjects of duty.

Mr. STEVENS. That would be multiplying taxes very much in a suit, if every paper filed in it had to pay a duty of fifty cents. The object of the Committee of Ways and Means was that appeals from decrees should pay fifty cents tax, and that that tax should embrace all the buckram and papers in the matter.

Mr. WORCESTER's amendment was rejected.

Mr. WALTON, of Maine. I move to amend by striking out the word "summons," in the one hundred and sixty-fourth line, and to insert after the word "process" the words "by which any suit is;" so that it will read, "writ, or other original process by which any suit is commenced in any court of law or equity, fifty cents." I move to strike out the word "summons" for the same reason that the word "subpena" was struck out on the motion of the chairman of the Committee of Ways and Means. In our State the summons is a part of the original writ. We have writs of original summons; but the word "summons" alone is a part of one of our writs. It is the portion left with the defendant. If the section stands as it does now, it will be open to doubt whether or not that is to have a fifty cent stamp or not.

Mr. STEVENS. I do not see any particular objection to the amendment. It only leaves the matter exactly where it is now.

The amendment was adopted.

Mr. HORTON. I move to amend the paragraph in relation to medicines, by striking out the following:

Medicines, for and upon every packet, box, bottle, pot, vial, or other inclosure, containing any drugs, herbs, pills, powders, tinctures, potions, cordials, bitters, anodynes, tonics, plasters, liniments, salves, ointments, drops, waters, essences, spirits, oils, or other preparation or composition whatsoever, used or applied, or to be used or applied, externally or internally, as medicines or medicaments, for the prevention, cure, or relief of any disorder or complaint incident to or in anywise affecting the human or animal body, which shall be uttered or sold in the United States.

And inserting in lieu thereof as follows:

Medicines or preparations.—For and upon every packet, box, bottle, pot, vial, or other inclosure containing any pills, powders, tinctures, troches, or lozenges, sirups, cordials, bitters, anodynes, tonics, plasters, liniments, salves, ointments, pastes, drops, waters, essences, spirits, oils, or other preparations or compositions whatsoever, made and sold, or removed for consumption and sale, by any person or persons whatever, wherein the person making or preparing the same has, or claims to have, any private formula or occult secret or art for the making or preparing the same, or has, or claims to have, any exclusive right or title to the making or preparing the same, or which are prepared, uttered, vended, or exposed for sale under any letters patent, or held out or recommended to the public by the makers, venders, or proprietors thereof as proprietary medicines, or as remedies or specifics for any disease, diseases, or affections whatever, affecting the human animal or body; as follows:

So that it will read:

For and upon every packet, box, &c., where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall not exceed, at the retail price or value, the sum of twenty-five cents, three cents; where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of twenty-five cents, and not exceed the retail price or value of fifty cents, five cents; where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of fifty cents, and shall not exceed the retail price or value of one dollar, ten cents; where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of one dollar, for each and every fifty cents, or fractional part thereof, over and above one dollar, as before mentioned, an additional five cents.

The amendment was adopted.

Mr. HORTON. I move to reduce the tax prescribed in the paragraph from three cents to one cent.

The amendment was agreed to.

Mr. HORTON moved to strike out the word "five" and insert "two," in the following paragraph:

Where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of twenty-five cents, and not exceed the retail price or value of fifty cents, five cents.

The amendment was agreed to.

Mr. HORTON moved to strike out the words "one dollar" and insert "seventy-five cents;" and to strike out "ten cents" and insert "three cents," in the following paragraph:

Where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of fifty cents, and shall not exceed the retail price or value of one dollar, ten cents.

The amendment was agreed to.

Mr. HORTON. I move to amend by striking out the following paragraph:

Where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of one dollar, for each and every fifty cents, or fractional part thereof, over and above one dollar, as before mentioned, an additional five cents.

And inserting in lieu thereof as follows:

When such packet, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of seventy-five cents, and shall not exceed the retail price or value of one dollar, four cents. When such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of one dollar, for each and every fifty cents or fractional part thereof over and above one dollar, as above mentioned, an additional two cents.

The amendment was agreed to.

Mr. DUELL. I move to add at the end of what has just been adopted, as follows:

Provided, That proprietary medicines, wherein large quantities of alcohol are necessarily used in extracting medicinal properties and for its preserving qualities, be subject only to a stamp of one quarter of a cent on medicines retailing at twenty-five cents, half a cent on those retailing at fifty cents, and one cent on those retailing at one dollar.

I have offered this amendment for the purpose of calling the attention of the Committee of Ways and Means to that class of patent medicines referred to in this proviso, where a large portion of the material composing them is alcohol, upon which a large duty is already placed. It seems to me that upon such medicines this tax should not be as large as upon other medicines.

Mr. STEVENS. I think the quack doctors get off pretty well this morning. I confess that the amendments which have been adopted have gone down my throat with a great deal of reluctance. I hope we shall not reduce this tax any further. I trust that the amendment will not prevail.

The amendment was disagreed to.

Mr. HORTON. I move to strike out the remainder of the section, as follows:

Schedule of drugs, herbs, pills, powders, tinctures, potions, cordials, bitters, anodynes, tonics, plasters, liniment, salves, ointments, drops, waters, essences, spirits, oils, preparations, and compositions.

Aromatic snuff, balm of a thousand flowers, balm of life, balsam of wild cherry and Iceland moss, balsam of liverwort, Badger's cod liver oil, Brandreth's pills, British oil, Bull's sarsaparilla, Burnett's cocoaine, cathartic pills, catarrh snuff, cough sirup, croup remedy, croup sirup, dentifrice, epileptic pills, essence of life, eye water, family pills, female pills, glycerine lotion, hair restorative, Hostetter's bitters, hyperion fluid, hair dye, magic liniment, old Dr. Jacob Townsend's sarsaparilla, oxygenated bitters, pain killer, pulmonary balsam, pulmonic sirup, pectoral balsam, pulmonic wafers, railroad pills, ready relief, Richardson's bitters, Russia salve, Scheidam schnapps, sherry wine bitters, sugar-coated pills, tonic mixture, tooth powder, vegetable pulmonary balsam, vermifuge, worm lozenges, or by whatsoever other name the same heretofore have been, now are, or shall hereafter be called, known, or distinguished; and also all pills, powders, lozenges, tinctures, potions, cordials, bitters, tonics, alteratives, anodynes, pomades, liniments, embrocations, electuaries, plasters, unguents, salves, ointments, drops, panaceas, lotions, oils, spirits, medicated herbs and waters, chemical and officinal preparations whatsoever, of other or the same or the like properties, qualities, virtues, efficacies, and pretensions with the articles before mentioned, named, enumerated, or specified in this schedule, or any of them, made, prepared, uttered, vended, or exposed to sale by any person or persons whatsoever, wherein the person making or preparing the same has, or claims to have, any occult secret or art for the making or preparing the same, or has, or claims to have, any exclusive right or title to the making or preparing the same, or which have at any time heretofore been, now are, or shall hereafter be prepared, uttered, vended, or exposed to sale under the authority of any letters patent, or which have at any time heretofore been, now are, or shall hereafter be, by any public notice or advertisement, or by any written or printed papers, or handbills, or by any labels or words written, printed, or affixed to, or delivered with any such packet, box, bottle, or vial, or other inclosure aforesaid, held out or recommended to the public by the makers, venders, or proprietors thereof, as nostrums or proprietary medicines, or as specifics, or as beneficial to the prevention, cure, or relief of any distemper, malady, ailment, disorder, or complaint incident to or in anywise afflicting the human or animal body.

The amendment was adopted.

Mr. HORTON. I move to insert at the end of the section as follows:

Perfumery and cosmetics.—For and upon every packet, box, bottle, pot, vial, or other inclosure, containing essence, extract, toilet water, cosmetic, hair oil, pomade, hairdressing, hair restorative, hair dye, toothwash, dentifrice, tooth paste, aromatic cachous, or any similar articles, by whatsoever name the same heretofore have been, now are, or may hereafter be called, known, or distinguished, used, or applied, or to be used or applied as perfumes or applications to the hair, mouth, or skin, made, prepared, and sold or removed for consumption and sale in the United States, where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall not exceed at the retail price or value the sum of twenty-five cents, one cent; where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of twenty-five cents, and shall not exceed the retail price or value of fifty cents, two cents; where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of fifty cents, and shall not exceed the retail price or value of seventy five cents, three cents; where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of seventy-five cents, and shall not exceed the retail price or value of one dollar, four cents; where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of one dollar, for each and every fifty cents or fractional part thereof over and above the one dollar, as before mentioned, an additional two cents.

Playing cards.—For and upon every pack in four suits of thirteen each, with painted figures and devices upon them for playing games with, twenty cents.

The amendment was agreed to.

Mr. STEVENS. I move now to return to the sections some time since passed over informally, relating to the income tax.

There being no objection, the committee returned to the eighty-third section, which repeals the income duty in the tax bill of the last session.

The eighty-fourth section was read, as follows:

SEC. 84. *And be it further enacted*, That from and after the 1st day of May next, there shall be levied, collected, and paid annually, upon the annual gains, profits, or income of every person residing in the United States, whether derived from any kind of property, rents, interests, dividends, salaries, or from any profession, trade, employment, or vocation carried on in the United States or elsewhere, or from any other source whatever, except as hereinafter mentioned, if such annual gains, profits, or income exceeds the sum of $600, a duty of three per cent. on the amount of such annual gains, profits, or income over and above the said sum of $600: and upon the annual gains, profits, or income, rents, and dividends accruing upon any property, securities, and stocks owned in the United States by any citizen of the United States residing abroad, except as hereinafter mentioned, and not in the employment of the Government of the United States, there shall be levied, collected, and paid a duty of five per cent.

Mr. MORRILL, of Vermont, moved to amend in lines one and two by striking out the words "from and after the 1st day of May next."

The amendment was agreed to.

The eighty-fifth section was read, as follows:

SEC. 85. *And be it further enacted*, That in estimating said annual gains, profits, or income, whether subject to a duty, as provided in this act, of three per cent. or of five per cent., all other national, State, and local taxes, lawfully assessed upon the property or other sources of income, as aforesaid, from which said annual gains, profits, or income is or should be derived shall be first deducted, and all gains, profits, or income derived from salaries of officers, or payments to persons in the civil, military, naval, or other service of the United States, including Senators and Members of Congress, or derived from interest or dividends on stock, capital, or deposits in any bank or savings institution, or on any bonds or other evidences of indebtedness of any railroad company or corporation, which shall have been assessed and paid by said banks, savings institutions, or railroad companies, as aforesaid, shall also be deducted; and the duty herein provided for shall be assessed and collected for the year next preceding the time for levying and collecting said duty, that is to say, on the 1st day of May, 1862, and in each year thereafter: *Provided*, That upon such portion of said gains, profits, or income, whether subject to a duty as provided in this act of three per cent. or of five per cent., which shall be derived from interest upon notes, bonds, or other securities of the United States, there shall be levied, collected, and paid, a duty not exceeding one and one half of one per cent., anything in this act to the contrary notwithstanding.

Mr. MORRILL, of Vermont, moved to amend in line eleven by inserting, after the word "bank," the words, "trust company."

The amendment was agreed to.

Mr. MORRILL, of Vermont, moved to amend by inserting in the twelfth line, after the word "institution," the words "insurance, gas, bridge, express, telegraphic company or corporation."

The amendment was agreed to.

Mr. MORRILL, of Vermont, moved to amend in line fourteen by adding, after the word "banks," the words "trust companies."

The amendment was agreed to.

Mr. MORRILL, of Vermont, moved to amend in the same line, after the word "aforesaid," by inserting the following words:

Or derived from advertisements, or any articles of manufacture upon which specific or *ad valorem* duties shall have been directly assessed or paid.

The amendment was agreed to.

Mr. MORRILL, of Vermont, moved to amend in line seventeen by inserting, after the word "collected," the words "upon the income."

The amendment was agreed to.

Mr. MORRILL, of Vermont, moved to amend in line seventeen by inserting, after the word "year," the words "ending the 31st day of December."

The amendment was agreed to.

Mr. MORRILL, of Vermont, moved to amend in line nineteen by striking out the word "two" and inserting "three."

The amendment was agreed to.

Mr. MORRILL, of Vermont, moved to amend in line seven by inserting, after the word "deducted," the words "from the gains, profits, or income of the person or persons who actually pay the same, whether owner or tenant."

The amendment was agreed to.

The section, as amended, would then read:

SEC. 85. *And be it further enacted*, That in estimating said annual gains, profits, or income, whether subject to a duty, as provided in this act, of three per cent. or of five per cent., all other national, State, and local taxes, lawfully assessed upon the property or other sources of income, as aforesaid, from which said annual gains, profits, or income is or should be derived, shall be first deducted from the gains, profits, or income of the person or persons who actually pays the same, whether owner or tenant; and all gains, profits, or income derived from salaries of officers, or payments to persons in the civil, military, naval, or other service of the United States, including Senators and Members of Congress, or derived from interest or dividends on stock, capital, or deposits in any bank, trust company, or savings institution, insurance, gas, bridge, express, telegraphic company or corporation, or on any bonds or other evidences of indebtedness of any railroad company or corporation, which shall have been assessed and paid by said banks, trust companies, savings institutions, or railroad companies, as aforesaid, or derived from advertisements, or any articles of manufacture upon which specific or *ad valorem* duties shall have been directly assessed and paid, shall also be deducted; and the duty herein provided for shall be assessed and collected upon the income for the year ending the 31st day of December next preceding the time for levying and collecting said duty; that is to say, on the 1st day of May, 1863, and in each year thereafter: *Provided*, That upon such portion of said gains, profits, or income, whether subject to a duty as provided in this act of three per cent. or of five per cent., which shall be derived from interest upon notes, bonds, or other securities of the United States, there shall be levied, collected, and paid a duty not exceeding one and one half of one per cent., anything in this act to the contrary notwithstanding.

Mr. POMEROY. I would like to have some explanation of this eighty-fifth section. It reads as follows:

And the duty herein provided for shall be assessed and collected for the year next preceding the time for levying and collecting said duty, that is to say, on the 1st day of May, 1862, and in each year thereafter.

Mr. MORRILL, of Vermont. That has been modified to read 1863.

Mr. WICKLIFFE. I should like to have some explanation of the eighty-fifth section. It reads, first:

SEC. 85. *And be it further enacted*, That in estimating said annual gains, profits, or income, whether subject to a duty, as provided in this act, of three per cent. or of five per cent., all other national, State, and local taxes lawfully assessed upon the property or other sources of income, as aforesaid, from which said annual gains, profits, or income is or should be derived shall be first deducted—

and next it goes on as follows—

and all gains, profits, or income derived from salaries of officers, or payments to persons in the civil, military, naval, or other service of the United States, including Senators and Members of Congress, or derived from interest or dividends on stock, capital, or deposits in any bank or savings institution, or on any bonds or other evidences of indebtedness of any railroad company or corporation, which shall have been assessed and paid by said banks, savings institutions, or railroad companies, as aforesaid, shall also be deducted.

Now, suppose that I have an income of $5,000 from various sources; $4,000 derived from stocks, bonds, &c., which are to be deducted, and then, as I understand the section, I am only to be taxed upon the remaining $1,000.

Mr. MORRILL, of Vermont. The section as it now stands, I think, obviates all of the objections which have been made against it. It leaves it to operate upon those salaries not derived under the United States Government and upon all persons not taxed by the bill in other forms; for instance, those engaged in trade and those who lend money and take mortgages or buy notes.

Mr. EDWARDS. I call the attention of the committee to these words: "and the duty herein provided for shall be assessed and collected for the year next preceding the time for levying and collecting said duty, that is to say, on the first day of May, 1862, and in each year thereafter." That would impose a tax upon a year's income from 1861 to 1862. It goes back, then.

Mr. MORRILL, of Vermont. It has been made 1863. There is already an income tax imposed by existing statutes, and we have provided that that tax shall accrue from last December up to next December, and be paid in 1863.

Mr. McKNIGHT. I proposed to offer a proviso to the section, "that on such portion of said gains, profits, or income, derived from property already taxed by this act, or the act of August 5, 1861, no further tax shall be collected;" but I was informed by the gentleman from Vermont that it was covered by the section already. It provides, I find, for everything else except real estate. By the act of 5th of August, 1861, real estate has been taxed, and now the owner of that property is to be taxed upon his income. In other words, real estate is taxed twice, and to obviate that difficuly I move to amend by adding the following:

Provided, That on such portion of said gains, profits, or income, derived from real estate already taxed by this act, or the act of August 5, 1861, no further tax shall be collected.

Mr. MORRILL, of Vermont. I trust that the amendment will not be adopted. It is in such general terms that it will lead to confusion and fraud. So far as the tax upon real estate is concerned, it is not particularly exempted. But we exempt all incomes from real estate less that $600. If there

is any farmer with a thousand acres of land and large numbers of stock, he ought to be included. The direct tax has been assumed by the States and levied upon property generally. There is no real ground for the amendment.

Mr. McKNIGHT. I move to amend my amendment by striking out the words "gains, profits, or income." I think, Mr. Chairman, that the section is open to an objection which my amendment will obviate. A person whose whole income may be derived from real estate is first taxed upon that real estate, and then he is taxed upon the income which he derives from it. Where the States have assumed the payment of the direct tax imposed last year, it is well known that that tax has been chiefly levied upon real estate. It will be seen, then, that such a man is taxed twice, which I do not believe was the intention of the Committee of Ways and Means. It will make the owners of real estate pay more than their fair share of the burdens of the Government. If the members of the committee will give their attention to this matter, they will see the necessity of changing the section as proposed by my amendment.

Mr. STEVENS. I am opposed to the amendment. If I understand it, it will exempt all incomes from real estate. The direct tax which was laid was assumed by every loyal State except Delaware, which first assumed and then repudiated it. When those States levy that tax, they do not levy it upon real estate alone, but they levy it upon property generally. The taxes, so far as I know, have been levied by the States for the relief of real estate. It has been so in Pennsylvania. The man who did not own an acre of land, and the bondholders and others, paid to that State the share which legitimately fell upon the farmer, for the relief of real estate. Why should those men be compelled to pay the whole of our taxes? How, too, are you to get at the amount when the tax is not assessed specifically?

MESSAGE FROM THE SENATE.

The committee informally rose, (Mr. WEBSTER in the chair,) and a message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed bills of the following titles, in which he was directed to ask the concurrence of the House:

A bill (No. 229) for the administration of the oath of allegiance to American citizens in foreign countries;

A bill (No. 256) for the relief of the widows and orphans of the officers, seamen, and marines of the United States ships Cumberland and Congress; and

A bill (No. 219) granting an invalid pension to Hugh H. Howard, of Hockingport, Ohio.

Also, that it had indefinitely postponed a bill and joint resolution of the following titles:

A joint resolution (H. R. No. 46) relating to the sale of goods unfit for use by the War Department; and

A bill (H. R. No. 88) providing for the monthly payment of the troops.

Also, that it returned to the House engrossed bill (H. R. No. 318) to prohibit all allowances or payment of pensions to the children of officers and soldiers of the war of the Revolution, passed by the Senate on the 28th of March last.

Also, that it had passed House resolution (No. 59) authorizing the Secretary of the Navy to test the plans and materials for rendering ships and floating batteries invulnerable, with an amendment, in which he was directed to ask the concurrence of the House.

TAX BILL—AGAIN.

The committee resumed its session, (Mr. COLFAX in the chair.)

Mr. McKNIGHT, by unanimous consent, withdrew his amendment to the amendment.

Mr. WHITE, of Indiana. The income derived from manufacture is exempted from the payment of this tax, because the person is already made to pay a license tax. It is not so with the farmer. His profits are the result of the labor which he has hired. This tax upon real estate is unlimited in its duration.

The gentleman from Pennsylvania says that the States have assumed that tax on real estate and thrown it upon the general property of the State. That is true for the present year, but that assumption of the tax will not endure longer than the present year. Next year it will be levied upon the real estate, and the income tax will then stand as an accumulated burden upon the agriculture of the country, which is so extensively represented upon this floor. The gentleman from Vermont states that the cost of production is first to be deducted.

The term "profit" is used in the bill, but the terms "gains" and "income" are also used. The farmer that produces $1,000 a year has that income, though a large part of it is expended in producing that amount.

I would inquire of the Chair what the amendment is?

The CHAIRMAN. The Chair was about to ask the gentleman himself, what he was speaking to.

Mr. WHITE, of Indiana. To the merits of the question.

The CHAIRMAN. Then the remarks of the gentleman are out of order.

Mr. WHITE, of Indiana. I am willing to move any amendment. I was called out a few moments since, and before we arrived at this point of the bill, and for that reason I did not understand what the amendment was.

The CHAIRMAN. The amendment is to strike out the last line.

Mr. WHITE, of Indiana. Then I think my remarks are applicable to the amendment, and I trust the amendment will be adopted. I will, however, move to amend the amendment, by striking out the last word. I hope the original amendment will be adopted, for I think it commends itself to the justice of the House.

Mr. STEVENS. I oppose the amendment of the gentleman from Indiana. The income tax, as a general rule, will be almost exclusively collected from the large cities. The country, and especially the western country, will not pay a millionth part of it. If the present amendment prevails, they will not pay any part of it.

Mr. LOVEJOY. If profits means net profits, I do not see how we are to get at it.

Mr. STEVENS. Then the return will be very apt to be "no profits." The words "gain" and "income" mean the same thing. They are equivalent terms. They mean the net profits. You cannot have any gains until you pay the expenses. What it costs to produce is to be deducted, and then there will be left only the net profits.

Mr. LOVEJOY. Is the tax upon the land to be deducted in making up the profits?

Mr. STEVENS. That is the very thing the amendment proposes.

Mr. LOVEJOY. We have all kinds of local and State taxes to pay, and are they to be deducted from the products of the farm before arriving at the net profits?

Mr. STEVENS. The amendment means profits, and I cannot make it any clearer than it is.

Mr. WHITE, of Indiana. I withdraw my amendment.

The question recurring upon the amendment offered by Mr. STEVENS,

The CHAIRMAN ordered tellers; and appointed Messrs. McKNIGHT and ENGLISH.

The committee divided; and the tellers reported —ayes thirty-seven, noes not counted.

So the amendment was not agreed to.

Mr. WHITE, of Indiana. I move to amend by adding at the end of the section the following proviso:

Provided, That in estimating the income on the productions of agriculture, the necessary cost of production shall first be deducted.

Mr. MORRILL, of Vermont. I hope we shall add no further proviso. If we add this proviso, we might as well add a provision that a physician shall first deduct the cost of his medicine, or the lawyer his traveling expenses.

Mr. MALLORY. I would ask the gentleman from Vermont whether we are to understand that the income upon real estate means the net income of the real estate?

Mr. MORRILL, of Vermont. I have no doubt of it.

Mr. WHITE, of Indiana. If the income means the net income, what harm can there be in adopting the proviso, as it is merely declaratory of the true intent and meaning of the provision, as admitted by the gentleman from Vermont? If any gentlemen wish to apply the same provision to any interest other than that of agriculture, let them do so. I represent the agricultural interest. I think it will be merely a caprice of the committee if they do not allow the proviso to go into the bill, if it has the same meaning as the section itself, as they now claim.

Mr. LOVEJOY. Is it in order to move to insert the word "net" before "income?"

The CHAIRMAN. It is not in order at this time, as an amendment to the original text.

Mr. MALLORY. What objection is there to putting into the bill what the Committee of Ways and Means say is its meaning?

Mr. LOVEJOY. The reason is they do not mean what they say.

Mr. MALLORY. I think that is so.

The question recurring upon the amendment offered by Mr. WHITE, of Indiana,

The CHAIRMAN ordered tellers; and appointed Messrs. LOVEJOY and MORRIS.

The committee divided; and the tellers reported —ayes 48, noes 49.

So the amendment was not agreed to.

Mr. LEARY. I move to strike out all after the word "provided," in the twentieth line, and insert:

That such portion of said gains, profits, or income, as shall be derived from interest upon notes, bonds, or other securities of the United States, shall be exempt from duty under this act.

This section of the bill imposes a tax of one and a half per cent. upon all interest accruing upon the public securities of this Government. The effect of this amendment will be, as it will readily be seen by the committee, to exempt from such tax all public securities. I wish to call the attention of the committee to the fact that during the present session, and during the extra session of this Congress, we have passed laws authorizing the issue of Treasury notes, bonds, and other public securities, and we have stipulated upon those securities to pay certain rates of interest—five, six, and seven and three tenths per cent. The Government has thus offered inducements to the capitalists of the country to invest their funds in these securities. We have gone still further; we have authorized by law the issuance of certificates of indebtedness to parties to whom the Government is indebted for supplies and munitions of war furnished to the Government, and upon those certificates we have authorized the payment of certain stipulated rates of interest.

Now, under the operation of this act, by an arbitrary enactment, without notice to, or the consent of, the public creditors—and I beg the committee to remember that those bonds and Treasury notes constitute solemn contracts between the Government and its creditors—you say to them now that we will abstract a portion of that interest upon those bonds and securities. Now, Mr. Chairman, I know not in what light other gentlemen of the committee may regard a subject of this sort. I am willing to sustain the Government and I have determined to support the Government, unless it becomes odious and unless its friends and its adversaries shall succeed in ingrafting features upon it which will lead to a subversion of the original principles upon which it was founded. It will have to become very odious indeed, to provoke my hostility. I say I do not know in what light other gentlemen may regard this provision, but I regard it myself as a matter of manifest injustice, and a gross breach of the public faith. I can look upon it in no other light, and it is under the influence of this feeling that I propose this amendment

Mr. STEVENS. I hope this amendment will not prevail. At the time that these bonds were authorized to be issued for loans to the United States, every man who took them, and invested in them, understood perfectly well one thing; and that was that the United States reserved the right to tax them, because they made certain exceptions, but made no exception in regard to taxation. The holders then took them, and will take them, with their eyes open. It is not the United States which is taxing itself. Those capitalists who choose to invest their money in bonds of the United States seem to me to stand upon precisely the same footing as those who invest their funds in the bonds of individuals. I cannot see the difference between putting the burdens of this taxation upon the man who buys $100,000 of United States bonds, and he who buys $100,000 worth of my bonds; except that the former is better able to pay it upon the United States bonds, because they are good, and he would be better

able to pay it. Hence, I think there is more justice in taxing them. But it will be observed that in the provision which we have made, we have taxed those who hold United States bonds about half of three per cent.; that is, one and a half per cent. We have already made that distinction as a further inducement for capitalists to invest in United States loans. I think that is as far as we ought to go.

The amendment was rejected.

Mr. LOVEJOY. I want to move to insert at the end of the third line a provision that the tax shall be assessed on the net profits only.

Mr. HICKMAN. I am disposed to raise a question of order upon that amendment. It has been virtually disposed of in an amendment already offered, embracing not only the same idea, but substantially the same language.

The CHAIRMAN. Which amendment covered the same ground?

Mr. HICKMAN. The one offered by the gentleman from Indiana, [Mr. WHITE.]

The CHAIRMAN. If the amendment of the gentleman from Illinois relates to agriculture alone, then it is clearly out of order, as the gentleman from Indiana has offered precisely the same thing. But if it has a broader scope than agriculture, it is in order.

Mr. HICKMAN. As I understand the amendment, and as I think the gentleman from Illinois intends it, it applies to agriculture only.

Mr. CHAIRMAN. Then it is out of order. The gentleman will reduce the amendment to writing, and the Chair will then decide the question of order.

Mr. LOVEJOY. I have done so. It is to add, in the third line, after the words "per cent.," the words "the net only of such gains, profits, or incomes shall be estimated."

The CHAIRMAN. The Chair overrules the point of order, and regards the amendment as being in order, as it qualifies the entire section, and does not relate to agriculture alone.

Mr. LOVEJOY. I do not care to discuss the amendment, as it has been already discussed. If the section means what the Committee of Ways and Means say it does, why not make it explicit?

Mr. MORRILL, of Vermont. The words "gains, profits, and income" have a definite meaning. They are clearly understood. If the amendment of the gentleman from Illinois should prevail, of course persons might deduct, as a portion of their proper expenditures their personal or family expenses. Now, we do not propose to go as far as that. Take a person who has money to lend: he may be owing $20,000 and have $50,000 due him, and he would, of course, only be taxed upon the balance of his income. I do not see any necessity at all for inserting a definition of the words "gains, profits, or income."

Mr. LOVEJOY. All I have to say is, that some of the best lawyers in the House understand income to be the gross income.

Tellers were ordered on Mr. LOVEJOY's amendment; and Messrs. CALVERT and HICKMAN were appointed.

The committee divided; and the tellers reported —ayes 37, noes 36.

So the amendment was agreed to.

Mr. MORRILL, of Vermont. I move to insert, after what has just been adopted, the words "but this shall not apply to personal or family expenses."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to insert, also, the words, "nor to interest on the value of land."

Mr. MALLORY. I am surprised at that proposition from the gentleman from Vermont. He stated distinctly in response to an inquiry that he regarded this tax as levied on the net income from real estate.

Mr. MORRILL, of Vermont. I do now.

Mr. MALLORY. Now, if what he means by income is not the income that the owner of an estate derives from it, after deducting the taxes and the interest upon the value of that real estate, and, if a farm, the interest upon the cost of labor employed in working that farm and the agricultural implements used, I do not know what he means by net income. I concur with him in the opinion that in estimating the net income you are not to deduct the expenses of the family maintained by the estate or farm; but the whole thing is reduced to an absurdity if the gentleman, after conceding what he has done, insists on inserting that amendment in this paragraph.

Mr. MORRILL, of Vermont. I see no absurdity in it at all. I merely desire that the amendment shall be adopted, so that they shall not deduct interest on the cost of the land.

Mr. FISHER. I desire to ask the gentleman whether, in using the word interest, he means the interest which a man owes on the purchase money of his farm—whether that is not to be deducted from the net profits.

Mr. MORRILL, of Vermont. A great many persons may owe debts, some on their farms and some on other things. We do not deduct any debts.

Mr. MALLORY. I move to amend the amendment by striking out the last word. I understand the gentleman from Vermont now to say that in ascertaining the net income, he proposes not to deduct the interest that a man who owns real estate may have to pay upon a debt due by him for the purchase of that real estate. I had supposed the thing was very different when the gentleman stated what he did in rising. Take the case of a man who owns landed estate worth $10,000. The interest on that, at six per cent., would be $600. In ascertaining his net income, if the gross proceeds of the sales of his farm amount to $12,000, you deduct $600 from that income first, and then, if labor employed is worth $3,000, you deduct $180 from the six per cent. on the gross income received, and after then deducting $600, you tax the balance. I understand that to be his meaning, and that will be the meaning of the section if this amendment is inserted.

Mr. HICKMAN. The argument of the gentleman from Kentucky is an argument against most of the features of this bill, certainly against the main feature of the bill. It is not contemplated, as I understand, that the indebtedness of a man shall enter at all, as a general thing, into or modify his taxation. Take, for instance, the item of pianos, or silver plate, or watches, although I may owe the whole amount of the price of my piano, or plate, or watch, I am not relieved from taxation upon the piano, plate, or watch, because I may have incurred a debt in the purchase of it. There is no more reason, I apprehend, why the farmer shall be relieved from taxation on the amount of his indebtedness for land than why I should be relieved from my taxation on account of indebtedness for my personal effects; and if that shall be taken into account in all cases, you will find that you will reduce your taxation so very materially that you will have to recast your bill. If a man chooses to go in debt to the amount of half the value of his farm, that is a matter of propriety for him to consider; but it is not a matter which should induce the Government to relieve him from taxation, and you make the taxation impracticable when you come to take all these things into account. For that reason as well as others, I objected to the proviso relating to net profits. It enables a man to avoid taxation entirely. It is holding out an inducement for him to misrepresent the actual condition of his affairs, and that will be the effect of this bill as it now stands.

Mr. WHITE, of Indiana. I ask the gentleman from Kentucky to withdraw his amendment, in order that I may offer one.

Mr. MALLORY. I withdraw it.

Mr. WHITE, of Indiana. We, in this part of the House, are rather inclined to favor the proposition of the gentleman from Vermont, [Mr. MORRILL;] but in order that the same restriction may be extended to all other incomes as well as the incomes of farmers, I move to add to his amendment the words "or other productive capital out of which such income proceeds." I hope the gentleman from Vermont will accept that.

The question being on Mr. WHITE's amendment, tellers were ordered; and Messrs. WHITE, of Indiana, and LEHMAN were appointed.

Mr. WHITE, of Indiana. I would be perfectly willing to withdraw my amendment, but it would be unjust to the farmers.

The committee divided; and the tellers reported —ayes 46, noes 50.

So the amendment was rejected.

The question recurred on Mr. MORRILL's amendment, to exclude interest on the value of land; and it was adopted.

Mr. DIVEN. Is it in order to move to strike out the whole section?

The CHAIRMAN. It is.

Mr. DIVEN. Then I make that motion; and I desire to say that I think it would be wisdom to strike out the entire section. Every interest in the country is now taxed; the mechanic is taxed; the shopkeeper is taxed; the farmer is taxed; the professional man is taxed; everybody is taxed; everything that is produced by mechanical ingenuity is taxed; every implement is taxed. And now it is proposed to impose a tax on whatever the industry of the country may yield. Take, for instance, the agricultural interest of the country. As the section now stands, the produce of the farm is taxed.

It is said that the wages paid to the hired laborer is to be deducted in calculating the income; but let it be borne in mind that almost the entire agriculture of the country is carried on by the farmer and his sons—by his own family. The agricultural labor performed by hired men is almost nothing as compared with the entire agricultural labor of the country. The man on his fifty acres or on his one hundred acres tills and cultivates his farm with his own hands, aided by his sons in their minority, and who get nothing for their services but their board and clothes. This man is taxed for the entire income of his farm; while the gentleman farmer who oversees his hired men on his broad acres, deducts their wages from the amount of his income.

Mr. SHEFFIELD. I would call the attention of the gentleman from New York to the fact that the section now under consideration is not the one imposing income duties, but directing how the income tax is to be assessed.

Mr. DIVEN. I understood that we were considering a section which proposed a tax on the income of every man in the land.

The CHAIRMAN. It is a section in reference to the income tax, but it is the preceding section that imposes the income tax.

Mr. DIVEN. Then I withdraw my amendment.

Mr. HOOPER. I ask that the eighty-fifth section be read as it now stands.

The section was read, as follows:

SEC. 85. *And be it further enacted*, That in estimating said annual gains, profits, or income, whether subject to a duty, as provided in this act, of three per cent., or of five per cent., the net only of gains, profits, or incomes, shall be estimated, (but personal or family expenses and interest on the value of land shall not be deducted in estimating such net gains, profits, or incomes,) and all other national, State, and local taxes, lawfully assessed upon the property or other sources of income, as aforesaid, from which said annual gains, profits, or income is or should be derived shall be first deducted from the gains, profits, or income of the person or persons who actually pay the same, whether owner or tenant; and all gains, profits, or income derived from salaries of officers, or payment to persons in the civil, military, naval, or other service of the United States, including Senators and Members of Congress, or derived from interest or dividends on stock, capital, or deposits in any bank, trust company, or savings institution, insurance, gas, bridge, express, telegraph company, or corporation, or on any bonds, or other evidences of indebtedness of any railroad company or corporation, which shall have been assessed and paid by said banks, trust companies, savings institutions, insurance, gas, bridge, telegraph, express, or railroad companies, as aforesaid, or derived from advertisements or any articles manufactured upon which specific or *ad valorem* duties shall have been directly assessed or paid, shall also be deducted; and the duty herein provided for shall be assessed and collected upon the income for the year ending the 31st day of December next preceding the time for levying and collecting said duty, that is to say, on the 1st day of May, 1863, and in each year thereafter: *Provided*, That upon such portion of said gains, profits, or income, whether subject to a duty as provided in this act of three per cent. or of five per cent., which shall be derived from interest upon notes, bonds, or other securities of the United States, there shall be levied, collected, and paid a duty not exceeding one and one half of one per cent., anything in this act to the contrary notwithstanding.

The CHAIRMAN. The Chair would suggest to the committee whether the amendment adopted at the end of the third line, on the motion of the gentleman from Illinois, [Mr. LOVEJOY,] should not be placed at the end of the section as a proviso. The language would be a good deal better.

Mr. STEVENS. I think the amendment had better stand as it is. It is jargon and nonsense. When the bill comes into the House I will move to strike it out.

Mr. DIVEN. If it is in order now, I would like to move to strike out this section, and to substitute for it a provision, that by income is only meant the income derived from money invested in bonds, mortgages; or other investments yielding interest or annual income.

The CHAIRMAN. The gentleman from New York will reduce his amendment to writing.

Mr. MORRILL, of Vermont. I rise to oppose the amendment.

The CHAIRMAN. The Chair was about to state to the gentleman from New York that his amendment would be in direct conflict with the preceding section. The Chair, however, will put the question.

Mr. MORRILL, of Vermont. The income tax reported by the Committee of Ways and Means, with the amendments subsequently made, was intended to reach a much larger class than the gentleman from New York proposes to include. If all classes of the community are not included, it would be hardly worth while to have an income tax at all. The tax now includes traders and merchants, those engaged in home and foreign commerce. It includes professions, lawyers, physicians, clergymen. It also includes mining business. For instance: there may be men who are getting out the raw material, as lead, copper, or iron, not advanced further than pigs or blooms, who would not be taxed unless the income tax is imposed.

Mr. DIVEN. What I desire is to have the income tax confined to the production of investments. That is what is meant by income tax the world over. But as the Chair states that my amendment would be inconsistent with the preceding section I do not wish to embarrass the bill. What I desired was to have the other section amended. I was not aware that the committee had passed from the other section to this. I therefore withdraw my amendment.

The committee proceeded to the consideration of the eighty-sixth section, as follows:

SEC. 86. *And be it further enacted*, That the duties on incomes herein imposed shall be due and payable on or before the 30th day of June, in the year 1862, and in each year thereafter until and including the year 1865, and no longer; and to any sum or sums annually due and unpaid for thirty days after the 30th of June, as aforesaid, there shall be levied, in addition thereto, the sum of five per cent. on the amount of duties so unpaid, as a penalty; and if any person or persons, or party, liable to pay such duty, shall neglect or refuse to pay the same, the amount due shall be a lien in favor of the United States from the time it was so due until paid, with the interest, penalties, and costs that may accrue in addition thereto, upon all the property, and rights to property, stocks, securities, and debts of every description from which the income upon which said duty is assessed or levied shall have accrued or may or should accrue; and in default of the payment of said duty for the space of thirty days, after the same shall have become due, said lien may be enforced by distraint upon such property, rights to property, stocks, securities, and evidences of debt, by whomsoever holden; and for this purpose the Commissioner of Internal Revenue, upon the certificate of the collector or deputy collector that said duty is due and unpaid for the space of ten days after notice duly given of the levy of such duty, shall issue a warrant, in form and manner to be prescribed by said Commissioner of Internal Revenue, under the directions of the Secretary of the Treasury, and by virtue of such warrant there may be levied on such property, rights to property, stocks, securities, and evidences of debt a further sum, to be fixed and stated in such warrant, over and above the said annual duty, interest, and penalty for non-payment, sufficient for the fees and expenses of such levy. And in all cases of sale, as aforesaid, the certificate of such sale by the collector or deputy collector of the sale shall give a valid title to the purchaser, whether the property be real or personal; and, where the subject of sale shall be stocks, the certificate of said sale shall be lawful authority and notice to the proper corporation, company, or association to record the same on their books or records, in the same manner as if transferred or assigned by the person or party holding the same, to issue new certificates of stock therefor in lieu of any original or prior certificates, which shall be void whether canceled or not; and said certificates of sale or the collector or deputy collector, where the subject of sale shall be securities, or other evidences of debt, shall be good and valid receipts to the person or party holding the same, as against any person or persons, or other party holding, or claiming to hold, possession of such securities or other evidences of debt.

Mr. MORRILL, of Vermont. I move to amend in the fourth line by striking out "1862," and inserting "1863."

The amendment was adopted.

Mr. MORRILL, of Vermont. I move to amend in the fifth line by striking out "1865" and inserting "1866."

The amendment was adopted.

Mr. RICE, of Massachusetts. I move to amend the section by striking out the words "and to any sum or sums annually due and unpaid for thirty days after the 30th of June, as aforesaid, there shall be levied, in addition thereto, the sum of five per cent. on the amount of duties so unpaid, as a penalty." It seems to me that there is sufficient provision made in the subsequent part of this section, in the way of penalty, for any failure to comply with the law. There are many cases in which this additional levy of five per cent. would operate as a great injustice; as, for instance, in the case of estates belonging to insolvents, and estates that may be temporarily without a representative in consequence of the death or extreme illness of the possessor, and in other cases which I will not take up the time of the committee to state.

Mr. MORRILL, of Vermont. There may possibly be some exceptional cases, such as those alluded to, but it is clear that there ought to be some penalty provided for neglect. The only provision is that the tax shall be a lien upon the property, and that there may be a forcible collection of the tax. There is no penalty whatever.

Mr. RICE, of Massachusetts. That extends, if I understand aright, to the sale of the property altogether. It seems to me that the whole matter is in the hands of the officers of the Government. If the officers have the power to seize the property and hold it and sell it, I do not see why there should be also a penalty imposed.

Mr. MORRILL, of Vermont. We have provided penalties in all other cases, why not in this?

Mr. RICE, of Massachusetts. This makes an addition of five per cent., and in the cases I have cited it would clearly operate with great injustice on owners of property.

The amendment was rejected.

Mr. RICE, of Massachusetts. I move to amend by striking out "five" and inserting "one," so that the penalty will be one per cent.

The amendment was rejected.

Mr. RICE, of Massachusetts. I move to amend by inserting three per cent. instead of five per cent. It seems to me that there is a great injustice involved in this provision of the section.

The amendment was rejected.

Mr. HARRISON. I wish to ask the chairman of the Committee of Ways and Means a question. I do not find in this or in any other section, so far as I recollect, any provision prescribing the manner in which these evidences of debt taken from delinquents are to be held. It provides for distraint upon the various descriptions of personal property, but what provision is there for carrying out the distraint?

Mr. STEVENS. There is the general provision, which applies to this as well as other sections.

Mr. WOODRUFF. For the purpose of enabling me to ask a question of the chairman of the Committee of Ways and Means, I move to amend by inserting after the word "aforesaid," in the seventh line, the words, "for ten days after the demand therefor by the collector;" so that it will read:

And to any sum or sums annually due and unpaid for thirty days after the 30th day of June, as aforesaid, for ten days after the demand therefor by the collector, there shall be levied in addition thereto, &c.

It will be seen that there is a penalty imposed if the tax is not paid within thirty days after the 30th of June, but no provision, that I have discovered is made in this section, and perhaps not in the bill, by which the party from whom the debt is due is to have notice that it is due. It seems to me that if he is to be subjected to a penalty, by which his property is to be taken from him, provision ought to be made that the demand shall first have been made upon him for the tax, and therefore it is that I move this amendment that he shall have ten days' notice. If the amendment be adopted, I shall move another to make the latter part of the section correspond.

Mr. STEVENS. I see no objection to that amendment.

The amendment was agreed to.

Mr. WOODRUFF. I now move to amend in the nineteenth line by inserting after the word "due" the words "and been demanded as aforesaid;" so that the clause will read:

And in default of the payment of said duty for the space of thirty days, after the same shall have become due and been demanded as aforesaid, said lien may be enforced by distraint upon such property, rights to property, stocks, securities, and evidences of debt by whomsoever holden."

The amendment was agreed to.

Mr. BIDDLE. I move to amend by striking out from the word "penalty," in the ninth line, down to and including the word "accrued," in the seventeenth line, as follows:

And if any person or persons, or party, liable to pay such duty, shall neglect or refuse to pay the same, the amount due shall be a lien in favor of the United States from the time it was so due until paid, with the interest, penalties, and costs that may accrue in addition thereto, upon all the property, and rights to property, stocks, securities, and debts of every description from which the income upon which said duty is assessed or levied shall have accrued.

I believe that the creation of a lien upon personalty for the tax proposed in this section will inevitably tend greatly to embarrass the business transactions of the country. There will be no record of that lien, there will be no mode by which the purchaser of this personal property can ascertain whether that lien has been discharged. He will be obliged to ascertain the fact in some way, and it will be very difficult to ascertain. How is a stranger or other party purchasing a share of stock or other article of personalty in the market to ascertain whether it has paid the income duty for which the holder is liable by the provisions of the act? I see no practicable way; and I move, therefore, to strike out the provision.

The amendment was disagreed to.

Mr. RICE, of Massachusetts. I move to insert in the seventh line, after the word "June," the words "except from the estates of deceased or insolvent persons;" so that the clause will read:

And to any sum or sums annually due and unpaid for thirty days after the 30th of June, except from the estates of deceased persons, &c.

The amendment was agreed to.

Mr. LOOMIS. I should like to call the attention of the committee to what appears an inconsistency, as it seems to me, between this and a section we have passed. The eighty-sixth section says, "the duties on incomes herein imposed shall be due and payable on or before the 30th day of June," while the other section, referring to the same thing, fixes the date as May 1st.

Mr. MORRILL, of Vermont. It is provided that the party shall have thirty days to pay it in.

Mr. LOOMIS. I thought perhaps there was a mistake in the date. However, I will raise no objection in reference to that.

In the thirty-fifth line of the section I desire to strike out the words "a valid," and to insert in their place "of all the right, title, and interest of such delinquents to such property;" so that it will read:

And in all cases of sale as aforesaid, the certificate of such sale by the collector or deputy collector of the sale shall give all the right, title, and interest of such delinquents.

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

The amendment was agreed to.

Mr. WHITE, of Indiana, moved to amend the eighty-seventh section by inserting in the twenty-fifth line, after the word "duty," the words "under the authority of the United States;" so as to make it read:

Provided, That any party, in his or her own behalf, or as guardian or trustee, as aforesaid, shall be permitted to declare, under oath or affirmation, the form and manner of which shall be prescribed by the Commissioner of Internal Revenue, that he or she was not possessed of an income of $600, liable to be assessed according to the provisions of this act, or that he or she has been assessed elsewhere and the same year for an income duty, and shall thereupon be exempt from an income duty under the authority of the United States.

The amendment was agreed to.

The committee then proceeded to the consideration of the one hundred and fifth section; which was read, as follows:

SEC. 105. *And be it further enacted*, That any person or persons having in charge or trust, as administrators, executors, or trustees of any legacies or distributive shares arising from personal property, of any kind whatsoever, where the whole amount of such personal property as aforesaid shall exceed the sum of $1,000 in actual value, passing from any person who may die after the passage of this act possessed of such property, being within the United States, either by will or by the intestate laws of any State or Territory, or any part of such property or interest therein, transferred by deed, grant, bargain, sale, or gift made or intended to take effect in possession or enjoyment after the death of the grantor or bargainor, to any person or persons, or to any body or bodies politic or corporate, in trust or otherwise, shall be, and hereby are, made subject to a duty or tax, to be paid to the United States as follows, that is to say: First, where the person or persons entitled to any beneficial interest in such property shall be the lineal issue or lineal ancestor, wife or husband, brother or sister, to the person who died possessed of such property as aforesaid, at and after the rate of seventy-five cents for each and every $100 of the clear value of such interest in such property. Second, where the person or persons entitled to any beneficial interest in such property shall be a descendant of a brother or sister of the person who died possessed as aforesaid, at and after the rate of $1 50 for each and every $100 of the clear value of such interest. Third, where the person or persons entitled to any beneficial interest in such

property shall be a brother or sister of the father or mother, or a descendant of a brother or sister of the father or mother of the person who died possessed as aforesaid, at and after the rate of three dollars for each and every $100 of the clear value of such interest. Fourth, where the person or persons entitled to any beneficial interest in such property shall be a brother or sister of the grandfather or grandmother, or a descendant of the brother or sister of the grandfather or grandmother of the person who died possessed as aforesaid, at and after the rate of four dollars for each and every $100 of the clear value of such interest. Fifth, where the person or persons entitled to any beneficial interest in such property shall be in any other degree of collateral consanguinity than is hereinbefore stated, or shall be a stranger in blood to the person who died possessed as aforesaid, or shall be a body politic or corporate, at and after the rate of five dollars for each and every $100 of the clear value of such interest: *Provided*, That all legacies or property passing by will, or by the laws of any State or Territory, to husband or wife of the person who died possessed as aforesaid, shall be exempt from tax or duty.

Mr. BINGHAM. I move to amend, by striking out these several provisions in this section which discriminate between the several classes of legatees and distributees, so that the tax shall be the same whoever shall be the legatee or distributee under the laws of a State. For the purpose of bringing this matter clearly before the committee, therefore, I move to strike out all these provisions, and to insert a uniform tax of three and a half per cent. This will yield about the same amount of revenue from this source as would be realized if the section as reported by the Committee of Ways and Means should be adopted.

Now, Mr. Chairman, the principle upon which taxes are imposed in the United States, as a general rule, is that they shall be equally distributed on all estates or property, by whomsoever they may be possessed, no matter how they are acquired, whether by the operation of law, whether by the operation of last will and testament, or gift, or whether acquired by the effort of the party himself. I undertake to say that is almost the universal rule to-day in every State in the Union; and who does not see that it ought to be so, that it is just, that like estates, of the same value, by whomsoever possessed, if they are taxed at all, ought to be taxed by an equal rule?

I do not know what objection, if any, the Committee of Ways and Means may have to the equalization of these taxes, nor by what process of reasoning they have arrived at the conclusions which induced them to favor the unequal tax proposed by this section as reported. Perhaps they may have reasons satisfactory to themselves for what they propose; but, sir, there is in the Constitution of the United States the word "uniform," which applies to the imposition of all these taxes. I do not undertake to say that, by a fair and liberal construction of the Constitution, the courts may not decide that this bill, as it now stands, is in accordance with the Constitution. My impression is that the amendment which I propose better accords with the spirit of the Constitution; but, however that may be, the objection remains to this section of the bill that it discriminates between like estates of equal value transferred in like manner to different classes of persons, simply by reason of their immediate or remote relationship to the donors.

I repeat, I do not know what may have been the reasons of the Committee of Ways and Means for recommending and reporting this proposition of unequal taxation; but I do know that unequal taxation is contrary to the almost universal practice of the American people. A $1,000 legacy in the hands of Mr. A ought not to be required to pay a higher rate of taxation than the same amount of legacy in the hands of Mr. B. The same kind and amount of property should pay the same rate of tax, irrespective of the blood which happens for the time being to course through the veins of him who owns it.

Mr. HICKMAN. I oppose the amendment, which has been suggested rather than offered.

Mr. BINGHAM. It was offered *pro forma*.

Mr. HICKMAN. I say that I oppose the amendment, which has rather been suggested than offered, because it has not been reduced to form. It requires that the whole section be recast, to conform to the idea of the gentleman from Ohio. My objection is, that the tax is not high enough. I think that a discrimination ought to be made by the bill; but I suggest that the rates be doubled. I move an amendment to the amendment, that three quarters of one per cent. be increased to one and a half per cent., and, if adopted to the first paragraph, I will move a similar amendment to the other paragraphs. I should be glad myself to receive a legacy, and I would not care how large the amount was; and I should be glad, even if it were from my father, to pay one and a half per cent., and if from a more distant relative, to pay ten per cent. I presume that in most of the States, when the degree of consanguinity is remote, the tax upon inheritances is heavy. In Pennsylvania we pay a tax of five per cent. upon all collateral inheritances. We must not forget that we have an urgent necessity for money; and my conviction has been and is that there is no property upon which a tax can better be laid than upon inheritances. And, as most of the inheritances are from the father to the child, I suggest that the tax will amount to very little under the bill as it is presented. Therefore such tax should be increased. Seventy-five cents upon $100 will amount to very little. As far as I am myself concerned, I should prefer that in the case of a direct inheritance from father to child, it should be five per cent. Few persons would complain. On the contrary, they would as soon pay a large as a small amount. I think that the amendment I have offered ought to be adopted.

Mr. BINGHAM. I am opposed to the amendment to the amendment. I propose to make the rates two and a half per cent. I do not think that under the amendment of the gentleman from Pennsylvania the Government will realize as much revenue from this section as it ought to. But there is no principle involved between the gentleman and myself. One and a half per cent. is not enough on the $100. I propose to make the rates so that we will derive us much revenue as we have in proportion derived from other sources. I do not know whether the amendment was offered as it ought to have been; but it was two and a half per cent. upon the several sums of money specified in this section. I oppose the amendment of the gentleman from Pennsylvania for the reason that it would cut of the revenue that the Government would otherwise derive from the section.

The amendment to the amendment was rejected.

Mr. SHEFFIELD. I move to add the following proviso:

Provided further, That all bequests and devises for religious, literary, or charitable uses shall be exempt from taxation under the provisions of this section of this act.

It seems to me proper for the national Legislature to give encouragement to the making of this class of devises for charitable and literary purposes. There are a great many of them made—made to poor churches, and made for the purposes of building schools and colleges. The Government has frequently aided such institutions by grants of land; and it seems to me to be in harmony with the previous policy of our legislation to adopt a provision of this character. I hope the amendment will be adopted.

Mr. STEVENS. I hope that the House will not adopt it. The institutions which get the money are the institutions which ought to pay this tax. There was a time when these bequests were considered as void in England, because they had the tendency to lock up the money of the realm. The most wealthy of these corporations always get the largest legacies. Take New England. Harvard and Yale Colleges are instances. Where a man wants to make himself immortal he gives $50,000 of a devise. He will not give it to some poor Methodist church, but he will give it to some great institution, in order to perpetuate his name. I think that they can afford to pay this tax, and that they ought to do it. I think that this, of all the classes, ought not to be exempted.

Mr. SHEFFIELD's amendment to the amendment was rejected.

Mr. EDWARDS. I move to add the following proviso:

Provided, however, That no property aforesaid shall be taxed as aforesaid which has been taxed to the person deceased, for the time during which it was so taxed, nor shall any such property be so taxed which would not have been liable to taxation by this act to the person deceased if he had been living.

Mr. Chairman, the proviso I have submitted has for its first object to do away with the payment of double taxation. I do not think that the Government should derive double taxation from the same property for the same period of time. That is a proposition, the correctness of which I think every member will concede. My amendment will obviate that objection.

But there is another point to which I wish to call the attention of the committee. Under the section as it stands, the same property, which, in the hands of one party, would not be liable to be taxed at all, would be taxed under this provision of the act as soon as it gets into the hands of another party. Suppose a deceased person should have a large quantity of manufactured articles on hand at the time of his decease, made prior to the passage of this law, and even including spirits, which the House have seemed so unwilling to tax to much extent, and have so revolted at the idea of taxing in the hands of the owner, but would now seem willing, if they adopt this section, to tax them in the hands of his widow or heir. I do not care so very much what may be the fate of the last branch of the amendment, but I do hope that the first branch of it will be adopted; for it seems to be only equitable and just.

Mr. STEVENS. It makes the living man pay his tax and when dead it makes the heir pay; and if the dead man complains of that he is very unreasonable. [Laughter.]

Mr. EDWARDS demanded a division of the the amendment.

The question was taken upon the two branches of the amendment to the amendment; and they were severally disagreed to.

Mr. MORRILL, of Vermont, moved to strike out the words "wife or husband;" so that the paragraph would read:

First, where the person or persons entitled to any beneficial interest in such property shall be the lineal issue or lineal ancestor, brother or sister, to the person who died possessed of such property, as aforesaid, at and after the rate of seventy-five cents for each and every $100 of the clear value of such interest in such property.

The amendment was agreed to.

Mr. BINGHAM. I modify my amendment as follows:

Strike out the following:

First, where the person or persons entitled to any beneficial interest in such property shall be the lineal issue or lineal ancestor, brother or sister, to the person who died possessed of such property as aforesaid, at and after the rate of seventy-five cents for each and every $100 of the clear value of such interest in such property. Second, where the person or persons entitled to any beneficial interest in such property shall be a descendant of a brother or sister of the person who died possessed as aforesaid, at and after the rate of $1 50 for each and every $100 of the clear value of such interest. Third, where the person or persons entitled to any beneficial interest in such property shall be a brother or sister of the father or mother, or a descendant of a brother or sister of the father or mother of the person who died possessed as aforesaid, at and after the rate of three dollars for each and every $100 of the clear value of such interest. Fourth, where the person or persons entitled to any beneficial interest in such property shall be a brother or sister of the grandfather or grandmother, or a descendant of the brother or sister of the grandfather or grandmother of the person who died possessed as aforesaid, at and after the rate of four dollars for each and every $100 of the clear value of such interest. Fifth, where the person or persons entitled to any beneficial interest in such property shall be in any other degree of collateral consanguinity than is hereinbefore stated, or shall be a stranger in blood to the person who died possessed as aforesaid, or shall be a body politic or corporate, at and after the rate of five dollars for each and every $100 of the clear value of such interest: *Provided*, That all legacies or property passing by will, or by the laws of any State or Territory, to husband or wife of the person who died possessed as aforesaid, shall be exempt from tax or duty.

And in lieu thereof insert the following:

Three and a half per cent. on each and every $100 of the clear value of such interest in such property.

The amendment was rejected.

Mr. HICKMAN. I move to strike out the words "husband or," in the fiftieth line, so as to confine it to the legacies passing to the wife.

The amendment was rejected.

The Clerk read, as follows:

SEC. 106. *And be it further enacted*, That the tax or duty aforesaid shall be a lien and charge upon the property of every person who may die, as aforesaid, until the same shall be fully paid to and discharged by the United States; and every executor, administrator, or other person who may take the burden or trust of administration upon such property shall, after taking such burden or trust, and before paying or distributing any portion thereof to the legatees or any parties entitled to beneficial interest therein, pay to the collector or deputy collector of the district the amount of the duty or tax, as aforesaid, and shall also make and render to the assistant assessor of the district a schedule, list, or statement of the amount of such property, together with the amount of duty which has accrued or should accrue thereon, verified by his oath or affirmation, to be administered and certified thereon by some magistrate or officer having lawful power to administer such oaths, in such form and manner as may be prescribed by the Commissioner of Internal Revenue, which schedule, list, or statement shall contain the names of each and every person entitled to any beneficial interest therein, together with the clear value of such interest, which schedule, list, or statement shall be by

him delivered to such collector; and upon such payment and delivery of such schedule, list, or statement, said collector or deputy collector shall grant to such person paying such duty or tax a receipt or receipts for the same in duplicate, which shall be prepared as is hereinafter provided; such receipt or receipts, duly signed and delivered by such collector or deputy collector, shall be sufficient evidence to entitle the person who paid such duty or tax as having taken the burden or trust of administering such property or personal estate to be allowed for such payment by the person or persons entitled to the beneficial interest in respect to which such tax or duty was paid; and such person administering such property or personal estate shall be credited and allowed such payment by every tribunal which, by the laws of any State or Territory, is or may be empowered to decide upon and settle the accounts of executors and administrators; and in case such person who has taken the burden or trust of administering upon any such property or personal estate shall refuse or neglect to pay the aforesaid duty or tax to the collector or deputy collector, as aforesaid, within the time hereinbefore provided, or shall neglect or refuse to deliver to said collector or deputy collector the schedule, list, or statement of such legacies, property, or personal estate under oath, as aforesaid, or shall deliver to said collector or deputy collector a false schedule or statement of such legacies, property, or personal estate, or give the names and relationship of the persons entitled to beneficial interests therein untruly, or shall not truly and correctly set forth and state therein the clear value of such beneficial interest, or where no administration upon such property or personal estate shall have been granted or allowed under existing laws, the proper officer of the United States shall commence such proceedings in law or equity before any court of the United States as may be proper and necessary to enforce and realize the lien or charge upon such property or personal estate, or any part thereof, for which such tax or duty has not been truly and justly paid. Under such proceedings the rate of duty or tax enforced shall be the highest rate imposed or assessed by this act, and shall be in the name of the United States against such person or persons as may have the actual or constructive custody or possession of such property or personal estate, or any part thereof, and shall subject such property or personal estate, or any portion of the same, to be sold upon the judgment or decree of such court, and from the proceeds of such sale, the amount of such tax or duty, together with all costs and expenses of every description to be allowed by such court, shall be first paid, and the balance, if any, deposited according to the order of such court, to be paid under its direction to such person or persons as shall establish their lawful title to the same. The deed or deeds, or any proper conveyance of such property or personal estate, or any portion thereof, so sold under such judgment or decree, executed by the officer lawfully charged with carrying the same into effect, shall vest in the purchaser thereof conclusive title to the property or personal estate sold under and by virtue of such judgment or decree, and shall release every other portion of such property and personal estate from the lien or charge thereon created by this act. And every person or persons who shall have in his possession, charge, or custody, any record, file, or paper containing, or supposed to contain, any information concerning such property or personal estate, as aforesaid, passing from any person who may die, as aforesaid, shall exhibit the same at the request of the collector of the revenue, his deputy or agent, and to any law officer of the United States, in the performance of his duty under this act, his deputy or agent, who may desire to examine the same; and if any such person having in his possession, charge, or custody, any such records, files, or papers, shall refuse or neglect to exhibit the same on request, as aforesaid, he shall forfeit and pay the sum of $500; and in case of any delinquency in making the schedule, list, or statement, or in the payment of the duty or tax accruing, or which should accrue thereon, the assessment and collection shall be made as provided for in the general provisions of this act.

Mr. STEVENS moved to strike out the words "conclusive title," in the seventy-fifth line, and in lieu thereof to insert "title of the delinquents."

The amendment was agreed to.

Mr. WHITE, of Indiana. In the first part of this section it is provided that this tax shall be a lien and charge upon the estate of the deceased. The settlement of an estate may extend over years, and it seems to me that the security of the Government is ample by holding the executors or administrators alone, without subjecting the real property to the lien. I move to amend, therefore, by striking out all after the word "that," in the first line, down to the word "and," in the fifth line, as follows:

The tax or duty aforesaid shall be a lien and charge upon the property of every person who may die, as aforesaid, until the same shall be fully paid to and discharged by the United States.

The amendment was not agreed to.

Mr. WICKLIFFE. I wish to add a proviso to this section providing that the deed shall be *prima facie* evidence of the facts recited therein, and that the conditions of the law have been complied with by the officers of the Government.

Mr. STEVENS. I do not think there is any objection to that amendment.

Mr. WICKLIFFE. Then I offer the following proviso, to come in at the end of the section:

Provided, In all legal controversies where such deed or title shall be the subject of judicial investigation, the recital of said deed shall be presumed to be true, and that the requirements of this law shall have been complied with by the officers of the Government.

The amendment was agreed to.

Mr. STEVENS. It may be remembered, that at the suggestion of the gentleman from Rhode Island, we passed over sections thirteen, sixteen, and twenty-two, in order that we might agree to the form of an amendment to be inserted. I hope now the committee will agree to go back and act upon the amendments which we agreed upon but had not drawn up.

The CHAIRMAN. If there are no further amendments to this section, the committee will, if there be no objection, go back to the consideration of sections thirteen, sixteen, and twenty-two.

No objection being made, the committee proceeded to the consideration of the sections indicated.

Mr. HORTON. I move to strike out all after the word "reside," in the tenth line of section thirteen, as follows:

And it shall be the duty of the assistant assessors, in all such cases, to transmit such lists, at the time and in the manner prescribed for the transmission of the lists of the objects of taxation lying and being within their respective assessment districts to the assessor of the collection district wherein the said objects of duty or taxation shall lie or be immediately after the receipt thereof; and the said lists shall be valid and sufficient for the purposes of this act.

And to insert in lieu thereof the following:

And it shall be the duty of the assistant assessor who receives any such list to transmit the same to the assistant assessor where such object of taxation was situated, who shall examine such list, and if he approve of the same, he shall return it to the assistant assessor from whom he received it, with his approval thereof; and if he fails to approve the same, he shall make such alteration therein as he may deem to be just and proper, and shall then return such list, with such alteration therein, or addition thereto, to the assistant assessor from whom he received the said list; and the assistant assessor where the person liable to pay such tax resides, shall proceed in making the assessment of the tax upon the list by him so received, in all respects, as if the said list had been made out by himself.

The amendment was agreed to.

Mr. HORTON. I now move to amend the sixteenth section by inserting after the word "known," in the eighteenth line, the following:

And the assistant assessor making out any such separate list shall transmit therefrom to the assistant assessor where the person liable to pay such tax resides or shall have his principle place of business, copies of the list of property held by persons so liable to pay such tax, to the end that the taxes assessed under the provisions of this act may be paid within the collection district where the persons liable to pay the same may reside or have their places of business.

The amendment was agreed to.

Mr. SHEFFIELD. I move to amend by inserting after the word "and," at the end of the eighteenth line of the same section, the words "in all other cases;" so as to make that part of the section harmonize with the amendment we have just adopted.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I ask the unanimous consent of the committee to offer an amendment in reference to furs. The gentleman who made the proposition originally in regard to that matter consents to the modification, and I think it will meet with the unanimous approval of the committee. I presume it was not the intention of the committee to tax the raw material, but to tax the manufactured article; and, therefore, I desire to make the matter explicit. The original proposition was to tax furs five per cent., provided the tax should not take effect until the expiration of the reciprocity treaty. I move to strike that out, and insert, "on furs of all descriptions made up and manufactured, three per cent. *ad valorem*."

No objection being made, the amendment was received, and agreed to.

Mr. HOOPER. I move to amend section twenty-two by striking out the words "the State," in line twentieth, and inserting "or nearest the" collection county where the property is situated; so that the clause shall read:

To be published for twenty days in at least one of the newspapers published in or nearest the collection county where the property is situated.

The amendment was agreed to.

Mr. SHEFFIELD. I do not think this section is necessary in the present state of the bill. The amendments we have adopted obviate the necessity of this section. But I will move to amend, in the fourth line, by inserting, after the word "district," the words "and not being or having some place of business within the United States;" so that the clause will read:

That with respect to property lying within any collection district, not owned or occupied, or superintended by some person residing in such collection district, and not being or having some place of business within the United States, &c.

The amendment was agreed to.

Mr. SHELLABARGER. I move to strike out the words "at least," in the twentieth line, so as to confine the publication to one newspaper.

Mr. SHEFFIELD. As this clause provides for the selling of property outside of the district, I think it is proper that a notice should be published in the place where the property is, and also in one place outside of the county where it is located. I hope the amendment will not be adopted.

The amendment was not agreed to.

Mr. WICKLIFFE. I ask the unanimous consent of the committee to offer an amendment to section two. It is to add at the end of the section the following proviso:

Provided, That the number of districts in any State shall not exceed the number of members of Congress to which such State shall be entitled.

No objection being made, the amendment was received.

Mr. WICKLIFFE. The second section of the bill gives to the President of the United States discretion to lay off the United States into as many districts for the collection of the revenue as he may think proper. The object of my amendment is to make this bill in that respect conform to all other legislation upon that subject. Looking at internal revenue laws, I find that a provision has always been inserted that Congress should prescribe the districts, and they have prescribed the boundaries according to the divisions which the Legislatures of the States have made for Representatives in Congress. Now, the amendment only provides that the number of collectors shall not exceed the number of Representatives in Congress. If it were possible to suppose that there might be some abuse of this power—which I do not pretend to say there would be—there should be some such limitation as this. It is well enough to keep within the prescribed limits of our predecessors. As the bill now stands it is in the power of the President to lay off a State into fifteen, twenty, thirty, fifty, or sixty districts, and to appoint a collector in every one. One collector to each district is as many as the public service will require. The President may, under my amendment, make one district of two States; but certainly there ought not to be more districts in a State than that State has Representatives here. If some such limitation as this is not made, the country may be divided into so many districts that the percentage allowed for collecting the revenue will amount to a great deal more than gentlemen suppose.

Mr. STEVENS. I think we had better pass the amendment at once. It appears to be reasonable.

Mr. BLAKE. I move to amend the amendment by striking out all after the word "provided," and inserting "there shall be one collector appointed to every twenty thousand inhabitants."

The amendment to the amendment was rejected.

The question recurred on Mr. WICKLIFFE's amendment.

Mr. BLAKE. I hope that amendment will not prevail. I think it would be very unwise to make the districts so large.

The amendment was agreed to.

Mr. STRATTON. I ask the unanimous consent of the committee to go back to section seventy-two, on page 69, for the purpose of offering an amendment.

There was no objection.

Mr. STRATTON. I move to insert, after the word "corn," in line sixty-eight, the words "or wheat." It is to make the duty on starch manufactured from wheat the same as that on starch manufactured from corn.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I ask unanimous consent that the Clerk or the printer be allowed to number correctly the sections and paragraphs which have been passed.

The CHAIRMAN. The Clerk has that privilege under parliamentary usage.

Mr. BLAIR, of Pennsylvania. I ask the consent of the committee to go back to the eighth section for the purpose of making a slight amendment, to which I am sure no one will object.

There was no objection.

Mr. BLAIR, of Pennsylvania. I move to amend the eighth section by inserting, after the word "to," in the eleventh line, the words "and signed by such person;" so that it will read:

That if any person owning, possessing, or having the care or management of property, goods, wares, and merchandise, articles or objects liable to pay any duty, tax, or license, shall not be prepared to exhibit a written list when required, as aforesaid, and shall consent to disclose the particulars of any and all the property, goods, wares, and merchandise, articles and objects liable to pay any duty or tax, or any business or occupation liable to pay any license, as aforesaid; then, and in that case, it shall be the duty of the officer to make such list, which, being distinctly read and consented to, and signed by such person, shall be received as the list of such person.

The amendment was agreed to.

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

Mr. MORRILL, of Vermont. If gentlemen will have a little patience we can get through with the bill to-day.

The motion was disagreed to.

Mr. MORRILL, of Vermont. I ask the unanimous consent of the committee to go back to section one hundred and five.

There was no objection.

Mr. MORRILL, of Vermont. I move to strike out the words "being within the United States;" the section will then read:

That any person or persons having in charge or trust, as administrators, executors, or trustees of any legacies or distributive shares arising from personal property, of any kind whatsoever, where the whole amount of such personal property, as aforesaid, shall exceed the sum of $1,000 in actual value, passing from any person who may die after the passage of this act possessed of such property, either by will or by the intestate laws of any State, &c.

The amendment was agreed to.

Mr. LAW. I ask the consent of the committee to go back to section twenty, for the purpose of offering an amendment.

There was no objection.

Mr. LAW. The section is in relation to distraints. As it now stands, the notice is to be published in some newspaper within the district. There may be three or four counties in a district, and the person whose property is to be distrained may never see the notice. I move to insert, after the word "the," in line thirty-four, the words "county wherein the distraint is made if there is a newspaper published in said county."

The amendment was agreed to.

Mr. MOORHEAD. I ask the consent of the committee to go back to section seventy-eight, that I may offer this amendment: in line seven, after the word "railroads," add the following proviso:

Provided, That there shall not be more than sixty cents paid upon the travel of any passenger for a single trip.

Mr. STEVENS. I object to that.

Mr. MOORHEAD. It is a discrimination against our railroads, and in favor of Canadian railroads.

The CHAIRMAN. Debate is not in order.

Mr. POTTER. I ask the consent of the House to go back to page 61, that I may offer an amendment in relation to the tax upon harness leather. The Committee of Ways and Means have made a mistake in proposing a tax upon harness leather of one and a half cents per pound, when it should be the same as the tax upon sole leather—three quarters of one per cent.

Mr. STEVENS. I object to going back to that section.

The Clerk then read the one hundred and seventh section of the bill, as follows:

SEC. 107. *And be it further enacted*, That on and after the 1st day of May next there shall be levied, collected, and paid on all salaries of officers, or payments to persons in the civil, military, naval, or other employment or service of the United States, including Senators and Members of Congress, when exceeding the rate of $600, a duty of three per cent. on the excess above the said $600; and it shall be the duty of all paymasters and all disbursing officers under the Government of the United States, or in the employ thereof, when making any payments to officers and persons, as aforesaid, or upon settling and adjusting the accounts of such officers and persons, to deduct and withhold the aforesaid duty of three per cent., and shall at the same time make a certificate stating the name of the officer or person from whom such deduction was made, and the amount thereof, which shall be transmitted to the office of the Commissioner of Internal Revenue, and entered as part of the internal duties; and the pay-roll, receipts, or account of officers or persons paying such duty, as aforesaid, shall be made to exhibit the fact of such payment.

Mr. EDWARDS. I move to insert, after the words "six hundred dollars," in the sixth line, the words "per annum."

The amendment was agreed to.

Mr. POTTER. I move to strike out the words "including Senators and members of Congress." I offer the amendment because I consider those words surplusage, and because, moreover, it is improper that Senators and members of Congress should be distinguished in this way. No other officers are mentioned in this section, and it seems to me that members of Congress are certainly included in the phrase "persons in the civil, military, naval, or other employment or service of the United States." I do not want any distinction of this kind made; it is aristocratic and improper.

Mr. VALLANDIGHAM. Before the question is taken on striking out, I desire to call the attention of the Committee of Ways and Means to the language of the fifth line, "Senators and Members of Congress." It is the first time I ever knew technically that a Senator was not a member of Congress. The words "members of Congress" apply to both branches, to Senators and Representatives in Congress. I would remind the committee that there was a contested-election case from the State of New York, in which there was some difficulty growing out of the use of these very words in an election for Representative in Congress. I move to strike out the words "members of" and insert "Representatives in."

The amendment was agreed to.

The question was then taken on Mr. POTTER's motion; and it was disagreed to.

Mr. BINGHAM. I move to insert, after the words "Representatives in Congress," the words "and Delegates." Delegates—persons representing Territories here—are not Representatives in Congress.

Mr. DIVEN. I desire to inquire of the Committee of Ways and Means if it is their intention to tax members of Congress twice? They tax them on their income three per cent.; do they, in addition to that, design to tax them on their salaries?

Mr. STEVENS. Undoubtedly.

The amendment was agreed to.

Mr. PENDLETON. I move to strike out "next," in the second line, and to insert "1863." I think that will make this section in accordance with amendments heretofore adopted in the section in reference to the income tax.

Mr. MORRILL, of Vermont. I hope that amendment will not prevail.

The question was taken; and there were—ayes 50, noes 33; no quorum voting.

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

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt, and had come to no resolution thereon.

Mr. STEVENS. I move that the tax bill and the amendments, so far as the Committee of the Whole has proceeded with it, be printed.

The motion was agreed to.

CORRECTION.

Mr. BLAIR, of Missouri. Mr. Speaker, I observe, in looking over the report of the debate of yesterday in to-day's Globe, that I am reported as answering a question put to me by the gentleman from New York [Mr. ROSCOE CONKLING] in precisely the opposite way to that in which I did answer it, or intended to answer it. The question asked me by the gentleman from New York was this:

"Do I understand the gentleman from Missouri to assume in his proposition that the President has now the power, under these articles of war, to assign an officer in a department to the command of that department, as against an officer of the same rank, but of greater seniority in commission?"

I am reported as having replied, "certainly he has." My reply was that certainly he had not. The reporters generally make me much better speeches than I make on the floor, but in this instance they misunderstood me.

ENROLLED JOINT RESOLUTION SIGNED.

Mr. GRANGER, from the Committee on Enrolled bills, reported that the committee had examined and found truly enrolled, a joint resolution (S. No. 68) to authorize the President to assign the command of troops in the same field or department to officers of the same grade without regard to seniority; when the Speaker signed the same.

And then, on motion of Mr. WASHBURNE, (at five minutes to five o'clock, p. m.,) the House adjourned.

IN SENATE.

FRIDAY, *April* 4, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read.

Mr. HALE. I wish to make a slight correction in the Journal. A motion which I made to print certain papers is entered as adopted; but the fact is, that it was referred to the Committee on Printing. It was a motion to print the report of the Secretary of the Interior, communicating, in compliance with the resolution of the Senate of the 27th of March, information in relation to the slave bark Augusta. The motion to print was referred to the Committee on Printing. It is a slight correction; but I think the Journal ought to be corrected.

The PRESIDENT *pro tempore*. That correction will be made.

BRANCH POST OFFICES IN CITIES.

Mr. COLLAMER. Mr. President, if I can have the indulgence of the Senate for a few moments, there is a little House bill which has been lying here for some time, which is wanted by the Post Office Department, that I desire to have considered and passed. It is House bill No. 118. I think it will occupy no time. There is but one amendment reported by the committee, which I can explain in a moment.

There being no objection, the bill (H. R. No. 118) to authorize the Postmaster General to establish branch post offices in cities, was considered as in Committee of the Whole. It provides that the Postmaster General may, when, in his judgment, the public interest or convenience may require it, establish one or more branch post offices, to facilitate the operation of the post office in any city or place which, in his opinion, may require such additional accommodations for the convenience of the inhabitants; and it is to be the duty of the Postmaster General to prescribe the rules and regulations for the branch post office which may be thus established. He is also authorized to charge one cent, in addition to the regular postage, for every letter deposited in any branch post office to be forwarded by mail from the principal office, and which is to be prepaid by stamp, and one cent for every letter delivered at such branch office, to be paid on delivery; but no letter is to be sent from the principal office to a branch office for delivery, except by request of the party to whom it may be addressed; and the expense of the branch service is not to exceed the receipts on account thereof. The bill also repeals the tenth section of "An act to establish certain post routes, and for other purposes," approved March 3, 1847.

The Committee on the Post Office and Post Roads reported the bill with an amendment in line nineteen of the first section to strike out the words "except by," and insert "contrary to the;" so that the proviso will read:

Provided, That no letter shall be sent from the principal office to such branch office for delivery, contrary to the request of the party to whom the same may be addressed.

Mr. COLLAMER. If gentlemen desire any explanation of that amendment, I can give it very briefly. By law now the postmasters of cities send out and distribute letters by messengers, who deliver them personally to the people, unless they order otherwise. If any man desires to receive his letters at the post office, he directs that they shall not be sent by the carriers. This bill has been sent from the House of Representatives providing that these branch offices shall be used instead of having the letters sent out by the carriers. Letters are to be sent to the branch offices in different parts of the city from the principal office, and they are to deliver them within certain limits. The committee were of opinion that that ought to be put on the same footing. The bill was drawn

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. SATURDAY, APRIL 5, 1862. NEW SERIES.....No. 97.

so that letters should not be sent out of the branch offices, unless so directed by the persons to whom they were addressed. We prefer to provide that they should not be so sent contrary to the direction of the persons for whom letters are intended. That makes it the same as the other regulation about sending by messengers. We think it ought to correspond to that, and therefore recommend the amendment.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed and the bill to be read a third time. It was read the third time, and passed.

ADMISSIONS TO THE FLOOR.

Mr. GRIMES. I understand it is usual in cases where a day is set apart for the consideration of District business to allow the mayors of Washington and Georgetown access to the floor of the Senate. I therefore make that motion that they be admitted to the floor of the Senate to-day.

The PRESIDENT *pro tempore*. That will be taken to be the sense of the Senate, if no objection be interposed.

PETITIONS AND MEMORIALS.

Mr. SHERMAN presented the petition of Walker Bennett and others, citizens of Ohio, praying for the passage of a general bankrupt law; which was referred to the Committee on the Judiciary.

Mr. HARRIS presented a petition of citizens of Cannonsburgh, Carroll county, Ohio; a petition of citizens of Monroe, Orange county, New York; and a petition of citizens of Muscatine, Muscatine county, Iowa, praying that the "freedom of speech and of the press shall not be abridged;" and that The New York Caucasian and all other Democratic papers now excluded from the mails, in all the loyal States, have the same privileges now enjoyed by Republican and abolition papers; which were laid on the table.

Mr. HALE. I present the petition of Daniel Moriarty, setting forth that he has been wounded in the naval service of the United States, and has received a pension of only three dollars a month, which he thinks entirely inadequate, and he prays for additional pension. I will mention that this Mr. Moriarty is a large, stout, athletic man, who has had one or two of his fingers taken off and his right hand paralyzed, so that he is unfit for manual labor, and he receives only three dollars a month. I ask that the petition be referred to the Committee on Pensions.

It was so referred.

Mr. HOWARD presented the petition of Henry Miller and others, engaged in the business of brewing beer in Detroit, Michigan, praying that the proposed tax on lager beer, as contemplated by the bill of the House of Representatives, may be reduced; which was referred to the Committee on Finance.

He also presented the petition of Friend Palmer and others, citizens of Detroit, Michigan, praying for the passage of a general bankrupt law; which was referred to the Committee on the Judiciary.

Mr. ANTHONY. I present the petition of Hon. Simon H. Greene and others, citizens of Rhode Island, praying that dogs may be included among the objects of taxation. I notice that many of the signers are farmers and sheep-raisers, which perhaps gives an additional interest to their petition. I move its reference to the Committee on Finance.

It was so referred.

Mr. WILSON, of Massachusetts, presented the petition of John Tucker and one hundred and fifty-five others, citizens of Gloucester, Massachusetts, praying for the abolition of slavery under the war power; which was ordered to lie on the table.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. CLARK, it was

Ordered, That the petition and papers in the case of the captors of the Tripolitan frigate Philadelphia, and the petition and papers in the case of John Ericsson, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. WILMOT, it was

Ordered, That the petition and papers in the case of the heirs of Stephen Moylan be taken from the files of the Senate and referred to the Committee on Revolutionary Claims.

REPORTS FROM COMMITTEES.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the petition of Francis Hüttmann, praying for relief, submitted a report, accompanied by a bill (S. No. 262) for the relief of Francis Hüttmann; which was read, and passed to a second reading.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a motion to print the report of the Secretary of the Interior, in answer to a resolution of the Senate of the 27th of March, in relation to the slave bark Augusta, reported in favor of printing the usual number; which was agreed to.

Mr. CLARK, from the Committee on Claims, to whom was referred the bill (S. No. 90) for the relief of John H. Rountree, reported adversely thereon.

AMENDMENT OF RULES.

Mr. HALE. I give notice of a new rule to the Senate, that I shall propose. Of course I am obliged to give notice before I can call it up.

The Secretary read it, as follows:

Resolved, That the Senate may at any time during the present rebellion, by a vote of a majority of the members present, fix a time when debate on any matter pending before the Senate shall cease and terminate; and the Senate shall, when the time fixed for terminating the debate arrives, proceed to vote without debate on the measure and all amendments pending that may be offered.

COMPENSATION FOR SOLDIERS' BAGGAGE.

Mr. LANE, of Indiana, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs and the Militia be instructed to inquire into the expediency of providing by law for just and proper compensation to officers and soldiers who sustained loss of baggage and other property at Hatteras Inlet, for want of proper transportation, and to report by bill or otherwise.

BRIDGE ACROSS REPUBLICAN RIVER.

Mr. LANE, of Kansas, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs and the Militia be instructed to inquire into and report to the Senate the propriety and necessity of making an appropriation for the erection of a bridge across the Republican river on the Fort Riley military reservation in the State of Kansas.

BILL INTRODUCED.

Mr. LANE, of Kansas, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 261) supplementary to an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1863, and additional appropriations for the year ending the 30th of June, 1862;" which was read twice by its title and referred to the Committee on Public Lands.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. HAY, his Secretary, announced that the President had approved and signed, on the 2d instant, the following acts:

An act (S. No. 120) in addition to "An act to refund and remit the duties on arms imported by States," approved July 10, 1861; and

An act (S. No. 244) to provide for the equitable settlement of the accounts of the officers and crews of the frigate Congress and other vessels.

ENROLLED RESOLUTION SIGNED.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the Speaker of the House had signed an enrolled joint resolution (S. No. 68) to authorize the President to assign the command of troops in the same field or department to officers of the same grade, without regard to seniority.

C. F. RUFF.

Mr. NESMITH. The Committee on Military Affairs, to whom was referred the petition of Lieutenant Colonel C. F. Ruff, have instructed me to report a bill for his relief, and ask the unanimous consent of the Senate for its present consideration.

There being no objection, the bill (S. No. 259) for the relief of Lieutenant Colonel Charles F. Ruff of the United States Army, was read twice, and considered as in Committee of the Whole. The bill proposes to direct the Secretary of War to cause to be paid to Charles F. Ruff, lieutenant colonel of the third regiment of cavalry of the Army of the United States, the sum of $449, being the amount of pay and emoluments due him for the months of March and April, 1861, as major of the regiment of mounted riflemen United States Army, and never received by him.

Mr. COLLAMER. I ask for the reading of the report.

Mr. NESMITH. There is no written report made by the committee. The petition of the petitioner sets forth all the facts, and there is a letter from the Adjutant General. I ask to have them both read in connection, and then I shall make an explanation after they are read.

Mr. COLLAMER. I think a petition to be read to support a bill is not proper for our consideration, unless the committee say they find the allegations of the petition to be true. If they will make a report saying that they have found the facts stated in the petition to be true, I shall not object to receiving the petition as the basis of the bill; but the reading of a petition unauthenticated and unsustained by a committee's report is a very unusual way of getting at facts.

Mr. NESMITH. The committee unanimously directed me to report the bill. The case is so plain a one that they did not think it necessary to make a written report to the Senate. The bill is predicated on the petition of Colonel Ruff, and it was sent to the War Department by the clerk of the committee, and the facts were found to be substantially as stated in the petition. There is a letter accompanying the papers from the Adjutant General of the Army, which can be read. While I am up I will state substantially what the case is. In the month of March, 1861, Lieutenant Colonel Ruff, then a major in the rifle regiment, made out his pay accounts and sent them to the nearest paymaster for payment, receipting them. He received from that paymaster, Henry Hill, in New York, checks upon the sub-Treasury at New York for his two months' pay, amounting to the sum stated in the bill, some $450. Subsesequently Henry Hill resigned and went to the southern confederacy. In the mean time, whatever funds he had deposited in the depository in New York had been withdrawn. When Colonel Ruff presented his checks drawn by the paymaster against funds at the sub-Treasury in New York, they were protested, on the ground that Paymaster Hill had no funds there, that he had resigned and gone to the southern confederacy.

The facts are substantially as I have stated them. The pay accounts had been made up and credited to Hill; the evidence before the Department and before the committee, and now admitted by the Paymaster General, is that Colonel Ruff has not received his pay for those two months service. The Paymaster General states that there are about ten thousand dollars due officers in a similar condition; that he has reported the matter two or three times to the Secretary of War, and desired a general bill to be brought in for the relief of those officers. No action has been taken on the aggregate of those accounts, and as this is a case of peculiar hardship, Colonel Ruff, of course, is desirous to get his pay, amounting to nearly five hundred dollars. These facts are all set forth in the petition and in a letter from the Adjutant General, and have been verified by the statement of the Paymaster General.

Mr. HALE. Of course, the equity of the case is with Major Ruff; but there must have been cases of this sort frequently before, and there must have been a practice of the Government in relation to the matter. It strikes me that it will be an unsound principle to introduce into the practice of

the Government in any of its Departments, when a public creditor, instead of taking the money from the disbursing officer, takes the check or draft of that disbursing officer upon a distant depository, and receipts for that as money, that the Government should stand security for it. I think it would be an unsound and unsafe principle to be introduced generally.

Mr. NESMITH. The Senator from New Hampshire will permit me to state that there was no other way by which he could be paid. The law makes it obligatory upon a disbursing officer to keep his funds in a public depository. He is not allowed to keep them in his own possession or in a private banking institution. He is compelled to keep them at the Government depository, and he is furnished by the Government with a check-book, and he draws his checks upon the funds there on deposit. This paymaster had money deposited at the sub-Treasury, and he had drawn his check in payment of Colonel Ruff's two months' services, but between the time the checks were drawn and presented at the sub-Treasury, Hill had withdrawn all his funds there; and now the question is merely whether Colonel Ruff shall be deprived of the pay due to him as an officer of the Army on account of the fraudulent transactions of one of the Government agents, a paymaster in the Army, who has since seceded, and who perhaps at the time he drew the checks intended to secede and go to the southern confederacy. That is substantially the whole case.

Mr. HALE. I remarked before that I thought the equities of this case were with the claimant, but I wanted to know what the practice was. If the practice is as the Senator from Oregon states it, if the Government by law requires the paymaster to keep his funds at the depository and furnishes him a check-book, and directs him to pay by checks on the depository, then I think the bill ought to pass; but I did not suppose that was the manner in which the Government conducted its affairs. I supposed that when a paymaster was assigned to a regiment or a brigade or a division, he was furnished with funds, bills or specie, and that it was a matter of his own convenience and arrangement as to the manner in which the money should be disbursed. If, however, the practice be as suggested by the Senator from Oregon I shall vote for the bill. If the Government required the paymaster to deposit the money with a public depository, and furnished him a check-book, and directed it to be paid out on his checks, I think the Government ought to pay the claimant and make good his loss.

Mr. NESMITH. There is no doubt about the Government requiring that to be done. The sub-Treasury law makes it the duty of a disbursing officer to keep his funds with a public depository, and he is liable to be sent to the penitentiary if he violates it. The funds are deposited there to his credit, and he draws his checks upon the depository.

Mr. HALE. Then I think the bill ought to pass.

Mr. GRIMES. I suggest, also, in addition to what has been said by the Senator from Oregon, that Colonel Ruff was compelled to do duty at Philadelphia, and the paymaster was in New York, so that the necessities of the position each occupied compelled them to deal with each other in this way.

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

RAILROAD TO THE PACIFIC.

Mr. McDOUGALL. I am directed by the select committee on the Pacific railroad to report a bill. The bill is in substance the same that has been reported in the House of Representatives, and made the special order there for Tuesday next. I ask first for leave for the committee to sit again. I suppose that upon making a report, it is regarded as the discharge of the committee, without leave of the Senate to sit again.

The PRESIDENT *pro tempore*. The Chair understands the bill to be reported from the committee. It will now have its first reading.

The bill (S. No. 260) to aid in constructing a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes, was read the first time by its title, and ordered to a second reading.

The PRESIDENT *pro tempore*. The bill goes on the Calendar, unless otherwise ordered.

Mr. McDOUGALL. I am inclined to think the committee will require the consent of the Senate to continue their sessions and have jurisdiction over the subject. I move, if it is necessary, that the committee be permitted to continue their sessions and have charge of the same subject-matter.

The PRESIDENT *pro tempore*. The Chair does not deem it necessary. It is competent for a committee to report in part, and to sit further, and report again at another time.

Mr. McDOUGALL. This matter is before the House of Representatives, and, as I have remarked, they will take up their measure on Tuesday next, as a special order. I move that this bill be made a special order for a week from Tuesday next.

The PRESIDENT *pro tempore*. If no objection be made the bill will be considered now, and that motion will be entertained. If objection be made, the bill cannot now be considered. The Chair hearing no objection, the bill will be considered.

Mr. McDOUGALL. I move that it be made the special order for Tuesday week.

Mr. TRUMBULL. I object to that.

Mr. McDOUGALL. The time for objection has passed.

The PRESIDENT *pro tempore*. Objection being interposed, the report having been made to-day, cannot now be considered under the rules of the Senate.

Mr. McDOUGALL. Allow me to say to the Senator from Illinois that if this bill shall interfere with the confiscation bill, or any other particular pressing matter before the Senate at the time fixed for its consideration, I shall consent to its postponement.

Mr. TRUMBULL. I shall have no objection to the Senator's getting the bill up when it will not interfere with other and more important questions which are pressing, but I object to its being set down as a special order and then having a contest between it and some other bill for priority. I am not for delaying it or throwing any obstacle in its way; and when the confiscation bill and some others that are pressing shall be out of the way I certainly shall interpose no objection to the Senator getting up this bill, but I object to its being made a special order now, because I want to avoid a conflict in regard to the business of the Senate.

The PRESIDENT *pro tempore*. An objection carries the consideration of the bill over.

Mr. McDOUGALL. Will the President allow me to suggest that after the Chair had inquired if there was objection, it was announced that no objection being made, the bill was before the Senate, and after that it is too late to make an objection?

The PRESIDENT *pro tempore*. The Chair is not accustomed to hold any premature decision of his as binding on the Senate upon such a suoject. Objection being raised, the Chair ordinarily considers the question open.

Mr. McDOUGALL. I presume it will be in order at a future day to move that this bill be made a special order.

The PRESIDENT *pro tempore*. Any day after to-day the bill may be the subject of motion and consideration.

Mr. McDOUGALL. I wish only to say now that I do not admit that this measure is second in importance to any measure before Congress, except our revenue bill.

Mr. COLLAMER. I object to discussion when the question is not before the Senate.

Mr. McDOUGALL. I am through.

Mr. POMEROY. I understood the chairman of the committee to ask that the committee have leave to sit again. Being a special committee, they are dissolved; their duties terminate when they make a report, as I understand, unless they have leave to sit again. This being a report from a special committee, I think it appropriate that they should have leave to sit again.

The PRESIDENT *pro tempore*. They have leave to sit again without a special order to that effect.

Mr. McDOUGALL. I neglected to ask for the printing of the bill as reported.

The PRESIDENT *pro tempore*. It will be printed, as a matter of course, under the rules, coming from a committee.

SUPPLY OF POTOMAC WATER.

On motion of Mr. GRIMES, the bill (S. No. 231) amendatory of an act entitled "An act to provide for the care and preservation of the works constructed by the United States for bringing the Potomac water into the cities of Washington and Georgetown, for the supply of said water for all governmental purposes, and for the uses and benefit of the inhabitants of the said cities," was considered as in Committee of the Whole. In addition to the powers conferred upon the corporation of Washington by the second and third sections of the act of Congress, approved March 3, 1859, entitled "An act," &c., it proposes to give full power and authority to the corporation to levy and collect a water tax on all real property within the corporate limits of the city of Washington which binds on or touches on any avenue, street, or alley in which a main water pipe has been laid or hereafter may be laid by the United States or by the corporation of Washington, which water tax shall be as nearly as possible equal and uniform, may be levied on lots in proportion to their frontage or their area, as the corporation may determine, and may be collected in not less than three nor more than five annual installments, of which installments all after the first shall bear interest at the rate of six per cent. per annum, commencing from the date at which the first installment becomes due, but may, at the option of the owner of the property taxed, be paid and discharged in full at any time after it shall have been levied. The corporation of Washington may also, on petition of the owners of the majority of the real estate on any square or line of squares, lay down water pipes and erect fire plugs and public hydrants wherever the same may be requisite and necessary for public convenience, security from fire, or for health.

The second section, in order to aid in the erection, maintenance, and efficiency of fire plugs throughout the city, authorizes the corporation of Washington to levy and collect a special annual tax on all buildings within five hundred feet of any main water pipe into which, or the premises connected therewith, the water has not been introduced, and the owners or occupants of which do not pay an annual water rate or rent in accordance with the ordinances of the corporation, which tax is to be levied with reference to the value of the building so taxed, and to be not more than five dollars nor less than one dollar per year; but whenever the water shall be introduced, in conformity with the corporation laws, into any building or premises, the fire-plug tax thereon is to cease; and whenever the water shall be discontinued from any building or premises into which it has been introduced, the building is to be subject to the fire-plug tax from the date of the discontinuance of the water.

The third section declares that the water tax thus authorized to be levied and collected shall constitute a fund to be used exclusively to defray the cost of distribution of the water, including all necessary fixtures and machines connected with the distribution; and the annual water rates or rents authorized to be collected by the act of which this act is amendatory shall constitute a fund exclusively for the maintenance, management, and repair of the system of water distribution.

Mr. GRIMES. The bill omits the title of the act which it amends. I therefore move to amend by striking out the words "and so forth," in the sixth line of the first section, and inserting:

To provide for the care and preservation of the works constructed by the United States for bringing the Potomac water into the cities of Washington and Georgetown, for the supply of said water for all governmental purposes, and for the uses and benefit of the inhabitants of the said cities.

The amendment was agreed to.

Mr. GRIMES. This bill has been drawn and is submitted to the consideration of the Senate at the instance of the City Councils of the city of Washington. In order that the Senate may have a thorough understanding of the provisions of the bill, as I learn that there is some objection to it, I wish to read to the Senate a very intelligible account of the purposes that are sought to be accomplished by it, furnished to me by a gentleman of this city, Mr. Randolph Coyle, who is the water registrar of the city:

The act of Congress approved March 3, 1859, which it is proposed by the present bill to amend, authorizes the corporations of Washington and Georgetown to establish a

scale of annual rates for the supply and use of the water from the pipes of the Potomac aqueduct; "to collect such rates or rents, when so fixed in advance or otherwise, through such agents or commissioners as they may authorize, from the owners or occupants of all such buildings or establishments, respectively, who may use the water therein; to stop the supply of water to any such dwelling or establishment upon a failure to pay said rate, charge, or rent; and, generally, to enact such laws as may be necessary to supply the inhabitants of said city of Washington with pure and wholesome water, and to carry into full and complete effect the powers herein granted."

It is found, by experience, that the restriction of the power of collection of moneys for the distribution of water only from the owners or occupants of buildings or establishments in which the water is used, is inconsistent with the intention of the act, and renders it practically impossible to carry into effect such laws as are necessary "to supply the inhabitants of said city of Washington with pure and wholesome water, and to carry into complete effect the powers granted by the act." It is to remedy this defect in the original law that the corporate authorities of Washington, by a joint resolution passed, and approved by the Mayor March 23, 1860, and reaffirmed by another joint resolution passed and approved within a few weeks, have requested the passage of this amendatory bill. In their joint resolution they say that the system imposed by this restriction of collection of rents from water-takers alone "operates oppressively, unequally, and therefore unjustly, by compelling the necessity of collecting from those who use the water an annual tax sufficient not only to pay for such use, but for the means whereby the water is placed equally within the reach of users and non-users, of property improved and unimproved, enhancing the value of all property alike, wherever the water mains are laid." The statement is true. The amendatory bill obviates this injustice, and puts the first cost of the improvement equally on all the property benefited by it, and the cost of the *use* thereafter alone on the users. The effect of this will be to encourage the distribution of water and increase the number of water users, for the scale of rents will *diminish* as the number of users *increase*, as the effect of the original bill is to discourage both. By the present system, the property owner who holds off longest from taking water into his houses gets it cheapest, and if the rent system shall ever yield money enough to have paid the water debt, he who waits to take the water until the debt is paid obtains then, for nothing, the use of that which certain of his neighbors paid an extravagant price for.

Objection is made by some whose property lies upon streets or avenues where the great water mains have been laid by the United States, to the payment of a tax to the corporation for a benefit which the General Government alone has conferred. The answer to this selfish objection is very obvious. The Government introduced the benefit equally for the whole city. If the property on these particular streets or avenues should be exempted from the tax, it would fall the more heavily on the rest. The proposition only is, that they shall bear their proportional part of the burden while they receive more than an equal share of the benefit, by reason of the fact that the subordinate mains are liable to occasional interruption, while the great mains are very rarely if ever stopped.

The objection which some urge of the possible abuse of the power by the corporation lies with equal force against any and all powers of the corporation. The power is proper and necessary for a great public improvement, and if the corporation cannot be trusted with it, then the corporation ought to be put out of existence; as long, however, as it lives, it should be respected as being what the law of its existence assumes it to be.

To the second section of the amendatory bill no objection presents itself, nor can I imagine any that can be made.

The third section is merely in accordance with the *proviso* to the third section of the original bill, which reads thus: "*Provided*, That the rates levied by the cities of Georgetown and Washington shall never be a source of revenue other than as a means of keeping up to the said cities a supply of water."

To illustrate the difference in effect upon the tax paid by the improved property into which the water is introduced, of the present system and that which it is proposed to substitute, let us suppose the case of a house of three stories high with front of twenty-five feet. The total cost of the water pipe of six inches diameter laid down in front of this house is twenty-five dollars. Dividing this cost between this house and the neighbor on the opposite side of the street, we have $12 50 apiece, or fifty cents per foot front. By the present scale of water rates, the house described pays $6 25 per year, so that in two years, if the opposite neighbor joins, the cost of their pipe is paid; but certain of their neighbors refuse to introduce the water, and the rents must therefore be kept up until the idle pipe is paid for also. Now, if the twenty-five dollars could be paid at once by these two owners, being their share of the whole debt, their annual rents could be reduced at once from $6 25 to not exceeding two dollars, and presently, when the number of consumers should be doubled, to half that amount.

The amount expended by the corporation in laying water pipes thus far (including $10,300 for real estate, and about eighteen hundred and fifty dollars for machinery and patent right) is, in round numbers, $105,000.

Deduct the items for real estate and machinery, and we have as cost of pipe laid and accessory fixtures, $92,850.

The number of water rents payable to the corporation is 1,423, amounting to, within a few dollars more or less, $10,000.

These rents are derived from 154,514 feet of water mains, of which 98,638 feet have been laid by the corporation, and 55,876 feet have been laid by the United States.

Deducting from the yearly value of these rents the yearly interest on $105,000 of water stock, namely: $6,300, we have left per year, $3,700 dollars, out of which to pay expense of superintendence and repair, extend the work of water distribution, and provide a sum for the redemption of stock. Very evidently this is too large a task for $3,700, and, therefore, the other cheaper, equal system must be adopted.

The total length of all the streets in Washington—all I mean within the limits of the original plan of the city—is 1,028,938 feet, and the length of all the avenues is 186,215 feet; making a total of streets and avenues of 1,215,155 feet, or 230.14 miles.

One dollar per foot may be safely assumed as a very close approximation to the actual cost of a six-inch water main laid with liberal allowance of stop cocks and fire plugs, and six-inch water mains an average all through may be safely assumed as large enough for the supply of the city beyond the great United States mains. Then $1,215,155 would do the whole work if the whole were now needed.

The total area of all the building ground in the city is 121,706,772 square feet, which at one cent per foot, would yield $1,217,067. Therefore, if we tax according to area, and on the basis of a distribution by average six-inch pipes, one cent per square foot is the just and exactly equal tax.

The water tax should be in proportion to area, because the water consumption is in proportion to population, and the area is the measure of the capacity for population. The tax per front foot is unjust, for the lot with several fronts has no more benefit from the water than the lot with one front only.

The above is very respectfully submitted to Senator GRIMES, with apology for its roughness, it having been hastily prepared amid continual interruptions, and without time for revisal or copying, by his very obedient servant,

RANDOLPH COYLE.

I have read this statement, Mr. President, for the purpose of putting it upon the record of this body, as much as anything else, for future reference, containing, as it does, some very interesting and important statistics in regard to the geography of this city, which may be useful to members of this body hereafter. It embraces all that I desire to say, and all that I think it may be necessary to be said in support of the passage of this bill.

Mr. TEN EYCK. I have been requested, by a number of the citizens of the city of Washington, to state their opposition to the passage of this bill, or, more particularly, their objection to the first section; because, with respect to the second section, which proposes to levy a tax to raise a fund to pay for fire-plugs for the benefit of those houses in the immediate neighborhood, there is manifest propriety that that should be done. The objection that I make in behalf of the citizens of this District who have spoken to me, is to the first section; and although I am not very familiar with the facts, still I trust I am sufficiently so to make known the points of objection which they raise to the passage of the bill.

The first section of this bill will operate with great hardship upon the owners of vacant lots in this city. We all know that this city has been called one of magnificent distances. Whether the first characteristic, with reference to its magnificence, is true or not, I am not prepared to say; but with respect to its distances from one point of residence or settled locality to another, it is a striking feature that meets the eye of visiter and stranger. The proposition contained in this bill will enable the city government to impose a tax upon thousands of lineal feet of vacant property, which is now really of no service or value comparatively to the owner, not being in market, and perhaps for years not likely to be, and which is now subject to excess of burdens in the way of taxation. I will refer to some two or three streets. Take Fourteenth street for instance. There is a paved way for something like a distance of half a mile or more without a single residence upon it, with the exception, perhaps, of some two or three buildings at the extreme end near the boundaries of the city; and so with respect to a street running across the mall, and other streets. There are many of them of the same description. This bill proposes to authorize the corporation to levy a tax upon every foot of the vacant lands belonging to the inhabitants of this city so circumstanced, for the purpose of defraying the expense of laying water pipes. It has been represented to me—I know not how the fact is—that if the Government itself has not been, the city corporation have been exceedingly liberal in laying down these water pipes in districts or along streets where there is no earthly use whatever for them, and where, perhaps, for years no water will be taken by persons living in residences yet to be erected along the line of those streets.

I see by an old bill which was before the Senate last year—this is no new matter before the Senate—that the proposition then was to authorize the corporation to levy a tax not to exceed seventy cents per lineal foot along the line of these streets. This bill is not guarded or restricted at all. Suppose the corporation, deriving some index of their idea or intention from the bill proposed at this session, should deem it necessary, in their judgment, to levy a tax of seventy cents per lineal foot along the line of vacant lots, they may impose a tax of seventy dollars upon a lot of one hundred feet front, and then afterwards, as suggested to me by the Senator from Michigan, [Mr. HOWARD,] if the tax is not paid, sell it under the hammer. Sir, I know that these vacant lots are subject, according to the high valuation as fixed by the city, to an onerous burden of taxation already. Why, sir, in 1858, according to a report made to the City Council here, there was then a funded debt of $1,041,000 which this city was liable to pay interest upon, and does pay interest upon every year; and that, in addition to all the expenses of the city government, is levied upon property vacant and improved alike. Take these facts in connection with the vast additional burdens which will be imposed upon the inhabitants of this city in the way of taxation to meet the direct tax bill of the last session and to meet the tax bill created by the necessities of this war, and persons who own vacant lots in this city and have owned them for years had better at once, if possible, get rid of them by gift or in some other way.

These facts are represented to me by the owners of property in this city; and upon the representation being made to me, it struck me as being greatly amiss in Congress at this time to authorize the corporation to impose an additional tax for the purpose stated. It may possibly be that a corporation composed of highly respectable gentlemen may some of them themselves be engaged in a line of business, pipe laying or plumbing, or they may have friends who are engaged in that business, whose influence may be brought to bear upon the corporation to lay down these pipes, under the pretext of its being for the benefit and interest of the city, when in reality the chief benefit to accrue from the laying down of the pipes is to the operatives, mechanics, and employés of these persons who are thus engaged in carrying out the orders of the corporation in laying down the pipes. I do not know that such is the fact; but, sir, having some little knowledge of transactions in city governments and in small towns and in larger towns further north, I know there are a great variety of ways resorted to for the purpose of procuring employment especially that is profitable, and the persons who own property are required to pay the expense.

I do not wish to detain the Senate any longer on this subject; but I would submit one other view. As the Senate has not in times past acted on this measure when the times were much more favorable than they are now, I trust that the Senate will postpone it for the present session at least, if they do not see fit to vote against the bill. There is propriety in such a postponement. I think the Legislature of the Union, acting solely for the advantage and welfare of the people of this District, ought to have regard to the interests of a very large class of persons who are interested in property of this description, and who will be very seriously injured by the proposed measure if it passes. I submit, if it is necessary in order to make these improvements, it would be much more equitable, much more reasonable, that the necessary means for the purpose of laying down these pipes should be raised by a general tax upon the whole of the inhabitants of the city, and that the sum that is necessary and essential for the purpose even of paying the debt that may have been incurred in laying down these pipes, should be paid off by an even assessment upon the property of all the inhabitants alike, improved and unimproved, inasmuch as the laying down of the pipes is designed to be for the general health and welfare of the inhabitants of the whole city.

With these statements, I shall move to strike out the first section of the bill. I hope the Senate will see the propriety of such action at this time, and that I shall obtain their vote in its favor.

The PRESIDENT *pro tempore*. The Senator from New Jersey moves to strike out the first section of the bill, which will be read.

Mr. GRIMES. I suggest that it is hardly necessary to read the section over again.

The PRESIDENT *pro tempore*. The reading will be dispensed with, if there be no objection.

Mr. GRIMES. In the first place, Mr. President, in regard to what are the wishes of the people of the District, I do not know what means the Senator from New Jersey has to ascertain what those wishes are; but, it seems to me that the best criterion by which to judge of them, is the demon-

strations of the City Councils. I believe in 1860, and again a few weeks ago, they passed resolutions in favor of the passage of this bill. Our theory is, that they reflect the wishes of the people of the District. If there is any justice in that theory, we have a right to come to the conclusion that the people of the District desire that this bill should pass. I have mixed somewhat with the people of the District, more, probably, from the fact that I am so unfortunate as to be a member of the Committee on the District of Columbia, and I confess I have not heard a single man oppose the passage of this bill, and I have received but one single communication from any person professing to be a citizen of this District, and with whom I was not acquainted, and whose name I never heard, who was opposed to the passage of it.

I can readily conceive that there should be men who would be opposed to it; but I can hardly conceive that any one would oppose it unless he was a large owner of unproductive and unimproved real estate in the city. They, of course, will oppose it. Although their property will be greatly benefited by the laying down of these water pipes as it would be by the grading or paving of a street or the laying down of sidewalks or of gas pipes, yet I never knew a gentleman in my life who was the owner of unproductive real estate who was not perfectly willing to avoid the payment of taxes and have the expenses of the government borne by those who did own real estate and who were realizing something from its profits. I can very easily imagine that gentlemen of that kind should desire that a general tax should be levied upon all the property of the city to defray expenses of improvements provided for in this bill; but every one will see how exceedingly unjust that would be, after having compelled these citizens of Washington who own real estate, and who have improved it to go to the extent of laying down these mains or of connecting with them, and charging them a rent for their water for a given length of time, then to levy a tax upon them to lay down mains for the benefit of persons who own real estate elsewhere in the city. I apprehend that that suggestion would not meet with much favor here in the Senate.

One argument that the Senator from New Jersey urges against the passage of the bill is, the fact that it has not been acted upon before. The Senator should remember that it is not long since water was introduced into this city. Water has not been furnished to the citizens of this District until within the last two years. There could have been no opportunity, and there would have been no purpose, in passing the bill until within the last two years. Water was brought into a remote portion of the city only a short time ago; and it is within the last fifteen months that it was brought into that part of the city in which I happen to reside, and furnished to the citizens in that neighborhood. But it is true that the citizens of the District and the corporation of the District have been attempting to secure the passage of some law similar to this since 1860, for a year and a half. We were so overwhelmed with business, and that of a very exciting character, during the last Congress that we gave very little attention to the business of the District. That ought not to be urged as a reason why we should not give attention to their business now; but, on the contrary, the fact that we refused to attend to their business then is an additional reason why we should give it greater consideration at this time.

The Senator did not say that these resolutions of the Common Council asking for the passage of this bill had been procured through any improper motives, but he put a hypothetical case which might lead us to suppose that persons interested in plumbing, in the manufacture of pipes, mechanics and others, might have exercised a considerable influence upon the Common Council. How far such considerations controlled them, it is impossible for me to know; but, sir, it cannot be possible that there were enough in that council to secure a unanimous vote in both branches, and then the approbation of the Mayor of the city in addition; and if there were enough to be influenced by such considerations at this time, it seems to me it would require a very strong stretch of the imagination to suppose that a majority of the old council were interested in contracts of this kind or had connection with plumbing contracts or with plumbers sufficient to induce that council also to ask for the passage of the same bill. I do not know how unanimous the vote may have been in the old council, but I understand the resolution passed a few days ago asking for the passage of this bill, was unanimous.

An objection I understand is urged to this bill because it allows the Common Council to levy this tax either upon the area or upon the frontage of the lot. I am indifferent as to whether that provision be retained or not. I would be content to limit it to either. I agree, however, with the water registrar that the true way to levy a water tax in a city with a dense population is upon the area, upon the capabilities, otherwise, of the land to hold a population rather than upon the frontage of the lot. But if that be any obstacle to the passage of the bill, I am content to let Senators amend it to suit themselves.

Mr. TEN EYCK. Only a word by way of reply. Ordinarily, I suppose, when a question is agitated among a people who are entitled to vote, and they elect a body to represent them on that question, that body thus elected does reflect the sentiments of the people; and I confess if this Board of Common Council in the city of Washington had been elected with a view to this water question, that their voice would be an expression of the sentiment of the people who elected them on that question. But such high regard is not always paid to the voice of the people as expressed by the corporate bodies of this city, for it was only yesterday, on a very celebrated and excited question, that we had the voice of the Common Council of the city of Washington expressing their wishes with respect to that subject, but it did not receive much attention. I do not think they represented the voice of the people in that particular myself.

Mr. GRIMES. Allow me to say that that was altogether a different case from this. This only affects certain rights in the city.

Mr. TEN EYCK. But it was a reflection of the interests and wishes of the people of this city, as I understood it, and was designed to have no other effect. That of course is merely a remark in passing. It is entitled to what it is worth.

The Senator says there is no objection made here except by the owners of unimproved property. I should like to know who is to make the exception unless it be those.

Mr. GRIMES. I did not say that there were none. I said I did not know of any.

Mr. TEN EYCK. Well, so far as he knew, the objection came solely from persons of that description. From whom is it to come except from the persons who are to be affected and influenced, even in their pockets, if you see fit to put it on that ground, in relation to this question? If a man happens to be the owner of two hundred or three hundred feet of vacant lots lying along the line of Fourteenth street, upon which are assessed and levied yearly very large sums in the way of taxation, he would naturally be opposed to such a proposition as this, and would have a right to come before the legislative body having control of his interests, and appeal to that body to relieve him from the operation of a bill which would impose an additional tax of a dollar per lineal foot along the whole line and extent of his front, and also of his rear. Why, sir, these are the men to object, and it is in behalf of these men that I interpose this objection to the passage of this bill.

I notice in an act which was passed on the subject in relation to the introduction of water into the city, dated the 3d of March, 1859, that it is provided in the fourth section:

"That for the purpose of enabling the corporations to carry out the provisions of this act, it shall be competent for them to borrow, in such proportions as they may deem expedient, a sum of money not exceeding $150,000 for the city of Washington, and $50,000 for the city of Georgetown, redeemable within a period of ten years out of any revenue to be derived from the water rents."

I understand from the chairman of the Committee on the District of Columbia that one hundred and six or one hundred and seven thousand dollars, or about that amount, have been borrowed for the purpose of making the improvement. By the fourth section of that act, the principal is to be restored within a period of ten years out of the revenue to be derived from the water rents. From the knowledge we have of the unprofitableness, so to speak, of this improvement, or the introduction of water into this city, it is manifest that this loan cannot be returned within the period of ten years out of the water rents.

It may be, for aught I know, that some person or persons interested in making a loan to this city are desirous of securing an additional guarantee, by way of legislation, for the payment of this debt by the imposition of taxes to a large extent upon vacant lots in this city, where the water rents are not now taken, and where there are no houses erected for the purpose of affording this revenue. If such should be the case, and there is now a debt due from the city for money borrowed for the purpose of effecting this great public improvement for the health, convenience, cleanliness, and general advantage of the inhabitants of this city, which cannot be paid off in any other way, or by the revenues to be derived from the introduction of the water and from its use, I submit whether or not that debt ought not to be paid by an imposition of taxes upon the inhabitants of this city generally, and upon the property of this city generally, improved and unimproved.

I do not mean to allege that any such motive has operated in this case, because I do not know that that is really the fact; but I have heard it stated that such was the case; and it seems to me to be reasonable to suppose that that was one of the means by which this bill was put in operation. Whether it was so or not, I submit most respectfully to the State, that at this time, under existing circumstances, when this city and the people of this city absolutely groan under the imposition of public taxation, municipal and national, an additional tax, at least during the present rebellion, ought not to be imposed upon them. With that view, I respectfully insist on the motion I have made, and I hope it will be agreed to. I ask for the yeas and nays upon it.

The yeas and nays were ordered; and being taken, resulted—yeas 13, nays 24; as follows:

YEAS—Messrs. Carlile, Cowan, Davis, Dixon, Harris, Kennedy, Latham, Powell, Stark, Ten Eyck, Willey, Wilson of Missouri, and Wright—13.

NAYS—Messrs. Anthony, Browning, Chandler, Collamer, Fessenden, Foot, Foster, Grimes, Harlan, Henderson, Howard, Howe, King, Lane of Indiana, Lane of Kansas, Morrill, Nesmith, Pomeroy, Saulsbury, Sumner, Trumbull, Wade, Wilmot, and Wilson of Massachusetts—24.

So the amendment was rejected.

Mr. TEN EYCK. I will move a further amendment in the eighth line of the first section, after the word "property," to insert the words "except unimproved lots."

Mr. GRIMES. This is substantially the same question that we have already decided. I wish to state what will be the effect of the proposition. For instance, here are three or four persons owning residences on one square. Three or four other persons own real estate on that square which is not improved. If this amendment should be adopted, it will put it in the power of those three or four men who own no improved real estate to prevent the laying down of water pipes along that street, to the great injury of the persons who own the improved property, and to the injury of the city, inasmuch as that property is so much more liable to destruction by fire than it would be if the amendment was not adopted. The purpose of the bill is to allow every person to pay his proportion of the taxes that may be necessary to lay down the water pipes.

Mr. TEN EYCK. The effect of the first section, as it now stands, in my judgment, is to enable one or two persons who live half a mile from any other resident along the line of a street to have the water brought to their doors at the expense of the owners of all the vacant lots through that whole length of half a mile. That is the effect of it on lines of street that have been laid out in the formation of the capital, which have not been improved on. I repeat, the object is to enable them to have the water brought at the expense of the owners of the intermediate ground, vacant, unimproved, and subject to heavy taxation now, where it is not likely that a house will be erected for thirty years to come, with a view of raising a fund to discharge this loan, perhaps, to which I have alluded. I do not mean to make any further trouble on this matter.

The question being put, there were, on a division—ayes 15, noes 13; no quorum voting.

Mr. WILSON, of Massachusetts, called for the yeas and nays; and they were ordered, and being taken, resulted—yeas 17, nays 19; as follows.

YEAS—Messrs. Carlile, Collamer, Davis, Dixon, Doo-

little, Howard, Howe, Kennedy, Lane of Indiana, Latham, Powell, Saulsbury, Stark, Ten Eyck, Willey, Wilson of Missouri, and Wright—17.

NAYS—Messrs. Anthony, Browning, Chandler, Cowan, Fessenden, Foot, Foster, Grimes, Harlan, Henderson, King, Lane of Kansas, Nesmith, Pomeroy, Sumner, Trumbull, Wade, Wilmot, and Wilson of Massachusetts—19.

So the amendment was rejected.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

WATER TAX IN GEORGETOWN.

On motion of Mr. GRIMES, the bill (S. No. 211) to authorize the corporation of Georgetown, in the District of Columbia, to levy and collect a water tax, and for other purposes, was considered as in Committee of the Whole. It proposes that the Mayor, Recorder, Aldermen, and Common Council of Georgetown, in the District of Columbia, shall have full power and authority to levy and collect a tax not exceeding sixty cents per front foot on all lots and parts of lots within the corporate limits in front of or parallel to which water mains have been or may hereafter be laid; or, in their discretion, to appropriate from the corporate funds generally so much money as may be necessary to supply the inhabitants with Potomac water from the aqueduct mains or pipes now laid or to be laid in the streets by the United States; and to make all laws and regulations for the proper distribution of the same, subject to the restrictions prescribed by this act, and the act approved March 3, 1859, and entitled "An act to provide for the care and preservation of the works constructed by the United States for bringing the Potomac water into the cities of Washington and Georgetown, for the supply of said water for all Government purposes, and for the uses and benefits of the inhabitants of said cities." The corporation is to have full power and authority to collect such taxes, when so fixed, in advance, or otherwise, through such agents, collectors, or commissioners, as they may designate and appoint; and upon the failure of any owner of lots to pay the taxes to sell the same; or to stop the supply of water to the same; or to distrain and sell the personal effects of the owner; and in the case of any sale the same proceedings are to be observed as are adopted in enforcing the collection of the general tax of the town; and generally to enact such laws as may be necessary to furnish the inhabitants of the town with pure and wholesome water, and to carry into complete effect the powers thus granted; but the taxes levied by virtue of this act are never to be a source of revenue other than as a means of supplying the town with water.

In levying the front foot tax, the corporation, in all cases where lots may be situated at the intersection of two streets and fronting on the same, is so to reduce and graduate the tax as not to exceed in all a tax upon one hundred feet front; and in all cases where property may have a front on any one or more streets of more than one hundred feet, so to reduce and graduate the tax thereon as not to exceed a tax upon one hundred feet front.

All ordinances and resolutions relating to the distribution of Potomac water through the town, and the collection of a water tax, and the ordinances and resolutions heretofore passed by the corporation particularly mentioned in this section, are ratified and confirmed.

In case of a failure to pay any taxes whatever laid by the corporation by virtue of its vested powers, it is to be lawful to sell, in the discretion of the collector or other proper officer, either the real or personal estate, or both, of the delinquent tax payer.

The person appointed to collect any taxes imposed by the corporation in pursuance of its vested powers, is to have authority to collect the same by distress and sale of the goods and chattels of the person chargeable therewith; but no such sale is to be made unless ten days previous notice thereof be given in some newspaper printed in the District of Columbia; and the provisions of the acts of Maryland now in force within the district relating to the right of replevying personal property taken in execution for public taxes, is to apply to all cases of personal property taken by distress to satisfy taxes imposed by virtue of these corporate powers.

The corporation is to have power and authority to repair any of the footways of the streets in the town, and to impose and collect such tax on the lots adjoining as may be necessary to pay the expense.

So much of the first section of the act approved May 31, 1830, entitled "An act to amend the charter of Georgetown," as provides that nothing in the act shall change the manner of giving notice of the sales of property owned by persons not residing in the District of Columbia, is hereby repealed. Some provisions of acts heretofore passed are repealed to avoid a conflict between the enactments.

The bill was reported to the Senate, ordered to be engrossed, read the third time, and passed.

HIGHWAYS IN WASHINGTON COUNTY.

On motion of Mr. GRIMES, the bill (S. No. 124) relating to highways in the county of Washton and District of Columbia was considered as in Committee of the Whole. If this bill be passed it will be lawful for the levy court of Washington county to alter, repair, and regulate the public roads and highways in the county, and to lay out additional roads. All roads within the county of Washington which have been used by the public for a period of twenty-five years or more as a highway, and have been recognized by the levy court as public county roads, and for the repairs of which the levy court has appropriated and expended money, are declared public highways, whether the same have been recorded or not; and any person who shall obstruct the free use of them without authority from the levy court will be subject to a fine for each offense of not less than $100 or more than $250, to be imprisoned till the fine and the costs of suit and collection of the same are paid. The fines are to be collected in the name of the United States for the use of the levy court. Within one year from the passage of this act the levy court is to cause the surveyor of the county of Washington to survey and plat all such roads as are named in the last preceding section, and have the same recorded among the records of the county now used for recording surveys and plats of other public county roads; and in making the survey, the county surveyor is to follow as nearly as possible the lines and boundaries heretofore used and known as a highway, and cause the lines and boundaries of the same to be permanently marked and fixed by the erection of stones or posts at the different angles thereof.

All such roads as are named in the second section as have been obstructed by any person in any manner within the last six years, are to be reopened by the levy court, if, in the judgment of that court, the public convenience requires it; and the expenses incurred are to be paid by the person who obstructed them, and be collected as fines are required to be collected. Hereafter, in laying out new roads in the county of Washington, the levy court is to cause the roads to be of a width of not less than fifty nor more than one hundred feet, as the levy court may deem best for the public interest; and, for the purpose of opening the roads, the levy court is empowered to cause to be condemned any lands necessary for the same, as other lands are now condemned by law. In any case where materials shall be necessary for making or repairing a public road, if the levy court cannot agree with the owner as to their purchase, the court may proceed in the same manner for condemning the materials as in cases of condemnation of land for the purposes of a public road. No field or garden or yard in actual cultivation, is to be laid open or used as a public highway until after the usual time of taking off the crops growing thereon.

Mr. GRIMES. I offer the following as an additional section:

And be it further enacted, That the requirement in the existing laws that members of the levy court shall be appointed from among the justices of the peace in the county of Washington, is hereby repealed.

I will merely state that under the laws as they now exist no person can be a member of the levy court of Washington county (which corresponds to the boards of county commissioners in some States and to the county judge in other States) unless he is a justice of the peace. Under this condition of things, some persons are appointed justices of the peace merely for the purpose of becoming members of the levy court, and they are required to qualify as justices. The purpose is to authorize the President of the United States to appoint a member of the levy court without his having first to be appointed a justice of the peace. It seems to me there can be no objection to it. It is desired, I believe, by the community.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

ADJOURNMENT TO MONDAY.

On motion of Mr. ANTHONY, it was

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

CIRCULATION OF SMALL NOTES.

On motion of Mr. GRIMES, the bill (S. No. 193) to repeal that part of an act of Congress that prohibits the circulation of bank notes of a less denomination than five dollars in the District of Columbia, was read the second time, and considered as in Committee of the Whole. It proposes to repeal the second and sixth sections of an act entitled "An act to suppress the circulation of small notes as a currency in the District of Columbia," approved December 27, 1854.

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

Mr. COLLAMER. I wish to inquire whether the circulation of bank notes of any kind is lawful in this District, and whether there is any law for it?

Mr. GRIMES. If the Senator asks me whether there is any law for the circulation of bank notes issued by banks of the District——

Mr. COLLAMER. That is what I mean.

Mr. GRIMES. There is no such law. I understand there are no banks that have charters in this District; but this bill does not relate to them. We have in this District four or five banks that are doing business without any charters. The Senator from Missouri, who is a colleague of mine upon the Committee on the District of Columbia, [Mr. HENDERSON,] has had referred to his special charge the subject of banks in this District, and he can inform the Senator from Vermont better that I can. I understand him to have investigated the subject, and to report that there is no legally existing charter for any of the banks in this District; but this bill does not relate to that. We have a law upon our statute-book which declares that the circulation of no bank notes shall be permitted in this District, no matter where they are issued or by what banks they are issued, of a less denomination than five dollars.

Mr. COLLAMER. Now, is this proposition to let them issue and use fractional bills for twenty-five cents and fifty cents?

Mr. GRIMES. No, sir.

Mr. COLLAMER. Does this limit it?

Mr. GRIMES. No, sir; this bill merely repeals that portion of the law which says, that, for instance, the Senator from Vermont, when he comes here with three or four Vermont bills in his pocket, and undertakes to pass them for some necessary article that he may choose to purchase, shall not be liable to a fine for having done so. That is all.

Mr. COLLAMER. I should never be troubled about being fined for passing money, for I never have any. [Laughter.]

Mr. GRIMES. That is the purpose and object of the bill.

Mr. COLLAMER. I desire, if it be practicable, that it shall be so amended as not to justify the circulation of fractional bills.

Mr. GRIMES. It does not authorize the circulation of bills of any denomination. It merely says that that law now on the statute-book which makes it an offense to receive a bill issued in New York or Vermont shall be repealed.

Mr. COLLAMER. I do not care where it is from.

Mr. GRIMES. I know the Senator does not care so that he gets the money. [Laughter.]

Mr. COLLAMER. What I want is to provide against the circulation of any bill under one dollar.

The PRESIDENT *pro tempore*. The bill is not now open to amendment. The Senator can only reach his object by a motion to reconsider.

Mr. COLLAMER. I move to reconsider the vote ordering the bill to a third reading.

The motion was agreed to.

The PRESIDENT *pro tempore*. The bill is now open to amendment.

Mr. COLLAMER. I move to amend it by inserting this proviso:

Provided, nevertheless, That the circulation of bills of a less amount than one dollar shall still remain prohibited.

Mr. HALE. Will the Senator from Vermont add "or any fractional part of a dollar." They might issue bills for $1 25.

Mr. COLLAMER. Let it be put in this form:

Provided, That the circulation of bills of a less amount than one dollar, or bills of any denomination containing the fractional part of a dollar, shall still be prohibited.

Mr. HALE. That will do.

Mr. SHERMAN. Do I understand the Senator from Iowa to say distinctly that this bill does not authorize the issue of small notes by any existing corporation?

Mr. GRIMES. Certainly.

Mr. SHERMAN. The whole of this subject in regard to small bills is before the Committee on Finance, and in the absence of the chairman of that committee I should dislike to see the Senate take any action upon it.

Mr. COLLAMER. I merely wish to take care that in repealing the law which prohibited the circulation of bills less than five dollars, we shall not allow the issuing and circulation of notes for fractional parts of a dollar.

Mr. SHERMAN. The present law is habitually violated, and I see no reason for keeping it on the statute-book. It prohibits as an offense what is so common that no one thinks of prosecuting under it. I am, therefore, for removing the prohibition; but there is a question as to whether we shall allow the old banks whose charters have expired to issue small bills.

Mr. GRIMES. That is not touched by this bill. The bill is designed to accomplish the very purpose the Senator from Ohio suggests, to remove from the statute-book two sections of a law which everybody in the District is violating.

Mr. HALE. I was drafting an amendment to meet the objection suggested by the Senator from Ohio when he got up. I will offer it, and though it may not be exactly necessary, it can certainly do no harm:

Provided, That this law shall not authorize the issuing of any bills by any bank not legally authorized to issue them.

The PRESIDENT *pro tempore.* The question now is on the amendment moved by the Senator from Vermont.

Mr. TRUMBULL. Before that is agreed to, I have a word to say. The act of 1854 contains some nine sections. The first section, which this bill does not propose to interfere with at all, prohibits the issue in the District of Columbia of any note of a less denomination than five dollars. That will remain in force just as it is, after we pass this bill. The second section of that act, which it is proposed to repeal, makes it unlawful to pass or offer to pass within this District any bank note, promissory note, or any instrument of writing of a less denomination than five dollars, as money, or in lieu of money or of any other currency; and the sixth section, which it is also proposed to repeal, provides the mode of punishment for a violation of that provision. This bill, as I understand it, repeals those two sections and does no more. I have only hastily looked at the law, and these sections interfere with the passing of notes which are brought here from abroad. The law will still remain in force prohibiting any corporation or association or body politic in the District of Columbia from issuing small notes.

Mr. HALE. I happen to recollect something about the history of the banks in this District, and it is a little peculiar; but I am led to refer to it by a remark that fell from the chairman of the Committee on the District of Columbia, and that was, that there are banks now doing business here without any charter. Am I not right in that?

Mr. GRIMES. The Senator from Missouri has had that subject specially referred to him, and he can speak understandingly on it. I cannot.

Mr. HALE. I think I can speak a little understandingly upon it; and I think you can, too, Mr. President. About the year 1844, I think, the charter of the banks then existing in this District expired, and there was an attempt made to get recharters. The House of Representatives at that time refused to recharter them, pretty obstinately. There were circulated at that time in the House of Representatives certain legal opinions of some gentlemen in this city certifying that if the banks were not rechartered, or if something was not done, they could not legally collect their debts. I am not certain that that opinion was not signed by a distinguished gentleman of the legal profession from the city of Baltimore; but it was signed by some distinguished lawyers here; and upon the strength of that, a temporary arrangement was made by which some trustees were appointed simply for the purpose of enabling the banks to meet that difficulty which was suggested by the legal gentlemen who had given this opinion, that was printed and extensively circulated. An arrangement was made, the precise terms of which I do not now remember, by which those trustees were authorized to collect the debts. If I am not exceedingly mistaken, under that temporary arrangement that was made for the convenience of the banks, so that their debts might not be entirely lost, and they deprived of any legal remedy against their debtors, they have gone on to this day exercising banking privileges; at least, those of them that have not blown up and exploded. If that is the case—it was for years, and I presume it is to-day—with all due respect for these gentlemen, and with, certainly, a disclaimer of any intention to say anything unkind, I think it is a disgrace to to the national capital that such a game as that should be played right before the eyes of Congress, and continued for years and years; and I hope the Committee on the District of Columbia will give their attention to it; and that they will introduce some bills by which there shall not be perpetrated in this District, under the very eyes of Congress, a system of issuing illegal currency, which has been continued for years under such a pretext as that. Knowing what has been done under that bill for the appointment of trustees to collect debts, I desire to exclude the conclusion that this bill which we now pass authorizes them to issue any other notes than those they may be legally entitled to issue, and simply to say that this law shall not authorize the issuing of any bills by any bank not legally authorized to issue them. I move that as an amendment to the last amendment pending.

Mr. COLLAMER. It would be better to say that this act shall not authorize them to issue bills, unless they are otherwise authorized to do so.

Mr. HALE. Very well; I will put it in that form, and I move it as an amendment to the amendment of the Senator from Vermont.

Mr. TRUMBULL. Let the amendments be read.

The Secretary read the amendment of Mr. COLLAMER, to add to the bill:

Provided, That the circulation or passing of bills of a less amount than one dollar, or bills of any denomination containing the fractional part of a dollar, shall still remain prohibited.

The Secretary also read Mr. HALE's amendment to the amendment:

And provided further, That this law shall not authorize the issuing of any bills of any bank not otherwise legally authorized to issue the same.

The PRESIDENT *pro tempore.* The question is on the amendment to the amendment.

Mr. TRUMBULL. I can see no possible good in that last amendment.

Mr. HALE. It can do no harm.

Mr. TRUMBULL. It is incumbering the statute-book without any object in the world. Certainly this bill does not authorize any bank to issue notes. It simply repeals those sections of the law of 1854 that prohibit the passing of notes under five dollars in this District; that is all. The first section of the act of 1854 still remains in force here, and no bank in this District can issue a bill under five dollars.

Mr. FESSENDEN. Is any bank in this District authorized to issue any bill at all?

Mr. TRUMBULL. I understand not. I have just learned from the chairman of the committee that there are no banks in the District legally existing; but individuals, perhaps, might issue shinplasters to circulate as money, if they could get persons to take them. That is prohibited by the law as it stands.

Mr. GRIMES. I am told—I do not know it to be so, because none of these bank officers have conferred with me on the subject—that these banks are now organized with the old bank names, but composed of stockholders who are acting under a sort of limited partnership law. I do not know anything about it, though, for I have had no conference with these gentlemen; perhaps the Senator from Missouri has had. But the committee, when they introduced this bill, examined all the laws that had been in existence before, and came to the conclusion that there was no necessity for any legislation on this subject at this time, at any rate, in this bill, except to repeal the second and sixth sections of the act of 1854. The second section of that act made it an offense for any person to pay out or receive a bill of a smaller denomination than five dollars in this District. The other sections declare that nobody in the District shall issue anything smaller than five dollars. Therefore we have accomplished by the old law as it stands and the amendment to it submitted by the committee, precisely what the Senator from New Hampshire desires, as I understand him; but I am willing that the bill shall be amended in any way that gentlemen choose, if they think it will be safer to do it.

Mr. HENDERSON. I will state in reference to this matter that perhaps a part of the blame attaches to me that is thrown upon the shoulders of the Committee on the District of Columbia, for I have had in my hands for some considerable length of time a bill the object of which is to enable the banks in the District of Columbia to issue small notes. I, of course, knew nothing about this matter when it was first presented to me, and I knew nothing of the laws of this District. When I came to investigate, I found the fact to be as stated by the chairman of the committee. There is no legal bank now in existence in the District of Columbia at all. Banks existed here a great many years under laws of Congress; they had been incorporated by various acts from a very early date down to about 1844; but those bank charters have now expired, and there is no bank with a legal existence in the District of Columbia. I have asked some of these banking gentlemen with whom I have conversed, under what authority they pretend to issue paper, and they tell me that they have legal advice on the subject to the effect that they can issue paper. It is true that they do not pretend to issue paper of a denomination less than five dollars, simply on account of the penalties imposed by the act of 1854, two sections of which are proposed to be repealed by the bill now under consideration.

This is a bill proposing to repeal the second and sixth sections of the act of 1854. The first section of that act undertook to prohibit the issuing, emitting of bills of credit by any bank or by any individual in the District of Columbia, of a less denomination than five dollars. The second section prohibited not the emission, not the issue, but the circulation by individuals of bank notes coming from other States, if you please, of a less denomination than five dollars. It is not proposed by the bill under consideration to interfere with the issue of paper by banks here, because there is another bill pending before the committee which undertakes to dispose of that subject. This bill is only to relieve individuals of the prohibition imposed by the act of 1854, thereby leaving individuals in the District of Columbia to circulate bank notes from the States of a less denomination than five dollars. But this bill will not enable the banks to issue such bills, because they are still laboring under the penalties imposed by the first section of the act of 1854, and they are prohibited by that section from issuing them. This bill has nothing at all to do with the issue of small notes by the banks of this District. It only enables individuals in the District of Columbia to receive and pay out here small notes from the different States. I apprehend that that is the only thing intended to be accomplished by this bill.

There was a very great deal of complaint before the committee by citizens of the District of Columbia upon this subject. They tell us that they labor under very great inconveniences, and insist that they should be authorized at a period of time when small coin cannot be obtained, to receive and pay out these small notes. It is a question for the consideration of the Senate as to whether this privilege shall be granted or not. That is all that the present bill undertakes to do.

The amendment of the Senator from New Hampshire will not accomplish anything. The Senator will see, if he will examine the act of 1854, and then examine the bill under consideration, that his amendment does not accomplish anything. The amendment itself is altogether proper; the amendment itself would have met the concurrence of the

committee no doubt; but the bill as it is will accomplish all that it can accomplish if the amendment be placed upon it. It is not intended to interfere with the banks. Now, in reference to that question I will state that there is an application here on the part of the banks of the District that they be permitted to issue small notes. There are five banks here. I believe they are solvent; so far as my information extends they are perfectly so; and in all probability the issue of paper by these banks would be a very great convenience to the people of the District. The banks here are owned by men who are perfectly solvent, they having organized, as I understand, as a copartnership of individuals, and issuing paper as a copartnership and not as a corporation; and perhaps it would be a very great convenience to the people of the District to enable these banks to issue notes, but so far as I am concerned I shall vote for no such proposition in the present condition of affairs, simply because there are legally no banks here. It is true they have legal opinions to the effect that they can go on and issue paper, that they have authority to emit bills of credit, although they are not authorized to do so by any act of incorporation, and although their charters have expired; but I am not disposed to suffer them to issue any more paper than they have already in circulation, anyhow.

It is not the fault of the Committee on the District of Columbia, as intimated by the Senator from New Hampshire, that these banks, or the individuals owning the banks, have not been prosecuted for a violation of law. If they have issued bills of credit, if they have emitted bank notes in the District contrary to the law, surely it is not our fault, but it is the duty of the executive officers to prosecute them. Under the act of 1854 they do not issue paper less than five dollars in amount; and if this bill be passed they will still labor under that prohibition and cannot issue small paper. The remarks made by the Senator from Illinois are perfectly correct on this subject. The amendment accomplishes nothing. The banks cannot issue small notes, and will not be permitted to do so unless we pass the bill, which, at their request, as I learn, has been placed before Congress, enabling them to issue bank notes of a less denomination than five dollars. They are not authorized to issue any bills, in my view. I have not examined the legal question; they have the legal opinions of able counsel upon the subject that the stockholders having organized as copartnerships, being individually responsible for their issues, may issue paper, and that they have authority to do it under the laws as they exist here. That is a question to be considered, whether individuals as a copartnership can issue paper at all to pass as a circulating medium without an act of incorporation. That will be a question for consideration when the other bill comes up before the Senate.

Mr. DAVIS. I happened to be a member of the House of Representatives when this state of things originated, and it was brought upon this District from the refusal of the then Congress of the United States to recharter the banks of the District. A notion was got up in the country about that time that we should have a hard currency, and it was that idea which intervened and prevented a recharter of the District banks. They had suspended specie payments, I think, about the time of the general suspension in 1842. It was said in Congress by the friends of the stockholders in those banks, that unless some law was passed which would permit them to collect their debts by suit they would lose them; and a law for that purpose, and for no other purpose, if I recollect aright, was passed. Under that law, I understand that some of these corporators claimed the right to bank in perpetuity. That was never the purpose or the object of the law passed by Congress, but it was simply to prevent loss to the stockholders by allowing them to collect their outstanding debts.

Now, I would respectfully suggest to the chairman of the Committee on the District of Columbia, for I have always been a true and uniform friend of this District, that the committee report a bill repealing the law which authorized the existing banks of that day to collect their debts—there is no longer any reason for its continuance I presume—and to grant proper and well guarded charters to such other banking companies as may ask for regular charters, and to permit the companies which shall be thus regularly chartered to issue notes of a less denomination than five and over the amount of one dollar. The act of 1844 was never intended by Congress to authorize banking, but it is claimed now by those who are acting under it to give them perpetual banking powers. I do not think this privilege which is now proposed to be extended to regular banks of issuing notes under five dollars, should be allowed to these irregular corporations. It would seem to me, therefore, to be entirely just, and according to true and sound policy that that law under which they claim perpetual banking powers should be repealed, and that proper and well guarded charters for a suitable number of banks for the District should be passed by Congress at its present session, and that those banks under the new charter should be permitted to issue notes of a less denomination than five dollars.

The PRESIDENT *pro tempore*. The question is on the amendment moved by the Senator from New Hampshire to the amendment moved by the Senator from Vermont.

The amendment to the amendment was agreed to, and the amendment as amended was adopted.

Mr. GRIMES. I should like to hear the bill read as it now stands.

The Secretary read it.

Mr. DAVIS. The amendment proposed by the Senator from New Hampshire, as it has been inserted in the bill, effects nothing in my judgment. If these irregular associations, by a law which was never intended to have that effect, are authorized to exercise banking privileges, they will have the right to issue these notes of a less denomination than five dollars. What is to prevent them?

Mr. HALE. If the Senator will read the laws that have been passed within the last twenty years in regard to banks in this District, and then read the decisions that have been made by the judiciary within the same time, he will see that there may be some necessity for this proviso. The construction of the judiciary has been, in numerous instances, something that no human ingenuity could ever have argued from the laws themselves; and my amendment, if it does nothing else, will defeat a construction that might be put upon it by the judges.

Mr. DAVIS. I give up in despair; I can do nothing with the Senator from New Hampshire. [Laughter.]

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

SUFFRAGE IN THE DISTRICT.

On motion of Mr. GRIMES, the bill (S. No. 230) to amend an act entitled "An act to continue, alter, and amend the charter of the city of Washington," was considered as in Committee of the Whole. It proposes that the fifth section of the act approved 17th of May, 1848, entitled "An act to continue, alter, and amend the charter of the city of Washington," be so amended that every free white male citizen of the United States who shall have attained the age of twenty-one years, and shall have resided in the city of Washington, District of Columbia, six months immediately preceding the day of election, and shall be a resident of the ward in which he shall offer to vote, and shall have been returned on the books of the corporation during the year ending the 31st of December next preceding the day of election, as subject to a school tax for that year, (except persons *non compos mentis*, vagrants, paupers, or persons who have been convicted for any infamous crime,) and who shall have paid the school taxes and all taxes on personal property due from him, shall be entitled to vote for Mayor, members of the Board of Aldermen, and Board of Common Council, and assessors, and for every officer authorized to be elected in the city of Washington under any law of Congress; and all laws or parts of laws inconsistent with the provisions of this act are to be repealed.

Mr. GRIMES. It is proper that I should say that the City Councils have protested against the passage of this bill; and although it was approved by a majority of the Committee on the District of Columbia, yet from a conference with the members of the committee since the meeting to-day, I doubt if a majority of them are now in favor of it. I am not particular myself as to its passage, and am simply desirous that the Senate should understand its import, and I leave it to the good judgment of the members here present without any special recommendation from the committee on the subject. The bill reduces the period of time a person is required to reside in the District, in order to become a voter at the city election, from twelve months to six months. That is the whole scope of the bill. I have nothing further to say on the subject.

Mr. POMEROY. I suggest to the Senator from Iowa to amend the bill, if it is going to pass, so as not to have the payment of a tax a condition on which a man may vote.

Mr. GRIMES. It is so now.

Mr. POMEROY. It may be the law now, as the Senator says. I know very well that in the community where I live, there were sometimes conditions annexed to the right of voting, and so many conditions that the effect was to prevent a portion of the citizens from voting at all. The Senator must be aware that if the parties charged with the collection of the tax choose not to assess a man to the school tax, he cannot vote under this bill. In this way one party might deprive their opponents of voting forever. Suppose a party should want to perpetuate themselves in office in this District, all they have to do is to neglect to tax the other party with the school tax and they thereby deprive them of the right to vote. For my own part, I believe a man should vote, if he has the other qualifications, without being compelled to pay a tax. A man may not be taxed by no fault of his. If a law now exists on the statute-book requiring the payment of a tax as a condition to the right to vote, I think it is high time it should be repealed.

As a general thing, I believe a residence of one year is required in the States as establishing the citizenship of a man before he is allowed to vote; but in the Territories six months' residence has generally entitled a man to vote; I know it was so with us when we were a Territory. As the citizens of this District generally come from the States, there may be reasons why six months' residence should be enough to entitle a man to vote here. But the point I have in my mind is, that if the bill is to pass, it should be amended so as not to require the payment of a tax as a condition precedent to the right of voting. If a man pays the tax assessed on him, he is a very good citizen; but if the authorities neglect to tax him, it is no reason why he should be debarred from voting. I hope the Senator will amend his bill in that particular, and then we shall pass it.

Mr. TEN EYCK. I think it is pretty manifest, from what the chairman of the Committee on the District of Columbia states, that there is no special desire for the passage of this bill at this time. He states that the City Councils have protested against it; and in relation to another matter this morning it has been seen that that reflects the views of the people of the District to a certain extent; and he also states that the majority of the committee themselves, since the bill was first reported, are not in favor of its passage; and I presume that is the true state of the case. The people of this District resemble very much the people of the States, and the usual plan has been to require a residence of twelve months before voting. I hope we may have a vote, and that the bill may be rejected.

The bill was reported to the Senate without amendment.

Mr. POMEROY. I move to amend the bill by striking out all that relates to the payment of a tax as a condition of voting. I do not know the language.

Mr. SHERMAN. I move that the bill be indefinitely postponed. In most of the States of the Union one year's residence is required; and I do not see why it should be lessened in this District.

The PRESIDENT *pro tempore*. The motion of the Senator from Ohio takes precedence. It is moved that the bill be indefinitely postponed.

Mr. LANE, of Kansas. I should like to hear the bill read. I was out when it came up.

The Secretary read it.

Mr. LANE, of Kansas. I should like to ask the chairman of the committee what residence is required now?

Mr. GRIMES. Twelve months.

Mr. LANE, of Kansas. I am in favor of six months without any taxes.

The motion was agreed to; and the bill was postponed indefinitely.

SCHOOLS IN WASHINGTON COUNTY.

Mr. GRIMES. I move that the Senate now proceed to the consideration of Senate bill No. 240.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 240) to provide for the public instruction of youth in primary schools throughout the county of Washington, in the District of Columbia, without the limits of the cities of Washington and Georgetown.

Mr. GRIMES. Before the bill is read, I wish to propose some amendments on which the question can be taken altogether. In line seven of section nine, after the word "the" and before the word "taxable," I move to insert the word "white;" in line nineteen of section nine, before the word "inhabitants," insert the word "white;" in line thirty-three of section nine, after the word "district," insert the words "owned by white persons;" in line forty-six of section nine, before the word "citizens," insert the word "white;" in line four of section twelve, after the word "district," insert the words "owned by white persons;" in line seven of section thirteen, after the word "Georgetown," insert the words "owned by white persons;" in line twenty-two of section sixteen, between the words "the" and "taxable," insert the word "white;" in line seven of section twenty-two, between the words "of" and "children," insert the word "white;" in line one of section thirty-three, after the word "any," insert the word "white." The purpose is to make the bill conform to the views of the committee—the bill was not printed in consonance with their views—and to confine the levy of taxes to white persons in the District, and to open the schools to the admission of white children.

The amendments were agreed to.

Mr. GRIMES. I now move another amendment, to be inserted as an additional section of the bill:

SEC. —. *And be it further enacted*, That the said levy court may, in its discretion, and if it shall be deemed by said court best for the interests and welfare of the colored people residing in said county, levy an annual tax of one eighth of one per cent. on all taxable property in said county outside of the limits of the cities of Washington and Georgetown owned by persons of color, for the purpose of initiating a system of education of colored children in said county; which tax shall be collected in the same manner as the tax named in section thirteen of this act. And it shall be the duty of the trustees elected under section nine to provide suitable and convenient rooms for holding schools, to employ teachers therefor, and to appropriate the proceeds of said tax to the payment of teachers' wages, rent of schoolrooms, fuel, and other necessary expenses pertaining to said school; to exercise a general supervision over them; to establish proper discipline, and to endeavor to frame a full, equal, and useful instruction of the colored children in said county. It shall be lawful for said trustees to impose a tax of not more than fifty cents per month on the parent or guardian of each child attending such school, to be applied to the payment of the expenses of the school of which such child shall be an attendant; and in the exercise of this power the trustees may from time to time discontinue the payment altogether, or may graduate the tax according to the ability of the child and the wants of the school. And said trustees are authorized to receive any donations or contributions that may be made for the benefit of said school by persons disposed to aid in the elevation of the colored population of the District of Columbia, and to apply the same in such manner as in their opinion shall be best calculated to effect the objects of the donors; said trustees being required to account for all the funds received by them and to report to the commissioners in accordance with the provisions of section twenty-second of this act.

The amendment was adopted.

The PRESIDING OFFICER, (Mr. SHERMAN in the chair.) Is it the desire of the Senate to have the bill read. ["Oh, no."]

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

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

Mr. TRUMBULL. This is a very long bill. I have very great confidence in the Committee on the District of Columbia, and I presume it is all right; but it seems to me the bill ought to be read.

The PRESIDING OFFICER. If it is desired by any Senator, the bill will be read.

Mr. TRUMBULL. It is a bill of a dozen pages or more, and perhaps that is the very reason why no one is willing to have it read. I do not like that way of doing business. However, I shall not insist on its being read for my benefit. I have looked over it hastily since it has been called up at my desk. I have not been able to read it all through.

The PRESIDING OFFICER. Does the Chair understand the Senator as desiring the bill to be read.

Mr. TRUMBULL. No, sir; I have called attention to it. I have endeavored to glance at this bill at my desk since it has been taken up. It is true it has been printed, and every Senator has had an opportunity to read it; but I have not availed myself of my opportunities.

Mr. GRIMES. I will state that this bill is precisely similar to one that passed the Senate some years ago, with the exception that it exempts the property of colored persons from tax, and with the exception also of the new section which I proposed.

Mr. SUMNER. I will ask the chairman of the committee if this is not the bill that was under discussion about two years ago?

Mr. GRIMES. No, sir; this bill has not been under discussion since I have been in Congress. The bill which was under discussion, and to which the Senator refers, was in regard to schools in the city of Washington. This is copied from a bill which was passed at the Thirty-Fifth Congress. It was a printed bill when I got hold of it; and the only changes that have been made in it are those that I have stated. But, of course, I am willing to sit and hear it read, if it is required. It only changes it in this regard, that it exempts property——

Mr. KING. I think it had better be read.

Mr. GRIMES. Very well.

The PRESIDING OFFICER. The bill will be read.

The Secretary proceeded to read it; but was interrupted by

Mr. LATHAM. I move the further reading of the bill be dispensed with. It is quite evident that no Senator on the floor is paying any attention to it.

Mr. KING. Well, I have no objection.

The PRESIDING OFFICER. If no objection be interposed the further reading will be dispensed with.

Mr. FOSTER. In order that the reading may not be lost, I will call attention to the phraseology of the eighth section. It reads thus:

And be it further enacted, That on or about the second Monday in May, in the year 1863, and annually thereafter, the said levy court shall appoint one of said board of commissioners from each primary school district, &c.

It seems to me that phraseology is a little peculiar—on or about the second Monday in May, 1863, and annually thereafter. It is not quite as precise as I think legislation ought to be. I move to strike out the words, "or about."

The PRESIDING OFFICER. The bill has been read a third time, and it will be necessary to reconsider the vote ordering it to be engrossed for a third reading.

Mr. FOSTER. I make that motion.

The motion was agreed to.

Mr. FOSTER. I now move to strike out those words, "or about."

The motion was agreed to.

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

EXECUTIVE SESSION.

Mr. WILSON, of Massachusetts. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in the consideration of executive business, the doors were reopened.

CONFISCATION OF PROPERTY.

Mr. TRUMBULL. I ask the Senate to take up the confiscation bill, in order to leave it as the unfinished business.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 151) to confiscate the property and free the slaves of rebels.

Mr. TRUMBULL. I desire to give notice to the Senate that I shall call up the bill on Monday, when I shall undertake to reply to all the strictures which have been made in regard to the bill, and vindicate both its constitutionality and expediency; and I shall press its consideration from day to day until it is disposed of.

Mr. GRIMES. I move that the Senate do now adjourn.

Mr. McDOUGALL. I hope my friend will withdraw that motion. I desire to have an executive session for a moment.

Mr. GRIMES. I withdraw it.

Mr. McDOUGALL. I move that the Senate proceed to the consideration of executive business.

Mr. SUMNER. I hope that motion will be agreed to.

The question being put, there were, on a division—ayes 14, noes 11; no quorum voting.

Mr. GRIMES. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *April* 4, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

ARMY TELEGRAPH.

The SPEAKER laid before the House a communication from the Secretary of War, transmitting communications and estimates by Major Myer, signal officer of the United States, in reference to a movable electric telegraph to be used with the Army in the field; which was referred to the Committee of Ways and Means, and ordered to be printed.

INDIAN DEPARTMENT PROPERTY.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting evidence and information called for by resolution of the House of Representatives of 24th ultimo, respecting Indian department property in Utah Territory, accompanied by the report of the Commissioner of Indian Affairs in relation to such property as was returned by Brigham Young and Jacob Forney, while acting as superintendents of Indian affairs in said Territory; which was laid on the table, and ordered to be printed.

PENSION TO VOLUNTEERS.

The SPEAKER also laid before the House a communication from the Attorney General, transmitting, in compliance with a resolution of the House of Representatives of 1st instant, a copy of the Attorney General's opinion of 11th ultimo, relative to the laws conferring pensions on wounded and disabled volunteers, and on the widows and children of such volunteers as die or may be killed in the service; which was laid on the table, and ordered to be printed.

REPORT ON WAR CLAIMS.

Mr. WALTON, of Vermont, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

Resolved, That ten thousand extra copies of the final report of the commission on war claims at St. Louis be printed for the use of the House.

DEMOCRATIC CONFERENCE.

Mr. VALLANDIGHAM. I ask unanimous consent of the House to make a statement in reference to the Democratic conference of last week.

Messrs. BLAKE, WASHBURNE, and others objected.

NORTHERN PACIFIC RAILROAD.

Mr. HANCHETT, by unanimous consent, introduced a bill to incorporate the Northern Pacific Railroad Company; which was read a first and second time, and referred to the select committee on the Pacific railroad.

PROPOSITION TO DISCHARGE COMMITTEE.

Mr. FENTON. I ask unanimous consent to have the Committee of Claims discharged from the further consideration of the papers in the case of Mr. Blake.

Mr. VALLANDIGHAM. I object.

TAX BILL.

Mr. STEVENS. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of resuming the consideration of the tax bill.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed, as a special order, the consideration of the bill (H. R. No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

The CHAIRMAN stated that when the com-

mittee rose, it had under consideration the amendment offered by Mr. PENDLETON to the one hundred and seventh section, to strike out the word "next," and to insert in lieu thereof "1863;" so that the section would read:

SEC. 107. *And be it further enacted*, That on and after the 1st day of May, 1863, there shall be levied, collected, and paid on all salaries of officers, or payments to persons in the civil, military, naval, or other employment or service of the United States, including Senators and Members of Congress, when exceeding the rate of $600, a duty of three per cent. on the excess above the said $600; and it shall be the duty of all paymasters and all disbursing officers under the Government of the United States, or in the employ thereof, when making any payments to officers and persons, as aforesaid, or upon settling and adjusting the accounts of such officers and persons, to deduct and withhold the aforesaid duty of three per cent., and shall at the same time make a certificate stating the name of the officer or person from whom such deduction was made, and the amount thereof, which shall be transmitted to the office of the Commissioner of Internal Revenue, and entered as part of the internal duties; and the pay-roll, receipts, or account of officers or persons paying such duty, as aforesaid, shall be made to exhibit the fact of such payment.

Mr. PENDLETON. I desire to say that I offered that amendment, believing it would make this section conform to the other sections relating to the income tax. Further examination of those sections, and an exposition from a member of the Committee of Ways and Means, have satisfied me that I was in error. I therefore ask leave to withdraw my amendment.

Mr. WHITE, of Indiana. I offer the following amendment, to come in as an additional section before the one hundred and eighth section:

SEC. —. *And be it further enacted*, That whenever, by this act, any license, duty, or tax of any description has been imposed on any corporate body, or on the property of any incorporate company, it shall be lawful for the Commissioner of Internal Revenue to prescribe and determine in what district such tax shall be assessed and collected, and to what officer thereof the official notice required in that behalf shall be given, and of whom payment of such tax shall be demanded.

That section is offered mainly in reference to railroad companies that run through different sections and States.

Mr. STEVENS. I think the amendment is right enough.

The amendment was adopted.

Mr. MORRILL, of Vermont. I ask consent of the committee to go back, and move to insert in the 72d page a new paragraph, after "stoves and hollow ware."

There being no objection,

Mr. MORRILL, of Vermont, moved to amend by inserting:

Cast iron used for bridges, buildings, or other permanent structures, one dollar per ton: *Provided*, That bar iron used for like purposes shall be charged no additional duty beyond the specific duty imposed by this act.

The amendment was adopted.

Mr. HOOPER asked unanimous consent to offer an amendment to the seventy-third section.

There being no objection,

Mr. HOOPER moved to amend, by inserting the following:

On machine belting of all kinds, a duty of three per cent. *ad valorem;* on conducting hose of all kinds for conducting water or other fluid, a duty of three per cent. *ad valorem.*

The amendment was adopted.

Mr. PENDLETON. I move to amend, by inserting as an additional section, the following:

SEC. —. *And be it further enacted*, That on and after the 1st day of May, 1862, there shall be levied and collected on all moneys, credits, investments in bonds, notes, stocks, joint stocks hereinbefore required to be listed, (except investments in the bonds of railroad companies specified in the seventy-ninth section of this act, and investments in the stock of banks, savings institutions, fire, marine, life, stock, and mutual insurance companies, as specified in the eightieth section of this act,) the annual duty of one fifth of one per cent.

The object of my amendment, Mr. Chairman, is to bring upon the list of taxable property that immense amount of capital not invested in industrial pursuits, not subject to increase from labor, but represented by money at interest or invested in trade in money, or in promises to pay money. The five minutes allowed would not give me an opportunity to go into all the questions suggested by this amendment; but I will state, as briefly as I can, the considerations which, I think, dictate the adoption of this amendment. The object of this bill seems to be to tax all capital in some shape, either when it appears in the original elements of value, or when it takes the shape of productions, and represents the original value enhanced by the superadded value of skill and labor. It taxes the capital of the agriculturists in the shape of land. As the bill was originally reported, it taxed capital when invested in tobacco. It taxes now, capital when invested in whisky or manufactures, and, as it seems to me, in almost every possible shape in which it can be found.

Now, why is it that capital represented by money, invested in money, should not just as well be taxed? It returns an interest with certainty, celerity, and great security. It does that without labor or trouble on the part of the man who invests it. It seems to me that, besides being a legitimate subject of taxation, it will yield a large amount of revenue to the Government, and from that source which will feel the taxation the least.

Capital invested in money, by reason of the facility with which it is converted, the necessity of its constant employment, and the large returns which it yields, is a very legitimate subject of taxation, and a very fruitful source of revenue to the Federal Government. But, sir, if this were not so, I still think the symmetry of this bill requires the incorporation of this section. Without it, taxation will be unequal and unjust. Let me illustrate: suppose three men have each $10,000, out of which they can each realize $600 a year. The one who has his money invested in land is taxed; and in my State, according to the rate of taxation imposed by the tax bill of last year, he is taxed two or three cents on the $100, or twenty-five dollars per annum. The second has his $10,000 invested in railroad bonds or the stocks of banks or insurance companies, and he is taxed three per cent. on the $600 which it yields. But the third, who invests his $10,000 in bond and mortgage, in a promissory note, or in half a dozen promissory notes, pays nothing but the simple stamp on bond or note. Now, I do not think that that is equitable. I do not think that it deals out even-handed justice between those who deal in money and those who invest their money in land, manufactures, or industrial pursuits. The amendment excludes investments in the bonds of railroad companies and in the stock of insurance and bank companies, because they are already taxed by the bill. If the amendment is adopted, I will offer others which will perfect the machinery by which taxes of this kind are to be assessed and collected.

Mr. F. A. CONKLING. Will not the income tax cover the case?

Mr. PENDLETON. No, sir. Because the income tax does not take effect till the income exceeds $600. The case that I put is one in which the income does not come up to the point where the income tax commences. And yet you tax the land of one, the bonds and stocks of the other, but you do not tax the money of the third. It goes untaxed.

But again: even when the income tax is imposed, the owner of money escapes his just amount of taxation; he pays nothing but the income tax. The owner of land pays tax on his land; the manufacturer pays upon his manufactures; the dealer in spirits on his sales; and each of them pays the income tax also.

The just and proper system of taxation is to put upon the tax duplicate, and subject to the payment of taxes, every species of property and every character of interest which derives protection from the Government. Thus the burdens are equitably distributed throughout the community; thus the rule of reciprocal obligation between the people and the Government—protection and support—is carried out; thus, as the basis of taxation is enlarged, the rate of taxation may be reduced. As this bill now stands, it is not so. The gentleman from Vermont [Mr. MORRILL] told us, on behalf of the Committee of Ways and Means, that this bill was designed to yield, and probably would yield, about one hundred millions of dollars. The population of the loyal States is about twenty-three millions, of which the State of Ohio contains two millions three hundred thousand, or one tenth of the whole number. The value of the real and personal property in the loyal States is, as Mr. Chase informed us in his last report, $11,000,000,000. The value of the real and personal property in the State of Ohio, according to its tax duplicate, is about $900,000,000, less than one twelfth of the whole Ohio, therefore, ought not, by reason either of its population or its wealth, to pay quite one tenth of all the taxes levied by this bill. I have taken some pains to ascertain the amount which will be paid by the city of Cincinnati alone, if this bill shall become a law. I have taken my data from the reports of the Chamber of Commerce of that city, and such other sources of information as were immediately accessible. The statistics as to spirits were given me by gentlemen lately here, whose opportunity of knowing accurately, and whose disposition to state correctly, none will question.

The amount of whisky distilled and used daily is about 1,500 barrels *distilled*, 500 barrels *rectified*, and 250 barrels *mixed* in the manufacture of wine, gin, brandy, and other domestic liquors. The manufacture of ale and beer reaches 200,000 barrels yearly. The report of the Chamber of Commerce for 1858 shows that the manufacture of furniture that year amounted to $6,444,000; that the manufacture of ready-made clothing amounted to $15,000,000; that the manufacture of iron (foundery castings, bar, sheet, nails, tubular, bridge, &c.,) amounted to nearly twelve millions of dollars.

The same report does not mention the manufacture of soap and candles, but shows the export of that year to have been of candles, 220,075 boxes, and of soap, 62,790 boxes, an amount very far below—I cannot say how far—the amount manufactured. The production of wine the next year, just on the outskirts of the city, reached 500,000 gallons. The hogs killed last winter were 473,000, and the beef killed the year before were 59,000. The total value of manufacturing and industrial products reached, in 1858, $112,254,400. The tax laid by this bill would produce on the whisky, $4,560,000; on ale and beer, $200,000; on furniture, $193,000; on clothing, $495,000; on iron manufactures, $350,000; on hogs and beef, $76,000; on native wine, $25,000; on soap and candles, (exported alone,) $100,000; making on these eight articles alone the sum of $5,999,000.

Suppose the manufacturing and industrial products liable to taxation, not enumerated above, to amount to $40,000,000 more, and at the rate of three per cent., which is the rate fixed on all manufactures not specially enumerated in the bill, $1,200,000 would be added to the taxes, making $7,199,000, exclusive of stamp duties, land taxes, income tax, licenses, taxes on railroads, banks, insurance companies, auction sales, and whatever else may be imposed by the bill. This amount the city of Cincinnati alone will pay on these eight articles. I have no data from which to make an estimate of the amount which will be paid on other articles. It will be a very large amount; certainly, I think, enough, payable in Cincinnati alone, to amount to four fifths of the whole sum fairly to be paid by the whole State, and more than six times as much as that city has ever been called on to pay for the support of State, county, and municipal governments. If these statistics are correct, the estimate cannot vary much from the true result. I submit, sir, either that the committee has greatly erred in its estimate of the amount which this bill will yield, or that they have failed to assess its burdens fairly and equitably on all the different interests in the country. In either event, the amendment which I have offered will tend to perfect the bill. It will bring upon the tax list a large amount of property which will otherwise be exempt, and will also enable the committee to reduce still lower the rate of taxation by the bill provided.

Mr. STEVENS. I am willing to tax the people as much as they will bear if it is necessary to carry on this war; but I am not willing to tax them twice over in the same bill. If the pending amendment is adopted, we ought to strike out the income tax altogether, and insert this in its place, for I believe there is no single item in the gentleman's amendment that is not taxed in the shape of income. But, sir, I will not multiply words to show that the amendment ought not to be adopted. It will lay a double tax upon the same article, and I hope the committee will not adopt it.

The amendment was disagreed to.

The one hundred and ninth section was read, as follows:

SEC. 109. *And be it further enacted*, That from and after the date on which this act takes effect there shall be an allowance on all flour, salt, wine, spirituous liquors, ale, beer, lager beer, porter, or malt liquors, and on goods, wares, and articles manufactured on which any internal duty or tax shall have been paid, equal in amount to the duty or tax paid thereon, and no more, when exported, the evidence that any such duty or tax has been paid, to be furnished to the satisfaction of the Commissioner of Internal Revenue by such person or persons as shall claim the allowance or drawback, and the amount to be ascertained under such regulations as shall from time to time be prescribed by the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, and the same shall be paid by the warrant of the Secretary of the Treasury on the Treasurer of the United States out of any money arising from

internal duties not otherwise appropriated: *Provided*, That no allowance or drawback shall be made or had on tobacco, tobacco manufactured, snuff, cigars, coal oil or tar, produced by the distillation of coal, asphaltum, shale, peat, and other bituminous substances used for like purposes, and on crude petroleum or rock oil, nor shall any allowance or drawback be made or had for any amount claimed or due less than twenty dollars, anything in this act to the contrary notwithstanding.

Mr. STEVENS moved to amend this section by striking out from the third line, after the word "all," to and including the word "and," in the fifth line, and then to strike out the word "manufactured," in the same line; so that the clause would read:

That from and after the date on which this act takes effect, there shall be an allowance or drawback on all articles on which any internal duty or tax shall have been paid, equal in amount to the duty or tax paid thereon, and no more, when exported, the evidence that any such duty or tax has been paid, &c.

The amendment was agreed to.

Mr. STEVENS moved further to amend in the eighteenth line, by striking out all after the word "had," down to and including the word "had," in the twenty-third line, as follows:

On tobacco, tobacco manufactured, snuff, cigars, coal oil or tar, produced by the distillation of coal, asphaltum, shale, peat, and other bituminous substances used for like purposes, and on crude petroleum or rock oil, nor shall any allowance or drawback be made or had.

So that the proviso would read:

Provided, That no allowance or drawback shall be made or had for any amount claimed or due less than twenty dollars, anything in this act to the contrary notwithstanding.

The amendment was agreed to.

Mr. WHITE, of Indiana. I move to amend the section by inserting at the commencement of the nineteenth line, after the word "manufactured," the words "and cotton."

The CHAIRMAN. The Chair will suggest that that portion of the section has been stricken out.

Mr. WHITE, of Indiana. I desire to add this article to those which are to be exempted from drawback.

Mr. STEVENS. We have stricken out the list of articles enumerated as exceptions, and have made the proviso except only articles which are of less than twenty dollars in value.

Mr. WHITE, of Indiana. Including tobacco and everything?

Mr. STEVENS. Everything.

Mr. WHITE, of Indiana. Well, sir, if that be the policy of the Committee of Ways and Means, I will withdraw my amendment.

Mr. LEHMAN. I move to amend in the fifth line, after the word "articles," by inserting the words "and materials used in the manufacture thereof." It is important, Mr. Chairman, that every law we enact should be free from ambiguity. Now, sir, upon reading this section, as amended on motion of the Committee of Ways and Means, it will be seen that a drawback is allowed upon all articles for export upon which an internal duty or tax shall have been assessed and collected. The committee have stricken out the word "manufactured," as descriptive of the articles upon which a drawback is to be allowed, so that, as the section stands, the internal duty upon "goods, wares, and articles" simply is to be taken off.

But the question may arise as to whether the drawback is to extend to the component parts of the articles, or whether it is intended only to apply to the article as it is presented for exportation. There are certain kinds of business and trades which have grown up in this country which are the peculiar property of this country, and which are able to compete with the foreign business and manufacture of those articles. If, for example, I take the article of manufactured fancy soaps—transparent soaps—the article which I hold in my hand is freely sold in England, France, and Brazil. It is purchased by the inhabitants of those countries as articles of their own manufacture. Yet every cake of it is manufactured in the United States, and it is exported, successfully competing with the manufacture of the article in foreign countries.

Now, if the drawback is simply to apply to the manufactured article it will be but two cents a pound. But if the drawback is to be upon the elements composing the article, upon the several articles entering into the manufacture of this soap, the drawback will amount to six cents per pound. This soap is composed of tallow, alkali, and alcohol. In every pound of soap there is a pound or pint of alcohol, and under this bill, the internal duty upon that pint of alcohol is four cents, making six cents as the internal duty upon a pound of this soap.

Now, I submit that to clear the section of ambiguity, and facilitate the performance of the duty of the Commissioner of Internal Revenue, it is important that the words which I have indicated should be inserted. We pay Brazil some twenty millions of dollars in the balance of trade against us. This soap is now sent to Brazil in considerable quantities. A venture has been made to the amount of some forty thousand dollars, which has been found to be highly profitable.

Now, it is impossible to tell, under the section as it stands, whether the drawback is to be upon the article in its manufactured state or upon its component parts also. I hope the amendment will be adopted.

Mr. MORRILL, of Vermont. The object sought to be accomplished by the gentleman is certainly a very laudable one, but it will at once be seen that it involves the Government in inextricable confusion, if adopted. How is the Government to ascertain what are the component parts of every article of manufacture? Take for instance, in hardware, the article of cutlery: a certain percentage of the material used is steel, and a certain portion iron. Now, how is the Government to ascertain how much steel is used, and how much should be included as wastage? Of course, it cannot be done. I trust, therefore, the amendment will not be adopted.

The amendment was not agreed to.

Mr. BAKER. I move to amend, in the sixth line, by adding, after the word "paid," the words "except raw cotton." The clause of the section, as amended, would then read:

That from and after the date on which this act takes effect there shall be an allowance or drawback on all articles on which any internal duty or tax shall have been paid, except raw cotton, equal in amount to the duty or tax paid thereon, and no more, when exported, the evidence that any such duty or tax has been paid to be furnished to the satisfaction of the Commissioner of Internal Revenue by such person or persons as shall claim the allowance or drawback, &c.

It may be remembered by the committee that we have imposed a duty of one cent per pound upon cotton. That is a peculiar article of production, and when exported it should, in my judgment, be exempted from the allowance in the nature of a drawback, which may very properly apply to other articles. In doing so, we put our cotton into competition in the markets of Europe with the cotton grown in other quarters of the world, and although this duty will be added to the cost of the article, yet it can never meet with any serious competition in foreign ports, because in no part of the world can cotton of equal quality in fineness of fiber and length of staple be grown. I hope, therefore, the amendment will be adopted.

Mr. MORRILL, of Vermont. I hope the amendment will not be adopted. It would have the effect at once of shutting up every cotton manufacturing establishment in the country. It is a little singular, sir, that gentlemen in a certain quarter of the House who were so anxious to impose a heavy duty upon cotton, failed to carry out that purpose when the only way in which it could be done presented itself, and a provision was separately ingrafted upon the bill which would exempt the labor, slaves, and lands of the slaveholders. I refer to the provision in relation to the income tax. There is a provision exempting cotton from drawback. Our cotton manufacturing establishments, because of competition, have been unable to introduce their manufactured goods into any other quarter of the globe except their own country. In late years we have only been partially successful in introducing the coarser fabrics into China and South America. To impose a tax of three per cent. upon cotton manufactured goods, and then to increase the cost of the raw material by a ten per cent. duty upon cotton, allowing a drawback at the same time, would seal up every manufactory in the country. I do not suppose that this committee will give its consent to any such provision.

Mr. BAKER. I move to modify my amendment, so as to make it read, "except manufactured cotton." I wish to say, in reply to the gentleman from Vermont, that the price of cotton is regulated throughout the world by the price of cotton in England; and the manufacturers of New England would be able to obtain their cotton at the same price as the manufacturers of Lancashire, and that, therefore, they would be able to compete with them in the markets of the world.

The amendment was rejected.

Mr. VAN VALKENBURGH. I move to insert, after the word "exported," the words "or were destroyed by the elements, and upon which there shall have been no insurance."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to add the following as a new section:

SEC. —. *And be it further enacted*, That any person or persons who shall fraudulently claim or seek to obtain an allowance or drawback upon goods, wares, or merchandise, on which no internal duty shall have been paid, or shall fraudulently claim any greater allowance or drawback than was actually paid as aforesaid, such person or persons shall forfeit treble the amount wrongfully or fraudulently claimed and sought to be obtained, or the sum of $500, at the election of the Secretary of the Treasury, to be recovered as in other cases of forfeiture provided for in the general provisions of this act.

The amendment was agreed to.

Mr. BLAIR, of Missouri. I move to add the following as an additional section:

SEC. —. *And be it further enacted*, That any person who shall claim to own the service or labor of any person under the laws of any State shall pay on account of the service of such person so held the sum of two dollars.

Mr. Chairman, when this matter was up before, although not exactly in this shape, the objection was made to this tax that it was not uniform. I so understood the argument of some gentlemen upon this floor. There were various objections, yet gentlemen hold that any other property or any other right or franchise held in any one section of the country may be taxed and that the tax will be uniform. Taxes are laid upon the rights and franchises and every species of property which exist in the northern or free States, and we have never heard of any objection on the part of any gentleman that that tax was not uniform. It so happens that there are certain rights and privileges enjoyed in one section of the country, and it is contended, because these rights or privileges, or whatever they may be, exist only in one section of the country, therefore the tax cannot be uniform. I understand that that is opposed to the principle adopted in this bill. Take, for instance, Pennsylvania coal. There are States where there is no coal produced. There are sections, too, where no iron is produced; yet, sir, when a tax is imposed upon iron or coal there is no complaint that the tax upon them is not uniform. My idea is that we should so adjust the taxes that they will fall equally and equitably upon all sections of the country. That is my idea of the uniformity of taxation. This is a species of property. I consider it as property. Unless it is taxed, therefore, I do not think that the people of the southern States will pay under this bill an equal proportion of taxation. This is not a capitation tax. That objection was also made to the proposition. It is a tax upon the services of this species of persons. It is not a capitation tax. It may be as well said that we could not tax the incomes of the owners of the slaves derived from their labor. We know that a large part of the income of the slaveholders is derived from the labor of their slaves. I think that we can as well tax the slaves themselves, and therefore I have submitted the amendment.

Mr. WICKLIFFE. I am surprised at the introduction of this amendment. I thought that the vote taken on it some time ago would have settled it, and that we would no longer have been troubled with the subject. The gentleman admits that slaves are property. I want the gentleman's attention for a moment. He denies that this description of property is taxed under the bill.

Mr. BLAIR, of Missouri. On the contrary, I stated that it was taxed in several ways. It is taxed in the direct tax act, and it is taxed upon the income derived from slave labor.

Mr. WICKLIFFE. Is it the purpose of a majority of this House, in its crusade against this description of property, to impose upon it a tax unparalleled in amount or unprecedented by any legislation of this country? When we look to the nature of the proposition to tax this property, we ought to go back to the Constitution. It will there be seen that, in consequence of the compromises of that instrument, without which it could not have been made, that class of persons is computed as a part of the basis of representation and liable to its proportion of the direct tax, whenever levied

by the United States. If you turn to the decision of the Supreme Court in 3 Dallas, it will be found that at an early day that tribunal decided that the Government of the United States has no right, under the Constitution, to levy direct tax upon anything but lands and slaves. Now, under the direct tax imposed at the last session, the slave property paid either $86,000 or $96,000—I do not recollect which it was. Out of the $20,000,000, Kentucky paid $715,000. A part of that was in consequence of the three fifths representation of slaves, and because that property was so counted as a portion of the taxable population. This proposition will make the owners of that property pay, in addition to what they have already paid, some three hundred thousand dollars.

Mr. MALLORY. I move to reduce the tax to one dollar; and I do this, not because I am in favor of taxing the slaves in the United States, but simply to reply to some of the remarks of the gentleman from Missouri, who offered this amendment. I apprehend that no one objects to this tax because it was not uniform in its operation. Everybody must see that the tax proposed by the gentleman from Missouri is uniform upon this property wherever it exists in the United States. I object to it because it is unequal, inequitable, and oppressive upon a particular interest of a particular section.

The gentleman says that there are other descriptions of property confined to particular sections of this Union, which are taxed by this bill, and he enumerates the coal and iron of Pennsylvania. That is true; but the coal and iron of Pennsylvania go into every portion of the United States, and are used by every man almost in the United States, and every consumer pays the tax. When the iron is converted into implements for ordinary use, it goes into every State of the Union, and is used by every citizen of the Union, and in that case the consumer pays the tax upon the iron.

But how is it in relation to slaves? Does the gentleman allow me to take my slave into Pennsylvania or New York, and sell him, and thus relieve myself to some extent from the taxation? He knows that is not the case, and the gentleman will permit me to say, that when he used that argument he knew it was a specious but unsound one. I believe, however, I am expending my reasoning unnecessarily in this case, for I know that the mind of this House was made up some days ago against this tax, and I am perfectly convinced that nothing has occurred between that time and the present to persuade them that that decision was wrong.

Mr. ROSCOE CONKLING. I desire to ask the gentleman a question for information. I wish the gentleman would inform the House whether he is prepared to say that the owners of this particular species of property, if it be property, will be taxed more than their fair proportion, if two dollars, or one dollar according to his amendment, is laid upon each head, taking into account that, by the July bill, slaves are not included at all as a subject of direct taxation; and taking into account also the other facts of the bill, taxing as it does the same kinds of property in different forms, more than once—whether he is prepared to say, in the light of those two considerations, that this would be an undue imposition upon those whom it affects?

Mr. MALLORY. I say it will be an undue burden, and I say it in the light that what the gentleman alleges in regard to the direct tax of the extra session, is utterly incorrect. I say that slaves are referred to and included in that bill, from the fact taxes must be imposed according to Federal representation and population, and that in that enumeration five slaves count as three white men. The direct taxes are imposed according to population ascertained in that way. In that way we tax those who own these slaves.

Another remark I desire to make in response to the remarks of the gentleman from New York, and that is, that I look upon this tax as burdensome, oppressive, and unjust, because he knows that it is levied upon a species of property that is owned, and can only be owned, in a particular section of the Union. If the gentleman, as I said before, would allow me to take that property to New York and Pennsylvania, or any other free States, I would not raise this objection to imposing this tax. But as long as that property is confined, by State laws, to a particular section, to select it out and make it a particular object of taxation, as is proposed by the gentleman from Missouri, is unjust and oppressive.

Mr. BLAIR, of Missouri. I will state to the gentleman that a man who owns a bank in the State of New York cannot take that franchise to another State.

Mr. MALLORY. He can get a franchise in another State, and he can take there what he owns in New York.

Mr. BLAIR, of Missouri. There is property held in New York and other States which cannot be taken into another State.

Mr. MALLORY. But property in slaves is not a franchise in the light in which a bank is a franchise. It is not a privilege which a man derives by a particular and special act of legislation. Slaves are property in my estimation, and property in the estimation of those who live in the States where that institution exists. It is property in the service of the slave to which a man is as much entitled as you are to the service of your horse or ox. And I ask the gentleman from New York why it is not proposed in this bill to tax a horse as a horse, or an ox as an ox? There is no such item in this bill.

[Here the hammer fell.]

Mr. LOVEJOY. Mr. Chairman——

Mr. ROSCOE CONKLING. I hope the gentleman from Illinois will not mix himself up in this matter just now.

Mr. LOVEJOY. The gentleman from Illinois will consult his own judgment in that matter.

Mr. ROSCOE CONKLING. I would suggest to the gentleman from Illinois that I would like, with his consent, to give the gentleman from Kentucky as much time as I took away from him, and then I will give him the floor with much pleasure. I desire to ask the gentleman whether he affirms the law to be, or whether he will admit the proposition, if I affirm it, that the right to hold slaves is confined to the States in which they are held; and that it does not extend to carrying them into the Territories and into the other States?

Mr. MALLORY. In response to the gentleman from New York, I was giving not my view of the law, but his view of the law. I made an argument to him because I thought he believed it was confined to the States where it exists.

Mr. ROSCOE CONKLING. The gentleman from Kentucky is very kind to state my view of the law, and I feel the more obliged to him because I should not, perhaps, be able to state it intelligently myself. But as my side of the law is not in the case, I desire to get at the view of the gentleman himself.

Mr. MALLORY. If the gentleman really wants to know my own opinion about the matter, I will say that I do regard it as the right of the people of every State to establish and support slavery within the limits of that State, and that they cannot be prevented from the exercise of that right by any action of the Federal Government; and that I believe in their power and right to carry slavery into the Territories of the United States.

Mr. ROSCOE CONKLING. I now yield to the gentleman from Illinois.

Mr. LOVEJOY. I wish to read a portion of the Constitution bearing upon this subject:

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

Now, it is constantly claimed that because certain taxes designated here shall be according to respective numbers, including three fifths of all other persons here enumerated, therefore they are property, because they are made the basis of taxation. The same article would prove that every person enumerated here would be property. It simply states that direct taxes shall be imposed according to Federal representation, and to make up that representation, every man, woman, and child is to be enumerated, and after describing a certain class of persons, it says "three fifths of all other persons." It says nothing about negroes, or about slaves. The diseased brains of certain gentlemen upon that side of the House construe that to mean negroes, and that negroes means slaves. The Constitution knows nothing about negroes or slaves, and there is no more property in the three fifths than there is in the other two fifths. That is all I wanted to say, and I hope it has not injured any one.

Mr. MALLORY. I withdraw my amendment.

Mr. BINGHAM. I move to increase the amount fifty cents. The gentleman from Missouri has modified his amendment, by inserting the word "each," so that the amendment as it stands proposes by act of Congress to impose a tax upon every person in the United States who claims the labor or service of any other person or persons by virtue of the laws of any State, and two dollars per head for each person so held to service or labor. The first question to be settled is, what kind of a tax is that? I say, sir, that it is a capitation tax. I say that is a capitation tax the world over which is imposed upon a person, without respect to property, or profession, or income. You might as well lay the tax proposed directly upon any person so held to service or labor, as it would, so imposed, be in law and fact the same thing. And who will say, if the tax were laid upon the person held, instead of the person claiming the service and labor, it would not be a "*capitation tax?*"

Now, sir, your Constitution has provided that all capitation taxes shall be apportioned among the several States according to the census or enumeration of representative population therein provided for. Why is that? That each citizen shall contribute to its payment in proportion to the amount of his taxable property, that the injustice shall not be legalized of imposing upon the poor man in his hovel, surrounded by his only earthly treasures, his poverty-stricken children, the same burden in support of the State as upon the rich man in his palace, clothed in purple and fine linen.

A capitation tax may be assessed and collected, but it must be apportioned among the several States according to the representative population of each, and being so apportioned, it must be assessed and collected according to the value of the taxable property of each citizen. That is the requirement of the Constitution—that is equality. Let each man contribute to the support of the State in proportion to his means.

Apply this principle now, if you please, to the proposed amendment of the gentleman from Missouri. The language of that amendment is, that every person who claims the labor or service of any other person or persons under the law of any State, shall pay, on account of such claim, two dollars for each person whose labor or service is so claimed. I say that by the law of every State of this Union to-day every father has a claim to the labor and service of every minor child of his house, and that by this amendment he is to be taxed as well as the master who owns slaves. I desire to know of this House by what warrant they undertake to say that any man shall be taxed two dollars per head for the children of his house, of which capitation tax his neighbor, who has no children, but tenfold the amount of his property, is not to pay one cent? Property in this land is the subject of taxation, and not children. Gentlemen may say that you cannot point to the law of any State declaring that a father is entitled to the service and labor of his children. Let gentlemen point me to the statute law of any State declaring that a master is entitled to the service and labor of his slaves.

Gentlemen will find no such statute in either case. And yet, sir, that the father is entitled to the service and labor of his minor children, is the common law of the several States, and recognized as such. There are, to be sure, some statutes which, by intendment, amount to that, but not in terms. Nothing is more common than for a father to bring an action against another who has deprived him of the labor or service of his minor child, and he invariably maintains it. I refer to this rule for the purpose of showing that the effect of the gentleman's amendment is to tax every citizen two dollars per head upon each of his children, and subject him alone to the burden of its payment. I desire that these objections to the amendment may go upon the record. Lay a capitation tax in this form, or a more direct form if you please, but when you lay it, you should apportion it among the several States, and assess and collect it within the several States as apportioned upon the actual taxable wealth of their several citizens, without regard to the number of his children or slaves, thereby distributing the burden and making him who is childless, but rich in

this world's goods, pay his full proportion of the amount so levied. That is just and equitable, and it seems to me that all men the world over must recognize it as just and equitable. For myself, I am free to say that there is no provision of our Constitution, among all its wondrous provisions, more just or wise than that which equalizes the burdens of taxation in proportion to the wealth of the citizen.

Why, sir, there is, to my mind, a divineness in this rule of just equality prescribed by your Constitution, so unusual in the constitutions of States, that I might almost say it is the only veritable miracle the world has seen since the banished evangelist, eighteen hundred years ago, closed the canon of Holy Writ. Of all the wise and just and humane provisions of your Constitution none commends itself more strongly to my brain or heart than that provision which declares that all capitation taxes shall be apportioned among the several States, according to their respective numbers of representative population; and that, when you have so apportioned it, you shall levy it according to the actual wealth of the several citizens, without respect to their relations to the particular persons thus enumerated. Suppose, by way of illustration, that you lay a direct tax—and I say a capitation tax is a direct tax and must be apportioned accordingly—amounting to one dollar per head upon the whole representative population of the United States, and that the State of South Carolina had but five hundred thousand of representative population, of which two hundred and fifty thousand are slaves, that number being three fifths of her whole slave population. When you come to make the apportionment among the States of your direct tax of one dollar per head of the representative population, the proportionate share of South Carolina is $500,000; because her representative population, including three fifths of slaves, is five hundred thousand persons. I am ready to tax slaves in that way at any time. But I am not willing to tax, as proposed, every man two dollars for each of his children without apportionment. Such injustice is forbidden by the Constitution.

[Here the hammer fell.]

Mr. OLIN obtained the floor.

Mr. BLAIR, of Missouri. With the permission of the gentleman from New York, I desire to modify my amendment by inserting after the word "labor" the words "for life."

Mr. OLIN. When this subject was before the House on a former occasion, this proposition was voted against by some members of the House, as I am informed, under the idea that the tax sought to be imposed was unconstitutional—that it was, in the language of the gentleman from Ohio, [Mr. BINGHAM,] properly a capitation tax. Now, this idea, I trust, is peculiar to the gentleman from Ohio and some others, and it rests, if I may be allowed to state his argument without circumlocution, upon the idea that there is no property in the relation created by the laws of the slave States by which one man is authorized to claim the services of another for life.

Mr. BINGHAM. The gentleman will do me the kindness to say that he has stated exactly the basis of my argument. By Federal law there is no such thing.

Mr. OLIN. I so understood. Now, if it were true that the Federal courts or the courts of the various States in which this right of property is claimed to exist would so construe the law; in other words, if the jurisprudence of the country pronounced that it was not a property relation, then I admit that the argument of the gentleman would be sound.

MESSAGE FROM THE SENATE.

Here the committee rose informally, and the Speaker having resumed the chair, a message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill of the House (No. 118) to authorize the Postmaster General to establish branch post offices in cities, with an amendment in which he was directed to ask the concurrence of the House.

The Committee of the Whole on the state of the Union then resumed its session, and proceeded again to the consideration of the

TAX BILL.

Mr. OLIN. Now, whatever speculative theories the gentleman from Ohio may indulge in, the significant and all-controlling fact exists, nevertheless, in this country, that the entire jurisprudence of the country does recognize such a relation, and we know, in fact, by the confession of the whole country, that that relation is, by those who enjoy it, regarded as a profitable one. This right, created by local law, or by what they call the common law of these States, creates an interest which is enjoyed and sold and transmitted by inheritance, and which is disposed of for money; and it is therefore, in the jurisprudence of the country, a right of property, just like every other property-right created by statute law, or by the common law, in reference to a vast variety of interests in the States, which were not by the law of nature the subjects of property, but are made such by statute law or custom, so as to become a part of the common law.

Now, sir, the tax proposed in this amendment bears no more resemblance to a capitation tax than does a tax imposed upon a man who applies for a license to peddle goods through the country. The law in the latter case creates the special privilege that the peddler has, and you tax the interest thus created by law. The laws of the slave States which authorize a man to claim, and to enforce by law the claim to another's services—and it is understood to be or supposed to be in the eye of the law a profitable relation—can there be any reason why a tax should not be imposed upon persons who enforce those rights, and enjoy under the law the profits of that relation? This tax bears no resemblance to a capitation tax; indeed that argument of the gentleman from Ohio cannot be maintained for a moment except upon the theory that this relation of master and slave created by the several States is entirely void in law, and should not be recognized by the jurisprudence of the country. That is, sir, the theory of the gentleman from Ohio; but as the legislative, judicial, and executive departments of the Government are all opposed to the gentleman's theory, we may properly legislate with reference to existing facts, and discard all theories.

Now, one word in reference to the question whether this tax would be unjust and inequitable, as affirmed by the gentleman from Kentucky, [Mr. MALLORY.] Why, look at it. In some of the States—in South Carolina, for instance—almost all their personal property, as they call it, is invested in negro slaves. In Massachusetts a large proportion of property is invested in manufactures. You tax to the utmost all that kind of property, and yet the argument of the gentleman from Kentucky would exempt entirely this slave property, which you, at least, call property.

[Here the hammer fell.]

Mr. BINGHAM. I withdraw the amendment to the amendment.

Mr. ARNOLD. I move to amend the amendment by increasing the tax to three dollars. The amount of that which is claimed as property, and which is used as property, and which is proposed to be taxed under this amendment, would probably be two thousand millions of dollars. Now, the question for the committee to determine is, shall this vast amount of that which is claimed to be property and used as such, at a time when we are taxing everything—all the necessaries of life—at a time when we are seeking vigilantly for objects of taxation, shall this vast amount of that which is claimed and used as property be entirely exempt from taxation? I should like to know what there is in this which is claimed and used as property which is so sacred and which should give it a peculiar advantage over everything else? Why, sir, you tax the agricultural interests of the West heavily and severely; you tax the manufacturing interests of New England heavily; and here is a large section of country where there is a very large amount of that which is claimed as property, and you refuse to tax it at all. And why? Why, sir, the bill which I hold in my hand, and which has been the subject of deliberation in this House for the last few weeks, is the direct result of that relation which you are now seeking to impose a tax upon.

The Committee of Ways and Means has been industriously engaged in preparing these items so as to spread the tax over everything productive in this country, so as to make the tax as equal and just as possible; but is it not strange that that which is the origin of the expenditure which we are now seeking the means to pay should have been disregarded and overlooked? And is it not strange that when we are seeking for objects of taxation on which to lay the burdens now pressing so heavily on the country, the enormous accumulation of that which is called property should be disregarded and exempted? Is it just, is it fair? I can see no equity, no justice, no fairness in an omission to tax that which, in any sense of the case, constitutes a very large part of that which is held as property.

[Here the hammer fell.]

Mr. MENZIES. I oppose the amendment to the amendment. I was surprised, Mr. Chairman, at the introduction of this proposition this morning.

Mr. WICKLIFFE. Will my colleague allow me one minute that I may read a sentence from the decision of the Supreme Court on this question?

Mr. MENZIES. My colleague will have an opportunity to do so by and by. We had just got through the bill, as I supposed, and I was coming to the conclusion that if we could get rid of two little amendments which I myself voted for, I would readily vote for the bill in the House. The other day, after full deliberation and discussion of this same thing, the committee deliberately rejected it by a decided vote. How it is that any one can come in to-day and propose to lay this same tax in a different form of words, and represent it as a different thing, I cannot understand. How can any gentleman see a difference in it because it is couched in different language? Some gentlemen here say that slaves are not property; and yet they are willing to vote to impose a direct tax upon them. Why not tax the people of the North who employ laborers, two dollars a head for every laborer employed? I solemnly believe that the people of the State from which I come will pay as much in proportion to what they are worth as the people of any other part of the United States. Now, this capitation tax—for it is really nothing else—is a direct tax over and above the taxes which the people of the nonslaveholding States are to pay.

I desire to propose an amendment.

The CHAIRMAN. It is not in order, as an amendment to an amendment is pending.

Mr. ARNOLD. I withdraw my amendment to the amendment.

Mr. MENZIES. Then I move to amend by providing that every person owning a horse shall pay, in consideration of the services thereof, one dollar.

Mr. BLAKE. I raise the question of order that this is not germane to the pending amendment.

The CHAIRMAN. The Chair sustains the point of order. The amendment would be in order as an independent section, but is not as an amendment to the amendment.

Mr. ROSCOE CONKLING. I move to amend the amendment by increasing the sum therein named. This proposition, if it fails at all, will fail on account of a union between the extreme opposites of sentiment in the House. It is said on the one side that such a tax as this would be grossly unjust. That is affirmed by those who are termed the friends of the institution of slavery. It is affirmed on the other side that such a tax would assert or admit the idea of property in man. That is affirmed by those who, *par excellence*, are the enemies of slavery. The union of opposites is to defeat this proposition, if it be defeated at all.

Now, with great respect to those who differ, I deny the soundness of both these propositions. In the first place, I deny that, either by direction or by indirection, there is, in the imposition of this tax, the slightest admission, the faintest recognition of the idea, necessarily, that man holds property in man; and I say that this bill itself, without referring to any other authority, refutes entirely the assumption that you cannot tax an article except it be property. Why, sir, billiard tables are taxed—billiard tables kept for hire. And yet, by the laws of the State in which I live, not only are these billiard tables not property, but they are confiscated as a nuisance by the law of the State, so that whenever a game of pool, in the language of the statute, is played on one of them, I can have the sheriff go in and break and destroy that table. And yet we tax it. But do we thereby clothe it with any new considerations of property? So, too, a man has a collection of reptiles, snakes, natural curiosities, which are not property. If I take them, the owner cannot sue for them and recover. Yet do we not tax them in every form? Do not municipal corporations require the owner to procure

a license before he can exhibit them? So, too, with the very elements, with the light that we see by, the air that we breathe, and other things that are in no sense property of the individual man. Therefore, I deny that the imposition of this tax in any way whatever implies the assertion of property, although I may be excused on both sides of the House for saying that I do consider that an exceedingly narrow question, and, in the aspect in which it has been discussed, one of the narrowest questions that ever filled the minds of men. But assuming that it is important, I deny utterly that we assert the proposition which the gentleman from Kentucky, [Mr. MALLORY]—for whose judgment and arguments I have the greatest respect—says we do. He says that the proposition is to impose an unjust tax, because, by the bill passed in July last, this species of property is counted. Sir, I deny it in every possible sense that upholds the argument he makes. I know that these individuals are counted three for five. I know, too, that the free colored people of the North are counted in the census returns. But if it were proposed here that every man employing thirteen agents or thirteen servants should pay so much on them, would the gentleman from Kentucky be right in saying that it would be unjust to tax a man for his servants because these thirteen persons had been counted in the census?

Mr. MALLORY. Will the gentleman allow me to ask him whether, if three horses out of every five in the State of New York were counted as three white men, he would think then that New York ought to be taxed on her horses?

Mr. ROSCOE CONKLING. I wish with all my heart that I had time to answer the gentleman's question at length, because the answer to that proposition would cover this ground and expose the entire fallacy of the distinction here sought to be made. But I cannot answer it in a few words. I will say, however, in round terms, that whenever any number of horses in the State are clothed with the privileges, and are allowed to take upon themselves the double aspect of property and persons, and become, if I may so express it, a sword, the blade of which is everywhere and the hilt in the hands of the few men who own them, whenever that state of facts comes about, I will admit, if my friend proposes it, that it would be just and constitutional and productive to tax them.

[Here the hammer fell.]

Mr. BLAIR, of Missouri. The point to which I would direct the attention of the committee at this time is that the gentlemen who oppose this tax claim that this description of property is already taxed under the direct tax, which they tell us is a great burden—a most onerous tax—whereas it is, in fact, an exemption of two fifths of that entire property from taxation; and instead of complaining of that, they ought to congratulate themselves upon it. Why, sir, that direct tax applies in the northern States to the whole negro population, without deduction; but by reason of this provision of the Constitution of the United States, they in the South obtain an exemption of two fifths of this slave property; and it is an exemption of tax and of burden on the part of the slave States which is laid upon the free States.

But, sir, the argument of gentlemen upon the other side of the House, that this proposed tax is a capitation tax, and therefore unconstitutional, is equally fallacious. So far from its being a capitation tax, as claimed by the gentleman from Ohio, [Mr. BINGHAM,] it is nothing but a tax upon the services of these persons. It can in no sense be claimed as a capitation tax any more than any right or privilege owned or enjoyed by any person in any other State of the Union which we may think proper to tax, and which we have in other instances taxed, can be called a capitation tax.

Mr. ROSCOE CONKLING withdrew his amendment to the amendment.

Mr. CALVERT. I move to amend the amendment of the gentleman from Missouri, by adding at the end of it as follows:

Provided, however, That this Government shall pay the owners of such slaves as have escaped, or shall escape, through the action of this House and a portion of the Army, the sum of $1,000 for every slave so escaping.

Mr. FESSENDEN. I rise to oppose the amendment of the gentleman from Maryland. It seems to me that the honorable gentleman from Kentucky is deeply interested lest certain gentlemen upon the other side of the House should show themselves exceedingly inconsistent in the votes which they may give. He says to us, "how can you gentlemen who do not recognize the right of property in slaves vote to tax these slaves as property?" Well, sir, I am about to vote to tax them as property, and I can tell the gentleman how I can do it, and vote consistently.

I believe it to be constitutional to tax them as property, and when I can constitutionally make a hit at the slave interest by calling slaves property, as they call them property, I am perfectly willing to do so, and see no inconsistency in the course which I take, notwithstanding I disbelieve in point of fact that slaves are property. But when I can hit the system constitutionally I say, on the other hand, by calling them men, I mean to hit it and call them men, notwithstanding other honorable gentlemen may call them property.

Now, sir, in the name of all that is right, what reason is there why these men in the South should not be taxed for the service which these persons to whom reference is made in the proposition of the gentleman from Missouri [Mr. BLAIR] render to them? Especially when it is asserted, and reiterated again and again, and is true beyond dispute, that slavery is the beginning, middle, and end of the whole troubles under which the nation now suffers, why is it, when in arranging this tax bill, and we seek to reach the cause of all the trouble, that objection is made?

I admit, with the gentleman, that there was color for the remark made by the gentleman from Illinois, that at the same time there is a disposition upon the part of some gentlemen to let their interests in New England in some way interfere with this great question—that spindles, or something else, is more than the negro, is more than emancipation. But here the question is one of right. Ought they to be taxed as property? Believing, as I do, that constitutionally they may be reached as property, so far as this tax bill is concerned, I give my vote in favor of the amendment proposed by the gentleman from Missouri.

[Here the hammer fell.]

Mr. STEVENS. I move that the committee rise for the purpose of closing debate upon this section.

The motion was disagreed to.

Mr. WICKLIFFE. I understand that the debate allowed under the rules on the amendments pending has been exhausted, but I ask the committee to allow me to speak for three minutes.

There was no objection.

Mr. WICKLIFFE. I said that this property had been taxed under the law of last year. I had a statement made out from the Census Office showing the amount that had been levied in each county in my State upon the property of that description, and I have had it with me every day until to-day, when, supposing I should have no further use for it, I left it at home.

But, sir, I stated furthermore that, by the Constitution of the United States, you cannot levy a tax upon that description of property except in the shape of a capitation tax, and that you have already, by the law of the last session, levied a tax upon it in the only mode which the Constitution permits you. And if the supreme law of the country, the Constitution of the United States, and the decisions of the Supreme Court of the United States, are to have any weight, I beg leave to read from a decision made by that court more than forty years ago upon this question, showing why this provision of the Constitution was made. I read from the decisions of the Supreme Court, (Dallas's Reports.) In pointing out the modes by which you may impose a direct tax, the court uses this language:

"Local considerations, and the particular circumstances and relative situation of the States, naturally lead to this view of the subject. The provision was made in favor of the southern States. They possessed a large number of slaves; they had extensive tracts of territory, thinly settled, and not very productive. A majority of the States had but few slaves, and several of them a limited territory, well settled, and in a high state of cultivation. The southern States, if no provision had been introduced in the Constitution, would have been wholly at the mercy of the other States"—

This Constitution is now, as a matter of military necessity, set aside, I suppose, and we are wholly at the mercy of the other States—

"Congress, in such case, might tax slaves at discretion, or arbitrarily, and land, in every part of the Union, after the same rate or measure; so much a head in the first instance, and so much an acre in the second. To guard them against imposition in these particulars was the reason of introducing the clause in the Constitution which directs that representative and direct taxes shall be apportioned among the States according to their respective numbers."

That is the principle which has governed this country, sir, in its better days. It has never been questioned in Congress before, that I ever heard of, and never would be now but for the madness which seizes some of our friends, who say that the slaves are the cause of this rebellion. No, sir, that was not the cause. It was the continued discussion of slavery which was the cause of the rebellion; it was the continued assaults made by slaveholders upon the North and by the North upon slaveholders, and not the slaves, that caused it. It was the bad passions of slaveholders and the bad passions of the abolitionists. You might as well say it was tea that caused the war of the Revolution, and that because tea was the cause it must be destroyed and not permitted to come into the country. You must destroy the bad passions——

[Here the hammer fell.]

Mr. WICKLIFFE. I have this further to say, and I hope the committee will indulge me.

Mr. ELIOT. I object.

Mr. BINGHAM. I move to amend, by adding this proviso:

Provided, That the same shall be apportioned among the several States, according to their representative population, upon the basis of the whole number of representative population in each State in which such persons are held to service or labor for life.

I wish to say this on the subject of that amendment: if my view of this matter be right—and I do not know whether it be or not—every object intended to be accomplished by the gentleman from Missouri in introducing this amendment will be accomplished by the proviso I have added; because the amount per head is fixed by the amendment at two dollars, or whatever is the sum named, and because by the census enumeration, which furnishes the means of knowing exactly how to apportion them, therefore the amendment of the gentleman from Missouri, if it is to be adopted, should have this provision attached to it, and it cannot fail of being carried into effect according to the terms of the Constitution.

Mr. WADSWORTH. I wish to put a question to the gentleman from Ohio for information in reference to the nature of his amendment. Does it apportion the amount among the several States according to the Federal population?

Mr. BINGHAM. It does.

Mr. WADSWORTH. I will vote for that. I would like to tax one kind of property as well as another. I have, then, no objection to taxing slaves.

Mr. ROSCOE CONKLING. Will the gentleman state to the House whether it would be unconstitutional to impose a tax upon every man who should employ a certain number of servants?

Mr. BINGHAM. I have no doubt about it at all. I undertake to say that it was never done in the history of the country, and when it is done it will not stand, unless it be general, and apportioned as required by the Constitution. Let me illustrate a little further, for the purpose of showing the effect of the gentleman's proposition. Everybody admits that you can lay a capitation tax upon the citizens of the United States, for that is an express grant of the Constitution. Suppose you lay a capitation tax of one dollar, under that express grant of the Constitution, upon every male person in the United States over the age of twenty-one: the Constitution says that it shall be apportioned among the several States according to their respective numbers of representative population. Say, for illustration, that Pennsylvania has five hundred thousand male persons over twenty-one years of age, and that New York has seven hundred thousand. What will be the revenue in the event of such a tax? It will be $500,000 from Pennsylvania and $700,000 from New York, if they respectively have that number only of representative population.

Mr. STEVENS. Suppose you passed a law that every man who kept three servants in livery should pay three dollars—is that a capitation tax?

Mr. BINGHAM. It is.

Mr. STEVENS. Suppose it was enacted that every man who keeps three dogs shall pay three dollars—is that a capitation tax?

Mr. BINGHAM. No, it is a tax upon the dogs. I wish the gentleman to remember that a dog is not a man, and that dog and man are not convert-

ible terms under the Constitution of the United States.

Mr. ROSCOE CONKLING. The gentleman's idea is that in laying a tax as proposed upon the master we really tax the slave and only the slave. If that be so, if a tax on the owner is only another name for a tax on the property and does not actually rest upon the owner, let me put a question which must have arisen always when a property qualification belonged to the elective franchise. Suppose, as Dr. Franklin said, the $250 of the elector was invested in a jackass, upon the theory of the gentleman of Ohio, that the thing and not the man that owned it was the subject of the provision, did the jackass vote or the man that owned him?

Mr. BINGHAM. I have already said a man is not a dog, nor *a thing*, nor a piece of property, but *a man*. The luminous inquiry of the gentleman from New York about the jackass does not throw much light upon the question whether a *capitation* tax imposed by act of Congress upon persons must not, by the requirement of the Constitution, be apportioned among the States, and when so apportioned, be assessed upon the taxable *property* of the citizens thereof respectively. As to the gentleman's inquiry, therefore, about the elector and a property qualification, I will leave the gentleman to fight that out with the jackass. [Laughter.]

Mr. KELLEY. Mr. Chairman, I desire to say a few words in reply to the gentleman from Kentucky. In arguing his case that gentleman asked, "Why not tax the northern men for the laboring men they employ?" There is no analogy between the cases, and the supposed analogy is as offensive as it is false; nearly three fifths of the first twenty-five years of my life were spent in the workshop, but I was not property. My mother could not be carried to market by my employer to be sold, nor was I a thing for the shambles. The home of the northern laboring man is his sanctuary. The couch upon which his daughter sleeps and the resting place of his wife are worth more than the life of any man who dares invade them. But it is not so of the slave girl, or the slave's wife. The apprentice boy of the North is recognized as an immortal being. Means are adopted to develop his intellect, train his moral nature, and fit him for social duties and a sphere beyond this world. But the slave is treated as property, and your law prohibits the development of his intellect, his character, or his manly attributes.

Sir, let not the northern laboring man be compared to these creatures of law whom it is felony to teach to read the word of God. There is, I say, no analogy between the cases. These men, women, and children are held as things for the market. They have, it is said, no rights which a white man is bound to respect. They can no more receive and retain under the law the wages of their labor than a horse; and in advertisements they are enumerated with horses, cows, and other cattle. Tell me not that that is the way to speak of northern laboring men! Tell me not that there is an analogy between the cases! Are slaves property, or are they not? If they are not, why so persistently rail and prate about them? If they are not, why not let them act under their human volition; and if they are property, why not tax them as you are taxing all other property?

Mr. STEVENS. In order to close debate on this paragraph, I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt, and had come to no resolution thereon.

Mr. STEVENS. I move that all debate in Committee of the Whole on the state of the Union on the pending paragraph of the tax bill close in one minute after the committee shall resume the consideration of the same.

Mr. MENZIES moved to make it five minutes.

The amendment was disagreed to.

Mr. MENZIES moved to make it four minutes; and demanded tellers.

Tellers were ordered; and Messrs. STEELE of New York, and CHAMBERLIN, were appointed.

The question was put; and the tellers reported —ayes fifty-nine, noes not counted.

Mr. STEVENS. I withdraw my motion, and now move that the House go into the Committee of the Whole on the state of the Union.

On a division there were—ayes 24, noes 58.

Mr. EDWARDS demanded tellers.

Tellers were not ordered.

The motion was disagreed to.

Mr. WASHBURNE moved that the debate in the Committee of the Whole on the state of the Union on the pending paragraph be closed in three minutes after its consideration shall be resumed.

The motion was agreed to.

Mr. MALLORY. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of resuming the consideration of the tax bill.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. COLFAX in the chair,) and resumed, as a special order, the consideration of the bill (H. R. No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

The question being on Mr. BINGHAM's amendment to the amendment, the amendment was rejected.

Mr. MENZIES. I move to reduce the tax to $1 50. With the permission of the committee, I should like to say a few words in reply to what has fallen from the gentleman from Pennsylvania. I understand that he resides in the city of Philadelphia. I should have supposed from his excitability that he was born and reared in the same region as Keitt, Pryor, Wigfall, and men of that class. [Laughter.] Appreciative gentlemen from the North sitting near me, and strongly opposed to slavery, heard my speech, and they saw nothing offensive in it. They may have thought my position untenable, but no gentleman thought my remarks were offensive to the people of the North.

Now, sir, what was it? I wish to recapitulate it, for the purpose of showing that no fair-minded man had the right to take offense at that remark. I did not desire to be offensive to the people of the North. I intended to speak of them with justice and as a gentleman should speak of them. I was arguing that this tax upon slaves, though couched in indirect language, was a direct tax to that extent; and would make the bill more onerous to the people I represent than it will be to the people of the non-slaveholding States, and that it would be equally as unjust to impose a similar tax upon men in the North who hired laborers as it would be upon men in the South who owned slaves. Who is offended now? What gentleman of the North is offended with that remark except this member from Philadelphia?

[Here the hammer fell.]

Mr. MENZIES. I have but a little more to say.

The CHAIRMAN. Debate is closed by order of the House.

Mr. MALLORY. I wish to oppose the amendment.

The CHAIRMAN. No further debate is in order, even by unanimous consent.

Mr. CRITTENDEN. That was not the understanding of the House.

The CHAIRMAN. That was the order of the House.

Mr. CRITTENDEN. I certainly voted under a misunderstanding. I had a few remarks I desired to make.

Mr. MENZIES. I withdraw the amendment.

The question recurring on the adoption of the amendment offered by Mr. BLAIR, of Missouri,

The CHAIRMAN ordered tellers; and appointed Mr. BLAIR of Missouri, and Mr. CALVERT.

The committee divided; and the tellers reported —ayes 47, noes 62.

So the amendment was not agreed to.

Mr. HOOPER. I ask the unanimous consent of the committee to offer an amendment to the eighty-second section of the bill.

The amendment was read for information, as follows:

Strike out the last clause of the section, as follows:
And for and in respect of every insurance upon any life or lives which shall be made, renewed, or continued, or which shall be indorsed upon any open policy by any life insurance company, or its agents, or by any association, or individual, after this act shall take effect, a duty of ten cents upon each and every $100, insured for one year, and at and after that rate for any fractional part of $100, and for each and every year, and fractional part of one year, for which the insurance shall be made, renewed, or continued, or indorsed upon any open policy.

No objection being made, the amendment was received.

Mr. HOOPER. I am instructed by the Committee of Ways and Means to move that amendment.

The amendment was agreed to.

Mr. HOOPER. I move to amend the eighty-third section by inserting after the word "insurance" the words "except life insurance;" so as to make the section conform to the last amendment.

The amendment was agreed to.

Mr. WATT. I offer the following as an additional section to the bill:

SEC. —. *And be it further enacted*, That the sum of $60,000 appropriated to complete the capitol in New Mexico, by the second section of the act of Congress, approved June 25, 1860; and the sum of $50,000 appropriated for military roads in New Mexico by act of Congress, approved March 2, 1861, be, and the same are hereby, credited to the Territory of New Mexico, in payment of the direct annual tax of $62,648 levied upon said Territory under the eighth section of the act of Congress, approved August 5, 1861, to be taken to be on account of said direct tax under said act, as the same may fall due to the United States from said Territory.

Allusion has been made to this matter during the progress of this bill, and with the consent of the Committee of Ways and Means this opportunity was given me to present this question to the consideration of the committee. I believe there is no person upon the Committee of Ways and Means, and I presume there is no person in the Committee of the Whole House, who will object to this becoming an enactment of law. The appropriations are in the Treasury, and have been there nearly two years, and they have been used by the Government; and as we are willing that this exchange should be made, I think there will be no objection from any other quarter.

The amendment was agreed to.

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

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. COLFAX reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the bill of the House (No. 312) to provide internal revenue to support the Government and pay interest on the public debt, and had directed him to report the same to the House, with sundry amendments, with a recommendation that they do pass.

Mr. STEVENS. I move that the further consideration of the bill be postponed until Monday morning after the morning hour, and that, in the mean time, the bill and amendments be printed.

The motion was agreed to.

Mr. STEVENS. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of taking up two bills which ought to be disposed of.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WEBSTER in the chair.)

BRANCH MINT AT DENVER.

Mr. STEVENS. I move to take up the bill (H. R. No. 287) to establish a branch of the Mint of the United States at Denver, in the Territory of Colorado.

No objection being made, the bill was taken up for consideration.

The bill, which was read, provides that a branch of the Mint of the United States be located and established at Denver, in the Territory of Colorado, for the coinage of gold; that, for carrying on the business of said branch, there shall be appointed upon the nomination of the President, by and with the advice and consent of the Senate, one superintendent, one assayer, one melter and refiner, and one coiner; that the superintendent shall employ as many clerks, subordinate workmen,

and laborers, under the direction of the Secretary of the Treasury, as may be required. The salaries of the officers to be as follows: to the superintendent, the sum of $2,000; to the assayer, the sum of $1,800; to the melter and refiner, $1,800; to the coiner, $1,800; and to the clerks, subordinate workmen, and laborers, such wages and allowances as are customary according to their respective stations and occupation; that the officers and clerks to be appointed, before entering upon the execution of their offices shall take an oath or affirmation, before some judge of the United States or of the supreme court of the Territory, faithfully and diligently to perform the duties of their offices, and shall each become bound to the United States of America, with one or more sureties, to the satisfaction of the Director of the Mint or the secretary of the Territory of Colorado and of the Secretary of the Treasury, with the condition of the faithful performance of the duties of their offices; that the general direction of the business of the branch of the Mint of the United States shall be under the control and regulation of the Director of the Mint at Philadelphia, subject to the approbation of the Secretary of the Treasury; and that for that purpose it shall be the duty of the Director to prescribe such regulations and require such returns periodically and occasionally, and to establish such charges for parting, assaying, refining, and coining, as shall appear to him to be necessary for the purpose of carrying into effect the intention of the act in establishing the branch; also for the purpose of preserving uniformity of weight, form, and finish in the coin stamped at the branch; that the branch mint shall be a place of deposit for such public moneys as the Secretary of the Treasury may direct. And that the superintendent of the branch mint, who shall perform the duties of treasurer thereof, shall have the custody of the same, and also perform the duties of assistant Treasurer; and for that purpose shall be subject to all the provisions contained in an act entitled "An act to provide for the better organization of the Treasury, and for the collection, safe-keeping, transfer, and disbursement of the public revenue," approved August 6, 1846, which relates to the treasury of the branch mint at New Orleans; that the superintendent of the branch mint be authorized, under the direction of the Secretary of the Treasury, and on terms to be prescribed by him, to issue in payment of the gold dust and bullion deposited for assay and coinage or bars, drafts, or certificates of deposit, payable at the Treasury or any sub-Treasury of the United States to any depositor electing to receive payment in that form; that all the laws and parts of laws now in force for the regulation of the Mint of the United States, and for the government of the officers and persons employed therein, and for the punishment of all offenses connected with the Mint or coinage of the United States shall be in full force in relation to the said branch of the Mint as far as the same may be applicable thereto; and that the sum of $75,000 be appropriated, out of any money in the Treasury not otherwise appropriated, to carry into effect the provisions of the act, and to meet the expenses of the current year and for the fiscal year ending the 30th of June, 1863.

Mr. STEVENS. I move that the second reading of the bill be dispensed with.

Mr. VALLANDIGHAM. I object to that until the report is read.

The report was read *in extenso*.

Mr. STEVENS. I do not intend to make any speech in favor of the bill, as it has the recommendation of two Departments of the Government; and as I see around me a disposition to go into general debate, I will move that the committee rise for the purpose of closing debate upon this bill, and when we have disposed of this bill in committee, I will move to take up another bill, upon which gentlemen can engage in general debate.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WEBSTER reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the bill of the House (No. 287) to establish a branch mint of the United States at Denver, in the Territory of Colorado, and had come to no resolution thereon.

Mr. STEVENS. I move that all general debate upon this bill be closed in five minutes after the Committee of the Whole on the state of the Union resumes its consideration.

The motion was agreed to.

INDEMNITY FOR PROPERTY DESTROYED.

Mr. WICKLIFFE. I ask the unanimous consent of the House to offer the following resolution for reference only:

Resolved, That the Committee of Claims be instructed to inquire into the expediency of proceeding by law for taking evidence of the claims of the citizens of the United States whose property has been taken without compensation by any portion of the Army while on its march or stationary upon the premises of the citizen; also where the same has been sold by the citizen for its use, and not paid for by the United States; also for damages done the freehold while occupied by the troops of the United States.

Mr. ELIOT objected.

BRANCH MINT AT DENVER—AGAIN.

Mr. STEVENS. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Commitee of the Whole on the state of the Union, (Mr. WEBSTER in the chair,) and resumed the consideration of the bill (H. R. No. 287) to establish a branch mint of the United States at Denver, in the Territory of Colorado.

Mr. VALLANDIGHAM. Mr. Chairman, as this is not a special order, debate is not confined to the bill.

The CHAIRMAN. No, sir; five minutes are allowed for general debate.

Mr. VALLANDIGHAM. I propose then to say what I desired some time since to say in regard to the Democratic conference held in this city last week. Allusion having been made to it in the other wing of the Capitol, it is proper that an explanation should be made, so that erroneous impressions may be corrected. As to what took place in that conference, I have no right to speak, and I do not propose even to allude to it. From the nature of the call alone, what was done must be inferred. But the injunction of secrecy does not apply to that call, which was publicly circulated, exhibited, and read by many previous to the meeting. That call is in these words:

"DEMOCRATIC CONFERENCE.—We the undersigned members of the Democratic party of the United States, determined to adhere unwaveringly still to its ancient principles, and to maintain its organization unbroken under all circumstances, as the party best able to maintain the Constitution and to restore the old Union of the States, do hereby unite in this call for a CONFERENCE of all who may sign the same, approving of the objects above indicated."

Mr. STEVENS. Who signed that?

Mr. VALLANDIGHAM. That call was signed by thirty-five members of the Senate and House of Representatives, all of them able to read and write. No man made his mark.

Mr. STEVENS. Nor ever will. [Laughter.]

Mr. VALLANDIGHAM. If that call does not refer to political organization, I am not capable of understanding the English language.

I have only to say further that the Democratic party "still lives;" the movement thus commenced has been responded to throughout the country, and will go on; and the organization of that party will be completed. Beyond that, I am not at liberty to speak. My name was to the call. Others must answer for themselves.

Mr. STEVENS. I hope the bill will pass now without objection. [Laughter.] I move that the committee rise, and report the bill to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WEBSTER reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the bill of the House (No. 287) to establish a branch of the Mint of the United States at Denver, in the Territory of Colorado, and had directed him to report the same to the House, with a recommendation that it do pass.

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

The previous question was seconded, and the main question ordered.

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

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. STEVENS. Unless some other gentleman has business to propose, I will move to go into Committee of the Whole on the state of the Union.

Mr. WICKLIFFE. I desire to make a motion.

Mr. STEVENS. I yield to the gentleman.

ADJOURNMENT OVER.

Mr. WICKLIFFE. I rise to make a motion that is generally popular in this House. I move that when the House adjourns to-day, it adjourn to meet on Monday next.

The motion was agreed to.

PERSONAL EXPLANATION.

Mr. WOOD. I desire, with the consent of the House, to make a personal explanation.

Mr. STEVENS. I yielded for the motion of the gentleman from Kentucky, but I cannot yield further.

Mr. WOOD. There is a libel upon me in the New York Tribune of yesterday, and I wish to brand its author, whoever he may be, as a coward and a libeler.

The SPEAKER. The gentleman can do that without getting the consent of the House. [Laughter.]

FRANKING PRIVILEGE.

Mr. STEVENS. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HUTCHINS in the chair,) and resumed the consideration of the bill to regulate the franking privilege.

Mr. BEAMAN. Mr. Chairman, a majority of the Committee on Territories lately reported to the House a bill to establish provisional governments over the districts of country now in rebellion against the lawful authority of the United States. The House, in the exercise of its judgment, of which I do not complain, declined to order it printed, but laid it upon the table. Two minority reports were also made, one of which—if I heard aright—characterized the bill as unconstitutional, if not treasonable. Having concurred with the majority of the committee, I deem it due to myself to state briefly the reasons that governed my action, and to attempt to show, that whatever may be the policy of the bill, it is not obnoxious to the grave charges of unconstitutionality and treason.

I am aware, sir, that the proposition is novel; but we are surrounded by novel circumstances. Indeed the entire history of the nation—if we regard its origin, its development, its form of government, its present condition—is novel, peculiar, and wonderful, and to after ages it will appear exaggerated, perhaps mythical. Within the memory of men still living three millions of feeble colonists have broken away from the dominion of a powerful monarchy, established their independence, increased to a great population, enjoyed a measure of freedom and prosperity never before attained, become a first-class Power, and finally, without obvious excuse, have been plunged into a terrible civil war, conducted by a million of combatants. And now a large portion of the country is in a state of undisguised rebellion against lawful authority, and without the pale of constitutional, local government. I have said that the proposition is new; but not so are the principles upon which it is based. It is not speculative; it looks to practical results; and to me it seems worthy of careful investigation. In a large portion of the Republic the due execution of the Federal laws is suspended by hostile impediment which must be removed; and lawful local government has been extinguished which must be replaced. The mode and the means are practical questions lying in our way, which, if we would, we cannot avoid.

The substantial proposition contained in the bill, briefly stated, is this: the United States is a nationality, a sovereign Power, with vast territorial possessions, amounting, in the aggregate, to about three million two hundred and fifty thousand square miles, over which it is entitled to gov-

ernmental jurisdiction, from which allegiance is due, and to which it owes the obligations of protection and a just administration of law. Let us examine it.

The American Government is not a partnership or league of States, but a unity, a sovereignty, a Government of the people. It was not established by the action of States; it was based upon the popular will. In the preamble to the organic law, it is declared, that "we, the people of the United States," "do ordain and establish this Constitution for the United States of America;" and in the seventh and last article of that instrument, in order to give effect to the popular will, and to exclude the idea of State authority in the formation of the Union, it is expressly provided that its establishment shall be by the "ratification," not of States, but "of the conventions of nine States." By the adoption of the Constitution in the mode prescribed by its own terms, we became one people and one nation. Nor was this consummation the result of accident. It was induced by judgment, reason, reflection, and experience. It was urged by the necessities of the occasion.

From 1775 to 1787, the people of the thirteen States struggled through a precarious existence. During that delicate and dangerous period, so pregnant of future results, they were separated and estranged by pernicious lines of feeble States, and enervated by the jealousies and antagonisms of petty sovereignties. They had no executive, no judiciary, no nationality, no central sovereign power. The Articles of Confederation had proved a failure. Experience had convinced the great minds of that time that the fruits of the Revolution were about to perish, through selfishness, jurisdictional strife, and ultimate anarchy. In proceeding to form a national Government, they took care that the remedy should be effectual. In the preamble alluded to, they stated as well the reasons for their actions as the objects to be attained. They declared that they ordained the Constitution "in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare." This language is deliberate and well chosen, and considered in connection with cotemporaneous history, shows that they were mindful of their danger and sought an avenue for escape.

But what was the great, leading, paramount idea that weighed most heavily upon the minds of that day? It was union, perfect union, "a more perfect union." They would have a national Government with power to extend the ægis of its protection over the entire American possessions. They would have a flag emblematic of authority, though floating aloft over distant seas. They would have the citizen of Massachusetts "entitled to all the privileges and immunities of citizens in the several States." They would "establish justice" not in New York only, but in every part of the country. They would "insure domestic tranquillity" as well in South Carolina as in the District of Columbia. They would "promote the general welfare" by protecting, guarding, and encouraging the country in all its parts.

Their labors resulted in the adoption of the Federal Constitution, and on the 30th day of April, 1789, George Washington was inaugurated and took the oath of office as President of the United States. He was a citizen of Virginia, but not the Chief Magistrate of that Commonwealth. He was placed at the head of a Government that embraced all the States, and whose scepter extended as well over Georgia as Massachusetts. Connecticut and North Carolina were not only within the United States, but they constituted parts of her possessions. Mount Vernon, the home of Washington, reclined upon the right bank of the Potomac in the Old Dominion; but it was, nevertheless, a constituent part of the national territory, and subject to the laws of the Union and entitled to its protection. It was not technically the property of the United States; no more was it that of Virginia. But it was clearly a part of the possessions of the Republic and subject to its jurisdiction. And yet more, beyond all dispute, and by force of the very terms of the Constitution, the Federal Government had an actual, positive, vested interest in Mount Vernon, as well as in every foot of soil in Virginia. "Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States."

The Federal Government may in effect, by authority of the organic law, create a lien or mortgage upon every inch of land in every State and Territory of the Union; because Congress has power "to borrow money on the credit of the United States," and may, as already shown, "lay and collect taxes," &c., to pay the debts thus incurred. To-day such a lien actually exists upon all the lands of the country to the amount of hundreds of millions of dollars. The "Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding." It is manifest that the Federal Government has sovereign power over all parts of its possessions; and that it is amenable to corresponding obligations for the protection of its jurisdiction. It must "establish justice" and "insure domestic tranquillity;" and in case any State fails in that regard the powers of the General Government must apply the corrective, and, if necessary, extraordinary means must be adopted to that end. The extent and character of the measures to be adopted must depend upon the circumstances of the case, but I cannot doubt that cases may arise, or that such now exist, in which the General Government has the unquestionable right to take control of the territory and people lately recognized as a State, and spread over them such provisional government as may be suitable to their peculiar condition.

Let us illustrate: the Territory of Minnesota, previous to the Government land sales, was the absolute property of the United States. The disposition of a portion of its soil modified the right of property, but did not release nor in point of law change political jurisdiction. The national authority was supreme, and could still establish and modify government for the Territory. The admission of Minnesota as a State, gave to her people new and enlarged political powers and privileges; but did not alienate her Territory, cancel her obligations to the Federal Constitution, nor relieve the United States from the obligations of protection. Suppose some fatal epidemic were to sweep over the State, consigning every soul of her inhabitants to the grave; and the aborigines should return to and reoccupy the hunting grounds of their fathers: what then would be the status of Minnesota? There would be no civilized people, no representatives, no State officers, executive or judicial; but would not the United States still retain jurisdiction over the Territory of Minnesota? Could we not remove the Indians from her soil? Could we not repel foreign invasion? Could we not colonize or repeople that district of country? And on the arrival of the new settlers, whether from the States or from foreign lands, could we not give them a government? And could we not give them such form of government, territorial or otherwise, not inconsistent with the character of our institutions, as the exigencies of the case might require? Certain it is, in the case supposed, that the original government of the State of Minnesota would be annihilated. There would be no executive, no judiciary, no representation, no political organization. The functions of government would be lapsed. There could be no election of officers according to law, no such case being provided for, and any machinery of government put in operation by the new comers would, of necessity, be provisional. And again, suppose the depopulated Territory should be repeopled by a colony from Germany, not one of whom was a legal voter: could not the United States intervene to establish a government?

Sir, I admit that the supposed case is an extreme one; but it is illustrative of the principle, and no more improbable than would have been the supposition of this gigantic rebellion five years ago.

On the 19th day of December, 1860, the rule of the United States was extended over the entire American possessions; but on the next day South Carolina adopted a pretended ordinance of secession, by which she repudiated and defied the authority of the Federal Government, an example that was speedily followed by ten other States. This incipient rebellion culminated in terrible civil war waged by the seceders against the United States. All but two of the rebellious States have ceased to be represented in either House of Congress, and if we except the provisional government recently erected over a portion of Virginia, there is not a single lawful State officer in the entire seceded district. In all that portion of our possessions, lawful State government has ceased to exist. The people there are rebels and traitors, conspiring the overthrowing of the Constitution and the disintegration of the nation. Doubtless there are in fact many patriotic men; but in appearance, in so far as we can judge by any demonstration of attempts at legal government, State or national, there is not a loyal man in South Carolina. At all events, if such a man lives, he is powerless and without a lawful government.

Such being the state of affairs, the question occurs what is our relation to the seceded States? What, for instance, is the status of South Carolina? Her territory is certainly within the limits of the United States, and part and parcel of the American possessions, over which, by the Constitution, the laws of Congress are declared to be supreme; but her State officers have abdicated, and her State government, in so far as she is connected with the Union, has been abandoned, and I answer that her relation to the General Government is not unlike that of an unorganized territory; provided the latter were in an attitude of rebellion. She is not a State under the Constitution. By a figure of metonomy, we often use the term State, to indicate the territory included within the limits of a certain district of country, but in that sense the name is equally appropriate to Colorado or Nevada. But, as applicable to our political system, the expression means something more. It is significant, not so much of the land and inhabitants, as of the character of the political organization. Long before its discovery by Captain Gray, the surface of Oregon existed with all its present limits, but it was not a State. British and American emigrants settled within its borders; still it was not a State. The land, with its rivers and mountains, and the people domiciled in its valleys could not elevate it to that dignity. It was the rights and immunities, the peculiar political organization, subsequently conferred by express act of Congress, that established its character as a State.

It will not be pretended that there is any Governor, Legislature, court, senator, representative, or other officer in South Carolina, adhering to and supporting the authority of the United States. The people of South Carolina do not acknowledge the national flag; they confess allegiance to a pretended nationality, called the confederate States of America. They have actually sent representatives to a pretended congress of that spurious confederacy; and they insist that they are alien enemies to this Government; they deny the authority of the Constitution; they refuse the protection of the Federal Government; their officers have violated their official oaths; they have leagued with the enemies of their country; they have murdered citizens of the United States; they have attempted foreign alliances; they utterly deny that they constitute any portion of the United States; and thus they have cast off their corporate rights and abandoned their former political condition. They have officers indeed, but you do not recognize them as lawful. They acknowledge fealty, not to the United States, but to a hostile Power. Their political condition as a State has been extinguished. Sir, the soil of South Carolina remains, but her loyal people and her municipal rights and immunities have passed away. The land is still the lawful territory of the United States; but the State, in its technical signification, has gone with the political organization.

Shall we be told that the Constitution still survives? Let us see. By the term constitution we mean the organic, the fundamental law, upon which the political structure is based. Law is defined as being a rule of action prescribed by the supreme power of the State. In popular governments, this supreme power is the will of the people, and in this country is evidenced by written charters or constitutions. The written parchments, however, are not laws, but merely the shadows or symbols of laws. The parchment being without inherent vitality, cannot invigorate and perpetuate itself. The language in which it is framed may provide for its everlasting duration, but the spirit and life of the law are not in

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. WEDNESDAY, APRIL 9, 1862. NEW SERIES....No. 98.

the record, but in the continuous will and support of the people. Two circumstances at least are essential to the existence of law—the supreme power to prescribe, and the subjects to be controlled. Law can no more exist without the sovereign and the subject than sound without the atmosphere and the tympanum of the ear. In the State of New York the people, in their collective capacity, constitute the sovereign, in their individual relations they are the subjects. To-day the constitution of New York is the fundamental law of the State, because it is the will of the people. Should the people will otherwise, it would cease to be their organic law. They could not turn their State over to a monarchical government—why? Because they are inhibited by the Constitution of the United States. They might, however, abolish their present constitution, and in the same act perpetuate their political existence in another. But should they annul their organic law, and vacate all their offices, and utterly neglect and refuse to provide any substitute, then clearly their political organization would fall, anarchy would commence its reign, and the State would be out of existence.

If South Carolina be a State she is one of the United States, unless she be a foreign commonwealth, which you will not, and cannot, admit. Is there any supreme power in South Corolina that recognizes and sustains her constitution as a State of the Union? If not, then the parchment upon which it is written has no vitality; it is dead, and the State is out of existence. Where are the officers, the people, the supreme power of South Carolina? They are in the camps of the enemy, represented in the rebel congress, making war upon the Federal Government, and submissive to the rule of the usurper Davis. Now, if there be any supreme authority in that locality it is a hostile power, and if there be any subjects they claim to be amenable to the rebel government. I use this broad expression because no faithful men are manifest; and a people must be judged by its collective action. Do written constitutions, *per se*, constitute States? Is a State a piece of written parchment whose perpetuity depends upon the durability of its legibility? Are State franchises indestructible? Can they not be surrendered or abandoned by the recipients themselves? Can they not be forfeited under any possible circumstances? The United States has a written Constitution and written laws; but these, and even its own existence, may be blotted out, and, like the ancient Grecian States, live only in history. I speak not now of the vast physical districts of country that, stretching from ocean to ocean, rested for more than five thousand years previous to the advent of the renowned Genoese in the grand solitude of a trackless wilderness; nor of the Pilgrim Fathers who performed their devotions on Plymouth rock; nor of their descendants who struggled and prevailed on revolutionary battle-fields; nor of the teeming millions this day represented on this floor. I refer to the body politic, the living energized nationality known throughout the world as the American Government. Who will deny that the people might abolish the Constitution with all its franchises and incidents, even by the substitution of a monarchy, notwithstanding that here and there a loyal citizen should interpose his solemn protest, supported by the cogency of the organic law in his hand? And had that little affair of the Trent combined all Europe, and had she been able to visit us through an army sufficiently powerful to march from the Atlantic to the Pacific, vacating in its course the seats in this Capitol, and placing in the mansion at the other end of the avenue a sprig of royalty, still you might talk of the indestructibility of the political organization of South Carolina; but I imagine that history would be deceived into the folly of recording that the traitors Mason and Slidell, with the aid of the gallant and patriotic Captain Wilkes, had been somewhat instrumental in bringing to her last hours the great Republic. In either event, the Rocky mountains would still be clad with snow as in times gone by, and the waters of the Mississippi would continue to glide along in their accustomed currents; and, if you please, stacks of constitutions and statutes-at-large might be piled up in every city, village, and hamlet in the land, and native-born Americans might continue to plow the fields inherited from their ancestors, but the United States would be no more, forever!

Sir, I do not argue that the Federal Government has power to remand a loyal State to the condition of a Territory; but I insist that the latter may surrender her franchises and abandon her immunities, and when the Federal authority attempts to assert its power to reëstablish government vacated by treason, she is estopped from interposing her jurisdiction as a State. The Government cannot appropriate my land without just compensation, but I may release it without consideration. The Government cannot deprive the President of his office during the term for which he was elected, but the latter may resign or be removed for misconduct.

By the Constitution, "no State shall enter into any alliance or confederation, grant letters of marque and reprisal." Having violated both the letter and spirit of those provisions, and formed a hostile government, and made actual war upon the United States, the rebels are outlaws, and absolutely incapacitated for the performance of governmental functions. Is John Letcher Governor of Virginia? Then, on what principle and by what authority does Pierpont discharge the duties of that office? I am not aware that any judicial tribunal has ever rendered a judgment of *ouster* against the former. By what tenure do the Representatives and Senators from that State hold seats in this Capitol? By what license, warrant, or constitutional right do all the various public functionaries of Western Virginia assume to direct the machinery of government? If a single precedent might establish a rule, I might confidently point to the provisional government of that State, in connection with its recognition by the Federal authority as fully settling the principle for which I contend. Neither the Executive nor Congress can justify its action on any other ground than that of assuming that the government of Virginia had ceased to exist. On any other principle such exercise of power would be unconstitutional, and in the highest degree revolutionary and despotic. The President, in his message to Congress, at the opening of the extra session, evidently took that view of the case. He says:

"The course taken in Virginia was the most remarkable, perhaps the most important. A convention effected by the people of that State to consider this very question of disrupting the Federal Union, was in session at the capital of Virginia when Fort Sumter fell. To this body the people had chosen a large majority of *professed* Union men. Almost immediately after the fall of Sumter many members of that majority went over to the original disunion minority, and, with them, adopted an ordinance for withdrawing the State from the Union. Whether this change was wrought by their great approval of the assault upon Sumter, or their great resentment at the Government's resistance to that assault is not definitely known. Although they submitted the ordinance for ratification to a vote of the people, to be taken on a day then somewhat more than a month distant, the convention and the Legislature (which was also in session at the same time and place) with leading men of the State, not members of either, immediately commenced acting as if the State were already out of the Union. They pushed military preparations vigorously forward all over the State. They seized the United States armory at Harper's Ferry and the navy-yard at Gosport, near Norfolk. They received, perhaps invited, into their State, large bodies of troops with their warlike appointments, from the so-called seceded States. They formally entered into a treaty of temporary alliance and cooperation with the so-called confederate States, and sent members to their congress at Montgomery. And finally they permitted the insurrectionary government to be transferred to their capital at Richmond. The people of Virginia have thus allowed this giant insurrection to make its nest within her borders, and this Government has no choice left but to deal with it *where* it finds it. And it has the less regret, as the loyal citizens have, in due form, claimed its protection. Those loyal citizens this Government is bound to recognize and protect as being Virginia."

I call special attention to some of the points so clearly and logically made by the President in the extract from his message that I have quoted. It was "the convention and the Legislature," "with leading men of the State, not members of either," that commenced acting as if the State were already out of the Union. It was the convention of the people that adopted the ordinance. It was "the people of Virginia" that "thus allowed this giant insurrection to make a nest within her borders." Yes, it was in Virginia, that State so conspicuous, illustrious, and glorious in revolutionary history, and in whose bosom rested the sacred remains of Henry, Monroe, Madison, Jefferson, and Washington, that the constituted authorities, the leading men and the people—unmindful of the blood of their fathers, forgetful of their duty to their country, careless of the just rights of posterity, and regardless of the claims of universal humanity—struck at the vitals of the Republic, united in resistance to the Federal Constitution, and turned over their State government to the embraces of an enemy.

The President seems to have carefully surveyed and accurately comprehended the actual condition of affairs, and to have arrived at the conclusion that Virginia by her own act and volition had extinguished her government. Hence he did not propose to revive, sustain, or protect it. But he announced in emphatic language the fixed determination of this Government to protect the "loyal citizens." So much, at least, was due to the memory of *the* Virginia of better and purer days. Nor could he do otherwise; these loyal men are entitled by the organic law to all the privileges and immunities of citizens of the several States. Congress sympathized and concurred with the views of the President, and cheerfully united in the attempt to give them effect. But how? Not by sustaining the old government, but by recognizing Pierpont instead of Letcher, and the newly created authorities at Wheeling instead of those at Richmond. It was, in fact and in law, the erection of a new government. To deny this would be an admission that Virginia has at one and the same time two distinct, antagonistic State governments, which would be inconsistent and absurd. If the original State government was not in point of law extinguished, then there is no government at Wheeling, and the State is not properly represented in Congress.

Let us not be deceived nor confounded by names. Virginia is one of the States of the Union, but not the Virginia of olden times. Observe that I speak not of the land, the rivers, the mountains, the territory; I refer to the government, the corporate organization that signifies, in our political language, the State. She ceased to be a member of the Union—not territorially, but as a State. In other words, by her own acts she lost her political organization. How did she get back and become reinstated on an equal footing with the loyal members? Sir, she came in no way and by no means whatever—she never came at all. But the present, the young Virginia, the heir, if you please, of the Old Dominion, come through a government *de novo*, springing from the people, inchoate and provisional at first, but made regular and complete by the recognition of the Federal Government. She followed in the same path that had been previously opened and beaten by California. The acts of recognition in the two cases differed somewhat in form, but not in results. I shall not now consider whether the admission of those States into the Union was regular or not; perhaps both might have been rejected; perhaps it is well that each was admitted. My present purpose is to show that both the executive and legislative branches of the Government have admitted and asserted by their own acts that the original government of Virginia passed away; that the Constitution of the United States is supreme over its possessions; and under it the Federal Government may erect or permit the erection of needful governments to insure domestic tranquillity, and promote the general welfare.

Fully impressed with the conviction that Congress has power, with the approval of the Executive, to provide governments for those ill-fated, rebellious districts, I come now to consider the

expediency and necessity of its exercise, and the character of the polity proper to be adopted. And here I repeat, in substance, a suggestion made in the early part of these remarks: the subject is practical and important, besetting us at every point, and earnestly demanding our serious, profound, and vigilant attention. I doubt, sir, that any question fraught with more important consequences ever occupied the minds of the American people. And, in proportion to the progress of our arms, and our military successes, the necessity for prompt action and wise determination and decision becomes at every stage the more pressing. More than seven hundred thousand square miles of our country are under the rule of traitors; and in that vast territory millions of people are engaged in the work of treason. In all that extensive region local laws have been abrogated, and Federal jurisprudence has been suspended. Justice has been stricken down, and domestic tranquillity has been disturbed. In their place, we find injustice, disorder, theft, robbery, rapine, murder, and every species of wickedness, everywhere prevalent. After many months of doubts and delays, the armies of the Republic have begun to move, and already glorious and important victories have been inscribed upon our banners. The avenue to the heart of treason is now apparently direct and open. Illegal, self-constituted authority must soon begin to crumble. Speedily the Davises, the Benjamins, and Cobbs will be stripped of their ill-gotten power, and the people will be deprived of even the poor, wretched local government hitherto maintained by rebels and traitors.

Then, indeed, will the laws of the United States attempt to resume their sway; but putting aside the obstacles in the way of their execution, they are not adequate to the emergency. Local laws and local officers will be found absolutely indispensable to the restoration and maintenance of order and the welfare of the people. Local laws and municipal officers are found essential to the good government of the small District of Columbia. The usual Federal officers, the marshals with their deputies, the United States judges, the postmasters, revenue officers, &c., all these will avail little in the attempt to control seven millions of people, contaminated with treason, tainted with the vices of anarchy, embittered with jealousy, and smarting and writhing under the pain of recent humiliation and defeat. He, it seems me, knows little of the human heart, and studies but carelessly the philosophy of human action, who believes that millions of traitors can be prudently left without government, or that they can be controlled with decency and order by the usual Federal officers. Local government, with executive, legislative, and judicial powers, will be positively indispensable, not only for the welfare of the inhabitants, but for the preservation of the authority of the United States. Futile will be your effort to collect taxes, vain will be your hope to distribute justice between individuals, and fruitless will prove your labors to insure domestic tranquillity, without the establishment of local governments.

I know that the Army as it moves along, may leave in its track military governors and martial regulations, and that such a course, under special circumstances, may become a necessity; but I cannot believe that any man, born under the American flag, who has given the subject the slightest thought, can for a single moment entertain the design of establishing military governments, for any considerable duration, over seven millions of native-born Americans. Such a scheme is incompatible with the spirit of our institutions. It is anti-republican, anti-American. Better far to disband your armies, stop the waste of treasure, and stay the flow of blood; better far to let hostilities cease, and acknowledge the independence of Davis and his myrmidons and cohorts of banditti, than to attempt an experiment like this. Military power must be subject to, directed and controlled by, the civil authorities. This principle was deeply impressed upon the minds of our fathers, and when it shall have been forgotten by their descendants the days of constitutional liberty will have been numbered.

The fall of Sumter startled the Government and amazed and astounded the people. The tocsin sent forth its notes of alarm from the Executive Mansion, notes that were speedily borne upon the southern gales over every hill and valley in the North. They fell upon quick, watchful, and patriotic ears. The country responded beyond the requisitions of the Government. Men with white locks and boys with beardless faces, and even women with gentle forms, but stout and patriotic hearts, rushed to the defense of the Constitution and the flag of their fathers. No one then doubted, no one now questions the ability of our loyal forces to crush out this rebellion against lawful Government and humanity itself. But often has the question arisen—and now the inquiry is more urgent than before—"when armed rebellion is beaten down, what disposition shall be made of the traitors?" The answer to this embarrassing question has thus far been delayed; but it cannot with safety be much longer postponed. That brave old flag, that has been borne in triumph in foreign lands, and that never was soiled but by the hands of traitors, will soon float again over every part of the Republic. And we are admonished of our duty to see that proper legislative provisions are made to secure and preserve the fruits of military triumphs.

Sir, I do not deny, as a legal proposition, that the people of the seceded districts may erect provisional governments, elect members of Congress, and in that mode, by the consent of this Government, acquire a standing in the Union. So did California, so did Virginia. But in my judgment such a course cannot be tolerated without imminent peril. I regard the proposition as one of monstrous folly and madness; and should this Government suffer it to be carried out, I believe it would be faithless to the great trust that the people have given it in charge.

If you regard this rebellion with reference to the age in which we live, the cause of defection, the magnitude of the scheme of treason, the number and character of the conspirators, the secrecy, yet boldness, with which it was planned, and the ruin that it has wrought, it has no parallel in history. As I have said, seven millions of men, besides their coadjutors and fellow-conspirators in the loyal States, are plotting treason. Resistance to these atrocious machinations has already saddled from seven to ten hundred millions of indebtedness upon the people, which must impose heavy burdens, in the form of taxes upon the country, for generations to come. The loss of aggregate national wealth in consequence of the withdrawal of a million of men from industrial pursuits, the destruction of property, of trade, commerce, and manufactures, is incalculable. The danger of collision with foreign Powers has been imminent. For more than eight months the capital of the nation was a beleaguered city. The tone of society throughout the country has been more or less demoralized. Thousands of our young men, the hope of the country, already sleep in soldiers' graves, and many thousand more will drag out an existence made miserable and irksome by constitutions diseased and broken by hardships in the camp and exposure on the battle-field. There is not a town, and scarcely a family, in the North that does not mourn its dead—its murdered dead. And in the South millions of beings wear garments stained with the blood of your sons, your brothers, your neighbors. Sir, these are facts, sad, and mournful, yet not wholly free from a tendency to excite just indignation.

The cause of all this long catalogue of evils is crime—deep, dark, damnable crime—resting on the souls of traitors. The crimes of the murderer executed upon the scaffold, of the homicide, the burglar, and the thief confined in your penitentiary, are venial, compared with the atrocious offenses of these wicked rebels. The former are wrongs against individuals, the latter are crimes against humanity itself. The authors of these atrocities are within our jurisdiction, and must be taken care of. They are too numerous for the gallows, too many for close confinement. They must have government; but in what manner shall it be provided? Would you deem it safe to trust such men to reorganize society and reconstruct government, the very corner-stone of which would inevitably be treason? Would you allow such a constituency to send Representatives to this temple of liberty, to fill this Hall with the pestilential odors of treachery and rebellion? Is it thus that you would honor the grave of Ellsworth, of Lyon, and of Baker? Is it thus that you would reward the loyal North for its vast expense of treasure and of blood? Is this the kind of consolation you would offer to the lone widow, whose only son found his final resting-place at Manassas or Ball's Bluff, far away from the tomb of his ancestors, and the wonted scenes of his childhood and youth? Do you propose, without probation, to reinstate these guilty men with all the privileges and immunities of freemen and good citizens? Is there to be no punishment for traitors? Is commerce to be prostrated, trade annihilated, the wealthy beggared, the nation bankrupted and brought to the very verge of dissolution, by treason and groundless civil war, and is there no punishment for the authors of such terrible and wide-spread calamities? Sir, before you attempt this experiment, let me advise you to accompany the tax-gatherer on his tour of collection, to visit the military hospitals overflowing with the sick and the dying, to stand over the amputation table and listen to the irrepressible groans of anguish, to search out the widows and orphans and witness their poverty and sorrow, and wherever you go to proclaim that there is no punishment for treason, but that disarmed traitors are good citizens, capable of self-government and worthy to sit in the councils of the nation!

Sir, the very suggestion of such a proposition fills me with consternation and amazement. It seems to me to be fraught with danger and ultimate disaster. Nor can I see the necessity, the justice, or the policy of such a measure. What plausible argument can be advanced in its support? Are you afraid of humiliating or exasperating these men? Afraid of humiliating traitors! Afraid of exasperating thieves, rebels, and murderers, already holding daggers in their hands, pointed at your throats! Are you afraid of discouraging and disbanding your armies if you attempt to control or punish their enemies? Are you moved by a spirit of love and friendship for these desperadoes? Surely your love is more than sufficient for a reasonable compliance with the requisitions of the Christian faith. David, with all his deep affection for Jonathan, had no conception of the height, depth, and breadth of love. It was not permitted to the "sweet singer of Israel" to comprehend its intensity. It was reserved to the American Congress of the nineteenth century to demonstrate the virtue of loving not their neighbors as themselves, but their enemies even more than themselves!

It is said that many loyal citizens still reside in the seceded districts whose hearts continue to throb with affection for the Government of their fathers. I do not deny the fact, and yet the assumption must rest on assertion and belief, rather than on proof. The evidence is against it, particularly in the cotton States. The hasty and apparently spontaneous action of the masses, the obvious unanimity with which the people flew to arms, and the relentless hate which has marked their conduct, do not indicate a high degree of patriotism in the infected territory. Nevertheless, conceding, as I do, the existence of loyal men, I admit and insist that they must be shielded and protected by and under the Constitution. So much they may demand on the plainest principles of right, justice, and humanity. But the very necessities of their condition furnish the strongest arguments in support of the policy that I advocate. They could not maintain order and the supremacy of the laws; they could not keep down insurrection in their own State; they could not prevent it from joining a hostile confederacy; they could not sustain and preserve their Government; they cannot protect themselves; they are in a minority in most of the districts, a very inconsiderable minority; and if the people generally are left to provide their own government it is obvious that the result must be the progeny of traitors; and, without the aid of Government, established and controlled by Federal authority, and officered by loyal and responsible men, such a result can hardly be avoided.

Nor can you escape the threatened danger by any general legislation by Congress that stops short of the actual establishment and officering of Government. You may by statute declare the outlawry and disqualification of rebels; but practically that will avail you nothing. Law that cannot be executed is as no law; and it is only through the instrumentality of territorial or provisional governments, established by Congress, that you can discriminate and ferret out the culpable. If left

to themselves, the people will meet in primary conventions; and as four fifths of them, more or less, are disaffected, it inevitably follows that traitors must reconstruct the Government and reorganize society; and the entire polity of the State must be tainted with the virus of treason. The State officers and the members of Congress must of course be representative men. The majority are not apt to select their rulers from the minority. Recent chastisement may induce a policy of dissimulation, and a show of repentance and obedience. But who of experience, of enlarged statesmanship, can be deceived by such specious pretenses? The same reasoning would, with an equal appearance of wisdom, open the prison doors of every jail and penitentiary on the face of the earth. The convicted horse thief deplores his offense, not on account of its criminality, but because of his detection. Perhaps there may be some localities in which the loyal people if once released from the chains of despotism by which they are now so rigorously and tightly bound, would be competent to provide for their own security; but such cases are merely exceptive; and on principle and as a general rule, the Federal authority should intervene, not to disfranchise loyal men, but to establish and regulate government, because of their inability to govern themselves. Besides, let it be determined and declared to the world that the people of a State cannot throw the country into civil war, abolish their Government, and reconstruct it at pleasure.

I have remarked that the case is without precedent; let it, therefore, be well considered, and decided with an eye to the future. Let it be demonstrated that the jurisdiction of the Government extends over every part of the Republic; and let it be established and remembered during all coming time, that treason is crime susceptible as well as worthy of punishment.

Mr. WICKLIFFE. I move that the committee rise, with a view to an adjournment, that we may all go home and get our dinners.

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

Mr. WICKLIFFE. What bill is it? I have heard nothing about a bill.

The CHAIRMAN. It is a bill to regulate the franking privilege.

Mr. WICKLIFFE. Oh! that cannot be reported to the House. I insist on my motion.

Mr. WICKLIFFE's motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. HUTCHINS reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the bill to regulate the franking privilege, and had come to no resolution thereon.

Mr. VALLANDIGHAM. I move that all debate upon the bill be closed in five minutes after the Committee of the Whole on the state of the Union shall again resume its consideration.

The motion was agreed to.

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

INVULNERABILITY OF SHIPS AND BATTERIES.

Mr. RICE, of Massachusetts. Will the gentleman waive that motion for one moment?

Mr. WICKLIFFE. Is that the gentleman from Massachusetts who objected to my resolution?

Mr. RICE, of Massachusetts. No, sir.

Mr. WICKLIFFE. Then I withdraw my motion; but I would not have done so if it had been the gentleman who objected to my resolution.

On motion of Mr. RICE, of Massachusetts, by unanimous consent, joint resolution (H. R. No. 59) authorizing the Secretary of the Navy to test plans and materials for rendering ships and floating batteries invulnerable, was taken from the Speaker's table, and the amendment of the Senate thereto was concurred in, as follows:

Page 1, line four, strike out "$50,000" and insert "$25,000."

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the amendment was concurred in; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

And then, on motion of Mr. WICKLIFFE, (at a quarter to four o'clock, p. m.,) the House adjourned until Monday next.

IN SENATE.

MONDAY, *April* 7, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of Friday last was read and approved.

PETITIONS AND MEMORIALS.

Mr. WADE presented the memorial of the heirs of William B. Foster, praying for the adoption of measures to secure to them the amount due by the Government to William B. Foster at the time of his death; which was referred to the Committee on Revolutionary Claims.

Mr. SUMNER presented a petition of citizens of Ulster county, New York, praying for the immediate abolition of slavery under the war power; which was ordered to lie on the table.

Mr. WILLEY presented a memorial of citizens of Ritchie county, Virginia, remonstrating against the proposed tax of three cents per pound on leaf tobacco; which was referred to the Committee on Finance.

Mr. HOWARD presented the petition of Silas M. Holmes and others, citizens of Detroit, Michigan, praying for the passage of a uniform bankrupt law; which was referred to the Committee on the Judiciary.

REPORTS FROM COMMITTEES.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the petition of Bryant T. Scofield and other members of the bar, residing in the counties of Hancock and McDonough, in the State of Illinois, praying that those counties may be transferred from the northern to the southern district of the United States court in that State, and also a bill (S. No. 102) to amend an act entitled "An act to divide the State of Illinois into two judicial districts," approved February 13, 1855, reported the bill without amendment.

Mr. WILSON, of Massachusetts, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 234) authorizing the President to transfer the money appropriated by an act approved February 20, 1862, for building or continuing fortifications, to the construction of iron-clad steam vessels of war, reported it with an amendment.

Mr. HOWE, from the Committee on Claims, to whom was referred the report of the Court of Claims in the case of Constance Bateman, submitted an adverse report; which was ordered to be printed.

HARPER'S FERRY ARMORY.

Mr. WILLEY. I offered a resolution of inquiry the other day, which was laid upon the table. I ask that it be taken up.

The motion was agreed to; and the Senate proceeded to consider the following resolution submitted by Mr. WILLEY on the 3d instant:

Resolved, That the Committee on Military Affairs and the Militia inquire into the present condition of Harper's Ferry armory, Jefferson county, Virginia, what damage has been done thereto during the existing rebellion, by whom, and by what authority, the value of the United States property there in its present condition, the amount of money necessary to repair the said damage, and whether it is expedient to repair and restore the said armory to be employed as heretofore; and that said committee report by bill or otherwise.

The resolution was agreed to.

BILL BECOME A LAW.

A message from the President of the United States, by Mr. HAY, his Secretary, announced that the President had approved and signed a joint resolution (S. No. 68) to authorize the President to assign the command of troops in the same field or department to officers of the same grade without regard to seniority.

FRANCIS HÜTTMAN.

Mr. LATHAM. I move that the Senate proceed to the consideration of the bill (S. No. 251) for the relief of Francis Hüttman.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole. It authorizes the Secretary of the Treasury to reëxamine the claim of Francis Hüttman for alleged losses sustained by the detention of the bark Callao at San Francisco, in 1848, by the act of the collector of that port, and extend such relief as he may be entitled to, according to the terms prescribed in section four of the act "to create additional collection districts in the State of California, and changing the existing collection districts therein, and modifying the existing collection districts in the United States," approved September 28, 1850; but nothing in this act is to be so construed as to authorize the payment of any speculative or consequential damages.

Mr. SHERMAN. I should like to hear the report.

Mr. TEN EYCK. The bill was reported by the Committee on Commerce. There was a report made in the Senate a year or two ago recommending the passage of a bill more extensive in its character than the present one. I will very briefly state the object of this bill.

A bill was passed authorizing the Secretary of the Treasury to examine the account of Francis Hüttman for damages sustained by him in consequence of the detention of his bark, the Callao, and refusing to allow her to enter at the port of San Francisco in 1848, about the time that California came into our possession. A report was made by the chief clerk of the Treasury on the subject, that inasmuch as at that time the district was under military control, and the revenues were not receivable under the revenue laws of the United States, this party was not entitled to the benefit of the act that was passed in 1850, authorizing the Secretary of the Treasury to allow damages for unlawful detentions at that port and other ports on the Pacific coast. It turned out, however, that about a month before, or a little less than a month before the arrival of this vessel at the port of San Francisco, that port had been put under the revenue laws of the United States by authority of Governor Mason, and from that time, the treaty of peace between Mexico and the United States having been promulgated, revenue was collected at that port under the revenue laws of the United States.

To show that that was the case I will simply refer to a decision that was made by the Supreme Court. A suit was brought by Cross against Harrison, to recover duties that they had paid on importations at this very port a month or two subsequent to the time of the detention of this bark. The suit was brought to recover back the duties thus paid, on the ground that the revenue laws of the United States had not then been extended over the Territory, and that they were illegally paid; but the Supreme Court, in 16 Howard, p. 164, expressly declared that the revenues were then lawfully collectable at that port, and that those duties had been lawfully paid into the Treasury of the United States, and hence decided the case against the claimants. This case is precisely similar to it in principle; and the object of this bill is, and it covers nothing else, to authorize the Secretary of the Treasury to examine the case, and to allow this man damages, if he is satisfied that he is entitled to any, under the act of 1850, which provided for such a case. The object is simply to put this party back into the position he occupied before, provided that mistake had not been made, and nothing else.

Mr. LATHAM. I will state that a similar bill passed the Senate during the Thirty-Sixth Congress, I believe, unanimously, and went to the House of Representatives. The Committee on Commerce there agreed to it, but the House failed to act upon it.

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

HEIRS OF STEPHEN JOHNSTON.

Mr. HARLAN. I move that the Senate take up House bill No. 265, to authorize the Court of Claims of the United States to hear and determine the claim of the representatives of Stephen Johnston, deceased. I desire to offer an amendment to the bill; but I shall not then insist on its further consideration this morning.

The motion was agreed to.

Mr. HARLAN. I move to amend the bill by striking it all out, and inserting as a substitute,

Whereas by a treaty made with the Pottawatomie tribe of Indians near the mouth of the Mississinewa river, upon the Wabash, on the 16th day of October, 1826, there was granted to the heirs of Stephen Johnston, killed by the Pottawatomie Indians, one half section of land to be located under the direction of the President of the United States, which said half section of land selected, as the said heirs afterwards learned, was fractional, containing but two hundred and eighty-two acres, and was, as they alleged, of inferior value, on which account they were authorized by a special act of Congress, approved July 20, 1840, to relinquish

said land to the United States, and the President was requested to cause the Commissioner of the General Land Office to issue to the children of the said Stephen Johnston and Elizabeth Johnston, or to their heirs, a certificate receivable in payment at any land office in the United States for any half section not subject to preëmption, to which certificate so issued was appended the official statement of the Commissioner of the General Land Office, dated February 25, 1841, construing the said law to admit the entry of any half section of the alternate sections along the line of the Maumee canal, advertised to be sold in June following; and whereas the said heirs on application not being permitted to enter a half section of land in the Wyandotte reserve, in the State of Ohio, in accordance with the terms of the Commissioner's construction of the law on account of an adverse decision of the Attorney General, dated September 25, 1845, were authorized to do so by special act of Congress, approved March 3, 1847, "*Provided*, the minimum price of said half section shall not exceed $2 50 per acre," but were unable to make said entry because of the sale, as it is alleged, of the whole of said reserve before the passage of said law; and whereas doubts exist whether the said certificate can now be legally located on any public lands subject to preëmption under existing laws: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior of the United States shall and he is hereby authorized and required to issue to the heirs of the said Stephen Johnston in full satisfaction of said certificate, land scrip for three hundred and twenty acres of public lands of the United States, subject to sale at private entry at the rate of $2 50 per acre, and for six hundred and forty acres, subject to sale as aforesaid at $1 25 per acre, to be located according to legal subdivisions as military land warrants are now located under existing laws, in compact bodies of not less than one hundred and sixty acres each.

Mr. WADE. I hope the amendment will be printed, and let the matter lie over.

Mr. HARLAN. I have no objection to its going over.

The amendment was ordered to be printed; and the further consideration of the bill was postponed.

CLEARING OF THE CALENDAR.

Mr. CLARK. I move that the Senate now proceed to the consideration of the bill (S. No. 90) for the relief of John H. Rountree. The bill was reported adversely, and I desire to get rid of it.

The motion was agreed to.

Mr. CLARK. I move that the bill be indefinitely postponed.

The motion was agreed to.

Mr. WILSON, of Massachusetts. In looking over the Calendar, I find some twenty or thirty bills upon it which have been reported adversely. They make up a long Calendar; and I think we had better get rid of them. I wish to clear off the Calendar, and have only the live bills upon it. For that purpose, I shall move to take up several bills, and put them out of the way by an indefinite postponement. I move first to take up the joint resolution (S. No. 2) to remit the duties on certain arms imported into the United States, which has been superseded by a bill heretofore passed. I move to take it up.

The motion was agreed to.

Mr. WILSON, of Massachusetts. I now move that the bill be postponed indefinitely.

The motion was agreed to.

Mr. WILSON, of Massachusetts. I now move to take up the bill (S. No. 17) concerning the pay of officers in the revenue service of the United States, a House bill of the same nature having been passed.

The motion was agreed to.

Mr. WILSON, of Massachusetts. I move that the bill be indefinitely postponed.

The motion was agreed to.

Mr. WILSON, of Massachusetts. I move that the bill (S. No. 45) to make an appropriation for the rebuilding and repair of the Long Bridge be taken up, another bill for the same purpose having been passed.

The motion was agreed to.

Mr. WILSON, of Massachusetts. I move that the bill be indefinitely postponed.

The motion was agreed to.

Mr. WILSON, of Massachusetts. I move to take up the bill (S. No. 110) in relation to district attorneys, reported adversely by the Senator from Connecticut [Mr. FOSTER] from the Committee on the Judiciary.

Mr. SUMNER. I hesitate about that bill. There is a bill relating to district attorneys which is now pending in the Senate and on which the Senate has not reached a conclusion. Therefore, it seems to me that on the whole it would be better to allow this to remain. I have no particular interest in the bill; I do not know its merits; but still I think we had better not act upon it.

Mr. WILSON, of Massachusetts. Very well. There is here a joint resolution (S. No. 29) to promote the efficiency of the troops serving in the department of Kansas, reported from the Committee on Military Affairs. The time has passed by for that. I move that it be taken up, and postponed indefinitely.

The motion was agreed to.

Mr. WILSON, of Massachusetts. Here is a bill (S. No. 140) abolishing the franking privilege, from which the Committee on the Post Office and Post Roads have asked to be discharged, as there is another bill of that kind. I move that it be taken up, and postponed indefinitely.

Mr. POWELL. Mr. President——

Mr. WILSON, of Massachusetts. It does not affect the House bill.

Mr. POWELL. Very well.

The motion was agreed to.

Mr. WILSON, of Massachusetts. The Committee on the Judiciary have been discharged from the consideration of a bill (S. No. 161) to promote the administration of justice. I move that it be taken up, and indefinitely postponed.

The motion was agreed to.

Mr. TRUMBULL. I think the same course might be pursued with all the bills on the Calendar that relate to the subject of the confiscation of property. We have a bill pending before the Senate which we are considering; and if any member should desire to offer any of these bills as an amendment to that, he can do so. By pursuing the course now suggested, we shall get them off the Calendar.

Mr. SUMNER. I doubt whether it is desirable to get them off the Calendar until we reach our conclusion on the general subject.

Mr. TRUMBULL. I see no object in having them here, because we are considering one bill which has been reported by the committee; and if any Senator should desire to submit any of these bills, he can offer it as an amendment. These will not be taken up as substantive bills, probably. I have no desire in the matter except simply to relieve the Calendar from this long list. If the Senator from Massachusetts desires them to remain, I have no objection.

Mr. SUMNER. I have no concern about it.

Mr. WILSON, of Massachusetts. I think the suggestion made by the Senator from Illinois is correct. I have marked all those bills upon the printed Calendar in my hand, and intended to move to strike them off.

The PRESIDENT *pro tempore*. Will the Senator indicate the different bills of that character, so that the question may be put on them all?

Mr. WILSON, of Massachusetts. They are the bill (S. No. 26) to provide for the confiscation of property belonging to rebels; the bill (S. No. 28) to suppress the slaveholders' rebellion; the bill (S. No. 29) for the confiscation of property of persons in rebellion against the Constitution and laws of the United States; the bill (S. No. 35) for the punishment of conspiracy and kindred offenses against the United States, and for the confiscation of the property of the offenders; the bill (S. No. 78) for the confiscation of the property of rebels, and giving freedom to the persons they hold in slavery; the bill (S. No. 134) declaring certain persons to be alien enemies, forfeiting their property to the United States, and creating a lien on said property in favor of loyal persons, to indemnify them for such damages as they may have sustained by the existing war of rebellion; the joint resolution (S. No. 23) to provide for the confiscation of the property of rebels or insurgents, and to satisfy the just claims of loyal persons therefrom.

I move that they be taken up, and be indefinitely postponed.

The motion was agreed to.

On motion of Mr. WILSON, of Massachusetts, the bill (S. No. 121) for the collection of direct taxes in insurrectionary districts, and for other purposes, from the consideration of which the Committee on Finance had been discharged; the bill (H. R. No. 296) to authorize additional mailable matter, and the bill (H. R. No. 244) to establish a postal money order system, reported on adversely by the Committee on the Post Office and Post Roads; and the bill (H. R. No. 334) relating to the appointment and compensation of chaplains to military hospitals, reported on adversely by the Committee on Military Affairs and the Militia, were taken up and postponed indefinitely.

Mr. SUMNER. There are two other bills here in which I am interested, and which I shall move the indefinite postponement of. I move to take up the bill (S. No. 215) to carry into effect the stipulations of the treaty with Hanover for the abolition of the Stadt dues.

The motion was agreed to.

Mr. SUMNER. The Senate have already passed a similar bill from the House of Representatives. I move that the bill be indefinitely postponed.

The motion was agreed to.

Mr. SUMNER. The bill (S. No. 223) to provide for carrying the mails from the United States to foreign ports has been added as an amendment to the Post Office appropriation bill. I move that it be taken up and be indefinitely postponed.

The motion was agreed to.

SUFFRAGE IN THE DISTRICT.

Mr. SUMNER. I desire to enter a motion to reconsider the vote on the bill (S. No. 230) to amend an act entitled "An act to continue, alter, and amend the charter of the city of Washington," which was indefinitely postponed at our last meeting. I desire to enter a motion to reconsider the vote by which the bill was indefinitely postponed.

The motion was entered.

RIGHT OF WAY OVER PUBLIC LANDS.

Mr. HARLAN. I move that the Senate now take up a motion made by me some days since to reconsider the vote by which Senate bill No. 123 was passed, a bill to extend the provisions of the act of August 4, 1852, entitled "An act to grant the right of way to all rail and plank roads," &c., for the term of five years, and to amend the same. My object in making this motion——

The PRESIDENT *pro tempore*. It is not a motion requiring to be acted on by the Senate. It is a privileged question which the Senator can call up. The Senator calls it up, and the question is "Will the Senate reconsider the vote passing that bill?"

Mr. HARLAN. My object in calling up this motion is to ask the Senate to agree to a slight amendment to the second section of the bill.

The motion to reconsider the passage of the bill was agreed to.

The PRESIDENT *pro tempore*. It will be necessary also, in order to receive a motion to amend, to reconsider the vote ordering the bill to be engrossed, and read a third time.

The vote was reconsidered.

The PRESIDENT *pro tempore*. The bill is now open to amendment.

Mr. NESMITH. I introduced this bill in the Senate; it was referred to the Committee on Public Lands; I was directed to report it back; and it was subsequently passed. At the time of its passage the Senator from Iowa mentioned to me that in one clause of it he thought it conveyed questionable power, and that he desired to enter a motion to reconsider, which he did at the time, and he has this morning called it up. I will briefly explain the reasons for the peculiar language which is used in the bill. The second section is:

"SEC. 2. *And be it further enacted*, That the privileges granted in said acts to chartered companies are hereby granted to any corporations or companies organized and doing business as such within the State or Territory where said public lands may be situated."

The first section extends the act of August 4, 1852, granting the right of way to all rail and plank roads across the public lands of the United States. That act expires by its own limitation on the 4th of August next. In Oregon our constitution prohibits the passage of any law chartering corporations. Section two of article eleven of our constitution provides that "corporations may be formed under general laws, but shall not be created by special laws except for municipal purposes." At the first session of the Oregon Legislature they omitted to pass any general laws providing for corporations, and consequently we have no such law on the statute-book there now. The act of Congress of 1852 expires on the 4th day of August next, as I have stated. Our Legislature does not meet until September. There is a transportation company that desires to build a short railroad of fifteen miles around what is known as the Dalles, where steamboat navigation is interrupted by cat-

aracts and rapids. That railroad runs across the public lands of the United States, and this bill was introduced mainly for the purpose of granting the right of way for the purpose of constructing that road, inasmuch as the Legislature does not meet until September, and the existing act of Congress expires in August before they will be able to do anything to accomplish the object. Unless the act of Congress is extended, the result will be that the company will be able to do nothing under a law which may be passed by the next Legislature. To obviate the objection which has been raised by the Senator from Iowa, I propose to amend the second section by inserting "*bona fide*" after the word "any," in the third line, so as to read:

That the privileges granted in said acts to chartered companies are hereby granted to any *bona fide* corporations or companies organized and doing business as such in the State or Territory where said public lands may be situated.

That, I understand, meets the objection of the Senator from Iowa.

Mr. CLARK. I desire to suggest to the Senator from Oregon that he had better take an amendment providing for the case which he suggests, and that alone. I think the amendment he proposes would be very much too broad. This provision of the second section escaped my notice at the time it was before the Committee on Public Lands; but by it we propose to give the right of way to every imaginable company under the sun in any State or Territory, banking companies, insurance companies——

Mr. NESMITH. I suggest to the Senator from New Hampshire that the amendment I have offered only includes *bona fide* railroad companies doing business as such.

Mr. CLARK. Very true; but it applies to every railroad company in every State and Territory.

Mr. NESMITH. The only benefit they derive from this is the extension of the act of August 4, 1852, and the powers and privileges granted by it. The bill is merely an extension of that act.

Mr. CLARK. I suggest that the first section does that. The second section is designed to give companies that do not take under the first section, because they are not chartered companies, the right of way. If the Senator will confine it to any case in his own State which he thinks meritorious I shall have no objection; but I think it very much too sweeping to go into all the Territories and States in the United States in this indefinite way.

Mr. NESMITH. I will accept any amendment the Senator will offer. I prefer not to specify any particular company because that would give a monopoly to one company. I desire that it shall be given to all companies which are *bona fide* railroad companies.

Mr. CLARK. If the Senator will consent to let the bill lie on the table for the present, I will confer with him about it. I desire to aid him in his purpose.

Mr. NESMITH. I have no objection.

The PRESIDENT *pro tempore*. The bill will lie on the table for the time being.

SUPPLY OF POTOMAC WATER.

Mr. ANTHONY. I desire to enter a motion to reconsider the vote by which the Senate on Friday last passed the bill (S. No. 231) amendatory of an act entitled "An act to provide for the care and preservation of the works constructed by the United States for bringing the Potomac water into the cities of Washington and Georgetown, for the supply of said water for all governmental purposes, and for the uses and benefit of the inhabitants of the said cities." I do not ask for action on the motion now. I merely desire to have the motion entered.

The motion was entered.

AMENDMENT OF RULES.

The PRESIDENT *pro tempore*. If there be no further morning business within the morning hour, the Chair will call up the special order, as the hour for its consideration has nearly arrived, which is the unfinished business of the last session of the Senate—the confiscation bill.

Mr. HALE. The morning hour has not quite expired. I gave notice of a new rule on Friday, and I should like to have a vote of the Senate upon it.

The PRESIDENT *pro tempore*. It is in order if the Senator calls for its consideration.

The Senate proceeded to consider the following resolution:

Resolved, That the Senate may, at any time during the present rebellion, by a vote of the majority of the members present, fix a time when debate on any matter pending before the Senate shall cease and terminate; and the Senate shall, when the time fixed for terminating the debate arrives, proceed to vote without debate on the measure and all amendments pending that may be offered.

Mr. HALE. I do not desire to discuss the resolution. It is a matter that has been discussed a great while, and the Senate understand it. I simply ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. DAVIS. Mr. President, I do not see any need for the adoption of this resolution, or for a change in the standing rules of the Senate with respect to debate. The resolution seems to contemplate a change to exist only during the present rebellion. I do not know of any unnecessary delay in debate or in any other way that has taken place on the passage of any measure to suppress the present rebellion through the Senate. On the contrary, I think there is a most commendable disposition throughout the whole Senate, and among all of its members, to hasten, to a reasonable amount, the consideration of measures the tendency of which is to bring this war to a close. If the gentleman had proposed an amendment of the rules restricting all measures to be introduced at the present session of Congress to measures necessarily or properly connected with the suppression of the present rebellion, I think it would have had much better reason and sense in it. It seems to me that the honorable Senator who proposes this reform in our rules cannot seriously contemplate that it will apply to any measure for the raising of the ways and means to carry on the war, because we all know that there has been no disposition manifested by any party in the Senate, or by any member of the Senate, to retard unnecessarily the passage of any such measure through the body. It seems to me, it must have for its object the restriction of debate on measures not necessarily connected with the war. I think there is no need for it at all in relation to any matter or any class of subjects that have come or may be likely to come before the Senate for its consideration. I do not believe that the freedom of debate which is tolerated by the rules of the Senate has been so much abused as to make such a change as that at all necessary or proper. I therefore hope that the resolution will not be adopted.

Mr. COLLAMER. It has been regarded for a long time in our history as consistent with the dignity and self-respect of this body that they should stop talking when it was necessary, without having any rule or gag about it. It was considered that they were not so numerous nor so exceedingly taken with the desire of stump speaking, but what when they discussed a subject they would discuss it at a proper time and take the vote when they had done. They have been enabled to restrain themselves by that course, without any sacrifice of the public service and highly to their own respect and to the respectability of the body. It seems to me, sir, that at this period, when one third of our number is gone, and we really have not anything like as much occasion for such a rule, we may yet endure that freedom of discussion which can be indulged among gentlemen, without detriment to the public interests; and I, therefore, trust that we shall not adopt anything of this kind. It may be said we will not use it. Sir, it should not exist. The very voting for it seems to imply a necessity for it. I do not believe that necessity exists; nor do I think that the progress of this session or the proceedings of this body during this rebellion show that there is any occasion for it. The moment it is adopted, then will begin a scramble unbecoming the dignity of the body. The moment the day and hour is fixed for taking a vote, to-morrow or any other day, then there will be a scramble for the floor to see whether a man can have an opportunity to be heard. Such a course, so undignified and unbecoming to a body like this, of our limited numbers, I say is not to be invited by the adoption of any rule of this kind. I desire —and I think I may do it with safety, for I do not much trespass on the time of the Senate—that this resolution, uncalled for and unnecessary, may not be adopted at this period of the session.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up for consideration the special order, which is the unfinished business of the last session.

CONFISCATION OF PROPERTY.

The Senate resumed the consideration of the bill (S. No. 151) to confiscate the property and free the slaves of rebels.

Mr. TRUMBULL. Before proceeding with the remarks which I design to make upon this bill, I desire to move two amendments, one of which is verbal, and the other is to make the bill a little more definite. In the fourth line of the seventh section, I move to strike out the words "garnishee and," and to insert in lieu thereof the words, "process of garnishment and other," so that it will read:

That the several district courts of the United States are hereby invested with power to issue all processes whether mesne or final as well in chancery and admiralty as at common law, including process of garnishment and other process as in cases of foreign attachment, and to do every other matter and thing necessary or proper to carry out the purposes of this act.

The amendment was agreed to.

Mr. TRUMBULL. I desire to move another amendment in the thirteenth line of the first section of the bill, after the word "and," to insert the words "as to all property which shall be seized and appropriated as hereinafter provided;" so that the clause will read:

Or giving aid and comfort to said rebellion, shall be forfeited and confiscated to the United States, and as to all property which shall be seized and appropriated as hereinafter provided, such forfeiture shall take immediate effect upon the commission of the act of forfeiture, &c.

The amendment was agreed to.

Mr. TRUMBULL. Mr. President, having made a brief explanation of the main features of the bill under consideration, and the principles on which it was based, at the time it was reported to the Senate, it was not my intention to have said anything more upon it, at all events, unless in closing the debate; but the fierceness with which it has been assailed, and the misrepresentations to which it has been subjected, unintentional of course, make it necessary that I should reply to some of the strictures upon it. Assuming that it was a sweeping measure for the confiscation of all the property in the southern States, the bill has been denounced as unconstitutional and inexpedient with a vehemence and virulence not to have been expected, and surely but illy calculated to promote that calm, deliberate, and candid consideration which the admitted importance of the subject should command. The Senator from California [Mr. McDOUGALL] denominated it "an act to sweep the whole of a populous country of all property, real and personal."

The Senator from Pennsylvania, [Mr. COWAN,] after assuming that it would be "moderate to estimate" the number of persons to be affected by the bill at four millions, said:

"This bill proposes at a single stroke to strip all this vast number of people of all their property, real, personal, and mixed, of every kind whatsoever, and reduce them at once to absolute poverty."

My colleague [Mr. BROWNING] said the bill "strikes at all the property of every kind and character of all the citizens of the seceded States with scarcely an exception."

The Senator from Virginia [Mr. CARLILE] said:

"It will be seen that all the property of each and every citizen in the seceded States will be forfeited under this bill."

How grossly these Senators have misconceived the character of the bill will be apparent on a glance at its provisions. So far from striking at all the property of each and every citizen in the seceded States, it would not probably reach the property of one in ten of the *rebels*, and in no case would touch the property of a loyal citizen. In the first place, the bill is prospective in its operation, and confiscates the property of no one for anything done before its passage. It would be in the power of every rebel in the land to save his property from confiscation by ceasing to war against the Government from the time of its passage. Secondly, it only applies to the property of such rebels as are beyond the reach of judicial process. Wherever the *person* of the rebel can be reached and made subject to the punishment his crimes deserve, the bill does not propose to touch his property. In all the loyal States, including Missouri, Kentucky, and a large part of Tennessee and Virginia, the only persons whose property could be touched by the bill would

those who abandoned it, and fled to other States to fight against the Union. How different is such a bill, and how harmless compared with the radical measure which has so alarmed the Senator from Pennsylvania that he declared its passage would do what treason could not, that "we ourselves will then have dissolved the Union!" What makes the course of some Senators who have spoken against this measure the more remarkable is the fact that two of them, at least, the Senator from Pennsylvania and my colleague, after denouncing the confiscation of rebel property to a limited extent, under an act of Congress, as something monstrous and horrible, before concluding their speeches, both avow themselves in certain contingencies not only in favor of the confiscation or destruction of the property of rebels, but of arming their negroes to fight against them. Their trouble seems to be, lest confiscation should be regulated by law, and not left, as they insist it ought to be, to the arbitrary discretion of the Executive. That I may not do injustice to any one I will read a few paragraphs from the speech of my colleague on this bill. He said:

"The inexpediency of this bill is as manifest as its unconstitutionality. Let it pass, and its provisions be heralded in advance of the Army as it marches South, and what other effect can it have than to consolidate the entire people for one last despairing struggle against those whom they might then justly regard as enemies and oppressors instead of friends and benefactors? What possible inducement could they have to prefer submission to death? For one, I do not wish to waste the fortunes and devastate the homes of all. Leave something to make the guardianship of Government and the protection of law desirable."

In a subsequent portion of his speech my colleague said:

"The Government has the right and power, and ought to exercise them, to seize and confiscate all the property, of every character, including slaves, of those in armed rebellion against the Government, or who may give aid and comfort to those in arms, so far as such property may come within the reach of our Army, and so far as its seizure and confiscation may have any relation to the end and object of the war, and may tend to cripple and subdue the enemy or strengthen us, and promote the success of our arms; and it is the duty of the Government to exercise this right, and to apply such property to the uses to which it is best adapted to aid in the successful prosecution of the war, in defraying its expenses and lightening its burdens on loyal citizens.

"To accomplish this, neither legislation nor adjudication is necessary. The power is a war power—the right is a belligerent right. These principles are as applicable to slaves as to other property, and no officer should be permitted to use the forces under his command in repelling fugitives from the lines, or in arresting and returning them to rebel masters; but they should be received, and used in whatever way they could be made most available and efficient in the prosecution of the war; and if any come, whose services cannot be made available, let them pass through the lines and shift for themselves. The Army is not bound to take care of them, and cannot have them as camp followers, to be provided for at the expense of the Government. All who can be advantageously used should be used. Let them do the drudgery and labor which would otherwise devolve on our soldiers. Let them open roads, build bridges, dig ditches and trenches, erect fortifications, and do labor of every kind which may be needed by a large army; and if need be to save the Government from overthrow, the country from ruin, and our homes from desolation, let them be formed into companies and regiments, and drilled and disciplined and armed, to take their chances for wounds and death in the front of battle."

I do not read these passages for the purpose of exposing the inconsistency of my colleague, for it seems, after all, that it is not so much the confiscation of rebel property that he is opposed to as the manner in which it is done, he insisting "that neither legislation nor adjudication" is necessary to accomplish the object; a position which I shall hereafter undertake to show is wholly untenable, and at war with both the spirit and letter of the Constitution. That the Constitution puts the force of the nation into the President's hands, "investing him with the war-making power" which he may direct and control as he pleases, "and only restrained in so far by Congress in that he must depend upon them to foot his bills and authorize his levies," as insisted by the Senator from Pennsylvania, [Mr. COWAN,] I wholly deny. There is no warrant in the Constitution for the assumption of such powers by the Executive. So far from it, the war-making power is, by the Constitution, expressly vested in another department of the Government, and, as I shall presently show, the Supreme Court has decided that the power to confiscate enemy property does not reside in the Executive but in Congress, and nowhere else. And yet, strange as it may seem, these advocates of prerogative, who claim war powers for the President higher and above and beyond the Constitution, are alarmed beyond measure at the bare proposal to enact a law whereby rebel property, to a very limited extent, may be appropriated to the expenses of the war.

As all the Senators who have spoken against the bill have made the same class of objections, I will reply to them somewhat in detail, though, I must confess, without much hope of gaining their support to the measure, since they are evidently hunting for objections, and would doubtless imagine others, if those already suggested were removed; for in their sympathy for rebels, whom they style brethren, they have vastly magnified the proportions of this bill, as has already been shown; and I can only regard the claim of power of confiscation in the President as a counter proposition to defeat this, for we all know that the President does not pretend to exercise any such power; that he, in fact, has rebuked a distinguished general for attempting to exercise it; and I shall undertake to show before I conclude that he could not constitutionally exercise such a power if he would.

By way of meeting the objections to the pending bill, I will take up the speech of the Senator from Pennsylvania, [Mr. COWAN,] which embodies most of them, and endeavor to show, as I think I can, that they are all unfounded.

That I may not misstate his objections, I read from his speech. He said:

"Congress cannot forfeit the property of rebels for longer than their lives, by the enactment of any law whatever, for the following reasons:

"1. Those persons now in rebellion, having levied war against the United States, are guilty of treason within the exact definition of that crime contained in the third section of the third article of the Constitution, in which it is declared that

"'Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort.'

"Hence, it cannot be doubted but that as soon as the rebels are arrested and brought within the power of any law we may pass, they become *eo instante* traitors, and obnoxious to the punishment which is imposed by our statute for treason." * * * * * * * * *

"The second clause of that same section provides further, that

"'The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attainted.'

"Therefore any law made for the guidance of the courts must conform to this provision, and no other or greater penalty could be imposed than it would warrant. If, therefore, the law was to enact an absolute forfeiture of the estates of the traitor, it would be bad for the excess, and the judges would be obliged to make the sentence constitutional, either by cutting down the statutory penalty to a forfeiture of his estates for life, or by omitting to forfeit them at all. All this seems to me so obvious as not to be doubted."

The answer to all this is to be found in the fact that the bill does not propose to confiscate either absolutely or for life the property of rebels who are or can be *arrested*. If, therefore, it were admitted that it is not in the power of Congress to forfeit the property of rebels who are arrested and convicted of treason for longer than their lives, it could have no bearing upon this bill, for the simple reason that this bill only aims to reach the property of such rebels or traitors as are beyond the reach of judicial process, and can neither be arrested, tried, or convicted for treason or any other offense. Surely the prohibition against confiscating beyond life the property of the man who is arrested and made to suffer in his person for his crimes cannot prevent the absolute confiscation of the property of the criminal who is beyond our reach, and cannot be arrested, but who has left property within our jurisdiction, which we can reach.

Suppose a foreigner were engaged in this rebellion against the Government, it is clear that such a person, owing no allegiance to the Government, could not be convicted of treason; does it therefore follow that his property within our jurisdiction could not be confiscated? Or in case of the rebellious citizen who flees beyond the jurisdiction of the country, is his offense to be considered as beyond the reach of the Government, even to forfeit his property within its territorial boundary? It is manifest that the clause of the Constitution limiting the punishment for treason can have no more application to the confiscation of the property of a person who cannot be arrested and tried for treason than has the punishment prescribed by statute for murder to do with that for larceny.

The Senator from Pennsylvania further objects to the constitutionality of the bill—

"Because,

"1. By the fifth amendment to the Constitution, it is provided:

"'No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger; nor shall any person be subject, for the same offense, to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.'

"Here it is attempted to deprive a large class of persons of all their estates and property, without any arrest, without any presentment by a grand jury, without any trial by a petit jury, without, indeed, any trial at all in any court. This would be to deprive them of their property in the very face of the provision requiring that it shall only be done 'by due process of law,' which all commentators and all lawyers agree, means proceedings according to the course of the common law."

It will be observed that the fifth amendment throws the same and even stronger safeguards around the life and liberty of a person than around his property, for the reason, doubtless, that life and liberty are more valuable than property. If, then, it is unconstitutional "to deprive a large class of persons of all their estates and property without any arrest, without any presentment by a grand jury, without any trial by a petit jury, without, indeed, any trial at all in any court," is it not equally unconstitutional to deprive them of life or liberty except by "due process of law?" Is it then unconstitutional to shoot and take prisoners the rebels on the battle-field? Are the patriotic soldiers who do it murderers? Would the Senator from Pennsylvania have a presentment by a grand jury and a trial by a petit jury on the field of battle of each person in the enemy's ranks who was firing upon our soldiers, in order that he might not be shot and deprived of life in the very face of the provision requiring that it shall only be done "by due process of law, which all commentators and all lawyers agree means proceedings according to the course of the common law?" Is it not clear that if we cannot take the property of our enemies in war except "by due process of law," neither can we take their lives in any other way?

What is the answer to all this? How is it, in the face of the fifth amendment, that Congress may provide for taking the lives and property of rebels without "due process of law?" The answer is to be found in the grants of power in other parts of the Constitution, which declare that Congress shall have power "to declare war," and "make rules concerning captures on land and water;" "to raise and support armies;" "to provide and maintain a Navy; to make rules for the government and regulation of the land and naval forces; to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions," and "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers." These provisions of the Constitution do not mean that Congress may raise armies and call forth the militia to suppress insurrection "according to the course of the common law," but to put it down by force and violence. It is because the peace cannot be preserved, the enemy overcome, and the rebellion suppressed by proceedings according to the course of the common law that the Army is called into being, and when so called into being it operates, not according to the course of the common law, but according to the usage of armies engaged in war in dealing with their enemies. Hence the authority of the Army by violence to deprive an enemy of life, liberty, and property in time of war is as ample as that of the courts to deprive a person of either by due process of law in time of peace, for the reason that it is by force and violence that armies overcome their enemies; and when the Constitution conferred on Congress the power to raise and support armies, it conferred also, as incident to that power, the authority to use them in the manner that armies are accustomed to operate.

The Senator from Pennsylvania and my colleague further object that this bill is obnoxious to the clause of the Constitution which declares that "no bill of attainder or *ex post facto* law shall be passed." The Senator from Pennsylvania admits that the bill is not within the letter of the Constitution, but thinks it within its spirit. My colleague, less liberal, and without, as I think, his usual fairness and candor in the argument of a question, disposes of the bill in a single sentence by saying, "I believe it is not denied that this is a bill of attainder within the meaning of the Constitution." Is my colleague so uncharitable as to suppose I would advocate a measure which I

believed unconstitutional? I, who have declared in my place during the present session that I "want no other authority for putting down even this gigantic rebellion than such as may be derived from the Constitution, properly interpreted;" that "while fighting this battle in behalf of constitutional liberty, it behooves us especially to see to it that the Constitution receives no detriment at our hands;" and who have warned my countrymen "not to sanction usurpations of power which may hereafter become precedents for the destruction of constitutional liberty?"

No, sir, if I admitted this to be a bill of attainder, it would of course be an admission that it was unconstitutional, and it could not for a moment receive my support. The remark of my colleague, that he believed "no one denied that this is a bill of attainder," is still the more remarkable, when taken in connection with what I said in explanation of the bill when it was reported to the Senate. This was my language:

"Some have objected to the constitutional power to pass this bill because they say it is a bill of attainder. It is not a bill of attainder at all; it does not corrupt the blood of the party; but it is a bill, as I said, operating upon property. The Supreme Court of the United States has expressly decided in the case of Brown *vs.* The United States—which I referred to on a former occasion—that Congress has authority to pass an act of confiscation, and if Congress has authority to confiscate the property of an enemy, the act of confiscation must be something different from a bill of attainder, because the Constitution expressly declares that no bill of attainder shall be passed."

How, with this statement on the records of the Senate, made at the time the bill was reported for its consideration, my colleague could say that he believed "it was not denied that this is a bill of attainder," can only be accounted for on the supposition that in his confidence in his own opinions he did not take the trouble to inquire what others had admitted or denied. The only authority referred to by any Senator for denominating this a bill of attainder is a remark of Chief Justice Marshall, incidentally made, by way of illustration in the case of Fletcher *vs.* Peck, (6 Cranch,) when the question of bills of attainder was not before him, in which he said, "a bill of attainder may affect the life of an individual, or may confiscate his property, or both." Story and Kent both quote this remark of Judge Marshall in their commentaries; but this reiteration of an *obiter dictum* remark by commentators adds nothing to it as an authority. To this incidental remark of Judge Marshall, made in a case in which the power to pass bills of attainder, or what they were, was not involved, I oppose the solemn decision of the same judge, at a later period, in the case of Brown *vs.* The United States, (8 Cranch,) in which he held that it was competent for Congress to pass a confiscation act. The force of this authority cannot be avoided by saying that Judge Marshall was deciding upon the right to confiscate the property of a foreign enemy when he declared "the power of confiscating enemy's property is in the legislature," for if a confiscation bill is the same thing as a bill of attainder, Congress could no more pass such an act in regard to the property of a foreign than a domestic enemy, because the language of the Constitution is that "no bill of attainder shall be passed," which renders it just as unconstitutional to pass such a bill affecting a foreigner as a citizen.

But I will undertake to show that the bill under consideration is in no sense a bill of attainder. It does not propose to attaint any one, or to affect any one's person or blood. It does not name any one on whom it is to operate, but simply provides for the forfeiture of the property of persons guilty of certain offenses, who themselves are beyond the reach of courts, and cannot be brought to trial, the forfeiture to be enforced in the loyal States through the courts, by proceedings *in rem*, and in the disloyal States, in which the courts are overborne, to be enforced, from the necessity of the case, through the military power. Such a bill has none of the characteristics of an attainder, which may be defined to be "that extinction of civil rights and capacities which takes place whenever a person who has committed treason or felony receives sentence of death for his crimes." Bills of attainder are, moreover, directed against some particular person or persons by name, who are thereby attainted for some crime already committed. This bill provides for the forfeiture of estates in certain cases as a punishment for crime hereafter to be committed, when the person of the individual committing the offense cannot be reached. It does not attaint or convict any one of having committed a crime, nor of itself confiscate the property of any one, and is no more like a bill of attainder than is an act imposing a fine as a punishment for assault and battery, or forfeiture of goods as a penalty for smuggling.

The right to confiscate the property of a rebel or traitor attaches without any conviction of the offender. This bill applies only to proceedings *in rem*. It has nothing to do with the punishment of the person, and, indeed, does not operate upon the property of a person who is within reach of judicial process. In the case of The Palmyra, (12 Wheaton, 1,) the Supreme Court, in speaking of an act like this, say:

"Many cases exist where the forfeiture for acts done attaches solely *in rem*, and there is no accompanying penalty *in personam*. Many cases exist where there is both a forfeiture *in rem* and a personal penalty. But in neither class of cases has it ever been decided that the prosecutions were dependent upon each other. But the practice has been, and so this court understands the law to be, that the proceeding *in rem* stands independent of, and wholly unaffected by, any criminal proceeding *in personam*."

The Senator from California, to show why this bill ought not to pass, quotes from Story the following:

"It surely is enough for society to take the life of the offender, as a just punishment of his crime, without taking from his offspring and relatives that property which may be the only means of saving them from poverty and ruin."

So say I, and the bill does not propose to touch the property of any one whose life has been taken or who can be brought to trial for his crimes, and it is therefore not obnoxious to the objection pointed out by Story.

Another ground of objection to this bill is the allegation that it is an encroachment on the prerogative of the President, who, it is alleged, as Commander-in-Chief of the Army and Navy, already possesses the power of confiscation; that the extraordinary powers which the Government may wield in time of war, called war powers, belong to the President and not to Congress, and in support of this proposition my colleague cites the case of Luther *vs.* Borden, reported in 7 Howard. I will endeavor to show, as I think I can, that such claims of prerogative on the part of the President are unwarranted by the Constitution, against the practice of the Government from its foundation, and that the case of Luther *vs.* Borden, so far from being an authority for such assumption, is an authority against it.

1. There is not a syllable in the Constitution conferring on the President war powers. The Constitution simply makes him Commander-in-Chief of the Army and Navy when called into being, but he has no power to raise the one nor provide the other. As Commander-in-Chief when an army is raised, in the absence of any rules adopted by Congress for its government, he would have the right to control it, in the prosecution of the war, according to his discretion, not violating the established rules of civilized warfare, but he would not have the right to confiscate enemy property, because this is a power which can only be exercised in pursuance of an act of Congress, and does not belong to the Commander-in-Chief, who, as such, could only seize and hold property which was visible and tangible till the end of the war, when it would revert to its original owner.

The Constitution says, "Congress" (not the President) "shall have power to declare war; to raise and support armies," and to "provide and maintain a Navy." Story, in his Commentaries on the Constitution, says:

"The power to declare war is exclusive in Congress." * * * * "It includes the exercise of all the ordinary rights of belligerents, and Congress may, therefore, pass suitable laws to enforce them. They may authorize the seizure and condemnation of the property of the enemy, within or without the territory of the United States, and the confiscation of debts due to the enemy."

2. When armies and navies are raised by Congress, of which the President is, by the Constitution, made Commander-in-Chief, he can only govern and regulate them as Congress shall direct; because the Constitution says, "Congress shall have power to make rules for the government and regulation of the land and naval forces." As well might it be said that, because the Constitution declares that the President "shall take care that the laws be faithfully executed," he is therefore not bound, in discharging this duty, to conform his action to the manner prescribed by Congress, as that he can govern the Army as he pleases, irrespective of the rules which Congress has established.

3. It has been the practice of Congress, from the organization of the Government, to control the President in his government of the Army. The first Congress which met under the Constitution adopted the rules and articles of war for the government of the Army, as they existed under the Confederation and before we had a President. In 1806, Congress revised the rules and articles for the government of the armies of the United States, in an act containing more than a hundred distinct articles, which, with few variations, are now the law, whereby the mode of organizing, officering, and governing the officers and men was regulated with great minuteness. The fifty-eighth article declares that—

"All public stores taken in the enemy's camp, towns, forts, or magazines, whether of artillery, ammunition, clothing, forage, or provisions, shall be secured for the service of the United States, for the neglect of which the commanding officer is to be answerable."

Surely the men who made and put into operation the Constitution understood very little of its provisions when they passed such a law as this, if my colleague is right in his assertion that "the war-executing powers are vested in the President, in the executive department of the Government, and Congress has no more right to touch them or exercise them than it has to usurp and exercise the judicial functions of the Government." How the Senator from Pennsylvania who declared, with such self-complacency, that the President "was invested with the war-making power," that "he is the commander directing and controlling it as he pleases," must be shocked at the ignorance of our fathers of the meaning of the Constitution they had made, when he reads over the hundred and one articles of war, and particularly the fifty-eighth article, which directs what is to be done with the public stores taken in the enemy's forts and camps.

4. The advocates for this arbitrary power in the President, without limitation or restraint of any kind, will find as little support for the assumption in judicial decisions as in the Constitution and the practice of the Government. Does not my colleague know that all which he quoted from the opinion of the court in the case of Luther *vs.* Borden, had reference to the power of the President in calling out the militia in subordination to an act of Congress, and had no reference whatever to his power under the Constitution independent of such an act? Does he not know that without such act he could not call forth a man even to suppress insurrection or repel invasion? If not, I refer him to the Constitution, which declares that "Congress shall have power to provide for calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasion." That it was of the powers vested in the President by virtue of an act of Congress passed in pursuance of this clause of the Constitution of which the court spoke in the extracts read by my colleague, and not of the President's power under the Constitution independent of such an act, will be apparent from a glance at a part of the opinion which my colleague did not read. The court say:

"The fourth section of the fourth article of the Constitution of the United States provides that the United States shall guaranty to every State in the Union a republican form of government, and shall protect each of them against invasion; and on the application of the Legislature, or of the Executive, (when the Legislature cannot be convened,) against domestic violence. Under this article of the Constitution, it rests with Congress to decide what government is the established one in a State.

"So, too, as relates to the clause in the above-mentioned article of the Constitution, providing for cases of domestic violence. It rested with Congress, too, to determine upon the means proper to be adopted to fulfill this guarantee. They might, if they had deemed it most advisable to do so, have placed it in the power of a court to decide when the contingency had happened which required the Federal Government to interfere. But Congress thought otherwise, and no doubt wisely; and by the act of February 28, 1795, 'provided that, in case of an insurrection in any State against the government thereof, it shall be lawful for the President of the United States, on application of the Legislature of such State, or of the Executive, (when the Legislature cannot be convened,) to call forth such number of the militia of any other State or States as may be applied for as he may judge sufficient to suppress such insurrection.' By *this act* the power of deciding whether the exigency had arisen upon which the Government of the United States is bound to interfere is given to the President."

What now becomes of this case as an authority to show that the President possesses the war power without any act of Congress, when the

court say "*by this act*" not by the Constitution "the power of deciding whether the exigency had arisen, upon which the Government of the United States is bound to interfere, is given to the President;" and that Congress "might, if they had deemed it most advisable to do so, have placed it in the power of the court to decide when the contingency had happened which required the Federal Government to interfere?" Because the court in a subsequent part of their opinion argue to show that the President, by virtue of his high office, was a proper person for Congress to vest with this power, my colleague insists that therefore he had it from the Constitution, when the court expressly say he gets it from the act of Congress. My colleague, by parenthetically inserting a few words in his quotation of detached sentences of this opinion entirely perverts its meaning. This will, I think, be apparent on my reading from his speech some of the quotations with the interpolations. Take the following:

"After the President [not Congress] has acted and called out the militia, is a circuit court of the United States authorized to inquire whether his decision was right?" * * * * "It is said that this power [the war power] in the President is dangerous to liberty, and may be abused."

It will be observed that the words "not Congress" and the words "the war power" are interpolations. Now, the action of the President and his power here spoken of were the action and power to call forth the militia under act of Congress, and not a denial of the power of Congress itself to do it nor of "the war power," as the interpolated parentheses would indicate.

But, sir, another decision of the Supreme Court of the United States disposes of all these questions, decides that the power of confiscation is vested in Congress and nowhere else, that the President possesses no such power under the law of nations, and that the modern usage or law of nations does not of itself by its own force constitute a rule which acts upon property except through the sovereign power, the legislature. I refer to the case of Brown *vs.* The United States, reported in 8 Cranch, (page 110,) in which the court say:

"Respecting the power of Government no doubt is entertained. That war gives to the sovereign full right to take the persons and confiscate the property of the enemy wherever found, is conceded. The mitigations of this rigid rule, which humane and wise policy of modern times has introduced into practice, will more or less affect the exercise of this right, but cannot impair the right itself. That remains undiminished, and when the sovereign authority shall choose to bring it into operation, the judicial department must give effect to its will. But until that will shall be expressed, no power of condemnation can exist in the court." * * * * * * * * *

"War gives an equal right over persons and property; and if its declaration is not considered as prescribing a law respecting the person of an enemy found in our country, neither does it prescribe a law for his property. The act concerning alien enemies, which confers on the President very great discretionary powers respecting their persons, affords a strong implication that he did not possess those powers by virtue of the declaration of war.

"The 'act for the safe-keeping and accommodation of prisoners of war,' is of the same character.

"The act prohibiting trade with the enemy contains this clause: '*And be it further enacted*, That the President of the United States be, and he is hereby, authorized to give, at any time within six months after the passage of this act, passports for the safe transportation of any ship or other property belonging to British subjects, and which is now within the limits of the United States.'

"The phraseology of this law shows that the property of a British subject was not considered by the legislature as being vested in the United States by the declaration of war; and the authority which the act confers on the President is manifestly considered as one which he did not previously possess.

"It is urged that, in executing the laws of war, the Executive may seize and the courts condemn all property which, according to the modern law of nations, is subject to confiscation; although it might require an act of the legislature to justify the condemnation of that property which, according to modern usage, ought not to be confiscated.

"This argument must assume for its basis the position that modern usage constitutes a rule which acts directly upon the thing itself by its own force, and not through the sovereign power. This position is not allowed. This usage is a guide which the sovereign follows or abandons at his will. The rule, like other precepts of morality, of humanity, and even of wisdom, is addressed to the judgment of the sovereign, and although it cannot be disregarded by him without obloquy, yet it may be disregarded.

"The rule is, in its nature, flexible. It is subject to infinite modification. It is not an immutable rule of law, but depends on political considerations, which may continually vary.

"Commercial nations, in the situation of the United States, have always a considerable quantity of property in the possession of their neighbors. When war breaks out, the question, what shall be done with enemy property in our country, is a question rather of policy than of law. The rule which we apply to the property of our enemy will be applied by him to the property of our citizens. Like all other questions of policy, it is proper for the consideration of a department which can modify it at will, not for the consideration of a department which can pursue only the law as it is written. It is proper for the consideration of the legislature, not of the executive or judiciary.

"It appears to the court, that the power of confiscating enemy property is in the legislature, and that the legislature has not yet declared its will to confiscate property which was within our territory at the declaration of war."

Chief Justice Marshall, in this opinion, effectually disposes of the assumption that the Executive may seize and the courts condemn all property which, according to the modern law of nations, is subject to condemnation, as well as of that other assumption that there is a law of nations higher and above the sovereign power of the State, by declaring that such law is but a guide which the sovereign follows or abandons at will, and that although it cannot be disregarded without obloquy, yet it may be disregarded. If this were not so, the extraordinary spectacle might be presented of the courts of a country disavowing and annulling the acts of their own Government in matters of state and political diplomacy.

Another objection urged to the bill is, that it confiscates the property of all absent rebels, including those who have been unwillingly forced into the confederate service as well as those who have voluntarily entered it. A moment's reflection must satisfy all that this objection is without force, for no court or commission would ever enforce a penalty against a person who had been compelled by force to commit the act of forfeiture. The principle of law is too well settled to require discussion, that no man can be held responsible for acts which he had not the power to prevent; nor is any saving clause necessary in the bill to protect the property of those forced into the rebellion from forfeiture, any more than there is for such a clause to protect a man found among a band of robbers or pirates, when he was able to show that he had been forced to join them. But if the bill were obnoxious to this objection, which, in my opinion, it is not, it would be easy to obviate the difficulty by limiting its operation to the property of such absent persons as shall join the rebellion without restraint.

Having shown, as I think, that the bill is not of the sweeping character represented by Senators who have spoken against it, that it is not obnoxious to the charges of unconstitutionalty which they have made, and that the war power is not in the President, but in Congress, which has exercised it from the foundation of the Government, I assume, as positions which cannot be successfully controverted, that Congress, in providing for the prosecution of the war against the rebels, has a right to direct that such means shall be resorted to as it believes necessary and proper for the attainment of the end of the war, which is the suppression of the rebellion; and that no court can set aside or annul any action which Congress may take in the premises, for the reason that the Constitution, by vesting in Congress the express power "to declare war," "to raise and support armies," provide for their government, "make rules concerning captures on land and water," and for suppressing insurrection by force, has vested it also with the discretion of determining what means are necessary and proper to enable it to carry into effect these granted powers. It does not belong to the courts to determine how a war shall be prosecuted, or what shall be done with the persons or property of an enemy. Those are questions depending on political considerations, which may continually vary, and to be judged of by the sovereign power, which in this country is the people, who speak through their Representatives in Congress so far as war matters are concerned. All the courts can do is to aid in giving effect to the sovereign will when expressed. The position that in executing the laws of war, the Executive may seize and the courts condemn all property, which, according to the modern law of nations is subject to confiscation, in the language of the Supreme Court already quoted, "is not allowed," because this law of nations, as the court say, is only "a guide which the sovereign follows or abandons at his will." It is wholly dependent on our Government for its being recognized here at all. The rule in regard to the seizure and appropriation of enemy property is stated in these words by writers on international law:

"From the moment one State is at war with another, it has, on general principles, a right to seize all the enemy's property, of whatsoever kind and wheresoever found, and to appropriate the property thus taken to its own use or to that of the captors."

My colleague in speaking of belligerent rights, said:

"One of these is the right to take, confiscate, appropriate, and dispose of, as we please, absolutely and forever, all the movable property of every kind and character belonging to the enemy individually and collectively, which has any relation to the end of the war, and which tends to our advantage by strengthening us or by weakening the enemy, and diminishing his ability to carry on the war and do us injury.

"The exercise of this belligerent power, the assertion of this belligerent right of seizure and confiscation, in no sense and to no extent endangers the liberty of the citizen, nor is there the least occasion for alarm in that regard."

This may seem strange language on the part of my colleague, when compared with another part of his speech, in which he denounces this bill, which does not propose to touch the property of a single rebel, even, whose person is within the reach of judicial process, in these words:

"The sure and certain effect of this bill would be to make peace and reunion an impossible thing. It would fill the hearts of the entire people with despair, and nerve their arms with the energy and desperation which despair inspires. It would turn to the blackness of night the last glimmering hope of future fraternity between now alienated and exasperated brethren."

What so alarms and horrifies my colleague and the Senator from Pennsylvania [Mr. COWAN] is not that rebel property, to a limited extent, is proposed to be confiscated, but that it is proposed to be done in pursuance of laws enacted by the people's representatives in Congress assembled, and not left to the will and caprice of the President, without limitation or restraint of any kind or character upon his power; and that, too, as I insist, and think I have shown, in defiance of the very terms of the Constitution, and of the well-considered decision of the Supreme Court in the case of Brown *vs.* United States already referred to.

But my object in making these quotations from my colleague's speech was not to expose his inconsistencies, but to establish what were the rights of a belligerent, as even the opponents of this bill admit. I admit the correctness of my colleague's definition, except in his limitation of the power of confiscation to "movable property." Neither the elementary writers upon international law or the Supreme Court make any such limitation. Its propriety is another question; and for one, I am unwilling that rebel chiefs, like Slidell and Mason, who are said to be large landholders in the loyal States, and have escaped to foreign lands, should be permitted to enjoy the fruits of their estates situated within our jurisdiction, while the lives and property of thousands of loyal men have been sacrificed and a debt incurred which will be a burden on the country for generations to come in consequence of the wicked rebellion which they have inaugurated.

That we have the right to exercise belligerent rights towards the persons and property of those in arms against the Government, and who are fighting for its overthrow, even the opponents of this bill admit. When a rebellion becomes so formidable as to be able to muster armies of hundreds of thousands of men and maintain itself in arms against the forces of the Government for almost a year, it surely has attained a magnitude entitling it to be called a civil war; and international law writers agree that the common laws of war are to be observed in a civil war in the same manner as in a war between independent States. If, therefore, in waging war against a foreign nation, the United States could confiscate the property of the enemy through an act of Congress, and only in pursuance of an act of Congress, as decided by the Supreme Court, it follows that they may now confiscate the property of the rebels. It matters not whether the war we are waging be with foreign or domestic enemies, our rights against them are the same while the war continues; and in the prosecution of the war we have a right, for the time being, to treat all parts of the country which are in possession of the rebels, and where the laws of the Union are overborne, as foreign.

This principle was settled by a decision of the Supreme Court in the case of the United States *vs.* Rice, (4 Wheaton, 246,) in which it was held that the town of Castine, in Maine, which was taken possession of and occupied by the British for several months during the war of 1812, was, while in their possession, as respects our revenue laws, to be deemed a foreign country, so that goods

imported into it were not imported into the United States, nor subject to the payment of duties; and if a portion of the Union occupied by the enemy may be treated as foreign for revenue, why not also for confiscation purposes? All the departments of the Government—executive, legislative, and judicial—have; for certain purposes, already treated those parts of the Union in possession and under the control of the rebels as foreign, and the rebels themselves as enemies or belligerents. This has been done by the passage of a non-intercourse act; by the blockade of the rebel coast; by the condemnation, as lawful prize, of vessels attempting to run the blockade; by the interchange of flags of truce, the exchange of prisoners, and in various other ways. Thus treating a portion of the Union as foreign for war purposes, and the rebels as belligerents, while it gives us, during the continuance of the war, all the rights which we could exercise against the property and persons of foreign enemies, does not impair our right when the laws of the Union shall be established over the rebellious districts, and the rebels themselves reduced to subjection, to treat them as traitors and punish them for their crimes, which I trust will be done, at least so far as the leaders are concerned.

Vattel, who insists that the common laws of war should be observed in every civil war, says on this subject:

"When the sovereign has subdued the opposite party, and reduced them to submit and sue for peace, he may except from the amnesty the authors of the disturbances—the leaders of the party; he may bring them to a legal trial, and punish them if they be found guilty."

But it is said the passage of this bill, admitting its constitutionality, would be inexpedient; that it would make the rebels desperate, and unite the South as one man against the Union. How so, let me ask? It does not propose to touch the property of any loyal citizen, and why, therefore, should it drive him against the Union? Are there no loyal persons in the South, or is their love for the traitors who have driven them from their homes and robbed them of their property so strong that rather than take rebel property to help defray the expense of maintaining the Government against the rebellion, they would themselves turn traitors? Surely this would exhibit a weakness and compassion for enemies, and a malignity and hatred of friends, such as the world never before witnessed. Besides, sir, not to confiscate the property of rebels is to encourage future rebellions. Wherever the rebels bear sway they have not hesitated to confiscate the property of loyal citizens; and if now, as the authority of the Union is restored, the persons who have robbed loyal citizens are to be protected in their property, what is it but saying to the people of the country, that whenever a future insurrection arises, the sure way to protect their property will be to join in it; and what is this but to offer a premium for treason? To show the effects of this in individual cases, I quote from a letter received within a few days from a gentleman in New York, who says:

"I hold a mortgage for $35,000 on a plantation sold by me in Mississippi. This plantation is not far from one belonging to Jeff Davis. My mortgage is confiscated; myself and family are heavily embarrassed by engagements predicated upon this mortgage. We are innocent parties; Jeff Davis is guilty; and why should he be allowed to escape unharmed after entailing bankruptcy upon loyal individuals and desolation through a whole section?"

This is but one case of which there are hundreds of thousands all through the South. But few of those engaged in this rebellion will ever be made to suffer in their persons; and if they are to be left in the full possession and enjoyment of their cotton, their lands, and their negroes, the innocent will have been made to suffer while the guilty will go unpunished. The enhanced price which the rebels will get for their sugar and cotton at the close of the war will contribute largely towards making up the losses they have incurred by their rebellion, while loyal farmers, manufacturers, merchants, and, indeed, all classes of loyal citizens both North and South, will be impoverished to the extent of $1,000,000,000. Tens of thousands of lives will be sacrificed, hundreds of thousands of men will be crippled for life, hundreds of thousands of others will be left orphans on the bounty of the nation, while the authors of all this misery will escape almost entirely unhurt, unless their property is made to pay the penalty. Is this just? Shall the innocent, loyal, and patriotic citizens of my own State, who have contributed so liberally of their blood to the maintenance of the Union and the preservation of constitutional liberty, be deprived of their property to pay the expenses of this war, while they who prosecute it against the Union are permitted to enjoy theirs? Shall the fathers of the gallant sons whose mangled bodies have been borne back to Illinois by hundreds, from the bloody fields of Belmont, of Donelson, and Pea Ridge, be ground down by onerous taxes, which shall descend upon their children to the third and fourth generations to defray the expenses of defending the Government against traitors, and we forbear to touch even the property of the authors of these calamities, whose persons are beyond our reach? Suppose ye that the loyal people of this country will submit to such injustice?

I believe I represent as loyal, as patriotic, and as brave a constituency as any other Senator. I claim nothing more. If western men have fought more battles and won more victories for the Union than their brethren of the East, it is because they have had more opportunities. It has been their good fortune to be led against the enemy instead of being idly confined in camps. The capture of Newbern, chiefly by New England troops under the gallant Burnside, shows that the eastern army needs but to be led against the enemy to drive him from Virginia and the Carolinas as effectually as he has been expelled from Missouri and Kentucky. While, therefore, I am proud of the part which the soldiers of my own State took in defeating the enemy in the West, I do not claim for them any superiority over the other soldiers of the Republic. The brave men who besieged Donelson, and who, after fighting through the day for three consecutive days, lay each night on the ground without shelter, exposed to the rain and the sleet, were chiefly Illinoisans. It was there that rebellion received the heavy blow which has staggered it ever since. Forty dead bodies were borne from that bloody field to one small town in my State and buried in a common grave. The Union forces at Pea Ridge were also largely made up of soldiers from Illinois. Suppose ye, that I can go back to Illinois, among the relatives of those who have been cruelly destroyed, and propose to levy taxes upon them in order to conciliate and compensate the murderers, for that is really what exempting rebel property from confiscation amounts to? Sir, I know not if they would submit to such injustice; and yet there are those who not only talk of an amnesty to the men who have brought these troubles upon the country, but oppose providing the mild punishment of confiscation of property for those who shall continue hereafter to war upon the Government, and whose persons are beyond our reach. I am surprised that a bill of this character should meet with opposition from Senators of the border States whose loyal citizens the rebels, whenever they have had the power, have robbed, plundered, and driven from their homes. Do gentlemen regard it as conciliatory to oblige us to lay taxes upon those whose habitations have been consumed, to reward those who have burned them? upon those whose whole property has been stolen, to reward the thieves? upon those whose relatives have been slain, to compensate the murderers? In my judgment, justice, humanity, and mercy herself, all demand that we at once provide that the supporters of this cruel and wicked rebellion should henceforth be made to feel its burdens.

To the most important features in the bill under consideration I have thus far made no allusion. They are the second and third sections of the bill. The second section is in these words:

And be it further enacted, That every person having claim to the service or labor of any other person in any State under the laws thereof, who during the present rebellion shall take up arms against the United States, or in any manner give aid and comfort to said rebellion, shall thereby forthwith forfeit all claim to such service or labor, and the persons from whom it is claimed to be due, commonly called slaves, shall, *ipso facto*, on the commission of the act of forfeiture by the party having claim to the service or labor as aforesaid, be discharged therefrom, and become forever thereafter free persons, any law of any State, or of the United States, to the contrary notwithstanding. And whenever any person claiming to be entitled to the service or labor of any other person shall seek to enforce such claim, he shall, in the first instance, and before proceeding with the trial of his claim, satisfactorily prove that he is and has been during the existing rebellion loyal to the Government of the United States. And no person engaged in the military or naval service of the United States shall, under any pretense whatever, assume to decide on the validity of the claim of any person to the service or labor of any other person, or to surrender up any such person to the claimant.

The third section makes it the duty of the President to provide for the colonization and protection, as freemen, in some tropical country, of such of the African race made free by the previous section, as may desire to emigrate. Slavery is admitted, by most loyal citizens, to have been the cause of this wicked rebellion; and it is also very generally admitted that the Federal Government has no power under the Constitution to remove this cause by abolishing slavery in the States. I, in common with Republicans generally, have often declared that Congress was not responsible for and had no power under the Constitution to interfere with slavery in the States. I say so to-day; and because the Republican party generally has maintained this position, the Senator from Pennsylvnia, [Mr. COWAN,] in the name of Republicanism, arraigns those of us who are in favor of this bill as acting inconsistently with our professions. He has probably been misled by the title of the bill, which might more properly be styled a bill to discourage rebellion, than "a bill to confiscate the property and free the slaves of rebels;" for, sir, this bill does not make a rebel of anybody, nor of itself free a single slave. If a slave gets his freedom under it, it will be by the voluntary act of his rebel master. Surely the Republican party never pledged itself not to pass a law to punish rebels.

Suppose before this rebellion broke out a slave had been detected in robbing the mail: would the Senator from Pennsylvania have considered the Republican party bound by its pledges not to punish the slave for his crime, lest in so doing it should interfere with slavery? Suppose a servile insurrection to have broken out in some southern State, and the State to have called on the Federal Government to furnish aid for its suppression: would the Senator have considered the Republican party bound not to respond to this constitutional call lest it should interfere with slavery in a State? Or suppose the slaves of the South should be armed by their rebel masters and marshaled to fight against the Union: would the Republican Senator from Pennsylvania hesitate to direct the Union armies to shoot them on the battle-field, lest in so doing they should interfere with slavery? I presume the Senator would do none of these things. Neither Congress nor the General Government can do anything directly for the purpose of interfering with slavery in a State. This I admit to its fullest extent; but Congress may and ought to provide for the punishment of crimes committed against the laws of the Union; it may and ought to provide for the suppression of rebellion; and if in doing this slavery suffers, or is interfered with, it is not the Government which makes the interference, but they who violate the laws and war against the Government. So, if any slave shall ever obtain his freedom under this bill, it will be in consequence of the acts of his rebel master, and I am not aware that the Republican party ever pledged itself not to allow the owners of slaves to make them free.

I would to God that every rebel in the land would to-morrow ground the weapons of his rebellion, return to his allegiance, and to obedience to the laws and Constitution. In that event this bill if passed into a law would have no effect either upon his property or his slaves; but if he will continue in rebellion against the Government, to plunder and murder loyal citizens, I have never pledged myself as a Republican not to mete out to him the punishment his crimes deserve. If this rebellion should result in freeing the slaves of rebels, it will not be the first time in the history of the world that good has come out of evil; but it will not be the act of Congress which makes them free any more than it is the act of Congress punishing the crime of larceny that makes a man a thief.

It has been said that Congress possesses no more power to pass this bill now than in a time of peace. I assent to the proposition, and insist that it would have been perfectly competent for Congress to have passed such a bill at any time. Like all criminal laws, it would remain inoperative upon the statute-book till the offense was committed for which it provided the penalty, when it would come into play for the purpose of punishing the offenders. It so happens, in the providence of God, that

most of those who own slaves are now in arms against the Government. This gives to the Government the power to destroy them and all they possess if necessary to suppress the rebellion; and Congress is vested by the Constitution with the discretion of determining what means shall be used to accomplish the object; not only so, but it is made the duty of Congress to provide for suppressing the insurrection. In making this provision, is it not wise that Congress should so act, that if men will fight and war against the Government, they shall not do so without the loss of that species of property which has been the impelling power to drive them into rebellion, and thereby take away any motive for repeating the experiment when this rebellion shall have been suppressed? Such an opportunity to strike a blow for freedom seldom occurs as that now presented to the American Congress.

As most of the owners of slaves are engaged in the rebellion, and will probably continue so for some time, the effect would be, if this bill were speedily enacted into a law, that they would by their own act give freedom to most of the slaves in the country, and thus would be solved, in a great measure, through the agency of this wicked rebellion, the great question, what is to be done with African slavery? a subject in view of which Jefferson, in his day, exclaimed, that "he trembled when he remembered that God was just." I appeal to Senators as philanthropists, as patriots, as lovers of the Union and of constitutional liberty, not to let pass this opportunity which a wicked rebellion presents, of making it the means of giving freedom to millions of the human race, and thereby destroying to a great extent the source and origin of the rebellion, and the only thing which has ever seriously threatened the peace of the Union.

Having, as I think, shown that the right to confiscate enemy property exists; that for this purpose the rebels may properly be treated as enemies; that confiscation can be effected only through an act of Congress; that the bill under consideration is constitutional; and that it is both wise and expedient to take from those who shall continue to fight against the Government after the passage of this act, and whose persons are beyond the reach of punishment, their property and their slaves so far as they are within our reach, I appeal to all those who favor these views to stand together, and let us pass the bill at as early a day as possible, with such modifications and amendments as may be thought advisable, not losing sight of the great object in view. It is no time to talk of amnesties and conciliation, when the habitations of loyal citizens are being plundered and their lives destroyed. When the rebels, whose hands are dripping with the blood of loyal citizens, shall have grounded their arms, it will be time enough to talk of clemency; but to have our sympathies excited in their behalf now, when fighting to overthrow the Government, is cruelty to the loyal men who have rallied to its support.

Mr. LANE, of Kansas. I move that the Senate proceed to the consideration of executive business.

Mr. SUMNER. I was just about to make the same motion.

Mr. TRUMBULL. I should like to ask what will become of this bill. I want to keep it before the Senate.

The PRESIDING OFFICER, (Mr. POWELL in the chair.) It will be left as the unfinished business.

Mr. TRUMBULL. And come up to-morrow at one o'clock?

The PRESIDING OFFICER. Yes, sir.

Mr. HARRIS. It is my purpose to move, as a substitute for the bill under consideration, the bill I introduced some days ago, and which is on the files of the Senate, numbered 233, and to make some remarks upon that motion. With a view to that, I ask that the consideration of this bill be postponed until to-morrow at one o'clock.

Mr. SUMNER. I suggest to the Senator that if we proceed to the consideration of executive business now, it leaves the present matter as the unfinished business, on which he will be entitled to the floor.

Mr. HARRIS. And the same result would be reached in that way?

Mr. SUMNER. Yes, sir.

Mr. TRUMBULL. Unless the Senator from Kansas desired to take the floor on this bill.

Mr. LANE, of Kansas. Oh, no. I only wanted some executive business of importance to Kansas attended to.

Mr. TRUMBULL. Then the Senator from New York will, of course, be entitled to the floor to-morrow.

EXECUTIVE SESSION.

The motion of Mr. LANE, of Kansas, was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *April* 7, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of Friday last was read and approved.

The SPEAKER, as the regular order of business, proceeded to call the States and Territories for bills and joint resolutions of which previous notice had been given, for reference only.

RECEIPTS AND DISBURSEMENTS.

Mr. WARD introduced a joint resoluting directing the Secretary of the Treasury to furnish to the Congress of the United States during each session a semi-monthly statement of the receipts, disbursements, and estimates of the Government, and to publish a monthly statement thereof during the recess; which was read a first and second time, and referred to the Committee on Commerce.

DIPLOMATIC AND CONSULAR SYSTEM.

Mr. WARD also introduced a bill to amend an act entitled "An act to regulate the diplomatic and consular system of the United States," approved August 18, 1856; which was read a first and second time, and referred to the Committee on Foreign Affairs.

JOHN WILSON.

Mr. FENTON introduced a bill for the relief of John Wilson, which was read a first and second time, and referred to the Committee of Claims.

FURLOUGHS.

Mr. McPHERSON introduced a bill to authorize colonels of volunteer regiments, under certain limitations, to grant furloughs; which was read a first and second time, and referred to the Committee on Military Affairs.

EVIDENCE IN SUPPORT OF CLAIMS.

Mr. WICKLIFFE introduced a bill to provide the manner and mode of taking evidence in support of claims in certain cases against the Government; which was read a first and second time, and referred to the Committee of Claims.

DISTRIBUTION OF BOOKS AND DOCUMENTS.

Mr. LAW introduced a joint resolution providing for the distribution of certain books and documents; which was read a first and second time.

The joint resolution was read. It authorizes and directs the Secretary of the Interior, or whoever may have the custody of the same, to cause an equal distribution to be made forthwith among the members of the two Houses of the present Congress of all books and documents heretofore printed or purchased at the cost of the Government, and not actually belonging to any public library or any library kept for the use of any Department of the Government, excepting, however, all such books and documents as are embraced in any existing order for the distribution thereof among the members of the two Houses of Congress.

Mr. LAW. I will merely state the fact, that at the last session of Congress an act was passed providing for the distribution of all the books among the members of the Thirty-Sixth Congress. There are several hundred volumes remaining in the Interior Department belonging to members from the seceded States, and this resolution merely provides for their distribution. I ask the unanimous consent of the House that the joint resolution be put upon its passage.

There was no objection.

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

CENSUS RECORD.

Mr. FESSENDEN introduced a joint resolution to require the Superintendent of the Census to record or have recorded in books to be prepared for that purpose the names of all adult males or heads of families of the free people of the United States, in their alphabetical order, and in such a manner as will admit of easy reference; which was read a first and second time.

Mr. BINGHAM. I would suggest to the gentleman from Maine the propriety of making the index show the several freeholders of the country.

Mr. VALLANDIGHAM. Do I understand my colleague to wish to confine the index to freeholders only?

Mr. BINGHAM. No, sir; I want the index to designate who are freeholders.

Mr. WICKLIFFE. I would like to inquire of the mover of that proposition whether he has made an estimate or calculation of the cost of printing such a work, and of what would be its size when finished. I think it should be referred to some committee to ascertain such facts. I would move to refer it to the committee of safety, if there were such a committee in this House; but I move to refer it to the Committee on Printing.

Mr. FESSENDEN. I have no objection to its going to that committee.

Mr. WICKLIFFE's motion to refer was agreed to.

MILITARY DEPARTMENTS.

Mr. DUNN. I ask leave to report from the Committee on Military Affairs a joint resolution extending the provisions of a certain act to all the military departments of the United States.

The joint resolution was read. It directs that the act to secure to the officers and men actually employed in the northwestern department or department of Missouri, their pay, pension, and bounty, approved March 25, 1865, shall be extended and made applicable to the officers and men employed in any other military department of the United States.

Mr. DUNN. I ask that the joint resolution be put upon its passage.

Mr. VALLANDIGHAM. I move that it be referred to the Committee on Military Affairs.

Mr. DUNN. It has been before the Committee on Military Affairs, and I report it from that committee.

The SPEAKER. The Chair thinks that it cannot be received at this time as a report from a committee under a call of the States.

RECIPROCITY TREATY.

Mr. WARD offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be requested to furnish to this House a statement of the amount and kinds of the productions of the British colonies imported into the United States free of duty under the provisions of the treaty between Great Britain and the United States, signed June 5, A. D. 1854, known as the reciprocity treaty, and of the amount and kinds of the productions of the United States exported to the British colonies under the stipulations of the said treaty from the ratification thereof to the present time; also of the amount and kinds of like productions imported from and exported to the said colonies from the year 1850, inclusive, until the ratification of said treaty, and the amount of revenue received from duties thereon during that period; also of the amount and kinds of manufactures and other articles of United States origin, not free of duty under the provisions of the said treaty, exported to the same colonies from the year 1850, inclusive, to the present time, and of the like manufactures and other articles produced in the said colonies and imported into the United States; also of all other goods and merchandise of foreign origin exported to the said colonies from the United States, and of the goods and merchandise not produced in the said colonies, but exported from them to the United States from the year 1850, inclusive, until the present time, giving a statement in each case of the trade of Canada, and of each other colony or province, with the United States separately, and also in the aggregate, so far as the same is practicable.

SEAMEN IN MERCHANT SERVICE.

Mr. NIXON offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire whether any additional legislation is necessary in reference to the laws relating to the shipment and relief of seamen in the merchant service, and to report by bill or otherwise.

PENSIONS TO VOLUNTEERS.

Mr. GRIDER offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be requested to inquire into the expediency of providing by law

for invalid pensions applicable to the volunteer officers and soldiers now in the service of the United States.

EMANCIPATION OF AFRICAN SLAVES.

Mr. WHITE, of Indiana, offered the following resolution:

Resolved, That a select committee of nine members—the chairman and a majority of whom shall be members from the States of Delaware, Maryland, Virginia, Kentucky, Tennessee, and Missouri—be appointed to inquire and report to this House, at as early a day as practicable, whether any plan can be prepared and recommended for the gradual emancipation of all the African slaves and the extinction of slavery in those States by the people or local authorities thereof; and whether such an object is expedient and desirable; and further that they inquire and report whether the colonization of such emancipated slaves on this continent or elsewhere is a necessary concomitant of their freedom, and how and in what manner provision may be made therefor; and that they further inquire and report how far and in what way the Government of the United States can and ought equitably to aid in facilitating either of the above objects; and that the committee be further authorized, if in their judgment the subject require it, to extend the same inquiries as to the other slaveholding States, and report thereon.

Mr. BINGHAM. I object to the resolution unless it be modified in one respect.

The SPEAKER. The gentleman from Indiana has the right to introduce it.

Mr. WHITE, of Indiana. I call the previous question.

Mr. ROSCOE CONKLING. Is it in order to ask to modify the resolution in any respect? If so, I ask the gentleman from Indiana to modify it in that part which restricts the Chair to the appointment of this committee from certain States.

Mr. BINGHAM. That was the modification which I desired to suggest.

Mr. WHITE, of Indiana. If the modification asked for by the gentleman from New York and the gentleman from Ohio will make it acceptable, I am willing to modify it. But my object was, in the spirit of harmony and concord, to unite a proposition.

The SPEAKER. Debate is not in order.

Mr. WHITE, of Indiana. Then I will strike out the part objected to.

The resolution was modified so as to read:

Resolved, That a select committee, to consist of nine members, be appointed to inquire and report to the House, at as early a day as practicable, whether any plan can be proposed and recommended for the gradual emancipation of all the African slaves, and the extinction of slavery in the States of Delaware, Maryland, Virginia, Kentucky, Tennessee, and Missouri, by the people or local authorities thereof, &c.

Mr. MALLORY. The resolution is an unconstitutional absurdity, and I move to lay it on the table.

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

The yeas and nays were ordered.

Mr. CRITTENDEN. Is this resolution the subject of debate?

The SPEAKER. It is not.

The question was taken; and it was decided in the negative—yeas 51, nays 68; as follows:

YEAS—Messrs. Allen, Biddle, Jacob B. Blair, William G. Brown, Calvert, Casey, Cobb, Corning, Cox, Cravens, Crittenden, Delano, Delaplaine, Diven, Dunlap, English, Fisher, Grider, Haight, Harding, Harrison, Horton, Kerrigan, Knapp, Law, Lazear, Leary, Lehman, Mallory, Menzies, Mitchell, Noble, Noell, Norton, Nugen, Pendleton, Perry, Price, Richardson, Sheffield, Shiel, Smith, John B. Steele, William G. Steele, Vallandigham, Voorhees, Wadsworth, Ward, Webster, Chilton A. White, and Wickliffe, —51.

NAYS—Messrs. Alley, Arnold, Ashley, Babbitt, Baker, Baxter, Beaman, Bingham, Francis P. Blair, Blake, Buffinton, Campbell, Chamberlin, Clark, Clements, Colfax, Frederick A. Conkling, Roscoe Conkling, Davis, Dawes, Duell, Dunn, Edgerton, Eliot, Fenton, Fessenden, Hanchett, Hickman, Hutchins, Julian, Kelley, Francis W. Kellogg, Lansing, Loomis, Lovejoy, McKnight, McPherson, Moorhead, Anson P. Morrill, Nixon, Olin, Timothy G. Phelps, Porter, Potter, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, Sargent, Shanks, Shellabarger, Sherman, Sloan, Spaulding, Stevens, Stratton, Train, Van Horn, Van Valkenburgh, Verree, Wallace, E. P. Walton, Washburne, Wheeler, Albert S. White, Wilson, Windom, and Worcester—68.

So the House refused to lay the resolution on the table.

During the vote,

Mr. EDGERTON stated that his colleagues, Messrs. CUTLER and MORRIS, were paired off.

Mr. WHEELER stated that his colleague, Mr. FRANCHOT, had been called home by the illness of a relative, and moved that he be excused during his necessary absence.

The SPEAKER. The Chair thinks that a motion to excuse cannot be made at this time. It should be made before the commencement of the roll-call.

Mr. BROWN, of Virginia, stated that his colleague, Mr. WHALEY, was absent on account of sickness.

The vote was announced as above recorded.

The question being on seconding the demand for the previous question,

Mr. WHITE, of Indiana, demanded tellers.

Tellers were ordered; and Messrs. WHITE of Indiana, and Cox, were appointed.

The House divided; and the tellers reported—ayes 50, noes 49.

So the previous question was seconded, and the main question ordered, which was on the adoption of the resolution.

Mr. VALLANDIGHAM called for the yeas and yeas.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 67, nays 52; as follows:

YEAS—Messrs. Alley, Arnold, Ashley, Babbitt, Baker, Baxter, Beaman, Bingham, Francis P. Blair, Blake, Buffinton, Campbell, Chamberlin, Clark, Colfax, Frederick A. Conkling, Davis, Dawes, Duell, Edgerton, Eliot, Fenton, Fessenden, Gurley, Hanchett, Hickman, Hutchins, Julian, Kelley, Francis W. Kellogg, Lansing, Loomis, Lovejoy, McKnight, McPherson, Moorhead, Anson P. Morrill, Justin S. Morrill, Nixon, Olin, Pike, Pomeroy, Potter, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, Sargent, Shanks, Sheffield, Shellabarger, Sherman, Sloan, Stevens, Stratton, Train, Van Horn, Van Valkenburgh, Verree, Wallace, Charles W. Walton, E. P. Walton, Washburne, Wheeler, Albert S. White, Wilson, and Windom —67.

NAYS—Messrs. Allen, Biddle, Jacob B. Blair, George H. Browne, William G. Brown, Calvert, Casey, Cobb, Corning, Cox, Cravens, Crittenden, Delano, Delaplaine, Diven, Dunlap, English, Fisher, Grider, Haight, Harding, Harrison, Horton, Kerrigan, Knapp, Law, Lazear, Leary, Lehman, Mallory, Menzies, Mitchell, Noble, Noell, Norton, Nugen, Pendleton, Perry, Timothy G. Phelps, Price, Richardson, Shiel, Smith, John B. Steele, William G. Steele, Vallandigham, Voorhees, Wadsworth, Ward, Webster, Chilton A. White, and Wickliffe—52.

So the resolution was adopted.

Pending the call of the roll,

Mr. WORCESTER stated that he had paired with Mr. CRISFIELD. Otherwise he should vote in the affirmative.

Mr. FISHER stated that he had voted in the affirmative for the purpose of moving to reconsider.

The SPEAKER. No debate is in order,

Mr. FISHER. Then I vote "no."

The vote was then announced as above recorded.

Mr. BINGHAM moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States by Mr. HAY, his Secretary.

TARIFF.

Mr. VOORHEES submitted the following preamble and resolution, and called the previous question on its adoption.

Whereas justice and sound policy forbid that the Federal Government should foster one branch of industry to the detriment of any other, or cherish the interests of one portion to the injury of another portion of our common country; and whereas the present system of tariff as enacted during the last Congress, and as amended during the late extra session of the present Congress, is a system of injustice and oppression towards the agricultural portions of the country and towards the laboring consumers generally, and especially so towards the people of the Northwest; and whereas it is destructive of our commerce with foreign nations, thereby also destroying the revenue formerly derived from import duties, and giving rise to the necessity of increased direct taxation which the agricultural portions of the country are but ill able to bear; and whereas all the advantages and wealth of the said system of tariff accrue to a favored and privileged class of manufacturers and capitalists, creating monopolies and thereby paralyzing one branch of industry by compelling it to pay for the support of another; and whereas every citizen and "every section of the country has a right to demand and insist upon an equality of rights and privileges," and an ample protection against unequal and unjust burdens of Government: Therefore,

Be it resolved, That the Committee of Ways and Means of this honorable House be instructed to report a bill at as early a day as practicable of the present session, repealing the enactment aforesaid, and substituting in lieu thereof a system of tariff based upon the principle which shall produce the greatest amount of revenue to the Government, and not upon that of protection to the manufacturing interests of the country.

Mr. STEVENS. I move to lay that resolution on the table.

Mr. VALLANDIGHAM. I ask for the yeas and nays upon the motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 88, nays 36; as follows:

YEAS—Messrs. Aldrich, Alley, Ashley, Babbitt, Baker, Baxter, Beaman, Biddle, Bingham, Jacob B. Blair, Samuel S. Blair, Blake, George H. Browne, William G. Brown, Buffinton, Campbell, Chamberlin, Clark, Colfax, Frederick A. Conkling, Roscoe Conkling, Corning, Davis, Dawes, Delano, Diven, Duell, Dunn, Edgerton, Eliot, English, Fenton, Fessenden, Fisher, Frank, Granger, Haight, Hale, Hanchett, Harrison, Hickman, Hooper, Horton, Hutchins, Kelley, Francis W. Kellogg, Lansing, Leary, Lehman, Loomis, Lovejoy, McKnight, McPherson, Moorhead, Anson P. Morrill, Justin S. Morrill, Nixon, Pike, Pomeroy, Potter, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, Sargent, Shanks, Sheffield, Shellabarger, Sherman, Sloan, Spaulding, Stevens, Stratton, Train, Van Horn, Van Valkenburgh, Verree, Wallace, Charles W. Walton, E. P. Walton, Washburne, Webster, Wheeler, Albert S. White, Wilson, Windom, and Wright—88.

NAYS—Messrs. Allen, Francis P. Blair, Calvert, Casey, Cox, Cravens, Crittenden, Delaplaine, Dunlap, Grider, Harding, Kerrigan, Knapp, Law, Mallory, Menzies, Noble, Noell, Norton, Nugen, Pendleton, Perry, Porter, Price, Richardson, Shiel, Smith, John B. Steele, William G. Steele, Francis Thomas, Vallandigham, Voorhees, Wadsworth, Ward, Chilton A. White, and Wickliffe—36.

So the preamble and resolution were laid on the table.

EMANCIPATION OF AFRICAN SLAVES—AGAIN.

Mr. WICKLIFFE. I ask the consent of the House to make a single suggestion in reference to the composition or character of the committee authorized to be raised on motion of the gentleman from Indiana, [Mr. WHITE.]

There was no objection.

Mr. WICKLIFFE. I ask the Chair, in the organization of that committee, specially to omit myself from service on it. I would suggest also, in accordance with what I understand to be an ordinary parliamentary rule, that the Speaker put upon that committee none of those members who voted in the affirmative upon the following resolutions:

"*Resolved*, That neither the Federal Government nor the people or governments of the non-slaveholding States have a purpose or a constitutional right to legislate upon or interfere with slavery in any of the States of the Union.

"*Resolved*, That those persons in the North who do not subscribe to the foregoing proposition are too insignificant in numbers and influence to excite the serious attention or alarm of any portion of the people of the Republic, and that the increase of their numbers and influence does not keep pace with the increase of the aggregate population of the Union."

These resolutions were unanimously passed, with the exception of the four members in the negative, who are not now present, as the record will show. The names are spread out here upon the Journal, to which the Speaker can have access.

Mr. LOVEJOY. I ask the consent of the House to move that the gentleman from Kentucky have leave to read those resolutions every morning.

Mr. WICKLIFFE. I hope that proposition will be carried unanimously. I have done no harm. The name of the gentleman from Illinois is here among those who voted for the resolution.

TAX BILL.

The SPEAKER stated that the consideration of the tax bill, reported on Friday last from the Committee of the Whole on the state of the Union, was next in order.

DEPREDATIONS IN MISSOURI.

Mr. PRICE asked the unanimous consent of the House to submit the following preamble and resolution:

Whereas, it has been represented that the United States military forces from the State of Kansas, have, at divers times during the past four months, entered the counties of Jackson, Cass, Bates, and Johnson, in the State of Missouri, and without just cause or military necessity, seized, took, and carried away, slaves, horses, mules, and other property, of the value of hundreds of thousands of dollars, belonging to quiet and peaceful citizens; and that said forces in like manner, with fire, did destroy many dwelling and farm-houses in said counties: Therefore,

Resolved, That the Secretary of War, if not inconsistent with the public interest, will report to this House any official information he may have or can obtain from the military departments of Kansas and Missouri, or either of them, touching the above matters. And he will particularly state the number of slaves, horses, mules, and other property thus taken, or houses destroyed in either of those counties, together with the kind, value, and name of owners from whom taken, and cause or causes assigned therefor. He will also report whether all or any of the property thus taken has been accounted for or confiscated; and if accounted for or confiscated, state where and when did the trial of confiscation take place, and to whom was such account rendered. He will state under whose orders did the military forces from Kansas enter the counties of Jackson and Cass, and the other counties named; for what purpose did they go or remain there at any time in the months of October, November, December, January, and February, and

while said forces remained in either of said counties, what sum of money has been charged or allowed for their subsistence.

Mr. LOVEJOY objected.

MESSAGE FROM THE SENATE.

A message from the Senate was received, by Mr. HICKEY, their Chief Clerk, notifying the House that the Senate have passed bills of the following titles; in which he was directed to ask the concurrence of the House:

A bill (No. 241) to authorize the corporation of Georgetown, in the District of Columbia, to lay and collect a water tax, and for other purposes;

A bill (No. 193) to repeal that part of an act of Congress that prohibits the circulation of bank notes of a less denomination than five dollars in the District of Columbia.

A bill (No. 240) to provide for the public instruction of youth in the primary schools throughout the county of Washington, in the District of Columbia, without the limits of the cities of Washington and Georgetown;

A bill (No. 251) for the relief of Francis Hüttmann;

A bill (No. 124) relating to the highways in the county of Washington and District of Columbia; and

A bill (No. 108) for the release of certain persons held to service or labor in the District of Columbia.

The message further announced that the Senate have indefinitely postponed bills of the House of the following titles:

A bill (No. 334) relating to the appointment and compensation of chaplains to military hospitals;

A bill (No. 296) to authorize additional mailable matter; and

A bill (No. 244) to establish a postal money order system.

Mr. ROSCOE CONKLING. I ask that the bills just received from the Senate relating to the business of the District be referred to the Committee for the District of Columbia.

Mr. WICKLIFFE. I object.

TAX BILL—AGAIN.

The House then proceeded, as a special order, to the consideration of the bill of the House No. 312, to provide internal revenue to support the Government and pay interest on the public debt, reported from the Committee of the Whole on the state of the Union on Friday last, with sundry amendments.

Mr. STEVENS moved the previous question.

Mr. BLAIR of Missouri. I ask the gentleman to permit me to offer one amendment before he moves the previous question.

Mr. STEVENS. I will yield to the gentleman in this instance; but will not yield again to any gentleman.

Mr. BLAIR, of Missouri. I move to add at the end of the bill, as follows:

SEC. —. *And be it further enacted*, That any person who shall claim to own the service or labor for life of any person under the laws of any State shall pay for and on account of the service of each person so held the sum of two dollars.

Mr. BINGHAM. I hope the gentleman will permit me to offer an amendment before he calls the previous question.

Mr. ELIOT made a similar request.

Mr. STEVENS. No, sir; I decline to yield further. I move the previous question on the bill and amendments.

The previous question was seconded; and the main question ordered to be put.

Mr. STEVENS. I hope the amendments will now be read, and that all the amendments upon which no separate vote is asked will be considered as adopted.

No objection being made, the Speaker announced the proposition of Mr. STEVENS as the the order of the House.

The Clerk then proceeded to read the amendments:

Fourth amendment:

Page 3, line thirteen, add to the section providing for collection districts, as follows:

Provided, That the number of districts in any State shall not exceed the number of members of Congress to which such State shall be entitled.

Mr. STEVENS asked the consent of the House to amend the amendment, so as to make it read as follows:

Provided, That the number of districts in any State or Territory shall not exceed the number of Representatives or Delegates in Congress to which such State or Territory shall be entitled.

There was no objection, and the amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

Fifty-sixth amendment:

Strike out "five" and insert "one" in the following clause of the twentieth section:

But in case of non-payment or tender, as aforesaid, the said officers shall proceed to sell the said goods, chattels, or effects at public auction, and shall and may retain from the proceeds of such sale the amount demandable for the use of the United States, with the necessary and reasonable expenses of distraint and sale, and a commission of five per cent. thereon for his own use, rendering the overplus, if any there be, to the person whose goods, chattels, or effects shall have been distrained.

Mr. MORRILL, of Vermont. I ask for a separate vote upon that amendment, and call for tellers upon it.

Tellers were ordered; and Messrs. BABBITT and CALVERT were appointed.

The House divided, and the tellers reported—ayes 57, noes 42.

So the amendment was agreed to.

Mr. WICKLIFFE. I should like the consent of the House to change the section which fixes the limit of the commissions of collectors at $8,000 to something reasonable.

Mr. STEVENS. I object.

Mr. DUNLAP asked the consent of the House to modify the section relating to the license for distillers, so as to provide that all such licenses shall expire on the 1st day of June, instead of April.

Mr. STEVENS objected.

Mr. CRITTENDEN. I ask the consent of the House to ask a question of the chairman of the Committee of Ways and Means. I suppose it is the desire of all of us to make the bill as perfect as possible.

There was no objection.

Mr. CRITTENDEN. The amendment which we have adopted, as I understand it, makes the tax sales of collectors conclusive against the defendants in such cases. I wish to inquire if that was the intention of the Committee of Ways and Means?

Mr. STEVENS. We have modified that so that it shall convey to the purchaser such title as the defendant may possess to the property sold.

Mr. CRITTENDEN. The original bill made such sales absolutely conclusive. This amendment makes it conclusive against the defendant.

Mr. STEVENS. This provision, as amended, will make the sale of a collector stand on the same footing as a sale upon execution. The amendment reads:

Who, upon such sale, shall, as such marshal or deputy marshal, make and deliver to the purchaser of the premises so sold a deed of conveyance thereof, to be executed and acknowledged in like manner as if said premises had been sold upon execution issued on a judgment at law, which said deed so made shall invest the purchaser with all the title and interest of the defendant or defendants named in said warrant.

Mr. CRITTENDEN. I suggest still that the amendment makes the sale absolutely conclusive upon the defendant, and, it seems to me, will in many cases work great injustice. There are many persons who will be absent at the time of sale, and this provision will exclude them from showing even that there was no advertisement of the sale, if there was none. I merely wish to inquire whether that was the intention of the Committee of Ways and Means.

Mr. STEVENS. It does not make the title conclusive, but it does conclude the defendant. We intended to make it the same as a sheriff's sale.

Mr. CRITTENDEN. It has never been done before.

Mr. STEVENS. I will say to the gentleman from Kentucky that there was a time when a title under a tax sale was good for nothing, because the purchaser had to show the regularity of the sale and everything else. It is now made with us in Pennsylvania the same as a sheriff's sale. A tax title in the District of Columbia is not worth a farthing, because the purchaser has to show everything in regard to the regularity of the tax. In most of the States, however, all of that is altered.

Mr. CRITTENDEN. Is it intended to reverse all those things?

Mr. STEVENS. All those things have been reversed already.

Mr. WICKLIFFE. It will be remembered that in the Committee of the Whole on the state of the Union I moved an amendment providing that the assignment of the deed should be *prima facie*, but not conclusive, evidence of the facts stated. The chairman of the committee thought it was right, but the committee voted it down. I ask unanimous consent to move it at this point.

Mr. BABBITT. I object.

Ninety-ninth amendment:

Insert the following:

And provided further, That all distilled spirits now manufactured, or that may be manufactured before the 1st day of May, 1862, in the United States, shall pay the same sum per gallon, when sold, as provided by this act upon distilled spirits manufactured from and after the 1st day of May, 1862.

Mr. MORRILL, of Vermont. I ask for a separate vote on that amendment.

Mr. SHEFFIELD. Has any provision been made in the bill for the collection of that tax?

Mr. MORRILL, of Vermont. The committee reversed its action in the matter by a subsequent amendment.

The amendment was rejected.

One hundred and thirteenth and one hundred and fourteenth amendments:

Strike out the words in brackets, and in lieu thereof insert the words in italics:

SEC. 53. *And be it further enacted*, That all beer, lager beer, ale, porter, and other similar fermented liquors which [shall] *now are or may* be made, and all spirituous liquors which [shall] *now are or may* be distilled, within the United States or the Territories thereof, or the District of Columbia, the duties on which shall not have been paid, according to the true intent and meaning of this act, shall be forfeited, and may be seized as forfeited by any collector of internal duties: *Provided, always*, That such liquors and spirits shall not be liable to seizure and forfeiture, in the hands of a *bona fide* purchaser, without notice that the duties thereon have not been paid or secured to be paid.

Mr. HOOPER. I ask a separate vote on those two amendments, and hope that they will be rejected. They ought to fall with the amendment just disagreed to.

The amendments were severally disagreed to.

Mr. WICKLIFFE. I move to reconsider the votes in regard to whisky and lager beer, and that that motion be laid upon the table.

The SPEAKER. By the agreement of the House that is unnecessary.

One hundred and eighteenth amendment:

Insert the words "and sold or removed for consumption or sale," so that the section will read:

And, until such duties with such addition shall be paid, they shall be and remain a perpetual lien upon the distillery where such liquors have been distilled and sold, or removed for consumption or sale, or the brewery where such liquors have been brewed, and upon the stills, boilers, vats, and all other implements thereto belonging, until the same shall have been paid.

Mr. HOOPER. That was inserted by mistake.

The amendment was rejected.

The Clerk read as follows:

And said officer shall forthwith cause a notification to be published in some newspaper, if any there be within the district, and publicly posted up at the tavern nearest to the residence of the person whose property shall be distrained, or at the court-house of the same county, if not more than ten miles distant, which notice shall specify the articles distrained, and the time and place proposed for the sale thereof, &c.

Mr. COLFAX moved to strike out the word "tavern," and in lieu thereof to insert the words "post office."

The amendment was agreed to.

Mr. WALTON, of Vermont, moved to strike out the word "district," and in lieu thereof to insert the word "county."

The amendment was agreed to.

The Clerk read, as follows:

There shall be exempt from distraint the tools or implements of a trade or profession, one cow, arms, household furniture, and provisions kept for use, and apparel necessary for a family.

The SPEAKER. There ought to be a transposition in that paragraph; so as to make it read, "arms, provisions, and household furniture," &c.

By unanimous consent, the transposition was made.

One hundred and thirty-sixth amendment:

Strike out the word in brackets, and in lieu thereof insert the words in italics, in the following:

3. Wholesale dealers in liquors of *any and* every description, including distilled spirits, fermented liquors, and wines of all kinds, shall pay [fifty] *one hundred* dollars for each license.

Mr. MORRILL, of Vermont, demanded a separate vote on that amendment.

Mr. McKNIGHT demanded tellers.

Tellers were ordered; and Messrs. PIKE and ALLEY were appointed.

The amendment was agreed to; the tellers having reported—ayes sixty-six, noes not counted.

One hundred and sixty-fourth amendment:

Insert:

19. Jugglers shall pay for each license twenty dollars. Every person who performs by sleight of hand or feats of prestidigitation shall be regarded as a juggler under this act.

Mr. STEVENS demanded a separate vote.

The amendment was agreed to; the tellers having reported—ayes fifty-six, noes not counted.

The Clerk read, as follows:

33. Claim agents shall pay ten dollars for each license. Every person whose business it is to prosecute claims in any of the Executive Departments of the Federal Government shall be deemed a claim agent under this act.

Mr. WICKLIFFE, by unanimous consent, moved to insert the words "and agents for procuring patents," after the words "claim agent," and to insert, after the word "Government," these words, "or to procure patents."

The amendment was agreed to.

The Clerk read, as follows:

SEC. 63. *And be it further enacted*, That where the annual gross receipts or sales of any apothecaries, confectioners, eating-houses, tobacconists, or retail dealers, shall not exceed the sum of $1,000, such apothecaries, confectioners, eating-houses, and retail dealers shall not be required to take out or pay for license, anything in this act to the contrary notwithstanding; the amount or estimated amount of such annual sales to be ascertained or estimated in such manner as the Commissioner of Internal Revenue shall prescribe.

Mr. WHITE, of Indiana, moved to add the following:

And so of all other annual sales or receipts where the rate of the license is graduated by the amount of sales or receipts.

The amendment was agreed to.

Mr. HICKMAN. I ask the unanimous consent of the House to go back to the paragraph about "jugglers," and to add the following:

The proprietors or agents of all other public exhibitions or shows for money, not enumerated in this section, shall pay for each license ten dollars.

There was no objection; and the amendment was agreed to.

One hundred and ninety-seventh amendment:

Provided, That in all cases of goods manufactured, in whole or in part, upon commission, or where the material is furnished by one party and manufactured by another, if the manufacturer shall be required to pay under this act the tax hereby imposed, such person or persons so paying the same shall be entitled to collect the amount thereof of the owner or owners, and shall have a lien for the amount thus paid upon the manufactured goods: *Provided further*, That the taxes on goods, wares, or merchandise, manufactured in pursuance of contracts made before the passage of this act shall be paid by the purchasers on delivery thereof, and a statement of the names and places of residence of such purchaser or purchasers shall be furnished by the said manufacturer, as may be required by the Commissioner of Internal Revenue: *And provided further*, That the taxes on all articles manufactured and sold, in pursuance of contracts *bona fide* made before the 3d day of March, 1852, shall be paid by the purchasers thereof under regulations to be established by the Commissioner of Internal Revenue.

Mr. BLAIR, of Pennsylvania. The second proviso in that amendment was rejected in the Committee of the Whole on the state of the Union.

Mr. STEVENS. I ask a separate vote on the several provisos.

There was no objection.

The first proviso was agreed to, and the second disagreed to.

The question recurred on the third proviso, and on a division there were—ayes 51, noes 30; no quorum voting.

Mr. MORRILL, of Vermont, demanded tellers.

Tellers were ordered; and Messrs. DUNLAP and SHEFFIELD were appointed.

The proviso was agreed to, the tellers having reported—ayes 60, noes 40.

The Clerk read, as follows:

In case no such party or place can be found, which fact shall be determined by the collector's return on the summons, such notice, in the nature of a summons, shall be given by advertisement for the term of three weeks in one newspaper in the district nearest to the place of such sale.

Mr. HOOPER moved to strike out the word "district," and to insert the word "county," in lieu thereof.

The amendment was agreed to.

Two hundred and eleventh amendment:

Strike out the words in brackets.

SEC. 71. *And be it further enacted*, That all goods, wares, and merchandise, or articles manufactured or made by any person or persons not for sale, but for his, her, or their own use or consumption, [and all goods, wares, and merchandise or articles, manufactured or made and sold, except spirituous and malt liquors, and leaf, stem, or manufactured tobacco, where the annual product shall not exceed the sum of $600,] shall be and are exempt from duty.

Mr. STEVENS demanded a separate vote.

The amendment was not concurred in.

Two hundred and twelfth amendment:

Strike out the following:

Provided, That this shall not apply to any business or transaction where one party furnishes the materials, or any part thereof, and employs another party to manufacture, make, or finish the goods, wares, and merchandise or articles, paying or promising to pay therefor, and receiving the goods, wares, and merchandise or articles; but in all such cases the party furnishing the materials and receiving the goods, wares and merchandise or articles, shall be liable to and charged with all accruing duties thereon.

Mr. STEVENS demanded a separate vote.

The amendment was disagreed to.

Mr. WADSWORTH moved to strike out the following:

Provided, That in estimating the duty on leaf, stemmed, or unmanufactured tobacco, the quantity actually sold, removed for consumption, or placed on shipboard by the producer, shall be the quantity or amount upon which said duty shall be assessed, paid, and collected.

The amendment was agreed to.

Mr. McKNIGHT moved to insert the words "than agents;" so that the section would read:

SEC. 73. *And be it further enacted*, That from and after the said 1st day of May, 1862, upon the articles, goods, wares, and merchandise, hereinafter mentioned, which shall thereafter be produced and sold, or be manufactured or made and sold or removed for consumption, or for delivery to others than agents within the United States or Territories thereof, there shall be levied, collected, and paid the following duties, to be paid by the producer or manufacturer thereof, that is to say, &c.

The amendment was agreed to.

Two hundred and twenty-first amendment:

Insert:

On anthracite coal, fifteen cents per ton; on bituminous coal, one eighth of one cent per bushel.

Mr. CAMPBELL. The Clerk has not read the whole of the amendment. The remaining portion is as follows:

Provided, That this tax on coal shall not take effect till the expiration of the reciprocity treaty with Great Britain.

Mr. COX. They are separate and distinct amendments, as the Globe will show.

The SPEAKER. The record shows that they are separate amendments.

Mr. WRIGHT. I ask for a division of the amendment, to have the question first taken on the tax on anthracite coal, and next on the tax on bituminous coal.

The SPEAKER. An amendment of the Committee of the Whole on the state of the Union is not divisible.

Mr. STEVENS. I demand the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. MORRILL, of Vermont. I suggest that the yeas and nays be omitted on this amendment, and that they be taken on the proviso.

Mr. COX. I have no objection to that, so far as I am concerned.

Mr. HUTCHINS. I object.

Mr. COX. I hope my colleague will not object, as the proviso practically nullifies the tax.

Mr. HUTCHINS. I insist upon the yeas and nays.

The question was put; and it was decided in the affirmative—yeas 85, nays 39; as follows:

YEAS—Messrs. Aldrich, Allen, Alley, Baker, Beaman, Francis P. Blair, Jacob B. Blair, George H. Browne, William G. Brown, Buffinton, Calvert, Casey, Chamberlin, Clark, Clements, Cobb, Colfax, Frederick A. Conkling, Roscoe Conkling, Cox, Cravens, Crittenden, Dawes, Delano, Delaplaine, Diven, Duell, Eliot, English, Fenton, Fessenden, Frank, Granger, Grider, Gurley, Haight, Hall, Harding, Harrison, Hickman, Julian, Francis W. Kellogg, Knapp, Lansing, Law, Loomis, Lovejoy, Menzies, Anson P. Morrill, Noble, Norton, Nugen, Olin, Pendleton, Perry, Timothy G. Phelps, Pike, Pomeroy, Potter, Alexander H. Rice, John H. Rice, Richardson, Edward H. Rollins, James S. Rollins, Sheffield, Shellabarger, Sherman, Shiel, Sloan, Smith, John B. Steele, William G. Steele, Train, Vallandigham, Van Horn, Voorhees, Ward, Washburne, Webster, Wheeler, Albert S. White, Chilton A. White, Wickliffe, Wilson, and Worcester—85.

NAYS—Messrs. Babbitt, Baxter, Biddle, Bingham, Samuel S. Blair, Blake, Campbell, Davis, Dunlap, Dunn, Edgerton, Fisher, Hale, Hooper, Horton, Hutchins, Kelley, Lazear, Leary, Lehman, McKnight, Mallory, Moorhead, Justin S. Morrill, Morris, Patton, Porter, Riddle, Sargent, Shanks, Spaulding, Stevens, Stratton, Francis Thomas, Verree, Wadsworth, Wallace, E. P. Walton, and Wright—39.

So the amendment was agreed to.

Amendment two hundred and twenty-one and a half:

Insert the following:

Provided, That this tax on coal shall not take effect till the expiration of the reciprocity treaty with Great Britain.

Mr. MORRILL, of Vermont. I ask for a separate vote upon that amendment.

Mr. HICKMAN. I demand the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 41, nays 86; as follows:

YEAS—Messrs. Babbitt, Baxter, Biddle, Bingham, Samuel S. Blair, Blake, Campbell, Clements, Covode, Davis, Dunlap, Dunn, Edgerton, Fisher, Grider, Hale, Hooper, Horton, Hutchins, Julian, Kelley, Leary, Lehman, McKnight, McPherson, Mallory, Menzies, Moorhead, Justin S. Morrill, Morris, Porter, Riddle, Sargent, Stevens, Stratton, Francis Thomas, Verree, Wadsworth, Wallace, E. P. Walton, and Wright—41.

NAYS—Messrs. Aldrich, Allen, Alley, Ashley, Baker, Beaman, Francis P. Blair, Jacob B. Blair, George H. Browne, William G. Brown, Buffinton, Calvert, Casey, Chamberlin, Clark, Cobb, Colfax, Frederick A. Conkling, Roscoe Conkling, Cox, Cravens, Crittenden, Dawes, Delano, Delaplaine, Diven, Duell, Eliot, English, Fenton, Fessenden, Frank, Gooch, Granger, Gurley, Haight, Hall, Harding, Harrison, Hickman, Francis W. Kellogg, Knapp, Lansing, Law, Loomis, Lovejoy, Mitchell, Anson P. Morrill, Noble, Norton, Nugen, Olin, Pendleton, Perry, Timothy G. Phelps, Pike, Pomeroy, Potter, Alexander H. Rice, John H. Rice, Richardson, Edward H. Rollins, James S. Rollins, Shanks, Sheffield, Shellabarger, Sherman, Shiel, Sloan, Smith, Spaulding, John B. Steele, William G. Steele, Train, Vallandigham, Van Horn, Van Valkenburgh, Voorhees, Washburne, Webster, Wheeler, Albert S. White, Chilton A. White, Wickliffe, Wilson, and Worcester—86.

So the amendment was not agreed to.

Two hundred and twenty-fourth amendment:

Strike out the following:

Twenty-five cents for one thousand cubic feet: *Provided*, That all gas furnished for lighting street lamps, and for lighting single dwelling-houses, when specially made by the owners or occupants thereof for that purpose and not for sale, shall be exempt from duty: *Provided*, That all gas companies are hereby authorized to add the duty or tax imposed by this act to the price per thousand cubic feet on gas sold, any limitation which may exist in the charter of said companies or laws of any State to the contrary notwithstanding.

And insert the following:

When the product shall be not above five hundred thousand cubic feet per month, five cents per one thousand cubic feet; when the product shall be above five hundred thousand, and not exceeding five millions of cubic feet per month, ten cents per one thousand cubic feet; when the product shall be above five millions, and not exceeding fifteen millions of cubic feet per month, fifteen cents per one thousand cubic feet; when the product shall be above fifteen millions of cubic feet per month, twenty cents per one thousand cubic feet, and the general average of the monthly product for the year preceding the return required by this act shall regulate the rate of duty herein imposed; and where any gas company shall not have been in operation for the year next preceding the return as aforesaid, then the rate shall be regulated upon the estimated average of the monthly product: *Provided*, That the product required to be returned by this act shall be understood to be the product charged in the bills actually rendered by any gas company during the month preceding the return, and all gas companies are hereby authorized to add the duty or tax imposed by this act to the price per thousand cubic feet on gas sold, any limitation which may exist in the charter of said companies or laws of any State to the contrary notwithstanding: *Provided further*, That all gas furnished for lighting street lamps, and not measured, and all gas made for and used by any hotel, inn, tavern, and private dwelling-house, shall be subject to duty, and may be estimated; and if the returns in any case shall be understated or underestimated, it shall be the duty of the assistant assessor of the district to increase the same as he shall deem just and proper: *And provided further*, That coal tar produced in the manufacture of illuminating gas, and the products of the redistillation of coal tar thus produced, shall be exempt from duty.

Mr. HICKMAN. I ask for a separate vote upon that amendment.

The amendment was agreed to.

Mr. POTTER. On page 92, line three hundred and ten, is the clause "on bent, butt, and harness leather, one and one half cents per pound." I desire to amend that clause by striking out the words "and one half." I understand that the Committee of Ways and Means have no objection to that amendment.

Mr. CALVERT. I object.

Mr. POTTER. I stated that the Committee of Ways and Means consent to this amendment. I understand that the putting on that one half cent was a mistake.

Mr. CALVERT. I insist upon my objection.

Two hundred and eightieth amendment:

Insert as follows:

On and after the 1st day of May, 1862, there shall be lev-

ied, collected, and paid a tax of one cent per pound on all cotton held or owned by any person or persons, corporation, or association of persons; and such tax shall be a lien thereon in the possession of any person whomsoever. And further, if any person or persons, corporations, or association of persons shall remove, carry, or transport the same from the place of its production before said tax shall have been paid, such person or persons, corporation, or association of persons shall forfeit and pay to the United States double the amount of such tax, to be recovered in any court having jurisdiction thereof: *Provided, however*, That the Commissioner of Internal Revenue is hereby authorized to make such rules and regulations as he may deem proper for the payment of said tax at places different from that of the production of said cotton: *And provided further*, That all cotton owned and held by any manufacturer of cotton fabrics on the 1st day of May, 1862, and prior thereto, shall be exempt from the tax hereby imposed.

Mr. BROWNE, of Rhode Island. I call for a separate vote on that amendment.

Mr. WICKLIFFE. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 75, nays 43; as follows:

YEAS—Messrs. Aldrich, Alley, Arnold, Ashley, Babbitt, Baker, Beaman, Biddle, Francis P. Blair, Samuel S. Blair, Blake, William G. Brown, Campbell, Casey, Chamberlin, Clark, Cobb, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Davis, Dawes, Duell, Dunn, Edgerton, Eliot, Fenton, Fessenden, Fisher, Frank, Gooch, Granger, Gurley, Haight, Hale, Harrison, Hutchins, Julian, Kelley, Francis W. Kellogg, Lehman, Lovejoy, McKnight, McPherson, Mitchell, Moorhead, Nixon, Noble, Nugen, Odell, Timothy G. Phelps, Pike, Pomeroy, Porter, Potter, John H. Rice, Riddle, Shanks, Shellabarger, Sherman, Sloan, Spaulding, John B. Steele, William G. Steele, Stevens, Van Horn, Van Valkenburgh, Verree, Wallace, Washburne, Wheeler, Albert S. White, Wilson, and Windom —75.

NAYS—Messrs. Allen, Baxter, Jacob B. Blair, George H. Browne, Buffinton, Calvert, Corning, Cox, Cravens, Crittenden, Delano, Dunlap, English, Grider, Harding, Hooper, Horton, Kerrigan, Knapp, Leary, Loomis, Mallory, Menzies, Anson P. Morrill, Justin S. Morrill, Norton, Pendleton, Alexander H. Rice, Edward H. Rollins, James S. Rollins, Sargent, Sheffield, Smith, Francis Thomas, Train, Vallandigham, Wadsworth, E. P. Walton, Webster, Chilton A. White, Wickliffe, Worcester, and Wright—43.

So the amendment was agreed to.

During the call of the roll,

Mr. MORRIS stated that he had paired off with Mr. CUTLER, otherwise he would have voted in the negative.

ENROLLED RESOLUTION.

Mr. GRANGER, from the Committee on Enrolled Bills reported that they had examined and found truly enrolled a joint resolution (H. R. No. 59) authorizing the Secretary of the Navy to test plans and materials for rendering ships and floating batteries invulnerable; when the Speaker signed the same.

TAX BILL—AGAIN.

Mr. BROWNE, of Rhode Island. Inasmuch as the House has adopted the amendment in relation to cotton, I now ask the unanimous consent of the committee to amend line three hundred and sixty-eight by inserting, after the word "cotton," the words "two per cent. *ad valorem;*" so as to make the tax on all manufactured cotton goods two, instead of three, per cent. *ad valorem*.

Objection was made.

Mr. POTTER. I would state to the House that the gentleman from Maryland [Mr. CALVERT] withdrew his objection to the amendment I proposed a few minutes since to line three hundred and ten.

Mr. STEVENS. We cannot go back now. We can attend to that to-morrow. I move that the further consideration of this bill be postponed until to-morrow morning.

The motion was agreed to.

BANKRUPT LAW.

Mr. ROSCOE CONKLING, by unanimous consent, reported back from the select committee on a bankrupt law, a bill (H. R. No. 253) the better to establish a uniform system of bankruptcy throughout the United States.

Mr. ROSCOE CONKLING. I ask that the bill be made the special order, immediately after the special order, which is the Pacific railroad bill, shall be disposed of.

Objection being made,

Mr. ROSCOE CONKLING moved to suspend the rules to enable him to make that motion.

Pending which, on motion of Mr. WRIGHT, (at four o'clock and forty minutes, p. m.,) the House adjourned

IN SENATE.

TUESDAY, *April* 8, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of War, communicating the report of Edwin F. Johnson, a civil engineer, upon the defenses of the northern frontier; which, on motion of Mr. MORRILL, was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. WADE presented two petitions of citizens of the city of Washington, praying that a horse-railroad may be made through the principal streets, and that the Senate concur in the House bill on that subject with a slight amendment; which were referred to the Committee on the District of Columbia.

Mr. COWAN presented a memorial of citizens of Philadelphia, remonstrating against the passage of a general bankrupt law; which was referred to the Committee on the Judiciary.

He also presented a petition of citizens of Newton, Luzerne county, Pennsylvania, praying that the freedom of the press may not be abridged, and that the Democratic papers now excluded from the mails in the loyal States have the same privileges as Republican papers; which was referred to the Committee on the Judiciary.

He also presented three petitions of citizens of Pennsylvania, praying for the establishment of a national armory and foundery at Hollidaysburg, in that State; which were referred to the select committee on the subject of the national armory.

He also presented a memorial of the Board of Trade of Philadelphia, praying for the appointment of a special committee, to sit during the recess of Congress, to frame a general bankrupt law; which was ordered to lie on the table.

He also presented the petition of Philip Fitzpatrick, praying that the name of the schooner Susan Jane, *alias* Charles McClees, may be changed by law to that of Thomas J. Martin; which was referred to the Committee on Commerce.

He also presented the petition of Thomas Clyde, praying that the name of the steamer Salvor, *alias* M. S. Perry, may be changed by law to that of Commodore Dupont; which was referred to the Committee on Commerce.

Mr. LANE, of Indiana, presented the petition of William Smith, John Smith, and Sarah Meredith, surviving heirs of William Smith, deceased, praying for a pension for the services of their father in the revolutionary war; which was referred to the Committee on Pensions.

Mr. BROWNING presented a petition of citizens of Nachusa, Lee county, Illinois, praying for the construcion of a ship canal between Lake Michigan and the Mississippi river; which was referred to the Committee on Commerce.

REPORTS FROM A COMMITTEE.

Mr. CLARK, from the Committee on Public Lands, to whom was referred the petition of N. B. Palmer and others, settlers on the Delaware lands in Kansas, praying for relief from the claims of the Leavenworth and Pawnee Railroad Company, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of Thomas Sunderland, part owner of the ranche Carmel granted to William Knight by the Governor of California, praying for leave to file a new petition in the United States district court for the northern district of California for a confirmation of the title, and also a bill accompanying the petition (S. No. 247) for the relief of Thomas Sunderland and others, reported the bill adversely.

BILLS INTRODUCED.

Mr. HALE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 263) to amend an act entitled "An act to increase and regulate the pay of the Navy," approved June 1, 1860; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. WILSON, of Massachusetts, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 264) to confirm the act of the President of the United States in accepting the services of certain volunteer engineer troops; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House had passed the following bill and joint resolution:

A bill (H. R. No. 287) to establish a branch of the Mint of the United States at Denver, in the Territory of Colorado; and

A joint resolution (H. R. No. 63) providing for the distribution of certain public books and documents.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed an enrolled joint resolution (H. R. No. 59) authorizing the Secretary of the Navy to test plans and materials for rendering ships and floating batteries invulnerable; and it was signed by the President *pro tempore*.

HOUSE BILLS REFERRED.

The following bill and joint resolution from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 287) to establish a branch of the Mint of the United States at Denver, in the Territory of Colorado—to the Committee on Finance.

A joint resolution (No. 63) providing for the distribution of certain public books and documents—to the Committee on the Library.

RIGHT OF WAY OVER PUBLIC LANDS.

Mr. NESMITH. Senate bill No. 123, to extend the provisions of the act of August 4, 1852, entitled "An act to grant the right of way to all rail and plank roads," &c., for the term of five years, and to amend the same, was laid on the table yesterday at the suggestion of the Senator from New Hampshire, [Mr. CLARK.] I move that it be now be taken up for consideration.

The motion was agreed to; and the Senate resumed the consideration of the bill.

Mr. NESMITH. I now move to strike out the second section of the bill, and substitute what I send to the Chair. I will state that I have consulted with the Senator from New Hampshire and the chairman of the Committee on Public Lands, and they are both satisfied with the amendment I now propose.

The PRESIDENT *pro tempore*. There is an amendment pending to the section, offered by the Senator yesterday. Does the Senator withdraw his first amendment?

Mr. NESMITH. Yes, sir; and I now move to strike out the second section of the bill, in the following words:

That the privileges granted in said acts to chartered companies are hereby granted to any corporations or companies organized and doing business as such within the State or Territory where said public lands may be situated.

And to insert the following in lieu thereof:

That the right of way for a railroad through the public lands of the United States lying in Washoe county, in the State of Oregon, be, and the same is hereby, granted to the Oregon Steam Navigation Company.

The amendment was agreed to.

Mr. SUMNER. I should like to hear the bill read at length.

The Secretary read it.

Mr. COLLAMER. I should like to inquire what occasion is there for the second section. What is it wanted for? Does the general act, which is continued by the first section, cover it or not?

Mr. NESMITH. It does not cover it. The first section of the bill extends the act of August 4, 1852, for the period of five years. The act as it at present stands on the statute book expires by its own limitation on the 4th day of next August. The benefits of that act extend only to incorporated companies. Our constitution prohibits special corporations; they must be under a general law. The Legislature at its first session failed to pass any law on the subject, and there is no meeting of the Legislature until next September, and consequently no company can be incorporated until that time. The second section of the bill proposes to extend the benefit of the acts referred to in the first section to the Oregon Steam Navigation Company by name, in order that they may go on and construct a road through the public lands of the United States prior to the time that they may be enabled

to organize under some bill providing for incorporated companies which the Legislature of Oregon will probably pass at its next session. I will state further that it is only a short distance of fifteen miles that they propose to construct a road around the obstructions to navigation in the Columbia river.

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

COMPENSATION OF DISTRICT ATTORNEYS.

Mr. TRUMBULL. I move to take up Senate bill No. 166, regulating the compensation of district attorneys.

The motion was agreed to; and the Senate resumed the consideration of the bill, the pending question being on an amendment proposed by Mr. COLLAMER, to insert at the end of the first section of the bill, as a proviso:

Provided, That no increased compensation under this act shall be allowed to the attorney of any district unless of a district in which is a port of entry or delivery.

Mr. COLLAMER. I wish to suggest to the honorable chairman of the Committee on the Judiciary whether it would not be advisable to also add that this act shall cease upon the close of this rebellion. It is altogether made up for this occasion. A great deal of expense and trouble are occasioned by this war, especially in cases of prize proceedings in the United States courts, visiting a large amount of service upon the attorneys; but it is for this occasion, for this war; and I suggest whether, when the war ceases, it would not be desirable to leave this matter to the general provision of law as it stands.

Mr. SUMNER. I would suggest to the Senator from Vermont whether his idea would not be perhaps better carried out by limiting it to six months or one year after the close of the rebellion, and for this reason: that there may be cases pending in court, questions of prize, which will be yet undecided. We ought not, by a provision, to cut off district attorneys from compensation in those cases that may not be decided at the close of the war.

Mr. COLLAMER. I did not exactly mean to move that amendment; but only to suggest to the chairman whether it would not be advisable to insert such a provision.

Mr. TRUMBULL. In regard to that, I have no sort of objection to an amendment of that kind. I regard the bill as temporary. I confess it is not such a bill as I would like to see passed; and it is only in consequence of our want of accurate information to enable us to fix the salaries of the various district attorneys, that I for one consent to its passage at all in this shape. My view was, that by the next session perhaps, to which the Attorney General is required to report the amount of compensation which he has allowed to the various attorneys, we should be in possession of information which will enable us to fix permanently a proper law upon this subject. Manifestly a district attorney in some of the districts ought to have a larger compensation than in others. In some of the districts there is comparatively no business. In some of the districts in the interior the law as it stands probably is well enough, allowing them $250 salary I believe, and some fees. I have no objection to a limitation of the character suggested; I think it would be very well to have a limitation of that kind, so that the law at any rate shall come to an end even if Congress should omit to legislate (as I trust it will do at any early day) upon the subject.

Mr. WILLEY. I desire to make a suggestion to the honorable Senator from Vermont, growing out of a little experience in regard to this matter. The times will throw a great deal of business on the hands of attorneys whose districts, perhaps, will not embrace a port of entry or delivery. That matter has been brought to my notice by the condition of things in Northwestern Virginia. At my earnest solicitation, and after a great deal of difficulty, a very distinguished gentleman in Northwestern Virginia was induced to accept this office. He has been for a long time actively engaged in the profession of the law. His fees in the legitimate operations of his business would amount to some four or five thousand dollars a year; but for the good of the country, for the time being, he consented to take this office. I know that, under the extraordinary circumstances growing out of this rebellion, his whole time and attention are completely absorbed. He has given his entire time and attention and professional ability in aid of the Government in subversion of the rebellion, in attending to cases of this character through the western district of Virginia. The Senator's amendment, perhaps, will not affect him, because I believe there is a port of entry at Wheeling, in Virginia, within the limits of his district; but I am satisfied that there are other districts similarly affected which have no port of entry or delivery, in which it would be very hard for a man of the ability the times require to give his whole attention for a year for the nominal compensation now afforded by law.

Mr. COLLAMER. I take it the case of the gentleman mentioned would be covered by my amendment. Wheeling is a port of delivery.

Mr. WILLEY. I say that would be.

Mr. COLLAMER. Therefore this act would go into effect in relation to your attorney.

Mr. WILLEY. But there may be other districts, similarly situated, in which there may not be a port of entry.

Mr. COLLAMER. I do not think there are.

The amendment was agreed to.

Mr. SHERMAN. I can see no occasion for this bill. The present compensation of a district attorney is $200 a year and fees. It is an office greatly sought after by attorneys throughout the United States, partly from the influential position it gives them, and partly from its incidental profits. The salary, it is true, is small—but $200; but the Government allows fees, and pays the district attorneys and marshals a fund of over one million of dollars per annum: The office, as I said before, is eagerly sought after. Now, it seems to me it would be a departure from correct principle to allow the Attorney General to fix the salary of any officer, and especially an officer under him. The tendency will be to give very large salaries to the district attorneys. As a matter of course, the Attorney General would naturally estimate very highly the employment of these men who were appointed by him, and who are under him, many of them, no doubt, his personal friends and favorites. A great deal of abuse has occurred in the disbursement of the judiciary fund, partly by exorbitant allowances made by the Secretary of the Interior, upon the recommendation of the judges of the courts. It would make uncertainty and confusion in your appropriations. Now, we know how much to appropriate; and every year we appropriate a certain amount for the district attorneys. It will be impossible to tell how much to appropriate if you leave the compensation to be fixed by the Attorney General.

It seems to me that if there is any evil in this matter requiring to be remedied, it can be easily remedied in another way. If any of these gentlemen are not fully compensated for their services, they can apply to Congress and receive an extra allowance if the case is strong enough to demand it; but to allow the Attorney General to have claims made upon him every day of his life, because I think they will be constantly made upon him, is, in my judgment, an improper rule of law. The Attorney General will have his time constantly occupied by the applications made from some fifty or sixty district attorneys, and the amendment of the Senator from Vermont does not help the matter, because there is scarcely a district in the United States that I know of which does not contain a port of entry or a port of delivery. If there is one I should like to have him name it. Certainly in Ohio, Indiana, Missouri, Wisconsin—in every State that I can think of, there are ports of delivery, so that his amendment does not qualify it in the least.

Mr. WILSON, of Missouri. There is one district in Missouri that has no port of entry or delivery.

Mr. SHERMAN. What district is that?

Mr. WILSON, of Missouri. The western district of Missouri.

Mr. SHERMAN. So, too, Kansas perhaps has no port of entry or delivery; but probably those are the only two exceptions. St. Louis, in the eastern district of Missouri, is a port of entry, and so of Chicago and other places in the various districts throughout the United States. The amendment, therefore, is of no avail to limit the matter.

I see no occasion for this bill, and if it is adopted I think it will lead to large allowances. The amount of compensation now received by these district attorneys, if we knew the amount derived by them in the way of fees, would be ample remuneration for their services; and certainly there has been the greatest eagerness to get these offices. It is much wiser, it seems to me, to allow exceptional cases, if any such occur in the course of the next year or two, to be presented to Congress, when we can fairly allow what may be deemed necessary in any particular case; but to throw the claims upon the Attorney General and upon the Secretary of the Interior will create embarrassments, will involve an erroneous principle of legislation, and will make your appropriations uncertain; and besides you give ground for the grossest favoritism and the most partial allowances. I shall therefore vote against the bill, and I call for the yeas and nays upon its passage.

The PRESIDENT *pro tempore*. The bill is not now in a condition to have the yeas and nays ordered upon its passage. If no amendment be proposed, the question is shall the bill be engrossed for a third reading.

Mr. TRUMBULL. Was an amendment adopted to limit its operation?

Mr. SUMNER. There was a suggestion made by the Senator from Vermont.

The PRESIDENT *pro tempore*. That amendment has not been moved in form.

Mr. COLLAMER. I only suggested it to the Senator from Illinois as a proviso.

Mr. TRUMBULL. Let the Senator move it.

Mr. SUMNER. I suggest this language: "and such compensation shall continue only to the close of the present rebellion, and one year thereafter," to be added to the amendment already adopted on the motion of the Senator from Vermont.

Mr. COLLAMER. I have no objection to that language.

The amendment was agreed to.

Mr. SUMNER. I have one word to say in reply to what fell from the Senator from Ohio. In the first place the bill on its face is temporary. It is to meet an exigency of the present war. What are we doing, sir, every day, but meeting the exigencies of the present war—making many provisions which in a time of peace we should not think of making; making them because at the present moment they are necessary? That is my first reply to the Senator from Ohio.

But the Senator says, if this bill is passed there will be abuse. Why need there be abuse? Have we not confidence in the Attorney General? It is only for a short time. He is so situated as to be best informed with regard to what is done by district attorneys, and to know the value of their services. Why may it not be referred to him without chance of abuses? Let us not imagine what is not probable.

Then, the Senator says again, that the office of district attorney is much sought for, and why should we now undertake to give to it any new emolument? The Senator is not aware that in the large sea-port towns owing to the change of business from this war, the office, instead of being a source of profit, has become actually a burden. The Senate has already recognized this fact by a law, making special provision for the case of the district attorney in New York. That case has been provided for. But, there is another similar case of hardship entirely equal to that of the district attorney at New York. I refer to the district attorney at Boston, an eminent lawyer, accustomed, if he chooses to enter the courts as a practitioner, to the largest professional emoluments, who has abandoned his other practice in order to discharge completely all the arduous duties of his office. I refer to Mr. Dana, whom all must know well. Owing to the change of business in his office—I think it appears by some of the papers that have been before the Judiciary Committee—his fees have hardly enabled him to pay for his assistance, and his clerk hire, so that unless some provision is made the United States must lose the services of this very eminent lawyer.

The Senator says, however, that he may come to Congress hereafter; but, sir, is this the proper way to treat a public servant, to ask him to perform the public business, and then tell him that he must appear before Congress as a petitioner for compensation? No, sir. This is not right. It seems to me that the proper duty of Congress is to make provision in advance; to try to see things as they are; to see that we are in the midst of

peculiar circumstances, with a great war about us, which has imposed upon our district attorneys in different parts of the country new duties for which there is no adequate provision under existing statutes. It seems to me that this is the true and simple view to take of it. This is the common sense view, the practical view; and I hope therefore the Senate will pass the bill.

Mr. HALE. Things must have very sadly changed since I knew something about this office of district attorney. I think it is one that does not require any special nursing on the part of Congress. I had the honor once of holding the office of district attorney of the United States in the State of New Hampshire for seven years, and I think it was the poorest paid office of any district in the United States, because the business was small, the fees were small, and the salary was small. It never came up to $1,000 a year; but with all that, according to the work done, it was the best paid office in the State. About that time, the Solicitor of the Treasury issued a circular, calling upon all the district attorneys and marshals of the United States to render an account of their fees, and they ranged from something below a thousand dollars up to over fifty thousand dollars; and I think the district attorney for the southern district of New York realized in that year—1838—some $50,000 for fees. He was not satisfied with that; but he in his department, and Swartwout, in the collectorship, stole the rest, and cleared out.

Now, I want to say a word about this case in Boston. Mr. Dana is one of the most eminent lawyers in Boston, one of the most eminent lawyers in the country; but I do not think it is incumbent on the Government, when a lawyer of such high reputation and great attainments and practice as Mr. Dana, has seen fit to take an office of this sort, to make him a compensation equal to that which he was receiving from his very lucrative practice before. I think the legislation of Congress, so far as it has been aimed for the last twenty years, has been to reduce the enormous and extravagant compensation which the district attorneys have received, as for instance in the city of New York, $50,000 a year, and I think, if you will take the fee-bill of the officers about the United States courts, you will see that it is very far from being small or insignificant. The fees are large. I have nothing to say about Mr. Dana. I believe him to be as pure, honorable, and upright a man as ever lived in the world. I have, however, had occasion to know something about the manner in which the officers of the courts tax their bills, and it will be a fair average to state that the fee bill, as established by law, is generally doubled and quadrupled until they get about two hundred and fifty per cent. in addition to the legal fees. That was my experience when I had occasion to apply to the southern district of New York for statements of the fees of the clerks. You may depend upon it that of all classes in this country, the officials connected with your judicial tribunals will be the last to need the fostering and protecting hand of this Government. I hope that before Congress enter upon such a measure they will call, as has been done before, for a return from these officers of the fees which they actually receive, and I think Congress will then see that there is not the slightest necessity under Heaven for any such legislation. If an act has been passed for the relief of the district attorney of the southern district of New York, it must have gone through the Senate without the observation of the members of the body, and I think it ought *instanter* to be repealed. You may depend upon it, Mr. President, that if you make the inquiry I have suggested, you will have a deaf ear for any appeal to your sympathy on behalf of these officers, on the ground that they are not sufficiently compensated.

I can understand precisely the situation of Mr. Dana, the district attorney at Boston. No man has a higher regard for him than I have. He is a personal and political friend of long standing. No man in the Senate has a higher regard for his reputation than I have; I would not do anything to injure him. I know his reputation is such as to give him more business than he can attend to, and of the very highest class, in Boston; he can command fees of the highest character, and business of the utmost importance that is transacted in any of their courts, State or Federal. But, sir, it is poor policy and bad economy to undertake (because such a gentleman has taken this office and cannot realize from it as much as he could out of it) to increase the compensation of the district attorneys generally.

Besides, there is great force in the suggestion made by the Senator from Ohio in regard to giving this matter to the office of the Attorney General. I was upon the point to-day of introducing a resolution instructing the Judiciary Committee to inquire into the expediency of abolishing that office altogether. It ought to be abolished if it is to be conducted in the way it has been for a number of years past. The Attorney General occupies to Congress very much the place that Christo, king of Hayti, did to the laws. He reserved to himself the privilege of printing the laws of Hayti, and he made a running comment upon them, and the comment was just as different from the laws as it was possible to have two sentences written together in opposition to one another. Here are acts of Congress passed, and the officer that is to administer them does not know exactly how they are to be construed, and therefore he sends them to the Attorney General. It would be the greatest piece of cross readings that ever fell under your observation, sir, to read some of the acts and the opinions of the Attorneys General construing them. It has got so now that in very many instances the Attorney General is of vastly more consequence in the interpretation and enactment of laws than both Houses of Congress. I need not go out of the records of this very session to show you an act that we have passed upon which the Attorney General has given an opinion, where if there be any meaning in common sense, the act means one thing and the opinion means quite another.

Mr. CHANDLER. What act was it?

Mr. HALE. It is not worth while to give you the act; is it? I can give it; and I will, as the Senator has called on me. We have passed an act retiring certain officers, and the retiring act gives them the pay of the rank that they held when they were retired. The Attorney General has given an opinion—he told me with his own mouth that he had done it—that, under that act, if an officer who was a major, for instance, was retired, but who was entitled, in the ordinary course of things, to promotion, so that in a few days he would be nominated to a lieutenant colonelcy, he was entitled to the pay of the grade next above him, and not the pay of the grade held by him at the time he was retired.

Mr. HOWE. Who made that decision?

Mr. HALE. The Attorney General; he told me himself that he had given that opinion. But, sir, let the Attorney General be as wise and as good a man as need be in the world—and I do not mean to say a word impeaching the wisdom or goodness of Mr. Bates; I believe him to be a very respectable gentleman, indeed—it is unsafe and unwise to devolve on anybody the discretion or the indiscretion of allowing him to raise a salary which is fixed by law at $200 up to $6,000. The salary of the district attorney for the district of New Hampshire is $200, and you propose to allow the Attorney General to raise that salary, which the law fixes at $200, to $6,000. In my humble judgment, such legislation is unwise, inexpedient, and uncalled for. I would suggest to Senators—I do not know but that it may be stale to repeat it—that this is not the time for increasing compensation. We have gone far enough in that direction. At this time, when, as has been well suggested, there is no lack of gentlemen to fill these offices, able gentlemen, perfectly competent to discharge all these duties with ability and fidelity, there is not the slightest need of increasing the compensation, which is now, in my humble judgment, liberal. I hope the bill will be rejected.

Mr. TRUMBULL. I am not sure that this bill will ever take one dollar out of the Treasury. I concur very much in what the Senator from New Hampshire says, that we should not unnecessarily increase expenses at this particular time, but he must be aware that as the law now stands the heads of any of the Departments are authorized to employ associate counsel, and they do so in many instances, and large sums are paid to associate counsel amounting to thousands and thousands of dollars. How do you appropriate for that? Associate counsel have been employed in the Cincinnati district to attend to cases. It is a very common thing in the large cities. I was informed, however, by the district attorney of Massachusetts, that he attended himself to all the cases, and saved thousands of dollars to the Government by dispensing with associate counsel.

I am not sure that it would increase the expense at all if this bill was passed. In the first place, it does not interfere at all with the compensation of any district attorney, except upon his own application. He will remain just as he is unless he applies to the Attorney General to have a salary. When he applies to him, what does he do? He is required to show the amount of fees he receives. There is a limit. There is no one who can receive $50,000. No district attorney in the United States can receive over $6,000 compensation, no matter what the fees amount to. That is the law now. Let me say to the Senator from New Hampshire, the district attorney of the city of New York came here last July, exhibited his accounts passed upon by the proper Department of the Government, and actually showed that his expenses exceeded every dollar he got. He was in advance to the Government when he was here, money out of pocket, and we passed a law allowing him a salary. That was done last July.

Other attorneys are making similar showings. A vessel is taken to be condemned worth hundreds of thousands of dollars. The most eminent counsel in the nation are employed to prevent its condemnation, and you will have such a class of attorneys under the compensation as now fixed allowing a fee of twenty dollars for prosecuting a suit of this kind, that it will be necessary, in order to protect the interests of the Government, to employ associate counsel, and thousands of dollars will be paid. This bill authorizes the Attorney General, on the application of the district attorney making a showing to him such as shall satisfy him that he ought to have something more than he is receiving, to allow him a salary, and when that salary is allowed he is to account to the Government for all the fees he receives. He is not to receive a dollar except the salary; and all these gentlemen that are receiving so much will never make any application to the Attorney General. You may be sure of that. There will be no applications under the bill where they are receiving such large amounts. I think no great harm can grow out of it, and more legislation is necessary on the subject. We have several communications from the Secretary of State and from the Attorney General, recommending relief in particular circumstances. The Senator from Ohio thinks that would be the better course. We would have to pass a dozen different bills perhaps, or we would have to fix a compensation in reference to that number of attorneys, and possibly it could be done in one bill. The reason why that is not done now, (for I would be for that if I had the necessary information at this time,) is that we are not sufficiently informed to do it properly; and on consultation with the Attorney General, I came to the conclusion that it, perhaps, was not best to do it at this time. We have a recommendation from the State Department, recommending that the district attorney at Key West, be allowed a salary of $2,500, and we have recommendations in regard to other attorneys. I think no great harm can grow out of the bill, and I do not believe myself that it will cost the Government anything more than the present law.

The PRESIDENT *pro tempore*. The morning hour having expired, it is incumbent on the Chair to call up the special order, which is the unfinished business of yesterday—the confiscation bill.

Mr. SUMNER. Perhaps we can finish this bill in a short time. I think we had better finish it.

The PRESIDENT *pro tempore*. The confiscation bill is before the Senate, and it will require a motion to postpone it.

Mr. SUMNER. It may be passed over informally until we finish this bill.

The PRESIDENT *pro tempore*. The Senator from New York [Mr. HARRIS] is entitled to the floor on the special order. Does he yield the floor to a motion to postpone?

Mr. HARRIS. If it will not take long.

Mr. SUMNER. Merely to proceed with this bill.

The PRESIDENT *pro tempore*. By common consent the special order can be laid aside informally.

Mr. HALE. Let the special order be proceeded with.

Mr. TRUMBULL. Let it be taken up.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. THURSDAY, APRIL 10, 1862. NEW SERIES.....No. 99.

CONFISCATION OF PROPERTY.

The Senate resumed the consideration of the bill (S. No. 151) to confiscate the property and free the slaves of rebels.

Mr. HARRIS. The Senator from Missouri desires to address the Senate upon this bill, and prefers to do so now. I therefore very cheerfully yield the floor to him.

Mr. HENDERSON. Mr. President, the bill under consideration is, in my judgment, the most important that has claimed the attention of Congress during the present session. It is important, not only because of the immediate results likely to follow its enactment, but because of the precedent made for future interpretations of the Constitution.

If its passage should effect the suppression of the rebellion, as desired by its friends, and restore the nation back to peace, its advocates would be hailed as the best friends of the Union. If, on the other hand, it should add new recruits to the armies of the enemy, or nerve the arms of the deluded hosts who are to-day but the victims of falsehood and political ambition, the error of its enactment would be worse than a crime. Should it even be attended with temporary success, but leave a cancer upon our political institutions, to destroy the health and vigor of American liberty in after days, future generations would be forced to regret the use of such expedients at the expense of national life.

Mr. President, this is a dangerous period for legislation. When we reflect upon the origin of this war, its want even of a respectable pretext, the gigantic proportions it has assumed, the obstinate fury and sometimes barbarity with which it is conducted, and the onerous burdens—its legitimate fruit—that must oppress the energies of our people in the future, we are rendered almost incapable of moderation. The first impulse is that of vengeance against its authors. But afflictions tend to chasten the mind. Miseries such as have fallen upon the people of the border States, where hostile armies have met and given us the dread realities of war, teach us the power of this rebellion. The effect is to sober us again, and we naturally look for the means of peace instead of gratifying a spirit of revenge. No people, since governments were organized among men, have been so completely the unwilling, but helpless victims of circumstances as the people of the border slaveholding States since the commencement of this unfortunate feud. Occupying a central position, and having the deepest possible interest in the preservation of the Union, when disruption was threatened, their people were ready with friendly mediation to interpose in behalf of peace. Settled by emigrants from every part of the nation, they had learned to tolerate differences of opinion upon every subject. The fiery southerner had there learned to abate his prejudices against what he once termed the pharisaical Yankee. He found him active, enterprising, and always foremost in the march to wealth and a more enlightened civilization. The Yankee had found his southern brother a purer and a better man than he once esteemed him. The warmth of his clime had but entered into and became a part of his nature. Quick to resent, he was yet ready to forgive; and having forgiven, the offense was forgotten. In good offices and mutual dependence, one upon the other, sectional feeling had become merged in the public weal. The question of slavery, like all other questions, was being discussed as one of political economy, and the prescriptive right of the southerner to his slave had ceased to be clothed with those divine sanctions, accorded to no other property. With him it had already become a question of deep consideration whether the institution, however advantageous to the black man, was equally profitable to his master, and the arena of political discussion was being opened for its adjustment in accordance to human reason, as well as to the requirements of humanity. The early prejudices of the northern man, arising from education sometimes acquired in the midst of abolition vagaries, and corrupted by the illusive dreams of an impracticable philosophy, had been dissipated by a knowledge of the truth as it is. Aware of the repugnance of our people to social or political equality with the free blacks, and the inferior position of that unfortunate race wherever placed, and nowhere more patent than in the northern States themselves, he was inclined to look with indulgence, at least, if not with approval upon what will require, in the opinion of experienced and rational men, the work of many years, if not ages, to remedy. He had long since ceased to be a dreamy philosopher, reveling in the beauties of immediate and universal emancipation. He had learned to speak of the subject as one of practical importance, demanding the counsels of our wisest and best statesmen. He had conversed with his southern neighbor, and found him reasonable and humane, ready to discuss the subject upon enlightened principles of Christianity, and frequently more anxious than himself to do practically what visionaries perhaps will never accomplish.

With sentiments thus mollified and made congenial with the true spirit of our American institutions—inducing the same conciliation, concession, and good will that animated the fathers in the formation of our Constitution—we stood ready for a long while to enter between the fierce combatants in this family quarrel, preceding the war, and reminding them of a common lineage and a common fame, of all that had endeared the past and brightened the hopes of the future, to beg their forbearance, not only for our sake, but for the good of a common country.

But against our repeated remonstrances, and our earnest exertions to prevent it, the war is upon us, and thus far we are the chief sufferers in its sharp miseries, its terrible calamities.

Prior to this rebellion we had all acknowledged the beneficence of the Federal Government. We had only known it from the blessings it conferred. We had sustained no wrongs at its hands. Under the genial influence of its laws we in Missouri, were rapidly advancing to wealth and power. With natural advantages possessed by few, if any of the States of the Union, the stream of immigration was pouring in its wealth and labor to seize upon those advantages. Our unbounded mineral resources were being rapidly developed. The merchant, the mechanic, the husbandman, all were reaping the richest rewards of industry and enterprise. Our forests were being felled, and our prairies subjected to the hand of cultivation. While new homesteads were dotting the land, villages were springing up on the banks of our magnificent rivers, and along the lines of our railroads, giving evidence of health and vigor, and assuring us of prosperity and happiness for the future. St. Louis, justly the pride of the State, the great commercial metropolis of the West, was rapidly bounding forward to that exalted preëminence to which its central position in the heart of the Union invited. Some of our western towns looking to that celebrated trade that has conferred riches upon the nations it has touched, and feeling that nature had designed Missouri as its recipient from the ports of the Pacific, were fast becoming centers of industry, wealth and refinement.

How changed is now the scene! This rebellion commenced, and twelve hundred thousand people in my State, then happy and contented, many of them now ruined in fortune and refugees from home, are left to contemplate its wickedness and folly. Armies have marched and countermarched over the State until the substance of the people has been destroyed. The homes of our citizens have been burned or razed to the ground. Whatever of the husbandman's personal effects has been spared from the exacting demands of military necessity, seems now about to fall a prey to the rapacity and plunder of those miscreants, bands of robbers now roaming the State, who aided largely in producing our troubles, upon the same principle that impels the thieving incendiary to fire a city. The mechanic is out of employment, for his work, in danger of being destroyed during the process of construction, is now no longer in demand; the occupation of the merchant is gone; indeed every energy of the State, so recently exerted in the cause of progress, seems to be concentrated into one gigantic effort for its own destruction. Cities have lost their business and population; and prosperous villages are converted into soldier's barracks. Bridges are burned; railroads torn up; telegraph lines destroyed; while madmen mock the regrets of good men, and scoff their efforts to save from the general wreck the little that remains of our material wealth.

But worse than all, the poisonous breath of this infection has entered the social circle and broken up the foundations of society—father is arrayed against son, and brother against brother; business associations are rudely broken by the force of the storm excited—the contending elements being love of country on the one hand, and a blind, unmanly political revenge on the other.

Indeed, sir, it may be truthfully said, so far as my State is concerned, that this rebellion has completely blasted its material interests. It has plundered the rich and beggared the poor. Among its first acts it turned the orphan from the common school and drove the maniac from the asylum, by seizing the means devoted to charity and benevolence and converting them to the purposes of carnage and blood. Professing an anxious care for our rights in slave property, it has despoiled our homes, depreciated the value of our lands, subjected our personal property to pillage and plunder, brought many of our best citizens to an untimely grave, and sent others into exile from the State. It has, by the excesses of bad men, brought a stain of dishonor upon our people; it has broken down our public credit and corrupted our morals; it entered the sanctuary and embittered the church; visited the fireside and contaminated the joys of home; it brought no good, but unmixed evil; it fired our homes, endangered our lives, and by its wicked touch it has well nigh destroyed forever the pretended object of its solicitude.

The condition of things in Missouri may be but a truthful picture of what exists in other States. If not already realized, it may be in the future, should this war continue. Indeed, it is perfectly certain that wherever hostile armies are marched for the purpose of upholding or suppressing this rebellion, desolation, such as I have described, must mark their progress.

If the Union can be restored in no way except through the instrumentality of arms, and a peace must be conquered at the point of the bayonet, confiscation acts will add nothing to the complete and perfect ruin of the southern people. When our armies shall have entered a State in rebellion let new guarantees of protection be again proclaimed to an erring people, and if submission do not follow the pledge, the conflict necessary to reëstablish the authority of the Government accomplishes all that might be desired by the angel of destruction himself. In cooler moments the friends of legislative confiscation would themselves be forced to weep over the desolation of the scene.

It should not be supposed that we of the border States, who have remained loyal to the Government at the imminent peril of our lives and the total loss of our property, entertain a large share of sympathy for the conspirators against the nation's peace. We foretold the ruin to result from this war, but our prophecies, though true as Cassandra's, like hers were rejected.

Against our warning counsels traitors induced the people to drag the wooden horse of secession within our peaceful States, to be worshipped instead of that sacred palladium of patriotic devotion, the Constitution of our fathers. While we protested against this introduction of armed men into our midst, the genius of evil presiding over the destinies of every people whom the gods have doomed to destruction caused the serpents of envy, detraction, and malice, to strangle the true friends of the people. We were denounced as enemies of our States, "tame submissionists" to abolition outrage, "degraded traitors" to the "honor and interests" of our own section of the country. In the midst of the storm our voices

were hushed. Moderation was cast aside. Violence and fanaticism ruled the hour. War brought its ravages; and as the smoke of the contest clears away, the secessionists are forced to admit the truth of our predictions, as verified in their own ruin; but this is a poor return for what they have inflicted on us. We, too, are involved in the common fate. Borne down by contumely and opprobrium at home, while we pleaded the cause of the Union and the Constitution, with some confidence we again present their claims to the majority here, who must guard their conduct lest they rush to the opposite extreme and deprive us of all that is left.

I feel satisfied that no real friend of the Union, however incensed against the perpetrators of this enormous crime, would be willing to enact a law without which they could not be immediately reached and punished, provided that law in its operation would materially injure those friends of the Government who have remained true in the midst of the terrible scenes through which they have passed. By the adoption of any other course the ordinary principles applied in the administration of human justice, and approved by the experience of ages, would be wholly disregarded, to the shame and discredit of the nation.

The active and actual conspirators for the overthrow of the Government were comparatively few in each of the seceding States, except perhaps in the State of South Carolina. Ever since the disgraceful overthrow of nullification in that State, by the prompt and energetic action of the Federal Government in 1832, the chagrined and disappointed leaders have "nursed their wrath to keep it warm," and seized upon every pretext to alienate the affections of the southern people by sectional appeals. The dangerous character of these men, their wicked determination to retrieve their fortunes and rub out the ignominy of their defeat, their undying hatred of the Government, and their cool and persistent wickedness in removing the cords of attachment that bound together the southern to the northern people, were never properly appreciated or understood beyond the limits of that State.

The slavery question at this early day did not possess the necessary vitality for the founding of a great sectional party sufficient to grapple with and successfully resist the power of the nation. The crisis of slavery agitation had been reached and passed in 1820, and the public mind had become harmonized, in a remarkable unanimity of sentiment, both as regarded the duties of the Federal Government and the future interests of the several States. It was in this year that the statesmen and people of Virginia discussed this subject in all its bearings—social, political, and moral. Here and elsewhere it was treated as a subject of lawful investigation, to be determined as all other questions, in the light of reason, and according to the demands of humanity and justice. The people of the nation conceded to the several States the right to settle the question for themselves, and the people of each State admitted the force of the obligation resting upon them to settle it as rational men.

About this time, however, some kind English philanthropists—actuated by about the same high regard for our true interests that characterized their kidnapping an ignorant and unoffending people upon the shores of Africa and imposing them as slaves upon the colonies against their repeated remonstrances and in open defiance of every principle of English law as well as humanity—began to teach our people how an evil may be strengthened and perpetuated by an unwise and illegal attempt to remove it.

In the fierce denunciations that followed in the North, as the legitimate result of the political teachings of Exeter Hall, was presented the long desired pretext to accomplish successfully the projected schemes of disunion and the erection of a southern confederacy. The idle declamation of some visionary abolitionist, without honor or character in his own land, was duly paraded before a sensitive people, and urged as the embodiment of *northern* sentiment upon the negro question. The southern man was attempting to settle the problem himself, and however perplexed in the selection of the best and safest plan for its solution, he had long since determined against those senseless theories emanating from the impracticable abolitionist. Good nature, too, is often chafed by the repeated presentation of a tried and rejected expedient for the accomplishment of an end. The patient should be excused in his petulance upon the too frequent prescription of a worthless nostrum to the total neglect of effective remedies. It is not at all strange that the impulsive southerner should have resented this impertinence, or that he should have lost his equanimity when upbraided as a barbarian because of the existence of an institution over which he had originally no control, and upbraided too, by those who thrust it upon his forefathers against their consent and their recorded remonstrances.

Thus the work progressed for years—the abolitionist furnishing the poison, and the southern conspirator preserving each grain with scrupulous care, and administering it to his people to madden them against the North—sometimes in the paucity of supply, prescribing potions of his own manufacture, until an honest people became sick, demented and desperate. Some wild enthusiast, driven along by the spirit that actuated the crusaders, for the redemption of a land that resisted redemption, and to do an act that it were best to leave undone, talked learnedly of the sins of slavery and the barbarity of his southern brother. And especially severe did his invective become after he had sold his slaves in a southern market and pocketed the wages of his iniquity. The effect of these philippics on the southern mind is now apparent in the gleaming of four hundred thousand bayonets, which are chiefly taken to the battle-fields of the South by men believing that this war is to carry out these idle ravings. The leaders know better; and now that the winds have been loosed from their caves, it is theirs to keep them uncaged and see that the storm is continued until the pillars of the Constitution are shattered and our fabric of Government overthrown.

The contest is between the advocates of constitutional liberty on the one hand, and base conspirators on the other, who to gratify personal ambition, would sink the best hopes of man. They rely upon this stupendous fraud for the accomplishment of their purposes; and in order to shut out light and knowledge from the people for the last few years, they have seized upon the press and the hustings of their States and forced a practical denial of one of the essential rights of an American freeman. This false step is the source of many calamities now visiting that people. One violation of the Constitution begat another. One wrong was followed by another wrong, until the Government itself became as corrupt and demoralized, under the weak and imbecile administration of Mr. Buchanan, as the faithless and leprous ministers that controlled it. While strong-minded women in the North were offering up daily prayers for the oppressed negro in the South, who perhaps in a majority of cases was blessed with happiness beyond the enjoyment of his race in other lands, and northern legislators were disgracing their statute-books with anti-slavery resolves and personal liberty enactments in the face of the Constitution, thus instilling into their own people the poison of nullification; while Wendell Phillips was spending his nineteen years of unavailing curses against the Union and the Constitution, these conspirators were plotting a scheme no less gigantic than the betrayal of the Army and Navy and the surrender of the capital, with the archives of the nation, into the hands of a rebellion that had become bold and impudent in the prevailing corruptions of the day. It despised the Government because the Government had ceased to execute its laws. The rebellious citizen everywhere looked upon it as a weak and crumbling concern, unable or unwilling to command respect abroad or enforce obedience at home. Although its Constitution and laws are declared to be supreme throughout the land, and State judges are bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding, yet violent citizens were taught everywhere, both North and South, that they could be sheltered from the consequences of their crimes against Federal laws by the shield of State sovereignty, that fruitful source of evils in its distorted signification of late years, equaled only in its tendencies and results by the "higher law" heresy of modern politics.

While we were wrangling over the freedom of several millions of blacks, and session after session of Congress repeated to the nation the vast stores of knowledge it had acquired on the subject of the negro, the conspirators were arming from the nation's arsenals the members of a sworn organization, whose secret purpose was to subvert the Government, thereby destroying the liberties of thirty millions of whites at the present, and entailing the curse of their wickedness upon posterity, perhaps for all time to come.

The prompt patriotism of the nation's yeomanry, not yet thoroughly debased by the licentiousness of the times, rushed to the rescue and thwarted the consummation of their dangerous purposes. No power could save the loyal men of the extreme South from submission to or apparent acquiescence in the dictates of this armed mob. With the bare exception of South Carolina, where this work has been hatching for thirty years, and to the effective aid of which Mr. Phillips came nineteen years ago, I do confidently believe that a majority, and in some cases a large majority of the citizens of each State seceding, were at the respective dates of secession, true and loyal to the Government of the United States. It may be asked why they did not defend themselves and put down the rebellion. I answer, for the reason that a few desperate men with arms in their hands, and acting in perfect concert, can hold in subjection five times their number of peaceable and well-disposed citizens. My experience is that two thirds of the active agents and workers in the rebellion had nothing of character or fortune to lose. Revolution could not injure, it might benefit them.

We are told that the firing of cannon near the water will raise the dead to the surface. In the midst of the terrible jars and commotions of a violent revolution, the decayed and corrupt politicians might again be seen. Property is timid, and property holders were the last to yield a seeming acquiescence in this monstrous wrong. When they did yield, it was often induced by the threatened pillage of their property, or the utter abandonment of all hope of protection from the Federal authorities. The arms belonging to the Government, through the treachery of Mr. Floyd, had been shipped in large quantities to southern arsenals, and so placed as to fall into the hands of these conspirators, with whose plans and organizations the rebel Secretary was perfectly familiar. When this had been accomplished, the Union men were powerless. A reign of terror was inaugurated such as darkened the earlier days of the French revolution. Deliberative assemblies but recorded the edicts of the mob, and the people were only appealed to for popular sanction of military decrees.

In Virginia, secession received popular indorsement, after the polite invitation of Mr. Mason to its opponents, backed by seventy-five thousand stolen bayonets, that they should be silent or leave the State. These innocent men deserve our sympathies and our protection, whether they be slaveholders or not. In my own State, I am satisfied that a large proportion of the slaveholders are and ever have been loyal to the Government, and they will remain so to the end, however they may have to regret imprudent legislation on the part of Congress. The Union is with them a paramount consideration, and if its preservation demands their property of every character, or even their lives upon the battle-field, they are ready to make the sacrifice. To such men, of whom there are many thousands in each of the seceded States, let no injustice be done. Let moderation and kindness mark our conduct towards them, and so soon as it becomes manifest that the strong arm of the Government can save them from the violence of assassin bands that now hold them in awe, the little ebullitions of joy discovered recently on the approach of our troops along the Tennessee river, will swell into loud huzzas for the old flag that protects the Union and the Constitution. Let the coming of our army be to them an hour of deliverance from oppression, remembered as a year of jubilee. When the able and distinguished Senator from Illinois, [Mr. BROWNING,] some days since, in alluding to the people of the South, called them "our brethren of the South, for," said he, "I am willing yet to call them brethren"—while uttering a sentiment creditable to his generous nature, he also touched a cord that will vibrate through the hearts of many of these men, and incline them, in spite of themselves, to renounce their prodigal wanderings.

But however anxious we may be to adopt some

measure for the punishment of the authors of this great mischief, we must not forget our own dignity or our position as a civilized nation. We must not forget that unless this war be to reëstablish the Constitution, it is without justification, and should at once be abandoned.

The distinguished author of the bill has put it in faultless language when he says:

"While fighting this battle for constitutional liberty, it becomes us to see to it that the Constitution receives no detriment at our hands. We will have gained but little in suppressing the insurrection, if it be at the expense of the Constitution. The chains that a bondman wears are none the lighter because they were forged by his own hands. Let us preserve the Constitution perfect in all its parts with all its guarantees for the protection of life and liberty unimpaired."

Whether the southern people in rebellion be regarded as insurgents, rebels, belligerents, or public enemies, according to the technical signification of those terms, I shall not now undertake to decide. I deem it merely my duty to examine the rules by which we must be governed as an enlightened nation, existing under a written Constitution, in our conduct towards them. If they are public enemies, they are entitled to the rules of public or international law. We cannot put to death those we hold as prisoners of war; we cannot enslave them; we cannot sack their defenseless cities, nor wantonly lay waste their country; we cannot seize their lands and colonize them with a new people, depriving the present inhabitants of possession, when peace shall have returned; we cannot war upon the women and children, nor turn them over to the mercy of the soldiery. I do not mean to say that these things may not be physically done, for possibly the power of the Government might accomplish them all. The more barbarous ages present numerous examples of such acts; but it has now become questionable whether, if such were our wish, the so-called civilized nations of Europe, that so recently complained of the barbarity of stone blockades in our own ports, would not find pretext for interference in any, even the least, violation of the national code. In the light of these principles of international law, now so clear and well defined, to the observance of which should we in an evil moment of revenge forget our duty or our dignity, other nations will be likely to recall us, let us examine for a moment the provisions of the bill before us.

The first section designs to forfeit and confiscate to the United States all the property, real and personal, of every kind whatsoever and wheresoever situated, within the limits of the United States, belonging to any person beyond the jurisdiction of the same, or to any person in any State or district within the United States now in a state of insurrection or rebellion against the authority thereof, so that, in either case, the ordinary process of law cannot be served upon him who shall, during the present rebellion, be found in arms against the United States, or giving aid and comfort to said rebellion. The forfeiture is to take effect from the commission of the act of forfeiture, and the law itself undertakes to vest the title in the Government.

The fourth section provides for agents, with powers limited only by "the military necessities of the Army, or the safety, interest, and welfare of the United States," who shall go forward, seizing upon and collecting together the vast quantity of property which they, in their judgment, (and they are the only judges,) may deem to be forfeited by this legislative edict. Under the protection of the Army they may plunder, with the apparent sanctions of law, one neighborhood, county, or State, and remove it to another for sale. They may, and in these revolutionary times I fear will, become the most loathsome tyrants on earth, reducing women and children to the condition of paupers, to be supported by the Government, while they feed the avarice of political retainers or the pliant ministers of their own vengeance.

It cannot escape observation that the whole machinery of this bill carefully excludes any judicial condemnation of the property that may be seized in the rebel States, or as the bill terms it, "in States or districts now in a state of insurrection or rebellion." By an examination of the sixth section, it will be seen that the proceedings *in rem* provided for are only to enforce the forfeiture "of property" situate and being in loyal States or districts, in which the ordinary course of judicial proceedings is not obstructed by the rebellion." Then I find the proposition to be simply this: a legislative edict is fulminated against a class of persons, stripping them of all their property, which edict would be a "bill of attainder," and therefore unconstitutional, except for the existence of hostilities which is supposed to invest the nation with the extraordinary powers of the public law, to which we in common with other civilized nations are subject, and the broader privileges of which we may claim in the present emergency.

Mr. TRUMBULL. I presume the Senator from Missouri means to be accurate as to the property being confiscated by the bill. I do not understand that the bill of itself will divest the property at all.

Mr. HENDERSON. That is my understanding of the bill.

Mr. TRUMBULL. It was not my understanding originally, and in order that there might be no misapprehension about it I moved an amendment yesterday to make it clear, in these words, I think: and such forfeiture "as to all property which shall be seized and appropriated as hereinafter provided" shall take immediate effect and prevent any transfer of the property after the act of forfeiture. The object of the latter part of that section is to prevent a person from transferring his property, after committing the act of forfeiture, in a case where the property is subsequently seized either by the commissioners or by the court. In other words, the object is that when the property is seized and taken possession of by the Government, it shall relate back to the time of the act of forfeiture, and prevent any intermediate conveyance.

Mr. HENDERSON. Permit me to ask the Senator if his amendment was designed to give a judicial investigation either by proceedings against the property itself, or against the person when the property is seized in the revolutionary districts?

Mr. TRUMBULL. It will not be a judicial proceeding; but it is intended that the commissioners, who are to be appointed by the President, in districts where there are no courts shall seize property, and if they do seize the property, they are to determine upon the seizure, and it then has relation back to the time of the act of forfeiture.

Mr. HENDERSON. I understand the Senator perfectly, and I shall argue upon this idea: I understand commissioners are to be appointed by the President, and those commissioners are to determine whether the property has been forfeited under the bill, because there are no other persons provided who can do it.

I was remarking, Mr. President, that the proposition before us is a legislative edict fulminated against a class of individuals, and that that edict itself would be a bill of attainder but for the supposed power which the national law confers upon the nation during the time of war. Then it becomes necessary to inquire what are those rights conferred upon us by the law of nations. Mr. Wheaton, in his Elements of International Law, at pages 429 and 430, says that:

"The progress of civilization has slowly but constantly tended to soften the extreme severity of the operations of war by land, but it still remains unrelaxed in respect to maritime warfare, in which the private property of the enemy taken at sea or afloat in port is indiscriminately liable to capture and confiscation. This inequality in the operation of the laws of war, by land and by sea, has been justified by alleging the usage of considering private property, when captured in cities taken by storm, as booty; and the well-known fact that contributions are levied upon territories occupied by a hostile army, in lieu of a general confiscation of the property belonging to the inhabitants, and that the object of wars by land being conquest or the acquisition of territory, to be exchanged as an equivalent for other territory lost, the regard of the victor for those who are to be or have been his subjects, naturally restrains him from the exercise of his extreme rights in this particular; whereas the object of maritime wars is the destruction of the enemy's commerce and navigation and sinews of his naval power, which object can only be attained by the capture and confiscation of private property."

I may remark at this point, that our own Government is committed to a still more lenient policy in reference to captures upon sea—to a policy creditable to the civilization of the age and looking to a mitigation of evils which are sufficiently grievous, even under the accumulated restraints of enlightened morality. Although not prepared for an unconditional surrender of the right of privateering, when the peculiar interests of France and England suggested it, in their late war with Russia, I yet understand our then minister to England, Mr. Buchanan, to have expressed an entire willingness to see it suppressed, provided "the naval Powers of the world would go one step further, and consent that war against private property should be abolished altogether upon the ocean, *as it had already been upon the land.*"

The President, in his annual message to Congress in 1854, alluding to this subject, says:

"The proposal to surrender the right to employ privateers is professedly founded upon the principle that private property of unoffending non-combatants, though enemies, should be exempt from the ravages of war; but the proposed surrender goes but little way in carrying out that principle, which equally requires that such private property should not be seized or molested by national ships of war. Should the leading Powers of Europe concur in proposing as a rule of international law to exempt private property upon the ocean from seizure by public armed cruisers, as well as by privateers, the United States will readily meet them upon that broad ground."

In reference to this subject Mr. Wheaton says:

"Private property on land is also exempt from confiscation, with the exception of such as may become booty in special cases, when taken from enemies in the field or in besieged towns, and of military contributions levied upon the inhabitants of the hostile territory. This exemption extends even to the case of an absolute and unqualified conquest of the enemy's country. In ancient times both the movable and immovable property of the vanquished passed to the conqueror. Such was the Roman law of war, often asserted with unrelenting severity; and such was the fate of the Roman provinces, subdued by northern barbarians, on the decline and fall of the western empire. The last example in Europe of such a conquest was that of England by William of Normandy. Since that period, among the civilized nations of Christendom, conquest, even when confirmed by a treaty of peace, has been followed by no general or partial transmutation of landed property. The property belonging to the Government of the vanquished nation passes to the victorious State, which also takes the place of the former sovereign, in respect to the eminent domain. In other respects, private rights are unaffected by conquest."

Vattel expresses the same idea, as follows:

"If the inhabitants submit to him who is master of the country, pay the contributions imposed, and refrain from all hostilities, they live as safe as if they were friends; they even continue in possession of what belongs to them. The country people come freely to the camps to sell their provisions, and care is taken that they shall feel the calamities of war as little as possible. A laudable custom, and truly worthy those nations who pretend to humanity, and advantageous to the enemy himself, who finds his account in this moderation. By protecting the peaceable inhabitants, keeping the soldiers in strict discipline, and preserving a country, the general procures an easy subsistence, and saves in many losses and dangers."

Chancellor Kent, in discussing the rights of belligerent nations, says:

"There is no limitation to the career of violence and destruction if we follow the earlier writers on this subject, who have paid too much deference to the violent maxims and practices of the ancients and the usages of the Gothic ages. They have considered a state of war as a dissolution of all moral ties and a license for every kind of disorder and intemperate fierceness. An enemy was regarded as a criminal and an outlaw, who had forfeited all his rights, and whose life, liberty, and property lay at the mercy of the conqueror. He might be destroyed, though unarmed and defenseless. Fraud might be employed as well as force, and force without any regard to the means. But these barbarous rights of war have been questioned and checked in the progress of civilization. Public opinion, as it becomes enlightened and refined, condemns all cruelty and all wanton destruction of life and property, as equally useless and injurious, and it controls the violence of war by the energy and severity of its reproaches."

Referring to the marked difference in the rights of war carried on by land and at sea, he says the public law admits the destruction of private property upon sea, and justifies it upon the ground that it weakens and destroys the naval power of the enemy; but that "great limitations are imposed upon the operations of war by land, though depredations upon private property and despoiling and plundering the enemy's territory is still too prevalent a practice, especially when the war is assisted by irregulars." "Such conduct has been condemned," says the writer, "in all ages by the wise and virtuous, and it is usually severely punished by those commanders of disciplined troops who have studied war as a science, and are animated by a sense of duty or a love of fame."

Upon this branch of the subject I will refer to but one other authority, the work of Mr. Manning. He says:

"Formerly the lands of the individual subjects of a conquered State were confiscated by the victors. Many such instances will immediately present themselves to the memory of the classical student or to the reader of modern history, in the examples of the conquest of the Gauls by the Franks, or of England by the Normans. But at the present day landed property and immovable property in general is not liable to confiscation from the effects of war. A conquering State enters upon the rights of the sovereign of a vanquished State; national domain and national revenues pass to the victor, but the immovable property of private individuals is by the positive law of nations not liable to be seized by the rights of war." * * * * "It was a change introduced as civilization advanced; it has been for many centuries the constant usage of European

warfare, and is now firmly established as part of the European law of nations. With regard to movable property the law is not so moderate in its treatment. Movable property is still considered as liable to seizure; but by the practice of modern warfare, this also is frequently respected, the right of seizing movable property being relinquished for the right of levying requisitions or forced contributions, and as long as these are supplied all other movable property is respected by the hostile force, and cannot be taken unless paid for, excepting such cases as where towns are taken by assault, or where retaliation is used for the conduct of the enemy. It is hardly necessary to say that such respect for private property was not shown by the French armies during the last war; but the practice, as above stated, is now considered as the general usage of civilized nations."

Such, then, Mr. President, I find to be the limitations upon our power to seize and take property from the citizens of the seceding States, if we elect to regard them as belligerents or public enemies.

I speak now of the right of *seizure* for purposes of confiscation, and not of the proceedings necessary to its condemnation after seizure. By the law of nations, no department of the Government can be authorized to *seize* for confiscation or to confiscate the real estate of the private citizen, which this bill proposes to do. By that law also, the right of seizing movable property on land has been well nigh, if not entirely abandoned, with the single exception that I shall hereafter allude to, to wit, the right to seize and detain the property of non-resident enemies found in our own territory upon the declaration of war or the commencement of hostilities, which the better authorities teach us should be *detained* but not *condemned*, except to retaliate for similar acts of our enemy. By this bill, it is proposed to issue a legislative decree of confiscation against a class of people, depriving them of the right of ownership in all their property, and afterwards to send among them agents to execute that decree by gathering up the booty and spreading desolation and misery, I fear, throughout their land.

Then, Mr. President, I assume that the authorities cited on the subject clearly show that the wholesale seizure of movable property on land, as contemplated in this measure, and not attempted to be justified under the plea of forced supplies to the invading army, is in direct contravention of the plain principles of international law. There must be some limit to the powers of our Government, even in the midst of hostilities, when zeal and anger too often disregard the means used in the accomplishment of a desired end. Either the Constitution in its plain language, or that system of reason, justice, and morality digested by the experience of ages, and adopted by the general consent of civilized nations, must be the limit of congressional power. In my judgment, the Constitution is the limit. I believe not only that all can be done that is necessary to crush out the rebellion in strict accordance with that instrument, but I honestly believe that the Union cannot be maintained except in obedience to its provisions. By this I would not be understood as claiming entire perfection for the Constitution, but I believe it sufficient for the present emergency, and that it cannot safely be departed from now. If changes in the future should be thought desirable, let them be made as contemplated in the instrument itself, and not be effected by legislative usurpation, enforced by bayonets, in the midst of these dangerous convulsions. By such a course we ourselves may be the sufferers.

The learned author of this bill must admit that, however desirable or soothing it might be to the feelings of an outraged nation to punish promptly the leaders in this mischief, a legislative attainder of the rebels is not practicable under the Constitution. I apprehend he will admit that, though Congress within its constitutional sphere may enjoin what shall be done or what shall not be done, and may prescribe penalties to secure obedience to the injunction, yet it cannot, under our form of Government, undertake to judge of the violation and inflict the penalty. This could not be done if the accused were at the bar of the two Houses. The attempt to do it, in the absence of the parties to be affected, is a most dangerous assumption of judicial magistracy, falling directly within the prohibition against the passage of "bills of attainder," which are defined by our Supreme Court to be "acts that may affect the life of an individual or may confiscate his property, or both."

If it be claimed that the Constitution authorizes the seizure, it must either be by virtue of the power of eminent domain, in which case it must be demanded for the "public use," and when taken "just compensation" shall be made, or it must follow as a consequence of the legally ascertained guilt of the owner. I am aware that the right to seize property is sometimes derived from the illegal use of the article itself, to which I will hereafter refer.

It will scarcely be pretended that the seizure in this case is for condemnation to "public use" under the power of eminent domain, for the property is not needed for the legitimate purposes of the Government, nor is it desirable that the Government shall become the purchaser of the property, of all the rebels, upon the plan of "just compensation" therefor. It not being practicable by the mere exertion of legislative power to dissolve the tenure by which the owner holds his property and no sentence of guilt having been passed upon him, by which it may be seized, as a punishment for crime, it becomes difficult in my view, to reconcile the proposed action to the plainest principles of the Constitution. But suppose, for the sake of the argument, it be admitted that the existence of a state of hostilities gives some new virtue to the Constitution, which, however dormant in peace, becomes developed in war, and authorizes Congress to do whatever may tend to its successful prosecution, and that the seizure of the enemy's property is an efficient means towards the accomplishment of this end, yet the difficulties in the way of executing other provisions of the bill are not in the least diminished. It cannot be seriously urged that in the exercise of implied powers, or even to secure the blessings indicated in the preamble of the Constitution, Congress may, in its discretion, usurp powers that are specifically denied in the instrument itself.

For instance, *ex post facto* laws should not be passed as an incident to the power "to define and punish piracies or felonies on the high seas," nor could a "tax or duty be laid on articles exported from a State" under the general power "to lay and collect taxes, duties, imposts, and excises;" and in the same manner preference could "not be given to the ports of one State over those of another" under the grant of power "to regulate commerce with foreign nations and among the States." This bill proposes not only to *seize* the property of the individual, but it assumes of its own force to pass the *title* from the citizen to the Government. Let it be granted that when Congress shall have "declared war," or hostilities shall exist under the exercise of the power "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections or repel invasions," such acts may be passed as "shall be necessary and proper for carrying into execution" the said powers, yet it cannot well be urged that this positive prohibition of the Constitution may be disregarded, which, in peace as well as in war, has been found to be one of the most important safeguards of human liberty, and which declares, "nor shall any person be deprived of life, liberty, or property without due process of law;" which provision, by all commentators on the law, from the days of Lord Coke to the present time, as well as by the decisions of every American court of record, State and national, where the question has been brought under review, has been construed to mean that none shall be deprived of life, liberty or property by mere legislative action, or without regular judicial investigation, according to the course of the common law. The party to be affected is entitled to his day in court, has a right to know the allegations against him and present his defense; to hear his accusers and to have process to show the falsehood of charges against him, and to have his rights adjudged by an impartial tribunal, separate and distinct from the executive or legislative departments of the Government.

Then I am justified in my conclusion that the proposition to seize and take into possession the private property of the enemy, not contraband of war and not actually used in the interest of the rebellion, is not authorized by the plain reading of the Constitution; and, secondly, if under the war powers of the Government, this right be even admitted, as a means of weakening the rebels and hastening the period of their submission to the supremacy of law, I am yet at a loss to discover how the title of this property can be affected so as to protect the Government from liability to pay its value after peace has been declared. In other words, if it be contended that the clause of the Constitution protecting the citizen against deprivation of property "without due process of law" does not interfere with the right to seize and temporarily hold the property of the rebel as a means of subduing the rebellion, but that it refers only to the ultimate overthrow of title and prohibits the loss of property without the right of final compensation or redress, still, as the measure under consideration proposes to do both these things—to seize the property and change the title without judicial investigation and without payment—it is certainly obnoxious to the charge of violating this express provision of the Constitution.

I have attempted to show that under the public or international law, even if the Constitution be "silent in the midst of arms," the proposed captures *on land* cannot be made. But the able author of this bill says:

"The right of seizure and confiscation of the property of the enemy as prize of war is a settled principle of international law, which has been affirmed by our own Supreme Court."

In support of this strong position the case of Brown *vs.* The United States is referred to, and which I propose soon to examine. Should the Senate come to the conclusion that "the *right of seizure*," whether on land or on sea, (this language of the Senator being intended evidently to include both,) is "a settled principle of international law," yet they must reject, on authority beyond question, the public right of confiscation, without judicial proceedings to condemn the property seized.

Under our Constitution, I have endeavored to show, that neither the captures nor the condemnation can be justified, as designed in this measure. Now in reference to the conversion or confiscation of captures under the public law: if that law be appealed to, for the purpose of justifying this strange proceeding which proposes to change, as if by the wand of the magician, the title of millions of dollars worth of property, even before the touch, much less the possession of the new owner, such proceedings will appear only to have been tolerated, if at all, in an age less enlightened than the present, and cotemporaneously perhaps with the right to seize indiscriminately the personal property of an enemy. For many years no such captures have been made on land from private citizens, and even in regard to captures made on sea, to which the more rigorous severities of past ages are yet applied, Manning, in his Law of Nations, (page 382,) says:

"Sentence of condemnation by a prize court is at the present day considered necessary to complete the transfer of maritime prizes from the original owner to the captor. Formerly, to have taken captured property *infra presidia*, to have conveyed it into the captor's ports, or into the midst of his fleet, or to have had it in undisputed possession for twenty-four hours, was deemed sufficient to constitute prizes the property of the captors."

The doctrine that condemnation is now required is confirmed by De Martens and by Lampredi, and is laid down by Sir William Scott:

"It is not being thought fit in civilized society that property of this sort should be converted without the sentence of a competent court."—*Rob R.*, iv, 55.

The same rule has been laid down by the Supreme Court of the United States in the case of Jecker *vs.* Montgomery, (13 Howard, 515,) involving a capture by our Government from Mexican subjects on the coast of California during the war with Mexico, in which an attempt at condemnation had been made at Monterey by an agent appointed and commissioned by the President for that purpose. The court, after deciding that the question of prize or no prize can alone be tried by the courts of the country, and that all judicial power of the Government is vested in a Supreme Court, and such inferior courts as may from time to time be established, &c., and that the tribunal in question had no authority to decide upon rights in prize cases, proceed to say:

"As a general rule, it is the duty of the captor to bring it [the captured property] within the jurisdiction of a prize court of the nation to which he belongs, and to institute proceedings to have it condemned. This is required by the act of Congress in cases of capture by ships of war of the United States; and this act merely enforces the performance of a duty imposed upon the captor by the law of nations, which in all civilized countries secures to the captured a trial in a court of competent jurisdiction, before he can be finally deprived of his property."

Justice Story, in delivering his dissenting opinion in the case of Brown *vs.* The United States, (and which opinion on this branch of the subject is confirmed by the ruling of the court,) says:

"In no case whatsoever, that I recollect, have Congress

declared the confiscation of enemy's property. They have authorized the President to grant letters of marque and general reprisal, which he may revoke and annul at his pleasure; and even as to captures actually made under such commissions, no absolute title by confiscation vests in the captors until a sentence of condemnation."

And again, he says:

"Until the title should be divested by some overt act of the Government and some judicial sentence, the property would unquestionably remain in the British owners, and if a peace should intervene, it would be completely beyond the reach of subsequent condemnation."

It may certainly be urged with great force, as the result of authorities on the subject, that the whole power of making captures is derived from the public law, and is conferred upon our Government as upon other Governments under like circumstances, and may be exercised by it, as by all other civilized nations, in time of war. If this be the correct view of the subject, then Congress has no power to declare what is or what is not subject to capture. This is to be determined by the public law, and the Congress of the United States would not be authorized to enlarge or diminish that law without the consent of other nations.

When by the act of Congress, or under its authority a state of war exists, the President as "Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States when called into the actual service of the United States," is authorized to conduct the war without control by Congress. In other words, this theory assumes that Congress, having sanctioned the existence of war, has discharged its full powers, so far as concerns its future conduct; that this is left to the executive department of the Government; that the President, in his own discretion, may carry it on in such manner as may promise the most speedy and certain success, provided that he do not violate those well-settled principles of human reason and morality by which all civilized nations are now governed in the management of hostilities; that, as an incident to the war, he may cause captures to be made on sea, and subject to certain well-known restrictions, he may cause seizures to be made on land; but when these seizures shall be made, the jealous regard for individual rights now entertained by enlightened nations comes to the relief of the owner, and guaranties to him the forms at least, of an impartial trial—a judicial investigation—before he can be finally deprived of his property. And although this trial may be had in the country of the captor, yet it is worthy of note that the Power conducting the war and making the seizure is never permitted to control or superintend the investigation. The captured property is turned over to what is supposed to be an honest and impartial judiciary—not biased by prejudices arising from conflicts on the field of battle, and not driven to madness or inspired with the spirit of revenge by actual participation in the strife.

In this view of the subject Congress may "make rules concerning captures," that is, provide proceedings by which they may be condemned when taken, and direct the manner in which they may be sold, how the proceeds may be divided between the Government and the captor, and to what purposes the proceeds belonging to the Government may be appropriated, but cannot determine what is or what is not the subject of capture—this being determined by the law of nations, and therefore left in the discretion of him who is charged with the duty of seeing that it be conducted upon proper national principles.

But the Senator from Illinois, [Mr. TRUMBULL,] who proposes this measure, says that it was his "object in framing the bill under consideration to distinguish between the property on which the *military* may operate and that subject to *judicial* control, and clearly to define the jurisdiction of each, confining the seizure and forfeiture of property situated in districts of the United States under insurrectionary control to the military power, and its condemnation and forfeiture in other portions of the United States to the judicial power."

The law of nations proclaims that property of this character "should not be converted without the sentence of a competent court," and our own Supreme Court has declared that the condemnation of captured property cannot be made under the authority of "military power;" that if taken where hostilities exist, it shall be brought to the captor's country, and proceedings instituted for its condemnation in a competent court of justice; and that court, it seems, has admitted the proposition that "the law of nations secures to the captured a trial in a court of competent jurisdiction before he can be finally deprived of his property."

How then, in the face of this authoritative exposition of international law, by our own Supreme Court, and this positive denial that either under the custom of civilized nations, or according to the principles of our Constitution, the title of property can be changed without judicial investigation, does the Senator satisfy himself to confer upon the military authority a power coextensive with that of the courts?

We are told by the public law, and by our own Constitution, that though the military may seize property, the title remains unaffected until it shall be changed by a decree in the courts of the country; that if peace shall intervene before such change, the property reverts to the original owner. And yet the strange proposition is advanced that the military power having seized the property, thereby has obtained jurisdiction of the case, and may proceed to condemnation. If so, the military may seize persons, whether loyal or disloyal, in the insurrectionary districts, and proceed to their trial, conviction and execution for treason. If these things were permitted, even for apparent temporary good, the evil would be no less than the subversion of the theory of our Constitution, which is supposed to secure liberty by the erection of coördinate branches of Government, each acting as a check upon the other.

But the Senator refers to certain adjudicated cases to sustain this position taken by him, as well as to sustain the general principles of the bill, to which cases I may allude for one moment. The case of Brown *vs.* The United States (8 Cranch, 110) is relied on as an authority in favor of the bill. In this case, a cargo of lumber belonging to English subjects, but found on board an American vessel in the port of New Bedford, Massachusetts, at the declaration of war by the United States against Great Britain in 1812, was libeled in the district court for Massachusetts, by the district attorney in behalf of the United States and the owners of the vessel, which had been previously chartered to take the cargo from Savannah to England. A short time after the declaration of war and the commencement of hostilities, and previous to the filing of the libel, the cargo was removed, a part of it placed on land and a part of it floated up a creek, on tide water, and there secured. The questions presented for the decision of the court were:

1. Whether the enemy's property, thus found on land at the commencement of hostilities, can be seized and condemned as a necessary consequence of the declaration of war; and

2. Whether there existed any legislative act at that time authorizing such seizure and condemnation?

It is true that in the discussion of the first question presented, the chief justice (Marshall) says:

"It may be considered as the opinion of all who have written on the *jus belli*, that war gives the *right* to confiscate, but does not itself confiscate."

The right to confiscate what? Surely not the property of the enemy found in his own territory, but that which was found and seized upon our territory—the owner being absent. I say the owner being absent, for the public law recognizes a distinction in regard to this subject, by which the property of the alien enemy who is not personally within our territory at the commencement of hostilities, is properly subject to confiscation by regular proceedings, but in the language of Vattel, "the sovereign can neither detain the persons nor the property of those subjects of the enemy who are within his dominions at the time of the declaration."

If the Senator is disposed to regard the rebels in the light of alien enemies, personally outside of the jurisdiction of the United States, and owning property at the commencement of hostilities situated in our territory and outside of theirs, the case will then be in point, but only so far as to reach property found outside of the seceded States and within those that rebellion may acknowledge to belong to the Union, and only then to the extent that he has provided for judicial proceedings for its condemnation. To make this admission is to concede that the Union is dissolved; to refuse the admission destroys the authority of the case. The court decided that a state of war did not *ipso facto* forfeit the property, and there being no legislative act under which it could be judicially condemned, dismissed the libel and restored the property to the owner.

I am willing to admit that according to the principles of public law, when we find situated among us at the commencement of hostilities the property of enemies who are beyond the jurisdiction of the United States and in arms against its authority, that property may be condemned. Whether the armed rebel can be properly said to be beyond our jurisdiction, or be denominated a public enemy, subject to the disabilities prescribed by international law, is not in my mind necessary to be determined. It is sufficient for us that he assumes that attitude towards the nation. It may be urged that he is thereby forever estopped from complaint against public or municipal justice when moderated by humanity and administered according to the settled principles of an enlightened national custom.

The case of the Venus, decided at the same term of the court, presents nothing of authority whatever in support of this bill. It involves nothing more nor less than the principles applicable, under the law of nations, to a maritime capture—the vessel having sailed, under a British license, for New York from England, after the declaration of war, but before intelligence of the fact had reached there. Before arriving at New York, she was captured by an American privateer, and sent into the district of Massachusetts, where the vessel and cargo were libeled. The chief point discussed in the case is, as to whether the claimants were American citizens or British subjects, in such sense as to visit upon them the rigors of international law in respect to maritime captures. It was determined by the court, upon the facts in the case, that some of the joint owners of both vessel and cargo being domiciliated in Great Britain at the commencement of hostilities and at the time of the capture, and not having evinced a disposition to return sufficient to stamp them with the character of American citizens, must be held subject to the law in regard to such captures. Indeed, the vessel itself stood forfeit in consequence of a false registry made by one of the owners, under the act of 1792, he having failed to state the non-residence of his copartner or joint owner.

Other and numerous cases have been referred to in support of the bill, but I am disposed to believe a careful examination will prove them equally without authority as precedents to justify the extraordinary propositions which it contains.

But, Mr. President, if we elect to treat the insurgents as rebels against the authority of a good Government and amenable to its laws, we are bound to extend to them the privileges and safeguards which the Constitution has erected for every American citizen, alike for the rich and the poor, the virtuous and the depraved. We all agree that the seceding States are yet States of the American Union, and therefore it must be admitted that the citizens of those States are citizens of the United States, so far as regards their duties to the Government or their privileges under it. Those men among them who have remained loyal in the midst of the terrors and temptations around them, have a right to demand our protection for life and property. Those who have conspired against the Government and destroyed the peace of the nation are regarded by us all as traitors, subject to conviction under the law of treason, and not entitled by right to the recognized immunities of public enemies.

Unless these things be true, the war should be prosecuted no further. If Georgia and Louisiana are not members of the Union, it must be because ordinances of secession have destroyed that connection. If those ordinances be clothed with such power, the power must have come from the Constitution, and then what right have we to interfere with their discretion? No, sir; the ordinances are void and without effect. They gave no new rights to the States seceding, nor to the citizens thereof; and being absolutely void, they of themselves took away from the citizen no constitutional right to which he was previously entitled. The act of secession itself is perfectly harmless. It neither takes away nor confers a right. The effect upon the State is not to change its relations to other States of the Confederacy; the effect upon the citizen is nothing. It is only when the citi-

zen, upon whom and not upon State organization our Government operates, attempts, by force and violence, instead of the peaceful means of judicial redress, to uphold this void act, that he comes in contact with the Federal authority and subjects himself to the punishment of treason. The State itself is not capable of crime and not subject to punishment by the power of the nation. Indeed, the right to punish a State, or the whole people of a State, for the gross wrongs or crimes if you please, of a majority of its citizens, is the very right denied by the convention in rejecting the proposed constitutional power of coercing a State.

The power to punish the guilty traitors themselves is given us, but with it, not the power to ravage the country, to rob the innocent or reduce women and children to want. The guilty man *must* be punished to the extent that civilization, embodied in its greatest perfection in our admirable system of government, will permit. The innocent man must be protected in every essential right of person and property, or in the end we shall be forced to acknowledge this infamous rebellion to be a success, a bitter and humiliating confession to which we shall never be brought, if prudence and not revenge shall govern the deliberations of the hour. I would not have the guilty traitor when convicted of his crime, to be dragged on the ground to the place of execution, to be hanged by the neck and cut down alive; that his entrails should be taken out and burned while he is yet living; that his head should be cut off, and his body divided into four parts, as prescribed by the common law. I would not visit upon his children the sins of their father, by corrupting the blood and destroying the inheritance that must technically pass through the guilty ancestor to his innocent children. I would not make posterity the victims of his guilt, or rob his children of a patrimony the loss of which would be followed by rankling revenge for generations to come. In the language of one of the ablest of American authors—

"It surely is enough for society to take the life of the offender, as a just punishment of his crime, without taking from his offspring and relatives that property which may be the only means of saving them from poverty and ruin. It is bad policy too, for it cuts off all the attachments which these unfortunate victims might otherwise feel for their own Government, and prepares them to engage in any other service by which their supposed injuries may be redressed or their hereditary hatred gratified."

Treating the insurgents, then, as citizens "levying war against the United States," it is for Congress "to declare the punishment of their treason;" but in prescribing the penalty, our fathers have said, whether wisely or unwisely is certainly not now for consideration by us, who are sworn to support the Constitution as it is, that—

"No attainder of treason shall work corruption of blood or forfeiture except during the life of the person attainted."

It having been already declared in another provision of the Constitution that "no bill of attainder or *ex post facto* law shall be passed," the "attainder of treason," here mentioned, must be understood as an attainder following conviction before the judicial tribunals of the country. The language is superfluous and meaningless unless this be the construction.

Legislative attainder presented itself in all its horrors, as an engine of tyranny and oppression during the stormy periods of English history preceding our own Revolution, and induced by our forefathers the adoption of a provision that would forever shut out its evils in our Government. Judge Story, commenting on this provision of the Constitution, says:

"The injustice and iniquity of such acts, in general, constitute an irresistible argument against the existence of the power. In a free government it would be intolerable; and in the hands of a reigning faction it might be and probably would be abused to the ruin and death of the most virtuous citizens. Bills of this sort have been most usually passed in England in times of rebellion or of gross subserviency to the Crown or of violent political excitements; periods in which all nations are most liable (as well the free as the enslaved) to forget their duties, and to trample upon the rights and liberties of others."

The power to prescribe the punishment of certain crimes is given to the Congress; but the power to try the offender and apply the penalty is forever removed from the legislative department of the Government; removed, at least, until the Constitution shall have been amended in this particular, and the bitter experience of past ages forbids any desire of change except by those who are willing to subject themselves and their posterity to the dangers of the most galling tyranny, for the poor privilege of present vengeance against a despised, miserable and already ruined traitor.

It cannot be otherwise than that the penalties contained in this bill are intended as a punishment for the crime of treason committed by the rebels against the Government. If this be so, how are we to reconcile its provisions with the Constitution, which declares that:

"The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the State where the said crimes shall have been committed."

"No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces," &c.

"Nor be deprived of life, liberty or property, without due process of law."

"In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel in his defense."

But we are told that there is such a thing known in our jurisprudence as the forfeiture of property for the *quasi* offense of the thing itself, such as that which attaches to property smuggled in contravention of the revenue laws, &c. Without entering upon an argument to determine the correctness of such proceedings or whether they be strictly in accordance with the provisions of the Constitution which I have enumerated, I may simply remark that the act "to confiscate property used for insurrectionary purposes," approved August 6, 1861, is perhaps fully as broad as may be justified by any precedent growing out of legislation of the character alluded to or derived from the adjudications of courts on the subject.

Thus far, Mr. President, I have refrained from alluding to the second section of this bill which, as it has been amended, is in the following words:

SEC. 2. *And be it further enacted*, That every person having claim to the service or labor of any other person in any State under the laws thereof, who during the present rebellion shall take up arms against the United States, or in any manner give aid and comfort to said rebellion, shall thereby forthwith forfeit all claim to such service or labor, and the persons from whom it is claimed to be due, commonly called slaves, shall, *ipso facto*, on the commission of the act of forfeiture by the party having claim to the service or labor as aforesaid, be discharged therefrom, and become forever thereafter free persons, any law of any State or of the United States to the contrary notwithstanding. And whenever any person claiming to be entitled to the service or labor of any other person shall seek to enforce such claim, he shall in the first instance and before proceeding with the trial of his claim, satisfactorily prove that he is and has been during the existing rebellion loyal to the Government of the United States; and no person engaged in the military or naval service of the United States shall, under any pretense whatever, assume to decide on the validity of the claim of any person to the service or labor of any other person, or to surrender up any such person to the claimant.

I omitted it purposely, and would be glad that I could close without reference to it at all. The discussion of this subject in Congress is the great source of evil—the Pandora's box out of which have sprung the many present ills that afflict the country. Whether those ills of to-day, under the direction of an all-wise Intelligence, are but the forerunners of blessings to follow—whether this is but "partial evil" which, but for the circumscribed vision of men, would even now be hailed as "universal good," it does not at present become me to inquire. I am fully aware of the uncontrollable prejudices which this war has excited against the institution of slavery. The agitation of the question has been going on until the two sections have become ignorant of the true character of each other. Northern revolutionists seized upon the sympathies excited by it in its moral and religious bearings, and whether in using it to obtain party supremacy, to excite hostile convulsions to end in disruption or for the better purpose of advancing the claims of philanthropy, the result produced was the same—an unnatural estrangement of a large mass of the northern people from their southern neighbors. Many learned to regard slavery as the sum of all evil, and conscientiously believed that those tolerating it could not be equal to themselves in any of the better attributes of man.

While this was going on in one section, many in the other half of the Union were using it as a pretext to cover up personal schemes of ambition. While much the larger portion were ignorant of their true designs, those who were using it to educate the southern mind to deep hostility against the North, with a view of precipitating revolution at the appointed time, were active, restless, unscrupulous and wickedly bent on mischief. Political parties discovering an element of strength in the slavery question, availed themselves of the ignorant prejudices already aroused and gladly accepted the services of mercenary bands of adventurers who were ever ready to barter the best hopes of man for the paltry emoluments of official station. At first it was dignified with a position in party platforms of equal rank only with other questions of political economy; but soon the bank, the tariff, the public lands, the improvement of the national highways, and all other interests of this great nation were completely swallowed up in this one question. To the everlasting shame of our country, it became the sum total of political science in the United States. It soon degenerated into a violent sectional struggle for party supremacy, in which reason held no sway, and the public weal was sacrificed to the schemes of ambition.

How strange and inconsistent, too, the positions taken. The northern abolitionist taught the equality of races, and demanded universal emancipation, without attempting to elevate the negro in his own State, and even rejecting all association with him where the practical test of sincerity is applied. In one breath he denounces the Constitution of the country as a "covenant with hell" because it gives sanction to slavery, in the next he blesses the sacred instrument because it gives "liberty" to every human being. For near twenty years he labors for the dissolution of the Union, and prays for the independence of the North. Suddenly dissolution comes; his hopes are realized; and straightway he invokes the horrors of war to prevent, if possible, the consummation of his own wishes.

The pro-slavery enthusiast avers the divinity of slavery but closes the door against its discussion lest human reason should subvert the decrees of Omnipotence. He demands new territories as an outlet for slavery, while he complains of the want of labor in the South; he teaches the universality of slavery and denies the power of the nation to interfere with it, because its existence depends upon local law. Asserting that Congress has no power over the subject in the Territories, he threatens to disrupt the Union unless slave codes are enacted for its protection. An advocate of non-intervention by those not interested in the institution, he asks the power of Federal law to force it upon an unwilling people. By removing labor from the cotton-fields of the South, his lands were depreciated in value, and the institution he would foster has become weakened by its contact with the vigorous energy of the white man. At last he chose war to perpetuate it, and war will end in its overthrow.

Thus have the North and the South for years been involved in absurdities upon this question, and it may be that the absurdities of the present day will yet prove to be the grossest in the long catalogue of blunders. It may be that each section is now entertaining views at war with its own best interests. It is possible that the South in upholding slavery is hugging to its bosom a serpent that stings and poisons its vitality. Is not this the belief of every Republican Senator in this body? And now, permit me to suggest that the sudden immigration into the northern States of four millions of uneducated blacks, as wretched and miserable as their present owners, may prove neither beneficial nor acceptable to your people.

If this be accomplished by direct legislation, placing the whole responsibility upon the shoulders of those who seek the restoration of the Union, the rebound of popular sentiment may overthrow many of the best friends of the cause and defeat the object intended.

It is useless to devise cunning schemes to effect the destruction of slavery. It is worse than useless to violate the least of constitutional safeguards to accomplish it. The shells that passed from rebel batteries to Fort Sumter twelve months ago wrote its doom in living letters upon the southern skies. If they will destroy it themselves, let all the responsibility of evils to spring from this sudden change in the labor and social system of the country rest upon the authors of the war.

The war is upon us. The pretext is slavery. It is therefore argued that slavery having produced the war, must be exterminated in order to end it. It seems to me that with equal fairness

it may be urged that bad men have seized upon it as an effectual means of arraying sectional parties to gratify personal ambition.

It may be that the unauthorized and wicked discussions of the subject in Congress, awakening the zeal of false sympathy on the one side, and creating a false notion of wounded pride on the other, which soon ripened into hate and aroused a spirit of revenge, constitute the true origin of our troubles. In this view of the case the remedy is plain and simple: cease the bickerings, and all may yet be well. If adopted years ago, I am satisfied that extreme men would have lost their power over the public mind, and on this day the Union would have been as strong as when first launched upon the sea of political experiment by the purer men of past days.

The representatives of slaveholding States are now but few in the councils of the nation. Their presence here but verifies the great truth that their constituents love the Union in a spirit of the most ardent devotion. They may be attached to their own local institutions, but greater yet is their attachment to the Union of their fathers. The people of the border slaveholding States, regarding every other consideration as subordinate to the existence of the Union and the preservation of constitutional liberty, have cast their future destiny with those who are represented by the majority on this floor. To your fate we are linked for all time. We weep over your reverses and rejoice over your successes. So far as we are concerned, we feel that the institution of slavery in our States is to-day in your hands for weal or for woe. You may crush it with the army or drive it to the wall by oppressive laws. We are but few, completely at your disposal, unable to retreat if we would and unwilling if we could. We stand here daily adding new proofs, if any were required, of our loyalty and attachment to the Government of our country, with an intimate knowledge of the springs of this rebellion and the measures best adapted to its suppression; and when we attempt to use it for the good of our common country, we are met by the railings of a licentious press and the outpourings of fanatical orators outside, who still cling to the errors of the past and see no virtue in moderation.

I am glad to believe that such ungenerous sentiments meet with but little, if any sympathy in this body. For the rebel himself, who knowing the character of his crime, has planned this rebellion and urged it on to the great injury of the country I crave no mercy. Make his punishment if possible commensurate with his guilt, but protect the innocent. Let us take care of the national character, preserve our own self-respect, violate no law of humanity and no principle of the Constitution, and above all preserve the faith that the Government has pledged to the people. In order to arrest the progress of disintegration and to prevent the rebellion from acquiring such proportions as to overshadow the Government itself, we of the border States pledged to our people the good intentions of the party in power.

We proclaimed to them the patriotic words of our Chief Magistrate, uttered on the day of his inauguration:

"I have no purpose, directly or indirectly, to interfere with the institution of slavery in the States where it exists. I believe I have no lawful right to do so, and I have no inclination to do so."

Long after the void acts of secession had become a part of the archives of the confederate States, the distinguished Secretary of State, Mr. Seward, reminded our representatives abroad that—

"The seceding States are now, as they always heretofore have been, and notwithstanding their temporary self-delusion, they must always continue to be, equal and honored members of this Federal Union, and that their citizens throughout all political misunderstandings and alienations, still are and always must be our kindred and countrymen."

And again, even after the fall of Fort Sumter, he announced a fact that gave strength and courage to the Union men everywhere, that the revolution was "without cause;" "it has not even a pretext;" that the rights of the States would be guarded, that their "constitutions and laws, customs, habits and institutions will remain the same," should rebellion be suppressed and the Union preserved.

When treason seemed destined to succeed, after the bloody field of Manassas, we were yet further encouraged and sustained by new guarantees of faith, proclaimed in congressional resolves, that—

"This war is not waged for the purpose of overthrowing or interfering with the rights or established institutions of the States, but to maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality and rights of the several State unimpaired."

But with impatience the question is asked, shall we devote our energies to the protection of slavery, the upholding of an enormous wrong, while the advocates of the institution are attempting to destroy the Government? I answer, no. I have no objection to confiscating the property of the rebel, including his slave; but let it only be done when guilt has been established under the forms of judicial investigation.

I crave this not for the sake of the traitor, but for our own sake and in behalf of constitutional liberty. If we cling to the Constitution, whatever is right will yet be accomplished; if we depart from its just restraints no man can tell the excesses of the future. In the midst of storms upon ocean's wilderness, the mariner's only trust is upon his unerring compass. In the midst of a revolution so vast and terrible as the present, with armies in the field even greater than those with which Napoleon brought the nations of Europe to his feet, our only trust is in the Constitution. In the plenitude of power to-day, we may deny mercy to others; to-morrow we may ourselves cling in vain to the horns of the altar. To-day we may insolently disregard the settled convictions of the people, by gross perversions of the charter of their liberties; to-morrow the dangerous precedents may be urged to our own ruin. The inventor of the guillotine, we are told, was soon forced to test the merits of his own invention and Haman, by sudden change of fortune, met the fate he had prepared for the offending Jew.

If this bill become a law, the slave is left to pass upon the loyalty of his master and general insubordination is the result. All other property having been taken from the owner by the gleaners appointed under the law, his slave having determined the disloyalty of his master, and there being no practical appeal from the decision of the slave, with the definition of "loyalty to the Government" yet undetermined by learned Senators themselves, the emancipated slaves go forth either to excite insurrection, resulting in their own destruction, to remain in the South as thriftless paupers, demanding as at Port Royal, the charity of the Government, or throwing themselves in large masses into the northern States to revolutionize public sentiment and bring curses upon those who may be esteemed the authors of the mischief.

Pass this bill by which the owner is stripped of his real and personal property wherever your armies march, then enact the measure proposed by the able and excellent Senator from New York, [Mr. HARRIS,] by which he is outlawed and driven from the courts of the land and I have no promises to make in regard to future exhibitions of loyal sentiment in the southern States. Let Congress adopt the course pursued by that practical statesman and distinguished soldier who commands the department of the Mississippi, pledging the power of the Government to the protection of life, liberty and property, and our battles like his will be victories—victories beneficial alike to the victor and the vanquished, removing prejudice, reforming sentiment and regenerating the public mind.

Sir, I think I know something of the power of moral influence needed for success in this war. The conspirators have succeeded in shutting out truth from the South; in making them believe that northern hordes desire their lands, their homes their negroes, their property of every kind. We cannot now remove that error without marching armies among them. Three fourths of the people are laboring under this delusion. When we arrive among them with armies sufficient to crush them and verify their worst fears, if the Government again clothes them with protection and by paternal kindness convinces them of the folly of their ways, the power of the rebellion is broken; the masses return to their allegiance and the nation might safely trust the punishment of the wicked conspirators to the vengeance of their own citizens whom they have deceived and ruined. Let justice, even mercy mark our conduct; and when the Union is restored as it soon must be, it will be cemented in new bonds of affection, and strengthened by cords of mutual confidence and attachment, defying the shocks of future convulsions.

It should however be proclaimed aloud that this war shall never cease until every State shall have enrolled itself under the old flag, and acknowledged the supremacy of the Federal Government. Civilization demands the integrity of the Union; humanity requires the settlement of all differences at present, lest, unadjusted, they produce new conflicts to disturb our peace in the future. If slavery or anything else stands in the way of this consummation, let it be swept from the face of the land. But let no property be destroyed, no institution overthrown, except as an incident to the restoration of the Union—a work to which the patriotism of every good man is to-day committed.

If our legislation be such as to cement the southern mind against us and drive new armies of excited and deluded men from the border States to espouse the cause of rebellion, it is vain to hope for that restoration of good will and confidence without which success itself is a barren achievement, and even to obtain this barren result will cost us the lasting bankruptcy of the nation. Let us cultivate the Union sentiment of the South and drop our inquiries after radical measures that may destroy it. It is by means of this sentiment alone that the Union can be made desirable. Let us hope then that it may extend as the circling waves upon the surface of the troubled sea, until it shall reach the limits of the nation; and when the calm of peace shall have returned, may union, fraternity and love be everywhere reflected from the bosom of the deep.

Mr. HARRIS. Mr. President——

Mr. SUMNER. If the Senator from New York will give way, I should like to move that the Senate proceed to the consideration of executive business.

Mr. HARRIS. Very well.

EXECUTIVE SESSION.

Several messages in writing, of an executive character, were received from the President of the United States, by Mr. HAY, his Secretary.

On motion of Mr. SUMNER, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *April* 8, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

The SPEAKER announced the regular business in order to be the consideration of the amendments reported by the Committee of the Whole on the state of the Union upon House bill No. 312.

Mr. LOVEJOY. I ask the unanimous consent of the House that the gentleman from Kentucky [Mr. WICKLIFFE] may have the privilege of reading the resolution in reference to the action of the Federal Government in interfering with slavery in the States. I would read it; but that gentleman reads it with so much emphasis and unction that it is a pleasure to hear him. [Laughter.]

The SPEAKER. The Chair hears no objection.

Mr. McPHERSON. I object.

Mr. WICKLIFFE. I shall take occasion to make a few comments, if I have the liberty to read it. I do not intend to read the text, unaccompanied with appropriate comments.

The SPEAKER. Objection is made.

ADJOURNMENT SINE DIE.

Mr. VALLANDIGHAM, by unanimous consent, introduced the following resolution; which was read, and referred to the Committee of Ways and Means:

Resolved, (the Senate concurring,) That the present session of the Thirty-Seventh Congress be adjourned without day on the third Monday of May next at twelve o'clock, m.

ISLAND NUMBER TEN.

Mr. ARNOLD, by unanimous consent, read the following dispatch:

STEAMER BENTON, OFF ISLAND No. 10,
April 7, 3.25, a. m.

HON. GIDEON WELLES:

Two officers of the navy have this instant boarded us from Island No. 10, stating that, by order of their commanding officer, they are ordered to surrender Island No. 10 to the commander. As these officers know nothing of the batteries on Tennessee shore, I have sent Captain Phelps to ascertain something definite on the subject.

General Pope now advancing from New Madrid in strong force to attack the rear. I am, with gunboats and mortars, ready to attack in front. Buford is ready to cooperate, but it seems as if the place is to be surrendered without further defense. A. H. FOOTE,
Flag Officer, &c.

The reading of the dispatch was received with great applause on the floor of the House.

TAX BILL.

The House then proceeded to the consideration of the amendments reported by the Committee of the Whole on the state of the Union to the bill (H. R. No. 312) to provide internal revenue to support the Government and pay interest on the public debt.

Two hundred and ninety-third amendment:

Page 99, after line forty-nine, insert the following:

From and after the 1st day of May, 1862, there shall be levied, collected, and paid by any person or persons owning, possessing, or keeping a dog of any kind a tax for each and every dog so owned or kept one dollar.

Mr. WADSWORTH. I ask for a separate vote on that amendment, and call for the yeas and nays upon it.

The yeas and nays were not ordered.

The amendment was agreed to.

Mr. DELANO. I ask the consent of the House to call the attention of the Committee of Ways and Means to an amendment which I propose to offer. It will be perceived that in the seventy-eighth section there is no application to proprietors of bridges of the penalty which is prescribed for a failure to neglect to report on the part of railroad companies and the proprietors of ferry boats. It is obvious that the same penalty should be imposed. I have prepared an amendment with some care which will meet the case. It is as follows: on page 103, in line sixty-five, strike out the word "or," where it occurs after the words "ferry boats," and, after the word "vessel," insert "or bridges;" make the same amendment in line seventy; and on page 104, in line seventy-two, after the word "passengers," insert "or transit of passengers, beasts, carriages, teams, and freight." The clause will then read:

And the owner, possessor, or person or persons having the care or management of any such railroads, ferry boats, vessels, or bridges as hereinbefore described, shall, within thirty days after the end of each and every month, commencing as heretofore mentioned, make a list or return, and render the same to the assistant assessor of the respective districts where such railroads are located, or where such ferry boats, vessels, or bridges, as aforesaid, belong, of the amount of gross receipts derived from carrying passengers or transit of passengers, beasts, carriages, teams, and freight, in any manner as aforesaid, together with the amount of duties which have accrued or should accrue, which list or return shall be verified by oath or affirmation of the owners, possessors, agents, or proper officer of said firms, companies, or corporations, in manner and form from time to time to be prescribed by the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, &c.

Mr. STEVENS. That seems to be right.

There being no objection, the amendment was agreed to.

Mr. DELANO. I also move to insert, after the word "court," in line ninety-nine, on page 105, the following:

And a like penalty for each neglect to account for the full monthly tolls accruing from the transit of passengers, beasts, carriages, teams, and freight, as aforesaid.

So that it will read:

And in case of fraud or evasion, whereby the revenue is attempted to be defrauded or the duty withheld, said owners, possessors, or person or persons having the care or management of such firms, companies, or corporations shall be subject to and pay a penalty of ten dollars for each passenger carried and not properly accounted for, or to a penalty of $1,000, at the discretion of the court; and a like penalty for each neglect to account for the full monthly tolls accruing from the transit of passengers, beasts, carriages, teams, and freight, as aforesaid.

The amendment was agreed to by unanimous consent.

Mr. STEVENS. I desire to call the attention of the House to an amendment which I think ought to be made. It is on page 3 of the bill, and in the second section. By an amendment to that section we limited the number of collection districts to the number of Representatives in Congress and Delegates. I think we ought to except the Territories from that rule. I ask, therefore, unanimous consent to strike out the words "and Delegates."

There was no objection, and the amendment was made.

Three hundred and forty-second amendment:

In line four of section eighty-five, after the words "per centum," insert the words:

The net only of gains, profits, or incomes shall be estimated, (but personal or family expenses and interest on the value of land, shall not be deducted in estimating such net gains, profits, or incomes,) and.

Mr. WHITE, of Indiana. I ask unanimous consent to insert, after the word "land," the words "or other productive capital out of which such income is derived." I think it only just and proper that those words should be inserted.

Mr. SHEFFIELD. I object.

Mr. STEVENS. Instead of doing that, I think we had better reject the whole amendment. I ask a separate vote upon it.

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

The yeas and nays were not ordered.

The amendment was disagreed to.

Mr. STEVENS. After the word "criminal," in line one hundred and ninety-eight of schedule B, the words "or other" should be inserted, so that the clause will read:

Provided, That no writ, summons, or other process issued by a justice of the peace, or issued in any criminal or other suits commenced by the United States or any State, shall be subject to the payment of stamp duties.

The amendment was agreed to; there being no objection.

Mr. HICKMAN. I ask the unanimous consent of the House to go back to section ninety-three, on page 125, to offer an amendment to which I called the attention of the House the other day.

There was no objection.

Mr. HICKMAN. I think the defacing of stamps is not sufficiently provided for in that section, but that any stamp which has been used and canceled may be used a second time. I move to strike out the words "or deface the same in such a manner as to show clearly and distinctly that such stamp has been made use of, and," and to insert at the end of the fifth line, the following: "and the date upon which the same shall be attached or used;" so that the section will read:

That in any and all cases where an adhesive stamp shall be used for denoting any duty imposed by this act, except as hereinafter provided for in section one hundred and one of this act, the person using or affixing the same shall write thereupon the initials of his name, and the date upon which the same shall be attached or used, so that the same may not again be used.

It will be seen that a stamp canceled as is provided for in the section as it stands, is just in a condition to be used again when the paper upon which it has been placed has performed its office.

The amendment was agreed to.

ISLAND NUMBER TEN—AGAIN.

Mr. COLFAX. The War Department have received a later dispatch from Island No. 10, which I ask the Clerk to read.

The Clerk read, as follows:

Received 12 noon.

WATSON'S LANDING, TENNESSEE, *April* 8.

Hon. EDWIN M. STANTON, *Secretary of War:*

Enemy evacuated Island No. 10 last night. It is occupied by Colonel Buford, twenty-seventh Illinois. General Pope will capture all that remains on the highlands to-day. The movement on rear has done the work.

THOS. A. SCOTT, *Assistant Secretary.*

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill (S. No. 123) to extend the provisions of the act of August 4, 1852, entitled "An act to grant the right of way to all rail and plank roads," &c., for the term of five years, and to amend the same; in which he was directed to ask the concurrence of the House.

TAX BILL—AGAIN.

Mr. MORRILL, of Vermont. I ask the unanimous consent of the House to reduce the tax upon playing cards from twenty cents to ten cents.

Mr. HICKMAN. I object.

Mr. POTTER. I now ask the unanimous consent of the House to amend the seventy-third section by striking out, in the three hundred and tenth line the words, "and one half," so that the clause will read, "on bend, butt, and harness leather, one cent per pound."

There was no objection, and the amendment was agreed to.

The amendments reported from the Committee of the Whole on the state of the Union having now been disposed of, the question recurred on the following amendment proposed by Mr. BLAIR, of Missouri, before the main question was ordered:

SEC. —. *And be it further enacted*, That any person who shall claim to own the service or labor for life of any person under the laws of any State, shall pay on account of the service of each person so held the sum of two dollars.

Mr. BLAIR, of Missouri, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 51, nays 75; as follows:

YEAS—Messrs. Aldrich, Arnold, Babbitt, Baxter, Beaman, Francis P. Blair, Samuel S. Blair, Blake, Campbell, Clark, Clements, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Davis, Dawes, Duell, Edgerton, Eliot, Fessenden, Gurley, Hanchett, Hickman, Kelley, Francis W. Kellogg, Kilinger, Lansing, Loomis, McPherson, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Olin, Patton, Pike, John H. Rice, Edward H. Rollins, Shanks, Sherman, Sloan, Spaulding, Stevens, Van Valkenburgh, Verree, Wallace, E. P. Walton, Wheeler, Wilson, and Windom—51.

NAYS—Messrs. Allen, Alley, Baker, Biddle, Bingham, Jacob B. Blair, William G. Brown, Buffinton, Calvert, Chamberlin, Cobb, Corning, Cox, Cravens, Crittenden, Delaplaine, Diven, Dunlap, Dunn, Edwards, English, Fisher, Frank, Granger, Grider, Haight, Hale, Hall, Harding, Harrison, Hooper, Horton, Hutchins, Julian, Kerrigan, Knapp, Law, Leary, Lehman, Lovejoy, Mallory, Menzies, Noble, Noell, Norton, Nugen, Pendleton, Perry, Timothy G. Phelps, Pomeroy, Porter, Potter, Price, Alexander H. Rice, Riddle, James S. Rollins, Sargent, Sheffield, Shellabarger, Shiel, Smith, John B. Steele, William G. Steele, Stratton, Benjamin F. Thomas, Francis Thomas, Trowbridge, Vallandigham, Van Horn, Wadsworth, Webster, Albert S. White, Chilton A. White, Wickliffe, and Wright—75.

So the amendment was disagreed to.

During the roll-call,

Mr. BIDDLE said: My colleague, Mr. ANCONA, requested me to state the cause of his absence It is generally known to the House that the Pennsylvania delegation has suffered a loss of one of its members. The event will be announced to the House at the proper time. Mr. ANCONA is absent attending the funeral of his friend and colleague. Mr. JOHNSON'S absence is occasioned by the same cause.

Mr. WORCESTER stated that he had paired off upon this question with Mr. CRISFIELD, or he should have voted in the affirmative.

Mr. MORRIS stated that he had paired off with Mr. CUTLER, or he should have voted "no."

Mr. BINGHAM announced that Mr. KELLOGG, of Illinois, was called home on Friday last on account of sickness in his family.

Mr. KNAPP stated that Mr. ROBINSON was absent in consequence of sickness in his family.

Mr. RICE, of Maine, made a similar statement with regard to Mr. WALTON, of Maine.

Mr. CLARK stated that Mr. FENTON was absent on account of sickness.

The result having been announced as above recorded, the question recurred on ordering the bill to be engrossed and read a third time.

Mr. STEVENS. I am not quite sure, Mr. Speaker, whether I have a right to make a few remarks before the final vote is taken on the bill.

The SPEAKER. The Chair believes that the gentleman is late in claiming his right to close the debate. If there be no objection the gentleman from Pennsylvania will proceed.

There was no objection.

Mr. STEVENS. I will not occupy many minutes in consequence of the indulgence which the House has given me. I have a few ideas to express.

Mr. WICKLIFFE. I do not rise to object to the gentleman from Pennsylvania making his remarks, but I wish to ask the House to permit me to make a motion to strike out the duty on salt, and have the yeas and nays upon it. I want this as a matter of justice to the country at large.

The SPEAKER. The gentleman from Pennsylvania has been granted the privilege of closing debate on the bill, and is entitled to the floor, unless he yield to the gentleman from Kentucky.

Mr. WICKLIFFE. I do not object to that; I am willing to hear the gentleman all day. I only want to have the duty on salt struck out.

Mr. COLFAX. And I would like to have the duty on advertisements struck out.

Mr. STEVENS. We are now about to take final action on this important bill. If it should become a law, it will undoubtedly be a subject of comment among well-meaning people, and be used as an engine of mischief by unprincipled men, who prefer the possession of power to the prosperity of their country. These remarks are not suggested by the conduct of any of the members of this House. I take pleasure in saying that in the Committee of Ways and Means there was the entire absence of all party feeling, and the most cordial desire of every member to promote the public welfare. And I have a strong hope that the same spirit in this House will give this measure a unan-

imous vote; and that no member will shrink from his share of the responsibility. But while such is the patriotic spirit of this body, I cannot be blind to the use which will hereafter be made of it by small politicians. I will therefore say a few words in its defense.

The first question which will suggest itself to every citizen will be, was it necessary? For, if unnecessary, it is wholly indefensible. I will assume that every loyal man admits the necessity of everything required to extinguish this wicked rebellion. To do that, requires armies and navies. To sustain them money is absolutely necessary; for the soldiers of the Republic must not go unpaid, whatever it may cost the civilian. Money can be had only through loans; but loans cannot be had unless, at the same time, means be provided for paying punctually the interest. This nation must never repudiate her debts. This brings us to the direct question, how much must be annually raised to pay such interest? If the war were to end now or within sixty days, we could tell very nearly. I suppose our debt on the 1st day of July next will not be less than $800,000,000. When, some time since, I had occasion to address the House on the Treasury note bill, I stated our daily expenses at $2,000,000. They are now, and have been for some time past, over $3,000,000 a day. It is plain, therefore, that the sum I have stated will be rather below than above our indebtedness at the end of this fiscal year. The interest, at 7.30, will require about sixty millions of dollars annually. How much this will be increased by the necessary sacrifice of our bonds, owing to the unfortunate specie clause in our Treasury note bill, it is hard to conjecture. The ordinary peace expenses of Government will not be less than $70,000,000 + $60,000,000; these together will be $130,000,000, independent of the increase in our pension list. My learned colleague from Vermont estimates the revenue from this bill and from customs at $163,000,000. We have been so little accustomed to national taxation, that our statistics and means of ascertaining the actual product of this bill are very scanty. Any estimates must necessarily be very imperfect. Much will depend on the amount of trade and the prosperity of domestic industry.

I am fearful that my colleague has over-estimated the amount for the first year. But for the second year, when the stock on hand which will escape this tax shall have been consumed, I believe the amount will go considerably above his estimate. But as the amount of interest for the first year will be considerably less than the second year, I have a confident hope that this bill, with our other revenue, will raise at least $15,000,000 beyond the interest and ordinary expenses of Government. If our debt should not be increased beyond $1,200,000,000, and commerce should revive, I believe, in after years, we shall have a surplus of $50,000,000 to apply to the reduction of the debt. This calculation is merely hypothetical, as I cannot foresee the course of the Government in dealing with this rebellion. If they should use the legitimate means in their power, I have no doubt that in ninety days the rebels might be so crippled that our army could safely be reduced to one hundred thousand men, and five sixths of the present expenses be saved. In that case I feel no hesitancy in predicting that not another dollar of taxes need ever be imposed on the people to defray our whole debt. If the Government should further determine, in accordance with the practice of nations, the dictates of wisdom and of justice, to make the property of the rebels pay the expenses of the war which they have so wantonly caused, this tax need never be collected beyond the second year.

But if the Administration should deem it wise to prolong the war, and suffer the loyal citizens to be oppressed, to show mercy to traitors, the people must expect further and heavier burdens. In selecting the objects of taxation, the committee have found it necessary to visit many articles which they would have gladly spared. They have, however, laid no burdens on those who have but small means. They have exempted property and business below the value of $600, so that the poor man's tenement shall not be disturbed by the tax gatherer. For the same reason they have laid no poll tax. They have, no doubt, notwithstanding their best efforts, failed to equalize the burden to the extent which they desired. They have attempted to raise the largest sums from articles of luxury, and from the large profits of wealthy men. But even on these articles the tax is light compared with that of other countries. Take spirits as a sample. You may call it a luxury or a nuisance, as best suits your taste. The excise in England is $2 50 per gallon; here, fifteen cents. Tobacco stands in the same list. Even now, when England has reduced her tariff, her duty on the raw material is seventy-two cents per pound; on manufactured, or cigars, $2 16; on snuff, $1 44; on stems and scraps, seventy-two cents. In this bill, the raw material is free; manufactured, ten cents per pound; cigars, ten cents; smoking, five cents; snuff, eight cents; scraps, nothing. Where we have laid a tax on the domestic article, the committee have adopted the principle of laying compensatory duties on the foreign article when imported. This we deem necessary to retain the home market, and not to discriminate against our own industry.

The income tax has been found very difficult to adjust so as to escape double taxation. But the committee thought it would be manifestly unjust to allow the large money operators and wealthy merchants, whose incomes might reach hundreds of thousands of dollars, to escape from their due proportion of the burden. They hope they have succeeded in excluding from this tax the articles and subjects of gain and profit which are taxed in another form.

The committee have been greatly embarrassed by the Canadian reciprocity treaty. They have been obliged to omit many articles which, with a light tax, would have produced a large revenue. This is but one of many illustrations of the evil of commercial treaties, which are in direct violation of the letter and spirit of the Constitution. The treaty-making power has no more right to regulate commerce than it has to declare war and raise armies and navies.

I have no fear that the loyal people of the free States will complain of any burdens which may be necessary to vindicate the authority of the Union, and establish on a firm basis the principle of self-government and the inalienable rights of man. So long as this money is honestly and economically expended, they will not repine. While the rich and the thrifty will be obliged to contribute largely from the abundance of their means, we have the consolation to know that no burdens have been imposed on the industrious laborer and mechanic; that the food of the poor is untaxed; and that no one will be affected by the provisions of this bill whose living depends solely on his manual labor.

Mr. WICKLIFFE. I now ask leave to move to strike out the duty on salt.

Mr. HICKMAN. I object.

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

Mr. STEVENS moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. LOVEJOY demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered; the question was taken; and it was decided in the affirmative—yeas 125, nays 14; as follows:

YEAS—Messrs. Aldrich, Alley, Arnold, Ashley, Babbitt, Baker, Baxter, Beaman, Biddle, Bingham, Francis P. Blair, Jacob B. Blair, Samuel S. Blair, Blake, William G. Brown, Calvert, Campbell, Chamberlin, Clark, Clements, Cobb, Colfax, Frederick A. Conkling, Roscoe Conkling, Corning, Covode, Cravens, Crittenden, Davis, Dawes, Delano, Delaplaine, Diven, Duell, Dunlap, Dunn, Edgerton, Edwards, Eliot, English, Fessenden, Fisher, Frank, Gooch, Granger, Grider, Gurley, Haight, Hale, Hall, Hanchett, Harding, Harrison, Hickman, Hooper, Horton, Hutchins, Julian, Kelley, Francis W. Kellogg, Killinger, Lansing, Lazear, Leary, Lehman, Loomis, Lovejoy, McKnight, McPherson, Mallory, Menzies, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Nixon, Noble, Noell, Nugen, Odell, Olin, Patton, Perry, Timothy G. Phelps, Pike, Pomeroy, Porter, Potter, Price, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, James S. Rollins, Sargent, Shanks, Sheffield, Shellabarger, Sherman, Sloan, Smith, Spaulding, John B. Steele, William G. Steele, Stevens, Stratton, Benjamin F. Thomas, Francis Thomas, Train, Trowbridge, Van Horn, Van Valkenburgh, Verree, Wadsworth, Wallace, E. P. Walton, Ward, Webster, Wheeler, Albert S. White, Wilson, Windom, Woodruff, Worcester, and Wright—125.

NAYS—Messrs. Allen, Buffinton, Cox, Kerrigan, Knapp, Law, Norton, Pendleton, Richardson, Shiel, Vallandigham, Voorhees, Chilton A. White, and Wickliffe—14.

So the bill was passed.

During the vote,

Mr. WRIGHT stated that his colleague, Mr. BAILEY, had been called home in consequence of sickness in his family.

Mr. WHEELER stated that his colleague, Mr. FRANCHOT, was absent in consequence of the illness of a relative.

Mr. PIKE stated that his colleague, Mr. GOODWIN, was detained at his lodgings by sickness.

Mr. RICHARDSON stated that his colleague, Mr. ROBINSON, had been called home by sickness in his family.

Mr. BROWN, of Virginia, stated that his colleague, Mr. WHALEY, was detained from the House by sickness, but would have voted for the bill, if present.

Mr. WARD stated that his colleague, Mr WOOD, was unavoidably absent, and that he was authorized to state to the House that, if present, he would have voted in the negative.

Mr. POMEROY stated that his colleague, Mr. WALL, had been called home by sickness.

Mr. FRANK stated that his colleague, Mr. ELY, had been called from the city, and had not yet returned.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PACIFIC RAILROAD.

The SPEAKER stated the business next in order to be the consideration of the bill (H. R. No. 364) to aid in constructing a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes, as a special order, and to continue from day to day until disposed of, on which the gentleman from Pennsylvania [Mr. CAMPBELL] was entitled to the floor.

CONTINGENT FUND OF TREASURY DEPARTMENT.

Mr. STEVENS asked and obtained unanimous consent to report from the Committe of Ways and Means a bill making appropriations to reimburse the contingent fund of the office of the Secretary of the Treasury, including the compensation of additional clerks who may be employed, according to the exigencies of the public service, and for temporary clerks, for the current fiscal year and for the year ending June 30, 1863, which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

CAPITOL EXTENSION SUPERVISION.

Mr. TRAIN. I ask unanimous consent to report from the Committee on Public Buildings and Grounds, and to have put upon its passage, Senate joint resolution No. 50, transferring the supervision of the Capitol extension and the erection of the new dome to the Department of the Interior.

Mr. McPHERSON. I object.

PACIFIC RAILROAD—AGAIN

Mr. CAMPBELL. I am directed by the select committee on the Pacific railroad to report a substitute for the bill before the House. It makes very unimportant changes in the bill as it has been printed, with the exception that it gives direct corporate capacity. I will explain it when the bill is read.

The Clerk proceeded to read the bill.

Mr. CAMPBELL. I move that the further reading of the bill be dispensed with. It is already printed and on the tables of members.

Mr. STEVENS. I hope the bill will be read.

The Clerk proceeded with the reading of the bill.

Mr. STEVENS. I want to know whether this bill has not to go to the Committee of the Whole on the state of the Union?

The SPEAKER. That will be seen after the bill is read.

Mr. STEVENS. There is no necessity for reading it if the fact is so.

The SPEAKER. The Chair does not know what is in the bill.

Mr. STEVENS. There is an appropriation of United States bonds.

Mr. CAMPBELL. I hope the reading of the bill will not be interrupted at this time.

Mr. STEVENS. I have a right to raise the question of order.

Mr. CAMPBELL. Certainly, at the proper time.

Mr. STEVENS. This is the proper time.

The SPEAKER. Let the bill be read.

Mr. STEVENS. Well, let it be read.

The SPEAKER. The gentleman will not lose his right to the point of order after the bill shall have been read.

The Clerk resumed and concluded the reading of the bill.

Mr. STEVENS. I now raise the point of order that this bill ought to go to the Committee of the Whole on the state of the Union. I remember a similar case where that was decided sometime ago.

Mr. CAMPBELL. I hope my colleague will withdraw that point of order. The Curtis bill, which was almost identical with this, was considered by the House alone, with due consideration, and was adopted by the House. I do not think that this can be called an appropriation bill, because, before any money can be appropriated to pay these bonds, we would have to go to the Committee of Ways and Means, of which my colleague [Mr. STEVENS] is chief, and ask that committee to report a bill making an appropriation for the purpose.

The SPEAKER. The question whether this bill makes an appropriation or not, depends on the construction of the law. The Chair will have the law read, and the section of this bill which is supposed to make an appropriation.

The Clerk read the fifth section of the bill, as follows:

SEC. 5. *And be it further enacted*, That for the purposes herein mentioned, the Secretary of the Treasury shall, upon the certificate in writing of the said commissioners of the completion of any forty consecutive miles of said railroad and telegraph, in accordance with the provisions of this act, issue to said company bonds of the United States of $1,000 each, payable in thirty years after date, bearing six per cent. per annum interest, (said interest payable semi-annually,) to the amount of sixteen of said bonds per mile for such section of forty miles; and to secure the repayment to the United States, as hereinafter provided, of the amount of said bonds so issued and delivered to said company, said company shall duly execute in favor of the United States a good and sufficient mortgage thereon, in accordance with the laws of the State or Territory in which the completed section of said railroad for which said bonds are issued shall lie, and deliver the same to the Secretary of the Interior: *Provided*, That the mortgage so executed and delivered to the United States shall be a first mortgage, and the section of the road upon which it is executed shall be, at the date of its delivery, free from all liens or other incumbrances adverse to the United States.

The SPEAKER. If the holders of these bonds could present them at the Treasury and receive money on them without the further action or order of Congress, the bill would make an appropriation of money and must receive its first consideration in the Committee of the Whole. For the purpose of ascertaining that fact, the Chair will direct the reading of the ninth section of the act of March 3, 1853.

The Clerk read, as follows:

SEC. 9. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized to purchase at the current market price, any of the outstanding stocks of the United States as he may think most advisable, from any surplus funds in the Treasury: *Provided*, That the balance in the Treasury shall not at any time be reduced below $6,000,000.

The SPEAKER. The Chair thinks the holders of these bonds under that law of Congress, could present them at the Treasury and if there was a surplus on hand of more than the amount specified, could receive money on them. He therefore decides that the point of order is well taken, and that the bill must have its first consideration in the Committee of the Whole.

Mr. CAMPBELL. If the House goes into committee now, will the bill be a special order there?

The SPEAKER. It must be the first bill for consideration in committee.

Mr. CAMPBELL. And must be considered as a special order there?

The SPEAKER. The bill is made a special order generally, as well in committee as in the House, as the Chair understands. The Chair directs that the bill be referred to the Committee of the Whole on the state of the Union.

Mr. CAMPBELL. I move to suspend the rules, and go into the Committee of the Whole on the state of the Union.

Mr. LOVEJOY. I ask the gentleman, before the vote is taken on that motion, to permit me to submit an amendment to the bill for the purpose of having it printed.

Mr. CAMPBELL. The gentleman will have the opportunity, I presume, to present his amendment in the committee.

Mr. LOVEJOY. I desire to offer it now for the purpose of having it printed.

Mr. CAMPBELL. I do not object to the gentleman having his amendment printed.

The SPEAKER. Does the Chair understand the gentleman from Pennsylvania to consent that the amendment of the gentleman from Illinois may be printed merely, or that it may also be considered as a pending amendment to the bill in committee?

Mr. CAMPBELL. What I said was, that I did not object to the amendment the gentleman proposes being printed. I presume he will have an opportunity of offering it in committee.

Mr. LOVEJOY. I hope the gentleman will not object to having the amendment offered to the bill, so that it may be considered as pending.

Mr. CAMPBELL. Very well; I will not object.

There being no objection, Mr. LOVEJOY submitted an amendment, in the nature of a substitute, to the bill; which was ordered to be printed.

ORDER TO PRINT.

Mr. KELLEY. I ask the unanimous consent of the House to move that the bill yesterday reported by the gentleman from New York, [Mr. ROSCOE CONKLING,] relative to a general bankrupt law, be printed.

There being no objection, the bill was ordered to be printed.

PACIFIC RAILROAD—AGAIN.

Mr. CAMPBELL. I now ask for a vote on my motion to go into committee.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and proceeded to the consideration, as a special order, of the bill of the House (No. 364) to aid in constructing a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes.

On motion of Mr. CAMPBELL, by unanimous consent, the first reading of the bill was dispensed with.

Mr. CAMPBELL. Mr. Chairman, a railroad and telegraph line, which shall connect the Atlantic and middle States with the Pacific coast, has become a military and commercial necessity. By all the rules that govern prudent, just, and enterprising nations, this great work should be prosecuted at once and with vigor.

It is surprising that a nation with vast resources and enterprising characteristics should not have completed a national project of such importance long before this. The tardiness that has marked the development of many of the nations of the Old World seems not to have presided at the birth and progress of the United States of America. Legislation adapted to our necessities, to our growth and progress, is the only course left for us to pursue if we would hold our place among the nations of the earth. And yet, in this regard, in connecting the States, Territories, trade, and people of the Pacific coast with the States, commerce, and people of the Atlantic coast, we have resisted the pressure of progress and the appealing necessities of the times.

The people in conventions assembled, of all parties, have resolved this railroad shall be constructed. Executives have called attention to the subject until the stereotyped item has no longer attracted public attention. Secretaries have urged and recommended in vain. Explorations and surveys have been made, and reports, embraced in huge volumes, incumber our libraries, and convert Congress into a publishing house, while committees of both Houses have investigated and reported, time and again, on the utility and practicability of the work in question. Nay, more than this, in a recent eminent peril of collision with a naval and commercial rival—one that bears us no love—we ran the risk of losing, at least for a time, our golden possessions on the Pacific for want of proper land transportation, and shall we still pause, while the nation, sensible of the peril and the escape, call loudly on us to organize and push on this, the greatest enterprise of the age?

I have referred to the tardiness that has marked the development of material power in the Old World, and yet, in the instance of granting Government aid to public enterprises of the character of the one before us, they set us an example well worthy of imitation. The gentleman from California, [Mr. SARGENT,] in a very able speech made during this session, has abundantly shown that England has guarantied governmental aid to no less than seven railroad companies in British India, comprising some five thousand miles of road, at a contemplated cost of $200,000,000. In other words, to induce capitalists to embark in the construction of these roads, Government guarantied a certain per cent. profit on the entire cost.

The Russian Government has adopted the same policy in regard to the construction of her grand system of national highways, while our neighbors on the Canadian frontier, with Government assistance, are pushing on their Grand Trunk railway by the lakes and forests of the Northwest, towards the inexhaustible minerals, the fine harbors, the increasing traffic of Puget Sound and Vancouver's Island, with their proximity to the fisheries of the Pacific, and the trade of the East.

Sir, we cannot afford to be idle. Nations are never stationary. They advance or recede. We cannot remain inactive in the midst of national activity, without the loss of trade, of commerce, and power. A stream which is dammed up in one direction, will force a channel in a new direction. The commerce which we make no provision for in its natural course, will find other outlets and enrich other people. If we would protect our vast possessions and secure our proportion of the trade of the world, we must be enterprising, bold, vigorous, as well as sagacious. Steam applied to transportation by land and water has become almost universal among civilized nations. The only way to secure economy, celerity of movement, and certainty, is to employ steam. This new element of power has been brought into requisition in all the departments of life. To dispense with it now would be to return to the dark ages. Government will derive benefit from introducing it wherever it can be done, in the military, postal, and other operations of the nation. During the existing rebellion we have been enabled, by means of steamboats and railroads, to concentrate more decisive action on any given point in three months, than otherwise could have been done within one year; and this, too, at one fourth the cost.

On the ground of economy, which all admit to be of the first moment in the present position of public affairs, the construction of a Pacific railroad will save the Government annually a large sum, which truth I now propose to demonstrate.

General Samuel R. Curtis, in 1860, then the very able chairman of the House committee on the Pacific railroad, estimated the annual service required by Government, and which could be better performed by a railway to the Pacific, at $5,000,000 for Army and Navy transportation, and $1,500,000 for postal service, amounting together to $6,500,000. But as this estimate was made from approximation, and not from actual expenditures, as per returns from the various Departments, the real figures show, so far as we have been able to procure them, that it was under the actual outlay. The following table will show the cost to the United States, for the transportation of troops and supplies between the Mississippi river and the Pacific coast, per annum, for the past five years, beginning and ending with the fiscal year. It will be observed that it is in reply to a resolution of inquiry addressed to the Secretary of War by the House. (See House Executive Document, No. 80.)

WAR DEPARTMENT,
WASHINGTON CITY, D. C., *March* 18, 1862.

SIR: In compliance with the resolution of the House of Representatives of the 19th instant, I have the honor to transmit herewith a communication of the Quartermaster General, covering a report "showing the cost to the Government for the transportation, per annum, for the last five years, by steam or otherwise, for troops and supplies, between the Mississippi river and the Pacific coast, as well as intermediate points."

Very respectfully, your obedient servant,

EDWIN M. STANTON,
Secretary of War.

HON. GALUSHA A. GROW,
Speaker of the House of Representatives.

Fiscal year 1857: *commencing July* 1, 1856, *and ending June* 30, 1857.

Clothing		$47,069 33
Subsistence		483,977 24
Ordnance		46,810 48
Troops and other supplies		1,523,510 26
		2,101,367 31

Fiscal year 1858: *commencing July* 1, 1857, *and ending June* 30, 1858.

Clothing	$49,051 41	
Subsistence	728,234 14	
Ordnance	33,456 47	
Troops and other supplies	3,151,106 38	
		3,961,848 40

Fiscal year 1859: *commencing July* 1, 1858, *and ending June* 30, 1859.

Clothing	$125.106 59	
Subsistence	1,682.719 49	
Ordnance	47.851 44	
Troops and other supplies	2,463,873 43	
		4,319,550 95

Fiscal year 1860: *from July* 1, 1859, *to June* 30, 1860.

Clothing	$94.397 09	
Subsistence	556.954 77	
Ordnance	29.651 47	
Troops and other supplies	1,479,584 94	
		2,160,588 27

Fiscal year 1861: *from July* 1, 1860, *to June* 30, 1861.

Clothing	$27,695.32	
Subsistence	423.603 36	
Ordnance	16.624 78	
Troops and other supplies	1,035,875 63	
		1,503,799 09
		$14,047,154 02

Showing an aggregate of $14,047,154 02 for five years, or $2,809,430 80 per annum. By reference to the note appended to the return it will be found that the Secretary of War adds:

"Large expenditures appertaining to this statement have been made at New York for California, at New Orleans for Texas, and other points in the East for Utah and New Mexico, the exact amount of which cannot be ascertained except by reference to the vouchers in the office of the Third Auditor of the Treasury, and which cannot be done without causing great delay."

The "large expenditures" referred to in this note, and which are not included in the return, may be explained by the fact that the freight contracted to be delivered by Russell, Majors & Co. to certain posts in Utah, Nebraska, Kansas, and New Mexico, is not included in quartermaster's supplies, and the amount, as the honorable Secretary informs us, could not be obtained "without causing great delay." But by referring to the parties themselves, or those best acquainted with the figures, we have, in round numbers, the following results:

Gross amount paid contractors for freight from the Missouri river to the forts on the plains and in Utah and New Mexico, as obtained from a member of the firm of Russell, Majors & Waddell, who were the contractors for 1858, 1859, and 1860: 1858, $4,000,000; 1859, $3,000,000; 1860, $1,500,000; 1861, not ascertained; 1862, estimate at least six millions.

The amount for 1858 was larger than in 1859 and 1860 because of the Utah war, some five thousand men being then in the field. The estimate for 1862 is large because of the troops now employed in New Mexico being double the number of those in Utah in 1858.

The foregoing estimates do not include the cost of conveying troops, tents, quartermaster's supplies, &c. These are transported by Government through its quartermasters, and not by contractors, but at an expense nearly, if not quite, equal the sum paid contractors. Government pays at the rate of $1 30 per one hundred pounds for one hundred miles, or say, twenty-six cents per ton per mile, from the Missouri river to the points indicated, two thirds of which could be carried on a Pacific railroad, on the route contemplated, at one tenth the present cost.

It may safely be concluded from this exhibit that the expenditures not embraced in the Secretary's statement are quite equal to, if they do not very much exceed, those contained within it, or $3,000,000 per annum, making *army* transportation to the Pacific and intermediate points cost per annum $5,809,430 80. So much for *army* transportation. The postal service may be placed at General Curtis's estimate of $1,500,000 per annum.

The following table will show the average cost of transportation for naval supplies from the eastern and Gulf ports of the United States to the Pacific coast:

NAVY DEPARTMENT, *March* 7, 1862.

SIR: In compliance with the resolution of the House of Representatives of the 19th ultimo, I have the honor to furnish herewith a "statement showing the average cost of transportation for naval supplies, munitions of war, &c., for the last five years from the eastern and Gulf ports of the United States to the Pacific coast."

I am, very respectfully, your obedient servant,

GIDEON WELLES.

Hon. G. A. GROW, *Speaker of the House of Representatives.*

Recapitulation.

NAVY DEPARTMENT, *March* 7, 1862.

Bureau of Yards and Docks	$2,063 87
Bureau of Construction, &c	198,927 52
Bureau of Ordnance, &c	7,283 70
Bureau of Provisions and Clothing	33,221 15
Bureau of Medicine and Surgery	259 20
Total for last five years	$241,755 44
Average per year	48,351 08

From this statement it would appear that such cost amounts per annum to $48,351 08; thus making in a time of peace, and under ordinary circumstances, an annual expenditure for Pacific supplies and postal service of $7,357 81.88.

The bill before us appropriates in bonds, without the Oregon branch, $60,880,000; with the Oregon branch, $64,880,000. The following schedule of appropriations will show the contemplated expenditure in detail:

	Miles.	*Per mile.*	*Amount.*
From Sacramento to western base of Sierra Nevada	25	$16,000	$400,000
From western base of Sierra Nevada	150	48,000	7,200,000
Next 890 miles through Great Basin	890	32,000	28,480,000
Next 150 miles through Rocky mountains	150	48,000	7,200,000
Next 200 miles to Kansas line,	200	16,000	3,200,000
Next 450 miles to Missouri line,	450	16,000	7,200,000
Or a total of	1,865		$53,680,000

If to this is added the amount appropriated for eastern branches, this will be increased, as follows:

	Miles.	*Per mile.*	*Amount.*
Leavenworth branch	100	$16,000	$1,600,000
St. Joseph branch	100	16,000	1,600,000
Iowa branch	250	16,000	4,000,000
			$7,200,000
Or a total of			$60,880,000

If to this is added a branch to Oregon, or say six hundred miles, at $8,000—$4,800,000—the entire amount of bonds appropriated by this bill will be $64,880,000. Total number of miles, 2,915.

The amount to several companies on main line will be as follows:

To the Kansas company, with connections	$7,200,000
To the Central company	31,200,000
To the Nevada company	9,360,000
To the California company	5,920,000
	$53,680,000

The bonds are to be issued at thirty years, and to bear interest at the rate of six per cent. per annum. When all the bonds shall have been issued (which will necessarily be at the completion of the road) the aggregate annual interest will amount to $3,892,080. I have shown that the Army and Navy transportation, and postal service to the Pacific, cost the Government annually $7,357,781. Take, then, the annual interest from the annual expenditure, and we have left a sinking fund of $3,465,701, *a sum more than sufficient to extinguish the bonds before they become due*, or what is the same thing in effect, saved to the Government by cheapening expenditure in that direction.

We have, at present, no means of ascertaining how much the rebellion has added to the cost of conveying supplies to that part of the country which could be reached by the railway connection indicated, but that it has increased the expenditure greatly no one can doubt. Thanks to the loyal people of California, Oregon, and Washington, we have not been called upon to quell rebellion on the shores of the Pacific. Could we have held the Pacific States against any general rising of the people in the absence of railway facilities? We might with immense expenditure; nay, could; for I doubt not the power of this Government to sustain itself against everything, but a railway to the Pacific would have aided us immensely. If England had committed the folly of giving material aid to the rebellion, as she has given moral aid, our route by the Isthmus as well as water transit might have been cut off for a time, and then the transportation of armies, ordnance, and Army supplies through the passes of the Rocky mountains and the snows of the Sierras would have been an undertaking for which history furnishes no parallel. We have passed that crisis; how soon we may reach a second one I cannot tell, but it will be our folly, nay madness, if we ever incur the same great responsibility.

Without detaining the House on the question of the propriety of a Pacific railroad as a military want; as a commercial necessity for the requirements of internal traffic and foreign commerce; to secure the trade of the East as well as of the West; to strengthen our great nation by bringing us nearer together, and making us more one people; leaving all this for the present, I will proceed at once to explain, in practical detail, the bill before the House, which I had the honor to report from the special committee on the Pacific railroad. The bill was reported with entire unanimity, as gentlemen will observe there has not been any other measure reported from that committee.

The committee have given the subject intrusted to them that careful consideration which its importance demanded. Taking the bill reported by General S. R. Curtis, from the Pacific railroad committee, in the first session of the Thirty-Sixth Congress, which was twice agreed upon in committee, and met with the sanction of this House, when all the States were represented, and after full discussion, we have made such changes as experience has suggested, and which will, in the view of the committee, greatly improve the bill.

While the bill preserves the middle route, as it is generally called, repudiating both the southern and extreme northern routes, it grants more land and fewer bonds for the construction of the main line, without the branches; and while it recognizes two eastern connections, it authorizes certain existing railroad companies, who have competent authority conferred upon them by State legislation, to construct these branch roads, with the coöperation of the corporators named in the bill, to whom and their associates direct corporate capacity is given.

To be more explicit, the bill contemplates two eastern branches: one from the western boundary of Missouri, at Kansas City, on the Missouri river; the other from a point in Iowa, not further east than a line drawn due north from Kansas City; the two branches are to converge and form one main line within three hundred miles west from the Missouri river. These two branches are to be constructed as follows: the Leavenworth, Pawnee, and Western Railroad Company of Kansas are authorized by the bill to construct the road and telegraph from Kansas City to the western boundary of Kansas, or to the one hundred and second meridian of longitude, (whether within or without the State of Kansas,) according to the best and most practicable route. This company has been organized by the State of Kansas, and is said to be a subsisting and responsible company. The same company are also authorized to connect their Leavenworth branch with the main branch. The Hannibal and St. Joseph Railroad Company of Missouri, a road running from Hannibal, on the Mississippi river, through the State of Missouri, to St. Joseph, on the Missouri river, a road completed and in good running order; and the Pacific railroad of Missouri, from St. Louis, by Jefferson City, to Kansas City, are authorized to connect with and aid in the construction of the Missouri branch of the Union Pacific railroad. In short, the three companies named are empowered, on equal terms, to construct one of the two eastern branches of the great work contemplated by the bill before us.

The other eastern branch starting from "a point in the State of Iowa, not further east than a line extending due north from Kansas City," must unite within a distance of three hundred miles with the main stem. Four existing companies, or any or either of them, are empowered to construct this Iowa branch. These companies are the Dubuque and Sioux City Railroad Company, the Cedar Rapids and Missouri Railroad, the Mississippi and Missouri, and the Burlington and Missouri Railroad Companies, all of them believed to be valid and existing companies, with roads projected and in some instances in part completed. It will be observed that the roads mentioned in Iowa and

Missouri connect with all the great lines running eastwardly to the cities of the interior and of the Atlantic, including the lines to Chicago and Milwaukee, thence by water and rail to the great cities of New York and Boston; with the Great Western railroad to Toledo and Cleveland, with the Terre Haute, Alton and St. Louis to Pittsburg and Philadelphia, and with the Ohio and Mississippi railroad to Marietta, Wheeling, Baltimore, and Washington. Thus the whole eastern network of roads, like the tributaries of a stream, are gathered up, converged, and in a simple and natural way made to form one grand thoroughfare to the Pacific.

In turning to the practicability of the route adopted by the committee, it may be observed, in passing, that the country from the Missouri river to the one hundred and second meridian of longitude presents no difficulty to the construction of a railroad, as the surface is generally level, with water in abundance. Timber is scarce, however, and a supply of this can probably only be obtained from the mountains beyond, and it may be rafted down the Platte. But of this it is proper to state there still exists a difference among explorers.

Starting then from the one hundred and second degree of longitude west from Greenwich, the bill provides in the eighth section that the line of said railroad and telegraph shall commence as therein provided, &c., and thence "running westwardly *upon the most direct, central, and practicable route* through the Territories of the United States to the eastern boundary of the Territory of Nevada, there to meet and connect with the Nevada railroad line across the Territory of Nevada." Those interested in the construction of the road can choose the most direct, central, and practicable route between the points indicated. Either one of two routes contemplated would satisfy this description—the one west from Fort Riley to Denver City, through the Rocky mountains, and uniting with the route through the South Pass in the Wahsatch mountains, at a point about one hundred miles southeast from Salt Lake City, as appears from the diagram before me. Or the other, to which greater attention has been called, better known, of more easy grades, and less cost of construction, and surveyed by Frémont, Stansbury, Beckwith, and others, to wit, along the north branch of the Platte river, by the South Pass. The latter route is the one to which I invite the attention of the committee for a few moments. The distance from the mouth of Kansas river to the South Pass is nine hundred and fifty miles. For the first hundred miles of this distance, namely, to Kansas ford, the average grade is one foot and one tenth per mile; while from the ford to the Platte river, near the ninety-ninth degree of longitude, a distance of some two hundred and twenty-eight miles, the grade does not average over four feet and eight tenths per mile. To Fort Laramie, a further distance of three hundred and two miles, the average grade is eight feet per mile, while to the mouth of the Sweetwater, some two hundred miles beyond Laramie, on the route indicated, the grade will not exceed four and one half feet per mile, with the exception of the last ten miles, on which the grade has, from partial levels, been set down at one hundred and twenty-three feet to the mile; but this can be avoided or very much reduced. Timber suitable for railroad purposes is abundant on the Sweetwater.

One hundred and twenty miles further will bring us to the South Pass, with average grades of fourteen feet and seven tenths per mile, with the exception of the last ten miles, on which the grades are twenty-two feet six inches to the mile. From the South Pass, down the valley of Green river, to Fort Bridger, for a distance of ninety-five miles, the average grade is thirteen feet to the mile, and while there are some variations of grade there are no more than ordinary difficulties. From the fort last named to Great Salt Lake City, a distance of one hundred and fifty-eight miles, the ascending and descending grades do not exceed an average of forty-five feet per mile, but for the last ten miles of this distance, down the valley of White Clay creek, the grade is eighty-four feet to the mile, while for thirty miles of the distance, down the valley of the Jordan, the grade is but three feet and one half per mile.

From Great Salt Lake City to the pass in the East Humboldt mountains, at the foot of the mountains, near the head of Franklin river, a distance of two hundred and fourteen miles, the average grade is something over twenty feet to the mile, while for a distance of twenty miles, ten ascending and ten descending the pass, the grade is fifty-eight feet to the mile up, and eighty-nine feet down the pass. From the pass to the Humboldt river, at the junction of the main fork, a distance of thirty-four miles, down the Humboldt river in Nevada, the average grade is thirty feet to the mile; while from the junction to Lassen's Meadows, about one hundred and forty-two miles, the grade is but four feet to the mile, and for one hundred and four miles further to the big bend of Truckee river the grades will not exceed ten feet to the mile. From the big bend of the Truckee to the eastern base of the Sierra Nevada, a distance of fifty-five miles, the grades do not exceed an average of forty feet to the mile, when a distance of twelve miles, with an average of one hundred and five feet to the mile, will bring us to the summit of the Sierra Nevada. Eighty-two miles, with a descending grade averaging one hundred and five feet to the mile, the maximum of which will not exceed that figure, will bring us to the western base of the Sierra; while twenty-five miles down the valley of the Sacramento, with grades of six feet to the mile, will land us at Sacramento, on the river by that name, with twelve feet of water in the channel, and capable all the year round of floating steamers of two hundred tons burden between that city and San Francisco, one hundred and twenty miles distant.

The whole distance from the mouth of Kansas river to Sacramento City, is eighteen hundred and sixty-five miles; and, in the judgment of your committee, this route possesses many advantages over all other routes, being the shortest, most direct, and practicable, as well as the one that will accommodate the greatest amount of trade, and reach the most dense population.

The Legislature of Nevada have incorporated and authorized a company in that Territory, called the Nevada Railroad Company, to construct a railway and telegraph line through the same, the entire distance being two hundred and seventy-five miles. By the ninth section of the bill before us the last-named company are authorized to construct a railroad and telegraph line, in conformity with their charter, across said Territory, on the same terms and conditions in all respects as are provided in the act for the construction of the main line. The Central Pacific Railroad Company, of California, a responsible company, with a running road from Sacramento to Lincoln, a distance of twenty-five miles, are authorized in the bill under consideration to construct a railroad and telegraph line from the Pacific coast at or near San Francisco, or the navigable waters of the Sacramento river, to the eastern boundary of California, on the same terms and conditions as are provided in the case of the other companies. For further information in relation to the California road, as well as for detailed information on the subject of that road, and its survey to the eastern boundary of the State, I would refer to the able report of T. D. Judah, Esq., chief engineer of the work, made in 1861.

It will also be observed that the ninth section provides that the States of Oregon and California may hereafter incorporate companies who shall be authorized to construct within the limits of their respective States a branch railroad of the Central Pacific railroad, by the way of Rogue river, Umpqua, and Willamette valleys, to a point on the Columbia river at or near Portland. The whole distance of this branch will be six hundred and fifty miles; the Government aid is not to exceed $8,000, in bonds, per mile.

The average cost of western roads is about $40,000 per mile—some much less. If we add $20,000 a mile on the Pacific road for extra grading, bridging mountain streams, and procuring ties, on a distance of eighteen hundred and sixty-five miles on the main line we have an estimated cost of $111,900,000, a value quite sufficient to secure Government in the contemplated issue of bonds.

The bonds are to be issued from time to time whenever commissioners appointed by the President of the United States shall certify that forty consecutive miles generally, and twenty miles in more difficult places, of any portion of said railroad and telegraph line, are ready, in all respects, for service, with all the necessary equipments and furniture, with American rails of the best quality; and the number of bonds on certain distances on the line is regulated by the difficulties and cost of construction, as fully explained in section eleven of the bill; the most mountainous and difficult parts receiving the greatest amount of Government assistance.

The grant of lands embraced in section third of this bill is carefully guarded from abuse. Over a great part of the route the land grant is merely nominal, and where it is not so the Government will derive a benefit from the increased value.

The interests of Government are carefully protected in the bill. The issue and delivery of the bonds to the company *ipso facto* creates a first lien or mortgage in favor of the United States; and in case of refusal on the part of the company to pay the bonds when due, according to the provisions of the bill, the Secretary of the Treasury has the right to take possession of the road and franchises for the use of the Government. The bill further reserves mineral lands, and provides that all mails, troops, supplies, and public stores shall be transported for Government at reasonable rates, not to exceed the amounts paid by private persons for the same kind of service; the Government at all times to have a preference in the use of the road, and a portion of the net earnings are annually set apart for the payment of the bonds and interest. And generally it is provided that Congress may at any time, having due regard to the rights of the companies embraced in the bill, add to, alter, or amend the charter.

I now, gentlemen, submit this bill to your careful consideration—a consideration to which it is entitled in view of its great importance. This grand undertaking will do more to unite us as one people, will accomplish more by extending civilization over the continent—for commerce and civilization go hand in hand—than any other enterprise of modern times; civilization of that high type which shall spread the cultivated valley, the peaceful village, the church, the school-house, and thronging cities, through the mighty solitudes of the West; while the gold and grain of California, and an intermediate continent, flow in commingled tide to the marts of the Atlantic.

Mr. PHELPS, of California, obtained the floor, but yielded to

Mr. COBB, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the Pacific railroad bill, and had come to no resolution thereon.

COMMITTEE ON EMANCIPATION.

Mr. BLAIR, of Missouri. I move that the special committee on the subject of emancipation, authorized yesterday on motion of the gentleman from Indiana, be increased to eleven members.

Mr. WHITE, of Indiana. I would suggest thirteen.

Mr. WADSWORTH. I object.

Mr. BLAIR, of Missouri. Can a single objection defeat the motion?

The SPEAKER. The motion is only in order by unanimous consent at this time.

POST ROUTE BILL.

Mr. COLFAX, from the Committee on the Post Office and Post Roads, by unanimous consent, reported a bill to establish certain post routes; which was read a first and second time.

Mr. COLFAX. I will state that there are no overland routes to the Pacific in the bill, and no routes in reference to which there is any controversy. I will also state that the bill contains no general legislation except a single provision in the second section, which is recommended by the Postmaster General.

Mr. WHITE, of Indiana. I will ask the gentleman whether this bill is not to be considered in the Committee of the Whole on the state of the Union.

Mr. COLFAX. That has never been the practice in reference to these bills.

Mr. WHITE, of Indiana. I have two or three comparatively trifling amendments which I desire to move to the bill.

Mr. COLFAX. The gentleman can have his amendments inserted in the Senate. I gave notice to the House some two weeks since that it was

the intention of the committee to report the bill within a few days. To accommodate members, we have kept the bill open until the very last moment. Senators are anxious to have the bill for the purpose of inserting such amendments as they have to propose; and I hope, therefore, the House will pass it without delay. There is, as I have said, no general legislation in the bill except a single provision in the second section, authorizing the Postmaster General to change the termini of existing mail routes connecting with railroads whenever the postal service can thereby be improved. This provision is recommended by the Postmaster General, and I presume can give rise to no objection. I move the previous question on the engrossment of the bill.

The previous question was seconded, and the main question ordered to be put.

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

Mr. COLFAX moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CORRECTION.

Mr. WORCESTER. I find that I am recorded on the Journal as having voted in the negative on the proposition to tax cotton. I intended to vote in the affirmative, and ask that my vote may be so recorded.

There being no objection, the vote of Mr. WORCESTER was changed from the negative to the affirmative.

MILITARY DEPARTMENTS.

Mr. DUNN. I ask leave to report back from the Committee on Military Affairs a joint resolution (H. R. No. 60) extending the provisions of a certain act to all the military departments of the United States.

The joint resolution was read. It directs that the act to secure to the officers and men actually employed in the northwestern department, or department of Missouri, their pay, pension, and bounty, approved March 25, 1862, shall be extended and made applicable to the officers and men employed in any other military department of the United States.

There being no objection, the joint resolution was reported to the House.

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

Mr. THOMAS, of Massachusetts. I wish to ask of the gentleman from Indiana [Mr. DUNN] how many millions of dollars this joint resolution appropriates?

Mr. DUNN. I do not know how many millions it appropriates; but I do know that it does not appropriate one cent more than is justly due from our Government. It is to extend the provisions of an act in regard to the western or Missouri military department to all other military departments of the United States. The act is as follows:

An act to secure to the officers and men actually employed in the western department, or department of Missouri, their pay, bounty, and pension.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and required to allow and pay to the officers, non-commissioned officers, musicians, and privates who have been heretofore actually employed in the military service of the United States, whether mustered into actual service or not, where their services were accepted and actually employed by the generals who have been in command of the department of the West, or the department of the Missouri, the pay and bounty as in cases of regular enlistment.

SEC. 2. *And be it further enacted*, That the officers, non-commissioned officers, musicians, and privates so employed who may have been wounded or incapacitated for service, shall be entitled to and receive the pension allowed for such disability: *Provided*, That the length and character of their enlistment and service be such as to entitle them under existing laws to such pension.

SEC. 3. *And be it further enacted*, That the heirs of those killed in battle, or of those who may have died from wounds received while so in service, shall be entitled to receive the bounty and pay to which they would have been entitled had they been regularly mustered into service: *Provided*, That the bounty and pay referred to in this act shall not be payable unless their term of enlistment and service be of such duration as to entitle them to receive the same, according to existing laws.

Approved March 25, 1862.

In other departments than that of Missouri, troops have been accepted by the generals, and put upon most important duty, and have rendered essential service to the Government before they were mustered into the United States service. In many cases the emergency has been too great to admit of delay. There was no time to send for a United States officer and go through the usual mustering in process. The danger was imminent, and our volunteers gallantly met the danger, trusting their Government would do them or their families justice. Many have fallen upon the field of battle. The object of this joint resolution is simply to entitle such soldiers and officers, or, in case of their decease, their families, to the same rights they would have enjoyed if the soldiers and officers had been enlisted and mustered into the United States service.

Mr. BLAIR, of Missouri. I will say to the gentleman from Massachusetts that the bill only applies to men who have been actually employed in the field, and I presume the gentleman will not object to paying men who have been actually in the field in service, whether they had been mustered in or not.

Mr. THOMAS, of Massachusetts. I do not object to the bill.

COLLECTION DISTRICT IN CALIFORNIA.

Mr. PHELPS, of California, by unanimous consent, presented the resolutions of the Legislature of the State of California in relation to a new collection district in the northwestern part of said State; which were referred to the Committee on Commerce, and ordered to be printed.

EQUITY AND ADMIRALTY TRIALS.

Mr. THOMAS, of Massachusetts, by unanimous consent, from the Committee on the Judiciary, reported a bill in relation to the competency of witnesses in trials in equity and admiralty; which was read a first and second time, ordered to be printed, and then recommitted.

POLYGAMY.

Mr. MORRILL, of Vermont, by unanimous consent, introduced a bill to punish and prevent the practice of polygamy in the Territories of the United States, and for other purposes, and to disapprove and annul certain acts of the Legislative Assembly of the Territory of Utah; which was read a first and second time, and referred to the Committee on Territories.

POST ROADS.

Mr. BLAKE, from the Committee on the Post Office and Post Roads, reported a bill to establish certain post roads; which was read a first and second time, ordered to be printed, and then recommitted.

And then, on motion of Mr. WRIGHT, (at ten minutes to four o'clock, p. m.,) the House adjourned.

IN SENATE.

WEDNESDAY, *April* 9, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

GREAT VICTORY IN THE WEST.

Mr. BROWNING. I ask permission of the Senate to read a telegraphic dispatch received this morning from the theater of operations of our army in Tennessee:

PITTSBURG, TENNESSEE, *via* FORT HENRY, *April* 9—3.20, a. m.

The bloodiest battle of modern times just closed, resulting in complete rout of the enemy, who attacked us Sunday morning. Battle lasted until Monday, 4.35, p. m., when the enemy commenced their retreat, and are still flying towards Corinth, pursued by large force of our cavalry. Slaughter on both sides immense. Lost in killed, wounded, and missing from eighteen to twenty thousand; that of the enemy is estimated from thirty-five to forty thousand. I give you the best account from observation, having passed through the storm of action for the two days it raged. The fight was brought on by a body of three hundred of the twenty-fifth Missouri regiment of General Prentiss attacking advanced guard of rebels, supposed to be pickets of enemy in front of the camp. Rebels immediately advanced on General Prentiss. Our force soon formed into line. General Hurlbut's division was thrown forward to support the center, when a desperate conflict ensued. At five, p. m., the rebels forced our left wing back so as to occupy full two thirds of our camp, and were fighting their way forward with desperate courage in their effort to drive us into the river, and at the same time heavily engaged our right. General Grant and staff, who had been recklessly riding our lines the entire day amid a storm of bullets, now rode from right to left inciting our men to stand firm until reinforcements could cross the river. The gunboats Lexington and Tyler, which lay a short distance off, kept raining shell on the rebel forces. Thus the contest raged till night. During night Major General Wallace arrived and took position on the right, and Major General Buell's forces from the opposite side and Savannah now being conveyed to battle ground. The entire right of General Nelson's division was ordered to form on the right, and the forces under General Crittenden were ordered to his support early in the morning.

Second day's battle.—The battle of the second day raged with various successes and repulses until five, p. m., when the whole rebel army was in full retreat to Corinth, with our cavalry in hot pursuit. General Buell followed the retreating rebels, driving them in splendid style. We lost a number of our forces as prisoners, among whom is General Prentiss, who is reported as being wounded. Killed on the rebel side was their chief general, Albert Sidney Johnston. It is further reported that General Beauregard had his arm shot off. Captain Carson was killed by a cannon ball.

Mr. HALE, Mr. TRUMBULL, and others. Who is it from?

Mr. BROWNING. This is accompanied by a note from the Secretary of War, saying:

"This is a synopsis of the New York Herald's report received from a special reporter, who says he was in the battle."

PETITIONS AND MEMORIALS.

Mr. HOWARD presented a petition of citizens of Saline, Washtenaw county, Michigan, praying for the total abolition of slavery throughout the country; which was ordered to lie on the table.

Mr. COLLAMER presented the petition of Louisa Kearney, widow of Colonel James Kearney, of the topographical engineers, praying for a pension; which was referred to the Committee on Pensions.

Mr. CLARK presented a petition of citizens of New Hampshire, praying for the adoption of the principle of taxation, suggested in a letter from E. B. Bigelow, addressed to Hon. THADDEUS STEVENS, entitled "internal taxation simplified;" which was referred to the Committee on Finance.

Mr. HOWE presented a memorial of the Legislature of Wisconsin, in favor of the establishment of a naval depot and national armory in that State; which was referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. CHANDLER presented a petition of citizens of Hudson, Lenawee county, Michigan, praying for the abolition of slavery throughout the country; which was ordered to lie on the table.

Mr. TRUMBULL presented the petition of S. S. Waldo and eighty-eight others, citizens of Wenona, Illinois, praying for the total abolition of slavery throughout the country; which was ordered to lie on the table.

Mr. SHERMAN presented the petition of C. K. Greamer and sixty-six others, citizens of North Benton, Mahoning county, Ohio, praying for the total abolition of slavery throughout the country; which was ordered to lie on the table.

Mr. HARLAN presented the petition of Daniel O. Chubbuck and one hundred and twenty-eight others, citizens of Mount Vernon, Iowa, praying for the total abolition of slavery throughout the country; which was ordered to lie on the table.

He also presented a joint resolution of the Legislature of Iowa, approving the course of the President of the United States in the administration of the Government; which was ordered to lie on the table, and be printed.

Mr. KING presented a petition of citizens of Sullivan county, New York, praying that the "freedom of speech and of the press shall not be abridged," and that "the New York Caucasian and all other Democratic papers now excluded from the mails in all the loyal States be allowed the same privileges enjoyed by Republican and abolition papers;" which was ordered to lie on the table.

PRINTING OF A BILL.

On motion of Mr. HALE, it was

Ordered, That the bill (S. No. 263) amendatory of "An act to increase and regulate the pay of the Navy," approved June 1, 1860, be printed.

BILLS INTRODUCED.

Mr. KENNEDY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 265) to incorporate the Mount Olivet Cemetery Company, in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 266) for the more convenient enforcement of the laws of the United States concerning security to

keep the peace and for good behavior; which was read twice by its title, and referred to the Committee on the Judiciary.

COMPENSATION OF DISTRICT ATTORNEYS.

The PRESIDENT *pro tempore*. If there be no further morning business, the unfinished business of the morning hour of yesterday is a bill (S. No. 166) regulating the compensation of district attorneys, which is now before the Senate, the pending question being on ordering it to be engrossed for a third reading.

Mr. SHERMAN. I will add one observation to what I said yesterday in regard to this bill. I forget how many years ago, but I think since I have been in Congress, we granted to the heads of Departments the power to employ additional attorneys in certain cases. Senators will probably remember it better than I. That authority has been grossly abused; the chairman of the Committee on the Judiciary so stated yesterday; and I have no doubt at all that if this authority is now given the Attorney General, without any fault on his part, without any carelessness on his part, the authority will be again abused. It will throw upon him some sixty or seventy interested parties, all of whom will besiege him for compensation. As I have been a lawyer myself, I know the desire and anxiety of lawyers to obtain large fees, and it is very hard to resist it. I think the district attorneys who are now serving the United States in the way of constructive fees and incidental fees, and in the way of business brought to them, as the district attorneys on account of their office, on account of the official position it gives them, get a reasonable and fair compensation. If there is any exception to it, it may be in the cities of New York and Boston; but there the limitation of $6,000 applies to them, and they complain more of the limitation of $6,000 than they do of anything else.

The observation made by the Senator from New Hampshire [Mr. HALE] is true, that this is no time when civilians ought to receive higher compensation. There is some little reason for not lowering the pay of military officers, because they are exposing their lives in the service of their country; but surely this is no time to allow lawyers and other persons performing mere civil duties at home, in the quiet and peace of civil life, to receive larger compensation than they did before. I trust, therefore, that the Senate will refuse to pass this bill. It is not a light matter. I believe the allowances under this bill will be a very large sum of money. The expenses of our courts are now exorbitantly large. The judiciary fund has been gradually growing from, I believe, two hundred thousand up to over a million of dollars yearly. It is all, or nearly all, paid to district attorneys, marshals, witnesses, and jurors. It has been increasing year by year. I have had occasion two or three times to examine the disbursement of the judiciary fund. There is more waste and extravagance in that fund than in any other. Indeed, the Secretary of the Interior complains that it is difficult for him to regulate or restrain it, because the judges of the courts allow exorbitant and unreasonable bills for furniture, &c.; and if you now allow the Attorney General, without any restraint by Congress, to fix the salaries of these district attorneys, my impression is that in each case they will fix it at from three to six thousand dollars, instead of at $250 and fees.

I trust, therefore, the Senate will not pass this bill. It will only create trouble and confusion. If it is desired hereafter to change the mode of compensating district attorneys, when we have sufficient information before us so that we can ascertain how much they do get, I should then be willing to vote a reasonable compensation to them; but my own experience and my own observation have convinced me that they are already well paid. I know that in the districts of Ohio it is an office always desired and eagerly sought for, not only for the fees it actually brings to the officer, but because it gives him a high official position. It places him at the head of the bar of the district court. It necessarily brings to him other business from which he can get reasonable compensation. In various ways it is an office earnestly desired, and surely it is not necessary to increase the compensation in order to get competent persons.

Mr. SUMNER. Mr. President, if it is not necessary to increase the compensation of the district attorney in Ohio, it will not be increased. Of course nothing can be done under this bill unless the district attorney makes an application to the Attorney General. The case provided for is special.

Mr. SHERMAN. It will be made in every case and by every district attorney. That I venture to say from my knowledge of the desire of all lawyers to get good fees. I think probably if I was a district attorney, I would consider myself a very important officer.

Mr. SUMNER. If the office of district attorney in Ohio is such as the Senator describes it, I think there is little danger that there will be any such application; but it is evident that the present bill is not intended for such a case; it is for entirely a different case; and it seems to me that it is hardly candid for the Senator from Ohio to adduce the condition of things in his State in order to defeat a proposition for the relief of the district attorneys in other parts of the country. The fact is beyond question that in the city of New York the fees of the district attorney were not sufficient to sustain the office. The Senate have already provided for that case. The district attorney there has been relieved; but no provision has been made for the district attorney in Boston, a most meritorious public officer, whose services at this moment, I believe, are as important to the Government as any similar services anywhere in the whole country. Now, the fact is beyond question that his office does need some relief, and I think that it is not right that the advantageous condition of things in the State of Ohio should be adduced against a proper relief for the district attorney in Boston.

Mr. HOWE. If the Government of the United States is not paying the district attorney of the United States for the district of Massachusetts, for all the services he renders, I am very sorry, and it seems to me the Legislature of the United States is the proper tribunal to make the correction; and the proper mode of making that correction, I should think, was by a special act for that specific purpose; but simply because the district attorney for the district of Massachusetts is not getting what he earns, is the poorest reason in the world to offer to me why the Treasury of the United States should be unsealed, thrown open, and one of your officers authorized to walk into it and pay a whole staff of deputies throughout the Union just what he pleases to pay them, limited only to the sum of $6,000, which is twice the salary of a Senator. This mode of making corrections is dangerous. I do not care who discharges the duties of Attorney General, it is an authority I would not trust to any man, to compensate a whole army of assistants according to his own notions of propriety. It is as much as we can do, representing the States, to guard the Treasury of the United States with sufficient fidelity. I would not unlock it to any single man, and I will not vote for this bill. I hope it will not pass. That the labor of these officers is very different in different States, is manifest. I should suppose their compensation would be different, as it no doubt is. The more a man does, the more he gets; the more business is transacted in his office, the larger his fees and the greater his income; but if the income in any particular case derived from these fees is not sufficient, let us know wherein it is not sufficient. You can as well explain to us the hardship of a single case and have that remedied, as to expatiate on the hardship of a particular case, and therefore open a whole class of cases indiscriminately to new abuses.

Mr. HALE. I think there is very great force in the suggestions of the Senator from Wisconsin. If there is a case in Boston that requires special relief let us grant it; but because there is a special case in Boston requiring relief I am unwilling to devolve upon one of the heads of Departments the responsibility of raising the salary of every district attorney in the United States from $200 up to $6,000; and that is the discretion which you confer on the Attorney General by this bill. There must be some mistake in what was suggested yesterday by the Senator from Connecticut, that the district attorney at New York made an exhibit showing that for cash expenditures the Government was in debt to him. The district attorney is not a disbursing officer; he does not have to pay out one single cent; his stationery is all furnished to him. The marshal is the disbursing officer, and the attorney has nothing to do with the disbursements, and has not the responsibility of spending a single cent for anything on earth, except his personal expenses while in the city attending court.

This precedent at this time will be a very dangerous and alarming one. We are making precedents which will be called up hereafter to condemn us. If there be a case in the city of Boston requiring aid, I hope it will be granted; but I trust the Senate will not set such an example as this by which the doors may be thrown wide open, and the salaries of forty or fifty district attorneys may be placed at the mere pleasure of the Attorney General, with liberty to raise them up hundreds and hundreds of per cent. above what they are now, from $200 to $6,000. I think it is an unsafe precedent altogether.

Mr. SIMMONS. I suppose the exigencies of this war have brought into some of the ports of the country a great many prizes to be adjudicated and condemned; and these are ports of easy access. I recollect hearing the district attorney in our State say, that in a single prize case where his fee was twenty dollars, it cost him over forty dollars to attend the court. He saved thousands of dollars to the Government. There were lawyers against him in that case who were paid $1,000 apiece to argue the case. The district attorney in Rhode Island does not get enough salary to pay his board while trying prize cases.

Mr. HALE. The district attorneys are entitled to five dollars a day for every day they attend court.

Mr. SIMMONS. That is not the law now, as he tells me; he only gets twenty dollars for a prize case.

Mr. HALE. It is the law now, I think.

Mr. SIMMONS. It may have been the law when the Senator held the office in New Hampshire, for he said he got about a thousand dollars a year, and did the least work of any man for the same money.

Mr. HALE. In the State of New Hampshire.

Mr. SIMMONS. I think this bill is very proper. The Attorney General will not allow any increased compensation to any district attorney under it, unless he makes application and shows what he does, which the Attorney General of course knows pretty well. It does not follow that he will allow them all $6,000 a year. They cannot get more than that even if their fees should amount to $10,000.

Mr. WILLEY. I should be very sorry to vote for any measure which would lead to a corrupt use of the finances of the country; but this is a bill in which I feel not only a personal interest, but there is connected with it a local interest. I will state to the Senate some circumstances which it seems to me recommend a bill of this character to the favorable consideration of the Senate.

Mr. COLLAMER. I ask the Senator from Virginia to indulge me a moment while I suggest an amendment that may perhaps remove much objection to the bill.

Mr. WILLEY. Certainly.

Mr. COLLAMER. The necessity for this bill is, that the proceedings for prize occasion the district attorneys a great deal of additional expense in some particular ports. At first I thought that by confining it to districts in which there was a port of entry or of delivery, we might cut off any improper allowances; but inasmuch as we cannot tell what districts will be covered by such a provision, I propose to amend the first section, by inserting after the word "office," in the seventh line, the words, "by reason of proceedings for prize in the present rebellion," and in the ninth line, after the word "salary," by inserting "sufficient to cover such increased service." I thank the Senator from Virginia for giving me an opportunity now to offer this amendment.

CAPTURE OF ISLAND NUMBER TEN.

Mr. BROWNING. I ask the Senator from Virginia to indulge me a moment while, with the permission of the Senate, I read a dispatch from Commodore Foote to the Navy Department:

FLAG-SHIP BENTON,
ISLAND No. 10, *via* CAIRO, *April* 8, 1862.

HON. GIDEON WELLES, *Secretary of the Navy:*

I have to inform the Department that since I sent the telegram last night, announcing the surrender to me of Island No. 10, possession has been taken of both the island and the works upon the Tennessee shore by gunboats, and the troops under command of General Buford. Seventeen officers and three hundred and sixty-eight privates, besides one hundred of their sick, and one hundred men employed on

board their transports, are in our hands, unconditionally prisoners of war. I have caused a hasty examination to be made of the forts, batteries, and munitions of war captured; there are eleven earthworks, with seventy heavy cannon, varying in caliber from thirty-two to one hundred pounders, rifled. The magazines are well supplied with powder, and there are large quantities of shot, shell, and other munitions of war, and also great quantities of provisions. Four steamers afloat have fallen into our hands, and two others, with the rebel gunboat Grampus, are sunk, but will be easily raised. The floating battery of sixteen heavy guns turned adrift by the rebels, is said to be lying on the Missouri shore below New Madrid.

The enemy upon the main land appear to have fled with great precipitation after dark last night, leaving, in many cases, half-prepared meals in their quarters, and there seems to have been no concert of action between the rebels upon the island and those occupying the shore; but the latter fled, leaving the former to their fate. These works, erected with the highest engineering skill, are of great strength, and with their natural advantages would have been impregnable if defended by men fighting in a better cause. A combined attack of the naval and land forces would have taken place this afternoon or to-morrow morning had not the rebels so hastily abandoned this stronghold. To mature these plans of attack have absolutely required twenty-three days of preparation. General Pope is momentarily expected to arrive with his army at this point, he having successfully crossed the river yesterday under a heavy fire, which no doubt led to the hasty abandonment of the works last night. I am unofficially informed that the two gunboats which so gallantly ran the fire of the rebel batteries a few nights since, yesterday attacked and reduced a fort of the enemy opposite, dismounting eight heavy guns. The following is a copy of the order of General Mackall, in assuming command of the rebel forces on the 5th instant:

Soldiers! We are strangers, commanding and commanded, each to the other. Let me tell you who I am. I am a general made by Beauregard—a general selected by Beauregard and Bragg for this command when they knew it was in peril. They have known me for twenty years; together we have stood on the fields of Mexico. Give them your confidence now—give it to me when I have earned it. Soldiers! the Mississippi valley is intrusted to your courage, to your discipline, to your patience. Exhibit the vigilance and coolness of last night, and hold it.

W. D. MACKALL,
Brigadier General Commanding.

I regret that the painful condition of my foot, still requiring me to use crutches, prevented me from making a personal examination of the works. I was therefore compelled to delegate that duty to Lieutenant Commanding S. Phelps, of the flag-ship Benton. A. H. FOOTE,
Flag Officer.

COMPENSATION OF DISTRICT ATTORNEYS.

The PRESIDENT *pro tempore*. The bill (S. No. 166) regulating the compensation of district attorneys is before the Senate, the pending question being on the amendment of the Senator from Vermont, [Mr. COLLAMER.]

Mr. WILLEY. I am certain, sir, that anything I should have to say would not be near so acceptable to the Senate as the dispatch which has just been read. I wish my remarks would receive something of the same sympathy.

I feel, as I said just now, considerable personal interest in the success of this bill, and more especially as it is proposed to be amended, because in that shape it meets precisely the case for which I am desirous to provide. Let me state to the Senate a few facts. There are in the western district of Virginia now held during the year by the Federal judge there some ten courts, embracing an immense district of country. The district attorney has to attend all these courts, at great personal inconvenience and disadvantage. There are already upon the calendar upwards of seven hundred indictments for treason under the legislation of the last special session of Congress. To my certain knowledge, the district attorney attends upon special sessions of the court held every three or four weeks at some point within the district, for the purpose of hearing applications of prisoners to be admitted to bail. These cases will have to be tried before long; many of them, at least. They are cases of a character that will command the highest professional ability in the defense; many of the indictments are against men who can command the best professional skill in our country, and the duty of the prosecution, so essential to the suppression of treason, so essential to the maintenance of the authority of the United States in the western district of Virginia, must all depend upon the professional skill and fidelity of the district attorney. At the great solicitation of myself and of the friends of the Government who had this matter at heart, we succeeded in procuring the assent of Colonel Smith, of the county of Kanawha, to accept this appointment. I may say that he is, perhaps, the best lawyer in northwestern Virginia, a man of great professional ability, a man of high character and great standing. He has left his profitable professional pursuits for the purpose of aiding in putting down this rebellion, executing the laws, and establishing the authority of the United States in the western district of Virginia. His whole time and his whole ability are required for this duty. He has surrendered for the good of the public and for the purposes which I have indicated a most lucrative professional practice; and what does he get? Two hundred dollars a year, and twenty dollars for every case where he succeeds in procuring a conviction.

Now, is that just to Colonel Smith? Cases that will occupy weeks and weeks, cases that will command the highest professional skill and ability, cases on which depend the character and integrity of the Government, and the supremacy of the laws of the United States in the western district of Virginia, yield him but twenty dollars. Sir, it is the most important of any office for the suppression of the rebellion, and for the establishment of the supremacy of the authority of the Federal Government. I ask whether it is not right and proper to make some provision whereby such high professional skill, and the total appropriation of all the time and ability of Colonel Smith to these duties will meet something like an adequate compensation. Does the Federal Government, do Senators, demand that such a gentleman as Colonel Smith, making this personal sacrifice for the good of the country and for the establishment of the supremacy of the Constitution and the law, shall do it at his own expense? Sir, he may resign; he may retire from his duties in order to support his family. He has already in his estate received large detriment in consequence of the incursion of General Wise. It is necessary that he should give his attention to his professional duties in order to support himself. We must have a man of his character in that office in northwestern Virginia. It is essential; it is absolutely indispensable to us. We cannot do without such a man, and we cannot do without Colonel Smith. I ask Senators again whether they will not allow some compensation for the skill and labor of such a gentleman in such a cause.

I hope that the bill will pass. It is absolutely essential to the interests of the Government and to the welfare of the people in the western district of Virginia, that some such provision as this shall pass. We cannot expect to have the best and highest order of professional skill and ability without giving due compensation. We have at present secured the services of a man who possesses this skill and ability, and in order to retain him I think it highly proper, eminently just and right, that you should make provision for just compensation.

Mr. COLLAMER. I desire to modify the amendment so as to say "by reason of proceedings for prize or condemnation of property, or the prosecution of offenders for crimes arising out of the present rebellion."

The PRESIDENT *pro tempore*. The amendment will be so modified, and the section will be read as it will stand if amended.

The Secretary read the first section as it is proposed to be amended, as follows:

That upon an application made to the Attorney General by any attorney of the United States for any district, if it shall be made to appear that the costs and fees now allowed by law to such attorney are not an adequate compensation for the performance of the duties of his office, by reason of proceedings for prize or condemnation of property, or the prosecution of offenders for crimes arising out of the present rebellion, it shall be lawful for the Attorney General, with the assent of the Secretary of the Interior, to assign to him a salary to cover such increased service, not exceeding the rate of $6,000 per annum in any case, according to the nature and extent of his said duties, which salary so assigned shall be paid to him quarterly, &c.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, and was read the third time. On the question of its passage, Mr. SHERMAN called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 20, nays 19; as follows:

YEAS—Messrs. Anthony, Browning, Collamer, Cowan, Fessenden, Foot, Foster, Latham, McDougall, Morrill, Nesmith, Powell, Simmons, Stark, Sumner, Ten Eyck, Trumbull, Willey, Wilson of Massachusetts, and Wilson of Missouri—20.

NAYS—Messrs. Chandler, Clark, Davis, Doolittle, Hale, Harlan, Henderson, Howe, Kennedy, King, Lane of Indiana, Lane of Kansas, Pomeroy, Saulsbury, Sherman, Thomson, Wade, Wilkinson, and Wright—19.

So the bill was passed.

EXECUTIVE SESSION.

On motion of Mr. WILSON, of Massachusetts, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *April* 9, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

NORTHERN DEFENSES.

The SPEAKER laid before the House a communication from the War Department, transmitting the report of Edwin F. Johnson, Esq., a distinguished civil engineer of Connecticut, on northern defenses; which, on motion of Mr. RICE, of Maine, was referred to the Committee on Military Affairs, and ordered to be printed.

TAX ON COTTON.

Mr. DAWES. I ask leave to correct the Journal of day before yesterday. I am recorded as voting in the affirmative on the question to tax cotton. I voted in the negative, and I ask that my vote be so recorded.

There was no objection, and it was so ordered.

VOTE ON TAX BILL.

Mr. BROWNE, of Rhode Island. I ask the unanimous consent of the House to record my vote against the tax bill. I was necessarily absent.

Mr. SPAULDING. I object.

Mr. WHALEY. I was absent yesterday when the vote was taken on the tax bill. If I had been well, I certainly would have been present. I hope there will be no objection to my voting in the affirmative on the passage of that bill.

Mr. SPAULDING. I object. [Cries of "No!" "No!"]

Mr. STEVENS. I trust that the gentleman from New York will not insist upon his objection. If the gentleman from Rhode Island and the gentleman from Virginia were permitted to record their votes, it will not change the result.

Mr. SPAULDING. I withdraw my objection.

There being no further objection, Mr. BROWNE, of Rhode Island, recorded his vote in the negative, and Mr. WHALEY in the affirmative, on the tax bill.

FOREIGN SYSTEM OF FINANCE.

The SPEAKER laid before the House a message of the President of the United States, transmitting, in compliance with a resolution of the House, a recent dispatch to the State Department from Minister Pike, at the Hague, being the only information received showing the system of revenue and finance now existing in any foreign country; which, on motion of Mr. SPAULDING, was laid upon the table, and ordered to be printed.

MEDICAL DEPARTMENT OF THE ARMY.

The SPEAKER. The question first in order is the consideration of Senate bill No. 188, to reorganize and increase the efficiency of the medical department of the Army. A substitute was pending reported from the Committee on Military Affairs by the gentleman from Missouri, [Mr. BLAIR,] to which the gentleman from Pennsylvania [Mr. MCPHERSON] moved to strike out the words, "that the Surgeon General to be appointed under this act shall have the rank, pay, and emoluments of a brigadier general;" and the gentleman from New York [Mr. SHERMAN] moved, as an amendment to the amendment, to add the following to the first section:

And that their pay, and that of all hospital stewards in the volunteer as well as in the regular service, shall be forty-five dollars per month and one ration, to be computed from the passage of this act.

Mr. BLAIR, of Missouri. I demand the previous question on the passage of that bill. It is an important one and has been already considered.

Mr. MCPHERSON. If the demand for the previous question be seconded, can we then have a separate vote on each section of the substitute?

The SPEAKER. The question must be taken upon the substitute as a whole.

Mr. MCPHERSON. Then I hope that the previous question will not be seconded.

Mr. STEVENS. If my recollection is perfect, the Secretary of War reported to the House that this reorganization of the medical department of the Army was not necessary.

Mr. BLAIR, of Missouri. The gentleman from Pennsylvania is mistaken. The Secretary of War, on the contrary, has written that he thought some reorganization of the medical department was necessary.

Mr. McPHERSON. Some reorganization!

Mr. BLAIR, of Missouri. He did not speak of this particular measure of reorganization; but he said that some reorganization was necessary.

Mr. STEVENS. I think that the Secretary of War, in some degree, discouraged the passage of this bill.

Mr. BLAIR, of Missouri. I think that the gentleman is wrong. So far as I know, he has only written that some reorganization of the medical department was necessary. He has not himself indicated any particular system. This measure will satisfy all parties as well as any measure can.

Mr. SHERMAN. I ask leave to say a word in favor of my amendment.

Mr. BLAIR, of Missouri. I yield for that purpose.

Mr. SHERMAN. My amendment, Mr. Speaker, proposes to give the hospital stewards the pay that they deserve from the country, if the object of this bill is to increase the efficiency of the medical corps of the Army, in order that the sick and wounded soldiers shall be better attended to. I know no step that can be taken which will better accomplish that purpose than my amendment. If members will look at the Army Regulations and see what requirements are made of hospital stewards, I think that they will agree with me that they are the illest paid officers of the Army. They have to attend at the hospitals and to put up the prescriptions of the Army surgeons. To do that they must be versed in *materia medicæ* and pharmacy. None must be employed except those who are capable, in order that the prescriptions shall be correctly put up. You only now pay a hospital steward twenty dollars a month, which is the pay of a sergeant of the Army. It is not sufficient to command the services of any man in the United States who has the capacity equal to the discharge of the responsible duties of a hospital steward. If you have capable men as hospital stewards now it is because they are there as medical students, and for the aid that the position gives them in their studies. I ask that my amendment be adopted, as a matter of justice to this meritorious class of officers.

Mr. STEELE, of New York. I ask the attention of the House for one single moment upon this bill. I look upon it as one of the most important measures that can attract the attention of this Congress, provided it is important to secure the health and comfort of our brave Army now in the field. I am aware that the Committee on Military Affairs have given to this subject careful consideration; that they have had the best information which could be obtained in regard to the efficiency of the Army; and I am quite satisfied that their substitute is the best thing which can be done at this time for the purpose we have in view.

I understood the gentleman from Pennsylvania [Mr. McPHERSON] to say the other day, that in the list of surgeons of the Army there are only thirteen or fourteen who had been in the Army for ten years. I think the gentleman is quite mistaken. If he will look at the Army Register, which I now hold in my hand, he will find that twenty-four have been in the Army longer than twenty years, and forty longer than ten years.

This corps is made up as careful as any other. In the first place they have to undergo a rigid examination before they are admitted as assistant surgeons; and in the next place they have to stand another examination before they can become full surgeons. And before they can get in the first rank they have to serve ten years. It was well said by the chairman of the Committee on Military Affairs, the other day, when this bill was under consideration, that there was no set of men in the Army—and I will go further and say, no set of men in the United States—who will bear a stricter scrutiny than many men in the medical corps of our Army. I undertake to say that there are men in that corps who will stand up by the side of any men in any department of the Government, and compare favorably—men of the very highest character, of the very first ability, men who have devoted their lives to this profession—and I think it is but due to this corps of the Army that this addition should be made, and that it should be made, too, from the regular medical corps, and not extended, as is proposed by the gentleman from Pennsylvania [Mr. McPHERSON] to the volunteer service.

BATTLE AT CORINTH.

Mr. COLFAX. If the gentleman from New York will yield a moment, I desire to have read to the House a dispatch in reference to the battle at Pittsburg Landing.

The dispatch was read, as follows:

NEW YORK, *April* 9, 1862.

The New York Herald of this morning has an extra containing the following particulars of the great battle at Pittsburg Landing:

PITTSBURG, *via* FORT HENRY,
April 9, 1862—3.20, a. m.

One of the bloodiest battles of modern times has just closed, resulting in the complete rout of the enemy, who attacked us on Sunday a. m. The battle lasted until Monday at 4.35, when the enemy commenced their retreat, and are still flying towards Corinth. They are pursued by a large force of cavalry. The slaughter on both sides is immense. The Union loss in killed, wounded, and missing is from eighteen to twenty thousand. That of the enemy is estimated at from thirty-five to forty thousand. I give you the best account from observation, having passed through the storm of action for the two days it raged. The fight was brought on by a body of three hundred of the twenty-fifth Missouri, the right of General Prentiss, attacking the advance guard of the rebels, supposed to be pickets of the enemy in front of the camp. The rebels immediately advanced on General Prentiss. Our forces soon formed into line. Hurlbut's division was thrown forward to support the center, when a deperate conflict ensued.

At five, p. m., the rebels forced our left wing back so as to occupy full two thirds of our camp, and were fighting their way forward with desperate courage in their efforts to drive us into the river, and at the same time heavily engaged our right. General Grant and staff, who had been recklessly riding along our lines during the entire day amid a storm of bullets, now rode from right to left, inciting our men to stand firm until reinforcements could cross the river. The gunboats Lexington and Tyler, which lay a short distance off, kept raining shell on the rebel forces. Thus the contest raged till night.

During the night Major General Wallace arrived and took position on the right; and General Buell's forces from the opposite side and Savannah, now being conveyed to the battle ground, the entire right of General Nelson's division was ordered to form on the right, and the forces under General Crittenden were ordered to his support early in the morning.

Second Day's Battle.—The battle of the second day raged with various successes and repulses until five, p. m., when the whole rebel army was in full retreat to Corinth, with our cavalry in hot pursuit. General Buell followed the retreating rebels, driving them in fine style. We lost a number of our forces prisoners yesterday, among whom is General Prentiss, who was reported as being wounded. Among the killed on the rebel side was their chief general, Albert Sidney Johnston. It is further reported that General Beauregard had his arm shot off. Captain Carson was killed by a cannon ball.

ARMY MEDICAL DEPARTMENT—AGAIN.

Mr. STEELE, of New York. I am unable to understand any very good reason why this very important department of the Army should not have a brigadier general at its head, as well as other departments. I am unable to understand why it is that proper and reasonable promotions in this department of the Army should not exist as well as in any other. I do not see why these men, who have come forward as they have, and devoted their lives to the services of their country, should be shut out from the idea of reasonable and proper promotion, any more than those in the service of any other department of the Army. I think everybody knows that there is no single department better calculated to encourage the soldiery, and to give them the idea of security and safety, if properly attended to, than this very medical department. Why, they have charge of the hospitals, of all the ambulances, of all the medical stores, and of everything which is calculated to contribute to the comfort of the sick and wounded soldiers. Sir, it is no sinecure office; they have no inefficient part to perform, even upon the field of battle. Many men have the courage and the nerve to face the storm of battle; many men can do this and move resolutely in the thickest of the fight; but I think it requires practice and experience, and as true courage and loyalty as any man can possess to stand over the wounded soldier and perform the most difficult operations in the midst of the most fearful strife. And I apprehend that if there is any class of men in our Army that require experience in the field, in order that they may administer comfort to those that are stricken down in the fight, and to afford relief, if relief is possible, it is the surgeons of the Army. The men who direct all these things should be those who understand this profession by experience as well as study.

I do not think that it is any disrespect to the volunteer service to say that these men who have given their lives to this business, these men who stand high in their profession, and who would stand high in any profession or in any department of the Government, and who have had a large experience, are better qualified to direct and control this important department than any man that can be taken from the volunteer service. Those who have been educated to this business, I suppose, are best able to manage it. It is a profession by itself, and it requires systematized and continued practice to become familiar with its duties and its details.

I trust and hope that this department of our Army will not now be stricken out by opening these few offices and these few opportunities for promotion to the whole volunteer service, thereby substantially throwing out the only men competent to fill the positions provided in this bill. The bill allows these officers to be taken from any grade of the medical department of the regular Army. Perhaps that may be objectionable in the minds of some men, and I am not sure that it is the wisest course. But I am not disposed to find fault. I take it for granted that the President will exercise this power, as I trust he will all others, in a judicious and proper manner, and that he will not undertake to demoralize this medical corps by going down on the list further than may be necessary to find the men of proper qualifications for the several positions; for we all know that if men of inferior grade are promoted over their superiors in rank the effect is demoralizing, unless very strong and sufficient reasons can be given for such discrimination. And this, I apprehend, is well understood by the President, and therefore may be trusted to his discretion.

I am satisfied that the Committee on Military Affairs have given this bill a careful consideration; and I am satisfied that they have found, upon examination, that there is no other civilized Government in the world which has not provided for the medical department of its army greater encouragement in the way of promotion and rank than exists in this; and it is high time that we were attending to this matter ourselves, and giving more efficiency to this department, which is becoming more and more important as our armies advance, and the sick and wounded soldiers accumulate, and whose care and comfort are dear to every American heart. And I apprehend that no gentleman, who considers the trifling expense which this bill imposes, compared with its great importance to our soldiers and to their friends at home, but will feel that this department ought to be properly and thoroughly organized so as to do all that can be done for those who are wounded in the field or become disabled in camp. And I hope that the substitute reported by our Military Committee, after such mature and careful consideration, may be adopted substantially as reported by them, and at once.

ISLAND NUMBER TEN.

Mr. WRIGHT. With the permission of the House, I will ask the Clerk to read a dispatch in reference to our operations at Island No. 10.

The dispatch was read, as follows:

FLAG SHIP BENTON,
ISLAND No. 10, *via* CAIRO, *April* 8, 1862.

HON. GIDEON WELLES, *Secretary of the Navy:*

I have to inform the Department that since I sent the telegram last night, announcing the surrender to me of Island No. 10, possession has been taken of both the island and the works upon the Tennessee shore, by gunboats and the troops under command of General Buford. Seventeen officers and three hundred and sixty-eight privates, besides one hundred of their sick and one hundred men employed on board the transports, are in our hands, unconditionally prisoners of war.

I have caused a hasty examination to be made of the forts, batteries, and munitions of war captured. There are eleven earthworks, with seventy heavy cannon, varying in caliber from thirty-two to one hundred pounders, rifled. The magazines are well supplied with powder, and there are large quantities of shot, shells, and other munitions of war, and also great quantities of provisions.

Four steamers afloat have fallen into our hands, and two others, with the rebel gunboat Grampus, are sunk, but will be easily raised. The floating battery of sixteen heavy guns, turned adrift by the rebels, is said to be lying on the Missouri shore, below New Madrid.

The enemy upon the main land appear to have fled with great precipitation after dark last night, leaving, in many cases, half prepared meals in their quarters, and there appears to have been no concert of action between the rebels upon the island and those occupying the shore, but the latter fled, leaving the former to their fate.

These works, erected with the highest engineering skill, are of great strength, and, with their natural advantages,

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. FRIDAY, APRIL 11, 1862. NEW SERIES.... No. 100.

would have been impregnable, if defended by men fighting in a better cause.

A combined attack of the naval and land forces would have taken place to-day or to-morrow morning, had not the rebels abandoned this stronghold; to mature these plans of attack having absolutely required the last twenty-three days of preparation.

General Pope is momentarily expected to arrive with his army at this point, he having successfully crossed the river yesterday, under a heavy fire, which no doubt led to the hasty abandonment of the works last night.

I am unofficially informed that the two gunboats which so gallantly ran the fire of the rebel batteries a few nights since, yesterday attacked and reduced a fort of the enemy opposite, dismounting eight heavy guns.

The following is a copy of the order of General Mackall on assuming command of the rebel forces on the 5th instant:

Soldiers! We are strangers, commander and commanded, each to the other. Let me tell you who I am. I am a general made by Beauregard; a general selected by Beauregard and Bragg for this command when they knew it was in peril. They have known me for twenty years; together we have stood on the fields of Mexico. Give them your confidence now—give it to me when I have earned it. Soldiers, the Mississippi valley is intrusted to your courage, to your discipline, to your patience. Exhibit the vigilance and coolness of last night, and hold it.

W. D. MACKALL,
Brigadier General Commanding.

I regret that the painful condition of my foot, still requiring me to use crutches, prevented me from making a personal examination of the works. I was therefore compelled to delegate that duty to Lieutenant Commanding S. Phelps, of the flag-ship Benton.

A. H. FOOTE,
Flag Officer Commanding Naval Forces.

ARMY MEDICAL DEPARTMENT—AGAIN.

Mr. WRIGHT. I desire to say only a few words in reference to this bill. I have no objection, Mr. Speaker, to the additional expense which must be incurred by the passage of this bill. What I object to is that men who have been long in the service, who have spent their lives in it, are to be summarily removed without, as I regard it, sufficient cause. Now, the effect of the passage of this bill upon the Surgeon General will be particularly severe. A man who has spent forty years of his life in the public service is, without notice, if this bill becomes a law, thrown out of his place and position. Now, if the Surgeon General of the Army is incompetent for the place, there is a mode and manner of removing him. If he is incompetent, let the Department remove him. [A VOICE. He has already been removed.] I understand that the Surgeon General has been directed to report himself at Boston to await further orders, and that, in the mean time, the duties of his office have been transferred to other hands. Whether this be regarded as a removal or not, the passage of this bill will effectually accomplish it.

There is another clause in this bill which did not meet my approbation when we had the bill under consideration in the committee, and that is the provision which puts it into the power of the President of the United States to appoint any man to any place in the Medical Bureau, without regard to rank. The effect of the passage of this bill will be to do away entirely and totally with the practice which has prevailed since the establishment of the Government. It has always been regarded heretofore that a man who discharges his duty has a right to receive promotion when those ahead of him are promoted, or die, or are removed from the service. It seems to me that this proposition to put the power into the hands of the President to appoint without regard to rank, and to do away with all the rules and regulations that we have observed in the Government since its establishment is such an inroad as is not warranted by sound sense and judgment. I do not object to the additional expense that will be involved under this bill if it will afford efficiency to the Army; but I do object that men are to be disposed of in this way, at least without the opportunity of a hearing.

I am informed—I do not know how true it may be—that all these difficulties with regard to the medical department have arisen because of a conflict between the medical department and the sanitary commission; that the sanitary commission—a body I do not know how organized, or by whom appointed—have assumed to themselves to direct the medical department of the Army, and that has led to a conflict between the two departments; and it seems that the sanitary commission have proved successful—at least, if this bill is to pass—in establishing the fact that they are more powerful than the medical department, and that it must give place to them.

Mr. WALLACE, of Pennsylvania. I desire to offer an amendment, to which, I think, there will be no objection. It is to strike out the word "regular," in the sixth line of the fourth section.

The SPEAKER. No amendment is in order, except an amendment to the pending amendment.

Mr. WALLACE, of Pennsylvania. This is a very important amendment.

Mr. BLAIR, of Missouri. We can vote upon the pending amendments, and then the gentleman will have an opportunity of offering his amendment. I hope the amendment of the gentleman from New York [Mr. SHERMAN] which was first offered will now be voted on. I, for one, have no objection to that amendment, and think it a good one. The duties to be performed by the hospital stewards, as described by the gentleman from New York, are of such an important character that it strikes my mind that the amendment ought to be ingrafted on the bill.

Mr. McPHERSON. I believe there is no disposition to offer any factious opposition to this bill. When it was under discussion some two or three weeks ago, I had occasion to examine it, and if the gentleman from Missouri will consent to have a separate vote upon any section upon which a separate vote may be called, and will allow reasonable discussion, I think we can get through with the bill in a very short time. It is a very important bill, and I think there ought to be some discussion upon it, and I hope the previous question will not be pressed.

Mr. BLAIR, of Missouri. I have no disposition to press the previous question. I thought that after the long discussion we had the other day, we might be prepared to vote; but if any gentleman wishes to discuss any part of the bill, or to move amendments to it, certainly, so far as I am concerned, I will interpose no obstacle.

Mr. McPHERSON. I have no objection to the amendment of the gentleman from New York.

Mr. SHERMAN. I modify my amendment, by inserting the word "clothing" before the words "one ration."

Mr. McPHERSON. Oh, no.

Mr. SHERMAN. Unless you do that you will not increase their pay anything. They get clothing now.

Mr. BLAIR, of Missouri. Forty-five dollars a month is large pay.

Mr. SHERMAN. It will not increase their pay at all, but diminish it. They now draw one ration, twenty dollars a month, and forty-two dollars a year for clothing. Their pay and allowance is less than that of a second lieutenant after all.

Mr. BLAIR, of Missouri. This would enhance it very much.

Mr. McPHERSON. I object to the modification of the amendment.

The SPEAKER. The gentleman has a right to modify his amendment.

Mr. BLAIR, of Missouri. I move, then, to amend the amendment by striking out the word "clothing." And I will say in regard to it that if the allowance for clothing is forty-two dollars a year, the increased pay that is proposed in two months would pay for the entire clothing which is now allowed, and they would have in addition for ten months an increase of pay of twenty-five dollars per month.

Mr. SHERMAN. I withdraw the modification.

Mr. SHERMAN's amendment was agreed to.

The question recurred on Mr. McPHERSON's motion to amend the second section by striking out the words "the Surgeon General to be appointed under this act shall have the rank, pay, and emoluments of a brigadier general."

Mr. McPHERSON. If the chairman of the Committee on Military Affairs desires to have a vote on the first section, I have no sort of objection.

Mr. BLAIR, of Missouri. Let the vote be taken on the gentleman's amendment.

The SPEAKER. The Chair knows of no practice of taking a separate vote upon different sections.

Mr. McPHERSON. Mr. Speaker, I have no objection to any increase in the number of the medical corps, which may be recommended by the authorities of the Government who are charged with the subject. I say now, as I said before, when this bill was under consideration, that I do not object to the increase of the medical force provided for in its first section, which is an increase of ten surgeons and ten assistant surgeons, although if my friend from New York [Mr. STEELE] had examined the bill he would probably have found it a much more serious affair than he supposed, and a very different affair from what he supposed.

The increase provided for in the first section is for ten surgeons and ten assistant surgeons, being an increase of the medical corps for the regular Army. It has no connection at all with our volunteer force; and this increase, if made, will continue in force after the disbandment of our volunteer army. This is not an increase of the medical corps of our Army as a whole, but it is an increase of the medical force of the regular Army alone. That is a very important distinction, which I would like members of the House to keep in mind. It is a distinction which I think very effectually disposes of the entire argument of the gentleman from New York.

Mr. Speaker, at the last session of Congress we authorized an increase of the regular Army, and now it is proposed to increase the medical corps of the regular Army. This proposed increase of the medical corps is entirely disproportioned to the increase which we made in the regular Army. For although we authorized nine new infantry regiments, one cavalry regiment, and one artillery regiment, with a total force of twenty-four thousand five hundred and eighteen, yet, in point of fact, we have enlisted only six thousand nine hundred, as appears by the paper before me, being a report from the Secretary of War under date of December last. At that period the increase in infantry had reached but five thousand three hundred and thirty men, being about one fourth of the maximum of those infantry regiments; and at the same time the artillery regiment and the cavalry regiment had not been filled. In not a single one of the new infantry regiments have more than one thousand three hundred men been enlisted, although the maximum force adopted by the War Department is two thousand four hundred for each regiment; and two or three of them are as low as three hundred, being only about one eighth full.

I do not, however, make any point upon this subject, although I say that the increased medical force provided in the first section of the bill is very large indeed. It will be abundant when your new regiments are filled, and it is far more than abundant now. Your regular regiments will not be filled until this war is over, for you cannot recruit your regular regiments while there are volunteer regiments to be filled.

I make these remarks because when the subject was last up I did not know accurately, and was unable to obtain accurate information concerning the state of these new regiments. Having this information now before me, I have no hesitation in saying that the increased medical force provided in the first section is beyond all question more than sufficient for our present wants. If, then, it be said that in consequence of our volunteer force it will be necessary to detail some of these surgeons to the care of hospitals in which there are volunteer soldiers, I reply, you will have a surplus for that purpose. I am not altogether sure that many of our hospitals are officered by surgeons detailed from our regular Army, though it may be that in occasional instances they are; but I think that, in point of fact, you will find that the hospital surgeons are largely made up by detail from your brigade and regimental surgeons of the volunteer service, or by new appointments from civil life.

But, Mr. Speaker, I have said before that I will not object to the enactment of this first section. I believe, however, that it is abundant for all necessary purposes. The gentleman from New York [Mr. STEELE] makes the point, and some of the newspapers of the country also make a point, as to the inadequacy of our hospital accommodations in the field. They say that hundreds and thousands of our soldiers are without proper medical attendance. That may be so, Mr. Speaker; and if it be so, I am willing to coöperate in any effort to correct that evil. But this bill will not correct it, either in whole or in part. What you want in the field is additional regimental and brigade surgeons. Let a bill for that purpose be brought in, and if shown to be necessary it will be passed. But the passage of this bill will bring you no nearer to the accomplishment of that object. There is no relation whatever between it and the hospital service which is said to be necessary for the troops in the field. If gentlemen desire to increase the number of brigade surgeons or of regimental surgeons, or if it be desired that the States shall be authorized to increase the number of regimental surgeons, let a bill be passed for that purpose. I believe that the State of Wisconsin, instead of having but one surgeon to each regiment, has taken the responsibility of commissioning two, and providing for the payment of two. Bring in a bill for the purpose of legalizing a transaction of that sort, and returning that advancement to the State, and I will vote for it, because that will reach the evil. That will give the additional medical service to the troops in the field. This bill does not accomplish that purpose, either directly or indirectly.

Now, as to the particular amendment pending, I propose to strike out from this second section that provision, which, in the reorganization of the Medical Bureau, makes your Surgeon General a brigadier general. I have no objection to the reorganization of the Medical Bureau, but think this a bad time to undertake it. With regard to the opinion of the Secretary of War on this subject, to which allusion has been made, I think the fact is that the Secretary of War is far more dissatisfied with the *personnel* of our Medical Bureau than he is with its system, at present. At least, he has never given to the House any declaration of opinion which would lead it to believe that he thinks the system of our Medical Bureau is itself defective. He has certainly not suggested his approval of this bill, that I have ever heard of. I object to the increase of the rank of the Surgeon General to that of brigadier general, on a principle which I believe to be sound—and that is, that unless there be something imperatively requiring an increase of the rank and pay of officers at this period, it ought not to be done. The gentleman from New York says that it is as proper and as reasonable to give a fair opportunity for promotion in the Medical Bureau as in any other bureau under the Government. I grant that, and I admit the force of the argument. But the difficulty with his argument is that, in fact, the case is not as he supposes. Take the various bureaus under your Government, and you will find that there are but two or three heads of bureaus who are brigadiers—namely, your Adjutant General, your Chief of Ordnance, and your Quartermaster General. The argument which applies in favor of making the head of the Medical Bureau a brigadier will apply in favor of the proposition now pending in the Senate, to make the head of the engineer department a brigadier general.

Mr. BLAIR, of Missouri. The gentleman is mistaken. General Totten, the head of the engineer department, is a brigadier general. But it is intended to blend the engineer department and the topographical engineer department into one, and to give them one brigadier general. The engineer corps now has a brigadier general.

Mr. McPHERSON. As the case now stands, the chief of the topographical engineer corps is not a brigadier.

Mr. BLAIR, of Missouri. No, sir; but both corps are to be blended together.

Mr. McPHERSON. Last summer we did reorganize some of our bureaus on the basis of each having a brigadier general at its head; and now the proposition that comes in from these two corps—the engineer and the topographical engineers—is to consolidate them with four brigadiers. The Military Committee of the Senate struck out the proposition for four brigadier generals, and have reported in favor of one. I mention this fact to illustrate the tendency of events. Unless you stop this system, you must go on and complete it by giving additional rank to all your heads of bureaus; if you do not, you will to that extent be guilty of injustice. If you make your Surgeon General a brigadier, on what ground can you refuse to make your Commissary General a brigadier, and on what ground can you refuse to make your Paymaster General a brigadier? These corps are as large as the medical corps, and they are as important as it. The qualifications required for them are quite as high as are required in that corps.

Mr. THOMAS, of Massachusetts. Will the gentleman allow me to ask him a question?

Mr. McPHERSON. Certainly.

Mr. THOMAS, of Massachusetts. I ask the gentleman whether there is any department of the public service that requires a higher degree of talent, culture, and capacity, generally, than the medical department?

Mr. McPHERSON. I hardly know whether there can be any comparison instituted between the various bureaus of the Government, for they all require very high culture and very great ability. I do not know whether, if I were compelled to answer such a question categorically, I should give a preference to the Medical Bureau over any or all of the other bureaus. The head of the engineer department must be a thoroughly educated, thoroughly trained man. So, also, must be the head of the topographical corps. The Commissary General and Paymaster General must be men of standing, men of character, men of ability. They must have the highest business capacity, in order to retain in their bureaus a proper system and proper efficiency.

Mr. THOMAS, of Massachusetts. And if they require men of the highest capacity, why should not these men have rank agreeing with their capacity?

Mr. McPHERSON. And where will you stop?

Mr. THOMAS, of Massachusetts. Nowhere.

Mr. McPHERSON. That is precisely the point I make. Why stop at brigadier generals? Why not create new grades? Why not go higher, and make a grade of lieutenant generals, or an additional one of generals? And why not, then, make the heads of these bureaus, not brigadier generals, but major generals? The argument proves entirely too much.

But there is another point which I think is of great practical force in the consideration of this question. It is, that we have scarcely a right, under the existing conditions of things, to go on adding to the burdens on our Treasury, merely out of a general desire to add to the rank and pay of distinguished gentlemen. I have no prejudice against any of these gentlemen. I scarcely know any of them. I am not aware of having conversed with any one on the merits of this bill. I do not know anything personally about those who may be affected by this legislation. I object to the bill on the principles involved in it; and unless there be some controlling reason, some such reason as I cannot, in justice, disregard, I will not consent to raise the rank and pay of any officers under the Government. I would rather vote to reduce than raise. There is not, to-day, imposed on the head of the Medical Bureau any larger proportion of responsibility or labor than has been devolved on the heads of other bureaus. There is no man under our Government who is not compelled, as a part of the penalty he has to pay for this accursed rebellion, to bear additional responsibility, to perform additional labor, and to incur additional expense.

Mr. LEHMAN. If I understand the argument of my colleague, he approves of the present system in our Medical Bureau, but objects to the inefficiency of its *personnel*.

Mr. McPHERSON. I will get to that directly.

Mr. LEHMAN. I ask my colleague how he proposes to remedy this defect, which the whole country has recognized, except by some such change as is proposed here? If we can trust to letters received from responsible persons connected with the medical department, and statements made in the papers, there is great inefficiency in the present Medical Bureau. Now, I would ask him, while he is opposing this bill, to state how he proposes to make such a radical, necessary change as is required, by his own admission, to remedy the defects in the present system?

Mr. McPHERSON. I answer my colleague by saying that there is a proposition which has already passed the Senate, and is now pending in a bill before the Military Committee of the House, to remedy the defect by applying the same retiring rule to the Army, which, at the commencement of the present session, we applied to the Navy, providing for the retirement of officers whose names have been borne forty years on the Army Register, or who have reached the age of sixty-two years. There is no difficulty in getting rid of an inefficient or obnoxious officer, if you will confer upon the President that power. In point of fact, my colleague is aware that the Secretary of War has already deposed the Surgeon General of the Army. There is, therefore, so far as that particular point is concerned, no necessity for the passage of this bill.

I am fully aware, Mr. Speaker, that in opposing certain features of this bill, I am placed in the apparent position of opposing any reorganization or increase of the medical corps of the Army. But those who have taken the pains to listen to the remarks I have made, will remember I have stated distinctly that I have no objection to the proposed increase of the medical corps, nor do I object to any transformation you may choose to make in the *personnel* of the Medical Bureau. You may place the first man last, and the last man first. I care nothing about the positions of particular men. But unless I greatly misread this proposition, there is a great deal more in this bill than is apparent, and if I am not greatly mistaken, it accomplishes a great deal more than is either necessary or desirable. It does not tend in the right direction.

Mr. Speaker, in illustration of the purpose of this bill, I desire to make two other remarks. If gentlemen will compare the bill from the Senate, as it will be found on their tables reported back amended by the Committee on Military Affairs, with the bill as it passed the Senate, they will find that there are between them two important points of difference. One is that the proposed increase of the medical corps of the regular Army is to be coupled with the requirement that the promotions shall take place from those now belonging to the medical corps of the regular Army. That part of the Senate bill which opened these advanced positions to the men who are now brigade and regimental surgeons in the volunteer army, has been stricken out. And if this bill should pass, as recommended by the Committee on Military Affairs, this large class of men will be excluded, so far as there is any expression of opinion upon that point. Of course it will be within the power of the President to appoint these men to the lower class of positions, if they can be relieved from present duty, but they will be excluded, by the terms of the bill, from the appointment to the higher class of positions in this medical corps. That, it seems to me, is a discrimination liable to very great objection. To that point my friend from New York [Mr. STEELE] directed a portion of his argument, for the purpose of showing that these officers in the volunteer service had no right, and ought not to expect to be promoted into the regular service.

Mr. STEELE, of New York. My objection was to their coming at once into the highest rank of the medical service. Let them come in at the bottom and go up.

Mr. McPHERSON. That is a provision of this bill to which I object.

Mr. STEELE, of New York. They may be appointed assistant surgeons.

Mr. McPHERSON. That is true, as I have indicated, but the class of men in the volunteer service, whom it would be desirable to have transferred to the regular service, are generally the persons who hold higher rank in the volunteer service. They are the brigade and regimental surgeons of the volunteer service. Now, sir, the proposition of the gentleman from New York does not contemplate permitting these men to come into the regular service with a corresponding rank, but it compels them, if they get into the medical corps at all, to sacrifice rank and pay and come in as assistant surgeons. They will, therefore, be practically denied admission, or compelled to come in with a sacrifice of rank and pay, a thing which we ought not to expect, and which I believe this House would not intentionally require.

Now, sir, if the gentleman from Missouri will excuse me a moment further, I have a single other point which I desire to present. The seventh section of this bill, as it passed the Senate, is in these words:

SEC. 7. *And be it further enacted*, That the provisions of this act shall continue and be in force during the existence of the present rebellion and no longer.

That provision, placed in the bill by the Senate, has been stricken out by the amendment of the Committee on Military Affairs. If the bill should pass, therefore, in the shape recommended by the Committee on Military Affairs, it will be seen that this proposed increase of the medical corps of the Army will be a permanent one, to be continued after our volunteer force or organization shall have been entirely disbanded.

Mr. Speaker, if it be necessary to make this large increase of our medical corps, it is only because of the pressure upon the medical department of the Army, growing out of the large volunteer force in the field, and there can, therefore, be no propriety in making the proposed increased force a permanent one. I should like, therefore, the permission of the gentleman who has charge of the bill, when the House shall have reached that point in the consideration of the bill, to move to reinstate the seventh section as it passed the Senate.

Mr. BLAIR, of Missouri. In response to what has been advanced by the gentleman from Pennsylvania—most of which was stated by him when the bill was last under consideration—I have to remind him and the House that this increase of medical staff is as much for the benefit of the volunteer as the regular Army. The gentleman from Pennsylvania seems entirely to misapprehend the whole organization of these staff corps. His statement in reference to it shows that he totally misapprehends the objects and intentions of these organizations. Why, sir, there is no such thing in the regular Army as regimental surgeons, or assistant regimental surgeons, or brigade surgeons. These men are not confined in their duties to any particular regiments or brigades, but their services apply to the whole Army, and to the volunteer as well as the regular Army.

Mr. McPHERSON. Practically, however, I apprehend, the gentleman's statement does not hold good.

Mr. BLAIR, of Missouri. Yes, sir; practically and every other way.

Mr. McPHERSON. Can the gentleman inform the House what portion of the medical corps of the regular Army has been assigned to any special duty concerning the volunteer forces?

Mr. BLAIR, of Missouri. Yes, sir. There is not a military hospital, I presume, in the United States that is not presided over by an Army surgeon.

Mr. McPHERSON. There are certainly hospitals in this city which are not under the care of surgeons of the regular Army, as I am informed.

Mr. BLAIR, of Missouri. The gentleman is probably better informed than I am in reference to these particular hospitals. I presume, however, that they are under the supervision of Army surgeons, although the physicians may not go personally to the hospitals. I know such is the case in St. Louis and in the country generally. The regimental surgeons of the volunteer army could not be detached from their regiments to take charge of hospitals. Nor could brigade surgeons be detailed for that service. The object of the medical staff of the Army is to provide surgeons who may be detailed for this purpose, and for any purpose of the Army, volunteer and regular alike. I say, therefore, that the gentleman from Pennsylvania totally misapprehends this entire organization.

Mr. McPHERSON. I do not object to the proposed increase of the medical corps. I will vote for that.

Mr. BLAIR, of Missouri. The gentleman will vote for this increase, and yet he presents to the House an elaborate argument to show that there is no increase of the force of the regular Army at all commensurate with the proposed increase of the medical staff.

I do not know whether these Army surgeons have been detailed for service or not. I know that they ought to have been so detailed. Regimental and brigade surgeons cannot be dispensed with in order to attend to hospital duty; and, sir, I say that if surgeons have not been detailed for hospital duty, then there ought to be some change, and some one put in power who will discharge that obligation.

In my judgment there is an absolute necessity for this increase of the medical corps, as well as for the reorganization reported by the Committee on Military Affairs. I think this bill ought to pass at once, and I think that it will.

The gentleman from Pennsylvania said in one part of his speech that if this bill were necessary in order for proper attendance to the wants of the army in the field, if it were necessary to provide for their necessities, then that he would favor it; but that it does no such thing—that it does not attempt to it. I allege, on the contrary, that that is almost the entire excellence of the bill, if it has any at all. We have provided for the appointment of a Medical Inspector General, who shall have, "under the direction of the Surgeon General, the supervision of all that relates to the sanitary condition of the Army, whether in transports, quarters, or camps, and of the hygiene, police, discipline, and efficiency of field and general hospitals, under such regulations as may hereafter be established." The care of the troops in the field, their health and comfort, is the very thing of all others that we desired to have insured. We wanted to have some one in authority to order, when necessary, medical stores and instruments into the field for the sick and wounded there, as well as for those in the depot hospitals. We have attempted to supply the deficiency which exists in the present organization of the army medical corps. We have done the best that we could, and we have reported our plan for the action of this House. If the gentleman from Pennsylvania can suggest any better plan, and will move it as an amendment, I will give it my hearty support. But we have sought to do that which the gentleman has said we have not sought to do.

Mr. McPHERSON. No, sir; not that.

Mr. BLAIR, of Missouri. Then you said that we failed to accomplish that purpose.

Mr. McPHERSON. I referred to States which had supplied two surgeons and two assistant surgeons to each regiment.

Mr. BLAIR, of Missouri. How would that tend to change the matter? You would have surgeons enough in the field, but what about transports and the furnishing of medical stores? We want some one in authority to issue the necessary orders to supply medical stores everywhere they may be desired, and for that purpose we want a Medical Inspector General. He will give his personal attendance to sending medical supplies to the Army in transports, in temporary hospitals, and upon the march. Brigade and regimental surgeons take the medicines given to them, and they dispense them, but they have no authority to carry into the field all of the proper medical supplies for the safety and security of our soldiers. This Inspector General is absolutely necessary.

The gentleman makes another argument against this bill. He stated that in December last there were only six thousand men in the new regiments. That may have been true then, but it has long since ceased to be true. I understand that there are now ten thousand men in those new regiments, or a number equal to our entire regular Army previous to this war.

Mr. McPHERSON. Only one half.

Mr. BLAIR, of Missouri. Only one half nominally, but equal to it in reality. Now, does the gentleman expect that we will have an army of less than forty thousand or fifty thousand men for years to come? Does the gentleman suppose, if this war were ended to-morrow, we could, for a great many years to come, do without an army of at least fifty thousand? There will not in this generation be a time when we will not need the officers provided for in this bill. If the gentleman really does suppose that when this war is ended we can get along with less than fifty thousand men, then he is most sadly deluded. I think that the security of the country requires the increase of the Army that we have made. This war will induce the people to take a guarantee that a like trouble shall not occur in their day. We can, therefore, safely calculate, notwithstanding the predictions of the gentleman from Pennsylvania, that every man provided for in this increase of the medical corps of the Army will be wanted during the continuance of this war and for long years afterwards.

Now, in regard to making the medical director of the Army a brigadier general, I would be glad if the House would agree with the Committee on Military Affairs on that subject, but I do not make any point on it. Nor does the committee. We thought it proper that we should have such an officer, and that from his position and responsibility he should have the rank of brigadier general. Such an officer in the French service is a major general. While this officer in all other countries holds the highest rank, why should we discriminate against it in our Army? We have found it necessary to appoint a brigadier general for the corps of engineers, another for the quartermaster's department, and another for the Adjutant General's department. Neither of these departments is of any greater importance than the medical department. I cannot, therefore, conceive why we should pursue the niggardly policy of refusing the rank of brigadier general to the director of the medical department. It is a niggardly policy, I contend, to devolve upon the director such heavy responsibilities and then to refuse him the rank of a brigadier general. Nor will the increase of rank be any great increase of pay. If an officer serves for forty years, and is a colonel, his service rations will make his pay amount to nearly that of a brigadier general. When an officer is made a brigadier general service rations cease. So, then, it will be seen that the pay of this director as a brigadier general would not be much more than it is now.

I hope that the vote will now be taken, and that this bill will be passed.

Mr. DUNN. I hope this bill will be passed promptly. There comes up to us a cry of distress from our camps and hospitals throughout our whole Army. Scarcely anywhere are our sick and wounded receiving proper attention. It is distressing to read the accounts of their sufferings that reach us through every channel. Our medical department has not sufficient force to attend properly to the vastly increased duties of that department. I will vote for any bill calculated to give relief to our gallant soldiers who have so nobly endured and suffered for their country. We need medical inspectors to inspect the sanitary condition of transports, quarters, and camps, and especially to inspect the field and general hospitals. Our soldiers have suffered incalculably from the incompetency, neglect, and, I am sorry to say, in some instances, the gross intemperance of some of the surgeons. I am glad to be able to say that I believe the great majority of our surgeons in the regular and volunteer forces are gentlemen of high character and qualifications, and faithful in the performance of their duties; but all are not so. I hope this bill, if adopted, will enable us to reach and expel the disqualified, unfaithful, and intemperate.

The question was taken on Mr. McPHERSON's amendment; and it was disagreed to.

Mr. WALLACE, of Pennsylvania. I move to strike out the word "regular;" so that the appointments may be made as well from the volunteer as from the regular service. The gentleman from Missouri said that this bill is as much for the benefit of the volunteers as for the benefit of the regulars. If that be so, then my amendment is a proper one. I do not see any good reason why the selection should be from the regular service alone. I think in our legislation we should make no discrimination against any portion of our Army.

The regulars constitute but a small portion of the army now in the field, and they should not enjoy the exclusive privilege of receiving the appointments provided for in this bill. The many victories which our armies have won lately, have been achieved in a great measure by the volunteers; and they should, in my judgment, be placed upon an equal footing with the regulars. The object of the bill, as I understand it, is to render the medical department more efficient by effecting a more thorough and complete organization, and by obtaining the services of fit and competent men, men well qualified to discharge the high and responsible duties imposed upon them; and I imagine that surgeons can be found in the volunteer service equally as well qualified to fill those appointments as can be obtained in the regular Army. I agree with gentlemen that this is an important bill, and that it should be passed; but I am opposed to any discrimination, and hope the amendment will prevail.

Mr. STEELE, of New York. I think there are very palpable reasons why surgeons in the regular Army are better qualified for these particular duties than any surgeon in the volunteer corps. Now, it is a very nice thing, as long as there is this immense number of volunteer men in the field, to talk up volunteers and volunteer surgeons. But I tell you that this particular branch of the Army is as much a profession as any part of it. These men have been carefully educated to these particular duties, and the volunteer surgeons have not; and men who have just come into the service, who have had no experience in the regular hospitals, no experience in the transportation of the sick, no experience in the various details and duties of that department, I care not what their ability, cannot be as competent as men of equal ability who have had such experience as many of your regular Army surgeons have had; and if you adopt this amendment, and these appointments should be taken from the volunteer force, the substantial objects of this bill would be frustrated. The object is to increase the efficiency of the medical corps of the Army. If you are to have men to direct this machinery successfully, you must have men who understand the business. I do not believe in men intuitively understanding anything which has required the experience and the study of so many years to systematize and perfect, and the details of which are so complicated and extensive as are the various arrangements of the medical department of the Army. I hope, therefore, that the amendment of the gentleman from Pennsylvania will not be adopted.

Mr. LEHMAN. I regret very much to hear the sentiment which pervaded the close of the remarks of the gentleman from New York, [Mr. STEELE.] I am in favor of the amendment which has been proposed. I have no doubt it was proposed in all sincerity by my colleague from Pennsylvania, and it is advocated with equal sincerity by myself. I have no disposition to asperse the qualifications or the loyalty of those who have given their lives to service in this particular department—the medical department of the Army. But gentlemen will admit that we have had no army until lately. Our Army has been considered as a trifling matter in the eyes of other nations, and we have been ridiculed for the smallness of our efficient force. And I will ask the gentleman from New York, [Mr. STEELE,] when he speaks of those connected with the medical department, where they got their experience? Was it at some small stations upon the borders of our country, where a company or two of regulars were stationed, where there was no hospital, and where perhaps the laziest man connected with our Army was the head of the medical department? Sir, men rust out and wear out, and it requires constant action to keep them up with the advances of the age, and the medical department is no exception to that rule. When these men entered the service of the department medical science was entirely different from what it is at the present time. Improvements are being made daily, and it is necessary that new books should be had, that new discoveries should be examined, in order that efficiency should be attained by those who practice in that department.

An army has now been improvised, not of regulars, not of trained men, but persons have been called out to support the Government from all walks and avocations of life. Go into our Army, and you will find men of all professions and of every calling; you will find the lawyer there; the man of study and science as well as the mechanic; and you will find all classes—men unused to the toils and exposures of a campaign—and they are liable to all the diseases which result from a change of life and climate.

It is conceded on all sides that we want the most efficient men. We do not want men who walk in the routine of rule. It is the curse of the system that we adhere too closely to the regular routine, this red tape, circumlocution system which has pervaded our regular Army. Our hospitals are filled with the sick and dying soldiers merely because routine and rank and seniority override what men of common sense and common discretion know to be the remedy for these things. If we are to have extended hospitals, and men who are fit to take charge of them, we must have physicians who have spent their lives in the hospitals of our large cities; men who know how to build hospitals and how to ventilate them; men who know how to construct the cooking department, and to furnish to the soldiers the most improved couches for their tortured and suffering frames to repose upon. Therefore I think, if we are going to make a change in the department, we should give to the enlightened and patriotic man who stands at the head of this Government, who is to make the selection of these men, the widest range of selection. For my own part, without desiring or intending to asperse the character or ability of any man in the regular Army, I must unhesitatingly say that the best men to take charge of the medical department of the Army, and the best assistance, can be obtained from the ordinary corps of civilians of the medical profession, far better than can be obtained from the few men who constitute the medical department of the regular Army.

Mr. EDWARDS. I have but a few words to say. I had prepared an amendment similar in character to the one submitted by the gentleman upon my left, [Mr. WALLACE, of Pennsylvania.] We ought to pass that amendment. I think it is due to that large class of surgeons, many of them eminent, and all of them, I have no doubt, worthy to be selected to fill these positions, that the broadest field should be open for selection in the establishment of this new corps. I have yet to learn that these surgeons who have been in the small regular Army, with all the experience they have had, and however well qualified they may be, are better qualified than the large number—I will not say all—of those who have been selected now from civil life, and who have had experience and practice, day after day, in all classes of diseases, and many of them in the most difficult practice of surgery.

Then again, and only a word more—for I do not wish to take up the time of the House at this stage of its proceedings—what are we doing? We are not prescribing that these officers shall be taken from the volunteers, if we adopt this amendment. We are only saying that we will give this broader discretion to the President of the United States in the selection of these officers, and that he may take them where he can find those most suitable and best qualified. Are we afraid to do this? What reason can be offered why we should not do this? Is it unjust to the medical corps of the Army? No, sir. Let them have all the honors and all the offices that belong to the regular Army; but it is not necessary, when we have five hundred thousand more men in the field, that they should have the offices and the higher offices which are intended for the volunteer corps. Sir, it is to me no answer against giving this broadest selection—on the contrary, it is an argument in favor of it, as was said by the gentlemen of the Military Committee—that they are to do work for the volunteers, as well as for the regular Army. If that is so, sir, let them be selected, if the President can find suitable persons, from this corps; for I trust that when this rebellion shall be closed, there will be a general reorganization of the Army, that it will be reduced to its proper proportions, and then that those will be retained in the service, from wheresoever they may come, who will best serve the country afterwards in these capacities. I can see no objection to the adoption of the amendment, and I cannot understand how any gentleman can object to it for any reason that can be assigned.

Mr. BLAIR, of Missouri. I move the previous question on the bill.

The previous question was seconded, and the main question ordered.

The amendment proposed by Mr. WALLACE, of Pennsylvania, was agreed to.

The substitute reported from the Committee on Military Affairs, as amended, was adopted.

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

Mr. BLAIR, of Missouri, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. BLAIR, of Missouri, moved to amend the title of the bill by substituting therefor the following: "An act to organize and increase the efficiency of the medical corps of the Army."

The amendment was agreed to.

CONTUMACIOUS WITNESS.

Mr. DAWES. I rise to a question of privilege. Aaron Higgins, who is in contempt for disobeying the subpena of the Speaker, is now present, and I ask that he be called upon to answer for his contempt.

The Sergeant-at-Arms, by S. J. Johnson, his deputy, appeared at the bar with Aaron Higgins in custody, as commanded by the Speaker's warrant of the 2d instant.

The SPEAKER. Aaron Higgins, you are brought to the bar of the House to answer a contempt of its authority in not obeying its subpena to testify before the select committee on Government contracts. What excuse have you to render for not obeying its summons?

The witness submitted the following answer in writing:

I had not heard of there being any committee on contracts in Boston at the time of notice, and I got the information from the officer that the committee had just met, and the next day would do if I could not well go that day, and as the day the officer notified me I was very busy till after "bank hours," and I then was told the committee would not be in session after three, p. m., I thought it would be no use going until next morning; and when I went at eight o'clock next morning to where the committee met, I found they had broken up the day I was notified.

A. G. HIGGINS.

Mr. DAWES. I offer the following resolution:

Whereas Aaron Higgins, now at the bar of the House in contempt for disobeying the subpena of the Speaker, issued at the instance of the committee on Government contracts, has appeared before said committee, and answered under oath all such interrogatories as have been put to him by their order: Therefore,

Resolved, That the Sergeant-at-Arms be directed to discharge the said Higgins from custody, upon payment by him of the legal fees chargeable upon the warrant upon which he has been brought to the bar of the House.

Mr. DUNN. I move to strike out that part of the resolution relating to costs.

Mr. DAWES. It is proper that I should repeat to the House the statement that was made to the committee by the officer who served the subpena. The officer is not in town now, and all I can do is to state to the House the report which he brought back to the committee. The subpena was served upon Mr. Higgins about one o'clock in the afternoon, at one of the hotels in Boston. The officer reported that he denied the authority of the committee to summon him, and said that he should not appear. I cannot state whether the officer was correct or not. I only repeat his statement. It was upon this return of the officer that the committee felt bound to ask the House to issue an attachment against him.

Mr. Higgins has stated to me since his arrival here that the officer misunderstood him, that he was very busy that day and could not conveniently attend before three o'clock in the afternoon, that on his return to his own hotel at three o'clock in the afternoon, some one, I do not know who, told him he would not be likely to find the committee in session at their room at that hour—although the committee were in session until ten o'clock that evening—and he, therefore, did not appear till next day, when the committee had left the city. He has appeared now before the committee, as is stated in the resolution, and has answered all their questions. If the statement of the officer is correct, I do not see why the Government should be put to the expense of sending for him. According to his own statement here, his excuse is that it was very inconvenient for him to attend that day, and he thought the next day would do as well. Of course, I have no desire myself that he should pay the costs. It is a matter entirely within the discretion of the House as to what they think ought to be done.

Mr. DUNN. I know nothing of the party at the bar, and nothing of this case except what appears here. I could not hear the statement of the gentleman from Massachusetts very distinctly, but it seems to me there has been no willful disobedience of the authority of the House. The costs will be heavy, and it seems to me that to impose them upon the witness would be too severe a punishment for any contumacy which he has manifested. I think it inconsistent with the duty and dignity of this House to impose a penalty upon a citizen for not promptly complying with a subpena to appear forthwith before one of its committees, under the circumstances of this case.

Mr. DAWES. I believe it is not claimed by the witness that anything was said to him by the officer of the House, or by any member of the

committee, that his appearance at another time would do just as well. I understand him to say that he was so informed at the hotel. The subpena required him to appear forthwith.

Mr. STEVENS. Was not that a little sharp?

Mr. WICKLIFFE. I should like to ask the gentleman was the evidence you got from him worth the cost of bringing him here? If it was, I am willing to pay it.

Mr. DAWES. It is hardly proper for me to disclose the testimony.

Mr. WICKLIFFE. I only ask as to its value.

Mr. COLFAX. I suggest to the gentleman that he tell it to us confidentially, and we will keep it secret. [Laughter.]

Mr. FESSENDEN. I ask the gentleman from Massachusetts, if it would be proper to do so, to give us the name of the officer who asserts that he was told by the witness that the committee had no authority to summon him, or something of that sort.

Mr. DAWES. The officer was Mr. J. Q. Lane, an assistant sergeant-at-arms of the House.

Mr. ALDRICH. I would suggest that the resolution be so amended as to put the costs upon the committee for bringing the witness here. [Laughter.]

Mr. DUNN's amendment was agreed to.

The resolution, as amended, was then adopted; and Mr. Higgins was thereupon discharged from custody.

CIVIL APPROPRIATION BILL.

Mr. STEVENS, from the Committee of Ways and Means, reported a bill making further appropriations for sundry civil expenses of the Government for the year ending 30th of June, 1863, and additional appropriations for the year ending 30th of June, 1862; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

POST OFFICE APPROPRIATION BILL.

Mr. STEVENS, from the same committee, reported back the bill of the House making appropriations for the service of the Post Office Department for the year ending 30th of June, 1863, with the amendments of the Senate thereto, and asked that the amendments be now considered in the House.

There was no objection.

First amendment of the Senate:

On page 1 strike out lines twenty and twenty-one; which are as follows:

For paper for blanks, $50,000.
For printing blanks, $12,000.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Second amendment:

In the clause for mail depredations, strike out "$50,000" and insert in lieu of it "$75,000."

The Committee of Ways and Means recommended non-concurrence.

Mr. COLFAX. Mr. Speaker, this amendment is to increase the appropriation for special agents of the Post Office Department. As I stated when the Post Office appropriation bill was originally before the House, the only way in which the mail service can be renewed throughout the southern States, as our Army advances, is by sending the most competent and judicious special agents to accompany our troops, so as to be ready for prompt action. The Post Office Department is at present engaged in that work. These special agents gather up all the property stolen from the Department by the confederates—mail bags, locks and keys, blanks, stamps, &c., reopen the offices, and reëstablish service again on the most necessary of the old postal routes. They select and temporarily appoint Union men to hold office until the Department at Washington can fill the vacancies by permanent appointments. The Department states that it is impossible to renew the mail service in the southern States without an additional appropriation for special agents, according to the original estimate. That estimate was for $75,000. The Committee of Ways and Means cut it down to $50,000. The Senate has unanimously increased it to the original estimate, $75,000. I sincerely hope that the recommendation of the Committee of Ways and Means will not prevail, but that the House will concur with the Senate if it desires to have the mail service restored in the southern States as our flag advances triumphantly towards the Gulf.

Mr. STEVENS. The Committee of Ways and Means was not very well informed as to why the increase in the appropriation was made.

Mr. COLFAX. I suggested to the chairman of the Committee of Ways and Means that when the bill came up in his committee, I should like to come before the committee and state why this should be allowed, and he promised, as he will remember, that I should. In the pressure of business, however, they neglected to notify me.

Mr. STEVENS. Well, the Committee of Ways and Means will not insist on its recommendation, but will recommend concurrence.

The amendment was concurred in.

Mr. STEVENS. The next amendment is a very long one, making new legislation. I move that all the rest of the amendments be non-concurred in, so that they may be referred to a committee of conference.

Mr. COLFAX. As most of the remaining amendments relate to new legislation, the phraseology of which I understand from the chairman of the Committee of Ways and Means needs correction, I will not oppose non-concurrence, leaving it to be settled by a conference committee.

The question was taken; and the rest of the Senate amendments were non-concurred in.

BUSINESS ON THE SPEAKER'S TABLE.

Mr. CAMPBELL. I now call up the special order.

Mr. ROSCOE CONKLING. I move to proceed to the business on the Speaker's table, for the purpose of taking up, first, the resolution recommended by the President, to which the Senate has made an amendment of one word, in order that the House may concur in it.

Mr. CAMPBELL. I make the point of order that the special order—the Pacific railroad bill—is operative in the House as well as in the Committee of the Whole on the state of the Union.

The SPEAKER. The special order having been referred to the Committee of the Whole on the state of the Union, is not a special order in the House, and cannot be considered there.

Mr. COX. Is it in order to call for the regular order of business?

The SPEAKER. The motion made by the gentleman from New York [Mr. ROSCOE CONKLING] is the regular order of business.

Mr. COX. I thought the House was engaged this morning in the call of committees.

The SPEAKER. The morning hour having expired, the gentleman from New York moves to proceed to the business on the Speaker's table.

The motion was agreed to.

The House thereupon proceeded to the business on the Speaker's table, when the following joint resolution was taken up and disposed of, as indicated below:

GRADUAL ABOLITION OF SLAVERY.

Joint resolution (H. R. No. 48) declaring that Congress ought to coöperate with, affording pecuniary aid to, any State which may adopt the gradual abolishment of slavery.

The Senate amendment was reported, as follows:

Amend the title by striking out the word "Congress," and insert in lieu thereof the words, "the United States."

Mr. ROSCOE CONKLING. I move that the House concur in the amendment, and on that I move the previous question.

Mr. VALLANDIGHAM. The gentleman will allow me to say that I was absent when the vote was taken on this resolution in the House. Had I been present I would have voted "no."

The previous question was seconded, and the main question ordered; and under its operation, the amendment was concurred in.

Mr. ROSCOE CONKLING moved to reconsider the vote by which the amendment was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PACIFIC RAILROAD—PRINTING SUBSTITUTE.

Mr. CAMPBELL. I move that the substitute which I reported yesterday from the select committee on the Pacific railroad, be ordered to be printed. I supposed that that order was made yesterday.

It was so ordered.

CITY POST OFFICES.

Mr. COLFAX. There is one House bill, with a Senate amendment, on the Speaker's table, which my colleague on the Post Office Committee [Mr. ALLEY] is desirous to have disposed of. I move that it be taken up.

The motion was agreed to, and the bill (H. R. No. 118) to authorize the Postmaster General to establish branch offices in cities, was taken from the Speaker's table, and the Senate amendment read, as follows:

Amend the first proviso by striking out the words "except by," and inserting in lieu thereof the words "contrary to the;" so that it will read:

Provided, That no letter shall be sent from the principal office to such branch office for delivery, contrary to the request of the party to whom the same may be addressed.

Mr. ALLEY. I move that the House concur in the amendment.

The amendment was concurred in.

Mr. ROSCOE CONKLING. There are on the Speaker's table three or four bills which I have a great desire to have reached and disposed of by referring them appropriately. I move that we proceed to the business on the Speaker's table.

The motion was agreed to.

The House accordingly proceeded to the business on the Speaker's table, when the following Senate bills were taken up and disposed of as indicated below:

JORGEN LORENTZEN.

An act (No. 248) for the relief of the owners, officers, and crew of the Danish bark Jorgen Lorentzen—read a first and second time, and referred to the Committee on Foreign Affairs.

HUGH H. HOWARD.

An act (No. 210) granting an invalid pension to Hugh H. Howard, of Hockingport, State of Ohio—read a first and second time, and referred to the Committee on Pensions.

OATH OF ALLEGIANCE.

An act (No. 220) to provide for the administration of the oath of allegiance to American citizens in foreign countries—read a first and second time, and referred to the Committee on Foreign Affairs.

THE CUMBERLAND AND CONGRESS.

An act (No. 256) for the relief of the widows and orphans of the officers, seamen, and marines of the United States ships Cumberland and Congress—read a first and second time, and referred to the Committee on Naval Affairs.

CHARLES F. RUFF.

An act (No. 259) for the relief of Lieutenant Colonel Charles F. Ruff, of the United States Army—read a first and second time, and referred to the Committee of Claims.

BANK NOTES IN THE DISTRICT OF COLUMBIA.

An act (No. 193) to repeal that part of an act of Congress that prohibits the circulation of bank notes of a less denomination than five dollars in the District of Columbia—read a first and second time, and referred to the Committee for the District of Columbia.

GEORGETOWN WATER TAX.

An act (No. 241) to authorize the corporation of Georgetown, in the District of Columbia, to lay and collect a water tax, and for other purposes—read a first and second time, and referred to the Committee for the District of Columbia.

EMANCIPATION IN DISTRICT OF COLUMBIA.

An act (No. 108) for the release of certain persons held to service or labor in the District of Columbia.

Mr. VALLANDIGHAM. I object to that, and demand the question to be put under the rule.

The SPEAKER. The question is, "Shall the bill be rejected?"

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

The yeas and nays were ordered.

The bill was read *in extenso*.

Mr. VALLANDIGHAM. I ask for the reading of the 117th rule.

The SPEAKER. There is no question as to the right of the gentleman to move that the bill be rejected. The Chair will, however, at the gentleman's request, direct the rule to be read.

The Clerk read, as follows:

"117. The first reading of a bill shall be for information, and, if opposition be made to it, the question shall be,

'Shall this bill be rejected?' If no opposition be made, or if the question to reject be negatived, the bill shall go to its second reading without a question."

Mr. VALLANDIGHAM. I demand the previous question upon the rejection of the bill.

The previous question was seconded, and the main question ordered to be put.

The question was taken; and it was decided in the negative—yeas 45, nays 93; as follows:

YEAS—Messrs. Allen, Biddle, Jacob B. Blair, William G. Brown, Calvert, Corning, Cox, Cravens, Crittenden, Delaplaine, Dunlap, English, Grider, Hall, Harding, Kerrigan, Knapp, Law, Lazear, Leary, Mallory, May, Menzies, Noble, Noell, Norton, Nugen, Pendleton, Perry, Price, James S. Rollins, Shiel, Smith, John B. Steele, William G. Steele, Francis Thomas, Vallandigham, Voorhees, Wadsworth, Ward, Webster, Chilton A. White, Wickliffe, Woodruff, and Wright—45.

NAYS—Messrs. Aldrich, Alley, Arnold, Ashley, Babbitt, Baker, Baxter, Beaman, Bingham, Francis P. Blair, Samuel S. Blair, Blake, George H. Browne, Buffinton, Campbell, Chamberlin, Clark, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Davis, Dawes, Delano, Diven, Duell, Dunn, Edgerton, Edwards, Eliot, Fenton, Fessenden, Fisher, Franchot, Frank, Gooch, Goodwin, Granger, Gurley, Haight, Hale, Hanchett, Harrison, Hooper, Horton, Hutchins, Julian, Kelley, Francis W. Kellogg, Killinger, Lansing, Lehman, Loomis, Lovejoy, McKnight, McPherson, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Nixon, Odell, Olin, Patton, Timothy G. Phelps, Pike, Pomeroy, Porter, Potter, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sheffield, Shellabarger, Sherman, Sloan, Spaulding, Stevens, Stratton, Benjamin F. Thomas, Train, Trowbridge, Van Horn, Van Valkenburgh, Verree, Wallace, E. P. Walton, Wheeler, Albert S. White, Wilson, and Windom—93.

During the call of the roll,

Mr. WORCESTER stated that he had paired with Mr. CRISFIELD, otherwise he should vote "no."

Mr. CLARK stated that Mr. FENTON was detained from the House by sickness.

Mr. FRANK made a similar statement in reference to his colleagues, Mr. WALL and Mr. ELY.

Mr. MORRIS stated that he had paired with his colleague, Mr. CUTLER.

Mr. VALLANDIGHAM said Mr. RICHARDSON was absent from the city.

Mr. BINGHAM said Mr. KELLOGG, of Illinois, had been called home in consequence of illness in his family.

Mr. RICE, of Maine, made a similar statement in reference to Mr. WALTON, of Maine.

Mr. WRIGHT made a similar statement in reference to Mr. BAILY, of Pennsylvania.

Mr. ROSCOE CONKLING moved to reconsider the vote by which the House refused to reject the bill, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The bill then received its second reading.

Mr. ROSCOE CONKLING. I wish merely to say that members do not seem to understand that this bill makes an appropriation, and must, under the rules, be referred to the Committee of the Whole. I move, therefore, that it be referred to the Committee of the Whole on the state of the Union, and upon that motion I demand the previous question.

Mr. BLAIR, of Missouri. I move also that the bill be printed.

The previous question was seconded, and the main question ordered to be put.

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

Mr. ROSCOE CONKLING moved to reconsider the vote by which the bill was referred, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

SCHOOLS IN THE DISTRICT OF COLUMBIA.

An act (No. 240) to provide for the public instruction of youth in the primary schools throughout the county of Washington, in the District of Columbia, without the limits of the cities of Washington and Georgetown—read a first and second time, and referred to the Committee for the District of Columbia.

FRANCIS HÜTTMANN.

An act (No. 251) for the relief of Francis Hüttmann—read a first and second time, and referred to the Committee of Claims.

DISTRICT OF COLUMBIA HIGHWAYS.

An act (No. 124) relating to the highways in the county of Washington and District of Columbia—read a first and second time, and referred to the Committee for the District of Columbia.

RIGHT OF WAY, ETC.

An act (No. 123) to extend the provisions of the act of August 4, 1852, entitled "An act to grant the right of way to all rail and plank roads," &c., for the term of five years, and to amend the same—read a first and second time, and referred to the Committee on the Judiciary.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that the Senate had passed a bill to regulate the compensation of district attorneys; in which he was directed to ask the concurrence of the House.

PACIFIC RAILROAD.

Mr. CAMPBELL moved that the rules be suspended; and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and proceeded to the consideration, as a special order, of the bill of the House (No. 364) to aid in constructing a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes, on which the gentleman from California [Mr. PHELPS] was entitled to the floor.

Mr. PHELPS, of California. Mr. Chairman, after the able argument of the chairman of the committee, I propose to submit but a few remarks upon the important measure under consideration. It has been thoroughly discussed in the public prints and by the great men of the country in and out of Congress, and its merits are so well understood by not only every member upon this floor, but by all of our constituents, that I cherish the hope that Congress will be as willing to act speedily and favorably upon the bill as the country is willing and anxious it should, as I believe the people, with a unanimity seldom known upon a great measure of the kind, have been desirous for a long time for the consummation of this great project, that is to be the means of settling up the territory between the two inhabited portions of the country, and bringing the Atlantic and Pacific States into a closer alliance, affording them the means of intercommunication and exchange so necessary to the peace, progress, happiness and security of a people living under the same Government.

While we have all seen and acknowledged the necessity of this great national work when the country was in the enjoyment of peace, its necessity has become, amidst the trials and dangers that now unhappily surround us, most painfully apparent. A few weeks ago, when dark clouds hung like a pall over this city, threatening European war, there was not, I presume, one of us who did not feel that our Pacific possessions were isolated, exposed, and difficult of defense, rendering us weak for standing the shock of battle with a foreign Power, and that we had been negligent to the extent of guilt, in failing to prepare the country for the emergency that then seemed to be upon us. The danger of European war is happily passed for the present. But should we not profit by the peril through which the ship of State has just been happily guided, and prepare for future difficulties that may not admit of so easy an adjustment? It is not my purpose to speak at much length of the importance of this measure in securing the safety of the Pacific States. On that score my colleague has made an unanswerable argument, for which I thank him, and for which his constituents and the country will thank him. I could add but little to the force of his able speech.

Never, sir, were words of greater wisdom uttered than those used by our great statesman when he counseled us to prepare in time of peace for war. Our weak and assailable points should at once be strengthened and made secure. The safest and cheapest way to avoid foreign dictation and war is to create an impregnable defense, to place ourselves in such a position that we cannot be assailed by any nation with any chance of success to the assailant or permanent detriment to ourselves. At the present time our Pacific slope is not only isolated from the central Government, and from the wealth and population of the country, but is almost wholly defenseless; entirely so in fact, except the partial defenses in the harbor of San Francisco. We have a line of sea-coast of more than one thousand miles in extent, stretching from 32° 30′ to 48° 30′ north latitude, and making in this distance seven and one half degrees of longitude. Along this whole line there are no defenses worthy of the name, except the works at Fort Point and Alcatras island; all the rest is at the mercy of an invading force, which could be easily landed at almost any point which might be selected.

As to a navy, we have upon the Pacific waters some three or four steam and other war vessels, and perhaps as many more that could, under an urgent necessity, be converted into war vessels without much delay. The population along the whole coast numbers less than one million souls, scattered over an area much larger than the original thirteen States of the Union—a territory possessing a wealth in the precious metals sufficient to tempt the cupidity of the world, and richer far in soil than any other which we possess, excepting the deltas of some of the rivers in the southern and western States. This people, though brave and loyal, are so scattered and exposed at every point that they could, with the defensive resources with which they are now supplied, make but a feeble resistance against an invading foe. We ought not, sir, to leave this distant portion of our domain longer thus exposed—a temptation to other nations to make war upon us for its possession; or in case war ensues from other causes, its exposed condition inviting the first notice of the enemy. We should not subject to such hazard, or to any hazard at all, that portion of our country the mineral products of which form the basis of our currency, and which is adding so much, year after year, to our national wealth; nor subject the Government to the possible expenditure of untold millions for its defense after a crisis has arisen. To fortify the whole coast by the erection of forts is a present impracticability; that is a work requiring a half century of time, and millions of money.

If, then, we would avoid the hazard of losing our Pacific possessions in case of war, we must provide the means of defending them. This can only be done in one of two ways. We must either have a railroad across the continent by which troops and munitions of war can be rapidly transported to that coast, or we must maintain a sufficient force there in time of peace to meet the exigencies of war, for it would be wholly impracticable to send a force to that coast across the continent by the means which we now have after hostilities are declared against us by a foreign Power, and equally impossible to send such a force by sea. To keep such a standing army as would be necessary for its protection, on that coast, for a few years only, would equal the entire cost of constructing a first class railroad from the Mississippi to San Francisco; and the policy of keeping such a force in time of peace is more objectionable to our people, and more obnoxious to the theory and practice of the Government, than to lend its aid in constructing a work of such national importance, and one so clearly demanded in the absence of a large standing army, as furnishing the only means of defending this important portion of our domain. Every one of us would repudiate with infinite scorn the idea of relinquishing a single foot of our territory, in any part of the country, whatever may be the cost of preserving its integrity. Then we must elect between these two alternatives, namely, a large standing army on the Pacific, or that of supplying the means of transporting an army there in case of emergency. Can there be a doubt as to the choice the country would make if submitted to the people? In regard to the importance of early action in this matter, I find in a most able letter from our consul at Paris, addressed to Mr. Seward, the following timely suggestions:

"The union of the Pacific and sea-board States by an iron road never appeared so clearly a national necessity as it has since the recent threatened rupture with England. The first and inevitable result of a war with any great naval Power would be the loss of our California possessions.

"Whatever may have been the traditional policy of the Government heretofore, some easy, sure, and rapid communication between the Atlantic and the Pacific is now a subject of such direct national concern that the Government must charge itself with the execution of it without much delay."

Never were words more true or more opportunely spoken. No one who has visited our western coast has failed to realize their complete isolation from the General Government and their perilous condition in case of foreign war. But none whose interests and homes are not there can appreciate the anxiety of the citizens of that coast on this score. Should they not have all the security from foreign invasion which the General Government can reasonably extend to them? Have we passed that period when any portion of our people can appeal in vain to the Government for protection? I will not believe it.

It may be urged by some that the expenditure will be large. True, nominally it is so, but in fact it is most insignificant, considering the great results to be gained. The whole of the land to be donated, should all the lines of road mentioned in the act be built, amounts, at Government prices, to not more than $11,000,000. So far as concerns the issue of bonds of the Government, the amount which is provided may be issued, as the road by sections of forty miles is fully completed, does not exceed one half the cost of its construction, and the issue is only made on a first mortgage of the road, which is to be unincumbered by any other lien whatsoever, the mortgage stipulating that the company will pay back to the Government in mail and military service and in money the principal and interest of the bonds loaned, and provides for a forfeiture of the road in case of a failure on the part of the company to fulfill the conditions imposed.

Does the Government take any hazard in making a loan of its credit in this way to secure the construction of a great work so necessary to the general interests and security of the whole country? Is it not one of those perfectly safe operations in which bankers and merchants, when the amount does not exceed their means, do not hesitate to engage? We believe it to be so, and that no loss can ultimately befall the Government from aiding this enterprise.

But it is claimed by the anti-progressives that it is illegitimate for a Government to give aid in this way or in any way to any purpose of the kind. This is error. On the contrary, sir, it is to carry out such great enterprises, which are demanded for the safety of communities, and the wants of commerce and civilization, and are beyond the means and ability of individual and corporate enterprise, that Governments are formed, and are just as legitimate objects for Government to engage in as the construction and maintenance of ships of war.

For what are Governments formed if not to protect their citizens from foreign invasion and wrong—to secure their happiness and promote their general welfare? And are they restricted in the manner in which they shall protect their citizens or promote their general welfare? If we are satisfied that the building of this road will render us as strong for defensive operations as would the building and manning of an hundred line-of-battle ships, may we not assist the enterprising subjects of the Government in building it by the exercise of the same powers that we exercise every time we make an appropriation for the increase of our Navy? Certainly we may do all this; and as I feel there can, at this day, be no lingering doubt in the mind of any well informed man as to the imperative military necessity of this road, I will pass from its consideration in this aspect, and consider for a few moments the benefits our Government and people are likely to derive from it in other respects.

The gentleman from Pennsylvania [Mr. CAMPBELL] has shown us, by authentic figures, that the cost of transporting military and naval stores and the mails to the Pacific coast, amounts to $7,000,000 per annum; and that, of this sum, an amount more than large enough to pay the interest on the bonds to be issued under this bill, would be saved by the construction of this road.

This I believe is the only Government that does not admit, as one of its proper objects, the aiding of great enterprises of this kind, in forwarding the interests of its commerce and development of its internal resources. Whether in this respect we are more prudent than wise, time will determine. Is it not well to glance occasionally, however, at the doings of other Governments, and perchance learn a lesson thereby? France has aided her railroad companies in the last few years, much in the manner proposed in this bill, to the extent of $245,000,000, not only with great advantage to the general interests of the country, but to the financial interests of the Government. Mr. Bigelow, speaking of her railroad system, says:

"It was inaugurated when the finances of France were in a deplorable state, and it has added incalculably to her wealth, as well as to her political power, and is to-day the main basis of her financial credit."

Speaking of railroads in Russia, he says:

"Russia had scarcely signed the treaty of peace which brought the Crimean war to a close when she began to carry out the vast designs for opening up to commerce and settlement the vast proportions of her empire, of which the war had revealed the necessity, and also to inaugurate a system of common schools and to emancipate her serfs. These were a few of the great enterprises which she commenced, and with every prospect of success, when she was pronounced by the English press exhausted and bankrupt."

But is she bankrupt, or impoverishing herself? No, sir; quite the contrary. There is no Government on the globe now making such wonderful strides towards wealth, greatness, and power, as Russia. What is to be the effect of this extensive European railway system upon our commerce and interests, is a question of great importance to us. Speaking of that, Mr. Bigelow says:

"Mr. Beckwith thinks, and not without good reason, it seems to me, that we shall find at the close of this war one half of our cotton business has been transferred to India. Soon, too, Russian roads will be opened through the whole region of the Terre Norre, from the Black sea to the Baltic, which, from its rich bottomless soils, will yield incalculable quantities of food now inaccessible. France is pushing her railway system down into Spain, and, in concert with that Government, is opening up vast regions hitherto uncultivated, which would grow wheat enough to feed all Europe. In these ways our export trade is seriously threatened, and can only be preserved by a railway system proportioned to the magnitude of our territory and its natural resources, by which everything that the industry of the country can produce can have its market."

That he is not mistaken as to the danger of our export trade being destroyed is but too apparent. We have not only to suppress the rebellion, but, as far as we can, do away with its disastrous results upon the industry of the country.

It is not alone the enterprises of France, Russia, and Spain with which we have to compete, but England, too, is fully up to the requirements of the age in her railroad projects, carried forward in aid of her commerce and industrial interests in every part of the globe. She has expended in the Indies more than sufficient to build a road across the American continent, and chiefly for the purpose of securing, independently of the United States, the single article of cotton, on which the industry of a portion only of her citizens depend. Canada has expended in the last ten or twelve years, in rivalry of American interests, more than forty-three millions of dollars in the construction of canals and railroads; an amount equal to the aid proposed to be extended to this road on its first mortgage bonds; and yet, Canada, with all of its surroundings, does not more than equal in population the State of New York. Yet, sir, there is no country where a railroad would serve such great purposes, and is so much demanded as the one under consideration. England, France, Russia, and Spain each have their commercial and local interests to advance by their roads; but we have, by the construction of this road, a country to settle and populate almost as large as the whole of Europe, and a commerce which we may obtain by it larger than was ever enjoyed by any nation since the world began. All that vast territory lying west of Kansas, east of the Sierra Nevadas, and between Mexico and the British possessions, is inaccessible to settlement except by railroad. Throughout most of the settled portions of the country our lakes and rivers have been highways of commerce, and have aided much in settling the country, but in all that region mentioned we have no such advantages. There railroads must supply the indispensable purposes of communication and exchange which lakes and rivers have done in other sections.

The experience of the infant settlements already made in Utah and Nevada teach us how utterly hopeless is the task of peopling that country without the aid of railroad communication. The people of Salt Lake, though industrious, and occupying the richest soil, and aided greatly by the overland emigration to California, with which they have been able to make desirable exchanges, and who, from their peculiar religion, seek to live wholly within themselves, have made but little progress during the last few years. In Nevada we have a mining population of some twenty-five or thirty thousand, to whom all articles of consumption have to be freighted from the Sacramento valley at an average cost of not less than $4,000,000 per annum to every twenty-five thousand persons, or $160 to each person, an amount greater than the average earnings of our citizens. Thus, sir, these settlements, though small, are sufficient to demonstrate the utter impracticability of settling that Territory with the present avenues of communication. Yet it is very important those lands—embracing more than five hundred million acres, much of it rich agricultural land, and the mineral wealth of which cannot be estimated—should be brought into market, and that country settled and made to add to our wealth and power, instead of draining our wealth and contributing to our weakness.

These, sir, are some of the considerations that urge upon us immediate and favorable action on this bill. Time does not permit a full presentation of the arguments in favor of the enterprise; besides, few even among its most earnest supporters could begin to detail all the benefits that would follow from its consummation.

We can sometimes make a closer estimate of the benefits of a contemplated work of the kind from analogy than in any other way; and, fortunately, we have a work that will serve our purpose, to some extent, though of far less importance in every point of view. It is but a short time since, though before the era of railroads, that western New York was almost a wilderness, and its sparse settlements, together with those of western Pennsylvania and Ohio, had no markets or means of intercourse with commercial centers. The progress of settlement in all that section—then the far West, but now the center of wealth and population—was but slow, as the wants of a market more than offset the advantages of soil and climate. But De Witt Clinton conceived the project of constructing the Erie canal to afford them the means of reaching a market with their surplus products with which to buy the luxuries of more civilized life. After surmounting numberless difficulties, and meeting the persistent objections of the timid, the weak-minded, and the do-nothing-anti-progressive school, who feared to depart from the beaten paths of their ancestors, he had the satisfaction of seeing the great work commenced; and then it was that all through the West the noise of machinery and the din of busy multitudes began to break upon the quiet of ages; the trails of the savage became obliterated by the tread of a resistless emigration, and the native forests began to disappear before the sturdy pioneer, and the face of nature to be made glad by the arts of civilization, and towns, villages, and cities sprang up everywhere as if by magic. And so it will be in our now great western wild if we authorize the construction of this road. The Erie canal may not have paid back in mere tolls the cost of its construction, but it has added to the aggregate wealth of the State of New York more than five hundred millions, has made her the Empire State of the Union, and her chief city the commercial emporium and center of the continent.

But its results have not been altogether local; on the contrary it has contributed in no small degree to our national prosperity, in the early settlement of the great West, the wealth of which contributes so much to the support of the Government, and whose hardy, patriotic, and gallant sons have been dealing such telling blows against rebellion and in favor of the Constitution and the Union, and without whose aid we should be powerless to cope with treason to-day. And yet Clinton, like Watt and Fulton at an earlier day, was denounced as a speculative dreamer for undertaking that magnificent enterprise, so grand in its results, so extensive in its benefits. So much must those meet and endure who dare to take a step in advance of the position held by cotemporaries. But Clinton lived to see the triumph of his project, the completion of that great undertaking; a work that is a more enduring monument to his name than perpetuates the memory of almost any other man; a more noble achievement than though he had secured the Presidency, and dispensed Federal patronage through a half dozen terms of office.

Sir, I desire to draw no unpleasant comparison between the relative condition of States, but it is sometimes profitable to notice the difference in their prosperity, and trace the causes that have

led to it: Virginia, possessing an area one fourth greater, a better soil and climate, had, in 1790, more than double the population, wealth, and commerce of the State of New York; now, New York has double the population, five times the wealth, and twenty-five times the commerce of Virginia. The causes which have led to these wonderful changes in the condition of those States are almost as apparent as the fact that the changes have occurred. Virginia has rested content with her natural advantages, while New York, through her great public works, has been constantly marching forward on the highway to wealth and greatness, until now she is an empire within herself, possessing as large a population, and more wealth and commerce than was possessed by the whole country eighty years ago. May we not learn a wise lesson from the history of those States, and profit by their experience? What the Erie canal has been to the State of New York, a Pacific railroad is destined to be to the whole country.

There are, then, two good reasons why we should pass this bill, either one of which is sufficient to justify its passage, namely: it is a military necessity; and, secondly, it is absolutely essential to our internal development. But there is another reason, which would be sufficient of itself to induce any European Government, under similar circumstances, not only to give the aid proposed, but to wholly construct the road in the speediest possible way; and that is, sir, the fact that beyond its western terminus lie Japan, China, and the East Indies, with their more than four hundred millions of industrial inhabitants, whose commerce, the most tempting prize ever within the reach of any country, may be secured thereby. To secure this commerce would not only add vastly to our national wealth, but it would build up, through individual enterprise and the currents of trade opened by it, such a fleet of steam and sail vessels, and give us such a naval predominance upon the Pacific, as would enable us to defy the maritime Powers of the world on that ocean, and would render our Pacific possessions safe within themselves for all time to come. And not only would we derive the advantages of an increased trade and national security, but we would save in the present condition of our commerce, as may be learned from facts within the reach of all, on freight, interest, and insurance on our precious metals, and on our money exchanges, an amount every ten years equal to the entire cost of the road. As this source of drainage upon our national wealth does not appear to have been much examined into, I beg the indulgence of the House for a few moments to present some facts in relation to it.

Our imports from China, in the year 1857, amounted to $8,356,932, and our domestic exports to China amounted to $3,019,900, leaving a balance of trade against us of $5,337,032. In 1858, our imports from that country amounted to $10,570,536, and our domestic exports to only $2,467,645, leaving a balance against us of $8,102,891. In 1860, the amount of our imports from the same source was $13,566,641, and that of our domestic exports $7,170,784, leaving a balance against us of $6,395,802. These figures exclude the exports of gold and silver. For the years 1859 and 1861 I have been unable to obtain the statistics.

It will be observed that our trade with this nation is rapidly increasing, our imports having increased from 1857 to 1860 about sixty per cent., while our exports of domestic produce show the gratifying increase of more than one hundred and thirty-three per cent. This commerce, so rapidly increasing in importance, needs facilities which it does not now possess; and by giving the facilities necessary to its prospective growth, such as England and all other nations so willingly extend to interests of like magnitude, it may be extended and increased, until at an early day it will profitably absorb annually millions of dollars' worth of our manufactured goods, and all of the gold and silver taken from the mines of California, Oregon, Washington, and Nevada, and give remunerative employment to a merchant fleet as large as that which we now possess.

It is not reasonable to suppose, under any circumstances, that the balance against us in our trade with China, will, at any time, be less than in the year 1860—say $6,400,000 in round numbers. This amount of indebtedness is now mostly paid through English houses, at a cost to us of about twenty per cent. At the present rates of exchange, then, the balance against us, to be paid by remittances of money or bills of credit, will cost us annually the sum of $1,280,000; that is to say, the $6,400,000 purchased by us in excess of our exports, will really cost us $7,680,000. This exchange, of course, is paid in part by every person who consumes a dollar's worth of Chinese goods, as it becomes a part of their cost; and one section of the country is as much interested in reducing the amount as another, it being placed upon the people of the entire country as equally as the duty on imports or any other tax. If we can by the construction of this road open a new channel of commerce which will turn this treasure current to direct shipments, which can be made from San Francisco in twenty-three days, saving from the present specie route at least sixty days in time, reducing the cost of shipment, including exchange, freight, interest, and insurance, to not exceeding four per cent., it would make, annually, a net saving to our people of $984,000. To the sum thus saved should be added the cost of shipment of the same amount of treasure from San Francisco to New York, which cannot be done at less rates than three and one half per cent., and would amount to $259,000. I may very properly add, that the entire balance of trade against us, in what is known in mercantile parlance as the "East India trade," will not fall short of $18,000,000 per annum. On this sum the saving in exchange would amount to $3,600,000.

But, sir, these are but a small portion of the benefits the country would derive from changing the specie route of the world into American channels of trade. It is estimated that the annual balance of trade against Europe and America, and in favor of the Mongolian race, reaches an aggregate of less than $50,000,000. This vast sum should be met by the shipment of gold and silver from San Francisco; and our merchants on the Atlantic sea-board, instead of buying exchange in England to pay for purchases in China, should themselves sell to England and all Europe the exchange to pay their balances. When we reflect that almost the whole of the silver shipped to China and the East Indies is collected on the Pacific coasts of North and South America, and shipped thence across the Isthmus of Panama, via London and Suez, to the point of its destination, thus traversing three fourths of the circumference of the globe, we may well marvel that our Government has failed for the last ten years to appreciate fully the importance of changing these currents of trade by building a continental road, to direct shipments from our own ports by our own people, and by so doing have made New York, instead of London, the point at which the world's balance should be settled. We have probably paid to Europe for exchange or credits in the East, during the last ten years, not less than $14,000,000; and to pay our European balance, our merchants have paid for exchange and freight from the Atlantic sea-board to Europe probably not less than $10,000,000. The gold to pay these balances during that time has been drawn from San Francisco, and has been shipped to New York, at a cost to our miners and merchants of not less than the sum of $20,000,000—making, in the aggregate, $44,000,000, which has been paid for *freight* on gold and silver and exchange, which might have been saved, almost wholly, by building this road and the establishment of steam communication between San Francisco and the East, which its construction would have immediately caused to be done ten years ago.

Nor is this all, sir. A profit on this freight and the world's exchange, which now goes to England, amounting to nearly as much more, would have been realized by our commerce and people. Thus the country is sixty or, perhaps, seventy-five millions of dollars poorer to-day because of our failure to discern and improve our opportunities in this direction.

I am aware, sir, these are startling figures, but they are, nevertheless, correct, being made up from actual computation of our trade and balances, and the rates of exchange as they have existed. For the last half century China has been the silver market of the world; thither have flowed and converged the silver currents of the globe. Within the last two years, and while our attention has been particularly directed to the subject of Asiatic commerce, we have discovered almost upon our western borders the silver mines of Washoe and Esmeralda, abounding in wealth in this metal beyond the ability of man to compute. It is estimated by those competent to judge, that the yield of Washoe alone, for the coming year, will amount to $20,000,000, and this, too, in the very infancy of those mines. When a sufficiency of proper machinery is introduced, probably within two or three years, the yield will not be less than thirty or forty millions of dollars per annum. The question, sir, is, shall we take such steps as will lead to the sending of this silver to its natural market directly, and reap all the advantages to be gained by so doing, or shall we pursue the old narrow-minded policy which has governed us so long, and allow it to take the route via Panama, New York, London, and Suez, a distance of twenty-five thousand miles, to reach its final destination, only five thousand miles from our shores, ourselves losing the freight, interest, and exchange, and giving to another and a rival nation the profits which should be our own? In other words, shall we avail ourselves of our own resources and apply them to our own benefit, or shall we continue to be in this respect, at least, a mere tributary, serving to swell the current of a rival's wealth, commerce, and power?

This subject is not one which concerns the Pacific coast alone, but is eminently national; New York, Boston, and the whole country being quite as much interested as the Pacific States. If any one section, in fact, is more interested than another, it is the great cities of the East, for it is there the balances of trade would be settled, and the profits of exchange would be paid. California has, however, an interest peculiar to herself in changing the present specie route. The balance of trade against her, and in favor of her Atlantic sisters with whom she deals, is about forty millions of dollars per annum. This amount she pays by shipments of gold, at a cost in freight, interest, and insurance, of little less than two millions of dollars per annum. If trade was changed, as it would be by a continental road, this balance against her would be adjusted by shipments to China, at the expense and to the credit of the merchants of New York, Boston, and Philadelphia, thus saving California this large item of expense, and largely benefiting them, as the money thus placed to their credit would settle their balances due China and the Indies, and form the basis of exchange to be sold to English and European merchants. I should not fail to notice in this connection, as a matter of great commercial importance, the fact that the Chinese are beginning to receive with much favor gold and silver bullion, and it is probable that hereafter gold will be as acceptable to them as silver, and we may use as much of it in our trade with them as may be desirable.

I now propose to notice more particularly the advantages which would be derived from it in an extended commerce and increased markets for our manufactures and agricultural productions.

Recent occurrences in China have opened the door to trade with millions of that people heretofore shut out by their exclusive policy. Mercantile men everywhere regard the opening of the Chinese rivers to commerce as one of the greatest events of the age in its commercial aspects; and one that we may avail ourselves of, if we will, to the great benefit of the whole country, by extending our commerce and increasing the markets for the productions of the country, particularly our coarse cotton goods, to almost any extent we may desire, for the building of this road with the steam lines it would call into existence, would enable us to transport freight between New York and China in thirty days, and as time nearly governs commercial operations, would give us such an advantage that no nation would be able to compete with us in the Asiatic trade.

One of the greatest wants of the country on the close of this war will be a market for our cotton. England, by her constant exertions, will have the ability in a few years, at most, to supply herself with this important staple independently of the United States. Unless, therefore, proper care is now taken, this once great element of national wealth will be lost to us forever. This we cannot afford and should not allow. It is no argument to say that the cotton planters are traitors, and deserve no encouragement from Government. The planter may be a traitor, but cotton is an important

staple of commerce, and its loss would be a national calamity, affecting every interest wherever situated throughout the country. Great interests of this kind, though apparently local, are not so in fact. Whatever benefits any one great branch of industry, indirectly advances all others, and he who cannot see the intimate relations existing between them, and their mutual dependence upon each other's prosperity, can lay no claim to the title of statesman. But let England cease to purchase our cotton, when by her persistent efforts, continued through many years, she has gained an independence of us in this respect. I honor her for the careful guardianship she exercises over all her interests, and if we are equally careful, and display equal foresight, in advancing the interests of our people by creating a market in China for our manufactures, then, when she ceases to buy our cotton, it will only be transferred from the looms of Old England to the looms of New England, much to the benefit of the industrial and financial interests of the country.

Another consideration of great importance that should not be overlooked by any who have the welfare of the country at heart, is the agricultural interests on the Pacific coast. We have in the States of California and Oregon and Territory of Washington, an area, in square miles, as great as that embraced in the seven States of Ohio, Indiana, Illinois, Iowa, Michigan, Wisconsin, and Minnesota, with enough left to make seventeen States the size of Rhode Island. This extensive region is as rich in soil as any which we possess, and, as it extends through sixteen degrees of latitude, has a greater variety of climate than is to be found on our Atlantic border, and thus favored in soil and climate, is capable of sustaining a population of many millions, and is undoubtedly one of the greatest fields for agricultural enterprise ever opened to the industry of any people. Properly settled and cultivated, it is capable of turning off a larger surplus of cereals than is now produced in the whole country. And even now, notwithstanding the great majority of our people have been engaged in mining, and neglected agriculture almost wholly until 1854, our exports of wheat from San Francisco amounted in 1860 to nine hundred and forty-eight thousand two hundred and twenty bushels; and of flour, to fifty-seven thousand eight hundred and twenty barrels, or more than one fourteenth part of the entire exports of the country in these articles; while our export of barley was probably somewhat larger than of wheat. This surplus will be increased, under ordinary circumstances, annually from ten to twenty per cent., until it reaches a maximum greater than I should like now to name, for fear of being considered speculative. Our herds of neat cattle have already become so numerous that we scarcely know what to do with them, and are even now being slaughtered for their hides and tallow, upon the Mexican system.

What is to be done with these surplus products, is a question that addresses itself to every statesman, as the future prosperity of the country in no small degree depends upon the people of that coast finding a remunerative market for the products of their industry. In my opinion, if we provide for a continental road, it will be the means of giving us such frequent communication with Asia, and make our relations with the countries of the East such, that they may be made to occupy, as regards this excess of productions, the same position which England does to the Atlantic sea-board. In this direction we have already made an important beginning. In 1857, we exported to China in farm products, in value, $202,532, and in 1860, $513,113. These exports, though small, are gratifying, as they more than doubled in three years. In our exports of 1857, the item of flour amounted to only eleven thousand five hundred and ninety barrels. In 1860 it had increased to thirty-seven thousand three hundred and twenty-eight barrels. The process of introducing our products is necessarily slow, as the Chinese are unaccustomed to our habits and articles of diet; but the progress already made is a sufficient indication that, with closer commercial relations and more frequent intercourse, they would, in a short time, adopt sufficient of our habits to require from us all the surplus cereals we shall have to spare them.

In securing a market in China and Japan for the production of the people of this distant portion of our country, the grain-growing and stock-raising States lying east of the Rocky mountains are particularly interested, for if they do not find a market in that direction, they must continue to be competitors of those States in the markets of New York and Europe. This they may not damagingly feel now, but they will seriously feel such a rivalry in the future.

Sir, the benefits to be derived by obtaining control of the oriental trade cannot well be over estimated; and I apprehend the more thought we devote to the subject, the more we shall be convinced we have hitherto failed in its just and proper appreciation. Towards the possession and control of this trade will the commercial strategy of nations be directed for the next ten years, and within that time it must be won by us or by some more enterprising people. Whether it shall be ours depends almost wholly upon our action in regard to this continental road, which alone can give us the facilities to command and to control it.

We may obtain some idea in reference to the magnitude and importance this vast eastern trade is soon likely to attain, when we consider the progress made in but a single branch of it for a few years past. An eminent commercial writer, speaking of England's India trade, says:

"The whole trade of India, in 1833, amounted to some three millions sterling, and now that of Bengal alone is thirty; while if that of Bombay, Madras, Pegu, and the straits be added, the total will not be far from seventy-five millions. Estimating the profit on that commerce at only twenty-five per cent., carrying trade included, India still adds nineteen millions a year to British wealth. And if the trade of India has increased in value within the last twenty-five years to the extent of seventy millions sterling, when it has, with one exception, Bengal, been almost entirely confined to the coast and the deltas of the great rivers, the boldest conjecture will hardly exceed probability in guessing at its expansion within the next twenty-five years, or by the end of the century."

Of course, so far as Hindostan is concerned, or the bay of Bengal, we cannot hope to affect the supremacy of English commerce, but we may make it in some measure tributary to us; and we would certainly command a fair proportion of the light freight and passenger travel between Europe and Asia, and our trade with Sumatra, Java, Borneo, the Philippines and surrounding islands, so rich in their commercial products, would be greatly increased.

We have, then, in urging us to favorable action on this measure, all the considerations of national safety from foreign aggression, internal development, the fostering of great interests, and a market to supply to the Pacific coast, which is in itself, in area, an empire, and in soil and climate the most favored portion of the country. Are not these sufficient reasons for the passage of this bill without delay? Let it not be said that this war will leave the country too much involved to give the required aid to this important enterprise. If we are poor, there is so much the greater reason why all the avenues to wealth should be opened to our people.

If the aid to be given towards the building of this road was a donation, instead of a loan of the credit of the Government, on unquestionable security, it would be but a mere bagatelle, considering the great results to be achieved by its construction.

Shall we delay, then, until England has built a road from the Canadas to Vancouver, and obtained absolute control over the oriental and even the Mexican trade on the Pacific, and established a protectorate over the Sandwich Islands, lying almost at the entrance of our Golden State, as France has already done over the Society Islands? Shall we longer permit the energy of our citizens, in carrying out great national objects of this kind, to maintain doubtful struggles against rival enterprises carried on by the combined efforts of the Governments and people of other countries, unaided by the friendly care and strong arm of our own Government? Are we to follow in the footsteps of the old-school politicians, who could find no power in the Constitution to do anything but plunder the national Treasury, by distributing the spoils of office among wrangling adherents, and whose masterly administration of the Government—masterly in its shameless frauds and wrongs—terminated in the present rebellion? Or shall we rather seek the public good, and by wise and judicious legislation fertilize all the fields of enterprise in which our citizens are engaged; and by aiding the construction of this road, not only secure the national safety, but indirectly give profitable employment to millions of our citizens in their factories, workshops, and mines, and on their farms throughout the country, and abroad on the high seas? Never did a single work promise such grand results. And, sir, that we shall thus gird the continent by belts of iron is not only demanded by the majority of our people, but is due to American enterprise and interests, and to the position, standing, strength, and safety of this great Republic.

Mr. KELLEY. Mr. Chairman, the people who I have the honor to represent, have no special interest in a Pacific railroad; nor after the well considered remarks of the chairman of the committee, [Mr. CAMPBELL,] and those of the able Representative from California, can I hope to add much, if any, to the argument which has been presented to the committee. But, sir, a Philadelphia newspaper, bearing date October 21, 1850, that lies before me, reminds me of the interest I felt at that early day in this great project, and I feel that I should be faithless to myself, and, if I may hope to influence the vote of any gentleman on this floor, to the country, if I did not utter my conviction, and, so far as I can, redeem the discussion of this great national measure from the appearance, at least, of reference to a merely local question.

I think the time peculiarly fitting for the commencement of this work. Our domestic exigencies require its immediate commencement and early completion; and not until we shall have completed a Pacific railroad will this nation assume its proper position among the nations of the world. Let us look at our geographical position. We are the inhabitants as it were of a great island, lying between two continents. We have upon the one hand the Atlantic; on the other the Pacific ocean. On the one hand dwell two hundred and fifty millions of busy enterprising producing people; on the other hand are seven hundred and fifty millions of the less active people of the older world. We of the Atlantic coast are strangers to the people beyond the Pacific, and those of the Pacific coast are strangers to those beyond the Atlantic. But when we shall have built this road we will all be in immediate commercial neighborhood with the thousand millions of people whose trade invites us to the work. Make this road, and the time for travel from Liverpool to Canton or Shanghae will be reduced to a period of about or probably less than thirty days.

Sir, it was to sail due west to the marts and wealth of India that Columbus started on his adventurous voyage. That he run upon a continent was an accident, a fact not within his calculations; but it did not change the route from point to point; it did but show the necessity for new modes of travel. He was no mere dreamer. His theory was correct; his undertaking was practicable, and its execution waits but the completion of the work now under consideration. The Pacific railroad will secure to the American people the advantages on the grander scale of our age which Columbus and his countrymen hoped from his adventures.

Build this road, and California and Oregon, with her gold region now so rapidly developing, and Washington, yet scarcely explored, having together a coast as extended as the Atlantic coast of the thirteen original States, will be speedily populated. The world at large will share and contribute to their wealth. Why is it, with gold abounding in that region, that population has increased so tardily? Not tardily in comparison with the growth of other nations, but tardily in view of the temptation held out to the emigrant. It is the expense of the overland passage. Your laboring man from the East, burdened with a family, cannot emigrate. We all know the danger of an overland passage, but few of us realize the expense attending it. The completion of this road would make the transit easy and cheap, and would give us upon the Pacific slope a population as capable of protecting itself against the assaults of a foreign enemy as the people of the Atlantic States are today. And that population, with the enterprise which characterizes the American people, would bring us into intimate commercial relations with Japan, China, and the whole East, would give a stimulus to the productive power of the country such as it can derive from no other source. Then the influence of America would be felt indeed. Then the western country, that would excite and

reward our enterprise, would be found among the living millions west of the Pacific ocean.

But, sir, while this is requisite to give us the commanding influence and position which belong to us, from our geographical position, our superior resources, and the energy and enterprise of our people, it is no less necessary to maintain the integrity of our country. When that wonderful man who now presides over the destinies of France became, not the Emperor, but the Prince President, he set about knitting together the distant departments of France. The republic for four years had halted before the proposed expenditure of money necessary to complete her railroads lying fractional and unfinished. I remember well when he issued a little rescript, decreeing the completion of these roads, designating the person to superintend them, and indicating the sources from which the requisite money should be drawn.

In 1852 it was my good fortune to witness the enthusiasm with which the people of Paris hailed him on his return from the celebration of the completion of the Strasburg road. He went on quietly, sir, until he knit the frontiers of France to the capital by iron rails, so that he could, on a signal, transport its armies from any one frontier to another, or concentrate them at the capital. This accomplished, he began to develop his policy. While these works were incomplete, he was the Napoleon of peace; but when he had made of this —I was about to say disintegrated France—a compact empire, he treated with the nations on questions of trade, boundaries, &c., and showed that, although he had been called the Napoleon of peace, he was ready, if France needed, to show that she was no less powerful in war than she had been under his great uncle. So it should be with us. Nobody can disguise the fact that California and Oregon lie at the mercy of England, should we engage in war with her. It is not for me to announce that we could not transport men, arms, and munitions, and stores for their defense. The records of the country already proclaim the fact. The distinguished gentleman from California [Mr. SARGENT] brought to our attention the other day a portion of the able report of Jefferson Davis, then Secretary of War, on that subject, in which he asserted that overland transportation of such supplies was an utter impracticability.

On this point I will invite attention to a brief extract from his report, as I find it quoted by the gentleman from California, [Mr. SARGENT:]

"This territory is not more remote from the principal European States than from those parts of our own country whence it would derive its military supplies; and some of those States have colonies and possessions on the Pacific which would greatly facilitate their operations against it. With these advantages, and those which the attacking force always has of choice of time and place, an enemy possessing a considerable military marine could, with comparatively little cost to himself, subject us to enormous expenses in giving to our Pacific frontier that protection which it is the duty of the General Government to afford.

"In the first years of a war with any great maritime Power the communication by sea could not be relied upon for the transportation of supplies from the Atlantic to the Pacific States. Our naval peace establishment would not furnish adequate convoys for the number of storeships which it would be necessary to employ; and storeships alone, laden with supplies, could not undertake a voyage of twenty thousand miles, passing numerous neutral ports, where an enemy's armed vessels, even of the smallest size, might lie in wait to intercept them.

"The only line of communication, then, would be overland; and by this it would be impracticable, with any means heretofore used, to furnish the amount of supplies required for the defense of the Pacific frontier. At the present prices over the best part of this route, the expense of land transportation alone, for the annual supplies of provisions, clothing, camp equipage, and ammunition for such an army as it would be necessary to maintain there, would exceed $20,000,000; and to maintain troops and carry on defensive operations under those circumstances, the expense per man would be six times greater than it is now; the land transportation of each field twelve pounder, with a due supply of ammunition for one year, would cost $2,500; of each twenty-four pounder and ammunition, $9,000; and of a sea coast gun and ammunition, $12,000. The transportation of ammunition for a year for a thousand sea-coast guns would cost $10,000,000. But the cost of transportation would be vastly increased by a war; and at the rates that were paid on the northern frontier during the last war with Great Britain, the above estimates would be trebled. The time required for the overland journey would be from four to six months. In point of fact, however, supplies for such an army could not be transported across the continent. On the arid and barren belts to be crossed the limited quantities of water and grass would soon be exhausted by the numerous draught animals required for heavy trains, and over such distances forage could not be carried for their subsistence.

"On the other hand, the enemy would send out his supplies at from one seventh to one twentieth the above rates, and in less time—perhaps in one fourth the time—if he could obtain command of the Isthmus route. Any reliance, therefore, upon furnishing that part of our frontier with means of defense from the Atlantic and interior States, after the commencement of hostilities, would be vain."

Are the Pacific States and Territories of value to us? Is it necessary that we should maintain the integrity of the country, that our shores should continue to be laved by two oceans, and that we should remain one people? If it is, then must we, and the sooner it is done the better, provide means by which the one shore shall be knitted to the other, and by which the intervening spaces shall be populated. It is not the time, say some, to begin this work. When will it be the time? It was not the time in 1850. Then attention could hardly be concentrated on it. Yet, had the work been begun in that year, the road would have been completed ere this, and the city of San Francisco would have been as safe as New York or Boston.

The railroad operates as the river did in the olden time. We know that population could settle only upon the river banks. Land so remote from a navigable stream that it would cost to get its product to market nearly its market value was worth nothing. It is no longer so. That law of nature would have kept our coasts apart for centuries. But the railroad is the river produced by modern science. We can carry these streams over mountains and across valleys, and they will be followed by towns and cities along the plains. From this great stream rivulets will flow, so that in Nevada, Utah, Colorado, Washington, Oregon, Nebraska, and Kansas, American civilization will spring up, and the land teem with life. We can by this means, and this alone, cement the two coasts of our country, and make the East and the West parts of a well-united nation, easily governed, easily defended by its own people, and from any part of which to the other the Government may at all times throw the requisite force for defense, or, should God in His providence permit a recurrence of it, the suppression of rebellion.

I cannot feel that the time was ever more propitious for beginning this work than now. What immediate expenditure does it require? None in the next year, but in two or three years hence probably an expenditure of $180,000, increasing semi-annually to about five millions of dollars per annum. Can there be any question that our country can bear such an augmentation of its annual expenditure? Or will it harm us, if posterity, being blessed by this work, should perchance have to pay the principal of the credit invested? The time is propitious. The people of the world are beginning to realize what a country ours is, and what an energetic people inhabit it. The world is beginning to see that a republican Government, which in time of peace sits upon the people as light as the surrounding atmosphere, is the most powerful Government yet known to man. Let them also see, and let posterity embody it in history, that in the very agony of our country, her Representatives and the Government had a care for the future, and for the welfare and dignity of the country; and that while they provided ample means for suppressing the rebellion, and the punishment of those who originated and sustained it, they also provided for the immediate future and the ultimate grandeur of their country.

Mr. SARGENT. Mr. Chairman, after the lengthy remarks which I submitted upon the policy and the military necessity of a Pacific railroad early in the session, and the explanation I gave of the financial features of the measure as urged by its immediate friends, it may seem unnecessary for me to recur to those topics. But, sir, I represent a constituency vitally interested in this question, who will not hold me guiltless if I do not seek on all proper occasions to present their wants in this regard, and exert all the influence of which I am possessed in aid of this great measure. It is my purpose, before I conclude, to discuss the features of the bill reported by the select committee to whom the subject was referred, and who have spent much labor and thought upon the subject. But, sir, I deem that this measure cannot be justified to the House and the country, in this day of vast expenditure and necessary retrenchment, unless it is clearly demonstrated that the Pacific railroad is not merely a matter of convenience, or even commercial advantage, but is an overwhelming military necessity, necessary for the integrity of the country, the preservation of its honor, and called for by considerations of patriotism and safety. To a work of this character, if such it is, we need to bring the most earnest and solemn consideration. That it is a work of this character the concurring testimony of many of our most eminent statesmen attests; that it is such has been shown by the events of this war, where railroads have been used to an extent never before seen in the history of the world in precipitating armies into the field; that it is a great military necessity is shown by the geographical features of the continent, the impossibility of defending our Pacific possessions without it in the event of a war with a foreign maritime Power, the ease with which such a war may be excited, as witnessed by the events of the past three months, and the great and obvious disaster and disgrace to the nation that would occur by the loss of our noble Pacific empire.

Sir, twelve years have passed away since the first Pacific State was admitted into the Union. Since that time over half a million of souls have settled in our possessions upon that ocean, great commercial interests have grown up, vast gold fields have yielded millions to preserve our balance of trade in the markets of the world, and yet to-day, save a few insignificant forts, nothing has been done for the protection of these valuable possessions, and we are indebted to accident only that the western boundary of these States is not the Rocky mountains instead of the Pacific. We are indebted solely to the lucky accident that we have had no war with any European commercial nation —that our clashing commercial interests with England and France, our causes of rivalry, our points of contact, have not involved us in war with those Powers, or one of them; to our good fortune and not to our statesmanship, that we have not ere this paid the penalty of our inactivity in neglecting this great engine of defense, in the loss of the richest portion of our territory—the very jewel in our coronet of States. We cannot hope for such impunity forever. The wheel of fortune will turn if we are unworthy the favors of the blind goddess. We cannot hope to disregard all the lessons of experience, all the warnings of the present, all the precautions suggested by mere self-defense, and escape the penalty of carelessness. The awful prospect of foreign war has but just faded from our vision, and for the moment all seems serene. But who can tell when the next occasion of war shall come? Even if we had internal peace we should be no more justified in neglecting a great work of national defense like this than we have been in neglecting to construct a navy that could compete with the iron-clad ships of the Old World. And let me tell gentlemen here, and the country, that while the recent experience of the country in the sinking of the noble frigates at James river by the iron-clad monster of the rebels has shown that the English Warrior and the French *Gloire*, had foreign war fallen upon us, might have penetrated our best fortified harbors on the Atlantic, and laid their cities in ruins, that such a war would also have wrested your whole Pacific possessions from your grasp, and reduced them to colonial vassalage to England or France.

Sir, I do not deal in exaggeration in these statements. In case of a foreign war you cannot hold this continent together without rapid communication across it. Look at its configuration. You see two great empires, one on the east, bordered by an ocean washing the shores of Europe; one on the west, looking out on the wastes of the Pacific and on Asia. Between these empires you have no link of communication. Two ranges of mountains divide us, and wide deserts, with little water or grass, occupying nearly two thousand miles of intervening space. The history of the world rebukes the idea that such empires can be permanently united without an annihilation of the intervening barriers. Sir, there has been no instance in history where a country has maintained the integrity of its territory if that territory was riven by a chain of mountains. Napoleon's armies overran the Alps and the Pyrenees, yet France fell back to the base line of those mountains—its old limits. The homogeneous character of our people, the devoted love which our Californians have for the Union, has led them and will lead them to cling to that Union even if they are compelled to seek a tropical passage back here to the seat of their Government, which is at the same time the cradle of the liberties that make the name of American illustrious, and which name they proudly

share. But a war must change all this. Your intervening mountains and desert plains cut them off from aid to repel a foreign foe. Your only communication by water would be cut off, and they would fall a prey to the adversary. Modern science has furnished us the means of reversing the lessons of history. The rapidly growing empires of Asia and Europe, expanding as they followed the wheels of a conqueror's car, and then breaking into fragments across mountain chains, need not be the type of this confederacy. By means of the iron bands of a railroad track, and the swift moving car, we may conquer the obstacles of nature, and bind together the continent. Then the question presents itself, shall we share the fate, which history points to, of all nations which preceded us? Shall we allow our territory to be divided? Shall we idly doze in security until we lose our rich Pacific possessions, or avail ourselves of the aids of science to make our country indivisible?

Gentlemen may say California can protect itself, and if it succeeds in so doing, will remain in the Union. Sir, I will not discuss the question whether this is a fair argument; whether a Constitution that was made for the common defense does not require us to provide means so that common defense can be secured. Neither will I attempt to express any opinion upon the question involved in the proposition, that any State left to struggle alone through a fearful war, if it succeeds in self-preservation, can be expected to subject itself to a renewal of such disasters by adhering to a Government whose policy occasions them, and whose regard for it seems to be in inverse ratio to the squares of intervening distance. Sufficient for the day is the evil thereof. I shall be better prepared to discuss that question with my people when we emerge successfully from a foreign war, unaided by the Government. I prefer now to confine my observations upon our capacities for self-defense.

When, in January last, I addressed the Committee of the Whole House, I particularly sought to show the difficulties in the way of a successful defense of California in the event of a foreign war. I showed that we are not situated as are the States of the Atlantic slope. That the eastern States possess within themselves elements of power and self-reliance; their coal and iron fields developed, their manufacturing establishments extensive and varied, with the West as a vast storehouse to supply their necessities, and a network of railroads and canals extending to all parts of the country, affording facilities for the transportation of public and private stores and goods, and available for rapidly concentrating troops at any required point. But with us, as I sought to show, it is far different. We are more distant from the Atlantic States than India is from the British isles. Our Isthmus route would be soon closed. We could only be reached by a voyage of fifteen thousand miles around Cape Horn—a route assailable by the enemy's cruisers its whole length; and even if a transport should escape the enemy's vessels, which could lie in wait for it in all the numerous South American ports, it would have to run the enemy's blockading fleet. I also referred to the physical formation of our State—the case with which it might be closed by blockade; its harbor of San Francisco seized; that the whole agricultural district of the State was at the mercy of the invader, so that he could starve our people into submission. I also dwelt upon the inducements for a campaign for conquest—the riches of our soil in minerals, our noble bay and city, our navy-yard, arsenal, dry dock, and other appliances, ready fitted to the hand of an enemy, and the very means he needs to strengthen his position.

I do not desire to recapitulate my statements and arguments upon these topics. I trust gentlemen have given to these matters their due weight, and that they will show their appreciation of them by their action upon this bill. But I will say that a formidable fleet, such as that the English Government now maintains in the Pacific, can wrest San Francisco at any time from the Government, take possession of the fortifications, navy-yard, dry dock, and arsenal, and hold command of the inland navigation of the State.

I know the fact to be that during the pendency of the Trent difficulty warning was sent by an eminent Californian, then in England, that orders had gone out to the British Pacific fleet to strike at San Francisco as soon as news arrived of the commencement of hostilities. England desires California more than we seem to prize it, if our care for it may be estimated by our efforts to retain it. We anticipated England but a very little in its acquisition, according to Mr. Webster's testimony, and if we are unwise we may yet yield it up to her. I have here a list of British and French ships of war now in the Pacific, with their class, guns, tonnage, and horse-power. A majority of the fleet consists of powerful steamers, carrying guns of heavy caliber, and of the most improved invention:

BRITISH.

Name.	*Guns.*	*Tonnage.*	*H. P.*
Steam flag-ship Bacchante	51	2,667	600
Steam sloop Cameleon	17	952	200
Steam corvette Olio	22	1,472	400
Steam sloop Fawn	17	751	100
Steam sloop Harrier	17	748	100
Paddle sloop Hecate	6	817	240
Steam sloop Miranda	15	1,039	250
Steam sloop Mutine	17	882	200
Storeship Niade	6	1,020	-
Storeship Nereus	6	1,094	-
Steam corvette Pelerus	21	1,462	400
Steam corvette Tartar	20	1,296	250
Steam frigate Termagant	25	1,547	310
Steam frigate Topaze	51	1,978	600
Gunboat Forward	-	-	60
Gunboat Grappler	-	-	60
Total, (16 ships)	291	17,729	3,770

FRENCH.

Name.	*Guns.*	*Men.*	*H. P.*
Steam flag-ship Duguay Trouin	90	1,000	800
Corvette Galathee	32	300	-
Corvette Cornelie	32	300	-
Corvette Bayonnaise	32	300	-
Screw steamer Oassini	6	180	250
Total	192	2,080	1,050

Against such fleets the United States have but seven vessels, three propelled by steam, one an old store ship, and one of them recently condemned in China, but, all enumerated, with less guns than are carried by the French ships alone. The few vessels we have there are scattered in neutral ports, as Acapulco and Panama, and in event of a war would be compelled to remain in such refuge, or be swept from the sea by the overwhelming force of the enemy. England has in the Pacific more than two ships to our one, four steam vessels to our one, three guns to our one. Our fleet would be, therefore, no protection to our Pacific possessions. It now serves as a police force at the principal points touched by our shipping in the Pacific; but could no more preserve our rights and territory there against the squadron of England than a body of policemen could repel an army. In the event of a maritime war the people of California would be left to their own resources, with a powerful and covetous enemy to contend against. England desires to absorb a part of Maine to gain a highway to its Canadian cities. Would it be just to leave Maine to protect itself? Yet you leave California to do so, with greater temptations to an enemy than exist in the case of Maine. I have shown that our fleet could not protect us—that San Francisco and the agricultural valleys, with the undefended navy-yard and arsenal, are open to seizure. What could the people of California do without cannon or ammunition, and without the means of procuring them? How could they protect themselves? They are a gallant people, and will fight; but how shall they fight without means? I do not ask for a standing army for California, aside from small trained garrisons for the forts, and these she furnishes from her own people at the present time; but I do ask for the means of war, to prevent her people being driven back and starved out, and thus her subjugation be accomplished.

Sir, how are these means of war to be furnished? You will not accumulate vast stores of the material of war to corrode and perish during years of peace, for the expense of storehouses, depots, and fortifications would necessarily be on the largest scale, and the deterioration in many articles necessary to be stored would forbid it. By such a system you would waste millions for a questionable advantage. I have shown that sea communication could not be relied upon unless you have a Navy, equal to that which England could employ to assail us, to convoy your transport ships, a system of supply the cost of which in a single year of war would equal the entire expense of a railroad to the Pacific. Equally vain would be any attempt to transport overland the amount of supplies requisite for the defense of the Pacific frontier. By an official estimate the cost of land transportation for the annual supplies of provisions, clothing, camp equipage, and ammunition for such an army as it would be necessary to maintain there would exceed at peace prices $20,000,000. In time of war the expense is estimated to be six times that amount. The journey across the plains would take from four to six months. But, in point of fact, supplies for an army could not be transported across the continent. On the arid and barren belts to be crossed the supply of grass and water is limited and would soon be exhausted, and forage could not be transported for such numerous draught animals over such distances. Transportation by sea and land are alike impossible in event of a war with a powerful maritime nation, and California and your whole Pacific possessions would necessarily be left to their fate. What that fate is I have endeavored to make apparent.

One other consideration before I address myself to the merits of the bill under consideration. The loss of California would not be merely a disgrace, it would be the first step downward in the career of the Republic. Whenever a nation commences to lose its territory, its history draws to an end; henceforth the seal of fate is set upon its brow, and it falls never to rise again. But, even supposing we can escape this law of decay, illustrated in all ancient nations, and the Union, bounded on the west by the Rocky mountains, continues to exist, how would your markets endure the deprivation of our gold? The loss of a single vessel, a few years since, that sunk in the stormy Atlantic, with a million of treasure, caused extensive bankruptcy over the Atlantic and western States. Your manufactories now find a profitable market on the Pacific, with gold-paying customers and tariff discriminations in your favor. Let those discriminations be against you, as they would be if California was in the hands of a foreign Power, and your commercial prosperity would be seriously impaired. You consult not alone the interests of the Pacific coast in the passage of the measure. You foster the general good, as well as provide the means to protect the honor and *prestige* of the nation.

These considerations are more fully developed by reference to the commercial advantages accruing from the completion of the work; but I have not time now to discuss them.

The construction of this road was a necessary consequence of the acquisition by the American people of territory upon the Pacific ocean. The moment that we annexed those vast regions, extending as far along the Pacific as our eastern sea-board extends along the Atlantic, we assumed an obligation to provide an internal communication by railroad across the continent. By this means only can we bind together these distant regions, provide for the common defense, and develop the resources of the country. By obtaining that territory we acquiesced in this measure; for by no other means can we maintain and hold the country together. We have trifled with these obligations in the past; but they are not the less imperative. I grant, sir, it has not been the fault of this House; and I do not believe it will be our fault now if this work is not inaugurated.

If the considerations I have presented are correct, namely, that this work is a military necessity, and deserves present attention, all differences about rival routes and local interests that do not facilitate the great work, are injurious. It may be convenient for one or two of the extreme northwestern States to have a railroad from some point on their borders to end in the north Pacific, provided they are not deceived in the capacities of that extreme northern section upon the Pacific side of the continent. Were the men now in their seats, who a few years ago contended that the route should be laid down from Texas to Guaymas, they might again vote against any other project. But the great object now to be secured, as is obvious by the lessons forced upon our notice, is the construction of a road by the shortest and most direct route to our principal port upon the Pacific, to protect our possessions there from a foreign enemy. I trust, sir, that a proper appreciation of this fact will be seen in the votes upon the pending measure. Yet, sir, while the committee have provided such termini to the route

contemplated in this bill that that road must be constructed between the thirty-ninth and forty-third parallels of latitude, and upon the most direct, central, and practicable route between those parallels, due regard has been had to commercial considerations and a connection with the great lines of railroad communication now existing. Thus, the fork of the road starting from the western boundary of Iowa, with the Hannibal and St. Joseph connection, connects with the lines of road running through Springfield, Chicago, Milwaukee, Detroit, Cleveland, Buffalo, all the cities on the lines of the lakes and in central New York, as well as the New England States. The connection at Kansas City takes in St. Louis, Vincennes, Cincinnati, Louisville, Indianapolis, Columbus, Pittsburg, Wheeling, Harrisburg, Philadelphia, Baltimore, Washington, &c. Liberal grants of land have already been made to roads through Minnesota, and the road already projected under those grants, from St. Paul to Sioux City, will bring Minnesota into connection with the Pacific railroad; while Wisconsin is already partially supplied with railroads that connect with the system of lake railroads to which I have adverted. Yet, sir, notwithstanding these ready and equitable connections with the great railroad systems of the country, and all parts of it, the branches proposed in the bill to effect these connections are short and simple, and obtained at a less cost than any which have heretofore been considered by Congress. Such connections are necessary, not only to yield the highest commercial advantages to the country, but as feeders over which materials shall be transported to construct the main road.

The theory upon which this bill proceeds, that aid must be granted by the General Government, will not be questioned by any gentleman who expects to see this work completed during this generation. You cannot organize a company to undertake this work without substantial aid from the Government. By a communication laid upon our tables from the President, in response to an inquiry of the Senate, giving information upon the railway systems in France, we learn that the Government extends its aid by the issue of bonds for railroads, and has thus developed a vast network of roads, traversing the whole empire, which roads pay well upon the investment, reimburse the Government, and develop the resources and business of the regions they traverse. In my former remarks, I called the attention of the House to the extensive system of railroads being built in Russia and British India by Government aid, making the power of those Governments impregnable against foreign aggression or internal discontent. Our Government only, with territory equally extensive and exposed with that of Russia or the British Indies, and far more than that of France, seems indifferent to the future, either as bearing upon the increase of our national wealth or defense; for it has these many years neglected to use the obvious means to increase that wealth or to provide for the national defense. Is distant India more important to England, or the Crimea to Russia, than our Pacific possessions are to us?

I will here remark, by way of parenthesis, that our minister at the Court of St. James says, in a dispatch accompanying the information concerning the French system of railways, that—

"We shall find at the close of this war one half of our cotton business has been transferred to India. Soon, too, Russian roads will be opened through the whole region of the Terre Norre, from the Black sea to the Baltic, which, from its rich bottomless soils, will yield incalculable quantities of food now inaccessible. France is pushing her railway system down into Spain, and in concert with that Government is opening up vast regions hitherto uncultivated, which would grow wheat enough to feed all Europe. In these ways our export trade is seriously threatened, and can only be preserved by a railway system proportioned to the magnitude of our territory and its natural resources, by which everything that the industry of the country can produce can have its market. The union of the Pacific and sea-board States by an iron road never appeared so clearly a national necessity as it has since the recent threatened rupture with England. *The first and inevitable result of a war with any great naval Power would be the loss of our California possessions.*

"Whatever may have been the traditional policy of the Government heretofore, some easy, sure, and rapid communication between the Atlantic and the Pacific is now a subject of such direct national concern that the Government must charge itself with the execution of it without much delay,"

thereby announcing the views I have endeavored to enforce upon this floor. I ask gentlemen but to glance at the railway policy of the English Government in India, and of the Russian Government within its dominions, where thousands of miles of railroad have been constructed by the aid of those Governments, to cement their vast empires, and develop the commercial capacities of their dominions. We ask nothing novel when we claim Government aid in an enterprise that will add to the stability of the Government, settle up its unproductive lands, develop the resources of the country, and enable it to defend the integrity of its territory. The only question that can arise is as to the best method of granting the aid that it is the interest and duty of the Government to furnish. It has been decided by the votes of many gentlemen before me that the proper method is by the issuance of bonds of the Government, bearing a reasonable interest, and payable sufficiently far in the future to insure the completion of the road before their maturity. I believe, sir, that aid extended in that manner will construct the road. By this bill we provide for the issuance of bonds—not enough, it is true, to build the road—but graduated in amount per mile to the character of the country over which the road passes, so that the aid is small where the work is comparatively easy, and larger where mountain ranges must be subdued, and we provide for security to the Government for its expenditures and for a repayment by transportation of mails, troops, and munitions of war, and also by dedicating a portion of the net earnings of the road. I say we do not appropriate enough to construct the road, for $60,000,000 will not build such a road. But we make it an object for capitalists to embark their own means in the undertaking by the aid we furnish. We insure a proper application of the national funds by requiring a section of a given number of miles to be fully completed, and furnished in every respect, before we issue any bonds or furnish any aid whatever; and so on until the road is completed. Capitalists who build the road do not, under this bill, have the funds of the Government to speculate upon. They must use their own money to build the road, and are paid only as sections are fully completed. It matters not what any given section may cost, the aid the Government will furnish is limited in the bill. Such a system guards against abuses and jobs. It insures a speedy and economical construction of the road.

I call attention to another feature of this bill, as bearing upon the present capacity of the Government to embark in this enterprise. Gentlemen have sometimes talked as if we designed to put our hands into the Treasury, now that it is depleted by an expensive conflict, and abstract there from fifty or sixty millions of dollars. We design to do nothing of the kind, and such will not be the operation of this bill. In the first place, no payment of the principal of these bonds will be required under thirty or forty years, when the country will have swelled in population to a hundred millions, and our wealth will be fourfold what it now is; when this road will have been twenty years in operation, and have created half a dozen new States where uninhabited wilds now occupy our territories, and when the trade of Asia poured into our lap, and widely-extended commerce, by its means, will have far repaid the expenditures, even if the companies constructing the road shall not, before that time, have paid up the loan by the means provided in the bill. And it is also an error to suppose that the interest upon this amount is to be paid now or presently. The bonds will be issued slowly, few at a time, as the work progresses. It will be probably two years before any bonds will be issued, for surveys have to be made, and preparations for work, and part of the road constructed, before any will be due. The whole amount of interest to be paid up to 1866 will be but $168,000, and up to 1867 but $504,000; and when the road is fully completed, and we are experiencing all the security and commercial advantages which it will afford, the annual interest will be less than $4,000,000, and that sum will be but gradually reached year after year. The War Department has paid out, on an average, $5,000,000 per year, for the past five years, for transportation to the Pacific coast, and the mails cost $1,000,000 more at their present reduced rates. The saving of the Government would be two millions per year on these items alone. I beg gentlemen who talk of the exigencies of the times to observe that we ask nothing of the Government for two or three years to come, and how very little we ask at the expiration of that time. As this road progresses west from the Mississippi, and east from California, it will be available to the Government for transportation; and I have no doubt that the services it will render will very soon absorb the interest money to be paid under this bill.

If gentlemen will take into consideration the immense outlays by the Government for want of railroad facilities across the Territories, they would better appreciate the propriety of these moderate expenditures we now require. The Mormon war cost millions to the Government—probably one third the amount contemplated by this bill; and a very large proportion of that cost was in the item of transportation, and much of it on account of the necessary delay in military movements without railroads over such distances. That war never could have occurred with a railroad across the continent. With such a road you would avoid Indian wars, which cost millions to the Government, through the territories traversed by it. You would save the lives of citizens who now take their weary way across those territories, falling victims often to savage onslaught. Sir, you can follow the emigrant trail from Missouri to California, and never lose your way, for the route is broadly marked with the bones of men and beasts, of broken wagons and abandoned property.

To illustrate my views fully upon the financial workings of this bill, I have prepared a table of the amount of bonds to be issued each year, until the entire road is completed. It will be observed that no payment of these bonds is to be made under thirty years from their date, only the interest upon them, as it accrues; and that their issuance is in fact, aside from their interest, a mere loan of the credit of the Government. As they are issued only for completed sections, which have already been paid for by the cash of the companies, the Government is not interested in the question whether they are worth in the hands of the holders their face or a less amount. It is not compelled to make good any deficiency, and it is secured to the full amount of the face and interest by a first mortgage upon the road, which will have cost upon the average double the amount of the bonds issued.

In the absence of positive information with regard to the cost of the road through the Territories, the Curtis bill, without recognizing the absolute difference in expense of respective sections of the line, considered the work as being of equal cost per mile, adding thereto a certain amount at the crossing of each degree of longitude as compensation for the increased outlay for transporting iron, ties, and materials for construction, as the road progressed from the two ends towards the interior, thus: commencing at the eastern end with $12,000 per mile, and increasing the amount $3,000 per mile until the one hundred and ninth meridian of longitude was reached. This made the appropriation for the last degree of longitude $48,000 per mile. It is well known that for the first six hundred miles the line passes over a comparatively smooth, level country, the real difficulties of the work only commencing when the Rocky mountains are reached. So, upon the western end, the real difficulties of the work commence at the western base of the Sierra Nevada mountains in California, the passage of which comprehends the most difficult and expensive portion of the whole road. In fact, the cost of crossing these mountains has, until recently, been a matter of speculation. Recent surveys, however, have demonstrated, not only their feasibility at reduced grades, but have furnished data for a correct estimate of the cost of the same, all of which has been taken into consideration in determining the relative amounts of appropriations per mile.

Under the provisions of this bill, the amount of bonds proposed to be issued are $16,000 per mile. Upon reaching the base of the Rocky mountains from the east, and the base of the Sierra Nevadas from the west, this amount is trebled for one hundred and fifty miles, making $48,000 per mile for that distance, which includes the most difficult and expensive portion of the road.

Between these two points, and through the interior or great basin, where the line passes over a rolling, hilly country, intersected by numerous streams, this first-named amount is doubled, making $32,000 per mile.

It is believed that this apportionment of appropriations conforms more closely to the absolute cost of the different sections of the line than that

of the Curtis bill, and will amount to about one half of the cost of the road upon the average of the work.

The total amount of aid thus extended by the Government for the construction of the road will be as follows:

SCHEDULE OF APPROPRIATIONS.

	Miles.	Per mile.	Total.
From Sacramento to western base Sierra Nevada	25	$16,000	$400,000
From western base of Sierra Nevada	125	48,000	7,200,000
Through Great Basin	890	32,000	28,480,000
Through Rocky mountains	150	48,000	7,200,000
Thence to Kansas line	200	16,000	3,200,000
Thence to Missouri line	450	16,000	7,200,000
Or a total of miles	1,840		$53,680,000

If to this is added the amount appropriated for eastern branches, this will be increased as follows:

	Miles.	Per mile.	Total.
Leavenworth branch	50	$16,000	$800,000
St. Joseph branch	100	16,000	1,600,000
Iowa branch	250	16,000	4,000,000
	400		$6,400,000

These figures make the main line and the eastern branches to require the issuance of bonds to the amount of $60,080,000.

The amounts to the several companies in the main line will be as follows:

Kansas company	$7,200,000
Central company	31,200,000
Nevada company	9,360,000
California company	5,920,000
	$53,680,000

In the event of the passage of this bill at the present session of Congress, the progress of the work will be such as to call for these bonds, as follows:

January 1, 1864.	Miles.	Per Mile.		Total.
California end	25	$16,000		$400,000
St. Joseph branch	50	16,000		800,000
Leavenworth branch	50	16,000		800,000
Kansas road	50	16,000		800,000
				$2,800,000
January 1, 1865.				
California end	50	48,000	$2,400,000	
St. Joseph branch	50	16,000	800,000	
Kansas road	100	16,000	1,600,000	
				4,800,000
January 1, 1866.				
California end	50	48,000	2,400,000	
Kansas road	100	16,000	1,600,000	
Iowa branch	100	16,000	1,600,000	
				5,600,000
January 1, 1867.				
California road	15	48,000	720,000	
Nevada road	50	48,000	2,400,000	
Kansas road	100	16,000	1,600,000	
Iowa branch	100	16,000	1,600,000	
				6,320,000
January 1, 1868.				
Nevada road	100	32,000	3,200,000	
Kansas road	100	16,000	1,600,000	
Iowa branch	50	16,000	800,000	
				5,600,000
January 1, 1869.				
Nevada road	100	32,000	3,200,000	
Central company	100	16,000	1,600,000	
				4,800,000
January 1, 1870.				
Nevada road	25	32,000	800,000	
Central company, west end	75	32,000	2,400,000	
Central company, east end	100	16,000	1,600,000	
				4,800,000
January 1, 1871.				
Central company, west end	100	32,000	3,200,000	
Central company, east end	50	48,000	2,400,000	
				5,600,000
January 1, 1872.				
Central company, west end	100	32,000	3,200,000	
Central company, east end	50	48,000	2,400,000	
				5,600,000
January 1, 1873.				
Central company, west end	100	32,000	3,200,000	
Central company, east end	50	48,000	2,400,000	
				5,600,000
January 1, 1874.				
Central company, west end	100	32,000	3,200,000	
Central company, east end	100	32,000	3,200,000	
				6,400,000
				$58,720,000

Summary.

Jan. 1, 1864	$2,800,000	Jan. 1, 1871	$5,600,000
Jan. 1, 1865	4,800,000	Jan. 1, 1872	5,600,000
Jan. 1, 1866	5,600,000	Jan 1, 1873	5,600,000
Jan. 1, 1867	6,320,000	Jan. 1, 1874	6,400,000
Jan. 1, 1868	5,600,000	July 1, 1874	2,160,000
Jan. 1, 1869	4,800,000		
Jan. 1, 1870	4,800,000		$60,080,000

As many of these bonds will not be issued under twelve years from this date, and the bulk of them not till after eight years, it follows that they will not mature under from thirty to forty-two years from the passage of the bill. The actual burdens upon the Treasury before maturity will be as follows, they being for interest exclusively:

In 1865	$168,000	In 1871	$2,363,000
In 1866	504,000	In 1872	2,699,000
In 1867	804,000	In 1873	3,035,000
In 1868	1,283,000	In 1874	3,371,000
In 1869	1,787,000	In 1875	3,884,000
In 1870	2,075,000		

Thus the highest rate of interest upon a completed road will be less than four millions of dollars, and our yearly expenses are over six millions of dollars for mails and transportation. True economy calls for this expenditure, as well as considerations of convenience, safety, and commercial advantage.

It will be seen by the provisions of the bill that the work of construction is assigned to companies already organized at either end, while about one thousand miles of the center are assigned to corporators named in the bill, which is in that respect similar to the Curtis bill.

It is believed that this disposition of the work will operate advantageously, and insure the more rapid prosecution of the road. The length of the entire line from the Missouri river to the navigable waters of the Sacramento river will be eighteen hundred and sixty-five miles. The proportion assigned to the California company on the western end is one hundred and forty miles; to the Nevada company is two hundred and seventy-five miles, or a total of four hundred and fifteen miles; while upon the eastern end the portion assigned to the Kansas company includes four hundred and fifty miles. The total amount of bonds contemplated to be issued on the main line is fifty thousand, or about one half the cost of the entire road. It is well known that the work of construction of this road must progress from the two ends, which must be located on navigable waters, or at the terminus of some railroad already constructed, where iron, &c., can be had, and must progress with rapidity towards the center. Upon the western end is immediately encountered the passage of the Sierra Nevada mountains, comprising the heaviest and most difficult portion of the whole road. Recognizing the great difficulty and cost of crossing these mountains upon the line surveyed by the Government through California, attention was directed to the importance of a shorter route through central California; and the result of extensive explorations was the discovery of a route which effected a saving of one hundred and eighty miles in distance, with less grades, to a common point on the Beckwith survey. And I will remark, in passing, that it is my impression, from my knowledge of the intermediate country to the Missouri, that proper railroad surveys will reduce the distances far below the estimates I have adopted in this discussion. A company has been organized in my State, and a railroad survey made under its auspices, at great cost, entirely across the Sierra Nevadas, which successfully overcomes the difficulties of this portion of the route. As this company is named in the bill as one of the agents to effect the will of the Government, it may be expected that I shall state what I know of its character. The company is incorporated under the name of the Central Pacific Railroad Company of California, and is composed of some of the wealthiest, most respectable, and reliable citizens of the State, who have taken hold of this matter with vigor and energy, and who are ready to embark their own means in the enterprise, providing the assistance of the Government can be had. Having already surveyed their portion of the line through the State, they are prepared to commence immediately the work of construction, having, as it were, already commenced and performed nearly two years work in preparing the line for construction, which labor and time would have been requisite after the passage of this bill before the work could have been commenced, as no portion of the line could have been worked until the *whole route* across the Sierra Nevadas had been established and found practicable. The route is located upon a continuous divide which reaches to the summit without being broken by cross ravines or rivers.

Experience in railroad building has demonstrated that economy, certainty, and dispatch is insured by building great lines of road in divisions. Thus the New York and Erie railroad, first undertaken under the policy of constructing the road as a whole, for a long while languished, and finally came to a stand still, from its unwieldy proportions, and the difficulty of managing so heavy an affair. After various attempts to resuscitate it, after numerous changes in the board of directors, it was finally wisely decided to adopt the policy of proceeding with the construction in small divisions, from the end of the road already built, entirely completing each small division ready for running trains over it before the next division was commenced. Under this policy the work of construction again proceeded, and the entire road was successfully built.

The present New York Central railroad, universally conceded to be one of the best managed and most profitable of our roads, is made up of a number of small lines, first built by different companies, as follows: Albany to Schenectady; Schenectady to Syracuse; Syracuse to Attica; Attica to Buffalo; also, Syracuse to Rochester; Rochester to Niagara Falls; Niagara Falls to Buffalo; and Niagara Falls to Lewiston. All these different roads were constructed, owned, and operated by different companies, until it was proved that the interest of all the roads, as well as that of the traveling public, would be best subserved by consolidating them, which was accordingly done.

Most of our great lines of railroad are made up of smaller intermediate roads, built by different companies, who, without other compulsion than that derived from general interest, eventually unite so as, practically, to form one line, as we open the way for the companies named in this bill to do, by community of interest as well as by provisions for their consolidation. At the risk of being tedious, I will further illustrate the policy of the bill in this particular.

Thus, from Boston to Albany, the line is made up of the Boston and Worcester road, the Worcester road from Worcester to West Stockbridge, and the Albany and West Stockbridge road to Albany; the whole line being operated as one road, and commonly known as the western railroad.

The line from Boston to New York is made up of the Boston and Worcester to Worcester, the Western to Springfield, the Hartford and Springfield to Hartford, the New Haven and Hartford to New Haven, the New Haven and New York to New York.

The line reaching from Springfield to Burlington and Montreal is likewise composed of many smaller roads, as also from New York to Washington.

From Philadelphia and Baltimore to Chicago, Cincinnati, and St. Louis, although operated and run as one continuous line, yet this line is made up of many smaller roads, built by different companies who united the resouces of each section of the country upon the road extending over it.

The difficulties and embarrassments of managing the construction of a long road, of even five hundred miles in length, through an inhabited country, where supplies and labor can be depended upon, and where roads and navigable streams exist at frequent intervals, are well known. It is believed, therefore, that the policy of dividing the road, as it were, into divisions, will be more likely to insure its speedy completion than if the whole line were put into the hands of one company.

I have thus discussed the leading features of the bill under consideration. I will very briefly, in conclusion, allude to some of the guards we have placed in the bill to protect the interests of the people. The sentiment of the people of the United States is adverse to the creation of irresponsible bodies of any kind, and the committee have sought so to frame this bill as to prevent any such grant of privileges as may lead to abuses hereafter. Thus, it is provided that returns under oath shall be made to the Secretary of the Interior by each of the companies, showing the cost, earnings, income and expenditures of the railroads and telegraph lines as accurately as possible; and that

whenever it appears that the net earnings of the entire road and telegraph, including the amount allowed by the United States for services rendered, after deducting repairs and the furnishing and running and managing the road, shall exceed ten per cent. per annum, exclusive of the five per cent. to be paid to the United States, Congress may reduce the rates of fare, if unreasonable in amount, and fix and establish the same by law. Provision is made against any unreasonable speculation in the lands donated for the use of the road, and for the transportation of materials; and the power of amending the act in any particular, and of passing any new act to insure a compliance with the intent of this act is expressly reserved, so that no plea of irresponsible privilege can be set up by either of the companies named.

I believe, sir, that this bill is more perfect in its provisions than any ever before submitted to the attention of Congress. It is the result of much labor and thought by the special committee; is drawn in view of the experience that has accumulated upon the subject; and after careful review of the debates in both Houses at the previous sessions of Congress.

The passage of this bill at the present time, while it will not add to the financial burdens of the country, but on the contrary will open a vast field for future revenue, will evince more strongly than any other act the confidence of Congress in the future of the country, and show to Europe that we can calmly and efficiently provide for the improvement of the nation, as well as energetically repel rebellion against its legitimate authority. Russia magnified its power as much by pushing on its gigantic system of railroads during the expense and disasters of the Crimean war, as it did in driving back the invaders from its soil; and by so doing it provided new guards for its future security, by the creation of means for the concentrating of troops and warlike stores at any point on its widely extended frontiers, and developed regions before almost untraversed. Even so may we become more secure and wealthier, and show to the world that despotisms are not wiser or more powerful than republics.

Most earnestly do I desire to return to my constituents and say to them their wants have been appreciated, their security insured, their love for the Union not in vain. By a single act you can send a thrill of joy through the Pacific States. You can deserve the blessings of your now isolated brethren upon the Pacific, and cause them to look upon their share of the burdens of this war as not drawn from them selfishly by those who care for them only as customers and tax payers, but as contributed to perpetuate the glory of a Government that cares for their interests, and consults them by practical measures for their advantage. With a Pacific railroad San Francisco will be as near the center of population as Chicago is to this city. You can as easily defend it as you can Portland. You will have opened new channels of trade, created new States, encouraged emigration, turned the wilderness to prosperous settlements, secured the trade of Asia, bound together two oceans, realizing in the fact the idea of the Persian who sought to bind the Hellespont; and you will deserve for this Congress the name of the wisest and most far-seeing of any that has convened since the formation of the Government.

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

Mr. LOVEJOY. I ask the gentleman from Pennsylvania to withdraw his motion for the present, that we may go into the House and postpone the special order.

Mr. CAMPBELL. We have occupied much time in the committee to-day, and I propose to go into committee again to-morrow upon this bill, and press it to a vote before we rise to-morrow.

The motion of Mr. CAMPBELL was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the Pacific railroad bill, and had come to no resolution thereon.

PERSONS OF COLOR IN DISTRICT OF COLUMBIA.

Mr. ROLLINS, of New Hampshire, by unanimous consent, introduced a bill to repeal certain laws and ordinances in the District of Columbia relative to persons of color; which was read a first and second time, and referred to the Committee for the District of Columbia.

PACIFIC RAILROAD BILL.

Mr. LOVEJOY. Is it in order to move to postpone the special order—the Pacific railroad bill—to a day certain?

The SPEAKER. It is.

Mr. LOVEJOY. I move that it be postponed one week from Monday next.

Mr. CAMPBELL. I rise to a point of order. It is that the motion is not in order except by unanimous consent.

The SPEAKER. It has been held over and over again by the present Speaker, as well as by those who have preceded him, that a majority can postpone a special order. The Chair, therefore, overrules the point of order.

Mr. CAMPBELL. Then I hope the motion will not prevail. I have no disposition to hurry the House to a vote.

Mr. LOVEJOY. This is a very important matter, and it ought to be investigated and studied. It involves an appropriation of money, and I think we should have a little time for consideration.

Mr. CAMPBELL. It is important, but it can be considered carefully in committee to-morrow.

Mr. VALLANDIGHAM. I rise to a point of order; it is, that it is not in order for the House to postpone a special order in the Committee of the Whole.

The SPEAKER. The committee cannot postpone it.

Mr. VALLANDIGHAM. Very true; but that is not my point. The House cannot postpone a bill which is not before it, but which is in the Committee of the Whole on the state of the Union, except by a two-third vote under a suspension of the rules.

The SPEAKER. It is the same point made by the gentleman from Pennsylvania, and the Chair overrules it. It has been done repeatedly this session.

Pending the question, on motion of Mr. VALLANDIGHAM (at four o'clock and ten minutes, p. m.,) the House adjourned.

IN SENATE.

THURSDAY, *April* 10, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. SUMNER presented a petition of citizens of South Danvers, Massachusetts, praying for the abolition of slavery under the war power; which was ordered to lie on the table.

He also presented resolutions of the Legislature of Massachusetts, approving the proposition submitted by the President of the United States in a recent special message in favor of aid to those States which may adopt the gradual abolishment of slavery; which were ordered to be printed, and lie on the table.

Mr. LANE, of Indiana. I present the petition of H. B. Miller and twenty-five others, citizens of Geneva, Jennings county, Indiana, for the unconditional abolition of slavery. They ask what I suppose Congress has not power to grant; but I am willing that our citizens should be heard, even in their foolish requests. I move that the petition lie on the table.

The motion was agreed to.

Mr. KING presented the memorial of Clinton Roosevelt, of New York, praying for an appropriation to construct works to enable him to test his invention for the increased efficiency of cannon and projectiles; which was referred to the Committee on Military Affairs and the Militia.

Mr. SHERMAN presented a memorial of the American Wine Growers' Association, remonstrating against the proposed tax on native wines; which was referred to the Committee on Finance.

Mr. LATHAM presented resolutions of the Legislature of California, remonstrating against the taxation of mining claims for the financial benefit of the General Government; in favor of continuing the overland mail service, and that the Federal Government transfer from the overland route all printed postal matter other than the letter mail to a steamship line, by way of the Isthmus of Panama, and, in addition, that the pony express be restored; which were ordered to lie on the table, and be printed.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. LATHAM, it was

Ordered, That the petition of Mary A. Moore, administratrix of Jacob B. Moore, late postmaster at San Francisco, be taken from the files of the Senate, and referred to the Committee on the Post Office and Post Roads.

COMMITTEE SERVICE.

On motion of Mr. WADE, the President *pro tempore* was authorized to fill the vacancy upon the Committee on Territories occasioned by the absence of Mr. JOHNSON; and Mr. LANE, of Kansas, was appointed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. MORRIS, Chief Clerk, announced that the House had passed a joint resolution (No. 60) extending the provisions of a certain act to all the military departments of the United States; in which the concurrence of the Senate was requested.

The message also announced that the House had passed the bill of the Senate (No. 188) to increase the efficiency of the medical department of the Army, with an amendment; in which the concurrence of the Senate was requested.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed an enrolled joint resolution (H. R. No. 48) declaring that the United States ought to coöperate with, affording pecuniary aid to, any State which may adopt the gradual abolishment of slavery; and it was signed by the President *pro tempore*.

REPORTS FROM COMMITTEES.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a petition of German citizens of New York, praying that thirty thousand copies of the Agricultural Report of the Patent Office may be printed in the German language, asked to be discharged from its further consideration; which was agreed to.

Mr. FOSTER, from the Committee on the Judiciary, to whom was referred the bill (S. No. 113) relating to the judiciary, reported it with amendments.

Mr. SIMMONS. I am instructed by the Committee on Patents and the Patent Office, to whom was referred the bill (H. R. No. 269) to establish a Department of Agriculture, to report it with amendments. I propose to call the bill up on Monday, if the Senate shall be willing to consider it then.

VESSELS CAPTURED BY GENERAL BURNSIDE.

Mr. WILSON, of Massachusetts, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be directed to report to the Senate what disposition has been made of the vessels captured by General Burnside at Roanoke Island, North Carolina.

NOTICE OF A BILL.

Mr. WILSON, of Massachusetts, gave notice of his intention to ask leave to introduce a bill to amend an act, approved September 18, 1850, entitled "An act to amend and supplementary to the act entitled 'An act respecting fugitives from justice and persons escaping from the service of their masters,'" approved February 12, 1793.

BILL INTRODUCED.

Mr. HOWE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 267) to incorporate the Northern Pacific Railroad Company; which was read twice by its title, and referred to the Committee on Public Lands.

THOMAS SUNDERLAND.

Mr. CLARK. I desire to call up the bill (S. No. 247) for the relief of Thomas Sunderland and others, on which there is an adverse report, merely for the purpose of getting rid of it. I move to take it up.

The motion was agreed to; and the bill was postponed indefinitely.

STEAMSHIP LINE TO CHINA.

Mr. LATHAM. As there seems to be no further morning business, I move that the Senate now proceed to the consideration of bill No. 75. It is the special order for one o'clock to-day; but I do not wish to interfere with the confiscation bill,

and I think I can conclude what I have to say soon after one o'clock, and then the Senate can go on with that bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 75) to establish a line of steam mail ships between San Francisco in California, and Shanghae in China, touching at the Sandwich Islands and Japan, which had been reported upon adversely by the Committee on Naval Affairs.

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

Mr. LATHAM. It is not necessary to read the original bill. Let the Secretary read the substitute which I have submitted, and now offer.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from California to strike out all after the enacting clause of the bill and insert what will be read.

The Secretary read, as follows:

That the Postmaster General be, and hereby is, authorized and directed to enter into a contract, for a term not exceeding five years, for a sum not exceeding $500,000 per annum, with such person or persons, being the lowest bidders, offering sufficient and satisfactory security, after due public notice, for the transportation of the United States mails, upon the best terms for the United States, monthly, and in thirty-five days, from San Francisco, California, via the Sandwich Islands and Japan, in case any port of that empire shall be opened to the United States, to Shanghae, in China, and back, in steam vessels of not less than two thousand tons burden, of the best form of construction adapted to the navigation of the Pacific ocean; and any excess of the amount which may be contracted to be paid for this service over the aggregate of postages collected therefor shall be paid out of any money in the Treasury not otherwise appropriated.

SEC. 2. *And be it further enacted*, That these mail steam vessels shall be appropriately armed and equipped as war steamers, in such manner as the Secretary of the Navy may direct; they shall each be commanded by a lieutenant of the United States Navy, and while employed in carrying the mails as herein provided, they shall be required to protect commerce in their route between Shanghae and San Francisco, in the same manner as if the said vessels were wholly devoted to that service.

Mr. LATHAM. Mr. President, it may perhaps seem strange that at a period like this, when the country is engaged in a death struggle for the maintenance of its integrity, its institutions, and laws; when the Treasury is being strained, and the people are about to be taxed to their utmost capacity by the exigencies of a cruel internecine war; when thousands and hundred of thousands of brave hearts rush into battle to save the glorious inheritance of the fathers of the Revolution, the Senate of the United States should be called upon to listen to a proposition such as is contained in the bill now before it. The policy I am about to submit to your consideration is not merely commercial, and does not exclusively refer to navigation and trade. It is not merely one of material interest in which your constituents and mine have a large permanent share, but also one of sound far-sighted statesmanship, and in a military point of view of paramount necessity, if we intend to put the most distant, and therefore the most exposed, part of the Confederacy in a state of defense against the possible aggression of a foreign enemy.

A line of steamers between San Francisco and Shanghae, in China, is not only a commercial desideratum to California, but would also save time and money to New York, Boston, and Philadelphia importers, and commissions which are now earned by London bankers, through whose agencies and by whose credits our American merchants now make their payments for goods purchased in China, running constantly the risk of interruption or an entire suspension of trade with that vast empire should our relations with England cease to be of that friendly character which, thus far, it has been our mutual good fortune to preserve and cherish. Before considering the present bill, I desire briefly to allude to the first attempt made by our enterprising ship owners in New York to enter into serious competition with British merchants and navigators for the transportation of the mails and the carrying of passengers and valuable freights by first class ocean steamships. The proposition to carry the United States mail, as well as troops and munitions of war, from New York to Chagres and from Panama to San Francisco, and *vice versa*, stood alone. That line of steamers had no foreign rival, and no domestic one, until the Nicaragua and, later, the Tehuantepec line were started, and of course realized large profits while it aided in developing the inexhaustible resources of our vast Pacific empire.

But the New York and Liverpool line, established by the enterprise and perseverance of E. K. Collins, had a fierce and deadly struggle to encounter. Not only had he to compete with the experience, mechanical skill, and nautical science of his British rivals of the Cunard Steamship Company, but also against vastly superior associated capital and the wise liberality of a Government, which, by encouraging the private enterprise of its subjects, develops its own strength and increases its aggressive and defensive means. The Cunard Steamship Company receives large subsidies from the British Government, and receives them without being obliged to renew its applications from year to year, and without fighting a score of domestic rivals to secure a permanent support. With a company thus armed and equipped, and permanently secured in the possession of its unrivaled advantages, Mr. Collins had to contend; and though his profits were not equal to those of the British line, and though the American people did not sustain him with the unanimity which on the other side of the water insured the success and amassed a fortune to the British line, yet his ships were pronounced models of naval architecture, superior in speed and accommodations to the ships of his British rivals.

The support of mail steamers in all directions and on every sea by Government aid has become the settled policy of England, and vast are the benefits which she derives from it, in the increase of her wealth, in the extension of her commerce, and in the overshadowing influence of her maritime power. We did, in an ill-fated hour, throw away these advantages, but I trust we have seen our error. If we now had a fleet of such steamers as the Adriatic, the Baltic, and the Atlantic, what advantages might we not have already derived from them in this unfortunate civil war? How much might not a fleet of such steamers have shortened the period of its duration, and how many millions would have been saved to the Government and the people which have been lavished on knavish contractors and speculators? We have seen what immense service these subsidized British mail steamers have been to England and France in the Crimean war; how useful, nay indispensable, they have been as transports in conveying troops from England and France to the shores of the Euxine; and we have had the testimony of so high a personage as the Emperor Napoleon, in his speech at the conclusion of the war, that but for the facilities offered by these English transports, such large bodies of troops, as the allies were obliged to send to the Crimea, could never have reached that classical soil in time to make an impression upon it.

And what do we see now in our own international struggle? Are not the Collins and the Vanderbilt line of steamers those on which the Government now relies with the greatest safety? Are they not the cheapest, the safest, and in all respects, the most reliable of all the transports we have in the service? Where are there such steamers as the Vanderbilt, the Baltic, and the Atlantic? And have we not now reason to be thankful that there was a period when our Government, with statesmanlike forecast, resolved to have its mails carried by national steamers, and its flag periodically displayed in the principal ports of the world? And ought we not now to profit by the experience of the past, and the example set us by other nations, and establish permanently, as a Government measure, lines of steam communications to carry our correspondence, our treasure, our products, and our people under our own flag to the commercial marts of the world? The war in which we are now engaged, has demonstrated that, with our extensive sea-coast, it is principally transports that we stand in need of—fast and safe sailors which can be relied on in all kinds of weather.

For that important service, our mail steamers, and especially those which are proposed in this bill, if constructed and equipped as therein described, will always be fit; and in answering that purpose and regularly performing the mail and passenger service for which they are especially created, they ought to satisfy the demands of the Government and the public.

The armament of these steamers is with a view of rendering them serviceable in protecting our flag in the China seas and the Indian Archipelago—seas infested by pirates—and against all unlawful acts of the peoples and Governments of those distant countries. To say that these lines of steamers ought to be self-supporting, and not in part at least a charge to the Government, is to take a very short-sighted view of the matter.

Perhaps if the whole were left to private competition—if no other powerful Government was aiding and promoting the success of such lines when established by its own subjects—we might leave it to the enterprise and perseverance of our citizens to run a race with their English or French rivals. But when we find all mail steamship lines, wherever established, backed and subsidized by their respective Governments, it is worse than idle to suppose that a company of private citizens, unaided by Government support in our own country, may successfully compete with them. It is with these mail steamers as it is with armies and navies of different nations. If one nation increases its navy, the other, not wishing to become inferior, is obliged to follow the example, or subside into a power of less consideration and political influence. The question is not what is *absolutely* necessary, but what is *relatively* necessary, not to be distanced in the national race!

The mail facilities granted to its subjects by the British Government have been followed by France, Austria, and Russia, who subsidize their respective lines of mail steamers in the Mediterranean, knowing and fully appreciating the importance of having these regular messengers and representatives appear at shortest intervals in the principal ports of that sea. It is by such means, rather than by the blood and carnage of expensive and uncertain naval battles, that France is steadily advancing her interests in the Mediterrancan sea, which she hopes in course of time to make essentially a *French lake*, in spite of the three British strongholds, Gibraltar, Malta, and Corfu, in the Ionian Islands.

Let the Isthmus of Suez be pierced principally by French enterprise, and you will immediately see a line of French mail steamers plowing the Red sea, and trading *coastwise* to Aden, Bombay, Madras, and Calcutta. And yet, how small is the commerce which France has to protect and foster in comparison to our own! But the Government of France knows the importance of having its business done by its own agents, and of being in constant communion with all foreign countries now at peace with herself. Regular vessels of war are at best but slow messengers of disaster or wrongs suffered by a nation's ships, while a periodical mail communication is sure to carry tidings within a specific period, and to lead to prompt reparation or relief. Now, if this course of reasoning applies to such small and inland seas as the Mediterranean, how much more striking must be its application to the Atlantic and Pacific oceans! It is a melancholy fact, and has been repeatedly reproached to us by British and French writers and orators, that in spite of our large commercial tonnage, the American Government has had but little care to protect the interests of its merchants and navigators. The China sea and the Indian Archipelago are known to swarm with pirates, yet how few vessels of war have we ever had in commission in those seas; and where would have been our ships, and their valuable cargoes, if they had not been protected by the presence in those waters of British, French, and even Dutch vessels of war?

Until a very late hour we have not had ships of war enough in commission to bear our share in the international police of the sea; and yet, previous to the present civil war, our commercial tonnage was larger than that of every other nation on the globe! Now, a line of armed mail steamships such as is proposed in this bill, is the very best means of establishing a maritime police, and of protecting our navigation and commerce in every ocean. Each ship would be a sentinel on the watchtower, a picket thrown out to observe the position or the advance of a foreign enemy. There has certainly never been a time when these sentinels were more necessary than now, when we may at any moment be involved in a foreign war or beset and molested by insurrectionary cruisers.

Mr. President, I look upon the establishment of this line of armed steamships between San Francisco and Shanghae, in China, as a duty which we owe to the people of the United States, in virtue of that part of the Constitution which makes it imperative on Congress to provide for the national defense and the common welfare.

The possession of a Pacific empire imposes duties upon us commensurate with the magnitude and vastness of the interests involved, and it behooves us to discharge those duties manfully and to their fullest extent, if we would prove ourselves equal to the position which we have assumed among the nations of the earth. No national obstacle, no national calamity ought to deter us from discharging our entire duty in that respect; and it would certainly redound to our national honor, and increase the respect of the civilized world for our people, institutions, and laws, if in the midst of the gigantic disasters which have befallen us we were to exhibit that unbroken spirit, that manly courage, and that calm, statesmanlike forecast which are not only equal to guiding the State through its present perilous crisis, but also providing for its future welfare and grandeur in our national career of maritime power and preëminence.

Senators! we are the only people of pure Caucasian origin at *home* on the shores of the vast Pacific ocean; we alone possess a Pacific empire, and we are bound to extend its power and influence, morally, if not physically, not only on this continent but on the coast of Asia. This is not only our national policy, but a necessary condition of our national existence, and the only means through which we can secure progress and success. You of the Atlantic sea-coast have the mission to watch and maintain friendly relations with the Powers of Europe; we on the Pacific coast are called upon to develop power, and to assert moral sway over the Asiatics. We are a most important link in the chain which civilization has drawn round the world, and by which Providence accomplishes His mighty deeds. This is part of our great mission; and if we fail in it, you of the eastern States, and of the great Mississippi valley are equally involved in the disgrace.

A nation is great as long as she has a great mission to fulfill; she declines and perishes when she ceases to be true to that mission or proves herself inadequate to the task imposed. It may be objected that a line of mail steamships from San Francisco, by the way of the Sandwich Islands and Japan, even with considerable Government assistance, would not be able to realize large profits to its shareholders, perhaps scarcely pay the interest on its outlays.

This may be so at the beginning; but I am willing to leave this matter to the enterprise and ingenuity of our merchants and shipowners, and to the revolution in trade which such a line of steamers is sure to effect. It is *their* business, not ours, to make the line, in a pecuniary point of view, remunerative. The benefits arising to the whole country from the establishment of such a line are not to be measured by the amount of dividends realized by its stockholders; neither is our present trade with China and Japan a correct means of estimating the probable earnings of the line from its passenger and freight trade. Trade itself begets trade, and the successful prosecution of any enterprise is sure to discover means of economizing power and money, and of turning small advantages to great account. An old commercial proverb says, "it is the first step which costs dear;" the others follow naturally and with comparatively little effort. We have certainly a growing commerce with China to protect and cherish, and we are constantly imperiling our rapidly increasing trade with Japan by lacking a regular periodical communication with that wonderful empire, which cannot be established without a line of steamers such as is contemplated in this bill.

Our exports to China have doubled within the last year, and there is no reason why we should not import from China, not for our own consumption, but also for other American, if not European, markets. We enjoy, really, a greater popularity in the East than any European nation. Our friendly intercourse with the people of that remote quarter of the world has never been interrupted by diplomatic difficulties or an appeal to arms, and above all, we do not excite their jealousies by the possession of powerful colonies on their own continent or the neighboring islands. Our diplomatic relations with China and Japan have, with scarcely an exception, been of the most satisfactory character, and we may, without fear of contradiction, assert that we are in favor with both the Government and people. We are indeed more favorably known than any other nation, and have none of those prejudices to overcome which arise either from distrust or a sense of injury which they have not the power to resent or punish. The road, then, is open to us, the people are willing to trade with us, and we possess the products which they most need, and for which those countries furnish the best markets.

The State which I partly represent and the Territory of Nevada possess the basis of the most extensive bullion trade in the world; and yet, what is the course of the precious metals sent from California to New York? The greatest part of it is immediately shipped to England, to be either drawn against by our American merchants in China, or to be further shipped on British account to India and China to aid in settling the commercial balances of all Europe with the merchants of the Celestial Empire.

Now why should we be any longer deprived of the facility of shipping our precious metals, including the products of the most extensive quicksilver mines in the world, direct to Japan and China, saving thereby time, commission, and interest to our China merchants, and earning freights on the shipments of our own products to our navigators? In other words, why should we not render our merchants independent and high above *foreign* bankers, *foreign* mail steamers, and the good will of *foreign* Governments?

Our trade with China, as it is now managed, may at any time be entirely cut off, should our diplomatic relations with England suffer a serious interruption, and would be greatly impeded were England to be engaged in war with any other maritime nation.

It is neither wise nor just to expose so valuable a portion of our foreign commerce to such terrible contingencies, and it is our duty to provide against them while we may yet do so in perfect safety, and without giving offense to our great commercial rivals. In spite of our immense agricultural productions, we are yet essentially a commercial and sea-faring people. Indeed, we are almost amphibious. The spirit of commerce pervades all classes of our vast community, and we are at home on the water, whether it be on the ocean, on our Mediterranean of lakes, or on our majestic navigable rivers. Our products are so manifold as to afford the largest basis of commercial operations and the most remunerative exchange of commodities. Our own markets hold out the greatest inducements to foreign traders, while our people in enterprise, activity, and celerity of motion may well challenge the world for a comparison.

Why, then, should we not be able to carry on our trade with China and Japan without the intermission of England? Why should we not export our bullion direct from San Francisco to China, rather than allow it to travel all round the globe to perform a single commercial transaction?

Mr. President, the commercial independence of which I speak refers not only to merchants in the Pacific States, it applies equally to those of New York and to the business men all over the country. At present most cargoes for New York or Boston are purchased in China by bills on London, drawn against letters of credit issued by English capitalists, for which the latter charge a commission of two per cent. This commission and the premium on the exchange between New York and London would certainly be saved, if the funds required for the purchase of goods in China could be forwarded in gold and silver by means of regular mail steamers directly from San Francisco to Shanghae, against letters of credit issued in New York or Boston. By this means the New York or Boston banker would be substituted for the London banker, a new market would be opened to our precious metals, and we should save at least one or two freights, (to New York and Liverpool,) besides economizing interest and insurance. But the greatest saving would be in time, as the merchant in our Atlantic cities would be brought nearer to China from two to three weeks. To illustrate the whole operation by an example, let us suppose that a New York merchant wishes to invest, say $50,000 in the purchase of China goods. As the case now stands, he would be obliged to remit to his agent in China a credit on London to the amount of ten thousand pounds sterling, ($50,000.) The China agent would use this credit by selling his draft at the usual exchange of four shillings and tenpence, which would give him $41,379 31, the amount which he can invest in China goods for the New York market. The New York merchant would have to protect this draft from China, when it matures in London, by a remittance from New York sufficient to cover the amount of the draft and two per cent. commission charged by the London banker, say ten thousand two hundred pounds sterling ($51,000) at an exchange in New York say from nine to ten per cent. premium. Let us suppose it to be but nine per cent., or about four shillings one penny and two and a half farthings to the dollar, and he will have to pay for it $49,408 80, showing a difference of $8,029 49 between the sum which he is to remit to the London banker, and the amount realized in China, which difference is to be added to the cost of the goods, or, which is the same thing, to be deducted from the profits on the sale of the goods.

Now, suppose we had a regular line of monthly steamers from San Francisco to China, so that the gold and silver bullion could be shipped directly from San Francisco against letters issued by New York merchants, the whole transaction would then resolve itself as follows:

The New York merchant would send a letter of credit to his agent in San Francisco, authorizing him to draw on New York, and directing him to sell his drafts in San Francisco, and to remit the proceeds in bullion to China for investment in merchandise.

The San Francisco agent would draw a bill on New York for $50,000, six months sight, which he would sell at four per cent. discount, amounting to $2,000, so that he would realize $48,000, the equivalent of which in bullion or coin he would ship directly to China.

The loss on this shipment in the shape of freight, insurance, interest, &c., would not exceed eight per cent., and would, if the business were once regularly established, be less, leaving in the hands of the China agent $44,160, namely:

Proceeds of sale of New York draft	$48,000
Less eight per cent. on $48,000	3,840
Balance	$44,160

The New York merchant, when the draft from San Francisco matures in New York, would owe $50,000, showing only a difference of $5,840 between the amount paid in New York and the sum realized on his credit in China, which is less by $2,189 49 than the cost of the London credit, which was $8,029 49.

This very considerable difference on comparatively so small an investment would, perhaps, be diminished by two months' interest on the whole amount, owing to the different dates of the drafts. The proceeds of the San Francisco draft would have to be immediately invested in bullion for shipment to China, while the draft on London would not require to be drawn in China till the purchase of the cargo is completed, which would probably amount to the saving of sixty days' interest, or about one per cent. But even with this deduction made, the balance would still be largely in favor of the New York credit, while, at the same time, it would render the New York merchant independent of the London capitalist. Let the new process be once reduced to a system, and New York credits will be generally substituted for London credits—making New York, instead of London, the center of the great bullion trade of the world.

But the question may be asked, what is the American agent in China to do with his bullion if the goods which have been ordered are not in the market, or not attainable at the prices named in his letter of instruction? Well, in that case, he has only to invest the $44,160 in sterling bills at six months sight at the usual exchange of four shillings and tenpence to the dollar—the rate calculated in the London credit—and he would have in bills on London the amount of £10,672, which is £472 better than the £10,200 or their equivalent, at nine per cent. premium, $49,408 80, in New York.

In the computation of these exchanges the Hong Kong currency was taken for the basis. When remittances shall be made by our San Francisco and Shanghae steamers it will, of course, be necessary to use the Shanghae currency; but the principle will remain the same—a Spanish or Mexican dollar buying a dollar's worth of goods in either place.

At the present time, all purchases made by American merchants in China for export to Cal-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. FRIDAY, APRIL 11, 1862. NEW SERIES....NO. 101.

ifornia are made by means of foreign credits. Even if a credit on China is obtained at San Francisco, to be used in the purchase of goods at Hong Kong, the goods are bought by drafts on London, which are eventually protected by the San Francisco merchant, who pays the London banker a commission of two per cent. It is this dependence on British capitalists which colonizes our American-China merchants, taxing them for the benefit of the London bankers, allowing British navigators to earn freights, British insurance companies to effect insurances, and the lordly grocers in Leadenhall street—as the British East India Company are satirically styled—to assume the control of our eastern commerce!

To show how injuriously the present circuitous bullion route from San Francisco to New York, thence to Southampton, and thence to India and China, operates on our merchants, it is sufficient to state that the shipments of treasure of all kinds from San Francisco to China in 1860 were less than $3,500,000; whereas during the same year £3,500,000 sterling, or about five times as much in silver, was shipped to China from Southampton.

That silver came from Mexico, and would undoubtedly have been sent to China by the way of San Francisco, at a great saving of freight, insurance, and interest on the outlay, had we had a line of steamers from San Francisco to Shanghae. Let such a line be established, and it cannot but change the bullion trade of the world. A line of steamers has already been established on the Pacific coast of Mexico, from Acapulco to San Francisco; steamers are also running from Chili, in South America, to Vancouver's Island, and other lines will be undoubtedly opened, all of which will act as feeders to the proposed line from San Francisco to Shanghae. I will here add the exports of silver from Southampton to India, China, and the Straits for the last six years:

Year.	*India.*	*China.*	*Straits.*	*Total.*
1856	£8,381,505	£3,166,514	£565,972	£12,113,991
1857	11,378,017	4,479,315	874,583	16,731,915
1858 ...	3,295,835	1,355,117	102,981	4,753,933
1859	11,163,384	3,374,250	290,887	14,828,521
1860	4,385,966	3,657,443	435,330	8,478,739
1861, to July 25,	4,159,684	574,358	83,016	4,817,058

The shipments from San Francisco to China in the year 1860 were as follows:

Gold bars, valued at	$1,803,523
Silver bars, valued at	135,260
Mexican dollars	1,423,169
Mexican ounces, (gold;)	8,000
Total	3,369,952
Shipped to Japan	94,200
Grand total	$3,464,152

From these statistical facts, which I have taken pains to obtain from the best and most reliable sources, Senators will, I trust, be sufficiently convinced that a line of monthly steamers from San Francisco to Shanghae, in China, would not only insure our independence of British capitalists, and save large sums, in the shape of commissions, freight, interest, and insurance, to our merchants, but also extend our bullion trade with China, change the direction of the silver bullion trade of Mexico, and thereby enhance the relative value of the precious metals, by transferring them at cheaper rates to those markets where they are exchanged for goods or employed in the liquidation of commercial balances.

The exchanges of California and the other States of the Union are now exceeding forty millions of dollars annually; and the cost of remitting treasure exceeds one and a quarter million. By securing the eastern markets to our precious metals, the entire gold production of California and the silver production of the inexhaustible Nevada mines may be in greater part absorbed in China in a few years, China remittances serving in that way not only the purposes of purchasing eastern merchandise, but also of settling commercial balances due in China by English and French merchants. It is by operations like these that the city of New York will finally become the commercial center of the world, where all balances will in the end be adjusted.

These are our prospects, if we take advantage of our position, and develop, as we ought, the wealth and power which a kind Providence has bestowed on us; but how are we circumstanced at this moment? We are dependent on British steamers for mail facilities to Brazil, the coast of South America, the Mediterranean, the east and west coast of Africa, all the ports of India, the Mauritius, Singapore, Java, the Philippine Islands, Australia, and New Zealand; shall we also continue in the same state of dependence in regard to the ports of Japan and China?

Japan has, till within a late period, been entirely closed to our trade, and China was only accessible at certain ports. All this is now changed. Japan is ready to exchange her products with ours, and China sends not only her goods but her people to our shores. This trade, which has only just sprung up, must increase with the increase of our population and the development of our resources, aided, as it now is, and will continue to be, by the gradual removal of the obstructions which the Chinese Government still imposes on a certain portion of her commerce.

California has already felt the new impetus thus imparted to her industry and commerce, for it not only has stimulated her mercantile enterprise but vastly increased her productions.

The whole number of tons of shipping which arrived at San Francisco, in the year 1859, was 59,831, of which 47,519 cleared for China, and 18,378 for other ports in the East Indies.

The arrivals from China were 27,814 tons; and from the East Indies 10,480 tons.

The value of cargoes was $2,662,241, and the freights thereon exceeded $400,000.

The imports of treasure into San Francisco for 1859 amounted to $2,516,152, and the exports to $47,640,462, (including precious metals,) of which $3,100,755 was sent to China in forty-five vessels. The amount shipped to China in 1860 was $3,374,680, in thirty-two vessels.

The exports of commodities, exclusive of bullion, increased $3,000,000, amounting in 1860 to $6,532,439, of which $4,918,336, or nearly *five millions*, were from California alone. The exports of barley increased from 15,000 sacks, in 1854, to 163,249 in 1859; while the wheat export, from 4,067 sacks, in value of $14,900, in 1854, had, in 1860, attained the valuation of $1,854,259. The exports of wool had, in like manner, increased from $14,000, in 1854, to $392,502 in 1860, showing an increase in material wealth under disadvantage of imperfect communication with the other States, and greater distance from the Government, unprecedented in the history of any other State in the Union. What we now ask is to be connected by steam with that country whose population alone exceeds one third the whole number of inhabitants of the entire globe, and to be afforded thereby that security, which, from the nature of our geographical position, we stand more in need of than any other portion of our fellow-citizens in the Atlantic States or in the great valley of the Mississippi. Let us have the mercantile facilities which give value to our productions, by securing them the best markets; let shipbuilding on our Pacific coast, which will be undoubtedly *aided*, not interfered with, by the establishment of a line of steamers from San Francisco to Shanghae, increase with the extension of our commerce, and let the maritime population which is sure to spring up by such fostering care be our strong arm of defense against the aggression of a foreign foe.

The whole civilized world has recognized our mission to connect western Europe with eastern Asia by means of steam across our continent; let us prove ourselves equal to the task, and let us not be deterred from our purpose though we may be stunned by the roar of cannon and the clash of arms of a gigantic internal rebellion.

So far I have only considered markets, commissions, and prices; but TIME, too, is a most essential element in all commercial transactions, and quick information, followed by "swift orders," a principal cause of success. Our China merchants depend not only for remittances on London bankers, but they also derive their information from all eastern ports through British channels. The news which our New York merchant receives from India and China has been known and published in London and Liverpool from ten to fifteen days earlier, and orders may have gone out from these cities to Calcutta, Hong Kong, and the ports of Japan, turning this earlier information to good account, and forestalling or clogging the markets, in which the American-China merchant appears at best but as a gleaner after the harvest has been secured by his British rival. The telegraphic communication between New York and San Francisco is only a partial remedy of this great disadvantage under which our traders with the East are now laboring; it will not be completely overcome and turned to our advantage until a regular monthly steam mail shall complete the chain of direct communication with Japan and China. Our San Francisco and New York merchants will then derive their information by the quickest and entirely American route, and will, no doubt, use their swift knowledge as readily and with the same substantial profits now enjoyed by their commercial rivals in European ports.

The trip from San Francisco to Shanghae, as I shall presently show, can easily be accomplished in thirty-five days, and with the present telegraphic communication the New York merchant can easily receive advices from his correspondent in China in *thirty-six days*, whereas at present, by the Peninsular and Oriental route, *fifty-six* days to New York would be very quick time. The establishment of the San Francisco and Shanghae line, therefore, would quicken the information of the New York merchant to the full extent of *twenty days!*

Having thus shown the advantages of the line, and the eminent fitness of establishing it at this juncture, let me speak of the route itself, its probable expense, and the absolute necessity of aiding it by Government subsidies. First, of the route.

All agree that its natural terminus must be Shanghae, in China, and that the ships must touch at Honolulu, in the Sandwich group of islands; but there seems to be some difference of opinion as to whether they shall proceed from Honolulu to Peel island, one of the Bonin group, or to Kanagawa, in Japan, and thence to the terminus of the route in China. The route via Honolulu and Peel island is two days, say four hundred miles, shorter than that via Honolulu and Kanagawa; but the latter route offers greater inducements in the way of commercial advantages, and ought, in my opinion, to be selected.

Our trade with Japan is rapidly increasing, and the Japanese Government, as I have already had occasion to observe, is kindly disposed towards us, and inclined on its part to foster that trade. Eastern people are easily offended; they are great sticklers for etiquette, and not apt to forgive slights.

A line of American steamships from San Francisco to Shanghae, not touching at any Japanese port, would be construed into an unpardonable offense, and injure our growing trade with that empire in more than one respect. A mistake of that kind would be both a political and commercial blunder. The distances to be run have been computed, as follows:

From San Francisco to the Sandwich Islands	2,150 miles.
From Sandwich Islands to Cape King, Japan	2,575 "
From Cape King to Kanagawa	60 "
From Kanagawa to Shanghae, China	1,125 "
Total	6,910 "

This whole distance could be run by a steamer, with an average speed of two hundred and twenty miles per day, in thirty-one and a half days; adding three and a half days for detention, coaling, &c., all could be easily accomplished in thirty-five days. A first-class steamer, equal in tonnage and power to one of our late Collins line, running at an average speed of two hundred and sixty-five miles a day, would accomplish this dis-

tance in a shorter period; but the expense of such steamers running such great distances, and being in consequence deeply laden with coal, would hardly be in proportion to the advantages derived from them. One of the Collins line of steamers would consume fifty-five tons a day, while a first-class steamer of two thousand tons burden, with modern improvements of model, engine, and boilers, and without top-hamper of upper deck, &c., would not exceed an average consumption of twenty tons a day, and a war steamer of the same tonnage, such as it is proposed to build, would not exceed twenty-five tons a day.

Let us suppose that with economy and improvements the consumption of coal is reduced twenty tons a day, and, computing the expenses of a line of steamers from San Francisco, via the Sandwich Islands and Kanagawa, in Japan, to Shanghae, in China, making an average speed of two hundred and twenty miles per day, and thirty-one days' *running* time, it would foot up, as follows:

1. Four propellers of 2,000 tons each, costing each at San Francisco $300,000		$1,200,000
2. Supply of coal for monthly trips from each port, requiring two coalings per month, and to have always six months' supply on hand, would require for each steamer from the Sandwich Islands to Kanagawa, 3,600 miles, burning on an average 20 tons per day, say seventeen days' steaming, 340 tons of coal; and from the Sandwich Islands to San Francisco, against currents and head winds, allowing from thirteen to fifteen days' steaming, 300 tons of coal, with at least two additional days' supply each way, making 80 tons. Added together, the total required at the Sandwich Islands for each steamer would be 720 tons of coal. Six months' supply would be six times as much, or 4,320 tons, at an average cost, say, of $22 per ton, or for the whole, $95,000, as the *minimum* of the outlay indispensable to the successful prosecution of such a line of steamers.		
In addition to this, it would be required that a corresponding amount of coal should be constantly kept on the way to supply the wants of the steamers, which would at least involve a first outlay of coal	$95,000	
Which added to the sum of	95,000	
Would make a total investment of		$120,000
A supply of coal must also be had at Kanagawa of nearly or quite the same amount as at the Sandwich Islands	120,000	
And a supply of coal of at least 1,000 tons must be had at the Bonin Islands to cover possible contingencies, at a cost per ton, *landed*, of at least $25	25,000	
Total outlay for coal in foreign ports		265,000
At San Francisco only half the amount of coal would be required which is necessary at the Sandwich Islands or Kanagawa, say		60,000
Total amount of investment for ships and coal,		$1,525,000

The expense of running the line to and from San Francisco to Shanghae and back, taking sixty-two days' running time, and five days' detention each way, and five days at Shanghae, making in all seventy-two days, to which must be added three days for discharge of cargo and paying off crew at San Francisco, making seventy-five days, at a probable cost of $60,000, would be as follows:

Twelve trips a year	$720,000
Seven per cent. interest on the original investment of $1,525,000	106,755
Insurance on cost of steamers, at eight per cent. per annum, on $1,200,000	96,000
Insurance on investments in coal to the amount of $325,000, at three per cent	9,750
For repairs on steamers per annum	100,000
Depreciation on steamers per annum, say ten per cent	120,000
Grand total of yearly expense	$1,152,500

The receipts or earnings of the line may be safely estimated as follows:

Freights on bullion to Japan and China, say annually ten millions of dollars, ($10,000,000,) at the rate of three quarters of one per cent	$75,000
Through passengers each trip, say twenty per trip, at $150 each	72,000
Through freight from China, average per trip, $3,000, on twelve trips	36,000
Through freights to China from San Francisco, at the beginning merely nominal	-
Business with the Sandwich Islands per trip, say $5,000, twelve trips	60,000
Business between Kanagawa (Japan) and Shanghae, (China,) average per trip $7,500	90,000
Total	$333,000

or about one third of a million of dollars, leaving an annual deficit of $819,500, or in round figures $800,000, to be covered by earnings for carrying the United States mail, by the increased commerce which the establishment of the line is to operate, or by the economy which skill, experience, and practice will introduce in the management of the line.

The estimates here given are on the authority of the first business men of the country, whom I have consulted, and may be substantially relied on. There can be no doubt as to their correctness as far as the beginning of the enterprise is concerned, though as the line would become better known, and its managers better acquainted with the wants and business capacities of each country, a reduction in its expenses and an increase in the earnings of the line may reasonably be expected.

Thus, in the beginning, the passenger trade would certainly be limited, so that twenty passengers each trip to China appears to be a very large allowance.

Up to this moment no vessel has carried China passengers from Shanghae to San Francisco, all Chinese travel being from Hong Kong direct by sailing vessels, which mode of travel will continue so long as Chinese emigration is confined to the laboring classes; but it is hoped that the establishment of a line of steamers to Shanghae, and the increasing liberality of the Chinese Government, may effect a change even in that respect, and that the increased facilities will also produce an increase of travel.

The amount of freight to be earned by the steamers will also remain small for some time, the bulky articles on which freights are principally earned from San Francisco to China being naturally carried in sailing vessels, and the voluminous articles of Chinese exportation to this country seeking the same means of transportation.

A large allowance, however, has been made in the estimates just submitted for freight on bullion. To carry $10,000,000 annually would require half the entire amount from European ports to be carried by our steamers. That our San Francisco and Shanghae line would eventually carry the *whole* of it, may not seriously be doubted; but for that purpose it must first have earned a reputation for safety, regularity, and dispatch, which, I fully believe, the line will enjoy after being once in operation, sustained by our Government.

That the steamers of this line will eventually carry passengers and goods besides bullion, we may, I repeat, *expect in the course of time;* also, that the expense of running the line may be reduced; but years must elapse before these advantages can be fully available to the company which engages in the enterprise. The first advantages derived from the establishment of the line will not accrue to the stockholders of the company, but to the merchants of New York and other Atlantic cities, as well as to those of San Francisco; and it will also accrue to the Government, which requires early information of what occurs in the East and on the Pacific, and to the whole people of the United States, who will thereby be brought in as regular communication with the people of Asia as they now are with the people of Europe.

It will, perhaps, be suggested that a line of steamers from San Francisco to Shanghae might carry a considerable amount of raw silks for European markets. Our own consumption of raw silk for manufacturing purposes is as yet very small; but the European consumption of raw Chinese silk has, during the last few years, wonderfully increased, France importing probably not less than $20,000,000 worth per annum. The silk crops of Upper Italy, on which the French manufacturers heretofore chiefly relied, have for many years past partially failed, and the disturbed state of that country, which has so recently been the theater of "war and rumors of war," is naturally opposed to the peaceful operations of industry and commerce. China raw silk, moreover, possesses considerable advantage over the best Italian silk, especially in the manufacture of the more elegant lustrous textures, and will on that account remain a permanent article of exportation from China to England and France, and in all probability to Italy herself; but it is scarcely probable that our California and China steamers will ever carry any considerable portion of that merchandise. Few costly articles bear transhipments, and China silks from Shanghae to Havre and Liverpool would need to be twice transhipped: once in San Francisco, and once or twice on the Isthmus of Panama.

This disadvantage is shared by silks shipped by the Peninsular and Oriental Steamship Company; but with less damage, as I am about to show. Silk is a delicate article, which requires skillful handling, and in regard to which the *personnel* of the British Peninsular and Oriental Steamship Company have acquired an experience and dexterity against which it is hopeless for any new line to compete with success. It would be difficult and expensive to effect insurances against loss or injuries sustained by so costly and delicate an article on a new line, and a reduction of freight on the Peninsular and Oriental line might, for the present, take that trade entirely from our steamers.

Neither can we expect to carry passengers from and to Europe by our California and Panama lines, to and from China. Passengers from Shanghae, by that way would require from seventy-five to seventy-eight days to reach the port of Southampton; whereas the Peninsular and Oriental line carries them in from fifty-three to fifty-five days, by the Isthmus of Suez, the average distances run being these:

	Days.
From Shanghae to Hong Kong	7
From Hong Kong to Point de Galle	19
From Point de Galle to Suez	13
From Suez to Alexandria	2
From Alexandria to Malta	4
From Malta to Southampton	8
Total	53

These distances are of course not run by the same steamers, but by those corresponding with one another, and belonging to the same company, so that one is ready to start as the other arrives and transfers her passengers and treasure.

By the Panama route the time would be as follows:

	Days.
From Shanghae to San Francisco	35
Time and detention in San Francisco, at least	3
From San Francisco to Panama, usual passage	14
Detention at the Isthmus, and at Aspinwall, at least,	3
Aspinwall to Southampton, usual passage	18
Total	73

We cannot expect, therefore, that our San Francisco and Shanghae line will ever become the mere passenger route to and from China, especially now, when the work of piercing the Isthmus of Suez is steadily progressing toward completion, making the whole route from Southampton, England, or Marseilles, France, a water route; nor can we reasonably expect to carry merchandise from China to or from European markets. It is quite a different thing, however, with bullion, which is chiefly produced on this continent, and the largest portion of it in our own country or with commercial men making a round of business engagements.

A subsidy from our Government, as low as $500,000, for which a return is made by carrying the mail and munitions of war, besides protecting our commerce and whalers in the Pacific ocean, and thereby saving the Government the expense of keeping three or four vessels of war in commission in those waters, is therefore the *minimum* I can ask for the proposed San Francisco and Shanghae line of steamships; that sum being, as I think I have shown, the smallest that can induce capitalists to embark in the establishment of such a line, with a reasonable hope of continuing it with success.

We do not wish Government to hold out insufficient inducements; neither do we desire any company to come periodically here soliciting additional aid and protection. Let us do justice to ourselves, a company who may undertake it, and the country, by making at once an adequate appropriation to secure the accomplishment of our design; and let us trust the enterprise, perseverance, and ingenuity of men who engage in this great work, that they will prosecute it to an issue creditable to the commercial and maritime reputation of themselves and their countrymen.

And now, Senators, after explaining the policy and necessity of this line in a military point of view; after demonstrating the vast commercial advantages which would flow from it to our merchants in the eastern cities, and to the country generally; after clearly establishing the fact that without such a line our merchants must continue to depend on British mail facilities for correspondence and information; what is it that the citizens of loyal California ask of your generosity and patriotism?

A simple mail contract to the amount of not more than $500,000, not permanently, but merely for a period of not more than five years, to carry

the United States mail in *armed* steamers, monthly, from San Francisco, by the way of the Sandwich Islands, to Kanagawa in Japan, thence to Shanghae in China, and back again, by the same route, to the same port.

The vessels to be of not less than two thousand tons burden, adapted to the navigation of the Pacific ocean; to be commanded for greater Government security by an officer of the United States Navy; to be employed both in carrying a mail and in protecting and increasing American commerce. The equipment and armament of these vessels shall be under the control of the Secretary of the Navy, in the same manner as if they were a part of the American Navy, to be in all other respects assimilated to men-of-war in the regular service. No party or parties of speculators or contractors, as I have said in opening the subject to you, are waiting or lying in ambush to seize upon your appropriation to further exclusive private interests.

The bill provides that the Government shall give the contract to the lowest bidder, taking proper securities for its fulfillment. Neither is anything to be paid to contractors, except that portion of the annual sum in the way of compensation not covered by postages received by the line.

With the annual increase of those postages, the amount to be furnished out of the Treasury of the United States would constantly diminish, and it is not at all impossible that after the line shall have been in successful operation for a number of years, its whole expense to the Government may be defrayed by postages alone.

In the estimates of the probable expenditures and receipts of the line, which I have just submitted to you, and which I had the honor to assure you were based on the experience of our best merchants and navigators, an excess of $800,000 of the expenditures over the receipts would have to be provided for by the Government; but the annual stipend provided for in this bill is only $500,000, leaving still a deficiency of $300,000 to be covered by the ingenuity and inventive genius of our shipowners and merchants, not, perhaps, directly by the earnings of the line, but by such mediate openings of trade as experience and enterprise will suggest and use.

What more powerful stimulus could be given to any company to devote itself with zeal and discretion to the object of their association! The line, therefore, which it is here proposed to establish, answering all the purposes contemplated in the bill, will tax the proverbial ingenuity of men who engage in such enterprises to the utmost to protect themselves from loss.

We shall by this establishment add an active force to our national Navy; we shall appear as a maritime Power in the Pacific ocean; we shall render our merchants commercially independent of Great Britain, and we shall create new avenues of wealth for the mercantile genius of our people. There can be no stronger inducements to legislation than these; no nobler task for legislators than by their acts to promote the enterprise, wealth, security, and power of their country!

The benefits of this bill will inure not merely to California, but increase our national reputation and standing, and elevate us as a people. I urge the passage of this bill in the name of civilization and progress, and with a view to our *independence* as a great commercial Power; I urge it on the score of our national honor, which is constantly exposed to insults from foreign nations while our Pacific coast is unprotected by an adequate steam navy; and I ask it in the name of religion, the seeds of which, if the provisions of this bill are honestly carried out, will be planted through this medium in distant climes destined to be redeemed from the darkness of superstition.

It is not merely the patriotic citizens of the loyal State of California who, through their representatives in Congress, ask your coöperation in what they deem a national enterprise, the far-sighted citizens of the loyal Empire State have equally made an appeal to your undoubted liberality and statesmanship. The New York Chamber of Commerce memorialized Congress almost simultaneously with the Chamber of Commerce of San Francisco in aid of the same object. The memorial of the chamber of San Francisco bears date November 29, 1861, and that of New York is dated December 5, 1861; both express the same sentiment and urge the same reasons for accomplishing a great national object. They believe, and the people of the great State of New York are convinced, that the establishment of a line of mail steamships from San Francisco to Shanghae, in China, is a necessary part of our system of national defense, as much dictated by prudence, forecast, and true statesmanship as our river and harbor defenses on the Atlantic coast or the fortifications on our western lakes and harbors.

California is, in many respects, the richest and one of the most enterprising of States. She is the greatest prize, the most imperial jewel that a foreign foe or coalition of foreign enemies to our country would dare to cast a covetous eye upon. Her position is exposed, and her population is, as yet, in no proportion to the vastness of her dominion, her length of sea-coast, her inexhaustible mineral wealth, and her boundless agricultural resources.

Yet, small as the number of our people may be compared to the princely domain, which it has pleased Providence to open to their enterprise and labor, their hearts are stout, their will is strong, their spirit resolute, and their loyalty and devotion to good government as boundless as the ocean which laves their shore.

She will stand by the Constitution and the Union as long as civilization shall endure on this continent—as long as the memory of Washington shall be cherished by his countrymen. We do not come in fear and trembling, as the inhabitants of a distant province, to seek the protection of a strong central Government; we are willing and resolved to do our part as men in supporting and upholding that Government, through which we have prospered, though all the Powers on earth were to conspire to produce its ruin.

All that we ask is to aid us in carrying out our strong resolution; to coöperate with us in the patriotic attempt to establish our commercial and maritime independence of Great Britain, and to create and develop within ourselves the means of repelling foreign aggression, and competing successfully with foreign enterprise.

When we reflect on the vast expenditures entailed on our country by this revolution, when we count the millions it has already swallowed up, and the millions that are yet to be expended to render the country safe against all complications, a small *bonus*, conditionally asked, to enable us of remote California to contribute our share in maintaining our national honor and supremacy, appears indeed trifling.

Let us show to the world that our arm is not palsied, our recuperative energies not spent, nor our undaunted spirit humbled by even a gigantic internal struggle. Now is a proper time to prove to the world that we have surrendered none of our high purposes; that we are still equal to the execution of all the magnificent designs which as men, with an undying faith in our great mission, we have dared to conceive. All national progress, all greatness of character, all real virtue, is in *action;* to stand still is to recede, and to recede is but the beginning of national decline.

Mr. President, in this our hour of trial, I, for one, cannot doubt my countrymen; cannot for a moment give room to the thought that this great country of ours, this world in itself, blessed with everything that Heaven can bestow on land and people, is to be annihilated by folly and crime. Vast as it is, and capable of sustaining a larger population in proportion than all Europe, nature intended that its magnificent domain should be inhabited by one great people, of common origin and blood, a common language, a common literature, a common inheritance of manners and customs, a common wealth, and a common history—no *imperium in imperio!*

All our great rivers, the great arteries of commerce, flow from north to south; all our mountain chains run from northeast to southwest, equalizing, far more than the difference in latitude would warrant, our climate, and producing greater uniformity of temper and disposition in our people, north and south, than is observed among the inhabitants of other continents.

The southerly winds from the Gulf of Mexico are as exhaustingly felt in Boston as in Savannah, and the northern gale, blowing from the Polar sea, is as chilly in New Orleans in the midst of winter as on the northwestern lakes.

The natural productions of the North and South may vary, and create a mutual dependence of one section of our country on the other; but the people, with all the pains which short-sighted persons have taken to prove the contrary, do not demand two distinct classifications, and should be indissolubly bound together in fate and fame. And though fratricidal hands be still uplifted in bloody strife against a common national glory, let us still beseech the God of nations and of battle to preserve and bring us forth a great, magnanimous, overshadowing people, whose influence shall be felt on every continent and in the most remote corner of the globe, and whose history may yet for many years continue what it was, an unfinished epic.

Instead of a fatal dualism, which ruined Greece, divided Rome, and now divides our strength, rendering us paralyzed at home and helpless to resist coalitions of foreign Powers, we shall then be again a glorious unit, rejoicing in the manhood of our national strength.

May the time soon come when patriotism will doff his sectional shackles, and embracing once more the national faith, gather as in days of yore round the old and honored national standard.

May the lost Pleiades be restored from the night of their present aberration to that brilliant galaxy of stars emblematic of our fixed faith, and typical of our pathway of onward progress.

Mr. President, in accordance with my understanding with the Senator from Illinois, who has charge of the confiscation bill, I now move that the further consideration of this subject be postponed until next Tuesday, at one o'clock.

Mr. TRUMBULL. I hope the Senator will not propose to make it a special order for one o'clock.

Mr. LATHAM. If it interferes with your bill I will give way. I merely want to keep it before the body.

Mr. TRUMBULL. Just let it be postponed, and the Senator can have it taken up then, if it does not interfere with the other bill.

Mr. LATHAM. Very well, sir; I will take that course.

The motion to postpone was agreed to.

HOUSE BILL REFERRED.

The joint resolution (No. 60) extending the provisions of a certain act to all the military departments of the United States, was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

ARMY MEDICAL DEPARTMENT.

The PRESIDENT *pro tempore*. The Chair will lay before the Senate the bill (S. No. 188) to increase the efficiency of the Army, which the House of Representatives has passed with an amendment. The question is, "Will the Senate concur in the House amendment?"

Mr. WILSON, of Massachusetts. I move that the Senate non-concur in the House amendment, and ask for a conference on the disagreeing votes of the two Houses. The amendment proposed is substantially the original bill of the Military Committee as introduced here. One very important section, confining the increase to the continuance of the present rebellion, is left out. We cannot concur in that, I suppose.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment of the House of Representatives. The negative of that vote is the affirmative of the proposition suggested by the Senator from Massachusetts. The Chair will put the question on concurrence.

The amendment was not concurred in.

Mr. WILSON, of Massachusetts. I now move that the Senate ask for a conference on the disagreeing votes of the two Houses.

The motion was agreed to; and Messrs. WILSON of Massachusetts, LANE of Indiana, and NESMITH, were appointed.

THE TAX BILL.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House had passed a bill (No. 312) to provide internal revenue to support the Government and pay interest on the public debt; in which the concurrence of the Senate was requested.

The bill (H. R. No. 312) to provide internal revenue to support the Government and pay interest on the public debt, was read twice by its title, and referred to the Committee on Finance.

CONFISCATION OF PROPERTY.

The Senate resumed the consideration of the bill (S. No. 151) to confiscate the property and free the slaves of rebels.

Mr. SHERMAN. The Senator from New York [Mr. HARRIS] not being in his seat, and being, I am told, kept away by illness, I desire now to move the amendment which I indicated some time ago, as a substitute. I move to strike out all after the enacting clause of the bill, and insert:

That the President, in suppressing the present insurrection, is hereby authorized, and, wherever practicable, required, to take possession of all the property, real and personal, belonging to any one of the following class of persons, to wit: First. Persons hereafter acting as officers of the army or navy of the rebels, now or hereafter in arms against the Government. Second. Persons hereafter acting as president, vice president, member of Congress, or judge of the so-called confederate States. Third. Governors of States, members of State conventions and Legislatures, and judges of courts of States now in rebellion, who shall hereafter take an oath to support the constitution of said confederate States, or, having taken such oath, shall hereafter act as such. Fourth. Persons who, having held an office of honor, trust, or profit in the United States shall hereafter hold or exercise an office in said confederate States. Fifth. Persons who, owning property in the loyal States and residing in a State in rebellion against the Government, shall hereafter assist or give aid and comfort to such rebellion. All sales, transfers, or conveyances by any such person of any such property or of any claim to the service or labor of another after the committing of either of the acts herein described shall be null and void; and it shall be a sufficient bar to any suit brought by such person to recover the possession or for the use of such property or any of it, or to enforce such service or labor, to allege and prove that he is one of the persons described in this section.

SEC. 2. *And be it further enacted*, That to secure possession of any of such property situate and being in loyal States or districts in which the ordinary course of judicial proceedings is not obstructed by the rebellion, proceedings *in rem* shall be instituted in the name of the United States, in any district court of the United States, within which the estate or property described in the first section, or any part thereof, may be found, which proceedings shall conform, as nearly as may be, to proceedings in prize cases, or to cases of forfeiture arising under the revenue laws; and in all cases the property adjudged to be the property of any person described in the first section, whether real or personal, shall be sold and conveyed to the purchaser as any sale of property in execution, and the proceeds shall be deposited in the Treasury of the United States.

SEC. 3. *And be it further enacted*, That the property seized under the first section of this act, situate and being in States or districts in which the ordinary course of judicial proceedings is obstructed by the rebellion, shall be used, occupied, rented, or held, until the ordinary course of judicial proceedings shall be restored in the State or district in which such property is situate, when proceedings *in rem* shall be instituted in the mode prescribed in the second section of this act: *Provided*, That articles of subsistence or of a perishable nature seized under this bill shall be used or sold as the interest of the service requires.

SEC. 4. *And be it further enacted*, That no person described in the first section of this act shall hold any person to service or labor who was held by him to such service or labor at any time after the passage of this act, and before the termination of this rebellion; and the person so held to service and labor shall be discharged therefrom.

SEC. 5. *And be it further enacted*, That the several district courts of the United States are hereby invested with power to issue all process, whether mesne or final, including garnishee and process, as in cases of foreign attachment, and to do every other matter and thing necessary or proper to carry out the purposes of this act.

SEC. 6. *And be it further enacted*, That the President is hereby authorized, by a proclamation of amnesty, to release either of the five classes of persons described in the first section of this act, residing in any particular State or district, from the operations of this act.

SEC. 7. *And be it further enacted*, That every person who after sixty days from the passage of this act shall continue in rebellion against the United States, or adhere to their enemies, giving them aid and comfort, shall be deemed infamous, and shall hold no office of honor, trust, or profit within the United States.

SEC. 8. *And be it further enacted*, That nothing in this act shall operate or be construed to prevent or in any way affect any prosecution or other proceedings against any person who may have incurred the forfeiture herein prescribed, to punish any crime, or assert or enforce any other forfeiture of which such person may be guilty, or which he may have incurred under any other law of the United States.

SEC. 9. *And be it further enacted*, That the President is hereby authorized by proclamation to call upon all inhabitants within any State whose officers and State organization shall still be in rebellion against the United States after sixty days from the passage of this act, to aid and assist in suppressing such rebellion; and all persons so aiding or assisting the United States, who under the laws of such State owe service, or labor, or money, or property to any person levying war against the United States, or aiding or assisting their enemies, giving them aid and comfort, shall be forever discharged from such obligation, any law or custom of such State to the contrary notwithstanding; and the President is authorized to employ, arm, and equip all such loyal inhabitants as he may deem advantageous to the public service.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Ohio, which is a substitute for the original bill. Inasmuch as the original bill and the substitute are open to amendment by way of perfection before the vote shall be taken on striking out and inserting, the Chair desires to suggest as a matter, not of absolute order, but of practical convenience, that the original bill be first perfected; and that being done, that the substitute as offered be perfected, and then the vote taken on striking out and inserting.

Mr. WILLEY. At some time I intended to offer an amendment to the third section of the original bill. If it is proper to offer it now, I will do so.

The PRESIDENT *pro tempore*. It is entirely proper.

Mr. WILLEY. I move to amend the third section by inserting in the sixth line the words, "and also of all other persons of the African race who are now free in any of the United States;" and after the word "emigrate," in the same line, inserting "or who may be hereafter manumitted either by the voluntary act of individuals or by State authority for the purpose of being so transported, colonized, and settled," and at the end of the section adding:

And the sum of —— millions of dollars is hereby appropriated out of any money in the Treasury of the United States not otherwise appropriated, to be applied by the President in carrying into effect the provisions of this section.

The section, if thus amended, will read:

That it shall be the duty of the President of the United States to make provision for the transportation, colonization, and settlement in some tropical country, beyond the limits of the United States, of such persons of the African race made free by the provisions of this act, and also of all other persons of the African race who are now free in any of the United States as may be willing to emigrate, or who may be hereafter manumitted either by the voluntary act of individuals or by State authority for the purpose of being so transported, colonized, and settled, having first obtained the consent of the Government of said country to their protection and settlement within the same with all the rights and privileges of freemen; and the sum of —— millions of dollars is hereby appropriated out of any money in the Treasury not otherwise appropriated, to be applied by the President in carrying into effect the provisions of this section.

The PRESIDENT *pro tempore*. Before the question is taken on this amendment to the original bill, it is proper that the blank in it should be filled with some specific amount. Will the Senator from Virginia indicate the amount with which to fill the black?

Mr. WILLEY. Five millions.

The PRESIDENT *pro tempore*. That sum will be inserted. The question is on the amendment of the Senator from Virginia to the original bill.

Mr. TRUMBULL. In regard to that amendment, perhaps we may as well act on it at once, if no one desires to speak on the bill. The amendment is not germane to the bill; it introduces into it a new question; that is, the disposition of the free negroes of the country. This bill relates to the rebellion, and the third section provides that the slaves who are discharged by reason of the crime of their masters in fighting against the Union shall, so far as they desire to do so, be assisted by the President to emigrate to some other country, or rather makes it the duty of the President to assist such as may desire to emigrate who are made free by the provisions of this act. Now, the Senator from Virginia proposes a new proposition, that is, to colonize the free negroes of the country. I trust, sir, that will not be introduced into this bill, however desirable it may be. I agree with him; I should be glad to see the free negroes of this country settled where they could assert all the rights and occupy the position of free men, without any domineering race; where they would not only have civil and political rights, legal rights, but where their social rights and privileges would be upon a level with all the community with whom they associated. But I do not think it best to introduce a proposition of that kind into this bill, and I trust it will not be done.

Mr. WILLEY. I have no intention to discuss this proposition of amendment at any length. I merely presented it to have the sense of the Senate upon it.

I do not know whether the bill will pass or not, but amendments have been proposed on the hypothesis that it might become a law, and, looking to the consequences that would grow out of the practical operation of the bill if it become a law, I have felt it my duty, coming from the State of Virginia, to propose this amendment. Allow me to say to the distinguished Senator from Illinois, what I think the policy and public voice of his own State have sufficiently indicated, that the two races, the white race and the black race, in this country, can never live together in harmony to the advantage of either race, where, in point of numbers, the races stand anything nearly equal. The black man, the negro, cannot live and prosper in the presence of the white man. He is an inferior, he must be inferior, and he must be subject to all the inconveniences of inferiority. If the number of negroes in any community in this country shall approximate nearly to that of the white race, just as inevitably as that fact takes place, the other fact, so powerfully illustrated by the Senator from Kentucky [Mr. DAVIS] some time ago, will necessarily occur. There will be collision between the two races. They can never live together in anything like equal numbers in this country in peace and in security. The negro, whatever we may say about the natural rights of that race, must be in this country forever an inferior race. He never can be socially equal, and, after all, that is the distinguishing characteristic of equality. He is under the ban of social inferiority in this country. Never can he rise to the dignity of a freeman or to the enjoyment of all the rights of a freeman. The two races cannot live together and prosper.

Now, sir, before I take my seat, allow me to present to Senators certain facts; and they will see that I am not introducing this amendment by way of embarrassing the bill of the distinguished Senator from Illinois at all. I have no such purpose in view. What will be the operation of this bill if it becomes a law and is applied to Virginia, for instance? I will take Virginia by way of illustration. How many slaveholders have we in Virginia, and how many of these slaveholders are actually and absolutely engaged in the rebellion? If this bill becomes a law, and if it have any considerable practical effect, what must be the result upon the State which I represent on this floor? We have now nearly sixty thousand free negroes in the State of Virginia. Is it unreasonable to suppose that the operation of this bill will be, at least, to release an equal number of slaves, to throw upon our community sixty thousand more of this inferior race?

Sir, the honorable Senator from Ohio [Mr. SHERMAN] the other day spoke of the fact that he was not willing to receive into his State any more free negroes than exist there; and yet Senators are willing to throw broadcast upon the State of Virginia, sixty thousand, or one hundred thousand, or one hundred and sixty thousand, perhaps, of this useless, inferior class of population, to the great detriment of the interests of the State that I represent. Sir, is that just, is it fair? The State of the honorable Senator from Illinois has, recently, I believe, adopted a constitutional provision, preventing the introduction of a negro further into that State, and yet the policy of this bill of the honorable Senator from Illinois is to throw upon the community of Virginia one hundred and fifty thousand more free negroes than we have, perhaps, while he is unwilling to receive one single individual of this class of population into his own State. I ask if this is just; I ask if it is generous to the coördinate and coequal States of this Confederacy?

Now, sir, let us look just a moment—for I will not discuss this bill—a little further into the practical operation of it, and realize it. The evils of this useless and injurious population in Virginia, having, as I have said, about sixty thousand, have been such that it has been a matter of discussion and serious consideration with our Legislature for years past whether both the interests of the free negro and the interests of the white man did not require that the whole race of free negroes in Virginia should be reënslaved. Sir, what will be the necessary and inevitable result of this policy if it be carried into effect? It will be that Virginia, by this increase of the free negro population under the operation of this bill, will be driven not only to reënslave those who may be manumitted under the operation of the present bill, but also to reenslave the sixty thousand free negroes already there. That will be the policy that my honorable friend from Kentucky [Mr. DAVIS] will see take effect in his State; and so it must be in Maryland, and in every State where the operation of this bill will, to any extent, increase the number of the free negro population.

I ask again, sir, whether it be not necessary,

therefore, if you will manumit the slaves, that some provision should be made whereby they shall be removed from our midst? We passed a resolution the other day declaring that it was right, and that it was the duty of the United States to afford aid to the States that might initiate a system of gradual emancipation. The operation of this bill will not be to wait for the action of the States. Gentlemen are too impatient to allow the silent operation of the principles of freedom that are now extending in the border States to consummate its legitimate success there, but they wish, by wholesale and at once, to throw upon the community a great mass of this ignorant, servile, useless, dangerous, disorganizing population. While they declare in the abstract that it is the duty of the United States to aid us in removing this dangerous population from our midst, and while they are unwilling to receive the population that they manumit by their legislation into their own midst, they yet interpose objections to carrying out into practical effect the very principle which they indorsed the other day in the adoption of the resolution called the President's resolution, and wish us to endure not only the ills of this miserable revolution, but also to impose on the loyal people of Virginia the additional ills of a population which the honorable Senator from Illinois will not receive in any considerable degree in his own State. I ask my honorable friend from Ohio [Mr. SHERMAN] whether he would be willing to receive thirty thousand of the free negroes of Virginia into the State of Ohio? I ask my honorable friend from Illinois whether he would be willing to receive the portion that perhaps will be manumitted under the operation of this bill into the State of Illinois? No, sir; they would not. Ohio is already agitating the question whether she, too, will not oppose an interdict against the introduction of this class of population in her limits. So is Pennsylvania; there being two or three bills before her Legislature looking to that result. So is New Jersey. Here you are surrounding us by an impassable barrier of constitutional interdictions against the diffusion of this population, while at the same time you want to manumit our slaves and throw them broadcast on our community. Sir, the evil will be unendurable, and the result will be the reënslavement of the slaves thus manumitted, as well as those already free in our State.

Mr. HALE. Mr. President, I have not said a word upon this bill, and did not intend to, and I do not know that I shall now; but I declare I cannot sit still and hear such sentiments as those that have just been uttered by the honorable Senator from Virginia, without an attempt to rebuke them. The honorable Senator intimates, of course not offensively, but in the way of a threat, that ultimately the State of Virginia, and possibly the State of Maryland and the State of Kentucky may be compelled, in consequence of a system of legislation indicated by this bill, to reënslave their colored population, to tear the colored freemen of those States from the little portion of right which they enjoy, and bind them again in the chains of bondage and slavery.

Mr. WILLEY. I hope the gentlemen will permit me——

Mr. HALE. I shall get through in a minute, and then I will.

Mr. WILLEY. Simply an explanation. The gentleman misconceived my remark.

Mr. HALE. I think I did not misunderstand the remark. I certainly would not misrepresent the Senator. The intimation was that they would be compelled, as a matter of necessity, to reënslave the colored population that are already free and those that would be made free under this bill. Now, sir, I recollect, as long ago as the last war with England, after the victory of General Jackson at New Orleans, hearing a famous song which was sung all over the country in praise of the hunters of Kentucky. I have as high regard for the chivalry, bravery, and the power of Kentucky, Virginia, and Maryland, and any of these States as any man has; but I tell them, and I tell the Legislature of every State in this Union, that when they undertake that, they undertake a job that they cannot do; they set themselves in opposition to the moral sentiment of the country and of the world. There is not a monarch to-day on the throne of any of the kingdoms of Europe situated there so firmly that he dare to set himself in opposition to the moral sentiment of mankind. I take it, sir, that it is neither fanaticism nor superstition to say that when the Creator of the earth made the earth, and the same Power made colored men, he intended that the colored men he had made should dwell upon the earth that he had made; and that when the broad earth was subjected to the servitude of man and the fiat went forth that by the sweat of the brow of man should his living be obtained from the earth, it was a universal edict, irrespective of complexion, and that the earth is subject to the servitude of supporting the black man as well as the white. I laugh to scorn all attempts and all threats at reënslaving this people. I tell you it cannot be done. I believe, sir, that the Almighty, sitting on the throne of eternal justice, would proclaim in thunder tones, that States no less than individuals would hear, that the great and eternal principles of fundamental justice could not be outraged against a whole people and a whole class so grossly as that without a vindication on his part of the eternal laws which he has promulgated.

Sir, this is a great problem. We are working out to-day some of the greatest problems that have ever been wrought in the world, and this rebellion is not the greatest. It is the ultimate result that is to grow out of the juxtaposition, in some respects antagonistic, and in some respects social and friendly, of these two races here together; and I tell you, sir, that here together they have got to work out this destiny. The idea of removing the whole colored population from this country is one of the most absurd ideas that ever entered into the head of man or woman. Let the rebellion be over, and then take your whole national Navy, and let them do nothing else, and they cannot carry off the annual increase of this black race. ["Oh, no."] If any gentleman will take the trouble to look at the figures, he will find that what I say is true. Do Senators know how many are born daily? If they will look at the census and at the actual figures they will be astonished.

Mr. COWAN. What is the annual increase?

Mr. TRUMBULL. One hundred thousand a year, and more than that.

Mr. HALE. Well, sir, it will do just as well for gentlemen to say I am wrong as not; the thing will never be tried. [Laughter.] Any gentleman that will take the tonnage of our national vessels, I mean, exclusive of those that Morgan purchased, [laughter,] the Navy proper as it existed, and calculate the number of souls each would carry to Liberia, the number of voyages each vessel could make, and the time that would be necessary, and cipher it all out, will find that what I say is no figure of speech, but literally true, that the whole Navy of the United States could not carry off the annual increase. No, sir; this is a problem that we have got to solve.

Again: I beg gentlemen to remember that it does not become them to complain because the State of Virginia has got sixty thousand free negroes and the State of Maryland eighty thousand. How came they there? Who made them free negroes in Maryland and Virginia? Was it my friend from Massachusetts, [Mr. SUMNER?] Was it the abolition societies of New England? Who freed your negroes in Kentucky? You did it yourselves by your own laws, your own policy, your own act. You have said deliberately that you prefer a certain portion of free negroes, and Maryland has gone on and made eighty thousand and Virginia sixty thousand. Why? Who asked her to do it? Who induced her to do it? Who compelled her to do it? She did it herself of her own free will. She brought the negroes there to serve her, and they served her; and when these thousands served her as long as she wanted, then she made them free negroes. Is it for these States who have imported these negroes from their own native shores, used them as long as they pleased, and then made them free, now to say they shall not have a dwelling place on earth, that there is no place for them to live, and that they shall not live, but that they will reënslave them if this legislation is attempted? I tell you, sir, that is a work they cannot do, and the State that undertakes it will find that the reaction of their own iniquity will overwhelm them in everlasting ruin, and not the race they undertake to enslave. Sir, there are certain axioms of morals about which there cannot be a mistake, and there is no mistake in the fact that such wholesale gigantic oppression as this never can succeed. It never can succeed, because, without being fanatical or undertaking to say what the judgment of God is upon it, it is not extravagant to say it is against the moral instincts of the age, and against the impulse of every honest and humane heart; and therefore it cannot succeed.

I have been induced to say more than I meant to do; but before I sit down I will mention a conversation I once had with a very distinguished gentleman from one of the slaveholding States, a gentleman who was once a member of this body, and fond of talking—I do not mean of talking in the Senate and making buncombe speeches, but fond of talking in private, and treating this subject in a philosophic and a Christian manner. I would as lief tell the gentleman's name as not. It was the late Mr. Barnwell, of South Carolina, who came here as the successor of Mr. Calhoun. I had many conversations with him on the subject, and put this question to him: "Mr. Barnwell, you have reflected much on this subject; you have been among these people; let me ask you this question: have you in your own mind any theory as to what is to be the ultimate solution of this problem which the presentation of these two different races in social connection and antagonistic position presents?" He waited a moment or two, and told me it was a subject upon which he had reflected much; but he was ready to admit, and did admit candidly, that he did not see any solution of the problem; that he was not wise enough to tell to what the thing tended. He said, "We take the thing as it exists; we do not educate these people, because we see no better future for them, and no better position than that which they now occupy; we confine ourselves to the duties of the day; and I, for one, do not pretend to be wise enough to look forward to see what the solution of this problem is to be." Well, sir, it would be wise enough for us all to confine ourselves to the duties of the day. We need not be concerned about the future.

The honorable Senator from Virginia says that the things that were illustrated by my friend from Kentucky will take place. If "illustrated" had read "predicted," it would have been perfectly proper.

Mr. DAVIS. He said that.

Mr. HALE. You are mistaken; but no matter; let it go. That is the way it struck my ear. Fortunately, or unfortunately, there can be no illustration of this matter, and there is none. The world has never presented anything like it; but there was one incident in ancient history. I hate to quote that history, but I will give it in the vernacular. At the time when the Roman empire consisted of one hundred and twenty millions of inhabitants, half of them slaves, it was proposed in the councils of the empire that every slave should have a peculiar dress, so that he might be known by his costume. The proposition was met with the suggestion that it would be an unsafe and unsound policy to do that, because if that were so the slaves would know each other; they would know their own strength, and would be dangerous to the welfare, the existence, and the continuance of the empire.

Well, sir, that which the policy of a Roman politician proposed and the sagacity of a Roman Senate defeated—the clothing of the slaves in one costume—the Almighty has done for you irrevocably and irreversibly. He has clothed these slaves not in one costume, but with one complexion, one mark which time cannot efface nor alter. The great laws of nature and the moral world will go on; that which the Roman Senate feared, God in His providence has here done; and to my mind the wisdom of this nation will manifest itself not in idle attempts to cast off a population which for weal or for woe is among us, but with the wisdom of statesmen and the philanthropy of Christians to endeavor to suit ourselves to the condition of things in which the providence of God has placed us. It is not worth while for anybody to undertake to read here what they call the natural laws and inevitable consequences that must result from certain measures. The great laws of nature and of Providence will go on. One of the laws of the condition of this class is, that they increase faster than the whites. They have increased. They are to-day vastly exceeding in number the whole United States when they bade defiance to the power of the mightiest kingdom of the earth. They are here, and despite all your puny efforts they will

remain here. They will increase. They will increase probably in about the ratio that they have increased. It will bother the wisest philosophy, it will set at naught even the philanthropy and wisdom of my friend from Wisconsin [Mr. DOOLITTLE] to meet it with any schemes looking to colonization in Central America, South America, or elsewhere. He may elevate the condition of a few; but, sir, any man who thinks that colonization can in any possible degree remove this black population from us, or that it can materially retard their increase, that it will be felt even as the small dust of the balance in relieving the country of this population, had better turn to the records of the Colonization Society from the period of its first organization up to the present time, and he will there find, illustrated in the official history of that society, abundant proof of everything that I have said.

Mr. WILLEY. I certainly had no expectation of provoking this discussion, and I rise now not to prolong it but to disembarrass myself of a very great misconception of the design and intention I had in making my previous remarks. Instead of answering my arguments—if they are worthy of being so called—the honorable Senator has traveled into a metaphysical disquisition upon the morality of slavery. Sir, if the honorable gentleman had been better cognizant of my antecedents, humble as they are, on this subject, he certainly would never have conceived it to be his duty to rise here and rebuke me for having uttered sentiments that were contrary even to his peculiar theories. It is not becoming a man to speak of himself; but, rightfully or wrongfully, I have that consciousness which satisfies my own heart, having devoted nearly half of all I had in setting negroes free. Thousands of dollars out of my poor pittance and estate have been surrendered as attestations of my belief in the doctrine for which the honorable Senator from New Hampshire has thought it necessary to rise up here and rebuke me. Moreover, sir, I go for this amendment upon the very principles which he has so eloquently discussed. It is that the progress of freedom, and I say it as the representative of a slave State, may go on and prosper; but that it may go on and prosper in a manner that will be both secure and useful to the white man and to the negro, to the slave State and to the slave. As the result of my best deliberation I have come to the conclusion that the nominal boon of freedom to the negro in this country, so long as he is to remain in this country, is a mockery and delusion. In the condition of nominal freedom he will forever be in a condition worse in fact than he would be in sustaining the relation of slave to a beneficent master.

Then I cannot understand honorable Senators here. If it is right to manumit slaves, if they are to remain in this country, if the shackles of the slave are to be broken off and he is to be set free, if the great doctrine of human rights and human freedom is so sacred that the slave ought to enjoy this high boon, I beg the Senator not to prohibit my slave, when I set him free, from finding a refuge in the rich soil of his own State. Let not the Senator come here to me talking about the abstract right of freedom and the duty of setting the slave free, at least in this country, while his idea of the extent of the freedom of the slave is to confine him to the manor where he was born. He may be free while he remains there; but he is to have no freedom, no right to go into Illinois or into Indiana or Ohio or New Jersey or Pennsylvania.

That is what I complain of. I do not know whether the honorable Senator from New Hampshire voted the other day for the resolution declaring that it was the duty of the United States to afford aid to the States initiating gradual emancipation or not. My recollection is that he did vote in favor of that resolution. Why, then, will he not give some practical attestation of his belief in the propriety of it? I come here from a slave State, a border slave State, that is to be affected by the operation of that resolution. Senators have first said to me, without asking for the aid, if you will initiate emancipation in your State, it is the duty of the United States to afford you aid and compensation. Having voted for that resolution myself, having taken Senators at their word, having taken these men in favor of human freedom at their word, to-day I ask them to give some practical evidence that they were sincere when they placed on the record here their solemn declaration that it was the duty and it was right on the part of the United States to afford this aid. They propose in punishment of treason to manumit a great number of these slaves. Why shall they be the objects of this bounty more than the slaves that were already free, and who are better qualified for the duties of freedom than those who will be affected by the operation of this bill?

Now, sir, that is what I mean. I mean nothing more. I did not mean to embarrass this bill. I deny the imputation. I do not receive the rebuke, because it is unmerited; and I undertake to say that if the antecedents of the Senator and myself are looked into to-day, I have given more practical evidence of my regard for the rights of the negro than perhaps the Senator from New Hampshire has given.

It is true, sir, that Virginia did manumit the negroes that are now in her midst as free negroes, or they and their descendants make up the great number of those we now have; and let me say to the Senator that what he denounces as an impossibility is taking place almost every day in Virginia, and has been for years. In order to prevent an increase of this surplus free negro population in our State, we have had on the record of the laws of Virginia for years, rightfully or wrongfully I am not here to say—I am speaking simply of the fact—a law whereby if a master manumits a slave, that slave shall not remain in the State longer than a year, and if he does, that the prosecuting attorney shall bring it to the notice of the court, he shall be arrested, and after due establishment of the fact, brought up and sold, reënslaved. That practice is going on almost daily in the State of Virginia at this time, and I imagine it is going on throughout the southern States. You may say it is inhuman; you may call it what you please; but it grows out of an absolute hostility that exists between any considerable number of free white men and free negroes in the same community. They cannot live together in peace and security, and therefore I undertake to say that whether these southern States succeed or not in this magnificent enterprise of reënslaving the slaves that are to be set free by this bill, the attempt will no doubt be made.

I had the honor of being a member of the convention of Virginia that amended the constitution in 1850. The question was then seriously agitated, what shall we do with the free negro population? I was a member of the committee that had it under consideration, and I remember sitting nearly all one night surrounded by the difficulties of the occasion; and to myself, humble as I am, may be attributed, and was attributed, the defeat of a proposition then to drive the free negroes, every one of them, from the State of Virginia. The Hon. John M. Botts, now in prison at Richmond, lifted up his voice against it; and I well remember the strong expression that he used, that we had better drive them at once into the Chesapeake bay as the lesser evil of the two. The measure was defeated. The journal of the Legislature will show that every hour from that day up to this, this very question of reënslaving or driving the free negroes from the State of Virginia has agitated the public councils there. It is to avoid an increase of this agitation; it is to avoid this difficulty that I wish—for the benefit of the United States, and for the benefit and elevation of the slave—Senators to give a practical attestation that they meant what they said when, the other day, they voted that it was the duty of the United States to afford aid to any State that might initiate gradual emancipation.

Mr. TRUMBULL. I really cannot understand the honorable Senator from Virginia. I do not know how it is that a Senator, who lives in a State where his neighbors have been hunted down, driven from their homes, murdered at night, and he himself, perhaps, hunted from his home, the moment a proposition is made here to weaken the traitors who are doing it, jumps to his feet to oppose and denounce it, misunderstanding—I will not say misrepresenting—the bill, attempting to create a false impression before the country that we are endeavoring to increase the number of free negroes in Virginia. Why, sir, the bill proposes, without any amendment of his, to colonize every negro made free by it who is willing to go; and yet he gets up here with a tirade against the State of Illinois because we do not want to receive the free negroes of Virginia; and he is in favor of allowing the rebels to hold their slaves to raise corn to feed their armies to fight him and his children, and drive them from the State, from which he would have been driven long ago but for the soldiers of other States that have rallied to his support. Does he want to protect these traitors? Has he not had enough of them? Is he determined that they shall have their slaves, and he will fight here in the Senate that they shall have them in order to strengthen their hands to murder his fellow-citizens and mine? Why, sir, hundreds and thousands of our loyal, true men are to-day lying upon the battle-field at Pittsburg, slain by these traitors who are supported by slaves that he is fighting here in the Senate to retain for them. Why is this? I cannot understand it.

There is a proposition in the bill, as it stands, to colonize the negroes that are made free; and he talks as if there was an attempt to throw free negroes upon Virginia; and he wants to know why we will not take them. We do not want them. We do not propose to turn the free negroes of Illinois into Virginia; and when we do, then he may complain of Illinois. I know of no reason why the Senator should want to throw the cast-off negroes of Virginia into my State. What has the colonization of the free negroes of this country to do with a bill to cripple rebellion? Anything? Sir, I have been astounded at the course of the Virginia Senator. I am surprised that a Senator, living in a locality which suffers from this rebellion, should fight against every proposition that is started here to crush it out at once. Can the Senator tell me what the colonization of the free negroes of New York has got to do with the crushing out of this rebellion? We propose now, as the bill stands, to colonize every negro made free under it that is willing to go. But, says the Senator, "Oh, no; I will not allow that. It shall not be done unless you will take out sixty thousand free negroes that we have already got. If you do not do that, these rebels shall have their slaves."

I said, sir, that this amendment was not germane to the bill. The question of colonizing the free negroes of this country has nothing to do with the suppressing of the rebellion. If we provide for the negroes that the bill operates upon, it will be sufficient; and I know no reason why we should receive into my State the sixty thousand free negroes in Virginia; nor why it should be cast up to the State of Illinois that she refuses to receive them. Because we will not take your sixty thousand free negroes, therefore rebels shall be permitted to hold their negroes to fight us! Will you have any more negroes when this bill passes? You will have more free ones, perhaps. You will have less that are working to sustain this rebellion; and that is the object which I wish to accomplish. Sir, I trust this amendment will be voted down.

Mr. WILLEY. Mr. President, the Senator must certainly see that I am not opposing the bill at all. The adoption of my amendment will not prevent the operation of any other section or a solitary provision of the bill. It does not propose to interfere with the operation of the Senator's bill. The bill can apply to as many rebels with the amendment in it, as without the amendment. The Senator asks me why should I, coming from the midst of a State that has felt the force of this rebellion, interpose to prevent the punishment of rebels. I was making no such interposition. I was offering no amendment to prevent the operation of the confiscating clauses of this bill in the least. My amendment does not affect them; it is not to the section in which those clauses are contained. But I will tell the Senator why it was that I, coming from a State suffering from the rebellion, interposed this amendment. I have offered it to prevent an increase of the disaster. In God's name, it is enough to have suffered the influences of the rebellion to the extent we have felt them. Ruin, wide spread and universal, has swept like a storm of wrath across our State. The ruin of the rebellion itself is wide-spread enough, without letting it result through legislation in Congress here in imposing upon us not a generation of rebels, but a generation of free negroes, which will be, I had almost said, worse than the rebels after the war is over. I can assure the Senator, for whom I entertain of course the very highest respect, that, though I do not say I can vote for his bill, I had

no intention to embarrass it in offering this amendment. If he will reflect a moment, he will see that my amendment does not propose to interfere with the operation of the confiscating clauses of the bill. But, sir, I am an ardent friend of the effort to initiate some active, practicable scheme of colonization, as the great escape-pipe whence this grand evil that is resting upon the nation may find its way from our shores, and peace and harmony may again be restored to this country. If I am in error in this, it is an error of the heart, it is an error resulting from proper sympathies and proper feelings. I have no disposition to interpose any factious opposition to Senators here. I sympathize with the bill; I hope it may be improved. As I said to the Senator in the beginning, I say now, that I trust some practicable constitutional plan may be found whereby the traitors may be punished; but those traitors have punished us enough without being indirectly the instrumentality and agency through the operation of this bill of bringing upon us the additional evil of a lazy, indolent, improper, and dangerous population in our midst.

Mr. WILSON, of Massachusetts. If the Senate is ready to vote on the pending amendment, I shall not interfere; but otherwise, I must insist upon an executive session now. I want the Senate to go into executive session early to-day.

Several SENATORS. Let us vote.

Mr. DOOLITTLE. Some remarks have fallen from the Senator from New Hampshire [Mr. HALE] that call on me to make some observations in reply, but I do not care to do it now. The Senator from New Hampshire is coming down to arithmetic and figures, and that is a point where I like to get him. I propose to figure with him a little on this question, Mr. President. I move, therefore, that the Senate now proceed to the consideration of executive business.

Mr. TRUMBULL. I hope not. Let us go on with the bill as far as we can.

Mr. SHERMAN. Before the motion is put, I desire that an order may be made to print the substitute I offered. It contains some two or three new sections not in the bill introduced by me that Senators desire to see in print. I move that it be printed.

The motion was agreed to.

Mr. COWAN. Let all the proposed amendments to the bill be printed, including that of the Senator from Virginia.

The PRESIDENT *pro tempore*. The order will be regarded as embracing all the amendments. ["Agreed."]

Mr. TRUMBULL. On the motion to go into executive session, I ask for the yeas and nays. This is a bill that has been before the Senate a long time; and if those who are friendly to the bill, or to any bill on this subject, consent to go into executive session every day when the thing is first called up, we can never get to any action upon it. It has been postponed two days this week already by executive sessions, and I should like to have a vote by yeas and nays on going into executive session now. I have no more interest in the bill than other Senators and the country generally. If there is no disposition in the Senate to act upon a bill of this character, I shall have discharged my duty by endeavoring to bring it before the Senate and to get action. If there is an indisposition to act when we can proceed further with the bill to-day—for I do not suppose that the Senator from Wisconsin insists upon taking the floor to go over until to-morrow—I should like to know it. We can take a vote on this proposition, and other Senators can speak upon this bill. If the Senator from Wisconsin insists upon speaking at this particular stage, and will not give the floor to any one else, and for his own accommodation insists that we must postpone the bill until to-morrow, that would present an appeal from him personally which perhaps might be entitled to consideration, if it was regarded as reasonable by the Senate; but I trust he will not insist upon that.

Mr. DOOLITTLE. After what has been said, perhaps I ought to state that I understood the honorable Senator from Massachusetts to desire that the Senate should go into executive session, and upon his asking me whether I wished to speak on this question or not, I told him that I cared to occupy only a very short portion of the time of the Senate, if I said anything on this subject; but some remarks fell from the Senator from New Hampshire that I thought called upon me for a reply. I prefer to make that reply to-morrow; but I do not expect to detain the Senate ten minutes in what I have to say. At the same time, it is just as well for us to vote on this proposition to-morrow as now; and as an executive session was desired, as I understood, by the chairman of the Committee on Military Affairs, I thought proper to move that the Senate go into executive session; but I must protest against my friend from Illinois undertaking, because an executive session is moved, to argue that there is an effort on my part to antagonize something against his bill. I do not wish to be put in that position at all.

The PRESIDENT *pro tempore*. The Senator from Illinois calls for the yeas and nays on the motion to proceed to the consideration of executive business.

The yeas and nays were ordered.

Mr. WADE. I hope we shall not now proceed to the consideration of executive business. This bill has been a great while delayed——

Mr. DOOLITTLE. Will my honorable friend allow me to say that if the question of going into executive session is to be discussed, I prefer to withdraw the motion?

Mr. FESSENDEN. If it be withdrawn, I will renew it.

The PRESIDENT *pro tempore*. The motion does not admit of general debate; but suggestions why the Senate should or should not go into executive session are allowable.

Mr. WADE. I believe I am entitled to the floor.

The PRESIDENT *pro tempore*. The Senator from Ohio is entitled to the floor.

Mr. WADE. I do not mean to detain the Senate long. I never do. I have forborne to speak on this most important bill, because I want to come to a vote upon it, and because I believe every Senator has made up his mind definitely as to the vote he will give. I am anxious that it should be acted upon, and therefore I want to vote and not talk about it. I hope the friends of the bill will stand constantly by it until it is disposed of. I believe the bill is what it ought to be; I have looked it all over, and I am ready to vote upon it, and upon all the amendments that can be proposed to it. I trust that all its friends will agree to stand by it until it is finally disposed of.

The PRESIDENT *pro tempore*. The Secretary will call the roll on the motion that the Senate now proceed to the consideration of executive business.

The Secretary proceeded to call the roll.

When Mr. HARRIS's name was called,

Mr. KING. I desire to state that my colleague is detained at his rooms by illness.

The result was announced—yeas 22, nays 13; as follows:

YEAS—Messrs. Anthony, Browning, Clark, Collamer, Cowan, Davis, Doolittle, Fessenden, Foot, Foster, Henderson, Howard, Howe, Kennedy, King, Lane of Indiana, Nesmith, Powell, Stark, Wilson of Massachusetts, Wilson of Missouri, and Wright—22.

NAYS—Messrs. Chandler, Dixon, Hale, Lane of Kansas, Latham, Morrill, Pomeroy, Sherman, Sumner, Trumbull, Wade, Wilkinson, and Willey—13.

So the motion was agreed to.

After nearly two hours spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *April* 10, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

ENLARGEMENT OF COMMITTEE.

Mr. WHITE, of Indiana. I ask the unanimous consent of the House to have the committee on the subject of emancipation of the slaves in the border States, appointed on my motion, enlarged from nine to thirteen.

Mr. WICKLIFFE. I object, and I have a very good reason for it.

Mr. WHITE, of Indiana. I would ask the gentleman from Kentucky if he objects to the number thirteen?

Mr. WICKLIFFE. I do; and I will give the gentleman privately my reasons, or publicly if I may be permitted to do so.

PUBLIC LANDS TO STATE OF WISCONSIN.

Mr. VALLANDIGHAM. I am instructed by the Committee on Public Lands to ask the consent of the House to report back, with an amendment, a joint resolution of the Senate, amendatory of the act of 1856, granting lands to the State of Wisconsin for railroad purposes. It will occupy but a few moments.

No objection being made,

Mr. VALLANDIGHAM, from the Committee on Public Lands, reported back, with an amendment, Senate joint resolution (No. 26) explanatory to a certain act therein mentioned.

The bill was read *in extenso*.

Mr. VALLANDIGHAM. Before the amendment is read, I desire to say that in a very few words I can explain the objects of the resolution and the provisions of the amendment. By the act of June 3, 1856, certain lands in the State of Wisconsin were granted to that State in aid of the construction of railroads in that State, and it was directed that the railroad referred to in this joint resolution should be constructed in a "northerly" direction. The then Secretary of the Interior decided that under that word the line could only be located due north, which required the company to construct a road from Fond du Lac to the State line of Michigan. It was found impracticable to construct a road upon that line further than the town of Appleton. Accordingly the company now desires that the word "northerly" shall be so interpreted as to allow them to build their road from the town of Appleton to Green Bay, at or near the mouth of the Fox river, some twenty-six miles; whereas the road from Appleton to the State line of Michigan direct would be one hundred and sixty-five miles due north.

The object, then, is to enable the company to change the location of their road so as to run it to Green Bay, at the mouth of Fox river, instead of directly due north to the State line, leaving to them, however, if it be practicable hereafter, within the ten years limit fixed by the act of 1856, to construct their road from Green Bay still to the Michigan State line. But the present purpose is to secure the building of the road to Green Bay, and it is probable that that is all the company will be ever able to accomplish, at least within the limit prescribed by the original act.

The first section, therefore, construes the word "northerly" as it ought to have been construed originally, if I understand the English language, by the Secretary of the Interior; so that instead of meaning "due north," it shall allow a reasonable variation to the right or to the left; and the limit is fixed in the resolution between certain ranges, sixteen and twenty-three, if I remember correctly.

The only amendment proposed by the Committee on Public Lands is to prevent the misconstruction which they suppose possibly might arise out of the wording of the original joint resolution as it came from the Senate, and to give no more rights to the railroad company than were originally granted to them.

The second resolution from the Senate proposes to give to the Chicago and Western Railroad Company eighty acres of land out of the Fort Howard military reserve, which consists of six thousand acres. Objection was made in committee to a direct grant of land to a railroad company, such an act never having passed Congress hitherto. It was regarded as an unsafe precedent, and as leading to much future difficulty in legislation; and accordingly the amendment proposes that the grant shall be made directly to the State of Wisconsin to aid in the construction of railroads in that State, and in conformity with the terms of the original bill.

I see no objection, looking to the precedent already established, to making this grant of eighty acres out of the six thousand acres, because unquestionably the remaining five thousand nine hundred and twenty acres will be very much enhanced in value. The grant, then, is to the State of Wisconsin and not to the railroad company, so that the precedents may not be enlarged in regard to grants of lands for the construction of railroads.

The third provision authorizes those who have purchased alternate sections at $2 50 an acre upon the originally located route either to change their locations to the new route, upon the same terms, or to enter an additional number of acres, equal to the number first entered by them, so that their lands may still stand to them at $1 25 an acre, it being clearly inequitable that they should pay

$2 50 an acre for the land which was selected in view of the construction of the railroad, when the railroad is never to be constructed.

The improvements upon these lands so originally entered are but few, comparatively, and I presume that almost every purchaser can be made whole by the provisions of the third section.

The necessity for acting speedily upon this joint resolution is to be found in the fact that the Wisconsin Legislature is in session, and that their action conferring the benefits of this second section upon the Chicago and Western Railway Company is necessary in order that that company may receive the benefit of this act. Unless further explanation be desired, I propose to move the previous question.

The previous question was seconded, and the main question ordered.

The substitute for the joint resolution reported by the Committee on Public Lands was read. The first section of the substitute provides that the word "northerly," in the first section of the act granting public lands to the State of Wisconsin to aid in the construction of railroads in said State, approved in June, 1856, shall, without forfeiture to the State or its assigns of any of the rights or benefits of the act, or exemption from any of the conditions or obligations imposed thereby, be construed to authorize location of the line of railroad provided for in the said first section upon any eligible route within ranges sixteen and twenty-three, inclusive, east of the first principal meridian, and the line of railroad as now located according to the records of the General Land Office is authorized to be changed to within the above specified limits; provided, that upon the construction of the railroad upon the new line, or a sufficient part thereof, according to the terms of the said act, the State of Wisconsin, or its grantees or assigns shall receive, upon the route originally located, the same quantity of land, and no more, except as hereinafter provided for, as it or they would have received if the road had been constructed upon the line originally located.

The second section grants to the State of Wisconsin, for the purpose of aiding in the construction of a railroad from the town of Appleton, in said State, to some point on Green Bay, at or near the mouth of Fox river, in said State, so much of the public lands of the United States lying at or near the mouth of said river, known as the Fort Howard military reserve, as may be required for right of way, tracks, depots, workshops, warehouses, wharves, and other railroad uses, not exceeding eighty acres, to be so selected by the State of Wisconsin, or her assigns, as to exclude the fort therefrom; provided, that if no railroad be constructed and in running order between the termini mentioned in the section within three years from the passage of this joint resolution, then this grant shall be void.

The third section authorizes the Secretary of the Interior to cause all the even sections or parts of even sections of public land that may be brought within six miles of the new line of railroad to be sold at the same price and in the same manner as those have been upon the line of railroad originally located, and all purchasers, or their heirs or assigns, within six miles of the road as originally located, who shall be more than six miles from the new line, and who have paid $2 50 per acre, shall have the right either to exchange their location upon the line as first established to the new line, upon the same terms and in the same manner as upon the line first established, or, at their option, to enter, without further payment, anywhere within the same land district, an additional quantity of public lands, subject to private entry at $1 25 per acre, equal to the quantity entered by them at $2 50 per acre, so that the land originally entered by them shall thus be reduced to the rate of $1 25 per acre.

The fourth section provides that the even sections of public lands reserved to the United States on the line of railroad originally located north of the town of Appleton, and on which line no railroad has been built, shall hereafter be sold at $1 25 per acre.

The substitute was agreed to.

The joint resolution, as amended, was ordered to a third reading; and it was accordingly read the third time, and passed.

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

The latter motion was agreed to.

Mr. VALLANDIGHAM moved to amend the title by substituting therefor the following: "Joint resolution explanatory of and in addition to the act of June 3, 1856, granting public lands to the State of Wisconsin to aid in the construction of railroads in said State."

The amendment was agreed to.

ENROLLED JOINT RESOLUTION.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (H. R. No. 48) declaring that the United States ought to coöperate with, affording pecuniary aid to, any State which may adopt the gradual abolishment of slavery; when the Speaker signed the same.

THE WESTERN VICTORIES.

Mr. ARNOLD, by unanimous consent, introduced a joint resolution of thanks to the officers and soldiers who achieved the victories at Island No. 10 and at Pittsburg Landing, Tennessee; which was read a first and second time.

The joint resolution was read, and is as follows:

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress has heard with profound gratitude and thanks to Almighty God of the glorious triumph of our arms over rebels and traitors in the valley of the Mississippi, at Island No. 10 and at Pittsburg Landing, Tennessee. We recognize in these brilliant victories the hand of that Divine Power which has so signally blessed us as a nation.

SEC. 2. *Resolved further*, That the thanks and gratitude of Congress are hereby tendered to General Pope and Commodore Foote, to Generals Grant and Buell, and to General Halleck, and to each and every gallant officer and brave soldier under their commands for their gallantry, their energy, their endurance, their patriotic suffering and devotion to their country. Their names will be ever cherished and honored by a grateful people.

SEC. 3. *Resolved further*, That while we honor the brave who have escaped injury and death, we do not forget the suffering wounded, nor the dead who have fallen martyrs to their country's cause. Congress extends its sympathy to and will relieve the wants of the wounded, and of the children and widows of those who have given their own lives to save the life of the Republic.

Mr. PORTER. I move to amend the resolutions by inserting among the generals to whom the thanks of Congress are to be tendered, Major General Lewis Wallace. General Wallace was in command of a division at the battle of Pittsburg Landing, and distinguished himself by his skill and gallantry. He also performed a distinguished part at the battle of Fort Donelson, and in numerous engagements in Western Virginia.

Mr. LOVEJOY. If one name is introduced, I shall want to introduce others.

Mr. COX. I move to insert the name of General John A. McClernand, and there are the names of other officers that should be inserted. I think the resolution had better be referred to the Committee on Military Affairs, and I make that motion.

Mr. RICHARDSON. I apprehended the very difficulty which has arisen here on these resolutions. It is usual for Congress only to insert the names of the commanding officers. You cannot embrace the names of all who have distinguished themselves. I think the resolution had better go to the Committee on Military Affairs, and they can prepare it.

Mr. ARNOLD. I am entirely content with that reference.

The joint resolution was referred to the Committee on Military Affairs.

CHESAPEAKE AND OHIO CANAL.

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

Resolved, That the Secretary of War be requested to communicate to the House copies of any papers on file in his office relative to an alteration of bridges across the Chesapeake and Ohio canal in Georgetown, so as to admit of the passage of loaded boats from the canal into and out of the basin at the mouth of Rock creek, and that the Secretary inform the House what obstacles have been placed, by order of the Secretary of War, or of any officers of the Army, in the way of trade on the Alexandria canal, when these obstacles will probably be removed, and by what means, in the opinion of the Secretary of war, loaded boats can be brought conveniently to the wharves in Washington city, to the navy-yard in Washington, and to Alexandria, while the aqueduct connecting the Alexandria canal and the Chesapeake and Ohio canal is occupied for the convenience of the transportation department of the Army of the United States.

Mr. MALLORY. I am instructed by the Committee on Roads and Canals to report a bill.

Mr. LOVEJOY. Is it proposed to have action on it now?

Mr. MALLORY. I think the House will have no objection to passing it when it shall have heard it read.

Mr. LOVEJOY. Let us hear it read.

The SPEAKER. The Chair would suggest to the gentleman from Kentucky that it is necessary that bills and joint resolutions should have titles. The gentleman will please put a title to his bill.

NAVAL APPROPRIATION BILL.

Mr. STEVENS, from the Committee of Ways and Means, reported back the Senate amendments to the bill (H. R. No. 242) making appropriations for the naval service for the year ending 30th of June, 1863, and additional appropriations for the year ending 30th of June, 1862.

First amendment of the Senate:

Strike out the following:

For the year ending the 30th of June, 1863:

For pay of commission, warrant, and petty officers and seamen, including the engineer corps of the Navy, $11,617,109.

For the repair and equipment of vessels of the Navy, $11,400,000.

For fuel for the Navy, to be purchased in the mode prescribed by law for other materials, and for the transportation thereof, $2,160,000.

For the purchase of hemp and other materials for the Navy, $549,000.

For ordnance and ordnance stores, including incidental expenses, $5,150,000.

For provisions for commission, warrant, and petty officers and seamen, including engineers and marines attached to vessels for sea service, $3,351,521 25.

For surgeons' necessaries and appliances for the sick and hurt of the Navy, including the engineer and marine corps, $27,900.

For contingent expenses that may accrue for the following purposes, viz: freight and transportation; printing and stationery; advertising in newspapers; books, maps, models, drawings; purchase and repair of fire engines; for machinery of every description and the patent right to use the same; repair of, and attending to steam engines in navy-yards; purchase and maintenance of horses and oxen, and driving teams, carts, timber wheels, and the purchase and repair of workmen's tools; postage of public letters; telegrams; fuel, oil, and candles for navy-yards and shore stations; pay of watchmen and incidental labor not chargeable to any other appropriation; transportation to and labor attending the delivery of provisions and stores on foreign stations; wharfage, dockage, and rent for docking vessels; for furniture for Government houses; traveling expenses of officers and others under orders; funeral expenses; store and office rent; fuel, commissions, and pay of clerks to navy agents and storekeepers; flags, awnings, and packing boxes; premiums, and other expenses of recruiting; apprehending deserters; per diem pay to persons attending courts-martial, courts of inquiry, and other services authorized by law; pay to judges advocate; pilotage and towage of vessels, and assistance to vessels in distress; and for bills of health and quarantine expenses of vessels of the United States Navy in foreign ports, $1,700,000.

For clothing for the Navy, $300,000.

For the charter of vessels, stores, extra laborers, and purchase of additional steam vessels, $4,800,000: *Provided*, That hereafter, in all cases where officers of the Navy can be made available, consistently with the public service, in making contracts for the charter of vessels, and the purchase of additional steam vessels, no other person or persons shall be employed; nor shall such officers, when so employed, receive any compensation in addition to their official pay; and when any other person or persons than an officer of the Navy shall be employed, the compensation shall not exceed the sum of $5,000 for all contracts for purchases or charters in any one year, made under the provisions of this act.

Marine Corps.

For pay of officers, non-commissioned officers, musicians, privates, clerks, messengers, stewards, and servants; for rations and clothing for servants; additional rations for five years' service; for undrawn clothing and rations, bounties for reënlistments, $696,198 30.

For provisions, $143,445.

For clothing, $134,660.

For fuel, $30,894 50.

For military stores, viz: pay of armorers, repair of arms, purchase of accouterments, ordnance stores, flags, drums, fifes, and other instruments, $15,000.

For transportation of officers, their servants, and troops, and expenses of recruiting, $22,000.

For repairs of barracks, and rent of offices where there are no public buildings for that purpose, $8,000.

For completing repairs of Charlestown barracks, $10,458 97.

For contingencies, viz: freight, ferriage, toll, carriage, wharfage; purchase and repair of boats; compensation to judges advocate; per diem for attending courts-martial, courts of inquiry, and for constant labor; house rent in lieu of quarters; burial of deceased marines; printing, stationery, postage, telegraphing; apprehension of deserters; oil, candles, gas; repairs of gas and water fixtures, water rent, forage, straw, barrack furniture; furniture for officers' quarters; bed sacks, spades, shovels, axes, picks, carpenters' tools; keep of a horse for the messenger; pay of matron, washerwoman, and porter at the hospital headquarters, $45,000.

Navy Yards.

Portsmouth, New Hampshire:

For machine shop and smithery, fitting and furnishing the same, reservoir, capstan for sheers, quay wall near landing, extension of storehouse No. 11, fifty feet, repairs and increase of ordnance machinery, and shops, and repairs of all kinds, $293,035.

Boston:
For paving and draining at new shops, spinning machinery, boiler house, and chimney for rope walk and yarn mill, coal house for foundery, smithery, and for other purposes, reservoir and steam pump, or pipes for Cochituate water, water closets, repairs, and increase of ordnance machinery and shops, and repairs of all kinds, $179,748.

New York:
For dredging channels, building and repairing scows, officers' houses, rebuilding long dock, repairs to ship houses, addition to office building, quay walls, extension of sewer, yard drainage, boiler house, foundery shed, machinery for machine shop, foundery, boiler shop, and smithery, repairs of machinery, boilers, extension of smithery, repairs of engines in machine shop, repairs and increase of ordnance machinery and shops, and repairs of all kinds, $352,085.

Philadelphia:
For extension of joiners' shop, storehouses, and smithery, repairs of dry dock, dredging, repairs, and increase of ordnance machinery and shops, and repairs of all kinds, $128,746.

Washington:
For machinery and tools, paving, gas works, repairs and increase of ordnance machinery and shops, and repairs of all kinds, $126,985.

Mare Island:
For completion of derrick, foundery, and equipment, grading, completing officers' houses, gas works, two iron wharf-cranes, machinery and tools for smithery, cisterns, scows, lighters, stages and pile driver, drainage and sewerage, boat-house and slip, and repairs of all kinds, $196,352.

Sackett's Harbor:
For repairs of all kinds, $1,500.

Hospitals.

Portsmouth, New Hampshire:
For purchase of twenty-seven and three hundred and fifty-five thousandths acres of land on Leavey's island, adjacent to the Kittery navy-yard, fitting up the buildings thereon for a hospital, building coal wharf and coal shed, and for fencing the grounds: *Provided*, That the cost of the land so to be purchased shall not exceed $14,500, $20,000.

Boston:
For extension of hospital and repairs of buildings, $71,500.

New York:
For house for director of laboratory, repairs, and improvements, $21,500.

Philadelphia:
For furniture and repairs of same, house cleaning and whitewashing, repairs to furnaces, grates, and ranges, gas and water rent, painting wall on Shippen street, and general repairs, $5,300.

For support of beneficiaries, $27,000.

Magazines.

Boston:
For general repairs of buildings, addition to magazine, and wall around magazine grounds, $32,913.

New York:
For improvement of armory, house for storage of loaded shells, and repairs of all kinds, $55,249.

Washington:
For repairs of magazine and ordnance building, $6,000.

Mare Island:
For repairs of all kinds, $2,000.

For pay of superintendents, naval constructors, and all the civil establishments at the general navy-yards and stations, $104,584: *Provided*, That hereafter no salaries shall be paid to any employé in any of the navy-yards, except to those designated in the estimates. All other persons shall receive a per diem compensation for the time during which they were actually engaged.

Naval Observatory.

For the purchase of nautical instruments, repairs of the same, and of astronomical instruments, and for the purchase of nautical books, maps, and charts, and for backing and binding the same, $40,000.

For wages of instrument maker, watchman, porter, and laborers; for keeping grounds in order; for fuel, lights, freights, transportation, and postage; for repairs to buildings and inclosures, and contingent expenses, $13,000.

For pay of four aids to be employed at the Observatory and Hydrographical Office, $4,000.

For repairs, improvements, and furniture for buildings, and for contingencies at the United States Naval Academy, $48,047.

For preparing for publication the American Nautical Almanac, $25,880.

SEC. 2. *And be it further enacted*, That the following sums be, and the same are hereby, in like manner, appropriated.

So that the bill will read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the service of the year 1862, &c.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Second amendment:

Strike out "$33,000," and insert in lieu thereof "$3,000;" so that the clause will read:

For repairs at Observatory, freight, and transportation, $3,000.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Third amendment:

Strike out the following clause:
For building additional gunboats, $15,000,000.

Mr. STEVENS. That clause was inserted on the motion of the chairman of the Committee on Naval Affairs. It was for building wooden gunboats. The Senate has struck it out, and, as I think, very properly. It never should have been inserted. The Committee of Ways and Means recommend concurrence.

The amendment was concurred in.

Fourth amendment:

Insert the following:
For casting heavy ordnance at the Washington navy-yard, $250,000.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Fifth amendment:

Add the following as a new section:
SEC. 2. *And be it further enacted*, That the sum of $783,294, being the amount necessary to be provided, as estimated by a board appointed for that purpose, to pay for and finish the Stevens battery, now partially constructed at Hoboken, New Jersey, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the immediate completion of said battery: *Provided*, That in the contract for the completion of the said vessel it shall be stipulated that no part of the money claimed by Edwin A. Stevens to have been heretofore expended by him upon said vessel, shall be refunded until the amount of said claim shall be established to the satisfaction of the Secretary of the Navy, and the payment of said sum shall be contingent upon the success of said vessel as an iron-clad, sea-going war steamer, to be determined by the President; and such contract shall stipulate the time within which the vessel shall be completed: *Provided nevertheless*, That said money shall not be expended unless the Secretary of the Navy is of opinion that the same will secure to the public service an efficient steam battery.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Sixth amendment:

Add the following:
SEC. 3. *And be it further enacted*, That the sum of $13,000,000 be appropriated out of any money in the Treasury, not otherwise appropriated, to enable the Secretary of the Navy to construct iron-clad steam vessels of war.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Seventh amendment:

Add the following:
SEC. 4. *And be it further enacted*, That the Secretary of the Navy be authorized to commute the Navy ration of coffee and sugar for the extract of coffee combined with milk and sugar, to be procured in the same manner and under like restrictions and guarantees as are preserved meats, pickles, butter, and desiccated vegetables, if he shall believe it will be conducive to the health and comfort of the Navy, and not more expensive to the Government than the present ration, and if it shall be acceptable to the men.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Eighth amendment:

Amend the title so as to make it read, "An act making additional appropriations for the naval service for the year ending June 30, 1862.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Mr. DUNN. I move to reconsider the vote by which the House concurred in the Senate amendment striking out the appropriation for gunboats. The chairman of the Committee of Ways and Means stated that the appropriation was for building wooden gunboats. That is a mistake. It is for building gunboats whether of wood, iron, or any other material. I think it important to the interests of the western rivers that gunboats should be placed upon them. Even though the rebellion was suppressed to-morrow, we will need them for years to protect property in that region of the country where people are so faithless to private and public obligations. I think it unjust that the matter should be acted on in the absence of the chairman of the Committee on Naval Affairs, who offered the amendment, which was agreed to by a very large vote.

Mr. STEVENS. It will be recollected that the chairman of the Committee on Naval Affairs, on being inquired of about these boats, stated expressly that they were to be wooden boats. This was before the contest between the Merrimac and the Monitor; but the Senate has since discerned that wooden gunboats are good for nothing; but it has inserted an appropriation of $13,000,000 to build iron-clad gunboats.

Mr. DUNN. That being the case, I withdraw my motion.

Mr. LOVEJOY. I move to reconsider the vote by which the amendment in regard to the Stevens battery was concurred in.

Mr. STRATTON. I move to lay the motion on the table.

Mr. LOVEJOY. I hope the gentleman from New Jersey will withdraw his motion for a moment. I desire to say a few words.

Mr. STRATTON. I withdraw the motion.

Mr. LOVEJOY. I cannot say that I have investigated this matter thoroughly; but my impression is that it has been hanging by the gills for twenty years past, and that so much money has been spent upon it that it is not worth while to spend more. I am told that it has been altered once a year during that whole time. It sustains some relation to the poor woman of the Gospel, who had suffered much from many physicians and had spent all her living, and was nothing the better, but rather worse. Oceans of money have been spent on this battery, and it is nothing better but rather worse. I think we ought to build boats that would be worth something.

Mr. STRATTON. I think the gentleman is a little mistaken when he says that Congress has been making appropriations for this battery year after year for several years. There has been one or perhaps two appropriations made by Congress; but there never has been a time in the history of the country when there was such a necessity as there is now for the completion of this battery, if it will accomplish what its inventors claim for it. I have no doubt that it will. This matter has been thoroughly investigated by committees on the part of the Senate—by the Naval Committee and by the Finance Committee. It was discussed at considerable length a few days ago in the Senate, and this appropriation was voted by a large majority. If the gentleman from Illinois will look at the section he will see that unless the battery shall prove successful, shall do what its inventors claim for it toward protecting our coasts, no money is to be paid to Mr. Stevens for the advancements which he has made. The whole matter is to be left to the approval of the President, and unless he is satisfied that the object which is claimed by the inventor will be produced, not one dollar is to be paid.

Mr. LOVEJOY. Will the gentleman allow me a moment? It will be recollected that at the last session of Congress the House authorized the appointment of a commission to investigate this thing, and a very large majority of that commission—at least two thirds of the commissioners—reported against the practicability of accomplishing the object which is sought by means of this battery. And the gentleman is a little incorrect, unintentionally, of course, in saying that I asserted that an appropriation had been made every year for this battery. I said that alterations had been made every year, and that heavy appropriations had been made; that she has been a continued experiment. Now, sir, here we have this commission, appointed especially to examine this subject, who nearly unanimously report against the completion of this battery, and who are certainly as competent to decide upon its merits as any committee of Congress.

Mr. STRATTON. I was also in error in saying that no part of this appropriation was to be paid unless the battery accomplished all that is claimed for it by Mr. Stevens. It is true, however, that no part of the money expended by Mr. Stevens is to be refunded unless the battery does accomplish its object, and no money at all is to be expended, except upon the approval of the Secretary of the Navy.

In relation to this report made by the commission appointed under the legislation of Congress of the last session, I have this to say: that no single improvement has been started within the last quarter of a century in relation to our naval affairs that has not met with the opposition of almost all the professional gentlemen connected with the Navy. I happen to know one fact in relation to the Monitor, which saved this Government perhaps millions of dollars, and which prevented the total destruction of everything in the neighborhood of where she made her appearance, that Lieutenant Worden, who was in command of the Monitor, when he entered upon her command had no faith whatever in her efficacy. He believed she would prove totally worthless, and in no wise effective. But the result shows that in that opinion he was mistaken.

I now renew the motion to lay on the table.

Mr. LOVEJOY. I hope the gentleman will withdraw that motion. There are other members who wish to be heard on this question.

Mr. PIKE. This is a question involving nearly a million of dollars. I hope the gentleman will withdraw the motion.

Mr. STRATTON. I will withdraw it for the present.

Mr. PIKE. I am very glad the gentleman has withdrawn his motion. This appropriation is in my judgment one of some consequence to the people of the country, who will have to pay the taxes, if it is not to the gentlemen who advocate it. It is nominally for a little more than three quarters of a million dollars; but the House will bear in mind that when this battery was commenced the proposition was to build it for $500,000, so that the cost has already more than doubled the original estimate. If this appropriation shall be made, the Government will then have advanced $1,288,000 for this battery, and how much more it will require to complete it I do not believe any gentleman in this House can tell. I have conversed with the gentleman who has this projected battery in charge, and I think I know something about it. And I venture the judgment that $788,000 will not complete it. But supposing it will be sufficient, when it is completed, you will have a battery costing $1,288,000, that will draw so much water as to be no sort of consequence in defending any southern port or in attacking any southern port.

Mr. ROSCOE CONKLING. Will the gentleman from Maine tell us how much water this battery is supposed to draw?

Mr. PIKE. I think I can.

Mr. STEVENS. I understand it is to draw twenty-two feet.

Mr. STRATTON. I can say to the gentleman that this battery will not draw so much water as the Merrimac.

Mr. PIKE. The gentleman from Pennsylvania says the Stevens battery draws twenty-two feet of water. As far as I could ascertain at Fortress Monroe, the Merrimac draws nineteen feet of water. The trouble the Minnesota experienced in attacking the Merrimac was, that she drew too much water. The least water in the channel there is twenty-four feet. The Minnesota drawing twenty-three feet and some inches, got aground, and consequently failed in her attack upon the Merrimac. Now, the gentleman from Pennsylvania says that it is proposed the Stevens battery shall draw twenty-two feet of water, and any gentleman who has been at Hampton Roads, knows as well as I do that she cannot be made useful there, and that, of course, she cannot at Wilmington, Charleston, or Savannah, or other barred harbors of the southern coast.

Mr. STEVENS. If the gentleman will allow me, I think I made a mistake in the statement I made as to the number of feet of water this battery is to draw. I think the statement of the proprietor was that she ordinarily draws twenty-one feet, but that it was provided that she could be sunk six feet more.

Mr. STRATTON. When she is in sea-going condition, she draws seventeen and a half feet, but when she is in fighting trim, she draws twenty-one feet.

Mr. PIKE. Very well, taking either statement, as you please, and I submit that the statement I have made holds good that she will be of no efficacy upon the southern coast.

Now, then, about the price, which is a matter of some consequence. The Monitor, which draws twelve feet of water, was built for the Government for the contract price of $275,000, and I understand that the new iron-clad vessels to be completed with improvements, and considerably enlarged every way, according to the suggestions of Ericsson, with the improvements that experience has dictated, will cost $400,000 each. You then have this great battery, four hundred and twenty feet long, drawing, as gentlemen have it among themselves, anywhere from seventeen to twenty-seven feet of water, and neither of the statements are correct according to my judgment, but they may have it as they please in this regard. You will then have this immense battery, upon which $800,000 has already been expended, and upon which any gentleman may see who will examine the model in the ante-room, the guns are unprotected by any modern improvement.

Now, gentlemen understand perfectly well the model of the Monitor, they understand the peculiar defenses that she presented to the ordnance of the Merrimac, and they will understand by examining this battery that this vessel presents none of those peculiar defenses for which the trial of the Monitor shows it is necessary to provide. Gentlemen may go on and say that her guns are protected by flanges on the side, but if they will examine the model now in the ante-room they can judge for themselves, from the experience we have gone through, as to their efficacy to protect the gunners. Gentlemen are aware, when they sneer at science and at experience, that Congress, at the extra session, thought it proper to authorize the appointment of commissioners for the purpose of making a thorough examination. Those commissioners, after the passage of the law, were appointed by the head of the Navy Department. They were selected from the men believed to be most skilled to judge of the matter. Of the three commissioners one is Lieutenant Steiner, now of the Monitor. He was selected because he is a superior engineer. I have talked with that gentleman since the famous engagement between the Monitor and Merrimac. Professor Henry, of the Smithsonian Institution, was another of the commissioners. He knew nothing practically about sea-going vessels, and he frankly states that he could hardly see the reason why he was put upon that commission. Of the three gentlemen composing the commission two pronounced against it emphatically, and Professor Henry thought there was enough in it to warrant making the experiment. And now, with this judgment of the commission against the project, and without any recommendation of the Navy Department, this House is called upon to sanction this appropriation upon the delusive idea that, after you have made it, it will be blocked by some of the officers of the other Departments.

Mr. OLIN. Let me interrupt the gentleman a moment.

Mr. PIKE. Certainly.

Mr. OLIN. The gentleman is well aware that two of these commissioners found certain objections they thought insuperable to the success of this experiment, but that the most skillful of our iron vessel builders in the country have proved that those objections are wholly untenable.

Mr. PIKE. I am entirely aware of that.

Mr. OLIN. Then it is only fair to state it.

Mr. PIKE. The gentleman can attach to the certificates of the good-natured neighbors and friends of Mr. Stevens such weight as he pleases. Petitions, recommendations, and certificates are not usually hard to be got. Lieutenant Steiner says that by incasing the vessel in some way with iron it may be strengthened: He has not made an estimate of how much it will cost that I am aware of, and I am not able to make any; and these are the circumstances under which this House is asked to make an appropriation so large that it would build three Monitors such as experience has proved to us can be made effective against the enemy in a naval engagement.

It is supposed that it will take four or five months to complete this vessel, as long as it would take to complete one of the other batteries. There will then be no saving in time.

If there be anything in this proposition, even if it be successful, to show that it will be either a saving of time or of money I have failed to see it. Then, again: Mr. Stevens's original idea has been changed in an important point; and that is in reference to the immense guns upon the deck of the vessel. If I understand rightly, the original idea was to have the guns upon the upper deck, entirely exposed; and they were to be so large as to carry metal weighing fifteen hundred pounds—so large that they could protect themselves by their own magnitude and weight. That was his original proposition; but it has since been considerably changed. According to that idea, the gunner, or the man who directs the gun, would not be protected in any other way than by dodging behind his gun after he had sighted and fired it. There was no other protection afforded to them, for the guns were exposed upon the upper deck. Look at the model. If there be any other way for the protection of the guns or for the protection of the gunners, the model does not show it.

Under all these circumstances, I am not prepared to vote for this proposition.

Mr. STRATTON. I know that the gentleman does not mean to misrepresent the facts; but he does not understand the machinery by which these guns are loaded and fired. The men; as I understand the model, and I have paid some attention to the subject, are fully protected. The guns are depressed, loaded, and fired from below. They are loaded from below by means of steam power, and they are sighted and fired from below.

Mr. PIKE. I ask the gentleman to permit me to make a correction. I stated what was the original idea.

Mr. STRATTON. Why not state the present idea, for that is what we are considering. When the original idea was found not to be feasible, it was abandoned, and a better one adopted. It is fair that the House should understand what is the present and not what was the original idea, which was abandoned five or six years ago.

Mr. LOVEJOY. Will the gentleman let me ask him a question?

Mr. STRATTON. The gentleman will pardon me.

The gentleman from Maine says that he has no idea that the amount asked now will finish this battery. Does he give us any figures? Or does he even pretend that he has entered into any investigation of this point? It is a mere surmise, a mere piece of guess work on his part, that the amount now asked to be appropriated will not complete this vessel. I have nothing to say in regard to that guess. Mr. Stevens, who has charge of this battery, has made a careful estimate of what he believes will complete it. He is satisfied that the appropriation now asked for will complete the battery; and I think, although I have not been authorized by Mr. Stevens to say so, if the sum now asked to be appropriated will not complete it he will not again come here to ask another appropriation.

There is another important point in connection with this matter which the gentleman has lost sight of. There are to be shot-proof towers, in which the men can safely ensconce themselves for protection in case the plan for sighting the guns below should prove impracticable. The guns are also to be casemated, so that they cannot easily be destroyed by the enemy's fire.

There is still another point which has escaped the gentleman's attention. The Monitor does not claim to be a sea-going vessel; but by the terms of the additional section, sent here by the Senate, unless this battery shall prove to be a sea-going vessel, then no part of the money which Mr. Stevens has already expended out of his own means is to be refunded to him. I have no doubt about the efficiency of this battery; and I believe, as much as I believe anything, that had the Senate passed the resolution of this House at the extra session, the Merrimac would not have destroyed the millions of Government property at Hampton Roads. Had the Stevens battery been completed and there, the Merrimac would not now exist, a terror to our Government. I now renew the motion to lay the motion to reconsider upon the table

Mr. OLIN. Will the gentleman from New Jersey withdraw that motion for a moment?

Mr. STRATTON. I will, if the gentleman will renew it.

Mr. OLIN. I will do so. Mr. Speaker, when this subject was before this House during the extra session I made some remarks in reference to it it which Mr. Stevens considered offensive. Since that time I have taken occasion to examine, with all the care I could bestow on this subject, in order that I might ascertain what are the merits of this project. I desire now to give the results at which I arrived. It is true that a commission was appointed to examine that battery, and to report upon it to Congress. That commission have found two objections, according to my present recollection, which they thought to be serious, if not insurmountable. One was that it probably was not constructed of sufficient strength to support the superincumbent weight of the armor which would be put upon her. Another was, that the guns would be placed in a position in which they would be exposed to the fire of the enemy, and that they might be disabled. These are the principal objections found by the commissioners, who reported adversely to this battery.

Now, while some weight undoubtedly ought to be attached to that survey and report, the country ought to know, and the country does know, that every project to construct a ship upon any plan outside of the ordinary mode employed for the last fifty years has met with the persistent opposition of the men at the head of the Bureau of Construction; and so persistently has that been done that this much-lauded Monitor was only

built upon the condition that the builder should not receive any compensation unless it should answer the purposes which the constructor guarantied it should answer. So that this much vaunted improvement was literally thrust upon the Government.

Now, after that experiment, it is not worth while to press very urgently this report and survey of experts upon the consideration of Congress.

Mr. PIKE. I understand the gentleman from New York is now upon the floor advocating the Stevens battery. Gentlemen here in the House are perfectly aware that the mode adopted to destroy the Merrimac, and which has been partially carried out, and which is relied upon by naval men as a sufficient mode of destruction, is partially or wholly to clothe fast steamers with iron to penetrate the sides of the Merrimac, as she penetrated the sides of the unfortunate Cumberland. Now, this boat is four hundred and twenty feet long—a very unusual length for a steamboat—and I ask what is to prevent the enemy from running against her and destroying her in that way; and whether this extreme length of four hundred and twenty feet would not present such a mark as to render very probable her destruction; and whether a boat like the Monitor, one hundred and seventy feet long and forty wide, would not present herself to the enemy in a much more impregnable position than this boat so much spoken of?

Mr. OLIN. In the first place, I was about to observe, as the gentleman would have learned, if he had listened patiently a moment longer, that although this boat Monitor is, in one sense, a succes, in another sense it is a failure. That boat fought the Merrimac for five hours, and neither did the other any very considerable damage. Now, such a conflict as that cannot be said to be much of a success, one way or the other.

Now, the only present means of defense against the Merrimac is to run her down, and sink her. We have no machinery, no vessels, no contrivance, that are adequate to inflict any considerable injury upon that vessel. It is perfectly invulnerable, so far as any existing mode of warfare which we now possess, is concerned, unless it be that some fast-sailing vessel of sufficiently large tonnage may be used to run her down. That is the only means of resistance we now have in Hampton Roads against that boat.

The Monitor cannot do it; the Monitor can engage her, as she has gallantly done heretofore, and that is all. But the very difficulty which has been found to exist in encountering the Merrimac is obviated entirely by the construction of this vessel of Stevens's, and that is its chief merit, in my judgment. By the concurrent judgment of every engineer who has examined her, there is no doubt that her speed will average somewhere between twenty and twenty-four miles an hour, the first and most important requisite of a war vessel.

Another thing has been accomplished in that boat which is of immense importance and significance in naval warfare, as every one must see, and that is, that the system of double engines and two propellers enables her to turn upon her center with a rapidity superior to that of any other vessel afloat, notwithstanding her great length.

After a careful examination of the proposed plan for constructing this vessel, not only by the commission, but by the most skillful shipbuilders of this country, the only objection found, in my judgment, is, that these heavy guns upon her deck will be left in an exposed condition, and may be dismounted by the guns of the adversary, if they can be fired with sufficient accuracy to hit them. But in relation to that objection, I would say that there are seven or eight of those large guns upon deck, and it would require, perhaps, an accuracy of firing and a miracle of success to dismount half of them by firing a whole day.

Mr. LOVEJOY. I desire to ask a question upon that point. Is it proposed, in order to fire those guns, that the gunner shall stand in these exposed places, and point the guns by telescope?

Mr. OLIN. The gunners are protected below; the guns are loaded from below; the arrangement for firing is all below, and the gunners are not exposed.

Mr. PIKE. I would inquire whether the same kind of machinery for sighting these guns from below was not tried on board the Monitor, and discarded?

Mr. OLIN. I do not know how that was. It is evident to everybody that the machinery will accomplish the purpose for which it was designed, unless the machinery is disabled in some way.

I wish to allude to another point in which this boat has an immense advantage over the Monitor. They can fire these guns ten times where the guns of the Monitor can be fired once.

Now, then, here is combined these advantages: the first, and the most important and the most to be desired, is the greater speed than any vessel afloat. That, by the common consent of everybody, is to be obtained in this battery. Next in importance to rapid movement and great speed is the greater facility for handling the boat over any other boat that has hitherto been constructed, by reason of its double engines and two propellors, by which the boat may be moved with facility in any direction, and thus avoid the fire of the enemy. Another thing has been gained, which I have already adverted to. The guns can be fired with more than three times the rapidity of any other guns by any other arrangement on board of any other vessel of war.

With these facts before us, in my judgment, this experiment of completing this vessel is worth trying. Now, what are the facts in relation to this matter? The Government has already invested $500,000 in this vessel, and Mr. Stevens, the brother of the inventor, has expended, on his own account, upwards of two hundred thousand dollars; and the simple question now is, whether we shall appropriate about eight hundred thousand dollars more, and secure a vessel of war which, if it accomplish what in the judgment of every man who urges it upon the Government it will accomplish, will cost less than two thirds of what the iron vessels of France and England have cost?

Mr. LOVEJOY. Allow me to ask whether the vessels to which the gentleman refers are sea-going vessels?

Mr. OLIN. I have seen various reports upon that subject. I have seen a report that the Warrior, in an experiment to test its sea-going qualities, loosened its timbers in some way, so that it leaked, and it was feared it would not be a successful experiment for that reason. I do not know how that is.

At all events, I do know that all these iron-clad vessels, the Warrior and the celebrated iron-clad vessels built by France, will have cost the Government more than three times the amount that this vessel will cost the Government, if the sum now proposed be appropriated.

Mr. HICKMAN. My only purpose in interrupting the gentleman from New York is to correct what I suppose to be a misapprehension upon the part of some gentlemen touching this battery. Sometime since I made particular inquiries in regard to it. There seems to be no particular information here in regard to the water she will draw, the manner in which her guns are loaded and operated, or their defense. A great deal has been said about the success of an untried experiment. According to the information I have received the vessel draws twenty feet and six inches of water when in a sailing condition. She sinks to the depth of twenty-two feet and six inches in action, and is calculated to have a speed greater than that of any other sea-going vessel, as a result of her double engines and propellers. These, at least, are not at the present day an experiment. The principles have been applied sufficiently to demonstrate their success. In addition to this no man is exposed while the vessel is in action. It is a great misapprehension to say that the gunner must fly behind the gun in order to shield himself. The guns are exposed, to be sure, upon the upper deck, but every man is concealed beneath that deck, and, as I understand it, no man is discovered while the vessel is in action.

In addition to this, there is a facility in loading which I think has never heretofore been reached. But, sir, the argument which is made use of against this experiment will apply to any other experiment. There is no progress in either military or civil life, there is no progress accomplished in human affairs without experiment. Nothing can be ascertained to a certainty until it shall be tried and proven. Your Monitor was as much an experiment, and perhaps a more reckless experiment, than this Stevens battery. But, sir, is there any good reason to believe that these guns are so much exposed to disaster in action as some gentlemen imagine? Is it true? Is not a single gun as capable of protection as a multitude of guns under a general protection? In other words, may not each individual gun have its cover as well as a multitude of guns may have a single cover? Will it be pretended by the gentleman from Maine, [Mr. PIKE,] or the gentleman from Illinois, [Mr. LOVEJOY,] that there is to be no success now in naval warfare, unless you have revolving batteries? Has the Ericsson battery been sufficiently tried to satisfy us that it is to be a marvelous success? Suppose in that tower of twenty feet diameter an explosion of a heavy gun should take place—a thing by no means unusual either in land or naval warfare—what is to be the effect of that explosion upon that tower, its remaining gun and occupants? If you have each gun, with its tower or cover, and an explosion takes place, no disastrous effect can be produced upon the other guns.

Mr. LOVEJOY. I want to ask the gentleman whether he thinks that for this warfare an unprotected gun is better than one that is protected?

Mr. HICKMAN. Well, sir, I have not spoken of unprotected guns, and therefore the question has no application to what I have been saying.

Mr. LOVEJOY. I understand his argument to be that a covered gun may explode and hurt the gunner.

Mr. HICKMAN. I have said no such thing. The gentleman may make the suggestion, and then answer it himself, if he thinks proper. I have stated that it is a part of this plan that each individual gun shall have its individual protection.

Mr. PIKE. Are there or are there not to be these revolving towers upon Stevens's battery?

Mr. HICKMAN. I say there are not; and I say that any man who looks at the model will see at once that it is incapable of a single revolving tower. It has never been suggested, either by Mr. Stevens, so far as I know, or by any other person, that these guns shall be unprotected. They are intended to have armor as the vessel has armor; and if six or eight inches of iron will protect the sides of a wooden vessel, why may not six or eight inches of the same quality of iron protect a heavy cast gun. I repeat, in order to get it into the brain of the gentleman from Illinois—for he seems to be disposed to be a little more dull this morning than usual—that each gun is to have its individual armor, and is not to be placed in a revolving tower; and there is no more recklessness in such an experiment as that than there is in the tower itself.

Mr. LOVEJOY. The gentleman from New Jersey [Mr. STRATTON] claims that there are to be two of these towers, if I understand him right.

Mr. HICKMAN. Well, the gentleman from Pennsylvania, myself, does not, and the gentleman from New Jersey may rely upon his own facts and logic, and answer any objections which may be brought against either or both. I will attend to my own remarks.

Mr. LOVEJOY. That is all the gentleman is capable of, I have no doubt.

Mr. HICKMAN. It would be well if each of us would be satisfied by attending to his own business. I say this: that while the plan is to give to each gun its separate protection, it will be seen that the guns are capable of being embraced within two revolving towers; but it is no part of the present plant so to protect them. If, however, after this experiment of armoring each gun shall have been tried it shall be found a failure, the guns are so placed upon the vessel and so arranged that towers can be placed upon the guns with but slight expense, and Mr. Stevens has the means to make that improvement upon the vessel; and I have no doubt he will willingly do so, in case it shall be needed. This vessel cannot fail through a slight mistake. Sir, we can have no startling successes in naval architecture without bold and costly experiments. I am in favor of experiments suggested by large scientific acquirements and self-sacrificing, patriotic devotion. I will vote in such a way as to give the Government the advantage of the $500,000 we have already expended upon the battery, and I shall do so with a perfect confidence that I do right.

Mr. OLIN. I desire to say but a word more. I was about to mention one other feature of this vessel, which is thought to be, and I presume will be, conceded to be a most important one. The arrangement of its guns, and the sighting and firing of them, are such that the concentrated fire

of all the guns can be brought to bear with precise accuracy upon a given point at any one time.

Mr. PIKE. I would inquire whether this appropriation has either the recommendation or the sanction of the Navy Department?

Mr. OLIN. I do not know whether it has or has not.

Mr. PIKE. I understand it has not.

Mr. OLIN. The question is now whether it shall have the sanction of the House, and that is a little more important than the approbation of the Navy Department just now. It is thought, and I presume properly, that no vessel hitherto constructed is of sufficient strength to resist the concentrated fire of these guns. If it has been done, or if it can be done, it will only prove that the science of gunnery cannot possibly keep pace with the science of naval architecture. Certainly nothing has been hitherto constructed that would resist the weight of the metal which this ship would throw from these guns concentrated upon one point.

And now, as was required of me by the gentleman from New Jersey, I renew the motion to lay the motion to reconsider upon the table.

Mr. LOVEJOY. I demand the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. RICHARDSON. I ask the gentleman from New York to withdraw that motion for one moment.

Mr. OLIN. The gentleman must make his appeal to my friend from New Jersey, [Mr. STRATTON.]

Mr. RICHARDSON. Then I ask the gentleman from New Jersey to withdraw the motion a few moments.

Mr. STRATTON. I would do so very gladly, but the House are anxious to have this matter disposed of.

Mr. RICHARDSON. All the talking has been upon one side of the question. I hope the House will vote down the motion.

The question was taken; and it was decided in the affirmative—yeas 85, nays 40; as follows:

YEAS—Messrs. Aldrich, Allen, Alley, Babbitt, Joseph Baily, Beaman, Biddle, Bingham, Francis P. Blair, Samuel S. Blair, Blake, George H. Browne, Buffinton, Campbell, Casey, Clark, Colfax, Roscoe Conkling, Corning, Cox, Crittenden, Davis, Dawes, Delano, Delaplaine, Diven, Dunlap, Dunn, Eliot, Fessenden, Fisher, Franchot, Granger, Gurley, Hall, Harrison, Hickman, Hooper, Horton, Julian, Kelley, Kerrigan, Killinger, Lansing, Leary, Lehman, Loomis, McKnight, McPherson, Moorhead, Nixon, Noell, Nugen, Olin, Perry, Timothy G. Phelps, Pomeroy, Porter, Potter, Alexander H. Rice, John H. Rice, Sargent, Shanks, Sheffield, Shellabarger, Sloan, Smith, Spaulding, John B. Steele, William G. Steele, Stratton, Benjamin F. Thomas, Francis Thomas, Train, Trowbridge, Vallandigham, Van Horn, Van Valkenburgh, Verree, Wadsworth, Wallace, Ward, Webster, Wheeler, and Wright—85.

NAYS—Messrs. Arnold, Ashley, Baker, Baxter, William G. Brown, Calvert, Chamberlin, Frederick A. Conkling, Duell, Edgerton, Edwards, English, Grider, Haight, Hale, Harding, Hutchins, Francis W. Kellogg, Knapp, Law, Lovejoy, Mallory, Menzies, Mitchell, Anson P. Morrill, Justin S. Morrill, Noble, Norton, Pike, Richardson, Riddle, Edward H. Rollins, James S. Rollins, Stevens, E. P. Walton, Albert S. White, Wickliffe, Wilson, Windom, and Worcester—40.

So the motion to reconsider was laid upon the table.

During the vote,

Mr. LAW stated that his colleague, Mr. CRAVENS, had been called home by sickness in his family

ORDER OF BUSINESS.

The SPEAKER. The next business in order is the motion of the gentleman from Illinois [Mr. LOVEJOY] to postpone the special order—the Pacific railroad bill.

Mr. STEVENS. I have a concurrent resolution which I desire to report back from the Committee of Ways and Means.

Mr. LOVEJOY. I would like to ask the gentleman about how long the resolution will occupy?

Mr. STEVENS. If nobody feels disposed to talk about it, it will occupy about one minute.

Mr. CAMPBELL. I ask for the regular order.

Mr. STEVENS. It is a mere question of final adjournment. Nothing else.

Mr. LOVEJOY. I yield for that purpose.

FINAL ADJOURNMENT.

Mr. STEVENS thereupon, from the Committee of Ways and Means, reported back a concurrent resolution directing that the present session of the Thirty-Seventh Congress shall be adjourned, without day, on the third Monday in May next, at twelve o'clock, m.

Mr. McKNIGHT. I move to amend the resolution by striking out the words "third Monday in May," and inserting in lieu thereof the words "first Monday in June."

Mr. WADSWORTH. I move to amend the amendment by striking out the words "first Monday in June," and inserting in lieu thereof the words "first Monday in May."

The amendment to the amendment was rejected.

The question was taken on Mr. McKNIGHT's amendment; and it was rejected.

The question recurred on the concurrent resolution; and it was adopted.

Mr. STEVENS moved to reconsider the vote by which the concurrent resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PACIFIC RAILROAD.

Mr. LOVEJOY. I desire to state to the House that my object in moving yesterday to postpone the special order was, that the House might have time to consider the bill. On consulting with the select committee, I find that they are desirous to have the best possible bill passed by the House, and that they are willing to agree to a postponement for a week, if I modify my motion. I therefore modify my motion accordingly.

Mr. VALLANDIGHAM. I rise to a question of order. I desire to know how this subject comes before the House.

The SPEAKER. The Committee of the Whole on the state of the Union reported yesterday, through its chairman, that it had the special order under consideration, and had come to no conclusion thereon. The gentleman from Illinois [Mr. LOVEJOY] then moved that its further consideration be postponed.

Mr. VALLANDIGHAM. Is that report before the House now?

The SPEAKER. The report was before the House.

Mr. VALLANDIGHAM. Is it before the House now?

The SPEAKER. The motion of the gentleman from Illinois comes up as unfinished business, it having been made before the adjournment yesterday.

Mr. VALLANDIGHAM. That is another question. Of course, I have nothing to say about that; but I understood the Chair to say yesterday that the point of order which I then raised was the same as that which had been raised by the gentleman from Pennsylvania.

The SPEAKER. The Chair thought it was; it sees by the Globe to-day that it was not.

Mr. VALLANDIGHAM. If the Chair adheres to its decision, I have nothing further to say.

The SPEAKER. The point was raised that a motion to postpone a bill which had been made a special order in the Committee of the Whole on the state of the Union, could not be made in the House. The Chair overruled that point. The practice of the House has been, that before the special order has been reached in the Committee of the Whole on the state of the Union, a motion to postpone it could be made at any time, but required a two-third vote. After the special order is taken up and considered, motions for postponement have been repeatedly made, and decided by majority votes.

Mr. CAMPBELL. I find on all sides of the House a disposition to give to the Pacific railroad bill that consideration to which it is entitled; but gentlemen have been so much occupied with the tax bill and other matters that they have not had time to examine this measure. Besides, the substitute has only just been printed. I yield to the disposition on the part of the House for a few days further time to examine the bill. I therefore make no opposition to the postponement of the special order to this day week. That will give gentlemen every opportunity to examine and amend it.

Mr. STEVENS. I move to amend the motion so as to postpone the further consideration of the bill till one week from next Monday.

Mr. SARGENT. I call for the yeas and nays

The yeas and nays were not ordered.

Mr. CAMPBELL called for tellers.

Tellers were ordered; and Messrs. SPAULDING, and THOMAS of Massachusetts, were appointed.

The House divided; and the tellers reported—ayes 42, noes 56.

So the amendment was disagreed to.

The question recurred on Mr. LOVEJOY's motion to postpone until this day week; and it was agreed to.

Mr. LOVEJOY moved to reconsider the vote by which the bill was postponed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. STEVENS. I hope the House will order to be printed some amendments which I desire to offer to this bill.

It was so ordered.

COURTS OF UTAH.

Mr. CRADLEBAUGH, by unanimous consent, introduced a bill to transfer actions, judgments, and proceedings in certain courts of Utah to the courts of the Territory of Nevada; which was read a first and second time, and referred to the Committee on the Judiciary.

TREASURY CONTINGENT FUND.

Mr. STEVENS. I reported, a few days ago, a bill making appropriations for clerk hire, and it was referred to the Committee of the Whole on the state of the Union. It is hardly worth while to go into committee to consider it. I ask, therefore, that the Committee of the Whole on the state of the Union be discharged from its further consideration, and that it be acted upon in the House.

There being no objection, the Committee of the Whole on the state of the Union was discharged from the further consideration of the bill (H. R. No. 388) making appropriations to reimburse the contingent fund of the office of the Secretary of the Treasury, including compensation of additional clerks who may be employed according to the exigencies of the public service, and for temporary clerks for the current fiscal year and for the year ending June 30, 1863; and the House proceeded to consider it.

The bill received its several readings and was passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

RAILROAD FACILITIES.

Mr. WRIGHT, by unanimous consent, reported, from the Committee on Military Affairs, a bill to facilitate the transportation of troops, stores, and mails of the United States, between the cities of Washington, Baltimore, Philadelphia, and New York; which was read a first and second time, recommitted to the Committee on Military Affairs, and ordered to be printed.

FRANKING PRIVILEGE.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. HUTCHINS in the chair,) and proceeded to the consideration of the bill to regulate the franking privilege; on which the House had ordered debate to be closed in five minutes after it was taken up.

Mr. STEVENS. I move to lay that bill aside and to take up the next bill. I desire to let some gentlemen who wish to make speeches on some important questions have the floor.

Mr. VALLANDIGHAM. With the understanding that this bill will be first in order when the House again goes into committee, I have no objection to its being laid aside for to-day. All I desire is, that it shall not lose its place on the Calendar.

The CHAIRMAN. The Chair understands that the House having closed the debate upon this bill, the committee cannot lay it aside, even by unanimous consent, except to report it to the House.

Mr. VALLANDIGHAM. I move, then, to lay the bill aside to be reported to the House.

Mr. COLFAX. As five minutes general debate is permitted upon the bill, I will say a few words in reference to it.

Mr. VALLANDIGHAM. If the bill is to be debated at all, I desire, in a very few minutes, to explain it.

The CHAIRMAN. The gentleman from Ohio is entitled to the floor if he claims it.

Mr. VALLANDIGHAM. I desire to say a very few words in explanation of this measure. This House has already passed, as members are of course aware, a bill abolishing absolutely the franking privilege. The bill now under consideration is for the regulation of the franking privilege. It was carefully prepared in the Thirty-Sixth Congress by a special committee appointed for that purpose, consisting of Mr. Charles Francis Adams, Judge KELLOGG, of Illinois, and myself, after a great deal of labor and investigation had been expended upon the subject.

There is but one new provision in the bill which requires explanation—the provision which requires the stamping of documents in the folding-room. Now, if the House is satisfied that the bill which has been already passed upon this subject will not receive the favorable consideration and action of the Senate, it seems to me that the existing abuses of the franking privilege ought to be remedied, and that has been the object of the committee in preparing this bill.

Now, sir, I do not believe the bill which has passed this House will become a law, and in order to correct these abuses, which furnish the sole argument against the privilege, in my judgment, it is proper that some measure should pass this body and the Senate which will attain the object. That is its purpose, and it contains but the single new provision which I have referred to. But it fixes, also, penalties to the violation of existing laws, where no penalties have heretofore existed. For example, no member has the privilege to frank his letters except when written by himself or his order, yet there is no penalty for the violation of this provision. It so happened, as I am credibly informed, in the Thirty-Sixth Congress, that a member of Congress franked some thirty odd ounces of plated zinc to some place in Pennsylvania, the postage on which would have been considerable in amount. Of course the postage was collected at the end of the route, but the member himself, who committed the violation of the law, escaped.

There are many other abuses practiced similar to this, and they are the crying evils which have caused all the outcry in the House against the franking privilege. Now, all this we propose to remedy by fixing adequate penalties for the violation of the law, where they do not now exist. This is the point to which I wish to direct the attention of this committee. It seems to me that there can be no objection to allowing this bill also to go to the Senate, and permit that body to choose between the two propositions. If they prefer the absolute abrogation of the franking privilege this will do no harm; if not, this will present to them a proposition to correct the abuses of the system.

The country, I am perfectly satisfied, will be content with the law very nearly as it now exists, if it can be properly and fairly executed.

In 1792, this was a subject of elaborate debate. The result was what has been in existence ever since, and there has not to my knowledge been a solitary petition presented from any part of the country for the abolition of the franking privilege.

Now, Mr. Chairman, unless some one desires to debate this measure further, I will move that the committee rise, and report the bill to the House, where it may either be adopted, if the House desire to pass it, or laid on the table, if they do not.

MESSAGE FROM THE SENATE.

The committee informally rose; and the Speaker having resumed the chair, a message from the Senate was received by Mr. FORNEY, their Secretary, notifying the House that the Senate disagree to the amendments adopted by the House to the bill of the Senate (No. 118) to increase the efficiency of the medical department of the Army, ask a committee of conference on the said amendments, and have appointed Mr. WILSON, Mr. LANE, and Mr. NESMITH the managers of the said conference on the part of the Senate.

The committee resumed its session, and proceeded again to the consideration of the bill of the House relating to the

FRANKING PRIVILEGE.

Mr. COLFAX. While an amendment is pending that motion cannot be received. To enable me to submit a very few remarks, I move to strike out the first section of the bill.

The House of Representatives early in the session passed a bill by a very large majority abolishing the franking privilege. That bill has been sent to the Senate, and referred to their Post Office Committee. The committee have reported it back to the Senate, with an amendment authorizing the heads of the various Departments of the Government to frank official communications to their subordinates, but excluding members of Congress from the right to the franking privilege. That report was made a month or two ago; it has not been acted upon by the Senate, and I am not aware whether it is the purpose of that body to take it up for action or not.

Mr. Chairman, for many years the Senate have from session to session passed provisions for the abolition of the franking privilege, always by large majorities, and once with but two dissenting votes, given by Mr. Hemphill of Texas, and Mr. WILKINSON of Minnesota. And the argument has been in the country that it was the House of Representatives who, from their close proximity to the people, desired the continuance of the privilege for the purpose of sending free of postage speeches and documents to the people at large.

For the first time, the House have the present session set a different example to the Senate. They have proposed that members of Congress shall pay their own postage in their communications to their constituents, and that their constituents shall pay for the communications sent to them, thereby providing, as they hoped, for making, what has long been desired, the Post Office Department self-sustaining, and not longer a burden upon the National Treasury.

Now, sir, if the franking privilege is not to be abolished, I want the responsibility not to rest with this House. If we now pass this bill and send it to the Senate, it will be taken by them and by the country as an indication that, upon the sober second thought, upon reflection, we have concluded to retain the privilege.

But, I do not concur with the gentleman from Ohio that even if the franking privilege is not to be abolished, the effect of this bill would be beneficial. The law as it now exists requires the member of Congress to frank his own letters and documents, and the trouble it costs members is to that extent a protection against the abuse of the system; but this bill proposes that the folding-room shall have a stamp under which documents are to be sent out without the frank of the member. The result will necessarily follow that members of Congress, being relieved of the trouble of franking their documents, will largely increase the number of documents they will send out through the folding-room. For the same reason, larger numbers of extra copies of documents will be ordered to be printed, so that instead of being a relief to the Treasury, it will add to its burdens.

I trust, therefore, that the bill will not pass; for I repeat, if it is to pass, it will be received by the country as an indication that upon reflection, upon the sober second thought, the House has determined to extend the continuance of this privilege to themselves indefinitely.

Mr. VALLANDIGHAM. The gentleman, I presume, is very well aware that, especially during a presidential campaign, nearly all the documents are sent out under the franks of clerks delegated by members of Congress for that purpose. But this bill proposes that these documents shall be only sent out under the frank of a sworn officer with a penalty for the violation of law. Now, sir, while there is no prospect that the franking privilege is to be abolished, I am willing to see the abuses that have grown up under it abolished.

Mr. COLFAX. The gentleman still does not answer the argument that the effect of the bill would be to increase very largely the amount of matter which will be sent off from the folding-room.

Mr. WRIGHT. If the effect of passing this bill is to renew the consideration of this subject, and increase the chances of abolishing the franking privilege, then I am opposed to it.

I understand that the bill which we sent to the Senate, and which passed this House by a large majority, but which if the vote were to be taken again I doubt whether it would be attended with the same result—that bill which has gone to the Senate will in all probability die a natural death there. If that be the result, I shall be satisfied. My opinion is, if we pass the bill advocated by the gentleman from Ohio, it will lead to legislation on this subject; and if there is to be legislation on this subject I am opposed to it *in toto*. I do not believe if the vote were submitted to this branch of the national Legislature that they would abolish the franking privilege. Therefore, I am opposed to the bill presented here. I am opposed to it for the reason that it may lead to a compromise between the two Houses. I do not hesitate to proclaim my position upon this subject. I am opposed to abolishing the franking privilege.

Mr. COLFAX, by unanimous consent, withdrew his amendment.

Mr. VALLANDIGHAM moved that the committee rise, and report the bill to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. HUTCHINS reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill to regulate the franking privilege; and had directed him to report back the same to the House, with the recommendation that it do pass.

Mr. VALLANDIGHAM. That bill is of considerable length, and must be read; and as there is a desire to proceed to other business, I move that its consideration be postponed until Tuesday next.

The motion was agreed to.

MEDICAL DEPARTMENT.

Mr. BLAIR, of Missouri. I move that the House agree to the request of the Senate for a conference on the disagreeing votes between the two Houses on Senate bill No. 188, to increase the efficiency of the medical department of the Army.

The motion was agreed to; and the Speaker appointed Messrs. BLAIR of Missouri, MCPHERSON, and STEELE of New York, managers of said conference on the part of the House.

SLAVERY IN THE DISTRICT OF COLUMBIA.

Mr. STEVENS moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union, Mr. DAWES in the chair.

Mr. STEVENS. I move that all the preceding bills on the Calendar be laid aside, and that the committee take up the bill for the abolition of slavery in the District of Columbia.

Mr. WEBSTER. I object.

The CHAIRMAN. The Chair will call the Calendar in order.

Mr. STEVENS. And I will move to lay them aside until I get to the bill I have indicated.

COSTON'S NIGHT SIGNALS.

A bill (H. R. No. 97) authorizing the purchase, for the use of the Navy, of Coston's night signals.

Mr. STEVENS. I move that that bill be laid aside.

Mr. VALLANDIGHAM. What is the effect of laying these bills aside? Does it not postpone them to the end of the Calendar?

The CHAIRMAN. They are laid aside to be taken up in their order when the committee next takes up the Calendar.

Mr. VALLANDIGHAM. After the Calendar has been gone through with?

The CHAIRMAN. Yes, sir.

The motion was agreed to.

ENLISTMENT OF MINORS.

A bill (H. R. No. 151) in regard to the enlistment of minors, and for other purposes.

Mr. STEVENS moved that the bill be laid aside.

The motion was agreed to.

TREASURY NOTES.

A bill (H. R. No. 187) to authorize the issue of demand Treasury notes.

Mr. STEVENS moved that the bill be laid aside.

On a division, there were—ayes 57, noes 40.

Mr. MORRILL, of Vermont, demanded tellers.

Tellers were ordered; and Messrs. FESSENDEN and WEBSTER were appointed.

The tellers reported—ayes 66, noes 19; no quorum voting.

The roll was then called, and the following members failed to answer to their names:

Messrs. Ancona, Goldsmith F. Bailey, Biddle, Bingham, Samuel S. Blair, George H. Browne, Burnham, Cobb, Conway, Cooper, Corning, Covode, Cravens, Crisfield, Cutler, Delaplaine, Dunn, Ely, English, Fenton, Fisher, Fouke, Gooch, Goodwin, Hickman, Holman, Horton, Jackson, Johnson, William Kellogg, Lehman, Logan, Lovejoy, McKean, McPherson, Marston, Maynard, Odell, Olin, John S. Phelps, Pomeroy, Price, Alexander H. Rice, Robinson, Sedgwick, Spaulding, Trimble, Vandever, Van Valkenburgh, Van Wyck, Vibbard, Wall, Charles W. Walton, Washburne, Whaley, Chilton A. White, Windom, and Wood.

The committee then rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill in relation to the demand Treasury notes, and finding itself without a quorum, had caused the roll to be called, and directed him to report the names of the absentees to the House.

A quorum having answered to their names, the committee resumed its session, (Mr. DAWES in the chair.)

Mr. STEVENS's motion was agreed to.

SANDERSON'S CANNON.

Joint resolution (H. R. No. 30) authorizing the Secretary of War to test Sanderson's breech-loading cannon.

Mr. STEVENS moved that the resolution be laid aside.

Mr. WRIGHT. Is the effect of that motion to put that bill down to the foot of the Calendar?

The CHAIRMAN. It will occupy the same relative position it had before.

The motion was agreed to.

MEDICAL STAFF, ETC.

The following bills and joint resolutions were then severally laid aside:

A bill (H. R. No. 211) relating to Congress.

A bill (H. R. No. 212) regulating pay of officers of the Army.

A bill (H. R. No. 179) for the better organization of the medical staff of the Army.

A bill (H. R. No. 175) to amend "An act to incorporate the Columbian Institution for the Instruction of the Deaf and Dumb and the Blind," and to make appropriations for the benefit thereof.

Joint resolution (H. R. No. 42) providing for the establishment of a national foundery east of the Alleghany mountains, and a national foundery, a national armory, and a manufacturing arsenal west of that line, and in the valley of the Ohio and Mississippi.

INTERNAL REVENUE.

A bill (H. R. No. 312) to provide internal revenue, to support the Government, and pay interest on the public debt.

Mr. STEVENS moved that the bill be laid aside.

On a division there were—ayes 77, noes 14.

Mr. BABBITT demanded tellers.

Tellers were ordered; and Messrs. ALLEY and SHANKS were appointed.

The motion was agreed to; the tellers having reported—ayes 82, noes 24.

PROPERTY OF LOYAL CITIZENS.

A bill (H. R. No. 33) providing for compensation to loyal citizens for property destroyed to prevent the same from being used by the enemy.

Mr. STEVENS moved that the bill be laid aside.

The motion was agreed to.

NATIONAL FOUNDERY.

A bill (H. R. No. 346) for the establishment of a national foundery at Chicago, Illinois, and at Pittsburg, Pennsylvania, and at Poughkeepsie, New York, for the fabrication of cannon and projectiles for the Government; also for the establishment of an armory and arsenal at Columbus, Ohio; also for the establishment of a depot for saltpeter, powder factory, and magazine, at Indianapolis, and at Trenton, New Jersey.

Mr. STEVENS moved that the bill be laid aside.

The motion was agreed to; there being on a division—ayes ninety-three, noes not counted.

BRANCH MINT AT DENVER.

A bill (H. R. No. 287) to establish a branch of the Mint of the United States at Denver, in the Territory of Colorado.

Mr. STEVENS. I move that the bill be laid aside.

Mr. VALLANDIGHAM. Is not that bill entitled to priority?

The CHAIRMAN. It is within the control of the committee.

Mr. VALLANDIGHAM. What is the form of the question?

The CHAIRMAN. "Shall the bill be laid aside?"

Mr. VALLANDIGHAM. I do not so understand the rule. It is provided that in Committee of the Whole on the state of the Union general appropriation bills, and in times of war, bills for raising men and money, and bills concerning a treaty of peace, shall be preferred to all other bills.

The CHAIRMAN. The Chair decides that the bill can be laid aside.

The motion was agreed to.

SLAVERY IN THE DISTRICT.

Senate bill No. 108, being an act for the release of certain persons held to service or labor in the District of Columbia, was next reached on the Calendar.

Mr. WEBSTER. I move that that bill be laid aside. [Laughter.]

The motion was not agreed to; and the bill was before the committee for consideration.

Mr. THOMAS, of Massachusetts. Mr. Chairman, I avail myself of the indulgence of the committee to make some suggestions upon subjects now attracting the attention of Congress and of the country—the relation of the "seceded States" (so called) to the Union, the confiscation of property, and the emancipation of slaves in such States. Sensible how deeply the interests of the country are involved in their right decision, I can only say I have given to them careful and patient consideration, with an earnest hope and desire to learn what my duty is and faithfully and firmly to discharge it.

The questions are novel, as they are momentous. In the discussion of them, little aid can be derived from our own precedents, from the history of other nations, or from writers on constitutional and international law. The solution of the difficult problems of right and duty involved must be found in the careful study of the principles of the Constitution and the just and logical application of them to this new condition of things.

The peculiar feature of our civil polity is, that we live under written constitutions, defining and limiting the powers of Government and securing the rights of the individual subject. Our political theory is, that the people retain the sovereignty and that the Government has such powers only as the people, by the organic law, have conferred upon it. Doubtless these inflexible rules sometimes operate as a restraint upon measures which for the time being seem to be desirable. The compensation is, that our experience has shown that, as a general rule and in the long run, the restraint is necessary and wholesome.

It is, I readily admit, by no narrow and rigid construction of the words of the Constitution that the powers and duties of Congress on these subjects are to be ascertained. Every provision must be fairly construed in view of the great objects the Constitution was ordained to effect, and with the full recognition of the powers resulting from clear implication, as well as express grant. Designed as the bond of perpetual union, and as the framework of permanent Government, we should be very slow to conclude that it lacked any of the necessary powers for self-defense and self-preservation.

But recognizing the profound wisdom and foresight of the Constitution, and its adaptation to all the exigencies of war and peace, when a measure is proposed in apparent conflict with its provisions, we may well pause to inquire whether, after all, the measure *is* necessary, and whether we may not bend to the Constitution rather than that the Constitution should give way to us. When we make necessity our law-giver, we are very ready to believe the necessity exists.

Nor are we to forget that the Constitution is a bill of rights as well as a frame of government; that among the most precious portions of the instrument are the first ten amendments; that it is doubtful whether the people of the United States could have been induced to adopt the Constitution except upon the assurance of the adoption of these amendments; which are our Magna Carta, embodying in the organic law the securities of life, liberty, and estate, which, to the Anglo-Saxon mind, are the seed and the fruit of free government. Some portions of our history have led to the conclusion that the existence of these amendments may, in the confusion of the times, have been overlooked.

In my humble judgment, Mr. Chairman, there has been and is now but one issue before the country, and that is whether the Constitution of the United States shall be the supreme law of the land. That Constitution was formed by the *people* of the United States. It acts not upon the States, nor through the States upon us as citizens of the several States, but directly upon us as citizens of the United States, claiming on the one hand our allegiance and giving to us on the other its protection. It is not a compact between the States or the peoples of the several States. It is itself a frame of Government ordained and established by the people of the United States.

The sphere of the Government so established is indeed limited, but within that sphere its power is supreme. It is a Government of delegated powers and the powers not delegated are reserved either to the States or to the people. (Amendments, art. 10.)

The powers and functions granted to the national Government by the Constitution are embraced in three general classes: those concerning the relations of the United States to foreign nations, those concerning the relations between the States and their citizens respectively, and certain powers which, though belonging to the home department of Government, to be useful and effective must be general and uniform in their operation throughout the country. A very large proportion of the ordinary and necessary powers and functions of government is left in the States. The powers of the national Government do not extend to or include the domestic institutions or internal police of the States. The separation and distinction between the respective spheres of the State and national governments is an essential characteristic of our system, and is as old as the idea of Union itself. No Union was suggested, no project of one for a moment entertained on any other basis. The colonies in authorizing their delegates to assent to a separation from Great Britain and to form a Union for the general defense, expressly restricted them from consenting to any articles of union which should take from the colonies the power over their internal police and domestic institutions. The resolutions of the colonies of New Jersey, Maryland, and Rhode Island, may be cited in illustration.

The resolution of the provincial congress of New Jersey, passed June 21, 1776, and laid before the Continental Congress on the 28th of June, empowered the delegates of that province to—

"Unite with the delegates of the other colonies in declaring the United Colonies independent of Great Britain, entering into a confederation for union and common defense, making treaties with foreign nations for commerce and assistance, and to take such other measures as may appear to them and you necessary for these great ends; promising to support them with the whole force of this province; *always observing*, whatever plan of confederacy you enter into, *the regulating the internal police of this province is to be reserved to the Colony Legislature.*"

The convention of the colony of Maryland, by a resolution adopted June 28, 1776, and laid before Congress July 1, authorized and empowered the deputies of the colony to—

"Concur with the other United Colonies, or a majority of them, in declaring the United Colonies free and independent; in favoring such further compact and confederation between them; in making foreign alliances, and in adopting such other measures as shall be judged necessary for securing the liberties of America; and that said colony will hold itself bound by the resolutions of the majority of the United Colonies in the premises; *provided the sole and exclusive right of regulating the internal government and police of that colony be reserved to the people thereof.*"—*Journals of Congress*, 1776, pp. 390, 391, 392.

The credentials of the Assembly of Rhode Island, after giving to the delegates power to enter into Union and confederation, add:

"Taking the greatest care to secure to this colony, in the strongest and most perfect manner, its present established form and all the powers of government, so far as relates to its internal police and conduct of our affairs, civil and religious."—*Ibid.*, p. 343.

In the revolutionary government, in the Articles of Confederation, in the Constitution, in its judicial interpretation, in every Administration under the Constitution, and in every department of the Government, the limitation has thus far been care-

fully recognized and faithfully kept. This familiar, well-settled doctrine as to the independent respective spheres of the national and State government has never, perhaps, been more clearly and strongly stated than in one of the resolutions adopted by the convention which ushered the present Administration into power:

"*Resolved*, That the maintenance inviolate of the rights of the States, and especially the right of each State to order and control its own domestic institutions, according to its own judgment exclusively, is essential to that balance of powers on which the perfection and endurance of our political fabric depends."

It is expressed also, with clearness and strength, in the resolution adopted by the House near the close of the last session of Congress by a nearly unanimous vote:

"*Resolved*, That neither the Federal Government nor the people or governments of the non-slaveholding States have a purpose or a constitutional right to legislate upon or interfere with slavery in any of the States of the Union."

These doctrines as to the supremacy of the national Government within its sphere and of the reserved rights of the States are elementary. Between them there is no necessary conflict. Each is the complement of the other; both vital parts of that political system under whose admirable distribution and adjustment of powers the people of the United States have had for seventy years incomparably the best and most beneficent Government the world has ever known; a Government now imperiled, not by reason of any inherent defect or any want of wisdom or foresight in its founders, not because we have outgrown its provisions, not because it is behind the age, but because it has fallen upon an age not worthy of it, which has failed to appreciate the spirit of wisdom, prudence, and moderation in which it was founded.

Such being the relation of the Government of the United States to its citizens and to the States, the first question that arises is, how far this relation is affected by the fact that several of the States have assumed, by ordinances of secession, (so-called,) to separate themselves from the Union.

The people of the United States in and by the Constitution of the United States, established a national Government, without limitation of time, "for themselves and their posterity." It had been provided under the Articles of Confederation that the Union should be perpetual. The Constitution was established to form "a more perfect union" than that of the Confederation; more efficient in power, and not less durable in time There is not a clause or word in the Constitution which looks to separation. It has careful provisions for its amendment, none for its destruction; capacity for expansion, none for contraction; a door for new States to come in, none for old or new ones to go out. An ordinance of secession has no legal meaning or force, is wholly inoperative and void. The Constitution, and the laws and treaties made under it, the people have declared, "shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding." The act of secession, therefore, cannot change in the least degree the legal relation of the State to the Union. No provision of the Constitution of the United States, no law or treaty of the United States can be abrogated or impaired thereby. No citizen of the United States residing in the seceded States is, by such ordinance of secession, deprived of the just protection of, or exempted from any of his duties to, the United States. In contemplation of law the reciprocal duties of protection and allegiance remain unaffected. After the act of secession, the province and duty of the Government of the United States are the same, according to the full measure of its ability, as before, to enforce in every part of the Union, and over every inch of its territory, the Constitution and laws of the United States.

It is the necessary result of these principles that no State can abdicate or forfeit the rights of its citizens to the protection of the Constitution of the United States or the privileges and blessings of the Union which that Constitution secures and makes perpetual. The primary, paramount allegiance of every citizen of the United States is to the nation, and the State authorities can no more impair that allegiance than a county court or a village constable. Every proposition, however artfully disguised, which seeks to give any effect or vitality to an ordinance of secession, for evil or for good, is itself a confession of the right. To say that an act of secession is inoperative and void against the Constitution, and that this void act sustained by force is a practical abdication of the rights of the State under the Constitution, is to blow hot and blow cold, to deny and affirm in the same breath, to state a proposition which is *felo de se*.

It is also the plain and necessary conclusion, from the principles before stated, that a *State* cannot commit treason. Under the Constitution of the United States *persons* only can commit treason. How treason may be committed, and how tried and punished, the Constitution points out. (Constitution, art. 3, sec. 3; Amendments, arts. 5 and 6.) The persons who for the time being hold the offices under a State government may individually commit treason, but the acts of the State officers, transcending their authority and in conflict with the Constitution of the United States, involve in their guilt no man who has not himself levied war against the United States or adhered to their enemies, giving them aid and comfort. It is only we, the subjects, that can commit treason or expiate its guilt. No man or set of men can, without our consent, involve us in the awful crime, or subject us to the awful penalties of treason.

As a State cannot commit the crime of treason, it cannot incur a forfeiture of its powers and functions as the penalty of treason. The punishment provided for traitors is the result of judicial trial, conviction, and judgment. How to indict a State, the constitution of the court, the mode of trial, the form of judgment, and process of execution yet exist *in gremio legis*. Nor is it material that the acts of the State officers have the sanction and support of the majority of the people of the State. Within the proper sphere of the State government the rule of the majority will prevail, except so far as it is restrained by the organic law. But the majority of the voters of the State cannot deprive the minority of the rights secured to them by the Constitution of the United States. Some of these rights may be kept in abeyance. Their exercise may be overborne by superior physical force. They may sleep, but it is not the sleep of death. They are integral parts of the Constitution, and can only perish when the Constitution perishes.

The State of Tennessee, for example, has passed an ordinance of "secession." She has allied herself with the other seceding States. Her vote of secession is sustained by force. Upon this new and startling theory of the Constitution she has already incurred a forfeiture of all those functions and powers essential to the continued existence of the State as a body-politic. The voice of her eloquent Senator is heard in the Capitol, her venerable judge sits in the highest judicial tribunal, and exercises the highest functions of government, her Representatives mingle in our councils, her loyal citizens greet with tears of joy the banner of our advancing hosts—their hope and our hope, their pride and our pride; yet upon this theory there is no Tennessee, "the Commonwealth itself is past and gone." Its citizens can no longer be represented in this House or the Senate. The courts of the United States are closed against them. (Corporation of New Orleans *vs.* Winter, 1 Wheaton Rep., 91.) The requisition upon the State for troops was a mistake. The direct tax was a mistake. Its citizens, under the shield of the Constitution, are outlaws and in their own homes exiles. If such be the effects of a void act of secession, we should be grateful we are not called upon to witness the results of a valid one. There is nothing in the doctrines of nullification or secession more disloyal to the Constitution, more fatal to the Union, than this doctrine of State suicide. It is the gospel of anarchy, the philosophy of dissolution. Nor by carrying out this doctrine of the destruction or forfeiture of the State organization would anything be gained for the cause of freedom. Slavery exists by the local, municipal law, and would not be abolished unless you go one step further, and hold that, with the loss of the State organization, the institutions, laws, and civil relations of the States perish. Now, in case of conquest, even though the people of the conquered territory change their allegiance, their relations to each other and their rights of property remain undisturbed. The modern usage of nations, which has become law, would be violated if private property should be generally confiscated and private rights annulled. (United States *vs.* Percheman, 7 Peters, 51; 3 Phillemore, p. 743.) When, therefore, States were reduced to Territories, the national Government could not abolish slavery therein, except under the right of eminent domain, and by giving just compensation.

If we are right as to the nullity of the acts of secession, we may proceed to inquire whether the fact that the seceding States have attempted to form a new alliance or confederation will effect the result. Upon the plainest letter of the Constitution, as well as by its entire spirit, these acts of confederation are void. Continuing as States, in spite of their ordinances, they were expressly forbidden to enter into any treaty, alliance, or confederation, or into any agreement or compact with another State or with a foreign Power. (Constitution, art. 1, sec. 10.) Neither by secession nor confederation have they changed their legal relation to the Union and the Constitution of the United States. They are still members of the Union, foregoing for a time its privileges, but subject to its duties, bound to it by a cord which the sword of successful revolution can alone sever.

What, then, it may be asked, is the legal character of this great insurrection? The answer is, it is a rebellion of citizens of the United States against the Government of the United States; an organized effort to subvert and overthrow its authority, and to establish another government in its stead. Nothing can be more explicit than the proclamation of April 15, 1861:

"The laws of the United States have been for some time past and now are opposed, and the execution thereof obstructed, in the States of South Carolina, Georgia, Alabama, Florida, Mississippi, Louisiana, and Texas, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by law:

"Now, therefore, I, Abraham Lincoln, President of the United States, in virtue of the power in me vested by the Constitution and the laws, have thought fit to call forth, and hereby do call forth, the militia of the several States of the Union, to the aggregate number of seventy-five thousand, *in order to suppress said combinations, and to cause the laws to be duly executed.*

"I appeal to all loyal citizens to favor, facilitate, and aid this effort to maintain the honor, the *integrity*, and the *existence of our national Union*, and the perpetuity of popular Government, and to redress wrongs already long enough endured."

The State organizations have been found convenient, and have been used for the purposes of the rebellion. Those of counties and cities have been used for the same ends. In either case it was an entire perversion of their functions, and the action is none the less illegal and revolutionary on that account. A State, as such, having no power to engage in war with any other State, or with the United States, cannot interpose its shield between the Government of the United States and its subjects committing treason by levying war against it; nor is such levying war any the less treason because the traitors held places of trust in the State governments, and perverted the functions of those governments to their base ends. Morally, it is an aggravation of the offense. It does not change its essential legal character.

In the convention for forming the Constitution of the United States, Luther Martin, of Maryland, was anxious to insert a provision to save the citizens of the States from being punishable as traitors to the United States when acting expressly in obedience to the authority of their own States. The provision offered by him was:

"That no act or acts done by one or more of the States against the United States, or by any citizen of any one of the United States, under the authority of one or more of the said States, shall be deemed *treason*, or *punished as such*; but in case of war being levied by one or more of the States against the United States, the conduct of each party towards the other, and their adherents respectively, shall be regulated by the laws of war and of nations."

This proposition was rejected, Mr. Martin says, with much feeling, because the leading members of the convention meant to leave the States at the mercy of the national Government. The more obvious reason is, that it was inconsistent with the whole theory of the Constitution, which, springing from the people of the United States, acted directly upon them as its subjects, and with a force which no law or ordinance of a State could impair.

This, then, is not a conflict of States, nor is it a war of countries or of geographical lines. It is a conflict between Government and its disobedient subjects. He only is the enemy of the United States who is committing treason by levying war against the United States, or giving aid and com-

fort to those who do. The loyal, faithful subject of the United States, wherever on the soil of his country he may have his home, is not the enemy of his country. No subtilty of logic, no ingenuity of legal construction, no misapplication of the laws of international war to this contest can change the nature of things, can convert loyalty into treason, or devotion into hostility. If there be to-day in Tennessee, or Georgia, or South Carolina even, a loyal subject of the United States "faithful among the faithless found," the Government is not at war with him. I am aware that as to property taken on the high seas, some of the district courts of the United States have held otherwise. But I venture to predict that the court of last resort will affirm the doctrine, stated by Mr. Justice Nelson of that court, to be good sense and sound law:

"On the breaking out of a war between two nations, the citizens or subjects of the respective belligerents are deemed by the law of nations to be the enemies of each other. The same is true, in a qualified sense, in the case of a civil war arising out of an insurrection or rebellion against the mother government. But in the latter case, the citizens or subjects residing within the insurrectionary district, not implicated in the rebellion, but adhering to their allegiance, are not enemies, nor to be regarded as such. This distinction was constantly observed by the English Government in the disturbances in Scotland under the Pretender and his son, in the years 1715 and 1745. It modifies the law, as it respects the condition of the citizens, or subjects, residing within the limits of the revolted district, who remain loyal to the government."

The difference between a war and a rebellion is clear and vital. War is the hostile relation of one nation to another, involving all the subjects of both. Rebellion is the relation which disloyal subjects hold to the nation, not involving or impairing the rights of loyal subjects. The law may fail to protect obedient subjects, but it never condemns them. As between the government and its subjects in arms against it, the *legal* relation is not that of war, notwithstanding the war power is used to subdue and reduce them to obedience. Though the rebellion has assumed gigantic proportions and the civil power is impotent to repress it, the array of numbers and extent of physical force do not change its essential legal character. It is still treason—the levying of war against the United States by those who owe to it allegiance. For this exigency the Constitution has provided. The war power of the Government may be evoked "to execute the laws of the Union, and to suppress insurrection." In levying war against the United States the rebels do not cease to be traitors, but are doing *the* thing in which the Constitution declares treason to consist. (Art. 3, sec. 3.)

While using the powers and appliances of war for the purpose of subduing the rebellion, we are by no means acting without the pale of the Constitution. We are using precisely the powers with which the Constitution has clothed us for this end. We are seeking domestic tranquillity by the sword the Constitution has placed in our hands. In the path of war, as of peace, the Constitution is our guide and our light—the cloud by day, the pillar of fire by night.

While using the powers of war for executing the laws and subduing rebellion, we are of course bound and restrained by the laws of war. It is our duty and our privilege to respect the maxims of humanity and moderation by which the law of nations and of Christian civilization has tempered the spirit of modern hostilities. During the war we may recognize in the rebels the rights of belligerents, may send them flags of truce, may make with them capitulations, cartels for exchange of prisoners, and extend to them the courtesies which mitigate, to some extent, the iron rigor of war. These things were done in the earliest stages of our Revolution, not only before the separation of the colonies was declared, but before the idea of independence had fairly taken possession of the public mind. But it was never supposed that by adopting the usages of civilized warfare Great Britain was relaxing her hold upon the colonies or elevating them into independent Powers. Nothing is, I think, plainer in principle than that the recognition of these rights and the observance of these usages—*flagrante bello*—cannot affect the legal relation of the parties, does not divest the sovereign of his power, or release the subject from his duties, when the strife of arms ceases. It is only when rebellion has ripened into successful revolution, that the permanent legal relations of the parties are changed. The recognition of the "belligerent rights" of the rebels by foreign Powers can, as between the sovereign and his subjects, have no other or further effect. Such recognition (if known to the law of nations) proceeds upon the ground that the *revolution is not accomplished, and that the connection is not dissolved.* Had this been done, the recognition would have been of their separate national existence.

In my humble judgment, Mr. Chairman, the "seceded States"—so called—and the people of those States are to-day integral parts of the Union, over whom, when the conflict of arms ceases the Constitution of the United States, and the laws made under it, will resume their peaceful sway. Traitors may perish, some institutions may perish, the nation will remain and the States will remain essential parts of the body-politic. "The body is one, and hath many members, and all the members of that body being many, are one body."

With this brief and imperfect development of the principles involved in this great controversy, I proceed to a more direct consideration of the subjects of confiscation and emancipation.

In seeking to know what this Government ought to do in relation to the confiscation of private property, or the emancipation of slaves in the "seceding" States, the obvious question presenting itself to every mind at the threshold is, what is *the end* which the Government and the people are seeking to attain? There can be but one loyal answer to that question. It is to preserve the Union and the Constitution in their integrity, to vindicate in every part of this indivisible Republic its supreme law. No purpose, however humane, beneficent, or attractive, can divert our steps from the plain, straight path of sworn duty. What is writ is writ. In seeking to change it by force of arms, we become the rebels we are striving to subdue.

It is a plain proposition, that in seeking to enforce the law we are, as far as possible, to obey the law. We are not to destroy in seeking to preserve. The people do not desire a bitter and remorseless struggle over the dead body of the Constitution. We may raise armies and navies and pour out as water the treasure and life-blood of the people, but we can neither think nor act wisely, live well or die well for the Republic, unless we keep clearly and always in view the end of all our labors and sacrifices, the Union of our fathers and the Constitution, which is its only bond. No thoughtful man can believe there is a possibility of reconstructing the Union on any other basis, or that it is within the province of Congress in any other but the peaceful way of amendment to make the effort.

The bills and joint resolutions before the House propose, with some differences of policy and method, two measures: the confiscation of the property of the rebels, and the emancipation of their slaves. Some of the resolutions propose the abolition of slavery itself, with compensation for loyal masters. It is my duty to examine, as briefly as I may, the wisdom, the justice, and the constitutionality of the measures proposed; and first of confiscation.

The propositions for confiscation include the entire property of the rebels, real and personal, for life and in fee. Within the class whose estates are to be confiscated are included not only those personally engaged in the rebellion, in arms against the Government, but also those who adhere to them, giving them aid or comfort; so that within the sweep of the bills would be brought substantially the property of eleven States and six millions of people.

The mind instinctively shrinks from a proposition like this. It reluctes to include in one "fell swoop" a whole people. It asks anxiously if no consideration is to be had for different degrees of guilt; if the same measure is to be meted to those who organized the rebellion and those who have been forced into it; if no consideration is to be given to the fact that allegiance and protection are reciprocal duties, and that for the last ten months the national Government has found itself incapable of giving protection to its loyal subjects in the "seceding States," neither defending them nor giving them arms to defend themselves, and that deprived of our protection and incapable of resistance they have yielded only to superior force; if a wise Government is to forget the nature of man and the influences of birth, of soil, of home, of society, and of State, by which his opinions are insensibly molded, and that this pestilent heresy of the right of secession, fatal as it is now seen to be, not only to the existence of good Government but of social order itself, has been a cardinal article in the faith of a large portion of the people in the southern States, and that they have been induced by the arts and sophistries and falsehoods of unprincipled leaders to believe that their future safety and well-being required the exercise of the right? Those leaders should atone for their crime by the just penalty of the law. But you cannot, says Burke, "indict a whole people; you cannot apply to them the ordinary rules of criminal jurisprudence." To state the proposition to confiscate the property of eleven States is to confute it; is to shock our common sense and sense of justice; is to forget not only the ties of history and of kindred, but those of a common humanity; is to excite the indignation of the civilized world, and to invoke the interposition of all Christian Governments.

It is said that just retaliation requires the confiscation of the property of the rebels. Doubtless nations may feel compelled to resort to measures of severe retaliation. It may be their only security against future outrage. But a firmly established Government does not resort to cruelty and injustice because its rebellious subjects have done so. It must maintain a higher standard of rectitude and justice. Its object is not vengeance, but to deter men from crime. It knows that harsh and severe punishments but rouse pity for the criminal and indignation against the Government.

Nor will the difference between confiscation by the rebels and by this Government be overlooked. Our acts of confiscation, if within the limits of the Constitution, are effective and permanent; theirs, void in law, are temporary in their effect. The title to one square inch of land will not be changed by any confiscation by the rebel authorities. Every man who has occupied the land of a loyal citizen under their pretended acts of confiscation will be liable for the full rent and damages to the estate. Every man who is in possession of personal property under them will be compelled to disgorge. Every debt paid under them into rebel treasuries will still be due to the loyal creditor. The restoration and indemnity will, I know, be imperfect. Many grievous wrongs will go unredressed. But every rebel, whatsoever functions he may have usurped, judicial or executive, who has invaded the rights of person or of property of a loyal citizen, will be liable to his last farthing for indemnity. So far, therefore, as our Government confiscates the property of rebels to its own use, it takes from the loyal citizen the sources to which he may justly look for redress.

The acts of general confiscation proposed would defeat the great end the Government has in view: the restoration of order, union, and obedience to law. They would take from the rebels every motive for submission; they would create the strongest possible motives to continued resistance. In the maintenance of the confederate government they might possibly find protection; in the restoration of ours, spoliation. "*Spoliatis arma supersunt.*" You leave them the great weapon of despair. Sallust said of the old Romans, "*majores nostri religiosissimi mortales nihil victis eripiebant præter injuriæ licentiam*"—our ancestors, the most religious of men, took from the vanquished nothing but the license of wrong-doing; words, says Grotius, worthy of having been said by a Christian.

It seems to be taken for granted that our efforts to suppress the rebellion will be successful in proportion to the *severity* of the measures we adopt. The assumption is at war with the lessons of history and with the nature of man. The most vigorous prosecution of the war possible is best for the Government and its subjects in arms against it. But the war is means to an end. "Wise men labor in the hope of rest, and make war for the sake of peace." It is only when justice is tempered with mercy that it is justice.

Apart from the injustice and impolicy of these acts of sweeping confiscation, I have not been able to find in the Constitution the requisite authority to pass them. There are two aspects in which the legal question may be viewed—first, the confiscation and forfeiture of property as the punishment for crime; secondly, under what has popularly been called the "war power" of the Government.

Looking at confiscation as the penalty of crime,

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. SATURDAY, APRIL 12, 1862. NEW SERIES....No. 102.

treason, or any lower grade of offense, some things seem to be plain:

That such forfeiture can be created by statutes applicable only to offenses committed after their passage. Congress cannot pass an *ex post facto* law. (Constitution, art. 1, sec. 9.)

The subject charged with treason may justly claim all the muniments and safeguards of the Constitution.

He cannot be deprived of life, liberty, or property, without due process of law, (Amendments, art. 5;) that is, judicial process as understood from the days of Magna Carta.

He cannot be held to answer for a capital or otherwise infamous crime, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger, unless on presentment or indictment by a grand jury. (*Ibid.*)

After indictment he must have a trial by an impartial jury of the State and district wherein the crime shall have been committed; which district shall have been previously ascertained by law. (Art. 3, sec. 2; Amendments, art. 6.)

No attainder of treason can work a forfeiture except during the life of the person attainted. (Constitution, art. 3, sec. 2.) By attainder is here clearly meant judicial attainder, as a bill of attainder, that is, an attainder by an act of the Legislature, is by a prior provision of the Constitution expressly forbidden. (Art. 1, sec. 9.)

These sacred provisions of the Constitution, which as common-law muniments of life, liberty, and property, have existed in substance for six centuries, "the least feeling their care, and the greatest not exempted from their power," lie directly in the path and are fatal obstructions to any legislation confiscating property as the penalty of treason, except as the result of the judicial trial and sentence of the offender.

It has been assumed, I think without sufficient reflection, that under our laws against treason the most obnoxious traitors even will escape the righteous punishment of their crimes, because they must be tried by a jury in the State and district wherein the offense shall have been committed. Their only escape will be by exile. Where war is actually levied against the United States, where bodies of men have been actually assembled to effect by force of arms their treasonable purposes, all those who perform any part, however minute or however remote from the scene of action, and who are actually leagued in the general conspiracy, are to be considered as traitors. (*Ex parte* Bolman, &c., 4 Cranch, 75.) We have not indeed adopted the law of constructive presence, which holds that a man who incites or procures a treasonable act, is, by force of the incitement or procurement merely, legally present at the act. But it may be sufficient to constitute presence, if he is in a situation in which he can coöperate with any act of hostility, or furnish counsel and assistance to the parties if attacked. (United States *vs.* Burr, 4 Cranch, 470.) The modern facilities of communication greatly enlarge the field of coöperation. A commander at the end of a telegraph wire, directing the assault upon a fort of the United States, or at a railroad station with troops ready to be moved to the assistance of the rebel army in action, is, in law, present at the overt acts of treason. The leaders of this rebellion will be found, therefore, to have committed treason, and to be liable to indictment and trial in many States and districts in which a jury will be ready, upon adequate proof, to convict.

In the proposed measures, the thing sought to be done is the confiscation of the property of the rebel as the penalty of his offense, and the attainment of this end without the trial and conviction of the offender. Though under the Constitution upon a trial and *conviction* of a traitor you can only take the life estate, these measures assume that without any trial or conviction you may take the fee simple. Our legal instincts shrink from such a proposition. Its intrinsic difficulties have been seen and felt, and a resort has been had to analogies and precedents, judicial and legislative, to find for it some sanction and support: I think without success.

1. It is true, as has been said, that under the Constitution men may be deprived of life and property without trial by jury. Cases arising in the land and naval forces, and in the militia when in actual service in time of war or public danger, are in terms excepted from the general rule, (Amendments, art. 5,) but the exception, instead of impairing, by the law of logic as of common sense, confirms the rule.

2. Property is taken for taxes, and certainly without trial by jury, where the tax and mode of assessment are valid, but this is under an express grant of power to Congress "to lay and collect taxes;" (Art. 1, sec. 8,) the principle and general method of which were perfectly well understood when the Constitution was adopted. Nor does the exercise of this power, as has been suggested, take private property for public use without just compensation; on the contrary, the true and just theory of taxation is that the price paid is the reasonable compensation for the protection and security of life, liberty, and property, which a wise and efficient Government affords.

3. The forfeiture of goods for breach of the revenue laws has slight, if any, analogy to the confiscation of property as a punishment for the crime of its owner. To Congress is given the power to "regulate commerce," and "to levy and collect imports," and, of course, to prescribe the terms and conditions upon which goods may be imported. It may well avail itself of a familiar principle by which property used in violating, defeating, or defrauding the law, is liable to forfeiture. Though the forfeiture of the common law did not, strictly speaking, attach *in rem*, but was a part or consequence of the judgment of conviction of the offender, this doctrine was never applied to seizures and forfeitures created by statute *in rem* and cognizable on the revenue side of the exchequer. The thing was then primarily considered as the offender, and the offense was attached to *it*. The same principle is applied to proceedings *in rem* and seizures in the admiralty. (2 Wheaton, The Palmyra.) It is upon this distinction that the statutes of July 19 and of August 6, 1861, find their support. The principle is, that the thing used in violating the law may be seized and condemned without a judgment upon the guilt of the owner.

I proceed to inquire how far, if at all, the powers of Congress are enlarged by the existence of this rebellion, and the use of the appliances of war to subdue it.

It would seem to be plain that the resistance of any portion of the people to the Constitution and laws cannot operate to confer upon Congress any new substantive power, or to abrogate any limitations of the powers of Congress which the people have imposed. When the Constitution intends that the existence of war or rebellion shall put an end to any restriction on the power of the Government, it says so. When it does not say so, the fair inference is that it does not mean so. Examples of such removals of restraint are found in article one, section eight, providing that the privilege of the "writ of *habeas corpus* shall not be suspended unless when in cases of rebellion or invasion the public safety may require it;" and in article three of the Amendments, forbidding in time of peace the quartering of soldiers in any house without the consent of the owner, but in time of war permitting it to be done "in a manner to be prescribed by law."

Engaged in suppressing a great and formidable rebellion, the Government may use the instrumentalities of war so far as they are adapted to the end. But it is never freed from the restraints of the Constitution, can never rise above it. The Constitution is never silent in the midst of arms. In war, as in peace, it is the supreme law—itself *salus populi et suprema lex*.

When Government is compelled to use the power of war it observes its limitations. How far in the use of this power it may confiscate or subject to forfeiture private property is the next question before us.

Some things are tolerably well settled. That property used in promoting the rebellion, in levying war against the United States, is lawful prize of war. This would include the arms, munitions, and provisions of war in actual use or procured for the purpose. The rule extends to goods used, not strictly as munitions or implements of war, but so as to defeat the military and naval operations resorted to to subdue the rebellion, as goods on their way to relieve besieged towns or forts, or ships or cargo violating a blockade or proceeding to or from ports with which commercial intercourse has been interdicted. It may extend to ships and cargo upon the high seas, the property of those levying war against the United States; enemies, not because of their domicil or residence upon one part rather than another of the territory of the Union, but because they are in arms against it.

Perhaps we should add to these, requisitions or contributions within military districts, levied upon those at war with the Government, for the support of the invading army. Such requisitions were, however, regarded by Wellington, a great statesman as well as great commander, as iniquitous, as a system for which the British soldier was unfit. I would refer also to the excellent remarks on this subject by President Woolsey, in his admirable Introduction to International Law (Page 304.)

Beyond the points suggested, it is believed the usages of international war do not extend. By the modern usages of nations private property on the land is exempt from confiscation. This exemption, Mr. Wheaton says—and there is no higher authority—is now held to extend "to cases of the absolute and unqualified conquest of the enemy's country." (Wheaton's Elements of International Law, p. 421.) We refer also, as tending to the same result, to Vattel, book 3, chapter 8, section 147; to 1 Kent's Commentaries, pages 102, 104; 3 Phillimore, page 140; Woolsey, page 304. To this mitigated rule of war there are doubtless exceptions. Of these, Mr. Wheaton says:

"The exceptions to these general mitigations of the extreme rights of war, considered as a contest of force, all grow out of the same original principle of natural law, which authorizes us to use against an enemy such a degree of violence, and such only, as may be necessary to secure the object of hostilities. The same general rule which determines how far it is lawful to destroy the persons of enemies, will serve as a guide in judging how far it is lawful to ravage or lay waste their country. If this be necessary in order to accomplish the just ends of war, it may be lawfully done, but not otherwise. Thus, if the progress of an enemy cannot be stopped, nor our own frontier secured, or if the approaches to a town intended to be attacked cannot be made without laying waste the intermediate territory, the extreme case may justify a resort to measures not warranted by the ordinary purposes of war.—Page 421.

The exceptions growing out of military exigencies, and measured and governed by them, cannot be foreseen and provided for by legislation, but must be left, where the law of nations leaves them, with the military commander.

It has been said that these acts of general confiscation find support under the provision of the Constitution which authorizes Congress "to make rules concerning captures by land and water." The Constitution does not define the meaning of the word "captures." It refers us in such cases to the law of nations, as in others to the common law. Congress has power to declare "war." What war is, the just causes of war, the rights and duties of nations in conducting it, are to be found in the law of nations. The "captures" referred to are very plainly not seizures of property under legal process, confiscation or forfeiture, but the taking of enemy's property by force or strategy, *jure victoriæ*. The title is acquired by capture, and liable to be lost by recapture. To make rules concerning "captures" is not to make rules in conflict with or beyond the law of nations. The extent to which the power conferred by the law of nations shall be exercised, and the disposition to be had of captures when made, are the proper subjects of municipal law and of the provision of the Constitution.

The case of Brown *vs.* The United States, (8

Cranch, 110,) has been cited as expressly deciding that Congress has power to pass a confiscation bill. I submit, with great respect, that it decides no such thing. The only point *decided* in the case was that British property found in the United States on land at the commencement of international hostilities (war of 1812) could not be condemned as enemy's property without an act of Congress for that purpose. The court dealing with a question arising under war with a foreign nation had no occasion to consider the powers or duties of Congress in the case of rebellion. The *discussions* of the court recognize a distinction between the right of the sovereign to take the persons and confiscate the property of the enemy wherever found, and the mitigations of the rule which the humane usages of modern times have introduced. With all my reverence for the great magistrate who delivered the opinion of the court, I must be permitted to say that usage is itself the principal source of the law of nations, and that these humane usages have become the rules of war in Christian States. The law of nations, says Bynkershoek, is only a presumption founded on usage. (*De foro legatorum*, chap. 18, sec. 6.)

It is suggested that if the confiscation of private property violated the law of nations the courts could not overrule the interpretation of that law by the political department of the Government, and that no other power could intervene. Possibly this may be so; but surely it is not intended that we shall violate the law of nations in dealing with our subjects, because there is no appeal or redress for the subject. It is in the exercise of irresponsible power that the nicest sense of justice and the greatest caution and forbearance are demanded. In suppressing a rebellion so atrocious, marked by such fury and hate against a Government felt only in its blessings, forbearance sometimes seems to us weakness, and vengeance the noblest of virtues. But in our calmer moments we hear the Divine voice, "vengeance is mine; I will repay."

I conclude what I have to say upon this branch of the subject with the remark that, in substance and effect, the bills before the House seek the permanent forfeiture and confiscation of property, real and personal, without the trial of the offender. I am unable to see how under the Constitution that result can be reached.

The temporary use of property in districts under military occupation, and of estates abandoned by their owners, rests upon distinct principles which it is not now necessary to consider. We have only to remark, in passing, that the use of such property and the rule in such districts can be provisional only, waiting the regular action of the State governments, and in no way impairing their permanent powers. Upon this subject I intend at some future day to trouble the House with a few suggestions.

I proceed to the question of the deepest interest involved in this discussion, the emancipation of slaves in the "seceding States." There is no subject on which our feelings are so likely to warp our judgment, in which calmness is so necessary and so difficult, and declamation so easy or so useless. The general principles stated in relation to the power and duty of Congress as to confiscation are applicable to the subject of emancipation.

On the question of policy the plausible and attractive argument is that the only effectual way to suppress rebellion is to remove its cause. The position when thoroughly probed is, not that the national Government has not the power to put down the rebellion without resort to emancipation, but that the continued existence of slavery is incompatible with the future safety of the Republic. This plainly is not a question of present military necessity, but one affecting the permanent structure of the Government, and involving material changes in the Constitution. This can be done in one of two ways. In the method the Constitution points out, or by successful revolution on the part of the free States and the entire subjugation of the slave States. No man can foresee to-day what policy a severe and protracted struggle *may* render necessary. It is sufficient to say that into such a war of conquest and extermination the people of the United States have no *present* disposition to enter. They have too thorough a conviction of the capacity of the Government to subdue the rebellion by the means the Constitution sanctions to be desirous of looking beyond its pale.

Upon the legal aspect of the question, it may be stated as a general proposition, that Congress in time of peace has no power over slavery in the States. By that is meant the institution itself; for the national Government may, in my judgment, forfeit the right of the master in the labor of the slave as a penalty for crime of which the master shall be convicted. And when so forfeited, it may dispose of the right as it sees fit. Nor is there any intrinsic difficulty in the use of this species of property under the right of eminent domain. If the Government were constructing a fort or digging an intrenchment, it might hire this species of labor, or, if necessary, take it, as it might other labor or property, giving reasonable compensation therefor.

The provision as to the return of fugitives from service cannot be deemed an exception to the general rule before stated; for the provision applies to escapes from one State into another, and not to escapes within the States. Of which we may remark, in passing, that, as to the former class, the power of the Government is strictly civil, to be executed by judicial process; and that as to the latter, the national Government in time of war or peace has no concern.

Nor would an act of the national Government liberating the slaves within a State, having the consent of the State, and providing compensation for the masters militate with the rule. *Conventio vincit legem.* The consent of the State would relieve the difficulty.

But the question arises, how far the existence of the rebellion confers upon Congress any new power over the relation of master and slave. Strictly speaking, no new power is conferred upon any department of the Government by war or rebellion, but it may have powers to be used in those exigencies which are dormant in time of peace. Such, for examples, are the power to call out the militia, (art. 1, sec. 8;) to try by martial law cases arising in the militia, (Amendments, 5;) to suspend the writ of *habeas corpus*, (art. 1, sec. 9;) to quarter troops in private houses, (Amendments, 3.) But when the national Government is called to the stern duty of repressing insurrection or repelling invasion, may not new power over the relation of master and slave be brought into action? Such, I think, is the result.

A plain case is presented by slaves employed in the military and naval service of the rebels. If captured, they may be set free.

The Government may refuse to return a slave to a master who has been engaged in the rebellion or suffered the slave to be employed in it.

It may require the services of all persons subject to its jurisdiction by residing upon its territory, when the exigency arises, to aid in executing the laws, in repressing insurrection or repelling invasion. This right is, in my judgment, paramount to any claim of the master to his labor under the local law. There might be a question of the duty of the slave to obey, but the will of the master could not intervene. His claim, if any, would be a reasonable compensation for the labor of his slave.

But though the power may exist, there is, with prudent and humane men, no desire to use it. Nothing but the direst extremity would excuse the use of a power fraught with so great perils to both races; and the glorious triumphs of our arms, evincing our capacity to subdue the rebellion without departure from the usages of civilized warfare, have indefinitely postponed the question.

There is one other exigency in which the relation of master and slave must give way to military necessity. If the commander of a military district shall find that the slaves within it, by the strength they give to their rebellious masters—by bearing arms, or doing other military service, or acting as the servants of those who do—obstruct his efforts to subdue the rebellion, he may deprive the enemy of this force, and may remove the obstruction by giving freedom to the slaves. This, it is apparent, is not a civil or legislative, but a strictly military right and power, springing from the exigency, and measured and limited by it, to be used for the subduing of the enemy, and for no ulterior purpose. If the Commander-in-Chief and the generals under him shall observe faithfully this distinction, the use of the power ought to be no just ground of complaint. If, in consequence of the protraction of the war, the effect of the use of this power should be to put an end to slavery in any of the States, or to weaken and impair its force, we may justly thank God for bringing good out of evil.

In my judgment, it would be impracticable for the Legislature, even if it had the power, to anticipate by any general statute the exigencies, or prescribe the rules for the exercise of this power. The Legislature and the people will be content to leave the matter to the sound discretion and sound patriotism of the magistrate selected to execute the laws.

To avoid misconstruction, I desire to say that the power of Congress over slavery in this District is absolute; that no limitation exists in the letter or spirit of the Constitution or the acts of cession. All that is requisite for abolishing slavery here is *just* compensation to the master. Equally absolute, in my judgment, is the power of Congress over slavery in the Territories.

Mr. Chairman, in a letter to a friend, published on the first day of the last year, I ventured to say that secession should be resisted to the last extremity, by force of arms; that it cost us seven years of war to secure this Government, and that seven years, if need be, would be wisely spent in the struggle to maintain it; that for this country there was no reasonable hope of peace but within the pale of the Constitution and in obedience to its mandates. The progress of events has served only to deepen those convictions. They are as firmly rooted as my trust in God and His providence. Who ever else may falter, I must stand by the Constitution I have sworn to support. I am not wise enough to build a better. I am not rash enough to experiment upon a nation's life. There is, to me, no hope of "one country" but in this system of many States and one nation, working in their respective spheres as if the divine hand had molded and set them in motion. To this system the integrity of the States is as essential as that of the central power. Their life is one life. A consolidated government for this vast country would be essentially a despotic government, democratic in name, but kept buoyant by corruption and efficient by the sword.

Desiring the extinction of slavery with my whole mind and heart, I watch the working of events with devout gratitude and with patience. The last year has done the work of a generation. By no rash act of ours, much less any radical change in the Constitution, shall we hasten the desired result. If in the pursuit of objects however humane, if beguiled by the flatteries of hope or of shallow self-conceit, if impelled by our hatred of treason and desire of vengeance or retribution, if seduced by the "insidious wiles of foreign influence," we yield to such change, we shall destroy the best hope of freeman and slave, and the best hope of humanity this side the grave.

Mr. COX. Mr. Chairman, some weeks since I introduced certain resolutions respecting maritime rights. They were referred to the Committee on Foreign Affairs. That committee have directed me to report them back to the House, somewhat amended. The consideration of the tax bill has prevented my presentation of them hitherto. I now seize this occasion of general debate to give an exposition of these resolutions, that members may consider them before voting.

These resolutions reassert the American doctrine in favor of neutral rights, and for the protection of private property on the sea. It has been the privilege of this Government, ever since its existence, to champion the equality of rights upon the sea. Against force and tradition, kingcraft and aristocracy, we have asserted by our institutions democracy upon the earth. Against force, tradition, and pretension, we have asserted democracy upon the sea. Not more dear to the American honor is the equality of right among our citizens under the Constitution than is the equality of right of our ships and property under our flag upon the ocean. There is no time unseasonable for its assertion. In the midst of our Revolution it was a theme of interest to our statesmen, and in the present troubles of our country it deserves a prominent place in our thoughts. In a debate in the English House of Commons, on the 17th of March, Mr. Disraeli said that the question of maritime rights was the most important question that could engage the attention of an English legislature, as it affected seriously the naval strength of that country. But for the overwhelming necessity created by the rebellion here, the same might be asserted, with even more force with regard to

our own Government. Not only is this true, because we are a commercial people—not only because our commerce and our sea-coast surpass those of any other nation—but because the relative strength of our commerce and our Navy is such that all our interests lie in following the neutral line of policy, and in the protection of private property from devastation by the large navies of the Old World.

The organs of aristocratic pretension in England, like the Times, speaking as well for the Government as for the Tory party led by Lord Derby, oppose any further concession to neutrals upon the sea. These organs, while exulting over what they are pleased to term the disgraceful failure of democracy in America, evidenced by our rebellion, condemn with English stubbornness, and in their isolated pride, the humane principles of their own liberalists like Bright, Cobden, Horsfall, and Baring. They affect to regard the anxiety of their commercial class for a better code of maritime law as the suicide of British naval supremacy. They look with jealousy and hate upon the efforts of French statesmen like Chevalier, Hautefeuille, Thouvenel, and, I may add, Napoleon, for the freedom of the seas. Indeed, the English Government, judging by the recent debates, are ready to retrograde from their present position taken at the instance of France, at the Paris conference, in favor of neutral rights. One thing was developed in those debates. England must either creep back to her old selfish policy, or advance to our liberal doctrine. To remain as she is, will, in case of war, give her commerce to neutrals and her cruisers to idleness. With the efforts of France, seconded as they are by all other Powers except England, and perhaps Spain, the United States are in closest sympathy. My resolutions express that sympathy. They are the answer of our people to the tenders of France.

I would especially commend these resolutions to the study of members who represent commercial cities, both upon the Atlantic and Pacific. They are not without vital interest to the agricultural and mechanical interests, however remote from the coast. My own district has no direct commerce. But—

"Though inland far we be,"

our interest, which is agriculture, is imbound with commerce by golden bands. Commerce does not suffer without all interests suffering. The ship that plows its furrows upon the sea is bringing the harvest reward to the husbandman who plows the soil in the far off valleys of the West.

The importance of commerce in civilization cannot be overrated. The interdependence of States is the highest evidence of their true independence. The most flourishing States have attained their highest elevation when closely connected with every part of the civilized world by successful commerce. When they lost their enterprise on the sea they sank in the scale of nations. Heaven has ordered through the sea a mutual dependence. Soil, climate, and the variety of the earth's productions knit nations in mutual enterprise, while they bind society together in mutual dependence. All the illuminations of knowledge, the generosities of heart, and the multiplied means of human happiness, are the results of commerce. The more free commerce is, the more light, humanity, and happiness the world enjoys. The less restrictive that interdependence, the more opulent are the blessings of the civilization it bestows. Let the fetters which war imposes on commerce melt away, and with the reforms already made in the maritime law we can truly say that in no season or contingency shall civilization retrograde, and the "seas will but join the regions they divide."

The liberation of commerce from its trammels has been the work of many ages. Especially has the task of liberating neutral commerce during war, and of defining articles contraband, been the object of many commercial treaties. The navigation laws, defining what are national ships, the mode of registry, their peculiar privileges, and the conditions under which foreign ships shall be allowed to engage in the trade of the country, either as importers or exporters, or as carriers from one part of the country to the other, though greatly ameliorated, are still the subject of liberal legislation for further reform.

That nation which will guard its commerce and meliorate its restrictions will surely reap the benefits, in the credit, importance, and independence of its citizens and its nationality. It is with this high purpose that the Committee on Foreign Affairs will present before Congress these resolutions.

It is perfectly consistent for a fair mind to sustain these resolutions and still retain the belief that the persons seized on board the Trent were contraband, at least in the English sense of that term; and however we may differ as to the propriety of restoring the persons seized, there can be no difference in asking for a better code in reference to contraband, and a code inspired with a different spirit from that which has dictated the English opinions.

In the remarks which I submitted on the Trent question, I argued that, from an English standpoint, England could not make reclamation, and until she reversed her own authorities she could not in justice complain of the action of Captain Wilkes as illegal. I now turn from the conduct of England, which has settled nothing of principle involved in the questions, to the enlightened action of France and the other Powers of Europe which have shown an interest in the case, as a matter of principle involving neutral rights.

I find nothing to condemn, but everything to commend, in the action of the French Government submitted to the committee. It was dictated by her traditional friendship for this country. There is no reason to believe that France was moved by any other motive than that expressed by her Minister of Foreign Affairs in his letter of the 3d of December, 1861, in which he says that the desire of France was to prevent a conflict, perhaps imminent, between the two friendly Powers—England and the United States—and to uphold "for the rights of her own flag certain principles essential to the security of neutrals." There is nothing in this letter incompatible with the sentiments of the French nation towards us, expressed in the dispatches of M. Thouvenel to the French minister at Washington on the 16th of May last. In that letter the French Emperor is represented as anxious to do all in his power towards strengthening and maintaining the American Union. He says:

"The Emperor, indeed, has always held the great qualities of the American people in too high esteem, and has had it too much at heart to draw closer the bonds which unite them to France, to look with indifference upon the calamities which now threaten them. His Majesty desires that the United States should not lose, by any political disintegration, their standing as a great Power, and that they should not abdicate, to the injury of the general interests of civilization and humanity, the position which their rapid and brilliant development has assigned them. Should, therefore, such circumstances arise that the friendly intentions of the Emperor should seem likely to lead to a reconciliation between the States of the South and those of the North, his Majesty would, with the most cordial enthusiasm, contribute to the extent of his influence towards the strengthening or the maintenance of the Union."

France has made no demonstration of a change of these sentiments from that day to the present. There is nothing in the French minister's dispatch on the Trent affair inconsistent with these earnest avowals of friendship. Congress would be insensible to these tenders, did they not commend them to the approbation of the American people.

Not only was there no intermeddling by France in this matter, not only was her tender the index of a cordial amity, but the subject-matter of her dispatch—the rights of neutrals upon the sea—was a subject in which she had a common interest with us and with all maritime Powers. It was a subject in which she had, at our suggestion some years since, taken a leading and lively interest. It was a subject the most important before the Paris conferences which closed the Crimean war. It was urged upon her attention during the past summer by our own Government. Her interest in it is only second to that of this Republic. It has been manifested in the enlightened sentiments of her publicists and the diplomatic missives of her ministers.

I purposely pretermit any discussion of the question, whether the seizure of the Trent and the arrest of certain of her passengers was right or wrong. It will serve no purpose now to inquire whether her passengers were contraband, and the act of carrying them hostile. I do not purpose to reopen the controversy whether, if the seizure was right, the delivery of the persons seized was right or wrong. The world is aware that by British precedents, the British Government could not, without disavowing its old policy as to what is contraband of war, make reclamation for the persons seized. Mr. Seward well says, "that he was not tempted at all by suggestions that cases might be found in history where Great Britain refused to yield to other nations, and even to ourselves, claims like that now before us." Perhaps it would have been wiser had the Trent dispute been arbitrated by a friendly Power like that of France. She would, as is now apparent, have settled it by the release of the prisoners seized. In that case, we would have had an authoritative precedent, binding Great Britain for all time, and made in harmony with the liberal maritime policy, which it has been the pride of this Republic to urge upon the nations since our existence, and which we have, in the first years of this Government, ingrafted upon treaties with foreign Powers. It would have been full compensation to us for the mortification which was felt, when we yielded these persons to the English demand, had we succeeded in crystallizing into international law that lenient and catholic policy with regard to neutrals, private property, and non-combatants on the seas which has obtained on land, and which, as Mr. Seward well says, is an "old, honored, and cherished American cause, not upon British authorities, but upon principles that constitute a large part of the distinctive policy by which the United States have developed the resources of a continent, and thus becoming a considerable maritime Power, have won the respect and confidence of many nations."

It is doubtless true, that the United States have received from the men of other times and countries those suggestions as to the freedom of the seas and the rights of neutrals of which she has made herself the especial friend and champion. Such doctrines were the natural result of opposition to the extravagant pretensions of great naval Powers. They were the result of natural reason, rebelling against arbitrary force. Nations have at different eras pretended to exclusive control of the sea, especially that part adjacent to their territories. Denmark claimed the Sound and other Baltic passes. Venice espoused the Adriatic. The Portuguese claimed the South Atlantic and the Indian oceans. Spain once pretended to have exclusively the Gulf of Mexico. The gifted Selden, in his *Mare Clausum*, claimed for England the four seas adjacent to Great Britain. During the war with Napoleon, England claimed municipal rule over the Atlantic, Mediterranean, and the Baltic; and by her orders in council and her acts of Parliament assumed to control the neutral commerce of those seas. Napoleon retaliated. America, through Jefferson, appropriately called these acts "a lawless system of piracy." America held that the sea was the common of all; that the only control which one nation had over the sea was the curtilage of soil and jurisdiction seaward a cannon shot or marine league.

This is the principle laid down by the best writers, and it is the doctrine which the United States has, ever since its existence, been endeavoring to ingraft on maritime law. The vessel is the floating territory of the nation under whose flag it sails, and no Power can rightfully question or curtail its privilege upon the sea. John Quincy Adams, following the principles of Grotius, nay, of the Saviour himself, declared that all belligerent practices in violation of the freedom of the seas rested on force and not on natural right. In 1823, as Secretary of State, he declared to our Minister at Colombia the doctrines of these resolutions. But he was only an humble follower of Benjamin Franklin and his compatriots of the Revolution. In the twelfth article of our treaty with Prussia of 1785, these doctrines are most distinctly set forth. The reasons assigned by Franklin, Adams, and Jefferson for these improvements in public law are not selfish, not exclusive, not national, but coextensive with the interests of humanity. These statesmen hoped to see the day when cultivators of the earth, fishermen, merchants, and traders in unarmed ships and artists and mechanics and all who are not directly engaged in the work of war, should receive immunity from its ravages. They denounced the practice of robbing merchants, either by public or private armed ships, as a remnant of ancient piracy. They wished the calamities of war softened, and hostilities to be made rare by removing the cupidity which prompted them.

Washington, in his letter to Count de Rocham-

beau of July 31, 1786, spoke of this treaty with Prussia as the most liberal which had ever been made, as original, as marking a new era in negotiation, and as tending more fully to produce a general pacification than any measure heretofore attempted by mankind!

Henry Clay, as Secretary of State, in his instructions to our Panama commissioners, caught the very genius of these principles, and sought to have them impressed upon the public law of this continent; while later, President Pierce and Secretary Marcy, filled with the generous thought, and with an argument which has no reply, sought to affix them to the laws of the world as the tribute of American statesmanship to the interests of all mankind. Indeed, America has scarcely a great name upon her rolls whose fame is not in part inwoven with this doctrine of free seas. In the time of Madison—one of its most sagacious expounders—we went to war with England for its settlement. Time has done what arms did not and what diplomacy could not do. To-day there is no pretension to search our ships for seamen. The globe we live upon, three fourths of which is covered with water, no longer tolerates the arbitrary usages of the powerful; but the weakest State as well as the greatest may compass the ends of the world without fear or hinderance.

For these improvements in the interchanges of mankind, the world owes a debt of gratitude to the United States.

In the development of this distinctive policy, France has ever been a collaborateur with our Republic. Her interests and her inclination have accorded with ours. That so much cannot be said of Great Britain is owing, in part, to our peculiar relations with her, as her own revolutionary child; in part, to her being for so many years of our maritime progress a belligerent while we were a neutral, and to her chronic fear lest the rising Republic of the West should dispute with her the trident, which she has so long and so powerfully wielded over the commerce of the world.

Whatever may be our present untoward situation with respect to our domestic conflicts, it is not the policy of this country to change its former relations toward other Powers. Peace has been the history of this nation. However gloomy the war cloud may lower over us, peace will continue to increase the greatness we have achieved by its blessings. Hence our interest lies, not in clamoring for belligerent, but in the recognition of neutral rights. Tell me not that we may become a belligerent; and then that this yielding of belligerent rights in favor of neutrals will be to our prejudice. I care not if we do become a belligerent with Great Britain, the greatest naval Power. So long as we have a larger commerce than hers and a less naval force, our interest even as belligerent with her still lies in the protection of our private property under neutral flags, or in our hostile flag covering the goods of friends. If we can obtain her assent to the Marcy doctrine, that her armed cruisers shall not harm our commerce, we may well agree that our privateers shall not harm hers. As she has the greatest guns and we the greatest trade, we will gain by the arrangement.

In case of the adoption of the Marcy amendment the worst result to be apprehended by England, in case of war with us, is the comparative uselessness of her immense naval force. Her cruisers would be used only to fight our cruisers in a duel on the sea, or to blockade our ports. Our commerce would go on; and under the improvements in mailing ships with iron, her blockades would be of little avail, under the guns of our Monitors and Mystics!

Therefore, we would gain, even as belligerents, with England or any other Power were the doctrines I contend for embodied in the code international. But our interests will seldom be that of belligerents; our policy is ever that of peace. Neutrality has enriched us. Our peaceful and neutral attitude during the Napoleonic and Crimean wars not only filled the sails of our merchantmen with enterprise, but the coffers of our merchants with money. We are not an aggressive people. Our interests lie alongside of our civilization, and we are to conquer the material wealth of the world by our interchanges and treaties. Whatever, therefore, aids us in this regard should be the aim of our statesmen and the ambition of our people. Happily, France, Prussia, Russia, Austria, Italy, and all the other maritime Powers, unless it be England, have with us, and have expressed to us, an identity of interest and policy; and these are in unison with the interests, honor, progress, and civilization of each and every nation.

It is not unbecoming now for the Representatives of the American people, while the discussion of these maritime questions is rife in both hemispheres, to give its emphatic declaration upon the subjects involved. Public opinion is one of the sources of international law. By its silent influences treaties are celebrated, congresses of nations are convened, maxims of policy are declared, and usages are inaugurated.

Such a declaration is the more becoming now, because our action at the beginning of the present session in approving the seizure of the persons from the Trent is liable to be interpreted against the policy which we have maintained with respect to neutrals. It is enough to say that this Congress never intended to secede from the high ground of this Government on that subject.

It is becoming and urgent now that a congress should convene to settle these maritime questions, inasmuch as our own position is anomalous. Our diplomacy has ever advocated the most liberal views, while our courts base their decisions on what the rest of Christendom has regarded as the exceptional rules of English admiralty law. We have tried ever since our existence as a nation to change these rules of English origin by negotiation; but our Supreme Court, with the maxim, *stare decisis*, have kept on holding what the law of nations was at the time we were a part of Great Britain, and, as a consequence, our thoughts are far ahead of the law, and our treaties in advance of our jurisprudence.

It is becoming and urgent now that we should give this prompt expression by the resolutions to be reported, inasmuch as we are invited to it by the liberal proffer of France.

From France, we have abundant evidence that her Government and people agree to the doctrines propounded to them by us in 1854, and embracing with the amendment of Mr. Marcy the Paris declarations of 1856, which she inaugurated. If it were necessary to prove this to the American Congress, I would refer to a letter of the distinguished editor of Wheaton, Hon. W. Beach Lawrence, to whose learned pen I am indebted for many suggestions in this connection. While perusing the papers placed at his disposition by the last Administration, he found: 1. An entire unanimity of sentiment among the minor maritime Powers in favor of the Marcy proposition, as necessary to give effect to the Paris declarations; 2. The adhesion of Russia and Prussia with the most generous cordiality; 3. The assent of Italy, through Count Cavour, to the Marcy amendment. That statesman told our minister at Turin that England was the only obstacle to the adoption of the principle. "She," he said, "did not wish to render private property free from the devastation of war, while she wished the United States to give up privateering, or, if unable to do that, to render the right valueless, by depriving the United States of the right that they had hitherto had in neutral ports;" 4. The assurance by Count Walewski, in November, 1856, that the French Government would agree to the declaration as modified by us, though the formal assent was deferred, with a view to consultation with the other parties to the Paris declaration; 5. A disposition on the part of English statesmen to consider the question, with a view to certain reservations to be submitted to the Powers called to examine and settle the questions.

But whatever may be the formal alliance of England with France—in Turkey, Mexico, or China—France is our ally in these doctrines. She has ever been faithful to those doctrines. She has procured the accession of forty-six of the Powers to them. The correspondence of this Government with her last summer, shows that she would have been willing to have treated with us on their basis, as enlarged by the proposition of Secretary Marcy. Mr. Dayton was induced to urge the adoption of the Marcy amendment exempting private property from seizure and confiscation, not only, as he says, because it was the wish of the President, and because of the great importance of securing the adoption of the principle before the United States should give up the right of privateering; but also "because the facts patent in the correspondence of the American legation at Paris in 1856, show that France and Russia were both favorably disposed at that time to the adoption of the principle of the amendment; (see Mr. Marcy's dispatch to Mr. Mason, No. 94, dated October 4, 1856—and Mr. Mason's confidential letter to Mr. Dallas of December 6, 1856;) and from the obvious fact that it would be the interest of all the other Powers having little naval force to concur in the amendment." (See papers on Foreign Affairs 1862, p. 210.) So that France, as early as 1856, was ready to accept the Marcy amendment, and but for the clause in the Paris convention, binding each party against further negotiation on the subject without the consent of all the parties, she doubtless would have accomplished her wish then. (See papers on Foreign Affairs, 1862, p. 109.) Her Minister of Foreign Affairs, in his letter, referred to the Foreign Affairs Committee, of the 3d of December, 1861, most respectfully protests against our falling back upon vexatious practices, against which in other epochs no Power has more earnestly protested than has the United States.

But, as still more significant, we find that the most distinguished writer on the law of nations in France, or in the world—M. Hautefeuille—in the *Revue Cotemporaire* of February last, enters his most learned and pointed protest against those evils of naval warfare, which for "upwards of two hundred years, whenever the nation most powerful at sea has been engaged in hostilities, has inflicted quite as much damage upon neutrals as upon its adversary." He appeals to France, to us, to the world, to take part in a new coalition of neutrality; which, like that of Russia in 1780, will form an aggregate sufficiently formidable to counterbalance the naval superiority of any belligerents. "The maritime equilibrium, so important for the repose and freedom of the universe, will thus be established. Formed in anticipation of war, it will subsist in time of peace, and become a lasting element in the international relations of civilized peoples."

Cotemporaneous with this exposition from France, I observe without much surprise a retrogressive spirit from England. Without surprise, for I have not been unobservant of the fact that English claims to superiority on the ocean, and her continued status of belligerency, hardly consist with such liberal sentiments as those proposed by France, or even those adopted by herself at the Paris conferences of 1856. It was therefore not surprising that Earl Malmesbury, an ex-Foreign Secretary of England, in a debate brought us by a late steamer, referring to the declaration of the Paris conferences, in relation to the inviolability of an enemy's goods in neutral ships, said that her Majesty's Government in time of war would be induced to disregard its obligatory nature. He was asked by Earl Granville to modify this extraordinary language. He only added to its force by a sentiment, which has been too often acted on by England, that a warlike people like the English would not be restrained, in the extremity of war, by a paper declaration made at Paris in 1856! In the same debate, the present Foreign Secretary—Earl Russell—volunteered to say, and I think with more meaning than meets the ear, that he did not quite approve the declaration made at Paris!

In a more recent debate, on the 11th ultimo, the member for Liverpool, Mr. Horsfall, offered a resolution, expressing the truth, that the present state of international law, as affecting belligerents and neutrals, is ill-defined and unsatisfactory. He contended that England must retreat from her Paris declaration or advance toward the Marcy amendment. As she stood now, the effect upon England would be to throw the carrying trade wholly into neutral hands, or to diminish her fighting power by diverting a large part of her naval force for convoys. But, mark you! the Government opposed this movement of commerce. The Attorney General and Secretary of War disapproved the resolution. Lord Palmerston, concluding the debate, said: "That the principle contended for, if carried into practice, would level a fatal blow at the naval power of this country, and would be an act of political suicide." So that we may not be surprised if England recedes from the Paris declaration. It was not without reluctance that Lord Cowley agreed to the four propositions of that conference looking to the liberation of commerce from the

shackles of tradition, barbarism, and the vicissitudes of war. Scarcely had the Paris treaty been celebrated and published before a resolution was offered by Lord Colchester in the House of Lords, declaring that "the right of capturing an enemy's goods on board of neutral vessels to be inherent in all belligerent Powers; the maintenance of this right to be of essential importance, and its abandonment of serious injury to a Power whose main reliance is on her naval superiority," &c. That resolution, though it did not pass, received the votes of over a hundred of her Majesty's most conservative peers.

Since then the English Government has been illy content with the acquiescence its embassador gave at the green table of Paris in 1856. When the present Administration of this Government proposed again to accede to the Paris propositions, as the correspondence between Mr. Adams and Earl Russell shows, England utterly rejected the benignant and enlightened policy by which Mr. Marcy proposed to accompany the abolition of privateers, namely: "that the private property of the subjects or citizens of a belligerent on the high seas shall be exempted from seizure by public armed vessels of the other belligerent, except it be contraband." There is, as I have said, no doubt that France, but for her alliance with England, would have accepted this amendment. Mr. Adams, in his letter to Mr. Seward, of July 26, 1861, says that he learned from a personal interview with Mr. Dayton "that there was no reason to presume that there was any disinclination in France to adopt the Marcy amendment. Neither did the reply of M. Thouvenel entirely preclude the hope of its ultimate success so far as the disposition of France may be presumed. The obstacles, if any there are, must be inferred to exist elsewhere. There can be no doubt that the opposition to this modification centers here, [in London.] Independently of the formal announcement of Lord John Russell to me, that the proposition was declined, I have, from other sources of information, some reason to believe that it springs from the tenacity of a class of influential persons, by their age and general affinities averse to all sudden variations from established ideas."

During the progress of the negotiations at London, it was ascertained that the Marcy amendment was inadmissible. Then our negotiators with much reluctance, at least on the part of Mr. Dayton, consented to the Paris propositions of 1856, pure and simple, including the abolition of privateering, without its proper equivalent, the protection of private property from public armed vessels. I honor Mr. Dayton's reluctance. Such a treaty ought never to be made. It never would have been confirmed by any Senate speaking for the American people—never. But it was tendered without the above valuable equivalent, when lo! the British Government refused even to adopt it unconditionally. It turned out that her reservation was for the benefit of the insurrectionists in the United States. She was willing to accept the Paris propositions, provided it would not affect anything "already done." The thing already done by her, was the recognition of our insurgent States as belligerents. By her conduct since, in the case of the Nashville, and her diplomacy then, she fulfilled the prophecy of Mr. Seward, in his letter of May 21, 1861, to Mr. Adams:

"If she refuse, it can only be because she is willing to become the patron of privateering, when aimed at our devastation."—*See papers on Foreign Affairs*, p. 73.

One thing is sure: this Government could not for a moment allow the abolition of privateers, in general, with an exception in favor of a domestic enemy with a belligerent status abroad, without compromising the "legal character of this Government as the exclusive sovereign in peace and war over all the States and Territories of the Federal Union and over all citizens, disloyal and loyal alike."

So that our attempt to reform the usages of maritime law in the interests of commerce were met in a spirit hostile to the liberal views of France, and hostile to the progressive character of the age. The unrelenting rigidity of British policy upon the sea, which it was hoped had been tempered with a higher civilization by her contact with the continental Powers at Paris in 1856, was again triumphant, to our discomfiture. Negotiations on the subject were suspended by the action of Great Britain.

We are sure that France would not have rejected the Marcy amendment, nor qualified the agreement with us, to the Paris propositions pure and simple, but for the constraint imposed on her by the terms of the Paris treaty of 1856, which, as I have said, required the assent of all the Powers to any modification of its provisions, and but for the opposition of England, as one of those Powers.

The Paris plenipotentiaries, on the 16th of April, 1856, undertook to settle the deplorable disputes arising out of the uncertainty of the law of neutrals and belligerents. They had seen the conflicts arising from differences of opinion as to the duties of neutrals and belligerents. They desired uniformity. To this end they adopted the declaration:

1. That privateering remains abolished.

2. The neutral flag covers enemy's goods, with the exception of contraband of war.

3. Neutral goods, with the exception of contraband of war, are not liable to capture under the enemy's flag.

4. Blockades, in order to be binding, must be effective.

The plenipotentiaries anticipated for these maxims the gratitude of the world. Nearly fifty Powers have adopted them. The United States offered to accede to them with the most beneficial expansion; and again to accede to them pure and simple, which, in my judgment, was a most questionable and ill-advised policy.

So much for the history of negotiations on this subject. What now of the future of these questions? We have not much to hope from the position of England on neutral rights. All history shows that treaties exist no longer than there is a power to enforce them. It is only by an alliance for neutrality, such as M. Hautefeuille proposes, that we can constrain England to respect the general law of nations, to which she is already a party, when that law is counter to her interests, traditions, and naval glory and supremacy. If England should make unjust pretensions with reference to the rights of belligerents, such a congress could settle the matter with authority and power. It is well agreed among the wisest of mankind now what the rules of international jurisprudence should be on these subjects. It is our duty to make them as they ought to be.

There are other questions as to neutral rights yet to be acted upon. Not only ought it to be settled now, that private property shall be respected on sea as on land; but if contraband is excepted from the inviolability of the neutral flag and cargo, it ought to be fixed what is and what is not contraband, whether dispatches or persons are included in contraband—if persons, what and who? whether confined to military, or extended to civil and diplomatic, or *quasi* diplomatic persons?

Here, Mr. Chairman, is the pivotal point in these questions. They are insoluble, unless we know what contraband means. I would call attention to the last resolution, with reference to the meaning of contraband. It was the suggestion of the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Kentucky, [Mr. CRITTENDEN,] who now honors me with his attention. It expresses the hope that the Powers of the world will define with exactitude the meaning of contraband, with a view to the least restriction on trade. Had this been done before, the Trent difficulty never would have occurred. That question, in a nutshell, was whether contraband embraced hostile embassadors. According to the English definition, contraband means whatever will aid the enemy. Hence the term is indefinite and elastic. To settle its meaning would be of great utility. It means gunpowder, it may mean coal. It means shot and shell, it may mean provisions. It means saltpeter, it may mean dispatches. It means military men, it may mean the embassadors of the enemy. It may mean anything a belligerent who has the power may determine. McCulloch, in his Dictionary, page 881, in referring to this subject with his English inclinations against liberal views, says:

"In judging of the wisdom of this concession, everything depends on the interpretation of the phrase 'contraband of war.' If it were restricted, as has usually been the case, to warlike stores, (*munitions de guerre,*) or articles directly available for warlike purposes, it would be in many respects, justly censurable. For it is plain, that under the limitation now supposed, the trade of a belligerent Power with its colonies or other countries beyond sea might be prosecuted in neutral ships nearly to the same extent and with as much security during war as during peace. But it is not easy to imagine that a principle having such consequences should be acted upon by any Power having a preponderating naval force, in the event of her engaging in hostilities. Such Power must then do one of two things: she must either consent to relinquish some of the most important advantages to be derived from her naval ascendancy, or she must reject the principle in question. And there is little doubt that she would adopt the latter alternative; and she might do this directly by resorting to her natural and indefeasible right to seize enemy's goods wherever they are to be met with; or indirectly, by extending the list of contraband articles, so as to make it include all those of any importance carried by sea into or from the enemy's ports. Either way would answer the purpose; and we may be pretty well assured that, under the supposed circumstances, one or other of them would be followed."

Again, he says:

"Considered in this, its true light, the term 'contraband of war' becomes of the highest importance; and there are but few products which may not be fairly brought, at one period or another, within the list of contraband articles. Thus, supposing that we had the misfortune to be engaged in a contest with a single Power, or a combination of Powers, which had means to intercept, cut off, or materially obstruct our supplies of corn, cotton, and tea, can any one doubt that our enemies would be justified, or that they would hesitate in availing themselves of so powerful a means of annoyance? Neutrals might protest against such a proceeding, on the ground that the articles referred to had not hitherto been reckoned contraband of war, and they might also allege that their trade would be seriously prejudiced by so unusual and so illegal a proceeding. But these representations, supposing them to be made, would not go for much. Our enemies would say, that in defining contraband of war everything depended on circumstances; and that as the want of the articles referred to would lay us under very considerable difficulties, they were from that very circumstance properly included in the prohibited list."

One of the chief objects of negotiation ought to be to give as much precision as possible to the meaning of the word "contraband," that trade may have as few fetters as possible. The settlement ought to be so solemn that it would be out of the power of any one of the parties to it, however strong in its navy, to pursue, when a belligerent, a practice opposite to its professions in time of peace.

Treaties have been made embodying the maxim of "free ships, free goods," as early as 1604, by France with the Sublime Porte. Some of the Christian Powers of Europe adopted the same in 1716. (Wheaton's Law of Nations, p. 315.) But they were the mere cobwebs of peace, and the rough hand of war brushed them away. Never till the United States began to obtain exemption from searches and seizures, practiced upon the neutral flag and cargo—as in 1778 from France, and in 1780 from Russia—was there any considerable progress made against the arrogant belligerency of that high constable of the seas, Great Britain.

Now, we have the opportunity of securing the fruits of our long urgency. If we are now successful, commerce will be enfranchised, and our nation will, with its extensive and extending tonnage, take its place at the head of the commercial world. New York will inevitably become what London is, what Amsterdam and Venice were—*universi orbis terrarum emporium.*

The present time is auspicious for such action by our nation. France invites; Russia, Austria, Italy, and Prussia are anxious to meet us. All the Powers are moving upward to the high level of our own Republic with regard to maritime rights. Even England may forego, under the pressure of a congress of nations, her barbaric code, laggard notions, isolated pride, and naval supremacy to join in the exalted labors so eloquently suggested by the French publicist.

We must not forget to do England justice. She has progressed. Reluctant as are her public men to give up her old policy, even England, through her enterprising merchants, is making strides toward a better condition. We would fain hope that her protest in the Trent affair means something more than wounded pride at the affront to her flag. We hope it means an inclination toward a regard for neutral rights, yet in embryo, in her policy, but to gain a full stature under the liberal influences of the age.

We can hardly recognize in the England of to-day that Power which for one hundred and fifty years, while supreme on the ocean and while at war, made the position of a neutral more precarious than that of an enemy. The England of to-day, which does not pretend to revive her claim to search for English seamen on American vessels, but to revive which is considered by one of her authors as impolitic and unjust, so late as 1818, through Lord Castlereagh to Mr. Rush, and

in 1842, through Lord Ashburton to Mr. Webster, insisted on these barbarous and hateful rules of maritime law. This is progress.

The England which, on the 30th of November last, through Earl Russell, protested that certain individuals had been forcibly taken by an American ship-of-war from on board a British vessel, "*the ship of a neutral Power*, while such vessel was pursuing a lawful and innocent voyage; an act of violence which was an affront to the British flag and a violation of international law," is very unlike that England—as she is described by one of her economists—whose mode of carrying out the British claim to search and seize the property of an enemy wherever found, was so vexatious, overbearing, and insolent, that the vessels of neutrals were driven from their course, detained for hours, losing fair winds and fine opportunities, and their captains and crews often seized and always insulted, the arbitrary officers of whose men-of-war, with unlimited and arbitrary power, did not treat their own crews or their own merchant ships with forbearance and humanity; who despised all foreigners, particularly the Yankees, often treating them with rudeness and arrogance, utterly careless of causing them unnecessary delay. Here again is conspicuous reform!

The England of to-day, with her Oxford professorship of international law and her increasing regard for the rights of others, is very unlike that England whose prize court decisions from 1793 to 1815 strained every belligerent right to the uttermost and imposed prohibition on prohibition upon neutrals, until "neutrality itself was prohibited." Still another stride!

The England which now protests against stone blockades and the spoliation of harbors, hardly seems like the England in Napoleonic times, when she set us the example in a foreign harbor which we have chosen to follow in our own. This is another step forward. The England which now demands an effective blockade, "maintained by a force sufficient really to prevent access to the coast of the enemy," and which inquires carefully in her Parliament as to the number and tonnage of the vessels which are alleged to have run the blockade instituted by ourselves of our own harbors, is hardly the England which pretended that the whole of the sea-board of France was blockaded in consequence of her paper proclamation and of its geographical position with respect to the English coasts. Here is an immense stride!

The England of to-day, which disputes as to the efficiency of our blockade, with cotton at fivepence in New Orleans and twelvepence in Liverpool, is not the England of a half century ago, when by her pretenses of "prevention and pursuit," she made her cruisers on one side of the world the avengers of a broken paper blockade of the coasts on the other side! England to-day tardily yields to the Paris propositions—still she yields—but how unlike that England the belligerent, when, as Hautefeuille says, "she persecuted and destroyed neutral navies to preserve that naval power which, by the special favor of Providence, she derived from the valor of her people, (Order in Council of 19th November, 1787) a power which she declared essential for the happiness and independence of mankind!" How unlike that England of 1787, is this England of 1854, when the Crimean war began, and when she renunciated her right to seize hostile goods under neutral flags, and allowed reasonable time for Russian vessels lying in English ports to clear out, and even refused letters of marque to her privateers!

These late deviations from old English practice are both politic and merciful. The material and mercantile advantages which France and the United States perceive from such a policy would accrue to England in far greater measure than by claiming technical rights, decided by her admiralty courts or codified in her own *lex gentium*. Her ancient practice was dictated by her desire to vindicate her maritime greatness, and crush the aspirations of naval competitors. It agreed with the formalized traditions of venerable tribunals sanctioning the harsh customs of war, and inconsistent with fair play upon the seas.

To sustain this practice, she reasoned thus: a hostile vessel, with neutral goods, rivaled her in the carrying trade. It was taking from nations, while neutral, *pro tanto*, certain profits, a proportion of which would eventually swell the resources of the enemy with whom she was at war. That must be stopped. Again: a neutral ship, carrying hostile goods, likewise encouraged the commerce, extended the relations, and indirectly augmented the wealth of the foe. That, too, must be stopped. So in either case the enemy was benefited by the impunity and damnified by the stoppage of such traffic. Her public opinion sanctified any way, direct or indirect, to cripple an enemy to England. Thus millions of confiscated commerce fell beneath her rapacious greed. Opinion and practice have changed, and England has changed with them in a large measure. But there is room for still greater reform on her part, to say nothing of the danger of her relapse, before indicated. Public opinion and practice have changed, because the relative commerce of the world has changed during the long intervals of peace in Europe and America. France has now a navy nearly equal to that of England. She is no longer the timid Power upon the sea which Nelson shattered, and which Napoleon lamented. The commercial marine of this country has advanced more than fivefold since the Revolution, and from three quarters of a million of tonnage at the close of the late war of 1812 to five and a half millions of tonnage at the present time, and of that marine a large part of it has, by recent events, been inspired with the genius of steam, is being clad in armor of iron, and its total tonnage exceeds by five hundred thousand tons that of our great English rival.

It is the very height of unwisdom for English laggards to rummage up from old treatises on international law, from the proud-mouthed speeches uttered in Parliament about Britannia and the waves, and from decisions of her admiralty courts, an obsolete claim to make herself the buccaneer or Algerine of the seas—the nuisance and terror of the ocean. England should rather consult the wisdom of her best statesmen, who, like Earl Grey, in 1856, declared that, by the mere increase of sea-going ships, the right of search after the property of belligerents embarked on neutrals had become an utter impracticability, and all that was ever written by the publicists of every nation cannot make it practicable. He warned his nation then, that if she claimed for herself the right, she must allow the same power to be exercised against her; and as if foreseeing the Trent case, he said:

"How would British shipowners submit to the exercise of such a right if this country [England] should be placed in the position of a neutral? How would they endure it, that vessels from New York or New Orleans, laden with cotton, which our manufacturers were anxiously expecting, should be stopped by French cruisers, in case France and the United States were at war, and conveyed to French ports, while the French courts inquired whether the cargoes were the property of Americans or of Englishmen?"

While, therefore, we are becoming, by the pressure of domestic rebellion, more able to take care of our interests at sea, with the aid of gunboats and steamers and a marine of armed cruisers and privateers, ever ready, so long as private property is not made inviolable to the public cruisers of an enemy, England has lowered her tone and altered her policy to conform to the changed relations which her navy bears to the rest of the world. Therefore no time was ever more auspicious for the assemblage of the maritime Powers, to create, in 1862, a neutral coalition like that of 1669 and 1780, "which, by uniting in one body, all the scattered forces of all neutrals, will secure to each the respect and security which they cannot obtain while remaining isolated." Now is the favorable time from which to date a new epoch in international law, of which the distinguishing feature shall be, *a respect for property*. I would carry it so far as to respect all the property of an enemy not actually employed as contraband, and even to soften the rigor of those rules which make contraband as elastic in definition as the strength which defines it is powerful. Now is the time to fix the rules of blockade beyond cavil—I mean blockade international. I do not regard the blockade of our own ports as international. It is a municipal regulation to put down a rebellion, as to which other nations are not to be consulted, and over which, as it is a domestic question, they have no control. The world may not now, but soon will be, ready to exempt all unfortified coasts and cities from blockade, and all private property, by land and sea, from capture, except when used to aid the war. This would be a corollary from the proposition to give immunity to private property, by limiting the war to an armed duello of nations. Now is the time to stop powerful navies from irritating searches of neutral vessels on the sea, and from conveying such vessels and the property therein belonging to the subjects of States belligerent to distant ports for confiscation. Now is the time to give vigor to the maxims of Mr. Webster, of August 8, 1842, that the entry into the vessel of a neutral by a belligerent is like the entry into its territory, is an act of force, and is, *prima facie*, a wrong, a trespass, which can only be justified when done for some purpose allowed to form a sufficient justification by the law of nations, whose sphere is the ocean, and under the sanction of which law any merchant vessel on the seas is under the protection of her own nation. Now is the time to give practical development to the great American doctrine, not by adopting the Paris declarations, unless as a preliminary step towards a complete reform of the maritime law, whose effect will free the seas from the whirlwinds and maelstroms of war, and place in the hands of commerce the palm and the olive—victory and peace!

The surrender of our insurgent embassadors to the demand of a neutral Power is of little moment, if it be the occasion for a settlement of the law in favor of neutral rights. This country would, in one sense, be repaid for the terrible trials of its present domestic conflict, if out of it arises such a policy as will free the millions which are every day embarked upon the main from the atrocities of war. If the extent to which it is legitimate to injure an enemy in time of war, by land and sea, shall be defined in the interest of humanity through our exertions, how magnificent will be our reward! Millions yet unborn shall bless America! God will smile upon us with signal benignity!

One of the topics cognate to that of neutral rights—indeed, the principle lying at its root—is the amelioration of war by giving to it laws and smoothing its wrinkled front. For this purpose a great and Christian nation, either in a congress of nations, or in its domestic councils, might well inquire: First, whether if war come, it is not desirable to make it as short as possible; secondly, how to make it short; thirdly, whether its injuries to non-combatants of whatever trade, age, condition, and sex, tend to its brevity? The result of such inquiries would show to the dispassionate nations that wars are not shortened, but prolonged, by rapine, cruelty, pillage, and revenge. Such is the history of the savage tribes, and of the middle ages. I heartily agree with the conclusions of the gentleman from Massachusetts [Mr. THOMAS] who has just spoken, and who very happily reached the same conclusions to which my own thoughts tend, with reference to the rules of war upon the land with respect to private property. All the history of mankind shows that a war wherein towns are sacked, property confiscated, villages burned, fields laid waste, the inhabitants treated with contumely, penalties, insults, and barbarities, does not hurry, but procrastinates peace. By such means the object of the war, which is peace, is frustrated. Atrocities are the seeds of future strife. They stimulate conflict and perpetuate hate. Every such contest is sure to be renewed when the two antagonists recover from their exhaustion. This reasoning seems to have been adopted with regard to warfare upon the land by all the moralists of our time. If true for the land, why not for the sea?

Again: war is now an affair of Government, not of individuals. No man can now go to war unless he becomes a part of the official organization of his Government. Hence, no spoliation of the effects of non-combatants, and no appropriation of individual property without compensation, should be allowed. Why not adopt this doctrine upon the sea, both with regard to public and private armed vessels? Reforms are being made in this connection by the silent progress of opinion and the adjudications of the courts. Until recently the theory and practice were, that war dissolved contracts between individuals. Private property of enemies found in the country at the commencement of hostilities was confiscated. But even an English judge, Lord Ellenborough, declared that the Danish act which confiscated private debts was illegal. (6 Maule & Selwyn, p. 92.) And the great Powers of Europe at the commencement of the Crimean war provided against the spoliation of enemies' property found in their ports at the breaking out of hostilities.

The object of reform in this matter is to separate private citizens, and especially the producing classes, from those whose business it is to carry on the war; and to exempt the former as much as possible from the consequences of war. This was the declared object of the American statesmen, Franklin, Washington, Jefferson, Hamilton, Quincy Adams, Clay, and Marcy in the action taken by them on the occasions to which I have referred. What is now wanted is the formalization of these doctrines by a congress of the maritime Powers.

This brings me to the question of privateers. The committee do not favor their abolition, except it be accompanied with such a reform, like that proposed by Mr. Marcy, as will obviate the necessity for their use by a nation like ours with a large commerce and a small Navy. Privateering may be a denationalization of the contest for private gain, but public spoliation of private property is none the less detestable. Both inflict great injury to one nation, but without corresponding benefit to the other. In our time, steam has greatly alleviated the injuries caused by privateering. Even that smart craft, the Sumter, is but an accident and an exception. The United States has been willing to abolish privateering, on the *principle* that private property of unoffending noncombatants, though enemies, should be exempt from the ravages of war. This principle must be adopted as a principle. Unless it be adopted as a principle, there is nothing gained, but much disadvantage, inequality, and loss. If you disallow privateers to prey on private property, and allow public vessels of war to do it, what principle is gained? The principle involved is the protection of property, not the mode of its destruction. If you are to except property from seizure by private armed vessels, and allow public cruisers to do the same thing, you might as well say that steam vessels should be allowed to prey on private property, but sailing vessels ought to be forbidden. Indeed, it is far more wrongful to allow public than private vessels to commit such devastation. The American principle must be adopted, otherwise the surrender of privateering is only a partial alleviation of the injuries to private property on the sea. So long as private property can be seized or molested by public armed cruisers, it enjoys no immunity; it might as well be at the mercy of privateers. Says Mr. Marcy:

"If such property is to remain exposed to seizure by ships belonging to the navy of the adverse party, it is extremely difficult to perceive why it should not, in like manner, be exposed to seizure by privateers, which are, in fact, but another branch of the public force of the nation commissioning them. If it be urged that a participation in the prizes is calculated to stimulate cupidity, that, as a peculiar objection, is removed by the fact that the same passion is addressed by the distribution of prize-money among the officers and ships of a regular navy."

Therefore, Mr. Marcy was in favor of relying upon our mercantile marine to protect our commerce, until private property received full immunity from public armed vessels as well as privateers. He apprehended that, if privateers were abandoned, the dominion over the seas would be surrendered to those Powers which adopt the policy and which have the means of keeping up large navies. That Power which has a decided naval superiority would be potentially the mistress of the ocean. Hence England refused Mr. Marcy's proposition. Hence France, Austria, Prussia, Russia, Italy, and other maritime Powers would accept it. For, if privateers were abolished and private property were respected by both public and private armed ships, the dominion of the ocean would be given up to the pursuits of peace, nations would find it for their interest to keep but a small navy, and the calamities of war would be confined to belligerents themselves, while neutrals would pursue their ordinary trade prosperously and unmolested. In that event, it would be seen that it is neither desirable, dignified, nor effective to injure the unoffending merchant, and that liberal concessions to neutral flags and neutral cargoes would be an advantage to the State granting them as well as to the State with which it was at war. Then it would be seen, too, that it is neither chivalric nor Christian to involve those in the horrors of a war in which they took no part, either in its origin or prosecution.

I do not despair of bringing England into the alliance for neutral rights, at least so far as privateering is concerned. She would abolish it tomorrow, so far as the United States are concerned, but she is loth to give up her immense navy, which is our equivalent for the abolition. She has a lively recollection, recently refreshed by Mr. Bright, of what our privateers did for her commerce in our late war. In 1814, her tonnage was three million five hundred thousand tons, and when her exports were £40,000,000, and her imports the same; and during the two years of that war our privateers took twenty-five hundred of her ships, worth £21,000,000, or $107,000,000. Now, with a tonnage four times as great, between twelve and thirteen millions of tons, with imports and exports upwards of £120,000,000, and with the American marine increased even more, what might not England suffer from our militia of the sea? Do you not think that, in fear of the renewal of such consequences, she will be anxious to make us her belligerent, or that, if thus anxious, she will not agree to relieve private property from capture by public as well as private cruisers?

If on land we apply these principles to private property, why should we not further limit the consequences of war by lessening the objects of its attack; in other words, by narrowing the arena of strife upon the sea, as well as upon the land; by making war a duello between combatants and not a devastation of neutrals. If we narrow the theater of war on land to the camp and the beleagured fort or city, why on the water should it not be narrowed to the ocean armament and the blockaded fort or assailed port? If upon land we do not infest the tranquil home with violence, and if the graces of art and the libraries of knowledge are free from the spoiler, why destroy the peaceful occupations of commerce on the sea with the hot passions of war? Why place in jeopardy the immense trading interests of nations? Why expend immense sums in insuring cargoes from the "king's enemies?" Why place before the cupidity of men or nations the golden freightage of California and Australia, and the steamers and packets which connect Europe with America, and both with the Orient? Why offer up to a worse than heathen Nemesis, the peaceful craft which, at great peril, supply our daily wants, and waft to us the teas and spices, sugars and silks, of the world? Why arouse the ardors of war in despoiling neutral commerce under suspicions of hostility? Why not forever banish from that common of the world—the free sea—the prying, avaricious, and revengeful belligerent, whether he sail under a letter of marque or a legal commission as a public cruiser? Why compel the neutral to arm, or what is worse, to profit slyly by the restrictions of war and the chances of immunity? Why embroil the commerce of mankind with the difficulties and dangers of a quarrel between two monarchs, or a punctilio between two ministers, resulting in war, and a war too which would inflame other nations in a general conflagration? Why not imitate the benign example of Providence, by ruling the raging of the seas; or the more beautiful example of the Saviour, who said to the tempestuous waves, "*Peace, be still?*"

How eminently desirable, therefore, is it to prevent such calamities by fixed and authoritative rules of international conduct! How desirable for belligerents! How much more so for neutrals! Such reforms, as I have indicated, must be the product of public opinion. In this age, the empire of opinion is only divided by the reign of that universal conscience which is informed and inspired by its teachings. When these influences rule in the cabinets and councils of nations, we may hail their supremacy as the "*Instauratio Magna*" of juridicial reason in the world of nations!

For the purpose of contributing to that opinion and conscience, which is the source of the law of nations, and of expressing the judgment of the American Congress and people, the committee will report back the resolutions last referred to them, with an amendment, thanking the other Powers beside France, for their liberal sympathy in behalf of neutral rights. I trust that the American Congress will adopt them, and thus vindicate and elevate into its proper place the great American doctrine, which would enfranchise commerce, guaranty peace, and give an impulse to civilization.

Mr. NIXON obtained the floor, but yielded to

Mr. BLAIR, of Missouri, who moved that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly a bill (S. No. 108) for the relief of certain persons held to service or labor in the District of Columbia, and had come to no resolution thereon.

And then, on motion of Mr. BINGHAM, (at five o'clock, p. m.,) the House adjourned.

IN SENATE.

FRIDAY, *April* 11, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, in answer to a resolution of the Senate of the 10th instant, in relation to the disposition made of the vessels captured by General Burnside at Roanoke island, stating that no report has been made by that officer respecting the disposition made of those vessels; which was ordered to lie on the table.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House had agreed to some and disagreed to other amendments of the Senate to the bill (H. R. No. 242) making appropriations for the naval service for the year ending 30th June, 1863, and additional appropriations for the year ending 30th June, 1862.

The message also announced that the House had agreed to some and disagreed to other amendments of the Senate to the bill of the House (No. 259) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1863.

The message further announced that the House had passed a bill (No. 389) to establish certain post routes; in which the concurrence of the Senate was requested.

The message also announced that the House had insisted on its amendments to the bill (S. No. 188) to increase the efficiency of the medical department of the Army, disagreed to by the Senate, had agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. F. P. BLAIR of Missouri, Mr. EDWARD MCPHERSON of Pennsylvania, and Mr. JOHN B. STEELE of New York, managers at the same on its part.

The message also announced that the House had passed the joint resolution (S. No. 26) explanatory of a certain act therein mentioned, with amendments; in which it requested the concurrence of the Senate.

FINAL ADJOURNMENT.

The message further announced that the House had passed a resolution for closing the present session of Congress by an adjournment on the third Monday of May next, at twelve o'clock; in which the concurrence of the Senate was requested.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* laid before the Senate the petition of Henry Spalding and seventeen others, citizens of Essex, Vermont, praying for the total abolition of slavery throughout the country; which was ordered to lie on the table.

Mr. SUMNER presented the petition of citizens of Lebanon, Madison county, New York, praying Congress to provide by law for calling on all the inhabitants of the United States, of all conditions, bond and free, to aid in support of the Government; which was ordered to lie on the table.

Mr. TRUMBULL presented the memorial of John Evans, Governor of Colorado Territory, praying for a modification of that clause of the second section of the organic law of that Territory, defining the duties and powers of the Governor, so as to conform more closely with the spirit and genius of our free institutions; which was referred to the Committee on Territories.

Mr. HENDERSON presented resolutions of the Union Merchants' Exchange of St. Louis, Missouri, remonstrating against the proposed tax of three cents per pound on raw leaf tobacco; which were referred to the Committee on Finance.

Mr. GRIMES presented the petition of William B. Gibson and one hundred and thirty-six others, citizens of Springville, Linn county, Iowa, praying for the total abolition of slavery throughout the country; which was ordered to lie on the table.

He also presented six petitions of citizens of Iowa, praying for the establishment of a semi-weekly mail route from Ottumwa to Corydon, in that State; which were referred to the Committee on the Post Office and Post Roads.

HOUSE BILL REFERRED.

The bill from the House of Representatives (No. 389) to establish certain post routes was read twice by its title, and referred to the Committee on the Post Office and Post Roads.

REPORTS FROM COMMITTEES.

Mr. WILSON, of Massachusetts, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 246) to promote the efficiency of the corps of engineers, reported it without amendment.

ADVERSE REPORTS OF COURT OF CLAIMS.

Mr. CLARK. The Committee on Claims, to whom was referred the adverse report of the Court of Claims in the case of Sweeny, Rittenhouse, Fant & Co., have directed me to report the same back with a resolution confirming the report of the Court of Claims, and if there be no objection, I ask that it may be put on its passage. It is a joint resolution, as the act of Congress requires.

The joint resolution (S. No. 74) to confirm the opinion of the Court of Claims adverse to the claim of Sweeny, Rittenhouse, Fant & Co., was read a first time, and passed to a second reading.

Mr. CLARK. I will state that in order to make these adverse reports conclusive, the act of Congress requires that they be confirmed by Congress. I ask the present consideration of the resolution. It will take less time than to call it up again.

There being no objection, the joint resolution was read a second time, and considered as in Committee of the Whole. It is as follows:

Resolved, &c., That the opinion of the Court of Claims, adverse to the claim of Sweeny, Rittenhouse, Fant & Co., be, and hereby is, confirmed.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. CLARK. The same committee, to whom was referred the adverse report of the Court of Claims in the case of Thomas B. Graham, have had that matter under consideration, and have directed me to report a like resolution confirming the report. I ask that it may be read and put on its passage.

There being no objection, the joint resolution (S. No. 75) to confirm the opinion of the Court of Claims adverse to the claim of Thomas B. Graham was read three times, and passed.

QUORUM OF THE SENATE.

Mr. SHERMAN submitted the following resolution; which was referred to the Committee on the Judiciary:

Resolved, That a majority of the Senators duly elected and entitled to seats in this body is a constitutional quorum.

R. G. MURPHY.

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

Resolved, That the Committee on Claims, in the investigation of the facts presented in the petition of R. G. Murphy, be authorized to send for persons and papers.

BILLS INTRODUCED.

Mr. WILSON, of Massachusetts, in pursuance of notice, asked and obtained leave to introduce a bill (S. No. 268) to amend an act approved September 18, 1860, entitled "An act to amend and supplementary to the act entitled 'An act respecting fugitives from justice and persons escaping from the service of their masters,'" approved February 12, 1793; which was read twice by its title, ordered to lie on the table, and be printed.

Mr. FOSTER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 269) to create a Bureau of Agriculture and Statistics; which was read twice by its title.

Mr. FOSTER. I move that the bill be referred to the Committee on Patents and the Patent Office.

Mr. SUMNER. Before that motion is put, I suggest to the Senator from Connecticut that the committee has already made a report on that subject. There is a bill now on the table which will come up, I believe, for consideration on Monday, to which his proposition might be moved as a substitute. The subject, at any rate, is now before the Senate, and therefore it seems to me it would be better if his bill should be printed, and ordered to lie on the table.

Mr. FOSTER. I have no objection to that. I would rather have the views of the committee, however, on the subject; but if they cannot report on it before Monday, I am willing that it should be printed and laid on the table. Still I should prefer to have the bill go to the committee, hoping they will report on it. I move that the bill be printed.

The bill was referred to the Committee on Patents and the Patent Office, and ordered to be printed.

NAVAL APPROPRIATION BILL.

The Senate proceeded to consider its amendments to the bill (H. R. No. 242) making appropriations for the naval service for the year ending 30th of June, 1863, and additional appropriations for the year ending 30th of June, 1862, disagreed to by the House of Representatives, and

On motion of Mr. FESSENDEN, it was

Resolved, That the Senate insist upon its amendments to the said bill, disagreed to by the House of Representatives, and ask a conference on the disagreeing votes of the two Houses thereon.

Ordered, That the committee of conference on the part of the Senate, be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. SHERMAN, Mr. GRIMES, and Mr. THOMSON, the committee on the part of the Senate.

POST ROUTES IN INDIANA.

Mr. LANE, of Indiana, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be directed to inquire into the expediency of establishing by law the following post routes, to wit: From Clark's Hill, in Tippecanoe county, via Jefferson, to Frankfort, in Clinton county, Indiana, fourteen miles; and from Attica, in Fountain county, Indiana, via Rob Roy, Coal Creek, Steam Corner, Harveysburg, Wright's Mills, and Sylvania, to Annapolis, in Parke county, Indiana, thirty-four miles.

ARREST OF GENERAL STONE.

Mr. McDOUGALL. I present the following resolution, which I ask to have printed, so that Senators can understand it. I shall call it up on Monday:

Resolved, That the Secretary of War be requested to inform the Senate at once on the following points, namely: 1. Whether or not Brigadier General Charles P. Stone has been arrested by any person in authority in the War Department or in the Army of the United States; and if he has been so arrested, from whom the order for General Stone's arrest originally proceeded—whether the Secretary himself or the general then commanding the army of the Potomac. 2. Also, whether at the time of such arrest General Stone was not subject to the Articles of War, and entitled to the benefit of them; and if he was so subject and entitled, whether or not he was arrested for a violation of any and which of those articles; and on whose complaint General Stone was arrested, and by whom, if by any persons, charges have been preferred against him; and that the Secretary of War be requested to communicate to the Senate the specifications under such charges as fully as his present information will enable him to state them. 3. Also, whether any, and if any, what, steps have been taken towards the preparation of such charges and specifications; and if any such steps have been so taken, whether or not the prosecution of the matter has been intrusted to the judge advocate general of the Army, or of the army of the Potomac, or to some other, and what other, special judge advocate; and if not to either of said judges advocate general, why the case of General Stone did not take the customary course when a general officer is arrested, and whether or not either of the judges advocate above specially named has been, and when, first consulted in this matter. 4. Also, whether or not General Stone has at any time, and when, and how often, in person or by counsel applied for an immediate trial; and whether he has not represented to the Secretary of War the injustice which he supposed would result to him from deferring his trial by reason of the death of important witnesses in any manner connected with the administration of his late command upon the Potomac; and what answer, if any, has been made to such representation by or on behalf of General Stone. 5. Also, whether or not the substance of said charges, more or less, has been in any, and what way, and upon whose application, communicated to General Stone; and if not, why not; and if not, whether or not General Stone has applied directly or indirectly for such charges. 6. Also, whether any, and what, privileges have inured to General Stone under the Articles of War Nos. 74, 79, 80, and 82, and Nos. 221 and 223 of the Revised Regulations of the Army, and what degree of confinement was originally ordered in reference to General Stone, and whether any and what change has been made, and when, from its original severity. 7. Also, if General Stone was not arrested for some alleged violation of the Articles of War, upon what pretense is he kept in close custody.

The resolutions were ordered to be printed.

MRS. CHRISTINE BARNARD.

Mr. LANE, of Indiana. I am instructed by the Committee on Military Affairs, to whom was referred a bill in favor of Mrs. Christine Barnard, to report it back without amendment, accompanied by a report. It is a bill of very slight importance to the public, but of great importance to a very meritorious widow who has a proper claim against the Government. The committee also instruct me to ask that it be put on its passage now. The reading of the bill and a very short report of two or three sentences, will put the Senate in possession of the facts. I hope the Senate will allow it to be passed at once.

By unanimous consent, the bill (S. No. 236) to continue a pension to Christine Barnard, widow of the late Brevet Major Moses J. Barnard, United States Army, was considered as in Committee of Whole. It proposes to direct the Secretary of the Interior to continue upon the pension roll, at the rate of thirty dollars per month, from and after the 4th day of July, 1862, when her present pension will expire, for and during her natural life and widowhood, the name of Christine Barnard, widow of the late Brevet Major Moses J. Barnard, captain of company H, regiment of voltigeurs, who was twice wounded in planting the American colors on the parapet of Chepultepec, while storming that fortress, and who died from disease contracted in and greatly exhanced by the hardships and fatigues of the Mexican campaign. The pension is to be held by her or by her children, in accordance with existing laws in reference to the widows and children of those who have died from wounds or disease received or contracted in the Mexican war.

Mr. LANE, of Indiana. Let the report be read.

The Secretary read the following report:

The Committee on Military Affairs and the Militia, to whom was referred Senate bill No. 236, having had the same under consideration, report:

By special act of Congress Mrs. Christine Barnard's name was put upon the pension roll for five years, from 4th July, 1852, and was so continued for five years by act approved 1st June, 1858. Her pension will again expire on July 4, 1862, and it is the object of this bill to continue it for and during her natural life and widowhood. By act approved 3d June, 1858, all existing five years half-pay pensions were continued to widows during life, but Mrs. Barnard's pension not being a half-pay pension, and having been granted to her by special act, is not considered as being included by that act, and hence the necessity of continuing her pension in this way, and putting her upon a footing with other widows. Mrs. Barnard has three small children entirely dependent upon this pension, and of them a boy rendered entirely helpless by paralysis. The committee, in view of the distinguished services by her late husband, and of her dependent condition, report the bill back to the Senate with a recommendation that it do pass.

Mr. HALE. I have not anything to say against allowing this pension, but it strikes me there is an irregularity in the way it is brought here, which ought not to be countenanced by the Senate. Of course I have as high an opinion of the Committee on Military Affairs as I have of any committee in the Senate, but the matter of pensions does not belong to them; it is not a matter that by any rule or practice of the Senate is committed to them; and it seems to me there is an irregularity. I mentioned it to my friend from Indiana, and he says the former bill also came from the Committee on Military Affairs. If so, it is an irregularity which ought to be stopped. There have been various cases of a similar character which I have had to present, coming from various widows of officers wounded in the naval service, but I have not thought it proper to refer them to the Committee on Naval Affairs, but have uniformly referred them to the Committee on Pensions. Simply for the sake of regularity and preserving the order of the Senate, I move that this bill be referred to the Committee on Pensions.

Mr. LANE, of Indiana. It is an irregularity doubtless, but it occurred not at this point, but when the papers were referred to the Military Committee. That is where the irregularity commenced. We have examined it, and I am satisfied from the recitals that the Senate will always pass the case when it comes up. I should have no objection to an investigation by the Committee on Pensions, except the delay which will be thereby occasioned. I am satisfied no one would desire any delay in such a case as this, and I hope it will not be referred now to the Committee on

Pensions, but that in future all such claims will go to that committee. The irregularity occurred when the Senator from Minnesota [Mr. RICE] introduced the bill and had it referred to our committee. I think there is no necessity for referring it back.

Mr. HOWARD. I beg to say that this same claim to a pension has been twice reported upon by the Military Committee of the Senate heretofore, as I am informed. Although it may be an irregularity, it strikes me that the irregularity has no relation whatever to the real merits of the claim; and as those merits are worthy of our attention, and this woman is deserving of the pension, I hope there will be no objection to the bill, and that it will pass now. I think it is a highly meritorious claim.

Mr. HALE. Before the question is taken, I simply want to call the attention of the Senate to what it is. Here is an irregularity which I think the Senate ought not to countenance. I have nothing against the bill; I do not doubt that the Committee on Pensions will report it back; but as I mentioned before, there have been several cases quite as strong as this brought to my cognizance, but I have not referred one of them to the Committee on Naval Affairs. The case of the widow of Captain Ward who lost his life, as gallantly as any man, at Matthias Point, has been referred to the Committee on Pensions, and no doubt that committee will give their prompt attention to it. That case might as well have been referred to the Committee on Naval Affairs as this to the Committee on Military Affairs. For the purpose of preserving the regularity of proceedings, and not referring to one committee a matter that properly belongs to another, I have moved the reference of this bill to the Committee on Pensions, and I hope it will take the ordinary course of all such cases.

Mr. CLARK. I think the usual course has been that when papers have been referred to a wrong committee, that committee have reported them back and asked to be discharged from their further consideration and let them go the proper committee; but when a committee have acted and reported, I do not think it has often been the case that the papers have been recommitted to another committee for the sake of regularity. The Military Committee have considered this case, and I see no reason for now sending it to another committee.

The question being put, there were on a division—ayes 18, noes 15; no quorum voting.

Mr. WILSON, of Massachusetts, called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 15, nays 22; as follows:

YEAS—Messrs. Browning, Collamer, Fessenden, Foster, Grimes, Hale, Henderson, Morrill, Pomeroy, Sherman, Stark, Sumner, Thomson, Trumbull, and Wilson of Missouri—15.

NAYS—Messrs. Anthony, Chandler, Clark, Cowan, Davis, Dixon, Doolittle, Foot, Howard, Howe, Kennedy, King, Lane of Indiana, Lane of Kansas, Latham, Nesmith, Powell, Wade, Wilkinson, Willey, Wilson of Massachusetts, and Wright—22.

So the motion was not agreed to.

The bill was reported to the Senate.

Mr. FOSTER. I am inclined to think that the amounted granted to this widow is above that recognized by law. I am not entirely sure about it, but I think so. It is true that it was granted by special act, but that showed that her case did not come within the general law. If it had come within the law, the widow would have received less; but not coming within the law, and coming to Congress for a special act, she gets more. The reason why this petition was sent to the Committee on Military Affairs, or rather the reason why it is not referred to the Committee on Pensions, is asserted to be because the bill originally granting the pension was reported by the Committee on Military Affairs. It was clearly a departure from the rule and practice of the Senate; and having established such a departure once, it seems now to be persisted in, and it is proposed to give to a case not coming within the law an amount greater than to those who do come within the law. The case may be entirely meritorious; I presume it is as it is reported; but it is an entire departure in the first place from the rules and practice of the Senate, and I believe a direct violation of the law, so far at least as the general law gives a fixed amount to widows of officers of a certain rank. I know not why, where a case is not within the law, if it comes to Congress for relief, it should be considered more meritorious than those which do come directly within the law. I am opposed, therefore, to the passage of this bill as it now stands.

Mr. LANE, of Indiana. Under the general pension law, the half pay is twenty dollars per month for five years; and in 1858, this half pay of twenty dollars was given to the widows during their natural life. In 1852, this matter was introduced into the Senate, and referred to the Committee on Military Affairs, just as it is now, and they reported a bill granting thirty dollars per month for five years. When the five years expired, it was again referred to the Committee on Military Affairs, and they reported a bill extending the pension five years longer, which was passed. In the mean time half-pay pensions were given to widows for life; but this being thirty dollars a month instead of twenty dollars, was not embraced in that provision of the law. The Senator from Minnesota, [Mr. RICE,] when he introduced the papers here, inasmuch as both the other bills had been reported from the Military Committee, thought that was the proper direction to give to this. There was no intention to pass over the Committee on Pensions at all.

Mr. COLLAMER. If I understand the case as stated by the gentleman, I see no reason why this widow should not receive her twenty dollars like other widows.

Mr. LANE, of Indiana. I was just coming to that point. Captain Barnard was shot through the body twice in attempting to raise the flag upon the parapet at Chepultepec. He died from the effect of those wounds, leaving a widow and three small, helpless children. The oldest of the children is paralyzed, so that it cannot rise from the bed. It was reported to the committee that thirty dollars a month was the least that would possibly support this family—it is their only support—and thirty dollars was given instead of twenty dollars, in consideration of the utter helplessness of the family, and that the oldest child is paralytic, and has not been able to rise from bed for ten years. Although it was a departure from the general rule, it was a departure by special act of Congress, and it was continued by another act of Congress heretofore. Twenty dollars a month has since been given for life to all these widows. We propose simply to give thirty dollars a month in this case to the widow for life.

Mr. FOSTER. No doubt a very strong appeal can be made to the sympathies of Senators for the widow of an officer who has suffered and died in the service, and who has left a dependent family; and to oppose a claim of that sort seems to be resisting appeals made to the best feelings of the human heart. But, sir, the Senator from Indiana, and every Senator here, must bear in mind that the present condition of the country is such that appeals of that kind may be made to the Senate, I fear, by hundreds and by thousands before the present year is out, and it will be entirely impossible for this country to meet these calls upon its Treasury, if relief is to be granted in every case of this nature up to the point where our sympathies would prompt us to go. We cannot do it, sir; for the money will be wrung from those who are just as dependent and just as helpless as those that are to be relieved. We must refuse, therefore, to do what our better feelings would prompt us to do, for we are unable; it is impossible for us to do it. There are now various cases before the Committee on Pensions that make as strong an appeal to our hearts as this case; but we do not feel that we can go beyond the amount fixed by law when the country was better able to pay than it now is; and in no case, unless the law actually provides for it, do we feel authorized to grant relief except in extraordinary circumstances.

It is a most ungracious task to oppose a bill of this sort, Mr. President; but I confess I have strong doubts whether, according to the principles adopted by the Committee on Pensions—those principles may perhaps be erroneous—they would report this bill at all. This widow has enjoyed a pension of thirty dollars a month during the time provided by the original act. A vast many as meritorious and as needy are yet without any provision beyond the original five years. If this bill passes, all other claims of the same description must pass, and we may as well at once pass a general law taking in all these special cases. This widow has received one half as much again during the five years as other widows equally meritorious, and now it is proposed to give her for life one half as much again as others equally meritorious, who have received only two thirds as much during the former five years, and that little pittance indeed is now stopped in a great number of cases. All these will come here, and they must all be granted for aught that I see, if we grant this. I do not know but that where a number of these cases come before one committee, the hearts of the members of that committee are apt to get hard and callous and that it is better to divide them around among the committees of the Senate, and send one to the Committee on Military Affairs, and one to the Committee on Naval Affairs, and so on. If we had but one such case before the Committee on Pensions, I am sure we should grant it; but where there are so many, and where they are going to be multiplied, as I apprehend, to a most fearful amount, it seems to me we must stop at some point, and I think we had better stop in the beginning and stand by the law.

Mr. SUMNER. Would a motion to recommit this bill to the Committee on Pensions be in order now?

The PRESIDENT *pro tempore*. It would not. The Senate has just decided against that motion.

Mr. SUMNER. I understand that the Senate have just decided against it; but I thought it possible that after the discussion which has occurred the motion would now be in order.

The PRESIDENT *pro tempore*. That does not change it at all.

Mr. FOSTER. A motion to reconsider can be made.

Mr. SUMNER. I am not in a condition to make that motion.

The PRESIDENT *pro tempore*. A motion to refer the bill to any other committee would be in order, or a motion to reconsider the last vote.

Mr. LANE, of Indiana. There is no controversy except as to the difference between twenty and thirty dollars a month. Under the existing law these widows get twenty dollars a month; but under the peculiar circumstances of this case it was thought proper ten years ago and five years ago to give this widow thirty dollars per month, and we propose to continue now precisely the same rate of pay. The only possible objection can be to allowing thirty dollars in this case instead of twenty; and that is precisely what has been allowed her for the last ten years. I cannot see why there should be any real objection to the bill.

Mr. FESSENDEN. There is very great force in what is said by the Senator from Connecticut. I have noticed repeatedly that when there was a peculiar case it took a peculiar direction. All these cases should, by right and propriety and for the safety of the community, go to the proper and appropriate committee, who know the law, who examine it, and endeavor strictly to bring all the cases within the law; but this case, probably owing originally to the idea of its friend, whoever it was that presented it, was sent to the Committee on Military Affairs. They abandoned principle and took into consideration the peculiar circumstances of the case. Now, let me ask Senators, can you legislate on the subject of pensions upon that basis? We have general laws upon the subject, and are we in defiance of those laws to take up each individual case and examine it according to the situation and the necessities of the family?

Mr. LANE, of Indiana. Will the Senator pardon me for a moment?

Mr. FESSENDEN. Certainly.

Mr. LANE, of Indiana. I propose to amend the bill and put the pension at twenty dollars a month, so as to stand on the general pension law.

Mr. FESSENDEN. Very well; then I have no objection.

Mr. LANE, of Indiana. I move to amend the bill by striking out "twenty dollars" and inserting "thirty dollars."

The amendment was agreed to.

Mr. FOSTER. I wish to move an amendment to the bill, to make it general, that the pensions of all widows which were granted by special act for five years, and which have now expired, shall be renewed also for life at the same rate. I think we ought to do equal and exact justice.

Mr. LANE, of Indiana. That is already the law.

Mr. FOSTER. I am at a loss, then, to under-

stand why this widow does not come within its provisions.

Mr. LANE, of Indiana. Because her pension was thirty dollars, and not twenty dollars. It was always thirty dollars under the other laws. That is the very reason she does not come within the provisions of the general law.

Mr. FOSTER. Then she can have her pension at twenty dollars per month without this act.

Mr. LANE, of Indiana. The Senator will pardon me; she cannot have a pension at all without this act, because she was never placed on the pension rolls at twenty dollars. There was a special act passed giving her thirty dollars per month. We propose now to put her on an equality with all the rest.

Mr. FOSTER. Then I move to amend the bill, so that this widow shall have her name placed on the pension roll, with all the immunities and privileges she would have had if her pension had been originally granted at twenty dollars per month.

Mr. LANE, of Indiana. That is the same thing, I suppose.

Mr. FOSTER. If it is the same, it is all that I desire.

Mr. COLLAMER. The Senator from Connecticut will permit me to say those words would hardly effect the purpose.

Mr. FOSTER. Of course, I have not chosen the language precisely; but that is the idea. I want an amendment made so that she shall stand on the same ground with the others.

The PRESIDENT *pro tempore*. The Senator from Connecticut will reduce his amendment to writing.

Mr. LANE, of Indiana. I think the amendment I proposed will cover all the objection to the bill.

Mr. CHANDLER. I move that the vote by which the Senate refused to refer this bill to the Committee on Pensions be reconsidered.

The motion was agreed to.

The PRESIDENT *pro tempore*. The question now recurs on that motion, "Shall this bill be recommitted to the Committee on Pensions?"

The motion was agreed to.

MESSAGE FROM THE HOUSE.

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

A bill (No. 354) for the relief of Lieutenant Ulysses S. Grant; and

A bill (No. 388) making appropriations to reimburse the contingent fund of the office of the Secretary of the Treasury, including compensation of additional clerks who may be employed according to the exigencies of the public service, and for temporary clerks for the current fiscal year and for the year ending June 30, 1863.

HOME GUARDS.

Mr. HOWE. I offer the following resolution, and, if there be no objection, ask its present consideration:

Resolved, That the Committee on Military Affairs be instructed to inquire and report whether any and what troops have been mustered into the service of the United States as home guards, and are still continued in the service, and who for that or for any other reason refuse to march beyond the limits of the several States within which they were mustered.

There being no objection, the Senate proceeded to consider the resolution.

Mr. COLLAMER. I will suggest to the gentleman that some of those regiments may not be known by the name of home guards. Perhaps it would be better to say, "home guards, or whose services are limited to their own States."

Mr. HOWE. The last clause of the resolution will cover that.

Mr. LANE, of Kansas. I desire to state for the information of the Senator from Wisconsin that the War Department is now engaged in mustering out all that class of troops. We had two regiments in our State.

Mr. HOWE. I have been told this morning of three regiments mustered in in the State of Maryland. One of them is now down on the Eastern Shore. There was an attempt to march them out of the State and they refused to go, and they were returned to Baltimore. Two companies of the regiment which is down on the Eastern Shore were actually left on the Maryland side of the line because they refused to go over, and many of those who were taken over were taken over under arrest, for they peremptorily refused to go. This refusal, I am told, does not include the principal officers of the regiments, but the men absolutely refused to go without the limits of the State. For one, I am utterly opposed to paying any troops who will not follow the flag of the Union wherever the flag of the Union is sent.

Mr. GRIMES. I hope the Senator from Wisconsin will enlarge the scope of the resolution a little so as to call upon the Secretary of War to state whether the process of enlisting State militia is now going on. I understand it to be so. I have heard within the last twenty-four hours, and from persons who I suppose know, that notwithstanding we are attempting to reduce the Army in some directions, we are yet enlisting new men in other sections of the country, and so far as I know without any authority of law. Doubtless this is done without the knowledge, and contrary to the orders of the War Department.

Mr. HOWE. I do not object to amending the resolution by inserting the words "or are being mustered" after the words "have been mustered."

The PRESIDENT *pro tempore*. The resolution will be so modified on the suggestion of the mover of the resolution.

The resolution, as modified, was adopted.

DISQUALIFICATION OF COLOR.

Mr. SUMNER. I now move that the Senate proceed to the consideration of Senate bill No. 237, reported from the Committee on the Post Office and Post Roads.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 237) to remove all disqualification of color in carrying the mails, which directs that from and after its passage no person, by reason of color, shall be disqualified from employment in carrying the mails, and all acts and parts of acts establishing such disqualification, including especially the seventh section of the act of March 3, 1825, are repealed.

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

Mr. POWELL. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. LATHAM. I desire to state in behalf of the Senator from Minnesota, Mr. RICE, that he is confined to his house by sickness.

The question being taken by the yeas and nays, resulted—yeas 24, nays 11; as follows:

YEAS—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Howard, Howe, King, Lane of Kansas, Morrill, Pomeroy, Sherman, Simmons, Sumner, Wade, Wilkinson, and Wilson of Massachusetts—24.

NAYS—Messrs. Davis, Henderson, Kennedy, Lane of Indiana, Latham, Nesmith, Powell, Stark, Willey, Wilson of Missouri, and Wright—11.

So the bill was passed.

ADJOURNMENT TO MONDAY.

On motion of Mr. HALE, it was

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

JUDICIAL DISTRICTS IN ILLINOIS.

The PRESIDENT *pro tempore*. The morning hour having expired, the special order of the day, which is the confiscation bill, is now before the Senate, the pending question being on the amendment offered by the Senator from Virginia [Mr. WILLEY] to the original bill, and upon that question, the Senator from Wisconsin [Mr. DOOLITTLE] is entitled to the floor.

Mr. BROWNING. I will ask a favor of the Senator from Wisconsin to permit me to call up a bill relating to the judicial districts in Illinois that will not occupy more than a moment for the purpose of having it passed, and sent to the other House.

Mr. FESSENDEN. Does it make another district?

Mr. BROWNING. No, sir; only to detach two counties from the northern district, and attach them to the southern district. The bill is acceptable to my colleague and myself; and there will be no discussion about it.

Mr. DOOLITTLE. Will it lead to debate?

Mr. BROWNING. Not at all, sir.

The PRESIDENT *pro tempore*. The Senator from Wisconsin yielding the floor for that purpose, the question is on the motion of the Senator from Illinois.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 102) to amend an act entitled "An act to divide the State of Illinois into two judicial districts," approved February 13, 1855. The bill detaches the counties of Hancock and McDonough, in the State of Illinois, from the northern district of Illinois, and attaches them to the southern district of Illinois, and they are hereafter to constitute a part of the southern district of Illinois the same as if they had originally belonged to that district. In any suit or suits pending at the time of the passage of this act either in the circuit or district court of the northern district of Illinois where any such suit or suits could originally have been brought in the southern district of Illinois if the counties of Hancock and McDonough had at the time of commencing any such suit or suits formed a part of the southern district, any party to any such suit or suits, upon application to the court, upon the oath either of such party, or his or her agent or attorney, may have any such cause, together with the original files thereof and a certified copy of the recorded orders or decrees in the cause, transferred to the southern district of Illinois. Any such cause, when so transferred, is to be heard and determined by the circuit or district court, as the case may be, in and for the southern district of Illinois, as if such cause had been originally commenced in the circuit or district court in and for that district. All process issued out of either the circuit or district court for the northern district of Illinois prior to the passage of this act, and not served before its passage, is to be served and returned in the same manner as if this act had not been passed. In all causes pending either in the circuit or district court for the northern district of Illinois at the time of the passage of this act, which shall proceed to final judgment or decree without being removed from the northern to the southern district according to the provisions of this act, such judgments or decrees are to have like effect as though the counties of Hancock and McDonough had not been detached from the northern district; and any party thereto is to be entitled to have any such judgments or decrees executed by like final process or otherwise, the same as if the counties of Hancock and McDonough had not been detached from the northern district, which process is also to be executed and returned in the same manner as if those counties had not been detached from the northern district. So much of the act, to which this bill is an amendment, as is in conflict therewith, is to be repealed.

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

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 354) for the relief of Lieutenant Ulysses S. Grant—to the Committee on Claims.

A bill (No. 388) making appropriations to reimburse the contingent fund of the office of the Secretary of the Treasury, including compensation of additional clerks who may be employed according to the exigencies of the public service, and for temporary clerks for the current fiscal year, and for the year ending June 30, 1863—to the Committee on Finance.

CONFISCATION OF PROPERTY.

The Senate resumed the consideration of the bill (S. No. 151) to confiscate the property and free the slaves of rebels, the pending question being on the amendment offered by Mr. WILLEY to the third section of the original bill.

Mr. DOOLITTLE addressed the Senate. [His speech will be found in the Appendix.]

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The question is on the amendment offered by the Senator from Virginia.

Mr. KING. If there is no Senator who desires to address the Senate upon the bill now, I will state that I called this morning to see my colleague, who had the floor on this subject the other day, at his room where he has been confined by illness, and he told me that if the Senate would consent to put this question over until Monday, and give

him the floor at one o'clock, he would be much gratified.

Mr. TRUMBULL. I suppose he does not desire to speak on this amendment.

Mr. KING. He wishes to speak to the bill.

Mr. TRUMBULL. I hope we may be permitted to vote on the amendment, if no one desires to speak upon it.

Mr. KING. Certainly. I only desired that when it should go over, it should be understood that my colleague shall have the floor.

Mr. POWELL. I move to postpone the further consideration of this bill until one o'clock on Monday. I will state, however, that if it should be postponed, and at that hour the Senator from New York desires to address the Senate, I will yield to him; or if any other Senator should desire to speak, I will yield. If no other Senator should desire the floor at that time, I shall address the Senate on the subject myself. I will yield with great pleasure to the Senator from New York on Monday, if he shall desire it.

Mr. SUMNER. With the permission of the Senator, I will interpose another motion, which will leave this bill as the order of the day for Monday, and that is, I will move that the Senate proceed to the consideration of executive business.

Mr. POWELL. After my motion that can be done.

Mr. SUMNER. That will leave this as the unfinished business.

Mr. POWELL. I withdraw my motion.

Mr. SUMNER. Then I move that the Senate now proceed to the consideration of executive business.

Mr. TRUMBULL. That is the old question. That is the way the bill is shoved off every day. If the Senate take that course I cannot help it.

Mr. COLLAMER. Do you expect to finish it to-day?

Mr. TRUMBULL. Was any public measure ever passed through this body where you took it up and considered it an hour or two hours every day, and then pushed it aside for other business? Do we not know that the tax bill, the appropriation bills, and other measures will be soon crowding upon the Senate? Do we not know that everything else is made to give way in this body to appropriation bills? And yet every bill is to be put aside by executive sessions. What was our experience with the District of Columbia bill? Did we not have to hold on to it to pass it? Is there a Senator who believes that it would have passed until now, or that we would ever have had a final vote on it during the session, if the Senator from Maine [Mr. MORRILL] had not held on to it? I know the Senator from Vermont says "do you expect to pass it to-day?" Not at all; but I would like that we should make as much progress as we can on it to-day; and if it is to be pushed aside each day in this way, it is in the power of the Senate to push it aside and to postpone it indefinitely and dispose of it. I shall have no complaint to make if that is the view of the Senate that it be postponed, and, if it is preferred, killed by inches. If that is the view of the Senator from Massachusetts, he has had three days this week for executive sessions, and if he prefers taking another, and the Senate agrees with him, if that is the preference of the Senate, so be it.

Mr. SUMNER. The Senator from Illinois knows very well that I am in favor of his bill, and if there is now any Senator who is disposed to proceed with its consideration who has any remarks to make upon it, I will gladly withdraw the motion that I have now made; but supposing that there was no Senator prepared to go on, and knowing that there was business of an important character which we ought to consider in executive session, I felt it my duty to make that motion. It is perfectly well known that there are Senators who do desire to be heard on this bill and who are not now ready. I believe, therefore, I perform only a simple duty at once to the bill itself and to the other business of the country when I make this motion.

Mr. TRUMBULL. I wish to put myself right. The Senator from Massachusetts may be right, also. I know the fact that there are very many in the Senate opposed to this bill, possibly a majority opposed to any bill of this character. I know that those gentlemen are prepared with speeches, and have been for weeks; and I know they hold them back, and do not intend speaking until we bring the bill to a position where they will have to speak. Has the Senator forgotten the experience on the District of Columbia bill? Is it not to be the same thing over and over again? There was a very large majority for that bill; and yet you had to sit here at very late hours and to hold on to the bill in order ever to pass it. The Senator from Massachusetts will take his own course, and the Senate their own. I have discharged my duty by simply apprising the Senate and the country of the disposition I have to press the bill to consideration, and not have it pushed out of the way by these side motions.

Mr. COLLAMER. The gentleman, from the remark I made to him, ought not to bring my name in the question. I have no disposition whatever to retard the bill. Whether I shall ever be able to vote for it I do not know; I do not know what shape it will take. But I wish to make one suggestion, which I hope the gentleman will receive with all good spirit. I am inclined to believe that most of the gentlemen who desire to speak on this bill at all entertain that desire hypothetically; it depends entirely on the shape the bill takes. When the bill is presented in its final form and they feel bound to vote for or against it, they may regard it as their personal privilege to be enabled to explain the reasons of their vote. But very many, I know that some, at least, do not desire to thrust their views upon the Senate, or occupy time in the present inchoate condition of the bill. I suggest to gentlemen, therefore, who desire to make any progress with this bill, to present their various amendments as soon as they conveniently can, so that we may have a vote upon them.

Mr. TRUMBULL. I want to do that this afternoon. No one proposes to speak on the amendment before us.

Mr. COLLAMER. Still, the gentlemen who wish to speak on the bill have amendments which they desire to offer; for instance, the Senator from New York, [Mr. HARRIS.] When the amendments pending are passed upon, he intends to offer his. They may be rejected in order to leave room for his. An opportunity ought to be afforded to him to present it. Various other gentlemen have amendments which they intend to press. Now, I suggest, if it be desirable all round, not hurriedly, but as soon as gentlemen are ready, that those who have amendments to present, present them, and have them passed upon, and get the bill into that shape which it is to occupy for passage. Then gentlemen will be prepared to say whether they desire to make any remarks about it or not. I wish that might be done as soon as it conveniently can be; but inasmuch as gentlemen who have amendments to offer, I know, are not here, and want to be heard, and if there is nobody ready to take the floor upon the bill, there can be no great harm in letting it go over.

Mr. TRUMBULL. That is precisely the condition of the bill to-day. There is an amendment pending, moved by the Senator from Virginia. I am not aware that any person wishes to speak upon it. Then why not vote upon it? The Senator from Kentucky, I understand, does not propose to speak to the amendment of the Senator from Virginia. He proposes to speak generally on the bill. The Senator from New York [Mr. HARRIS] gave notice of a substitute. I suppose, if the substitute of the gentleman from Ohio should not prevail, he would perhaps offer it; but we are just now in that condition that we may vote upon this amendment, unless the Senator from Kentucky wishes to speak upon this particular amendment; and I never understood he did.

Mr. DAVIS. I gave notice and had printed an amendment which I intended to offer as a substitute. As that substitute has never been read in open Senate, I should be pleased to have it read.

Mr. TRUMBULL. There is a substitute pending.

Mr. DAVIS. I merely wish it read for information.

Mr. TRUMBULL. It is printed. We have it before us.

Mr. DAVIS. I do not insist upon it.

Mr. TRUMBULL. Let us have a vote on the amendment of the Senator from Virginia.

The PRESIDING OFFICER. Does the Senator from Massachusetts press the motion for an executive session?

Mr. SUMNER. I do not think we can get a vote; but at the request of the Senator from Illinois, I withdraw the motion to proceed to the consideration of executive business, giving notice that I shall move it again as soon as I can.

The PRESIDENT *pro tempore*. Then the question is on the amendment offered by the Senator from Virginia to the original bill.

Mr. WILLEY. At the request of some friends, I feel disposed to relieve the Senate from voting on this question, as there seems to be some embarrassment about it; but before I do so, I trust the Senate will indulge me in making a remark.

I offered these amendments in the best faith imaginable, with no design whatever to embarrass the bill. I believed in the policy enunciated in these amendments. I saw a section of the bill that required the President of the United States to transport, colonize, and settle the emancipated slaves to some tropical climate or country, and not a dollar given to him to enable him to do it. I wished to make that proposition available, to give it some practical effect, and, as the amendments indicated, to extend its operation. I had no other motive in view in offering those amendments. Unfortunately, it brought down upon my devoted head a storm of wrath on the part of Senators on the other side. I did not expect it; I did not think then, I do not think now, that either the proposition itself, or my relations to this Senate, or my conduct as the humblest member of the body since I came into it, justified remarks so uncourteous and so unkind.

Sir, I have been grieved since I have occupied a seat on this floor at the intimations of Senators that my colleague and myself were here by a kind of charity. I admit the fact in its full force of the delicate relations which my colleague and myself sustain to the Senate. I know how we came here. I know under what peculiar circumstances we came here. But, sir, I was admitted on this floor and took my oath as a Senator, and within all the limits of senatorial courtesy and propriety I demand, and will have, the rights of a Senator. I am entitled to them; and while I never shall urge my views on this body in a dictatorial manner, or expecting them to have much influence, repeating that I regard myself as the humblest Senator on this floor, when I see proper I shall express my views fully, fairly, explicitly, and fearlessly. If I am unworthy of a seat here, the same power that received me on this floor can dismiss me. I am ready to go whenever Senators think I am unworthy of being here; but while I am here, I am a Senator of the United States, and I claim the courtesy, the kindness, and the rights of a Senator of the United States.

Sir, gentlemen mistake me. I withstood the brunt and front of secession. For defending our glorious old Union I have been hunted from post to pillar in my own State. I have been hissed on the council floors of the State of Virginia for standing up and denouncing secession as treason. Sir, I can stand here in the Senate of the United States, and, humble as I am, if Senators on the other side choose to make denunciations, I can afford to receive them and let them pass unnoticed. It was my intention to let them pass yesterday on that hypothesis. When honorable gentlemen, distinguished for their long service and ability in this body, see proper to hurl unkind and uncourteous denunciations against me in the exercise of my rights, humble as I am, I think I can afford to let them go without a reply; and but for the advice of friends, I should have let them go. Gentlemen may mistake the metal I am made of. I like quiet, I like peace, I like courtesy, I like kindness; but when I believe I am right, no power less than God can move me from that basis.

I have been pained at intimations thrown against my colleague and myself, and against those whom we represent, that because we come from a slave State we come here as a kind of semi-barbarians; that the influences of slavery are those of barbarism; and it seems to me the indications yesterday were that Senators designed to carry into practical effect that hypothesis—that we were not entitled to anything here more than semi-barbarians would be entitled to. I scorn to ventilate the record of the North or of the New England States. If I had that carrion-fly disposition that could buzz all over the fair surface of the body to light upon a sore, how readily could I indulge such a disposition! I need but kindle the fires of New Salem to illuminate the record of New England civilization. I need but go and get the blue laws, and

bring here and read that it was a penal offense against God and the land for a man to kiss his wife on Sunday. I might refer to free-loveism, which went to the other extreme—by no means so cruel, I have no doubt, in the estimation of the Senator from New Hampshire—that a man might kiss not only his own wife on Sunday, but everybody else's to boot. I might refer to all these things, to Fourierism, to spiritualism, and its effects, which had disinterred Daniel Webster, and put a barbarous jargon of sentiments in his mouth, uttered in barbarous language; but, sir, I scorn to do any such thing as that. I would rather refer to the thrift of the North and of New England. I would rather refer, with the pride of an American citizen, to their colleges, their schools, and their academies; to their agriculture, their arts, their science, their commerce, their commerce whitening every sea on the face of the earth, and levying tribute upon the wealth of the world. I had rather refer to the great men of those great States; to their poets and their philosophers, their jurists and their statesmen; to the Bryants and Hallecks and Bancrofts and Irvings; to their Kents and Storys, and to other men equally illustrious, and claim kindred with such a race, and be proud that I am an American citizen, because I might claim to be a fellow-citizen of such men as these.

An equal charity, I think, should induce Senators on the other side, even when referring to old Virginia, to see whether there might not be something in her records worthy of their commendation. How is it, sir, from that land of barbarism? To whom is reference made for those natural rights of man, as finding their best exposition upon record, but to Thomas Jefferson, the son of Virginia, and a slaveholder? Sir, for what are we fighting to-day? For what are we expending three millions daily? For what are our sons, our brothers, and our fathers rushing to the field of battle? Why are those noble men of Illinois, to whom the Senator alluded yesterday as lying cold on the plains around Pittsburg Landing—why are they there? In defense of our Constitution, the best system of government ever devised by man, and it was principally the emanation of another son of Virginia, James Madison, and he was a slaveholder. That Constitution and American jurisprudence has received its best exposition and illustration through the wisdom and learning of another son of Virginia, the pure John Marshall. Sir, there is one name that I have not mentioned. I mention it with reverence. It is not without reverence in this body. It is revered through the world; and high and illustrious and brilliant as are the names of New England's great men, their united luster grows dim and pale in the presence of the name of Washington, another son of Virginia, and a slaveholder. Am I to be denounced for planting myself here, in the Senate of the United States, on the very identically proclaimed principles of these great lights of Virginia and of the world? If I am, I am willing to go down; but I shall not go down until that glorious Constitution goes to pieces—never, sir.

Senators may, by their superior influence and standing in this body, be enabled to prejudice me with my constituents at home. They may, for aught I know, or for aught I care, drive me from this honored Hall; but, sir, nothing will ever detach my love and regard for the Constitution of my country. I periled all for it in my own State. I have periled all for it here. Nothing shall intervene to prevent me from giving it my life-long, deep devotion. I say here to-day, if it be necessary to destroy slavery everywhere, now and forever, to preserve the American Constitution, I am ready for that. My only fear is that gentlemen, in their haste and mad zeal to destroy slavery, are about to pull down the glorious temple of our liberties, and bury slavery, the Constitution, and all of us in one common ruin.

Mr. President, these remarks are the spontaneous outbursts of a little feeling of the moment. I ask pardon of the Senate; I am sure I am under great obligations to them for giving me their attention under these circumstances; but I want it understood, as I said in the beginning, that until I transgress some of the proprieties and get beyond the humble sphere in which I know I ought to move here, I intend to maintain my rights, and the dignity and character of a Senator of the United States.

Mr. TRUMBULL. As I made some remarks yesterday on this amendment of the Senator from Virginia, I do not know whether these heated remarks of his are intended to apply to me. I said nothing about his being here by grace, and made no fling at his right to a seat. I thought his amendmend was a very inappropriate one, and I thought it very unjust in him in the assault he made upon my State as being unwilling to receive the free negroes of Virginia; and I thought it was very unfair in him to create the impression that we sought to put the free negroes of other States into Virginia, or treat her differently from other States. His proposition was one to colonize the free negroes of the country generally. The bill provided already for the colonization of such free negroes as should be made free by it, so far as they could be induced to go. It struck me, therefore, as a very inappropriate amendment, one calculated to embarrass the bill, and as such I opposed it, as I shall always take the liberty of doing so long as I retain a seat here, whenever I think that a measure is improper and ought not to pass, and it is my duty to say anything in regard to it. I cannot see that the excitement under which the Senator from Virginia seems to labor, which he seems to have got up since yesterday and brooded over until he brings it into the Senate, has any application to me; and I am not disposed myself to be excited by his remarks. If he proposes amendments which, in my judgment, are calculated to embarrass a bill that I am in favor of, I shall certainly not hesitate to express my opposition because he comes from Virginia and the land of Washington; and I shall do it just as readily as if he came from any other State.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment proposed by the Senator from Virginia.

Mr. WILLEY. I believe I forgot the main thing for which I rose; and that was, at the instance of some of my friends, to withdraw the amendment with the leave of the Senate.

The PRESIDENT *pro tempore*. Does the Chair understand the Senator from Virginia to withdraw the amendment he offered? It is his privilege to do so, if he chooses.

Mr. WILLEY. I withdraw the amendment; but at the same time, I wish to make a suggestion to the Senator from Illinois. The section as it now stands imposes a duty on the President without giving him any means with which to do it. If it is made in good faith, ought not the President to have the means to carry it out? I suggest to the Senator to strike out of my amendment the sum of $5,000,000, and put in $100,000. I do not offer it as an amendment myself.

Mr. TRUMBULL. I am very glad to answer that suggestion. It is made in a different spirit from the remarks he made yesterday.

The PRESIDENT *pro tempore*. The Chair understands the amendment to be withdrawn.

Mr. TRUMBULL. But I understand the Senator to make another suggestion, to reduce the amount. The bill contains no appropriation. My idea of that was this—it may not be acceptable to the Senator from Virginia, but it is my view of it; we could not go into the details of this question. If a bill of this character—there is a great variety of opinion in regard to it—should finally receive the sanction of Congress and of the President, then it would be necessary to make an appropriation to carry it into effect, and we should need many details, perhaps, in regard to the bill. In initiating a great measure of this kind, all that can be done in the first instance, if that much can be accomplished, is to settle the great principles that you design to carry out, and afterwards an appropriation would have to be made. I did not think it was advisable to try a different way in this bill. We could not well tell how much to appropriate, and I wanted to settle the principle, if I could. I am in good faith for colonizing all the negroes of this country that shall be made free by this act who will be willing to go. I concur very generally in all that has been said by the Senator from Wisconsin on that subject; but manifestly we could not ascertain now how much money would be required, or go into these details. I hope the Senator from Virginia will withdraw his amendment, and not persist in it.

The PRESIDENT *pro tempore*. The Chair understands that amendment to be withdrawn. The question recurs on the amendment offered by the Senator from Ohio.

Mr. POWELL. Mr. President——

Mr. SUMNER. I now renew my motion.

The PRESIDENT *pro tempore*. The Senator from Kentucky is entitled to the floor.

Mr. POWELL. I will make the motion to go into executive session, with the understanding that I shall have the floor on this bill on Monday, provided the Senator from New York is not present.

Mr. SUMNER. The motion for an executive session, if agreed to, would leave the Senator entitled to the floor for Monday.

Mr. POWELL. Very well.

EXECUTIVE SESSION.

The motion was agreed to; and the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *April* 11, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

ULYSSES S. GRANT.

Mr. RICHARDSON. I desire to move, at the proper time, to go into a Committee of the Whole House, to take up the Private Calendar. There are some bills there which ought to be passed. Does the Chair rule that we cannot move to go into committee until after the morning hour expires?

Mr. WASHBURNE. I desire to make a suggestion to my colleague, which I know the House will concur in. My colleague reported a bill the other day from the Committee on Military Affairs for the relief of Major General Grant. It is a bill of great justice, and which ought to have been passed years ago; and I am sure the House will agree to take it up and act upon it. It is a bill to pay General Grant the sum of $1,000 which was stolen from him while quartermaster, during the Mexican war. The proof, as my colleague knows, is full and clear, and Congress has, in every instance of this kind, repaid the amount so lost. This petition was before the Thirty-Third Congress, but no action was taken upon it; it has slept from that day to this. I ask my colleague to have the bill taken up, and then I will offer an amendment.

Mr. RICHARDSON. I am indifferent as to the manner in which the bill is reached. It was to reach that bill and one other that I desired to go into committee upon the Private Calendar. I now ask the unanimous consent of the House to discharge the Committee of the Whole House from the further consideration of that bill, and to bring it before the House for action.

Mr. ROSCOE CONKLING. I would like first to hear the bill read.

The bill, which was read, provides that in the settlement of the accounts with the Treasury of Lieutenant U. S. Grant, as commissary and regimental quartermaster, fourth infantry, there shall be allowed to him the sum of $1,000, on account of the loss of that amount of public funds in his hands by theft on the night of June 16, 1848, the loss being without neglect or fault on his part.

Mr. OLIN. I ask that the report may be read in connection with the bill.

The SPEAKER. The Chair would state that the report is not at this moment on the Clerk's desk.

Mr. RICHARDSON. I can state in a few words the substance of the report. Lieutenant U. S. Grant was quartermaster for the fourth infantry in 1847 and 1848. At Tacubaya, Mexico, Lieutenant Grant had $1,000 in silver, belonging to the quartermaster's department; the lock on his trunk being broken, and having no place of security in which to keep the money, he deposited the entire amount in the trunk of Captain Gore, an officer of the same regiment. Subsequently the trunk of Captain Gore was stolen from Gore's tent, with the money in it, and other effects.

The facts are fully established by the sworn statement of Lieutenant Grant, as also of the testimony of Captain Gore and Lieutenants Jones and De Russey.

No objection being made, the Committee of the Whole House was discharged from the further consideration of said bill, and it was brought before the House for action.

Mr. WASHBURNE offered the following amendment:

SEC. 2. *And be it further enacted*, That if the accounts of the said Grant have been fully settled at the proper accounting office of the Treasury, and the said amount of $1,000 accounted for, then and in that case there shall be paid to the said Grant the sum of $1,000 out of any money not otherwise appropriated.

Mr. RICHARDSON. That amendment is perfectly acceptable, as it is fully in accordance with the wishes of the committee that reported the bill.

The amendment was agreed to.

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

Mr. WASHBURNE. I move to amend the bill by inserting the full name, "Ulysses S. Grant."

The amendment was agreed to.

CONTESTED-ELECTION CASE.

Mr. BROWNE, of Rhode Island, from the Committee of Elections, made a report in the case of Le Grand Byington, contesting the seat of Mr. VANDEVER, of Iowa, accompanied with the following resolution; which was laid on the table, and ordered to be printed:

Resolved, That WILLIAM VANDEVER has not been entitled to a seat as member of this House since he was mustered into the military service of the United States as colonel of the ninth Iowa regiment of volunteer infantry, to wit: since the 24th of September, 1861.

JOSEPH NOCK.

On motion of Mr. STEELE, of New Jersey, it was

Ordered, That leave be granted to withdraw from the files of the House the petition and papers of Joseph Nock.

EMANCIPATION IN THE DISTRICT OF COLUMBIA.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of resuming the consideration of the bill before the committee yesterday. Pending that motion, I move that debate upon that bill be closed in one hour after the committee resumes its consideration.

Mr. COLFAX. I move to amend the motion by making it two hours, instead of one. I make the motion for this reason: that if any gentleman upon the southern side of the House desires it, he may have an hour to speak.

Mr. WADSWORTH. I call the gentleman to order. I do not know what he means by southern side of the House.

Mr. COLFAX. I used the word in no sense of disrespect. As gentlemen will not accept the motion in the spirit in which I made it, I withdraw it.

Mr. WADSWORTH. I object to the use of the term.

The SPEAKER. Debate is not in order.

Mr. WADSWORTH. I made a point of order upon the gentleman from Indiana, which has not been decided.

The SPEAKER. The gentleman from Indiana has withdrawn his amendment. The Chair sees no reason why he might not have used the language which he did use.

Mr. WICKLIFFE. I demand the yeas and nays upon the motion.

The yeas and nays were ordered.

Mr. McKNIGHT. Is it in order to put a question to the Chair?

The SPEAKER. Not in the nature of debate.

Mr. McKNIGHT. I merely wish to inquire whether any gentleman upon the other side of the House desires to speak upon this question?

The SPEAKER. That is in the nature of debate.

Mr. MALLORY. May I be permitted to answer the inquiry of the gentleman?

The SPEAKER. Not without unanimous consent.

Mr. MALLORY. I ask the unanimous consent of the House to do so.

Mr. LOVEJOY and Mr. BINGHAM objected.

The question was then put; and it was decided in the negative—yeas 57, nays 64; as follows:

YEAS—Messrs. Aldrich, Alley, Arnold, Ashley, Baker, Beaman, Bingham, Samuel S. Blair, Blake, Buffinton, Campbell, Chamberlin, Clark, Colfax, Frederick A. Conkling, Covode, Davis, Edgerton, Elliot, Fenton, Fessenden, Franchot, Goodwin, Hanchett, Hickman, Hooper, Hutchins, Julian, Kelley, Francis W. Kellogg, Lansing, Loomis, Lovejoy, Moorhead, Anson P. Morrill, Justin S. Morrill, Pike, Potter, John H. Rice, Riddle, Sargent, Shanks, Sloan, Spaulding, Stevens, Train, Trowbridge, Van Horn, Van Valkenburgh, Verree, Wallace, E. P. Walton, Washburne, Wheeler, Albert S. White, Wilson, and Windom—57.

NAYS—Messrs. Allen, Ancona, Joseph Baily, Biddle, Francis P. Blair, Jacob B. Blair, George H. Browne; William G. Brown, Calvert, Casey, Crittenden, Dawes, Delano, Ducll, Dunlap, Dunn, Edwards, English, Granger, Grider, Haight, Hall, Harding, Harrison, Holman, Johnson, Kerrigan, Killinger, Knapp, Law, Lehman, McKnight, McPherson, Mallory, Menzies, Noble, Noell, Norton, Nugen, Odell, Olin, Pendleton, Perry, Timothy G. Phelps, Porter, Price, Alexander H. Rice, Richardson, Edward H. Rollins, Sheffield, Sheilabarger, Shiel, Smith, John B. Steele, William G. Steele, Stratton, Benjamin F. Thomas, Francis Thomas, Vallandigham, Wadsworth, Whaley, Chilton A. White, Wickliffe, and Woodruff—64.

So the motion was not agreed to.

During the call,

Mr. WORCESTER stated that he was paired off with Mr. CRISFIELD.

The question recurred on the motion to go into the Committee of the Whole on the state of the Union; and being put, the motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of Senate bill No. 108, for the release of certain persons held to service or labor in the District of Columbia.

Mr. NIXON. Mr. Chairman, I am in favor of the general principles of the bill now pending before the committee. The gradual emancipation of the slave would have been more in harmony with the past modes of dealing with this question, and more in accordance with my views of public policy. But if immediate emancipation, with just compensation, shall prove to be the sentiment of the House, I am prepared to exercise an express constitutional power, and vote to remove forever the blot of slavery from the national capital.

I have not risen, sir, to discuss the details of the bill; I propose to avail myself of the indulgence of the committee to throw out some general observations concerning the maladies which afflict the nation's life, and the remedies to be applied for their cure; and I do it with greater freedom from the fact that since I have had a seat upon this floor I have studiously refrained from either introducing or discussing any topic having the most remote connection with the slavery agitation. I have never been able to see any good results to the master or the slave from its introduction and discussion here. But the progress of events is bringing us up to this question. It stands face to face before us. We must meet it. We cannot shrink from it if we would. I trust that none of us would if we could. It is a question of momentous issues, affecting not only the present but the future destiny of the nation, and we should act upon it with a constant reference to the responsibilities which we owe to God, to our constituency, and to mankind.

1. As to the origin of our national troubles.

It has been traced to various sources. Some men tell us that the civil war is directly referable to the failure of the Democratic party to unite upon this candidate or that, at Charleston and Baltimore, as if the Government of the United States were so weak an instrument as to depend upon this or that political organization for its existence, or the performance of its proper functions. Others say that it has been caused by the inauguration of a Republican Administration, as if the election of a party candidate, under the Constitution, and according to all the forms of the Constitution, were a sufficient pretext for organized treason to attempt its destruction. Others again allege that all of our present troubles grow out of the pitiful weakness of Buchanan and the treachery of his Cabinet, as if the weakness of one man or the treachery of many were an excuse for the attempt to overthrow the most beneficent Government that ever before held its gentle sway over a happy and prosperous people.

Sir, it is a very significant fact, and one that most strongly suggests the causelessness of this rebellion, that the conspirators themselves do not agree as to the causes which produced it. While northern sympathizers in secession and treason vex the air with anathemas upon the heads of abolitionists and Republicans—charging upon them the responsibility of this civil strife—their whilom political leaders and southern friends, in their several spheres, distract the public mind with their different theories about the origin of the insurrection. The newspaper press of the country which brought to Washington the first inaugural address of Jefferson Davis, under what they call rather inopportunely their *permanent* government, also contained the letter of Messrs. Yancey, Rost, and Mann, envoys of the so-called southern confederacy, addressed to the English Government through Earl Russell.

In his address Mr. Davis used the following language, in justification of the attempted withdrawal from the Union of the seceded States:

"When a long course of class legislation, directed not to the general welfare, but to the aggrandizement of the northern section of the Union, culminated in a warfare on the domestic institutions of the southern States; when the dogmas of a sectional party, substituted for the provisions of the constitutional compact, threatened to destroy the sovereign rights of the States, six of those States, withdrawing from the Union, confederated together to exercise the right and perform the duty of instituting a government which would better secure the liberties for the preservation of which that Union was established."

The precise specification is that the General Government, although notoriously under the control of southern politicians and their faithful northern allies, had indulged in a long course of class legislation for the aggrandizement of the North, and which had culminated in a warfare on the domestic institutions of the South. Yet previous to this time the rebel commissioners had attempted to convince the British authorities that these charges against the North, thus formally reiterated by their chief, were false, as every intelligent man in the country who gives them currency knows them to be, by writing to Earl Russell, as follows:

"It was from no fear that the slaves would be liberated that secession took place. The very party in power has proposed to guaranty slavery forever in the States, if the South would but remain in the Union. Mr. Lincoln's message proposes no freedom to the slave; but announces subjection of his owner to the will of the Union—in other words, to the will of the North. Even after the battle of Bull Run both branches of the Congress at Washington passed resolutions that the war is only waged in order to enforce that (pro-slavery) Constitution, and to uphold the laws, (many of them pro-slavery,) and out of one hundred and seventy-two votes in the lower House they received all but two, and in the Senate all but one vote. As the army commenced its march the commanding general issued an order that no slaves should be received into or allowed to follow the camp."

I will not weary the committee by quoting in this connection the different ordinances of secession passed by the seceding States in order to show that hardly any two States agreed upon the reasons of their attempt to withdraw from the Union. But this diversity of sentiment among the conspirators and the States shows most conclusively that the movement was as causeless and inexcusable as it was malignant and wicked.

The true causes of this rebellion, sir, lie deeper than these idle pretexts. The disruption of the Democratic party, the perversion of the objects and aims of the Republican organization, the weakness of the late President, the treachery of his Cabinet, and the excitements of the slavery agitation, were doubtless used by the conspirators, but used to carry out a predetermined purpose. Underlying all these, was the ambition of southern leaders, their lust for power, and the arrogance of southern slaveholders, who years ago commenced the work of national disintegration, and who instilled the poison of their treason into the southern heart, that, when they should cease to control the legislation of the old Government, they would have the power to sever the bonds of union, and reconstruct from the fragments a new confederacy, "the corner-stone of which should be African servitude," and over which they could exercise their accustomed sway. In this sense, and in this only, in my judgment, was slavery the cause of the rebellion. Ambitious leaders used it to arouse the masses of the people against the Federal authority, just as the silversmiths of old used the idolatry of the Ephesians to excite the popular prejudice against the great apostle to the Gentiles.

2. What are the objects of the war and the proper mode of its prosecution?

Here, also, a wide diversity of opinion exists among loyal men—I say among *loyal* men; for I shall make no allusion to the sentiments of another class, unhappily too large even in the northern States, whose sympathies are with the rebellion; who prate about the just causes for secession; whose narrow souls have been so dwarfed by the trammels and machinery of old political parties that they cannot see any virtue in a general, any

honesty in an administration, or any ability in a statesman who happens to stand outside of the limits of their political fold. The greatest calamity that could befall the world, in their estimation, would be the speedy and successful termination of the contest through the instrumentality of a Republican Administration.

But this diversity of views among loyal men arises from their adverse theories as to the procuring cause of the war, from their various interpretations of the powers vested in the General Government by the Constitution, and from their different estimates of the springs and sources which feed the rebellion, and of the forces that must be overcome before a permanent peace can be secured.

Philosophical gentlemen, theorizing upon this subject, will tell you that this is a contest between two forms of civilization; an irrepressible conflict between antagonistical ideas of the objects and ends of human government, the one side agreeing to the unity of the race and struggling for its emancipation and political equality, the other side denying its unity, and trying to perpetuate the distinctions of caste and the subordination of one race to the other. The deduction drawn from this view is, that the contest must go on, if needs be, forever, or until the annihilation of the one party or the other is complete.

If this be true, if the mere existence of slavery were sufficient to produce rebellion, then the Constitution of the United States is a failure; the wisdom of the fathers who framed it, was folly; and the sooner we strike hands with southern traitors, in aid of its destruction, the better for us, and for mankind. Not that slavery exists by virtue of the Constitution. It exists as the creature of local law, by permission of the Constitution, because it is not inhibited.

But it is not true. There was no need of such a contest. The history of the world in all ages, the history of our own country for three quarters of a century, prove that no such necessity existed. It was not the institution of slavery, but the ambition of southern men, that made slavery aggressive. It was not the desire for the emancipation of the slave, but the ambition of northern leaders, struggling to get into power, that made abolitionism aggressive. While demagogues were thus bringing the nation to the verge of the precipice, good men, North and South, were deploring the social evils and the natural wrong of slavery, and were looking hopefully to society in the development of its innate strength, to the civilized forces of the age acting in beneficent channels, and to the Christian religion breathing peace and good will to men, to work out peaceably the great problem of the slave's emancipation; but before society, or civilization, or religion had fairly developed their nascent powers, the contest was precipitated; not because it was in its nature irrepressible, but because it was made so by the folly and wickedness of men.

Other differences arise from the confusion of ideas as to the relations of the States to each other and to the Federal Government, and the powers vested in the Government by the Constitution.

A large class of southern politicians have long held that the Constitution does not establish a government acting directly upon individuals, but that it is a mere compact or league, to which the States are parties, and which may be dissolved at the will of either party. The pestilent heresy of secession, with its brood of realized and impending evils, is the offspring of this false assumption. Hence, these men regard all ordinances of secession, made in the name of States, as valid, absolving them from all allegiance to the General Government; and they call every effort for the enforcement of the Federal laws the "coercion of sovereign States." It was just here that the late President (Buchanan) gave so much "aid and comfort" to the conspirators. In his message to the last Congress, he denied, indeed, the right of secession; but if a State should secede there was no remedy, because there was no power in the Constitution to coerce a State. It is not the State that is in rebellion and deserving punishment, but individuals who, acted upon by the laws of the United States, forcibly resisted their execution, and owing fealty to the Government, raised their hands for its overthrow.

The propositions now pending in this House and the Senate for the organization of territorial governments over the seceded States, and which the honorable gentleman from Michigan [Mr. Beaman] so ably supported a few days since, in his well-elaborated speech, contain the germs of this fallacious reasoning. It was not so intended by the movers, but these propositions, when carried to their logical results, recognize the right in a State to secede. They assume that South Carolina, for instance, is out of the Union, and as she was not able to carry her territory with her, Congress should organize a government over it. But how did South Carolina get out of the Union? Not by an ordinance of secession, because we all agree that these ordinances were void, and hence inoperative. Nor did she go out by the dissolution of a compact; for the ties which held her to the central power are not light threads to be broken at pleasure, but ligaments and fibers extending to the very heart of the Government, giving life to the body-politic, and whose functions can cease only with the dying tremors of a general dissolution. South Carolina is still in the Union, and by the blessing of God upon the efforts of the Union Army, here she shall ever remain, with or without her consent. A nation's insulted flag shall yet wave over the battlements of Sumter. Her hordes of traitors shall flee before the steady advance of the soldiers of the Republic. The authority of the General Government shall yet be restored in spite of all the combinations which have been formed to expel it, even if can be accomplished only by the destruction of all the property and the death of every traitor found in arms and opposing the restoration.

Other propositions, here and elsewhere, look to acts of general emancipation of the slaves, not only as one of the objects of the war, but as one of the most efficient means for carrying it to a triumphant issue. The authority to do this is found by some in the false theory that States lose their right to confer the power of holding men in servitude, through their local laws, in consequence of their pretended acts of secession; and by others in some vague notion, first set afloat by John Quincy Adams, that the right exists as incident to the war power of Congress, as if the powers conferred upon Congress by the Constitution were, in their nature and substance, elastic, expanding and contracting as the exigencies and perils of the hour seem to demand. I do not say that the right of emancipating the slaves of rebels does not exist. It does exist, as incidental to the war power of the Commander-in-Chief of the Army and Navy, not by virtue of the Constitution, but according to the recognized laws of war; and I observe, in passing, that if I were the Commander-in-Chief, I would strike from the rolls of the Army and Navy the name of every officer who refused to exercise that power wherever it could be exercised for the benefit of the slave, and at the same time weaken the strength of the rebel master. I look through the Constitution of my country, and nowhere find any such power, express or implied, vested in Congress. I dare not say that because the power is not prohibited, it may be exercised; for every intelligent man will see at once to what consequences such a rule of interpretation would lead us. The true rule was concisely stated by the honorable gentleman from Massachusetts [Mr. Thomas] in his unanswered, and, in my view, unanswerable, argument, against the constitutionality of the legal-tender clause of the Treasury note bill. He says:

"We look, in any given case, to the Constitution to see if the power is granted. We do not say that the power is not denied, and therefore exists; but that it is not granted, and therefore does not exist."

But, in my judgment, Mr. Chairman, it is not the duty of Congress to busy itself just now in organizing territorial governments over the seceded States, or in passing enactments of general emancipation. It will be time enough for us to consider and legislate upon these questions when the subject-matter is under our control. We have our hands quite full in discharging our acknowledged constitutional obligations, in aiding the Executive to suppress the rebellion, and to enforce the execution of the Federal laws, which, as the President assured us in his first proclamation, and as we have reiterated here in every variety of form, was the only object of the appeal to arms.

This contest was not begun by us. It was forced upon us. The long forbearance of the General Government toward the rebels has no parallel in the history of nations. Treason walked abroad at mid-day in the streets of the Federal capital. Cabinet ministers ran the race with Senators and Representatives for precedence in perjury and treachery; holding the seals of office, they used their official position to destroy the Constitution which they had sworn to support, and to overthrow the Government which gave them their daily bread. No trust was too sacred to be violated. All property which could be of use in furtherance of their treasonable ends was stolen. Arms, ammunition, forts, arsenals, navy-yards, dock-yards, and ships were carried off without let or hinderance, in the very presence of a paralyzed Government; and, as if to fill to the brim the cup of their wickedness, a peaceful vessel, freighted with provisions for a starving garrison, was diverted from her errand of mercy by the cannon of the insurgents; and, as if to make that cup overflow, the fort in Charleston harbor was invested by the army of the conspirators, and the flag of the nation was insulted, dishonored—made to trail in the dust before their overwhelming legions.

Then, thank God, the reaction came. The Government and the people awoke from their strange apathy. The blood kindled in patriotic veins. The President's proclamation was issued, found a quick response in all loyal hearts, and the contest, thus begun, has grown by degrees to such gigantic proportions that the continent trembles beneath the tread of the soldiery, and the nations hold their breath in astonishment and awe.

I have said that the proclamation reveals to us the real objects of the war. It also shows how the Government proposes to resist these encroachments upon the Federal authority. When the news reached Washington that Fort Sumter was bombarded, the President spoke to the country as follows:

"Whereas the laws of the United States have been for some time past and now are opposed, and the execution thereof obstructed, in the States of South Carolina, Georgia, Alabama, Florida, Mississippi, Louisiana, and Texas, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by law:

"Now, therefore, I, Abraham Lincoln, President of the United States, in virtue of the power in me vested by the Constitution and the laws, have thought fit to call forth, and hereby do call forth, the militia of the several States of the Union, to the aggregate number of seventy-five thousand, in order to suppress said combinations, and to cause the laws to be duly executed.

"I appeal to all loyal citizens to favor, facilitate, and aid this effort to maintain the honor, the integrity, and the existence of our national Union and the perpetuity of popular Government, and to redress wrongs already long enough endured.

"I deem it proper to say that the first service assigned to the forces hereby called forth will probably be to repossess the forts, places, and property which have been seized from the Union; and in every event the utmost care will be observed, consistently with the objects aforesaid, to avoid any devastation, any destruction of or interference with property, or any disturbance of peaceful citizens in any part of the country.

"And I hereby command the persons composing the combinations aforesaid to disperse and retire peaceably to their respective abodes within twenty days from this date."

He asks for seventy-five thousand of the militia of the several States. What for? Not to coerce States, but to put down "combinations of men too powerful to be suppressed by the ordinary course of judicial proceedings." Not to emancipate slaves, but to repossess the Government of its stolen property. Not to execute new arbitrary laws, but to enforce existing constitutional old laws; and upon that true Republican platform I stand to-day with the Administration, prepared to go as far as the farthest to vote men, money, and means for securing the threefold objects indicated in the proclamation, and anxious to advance, as far as the Constitution will permit, in punishing the authors of this most causeless revolt. As far as the Constitution will permit. There is the limit. This war is only justifiable because, submitting to all the requirements, and assuming all the obligations which the Constitution imposes upon us, we have determined that all others shall submit to the requirements and assume the obligations which it imposes upon them. If we go beyond this limit in any of the departments of the Government, executive, legislative, or judicial, even for the laudable object of suppressing rebellion and punishing traitors, we are guilty of the very transgressions of which we complain in them, and are making ourselves justly obnoxious to the charge of waging a war outside of the Constitution to reduce the South

to the will of the majority, irresponsible, without the limitation of organic law, and therefore tyrannical. It is always easy, in the whirl of fierce excitement, for men and nations to find pretexts to transcend the powers of the fundamental law.

The Constitution, it is alleged, was made for periods of peace. Its framers could not anticipate such a gigantic conspiracy against the national life, and therefore made no provision for it. Besides, the laws are always silent in the midst of arms. Necessity, everybody knows, is above all law. The safety of the people is the highest law; and these wise maxims are generally expressed in a dead language, to impart to them the odor of sanctity and age.

Now, sir, if it were true that the Constitution was silent as to the precise mode of dealing with insurrections, or if the necessities of the times demanded the exercise of unauthorized powers, I do not affirm that such powers should not be exercised, although national life is dearly purchased at the expense of the public liberties, and that Government is hardly worth preserving which must violate its fundamental principles in order to its conservation.

But is the Constitution silent? Did its authors, in their extreme solicitude to guard against the encroachments of the Federal authority, overlook the dangers to be apprehended from the encroachments of the people? Does it not make the amplest provision for the emergencies of our present position? Let us see.

The Constitution, and the laws of the United States made in pursuance of it, are declared, in express terms, to be the supreme law of the land; and if supreme, then every State constitution and State law in contravention of them are nugatory and void.

It is the duty of the President to take care that all the laws are faithfully executed. Any willful neglect, on his part, to exercise this care would be a violation of his official oath, and subject him to the hazards of an impeachment.

Congress has the power to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions. In discharge of the duty thus imposed, Congress more than once has enacted laws placing at the disposal of the President large bodies of men, limited only by his discretion, to enable him to give expression to this constitutional power.

The judiciary is to interpret the Constitution and the laws of the United States, and shall hold as void all State constitutions and laws which come in conflict with them. Let us consider the practical workings of these express provisions of the Constitution in the presence of current events.

Some disciple of the State rights school in politics, constituting himself the interpreter of the laws, assumes that an act of Congress is unconstitutional, and determines to nullify its execution. The marshal of the district, as the officer of the court, and the representative of the Federal authority, attempts his arrest. His neighbors and friends, sympathizing with him in his hostility to the law, join with him against the officer, and the opposition soon assumes the proportions of a riot, and overcomes the power of the marshal and the *posse comitatus* which he has summoned to his aid. The disaffection increases. The inhabitants of whole districts and States join the revolt, and rise up in insurrection. They drive out the ministers of justice, close the courts, hinder the execution of the laws, and throwing off the authority of the old Government, they organize a new Government, to which they transfer their allegiance.

The President of the United States, finding that the combinations of men "have grown too powerful to be suppressed by the ordinary course of judicial proceedings, or by the power vested in the marshals by law," issues his proclamation, under the act of 1795, commanding the persons composing these combinations to disperse and return peaceably to their homes, and at the same time calling forth the militia of the several States in such numbers as the public exigencies require, in order to suppress the rebellion, and to cause the laws to be duly executed. Now, when this army of the militia gets into the territory of the insurgents what has it to do? Just what the marshal, in his own strength, attempted to do and failed; just what the marshal, aided by his *posse*, undertook against the rioters, and again failed. It is to reduce the rebels to submission; to scatter them to their homes, and enforce the execution of the laws. It is only the necessary amplification of the marshal's power, and invoked by lawful authority to do the marshal's work. If, after the army of the insurgents has been driven from the field, the people still continue in revolt, the President may organize either military or provisional governments over them, and may protect these governments in the enforcement of the Federal laws by the Army and Navy of the United States. These temporary expedients for the government of men in rebellion will only cease when the insurrection is suppressed, and then the conquered rebels, having returned to their allegiance, their State governments, not dead, but only in abeyance, will resume their suspended functions, and the authority and power of the General Government will be vindicated in the restoration of its gentle control over all the States of the Republic.

But has Congress, then, no duties and responsibilities to discharge to the country? Yes, many; enough to tax to the utmost our best energies. We have to preserve the public credit, by devising equal and liberal schemes of taxation; assuming that every loyal heart is ready, if needs be, with his last dollar to sustain the Government. We have to guard the public Treasury, as far as possible, against plunderers and spoilsmen. Unlike the last administration, we should bring to the light and expose all attempts at fraud and speculation, no matter whether committed by political friends or opponents. We are to make provision for the comfort, support, and prompt payment of the gallant men who swell the Army of the Republic. And when that Army shall have expelled from every seceded State the horde of rebel insurgents, as it has already expelled them from Missouri, Kentucky, and parts of Tennessee, Arkansas, North Carolina, South Carolina, and Florida, and, as I begin to hope, will soon expel them from the whole of Virginia, we should authorize the President to establish provisional governments for the execution of the Federal laws over every conquered territory where the people will not, of their own volition, return to their allegiance. Then, declaring a general amnesty to the ignorant masses, who have been hurried without thought of the consequences into insurrection, we should provide, through the regular action of the courts, the halter and rope for all the leaders, who, to gratify their insatiate ambition, have so cruelly deceived their followers and misled them to the brink of ruin.

But should this conciliatory policy fail to suppress the rebellion and reduce the insurgents into submission to the laws, what next? What next? There can be but one reply. The Constitution of the United States, within the scope of its delegated powers, and the laws made in pursuance of it, are supreme over every foot of the territory of the Republic, and so they must continue forever. No other authority can be permitted to divide and share sovereignty with the General Government. Whatever combination, association, or body erects itself against the supremacy of the laws, must submit or be crushed beneath the power of the Federal arm. This insurrection must be put down. The Army must do it. A half million of men are enrolled to-day, under the flag of the Union, waiting with eager eye and anxious step for the order to advance. Other millions are looking on, ready to fill up the ranks, thinned and weakened by the delays of generals, the diseases of the camp, and the sharp bullets of bloody conflict. The recollections of our earlier history; the conflicts and perils of the Revolution; the lame, impotent, and evil workings of the old Articles of Confederation; and the wonderful career of prosperity which we have run under the Constitution of our fathers; all, all inspire us with the determination to maintain the Government at all hazards in this great struggle, and to transmit to our children, unimpaired, its priceless blessings. Sir, it is time for the people of the South to know, it is time for the nations of Europe to understand, that the people of the North are in earnest in this matter, and that before they submit to the triumph of the rebellion and agree to the dismemberment of the country, they will arm—should the necessities of the war require it, as the least of impending evils—they will arm every slave against his rebel master; will drive the whole white population beyond the borders; and hold the once proud States of the Mexican Gulf as Territories for the home of the enfranchised negro.

Sir, I represent an intelligent, conservative, Constitution-loving constituency. It is not much afflicted with the numerous *isms* which now-a-days torment the busy brains of so many men. It loves the ancient paths and desires to walk in them. The State of New Jersey was the first of the Old Thirteen that suggested the idea of a general revision of the Articles of Confederation, and she was among the first to adopt the Constitution, in the maturing and perfecting of which her statesmen contributed so large a share. She loves that Constitution and clings to it with an ever-increasing affection. Traitors to it and sympathizers in secession die, politically, who attempt to breathe her air. Her heart is in this contest. One out of every eight of her population, capable of bearing arms, stands in the ranks of the Union Army to-day—her best young blood; the denizens of her cities, and the pride and flower of her rural population. They have enlisted to fight. They have no metropolitan press to chronicle achievements which were never performed; but the words "Roanoke" and "Newbern," emblazoned on the banners of her gallant ninth, are only an earnest of what her other regiments will accomplish if permitted to advance to the shock of battle. She wants the war to go on until every inch of the national domain is wrested from the hands of traitors. She cannot understand how it is possible to maintain peaceably a divided country. She feels that it were better for the race of mankind that all this generation should perish, than that our experiment of free government, now put to its last great trial, should fail. She knows not what hours of darkness and trial hang in the future. She would even be willing, rather than succumb to treason, that every southern plain should be desolated, every southern city razed to the ground, and every southern rebel destroyed; but now in the hopeful present, when no such dire necessity seems to exist, she conjures the Representatives of the people, through me, one of the humblest of her sons, to abandon the discussion of every topic which divides the loyal heart of the country, and draws away the public mind from the true objects and purposes of the war. She asks you to keep the negro out of this Hall; to let slavery in the States take the chances of the contest, and to give no thrust outside, but to strike the enemies of the Government, thick and fast, within the limits of the Constitution. Then, when the historian, in the coming ages, shall review the events which strangely crowd the hours of the present, he will be able to write of the men of this generation: then lived a people, characterized by determination in defeat, and by moderation in success. They fought the battle of constitutional liberty for mankind, and in the contest, however sorely pressed, they never forgot to render to the law that measure of obedience which they required from the humblest citizen of the Republic.

MESSAGE FROM THE SENATE.

The committee informally rose; and the Speaker having resumed the chair, a message from the Senate was received by Mr. FORNEY, their Secretary, informing the House that the Senate had passed a joint resolution (No. 74) to confirm the opinion of the Court of Claims adverse to the claim of Sweeny, Rittenhouse, Fant & Co.; and a joint resolution (No. 75) to confirm the opinion of the Court of Claims adverse to the claim of Thomas B. Graham; in which he was directed to ask the concurrence of the House.

The committee resumed its session, and proceeded again to the consideration of the bill of the Senate relating to

EMANCIPATION IN THE DISTRICT.

Mr. BLAIR, of Missouri. The charge has frequently been heard here and elsewhere that the President is without a policy in his administration. I shall endeavor to show that this imputation is unfounded, to explain my conceptions of his policy, and to demonstrate that it is wise in every aspect, and commends itself to the lovers of the Union and of freedom. There can be no dispute with respect to the object of the war so far as he is concerned. He says in his annual message that he has been anxious that it "shall not degenerate into a violent and remorseless revolutionary struggle. I have, therefore," he adds, "in every case

thought it proper to keep the integrity of the Union prominent *as the primary object of the contest.*" No one can refuse belief to this utterance. If the President stood on his mere declaration, his life has been so marked by integrity that all men yield implicit faith to his words as the true index of his heart. But the language truly characterizes his conduct. It has not been attempted to show that he has not endeavored in every way to prevent the struggle from degenerating into a violent and remorseless revolutionary struggle, and, as its first great object, to maintain the integrity of the Union.

But it is objected by some of those who aided in his election that he has not in aid of this object made the war upon the cause of the war, and decreed emancipation by an order as Commander-in-Chief of the Army and Navy, as an effective agency in suppressing the rebellion.

This measure might unquestionably be justified if it were deemed necessary or expedient for the purpose of accomplishing his object, and if it could be shown that he knew this to be true, he might be arraigned for failing to use this means. But when the record of his opinions is examined, it is easy to understand that he does not consider the measure, which is regarded as so omnipotent by a portion of his friends, as likely to be effective for the purpose, and I think it can be shown that his judgment is probably the most correct.

In his canvass for the Senate with Mr. Douglas, his views respecting the subject of slavery were very fully developed, and though not speaking with reference to the present aspect of affairs, his position then led logically to his present attitude, and shows a far deeper insight into the relations of the subject than any other man of the day had then attained. In his declaration, that above all things he desired "a separation of the black and white races," he showed that he knew that the excitement occasioned at the South by the idea of emancipation was not due to the fears of the loss of property it would occasion to those holding slaves. His birth in a slave State, and subsequent residence in Indiana and Illinois, among a people a large proportion of whom also sprung from the slave States and from the non-slaveholders of the slave States, taught him that the greatest repugnance to this measure was to be found among men who had no such property interest at stake. He knew, also, that these men were for the most part, and the best part, ardently attached to the Union, and especially in those regions of the country where military operations would be difficult.

To superficial observers who believe that the rebellion grew out of slavery, and is, as they term it, a slaveholders' rebellion, and when it is known to be true that the non-slaveholding regions of the South are for the Union, it is natural that it should occur to them that the proper course to carry all the non-slaveholders against the rebellion would be to decree emancipation. But a closer scrutiny demonstrates the contrary to be true; such a scrutiny demonstrates that the rebellion originated chiefly with the non-slaveholders resident in the strongholds of the institution, not springing, however, from any love of slavery, but from an antagonism of race and hostility to the idea of equality with the blacks involved in simple emancipation. This idea among non-slaveholders was naturally of greater intensity in proportion to the number of slaves about them, and its force in extinguishing Union feeling diminished as we approach the high and mountain regions where the slaves are few.

Every man acquainted with the facts knows that it is fallacious to call this "a slaveholders' rebellion." If such was the fact, two divisions of our Army could have suppressed it without difficulty; the negroes themselves could easily put down the two hundred and fifty thousand slaveholders; but it is a matter of history that the slaveholders, as a body, were the last and most reluctant to join the rebellion. The representative men of that interest, like Badger of North Carolina, Aiken of South Carolina, and Alexander H. Stephens of Georgia, struggled as long as there was hope against the rebellion, and for the obvious reason that the entire interests of the slaveholders were put in extreme jeopardy. It was the *negro question* and not the *slavery question* which made the rebellion—questions entirely different and requiring entirely different treatment; and it is as necessary to understand the distinction to enable us to deal with it successfully, as it is that the physician should know the disease which he is called on to treat and to cure. If the rebellion was made by two hundred and fifty thousand slaveholders, for the sake of perpetuating slavery, then it might be a complete remedy to extirpate the institution; but if the rebellion has grown out of the abhorrence of the non-slaveholders for emancipation and amalgamation, and their dread of "negro equality," how will their discontent be cured by the very measure the mere apprehension of which has driven them into rebellion?

No wise man desires to increase the number of enemies to the State within the hostile regions, or divide its friends outside. Mr. Lincoln knew that a decree of emancipation simply would certainly have this effect. Such an act he knew was calculated to make rebels of the whole of the non-slaveholders of the South, and at the same time to weaken the sympathy of a large number of the working men of the North, who are not ready to see their brethren in the South put on an equality with manumitted negroes.

In accordance with this view of the subject, proclaimed before he was named for the Presidency, he has acted since he has been President. To disarm the jealousy of race, which he knew lay at the bottom of the rebellion, he recommended in his first annual message that homes should be provided in some neighboring country for such of the blacks as should be made free by the events of the contest. But this did not complete his view of the subject. While aware that the chief cause of the rebellion was the antagonism of race, stimulated by the disappointed and defeated politicians, who had made it the source of their power over the Government, he also saw that the progress of events had affected and would still further affect the class who had property interests in the subject. And while it was true that that class had not originated the policy which culminated in the rebellion, they were now involved in it, many of them actually engaged, and all, whether sympathizing with it or not, having their property staked on it, and therefore in danger of being drawn into it. To do justice to those who were not engaged in the rebellion, and to prevent them from being drawn into it by their property interest, and invite their coöperation in ridding the country of this disturbing element, he now proposes a measure of compensation for their interests.

If we were called to consider this policy, simply upon its reasonableness abstractly considered, and were devising a scheme for future events, its wisdom would be apparent to all practical men; but it does not rest on such grounds. It is fully vindicated by the condition of things by which we are surrounded. The North is a unit, and the South is divided on the question of the Union. Could the gentlemen who are advertising for a policy for the Administration improve this condition by a policy which would divide our friends and unite the South? They imagine, indeed, that by decreeing emancipation they could get more efficient help from the negroes. If they could show any reason for supposing that the negroes would run away in any greater numbers than they now do, under such a decree, there might be some ground for debate; but there is not the slightest reason for supposing this. All run away now, I believe, who can get away. It is only when our armies invade the slave regions that they can get away, and it would still require that the forts they are compelled to build should be taken by our armed men. We could not strengthen ourselves at the North by this measure certainly; we have already the whole force of that region; and we could not strengthen ourselves at the South, for we cannot reach the slaves by such a proclamation except by force, and we should add to the force of the free men to oppose us.

These considerations demonstrate that, in a military calculation, the policy to which the President is invited by a portion of his original friends is erroneous.

But many reject arithmetic in considering this policy, and imagine that the inscription of emancipation on our banners would be a talismanic word which would carry victory with it. I doubt whether any better conquering words could be invented than those we now conquer by: the Union, the flag, the Government founded by Washington, maintained by Jackson; language which speaks to the hearts of our soldiers, and to the world, of the nationality of the great Republic. I am for the freedom of all races and creeds, and look for the day to come, and that not far distant, when the flag of the Union shall float over no slave, and our country shall be absolutely the land of the free; but the battle now is for the country, and the gallant men who day by day find a bloody winding sheet, give their lives for this cherished idea, and not for the emancipation of the African race.

Having considered the President's policy on the subject of slavery as a military policy, let us view it in its bearings on the extinction of the institution itself. A brief retrospect is necessary to its comprehension in the present state of the question. It is important, in the first place, to see what was the essential issue in the last presidential election. I think that it was in effect, whether the minority should govern by making use of *the passions* connected with the institution of slavery. I say the *passions* connected with the institution, and not merely the passions connected with the institution as property or the property interest; and it is all-important to a successful treatment of the subject that the distinction should be heeded. It was not, as is sometimes supposed, a slaveholders' rebellion in its origin, for it is matter of fact that the party at the South to which slaveholders as a class were attached was not the disunionist party there.

The sensitiveness which enabled the leaders of the Democratic party in the South at any time to unite the South, by playing on the slavery chord, was not in the property nerve. It was caused by that morbid condition inseparable from the presence of diverse races in the same community.

To the people of the Union, however, it was not so important how the result was produced, the effect was to disfranchise them. The people had no share in the Government. All power was vested in the clique which dominated in the South. It was to put down this dominion that the organization which elected Mr. Lincoln was formed. It was, therefore, against slavery as the governing power of the country, that the Republican party rose as a national party, and not to abolish slavery as a local institution. This was not only avowed in the platform of the party, but it is manifest that whether the leaders of that party were sincere or not, the people who gave them power were sincere. We have but to consider their conduct to see that they at least were sincere, and it is of no moment to consider whether the leaders were so or not. There is no mistaking their purpose in the matter. This is demonstrated by their action in relation to the compromise of 1850. The terms of that compromise were not satisfactory to the North. But as by common consent it was understood to have settled all slavery questions, they accepted it as a means of preventing slavery issues, and thereby to put down slavery as a governing power of the Federal Government. That this is true, is demonstrated by the fact that their public men, who truly represented the public will, in contesting the terms of the compromise were not countenanced in attempting to disturb the compromise, and lost their positions, and both parties were obliged to proclaim adherence to it in the contest of 1852. So strong was this feeling, that the main reason for the success of the Democrats in that contest was, that being the chief authors of the compromise they were with reason believed to be more friendly to it than their antagonists.

I had been a proviso man myself from the start, and opposed the dominion of slavery, but believed that General Pierce, who had been a close friend of Silas Wright, would have sense and patriotism enough to oppose any measure intended to make the slavery question so as to enable the southern clique to rule the nation. I was deceived, and the country was deceived. The universal discontent manifested at his breach of faith to the nation in the repeal of the Missouri compromise every one remembers; and if I refer to his unenviable position now before the country, it is not in any unkindness of spirit, but for the purpose of vindicating the public judgment upon great public measures.

I know that some persons would explain the acquiescence of the people in the compromise measures of 1850, and their indignation at the repeal of the compromise measure of 1820, by assuming that the people were fickle and deficient in judgment, thinking that those only were logical and consistent who resisted both these measures, and who would have persisted in making

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. SATURDAY, APRIL 12, 1862. NEW SERIES....No. 103.

issues on those measures after they were passed. But it is just that difference between the people and that class of persons which marks the difference in the objects of the people and the objects of this class. The people of the Union have been willing to leave it to the people of the States affected by it to deal with the institution, but unwilling that it should be extended, and unwilling to have the institution made use of to control the Federal Government. The ultra anti-slavery men go further, and coöperate with the slave interest in making questions affecting slavery, but for directly the contrary purpose. Now, the masses of the people do not participate in the objects either of those who wish to make the Government of the Union the active agent to extend or to abolish slavery, not because they are indifferent whether the institution continues to exist or not; on the contrary, they are most anxious to see slavery extinguished, and are ready to coöperate generously in the work, but they are law-abiding, and know that by law it belongs to the governments of the States to decide that question.

The slavery government was broken down by the election of Lincoln by the people of the North, and they had a right to break it down; and, in my judgment, the effect will be to extinguish slavery, not because the General Government can or will be used to decree abolition. The effect, however, will follow, because it will work a complete change in the tactics of the ambitious men of the South. No sane man believes slavery a good thing, and the revolution in opinion on this subject which Mr. Hunter said in one of his last speeches in the Senate had taken place there within the last twenty years, does not prove, to my mind, that he or the people have had a new revelation and a new code of ethics, or different consciences than the fathers whose teachings they have come to disregard. An examination of the facts will show only this, that the Calhounites discovered, not that slavery was the moral and economical blessing they professed to believe it, but that the morbid feeling engendered by it might be turned to their account in securing them political power. That was the good and the only good there was in it; and this being the only consideration with them, it came to be regarded as the only true basis of government; and this theory, which was boldly announced by Mr. Calhoun in 1837, was confirmed by the success which attended them till 1860. Nor are they a peculiar class of politicians in thinking that an institution which gives them political power is a divine institution. All the aristocrats of England, with rare exceptions, think that primogeniture is equally divine; and it was argued in Parliament, with more earnestness, eloquence, and learning, to show that the rotten borough system was the source of English power and prosperity, than was ever exhibited in Congress to show that slavery was the secret of the marvelous greatness and growth of America. The source of these strange perversions of reason is obviously the same. It was merely because slavery, in the one case, and the rotten borough system in the other, gave the orator or his party political power. But now the scepter of slavery is broken, and its empire can never be restored. Even as a personal relation, it is out of date in this age of the world, and strangely out of place in America, and nothing but the despotism it temporarily possessed could have prevented its destruction by the enlightenment and moral pressure of the age. But when to the catalogue of wrongs inflicted by it upon the nation, and especially upon the laboring millions of our own race in the midst of whom it exists, is added the crime of this rebellion, no one can doubt that its doom is decreed.

But the question comes, by whom is this decree to be executed? I reply, it can only be done by the constitutional authorities. But will they do it? I have already said they would; and my belief is, that any assumption of authority to expedite it may stay the work, and might restore the slave dynasty again temporarily to power; and, indeed, the talk of such usurpation has already given hopes of restoration, and lead, I hear, to what may be called a Jacobite conference in these Halls. It was not love for the king, but impatience engendered by the senseless rigor of the Puritans, that brought back Charles II to England. If the pro-slavery Democracy is restored to power, it will be by similar folly on the part of the most extreme opponents of slavery. It is a local institution; and while opinion and external power can and must aid in its eradication, yet from the very nature of the subject it is only by the coöperation of the local authorities it can be effectively dealt with; and the rebellion, though it intensifies and consolidates opinion against the institution, does not remove the necessity for this coöperation. But this coöperation is easily secured. It needs only the will to secure it, to find the way to secure it. A manifestation of the spirit of justice on the part of the nation, and a disposition to do unto the people of the South as the people of the North would be done by under similar circumstances, is all that is necessary. If I am asked to be more specific in defining the policy this spirit would beget, I point you to the policy of Abraham Lincoln. If the Republicans had proclaimed that policy, I verily believe we should not have had this rebellion; and if it can even now be recognized by Congress, I believe it will save the blood of many of our soldiers, and soon bring us peace and good will, and speedy emancipation besides.

Many assume that Mr. Lincoln's programme of conciliation by separation of the races is inadequate, because the blacks are so numerous that they cannot all be removed, and time will be required to remove even a small portion of them. They argue that because the Liberian colony has failed to attract the freed negro population in any considerable numbers, that any scheme of colonization must also be a failure. There is a vast difference, however, between the idea of being colonized on our own continent, under our own flag, and being buried in Africa. It is the difference between life and death, home and banishment.

The fact that even now many of these persons are going to Hayti, and that multitudes of them have for years been looking out for an asylum in some neighboring country, has not attracted the attention of those who have not been interested in the subject. They do not know that a delegate convention was held at Cleveland by them in the year 1857, to consider the subject, and a commission appointed to examine and report. I was not aware of this myself when I made my first speech in the House in 1858, on the subject. That and other speeches attracted the attention of these people, and I have since been furnished with copies of their proceedings, and received letters from their leading men, evincing not only the deepest interest in the subject, but displaying a comprehensive knowledge of it, which shows that they have men among them fitted to be the founders of a new nationality. I was assured by the organ of this convention that if the Government would act on my proposition, he was already authorized to speak for five thousand persons who had some means, who would embrace it in the first year. I do not myself doubt that ten times that number would be found in the first year, and that the establishment of such a colony would be followed by an outpouring of this population like the outpouring of the Mississippi when a crevasse is opened. It is indeed so manifest that this population tends by nature to that region, that I could as soon doubt that water would seek its level when permitted to flow, as that this race would not seek its natural home when at liberty to go there.

The census shows that it gravitates to the tropics, so that, even under existing conditions, it is but a question of time; and that it will free itself when it gets there, we also have seen, so irresistible is natural law. Mr. Lincoln only proposes to obey this natural and irresistible law and facilitate its operation. It is the disregard of it which has created the disorder under which the body politic is now suffering. Can it be doubted that the fever will abate rapidly when his policy is adopted? And, indeed, such is the nature of the case that I feel warranted in saying that the disturbance will cease as soon as it is known that the nation has accepted Mr. Lincoln's policy, and before a single negro has left the Union. The outbreak, as I have already said, sprang from the convictions in the common mind in the disturbed region that the negroes were to be liberated and put upon an equal footing with the whites. The mere idea of this amalgamation was instrumental in producing the rebellion. There was no actual emancipation. The idea of the separation of the race is a complete antidote to that poison. It is the duty of the national Government to make the provision Mr. Lincoln recommends. That Government alone has the control of our external relations, and therefore the States could never be relieved of this race without the action of the Federal Government. And I will take the occasion to say that, in my judgment, the Representatives of the North will very soon find that they will be called on to act by their own people. The contrabands are going North, and it will soon be demonstrated, I think, that the working men of the South do not differ from their brethren of the North, in desiring that this population shall be provided with a more suitable home than is to be found among the white population. The wisdom of Mr. Lincoln's policy will vindicate itself then, and not before. The efficacy of Mr. Lincoln's proposition to give pecuniary aid to such of the States as may wish to embrace the emancipation policy is also questioned. If that proposition stood alone, there would be reason for this. And it is because the venerable gentleman from Kentucky, [Mr. WICKLIFFE,] who I believe truly reflects the feelings of the Union slaveholders of his State and section, did not consider it only as a part of the President's policy, that he regarded it with disfavor. I judge so, indeed, without having conferred with him upon the subject; but I feel some confidence in the opinion, because while he differed on other points of public policy with his distinguished brother, the late Robert Wickliffe, upon matters pertaining to slavery, there was, I believe, an accordance of views. If I am right in this impression, then I am authorized to say that the views of the President, taken as a whole, will be accepted by that gentleman; for I received a letter from his brother in 1858, warmly sustaining those views as explained by me in my speech of that year; and I will take occasion to say, that although Mr. Robert Wickliffe was never a member of Congress, or otherwise engaged in administering the Federal Government, yet he was among the foremost of those extraordinary statesmen and lawyers who have rendered the State of Kentucky so illustrious in the history of the Union. He was the compeer of the great John Breckinridge, Henry Clay, Hardin, Bledsoe, and other great minds who have passed from the scene.

I am not of those who believe that it is impossible for this Government to put down this rebellion and emancipate the slaves or make any other disposition of them which may seem good. That opinion has been put forward generally by those who did not wish to see the rebellion put under foot. I observe that much has been said by the English press to the effect that this Government could never subjugate the seceded States, and we can appreciate the sincerity of their declarations when we consider that the British Government itself holds nearly two hundred millions of people in the very condition to which some of its public men declare that this Government cannot subject the seceded States. As far as physical power is concerned, I have never doubted the ability of this Government to reduce the seceded States and subject them to any terms we may choose to dictate; but I contend that we cannot subjugate them without maintaining a vast army and without changing the very form of our Government. We cannot emancipate the slaves of the South and maintain them in the condition of freemen upon the soil of those States without the presence of an immense force equal to that which is required to set them free. It cannot be done because no law can be ex-

ecuted which is against the sense of the people of a community without the application of force. This is illustrated by the fugitive slave law, which has been held to be constitutional, and which is acquiesced in by a very large majority of the people of the North, and yet it has been evaded and resisted, and its execution in almost every given instance costs the Government more than the value of the slave rendered up under it. This is because the law is repugnant to the moral sense of a large body of the northern people. How will you execute a decree of emancipation which will set free the slaves of the South upon the soil and among a people the whole body of whom are opposed to it, and who have taken up arms in rebellion against this very idea of negro equality? It can only be done by the presence of an immense army, sufficient to prevent the white race from reënslaving the black, and by waging a constant war upon the people of our race for the protection of the black race. How long would it be endured by the northern people that a war should be waged upon the people of their own race at the South to make the blacks their equals? I do not believe that any party could retain power at the North upon such an issue. We should not overlook another consideration in dealing with this subject. Our armies are composed of men, and men act alike under similar circumstances. Northern men in the South are not noted for any particular prejudice against slavery, and the soldiers whom it will be necessary to maintain at the South in order to secure the freedom of the enfranchised slaves, may come to look upon the matter in a different light, and the result may be simply a change of masters for the slaves. It is notorious that the contrabands are now the servants of our soldiers.

We can make emancipation acceptable to the whole mass of non-slaveholders at the South by coupling it with the policy of colonization. The very prejudice of race which now makes the non-slaveholders give their aid to hold the slave in bondage will then induce them to unite in a policy which will rid them of the presence of the negroes; and, as nine out of ten of the white people of the South are non-slaveholders, and as the right of suffrage is almost unlimited, it is easy to see what will be the result.

It is objected, however, that we have no right to remove the negroes from their own country against their will. I do not believe that compulsory colonization is necessary to the ultimate success of this plan; but neither do I regard it with any abhorrence; on the contrary, I look upon it as the greatest boon we can confer upon this race, greater by far than the gift of personal freedom in a land in which they must forever remain in a condition of social inferiority, among a people who will treat them with every imaginable indignity.

Contrast this with the policy which will build them up as a great nationality, in a country peculiarly adapted to their physical organization, in which their natural vigor and endurance make them superior to all other races, and whose vegetable and mineral wealth exceeds that of any other portion of the world.

Events are now transpiring on this continent, beyond the limits of our own country, which have a bearing upon this question, almost as significant as those which are taking place upon our own soil. The nations of Europe have seized upon the moment of our great troubles to interfere in the affairs of the feeble republics of the South, and to establish thrones to be upheld by European policy and to be subservient to the commercial power of Europe. The fact that the time of our own weakness has been chosen for this attempt, is of itself sufficient to prove to these American States that heretofore the moral power of this Republic has alone sustained them against European rapacity, and its effect has already been to restore to us the good will which we had forfeited by the filibuster schemes of the slavery governments which have so long dominated this Republic.

With the end of this rebellion will return the power and influence which will enable us to liberate Mexico from her threatened dangers; will return, also, in its fullness, the confidence and good will of that people, and of all her kindred races of the Central and South American States. They will all need the fostering care and kindness of our Government to assist in organizing their own strength and maintaining stable Governments. With the restoration of good feeling will revive the commercial intercourse which once existed between these people and our own, and which was lost to us when they became alienated by the injustice and outrages of our late filibustering rulers.

It is in this gorgeous region of the American tropics that our freedmen will find their homes, among a people without prejudice against their color, and to whom they will carry and impart new energy and vigor in return for the welcome which will greet them, as the pledge of the future protection and friendship of our great Republic.

I look with confidence to this movement as the true and only solution of this question—a question by which the life of the nation has been so often put in peril—a movement by which two races of men will be delivered from an unhappy conjunction, fatal to both, and by which two empires are to be established to bless mankind by their beneficent influences through all future time.

MESSAGE FROM THE PRESIDENT.

The committee rose informally, and the Speaker having resumed the Chair, a message was received from the President, by Mr. HAY, his Secretary, informing the House that he had approved and signed a joint resolution declaring that the United States ought to coöperate with, affording pecuniary aid to, any State which may adopt the gradual abolishment of slavery; and a joint resolution authorizing the Secretary of the Navy to test plans and materials for rendering ships and floating batteries invulnerable.

The committee resumed its session, and proceeded again to the consideration of the bill of the Senate relating to

EMANCIPATION IN THE DISTRICT.

Mr. CRITTENDEN. Mr. Chairman, there is no affectation in my saying that I rise with reluctance and diffidence to address the House on the question presented by this bill. I have almost feared, sir, to speak upon any of the great questions which have been presented to this House during the present session—during, indeed, I may say, the present Congress. They have been of a character so momentous that I have dreaded even to give my poor counsels upon the subjects under consideration. We require all the wisdom of the country and all the temperance of the country to guide us safely. We are upon no summer sea, sir. We are in the midst of the storm of war, our country convulsed from one end to the other, and the issue for a long time doubtful; no man could tell what was reserved for us in the destiny of nations. It was enough to awe all men, and to put all men upon the deepest sense of their responsibility. I have felt it, sir, to an oppressive degree. The situation was novel to me, novel to the Congress of the United States; without a parallel, perhaps, I might say, in the history of the whole world. Where did rebellion ever assume such gigantic proportions as it has assumed here? Where was there ever so much to be destroyed, not merely in the material prosperity of the country, but in institutions such as afforded the greatest and the only promise to mankind of any great amelioration of their condition? There cannot be situations of more responsibility than those we occupy or have occupied.

But, sir, I do not propose to expend my time on these generalities. The immediate question before us is the abolition of slavery in the District of Columbia. That is the object proposed in the bill under consideration. It has been a question for a long time agitating the country. For the first thirty or forty years of our existence as a nation, the records of Congress bear no evidence of any such motion ever having been made, of any measure having ever been proposed for the abolition of slavery here, or to change the condition in which the Government accepted and found it. It was only, sir, when a new spirit sprung up in the land, when a new agitation commenced for the abolition of slavery generally, that this feeling concentrated, in some degree, upon the District of Columbia, and from that time down to the present, with an always persevering purpose, this measure has been pressed. It has been rejected time and again. It has been judged impolitic by our predecessors, or beyond their power. For one reason or another, Congress has always refused to act upon the subject. These are the lessons of the past. In the earliest and purest and best and palmiest days of the Republic no attempt was ever made to pass such a measure; and for the last twenty-five or thirty years it has been presented only to be rejected. The Senate of the United States has now given its sanction to the measure, and it is before you for your final consideration.

Mr. Chairman, I have lived long enough, perhaps, to pay more than due attention to the past, and to rely with more than due confidence upon the lessons of the past. The experience of our predecessors is against the wisdom of this measure; the experience of all our predecessors is against it; all have determined against it. We have had times of peace and times of war, but we have had no time in which the Congress of the United States would approve of this measure. We have actual experience and proof of that. Why should we do it now? Is there anything particularly auspicious to the measure at this time? Is there any particular advantage to be derived from it at this particular moment, that now, at this time, we should adopt the rejected of all the past? What are the particular considerations and motives that induce it? Of all inauspicious times, it seems to me, that this is the most inauspicious for the measure which we are called upon to adopt. We are not only engaged in this tremendous war, now, I trust, coming to its end, but we are engaged in a war founded upon the apprehension of the people that it is the intention of Congress ultimately to violate the constitutional rights of the different States in adopting or rejecting slavery as they please. It is that apprehension which has kindled this war. No one will dispute that. Whether it was the real motive with this or that leader, or whether they had other and more traitorous views, it is not necessary to determine.

The masses of the people, so far as they were influenced by any political considerations, were, I say, influenced to unite in this rebellion by the apprehension of such an intention on the part of Congress. I believed then, and I believe now, that they are mistaken, and that the Congress of the United States will not exercise any such unconstitutional power over them. But that was their apprehension. They are now laboring under that apprehension. Under that apprehension they have fought with fury against us. Out of that apprehension has been attempted to be deduced by the leaders of the rebellion every motive to continued resistance and to everlasting hostility to us. That is our condition now, and it is under these circumstances that this bill is introduced, and we are asked to pass it. What will be the effect of it? Will it not, in the minds of the suspicious, and even of the unsuspicious, strengthen an opinion that that is the purpose of Congress? If it were entirely unconnected with any question of slavery in the States, it might be of less importance; but in principle and in character it is connected with it, and it will be so considered, at any rate by those in rebellion. It will be considered as an evidence of the general purpose and intent of Congress. I do not say that you have not the power; but would not that power be, at such a time as this, most unwisely and indiscreetly exercised. That is the point. Of all the times when an attempt was ever made to carry this measure, is not this the most inauspicious? Is it not a time when the measure is most likely to produce danger and mischief to the country at large? So it seems to me.

Mr. Chairman, when Congress received the cession of this territory, it was for the purpose of making it the seat of the national Government. Nothing else was contemplated. I ask every just and candid gentleman to say to himself whether, either in the minds of the grantors or of the grantee—of the States of Maryland and Virginia or of the United States—there existed any idea, at the time this territory was ceded, that Congress might exercise the power of abolitionizing it. No such thought was in the mind of either party. The grant was for a seat of Government. It was given for that. You have enjoyed it for that. That was the faith in which the parties acted; and it would be a violation of that faith to turn it to another purpose, and particularly to a purpose supposed to be hostile to the interests of the ceding States. By abolishing slavery here, and by raising up a system adverse to it, you form, out of these ten miles square, a sort of city of refuge—a city where the fugitive slave is to come and find protection, where,

if he does not find protection, he is at least tempted with the indulgence of his appetites. He will fly to the city of Washington, and, in the houses of the multitude of his own color and class here, he will find refuge, and live by idleness or by crime.

Mr. HICKMAN. Is the gentleman from Kentucky willing that I should ask him a question?

Mr. CRITTENDEN. Yes, sir.

Mr. HICKMAN. I wish to understand whether it is the opinion of the gentleman from Kentucky that because Maryland and Virginia ceded the District of Columbia to Congress there was, under that provision of the Constitution which gives to Congress exclusive legislation over the District, an implied understanding that throughout all time the then existing institutions of Maryland and Virginia should be continued in force, and that Congress would have no right, or were morally bound not to exercise that power guarantied in the Constitution?

Mr. CRITTENDEN. Mr. Chairman, my opinion on that question is simply this, that Maryland and Virginia made the cession without the slightest thought or apprehension that slavery would ever be abolished in the District of Columbia, in the midst, as I may say, of both States while they retained slavery. That is my opinion. And is it not most natural that this should have been the consideration given by the parties to the subject? Abolition then scarcely existed in idea among the people of the United States. It was not apprehended. There was probably no thought of it on either side. The ideas that governed all the parties were of a different character.

Now, the question is whether, if the grantee accepted this territory as a donation for an avowed purpose, the Government can afterwards, without a breach of faith, use it for another purpose, disagreeable and obnoxious to the grantor? It seems to me that there would be some breach of faith in doing so. This is, however, an argument and a statement that is familiar to you all, and I will not press it.

You may produce much mischief by this measure. What is the good? Slavery has been, under one influence or another, disappearing from this District for years. It has been decaying and going out. Your bill would not, probably, have a thousand slaves to act upon. What, then, is the deep anxiety to pass this measure? Why should Congress, at a time like this, devote its attention with so much earnestness and apparently with so much purpose, to this measure? Let slavery alone. It will go out like a candle. No disturbance will follow it. No violation of public feeling will follow. No apprehension will result from it. This measure will create discontent among the people elsewhere, and will lead them to consider it but as an augury of what is to come afterwards. The good you can do by it is little, is minute, in comparison to the great question involved.

But are the views of gentlemen limited merely to giving to the slaves of this District the benefit of the law? Those who urge it will have more candor than to say so. They do not limit their views merely to the locality of this District. No, sir, it is the commencement of a great system; it is the beginning, not the end. You try your power here. You execute it here. This thing done, it opens the prospect of further action, and of further disturbance of the community. Having done it here, where it involves, perhaps, in the judgment of men, nothing but a mere question of good faith, the measure can be effected elsewhere, where it will involve a question scarcely less vital —a question of constitutional power. You are trying your strength now. You are practicing for the greater combat. From this ground, occupied as a sort of camp for the purpose, it is suspected you intend to make war on the same institution in the States.

It seems to me, Mr. Chairman, that that apprehension will be increased by another thing, by another consideration. This measure might be of itself of but little significance, if it could be entirely limited to the District of Columbia. If that was to be "the be-all and the end-all" of it, it might not be a thing worth debating. But, sir, we cannot avoid connecting it with the whole system that has been presented to us here for the abolition of slavery elsewhere. There are now on our table from ten to twenty propositions of one sort or another, all contemplating the confiscation, or, in terms, the liberation of the slaves of the people of the United States. This is one of them. The public mind cannot avoid making the connection. This is but one link in the chain, and a small one; but it is a link in the mighty chain of measures which are in progress here now. It is that which gives it its most disastrous effect. You first attack in the weakest part of the line of your opponents. You attack in the District of Columbia. You carry your point here. That gives you confidence and courage to attempt it elsewhere. Regarding it as a step in the progress, the people of the United States are alarmed at the consequences which may result from it, not merely the people of the South, but the people of the North, who want to see this great Republic preserved in peace, and to see peace and justice going hand and hand through every quarter of it. And there are people who believe that the scrupulous preservation of the Constitution, and the scrupulous preservation of the country's good faith, towards every State and every Territory, is the best way of preserving the affections of the people and of maintaining the integrity of the Union. Is there not, then, danger that we create a feeling of apprehension which will disturb our country—to what extent we cannot imagine? The weary rebels, who are now fainting under the defeats which our brave army has inflicted on them, will feel a new desperation with every new assurance that peace is to bring the spoliation of his property of all descriptions. It will inspire an instinctive spirit of hostility and desperation. That is the nature of man.

And will it not be said, Mr. Chairman, that we are taking advantage of the disturbed and distressed condition of the country, which has banished from this body, for a time, the Representatives of ten States? Will it not be said that that which your predecessors could not do, you now do when the Congress and country are still mutilated, and when there is no entire representation of the people here? You take advantage of this sort of interregnum in the Constitution of the United States to do what you would not be able to do when the people of the United States were all represented.

It seems to me, gentlemen, that the good intended is very small, and not to be compared to the mischievous consequences which may reasonably be apprehended. I am therefore opposed to it. There is another principle applicable to this bill that it seems to me we ought not to pass by, at any rate, without some reflection. There is a question continually made, whether there can be property in man. I do not intend to enter into the discussion of any question of that sort. If there can be property in man, all that there is valuable in that property, the substance of that property, is in the labor of the slave, is it not? That is all the value there is in it. You cannot have more of him. Whether you hire or whether you buy, that is all the interest you can have in him. Those who deny that there can be property in man cannot deny that there may be property in the services of a man. You do not deny that there may be property in the services of the man who is apprenticed to you.

Now, whether the property be in man or in the services of man, seems to me immaterial upon any question whatever. It is not upon any nice question of casuistry, nor upon any nice technical question of law, that I desire to address this committee upon this bill. Here is by law, constitutional law, a right given to certain States, and in the District of Columbia, to the service of persons whom they hold as slaves. To take that from them is as little constitutional as it would be to take from them any property which they own. Can you do it? Can you do it in the face of that Constitution which declares that great important English principle, that no man, no freeman, should be deprived of life, liberty, or property, but by the judgment of his peers, in accordance with the laws of the land? What a mighty tower of strength there is in this great principle. It is of more value in the influence it exerts upon the minds of the people than it is in the mere protection it gives to material property. It is that, it is such like principles, it is such like forms of law, it is such like manly declarations of law, made by legislators and by people, with arms in their hands, demanding their rights as we gained ours, as the people of England gained Magna Charta, replete with the wisdom of the people, that gives value to liberty. It is by these principles that nations grow great and are made free; every man a sort of sovereign, a king within a certain dominion, and that dominion is in the protection of his life and his property, unless taken from him by the judgment of his peers, or by the law of the land.

Now, sir, does not this great principle strike our minds when a proposition of this sort is made? You may reject the idea of property in man; you may reject slavery in all its aspects and in all its interpretations; let it be so. If it were an original question proposed, you would have few opponents; but it is here so blended with our institutions, so blended with the property of the country, blended with the domestic relations, with all the social relations of life where it exists, that you not only take from a man his property by this proposed law, but you tear to pieces the social system which has been built up with it, of which it forms a part, and a very material and characteristic part.

Now, gentlemen, I do not wish to be understood here as arguing this question as a lover of slavery; not at all. I do not stand forward as the advocate of it further than it is sanctioned by the laws, the Constitution of my country, the rights of my constituents, and of all else who in the Congress of the United States I am authorized to legislate for. If it did not exist among us, I dare say there would be very few of us for its introduction here. It would not have my sanction; but it is here by law, which has been in existence for two hundred years. Two centuries have given their sanction to it; and is it not treating it very lightly, in the light of the sanction of two centuries, to raise the original question as to the invalidity of slavery everywhere? As long as it exists here in the shape in which it now exists, the only question I desire to have with you, the only question I desire to argue with you, is, whether these persons are not so far and in such character property as to come within the protection of that Constitution which says that no man who owns property shall be deprived of it except by the judgment of his peers and the laws of the land, or by due process of law?

Now what is "process of law?" What is the "judgment of his peers?" We all know what these expressions are. They are legal terms. The "peers" there alluded to are jurymen. The process of law alluded to is, as defined by Coke and every other jurist, a judicial trial. That is the process of law by which a man's property can be taken from him.

I may not be correct in my application of this great principle to this bill. I do not mean to state anything further than my convictions authorize me to do. I do not know that the question has such application that it ought to stay our hand. I confess I do not know how the argument that is to be derived from this question of constitutional protection is to be avoided. It is not an argument against your power to do this thing so much as it is an endeavor to call to your mind all the considerations which render this thing now injudicious and hazardous; more so now than in any past time, when there was reason enough in the opinion of our predecessors for rejecting it.

Mr. Chairman, I have said more upon this branch of the subject than I intended; but it is so connected with that other question directly involved in this measure, that I could not well complete my argument without adverting to it.

There are, as I have said, various propositions before the House for the confiscation of property, including slaves; and another series of them for direct manumission, or the liberation of slaves by manumission. Now, the question is, whether we have the power to do it? We have declared over and over again, this Congress has declared more than once, with almost entire unanimity, that Congress had no power to interfere with slavery in the States; that it was a subject of local, domestic jurisdiction, that, with all other subjects of this class, it belonged exclusively to State authority. Would you change that great principle of our Government?

The General Government was to have and exercise only those great national powers which were necessary to us as a whole community. The government of the States was left to the States. Their institutions, the management of their servants, and all the relations of domestic life, were left to the States, and would you strike out that

principle? The regulation of this labor, of all those relations which may exist by virtue of the employment of labor, by hiring, or by buying, or by apprenticing—everything of this sort of a local character belongs to the local jurisdiction. Congress has no right to interfere with it. It is a great law of jurisdiction which renders this Government tolerable. Congress would be entirely incompetent to the exercise of this local jurisdiction; and if they undertook to exercise it, they would do it very unsatisfactorily. You have no power to interfere with it in the States. How do you derive that power? Where do we get the power to confiscate or to liberate? It is not in the Constitution. You yourselves have conceded that it was never intended to be there; but that this power is in the States alone. Yourselves have conceded that.

Now you are called upon to say by act of Congress that this property, or these persons, that these slaves, shall be emancipated.

Mr. SHELLABARGER. May I make an inquiry of the distinguished gentleman from Kentucky. I make it that I may have the pleasure of hearing him, and not to find fault with the argument he is making. He has assimilated the property of a master in the services of his slave to the property of the master in his apprentice; and so far as is necessary to test the legal principle he is discussing, it may also be assimilated to the property of a parent in his minor child. Now, the inquiry I wish to make is this: suppose that at the time of taking a statutory apprentice, or at the time of the birth of a child, the age of majority for the child and the expiration of the apprenticeship is fixed by the law of this District, or of any of the States, at the age of twenty-one years; and suppose the State, or the Legislature of this District, in the exercise of municipal legislation, should change the law so as to terminate the minority and the apprenticeship at eighteen instead of at twenty-one years, and thus should take from the parent and from the master three years of service, would that be a depriving the citizen of property without due process of law, within the meaning of Magna Charta or of the Constitution of the United States? Is not the property in these personal relations within the full control of the municipal legislation of every supreme legislature?

Mr. CRITTENDEN. It seems to me the gentleman's whole proposition would be answered by my saying to him that the United States have no right to prescribe any age of majority—the States have; and the States have a right to dispose of slavery as they please.

Mr. SHELLABARGER. Permit me to say a word.

Mr. CRITTENDEN. I am willing to yield all courtesy to the gentleman from Ohio, but I find if I do not go on that I shall be taken out of my course, and my time will be consumed.

War is supposed to give us this power, which peace does not. The Constitution denies it in time of peace. That I may assume as granted by all—that there is none so bold to deny it. But the state of war is supposed to give the power to Congress. Mr. Chairman, it seems to me that the Constitution is an utter fallacy, or that it is the same to-day and to-morrow, in peace and in war. It was made for peace and for war. It was made, as Mr. Madison says, for duration, for all time, so far as human hands could aspire to make a work that should be perpetual. It would have been imperfect if it had not. It has that power which prohibits it in time of peace to emancipate slaves in a State. Can that power rise up out of any state of things against the Constitution? The Constitution gives you a right to make war, and the Constitution gives you impliedly all of the powers incidental to it. The war power, as it may be called, gives you that. Does it include a power hostile to the Constitution itself? That would have been a strange harmony, indeed. No, sir; all must harmonize with the Constitution.

There are some gentlemen, sir, who seem to me to think that no war measure can be of sufficient energy that does not find its beginning and source somewhere outside of the limits of the Constitution. But the Constitution is a tame, sober instrument that yields nothing to peace, or to war. It has no sensations. It has no enthusiasms. It is a calm, steady, cold rule of the Government at all times, through the night and through the day, through storm and sunshine, through peace or war. That is what it is. It does lack those sensations which we have in a high degree. They seem to think that some portion of these unconstitutional enthusiasms must come into a war measure to give it efficacy and force. Not a bit of it.

Mr. Chairman, the Constitution is our strength. It warms the heart of the people, and it is their defense and protection. What has filled the fields with six hundred thousand men in arms in opposition to this rebellion? It is the Constitution, the bond of freemen, the bond of a free Government. Let that admonish us that our strength is in the Constitution, and that it is not in the sensation sort of measures which we attempt sometimes to get up here as more forcible than the Constitution. It is not the phantasy nor the chimera which politicians may delight in. But what do the people delight in? What makes them rush to battle and to lay down their lives to preserve? It is the Constitution. It is known to the people—known to their wives and to their children. It is the heritage of the poor man, that puts him upon an equality in point of rights under the laws with the highest and most aristocratic in the land. It is our spear and shield. It is our strength. It is that which has guided our Army and enabled it to overpower all who opposed it. That is your strength; never let it go. The more faithfully you adhere to it, the more constantly you worship it, and show by your acts that you will do nothing not warranted by it, the more you will have the favor and confidence of the people, and the more the Government will have strength. All outside is mere aberration, all outside is delusive—there is no strength in it. Adhere to that as the line of our policy. Allow of no policy, indulge in no practice that shall take you beyond the limit of your power. That limit of your power is the landmark of the rights and privileges of your constituents. Its limit to-day protects me. You may struggle against its limits. We as legislators may struggle against the limits that constrain us, but they defend the limits which protect the interests and the rights of the people. Whenever you enlarge your powers by going beyond the Constitution, you diminish their rights or enlarge their rights. The people are for the Constitution whether you are or not, and we must all thank Heaven that it is so.

Mr. Chairman, I have but little more to say, and but a little time to say it in. Other measures are proposed. You propose the confiscation of all of the property of rebels, their aiders and abettors. Let me ask gentlemen to consider for a moment what is the extent of this rebellion? What is the number of people who would be included in this proscription? The rebels, their aiders and abettors in ten States of the Union, who would that include? Who should be considered by legal interpretation as aiders and abettors? All who have paid taxes? All who have made contributions to support the rebellion? All who have taken up arms, or all who have given aid and comfort to those who have taken up arms in support of the rebellion? How many would that leave? Too many, I fear, Mr. Chairman, have voluntarily taken part in the rebellion; many have taken part through intimidation; many through fear; many not knowing what else to do. Here is a plain man, not versed in public affairs, knowing that his State took a particular direction, finding the secessionists usurping the State under the forms of law, and prescribing his duty. He is incapable of arguing these questions with the leaders of the rebellion. Shall he be included? You take the principal and his aiders and abettors. You include all; you include ten States. The exceptions will be but very few, if you consider who are the principals and who the aiders and abettors of this rebellion.

Here are these ten States, and by your law of confiscation you proscribe man, woman, and child. As my honorable friend from Massachusetts [Mr. THOMAS] said yesterday, you take no notice of any discrimination in the guilt of those parties. He who tempts and he who has been tempted stand upon an equal footing. Your justice does not stop; your vengeance, at least, does not stop, to make a discrimination. A promiscuous, a universal decree of proscription goes forward, and all are impoverished, and all are stripped of every particle of property. What a measure it is. There is nothing human in it but its presumption. Who ever heard of a human decree before that should strip of all the comforts of life, which should strip of all the means of subsistence, which should strip of clothing and of bread, five millions of people, in a bill of one section? Did ever human presumption and human crime rise higher than that? Gentlemen will not do it, upon reflection. I mean no reproach when I speak such things. I address my argument to the measure. Gentlemen must have different views of it altogether from what I have; they have not looked at it in the light I have, or it is impossible that the measure should remain one moment before the House. The whole history of mankind does not furnish anything like it. Such a decree of proscription was never before issued by any human authority. No plague, no pestilence, which ever descended upon mankind, has ever wrought such mischief as this would. But this is our wisdom; this is our moderation; this is the wisdom and moderation with which we would invite back to the Union our erring, our guilty brethren, who have been engaged in rebellion against the best Government on earth. We are trying to get them back, and we are wooing them in this way. The lion has a way of wooing his mate, and this must be somewhat in the order of that sort of wooing. You woo him back, and tell him come back, and what do you do? Is there anything of that forgiveness which the prodigal son received; anything of that rejoicing which welcomed his return. "Is there anything of that sort in store for me?" he says. "I have been guilty; I desire to return to the bosom of my country; I have seen the folly of my ways, and I wish to come back, and will you not allow me, will you not invite me?" "Oh, yes, we will; we are willing to have peace, but we must first strip you before you come back of all you have; we must take from you your bread and the bread of your wife and children;" and we take away at one time, at one moment, and by one decree, all the means of subsistence, and all the property, of five millions of people, male, female, children, adults, and all.

Such is the bill. To inquire whether such a measure is against the Constitution of the United States, would seem to be mockery. Such a measure is against the very instincts of mankind; against the lessons of human policy; against all lessons of Christianity and humanity. Why inquire whether it is against the Constitution of the United States? God and man, so far as I can read them in history, have forbidden it; and I think that, as I have read it, the Constitution of the United States has also forbidden it. The Constitution of the United States has divided the powers of this Government into three departments, the legislative, which we are, the judicial, and the executive, and neither of these are to execute the powers distributed to either of the others. Here is the great division, and here is the great security—the legislature to make the rule, the judiciary to administer, and the President to execute it. Such is our system. You destroy that system by this measure. You pass your bill of confiscation; you send forward your own commissioners to carry the law with them, and they, like the ministers of vengeance, follow in the rear of this bill, and bring up the rear of your vengeance by seizing and confiscating without the authority of any judge or jury all this property.

Now, I say the Government has forbidden the exercise of this power of confiscation. The Constitution says you shall pass no bill of attainder. It was enough to mankind that this word should find a place in the Constitution of the United States. What is this bill but a bill of attainder? You apply it to those you consider as criminal, those engaged in rebellion, their aiders and abettors, and you punish the crime by declaring a confiscation of their property. You pass your judgment, and send your own officers to execute it. That is a bill of attainder. The Constitution did not use the word in any technical sense. We should abuse the power of construction by refusing to consider this as the enunciation of a great principle; and that principle is, you are too powerful, by the legislative power which is given to you, to have also added to you the power of judgment. You cannot administer your own laws. That would make you a despot. You shall only pass laws, and those laws shall undergo the supervision and judgment of the judicial tribunal before they reach the people.

That is the security between your powers and the rights and safety of the people. Do you not

pass by all that here, and pass by it by a very sweeping denunciation, a very sweeping sacrifice, a very presumptuous proscription of all sexes, of all ages, and execute your own judgment? Then it is a bill of attainder; and that is the principle of this bill.

I do not wish to prolong these remarks. What I have said, I have said in no spirit of controversy, but with a deep and solemn conviction that the country demands that every man shall give the best counsel he can, and that all our counsels together are not more than sufficient to meet the great exigencies of the time in which we live. We want peace, then. Peace is cheap at any price we can pay for it. We want peace and unity. Our armies are victorious; we have the prospect of a speedy termination of actual hostilities, and our task begins. What is that? Not to tear open old wounds; not to make new wounds; not to make a whole people by millions desperate and paupers. That is not our business. No, sir. If we fulfill the glory of our Constitution, and meet the great responsibility which is upon us, our duty will be to heal up the wounds of this sad war, and to restore the Union and the laws.

Public justice may demand a sacrifice of a few of the leaders who have instigated this rebellion; but as to the punishment of the mass of the people, let us leave that to Heaven alone. *We* cannot do it. If we were to take their lives, their blood would stain every acre of land from Massachusetts to Texas. We cannot do it. To take their property would only be inferior in point of severity to taking their lives, if Shakspeare is right in saying, he who takes from me that whereon I live, takes from me my life. By taking their property and their bread, you condemn them to starvation. Our business now is to heal and pacify; our business is once more to consolidate this great Union and all its people into one great and mighty nation, to make progress together in full brotherhood, and to that all our hearts and all our minds ought to be directed. The minds of the people of this country are directed to it. That is what they will pay taxes for, and that is what the soldiers have gone to battle for. If you suppose they would have gone to battle; if you suppose you could have summoned six hundred thousand men to liberate the slaves in the District of Columbia, or to break the law of any State to liberate slaves to cut their neighbors' throats, you are greatly mistaken. Their object is the preservation of our country, its union, and its salvation.

[Here the hammer fell.]

Mr. BINGHAM obtained the floor.

Mr. GRIDER. If it will not inconvenience the gentleman from Ohio, will he allow me to ask the committee to give my colleague a few moments longer to finish his remarks?

Mr. BINGHAM. Personally, I have no objection to it.

The CHAIRMAN. Is there any objection to the gentleman from Kentucky continuing his remarks for a few moments longer?

There was no objection.

Mr. CRITTENDEN. Mr. Chairman, I am obliged to the committee for their courtesy. In what I have said I have spoken in all sincerity and frankness. I feel for my associates in this body all the respect that I ought to feel; but I look upon this as a common council, notwithstanding our diversities of opinion, and each one should speak his sentiments respectfully toward his associates, but should speak his judgment and opinions upon public measures. I have done it. I appeal to all men now to assist in renewing the Union. This war will leave behind it, like a stormy sea, much of disorder and much of convulsion. We shall have to temper all that. We live in an age when we must temper things. We must temper our justice. Justice demands that those in rebellion should be made to pay the cost of the war. Why, sir, this question arose in every war that ever existed between foreign nations. He who is in the wrong in a war—and somebody always is—ought to pay the costs and repair the damages which the war has done. It would be no more than strict justice, and yet the peace of nations demands the abandonment of that policy. Such terms could never be extorted without a continuous war. You could not gain as much by exacting payment of the expenses of the war as you would lose by the continued prosecution of the war.

The idea of paying the expenses of this war by the confiscation of the property of the rebels might seem to be just enough, in itself; yet it would be attended with consequences which make it absolutely necessary for us to abandon any such purpose. If we get the integrity of our Union restored, if we get its peace restored, if we get back our people, and the love of all our people North and South, we shall have got great consideration for any money we may expend. Let it go. Give us peace, give us fraternity, give us back our whole country, and give us back our erring and wicked fellow-citizens, that they may repair hereafter, by their penitence and good works, the wrong they have been guilty of towards us. To exact payment of them is to exact what they cannot pay, and you then change the character of the war; you change the war from one prosecuted for the Union to one prosecuted for a debt. You may say, "Oh, we will forgive you; but you must pay this debt." They say, "We cannot pay it." We then continue the war. What will be the cause of the war then? Because they cannot pay the debt. We shall be fighting an insolvent debtor, and carrying on a destructive war against him because he cannot pay. Will the war make him more able to pay it? Will further destruction of his property and harassment of himself make him more solvent? The idea, gentlemen, when it is analyzed and looked into, must be abandoned.

Now, it seems to me that the mildest measures we can adopt are the best. You have fought a great battle and are victorious. The moment of victory is the moment for generosity, and that is your true policy. Do not let vengeance for what has been done govern your conduct. Let mercy and mild and moderate counsels prevail hereafter. That is the course of wisdom; that is the course of humanity; that is the course we should pursue. And let us keep within the Constitution. Let us never bring ourselves into opposition to the Constitution. Let us not say that the Constitution which is our guide in time of peace, is a nullity in time of war; that the Constitution will do to rule in time of peace, but that we, the members of Congress, must rule in time of war. It will not do. The able and eloquent gentleman from Ohio, [Mr. BINGHAM,] who sits now before me, says that the power to provide for the common defense and the general welfare contains the power to liberate slaves, that it justifies these measures of confiscation and emancipation, and that the power is unlimited.

Mr. Chairman, I had always believed that in the clause of the Constitution which says that Congress shall have power to lay taxes, &c., and to provide for the common defense and general welfare, those latter words conveyed no power whatever; that the powers are conveyed in the other clauses, and that this is the object for which they are given. "Congress may lay taxes." For what? For the purpose of providing for the common defense and the general welfare. To suppose that any power could be derived of a general and unlimited character from the words "to provide for the common defense and general welfare," is to subvert the whole Constitution. The Constitution is said to be a Constitution of specific and enumerated powers. What would become of all the specifications and enumerations of power if here is a general provision in the Constitution which gives an unlimited power? What becomes of all the specified powers if these terms give you an unlimited power? Where the necessity of enumeration? But this language was only intended to show the object for which the enumerated powers are given.

The gentleman from Ohio quotes the Federalist to support his views. Mr. Chairman, Mr. Hamilton wrote that article in answer to those opponents of the Constitution at that day, who contended that the power of Congress to impose taxes ought to be limited. There were men in that day who insisted that Congress ought to have no power to lay internal taxes; that they might have the power to impose and lay taxes, but that they ought to be external taxes, as the language then was; that they ought to use the power only to tax foreign goods imported into the country, and that it was giving too much power to Congress to authorize them to lay imposts even for the purpose of the common defense and general welfare. Mr. Hamilton was answering those men, and he says that if the limits of the war, against which you must defend the Constitution, could be reduceable to any particular time, then you might limit the means; but as the power of the assault, as the dangers that may arise against the Constitution are unknown and undefinable and cannot be calculated, your power to resist them and your power to defend must be commensurate with the dangers that may assail you, and, therefore, that these powers—the power to tax, the power to raise armies, the power to maintain navies—must be unlimited and are so unlimited. There is no limitation now upon our power to tax. We have given an evidence of that very recently. We have taxed all that we could find to tax, and we are now exercising the very unlimited power for which Mr. Hamilton contended.

But, if I understand the argument of the gentleman from Ohio, he is not satisfied with this, but finds in the language "to provide for the common defense and the general welfare" still further indefinite and unlimited and discretionary powers. This, I say, is subversive of the whole spirit of the Constitution. It opens a new source of powers utterly indefinite. Suppose Congress should say that trial by jury is very troublesome in time of war; men must be brought to speedier trial and punishment; courts are too tedious in their processes; abolish them and establish military tribunals or send out commissioners, as the Government of revolutionary France did, to execute their will, and to judge men on their lives and property. According to the gentleman's construction, it seems to me that that may as well be brought within the limits of the power "to provide for the common defense and the general welfare" as that language can be brought to cover the right to emancipate slaves. As was well remarked by the gentleman from Massachusetts, [Mr. THOMAS,] the Constitution contemplates a state of war, and in some instances contemplates an extension of the power of the Government for the purpose of carrying it on. In time of war or rebellion, we may suspend the writ of *habeas corpus*.

MESSAGE FROM THE SENATE.

The committee informally rose; and the Speaker having resumed the chair, a message from the Senate was received, by Mr. FORNEY, their Secretary, notifying the House that the Senate had passed an act (No. 102) to amend an act entitled "An act to divide the State of Illinois into two judicial districts," approved February 13, 1855; and an act (No. 237) to remove all disqualification of color in carrying the mails; in which he was directed to ask the concurrence of the House.

The committee resumed its session, and proceeded again to the consideration of the bill of the Senate relating to

EMANCIPATION IN THE DISTRICT.

Mr. LOVEJOY. As this confiscation bill is to come up——

The CHAIRMAN. Does the gentleman from Kentucky yield to the gentleman from Illinois?

Mr. CRITTENDEN. I would rather the gentleman, if at all convenient, would postpone his remark. If he insists upon it, I will yield.

Mr. LOVEJOY. I simply wish to say that as this question of confiscation is to come up in a distinct bill, and as there will be opportunities for its discussion when it comes before the House, and as many are desirous of voting immediately on the bill now under consideration, I would respectfully hope that the gentleman from Kentucky would not abuse the courtesy of the committee. I did not object to the gentleman's time being extended, but I supposed he only wanted to finish his remarks on the bill now before the committee. Many of us are anxious to vote on it, and I hope that no time will be occupied in arguing on these other bills.

Mr. CRITTENDEN. I wish, Mr. Chairman, to go through this subject and to reply to the argument of the gentleman from Ohio, [Mr. BINGHAM.] I have had evidences enough of his ability and his independence, which I gladly acknowledge; and I would be glad if he would review what he has himself read from Mr. Hamilton, in connection with what I ask now to refer him to from Mr. Madison.

Mr. Madison takes up the same subject, and discusses it in No. 41 of the Federalist. He is speaking of an argument addressed against the

Constitution at that day. There were those who opposed the Constitution then on the ground that the words which the gentleman from Ohio now relies on—"to provide for the common defense and general welfare"—gave unlimited and general power to subvert all the particular enumerations of power in the Constitution. Mr Madison, in replying to that class of objections, says:

"Some who have not denied the necessity of the power of taxation, have grounded a very fierce attack against the Constitution on the language in which it is defined. It has been urged and echoed that the 'power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States,' amounts to an unlimited commission to exercise every power which may be alleged to be necessary for the common defense or general welfare. No stronger proof [says Mr. Madison] could be given of the distress under which these writers labor for objections than their stooping to such a misconstruction."

These are very emphatic words. I will read one more paragraph:

"Had no other enumeration or definition of the powers of the Congress been found in the Constitution than the general expressions just cited, the authors of the objection might have had some color for it; though it would have been difficult to find a reason for so awkward a form of describing an authority to legislate in all possible cases. A power to destroy the freedom of the press, the trial by jury, or even to regulate the course of descents, or the forms of conveyances, must be very singularly expressed by the terms 'to raise money for the general welfare.'"

That is what Mr. Madison says; and he says much more to the same effect.

In conclusion, Mr. Chairman, I have to thank the committee for its kindness and indulgence. It was, perhaps, a duty which I owed to my constitutents, that I should say something in respect to this matter. I have discharged that duty. I have done it without fear. I have done it with a heart impressed with the importance of the subject, with a consciousness of the time in which we are acting, and of all the circumstances which surround us, and which invoke us to a course of justice, moderation, and gentleness. Let us show mercy—that quality which

"becomes
The throned monarch better than his crown."

We are now in a condition, or soon will be, having shown our power in war—our country being clothed in victory, the rebellion being suppressed—to exhibit generosity, to repair, to build up, to consolidate, not our Government, but our Union. That is the great task which now devolves on the country. Let us perform it as becomes the American Congress. Our great safety is in the Constitution. Let us take care of the Constitution, and the Constitution will take care of us. That is all my doctrine on the subject. Take care of the Union. Never consent to any dissolution of it. That is a thing never to be yielded. In yielding that, you yield everything. But now we are not called upon to do it. Victory has crowned our arms. Victory ought to make us generous, and generosity will be wisdom. With these remarks, and with my thanks to the committee for its indulgence, I will trespass no longer on its patience.

Mr. BINGHAM. Mr. Chairman, I had hoped, in view of the many days which have elapsed since this bill was first presented in the other branch of the national Legislature, in view of its full discussion in the Senate, and in view of the opportunities which have been given to gentlemen here and to the country at large to consider the propriety of its provisions, that this House would have gone direct to the question whether the bill should pass, without further debate.

Mr. WICKLIFFE. Will the gentleman allow me to offer an amendment?

Mr. BINGHAM. I hope the gentleman will excuse me at present.

Mr. WICKLIFFE. I do not want to discuss it.

Mr. BINGHAM. I will yield for the purpose of his offering an amendment, if he desires.

The CHAIRMAN. The gentleman will have an opportunity to offer his amendment.

Mr. BINGHAM. Mr. Chairman, I have been disappointed in these expectations. I say this without any disrespect to the venerable gentleman from Kentucky, and my remark does not arise so much from the fact that he has felt it his duty to address the committee at great length on the merits of the bill as from the other consideration, that it was the pleasure of the House not to close debate upon it.

This bill, Mr. Chairman, is very simple. Its first section contains all that is important in it, or that requires a moment's consideration. It is:

That all persons held to service or labor within the District of Columbia, by reason of African descent, are hereby discharged and freed of and from all claim to such service or labor; and from and after the passage of this act neither slavery nor involuntary servitude, except for crime, whereof the party shall be duly convicted, shall hereafter exist in said district.

Another provision of the bill is for compensation, to be assessed by a commission, to be paid as ransom for these bondmen. Another section makes an appropriation of $1,000,000 for ransom money, and another an appropriation of $100,000 to aid the voluntary colonization of such of the "freed men" as may desire to emigrate from this country to some other. These are the provisions of the bill.

Mr. Chairman, I had supposed that a bill so plain and simple in its provisions did not require much time for consideration, especially in view of the fact that the power to legislate as proposed is conceded by the venerable gentleman from Kentucky; and will not, I presume, be questioned by any gentleman on this floor. The grant in the Constitution is as comprehensive as words could make it:

"Congress shall have power" * * * * * "to exercise exclusive legislation *in all cases whatsoever* over such district," * * * * "as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States."

Subject to this condition, this District became the seat of the national Government. The gentleman from Kentucky [Mr. CRITTENDEN] had the candor and the good sense to acknowledge that the exclusive power to legislate, as proposed by this bill, over this District was in the Congress of the United States. All, then, that remains for the consideration of the House is, "is it policy, is it wisdom, is it just, under the circumstances, to exercise the power?" That was the point made by the gentleman from Kentucky in his argument. He said that this was an inauspicious time to exercise this admitted power. He deemed it an inauspicious time for the Government to exercise this unquestioned power to legislate for the liberation of all slaves wrongfully deprived of their liberty in the national capital. And yet, sir, the gentleman fitly and truthfully said of this free Government of ours that it is "the greatest provision for the rights of mankind and for the amelioration of their condition." These last were words worthy of the gentleman from Kentucky, and fit to be uttered by him at the close of his illustrious, well-spent, and beautiful life. They are words eminently descriptive of the true purpose and spirit of our own American Constitution. The Magna Charta of England, which the gentleman cited in support of his argument against the justice of this bill, the gentleman will pardon me for reminding him, differs widely in the provision to which he referred from the broader and wiser provision of our own American Magna Charta. That great charter which the barons wrung from the trembling, unwilling hands of their king, six centuries ago, and which the historian of the English constitution declares to be "the keystone of English liberty," only provided in the section which the gentleman cited that—

"No FREEMAN shall be taken, or imprisoned, or disseized, or outlawed, or banished, or any ways injured; nor will we pass upon him, nor send him, unless by legal judgment of his peers or by the law of the land."—*Magna Charta*, sec. 45.

That provision, sir, only protected from unjust seizure, imprisonment, disseizin, outlawry, and banishment those fortunate enough to be known as FREEMEN; it secured no privileges to vassals or slaves. Sir, our Constitution, the new Magna Charta, which the gentleman aptly says is the greatest provision for the rights of mankind and for the amelioration of their condition, rejects in its bill of rights the restrictive word "freeman," and adopts in its stead the more comprehensive words "no person;" thus giving its protection to all, whether born free or bond. The provision of our Constitution is, "no person shall be deprived of life, or liberty, or property without due process of law." This clear recognition of the rights of all was a new gospel to mankind, something unknown to the men of the thirteenth century, who then demanded and received for themselves the acknowledgment of their rights as *freemen*. The barons of England demanded the security of law for themselves; the patriots of America proclaimed the security and protection of law for *all*. The later and nobler revelation to our fathers was that all men are equal before the law. No matter upon what spot of the earth's surface they were born; no matter whether an Asiatic or African, a Europeon or an American sun first burned upon them; no matter whether citizens or strangers; no matter whether rich or poor; no matter whether wise or simple; no matter whether strong or weak, this new Magna Charta to mankind declares the rights of all to life and liberty and property are equal before the law; that no person, by virtue of the American Constitution, by the majesty of American law, shall be deprived of life or liberty or property without due process of law. Unhappily, for about sixty years this provision of the Constitution, here upon the hearthstone of the Republic, where the jurisdiction of the Government of the United States is exclusive, without State limitations and subject to no restraint other than that imposed by the letter and spirit of the Constitution, this sacred guarantee of life and liberty and property to all has been wantonly ignored and disregarded as to a large class of our natural-born citizens.

Mr. CRITTENDEN. If the gentleman will allow me, I will ask him if he does not know—of course he does know—that at the date of Magna Charta, England was full of a class of people who were, in some degree bondmen, known as villains?

Mr. BINGHAM. That I understand to be the fact.

Mr. CRITTENDEN. Does the gentleman suppose that Magna Charta was intended to embrace the liberation of those villains; and did they not continue afterwards exactly where they were before?

Mr. BINGHAM. Certainly, their vassalage or villanage did continue, as Magna Charta secured the rights only of *freemen* before the law, not of villains, as they called their servants. If I heard the gentleman distinctly, he quoted the words correctly from Magna Charta:

"No freeman shall be taken or imprisoned," &c., * * * * "unless by legal judgment of his peers or by the law of the land."

The employment of the term "freeman," as descriptive of the persons entitled to the guarantees of Magna Charta, necessarily implied that there were at the time persons in the realm who were not freemen, nor entitled to the protection secured to freemen and to freemen only. That, sir, was precisely the scope of my remarks when I undertook to direct the attention of the House to the wondrous difference between the English Magna Charta, signed by the trembling hand of an unwilling king in the thirteenth century, and that other greater and better Magna Charta of the eighteenth century—the American Constitution—signed by the hand of that peerless man, our Washington, of his own free will, and as the chosen representative of the people, who hailed him Father of his Country. That Constitution, I said before, and in answer to the gentleman's suggestion, I beg leave to repeat it, proclaimed that all men in respect of the rights of life and liberty and property were equal before the law; and that no person, no human being, no member of the family of man shall, by virtue of Federal law or under the sanction of the Federal authority where ever the Federal Government has exclusive and supreme authority, be deprived of his life, or his liberty, or his property, but by the law of the land—not by the law of Maryland or of Virginia, but by the law of the land, the law of the Republic, the law of the whole people of the United States. If the people of America had not thus declared for the rights of all they never would have imperiled life and fortune and earthly honor for the rights of any.

Mr. Chairman, I was saying when the honorable gentleman from Kentucky interrupted me, that for some sixty years this provision for the protection of the rights of mankind, under the law and by the law, here, upon the very hearthstone of the Republic, has been disregarded, and not only disregarded, but violated by the Federal Government, and by the assent of the Representatives of the American people.

Gentlemen are aware of that fact, and the question to-day before this House is, whether the Representatives of the people, under their oaths and in compliance with the clear requirement of the Federal Constitution, here within the limits of the

District of Columbia, will faithfully execute their great trust, and declare by law that hereafter, in all the coming future, no American citizen nor human being shall, within the limits of this District, "be deprived of life or liberty or property without due process of law." That, sir, is the question, the great question of this day and hour.

I have said that these persons who are the subject-matter of this legislation were natural-born citizens of the Republic. Shall we hesitate, can we hesitate, within the admitted limits of our power, to do justice to our own citizens by the enactment of this law? I regret, although I do not propose to make any change in the text of the bill, that it was so carefully worded as to say that, "all persons held to service or labor within the District of Columbia by reason of African descent." I would have preferred if the bill had declared that "all American citizens held to service or labor within the District of Columbia by reason of African descent are hereby discharged and forever freed from such servitude."

We are not to be cheated by the tests of citizenship that are sometimes set up touching the elective franchise and eligibility to office. It is too late in the day for any American statesman to undertake to demonstrate that none are citizens of the United States save those entitled to the elective franchise or to the exercise of the functions of office. I stand here to assert the proposition that, by the decision of every State and Federal court in the country, more than one half the white population of the United States who are excluded from the exercise of the elective franchise, and from all civil offices, are citizens of the United States. I undertake to say, by the decision of your Federal tribunals, that women—that all the women of this Republic born upon the soil—are citizens of the United States, though neither entitled to vote nor to hold civil office. All the native-born women and children of the land, though not entitled to vote nor eligible to civil office are citizens of the United States within the judiciary act of 1789, and within the Constitution of the United States, and as such entitled to sue and be sued in your Federal courts, and to plead and be pleaded therein.

The Constitution leaves no room for doubt upon this subject. The words "natural-born citizen of the United States" occur in it, and the other provision also occurs in it that "Congress shall have power to pass a uniform system of naturalization." To naturalize a person is to admit him to citizenship. Who are *natural-born citizens* but those born within the Republic? Those born within the Republic, whether black or white, are citizens by birth—natural-born citizens. There is no such word as *white* in your Constitution. Citizenship, therefore, does not depend upon complexion any more than it depends upon the rights of election or of office. All from other lands, who, by the terms of your laws and a compliance with their provisions become naturalized, are adopted citizens of the United States; all other persons born within the Republic, of parents owing allegiance to no other sovereignty, are natural-born citizens. Gentlemen can find no exception to this statement touching natural-born citizens except what is said in the Constitution in relation to Indians. The reason why that exception was made in the Constitution is apparent to everybody. The several Indian tribes were recognized at the organization of this Government as independent sovereignties. They were treated with as such; and they have been dealt with by the Government ever since as separate sovereignties. Therefore, they were excluded from the general rule.

I adopt the words of that man whose clear intellect, through a long and laborious life, contributed much that will endure to the jurisprudence of his country—the lamented Chancellor Kent, of New York—who declared that every person of African descent, born in this land, is a citizen of the United States, and although born in a condition of slavery under the laws of any State in which he might be held to service or labor, still he was a citizen of the United States under disabilities.

The Federal Government neither regulates nor confers under any circumstances the enjoyment of the elective franchise among the States, and therefore the question so flippantly asked, when we propose the liberation of slaves, are you going to give them the right to vote, may as well be omitted here. We have just nothing to do in our legislation with that question; we have no power whatever over it. The right to vote does not involve the right to citizenship. Neither are the rights of men or citizens to protection under the law dependent upon the right of suffrage in them. Are not children natural-born citizens of the United States? Are not they entitled to protection as citizens everywhere in all the States of the Union? Does not the Constitution provide that the citizens of each State, being *ipso facto* citizens of the United States, shall be entitled to all privileges and immunities of citizens in the several States; and does not that apply to the minor citizens of the United States as well as to the major citizens of the United States? It is not the privilege to vote that is thus guarantied to all citizens of the United States. The Constitution does not read, as I have heard it quoted upon this floor, that the citizens of each State should be entitled to the privileges and immunities of citizens of the several States. No, sir, the word used in the Constitution in this clause is not *of*, but *in*, the several States. "All privileges and immunities of citizens of the United States *in* the several States," is what is guarantied by the Constitution. There is an ellipsis in the Constitution, as gentlemen doubtless know, which must be supplied to express clearly its meaning. The great privilege and immunity of an American citizen to be respected everywhere in this land, and especially in this District, is that they shall not be deprived of life, liberty, or property without due process of law.

Mr. WICKLIFFE. But what civil political right does the State of Ohio give to the black man? Does it allow him to vote? Does it allow him to intermarry with the whites?

Mr. BINGHAM. The gentleman would get a full and satisfactory answer to his question if he would read the statutes of Ohio.

Mr. WICKLIFFE. I have read them.

Mr. BINGHAM. If he has read them, then the gentleman from Kentucky knows that, among other things, the laws of Ohio fully provide for the protection of the right of every citizen of the United States, whether black or white, male or female, old or young, man or child—that is, that they shall not be deprived of life, or liberty, or property, without due process of law.

Mr. WICKLIFFE. The question I was inquiring about was not about the protection of life. What political rights do the black men hold in the State of Ohio?

Mr. BINGHAM. The gentleman's inquiry about their right to vote I had anticipated and answered. I suppose the gentleman did not hear it. I say that he would be a very bold man who, at this time, would venture to aver that nobody is a citizen of the United States who has not the right to vote. I say further, there never has been a time since the existence of this Republic, when a majority of the citizens of the United States had the right to vote. Your wives and daughters are natural-born citizens of the United States. Citizenship is their birth-right. There is, there can be no question about this. I will not repeat my argument. I have thus spoken to answer and dispose of that trifling quibble interposed here eternally against any attempt to do justice between man and man, as if a man's right to live or breathe the air of heaven depended upon his right to vote.

The question is not whether you will confer the elective franchise, for upon that question you have no power for Federal purposes, either as to black or white citizens within the several States. The Federal Government has no power to regulate the elective franchise in any State in reference to persons of any complexion. You cannot pass any such law. The elective franchise can only be exercised in any State by virtue of State law, and State law alone.

But, sir, if the right to the elective franchise is to be the test of citizenship, I beg gentlemen to remember that when this Constitution was ordained and established under which we legislate, it was ordained and established through the suffrage of persons of African as well as of European descent in the majority of the States of the Republic. They assisted in the election of the very persons through whose agency the Constitution was finally ratified. Look at the records of North Carolina for information on that subject; look into the legislative records of Maryland and Delaware, and look at the records of the New England States, and you will find that the persons of African descent did enjoy the elective franchise, and had a voice in the adoption of your Constitution. To this day they hold and enjoy that right in several of the States of the Republic. You cannot, as Federal legislators, prevent the exercise of this right by the colored citizens; you cannot help it. The old Bay State, true to her sacred, her immortal traditions, recollecting that her soil is holy ground, marked with the footprints of the apostles and martyrs of civil and religious liberty, has held to her ancient faith that rights, even political rights, are inseparable from manhood and citizenship, and in no wise dependent upon complexion or the accident of birth. I trust in God whatever States may falter, Massachusetts may continue in the ancient ways forever more. Taxation without representation once stirred the American people like the blast of a trumpet; rather than submit to it they proclaimed resistance unto death. In the purer and better days of the Republic, taxation only with representation, was the very sign under which the Jeffersonian Democracy were wont to conquer. Still, I concede that all political rights must be controlled by the majority.

If there were anything in the argument constantly reiterated here and elsewhere, about human rights being dependent on and confined to those who enjoy political rights, you might as well go back at once to the civil polity and civilization of the pagan world, and assert that none but those who have a voice in the State have a right to be free; that your wives and mothers and daughters, because they have no voice in the legislative councils or in the elections of States, are not to be considered as invested with the rights of citizenship or the sacred rights of human nature. That is not the lesson learned by those who made and who transmitted to us the Constitution of the United States. They found out and adopted a wiser, juster, and better polity than pagan ever knew. They learned it from the simple but profound teachings of Him who went about doing good; who was no respecter of persons, who made the distant land of his nativity forever sacred to mankind, and whose intense holiness shed majesty over the manger and the straw, and took from the cross its shame and reproach. By His great apostle came to men and nations the new message declaring the true God, to whom the pagan inscribed UNKNOWN upon His altar; that God who made the world, and giveth to ALL life and breath, and hath made of one blood all nations of men to dwell on all the face of the earth. From this new message to men has sprung the new and better civilization of to-day. What was your declaration at Philadelphia on the 4th of July, 1776, that "ALL MEN are created equal," but a reiteration of the great truth announced by the apostle of the Nazarene? What but this is the sublime principle of your Constitution, the equality of all men before the law? To-day we deliberate whether we shall make good, by legislation, this vital principle of the Constitution, here in the capital of the Republic!

The question, I repeat, is not whether these bondmen, about to be declared freemen, shall vote. That question is not now before us; the question is one of mightier import: "Shall these men be permitted to enjoy life and liberty and property under the sanction and shelter of the law?" Representatives of the people, shall these men, natural-born citizens of the Republic, be by your law made secure in their persons, in their lives, in their liberty, in their property, within this District, or will you reject this wise and beneficent bill, and, like your predecessors in this House, ignore the requirements of the Constitution, and disregard the obligations of your oaths? I may be allowed to say, without intending offense to any, as my own judgment, in no spirit of censure upon any one who conscientiously differs with me in opinion, that the Representative who refuses to provide the necessary means, in accordance with the spirit of the Constitution, for the protection of every person in life, in liberty, in property, where ever our jurisdiction is exclusive, trifles with his oath and breaks it. Such legislation is the first duty of the national Legislature, and its faithful execution the first duty of the national Executive. That is the view which I entertain of this measure and of our duty. I go for this bill because it is constitutional, as the gentleman from Kentucky said in his argument, and because it is just as well as constitutional,

If it is not just to protect the rights of all under

the law, then the provision should not have been put into the Constitution in the first place; if it is not just that every person, wherever your jurisdiction is exclusive, should be secured and protected by law in the enjoyment of his life, liberty, and property, then I say let us at once blot out that provision of the Constitution and restrict the rights of life and liberty and property under the law only to those who are fortunate enough to have been born "freemen" by existing law, declaring that those who are slaves by inhuman and unjust statutes are not entitled to the protection of our law or of our Government

Viewing the matter in this light, I cannot see with what propriety the gentleman from Kentucky [Mr. CRITTENDEN] made the remark that this was an unpropitious time to adopt that which has been rejected in all the past. And in order to support that, he remarked that in all the past, now for some sixty years, the institution of slavery has been sanctioned in the capital of the Republic by the laws of the adjoining States.

Why, sir, in all the past history of the human race for sixty centuries the worst and the blackest crimes known among men have been sanctioned, if you mean by "sanction" their repeated commission. Murder is well nigh as old as the race; it is as old at least as the first family of man. I do not think that sort of an argument should keep us from doing justice at once and without delay, by giving the protection of law to all who are to-day wrongfully denied their rights in the capital, and to all who may hereafter reside or be brought here. That is the only question before us now. But gentlemen say the time is unpropitious. Unpropitious to do what? To give a practical illustration of your bill of rights; an inauspicious time, by legislative enactment, to give a significance and efficiency to the provision of the Constitution for the protection of all in their rights; the time unpropitious to illustrate by legislation for the capital that principle of your Constitution which is its chief glory—that all are equal before the law; the time unpropitious to ameliorate the condition of men who, in flagrant violation of your Constitution, are deprived of the right to enjoy the freedom of their own person; who are deprived of the right to enjoy the products of their own toil; who are deprived of the right to enjoy the comforts of their own homes, and to give their protection and care to their own children. The time never was and never can be unpropitious for an honest endeavor to do right.

Sir, I think there is no time unpropitious for an act of simple justice. Gentlemen talk about justice. It is a term used in the Constitution; it is a term well understood among men. It was well defined, I believe, by Justinian, and I have never heard his definition questioned; that was, to give to every man his right. An unpropitious time to do justice; an unpropitious time to say, by law, that involuntary servitude or slavery within this District, where our jurisdiction is acknowledged to be exclusive, is forever prohibited except as a punishment for crime, upon due conviction. Happily the language of this bill, forever prohibiting slavery here, is the very language of one of the first enactments of Congress under the Constitution of the United States. The fathers of the Constitution did not say that their first session was an unpropitious time to enact a law providing that slavery should be forever prohibited in all the territory of the United States, stretching from the waters of the Ohio to the base of the Rocky mountains. In the First Congress of the United States, under the Constitution, was reënacted this precise provision for all the Territories of the Union. And yet we are to be told now, with such a brilliant example before us in the legislation of the country, that this is an unpropitious time for doing justice here at the seat of Government, and for removing forever hereafter, by law, from the American people the danger and shame and disgrace of allowing the spirit and letter of their Constitution to be violated, at the very heart of the Republic, under the very eyes of its lawgivers. The Republic cannot much longer submit to this indignity and live.

Why, sir, if this great wrong is to go on, if the Republic is to be disgraced for an indefinite period by this traffic here, under the very shadow of your flag, within the very walls of your Capitol, what man can assure himself that the Republic can stand? I heard a remark made by a gentleman this morning—and I heard it I confess with surprise and pain, for it looked like an apology or defense of the institution of slavery here—that to say that slavery was incompatible with the permanency of the Republic was to cast a reproach upon the Constitution, and a reproach upon the men who made it. That remark must have been made thoughtlessly and without due consideration, because nothing is clearer, in the constitutional history of this Republic, than the fact that the fathers of the Republic did deem the existence of this institution as incompatible with the safety of the Republic. Let gentlemen who make remarks of that sort remember—and I only turn aside to refer to it now to vindicate the framers of the Constitution—that when the original draft of that great instrument was reported to the convention, the provision which authorized the admission of new States into the Union contained the expressive words that "new States may be admitted into the Union upon the same terms with the original States."

The original States under the Constitution had the power expressly reserved—not granted by the Constitution—but expressly reserved for carrying on the traffic in foreign slaves for twenty consecutive years. The fathers of the Constitution were determined that no such privilege should be guarantied or extended to any new States organized under this Constitution and admitted thereafter into the Union; and in order to give effect to that determination they struck from the text of the Constitution the words, "upon the same terms with the original States." These words were struck out purposely, that the new States organized thereafter should not come into the Union possessed of the power of increasing this terrible and destructive element in our social system. The fathers of the Republic knew well that slavery must be restricted and finally abolished, or the Republic would perish.

My friend and colleague near me knows very well the conditions upon which our own State—of which we are both proud—came into the Union before the expiration of the time reserved by the original States for the foreign slave traffic, with a perpetual fetter upon her that she should not exercise that power so reserved by the original States. Ohio was organized as a State, and admitted into the Union six years before the expiration of the time reserved by the original States for this traffic, but was all that time and forever after, by the law of her admission, forbidden to engage in either the domestic or foreign slave traffic. This restriction was imposed in accordance with the very purpose of the framers of the Constitution, as already shown by the record of their proceedings in convention. I say this not only to vindicate the framers of the Constitution from the reproach seemingly cast upon them, but to give weight to whatever I have said in advocacy of this bill. In enacting this law, we do but walk in the footsteps of those illustrious men who gave us the Constitution.

This change in the original draft of your Constitution; the legislation of the First Congress reenacting the law of liberty for all the Territories; the act for the admission of Ohio on the condition of perpetual freedom to all law-abiding men within her limits, were but so many acknowledgments of the great truth that "all men are created equal," not in stature, not in intellectual power, not in wealth, not in social position, not in political privileges, but equal in respect to those rights which are as universal as the material structure of man, as imperishable as his immortal nature, and to protect, not to confer which, all good Governments are instituted among men. Pass this bill in recognition of that great truth, in obedience to the requirements of your Constitution to protect the rights of all under the law, and give witness, by the significance of the act, that the world moves, and that those who are in unjust bonds are not forgotten.

We are deliberating here to-day upon a bill which illustrates the great principle that this day shakes the throne of every despot upon the globe, and that is, whether man was made for government or government made for man. Those who oppose this bill, whether they intend it or not, by recording their votes against this enactment, reiterate the old dogma of tyrants, that the people are made to be governed and not to govern. I deny that proposition. I deny it because all my convictions are opposed to it. I deny it because I am sure that the Constitution of my country is against it. I cannot forget, if I would, the grand utterance of one of the illustrious men of modern times—of whom Guizot very fitly said that his thoughts impress themselves indelibly wherever they fall—standing amid the despotisms of Europe, conscious of the great truth that all men are of right equal before the law, that thrones may perish, that crowns may turn to dust, that scepters may be broken and empires overthrown, but that the rights of men are perpetual: he proclaimed to listening France, the strong, true words, "States are born, live, and die upon the earth; here they fulfill their destiny; but after the citizen has discharged every duty that he owes to the State, there abides with him the nobler part of his being, his immortal faculties, by which he ascends to God and the unknown realities of another life." I would illustrate that utterance of the French thinker by incorporating in our legislation this day a provision that every human being, no matter what his complexion, here within the limits of the capital of the Republic, shall be secure in the enjoyment of his inherent rights; that the citizen is more than the State; that the protection of his rights is of more concern than any or all mere State policies. I would pass this bill, not only for the sake of giving present relief to the unfortunate human beings for whose special relief it is designed, and who, if I am rightly informed, are being carried hourly away from your capital in order to perpetuate their too long endured captivity, not only to burst their fetters, not only to kindle a new joy in their humble homes by inspiring in them a sense of personal security and safety, but I would pass this bill for the purpose as well of giving a new assurance that the Republic still lives, and gives promise not to disappoint the hopes of the struggling nations of the earth.

I would have the declaration made here now, beneath the dome of the Capitol, careless of all consequences upon the future conduct of traitors in arms against us, that no man shall ever, in the coming future, as long as the Republic stands, here, at least, where our power of legislation is supreme, be deprived of his life, of his liberty, or of his property without due process of law; and that slavery or involuntary servitude shall never be tolerated here in all the hereafter, except as punishment for crime upon due conviction. That is simple justice; nothing more, nothing less; and it does seem to me that further argument in favor of a proposition resting upon the broadest, clearest principles of simple, even-handed justice is unnecessary. One year ago this day, slavery opened its batteries of treason upon your garrison in Fort Sumter at Charleston; let the anniversary of that crime be signalized by the banishment of slavery forever from the national capital.

Mr. RIDDLE. Mr. Chairman, a great truth is weakened by what men call elucidation. Illustration obscures it; logic and argument compromise it; and demonstration brings it to doubt. He who permits himself to be put on its defensive, is a weak man or a coward. A great truth is never so strong as when left to stand on its simple assertion.

The thing right forever remains right, under all possible circumstances and conditions; in all times, places, and seasons. Nor can it be changed at all. Not all power, nor the combination of all power, no matter how employed or applied, can change it in the least. It matters not at all how men call it—though the unanimous world conspire to call it ill, and tag it out with all vile epithets; though all obscene mouths make it common, and lewd tongues toss it into sewers, and delicate and refined ears may not hear it—it is nowise changed. No matter what ill happens to it; though cast out, exiled, banished, and outlawed, marked and forever banned, made leprous with contumely and reproach; though prisoned, tried, condemned, and executed, and its body, like carrion, cast to vultures, it still lives, is still right; holds its old place and old scepter. Nor can any man, by any power, under any circumstances, for anything, be absolved from the allegiance he owes it.

So, too, its great opposite, wrong, must forever be wrong, and not right. No matter, though taken from its native hell and enthroned a crowned king; though a universe bow to it, and cry "all hail!" though constitutions be written to sustain it; though laws be enacted in its name, and ermined judges wrench the maxims of "wisdom's

gray fathers" for its support; though jurors be sworn by it, and all magistrates bound to enforce its decrees; though its name be written in all holy places, and graved on all shrines, and its maxims mingled in the rites of holy ministration, and its sanctified hands only can bless and curse, join and put asunder; though it reign till hoary prescription grows up and surrounds it with a wall of custom and habit and use, that existed "time whereof the memory of man runneth not to the contrary;" still it is wrong, and not right. Its reign is an usurpation, its laws an outrage, against which rebellion is righteous; and the immunities and privileges which it confers are the fruits of robbery, murder, and ravishment.

No man can rightfully do a wrong; nor can one man authorize another to do the wrong; nor can ten, five hundred, or five hundred thousand men. No matter with what formality or solemnity the power is sought to be conferred, whether by common consent, or by the legislative forms of a State or nation, the power of attorney is invalid, and the thing done pursuant to its scope is a crime. A thousand years of growth cannot change wrong to right.

The proposition which I am to consider asserts a great truth, broadly and clearly. I will listen to no argument against it, nor will I detract from its force by being put upon its defense. This measure is indeed worthy of an American Congress. Look through our huge tumid volumes of statutes, and mark on every page our everlasting legislation for the material interests of property, and not a solitary enactment for truth, humanity, and justice. Everything astute and shrewd and sagacious, to foster, cherish, and build up the privileges and interests of those strong enough, in the absence of law, to protect themselves; and not a single section or clause to lift the crushing weight of two hundred years of killing oppression from the weakest and poorest elements of humanity, our subjects though they are. Nay, that very poverty and weakness are the sole pretexts for the wrong and oppression. We have now before us a bill that proposes directly to dethrone and annihilate a huge, hoary wrong, and recall and reënthrone the banished right.

With me to argue, declaim, or inveigh against this measure, is the idlest waste of the most useless breath that indolent trifling can indulge in. I turn to the great rules of right, and I see that you have razed out the decalogue of Omnipotence, and have daubed and smeared over the eternal adamant with the code of slavery; and I know that it is all a huge lie, without semblance or seeming of truth

It is idle to establish to me the inferiority of that sinless race—I see that they are men; useless, by curious physiological and ethnological disquisition, to affirm a difference between the African and Caucasian tribes—for I know that God created both. It is, to me, blasphemy to attempt to show that the Creator intended this race for slaves, for the very elements of our common nature, which are the common basis upon which God planted the races, gives that dogma the lie. If I was to base an estimate upon the practical givings out of this House, on a recent memorable occasion, I should suppose that these, my views, were not those of a majority of this body. So low in the ranks of humanity do these bondmen stand, that they were deemed the proper subjects of taxation. The proprietary interest of the master in the slave predominates over the human interest of a man in himself; and had the selfishness of the masters and their allies have permitted them to unite with the large body of gentlemen who voted to tax slaves, the tax would have been laid. Nay, so unhuman were they practically held, that they could not be the subjects of a capitation tax even. For as a capitation tax the scheme was conceded to be unconstitutional. I do not stop here to combat that low dogma, that that is property which the law of the place makes property. I only assert that property is the only universal basis of taxation; and where a given subject is assessed with a tax, that that is a practical recognition of such subject as property. It is idle to seek a confusion of ideas in a confusion of words, and so escape; of what avail to call this a relation, and then say you license the relation. In that form the proposition is just as obnoxious to me; I would permit for no millions such a relation, nor would I under any form derive money from it for any purpose. I would as soon think of filling the exchequer with the gains of prostitution.

As men, a capitation tax may be so laid as to fall on these persons. Every other possible form reduces them to things, and in no other way can they be taxed.

Slavery is a hideous anachronism, coming to us out of the barbarism and old dead night of the past, with no good in it, bringing no good with it, and allied to no good about it; growing day by day more abhorrent and unseemly; and must be consumed by the light and heat of our Christian civilization.

It need not be urged as a palliation or offset, that the condition of the slave is more elevated than that of his ancestors or brethren in Africa. That, if true, was neither intended or desired by the master. It is in opposition to his wish, and in spite of his most persistent efforts to the contrary. He has done all in his power to prevent it; for just in proportion as the slave rises in the scale of manhood, he sinks in the scale of servitude. The master punishes with imprisonment a woman for teaching a slave to read, and the crude notions of Christianity that he permits them to imbibe are warped with a diabolism that makes them the more submissive to his will, and hence the more abased.

I can, to some extent, understand and make allowance for the position and views of gentlemen on this subject whose birth and education, whose habits of life and thought and culture were in the thick, unnatural, hot, and stimulating atmosphere and surroundings of this institution. Its rude barbaric phase of life, with its unnatural sights and sounds, its troops of half-naked, abject, cowering, ministering forms, and its voices and strange language, half sad, half jubilant, and all a wail and hymn of despair, were the first images and sounds that met their baby senses. To them it always was, and for them always must be, an unquestioned, seeming, positive good. Its images run through all the memories and the traditions of their families; is part and parcel of all they are and have; and in its absence they can imagine no future. Something of this I can understand and allow for; and these gentlemen for these views I do not reproach.

But I cannot understand and I will make no allowance for those men who draw their being and life and growth from another source, in the midst of another atmosphere and surroundings, where this thing is a banned and branded outlaw and felon—who, on any pretext, for any purpose, not only excuse and palliate, but justify and sustain slavery; who violate all the instincts of their nature, trample on all the traditions of their fathers and scoff at all the teachings of their mothers, and willingly submit themselves to the yoke and scourge and do the behests of these task-masters for such hire as they can give.

Oh! it will forever remain to me one of the most incomprehensible of the inscrutable ways of Providence how—upon the soil and in the atmosphere of the North—how or why matter should ever be permitted to crawl into the similitude of abased humanity, and become impregnated with life so groveling as to ally and link itself to this slavery, and turn and with beslavered hands tear open new ways whereby this thing might march to new conquests and increased power. And yet that such men have existed, and did so grovel and so ally themselves, is emblazoned on the page of already written history. And it was under the consecrated banner of that "holy alliance," that marched the fearful events that conducted us to the present catastrophe. The party perished, utterly and completely in a single day, that the country might live. The party perished, and most men found their manhood again.

And yet, although this slavery is shaking a hemisphere in its death agonies, and although the great party lies in dead and scarcely seen fragments in the land, having passed through that damnation that precedes death, a few scattered and battered survivors of its old host, whom no judgments can convert and no calamities instruct, still dream of the resurrection of the party, of the restoration of slavery, of a reconstruction of the old alliance, and a return of the old joint power and glory. Were ever even dreams so provocative of sarcasm and ridicule? The very bones of their party are too dead to exfoliate even, and decent charity cries for earth to cover them from the gaze of scoffing men. As well might a brood of obscene insects, warmed into life in a rotting carcass, dream of restored life and strength to the dead monster in whose corrupted flesh they riot.

And yet here and there are runnings to and fro, and there is a fearful putting together of soft addled heads, and terrible plottings and arrangings and rearrangings of rickety, worn-out, useless, and obsolete party machinery. Oh, it is an absurdly idle and laughter-provoking farce, this reconstruction of the party. The great old leaders, where are they? One prematurely slumbers where the translucent waters of his magnificent lake break in lisping wavelets at his feet; and the rest, in the grand proportions of patriots and heroes, march at the head of countless millions, whose armed tread trample alike on the shackles of the slave and on the shackles of the party.

It is here alone that puny hands are raised, and piping, petulant voices cry out and exclaim against the progress of events, and propose to reconstruct the party. My colleague, [Mr. VALLANDIGHAM,] said well in the declaration that none of these men "made his mark;" and the aside that "none of them ever will" was still better.

With me this measure is one of power, and there can be no question of that. I read in the Constitution of our fathers that the Congress shall "exercise exclusive legislation in all cases whatsoever" over this District. Not merely that Congress has legislative power, but "exclusive" power; not merely in a few specified cases, but in "all cases whatsoever." Where is the room for doubt, the ground for argument, or the excuse for cavil, in the presence of this explicit declaration. But we are told that the cession of this territory and people to the United States was accompanied by certain conditions that hedge in and fence around this slavery, and wall us away from all interference with it except to aid it, perhaps. Conditions! What conditions? Where are they set down, and in what terms?

It is said they were not written, but implied. Implied? When, how, where, and by whom? Were the parties who made that solemn cession fools? Had they intended that the grant should have been accompanied by conditions, think you they would have left their existence to implication? Never. They would have been solemnly written down and placed beyond cavil, and yet it is in this very fact that no conditions were written, and that not a single cotemporaneous word was uttered of any conditions, that evidence only is found that conditions were implied. If conditions had been written, or could as clearly be implied, they are a limit upon the exercise of the "exclusive legislation in all cases whatsoever," and therefore void.

But aside from this plenary power of the Constitution, the argument upon the facts establishes these never to be shaken conclusions. The proprietor of the territory and sovereign of the people transferred both absolutely, without reservation, condition, or qualification. And this transfer was so made with the fullest consent of those whose lives and fortunes were thus committed to the new sovereign. No right of self-government; no right to question or even suggest in what manner they might thereafter be governed by the new sovereign was reserved to the so-transferred people, strange and anomalous as that may be. No pledge of any sort that their status or privileges should remain as they were was given or asked. And this, too, when they knew that the new sovereign would have absolute power over all. The supposed benefits to arise under the new sovereign were deemed an ample compensation for any disabilities that might be imposed; and this people thus in advance pledged themselves to the unquestioning obedience of every decree of the new sovereign, unless they should contravene the laws of right and humanity, which no sovereign, however absolute, can violate. The people of this District may not now rightfully question the adoption of this measure. Thus, then, stands the argument: the Constitution confers upon us "exclusive" power in "all cases whatsoever." This people were transferred to us pursuant to this broad power and with their own free assent. There were also transferred to us certain bondmen, who became our subjects. This measure restores them to freedom—reëstablishes a great and everlasting right—and there I leave it.

Ingenious and learned men have applied to this measure the little questions of technical legality,

the subtile and artificial reasonings of the books and courts, and find the law with us; while others have laboriously mined back into the dark and crooked legislation of dark and crooked men for the last hundred and fifty dark and crooked years, to establish, with such luck as God permits, the rightfulness of slavery here, and an absence of power to thus deal with it. I have no part in these labors, nor do I sympathize with them or their fruits; nor do I care a rag whether their results are for or against me

I find here a clear God's truth that needs congressional utterance. I find a great right calling for legislative establishment. I find our weak and faulty organs equal to the utterance of this truth, all unused to it as they are. I find power ample to establish this right, and for these reasons and for no other, I propose to speak the truth and establish the right. I propose to so do this right thing as to neither compromise it or ourselves. I seek for this doing neither apology or excuse.

I may here say a word upon this matter of the responsibility of the free States for the existence of slavery. Whatever may be said or claimed as to their responsibility for it in the States—and upon that I have had my say—they are responsible for it here—here at the nation's heart, upon which it sits like an atrophy, causing it to send the stagnant and corrupted blood through the languishing extremities, and carrying disease in its sluggish flood wherever that flows. They are responsible for its indwelling at the inner sanctuary, and its hideous ministrations at the holiest altar of the national temple; for its being permitted to fasten and hang foul and ugly upon the impersonated nation's brow, amid the gibes and jeers of the universe.

For generations this slavery has rioted in its obscene rites in this capital, while this clear and unquestioned power has all that time existed in Congress for its extirpation. Generations of this race—our subjects within our admitted power to protect—have been born, and have groaned and died in shackles under the shadow of this dome, and their blood weighs heavy on the national arm that now smites a nation's transgressions, and receives itself the blow it deals.

Think of it. Think of it. And yet learned and grave men stand here to argue that we should still trudge and stagger on under this fearful load. For one I will not, nor shall my people.

Did our fathers or our States or our people or ourselves occupy a different relation to slavery, there is one feature of this bill to which I would never consent—the provision for compensation, not to the slave for his generation of unpaid labor, but to the master from whom we take him, purely and solely because he never had any right to hold him. Change, turn, analyze, or sophisticate this provision as you may, to pay the slaveholder for the deprivation of his slave is in some essential way to recognize the rightfulness of his claim. But when I remember that our fathers and yours were alike guilty for the establishment of this thing, that they and we have conjointly tolerated its existence, that our own States enact laws that more or less sustain it, with an abashed countenance and humiliated mien and with bated breath I give my assent to this provision. There is, however, one feature that I will not consent to—the appropriation for the removal and colonization of the freed men. I do not now propose to discuss the vast question of the ultimate disposition of the race. Whatever arguments may be urged in favor of colonizing the whole colored population of this country, the proposition as applied to this fragment is, in my judgment, without force. And while I would to-day, was the power mine, unhesitatingly make free every slave on the continent, I would not undertake to-day to say how I would ultimately dispose of them. Nor does it well lie in the mouths of slaveholders to cavil in advance as to their disposition. If I found a robber in possession of my property I should not long argue with him what disposition I should make of it. I should resume it. The question, however, is one of the most momentous that can be proposed. Nor are its propounders to be silenced by sharp words. To free twelve or fifteen hundred slaves is but to add so many to the free colored population of the country—a matter in itself of no moment.

But to emancipate four millions is to change the status of the race, and our relations to it; and men may well feel the profoundest anxiety for the result. Such entire confidence have I, however, that the result could not be disastrous, that I would fearlessly commit the country to its consequences; and while I have my own views as to the proper course, I would, nevertheless, trust much to the instructions and suggestions of the new state of things, for I know that new lights and new avenues would open up; and I know that men nor nations have ever permanently suffered for doing acts of justice.

Those who would defer emancipation until a satisfactory plan for the disposition of the slaves is devised, would do well to contemplate the ultimate catastrophe to both races, if this scheme of slavery should go forward unchanged fifty or a hundred years more, when our system could no longer sustain its weight.

What strange passages the sayings and doings of the American Congress of this year of grace will furnish to the page of history—that now, when this thing of slavery is tumbling to ruins about us, of self-begotten rottenness, men can still be found so blind and stupid and fanatic, as to seek to stay and prop it up. There is not a man living that dares arise here and say that he does not know that slavery is utterly all wrong. Nor can a man here be found that will say that he does not believe that it is some time to end; nor when that end is reached it may not be through convulsion, anarchy, and blood. But yet now, when that fearful end draws nigh, through these fearful paroxysms, which can neither be mistaken nor denied, men, whose dearest interests are most involved, stand with their allies in blind infatuation, and raise their paralytic hands to push the calamity by, will not believe it is upon them, and hold those to be their bitterest foes who implore and beseech them to care for and provide for their own and the common welfare.

Like a tigress stealing upon her prey, and falling into the hunter's toils, that, in her great agony, whelps there her young, this slavery, overwhelmed in its progress, spawned into the world this atrocious rebellion and war. And these, her offspring, like Milton's hell-hounds, born of sin, turn ever to tear and devour the hag that gave them birth. And these men and their allies would lull and hush this howling brood to peace and quiet that they might again nurse the dam. It matters nothing what we say, and little what we do. This war, without compromise or cessation, will go forward till its beneficent end is accomplished through its own appointed means.

Every day of its continuance, every delay, every dragging moment, makes this end the more inevitable. Every step on slave soil, every battle fought, no matter with what temporary result, every musket fired, every sword brandished, every soldier that suffers, and every heart that mourns, but make this result the more absolute. Our early disasters, Bull Run and Ball's Bluff, the death of Lyon and the removal of Frémont, shall all bear rich fruits; and the breeze that mournfully lifts the flag of the drowned Cumberland, where the bitter salt sea quenched the noblest hearts that ever burned with American heroism, shall yet bear to earth's ends the legend of a continent made free.

Does any man dare wish that the battle-fields that have drunk the blood of our brave and beautiful ones should ever again be printed with a fettered foot?

Think of slaves tilling the valley of Bull Run or the fire-girt field where Baker fell; of their turning up and grinning at the bones of the young heroes of the North around Donelson. Fancy the taskmaster lashing his bondmen to toil on the nameless plains of the far-off Tennessee, gorged with the red, rich, free, proud, bounding blood of the Northwest; a spot to rank among the battle-fields of the world, where was lost and won a great destiny, which shall forever bear the footprint of a great nation in its forward march. *Do gentlemen expect to see slaves hoeing corn there?*

It is most fitting that while the Army marches to the restoration of the national power, over the form of fallen slavery, and tramps its life out, that the solemn lustration of the nation's capital should be performed by our hands; that these fetters should dissolve in our breath, so that when our country again confronts her sister nations, though her feet should still be ensanguined with the mingled blood of her filial and parricidal children, she may present her countenance in cloudless though saddened beauty, purged of its hideous deformity by her own unconstrained hand.

There could be no moment so propitious for this great beneficence as this, preceded, as it is, by the prophetic voice of the Executive, whose calm and serene utterance has more startled the world than the great convulsion from whose bosom he spoke. Make haste to complete this great act, and it shall proclaim itself to the waiting and oppressed of the earth as the realized gospel of deliverance. The yellow waves of the Potomac, in their downward flow to the sea, shall whisper in liquid murmurs to the great sleeper on its banks that the city that bears his name is now worthy of it.

Mr. FESSENDEN. If I do not mistake, it is quite apparent that when this bill shall be put on its final passage it will proclaim liberty to the slaves within this District. These men—for God created them men, though man has used them as goods and chattels—slaves—these men and women and children will, when the President of the United States signs this bill, be translated from the condition in which they had no rights for which this nation has had any respect into that condition in which they are invested with the rights of freemen, upon which none can trespass with impunity; since over the person of the free black as well as the free white man there is thrown the broad shield of the nation's majesty. As at the siege of Lucknow the famished, despairing prisoner laid his ear to the ground, and as he heard the heavy tramp, precursor of the approach of the army of deliverance, sprang to his feet, and shouted, they are coming! we are saved!—so at last the heart of the slave is gladdened by *this* assurance that the hour of his deliverance and salvation is now.

In 1833, the Presbyterian synod of South Carolina and Georgia, in a published document, declare, speaking of slavery and its debasing influence in those States:

"We are chained to a putrid carcass. It sickens and destroys us. We have a millstone about the necks of our society to sink us deep in the sea of vice. Our children are corrupted from their infancy; nor can we prevent it. Many an anxious parent, like the missionaries in foreign lands, wishes that his children could be brought up beyond the influence of the depraved heathen. Nor is this influence confined to mere childhood. If that were all, it would be tremendous. But it follows us into youth, manhood, and old age. In all our intercourse with the slaves, we are undergoing a process of intellectual and moral deterioration, and it requires almost superhuman efforts to maintain a high standing either for intelligence or piety."

This witness is true, or there is no truth in human testimony.

What slavery was and is in the two principal slave States, it is, *from its very nature*, wherever it exists, a "putrid carcass," "a millstone about the neck of society to sink it deep in the sea of vice." That we shall rid the social system of this District from that which is so sickening and destructive by the passage of this bill, is an effect for which the word "emancipated" should be written upon the door-posts of every house within this District, and upon every gate.

Sir, to-day prophecy is being fulfilled. On the night of the passage of the Kansas and Nebraska bill, it was said of it by one whose name will live, whose memory will be dear forever for his life-long efforts to have the black race recognized as belonging to the brotherhood of man:

"But there is another side to which I gladly turn. Sir, it is the best bill on which Congress ever acted; for it prepares the way for that 'All Hail Hereafter,' when slavery must disappear. It annuls all past compromises with slavery, and makes all future compromises impossible. Thus it puts freedom and slavery face to face, and bids them grapple. Who can doubt the result? It opens wide the door of the future, when, at last, there will really be a North, and the slave power will be broken; when this wretched despotism will cease to dominate over our Government, no longer impressing itself upon all that it does, at home and abroad; when the national Government shall be divorced in every way from slavery; and, according to the true intention of our fathers, freedom shall be established by Congress everywhere, at least beyond the local limits of the States.

"Slavery will then be driven from its usurped foothold here in the District of Columbia; in the national Territories, and elsewhere beneath the national flag; the fugitive slave bill, as odious as it is unconstitutional, will become a dead letter; and the domestic slave trade, so far as it can be reached, but especially on the high seas, will be blasted by congressional prohibition. Everywhere within the sphere of Congress the great *northern hammer* will descend to smite this wrong; and the irresistible cry will break forth, 'No more slave States!'

"Thus, sir, now standing at the very grave of freedom in Kansas and Nebraska, I find assurances of that happy resurrection by which freedom will be secured hereafter, not only in these Territories, but everywhere under the national Government. More clearly than ever before I now see

'the beginning of the end' of slavery. Am I not right, then, in calling this measure the best bill on which Congress ever acted?"

Sir, I did not rise to discuss the merits of this bill. The hour for its discussion has passed. The hour in which to put upon it the seal of the nation has come. I trust it is, indeed, the harbinger of that brighter, brightest day at hand when slavery shall be abolished wherever it exists in the land. This will be the one finality which will give us a righteous and a lasting peace.

Lamartine beautifully said of Wilberforce, that he went up to the throne of the Eternal with a million of broken fetters in his hand as evidence of a life well spent.

To be envied, indeed, would be the transit of the man who had held the august office of President of the United States who could bear in his hand to the throne of the Eternal the *broken* fetters of the millions of slaves of this nation as evidence of its welcome obedience to the royal law and golden rule.

Messrs. ROLLINS of New Hampshire, ASHLEY, BLAKE, HUTCHINS, and VAN HORN, next addressed the committee. [Their speeches will be published in the Appendix.]

Mr. STEVENS. I move that the committee rise for the purpose of closing debate.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly a bill (S. No. 108) for the relief of certain persons held to service or labor in the District of Columbia, and had come to no resolution thereon.

Mr. STEVENS. I move that all debate in Committee of the Whole on the state of the Union on the bill to abolish slavery in the District of Columbia shall cease in one minute after the committee shall resume the consideration of the same.

Mr. RICHARDSON. I move to amend the motion so as to allow one hour for debate, and I call for the yeas and nays on the amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 56, nays 73; as follows:

YEAS—Messrs. Allen, Ancona, Joseph Baily, Biddle, Francis P. Blair, Jacob B. Blair, George H. Browne, William G. Brown, Calvert, Casey, Crittenden, Delano, Delaplaine, Diven, Duell, Dunlap, Dunn, English, Fisher, Grider, Haight, Hall, Harding, Harrison, Holman, Kerrigan, Knapp, Law, Lazear, Lehman, Mallory, May, Menzies, Noble, Norton, Nugen, Odell, Pendleton, Perry, Porter, Price, Richardson, Sheffield, Shiel, Smith, John B. Steele, William G. Steele, Benjamin F. Thomas, Francis Thomas, Train, Vallandigham, Wadsworth, Ward, Chilton A. White, Wickliffe, and Wright—56.

NAYS—Messrs. Alley, Ashley, Babbitt, Baker, Baxter, Beaman, Bingham, Samuel S. Blair, Blake, Buffinton, Campbell, Chamberlin, Clark, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Davis, Dawes, Edgerton, Edwards, Eliot, Fenton, Fessenden, Franchot, Frank, Gooch, Granger, Hale, Hanchett, Hickman, Hooper, Hutchins, Julian, Kelley, Francis W. Kellogg, Killinger, Lansing, Loomis, Lovejoy, McKnight, McPherson, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Nixon, Patton, Pike, Potter, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Shanks, Shellabarger, Sloan, Spaulding, Stevens, Stratton, Trowbridge, Van Horn, Van Valkenburgh, Verree, Wallace, E. P. Walton, Washburne, Wheeler, Albert S. White, Wilson, and Windom—73.

So the amendment was not agreed to.

During the roll-call,

Mr. HUTCHINS stated that Mr. HORTON had paired off upon this question with Mr. WEBSTER.

Mr. WHEELER stated that Mr. SHERMAN, who is surgeon of one of the New York regiments, had been summoned by telegraph, and had gone to join his regiment.

Mr. MORRIS stated that he had paired off with Mr. CUTLER.

Mr. COX stated that he was paired off with Mr. POMEROY.

Mr. STEELE, of New Jersey, announced that Mr. COBB was absent on account of sickness.

Mr. RICHARDSON said: I paired off a few moments ago with Mr. PHELPS, of California. He is for the bill and I against it. I do not think, however, that this vote comes within the purview of our arrangement, and I therefore vote "ay."

The result of the vote having been announced as above recorded, the question recurred upon Mr. STEVENS's motion to close debate in one minute.

The motion was agreed to.

Mr. STEVENS moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended, and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of Senate bill No. 108, for the release of certain persons held to service or labor in the District of Columbia.

Mr. CRADLEBAUGH. Mr. Chairman, I regret very much that the House has concluded to close debate upon the pending bill in one minute after I have obtained the floor for the first time since I have held a seat here. My regret grows out of the fact, not that what I might say would be in opposition to the bill as it is presented here before the committee, but because in my view it it not perfect and complete. It does not cover the subject-matter that it was intended to meet. I cannot see why——

[Here the hammer fell, amidst much laughter, the one minute allowed for debate having expired.]

The Clerk proceeded to read the bill by sections for amendment.

Mr. CRADLEBAUGH. I move to amend the first section, so as to make it apply to persons of the Anglo-Saxon race, and to extend it to the Territories. The bill now before the committee does not cover the entire subject-matter which it should cover. If I understand it, it applies only to persons of African descent in the District of Columbia. I think we ought to have some little consideration and regard for those white persons who are enslaved, and I think that our sympathy ought not to be confined to the District of Columbia. I think that while we have Territories in the Union where white slavery exists, we should not restrict the operation of this bill to the District of Columbia.

Mr. STEVENS. Mr. Chairman, I cannot very well learn what is going on. I understand that the gentleman's amendment refers to the Territories. If so, I make the point of order that it is not germane to a bill relative to the District of Columbia.

The CHAIRMAN. The point of order comes too late. The gentleman should have made it before.

Mr. STEVENS. I could not hear what it was.

The CHAIRMAN. The Chair regrets that exceedingly.

Mr. CRADLEBAUGH. All I ask is to have time allowed me to show to this House a system of white slavery to which the system of African slavery in the District of Columbia bears no comparison. I think that if there be, anywhere in this Republic, slaves kept who have Anglo-Saxon blood in their veins, we should show some sympathy and regard for them, and not confine all our sympathy to persons of African descent. If, therefore, I can have time given me——

[Here the hammer fell.]

Mr. LOVEJOY. I wish to say, in the way of opposition to the amendment of the gentleman, that it is not timely and appropriate. There will probably be a bill brought before the House to strangle this other twin relic to which the gentleman refers. But that is not the point now before the House. I therefore oppose the amendment,

Mr. CRADLEBAUGH's amendment was rejected.

Mr. WRIGHT. I offer the following amendment as a proviso to the first section:

Provided, That this act shall not go into operation unless the qualified citizens of the District of Columbia shall, by a majority of votes polled, approve and ratify the same; and to determine this, the President of the United States shall forthwith issue his proclamation ordering an election to be held, on twenty days' notice, by the qualified voters of the District, to determine whether the provisions of this act shall or shall not go into operation. The time, places, mode, and manner of conducting the said election, and the mode of the returns, shall be prescribed in the said proclamation. Should a majority of the votes cast be in favor of this act, the President shall at once declare the same by public proclamation, and the act shall go into operation. But should a majority be cast against it, he shall declare the same by his proclamation.

Mr. LOVEJOY. I raise the point of order that the proviso is not germane to the first section, but should be offered at the end of the bill.

The CHAIRMAN. The Chair overrules the point of order.

Mr. WRIGHT. Mr. Chairman, if the majority of the House will agree that the question of the abolition of slavery in the District shall go to a vote of the people of the District, I am entirely willing to vote for the bill. The people of this District are alone interested in the matter, and I have yet to learn that the first petition in favor of this bill has come to us from them. I have no doubt but that Congress has the power to abolish slavery in the District, and on a more fitting and appropriate occasion that would be no objection to considering the measure, even without this proviso. But this is certainly not the time to agitate this question.

Mr. SHEFFIELD. Will the gentleman from Pennsylvania allow me to ask him a question?

Mr. WRIGHT. I cannot yield. Within the last two or three days the cheering news has reached this capital of the successes of our armies of the West in putting down the great rebellion now existing in the country. We are now waiting anxiously to hear the result of the next great battle that has to be fought almost within the sound of this capital, at Yorktown. While the country is in this state of suspense, while we hardly know whether the nation shall live or die, it is not the time for agitating the country with the abolition of slavery. Its effect is to divert the attention of the nation from the great and absorbing question which now presses upon us, to create distrust and alarm and confusion. We should now be united, at least on the question of our national existence. We should agree to let the negro alone, and ascertain if the white man has a home and a country. Settle that great truth first, and then it will be time to talk of abolition in the District of Columbia.

Mr. POTTER. I raise the question of order that the gentleman should confine his remarks to his amendment.

The CHAIRMAN. The Chair sustains the point of order. The gentleman will confine his remarks to his own amendment.

Mr. WRIGHT. I am endeavoring to do so. I say that the question involved in the bill and proviso is not a question that should be agitated at this period of time. If the subject is to be acted on at all, this certainly is not the time to act on it. When the people of the District want us to abolish slavery here, let them make some manifestation of their will; let them send petitions to Congress for it. There are no such petitions on our files.

Mr. POTTER. The gentleman is mistaken. There are such petitions before the House.

Mr. WRIGHT. There have been no such petitions presented during the present session of Congress; and therefore I say that the whole matter is premature here, and that this is the most inauspicious time for such a project of law, for changing the fundamental laws of the land. Let the smoke of the battle-fields clear away where the great question of human liberty and self-government has just been gallantly fought for; and where the deeds of our arms have shone out in these gloomy times with resplendent glory. Let the brave and loyal soldiers of the Republic repose for one night, at least, upon their dear-bought fields, without the eternal clamor of abolition disturbing their dreams. The salvation of our country first, and the consideration of emancipation afterwards.

[Here the hammer fell.]

Mr. STEVENS. I am opposed to the amendment, and I would recommend to my colleague, with great respect, an amendment in another document. It is somewhere provided that the wicked shall be damned. I would suggest to my colleague that he propose a proviso to that, "providing that they consent thereto." It would be just as decent an amendment as the one which he has proposed.

Mr. ALDRICH. I move to amend the amendment, as follows:

Strike out all after the word "*Provided*," and insert "this act shall not take take effect until after the expiration or termination of the reciprocity treaty."

The CHAIRMAN. The Chair decides that the amendment is not germane.

Mr. SHEFFIELD. I move to amend the amendment by striking out the last line. I desire to ask the gentleman from Pennsylvania whether the supreme court of his own State has not decided that an act which was to take effect on condition of the popular vote being in its favor was unconstitutional; whether that is not reported in 4 Barr's Reports?

Mr. WRIGHT. There is no such decision, to my knowledge.

Mr. SHEFFIELD's amendment to the amendment was rejected.

MESSAGE FROM THE SENATE.

The committee informally rose, and the Speaker having resumed the chair, a message was received from the Senate, by Mr. FORNEY, their Secretary, informing the House that the Senate insist on their amendments to the bill of the House (No. 242) making appropriations for the naval service for the year ending the 30th of June, 1863, and further appropriations for the year ending the 30th of June, 1862; and ask for a conference on the disagreeing votes of the two Houses to the said bill.

The committee resumed its session, and proceeded again to the consideration of the bill relating to

EMANCIPATION IN THE DISTRICT.

Mr. OLIN. I desire to amend the bill in the thirteenth line of the second section.

The CHAIRMAN. No amendment will be in order except it be pertinent to the amendment pending.

Mr. SHELLABARGER. I move to amend the amendment by adding at the end of it as follows:

Provided also, That no person shall be admitted to vote at said election who shall not, at all times heretofore, have been loyal to the Government of the United States.

I do not wish to make any remarks upon this amendment, further than to say that I offer it in good faith; and if it be adopted, and added to the amendment of the gentleman from Pennsylvania, I think it would make it very much better, though I would still be opposed to the amendment.

Mr. WRIGHT. I will accept the amendment proposed by the gentleman from Ohio.

The amendment, as modified, was disagreed to.

Mr. OLIN. I now propose my amendment in the thirteenth line of the second section.

Mr. WADSWORTH. I have an amendment to a preceding clause of that section, which I suppose will take precedence of the amendment of the gentleman from New York. I move to strike out of the second line of the section the words "loyal to the United States." The reason why I make that motion is because I hold the provision to be unconstitutional. I hold it to be a violation of the fifth amendment to the Constitution which provides that—

"No person shall be held to answer for a capital or other infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia while in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law; nor shall property be taken for public use without just compensation."

Of course, that idea is based upon the conclusion that slaves are property, or that the owner of a slave has an interest of some sort in him which the laws protect; a property which cannot be taken from him except for crime or by the right of eminent domain.

Now, sir, I suppose the term "loyal to the United States," means where some person has been guilty of treason, or some similar offense, and I say that the Congress of the United States cannot deprive a man of his life, liberty, or property without due process of law; and I suppose the expression "due process of law," will be understood by every one to mean trial and conviction in a court of justice.

But, if you claim the power to take this property under the right of eminent domain, then I say you cannot do it without just compensation, and that that compensation must be paid to the disloyal as well as the loyal. You cannot confiscate the property of a disloyal man until he shall have been tried and convicted in your judicial tribunals. I presume what I say will have no influence with the House upon this question; but my opinion is, nevertheless, as I state it.

It is this fifth amendment of the Constitution which contains the new Magna Charta which has been spoken of, that no person shall be deprived of life, liberty, or property, except by due process of law. It is said that this clause refers to the slave as well as the master. This is the first time I ever heard that the slave had liberty or had property to be deprived of. If that was the intention of the Constitution, it contained the anomaly of providing for the importation of African slaves for twenty years after it was adopted. Virginia and Delaware wanted to put in a provision prohibiting the further importation of slaves from the time of the adoption of the Constitution; but the other States would not consent to it. The same instrument which contains this new Magna Charta also contains the right to capture Africans and bring them to this country for twenty years.

Now, I undertake to say that under this amendment to the Constitution you can as well take the life of a disloyal man without judicial proceeding as his property. Of course you cannot confiscate his property in this indirect way, by emancipating his slave without compensation, because you regard him as disloyal. If it were legal, I would be perfectly willing to take from a disloyal man almost anything that could be supposed to subserve the public interest, although I must again, as I have heretofore, enter my protest against all attempts at confiscation.

[Here the hammer fell.]

Mr. HICKMAN. I desire to oppose the amendment. My objection is, that a man who is disloyal forfeits the protection which he would otherwise be entitled to from the Government; that he cannot claim the protection of the Constitution which he repudiates and attempts to cast off, and it is not for us to confer rights upon him which he distinctly disclaims.

But, in the next place, what I think is a conclusive answer is that the man who has determined to hold slave property in the District of Columbia, over which Congress has exclusive legislative jurisdiction in all cases whatever, holds that property with a distinct reference to that provision of the Constitution. He does it knowing that whenever the Congress of the United States may legislate in such way as to deprive him of that property he must submit. I contend that that provision of the Constitution which gives to us the power of legislation in all cases whatever, and that exclusively, has no limitation whatever in its application to this District, but may deprive a man of his property, even though it be not in negroes.

I maintain that the fifth amendment to the Constitution has reference to a very different application from what the gentleman supposes. It is a restriction upon the general legislation of Congress, whereas Congress has exclusive legislation in all cases whatsoever, so far as the District is concerned. It is made absolute over the seat of Government. But even if it were a case of doubt, I should prefer to err on the safe side, and cast my vote in favor of the bill, or upon the side of humanity, rather than upon the side of inhumanity, injustice, and what I regard as indefensible in good morals.

The amendment submitted by Mr. WADSWORTH was disagreed to.

Mr. OLIN. I move now to amend, in the thirteenth line of the second section, by striking out the word "not," and inserting the words "*prima facie;*" so that the proviso will read:

That the oath of the party shall be *prima facie* evidence of the facts therein stated.

Instead of "shall not be."

I regret to feel compelled to move this amendment, for I wish to see the bill pass, and am ready to vote for it; but it will be perceived by a moment's glance at the second section, that the bill as it now stands contains this most extraordinary anomaly which requires the oath of a party to verify the facts stated in his petition, and then provides by law that the oath shall be disregarded.

It may be important that the petition which is verified by an oath, should be substantiated by testimony, and if it be so, it is proper to provide that the petitioner shall, in some form prescribed, verify his statement. It is certainly a new form of legislation; it is an anomaly in legislation to require that the petitioner shall verify his statement by oath, and then in the same breath declare that the oath shall be no evidence at all.

A MEMBER. It is always so.

Mr. OLIN. Never so. Who says always so? [Laughter.] It never was provided that a man should verify his statement with an oath, and then in the same section declare that the oath shall be disregarded.

Now, undoubtedly those who framed this bill never designed to have such a provision in it. They designed that the oath of the petitioner should not be conclusive of the facts stated in the proceeding. It was designed that it should be left to be controverted by proofs, or that the facts stated in the petition should be verified by oath. It was designed that you should have that security, and leave the party interested to disprove those facts if he could, or saw fit to do so. My amendment will obviate that objection.

Mr. WASHBURNE. I do not propose to go into an argument with my friend from New York; but I am opposed to this amendment. I am opposed to any amendment to the bill, and I hope that the committee will agree with me, and go forward and pass this bill as it has come to us from the Senate. If gentlemen of the other side offer amendments, let us hear them, and then vote them down.

Mr. BIDDLE. Is it in order to strike out the first section of the bill?

The CHAIRMAN. It is not.

Mr. BIDDLE. I move to amend the amendment by making the evidence conclusive. Five minutes afford no time for the statement of my objections to this measure. Waiving the question of its constitutionality, to my mind, at least, the eminent statesman of Kentucky has demonstrated that it is utterly inexpedient and inopportune at the present time.

I leave to the Representatives of the slaveholding States the treatment of this question in its relation to their constituents—those loyal men who are entitled from us to every consideration that is due to loyalty and patriotism, displayed under circumstances of the utmost difficulty and danger. It is in its relation to interests that I represent that I shall say a few words on this bill. Why is it pressed upon us now? The most ingenious rhetoric will hardly persuade us, who are on the spot, that the suffering of the domestic servants of this city are now peculiarly urgent or intolerable. Why is this bill pressed upon us? There is an answer which my esteemed colleagues from Pennsylvania may listen to, at this time, with interest.

I will read from the Republican organ of this city a few extracts from an editorial, urging the immediate passage of this bill, and disclosing some of the reasons for the urgency. It says:

"Current events, which are well understood, are tending to increase the number of free negroes in this District, in a degree which is pronounced 'alarming' by many persons, and which has even attracted the attention of the city fathers of Washington." * * * * "It requires no great comprehension to understand that a reservoir without outlets, and into which streams constantly run, must finally become full and overflow."

The article goes on to complain of some restrictions which the Baltimore and Ohio railroad imposes upon fugitive negroes, and then says:

"The District of Columbia, in short, is to negroes an easy place to get into, but a hard place to get out of. It will be one of the good consequences which may be expected from the abolition of slavery here that the idea of security to slave property, which is at the bottom of the rule we complain of, will cease to be operative. With the railroad to the North open to the negroes, their flow thitherward would be considerable and constant." * * * * "We noticed, for example, in the Philadelphia Press of yesterday, a communication from the secretary of an association there to the effect that the ninety-three contrabands sent to Philadelphia from General Banks's column, had been readily hired out, and that the newspaper statements that a thousand more were on their way had produced applications for them, from both city and country, sufficiently extensive to show that an indefinite number might be favorably disposed of. There may be changes of opinion hereafter, (in what direction nobody can foresee,) but at present there is no doubt that the movement of negroes out of this District to the North would be large if the Baltimore and Ohio railroad would take them as passengers upon the same footing as other passengers; of course we do not expect anything to be done until the emancipation bill, already passed the Senate, shall be passed by the House; but just as soon as that happens, will not our city government, which has already taken up the subject of free negroes, exert its influence to abrogate a rule which blocks the exodus of that species of population? If we are to have 'an alarming influx' of them, let us, for the first time, open a door through which they can get out."

Sir, since this is to happen, when this bill passes, as a Representative of Philadelphia, my vote shall not help to pass it.

I will not help to make this District the floodgate through which all the smaller channels of industry at the North shall be choked and blackened.

Now that you have practically "nullified" the constitutional provision for recaption, great swarms of fugitives—thousands and tens of thousands of them—may come like black locusts, and settle down upon us. Against this threatened in-

vasion Pennsylvania may need protection; so far as my vote can give it, she shall have it now.

I would not hurry this unfortunate race northward to be repulsed there; I would leave it where nature and circumstances seem to have determined its abode. For this reason, now and always, I have opposed all rash and unconstitutional interferences with this the most difficult and dangerous subject of our age and country; and now, consistently, I shall vote against this act. No sound reasons of State policy dictate it; in the opinion of those best able to appreciate its consequences, they will be injurious. The common sense of the country is warning us that the common-sense policy towards slavery is, to let the subject alone. So we shall take from the secession leaders the fuel with which they kindled and keep alive the rebellion, of which their abolition coadjutors are and have always been helping them to blow the flames.

Mr. HICKMAN. I rise to oppose the amendment. I do not rise to answer my colleague, because I think he has answered himself. I think the remarks made by the gentleman from New York [Mr. OLIN] require a specific answer, and that is this: he, as a lawyer, knows full well, I have no doubt, that the initiation of almost all legal proceedings in most of the States, where they are inaugurated by petition, requires the petition to be verified by oath, yet that petition does not constitute a *prima facie* case when the party comes into court to continue those proceedings.

Mr. OLIN. Will the gentleman permit me——

Mr. HICKMAN. I will if the gentleman will not take up all of my time. I think that my friend is trying to get out of the difficulty by occupying all of my time.

Mr. OLIN. Let me have a minute, and I will try and get the gentleman out of his difficulty. Let me say to the gentleman from Pennsylvania that by the practice in his own State and by the practice in my State——

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired. [Laughter.]

The amendment to the amendment was rejected.

Mr. EDWARDS. I move to amend the amendment by inserting the words "that it shall be a *prima facie* case only so far as to give the commission jurisdiction." Mr. Chairman, there is a seeming inconsistency in this section of the bill. It requires that the party should append to his petition an oath that shall be evidence to any other extent. Its purpose undoubtedly was to place the petition before the court and nothing more, to prevent troubling the commissioners with groundless claims. It was to prevent the presentation of claims without any seeming support whatever. The gentleman from New York knows no case in which an oath appended to a paper has this significance. No more has it when a complaint is made against a party upon which a warrant issues. The complaint must be sworn to; but when the charge comes to be considered the oath of the party has no effect whatever.

Mr. OLIN. Let me interrupt the gentleman.

Mr. EDWARDS. I decline to yield. I mention this for the purpose of sustaining this bill as it stands, and that there may be no delay in its passage.

Mr. STEVENS. I have hardly ever heard a case so plain as this make so much noise. Almost every petition of divorce, or commencement of a chancery proceeding, has to be sworn to, and yet it is never made evidence. It cannot be made evidence without express provision.

I move that the committee rise, to close this debate.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly a bill (S. No. 108) for the relief of certain persons held to service or labor in the District of Columbia, and had come to no resolution thereon.

Mr. STEVENS moved that the debate on the pending amendment in the committee be closed in one second after its consideration shall be resumed.

The motion was agreed to.

Mr. STEVENS moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair.)

Mr. EDWARDS withdrew his amendment to the amendment.

Mr. CRADLEBAUGH moved to amend so that the bill shall apply to persons of Anglo-Saxon blood, and shall be extended to the Territories.

The CHAIRMAN ruled the amendment out of order, as not germane.

Mr. OLIN's amendment was disagreed to.

Mr. TRAIN. I offer the following amendment to the third section:

And provided further, That any person feeling himself aggrieved by the determination of the commissioners, in the amount of compensation awarded, may, within three months from the time when the final report of said commissioners shall be filed, as herein provided, appeal to the circuit court of the United States for the District of Columbia, and either party may be entitled to a trial by jury in that court, and the judgment in the case shall be final upon all parties.

Mr. Chairman, in offering this amendment, I simply desire to perfect a bill for which I intend to vote. Gentlemen will notice that this bill treats the service and labor to which persons of African descent are held, as property, and contemplates that the average value of the service shall not exceed $300. Now, then, the fifth article of the amendments to the Constitution provides that private property shall not be "taken for public use without just compensation." The seventh article provides that in suits at common law, when the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved. Now, then, as the value in controversy under this bill may, and in most cases will, exceed twenty dollars, it would seem important, and I call the attention of the lawyers in the House to the fact, that there is no provision securing the right of trial by jury in this bill. It is especially important, in my judgment, that we should not, by such an omission, defeat the objects of this bill, and we shall all hereafter regret the fact, if this bill should, by the competent tribunal, be declared unconstitutional, or any of its provisions.

Mr. LOVEJOY. What is the process of law under which these slaves have been held?

Mr. TRAIN. I do not yield for any interruption on that subject. I have heard enough of that in Massachusetts.

I therefore ask the attention of the committee because this must be deemed a proceeding at common law, the Supreme Court of the United States having decided that the limitation of the seventh amendment to the Constitution applies not to the States, which fix their own constitutional limitations, but to proceedings in the tribunals of the United States.

I wish to add that this amendment does not affect the bill, so far forth as it goes to the question of emancipation, but simply the proceedings in fixing the compensation to which the owners are to be entitled.

[Here the hammer fell.]

Mr. LOVEJOY. I oppose the amendment. I am tired of this miserable *twaddle* about due process of law for the master when everybody knows that every slave in the District of Columbia and in the United States has been robbed of his freedom without process of law.

Mr. STEVENS. I move to strike out the last word of the amendment of the gentleman from Massachusetts, simply for the purpose of saying that he has not well considered this case. The limitation he speaks of applies only to suits at common law, and that is no suit at common law. A suit in chancery is not affected by it, nor any other suit, except that at common law, and there are no suits at common law, and there is no common law in the United States.

I agree with the gentleman from Illinois, and hope that no amendment will be made to this bill; but that it will be put through just as it is.

Mr. WADSWORTH. I raise a point of order. It is that such remarks are not germane to the amendment.

Mr. STEVENS. This is not a German amendment at all. [Laughter.]

Mr. TRAIN. The member from Pennsylvania is all wrong in his law. This proceeding will be a proceeding at common law, and nothing else. Every proceeding in law is a proceeding at common law, and any party has, therefore, the right to trial by jury; and the courts have settled that proceedings in equity are alone exempted from this right of a trial by jury, for the reason that the chancery jurisdiction of the courts was well known and established at the time of the adoption of the Constitution.

Mr. STEVENS, by unanimous consent, withdrew his amendment.

Mr. DUNN. I renew the amendment. I rise for the purpose of saying that the amendment of the gentleman from Massachusetts seems to have some merit, but I do not know that that will commend it particularly to the consideration of the committee at this time, as the gentleman from Illinois [Mr. WASHBURNE] announces to the committee that it is his purpose—and I suppose he expects others to follow him—to vote down all amendments, and to take this bill just as it came from the Senate. I do not pretend to say that is not right; I do not pretend to say that the bill is not now in the best form in which it can be put, but I must express my astonishment that a member of this House should propose to carry through a measure of this importance without affording any opportunity for amendment.

The CHAIRMAN. The Chair thinks that the remarks of the gentleman are not confined to his amendment. Debate has heretofore been allowed such latitude that the Chair is compelled to confine gentlemen to their amendments according to the rule.

Mr. DUNN. It seems to me, as I said before, that the amendment proposed by the gentleman from Massachusetts might have much to recommend it to the consideration of a committee which was disposed to deliberate. If, on the contrary, it is the intention of a majority, or of those who think they have a majority, to compel us to take a vote——

The CHAIRMAN. The gentleman's remarks should be confined to the propriety of striking out the last word of the amendment.

Mr. DUNN. I hope what has been said by the Chair will not be taken out of my time. It is scarcely worth while to consume our time in this discussion, but I must take this occasion to say, that when the gentleman from Illinois [Mr. WASHBURNE] temporarily occupied the chair as Speaker of the House, a few moments ago, when I proposed to move to adjourn, he seemed to be exceedingly blind and deaf.

Mr. POTTER. I rise to a point of order.

[Here the hammer fell.]

Mr. DUNN. I withdraw my amendment.

Mr. DELANO. I move to amend the amendment by striking out the word "three," and inserting "two." I entirely agree with my friend that, in all probability, the vitality of this bill will depend upon the adoption of the pending amendment; and as I desire to see a reasonable bill, one which will stand the test of the courts, passed at this time, I hope my amendment to the amendment will be adopted. I propose to substitute two months for three months, because in the legislation of Massachusetts it has been found that two months suffices for this purpose; and I appeal to every New England lawyer to give his attention to this amendment, that he may vote understandingly upon it. There is no case where private property is taken, in which the Legislature of Massachusetts, at least, has not prescribed this precise method of coming to that last tribunal, where civil rights are to be protected, and where compensation is to be afforded, namely, trial by jury.

The amendment to the amendment was not agreed to.

The question recurring on the adoption of the amendment—

Mr. DELANO called for tellers.

Tellers were ordered; and Mr. SHANKS and Mr. TRAIN were appointed.

The committee divided; and the tellers reported —ayes 53, noes 63.

So the amendment was not agreed to.

Mr. HARDING. I propose to strike out the first proviso, as follows:

Provided, however, That the entire sum so appraised and apportioned shall not exceed in the aggregate an amount equal to $300 for each person shown to have been so held by lawful claim.

There seems to be a strange and unusual haste in regard to this bill, but notwithstanding I am precluded from any extended remarks, I beg leave to call the attention of gentlemen for a few mo-

ments to this provision of the bill. Three commissioners are to be selected, and their valuation is to be final and conclusive. No appeal is allowed at all. These men are not required at all to fix the value of property, nor are they allowed to do so. They may go as low, indeed, as a single dime or a single cent, but beyond the price of $300 they cannot go. Why then mock these people with a proposition to pay them for their property when you limit the value, and say that the commissioners shall not be governed by the true value? They are not allowed to estimate the value of the slaves according to the market price. They cannot exceed $300, though it may appear to the judgment of those valuers that the property is worth $600, upon an average. I will illustrate this for one moment. A man comes to me and proposes to buy my horse. I say to him, as the people of this District say, I do not want to sell. He replies, "it makes no difference; I have the power to buy and I will buy; here are ten dollars, take it;" and he forces my property from me at his own price, and this is claimed to be a fair business transaction. I have more respect for the man who walks right up and robs me of my property, without offering to pay, than for those who take my property in this way.

Let the commissioners be untrammeled, and let them fix the fair market value of the slaves, and not mock the people with the offer of a price of your own fixing. We are the representatives of the people of this District; but in this matter, if you were representing your immediate constituents, I apprehend you would consent to have the question submitted to them. But here the people have not the power to reach you at the polls, and hence arises a proposition to take from them their property at your own price. You do not consult the people of the District as to whether they are willing to sell or not. Not at all. You have the power to buy, and you will buy. You have the power to fix your own price, and you will fix it. I say I have more respect for a man who will walk up and take my property without thus mocking me with a consideration.

Mr. LOVEJOY. Mr. Chairman——

Mr. HARDING. No, sir. When the gentleman gets sober upon this question I will hear him.

Mr. LOVEJOY. I supposed the gentleman was through.

[Here the hammer fell.]

Mr. LOVEJOY. I wish it distinctly understood that I supposed the gentleman was through. I asked no courtesy from him.

The gentleman thinks it is worse to take a thing for one half of its value than it is to rob a man of his property outright, if I understood his remarks. I wonder which is worse, to rob a man of his horse, or to rob him of his wife and child? That is the question I would like to ask him. Look at this which I hold in my hand.

GEORGETOWN, D. C., *June* 12, 1861.

I hereby give my consent to let James Harod have the privilege of buying his wife and child for the sum of $1,100. James Harod is himself free.

LOUIS MACKALL, Jr.

Now talk about robbery. Every slave here has been robbed and stolen, and every man who holds a slave is a man thief, and here in this nineteenth century, in the Federal city of this Christian Republic, lofty and eminent among the nations of the earth, challenging respect and imitation, is *this* man, Mackall, who proposes to let a free man have the privilege of buying his wife and child, which he had stolen from him, for $1,100—this Mackall, a woman thief, a child thief. How much did he give for this woman? He took her for a debt.

And here let me say, for fear that my time may expire, this woman thief, Mackall, after giving a pledge that this man might buy his own wife and child, flesh of his flesh, and bone of his bone, seized the woman and child, and another babe six months old, *born since*, and sent them into a slave-pen in Baltimore. And yet here, brazen men stand up and talk about robbing, because we give only $300 apiece, on an average, to deliver these poor oppressed beings from a condition of bruitism. It is the sublimity of impudence. [Laughter.]

Mr. STEVENS. I move that the committee rise for the purpose of closing the debate.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly a bill (S. No. 108) for the relief of certain persons held to service or labor in the District of Columbia, and had come to no resolution thereon.

ENROLLED BILL SIGNED.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act to authorize the Postmaster General to establish branch post offices in cities; when the Speaker signed the same.

ADJOURNMENT OVER.

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

Mr. PERRY. I move that when the House adjourns, it adjourn to meet on Monday next.

The motion was agreed to—ayes sixty-seven, noes not counted.

The question was then taken on Mr. CRADLEBAUGH's motion; and the House refused to adjourn.

EMANCIPATION IN THE DISTRICT—AGAIN.

Mr. STEVENS. I move that all debate in Committee of the Whole on the state of the Union on the pending section shall cease in one second after the committee shall resume its consideration.

The motion was agreed to.

Mr. STEVENS. I now move that the rules be suspended, and the House resolve itself into Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended, and the House again resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of Senate bill No. 108, for the release of certain persons held to service or labor in the District of Columbia.

The question was taken on Mr. HARDING's amendment; and it was disagreed to—ayes forty, noes not counted.

Mr. WADSWORTH moved to strike out the second proviso to the third section; which is as follows:

And provided further, That no claim shall be allowed for any slave or slaves brought into said District after the passage of this act, nor for any slave claimed by any person who has borne arms against the Government of the United States in the present rebellion, or in any way given aid or comfort thereto, or which originates in or by virtue of any transfer heretofore made, or which shall hereafter be made by any person who has in any manner aided or sustained the rebellion against the Government of the United States.

The motion was disagreed to.

Mr. WICKLIFFE. I have no hope of success, but I feel it to be my duty to move to strike out the words "without the exclusion of any witness on account of color," where they occur in the following clause of the fifth section:

That said commissioners shall hold their sessions in the city of Washington, at such place and times as the President of the United States may direct, of which they shall give due and public notice. They shall have power to subpena and compel the attendance of witnesses, and to receive testimony and enforce its production, as in civil cases before courts of justice, without the exclusion of any witness on account of color.

I presume it is intended to let a man's servant come in and swear that he is a disloyal man. I do hope the friends of this bill will not so far outrage the laws of this District as to authorize slaves or free negroes to be witnesses in cases of this kind.

Mr. STEVENS. I trust that this committee will not so far continue an outrage as not to allow any man of credit, whether he be black or white, to be a witness.

The amendment was rejected.

Mr. WADSWORTH. Would it not be proper to strike out the words "for purposes of identification and appraisement" in the succeeding clause of the section, which is as follows?

And they may summon before them the persons making claim to service or labor, and examine them under oath; and they may also, for purposes of identification and appraisement, call before them the persons so claimed.

As the committee have refused to strike out the words about color, on motion of my colleague, these words seem to be inconsistent with the others. I make the suggestion.

Mr. EDWARDS. I wish to answer that suggestion.

The CHAIRMAN. Does the gentleman from Kentucky propose an amendment?

Mr. WADSWORTH. No, sir, I do not.

Mr. EDWARDS. Then I have nothing to say.

Mr. DUNN. I move to amend the sixth section by striking out in the fifth line "$200," and inserting "$150" in lieu thereof; so that it will read:

That said commissioners shall receive in compensation for their services the sum of $2,000 each, to be paid upon the filing of their report; that said clerk shall receive for his services the sum of $150 per month; that said marshal shall receive such fees as are allowed by law for similar services performed by him in the circuit court of the District of Columbia; that the Secretary of the Treasury shall cause all other reasonable expenses of said commission to be audited and allowed, and that said compensation, fees, and expenses shall be paid from the Treasury of the United States.

Mr. Chairman, I wish to say that with the general purpose and object of this bill I entirely agree. The abolition of slavery in this District is with me not a matter of passion or prejudice, but of long-settled conviction of right and duty. This is to be the divorce of the nation from slavery. Let the attending circumstances be worthy of the occasion. Let the decree be deliberately considered, and then entered upon the record. Let it make full and careful provision for all the parties interested. I do not say the provisions of this bill are wrong, nor do I say they are right. But I would perform so high a duty with the consideration due the great interests involved and the grave circumstances by which we are surrounded. Everything should be done with decency and in good order, and instead of the settled purpose manifested here to vote down any amendment without consideration, but simply because it is an amendment, and force the bill bodily through without delay, that full opportunity for amendment and discussion ought to be afforded.

Mr. STEVENS. I call the gentleman to order. He is not speaking to his amendment.

The CHAIRMAN. The Chair sustains the point of order. The gentleman must confine himself to his amendment.

Mr. DUNN. I propose to give reasons why the House should consider this amendment.

Mr. POTTER. That is not in order.

The CHAIRMAN. The gentleman from Indiana has the floor, and not the gentleman from Wisconsin.

Mr. DUNN. I presume I can make myself in order. If I would utter here some foul abuse of slaveholders, then I suppose I should be perfectly in order.

Mr. WICKLIFFE. Oh, yes; you would be in order then. [Laughter.]

A MEMBER. That is always in order.

Mr. DUNN. I say that while I believe slavery ought to be abolished in the District, while that has been a living sentiment with me ever since I have had any thoughts on the subject, born myself in territory made free by the power of the General Government, and having no doubt of the right and authority of the Government to abolish slavery here, I want to perform that duty with the deliberation becoming so great and glorious an event. I should have liked to have had an opportunity, when passing through the bill, to give to its various sections that consideration which their high importance merits.

I see no reason why we should pay a man $200 per month for acting as clerk to these commissioners. I know you can get men entirely competent to discharge that duty for half the money; but it seems to be the purpose of gentlemen here who claim to be the particular and especial friends of the bill that no amendments shall be attached to it. We are to take it as it is, no matter how imperfect its provisions may be, that the grand jubilation over its passage may not be delayed. I wish to say to those gentlemen that there is a higher court than this that is to pass upon our acts. We have to go before the great body of the American people, and not only to show them that we did this thing, but that we did it in the right time and in the right way; and it will be but a poor excuse, when we come to answer for the deficiencies of this bill, to say that we were in such haste to pass it that we could not pause to deliberate upon its details.

Mr. POTTER. I rise to a question of order. The gentleman is not confining himself to his amendment.

Mr. STEVENS. Why, he is just getting to be in order.

The CHAIRMAN. The Chair does not un-

derstand the gentleman to be out of order at this time.

Mr. DUNN. I was just on the $200 question at that moment. This amendment is not in itself important, but it is proper. And why should it not be made? Because, as I have said, there is a determination manifested that no amendment shall be made. There are other amendments I would like to offer, but in the present temper of the committee, what consideration would they receive, no matter how proper? I had expected to offer an amendment providing for gradual emancipation, but this haste does not afford time to prepare it or encouragement to present it. I prefer gradual emancipation to immediate. The ties that have so long bound masters and slaves together should not be rudely sundered. The good of the slave, to say nothing of the interests of the master, in my humble judgment require preparation for his enjoyment of liberty. Nevertheless, I am for the removal of slavery from the capital of the nation; and if I cannot accomplish that result in the form that suits me best, I shall vote for it in the best form presented. But, sir, I arose mainly for the purpose of protesting against the purpose indicated by the gentleman from Illinois, [Mr. WASHBURNE,] to put this bill through in hot haste.

Mr. WASHBURNE. I am opposed to the amendment of my friend from Indiana.

Mr. DUNN. I call for tellers on the amendment.

Tellers were ordered; and Messrs. DUNN and FESSENDEN were appointed.

The committee divided; and the tellers reported —ayes forty-three, noes not counted.

So the amendment was rejected.

Mr. HOLMAN. I move to amend in the third line of the sixth section by striking out "$2,000," and inserting in lieu of it "$1,000." The effect of my amendment is to fix the salary of these commissioners at $1,000 instead of at $2,000. The committee will notice that this is not a per annum allowance, for the preceding section provides that the report shall be made within nine months, and it is manifest, from other provisions of the bill, that it will be carried into effect in a less term than nine months. So that, as the bill now stands, we would really be paying some three thousand per annum to each one of these commissioners. It seems to me that $1,000 for such services as are required here would be fair compensation.

Mr. ASHLEY. I am opposed to the amendment offered by the gentleman; but have no desire to take up the time of the committee by discussing it. The bill is not as it was agreed upon by the sub-committee.

The CHAIRMAN. The gentleman must confine himself to the amendment.

The question was taken on Mr. HOLMAN's amendment; and it was rejected.

Mr. WICKLIFFE. I desire to offer an amendment, and do not wish to make any remarks upon it, but merely to express the hope that when the bill comes into the House, we will have a vote by yeas and nays upon my amendment.

Mr. COX. Would it be in order to offer a substitute for the substitute?

The CHAIRMAN. The gentleman from Ohio may offer an amendment to the substitute.

Mr. WICKLIFFE. I do not design to offer any argument in support of my amendment. It is understood by the committee. I have no idea that it will be adopted; but I ask that when it comes into the House, I may have the yeas and nays upon it. It is the bill reported by the honorable Senator from Indiana, [Mr. WRIGHT,] proposing gradual emancipation. It is a bill for which I suppose many would vote who would not vote for the bill in its present shape. I would vote for it myself.

Mr. COX. I did not know what the substitute of the gentleman from Kentucky was, and I desired to offer an amendment to it. I now find that his substitute is precisely the same as that which I intended to offer.

Mr. WICKLIFFE. I now offer my amendment, as follows:

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

That no person not now within the District of Columbia, nor now owned by any person or persons now resident within it, nor hereafter born within it, shall ever be held in slavery within said District.

SEC. 2. *And be it further enacted*, That no person now within said District, or now owned by any person or persons now resident within the same, or hereafter born within it, shall ever be held in slavery without the limits of said District: *Provided*, That officers of the Government of the United States, being citizens of the slaveholding States, coming into said District on public business, and remaining only so long as may be reasonably necessary for that object, may be attended into and out of said District, and while there, by the necessary servants of themselves and their families, without their right to hold such servants in service being thereby impaired.

SEC. 3. *And be it further enacted*, That all children born of slave mothers within said District on or after the 1st day of ——, in the year of our Lord 1862, shall be free, but shall be reasonably supported and educated by the respective owners of their mothers, or by their heirs or representatives, and shall serve reasonable service as apprentices to such owners, heirs, and representatives, until they respectively arrive at the age of twenty-one years, when they shall be entirely free; and the municipal authorities of Washington and Georgetown, within their respective jurisdictional limits, are hereby empowered and required to make all suitable and necessary provisions for enforcing obedience to this section on the part of both masters and apprentices.

SEC. 4. *And be it further enacted*, That all persons now within the said District lawfully held as slaves, or now owned by any person or persons now resident within said District, shall remain such at the will of their respective owners, their heirs and legal representatives: *Provided*, That any such owner, or his legal representatives, may at any time receive from the Treasury of the United States the full value of his or her slave of the class in this section mentioned; upon which such slave shall be forthwith and forever free: *And provided further*, That the President of the United States, the Secretary of State, and the Secretary of the Treasury, shall be a board for determining the value of such slaves as their owners may desire to emancipate under this section, and whose duty it shall be to hold a session for the purpose on the first Monday of each calendar month; to receive all applications, and, on satisfactory evidence in each case that the person presented for valuation is a slave, and of the class in this section mentioned, and is owned by the applicant, shall value such slave at his or her full cash value, and give to the applicant an order on the Treasury for the amount, and also to such slave a certificate of freedom.

SEC. 5. *And be it further enacted*, That the municipal authorities of Washington and Georgetown, within their respective jurisdictional limits, are hereby empowered and required to provide active and efficient means to arrest and deliver up to their owners all fugitive slaves escaping into said District.

SEC. 6. *And be it further enacted*, That the election officers within said District of Columbia are hereby empowered and required to open polls at all the usual places of holding elections on the first Monday of April next, and receive the vote of every free white male citizen above the age of twenty-one years, having resided within said District for the period of one year or more next preceding the time of such voting for or against this act, to proceed in taking said votes in all respects not herein specified, as at elections under the municipal laws, and with as little delay as possible to transmit correct statements of the votes so cast to the President of the United States; and it shall be the duty of the President to canvass said votes immediately, and if a majority of them be found to be for this act, to forthwith issue his proclamation giving notice of the fact; and this act shall only be in full force and effect on and after the day of such proclamation.

SEC. 7. *And be it further enacted*, That involuntary servitude for the punishment of crime whereof the party shall have been duly convicted shall in nowise be prohibited by this act.

SEC. 8. *And be it further enacted*, That for all the purposes of this act, the jurisdictional limits of Washington are extended to all parts of the District of Columbia not now included within the limits of Georgetown.

Mr. HOLMAN. I move to amend the substitute by striking out the fifth section, as follows:

SEC. 5. *And be it further enacted*, That the municipal authorities of Washington and Georgetown, within their respective jurisdictional limits, are hereby empowered and required to provide active and efficient means to arrest and deliver up to their owners all fugitive slaves escaping into said District.

The section is manifestly mere surplusage. It imposes on the corporate authorities of Washington and Georgetown duties not imposed on other cities of the United States. I offer my amendment, however, mainly for the purpose of enabling me to make a single remark. It is certainly very desirable for many reasons that slavery should cease to exist at the national capital, when such a result can be properly effected. I think that my own constituents would be in favor of the gradual extinction of slavery in the District of Columbia, on terms consistent with the rights of citizens as recognized by the Constitution and a just economy; but I doubt whether there would be any considerable number of my constituents, under present circumstances, in favor of the passage of the original bill. The debate to-day discloses many forcible arguments against any action at this time. I should vote for the substitute very cheerfully, as between that and the original bill. If it can be done without increasing the national debt, and with the consent of the people of the District, I know of no reason why slavery should not be gradually abolished here. In my judgment, it would be a most desirable result. But I cannot vote for the original bill as it came from the Senate. The energies and resources of the nation should be devoted to the emergency of the hour.

Mr. COX. I oppose the motion to strike out the fifth section, because, if the bill is to pass in any shape at all, I should like to see this substitute passed in its entirety; but I do not believe in passing any bill on this subject at the present time. I believe that our whole duty at this Congress would be summed up in two things—to increase the strength of our Army, and by it put down the rebellion, and, if possible, increase our revenue for that purpose in a fair and just way. I believe that the time may come, perhaps, when we will have to reconstruct our ideas on the subject of slavery. But now is not the time to throw this firebrand among the people, while our Army is in the field. The scene that was pictured by the gentleman from Indiana [Mr. DUNN] a while ago, as to the indecency, the haste, the merriment of the present Congress in passing this bill, fraught, as it is, with so many consequences to the integrity of the Union itself, does not speak well for character of our national Legislature.

I am opposed, sir, to any bill of this nature, for the simple reason that my constituents will not allow me to vote money to pay for making black communities in the North. Whether the national capital may be called the paradise of free negroes or not, they do not want to pay for that curse. This has become a question of self-protection to them against those free blacks who are pouring in over the North since this crusade began. We have had intimations from the other branch of the national Legislature, and intimations here that this measure is but the entering wedge of a system which will bring about a permanent dissolution of this Confederacy, never to be reconstructed. This will bring about not only a disarrangement of the plans of the Army, but will break down the spirit of the Army. It will turn the Army against those gentlemen here in power. I appeal from all such legislation as this. In the language of the gentleman from Indiana, I appeal to another tribunal to settle this matter with these gentlemen, when they dare to go before the people with these ideas and with these acts.

Mr. VALLANDIGHAM. I understand that the amendment is to perfect the substitute. Is it in order to amend the amendment?

The CHAIRMAN. An amendment to the original text of the substitute is in order.

Mr. VALLANDIGHAM. I propose, as a *pro forma* amendment, to strike out the last line. I wish to say a word on this subject. I am opposed to any bill abolishing slavery in the District of Columbia. I am opposed to it for many reasons. Had I no other one, I am opposed to it because I regard all this class of legislation as tending to prevent a restoration of the Union of these States as it was, and that is the grand object to which I look. I know well that in a very little while the question will be between the old Union of these States—the Union as our fathers made it—and some new one, or some new unity of Government, or eternal separation—disunion. To both these latter I am unalterably and unconditionally opposed. It is to the restoration of the Union, as it was made in 1789, and continued for over seventy years, that I am bound to the last hour of my political and personal existence, if it be within the limits of possibility to restore and maintain that Union.

On this subject further! When, for years past, in common with other members of the Democratic party, I have charged that it was the purpose of the Republican party to interfere with slavery in the District of Columbia, it was denounced—in the classical phrase of the day—as a Loco Foco lie, a slander, and the author of the charge was declared a libeler. Now, sir, there were not ten men in the Thirty-Sixth Congress of the United States who would have recorded their votes in favor of the abolition of slavery in the District of Columbia. There are many on that side of the House who believe and know that assertion to be true. And yet behold, to-day, what is before the Congress of the United States? In the language of the distinguished gentleman from Kentucky, "availing themselves of the troubles of the times" we have this bill brought forward as the beginning of a grand scheme of emancipation, and there is no calculation where that scheme is to end.

For this reason, Mr. Chairman, I have paid no

regard to the amendments proposed. I have voted for none of them, and will vote for none of them, as I am determined to vote against the bill in any shape in which it may be presented. I withdraw the amendment.

The question was taken on Mr. HOLMAN's amendment to the amendment; and it was rejected.

Mr. DIVEN. I move to strike out the sixth section of the substitute. If I am not mistaken that section provides for the submission to the people of the question whether slavery shall be abolished in the District of Columbia.

The CHAIRMAN. The gentleman is correct.

Mr. DIVEN. Now, sir, with that section stricken out, the substitute will receive my cordial support. And I would be in favor of it as now reported, were it not that, as I understand the Constitution, this Congress has exclusive legislation for the District of Columbia, and it will be in conflict with that provision to make the people of the District a part of the law-making power.

Now, sir, so far from the statement of the gentleman from Ohio [Mr. VALLANDIGHAM] being correct in regard to what was the position of the Republican party during the last canvass in favor of the abolition of slavery in the District of Columbia—so far certainly as my locality was concerned, he is in error. We took the position of the present Executive of the United States in his celebrated canvass in the State of Illinois, as our criterion, and that position was one of emphatic opposition to the abolition of slavery in the District of Columbia, except upon full compensation to the owners, and upon the question being submitted to the people of the District. I would be in favor of carrying out his entire doctrine but for the constitutional objection to which I have referred. I believe that it is the true policy. I believe it is better for the enslaved, as well as better for the Republic. I believe that the dictates of humanity in abolishing slavery anywhere will be promoted by making that emancipation gradual, thereby placing the slave in process of preparation for the enjoyment of his liberty, and affording the master the opportunity of providing a substitute for his labor.

Now, right here, I wish to say to those who regard this as but the first link in the chain that is to extend to the interference by the General Government with slavery in the States, that I think they are mistaken. I believe they could not do more towards quieting the agitation of the slavery question than by voting for a bill like this, and by carrying the same principle to the extent given to Congress by the Constitution. The power given to Congress will then have been spent, and there will be no more right claimed for Congress on the subject.

Mr. WADSWORTH. Where does the gentleman propose to stop?

Mr. DIVEN. Our doctrines upon this subject are well known. Carry out those measures, and no man will ever again start a proposition that shall bring up the agitation of this question.

Mr. WADSWORTH. If that be true, I would like to know, for I have very great respect for the gentleman's opinion, what is the use of that committee of nine which has been recently raised to inquire into the question of emancipation in the States?

Mr. DIVEN. That is a question about which the gentleman can judge as well as I can.

[Here the hammer fell.]

Mr. DUNN. I understood the gentleman from Ohio [Mr. VALLANDIGHAM] to say, a few minutes since, that he had been accustomed to hear the charge that it was the purpose of the Republican party to interfere with slavery in the slave States, denounced as a "Loco Foco lie and slander," and I wish to say that in my opinion the charge was very properly designated. I say it is not the purpose of the Republican party, never has been, nor ever will be, while I am a member of it, to interfere with slavery in the States by congressional action. It is a slander upon the party to so charge; and this wicked falsehood, charged at the South, and attempted to be proved by the reckless statements of political partisans at the North, has done much to involve us in our present troubles. It may be that some who, as occasion suits them, act with the Republican party, but are not of it, are in favor of interfering with slavery in the slave States. But, sir, we do not get the doctrines of a party from a few individuals who may act with it, or be of it, but from its authoritative utterances through its regularly constituted organs.

When the representatives of the Republican party met at Chicago in 1860, and nominated the present chief executive officer of the nation, then they spoke with the authority of the people they represented, and made the declaration that in their judgment Congress had no right to interfere with slavery where it existed under State authority. And let me say here that if that convention had not so declared, or if such had not been known to be the sentiments of the party, Mr. Lincoln would not to-day be the President of the United States, nor would we now have a Republican majority upon this floor.

But it is a doctrine of the Republican party that Congress has the right, the constitutional power, to inhibit slavery in the Territories, and abolish it in the District of Columbia, and that is another reason why the people gave their confidence to the candidates of that party. I believe that the present troubles that afflict the nation have come upon us because we ceased to follow the footsteps of our fathers with reference to slavery. They evidently regarded slavery as inconsistent with our theory of Government, and expected it gradually to be removed under the beneficent influences of our free institutions. They endeavored, as best they could, to found this Government on the broad principles of man's natural rights. Their early policy was against slavery. One of their first great acts was to exclude it by ordinance from the great northwestern territory. They did not regard slavery as an institution to be cherished and strengthened, but as an evil, to be tolerated where it was protected by State jurisdiction.

Sir, let us return to the policy of our fathers, and then we shall have peace. Let the nation be divorced from slavery. Let slavery cease where ever the national authority is exclusive. Leave it in the slave States to be managed solely by those who are responsible for its continuance there, and then we may hope that this unhappy agitation in the public councils of the nation will cease. And, sir, I must say that in my judgment, in no way could the representatives of the slave States do a greater service to their people than by aiding to restore the policy of this Government to that established by Washington and Adams, Jefferson and Franklin. I have been speaking of the doctrine in regard to slavery as understood and proclaimed with reference to our ordinary civil legislation. Now, we are at war. What policy the wickedness of rebellion may force upon the Government in self-defense, remains to be seen.

Mr. STEVENS. In order to close debate on these amendments, I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly Senate bill No. 108, being an act for the release of certain persons held to service or labor in the District of Columbia.

Mr. STEVENS. I move that all debate in Committee of the Whole on the state of the Union on the pending amendments close in one second after the committee shall resume the consideration of the same.

The motion was agreed to.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed, as a special order, the consideration of the bill of the Senate relating to emancipation in the District of Columbia.

The amendment to the amendment was disagreed to.

The amendment proposed by Mr. WICKLIFFE was disagreed to—ayes 34, noes 84.

Mr. MENZIES moved to amend by striking out all after the enacting clause, and inserting as follows:

That the children of persons held to service for life in the District of Columbia, who may be born after the 1st day of May, 1862, shall be free, and at the age of eighteen years may assert their freedom against all persons.

SEC. 2. *And be it further enacted*, Any person who may be brought into said District after the 1st day of May, 1862, for the benefit of his or her owner or hirer, shall thereby become free.

SEC. 3. *And be it further enacted*, Any person who may deprive a person entitled to freedom according to the first section of this act, of the power and means of asserting such freedom, shall be guilty of felony, and shall be punished on conviction thereof in any court of competent jurisdiction, by confinement in the penitentiary not less than five nor more than twenty years.

The amendment was disagreed to.

Mr. STEVENS moved that the committee rise and report the bill to the House.

Mr. WICKLIFFE. Before that motion is put, I desire the consent of the committee to submit my substitute which has just been voted down and have the yeas and nays upon it in the House. I do not propose to debate it. I only want a vote upon it that shall go on record.

Mr. STEVENS. There is no agreement about it. I ask that my motion may be put.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly Senate bill No. 108, for the release of certain persons held to service or labor in the District of Columbia, and had instructed him to report the same back to the House without amendment.

Mr. STEVENS demanded the previous question.

The previous question was seconded.

Mr. WICKLIFFE. Let me offer my amendment.

Mr. STEVENS. I object.

Mr. WICKLIFFE demanded the yeas and nays on ordering the main question.

On a division, there were—ayes 20, noes 86.

Mr. VALLANDIGHAM demanded tellers on ordering the yeas and nays.

Tellers were ordered; and Messrs. STEELE, of New York, and ASHLEY, were appointed.

The yeas and nays were ordered; the tellers having reported ayes thirty-one—more than one fifth of those present.

The question was taken; and it was decided in the affirmative—yeas 92, nays 39, as follows:

YEAS—Messrs. Aldrich, Alley, Arnold, Ashley, Babbitt, Baker, Baxter, Beaman, Bingham, Francis P. Blair, Samuel S. Blair, Blake, George H. Browne, Buffinton, Campbell, Chamberlin, Clark, Colfax, Roscoe Conkling, Covode, Davis, Dawes, Delano, Diven, Duell, Edgerton, Edwards, Eliot, English, Fenton, Fessenden, Franchot, Frank, Gooch, Goodwin, Granger, Haight, Hale, Hanchett, Harrison, Hickman, Hooper, Hutchins, Julian, Kelley, Francis W. Kellogg, Killinger, Lansing, Loomis, Lovejoy, McKnight, McPherson, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Nixon, Odell, Olin, Patton, Pike, Porter, Potter, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Shanks, Sheffield, Shellabarger, Shiel, Sloan, Spaulding, Stevens, Stratton, Benjamin F. Thomas, Train, Trowbridge, Van Valkenburgh, Verree, Wallace, E. P. Walton, Washburne, Wheeler, Albert S. White, Wilson, and Windom—92.

NAYS—Messrs. Allen, Joseph Baily, Biddle, Jacob B. Blair, William G. Brown, Casey, Crittenden, Delaplaine, Dunlap, Dunn, Grider, Hall, Harding, Holman, Johnson, Kerrigan, Knapp, Law, Lazear, Mallory, May, Menzies, Noble, Nugen, Pendleton, Perry, Price, James S. Rollins, John B. Steele, William G. Steele, Francis Thomas, Vallandigham, Voorhees, Wadsworth, Ward, Whaley, Chilton A. White, Wickliffe, and Wright—39.

So the main question was ordered to be put.

During the call,

Mr. PERRY stated that Mr. CORNING was absent because of illness.

The vote was then announced as above recorded.

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

Mr. STEVENS demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. HOLMAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 92, nays 38; as follows:

YEAS—Messrs. Aldrich, Alley, Arnold, Ashley, Babbitt, Baker, Baxter, Beaman, Bingham, Francis P. Blair, Samuel S. Blair, Blake, George H. Browne, Buffinton, Campbell, Chamberlin, Clark, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Davis, Dawes, Delano, Diven, Duell, Dunn, Edgerton, Edwards, Eliot, English, Fenton, Fessenden, Fisher, Franchot, Frank, Gooch, Goodwin, Granger, Haight, Hale, Hanchett, Harrison, Hickman, Hooper, Hutchins, Julian, Kelley, Francis W. Kellogg,

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. WEDNESDAY, APRIL 16, 1862. NEW SERIES.....No. 104.

Killinger, Lansing, Loomis, Lovejoy, McKnight, McPherson, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Nixon, Odell, Olin, Patton, Pike, Porter, Potter, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Shanks, Sheffield, Shellabarger, Sloan, Spaulding, Stevens, Stratton, Benjamin F. Thomas, Train, Trowbridge, Van Horn, Van Valkenburgh, Verree, Wallace, E. P. Walton, Washburne, Wheeler, Albert S. White, Wilson, and Windom—92.

NAYS—Messrs. Allen, Joseph Baily, Biddle, Jacob B. Blair, William G. Brown, Casey, Crittenden, Delaplaine, Dunlap, Grider, Hall, Harding, Holman, Johnson, Knapp, Law, Lazear, Mallory, Menzies, Morris, Noble, Norton, Nugen, Pendleton, Perry, Price, James S. Rollins, Shiel, John B. Steele, William G. Steele, Francis Thomas, Vallandigham, Voorhees, Wadsworth, Ward, Chilton A. White, Wickliffe, and Wright—38.

So the bill was passed.

During the call,

Mr. COX stated that he would have voted against the bill in all of its stages; but that he was paired with Mr. POMEROY.

Mr. VOORHEES stated that his colleague, Mr. CRAVENS, was called home by illness in his family; and that if present he would have voted in the negative.

Mr. ANCONA stated that he would have voted against the bill in any shape; but that he was paired with his colleague, Mr. LEHMAN.

Mr. VAN VALKENBURGH stated that his colleague, Mr. POMEROY, was paired with Mr. Cox; and that he would have voted in the affirmative.

Mr. KNAPP stated that his colleague, Mr. ROBINSON was absent on account of sickness. He would have voted in the negative.

Mr. SARGENT stated that his colleague, Mr. PHELPS, was paired with Mr. RICHARDSON; and that if present he would have voted in the affirmative.

Mr. FRANK stated that his colleague, Mr. WALL, was detained at home by severe illness; and that if he were present he would have voted in the affirmative.

Mr. WHALEY stated that he was paired with Mr. CUTLER.

Mr. PIKE stated that Mr. WALTON, of Maine, was paired with Mr. CLEMENTS.

Mr. THOMAS, of Maryland, stated that his colleague, Mr. MAY, was absent on account of illness.

Mr. WORCESTER stated that he was paired with Mr. CRISFIELD.

The vote was announced as above recorded.

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

The latter motion was agreed to.

And then, on motion of Mr. STEVENS, (at ten minutes to six o'clock, p. m.,) the House adjourned.

IN SENATE.

MONDAY, *April* 14, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of Friday last was read and approved.

RAILROADS IN WISCONSIN.

The PRESIDENT *pro tempore*. The Chair presents to the Senate a Senate joint resolution which has been returned to the Senate from the House of Representatives, with an amendment. That amendment will be read.

The Secretary proceeded to read the amendment, in the nature of a substitute, adopted by the House of Representatives to the Senate joint resolution (No. 26) explanatory of an act therein named.

Mr. GRIMES. I move that that be laid aside until some one of the Senators from Wisconsin be present. It is a local matter.

The PRESIDENT *pro tempore*. The Senator from Wisconsin [Mr. HOWE] is present.

Mr. HOWE. This is a joint resolution in relation to lands to railroads in Wisconsin.

The PRESIDENT *pro tempore*. A joint resolution returned from the House of Representatives, with an amendment.

Mr. HOWE. I move that the Senate concur in the amendment of the House of Representatives.

The PRESIDENT *pro tempore*. That is the motion properly before the Senate, and the further reading of the amendment will be dispensed with, unless it is called for by some Senator.

Mr. FESSENDEN. We ought to know what it is.

Mr. SUMNER. I must say that I think it had better be read.

Mr. FESSENDEN. It relates to public lands; and I think it ought to be laid on the table until the chairman of the Committee of Public Lands is present.

Mr. HOWE. I do not know that the chairman of the Commttee on Public Lands has seen it, but I have the utmost confidence that he will not dissent from this amendment. I can state what the amendment is, if that will be satisfactory to the Senate. The resolution as it passed the Senate authorized a change in the location of the road, precisely as the resolution now authorizes it. There has been no change in that respect. The resolution as it passed the Senate made a grant of eighty acres of land to the railroad company for depot purposes, the company having received the grant originally made from the State. One of the alterations made by the amendment changes that and makes the grant to the State instead of to the company. Another provision of the amendment reduces the price of the reserved sections of land, which, by the new location, are more than six miles from the line of the road, to ten shillings an acre, whereas before they were twenty shillings an acre. These are the two changes made by the amendment of the House of Representatives.

Mr. CHANDLER. I ask if this amendment has been printed?

The PRESIDENT *pro tempore*. It has not been printed.

Mr. CHANDLER. Then I move that it be laid on the table and printed.

The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. CHANDLER presented a petition of citizens of Detroit, Michigan, praying for the speedy passage of a law to establish a uniform system of bankruptcy throughout the United States; which was referred to the Committee on the Judiciary.

He also presented the memorial of D. H. Jerome and others, citizens of Saginaw county, Michigan, engaged in the lumber business, remonstrating against the proposed tax of three per cent. on sawed lumber; which was referred to the Committee on Finance.

He also presented a petition of citizens of Johnstown, Barry county, Michigan, praying for the construction of a ship canal between Lake Michigan and the Mississippi river; which was referred to the Committee on Military Affairs and the Militia.

Mr. WADE presented resolutions of the Legislature of the State of Ohio, in favor of a modification of the proposed tax by Congress on leaf tobacco; which were referred to the Committee on Finance, and ordered to be printed.

He also presented resolutions of the Legislature of Ohio, in favor of such an amendment to the bill for the purpose of raising internal revenue as may permit the several States to collect the same within their respective limits, and determine the compensation of the officers by them employed; which were referred to the Committee on Finance, and ordered to be printed.

Mr. COWAN presented two memorials of merchants and dealers of Philadelphia, remonstrating against the passage of a bankrupt law; which were referred to the Committee on the Judiciary.

He also presented the petition of Democratic citizens of the city of Carbondale and vicinity, State of Pennsylvania, praying "that a direct and positive act be passed granting the unconditional use of the public mails to the entire press, irrespective of politics or creed;" which was referred to the Committee on the Judiciary.

He also presented the petition of William H. McCreery and one hundred and twelve others, citizens of Ayers, Indiana county, Pennsylvania, praying for the abolition of slavery; which was ordered to lie on the table.

Mr. GRIMES presented a petition of citizens of Iowa, praying for the establishment of a mail route from Pedee to Atalissa, in that State; which was referred to the Committee on the Post Office and Post Roads.

Mr. SUMNER presented a petition of merchants, traders, and citizens of the city and State of New York, praying for the passage of a general uniform bankrupt law; which was referred to the Committee on the Judiciary.

Mr. SUMNER. I also present a petition, which is on a roll seven hundred feet in length, and signed by fifteen thousand two hundred women of the United States. As it is very short, I will read it. It is as follows:

"The undersigned, women of the United States, believing that the cause of humanity and virtue will be advanced, and future difficulties in the national Government effectually prevented by the extinction of slavery throughout our country, respectfully and earnestly petition that you will, at an early day, adopt such measures as in your wisdom you may think proper to accomplish this end."

I ask that this petition lie upon the table.

It was so ordered.

Mr. HOWARD presented a petition of members of the bar of the State of Michigan, praying for the enactment of a law allowing an additional term to the Federal courts in that district; which was referred to the Committee on the Judiciary.

Mr. WILSON, of Massachusetts, presented the petition of J. A. Lowell, Franklin Haven, Charles Amory, and other citizens, merchants, manufacturers, and business men of Boston, praying for the adoption of the principle of taxation embodied in a letter from E. B. Bigelow, addressed to Hon. THADDEUS STEVENS, entitled "internal taxation simplified;" which was referred to the Committee on Finance.

Mr. TRUMBULL presented a petition of citizens of Cass county, Illinois, praying for the construction of a ship canal between Lake Michigan and the Mississippi river; which was referred to the Committee on Military Affairs and the Militia.

He also presented the petition of George Bez and thirty-three others, citizens of Mokena, Will county, Illinois, praying that provision may be made by law for calling on all the inhabitants of the United States, bond and free, to aid in the support of the Government; which was ordered to lie on the table.

Mr. CARLILE presented a petition of citizens of Norwich, Windsor county, Vermont, praying that the "freedom of speech and of the press shall not be abridged, and that the New York Caucasian and all other Democratic papers now excluded from the mails in all the loyal States be allowed the same privileges as those enjoyed by the Republican and abolition papers;" which was referred to the Committee on the Post Office and Post Roads.

Mr. LANE, of Kansas, presented a preamble and resolutions of the Annual Conference of the United Brethren in Christ, held at Prairie City, Kansas, March 29, 1862, in favor of the total abolition of slavery; which were ordered to lie on the table, and be printed.

Mr. WRIGHT presented a petition of merchants, traders, and citizens of the city and State of New York, praying for the passage of a general uniform bankrupt law; which was referred to the Committee on the Judiciary.

He also presented a petition of citizens of Vermillion county, Indiana, praying for the establishment of a mail route from Clinton, Indiana, to Logan, Illinois; which was referred to the Committee on the Post Office and Post Roads.

Mr. DAVIS presented a memorial of manufacturers of tobacco in the city of Louisville, Kentucky, remonstrating against the proposed tax on manufactured tobacco; which was referred to the Committee on Finance.

Mr. DOOLITTLE presented a petition of citizens of Plymouth and Center, Rock county, Wis-

consin, urging the passage of the bill reported by Hon. F. P. BLAIR, jr., from the Committee on Military Affairs in the House, providing for the construction of a ship canal between Lake Michigan and the Mississippi river, believing such a work essential to the protection and safety of the immense commerce of the lakes; which was referred to the Committee on Military Affairs and the Militia.

INTERNATIONAL EXCHANGE OF COMMODITIES.

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

Resolved, That the Committee on Foreign Relations be instructed to inquire into the expediency of providing by law for the exchange of the commodities and productions of the United States, through our ministers, consuls, vice consuls, and commissioners, with the different Governments to which they are accredited—to report by bill or otherwise.

BILL INTRODUCED.

Mr. HOWARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 270) concerning the courts of the United States in and for the district of Michigan, and for other purposes; which was read twice by its title, and referred to the Committee on the Judiciary.

POST OFFICE APPROPRIATION BILL.

Mr. FESSENDEN. I move that the Senate proceed to the consideration of the amendments of the House to the bill (H. R. No. 259) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1863.

The PRESIDENT *pro tempore*. The Chair will present the bill. The House of Representatives having passed the act making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June 1863, it was sent to the Senate for concurrence. The Senate passed the bill with certain amendments, which carried it back to the House of Representatives for their concurrence in the Senate amendments. The House concurred in certain of the amendments of the Senate, and disagreed to other amendments of the Senate. The bill is therefore returned to the Senate; and the proper question is, "Will the Senate insist upon its amendments disagreed to by the House?"

Mr. FESSENDEN. I make the motion that the Senate insist on its amendments, and ask a conference on the disagreeing votes of the two Houses.

The motion was agreed to.

The PRESIDENT *pro tempore* appointed Mr. COLLAMER, Mr. HOWE, and Mr. LATHAM, the committee of conference on the part of the Senate.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House had passed the bill of the Senate (No. 108) for the release of certain persons held to service or labor in the District of Columbia.

BILLS BECOME LAWS.

The message further announced that the President of the United States had approved and signed, on the 2d instant, the following bill and joint resolution:

An act (H. R. No. 318) to prohibit the allowance or payment of pensions to the children of officers and soldiers of the war of the Revolution; and

A resolution (H. R. No. 49) for the appointment of Theodore D. Woolsey, of Connecticut, a regent of the Smithsonian Institution, in place of Cornelius C. Felton, deceased.

Also, that the President had approved and signed, on the 10th instant, the following joint resolutions:

A resolution (H. R. No. 48) declaring that the United States ought to coöperate with, affording pecuniary aid to, any State which may adopt the gradual abolishment of slavery; and

A resolution (H. R. No. 59) authorizing the Secretary of the Navy to test plans and materials for rendering ships and floating batteries invulnerable.

SURRENDER OF SLAVES BY THE ARMY.

On motion of Mr. WILSON, of Massachusetts, the Senate proceeded to consider the following resolution, submitted by him on the 3d of April:

Resolved, That the Committee on Military Affairs and the Militia be directed to consider and report whether any further legislation is necessary to prevent persons employed in the military service of the United States from aiding in the return or control over persons claimed as fugitive slaves, and to punish them therefor.

Mr. GRIMES. I propose to amend the resolution by adding to it:

And to report what reorganization of the Army in its *personnel*, or otherwise, may be necessary to promote the public welfare, and bring the rebellion to a speedy and triumphant end.

It is, of course, to be expected that there will be great differences of opinion among the friends of the Government as to the manner in which the present war should be conducted. Such differences are the natural results of our various domestic institutions, systems of education, modes of thought, degrees of civilization, and of individual opinions of the necessities of our situation. But there are certain great fundamental principles upon which, one would think, all ought to agree. We certainly ought to do nothing and suffer nothing to be done calculated in any degree to repel or paralyze the efforts of our friends at home, who are doing everything in their power to encourage and sustain the soldiers in the field. While inculcating the necessity of the strictest obedience to military duty, it should be constantly borne in mind that ours are a citizen soldiery, soon to return to the bosom of civil society, and that the performance of no unsoldierly duty should be required of them that would be calculated to impair their self-respect, diminish their regard for their officers, incite them to rebel against discipline, or taint their reputations at home. It must not be expected that the natural instincts of humanity will be stifled by military orders, and surely our soldiers should not be required to assist in the perpetration of acts against which every enlightened sentiment of their hearts revolts. One would think that all men would agree in pronouncing that a cruel and despotic order which repeals the divine precept, "inasmuch as ye did it not to one of the least of these ye did it not to me," and arbitrarily forbids the soldier to bestow a crust of bread or a cup of water upon a wretched, famishing fugitive escaping from our own as well as from his enemy. Yet, Mr. President, I grieve to say that there are those high in rank in the service of the United States who have sought to break down the spirit of manhood, which is the crowning glory of true soldiers, by requiring them to do acts outside of their profession which they abhor, and to smother all impulses to those deeds of charity which they have been taught to believe are the characteristics of Christian gentlemen.

It was known to the country at an early day after the commencement of the war, that some military commanders were abusing the great power intrusted to them, and were employing the Army to assist in the capture and rendition of fugitive slaves, not in aid of any judicial process, but in obedience to their own unbridled will. The effect of this assumption of unauthorized power was to incite the soldiery to disobedience, and to arouse the people to the necessity of proper legislative restraints. It was in compliance with the popular sentiment on this subject that Congress enacted the additional article of war, which was approved on the 13th of March last, and which declared that

"All officers or persons in the military or naval service of the United States are prohibited from employing any of the forces under their respective commands for the purpose of returning fugitives from service or labor, who may have escaped from any persons to whom such service or labor is claimed to be due, and any officer who shall be found guilty by court-martial of violating this article shall be dismissed from the service."

It was intended by this article to prevent the military service from becoming odious to the people who support the war, and degrading to those who have volunteered to fight under our banners. It simply declares that the Army of the United States shall not be perverted from the legitimate use for which it was raised, while it interferes in no degree with the claim of any man to a person alleged to be a slave; it leaves questions of that character to be settled, and rights of that description to be enforced by other than the military authority. The intention of those who voted for that article was, not to abridge any man's rights, but to leave every one to his legal remedies as though no war existed.

How is this new article of war enforced? It has been promulgated to the Army it is true. It may not be openly and avowedly violated. Soldiers may not hereafter be required to actually perform the humiliating office of fastening manacles upon the limbs of persons said to be slaves, nor to escort them to the residences of their masters; but the experience of the last few days has taught us that, notwithstanding the new article of war, our military officers suffer their camps to be invaded by armed detachments of slave-hunters, without the support of any process of law, who there attempt to shoot, maim, and kill with impunity those whom they claim to be slaves, while our soldiers are required to stand indifferently by and witness the inhuman work. There seems to be a purpose in some quarters to do by indirection what cannot be done directly. The object being to serve slaveholders, whether loyal or rebel, (and they are generally rebels,) there seems to be a disposition on the part of some officers to travel around a law which they dare not break through. Unable any longer to compel the soldiers to engage in the search, capture, and rendition of slaves, they now authorize slave-hunters, armed with pistols and military orders, to traverse their camps in search of their prey, and, by threat of military punishment, attempt to compel the soldiers to remain quiescent witnesses of the atrocities that may be committed. There is no controversy about the fact, the evidence is overwhelming and is to be found on every hand. General Joseph Hooker, a native of Massachusetts, in command of a division of our Army, a short time since issued an order, of which the following is a copy:

HEADQUARTERS, HOOKER'S DIVISION, CAMP BAKER,
LOWER POTOMAC, *March* 26, 1862.

To Brigade and Regimental Commanders of this Division:

Messrs. Nally, Gray, Dummington, Dent, Adams, Speake, Price, Posey, and Cobey, citizens of Maryland, have negroes supposed to be with some of the regiments of this division; the brigadier general commanding directs that they be permitted to visit all the camps of his command, in search of their property, and if found, that they be allowed to take possession of the same, without any interference whatever. Should any obstacle be thrown in their way by any officer or soldier in the division, they will be at once reported by the regimental commanders to these headquarters.

By command of Brigadier General Hooker.

JOSEPH DICKINSON,
Assistant Adjutant General.

It will be observed that this order authorizes nine persons, citizens of Maryland, to visit the camps of Hooker's division, without any judicial or other process than this military order, and there search for slaves "without any interference whatever," and "should any obstacle be thrown in their way, by any officer or soldier in the division," they are threatened with an instant report to headquarters and a consequent court-martial and punishment. The appearance and conduct of this band of marauders produced precisely the result that might have been anticipated. In describing it, I use the language of the officer in command of one of the regimental camps which they visited and attempted to search:

HEADQUARTERS SECOND REGIMENT
EXCELSIOR BRIGADE, CAMP HALL, *March* 27, 1862.

LIEUTENANT: In compliance with verbal directions from Brigadier General D. E. Sickles, to report as to the occurrence at this camp on the afternoon of the 26th instant, I beg leave to submit the following:

At about 3.30 o'clock, p. m., March 26, 1862, admission within our lines was demanded by a party of horsemen, (civilians,) numbering, perhaps, fifteen. They presented the lieutenant commanding the guard with an order of entrance from Brigadier General Joseph Hooker, commanding division, (copy appended,) the order stating that *nine* men should be admitted. I ordered that the balance of the party should remain without the lines; which was done. Upon the appearance of the others, there was visible dissatisfaction and considerable murmuring among the soldiers, to so great an extent that I almost feared for the safety of the slaveowners. At this time General Sickles opportunely arrived, and instructed me to order them outside the camp, which I did, amidst the loud cheers of our soldiers. It is proper to add, that before entering our lines, and within about seventy-five or one hundred yards of our camp, one of their number discharged two pistol shots at a negro, who was running past them, with an evident intention of taking his life. This justly enraged our men.

All of which is respectfully submitted.

Your obedient servant, JOHN TOLEN,
Major Commanding Second Regiment, E. B.

Lieutenant J. L. PALMER, Jr., *A. D. C. and A. A. A. G.*

Mr. President, are such scenes as were witnessed in this camp calculated to promote discipline and to inspire respect for the officers in command, or affection for the Government that tolerates them? Doubtless, such officers will find methods to gratify their tastes in this direction, but I trust that they will not long be permitted to torment better men than themselves, who happen to be their inferiors in rank. Is it unreasonable to ask the

Government to see to it that the spirit of the law of Congress shall not be evaded by indirection; and that examples of passion and violence and murder shall not be exhibited in our camps with the connivance or under the authority of our military officers?

The Senator from Ohio made to us, a few days ago, a most extraordinary statement of the condition of affairs at the capital of his own State. In one of the military camps in the city of Columbus, are several hundred rebel prisoners of war. Some of them are attended by colored servants, claimed as slaves. These servants have been transported at Government expense, fed, clothed, and doctored by the Government; and while the rebel officers are allowed the freedom of the city upon parole, the servants are strictly guarded and confined in camp by our own soldiers. The free State of Ohio is virtually converted by the order or by the assent of a military commander, and against the wishes of the people, into a slave State; and that order is enforced by men in our employment and under our pay. And this state of things does not exist in Columbus alone. Much indignation was felt and expressed in the State of Illinois, where the same practice was allowed to prevail among the prisoners captured at Fort Donelson. The greater part, if not all, of these prisoners, who had slaves attending them at the camp near Chicago, were transferred soon after arriving there, the Government paying the cost of transporting both whites and blacks. Whether this transfer was prompted by a knowledge of the popular indignation that had been excited, and a fear lest the tenure by which the prisoners held them as slaves was hourly becoming more and more insecure, I will not undertake to say.

How long, think you, will this method of dealing with the rebels be endured by the freemen of this country? Are our brothers and sons to be confined within the walls of the tobacco warehouses and jails of Richmond and Charleston, obliged to perform the most menial offices, subsisted upon the most stinted diet, their lives endangered if they attempt to obtain a breath of fresh air, or a beam of God's sunlight at a window, while the rebels captured by those very men are permitted to go at large upon parole, to be pampered with luxuries, to be attended by slaves, and the slaves guarded from escape by our own soldiers? Well might the General Assembly of the State of Ohio ask, in the language of a committee of their Senate:

"Why were these slaves taken at all? They were not, and had not been in arms against the Government—their presence at Fort Donelson was not even voluntary. Why are they retained in prison? They have done no wrong—they deserve no punishment. Is it to furnish rebel officers with servants? And was it for this they were transported at the expense of the Government and are now subsisted at her cost? Is our constitutional provision thus to be made a nullity, and slavery practically established in Ohio? And this under the protection and at the expense of the Federal Government."

Mr. McDOUGALL. Will the Senator allow me to ask a question of the Senator from Ohio?

Mr. GRIMES. Yes, sir.

Mr. McDOUGALL. Was it stated that the slaves of Tennessee were kept as prisoners of war in Ohio? I did not understand you so to state it.

Mr. SHERMAN. Slaves were captured at Fort Donelson, brought to Ohio, and put in the same prison with their masters, and kept there.

Mr. McDOUGALL. And held as prisoners?

Mr. SHERMAN. Held there and rendered menial service to those officers.

Mr. McDOUGALL. I understood you to state that they waited on their masters; but I did not understand you to state that they were held by the Government of the United States.

Mr. SHERMAN. They were held by the Government of the United States, and draw rations now, and are supported by the Government of the United States. I will state for the benefit of my friend that I have here a letter from the chairman of the committee of the Senate who made that report.

Mr. GRIMES. The Senator will permit me to go on, and it can be read afterwards.

Mr. SHERMAN. Certainly.

Mr. GRIMES. In the month of February last, an officer of the third regiment of Iowa infantry, stationed at a small town in Missouri, succeeded in capturing several rebel bridge-burners, and some recruiting officers belonging to Price's army. The information that led to their capture was furnished by two or three remarkably shrewd and intelligent slaves, claimed by a lieutenant colonel in the rebel army. Shortly afterwards the master dispatched an agent, with instructions to seize the slaves and convey them within the rebel lines, whereupon the Iowa officer himself seized them and reported the circumstances to headquarters. The slaves soon understanding the full import of General Halleck's celebrated order No. 3, two of them attempted an escape. This was regarded as an unpardonable sin. The Iowa officer was immediately placed under arrest, and a detachment of the Missouri State militia—men in the pay of this Government and under the command of General Halleck—were sent in pursuit of the fugitives. The hunt was successful. The slaves were caught and returned to their traitor master, but not until one of them had been shot by order of the soldier in command of the pursuing party.

Mr. President, how long shall we permit such conduct as this to go unrebuked? Does any one suppose that the people will quietly submit to the imposition of taxes to support a State militia in the field that is to be employed in the capture of slaves for the benefit of officers in the rebel army? Is it supposed that the Senators from Iowa will silently, patiently permit the gallant officers from that State to be outraged in the manner I have described?

It is quite time, Mr. President, that some definite policy should be established for the treatment of escaped slaves; and I am of the opinion that Congress has been grossly derelict in permitting the evil to go so long unregulated and unchecked. We have almost as many diverse systems of dealing with this class of persons as we have military departments. In one military district fugitive slaves have been pursued, flogged, and returned to their masters by our Army; in another they have been simply pursued and returned without flogging; in another they have been pursued and shot in the attempt to return them; in another they have been termed "contraband," and received within our lines in the mixed character of persons and property. In the absence of any authoritative declaration of Congress, none of these modes may be held to be in conflict with law other than the law of common sense and common decency.

It is obvious that the article of war which I have quoted does not meet the case presented by Major General Halleck in his order No. 3. That celebrated manifesto declares in substance that all persons from the enemy's country shall be excluded from our lines. The plain purpose of the order is to prohibit fugitive slaves from escaping from the rebellious districts, and thereby securing their freedom. It was doubtless competent for General Halleck to issue such an order, and it is equally competent for Congress, which has made and continues to make articles of war for the government of the Army and Navy, to countermand it. And, sir, it ought to be countermanded. I will not pause to discuss the humanitarian features of the question. Public policy, no less than popular feeling, demands that order No. 3 be forever erased. There never was a war waged in the history of the world where the means of acquiring information of the enemy's position and numbers from people in his own midst was more ample than here, and there never was one where the commanding officers have suffered more from lack of such information. Order No. 3 proposes to incorporate the fatuity and blindness which remained unwritten in other military departments into a historical record and a public advertisement. It proposes to warn all persons against bringing information of the enemy's movements to our camps under penalty of being turned back to receive such punishment as the enemy may choose to inflict for betraying them, or for running away and betraying combined. No organization of secret service can meet all the requirements of an army operating in an enemy's country, unless aided by some portion of the inhabitants of the country. What folly, then, to wall out and repel the very inhabitants who might bring us the information we most need, and who have everywhere shown an eagerness to do so!

It is the undoubted right and the duty of every nation, when engaged in a righteous war—and no other than a righteous war is justifiable at all—to avail itself of every legitimate means known to civilized warfare to overcome its enemies. What will be thought by posterity of this nation, if, in the present emergency, we not only fail to employ the agencies which Providence seems to have placed at our disposal, but actually seek every opportunity to exasperate and drive from our support those who are anxious to serve us? Were the Russian nobles now engaged in a rebellion against their Government, would we not regard their emperor as guilty of the greatest folly if he not only declined to enlist the serfs of his empire to aid in suppressing the insurrection, but repelled them from his service and allowed his generals to return them to his rebellious nobles, to be used by them in overthrowing his authority? And can any one tell me the difference between the case I have put and our own?

The whole history of the world does not exhibit a nation guilty of such extreme fatuity as has marked the conduct of our Government in its treatment of the colored population since the present war began. It seems to be impossible to convince ourselves that *war*, with all of its attendant responsibilities and calamities, really exists, and that future generations will not hold those guiltless who refuse to use any of the means which God has placed in their hands to bring it to a speedy and successful termination. History will pronounce those men criminal who, in this crisis of the nation's fate, consult the prejudices of caste or color, and regard the interests of property of paramount importance to the unity of the nation.

It is useless to attempt to blink out of sight the great issues before us; issues that *must* be settled, and settled *by us*. It were wiser and more manly to meet them squarely and at once. We are in the midst of the greatest revolution that ever occurred in ancient or modern times. Such armies as are now marshaled in hostile array on this continent, in point of numbers, equipment, and expense, have been hitherto unknown in the annals of mankind. We are imposing burdens in the form of taxes that will be felt by unborn generations. We are suffering much now; we expect and are willing to suffer more. And why? Because we desire to preserve the integrity of our nation; because we believe that Heaven designed us to be one people with one destiny; the freest and happiest on earth. It was to preserve that unity of our national existence that our sons and brothers have gone forth to do battle. For this it was that the gallant men of Iowa have freely, triumphantly, laid down their lives at Wilson's Creek, Blue Mills, Belmont, Fort Donelson, Pea Ridge, and Pittsburg. And shall we, after these great sacrifices of life and treasure, hesitate about employing any of the instrumentalities in aid of the country that are known to civilized warfare? Shall we not be recreant to our high trust if we doubt or delay in this particular?

This war will go on until rebellion is subdued. Upon this point there need be no controversy. Rely upon it, the northwestern States will submit to no temporizing or compromising policy. They are too much in earnest; they have suffered too much already; they know too well what they would be compelled to suffer in the future to allow treason to go unpunished. It is because they desire to prevent the recurrence of the rebellion that they demand that it shall now be thoroughly crushed out. Among things necessary to be done to fully accomplish this purpose, we must conquer and hold all of the forts and strong positions on the south Atlantic and Gulf coasts. How shall they be garrisoned when captured? This is a question we shall soon be compelled to answer; and I am prepared for its solution. I answer it unhesitatingly that we should garrison them, in whole or in part, by soldiers of African descent; that instead of returning slaves to their rebel masters to fight against us, we should employ them in our own military service.

I know very well that this proposition encounters at once all the prejudices that have been engendered by differences of race, education, and social position; but let us look at it a moment soberly and practically. It is assumed as admitted by all that the southern forts must be captured and strongly garrisoned for some years to come. They are situated in a warm and enervating climate, and the particular location of nearly all of them renders them more than usually unhealthy, even for that section of the country. In addition to the forts already established, we shall be compelled to build new ones. The rebels rely upon the dis-

eases of their climate to decimate our northern army in the summer and autumnal months; and their confidence is well placed. Our troops will wither before the fevers of the Gulf coast as vegetation does before the blast of the sirocco. Now, we have in our midst thousands of hardy, athletic, colored men, fitted by nature to endure the heat and miasma of the tropics, and some of them accustomed to it, who are panting to be employed in the capacity of soldiers. Many of them having been in a state of bondage, have been abandoned by their masters, and are now thrown upon us for support. Some of them were forced by our enemies into their military service, and have deserted from it. They implore our protection, and we must give it, if we would not become a "scorn and derision" among the nations of the earth. They have shown on divers occasions, both on sea and land, that they belong to a warlike race. They are obedient and teachable. They can be subsisted much cheaper than white soldiers, can perform more labor, and are subject to fewer diseases in a warm climate.

Now, with these facts before us, shall we refuse to employ them? What substantial reason can be given for not doing so? Is it because they have not the proper capacity for command? Then give them white officers, as is done by the British Government to the same race, by the French Government to the Arabs, and by the Russian Government to the Tartars and other semi-barbarous soldiers within that empire. Is it because they do not possess the average courage of soldiers? In addition to the testimony in disproof of this, furnished a few days ago by the Senator from Massachusetts, [Mr. WILSON,] I refer you to your vessels of war, where you have hundreds of these men employed, and none more valiant. Is it because they are not obedient to command? The whole history of the race shows the contrary, for if there is any one thing for which they are remarkable more than another, it is their confiding submission to the will of their superiors. Is it said that we have white soldiers enough for all of our purposes? True, we have a large army, composed of men of unsurpassed valor and patriotism, who, if we require it, will sacrifice their lives for their country, whether by the sword or by disease; but I would, if I could, recall a portion of them to their homes and to the industrial pursuits of life. Am I told that the enrollment of a few colored soldiers will be regarded by the Army as humiliating to them? Mr. President, those public men fail to comprehend the character of American soldiers who suppose that they are fighting for mere military glory, or that in this critical hour they are controlled by ignoble prejudice against color or race. They are citizens and tax payers as well as soldiers. They want the rebellion speedily crushed and the supreme authority of the law established, leaving social and political questions to be settled afterwards. They feel that the desertion of every colored soldier, artificer or laborer from the rebellious States withdraws aid and support from the rebellion, and brings it so much nearer to an end. They cannot understand, nor can I, that refined casuistry that justifies us in converting the enemy's horse or ox to our use, and in turning their inanimate engines of destruction against themselves, but denies to us the right to turn their slaves, their animate hostile engines in human form, to the same purpose. They cannot imagine why it is that some gentlemen are so willing that men of the African race should labor for them, and so unwilling that they should fight for them.

What a wonderful difference of action and sentiment there is on this subject between the officers of the Army and Navy. While officers of the Army have disgraced themselves, annoyed and incensed their subordinates, dishonored the country, and injured the public service by the promulgation of their ridiculous orders about slaves, no officer of the Navy, thank God, has ever descended to follow their example. Their noble, manly, generous hearts would revolt at the idea of having imposed upon them the humiliating duty of capturing and returning fugitive slaves. They serve their country, not rebel slaveowners. They think that duty to the country requires them to avail themselves of the services of these people instead of driving them back to their masters, or suffering them to starve; and they act upon this conviction. At the taking of Hatteras, one of the large guns of the Minnesota was wholly manned and worked by persons called "contrabands," and no gun on the ship was better served. These people are, it is well known, remarkable for the proficiency they soon acquire as cannoneers. On the same ship is a boat's crew, every one of whom, including the coxswain, is a colored man, and there are none more skillful, or render more satisfactory service to the officers of the vessel. The whole country knows the services rendered by them to Commodore Dupont and to the vessels under his command. They have acted as pilots, and in the most important positions, and I have the authority of the two superior officers of that fleet for saying that they have never been deceived or misled by any one of them. I am convinced that our expedition to the south Atlantic coast would not have been so perfect a success as it has been but for the slaves found there, and who were employed by our naval officers. There are more or less of them on all of our vessels of war. They are efficient men, and their presence produces no discord among the crews.

Mr. President, I wish to be distinctly understood. I advocate no indiscriminate arming of the colored race, although I frankly confess that I would do so were it necessary to put down the rebellion. I do not favor this proposition merely because of its anti-slavery tendency. I approve it because it will result in a saving of human life and in bringing the rebellion to a speedier termination. It is my business to aid in bringing this war to a close by conquering an unconditional peace in the least expensive and speediest manner possible. Acting upon this idea of my duty, and believing that humanity and the best interests of the country require the enrollment of a few colored regiments for garrisoning the southern forts I shall vote, whenever an opportunity shall be afforded me, for converting a portion of the colored refugees into soldiers, instead of forcing them back into servitude to their rebel masters and their rebel government. We may hesitate to do this. Our hesitation will cost us the valuable lives of many of our own race who are near and dear to us. Our hesitation to use the means which Providence seems to have placed in our hands for crushing the rebellion may carry desolation to many a loyal hearthstone. But we must adopt this policy sooner or later, and in my opinion the sooner we do it the better. The rebels have this day thousands of slaves throwing up intrenchments and redoubts at Yorktown, and thousands of them performing military duty elsewhere; and yet we hesitate and doubt the propriety of employing the same race of people to defend ourselves and our institutions against them. Mr. President, how long shall we hesitate?

The PRESIDENT *pro tempore*. The special order of the day is the confiscation bill.

Mr. WILSON, of Massachusetts. I believe the hour has come for action on that bill, and I therefore give notice that I propose to call this resolution up again to-morrow moring, at half past twelve o'clock. I am anxious to get a vote upon it.

CHAIRMANSHIP OF NAVAL COMMITTEE.

Mr. HALE. I desire to make a communication to the Senate which I think comes under the head of privilege. I have put it in writing, and send it to the Secretary to read.

The PRESIDENT *pro tempore*. The Senator from New Hampshire sends the following communication to the desk, which will be read for information.

The Secretary read it, as follows:

To the President of the Senate:

I hereby resign my place as chairman of the Committee on Naval Affairs. I do so because I can no longer hold the place consistent with what I conceive to be due to a proper self-respect.

And that there may be no mistake or misapprehension as to my reasons for so doing, I wish to add that nothing which has occurred outside the Senate Chamber has had any influence with me; lest this step taken at this time may subject me to misapprehension, I will further add that all that I have and all that I am shall be cheerfully devoted to the cause of my country.

Should my constituents demand it of me, I have the fullest confidence that I can readily vindicate the propriety and necessity which compel me, reluctantly, to take the step I have. JOHN P. HALE.

ARMY MEDICAL DEPARTMENT.

Mr. WILSON, of Massachusetts, from the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 188) to increase the efficiency of the medical department of the Army, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment to the bill (S. No. 188) to increase the efficiency of the medical department of the Army, having met, after a full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the Senate concur in the amendment of the House to the said bill with the following amendments:

In section one, line seven, after the word "service," strike out the words "shall be forty-five dollars per month and one ration," and insert in lieu thereof the words, "shall be thirty dollars per month;" and at the end of said section add as follows: "and all medical cadets in the service shall, in addition to their pay, receive one ration per day, either in kind or commutation."

In section seven of said amendment of the House strike out the whole section, and in lieu thereof insert the seventh section of the original bill of the Senate with the following amendment thereto: at the end of the said seventh section of the Senate bill add as follows: "*Provided, however*, That when this act shall expire, all officers who shall have been promoted from the medical staff of the Army under this act shall retain their respective rank in the Army with such promotion as they would have been entitled to."

In the title of the bill, after the word "to," insert "reorganize and."

HENRY WILSON,
H. S. LANE,
J. W. NESMITH,
Managers on the part of the Senate.
FRANK P. BLAIR, Jr.,
JOHN B. STEELE,
EDWARD McPHERSON,
Managers on the part of the House.

The report was concurred in.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the Speaker of the House had signed the following enrolled bills; which thereupon received the signature of the President *pro tempore:*

A bill (S. No. 108) for the release of certain persons held to service or labor in the District of Columbia; and

A bill (H. R. No. 118) to authorize the Postmaster General to establish branch post offices in cities.

CONFISCATION OF PROPERTY.

The Senate resumed the consideration of the bill (S. No. 151) to confiscate the property and free the slaves of rebels.

Mr. COLLAMER. I took occasion, the other day, to say that I thought all the amendments should first be passed upon, in order that the bill might take the shape which it ultimately was to have. I desire that the utmost liberality should be extended to all gentlemen to present their various projects on this subject. I have prepared one which I wish to present as a substitute for the bill, and I ask that it may be printed, so that, in due time and in the proper way, I may present it as an amendment.

The motion to print was agreed to.

Mr. HARRIS intimated his intention to offer as a substitute for the bill the following:

That the property, real and personal, of every kind whatsoever and wheresoever situated within the limits of the United States belonging to any person who, having heretofore held any office, civil, military, or naval, under the Government of the United States, or of any State, which, under the provisions of the sixth article of the Constitution of the United States, required that the person holding the same should take an oath or affirmation to support such Constitution, or to any person who, having held any office under the confederate government of the States now in rebellion, civil, military, or naval, which, by the constitution of said confederate government, required the person holding such office to take an oath or affirmation to support the constitution of such confederate government, shall, after the passage of this act, be found holding or exercising any office, civil, military or naval, under the said confederate government, or who shall be found in arms, or aiding, abetting, or assisting those who have taken up arms against the Government of the United States, or in any way resisting, opposing, or obstructing the laws, officers, or forces of the United States, or aiding, abetting, or assisting those who shall be so engaged, shall be forfeited and confiscated to the United States; and all and every the rights and privileges of all such persons, under or arising from the Constitution of the United States, or to which, but for the provisions of this act, such persons would be entitled, are hereby declared to be forfeited.

SEC. 2. *And be it further enacted*, That the forfeiture declared in the first section of this act shall take effect immediately upon the commission of the act upon which such forfeiture is founded; and all right, title, and claim of the person committing such act shall cease and determine, so that when any property so forfeited shall be seized by the Government of the United States, the same may be held and disposed of free from and unincumbered by any sale, transfer, or incumbrance made or incurred after such act of forfeiture.

SEC. 3. *And be it further enacted*, That, for the purpose of enforcing the forfeiture specified in the first section of this act of property situate and being in loyal States or dis-

tricts in which the ordinary course of judicial proceedings is not obstructed by the rebellion, proceedings *in rem* may be instituted in the name of the United States in any district court of the United States, within which the estate or property so forfeited, or any part thereof, may be found, which proceedings shall conform, as nearly as may be, to proceedings in prize cases, or to cases of forfeiture arising under the revenue laws; and in all cases the property condemned, whether real or personal, shall be sold, and the proceeds deposited in the Treasury of the United States.

SEC. 4. *And be it further enacted*, That the property forfeited under the first section of this act, situate and being in States or districts in which the ordinary course of judicial proceedings is obstructed by the rebellion, shall be seized, used, occupied, rented, or otherwise held by the Government of the United States, until the ordinary course of judicial proceedings shall be restored to the State or district in which such property is situate, when proceedings *in rem* shall be instituted in the mode prescribed in the third section of this act: *Provided*, That articles of subsistence or of a perishable nature so seized shall be used or disposed of as the Government may direct.

SEC. 5. *And be it further enacted*, That the several district courts of the United States are hereby vested with power to issue all process, whether mesne or final, including garnishee and process, as in cases of foreign attachment, and to do every other matter and thing necessary or proper to carry out the purposes of this act.

SEC. 6. *And be it further enacted*, That the forfeiture declared in and by the first section of this act may be pleaded in abatement, or proved in bar of any suit, right, claim, or proceeding which may be instituted, prosecuted, or asserted by or in behalf of any person incurring the same in or before any court or officer of the United States, or of any State or Territory thereof.

SEC. 7. *And be it further enacted*, That every person having or pretending to have any claim to the service or labor of any other person in any State under the laws thereof, who during the present rebellion shall take up arms against the United States, or in any manner give aid and comfort to said rebellion, shall thereby forthwith forfeit all right to such service or labor; and the persons from whom it is claimed to be due, commonly called slaves, shall, *ipso facto*, on the commission of the act of forfeiture by the party having or pretending to have any such claim to the service or labor as aforesaid, be discharged therefrom, and become forever thereafter free persons, any law of any State or of the United States to the contrary notwithstanding. And whenever any person claiming to be entitled to the service or labor of any other person declared to be discharged from such labor or service under the provisions of this act shall seek to enforce such claim, he shall, in the first instance, and before any order for the surrender of the person whose service is claimed, establish not only his title to such service, as now provided by law, but also that he is and has been, during the existing rebellion, loyal to the Government of the United States.

SEC. 8. *And be it further enacted*, That nothing in this act contained shall operate or be construed to prevent or in any way affect any prosecution or other proceedings against any person who may have incurred the forfeiture herein prescribed to punish any crime or assert and enforce any other forfeiture of which such person may be guilty, or which he may have incurred under any other law of the United States.

SEC. 9. *And be it further enacted*, That the President of the United States is hereby authorized, in his discretion, by proclamation, pardon, or otherwise, to exempt or discharge any person or persons from the forfeiture prescribed in this act upon such terms and under such restrictions as he may see fit; and also to declare, by proclamation, when this act or any of the provisions thereof shall cease and become inoperative.

The PRESIDENT *pro tempore*. The question directly before the Senate is upon the amendment moved by the Senator from Ohio, [Mr. SHERMAN,] which is to strike out all of the original bill after the enacting clause, and to insert another bill as a substitute, and the Senator from New York [Mr. HARRIS] is entitled to the floor.

Mr. HARRIS. Mr. President, it is now a year since the rebellion with which we are engaged was openly inaugurated. We have seen the first anniversary of the attack upon Fort Sumter. Most of that year has been spent in preparation. I say preparation, for never before in the history of the world was a great nation found so unprepared for aggressive war or even self-defense as was this nation twelve months ago.

When first aroused from its profound slumber to behold its real condition, what a humiliating spectacle the nation presented to its own astonished vision. Without an army; without a navy; without arms; almost without a government, it seemed for a while as though treason was destined to triumph without even a show of resistance.

But startled by the roar of cannon at Charleston, the nation aroused itself, like a strong man after sleep. Boston, New York, and Philadelphia, without a moment's hesitation or delay, sent forward the flower of their youth for the immediate protection of the capital. The proclamation of the President calling for men was everywhere throughout the States not infected with treason received and responded to with the most enthusiastic patriotism. The young men of the country came to its defense more rapidly than the Government could supply them with arms. On every hand were witnessed the most inspiring demonstrations of patriotic devotion. Everywhere, in city, village, and country, the flag of the Union was thrown out to the breeze.

I can never forget the scene which presented itself as I passed through Broadway, that great thoroughfare of our great American metropolis, on a beautiful morning in the month of May. From window and balcony, from house top and steeple, our dear old flag—now a thousand times more dear because it had just been so ignominiously insulted, and that, too, by our own citizens at Sumter—was now streaming. The whole city seemed like one great forest of banners.

As I looked upon the scene, my heart was filled with the most exulting joy. I knew that treason had counted largely upon sympathy and even aid from that great Democratic city. I knew that efforts had been made to secure such sympathy and aid. But a few days before, arms, which a faithful officer of police, with his simple sense of patriotic duty, had seen fit to seize, had been released by the chief magistrate of the city and sent forward upon their treasonable errand, with an obsequious apology for the outrage. Under these circumstances, and with a knowledge of these facts, the scene before me was inspiring. I then saw for myself that the heart of that great treasury of our nation was right, was true and patriotic; that it might be trusted; that come what might, and fail who would, New York would do her whole duty. And how nobly, gloriously, she has vindicated this promise. How she has opened her bosom, pouring out men and treasure like a flood to overwhelm this great rebellion and save our country.

I felt then, and have ever since felt, from that hour to the present—I have never for a moment doubted that my country was safe—that whatever else might happen, whatever trials it might be called to meet, whatever the sacrifices it might cost, the issue must be gloriously triumphant.

I have said that the past has been a year of preparation. It has been a mighty, a most sublime preparation, such, I believe, as was never seen before, a preparation which has attracted the wonder of the whole civilized world. An army of greatly more than half a million of men has been raised, organized, equipped, armed, disciplined, and supported; a powerful navy has been created; a vast number of vessels of war have been not only begun, but finished, and are now actively and most efficiently engaged in the great work which the nation has in hand; a still greater number of vessels have been purchased and reconstructed or refitted to adapt them to their new work; the credit, the resources, the financial strength and endurance of the country, have been thoroughly tried, and have been found, to the surprise of many, perhaps all, fully equal to the great emergency. The struggle has already given new vigor to the Government, and, for the first time in our history as a nation, revealed to the people themselves their own vast resources and capacities. The extent of those resources and capacities and the discipline of our arms have taught them, what they scarcely knew before, that they can successfully contend with any foe.

This stupendous preparation—a work, let me say, which, in my judgment, calls for the exercise of talent and genius, less dazzling and impressive it may be, but by no means inferior to that which achieves brilliant victories in the field—is now nearly completed. When the history of this amazing rebellion comes to be written up for the instruction and warning of coming generations, nothing will excite greater wonder or admiration than this year of preparation.

The magnificent Army which has, within these few months, been almost literally created, is at length moving forward. From the Atlantic westward, almost across the continent, its majestic columns are advancing with steady and never receding tread into the very heart of the rebellion, while from Fortress Monroe all the way around to New Orleans it is being encompassed and shut in as with a wall of fire. Treason everywhere recoils; and the rebel foe is seen, day after day, giving way before the conquering march of our noble Army.

Mr. President, it does not becomes us to rejoice as though we had already triumphed. But I cannot resist the belief that the rebellion is well nigh crushed, that it has already received its death-blow. Certainly, the present aspect of affairs is extremely gratifying. It clearly indicates that the proportions of the rebellion are rapidly waning, and that at no very distant day it must be utterly overthrown. In the language of an eloquent writer, (now before me,) "the clouds of battle, long collecting, have burst in a tempest of devastation and death upon the traitors, and they fly before our armies as if God himself had taken command of them. Every day's report comes to us with the voice of victory and the utterance of the inexorable doom of treason."

But, Mr. President, when the rebellion shall be overthrown; when the rebel forces shall be subdued or scattered, and our Army and Navy have nothing more to do to save our country, then our own work as legislators and statesmen, the work of reconstruction and reorganization; of repairing the terrible breaches which treason has made in our fabric of freedom, will have just begun. Duties and responsibilities will then devolve upon us far exceeding in magnitude and in their influence upon the welfare and destiny of our country any that ever before devolved upon an American Congress. If peace and order and prosperity are again to revisit us as a nation, it will be not because the rebels have been subdued, but because there has been wisdom and magnanimity and patriotism enough in the Government to lay their foundations anew—broad, deep, and enduring.

Since, then, the real task of restoring the Union is to be accomplished after rebellion is quelled and the war is at an end, it has seemed to me to be the part of wisdom, Mr. President, for us, as American Senators, instead of seeking to manage the affairs and control the movements of the Army and Navy, as I have sometimes thought we were too much inclined to do, to address ourselves more earnestly to the consideration of those great questions which legitimately demand our attention.

It is quite possible that there are those among us who, if they had been charged with "the conduct of the war," might have managed affairs better than they have been managed by others, and who, if vested with supreme command, would long since have led our armies to certain victory. But whether this would have been the case or not must always remain a matter of conjecture, for whether fortunately or unfortunately for the country, in the distribution of powers and duties, these powers and duties have been assigned to others, and there, in my judgment, it would be wise to leave them.

The bill now before the Senate invites us to consider the general policy to be adopted in the treatment of rebels after the struggle shall be over. It is a subject which, next to the rebellion itself, demands our anxious attention. It is inferior to no other in the magnitude of its importance. Thus far the war itself has been conducted with a degree of magnanimity and lenity towards the rebels which has, I suppose, no parallel in the history of rebellions. I rejoice that it is so. The uniform humanity of our Army is the more marked and impressive when contrasted with the barbarous inhumanity of the rebels themselves. When I hear of their cruelty to our soldiers who happen to fall into their hands as prisoners; when I hear of their heathenish indignities practiced upon our patriot dead, I find it no easy task to restrain my indignation. How can such malignant hate be turned to fraternal love? How can we hope that men capable of such atrocities will ever appreciate the magnanimity of the Government which pardons their crimes? And yet I would not go to extremes, or demand that even treason should be punished with unforgiving rigor. Ours should not be a revengeful policy. On the contrary, by adopting measures of mildness and mercy, our effort should be to extinguish the fires of hate which now burn so fiercely. Exile and the gallows for leaders. Confiscation and outlawry for those who have, with "malice aforethought," conceived and planned and brought into hideous maturity this monstrous iniquity; but pity and pardon for their deluded followers—those whose greatest crime has been that they have loved the bones of their fathers more than they loved their country, who have from their childhood been educated in the heresy that their first and highest allegiance is due to their State, even if it requires them to take up arms against the Union. Such, in my judgment, is an outline of the policy which a great,

magnanimous, and Christian people should adopt in dealing with conquered treason.

The principal object of the bill under consideration is the forfeiture of the estates of traitors. The first section of the bill declares that the property of certain persons who are therein described shall be forfeited to the United States. The question arises, at the very threshold, whether Congress is authorized to pass such a law. It has been supposed that it was the intention of the framers of the Constitution to restrict the power of Congress to the confiscation of the estate of the traitor during his life; but I apprehend a careful examination of the provision of the Constitution on this subject will show this opinion to be unfounded.

The third section of the third article of the Constitution declares that "Congress shall have power to declare the punishment of treason." Here, it will be perceived, the power is without restriction or limitation. Congress is authorized to declare what the punishment of treason shall be, whether it be the forfeiture of life, liberty, or property, either or all, it is for Congress to decide. Were this the only provision on the subject, there would be no room for doubt or argument. But it is further declared in the same section that "no attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attainted." This latter provision, it will be seen, does not, at least in terms, restrict the power of Congress, but merely limits the effect of an "attainder of treason"—no attainder of treason shall work corruption of blood.

The term "attainder" is equivalent in law to "judgment." It is used instead of the word "judgment" only where the offender is adjudged guilty of a capital offense. "Upon judgment of death for treason or felony," says Blackstone, "a man shall be said to be attainted." The words "attaint" and "attainder" are used instead of "judgment" as expressive of the legal consequence of such judgment—the immediate and inseparable consequence of pronouncing judgment of death against a man being at the common law the taint or corruption of his blood, and the forfeiture of his estate. The property of a man sentenced to death upon conviction of treason is, *ipso facto*, forfeited, and his capacity of inheritance absolutely destroyed.

But to men situated as our fathers were when they framed the Constitution, such a doctrine must have seemed severe, almost barbarous. The idea that an innocent child could never inherit the estate of his ancestor equally innocent with himself, because his father had been convicted of treason, is revolting. An eminent English writer, in speaking of this rule of the common law, says:

"It is to be hoped that the corruption of blood, with all its connected consequences, not only of present escheat but of future incapacities of inheritance, even to the twentieth generation, may, in process of time, be abolished by act of Parliament."

The same writer adds that the doctrine "stands upon a very different footing from the forfeiture of lands for treason."

In view of this state of things, and the obvious unreasonableness, if not injustice, of the common law rule, it was reversed, or rather abolished, by the Constitution. That immortal instrument—now still more sure of its own immortality, because the vultures of treason have sought its destruction—declares that "no attainder of treason"—that is, judgment of death upon a conviction of treason—"shall"—as it does at the common law—"work"—that is, have the effect to produce—'corruption of blood or forfeiture of estate." Thus the Constitution first declares, in unqualified terms, the power of Congress to prescribe the punishment of treason, and then abolishes the common-law rule which attaches certain unreasonable consequences to a judgment of death upon conviction for that crime. The inference seems to be legitimate and plain, that the framers of the Constitution intended that there should be no punishment for the crime of treason except such as should be declared by Congress, and that in the exercise of the power conferred upon it to declare the punishment of treason there should be no restriction or limitation. My conclusion is, that Congress has the same right to declare that a man who is guilty of treason shall forfeit his estate as to declare that he shall forfeit his life. In either case, the forfeiture must be pronounced upon judicial condemnation. But, in my judgment, the power of Congress to declare such forfeiture is just as clear and unquestionable in the one case as in the other.

But it has been thought that another provision of the Constitution—that which declares that "no bill of attainder shall be passed"—asserts its authority against the principle of this bill.

The Senator from Illinois [Mr. BROWNING] assumes, as a thing not denied and undeniable, that the bill, within the meaning of the Constitution, is a bill of attainder. The Senator from Pennsylvania, also, [Mr. COWAN,] in his very elaborate and able speech delivered some weeks ago, considered the bill as, in legal effect, a bill of "pains and penalties," and then proceeded to show, and, as I think, with success, that such a bill would be within the spirit of the prohibition which declares that Congress shall pass no bill of attainder. I agree that a bill of "pains and penalties" is as clearly within the evil against which it was intended to provide as a bill of attainder. They are equally and alike obnoxious to the fundamental objection of being *ex post facto* legislation. Their very object is to declare the punishment of offenses already committed. The only difference between the two classes of bills consists in the measure and character of the punishment declared. They are equally offensive to our very simplest notions of justice, which demand that every man shall be judged for his offenses according to the law as it existed when the offense was committed.

Another fundamental objection to such bills—both bills of attainder and of pains and penalties—is, that in their very nature they involve an encroachment of the legislative upon the judicial power of the Government. The Legislature, leaving its appropriate sphere of duty, assumes the functions of judicial magistracy, and, without a judicial trial, undertakes to declare the person or persons against whom its action is leveled guilty of some crime. If it be of a capital offense, as treason or murder, such legislative condemnation is called a bill of attainder. If it be of an inferior offense, involving only imprisonment or fine, it is called a bill of pains and penalties. Thus, in the reign of William III, the English Parliament passed an act which declared that no person should be attainted of treason where corruption of blood is incurred but by the oath of two lawful witnesses. Soon after the passage of the act, Sir John Fenwick was indicted, on the oath of the requisite number of witnesses, for conspiring against the life of the king; but, upon his trial, one witness only appeared against him. Of course, he could not be convicted. It was alleged, however, that he had himself prevailed upon the other witness not to appear, and thereupon Parliament, taking the matter into its own hands, exercising the highest power of sovereignty, and what Judge Story has aptly called "an irresponsible despotic discretion," passed a bill of attainder by which he was attainted of treason. If the act had inflicted a milder punishment than death, it would have been a bill of pains and penalties, and not a bill of attainder.

The framers of the Constitution, remembering how, even in England, this power had sometimes been abused and how dangerous it might become in times of violent political excitement, have wisely declared that it shall never be exercised by Congress. But how the bill reported by the Senator from Illinois, [Mr. TRUMBULL,] or the substitute proposed for that bill, is obnoxious to the objection that such a bill would be a violation of the provision of the Constitution which prohibits Congress from passing a bill of attainder, I have been quite unable to perceive. These bills propose, it is true, to declare that in certain cases the property of rebels shall be forfeited. But such forfeiture is only to be enforced in the ordinary course of judicial proceedings and after judgment of condemnation pronounced by a tribunal endowed with competent authority.

It is true that these bills do not propose any personal conviction of the traitor, as a prerequisite to the right of the Government to forfeit his estate. Nor can such conviction be necessary. At the common law, in many cases, the forfeiture of property was a consequence of the personal conviction of the offender. In such cases, it was necessary, of course, when the Government would enforce the forfeiture, that it should establish its right, by showing that the offender had been convicted.

But, as is well said by Mr. Justice Story in the Palmyra case, cited by the Senator from Illinois [Mr. TRUMBULL] the other day, this doctrine never was applied to forfeitures created by statute. There may be—there are cases—such, for instance, as the violation of revenue laws, where the penalty for violation attaches to property only, and for which no personal punishment is prescribed. In such cases the proceeding to enforce the punishment is said to be *in rem*, because the judgment of condemnation is against the property and not against the person. There are other cases, where, for the same offense, there is a forfeiture of property and also a personal penalty. Thus, if the bill under consideration should become a law, the property of a traitor embraced within its provisions might be confiscated by proceeding before a judicial tribunal in the manner prescribed in the act, and the traitor himself might also be executed under the law of Congress now in force, which declares treason to be a capital offense. In such cases, says Judge Story, the proceeding *in rem* stands independent of and wholly unaffected by any criminal proceeding *in personam*.

Having thus, as I think, met the constitutional objections which have been made against the measure under consideration, and shown that it is competent for Congress, if it sees fit so to do, to declare the property of rebels forfeited, the next question which presents itself is, whether such a law is expedient, or if expedient at all, to what extent it is expedient.

Upon this question, I have already in a general way indicated my own views. As to the extent to which it is expedient to go, in declaring the forfeiture of rebel property, I do not differ so very widely from the Senator from Pennsylvania. He thinks there are many in the confederate States who have been constrained even by force to join in the rebellion. I hope and believe this is so. "Are these," he asks, "to suffer upon the same scaffold with the willing traitor?" I emphatically answer no—certainly not. No one desires it. "Is there no difference to be made," he again asks, "between the general who betrayed his country and the soldier he has compelled to march at his bidding at the head of a rebel column?" I again answer, most certainly; all the difference between one who commits a criminal act with a guilty purpose, and another who commits the same act under duress. In short, all the difference between guilt and innocence. I would make as much difference as the Senator himself between "the wily traitor and his simple dupe."

In the first section of the bill proposed as a substitute I have endeavored, as well as I could by any general classification, to give effect to this discrimination. The forfeiture declared is confined to two classes only, intended to embrace the leaders in the rebellion, and the leaders only. The first class includes such persons as have heretofore held any office under the Government of the United States, or any State government, of sufficient dignity to require that they should take the official oath prescribed by the Constitution, and who, after the passage of the act, shall be found engaged in the rebellion, thus adding to their treason the crime of perjury. The second class consists of those who have held similar offices under the confederate constitution requiring them to take an oath to support that instrument, and who shall, in like manner, be found engaged in the rebellion. Under a law thus restricted, there can be little danger that any person will suffer undue punishment. To this extent the law seems imperiously demanded to prevent, in very many cases, the worst of traitors from escaping punishment altogether. Personal prosecutions for treason will be likely, for the most part, to prove ineffectual. Such prosecutions are too difficult and too uncertain to operate with much restraining effect. To most of those now engaged in the rebellion, the apprehension of such prosecutions would present but empty terrors. Were the arch-traitor, Jefferson Davis himself, now within the grasp of the law, it would be far more difficult to convict even him than any person would, at the first thought, imagine. Where shall he be tried, and who are the witnesses who will testify against him, are questions which would be very likely to perplex even our learned and very worthy Attorney General.

It will be observed that I have spoken of the forfeiture of property, for which these bills pro-

vide, only as a measure of punishment. In my judgment this is the only proper light in which it should be considered. In a pecuniary sense, and as a means of indemnifying the Government against the enormous expense incurred in suppressing the rebellion, neither of these bills, nor any kindred measure which could be devised, would be of any account. I predict that the Government will never profit to the amount of a single dollar by the confiscation of rebel property. Since the Christian era began no Government ever did, or ever will.

The second section of the bill, which I shall offer as a substitute, merely declares what would have been the legal effect of the first section without it. By the common law, a forfeiture for crime relates back to the time the offense was committed, and thus avoids all intermediate sales and incumbrances. In England, upon an attainder of treason, not only the property which the offender had at the time of his conviction, but that which he had at the time he committed the treasonable offense, or at any time afterwards, vested in the crown. This principle is declared in the second section of the substitute, and also in the original bill.

The third and fourth sections of the substitute are taken, without alteration, I believe, from the original bill. They prescribe the mode of proceeding to enforce the forfeiture declared in the first section, both in States or districts where the course of judicial proceedings is obstructed by the rebellion, and also in States or districts where it is not so obstructed. Another section confers upon the district courts of the United States the requisite jurisdiction to enable them to carry out the purposes of the act.

The provision contained in the sixth section of the substitute is novel and important. I am free to admit that subsequent reflection has led me to regard it with less favor than when the section was first framed. It allows the forfeiture declared in the first section to be set up, by way of defense, against any suit, right, claim, or proceeding which may be instituted or prosecuted by or in behalf of any person who has incurred such forfeiture. Its effect would be, indeed, I may say, the design of the section was, to encourage competitors and opponents in detecting and exposing treasonable conduct. I am not sure that such an effect would be desirable or of salutary influence. I am myself inclined to regard the provision as a measure of questionable policy. But it having been inserted in the bill, I have thought it better to allow it to stand for the consideration of the Senate.

The seventh section of the substitute, which is in substance the same as the second section of the original bill, relates exclusively to the slave property of rebels. Unlike the provisions of preceding sections, the forfeiture declared is applicable alike to all persons who shall be found engaged in the rebellion. This is clearly right. All must agree, I think, that slavery is the chief, indeed, the sole producing cause of the rebellion. It has long been, and so long as it continues to exist it will be, the great disturbing element in our political system. Northern politicians, seeking to obtain political power, have cowered before it, and ignominiously yielded to its imperious exactions. In this way it has been able to hold the reins and control the policy of the Government for most of the time since our history as a nation began—often, very often, to the serious prejudice of our best interests as a nation. It was because, and only because this power had been wrested from its hands by an indignant and long-suffering people, that this rebellion was inaugurated. Under these circumstances it cannot be unjust; on the contrary, it is the part of true statesmanship to limit the power of slavery in every constitutional way. However strong the temptation, I would not impair, even by a hair's breadth, any rights which the Constitution guaranties to any man.

But while I would not do this, I would, by any and by all appropriate and constitutional legislation, strip the institution of slavery of all political power beyond that which is secured to it by the Constitution itself. This, in my judgment, should be the policy and the unyielding purpose of every true lover of his country. What particular measures may be best adapted to accomplish this great end, it is yet, perhaps, too soon to determine. Events are now hurrying on with such unequaled and startling rapidity, that no man can now say what may yet be done, consistently with a faithful obedience to all the requirements of the Constitution, to restrict, if not entirely destroy, the mischievous influence of slavery as a political element. It is the part of wisdom to wait and watch, with calmness and patience, and see what developments coming events may make.

But whatever else may or may not be done, it cannot be wrong or unwise for the Government to avail itself of the power which treason has placed in its hands to declare the forfeiture of the slave property of rebels.

As our armies advance further and still further into rebel territory, the number of slaves who will become separated from their masters, and thus practically set at liberty, will be constantly increasing. The longer the war continues, the greater will be the extent of this practical emancipation. What is to become of this constantly increasing mass of ignorant, improvident, degraded, and despised humanity, I cannot foresee. Its destiny is as yet shrouded in the impenetrable mystery of future events. But this I can predict, with unerring certainty, that not one of all this multitude who shall thus be liberated through the madness of their masters, will ever, with the authority or consent of this Government, be returned to bondage. His liberation, accidental in its origin, and seeming to be temporary, is sure to become a permanent and real thing.

The section now under consideration provides for the case of such liberated slaves. By merely changing a rule of evidence, the burden is thrown upon the master, who claims that his slave who has escaped from his possession shall be returned to his service, of proving not only his title to such service, but also that he himself has not forfeited his right by his own infidelity to his Government. The provision is founded upon the presumption, by no means violent or unreasonable in this rebellion, that the slave owner is himself disloyal. I regard this as by far the most important and effective provision in this section of the bill. Where the slave continues in the custody of his rebel master at the close of the rebellion, it is not very likely I think that he will be liberated by the operation of this section, except, perhaps, in the case of rebel leaders, whose whole estate may be forfeited under the first section of the bill.

After all, Mr. President, we are entering upon a new and untried field of legislation. It becomes us to consider well every step we take, and to act with prudence and moderation, lest by chance we aggravate the mischief we seek to remedy. Our great and ever-present all-controlling purpose should be the restoration—the full, complete, enduring restoration of the Union—every section, State, and Territory returning to its own proper place in our great national system, and all again moving on, as in times past, each in its own appropriate sphere, in unity and harmony to the accomplishment of a glorious destiny. To effect this great end, I would have any law which Congress may see fit to pass for the punishment of rebels administered with magnanimous mildness and forbearance, tendering to all who, excusing their treason, shall be willing to return to their duty as citizens and renew their allegiance to the Government, the most generous forgiveness and indemnity.

With a view more effectually to attain this object—an object so desirable, and so worthy of a great nation in dealing with its rebel citizens—this bill endows the President with the most ample discretion. It gives him authority, by proclamation or pardon, or in any other way he may see fit, and upon such terms as he may think proper, to exempt or discharge any person from the penalties and forfeitures imposed by the bill. He is also authorized at any time by proclamation wholly to terminate the operation of any of its provisions.

Invited by such a policy, I can but indulge the hope that there are multitudes now in arms against the Government who, when the hour of delusion and madness shall have passed away and reason resumes its wonted office, will gladly, gratefully accept their nation's forgiveness; while others, but a few, I trust, more guilty than all the rest, must expiate their unpardonable crime upon the scaffold, or, escaping the righteous condemnation of the law, self-banished, like the first malefactor of our race, become fugitives and vagabonds upon the face of the earth—without home, without country, without hope or consolation, finding their greatest punishment in living, their only relief in dying.

Mr. POWELL. Mr. President——

Mr. LANE, of Kansas. With the consent of the Senator from Kentucky, I should like very much to have an executive session now.

Mr. POWELL. I am willing to yield for that purpose.

Mr. LANE, of Kansas. I move that the Senate proceed to the consideration of executive business.

Mr. TRUMBULL. I hope not. That is all I have to say about it.

Mr. LANE, of Kansas. Having an executive session at four o'clock amounts to nothing. I should like very much to have an executive session now.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *April* 14, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of Friday last was read and approved.

GRADUAL EMANCIPATION.

The SPEAKER announced the following as the select committee on the subject of the gradual emancipation in the slaveholding States by the people or local authorities thereof, authorized by resolution of April 7, 1862:

Messrs. Albert S. White of Indiana, Francis P. Blair of Missouri, George P. Fisher of Delaware, William E. Lehman of Pennsylvania, C. L. L. Leary of Maryland, K. V. Whaley of Virginia, James F. Wilson of Iowa, Samuel L. Casey of Kentucky, and Andrew J. Clements of Tennessee.

EMANCIPATION IN THE DISTRICT.

Mr. LEHMAN. I ask the unanimous consent of the House for leave to record my vote on the bill for the abolishment of slavery in the District of Columbia, being unavoidably absent when the vote was taken. I was paired with my colleague, [Mr. ANCONA,] and I ask that he also be allowed to record his vote.

There was no objection.

Mr. LEHMAN voted in the affirmative, and Mr. ANCONA in the negative.

The SPEAKER. If there be no objection, all the members who have not voted on the bill referred to, will be permitted to have their votes recorded by calling at the Clerk's desk.

There was no objection; and it was so ordered.

INTERNAL REVENUE.

Mr. COX. I present the following joint resolution:

Joint resolution relative to the raising of internal revenue.

Resolved by the General Assembly of the State of Ohio, That our Senators and Representatives in Congress be, and they are hereby, respectfully requested to procure and support such an amendment to the bill for the purpose of raising internal revenue as may permit the several States to collect the same within their respective limits, and determine the compensation of the officers by them employed.

Resolved, That the Governor of this State be requested to forward a copy of the foregoing resolution to each of our Senators and Representatives in Congress.

JAMES R. HUBBELL,
Speaker of the House of Representatives.
B. STANTON,
President of the Senate.

April 3, 1862.

Mr. Speaker, this resolution comes too late for the action of this House, as the tax bill has already gone to the Senate. It is the unanimous desire of the Legislature and the people of Ohio that the mode of collecting internal revenue shall be remitted to the several States, whose Legislature shall fix the number and compensation of the tax collectors. If that be done, and the tax be made more equal and the objects of taxation less multifarious, I am sure the State will be more prompt to meet the taxes imposed upon it; and that the vote, when the bill is returned to us from the Senate, will be nearer a unit than it was on its passage here.

I move that the resolution be laid upon the table, and ordered to be printed.

The motion was agreed to.

PRINTING EXPENSES OF THE PATENT OFFICE.

Mr. MORRILL, of Vermont, from the Committee of Ways and Means, reported back a resolution to reimburse the Patent Office for printing expenses; which was referred to the Committee on Printing.

INVALID PENSIONS.

Mr. FENTON. I ask the unanimous consent of the House for leave to introduce a bill to grant invalid and half-pay pensions in certain cases.

Mr. Speaker, it will be seen that, by the recent decision of the Attorney General, our pension system is defective, and that injustice is done not only to soldiers but to the widows and children of those who die in the service. The bill I introduce was prepared under the advisement of the Secretary of the Interior and the Commissioner of Pensions, and is intended to obviate the difficulties and doubts of the present law, and I move that it be referred to the Committee on Invalid Pensions, with a view of having it considered at an early day. I hope there will be no objection.

There was no objection, and the bill was read a first and second time, and referred to the Committee on Invalid Pensions.

Mr. WASHBURNE. At what period is it proposed to report this bill?

Mr. FENTON. The committee are to have a meeting to-morrow morning, with a view to the consideration of the bill, and they will report it back at the earliest day.

Mr. WASHBURNE. I hope the House will give the committee leave to report at any time. It is certainly due to the country that the bill should be passed speedily.

No objection being made, unanimous consent was given to the committee to report at any time.

F. F. LOWE.

Mr. DAWES. I rise to a privileged question. I am instructed by the Committee of Elections, to whom was referred the memorial of F. F. Lowe, praying to be admitted to a seat in this House as a Representative from the State of California, to make a report, accompanied by a resolution, which I ask may be laid on the table and printed. I also ask that the minority of the committee may have leave to present their views in writing, and that they may be printed.

The resolution was read, as follows:

Resolved, That F. F. Lowe is not entitled to a seat in this House as a Representative from the State of California in the Thirty-Seventh Congress.

The report was laid on the table, ordered to be printed, and permission was given to the minority of the committee to report, and have their report printed.

J. STERLING MORTON.

Mr. DAWES. I am instructed by the same committee to make a report upon the memorial of J. Sterling Morton, claiming the right to occupy a seat in this House as Delegate from the Territory of Nebraska. Accompanying the report are two resolutions, which I ask may be laid on the table, and printed. I also make a request similar to that in the last case, in reference to the minority of the committee.

The resolutions were read, as follows:

Resolved, That J. Sterling Morton is not entitled to a seat in this House as Delegate from the Territory of Nebraska in the Thirty-Seventh Congress.

Resolved, That Samuel G. Daily is entitled to a seat in this House as Delegate from the Territory of Nebraska in the Thirty-Seventh Congress.

The report was laid on the table, ordered to be printed, and leave was granted to the minority of the committee to make a minority report, and have it printed.

JOSEPH SEGAR.

Mr. DAWES. The Committee of Elections, to which was referred the credentials of Joseph Segar, claiming a seat in this House as a Representative from the first district from Virginia, have directed me to make a report asking to be discharged from the further consideration thereof.

The report was laid on the table, and ordered to be printed.

JUDICIAL DISTRICTS IN ILLINOIS.

Mr. RICHARDSON. I ask the unanimous consent of the House to take from the Speaker's table Senate bill No. 102, entitled "An act to amend an act entitled an 'Act to divide the State of Illinois into two judicial districts,'" approved February 13, 1855, in order to put it upon its passage. With the permission of the House, I will make a short statement of what the bill is.

Mr. WASHBURNE. My colleague, [Mr. KELLOGG,] who belongs to the Committee on the Judiciary, is not present, and as it is a matter in which I presume he feels some interest, I suggest to the gentleman from Illinois [Mr. RICHARDSON] whether it would not be fair to let the bill be referred to the Judiciary Committee.

Mr. RICHARDSON. If the gentleman will permit me to make a statement, he will see that my colleague, to whom he has referred, will have no objection to it. The bill simply transfers the counties of McDonnough and Hancock, upon the application of all the attorneys of those two counties, from the northern to the southern judicial district of that State. It is the wish of the entire population, as I understand it, that these two counties, which are in my district, should be so changed. That is all there is of the bill, except mere detail as to the matter of changing the cases from the northern circuit to the southern circuit.

Mr. LOVEJOY. I think it would be better, as my colleague [Mr. WASHBURNE] suggests, to refer the bill to the Committee on the Judiciary.

Mr. WASHBURNE. I would prefer, if it would make no difference to my colleague, that the bill should be referred to the Judiciary Committee. I do not myself perceive the reason for the contemplated change. Chicago, where the circuit courts for the northern district are held, is quite as convenient of access as Springfield, where the courts for the southern district are held.

Mr. RICHARDSON. In that my colleague is mistaken. It is on that very account of inconvenience that the change is desired. What disposition may be made of it, however, is immaterial. If gentlemen prefer that it should go to the Judiciary Committee, I do not care. There is no reason, however, why it should go there; and I hope gentlemen will allow it to be put upon its passage.

Objection being made to the consideration of the bill, it was taken up and referred to the Committee on the Judiciary.

CADETS AT MILITARY ACADEMY.

Mr. ALLEN, by unanimous consent, from the Committee on Military Affairs, reported back House bill No. 140, to regulate the admission of cadets to the Military Academy at West Point; which was ordered to be printed, and recommitted to the Committee on Military Affairs.

EXTINGUISHMENT OF SLAVERY.

Mr. KELLEY. I have before me a memorial from fifteen thousand women of eleven free and one slave State, asking Congress, by all means in its power, to extinguish slavery. I ask leave to present it.

Objection was made.

The SPEAKER. The petition can be filed under the rules.

JOHN GOLDING.

Mr. RICE, of Maine. I ask the unanimous consent of the House to report back from the Committee on Patents a bill (H. R. No. 329) for the relief of John Golding.

The bill, which was read, authorizes the Commissioner of Patents to renew and extend, for the term of seven years, letters patent, heretofore granted to John Golding, for his improvements in machinery for the manufacture of woolen and other fabrics, if he shall deem the said Golding justly entitled thereto.

Mr. WASHBURNE objected.

Mr. HICKMAN. I ask unanimous consent to report back a bill from the Judiciary Committee, in order that it may be referred to the proper committee.

Mr. WALTON, of Vermont, called for the regular order of business.

The SPEAKER announced the regular order of business to be the call of committees for reports only—no report to be brought back by a motion to reconsider—commencing with the Committee of Elections.

The committees were called.

MARTIN F. CONWAY.

Mr. MENZIES, from the Committee of Elections, reported a bill to pay to Martin F. Conway the sum of $4,023 60, out of any money in the Treasury not otherwise appropriated, as additional compensation and mileage to him as Representative in the Thirty-Sixth Congress from the State of Kansas; which was read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

DISPUTED TITLES.

Mr. WALTON, of Vermont, from the Committee of Claims, reported back a bill to provide for the quieting of certain claims in the disputed territory in the State of Maine, and for other purposes; which was referred to a Committee of the Whole House, and ordered to be printed.

FRANCIS HÜTTMANN.

Mr. WALTON, of Vermont, from the same committee, also reported back a bill (S. No. 251) for the relief of Francis Hüttmann, with a recommendation that it be referred to the Committee on Commerce.

It was referred accordingly.

C. RADCLIFFE AND OTHERS.

Mr. FENTON, from the Committee of Claims, made adverse reports on the several petitions of C. Radcliffe, W. Roddy, and James Jackson; which were laid on the table, and ordered to be printed.

J. J. LINTS.

Mr. DUELL, from the Committee of Claims, reported back a bill (H. R. No. 2) for the relief of J. J. Lints; which was referred to a Committee of the Whole House, and ordered to be printed.

WAR DEBT OF WASHINGTON AND OREGON.

Mr. HICKMAN, from the Committee on the Judiciary, reported back, with a recommendation that it be indefinitely postponed, a joint resolution (S. No. 2) prescribing the mode of paying the awards authorized by the act of March 2, 1861, for settling the Washington and Oregon war debt; which was referred to a Committee of the Whole House, with a recommendation that it be indefinitely postponed.

MARBLE N. TAYLOR.

Mr. HICKMAN, from the Committee on the Judiciary, made an adverse report upon the petition of Marble N. Taylor; which was laid on the table, and ordered to be printed.

COMMITTEE DISCHARGED.

On motion of Mr. HICKMAN, the Judiciary Committee were discharged from the further consideration of the following resolutions, and the same were laid on the table:

A resolution directing the Judiciary Committee to inquire into the propriety of investing United States commissioners with the power of issuing writs of *habeas corpus*, and to hold persons to bail for good behavior;

A resolution directing the Judiciary Committee to inquire into the propriety of legalizing all consummated litigation under the miners' and people's court of Colorado;

A resolution directing the committee to inquire into the expediency of increasing the salaries of the Federal officers in Colorado; and

A resolution directing the committee to inquire into the expediency of reporting a bill authorizing the district judge of Virginia to hold a term of the court at Parkersburg, Virginia.

UNITED STATES COURTS IN WESTERN VIRGINIA.

Mr. HICKMAN, from the Committee on the Judiciary, made an adverse report upon the bill (H. R. No. 376) to regulate the time of holding the district courts for the western district of Virginia; which was laid on the table, and ordered to be printed.

INVALID PENSIONS.

On motion of Mr. HICKMAN, the Committee on the Judiciary was discharged from the further consideration of a resolution of inquiry as to the expediency of providing by law for invalid pensions applicable to the officers and soldiers of the present war; and it was referred to the Committee on Invalid Pensions.

MARY A. BERAULT.

Mr. DUELL, from the Committee on Revolutionary Claims, reported a joint resolution for the relief of Mary A. Berault, administratrix of the estate of Lieutenant Joseph Wheaton, deceased; which was read a first and second time, recom-

mitted to the committee, and, with the accompanying report, ordered to be printed.

ADVERSE REPORTS.

Mr. MORRILL, of Maine, from the same committee, made an adverse report on the petition of Paulding, Williams, and Van Wart; which was laid upon the table, and ordered to be printed.

Mr. VAN HORN, from the Committee on Private Land Claims, made an adverse report on the petition of George M. Sperry; which was laid upon the table and ordered to be printed.

RECIPROCITY TREATY.

On motion of Mr. WHITE, of Indiana, the Committee on Foreign Affairs was discharged from the further consideration of three petitions of citizens of northern New York and Michigan, praying for the adoption of measures to secure the speedy abrogation of the reciprocity treaty with Great Britain; and the same were laid upon the table.

ALEXANDRIA CANAL COMPANY.

On motion of Mr. DELANO, the Committee for the District of Columbia was discharged from the further consideration of the petition of the Alexandria Canal Company of Virginia, and it was referred to the Committee of Claims.

The SPEAKER then proceeded, as the regular order of business, to call the States and Territories for resolutions, beginning where the call was last left off on Monday last, with the State of Indiana.

DEPREDATIONS IN MISSOURI.

Mr. PRICE submitted the following resolution, upon which he demanded the previous question:

Whereas it has been represented that the United States military forces from the State of Kansas have, at divers times during the last four months, entered the counties of Jackson, Cass, Bates, and Johnson, in the State of Missouri, and, without just cause or military necessity, seized, took, and carried away slaves, horses, mules, and other property of the value of hundreds of thousands of dollars belonging to quiet and peaceful citizens, and that said forces in like manner with fire did destroy many dwellings and farm houses in said counties: Therefore,

Resolved, That the Secretary of War, if not inconsistent with the public interests, will report to this House any official information he may have or can obtain from the military departments of Kansas and Missouri, or either of them, touching the above matter; and he will particularly state the number of slaves, horses, mules, and other property thus taken or houses destroyed in either of those counties, together with the kind, value, and the name of the owners from whom taken, and the cause or causes assigned therefor; and he will also report whether all or any of the property thus taken has been accounted for or confiscated; and if accounted for or confiscated, state where and when did the trial of confiscation take place, and to whom was such account rendered; he will state under whose orders did a military force from Kansas enter the counties of Jackson and Cass, and the other counties named; for what purpose did they go or remain there at any time in the months of October, November, December, January, and February, and while said force remained in either of said counties, what sum of money has been charged or allowed for their subsistence.

The previous question was seconded.

Upon ordering the main question, there were—ayes 30, noes 48; no quorum voting.

Mr. FENTON. That resolution appears to be very broad in its terms. I move that it be referred to the Committee on Military Affairs.

The SPEAKER. That motion is not in order.

Mr. F. A. CONKLING moved to lay the resolution upon the table.

Mr. PRICE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 20, nays 92; as follows:

YEAS—Messrs. Ashley, Baker, Baxter, Beaman, Bingham, Samuel S. Blair, Blake, Chamberlin, Frederick A. Conkling, Roscoe Conkling, Hickman, Julian, Francis W. Kellogg, Lovejoy, Pike, John H. Rice, Sloan, Trowbridge Albert S. White, and Wilson—20.

NAYS—Messrs. Aldrich, Allen, Alley, Ancona, Arnold, Joseph Baily, Francis P. Blair, William G. Brown, Buffinton, Calvert, Campbell, Clements, Colfax, Cox, Crittenden, Dawes, Delano, Delaplaine, Diven, Duell, Dunlap, Dunn, Edwards, Eliot, Fenton, Fessenden, Franchot, Frank, Granger, Grider, Hale, Hall, Harding, Harrison, Holman, Hooper, Hutchins, Johnson, Killinger, Knapp, Lansing, Lazear, Leary, Lehman, Loomis, McKnight, McPherson, Mallory, Menzies, Moorhead, Anson P. Morrill, Justin S. Morrill, Morris, Noble, Patton, Perry, Porter, Potter, Price, Alexander H. Rice, Riddle, Edward H. Rollins, James S. Rollins, Sargent, Sheffield, Shellabarger, Shiel, Smith, Spaulding, John B. Steele, William G. Steele, Stratton, Benjamin F. Thomas, Francis Thomas, Train, Vallandigham, Van Horn, Van Valkenburgh, Verree, Voorhees, Wadsworth, Wallace, E. P. Walton, Ward, Washburne, Wheeler, Chilton A. White, Wickliffe, Windom, Woodruff, Worcester, and Wright—92.

So the House refused to lay the resolution upon the table.

During the roll call,

Mr. NUGEN stated that he had paired off with Mr. EDGERTON.

Mr. MORRIS (when his name was called) said: I desire to make a brief explanation in relation to a pair. I was paired off with my colleague, Mr. CUTLER. When he was called home, he came to me and asked me to pair with him. I agreed to do so and told him I would not vote upon any question on which I thought we should vote differently and he asked me to refer to Mr. EDGERTON. I refrained from voting for about a week. When the vote was taken last Friday evening on the bill to abolish slavery in the District of Columbia, Mr. WHALEY stated that he was paired with Mr. CUTLER and declined voting. I thereupon asked leave to vote, and did vote. I suppose my colleague and I should vote differently upon this question, and as I do not desire to commit any breach of faith, I would like to know whether Mr. WHALEY or myself is paired with Mr. CUTLER.

The SPEAKER. The Chair can render the gentleman no assistance.

Mr. MORRIS. It places me in a very delicate position, but I will take the responsibility of voting, and vote "no."

The result of the vote having been announced, as above recorded, the question recurred upon ordering the main question.

Mr. RICE demanded tellers.

Tellers were ordered; and Messrs. PRICE, and KELLOGG of Michigan, were appointed.

The House divided; and the tellers reported—ayes 43, noes 50.

Mr. PRICE demanded the yeas and nays.

The yeas and nays were ordered.

Mr. EDWARDS. I move to lay the resolution upon the table.

Mr. WASHBURNE. I hope the gentleman from Missouri, who introduced this resolution, will let it be referred, by unanimous consent, to the Committee on Military Affairs.

Mr. EDWARDS. In that event I will withdraw my motion.

Mr. VALLANDIGHAM. I object to the reference.

The question was taken on Mr. EDWARDS's motion; and the House refused to lay the resolution on the table.

The question was then taken on ordering the main question; and it was decided in the negative—yeas 51, nays 62, as follows:

YEAS—Messrs. Aldrich, Allen, Ancona, Joseph Baily, Francis P. Blair, William G. Brown, Clements, Cox, Crittenden, Delaplaine, Duell, Dunlap, Dunn, Grider, Hall, Harding, Harrison, Holman, Johnson, Killinger, Knapp, Law, Lazear, Leary, Lehman, Mallory, Menzies, Morris, Noble, Noell, Norton, Pendleton, Perry, Price, Richardson, James S. Rollins, Shiel, Smith, John B. Steele, William G. Steele, Benjamin F. Thomas, Francis Thomas, Vallandigham, Voorhees, Wadsworth, Ward, Whaley, Chilton A. White, Wickliffe, Woodruff, and Wright—51.

NAYS—Messrs. Alley, Ashley, Baker, Baxter, Beaman, Bingham, Samuel S. Blair, Blake, Buffinton, Campbell, Chamberlin, Colfax, Frederick A. Conkling, Roscoe Conkling, Dawes, Delano, Edwards, Eliot, Fenton, Fessenden, Franchot, Frank, Granger, Hale, Hickman, Hooper, Hutchins, Kelley, Francis W. Kellogg, Lansing, Loomis, Lovejoy, McPherson, Moorhead, Anson P. Morrill, Justin S. Morrill, Olin, Pike, Porter, Potter, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, Sedgwick, Sheffield, Shellabarger, Sloan, Spaulding, Stratton, Train, Trowbridge, Van Horn, Van Valkenburgh, Verree, Wallace, E. P. Walton, Washburne, Albert S. White, Wilson, Windom, and Worcester—62.

So the House refused to order the main question.

During the roll call,

Mr. FENTON stated that his colleagues, Messrs. CLARK and WHEELER, were detained from the House in consequence of sickness in Mr. CLARK's family.

The result of the vote having been announced as above recorded,

Mr. FENTON moved that the resolution be referred to the Committee on Military Affairs, and on that motion demanded the previous question.

The previous question was seconded, and the main question ordered, and under the operation thereof the motion was agreed to.

PERSONAL EXPLANATION.

Mr. ROLLINS, of Missouri. I desire to make a personal explanation. On Friday last I agreed to pair off with the gentleman from Ohio, Mr. GURLEY, on the bill abolishing slavery in this District. My impression was that the gentleman from Ohio did not intend to leave till Saturday, and that the pair was to commence from that day. I therefore voted in the negative on the passage of the bill. Had the gentleman from Ohio been present he would have voted in the affirmative. My vote was given under a misapprehension as to the time when the pair was to commence to take effect.

JAMES BOSWELL.

Mr. MALLORY asked and obtained unanimous consent to have the Committee on the Post Office and Post Roads discharged from the further consideration of the claim of James Boswell for further compensation for carrying the mail, and to have the same referred to the Committee of Claims.

MILITARY ROAD IN MICHIGAN.

Mr. KELLOGG, of Michigan, by unanimous consent, introduced a bill to make a grant of public lands to the State of Michigan, to aid in the construction of a military road from Green Bay to Marquette; which was read a first and second time, and referred to the Committee on Public Lands.

COTTON SEED.

Mr. WILSON asked and obtained leave to offer the following resolution:

Resolved, That the Secretary of the Interior be requested to inform this House how much of the appropriation recently made by Congress for the purchase of cotton seed for distribution among the people has been expended, in what manner the expenditure has been made, what amount of cotton seed has been procured, and why no distribution of the same has been made; that he further inform the House what number of agents have been employed to procure said seed, who said agents are, and how much of said appropriation each of said agents has received, or is to receive, for such service.

Mr. VALLANDIGHAM. I move to amend by substituting the word "directed" for the word "requested."

Mr. WILSON. I accept the amendment.

The resolution, as modified, was adopted.

MESSAGE FROM THE SENATE.

A message was received from the Senate, announcing that the Senate insisted on its amendments disagreed to by the House to the Post Office appropriation bill, asked a committee of conference on the same, and had appointed Messrs. COLLAMER, HOWE, and LATHAM, such committee on the part of the Senate.

GENERAL BANKRUPT LAW.

The SPEAKER announced the business in order to be the motion made by the gentleman from New York, [Mr. ROSCOE CONKLING,] on Monday last, to suspend the rules to enable him to move to make the bill (H. R. No. 387) to establish a uniform system of bankruptcy in the United States, a special order.

Mr. ROSCOE CONKLING. I ask the indulgence of the House that I may make a statement from the committee in respect to the vote about to be taken.

Mr. WASHBURNE. I object.

Mr. ROSCOE CONKLING. I do not know exactly the purpose of the gentleman from Illinois in objecting.

Mr. WASHBURNE. I call the gentleman to order.

The SPEAKER. No debate is in order on a motion to suspend the rules.

Mr. WASHBURNE. I move to postpone the consideration of this bill till the fourth Wednesday in December next.

Mr. ROSCOE CONKLING. I raise the question of order that the motion of the gentleman from Illinois is not in order. This bill was reported on Monday last, the House consenting. It is therefore before the House. A proposition was then made to make the bill a special order. That was objected to, on which a motion was made to suspend the rules. That motion must be first acted on.

The SPEAKER. The Chair sustains the point of order. The House must first act on the motion to suspend the rules. After that is disposed of the motion of the gentleman from Illinois will be in order.

Mr. ROSCOE CONKLING. I call for the yeas and nays on the motion to suspend the rules.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 56, nays 48; as follows:

YEAS—Messrs. Aldrich, Arnold, Ashley, Baxter, Bea-

man, Bingham, Francis P. Blair, Samuel S. Blair, Blake, Casey, Colfax, Frederick A. Conkling, Roscoe Conkling, Delano, Diven, Duell, Edwards, Fessenden, Franchot, Frank, Granger, Harrison, Hooper, Hutchins, Julian, Kelley, Francis W. Kellogg, Lansing, Leary, Lehman, Lovejoy, McKnight, Noell, Olin, Pendleton, Perry, Pike, Potter, John H. Rice, Riddle, Sedgwick, Shellabarger, Sloan, Smith, Spaulding, John B. Steele, Stratton, Train, Trowbridge, Van Horn, Van Valkenburgh, Verree, Voorhees, Ward, Whaley, and Windom—56.

NAYS—Messrs. Allen, Alley, Ancona, Babbitt, Joseph Baily, Baker, George H. Browne, William G. Brown, Buffinton, Calvert, Chamberlin, Cox, Dawes, Dunlap, Dunn, Eliot, Grider, Hickman, Holman, Johnson, Killinger, Knapp, Lazear, McPherson, Mallory, Menzies, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Noble, Patton, Porter, Alexander H. Rice, Sargent, Shanks, Sheffield, Benjamin F. Thomas, Vallandigham, Wadsworth, Wallace, E. P. Walton, Washburne, Albert S. White, Chilton A. White, Wickliffe, Wilson, and Worcester—48.

So (two thirds not voting in favor thereof) the rules were not suspended.

During the vote,

Mr. STRATTON stated that his colleague, Mr. NIXON, had gone home in consequence of sickness in his family.

Mr. WASHBURNE. I now make the motion that the further consideration of this bill be postponed till the third Wednesday in December next; and on that I move the previous question.

The previous question was seconded, and the main question ordered.

Mr. ROSCOE CONKLING demanded the yeas and nays on the motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 67, nays 50; as follows:

YEAS—Messrs. Allen, Ancona, Ashley, Babbitt, Joseph Baily, Baker, Bingham, George H. Browne, Buffinton, Calvert, Campbell, Chamberlin, Clements, Covode, Cox, Crittenden, Dawes, Dunlap, Dunn, Eliot, Fenton, Grider, Hall, Harding, Harrison, Hickman, Holman, Johnson, Julian, Killinger, Knapp, Lazear, Loomis, McPherson, Mallory, Menzies, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Morris, Noble, Patton, Porter, Potter, Richardson, Edward H. Rollins, James S. Rollins, Sargent, Shanks, Sheffield, Shiel, William G. Steele, Vallandigham, Van Horn, Verree, Voorhees, Wadsworth, Wallace, E. P. Walton, Washburne, Albert S. White, Chilton A. White, Wickliffe, Wilson, Woodruff, and Worcester—67.

NAYS—Messrs. Aldrich, Alley, Arnold, Baxter, Beaman, Francis P. Blair, Samuel S. Blair, Blake, Casey, Colfax, Frederick A. Conkling, Roscoe Conkling, Delano, Diven, Duell, Edwards, Fessenden, Franchot, Frank, Granger, Hooper, Hutchins, Kelley, Francis W. Kellogg, Lansing, Leary, Lovejoy, McKnight, Olin, Pendleton, Perry, Pike, Alexander H. Rice, John H. Rice, Riddle, Sedgwick, Shellabarger, Sloan, Smith, Spaulding, John B. Steele, Stratton, Benjamin F. Thomas, Train, Trowbridge, Van Valkenburgh, Ward, Whaley, Windom, and Wright—50.

So the bill was postponed till the third Wednesday in December next.

During the vote,

Mr. PIKE stated that his colleague, Mr. GOODWIN, was detained from the House by sickness in his family.

Mr. FENTON repeated the statement that his colleagues, Messrs. CLARK and WHEELER, were detained from the House in consequence of sickness in Mr. CLARK's family.

Mr. WASHBURNE moved to reconsider the vote by which the bill was postponed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

THE CAPITOL EXTENSION.

Mr. TRAIN. I ask unanimous consent to report back from the Committee on Public Buildings and Grounds the joint resolution (S. No. 50) transferring the supervision of the Capitol extension and the erection of the new dome to the Department of the Interior.

Mr. McPHERSON. I will not object, if the gentleman from Massachusetts will allow me to offer an amendment to the bill when it comes before the House.

Mr. RICHARDSON. I object.

Mr. TRAIN. I move to suspend the rules.

Mr. COVODE. I desire to state that this matter has been before the committee——

The SPEAKER. The motion is not debatable.

Mr. COVODE. I wish to state for the information of the House——

The SPEAKER. No statement is in order except by unanimous consent.

Mr. RICHARDSON. I withdraw the objection.

Further objection was made.

Mr. WASHBURNE. I ask for the reading of the joint resolution.

The joint resolution was read. It transfers the supervision of the Capitol extension and the erection of the new dome from the War Department to the Department of the Interior, and directs that all unexpended money which has been heretofore appropriated, and all money which may be hereafter appropriated for either of these improvements, shall be expended under the direction and supervision of the Secretary of the Interior.

The question being on the motion to suspend the rules,

Mr. TRAIN called for tellers.

Tellers were ordered; and Messrs. TRAIN and CHAMBERLIN were appointed.

The House divided; and the tellers reported—ayes 54, noes 26; no quorum voting.

Mr. TRAIN called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 71, nays 29, as follows:

YEAS—Messrs. Aldrich, Alley, Ashley, Babbitt, Baker, Baxter, Beaman, Bingham, Francis P. Blair, William G. Brown, Buffinton, Calvert, Campbell, Casey, Chamberlin, Clements, Colfax, Dawes, Delano, Diven, Dunlap, Dunn, Fenton, Fessenden, Franchot, Frank, Granger, Hale, Hall, Harding, Hutchins, Julian, Killinger, Lansing, Law, Lazear, Leary, McKnight, Mallory, Mitchell, Morris, Noble, Noell, Patton, Perry, Pike, Potter, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, Sedgwick, Shanks, Sheffield, Shiel, Sloan, Smith, Spaulding, John B. Steele, Benjamin F. Thomas, Train, Van Horn, Verree, Ward, Whaley, Albert S. White, Chilton A. White, Windom, Woodruff, Worcester, and Wright—71.

NAYS—Messrs. Allen, Ancona, Joseph Baily, Samuel S. Blair, Frederick A. Conkling, Roscoe Conkling, Grider, Harrison, Hickman, Kelley, Kerrigan, Knapp, Lovejoy, McPherson, Moorhead, Pendleton, Porter, Richardson, James S. Rollins, Sargent, William G. Steele, Stratton, Trowbridge, Vallandigham, Van Valkenburgh, Wadsworth, Washburne, Wickliffe, and Wilson—29.

So the rules were suspended, (two thirds having voted therefor.)

Mr. TRAIN thereupon reported the joint resolution back to the House.

The SPEAKER stated the question to be upon ordering the joint resolution to a third reading.

Mr. TRAIN. This resolution was reported unanimously from the Committee on Public Buildings and Grounds of the Senate, and it passed that body, after full discussion, with but three dissenting votes. That discussion has been printed in the Globe, and I suppose everybody understands it. Unless, therefore, somebody desires to discuss it, I will ask the previous question on the third reading of the joint resolution.

Mr. McPHERSON. With the consent of the gentleman, I desire to say a very few words upon the subject of the joint resolution. Now, sir, I have no objection to the new dome of the Capitol being completed, nor do I object to the expenditure of whatever money may be necessary to protect the work on the Capitol generally from injury by the elements.

The feature of the bill to which I do object, however, is that which makes an absolute and unconditional transfer of the superintendence of the whole work from the President, where it was originally placed and has since remained, to the Secretary of the Interior.

When the first appropriation was made for commencing the work on the two wings, it was provided that it should be done under the general superintendence of the President of the United States. Accordingly, Mr. Fillmore, who was then President, turned it over to the head of the Interior Department. It remained under his superintendence probably for two years, when Congress made provision for investigating the condition of the work, and the report of the committee which was appointed for that purpose showed such frauds as to challenge the attention of Congress and the country.

Upon the accession of Mr. Pierce to the Presidency the work was transferred by him from the Interior to the War Department, with a view of having the entire work placed under an officer of the engineer corps. Since that time the general superintendence of the work has continued in the War Department by the consent and direction of the President of the United States.

But the difficulty to remedy which this resolution is intended, as I understand, is the unwillingness of General Meigs, who has had charge of the work, to go on and complete the dome. Now, I am willing to pass any provision that may be necessary to require the completion of the dome, and for doing whatever may be necessary to protect the whole building from damage, but I am opposed to taking the general supervision of the work out of the hands of the President and placing it in the hands of any of the heads of Departments. It is a thing which never has been done before, and I think for the sake of safety should not be done now.

The general idea I had upon this subject, I had embodied in the shape of an amendment to this effect: that the President be requested to order the resumption of work on the new dome of the Capitol, and the expenditure of so much of the appropriations for that purpose as may be necessary to complete it; and to order such other work as may be necessary to protect the Capitol building from injury by the elements; and that he make all appointments and arrangements necessary therefor. That would leave the responsibility with the President, where it always has been, and where, I think, it ought to be. I submit that amendment as a substitute for the joint resolution.

Mr. TRAIN. I decline to yield the floor for that purpose.

Mr. McPHERSON. Then I hope the resolution will be defeated.

Mr. COVODE. With the consent of the gentleman from Massachusetts, I think I can satisfy my colleague [Mr. McPHERSON] that the President never has taken the control of this work. On the contrary, when Jeff Davis was Secretary of War he asserted the control of this and of all the public buildings, without consulting either the President or the Secretary of the Interior.

Mr. McPHERSON. If my colleague will allow me, I will say that he is entirely mistaken in that statement. I have had occasion to make some investigation into the matter. I have in my possession, and I am sorry that it is not before me at this moment, a report in which may be found the original order of President Pierce, dated, I think, in May, 1853, transferring the work on the Capitol extension from the Interior to the War Department, giving as a reason therefor that it was to be placed in charge of a regular officer of the engineer corps, and for the reason that while the work was under the charge of a civil superintendent monstrous frauds were committed.

Mr. COVODE. In answer to the gentleman on that point, he certainly must have become satisfied, if he has examined the subject, that there have been as great frauds since it has been in the hands of the War Department.

The only objection I had to the passage of this bill in its present shape was, that I was authorized by the Committee on Public Expenditures to report a resolution for the transfer, not only of this building, but of all the public buildings and the water works, from the War to the Interior Department. Inasmuch, however, as this resolution would have to go back to the Senate, if amended as the Committee on Public Buildings and Grounds propose, I will not interpose any objections to its passage, but leave the remainder of the work to be accomplished by another bill.

Mr. WICKLIFFE. I should like to say a single word upon the subject of this resolution. The work on this Capitol was by some order or other—I do not understand precisely what—placed under the superintendence of General Meigs, then a captain in the engineer corps of the Army. About the time Floyd commenced the distribution of cannon and arms, he fell out with Meigs, and he was in the act of removing him from his position as superintendent, when an appropriation was made by Congress to continue the work on the Capitol, with the requirement that it should be expended under the superintendence of General Meigs. To get clear of that requirement, and to get clear of the vigilance Meigs was exercising over him, Floyd sent him down to Florida among the musquitoes, and placed the superintendence of the work under somebody else.

After Floyd had distributed nearly all the arms in the possession of the Government, and had retired from the War Department, Meigs was recalled and again placed in charge of the work assigned to him by Congress.

Mr. WRIGHT. And he has done nothing on the Capitol since.

Mr. WICKLIFFE. And he ought to do nothing at this time. Let us take care of the country first and finish the Capitol afterwards.

Mr. McKNIGHT. I cannot see why there should be any objection upon the part of any person in this House to this resolution. Something certainly should be done to secure more efficient operations in the completion of the Capitol.

Now, the building of those new wings of the Capitol was originally placed under the control of the Interior Department; but I understand—and I confess that I have learned nearly all I know about the matter from listening to the remarks of the Senator from Vermont, [Mr. FOOT,] who seemed to be entirely familiar with the facts when the resolution was under the consideration of the Senate—I say, I understand that a contract was originally entered into by the Interior Department for the building of the new wings for something like $2,500,000.

But, as was stated by my colleague on the committee, when Mr. Pierce was President of the United States, he transferred the building of the wings of the Capitol to Jeff Davis, the then Secretary of War. Since General Meigs has been the superintendent, the cost of this work has run up to $7,000,000. It has therefore, sir, cost more to the Government under the War Department superintendency than it would if the work had been retained under the control of the Interior Department. How, then, with any good reason, can the gentleman ask that this work shall still be left with the War Department? It would seem that this is to be kept as a nest-egg for General Meigs after this war is over. I put it to the House, sir, whether General Meigs, the Quartermaster General, has not his hands full without being compelled to superintend the construction of this and other public works? I beg leave to call the attention of the House to a few statements made in the Senate by Senator FOOT, of Vermont. I read from his speech:

"I have been here in the Senate, Mr. President, as well as yourself, from the commencement of this work, and profess to know something about it, and of the manner in which it has been conducted. The original estimate of the cost of these extensions, upon the plan then approved and adopted, was but $2,675,000. Permit me to present this point a little more in detail. The first appropriation for the Capitol extension was made in September, 1850, in the following words:

"'One hundred thousand dollars for the extension of the United States Capitol, to be expended under the direction of the President, by such architect as he may appoint.'

"Nothing was said about ever putting it under the superintendency of the War Department. No one at that time dreamed of placing it under such a superintendency. In pursuance of this act, Mr. Fillmore appointed Thomas U. Walter, of Philadelphia, a gentleman of the highest eminence in his profession, as the architect, and placed the work under the jurisdiction and general supervision of the Department of the Interior. Upon the accession of Mr. Pierce to the Presidency, and the appointment of Jefferson Davis as Secretary of War, the superintendency of this work was immediately transferred from the Interior Department to the Department of War, and an officer of the Army was detailed to take it in charge. This transfer was made on the 4th of April, 1853, at which time all the foundations of the building were completed, and a part of the basement story erected. Immediately after the transfer of the work from the Interior Department to the Department of War, the Secretary of War, or the superintendent, by his direction, ordered the architect to change the original plans of the building, so as to remove the halls of Congress from the western fronts to the center of the wings. This necessarily involved the construction of additional foundations at vast expense, and of an indefinite delay in the completion of the work. He also ordered the introduction into the plans of four grand stairways, to be constructed of fancy polished marble, and also the construction of a marble corridor, extending through the southern wing; and other material and expensive changes were ordered. So that it appears, from an estimate submitted to Congress in 1856, the total cost of the building was estimated at $5,510,000, of which $2,675,000 had then been appropriated, requiring $2,835,000 still to be appropriated in order to complete the work upon the changed plans—*the military plans, the Jefferson Davis plans.* But instead of this sum being sufficient, there have been appropriated $3,606,000, or $771,000 more than this estimate, and to which there must be added at least $1,000,000 more, in order to bring the work to completion."

The Senator goes on then to give a statement of the appropriations made from year to year. They are not necessary to be recited here, however.

Now, I am willing—and I think that this House would be willing—since an appropriation has been made for the completion of the Capitol, that we should go on and complete it as far as that sum will do it. But the Senate has seen fit, on motion of Senator SHERMAN, to put a restriction upon the appropriation, that only so much shall be used as will finish the dome and protect the cornices from the inclemency of the weather. That precludes the completion of the staircases under this appropriation, and for one I would be willing to finish them. I would vote, also, the sum necessary to complete the dome. Any gentleman who passes through the dome after a snow or rain storm, will see the injury that will be the result if the dome is left in its present unfinished condition. The walls are damp, the pictures are damp, and the floor is covered with water. Let us put the work in the hands of some one who can go on at once and finish the dome, which General Meigs certainly cannot do. Therefore I sincerely hope that this House will concur in the resolution of the Senate.

I do not know why it is that gentlemen are uneasy about the transfer of the superintendency of this work to the Interior Department. I take it for granted that there is no officer there who ought not to be trusted, and if there is, he ought to be removed.

I will state a further fact. The capitals and columns ready to be put up are every day being mutilated by strangers and soldiers who visit the city. They knock off cornices and put them into their pockets to carry away with them as memorials of their trip to Washington. I think that all these capitals ought to be put up. Let us at least pass this resolution, and protect this building, which has cost us so much, from the inclemencies of the weather.

Mr. TRAIN. Mr. Speaker, I have no quarrel, as the gentleman from Kentucky would seem to intimate, with General Meigs. The gentleman looks upon this resolution as a blow at General Meigs. Now, I have nothing against that officer; but, sir, for some reason or other, he declines to take any action in regard to the suggestions made to him by the committees of both branches of Congress for the protection of this building from the weather. He has more business already than any two men should undertake, yet he will not enter an order or give a direction to allow anything to be done to preserve this building from destruction. The chairman of the committee on the part of the Senate and myself went during the extra session in July, and twice during this session, to ask him to permit Mr. Fowler to put up the iron which is rusting and wasting in the Capitol grounds; but, for some reason, he declines to do so. The Secretary of War agrees that the committees are right, but he declines to give the order to General Meigs, because he has now more business than he can attend to already. They cannot answer questions, much less attend to this business, at the War Department. And in the mean time this work, which originally was under the control of Mr. Walter, one of the most eminent architects in the country, is to remain in the condition in which you find it to-day. Shall that be permitted, or shall it be saved from destruction?

I do not desire to go through the history of this matter; gentlemen will find it all in the Globe. The chairman of the committee on the part of the Senate has stated it with great particularity. But I do desire to call attention to the fact that all this proposition designs is the completion of the dome, for which the money has already been appropriated. The iron is at hand, and it ought to be put up. The mechanical works necessary to carry on the work are exposed to the weather, and if we allow a continuance of delay under the superintendency of General Meigs, until the close of the war, we will find these works rotted down, and that new ones will have to be constructed at an expense of thousands of dollars. Everything is ready for the completion of the dome now, and I say that it ought to be completed.

Mr. BLAIR, of Missouri. Would not the adoption of the amendment of the gentleman from Pennsylvania [Mr. MCPHERSON] accomplish the purpose which the gentleman has in view?

Mr. TRAIN. I have not seen it.

Mr. BLAIR, of Missouri. It directs the President to order the work on the dome to be proceeded with, and that the building shall be preserved from dilapidation.

Mr. TRAIN. The President does not wish to be troubled with the work of completing the Capitol, for he has enough to attend to already. The Interior Department ought properly to have the control of this work.

Mr. MCKNIGHT. Let me ask the gentleman from Massachusetts whether General Meigs has not now, in addition to his duties as Quartermaster General, the superintendency of the construction of the water works and the extension of the Treasury building?

Mr. TRAIN. He has the control of the water works and the extension of the Post Office building. Now, the water works will tumble in before this war is over, and then we will have to begin again unless the work is transferred from the hands of General Meigs to those of somebody who can attend to it. He has a laudable ambition to distinguish himself by the completion of all of these works. It would be a nice little entertainment for the decline of his life. But in the mean time are we to suffer loss because he will not allow Mr. Walter, who has far more judgment and capacity than General Meigs, to complete the dome?

Mr. WRIGHT. Are not the Senate and House committees in favor of this transfer to the Interior Department?

Mr. TRAIN. They are, unanimously.

Mr. WRIGHT. That satisfies me; and I am willing to sustain the committees. I think that this work belongs to the Secretary of the Interior, and it is proper that we should give him the control of it.

Mr. TRAIN. If gentlemen would go about this building on such a day as Saturday last, after a fall of snow, and see the water permeating into the committee-rooms and into the halls, and everywhere else where the water could find a crevice, they would be satisfied that something should be done to preserve the building from going to decay. I agree with my colleague on the committee from Pennsylvania, [Mr. MCKNIGHT,] that the best thing we could do would be to order this Capitol completed at once; and that under the control of Mr. Walter it would be completed for much less money than it could be under any Army officer you could appoint. My experience with these gentlemen of the engineer corps is, that they are very excellent engineers, and that they can disburse money very readily, but that they have no idea of economy in expenditures. I call the previous question.

The previous question was seconded, and the main question ordered to be put, and under the operation thereof the resolution was ordered to be read a third time; and it was accordingly read the third time.

Mr. TRAIN. I demand the previous question upon the passage of the resolution.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the resolution was passed.

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

The latter motion was agreed to

OPINIONS OF ATTORNEYS GENERAL.

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

Resolved, That the President of the United States be requested to have prepared and to communicate to this House, at the commencement of the next session, all the opinions of the Attorneys General of the United States delivered since the date of the last of said opinions published by authority of Congress, which give construction to public laws not of a temporary character.

CONSTRUCTION OF A SHIP CANAL.

Mr. BLAIR, of Missouri. I ask the unanimous consent of the House to report back from the Committee on Military Affairs, a bill (H. R. No. 288) for constructing a ship canal for the passage of armed and naval vessels from the Mississippi river to Lake Michigan, and for other purposes.

Mr. COX objected.

Mr. BLAIR, of Missouri. I move to suspend the rules for that purpose.

Mr. COX. I withdraw my objection.

Mr. VALLANDIGHAM. I renew it.

Mr. BLAIR, of Missouri. I move to suspend the rules.

Mr. WASHBURNE. I demand tellers.

Tellers were not ordered.

On a division, no quorum appearing to have voted—

Mr. WASHBURNE. I rise to a question of order. I ask that the bill be reported, as no quorum seems to have voted, and gentlemen do not appear to know what the bill is.

The bill was read *in extenso*.

Mr. BLAIR, of Missouri, demanded the yeas and nays upon a suspension of the rules, and called for tellers on the yeas and nays.

Tellers were ordered; and Messrs. HICKMAN and ANCONA were appointed.

The House divided; and the tellers reported—ayes forty-one, noes not counted.

So the yeas and nays were ordered.

The question was put; and there were—yeas 59, nays 48; as follows:

YEAS—Messrs. Aldrich, Alley, Arnold, Ashley, Babbitt,

Joseph Baily, Baxter, Beaman, Bingham, Francis P. Blair, George H. Browne, Buffinton, Calvert, Campbell, Casey, Clements, Colfax, Covode, Dunlap, Dunn, Edwards, Eliot, Fessenden, Franchot, Granger, Grider, Hall, Julian, Francis W. Kellogg, Kerrigan, Knapp, Lansing, Lehman, Mallory, Menzies, Justin S. Morrill, Olin, Patton, Perry, Potter, Price, Alexander H. Rice, Richardson, Riddle, Edward H. Rollins, James S. Rollins, Sargent, Sedgwick, Sloan, Spaulding, John B. Steele, Stratton, Van Horn, Ward, Washburne, Wilson, Windom, Woodruff, and Wright—59.

NAYS—Messrs. Allen, Ancona, Baker, Samuel S. Blair, William G. Brown, Chamberlin, Frederick A. Conkling, Roscoe Conkling, Cox, Delano, Diven, Fenton, Frank, Gooch, Hale, Harding, Harrison, Hickman, Holman Hutchins, Kelley, Killinger, Law, Lazear, Loomis, McKnight, Mitchell, Moorhead, Anson P. Morrill, Morris, Noble, Pendleton, Pike, Porter, John H. Rice, Sheffield, Shellabarger, Benjamin, F. Thomas, Trowbridge, Vallandigham, Van Valkenburgh, Verree, Wallace, E. P. Walton, Albert S. White, Chilton A. White, Wickliffe, and Worcester—48.

So (two thirds not voting in favor thereof) the rules were not suspended.

Pending the call,

Mr. WASHBURNE stated that Mr. LOVEJOY was suddenly called out of the House.

POST OFFICE APPROPRIATION BILL, ETC.

Mr. MORRILL, of Vermont. I ask the unanimous consent of the House to take from the Speaker's table the bills, returned from the Senate, making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1863; and the bill making appropriations for the naval service during the year ending 30th June, 1863, and additional appropriations for the year ending June 30, 1862, with a view to insist upon our disagreement to the Senate amendments thereto, and to appoint committees of conference thereon.

No objection being made, the said bills were severally taken from the table.

On motion of Mr. MORRILL, of Vermont, the House insisted upon its disagreements to the Senate amendments to said bills, and agreed to the committees of conference asked by the Senate thereon.

COMPENSATION OF DISTRICT ATTORNEYS.

Mr. THOMAS, of Massachusetts. I ask the unanimous consent of the House to take from the Speaker's table Senate bill No. 166, to regulate the compensation of district attorneys.

No objection being made, the bill was taken up, read a first and second time, and referred to the Committee on the Judiciary.

EMANCIPATION OF SLAVES.

Mr. WALTON, of Vermont, from the Committee on Printing, reported the following resolution:

Resolved, That there be printed for the use of the House ten thousand extra copies of the message of the President of the United States in relation to the emancipation of slaves by the States, together with the joint resolution declaring that the United States ought to coöperate with, and afford pecuniary aid to, any State which will adopt the gradual abolition of slavery.

Mr. WALTON, of Vermont. I will simply say that there is a great demand for these documents, and specially from the border States. The printing will cost, perhaps, fifty dollars.

The resolution was agreed to.

ESTABLISHMENT OF UNITED STATES ARMORY.

Mr. WALLACE, of Pennsylvania. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the joint resolution of the House No. 42.

Mr. WASHBURNE. Will the gentleman from Pennsylvania be good enough to explain what that resolution is?

Mr. WALLACE, of Pennsylvania. It is the resolution from the select committee providing for the establishment of an armory.

Mr. WASHBURNE. I would like to have it read before the vote is taken.

The SPEAKER. The Chair thinks that has nothing to do with the motion to suspend the rules. The Committee of the Whole will determine for themselves what they will consider when in committee.

The motion to suspend the rules was not agreed to.

Mr. MOORHEAD. I now move that the Committee of the Whole on the state of the Union be discharged from the further consideration of that joint resolution.

The title of the resolution was read, as follows:

Joint resolution providing for the establishment of a national foundery east of the Alleghany mountains, and a national foundery, a national armory, and a manufacturing arsenal west of that line, and in the valley of the Ohio and Mississippi.

Mr. OLIN. Before the motion is put I desire to know whether discharging the Committee of the Whole will preclude the discussion of that measure.

The SPEAKER. If the resolution is brought before the House it will be subject to the rules of the House.

Mr. DELANO. I would inquire if that resolution will not involve an expenditure of $5,000,000?

Mr. MALLORY. I rise to a question of order. Does not the resolution make an appropriation?

The SPEAKER. The Chair does not know. A two-third vote would dispense with the necessity of considering it in the Committee of the Whole on the state of the Union, if it did.

The resolution, which was read, provides that there shall be established within the United States, one national foundery east of the Alleghany mountains, and also one national foundery, one national armory, and one manufacturing arsenal west of the Alleghany mountains, and in the valley of the Ohio and Mississippi, and that to that end a commission of five citizens be appointed by the President to locate said founderies, armory, and arsenal, who shall, within sixty days from the time of their appointment, report to the Secretary of War. And that the Secretary of War, upon the incoming of the report of said commission, shall report the same to Congress, together with an estimate of the amount necessary to the establishment of said founderies, armory, and arsenal; and that there be appropriated for the expenses of said commission the sum of $5,000.

Objection being made,

Mr. MOORHEAD moved to suspend the rules, and demanded the yeas and nays upon the motion.

The yeas and nays were ordered.

The question was put; and there were—yeas 59, nays 45; as follows:

YEAS—Messrs. Aldrich, Ancona, Arnold, Ashley, Joseph Baily, Baker, Baxter, Beaman, Bingham, Francis P. Blair, Samuel S. Blair, Campbell, Casey, Chamberlin, Clements, Colfax, Covode, Dunn, Edwards, Fessenden, Franchot, Granger, Grider, Hale, Hutchins, Julian, Kerrigan, Killinger, Knapp, Lansing, Lazear, Lehman, McKnight, McPherson, Mitchell, Moorhead, Patton, Pendleton, Porter, Potter, Price, Richardson, Riddle, Edward H. Rollins, James S. Rollins, Sargent, Sedgwick, Shanks, Shellabarger, Sloan, Spaulding, Stratton, Vallandigham, Verree, Wallace, Washburne, Wilson, Windom, and Wright—59.

NAYS—Messrs. Allen, Alley, Buffinton, Frederick A. Conkling, Roscoe Conkling, Cox, Dawes, Delano, Diven, Eliot, Fenton, Frank, Hall, Harding, Harrison, Hickman, Holman, Hooper, Francis W. Kellogg, Law, Loomis, Mallory, Anson P. Morrill, Justin S. Morrill, Morris, Noble, Odell, Olin, Pike, Alexander H. Rice, John H. Rice, Sheffield, Smith, John B. Steele, William G. Steele, Benjamin F. Thomas, Train, Trowbridge, Van Valkenburgh, Wadsworth, E. P. Walton, Albert S. White, Chilton A. White, Wickliffe, and Worcester—45.

So the rules were not suspended.

During the call,

Mr. BLAIR, of Pennsylvania, stated that Mr. BLAKE was detained from the House by illness.

MEDICAL CORPS OF THE ARMY.

A message from the Senate, by Mr. FORNEY, their Secretary, announced to the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 188) to increase the efficiency of the medical department of the Army.

USEFUL ARTS.

Mr. DUNN. I ask the unanimous consent of the House to report back from the Committee on Patents the bill (H. R. No. 365) to amend the act, entitled "An act to promote the progress of the useful arts."

Mr. ALLEY objected.

Mr. DUNN. I move to suspend the rules so as to enable me to make the report.

The question was taken, and the rules were not suspended; two thirds not voting in favor thereof.

Mr. DUNN. I ask then that the substitute may be printed.

There was no objection, and it was so ordered.

ENROLLED BILL SIGNED.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (S. No. 108) for the release of certain persons held to service or labor in the District of Columbia.

SANDERSON'S BREECH-LOADING CANNON.

Mr. WRIGHT. I ask the unanimous consent of the House that the Committee of the Whole on the state of the Union be discharged from the further consideration of joint resolution No. 30, authorizing the Secretary of War to test Sanderson's breech-loading cannon, and that the House proceed to its consideration. I hope the House will consider it. It appropriates but a small sum and is recommended by the War Department.

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

The motion was agreed to; and thereupon (at twenty-seven minutes after three o'clock, p. m.,) the House adjourned.

IN SENATE.

TUESDAY, *April* 15, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

PETITIONS.

Mr. WILKINSON. I present the petition of Theron Parsons and a number of others, citizens of Mankato, Blue Earth county, Minnesota, praying Congress "that, in accordance with the declared objects of the Constitution, to establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to the people of the United States and their posterity; and especially at the present time, to preserve the Constitution and the Union, by suppressing the rebellion," to "provide, by law for calling on all the inhabitants of the United States, of all conditions, bond and free, to aid in the support of the Government, assured of its protection, under the flag of our national Union and freedom—and for proclaiming 'liberty throughout all the land, unto all the inhabitants thereof.'" I ask that it lie on the table.

It was so ordered.

Mr. POWELL presented a petition of citizens of Kentucky, praying for the establishment of a mail route from Lancaster to Crab Orchard, in that State; which was referred to the Committee on the Post Office and Post Roads.

REPORTS FROM COMMITTEES.

Mr. CLARK, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 189) for the survey of grants or claims of land, reported it with an amendment.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred the bill (H. R. No. 287) to establish a branch of the Mint of the United States at Denver, in the Territory of Colorado, reported it without amendment.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred the amendment of the House of Representatives, to the bill (S. No. 178) to incorporate the Washington and Georgetown Railway Company, reported it with amendments; which were ordered to be printed.

POST ROUTES IN MISSOURI.

Mr. WILSON, of Missouri, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a post route from Rochester, via Empire, Prairie, Douglas, Island City, Mount Pleasant, Hugginsville, to Smithton, Worth county, Missouri; and also a post route from Smithton, Missouri, to Mount Air, Iowa.

NAVAL APPROPRIATION BILL.

The PRESIDENT *pro tempore* appointed Mr. HALE a member of the committee of conference on the part of the Senate on the disagreeing votes of the two Houses on the bill (H. R. No. 242) making appropriations for the naval service for the year ending 30th of June, 1863, and additional appropriations for the year ending 30th of June, 1862, in the absence of Mr. THOMSON.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced that the House had passed the joint resolution (S. No. 50) transferring the supervision of the Capitol extension and the erection of the new dome to the Department of the Interior.

The message also announced that the House

had insisted upon its disagreement to certain amendments of the Senate to the bill (H. R. No. 259) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1863, insisted on by the Senate, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Messrs. JUSTIN S. MORRILL of Vermont, SCHUYLER COLFAX of Indiana, and AARON A. SARGENT of California, managers at the same on its part.

The message also announced that the House had insisted upon its disagreement to certain amendments of the Senate to the bill (H. R. No. 242) making appropriations for the naval service for the year ending 30th of June, 1863, and additional appropriations for the year ending 30th of June, 1862, insisted on by the Senate, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. JUSTIN S. MORRILL of Vermont, Mr. JAMES K. MOORHEAD of Pennsylvania, and Mr. EDWARD H. ROLLINS of New Hampshire, managers at the same on its part.

ELECTORS IN WASHINGTON AND GEORGETOWN.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 271) prescribing the qualification of electors in the cities of Washington and Georgetown, in the District of Columbia; which was read twice by its title.

Mr. GRIMES. This bill, although not before presented and referred to the Committee on the District of Columbia, has been considered by that committee at a full session, and I am instructed by the unanimous vote of the whole committee to ask for its present consideration.

Mr. CARLILE. Has the bill been printed?

Mr. SAULSBURY. I object to it.

The PRESIDENT *pro tempore*. The Chair is advised that it is not printed. Does the Senator from Delaware object to the present consideration of the bill?

Mr. SAULSBURY. Yes, sir.

The PRESIDENT *pro tempore*. Objection being made, it will lie over under the rule.

PEDRO CHABOYA.

Mr. BAYARD. I ask the Senate to take up a private bill which I reported some two weeks ago. I have no particular interest in the bill; but as I reported it, I feel it my duty to call it to the attention of the Senate. It is for the relief of a party in California, merely to enable his case to be heard on its merits, where, I think unjustly, it has been technically decided against him on the ground of jurisdiction. The case will speak for itself, however, when the bill and the report which accompanies it are read.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 106) to authorize the Supreme Court of the United States to adjudicate and decide upon its merits the case now pending therein of Pedro Chaboya against the United States, which had been reported from the Committee on the Judiciary with an amendment in the form of a substitute.

The Secretary proceeded to read the original bill.

Mr. BAYARD. It is hardly worth while to read the original bill. The amendment can be read. The only difference consists in this: the object of the original bill is to give jurisdiction to the Supreme Court to try the cause, which we considered unconstitutional; but the bill, as amended, authorizes the case to be heard on its merits in the district court of the United States for the northern district of California, subject to an appeal. If the amendment is read, it will explain exactly the bill before the Senate.

The PRESIDENT *pro tempore*. The reading of the original bill will be omitted, and the amendment proposed by the committee will be read.

The Secretary read the amendment, to strike out all of the preamble and the bill after the enacting clause, and to insert the following in lieu thereof:

That the district court of the United States for the northern district of California be, and is hereby, authorized and required to hear and decide upon the merits of the claim of Pedro Chaboya to a tract of land described in his amended petition, filed in said court on the 15th day of June, 1857, and called La Posa de San Juan Bautista, in the same manner and with the same jurisdiction as if the claim to the said tract of land had been duly presented to the board of land commissioners under the provisions of the act entitled "An act to ascertain and settle the private land claims in the State of California," approved March 3, 1851, and an appeal had been duly taken from their decision to the said district court by the said Chaboya.

SEC. 2. *And be it further enacted*, That on the said hearing the testimony heretofore taken in said court in relation to the said claim on behalf of the said claimant, or of the United States, may be read, subject to all just exceptions to its competency, and additional testimony on either part may be taken under the direction and order of said court as to the validity of said claim or the extent thereof.

SEC. 3. *And be it further enacted*, That an appeal may be taken from the final decision and decree of said district court to the Supreme Court of the United States by either party in accordance with the provisions of the tenth section of the said act of March 3, 1851.

Mr. BAYARD. The Senate are entitled to know the basis of the bill before they are called upon to pass it, and as the report is not a long one and gives the case much better than I can state it briefly, I will read that portion of it which states the facts of the case, and the Senate will see whether it is not proper that the bill should be passed:

"The material facts of the case appear to be that the petitioner, a native and resident of California before and at the time it was ceded to the United States by Mexico, was ignorant of our language, and after the passage of the act of March 3, 1851, placed all his papers in the hands of two attorneys in California, one of whom had no knowledge, and the other an imperfect knowledge, of the Spanish language, in order that his claim to a certain tract of land called La Posa de San Juan Bautista might be presented to and confirmed by the board of land commissioners organized under that act.

"The claimant had two claims to distinct and separate tracts of land, apart from each other some twenty miles, but he lived upon and had been in possession of the whole or a part of the tract called La Posa de San Juan Bautista for many years before the cession to the United States. Both his titles were imperfect as legal grants from the Mexican authorities, and owing to a misunderstanding arising from mutual ignorance of their respective languages between the claimant and the attorneys he employed, they presented a petition to the board of commissioners for the tract of land of which he had never had possession, and to which his title was clearly invalid. The attorneys, however, did lay before the commissioners the title papers to both tracts. The commissioners rejected the claim made as invalid, and the claimant duly appealed to the district court. While the appeal was pending in that court the claimant's counsel, on motion and a statement of the error in the description of the land claimed, and proof of the misunderstanding between the claimant and his former attorneys and its cause, obtained an order of the said court for leave to file a supplementary petition as an amendment. This order was made on the 15th of June, 1857, and the amended petition filed on the same day, with the consent of the district attorney of the United States.

"Further evidence was taken as to the possession by the claimant of the tract described and claimed in his amended petition; but no testimony at this stage of the proceedings had been taken or deemed necessary by the agents of the United States. The appeal came on to be heard in the district court in October, 1859, and that court, on the evidence, confirmed the title of the claimant to the tract of land called La Posa de San Juan Bautista, on the 28th day of October, 1859. On the 29th of November following, the acting district attorney, on affidavit filed, asked that the case might be reopened, and on the 30th of the same month of November an order was made by the court reopening the case on terms, and granting leave to the United States to introduce additional testimony within twenty days, 'for the purpose of showing the extent and boundaries of land actually occupied by the claimant, and the quantity and boundaries of the land for which he is entitled to a decree of confirmation under the opinion of the court heretofore rendered in said cause.'—*Record*, p. 24.

"The claimant also had leave to introduce rebutting testimony confined to the same points. Under this order a large number of witnesses were examined on both sides, and further documentary testimony introduced. The case came on to be reheard before the district court in August, 1861, under its order of November 30, 1859, and the attorney of the United States then, for the first time, interposed an objection to the jurisdiction of the court. The objection to the jurisdiction of the court was based on the ground that the order permitting the amended petition to be filed had been improvidently granted, as the tract described in the petition presented to the board of commissioners was entirely separate and distinct from the tract described in the amended or supplementary petition, and not contiguous to it.

"That the authority of the district court was to be exercised in the nature of a review, and that the claim for the tract described in the amended petition not having been presented to the board of commissioners in the petition filed before it within the time limited by the act of March 3, 1851, the land claimed must be deemed part of the public domain. The court on this objection, with reluctance, and after commenting on the case as one of great hardship and clearly calling for legislative interposition, dismissed the petition for want of jurisdiction, and affirmed the decree of the board of commissioners.

"The claimant, by his petition to Congress, asks a legislative confirmation of his claim to a grant of two leagues of land, but this prayer is inadmissible, as the validity of the title and the boundaries of the land claimed are clearly questions of a judicial character.

"The bill which accompanies the petition varies the form of relief, and provides that the case shall be heard on its merits in the Supreme Court, where an appeal is now pending, from the decree of the district court dismissing the petition for want of jurisdiction. This mode of relief seems also inappropriate, as it would be an attempt to confer original jurisdiction on the Supreme Court contrary to the provisions of the Constitution. Your committee are of opinion, however, that the claimant is equitably entitled to such relief as will enable him to try the merits of his claim in the same manner as if it had been originally presented in proper form to the board of land claims within the time limited by the act of March 3, 1851.

"The misunderstanding between the claimant and his attorneys, which caused an error in the description of the tract of land claimed in the petition filed before the land commissioners, would fall under the head of negligence, and to give relief on that ground by legislation would make a dangerous precedent. But in this case it might at least be questioned, as the *expedientes* for both tracts were, in fact, laid before the commissioners, though the petition filed before them described a tract of which the claimant had never had possession, and to which his title was invalid, whether the amendment first allowed by the district court in filing the supplemental petition in June, 1857, was not within the scope of its authority.

"The act of March, 1851, does not require a petition to be filed before the commissioners; but merely provides that every person claiming lands in California, under a Mexican or Spanish title, 'shall present the same to the commissioners, when sitting as a board, with such documentary evidence and testimony of witnesses as the said claimant relies upon in support of such claims.' It is true, in practice a petition was usually, and perhaps always, presented, but the law did not require it.

"The documentary title of the claimant, Chaboya, to both tracts was laid before the commissioners; but no evidence of possession of either tract was produced, and the decision of the commissioners rejects the claim of which confirmation was asked in very general terms.

"An appeal was prayed and filed in due time from this decision.

"It is in the district court alone that the law provides expressly that a petition shall be filed setting forth the nature of the claim, and 'containing a deraignment of the claimant's title.'

"Though it is true that the proceedings in the district court are in the nature of a review, yet the law evidently treats them as a proceeding *de novo*, and allows new testimony to be taken in that court to support a claim on appeal, and therefore, as in this claimant's case, though before the board of commissioners no evidence of possession of either tract was given, and both must have been rejected without such evidence, yet on evidence taken for the first time in the district court the judgment of the commissioners was reversed, on evidence not before them, though the case on appeal was in the nature of a review.

"Be this question, however, of the authority of the district court to allow the amendment made under its order of June 15, 1857, as it may, there can be no doubt that if the agents of the United States meant to insist upon a strict technical construction of the law of 1851, and debar the claimant from a hearing upon the merits in the district court, the objection should, in justice and equity, have been made when the order of June 15, 1857, was applied for. On the contrary, the attorney of the United States made no opposition to that order, and expressly consented that the supplementary petition might be filed under it.

"Great expense was then incurred by the claimant in proving his possession, and even when the case was heard in October, 1859, no objection on the score of jurisdiction was made. After the confirmation by the court, a rehearing was applied for by the United States, but the objection to its jurisdiction was not even then hinted at, and the case was reopened on terms confining the new testimony solely to the extent of possession and the boundaries of the tract claimed. Under this order for rehearing, though the time was limited to twenty days for taking additional testimony, the agents of the United States examined a large number of witnesses and introduced documentary testimony adverse to the validity of the grant, as well as to its extent and boundaries, and the claimant examined many witnesses in reply, and the case lingered on till August, 1861, and then, on the rehearing, the technical objection is for the first time interposed by the attorney of the United States, when it was in no wise dependent on the mass of testimony taken, and ought, if available, to have been made in June, 1857, at the time the supplemental petition was filed, with the consent of the district attorney.

"Under this state of facts, though the court did not consider the objection to its jurisdiction as waived, yet the committee are of opinion there is a clear equity on behalf of the claimant to have his claim tried on its merits, and that it is neither consistent with justice or sound policy on the part of the Government to deprive one of the former inhabitants of California, now a citizen of the United States, of land to which he may have a good equitable title, on a technical objection raised only after serious expense had been incurred in proof of the claim. Whether the evidence sustains the title as good either at law or in equity, founded on possession, is a question for the courts to decide; but, in the opinion of the committee, the claimant is fairly entitled to have his claim tried on its merits, and the bill has been amended so as to secure that right without prejudice to the United States, if the evidence should be deemed insufficient to support the claim."

That is the state of the case, sir.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in, and the bill ordered to be engrossed and read a third time. It was read the third time, and passed.

Mr. BAYARD. I move to amend the title. The title now refers to the original bill. I move to make the title read: "A bill to authorize the district court of the United States for the northern district of California to hear and determine upon its merits the claim of Pedro Chaboya to a certain

tract of land in California, called La Rosa de San Juan Bautista."

The title was so amended.

ARREST OF GENERAL STONE.

Mr. McDOUGALL. I introduced a resolution on Friday last for the purpose of having it printed, and gave notice then that I would call it up on Monday; but it not having been printed and laid on the tables of Senators at that time, I postponed it until this morning. I now ask to have that resolution taken up and acted upon.

The motion was agreed to; and the Senate proceeded to consider the resolution.

Mr. McDOUGALL. I propose to make some remarks upon the resolution; and as the morning hour will not afford the opportunity, I move to postpone the special orders for the consideration of this resolution.

The PRESIDENT *pro tempore*. What special order does the Senator refer to? There is a special order, the unfinished business of the morning hour; but the special order of the day is not reached until one o'clock. The motion now is premature for the postponement of that special order.

Mr. McDOUGALL. I move that the reading of the resolution be dispensed with.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

Mr. FESSENDEN. I should like to have it read. I do not know what it is.

The Secretary read the resolution, as follows:

Resolved, That the Secretary of War be requested to inform the Senate at once on the following points, namely: 1. Whether or not Brigadier General Charles P. Stone has been arrested by any person in authority in the War Department or in the Army of the United States; and if he has been so arrested, from whom the order for General Stone's arrest originally proceeded—whether the Secretary himself or the general then commanding the army of the Potomac. 2. Also, whether at the time of such arrest General Stone was not subject to the articles of war and entitled to the benefit of them; and if he was so subject and entitled, whether or not he was arrested for a violation of any, and which, of those articles; and on whose complaint General Stone was arrested, and by whom, if by any persons, charges have been preferred against him; and that the Secretary of War be requested to communicate to the Senate the specifications under such charges as fully as his present information will enable him to state them. 3. Also, whether any, and if any, what, steps have been taken towards the preparation of such charges and specifications; and if any such steps have been so taken, whether or not the prosecution of the matter has been intrusted to the judge advocate general of the Army, or of the army of the Potomac, or to some other, and what other, special judge advocate; and if not to either of said judges advocate general, why the case of General Stone did not take the customary course when a general officer is arrested; and whether or not either of the judges advocate above specially named has been, and when first, consulted in this matter. 4. Also, whether or not General Stone has at any time, and when, and how often, either in person or by counsel, applied for an immediate trial; and whether he has not represented to the Secretary of War the injustice which he supposed would result to him from deferring his trial, by reason of the death of an important witness, in any matter connected with the administration of his late command upon the Potomac; and what answer, if any, has been made to such representation by or on behalf of General Stone. 5. Also, whether or not the substance of such charges, more or less, has been in any, and what, way, and upon whose application, communicated to General Stone; and if not, why not; and if not, whether or not General Stone has applied, directly or indirectly, for such charges. 6. Also, whether any, and what, privileges have inured to General Stone under the articles of war Nos. 74, 79, 80, and 82, and Nos. 221 and 223 of the Revised Regulations of the Army; and what degree of confinement was originally ordered in reference to General Stone; and whether any, and what, change has been made, and when, from its original severity. 7. Also, if General Stone was not arrested for some alleged violation of the articles of war, upon what pretense is he kept in close custody.

Mr. FESSENDEN. I would suggest to the Senator from California whether, considering the nature of the case, it would not be proper to address the resolution to the President, in the usual form, that he be requested, if compatible with the public interest, to inform the Senate. It will amount to the same thing, for he is Commander-in-Chief of the Army, and inquiries as to Army matters should, I think, properly be addressed to him.

Mr. McDOUGALL. There are several reasons why I propose to address the resolution as it is here, and probably the Senator will be satisfied when I get through with my statement as to facts.

Mr. FESSENDEN. In that form I should not vote for it. It is a peremptory call, and it may not be advisable to communicate the information.

Mr. McDOUGALL. Mr. President, I regret exceedingly that it has become my duty to depart from the ordinary course of legislation, and my duty to present questions and considerations which may appear to be merely questions and considerations involving an individual or person. I may state my reason in this form: that is, that, according to my best judgment, it is not the question of an individual, nor the consideration which he, as a person, or as a citizen, or as a soldier, may demand, but that the questions and considerations of which I am about to speak and with which he is only remotely concerned, are questions and considerations which relate to the foundations as well as the superstructure of that edifice, the foundations of which were laid on the 4th of July, 1776, established, as we hoped, in 1787, and the beautiful superstructure of which we, in our imagination, have thought we saw from our early youth until about the present time.

Mr. President, I wish to say that I have persistently sought to confine my action here to the exact business of legislation, and to this I believe my record will give approving answer; but in this matter I recognize a special duty, a duty devolved on me; a duty, if you please, wherewith I am charged both as a citizen and a Senator. To undertake the discharge of this duty is the assumption of a painful office. To me it is always painful when by neglect or accident I trample upon the lowly. It is not with me a pleasant office to assault any one, be he high or low. There are special reasons why it is painful to me to assault a person high in place, for this reason, and this reason only, that he stands beneath the sheltering shadow of a great power, the President of the United States, the highest creation of our Constitution and of our people, in which all true patriots recognize the chief of the Republic. For the President, permit me to say, that though I cannot say in oriental language "he has my most profound service," I can say he has my fullest confidence; a confidence which could not have been improved by any circumstance such as that of my having supported him at the last presidential election. I did not support him. I supported another true and great man from Illinois. Patriots each; patriots both. I will say, however, in better language than is consistent with any oriental usage, that our Chief Magistrate, by his own personal right, commanded and does command my fullest confidence as an upright, just, true-minded man, as alien to falsehood, wrong, and oppression as I would hope to be.

The duty, however, is before me, a duty which is my duty as a citizen of the Republic as well as my duty as a Senator. Permit me to say, also, it is my duty by a stronger force as a citizen of and a Senator from the State of California; and, notwithstanding the office is a painful one, I will discharge it to the extent of my infirm ability with an equal regard to justice as if it were a pleasant one.

It is now fifty days since Brigadier General Stone, commanding a division of the Federal Army on the Potomac, was seized at midnight, taken from his home, carried into one of the darkest fortresses that line our coast, cut off from all communication with family or friends, allowed for a long time no communication with any one, allowed at no time any communication with any person except to a limited extent with members of his family and his prison-house keeper. I say it is more than fifty days since, by some *lettre de cachet*, by some writ issued from some denouncer as secret as those who denounced the Council of Ten in the city of Venice, the name of which denouncer is not known, the form of which writ is not public, either to General Stone or to any one outside of those who commanded it. From whom it comes no one knows; whether by authority of any law no one is informed. Whether it comes from the President of the United States, he has not been able to ascertain upon diligent application. Whether it comes from the Secretary of War, neither he nor his friends have been able to learn with certainty. Whether it comes from the senior general of the Army of the United States, no one has been able to discover with certainty.

This, Mr. President, is a strange thing in this strange period of history in what is called a free Republic, unless it has ceased to be strange by reason of some recent parallel examples. I do not know whether we are as well off here as they were in England in the middle ages when a king said to his justiciary: "This is an English not a Turkish court."

Mr. President, there are singular things about this matter, and some of them I will endeavor to state somewhat historically. It was on Saturday, February 5, I think, that he was arrested, at midnight. On the Wednesday evening before that, I met General Stone, dressed as became a person in his office, at the house of the President, where no one went on that evening except by special invitation. He was there mingling with his friends, receiving as much attention and as much consideration from all about him as any man then present. All smiled upon him; that at least appeared before his face. There may have been smiles in front and fierce frowns behind. Only two evenings after that, if I remember aright, he was the guest under similar circumstances of the commander-in-chief of our Army, I mean the senior general in command, and there again receiving the hospitalities of the men first in office and first in the consideration of the country. On, I think, the very day of his arrest, he was in the War Department, received by the head of the War Department as a man who had the entire confidence of the Government, and of himself as one of the Government's representatives. On that evening he was seized, taken from his home and family, as I said, at midnight, carried off to Fort La Fayette and imprisoned, as are imprisoned men who are convicted and adjudged guilty of the highest offense known to the law. He was not a simple citizen; he was a man to whom a great many men in this country looked for aid in the great struggle now going on in the nation; he was a man known to be disciplined in war; he was not one of those

> "That never set a squadron in the field,
> Nor the division of a battle knew
> More than a spinster."

He was, and had been for many years, acknowledged as one of the most thorough and admirable soldiers that have served the Federal Republic. He was in service; and when I say he had the confidence of the men who served under him, and the confidence of the men who served with him, I *state what I do know*, for with me it has been a matter of particular inquiry. And I may say that the reason why I particularly espouse his cause now, so far as these inquiries are concerned, is, that I have known him long and well. He has been a citizen, or resident, if you please, of the State which I have the honor to represent; a man not merely respected, but loved among all those with whom he came in contact and who knew him on the Pacific coast.

The country has some interest in this matter outside of the system of *lettres de cachet*. General Stone was taken from a high command in the Army, to the leaders of which Army he was well known, for no cause stated. Officers of the Army who think they are fighting to maintain free principles ought to be informed whether, without offense alleged, without cause shown, when they apparently have the confidence of those in command, they are subject to seizure, to imprisonment, to be held for months in imprisonment, and not even then to be informed whether they are arraigned for treason, whether they are seized for disobedience of orders, whether it is for an irregularity, or whether it is for some conspiracy against the integrity of the Republic involving life. Now, here for almost seventy days it has been in the mouths of men that this gentleman, whose fair fame has been above reproach, was a traitor to the country; but who says it? Who says it, Mr. President? Rumor says it—that great manufacturer of falsehoods, which, although a mere manufacturer of falsehoods, as a general thing, has the power to destroy the fairest fame and to steal from an honored brow laurels nobly won. Who has given occasion to this rumor? I ask it in my name as a citizen; I ask it in my name as a Californian; I ask it as a Senator here, who has given currency to this rumor or who has justified or made that appear justifiable whereby these results have been accomplished?

It is a most strange and extraordinary thing, and so strange and extraordinary that it has even challenged the press and the pulpit, inquiring into "how can these things be done?" It is not only men of my opinions whose rise indignant at acts like this, not merely men who hold my political opinions; not men of my profession; and it is generally thought that lawyers are friends of constitutional liberty, and probably they are watchful as to how and when rights are impinged upon

But I find that on last Sabbath a gentleman, whom I thought I never should have occasion to quote, thought proper in the duties of his office on that day, to say something on this very subject, and in perfect accordance with the sentiments I have and am about to express. It is rather strange that I should quote him; and I cannot quote him exactly, because it is not a full report; but on the last Sabbath when, in accordance with the proclamation of the President, the people of the country assembled together to give thanks for our recent victories—

"Rev. Henry Ward Beecher preached an admirable sermon on the duty of Christian sympathy with all who needed spiritual or bodily comfort." * * * * * * *

"In alluding to such as are confined in our military prisons, unconscious of what is charged against them, he deprecated in unmeasured terms the action of any Government, and particularly of this Government, which should take away, without trial and without verdict, the dearest rights and liberties of the people. He did not believe it was well, or in any way justifiable, to confine for weeks and months in the dark depths of a dungeon men who might, if opportunity was offered, prove themselves absolutely guiltless of the crime charged upon them. He considered such trifling with the rights of the people dangerous to our liberties and dangerous to our institutions; and when people were found willing to submit to it, it was more dangerous yet."

I said, Mr. President, I never expected to have had occasion to quote that reverend gentleman, but I am ready to quote any man when his language is the language of truth and justice.

Mr. President, it may not otherwise than become this occasion that I should say something of who General Stone is, against whom these charges have been flung and against whom this fierce assault has been made, who has been thus stabbed, not only in the dark, but in the back. General Stone is of a race of men both paternally and maternally who have been leaders and soldiers of what is considered by many the best and most enlightened and worthiest people of this Confederacy. His family name and his ancestry constitute a part of the history of Massachusetts. His grandfather's grandfather, among the early pilgrims in Massachusetts, fought against the Indians to win the land which is now that strong and powerful State. His son, the present General's great grandfather, holding a commission under George II, fought against the French and the Indians. His grandfather on his father's side held a commission as captain, and fought through the war of the Revolution. One of his grandfather's sons, a boy of sixteen, also fought in the war of the Revolution, and afterwards served as a surgeon in the war of 1812, and that surgeon's son died in the military service of the United States at New Orleans. Another of that grandfather's sons served in the Federal Army against the first rebellion (Shay's) which ever opposed the power of this Union. His grandfather on the maternal side was a general under Washington and one of his favorite generals. They have a large record and a good one in Massachusetts. Some of them are now carrying arms for that State in the Army of the Republic. Fame has never whispered that there was or had been any traitor among them.

Something has been said about his wife's family in the rumors that are passing. All of them that are acting at all are serving in this war, and serving honorably, with the Army; and the hearts of all of them are with the Government. And is treason to be pronounced of *such* a person? I undertake to say, that according to all the laws of evidence, and by a stronger argument than was made in favor of the Gospel, it is impossible that he should be otherwise than a patriot. He himself was sent from the State of Massachusetts to West Point; he graduated with high honor; he entered our Army; he went to the fields of Mexico; on those fields he won honor. He has the right to a commission, which has not been seized from him by the police, where it is written, "Brevetted for gallant conduct at Molino del Rey," and again another, "Promoted for gallant conduct at Chepultepec." He is not only a learned, but he has proved himself a gallant, officer. He has the right to hold now eight commissions and a warrant, from eight different Presidents of the United States. With all his antecedents and all his kindred patriotic, he a traitor!

The PRESIDENT *pro tempore*. The Chair is obliged, under the rule of the Senate, now to arrest the further consideration of this resolution, and to call up the special order of the day, on which the Senator from Kentucky has the floor. Will the Senator from Kentucky yield the floor to the Senator from California?

Mr. POWELL. I yield to allow the Senator to conclude his remarks.

The PRESIDENT *pro tempore*. By the common consent of the Senate, that course will be taken, and the Senator from California will proceed.

Mr. McDOUGALL. Mr. President, I have said before that General Stone was long a resident in California. After the Mexican war he was ordered to that State. He there occupied a distinguished position, officially, in the consideration of gentlemen of the Army, and in the consideration of citizens of that State. In 1855, we then having no armed enemies, he resigned from the service to engage in business which belonged to the affairs of peace. He put himself into relations with our merchants, our men of trade, our mining interests in the mountains, with the men of labor, trade, and commerce throughout our State. As he had been honored and respected in his official position as a soldier, so he was as a business man and a citizen. I learned there to know him well, and I speak only of what I do know when I say, that never since that State was founded has there a man come into and gone out of it with higher consideration on the part of all those who knew him.

The breaking out of our present difficulties found him in the city of Washington. In what work was this "traitor" then engaged? He organized the first battalion in the city of Washington to take charge of and maintain the capital. He was made the officer in charge of the Federal capital, having been specially selected for that purpose by General Scott, who knew his high qualities as a soldier. Did he not discharge that duty faithfully and well? Was he not the first who took possession of the opposite side of the Potomac and gave a footing to our Army in Virginia? Did he not discharge that duty faithfully and well? Was he not also assigned, when it was supposed for a while our communication was cut off by way of Baltimore, to take charge of this end of the Annapolis road? Did he not discharge his duty there faithfully and well? No one then whispered a suspicion against him. When General McDowell was sent across the Potomac to occupy the shore of Virginia in force, General Stone was sent with four regiments to take possession of Alexandria, and with his four regiments he maintained that line from Alexandria to Ball's Cross Roads—a distance of some eight or ten miles—threatened all the time by the enemy. Did he not discharge that duty faithfully and well? It would seem that when the President, with the advice and consent of the Senate, made him a colonel of the regular line of the Army and placed him at the head of the fourteenth regiment, they knew him, and they then thought he had discharged his duties faithfully and well. He was then withdrawn from that position to defend the city of Washington on the northeast, with a light movable column. Does any one question but what he discharged his duties there faithfully and well? He was made by the President, with the advice and consent of the Senate, a brigadier general of the United States Army, and then placed in command of a division in one of the most responsible positions within the power of the Government in these days of peril and of war.

He was in that position when the busy tongue of the defamer—thus it seems to me—went to work at his fair name, and Ball's Bluff was the pretext. I have said that somebody did blunder there. Whether it was General Stone that blundered, we are not informed; who blundered we do not know; what the true facts are we have not been able to ascertain. I do not know—have not been able to learn—although I was, before that sad disaster, in which was lost one of my oldest and most honored friends—most honored by most when lost—a companion in his camp; knew well the soldiers, officers, and men by whom he was surrounded; I have sought to know; authority has sealed the fountains of full information, and I, who should know, am compelled to declare myself to-day ignorant. It is said now, by various and dark insinuations, that this sad result was the purposed conduct of General Stone. Who says it? Rumor says it. Ay; I fear that it is only old lying rumor that dares the responsibility of saying it. Permit me to say, General Stone heard that there were questions made about his conduct in connection with that great disaster, and that he three times asked a court of inquiry to determine whether or not, in any respect, he had failed in his office. From time to time he solicited an opportunity for a full investigation of his conduct in that relation. I say, and say that of which I am well assured—not that I know myself, but that I am well informed—that he made several applications for a court of inquiry, and was told by the authorities of the Government—not committees of Congress—that there was no occasion for inquiry; that there was no fault found with his conduct. I also undertake to say, upon good authority, that almost presently before his arrest he said to the present Secretary of War: "Sir, I hear complaints made about my conduct as an officer at Ball's Bluff; I wish you to inquire into it, and have the matter determined;" and that he was assured by him that there were no charges against him; that this Secretary advised him in substance in these words: "there is no occasion for your inquiry; go back to your command." That was the day of the night on which he was arrested, as near as I now remember. His arrest startled the Army and startled the well-informed men of our country outside of the specially informed persons who, assuming to be advised, directed this action.

Immediately after his arrest—for I am going to give the Senator from Maine the reasons why I choose this form of interrogation, and that I may be understood I beg the attention of the Senator from Maine—and now, first, for I have much to say, a gentleman well known in the city of Washington, a man of eminent ability, recognized by stranger and citizen as one of the men, one of the first of the men, who reflect honor upon surrounding society, their profession, and their country, and who did not think it dishonor to be the friend of General Stone, wrote a letter offering his kind services to the unaccused and imprisoned general. Unaccused! He sent it open to the Secretary of War, with the following note:

WASHINGTON, *February* 16, 1862.

SIR: General Stone I rank among my friends. I believe in his integrity and fidelity. So fully do I believe, that scarcely anything could shake the belief. He has served me as a friend, and I want to let him know how truly I sympathize with him.

I inclose an open letter for him, which I desire you to read, and unless there is something objectionable in it, which I cannot see, do me the favor to have it forwarded to him.

If I should go to New York next week, as I expect, can I have a pass to visit him?

Very faithfully and truly, JOS. H. BRADLEY.

Hon. E. M. STANTON, *Secretary of War*.

I have been informed, and I think well informed, that there is not a more eminent man in his profession, a purer gentleman, or a truer patriot, within or without the Federal capital than Joseph H. Bradley. I do not personally know that gentleman, but all men praise him. Mr. President, I prefer the name and qualities of Antonio to those of the Jew of Venice.

WAR DEPARTMENT, WASHINGTON CITY, D. C., *February* 20, 1862.

SIR: The Secretary of War directs me to acknowledge your letter of the 16th instant, with the inclosure for General Stone, and to say in reply that he deems your letter an improper one to be sent to General Stone, and will therefore withhold it. Further, that your request to be permitted to visit General Stone cannot at present be complied with.

Very respectfully, your obedient servant,

P. H. WATSON,
Assistant Secretary of War.

JOSEPH H. BRADLEY, Esq., *Washington, D. C.*

This letter was received February 24, 1862.

That the character of this exceptionable letter may be understood, I will read to you what it contained, from a copy in my hand. I will ask the Secretary to aid me.

The Secretary read, as follows.

WASHINGTON, *February* 16, 1862.

MY DEAR GENERAL: My first impulse on hearing of your arrest was to write to you and ask if there is anything on earth I can do for you, and that still remains. Of course I do not give any heed to the idle rumors put afloat to your prejudice, nor would I listen to any one who should attempt to support the imputations against you except in a judicial proceeding, nor would I believe them then unless supported by irrefragable proof. I know there are men vile enough to fabricate proof to condemn you, and with skill and industry such as to make it difficult to expose the fabrication; and undoubtedly there may be suggested motives strong enough to secure the active services of such men. But hitherto with some experience of such things, I have never known such a plot to be entirely successful, and have been fortunate enough to discover more than one. Of course I take it for granted that when you receive, as you are entitled to receive, your trial, I expect the same result in your

case. The question now is, what can I do? Do you yet know precisely the accusations against you? Have you had a statement of the proofs on which they are made, and the evidence by which they are to be supported? Do you know the names of the persons who have made them, or are expected to prove them? Do you know the instruments of evidence which it is proposed to be used against you? Before this reaches you the period allowed by the articles of war for the preparation of charges against you will have elapsed, and if they are not made, I hold it is your right and duty to demand them. Besides, there are too many persons feeling a deep and lively interest in your fate, you have since this rebellion broke out made too many friends, and the public interest is too deeply involved in the issues connected with your arrest and imprisonment.

The service itself is too deeply affected by this event for any unusual delay in the preparation of the charges, and from being brought to trial. No man in the Army, and I say it advisedly, has done more to attract and fix the support of friends to the Government than you have within the last seven months; no man has more faithfully shown that the true object of the war is to support the Constitution and the laws as they are—that individual and civil rights may be respected, protected, and enforced in the midst of civil war—that republican institutions may be maintained only in the supremacy of the law, and that party strife and animosity, however they may rage in peace, must give way in war, and all must unite in the support of the Government, without which even party cannot exist. I have seen men who I know were carried away by their hostility to the Administration, yet devoted to a republican form of Government, so inflamed by local and sectional prejudice, as to be almost ready to take up arms to war against the administration of that Government for which they would cheerfully have laid down their lives. I have seen such men yielding up their opposition, and under the military rules administered by you within your military jurisdiction, giving a ready and cordial support to the Government, and through them I have heard of others affected in like manner with themselves. The testimony of such men, bearing witness to the noble patriotism by which they believe you to have been actuated is of priceless value, when you are assailed and vituperated as being false to yourself, false to your country, and false to your God.

Tell me what you have done since your arrest—what you are doing—who is your counsel, and especially if I can do anything to show how truly I am your friend and servant,

JOSEPH H. BRADLEY.

Brigadier General C. P. STONE.

Mr. McDOUGALL. Mr. President, I might here remark what I should have stated before, that the arrest of General Stone was made by General Sykes, senior major of the fourteenth regiment, the regiment commanded by General Stone in the regular service. General Sykes said to him when making his arrest that he was required to perform the most painful office with which he had ever been charged. General Stone then inquired of him for what cause he was arrested. General Sykes, as I am informed, replied that he was entirely ignorant as to the reason for his orders or the causes of the arrest. General Stone received no information from General Sykes as to this extraordinary proceeding. From that hour until now, General Stone, his family, his friends, and his counsel have persistently asked the same question addressed by General Stone to General Sykes of all classes of men in authority, and the only result they have achieved is the same answer—"I am ignorant," or "I cannot speak."

Other and formal means have been applied seeking the same object. On the 20th of February last Mr. Henry M. Parker, of Boston, a gentleman eminent as a lawyer, a gentleman, and a citizen, known well to the profession beyond the confines of Massachusetts, acting as counsel of the unaccused and imprisoned General Stone, addressed to the Secretary of War a communication, in its every word respectful, which I will request the Secretary to read to the Senate.

The Secretary read, as follows:

WASHINGTON, *February* 20, 1862.

SIR: I avail myself of your permission to lay before you, more formally than I have done, some remarks on General C. P. Stone's case, which, notwithstanding what you have said to me, will, I am sure, receive your impartial consideration.

1. You said to me that there was nothing "extraordinary" in General Stone's case which entitled it, more than any other matter of business, to precedence in your attention, or in drawing it to an immediate conclusion.

I respectfully submit that almost every feature of it is *extraordinary*. That a man who has rendered such eminent and universally acknowledged service in saving this very capital, and who followed that service up, as he did, with other services scarcely less eminent, that this man, whose praise is in everybody's mouth, (saving a few mere partisans and newspaper spies,) should be so suddenly seized and incarcerated is in itself extraordinary.

It is the more *extraordinary* when you remember that he had never received one word of censure nor one look of disapprobation from any military superior; that he had again and again asked a court of inquiry into the Ball's Bluff business, and had been put off with answers to the effect that none was needed, or that the public service would be injured by it, or the like. General Stone had again and again, within the week or ten days preceding his arrest, sought an interview with yourself, but was disappointed in meeting you, sometimes at appointed times, doubtless through reason of your other urgent business. And in the brief interviews he had with you he received no intimation that you had not your old confidence in him. Nor, indeed, do I understand from you that this day that confidence is, in your own mind, shaken, but that something or somebody (what and who, I am not allowed to know,) has left you no choice as to taking decisive action in the matter.

It is military usage, I am told, that an officer of so high a rank as Brigadier General Stone should not be arrested without a preliminary examination, of the pendency of which he generally has notice. But, if I have rightly understood you in our interviews of yesterday and of this day, now, when more than eight, yes, twelve, full days have elapsed since the arrest, somebody is still engaged in the "examination" or "investigation" of the case, and neither General Stone nor his family nor his counsel can be allowed to know either who his accusers or what the accusations against him are.

I do not complain of the mere fact of any examination or investigation made by your direction, and if the case were declared "extraordinary," there would be more reason to acquiesce in this state of things. But being confessed by the Government extraordinary, it would follow that it should have extraordinary attention.

2. If treason or treasonable dealings *are* the burdens of the suspicions against General Stone, now and here are the men and the place and the time for proving or refuting them. In the fortune of war it is not likely that so many of them can ever be found together again. If, by the fortune of war, some Government witness should die, and in a subsequent trial the prosecution fail for *any* reason, do you not know that his enemies will attribute his acquittal, not to his innocence, but to that casualty?

When General Stone is proved innocent there will be *but one worthy reparation* which the Government can make. That will be by giving him the opportunity once more to prove his innocence in his command on the battle-field, and in the hot work of war. This delay seems likely to prevent *that*, sinking, as the rebellion is, every hour.

3. General Stone's incarceration at Fort La Fayette, is, I submit, "extraordinary."

If you were convinced of this, I am sure you would ameliorate it, for you told me on Monday that it was as you supposed, "a matter of course" that he should go thither. Everywhere the general public look upon the selection of that distant fort as in itself intended as a mark of ignominy, and a Senator in Congress, I am told, boasts of it. I think if you could have the frank opinion of military men, they would, with one voice, I do not say condemn the *act*, (for that is illegal,) but declare it to be "*extraordinary*," and not in conformity to the standing interpretation of the article of war which prescribes the places within which "any officer arrested for a crime" shall be confined.

It is not denied that, in cases *avowed* to be "extraordinary," a prisoner for security may be elsewhere confined. Necessity justifies anything essential to the security of Government; but such a course should, I submit, be only taken by reason of that overruling necessity on the part of Government which annuls all other law. As you have not acted in fixing the place of his confinement in any such supposed necessity, not having intended to treat General Stone in any respect out of course, I appeal to you with confidence for a change in this respect. HENRY M. PARKER.

To Hon. E. M. STANTON, *Secretary of War, &c.*

Mr. McDOUGALL. In that very connection I will take occasion to read a dispatch which, by the grace of Government, General Stone has been permitted to send to my colleague and myself; he is a caged lion now, and he moves uneasily behind his prison bar:

FORT HAMILTON, *April* 14, 1862.

I have applied for a suspension of arrest and permission to serve before Yorktown. Can you assist me?

CHARLES P. STONE.

He has asked to serve "in any capacity whatever," I learn. He asks assistance, but echo will be the only response.

Mr. President, as General Stone, while a man of Massachusetts, had also made his home on the far shores of the Pacific, where he was esteemed and respected, it was not thought improper by his most intimate friends to appeal to the delegation from California to see if they could not learn something of the wherefore of this most extraordinary proceeding. Three times I went to the War Department, and I found the chief of that Department inaccessible to me. Sir, strange times have come upon the land when the Secretaries of the President deny the right to Senators of official intercourse. Has this form of Government been changed, and have we, instead of a President, a Senate, and House of Representatives, a council of seven, not of ten, who wield absolute power and dominion, and who may seize upon liberty and destroy life (for if they may do one they may do the other) without law or question? Three times, I say, I sought an audience from this gentleman who is elevating himself above the President, above the Senate, above the House of Representatives, above all the men in the Government to an extent, I am told, that in the opinion of some wise men is at this moment very alarming; for I understand that this master of the War Department, who, as I said before, never set a squadron in the field, undertakes to master all the laws of strategy and all the appliances of force, and is to fight the war himself. If what rumor says is true, I am not hopeful of very prosperous results. Having made personally these efforts to secure an audience and to inquire something about this matter, and at least to have the opportunity of a personal apology, or excuse, or an explanation why a trial could not be had, I took occasion myself to indite a paper, signed by my colleague in the Senate and one of my colleagues in the House of Representatives, and addressed to the Secretary of War; and here, by the way, I may say that the letter from Mr. Parker met with no response. This is the letter which we sent to the Secretary of War:

WASHINGTON, *March* 24, 1862.

SIR: The long arrest of General Stone without military inquiry or trial, which it was at one time understood would be promptly had, has led to complaints from many quarters. General Stone being recognized as a citizen of the State of California, many of these complaints have been addressed to us in the form of inquiries, as well as requests. The inquiries we have, of course, been altogether unable to answer, further than that we understood that, by the articles of war, he was entitled to a trial by a day certain. That day having passed we could only say *ignoramus*.

Under all the circumstances, and having known General Stone for years, and never having had cause to doubt his loyalty, we feel it our duty to inquire of the Government, through you, for some explanation of a proceeding which seems to us most extraordinary. General Stone was and is a military officer of the United States, and as such we understand him to have been, and to be, subject to military law. We, at the same time, understand him to be entitled to all the rights conferred by the same law.

We do not intend to question the power of the Government in this proceeding, but we desire most respectfully to be informed why the rights secured, as we understand, by military law as to the time of trial are denied to General Stone. We present no complaint, but we would like the assurance that we have no cause of complaint.

J. A. McDOUGALL,
M. S. LATHAM.
A. A. SARGENT.

Hon. EDWIN M. STANTON, *Secretary of War.*

Here again there was no answer. That letter has been addressed to the Secretary of War and sent to him more than two weeks ago, and there has been no answer. General McClellan has been approached, and I am assured that on three several times General McClellan himself went to the Secretary of War and made personal application for a court-martial in the case of General Stone, and not only made it as his personal request in favor of the officer, but threw into that request all the weight of his personal and official influence, and to that there has been no response. So, as I understand, the burden of this wrong is not upon the senior general in command; and I know it is not on the great, (I use the word great in its proper and just sense,) true, and just man who rightfully stands as, and in many respects is, the head of this Government. My complaint of him is only this, that he permits such things to be done, though they are not done by any judgment or conduct of his.

These requests having been ignored, all inquiries at the Department having been ignored, I have thought that it was becoming me in my place in the Senate to inquire into these matters, and to say what I thought about this conduct of a man in high place, and what I thought of the law governing it, and how it affects our institutions when the law is thus mal-administered. What is this military law? A person undertakes to serve in arms the country, and he subjects himself to all the high penalties that belong to that service. He may be tried by a drum-head court-martial, perchance, and shot at the head of his command, or taken from the ranks and shot. There is withdrawn from him the protection, so far as penalties are concerned, which is thrown about the humblest citizen of the land. But while the military law does necessarily exact this prompt submission to military penalty, there is some law to protect the soldier; and the articles of war in Europe and in this country were not made simply to punish, some were made to protect those men who go out to do battle for their country. General Macomb, in his work upon courts-martial, referring to the articles of war, and stating some considerations connected with them, says:

"Thus the liberty of the citizen, under military law, so far as is consistent with the ends of justice, seems to be guarded with precautions little inferior in their power and efficacy to those which secure personal liberty under the civil laws of the State."

The seventy-ninth article of war, which is intended to provide a substantial protection to the officer in the service of the Government, declares that—

"No officer or soldier who shall be put in arrest shall continue in confinement more than eight days, or until such time as a court-martial can be assembled."

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. THURSDAY, APRIL 17, 1862. NEW SERIES....No. 105.

That is the general rule laid down. He can be continued in arrest over eight days, only in the event that it is impossible to convene a court-martial. When has there been a time, until perhaps within the past week or fortnight, when in the city of Washington a court-martial could not be convened? What is the reason why a court-martial cannot be convened now at Yorktown, sitting at such times as its members were not otherwise employed? At every head of division a court-martial can be convened now. For eight days, we have fifty days, and not only have no court-martial and no effort to assemble one, but what is worse, *no charges are presented.* If a court-martial is a man's right in eight days, certainly it might be supposed that in eight days his accuser might have put upon paper what he had to say against him, and it might have been reduced into the form adopted in the service by the judge advocate general. But, sir, what is strange and most singular, there is not a person connected with the legal department of the Army—neither the judge advocate general, nor the judge advocate of the army of the Potomac—who, as far as friends and counsel can learn, has ever heard of any charges or had them placed in his hands or been in any manner consulted about the matter.

It may be said by gentlemen that perhaps this is not a military offense. What is it, then? A civil offense? Treason? If General Stone is a traitor we have courts in the District of Columbia, we have courts in New York, we have courts in Maryland, and we have courts in Virginia, I understand.

Mr. CARLILE. Yes, sir.

Mr. McDOUGALL. Process certainly could have been sued out against him; and if it was treason, the military arm of the Government had nothing to do with it except as a matter of necessity when treason was merged into active war. Here let me quote an apposite illustration of the general subject. When General Hull was placed upon his trial at Albany, in 1814, the judge advocate general then was one Martin Van Buren, supposed to be able to maintain the rights of the Government and the law as against the accused, and the question came up there as to whether a court-martial or a military court or the military authorities could inquire into treason, and they declared, positively, that they could not. I have the book in my hand; and that I may not be supposed to speak in any respect ignorantly, I will read the conclusion of the court. This is it:

"The accused having, in his final defense, protested against the jurisdiction of the court to try the charge of treason, and the opinion of the court being that the objection would have been tenable if the same had been pleaded by the accused on his arraignment, and believing, also, that the court cannot acquire jurisdiction of the offense by the waiver or consent of the accused, they decline making any formal decision on that charge."

They delivered, however, a distinct and decisive opinion; but it was not necessary to their conclusion. There is another remarkable thing or two about this matter that may as well be thrown in here, as I have the book in my hand. Here is the judgment of the court:

"The court, in consequence of their determination respecting the second and third charges, and the specifications under those charges, exhibited against the said Brigadier General William Hull, and after due consideration, do sentence him to be shot to death, two thirds of the court concurring in the sentence."

Now look at the order of the court, after judgment was pronounced:

ALBANY, *March* 28, 1814.

SIR: You will please to return to your usual place of residence in Massachusetts, and there continue until you shall receive orders from the President of the United States.

Your humble servant, H. DEARBORN,
Major General, President of the Court.

Brigadier General WILLIAM HULL.

It is beyond any of the usages of civilized war, that high officers who have been highly trusted, and have met dangers and won honors, should be treated on a general accusation or a mere suspicion, than one who has been tried, convicted, and sentenced to undergo the extreme penalty of the law. There is justly some consideration given to heroism, and therefore established honor. General Hull returned to his residence in Massachusetts, lived there with all the rights that pertain to a man and all the privileges of his own domicile, until the President, Mr. Madison, approving the sentence, remitted the penalty.

Those things were done in the old days of the Republic, when faction had not obtained mastery in any one of the places of power. Yea until this time, until this present period when faction is raising herself hydra-headed in the very councils of the nation, and seizing upon and acquiring and exercising power unknown in any well governed State, such things as these have not been written down in history. It may be that the same power can raise itself far above the law, and for what I have said here to-day send a *lettre de cachet* into the Senate Chamber or to meet me at my home at midnight; but I would much rather spend my days in the darkest dungeon in and about Fort La Fayette than fail to say all these things as I have pronounced them.

There are some other provisions in the articles of war that are intended for the protection of soldiers and officers, so that they shall not be subject to absolute and unqualified power. By the seventy-fourth article "on the trials of cases not capital before courts-martial, the deposition of witnesses, not in the line or staff of the Army, may be taken before some justice of the peace, and read in evidence." Before a deposition can be taken, charges must, of course, be preferred. Whether this case is capital or not, we are not informed. If it is not capital; and General Stone's life is not involved, he has the right to take depositions. Fifty or more days of war have passed, in which those men with and about him have been engaged, and many friends of his have fallen in battle, and perchance some of his enemies. How will he get their statement of and about the things whereof he may be accused? If this be a charge against General Stone as to the conduct at Ball's Bluff; if it be what the tongue of rumor says it is, then one of our most gallant men has gone to render his testimony in another world; he cannot testify before our tribunals; General Lander could have spoken with authority on many things that have been said about that action. Is this war to go on and be closed, and no intimation given to the accused as to the nature or foundations of the accusations against him, and no opportunity to inform the Government that "A, B, and C, know of this thing; and before they are marched into Florida, or South Carolina, or to New Orleans, perchance to return no more, I want the record of their statement?" This simple right, which we give to every citizen, is denied to him. And if the offense charged be capital, perchance, under such circumstances, a just Government would, as they did in Hull's case, consent to waive its rights, and allow such depositions to be taken.

Again, the seventy-seventh article of war—and this is a law which applies to this placing of a military officer in a dungeon by military authority—provides that "whenever any officer shall be charged with a crime, he shall be arrested and confined in his barracks, quarters, or tent, and deprived of his sword by the commanding officer." This is law, and it is *war law.* To this *law* General Stone, by his oath, had subjected himself, as had every officer and soldier in his command; and while subject to this war law, himself and themselves, he and they might think themselves entitled to its privileges while subject to its penalties. Sir, the penalty for the violation of an arrest by an officer—which by the laws of war and the consideration of soldiers is a sufficient penalty—is stated in the same article: "And any officer who shall leave his confinement before he shall be set at liberty by his commanding officer shall be cashiered." To the soldier, honor must be far worthier than life; otherwise none would be found to dare the chances of battle. The man who takes the chance of his life in a dozen stricken fields does not fear death. He understands that "cowards die many deaths; the valiant taste of death but once." To all men who do not fear death, honor is infinitely above that sacrifice.

I will read another of those little safeguards that have been thrown around the soldier by our own military law which, as I shall presently show, is not in its letter, though it is in its spirit, as specific or particular as the military law that obtains among Englishmen in war, either on shore or afloat. The articles of war prescribe the manner in which military arrests are to be conducted; and if this was not a military arrest, it was without any sanction of law whatever, for General Stone was a soldier and not a civilian, subject to military law and entitled to be treated as a soldier. The eighty-second article provides that—

"Every officer or provost marshal to whose charge prisoners shall be committed, shall, within twenty-four hours after such commitment, or as soon as he shall be relieved from his guard, *make report in writing* to the commanding officer of their names, *their crimes*, and the names of the officers who committed them, under the penalty of being punished for disobedience or neglect, at the discretion of a court-martial."

The spirit of this indicates that charges more or less formal should accompany all arrests, or speedily follow them. Upon an arrest, the person at whose instance the arrest is made must present the charges, and they must be sent in to the commanding officer in twenty-four hours, not that they need be put in the form that they would be put in by a judge advocate, but the foundation of the charge must be presented; for the soldier, like the citizen, is not to be subjected to imprisonment or to the suffering of penalties without understanding exactly wherefore it is done. Presidents do not make law; Secretaries of War do not make law; no official in place makes law; it is the business of the legislative department to make law. Mr. Stanton undertakes to make law! It may be a law for him, and it may be a law for you; but it is the tyrant's law—that law of power, which one man may possess and exercise without limitation and without authority. General Stone has not been arrested under military law, or at least military law has not been conformed to; he has been arrested under no civil process; and yet he is subject to military law and subject also to civil process.

He has been arrested, not by military, not by civil, then by what law? By the tyrant's law. That law which might obtain at the Ottoman Porte, or at St. Petersburg. Tyrants—those who exercise, and have strength to exercise, power over the people without law, I had vainly dreamed were a shadowy myth of the past ages. In this age neither Turk nor Russian assume to exercise such power as this. It is reserved by those who sit in the places of power in the model Republic. Plato! Pardon me!

Now I will read a few English authorities for the purpose of showing how in this country, which we call free, and where we congratulate ourselves pharisaically both morning and night upon the supreme enjoyment of liberty had by our people, liberty is not recognized, or the rights of citizen or soldier respected in these days as they are in England, where it has been supposed that power is more absolute, and personal rights more circumscribed. Hough, in his "Precedents in Military Law," says that

"The late Duke of Wellington complained of officers being frequently in arrest for an unreasonable length of time."

Owing to what? The absolute denial of trial upon the part of the Government? "Owing to delay in collecting witnesses;" not because charges had not been preferred, but charges having been preferred, officers were imprisoned for unreasonable lengths of time, when they were wanted at the head of their commands, "owing to the delay in collecting witnesses." Again, he says:

"It is an old and very good military maxim that an officer's commission is a good security against his breaking his arrest."

And this English rule was recognized in General Hull's case after he had been sentenced to be shot to death. Again:

"It is proper when an officer is placed in arrest to give him, in writing, the nature of the arrest, to state the liberty

he will be allowed to have for the purpose of taking exercise; if he should be ill, the certificate of the surgeon will govern the case."

Here General Stone was imprisoned in a dungeon in Fort La Fayette, not only within thick but within damp walls, corresponding somewhat, as I am informed, with those dungeons complained of in Sicily; and it was not until long after the certificates of physicians, and there came appliances made by influential men to the powers that be, that he was exchanged over to Fort Hamilton, a place equally safe, only more healthy.

How do they treat a prisoner whose offense is capital on board a ship-of-war in the English seas, by English laws? I quote from Hickman on Naval Courts-Martial:

"By the eighth article of the Admiralty Instructions, (chap. 1, p. 3,) commanding officers are authorized to place any person in arrest who shall disobey orders, or otherwise misbehave himself. This course is usually adopted preparatory to bringing an officer to trial. If the offense with which he is charged be of a capital or very flagrant nature, it is customary to confine him to his cabin or mess-place, with liberty to walk on deck for exercise at certain periods; but if, on the contrary, the charges are comparatively of trifling importance, it would not generally be considered necessary to place any restraint upon him other than by confining him to his ship. Commanding officers should be careful that the arrest is not of a more severe description than the circumstances of the case will justify, as for any undue severity they subject themselves to a court-martial for a breach of the thirtieth article of war."

Ay; but perhaps Mr. Stanton is not subject to the rules and articles of war; he has no lawful power to do this act; but he exercises the tyrant's power restrained by no rule fixed in any statute-book. Again, the same authority quotes Lord Mansfield:

"If the heart is wrong, if cruelty, malice, and oppression appear to have occasioned or aggravated the imprisonment, or other injury complained of, they shall not cover themselves with the thin vail of legal forms, nor escape, under the cover of a justification the most technically regular, from that punishment which it is your province and your duty to inflict on so scandalous an abuse of public trust."

Lord Mansfield was pronouncing the law in a court of justice; and here let me say that whoever has committed this foul, unheard-of wrong, either death or the hand of justice (who, if he have leaden legs is said to have an iron hand,) may, and I trust will, reach him. Speaking in the same case of the officer having been kept in close quarters by his commander in India, Lord Mansfield said:

"But supposing it to have been the defendant's duty to call him to a military account for his misconduct, what apology is there for denying him the use of the common air in a sultry climate, and shutting him up in a gloomy prison, when there was no possibility of bringing him to trial for several months, *there not being a sufficient number of officers to form a court-martial?* These circumstances, independent of the direct evidence of malice, as sworn to by one of the witnesses, are sufficient for you to presume a bad, malignant motive in the defendant, which would destroy his justification, had it even been within the powers delegated to the defendant by his commission."

Again, in the case of Swinton *vs.* Molloy, an action for false imprisonment on board a man-of-war:

"The defendant pleaded a justification for a supposed breach of duty; but it appearing in evidence that the defendant had imprisoned him for three days without inquiring into the matter, and had then released him on hearing his defense, Lord Mansfield said, that 'such conduct on the part of the defendant did not appear to have been a proper discharge of his duty, and therefore that his justification had failed him under the discipline of the navy.'"

What shall be said hereafter, for there is to be a hereafter, about all of these great outrages? Many men—men respected in our neighboring and northern States—have been seized and taken from their homes, no investigation made, no communication permitted with their friends, and then without investigation, without inquiry, without any public record of a justification, set loose by the Government. These are bad records. Mr. President, these bad, evil records have been made for some time past; and they who sow the dragon's teeth must expect to harvest bearded, belted, armed men.

England, I will say Great Britain, a great old people, however much we may be their adversary—that great old Government and people, acknowledge law and right. I say this because it is just and because I would further say that upon questions of liberty and right we may yet learn some lessons from her. Great, brave-hearted Great Britain! She has had her evil days, her days of controversy; but from the time of the Heptarchy none who have held power have used power as does the man of to-day. It is said that weak men dressed in "a little brief authority" do play "fantastic tricks." He who said it knew all of the ages past; perhaps he might have prophesied the "fantastic tricks" now played, not in the face of high Heaven, indeed, for the players have not yet seen the prospect of that place.

All this is said to be in the name of the law; all this is said to be "for the Union." This is as truthful as were those words of Othello's ancient, when he urging, but Othello resisting and questioning, said:

"If thou dost slander her, and torture me,
Never pray more."

The wily lying type of lies replied—invoking Heaven—

"O monstrous world! Take note, take note, O world,
To be direct and honest, is not safe."

Whereby he did for the moment convince and deceive his chief; but retribution soon came upon the heels of falsehood.

Mr. President, these things are *not* done in the interest of liberty and law.

This policy may seem wise on the part of the Government to some; but I might ask whether those to whom it seemeth wise are of the wise of counsel or of conduct. I do not doubt but that they regard themselves as both wise in counsel and fit to lead in action. It may be that they have thought justly. I think, however, that they will find the country differing with themselves. Permit me further to say that I have learned from all past wisdom, if I have been able to learn, that the wise are prudent, but that "fools will rush in where angels fear to tread." I characterize this conduct as pertaining to no one beyond and outside of him of whom I now undertake to speak—the man who now exercises the war power of this Government as the Secretary of the President.

Sir, I have undertaken to define General Stone; to state who he is; to state his ancestry—men who during three centuries have made blood-offerings for freedom, offered most among the rocks and pines and on the banks of the streams of the State of Massachusetts. I have spoken of him as one who has shed luster on our fame in arms. I have spoken of him as one known and approved as gentleman, as citizen, and as soldier, without fear, and above reproach. I have stated the facts of this most unprecedented, unlawful, and, if I might say it in these times of any calamity affecting one man only, this terrible outrage upon every form and name of right. I have endeavored to state the case for General Stone, for his people, for his friends; but higher and above all, I have undertaken to state his case in my own name and person as a citizen, and in my own place and office as a Senator. It is in this last position as citizen of the Republic and Senator in this Hall, that I demand that this great wrong shall be righted.

I have been denied entrance to the place where sits he who is chief in authority. I have sought the facilities afforded by the Government through postal communications—and there has been only silence. I now come into a place where, by the authority of my State, I have rights, rights as to the administering of the affairs of this Government, and the right to inquire into all violations of law on the part of any person who acts or who represents himself to act for and on behalf of the Government. Here in my place of office I say that a citizen and a soldier has been wronged and outraged by a Government official; and as he will not render his account to me, I demand that he shall be required to deliver it to the Senate. That I have the right to make this demand, and that it is the duty of the Senate to assert this right, I have no doubt.

Is it said that I have not this right as a Senator? I do know that I have it as a citizen, and I have not yet learned that I am less than a citizen for that I am a Senator. The right may be denied to me as a citizen. It has been denied to me both as as citizen and Senator.

Mr. President, permit me to say that when neither citizen, Senator, nor the Senate can interrogate, and be replied to as to the exercise of these innominable powers, then it were well that we should conclude like the desperate king: "there is no going hence nor tarrying here." If this be so, why then it were well that what we call granite foundations should crumble; that the great stones we have dreamed would stand in place forever should be splintered into fragments; that the edifice of our hopes should be crushed into ruins, so that upon and out of the ruins, if not out of the ashes, we—no, not we, but other and wiser men who shall have learned wisdom from our folly—may rear a new and more perfect structure, which shall stand the assaults of all the banded anarchs who muster their legions from southern, northern, eastern, or western shores.

Mr. WADE. Mr. President——

The PRESIDENT *pro tempore*. The Senator from Kentucky [Mr. POWELL] is entitled to the floor on the special order.

Mr. WADE. I take it the Senator from Kentucky has waived the right to the floor.

The PRESIDENT *pro tempore*. The special order of the day was postponed specially until the conclusion of the remarks of the Senator from California. Those remarks being concluded, the order of the day recurs, upon which the Senator from Kentucky is entitled to the floor.

Mr. WADE. Then I move that the order of the day be postponed for a very few minutes.

Mr. POWELL. How long does the Senator desire it postponed?

Mr. WADE. I cannot tell exactly, but for a very brief time indeed.

Mr. McDOUGALL. Probably Senators have noticed that I was somewhat ill during the time of my remarks, and it may be necessary for me to withdraw myself from the Senate. I would prefer very much, therefore, if the Senator would extend that courtesy, if he would make his remarks to-morrow, for I may be compelled to leave the Senate, and I wish to hear the Senator.

Mr. WADE. Remarks have fallen from that gentleman about the committee of which I am chairman, and I do not like to have his speech go out without an answer.

The PRESIDENT *pro tempore*. The Senator from Ohio moves to postpone the special order for the time being.

The motion was agreed to.

Mr. WADE. Mr. President, it was not my purpose to have said one word on this occasion. It is very rarely that any question can come forward here that will provoke any reply from me. I have listened to the two hours' string of platitudes which the gentleman has uttered here, to which I have not one single word of reply. They are precisely such as every lawyer makes when his client is on trial on an indictment in a bad case. He always appeals to those great guarantees of liberty that are so well provided for in the English law. Every lawyer of very little practice seems to understand how and when to invoke them. To that part of the speech I have not one word to say. I agree with him entirely; I would be the last man to raise my hand to break down one single scintilla of those great barriers of right and liberty to which he has so long alluded, and which are household words to us all. He need not have read his books, he need not have quoted his authorities in an American Senate on those points, because every man stands ready to subscribe an amen to all the doctrines to which he has alluded.

But, sir, he stepped a little beyond that course of remark, and violently assailed the committee of which I happen to be the chairman.

Mr. McDOUGALL. Will the Senator allow me to ask one thing?

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

Mr. WADE. Yes, sir.

Mr. McDOUGALL. I shall probably leave the Senate, but I wish to ask the Senator a question. I do not know that I have a right to inquire whether this arrest was made at the instance of the committee on the conduct of the war or not. It has been stated so and rumored so. I understand the responsibility is shifted from shoulder to shoulder. I did not mean to say they had done so, or to assail them. I know it was necessarily done, according to my information, by a person acting by the authority of the Secretary of War; but I should like to be informed if it was not at the instance of the committee on the conduct of the war, for I should like to be able to think so well of every member of the Senate as to relieve myself of the suspicion that is on my mind. I did not charge it on the committee. I do not know of my own knowledge that they have ever done an unworthy or improper thing.

Mr. WADE. You ought to know.

Mr. McDOUGALL. Do not understand me

as doing anything more than trying to make a form of inquiry by which I might be advised, in some form, why this great wrong has been done.

Mr. WADE. I did not yield the floor to be catechised, but for an explanation, if the gentleman had any to make. It turns out that instead of an explanation and apology for what he has said, I am to be catechised further on the subject. Now, the Senator says he does not know what he has been talking about. I did not suppose he did. He says he made the remark as a kind of fishing argument to see if he could not draw out something from somebody that would give him some light on this subject.

Mr. McDOUGALL. That is my very object. I have sought light on the subject with great labor and industry.

Mr. WADE. The Senator in the course of his remarks alluded to the committee of which I am chairman. I cannot repeat exactly the words, but it was to the effect that we had been made use of, or that we practiced stabbing men in the dark; that we profess to have some kind of testimony against men and then throw it out to their prejudice and the prejudice of their characters. I demand of that Senator now specifically to tell me what he meant by it. Where has it been done and by whom?

Mr. McDOUGALL. If I were aware that the committee on the conduct of the war had been responsible for this act, I should have spoken of that committee as I spoke of the person now at the head of the War Department. I know by information that witnesses have testified before your committee, because a gentleman told me he was going before the committee in relation to this very matter.

Mr. WADE. I want to know specifically—

Mr. McDOUGALL. Do you want to know the man?

Mr. WADE. I want to know personally and specifically from that Senator when and where it was that that committee threw out dark insinuations to wound the character of any man? When, where, and how have they done it?

Mr. McDOUGALL. I did not state that the committee on the conduct of the war had done any such thing, and you will find I am not so reported.

Mr. WADE. Then I entirely misunderstood the Senator, for I understood a charge of that kind to have been made. I am glad to hear that the gentleman says now that he has made no such charge, for I know that no such charge can be sustained.

Mr. McDOUGALL. I am glad to hear that also.

Mr. WADE. Why glad to hear it, sir? You never heard the contrary; never, never. While you throw out dark insinuations against the committee, I ask of you to be specific, or to exculpate them from the charge you have made. State wherein they have stabbed any man in the dark. I can tell the Senator the course of that committee towards General Stone—not that I mean to be provoked under any considerations into a discussion of the merits or demerits of that gentleman here. This is not the tribunal before whom he can be arraigned and tried. However, as many allusions have been thrown out in the Senate against the committee of which I, without any seeking of my own, was made the chairman, (for I had nothing to do with the raising of the committee,) I perhaps owe it to the committee and to myself to state the course of proceeding we have adopted. We have assailed no man. We have gone forth in the spirit of the resolution that created us a committee to inquire into the manner in which this war has been conducted; to ascertain by the best evidence and the best lights we could wherein there was anything in which we could aid the Administration in the prosecution of this war, and wherever there was a delinquency that we might ferret it out, apprise the Administration of it, and demand a remedy. I suppose it was for that purpose that the committee was created with the immense powers that were devolved upon it. I do not say whether it was wise or unwise to create such a committee. The Senator from New York [Mr. HARRIS] yesterday said he thought it exceedingly unwise, because the committee, as he supposed, were conducting the war; that is, placing the armies in the field, and dictating the policy of the war. We did not construe our powers in that way. We knew that in the vast business that pertained to the executive branch of the Government it was impossible for them to look into everything connected with the conduct of the war which they would like to know and which it was most essential to the country that they should know. Therefore, having leisure to inquire into many alleged abuses that they had no power or no time to investigate, we took it upon ourselves to endeavor to investigate them, and I say here, with a discretion and with a solicitude to injure no man that has never been exceeded in any investigation of any committee on God's earth.

Sir, we have not published what we have ascertained to any mortal man except it was to him who was armed with the power of administering the remedy. No idle curiosity has prompted any member of that committee to proclaim to the world as idle gossip the testimony that was before it. I challenge the Senate, and every man of it, to tell me which member of the committee or where have we made known to the public what was going on before us. I admit that as we ascertained facts, the existence of malpractices, short-comings, and things inconsistent with the proper and beneficial conduct of the war, we have sought interviews with the President of the United States, we have sought them with the Secretary of War, and on some occasions with the whole Cabinet, and there in secret have disclosed the testimony that has come to us, and we have endeavored to work out a redress, and in innumerable instances I know we have done it, where, had it not been for that so-much maligned committee, the Administration would have been entirely ignorant of what was going on. Patriotic as they are, vigilant as they are, anxious as they are to ascertain the truth on all subjects, they are not invested with omniscience, and with six hundred thousand men in the field and innumerable officers, it may sometimes happen that there may be an unworthy one in that number without their being aware of it. We have endeavored on all occasions to enlighten them, but not to stab any man in the dark, as I understood the gentleman to insinuate, but which he backs out of now, and says he did not intend any such thing or did not say any such thing.

Now, with regard to General Stone, we are not the tribunal that ought to try him. I do not believe we should be put in possession of that kind of testimony that tends to implicate him. I do not believe that it would be my duty either to the public or to General Stone here in the Senate to proclaim to the world all the testimony that came before the committee on the conduct of the war. But this much in exculpation of the Executive I will say in general terms, in order to repel the insinuations of the Senator from California: I will say here in my place that there was, and is, probable cause for the arrest of General Stone. I am not going to detail the evidence. I regret that it becomes necessary that I should say anything in public on the subject. I had rather trust it with those whom the Constitution and the law charge with the execution of this matter; but his indiscreet friend will drag it out here, and I say then, in behalf of that abused Executive, that there is probable cause for his arrest.

The Senator catechised me on a subject that I did not choose to answer just then, because I thought he was not authorized to ask the questions; but I have nothing on that subject to conceal. I have nothing to conceal in the testimony we have taken if I thought this was the proper arena in which to make it known; but we are not the triers of the case, and after all the public excitement, *pro* and *con.*, that might be consequent upon a discussion of it here, we should be utterly powerless to pronounce sentence either of guilt or acquittal. It would be, therefore, idle, vain, nugatory, and worse, to undertake to comment upon that testimony here. I shall not do it. The Senator, however, inquired of me was he arrested at the solicitation of the committee? I say, no. I do not know now who arrested him. I have seen it stated that he was arrested on the motion of General McClellan. I have heard it stated that it was on the motion of the Secretary of War. I do not know who arrested him, or at whose instigation he was arrested; but I know this—that the evidence that came before the committee, of which I am chairman, (and the executive government, the President and the Secretary of War, and they alone were put in possession of that testimony that we had and have) makes probable cause against him; but I do not know that they arrested him upon that. They knew of the testimony that we had. Nobody else knew anything of it; nor did any insinuation injurious to General Stone come from that committee. If there did, I should like to have the Senator rise in his place and tell me what member of that committee so far departed from what was the settled purpose, policy, and agreement of the committee, that when evidence came out injurious to the character of a man, it should not be promulgated except to those whose duty it was to take it into consideration and examine it and carry it through. It was not from me, sir; it was not from any member of that committee, for they are all honorable men, entirely above stabbing men in the dark, grounded upon testimony that might come before them. No such thing exists. I defy that Senator or any other to state wherein that committee have overstepped the bounds even of the most rigid discretion upon this or any other subject. When that committee—a joint committee of both Houses—was raised, it was invested with the whole power of Congress to look into everything pertaining to the war. I say that we have used that power with moderation, with great forbearance, and with a discretion that cannot be impeached here or elsewhere. I know that in the course of our labors we have been able to throw great light before the executive government upon many evils that exist, and many have been remedied in consequence of it; but no man outside has been injured by anything that has been done.

That is nearly all I wish to say on the subject. I have sat here time and again and heard insinuations thrown out against the committee on the conduct of the war, because we did not forthwith and immediately publish to the Senate, to Congress, and to the world all that we had discovered upon that committee. Sir, we should have done infinite mischief if we had. No man on the committee doubts it. I suppose it was not the purpose of Congress that we should investigate the motives that actuated men, the conduct of your armies and all that pertains to them, and publish them, so that they might get immediately into the possession of the enemy, furnishing them with important knowledge. I did not suppose it was expected that all the testimony on these most delicate subjects that come before us should be immediately revealed by an ostentatious report. Your committee were made of different materials from that. We did not so construe your meaning. We do not believe it now. We believe we have done much to aid, enlighten, and assist the executive government, while we know we have done no injury to any man's standing outside.

One word, sir, as to what the Senator said about General Stone. I have nothing against General Stone. He is an utter stranger to me. I would not harm a hair of his head. There is not a member of that committee to whom he is not almost, if not entirely, a stranger. What purpose on God's earth could animate us and impel us to do him an injury? Can any one inform us? Men do not ordinarily act without some motive. Why charge that the committee taking testimony that tended to impeach an utter stranger intended to press it beyond its most legitimate bearings?

We are tyrannical—the nation is tyrannical, says the gentleman; and he quotes authorities from nations at war with each other where there is no suspicion of treason; where all is loyalty on both sides; where nations have national feelings sufficient to repress everything favoring the adversary, and to bring forward everything favoring their own nation. He cites these precedents to enlighten us in the midst of a civil revolution, where traitors are in our midst, where you cannot walk the streets without meeting men whose hearts are opposed to the prosecution of this war. No, sir; you cannot go through the Executive Departments but you meet with violent enemies of the Government you are endeavoring to maintain. He reads precedents from English history to show the forbearance of that nation in times of civil strife. I wonder that the reading of that did not carry him back to the time when England was involved in civil war. If it had would he not be astonished at the mildness and forbearance of the Government in the course it has pursued towards these traitors in our midst? Sir, if you look at the old records during those troublesome times, you will find that men on slighter evidence than would impeach the gentleman were hung up by the neck until they

were dead, and yet he lauds the mildness of the British Government. It is a remarkable fact, and I fear not entirely to our credit either, that while we have been involved in this great rebellion, while this generation are taxed, and future generations will be taxed to the utmost of their capacity to defend themselves, while this ungodly war was waged against the best Government on God's earth, and it has cost the most precious blood of this nation to repel the insurrection, after one whole year has passed by, there has not yet been made a single example of treason, not one; no attempt to take the life, nay, even the property, of the hellish traitor that has caused the sacrifice of our dearest and most precious blood.

Sir, the man who invokes the Constitution in forbearance of the law to punish traitors is himself a sympathizer. There never was a man yet who stood up in this Senate from the time when Mr. Breckinridge preached daily in favor of constitutional guarantees until now, and set up constitutional barriers against punishment for treason, but what is in his innermost heart of hearts a traitor. I do not want to hear any more of a man than that he is invoking the forbearance of the Constitution and the great barriers in favor of American liberty to protect an infernal traitor in his course, to know that he is a sympathizer. Our Administration is assailed because not having the technical evidence in their possession to bring a man to trial and judgment of death, they do not let him go at large to plot against the life of the Government.

Mr. President, I have said a great deal more than I intended; but the theme is a very fruitful one. A tyranny exists here, it is said. Sir, is it not most manifest to everybody that from the time when this treason broke out, when we had traitors in this Senate proclaiming their treason on this floor, when they conspired to take the life of your President on his way to the capital, when they beset your regiments coming here for no other purpose than to defend your capital, until now, every scintilla of information that your Executive has is communicated to traitors on the other side of the river as soon as it is to the people on this side? The Administration have attempted to put that down; they have not succeeded; and yet the Senator stands there and says you should not arrest a scoundrel when you know his heart is with the enemy, but who meanly skulks from overt acts in their favor; you should not imprison him, you should not restrain him; but you must let it all go, and permit the enemy to be perfectly cognizant of every expedition and of every move you make. I am sorry that the Senator does not remain on this floor and meet the consequences of his insinuations against the Administration and against the committee.

Sir, it is perfectly manifest that if persons are shut up in dungeons, and restrained of their liberty, it is that the Constitution may live. I know it is not in accordance with the principles of our Constitution. In ordinary times it could not for a moment be tolerated; but when, with all your caution, and with all this pretended tyranny, you have not been able, as yet, to conceal a knowledge of the most important expeditions of your armies and your intended movements from the enemy as soon as your own people possess it, the man who stands up for a rigid execution of the *habeas corpus* and the law, as in time of peace, is but a sympathizer with them. While I am up, let me say that in times of revolution and rebellion like this, when whole States have come out and proclaimed their intention to destroy the life of our glorious Government, when they have their martial hosts in the field, bent on the destruction of our Government, I understand them to be entirely absolved from the protecting ægis of the Constitution. They have renounced it utterly. They have struck at your life. They would take your heart's blood. They proclaim themselves ready to do it. And yet, sir, you are to treat them with lenity! Your Constitution prescribes that no man shall be restrained of his life, or despoiled of his goods, without due process of law. It guaranties to every man the right of life, liberty, and property; but are you not compelled to advance into his country with your armies, to plant your cannon, and destroy him by whole armies together? Is that constitutional? My secession friend, if there is any such here, why do you not invoke the Constitution in opposition to our cannon and our musketry against these rebels? The Constitution protects their rights. You do not invoke it on the field of battle. You do not summon a jury. You do not try him there by jury, as the Constitution says you shall. Why do you not carry your doctrines to their legitimate end? Why stop short? Does the Senator from California pretend that when our hosts march in battle array and meet those of the enemy, and it is life against life, we should summon a jury before we begin to shoot, and see whether they had committed actual rebellion? Your Constitution says their lives shall not be taken without due process of law. I ask you, caviler about the Constitution, where is the law for it?

Sir, no jurist yet has had the folly to attempt to limit the powers that a man may use in defense of his own life when assailed; and so no statesman will attempt to limit the power that a nation may use when the life of the nation is assailed. There is no limit to it. You have a right to go forward in an individual case in your might, and if your life is sought, any force, any power, anything that you may do honestly in defense of your own life, the law pronounces a justifiable act. So, when the life of the nation is assailed by vile traitors embodied in military array for its destruction, they are beyond all law, they have repudiated all law, and the nation, in defense of its Constitution, its Union, and its flag, may resort to any means that God Almighty has put into their hands honestly to maintain their constitutional rights. I know very well that small lawyers may get up on these great questions of statesmanship and pettifog as a man would to screen a felon before a justice of the peace, and place his arguments on those narrow principles of constitutional law. He may require all the presumptions of innocence that are so often resorted to to shield a culprit from the punishment of his crime. It is done here. But, sir, the man whose life is assailed does not summon a jury, and the nation whose life is assailed by traitors need not summon a jury. All you want is the power, honestly exercised, to put it down.

Let me say, in passing, that every word and every syllable that the Senator invoked in favor of General Stone might have been just as well and with more propriety and more strength urged in favor of Jeff Davis to-day. He had played a very important part in Mexico; he had held high offices under your Constitution; and all the arguments that the gentleman resorted to to shield General Stone would be infinitely stronger in the case of Jeff Davis to-day. Lucifer was once a bright angel in heaven, but he fell, and he has not been much honored in that quarter since. [Laughter.]

Sir, I am tired of hearing these arguments in favor of traitors. The Constitution takes their lives, their property, their all. Why shall we stop short? Are they not in quest of ours? If there is any stain on the present Administration, it is that they have been weak enough to deal too leniently with these traitors. I know it sprung from goodness of heart; it sprung from the best of motives; but, sir, as a method of putting down this rebellion, mercy to traitors is cruelty to loyal men. Look into the seceded States, and see thousands of loyal men there coerced into their armies to run the hazard of their lives, and placed in the damnable position of perjured traitors by force of arms. If there is a man there bold enough to maintain his integrity in the face of these infernal powers, do they scruple to take his life, his property, his all? Sir, by your merciful course you have paid a premium to treason, and made it almost impossible that a loyal man in the seceded States can maintain himself at all. Those States are overrun frequently by lawless bands of rebels, who do not scruple one moment to take their property and their lives, and treat them with every indignity and every cruelty that a perverse ingenuity can invent; but, on the other hand, when our armies come along there, they deal quite as leniently with the traitor as with the loyal man. What teaches human nature? A man, having solely a regard to his self-interest, living in one of those communities, will undoubtedly reason thus: "I must profess to be a traitor; I must coöperate with them, for if their lawless bands overrun the country I inhabit, if I show any Union sentiment, any love to the old Constitution and the old flag, I shall lose not only my life, but all I possess; while, on the other hand, if the Federal forces overrun the country, they are so lenient that, even professed traitor as I am, they will respect not only my life, but my property, and all I have." Sir, the rule is as impolitic as it is unjust. You should carry the avenging sword along with your armies, and smite traitors and smite treason, and put it down, and yield protection to honest, loyal men. Until you adopt that course, you will war in vain. Mr. President, for one, I say let us go forward against treason and traitors; let us put down this rebellion at all hazards. If, in doing so, your darling institution must go under, I shall not regret it. If it must come to this, that the Union and slavery cannot live together, let slavery die the death, for the Constitution, the Union, and the time-honored old flag shall live forever.

Mr. WILSON, of Massachusetts. I move to amend the resolution by striking out all after the word "resolved," and inserting the following——

The PRESIDING OFFICER, (Mr. CLARK in the chair.) Senate bill No. 151, to confiscate the property and free the slaves of rebels is now before the Senate, and the Senator from Kentucky is entitled to the floor. Does he yield?

Mr. POWELL. I will move to postpone the bill to which the Chair has alluded, until to-morrow at one o'clock.

Mr. TRUMBULL. And make it the special order for one o'clock. I do not want it to lose its position.

Mr. POWELL. Yes, sir.

The PRESIDING OFFICER. It is moved that Senate bill No. 151 be postponed to and made the special order of the day for to-morrow at one o'clock.

The motion was agreed to.

Mr. POWELL. I have been ready to address the Senate on that subject for two days. I have never, since I have been a member of the Senate, refused to yield the floor to any gentleman who requested it, but to-morrow at one o'clock I hope no Senator will ask me to yield the floor.

Mr. LANE, of Kansas. I now move that the Senate proceed to the consideration of executive business.

Mr. WILSON, of Massachusetts. I hope we shall go on with this resolution in regard to General Stone, as we have now disposed of the special order.

Mr. LANE, of Kansas. I withdraw my motion.

The PRESIDING OFFICER. Then the question is on the amendment proposed by the Senator from Massachusetts to the resolution of the Senator from California.

The Secretary read the amendment to strike out all after the word "resolved," and insert:

That the President of the United States be requested to communicate to the Senate any information touching the arrest and imprisonment of Brigadier General Stone, not deemed incompatible with the public interest.

Mr. McDOUGALL. I trust the vote on this subject will be postponed for the present.

Mr. WILSON, of Massachusetts. I hope the whole matter will be settled now. We have spent two or three hours upon it.

Mr. McDOUGALL. I shall protest against it; but if I am required to do so, I will go on with the discussion of the subject, and give the reasons why I think the amendment ought not to be adopted. I do not care about discussing it now; but if the Senate insist upon it, I shall give my reasons why I am opposed to putting the resolution in that form. I assure gentlemen that if this subject is postponed until to-morrow, I shall take but a few minutes, and shall disturb the time of the Senate but a very little while. I do not want, however, to be called upon to speak now, for when I first rose to address the Senate, I was not strong enough to retain the floor, and cannot now. If I can have the attention of the Senate to-morrow morning on this subject, I have some objections to make to the amendment, and I have a few words to say in addition. I hope the Senate will postpone the further consideration of the subject.

Mr. ANTHONY. I am sure the Senate will postpone the resolution if the Senator from California desires to speak, and is too ill to speak this afternoon. I think there can be no doubt on that subject.

Mr. WILSON, of Massachusetts. I hope we shall act on the amendment. If the Senator desires to speak on the subject, it must go over, and must take up part of another day. I think we had better dispose of this matter to-day.

Mr. McDOUGALL. I will test the sense of the

Senate on this subject. I move that it be postponed until half past twelve o'clock to-morrow, to see what the voice of the Senate is. Otherwise I shall go on, and see if I can discuss it now.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ETHERIDGE, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 188) to increase the efficiency of the medical department of the Army.

NAVAL APPROPRIATION BILL.

Mr. SHERMAN. I submit the following report from the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 242) making appropriations for the naval service for the year ending 30th of June, 1863, and additional appropriations for the year ending 30th of June, 1862, and ask that it be considered now:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 242) making appropriations for the naval service for the year ending 30th of June, 1863, and additional appropriations for the year ending 30th of June, 1862, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the House of Representatives recede from their disagreement to the Senate's first amendment, and agree to the same.

That the Senate recede from their fourth amendment.

That the House recede from their disagreement to the Senate's eighth amendment, and agree to the same.

JOHN SHERMAN,
JAMES W. GRIMES,
JOHN P. HALE,
Managers on the part of the Senate.
JUSTIN S. MORRILL,
J. K. MOORHEAD,
E. H. ROLLINS,
Managers on the part of the House.

Mr. TRUMBULL. I should like to know what those amendments are. All the most important bills which pass Congress are those which come in from a committee of conference. I do not understand it. There may be nothing here that the Senate has not already passed upon, but it sometimes happens that after a bill is passed we find a provision as law which the Senate never had considered or knew anything about.

Mr. SHERMAN. I can explain it in a few words to the satisfaction of the Senator.

The PRESIDING OFFICER. The Senator from Ohio will permit the Chair to state that the Chair understands the usual practice to be for the question to be first taken where the bill is. The bill is with the House of Representatives and not before the Senate.

Mr. SHERMAN. Then it may be postponed for a few minutes. I can explain it in a moment. There are no amendments of importance.

Subsequently a message from the House of Representatives, by Mr. ETHERIDGE, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 242) making appropriations for the naval service for the year ending the 30th of June, 1863, and additional appropriations for the year ending 30th of June, 1862.

The Senate thereupon concurred in the report.

POST OFFICE APPROPRIATION BILL.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 259) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1863.

Mr. COLLAMER, from the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 259) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1863, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 259) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1863, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows, namely:

That the House of Representatives recede from their disagreement to the Senate's fourth amendment, and agree to the same.

That the House of Representatives recede from their disagreement to the Senate's fifth amendment, and concur in the same with an amendment, as follows: in line eight of said amendment, after the word "twenty," strike out the word "five."

That the Senate recede from their sixth, seventh, and eighth amendments.

JUSTIN S. MORRILL,
SCHUYLER COLFAX,
A. A. SARGENT,
Managers on the part of the House.
J. COLLAMER,
MILTON S. LATHAM,
T. O. HOWE,
Managers on the part of the Senate.

The report was concurred in.

EXECUTIVE SESSION.

Mr. LANE, of Kansas. I now move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in the consideration of executive business, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *April* 15, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

REBELLION LOSSES BILL.

Mr. FENTON. I am instructed by the Committee of Claims to ask the consent of the House to have printed an amendment, in the nature of a substitute, for House bill No. 293, relating to claims for losses and destruction of property belonging to loyal citizens, and damage done thereto by the troops of the United States during the present rebellion.

There being no objection, it was so ordered.

Mr. WICKLIFFE. I ask the consent of the House to have printed an amendment which I design to offer to the bill.

There being no objection, it was so ordered.

L. P. N. LANDRUM.

Mr. HARDING. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the Committee on Military Affairs be instructed to inquire into the justice and propriety of providing by law that payment shall be made to L. P. N. Landrum, of Kentucky, for military services rendered by him, and that a pension be allowed and paid to him on account of wounds and disabilities received in the service of the United States before being regularly mustered into said service, and report by bill or otherwise.

Mr. FENTON. If the gentleman will strike out the "Committee on Military Affairs," and insert the "Committee on Invalid Pensions," I will not object.

Mr. HARDING. I accept that modification.

The resolution, as modified, was agreed to.

CLAIMS FOR HORSES.

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

Resolved, That the Committee on Military Affairs be instructed to inquire into the justice and propriety of providing by law that payment shall be made for certain horses in the State of Kentucky, which were purchased under the orders and by the authority of Brigadier General William T. Ward, for the military service of the United States, and report by bill or otherwise.

VOTES RECORDED.

Mr. LOVEJOY. I ask leave to have my vote recorded on the motion to suspend the rules yesterday in reference to a ship canal from the Mississippi to the lakes.

There was no objection; and Mr. LOVEJOY recorded his vote in the affirmative.

Mr. BLAKE, by unanimous consent, recorded his vote in the affirmative upon the same question.

EXCHANGE OF PRISONERS.

Mr. TROWBRIDGE. I rise to a question of privilege. On the 24th of March, a resolution was passed in this House in reference to the exchange of Colonel Corcoran. A motion was entered to reconsider the vote by which that resolution was adopted; and I now call up that motion.

Mr. WASHBURNE. Let the resolution be read.

Mr. TROWBRIDGE. I will read it. The resolution to which I have referred is in these words:

"*Resolved*, That the Secretary of War be requested to inform this House the cause, if any, for the protracted delay in the exchange of Colonel Corcoran, a prisoner of war at Richmond, since July last, and that he be, and is hereby, directed to stop all exchanges of prisoners until Colonel Corcoran be released."

Now, sir, I wish to state distinctly that I have no desire whatever to throw any impediment in the way of the exchange of Colonel Corcoran, but I protest against the cases of all other prisoners being made subordinate to and dependent upon the case of Colonel Corcoran, and I ask this House to join me in preventing it. I have no doubt that nearly every gentleman around me has some friend—perhaps of lower rank than Colonel Corcoran—who is a prisoner, in whom he is interested, and who has the same desire to return to his family that Colonel Corcoran has. I present before the House the case of an officer of equal rank to Colonel Corcoran, and I think I shall make no disparagement of Colonel Corcoran, if I say of equal bravery and gallantry with Colonel Corcoran, and I desire that his exchange shall not be made dependent on that of Colonel Corcoran. I refer to Colonel Wilcox, of Michigan; and I shall ask the privilege of stating a few facts in connection with Colonel Wilcox which seem to me to show conclusively that this case, if either, should have preference in this matter of exchange.

Colonel Wilcox, at the time of the President's call for volunteers to defend this capital, found the military system of the State of Michigan in a perfectly disorganized and demoralized condition, yet, sir, he marched through Baltimore with the first regiment that marched through that city after the terrible 19th of April when our troops were fired upon there. His was the first regiment from the West that reported itself here in Washington, and, as they marched up the avenue, so different were they in drill, equipment, and everything else from certain other regiments that had reported here, that everybody exclaimed, "Why these are real soldiers!" And, sir, so favorable an impression did he and his regiment make upon the authorities here, that in two or three days after his arrival he was assigned to the important command of that column which invaded the "sacred soil" of Virginia and took possession of Alexandria. He was made military governor of Alexandria, which post he held until shortly previous to the advance to Bull Run, when he was appointed to the command of a brigade. He led that brigade into action, and at the head of it, cheering on his men, he fell mangled and bleeding. In the retreat which followed, he was left upon the field, and was taken to Richmond, and there, notwithstanding his severe wounds, was confined in the miserable tobacco-house dungeon, and I believe that it was nothing except the heroic efforts and kind attentions of that noble woman, Mrs. Captain Ricketts, who went out and voluntarily surrendered herself a prisoner in order to take care of her own husband, that saved his life. Well, sir, he was sent to Charleston with Colonel Corcoran, and he, like Colonel Corcoran, was consigned to a dungeon as a hostage for the privateers, and he shared Colonel Corcoran's fate in all his subsequent confinement.

I have one fact to state in reference to his exchange which, it seems to me, ought of itself to prevent the passage of the resolution as it now stands. The friends of Colonel Wilcox laid his case before the late Secretary of War in such a manner as to interest the Secretary in his behalf, and he allowed them to select from any of the rebel prisoners who might be in our hands any one officer, whom he would exchange for Colonel Wilcox. They selected Colonel Pegram, and he was liberated from Fort Warren, with unconditional orders to exchange himself for Colonel Wilcox. He came on here, and for some reason or other was allowed to remain in Baltimore for ten days, and by some hocus-pocus, which I never could understand, and which I do not believe can be explained without implicating the officer who allowed it, he was ordered by the Adjutant General, without the knowledge and without the consent of the Secretary of War, to exchange himself for another officer, who was on his parole in Texas, thus disappointing the friends of Colonel Wilcox, who had labored for him, and supposed they had secured his release. After that, they devoted themselves entirely to promoting a general exchange of prisoners. A few weeks since they were gladdened by the news that the prisoners at Columbia, South Carolina, had been ordered to report themselves at Richmond for exchange. But, for some reason or other, that

exchange has been stopped. It is rumored in the public press that the reason is something personal in reference to Colonel Corcoran. I do not know how that may be; but I wish to ask that the release of Colonel Wilcox and the other brave men with him shall not be made dependent on any contingency that may apply peculiarly and alone to Colonel Corcoran. I believe that if Colonel Corcoran's voice could be heard among us to-day —a voice which I never heard, nor do I know him, except from public fame—it would beseech us not to deprive his companions in suffering and confinement of the happiness of returning to their families simply because the same boon is denied to him.

Mr. MALLORY. I ask leave to say that I saw, the other day in this city, Colonel Woodruff, who has been confined for months past with Colonel Corcoran at Columbia and Richmond, and I heard him deliver to the President of the United States and to the Secretary of State, a message from Colonel Corcoran and others, who desired him to say that they were exceedingly anxious to be released from confinement; but that if it be required by the Government, for its purposes, that they should remain in imprisonment, they were as willing to serve their country in that way as in any other.

Mr. TROWBRIDGE. I have no doubt of that; but I do not know why one should control the whole.

Mr. MALLORY. I concur with the gentleman from Michigan in that, and I think that the resolution ought to be reconsidered.

Mr. TROWBRIDGE. I hope the House will reconsider the vote adopting this resolution, and then amend it by striking out the last clause.

Mr. ANCONA. I desire to say that in introducing this resolution, I was not prompted by any personal consideration, nor by any desire to serve Colonel Corcoran at the expense of any other gallant and worthy officer in confinement at the South. I was not aware at the time, nor until now, that Colonel Wilcox, of Michigan, was still held as a prisoner. I was under the impression, till this moment, that he had been released, and my only desire in offering the resolution was to call the attention of Congress to the fact that a worthy and gallant officer was still in confinement, and that no reason had been given for the protracted delay in his release. If any objection had been made, if the gentleman from Michigan had stated then what he has now stated, I stood ready to modify the resolution, and would have stricken out the portion objected to. I introduced the resolution in good faith. I was called from the House immediately after its passage, and was not aware that a motion to reconsider had been entered. Otherwise, I should at once have offered to modify it. I propose to modify it now.

Mr. BLAKE. My only object in moving to reconsider was that I saw that the resolution did manifest injustice to many persons, and particularly to a friend of mine, confined in the same jail with Colonel Corcoran—I mean Captain Shurtliff, a gallant man who went forth on the commencement of the war, fought like a hero, and has been in captivity for eight or ten months. The resolution was adopted without my observing it. Afterwards I saw that it did great injustice, not only to Captain Shurtliff, but to a large number of worthy men confined in southern prisons. As the gentleman who introduced the resolution expresses his intention to modify it, I have no objection.

Mr. DELANO. I was not anticipating that any such resolution as this was to be before the House this morning; but I confess that it is one which has as much interest for myself as any proposition pending in this House. Not only is Colonel Corcoran a prisoner, and one whose liberation the action of this House is intended to effect; not only is Colonel Wilcox, a soldier for whom we have the utmost admiration, in that same predicament, but it has been well intimated by the gentleman from Michigan that there is scarcely any member on this floor who cannot recall the name of some personal and meritorious friend who is also confined either at Richmond or some more remote point South, and whom he would gladly have liberated by force of this or some other resolution, if that were a proper method of procuring such liberation. But, Mr. Speaker, if there has been any one rule of conduct during the progress of this war which, as a member of this House, I have endeavored to observe more inflexibly than almost any other, calculated to influence my action here on the various questions relating to the conduct of the war, it is that on all such questions we should presume that the War Department, with whom there is a high discretion left, are at all times acting in accordance with that just and wise discretion, and that, too, without any instruction on the subject from Congress.

Now, Mr. Speaker, although I have a very highly esteemed and near friend who has been, since the 21st of July last, confined at Richmond, at Castle Pinckney, near Charleston, or at Columbia—a non-combatant, one of the most devoted and eloquent divines of New England, a man for whom I might almost say I would willingly give myself up as a hostage—still I must say that I think that any such instructions as are embraced in this resolution are an encroachment on the province of the War Department. I do think it is proper to request or direct the War Department to give us the reason why these men have not been released, if not incompatible with the public interests. The whole country is anxiously inquiring for those reasons. I supposed that we had not only captured, but tendered for exchange over and over again, prisoners enough to redeem our officers and soldiers who are languishing in southern prisons. To that extent, then, I will go. But when it comes to instructing the War Department that until the Secretary lets us know what the reasons are for the non-exchange of these prisoners, that Department should suspend all further exchanges, I must dissent most earnestly from that course. I hope, therefore, that the vote adopting this resolution will be reconsidered, and that the latter part of the resolution may be stricken out.

Mr. TROWBRIDGE. I think that enough has been said on the matter, and I shall therefore move the previous question.

The previous question was seconded, and the main question ordered, and under its operation the vote by which the resolution was adopted was reconsidered.

The question recurred on the adoption of the resolution.

Mr. ANCONA. I now modify the resolution by striking out the last clause, so that it will read:

Resolved, That the Secretary of War be requested to inform this House the cause, if any, for the protracted delay in the exchange of Colonel Corcoran, a prisoner of war at Richmond, since July last.

Mr. WICKLIFFE. Is it in order to move to amend the resolution?

The SPEAKER. It is.

Mr. WICKLIFFE. I should like to add that the Secretary of War should report the cause of suspending the exchange of prisoners. I know something myself about that cause.

The SPEAKER. The Chair would suggest to the gentleman from Kentucky that he might accomplish his purpose by adding the words, "and other prisoners."

Mr. WICKLIFFE. Very well. If the facts are as stated to me, it is important that the country should know them. I understand that we are greatly in advance in the exchange of prisoners. The War Department, therefore, does not desire to continue the system until it can get something in exchange. It does not deem it proper to parole any more prisoners, because paroles are, to a very great extent, disregarded, and because the president of the confederacy has asked congress to pass a law giving him the power to absolve those who have given their parole of honor not to take up arms against the United States. I suppose that some reason of this kind is operating on the War Department.

The resolution was further modified, so as to read:

Resolved, That the Secretary of War be requested to inform the House the cause, if any, for the protracted delay in the exchange of Colonel Corcoran and all other prisoners of war.

Mr. TROWBRIDGE. I suggest that the name of Colonel Wilcox be inserted after that of Colonel Corcoran.

Mr. HALE. I hope the resolution will not be so worded as to confine itself to the prisoners of war who are at Richmond. I have friends who are prisoners of war at Columbia and at New Orleans. I think the resolution should apply to all.

Mr. WICKLIFFE. I will then modify my amendment, so that it will read simply "all other prisoners of war."

Mr. ANCONA. I will accept that modification, and now call the previous question on the adoption of the resolution.

Mr. MALLORY. I ask the gentleman to withdraw the demand for the previous question, to permit me to offer an amendment.

Mr. TROWBRIDGE. I hope the gentleman will allow me to offer my amendment, inserting the name of Colonel Wilcox after that of Colonel Corcoran. I believe he is the only other colonel now a prisoner who was taken at the battle of Bull Run.

Mr. ANCONA. The resolution as modified will cover him as well as others. I prefer to insist on my demand for the previous question.

The previous question was not seconded.

Mr. TROWBRIDGE. I now move to amend, by inserting the name of Colonel Wilcox after that of Colonel Corcoran, and on the resolution and amendment I demand the previous question.

Mr. MALLORY. I desire the gentleman to withdraw the demand for the previous question for one moment.

Mr. TROWBRIDGE. I do not think it worth while to spend any more time upon this subject.

Mr. MALLORY. I hope the House will vote down that motion, then.

Mr. DELANO. I wish to appeal to the gentleman from Michigan.

Mr. TROWBRIDGE. If I could withdraw the demand for the previous question at all, I certainly would do it on the request of the gentleman from Kentucky. I must decline.

Mr. WRIGHT called for tellers on seconding the demand for the previous question.

Tellers were not ordered.

The previous question was seconded—ayes 53, noes 44.

The main question was then ordered to be put.

The amendment proposed by Mr. TROWBRIDGE was agreed to.

The resolution, as amended, was adopted.

Mr. TROWBRIDGE moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ARMY MEDICAL DEPARTMENT.

Mr. BLAIR, of Missouri, from the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 188) to increase the efficiency of the medical department of the Army, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment to the bill (S. No. 188) to increase the efficiency of the medical department of the Army, having met, after a full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the Senate concur in the amendment of the House to the said bill with the following amendments:

In section one, line seven, after the word "service," strike out the words "shall be forty-five dollars per month and one ration," and insert in lieu thereof the words, "shall be thirty dollars per month;" and at the end of said section add as follows: "and all medical cadets in the service shall, in addition to their pay, receive one ration per day, either in kind or commutation."

In section seven of said amendment of the House strike out the whole section, and in lieu thereof insert the seventh section of the original bill of the Senate with the following amendment thereto: at the end of the said seventh section of the Senate bill add as follows: "*Provided, however*, That when this act shall expire, all officers who shall have been promoted from the medical staff of the Army under this act shall retain their respective rank in the Army with such promotion as they would have been entitled to."

In the title of the bill, after the word "to," insert "reorganize and."

FRANK P. BLAIR, jr.,
JOHN B. STEELE,
EDWARD McPHERSON,
Managers on the part of the House.
HENRY WILSON,
H. S. LANE,
J. W. NESMITH,
Managers on the part of the Senate.

FRANKING PRIVILEGE.

The SPEAKER stated the business next in order to be the consideration of House bill No. 92, to regulate the franking privilege, reported from the Committee of the Whole on the state of the Union without amendment.

Mr. VALLANDIGHAM. I only desire to repeat what I said in committee the other day, that this bill was carefully prepared by a committee of the Thirty-Sixth Congress, who spent very much labor upon it. It consists chiefly of a digest or collation of the existing acts upon the subject. The only new provisions are these: first,

the fixing of severe but not unjust or excessive penalties for the violation of the law, for which violation no penalties now exist; and thus it protects the Post Office Department against abuses.

The other material change consists in the affixing the frank by a stamp where the documents pass through the folding-room, and by a sworn officer, attaching a severe penalty to any abuse or violation of the law in the affixing that frank.

The name of each member is to be upon the stamp, and the officer at the folding-room is to affix it to his proportion of the documents or speeches that may be ordered to be folded in that room. And all other franking is required peremptorily to be done by the member himself. All letters sent from here, or from home, and all public documents not passing through the folding-room are to be franked by the member personally. It seems to me this would have the effect of correcting the great abuse which has grown up by members employing clerks to frank their documents and speeches.

There is no other new provision in the bill; and inasmuch as this subject has been discussed very fully during the last three years, unless it is the desire of some member to speak further upon the subject, I will call the previous question on the engrossment and third reading of the bill.

Mr. COLFAX. I ask the gentleman from Ohio to withdraw his demand for the previous question for a moment.

Mr. VALLANDIGHAM. I will withdraw the demand to hear what the gentleman from Indiana has to say.

Mr. COLFAX. I simply wish to say, without taking up the time of the House, that the whole question of the franking privilege was, after full discussion in the early part of the session, disposed of, each member, as I suppose, understanding his own views and the views of his constituents, by the passage of a bill, more than two to one voting for it, for the entire abolition of the franking privilege. And I do not believe that the House will now stultify itself by an attempt to tinker up the old system. I do not believe it is capable of being tinkered so as to correct the abuses which exist.

The bill of the gentleman from Ohio even enlarges the franking privilege by saving the member the trouble of writing his name upon his public documents and speeches.

I have only to say that I hope the House will not reconsider its action previously taken, and indicate, as the passage of this bill will indicate, that it is in favor of the continuance and enlargement of this franking privilege.

I hope, if the proposition to abolish the franking privilege is to be defeated, we shall leave the responsibility in the other end of the Capitol.

Having said this much in opposition to the bill, I will yield the floor to the gentleman from Ohio to renew the demand for the previous question, after which I will move to lay the bill on the table.

Mr. COX. I wish to ask the gentleman from Indiana whether the Post Office Department has expressed any opinion as to the merits of this bill or the merits of any bill upon this subject; in other words, whether they are in favor of the abolition of the franking privilege, and, if any expression of opinion has been made, what are the reasons given?

Mr. COLFAX. I will answer the gentleman from Ohio that the last two Postmasters General, Mr. Campbell and Mr. Holt, were in favor of the abolition of the franking privilege. The present Postmaster General, I understand, is not in favor of its abolition, but is in favor of its continuance. Whatever reasons he may have for the position taken by him have not been given in any official form. I have received from him a private letter on the subject, which I do not feel at liberty to read without his consent. I will, however, state very frankly that he is not in favor of the discontinuance of the franking privilege.

Mr. COX. The gentleman will oblige me by giving the reasons why the Postmaster General is not in favor of the abolition of the franking privilege. They may be sufficient to satisfy the gentleman himself.

Mr. COLFAX. The only reasons given, of which I have any knowledge, are contained in an unofficial letter, which I have not here, and which I should not feel at liberty to read without his consent, if I had.

Mr. VALLANDIGHAM. I will only add further that it seems to me it will be well enough to send this bill to the Senate, and have them to determine between the two propositions. If the franking privilege is abolished, this will do no harm by its being sent to the Senate. But if it is not to be abolished, then why not make provision for correcting the abuses which have been perpetrated, and which have constituted the great argument for the abolition of the franking privilege?

Mr. COLFAX. Allow me one word further.

Mr. VALLANDIGHAM. Certainly.

Mr. COLFAX. I will state, in further continuation of my answer to the gentleman's colleague, [Mr. Cox,] that the Committee on the Post Office and Post Roads of the House of Representatives were, with one exception, in favor of the abolition of the franking privilege.

Mr. VALLANDIGHAM. The gentleman is chairman of that committee, and has, I have no doubt, powerful influence with it. I renew again the demand for the previous question.

Mr. COLFAX. I move that the bill be laid upon the table.

Mr. VALLANDIGHAM. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 68, nays 48; as follows:

YEAS—Messrs. Aldrich, Alley, Arnold, Ashley, Joseph Baily, Baker, Beaman, Bingham, Samuel S. Blair, Blake, Buffinton, Calvert, Campbell, Chamberlin, Colfax, Frederick A. Conkling, Roscoe Conkling, Delano, Dunn, Edwards, Eliot, Fessenden, Franchot, Frank, Grider, Hall, Hanchett, Harrison, Holman, Hutchins, Julian, Kelley, Killinger, Lansing, Lehman, Loomis, McKnight, McPherson, Moorhead, Anson P. Morrill, Justin S. Morrill, Patton, Porter, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Shanks, Sheffield, Shellabarger, Sloan, Spaulding, John B. Steele, Stratton, Benjamin F. Thomas, Train, Trowbridge, Van Horn, Van Valkenburgh, Verree, Wall, Wallace, Wheeler, Wilson, Windom, and Worcester—68.

NAYS—Messrs. Allen, Ancona, Baxter, Biddle, Francis P. Blair, Jacob B. Blair, William G. Brown, Casey, Clements, Cox, Crittenden, Dawes, Duell, Dunlap, Goodwin, Granger, Hale, Harding, Hickman, Kerrigan, Knapp, Lazear, Leary, Lovejoy, Mallory, Menzies, Morris, Noble, Noell, Norton, Nugen, Olin, Pendleton, James S. Rollins, Shiel, Smith, William G. Steele, Vallandigham, Voorhees, Wadsworth, E. P. Walton, Ward, Washburne, Albert S. White, Chilton A. White, Wickliffe, Woodruff, and Wright—48.

So the bill was laid upon the table.

During the vote,

A message in writing was received from the President of the United States, by his Private Secretary, Mr. HAY.

The vote was announced as above recorded.

Mr. COLFAX moved to reconsider the vote by which the bill was laid upon the table; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

SALE OF POSTAGE STAMPS, ETC.

The SPEAKER. The next business in order is the consideration of an unfinished report from the Committee on the Post Office and Post Roads, being House bill No. 216, respecting the sale of postage stamps and stamped envelopes.

Mr. COLFAX moved that the further consideration of the bill be indefinitely postponed.

The motion was agreed to.

NEBRASKA CONTESTED ELECTION.

Mr. VOORHEES, from the Committee of Elections, submitted a minority report in the case of Samuel G. Daly against Sterling J. Morton, that the former is not, and that the latter is, entitled to a seat in the House as Delegate from Nebraska; which was laid upon the table, and ordered to be printed.

COURT OF CLAIMS.

Mr. PORTER. I call up the motion to reconsider the vote by which House bill No. 226, to amend an act to establish a court for the investigation of claims against the United States, approved February 24, 1855, was recommitted to the Committee on the Judiciary; and as the bill is an important one, I ask the Clerk to read the substitute proposed by the Committee on the Judiciary.

The substitute was read.

Mr. PORTER then addressed the House in explanation of the provisions of the bill. [His speech will be published in the Appendix.]

Mr. DIVEN. I desire to say a few words.

Mr. PORTER. I will yield to the gentleman from New York if he will renew the call for the previous question.

Mr. DIVEN. I will.

Mr. SHELLABARGER. I wish to suggest an amendment.

Mr. PORTER. I will hear it read for information.

Mr. SHELLABARGER. It may already have been provided for in the bill.

The SPEAKER. The motion to reconsider must be first disposed of before an amendment is in order.

The motion to reconsider was agreed to.

The question recurring upon the motion to recommit the bill, it was put, and decided in the negative, and the bill was before the House for consideration.

Mr. PORTER. I move the previous question.

Mr. SHELLABARGER. I ask that my amendment may be read.

No objection being made, the amendment was read, as follows:

At the end of the thirteenth section of the substitute, add the following:

Provided, however, That in order to authorize the said court to render judgment in favor of any claimant, it shall be set forth in the petition, and be made to appear on trial, that the claimant has at all times borne true allegiance to the Government of the United States, and that he has not in any way voluntarily aided, abetted, or given encouragement to rebellion against the said Government.

Mr. PORTER. I have no objection to the reception of the amendment. I will now yield the floor to the gentleman from New York.

Mr. DIVEN. Mr. Speaker, I need not inform the House, if they have paid any attention to this bill, that it is an important one, and that it demands the careful consideration of members before they adopt so radical a change in the Government of the country; for it is, I conceive, a most radical change. The bill proposes to allow this nation to be sued and brought into court like a corporation or an individual, and judgment to be rendered against it from which there is no appeal. In that particular it is entirely novel, and has no parallel in any country.

Mr. PORTER. Lest the House may misunderstand the facts from the remark made by the gentleman from New York, I will state that in the case of all claims exceeding three thousand dollars, there is an appeal from this court to the Supreme Court of the United States by either party.

Mr. DIVEN. Certainly there is, and that is one of my objections to the bill. The bill allows an appeal to the Supreme Court upon questions of law, thus making the adjustment of claims between citizens and the Government a legal trial, to be tried in a court as claims between individuals or between corporations and individuals are tried, reducing the Government to the position of a mere corporation, and making it suable in courts.

Now, sir, I am not opposed to a Court of Claims. I admit its necessity. I admit, not only its necessity, but its great convenience and propriety, and I submit that we have an admirable system for adjusting claims now furnished in the Court of Claims as it at present exists. If Congress has not paid proper respect to the decisions of this court, and acted with sufficient promptitude upon them, that is no reason for asserting that the system is wrong. I submit that the systsm is eminently right. If there are not judges enough to discharge the duties of the court, and if claimants cannot have as speedy a hearing as they are entitled to, increase the number of judges to any convenient extent. I am in favor of giving all claimants against the Government a speedy and timely hearing, and I cannot conceive of a court more admirably adapted to the purpose than the one we have now provided for. Any man can go before that court and make his claim. Any claim that is presented to this Congress can be referred to that court. It is proper, when a claim is presented here, that it should first go to the Committee of Claims, and that they should examine it to determine whether there is sufficient in it to send it to the Court of Claims. If it be a clear case, admitting of no question, they ought not to trouble the court with it, but report it to the House, and the House should pass it, as we have done in this Congress time and again. The court ought not to be troubled with those cases about which there is no question. But if the Committee of Claims,

when a claim is presented and referred to them, find it involved in any intricacy or doubt, they refer it then to the Court of Claims, and the court summons witnesses and examines the entire claim; the Government has counsel there in the person of the Solicitor of Claims, who investigates the validity of the claim on the part of the Government, and makes his objections and sees that the Government is not defrauded; and then, when all the evidence has been gone through with, and the counsel on the part of the Government and of the claimant have been heard, the court deliberately make up their conclusion and report it to Congress, and they accompany that report with the evidence upon which their conclusion is based. If the judges disagree, the disagreeing members make separate reports, so that the entire case is fully presented before Congress.

Now, if the court are agreed, and the solicitor agrees in the opinion of the court, then Congress, in my opinion, ought to pass upon the claim without any debate, discussion, or hesitation. And if need be, and for the purpose of furthering the rights of claimants, I would vote for a bill that would provide for the payment from the Treasury of any claim that shall receive the unanimous approval of the Court of Claims, and of the solicitor for the Government. Such a provision, I will venture to say, would relieve this Congress from the consideration of all claims that ought not to be considered by it. When all the members of the court agree that a claim is just, and when the solicitor employed on the part of the Government agrees that it is just, then there is no necessity of making the claimant wait until he can come here, and have Congress pass upon his claim. All the complaints that are now made would, in my judgment, be removed by a simple provision of law giving to a claimant a right to draw his money when the court and the solicitor are united in favor of the claim.

CLAIM OF PEDRO CHABOYA.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill (S. No. 106) to authorize the district court of the United States for the northern district of California to hear and determine upon its merits the claim of Pedro Chaboya to a certain tract of land in California called La Posa San Jean Bautista; in which he was directed to ask the concurrence of the House.

On motion of Mr. SARGENT, by unanimous consent, the bill was taken up, read a first and second time, and referred to the Committee on the Judiciary.

COURT OF CLAIMS—AGAIN.

Mr. DIVEN. Now, Mr. Speaker, what complaints are made before Congress, calling for the establishment of this new court? It is to be invested with all the dignity of the Supreme Court of the United States, to have its chief justice and its justices, and all the paraphernalia and dignity of a court of the United States, from which no appeal can be had except to the Supreme Court of the United States, and then only upon questions of law.

But it is said that claimants complain that after the court have passed upon their claims, Congress is dilatory in regard to them. Well, if the provision which I suggest is made for the payment of claims where the court agree—and I am told that it is very rarely that they disagree—without the interposition of Congress, vastly more relief would be furnished to claimants than will be furnished by this bill.

But, sir, there are other objections to this bill, which, in my judgment, are real, substantial, legal objections. By the provisions of this bill it is provided that when any individual seeks to have a claim adjudicated before this new court, if the Government has any claim against him, the court shall set it off, and if the claim which they find against the claimant is greater than the claim they find in favor of the claimant, then a judgment is given against him and an execution goes against his property. Now, sir, if this bill passes, an individual having a claim against the Government, and against whom the Government has a claim, can never have his claim against the Government adjusted and liquidated without being compelled to submit to an adjustment of the claim of the Government against him without the right which is guarantied by the Constitution, of a trial by jury. There is no provision in this bill for a jury, and by our Constitution every man has a right, where his claim is over twenty-five dollars, to have it passed upon by a jury; but under this bill, a man who is seeking to have a claim against the Government adjudicated is subjected to the necessity of submitting to the establishment by the Government of a claim against him without any trial by jury, and is thus deprived of a clear constitutional right.

Now, sir, what is the theory with regard to the satisfaction of claims against Governments? Why, it is this: that Governments are always disposed to deal justly with their subjects; that Governments are never required or compelled by legal process to render justice to their subjects; and that they are always ready to do right when the right is ascertained; and the only object of a Court of Claims should be to aid the Government in determining what is right, and then the Government will do right always. That is the theory of government. It was a maxim of the common law that "the king can do no wrong;" and it is the theory that Governments can do no wrong, that exempts them from this trial in courts to compel them to do right to their own citizens. It is false in theory to suppose that when an individual has a just claim against the Government it is necessary for him to sue the Government in a court of law to recover it. All that it is necessary to do against the Government is to establish the rectitude of the claim, and then the obligation on the part of the Government to discharge it follows at once.

Now, there are other objections to this. Rules of law by which claims are determined are necessarily arbitrary rules. All of us know that the application of an arbitrary rule to some cases very frequently works a hardship. Hence, if you bring men who have claims against the Government up to a legal standard, and require them to bring themselves within the rules of law before the Government will acknowledge their claims and pay them, extreme hardship will be the result in a great many cases. A man, for instance, may have made a contract for the delivery of property to the Government for the building of a ship, or for the performance of some important work. He may have nearly completed it. It may be of convenience to the Government to have the work as it is. The Government may have received great benefits from the partial performance of the contract. And yet, under the application of the strict rule of law, although the Government may be in the enjoyment of many advantages growing out of the labor of the citizen, the citizen cannot be paid because he has not performed his contract to the letter. This court must apply the unbending rules of law to such a claimant, and turn him out unremunerated. On the other hand, and what is a great deal more likely, a claim artfully fabricated may be presented against the Government, and under the application of the strict rules of law, the claimant may be entitled to a judgment. Reports have been made here, and a great clamor raised—I know not with what degree of truth—that contracts have been entered into with the Government by individuals for the supply of arms to the amount of forty or fifty millions of dollars, and that these articles are not to be delivered for six or twelve or eighteen months, when it is not expected that the Government will need them.

It has been stated that the prices agreed to be paid for these arms are extravagant and enormous; that these contracts will put into the pockets of the contractors millions and millions of dollars. The belief is prevalent with many that the parties who have entered into these contracts have circumvented the officers of the Government, if they have not done even worse, and thus got these contracts. We are talking here of not taking these arms, of repudiating these contracts. If we do repudiate them, will not these contractors go before this new court, and unless the Government can substantially prove fraud, such positive fraud as vitiates contracts, will we not have to pay to these contractors all the prospective profits which they might have made by the fulfillment of their contracts, even though the court may be satisfied that there is not a particle of justice in the claim? The passage of such a bill as this cuts off all exercise of discrimination on the part of Congress. It does not leave it in our discretion to determine whether the claim is fair and equitable and right; but you give to these men the benefit of a strict application of legal rules. Then, again, if the Court of Claims does not find in favor of the claimant up to the full amount of the damages that may be established by proof, he can appeal to the Supreme Court of the United States, and can there exact from the Government the uttermost that the law allows. I tell you, sir, that you are placing the Treasury of the United States at the mercy of this Court of Claims. You are taking from Congress the control which it should always have over the Treasury of the country, and are placing the Treasury at the mercy of this court.

Mr. MALLORY. Will the gentleman from New York permit me to inquire of him whether he does not know that the money to pay the claims allowed has to be appropriated by Congress before the Treasury can be deprived of it?

Mr. PORTER. I desire to state that the Secretary of the Treasury is to present in his estimates each year the precise amount required to pay off the claims reported by the Court of Claims. These can only be paid on a general appropriation made by Congress. The object of this is, that Congress may see, from session to session, exactly what has been done by this Court of Claims, and may reform any abuses that may exist.

Mr. DIVEN. Exactly; that is the power which Congress has now over this court, and the power which it should forever keep over it. You should never place the nation in the attitude of having the judgment of the Supreme Court of the United States against it, and then refusing to pay that judgment. If you give to the individual the right to sue the nation in a court, and to prosecute his suit to judgment, then pay the judgment.

But, Mr. Speaker, let Congress keep in its own hands, if it would keep control over the Treasury, a clew by which it can pass upon and determine the fairness of some claims at least, and not subject itself to the strict rule of law. I tell you, sir, that a hundred old claims that have been rejected here will be fished up and brought into this court. Out of the troublesome times that are arising, and which the advocates of this bill have made a pretext for its passage, there will spring up claims of a most curious character, which by force of law might be maintained against the Government and judgment had. Ay, sir, there have been arrests of men, against whose suits for false imprisonment I hardly know how defense could be made. There has been appropriation of property, there has been destruction of property in Virginia and in other portions of the country, for which fearful claims can be made and legally established against the country, such as seldom have been recognized by other countries. The Treasury will need a stronger key on it than this court, confining itself to legal rules, can furnish. Otherwise great injustice will be, in my judgment, done, and enormous drafts will be made on the Treasury.

So far from the circumstances of the times being reasons for establishing a court by which men shall be allowed to recover judgments against the Government on strictly legal rules, the times furnish reasons why such rules should not be applied. Let us leave the matter open to a broad equity, and when a man comes forward with a claim for the destruction of his property in this war or for property appropriated by the Government, let us hold in our hands the right to correct the decision that may be made. We have required ships for the transportation of our troops and munitions of war, and we have sent our agents to barter with the owners of those ships, comparatively at their mercy. I trust in Heaven that that day is past, and that whenever, in future, the owner of a ship or of anything else that the Government requires in the prosecution of this war, asks an exorbitant price for it, the Government will take the article and pay what is right and fair for it, guided by justice and equity and not by the technicalities of law.

Now, sir, the country has got on well enough without any such court as this. It is well enough known that a liberality has always been shown to the citizen whenever a claim against the Government could be fairly established. But we are told by the gentleman who reports this bill that the Government is dilatory, and that that is a denial of justice to the claimant; that the passage of a private bill here depends not on its merits, but on the skill of its advocate in this House. That is

certainly a poor commentary on the intelligence of Congress. But in the Court of Claims, as it now exists, we have the corrective of all this without investing it with these new and extraordinary powers. If the members of the court are united in their decision, nothing more may be done. If they are not a unit upon it, let the members of this House investigate the report, and each gentleman decide upon the report and upon the evidence in such case, and then render speedy justice in the premises.

Now, sir, speedy justice is claimed as one reason for passing this bill establishing this court; and we are told that claims are going to multiply rapidly. Have gentlemen considered the character of the present Supreme Court; and if you add upon that calendar all the cases which would come up upon appeal from this court we are about to establish; if, in other words, you compel the Supreme Court to perform all the business that properly belongs to it, and in addition all the cases which this bill contemplates, I ask any gentleman acquainted with the character of that court if he supposes speedy justice is to be the result? No; on the contrary, the next application you will have will be for another Supreme Court of the United States to discharge the legislative, not judicial business, which this bill imposes upon them. Otherwise the claimant will have his claim continued from term to term, and from year to year, before final judgment can be reached.

But, if I understand the gentleman from Kentucky, [Mr. MALLORY,] when that judgment is obtained it cannot be executed until the further action of Congress; so that, instead of providing a nearer road for the claimant to justice, you make the road more circuitous. You send him first to this court, then to the Supreme Court, and then to Congress. I do not see how you expedite the final disposition of the right of the claimant by the constitution of another court in which he may be heard.

But, sir, I doubt, and if I understand the language of the Supreme Court, they doubt, whether they have jurisdiction in any such cases. I understand the Supreme Court of the United States to have decided, in two or three cases, that they had no jurisdiction of any case where they could not execute their own decree; that a part of the province of the court is, to first determine what is right, then decree that right, and then issue their process for the execution of their decree.

Now, here is a case brought into the Supreme Court of the United States. They issue their decree and enter judgment against the United States in the case—a judgment which this act declares shall be final; and yet they are perfectly powerless to enforce their own judgment. I understand the Supreme Court to say that they will recognize no such jurisdiction as this, and it seems to me they ought not to recognize it. Make a decree, be required to make a decree, and enter a judgment which shall be final, and yet have no power of enforcing it! That is not a court of law; that is not what is meant by the judicial power of the land; and I submit that you cannot compel the Supreme Court of the United States to come here and perform any of the legislative duties of the land; you cannot compel them to be an arbitrator to decide how much is due from the Government to the citizen; you cannot compel them to perform any such office. It is not within their jurisdiction as a Supreme Court of the United States.

It seems to me that if reflection has been given to this bill there are manifest objections to it which will occur to any one. You raise to a dignity equal to that of the present United States judges seven more men. You constitute a chief justice, and virtually make the officers of another Supreme Court, and all this merely to aid the Legislature in determining what is right as between the claimant and the Government, when we have a tribunal now in existence well adapted to that very end, less expensive, with less machinery, but leaving to this Congress the right to control their own Treasury, and to do what they shall deem to be just between the citizen and the Government. I will not detain the House with further remarks upon this bill.

Mr. PORTER. I desire to renew the demand for the previous question. Before doing so, however, I will yield to the gentleman from New Mexico, who I understand desires to submit some remarks upon this bill.

Mr. WATTS. As I have perhaps had as large an experience in the management of the business before this Court of Claims as any man in the House, I will claim its attention for a very few minutes for the purpose of answering some of the positions assumed by the gentleman from New York, who has just taken his seat.

In the first place, I take it for granted that there is no member of this House, nor any person in the country, who is not willing to see justice done fairly and impartially between the Government and its citizens. If there is a sovereignty existing in the Government, there is also a sovereignty existing in the people; and every man, so far as his legal rights are concerned, is just as much entitled to have fair and impartial justice rendered to him when he has a claim against the Government, as the Government has when it has a claim against him. Now, there are public tribunals everywhere through the country before which the Government can go and assert its demands in courts of justice against the citizen; and is it anything but fair, right, and proper, that a similar tribunal shall be created by Congress before which the citizen can go and assert his rights against the Government?

If there be anything improper or unjust in this view of the case, I confess that I am not able to see it. Is there any member of this House, is there any honest man from one extremity of the country to the other, who is not willing to pay any just and legal demand which any citizen of the country, however humble, may have against the Government?

The member from New York [Mr. DIVEN] is alarmed at the idea of an innumerable number of claims rising up before this tribunal. Well, what if they do? If they are just claims might they not as well rise up before this as any other tribunal? If they are just claims might they not as well be passed upon by this tribunal as to be passed upon by Congress? How is it when claimants come before this House for relief? The honest claimant has to run round and buttonhole members of committees, and, perhaps, after all his trouble, go away disappointed, while the dishonest claimant, with more energy and more perseverance, will succeed in obtaining the passing of his dishonest claim through the House. That is the kind of justice that is meted out to claimants in this House.

But the gentleman from New York tells us that these claims involve the discharge of legislative and not judicial duties in their adjudication. Sir, the question is one of purely a judicial and not a legislative character. No member of a legislative body has the right properly, in his legislative person, to exercise the judicial function of determining as to the legality of a claim. Let him confine himself to the discharge of his legitimate legislative duties and he will have quite as much as he can properly attend to, without departing from his legitimate functions and entering upon the judicial function of passing upon claims.

All the fears of the member from New York as to the amount of the claims that will be presented, and as to the frauds that will be perpetrated upon the Government by the passage of this bill, I assert are unfounded. Will any man inform me that there is a greater possibility of imposing upon a great judicial tribunal, with lawyers employed upon both sides, with witnesses examined on both sides, than upon a legislative body like this, where there is no counsel employed or heard except on behalf of the claimant in favor of his claim?

Mr. DIVEN. Will the gentleman allow me to ask him if each side is not allowed counsel before the Court of Claims?

Mr. WATTS. The reason why the gentleman is opposed to this bill is because the Court of Claims is much more likely to be imposed upon by fraudulent claims than the House of Representatives. His argument very strangely is that the Court of Claims will be much more easily misled than Congress.

Mr. DIVEN. I have made no such intimation; but I did say that the court was confined to strict legal rules, and had no equitable power.

Mr. WATTS. The jurisdiction of the court is proposed to be of this character: it is provided that the Court of Claims shall hear and determine such claim or demand both for and against the Government and claimant; and if upon the whole case it finds that the claimant is indebted to the Government, it shall render judgment to that effect, and such judgment shall be final, with the right of appeal, as in other cases herein provided for. Is there anything there to sustain the gentleman in his objection? I think not.

The gentleman's real objection is that the Government has made large contracts with private parties for the supply of large quantities of arms, and that the Government may be called upon to pay out large sums of money to satisfy the demands upon it because of those contracts. What an objection? If the Government has made a contract for arms and the contractor has, under the terms of his contract, supplied the arms to the Government, is there any man here who will say that he ought not to be paid? The gentleman, it seems to me, is in favor of that most disreputable of doctrines—the doctrine of repudiation. He would assert the principle before this House, that whenever the Government has made a contract which it is burdensome upon the Government to comply with, it shall shield itself behind the doctrine of repudiation. I cannot believe that the gentleman's argument in that regard will be sustained by this House of Representatives. I believe that this Government is able to stand up and face the music. I believe that it is able to discharge every honest obligation, and that it is able to fulfill every honest contract that it has ever entered into. I believe that it is willing to do so, and that the gentleman from New York is an unfaithful representative of the justice and magnanimity of this Government. He is an unfaithful representative because he would put bars in the way of the exercise of that justice.

But this court is satisfactory to the gentleman from New York so long as it is a mere commission to report upon a case to Congress and without final jurisdiction; but so soon as it is made a court of justice, where a claimant can have a fair and impartial trial and some decision upon his case, it is objectionable to him. Is there any reason that there will be an unfair leaning on the part of the court in favor of the claimant and against the Government? Certainly not. The only objection in the world which could be reasonably made against this bill would be that it would have a leaning toward the Government rather than toward the claimant. The court is created by the Government. It is paid by the Government. Therefore, in all cases of doubtful law, uncertainty of proof, and questionable equity, the court, it would be supposed, would give the benefit of that doubtful law and uncertainty of proof to the Government, and not to the claimant. It is the past experience of the investigations of claims that the court is liable to render too little justice, instead of too much justice, to the claimants that present to it their claims for adjudication.

Mr. Speaker, this bill is a step in the right direction, and ought to be passed by this House at once. It is a measure of justice, and inaugurates an honest practice on the part of the Government. No Government, sir, can last long, or deserves to last long, which is not disposed to be just to its own people.

Mr. F. A. CONKLING. Has any other Government provided any such tribunal for the adjudication of claims against it?

Mr. PORTER. In every great nation in Europe there is a judicial tribunal which decides upon claims against the Government; and especially is this the case in Great Britain. Claims refused by the executive department are referred to that tribunal, and to its decision the king himself has to submit.

Mr. DIVEN. Does that relate to real estate?

Mr. PORTER. It relates to all claims.

Mr. BLAIR, of Missouri. Is there anything in the bill to guard against the payment of claims of those who have been in rebellion against the Government?

Mr. PORTER. The amendment of the gentleman from Ohio [Mr. SHELLABARGER] covers all of that ground.

Mr. WATTS. All I care for, Mr. Speaker, is that Congress shall provide some proper judicial tribunal before which the citizens of the United States may appear and present their claims against the Government, with the certainty of having a final decision upon them. One objection made to this bill, which has that purpose in view, is that the fourth section of the bill would result, if passed, in great hardship to the citizen. If the Government has a claim against the citizen it al-

lows that claim to be used as a set-off to any claim against the Government by the same party. I think, instead of being an objection, that that is the beauty of this bill. I do not see why the citizen should not be as willing to do justice to the Government as the Government is willing to do justice to the citizen. It is certainly as much the duty of the citizen to pay the Government as it is the duty of the Government to pay the citizen. As one of the members of the Judiciary Committee desires to speak on this question, I will not occupy the attention of the House any longer.

Mr. BINGHAM. Mr. Speaker, I had hoped that, after the clear statement of this bill by my respected colleague on the committee, [Mr. PORTER,] the House would have been prepared to vote on its adoption. Those who have been in the House but a few years must have felt long since the necessity of some such legislation as is proposed and provided by the terms of this bill. The Court of Claims, as it is now organized, as the House well knows, are but commissioners in chancery. They can make no final decree or judgment of any kind, whatever decision they come to after long and laborious examination, upon the claim of any citizen of the United States; they report to this House, and that report is placed upon the Calendar, where its consideration takes up much of the time of the House, and subjects the Representatives of the people, without any foundation whatever, I am pleased to say, to false and injurious imputations, whether they concur in the report of the Court of Claims or not. We have time and again seen in the public journals that this man and that man have been approached in the legislative Chambers, and that their influence has been secured for the adoption or rejection of this or that report of the Court of Claims. For myself, I am not afraid to say that I have never seen one of those gentlemen who are said to constitute the third branch of the Legislature; and I think that I may say the same thing for my associates upon this floor. It is a public scandal, and ought to be put an end to.

And furthermore, it will be a matter of economy to enact a law of this sort. I undertake to say that more money is expended in the consideration of questions of this sort in this House than would pay one half of the claims allowed by the Government for the last ten years. The Calendar has upon it now for the consideration of the House, when it has the leisure, something like a hundred reports from the Court of Claims. No matter whether the report is favorable or adverse, it requires time to consider it in this body. Is an assembly of one hundred and eighty or two hundred Representatives of the people a fit tribunal calmly to consider and decide questions of fact and law touching an individual's claim against the Government of the United States?

Having made these remarks, I desire to pass to the consideration, very briefly, of some of the objections urged by my colleague in the Committee on the Judiciary [Mr. DIVEN] against the passage of this bill. He first raises a constitutional question. I presume he refers to the article of the Constitution which provides that in suits at common law, where the amount claimed shall exceed twenty dollars, there shall be a trial by jury.

Mr. DIVEN. I do not say that this bill is unconstitutional; but that it places a party where, if he avails himself of its provisions, he is deprived of a constitutional right.

Mr. BINGHAM. I am glad to hear my colleague state that he does not consider the bill unconstitutional. The language of the Constitution is:

"In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved," &c.

I agree with my friend that this provision of the Constitution does not touch this bill at all. The bill can in no sense be said to be unconstitutional, and the reason is that a suit by a citizen against the Government is not a suit known to the common law. The common law does not, and never did, recognize the right of the citizen to sue the sovereign.

Mr. DIVEN. Let me inquire of the gentleman whether, when the Government sues a citizen in a court of law to recover a claim, he is not, under that provision of the Constitution, entitled to the right of a trial by jury?

Mr. BINGHAM. I was coming to that soon; but that is the very reverse of this question. The sovereign, by the common law, has power to sue a citizen, but a citizen, at common law, has no power to sue the sovereign.

All that I desired to say in this connection was, that there can be no colorable constitutional objection urged against this bill—and I understand my colleague upon the Judiciary Committee [Mr. DIVEN] to concede that fact—because it is not a suit at common law; it is wholly unknown to the common law. This bill does not provide for an action to be brought by the Government of the United States against its citizens. There is no such thing in it. It grants the privilege, *ex gratia*, to the citizen of the United States to prefer his claim and have it adjudicated in a tribunal which the bill proposes to establish. That is all there is of it. It proposes to transfer from the only tribunal in which he can now appear, as the law now stands, upon his own motion, to wit, the Congress of the United States, to a tribunal where his claim can be calmly and considerately examined, and be passed upon according to law and equity.

No citizen of the United States ought to complain of that. The simple question before the House to-day is, whether we will grant this privilege to citizens of the United States, or whether we will retain the old system, and allow the citizen to get along the best way he can, to the infinite disgust of the community at large, and the disgrace of the Representatives of the people.

I beg leave further to remark in this connection that there can be no colorable constitutional objection to this bill, in view of the fact that if a citizen of the United States, after the passage of this bill, prefers his claim against the United States before this tribunal, it is a matter of his own election. The bill does not compel him to do so; he need not do it. If there be counter-claims between him and the Government he may bide his time and allow the Government of the United States to sue him in the proper tribunal; in which case, as my colleague upon the Judiciary Committee remarks, he may be entitled to a trial by jury, and he may prefer his set-off.

In this connection allow me to refer to one case in the judicial history of this Government, touching a claim of the citizen of the United States, which will illustrate the necessity of this legislation. I refer to the case of Reeside, which has come under the observation of my friend since he has been a member of this House. It is twenty-odd years, if I recollect the record aright, since the Government of the United States instituted its action against Reeside and his sureties in the United States district court of Pennsylvania. Reeside presented his claim for a set-off against the claim of the United States arising upon his bond. A jury was impanneled, and after many days' trial the jury found a verdict in favor of the defendant; that is to say, they found an excess in the claim against the United States over and above the equitable claim of the Government, to the amount of some hundred thousand dollars. My friend upon the Judiciary Committee says it was more. Perhaps it was. Well, sir, as the law stood, the court could not render judgment against the Government of the United States; the court could do neither more nor less than to render a certificate of the fact that the jury had found for the defendant. No money in the Treasury could be reached, and none was reached, and the case was hung up nearly a quarter of a century, until the citizen went to his grave, and his widow, in her weeds, came to the Halls of Congress and asked that justice might be done to her and her children.

The bill proposes to remedy all that sort of thing. If a citizen has a valid claim against the Government of the United States, he, of all others, ought to know it; and the bill provides that he may present that claim for consideration through either House of Congress. It contemplates, in other words, that he may exercise the privilege guarantied to him by the Constitution of the land, of petitioning the Congress of the United States for a redress of his grievances. The bill provides that whenever a petition is filed in either House, the claim shall be certified to this tribunal for final decision. And when a citizen files his claim, he elects to do that under the law, and in accordance with the law. The bill provides that it shall be certified by the Secretary of the Senate on the one hand, or the Clerk of the House of Representatives on the other, for a full adjudication and decision by this new tribunal.

What more? Gentlemen may say that they would not like to intrust to a tribunal of five judges of our own court—judges liable to impeachment and removal from office for misfeasance or malfeasance in office—the adjudication of all claims, inasmuch as some claims of an enormous amount are sometimes preferred against the Government of the United States. If there be anything in that objection—and I desire to be brief in what I have to say about the bill, which seems to me to be very plain, and which ought to commend itself to the consideration of the judgment and conscience of all the Representatives of the people—if there be anything in that objection, this bill has wisely guarded against that objection. How? That, by a joint resolution of the Senate and House of Representatives, you may oust the jurisdiction of this tribunal at any time upon any particular claim, and retain it before Congress for final decision and determination of this House and of the Senate. What more do the people of the United States ask?

The bill, then, is simply a bill to facilitate the administration of justice between the Government of the United States and its citizens. If a claim be presented so enormous in amount and so manifestly without any color of foundation that it ought not to go to this legal tribunal for consideration, the bill very wisely reserves to the Representatives of the people and the Senators the power to keep it in their hands by a declaration by joint resolution that it shall not go there, but be retained here for final determination.

The bill in other respects is well guarded. I see that my colleague upon the Judiciary Committee is disposed to say something about that, and I only stop to remark that it is very wisely provided that if there be any fraud practiced, or attempted to be practiced, upon the part of any claimant against this Government in the demand or establishment of his claim, such act of fraud upon his part shall forever forfeit his claim, no matter what it may be.

This, sir, in my judgment, will go very far to put an end to these attempts to corrupt the legislative department of the Government to obtain—if there be any truth, at least, in newspaper assertions—the allowance of claims which in equity and justice should never be allowed, to put gentlemen upon their good conduct, and to give them to understand by formal provision of law, that any attempt at fraud upon their part shall so taint their claim, no matter whether there be equity in it or not, as to forever forfeit it to the Government of the United States.

I have but one further remark to make upon this subject, and that is, that, in my judgment, a wiser or more necessary act of legislation touching the individual interests of the people of the country has not been presented to this House, and I trust that the House will be slow to reject the bill, at least until they hear some valid reason assigned why it should be rejected.

Mr. HICKMAN. Mr. Speaker, we now have no Court of Claims. We have that which has been long called by that name, but which has none of the attributes of a court. It is at best but a committee recommendatory to the standing committees of Congress. It has no power to determine finally any question. It makes its favorable and its adverse reports, upon which Congress is called upon to act. I object to the present organization because it is not a court. It should either have more powers or it should have no power, for of itself it can accomplish nothing.

The bill which has been reported, and is urged by my colleague upon the Judiciary Committee, [Mr. PORTER,] proposes to make this organization a court, and to give it the powers of a court, and the determinations of a court. If that is not right, then the court should be abolished. One or the other should be done.

Now, Mr. Speaker, as we propose to make use of this old organization, under the idea of reconstruction to accomplish new results, one or two questions naturally arise. The first is, whether the constitution of this court is deserving of the confidence of this House; and the second is, if it shall not be deserving of confidence, whether we will make it so.

Sir, I know nothing about this court. I do not know a single gentleman sitting as a judge of this court, nor do I wish to know him. It is enough

for me to say that up to this time I have heard of nothing imputing anything against the character of either of these gentlemen, and as the committee knew of nothing of the kind, they proposed to reconstruct and to make use, as far as they possibly could, of the old organization to accomplish new results. But, sir, if it shall be found upon experiment that these judges are not worthy of the confidence of the nation, then the judges may be removed and new ones appointed. I should myself prefer that a clause should be inserted in the bill, as an amendment, to the effect that these judges shall be removable at the pleasure of the Executive. I see no reason at present why that should not be made a part of the law, and I therefore now formally offer that amendment, if it is in order.

The SPEAKER *pro tempore*, (Mr. Cox in the chair.) It is not in order now to offer an amendment to the substitute. The gentleman can offer an amendment to the original bill, however.

Mr. HICKMAN. Is there an amendment to the amendment already pending?

The SPEAKER *pro tempore*. There is—the amendment of the gentleman from Ohio, [Mr. SHELLABARGER.]

Mr. HICKMAN. You and I, Mr. Speaker, have had experience enough here to know that private claims are carried through this House and allowed, not so much upon the intrinsic merits of these claims, as upon the fact that the claimants have made large friendships in the House. It is impossible, in the nature of things, that upon the Private Calendar being called here, and the bills upon it subjected to a vote, the members of this House should know the merits of the different claims which are presented on that Calendar. The most that we can know is what the reports of the different committees present as the claims of the different parties. It cannot be made more defensive to the Government, I apprehend, under the present system, than it has been made; but when you come before a court where time is not so important as it is here, the judges can determine the merits of the different claims presented. This is my first objection to the present system and my reason for recommending a change.

In the next place, if the Government shall be indebted justly to a citizen $5,000, and that citizen shall be just as honestly indebted to the Government $10,000, the citizen may present his claim to the Court of Claims under the present system, have it recommended to Congress, have it enacted into a law, and the money appropriated, and he receive it, and yet no means can be resorted to by the Government to set off its claim against him.

Sir, this bill provides for set-off, such as is generally resorted to in the States, and although my colleague on the committee from New York [Mr. DIVEN] seems to make this a matter of objection to the bill, it is, to my mind, one of its highest recommendations. I know no reason, Mr. Speaker, and I doubt very much whether one can be urged with propriety, why I shall be compelled to pay to my neighbor twenty dollars, when my neighbor really owes me forty dollars on another account. I know no reason, in other words, why these claims between us should not be properly adjudicated and settled, and if he shall be found to be indebted to me upon a hearing, why he shall not pay to me that which he justly owes to me.

Now, sir, this is a wrong under the old system. This bill provides against it. It is very much guarded, I think, in its provision, that where an individual is indebted to the Government, though that individual may have presented his claim against the Government to the court, the court shall adjudicate the case fully, shall ascertain and determine a set-off, and then, if the balance shall be determined against the individual, it shall be certified, so to speak, and the Government may proceed to collect it. Instead of this being an objection to the bill, it is, to my mind, a recommendation in its favor.

Mr. SHELLABARGER. I wish to make an inquiry of the learned chairman of the Judiciary Committee. I understand him to take the ground—and I suppose it is the true one—that this is intended to be a court within the meaning of the Constitution. If that be so, then I wish to make an inquiry in relation to a point to which he has just alluded, and which is an important one, and which he proposes to bring before the House in the shape of an amendment. My inquiry is whether it is competent to provide that the judges of any court shall be removable at the pleasure of the Executive—whether their tenure is not during good behavior?

Mr. HICKMAN. Well, sir, the objection which has been raised by the gentleman from Ohio proves conclusively that the present is no court. The suggestion which he has made proves that conclusively; and if the amendment which I have suggested is objectionable—and it may be so; it occurred to me on the spur of the moment—of course I do not insist upon it. It strikes me that it may be objectionable.

Mr. Speaker, it will occur, I think, to every member of the House, that the court which we propose to constitute—for it is really a new organization, although we make use, as far as we can, of the old material—is much better and much safer than that which we now have. It is better, first, because it relieves Congress of the determination of these questions which it cannot rightly, or properly, or knowingly determine. It is better because it puts an end to the proceeding, unless the party who feels himself aggrieved shall deem it necessary to take an appeal to the Supreme Court of the United States. It gives to all claims against this Government judicial determination. They are not made to depend upon the whim, or caprice, or friendship, or ignorance of members of this House, as they are now. There is no gentleman here, not a single member of this House, who would be willing to say that the votes that he has cast affecting bills upon the Private Calendar have been cast knowingly and as he would have determined the questions if he had been a judge sitting in a court. As I have already said, it is impossible, in the nature of things, that he should be made acquainted with the particular merits of each individual case as it is called up. Friday comes; the Private Calendar is taken up. One bill after another is called up. Some gentleman asks for the reading of the report, and upon that report of a committee of this House he casts his vote, if he has no knowledge outside of that report, and so the question is determined. Why, Mr. Speaker, there is hardly a case so bad that it may not be carried in a court of law if the court only hears one side of the case; and it is very seldom that a committee of this House hears both sides of any claim. Now let me say, in answer to all the objections made against the bill, that this is a court legally constituted. It calls before it both parties to the suit, the party claimant and the party defendant. It hears the claim on the one side and the set-off on the other, and determines, after a full, fair, and impartial hearing, whether there is money due to the individual claimant or to the nation, and as it determines, so the judgment goes and the money is recovered.

I do not see that I ought to say anything more. What I have said is, I think, conclusive of the merits of the bill. If you have a fair, honest, tribunal, it is reasonable to believe that you will have a fair and honest determination of causes. I now move the previous question.

Mr. DIVEN. Is it in order to move to recommit the bill with instructions?

The SPEAKER *pro tempore*. It is not in order pending the demand for the previous question.

Mr. DIVEN. Then I hope the previous question will not be seconded, so that I may make such a motion.

Mr. PENDLETON. I should like the gentleman who moved the previous question to withdraw it for a moment.

Mr. HICKMAN. I withdraw the previous question for my colleague on the committee, if he will renew the call, and maintain it.

Mr. PENDLETON. I will renew it if the gentleman requires that as a condition.

Mr. HICKMAN. And I ask that the previous question shall be insisted upon.

Mr. PENDLETON. I send up an amendment which I propose to come in at the end of the eighth section.

The SPEAKER *pro tempore*. No further amendment is in order.

Mr. PENDLETON. I offer it as a separate section.

The amendment was read, as follows:

And provided further, That after the session of Congress next, after the rendition of any judgment, execution may issue from said court for the collection of such judgment, and be levied on all the property, real and personal, of the United States, except only the money in the Treasury.

Mr. PENDLETON. I am in favor of this bill; I shall vote for it; my only objection to it is that it does not go far enough. If my amendment shall be at any time in order, I shall offer and press it. I think it necessary to perfect the bill. It carries out fairly and properly to their logical conclusions the premises upon which the bill is grounded. I am in favor of requiring the Government of the United States to do justice to its citizens. I am in favor of bringing it into court—a court such as we would be willing to intrust with the administration of justice between individual citizens—and compelling it to abide by the judgment of that court; and if it does not do so, I am in favor of levying on the property of the United States, whether real or personal, in order to satisfy the demand of the citizens thus ascertained to be just.

My colleague on the committee [Mr. DIVEN] has told us to-day that, in theory, the Government is always willing to do justice to the citizen, that it is always willing to do that which equity and justice requires it to do. Now, sir, that is very good in theory, but it is very bad in practice; and when that gentleman has had experience in examining the claims brought against this Government year after year—even the experience that I have had in the short time that I have had the honor of being a member of this House—he will find that there are innumerable claims on the Calendar which have been examined and reëxamined session after session. Some of them have been reported upon favorably very many times, and others have been rejected an equal number of times. They are claims, too, not based on an appeal to the discretion of Congress, but based on rules of law and equity which ought—so the claimants say—to control the decision, and which would do so, if it were a question between private individuals. Now, this is all wrong. If these claims have merit in them they ought to be paid, and paid immediately. If they have not, the ears of Congress ought not to be vexed every session by the appeals of the claimants.

Why should not a Government be subject to the decisions of a tribunal on questions of law, to whose judgment the rights of all citizens under that Government are subjected? What is there about a Government that should protect it from the decision of the ordinary tribunals of justice in the country? Time was when it was said that the king could do no wrong; and this claim, that the Government is always ready to do justice, is an off-shoot of that doctrine. I think that it has just as little foundation. If the Government of the United States owes a debt to a citizen of the United States, why should that citizen be forced to come to Congress year after year, and spend his time and his money in besieging individual members, in order to show to them the justice of his claim, depending, in the end, even in the justest case, not upon its merits, but upon their patience to hear him fully, and their impartiality to judge fairly. What is the Government? It is constituted as this Congress is constituted. It is composed of men not a whit more intelligent, or more laborious, or more painstaking, or more disposed to do justice than ourselves. And does any gentleman who has had the honor to sit here pretend to say that he himself can undertake justly, honestly, and fairly to administer the law between every applicant for justice and the Government? Will any gentleman say that on the Private Calendar, which has not been called during this session, which has not occupied one hour's time of this Congress, he has himself investigated the cases, and understands them so thoroughly that he could do justice or anything like justice in his vote on them? We have sat here four or five months. The claims on the Calendar—I do not know how many, certainly a very large number—have never been called. The chances are that two days of this session will not be appropriated to the call of this Calendar. Claimants whose claims are just and honest, and who could get a favorable decision just as soon as they can get any decision at all, have been waiting here during this session, and I know not how many sessions before, in order to get the ear of Congress and to get that justice from the Government which the gentleman from New York [Mr. DIVEN] assumes to be always ready to do justice to its citizens. Does any gentleman pretend to say that

is just? Is it honest to the citizen? Why, it is a course of conduct which would disgrace any individual in the eyes of the community in which he lives.

I am in favor of remedying all this evil. I am in favor of establishing a tribunal, putting upon it every guard that experience has suggested in order to secure the Government, throwing around the Government every shield to which it is fairly entitled, and then compelling the Government, when the decision of that tribunal shall be rendered, to pay respect to it, as every private citizen has to do. I am therefore in favor, if the Congress next after the judgment shall be rendered do not make an appropriation to pay the amount, of authorizing the claimant to levy upon the property of the United States. I would have the post offices, the custom-houses, and the court-houses levied upon and sold to satisfy the judgment. I would sell here in the city of Washington those vacant squares fronting on the avenues. I would sell these desks and tables and chairs, if necessary, before I would see a man, whose claim was decided to be just and right and fair, forced to be an humble suppliant for justice at the hands of Congress. Either make this thing complete, or do away with it altogether. Either give the citizen relief, or abandon the pretense that you mean to give him relief. Either allow him, through the administration of the ordinary instruments by which justice is administered between him and his fellow-men, to obtain his measure of justice from the Government, or else let him understand that he depends upon the grace and favor of members of Congress for relief.

I have not heard any objection to the details of this bill. I think it is a very great step in advance of the system that we have heretofore adopted. I intend to vote for it; but I should vote for it with infinitely more pleasure and satisfaction if the amendment I have indicated shall be received and adopted.

Mr. HICKMAN. I desire my colleague to permit me to make this suggestion—that there are two guards against any practical injustice being done by this court: first, that Congress may repeal the law organizing the court; and second, that Congress may refuse to make an appropriation of money which the court may determine may be due. Congress, therefore, still holds in its own hands the power of preventing the success of any attempt upon the part of the court to do injustice to the Government.

Mr. PENDLETON. Those are two suggestions which are well worthy the attention of gentlemen; but, for my own part, I do not care to consider them. I am willing to intrust those judges with the rights and interests of the Government to whom we confide the protection of the rights and interests of the citizen. I do not care to consider the possibility of the judges doing injustice to the Government. There is no reason to apprehend that they will disgrace themselves and dishonor their office only because the Government is a party. I have no fear of such result; none at all. I should as soon think of entertaining a proposition to repeal the law for organizing the Supreme Court of the United States in order to compel the judges of that court to do justice as to think of exercising the reserved power of repealing this law in order to compel those judges to do justice.

Mr. BINGHAM. I ask my colleague to allow me to interrupt him for a moment. I understand him to say that he is in favor of this bill, but would prefer it with the amendment which he has suggested. Now, I desire to present one or two considerations which I think will satisfy him that his amendment is not necessary.

Mr. PENDLETON. First, let me make this suggestion——

Mr. BINGHAM. Just a word. I desire to ask my colleague whether he knows of an instance in the history of the Republic in which the Congress of the United States has ever refused to make an appropriation required to carry out the provisions of existing law? I beg my colleague's pardon for taking up his time, but I desire to express the opinion that, if this court is organized as this bill provides for, the appropriations of money for satisfying the judgments it may render will be as much a matter of course as any of the regular appropriations for carrying on the Government. The obligation of Congress will be complete to make these appropriations to carry out the provisions of law.

Mr. DAWES. I would like to inquire of the gentleman from Ohio, before he takes his seat, what consistency there is between his statement that Congress will be required to make these appropriations as a matter of course, and the suggestion just now made by the chairman of the Committee on the Judiciary, [Mr. HICKMAN,] that Congress will possess a guard over this court in their power to refuse to make appropriations to carry out their decrees?

Mr. HICKMAN. With the permission of the gentleman, what I intended to say was, that there were two safeguards to this bill: first, that if the court, upon trial, shall prove to be a failure, we can repeal the act we pass to-day constituting the court; and second, I take it for granted that if Congress shall at any time be satisfied that the court has entered an unjust judgment against the Government of the United States, they will fail to appropriate the money required to satisfy the judgment, as they now fail to appropriate money for any purpose which they are satisfied is improper; that is all. As a general thing, of course, we shall make the appropriations required for this purpose. But if we are satisfied that a particular appropriation for this purpose is improper, I take it for granted we should fail to make it just as we should if satisfied that money asked for by a Department was unnecessary and could not be properly granted.

Mr. PENDLETON. The suggestion of my colleague [Mr. BINGHAM] is, that without the amendment which I propose Congress will, not necessarily, but as a matter of course, pass whatever appropriation is necessary for the payment of these judgments. Very well, I think they will; but if they should not, if they should fail to perform that duty, I am in favor of providing the means by which that failure may be remedied. If that be true, I ask my colleague why not adopt my amendment, which merely provides with certainty for doing what he says Congress ought to do, and will ordinarily do?

Mr. BINGHAM. My colleague will pardon another suggestion. I suppose there has never been an instance in the history of the Government since its organization when deficiencies did not occur in the appropriations for carrying on the various departments of the Government. I suppose there has never been an annual report of the Secretary of the Treasury of the United States since the organization of the Government which did not show a list of deficiencies arising upon previous appropriations of Congress; yet according to the proposition of my colleague it will be well enough here to enact a law that shall provide in advance for the security of a contractor or other claimant against the Government in case of a deficiency in the appropriations arising, by authorizing the court to issue an execution against the property of the United States rather than that the claimant should rest his case upon the justice of the Representatives of the people.

Mr. PENDLETON. No, sir. I do not think the remarks of my colleague apply, because I do not propose that the execution shall issue until the judgment shall have been rendered and the amount determined. Then I propose it shall issue if the next Congress shall prove derelict in making the requisite appropriation.

Mr. BINGHAM. The appropriation will be made if the claimants are entitled to their money.

Mr. PENDLETON. The gentleman from Massachusetts asks what guarantee we shall have against unjust judgments of this court. What remedy has any citizen against an unjust judgment?

Mr. DAWES. The gentleman misunderstood the purport of my question. I wanted to reconcile his two colleagues on the committee on my right [Mr. HICKMAN and Mr. BINGHAM] in what seemed to be an inconsistency in their statements.

Mr. PENDLETON. The inconsistencies of my colleagues on the gentleman's right do not concern me just now.

Mr. HICKMAN. It is all reconciled, I believe. [Laughter.]

Mr. DAWES. I did not think the inference of the gentleman from Ohio as to the effect of the bill was exactly as the chairman of the Committee on the Judiciary who sat by his side seemed to see it, especially in reference to the guard reposing in Congress of withholding appropriations against the unjust judgment of the court.

Mr. PENDLETON. I am not afraid of any unjust judgment of the court. I am not fearful of trusting the interests of this Government where I would trust the interests of a private citizen; I am willing to submit them to the judicial determination of men in whose honesty, in whose integrity, and in whose ability I would be willing the rights and interests of the citizens of the land should repose. I presume the President of the United States will do his duty in making these appointments, and I presume the judges, having assumed the position, will do their duty in making their decisions. I presume the Senate of the United States will do its duty in impeaching, and in enforcing the judgment of impeachment, if there shall be any dereliction of duty upon the part of any of these officials. I have confidence to believe that the decisions of this court will be consistent with honesty and with justice. At any rate, I am willing to trust the interests and rights of the Government where I would trust the interests of an individual, and I am in favor of subjecting the Government to the same rigid discipline in the administration of justice to which I would subject an individual.

Therefore, whenever the Government shall fail to do its duty, to make provision for the payment of every claim which has been solemnly adjudged to be good, I am willing to subject its property, as the property of the individual, to execution and sale.

Mr. WRIGHT. Let me ask the gentleman from Ohio a question. Would he expose the military property of the Government to sale and execution? Does his amendment contemplate the seizure and sale of the artillery and other munitions of war of the Government to satisfy the claims of claimants, and thus leave the Government defenseless?

Mr. PENDLETON. I take it that no loyal citizen of the Government would impede the progress of its military operations; and so long as there was plenty of other property, there would be no necessity of seizing on the military stores of the Government. But, sir, when the Government cannot or will not pay its citizens what it owes them, under the decisions of a judicial tribunal, I am in favor of sacrificing cannon or any other property of the United States, if necessary, in order to satisfy those just claims.

Mr. HICKMAN. My colleague on the Committee on the Judiciary forgets one or two things. The citizen is dependent upon the grace and favor of the Government. The citizen cannot sue the Government at all. We advance a step by the provisions of this bill. We give him an opportunity of securing a judgment against the United States by a judicial tribunal, which judgment shall be represented in the annual report to this House, and to the payment of which we virtually pledge ourselves if it shall be due. The citizen is now entirely dependent upon the bounty of the Government. This bill advances him one step. But when it comes to the other side of the case—of the Government compelling him—we do not make any provision. The Government can now compel by force of law the individual to pay what is decided to be due to it. It is right, therefore, that the Government should have judgment and execution against the individual where a debt is due, but it by no means follows that the individual should have judgment and execution against the Government.

Mr. PENDLETON. That is where I differ with the gentleman from Pennsylvania. I say that it does follow that the individual should have judgment and execution against the Government. If I have made myself understood at all, I have shown that I am opposed to the dogma, which has no foundation in justice, that the Government ought not to be sued. I think that it was a mistake from the time that it was inaugurated up to this hour. I am for this bill because it makes the Government suable; and when the Government is made suable, I would also make it liable to execution. The gentleman from Pennsylvania says that it is a step in advance. I ask him whether the same reasoning that brings him to take that step will not bring him to take the other step, and when the Government is made suable, whether it should not be made liable to execution? I would not have the right of the citizen depend on the favor and grace of the Government any more than I would make the right of the Government depend upon the favor and grace of the citizen. I would

apply the same rule to the Government that I would apply to individuals, and I would subject them and their interests to the adjudication of the same tribunal, and I would execute their decision against the Government in exactly the same mode—as certainly, as rapidly—as I would execute their decision against the citizen and in favor of the Government.

I renew the demand for the previous question, as I promised I would.

POST OFFICE APPROPRIATION BILL.

Mr. MORRILL, of Vermont. I ask unanimous consent to submit a report from a committee of conference.

There was no objection.

The Clerk read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 259) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1863, having met, after a full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows, to wit:

That the House of Representatives recede from their disagreement to the Senate's fourth amendment and agree to the same.

That the House recede from their disagreement to the Senate's fifth amendment and concur in the same with an amendment, as follows: in line eight of said amendment, after the word "twenty," strike out the word "five."

That the Senate recede from their sixth, seventh, and eighth amendments.

J. COLLAMER,
MILTON S. LATHAM,
TIMOTHY O. HOWE,
Managers on the part of the Senate.
JUSTIN S. MORRILL,
SCHUYLER COLFAX,
A. A. SARGENT,
Managers on the part of the House.

Mr. MORRILL, of Vermont, demanded the previous question on the adoption of the report.

The previous question was seconded, and the main question ordered; and under the operation thereof the report was adopted.

Mr. MORRILL, of Vermont, moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

NAVAL APPROPRIATION BILL.

Mr. MORRILL, of Vermont, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment to the bill (H. R. No. 242) making appropriations for the naval service for the year ending June 30, 1863, and additional appropriations for the year ending June 30, 1862, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the House of Representatives recede from their disagreement to the Senate's first amendment, and agree to the same.

That the Senate recede from their fourth amendment.

That the House recede from their disagreement to the Senate's eighth amendment and agree to the same.

JOHN SHERMAN,
JAMES W. GRIMES,
JOHN P. HALE,
Managers on the part of the Senate.
JUSTIN S. MORRILL,
J. K. MOORHEAD,
E. H. ROLLINS,
Managers on the part of the House.

The report was adopted.

COURT OF CLAIMS—AGAIN.

Mr. DIVEN. I ask the gentleman from Ohio to withdraw the demand for the previous question until I can submit a proposition to recommit the bill with instructions to report a substitute providing that when the members of the Court of Claims are unanimous upon a claim, and the solicitor for the Court of Claims certifies that in his opinion the finding of the court is just, that then the Treasurer shall pay, out of any money in the Treasury not otherwise appropriated, the claim so found and certified.

Mr. PENDLETON. The gentleman from Pennsylvania, and not myself, has the control of the previous question.

Mr. WASHBURNE moved that the bill be laid upon the table, and on that motion demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 40, nays 83; as follows:

YEAS—Messrs. Ashley, Joseph Baily, Blake, William G. Brown, Buffinton, Campbell, Chamberlin, Clements, Frederick A. Conkling, Roscoe Conkling, Covode, Crittenden, Davis, Dawes, Diven, Eliot, Franchot, Gooch, Hall, Holman, Hutchins, McPherson, Anson P. Morrill, Justin S. Morrill, Timothy G. Phelps, Pike, Sargent, Sedgwick, Sheffield, Sloan, Van Horn, Van Valkenburgh, Verree, Wadsworth, E. P. Walton, Washburne, Albert S. White, Wilson, Windom, and Wright—40.

NAYS—Messrs. Aldrich, Allen, Alley, Ancona, Babbitt, Baker, Baxter, Beaman, Biddle, Bingham, Francis P. Blair, Jacob B. Blair, Samuel S. Blair, Calvert, Casey, Colfax, Cox, Delano, Duell, Dunlap, Dunn, Edwards, Fessenden, Goodwin, Granger, Grider, Hale, Hanchett, Harding, Harrison, Hickman, Hooper, Julian, Kelley, Francis W. Kellogg, Kerrigan, Killinger, Knapp, Lansing, Law, Leary, Lehman, Loomis, Lovejoy, McKnight, Mallory, Menzies, Mitchell, Moorhead, Morris, Noble, Norton, Nugen, Odell, Olin, Patton, Pendleton, Porter, Potter, Price, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, James S. Rollins, Shanks, Shellabarger, Shiel, Smith, John B. Steele, Stratton, Benjamin F. Thomas, Francis Thomas, Train, Trowbridge, Vallandigham, Voorhees, Wallace, Wheeler, Whaley, Chilton A. White, Woodruff, and Worcester—83.

So the bill was not laid upon the table.

During the vote,

Mr. WALTON, of Vermont, stated that Mr. CLARK was paired with Mr. WICKLIFFE.

The vote was announced as above recorded.

The previous question was seconded, and the main question ordered.

Mr. SHELLABARGER's amendment was agreed to; and then the substitute, as amended, was adopted.

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

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

The latter motion was agreed to.

ENROLLED BILL.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a joint resolution (S. No. 50) transferring the supervision of the Capitol extension, and the erection of a new dome, to the Department of the Interior; when the Speaker signed the same.

MEXICO.

The SPEAKER laid before the House a message from the President of the United States, in compliance with a resolution of the House, transmitting a report from the State Department, giving information of the present condition of Mexico; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

Mr. COX moved that two thousand extra copies be printed.

The motion, under the rules, was referred to the Committee on Printing.

FORTIFICATIONS.

Mr. RICE, of Massachusetts, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That in view of the large appropriations of money already made for river, lake, and sea-coast defenses, and of the large sums which may hereafter be required for similar purposes, to afford protection against invasion or rebellion; and in view also of the important changes which have been made in ordnance and projectiles, and in the methods of naval warfare, the Secretary of War be requested to communicate to this House whether any corresponding changes are necessary in the materials and construction of forts and other means of defense, in order to embrace the best results of modern science, skill, and experience in respect to such works.

UNITED STATES COURT IN CALIFORNIA.

Mr. PHELPS, of California, by unanimous consent, introduced a bill to establish a circuit court of the United States in and for the States of California and Oregon; which was read a first and second time, and referred to the Committee on the Judiciary.

And then, on motion of Mr. HICKMAN, (at four o'clock, p. m.,) the House adjourned.

IN SENATE.

WEDNESDAY, *April* 16, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

CHAIRMANSHIP OF NAVAL COMMITTEE.

Mr. GRIMES. Two or three days ago the Senator from New Hampshire, the chairman of the Committee on Naval Affairs, [Mr. HALE,] under a misapprehension of a state of facts, or rather perhaps under a misapprehension of the intent with which a state of facts existed, saw fit to present his resignation of further service on that committee. I am instructed by the unanimous vote of the Committee on Naval Affairs to state to the Senate that it is the wish of that committee that that resignation should be withdrawn. I understand that the misapprehension is perfectly comprehended by the Senator himself, and by all the members of the committee. I desire to say further in response somewhat to some rumors that seem to have prevailed, that so far as the counsels of that committee are concerned, everything has been from its first organization of a most harmonious character, and that there has never been any, the slightest, misunderstanding between any two members of the committee. I have therefore to perform the duty that was requested of me by the unanimous vote of the committee, by proposing that the resignation of the Senator should not be accepted.

Mr. McDOUGALL. Having been engaged on the Committee on Finance this morning, I neglected to be in attendance upon the Committee on Naval Affairs. I wish, therefore, to express for myself the same desire. I think it would be a great loss to the naval service and to our business in that Department, if the chairman should be permitted to resign.

Mr. HALE. I do not know that it remains for me to say anything except to thank the committee, and withdraw the resignation.

PETITIONS AND MEMORIALS.

Mr. WILMOT presented the petition of Sylvester Pierce and two hundred and sixty-eight others, citizens of Freehold, Warren county, Pennsylvania, praying for the abolition of slavery; which was ordered to lie on the table.

He also presented a petition of women of Chester county, Pennsylvania, praying for the abolition of slavery; which was ordered to lie on the table.

He also presented three memorials of citizens of Philadelphia, remonstrating against the passage of a bankrupt law; which were referred to the Committee on the Judiciary.

He also presented a memorial of citizens of Dauphin county, Pennsylvania, praying for the location of a national armory and foundery at Harrisburg, in that State; which was referred to the select committee on the subject of a national armory.

Mr. GRIMES presented a petition of citizens of Scott county, Iowa, praying for the passage of a general bankrupt law; which was referred to the Committee on the Judiciary.

Mr. HARRIS. I present three petitions numerously signed, one of them headed by Horace Greeley, praying for the speedy passage of a law to establish a uniform system of bankruptcy. I ask that they be referred to the Committee on the Judiciary.

It was so ordered.

Mr. HARRIS also presented three petitions of citizens of New York, praying that "the freedom of speech and of the press shall not be abridged, and that the New York Caucasian, and all other Democratic papers now excluded from the mails in all the loyal States, shall have the same privileges enjoyed by Republican and abolition papers;" which were referred to the Committee on the Post Office and Post Roads.

He also presented a petition of citizens of Whitehall, Washington county, New York, praying for the construction of a ship canal between Lake Michigan and the Mississippi river; which was referred to the Committee on Military Affairs and the Militia.

He also presented a memorial of citizens of Lockport, New York, remonstrating against the passage of the tax bill, and praying for the issue of Treasury notes for at least one half of the amount of our unfunded debt; which was referred to the Committee on Finance.

He also presented a petition of citizens of the city of New York engaged in the distillation of spirituous liquors, praying that the tax on spirits may be collected where the article is first produced; which was referred to the Committee on Finance.

He also presented a petition of citizens of Meredith, Delaware county, New York, praying for the abolition of slavery; which was ordered to lie on the table.

Mr. SUMNER presented a petition of women of Wilmington, Delaware, praying that Congress will at an early day adopt such measures as in

their wisdom they may think proper to extinguish slavery; which was ordered to lie on the table.

He also presented a petition of citizens of Boston, Massachusetts, praying for the abolition of slavery; which was ordered to lie on the table.

Mr. HOWARD presented two memorials of citizens of Michigan, engaged in the lumber business, praying for a reduction of the proposed tax on manufactured lumber, and complaining of the operation of the reciprocity treaty; which were referred to the Committee on Finance.

He also presented a petition of citizens of Detroit, Michigan, praying for the passage of a general bankrupt law; which was referred to the Committee on the Judiciary.

Mr. WILSON, of Missouri, presented a petition of the board of directors of the Savannah branch of the Southern Bank of St. Louis, Missouri, praying that provision be made by law for the payment of the Floyd acceptances held by that bank; which was referred to the Committee on Finance.

Mr. HARLAN presented a petition of citizens of Iowa, praying for the adoption of such rules and regulations for the Army and Navy as will give freedom to all "persons held to service or labor" under the laws of certain States, within all the military and naval departments or districts occupied or to be occupied by the Army and Navy of the United States, with a reasonable compensation to loyal masters; which was ordered to lie on the table.

Mr. DOOLITTLE presented a petition of citizens of Wisconsin, praying for the passage of a general uniform bankrupt law; which was referred to the Committee on the Judiciary.

REPORTS FROM COMMITTEES.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred Senate bill No. 227, to authorize the President to take possession of certain property and for other purposes, and also Senate bill No. 233 to confiscate the property of rebels and for other purposes, have directed me to report them back to the Senate and ask to be discharged from their further consideration. These bills are germane to the confiscation bill, which is now pending in the Senate. The Judiciary Committee have acted upon this question, and substantially they are offered as amendments to the bill now pending in the Senate. The committee ask to be discharged from their further consideration.

The motion was agreed to.

Mr. TRUMBULL also, from the same committee, to whom was referred the bill (S. No. 266) for the more convenient enforcement of the laws of the United States concerning security to keep the peace and for good behavior, reported it with an amendment.

Mr. LATHAM, from the Committee on the Post Office and Post Roads, to whom was referred the petition of Daniel Weyand and John D. Roddy, sureties of Harvey C. Marks, late postmaster at Somerset, Pennsylvania, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Harvey C. Marks, postmaster at Somerset, Pennsylvania, praying for a settlement of his accounts as postmaster, and to be released and discharged from the judgment obtained against him in the district court of the United States for the western district of Pennsylvania, submitted an adverse report; which was ordered to be printed.

Mr. WILSON, of Massachusetts. I am directed by the Committee on Military Affairs and the Militia, to whom were referred various memorials, petitions, and other papers in regard to the establishment of a national foundery and armory, to report them back with a request that the committee be discharged from their further consideration, and that they be referred to the special committee on that subject.

The motion was agreed to.

Mr. HENDERSON, from the Committee on the Post Office and Post Roads, to whom was referred the bill (S. No. 191) to authorize the Platte Country Railroad Company to carry the overland mail, and to receive pay for the same, reported it without amendment, and adversely.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred the bill (S. No. 261) supplementary to an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1863, and additional appropriations for the year ending the 30th of June, 1862," reported it adversely.

Mr. POMEROY, from the Committee on Public Lands, reported a bill (S. No. 272) to establish a land office in Colorado Territory; which was read, and passed to a second reading.

BILLS INTRODUCED.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 76) relating to the compensation of Senators elected or appointed to fill vacancies; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 273) for the relief of James McAvoy; which was read twice by its title, and referred to the Committee on Claims.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 274) to provide a temporary government for the Territory of Lanniwa; which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

MESSAGE FROM THE HOUSE.

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

A bill (No. 226) to amend "An act to establish a court for the investigation of claims against the United States," approved February 24, 1855; and

A bill (No. 403) to amend an act entitled "An act to authorize the Secretary of the Treasury to issue certificates of indebtedness to public creditors," approved March 1, 1862.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bill and joint resolution; which thereupon received the signature of the President *pro tempore:*

A bill (S. No. 188) to reorganize and increase the efficiency of the medical department of the Army; and

A joint resolution (S. No. 50) transferring the supervision of the Capitol extension and the erection of the new dome to the Department of the Interior.

COURTS IN MICHIGAN.

Mr. TRUMBULL. The Committee on the Judiciary have instructed me to report back a bill concerning the courts of the United States in and for the district of Michigan, and for other purposes, with a recommendation to strike out the second and third sections of the bill. The first section of the bill, I will state, relates simply to the holding of an additional term of the court at the city of Detroit, where the United States courts in the district of Michigan are held. The second and third sections relate to another subject, and if they are stricken out I presume there can be no objection to the first section of the bill. I have been requested to ask that the Senate now pass upon it, as it merely gives an additional term of the court.

There being no objection, the bill (S. No. 270) concerning the courts of the United States in and for the district of Michigan, and for other purposes, was considered as in Committee of the Whole. The first section of the bill was read. It provides that, in addition to the courts now provided by law to be held in the district of Michigan, a general term of the circuit court of the United States for that district shall be held annually at Detroit on the second Monday of February, and that all writs, bills, pleas, suits, appeals, recognizances, indictments, and all other proceedings, civil and criminal, shall be proceeded with at that term in like manner as now at the June and October terms.

Mr. HOWARD. It will be unnecessary to detain the Senate by reading the two sections which the committee propose to strike out. I will simply remark that they relate to a matter entirely foreign from that which is embraced in the first section of the bill. They relate to the seizure of vessels engaged in cutting timber and lumber from the lands of the United States, which is a subject alien to the main object of the bill. The object which is embraced in the first section is a very simple one, and that is to give an additional or third term to the Federal courts held at Detroit for the accommodation of suitors and the public. That is the sole object of the bill as amended. I hope the Senate will concur in the amendment of the committee, and pass the remainder of the bill.

The PRESIDENT *pro tempore*. The reading of the second and third sections will be omitted unless demanded by any Senator. Not being demanded, the question is on the amendment of the committee.

The amendment was agreed to.

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

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

On motion of Mr. TRUMBULL, the title was amended by striking out the words, "and for other purposes."

INDIAN APPROPRIATION BILL.

Mr. FESSENDEN. I desire to give notice to the Senate that if it is agreeable to them, I shall to-morrow move to proceed to the consideration of the Indian appropriation bill, which has been put off for some days. I should do so to-day but for the fact that the Senator from Kentucky [Mr. POWELL] has the floor, and I do not wish to interfere with him; but to-morrow at one o'clock I shall make the motion.

Mr. LANE, of Kansas. When do I understand the Senator from Maine to propose to take up the Indian bill?

Mr. FESSENDEN. To-morrow.

Mr. LANE, of Kansas. I should like to have it postponed until another day.

Mr. FESSENDEN. I will say to the Senator that I have been waiting three weeks for the Committee on Indian Affairs; I have given them notice that I was waiting for them to get their amendments ready, if they had any.

Mr. LANE, of Kansas. They are getting them ready. They will not be ready to-morrow.

Mr. FESSENDEN. The chairman told me he was ready to-day, if I desired.

Mr. LANE, of Kansas. Some have not yet come in.

The PRESIDENT *pro tempore*. The Chair must say that the Senator from Maine merely gives notice of his intention to move to proceed to the consideration of a certain bill to-morrow. It presents no question for the Senate.

ARREST OF GENERAL STONE.

Mr. HOWE. I move to proceed to the consideration of the House amendment to the joint resolution (S. No. 26) explanatory of a certain act therein mentioned.

Mr. McDOUGALL. Mr. President——

The PRESIDENT *pro tempore*. The hour for the consideration of the special order has arrived, and it is incumbent on the Chair to place it before the Senate for consideration, being the resolution of the Senator from California calling for information in relation to the arrest of General Charles P. Stone. The pending question is on the amendment proposed by the Senator from Massachusetts [Mr. WILSON] to strike out all after the word "resolved," and to insert:

That the President of the United States be requested to communicate to the Senate any information touching the arrest and imprisonment of Brigadier General Stone not deemed incompatible with the public interest.

Mr. McDOUGALL. Mr. President, had I yesterday been in the enjoyment of sufficient strength and health, I should have been pleased to take a prompt opportunity to respond to the gentleman from Ohio, [Mr. WADE.] I did beg of him the courtesy, asserting my want of health and strength, to assent to a postponement of the debate until to-day; but it was denied by him. The privilege was afterwards accorded to me at the hands of the Senate, for which I thank Senators.

I would not occupy the time of the Senate, and obstruct the general disposition of legislative business, upon a question that I regarded as merely personal, and affecting the *status* or condition of an individual. In discoursing upon this subject, I think I am discussing principles that lie at the foundation of the Republic. That is my apology, if apology be needed for a Senator in speaking of such a topic.

The Senator from Massachusetts has offered an

amendment to the original resolution. I will not say that the resolution, as I presented it, is in the most perfect form. Perhaps it may contain too many particular interrogations; but the substance, purport, and object of it are justifiable, and will stand justified forever. The Senator from Massachusetts asks that we shall inquire of the President; and what will the President do? He will send and inquire, in the regular course of business, of the Secretary of War. Is it customary for us to inquire of the Chief Magistrate as to business which belongs to a particular Department? It is not customary, and the President is charged with a burden he cannot answer; he has not the papers; he has not charge of the facts. It is the business of the Secretary, so acknowledged and received.

I had occasion to speak yesterday of old England, or, I should rather say Great Britain, for I prefer to unite the English and the Scotch clans. Suppose we were in the Parliament of Great Britain, and a question of this kind was raised by any member of the House of Commons, and the interrogatory was put to the Government—there, under their system, the Government is represented on the floor—would there be any one so bold, any officer of the English Government, from the chancellor to the lowest representative in the Commons, any person who spoke by authority, who would dare to deny or to refuse to answer the interrogatories that have been asked here for not fifty—I was wrong in that—but eighty days? I have sought through all the channels of information to have these inquiries answered, and I ask it now. But is there anybody here who represents the Government in this matter? No. They do not come here to speak boldly and with free tongue of and about what the Government do. It is sometimes said—but rarely, and then only for grave cause—when a member of the House of Commons or a lord, asks a question, "this cannot be answered, because it is inconsistent with the public service;" but it never has been done in history for any cause that can be assigned here. This is a question simply of the imprisonment of a citizen and a soldier, subject either to civil or to military law. The inquiry is by whom and wherefore has he been seized and incarcerated—simple questions both; easily answered both; their answers can do no wrong, except in the wrong that has been done and the acknowledgment; and here let me say that he who does the penitent office of confession, comes nearer heaven than he who, burdened with the wrong, yet bears it on his shoulders; and bearing it, must go downward—yea, and according to all the law we have learned, will continue downward until he goes into the jaws of hell. It has been said by one of the great men of our country, by no less a man than Mr. Webster, the greatest man of our time, that confession was suicide, and suicide was confession; and it may be that the admission of this thing would be equivalent to that. I say that all this concealment, all this darkness, is the result of fear, coward fear.

But, sir, there has been some result from this discussion. For eighty days we have been groping about in darkness; only rumor said who was the maligner or who was the accuser, if the accusation be just; but now I do learn that there have been accusers. I did not know it when I rose in my place yesterday. I said that I had heard rumors, intimations that committees of this Senate had made inquiries and examined witnesses, but I could not learn the fact, and I understood that the fact was ignored, and for sometime in the argument of the gentleman from Ohio it was ignored; but at last the fact came out—one of the facts which I sought to develop, which General Stone has sought to develop, and which his friends have sought to develop—the fact that this had been a matter of inquisition; that the committee on the conduct of the war had inquired into these things, that they had taken testimony and reported it to the Executive, and that they thought it was probable cause. Ah, have we fallen so low, have we become so less than a Senate or a council of a great people, that it has become necessary that Senators, men of counsel, men to frame and establish laws, men who are to take the lights of all past history and examine all that can be taught or learned from the records of many ages and many prosperous and now fallen States, that they may be able to maintain and develop a great nation, should convert themselves into organized systems of police service, with committees traversing the land and bringing in *ex parte* witnesses, and ascertaining from persons favorable to the conclusion they sought that there was probable cause of crime? Had not these persons better engage either in the business of detecting thieves and robbers in some other sphere, or in playing the magistrate's part of inquiring and committing until the next term?

If there has been a degrading feature of our proceedings here, not merely now, but for some years past, it is this sending of Senators and Representatives, who have to do with legislation, about the country inquiring into what should be done by police magistrates and officials and their subordinates. Let me make a single remark of my own knowledge with regard to this kind of investigations here. I come from the coast of the Pacific. A large number of gentlemen from the Pacific have been connected with war business at St. Louis under General Frémont. General Frémont is no favorite of mine, nor are his surroundings; but I was approached, not by Senators, (for I do not propose to be challenged,) but by men who were seeking information, as to whether I knew A, B, and C? Said I, "Very well; I have known them for many years." I knew all about them; knew where they came from before they reached my coast. I inquired, "Is there anything that you want to learn?" "Well; the character of those gentlemen is being examined before an investigating committee, and we should like to know what you think of them; we suppose you do not like them." Because I was a Democrat and they were Republicans, it was supposed that I would be disposed to "jump down" upon them. Probably something in my countenance, or in my voice, intimated a different inclination or impression, from which the conclusion followed that I would not be of any use, for I was sought after as an adversary. I do not say that Senators go out to hunt up witnesses with a view to particular results; but outsiders do. That is the way your investigations are carried on, with none of the guards that belong to the lowest magistrate's court, none of the protection, and, I may say, none of the justice administered in England and in our land in former days.

The gentleman from Ohio intended to be special in his reply to me. I have sought his good will; I have always expressed myself to him with great kindness; I have had for him, I may say, quite high consideration; but let me tell him that the motto of his family in old times was a good, a brave old motto, just as they called him "brave Ben Wade"—"we wade in;" and the only question about the sufficiency of that motto was that they could not swim when they got in deep water. I am afraid that may be so, even with the Senator from Ohio. Now, I am not going to reply so much to the gentleman from Ohio as to state myself, for he has undertaken to rank me with traitors and those who sympathize with treason. All such shots are hardly sufficient to invite resistance; they fall as harmless upon me as would leaden rifle balls on the sides of the Monitor; but that I may be understood, because I speak for the truth, I will state my position on this question of being a sympathizer with treason!

I was not the advocate of the present Chief Magistrate, whom I in all respects honor; but occupying a different position, I took occasion to say some things in the opening presidential canvass which I will repeat now, that they may be heard here, and I will inquire whether the gentleman can trace a patriotic record up any better than I. He may a better partisan one. I had occasion at the first meeting convened in San Francisco in the presidential campaign to address my fellow-citizens, and give them what opinions I entertained with the force with which I was able to express them, and I said then, on the 18th of July, 1860, nearly two years ago:

"We have all heard of the abolition, disunion speech Wendell Phillips was permitted to make in Brooklyn, after vainly attempting to find some place in the metropolitan city of New York, in which to preach treason. We have all heard by telegraph of the brilliant and eloquent speech made by William L. Yancey, before the seceding convention at Baltimore. While the disunionists of the North could not obtain a hearing in a great northern city, we find the disunionists of the South applauded to the echo in the city of Baltimore, and in what men dare to call a Democratic convention. Of that seceding convention William L. Yancey was the great captain and leader."

I then read to the people Yancey's letter to Mr. Slaughter, dated Montgomery, June 15, 1858, and further said:

"I pronounce the author of that letter a traitor, a deep-dyed, black-hearted traitor; not bold and open in the treason, like Wendell Phillips or John Brown; but a traitor of the Italian, of Machiavellian school, contriving covertly, by disguise and stratagem, to work the dismemberment of of the Republic."

With these remarks I aided in opening the last presidential contest. Shortly after the proclamation of the President reached the Pacific coast, I had occasion to address my fellow-citizens, and I choose now here in the Senate and before the country to put what I said, so that even ignorance shall not be misinformed:

"The supposed want of power in our system has been the hope of traitors; and their opinions seemed justified by the treachery of the late Chief Magistrate, James Buchanan. May his name be forever execrated! Our system was framed expressly to guard against the consequences of such evils. A traitor cannot succeed a traitor. Presidential traitors have no power of generation.

"The present President of the United States is no traitor. I know him well. He is not, he never was of my political faith; but I know him to be an upright, true man, a lover of his country, a sincere patriot, with too much manly firmness to shrink from any duty imposed upon him by the Constitution and the laws. Since the commencement of his Administration he has not had either the time or opportunity, by his own direct act, to test the sufficiency of the Government for this crisis. But what the President, as the head of the Government, has not been able to do, the people, who are the Government, have done. Money in argosies has been placed at his disposal, uncalled for legions of armed men have been placed subject to his command. He has in his hands to-day the power to crush out, if he has not already crushed out, rebellion.

"What though Abraham Lincoln was the candidate of the Republican party; he is the constitutional President of the United States of North America. He is the head of my Government. He is my President, and I am a loyal citizen. I believe he will do his duty to you and me, to the American people, to himself, and to his high office; and I say it is the duty of all true patriots to sustain him, and through him, the Contitution and the Union, in the day of fiercest trial."

The record I then made I have maintained in all places—on the shores of the Pacific and in this Hall, at the feast and at the council table. Traitor! Who is traitor? He who assaults his Government, to which he has sworn allegiance by many repeated oaths? All will respond, yes. What is a government, a free government? It is a compact, an agreement among a body of men that they shall be ruled in a certain manner, and they surrender certain powers and invest certain authorities for their common good. In free institutions the government is in the compact, and the men who fill office are only the physical representatives of the great idea which is the fact; its strength, its power, rests in the hearts and minds of men. If I am understood, government is not the man President, but the law for the President, permitting him to represent a certain power by and according to law. It is not the men Senators, it is the provision by law that there shall be Senators, permitting them to act subject to law. It is not the men judges, but the compact that consents to judges, and determines and agrees that as these judges shall act by that compact they may act. This is government, the compact, the understanding between men, free men, voluntarily agreeing to subject themselves to power, limited, constitutional power. Now, who can be denominated a traitor? He who assaults that Government, and that Government is the Constitution. The Senator from Ohio, I have no doubt, having well considered what he was about to say, for he was eager for the fight, did say as he is reported—I did not hear him, I speak from the official report—thus:

"Sir, the man who invokes the Constitution in forbearance of the law to punish traitors is himself a sympathizer."

Is that ignoring the Constitution to any extent, and, if so, to what extent? I have learned in some years of mingling among men, and in the maintenance of individual rights in my office as counsel, that the duty of all Governments is to provide that every right a man has shall be maintained, no matter who he may be. Though he be the vilest sinner in the land, the Constitution is his shield—the law is his shield, as well as the Government. Now, observe the language of the Senator from Ohio; he is replying to me; I am the subject of his discourse:

"There never was a man yet who stood up in this Senate, from the time when Mr. Breckinridge preached daily in favor of constitutional guarantees until now, and set up constitutional barriers against punishment for treason, but what is in his innermost heart of hearts a traitor."

By which he means your humble servant. I

thank him for the compliment. I hope you will cut my head off or shoot me; do not hang me. That is all the prayer I have to ask.

"Our Administration is assailed because not having the technical evidence;" as if, at least, technical evidence might be demanded. Why, sir, technical evidence is not generally sufficient—never, before good judges. Technical evidence only enables a partisan to work his purpose; but now they arrest a gentleman, incarcerate him for eighty days, and their apology is, from the mouth of the chairman of the committee on the conduct of the war, that they must arrest him, because they cannot get technical evidence——

The PRESIDENT *pro tempore*. The hour of one o'clock having arrived, it is incumbent on the Chair to call up for consideration the special order, which is the bill (S. No. 151) to confiscate the property and free the slaves of rebels, upon which the Senator from Kentucky is entitled to the floor.

Mr. McDOUGALL. I ask the Senator from Kentucky to yield the floor until I conclude my remarks. I want to say now all I have to say on this subject.

Mr. POWELL. How long will it take the Senator to conclude?

Mr. McDOUGALL. Probably twenty or twenty-five minutes, as near as I can judge; perhaps thirty minutes.

Mr. WILSON, of Massachusetts. If the Senator from Kentucky yields the floor to the Senator from California, I hope it will be understood that he yields it in order to allow us to go on with and finish this subject. Others may take it up.

Mr. McDOUGALL. I shall be perfectly prepared to finish the subject. I shall not ask any friend of mine to discuss it further.

Mr. POWELL. I would cheerfully yield to the Senator from California for a few minutes; but if the floor is to be claimed by others, and I am to be postponed for another day, I may as well go on at once.

Mr. McDOUGALL. I am on the floor engaged in discussion; I do not ask the Senator to yield for a settlement of the question.

Mr. POWELL. I am sorry to disoblige the gentleman; but if others claim the floor, they may ask that the same courtesy be extended to them.

Mr. McDOUGALL. There is no one else on the floor.

Mr. WADE. I certainly shall claim the floor to reply to this gentleman, and I hope the Senate will give me permission to do so.

Mr. POWELL. The Senator from California must see the difficulty in which I am placed.

Mr. McDOUGALL. Very well.

The PRESIDENT *pro tempore*. The floor is entirely at the disposal of the Senator from Kentucky. He can yield it or not. If he yields it, he yields it unconditionally; it is not for any Senator but for a majority of the Senate to impose the conditions or terms on which it shall be yielded.

Mr. POWELL. The Senator from California, I understand, under the circumstances, does not insist upon proceeding now. I would cheerfully yield to him, if it were not for the state of things which he perceives.

CONFISCATION OF PROPERTY.

The PRESIDENT *pro tempore*. The bill (S. No. 151) to confiscate the property and free the slaves of rebels is before the Senate.

Mr. POWELL addressed the Senate for nearly three hours. [His speech will be published in the Appendix.]

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Ohio, [Mr. SHERMAN,] to strike out all after the enacting clause of the bill, and insert a substitute.

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

The yeas and nays were ordered.

Mr. WILSON, of Massachusetts. I move that the further consideration of this subject be postponed until Friday next, at one o'clock.

The motion was agreed to.

SLAVERY IN THE DISTRICT.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States.

Fellow-Citizens of the Senate and House of Representatives:

The act entitled "An act for the release of certain persons held to service or labor in the District of Columbia," has this day been approved and signed.

I have never doubted the constitutional authority of Congress to abolish slavery in this District; and I have ever desired to see the national capital freed from the institution in some satisfactory way. Hence there has never been in my mind any question upon the subject except the one of expediency, arising in view of all the circumstances. If there be matters within and about this act which might have taken a course or shape more satisfactory to my judgment, I do not attempt to specify them. I am gratified that the two principles of compensation and colonization are both recognized and practically applied in the act.

In the matter of compensation, it is provided that claims may be presented within ninety days from the passage of the act, "but not thereafter;" and there is no saving for minors, *femmes covert*, insane, or absent persons. I presume this is an omission by mere oversight, and I recommend that it be supplied by an amendatory or supplemental act. ABRAHAM LINCOLN.

April 16, 1862.

The message was ordered to be printed, and to lie on the table.

Mr. McDOUGALL. I wish to make one remark now, that the act being in force, it cannot be supplied by an amendatory act. I regret that it is so.

DEATH OF HON. THOMAS B. COOPER.

A message from the House of Representatives, by Mr. MORRIS, Chief Clerk, announced the death of Hon. THOMAS B. COOPER, late a member of the House from the State of Pennsylvania, and communicated the proceedings of the House thereon.

The resolutions of the House of Representatives were read.

Mr. WILMOT. Mr. President, I rise for the purpose of announcing the death of Hon. THOMAS B. COOPER, late a member of the present House of Representatives of the United States from the State of Pennsylvania. He died on the 4th instant, surrounded by his family, at his residence in Coopersburg, of an ulceration of the bronchia, from which he had suffered for a long time. The disease was aggravated by the persistent attention he gave his public duties during the past inclement winter, and until within about four weeks of his death, when he returned to his home.

Mr. COOPER was born in Upper Saucon township, Lehigh county, Pennsylvania, on the 29th of December, 1823. He pursued his classical studies in the Pennsylvania College, Gettysburg, Pennsylvania; and upon leaving college commenced the study of surgery and medicine under Dr. F. A. Martin, now of Bethlehem, Pennsylvania. He completed his medical studies, and graduated with honors at the University of Pennsylvania, in the city of Philadelphia, in 1843. He immediately commenced the practice of his profession in Coopersburg. He attained distinction as a physician and surgeon, and enjoyed extensive and marked confidence.

He was elected to Congress in the fall of 1860, as a member of the Democratic party, from the district composed of the counties of Lehigh and Bucks. He enjoyed the entire respect and confidence of his party, and was a man of acknowledged influence and weight in its councils.

Mr. President, I had not the honor of an acquaintance with the deceased, and cannot, therefore, speak of his qualities of head and heart as they deserve. Those who knew him well, speak of his affection and kindness as a husband and father. He leaves a wife and family of seven children to mourn his irreparable loss.

He was a member of the fraternity of Masons, and was buried by them, and with the honors usually paid to the dead by that ancient order.

Mr. President, I move the following resolutions:

Resolved, That the Senate receives with sincere regret the announcement of the death of Hon. THOMAS B. COOPER, late a member of the House of Representatives from the State of Pennsylvania, and tenders to the relatives of the deceased the assurance of its sympathy with them under the bereavement they have been called to sustain.

Resolved, That the Secretary of the Senate be directed to transmit to the family of the deceased a certified copy of the foregoing resolution.

Resolved, That in token of respect for the memory of the deceased, the Senate do now adjourn.

The resolutions were agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *April* 16, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

SERGEANT-AT-ARMS.

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

Whereas severe family affliction renders it necessary that EDWARD BALL, Sergeant-at-Arms of this House, shall be absent from the seat of Government for a few days after this day: Therefore,

Resolved, That his messenger, JOHN GILBERT, Esq., be authorized to serve any process or execute any order legally devolving on the Sergeant-at-Arms during his temporary absence.

CERTIFICATES OF INDEBTEDNESS.

Mr. STRATTON, by unanimous consent, from the Committee of Ways and Means, reported a bill to amend an act, entitled "An act to authorize the Secretary of the Treasury to issue certificates of indebtedness to public creditors," approved March 1, 1862; which was read a first and second time.

The bill provides that all certificates of indebtedness hereafter issued under the act of March 1, 1862, shall bear date at the time when the claims for which such certificates may be issued shall have been audited and settled.

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

Mr. STRATTON moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

WAR NEWS.

Mr. WATTS. I ask the consent of the House to have read a dispatch from the War Department.

There was no objection; and the Clerk read as follows:

(Received at three a. m., 16th.)

KANSAS CITY, *April* 14.

Hon. EDWIN M. STANTON, *Secretary of War*:

Fort Union mail brings confirmation of the battle of Apache Pass. Our loss is one hundred and fifty killed, wounded, and missing. Enemy acknowledge their loss to be from three to four hundred killed and wounded. Ninety-three rebels were taken prisoners, thirteen of whom were officers. Our forces captured and burned sixty-four wagons laden with provisions and ammunition—killing two hundred mules. The Texans attacked our battery four times, the last time coming within forty feet of our guns, but were repulsed with heavy loss. Colonel Slough is encamped at Bernal Springs, forty miles from Fort Union. The Texans fell back to Santa Fé. Colonel Canby, with one thousand regulars and Kit Carson's regiment, reported within three days' march of Colonel Slough, and Colonel Slate on the Jornada with reinforcements for the enemy.

NAVY CONTRACTS.

Mr. RICE, of Massachusetts, by unanimous consent, from the Committee on Naval Affairs, reported a joint resolution authorizing the Secretary of the Navy to discharge contractors with his Department when they have furnished the amount estimated in their contracts and fifty per cent. additional; which was read a first and second time.

Mr. RICE, of Massachusetts. I ask that the joint resolution be put upon its passage.

Mr. WASHBURNE. I should like to hear the joint resolution read.

The Clerk read the joint resolution. It provides that where parties holding contracts with the Navy Department have fulfilled the same to the estimated amount of said contracts and fifty per cent. additional, the Secretary of the Navy is authorized and empowered to release said contractors from further obligations to furnish the articles stipulated therein, and to settle their accounts as in cases of completed contracts.

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

Mr. THOMAS, of Massachusetts. I hope my colleague will explain the joint resolution. I do not understand it.

Mr. RICE, of Massachusetts. There are many persons holding contracts under the Navy Department which were made early last season, requiring them to furnish a certain amount of goods for the use of the Navy Department. Owing to the exigencies arising from the war, those parties are called upon to supply much greater amounts of goods than the estimates in their contracts called for, and they are held to supply them at the prices for which they engaged to supply them when their contracts were made. Since that time, in consequence of the great demand for those articles, they have advanced in price to an extent which renders it next to impossible for the contractors to supply them.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. FRIDAY, APRIL 18, 1862. NEW SERIES.....No. 106.

The object of the joint resolution is not to relieve them from the conditions of their contracts. They are required to furnish the amounts estimated to be wanted at the time when their contracts were made and fifty per cent. additional. After they have done that, there seems to be no justice in requiring them to go on and supply to an indefinite extent, amounts which neither the Department nor themselves anticipated would be wanted at the time when their contracts were made.

It is within my knowledge that a number of these contractors have fulfilled to the letter the stipulations of their contracts for the amounts estimated to be wanted by the Navy Department. They have been called upon to supply ten times the quantity that it was estimated would be wanted, and the reservation of ten per cent. has amounted to more than sufficient to absorb the entire capital of these parties. The amount reserved by the Department is sufficient to absorb all their capital, and deprive them of the means of going on to an indefinite extent, and ruin has fallen upon some of them and is likely to fall on many more.

Mr. LOVEJOY. I wish to ask the gentleman whether this joint resolution is recommended by the Navy Department?

Mr. RICE, of Massachusetts. It has the sanction of the Secretary of the Navy.

Mr. LOVEJOY. Do I understand the gentleman to say that these parties are obliged by the conditions of their contracts to go on furnishing articles indefinitely?

Mr. RICE, of Massachusetts. Yes, sir, the Navy Department makes an estimate of the amounts of certain articles which they will require. There is a condition put into all these contracts, that the Department may call for a still greater amount, and that amount is not limited; and in some cases which have come under my notice—in one in particular which I have now in my mind—the estimated amount to be required of the contractor was $20,000, and the Department has already called upon that contractor for upwards of two hundred thousand dollars. The reservation amounted to ten per cent.—that was ten per cent. on $20,000; but if the contractor is required to furnish $200,000, the reservation is ten per cent. upon $200,000. And in the mean time, since the contract was made, the price of the articles stipulated to be furnished has greatly advanced. It is notorious that the Government does not pay its contractors, and that there are millions of dollars due to-day from the various Departments of the Government to men who have fulfilled every item and every stipulation of their contracts. These men are deprived not only of these enormous amounts of reservations, but are absolutely denied payment of the amount of the principal for the goods which they have furnished. Many of them are breaking down, and there was never a more flagrant piece of injustice practiced in this country, than for this Government to require contractors to live up to their agreements, and to furnish an amount of articles larger than their contracts estimated, while the Government is entirely regardless of the fulfillment of the obligations on its part. I say that, in times like these, when contractors are suffering from the advance of prices and sustaining, in most instances, great losses, if a contractor furnishes the amount of goods estimated to be required by his contract, and fifty per cent. in addition to that, it is no more than simple justice on the part of the Government that he should be released from going on to an indefinite extent, which is certain ruin to him.

Mr. LOVEJOY. What will be the effect of the joint resolution in case a contractor has already furnished fifty per cent. above the amount required in his contract?

Mr. RICE, of Massachusetts. He is required to furnish his $20,000, the amount estimated, and fifty per cent. additional, and he is not to be required to furnish anything beyond that.

Mr. LOVEJOY. What will be the result where he has already furnished more?

Mr. RICE, of Massachusetts. Well, that will be left to the Secretary of the Navy to be determined.

Mr. DIVEN. If I understand the statement of the gentleman from Massachusetts, these contracts bind the contracting parties to furnish all that the Government need, and specify an estimate of the amount which will probably be required, but the contracts give to the Government the right to order more.

Now, if the articles which are to be furnished advance in price, so as not to allow a profit to the contractor, he, of course, will be relieved under this resolution. Suppose, on the other hand, that the articles have diminished in value, as some articles have, then, I want to know, can the contractor insist upon furnishing all that the Government wants of those particular articles under his contract? I want this resolution, if it relieves the contractor in a case of hardship for him, also to relieve the Government in a case of hardship for it.

Mr. SEDGWICK. If the gentleman from Massachusetts will allow me, I think I can relieve the difficulty under which the gentleman from New York labors. The Government is not compelled to take anything beyond the amount specified in the contract. The printed form of contract for supplies authorizes the Government to require additional supplies, but the contractor has no right, if the price falls, to force on the Government one single pound or yard of the article contracted for beyond the amount which the Government agreed to take.

While I am up, I desire to mention a single case that has fallen under my observation, and which is not the one referred to by the gentleman from Massachusetts. A contractor contracted to deliver at the navy-yards of Philadelphia, New York, and Boston canvas to the amount of $28,000, at a price agreed upon. That contractor has been already called upon to furnish, and has furnished under that contract, $120,000 worth; and he has requisitions which will run the amount up within the year, according to his estimate, $200,000. In the mean time, the article I speak of has increased in price from thirty-three to forty per cent. That is the case with almost every article of naval supplies, especially with articles furnished from southern States, such as canvas, duck, turpentine, tar, &c. Some of them have increased in price more than one hundred per cent. The Government now owes to this contractor about seventy thousand dollars—considerably more than twice the whole estimated amount of the contract—for which he cannot realize the money. It is an important article, and the contractor is compelled to pay the duties in gold.

Now, that is a case, and one of a class of cases, where the Secretary of the Navy ought to be authorized to exercise discretion. It has been the practice of the Department heretofore, when twenty-five per cent. over the amount contracted for had been furnished, to settle and discharge the contract. But the present Secretary does not feel authorized, in the absence of an express resolution of Congress, to make any such arrangement, although he concedes its equity. This matter was brought before the Naval Committee, and it was unanimously agreed that it was a case in which the parties contracting were entitled to some equitable relief in the way of discharge from their contracts.

Mr. McKNIGHT. Although it does not seem unreasonable that the Secretary of the Navy should be authorized to settle with contractors on the basis proposed by the resolution introduced by the gentleman from Massachusetts, it seems to me that there ought to be some restrictions on the amount of the contracts or purchases; and I suggest that the resolution had better go to the Naval Committee.

Mr. RICE, of Massachusetts. I move the previous question on the passage of the joint resolution.

The previous question was seconded, and the main question ordered, and under its operation the joint resolution was passed.

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

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, announcing that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 259) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1863, and had also agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 242) making appropriations for the naval service for the year ending June 30, 1863, and additional appropriations for the year ending June 30, 1862.

BOOKS FOR SMITHSONIAN INSTITUTION.

Mr. McPHERSON. I ask unanimous consent to report back from the Library Committee a joint resolution to supply the Smithsonian Institution with copies of volumes of Wilkes's Exploring Expedition.

Mr. LOVEJOY. I object.

FRAUDULENT WAR CONTRACTS.

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

Resolved, That the report of the Secretary of War (Executive Document No. 94) containing the report of the commission on war claims at St. Louis, be referred to the Committee on the Judiciary, with instructions to inquire and report, by bill or otherwise: First, upon the expediency of ordering proceedings to recover the money which has been obtained by individuals in violation of law, or upon fraudulent contracts. Second, upon the expediency of making the evidence taken, and said report by the commission, *prima facie* evidence in any proceeding at law, or upon any application to Congress or the Executive Departments, by individuals whose claims were investigated by the said commission for pay or allowances, and where such claims have been disallowed, in whole or in part, by the commission.

ENROLLED BILL.

Mr. GRANGER, from the Committee on Enrolled Bills, reported as truly enrolled an act (S. No. 188) to increase the efficiency of the medical department of the Army; when the Speaker signed the same.

PAY OF ARMY OFFICERS.

Mr. MOORHEAD asked unanimous consent to report a bill from the Naval Committee.

Mr. WASHBURNE. I must insist on the regular order of business.

The SPEAKER. The regular order of business is the consideration of reports from committees undisposed of.

Mr. WASHBURNE. I have no objection to hear the bill read.

Mr. BINGHAM. I call for the regular order of business.

The SPEAKER. The business in order is the consideration of the bill (H. R. No. 332) to define the pay and emoluments of certain officers of the Army, and for other purposes.

Mr. BLAIR, of Missouri. I move that that bill be passed over.

The SPEAKER. That can only be done by unanimous consent.

Mr. BLAIR, of Missouri. A Senate bill of the same title has been reported from the Committee on Military Affairs. We do not care to have it considered. I move that it be laid on the table.

The motion was agreed to.

SIGNAL CORPS.

The SPEAKER. The next business in order is the consideration of the bill (H. R. No. 352) to provide for the organization of a signal corps, to serve during the war; the question being on the engrossment and third reading of the bill.

Mr. BLAIR, of Missouri. I ask that the bill may be read.

The bill was read. It authorizes the President of the United States to appoint, by and with the

advice and consent of the Senate, for service during the present war, so many signal officers, with the rank, pay, and allowances of captains or lieutenants of calvary, and detail so many enlisted men, with the rank and pay of sergeants of cavalry, as he may deem necessary; provided, the number of captains shall not exceed three for each military department of the United States; the number of first lieutenants shall not exceed one for each division of the Army in the service of the United States; the number of second lieutenants shall not exceed two for each brigade of the Army; and the number of sergeants shall not exceed one for each signal officer who may be appointed; and provided further, that each officer so appointed, shall, before receiving his commission, be examined and approved by a military board to be convened for the purpose. The second section provides that the officers and men of the signal corps shall serve in any military department or with any forces to which they may be ordered. The third section provides that the officers and men of the signal corps, or those who may be temporarily serving in the corps, may be mounted upon horses, the property of the United States; and in this case the officers shall not be entitled to and shall not receive commutation for forage. The fourth section provides that the President may assign to duty, or may appoint as signal officers, such officers of the Army of the United States as he may elect; and these officers, while so serving, shall have the rank, pay, and allowances of signal-officers of the grade to which they may be respectively so appointed or assigned. The fifth section provides that the President shall be authorized to appoint, by and with the advice and consent of the Senate, one chief signal officer, with the temporary rank and pay and allowances of a —— of cavalry.

Mr. BLAIR, of Missouri. It has been deemed of the utmost importance that this organization should be made. Every commander who has seen active service in the field has recognized the great service done to the country by this signal corps. The system of signals invented by Major Myers, the officer at present at the head of the corps, has proved itself of such value that the Navy Department has made direct application to the Secretary of War to detail an officer to instruct naval officers in it. The Navy Department has also introduced the system into the Naval Academy. As I have already remarked, at every battle upon the sea-coast and elsewhere, where these officers have been detailed for service, our commanders have acknowledged the great obligations they have been under to this system of signals.

The proposed organization, as the House will perceive, is of a very modest character. The section creating the temporary rank of colonel was reported with a view of giving it to Major Myers, now at the head of the corps. I have spoken to that gentleman on the subject, and he responded that he did not wish that rank if it would endanger the passage of this bill. He felt it to be important that these signal officers should have promotion up to the rank of captain. I move to insert "colonel" in the blank, so that the House may decide on the question.

The amendment was agreed to.

Mr. BLAIR, of Missouri, demanded the previous question.

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

Mr. BLAIR, of Missouri, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

TELEGRAPHIC CENSORSHIP OF THE PRESS.

The SPEAKER stated the next business in order to be the consideration of the following resolution, relative to the establishment of a telegraphic censorship of the press, reported from the Committee on the Judiciary, by the gentleman from Iowa, [Mr. WILSON:]

Resolved, That the Government should not interfere with the free transmission of intelligence by telegraph when the same will not aid the public enemy in his military or naval operations, or give him information concerning such operations on the part of this Government, except when it may become necessary for the Government (under the authority of Congress) to assume exclusive use of the telegraph for its own legitimate purposes, or to assert the right or priority in the transmission of its own dispatches.

Mr. WILSON demanded the previous question on the adoption of the resolution.

The previous question was seconded, and the main question ordered; and under the operation thereof, the resolution was adopted.

CONFISCATION OF REBEL PROPERTY.

The SPEAKER. The next business in order is the consideration of various reports from the Committee on the Judiciary, relative to the confiscation of the property of rebels. They were received unanimously, and the motion of the gentleman from Ohio [Mr. PENDLETON] to lay upon the table, will apply to all of the bills. The reports have been docketed, as follows:

By Mr. Hickman, from Judiciary Committee, March 20, 1862.

A bill (H. R. No. 126) to forfeit the property and slaves of persons who shall engage in, or aid and abet, armed rebellion against the United States. Reported with the recommendation that the bill do not pass. Mr. BINGHAM submitted an amendment in the nature of a substitute. Mr. PENDLETON moved that the said bill be laid upon the table. Question, Shall the bill be laid upon the table?

A bill (H. R. No. 107) to forfeit the property and slaves of persons who shall engage in, or aid and abet, armed rebellion against the United States. Reported with the recommendation that the bill do not pass. Mr. BINGHAM submitted an amendment in the nature of a substitute. Mr. PENDLETON moved that the said bill be laid upon the table. Question, Shall the bill be laid upon the table?

A bill (H. R. No. 106) to facilitate the suppression of the rebellion and prevent its return. Reported with the recommendation that the bill do not pass. Mr. PENDLETON moved that the said bill be laid upon the table. Question, Shall the bill be laid upon the table?

A bill (H. R. No. 110) making it a penal offense for any officer or private of the Army or Navy to capture or return, or aid in the capture or return, of fugitive slaves. Reported with the recommendation that the bill do not pass. Mr. PENDLETON moved that the said bill be laid upon the table. Question, Shall the bill be laid upon the table?

A bill (H. R. No. 128) to punish treason, and to provide a more effectual mode for the collection of taxes imposed by Congress, and to furnish a fund to remunerate the losses of loyal citizens, and to provide homesteads for soldiers employed in suppressing the present rebellion. Reported with the recommendation that the bill do not pass. Mr. PENDLETON moved that the said bill be laid upon the table. Question, Shall the bill be laid upon the table?

Joint resolution (H. R. No. 11) relative to the right and duty of the President in regard to persons held as slaves in any military district in a state of insurrection. Reported with the recommendation that the joint resolution do not pass. Mr. PENDLETON moved that the joint resolution be laid upon the table. Question, Shall the joint resolution be laid upon the table?

Joint resolution (H. R. No. 13) concerning the rebellion. Reported with the recommendation that the joint resolution do not pass. Mr. PENDLETON moved that the joint resolution be laid upon the table. Question, Shall the joint resolution be laid upon the table?

Joint resolution (H. R. No. 14) in relation to persons claimed as slaves in the States now in rebellion. Reported with the recommendation that the bill do not pass. Mr. PENDLETON moved that the said joint resolution be laid upon the table. Question, Shall the joint resolution be laid upon the table?

Joint resolution (H. R. No. 15) in relation to the confiscation of the property of rebels. Reported with the recommendation that the said joint resolution do not pass. Mr. PENDLETON moved that the said joint resolution be laid upon the table. Question, Shall the joint resolution be laid upon the table?

Joint resolution (H. R. No. 18) to facilitate the suppression of the rebellion and prevent its return. Reported with the recommendation that the said joint resolution do not pass. Mr. PENDLETON moved that the said joint resolution be laid upon the table. Question, Shall the joint resolution be laid upon the table?

A resolution (Mis. Doc. No. 9) as to the powers of the President of the United States over the Army and Navy. Submitted on the 3d of December, 1861, by Mr. SHELLABARGER. Reported with the recommendation that the resolution do not pass. Mr. PENDLETON moved that the said resolution be laid upon the table. Question, Shall the resolution be laid upon the table?

A resolution (Mis. Doc. No. 3) relative to the confiscation of the property of rebels. Submitted on the 2d of December, 1861, by Mr. CAMPBELL. Reported with the recommendation that the resolution do not pass. Mr. PENDLETON moved that the resolution be laid upon the table. Question, Shall the resolution be laid upon the table?

A resolution on the subject of military orders for the return of slaves. Submitted on the 23d of December by Mr. SHANKS. Reported with the recommendation that the resolution do not pass. Mr. PENDLETON moved that the resolution be laid upon the table. Question, Shall the resolution be laid upon the table?

A resolution relative to the expediency of making void all sales, transfers, and dispositions of property of every kind, by persons engaged in insurrection against the United States. Submitted on the 20th of January, 1862. Reported with the recommendation that the resolution do not pass. Mr. PENDLETON moved that the said resolution be laid upon the table. Question, Shall the resolution be laid upon the table?

Joint resolution (H. R. No. 54) in relation to the powers of the President of the United States. Mr. PENDLETON moved that the said joint resolution be laid upon the table. Question, Shall the joint resolution be laid upon the table?

Mr. BINGHAM. I ask my colleague to withdraw his motion to lay upon the table, so that the House may decide upon my substitute on its merits.

Mr. PENDLETON. I would be willing to accommodate my friend, but members around me state that if I withdraw the motion to lay upon the table it will be renewed by others.

Mr. BINGHAM. Does that motion apply to the first bill, or to all of the bills and amendments?

The SPEAKER. It will apply to all of them.

Mr. BINGHAM. I appeal again to my colleague to withdraw the motion to lay upon the table.

Mr. PENDLETON. If I did, it would be renewed at once, and I decline to withdraw it.

Mr. BINGHAM. I ask that there be a separate vote on each bill.

Mr. COX. I object.

The SPEAKER. Then they must be all considered at once.

Mr. BINGHAM. As we have to vote on all of these bills, I ask that they be all read.

The Clerk proceeded with the reading of the bills.

ARMY DEFICIENCY BILL.

Mr. MORRILL, of Vermont. Mr. Speaker, it is understood by the House that the death of Mr. COOPER, late a member of this House from the State of Pennsylvania, will soon be announced, and I ask the unanimous consent of the House for leave to report from the Committee of Ways and Means a bill to provide for a deficiency in the appropriation for the pay of the two and three years volunteers and the officers and men actually employed in the western department, which the Secretary of War is very anxious to have passed at once.

Mr. VALLANDIGHAM. That bill, under the rule, must go to the Committee of the Whole on the state of the Union. I desire to know whence this deficiency of $30,000,000.

The bill was read a first and second time, and referred to the Committee of the Whole on the state of the Union.

Mr. MORRILL, of Vermont. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

Before that question is taken, I move that general debate on this bill in the Committee of the Whole on the state of the Union be closed within five minutes after the consideration of the bill has been commenced.

Mr. VALLANDIGHAM. Let us have time enough to have some explanation of this most extraordinary deficiency.

Mr. THOMAS, of Massachusetts. Make it a minute for every million.

Mr. MORRILL, of Vermont. I will modify my motion so that the debate in committee shall be closed in thirty minutes.

The motion was agreed to.

The motion to go into committee was then agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. Cox in the chair.)

Mr. MORRILL, of Vermont. I move that the committee proceed to the consideration of the Army deficiency bill.

The motion was agreed to.

Mr. MORRILL, of Vermont. Mr. Chairman, the bill before the committee is to provide for a deficiency in the appropriations for the Army, in consequence of a larger number of men than five hundred thousand having been called into service. A deficiency has arisen, as we are informed by the Secretary of War, of $30,000,000. Unless this sum be appropriated, there will not be enough to pay the two and three years volunteers. It is important that the bill should be passed, and sent at once to the Senate. One hundred thousand dollars is also included, to pay the officers and men employed in the Missouri department. I ask that the Clerk shall read the documents I send him.

Mr. MALLORY. How is it that the money is confined to the volunteers of the department of Missouri, when like service was authorized in other States situated like Missouri?

Mr. MORRILL, of Vermont. This will cover

precisely what is included in that act. The reference is to the title of that act.

Mr. BLAIR, of Missouri. The act referred to has not yet passed the Senate.

Mr. MALLORY. When it has passed into law, I hope that the Committee of Ways and Means will make the necessary appropriation to carry it into effect.

Mr. VALLANDIGHAM. The Secretary of War reported some excess, but gave the sum total in the volunteer service, so far as the muster rolls had been returned at the Department, at four hundred and sixteen thousand two hundred and forty-nine men. And now I desire, if the gentleman has the means of information, that he will let the House know how many more men than the five hundred thousand authorized by law have been actually enlisted and mustered into the service up to this time? I ask him whether there is official evidence in the Department that even five hundred thousand men have actually been mustered into the service? I further desire to know what number of men are actually in the field south of Mason and Dixon's line, and what proportion of them are still in camp in the northern and western States, and not actually in service?

Mr. MORRILL, of Vermont. If the gentleman from Ohio will allow the communication from the Secretary of War which I have sent to the Clerk's desk to be read, perhaps he will obtain the information he desires.

Mr. VALLANDIGHAM. Will it state the precise number of men in service?

Mr. MORRILL, of Vermont. Perhaps not exactly that, but he will find information upon some other points involved.

Mr. VALLANDIGHAM. I desire to ask the gentleman from Vermont if he knows the actual number of men enlisted?

Mr. MORRILL, of Vermont. I have no official information upon the subject other than that which may be in the possession of every gentleman of the House. The former Secretary of War stated the number of men in service as between six and seven hundred thousand men. I have never seen any official statement on the subject other than that. I have seen it reported that there are in service between five and six hundred thousand men—nearly six hundred thousand, I believe.

Mr. VALLANDIGHAM. I inquired because it has been reported through the country to be true that troops have been nominally raised and enlisted, rations and pay drawn, when the troops have never been in service at all.

Mr. MORRILL, of Vermont. The gentleman from Pennsylvania here on my left [Mr. COVODE] informs me that he learned from the Secretary of War that the number of troops in service is five hundred and seventy-two thousand.

Mr. VALLANDIGHAM. Actually enlisted and in service?

Mr. COVODE. I think the number was five hundred and seventy-two thousand enlisted and actually in service.

Mr. VALLANDIGHAM. Then the thirty millions appropriated by this bill is to cover the pay of seventy-two thousand men?

Mr. COVODE. I understand that $20,000,000 is for the pay and rations of these men, and that the other $10,000,000 is to pay for transportation and other incidental expenses of enlistment, and bringing them into the field.

Mr. VALLANDIGHAM. It is, by its terms, to pay a deficiency in the appropriations for the year ending 30th June, 1862.

Mr. COVODE. Yes, sir; for the next two months—for May and June.

Mr. VALLANDIGHAM. I wish to say further that I understand that the bill appropriating money for the service of the War Department for the next year, which we have passed, includes this excess. Am I correct in that statement, I ask the gentleman from Vermont?

Mr. MORRILL, of Vermont. All the information I have upon the subject is contained in the communication from the Secretary of War, which I have sent to the Clerk's desk, and which I ask the gentleman from Ohio to allow it to be read. The gentleman will then know as much as I do upon this subject.

Mr. VALLANDIGHAM. The gentleman from Vermont knows very well that unless the bill we have passed making appropriations for the year ending the 30th of June, 1863, provides for this excess in the number of troops, we shall have to pass bills to supply deficiencies for that year to cover the excess.

Mr. DAWES. I desire to inquire of the gentleman from Pennsylvania, [Mr. COVODE,] who has just given to the House some information touching the number of troops actually in service, if it has come to his knowledge that there are in the different parts of the country what are called skeleton regiments which are only full in their number of officers; abundant, redundant in officers, but in rank and file, beggarly poor; that in fact there are regiments in the country that consist in nothing but officers, the pay-rolls of which are made out, and the full pay and compensation of the officers drawn with singular regularity as often as they are permitted?

I have to say that if I am called upon at this time to vote for an appropriation of $30,000,000 as a deficiency, it would be convenient, not to say proper or necessary—it would be gratifying to me if some gentleman could give us some little information as to where this $30,000,000 is to go.

Mr. COVODE. I will give the gentleman the best information I have; but the gentleman from Massachusetts knows that it has been reported, and I have no doubt upon official authority, that there are actually in the field over six hundred thousand men. The present Secretary of War made application to the proper officers in his Department to give him exact information as to the exact number. The result I have mentioned. I saw a table showing the number reported from each State, and upon looking it over and comparing it with the knowledge which I had in reference to a portion of it—I mean especially the troops reported as coming from Pennsylvania—I found the number set down from that State to be correct. So far as I was able to judge of the correctness of the statement generally I found it satisfactory, and I believe it to be correct. As I have said, the aggregate number there stated was, according to my recollection, five hundred and seventy-two thousand. I may be mistaken by a few thousands, but that is my recollection.

Mr. DAWES rose.

Mr. VALLANDIGHAM. I have the floor and do not yield at this moment. I have just been informed—I do not vouch for the fact—that there is not a deficiency, but a deficit, a defalcation in the War Department of some thirty millions of dollars. If the gentleman has any information upon that subject, it would be very gratifying to me to hear it.

Mr. BLAIR, of Missouri. I think it is due to the House that the gentleman from Ohio shall give the name of the person upon whose authority he makes that statement

Mr. COVODE. I have had the opportunity of learning, perhaps, as much as any member of the House in reference to the number of men in service, and I have given the figures as near as I could. And now, I desire to ask the gentleman from Ohio upon what authority he makes his assertion in reference to a defalcation in the War Department? When a gentleman comes here for the purpose of putting difficulties in the way of the Administration, I want him to come out and state the authority upon which he makes such a charge against the Administration. When a man is in the habit of using language in the House of Representatives which, if it is not treason, comes very near it, let him give his authority when he makes such a charge against the Administration.

Mr. VALLANDIGHAM. Mr. Chairman, I have the floor; and if I had not, I would call the member from Pennsylvania to order. If stealing is a part of the business of the Administration, and it is treason to inquire into it, then this is treason, and it is the only treason I have been guilty of. When did that become treason? I asserted that what I have said was a rumor. I said that I did not vouch for its truth. I merely suggested the rumor I have heard; and am I to be told by the member from Pennsylvania that it is treason to charge that a defalcation has occurred in a Department of the Government?

Mr. COVODE. I deny the truth of the assertion; and I call for the evidence.

Mr. VALLANDIGHAM. I was proceeding to say that it is well known in the country that the Secretary of the Treasury has gone to Pennsylvania to confer with the late Secretary of War, and the rumor is, that he has gone there for the purpose of conferring with him in reference to this alleged defalcation. How much truth there may be in the rumor I am not able to say.

Mr. COVODE. I want to say just this——

Mr. VALLANDIGHAM. Mr. Chairman, I am upon the floor and do not yield to the gentleman from Pennsylvania, nor will I yield to him until he learns manners and decency enough to deal with gentlemen in this House as its rules and decorum require. He is entitled to no courtesy from me.

Now, sir, it is extraordinary indeed that when a charge of this description is made here, that instead of meeting it as it ought to be met, and refuting it if it can be refuted, the member indulges in the worn out, threadbare, infamous insinuation of treason which has again and again been repeated and exploded here. Sir, let me tell him that the time has gone by for all that. The country has set its seal of condemnation upon it. The whole people are rising up in judgment against it, and the day has gone by when any man is to be silenced upon this floor by insinuations of that kind.

Mr. BLAIR, of Missouri. I am very glad, sir, to hear the gentleman characterizing his remark as a charge to be met. I want to know if he makes that charge and holds himself responsible before the country for making such a charge?

Mr. VALLANDIGHAM. My language was very distinct. I stated that it was a rumor implying a charge against that Department, and I was struck with the amount named in the bill, and with the fact that we have been furnished with no satisfactory explanation.

Mr. BLAIR, of Missouri. The Secretary furnishes an explanation, and it shows how unreasonable and unreasoning this allegation or rumor is. We all know that the estimates upon which our appropriation was founded were for five hundred thousand men, and it is as well known as anything can be known that there are over seven hundred thousand men in the service, and the estimate to pay five hundred thousand men we know will not pay six or seven hundred thousand. This appropriation is for the purpose of making up that deficiency for the time which will elapse before the fiscal year terminates. That, I should think, ought to be explanation enough to satisfy any reasonable man, and a better explanation than that furnished by this outside rumor which the gentleman brings into the House to assail the Administration with.

Mr. VALLANDIGHAM. Enough has already been disclosed by your investigating committees of the atrocious frauds and peculations by that Department to justify me in referring to charges or rumors of this character, and it will not do for the friends of the ex-Secretary of War to put on the garb of virtuous indignation when such charges are alluded to, after the mass of damning evidence which has been accumulated by one of the committees of your own House. I said expressly that I did not vouch for the truth of it. I do not know personally anything about it, but I say that after what has been disclosed, a rumor of that kind is entitled to more credibility, at least, than it would be if perfect innocence had prevailed from the beginning.

Mr. BLAIR, of Missouri. I desire to say that this is not a case in which there can be anything of the description which the gentleman alludes to. We all know what Congress has fixed the pay of soldiers at. We all know what is the pay of officers; and by multiplying the pay by the number of men we can ascertain what the deficiency amounts to. The excess in the number of men in the service over that which was provided for and estimated for is a sufficient explanation of this matter, and I say it puts a stopper on the gentleman, unless he can show that there is not this number of men in the field.

And now I desire to answer an observation which fell from the gentleman from Massachusetts, [Mr. DAWES.]

Mr. VALLANDIGHAM. One moment, if you please, and then I will yield again. Before the gentleman from Missouri proceeds further, let me say, in regard to this part of the subject, that I have not criticised, as I have a right to do, and as I would do under ordinary circumstances, the act of the Administration in calling out more troops than Congress has authorized. The President asked, last July, for four hundred thousand men, and Congress gave him five hundred thou-

sand; and now we are told that there are six or seven hundred thousand, or at least five hundred and seventy-two thousand in the service. The gentleman from Massachusetts [Mr. DAWES] has referred to the fact, which has been notorious all over the country, that there are skeleton regiments in which there are nothing but officers, or for which but few privates have been enlisted, who have been drawing pay all along. There are regiments in my own district, or were not long since, which were organized eight or nine months ago, and which still contain less than half the number of men required, whose officers have been paid from the hour when they were first authorized to raise the regiments.

Now, I have passed that by, because I am not one of those who propose to go into an investigation of the acts of the Administration on that subject at this time. They have the responsibility of this whole war upon them. Let them take all the men they choose to take and all the money the House chooses to appropriate to carry it on, and see what can be made of it; but when it comes to a question of honesty in the application of it, I have the same rights as any other member of the House.

Mr. BLAIR, of Missouri. I desire to say a few words in reply to what fell from the gentleman from Massachusetts, [Mr. DAWES.] The observation made by the gentleman was that there are skeleton regiments, the officers of which are receiving pay. Now, sir, I undertake to say that that state of facts cannot exist; for the law which authorized the raising of these volunteers provides that no men shall be mustered into service as a regiment or as a company without having the minimum, which is eight hundred men for a regiment and eighty men for a company.

Mr. VALLANDIGHAM. How about the nineteenth regiment?

Mr. BLAIR, of Missouri. I am speaking now of the volunteer regiments. The regular regiments were organized upon a different principle altogether, and it will be recollected by the House that the Committee on Military Affairs resisted that measure as long as they could.

Mr. VALLANDIGHAM. Has not every officer authorized by that bill been appointed, and has he not drawn pay ever since?

Mr. BLAIR, of Missouri. There is no doubt about the fact.

Mr. DAWES. I desire to put a question to the gentleman from Missouri.

Mr. BLAIR, of Missouri. I cannot answer two gentlemen at once. I will hear the gentleman from Massachusetts as soon as I get through with the gentleman from Ohio. There is no question about the fact being as the gentleman has stated it with reference to the eleven new regiments of regulars authorized by Congress. The Government was authorized to appoint those officers, and did appoint them, and almost every member upon the floor of this House, or of the Senate, is as much responsible for that as the Administration is. The officers were appointed, probably, before a single man was recruited; and if the gentleman from Massachusetts alluded to those regiments, then his remark was just and applicable, but in no other sense. The company officers and field officers in the volunteer service cannot receive their pay until their companies or regiments contain the minimum number of men established by law. I admit that many regiments have been cut to pieces and decimated in battle and by disease, and probably the law has not been executed in regard to them. They have not been where they could be reorganized or recruited, and the fragments or remnants of such regiments have still been employed in the field; and I do not suppose there is a man in this House who would ask that they should not be.

Mr. VALLANDIGHAM. I will yield now to the gentleman from Massachusetts.

Mr. DAWES. Mr. Chairman, I do not participate in this controversy between the gentleman from Pennsylvania [Mr. COVODE] and the gentleman from Ohio, [Mr. VALLANDIGHAM,] or make myself a party to it at all. I rose for information, in good faith. I thought it was due to the House that we should know something about the occasion for this deficit of $30,000,000. The gentleman from Pennsylvania [Mr. COVODE] rose in explanation, and said that he had seen a very beautiful table, which was entirely satisfactory to him, and that from that table it appeared that there were five hundred and seventy-two thousand men in the service. He had evidently made no investigation behind the table at all. I would like to ask the gentleman from Missouri [Mr. BLAIR] if he has made any investigation, not to ascertain so much what the law is as to ascertain what the fact is. I would like to know if the gentleman from Missouri has gone into any investigation as to the question of fact. I stated to the House a moment ago that there were, *in point of fact*, not in point of law, skeleton regiments about this country, drawing upon its Treasury to an alarming extent, whose only usefulness was in furnishing officers to patrol the streets of cities, and to exhibit their uniforms and their manners to the peaceful citizens. [Laughter.] I want to know from my friend, not what the *law* is, but what the *fact* is; and I would like him to give the House the benefit of his investigation of the fact.

Mr. BLAIR, of Missouri. Well, Mr. Chairman, I have not had an opportunity of traveling round the country such as the gentleman from Massachusetts has had, [laughter,] and, therefore, I must admit that his range of observation has been much broader than mine; but I am disposed to believe that the officers of the Government have in good faith executed the law. If there have been frauds, and officers of the Government have connived at them, it is our misfortune.

Mr. DAWES. What is the result of your investigations?

Mr. BLAIR, of Missouri. I have seen the official statement of which the gentleman from Pennsylvania [Mr. COVODE] speaks. It showed that there were so many men employed in the Army. We had every evidence that we could have of the correctness of these returns. There is first the sworn report of the officer who returns a certain number of men. It shows that these men exist, in fact, in the various regiments. If the gentleman from Massachusetts can invent any scheme to make men honest, he will succeed in doing what very few men have done. If he will furnish a scheme or invention to this Government to prevent men from swearing falsely, as these men have done, if they have overstated the number in service, he will do what all others have failed to do.

Mr. DAWES. I will suggest to my friend a plan. It is this: that when the Congress of the United States is called upon to appropriate thirty, or forty, or fifty millions of dollars, in a single bill, the officials asking it will furnish us with some information pertaining to its expenditure. I think that that would contribute something toward the faithfulness of the expenditure. The Departments would see that they would be held to a strict account for its expenditure. Sir, I am quite tired and worn out in the investigation of these matters. It is not enough for gentlemen to get up here and say that if the law is faithfully carried out, this will all work well. That is begging the question entirely. This is not a question of law at all. It is a question of fact, which nobody asking this appropriation deems it worth while to give us any information about.

Mr. ODELL. Mr. Chairman——

The CHAIRMAN. The gentleman from Ohio has the floor.

Mr. DAWES. Now about this question of fact. I do not see how anybody can have walked the streets of Washington for the last three months, and failed to observe the fact that there were officers here whose regiments the Lord knew better where they were than they did. They were here looking after the pay-rolls. They were here seeing that if there were any particular appropriations they should be the first in. I understand that the men who get the first drafts on the Treasury are the men who do the least fighting in this war; and I think it quite time that there was some effort, at least, at reformation.

Mr. COVODE. Mr. Chairman——

Mr. DAWES. Now, I want my friend from Pennsylvania, who has got on the floor, just to tell me how much time he has spent in investigating the fact as to whether that beautiful table which he has brought forward here, shows the actual number of soldiers in the service; and if so, what is the result of his investigation?

Mr. COVODE. I will try to do so.

Mr. DAWES. I understood my friend to say that, so far as Pennsylvania is concerned, the table is strictly accurate. I do not doubt that.

Mr. VALLANDIGHAM. Oh, nobody doubts that, I suppose.

Mr. COVODE. Mr. Chairman, I thought I made myself understood——

Mr. VALLANDIGHAM. I decline to yield, except to the gentleman from New York, [Mr. ODELL.]

Mr. COVODE. I say, sir——

Mr. VALLANDIGHAM. I call the member from Pennsylvania to order.

The CHAIRMAN. The gentleman from Pennsylvania will take his seat.

Mr. VALLANDIGHAM. He is entitled to no courtesy from me.

Mr. ODELL. I ask the gentleman from Ohio to yield to have the letters from the Secretary of War and the Paymaster General read, which will give to the gentleman from Massachusetts, and every other member of the House, all the information required on the subject.

Mr. FESSENDEN. I hope the letters will be read. I have asked two or three times for their reading.

The letters were read, as follows:

WAR DEPARTMENT,
WASHINGTON CITY, D. C., *April* 16, 1862.

SIR: The appropriation at the last session of Congress for the payment of volunteer troops enlisted into the service of the United States, was based upon the estimate that their number would not exceed five hundred thousand. The number of volunteers in the service is believed to be nearly seven hundred thousand. By reason of this increased force, the whole appropriation for the payment of volunteers will be exhausted by the 30th of this month, and provision should be made to meet the payments until the 30th of June. Upon the report of the Paymaster General, I recommend that an appropriation of $30,000,000 be made for that purpose. An additional appropriation of $100,000 will also be required to carry into effect the act passed 25th of March, 1862, to secure pay, bounty, and pensions to officers and men actually employed in the western department or department of Missouri.

I have the honor to be, very respectfully, your obedient servant, EDWIN M. STANTON,
Secretary of War.

The Hon. CHAIRMAN OF THE COMMITTEE OF WAYS AND MEANS, *House of Representatives.*

PAYMASTER GENERAL'S OFFICE,
WASHINGTON CITY, D. C., *April* 9, 1862.

SIR: I have the honor to report that, owing to the great number of troops under pay, beyond the number estimated for, (five hundred thousand men,) the appropriation for deficiency in the pay department for the current year will be exhausted after making the payments to the 30th of this month. I have, therefore, the honor to request that a further deficiency appropriation for this year may be asked of Congress, to the amount of $30,000,000, for the pay of the two and three year volunteers.

Very respectfully, your obedient servant,
BENJAMIN F. LARNED,
Paymaster General United States Army.

Hon. EDWIN M. STANTON, *Secretary of War.*

Mr. McPHERSON. I understood the gentleman from Ohio to say that, under the legislation of July, the Administration was only authorized to employ five hundred thousand men. If the gentleman will look at the acts of last session I think he will find that he is in error on that point. In the act of the 22d July the President was authorized to employ five hundred thousand men, and by the subsequent act of 25th July he was authorized to employ an additional force of five hundred thousand men.

Mr. VALLANDIGHAM. That has never been the interpretation which the House put upon that bill.

Mr. McPHERSON. It is very clear what the purpose of the legislation was.

MESSAGE FROM THE SENATE.

The committee rose informally; and the Speaker having resumed the chair, a message was received from the Senate, by Mr. FORNEY, its Secretary, announcing that the Senate had passed an act (S. No. 370) concerning the courts of the United States, and for the District of Columbia, in which he was directed to ask the concurrence of the House.

The Committee of the Whole on the state of the Union resumed its session, and continued the consideration of the

ARMY DEFICIENCY BILL.

The Clerk continued to read the bill by sections for amendment.

Mr. BLAIR, of Missouri. I move to amend the first section by increasing the appropriation one dollar. I do so for the purpose of responding to what fell from the gentleman from Massachusetts, [Mr. DAWES.] He insisted that we should perambulate the country and find out whether the

reports about officers are, in all instances, correct. He wanted to know from me whether I knew of the correctness of these reports. He wanted to know if I was informed, and how I got the information, that there was such a number of men in the service. When I responded to him that I had seen the official statement giving five hundred and seventy thousand as the number of men employed, and said that the Secretary of War informed me that there were upwards of one hundred thousand more in the service, the gentleman fell back on his experience, and said that he had seen many officers in the streets of this city and elsewhere who were detached from their regiments and who did not know where to find their regiments. Now, I undertake to say that this matter in regard to the payment of troops is so conducted, under the law, that there can be no possible misapprehension about it. The reports of our officers, the muster-rolls, the pay-rolls, which come to the Department, are the very best evidences of the existence of the troops, far better than the casual observations of the gentleman. The pay-roll is made up by an officer of each company, an officer who has no interest in falsifying the pay-roll. Misrepresentation in regard to these matters is punished with the severest penalties. Then comes the paymaster. He pays each individual soldier the money due him by the Government.

A MEMBER. Or to his assignee.

Mr. BLAIR, of Missouri. He pays to himself. There is no assignee about it. He can only pay to himself or to his company officer. Thus we have the pay-roll and the muster-roll to correct each other. There can be no mistake at all. The casual observation of a gentleman, no matter how intelligent, no matter what examination he may have given the subject, no matter how many men he may have seen jingling their spurs in the streets of Washington, ought not to stand against these evidences. I speak with a great deference to the gentleman from Massachusetts, because I know that, ordinarily, he is most correct in his statements. But I think that in this matter he ought not to insist that his knowledge or information, however gained, is to countervail the reports of sworn officers of the Government, some of whom have no interest whatever in misrepresenting the facts.

Now, I say that under the law company officers cannot be paid except for a certain number of men. Companies cannot be received into service unless they amount to the minimum fixed by law. The men are inspected by a mustering officer. Every man comes and shows himself bodily to the mustering officer. The muster-roll is made out, the officers and men are mustered into service; and when the paymaster comes round he pays the money into the hands of the men to whom it is due.

Mr. MORRILL, of Vermont, obtained the floor.

Mr. COVODE. Let me correct the statement made by me as to the number of men who are actually in the service.

Mr. MORRILL, of Vermont. I have but a few words to say, and I prefer to say them now. I had no idea when this bill was introduced that it would give rise to any such discussion as we have witnessed. And I desire to say to my friend from Massachusetts [Mr. DAWES] that I trust the select committee, of which he is a member, authorized by the House to investigate Government contracts, will bring forward without much further delay, in some sort of shape, their report for the action of the House, and not leave the various questions pertaining to their investigations to be eternally thrust forward on every occasion before the House to be discussed piecemeal, when none of us are prepared to meet it, in opposition to whatever appropriation bill may be before the House.

Now, here we have a plain proposition; a request coming from the Secretary of War, showing that there is a deficiency in the appropriations for paying the men who have been actually enlisted, mustered into the service, and called into the field. It is a notorious fact, of which no member of the House could have been ignorant, that a much larger number of men have been actually employed in service than was estimated for. It is, therefore, merely a question whether they shall be paid or fight our battles for nothing and find themselves.

And now I have to say to the gentleman from Ohio [Mr. VALLANDIGHAM] that if there is a man here who believes that Secretary Stanton would send in a request to have this House pass an appropriation of $30,000,000 to cover up a defalcation, he is certainly the only man who would believe it. I take it upon myself to say that there is not another man in this House who believes that Secretary Stanton would be guilty of so foul an act.

Now, in relation to this bill, I trust that the House will pass it without further discussion, and let these side issues come up on some other occasion, when there may be an opportunity of a fair and proper investigation of them.

Mr. McPHERSON. I move to amend the amendment by reducing the sum one half. I do it for the purpose of saying a few words, not upon the merits of the appropriation, but in regard to the allegation of the gentleman from Ohio, [Mr. VALLANDIGHAM,] as to the legality of calling into service more than five hundred thousand men. If the gentleman will examine the two acts of Congress of July last, upon this subject, he will find that either Congress did not act intelligently, either they did not understand what they were doing when they passed the second act, or they intended to authorize the calling into service of an additional five hundred thousand men.

The first act, approved July 22, provides:

"That the President be, and he is hereby, authorized to accept the services of volunteers, either as cavalry, infantry, or artillery, in such numbers, not exceeding five hundred thousand, as he may deem necessary for the purpose of repelling invasion, suppressing insurrection, enforcing the laws, and preserving and protecting the public property."

The second act, passed on the 25th of the same month, contains a provision in these words:

"That the President of the United States be, and he is hereby, authorized to accept the services of volunteers, either as cavalry, infantry, or artillery, in such numbers as the exigencies of the public service may, in his opinion, demand, to be organized as authorized by the act of the 22d of July, 1861: *Provided*, That the number of troops hereby authorized shall not exceed five hundred thousand."

Thus you see that by the first section of the act of July 25, there is a distinct authority given to call out an additional five hundred thousand men. Each bill gives a distinct authority, and cannot possibly be construed to refer to the same force as the other. The Administration, therefore, having the distinct authority delegated to it by Congress to call into service a million of men, certainly did not exceed its authority by accepting the services of seven hundred thousand men.

Mr. COVODE. I oppose the amendment of my colleague, simply for the purpose of correcting the statement made by me as to the aggregate number of men in service according to the estimate of the War Department. I find that I was mistaken as to the exact number. I stated at the time that it was five hundred and seventy-two thousand. Since that time, however, I have conversed with a gentleman who has had the same opportunity of acquiring information upon the subject that I have, and he informs me that the exact number is five hundred and eighty-six thousand.

Now, Mr. Chairman, in computing the pay of this excess over five hundred thousand at $20,000 per month, it will reach the sum of $20,640,000. But, as I stated when I was up before, there are other large expenses which must be incurred for clothing, transportation, &c., which makes up the amount of deficiency, not extravagantly stated, to $30,000,000.

Mr. MORRILL, of Vermont. I move that the committee rise, for the purpose of closing debate upon this section of the bill.

Mr. DAWES. I hope the gentleman will withhold that motion for five minutes.

Mr. MORRILL, of Vermont. I will withdraw it for the present.

Mr. McPHERSON. I withdraw my amendment to the amendment.

Mr. DAWES. I renew it, and I do it simply for the purpose of stating that the gentleman from Missouri [Mr. BLAIR] and the gentleman from Vermont [Mr. MORRILL] have entirely misunderstood me if they have supposed that I designed to reflect at all upon the Secretary of War in any way whatever. On the contrary, I rose in good faith to get a little information if I could before I voted to authorize the expenditure of $30,000,000 more in the shape of a deficiency for the present year. With what success I have accomplished my object the House will judge for itself. I am entirely satisfied with the luminous exhibition in the speech just made by the gentleman from Pennsylvania on my right, [Mr. COVODE,] of the exact number of men in the field, and it is hardly necessary for me to pursue the subject further. I observe, however, that the Secretary of War is not entirely satisfied as to the exact accuracy of the information, although the gentleman from Missouri [Mr. BLAIR] says that there is no need of any mistake in this matter, that the information must all come to the Department in an authentic form, even to a single soldier.

Mr. BLAIR, of Missouri. Oh, no; that was not my statement.

Mr. DAWES. I have said that the Secretary of War has stated that he believes the number to be about so many. The Secretary is cautious, more so I suggest than the gentleman from Missouri or the gentleman from Pennsylvania on my right. If it be true that the pay rolls are here, and that every man on the pay rolls is a live man, all the Secretary has got to do when he asks for an appropriation of $30,000,000 to make up a deficiency, is to add up the list and tell us exactly how many soldiers we have.

Now, it is a known fact that when the Secretary of the Treasury, at the commencement of this session, was about making his estimates from the number of men in the field, he labored a long time before he could get any sort of an idea from the War Department about the number of soldiers in the service; and he did not get within three hundred thousand of the real number on the third effort. I would suggest, therefore, that there may be some difficulty, not legal, but practical, in arriving at a precisely accurate result in this matter. If the practical operation is exactly as my friend from Missouri says, that the paymaster goes and drops the money into the hand of the man to whom it belongs, and makes no mistake in identifying him, there would be no difficulty; but how if he happens to drop it into the hands of a shark instead of a soldier? If the statement of the gentleman from Missouri be literally true, I ask what mean the advertisements that I see in the streets of "pay rolls cashed?" I do not see what opportunity there is of cashing them, if the paymaster only pays the money into the hands of the soldier who has earned it.

Now, sir, I understand, as well as any member of this House, how the Secretary of War is laboring and how he is struggling to lift the country out of the slough in which it is floundering just at this moment. I understand all that. Nobody appreciates his labors better than I do. I only desire, if it be as my friend from Missouri says it is, that some clerk will spend half a day in adding up the columns presented on the pay rolls, so that we may know just how many men there are in the field. I withdraw my amendment.

Mr. BLAIR, of Missouri. I object to the withdrawal of the amendment, for the purpose of enabling me to say, in reply to the gentleman from Massachusetts, that he has misapprehended entirely what I said. The gentleman was good enough in attempting to state what I said, to state something that originated in his own mind.

I did not state that the Secretary of War could ascertain exactly the number of men in the service; but I did state that when the muster and pay-rolls came here he could ascertain the number of men upon those rolls. There would be no reasonable doubt in regard to the existence of the men whose names appear upon those rolls. It will show those who were mustered into the service by a sworn officer of the Government. Each man has to be sworn in, and each and every man upon the pay-roll will be paid by a sworn officer. I undertake to say that the oaths of these sworn officers are as worthy of credit as the casual observation of the gentleman from Massachusetts. Those pay-rolls, which are sworn to, will show those who have been paid.

But the gentleman met that statement by the question of what was meant by the advertisements: "Pay-roll cashed here." My remark was addressed in reference, not to the officers, but the men of the Army. An officer is not paid like a private. He is paid upon a certificate which is assignable, and it is in regard to such certificates that we see the advertisements to which the gentleman has referred. When an officer wants to raise money he sells his certificate of pay, often before it is due, and the purchaser takes the risk

of his remaining in the service or of losing his life before the pay becomes due. That is the explanation of that matter. The privates in the service are brought up to the pay table and paid individually by the paymaster.

Now, sir, I saw a statement that the Secretary of War said from the pay-rolls there was the number of troops mustered into service referred to by the gentleman from Pennsylvania, [Mr. COVODE.] I understood that the Secretary of War said there was in addition about one hundred thousand men, of which he had undeniable information. That would make near seven hundred thousand men in all.

Mr. COVODE. Five hundred and eighty-six thousand is the number stated by the Secretary of War to be mustered into the service, and it is upon that number that the present appropriation is asked.

Mr. DAWES. Then the Secretary of War must have been laboring under a mistake when he said that there was one hundred thousand besides.

Mr. BLAIR, of Missouri, by unanimous consent, withdrew his amendment.

Mr. VALLANDIGHAM. I renew the amendment. Mr. Chairman, I made no insinuation whatever, direct or remote, impeaching the integrity of the present Secretary of War. I have known him familiarly for nearly twenty years, and in all that time I have never heard a breath of suspicion against him in that regard. But I deny that it is a practice to be adopted in the legislation of this House to screen behind the established honesty of any man any expenditure of money of this Government from proper inquiry. And it is worthy of note, also, that, although the First Assistant Secretary of War is reported by a committee of the Pennsylvania Legislature to have been engaged in distributing money among the members of that Legislature for the purpose of procuring the passage of a railroad bill, yet he is permitted to retain his place, while the Secretary of War, upon a mere charge, suspends instantly two assistant surgeons of the army stationed in the Mississippi valley until an investigation can be made into their cases.

Mr. BLAIR, of Missouri. Now, when the gentleman from Ohio speaks of a rumor of a defalcation in the War Department at a time when the Secretary of War asks for an appropriation to pay volunteers, who otherwise will remain unpaid, I put it to him whether he does not make an insinuation against the Secretary of War?

Mr. VALLANDIGHAM. I did not, in that connection, make any allusion to the Secretary of War. I did not insinuate that this $30,000,000 was to be applied to cover up any defalcation in the War Department.

Mr. COVODE. Let me say a word.

Mr. VALLANDIGHAM. I decline to yield to the member from Pennsylvania at all.

I repeat that any deficiency bill is deserving at the hands of the members of this House of the most rigid scrutiny. Let there be some explanation in this particular case of why the appropriations made by this Congress have been exceeded by the Executive Departments. It is the practice of this House, and a wise one, that the closest examination should be made of all bills of this character. I have not ventured to enter into the question of why the Administration has called into service more troops than the law allows, notwithstanding the case referred to; but I do maintain that the House never intended, that the Senate never intended, and that the country never intended, that authority should be given to the War Department to raise more than five hundred thousand men. It may be necessary, under the action of the preceding administration of the War Department in calling out more than that number of men, that this interpretation should be made now.

Mr. MORRILL, of Vermont. I rise to oppose the amendment. I will say that neither the Senate nor the House intended to authorize the raising of more than five hundred thousand troops; but it was considered by a portion of the Cabinet that the act allowed twice that number to be raised. On a closer examination of the law, they came to the conclusion that it was not intended to raise more than five hundred thousand men, and from that time they did not propose to raise more than was contemplated by the act. Under ordinary circumstances, I would be in favor of holding the Department to a rigid accountability and to the strict letter of the law; but on looking at the letter of the law, it will be seen that it does permit the construction to be made that it authorizes the raising of one million of men. Men have been raised beyond five hundred thousand to the number of something like one hundred and fifty thousand. Certainly there has been economy in not exceeding the estimates by a much larger amount. It is to be wondered at that the deficiency does not amount to more than is now reported by the War Department. These men have been raised, and they have served the country, and there is no man here I am sure who will now refuse to pay what is due to them.

Now, in reference to the imputation cast upon the Secretary of War by the gentleman from Ohio, who said rumor had ascribed as the amount of the defalcation of the War Department exactly the ominous amount asked for by the Secretary of War. If there had been any defalcation, the Secretary of War would have known of it; and if this appropriation was for the purpose of covering any defalcation, I take it that he would have disclosed that fact to us. He has, however, disclosed that this appropriation of $30,000,000 is to pay soldiers who have been raised by the Government and put into service of the country. Nobody will deny the facts nor the money.

I move that the committee rise for the purpose of closing the debate on this section.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. Cox reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the Army deficiency bill, and had come to no conclusion thereon.

Mr. MORRILL, of Vermont, moved that the debate in the Committee of the Whole on the state of the Union on the pending section be closed in one minute after its consideration shall be resumed.

The motion was agreed to.

Mr. MORRILL, of Vermont, moved that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. Cox in the chair.)

The amendment was withdrawn.

Mr. CRADLEBAUGH. I move to amend the bill by providing that no letters or other communications from the Secretary of War shall be received by this House on any other day than Saturday. [Laughter.]

The CHAIRMAN. The amendment is not in order.

Mr. MORRILL, of Vermont, moved that the committee rise and report the bill to the House, with the recommendation that it do pass.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. Cox reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the Army deficiency bill, and had directed him to report the same back to the House, with the recommendation that it do pass.

Mr. MORRILL, of Vermont, demanded the previous question on the bill.

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

Mr. LOVEJOY demanded the yeas and nays on the passage of the bill, and tellers on the yeas and nays.

Tellers were ordered; and Messrs. THOMAS, of Massachusetts, and LOVEJOY were appointed.

The yeas and nays were ordered; the tellers having reported—ayes thirty-five; more than one fifth of those present.

The question was taken; and it was decided in the affirmative—yeas 119, nays 2; as follows:

YEAS—Messrs. Aldrich, Allen, Alley, Ancona, Arnold, Ashley, Babbitt, Joseph Baily, Baker, Baxter, Beaman, Biddle, Bingham, Francis P. Blair, Jacob B. Blair, Samuel S. Blair, Blake, William G. Brown, Buffinton, Campbell, Casey, Clements, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Cox, Davis, Dawes, Delano, Diven, Duell, Dunlap, Dunn, Edwards, Eliot, Fessenden, Frank, Gooch, Goodwin, Granger, Grider, Haight, Hale, Hall, Harding, Harrison, Hickman, Hooper, Hutchins, Johnson, Julian, Kelley, Francis W. Kellogg, Kerrigan, Killinger, Knapp, Lansing, Law, Lazear, Leary, Lehman, Loomis, Lovejoy, McKnight, McPherson, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Morris, Nixon, Noble, Noell, Nugen, Odell, Patton, Pendleton, Perry, Timothy G. Phelps, Pike, Porter, Potter, Price, Alexander H. Rice, John H. Rice, Riddle, Edward H. Rollins, James S. Rollins, Sargent, Sedgwick, Shanks, Sheffield, Shellabarger, Sloan, Smith, Spaulding, John B. Steele, Stratton, Benjamin F. Thomas, Francis Thomas, Trimble, Trowbridge, Van Horn, Van Valkenburgh, Wadsworth, Wall, Wallace, E. P. Walton, Ward, Washburne, Wheeler, Albert S. White, Chilton A. White, Wilson, Windom, Woodruff, Worcester, and Wright—119.

NAYS—Messrs. Calvert and May—2.

So the bill was passed.

Mr. MORRILL, of Vermont, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

EMANCIPATION IN THE DISTRICT.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States:

Fellow-Citizens of the Senate and House of Representatives:

The act entitled "An act for the release of certain persons held to service or labor in the District of Columbia" has this day been approved and signed.

I have never doubted the constitutional authority of Congress to abolish slavery in this District, and I have ever desired to see the national capital freed from the institution in some satisfactory way. Hence there has never been in my mind any question upon the subject, except the one of expediency, arising in view of all the circumstances. If there be matters within and about this act which might have taken a course or shape more satisfactory to my judgment, I do not attempt to specify them. I am gratified that the two principles of compensation and colonization are both recognized and practically applied in the act.

In the matter of compensation, it is provided that claims may be presented within ninety days from the passage of the act, "but not thereafter;" and there is no saving for minors, *femmes covert*, insane, or absent persons. I presume this is an omission by mere oversight, and I recommend that it be supplied by an amendatory or supplemental act. ABRAHAM LINCOLN.

April 16, 1862.

The message was referred to the Committee for the District of Columbia, and ordered to be printed.

CHANGE OF REFERENCE.

On motion of Mr. BLAIR, of Pennsylvania, by unanimous consent, the Committee on Revolutionary Pensions was discharged from the further consideration of the petition of George Opdyke and other citizens of New York for a pension to the widow of the late Lieutenant Colonel de Monteuil, and the same was referred to the Committee on Invalid Pensions.

DEATH OF HON. THOMAS B. COOPER.

Mr. JOHNSON. Mr. Speaker, I rise to announce the mournful fact that my late colleague, Hon. THOMAS B. COOPER, is no more. He departed this life at his late residence in the village of Coopersburg, in the county of Lehigh, on the 4th day of the present month, at two o'clock in the afternoon, in the bosom of his family, surrounded by neighbors and friends, fully resigned to his fate and the decree of an all-wise Providence, which the nature of his disease had admonished him should soon take place. That disease was an ulceration of the throat, and had given him great pain from the time of its inception, which was early in the fall of the year 1860. In the latter days of his life he was sometimes unable to speak at all, and speaking always gave him much pain.

It is evident these admonitions had been well heeded by him, and that his hour of dissolution, when it came, found him prepared. Calmly he informed his wife and children and kindred and friends that he was dying, and bid them one by one a last farewell. And when he was no longer able to speak, he, whose professional duties had so often called him to witness the progress of dissolution in others, the great study of whose life had been how to postpone the awful hour and alleviate the sufferings of his fellow-beings, with perfect composure, as if curious to watch that progress in himself, beckoned for a mirror, and, holding it up before him, he watched the twitching nerves and muscles of his face until his eye grew dim, and then with alternate hands he felt the last pulsations of his wrists a few moments, and then expired without a struggle or a groan. Could the thoughts of that last brief hour have found utter-

ance upon his tongue, what consolation would have come to those to him most near and dear. How would he have exclaimed:

"O death, where is thy sting?
O grave, where is thy victory?"

But it was not the will of Him who ruled that hour that they should be thus consoled. The same Providence that softened his dying pillow will soften theirs. They must learn to look to Him.

And thus did COOPER die. In the beautiful village bearing his family name, in the house where he was born and where his father had lived and died. And now his remains repose in the old churchyard with those of his fathers, near the sacred spot where he and they were taught how to live and how to die; that spot where the elder Muhlenberg preached his first sermons a hundred years ago. How replete with instruction, reflection, and admonition!

THOMAS B. COOPER was born December 29, 1823. His father died while he was quite young. Having been fortunate in the appointment of his guardian, he was at an early age kept steadily at school, and afterwards entered upon a course of regular studies in the Pennsylvania College at Gettysburg. Upon his return home he became a student of medicine with his guardian, Dr. F. A. Martin, and subsequently attended medical lectures at the University of Pennsylvania in Philadelphia, and graduated in the spring of 1843. He immediately repaired to his home, and entered upon the practice of the profession of his choice in the beautiful valley of the Saucon. Being studious, industrious, persevering, ingenious, and devotedly fond of his profession, and being also of a fine genial and social disposition, he soon obtained a large, onerous, and, although a rural, yet a lucrative practice.

For seventeen years he had rode by night and by day, whenever and wherever called, to visit and relieve the sufferings of the sick and afflicted, regardless of the storm, the wet, or the cold, when he determined to curtail his practice, and withdraw from the more onerous duties of his profession. But no sooner was this determination made known, than a generous and confiding community began to cast about for some post of honor which they desired he should fill. The great presidential campaign of 1860 was just opening, the principles involved were being discussed; those of his section who agreed with him in politics admired his firmness and decisive character. They soon discovered that the characteristics, the energy, perseverance, discrimination, and firmness necessary for a good physician, were also necessary for a a good politician and a faithful Representative.

The congressional district was composed of the counties of Lehigh and Bucks, and, so far as the Democrats were concerned, it was conceded that the nomination belonged to Lehigh county. Dr. COOPER was nominated. His opponent was Hon. Henry C. Longnecker, who had carried the district two years before by a small majority. The district was close and the contest sharp, but the result gave the election to Dr. COOPER by a small majority. On the 4th day of July last he appeared in this House in response to the call of the President, and, being qualified, took his seat as a Representative in Congress from the seventh district of Pennsylvania. From that time forward his official acts have gone upon the record of our proceedings here, and been the subject of public criticism.

It is not my purpose, nor would it be proper in me at this time, to undertake to discuss the propriety of those acts. I trust, however, that I will be pardoned for saying that, in my judgment, they need neither justification nor vindication at my hands. Most of them relate to new issues that have grown and were growing out of the unfortunate disturbances existing in the country.

Dr. COOPER was my most intimate friend and associate. During the called session we were together every day, and at the commencement of the present session our relations and associations were renewed and continued until the progress of his disease rendered his retirement necessary about the middle of February last. His disease had so broken his voice that he was wholly unable to express his sentiments on the floor of this House, and indeed conversation was so painful to him that he was compelled to avoid company, and therefore he made but few acquaintances. But with his associates, when he felt like talking, he spoke freely, and no man was more devotedly attached to the Constitution and the Union of the States under it than he. No man felt more pain and sorrow at the situation of our national affairs than he. There was no sacrifice so great that he would not most cheerfully have made for the sake of restoring peace and order and happiness to the country. He may have hesitated and doubted as to the remedies proposed, and in his judgment he may have erred, but whatever his head may have done or failed to do, one thing is certain, his heart was always right.

Neither the railings of a partisan press nor the taunts of political opponents could swerve or deter him from the performance of such official duty as conscience told him he ought to do, nor could such influences compel him to the performance of what conscience taught him ought not to be done. He was a man of most kind and generous impulses, firmly and warmly attached to his family, friends, and acquaintances. He was not vindictive. And these qualities combined to render him a most faithful Representative of the honor and interests of his whole district and the great mass of his constituents.

The possession of these faculties freed him from many of the annoyances of public life, by warding off the poisoned darts of the malicious and mercenary. He never met trouble half way nor brooded over the past. So that, although he suffered greatly from bodily disease, his mind was comparatively free from trouble, and this was peculiarly exhibited in the last hour of his life. How truly is it said that—

"One self-approving hour whole years outweighs
Of stupid starers and of loud buzzas."

Dr. COOPER was not a great man in the common acceptation of the term. His career as a public man was brief; indeed, his public life had just begun. But if greatness consists in goodness and excellence—in the accomplishment of "noble ends by noble means"—then he was not without claim to that kind of greatness which made Socrates "great indeed."

There was no display, no pageantry, no self-pride or vain glory in his composition. But there was something in his life and character that fixed and riveted to him the affections and confidence of all who knew him, while he lived, and that gathered together in his funeral cortege one vast assemblage of sorrow-stricken mourners. By these his many acts of friendship will long be cherished and his many virtues long remembered.

Many years will have rolled round ere his old neighbors and friends will cease to visit his tomb, and there, with unaffected sorrow, drop a tear in memory of him who died so young.

I offer the following resolutions:

Resolved, That from a sincere desire of showing every mark of respect to the memory of Hon. THOMAS B. COOPER, deceased, late a member of this House from Pennsylvania, the members will go into mourning by wearing crape on the left arm for thirty days.

Resolved, That as an additional mark of respect for the memory of the deceased, the House do now adjourn.

Resolved, That the Clerk communicate these resolutions to the Senate.

Mr. KILLINGER. Mr. Speaker, our lamented colleague has passed beyond the reach of praise or censure. His record has been made up; at roll-call his voice will be mute forever. In the few remarks which I shall make, I design neither to recount his virtues nor to extenuate his foibles. I wish only, if it be possible, in the hurry of our pressing business, to engage the attention of my fellow-members, while I endeavor to deduce a moral from his short public career, and lamented death.

Dr. COOPER, unlike most of us who occupy places here, has left behind him no public career of any importance, in the sense in which that term is understood among public men. To him, a seat in Congress was not the end of a long political struggle, the result of management or toil. Usually, the Congress of the United States is the highest attainment of political effort, and he is thought entirely successful in his political aspirations who has climbed this dizzy height. In the case of our lamented friend, this statement of fact does not hold good. He was neither a politician, skilled in the cunning of intrigue, nor a statesman, learned in the science of government. His well-spent life was occupied with his profession, and his highest ambition was realized in the performance of the duties devolved upon him in his humble home and comparatively narrow circle of relatives and friends. There he was the successful physician, the devoted husband, the affectionate parent, the public-spirited citizen, the people's friend. All his years were spent in his native county of Lehigh, and there his name was a household word, loved and respected of all men. He came into the Thirty-Seventh Congress without effort or solicitation on his part, and the least that can be said of him, while here, is that he was a fit and true Representative of his staid and steady German constituency—loyal and upright, fearless, and inflexibly devoted to his sense of duty.

It required but a brief service in the national capital to make manifest to him, who was free from all the contaminations of public life, the utter vanity and hollowness of his new position. Never in public station before, he had only come to the performance of public trust from a sense of duty. He soon realized the fact, to the knowledge of which most of us have come, that thorns and thistles grow luxuriantly where he had expected only to pluck fragrant flowers. The turmoil of our experience here was in marked contrast with the comfort and quiet of his happy home. Unaffected in his manners, and unobtrusive in his habits, he was loth to condescend to the devious and dubious paths which it is sometimes necessary to tread here, if one wishes to elbow his way to prominence and distinction. He felt, as we all do at times, that public life is the most illusory of substances—the most unsatisfying of desires. He remained, however, at his post, steady in the discharge of all his public duties, until disease and wasting sickness laid heavy hands upon his enfeebled frame, and admonished him of his approaching dissolution. Then he retired from the capital to the bosom of his family, and, comforted by the accepted assurances of our most holy faith, he closed his eyes peacefully in death.

Had you stood at his open grave, and witnessed the throng of thousands of his friends and neighbors who came from far and near to pay the last mark of respect to their deceased Representative—had you observed the profound impression which the recollection of his blameless life and many virtues left upon an entire community, you would have concluded that there was something to live for beyond the attainment of political position. You would have realized that it is not all of life to live, nor all of death to die. Such a home as Dr. COOPER possessed, and to which he retired when the last summons sounded, is heaven on earth. Peace embraces such a household with outspread wings; no dissimulation with forked tongue, nor the venom of slander, poisons the well-springs of its felicity. Surrounded by the friends of his youth, his maturer years, and the associations of a local history, of which he and his ancestors formed no mean part, our lamented friend was more contented in the faithful discharge of the duties of his calling, than when afterwards he assumed congressional honors and vexed his mind with cares of state.

His praises, it is true, are not sounded in the senate-house, and his name is only honored here to-day in pursuance of the common usage. His burial was unattended by courtly ceremonies, and no high-flown panegyric was pronounced over his remains, in "flowing numbers or stately prose." But the solid symmetry of his character, and the excellence of his example, are none the less dear to his friends. They are honored for their intrinsic worth, and are embalmed in the fond recollections of his kindred In the valley of the Lehigh his name will be cherished with profound respect, when more pretentious public men have passed, meteor-like, from recollection. A life so eminent of usefulness in its active duties, and so exemplary in all its relations, public and private, cannot die without leaving behind the perfume of a high example and a noble incentive, although its subject has not filled the sounding trump of fame.

We who survive the deceased, and who for a brief hour continue to strut upon this our public stage, find it hard to stop and think—to realize that we, too, are mortal, and that our hearts,

"Like muffled drums, are beating
Funeral marches to the grave."

We imagine we are laying up a store of reputation by our vain repetitions from day to day, and

that we are rearing monuments that will live in the recollections of posterity. It is a vain hope, an idle delusion! Not more than the name of one in a thousand of those who have occupied seats in the national Legislature has survived the lapse of years, or can now even be recalled to recollection by the most retentive of memories.

It is but a bubble we are blowing. No matter how largely we swell in our conceit, how magnificently we expand our proportions, the bubble will finally burst for us, as it has done in the case of our illustrious predecessors, and we shall return to the obscurity from which we came, unhonored and unsung. And even if we succeed in securing the public attention for more than one term of our congressional life, by a most persistent effort in blowing our bubble, others will soon crowd us off the scene of action, and strut *their* brief hour of fancied greatness and renown!

"This is the state of man; to-day he puts forth
The tender leaves of hope, to-morrow blossoms,
And bears his blushing honors thick upon him;
The third day, comes a frost, a killing frost;
And—when he thinks, good easy man, full surely
His greatness is a ripening—nips his root."

My object has been accomplished if I have succeeded in arresting the attention of my fellow-members by this brief contemplation of the life and death of our late friend and colleague. Let us emulate his virtues, and realize that it is not all of life to reach public station, nor all of duty to distinguish oneself in the fitful notoriety of the passing hour.

Mr. ANCONA. Mr. Speaker, I cannot permit the occasion to pass without adding a word to what has been already so well said by my colleagues, in friendship's tribute to the memory of our deceased friend and colleague.

It was my privilege, sir, to meet and form a personal acquaintance with THOMAS B. COOPER in this city at the special session of Congress in July last, and though our intercourse was limited to that period and the few weeks of the present session he was in attendance, yet in that short time I had seen much in his character to admire and attach me to him as a warm friend.

Dr. COOPER's health was such as to preclude an active participation in the proceedings of Congress incident to his station while here as the Representative of the people of his district; yet, so long as his rapidly failing strength would allow he occupied his seat in this House, and placed his name upon the record on all the momentous questions of the day, in accordance with his own convictions of duty to God and his country, sustaining the Government freely with his votes for men and money, and in all its legitimate efforts to maintain its integrity, preserve the Constitution, restore the Union and fraternal relations of the States.

But, sir, it is rather of his private worth as a citizen that I would speak, and here I must resort to those who knew him longer and better than I did. His life, thus prematurely cut short, as would seem to us in our limited vision of the doings of an all-wise Providence, was perhaps of full measure in good deeds, for it may be truly assumed that a man's life is not in length of years, but rather in the sum of good he may do his fellow-men in acts of Christian charity, benevolence, and general usefulness.

THOMAS B. COOPER voluntarily assumed, and was devoted to, as the profession of his choice, that noble one which has for its object the relief of suffering humanity, so well calculated to bring out and develop in all their excellency the finer qualities of the human heart and mind. He graduated with high honor at the University of Pennsylvania, in 1843; commenced and continued the practice of his profession for seventeen years in his own native valley, the beautiful Saucon, until failing physical powers warned him of the necessity of relaxation from the arduous duties of a country physician of his reputation, and consequent extensive field of labor.

Chosen to fill the honorable public position he held at the time of his decease, he continued to discharge the obligations imposed with firmness and fidelity to the last, ever enjoying the confidence, esteem, and affection of his people.

I can adopt no better words descriptive of his character, virtues, and the estimation in which he was held by those who knew him best, than the extract from the notice of his death in the leading journal of his district:

"Few men occupied a larger space in the affection of the people of his own and neighboring county of Bucks than deceased. As a husband and father, he was kind, affectionate, and devoted; as a citizen, active, enterprising, and influential; as a surgeon and physician, talented, and rarely excelled, with a field of practice widely extended; and as a Representative, a man of integrity and fidelity. Although called home at the early age of thirty-eight years, he has bequeathed a character sparkling with fidelity, devotion, and unblemished integrity. He was remarkable for his many endearing qualities, and in his character were mingled generosity, energy, and decision, with all the gentleness of action and manner, which confers the stamp of true nobility. In social intercourse, he was affable, kind, and pleasing; and in disposition, charitable, forgiving, and lenient to all on God's footstool. The estimation of him as a friend and companion, merged into that of the true-hearted man! Generous and humane, the tale of suffering and distress fell not unheedingly on his ear, but like the gentle dew from heaven, performed its office, and rose again in deeds of usefulness and mercy."

The calmness and serenity of mind with which Dr. COOPER, in full possession, apparently, of all his mental faculties to the last moment, contemplated his departure, illustrated the truth of the sentiment of the poet:

"There is no death,
What seems so is transition;
This life of mortal breath
Is but the suburb of the life elysian."

Without intruding upon the sanctity of the grief of those who mourn their irreparable loss, we would tender to them, the family, our heartfelt sympathies and condolence, commending them to Him who alone can assuage their affliction and reconcile them to His dispensation.

Mr. WRIGHT. Mr. Speaker, I had not designed taking any part in these proceedings, but since they have been progressing I have thought that perhaps it is due to the memory of the gentleman who has so recently deceased, that I should make a very few observations. I never knew Dr. COOPER until I met him as a member of the Thirty-Seventh Congress. The intercourse I had with him from the commencement of the Congress down to the time he left, was of a most agreeable character. I found him to be an unobtrusive man. I found him to be a frank and open-hearted man. I found him to be a good companion, genial, and of high social qualities. That was the result of the very limited acquaintance I had with Dr. COOPER.

But, sir, since his decease I have inquired of my colleagues, who knew him better than I did, and the character they give me of the man is of the most enviable kind. They represent him as having held the highest social position in the community in which he lived. They represent him to me as a man who spent, if not a long life, at least an industrious and moral life, a man who devoted his professional energies to the promotion of the health and prosperity of the community in which he lived.

Now, sir, it has frequently, through a long series of years, occurred to my mind that the man who is acknowledged by the community in which he lives to be an upright, moral, liberal, honest man, enjoys the best reputation that a man can have. A man who has qualifications and ability may connect himself with public life; he may come into your legislative halls and establish a reputation as an orator or a statesman; he may pursue some literary calling; he may win a reputation that is coextensive with the world; but, after all, when you come to form your estimate of the man, you must rely upon the character that he has established about his own threshold, at his own hearth, in his own family, and among his own neighbors. There is the standard by which we must measure a man after all is said and done. The national reputation that a man may acquire may not be ephemeral; it may live while his country lives; but if there are faults in his character, as exemplified in the every-day course of his life, you cease to entertain for him that high respect and consideration which you feel for the man whose national reputation is backed up and sustained by high social qualities. That is the corner-stone of his building; that is the ground-work of his fame, let it be what it may, and no fame is worth having that is not based upon a reputation for social and moral virtues in the community where it is the man's destiny to live, and perhaps his destiny to die.

From all the information I have derived with respect to my deceased colleague, I gather that no man possessed the domestic and social virtues in a more eminent degree than he did, and this makes his memory precious. These commendations, coming from the men who knew him best; and from the people who make up the neighborhood where he lived, entitle his memory to our special consideration. It has afforded me very great satisfaction indeed to hear in the eulogies that have been pronounced upon my deceased colleague, the universal testimony borne to the domestic virtues of the man—virtues that not only outshine but eclipse a reputation that a merely political or literary life may give a man. I did not intend to detain the House so long, but I felt it due that I should say this much.

The question was taken on the resolutions, and they were agreed to; and thereupon (at a quarter after three o'clock, p. m.) the House adjourned.

IN SENATE.

THURSDAY, *April* 17, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 226) to amend "An act to establish a court for the investigation of claims against the United States," approved February 24, 1855—to the Committee on the Judiciary.

A bill (No. 403) to amend an act entitled "An act to authorize the Secretary of the Treasury to issue certificates of indebtedness to public creditors," approved March 1, 1862—to the Committee on Finance.

PETITIONS AND MEMORIALS.

Mr. HOWARD. I present a petition of citizens of Spring Lake, Ottawa county, State of Michigan, praying for the construction of a ship canal from the Mississippi river to Lake Michigan, a request in which I confess I most cordially concur. The petition was referred to the Committee on Military Affairs and the Militia.

Mr. HARRIS presented a memorial of citizens of New York, remonstrating against the tax bill before Congress, and to the issue of any more Government bonds bearing interest, and praying that Treasury notes be issued for the full amount of our unfunded debt; which was referred to the Committee on Finance.

Mr. WILLEY presented a petition of citizens and workmen at the Harper's Ferry armory, praying for the restoration of that establishment; which was referred to the Committee on Military Affairs and the Militia.

Mr. WILSON, of Massachusetts, presented the memorial of Lewis H. Bodman, Frederick A. Dudley, and Daniel D. Gilbert, a committee appointed at a meeting of the medical cadet corps of the United States Army, held at Washington, April 13, 1862, praying for an increase of the rank and pay of that corps; which was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also presented the petition of E. C. Bates, George W. Lyman, J. Wiley Adams, and others, citizens of Massachusetts, praying for the adoption of the principle of taxation suggested in a letter from E. B. Bigelow, addressed to Hon. THADDEUS STEVENS, entitled "Internal taxation simplified;" which was referred to the Committee on Finance.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ETHERIDGE, its Clerk, announced that the House had passed the following bills and joint resolution:

A bill (No. 352) to provide for the organization of a signal corps, to serve during the present war;

A bill (No. 404) to provide for the deficiency in the appropriation for the pay of the two and three years volunteers and the officers and men actually employed in the western department; and

A joint resolution (No. 66) authorizing the Secretary of the Navy to discharge contractors with his Department when they have furnished the amount estimated in their contracts and fifty per cent. additional.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; which thereupon received the signature of the President *pro tempore:*

A bill (H. R. No. 242) making additional appropriations for the naval service for the year ending June 30, 1862.

A bill (H. R. No. 259) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1863.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. HAY, his Secretary, announced that the President had approved and signed, on the 16th instant, the following act and joint resolution:

An act (S. No. 188) to reorganize and increase the efficiency of the medical department of the Army.

A resolution (S. No. 50) transferring the supervision of the Capitol extension and the erection of the new dome to the Department of the Interior.

LOSSES BY THE GOVERNOR.

Mr. HALE. I am instructed by the Committee on Naval Affairs, to whom was referred the petition of the officers, non-commissioned officers, and privates of the marine battalion in the naval expedition under Commodore Dupont, praying for compensation for the damages sustained by the loss of the steamer Governor, to report a joint resolution for their benefit, and I ask the Senate to consider it now.

The joint resolution (S. No. 77) for the relief of the officers, non-commissioned officers, and privates of the battalion of marines on board the transport Governor on the 3d of November, 1861, was read twice, and considered as in Committee of the Whole. It proposes to appropriate the sum of $7,163 51 to compensate the officers, non-commissioned officers, and privates who composed the marine battalion attached to the Port Royal naval expedition under Flag-Officer Dupont for the loss of their personal effects by the foundering of the steamer Governor, in which they were embarked on the 3d of November.

Mr. HALE. I submit no argument about it, but simply send to the desk the letter of the Secretary of the Navy to the Naval Committee, which I wish to have read, and then I think the Senate will pass the resolution unanimously.

The Secretary read the following letter:

NAVY DEPARTMENT, *April* 9, 1862.

SIR: Referring to my communication of the 1st instant, in relation to the petition of the marine battalion of the Port Royal expedition for relief, and in answer to the verbal inquiry of the Naval Committee subsequently made, whether it has been the practice to compensate *officers* for the loss of personal effects, I have the honor to state that, upon examination, I do not find that either officers or seamen in the naval service have been compensated for such losses, except in one instance, that of the disaster to the steamship San Francisco. This vessel was wrecked while on the voyage from New York to California, with a number of the United States troops on board, also Lieutenant F. K. Murray, of the Navy. The act of Congress in the case (Statutes at Large, vol. 10, p. 269) appropriated to each of the officers, non-commissioned officers, musicians, and privates, who were embarked in the San Francisco, and on board at the time of the disaster, and to Lieutenant Francis Key Murray, and any other officer or seaman of the United States Navy on board, under orders, a sum equal in amount to eight months' pay and allowances.

I think the claim of the marine battalion for relief quite as equitable as that of the sufferers by the San Francisco. They were under orders for important service, and their claim is perhaps strengthened by the fact that the transport in which they were embarked had been a short time previous pronounced unseaworthy, especially for naval purposes, and was only chartered by Flag-Officer Dupont because an emergency required it.

While it may not be wise, as a general thing, to recognize the claim of seamen, and especially officers in the Navy, to compensation for loss of personal effects by the wreck of the vessel in which they were serving, or its destruction by the enemy, which it is their special province to guard against, and for which they may be culpable in some degree, yet when embarked in transports, and in the case to which this communication particularly refers, justice seems to entitle them to relief.

I am very respectfully, your obedient servant,

GIDEON WELLES.

Hon. JOHN P. HALE, *Chairman Committee Naval Affairs, United States Senate.*

The joint resolution was reported to the Senate.

Mr. FOSTER. I should like to be informed as regards the manner in which the Naval Committee ascertained the amount named in the resolution. It speaks of a given amount, seven thousand and odd dollars. I do not know how many men there were, and I should like to understand what measures were taken to prove the particular amount lost.

Mr. HALE. The amounts were all set out in the papers accompanying the joint resolution which was sent to the Navy Department, and the sum named is the amount that the Department estimate to be necessary. The loss of each man is given by itself in the papers accompanying the joint resolution.

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

ELECTORS IN WASHINGTON AND GEORGETOWN.

On motion of Mr. GRIMES, the bill (S. No. 171) prescribing the qualification of electors in the cities of Washington and Georgetown, District of Columbia, was considered as in Committee of the Whole. In all municipal elections in the cities of Washington and Georgetown, during the existence of the rebellion, the bill requires every person offering to vote, who shall be challenged by any legal voter on the ground of disloyalty to the Government of the United States, before his vote shall be received, in addition to the requirements now established by law, to take and subscribe to the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be) that I will support, protect, and defend the Constitution and Government of the United States, against all enemies, whether domestic or foreign; that I will bear true faith, allegiance, and loyalty to the same, any ordinance, resolution, or law of any State convention, Legislature, or order or organization, secret or otherwise, to the contrary notwithstanding, and that I do this with a full determination, pledge, and purpose, without any mental reservation or evasion whatsoever; and further, that I have always been loyal and true to the Government of the United States. So help me God." This oath or affirmation may be taken before any justice of the peace, notary public, or other person legally authorized to administer oaths in the District of Columbia; and the production of the certificate, in writing, of such person authorized to administer oaths, (with a copy of the oath or affirmation,) that the oath has been taken and subscribed to by the person producing the certificate, shall be deemed by the commissioners of election sufficient evidence of the fact. The commissioners of election, or any one of them, during the time of holding the elections, may also administer the oath. Any person or persons violating the oath, or making any false statement in taking it, are to be subject to all the pains and penalties of willful and corrupt perjury, and to be liable to be indicted and prosecuted to conviction before any court in the District of Columbia having competent jurisdiction thereof.

Mr. SUMNER. I should like to call the attention of the Senator from Iowa to a little bill which seems germane to this which was pending the other day, and on the motion of the Senator from Ohio, [Mr. SHERMAN,] I think, was indefinitely postponed. The next day I moved its reconsideration so that it is now on the table. It is a bill providing that persons shall have the liberty of voting here after a residence of six months. The question I should like to put to my friend, the Senator from Iowa, is whether, at this moment, under the peculiar condition of things here in Washington, such a provision might not properly be added to this bill. Is it not needed? It is notorious that we have about us many disloyal people; that there is here a disloyal population. The Senator from Iowa proposes to meet that difficulty in part by requiring of them, before voting, an oath to support the Constitution of the United States, and also that they have not been disloyal. Should we not go still further and confer the privilege of electors upon loyal citizens who have come here and have resided six months? I do not wish to embarrass this bill by a proposition to that effect, but I wish to call the attention of the Senator from Iowa to it. I know that he gives his attention to this class of questions, and I shall be willing to follow his judgment.

Mr. GRIMES. I would prefer that this bill should pass just as it is, because I apprehend there will be no objection to it. I understand from those who have examined it that this oath is a precise copy of the law which has recently been adopted by the General Assembly of the State of Maryland. I have not examined it myself, but it is so stated to me by the Senator from Maryland, [Mr. KENNEDY,] who is a member of the committee that reported the bill. Upon the other subject there will be a great deal of controversy as to whether we shall curtail the period of time which will allow any person to vote, and it is desirable that this bill should pass now. If the Senator from Massachusetts desires to take up the other bill at a future time, it can be taken up and acted upon. I do not propose now to couple it with this bill.

Mr. CARLILE. I desire to call the attention of my friend, the chairman of the Committee on the District of Columbia, to the latter clause of that oath. As I heard it read and as my recollection is, the latter clause requires the party to swear not only that he will support the Government, but that he has always been loyal. Is it the intention of the committee to put all persons upon their oaths as to what has been heretofore their position? This question of loyalty, as has been frequently said in the Senate, is one of rather loose definition, and it might give rise probably to innumerable prosecutions, and really persecutions, under the provision of the bill making it perjury to take a false oath. Ought we not rather make this prospective in its character than retrospective? Would not the same object be attained? I merely call the attention of the chairman of the committee to it.

Mr. GRIMES. That is a question that every man must determine for himself, whether he has been true and loyal to the Government or not. I think this bill projects no new measure in this regard. It is what has been adopted and is working well in an adjacent State, where the population is very similar to that of the District of Columbia, and I apprehend the bill meets with the universal favor of the people of this District. I am so told. I believe some correspondent has called the attention of the public to this particular phraseology. That is the only reference I have heard made to it, or that I have seen made to it anywhere.

Mr. CARLILE. I am satisfied that the loyal people of this city have no objection in the world to the oath in the form I suggested to the Senator as prospective. I had heard some suggestion made that possibly the latter clause might give rise to opportunities to persons who had hostile feelings towards others to resort to some expression of opinion or the utterance of some sentiment or other that might in their opinion be considered disloyal, in order to harass with prosecutions under this bill those who might take that oath. I do not know how that is, but there may have been those here who in earlier days——

Mr. GRIMES. If the Senator will look at the phraseology of the oath, he will see that the words are, "loyal and true to the Government of the United States." I suppose it would require some overt act of disloyalty, of untruthfulness, of infidelity to the Government. That is the interpretation I should give to it.

Mr. CARLILE. With that interpretation of the Senator, I have no objection to it at all.

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

Mr. SUMNER. Before the vote is taken on the passage of the bill, I desire to say that I yield absolutely to the suggestion of the Senator from Iowa, and forbear from pressing the proposition to which I have alluded. It seems to me, however, that that is necessary to complete the safeguards here in the national capital. I should certainly be prepared to listen to any suggestions from the other side on that subject; but, as at present advised, it seems to me we ought to confer the electoral franchise upon persons here after six months residence. I will not, however, embarrass the present bill with that proposition.

Mr. CLARK. I simply rise to suggest to the Senator from Massachusetts whether it would not be better to let the matter stand as it now stands while we are in this embarrassment, and hereafter, if we find it necessary to relax the term, it can be done.

Mr. POMEROY. The Senator from Massachusetts will not remedy the evil he speaks of by inserting a six months' clause. A man may have lived here six years, and yet if he has not paid a tax he cannot vote; and if any parties should desire to prevent any one voting in this city, all they would have to do would be not to collect the tax. A residence of six months here without being on the tax-book would not entitle a person to vote.

Mr. SUMNER. That ought to be remedied also.

Mr. HOWARD. I beg to call the attention of the Senator who introduced this bill to one thing: whether it does not allow any person, whether he be or be not a resident of the District, to vote at the municipal election in the District in case he consents to take this oath. The bill declares that every person who, during the existence of the present rebellion, shall offer to vote at any such election, and who shall be challenged by any legal voter, &c., shall, before his vote shall be received, take an oath which is prescribed in the bill. The difficulty in my mind is this: whether if he takes the oath, the officers of the election will not be compelled to receive his vote as a legal vote, without regard to any other qualification. He would be entitled to vote, it strikes me, under the bill if he takes the oath, for there does not seem to be any other qualification necessary under the bill. I suggest, therefore, to add, after the word "person," in the fifth line, the words "now a lawful voter," so as to confine this qualification to such persons as are now lawful voters. I merely throw out the suggestion to my friend from Iowa.

Mr. GRIMES. I suppose this bill is merely cumulative, and attaches other qualifications to those now in existence; but if the Senator from Michigan thinks it otherwise, out of abundant caution I am willing to insert after the word "person" the words "in addition to the qualifications now required by law."

Mr. HOWARD. That would answer my objection.

The PRESIDENT *pro tempore*. The bill having been three times read, it can only be amended by the unanimous consent of the Senate. The Chair hears no objection.

Mr. CLARK. Before that amendment is inserted, I desire to call attention to that same qualification in the ninth line. In that line I find the words "in addition to the requirements now established by law." It is already in the bill.

Mr. HOWARD. I did not notice that. It is not necessary then to amend it.

The bill was passed.

DEPARTMENT OF AGRICULTURE.

Mr. SIMMONS. I desire to call up for consideration House bill No. 269, to establish a Department of Agriculture.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to establish at the seat of Government of the United States a Department of Agriculture, the general designs and duties of which shall be to acquire and to diffuse among the people of the United States useful information on subjects connected with agriculture in the most general and comprehensive sense of that word, and to procure, propagate, and distribute among the people new and valuable seeds and plants. It authorizes the appointment by the President, by and with the advice and consent of the Senate, of a Commissioner of Agriculture, who shall be the chief executive officer of the Department of Agriculture, who shall hold his office by a tenure similar to that of other civil officers appointed by the President, and shall receive for his compensation a salary of $3,000 per annum. The third section provides that it shall be the duty of the Commissioner of Agriculture to acquire and preserve in his Department all information concerning agriculture which he can obtain by means of books and correspondence and by practical and scientific experiments, (accurate records of which experiments shall be kept in his office,) by the collection of statistics and by any other appropriate means within his power; to collect, as he may be able, new and valuable seeds and plants; to test, by cultivation, the value of such of them as may require such tests; to propagate such as may be worthy of propagation, and to distribute them among agriculturists. He shall annually make a general report in writing of his acts to the President, in which he may recommend the publication of papers forming parts of or accompanying his report, which report shall also contain an account of all moneys received and expended by him. He shall also make special reports on particular subjects whenever required to do so by the President or either House of Congress, or when he shall think the subject in his charge requires it. He shall receive and have charge of all the property of the agricultural division of the Patent Office in the Department of the Interior. He shall direct and superintend the expenditure of all money appropriated by Congress to the Department, and render accounts thereof, and also of all money heretofore appropriated for agriculture and remaining unexpended. He may send and receive through the mails, free of charge, all communications and other matter pertaining to the business of his Department not exceeding in weight thirty-two ounces. The Commissioner of Agriculture is to appoint a chief clerk, with a salary of $2,000, and such other employés as Congress may from time to time provide, with salaries corresponding to the salaries of similar officers in other Departments of the Government; and he shall, as Congress may from time to time provide, employ other persons, for such time as their services may be needed, including chemists, botanists, entomologists, and other persons skilled in the natural sciences pertaining to agriculture.

The Committee on Patents and the Patent Office reported the bill with various amendments. The first amendment of the committee was, after line twenty-one of the third section, to insert the words "including the fixtures and property of the propagating garden;" so that the clause will read:

He shall receive and have charge of all the property of the agricultural division of the Patent Office in the Department of the Interior, including the fixtures and property of the propagating garden.

The amendment was agreed to.

The next amendment of the committee was in section four, line three, to strike out the word "and," and insert in lieu thereof the following:

Who, in all cases during the necessary absence of the Commissioner, or when the said principal office shall become vacant, shall perform the duties of Commissioner, and he shall appoint."

So that the section will read:

SEC. 4. *And be it further enacted*, That the Commissioner of Agriculture shall appoint a chief clerk, with a salary of $2,000, who, in all cases during the necessary absence of the Commissioner, or when the said principal office shall become vacant, shall perform the duties of Commissioner, and he shall appoint such other employés as Congress may from time to time provide, with salaries corresponding to the salaries of similar officers in other Departments of the Government, &c.

The amendment was agreed to.

The next amendment of the committee was to add at the end of section four the following:

And the said Commissioner, and every other person to be appointed in the said Department, shall, before he enters upon the duties of his office or appointment, make oath or affirmation truly and faithfully to execute the trust committed to him. And the said Commissioner and the chief clerk shall also, before entering upon their duties, severally give bonds with sureties to the Treasurer of the United States, the former in the sum of $10,000, and the latter in the sum of $5,000, with conditions to render a true and faithful account to him, or his successor in office, quarterly, of all moneys which shall be by them respectively received by virtue of the said office.

Mr. SIMMONS. I wish to amend the latter part of that amendment by striking out all after the word "him," at the end of the first sentence and insert:

And the said Commissioner and the chief clerk shall also, before entering upon their duties, severally give bonds to the Treasurer of the United States, the former in the sum of $10,000, and the latter in the sum of $5,000, conditioned to render a true and faithful account to him or his successor in office, quarter yearly, of all moneys which shall be by them received by virtue of the said office, with sureties, to be approved as sufficient by the Solicitor of the Treasury, which bonds shall be filed in the office of the First Comptroller of the Treasury, to be by him put in suit upon any breach of the conditions thereof.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

Mr. WRIGHT. I now move to strike out all after the enacting clause of this bill, and insert the bill introduced by me—Senate bill No. 249.

Mr. SIMMONS. I was going to explain the nature of this bill before any further amendment was offered. The committee have got through with their amendments. If the Senator desires to address the Senate before I do that, he can do so.

Mr. WRIGHT. No, sir; I will wait with pleasure.

Mr. SIMMONS. This bill simply detaches the agricultural portion of the business of the Patent Office from the Interior Department, and makes it an independent Department. It has been applied for for the last ten years. The bill does not appropriate an additional dollar. It is simply a compliment to the great leading interest of industry, who have been desirous of having some recognition by the Government of their peculiar pursuit. Hitherto they have been represented by standing committees of both Houses; but, from some unknown cause, a few years ago, the Senate thought that interest unworthy of recognition, even so far as to have a standing committee to consider its applications. I make no complaint of that; I only have to say that I consider this bill as merely a compliment. I cannot for my life see why the business cannot be done as well detached from the Patent Office as under the control of the Commissioner of Patents. It does not seem to have any kind of relation to the bureau where it is now placed. I have been connected with an agricultural society for forty-odd years—we have but one in our State—and I have had some acquaintance with public business for nearly as long, and I know of no interest in the country, large or small, that has ever asked so little of Government, and received so little, as this leading one that constitutes the pillar of the national strength—agriculture. I trust the Senate will now give them this little boon, if for nothing else, merely to gratify their pride.

The PRESIDENT *pro tempore*. The amendment offered by the Senator from Indiana will be read.

The Secretary read it, as follows:

That there is hereby established at the seat of Government of the United States a Department of Agriculture, the general designs and duties of which shall be to acquire and to diffuse among the people of the United States useful information on subjects connected with agriculture in the most general and comprehensive sense of that word, and to procure, propagate, and distribute among the people new and valuable seeds and plants.

SEC. 2. *And be it further enacted*, That there shall be appointed by the President, by and with the advice and consent of the Senate, a Commissioner of Agriculture, who shall be the chief executive officer of the Department of Agriculture, who shall hold his office by a tenure similar to that of other civil officers appointed by the President, and who shall receive for his compensation a salary of $5,000 per annum.

SEC. 3. *And be it further enacted*, That there shall be in the said Department of Agriculture four chiefs or heads of bureaus, who shall be appointed by the President of the United States, by and with the advice and consent of the Senate thereof; and the titles of the said bureaus shall be as follows: 1. Bureau of Science and Practice of Agriculture. 2. Bureau of Natural History connected with Agriculture. 3. Bureau of Agricultural Chemistry. 4. Bureau of Agricultural Mechanics, Manufactures, Commerce, and Statistics. And the several subjects herein assigned to the said bureaus in the titles thereof shall be under the special care and management of the chiefs of said bureaus, subject always to the regulations that may be issued from time to time by the Secretary for the said Department, and to such laws as may establish and regulate the duties to be performed by the chiefs of said bureaus.

SEC. 4. *And be it further enacted*, That it shall be the duty of the Commissioner of Agriculture to acquire and preserve in his Department all information concerning agriculture which he can obtain by means of books and correspondence, and by practical and scientific experiments, (accurate records of which experiments shall be kept in his office,) by the collection of statistics, and by any other appropriate means within his power; to collect, as he may be able, new and valuable seeds and plants; to test, by cultivation and acclimatization, the value of such of them as may require such tests; to propagate such as may be worthy of propagation, and distribute them among agriculturists. He shall annually make a general report in writing to the Congress of the United States, which report shall contain: First, the transactions of the several bureaus of the Department. Second, an account of the condition and progress of agriculture throughout the United States. Third, original essays on practical agriculture and cognate branches of industry. Fourth, a statement of receipts and disbursements of the moneys appropriated for the Department. He shall also make special reports on particular subjects whenever required to do so by Congress, or when he shall think the subject in his charge requires it. He shall receive and have charge of all the property now in the agricultural division of the Patent Office, in the Department of the Interior, and shall annually make additions, by purchase or otherwise, to the library and other property, or apparatus requisite to consummate in a proper manner the intentions of this act. He shall direct and superintend the expenditure of all money appropriated by Congress to the Department, and render accounts thereof, and also of all money heretofore appropriated for agriculture and remaining unexpended. He shall have authority to send and receive through the mails, free of charge, all communications and other matter pertaining to the business of his Department not exceeding in weight thirty-two ounces in any one package or parcel.

SEC. 5. *And be it further enacted*, That the Commissioner of Agriculture shall appoint such other employés as Congress may from time to time provide, with salaries corresponding to the salaries of similar officers in other Departments of the Government.

SEC. 6. *And be it further enacted*, That this act shall take and be in effect from and after the 1st day of July, 1862.

Mr. WRIGHT. Mr. President, another bill has been introduced by the Senator from Connecticut [Mr. FOSTER] that embraces a bureau of statistics. Now, what I have to say to the Sen-

ate, if they will give me their attention for a few moments, is this: the measure as it originally passed the House, with the amendments made by the Committee on Patents, really does nothing more than we have already. We have under the Patent Office virtually the same thing that there is in this bill. The amendment which I have offered as a substitute, however, embraces something more, and in order to remove any prejudice, I want to say to the Senate it can be carried out with the present appropriation. I shall be able to give the Senate the statistical facts to show that the bill, if amended in the way I have proposed, can be carried out with the present appropriation.

The great agricultural interests of the Union underlie its prosperity. The interest upon our great debt, and eventually the debt itself, must be paid from the agricultural resources of the country. A leading New York journal recently stated that there had reached tidewater the last season nearly two millions of tons of breadstuffs, the shipment of which to foreign countries kept the balance of trade in our favor, and saved us from national bankruptcy, enabling us to fill the warehouses of Liverpool, Havre, and Bremen with wheat and corn, grown twenty-five hundred miles inland and six thousand miles from the consumers, and aiding us to crush the rebellion. This is as palpable as the noonday sun. Hence the great importance of proper legislation upon this subject at this time.

The farmers of the country demand at our hands the adoption of such measures as shall be practically useful to their interests. For many years the attention of Congress has been called to the importance of an agricultural department worthy of the name, and certainly but little difference of opinion can exist as to the propriety or even necessity of such an organization.

The bill for this purpose passed by the House, and which, with some slight amendments that have been adopted this morning, is now before the Senate, is objectionable in my opinion—

First. Because it does not meet the wants of the case, inasmuch as it merely transfers the agricultural division of the Patent Office to a Commissioner of Agriculture, without any additional powers or duties, and with no additional resources.

Not a single function is by that bill provided for or required which the present division cannot perform. The farmers have never asked of Congress that it should merely change the name and control of the present division, nor will they be satisfied with it.

Second. It is objectionable because it does not provide for the collection, definitely, of statistics, as recommended by the President and the Secretary of the Interior in their communications to Congress, and which is indispensable to success nationally. The Senate should remember that the President in his annual message and the Secretary of the Interior in his report recommended a bureau of statistics.

Now, Mr. President, so far as I know the wants and demands of our agriculturists in reference to this subject—and I have given it much attention, both at home and in Europe—an agricultural department, to be acceptable and efficient, must be organized upon a liberal basis, and should embrace—

1. The science and practice of agriculture.
2. Natural history, connected with agriculture.
3. Agricultural chemistry and meteorology.
4. Agricultural mechanics, manufactures, commerce, and statistics.

There has never been a time in the history of this country when our welfare so much depended upon the science and practice of agriculture as the present. The cotton crop of the South cannot reach the northern spindles. Agriculture must furnish a substitute by the production of upland cotton in the Ohio valley. Gentlemen may smile perhaps when I tell them that I have been informed by one of my colleagues in the House of Representatives that forty-five years ago, in one of the towns of Indiana, he saw cotton by the bale ready to be shipped, lying at our wharves on our rivers; since I went there forty-three years ago, I have seen it, but not in such quantities.

The sugar and molasses of the South have ceased to come forward to the North, and agriculture must remedy the difficulty by the rapid production of the Chinese and African cane, the products of which, in many of the western States, are now counted by millions. In the States of Illinois, Indiana, and Ohio, last year, the production of molasses was ten millions of gallons. I received a letter the other day from a gentleman in Illinois, stating that from a little paper of sugar cane, inclosed to him between four and five years ago, he had been able to produce nearly two tons of sugar. I have seen the sugar made myself, and doubtless other gentlemen have. One county in Iowa, the past year, produced seventy-five thousand gallons of molasses from the sugar cane.

Virginia, with her one hundred and twenty-three millions of pounds of tobacco in 1860, has comparatively none in 1861. Yet this is being, by scientific practice, compensated for in the West. Four counties alone in Ohio produced ten millions of pounds in 1861.

And, sir, to the scientific practice of agriculture alone are we to look for the successful production of substitutes for articles of food and materials for manufacturing which have heretofore been furnished by the South.

Natural history, as connected with agriculture, embraces primarily the whole range of domestic animals, and through these the beef and pork, wool, and the products of the dairy, and involves the improvement and adaptation of breeds of stock, their rearing, management, and food, and relative value for the various purposes for which they are grown.

The hay crop alone of the United States for 1860 is estimated at twenty millions of tons, which, at ten dollars per ton, gives $200,000,000.

The importance of careful investigations in this department of agriculture needs no argument in view of these facts, to say nothing of the necessity of being able to prevent the ravages of the army worm or the devastation of the wheat fly.

Agricultural chemistry and meteorology are confessedly of so much importance in connection with the practical agriculture of the country that our leading colleges and scientific institutions generally have adopted them as a part of their regular course of instruction; and the important discoveries everywhere resulting therefrom make it incumbent that a special provision should be made for their collection and publication.

Agricultural mechanics embraces many of the most important and astonishing developments of the age. The reaper and mower, portable farm engine, steam thrashers, grain drill, corn planter, ditching machine, and portable saw mill, are only a few of the many labor-saving machines which ingenuity and mechanical skill have contributed to agriculture. With, at least, one half of the great Army now doing battle for the Union withdrawn from the furrowed field and the golden harvest, how necessary that this great auxiliary of the farmer—the labor-saving agricultural machines and implements of husbandry—should be fostered and perfected.

Manufactures and commerce are but the handmaids of agriculture. Agriculture furnishes the food, turns the wheel, and brings forth the fiber for the spindle. The white-winged sail of commerce bears the products of the loom and the workshop to the markets of the world, and agriculture sustains and enriches all.

The statistics of these productive elements of our country would prove invaluable. The national ledger, posted up at the end of each year, showing our vast productions of food and raw material, the amount of manufactures, the amount and direction of our commerce, would present a basis for operations alike beneficial to all classes.

I have been much interested by the official statistical report of the physical resources of Germany, prepared with great labor and regardless of expense, perfectly accurate, and containing information valuable not only to the manufacturer and the merchant, but to the capitalist and the farmer. What have *we* similar to this? Nothing. I believe, as a general rule, we have less accurate statistical information in regard to the resources of our country and of Europe than any other people in the world. In more than half the States of the Union there is no bureau of statistics, and the population is dependent upon the vague rumors, and too often utterly unreliable reports of the press for information upon the state of crops at home and abroad. A single consideration will show the incalculable disadvantage of letting things go at such loose ends. An European correspondent, writing perhaps upon imperfect information or hasty observation, predicts a short crop and a scarcity of breadstuffs abroad. The rumor spreads like wildfire through America, and the natural inference is that Europe will have to look to our markets to make up her own deficiency. What is the consequence? The experience of the last few years compels us to return a sad answer; a mania in speculation, a sudden rise of prices to a fictitious value, and then a sudden revulsion and panic and commercial distress. To crown all, the foreign speculator, well informed of the state of things at home, and who has patiently bided his time, steps in at the favorable moment when prices are at the lowest, and realizes an immense profit at the expense of our farmers and merchants. One of our leading newspapers estimated our wheat crop for the year 1859 at three hundred millions of bushels; another at only two hundred millions. So with the cotton crop and all other important crops, we only know the truth when it is too late, and when speculators and sharpers have done their work.

Wheat at the leading marts in the West not long since, in the space of ninety days, fluctuated from sixty cents to one dollar and sixty cents per bushel.

Now, what we want in our Government is a bureau of statistics, for the purpose of supplying our people with timely and accurate information of the state of crops at home. The reports should also embrace geological, mineralogical, and other physical information of importance to our farmers and manufacturers. In addition, we should have a general statistical department, the business of which should be to collect and spread through the country, through official and reliable channels, correct accounts of the state of crops in Europe; and it might also be found desirable to charge this department with the duty of reporting, from time to time, the various improvements in manufactures, in mining, in scientific agriculture introduced into the European systems. I need not spend time in proving the advantages that would accrue from such an arrangement, as they must be evident to every one who will bestow a moment's thought upon the subject.

In this respect we might, with great advantage, follow the example of the French and German Governments. Both in Germany and France agricultural schools and colleges are established and supported by the Governments, and extensive experiments are carried out, which would be entirely beyond the means of private men. The benefits to the nation are immense. Agriculture has received a great impetus, and the products of the soil have nearly doubled within less than half a century, in consequence of the introduction of improved methods of tillage. Look at the statistics of the wheat crop in France. Fifty years ago, according to a recent official publication, there were only about four millions six hundred thousand hectares (a hectare contains a little less than two and one half acres) of land sown to wheat in France, and the average yield did not exceed eleven hectolitres (two and three fourth bushels to the hectolitre) to the hectare. In 1858, the wheat crop amounted to one hundred millions of hectolitres, at an average yield of fifteen hectolitres to the hectare, an increase of nearly one half in about forty years.

The object of a democratic Government is the regulation of the public affairs of the country in accordance with the wishes of the people. What are the "public affairs" of the country? Not merely laws, certainly not political resolutions; for besides the political and social interests of our country, there are others of equal importance to the people at large which demand and which should receive the profoundest attention of our legislators. The scientific investigation of our national resources, for example, is a matter affecting the very foundation of our national greatness and prosperity. Our very existence as a self-supporting, independent nation, depends in a great measure upon it, for without a thorough investigation those resources can never be developed; and without the development of them we shall gradually sink into a mere dependency of Europe. Individual enterprise, even in America, being inadequate to this work, and, as it is, further, more a public than a private measure, it is evidently the duty of that *public machine*, which we style Government, to take the matter up and carry it through.

For many years we have had a system in this country (if it can be called a system) created by resolution and by addition to appropriation bills, a system that has really descended to a mere distribution of seeds, two thirds of them of very little value. The realization and publication of one great truth is worth all this labor; and the object of the proposition I have submitted, is to combine and disseminate information by the four branches of an agricultural bureau which I have designated, not only by reports, but in other ways, not merely to engage in the business of the distribution of seeds, beans, and ordinary vegetables such as are now distributed, but to have gentlemen who are competent to take charge of these different bureaus, looking to statistical information. I may, in this connection, give an instance at home to show the value of such information, and I might go abroad and cite instances there.

Notwithstanding the large population of Great Britain, (who are mainly dependent on her commerce and manufactures,) she could not sustain herself if she were compelled to import hay for her dairies and meat markets. There was a time in her history when she was dependent upon her mountains and her neighbors for her butter and meats. But, with her cultivation of grasses, her population has increased; and her stock, of every kind, has attained a degree of excellence which supports a demand for it in the markets of all countries.

In Holland, where the business of rearing cattle constitutes one of the principal sources of wealth, and where the price of landed property is high, a large portion of the surface of the country is devoted to pasturage and the cultivation of grasses. It is said that the cultivation of *a single kind of grass*, in Jamaica, has increased, beyond computation, the value of the trade and commerce of that island.

Blue grass has done for Kentucky what turnips have done for Flanders, and portions of England and Scotland—not only arrested the old process, which wore out the land, but restored the soil, and brought large profits to graziers.

Along the banks of the Merrimac, grass, that fifty years ago was considered as a great evil, has within the last twenty years been regarded as equal, if not superior, to any other variety for hay. Similar favorable changes have been made in the South, and in every portion of the country where the attention of agriculturists has been directed to the subject.

I maintain, and these illustrations prove it, that one great truth coming from this Government (I care not whether it is gathered from the State societies or from individuals, we want it indorsed from the national Government)—a great truth in relation to any one of the productions of this country—will be worth all the expense entailed. It may be said that private individuals will do this. We all know that private enterprise has failed to do it.

I know that the proposition to establish a new Department of this Government is calculated to alarm Senators on account of the apprehended expense. With me the great desire is a bureau of statistical information in the center of this Government—it underlies our weal and prosperity—to let the people know what we are doing, so that the great farming interest of the Government may not be in the hands of dupes and at the mercy of incidental information utterly unreliable, when we have it in our power to keep them accurately advised by collating through a Department of this Government information from different State organizations; and this Department may have connected with it gentlemen of intelligence, gentlemen that are qualified and can give their time to these matters. We can establish this Department at a cost less than $60,000 annually. That is the amount now appropriated for agricultural purposes. If you take out the $3,000 for the Commissioner, and the salaries of the heads of four bureaus, with three clerks, you will have at least $15,000 left for seeds. Now, shall I stop and ask what benefit this Government can do with that amount of money? Shall I ask Senators the value of the introduction of the Mediterrancan wheat to this country? No man can estimate it by millions. I have seen myself in Europe at a State fair eighty-seven different kinds of wheat. The introduction through this organization of one solitary article, whether it be wheat, whether it be sugar cane, whether it be a new production of anything else adapted to this immense country, is worth an annual expense of thousands of dollars. The farmers demand something more than a mere name. They want a Department of the Government gathering statistical information, and by which we shall be able to obtain those articles from foreign countries which experience and even practice here may be able to demonstrate the practical utility of.

In behalf of the farmers of this country I hope we are not to have a mere shadow. You have now, as I have already said, the same thing that the House bill provides for. That bill only separates it from one of the existing Departments of the Government. If we are to do anything for our great agricultural interest, let us have a bureau looking to the four branches which I have described, and above all, let us have accurate statistical information. If the Senate will do nothing else, let me ask gentlemen to take the bill of the Senator from Connecticut, which combines a statistical department with an agricultural bureau. If my amendment shall be voted down, I shall cheerfully vote for his proposition, because I shall regard any bill to establish an agricultural bureau of little value unless it embraces statistical information of a character adapted to the labor of this country.

Mr. FESSENDEN. I move that this subject and all others prior, be postponed, with a view to take up the bill which I mentioned yesterday, the Indian appropriation bill.

Mr. SIMMONS. I should like the Senator from Maine, as this bill is under discussion, to let us take a vote upon it.

Mr. FESSENDEN. I must say to my friend that I can see that there is here not only an original bill, but several amendments; and I must suggest to him also that, he being a member of the Committee on Finance, I cannot agree that he shall stand in my way in reference to the appropriation bills.

Mr. SIMMONS. I am a member of some committee that ought to have charge of economy of time, and not get up a debate on a question and then leave it half disposed of.

The motion of Mr. FESSENDEN was agreed to.

INDIAN APPROPRIATION BILL.

The Senate, as in the Committee of the Whole, proceeded to consider the bill (H. R. No. 260) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1863.

The bill was read at length.

Mr. FESSENDEN. There are no amendments from the Committee on Finance. They reported the bill without amendment, I believe.

The PRESIDENT *pro tempore*. So the Chair understands.

Mr. DOOLITTLE. The Committee on Indian Affairs have instructed me to move certain amendments to the bill.

Mr. WILKINSON. If the Senator from Wisconsin will permit me one moment, before he offers his amendments, I wish to move to strike out of this bill the word "insurance" wherever it occurs. It occurs in several different places under the head of "miscellaneous items."

Mr. DOOLITTLE. I will suggest to my friend from Minnesota that probably he would accomplish the object he aims at by drawing a distinct section on the subject. The word "insurance" here applies to some cases where the contracts have already been made for the insurance of goods. A section providing that after the end of the fiscal year no contract should be entered into by the Government for the insurance of its goods would effect the object he has in view. I doubt whether the amendment he now proposes would not go further than he intends, because it applies to insurances that have already been made.

The PRESIDENT *pro tempore*. The Chair begs leave to state that the practice is, in considering appropriation bills, first to act upon such amendments as are moved from the Committee on Finance, afterwards on amendments moved by other standing committees, and then to receive amendments moved by individual Senators.

Mr. WILKINSON. I suppose, Mr. President, that if any contracts of insurance have been entered into, the money was paid at the time the contract was made. The policy of the Government insuring their own property, I think is a bad one, and we may as well stop it here now on this bill as on any other. I think the Government is fully as able to insure their own property as insurance companies are to do it for them.

The PRESIDENT *pro tempore*. The Chair will entertain the motion of the Senator from Minnesota.

Mr. WILKINSON. It is to strike out the word "insurance" wherever it occurs in the bill. It is under the head of "miscellaneous items."

Mr. FESSENDEN. I do not see why the Government should not be permitted to do as persons do with reference to private property. They have to send this property. Of course they are as able to run the risk of sending it as any one else, but if they can save money and deem it advisable not to run the risk entirely, but to throw it upon others for a consideration, as they have always heretofore done, and undoubtedly for good reasons, I do not see why they should not be permitted to do it.

Mr. WILKINSON. I will state the reason why I have offered this amendment. Insurance companies, of course, make money, or they would not go into the business. If a man of small capital embarked in business, and should lose it by any accident, his business, of course, would be destroyed, and he therefore ought to insure; but a man or company having sufficient means to enable them to run the risk themselves can make money by abstaining from entering into any contracts of insurance. They will save what the insurance company would have made out of them. It is very clear that the insurance companies make money in the long run out of somebody, or they would not do it. I know that the firm of Pierre Chouteau & Co., which existed for many years, of which John Jacob Astor was once a member, the successors of the old northwestern fur traders, never insured their property for the reason that it cost them more in the long run than it did to run the risk themselves, because if they lost a steamboat load of goods they could stand it. Then Government is able to run this risk. They will have to pay more for insuring in the long run than the losses which will occur will amount to. It is a plain matter of business transaction. Any one can see that, unless there is a profit in this insurance business, the companies would not be organized and would not do business. I think the practice of the Government insuring in any of these private companies may as well be stopped here as anywhere else.

The PRESIDENT *pro tempore*. The word "insurance" occurs in four instances on the 47th and 48th pages under the general head of "miscellaneous items." The Senator from Minnesota moves to strike out that word in those several paragraphs.

Mr. FESSENDEN. I think it would be rather unwise, on the suggestions of the Senator, to change the policy of the Government on this subject, which has been followed for a considerable number of years, and undoubtedly for very good reasons.

Mr. GRIMES. What is the reason?

Mr. FESSENDEN. It is the same reason which exists in your case precisely.

Mr. GRIMES. But I do not insure.

Mr. FESSENDEN. Very well; others do.

Mr. GRIMES. I do not insure because I have not got any property; but I will ask the Senator, does he know of any man of very large means who does insure? For instance, Stephen Girard did his own insuring; the house of Cope & Co. always did its own insuring; and the aggregate in the course of several years, although they had a large commission, showed that they saved money by doing their own insurance.

Mr. FESSENDEN. That might or might not be.

Mr. WILKINSON. I will state to the Senator from Maine that this question was up before the Committee on Indian Affairs, and it was the decision of that committee that this amendment should be made. It is not my own individual idea altogether.

Mr. FESSENDEN. Well, sir, it is in the power of the Senate to change the policy of the Government which they have followed for many years, and which they think wise. The amount certainly is not a very large one. I, of course, have no sort of experience on the subject, and I

cannot answer Senators and say it is not so; but because Mr. Girard at one time, or for any considerable length of time, chose to take his own risks, is no reason why another man should not follow another course if he saw fit to do so. The Government has thought it wise to follow this course evidently, or it would not have been followed for so many years. If they had found by experience that it was unprofitable and unavailable, and only spending money for nothing, the result probably would have been that they would have abandoned the system; they had the power to abandon it at any time; but I think where it has been adopted and continued year after year, the inference must be that it has been found to be beneficial; and it is hardly worth our while to theorize on the subject against experience. I really believe that it is as well to take it for granted that there is an ordinary degree of integrity and an ordinary degree of intelligence in those who administer the Executive Departments of the Government, and not to assume that they do not know how to conduct their business according to ordinary rules, and in a reasonable, proper way, and that they learn nothing by experience. Gentlemen assume that; and if they know better, without having any experience on the subject, of course they will act as they see fit.

Mr. WILKINSON. That idea would withdraw from the Senator from Maine and from every member of this body all responsibility whatever. I think he is just as capable of judging as the President of the United States, and I think it is the duty of Congress to decide these questions for themselves, and not to be governed by what course the executive department of the Government may have seen fit to pursue heretofore. There are a great many hoary-headed abuses that have clustered around the Executive Departments of this Government, and they exist yet; and the Senator from Maine and Congress would do well if they would correct some of them. I think this is one of them.

Mr. POMEROY. Under some circumstances and in some places it may be very well to insure; but to insure goods on these western rivers, in companies that are unknown to the country, excepting that they exist in some of our western cities, I consider an entirely useless expenditure of money. I know that goods that went up the Upper Missouri last spring were injured; but I should like to ask the Senator from Maine whether he ever knew the Government to collect the insurance? I know that my own experience personally in that country is, that I never could collect a dollar. Every policy that you get has such technicality in it; you either did not have the goods loaded right, or the boat run on the snag at the wrong time, or the name of the boat was not in the policy right; in short you are utterly unable to get any insurance money at all. During an experience of five or six years of considerable business in that country I never was able to collect one dollar of insurance, though I entered in the regular offices.

Mr. FESSENDEN. What regular offices were there?

Mr. POMEROY. Offices in St. Louis. They have agents along the Mississippi and Missouri rivers.

Mr. FESSENDEN. If this proposition is put on the ground that there is such a bad state of morals and honesty out in that country that it is useless to insure, of course I have nothing to say.

Mr. POMEROY. I was going to say further that when a company insure for the Government of the United States, they feel under much less obligation to pay than they would if it were the property of individuals. There is some obligation resting on a company to pay an individual that they would not consider resting upon them to pay the Government. I think the Government has never yet collected a dollar of insurance in that country, and I do not believe they will for years to come; and yet every agent will insure, for the reason that there are so many applicants for the insurance; and if the law allows it, they will be sure to accommodate any one who comes along desiring to insure goods. It is simply another way of getting money out of the Government without incurring any responsibility.

The amendment was agreed to.

Mr. DOOLITTLE. I now move five amendments together, for the purpose of carrying into effect a treaty which was proclaimed and published after the meeting of Congress, and after the regular estimates had been made:

To carry into effect the treaty of February 18, 1861, with Arapahoes and Cheyenne Indians of the Upper Arkansas river, namely:

Article one—For surveying the exterior of the reservation, and dividing the same between the two tribes, estimated to be three hundred and fifty miles, at an expense of ten dollars per mile for surveying, $3,500.

Article four, second section—For the first of fifteen installments of annuity of $30,000, to be expended for their benefit, that is to say, $15,000 per annum for each tribe, commencing with the year in which they shall remove to and settle upon their reservations, for the fiscal year ending June 30, 1862, $30,000.

Also, for the same object, for the fiscal year ending June 30, 1863, $30,000.

For transportation and necessary expenses of delivering of annuities, goods, and provisions to the Arapahoes and Cheyenne Indians of the Upper Arkansas river for the fiscal year ending June 30, 1862, $5,000.

Also, for the same object, for the fiscal year ending June 30, 1863, $5,000.

Mr. FESSENDEN. I should like to hear some explanation of these amendments.

Mr. DOOLITTLE. I will state to the Senate that the treaty—to carry out which these amendments are offered—was not proclaimed and published until after the meeting of Congress, and therefore an estimate did not go to the other House in time to appear in the regular appropriations for carrying into effect treaty stipulations. All of these provisions in the new estimate sent in by the Secretary of the Interior are to carry that treaty into effect. The treaty provides for the survey of the line between two tribes. It is estimated that it will cost ten dollars per mile, and the distance is three hundred and fifty miles. One of the members of our committee—the Senator from Iowa, [Mr. HARLAN]—has been long on the Committee on Public Lands, before which this question of surveying has often been considered, and after a discussion in our committee as to what the probable expense of surveying would be, we thought it might be worth that sum, considering the nature of the country and the distance it is from supplies.

The other and the larger appropriation provides for the payment for their benefit of the sum of $30,000 per annum for fifteen years, that is to say, $15,000 per annum for each tribe for that number of years, commencing with the year at which they shall remove to and settle upon their reservations, making a sum of $450,000 in annuities in fifteen years. This treaty has been ratified. It was a treaty for the purchase of that country in Colorado where Denver City is situated, and there was a necessity for the purchase of that country from the Indians.

Mr. FESSENDEN. I should like to have the Senator read and explain that part of the treaty—I am not familiar with it—that puts it upon the United States to run this line.

Mr. DOOLITTLE. The eighth article of the treaty is in these words:

"All the expenses connected with and incident to the making of this agreement, and the carrying out its provisions, shall be defrayed by the United States, except as otherwise herein provided."

And the first article contains this clause:

"According to an understanding among themselves, it is hereby agreed between the United States and the said tribes, that the said reservation shall be surveyed and divided by a line to be run due north from a point on the northern boundary of New Mexico, fifteen miles west of the Purgatory river, and extending to the Sandy Fork of the Arkansas river, which said line shall establish the *eastern* boundary of that portion of the reservation to be hereafter occupied by the Cheyennes, and the *western* boundary of that portion of said reservation to be hereafter occupied by the Arapahoes."

Mr. FESSENDEN. Does the Department estimate for that?

Mr. DOOLITTLE. Yes, sir; and estimates the distance at three hundred and fifty miles.

Mr. FESSENDEN. And the amount?

Mr. DOOLITTLE. At an expense of ten dollars per mile for surveying. It is in pursuance of estimate, as are all the amendments I send to the Chair in pursuance of the estimates of the Department, and I believe necessary to carry out the provisions of this treaty.

The amendment was agreed to.

Mr. DOOLITTLE. I am directed by the Committee on Indian Affairs to offer certain other amendments, in relation to the Indian service in California, to be added at the end of the bill:

For Indian service in California:

For compensation of five supervisors for the reservations in California, to instruct the Indians in husbandry, at $1,200 each, for fiscal year ending June 30, 1863, authorized by act of June 19, 1860, $6,000.

For salaries of clerks to superintendents of Indian affairs for the northern and southern districts of California, for three quarters of the fiscal year ending June 30, 1862, at $1,800 per annum, $2,700.

For the same service for the fiscal year ending June 30, 1863, at $1,500 per annum, $3,000.

For the purchase of cattle for beef and milk, together with clothing and food for Indians, for the fiscal year ending June 30, 1863, for the northern district of California, $25,000.

Mr. FESSENDEN. I should like to have an explanation of all these amendments as they go along.

Mr. DOOLITTLE. In relation to the first one about the supervisors, the committee report in favor of paying but five supervisors instead of eight. The Department estimate that eight will be required, but the committee, in considering the subject, thought that five could discharge the service. These supervisors are in fact a kind of agents or sub-agents. They were named, however, in the act in relation to California, as supervisors to instruct the Indians in husbandry, &c. In relation to the salaries of clerks, the Department estimate:

"For salaries of clerks to superintendents of Indian affairs for the northern and southern districts of California, for three quarters of the fiscal year ending June 30, 1862, at $1,800 per annum."

The service in those cases has been performed or very nearly so; the year is very nearly finished. For the same service for the fiscal year ending June 30, 1863, the committee determined that they would allow them but at the rate of $1,500 per annum.

Mr. FESSENDEN. Are they provided for by any law that makes it necessary?

Mr. DOOLITTLE. There is no law, as I understand it, that requires the appointment of these clerks.

Mr. FESSENDEN. How is it with the supervisors?

Mr. DOOLITTLE. There is a law authorizing the appointment of supervisors. They are authorized by the law of 1861. I desire the portion of the amendment in relation to the clerks for the year ending June 30, 1862, to lie over until to-morrow morning, as I suppose we shall hardly be able to get through with all the amendments to-day, and we can examine the subject and ascertain whether they are authorized by law or not.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) That portion of the amendment will be considered as withdrawn.

Mr. DOOLITTLE. Then I desire to say, in relation to the clause for the purchase of animals and cattle for beef and milk, together with clothing and food for the Indians in the northern district of California, that the amendment offered by the committee proposes to expend the sum of $25,000 for that purpose. The estimate of the Department is for $100,000.

Mr. FESSENDEN. Additional estimates?

Mr. DOOLITTLE. These are additional estimates, which were sent in and printed. The Senator will find them in Miscellaneous Document No. 79. They have been printed and laid on the tables of Senators, but perhaps have escaped the attention of the Senator from Maine. A large number of Indians were gathered together upon a reservation called the Klamath reservation, in a valley in California. There came a sudden flood—such a flood as has never been known to rise in California before. The water came down from the mountains in such quantities that it actually swept the whole Indian reservation away, all their villages, and every building belonging to the Government, with the exception of one barn. It not only swept away the buildings, but it piled up the gravel on one side of the river, they say, some two or three feet deep, and on the other side covered it with sand, so that the arable land, which lies within these valleys, where the arable lands are to be found in California, has been almost utterly destroyed. The Indians have been swept out, and it is estimated that the amount of property which they have lost upon this reservation is worth more than forty thousand dollars. It has become absolutely necessary for the agent or superintendent there, in order to prevent them from actually starving to death, to take measures to do something towards feeding them. He presents a proposition on his part, which is also submitted, and has been somewhat considered by the

committee, to purchase another reservation for them in California, in another section of the State; but that is not under consideration now. The committee, however, thought they would reduce the amount, and not report in favor of more than $25,000. As the summer season has already come, they thought it would be an opportunity for the Indians to do very much towards sustaining themselves during the summer, and by the next session, if it be necessary to have any greater expenditure, we shall know it then. If you turn to pages 10 and 11 of this document, you will find a very heart-rending description given by Mr. Hanson, the superintendent of Indian affairs, of the disasters brought on by this great flood.

The PRESIDING OFFICER. The question is on the amendment as modified by the withdrawal of a portion of it.

The amendment, as modified, was agreed to.

Mr. DOOLITTLE. I offer another amendment from the Committee on Indian Affairs, to insert at the end of the bill the following:

For the same service in the southern district of California, for the fiscal year ending June 30, 1863, $15,000.

Mr. FESSENDEN. What do the words "for the same service" mean?

Mr. DOOLITTLE. This amendment is to come immediately after the last amendment. The word "service," however, should be stricken out, and I will modify the amendment in that way.

Mr. SHERMAN. I supposed that a new system had been adopted in California that saved the necessity of having all these supervisors and all these officers. I cannot state precisely the law, but I supposed that a new system was adopted a year ago dispensing with this whole army of officers, and gathering the Indians together in reservations, and that all necessary provisions had been made to carry those laws into effect by the regular appropriation bill. As a matter of course, my friend from Wisconsin is much more familiar with the subject, as he has given his attention to it, but I know it was a subject frequently discussed a year ago. A law was passed and appropriations were made in pursuance of that law. I presume that the present bill contains the ordinary appropriations for the Indian service in California, in accordance with the law passed a year or two ago. It strikes me with surprise to find so many amendments needed now to carry into execution that law passed more than a year ago. I do not understand it.

Mr. FESSENDEN. I should like to inquire also of the Senator what communication it was that asked for these appropriations?

Mr. DOOLITTLE. It is a letter of the Secretary of the Interior addressed to me as chairman of the Committee on Indian Affairs, accompanied by a letter from the Commissioner of Indian Affairs, with additional estimates.

Mr. FESSENDEN. It has never been presented to Congress at all, otherwise than it might have been laid on our tables. I have had no sort of chance to examine it, and look into it.

Mr. DOOLITTLE. When I moved the printing of this letter, with the additional estimates, I endeavored to arrest the attention of the Senate to the fact that very important amendments to this bill were asked for. Perhaps it would be a saving of the time of the Senate if this bill should lie over, and gentlemen could all have an opportunity to read this document, the additional estimates, and the papers that accompany it. There are several letters which are published stating the grounds upon which these estimates are claimed. I have no objection to the bill lying over until Monday.

Mr. LATHAM. I desire to make a little statement in relation to this subject. I was formerly a member of the Committee on Indian Affairs, and everything connected with the service in the State that I represent was more immediately under my supervision. I believe I proposed the amendment relative to these several districts, which Congress adopted, about a year ago, and to which the Senator from Ohio refers. I had not seen these amendments before they were offered here, and I must confess that some of them I do not understand.

Mr. FESSENDEN. If my friend will excuse me, I was about to suggest that I am informed, for the first time, that these new estimates have come in, and we are met of a sudden with some twenty new amendments, as my friend from Wisconsin says, of a character that is rather surprising to the Senate, and I think it would be unsafe to go on with the bill without giving the Senate a chance to consider them. I think it would be better, therefore, for the chairman of the Committee on Indian Affairs to offer his amendments and have them printed, so that we may have an opportunity to look at the estimates and the amendments proposed.

Mr. DOOLITTLE. I have no objection to that, and then the bill may lie over until Monday.

Mr. LATHAM. I am perfectly willing to agree to that; but I will take this occasion to state more particularly to the Committee on Finance that I, as well as the Committee on Indian Affairs, think a very large saving can be made in the public expenditures for the support of the Indians in California. The more I have investigated and thought about the subject, the more I am satisfied that the Government is paying entirely too much money for the support of the Indians in that State. A few years ago, when the Indians were much more numerous than they are now, I believed it was the duty of the Government to extend a protecting care over them to as great an extent as they then legislated for; but the Indians in California are fast fading away; their number is very rapidly decreasing; and out of all these reservations, I do not think there are, probably, over two of them where the white man has not intruded himself, and the Indians have become scattered.

I believe, and I am speaking after a conference with the Secretary of the Interior, that there ought not to be for that whole State more than one superintendent. I do not think there is any necessity for the State being divided into two districts. I think it would be sufficient to have one superintendent and two reservations, and for each reservation a supervisor, with a limited salary of twelve or eighteen hundred dollars per annum. If all the Indians were thus gathered into two reservations, one in the north and one in the south, it would be a saving of probably thirty or fifty thousand dollars a year to the Government. In three reservations in the northern district—Nomee-lackee, Klamath, and Mendocino—the whites have intruded, so that they are really, for Government purposes, utterly worthless. The Indians will not stay there. The whites take their hunting grounds and fishing places, and use them in various ways, and the Indians, of course, scatter in the mountains. They cannot live in contact with the white men. They sell them whisky, and impose upon them in a thousand ways that every gentleman here is perfectly familiar with. There ought to be some place in northern California; and I understand there is such a place, a place called Round Valley, surrounded by mountains, where the Indians could be gathered.

Mr. DOOLITTLE. Smith river valley.

Mr. LATHAM. I may not be correct about the name; but there should be some place where the Indians can all be kept, and then three of these reservations could be done away with. In the first place, you could dispense with three supervisors, and then the laborers who are paid forty dollars a month, I believe, and the implements of husbandry, for which you are paying several thousand dollars a year, could also be dispensed with. The same thing would occur in the southern district. Even if you have but one superintendent with a general supervision engaged in collecting the Indians into these two reservations, and controlling them, you get rid of one supervisor, who has a salary I believe now of $3,600, and you get rid of one agent. I hope these amendments will lie over, and if the committee will give me an opportunity I will appear before them between this and Monday and present my own ideas in relation to it more systematically.

Mr. DOOLITTLE. I will state to the Senator from California that the committee meet to-morrow morning at half past nine o'clock. I will state further, that we had proposed upon that committee to reduce the salaries of the superintendents in California to the same salary as that allowed the superintendent of Indian affairs in Oregon—$2,500 each. I do not know, however, but I should be decidedly in favor of his proposition if he, as the Senator from California, should recommend it, of reducing the whole State of California into one district, and collecting these Indians together in one or two reservations in the State. I will state further that, not expecting the bill would be entirely finished to-day, there are two other questions still pending before the committee, one of which bears on that very suggestion. We are considering the propriety of the purchase of the Smith river valley as a reservation for these Indians, in which the Indians that were driven out by the floods from the Klamath reservation, and the other Indians in the northern district, may be kept together. There is another matter pending before the committee, in which the Senator from Oregon [Mr. NESMITH] feels an interest, in relation to some unpaid balances still existing in Oregon in relation to the Indian service, which has not been fully passed upon by the committee. With the exception of those two things, however, the purchase of the Smith river valley as a reservation, and the other question in relation to Oregon and Washington, I believe we have agreed upon all the amendments we intended to submit that require appropriations, and therefore I will now submit them, and ask that they, in connection with those that have already been offered, be printed. I make that motion; and I shall then move, when that is disposed of, that the bill lie over until Monday.

Mr. HARLAN. It seems to me the printing of the amendments will be perfectly useless. The estimates of the Department are contained in Miscellaneous Document No. 79, which has been laid on the desk of every Senator. The committee has been laboring to cut down these estimates, and there are a number of propositions of the Department that we have not yet decided on. There is one here I notice of $200,000, which we think we may dispense with after we have become fully possessed of all the facts. I suggest therefore to the chairman of the committee that the printing of the amendments would not facilitate business a particle, and there are other amendments that have been suggested by propositions that are pending before the committee, and which have not been decided on by the committee.

Mr. FESSENDEN. What I want to say to the committee is this: I have postponed this bill week after week at their suggestion—they were not ready. I understood from the chairman of the committee that he should be ready on Wednesday, yesterday. I did not take it up then, but gave notice that I should call it up to-day. Now, I should be glad if the committee would ascertain when they can get through with their amendments. The reason why I want the amendments printed is that the other members of the Senate may have a chance to know beforehand what is to be proposed, and to look into these things and examine them. I am satisfied myself, if the committee have thoroughly investigated it, and are satisfied themselves on the subject. They are the proper committee to do it.

Mr. HARLAN. The estimates of the Department have been printed with the papers which were supposed to be necessary to enable the committee to understand them. They are now lying on the desks of Senators, I have no doubt, or are on their files.

Mr. FESSENDEN. There is no objection to printing these amendments in the mean time. I have not seen that document before, nor had my attention been called to it in any way. It was never before our committee. I think the motion to print the amendments a proper motion, and I hope the Senator will also move a reconsideration of those that have been already passed upon, in order that we may have them before us again.

Mr. DOOLITTLE. I have no objection to that. At the request of the chairman of the Committee on Finance, let all the amendments be printed, and stand upon the same footing together.

The PRESIDING OFFICER. If no objection be made that will be considered the sense of the Senate, and the motion will comprise all the amendments that have been offered by the Committee on Indian Affairs. The Chair hears no objection. It is now moved that the amendments proposed by the Committee on Indian Affairs be printed, and that the further consideration of the bill be postponed until Monday next.

Mr. LANE, of Kansas. There is a proposition before the committee to appropriate some twenty or thirty thousand dollars to the Wyandotte tribe of Indians, for the purpose of carrying out a treaty stipulation. I should like to have that proposed amendment printed, with the amendments suggested by the chairman of the commit-

tee. I suppose there is no objection to having the papers printed.

Mr. DOOLITTLE. Those papers are very voluminous. There is quite a bundle.

Mr. LANE, of Kansas. I mean only the letter of the Secretary of the Interior and of the Commissioner of Indian Affairs.

Mr. DOOLITTLE. I have no objection to its being printed, though the committee have not passed upon the question, or determined that it should be considered upon the appropriation bill.

The PRESIDING OFFICER. It is moved that the amendments of the Committee on Indian Affairs, and the amendment suggested by the Senator from Kansas, be printed, and that the further consideration of the bill be postponed until Monday next.

Mr. WILKINSON. I suppose the object of the Senator from Maine in making his motion was, that the amendments which have been agreed upon by the Committee on Indian Affairs should be printed.

Mr. FESSENDEN. That is it.

Mr. WILKINSON. The matter referred to by the Senator from Kansas has not been agreed on by the committee, and I do not think it is proper to insert that with the amendments which have been decided upon.

Mr. LANE, of Kansas. With the consent of the Senator from Minnesota, I desire to say that the committee have decided the question involved in this amendment, and it is recommended by the Secretary of the Interior and by the Commissioner of Indian Affairs.

Mr. FESSENDEN. Is there any such amendment on the table?

Mr. LANE, of Kansas. No, sir.

Mr. FESSENDEN. Then how can it be printed?

Mr. LANE, of Kansas. The papers are before the committee, and I desire the letter of the Secretary of the Interior and of the Commissioner of Indian Affairs to be printed with the other amendments. That is the object.

Mr. WILKINSON. It was suggested in the committee that the matter to which the Senator from Kansas alludes should more properly be introduced in a separate bill by itself. The subject-matter of it is somewhat different from the other amendments.

The PRESIDING OFFICER. Does the Senator from Wisconsin comprise the amendment suggested by the Senator from Kansas in his motion?

Mr. DOOLITTLE. I do not.

The PRESIDING OFFICER. The question, then, will be on ordering the printing of the amendments of the Committee on Indian Affairs, those already adopted being reconsidered by common consent, and the motion being that those, together with those not passed upon, be printed, and that the further consideration of the bill be postponed until Monday next.

The motion was agreed to.

HOUSE BILLS REFERRED.

The following bills and joint resolution from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 352) to provide for the organization of a signal corps, to serve during the present war—to the Committee on Military Affairs and the Militia.

A bill (No. 404) to provide for the deficiency in the appropriation for the pay of the two and three years volunteers, and the officers and men actually employed in the western department—to the Committee on Finance.

A joint resolution (No. 66) authorizing the Secretary of the Navy to discharge contractors with his Department when they have furnished the amount estimated in their contracts and fifty per cent. additional—to the Committee on Naval Affairs.

BRANCH MINT IN COLORADO.

Mr. FESSENDEN. I desire the Senate now to take up a bill reported by the Committee on Finance to establish a branch mint at Denver. I presume there will be no dispute about it, and it it is very desirable that it should be disposed of. I move to take it up.

The motion was agreed to; and the bill (H. R. No. 287) to establish a branch of the Mint of the United States at Denver, in the Territory of Colorado, was considered as in Committee of the Whole. It provides for the location and establishment at Denver of a branch of the Mint of the United States for the coinage of gold. As soon as the public interest shall require, upon the nomination of the President, by and with the advice and consent of the Senate, there are to be appointed one superintendent, one assayer, one melter and refiner, and one coiner; and the superintendent is to employ as many clerks, subordinate workmen, and laborers, under the direction of the Secretary of the Treasury, as may be required. The superintendent is to have an annual salary of $2,000; the assayer, $1,800; the melter and refiner, $1,800; the coiner, $1,800; and the clerks, subordinate workmen, and laborers are to have such wages and allowances as are customary, according to their respective stations and occupations. The officers and clerks, before entering upon the execution of their offices, are to take an oath or affirmation faithfully and diligently to perform the duties of their offices, and are each to become bound to the United States, with one or more sureties, to the satisfaction of the Director of the Mint or the secretary of the Territory of Colorado and of the Secretary of the Treasury, conditioned for the faithful performance of the duties of their offices. The general direction of the business of this branch mint is to be under the control and regulation of the Director of the Mint at Philadelphia, subject to the approbation of the Secretary of the Treasury; and for that purpose the Director is to prescribe such regulations and require such returns periodically and occasionally, and to establish such charges for parting, assaying, refining, and coining as shall appear to him to be necessary for the purpose of carrying into effect the intention of the act, and also for the purpose of preserving uniformity of weight, form, and finish in the coin stamped at the branch. This branch mint is to be a place of deposit for such public moneys as the Secretary of the Treasury may direct; and the superintendent is to have the custody of them and to perform the duties of Assistant Treasurer; and for that purpose is to be subject to all the provisions contained in an act, entitled "An act to provide for the better organization of the Treasury, and for the collection, safe-keeping, transfer, and disbursement of the public revenue," approved August 6, 1846, which relate to the treasurer of the branch mint at New Orleans. The superintendent, under the direction of the Secretary of the Treasury, and on terms to be prescribed by him, may issue, in payment of the gold dust and bullion deposited for assay and coinage or bars, drafts, or certificates of deposit, payable at the Treasury or any sub-Treasury of the United States to any depositor electing to receive payment in that form. All the laws and parts of laws now in force for the regulation of the Mint of the United States, and for the government of the officers and persons employed therein, and for the punishment of all offenses connected with the Mint or coinage of the United States are declared to be in full force in relation to the branch mint established by the act, as far as the same may be applicable thereto. The bill appropriates $75,000 to carry into effect its provisions and to meet the expenses of the current year and for the fiscal year ending 30th of June, 1863.

Mr. SUMNER. I should like to know if there is a sufficient reason for entering upon this new expense. I had intended to look into the bill more carefully than I have been able to do. I did not anticipate that it would be called up to-day. I remember some years ago, when there was a proposition to establish a new mint, I did look into the question, and the conclusion at which I arrived then was that it was a departure from good policy to add to the number of our mints; that the best policy was to have only a single mint; that that policy should not be departed from except on special cause; that every new mint adds to our expense very considerably; that it does more than that, it introduces an embarrassment in connection with the coinage of the country. Now, I am not prepared to go into a consideration of this matter in detail at this moment; nor do I know that I shall deem it my duty to oppose this proposition, but under the circumstances I think I must ask that it be postponed. I should like to look into it more; at least unless the chairman of the Committee on Finance is prepared to state so strong a case in favor of this bill as to remove all the doubts which I must confess I do entertain.

Mr. FESSENDEN. Mr. President, I can only say that it has been the policy of the Government to establish branch mints wherever it has been thought they were needed on account of the great yield of gold in particular districts, and their distance from the existing mints. We have had a branch mint at New Orleans, without any very good reason for it that I could ever see. We had one at Dahlonega, Georgia, and one at Charlotte, North Carolina; but the yield in those regions was so small that it became evident they ought to be abolished. I remember that it was stated by the late Senator from Georgia, (Mr. Toombs,) here in debate that he did not regard the mint at Dahlonega as of any consequence to his State at all. I think that at the time those mints were established the yield there did not exceed $500,000 a year, indeed it never did; and they were at comparatively short distances from existing mints, and where communication was easy. This region, however, is at a very great distance, and the yield is large and is increasing very much every year; and it seems to me to be unwise to compel the transportation of gold from that section of country to this coast to be minted, and then to send it back again in the shape of coin to meet the necessities of the Government and the people there. They have, indeed, found it necessary to establish private mints.

There were some statistics laid before the Committee on Finance which I can state to the Senate. I believe it is now established beyond dispute that this is a very rich mining region, probably as rich as any. They began but a few years ago; the product during the fiscal year ending June 30, 1859, was $4,171 70; the next year it was $622,264 30; and last year it was $2,091,197 17.

Mr. SUMNER. Where do those figures come from?

Mr. FESSENDEN. From a letter of the Director of the Mint to the chairman of the Committee of Ways and Means. I will read the whole letter:

MINT OF THE UNITED STATES, PHILADELPHIA,
January 21, 1862.

DEAR SIR: I have received your letter of the 17th instant, in relation to the bill before your committee for the establishment of a branch of the Mint of the United States at Denver City, in the Territory of Colorado, and respond to your inquiries in the order presented in your communication.

1. The *average* annual coinage of the branch mint at Dahlonega, Georgia, from 1848 to 1860, inclusive, was $218,688 88, and at Charlotte, during the same period, $255,538.

2. The amount of gold received at the Mint and branches from the region of country now embraced in the Territory of Colorado since 1859, the year in which deposits of bullion from that section were first made, has been as follows:

During fiscal year ending June 30, 1859.....	$4,171 70
During fiscal year ending June 30, 1860.....	622,264 30
During fiscal year ending June 30, 1861.....	2,091,197 17
Since June 30, 1861, about.....	1,160,000 00
Total.....	$3,877,633 17

3. The cost of *coinage* in Colorado would not, it is believed, be greater than at Philadelphia, and less, perhaps, than at San Francisco. But the cost of *separating* or *parting* the silver from the gold, prior to coinage, would exceed the expense attending the same operation here, for the reason that the chemical articles (nitric acid being the principal one) required for that purpose would have to be transported thither at a considerable expense. It has been the uniform practice, however, at our minting establishments, to impose a "*parting*" charge on the bullion equal to the expense attending the operation, and this should be done at the proposed branch mint. I may add, for your information, that the charge for "parting," at the principal Mint and the assay office, New York, is five cents per ounce gross, and at the branch mint, San Francisco, fourteen cents.

4. A private minting establishment for converting the natural alloy of gold and silver into coins has been in operation at Denver City for a year or two past. One of the firm of Messrs. Clarke, Gruber & Co., by whom it is conducted, informed me a short time since that their coinage amounted to about sixty thousand dollars per annum.

I had the honor, on the 7th instant, to address a communication to the Secretary of the Treasury in relation to the bill in question, in which I presented my views as to the propriety of establishing the proposed branch mint, and suggested a few alterations in the bill. The Secretary will no doubt, on your application, furnish a copy of the same.

Very respectfully, your obedient servant,

JAMES POLLOCK,
Director of the Mint.

HON. THADDEUS STEVENS, *Chairman of Committee of Ways and Means, Washington City.*

According to a return from the Department of the Interior, we send $816,046 a year into New Mexico, Utah, Colorado, Nebraska, Dakota, and Kansas, for the payment of annuities to the Indians, and the salaries of superintendents and

agents. Under these circumstances, the Committee of Ways and Means prepared the bill and submitted it to the Secretary of the Treasury. He suggested some modifications, which were adopted, and returned it, saying:

"With the modifications suggested, I recommend the passage of the bill as one of great general utility and special convenience to the people of the Territory of Colorado."

I have also a letter from the Delegate of Colorado Territory, a highly respectable gentleman whom we all know, in which he states that the product of this year will probably be about four millions of dollars, and he thinks the yield will maintain a proportional increase until it competes with the product of California. Although the Territory was settled only in the spring of 1859, he estimates the population now at from twenty-five to thirty thousand, all loyal. He gives many items of intelligence, all of which are interesting.

Under these circumstances, the Committee on Finance, in accordance with the opinion of the Secretary of the Treasury, came unanimously to the conclusion that it was a wise measure to establish this mint; that it would be a saving instead of an expense. The bill passed the House of Representatives without opposition, having been, I believe, unanimously reported by the Committee of Ways and Means. In view of the facts, it would seem to be a matter not only of propriety but necessity to establish a branch mint at Denver.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

LIEUTENANT CHARLES E. FLEMING.

Mr. GRIMES. I offer a resolution calling for information, and ask that it be considered now:

Resolved, That the President of the United States be requested to communicate to the Senate the testimony and judgment of the recent naval court of inquiry in the case of Lieutenant Charles E. Fleming of the United States Navy; also the testimony and finding of the naval retiring board in the case of said Lieutenant Fleming; and that he be also requested to inform the Senate whether or not the judgment and finding aforesaid have been approved by him.

Mr. SUMNER. Should not that be with the limitation, "if not inconsistent with the public interests?" I believe it is not the habit of the Senate to make a positive call on the President without that limitation.

The PRESIDING OFFICER, (Mr. FOSTER.) The resolution cannot be considered to-day unless by the unanimous consent of the Senate. Is there objection? The Chair hears none. The resolution is before the Senate, and the question is on its adoption.

Mr. COLLAMER. I rose in season to object to the consideration of the resolution, but I shall not do so. I have great reluctance to resolutions getting up inquiries and trying over again cases that have been tried in the Navy and the Army. I do not recognize any such power here, and I think it is a bad employment of our time. Unless some purpose can be disclosed different and distinct from that, I feel it my duty to oppose the resolution. I do not object to its consideration now; I am willing to hear what is the purpose of this inquiry.

Mr. GRIMES. I am very much indebted to the Senator for calling upon me to state the purpose. I wish to call for a part of the public history of the country, and especially of the public records that relate to the Navy Department. This Mr. Charles E. Fleming, a lieutenant in the Navy, was formerly an officer on board the sloop-of-war Bainbridge, which was commanded by Commander Rowan, and was on the Brazil station.

Mr. McDOUGALL. I object to the consideration of the resolution.

The PRESIDING OFFICER. The Chair put the question to the Senate whether the resolution was objected to, and no objection was made.

Mr. COLLAMER. I had the floor for that purpose.

Mr. McDOUGALL. I understood objection to be made.

The PRESIDING OFFICER. The Senator from Vermont stated distinctly that he did not object to the present consideration of the resolution. The Chair heard no objection, and stated that the resolution was before the Senate. It is now too late to object to the consideration of the resolution.

Mr. McDOUGALL. There was an objection, I understood.

The PRESIDING OFFICER. The Senator from Vermont disclaimed any intention to object to the present consideration, although he objected generally to the resolution.

Mr. GRIMES. Charges were preferred against Mr. Fleming for being guilty of drunkenness, as well as disobedience to the commander of the vessel to which he was attached; he was tried, convicted, and expelled from the service. The Senate of the United States in the plenitude of its mercy saw fit about eighteen months ago to restore him to the service, against the protest of some of its members certainly, and Senators will find that he is recorded on the Naval Register of last January, as three hundred and ten on the list of lieutenants, although he entered the service in 1835. He was sent to sea as I understand in the Vandalia. Charges were again preferred against him for intemperance; he was, I have been informed, sent before a court of inquiry and found guilty. Then he was sent before the retiring board, and that board decided that he was incompetent to perform duty as a naval officer, in consequence of his former and present habits of intemperance.

I understand these to be the facts. I want to know whether or not these are the facts. I only state what I have been told. It is due to the service that it should be known if they are true; and it is due to Mr. Fleming, if they are not true, that it should be known. I *then* want to know whether or not these findings, if such have been had, have been confirmed and approved. In other words, I wish to know whether our vessels of war, whether the flag of our country, whether the lives of our seamen are to be placed in the control and under the direction of men who have been found by their peers to be grossly derelict in their habits in this respect, or whether the Senate is disposed to exercise its judgment, its prudence, and its caution in protecting the lives of the people that fight our battles for us and the honor of our flag. And I want to know who is responsible for this.

Mr. COLLAMER. I am glad the gentleman is gratified at the opportunity of making his remarks. Having made them, I suppose his object is effected. The gentleman can learn all he desires to know by inquiring at the proper place. The information is all in the Department, and they will no doubt be perfectly willing to show it to him. As to making it part of the history of the country, I do not think it of importance enough to enter the biography, either for credit or discredit, of any individual in the Navy upon our records. As to what the Senate are to do about it, I do not see that the Senate have anything to do about it or can do anything about it. If the man is out of the Navy, very well, if the cause is sufficient for that; if he is not out of the Navy, we cannot get him out; if he is improperly out, we cannot try his case here. I protest against undertaking anything of this kind—the trial of officers or printing their biography.

Mr. DOOLITTLE. I understood the Senator from Massachusetts to suggest that the resolution should be so amended as to embrace the words which are ordinarily used when this body addresses the President asking for information, as an independent and coördinate branch of the Government. I move that the resolution be amended by inserting the words "if in the judgment of the President it shall be deemed compatible with the public interest."

The amendment was agreed to.

Mr. COLLAMER called for the yeas and nays on the adoption of the resolution, and they were ordered; and being taken resulted—yeas 23, nays 12; as follows:

YEAS—Messrs. Anthony, Clark, Cowan, Dixon, Fessenden, Foot, Foster, Grimes, Harlan, Howard, King, Lane of Indiana, Lane of Kansas, Latham, Morrill, Nesmith, Pomeroy, Sherman, Sumner, Wade, Wilkinson, Willey, and Wright—23.

NAYS—Messrs. Browning, Carlile, Chandler, Collamer, Davis, Doolittle, Henderson, McDougall, Powell, Simmons, Stark, and Wilson of Missouri—12.

So the resolution was agreed to.

GOOD FRIDAY.

Mr. POWELL. I move that when the Senate adjourns to-day, it be to meet on Monday next. To-morrow will be Good Friday.

Mr. FESSENDEN. I hope that motion will not prevail. I do not see any reason why we should lose a day at this period of the session, with so much business before us.

Mr. McDOUGALL. I should like to ask the chairman of the Committee on Finance if there is any important business that can be disposed of to-morrow?

Mr. FESSENDEN. If the Senator will look at the Calendar, he will see that there is a great deal of business. Here is the bill of the honorable Senator from Illinois with regard to confiscation; that is before the Senate.

Mr. McDOUGALL. I do not regard that as important.

Mr. FESSENDEN. It is a matter of opinion; but gentlemen who have speeches to make on the subject of course regard their speeches as important, and it is quite important to the Senate they should be heard and be finished. For the purpose of saving time, I merely express my hope that the Senate will not adjourn over.

Mr. LATHAM. I would suggest to my colleague that he and myself are both much interested in very important legislation that can be taken up to-morrow.

Mr. FESSENDEN. I suggest also to the honorable Senator from California [Mr. McDOUGALL] that there is an unfinished matter on which his remarks are not finished. He can make them to-morrow. We shall be happy to hear them at any moment.

Mr. McDOUGALL. Will my friend from Maine allow me to have a time when I can speak, for I was cut off in my youth yesterday, [laughter,] and I should like to have permission at some time to renew it?

Mr. FESSENDEN. The longer it is put off the further he will be from his youth.

Mr. SHERMAN. Now.

Mr. McDOUGALL. Then, having the floor, I move that all other orders be postponed for the purpose of fixing a time when I may be permitted to continue the discussion of the subject that was up yesterday morning.

The PRESIDING OFFICER. The motion now before the Senate is, that when we adjourn to-day it be to meet on Monday next. No motion can be entertained until that is disposed of.

Mr. FESSENDEN and Mr. DIXON. I ask for the yeas and nays on that.

Mr. POWELL. I withdraw the motion.

ARREST OF GENERAL STONE.

Mr. McDOUGALL. I move that the resolution introduced by me in regard to the arrest of General Stone be now taken up for the purpose of having it made the special order for to-morrow.

The motion was agreed to; and the Senate resumed the consideration of the resolution.

Mr. McDOUGALL. I move that the consideration of this resolution be fixed, as a special order, for to-morrow at one o'clock.

Mr. SHERMAN. I think the Senator had better proceed now. To-morrow at one o'clock the bill of which the Senator from Illinois [Mr. TRUMBULL] has charge comes up, and it ought to be disposed of. The Senate is now behind the House of Representatives in its business, and I hope that this matter will not be put off. It is a simple resolution of inquiry on which every Senator no doubt has made up his mind. I think there will be a unanimous vote upon the resolution. Its postponement from day to day surely is not necessary. The Senator can proceed with his speech to-day.

Mr. McDOUGALL. I would prefer to speak to-morrow.

Mr. SHERMAN. I object to a postponement. I think we ought to act on the question now.

Mr. DOOLITTLE. I think, sir, that the resolution ought to go to some committee to be considered before it is passed upon by the Senate. I do not desire to make any motion which shall prevent the honorable Senator from California from finishing the remarks he desires to make. They can be made on the motion to refer, or on the resolution itself; but for myself, my judgment is that it ought to be referred to a committee and be considered by a committee before it passes this body. There is more involved in the question than appears on the surface. I do not desire to discuss it now; but I notify my honorable friend from California that I shall, if some other Senator does not, move the reference of this resolution to a committee.

Mr. McDOUGALL. If the Senator will move its reference to a special committee, and not to any committee now organized, I do not know that I shall object.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. SATURDAY, APRIL 19, 1862. NEW SERIES.....No. 107.

Mr. FOOT. The Senator from California will allow me to state that he will hardly obtain his object, that is, giving his resolution priority in the order of business at one o'clock to-morrow, by this motion. The confiscation bill having been previously assigned as a special order for to-morrow at one o'clock, will take precedence of his resolution, if it is assigned for the same hour, under the rule of the Senate.

Mr McDOUGALL. I thank the Senator from Vermont for the information. I am not well advised about the order of business of the Senate. I have sought to be heard on this subject. I wish to be heard. I should like to have some time fixed when I can be heard. I got up in my place and was opening a discussion of a subject that I think of great importance to the people of the country, and I was opening it so that I might begin to produce some exact thoughts, when I was interrupted by the expiration of the morning hour. Now, is there any way that I can be permitted by the Senate to go on and say what I wish to say on this subject? I do not know the rules; I appeal to the Senator from Vermont, who is learned in these matters, what motion can I make that will enable me to be heard?

Mr. FOOT. I will answer the Senator from California by saying to him that he will enjoy the same privilege in the morning hour that he did the day before yesterday when he moved, by special motion, to take up his resolution for consideration. Should he to-morrow morning, after the presentation of the ordinary morning business, petitions, reports, the introduction of bills, &c., move to proceed to the consideration of his resolution, I doubt not his motion will receive the unanimous concurrence of the Senate, and that he can go on then and conclude his remarks.

Mr. McDOUGALL. I should like to be advised on this matter. On the day before yesterday I was stopped at the close of the morning hour, and it was only by the permission of a Senator who had the floor on another subject, that I was then allowed to proceed. Yesterday my observations were again interrupted at the close of the morning hour, and I was not allowed to proceed because of the objection of the Senator from Kentucky, who claimed the floor. I fear it will not be my right to proceed to-morrow, but I shall be cut off in the same way. True, the gentleman promises me the unanimous consent of the Senate; but what is my right?

Mr. FOOT. That right has gone, this day intervening. This morning, after the presentation of the morning business, had there been a portion of the morning hour still remaining, it would have been the Senator's right, and the Chair would have called up as the unfinished business of the morning hour of yesterday, the resolution, and he would have had the floor upon it, but the morning hour was otherwise occupied.

Mr. WADE. As the part of the speech that the gentleman has already made seems to call for some reply from me, and as I cannot be here to-morrow to hear the rest of it, I should be glad to have the matter postponed to some day beyond to-morrow.

Mr. SHERMAN. Reply to that now.

Mr. WADE. I am as ready now as I ever shall be. If the gentleman wishes to conclude his speech now, very well. To-morrow I shall not be here to hear him.

Mr. McDOUGALL. I will accommodate the Senator from Ohio, though he would not accommodate me. On the day before yesterday I asked him, I begged him, to let me have the privilege of going out of the Senate, that I might hear him when I returned well. I was unwell at the time; I was ill in my place. I desired to hear what he had to remark, and I asked that privilege. I remember that he denied it to me. I read his remarks this morning, and I found that he challenged me for not being in my place. I said before I went out, that I was ill; the Senate saw that I was ill, and I asked him to defer his remarks until I could be present. He denied it, but now I am ready to concede any time the gentleman from Ohio wishes to ask. Then I was ill, and I was compelled to sit down in my seat during the course of my remarks. I asked the privilege of going out of the Senate so that I might return and hear what the Senator from Ohio had to say; but he denied it to me.

Mr. WADE. If the gentleman made such an appeal to me, I did not hear it.

Mr. McDOUGALL. I beg the Senator's pardon. I made the request in open Senate, and I supposed the Senator was informed of it.

Mr. WADE. I did not hear any such request.

Mr. McDOUGALL. I did make that request expressly.

Mr. WADE. It may have been so; but I did not hear it.

Mr. McDOUGALL. I am willing that the resolution shall go over till Monday.

Mr. WADE. I am willing to agree to Monday being fixed for it. To-morrow I shall be necessarily absent on the business of the committee that is called in question.

Mr. McDOUGALL. Then, I propose that the resolution be made the special order for Monday, at one o'clock.

Mr. SUMNER. I ask why the Senator cannot proceed with it now, and let us finish it.

Mr. McDOUGALL. I have some right, I think, to be consulted as to when I shall proceed. I allow other gentlemen to take their own time, and some of them take long time; I am not in the habit of doing it myself.

Mr. GRIMES. It is evident, I think, that we are not going to agree upon any time; and as it is necessary that we should have an executive session, I move that the Senate now proceed to the consideration of executive business.

The PRESIDING OFFICER. There is a motion before the Senate which is not yet disposed of.

Mr. GRIMES. What is that?

The PRESIDING OFFICER. The motion is that the resolution of the Senator from California be made the special order for to-morrow at one o'clock.

Mr. CARLILE. I move that the motion be amended by naming Monday at one o'clock.

Mr. FESSENDEN. It is already understood that the Indian appropriation bill is to come up on Monday at one o'clock. I cannot agree that that shall give way.

Mr. CARLILE. Say Tuesday, then.

Mr. FESSENDEN. I do not see any objection to making it the special order for to-morrow. I understand that there is already a special order for to-morrow, but as the Senator from Illinois [Mr. TRUMBULL] who has charge of it is absent, there will probably be no difficulty in the way of proceeding with the resolution of the Senator from California to-morrow. I think that is the best time.

Mr. WADE. I have already stated that I cannot be here to-morrow, because I shall be obliged to be absent on business of the committee. I do not care much about it, however; I can read in the paper what is said, and reply to it afterwards.

Mr. FESSENDEN. It did not occur to me that the Senator had stated his inability to be present to-morrow. He will excuse me for my suggestion.

Mr. COLLAMER. It seems that the difficulty which arises is that gentlemen begin to speak in the morning hour, and they speak for a little while and then the special order cuts them off. That has been the case two or three times. Now, I suggest to the Senator from California that his resolution be made the special order for half past twelve o'clock on Monday; and then, being the first special order, I take it, if he has the floor, he will go on without regard to another matter intervening, and he will not be cut off by the expiration of the morning hour.

The PRESIDING OFFICER. Does the Senator from California accept that modification of his motion?

Mr. McDOUGALL. Certainly; and I hope it may meet the views of the Senate.

Mr. DOOLITTLE. I have no objection to that course being taken, for the purpose of allowing the honorable Senator from California to close his speech, and the honorable Senator from Ohio to make his reply; but before the question passes from the Senate, I desire to give notice that if no other Senator shall move it, I shall move that this resolution be referred to some committee of the Senate. As to its being referred to a special committee, I do not desire to move that; I have no purpose to raise a special committee. We have already a committee on the subject of this war, and I do not know but that it would be best that it should be referred to that committee.

Mr. SUMNER. I think so.

The PRESIDING OFFICER. It is moved and seconded that the further consideration of this resolution be postponed until Monday at half past twelve o'clock, and made the special order for that hour. The Chair understood the Senator from California to accept that modification of his motion.

Mr. McDOUGALL. Yes, sir; and I am thankful for it.

The motion was agreed to.

STEAM LINE TO CHINA.

Mr. GRIMES. I now move that the Senate proceed to the consideration of executive business.

Mr. LATHAM. I should like to get up bill No. 75, and then I will make the same motion.

Mr. GRIMES. Then I withdraw my motion, as I understand the Senator only desires to have his bill left as the unfinished business.

Mr. LATHAM's motion was agreed to; and the consideration of the bill (S. No. 75) to establish a line of steam mail ships between San Francisco, in California, and Shanghae, in China, touching at the Sandwich Islands and Japan, was resumed as in Committee of the Whole.

EXECUTIVE SESSION.

Mr. LATHAM. I now move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *April* 17, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

The SPEAKER stated that the regular order of business was the consideration of a report from the Committee on the Judiciary which was undisposed of.

TOWNSEND HARRIS.

Mr. CRITTENDEN, by unanimous consent, from the Committee on Foreign Affairs, made an adverse report on the memorial of Nathaniel Dougherty, the attorney and accredited agent of Townsend Harris, late minister resident of the United States at Yeddo; which was laid upon the table, and ordered to be printed.

DIPLOMATIC AND CONSULAR SYSTEM.

Mr. CRITTENDEN, from the same committee, reported back, with a recommendation that it do not pass, bill of the House (No. 383) to amend an act entitled "An act to regulate the diplomatic and consular system of the United States," approved August 18, 1856.

The bill was laid upon the table.

DANISH BARK JORGEN LORENTZEN.

Mr. CRITTENDEN, from the same committee, reported back, with a recommendation that it do pass, bill of the Senate (No. 248) for the relief of the owners, officers, and crew of the Danish bark Jorgen Lorentzen; which was referred to a Committee of the Whole House, and ordered to be printed.

OATH OF ALLEGIANCE.

Mr. CRITTENDEN, from the same committee, reported back, with a recommendation that it

do pass, Senate bill (No. 229) to provide for the administration of the oath of allegiance to American citizens in foreign countries; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

FRANCES ANN McCAULEY.

Mr. CRITTENDEN, from the same committee, reported a bill for the relief of Frances Ann McCauley; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

BOOKS TO SMITHSONIAN INSTITUTION.

Mr. McPHERSON, by unanimous consent, from the Committee on the Library, reported a joint resolution to supply the Smithsonian Institution with volumes of Wilkes's Exploring Expedition; which was read a first and second time.

The joint resolution directs the officer in charge of the Library of Congress to furnish to the officers in charge of the Smithsonian Institution a copy of each of the volumes of the Exploring Expedition of Captain Wilkes now in the library.

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

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

The latter motion was agreed to.

Mr. F. A. CONKLING. I call for the regular order of business.

The SPEAKER. The regular order of business is the consideration of the unfinished report of the Committee on the Judiciary.

ARMY MEDICAL DEPARTMENT.

Mr. McPHERSON. I ask the gentleman from New York to withdraw his demand for one moment.

Mr. F. A. CONKLING. I withdraw for the gentleman from Pennsylvania.

Mr. McPHERSON, by unanimous consent, offered the following resolution; which was read, considered, and referred to the Committee on Printing:

Resolved, That two thousand extra copies of the bill to increase the efficiency of the medical department of the Army, as finally passed, be printed for the use of the House.

LEAVE OF ABSENCE TO A MEMBER.

Mr. DUNLAP. My colleague, Mr. WADSWORTH, has been called home on account of sickness in his family. I ask leave of absence for him.

Leave was granted.

Mr. EDWARDS. I ask the gentleman from New York to give way to me for one moment.

Mr. F. A. CONKLING. I decline to give way.

ENROLLED BILL.

Mr. GRANGER, from the Committee on Enrolled Bills, reported as truly enrolled an act (H. R. No. 252) making additional appropriations for the naval service for the year ending June 30, 1862; when the Speaker signed the same.

CONFISCATION OF REBEL PROPERTY.

The SPEAKER. The next business in order is the consideration of the bills and resolutions reported from the Committee on the Judiciary, relative to the confiscation of the property of rebels, as follows; the question being on the motion of Mr. PENDLETON to lay them all on the table:

A bill (H. R. No. 126) to forfeit the property and slaves of persons who shall engage in, or aid and abet, armed rebellion against the United States;

A bill (H. R. No. 107) to forfeit the property and slaves of persons who shall engage in, or aid and abet, armed rebellion against the United States;

A bill (H. R. No. 106) to facilitate the suppression of rebellion and prevent its return;

A bill (H. R. No. 110) making it a penal offense for any officer or private of the Army or Navy to capture or return, or aid in the capture or return, of fugitive slaves;

A bill (H. R. No. 128) to punish treason, and to provide a more effectual mode for the collection of taxes imposed by Congress, and to furnish a fund to remunerate the losses of loyal citizens, and to provide homesteads for soldiers employed in suppressing the present rebellion;

Joint resolution (H. R. No. 11) relative to the right and duty of the President in regard to persons held as slaves in any military district in a state of insurrection;

Joint resolution (H. R. No. 13) concerning the rebellion;

Joint resolution (H. R. No. 14) in relation to persons claimed as slaves in the States now in rebellion;

Joint resolution (H. R. No. 15) in relation to the confiscation of the property of rebels;

Joint resolution (H. R. No. 18) to facilitate the suppression of the rebellion and prevent its return;

A resolution (Mis. Doc. No. 9) as to the powers of the President of the United States over the Army and Navy;

A resolution (Mis. Doc. No. 3) relative to the confiscation of the property of rebels;

A resolution on the subject of military orders for the return of slaves;

A resolution relative to the expediency of making void all sales, transfers, and dispositions of property of every kind, by persons engaged in insurrection against the United States; and

Joint resolution (H. R. No. 54) in relation to the powers of the President of the United States.

The Clerk proceeded with the reading of the various bills and joint resolutions, commencing where he had left off yesterday.

Mr. WHITE, of Indiana. I understand that the motion is to lay these bills and resolutions on the table. I move to dispense with the reading of them till the result of that motion is known. It will save a great deal of time.

Mr. THOMAS, of Massachusetts. I object.

Mr. HICKMAN. I understand that one of these bills has not been returned from the printer. Would it be in order to move to postpone their consideration?

The SPEAKER. Yes; the Pacific railroad bill is a special order for to-day.

Mr. HICKMAN. I move that the further consideration of the subject be postponed till Thursday next.

Mr. VALLANDIGHAM. What subject is it?

The SPEAKER. The bills and resolutions reported from the Committee on the Judiciary.

Mr. VALLANDIGHAM. Is that in order while a motion to lay on the table is pending?

The SPEAKER. The Chair thinks it is in order to move to postpone.

Mr. VALLANDIGHAM. While a motion to lay on the table is pending? I call for the reading of the rule.

The SPEAKER. A motion to postpone is not in order pending a motion to lay on the table.

Mr. VALLANDIGHAM. That is what I understood the rule to be.

PACIFIC RAILROAD.

Mr. CAMPBELL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the Pacific railroad bill. Before that motion is put, I move that the general debate on the bill be closed in one hour after its consideration shall have been resumed in committee.

Mr. COX. Is that motion in order?

The SPEAKER. It is in order to move to close debate at any time.

Mr. COX. Is it in order to move to go into the Committee of the Whole on the state of the Union while this other matter is pending?

The SPEAKER. It is in order at any time.

Mr. COX. While a motion to lay on the table is pending?

The SPEAKER. It makes no difference.

The question was taken on the motion to close debate; and there were, on a division—ayes 45, noes 49.

Mr. CAMPBELL. If any persons wish to have general debate on this bill, I will withdraw my motion. I understood that only two gentlemen wished to speak on the bill, and that they could both speak within the hour. If gentlemen wish to run on in general debate, I have no objection. I withdraw the motion.

The question was taken on the motion to go into committee; and it was agreed to.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. HICKMAN in the chair,) and resumed the consideration, as a special order, of the bill (H. R. No. 364) to aid in constructing a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes; on which the gentleman from Illinois [Mr. LOVEJOY] was entitled to the floor.

Mr. LOVEJOY. Mr. Chairman, I do not propose to make a fancy speech on this railroad question. I am desirous, as I suppose every one is, if it be possible, and if the country is thought to be in a situation to do it, to have this railroad built. If we are to expend sixty, or eighty, or one hundred millions of dollars for this purpose, we ought to try and obtain the best possible bill. I propose to glance at some of the sections of the bill, and to present some objections to it which have occurred to me on looking it over.

In the first place, Mr. Chairman, this bill seems to vie with and to outdo that coat of historical notoriety which an old patriarch got up for his beloved son. It is, indeed, equal to any of the quilts which young ladies used to get up when we were younger than we are now. In other words, as near as I can gather, this bill has been got up on the plan of what is familiarly called log-rolling, to suit some six, or eight, or ten railroad companies; to get the votes which represent this railroad interest, that railroad interest, and the other railroad interest. It is supposed that unless the interests of these different railroad companies are conciliated, no bill can secure votes enough to become a law. That is the general idea of the bill which I have obtained in reading it over, and I think I am correct in the conclusions to which I have arrived.

It is provided in the first section that "no person shall be allowed to subscribe for an amount of stock beyond the actual value of his or her estate." That is merely declaratory. It seems to be a prohibition; but there is no penalty attached to a violation of the provision. It is mere precept, without penalty, and therefore it has no validity or force whatever.

The second section exempts all the lands from taxation perpetually, as I understand it. This is, I believe, an unheard-of feature. It never has been introduced into any of the railroad grants made so bountifully, not to say lavishly, by Congress heretofore. I think I am correct in that. At least, I know of no instance where lands given for the purpose of constructing a railroad have ever been exempted from taxation. This bill is objectionable on that ground.

In the third section it is provided that—

"Whenever, prior to said time, any of said sections, or parts of sections, shall have been sold, preëmpted, or otherwise disposed of, or when the same shall be mineral lands, or be worthless, other lands shall be selected by said company in lieu thereof, under the direction of the Secretary of the Interior, and as near as may be to the line of said railroad."

Now, it is understood that these lands are, to a very great extent, not valuable. In other words, they will come under the designation of "worthless," and in that case the company is empowered to select any lands they choose within the United States. And this large donation, I take it for granted, without resorting to any very exact estimate, would absorb a very large portion, I will not say proportion, of the public lands belonging to the United States, but certainly a very large amount; rendering the beneficent, or intended beneficent results, of the homestead policy entirely nugatory.

The fourth section of this bill allows this company to build any forty miles anywhere. Now, I desire to call the attention of the committee especially to this objection, which, if it be correct as I state it, should be an insuperable objection to the bill. This fourth section allows this company, as soon as they have completed any forty miles of this road, or of these roads—for there are some five or six of them contemplated by this act—I say whenever a company has built any forty miles of any one of these roads, it is to receive the amount of money donated by the bill, and it is not even necessary that any two sections of forty miles shall connect with each other. They may be entirely independent of each other. It allows them to build a road through Kansas; it allows them to build three or four branches through Kansas and other States, over lands that are valuable, and where the country can be and will be settled; where the road would pay private capital to build

it. They can build the several branches through these lands, and receive their bonds and receive their lands, and it does not compel them to go a mile beyond. They can build the road in the valley, and they can refuse to build it over the hill or the mountain. They can start from the Missouri river anywhere and build the roads forty, eighty, or one hundred and twenty miles, as the case may be, and they are under no obligations to go beyond; and the value of the bonds and of the lands granted will more than pay, or at least pay, the whole cost of building. The bill, if it is to pass, ought to be amended in that respect. Section five is very much like section four, unless it is intended to be a double grant of these privileges.

But there is another point to which I wish to ask the attention of the committee. When the Government issues bonds to these companies, the bonds which they issue are to constitute the first mortgage bonds upon the road. But observe that the issue of bonds for any one section of forty miles of the road constitutes a lien only upon that particular section and not on any other. This is an arrangement by which a company can take advantage of the benefits of the bill without conferring any substantial benefit to the country. One section of the road is through a valley where the cost of building will be comparatively small, and the road will be productive. Another section is over a barren mountain region, where the cost will exceed forty-eight thousand dollars per mile, and where the road will be entirely unproductive. Yet those sections built through the eastern portion of the route, where the lands are valuable and the cost of building comparatively small, where the amount paid by the Government will be sufficient to build the road, and the business sufficient to keep it in operation, can be no security to the Government for the bonds issued to build a road through a barren, unproductive country, where the cost of building will be very great. The Government has only a lien upon this portion of the route, and can have no claim upon the more profitable sections of the road to secure its bonds upon the unproductive and costly sections.

Mr. CAMPBELL. If the gentleman from Illinois will allow me, he will observe that those portions of the road which are most easy of construction are to receive the smallest advances of the Government, and that small advance is to constitute a lien upon the portion of the road to which it is applied. Then, where a large assistance is rendered for the construction of the most costly portions of the road, they constitute a lien upon that costly portion, and the full right is retained upon the part of the Government to take possession of any part of the road whenever the company shall fail to pay its bonds when due. The gentleman will therefore perceive that the interests of the Government are carefully guarded by the bill, and it preserves entire harmony.

ENROLLED BILL.

The committee informally rose; and the Speaker having resumed the chair,

Mr. BEAMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 259) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1863; when the Speaker signed the same.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. HAY, his Secretary, notifying the House that he had approved and signed a bill of the House to authorize the Postmaster General to establish branch post offices in cities.

The committee resumed its session, and proceeded again to the consideration of the bill relating to a

PACIFIC RAILROAD.

Mr. LOVEJOY. I understand, Mr. Chairman, that the facts are just as I have stated. For instance, suppose a section of this road of forty miles is built over the mountain by the Nevada Company, which receives therefor $48,000 per mile. There are no way passengers to any considerable number on that section, there is no side freight, and consequently that forty or eighty miles of the road by itself will not pay. The gentleman does not say, and will not say, that the Government will have a lien upon the valuable and cheaply built section at the eastern terminus of the route to protect itself from the payment of the bonds given to the costly and unproductive mountain section in Nevada.

Mr. CRADLEBAUGH. I ask the gentleman to permit me to make a single remark in reference to the Territory of Nevada. I understood the gentleman to say there would be no way passengers and no freight in Nevada Territory. I now say to him that more than six thousand tons of freight have been carried over the Sierra Nevada mountains from that Territory during the past year, and that as much as twelve or fifteen thousand tons will be carried during the present year. We have now three daily lines of stages from that Territory for carrying passengers. The gentleman from Illinois is entirely in error in his statement about Nevada Territory. He lives so far off that he knows nothing about it.

Mr. LOVEJOY. Well, sir, if I live so far off that I know nothing about the gentleman's Territory, it is a blessed thing to have a messenger here from that far-off land who knows all about it.

Mr. CRADLEBAUGH. I merely wanted to correct the gentleman in his statement about Nevada Territory, and I desire to state further, that in the last year the amount paid for freightage alone has not been less than $6,000,000.

Mr. LOVEJOY. I was simply trying to illustrate this fact, and had no reference to Nevada Territory or its productions, or the talent and wisdom of its representative in this House. If the statement the gentleman has made be correct, a road through that Territory would pay of itself for the cost of building it, without any appropriation at all from the Government.

The point to which I was endeavoring to call the attention of the committee is this: there is in existence, I believe, a Nevada Company. I suppose there are sections of the road between the Mississippi river and the Pacific where there will be no way passengers and no side freight. If there are no such sections we have no business to give the aid of the Goverment to build the road at all. We are proposing to make these immense donations for this purpose, on the very idea that there are portions of the road difficult to build, and which will be comparatively unproductive, for which private capitalists will not invest their money.

I come back, then, to the point again that there are sections of this road which will cost the full sum of $48,000 per mile to build, and the presumption is that along these sections there will be but very few way passengers and very little side freight, and which will therefore be unproductive; and although the Government reserves to itself the right to take possession of these particular sections if the companies fail to pay their bonds when they are due, yet it will be observed that the Government gets possession of the particular sections only which pay the least, but which incur the heaviest expenses, and consequently are the least able to refund the money which Congress advances.

Therefore, I insist that this road should be constructed by a single indivisible company, and that the whole road, from whatever point on the Missouri river, within whatever parallels of longitude you require it to start, to whatever point on the Pacific coast you make the western terminus, should be held responsible for all the obligations of the entire road, and not have it cut up into short sections. That is the point I make.

If I understand the sixth section of this bill, it provides that these roads may pay the Government, wholly or in part, in the same or other bonds, Treasury notes or other evidences of debt against the United States, to be allowed at par. Suppose these evidences of indebtedness should be below par, which I trust they never will be. Suppose they are below par, and these roads pay the Government in these bonds negotiated, and in the hands of third parties. Those bondholders have no claim unless they have a mortgage upon it. If they have a mortgage on it, then there is a lien upon the road after they have canceled the debt.

And it is further provided that, after said road is completed, until said bonds and interest are paid, at least five per cent. of the net earnings of said road shall also be annually applied to the payment thereof. This amounts to nothing.

I am satisfied, after reading this bill over, section by section, that under it this Pacific railroad never can be built. I will not say that it was intended that the road never should be built. I know that the committee which reported this bill have been governed by an integrity and singleness of purpose; but whatever was the purpose of the committee, I cannot avoid the clear conviction that a Pacific railroad under this bill never can be built. I believe that the committee have been honest in their purpose, but I doubt whether those who have engineered this matter outside of this House ever intended to build this road, unless by the association of three or four sections of broken down roads, which they might do with the donation that we give them. They are bound to do no more. If they build that section of eighty or one hundred and twenty miles and put it in good running order, then the Government has no remedy against them for not going through. This is a consideration which I wish to bring to the attention of the House.

Mr. CAMPBELL. I wish to ask the gentleman from Illinois whether he voted for the Curtis bill of last session?

Mr. LOVEJOY. I did not, and for the very reason that it was loaded down with branches.

Mr. CAMPBELL. Then the gentleman from Illinois is opposed to a Pacific railroad entirely.

Mr. LOVEJOY. That is a mere presumption.

Mr. CAMPBELL. I want to call the attention of this House to the fact that when members were present from all of the States we passed, by a decided vote, the Curtis bill, against which the same objections were urged that are now urged against this bill. When I get the floor upon this bill I will show, I think, that there is really no foundation in those objections.

Mr. LOVEJOY. Mr. Chairman, that is a cheap argument. You bring in a conglomerate mass of confused legislation, and because I oppose its conditions I am charged with opposing the road itself. I say that it is utterly impossible to build a Pacific railroad under this bill, and because I object to voting millions and millions, when the country is staggering under its indebtedness, blindly and recklessly, I am denounced as opposed to any Pacific railroad. My opposition to a bad bill is no ground to suppose that I am opposed to the building of a Pacific railroad. The gentleman's presumption therefore is a *non sequitur*. But that is a cheap way to answer an argument when you have no other answer to make.

I am for a Pacific railroad, although I am free to confess that I dislike the idea of converting Congress into a railroad company. We are not here as a railroad corporation.

I do not think the title is correct. This road is not a military necessity. It is simply a commercial and social necessity to the people of the country, and as I represent a portion of the people, I am going to vote for the building of a Pacific railroad. But sir, I am not to be blindly forced into the support of any bill that may be said to have that purpose in view. That is my answer to the gentleman from Pennsylvania. If I were opposed to a Pacific railroad I would say so. I never dodge or skulk any vote or fail to avow any sentiment that I may entertain. For the reasons I have stated, my constituents want a Pacific railroad. The country wants it. It would be a great national blessing, in a commercial and social and political and military point of view.

But I am not going to build three or four parallel or even convergent roads, and then say that we are going to get our pay by the transportation of our mails and munitions of war. We know that we can never avail ourselves of them for any such purpose. We know by experience that in case of war we will have to reconstruct the bridges that are destroyed, and then pay the roads heavy freight for the transportation of mails or munitions of war. This is nothing but a donation to build this road for the good of the country. It is nothing else, sir. There is a provision that the lands shall be surveyed, but no means are provided for that survey.

I will not say anything in regard to the seventh, eighth, ninth, and tenth sections of this bill, as the gentlemen from Iowa, [Mr. WILSON,] who

is more interested in them, will make the matter clear to the House when he gets the floor. It is provided that the three or four roads in Iowa shall agree upon a certain point in the western part of that State from which to build the road westward. Every man knows, who knows anything about conflicting railroads, that they never can be brought to agree on any point. They cannot be brought to agree upon a time table even. They are probably now in a state of hostility, and there they will, it may be presumed, remain. There is no provision made for an umpire in case those railroads will not agree, which they are almost sure not to do. In other words, this whole bill was prepared upon the idea that this road was to start from St. Louis, and run upon the southern route; that is, south of the Platte valley. This bill, as it now stands, precludes the possibility of these Iowa roads ever agreeing upon any common ground. These provisions, however, were just put in for a cover. It may be that the gentleman from Pennsylvania is opposed to a Pacific railroad, and has therefore put these provisions in this bill so as to make it utterly impracticable. I would suspect him as soon as I would myself of being opposed to the construction of a Pacific railroad.

Mr. CAMPBELL. I am in favor of the building of a Pacific railroad, and I have reported the pending bill in good faith to accomplish that desirable object.

Mr. LOVEJOY. There is as good reason to believe that the gentleman from Pennsylvania is opposed to the Pacific railroad as I am. But I did not call in question the integrity of the gentleman and his committee. I admit their honesty of purpose.

The provision in this bill makes it utterly impossible for these Iowa roads to agree upon any point whence this road is to start. It will, therefore, make it impossible for Boston, New York, and the North to have any railroad connection with this Pacific railroad unless by going hundreds of miles south. But this will be all referred to by the gentleman from Iowa.

I have very cursorily presented some of the objections I have to this bill. I feel that no road ever can be built under the bill as it now stands. I risk my judgment upon the prediction. Undoubtedly the side roads which are to enjoy the liberality of the Government will be completed. And as the committee have reported the bill, the road, when it gets to Sacramento and San Francisco, is to turn off at right angles and run up north, for which there is no military or national necessity. Now, mark how it works. The gentleman from Pennsylvania, on the other side, is a strict constructionist. On some points we cannot depart from the Constitution. That is all right. I go for the Constitution always—its letter and its spirit; but it is proposed now to give $2,000,000 of bonds to build a railroad to New York, as a military necessity, and that is just on a par with these lavish expenditures which are proposed in regions of the country where a donation from the Government is not a necessity, because private enterprise can do the work.

Perhaps, sir, I ought to have drawn up a substitute for this bill which would suit me better than the one which I have presented. The proper principle for a Pacific railroad bill would be to provide that the road should start from some given point—I think Fort Kearney would be the proper point—and make proper provision for the incorporation of a company, and say to them, you shall have so much money after you get to such a point, so much for so many hundred miles, and so much for so many more hundred miles. But the road provided for here is to pass over a region of country that has never been surveyed, and about which we know nothing; it is general in its terms, and yet we propose to give $67,000,000 or $100,000,000 for this enterprise. The main trunk is to receive not over $50,000,000, but when you come to trace up the side roads and branches you find $17,000,000 more stowed away in these roads, to which we ought not to give one cent.

But, sir, as I said, I do not intend to make a fancy speech about this railroad. The time for that has gone by. We want a road, but in providing for that road I feel bound to see that we do not give more than is absolutely necessary to achieve the object.

Mr. CRADLEBAUGH. Mr. Chairman, I do not propose to discuss at any length the bill which is now before the committee for consideration. But after the remarks which have been made by the gentleman who has just concluded his argument in opposition to this bill, I believe it to be a duty that I owe to the people that I have the honor to represent to state here some facts in reference to the character and resources of the Territory of Nevada. I am induced to do this for the reason that the desolate and dreary Territory that I represent is selected as the one by which to make comparisons and draw deductions in regard to the building of this railroad across the continent.

The people of the Territory that I represent have, perhaps, a greater local interest in the building of this road than any other people under our Government. We, it is true, are not far from California—some one hundred and thirty miles—but we are separated from California by the Sierra Nevada chain of mountains, rising to the height of eight thousand feet above the ocean and some four thousand feet above the valleys of the interior great basin. Some two years ago the discovery of silver ore was made within that Territory. Since that time a population of more than twenty thousand industrious and enterprising citizens have located within the Territory. You find building up there towns that will vie with many of the towns in the older settlements in the States. In point of building material and substantiality there are none to excel them in any of the States. The leading town of that Territory, where there were only a few tents when I visited it two years ago, has now four thousand inhabitants, and there are streets laid off and built up with stone and brick buildings that would be a credit to any of your towns. And that is not the only city within the limits of the Territory. Carson City, the capital of the Territory, has two thousand inhabitants, and contains many permanent and durable buildings. Why is it that that Territory, in the short period of two years, has acquired a population of twenty thousand inhabitants? Why is it that they have built up their towns, and are carrying on a trade with California that amounts to millions upon millions of dollars? It is all owing to the great discovery of silver ore made there two years ago.

Now, our mining country is wholly different from that in California. Ours are not placer diggings, extending over the surface of the earth, that you, or I, or anybody else can go there, and with what we call in mining parlance a "cradle" or "rocker," commence digging up the earth and extracting the gold from the soil. It is wholly different from that. The minerals found in our Territory are found in quartz fields, which require machinery. It takes a miner perhaps a whole year after the discovery of a lead, to get up his machinery before he can extract a single dollar in precious metals from the soil. It requires time and capital, and although one year ago we had not a particle of machinery extracting silver from the silver sulphurets of that Territory, or gold from the quartz rocks, we can now boast of having in operation more than one hundred quartz mills, and we can boast of having $5,000,000 invested there in mining operations. And this is but the beginning of the matter. It is nothing to what we intend to do for this country in the next five years, or before this road can be built. It amounts to nothing in comparison with what we will do. Within this year we put in operation one hundred quartz mills. One year ago we had none. They have been gradually going into operation. In the Sierra Nevada mountains there is extracted, as I am informed, from the silver ore and gold rocks $2,000,000 per month, and from my own observation, I am fully satisfied that my statement is below the amount actually produced.

Our country is certainly a desolate one. We have no agricultural resources; or if we have any they are of very limited extent. We produce nothing. All our machinery and all our supplies are transported over the mountains at great expense. We are not able to feed the mules and horses in that Territory. We are not able to obtain any provisions or supplies there except what are transported over the mountains. Now, sir, within two years we have built two regularly graded roads across the Sierra Nevada, and I presume, though I have not the facts before me, from the amount of labor that has been expended upon them, that those two roads have cost half a million of dollars. Another road has been in course of construction during the past year, and we now have roads by which machinery and supplies can be brought into our Territory.

Sir, during the past summer we have had engaged in transportation from California into the Territory of Nevada more than two thousand teams, that have been constantly employed, transporting, as has been estimated, and as I myself have estimated—for I live upon one of these roads—more than six thousand tons of freight during the past year in supplies and machinery for the purpose of opening up and developing the country. The cost of transportation with us during the summer months is, upon an average, about one hundred dollars per ton. Our heavy machinery costs a larger amount, perhaps one hundred and twenty-five dollars per ton, while our supplies cost us about one hundred dollars per ton.

During the last three or four months all supplies of which the Territory had fallen short, cost for transportation $300 per ton. The transportation is done during the winter by pack trains, in a great measure. We are not able to keep the mountain passes open during the entire year. I mention these facts to show the interest which my people have in the building of this railroad, or a railroad into the Territory. I believe that no people have a greater interest in it than we have. As I before remarked, our mines are in their infancy. I may say here—and time will prove the truth of the assertion—that when the great basin itself comes to be developed, it will produce an amount of gold and silver that will astonish the world. I have no doubt that the Territory which I represent will, during the next ten years, add as much to the coin of the country as California has done during the past ten years. In the Humboldt mountains there are now more than a thousand miners engaged in prospecting who will not for perhaps a year realize a dollar on their claims. The leads are known to be rich and extensive. I believe they are the richest silver leads in the world. There is none to compare to them. The lead in the Washoe mines is now open to the extent of a mile and more, and is producing rich silver sulphurets, worth $300 per ton. It is a lead equal in extent to the width of this Hall. There are no mines in the world that can compare with those in these desolate regions. I believe that the leads extend entirely through the basin; and I believe that when they are developed by the aid of railroads, they will produce an amount of silver and gold that will astonish the world. I should not be surprised if they would produce enough to freight a car daily. I am confident that if the war be closed within a reasonable time they will produce enough for that purpose within the next ten years. I therefore feel a local and special interest in this matter.

Sir, we have now in operation in that Territory two of the largest crushing mills in the world. South America cannot boast two as large. The Ophir company mill produces $20,000 a day, and it is yet only in half operation. It is expected that within a month or so it will be in full operation. It cost over one million dollars. When it is in full operation its product will not fall short of $40,000 a day. The product consists of an amalgam of silver and gold, and is of more value than its weight in silver. Every ton of it will yield about forty or fifty thousand dollars. The other company expects to produce $1,500,000 a year.

I say, then, that the people of that Territory have an interest in having this road built. Transportation now costs them $6,000,000 a year. Therefore that Territory should not have been selected as one from which to draw invidious comparisons in relation to this matter. I feel favorably inclined to this bill. I do not know whether it is perfect, or whether it is the kind of bill that ought to pass. I have not examined it critically. It may be that amendments ought to be made to it. I myself have one or two amendments here which are desirable in the interest of the people whom I represent, and which, I think, ought to be adopted. I would move to amend the third section by adding the following proviso:

Provided, That the lands in the Territory of Nevada which are in actual occupancy, or which are held by constructive possession under the territorial laws at the time of the passage of this act, shall not be granted to said company, and shall be excluded from the operations of this bill.

Mr. DUNN. Mr. Chairman, the construction of a railroad which shall unite the waters of the Atlantic with those of the Pacific, will be the consummation of the great idea which filled the mind of Columbus when he discovered a new world. It will unite this continent, and all western and commercial Europe with the richest trade of the world, by a more direct route than it is possible to secure in any other way. It will place our Government in a just and merited position among the leading nations of the earth, by compelling them to pay a tribute to it for the enjoyment of a commerce, which is the chief source of their wealth. And as we are about to suppress a rebellion by which perfidious traitors have sought to overthrow and destroy our Government, and thus demonstrate our great military power, and the stability of our institutions, it seems to me to be an appropriate time to organize this great enterprise. It will be most fit that we should crown our victories of war with this higher and nobler victory of peace.

It is not a wild fancy to suppose that Providence has reserved us for such a destiny and such a history as this. No people on earth have been so blessed by God's protecting care as we have. There is nothing, or scarcely anything, which is or can be made the source of wealth, prosperity, or happiness which we do not possess. All the varieties of soil, climate, and production are ours; and while the tide of rebellion is now rolling back before the march of our gallant armies, we should be untrue to ourselves if we did not stretch forth our hands to seize upon a commerce for which the world has struggled from the time when the Middianitish merchants brought their spices and myrrhs of the East across the plains of Asia.

The time is not inappropriate in another sense. England and France, the acknowledged rivals for years which exceed in number the age of our nation, are employing all the agency which wealth and diplomacy can furnish to obtain a direct route to India, not only for the purpose of securing the wealth of India, China, and Japan, but to retain a controlling influence over the commerce of the world. English enterprise has projected a railroad from the eastern shores of the Mediterranean to the Euphrates, but it has met with a check in the unflinching enmity of the Arab tribes who roam the plains where the flocks of the patriarchs were fed. England already owns and occupies several unfortified points on the Red sea, and both she and France are struggling to overcome the impediments which nature has thrown in the way of accomplishing the great idea which filled the mind of Alexander when he built the city of Alexandria, that of uniting the waters of the Red sea with those of the Mediterranean, by canal. Their habitual and long-cherished jealousy has thus far prevented the concentration of their united energies in the work, until each nation is afraid to invest its capital alone in so uncertain and hazardous an enterprise.

At such a time as this, and when all the nations of Europe are agitated with political complications, which it may be that the sword alone can cut, it is most appropriate for us to assert our true position in the world of commerce, and by putting forth our energies in the construction of this great highway, become, as I trust it is our destiny to be, the greatest nation of the earth.

These are only a few of the foreign aspects of the question, and are referred to only to show that the present condition of the world is such as to make that which is manifestly our interest also an imperative duty, unless there is some domestic difficulty in the way.. Such difficulties have been stated, but are they well founded? Even those who have heretofore been most noted for what they call a strict construction of the Constitution, admit that we have an undoubted power to build such a road if it is a military necessity. And who can doubt that such a necessity now exists in a far greater degree than it ever existed in any nation before? Our internal security demands that we should tie together with iron bands our Atlantic and Pacific shores, not only that we may be enabled to defend every portion of our soil against foreign invasion, if it shall ever come, but against all such domestic foes as those who have rendered their names accursed by the present iniquitous rebellion.

A question of great moment is that growing out of the present condition of our finances, when we are just inaugurating a new scheme of taxation, which will put the patriotism and patience of our people to the severest test. But, properly considered, this objection is not insurmountable, for the plain reason that the present bill does not propose to raise a dollar by taxation for the purpose of constructing the road. An accurate and careful examination of the scheme will show that it is a self-sustaining one; and that although the Government lends it credit—which is the representative of its wealth—it is not required to draw the money from the pockets of the people. The only question, in this connection, which is to be considered is, whether or no the road can be constructed upon a line and through a portion of the country where it will secure, during the progress of its construction, a sufficient amount of trade and transportation to produce revenue equal to the interest upon the cost of construction; for it is conceded on all hands that if it does, when completed, it must, from the nature of things, secure an amount of business sufficient to make it the source of profit to those by whose energy and enterprise it shall be built. While, when this result has been attained, it may not run all our great ocean steamers from the sea, yet this road must, by the irresistible laws of trade, draw to it so much of what they now transport as to add vastly to its receipts. The freights of the ocean once made Spain the most prosperous nation upon earth, and when the superior energy and enterprise of neighboring nations wrested these freights from her, she sank down to inferiority, if not decay. Holland built her dykes into the sea, and erected cities upon them, by these freights; and even England herself, with all her boasted superiority, would have lost much of her power and supremacy, if the wealth of her East India Company had not gone to swell her coffers. If we can succeed, as undoubtedly we shall by building this road, to draw a large share of these freights to this great thoroughfare, we will have opened a mine of wealth far richer than the mines of California and Australia combined.

In this view of the question, therefore, it is only important for us to know whether the road can be constructed upon such a line as will furnish domestic trade and commerce enough to make it a paying road, as each section of it shall be completed. That is the inquiry to which our examination should properly be confined.

If we look upon a map of the United States, with a view to ascertain those sections where our population has mostly aggregated, and from which our wealth is not only now but must in the future be principally drawn, we cannot fail to observe that it is chiefly confined to a central belt, which is rapidly extending itself, so that it is destined soon to span the whole continent. I have tables nearly prepared, which I will publish with my remarks, and which will be of assistance in the consideration of this subject. The three States of Ohio, Indiana, and Illinois now contain a population of over 5,000,000—one fourth of the present population of the loyal States—more than 4,000,000 of whom have been drawn there within the memory of the youngest member of this House. If we add to this the population of Pennsylvania, New York, and New Jersey upon the east—making the great commercial emporium of New York the central starting point—and that of Missouri, Iowa, and Kansas directly upon the west, it will be seen that this belt contains an aggregate population of 14,823,149, nearly one half of our whole population, including that in the disloyal States; and yet, in the whole, these are but nine States out of the thirty-four which compose the Union. And not only is there this great aggregation of population in this belt, but there is no portion of the world where there is a more general diffusion of prosperity and wealth, or where there is more enterprise and intelligence. If we go beyond the present and indulge ourselves in anticipating the future of these States we shall find it impossible to make even an approximate estimate of their prosperity and greatness. While the population in many of the older States is so much crowded as to forbid much further expansion, in all the States west of the Ohio river it may be increased many fold without occupying all the uncultivated land. No human imagination is vivid enough to conceive what multitudes of people may be sustained by their products, which are increasing every year with marvelous rapidity.

Not only, therefore, do the wealth and population within this belt of country demonstrate its capacity to contribute more largely than any other section to the support of a Pacific railroad, but already it has its own systems of railroads which constitute a net-work upon its surface, each link of which will contribute to the support of a thoroughfare to the Pacific. These roads have their converging points at the centers of interior and local trade; but they all have the city of New York as their common center of trade, and pour their wealth into its lap, as the streams and rivers pour their waters into the ocean.

Hence it is palpable, to the most uninformed observer, that in building a railroad to the Pacific it must have its eastern terminus so as to be immediately connected with this central belt, in order to secure from the beginning of the enterprise that support which is absolutely necessary to maintain it; for if it shall have as a terminus any point which shall fail to furnish this support, it is very evident that it must fail. Everybody can see that it will be utterly impossible to construct the road if we have to wait until it is finished before it shall begin to return a revenue to those who construct it. Not a dollar of money could be borrowed to build a road upon such a plan. A proposition of this kind made to the great money-lenders of the world would not only excite a smile, but positive derision.

Keeping this leading idea in view, let us examine the proposed routes in a practical manner, so as to avoid the danger, if possible, of falling into an impracticable and impossible scheme; excluding of course any consideration of that down the valley of the Gila and through the Territory of Arizona, as one not likely, at this time, for the most palpable reasons, to have many advocates, those remaining to be considered are the route up the valley of the Platte river and through the South Pass of the Rocky mountains, by Salt Lake City, and that up the valley of the Kansas river, which crosses the mountains near the head waters of the Arkansas river.

The route through the *South Pass* is objectionable, to my mind, for many reasons, which I will endeavor to make as plain as possible, without consuming much of the time of the committee.

It is about eight hundred and fifty miles from the mouth of the Platte river, in Nebraska Territory, to the South Pass, and upon the whole route there are but few points at which timber fit for a railroad can be found within a reasonable distance of the line of the road. The only timber found upon the banks of this river is cottonwood, which is entirely unfit for railroad purposes, except a small quantity of cedar, scarcely enough to be considered an object of interest. Fort Laramie, which lies on the north fork of the Platte, is about five hundred and fifty miles from the mouth, and for about one hundred miles of the distance between that point and the South Pass there could be sufficient timber procured by going some distance to the mountains. Beyond this to the Pass and at the Pass, and as far beyond it as Fort Bridger, which is one hundred miles, timber could only be procured at a great distance from the road. And it would even be difficult to obtain it for most of the way from there to Salt Lake City, one hundred and thirteen miles further. There is not, in fact, one hundred and fifty miles of the whole line from the mouth of the river to Salt Lake City, a distance of eleven hundred and fifty miles, where timber can be procured without great trouble and expense. All practical minds will see at once that this is not only a serious but fatal objection.

But it is no less impracticable, in another view, to construct a railroad through the South Pass, even if there were an abundance of timber, on account of the heavy snow storms to which that region of country is subject. This Pass is in latitude 42° 15′ N., and it is very well known that there the snow sometimes falls several feet in depth. There are but a few months in the year when this region is exempt from snow, it generally falling in every month except June, July, and August; and not only would the usefulness of a road through this Pass be impaired by the ordinary depth of snow during the greater part of the year, but owing to the fact that the winds are drawn, both from the East and the West, through the Pass

with great violence, the snow drifts to such a depth as to render the passage of cars impossible during many portions of the year. This is an insurmountable objection; for neither science, skill, nor energy can overcome such obstacles as these. They are produced by the laws of nature, which can neither be regulated nor controlled by the laws of man; and if there were none other, they would settle the question, in my mind, beyond cavil or controversy. But there is still another objection of a most serious character. The whole population at this time between the mouth of the Platte river and Utah Territory, does not reach two thousand in number; and not more than one tenth of the whole distance can ever become an agricultural country. That part of it which is susceptible of cultivation lies within one hundred and fifty miles of the Missouri river; and there is not within this distance timber enough to justify the improvement of more than one tenth part of it, and what timber there is, is soft cottonwood. The line of a road up this valley would not approach nearer to Denver City than about two hundred and eighty miles; so that, in point of fact, as anybody can see, there is neither population nor commerce to attract a road, or to sustain it after it is built.

It is worthy also of remark that there is no railroad at present constructed nearer to the mouth of the Platte river than one hundred and twenty miles. It is not probable that, in the present condition of that country, this intervening space will be occupied by a road, built by individual enterprise, for a good many years to come.

The route up the valley of the Kansas river, by Fort Riley, and crossing the mountains either at the Chochetopi Pass or some other in that neighborhood, is so far preferable to the Platte route that they will scarcely bear comparison. Very few, if any, of the objections which may be urged against the latter exist as it regards this route.

Taking Fort Leavenworth, in Kansas, as the starting point, the distance, by the valley of the Kansas and Arkansas river to the Rocky mountains, is from six hundred to six hundred and fifty miles. Over the whole of this line there is very nearly a natural grade the whole way, and, considering the distance, it would be one of the straightest and most direct roads in the world. A road upon this line could be constructed with but little labor, as it would be confined almost entirely to the valleys of the Kansas and Arkansas rivers —much of the country over which it would have to pass being a natural grade.

The valley of the Kansas river, from its mouth for one hundred and fifty miles, is supplied with immense quantities of limestone, and with timber unsurpassed in the West, and in sufficient quantities. This timber would furnish all the necessary cross-ties, trestle-work, and bridges at a small cost within this distance. The distance of the timber of this valley from that on the Arkansas is about two hundred miles, but even within this distance there are small bodies scattered through the prairies. It could be supplied, however, as the road would approach the Arkansas, by timber transported from the Kansas. After the road reaches Fort Wise on the Arkansas river, there is a supply of timber all the way to the mountains, where there is an abundance of cedar and pine. Some of this timber is cottonwood, but owing to the dryness of the climate it is durable and firm, being of a different quality from that which grows in the States. On the score of timber alone, therefore, a road can be constructed far cheaper upon this route than by the route to the South Pass.

Within the range of country through which this road would pass after leaving the Missouri river, the population already extends up the valley of the Kansas river one hundred and fifty miles, with sparse settlements beyond that. There is not in the world a finer agricultural and grazing region than this; the common opinion of all our most experienced travelers being that it is far the best upon this continent. This valley is all susceptible of cultivation, and can maintain a dense population. It passes through the center and heart of Kansas, so that every portion of that State may be said to be tributary to it. The population now identified with it, within Kansas alone, is about eighty or one hundred thousand, and this is constantly and rapidly increasing. A road through this region to the Rocky mountains would pass within one hundred miles of Denver City, so that all the population of that section would be interested in it, and do their entire business upon it—they already having a good and practicable wagon road upon which they could reach it without difficulty. It would moreover accommodate the people of New Mexico, Utah, Colorado, and all the northeastern portion of Arizona, all of whom would do their whole business upon it. The present aggregate of the population thus accommodated is not less than from two hundred and fifty to three hundred thousand, and by the time of the completion of the road to the mountains, that number would be very much increased. It is evident, therefore, that with the trade and commerce of all this region passing over this road, increased, as it will be, by the mineral discoveries which are constantly going on there, it would be a paying and self-supporting road from the beginning, if it never were constructed beyond the Rocky mountains. Already our adventurous population is pressing in that direction, and a few years only will see this whole country densely occupied with an industrious people, whose labors will go to swell the great aggregate of our national wealth and prosperity.

The snow through this region of country rarely ever lies longer than a week after falling, and the ground is bare during the greater part of the year. The Pass through the mountains is not so subject to violent winds as the South Pass, nor does near so much snow fall. The distance between the two Passes is from two hundred and fifty to three hundred miles.

It is worthy of observation, as a point of importance to the Government, that this route passes three military posts after leaving Fort Leavenworth, which must continue to be, for many years to come, the point from which our military supplies must be sent west. The posts by which it passes are Fort Riley, Fort Larned, and Fort Wise, and these are upon the direct line upon which all our other posts in New Mexico, Utah, Colorado, and Arizona must be furnished throughout all the future. The completion of the road would draw to it, necessarily, all these supplies.

This road is central in every point of view; and is more especially so if we take into consideration the entire Union, both North and South. Although it passes, its entire length, through loyal territory, it yet occupies a district of country easily accessible by branch roads to either section, and will really become the means, upon the suppression of the rebellion, of uniting us in a more compact union; for it will bring the people of the two sections together in their search after the large trade which will be controlled by the road.

The preference of this route over that up the Platte may be seen at a glance, from the fact that while it will accommodate Utah, Colorado, Arizona, New Mexico, and Kansas, that up the Platte would accommodate only a portion of Colorado and Utah and Nebraska, leaving out entirely all Kansas, New Mexico, and Arizona.

But, Mr. Chairman, I do not stand here as the advocate of any particular route for a railroad to the Pacific. I have indicated a preference for reasons briefly and imperfectly stated, but I am for any route that is practicable and will pay. Any line connecting the two oceans must pass through Indiana, and the Ohio and Mississippi railroad, which passes through three counties of my congressional district, will most likely be our part of this great line of internal commerce. I am willing to leave the selection of the line to the judgment of those who are willing to prove their faith by their works. Whatever route the capitalists of the country may select, they will thereby give the best evidence they can adduce of their belief that it is practicable and compensatory. If we should undertake here to lay down the line, there is great danger that local interests would influence our selection. Fixing the terminal points, we may safely and properly leave the selection of the connecting line to the good sense of the practical men of the nation, who will be called upon to locate and construct the road. I fear the nation does not appreciate the vast resources of the country the construction of this road would open to settlement. It is the best grazing country in the world. Its natural pastures, without the use of the plow or the scythe, would fatten beef and mutton enough for our whole population. For centuries, we know not how long, it has been the home of vast herds of buffaloes.

Mr. WATTS. There are eighteen millions of buffaloes on these plains, more than all the cattle in Russia.

Mr. DUNN. My friend, the Delegate from New Mexico, [Mr. WATTS,] states that there are eighteen millions of buffaloes on those plains. I do not see their number stated in our census tables; but we know that for days and days the traveler sees them darkening the plains far as his eyes can range. As the pigeons in the autumn darken our western skies, and seem to be innumerable, so these buffaloes on those great central plains seem to be beyond computation.

Could a barren soil support such animal life? There cattle would need no shelter from winter winds or summer heat. A herdsman and a butcher will make them available for human food. But much of that country, on the line I have mentioned, is of the very best for ordinary agricultural purposes. The climate is attractive, and when the means of safe and inexpensive transportation is afforded, the advantages of soil and climate will cause that region to be rapidly populated.

But the construction of a railroad to the Pacific will not only open to profitable occupation that great grazing and agricultural country, but it will give to our enterprising and industrious population ready access to the gold and silver mines of our western Territories and Pacific States. There, awaiting the pick and the shovel, are mines of the precious metals, reserved, it would seem, to this day by a beneficent Providence as a means of enabling us, without the oppression of the people by taxation, to discharge the vastly accumulated expenses of this war. Give to our enterprising people rapid and cheap transportation to the gold and silver regions, and give them the protection of the Government when there, with cheap supplies, and how immensely they will add to the wealth of the nation. As the wealth of the nation increases, the rate of taxation will decrease.

I will not detain the committee by an argument to show the importance of this railroad to our military, naval, and postal service. The honorable gentleman from Pennsylvania [Mr. CAMPBELL] has shown by official documents that the transportation for these services to the Pacific costs the Government annually the sum of $7,357,781; and this is an expenditure which is more likely under present circumstances to increase than decrease. Have the people of the United States no interest in diminishing this vast expense; and may not the Government properly give its assistance to private enterprise in an effort to secure a cheaper and less tedious means of transportation?

In the year 1850 a single firm of contractors transported for the Government across the plains, and principally to Utah, seventeen or eighteen millions of pounds of freight, for which the Government paid them about four millions of dollars. In this transportation they employed more than forty thousand oxen, and the same kind of work is being performed to-day, by oxen and mules, now less to Utah and more to New Mexico. Is this a day for oxen and mules to do so vast a work? No, let us lay down the iron rails and substitute the locomotive, with its power of the volcano and speed of the antelope, for the muscles of oxen and mules.

I have not undertaken to discuss the merits or demerits of the bill before the committee. I cannot hope to have a bill that will accord with my views in all respects. I do not expect it. I do not desire to enter upon this enterprise hastily or inconsiderately; but I do desire to see something practical done towards inaugurating this great work. It is too vast for individual resources. It must, if to be accomplished, have Government aid. Let private enterprise be organized, encouraged, and assisted. I do not wish the Government to be involved in unprofitable experiments. I want the sagacity and economy of private interest to lead, and the Government aid to slowly and cautiously follow. In that way, if at all, this vast work is to be executed.

The generation that has the wisdom to devise, the enterprise to undertake, and the ability to construct a railroad connecting the shores of the Atlantic with the Pacific ocean, will be exalted in the annals of the nation. We may fail to do it,

but it will be done; and I trust the time is not far distant when the black smoke of the locomotives by day, and their fiery sparks by night, marking a line across this continent, will show the great enterprise is accomplished.

Population and Value of Real and Personal Property of the United States, as returned by Census for 1860.

States.	Population.	Value.
Alabama	964,201	$495,237,078
Arkansas	435,450	219,256,473
California	379,994	207,874,613
Connecticut	460,147	444,274,114
Delaware	112,216	46,242,181
Florida	140,424	73,101,500
Georgia	1,057,286	645,895,237
Illinois	1,711,951	871,860,282
Indiana	1,350,428	528,835,371
Iowa	674,948	247,338,265
Kansas	107,206	31,327,895
Kentucky	1,155,684	666,043,112
Louisiana	708,002	602,118,568
Maine	628,279	190,211,600
Maryland	687,049	376,919,944
Massachusetts	1,231,066	815,237,433
Michigan	749,113	257,163,983
Minnesota	173,855	52,294,413
Mississippi	791,305	607,324,911
Missouri	1,182,099	501,214,398
New Hampshire	326,073	156,310,860
New Jersey	672,035	467,918,324
New York	3,880,735	1,843,338,517
North Carolina	992,622	358,739,399
Ohio	2,339,510	1,193,898,422
Oregon	52,465	28,930,637
Pennsylvania	2,906,115	1,416,501,818
Rhode Island	174,620	135,337,588
South Carolina	703,708	548,138,754
Tennessee	1,109,801	493,903,892
Texas	604,215	365,200,614
Vermont	315,098	122,477,170
Virginia	1,596,318	793,949,681
Wisconsin	775,862	273,671,668
Aggregate	31,149,680	$16,020,696,763

Territories.	Population.	Value.
Colorado	34,277	-
District of Columbia	75,080	$41,084,945
Dakota	4,837	-
Nebraska	28,908	9,131,056
Nevada	6,857	-
New Mexico	93,516	20,813,768
Utah	40,273	5,596,118
Washington	11,375	5,601,466
Organized Indians	9,761	-
Aggregate	304,884	$82,227,353

Recapitulation.	Population.	Value.
United States	31,149,880	$16,020,696,763
Territories	304,884	82,227,353
Aggregate	31,454,764	$16,102,924,116

The above statement of the value of real and personal property is not very accurate, owing to the failure of the marshals to make the proper reports.

Population and Wealth of the Central Belt of States and Territories.

States.	Population.	Value.
New York	3,880,735	$1,843,338,517
New Jersey	672,035	467,918,324
Pennsylvania	2,906,115	1,416,501,818
Ohio	2,339,510	1,193,898,422
Indiana	1,350,428	528,835,371
Illinois	1,711,951	871,860,282
Missouri	1,182,699	501,214,398
Kansas	107,206	31,327,895
Colorado	34,277	-
New Mexico	93,516	20,813,768
Utah	40,273	5,596,118
Aggregate	14,318,145	$6,881,304,913

This central belt embraces within one million two hundred and fifty-six thousand eight hundred and five of the half of the whole population, and within $1,170,157,145 of the half of the whole wealth of the United States.

Mr. EDWARDS. I do not propose to address the committee upon this subject in any elaborate or prepared speech. I should be prevented from doing so, if for no other reason, by the seeming inattention of almost all present to a subject of even the vast magnitude of the one now under consideration, and which is to be submitted to their determination. But, sir, I am unwilling that it should seem here that the West only, the extreme West, or even the great Northwest, or all combined, are alone interested in this great subject.

Sir, it concerns the East as much as it does the West. And although the discussion has been confined thus far to the gentlemen from the western portion of the country, I desire it to be understood that this subject has the interest of the East, and has attracted the attention of the East, as much as of the West, and that when the proper time shall come, and now, if it is the proper time, there will be a full coöperation on the part of the East to carry through this great national work that is to have so important an influence upon the future of this nation.

It is too late in the day for any gentleman to undertake to interest the House by attempting to demonstrate the importance of this great connection between the Atlantic and Pacific shores. Its importance is too obvious to make it necessary or proper for any gentleman to enlarge upon it in its details. And, sir, it is not only important, but, if not already, is fast becoming a necessity, and an increasing, a growing necessity which will soon demand the application of the resources of the nation for its accomplishment if now delayed. It has become evident to all that this great railway connection between the East and West is only a question of time. We all know that the communication between these two great extremes is now very circuitous; that it is indirect; that the intervening space can be traversed only by a large consumption of time. We all know that as the Atlantic coast is already fringed and bordered by cities, by population, and wealth, sustained by a breadth of interior country which time has gradually enlarged and improved by settlement and cultivation, and that the Pacific coast is becoming so fringed and bordered, and with much more rapidity than the Atlantic has been, by like population and wealth, by cities on the coast, and by towns and villages and settlements in the interior. We all know that by the wealth of that country, buried in the bosom of the earth, it is growing in importance with a rapidity unexampled in the history of nations.

And we know another fact, that between these two broad margins of population and wealth—the eastern and the western—there is an almost desert region of country, much of which will be exceedingly slow of settlement, presenting few inducements at present, even to the hardy and restless pioneer. It presents a dividing district, as it were—a barrier, almost—against the intercourse between what are to be the two great lines of population, of wealth, and commercial importance of the country.

It is to be the office of this Pacific railroad, when it shall be constructed, to overleap that barrier; to annihilate, almost, the distance between them, so that it will be of slight importance that they are separated by the space that intervenes.

Now, sir, it is in this point of view that this work is important, and it is in this point of view that it is necessary. It is necessary to the business of the country that there should be better facilities for transportation and for the transit of passengers. It is necessary as a facility for social and business intercourse, but I regard it as of much more importance in a political point of view.

If this Union is to be preserved, if we are successfully to combat the difficulties around us, if we are to crush out this rebellion against the lawful authority of the Government, and are to have an entire restoration, it becomes us, with statesmanlike prudence and sagacity, to look carefully into the future, and to guard in advance against all possible considerations which may threaten the dismemberment of the country hereafter. From the geographical face of the country, when the great region of the distant West shall have grown to the size to which it is rapidly tending, when it shall begin to feel its sense of independence, unless the relations between the East and the West shall be the most perfect and most intimate which can be established—by reason of this vast interior space of almost uninhabited country which I have referred to, the empire will be in danger of breaking on the crest of the Rocky mountains, and of separating by the weight of its two sea-girt sections. Then, sir, in this point of view, for the commercial advantages which it will secure, for the business relations it will establish and serve, for the political necessity which exists, and which, if not now, will soon be imperative—for these reasons, I say that the East cannot but look upon this project with favor, and is ready at the proper time to give to it all their energy and all proper encouragement and support.

Mr. THOMAS, of Massachusetts. Let me ask the gentleman from New Hampshire a question. I put it to the gentleman whether, in his judgment, this is a judicious time to commence this work on behalf of the country? I would like to have an answer to the question.

Mr. EDWARDS. I will come to that directly.

It is evident, Mr. Chairman, that this road never can be built by private means. It is too gigantic a work. Experience in this country in the construction of railroads has dissipated all the loose notions of profit which at one time were entertained from every enterprise of the kind which could be projected, whatever might be its character, however visionary it may have been in its inception. The experience of the country has brought the people of capital down to a sober judgment on this subject. They are not now prepared to embark their means in any enterprise which does not afford a reasonable, an almost certain, expectation of a profitable return.

Now, a word in relation to the aid which the Government should furnish for this work, when it should be furnished, and the extent to which it should be furnished. And this brings me to the consideration of the question addressed to me by the gentleman from Massachusetts, [Mr. THOMAS.] Sir, I would say of all other times for the last few years this is the time when we should be less likely to embark in an enterprise which will call for the resources of this Government than in any other. I have been disposed, representing a constituency who are economical in all of their notions and in all their habits, to withhold my vote thus far during the session from every appropriation which did not seem to be called for by the emergencies of the nation. If there was any amount of money necessary at the outset in this enterprise, I should consider it for the time a conclusive objection to the measure. But by the provisions of either bill no demand is to be made upon the resources of the country to any considerable extent for a long time to come, and therefore I am willing to vote for it if properly perfected.

Other gentlemen in this House will exercise their own judgment in relation to the effect of the provisions of this measure. I do not think the condition of the country is conclusive against the passage of this measure at this time, and the commencement of the road at once. If other gentlemen think there ought to be further consideration, and that the uncertainty hanging over the condition of the country should first be dissipated, they will vote accordingly. So much in answer to the gentleman from Massachusetts. For myself, if I shall be satisfied that a bill shall be perfected which will be likely to accomplish the purpose, with no other demands upon the Government than it shall now authorize, notwithstanding the condition of the country is as it is, I shall vote for the bill pledging the credit of the Government to the amount proposed, and trust to the future. I do not feel that this Government is to be subverted, that this nation is at the end of its career. I do not feel that the great internal improvements necessary to develop the country and bind it together are hereafter to be dispensed with. I have no conviction that hereafter we are to cease to increase and prosper as we have done in the past. I believe that we are yet again to move forward as a nation and are destined to reach a state of prosperity and power beyond the conception of those even who are the most sanguine under present discouragements. I shall not be deterred, therefore, from aiding in the initiation of this measure if a bill shall be perfected which is at all certain to accomplish the purpose.

Now, in relation to the character of the bills which have been presented. I do not propose to go into their consideration in detail. I think it is important, before the Government shall pledge an acre of its land or a dollar of its money, that it should be satisfied that the disposition they may make of the one and the other will be effectual to accomplish the object proposed. This should not be left to uncertainty, nor should we be lured by any deceptive holding out of any that should be interested in the execution of this great work into a committal to contributions hereafter, further than those now to be stipulated.

From the little experience I have had in these matters, I have found where a work is undertaken, and where there is no ability to carry it through, either by a corporation, or what is still better, a Government to look to and to lean upon, a public work of almost any description is quite apt to come to a stand still at the point where it ceases to be

profitable, unless it shall receive a new impulse from the source from which it first derived its strength. Now, sir, I do not believe that the land donated by the bill reported by the committee, with the bonds to be issued, will construct this road. I do not believe that $16,000 a mile on a portion, $32,000 a mile on one half of the road, and $48,000 a mile on a small portion of it, will construct the road through from east to west, taking into view all the difficulties of the route. The lands, it will be understood, are only of a nominal value in the central region of the country, a portion hardly of value at all. They will be, therefore, with the exception of lands nearest to the termini, unsaleable for any purpose of constructing this road, and unless, therefore, there be some sufficient guarantee by the provisions of the bill that there will be an entire completion of all that the bill stipulates on the part of proposed grantees, it will be admitted by all that we should not be justified in placing the funds and property of the Government at their disposal. If the bills, either of them, do provide for this assurance, this guarantee, I shall give to it my vote.

There are two bills before the House, as I understand—one the report of the committee, and the other a substitute moved by the gentleman from Illinois, [Mr. LOVEJOY.] I am willing to aid in perfecting both the bill and the substitute; and after they shall have been perfected as the friends of each may desire, or as the House shall determine, I shall, of course, give my support to the one which, in my judgment, will be most likely to lead to the certain accomplishment of the great object in view.

Renewing, then, in conclusion the expression of an earnest desire that the wishes of our friends from the Pacific coast for improved facilities of intercommunication with the earlier settled sections of the country may be fully realized at no distant day, I relieve the committee from any further participation by me in this discussion.

Mr. POTTER. The gentleman is very noncommittal. Is he in favor of any bill for the construction of a Pacific railroad? I would like to understand the gentleman's position exactly on this ground.

Mr. EDWARDS. I will answer the gentleman very frankly. I am in favor of a Pacific railroad bill, and in favor of Government aid in constructing a Pacific railroad under any proper bill. I rose, however, to state the general principles by which I shall be governed upon the general subject, rather than to indicate my action upon these particular bills. This I may indicate when the bills shall be considered in their details.

Mr. WILSON. I do not propose to go into a discussion of the general subject involved in this measure, and I shall occupy the attention of the committee but a few minutes in suggesting some of the objections which I have to this bill, and in bringing before the committee some of the amendments which I propose to offer.

I need not say that I am in favor of the construction of a railroad to the Pacific ocean, for the unanimity among my constituents in that regard would compel me to favor a measure of that kind even though it might run counter to my own judgment in some respects. I desire, sir, sincerely desire, the accomplishment of this great work at as early a day as practicable, and because of this desire, I shall endeavor to place this bill in such a shape by amendments as will secure its object, and at the same time remedy its objectionable features.

We were told a few days since by the chairman of the special committee, [Mr. CAMPBELL,] who reported this bill, that it was substantially the Curtis bill. Since that announcement was made by the chairman of the committee, I have been diligently studying this bill in connection with the Curtis bill, to discover the similarity existing between the two. Thus far, I have not been able to make the discovery.

MESSAGE FROM THE SENATE.

Here the committee rose informally, and the Speaker having resumed the chair, a message from the Senate by Mr. FORNEY, its Secretary, announced that the Senate had passed a joint resolution (S. No. 77) for the relief of the officers, non-commissioned officers, and privates of the battalion of marines on board the transport Governor on the 3d of November, 1861; and a bill (S. No. 271) prescribing the qualifications of electors in the cities of Washington and Georgetown in the District of Columbia; in both of which he was directed to ask the concurrence of the House.

The Committee of the Whole on the state of the Union then resumed its session, and proceeded again to the consideration of the

PACIFIC RAILROAD BILL.

Mr. WILSON. The first section of the Curtis bill, as it is called, provided—

"That to insure the safe, certain, and speedy transportation of mails, troops, and public stores from the western border of what is called our western States, by railroad, to wit: starting from two points, one on the western border of the State of Missouri, and the other on the western border of Iowa, with two converging lines bearing westward and uniting within two hundred miles of the Missouri river, and thence proceeding by a single trunk line, by the nearest and best route and by the vicinity of Great Salt Lake, to the city of San Francisco, or to the navigable waters of the Sacramento," &c.

Now, sir, that bill does not determine or place it in the power of one corporation, whose organization was contemplated by it, to determine where the eastern terminus of the main trunk of the Pacific road shall be. It leaves the location of the road open to the competition of the several rival routes, though its friends believed the Platte valley route would be selected. It does not provide a barrier against the construction of either of the branches embraced in the section. It presents merely a scheme by which a railroad to the Pacific ocean, with the two branches mentioned, may be constructed. The bill reported by the committee—and the section to which I shall refer is retained in the substitute—provides, in the eighth section, that

"The line of said railroad and telegraph shall commence on the western boundary of Kansas, or at the one hundred and second meridian of longitude west from Greenwich, at the termination of the Leavenworth, Pawnee, and Western railroad and telegraph line, as herein provided, to meet and connect therewith as herein provided; thence running westerly, upon the most direct, central, and practicable route, through the Territories of the United States, to the eastern boundary of the Territory of Nevada, there to meet and connect with the Nevada railroad line across the Territory of Nevada."

Now, sir, so far as the point at which the main trunk shall start is concerned, it is placed entirely within the control of the Leavenworth, Pawnee, and Western Railroad Company, organized in the State of Kansas, or rather, I think, under a territorial act of Kansas before it was admitted as a State; and in this connection, inasmuch as this power is placed in the hands of that company, I desire to receive some information, and to have it imparted to the House by the chairman of the committee, in relation to the powers conferred upon the Leavenworth, Pawnee, and Western Railroad Company by the charter which it received from the territorial government of Kansas. I ask the gentleman from Pennsylvania whether he can inform the committee what powers are conferred upon that corporation, where it is required to commence the road, by what points it shall run, and at what point upon the western border of Kansas it shall terminate?

Mr. CAMPBELL. I consider the gentleman's inquiry entirely apart from the question before the committee; but I will, to the best of my knowledge on the subject, answer it. The committee were satisfied, from information derived from the Representative of Kansas, [Mr. CONWAY,] who, unfortunately, is very ill and unable to be here to-day, that this company was a substantive valid company, with corporate capacity sufficient to go on and construct the road through Kansas. As we were not adopting any route fixed by that company, and had nothing to do with any local route fixed in their charter, of course we did not pursue the inquiry any further than to ascertain that there was such a corporation, with ability to go on and construct this road. We do not adopt any route which the State of Kansas may have fixed in the charter of that company. We fix the starting point, and then authorize them to go on, by the nearest, most direct, and practicable route, to construct this part of the Pacific railroad. Having nothing to do with the road they were authorized to construct in their charter, we made no such inquiry.

Mr. WILSON. It is evident from the gentleman's answer that the committee, before they determined to place this power in the hands of the Kansas company, did not examine the charter of the company, and we are asked to support a bill placing this extraordinary power in the hands of a company of which we know nothing, and of whose powers we have no information; nor have we any knowledge that the company at the present time is a solvent one, or that it has taken any steps to carry out its organization.

Now, sir, I say that so far as this bill is concerned, this Leavenworth, Pawnee, and Western Railroad Company is the pivot upon which the whole system of the bill turns. The gentleman says that they have not provided by this bill that this company shall have power to determine the starting point for the road to be constructed by the Union Pacific Railroad Company.

Mr. CAMPBELL. I made no reference to the Union Pacific Railroad Company.

Mr. WILSON. The gentleman misapprehends me.

Mr. CAMPBELL. The gentleman made issue with the committee that this bill is dissimilar to the Curtis bill. The Curtis bill fixed one of the branches on the western border of Missouri, and the other upon the western border of Iowa; and it provided that the road should be constructed by the nearest, most direct, and practicable route to San Francisco or the navigable waters of the Sacramento. Now, I call the gentleman's attention to the fact that the only difference between this bill and the Curtis bill is, that we fix on the point on the western border of Missouri, to wit: Kansas City; but do not fix upon the point in Iowa; and then we adopt the language of the Curtis bill, that the road shall be constructed on the nearest, most direct, and practicable route to San Francisco or the navigable waters of the Sacramento; and the Kansas company cannot change that direction or location.

Mr. WILSON. The Kansas Company will not change the direction or location of that road, provided the western terminus of the Kansas Company is fixed by their charter; but then their charter would determine it. But I say that this bill places it in the power of that Kansas Company to determine the point at which the Union Pacific railroad shall start, and I may say here, in illustration of that point, that I have diligently studied this bill, and it has required the preparation of twelve or thirteen amendments, applying to the different sections of the bill, to root the contract of the Kansas Company out of the bill. It runs through the whole system. They have tied up the power of determining the point at which the main trunk shall commence in the hands of this Kansas Company. I am not mistaken in this, and to show that I am not, I will again refer to the section which I have already quoted, and which relates to the main line, the line of road to be constructed by the Union Pacific Railroad Company. The eighth section provides that "the line of said railroad and telegraph shall commence on the western border of Kansas, at or near the one hundred and second meridian of longitude west of Greenwich, at the termination of the Leavenworth, Pawnee, and Western railroad and telegraph line, as herein provided."

Now, sir, it is at the termination of that railroad that the main trunk is to commence, and wherever that road may terminate—it having to be constructed before they commence the construction of the main trunk—there will commence the main trunk provided for in this bill. A provision of that kind utterly shuts out from competition for the location of the main trunk the great Platte valley route.

Again, sir, suppose that the Leavenworth, Pawnee, and Western Railroad Company should construct their road so as to strike the western boundary of Kansas midway between the northern and southern boundaries of the State, where is the main trunk to commence? If they should select the central or the Kansas and Colorado route, they not only thereby determine the route of the main trunk, but by that selection determine that the Iowa branch road shall not be constructed at all; for the Iowa branch could not make a connection in the distance limited by this bill. If, on the contrary, you provide that the branches shall come together at a point in the Platte valley, you render the construction of both branches practicable, because the Iowa branch may pursue the route of the valley of the Platte river, and the Missouri branch can pursue the valleys of other streams running from northwest to southeast, and emptying into the Missouri river on the borders of Missouri. But

if the plan of this bill is to be carried out, you defeat the Iowa branch, as before stated, and the committee would there place such a barrier in the way of the Iowa branch that it would never be constructed; and I wish to call the attention of the committee to the fourteenth section of the bill reported by the select committee, and which is also retained in the substitute. It is as follows:

"That the Dubuque and Sioux City Railroad Company, the Cedar Rapids and Missouri Railroad Company, the Mississippi and Missouri Railroad Company, and the Burlington and Missouri Railroad Companies of Iowa, or such of them as may associate themselves together for that purpose, are hereby authorized to construct a single line of railroad and telegraph from a common point to be agreed upon by said companies, or any of them, from a point in the State of Iowa not further east than a line extending due north from Kansas City, westerly, not to exceed three hundred miles in length, and as much less as may be found practicable, to a connection with the line of the said Kansas Company, upon the same terms and conditions in all respects as are contained in this act for the construction of said railroad and telegraph line first mentioned."

It provides further that each of said companies shall file their acceptance of the conditions of this act in the Department of the Interior within six months after the passage of this act; a failure to do so on the part of one would deprive the remaining companies of the power to construct the branch, even though they might be able to agree on some common point. A mere statement of the lines of the Iowa railroad companies will show that it is impossible for them ever to agree on a common point from whence to commence the construction of the Iowa branch. The route of the Burlington and Missouri River Railroad Company passes through the second tier of counties from the southern border of the State. The Mississippi and Missouri road passes through a portion of the third and fourth tiers of counties. The Cedar Rapids and Missouri road passes through the fifth tier of counties from the southern line of the State; and the Dubuque and Sioux City through the sixth. All are required, by their land grants, to commence at certain points on the Mississippi river, and to have their termini at certain points on the Missouri river. The companies cannot change their routes without a loss of their land grants, and without a violation of their charters. They cannot, therefore, unite on a common point on the Missouri river.

Then again, sir, this section does not provide that the Iowa branch shall form a connection with the main trunk; but it provides that the connection shall be formed with the Leavenworth, Pawnee, and Western railroad line, thereby putting it within the power of that company to fix the conditions on which the Iowa branch may connect with it. Therefore the Iowa branch may, under the regulations that may be established by the Kansas Company, be almost entirely excluded from the benefits which should arise from a connection with it.

Now, Mr. Chairman, I am not merely representing Iowa interests when I claim that this bill shall be changed in these several features, but I am representing the interests of all those great lines of railroad leading from the Northeast, through the middle and western States, to the western boundary of Iowa. All these lines will, by Iowa being deprived of this branch road, be deprived of their connection with the main trunk proposed to be constructed by the Union Pacific Railroad Company. To remedy this evil I shall, at the proper time, propose an amendment, which I hope may be acceptable even to the committee which reported this bill. I will propose it as a substitute for the fourteenth section, which congregates together all these conflicting railroad interests in the State of Iowa. It is as follows:

Strike out all after the word "enacted" in the first line of the fourteenth section, and insert as follows:

That the said Union Pacific Railroad Company are hereby authorized to construct a single line of railroad and telegraph from a point on the western boundary of the State of Iowa, westerly, upon the most direct and practicable route, so as to form a connection with the line of the said Kansas Company, at some point not more than two hundred and fifty miles from the point of commencement on the western boundary of the State of Iowa, upon the same terms and conditions in all respects as are contained in this act for the construction of said railroad and telegraph line first mentioned; and said Union Pacific Railroad Company shall complete one hundred miles of the road in this section mentioned, within two years after filing their assent to the conditions of this act, as by the terms of this act provided, and at the rate of one hundred miles per year thereafter, until the whole is completed: *Provided*, That a failure upon the part of said company to perform the obligations imposed on it by this section, shall forfeit to the Government of the United States all of the rights, privileges, and franchises granted to and conferred upon said company by this act.

The idea is simply to confer on the company that is to be required to build the main trunk of the Pacific road, the power to build the Iowa branch, and to require its completion at the hands of that company. The other branch will doubtless be constructed, because it is the pivotal point on which this whole system depends. I ask, then, that the great interests connected with the Iowa branch shall be so far protected that the people in that State, and all others connected with them by interest, may participate in the benefits of this great improvement.

I may here suggest another amendment which I understand will be offered by another gentleman, and to which I give my assent. I would even prefer it to my own. It is to provide by this bill for the construction of one great line of railway, commencing at Fort Kearney and running through to the Pacific ocean, and also providing for three branches, one from the western boundary of Missouri, one from Iowa, and one from a point north. Let the amount of bonds to be issued to these branches be less per mile than is provided for in this bill, so that the aggregate amount for the three branches shall not be more than the aggregate amount provided for the two branches, as the bill now stands. With that I shall be perfectly satisfied. I do not want to shut out the interests of Missouri, nor the interests of the great railway lines connecting Missouri with the East. This improvement is one of not merely local interest, but of a common national importance, and our legislation should preserve this national feature, by providing with some degree of fairness for all the great interests connected therewith.

There is one other suggestion in regard to this bill which I desire to make. It is in reference to the corporation formed by the first section of this bill. Under that section corporate powers are conferred on certain parties, as follows:

"And the said persons, their associates, successors, and assigns, or such of them as accept under this act the terms thereof, for that purpose, are hereby made and constituted a body corporate, by the name and style of 'The Union Pacific Railroad Company,' by which name they may acquire, hold, and convey real estate and other property, sue and be sued, have a common seal, elect the necessary officers, make such by-laws, rules, and regulations as may be required for their government, in conformity with this act, and generally to do all and singular the matters and things necessary and lawful to be done to carry out the provisions thereof."

That provision constitutes this a close corporation. It excludes from participation in its benefits all except those who are named in the section, and those who may so far receive the favor of the corporation named as to be admitted, with their assent, into the corporation. I prefer to have this left open. I prefer, and would so provide, that books should be opened and kept open for a certain length of time in the several States having corporators named in the bill, in order that all citizens who may desire to invest in the enterprise may have an opportunity of doing so. In addition to that, I would prefer that the subscriptions which persons may make to the capital stock of the company within a limited time should be confined within a certain amount to each person, in order that these corporators and the friends whom they may choose to associate with them may not have the privilege of subscribing the whole amount of the capital stock, and thus preserve the close character of the corporation. If the whole amount shall not have been subscribed at the expiration of the time limited, then I would permit the corporators or others to subscribe in unlimited sums the remainder of the capital stock. I think that section of the bill should be amended in that form.

If this bill shall pass, there will be conferred upon this corporation an immense power, and it will be not only a commercial power but a political power in this Government. The amount in lands and bonds that we propose to donate to this corporation—for it really amounts to that—for the purpose of enabling them to build this road, will give it immense importance and power. And for the purpose of holding a more decided check upon the organization, I would amend the last section of the bill so as to retain in Congress the reserved right to repeal this act, and take away from the company all the rights, privileges, and franchises hereby conferred. I think that is a check which should be retained by the Government upon a corporation of this magnitude. It is our duty to guard the people against any such concentration of power as a corporation of this magnitude would possess uncontrolled by any check of the law-making power upon them.

Now, sir, I have indicated the various amendments that I think ought to be made to this bill I do not desire to interfere with the main objects of the bill. I do not desire to break up the system proposed by the committee. I only desire that the bill shall be so perfected as that the public welfare shall be protected, and the interests of all guarded against encroachment by the corporation upon which we propose to confer so magnificent an endowment. I think the amendments I have indicated will accomplish that object.

Mr. WATTS. The world does not produce and never has produced such a nation as the American nation. But in all its power and in all its beauty, in all its richness and blessings, it has one little defect. And that defect is too much talk and too little action. [Laughter.]

Now, we have been talking about a Pacific railroad for the last ten years, and we have spent a sufficient time in fighting over the interests of this locality and that locality, over this route and that route and the other route, we have talked of all these various details long enough to have built a Pacific railroad, if we had only spent as much energy in action as we have in talk. Now, if we wait until all the debate that would arise upon a measure of this kind is concluded we shall never commence the work.

Mr. EDWARDS. I would like to know whether the gentleman from New Mexico is willing to be responsible for his share of talking?

Mr. WATTS. Entirely so; and my record will not compare unfavorably with that of the gentleman from New Hampshire, so far as the consumption of the time of the House is concerned. And while I am upon this particular branch of the subject, let me say a word to the distinguished and eloquent gentleman from New Hampshire, who has just taken his seat. I have listened to him upon all occasions with great pleasure, and particularly to-day, to what he said upon the subject of a Pacific railroad. I am glad to see that the gentleman begins fairly to appreciate that there is another section of country than that from which he immediately comes, and other interests in the country than those which he peculiarly represents. I am glad he begins to appreciate the fact that there is a great West and a great Northwest, which in two years will come into these Halls, not only asserting her rights, but with the ability to enforce them. She will then have no need to appeal to the generosity of any man for justice.

That great West which the gentleman talks about has now a population represented on this floor of three hundred thousand more than all the other sections of the country that are here represented. And, sir, the great West does not come here to complain that thirty, fifty, or sixty millions of dollars are voted here, week by week, for the protection of the great commercial and other interests of the East; but she asks that some little measure of justice may at the same time be meted out to her when she asks that a measure shall be adopted that shall develop not only her's but the best interests of the great American public. And we believe that at the hands of our eastern friends the bill will have justice. We believe that it is in their hearts, that it is in their bosoms, to extend to us that justice which we deserve and which is our due. When we look at the record of the past, we are disposed only to remember their acts of kindness and generosity, rather than acts of injustice and wrong, and we believe they will not fail us now.

Now, sir, so far as the Territory from which I come and many of the other Territories are concerned, we are dependent upon the East, and we shall be more so as the facilities of communication increase, for many of our necessities of life. Every shoe in New Mexico comes from Boston, every article of dry goods comes from Philadelphia or New York, and our groceries come from Missouri.

Is it, then, any objection, is it any loss to the people of the East that we have a safe and speedy communication between the buyer and the seller? On the contrary, is it not a great advantage?

Let me now come to another point in connection with this subject. Look at the Mississippi river. Is there any member of this House who,

for any consideration in money, would have that great, magnificent river blotted out of the continent? Well, sir, we propose to make a great Mississippi from one extremity of this continent to the other—one great artery, in which the channels of wealth and commerce can flow and be distributed throughout the length and breadth of the land.

If there is a spectacle more humiliating than any other to the American people, it is to be compelled to ask the privilege of passing from one portion of our own country to another of some foreign Government. How is it now? We have to buy of the States of Central America the permission to cross the Isthmus for the purpose of communicating between the different portions of our own Republic, or else to spend weeks, months, and years of labor almost in crossing the broad plains that intervene.

So far as these lands are concerned, there ought to be no objection to the donation proposed for the purpose of aiding the construction of this road. Let there be no objection on that score. There certainly should be none, for two reasons. In the first place we have stolen the lands from the Indians, and in the second place we have already received into the Treasury $62,000,000 more than the lands cost us. I do not see, then, any reason why we should not use the lands that remain in our possession for some general public purpose, rather than to devote them to some private purposes.

Now, then, so far as the constitutional objection is concerned, it reminds me very much of some of the able and eloquent addresses which I have heard in former days upon the subject of trade. One of the distinguished members from Pennsylvania, for instance, will make an elaborate argument in favor of free trade, but just before he sits down he will say, in effect, that we must have a little protection for iron. One of the able members from Louisiana will make a conclusive speech in favor of free trade, but closes with an appeal for a little protection for sugar. Another gentleman from Ohio makes an able and eloquent argument in favor of free trade generally, but before he sits down thinks the interests of the country require that there should be a little protection on wool. So in every section of the country all are in favor of the doctrine of free trade in the abstract, but each must have his particular interest protected. So in reference to the Pacific railroad; it has a great many friends; all are in favor of a Pacific railroad, but they do not just like the particular bill, nor will they like any bill unless it starts in the corner of every man's farm and runs through all his neighbors' plantations. [Laughter.]

Now, sir, all the propositions in reference to this Pacific railroad bill which have been presented by members of Congress were referred to a select committee, for the purpose of having them digested, and some plan reported which would be acceptable to the whole House, for the purpose of commencing the construction of this great work. The bill I had the honor to introduce, with many others, was thrown into the hands of that committee. After a careful consideration of all the measures before them, they reported the pending bill. It puts my bill and my opinions entirely out of the question. It leaves nothing of what I submitted. But that is no reason why I should oppose the report of the committee. It is a good step in the right direction. If any wrong or any injustice be now done to any section, a proper remedy can be provided hereafter. What we want now is to get the road started. That is the desideratum. Let something practical be done at this time. That committee was composed of intelligent gentlemen. They have matured a bill, and they have presented it for the action of this House. If it be not perfect, what then? There is nothing human that is perfect. Yet, sir, this bill is as perfect as any which could be matured and presented to this House. Why not, then, throw individual opinion aside and go for it?

Mr. Chairman, what we want in the House more than anything else is a leader. We want some one here who can represent the feelings and intentions of the business portion of the members. As it is now, scarcely a measure can be brought forward but half a dozen leaders instantly take the floor. Branches then are established, running out in all directions. If we have selected a judicious committee to which we have presented any matter, let us have faith in that committee, and that the bill they may report is as perfect as they can make it. Let us stand by their bill and pass it. What a spectacle we would present if the Committee of Ways and Means, on every bill that it reported, permitted every member who felt like it to attach what amendments he pleased. We would never get any business through at all, or if we did there would be nothing but confusion and disorder in it. Then I say let us stand by the bill in this instance which was reported from the committee on the Pacific railroad.

I have a word to say now in reference to the objection of the gentleman from Iowa, [Mr. WILSON.] If there is any section of the country more peculiarly favored by this bill than another, it is the State of Iowa. This bill has showered favors upon that section. It does secure to it a branch of this important railroad, which privilege it does not secure to any other State than the State of Iowa. Then, why should Iowa object?

Mr. WILSON. Does not this bill provide three branches for the State of Missouri?

Mr. WATTS. I do not understand that it does. The idea will strike every man who looks at the map, that a branch should go in the neighborhood of Fort Smith, so that there may be a connection with Memphis and all of the southern roads of the Atlantic sea-board. The main central road should go through the center of the country, at some point in Kansas like Leavenworth. It is a matter of perfect indifference with me whether it is above Leavenworth or below Leavenworth.

But that is not all. I want to say another word in reply to my distinguished friend from Iowa. This bill has been drawn by the committee with a special reference to Iowa. Any one who will read the fourteenth section of the bill will see that the State of Iowa has under it one hundred miles of road west of the Missouri more than any other State.

Mr. WILSON. The roads in Iowa, under the provisions of this bill, will have to change their route and yield up the lands granted to them by the Government for the purpose of aiding in their construction.

Mr. CAMPBELL. This bill puts the roads in Iowa upon precisely the same footing as the roads in Missouri. If the local charters of the roads in Missouri or Iowa require any supplementary legislation, I have no doubt that it can be procured. So far as Iowa is concerned, there is nothing in this objection. Missouri and Iowa are upon precisely the same footing in regard to the grant of lands.

Mr. WILSON. I wish to ask whether this bill does not provide for the construction of three lines of railroad running west from the boundary of Missouri, one commencing at Kansas City, another at the terminus of the St. Joseph and Hannibal railroad, and the other at a point the name of which I now forget?

Mr. CAMPBELL. The gentleman from Iowa evidently has not read the bill. When he does read it, he will discover that the Missouri and Kansas roads are authorized to combine for the purpose of constructing a single line. As the bill contemplates a connection with all of the eastern roads, it authorizes them to unite in order to complete a single branch.

Mr. WILSON. Are not the three Missouri companies required to commence one branch at some point upon the western boundary of Kansas?

Mr. CAMPBELL. They are obliged to commence at Kansas City.

Mr. WATTS. When interrupted I was referring to the objection of the gentleman from Iowa, [Mr. WILSON.] In my judgment this bill gives to Iowa one hundred miles of advantage over any other State. It will be recollected that the roads in Iowa are not completed to the Missouri river. They are far from being completed to the Missouri river; and in order that they may be connected with the main trunk of the road, it will have to be deflected north instead of going direct west. It will have to be deflected to a great extent in order to accommodate the railroads in Iowa. If there is any injustice done at all, it is to the whole Union in compelling a deflection of one hundred miles north in order to form a connection with the Iowa branches.

Now, I believe that the distinguished gentleman from Iowa will, upon reflection, conclude to support this bill, notwithstanding the Committee of the Whole may not choose to agree to the amendments which he proposes to offer. I believe that the time has come when there should be action on this matter. Every gentleman familiar with the business of this House knows that unless we trust something to the committee, and that unless we stand by the measure they have matured, the matter will be delayed from session to session, until finally nothing is done.

There has been much talk here about the great plains which are said to be sterile and to produce nothing. Let me say a word on that. Almost every man here likes a good beefsteak. How do you get it here? You take a plow, turn up the land, plant the corn, and when the autumn comes you gather the corn. Then you fatten your cattle with it. After months you succeed in getting a beefsteak. With a little powder and lead upon those sterile plains you can get a good beefsteak in fifteen or twenty minutes. They support more cattle than the rest of the country besides, and I believe that a white man is pretty near as good as an Indian, and can live on almost anything that an Indian can live upon. Then there are resources in this country, and if every acre of this soil that I am talking about will not produce a hundred bushels of corn, it will produce a hundred dollars worth of gold, or silver, or iron, or some other useful metal.

I have been some twenty-six times across the country, and am familiar with the route, and there is not upon the face of the earth any country where a railroad can be built at such little expense. I am somewhat familiar with the building of railroads, and know something about what country is suitable for building them and what is not, and up to the point where you reach the Rocky mountains, six hundred miles west of the Missouri, there are no obstructions in the way. It is a gentle ascent, and affords almost every facility for the construction of a railroad. After you reach that point, I must confess that "Jordan is a terrible hard road to travel" for some distance beyond, so far as a railroad is concerned. [Laughter.]

But, sir, I have been admonished by my friend from New Hampshire [Mr. EDWARDS] that I ought practically to act upon the maxim with which I started out, that it is action that is wanted upon this great subject, and not talk, and I will not further interrupt the progress of the debate with any remarks of mine.

Mr. PIKE. Mr. Chairman, the gentleman from New Mexico has informed the House that its great need is a leader. While he is busy looking after that desirable person, I will proceed to make a few remarks, and as undoubtedly he will find but little trouble in selecting a person who shall not only satisfy his desires, but the desires of all, he can announce him after I get through. Being somewhat accustomed to act upon my own judgment, and in accordance with the conclusions which I arrive at from the operations of my own mind, I propose to act with reference to this bill upon the conclusions I have formed after a slight examination of the subject.

I am in favor of the postponement of this bill until the next session of this Congress, and I wish to make one or two observations, giving the reasons why I am in favor of such postponement. The gentleman from New Mexico has further informed the House that the great difficulty under which we labor in this country is too much talk and too little action. Where has the gentleman been that he has not heard the sound of cannon within the last twelve months, that he has not seen or heard of the march of a million of men, whose tread is now shaking this continent? It is because there is too much action, altogether too great activity in various portions of this nation, that I am in favor of this postponement, and until we have some surcease of this immense activity, I shall continue to be in favor of postponement. For the present, I am in favor of postponing this bill until the first month of your next session. It may happily be that by that time we shall find out where we are and what prodigious load of debt is devolved upon us and upon our descendants for years and years without end.

Consider for a moment the magnitude of this project which it is now attempted to launch upon this House. Eighteen hundred miles do not number the distance from Kansas City to Sacramento. Add to it the moderate margin of ten per cent., and you have two thousand miles of railroad in a direct line from Kansas City to Sacramento, at the

head of the tide-water of California. In addition to that, there are four hundred miles of branch roads included in this scheme, making twenty-four hundred miles of railroad that we are now asked to build.

Well, sir, every man acquainted with the statistics of this country, knows that the average cost of railroads is at least thirty-five thousand dollars to the mile. In the State of Pennsylvania, which has three thousand miles of railroads, the cost is set down in the last estimate at $150,000,000—$50,000 per mile. How would it be with this railroad, starting from the western border of Missouri and running over the vast desert that lies between the valley of the Mississippi and the Rocky mountains, then scaling the mountains and landing the track upon the head-waters of the Sacramento river? Will any man say that you can build such a road with as little expense as you can construct roads in the thickly-settled East, where the materials are at hand, and where villages dot the line of the road; or as cheaply as in Pennsylvania, to which I have referred? No man who knows anything of statistics, no man who knows anything of the history of railroad building in this country, will for a moment suppose that this road can be built for a cost of less than $60,000 per mile. That is a moderate estimate, when you find roads in Pennsylvania costing $100,000 per mile, and the Baltimore and Ohio road costing—how much? Can any gentleman tell me, for I have not the figures in my mind now? I venture to say that it cost over fifty thousand dollars per mile.

Mr. CAMPBELL. The estimate for this road is $60,000 per mile.

Mr. PIKE. I was not aware of that. Then we will not quarrel about these figures.

Mr. CAMPBELL. The Government is to aid only to the extent of a little more than half the cost.

Mr. PIKE. Then we have a road calling for $150,000,000. This bill calls for that sum.

Mr. CAMPBELL. The Government aid under this bill cannot exceed half the cost of the road. The other half of the cost is to be met without Government assistance.

Mr. PIKE. I am coming to that point. If the gentleman had paid attention, he would have found that I was hard upon it. I ask where is the great interest in this country, or combinations of interests, that is to furnish $75,000,000? Can any gentleman tell me? There is no travel from the Pacific coast to the eastern coast to justify it. Here are eighteen hundred miles of railroad, through an uninhabited country; one hundred passengers to the mile per annum gives one hundred and eighty thousand annually, a very large estimate of the carriage of passengers from one end of the road to the other. But what are one hundred passengers to the mile annually upon a road costing $50,000 per mile? Railroad men understand very well that a road where you cannot have two thousand passengers to the mile is a road not worth considering as a mercantile enterprise.

Now, there are two branches to this matter, and two legs upon which it finds support. One is the mercantile interest, which no gentleman who has discussed the question heretofore has ever put it upon. No man sees any money in this road except in the contracts for building it. The other ground is a political one, presenting considerations to which ordinarily my mind would yield cheerfully; but how is it now? How does this country stand now? Why, the chairman of the Committee of Ways and Means announced to us the other day that on the 1st day of July, a time approaching very rapidly, the debt of this country will be $800,000,000. Sir, I find the mind is bewildered by these large figures. I have sometimes thought that the members of this House vote large sums more readily than small ones. This $800,000,000, as compared with the resources of this country and with the interest which that debt carries—from six to seven and three tenths per cent.—is a counterpart, and more than a counterpart, of the British national debt; so that on the 1st of July we shall be carrying a debt which is larger, in proportion to our resources—that is, to our valuation of property, and taking into consideration the difference in the rates of interest—than the British national debt is to the property valuation of Great Britain.

Nor is that all. Would that we could stop there. Would that we could say, "thus far, and no further." But can any gentleman on this floor tell me that our debt is to be kept down to that sum, and that so soon the smiles of peace are to bless us? Can any gentleman tell me that this war will not run through another year, and perhaps another, before it accomplishes, as I believe it ultimately will, the purpose which we all so much desire? Yes, Mr. Chairman, whenever we arrive at that point that we can say "this accumulation of debt is stopped;" when we can figure it up and say "so much interest annually shall be assessed on this people," then I will be willing to consider and to vote on a Pacific railroad. But now we are in a position not dissimilar to that of a man laboring under an acute disease from which it is doubtful in the eyes of the bystanders whether or not he will recover, and in regard to whom the question is whether you will present him with a plan of a beautiful dwelling calling for a large outlay of money, or whether you will not invest his money in medicines to bring him back to health, so that, by and by, he may be in a condition to occupy this beautiful abode. For one, I go for the medicine. I am perfectly willing to vote for the medicine. I am willing to vote any sum of money which shall cure our body politic and restore it to its accustomed health.

We have now, Mr. Chairman, a bill before us which, if carried out, will call for an appropriation very nearly equivalent to the assessment of $1,000,000 on the constituency of every member of this House. There are one hundred and eighty members here, including the gentleman from New Mexico and the Delegates from other Territories, and as the cost of the road is to be $150,000,000, it will be nearly equal to $1,000,000 for each of our constituencies. If the road is to be built, it is to be built as a national enterprise and at the national cost. That cost the chairman of the special committee agrees with me in saying will be $60,000 to the mile, for a road of two thousand four hundred miles.

I know that nominally the Government is to be called upon only for the limited amount specified in the bill. But that is only nominal; when we begin to make investments we must go through. There is no corporation or body of men or interest which will furnish any considerable proportion of the outlay. We deceive ourselves if we think to get any amount worth reckoning out of private individuals.

And, sir, we do well to bear in mind that for us pay-day has come. For the first time for forty-six years, we are about to send the tax-gatherer among our constituents to get money to pay the debts we have been incurring. It was well enough to vote money freely when it could be replaced by the indirect methods we have practiced for nearly half a century, but now there is no disguise to be adopted. It is a bold and common-place dun. Every constituency is to be assessed and called upon at once.

Under these circumstances, I am in favor of a postponement of the bill until next winter, when we can ascertain more clearly than we now can, whether or not we should vote this large appropriation.

Mr. KELLEY. Mr. Chairman, the argument of the gentleman from Maine, [Mr. PIKE,] more thoroughly than that of the gentleman from New Mexico, [Mr. WATTS,] has persuaded me that this bill ought to be passed immediately.

Prior to the completion of the Pennsylvania Central railroad, the traveler through that region of country used to ascend the Alleghany mountains by a series of inclined planes. The route was picturesque, the scenery grand, and distinguished travelers were very often, in violation of the rules of the company, taken to the front platform of the car that they might enjoy the view of the grand natural panorama. One such traveler was an old marshal of the first Bonaparte. As the train ascended plane number six, approaching the summit level, the old soldier manifested his interest in the scene by perfect silence; but as the car ran on the broad level and he caught a glimpse of its fields of golden wheat and verdant meadows, he exclaimed, with the voice of a stentor, "Attention, the universe! Nations, about face! Before me lies the granary of the world, the garden of the future." He beheld, in imagination, the great valley of the Mississippi, which embraces the West and the great Northwest, which have been talked about in this Hall to-day, so proudly and with so much justice.

Mr. Chairman, the great indebtedness and the great activity of the country spoken of by the gentleman from Maine are, in my judgment, reasons why this work, so grand in its proportions and of such grandeur, in view of the results it is to produce to the country and the world, should be commenced at once. I ask the gentleman whether, if this bill were to become a law to-morrow, it would draw one dollar from the public Treasury this year or the next? Not one. The following year how large an amount would it require? One hundred and eighty thousand dollars. And in the next, scarcely double that sum. And when the road should be complete, some ten or twelve years hence, the annual payment which the Government would be called upon to make would be about five millions of dollars, nearly three millions of dollars less than the Departments now pay each year for transportation. What will be the position of the Government at the time of the completion of this road, if begun forthwith? He who on that day should hold a position from which he might be heard, could command the attention of the civilized world and order its commerce to "about face." Our country would then occupy its just position and relation to the nations—a position and relation which it never can assume until this work shall be completed. Our hills and dales would then bear the most precious and weighty commerce of the world. The dream of Columbus, as I said the other day, would then be realized. Due west and due east over the railroad, the merits of which we discuss to-day, would move the commerce between busy Europe and the sluggish East.

Mr. PIKE. The bill requires the issue, to parties who build a section of forty miles, of bonds to a certain amount. What is to prevent parties building such sections at whatever points they choose, without regard to the termini? Will the gentleman inform us as to that?

Mr. KELLEY. As the Government aid is, as I understand the provisions of the bill, just about in the proportion of half the cost, I do not see that the Government would suffer much even if the people were thus to amuse themselves; but I do see that the forty miles thus made would be forty miles of railroad made in the right direction, and would be so much work done towards a great end.

Mr. Chairman, I am opposed to a postponement of this measure. The work is a great one. The time is a fitting one. I mark well the activity of which the gentleman spoke. I note the fact that we have six hundred thousand men in the field, in defense of the institutions of the country, and I feel that he who writes the history of this period should be able to say, that "so well poised were the people, so confident were they in the resources of their country and the durability of their institutions, that while they put an army of such strength into the field and sustained and appointed it as never army was sustained and appointed, they still, with a view to the future of their country, began the greatest work that ever a nation undertook—a railroad of two thousand miles in length, with branches of from four to six hundred miles, thus extending from ocean to ocean, over mountain and valley, the influences of a river which should carry the commerce of the world, and which should irrigate and stimulate, with all the influences of modern science, the wide space between the Pacific and the Mississippi, whereby America was to be and was made the great central figure in the civilization of the world, so that her arts, her language, her institutions, and her religion, flowed in easy channels with her commerce to the people of all nations, and made her the benefactor, the civilizer, the republicanizer, and the Christianizer of the world."

Mr. FESSENDEN. Mr. Chairman, I have a few words to say on this matter of a Pacific railroad. The project has been before the country and before Congress for several years. It has been discussed in all the newspapers of the land. It has been incorporated certainly into the platform of the Republican party, and I believe into the platform of the Democratic party. It has been presented heretofore in both branches of Congress by members of the Democratic party. It is familiar to us all that at the convention of the Republican party, by which Abraham Lincoln was nominated for President, a plank was inserted

into the platform to the effect that a railroad to the Pacific ocean was imperatively demanded by the interests of the whole country.

If a railroad to the Pacific ocean was imperatively demanded by the interests of the whole country then, I ask whether that railroad is not imparatively demanded by the interests of the whole country now? I ask gentlemen upon this floor what has transpired in this country, what change has taken place in our interests, that should render this resolution nugatory?

Mr. PIKE. Let me ask whether the war was included in the Chicago platform?

Mr. FESSENDEN. No, sir, it was not; but I take the ground that the war is an additional reason, and makes it still more imperative, so far as the interests of the country are concerned, that this railroad should be constructed. Why, sir, we hear time and again upon the floor of this House that there is imminent danger that a war with foreign nations may be involved in the issues of this civil war, and the question arises what, in such an emergency, is to become of the Pacific States? If we are to have a war with other nations, and we are in the same condition as regards the communication with the Pacific coast that we are to-day, I repeat, what are we to do? I hold, sir, that the military necessities of the country afford an additional reason for the speedy construction of this road to those which operated upon us when we met as a party in convention at Chicago and adopted our platform, upon which, as the Republican party, we intend to stand.

Now, I do not believe it will do for us as a party—if I may mention party in this connection—to ignore this plank in our platform. I do not believe it will do for us to deceive the people in this respect. We were in earnest, we meant what we said when we declared that the best interests of the country required the construction of this road. And now the people of the country ask us to come forward and redeem our pledge thus solemnly made. They say to us to-day, "give us a bill, give us a chance to act;" and when the gentleman asks where is the money to build the road with, it is sufficient to reply that the people have impliedly said that they will furnish the money by asking for the authority to build the road. They propose to furnish the money if Congress will furnish them the authority to expend it in the construction of the road.

Let us pass this bill, and the responsibility will rest with the people. It will have been removed from our shoulders to those of the people. If they cannot construct the road, if they have not the money, or if they decide that this is not the time to construct the road, they cannot turn round and say to Congress, "the responsibility is upon you."

I believe with the gentleman from Pennsylvania, and with every gentleman upon this floor, that this is a work for a nation to accomplish. I believe that when constructed, if it ever be constructed, it will be a chain running through every State, binding them all together, every link of which is welded by a common interest and a common destiny. I believe it will be taking a great step towards a point at which we are some day to arrive, when American minds, American systems, and American influence will control throughout the world; towards the point which we hope one day to reach, when our ideas will prevail in the nations of Europe, Asia, and Africa.

But, sir, I am not in favor of the substitute which has been introduced by the gentleman from Pennsylvania as the Pacific railroad bill which this House should pass. I think the objections to that bill have been well stated by the honorable gentleman from Illinois, [Mr. LOVEJOY.] I am rather in favor of the substitute proposed by the gentleman from Illinois, and I rise more particularly to say that if gentlemen on the floor of the House will examine the two bills, and compare them with each other, they will find that the amendment proposed by the gentleman from Illinois is far preferable to that proposed by the gentleman from Pennsylvania.

Let me say in reference to the substitute introduced by the gentleman from Illinois, that it is based upon a company chartered by the State of Maine, and I can say of the gentlemen mentioned in the bill as composing the company, that they are among the most respectable men in our State. They are men who do not enter upon any project without giving it due consideration. They are men, in short, who are capable, and may be relied on to carry through any project which they undertake. I believe the substitute of the gentleman from Illinois is in reality, is in fact, the project for which the people ask, and which they will sustain, if we will give them the opportunity; and that a road built under it would emphatically be the people's railroad.

Now, sir, I disagree with my colleague [Mr. PIKE] as to the propriety of postponing the consideration of this bill until December next. I believe that it will not do to postpone it; that the people will not be satisfied with its postponement. I believe it is better to give them what they ask now, and then we shall see whether they will be true to their contract on their part—whether they will carry out the provisions of this bill. Give them the chance, and not, in consequence of frivolous objections, or of any objections, withhold from them what they ask—an opportunity to show that they are in earnest. I shall vote for the substitute of the gentleman from Illinois, and not for that of the gentleman from Pennsylvania.

And now, Mr. Chairman, I will finish my remarks by desiring that the following extract from a paper which I hold in my hand as expressive of views in which I concur, relating to the substitute of the gentleman from Illinois, may be read:

The Clerk read, as follows:

"From the foregoing synopsis, it is apparent that this is the simplest, plainest, and most practical bill yet presented for the consideration of Congress, in connection with this great national object. It is simply a contract between one company and the Government for the construction of this road and telegraph, every feature of which looks straight forward to the substantial, sure, and early completion of the work, with very reasonable assistance from the United States.

"There are no speculative features about it, no mystery, no confusion, no difficulty. The company will be sustained by the people of the United States, for it is eminently 'the people's road.' They will subscribe to its stock, will pay their subscriptions, and those subscriptions, the Government bonds, and the lands, will be used to build the road. It will be completed as speedily as possible, not less than at the minimum rate fixed by the bill, but probably much faster. By these means the Atlantic and Pacific sections of our country will be brought within a few days of each other, and will be bound together with bands of iron, and of mutual feelings, interest, and commerce that will make us eminently one people. If the amount appropriated should be in excess of that actually required, the bonds will not be used, but returned. The lands will be settled as they are sold, and the proceeds faithfully applied to this great work. Bonds and lands will be passed over to the company only as the work progresses, and hence there can be no possibility of loss or misapplication. If the amount appropriated is not sufficient, the company will raise the balance, and promptly and efficiently complete the work; or the Government will have its remedy in its own hands by foreclosing on the company and taking all its property."

Mr. THOMAS, of Massachusetts. I desire to ask the gentleman from Maine whether the platform of which he speaks contains this resolution:

"*Resolved*, That the maintenance inviolate of the rights of the States, and especially of the right of each State to order and control its own domestic institutions according to its own judgment exclusively, is essential to that balance of powers on which the perfection and endurance of our political fabric depends."

Mr. FESSENDEN. It does; and I will inform the gentleman that the same platform also contains this resolution:

"That a railroad to the Pacific ocean is imperatively demanded by the interests of the whole country."

Mr. THOMAS, of Massachusetts. Then, in God's name, if you keep the one keep the other.

Mr. MORRILL, of Vermont. I am delighted to hear these plaudits, these magnificent descriptions of the business, the commercial interests of our country, and its future prospects. But we, as legislators, must look at this question in a plain and practical view, and step down from the lofty heights of the imagination.

Now, in regard to the platform of the Republican party, alluded to by the gentleman from Maine, I will say that I recognize the plank there inserted. But the times have changed, and when the question is whether I shall knock out my brains against a plank, or take the plank out of the way, I prefer to sacrifice the plank before I will sacrifice my brains; I will sacrifice the plank before I will peril the existence of the country.

Mr. FESSENDEN. I do not propose that the gentleman shall do that. I think by passing this bill is the way to keep the brains in the Republican party.

Mr. MORRILL, of Vermont. A postponement is no infringement of any platform whatever. As practical legislators we are not only to do the right thing, but we are to do it at the right time. Now, I contend that this is no time for carrying into operation such a measure as this. While I am free to acknowledge the great importance of a railroad to the Pacific, and am willing that at the proper time the Government shall undertake it, I am not willing that it shall undertake it now. I am not to be deceived by any promises that this road is to be built and run by any party but the United States. Every dollar that it takes to construct the road is to be contributed by the United States. There is not a capitalist who will invest a dollar in it if he is to be responsible for its construction for any considerable distance. All that you will gain by the passage of this bill will be the building of two or three strips of road at each end. The capitalists who will avail themselves of the privileges granted by this bill will do it for the purpose of seizing the land at either end, but the gap that will remain before any through connection can be made will remain unfilled so far as they are concerned. It is not to be constructed in that way, and if it were to be constructed in that way it could not be kept in operation except at the expense of the Government. Gentlemen talk about the magnitude of our commerce, as if such a road would be likely to attract it. I would like to ask any man what kind of products, what kind of merchandise, would be carried over that length of road? There is nothing but opium or silks that could be transported over such a distance of road that would pay the expense of freight, if sold for that purpose alone. It cannot be done. It is only the roads that are supported by local business that can be sustained.

If this road were built to-day, therefore, and given to the United States, the United States are not in a condition to accept it, even as a gift, and be compelled to run it; nor will they be until the population has so far increased as to give the road some local freight and some local business. As a commercial or economical question, such a road is utterly defenseless; but as a national question it has great merits, which in due time will be recognized.

Now, there are other questions in relation to which we are called upon to legislate, and which I would be in favor of at the proper time. If we were at peace, and not subject to the necessity of husbanding our resources, I would now be in favor of commencing this magnificent work of a Pacific railroad. Take, for instance, the national foundery. Take the ship canal from Lake Michigan to the Mississippi. Take the ship canal around the American side of the falls of Niagara. Take the ship canal from the Hudson river to Lake Champlain. They are all works fit for a great people, and I am in favor of all those measures, but not now. Let us wait to see whether we can get through with the job we have now in hand. We are putting the resources of our people to the utmost strain in order to sustain the Government in this most important crisis. I think that our people have common sense, and that they will not repudiate a Republican for holding a certain plank in abeyance until the country is better able to assume the important obligations which we will assume if we undertake to build this road at this time. I trust, therefore, that, as the gentleman from Maine has suggested, the bill will be postponed until the next session of Congress.

Mr. BLAIR, of Missouri. Mr. Chairman, I have listened, and I confess with some surprise, to the remarks which have just fallen from the gentleman from Vermont. He seems to think that this Government is in the last stages of dissolution; that we are now at the utmost strain of our resources; that we are incapable of anything except to maintain the contest which is going on with the seceded States. He asks that party platforms and everything else may be set aside, in order to deal with this rebellion. The gentleman has had his attention directed to one or two matters during this Congress. In providing the ways and means, he has been considerably perplexed. And another favorite hobby of his has been to protect the domestic industry or the manufactures of the country.

Mr. MORRILL, of Vermont. I have been mainly perplexed by a matter which the gentleman from Missouri himself referred to me.

Mr. BLAIR, of Missouri. What is that?

Mr. MORRILL, of Vermont. Unwrought clay. [Laughter.]

Mr. BLAIR, of Missouri. I turned over to the gentleman some letters I had received from my constituents on that subject, and they seem to have troubled him much more than they have me.

The gentleman thinks that this country cannot add anything to the great debt with which it is burdened by this rebellion. At the same time he does not forget that great measure called the Morrill tariff. I have observed when any motion has been made in this House to mitigate the severities of that tariff, and which would inure to the revenue, that gentleman has been found ready to maintain his tariff at the expense of the Government. Although the rebellion might overslaugh us, he would hold on to his tariff.

Now, sir, I am not beset by the same fears with the gentleman from Vermont. I do not consider that this rebellion is more than a mouthful for us. [Laughter.] We have not felt any of the severities which the gentleman has imagined. The country has been to a certain extent prosperous.

Mr. MORRILL, of Vermont. That is in consequence of the Morrill tariff. [Laughter.]

Mr. BLAIR, of Missouri. Yes, sir; notwithstanding the Morrill tariff. [Renewed laughter.] Except for the burden of the Morrill tariff we would have got along very well. Why, sir, the eastern and sea-board portions of the Union have made money out of this rebellion. The great severities of this war have fallen upon the people of the West. The natural avenues of their commerce to the ocean have been closed by this war, and while they have been closed the East and the sea-board have enjoyed profits which they never enjoyed during times of peace.

It seems to me whenever any measure is proposed in this House for the benefit of the West, that we find these gentlemen demurring to it on account of the times. The freight of railroads has been going up constantly since this war commenced. Before the war began the railroads would take a barrel of flour from the West for half a dollar, whereas they now charge $2 50. Yes, sir; it now costs $2 50 to get a barrel of flour to the East from the Mississippi river. The East has taken the entire profit of the labor of the West. Yet the West has come forward to supply her products in place of the cotton which heretofore saved the balance of trade from being against us. We have relieved the Government in that and every other way. But the West has gained nothing by it. The entire profit has gone in the freight charges to the East.

The gentleman is opposed to every measure by which the West might find relief. He is opposed to the ship canal with Lake Michigan—the Michigan and Illinois canal.

Mr. MORRILL, of Vermont. I am for it, and for this bill, but not at this time.

Mr. BLAIR, of Missouri. I presume that the gentleman will carry out what he considers wisdom by a direct vote on this bill.

We are, as has been remarked by other gentlemen, engaged in a war out of which will grow other wars, and we will have to be prepared for them. We cannot postpone this if we intend to have a connection between the East and the West, between the Atlantic and Pacific sea-board, which will be able to preserve our possessions upon the latter. Looking to what it has done and what it has suffered, the West has a right to appeal to the national Legislature. I have spoken of its losses, I have spoken of its sufferings, I have spoken of its trade destroyed. Yet, while the West has suffered, the East has enjoyed almost exemption. Your victories have been in the West. The soldiers of the West have given their due proportion of the victories in this war. They have poured out their blood upon almost every battle-field. Yet that people have been discriminated against since this war commenced. I do not see the reason why a people who have suffered so much upon the battle-field and in the destruction of their trade should have this new burden imposed upon them. One of the Departments of the Government has interposed to prevent the men of that section who have done much for the Government from receiving their pay. Even the laboring man is kept out of the money which he has fairly earned. All these men, after having their claims postponed for months, have at last to accept certificates of indebtedness—pay, in fact, only in part—while the men from the East who have worked for the Government have been paid in full. The eastern railroads were paid up to December last for the work that they did for the Government, and at full prices. The only railroads discriminated against were those of the West. They were allowed only half price, and six months after the service was rendered they are paid in certificates which are below par. There has been a discrimination against everything that was western, and we are now asked by the gentleman from Vermont to have this measure postponed, upon the specious pretext that all the millions of the country must be lavished upon this war.

Mr. EDWARDS. I would ask the gentleman if eastern creditors have not taken these same certificates during the same time that they were paid to western railroads?

Mr. BLAIR, of Missouri. No, sir; the gentleman is totally mistaken.

Mr. EDWARDS. I understood that to be the fact.

Mr. BLAIR, of Missouri. Eastern creditors were paid as long as there was anything in the Treasury to pay them with, but western creditors were postponed by the interposition of this commission to examine into western claims. The commission was interposed because there were charges of great frauds against certain parties; and men against whom no such allegations were made by anybody—the day laborers who erected the forts, teamsters, and people of that class, who had done work for the Government—were also required to go before that commission, and their claims were thus postponed for six months. Meanwhile the eastern creditors were all getting their money, although there was just as much allegation of fraud against them as against western men. Why was not a commission started for them?

Mr. EDWARDS. I wish to say to the gentleman that these very certificates of indebtedness were recommended to this House and first issued for the purpose of being applied to the payment of eastern debts.

Mr. BLAIR, of Missouri. After the eastern creditors had taken all the money that was to be got, they were willing to take the certificates, but they did not share with us as long as the money lasted.

I say that this claims commission was interposed, and that all claims were compelled to go before it, whether there was any allegation of fraud or not, while there were claims paid at the East against which there was just as much allegation of fraud as against ours. There were allegations of fraud by committees of this House against the East just as much as against the West, and there was just as much fraud committed at the East as at the West, and just as much proved. There was no difference in that respect; and yet we alone were subjected to the interposition of a commission, and of an examination. Nobody would have complained if only those men who were accused of fraud had been sent before the commission. No objection would have been heard from the West if only those men had been sent before it; but when the commission was organized and met, all claims against the Government originating before a certain date were sent before it, and were all delayed for six months, and then the parties had to take the amounts due them in certificates below par, when you have money in your Treasury, and are paying it out every day. Why, sir, there are absolutely gentlemen from the West who advanced to the Government gold, or what was equal to gold, and who are obliged now, after the lapse of six months, to come here and take certificates of indebtedness. I say we of the West have been treated like step-children by the Government, and we shall always be treated in that way, and postponed. And now the gentleman from Vermont, [Mr. MORRILL,] holding the high position that he does in this House, admitting that this is a measure of great importance, that ought to be favorably considered, says that it must be postponed under the circumstances, alleging that the Government is in its death throes, when it is really victorious, and victorious, we might claim, if we were disposed to do so, as much by the efforts of western men as of any other people. I will not say more. I will not discriminate against the men of the East, even though the West has been discriminated against. I will not say more; but I do say that the West has done its duty in this matter, and has given this Government the amplest support on the field, and everywhere else, and it becomes the Representatives of the people not to treat us as step-children any longer.

I had supposed, sir, from what had occurred here heretofore, during my experience in this House, that the opposition to the Pacific railroad bill came from a certain side of the House that was obnoxious to the East as well as to the West. I have sat here and seen southern men and disunionists resist, and year after year defeat this measure, and the North and East professed all the time to be ardently in its favor, and I had not anticipated that upon this occasion we should meet with a rebuff from our own professed friends.

Mr. MORRILL, of Vermont. Mr. Chairman, I recognize in this work one of vast importance, and one that it is fit, eminently fit, at the proper time, for the Government of the United States to undertake, and I regret that the gentleman from Missouri, [Mr. BLAIR,] who is usually so catholic and so free from prejudice, should have undertaken to create a sort of local prejudice in this House, either in favor of or against this measure. Simply because under the circumstances I have thought it best and most proper that this bill shall be postponed until next December, he has seen fit to arraign certain sections of the House on various other and totally irrelevant questions. Now, what has the "Morrill tariff," as he calls it, to do with this question? Why, sir, if it had anything to do with it, it would be enlisted in its favor, for I take it the gentleman from Pennsylvania, [Mr. CAMPBELL,] who has this object so much at heart, is able to see that the railroad iron interest would be somewhat promoted by having the Government embark in this scheme at this time, and so far as the particular question of the tariff is concerned, I leave it to the gentleman from Pennsylvania to answer.

I will say only in relation to the tariff, that it is conceded, both by free trade men and by those who are in favor of a proper discrimination in behalf of American labor, that that tariff has been the salvation of the country, and that but for that tariff, we would at this very moment be bankrupt. It is not too much to claim that that tariff has done this in relation to our governmental affairs, and of our domestic interests; that it has thrown the burden of this war quite as much upon foreign nations as it has upon ourselves, and if the gentleman was familiar with the trade of other nations, he would see that Belgium and France and the German nations and England have been almost as much prostrated by the effects of this war, thanks to the tariff, as we have been.

Now, a word in relation to the other point made by the gentleman about western men. Sir, I glory in the renown they have won in the field. If we of the East have not won equal renown, it is because we have not been afforded the opportunity; because our men have been led by a western general instead of by a New England man. Where ever our men have been led by a Burnside, they have won equal glory and renown in this war with any others.

Mr. DUNN. General Burnside is a native of Indiana, and received his appointment as a cadet to West Point from the present Secretary of the Interior, then a Representative in Congress from Indiana. I congratulate the soldiers of the East in having so gallant a leader.

Mr. MORRILL, of Vermont. I know that he hails from Rhode Island. I know also that some of these western officers (Commodore Foote) who have won glory, in which the gentleman takes no more pride than I do, had their birthplace in New England. But, sir, the gentleman from Missouri will utterly fail, so far as I am concerned, in awakening the least prejudice, for I appeal to gentlemen upon all sides of the House to point to a single vote which I have ever given in this House that has been based upon any such miserable passion as a local prejudice.

Now, sir, in relation to this matter of the railroad, while I did not intend to say a single word upon the subject, I felt called upon merely to express my individual opinion that it would be most proper that the bill should be postponed until next December. I am still of that opinion. While I do regard it as a work of importance, and one that it is fit that the Government of the United States should undertake, yet I will not blink the fact that we are not now in a condition to undertake so gigantic an enterprise, and that it will be much

more likely to succeed by delay than by haste at the present time.

Mr. CAMPBELL obtained the floor.

Mr. WHITE, of Indiana. I would be glad, before the gentleman proceeds, to put two or three practical questions to him.

Mr. CAMPBELL. I have but a word or two to say, and then I will yield to the gentleman and answer his questions with pleasure.

Mr. WHITE, of Indiana. I should like to propound them now, and then the gentleman can answer them as he proceeds with his remarks.

Mr. CAMPBELL. Well, I will yield to the gentleman.

Mr. WHITE, of Indiana. Perhaps as my inquiries will be a little complicated, I had better propound them, if I can get the floor, when the gentleman is through.

Mr. CAMPBELL. Mr. Chairman, I rise at this time for the purpose of answering one or two objections that have been made to the bill now before the committee. I predicate my remarks upon the fact that gentlemen are anxious to obtain information upon the subject of this bill, and that no member of the committee desires to misrepresent the measure or to place the special committee that framed it in an erroneous position.

First, I do not know why the gentleman from Vermont proposes to postpone this measure for the present session. What reason can the gentleman give for that proposition? We have shown by official figures that the Government of the United States is paying annually seven or eight millions of dollars for transportation to the Pacific. In other words, the Government is paying a sum double that which is sufficient to pay the interest on all the bonds contemplated by this bill, if the entire number were issued to-morrow. I say, then, as a question of financial policy, it is necessary that we should proceed, without the delay of a single day, to perfect and adopt this measure in order to save money to the national Treasury. If we go on and spend from seven to ten millions annually for transportation to the Pacific, we will be inexcusable as Representatives of the people. Let us rather at once adopt the bill, and thus stop this great leak in the national Treasury. Let gentlemen show that this railroad, when completed, will cost the Government a larger expenditure for the interest on the bonds than it now pays for transportation to the Pacific, and I will yield the force of the argument.

But when gentlemen propose to postpone this measure without being able to give a reason for the proposition, I think I am justified in asking that the special committee shall be sustained, and that the proposition to postpone shall be voted down. We have postponed it long enough. We have talked about a Pacific railroad bill year after year. We have resolved and re-resolved about it. We seem to be unable to rise to the importance of the question. Every gentleman who has addressed the committee to-day has admitted the necessity of this great national work. No gentleman can give a reason why it should be postponed, either for a financial or any other reason. I ask the members of this committee to come up to the work, and inaugurate this great national measure. The road will not be completed for the next ten or more years, or it may be that we cannot construct this road through the passes of the Sierra Nevada and of the Rocky mountains for the next fifteen years. It is a work of giant proportions, and of giant necessities. But if the work is never begun, it will never be finished. Do you propose to hold your possessions on the Pacific, or abandon them? That is the question. Will you allow an antagonistic feeling to grow up between the great West and the great East, a rivalry of interests and feelings and habits, and never connect them by iron bands? I do not understand that to be the policy of the nation. If we are ever to begin this work, we must begin now. The people are ahead of their Representatives. They have resolved this work shall be constructed, and yet we hesitate. Are gentlemen willing to legislate on the idea that this rebellion is going to terminate the existence of the nation, and are we to legislate as if the Republic was in its death-throes? I admit no such proposition. With the patriotic gentleman from Missouri, [Mr. BLAIR,] I will legislate for the *great future* of this mighty Republic, and will so legislate *now*, while rebel cannon are echoing on the shores of the Potomac. I cannot see, on any argument or on any line of reasoning or view, present or future, that this, the most beneficent Government that man ever organized, was not framed to last for ages, and I will legislate on that basis alone.

Mr. Chairman, several special objections have been made to the bill which has been reported by the special committee unanimously, and which I now propose to answer. The honorable gentleman from Illinois who now occupies the chair, [Mr. LOVEJOY,] and the honorable gentleman from Maine, [Mr. PIKE,] have advocated the adoption of a bill offered as a substitute by the gentleman from Illinois, which is well known as the scheme of a celebrated lottery-ticket projector from the State of Maine, I believe.

Mr. FESSENDEN. Would the gentleman have it understood that the person referred to is not a very respectable man?

Mr. CAMPBELL. I say nothing about his respectability; I was simply saying that he is only known to the public as a gentleman who was prominently connected with an extensive lottery scheme. I mean no reflection upon him, but simply state the fact. If I am wrong in this, I will be pleased to be corrected.

Mr. FESSENDEN. I am not aware that he is connected with any lottery scheme.

Mr. CAMPBELL. I understand he was so connected. The gentleman can inquire for further information. I state what I believe to be true, and I will at any time give the gentleman any information on the subject in my possession.

Mr. FESSENDEN. I believe him to be a respectable man.

Mr. CAMPBELL. I do not gainsay it. I was going to say that the proposition of the gentleman from Illinois [Mr. LOVEJOY] is, that the Congress of the United States should incorporate a company away up in Maine, and give to it the *exclusive privilege* of building the Pacific railroad. It is proposed that, passing by the great West, as well as the great Northwest, and the Pacific States, we shall incorporate a company in the State of Maine to build the Pacific railroad. I cannot see the necessity or propriety of such legislation. No matter how respectable that company may be, or what amount of capital it represents, I see no reason for depriving the people of California or the people of Oregon, the people of Missouri or the people of Iowa, from all interest in this work, and excluding them from a voice and a representation in the construction of the road, a road which so immediately concerns them. The committee were unanimous in rejecting that proposition, and I trust that the House will not so far depart from its sense of the fitness of things as to incorporate a company in any one State, and give to it the exclusive privilege of constructing the road in question. Certainly the people of the western States and Territories know more concerning their trade and immediate wants, than corporations from a distant State.

Mr. Chairman, it was said by the gentleman from Illinois that the bill reported by the special committee was a log-rolling scheme. The bill is not liable to that objection. It does provide that the railroad companies in Iowa, and those in Missouri and Kansas, shall have the right to construct two eastern branches, because they have already the necessary legislation, and because the committee believed them to be live and subsisting corporations, with the ability and intent to do the work. But if the Committee of the Whole regard the privileges given to them in the bill as too exclusive, let that be altered. The special committee does not object to any reasonable amendment that shall be offered in good faith, and shall be calculated to strengthen the bill. We are not wedded to the bill so much as to desire to exclude any fair and proper amendment. Our great desire is to adopt a good bill, and one under which the road can be made.

It was said, however, by the gentleman from Illinois that the bill reported by the special committee was liable to grave objections; that as soon as forty miles of the road were built—the commissioners having certified that fact—bonds would thereupon issue; and he made the point that the bill did not provide for a lien on the *whole road* for such issue.

Now, if the gentleman had read the bill carefully, as he confesses he did not, he would have seen that as each *consecutive* section is constructed bonds are issued, and when the whole work is completed the Government has a mortgage on the whole. But the most amusing part of his objection was that the substitute which he himself offered—the People's Pacific railroad scheme of Maine—and which he advocated, is liable to the very same objection. The thirteenth section provides:

"That whenever said People's Pacific Railroad Company embraced in this act shall, under the provisions thereof, be entitled to demand any installment of the bonds hereinbefore mentioned, to be issued and delivered in aid of the construction of such railway contemplated by this act, such railroad company, its associates, successors, or assigns shall, at the same time, as a security for the amount of such bonds and interest to accrue thereon, execute to the United States a mortgage *on such portion of railway as shall from time to time be completed.*"

The gentleman's amendment to the bill of the committee and this feature of the bill before me are precisely identical. I think, therefore, that the deliberate judgment of the gentleman from Illinois in offering that amendment is better than the *ad captandum* remark he made in the committee to-day against the bill.

It was also objected by him that the bill provides for two or three parallel roads. I beg leave to differ with the gentleman from Illinois in reference to that statement. The bill reported by the committee does no such thing. The gentleman is mistaken. It provides for two eastern branches, with equal grants; and it gives to two companies in Missouri the right to unite with the Kansas Company in the construction of the Missouri branch, giving aid to the two Missouri companies to the extent of a hundred miles in each case, but it provides for no parallel roads.

The gentleman from Illinois further stated that the bill reported by the select committee, whether intended or not, really meant a southern route. Now, I call the attention of the committee to the fact that by no possibility under the bill reported by the select committee could a southern route be adopted. This bill fixes, as the Curtis bill did, the point of starting on the Missouri, and we have fixed that point at Kansas City. That is the point which has generally been recommended as the beginning of the middle route. The southern route, it will be recollected, contemplated going through Texas. Now, I call attention to the fact that this road, starting at Kansas City, cannot by any possibility be diverted in a southern direction. The western terminus of the road is fixed at Sacramento or San Francisco. The bill then further requires that the road shall be constructed by the most direct central and practicable route. If it were diverted into a southern route, it would have to be carried hundreds of miles out of the way, and could not be called in any sense a *central* route; it could not be called *direct;* nor, in my judgment, could the construction of the road by such a route be *practicable* in any respect. Therefore, I repeat, by no possibility can a southern route be adopted under this bill.

It was further urged by the distinguished gentleman from Illinois that, while the construction of this road was a social and business necessity, it was not a military one. The fact which I had the honor of submitting to this committee in an official form, will go further than the mere assertion of any gentleman to prove the existence of a military necessity for the construction of this road. And that was this: the Government is now paying between seven and eight millions of dollars for Pacific transportation. I think the gentleman from Illinois, and every other gentleman, will admit that, if carried by rail, it would not cost the Government one eighth that sum. If this war continues, however, the cost of this transportation will rise speedily from seven or eight million to ten or twenty millions of dollars. But if you have a war with Great Britain, and your transportation by water be cut off, the expenditure will swell to hundreds of millions—nay, more, to transport the arms and supplies and munitions of war necessary in such a contingency through the defiles of the Rocky mountains and the snows of the Sierra, will, in my judgment, be simply impossible.

I understand the honorable gentleman from Maine [Mr. PIKE] to object to this bill on the ground of the expenditure of money involved. I think I have fully answered that objection.

It was also stated by that gentleman that the bill was liable to the objection that parties might construct sections of the road where it was most

convenient and less expensive to construct them, obtain the bounty of the Government, and then never finish the road. In other words, the gentleman thought parties might go on the plains of Kansas, or into the Great Salt Lake basin, and construct a *detached section* of forty miles, have it certified as completed, and obtain the bonds of the Government for that section. Mr. Chairman, such an act would be a manifest violation of the spirit of the bill; and no commissioners the President would appoint could give the necessary certificate under such circumstances.

But, if the gentleman had examined the bill he would have discovered that it requires that those sections must be *consecutive;* they cannot be constructed in detached sections and draw the bonds. No Government aid would be granted unless the sections were consecutive. The gentleman will find that provided for in the fourth section of the bill. But, if no such provision were there, if parties were so Quixotic as to construct detached sections of the road, it would cost them double the amount they would receive, and no use could be made of the road; and would they be very likely to pursue so eccentric a course for the purpose of receiving from the Government one half the amount expended by them? I think it is a sufficient reply to the objection to say simply that such a course would not pay; for I hold that there is no single section that can be constructed out of the money advanced by Government for such section under this bill; for the sections which will in our estimation cost $35,000 per mile to put the road in running order, the company, under this bill, will receive $16,000 per mile, and for such sections as the Government will pay $48,000 per mile the cost will be double that amount. So that I think the bill is sufficiently well guarded in that respect.

Now, Mr. Chairman, I am ready to yield to the suggestion of a friend near me, that the committee rise, as it is beyond the usual hour for adjournment; but I will first give way to the gentleman from Maine, who, I believe, wishes to say something to-night.

Mr. FESSENDEN. I regret that the honorable gentleman from Pennsylvania, in the course of his remarks, should have seen fit to reflect at all upon the character of the gentlemen whose names are mentioned in the amendment proposed by the gentleman from Illinois. I am sure he did not intend to make any remarks derogatory of the gentleman to whom he alluded particularly.

Mr. CAMPBELL. I say to the gentleman that I have not said anything derogatory of the gentleman to whom he refers. I did mention the fact, which I supposed was well understood by many members of the House, that his name—and whether he is a constituent of the gentleman or not I do not know—was connected with a lottery scheme. I have said nothing derogatory to his character.

Mr. POTTER. I hope that apology will be received as sufficient.

The CHAIRMAN. Does the gentleman rise to a question of order?

Mr. POTTER. Yes, sir; I rise to a question of order. The gentleman from Maine called the member from Pennsylvania to order for some remark made by him in reference to a person mentioned in this bill. The gentleman from Pennsylvania, thereupon, made a most ample apology. [Laughter.]

Mr. DIVEN. I call the gentleman to order.

Mr. POTTER. No, sir; the gentleman cannot call me to order. I am on the floor upon a point of order. [Laughter.]

The CHAIRMAN. The Chair overrules the question of order.

Mr. POTTER. Oh, no; I have not stated it yet. [Laughter.]

The CHAIRMAN. The gentleman will state his question of order, then.

Mr. POTTER. That is precisely what I propose to do if the Chair will allow me, and I shall have to begin back at the beginning. The gentleman from Maine called the gentleman from Pennsylvania to order for a remark made by him in relation to another person. The gentleman from Pennsylvania made an apology that should be considered ample. [Laughter.] The gentleman to whom reference was made was a gentleman who has, I understand, been furnishing free tickets to members of Congress over railroads.

Mr. FESSENDEN. Does the gentleman assert that this gentleman has furnished free tickets to members of Congress?

Mr. POTTER. I understand some of the Maine delegation have been furnished with tickets at half price. [Laughter.]

Mr. FESSENDEN. I cannot answer so far as the Maine delegation are concerned, but I can tell the gentleman from Wisconsin that if tickets had been offered to him at half price he would have been glad to accept them, and that he would have been still more willing to obtain them for nothing.

Mr. POTTER. I did not yield to the gentleman from Maine to make any such remark. [Laughter.]

The CHAIRMAN. Has the gentleman from Wisconsin stated his question of order?

Mr. STEVENS. No, sir, he has not; but I make the question of order that the committee rise.

The CHAIRMAN. Does the gentleman from Wisconsin yield to the gentleman from Pennsylvania?

Mr. POTTER. Not while I am on my point of order. [Laughter.]

The CHAIRMAN. The Chair overrules the point of order.

Mr. POTTER. I take an appeal from the decision of the Chair.

The CHAIRMAN. The question before the committee is, whether the decision of the Chair shall stand as the judgment of the committee?

Mr. POTTER. I ask the Chair to state the point of order to the committee. [Laughter.]

The CHAIRMAN. The Chair will perform its own duties.

Mr. POTTER. I ask the reading of the rule. [Laughter.]

The decision of the Chair was sustained.

Mr. FESSENDEN. I accept the apology of the gentleman from Pennsylvania.

Mr. CAMPBELL. I made no apology, as I had said nothing which required one.

Mr. FESSENDEN. So far as the State of Maine is concerned, I think that she has as much right as any other State to present her charter for the consideration of this body.

Mr. CAMPBELL. I did not object to the bill so far as the State of Maine is concerned; but I objected to this great work being built under the charter of any State, whether of Pennsylvania or Maine.

I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. LOVEJOY reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the Pacific railroad bill, and had come to no resolution thereon.

And then, on motion of Mr. LOVEJOY, (at twenty-five minutes past four o'clock, p. m.,) the House adjourned.

IN SENATE.

FRIDAY, *April* 18, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

ADJOURNMENT TO MONDAY.

On motion of Mr. GRIMES, it was

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

ORDER OF BUSINESS.

The PRESIDENT *pro tempore*. If there be no morning business, the Chair will call up the unfinished business of yesterday, which is a bill (S. No. 75) to establish a line of steam mail ships between San Francisco, in California, and Shanghae, in China, touching at the Sandwich Islands and Japan; on which the Senator from California has the floor.

Mr. LATHAM. That may lie over for a little while, until there is a quorum. There is evidently not a quorum here now. I want to press the measure to a vote. No doubt the committee rooms are filled. There are two or three committees in session this morning, to my knowledge.

The PRESIDENT *pro tempore*. Does the Senator make a motion?

Mr. LATHAM. Let it go over informally. I will call it up again.

The PRESIDENT *pro tempore*. It will lie on the table for the present.

LAND OFFICE IN COLORADO.

Mr. POMEROY. I move that the Senate proceed to the consideration of Senate bill No. 272 It is a bill merely to establish a land office in Colorado, which has been reported unanimously by the Committee on Public Lands.

The motion was agreed to; and the bill (S. No. 272) to establish a land office in Colorado Territory was read a second time, and considered as in Committee of the Whole. It provides that all the lands to which the Indian title has been or shall be extinguished within the Territory of Colorado shall be subject to the operations of the preëmption act of the 4th of September, 1841, and under the conditions, restrictions, and stipulations therein mentioned; but when unsurveyed lands are claimed by preëmption, notice of the specific tracts claimed is to be filed within six months after the survey has been made in the field; and on failure to file such notice, or to pay for the tract claimed, before the day fixed for the public sale of the lands by the proclamation of the President, the parties claiming the lands are to forfeit all right thereto, but the notices may be filed with the surveyor general, and to be noted by him on the township plats, until other arrangements have been made by law for that purpose.

The second section provides that the public lands within the Territory of Colorado to which the Indian title is or shall be extinguished shall constitute a new land district, to be called the Denver district; and authorizes the President to appoint, by and with the advice and consent of the Senate, a register and receiver of public moneys for the district, who shall be required to reside at the place at which the office shall be located, and who shall have the same powers, perform the same duties, and be entitled to the same compensation as are or may be prescribed by law in relation to land offices of the United States in the State of Kansas.

Mr. POMEROY. I desire merely to remark that the committee thought it expedient to establish one land office in the Territory of Colorado. The memorials that were referred to the committee asked for two, but it was deemed expedient by the committee to establish one, as they have none in the Territory at present. They have a surveyor general, and the lands are being surveyed, but they have no office in which to file their claims and enter their lands for preëmption. It was, therefore, deemed expedient, and I presume there will be no opposition in the Senate, to establish one land office in the Territory.

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

SURRENDER OF NORFOLK NAVY-YARD, ETC.

Mr. HALE. The select committee appointed by resolution of the 20th of July, 1861, to inquire into the circumstances attending the surrender of the navy-yard at Pensacola and the destruction of property of the United States at the navy-yard at Norfolk and the armory at Harper's Ferry, have instructed me to make a report. I move that the report and accompanying documents be printed, and five thousand extra copies of the report without the documents.

The motion to print the usual number of the report and documents was agreed to; and the motion to print the extra numbers of the report was referred to the Committee on Printing.

PETITIONS.

Mr. KING presented five petitions of citizens of New York, praying for the passage of a general bankrupt law; which were referred to the Committee on the Judiciary.

Mr. CHANDLER presented a petition of citizens of Decatur, Michigan, praying for the construction of a ship canal between Lake Michigan and the Mississippi river; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of citizens of Michigan, praying for the abolition of slavery; which was ordered to lie on the table.

Mr. COWAN presented a petition of citizens of Washington county, Pennsylvania, praying for the establishment of a tri-weekly mail route from Washington to Rice's Landing in that State: which was referred to the Committee on the Post Office and Post Roads.

SLAVE OWNERS IN THE DISTRICT.

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

Resolved, That the Secretary of the Interior be requested to furnish for the use of the Senate a list of all persons residing in the District of Columbia who appear in the returns of the last census as owners of slaves, indicating the number claimed to be owned by each person, with the classification of their ages according to the returns.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ETHERIDGE, its Clerk, announced that the House had passed the following bills and joint resolution; in which the concurrence of the Senate was requested:

A bill (No. 393) making further appropriations for sundry civil expenses of the Government for the year ending 30th June, 1863, and additional appropriations for the year ending 30th June, 1862.

A bill (No. 406) for the relief of Francis Hüttmann.

A joint resolution (No. 67) to supply the Smithsonian Institution with volumes of Wilkes's Exploring Expedition.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed an enrolled bill (H. R. No. 287) to establish a branch of the Mint of the United States at Denver, in the Territory of Colorado; and it was signed by the President *pro tempore*.

REVENUE SERVICE AT ALBANY AND TROY.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 275) to increase the compensation of the surveyors of the ports of Albany and Troy, and for other purposes; which was read twice by its title.

Mr. HARRIS. I desire to occupy the attention of the Senate a moment in stating the object of this bill, more particularly for the benefit of the Committee on Finance, to whom I propose to have it referred.

Albany is a port of delivery; so is Troy. The two places are six miles apart. As the collection affairs have been arranged there heretofore, there have been at Albany a deputy collector and two inspectors and a surveyor, making four officers connected with the collection of revenue; at Troy there have been a collector, one inspector, and a surveyor, making three officers there—seven in all. They are quite too many. The necessities of the Government do not require so many officers. On conferring with the Treasury Department and the collector of New York, it has been proposed to abolish several of these offices, to have at Albany or Troy one collector who shall perform the duties of collector at both places, and also the duties of inspector. There will be then one officer performing the same duties that are now performed by five officers, each of which five officers now receives three dollars a day. One officer receiving the same compensation will perform the duties of those five. Then there is a surveyor at Albany and a surveyor at Troy. It will be necessary to retain these two officers. The surveyor at Albany receives $150; the surveyor at Troy receives $350; it is proposed to increase their compensation to $500, so that with one collector and inspector for the two places, receiving three dollars a day, and a surveyor at Albany with a salary of $500, and a surveyor at Troy with a salary of $500, the whole work can be done and save the Government from three to four thousand dollars a year. I move that the bill be referred to the Committee on Finance.

The motion was agreed to.

RAILROADS IN WISCONSIN.

The Senate proceeded to consider the amendments of the House of Representatives to the joint resolution (S. No. 26) explanatory of a certain act therein mentioned; and on motion of Mr. HOWE the amendments were concurred in.

The House of Representatives propose to strike out all of the resolutions after the resolving clause, and to insert in lieu of what is thus stricken out:

That the word "northerly," in the first section of the act entitled "An act granting public lands to the State of Wisconsin to aid in the construction of railroads in said State," approved June 3, 1856, shall, without forfeiture to said State or its assigns of any rights or benefits under said act, or exemption from any of the conditions or obligations imposed thereby, be construed to authorize the location of the line of railroad in said first section provided for upon any eligible route within ranges sixteen to twenty-three, inclusive, east of the fourth principal meridian; and the line of railroad as now located according to the records of the General Land Office in pursuance of said act is hereby authorized to be changed to within the above specified limits: *Provided, however*, That upon the construction of said railroad upon the new line, or of a sufficient part thereof, according to the terms of said act, the State of Wisconsin, its grantees or assigns, shall receive upon the route originally located, and in the manner prescribed by the act, the same quantity of lands, and no more or other, except as hereinafter provided for, as it or they would have received if such railroad had been constructed upon the line originally located.

SEC. 2. *And be it further resolved*, That there be, and is hereby, granted to the State of Wisconsin, for the purpose of aiding in the construction of a railroad from the town of Appleton, in said State, to some point on Green bay at or near the mouth of Fox river, in said State, so much of the public lands of the United States lying at or near the mouth of said river, in the county of Brown, and State of Wisconsin, known as the Fort Howard military reserve, as may be required for right of way, tracks, turnouts, depots, workshops, warehouses, wharves, and other railroad uses, not exceeding eighty acres, to be so selected by the State of Wisconsin or her assigns as to exclude the fort therefrom: *Provided, however*, That if no railroad be constructed and in running order between the termini in this section mentioned within three years from the passage of this joint resolution, then this grant shall be void.

SEC. 3. *And be it further resolved*, That the Secretary of the Interior be, and he is hereby, authorized to cause all even sections or parts of even sections of public land that may be brought within six miles of the new line of railroad, as herein provided for, to be sold at the same price and in the same manner as those have been upon the originally located route of railroad. And all purchasers, or their heirs or assigns, within the six mile limits of the said originally located route, who shall be more than six miles from the new line of route herein authorized, and who have paid the sum of $2 50 an acre, shall have the right either to exchange their locations upon the line as first established to the new line, upon the same terms, in like quantities and in the same manner as on the line first established as aforesaid, or, at their option, to enter without further payment anywhere within the Menasha land district, in the State of Wisconsin, an additional quantity of public lands subject to private entry at $1 25 an acre equal to the quantity entered by them at $2 50 an acre, so that the lands originally entered by them shall thus be reduced to the rate of $1 25 an acre.

SEC. 4. *And be it further resolved*, That the even sections of public lands reserved to the United States by the aforesaid act of June 3, 1856, along the originally located route of railroad north of the said town of Appleton, and along which no railroad has been constructed, shall hereafter be sold at $1 25 an acre.

The House also propose to amend the title so as to read, "A joint resolution explanatory of and in addition to the act of June 3, 1856, granting public lands to the State of Wisconsin to aid in the construction of railroads in said State."

Mr. CLARK subsequently moved a reconsideration of the vote by which the amendments were concurred in; and the motion was entered.

SURVEYS OF LAND CLAIMS.

Mr. CLARK. There lies upon the table a House bill for the survey of certain land claims, reported from the Committee on Public Lands the other day with an amendment. I desire that it may be taken up, and the amendment concurred in.

The motion was agreed to; and the bill (H. R. No. 189) for the survey of grants or claims of land was considered as in Committee of the Whole. It provides that all claims or grants of land in any of the States or Territories of the United States, derived from any foreign country or Government, shall be surveyed under the direction of the proper officers of the Government of the United States upon the application of the parties claiming or owning the same; but it is declared that nothing in the law requiring the executive officers to survey land claimed or granted under any laws of the United States shall be construed either to authorize such officers to pass upon the validity of the titles granted by or under those laws, or to give any greater effect to the surveys made by them than to make the surveys *prima facie* evidence of the true location of the land claimed or granted, nor is any such grant to be deemed incomplete for the want of a survey or patent when the land granted may be ascertained without a survey or patent.

The amendment of the Committee on Public Lands was to insert, after the word "same," at the end of the seventh line:

And at their expense, which shall be paid or secured to the satisfaction of the Secretary of the Interior before the work shall be performed.

So that the clause will read:

Be surveyed under the direction of the proper officers of the Government of the United States on the application of the parties claiming or owning the same, and at their expense, which shall be paid or secured to the satisfaction of the Secretary of the Interior before the work shall be performed.

The amendment was agreed to.

The bill was reported to the Senate, as amended; and the amendment was concurred in, and ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

FRANCIS HÜTTMANN.

Mr. CHANDLER. I move to take up Senate bill No. 263, for the relief of Francis Hüttmann, reported from the Committee on Commerce. It is a short bill, and will not occupy a moment.

The motion was agreed to; and the bill was read the second time, and considered as in Committee of the Whole. It proposes to authorize and direct the Secretary of the Treasury to adjust the claim of Francis Hüttmann for the return of tonnage, import, and light duties, illegally exacted and paid by him on the Peruvian bark Callao and her cargo in 1848, at the port of San Francisco, California, and to pay him the amount due.

Mr. HALE. I believe it has not been the custom to pass indefinite bills authorizing the audit and payment of claims, without giving some data or fixing some limit. I think bills ought not to pass in that shape. The bill should be definite.

Mr. CHANDLER. I will say to the Senator——

Mr. FESSENDEN. Is there a report?

Mr. CHANDLER. There is no report; but I can state briefly what the case is. The bark Callao was subjected to the payment of tonnage and light dues, which were illegal, the Peruvian nation having a treaty putting them upon the same footing as the most favored nations, which exempted her from these charges, amounting, I think, in all, to about one hundred and fifty-nine dollars. It is a very small matter. Then there is another claim. In estimating the difference in value between the coin of that country and our own, there was a further overcharge of some two hundred and sixty-nine dollars, I think. The whole amount is something like four hundred and twenty-nine dollars. It is a clear case of simple justice. We had not the means of coming to a precise knowledge of the amount; but it is very small.

Mr. FESSENDEN. Where was the bark owned?

Mr. CHANDLER. It was owned by Francis Hüttmann, of San Francisco.

Mr. LATHAM. The amount is under five hundred dollars. It is between four and five hundred dollars.

Mr. CLARK. It may be that the amount is as these Senators state, and I have no doubt they suppose it to be so; but I suggest to them that it is better that the bill should be recommitted to the committee, and that they should ascertain the amount, and report in a bill the amount that we should pay, and then we can fix it.

Mr. LATHAM. That would be impossible, for the reason that the papers are on file in the Treasury Department, where the account is to be adjusted.

Mr. CLARK. It is very easy for some one to go to the Treasury and have the amount stated and brought here.

Mr. CHANDLER. Suppose a limitation of $500 be put in the bill; that covers it. I have no objection to putting in such a limitation. The committee arrived at the amount very nearly; but the case was so simple, so straightforward and ordinary a business transaction, that we did not deem it important to look at and fix the precise sum.

Mr. CLARK. This may be very simple and very unimportant in one view; but it is very important as to the course of legislation that committees should not report such bills, but should, if they can, ascertain the amount, so that the Senate may pass bills for precise amounts. Two sessions ago, where we supposed there was about forty thousand dollars due, we passed a bill of this kind, and we found ourselves in for $140,000, and we had to repeal the law. We had two cases the same session of that kind. This may be unimportant, a small amount, but it sets a precedent; it is in the line of indefinite legislation. We had better fix it, ascertain the amount, and then provide for it exactly, and it cannot occasion the committee a great deal of work.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. SATURDAY, APRIL 19, 1862. NEW SERIES.....No. 108.

Mr. LATHAM. I offer an amendment:

Provided, The sum shall not exceed $500.

Mr. FESSENDEN. That does not affect it, because if it is over $500 it ought to be paid. I suggest that we strike out the words "and directed," and strike out the words "illegally exacted and," and add at the end "and pay him any amount which has been illegally exacted."

Mr. CHANDLER. That is satisfactory; that will answer.

Mr. CLARK. In the last case of this kind we had, we changed the bill into a resolution directing the proper Department to report what was the sum. Now, it is the easiest thing in the world for the committee to address a letter to the proper Department, and for the Department to state the amount. The Department will cheerfully do it, and we can have the exact sum, and avoid this indefinite legislation. That is what I want to avoid.

Mr. FESSENDEN. That would be the better way.

Mr. CLARK. I move to recommit the bill to the Committee on Commerce.

Mr. SAULSBURY. I hope that will not be done. We had the claims of Mr. Hüttmann before the Committee on Commerce at the last session of Congress, and during the whole of this session. We reported the bill unanimously. We have had enough trouble with it. If the Senate do not choose to adopt the bill in the form in which it has been presented by the committee, I hope—and I think that will be agreeable to the committee—that they will reject the bill entirely.

Mr. CLARK. Possibly that might be agreeable to the committee, as the Senator suggests; but it would not be just to the claimant. If there is anything due here to this claimant, I do not desire to avoid it, I do not desire that the Senate should refuse to give it; but I desire that the Senate should ascertain in the first place what is due, and then give what is due. I think it cannot occasion the committee a great deal of trouble, and I hope the Senator will cheerfully assent that they shall take that labor and report to the Senate.

The motion to recommit was agreed to—ayes twenty-four, noes not counted.

COMPENSATION FOR LEGAL SERVICES.

Mr. McDOUGALL. I offer the following resolution; and as it is one of inquiry merely and will not lead to debate, I ask its present consideration:

Resolved, That the Secretary of the Treasury be requested to furnish to the Senate a statement of the amount or amounts of money paid by the Government for legal services in prosecuting investigations of land titles in the State of California, and in prosecuting and defending suits to which the United States was a party during the years 1857, 1858, 1859, 1860, 1861; also a statement as to whom such sum or sums of money was paid; also what sum or sums of money was paid to parties during the same period for making researches for the Government in reference to California land titles in the city of Mexico, and to whom such sum or sums was paid, and what was the particular service required in each and every instance.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McDOUGALL. I am advised that the resolution should be addressed to the Secretary of the Interior, and not to the Secretary of the Treasury, and I desire to have that change made.

The PRESIDENT *pro tempore*. Upon the Senator's suggestion that modification will be made.

Mr. SHERMAN. With the consent of my friend, I desire to offer an amendment, to add "and that he also report the amount received by each district attorney of the United States." It can be done very briefly.

Mr. McDOUGALL. That will require some time, and would delay the answer to the resolution.

Mr. SHERMAN. I received a letter from the Secretary of the Interior, stating that the bill which passed the other day, and which I tried to prevent the passage of, was totally unnecessary; that the amount of compensation received by district attorneys was ample, with probably the exception of the district attorney for Massachusetts, and I desire that that information may be placed before the Senate. The Secretary said he could furnish it without difficulty. I hope, therefore, the amendment will be adopted.

Mr. McDOUGALL. I am desirous of having the information called for in the resolution in the Senate between now and Monday; and I beg the Senator to offer his as an independent proposition. I am afraid it would cause delay.

Mr. SHERMAN. I will not press it.

The resolution was adopted.

STEAMSHIP LINE TO CHINA.

Mr. LATHAM. I now move that the Senate proceed to the consideration of Senate bill No. 75.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 75) to establish a line of steam mail ships between San Francisco, in California, and Shanghae, in China, touching at the Sandwich Islands and Japan.

The PRESIDENT *pro tempore*. Upon this question the Senator from California is entitled to the floor.

Mr. LATHAM. I have nothing to say upon the subject in addition to what I stated the other day, with the exception of a fact that I wish to present to the Senate in consequence of objections that I know exist in the minds of many Senators with whom I have conversed in relation to this bill.

The PRESIDENT *pro tempore*. The Chair desires further to state that the question pending is on the amendment moved by the Senator from California to strike out all of the original bill, after the enacting clause, and to insert a substitute.

Mr. SUMNER. The Senator from California knows very well I take a sincere interest in his bill, and I listened with great attention to the able and elaborate speech in which he developed his idea. It seems to me that if it can be carried out it cannot do otherwise than great good to our commerce; but the Senator himself did confess to a considerable expenditure which would be entailed upon the country if the system were attempted. The point to which I wish to bring his attention, if he will allow me, is to what extent that expenditure can be made consistent with the present condition of things, and with the extraordinary expenditures to which our Treasury is exposed; in other words, whether, at this moment, when we are engaged in this extraordinary war, we can, with proper reference to the finances of the country, assume this additional burden. If we were in a moment of peace, if we had no extraordinary expenditures, then I should feel constrained by the argument of the Senator. The difficulty with me is that we are not in a condition to assume any new and extraordinary expenses.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from California.

Mr. FESSENDEN. I should like to hear the amendment read.

The Secretary read it, to strike out all of the original bill after the enacting clause, and insert:

That the Postmaster General be, and hereby is, authorized and directed to enter into a contract, for a term not exceeding five years, for a sum not exceeding $500,000 per annum, with such person or persons, being the lowest bidders, offering sufficient and satisfactory security, after due public notice, for the transportation of the United States mails, upon the best terms for the United States, monthly, and in thirty-five days, from San Francisco, California, via the Sandwich Islands and Japan, in case any port of that empire shall be opened to the United States, to Shanghae, in China, and back, in steam vessels of not less than two thousand tons burden, of the best form of construction adapted to the navigation of the Pacific ocean; and any excess of the amount which may be contracted to be paid for this service over the aggregate of postages collected therefor shall be paid out of any money in the Treasury not otherwise appropriated.

SEC. 2. *And be it further enacted*, That these mail steam vessels shall be appropriately armed and equipped as war steamers, in such manner as the Secretary of the Navy may direct; they shall each be commanded by a lieutenant of the United States Navy, and while employed in carrying the mails as herein provided, they shall be required to protect commerce in their route between Shanghae and San Francisco, in the same manner as if the said vessels were wholly devoted to that service.

Mr. LATHAM. Mr. President, I think I can answer successfully the objection made by the honorable Senator from Massachusetts to this bill. I know very well, as I stated the other day, that a proposition of this kind ought not, in the present condition of affairs, to be made unless for good and sufficient reasons. I am prepared to show to the Senate that the protection given by our Government to the commerce of the Pacific coast is wholly inadequate to the interests involved; in the next place, to show that if the Government pursues the policy indicated in this bill it will be really an economy; and in the third place, that the interests of our country there are such as will suffer to a very alarming extent unless we go to the expense of increasing the Navy on the one hand, or of adopting a system like this on the other.

In the first place, on the Pacific coast we have but six men-of-war. The Navy Register shows that the Pacific squadron consists of the Lancaster, 26 guns; steam sloop Saranac, 9 guns; sloop St. Mary's, 22 guns; the steam sloop Wyoming, 6 guns; the steam sloop Narragansett, 5 guns; and the sloop Cyane, 20 guns. There are four steam sloops out of the six vessels that are in all the Pacific waters. These ships are principally stationed in the large harbors which line the coast extending from Chili up to the British possessions in the Northwest. The flag-ship Lancaster is located almost permanently, I may say, in the bay of Panama, for the purpose of protecting the commerce that we have monthly between the Atlantic and the Pacific coasts. The sloop Cyane is located almost permanently in the harbor of Acapulco, because our position with the Mexican Government is such that some vessel of war is imperative at that place to protect our commerce and preserve amicable relations. The other vessels, with the exception of one, are on the coast of South America; so that now our trade with the East Indies and with the Chinese ports, since the misfortune that happened to the steamship known as the Saginaw very recently, is entirely without a single vessel to protect them. There is not a single armed vessel carrying the American flag in all those waters.

As against this showing, the British Government have got in those northern waters—not in the southern Pacific, but in the northern Pacific—a long list of men-of-war, which I beg the attention of the Senate in reading, as follows:

	Guns.	*Tonnage.*	*H. P.*
Steam flag-ship Bacchante	51	2,667	600
Steam sloop Cameleon	17	952	200
Steam corvette Clio	22	1,472	400
Steam sloop Fawn	17	751	100
Steam sloop Harrier	17	748	100
Paddle sloop Hecate	6	817	240
Steam sloop Miranda	15	1,039	250
Steam sloop Mutine	17	882	200
Storeship Naiad	6	1,020	-
Storeship Nereus	6	1,094	-
Steam corvette Pelorus	21	1,462	400
Steam corvette Tartar	20	1,296	250
Steam frigate Ternagant	25	1,547	310
Steam frigate Topaze	51	1,973	600
Gunboat Forward	-	-	60
Gunboat Grappler	-	-	60
Total (16 ships)	291	17,729	3,770

The French Government in the same quarter have the following fleet to protect their commerce, which is of a very limited character as compared with our own:

	Guns.	*Men.*	*H. P.*
Steam flag-ship Duguay Trouin	90	1,000	800
Corvette Galathee	32	300	-
Corvette Cornelie	32	300	-
Corvette Bayonnaise	32	300	-
Screw steamer Oassini	6	180	250
Total	192	2,080	1,050

Both these Governments have recently increased their force in those waters. During the time when there was a difficulty pending, growing out of the Trent affair, additional vessels were ordered by both of those Governments into the Pacific waters. The number I am unable to state, because I have no means of knowing.

I wish now to present to the Senate an estimate from the Navy Department as to the cost of main-

taining those vessels on the Pacific station. I will take the Lancaster, which, as I have stated, is located in the bay of Panama, as an illustration. The annual expense to the Government of maintaining the Lancaster, is $405,414 per annum. The pay of officers, marines, and seamen amounts to $97,374; provisions, $35,040; wear and tear and consumption of stores, $84,000; and fuel per annum, $189,000; making a total of $405,414. Three such ships as is contemplated by this bill, and for which we ask but a subsidy of $500,000, would cost the Government annually $1,216,242. Three such vessels as the little St. Mary's, a mere sloop, a sailing vessel, would amount per annum to $299,823. Three such vessels as the Cyane, another sailing vessel, would amount to $266,280 per annum. The pay of officers, marines, and seamen in each, is estimated at nearly sixty thousand dollars per annum; provisions $20,000; and the wear and tear and consumption of stores, between twenty and thirty thousand dollars; so that if you take three of these vessels, mere sloops, the charge made in this bill would really be economical on the part of the Government.

Senators whose attention has not been called specifically to this question may not be aware of the extent of our commerce in those waters; they may not know what amount of property we have there. Why, sir, a work that I have been able to get hold of, published a few years ago, shows that the American trading vessels in the Pacific alone amount to 650, with a tonnage of 200,000, and with 16,000 men employed. The vessels engaged in the American whale fisheries which would, necessarily, be incidentally protected by vessels traversing the route prescribed in this bill in the Pacific waters amount to 634, with a tonnage of 223,109, and employing 18,000 men. Their value is $30,000,000, and give us a yearly profit of $10,000,000. The total number of vessels in the Pacific that are to be protected incidentally by these steamers, as provided for in this bill, amount to 1,284, with a tonnage of 423,109, and with 34,000 navigators, and a total value of $70,000,000. This was an estimate made several years ago, which must now be necessarily much increased. I have been unable to obtain a very recent estimate, but I state the above as reliable.

Mr. President, I consumed so much of the time of the Senate the other day on this question that I did not, as I might have done, allude to these statistics so elaborately. Senators may naturally ask why should we engage in a trade of this kind, supposing our commercial relations with that Government are not of a character to justify us in this outlay. Why, sir, with the exception of the European trade, there is no part of the known habitable globe with whom our commercial relations are so extensive, or have been so growing, as with the Chinese empire. Let me take one article alone—the article of tea. I make no allusion to the silks, to the works of art, to the dye stuffs, and to other commodities that we import from that country; but I choose to take that article which is best known to Senators and the country, and call your attention to the trade in that article. I will read, for instance, the relative trade between England and our country in the article of tea:

"In the first half of this time, that is, from 1792 to 1822, England imported of tea from China, 737,637,740 pounds, or an average of 24,587,591 pounds per year. The total value of her trade with that country, in this period, was $1,894,813,474, or an annual trade of $63,160,449, and from which the Government of Great Britain derived in this period the aggregate *revenue* of $140,233,422. In the succeeding thirty years, that is, from 1822 to 1852, the quantity of tea imported by England, reached the aggregate weight of 1,298,045,111 pounds, or an annual average of 40,268,170 pounds. At the beginning of the term the yearly import was about 23,000,000 pounds, and it now averages about 54,000,000 pounds annually. In this last thirty years the English derived in duties from this tea trade alone $550,311,614, or a yearly revenue of $18,343,720.

"The first voyage from the United States to China was made in 1785, but the trade was not fairly opened until 1792; from that period it has continued to increase until our importations of teas now average about 16,000,000 pounds annually. The total value of imports from the commencement of the trade to this time has reached the amount of $258,858,283. Our exports have amounted to $86,260,264; leaving to be paid in the precious metals $172,598,019."

The reason why the balance of trade is against us is because the specie carrying business that was done by our Government alone up to 1827, has been entirely taken by the English, as I explained to the Senate the other day. Up to 1827, our vessels had carried direct to China the sum of $88,851,606. The opium trade sprang up as between the British East Indies and the Chinese ports about that time, so that the balance of trade was in favor of England; and in order to meet that, as I stated the other day, our American bills of credit were substituted for the specie carrying trade. The result has been that, from 1827 down to 1834, the specie that we sent to China amounted only to $7,988,616, while our American bills on Chinese account, payable in London, for the same time, amounted to $16,657,476.

The PRESIDENT *pro tempore*. The Senator from California will suspend his remarks. The hour has arrived for the consideration of the special order of the day, which, by force of the rules, supersedes the consideration of the present bill. The bill now before the Senate, therefore, is Senate bill No. 151, to confiscate the property and free the slaves of rebels.

Mr. HOWARD. I will state to the Senate that I desire to make some observations on that bill, and would be glad to proceed now unless it will interfere seriously with the measure which is before the Senate, advocated by my friend from California.

The PRESIDENT *pro tempore*. The Senator from Michigan is entitled to the floor.

Mr. LATHAM. With the permission of the Senator from Michigan, I should like to finish this bill. It will not occupy a long time. I am nearly through. I do not think it will give rise to any discussion.

Mr. HOWARD. Then I will yield for that purpose.

Mr. LATHAM. I should like very much to have the bill finished to-day.

Mr. FESSENDEN. I can only say that the discussion will not end probably with the remarks of the honorable Senator from California. I shall have a word or two to say upon this measure; they will not be long, to be sure; and I do not know what other Senators may desire to speak. I cannot allow it to pass without entering my protest against it, to say the least of it.

The PRESIDENT *pro tempore*. The floor is at the disposition of the Senator from Michigan.

Mr. HOWARD. If that be the case, I will proceed.

CONFISCATION BILL.

The Senate resumed the consideration of the bill (S. No. 151) to confiscate the property and free the slaves of rebels.

Mr. HOWARD. Mr. President, the great purpose of the present bill is easily comprehended, easily understood, easily stated. It contemplates two classes of persons who have been or now are engaged in the present rebellion against the Government; the first composed of such persons as are absentees without the United States, owning property within the United States; the other is that class of persons who are resident within the United States who own property within the limits of the United States, and both classes are by the plain terms of the bill described and treated as insurgents, having taken up arms against the Government of their country. The leading purpose of the bill is to declare forfeit and confiscated all the property, real and personal, corporeal and incorporeal, of both these classes of persons to the United States, it being assumed by the bill, and being so declared, that both classes of persons are beyond the reach of the ordinary process of courts of justice, and cannot be served therewith.

It need not be denied, Mr. President, that this bill, in the features to which I have alluded, is one of novelty in this country. I should rather say, sir, and say more correctly, that for some eighty years past—thank Heaven and the good people of the United States of America in maintaining a free republican Government—no occasion has presented itself for exercising or enforcing this description of legislation. But we must remember that we are living in novel times. We must remember that not this country only, but no country on the face of the globe was ever engaged in a struggle like that which now deluges the face of this country in blood. We must contemplate the state of things as it actually is. Would that it were different. Would that these horrible scenes were not now upon us. Would that they could be by some ingenuity of man or interposition of Heaven avoided. But, sir, we are bound as men and as patriots, as lovers of the Government under which we live; we are bound by our oaths of office here; we are bound by our obligations as the guardians of free government and the sustainers of this great experiment at this trying moment, and for all future time, to come up to the work, and like men do our duty and our whole duty.

The leading objection, aside from unconstitutionality, to the principle of confiscation asserted in the bill, and earnestly pressed upon our attention by its opponents, is that the practice is tainted with the cruelties of past ages, is too antiquated and harsh to receive recognition in modern wars, and has, in fact, been dropped from the code of war among civilized nations. And some gentlemen, in their zeal, and in order to stamp upon it the odium of semi-barbarism, have asserted that the practice has not prevailed since the conquest of England by William the Norman, and that enlightened, civilized nations have refused to resort to it. If such be the historical fact; if the advocates of this great measure, great in what it undertakes, great in the mighty political and social renovation it proposes to work in the insurgent States, great in its teachings of allegiance and loyalty to a deluded portion of our countrymen, greater in the salutary and necessary retribution it carries home to the enemies of order, liberty, and free government, and greatest in the protection and gratitude it promises to the faithful found among the faithless in the bosom of the rebellion; if, I say, the advocates of this measure are departing from high historical precedents and endeavoring to commit our Government to a practice which will leave upon it the stain of dishonor in the face of the civilized world, surely we ought to pause. Surely we ought never to incur such a stigma. Though we all feel, all know, that the provocation which has impelled us to take up arms is wanton and wicked; though the impartial pen of history must record the fact that the insurgents never suffered a wrong at the hands of the Government and had no ground whatever to apprehend any; though their whole conduct from the beginning has been marked with perfidies and atrocities towards the Government and its loyal supporters, unexampled even in the chronicles of civil war, yet, for the sake of the great principles of humanity, for the sake of our own good name and the future good name of our beloved country, we must not yield to the impulses even of a just resentment and suffer ourselves to do that which may be indefensible in the eyes of mankind.

Does, then, the practice of forfeiture and confiscation to the use of the State as a means of carrying on war justly deserve the denunciations it has received in this discussion? Is it by the usage of nations excluded as an instrument of modern warfare? Is it such a violation of the rules of humanity as to have gone into disuse in modern times?

I do not so read history. On the contrary, I find it to be what it ever has been, an ordinary form of reprisals, a means of carrying on hostilities as ancient as the idea of property itself, receiving the practical sanction of all ages, from the time when Nestor seized and carried off the herds of the Æleans to compel them to pay their debts, down to this very day. I find it recognized and sanctioned by the great teachers of the laws of war, and by the most distinguished and magnanimous heroes who have illustrated the art of war. As a means of hostility, history shows it to be as allowable as the killing of our enemies, making them prisoners, or weakening them and strengthening ourselves in any other manner.

The history of the civil wars of England ever since the Conquest, has been marked by seizures and confiscations. The very rule of the common law, by which the commission of treason is followed by a forfeiture of real and personal estate, is a plain adoption of the principle of confiscation into the law of England; and though she now discards another incident, the corruption of blood, she would, I apprehend, be the last nation on earth to reject the principle of confiscation in the prosecution of her wars. Under this form of carrying on war, and often as against the subjects of nations with whom she was at peace, she has too often filled her treasury with the gains acquired by her expeditions, almost, if not wholly, worthy of the name of plunder and piracy; too often has her navy seized upon neutral commerce; too often have her privateers plundered the ocean, carrying home from the Spanish main the rich ingots from the mines of Mexico and South America; too often

have her military authorities violated all the humane rules of modern war in their treatment of the enemy, to allow her to criticise the practice of confiscation. It does not lie in her mouth to school us, or the rest of the world, on this subject. She must first blot out from her history the precedents she has set in the seizure of the Church property under Henry VIII, the terrible confiscations of lands and goods at the restoration of the dynasty of the Stuarts, whose owners were hung and quartered under the sentences of her Jeffreys and Scroggs, or forced into exile by the restored tyrants; the confiscations of the property of many of her cavaliers, who fled to Virginia and elsewhere to avoid the pikes of Cromwell and his liberty-loving Puritans; and she must also expunge from her history the truth recorded against her by our fathers in their Declaration of Independence, that she had "plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people."

We need not go far back in the history of France to find the most striking evidence that this principle has not been renounced as a means of war, especially of civil war. The revolution of 1789, by which the feudal system was destroyed and the French nation regenerated, owed its successes and the final triumph of the great principles which lay at its foundation, to confiscations of the property of the enemies of the republic within the limits of France.

I know it is the fashion of many to speak of these things not as precedents to be followed, but warnings to be heeded. The occasion does not require or allow me to enter into the discussion of the abstract justice of those confiscations, and I only refer to them as presenting a most signal precedent set by the leading continental nation of Europe. The French people were not barbarians. They were not adventurers like the followers of William the Conqueror, leaving their own country to acquire power, pelf, and plunder in Britain. They were struggling for freedom and equal rights. They were striving to shake off the burdens of centuries of suffering and wrong under their despotic kings and their still more despotic nobility. They drew the sword against *privilege*, and threw away the scabbard. That we may not accuse them of passionate haste let us look upon the picture which the ablest, most impartial, and most accurate of modern historians draws of their condition at that period. M. Thiers says:

"The political and economical state of the country was intolerable. Everything was privilege in individuals, classes, cities, provinces, and even trades. Everything was a trammel upon industry and the genius of man. Civil, ecclesiastical, and military dignities were exclusively reserved for certain classes, and among these classes to certain individuals. A profession could not be embraced except under certain titles and pecuniary conditions. The cities had the privilege of levying and collecting the imposts and a share thereof, and the choice of magistrates. Mere favors from the Crown were converted by long survivorships in the family into family property, and did not permit the monarch to give any preferences. No liberty remained except in consideration of pecuniary gifts, and the minister had to be disputed with for the abolition of a burden which was wholly without value or utility. Everything was motionless in a few hands, and everywhere the few resisted the despoiled many. Burdens weighed upon the one class. The nobility and the clergy held nearly two thirds of the lands, the other third was held by the people, who paid the imposts to the king, discharged a throng of feudal rights to the nobility, paid the tithe to the clergy, and, besides, sustained the depredations committed by the nobles in their hunting excursions. The imposts weighed most heavily upon consumption, and consequently upon the mass of the people. The mode of collection was vexatious. The seigniors were always, and with impunity, in arrears, while the people, on the contrary, maltreated, imprisoned, were condemned to surrender their persons in default of their goods. They nourished with their sweat, they defended with their blood, the high classes of society without being able to live themselves."

Such is the revolting picture of the condition of the French people. It was of these abuses, growing out of the feudal system, which made the laboring and producing classes the victims, the derision of an idle and effeminate nobility, that the people demanded reform. Their efforts were resisted by the privileged classes, the royal family, and the great mass of the nobility and clergy. Privilege was true to its instincts. It clung to its advantages with desperate tenacity, and regarding all as enemies and plunderers who sought to loosen its grasp upon its long enjoyed spoils, prepared to plunge the nation into the horrors of civil war. To this end it divided its forces, and while some remained at home to act the part of spies upon the republicans, and to welcome the foreign invader to the soil of France, others emigrated and stirred up the surrounding nations to join in the bloody crusade against the republic. Within and without she was beset by implacable foes. Both a foreign and intestine war pressed upon her. Treason and assassination within coöperated with legitimacy from without, and while the friends of reform cried aloud, "*liberty, equality, fraternity*," privilege, in the midst of its myrmidons, hovering on the frontiers, raised the gloomy shout of "order, legitimacy, down with anarchy."

Without justifying the excesses inseparable from the struggle, we are not surprised at, nay, we cannot but admire the spirit of steady defiance and whole-souled devotion of the patriots to their principles, when, with leaguering armies of foreigners upon their borders, and the fires of civil strife raging in their midst, they proclaimed "war to the castle, peace to the cottage." It showed they were conscious that they were struggling in the interest of liberty, and that courage, a courage that defies all the assaults and all the enticements of power is, after all, the only safeguard for its protection and preservation.

A wasteful and corrupt court had bankrupted the public treasury. The nobles, whose estates had contributed so little to the public burdens, were fugitives abroad, conspiring with the public enemies for the overthrow of liberty and the restoration of the old tyranny. The estates of the Church, comprising about one eighth of the lands, had never contributed a farthing to the public necessities, and most of their occupants were openly disloyal to the republic, giving aid and comfort to the royalist conspirators at home and corresponding with the enemy abroad.

Under these circumstances, and as an obvious means of defending the country and prosecuting the war, the Convention seized upon and confiscated to the public use the estates, real and personal, of the emigrant nobles who refused to adhere to the republic, and also the property of the Church, providing for the support of the loyal priests and for religious worship, out of the funds of the State. This property constituted the sole basis on which the financial system of France rested, from the commencement of the republic down to 1800, and during that period more than five hundred millions of dollars was, as history shows, derived from the sales of such property. It was a plain, undisguised confiscation; and the sales were never wholly arrested during the reign of Napoleon. It was not without its benefits. It caused the estates of a once burdensome privileged class to change hands, parceled them out, and placed them in the possession of small proprietors, thus rendering them productive, and inviting and encouraging the industry of the free laboring man. This great measure, and the early decree abolishing nobility and the right of primogeniture, made of France a new nation. They secured to her the realization of the vision of l'Abbé Seyès: "What is the third estate? Nothing. What should it be? Everything." They gave to France a patriotic soldiery who carried her conquering eagles to all the capitals of Europe. They gave to every Frenchman, however lowly, a home and a fireside. And they taught the world that nations and law and order and renown can subsist without privilege; that the only solid foundation of national strength is in the hearts of an industrious, laboring, self-sustaining people; that liberty and equality are no dream, and that there is no patriotism so strong as that which arises from a sentiment of brotherly kindness, and a consciousness of equality before the law.

Sir, the analogies existing between the social condition of France at that frightful period, and that prevailing under the slaveholding oligarchy in a large portion of the insurgent States, cannot escape the notice of the careful observer. It has plainly not escaped the notice of the leaders of the insurrection. But had they been wise in time, had they considered calmly the difficulty of forever upholding the principle of privilege and all its concomitants in the midst of a people worshiping liberty and equality as their household gods, this fratricidal war would never have burst forth. But let me tell them that in their mad attempt to banish these gods from the hearths of their own people, they will in the end but endear them to their true worshipers; and, like the French noblesse, find themselves driven from the congregation. In saying this, I do not refer to the black population.

It does not detract from the force of this example that there were great and lamentable excesses committed by the new Government. Every revolution has its irregularities over which humanity is compelled to weep. I refer to the confiscations in France, not so much to approve them as to present them as a striking precedent to show that civilized nations have not disused this species of reprisals as a means of waging war. Surely an instrumentality that was employed by Napoleon habitually and for long years against his own disloyal countrymen, does not, as a war measure, deserve to be characterized as semi-barbarous. Nor did he confine the right of reprisals to the property of an enemy, but, as he was at liberty to do under the recognized laws of war, extended it to the persons of his enemies found within his dominions at the commencement of hostilities, detaining them either as prisoners or hostages. An instance of this kind occurred on the rupture of the treaty of Amiens.

But I pass from European precedents to those nearer home. As a means of carrying on war, the principle of confiscation was fully recognized by the several States during our Revolution. The precedents it furnishes seem to me perfectly conclusive upon us. They constitute an important chapter in the history of that war, and we cannot disregard them; we cannot treat them as evidence of barbarism or even unnecessary severity, without bringing a reproach upon our fathers as men and Christians, and a stigma upon their cause. I begin with Georgia.

Georgia passed numerous acts of confiscation during the revolutionary war. On the 1st of March, 1778, by a single act, she attainted of treason one hundred and seventeen citizens of Savannah, and confiscated all their property, real and personal, as well as all the property, real or personal, of all persons who, since the 19th of April, 1775, had levied war or conspired against the safety of the State. (See Maubury & Crawford's Digest of the Laws of Georgia, from 1755 to 1800, p. 62.)

On the 4th of May, 1782, her Legislature, by a similar act, banished from the State some three hundred persons, and declared all their estates, real and personal, confiscated to the use of the State.

The Supreme Court, in Higgenson *vs.* Mein, (4 Cranch,) recognize the validity of these confiscations. Indeed, the fifth article of the *treaty of peace* recognizes them and all others, for it expressly provides that all persons who have any interest in confiscated lands, either by debts, marriage, settlements, or otherwise, shall meet with no lawful impediments in the prosecution of their just rights.

In April, 1776, South Carolina passed an act called the sedition act, by which she outlawed all persons who had taken service under the king, declaring them guilty of a capital offense, and forfeiting their estates.

In February, 1782, she declared forfeited and confiscated to the use of the State all the property, real and personal, of a list of proscribed persons, declaring her commissioners "fully seized and possessed" of all such property, and authorizing them to sell and convey the same to purchasers.

The number of persons against whom this act of attainder and confiscation was passed, was about three hundred, and the amount of property must have been large.

In 1779, the Assembly of North Carolina passed an act declaring—

"That all the lands, tenements, hereditaments, and movable property within this State, and all and every right, title, and interest therein, of which any person was seized or possessed, or to which any person had title on the 4th day of July, A. D., 1776, who on said day was absent *from this State and every part of the United States, and who still is absent from the same, or who hath at any time during the present war attached himself to or aided or abetted the enemies of the United States, or who has withdrawn himself from this or any of the United States after the day aforesaid, and still resides beyond the limits of the United States*, shall be, and are hereby, declared to be confiscated to the use of this State."—*Acts of Assembly of North Carolina*, edition of 1804, p. 244.

This statute operated not only against disloyal persons at home or abroad, but against absentees who had committed no offense and taken no part in the war. It proceeds upon the ground that the citizen owes it to the State as a duty in such a crisis to stay at home and help defend it.

In May, 1779, the Legislature of Virginia passed

an act of forfeiture of all the real and personal property of all *British subjects*, explaining the term *British subjects* to mean—

"All persons, subjects of his Britannic Majesty, who, on the 19th of April, in the year 1775, when hostilities were commenced at Lexington between the United States of America and the other parts of the British Empire, were resident or following their vocations in any part of the world, other than the said United States, and have not since either entered into public employment of the said States, and joined the same, and by overt act adhered to them; and all such subjects, inhabitants of any of the United States, as were out of said States on the same day, and have since by overt act adhered to the enemies of the said States; and all inhabitants of the said States who, after the same day and before the commencement of the act of General Assembly, entitled 'An act declaring what shall be treason,' departed from the said States and joined the subjects of his Britannic Majesty of their own free will," &c.

The Governor and Council were empowered to declare the forfeiture, and only *one month* was given to the owner to come forward and contest their decision. (See Henning's Virginia Statutes at Large, p. 66.)

Maryland, in 1780, by a sweeping act, provided that—

"All property within this State, debts only excepted, belonging to British subjects, shall be seized, and is hereby confiscated to the use of this State."

The act appointed commissioners to administer the property.

In Smith *vs.* Maryland (6 Cranch, 306) the Supreme Court, per Marshall, Chief Justice, hold that no act of the commissioners was necessary in order to give *seizin* of the lands thus confiscated to the purchaser under the State, and remark that—

"The law considers that all property belonging to a British subject was, by the mere operation of the law, *seized and confiscated.*"

Pennsylvania, by her act of the 27th of November, 1779, declared—

"That all and every the right, title, interest, property, claim, and demand of the heirs, devisees, grantees, or others claiming as proprietaries of Pennsylvania, whereof they or either of them stood seized, or to which they or any of them were entitled, or which to them were deemed to belong, on the 4th day of July, in the year 1776, of, in, or to the soil and land contained within the limits of the said late province, now State of Pennsylvania, or any part thereof, together with the royalties, franchises, lordships, and all other the hereditaments and premises comprised, mentioned, and granted in the same charter or letters patent of the said King Charles the Second, except as hereinafter excepted, shall be, and they are hereby, vested in the Commonwealth of Pennsylvania, for the use and benefit of the citizens thereof, freed from all uses, trusts, entails," &c.

In commenting upon this statute, the Supreme Court, per Justice Marshall, say:

"When the war of our Revolution commenced, the Proprietary went to Great Britain, and was, consequently, to be considered as a British subject, not as an American citizen. *The right to confiscate his property or to leave it untouched was in the Government of Pennsylvania.*"—*Kirk* vs. *Smith*, 9 *Wheaton's Reports*, p. 241.

It is noticeable that, in the preamble of the act, the Legislature put the confiscation upon the ground that the "safety and happiness of the people is the fundamental law of society," and that "the good people of that State demanded it as some indemnity for the blood and treasure they had expended in the war of liberty."

In October, 1779, New York declared a long list of persons attainted and guilty of treason, and that—

"All and singular the estate, both real and personal, held or claimed by them, the said persons, severally and respectively, whether in possession, remainder, or reversion, within this State, shall be, and is hereby declared to be forfeited to and vested in the people of this State."—2 *New York, Greenleaf's Edition*, vol. 1, page 26.

A subsequent clause applies the attainder and forfeiture to all persons who might be presented under the act by a grand jury and found guilty on trial, or who should not, after publication of notice, appear and traverse the indictment.

By her act of 1784, (page 127 of same volume,) all these confiscations are expressly confirmed, by the name of "*confiscations*," and provision made for the sale of the property, and the application of the proceeds to the payment of her public debt.

In 1777, Massachusetts passed an act treating the estates of refugees who had left the State to join the British as the estates of deceased persons, and requiring the surplus of personal property, after the payment of debts, to be deposited in the State treasury.

In 1778 she passed an act of banishment against three hundred and eight persons, and decreed the penalty of death in case of their return. (Ancient Charters and Laws of Massachusetts, in Appendix.)

And by a subsequent act during the war she confiscated the property of twenty-nine persons, whom she denominated notorious conspirators, and among them fifteen were counselors, two had been Governors, one Lieutenant Governor, one treasurer, one attorney general, one chief justice, and four commissioners of the customs.

New Hampshire, also, besides banishing seventy-six of her former citizens, confiscated the estates of twenty-eight of them.

New Jersey was not less earnest in the work of proscription and confiscation. One of her acts punished traitors and disaffected persons; another leased out the real estate of certain fugitives and offenders; and a third forfeited and vested in the State the real property of sundry persons.

And Delaware, too, forfeited and confiscated to the State the property, both real and personal, of forty-six persons by name, subject to the payment of their debts, unless they should give themselves up for trial for treason.

The property of all these loyalists or Tories was thus seized and confiscated under the statutes of the States. It was a civil war; the enemy was not only from without, but was found within. Neighbors were enemies; even households were divided between Whig and Tory. Brother was found in arms against brother, and father against son. Scenes of fraternal bloodshed similar to those which are now occurring in the slave States were enacted. These measures were all war measures, having each and every of them for their object the enfeebling, the expulsion, and the destruction of the enemy. And they were just, for common prudence suggested their necessity. So plain was this, that in after times, when peace was restored and the bitterness of feeling modified by the lapse of years, the States refused to relax their rigors, or to any considerable extent suffer the confiscations to be removed, or their former domestic foes, now driven into exile, to return to their homes. These measures were not acts of ordinary legislation in time of peace. They meant not peace, but war, civil war; and by their plain intention, as well as their terms, were but instrumentalities in waging and conducting an actual, existing war. The confiscations were leveled against enemies, enemies in the sense of the recognized code of war and of nations, and were obviously as much a means of carrying on the war against them as would have been the seizure of their property on the high seas, or shooting them down on the field of battle. No argument can divest them of their real character as war measures. There is no room for subtilty or sophistry as to their kind or quality. No ingenuity of argument can remove them from the category in which we find them; and unless we deny that our Revolution was a *war*, we cannot deny that these measures were among the means of prosecuting it on the part of the colonies.

I come now to the question of power, the great question whether under our written Constitution we as a Government have in law the right to declare and enforce the forfeitures and confiscations contemplated by the bill.

I admit that if we have not this power under the Constitution, we cannot forfeit and confiscate the property of rebels, real or personal, and that any title we might assume to give would be void in law.

There is no clause in the instrument expressly conferring the power, and unless it is implied as a means of carrying into execution some one of the powers expressly granted and enumerated, or some other power not so expressed and enumerated, but nevertheless "vested, (to use the terms of the instrument,) "by this Constitution in the Government of the United States, or in any department thereof," we are unable to exercise it. I need not say to candid and reflecting men that the dangers arising from too broad an interpretation of the Constitution are by no means less to be dreaded and avoided than those proceeding from one too narrow and illiberal. The instrument must be construed with reference to the state of things existing at its formation, and the purposes had in view by its framers. Those purposes are plainly announced in the comprehensive language of the preamble, and no one can misunderstand them. They were "to form a more perfect union, establish justice, insure *domestic tranquillity*, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity." The insuring of domestic tranquillity is thus expressly indicated as one of the prominent objects of the Constitution, and nothing can be plainer than that it means, not mere family or neighborhood tranquillity, not the tranquillity of the fireside, but the internal tranquillity of the nation as a nation, and of the States as political bodies and constituent parts of the nation. It was political tranquillity, as opposed to political disturbance, as opposed to anarchical and insurrectionary movements of classes, districts, or communities, tending to disturb the internal peace of the nation, and to overthrow law and order.

Such is one of the ends for which the Constitution was made—an important end; one without which the Government itself would have been but vanity and vexation of spirit, and the liberties it was to secure a chimera.

Now, there is no clause expressly authorizing the Government to wage and carry on war with a foreign nation, whether offensive or defensive, and yet to pretend that because of the absence of such a grant of power the Government, though expressly authorized to raise and support armies and provide and maintain a navy, is destitute of all power to use and employ them in defense of its own existence, would deserve and receive the ridicule of all. But, as if to take away all cavil, and all grounds of cavil, and distinctly and expressly to insure domestic tranquillity, the convention of 1787 authorize Congress, in terms, to call forth the militia to *suppress insurrection;* that is, an armed rising of many persons, acting in concert with the purpose of overthrowing the Government, or of resisting its authority by concerted armed violence. This is precisely the form of public disturbance which now exists; the same violation of domestic tranquillity, against which it was one express object of the Constitution to guard. And the means which it, by express terms, places in our hands to combat and subdue this violence is the employment of the militia. I say, in terms, for I do not mean to be understood as doubting the perfect right of the Government to employ the regular Army and Navy and all other instrumentalities known to the art of war, to the same end. Our right to employ such other means grows out of the necessity of protecting the existence of the Government, a right inseparable from all associations of men permitted by law, and one which cannot innocently be renounced. We have the undoubted right, then, under the Constitution, by express terms, to employ the militia of the country, and by the plainest implication, the Army and the Navy, for the purpose of suppressing the existing insurrection. For the Government to employ these means, these instruments of military force, is to be engaged in carrying on and prosecuting *war*, civil war, a war which as a duty under the Constitution it is obliged to wage until the insurrection is suppressed and domestic tranquillity restored. It has no election between waging and forbearing to wage this war. It cannot, without a violation of sworn duty, desist from its prosecution until all armed resistance shall have ceased. Our oaths of office have linked us to the prosecution of this war, and will link all our successors to it, with the force of our obligation not only to the Constitution, but to God. Neither we nor they can desert that obligation; and may we and they have the manhood, the constancy, and the honesty never to commit so dreadful an apostacy!

Some months since the President of the United States, in pursuance of an ancient act of Congress, issued his official proclamation, declaring the people of several States of this Union to be in insurrection against the Government. He at once proceeded to employ our armed ships to blockade the coast of nine of the insurgent States bordering on the Atlantic, and to close all their ports, cutting them off from trade with foreign nations. By like military measures all peaceful intercourse between the loyal and disloyal portions of the country has been stopped. Large armies are arrayed on either side of the hostile lines, battle after battle has been fought, human life been freely sacrificed under the banner both of the Government and of the insurgents, prisoners exchanged, and safe conducts issued and used on both sides, and, indeed, as complete and technical a state of hostility created as

ever existed on earth between two nations, except that as the war is a civil war, in other words, an insurrection against a lawful Government, we have not conceded and cannot concede to them any of the belligerent rights of an independent nation, except such as are due to humanity, and which arise merely upon the score of a common humanity, and the requirements of a common civilization. The exact character of the war is not foreign or national, but is that of an insurrection and rebellion. It is an attempt on the part of the insurgent districts to dismember the national territory, and to install over a part of it a jurisdiction and a political system independent and in defiance of the rights, the powers, and the duties of the Government of the United States, to convert the citizens of the United States resident there into citizens or subjects of a new Government, and to establish another independent nation, or rather, a nest of small independent sovereignties, on this continent, and on our borders. We are waging the war to defeat this ambitious and wicked scheme. We are waging it not against public or foreign enemies, as in the case of a national war, but against persons who owe obedience to this Government, and are rightfully subject to it.

Nor is it a contest of factions striving for the control of the same Government, like the wars of the Roses in England, or the wars of the League in France. In the latter kind of wars, as a talented writer and soldier (General Halleck: International Law and Laws of War, page 333) of our own day and country, remarks, "each party is usually entitled to the rights of war as against the other, and also with respect to neutrals." But, he adds, "mere rebellions, however, are considered as exceptions to this rule, as every Government treats those who rebel against its authority according to its own municipal laws, and without regard to the general rules of war which international jurisprudence establishes between sovereign States." And it is undoubtedly the sense of the leading teachers on the laws of war that in rebellions the lawful Government is not restricted to the instrumentalities prescribed to independent nations. It may not, it is true, violate the laws of humanity. It may not exercise wanton cruelty on the weak, the ignorant, the helpless, or the deluded; but it may, on account of their violated allegiance, or on account of their indifference, even, to their duty as citizens, impose upon them such restraining or punitive burdens as the Government may think best fitted to repel their violence, to subdue their rebellion, and restore peace and order.

If to do this it be necessary to strip them of their lands or their goods, or both, it is allowable by the laws of war; and whether it be done by actual forcible seizure, or by legislative act declaring the title *ipso facto* escheated to the State, or whether it be done by the more slow process of judicial trial and sentence, can make no difference in principle. The seizure and use of the property is, in any case, a means well known to war of strengthening one party and weakening the other.

I am aware that by the usages of modern war the conqueror does not ordinarily disturb the title or the possession of the real estate of the individual subjects in the territory he conquers, but that by the general rule of the law of nations the title remains in the former owner. The same is also true of movable property, with the exception that this kind of property is always liable to be seized without compensation by way of foraging, and by way of contribution for the support of the invading or occupying army. But in neither case does the rule, or rather usage, amount to a positive obligation; nor has it been recognized as a custom so universally binding as to be considered in the strict sense a law of war. It is in both the cases put subject to that higher and universal rule, growing out of the natural right of self-defense, that the conqueror may justly take indemnity for the past and security for the future. Vattel says:

"The conqueror's every right springs from the just defense of himself, which comprehends the maintenance and pursuit of his rights. When, therefore, he has entirely vanquished a hostile nation, he may, without doubt, firstly do himself justice respecting that which has occasioned the war, and pay himself the damage it has caused him. He may, according to the exigency of the case, impose penalties upon the nation; and may even, if prudence obliges him, put the nation out of a condition to harm him so easily in future. But to reach all these ends he should prefer those means which are the mildest, remembering that the law of nature does not permit us to do ill to an enemy except precisely so far as necessary for a just defense and a reasonable security for the future."—*Vattel*, lib. 3, ch. 13, sec. 201.

And the rule of sparing the private property of the enemy will be found subject to an analogous and further exception, that its status and title remain under the old law so long as the victorious party pleases, and no longer. If he is wise, and if his adversary is inspired with magnanimity and good faith, no doubt clemency is a most potent means of restoring a lasting friendship; and no one can help admiring the beautiful illustration of the principle, cited by my learned friend from California, [Mr. McDOUGALL,] in the case of the embassador sent by the Privernates to the Roman Senate. Introduced to that august and stern body of men, and being asked by the consul, what dependence could be placed upon the peace which he asked of them, if they should grant him clemency, the envoy replied, "if you grant it us on reasonable conditions, it will be lasting and solid; if not, it will not last long." And the learned writer who cites the beautiful example, with a heart overflowing with philanthropy, and that love of justice and generosity for which he is so famous, exclaims to every conqueror, "what fidelity, what succor, can you expect from an oppressed people? Would you that your conquests should truly augment your strength, that they should be attached to you—treat them like a father."

As between independent nations engaged in a war which has humbled one and given victory to the other, surely the practice of clemency is, in the estimation of the generous heart, a brighter glory than victory itself; for he that ruleth his own spirit is greater than he that taketh a city. But what, let me ask my honorable friend, what place has this principle of clemency in the case in hand? What greater clemency can be shown our now maddened and revolted countrymen than the restoration among them of our mild Constitution, our equal and beneficent laws? What more reasonable conditions can we offer them, than to throw down the blood-stained arms of their rebellion; to fling away the sword that has already drunk the blood of so many heroic defenders of this sacred instrument; to dismiss to their homes the deluded multitudes whom their unhallowed ambition and cunning and craft have incited to take up arms; to make reparation for the wrongs they have committed; renew their allegiance to the Government of their fathers; annul their decrees of rebellion; reorganize their loyal governments, and be again with us and of us? Let me tell you, sir, that clemency other than this is unworthy of us; clemency more tender than this is weakness; clemency that demands less than this is cowardice; and clemency that does not insist upon at least all this is faithless to free government and the hopes of the world.

Now, sir, I know of no distinction between national wars and civil wars, as to the right of seizing and confiscating property. The foundation of the principle rests in self-defense and the prosecution of one's just rights by war. If this be, as it doubtless is, the constitutional source of the power in question, the discussion of the point need proceed no further. That the States once had it I have abundantly shown, both from their statutes—which, by the way, were passed upon the recommendation of the Congress of the old Confederation—by the solemn judgments of the Supreme Court, by the practice of other independent nations, and by the writers on public law.

The power has, by the Constitution, been expressly taken away from the States. It declares that no State shall without the consent of Congress keep troops or ships of war in time of peace, enter into any treaty, alliance, or confederation, or any agreement or compact with another State, or with a foreign Power, *nor engage in* war, unless actually invaded, or in such imminent danger as will not admit of delay.

Here all power to carry on war, except when suddenly attacked, is taken away from the States. They are divested of the means they once possessed. They can no longer, for that purpose, pass such acts as I have referred to. And still it cannot be denied that such acts are war measures. And if the Federal Government does not possess the faculty, a most efficient means of crippling an enemy has been totally abdicated and thrown away by the whole American people, and for all time. This, it is true, is an argument *ab inconvenienti;* but it is impossible to disregard it, for it seems to me incredible that in framing and adopting the Constitution it was intended forever and in all emergencies to discard one of the well-known means of waging war.

But we are met by another objection, and told by some honorable Senators that this is a bill of attainder, and, being such, we are forbidden to pass it by that clause of the ninth section of the first article of the Constitution which declares, "no bill of attainder or *ex post facto* law shall be passed."

What is a bill of attainder in the sense of the Constitution? Upon every principle of sound construction, the word attainder ought in this clause to receive the same meaning as is given to it in other parts of the instrument. In the first clause of section ten, it is declared that "no State shall pass any bill of attainder." Several, if not all, of the States had, during the revolutionary war, passed statutes, in imitation of numerous English statutes, expressly attainting persons by name and declaring them guilty of treason or felony for the part they had acted in the struggle; but in every case of the kind the term attainted is applied to persons, and never to property only. The meaning of the word *attaint*, as used in English history and jurisprudence, is to *stain*, to *stigmatize*, to disgrace, or, to use a more modern and homely phrase, to *spot;* and it would not only be a violation of all grammar but of the well-known use of the word to apply it to *property*. There is no instance in our own legislative or judicial history in which it has been so applied, so far as my own researches have gone, and I venture to say no such instance can be found in English history. The term always refers to a person, and never to property only. It would, indeed, be a singular use of language to talk of *attainting* horses and cattle, steamboats, wagons, casks of sugar, and bales of cotton.

Again, as if to set this question also at rest, the Constitution declares that "no *attainder* of treason shall work *corruption of blood* or forfeiture, except during the life of the *person attainted*." Nothing can be clearer than that the term attainder here means a judicial conviction of an accused person of treason. It is called an attainder, and the person convicted is said to be attainted; and the language is plainly borrowed from former English and American statutes and judicial proceedings. The clause relates exclusively to the punishment of an act of treason committed by a person. It contents itself—when that person is convicted, that is attainted—with taking his life or sending him to prison, if Congress shall so ordain, and forfeiting his estate during the remainder of his days; but it withholds from us the power, upon such conviction, to declare that his heirs-at-law shall not inherit the property he may leave behind him. It refuses, in its humanity, to punish them for his misdeeds. I repeat, an attainder is a conviction of the person. Before the Constitution, it might have been in the form of a legislative act, or of a formal accusation, trial, and sentence in a court of justice, as the sovereign power might see fit; and the only change in the mode of ascertaining the guilt of the accused which the Constitution has made consists in divesting the Legislature of all jurisdiction to try the accused, and in prohibiting the corrupting of the heritable capacity of his heirs. But the attainder clause has no more to do with the seizure and confiscation of mere enemy property in time of war, as a measure of war, than it has with the levy of an execution or the foreclosure of a mortgage. It has nothing whatever to do with it, and does not relate to the subject. That power stands on ground very distinct and very distant from the mere judicial proceeding to convict a man of treason.

Undoubtedly a bill of attainder, being a mere legislative act, may, as was observed by Chief Justice Marshall—*clarum et venerabile nomen*—in Fletcher *vs.* Peck, (6 Cranch,) "affect the life of an individual, or *may* confiscate his property, or both;" but it must be remembered that he was speaking of the sovereign power of the State to pass acts affecting persons and property, and not of the meaning and effect of the words "attainder" and "attainted," as employed in the Constitution. Nor did he in that case hint at what might be the power of Congress to forfeit and confiscate as a war power. And he was, indeed, entirely correct in what he said; for, beyond all doubt, it was of old competent for the legislatures, in their bills of attainder against the person, to provide for punish-

ing his person either by death, imprisonment, or other personal suffering, or by merely taking from him his property. Yet, in the subsequent case of Brown *vs.* The United States, (8 Cranch,) that illustrious judge expressly asserts that "the power of confiscating the enemy's property is in the legislature." It is true, he is speaking of foreign enemies, and not of rebels in arms, and waging war upon the Government; but I have already shown that, by the laws of war, a foreign enemy is entitled to greater lenity than a rebel, for the reason that the latter has, as an individual, voluntarily violated his duty of allegiance, a duty which was never due from a foreigner. No case growing out of a rebellion had at that time come before the court, and its revered records had not been put to the shame of perpetuating the case of a rebel. But no one can suspect that the patriotic soul of Marshall would have sought out any such subtile distinction between foreign war and rebellion as would have extended to a blood-stained rebel favors withheld from a foreign enemy engaged in honorable war by the command of his sovereign.

But the honorable Senator from Illinois, [Mr. TRUMBULL,] who reported this bill, has so ably and conclusively replied to this objection that it would be useless, and even unkind, in me longer to detain the Senate upon it.

I come to another objection. We are told by the honorable Senator from Pennsylvania, who sits furthest from me, [Mr. COWAN,] that, although the power of seizure and confiscation is lodged in the Government of the United States, yet that Congress is not vested with it, and that it pertains exclusively to the President in virtue of his prerogative as Commander-in-Chief of the Army and Navy; that, as it is but an instrument of war, it is for him, not for us, to wield it; that an attempt on our part to use it or to regulate its use would be a usurpation of an authority which is his; and that all Congress is permitted to do is to furnish the supplies of men and money.

I fear the honorable Senator has been more attentive to the peculiarities of the English constitution than those of our own. It is beyond doubt one of the prerogatives of the British sovereign, not only to declare war, but to raise armies, build, equip, and man navies, and to carry on war by land and sea, without the consent of Parliament, and without in any way consulting them. He has the whole of the war-making power in his hands, and may use it against whom he pleases and so long as he pleases, subject to no check by the Parliament, except the right and the power to withhold the taxes for paying the expense. Subject to that single embarrassment—not by any means a legal restriction, for he may borrow money without the consent of Parliament—his power is as absolute over the whole field of war and all its operations as that of the most absolute despot.

Sir, is that our case? Have the people of the United States stripped themselves of all power to control the operations of the wars in which they may be involved? Is nothing left to their representatives but to furnish the men, the material, and the money; and are their orders as to the mode in which, and the purposes for which, these shall be used, totally powerless and void? And does the Constitution subject to the will of the President exclusively the use of the military force in all the details of the service, and authorize him alone to say when and whither it shall move, what expeditions it shall or shall not undertake, what implements of war it shall or shall not employ, what armistices it shall or shall not agree to, what places it shall attack and what it shall spare, what property of the enemy it shall or shall not seize, and when a campaign shall begin and when end?

I cannot, sir, assent to this. It is against the genius of free government; and, in my opinion, utterly irreconcilable with the provisions of the Constitution.

Among the powers expressly granted to Congress by the Constitution is the power to declare war; that is, to enact by a formal statute that a state of war shall exist between the United States and a foreign Government, thus conferring upon our people the belligerent rights created by the usages of war and the laws of nations, and recognizing the same rights in the subjects of the adversary Government. This act or declaration cannot, however, be necessary as preliminary to an actual state of war; for it is obvious that no nation is under any legal obligation to make a formal declaration of war before it draws the sword, whether of attack or defense; and the United States may not only be assailed by the arms of a hostile Government, and made, to all intents and purposes, a belligerent Power, but, like other nations, may, whenever their safety, their interests, or their honor shall require it, actually engage in war without the ceremony of a declaration by Congress. They may doubtless authorize the President, in a contingency, to make war. It may be chivalrous, courteous, and humane to send the herald into the enemy's territory to proclaim the approach of the warriors; but it is not a legal obligation, and has not been so considered by nations, either ancient or modern; and the United States have on more than one occasion dispensed with the formal announcement when about to make war upon public enemies. We have never declared war upon the Indian tribes; we embarked in the war with Mexico, and actually engaged in it, without a declaration. And in the case of a defensive war, in which we are attacked by a foreign Power, as, for instance, we were attacked by Great Britain before the formal declaration of June, 1812, it is, of course, folly to pretend that the nation may not be actually engaged in war unless by and under a declaration of Congress.

Such a declaration is not essential to the existence of belligerent rights, nor to the actual existence of public war. The clause seems rather intended as a restriction upon the President's authority as Commander-in-Chief of the Army and Navy, preventing him from performing any aggressive act leading to war with a foreign Power. It was a warning to him not in any case without the consent of the Legislature to give such orders to the Army or the Navy as should lead, naturally, to a state of hostility with other countries—indeed, a restriction, a curb upon his power of command, keeping him at all times within the boundaries of peace and amity with the rest of the world. But surely no one will contend that the clause, "shall have power to declare war," grants to Congress any right or faculty which they would not possess without it; no one will urge that if it were not found in the Constitution Congress would not possess the right to involve the nation in war. Without it, could the States either severally or jointly make and carry on war? No; because by the Constitution they are expressly prohibited to engage in war unless invaded or in such imminent danger of being invaded as not to admit of delay. The States cannot resort even to the ordinary means of self-defense, for they are expressly forbidden, in time of peace, to keep troops or ships of war. Congress, on the other hand, is clothed with the express powers to raise and support armies; to provide and maintain a navy; to provide for organizing, arming, and disciplining the militia, and governing such parts of them as may be employed in the service of the United States; to call them forth to execute the laws of the Union, suppress insurrection, and repel invasion.

The power to raise and support armies and to provide and maintain a navy would be totally nugatory without the power to employ them. They are raised and supported, provided and maintained to the very end and purpose that they may be employed, and employed for the same objects that other nations employ them, that is, to engage in and carry on war, whether the war be just or unjust, whether it be one of aggression and conquest, or of defense and self-protection. The character of the war, whether right or wrong, is necessarily excluded from the discussion of the question of the power to engage in it.

It follows then, clearly enough, that Congress in the absence of the mere power to declare war, would have possessed, by the plainest and most irresistible implication, the power to wage it and involve the nation in all the consequences of public and lawful war; and that the clause in question does not, in fact, contribute one iota to the quantum of power they possess. It was plainly intended as a caution—yes, I must go further—as a prohibition to the President, whether acting as Commander-in-Chief of the Army and Navy, or in forming treaties with foreign Governments, against any assumption by him of the right, the power, or the duty of involving the nation in war with another nation, leaving the whole right, the whole duty of initiating a national war for any purpose except that of self-defense, to Congress, to the law-making power. And the other clauses to which I have referred plainly and expressly confer on Congress the supreme authority to conduct and control the operations of the military forces of the country.

For if it be the exclusive right of Congress not only to raise and support armies and navies, but (which is an irresistible and immediate inference) to use and employ them for warlike purposes, they must possess also the power to control every movement of the Army and Navy in actual service, whenever they shall see fit so to do. They cannot indeed supersede the President in the chief command, but they possess the undoubted power under the Constitution to subject him to their own orders as to the objects of the war, its extent and duration, the contingencies upon which it shall cease or be resumed, the means of annoyance or defense that may be employed, and, in short, the entire use which he shall make of the military forces of the country.

His mere capacity as Commander-in-Chief renders him in no respect independent of the authority of Congress. It does not place him above the law. He is still our general and bound to execute our behests, subject to the will of Congress, and liable for disobedience to be reduced at once to the condition of a private citizen, and incapacitated to hold any office of honor or emolument under the Government.

Thus far in our history Congress has not, it is true, in any instance exercised this supreme power of control over the operations of the military, but have left the President free to wield the national forces in such manner as has seemed best to him. We have thus far, though perhaps not wisely in some cases, abstained from interference, and have permitted this great, this conservative, this essential power, to lie dormant. Our campaigns have been planned and carried out by the President, aided by his ordinary advisers and by his subordinate military officers; and Congress has taken no part but in supplying the means of prosecuting our wars. But let us remember there are many other powers in the Constitution which have never been brought into activity. Not to use a power affords no solid argument against its existence. There may be no need to resort to it, and the very absence of such necessity, though no reason for denying the existence of the power, naturally leads the mind to overlook the fact of its existence. It is the necessity of using a particular power, pressed upon the minds of Congress and the country by an exigent occasion, that leads to a careful and rational search for it.

We must not be misled by the absurd idea that the framers of the Constitution assumed to foresee every particular emergency in the vast future of its history; for we know from the language they have used in it, and the powers it grants in terms, that their visions of the coming years of the Republic did not rest upon the soft and sunny horizon of peace, while the clouds of war overhung the rest of the world. They foresaw and intended that their nation should take its place as one of the great Powers of the earth, ready and able to maintain its proud eminence, whether in war or peace. Expecting it to achieve the glories of triumphant war, they gave to the Government every faculty necessary to humble and subdue our enemies; but, true to the great idea of popular liberty and a Government founded upon that liberty, and fully on their guard against the dangers of unrestrained military ambition, they placed in Congress the ultimate power over the sword itself, by giving to them the right to raise and support armies, and to call forth the military force to suppress domestic insurrection and rebellion. And the principle is so clearly recognized and laid down by Story in his Commentaries on the Constitution, and in the decision of the Supreme Court in the case of Luther *vs.* Borden, (7 Howard S. C. R.,) that it would seem but a waste of time to argue it further.

To insist that the law-making power of a nation is not vested with authority to control and direct the operations of war, is to my mind a political and legal solecism, which, if practically carried out, may in its future consequences be most disastrous to the Government itself. Besides, if this abnegation of all power in Congress to aid in, direct, and regulate the operations against the rebels arises, as it possibly may, though I do not impute it, from a fear or hesitation to do our part in putting down the insurrection, I must be allowed to

say it is not to our credit, and posterity will not award us praise for such timidity. It is our plain duty to come to the aid of the President, to uphold his arm, to aid him with our counsels, and fully to sympathize and coöperate with him in all acts calculated to restore the reign of the Constitution and laws, and to shun no responsibility which, as loyal men, firmly attached to our Government, we are called upon to discharge. Our neighbors and kindred are in the field; they are freely, gallantly, gloriously shedding their blood in defense of the Government. Let us be mindful of them, too, and show them at least that we are in earnest.

Again, it is further objected that the bill violates the rights of private property as secured by the fifth amendment of the Constitution, which provides that no person "shall be deprived of life, liberty, or property, without due process of law, nor shall private property be taken for public use without just compensation." What I have already said would seem to be a sufficient answer to this objection; for if, under the power to make and carry on war, private property may be seized and confiscated, it is quite clear that whatever cases the amendment may include, it does not include that. The war power takes it out of the category of property thus protected. But that the amendment does not relate, and was not designed to relate to a state of war, is plain from the very terms in which it is couched—no person "shall be deprived of *life, liberty*, or property." Surely, gentlemen do not intend to be understood as saying that life and liberty may not both be taken in war, without a formal service of process of a court of justice upon the person who is to lose them! If so, then not an enemy has been slain by our armies, nor a prisoner made since the adoption of the amendment, whose death or capture has not left upon our troops the guilt of homicide or of false imprisonment. The victories of Lake Erie, the Thames, Plattsburg, and New Orleans were all unconstitutional; the seizures of British property on land and sea were so many cases of "trespass *de bonis asportatis;*" Lundy's Lane was a mere illegal foray upon the soil and freehold of John Bull; and Perry and Harrison, Macomb, Scott, and Jackson, in achieving their victories, made the egregious mistake of supposing themselves acting under a belligerent Constitution, instead of a non-combatant, Quaker Constitution. May I add, without giving offense, that I hope we have no general now in the field disposed to give this doctrine a practical application?

But to return. It is quite clear that the amendment, instead of applying to a state of war, was intended to secure the regular administration of justice where a state of war did not exist; to secure every loyal man within the actual dominion of the Constitution against lawless violence to his life, liberty, or property, and to prevent the taking of his property for the public necessities or uses without paying him its fair value: in short, to place him beyond the reach of the injustice, rapacity, or violence of his own Government, should it be disposed to oppress him; and to give him the benefit of a trial in the courts of that Government. But it certainly can have no application to a district of country where hostilities are carried on, for the plain reason that it is impossible that civil courts should perform their functions in such localities; and the old maxim which we found in Coke and Blackstone in our boyhood still speaks the truth—*inter arma silent leges.*

No additional reasons need be urged to show that Congress has full authority under the war-making power to free the slaves of rebel enemies; for, if the title of property can be thus transferred, the right to untie the ligament of local law by which the slave is bound to his owner is equally obvious. No argument can be urged against the one right that does not lie against the other. I go further: I insist that since, in the seceding States, all local constitutions, all laws, all government known to the Constitution of the United States have, *de facto*, been abdicated and abandoned, so that the Federal Government cannot take notice of them, that ligament, so far as we are concerned, is already dissolved. It was cut by the same sword that severed the Union; and if the slave, by force or fraud, escapes from his master, he is free; for the local law having ceased he resumes his natural right of freedom, of which he cannot afterwards be deprived by the Government of the United States.

One word as to the justice and expediency of the proposed confiscation. And here I am compelled to say that I desire to make discriminations among the rebels. I cannot reconcile myself to the thought of stripping every man who has borne arms against the Government of his property. I am not unmindful that multitudes have been, almost unconsciously to themselves, drawn into the rebellion; some under the wide-spread terror that has hovered over their land—a terror never yet surpassed in intensity, in vindictive passion, in reckless injustice, and actual violence in the history of any community, not excepting the proscriptions of Sylla, or the reign of terror under Robespierre and St. Just. Multitudes, deluded by the false clamors of designing demagogues, have taken up arms under the idea that the Federal Government was about to take away their slaves, and that they were fighting for their property.

There can be no doubt whatever that this cunningly-devised delusion, addressing itself as it did to sectional prejudice and fanning sectional passion into a flame, has done more to drive the masses of the southern people to arms than any other cause. It was the supreme artifice of inventive and adroit demagogery. It was the dreadful agency which General Jackson, nearly thirty years ago, foresaw and predicted would be seized upon by Calhoun and his followers to dissolve the Union. It was with that terrible instrument of falsehood and deception that the Wises, the Masons, the Toombses, the Jefferson Davises, the Yanceys, the Slidells, have for long years wrought upon the popular mind of the South. Slaveholders, especially in the cotton States, credited their tales, and thought themselves menaced with the universal emancipation of the slaves in the States by Congress, although no act of that body was ever passed, and no bill, or even resolution, had ever so much as been introduced into either House for that purpose; and although no such measure was ever recommended by any State Legislature or any popular convention. Surely no people was ever so grossly trepanned by noisy leaders; never was imposture so stupendous practiced or essayed upon any community. And so far was it carried that the non-slaveholding whites were seduced by its multiform insinuations into the belief that one object of the North was, by freeing the blacks, to make them the equals and competitors with themselves in the various fields of labor and industry, and by legislative pressure to bring about an amalgamation of the two races. Sir, even Satan, disguising his horrid form, and

"Squat like a toad fast by the ear of Eve,"

practiced no more deliberate deceit upon the sleeping mother of the race. They alarmed the fears of the timid and unthinking; they aroused the vigilance which ever presides over property; they stirred up the gall and bitterness of the bigot and fanatic, who deduces the right of slavery from the Gospel itself; they inflamed the sectional pride of those who, mistakenly, claimed personal and heroic qualities superior to those of northern men; addressing the rich planter, they scoffed at labor as fit only for slaves; they spoke of the rapid increase of population in the free States as an alarming portent, and sorrowed deeply over the prospect of being compelled to submit to the will of a majority. Finding that, by their own incautious haste in forcing the northern Democracy to adopt obnoxious measures, they had united the northern people to resist the further triumphs of their ambition, and had thus lost the balance of power, they invoked eloquently the memories of their former domination, and wept over its decline.

At every public gathering the air was burdened with their impassioned appeals to the masses to rise and resist the imaginary wrongs threatened by the North, or, as they derisively called the friends of the Government, Yankees. Every court-house, every church, every fair ground, was vocal with traitorous eloquence, and God's innocent air was loaded with execrations against a Government, the work of their and our fathers, which never harmed a hair of their heads, and whose only fault—shown in the compromise measures of 1833—was, that it had loved them not wisely but too well.

To speak in favor of the Government was to incur from the nimble tongue of sedition the charge of abolitionism, and to be threatened with indictments and imprisonment for endeavoring to stir up the slaves to revolt and murder their masters. Even the fireside was infected by the pest, and innocent mothers and daughters froze with horror at the scenes of murder and burning, and a fate which is worse, pictured to their fancies by the lying demagogues who addressed them.

To the aspirant after place and honor they held out the prospect of a separate congress, president, separate cabinet ministers, judges, and embassadors and consuls abroad; to the lovers of adventure and booty, they pointed to the weak and distracted Governments of Mexico and the Central American States, to their mines, their cotton and sugar lands, and the ornaments of their churches. Their ambition grasped Cuba, and that island was soon to undergo a practical verification of the doctrines of the Ostend conference, which had received the blind adhesion of the President whom their votes had elected in 1856. And at the foundation of this splendid chimera of revolution and dominion, and the pivot on which the whole structure was to turn, was the idea, repelled by *all* the accredited teachers of morals and public law, that the black man was born to be a slave, and that it was to defy the decrees of God and nature to allow him to be free.

To say that, under this state of things, all persons who have participated in the rebellion are alike guilty, is, it seems to me, unreasonable and untrue. Surely, the terrified, the seduced, the misled, the weak, and even the wayward, are to be distinguished from the firm, the intelligent, the malicious, the deliberate, and the powerful. The ax of justice should not fall alike upon those who sin with full knowledge of their wrong and those whose fault arises rather from their association with others. The laws of humanity, of morality, and the practice of Christian nations forbid, in such cases, the confounding of the comparatively innocent with the deliberately guilty. Our own self-respect, our own love of justice, should, and I doubt not will, guard the Government of our country from such a reproach, and teach the masses of our erring countrymen that our victorious blows are dealt solely in the interest of humanity, law, and order; and that, though they see it not, their and our posterity will acknowledge that we conquer but to save.

As to the rule of discrimination, I can think of none more obvious and practical than to include all those in the confiscation who have borne arms against the Government, or aided and comforted the rebellion, and who have at any time taken an oath to support the Constitution of the United States, or held any commission in the rebel land forces, or served as an officer in their navy, or acted as a member of the rebel congress, or of any of the insurgent State legislatures or conventions since the taking effect of an ordinance of secession, or as president, vice president, member of the cabinet, judge or other officer of a court, or foreign minister, commissioner, consul or commercial agent of the so-called confederate States. This rule, though it may not reach all the ringleaders of the rebellion, will, I apprehend, be found sufficient for the ends of justice, and of easy application. It furnishes simple tests, and the evidence of guilt will be easily accessible.

I shall, therefore, at the proper time, offer an amendment, by way of proviso, to the first section of the bill, in accordance with these views. It will be in close analogy to the classification embraced in the amendment of the Senator from Ohio furthest from me, [Mr. SHERMAN,] and I shall commend it earnestly to the favorable consideration of the Senate.

Little further need be said, I apprehend, of the justice and expediency of the proposed confiscation. While I regard it as a war measure to be used for crippling and humbling the enemy, I am not forgetful that it may be regarded in two other points of view; first, as a means of obtaining indemnity for the cost of suppressing the insurrection, and, secondly, as a punishment for the great guilt of those who have intelligently engaged in it.

The first object ought not to be overlooked. The wanton aggressions upon the Government will, before peace shall be restored, have cost us $2,000,000,000, a debt the bare interest of which will hang heavily upon the people for ages to come. Every branch of industry will feel its pressure, and every man, woman, and child must con-

sent to the mortgage which this accursed rebellion has fastened upon our lands and goods. That those who have wantonly and wickedly occasioned this unavoidable distress to the loyal and the innocent, should, when their estates are in our power, be suffered to shirk a burden which upon the principles of a just retribution belongs *wholly* to them, is what a prudent people will never consent to. That people, though not fond of war and slow to plunge into it, are not afraid of it, and they are not so forbearing, so weak, as to waive any of the essential rights of war, nor so ridiculously chivalrous as to embark in it merely for the purpose of subduing their enemies and letting them go free again without asking them to help pay the expenses of the amusement. A Government that runs its people into debt for a just war, and, omitting to take full indemnity from the enemy while it is in its power to do so, leaving its own people to pay all the expenses, affronts and injures them, and encourages the enemy to new aggressions. In such a case, success is without security, and peace but a truce.

The Government of the United States has witnessed what no monarchy ever witnessed. It has coped with the most formidable rebellion in the history of the world, one which no monarchical Government since the dawn of history could have withstood for six weeks. It has seen the PEOPLE, by whom and for whom the Government was fashioned, arm themselves and rush voluntarily forward to its support in throngs too numerous even for the occasion. It has seen them willingly, the old and the young, the rich and the poor, the educated and refined as well as the rude, the native born and the foreign born, the Protestant and the Catholic, the believer and the unbeliever, all, all, hastening to aid, by arms and by money, in sustaining the Government and subduing its foes. Shall we turn round to these uncounted faces, now gazing upon us with inexpressible anxiety, inexpressible hope, and unconquerable resolution, and say coldly to them, "we will take no indemnity for you or your friends; you are pouring out your treasure and your blood in the holiest cause in which nation ever fought or suffered; continue, good friends, to do so still, but pardon in us the weakness, if such you will call it, of abstaining from taking indemnity; we fear it will offend the enemy!" Oh, sir, is there a loyal heart that would thus bow itself down before traitors? And is there a traitor with the spirit of a man in him who will respect you for the spiritless forbearance?

He needs no argument to persuade him of the rule of war that lands as well as goods may be taken from the enemy. He has, by a stroke both bold and early, not only launched his pirate craft against your unarmed commerce on the sea, but seized and confiscated the lands and movables of every Union man within his reach who dares open his mouth in behalf of the Government. His proscriptions have beggared thousands upon thousands, desolated their hearths, and driven them into exile for the crime of loving the flag you are defending. He despises your mercy, laughs at your forbearance, and spits upon the olive branch you hold out to him. He knows that his fate is victory or death, triumph or exile, and he is resolved boldly to stand the hazard of the die. He has not yet, though bleeding under your blows, asked of you a favor; but to the ordinary means of annoyance has not scrupled to add assaults upon non-combatants, violence to women and children, the poisoned cup, the atrocities of savage warfare, and even the violation of the dead. Sir, tell me not that such a foe can be rendered wickeder or stronger by the use of any means known to the laws of war, nor that his resistance can be overcome by anything but blows well laid on, and followed up from one field to another. Do not let us delude ourselves with the vain idea that the warlike policy of *Fabius Cunctator*, delaying battle to exhaust the strength of the invader, nor the mild charities of Henry IV, feeding his revolted but half-repentant countrymen to save them from famine, will tend to appease this frenzied rebellion. We must fight it out. It is my deep conviction that we must crush it by our arms, or suffer our nation to be broken into fragments which no compromise or conciliation can reunite; exhibiting the ghastly wreck of popular government, in the midst of which liberty will find its grave.

It has been objected to this bill that it assumes to forfeit and annul the title of rebel property before we get it into our actual possession, and that therefore, as a law of capture, it transcends the rule of war, which is that the title does not pass from the owner until the property is in the firm possession of the captor; whereas the first section of the bill makes no such distinction, but declares all the title of the armed rebel to all his property, wherever it may be in the United States, to be vested in the Government. It is admitted that by the usages of war between sovereign nations an actual manucaption is requisite; and the honorable Senator from California, [Mr. McDOUGALL,] who has spoken on the bill, was quite right in his application of the rule in such cases. But it must be recollected that for a citizen of the United States to take up arms against his country is criminal, while the doing of the same act by a foreigner serving under his sovereign, is wholly without private, individual guilt. The right to punish such a crime is a thing incapable of argument. It is as plain a postulate as the right of the Government to exist, and the Constitution places no restriction whatever upon the power of Congress to punish it, with the single exception that where the owner has been formally indicted, tried, and convicted in a court of law, his heir shall not fail in his right to inherit, after his death.

But the measure before us has nothing to do with the person of the rebel, but solely with his property lying within the United States and our constitutional jurisdiction. The fact that that jurisdiction may be suspended by violence and traitorous resistance in particular localities, does not affect our power to pass the act nor alter its effect when that suspension shall cease; for, as I have already shown, the Supreme Court, in the case of Smith *vs.* Maryland, hold that no actual possession or seizure by the Government is requisite, and that the title passes by the mere operation of the law. (6 Cranch, 306.) So that whenever our law shall be in actual force there by the destruction of armed resistance, the forfeiture takes effect as from the time of the act committed. It is, indeed, like any other penal statute; it is to be executed whenever the object of it is brought within its actual operation.

No, sir, the friends of this measure do not disguise the fact that one of its objects is punishment, punishment of the most wanton crime ever committed since he who took the thirty pieces of silver betrayed his Lord and Master. Sir, we all love our country and revere the memory of our ancestors. But by that love, by that memory, by the experienced blessings of free government, by the hitherto well-grounded hope that this "unsceptered empire" shall be the praise and glory of the nations, by my love of justice and my hatred of crime, I shudder at the thought of letting this great offense pass without punishment. Throughout the world the friends of liberty and beneficent laws will not thank us for it. Our own countrymen will loudly accuse us of an omission which in itself, if not criminal, is unnatural and dangerous to their future peace. Sir, pass this confiscation, with proper discriminations. Let its blighting breath fall upon the ringleaders who have betrayed the weak and the unwary, whose poisoned words have frenzied their neighbors, and whose cruel arms have spread desolation where peace and friendship once reigned under the old flag. Carry it into the border States, into Missouri, Kentucky, Tennessee, and Virginia; carry it to the half-burnt cabin where the Union father, the Union mother, and the Union daughters, struggling amidst the ruins of a once happy home, are weeping over the fate of sons and brothers who have fallen in dreadful combat with marauding traitors; read it to them while in their anguish, and you will change their tears of mourning into tears of joy. You will bring them an assurance that their Government is still mindful of them, is still their protector and avenger; that it is mighty in its power and its justice, and that while it ever prefers to be beneficent rather than severe, it does not forget the necessity of a righteous retribution, or that its eagles bear the arrows of punishment as well as the shield of protection.

Mr. DAVIS. Mr. President, the Senate has had the benefit this evening of a very able speech, an admirable speech, in the temper and tone of which generally I most decidedly concur. I differ from my honorable friend, the Senator from Michigan, only in about two of his main positions, and my difference in respect to those positions I should like to express to the Senate at length. I have left my notes at my room, and if it be the pleasure of the Senate to suspend debate upon this bill for the present until Monday, and to undertake some other business, I should feel very much obliged to their courtesy.

Mr. LATHAM. After the wish expressed by the honorable Senator from Kentucky, I move that the Senate proceed to the consideration of the unfinished business of the morning hour, which was laid aside in order to take up the special order, on which the Senator from Michigan has spoken.

The PRESIDENT *pro tempore*. If it be the pleasure of the Senate the bill now under consideration, the confiscation bill, will be passed over, remaining as the unfinished business of the day, and the Senate will proceed to the consideration of the bill on which the Senator from California had the floor, which the special order interrupted. If there be no objection, that bill will be considered as before the Senate. The Chair hears no objection.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. ETHERIDGE, its Clerk, announced that the House had passed the following bills and joint resolution, in which the concurrence of the Senate was requested:

A bill (No. 407) authorizing the Secretary of the Treasury to change the name of the vessel John Faron to Excelsior.

A bill (No. 409) to provide for the payment of expenses incurred by the marshal of Boston for repairs to the United States court-house.

A joint resolution (No. 68) authorizing the payment of certain moneys heretofore appropriated for the completion of the Washington aqueduct.

HOUSE BILLS REFERRED.

The following bills and joint resolutions from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 393) making further appropriations for sundry civil expenses of the Government for the year ending June 30, 1863, and additional appropriations for the year ending June 30, 1862—to the Committee on Finance.

A bill (No. 406) for the relief of Francis Hüttmann—to the Committee on Commerce.

A bill (No. 407) authorizing the Secretary of the Treasury to change the name of the vessel John Faron to Excelsior—to the Committee on Commerce.

A bill (No. 409) to provide for the payment of expenses incurred by the marshal of Boston for repairs to the United States court-house—to the Committee on Claims.

A joint resolution (No. 67) to supply the Smithsonian Institution with volumes of Wilkes's Exploring Expedition—to the Committee on the Library.

A joint resolution (No. 68) authorizing the payment of certain moneys heretofore appropriated for the completion of the Washington aqueduct—to the Committee on Military Affairs and the Militia.

STEAMSHIP LINE TO CHINA.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 75) to establish a line of steam mail ships between San Francisco, in California, and Shanghae, in China, touching at the Sandwich Islands and Japan.

Mr. LATHAM. I had nearly concluded what I had to say to the Senate when the special order interrupted me. I was showing the influence that had been exerted by the English through the means of the opium trade in diverting the course of specie sent from our country to Chinese traders, and I had just called attention to the fact that from 1827 to 1834 our specie sent to China direct amounted only to a little over seven millions of dollars, while the American bills payable in London since that time to cover the balances found due had swelled up to the enormous amount of $75,757,797. I was about to say that this is an unnatural course of trade, for the reason that our country produces the very same things for consumption that the British does; we manufacture the same articles; and there is no reason whatever why our people should not avail themselves of their market instead. We are more in contact, nearer of approach, and more able to

compete for that trade, than any other nation on the face of the earth.

Let me take the exports for one year from the two countries, Great Britain and our own, from which the Senate will be able to see their relative proportions and discrepancies:

EXPORTS FROM ENGLAND TO CHINA.

Cotton Goods.

Unbleached muslins	1,792,321	pieces.
Bleached muslins	645,356	"
Twilled cottons	133,591	"
Calicoes or chintzes	75,174	"
Cotton handkerchiefs	61,480	dozen.
Cotton yarn	4,314,947	lbs.

Woolen Goods.

Broad cloths	334,643	pieces.
Cassimeres	303,717	"
Camlets	381,773	"
Blankets	6,335	pairs.

EXPORTS FROM UNITED STATES TO CHINA.

Cotton Goods.

Unbleached muslins	90,523	pieces.
Bleached muslins	6,398	"
Twilled cottons	116,140	"
Calicoes or chintzes	3,130	"
Cotton handkerchiefs	250	dozen.
Cotton yarn	59,567	lbs.

Woolen Goods.

Broad cloths	615	pieces.
Cassimeres	968	"
Camlets	4,958	"
Blankets	none.	

We have here the staple article, can manufacture as cheap, if not cheaper, than England, the expense of transportation quite as small, and there is no reason in the world why this marked difference should exist. This trade is ours by all laws of geography, and we should not permit it to pass from our hands.

But to return to the objection of the Senator from Massachusetts. I feel perfectly authorized in saying, and I believe in so doing I express the wish of my constituency, that if Congress would pass this bill and give our commerce the protection these steamers would afford, traveling monthly throughout the entire northern Pacific, it can withdraw every vessel it has now in the northern Pacific, costing the Government at present between one and two millions of dollars. I do not mean to disparage the efforts and energies of our ships of war stationed on the Pacific coast, for I believe they do all they can, but they are of little if any protection to the whaling trade, or to the American trade that is engaged in our northern Pacific. Why, sir, of what benefit, except for that isolated and local protection, is the stationing of the Cyane in the bay of Acapulco, or the Lancaster in the bay of Panama? None, whatever. If an outrage is committed or a wrong of any kind inflicted by any foreign Government, before we could get redress a long time must elapse, besides trusting to the uncertainties of negotiation and diplomacy. Once give us a line like this constituting the militia of the seas, traveling periodically from San Francisco to the Sandwich Islands, to Japan, and to China, and it would be of more benefit and of more protection to our commerce than all the vessels now located in the whole Pacific, both northern and southern. Having shown you that the Lancaster alone costs nearly half a million annually, the whole subsidy we ask for this entire line; and if economy is your object, after giving us this, take away your war vessels, and place them where they may be of greater service to the country.

Mr. President, this is a measure which the constituency I represent have very much at heart. It occupies the attention of the commercial people of that coast more than any other, except the great Pacific railroad. It has been asked for not only by our Legislature and by our Chamber of Commerce, but by repeated petitions, praying that this commerce, given to us by nature, shall not pass forever from us. I know the belief on the part of some is that the State itself is perfectly able to take care of itself; but it strikes me that any such idea is a very contracted one. If you intend to put these remote portions of the country on their proper basis as a portion of the Union, you must give them equal and necessary assistance as well as protection from foreign aggression. Why, sir, I hold in my hand a table of the annual gold productions of the State of California, a large proportion of which, as I endeavored to show the other day, would have long since found its way across the Pacific by this proposed means, had Congress seen fit to establish it, enriching us, instead of foreign countries.

The table shows that during the short time of our existence, from 1849 down to the present period, the yield of gold in that State has amounted to over seven hundred and seventy one millions of dollars, as follows:

Table exhibiting the Shipment of Treasure from San Francisco to 31st December, 1860, to all quarters, and also to New York; the receipts of gold at the United States Mint and branches, and the estimated yield of the mines of California, since 1848.

Year.	Shipments to all quarters as manifested.	Shipments to New York.	Receipts at Mint and branches.	Estimated yield of California.
1848..	.....	.....	.....	$50,000
1849..	$4,921,250	.....	$5,232,249	8,000,000
1850..	27,676,346	.....	28,206,226	33,000,000
1851..	45,582,695	.....	57,138,980	55,000,000
1852..	46,586,134	.....	51,470,675	57,000,000
1853..	57,331,024	$47,916,448	62,838,395	69,000,000
1854..	51,328,653	46,289,649	46,719,083	64,000,000
1855..	43,080,211	38,730,564	47,419,945	65,000,000
1856..	48,887,543	39,765,294	56,379,901	70,000,000
1857..	48,592,743	35,287,778	55,217,843	70,000,000
1858..	47,548,025	35,578,236	51,494,311	70,000,000
1859..	47,640,463	39,831,937	52,000,000	70,000,000
1860..	42,325,916	35,665,500	27,037,919	70,000,000
1861..	.....	.....	.....	70,000,000
	Total....	.....	.....	$771,069,000

Not long since a memorial, bearing date of December 5, 1861, was presented from the Chamber of Commerce of the city of New York, in which I find the following statement:

"To all the considerations before mentioned may be added the fact that the foreign commerce of the State of New York has increased, since the first export of California gold at this port, about *two hundred per cent.*"

In 1849 the imports of that port (New York city) were $92,567,369; the exports $45,963,100; making a total of $138,530,469.

In 1860 the imports were $248,489,877; the exports $145,555,449; making a total of $394,045,326, or an increase during the time these shipments of gold had continued of $255,514,857.

Feeling loth to occupy any more time of the Senate, I shall now leave the matter in the hands of those who are best able to judge of the interests of the Government and of their sense of duty in the premises. Whatever may be the result of this bill, whether passed by the Senate or rejected, I can only feel that I have done my duty, and a pleasant one, in presenting and urging upon the consideration of this body all the facts available and patent within my reach that would in any way convince or favorably influence your judgments.

The PRESIDENT *pro tempore*. The question is on the amendment moved by the Senator from California.

Mr. FESSENDEN. I am not aware of the relative merits of the original bill and the amendment; I have heard the amendment read, but I do not know what the provisions of the bill are. I suppose, however, from the confidence I have in my friend from California, and his knowledge of the subject and general accuracy of views, that the amendment is undoubtedly an improvement upon the bill. But, sir, I am opposed to both of them at the present time; I am opposed to the thing whatever shape it may assume. I am disposed to be liberal in my votes on all these matters, and have been heretofore, and I do not know but what under another state of things in the country I should be disposed to give my support to this object on looking into it and being satisfied that the good effects might be likely to flow from it which are supposed by the Senator from California. But the Senate is aware and the country is aware that we have heretofore in the period of our legislation, adopted, to a certain extent, this system of subsidizing steamers, paying subsidies in the shape of postal arrangements in order to facilitate and increase trade. I do not know but that the object is a legitimate one. It was at all events one that recommended itself to Congress and was tried; but the Senate must be equally aware that after a trial of that system for several years, it was deliberately laid aside and abandoned by Congress, at a period, too, when the country was in a high state of prosperity, its finances entirely unembarrassed, and when we were perfectly able to undertake such a system and carry it on. Perhaps it was unwise to abandon it.

One would think, however, that if it was to be recommenced, it should be recommenced where our trade is the largest and most direct, and especially with reference to postages where it would be likely to yield something like a return. We must be aware that this being established under the Post Office Department, amounts to nothing and can amount to nothing comparatively; it is a mere cover for the greater object, the ulterior object, of promoting and protecting trade. I am a friend to that, and at a proper time and under proper circumstances I should be willing to avail myself of any provision of the Constitution which would enable me to accomplish that purpose reasonably; but at the present time I am averse to any of these undertakings which are matters of experiment alone, although there are the fairest prospects that the experiment will succeed; and I am opposed to it simply for the reason that we have on our hands now an undertaking which will tax our resources to the utmost, and is doing so at the present time. We have a large amount of debt unpaid; we are put to the use of all our energies, of all our capabilities, to get along with that which is absolutely pressing upon us as a necessity.

Now, however favorable I might be to this object, and however willing I may be—and certainly nobody has shown himself more so by his votes than I have—to advance the interests of our friends upon the Pacific coast by every legitimate means in the world, even for them I am unwilling to devote such large sums of money to undertakings of this description. I think that our friends there, as well as in other parts of the country, can afford to wait for a short period of time until the country shall be able to resume its original position, and be able to appropriate something for this purpose.

I will not go into a review of any portion of the argument of the honorable Senator. I think some of his suggestions can be readily met and answered, while others it might be more difficult to manage. Leaving all that out of the question, I must call the attention of the Senate to the fact that it is as much as we can possibly do with the necessities on hand to meet the obligations of the Government; and I do not think we should be held excusable at the present time for returning again to a system or an undertaking which leads to a system that was once commenced, and was, in days of prosperity, deliberately abandoned. I may not have agreed with the policy of abandoning that system at the time we did, and in the manner we did; but if those times had been these, if we were then in the same position that we are now, I should have had no doubt that this was a proper point at which we could save the expenditure of money. I trust the time is not far distant when the resources of the country will enable us to return to any system that has been found beneficial, or that we may judge beneficial hereafter; but I think that our friends on the Pacific are pressing a little too hard when they tell us that measures like this, in which we agree, those matters important to themselves in which we may think alike, and which we may be disposed to encourage and sustain at the earliest possible opportunity, should be pressed and undertaken at a moment like this.

That is my general view of the subject, and, for my own part, I am unwilling to consider any proposition of this description having reference to improvements and facilities in trade, and other matters of which we are all unquestionably in favor, that can be postponed without material injury. I admit the existence of the truth that a nation must depend for its ability to support itself in war, in a time of great expenditure, upon its resources, upon trade and commerce, and the other great sources of national wealth; but we cannot originate them in time of war; they must be originated in time of peace. This is no time to take out of the Treasury money which we have not, if I may so express myself; money which is absolutely essential for our daily expenditures, and which cannot be dispensed with for those purposes, and apply it to untried experiments, much less to experiments which have been tried and failed, so far as revenue was concerned. As a member of the Committee on Finance, and having more particularly in view the resources of the country with reference to meeting what we must meet daily, I feel it my duty to place this simple and single view of the subject before Congress in

reference to this bill and all other bills of a similar description.

Mr. McDOUGALL. Mr. President, I did not expect to engage in this discussion now. I hoped, however, to have a time when I might say a few words that, I think, may have some value. I should like to discourse on this and kindred subjects somewhat at length at some other time. Now, however, I shall say a few words. I have not felt it incumbent on me to present the peculiar considerations that belong to this question, for it has been taken charge of, so far as my State is concerned, by my colleague, and I know him to be a man of eminent ability; and after having heard and read his discourse on the subject, I felt satisfied that the general aspects of the question had been presented admirably, and that I could not improve them.

But, sir, there is one view of the subject which I propose to discuss now briefly, wherein I differ radically from the Senator from Maine; and I get my wisdom from the teachings of past history. What I have to say now is rather for suggestion than for advice. Sir, we are talking about economical measures, not about developing the country; we are talking about economical measures, not about administrative policy; we are talking about non-action, not of action; and therein we are guilty of a great want of wisdom, in my judgment. After England had been involved in the wars that grew out of the French revolution, and great debts were charged upon her, there was this cry that I hear from the Senator from Maine. The great debt of the country, the great debt that is being accumulated upon our shoulders, is now spoken of here So it was there. And when the persons who were seeking popular favor sought to alarm the people of England, the greatest man in modern times in the British Parliament, in responding to the cry of the oppression of debt and of taxation, said something like this: "but for these wars and this great burden our ships would not have been upon all the seas; it has demanded from England the full expression of the strength of all her sons; it has developed her commerce with all the nations, and it has sent her ships upon every sea." I do not quote the language; I speak the substance of what was said by Fox in the English Parliament when they were talking about England being overwhelmed with £800,000,000 sterling of debt. Adversaries made England strong. We are not weak, and we are not hurt by these assaults. The masters of politico-economical science who undertake to say that because we happen to be in debt $1,500,000,000—I will assume that as the figure—therefore, we the people of this Republic are in trouble, do not understand what are the true resources of a great, free people. England represents a great, free people, next to ourselves, where the energies of the people are brought to bear to meet the necessities of the day, not by the nod of a monarch but by action in Parliament.

Now, I have to say that we ought not to fear these things. Let us develop our national strength in every form, and not be afraid. We are still the North American Republic. We are still a Government which has power over every State from the Gulf of Mexico to the northern lakes, and from the shores of the Pacific to the shores of the Atlantic. The accidents of our condition are temporary. It is of the first importance that we should bind ourselves together, and not neglect to strengthen ourselves by compelling the wealth of other States. There is the East, and I call Senators' attention to it; and they who ignore it will find themselves in great fault. There is the wealth of the Orient, and what wealth is that? There are merchants in towns in China who could buy out any twenty merchants in the city of New York. It is a country full of wealth. Milton was not wrong when he talked about "barbaric pearls and gold." India, again, is the subject of a contest for command. By our position on the Pacific we have the opportunity to command all the ancient East; and if those who occupy high places of power refuse to lend the aid of the Government, by legislation and counsel, to promote these results, they will find that they have substitutes here at no very far period in the future.

Of all the questions that belong to the march of civilization and to the development of this country, wherein the extremest East is reproduced in the farthest West—of all these problems to them must belong, and to them must immediately relate two questions: one is steam communication between our possessions on the Pacific and the ancient East, and the other is iron communication between the shores of the Atlantic and the shores of the Pacific. These are the two great questions that belong to the age, and those who ignore them will be crushed under the iron wheels of the great car of progress.

Mr. POWELL. I move that the Senate adjourn.

Mr. LATHAM. I hope not.

Mr. FESSENDEN. Does the Senator imagine that he can get a vote on this bill to-day?

Mr. LATHAM. I want to get a vote on the amendment.

Mr. POWELL. I withdraw my motion.

The amendment was agreed to.

The bill was reported to the Senate; and the amendment was concurred in.

The PRESIDENT *pro tempore*. The question is on ordering the bill to be engrossed for a third reading.

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

The yeas and nays were ordered.

Mr. POWELL. Now I move that the Senate adjourn. There is evidently no quorum here.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *April* 18, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

FRANCIS HÜTTMANN.

Mr. WARD. Mr. Speaker, I ask the unanimous consent of the House for leave to report from the Committee on Commerce a bill for the relief of Francis Hüttmann, and to put it upon its passage at this time.

There was no objection; and the bill was received, and read a first and second time.

The bill provides for the return to Francis Hüttmann of $125 30, the amount of tonnage and light duties illegally exacted, and of $350 16, the amount of duties collected in excess upon the cargo of his vessel.

Mr. F. A. CONKLING. I do not object to this bill, but I do desire that my colleague will state to this House the reason why the Secretary of the Treasury cannot pay back this money under existing laws?

Mr. WARD. This is not one of those cases where the Secretary of the Treasury is authorized to refund this money, and it can only be done by the passage of a special act of Congress. The first amount of $125, is for light and tonnage duties illegally exacted in San Francisco, California, in September, 1848. By the treaty with Peru, that nation is placed among the most favored nations, and therefore this Peruvian bark was entitled to the privilege of being exempt from the payment of these light and tonnage duties. But San Francisco was at the time under the control of a military collector. These duties were paid and a receipt taken therefor.

The other amount is the excess of duties paid upon the cargo of the same vessel. It is provided by acts of Congress that invoices shall be made out in the currency of the country. In many cases that currency is depreciated, and where it is depreciated, it is provided that the certificate of the consul shall be annexed to the invoice. In this instance the consular certificate was not annexed. The duties were paid. The law further provides that, when the certificate of the consul is not annexed, the party shall give bond for the production of the consular certificate. This certificate was afterwards produced by this party.

This claim was carefully scrutinized by the members of the Committee on Commerce. The information was full and perfect. They are unanimously of the opinion that the claim ought to be paid. This money was paid in 1848, yet the committee do not propose to allow interest upon the amount overpaid. Under the circumstances, therefore, I hope that this bill will be passed.

Mr. NOELL. Has this bill been printed?

The SPEAKER. It has not. The gentleman asked leave to put it on its passage at this time, and there was no objection.

Mr. NOELL. Mr. Speaker, I do not object to this bill particularly; but there are a great many private bills which have been reported from the committees of this House and referred to a Committee of the Whole House on the Private Calendar to take their usual course. If I had understood that the motion was to put this bill upon its passage I would have objected, because I do not think that it is right that one private claim should have a privilege which is denied to other private claims. Let them stand and be acted on all alike.

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

Mr. WARD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table. The latter motion was agreed to.

CIVIL APPROPRIATION BILL.

Mr. STEVENS. I ask the unanimous consent of the House that the Committee of the Whole on the state of the Union be discharged from the further consideration of House bill No. 393, making further appropriations for sundry civil expenses of the Government for the year ending 30th of June, 1863, and additional appropriations for the year ending 30th of June, 1862, in order that it may be taken up and put on its passage. It is a small appropriation bill, and will not take up more than a few minutes.

Mr. F. A. CONKLING. If the bill be brought before the House, I want the privilege of adding a proviso that no more money shall be appropriated for lighting the restaurants of this Capitol.

Mr. STEVENS. I have no objection to the gentleman submitting that amendment, but I have one to submit myself.

Mr. DUNN. I object to the consideration of this bill at this time.

Mr. STEVENS. I hope that the gentleman will withdraw his objection. It is necessary that this bill should be passed at this time.

Mr. DUNN. Then I withdraw my objection.

The Committee of the Whole on the state of the Union was discharged from the further consideration of the civil appropriation bill.

Mr. STEVENS. I move to add at the end of the bill the following:

To supply the deficiency in the appropriation for the seventh census, $3,000, or so much thereof as may be found necessary.

The amendment was adopted.

Mr. F. A. CONKLING. I move to add to the bill the following proviso:

Provided, That no further appropriation of money shall be made for the lighting of the restaurants in the Capitol.

Mr. STEVENS. I think that this is a small matter. The gas is supplied to all the rooms in this building from the same meter, and I do not see how the gas supplied to the restaurants can be separated from the gas supplied to other portions of the building. I think that this matter had better be considered in another bill.

Mr. F. A. CONKLING. I understand that it costs $500 a month to light up the restaurants of this building.

Mr. STEVENS. I have not looked into this matter, but I do not see how the gas supplied to these restaurants can be separated from the other gas. I think that $500 a year will reach the cost of lighting up those restaurants.

Mr. McKNIGHT. I understand that there has been some quarrel between the members of this House and the persons who keep these restaurants. If we are to act on this subject, I think that there should be some investigation on the part of some of the members of this House. I do not want to vote on it until I understand the facts in the case. As it is now, we know nothing about it. I hope that the amendment will be rejected.

Mr. STEVENS. There was a quarrel between the old women in the rotunda, and I do not know which was right. [Laughter.]

The amendment was rejected.

Mr. DELANO. I move to amend the bill by appropriating $500 a month for sprinkling the avenue, between the Capitol and the President's House.

Mr. Speaker, it may be remembered that some weeks since, at the time when the dust upon the avenue between the Capitol and the President's House was so suffocating, a proposition similar to the one I now submit was brought before the

House, but which was thrown out by a single objection. It was supposed that an appropriation of $1,000 which had been already made would cover the object now in view, but it really does not. Now it does not seem to me to be any answer to the proposition, that the city of Washington ought to bear the expense of this sprinkling of the avenue. I do not know why, if the citizens of the city of Washington, either from long habit or from their innate disposition to neglect their own interests, choose to wear out their lives in a condition of discomfort and suffering, the members of Congress should suffer at the same time and in like degree. I, for one, am not content to do so, and I do trust that we shall have sufficient regard for our own convenience and our own health, and for the health of those who are here during the session of Congress, at least to provide for this crying necessity.

The sprinkling and cleaning of the avenue from the Capitol to the President's House can be done, as I am informed, at the rate of $500 per month during the session of Congress; and there are parties who, under the supervision of the Committee for the District of Columbia, will be content to make a contract upon those terms.

Now, I hope that there will be no appropriation bill passed for purposes such as this bill contemplates, unless it contains an appropriation for the purpose which I have suggested. I therefore offer the following amendment:

For sprinkling and cleaning Pennsylvania avenue between the Capitol and the President's House $500 per month during the present session of Congress.

Mr. COX. I cannot understand why it is that the Executive Department, who have charge of these matters connected with the city of Washington, do not apply the money which has been appropriated for the purpose of watering the avenue as well as cleaning and repairing it. I had the honor to offer the amendment to the regular appropriation bill, which provided $10,000 for the purpose of cleaning, repairing, and watering the avenue. We did not intend by that appropriation that the money should be expended simply for repairing and cleaning, but for watering also. I do not know that the amount of that appropriation was sufficient. I am willing to vote any amount that may be necessary for this purpose. The only advantage that I see in the avenue between here and the President's House as it is now kept is, that it constantly reminds us of the scriptural injunction that dust we are and that to dust we must return. I hope some arrangement may be made by which this nuisance may be abated, and Washington city be made, about this season at least, a habitable place. I have understood that the Secretary of the Interior has already made a contract with certain parties to water the avenue between here and the President's House, and I suppose that contract has been made under the authority given him under the general appropriation to which I have referred.

Mr. DELANO. I wish to say to the gentleman and to the House that the reason why this thing is delayed, and why it has actually fallen through is, that the business people of this city are yet so far in their infancy in regard to such matters of private and public convenience, that they really do not know how to go to work to perfect a practicable scheme for watering their streets. That it has been attempted we have seen for some ten days or a fortnight past, and that it is an utter failure has been satisfactorily demonstrated to the mind of every member of this House.

As to the suggestion that there is an appropriation already covering this very point, I supposed I had already sufficiently adverted to that. There was an appropriation made for repairing—that was the first object of the appropriation—cleaning, and sprinkling. I have seen, and there is now before the Committee for the District of Columbia, the certificate of the Commissioner of Public Buildings to the effect that the $10,000 will be exhausted in repairing and cleaning, and that there will be nothing left for the purpose of sprinkling the streets, which is the object for which this appropriation is sought.

Mr. MALLORY. I oppose the appropriation proposed by the gentleman from Massachusetts, and I do it in pursuance of a principle which I intend shall govern me in relation to all matters of this sort during the present session of Congress. I think that at a time when the resources of the country are tried to the utmost, when taxes of the most burdensome and oppressive character—were it not for the impending war—are imposed upon the people of this country, it is entirely wrong for the Congress of the United States to be appropriating money out of the Treasury of the United States for the mere personal comfort of members of Congress and the citizens of the city of Washington. I think legislation of this sort is a reflection upon the Congress of the United States, and will sink this body, if persevered in, still lower than it now stands in the estimation of this country.

I do not see why a gentleman, even the most fastidious, even although he may dress in the style adopted by the dandies of the large and fashionable cities, cannot traverse the avenue from this point to the President's House without being so terribly shocked by the slight quantity of dust which he will have to inhale or which may settle on his clothes.

My friend from Ohio [Mr. Cox] made a suggestion in favor of this amendment which operates in strengthening my opposition to it. I think we constantly need something in this city to remind us of our mortality, to bring the great principles of the Bible to our minds, to teach us that dust we are, and that unto dust we shall return; and I hope that this thing will be continued, that no effort will be made by Congress to stop it, as a means of keeping my friend from Ohio in the wholesome state of mind to which he is brought daily when he travels from this Capitol to the President's House. I shall vote against the amendment.

Mr. STEVENS. I am opposed to this amendment. I think we have already made an appropriation which covers this object; but if it does not, we are to have another appropriation bill, in consequence of the action of the Senate in cutting out all the Army appropriations for the next year, and we can consider this matter a little more deliberately when that bill comes up. I hope the amendment will not be incorporated into this bill.

The gentleman from Massachusetts says that the reason why the streets of this city are not watered is, that the people are still in their minority—such children that they do not know how to manage their own affairs. If he would ask for a small appropriation for basins and water and towels, and somebody would scrub these children, I do not know that I should object to it. [Laughter.] But I believe that we had better leave the watering of the streets to somebody else. I move the previous question on the bill.

The previous question was seconded, and the main question ordered.

The amendment was disagreed to.

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

Mr. STEVENS moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

The bill was passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

The SPEAKER then resumed the call of the committees for reports of a private character.

CARLETON, NORWOOD & CO.

Mr. ELIOT, from the Committee on Commerce, made an adverse report on the petition of Carleton, Norwood & Co.; which was laid on the table, and ordered to be printed.

CHANGE OF VESSEL'S NAME.

Mr. WARD, from the Committee on Commerce, reported a bill authorizing the Secretary of the Treasury to change the name of the vessel John Faron to Excelsior; which received its several readings, and was passed.

Mr. WARD moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PRINTING A BILL.

Mr. KELLOGG, of Michigan, asked and obtained consent to have printed a bill referred to the Committee on Public Lands, granting lands to the State of Michigan for the construction of a military road in that State.

ENROLLED BILL.

Mr. GRANGER, from the Committee on Enrolled Bills, reported as truly enrolled, an act (H. R. No. 287) to establish a branch of the Mint of the United States at Denver, in the Territory of Colorado; when the Speaker signed the same.

SURVEY OF PUBLIC LANDS.

Mr. POTTER. I ask the consent of the House to report back an act (S. No. 187) to reduce the expenses of the survey and sale of the public lands of the United States.

Mr. PORTER. I call for the regular order of business.

The SPEAKER. That is reports from committees, of a private character only.

Mr. ALDRICH. I hope the gentleman from Indiana will withdraw his objection.

Objection was not withdrawn.

MICHAEL NASH.

Mr. CALVERT, from the Committee for the District of Columbia, reported a bill for the relief of Michael Nash, of the District of Columbia; which was read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

MATERIALS FOR WASHINGTON AQUEDUCT.

Mr. CALVERT. I am directed by the Committee for the District of Columbia to report a joint resolution authorizing the payment of certain moneys heretofore appropriated for the completion of the Washington aqueduct, and to ask that it be put upon its passage.

The joint resolution was read a first and second time.

Mr. HICKMAN. I raise the point of order that this is not a private bill, entitled to come in under the present call.

Mr. CALVERT. I do not know what is a private bill if this is not. It is to pay money to certain individuals.

The SPEAKER. Let the bill be read.

The joint resolution was read. It authorizes the superintendent of the Washington aqueduct to pay to Robert McIntyre and others the amounts of their respective claims for work done and materials furnished for the Washington aqueduct under the direction of Captain Benham and Lieutenant Morton, not exceeding $4,681 39, no sum to be paid except such as is certified to be just and equitable by General M. C. Meigs.

The SPEAKER. The Chair thinks that this is a private bill.

Mr. CALVERT. General Meigs himself asks for this authority. He says that the work was done and the materials furnished under the superintendence of Captain Benham, and that, therefore, he does not feel authorized to pay this money without instructions from the House. He admits the justice of the claim, and asks for power to pay it.

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

DACOTAH HALF BREEDS.

Mr. WOODRUFF, from the Committee on Public Lands, reported back, with a recommendation that it do not pass, a bill (H. R. No. 143) for the relief of certain half breeds, or mixed bloods of the Dacotah or Sioux nation of Indians, or their grantees; which was laid on the table, and ordered to be printed.

REPAIRS OF BOSTON COURT-HOUSE.

Mr. HICKMAN, from the Committee on the Judiciary, reported a bill to provide for the payment of expenses incurred by the marshal of Boston, for repairs to the United States court-house; which was read a first and second time.

The bill directs the Secretary of the Treasury to pay to Watson Freeman, late United States marshal for the district of Massachusetts, $281 40, in full satisfaction of the claim of Freeman for expenses incurred by him in repairs of the United States court-house.

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

Mr. HICKMAN moved to reconsider the vote

by which the bill was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ELI S. PARKER.

Mr. PORTER, from the Committee on the Judiciary, made an adverse report on the petition of Eli S. Parker, a native Seneca Indian, to become an American citizen; which was laid on the table, and ordered to be printed.

JACOB HALL.

Mr. EDWARDS, from the Committee on Indian Affairs, reported a bill for the relief of Jacob Hall; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

WIDOWS AND HEIRS OF DECEASED SOLDIERS.

Mr. EDWARDS. I ask unanimous consent to introduce for reference a bill making an appropriation for the payment of bounty to the widows and heirs of certain deceased soldiers, to which they are entitled by the sixth section of the act of July 22, 1861.

Mr. MOORHEAD. I call for the regular order of business.

INDIAN DEPREDATIONS IN NEW MEXICO.

Mr. ALDRICH, from the Committee on Indian Affairs, reported back, with a recommendation that it do pass, a bill (H. R. No. 172) providing for the examination of claims for Indian depredations in the Territory of New Mexico; which was referred to the Committee of the Whole House, and ordered to be printed.

CHAUNCEY A. HORR.

Mr. ALDRICH, from the same committee, reported back, with a recommendation that it do pass, a bill (H. R. No. 358) for the relief of Chauncey A. Horr, of Nebraska, and asked that it be put upon its passage.

The bill was read. It directs the Secretary of the Interior to deduct $6,000 from the amount to be paid as the next installment of the debt of the United States to the Omaha Indians, secured by the treaty of March 16, 1854, and to pay the amount to Chauncey A. Horr, of Nebraska Territory, in satisfaction of personal injuries done to him heretofore by Indians belonging to the tribe, for which the tribe are responsible.

Mr. F. A. CONKLING. Let it go to the Committee of the Whole.

Mr. ALDRICH. Let the report be read.

The report was read. It shows that this is a claim for compensation for a personal injury inflicted upon the memorialist by a party of Omaha Indians, on the Omaha reserve, in the Territory of Nebraska, in June, 1858. It appears that in June, 1858, Mr. Horr was living a few miles from the Omaha reserve, in Nebraska, and had lost a bay horse from his farm, which the mail carrier informed him he had seen within the lines of the Indian reservation. He informed the Indian agent of his loss, who then promised to have the Indians find and restore the horse to his owner; in a day or two Mr. Horr returned, and learned from the agent that the animal had not been found. The agent suggested to him that he should hunt for the animal on "a certain divide" between two creeks inside of the reserve, and Horr went to this locality accordingly, and there saw a bay horse standing in some timber. As he approached to ascertain whether it was his horse, when he was some forty yards from the horse, three Indians suddenly stepped out from the bushes and fired their rifles at him in quick succession. Two of the balls took effect upon his person. He fled; the Indians pursued and tried to cut off his retreat, but he escaped, and was subsequently taken up by a settler and carried to his house, where surgical assistance was procured. One of the wounds he received was of such a character that it has entirely disabled his left arm, and subjected him to great pain. There is no prospect of his being restored to the use of the arm. Mr. Horr is now in the meridian of life, and finds himself, by this casualty, a disabled man, incapable of maintaining himself by manual labor, on which he had relied for a livelihood.

Mr. F. A. CONKLING. I move that the bill be referred to a Committee of the Whole House.

Mr. ALDRICH. Is that motion debatable?

The SPEAKER. It is.

Mr. ALDRICH. I do not propose to debate it at any length; but simply to state that the Committee on Indian Affairs has for the last three sessions reported in favor of this bill. The committee is unanimously of opinion that the bill should be put upon its passage now, as an act of justice to a citizen; and I sincerely hope that the gentleman from New York will withdraw his motion to refer it to a Committee of the Whole House. It does not appropriate one cent from the Treasury of the United States. I do not desire to say anything in addition to what is said in the report as to the justice and necessity of taking care of a citizen of the United States who has been disabled for life by these Indians. Had the Indians stolen from him a horse or other piece of property, the Commissioner of Indian Affairs or the Secretary of the Interior would have had power, under the intercourse law, to withhold from the annuity of the Indians the value of such property. But here is a case of personal injury. There is nothing in the treaty with this tribe to justify or authorize the Secretary or Commissioner to pay him for the injuries done; but under all the recent treaties with Indian tribes there is a clause providing for reparation for personal injury.

Mr. F. A. CONKLING Will the gentleman from Minnesota inform me how many Indians there are in the Omaha tribe?

Mr. ALDRICH. I am not prepared to say precisely, but it is quite a large tribe. There is due the tribe an annuity of $30,000 for the next ten years by treaty stipulations. This provision is recommended by the Secretary of the Interior and by the Commissioner of the General Land Office, who have not the power to pay this indemnity under the existing law for personal injuries inflicted, although they would have had the power if a depredation upon property had been simply committed.

Mr. F. A. CONKLING. The gentleman from Minnesota has informed the House that this is not a proposition to pay anything from the United States Treasury; it is simply a proposition to withhold from the Omaha tribe one fifth part of their whole annuity.

The gentleman, it appears, is unable to state to the House the number of Indians composing the Omaha tribe; but if it numbers thousands, it is proposed to punish the whole tribe for the outrages committed by three persons.

After listening to this narrative contained in the report of the committee, I am constrained to say that I do not believe there is a court of justice in the United States which would allow any man to take possession of his pig upon such evidence as is here presented. It is denied by the authorities of this tribe that any of the Omaha Indians were concerned in the injury inflicted upon this man Horr.

Mr. ALDRICH. I will inform the gentleman that it is the common practice for Indians to deny the outrages committed by them.

Mr. F. A. CONKLING. Yes, sir. Now, Mr. Speaker, the ground taken in the report of the committee in favor of this bill is that it is necessary as a measure for keeping the Indians in good order, and making them respect the rights of white men. For my part, I can hardly conceive of a measure which would be more likely to arouse the resentment of these savages than such an act as this. It gives them no chance whatever of a fair hearing in respect to their own rights. I cannot regard the proposition, with the light before me, as anything short of a monstrous injustice. Certainly it is one that ought not to be passed without proper consideration, and I hope it will be referred to a Committee of the Whole House on the Private Calendar.

Mr. WATTS. The position assumed by the gentleman from New York, who has just taken his seat, would be true if he had gone a little further and demonstrated that these Indians were citizens of the United States. It would then be an act of injustice to punish a whole tribe for the outrages committed by a single member. But the gentleman must demonstrate that citizenship before he can show the hardships of the proposition before us. It will be found, however, upon examination of the condition of these Indians, that they occupy the position to some extent of a foreign nation to the Government of the United States, and in that view of the case it becomes a very different question. How is it possible to exact justice from the private citizens of a foreign nation towards our own citizens except to hold the whole nation responsible for the acts of its citizens?

Now, sir, what are the relations which these Indians occupy towards the Government of the United States? The Government holds in its hands a very large amount of property belonging to the Indians, in trust. They are, to some extent, to be regarded as the infant wards of the Government. It is the duty of the Government, under the existing law, if one of these Indians steals a horse to render compensation to the owner from the property of the ward in the hands of the Government. The Government reserves this power for the protection of the citizens of the United States against the depredations of the Indians. It may be that these Indians would be willing to deliver up the guilty parties if they can be identified; but of what avail is it to the man who has been maimed for life, that the man who has injured him is delivered to the courts of justice for trial? The old adage, "Sue a beggar and catch a louse," [laughter,] would hold good in such a case.

Now, sir, this is a fair, plain proposition which will commend itself to the justice of every gentleman who will examine it. Here is $30,000 lying in the hands of the Government belonging to these Indians. They have justly forfeited this portion of that money in the hands of the Government, and it may properly be withheld from them by the Government for the compensation of those who have suffered from the outrages committed by them. The Government of the United States is a fair and impartial interpreter between the two parties.

Mr. THOMAS, of Massachusetts. If there is any law by which this money can be legitimately withheld from the Omaha Indians, I should be glad to see it pointed out. I do not assert that there is no such law; but I should like to have it read.

Mr. WATTS. There is no law. The bill proposes to give the Secretary of the Interior authority to withhold the money.

Mr. THOMAS, of Massachusetts. After the act has been committed?

Mr. WATTS. Undoubtedly so. It is the law of civilization and of humanity to give to Congress the sovereign power of holding the whole nation responsible for the acts of individual members of the nation. Suppose a man comes from Canada across the frontier, and kills one of the constituents of the gentleman from New York, would he not hold the nation responsible for the act of the individual? That is the law of indemnification.

Mr. F. A. CONKLING. I would like to ask the gentleman from New Mexico one question. He has illustrated his position by supposing that a citizen of Canada comes across the border, and commits a crime; will the gentleman assert before this House that he would propose to deal with the Government of Great Britain, or any other great Power, in the manner in which he proposes to deal with this small band of savages? I apprehend not.

Mr. WATTS. We should be required to deal with the nation, and not with the individual.

Mr. F. A. CONKLING. And the gentleman would deal with the nation as he proposes to deal with this tribe of Indians?

Mr. WATTS. No tribe has any right to receive $30,000 a year from this Government, and then plunder and kill the citizens of the Government with impunity. There is no other way of preventing successfully the depredations of these Indians than by holding them responsible, and make them suffer for their outrages upon white men. I believe a white man is as good as an Indian. Now, sir, there is nothing wrong in this proposition. It merely authorizes the Secretary of the Interior to allow to a citizen the same redress for personal injury which he would have received under the existing law if the matter in question had related to personal property. If this Indian, instead of wounding Mr. Horr and maiming him for life, had merely stolen his horse, the Secretary of the Interior would, under the existing law, have deducted from the annuity due the tribe the value of the horse; but because compensation for personal injuries does not come within the terms of the Indian intercourse act of 1834, this legislation is required to enable the Secretary

of the Interior to retain from the annuity this compensation for the injuries inflicted upon this man. I see no reason why, if it is right to retain compensation for personal property taken, it is not also right to retain compensation for personal injuries inflicted.

Mr. ALDRICH. I am now prepared to answer the question of the gentleman from New York in relation to the number of these Indians. Here is the annual report of the Commissioner on Indian Affairs, from which it appears that the number of Indians in this tribe is nine hundred and fifty. The amount of property in their possession is valued at $4,000, and they receive an annual annuity under treaty stipulations amounting to $33,942.

Mr. F. A. CONKLING. The gentleman states that the number of Indians in this tribe is nine hundred and fifty, and he proposes to punish the whole tribe for the alleged acts of three persons. This is certainly a proposition that should be considered in Committee of the Whole, and I hope the bill will go there.

MESSAGE FROM THE PRESIDENT.

A message was received from the President by Mr. HAY, his Secretary, announcing that he had approved and signed bills of the following titles:

An act making appropriations for the support of the Post Office Department for the year ending the 30th of June, 1863; and

An act making additional appropriations for the naval service for the year ending the 30th of June, 1862.

CHAUNCEY A. HORR—AGAIN.

Mr. PHELPS, of California. I refer the gentleman from New York to the law which provides that the whole tribe of Indians shall be held responsible for the depredations of individual members. That course is contemplated in all our treaties with the Indian tribes with which we have intercourse, and to whom we pay annuities. It appears that this party was lawfully in the territory, that he went there by permission of the proper authorities, and that according to the provision of the treaty with these Indians the tribe is to be held responsible for any wrong or crime committed by any member or members of the tribe. The treaty and the law both contemplate that the amount of damage done to white persons lawfully within their territory shall be deducted from the annuities which the Government pays to these Indians. It appears proper that this kind of punishment should be dealt out to these Indians, in order to compel them to keep the peace toward the white persons who may lawfully come within their territory. I hope therefore that the bill will be passed, as it is a just one.

The Committee on Indian Affairs made a thorough investigation of all the facts in this case, and they came to the conclusion that this allowance ought to be made. These Indians ought to be punished for the injury that they have done to this party. It is true that these Indians deny that any of their tribe committed this wrong; but the evidence that it was committed by the Indians of this tribe is very conclusive. Not only that: these Indians are aware of the whereabouts of the guilty parties, and have all along done all that they could to screen them from detection and punishment. There is no more effectual way to keep these Indians from committing depredations upon the whites than by holding the tribe responsible for the action of its different members. These tribes are communities by themselves the same as a foreign nation, and only in that character can we treat with them. A foreign nation is responsible for the acts of its citizens, and we must hold these tribes responsible for the depredations and wrongs committed by its individual members.

Mr. THOMAS, of Massachusetts. I have heard the gentleman refer to the law. Now can any gentleman read the law to us which covers this case? That is what we want.

Mr. COX. I have an amendment which, if adopted, will make the bill less objectionable, and be the means I have no doubt of securing its passage. It provides that if the Secretary of the Inrior, after making a careful inquiry, shall be satisfied of the justice of this claim, he may deduct the amount that he shall find to be due out of the annuity of these Indians.

Mr. ALDRICH. If the gentleman will read the letter of the Secretary of the Interior on this subject, he will see that there is no necessity for the adoption of the amendment which he has moved. The Secretary of the Interior has approved and recommended the passage of this bill.

Mr. COX. Then my amendment will do no harm. I have modified my amendment so that it will read as follows:

Provided, That the Secretary of the Interior shall, before making such deduction, make careful investigation of the said claim, and he shall deduct the same, or so much thereof as he may find justly due said Horr, from the annuity aforesaid.

Mr. PHELPS, of California. I ask the Clerk to read the section of the law which I send him.

Mr. THOMAS, of Massachusetts. What is the date of that law?

Mr. PHELPS, of California. Section seventeen of the law passed in 1834.

The Clerk read, as follows:

"SEC. 17. *And be it further enacted*, That if any Indian, or Indians, belonging to any tribe in amity with the United States, shall, within the Indian country, take or destroy the property of any person lawfully within such country, or shall pass from the Indian country into any State or Territory inhabited by citizens of the United States, and there take, steal, or destroy, any horse, horses, or other property, belonging to any citizen or inhabitant of the United States, such citizen or inhabitant, his representative, attorney, or agent, may make application to the proper superintendent, agent, or sub-agent, who, upon being furnished with the necessary documents and proofs, shall, under the direction of the President, make application to the nation or tribe to which said Indian or Indians shall belong, for satisfaction; and if such nation or tribe shall neglect or refuse to make satisfaction in a reasonable time, not exceeding twelve months, it shall be the duty of such superintendent, agent, or sub-agent, to make return of his doings to the Commissioner of Indian Affairs, that such further steps may be taken as shall be proper, in the opinion of the President, to obtain satisfaction for the injury; and in the mean time, in respect to the property so taken, stolen, or destroyed, the United States guaranty to the party so injured, an eventual indemnification: *Provided*, That if such injured party, his representative, attorney, or agent, shall, in any way, violate any of the provisions of this act, by seeking or attempting to obtain private satisfaction or revenge, he shall forfeit all claim upon the United States for such indemnification: *And provided, also*, That unless such claim shall be presented within three years after the commission of the injury, the same shall be barred; and if the nation or tribe to which such Indian may belong receive an annuity from the United States, such claim shall, at the next payment of the annuity, be deducted therefrom, and paid to the party injured; and if no annuity is payable to such nation or tribe, then the amount of the claim shall be paid from the Treasury of the United States: *Provided*, That nothing herein contained shall prevent the legal apprehension and punishment of any Indians having so offended."

Mr. THOMAS, of Massachusetts. I venture to say, Mr. Speaker, that there is not a lawyer upon the floor of this House who would risk his professional reputation by stating that that provision comes anywhere near covering this case.

Mr. ALDRICH. I stated in my first remarks that there was no provision of law authorizing the Secretary of the Interior or the Commissioner of Indian Affairs to withhold anything from the annuity of these Indians for the purpose of paying for any personal injury.

Mr. THOMAS, of Massachusetts. I so understood the gentleman from Minnesota; but I understood the gentleman from California to state that there was such a law for withholding this money. If we treat these Indians as citizens of the United States, this is, in fact, inflicting punishment *ex post facto;* and if we treat them as foreign nations, there is a treaty with them which does not cover this kind of injury. The injustice is that we provide that nine hundred and fifty men shall pay for a wrong supposed to be done by three of their number. I agree with the gentleman from New York, [Mr. F. A. CONKLING,] that this is a matter of monstrous injustice, and none the less so because we are the trustees of these Indians. Because we are the trustees for them is a reason why we should exercise towards them good faith and forbearance, and not to do toward them that which no man upon this floor would think of doing toward either France or England.

Mr. Cox's amendment was again read.

Mr. THOMAS, of Massachusetts. That amendment authorizes the Secretary of the Interior to do an act of injustice which the House is not willing to do itself. I would not trust any Secretary with this matter.

Mr. ROSCOE CONKLING. I agree with the gentleman from Massachusetts, and I go even a little further than he has done. There is a single analogy in history for this proceeding. In England, in the ancient days, the hundreds were responsible for what the members of those hundreds did. That was done under laws exceedingly arbitrary, and which would not be submitted to now at all. But in that case, the law referred to acts to be committed in the future, and it did not propose, as in this case, to inflict *ex post facto* penalties. I go still further: if they be foreigners, the treaty which we have entered into with them overrides any statute that we can pass. In solemnity next to the Constitution of the United States are the treaty stipulations which we make with foreign Powers. Staring this bill in the face are treaty stipulations with these Indians which it violates, and I agree in all that has been said about its monstrous injustice.

I am reminded by my friend from Ohio [Mr. BINGHAM] that this bill is entirely wild and rambling, in that it does not specify with any particularity what this claim is to be.

Mr. COX. Mr. Speaker, I did not offer my amendment with any idea——

Mr. EDWARDS. I have the floor, I believe, and propose to submit some few remarks on this bill. Having been a member of the Committee on Indian Affairs some two or three sessions, I am, of course, somewhat familiar with this case.

There did exist upon the statute-book a law which was clear and explicit, that for any injury sustained by a citizen, he should have indemnity out of any annuity to which the tribe was entitled from the Government.

Mr. THOMAS, of Massachusetts. No provision of law has been read in reference to an injury to the person. The law which was read only applied to injury to property.

Mr. EDWARDS. I speak of injury to property.

Mr. LOVEJOY. I am not certain that I understand this case; but if I do, there was an actual injury to the person of this party. I understand that he lost the use of his arm, and that it is upon that loss this claim is founded.

Mr. EDWARDS. As I seem not to have been quite understood, I will repeat, a law did exist by which a party injured in his property by any Indian belonging to a tribe in amity with the United States under treaty, was entitled to indemnity, and if, by the treaty, an annuity was payable to the tribe, the amount of indemnity was to be withheld from the annuity.

Such was the law, whether it was right or wrong, and the statute can very readily be referred to by any gentleman, and it provided further, which was a little extraordinary, that in case there was no annuity, but a treaty of amity, then the Government of the United States was to pay an indemnity out of its own Treasury.

But, sir, that law has been repealed and does not now exist. It did not, however, cover this case. It did not comprehend any injuries to the person, and the question for this House now to decide is whether the law which existed and which has been repealed, giving indemnity for injuries to property, shall be extended so as to cover injuries to the person, and that seems to me to be the only question. Without expressing any opinion upon that point, except what I shall express by my vote, I leave the matter to the decision of the House.

Mr. CAMPBELL. I would inquire how long this matter is likely to occupy the attention of the House? I want to move to go into Committee of the Whole on the state of the Union on the special order.

Mr. ALDRICH. I did not suppose it would occupy five minutes.

Mr. ROSCOE CONKLING. I move to lay the bill upon the table, so that we may have a test vote upon it.

Mr. ALDRICH. We may just as well take a test vote on the passage of the bill. If the gentleman will withdraw his motion, I will move the previous question.

Mr. ROSCOE CONKLING. Well, if we can have a vote on the bill, I withdraw my motion.

Mr. ALDRICH. I move the previous question.

The previous question was seconded, and the main question ordered.

Mr. Cox's amendment was disagreed to.

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

The question recurred upon the passage of the bill; and being put, the bill was rejected.

Mr. F. A. CONKLING moved to reconsider

the vote by which the bill was rejected, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

ADJOURNMENT OVER.

Mr. COX moved that when the House adjourns to-day, it adjourn to meet on Monday next.

The motion was agreed to.

PACIFIC RAILROAD.

Mr. CAMPBELL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was put; and there were—ayes 42, noes 23; no quorum voting.

Mr. CAMPBELL demanded tellers.

Tellers were ordered; and Messrs. LEHMAN, and RICE of Maine, were appointed.

The House divided; and the tellers reported—ayes fifty-seven, noes not counted.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. CRISFIELD in the chair,) and resumed the consideration, as a special order, of the bill (H. R. No. 364) to aid in constructing a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes.

Mr. WHITE, of Indiana. Mr. Chairman, if I get my consent to vote for this measure during the present session of Congress, as I am exceedingly anxious to do, it will be for the very reason that I find the country in that condition that gentlemen have urged as an argument against the adoption of this great peace measure at the present time; it will be, sir, because, unless by some process or other we can reconstruct this Union, I fear very much for the ultimate issue of the present conjuncture. When you are in great danger, sir, or in great straits, violent and perhaps dangerous measures become necessary, and this is such an occasion. We have heard again and again that we can never restore this Government by the power of arms. We have heard it, not only from the mouths of men in rebellion, but from the mouths of the philosophic upon this floor, from lovers of their country, that unless we can restore confidence we cannot restore the Union. To a certain extent I subscribe to that doctrine. Our national resources are wasting away now at the rate of $3,000,000 a day, and I undertake to say that there is not a Government upon the face of the earth that can long stand such a drain as that. There are two conditions in which a Government is certain to be precipitated into annihilation. One is where the people are over-taxed, and the other is where they are unable to pay their taxes. A bankrupt Government cannot long maintain its rank among the nations, nor can an over-taxed people long retain their Government. These are my theories. I therefore hail the great Pacific measure as a salvatory measure, as a means by which we shall, as it were, outflank cottondom, and by which, while the golden chain has been cut in two that bound us to the cotton region on our own Atlantic coast, we shall bind ourselves by a golden cord to the great Pacific.

Now, when we have accumulated a debt of $1,000,000,000, what is $100,000,000 added to it? You are called upon to pay, under the provisions of this bill, only an interest of about six millions of dollars a year. I am sorry that it is six; I am sorry that the bonds are made to bear more than five per cent. interest.

I hope to get my own consent to vote for this measure, which has been one of the darling objects, if I may be allowed to speak of myself, of my life. I have devoted myself to internal improvements for the last twenty years, more or less. I regard the first message of the younger Adams as containing vast instruction on the subject. Speaking of internal improvements, he said that a free Government, other things being equal, is the most powerful on earth, or ought to be, and that we were slandering our constituents when we said that we were paralyzed or restricted by their will from adopting the great and beneficent measures for improving the physical and moral condition of our country I subscribe to the doctrine of internal improvements under the auspices of the General Government. I believe that this Government was built to yield fruit, and not flowers alone which are to fall in the early spring; and I think, therefore, that it is a paternal Government, and that, as it holds the great interests of commerce and industry in its hands, it ought to foster them.

But, sir, while these are my general views in regard to this great measure, which is so vastly to increase the national resources, which is to furnish the greatest security of our future union and of our future wealth: while all this is true, it is no less true that the organization of this railroad company is to build up in our midst the most powerful organization under the shadow of the Government which will exist among us, perhaps the most powerful monopoly and the most powerful corporation known to modern times; not that it will wield capital so greatly disproportioned to the capital wielded by other institutions, but that the great interests to be committed to its hands, and of which it will have, in the natural course of things, a monopoly, are to be all-controlling upon the destiny of our commerce and industry hereafter.

Now, sir, I cannot give my hearty assent to the bill now before the House. I agree with a gentleman who spoke yesterday, that this measure is ill contrived, to say the least of it. I am not for putting these great interests into the hands of six or eight existing corporations, which are already almost bankrupt. I had supposed that the company would be composed of the first men in the Union. I have nothing to say against the fifty-six or fifty-eight gentlemen who are to constitute the corporation. I think it very likely that they are well selected. All I have to say is against their organization as auxiliaries in the building of this road, and I might exclaim, *non tali auxilio.*

I do not think that the coöperation of these various railroad companies can be had. You cannot do so in any organized form of action. I am sure of that. Why should the building of this railroad across the great plains, and over the unoccupied Territories of the country, be placed in such hands? I am glad that we are not now surrounded by those who wish to throw obstacles in the way, in the guise of State rights. Perhaps it is necessary that the Government should extend aid to the building of the road, even in States. The road must begin on the eastern boundary of Kansas. It virtually does begin there, and not on meridian one hundred and two.

I have nothing to say against that feature of the bill which gives the aid of the Government within the limits of Kansas, as it does within the limits of the Territories. All the objection that I have to this bill is as to its machinery. With all due deference to the learned and honorable committee who prepared the bill, I do not think it is well adjusted.

Let us see a little more in detail what are the features of this bill. In the first place, you have a corporation created to consist of fifty-seven members, without succession, except so far as succession may be indirectly inferred. At all events, the bill is without any provision arranging the form of succession. The corporators are appointed, and successors to them are incidentally alluded to; but there is no form by which they shall be continued, in case of death, resignation, removal, or otherwise.

Mr. CAMPBELL. Did the gentleman read the substitute offered by the committee?

Mr. WHITE, of Indiana. Yes.

Mr. CAMPBELL. The gentleman will observe that this bill gives the usual corporate powers to these gentlemen, their associates, successors, and assigns. It is not necessary to put into a charter all that is usually put into by-laws; but the usual and ordinary powers are conferred to elect the necessary officers, make by-laws and rules for the regulation of the company. I conceive, therefore, with all due deference to the gentleman from Indiana, that the powers given by this bill are ample.

Mr. WHITE, of Indiana. I have adverted to the fact that succession is incidentally alluded to; but what kind of succession? A succession which this board of commissioners are to establish for themselves. Is it to be a family succession, a succession of favorites, or is it to be a succession of parties in interest, a succession of stockholders? If any provision at all is made for stock in this company I am not aware of it. This is not right. The stockholders ought to be the parties to control the affairs of this road. The great object is to manage this road as well as to build it. Now, here are fifty-six commissioners named—by far too large a board to manage the affairs of any company, however extensive may be its operations. According to this law, I apprehend that these commissioners have a life tenure of their office. They are in for life. Certainly there is no limitation on their official existence. None whatever, except on their own voluntary resignation or death. There is no mode of succession provided at all. Now, what charter is there to continue corporate power in a corporate body and their successors, in which the mode of succession is not a feature in the law itself? Its mode of springing into life and perpetuating itself is provided in the law.

Now, the gentleman from Pennsylvania says that the by-laws will regulate this; that the by-laws of the company will regulate the succession. No, sir; that is not the way in which corporate succession is regulated. Permit me to say, also, that I have always conceived, and still think it to be no more than just, that the Government itself should be part and parcel of this directory; that it should have a representation in the directory. Is not the interest of the Government in this road sufficient to entitle it to representation? Is not the $100,000,000 of money, and the many millions of acres of land provided in the bill, a sufficient contribution to the stock to entitle the Government to representation? No system has worked better in the country than the system of the old State banks in the State which I have the honor in part to represent, where the State itself has a part in the direction, and the individual subscribers the other part. I am reminded by the gentleman from Pennsylvania [Mr. HICKMAN] that the old United States bank was based on the same principle. No system works better than that.

I think, besides, that these corporators should have more qualification than the mere fact of their appointment. They should be sworn and qualified. It should be the duty of the representative of the Government, in this directory, to guard the interests of the Government, and to see that the funds are not used for private uses, or for private speculation. I contend that this bill is defective in the organization of the company, because it does not provide for succession in any due form, but provides for a life tenure on the part of fifty-seven gentlemen, with authority on the part of their president to fill casual vacancies. It does not create stock at all, although it does speak of subscriptions being limited to the value of a man's estate. That is a curious provision, indeed, and I should hope that the special committee would agree to strike it out, just as the Committee of Ways and Means struck out the provision as to posting notices on taverns. There was a time when men knew what they were worth. They do not know it now. What constitutes a man's estate? Is it his incumbered or his unincumbered property? I should rather see a limitation on the amount which any person might take. I am aware of circumstances in connection with the stock of the Southern Pacific railroad, where gentlemen who were not worth $100 subscribed for one or two millions of stock. I am aware what it was that the special committee intended to guard against here. I have nothing to say on that point. If they think the provision sufficient, well and good.

But, I repeat, Mr. Chairman, that there is no issue of stock provided for, no amount of capital stock fixed. Perhaps the by-laws may supply the deficiency, but I think it should be done in the charter. In this I think it is seriously defective.

Now, sir, there are other defects in the bill, according to my judgment. I have had something to do with the negotiation of railroad bonds in a small way, and I have found, when I brought them into Wall street, that I was required to show express power and authority in the charter for the contracting of debt in its various forms, for the issuing of bonds, for the making of mortgages, and all these things. There is no such power given here in the enumerated powers. I do not see where the capital is to come from which is to build this road. I take it that the Government is to contribute an average of $30,000 a mile as a bonus. It is to pay $16,000 a mile for one half, and $32,000 and $48,000 for the other half. There is no provision by which this company or corpo-

ration may contract debts for any amount beyond the bonus which the Government gives, none that a financier would regard as sufficient security for any advance he might be called upon to make. These, however, are matters of detail, but they are details which make the bill, in its present form, very objectionable to me. My great point of objection, however, is the grand machinery in the bill itself.

Here you have a company constituted with authority to build a road over the plains from the western borders of Kansas, not entirely through the Territories, but to the eastern borders of the Territory of Nevada. Thus much authority you give them. Then you associate with them some half dozen companies which are—I say it without the slightest disrespect to these companies—insolvent. And when I say insolvent, I mean that they are unable to build their own roads. You propose to mingle the affairs of all these companies in one heterogeneous mass, and constitute out of them one great company. Here are two companies in Missouri, here is one company in Kansas, here are four companies in Iowa, and here is one company in Nevada, and one company in California, making in all some eight or ten companies with all their various rivalries and conflicting interests, and you insert into this bill a general provision that they may consolidate.

Now, I would be very glad if the honorable chairman of the select committee on this subject, when he comes to sum up at the close of this debate, would inform us what kind of a consolidation he has provided for in this bill. There can be no consolidation of these companies unless the companies themselves, in their individual capacities, are at the same time annihilated. It follows as a matter of necessity that the consolidation involves the absorption of all the rights and interests of the consolidating companies. Such was the fact in the consolidation of railroad companies which took place in New York; such was the fact in my own State, such was the fact in Ohio, and such is the fact everywhere. When there is a union of railroad companies, the consolidated company absorbs the charters and all the rights and interests of the separate companies. Now is it to be supposed that the railroad companies in Missouri and Iowa, which have land grants from the Government, are to merge all their property and franchises in this wild ocean of a Pacific railroad scheme? Depend upon it they will do no such thing. The people of Iowa who have an interest in the success of their local roads would feel themselves greatly wronged by such a course; the people of Missouri would feel themselves greatly wronged; and all those who have an interest in these several roads for which land grants have been given, would be greatly wronged by such a course. No, sir; the interests of all these different companies will never be blended in this wild Pacific railroad scheme, and that clause of the bill in regard to consolidation is therefore utterly nugatory, and can never be executed.

Mr. Chairman, I will forbear to touch upon the various details of the bill which in my judgment are liable to objection. I forbear to speak of the right of way, four hundred feet in width—twice as wide as it ought to be. I forbear to speak of the subject of taxation, which exempts the lands granted in those Territories from taxation, and by a legitimate construction of the bill would exempt them even after they had passed into the hands of purchasers. I will not discuss the question of the conflict that may arise between the Federal and State authority, by attempting to merge by Federal authority companies existing under State charters, without consulting or obtaining the consent of the States therefor. All these things I might discuss and they would become important questions but for the impossibility, from the nature of the case, that the various companies mentioned should ever consolidate. It is a well-known fact that there are rival and conflicting interests existing between many of these roads which would prevent any union. The railroad companies in Missouri, for instance, could never be made to unite with those of Iowa. Who does not know that it is no privilege to allow one road to come in in common with others in such a scheme? Who does not know that every facility would be presented by such an arrangement, if it could be consummated, to extend all the favors of the main artery to one of those companies, that a favorite branch might obtain all the benefit of all the trade and travel that would pass over the Pacific railroad; and great, indeed, will be the business that will find its outlet through the medium of this road, if it is ever constructed. I do not think with the gentleman from Vermont [Mr. MORRILL] that silks and opium will be the only articles of merchandise that will pass over the road. On the contrary, when that great channel of communication shall have been opened it will be but a short period before the vast plains of the West will be redolent with the perfumes of Asia, with all of the various costly products of the Old World. Sir, the shade of Whitney—for I believe he is dead—ought to teach the gentleman from Vermont that this road will be the means of carrying the fruits of our abundant harvests to feed the famishing millions of the Old World.

Mr. MORRILL, of Vermont. I desire to ask the gentleman from Indiana how much he supposes it will cost to transport freight from the western terminus of the road to New York?

Mr. WHITE, of Indiana. I know that it costs us to transport beeves from the West, some four or five hundred miles, about ten dollars per head. I know that it costs us to transport corn for the same distance twelve, fifteen, and lately twenty cents per bushel. I know that the cost of transportation will be heavy, but I know that it will be less, in proportion, over so long a road than over the routes in the East. But, sir, if the road is built with a double track as far west as the Rocky mountains, I believe it will be practicable to transport the cereals of our western States over it to the Pacific coast.

Mr. MORRILL, of Vermont. If the gentleman will compute the cost of transportation for the whole distance of the road, he will discover that the articles he proposes to transport will not sell for enough to pay the cost of transportation at the end of the route.

Mr. WHITE, of Indiana. I do not desire to detain the committee longer upon this bill. I will observe, however, to the gentleman from Vermont that in respect to the transportation of many descriptions of goods, the consumption of time is of more consequence than the additional cost of transportation. And I will ask him whether there is no purpose for a Pacific railroad other than the mere transportation of freight? Is it of no consequence to facilitate intercourse between the Atlantic and Pacific? Why, sir, when you consider this road as a mere bridge to span a vast void, I tell you that it is not so. I believe the gentleman from Vermont is partly responsible for the opinion which has been expressed, that Denver City is to be the largest city on this continent, if not the largest in the world.

Mr. MORRILL, of Vermont. No, sir.

Mr. WHITE, of Indiana. It came from the chairman of the Committee of Ways and Means, then. If the gentleman from Vermont disclaims the opinion, his friend from Pennsylvania, who sits near him, is very able to bear the responsibility, and thrice able to vindicate it.

Now, sir, if Denver City is to be the largest city in the world, if it is to overstep New York, if it is to be the London of the world, think you this road will not have an interior patronage that will support it? But whether such is to be the fact or not, laying aside the internal commerce which this road will develop, we shall have a mighty continental commerce that will be amply sufficient to satisfy all the guarantees that you may enter into for its construction.

Now, Mr. Chairman, sitting in my obscure personal home, I almost rejoiced that the committee having this subject in charge in a former session had reported in favor of the construction of three roads to the Pacific. I was led to believe with confidence that the commerce developed by these roads would be amply sufficient to support a northern, a central, and a southern route. I commend to the attention of the gentleman from Vermont the reports of the committees of former Congresses upon this subject. I commend to him the statistics developed by those reports, which the leisure of former times has enabled committees better to develop than the pressure of the time of the present session would permit. I have read these reports at my home, and this is one of my regrets in contemplating our present condition—just as we were on the eve of entering upon a great enterprise which would have involved not commerce alone, but which would have carried forward noble and magnificent enterprises of the arts, science, and literature to their great final consummation. Sir, the postponement of these great enterprises is to me one of the most painful consequences of this rebellion; but even now I am willing to risk the strain upon our industry and resources which this enterprise would involve.

Now, Mr. Chairman, I hope this bill will be recommitted, and that it will be perfected in respect to its details. I hope that the plan we shall adopt will be such as to secure one corporation that shall build the entire road. It will be, of course, necessary to secure the coöperation of Kansas; but I have no doubt the authorities of that State will cheerfully yield whatever coöperation may be required in aid of this great object. I hope that this amendment and this modification of the bill will be made. In regard to minor objections, they may or they may not exist. I think that they do. Let the bill be amended, even though it may have to be entirely reconstructed, in order that all of these objections may be removed.

How is this machinery to work? How are these corporations to vote? Corporations are as much governed by votes as other bodies. I should like to have some statement from the committee as to how it is proposed that this machinery shall be made to work. Let us make all of this matter clear. I do not want this Pacific railroad to be left powerless. I want a sound body, with muscles and nerves and blood.

Mr. SHEFFIELD. Mr. Chairman, I never read this bill until last evening, when I cursorily glanced over it. I did not intend to vote for it from the beginning, and therefore I had no occasion to read it. I believe that there are times and seasons for all things; that every day brings its trials and its duties, and in the providence of God, upon this Congress have been cast duties and responsibilities delicate and arduous; duties more difficult, more arduous, and of greater magnitude than were ever devolved upon any preceding Congress—the duty of preserving this Government from destruction. It is our duty to first perform this higher office before we undertake to embark in an inferior and subordinate enterprise.

The first great object which is devolved upon us to accomplish, is to preserve the Government in its integrity and purity as we inherited it from our ancestors. We cannot do that unless we maintain the credit of the country. What is this project which we are now called upon to adopt? It is to involve the Government still further in a vast expenditure of money. It is to embark in an improvement of a magnitude exceeding any internal improvement which has been brought to the attention of the Government since its foundation. It is the construction of a railroad from some part of the State of Kansas to the Pacific ocean. It is a magnificent enterprise, and I would be glad to see it carried out, if it could be done without risking the credit of the Government—the integrity of that Government which has protected us so long and so well. If we undertake to embark in this enterprise it will involve the expenditure of hundreds of millions of dollars, when our credit has already been used extensively, and its strength even now is being severely tried. Does not the introduction of this project show a reckless disregard of the interests of our constituents confided to our keeping? Is it worthy of the Representatives of a free, enlightened, and intelligent people? By the tax law which has just been passed, in prosperous times you will collect, according to my estimation, near fifteen hundred thousand dollars annually from my constituents alone, and now I am called upon to vote upon them an additional burden of $1,000,000 as their proportion of the cost of this railroad. This I cannot do, without violating the trust which has been committed to me.

Gentlemen may say that money is not required for immediate expenditure. What of that? Our bonds when we issue them bear upon them the pledge of the faith of the nation, and that faith must be redeemed. Our constituents will demand that it shall be redeemed. And those bonds will go into the market, and compete with the bonds we are issuing to raise money to carry on this Government, and to suppress the cruel rebellion which is waged against it. The idea of borrowing money for such an enterprise as this at such a time, and under such circumstances, is wild and chimerical in the extreme, and ought to receive

the condemnation of every intelligent gentleman in the country.

This bill provides for the construction of a chain of railroads, to be composed of several links, one of which is to be in Missouri, one in Kansas, one in California, one in Nevada, and the other connecting links to be constructed under the provisions of this act.

I believe involved in that scheme is the means of making this railroad, if it is ever constructed under this bill, one of the most stupendous swindling enterprises ever forced upon a people. Let us look for a moment at some of the provisions of the bill. For instance, the road is to pass through the Territory of Nevada. The corporation to construct the road through that Territory is to be organized under an act of the Legislative Assembly of that Territory. Is it not quite possible that the people who embark in this enterprise may get possession of that corporation and may construct that part of the road? The Government may have a mortgage upon all of the road without that Territory, which it would be induced to foreclose. The Nevada corporation would, nevertheless, control the entire line of road, run it, and receive the profit from it. For the Government would not run the road, and if it attempted to do so, the corporation holding any link in the chain of road would fix the terms upon which the Government could use their local road. Suppose the people of Missouri and Kansas get the control of the Nevada road, they would destroy the Iowa road by imposing upon the business of that road burdens sufficiently onerous to render that branch valueless.

Mr. Chairman, the gentleman from Missouri, [Mr. BLAIR,] when he was upon the floor yesterday, suggested that members representing districts in the eastern States were opposed to this bill because it was a western scheme. I wish the gentleman had postponed his attempt to get up this sectional party and another sectional strife, until we had overcome the one which we are now trying to put down. I deny, most emphatically, this allegation, and I should have been glad if he had omitted to make this charge. He commits an error when he supposes that the representatives of those districts when they come here come to represent the exclusive interests of their section of this country. This whole country is ours, and we from the East are as willing to be taxed and to pour out our blood, when necessary, for the people of the West as we are for the people of the East. I was surprised to hear other gentlemen, weeks since, in the same train of remark, refer to this matter. The gentleman from Illinois [Mr. KELLOGG] and the gentleman from Ohio did so. I might have reminded the latter gentleman, who referred to the sectional proclivities of the East, that in one of the public squares of one of the cities of that State is a monument, and that there is another monument in an ancient city of New England; the one was erected to commemorate the glory, and the other to mark the grave of one who fought upon Lake Erie, and who carried to that fight a majority of his eastern force from my own native county, and these met the conquerors of Trafalgar, and wrote upon the page of American history the immortal words, "we have met the enemy and they are ours." This battle was fought for and this victory saved the West.

The gentleman from Missouri referred to the battle recently fought in the West, and he told us that the West had done all the fighting in the present war. They have done well and nobly, and I rejoice in it. These men who have won victories at Springfield, Fort Henry, Fort Donelson, Island No. 10, and Pittsburg Landing, are the descendants of the Pilgrim fathers. They are our countrymen, our own kindred, and we glory in their achievements as we do in those of our own sons. But the gentleman forgot some matters when he spoke of the army of the West and its achievements. He forgot the part taken in obtaining these victories by eastern men. General Halleck is from Oneida county, New York. Commodore Foote, who has done as much for the glory of our arms as any other man in the public service, is from the State of Connecticut. Lyon, one of the early victims and martyrs in this great cause, was also from Connecticut. From Massachusetts came Mitchell, who is now performing deeds which are adding to the glory of the American flag. These are our fellow-citizens. They are our countrymen. Their achievements are the property of the nation, and their glory belongs to our common country—to us at the East as well as to the men of the West. It is not in accordance with my taste to speak of the part which my own State has taken in this strife. I doubt not that impartial history will do it justice, and I will not anticipate its verdict.

The gentleman from Maine [Mr. FESSENDEN] has stated that we must vote for this Pacific railroad because it is a plank in the Chicago platform, which we introduced here as a kind of political bible. At the time that plank was adopted by the Chicago convention, I indorsed it in its length and breadth, and under the same circumstances I would reindorse it to-day. But the times and circumstances then were, however, very different from what they are now. The times have changed, and to be wise we must change with them. The gentleman tells us that we are now to be governed by a party creed. Mr. Chairman, I have but one party, and that party is the country; I have but one platform, and that platform is the Federal Constitution; one political object to attain, and that is the preservation of this Government. On the 12th of April a year ago, when the shot went against the walls of Sumter, which aroused the nation and shocked the world, I gave up all my party predilections in favor of the country and its cause. I trust I am free from all party prejudice; and I trust that every gentleman here is here to-day acting in the interest of the country, and not in the interest of any political party. We must look at this great question before us as it is to affect the integrity of the Union. This great railroad enterprise involves, it may be, the integrity of this Government. It seems to me that it may amount to that. Gentlemen who urge this measure cannot have considered its financial bearings. If they had done so, they would pause before they undertook to embark the Government in a scheme of this character. I would gladly have voted for a bill for this purpose under other circumstances; but I say that I will vote for no bill involving so large an expenditure of money as this does, unless it is for the purpose of putting down the rebellion. The exigencies of the times demand of us, as the Representatives of the people, that we should devote our attention to that one object, the accomplishment of which is nearer to the hearts of the loyal people than any other—the object of suppressing the insurrection and restoring the union of the States as it came to us from the hands of our fathers.

Mr. LOVEJOY. I propose to move that the committee rise, for the purpose of moving, in the House, to postpone the further consideration of this bill till Monday, in order that we may go into a Committee of the Whole House on the Private Calendar. I think it is only just that we should do so. There are certainly a few cases which ought to be considered, and this is private bill day.

Mr. CAMPBELL. I will say to the gentleman from Illinois that I know there is one gentleman who desires to be heard upon the question to-day, and I do not now see him in his seat.

Mr. LOVEJOY. Let him be heard on Monday.

Mr. CAMPBELL. If the gentleman from Illinois will modify his motion, I do not think there will be any objection to it. There are ten or fifteen gentlemen who desire to be heard upon this measure, some of whom are now absent from the House owing to sickness and other causes, and I have been requested by a number of gentlemen to have the bill postponed until Wednesday or Thursday next to accommodate the absentees.

Now, the committee who have reported this bill believe it to be the best measure that can be framed, and think that it can be defended before the House whenever gentlemen in good faith require any explanation, but gentlemen who are opposed to any such measure could not, of course, be satisfied with any bill that might be reported. The object of the committee is to have a full and fair investigation of the bill, and if any amendments reasonable in themselves, and which will perfect the bill, shall be offered, the committee will be as ready as any member of the House can be, to accept of such amendments.

We are for a Pacific railroad, representing no local interest and no narrow view. Our only object is to perfect the bill, and have it passed by the House, because we believe the interests of the country require it.

Mr. WHITE, of Indiana. Suppose amendments should be offered of such a nature as to require a reconstruction of the bill, would the gentleman withhold the previous question in the House to allow the sense of the House to be tested on a motion to recommit?

Mr. CAMPBELL. I cannot give any answer to the gentleman on that point. The committee and the friends of this measure must be governed by circumstances as they arise.

Mr. LOVEJOY. I will accept the modification suggested by the gentleman from Pennsylvania when I make the motion to postpone in the House.

Mr. ALDRICH. I hope an opportunity will be afforded to every gentleman who desires to offer an amendment, whether it will lead to a reconstruction of the bill or not, to do so. I do not desire to offer any amendments with a view of factious opposition to this bill. I am in favor of a Pacific railroad, and I am in favor of passing a Pacific railroad bill at this session; but I desire to perfect the bill as well as I can, and I desire an opportunity of offering amendments whenever I see fit; and I trust the committee will permit me to do so, and give me a fair vote upon them.

Mr. CAMPBELL. There is no disposition to cut off amendments in the Committee of the Whole. The gentleman will have an opportunity when the bill is read by sections to offer any amendments he sees proper.

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

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. CRISFIELD reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the Pacific railroad bill, and had come to no resolution thereon.

Mr. LOVEJOY. I move that the further consideration of the special order be postponed until Wednesday next.

Mr. BINGHAM. I move to amend that motion so as to postpone it until a week from Monday next.

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

Mr. LOVEJOY. I hope the gentleman will withdraw that motion until we can dispose of this matter. It will take but a moment.

Mr. OLIN. I will withdraw it until this matter is disposed of.

Mr. LOVEJOY. I will modify my motion so as to postpone until Thursday next.

Mr. CAMPBELL. Say Monday week.

Mr. LOVEJOY. Very well; I will accept the amendment of the gentleman from Ohio, [Mr. BINGHAM.]

The motion to postpone, as modified, was agreed to.

Mr. LOVEJOY. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the Private Calendar.

Mr. OLIN. I renew the motion to adjourn.

The question was put; and the House refused to adjourn.

The question recurred on Mr. LOVEJOY's motion; and being put, there were—ayes twenty-five, noes not counted.

So the motion was disagreed to.

Mr. WALTON, of Vermont. I move that the House proceed to the consideration of business upon the Speaker's table, for the purpose of taking up the bills of a private character.

The motion was disagreed to.

Mr. OLIN. I renew the motion to adjourn. It is evident that the House does not intend to do any further business to-day.

The question was put; and the House refused to adjourn—ayes 39, noes 44.

Mr. OLIN. As there is no quorum present, I move that there be a call of the House.

The question was put; and the House refused to order a call.

The SPEAKER then proceeded, as the regular order of business, to call the committees for reports of a private character.

CLAIMS OF CITIZENS OF DELAWARE.

Mr. DUNN, from the Committee on Military Affairs, reported back, with an amendment in the nature of a substitute, bill of the House (No. 321) to indemnify certain citizens of the United States

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. TUESDAY, APRIL 22, 1862. NEW SERIES.....No. 109.

residing in the State of Delaware, for expenses incurred by them in defense of the United States.

Mr. DUNN. I ask that that bill be put upon its passage, and I call for the reading of the report.

Mr. STEVENS. Is there an appropriation in that bill?

The SPEAKER. The Chair does not know. The Clerk will read the bill.

The Clerk proceeded to read the bill. It directs the Secretary of the Treasury to pay out of any money in the Treasury not otherwise appropriated, to the Farmers' Bank at Dover, in the State of Delaware, or the duly authorized agent thereof, an amount not exceeding the sum of $1,378.

Mr. STEVENS. That looks very like an appropriation. I make the point of order that the bill must first be considered in a Committee of the Whole House.

The SPEAKER. The Chair sustains the point of order.

The bill was referred to a Committee of the Whole House, and, with the substitute and the accompanying report, ordered to be printed.

ROBERT M. EVANS.

Mr. DUNN, from the same committee, reported back, with the recommendation that it do pass, bill of the House (No. 369) for the relief of Robert M. Evans.

The bill was read. It directs the Secretary of the Treasury to adjust and settle upon fair and equitable terms the accounts of Robert M. Evans, for recruiting and bringing on from the State of Indiana to this city, in the months of August and September, 1861, a cavalry troop, in pursuance of an order issued on or about the 15th day of July in the same year, by the then Secretary of War, the amount paid not to exceed the sum of $500.

Mr. F. A. CONKLING. That bill contains an appropriation, and must be first considered in Committee of the Whole House.

Mr. WHITE, of Indiana. I hope the gentleman will allow this small bill to pass. The case comes within my personal knowledge. The bill proposes a very small measure of justice to a gentleman who has been the victim of a little petty tyranny.

Mr. F. A. CONKLING. I wish to inquire if there is a report accompanying the bill?

The SPEAKER. A contingent fund has already been appropriated by act of Congress for the War Department. This bill requires the money provided for in it to be paid out of that fund, and therefore the Chair does not regard this as an appropriation bill. It has been frequently so decided.

Mr. DUNN. I desire to say in regard to this bill that under a general order issued last summer authorizing the raising of troops for our Army, Captain Evans, of Indiana, raised a company and brought the men to this city. He had served gallantly in the Mexican war, first going out as lieutenant, and afterwards raising a company and going out as captain. When he brought his men here he encountered difficulties which it is not necessary to go into. He was mustered into service, but his men were not.

He is here now, in bad health. I do not know that he will get $100 under this bill. It is limited to $500 at most, the amount being within the discretion of the Secretary of War. He is in such circumstances that if he is to have assistance at all, he should have it immediately. I hope, therefore, the bill will be passed, and the matter left to the Secretary of War.

Mr. WHITE, of Indiana. I am aware, Mr. Speaker, that this troop of cavalry was brought here under the express direction of the Secretary of War. Captain Evans, at great expense and labor, recruited it, and brought it here. It was to join General Baker's brigade, and was to be under the command of Colonel Davies, of the Harris light cavalry. Some difficulty arose in regard to Captain Evans getting his commission, in consequence of the colonel having previously promised the troop to a gentleman from New York. Therefore Captain Evans was not able to get his command, which he had been authorized by the Secretary of War to bring with him, mustered into service. This bill is to defray his expenses in getting up his company, of which I know he bore the burden. I trust the bill will be allowed to pass.

Mr. DUNN. I wish to say further, that when Captain Evans presented his claim to the Secretary of War, the Secretary was compelled to say that he had no authority to take cognizance of the claim.

Mr. NOELL. I do not desire to interpose an objection to this bill; but I wish to give notice that I shall object to putting private bills reported from committees on their passage unless they take their proper place on the Calendar.

The SPEAKER. The Chair will state to the gentleman from Missouri that when bills of a private character, which do not appropriate money, are reported, it is for a majority of the House to determine whether they shall be put upon their passage.

Mr. DUNN. I demand the previous question on the engrossment and third reading of the bill.

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

Mr. DUNN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

E. H. BROOKE.

Mr. DUNN, from the Committee on Military Affairs, reported a bill to increase the pay of E. H. Brooke, chief clerk to the Paymaster General of the United States Army; which was read a first and second time.

The bill increases the pay of E. H. Brooke, chief clerk to the Paymaster General of the United States Army, to the pay and allowance of an additional paymaster in the United States Army, and entitles him to receive the same from the 12th of April, 1861, until the suppression of the present insurrection.

Mr. DUNN. I will occupy but a moment in giving an explanation of this bill. I suppose that all the members of the House, who have had business to transact at the Paymaster General's office, have made the acquaintance of his efficient chief clerk, Mr. Brooke. If so, they have found him to be an officer always ready to give, and capable of giving, information, and always attending to business with the utmost dispatch.

In my intercourse with the officers in the administration of the War Department, I have met with few who were his equals, none his superiors. Since the commencement of the war, his duties have vastly increased. Being chief clerk to the Paymaster General, most of the business of that office goes through his hands, more business than through the hands of almost any other man connected with the War Department. He has had to instruct all the assistant paymasters, and to assist them in making out their rolls. I really think that it is due to him that his pay should be increased, the increase going back to the date of the bombardment of Fort Sumter, as soon after that his press of business commenced. The Paymaster General, Mr. Larned, speaks of him in the highest manner, and expresses the desire that his pay shall be increased.

Mr. F. A. CONKLING. Will the gentleman from Indiana permit me to inquire what the pay and allowance of an additional paymaster in the Army is?

Mr. DUNN. To my recollection it is twenty-three or twenty-four hundred dollars.

Mr. F. A. CONKLING. What is the present pay of this chief clerk?

Mr. DUNN. Eighteen hundred dollars, I think.

Mr. F. A. CONKLING. I move to amend the bill by striking out the words "the pay and allowance of an additional paymaster in the United States Army," and inserting in lieu thereof the words "$2,400 per annum." The mode of ascertaining the pay of officers that is suggested in this bill is, in my judgement, an extremely vicious one, and has led heretofore to appropriations of money of which the House was ignorant at the time.

Mr. McPHERSON. Say $2,500.

Mr. F. A. CONKLING. Well, say $2,500.

Mr. DUNN. I accept that amendment.

Mr. ALDRICH. Let me add one word to the remarks of the gentleman from Indiana. I have been called to the Paymaster General's office very often, and have become acquainted with the efficiency of the chief clerk. I noticed his desire to accommodate all, and his willingness to work at night in order to do that. In my opinion there is no better officer in the employment of the Government, and none more entitled to an increase of pay.

Mr. McPHERSON. Mr. Speaker, I feel it to be a duty, having had some opportunity of observing the manner in which Mr. Brooke has performed his arduous duties, to say to the House that, in my opinion, there is not connected with the Government to-day a more deserving man. During the summer I happened to be so situated in the vicinity of Washington as to be thrown very much and very closely into business relations with his department. My attention was called to his remarkable efficiency at a very early period of the war. I am ordinarily opposed to any increase of the pay of officers of the Government; but Mr. Brooke's labors have been so largely increased by being compelled, as the gentleman from Indiana has said, to instruct the additional paymasters in their duties, and by immense business thrown on the office, that I think his case is a perfectly equitable one, and I will join gladly in supporting his claim.

Mr. HUTCHINS. I believe, Mr. Speaker, that in every instance I have voted against the increase of pay of officers whose pay it has been proposed to increase; but I have been thrown in contact with this paymaster department, and from what I have seen of Mr. Brooke I do think this bill is eminently just. I think he is one of the hardest working men in the city, and one of the most accommodating. I never go there without getting my business done immediately.

Mr. F. A. CONKLING. Will the gentleman from Ohio permit me to ask him whether he is prepared to yield his assent to the principle of legislation that this additional pay shall be retrospective? The passage of this bill will establish a precedent for other officers to come in here and ask for additional pay for past services.

Mr. HUTCHINS. I think that in this case it is just. As a general proposition, I think it is not.

Mr. DUNN. As the House seems to be ready to vote upon this question, I will simply say that the bill provides that this increased compensation shall be only continued during the war.

Mr. F. A. CONKLING. But the bill also gives back pay, and furnishes a precedent on which every officer will come here, and ask us to give back pay.

Mr. DUNN. We must decide each of these cases upon its merits as it arises. I move the previous question.

The previous question was seconded, and the main question ordered.

The amendment proposed by Mr. F. A. CONKLING was agreed to.

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

The question being on its passage, the House divided, and there were—ayes 36, noes 39; no quorum.

Mr. F. A. CONKLING called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 31, nays 62; as follows:

YEAS—Messrs. Aldrich, Baxter, Beaman, Bingham, Francis P. Blair, Samuel S. Blair, Campbell, Chamberlin,

Colfax, Duell, Dunn, Fessenden, Goodwin, Grider, Hale, Hutchins, McKnight, McPherson, Moorhead, Nixon, Noell, Olin, Patton, Timothy G. Phelps, Riddle, Sheffield, Sloan, Stratton, Voorhees, Whaley, Albert S. White, and Worcester—31.

NAYS—Messrs. Allen, Alley, Ancona, Arnold, Baker, Biddle, Jacob B. Blair, Blake, William G. Brown, Buffinton, Calvert, Casey, Clements, Frederick A. Conkling, Roscoe Conkling, Covode, Crisfield, Davis, Delano, Dunlap, Edwards, Eliot, Ely, Frank, Granger, Haight, Hall, Harding, Harrison, Johnson, Julian, Kelley, Law, Lazear, Leary, Lehman, Loomis, Lovejoy, Anson P. Morrill, Justin S. Morrill, Noble, Norton, Nugen, Pike, Porter, John H. Rice, Edward H. Rollins, Shellabarger, Shiel, Smith, John B. Steele, Benjamin F. Thomas, Francis Thomas, Trimble, Vallandigham, Wall, E. P. Walton, Ward, Chilton A. White, Woodruff, and Wright—62.

So the bill was rejected.

During the call of the roll,

Mr. GRIDER stated that Mr. MENZIES, not being well, was absent from the House.

Mr. VALLANDIGHAM stated that Mr. PENDLETON was called home in consequence of sickness in his family.

Mr. PHELPS, of California, said Mr. SARGENT was absent from the House in consequence of sickness.

Mr. ROSCOE CONKLING said that Mr. SEDGWICK received tidings yesterday of a very sad casualty in his family, and went home.

Mr. MOORHEAD stated that Mr. WALLACE had gone home on account of sickness in his family.

Mr. WALTON, of Vermont, stated that Mr. DELANO had paired with Mr. PENDLETON.

The vote was announced as above recorded.

Mr. PORTER. I move to reconsider the vote by which the bill was defeated, for the purpose of having an amendment proposed to it. I learn that many members voted against the bill who would have voted for it but for the fact that it was retrospective in its operation.

Mr. ALLEN. I move to lay the motion to reconsider on the table.

Mr. NOELL moved that the House adjourn.

The motion was disagreed to.

Mr. ALLEN called for the yeas and nays upon the motion to lay the motion to reconsider on the table.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 51, nays 43; as follows:

YEAS—Messrs. Allen, Ancona, Joseph Baily, Biddle, Jacob B. Blair, Blake, William G. Brown, Buffinton, Calvert, Clements, Frederick A. Conkling, Roscoe Conkling, Covode, Crisfield, Davis, Dunlap, Edwards, Eliot, Ely, Franchot, Frank, Haight, Hall, Harding, Julian, Law, Lazear, Leary, Lehman, Loomis, Lovejoy, Mitchell, Anson P. Morrill, Justin S. Morrill, Noble, Norton, Nugen, Pike, Price, John H. Rice, Edward H. Rollins, Shiel, Smith, John B. Steele, Francis Thomas, Vallandigham, E. P. Walton, Ward, Chilton A. White, Woodruff, and Wright—51.

NAYS—Messrs. Aldrich, Baker, Baxter, Bingham, Francis P. Blair, Chamberlin, Colfax, Cutler, Duell, Dunn, Fessenden, Goodwin, Granger, Grider, Hale, Hanchett, Harrison, Hutchins, Johnson, Kelley, Francis W. Kellogg, Lansing, McKnight, McPherson, Moorhead, Nixon, Noell, Olin, Patton, Timothy G. Phelps, Porter, Potter, Riddle, Sheffield, Shellabarger, Sloan, Stratton, Benjamin F. Thomas, Trimble, Train, Trowbridge, Voorhees, Whaley, and Albert S. White—43.

So the motion to reconsider was laid on the table.

REFUNDING OF MONEY.

Mr. BINGHAM. I desire the consent of the House to report a private bill from the Committee on the Judiciary, for the purpose of putting it on its passage. The bill was referred to the Committee on the Judicary both in this and in the last Congress, and it has been reported favorably upon in each instance. The purpose of the bill is to refund to two citizens of the State of New York the sum of $400, which they paid into the Treasury, in consequence of the defalcation of a postmaster, under protest.

There being no objection,

Mr. BINGHAM reported back a bill of the House for the relief of the sureties of George Marshall, late postmaster at Valatie, New York.

Mr. BINGHAM. I desire to state that the Post Office law expressly requires that the Postmaster General shall put in suit the bond of a defaulting postmaster after his first quarter's default. Now, sir, in this instance the evidence before the committee was that not only was the defalcation of this postmaster permitted for one quarter without notice, but it continued for seven consecutive quarters before suit was brought upon the bond; and at that time the defaulting postmaster had run away and his office was vacant. These two parties who were the sureties, by the advice of their counsel, late a member of this House, (Mr. Reynolds,) did not plead the failure to comply with the law on the part of the Postmaster General, but paid the money into the Treasury under protest.

I desire to say that this bill includes the defalcation for the last five quarters, leaving the other two quarters not included.

I will only remark further, that if this were a transaction between two private citizens, the very fact of the defalcation being allowed to go on after due notice had been given by the parties would have been a bar in action in any court of justice on the face of the earth. The bill simply returns the money paid by them without interest.

I call the previous question.

Mr. COLFAX. I desire to say a word on this bill, if the gentleman will permit me.

Mr. BINGHAM. I withdraw the demand for the previous question.

Mr. COLFAX. By the Post Office laws the sureties of a postmaster are responsible for his conduct, not only during the whole period he is in office, but for two years afterwards.

Now, what I desire particularly to ascertain is that this is not such a bill as shall be a precedent in all future cases of defalcation. It is pretty hard to collect money now from sureties. If this is an exceptional case, there may be some merit in it. I know nothing about it, but if it is one of the general cases of defalcation, it would be a very dangerous bill to pass.

Mr. BINGHAM. It is most decidedly an exceptional case. The evidence shows that the sureties were vigilant in notifying the Department of the defalcation, but no attention was paid to them. It was, as I have stated, such a case as, if it had been a transaction between private parties, no court of justice would have ever rendered a judgment against these sureties. That provision is this: in case any postmaster shall neglect to render his accounts and pay over the receipts at the end of every three months, it is the duty of the Postmaster General to take notice of that fact. The proof shows that instead of giving this notice to the sureties, he allowed these defalcations to run through seven consecutive quarters. These men paid $480. Eighty dollars was afterwards returned to them because of an error that was made. The committee propose to refund to them $400, and no more. Now, I say that the Postmaster General who would repeat this neglect ought to be impeached of malfeasance or misfeasance in office. I do not know to whom this remark would apply. I do not know whether the Postmaster General at the time repeated this neglect of the clear injunction of the law.

Mr. F. A. CONKLING. Are the facts such as would constitute an offense as between individuals?

Mr. BINGHAM. Certainly.

Mr. COLFAX. I differ with the gentleman from Ohio in the construction of the law. One trouble about these defalcations is this: the funds do not go into the treasury of the Department, but they go into the general Treasury. The accounts are audited by the Sixth Auditor of the Treasury, and going from one Department to another, a case of defalcation may sometimes be overlooked. I suppose that was the case in this instance. If a postmaster is suspected, it is the practice of the Department to draw upon him at once.

Mr. BINGHAM. Is this provision for drawing upon deputy postmasters of recent origin?

Mr. COLFAX. No, sir.

Mr. BINGHAM. Every item is set out in these accounts. For seven consecutive quarters this defalcation was permitted to go unnoticed by the Postmaster General, and I think that these parties ought to have this money refunded to them. I am glad, however, to see that the gentleman from Indiana is jealous of the administration of the Post Office Department.

Mr. COLFAX. The only objection that I make to this bill is, that it may be drawn into a precedent. There is now a great deal of trouble in collecting from defaulting postmasters—more trouble than there is in collecting from any other persons. You have to go through the formality of a suit in cases of three dollars, ten dollars, and so on, up to one hundred dollars.

FORT PULASKI.

Mr. ELY. I ask the Clerk to read the following dispatch, which I have received from the Secretary of War.

The Clerk read, as follows:

PORT ROYAL, SOUTH CAROLINA,
(Via Sandy Hook, New Jersey,) *April* 18.

HON. EDWIN M. STANTON, *Secretary of War:*

We opened our batteries on Fort Pulaski on the morning of the 10th. After thirty hours continuous firing a practicable breach was made, and preparations for storming about to commence, when the rebel flag was struck. We have captured forty-seven guns, seven thousand shot and shell, forty thousand pounds of powder, three hundred and sixty prisoners, with their small arms and accouterments, and a good supply of provisions. One of our men killed, not one wounded.

DAVID HUNTER,
Major General Commanding.

And then, on motion of Mr. ANCONA, (at half past three o'clock, p. m.,) the House adjourned.

IN SENATE.

MONDAY, *April* 21, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of Friday last was read and approved.

AFRICAN COLONIZATION.

Mr. LANE, of Indiana. I desire to present the memorial of Joseph E. Williams and others, free persons of color, praying that the Congress of the United States may provide certain territories without the limits of the United States, in Central America or elsewhere, for the colonization of the free colored population of the United States; and with the permission of the Senate I will state very briefly the objects sought to be accomplished by the memorialists. While I do not believe that the free colored population have all or any considerable portion of the rights of citizenship under the Constitution and laws of the United States, with me their right to petition is sacred. This subject derives a peculiar importance from the present position of our affairs. It is obvious to every one that by the march of our armies, and by the confiscation of the property of rebels, a large number of persons are to be manumitted, necessarily and inevitably. When these slaves shall be free, either one of three courses must be adopted in reference to them: they must be reënslaved, or colonized, or apprenticed where they now are. They never can be reënslaved. It is at war with the genius and spirit of our institutions and against the enlightened public opinion of the whole civilized world. The United States can never become either a slave dealer or slave owner. Confiscation of the property of rebels then implies necessarily the freedom of the slaves; and either a judicious system of apprenticeship must be resorted to by which they shall be under the guardianship of certain persons until they are qualified to take care of themselves and fitted for the enjoyment of freedom, or they are to be colonized, and colonized beyond the limits of the United States, and no point better adapted to their colonization suggests itself to me than Central America.

I know that in times past objections have been urged against the right of colored persons to petition. The right of petition comes to us from our British ancestors. It had its origin in the earliest dawn of free institutions among the Anglo-Saxons. It is a right which has been asserted under every form of government, in every country and in every age of the world. The most despotic and absolute Government of Asia has permitted this right of petition, and there is no human creature so humble that he may not petition. The very fact that he is debased and ignorant and downtrodden and oppressed is the strongest possible reason why he should be permitted to petition the powerful for justice and protection. The right of petition is one of the most important agencies in the divine economy for the redemption of the world. The right of petition should be held sacred.

Then the object sought to be accomplished by their petition is one in which I deeply sympathize, and the course suggested meets my hearty concurrence and approbation. Not only will slaves be manumitted by the march of your armies and by the confiscation of the property of rebels, but under the act which you have lately passed for the abolition of slavery in the District of Columbia some fifteen or eighteen hundred slaves have been set free, and if you carry out efficiently the pro-

vision for voluntary colonization contained in that act, some place of refuge must be provided for the free African population of the United States, and particularly of this District. Since the commencement of this rebellion many signal and most important triumphs have been achieved by the national arms and in behalf of the national cause, but among the most important victories achieved so far in the history of this rebellion is the abolition of slavery in the District of Columbia. It is a victory which sickens our hearts with no terrible recital of killed and wounded. It is a victory which plants no thorns in the pillow of widowhood, which fills the eyes of no orphans with tears, and the hearts of no mothers with anguish. It is a bloodless triumph in behalf of truth and principle and justice.

In claiming the abolition of slavery in the District of Columbia as one of the most important triumphs of the national cause, I would not by any means disparage the triumph of your arms. I know that the chivalric and patriotic sons of the great Northwest and West are now pouring their victorious columns upon New Orleans with the might and grandeur and power with which the great father of waters sweeps his currents to the ocean. Upon every battle-field in the great West they have illustrated the prowess and bravery of the citizen soldier of the United States. As an American citizen, I am proud of your triumphs. I recollect that Lieutenant Worden, but a few short weeks ago, added one to the list of American heroes—

"One of the few, the immortal names,
That were not born to die."

I have a peculiar pride in the victories of the West, as a citizen of Indiana, for, upon every single battle-field, her bravery and prowess have contributed to your victory. Her blood has reddened every well-stricken field, and no standard of hers has ever been captured by the enemy. I draw no invidious distinctions between the great States of the West. I recognize most freely the patriotic devotion to the good cause in Kentucky; the struggling bravery under the most adverse circumstances of the patriotic people of Missouri; and the State of Iowa, that first-born to freedom under the Missouri compromise, in this struggle has nobly vindicated and illustrated her paternity. So of the people of Minnesota and of Wisconsin and of Michigan and of Illinois and of Ohio. They have been equally brave, and their only rivalry has been a generous emulation as to who should most ardently love, and who should most worthily serve, our common glorious country. We have a common interest in these victories. But great as they all are, they are not much greater, in my estimation, than the moral triumph achieved in the District of Columbia.

I have a just national pride in the achievements of Commodore Foote and his invincible flotilla of gunboats, who, upon an obscure bayou of the Mississippi, have added the glory of another Salamis to the world's history. But these triumphs, great as they are, are but little more important in their results than the achievement to the national cause brought about by the abolition of slavery in the District of Columbia. I have said that that victory was accompanied by no bloodshed and no mourning, no regrets, save the regrets that the rebels and their sympathizers may entertain.

Gentlemen talk of the effect of the abolition of slavery upon the border States. So far as I am concerned, there is no terror in that cry. For the last twenty years I have never seen an hour or a moment that I would not have given the same vote. Sixteen years ago I took the same ground in the State of Indiana, and two years ago I was tried upon the record. My letter was read in favor of the abolition of slavery in the District of Columbia in the canvass of 1860. I was tried upon the record, and the verdict was a majority of ten thousand.

I have no fears in reference to the result of that vote, and I believe it cannot operate injuriously; but if we wish to make that wise and beneficent measure effective, we must carry out the prayer of these memorialists, and provide a place where they may be colonized, and colonized voluntarily, for a forced emigration or compulsory colonization will result in no good. You must have willing hearts and strong arms to work out for these free colored people their destiny wherever you may place them. I would not sanction a compulsory colonization, and surely not at this time. This beneficent measure, I doubt not, will be carried out, and in order that it may be effectual, the prayer of these petitioners must be listened to. If not at present, at least at some time not remote, their prayer must be answered by the Congress of the United States. This memorial is very brief, and drawn in apt terms, and in language the most respectful and courteous to Congress and to the people; and at the request of the person who intrusted it to me, and in his behalf and in behalf of the memorialists, I ask that it may be read at the desk and referred to the Committee on Foreign Relations.

The Secretary read the memorial, as follows:

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

The undersigned, for themselves, their relatives, and friends, whom they represent, desire, by this memorial, most respectfully to show to the Congress and people of this great country—of which, too, they are natives, but humbly born—that they appreciate, to the fullest extent, the humane actions which are now inaugurated to give freedom to their so long oppressed colored race; but they believe that this freedom will result injuriously, unless there shall be opened to colored people a region to which they may emigrate—a country which is suited to their organization, and in which they may seek and secure, by their own industry, that mental and physical development which will allow them an honorable position in the families of God's great world.

That there is ignorance in the mass of the colored race is not to be denied; this is caused by the peculiar condition in which they have been raised—without the advantages of general education so wisely and freely accorded to the white citizens. But there are those among them who have secured the blessings of knowledge, and who are capable of informing their brethren of what is for their ultimate good, as the leaders of the Pilgrim Fathers informed those who came with them to plant civil and religious liberty upon this continent.

To these we are indebted for the knowledge that Liberia is too distant from the land of our birth, and that however kindly and wisely the original plans of colonization may have been laid for that country, neither those plans, nor that region are suited to our present condition, and that it will be impossible for us ever to move there in sufficient numbers to secure for us the full liberties of the human race, the elements of which we have learned here.

From them, too, we have learned the deep degradation and wretchedness in which our relatives were sunk who were induced by heartless speculators to emigrate to Hayti. Slavery, if it must be borne, is more endurable under a race we have long been taught to look up to and regard as superior, than under one originating in Africa, degraded by abject slavery under Spanish and French greed, and still further brutalized by unrestrained and licentious liberty, such as exists with those who hold the power to control the poor immigrant in Hayti, or either of the Africo-West India Islands.

Of our own will we cannot go either to Liberia or these islands. We have, in the United States, been taught to venerate virtue, to strive to attain it, and we can, with humble pride, point to as wide-spread examples of the benefit of these teachings as can any similar number of men, with no greater advantages than ourselves. Therefore we wish to shun those countries where the opposite of virtue rules, where vice reigns supreme, where our very blood would be required if we opposed its indulgence.

Though colored, and debarred from the rights of citizenship, our hearts none the less cling to the land of our birth. We do not wish to be driven beyond the ocean, where old bands of kindness cannot reach us, where we cannot hear from those with whom we have grown up, with all the fond remembrances of childhood.

We now number as many souls as won the freedom of your sires from British rule. We may not *now* be as capable to govern ourselves as they were, but we will, with your aid, be as zealous, and with God's blessing, we will be as successful.

There is a land—part of this your own continent—to which we wish to go. It is that portion generally called Central America; there are lands there without inhabitants, yet bearing spontaneously all that is suited to our race.

Aid us to get there, protect us for a short while, and we will prove ourselves worthy and grateful. The labor which, in servitude, has raised cotton, sugar, and tobacco, will do the same, not in the blood of bondage, but in the free spirit of liberty, and with the exultant knowledge that it is to be part of your commerce, and to be given in exchange for the productions of our old native land.

If we are regarded as an evil here, (and we may become so by our competing with your white labor while here for the necessities of existence,) send us where, instead of being an evil, we may be made a blessing, by increasing the value of that white labor, while at the same time we offer to it greater comforts in reducing the costs in producing, by our own labor, those articles in abundance which all require for health and sustenance.

Do not, we beseech you, recognize and build up foreign nations of the black race, who have no sympathy in thought or language with that race which has grown up with you, and who only seek by such recognition, shaped, as it is, by European diplomacy, to sow discord and trouble with us here, that you and ourselves may be involved in a common ruin.

Send us—our prayer is, *send us*—to that country we have indicated, that we may not be wholly excluded from you, that we may aid in bringing to you that great commerce of the Pacific, which will still further increase the wealth and power of your country; and your petitioners will ever pray.

The memorial was referred to the Committee on Foreign Relations.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented two petitions of citizens of the city of New York, praying for the passage of a general bankrupt law; which were referred to the Committee on the Judiciary.

He also presented a petition of citizens of Michigan, praying for the passage of a bill for the construction of a ship canal between Lake Michigan and the Mississippi river; which was referred to the Committee on Commerce.

Mr. HOWE presented a memorial of the Legislature of Wisconsin, in favor of relief to James G. Ladd, mail contractor on route No. 13025 in that State; which was referred to the Committee on Claims, and ordered to be printed.

He also presented a memorial of the Legislature of the same State, in favor of the establishment of a mail route from Monches, in Waukesha county, to Hartford, in Washington county; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

He also presented a memorial of the Legislature of the same State, asking a donation of land to construct a military road from some point on the Mississippi or Lake St. Croix, in that State, between towns twenty-five and thirty-one, to Superior City, in Douglas county; which was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also presented three petitions of citizens of Wisconsin, praying for the passage of a bill providing for the construction of a ship canal between Lake Michigan and the Mississippi river; which were referred to the Committee on Commerce.

Mr. HOWARD presented a petition of citizens of Lyons, Ionia county, Michigan, praying for the passage of a bill providing for the construction of a ship canal between Lake Michigan and the Mississippi river; which was referred to the Committee on Commerce.

He also presented a petition of citizens of Jackson, Michigan, praying for the passage of a uniform bankrupt law; which was referred to the Committee on the Judiciary.

He also presented a memorial of citizens of Monroe, Michigan, remonstrating against the passage of the tax bill now before Congress, and against the issue of any more bonds bearing interest; and praying that Treasury notes be issued for the full amount of our unfunded debt; which was referred to the Committee on Finance.

He also presented a petition of J. W. Raymond and others, citizens of Michigan, praying for an appropriation of public lands for the benefit of the mining school located at Houghton, in the county of Houghton, State of Michigan; which was referred to the Committee on Public Lands.

Mr. CLARK presented a petition of citizens of New Hampshire, praying for the adoption of the principles of taxation suggested in a letter from E. B. Bigelow, addressed to Hon. THADDEUS STEVENS, entitled "Internal taxation simplified;" which was referred to the Committee on Finance.

Mr. DOOLITTLE presented five memorials from the Legislature of Wisconsin, in favor of the establishment and discontinuance of mail routes in that State; which were referred to the Committee on the Post Office and Post Roads.

Mr. DOOLITTLE. I also desire to present the joint resolution of the Legislature of Wisconsin tendering to the President of the United States their approval of his course, a resolution which was adopted, I believe almost without exception, unanimously by the Legislature of Wisconsin. I ask to have it read and printed.

The Secretary read it, as follows:

A joint resolution tendering to the President of the United States approval for his course.

Resolved by the Assembly, (the Senate concurring.) That we tender to the President of the United States our unqualified approval of the manner in which he has administered the Government from his inauguration to the present time—a period of difficulties, dangers, and vast and delicate responsibilities without a parallel in the history of the nation; and that, as Wisconsin has given him her prompt support and her unlimited confidence in the past, so for the future, having undiminished faith in his ability, integrity, and patriotism, we pledge him our continued cooperation and that of our State in all such measures as he shall deem just and proper for the accomplishment of the great undertaking of his Administration—the restoration of the authority of the Constitution and the supremacy of the laws of the United States in every State and Territory where they have been assailed or questioned.

Resolved, That the Secretary of State be directed to transmit a copy of these resolutions to the President of the Uni-

ted States and to each of our Senators and Representatives in Congress.

J. W. BEARDSLEY,
Speaker of the Assembly.
G. W. HAZELTON,
President of the Senate pro tempore.

Approved April 5, 1862.

LOUIS P. HARVEY.

STATE OF WISCONSIN, SECRETARY'S OFFICE, *ss:*

The Secretary of State of the State of Wisconsin hereby certifies that the foregoing joint resolution has been compared with the original enrolled joint resolution deposited in this office, and that the same is a true and correct copy thereof, and of the whole of such original.

In witness whereof, I have hereunto set my hand and affixed the great seal of the State at the capitol, in [L. S.] Madison, this 16th day of April, A. D. 1862.

EDWARD ILSLEY,
Assistant Secretary of State.

The joint resolution was laid on the table, and ordered to be printed.

BILLS INTRODUCED.

Mr. WILSON, of Missouri, asked, and by unanimous consent obtained, leave to introduce the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. No. 276) for the relief of James H. Ashbaugh;

A bill (S. No. 277) for the relief of J. J. Miller; and

A bill (S. No. 278) for the relief of S. C. Webber.

Mr. HALE. I desire the unanimous consent of the Senate to introduce a bill of which no previous notice has been given, and that the Senate may understand what it is I will read the title. It is a bill providing for the selection of jurors to serve in the several courts in the District of Columbia. It is a very important bill, and makes an important alteration in the law. I wish that it may be referred to the Committee on the Judiciary, and I should like, if the Senate will indulge me, to have the bill printed for the use of the Senate.

There being no objection, leave was granted to introduce the bill (S. No. 279) providing for the selection of jurors to serve in the several courts in the District of Columbia; and it was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. HAY, his Secretary, transmitting a copy of a correspondence between the Secretary of State and Benjamin H. Brewster, of Philadelphia, relative to the arrest in that city of Simon Cameron, late Secretary of War, at the suit of Pierce Butler, for trespass, *vi et armis*, assault and battery, and false imprisonment; which was referred to the Committee on the Judiciary, and ordered to be printed.

RAILROADS IN WISCONSIN.

Mr. CLARK. I desire to withdraw the motion for the reconsideration, which I caused to be entered on Friday last, of the vote by which the Senate concurred in the House amendments to Senate joint resolution No. 26, explanatory of a certain act therein mentioned.

The PRESIDENT *pro tempore*. The motion to reconsider is withdrawn, the Senator from New Hampshire, who made the motion, having the power to withdraw it.

ARRESTS IN KENTUCKY.

Mr. POWELL submitted the following resolution, and asked for its present consideration:

Resolved, That the Secretary of State be, and he is hereby, directed to inform the Senate how many residents or citizens of the State of Kentucky have been arrested or removed from said State by his order or direction, and confined or imprisoned outside of the limits of said State, since the 1st of September last; that he state the names of the persons arrested, and the camps, forts, or prisons where they are or were confined: how long they and each of them have been imprisoned; and that he give the number and names of the persons so arrested and imprisoned who have been released, and the names of the persons so arrested who are still confined, and the place or places where they are imprisoned; and that he report to the Senate the names of all the citizens of Kentucky that have been imprisoned by his orders.

Mr. SUMNER. Let it lie over.

The PRESIDENT *pro tempore*. Objection being made, the resolution lies over under the rule.

WILKES'S EXPLORING EXPEDITION.

Mr. COLLAMER. I am directed by the Committee on the Library, to whom was referred the joint resolution (H. R. No. 67) to supply the Smithsonian Institution with volumes of Wilkes's Exploring Expedition, to report it back, and recommend its passage. I ask that it be put on its passage at this time; there will be no debate about it.

By unanimous consent, the joint resolution was considered as in Committee of the Whole.

Mr. COLLAMER. I will say to the gentlemen who are making inquiries of me that there are some of these works in the Library; when the law was passed for their distribution, the Smithsonian Institution was not in existence, and consequently it was not included, and it has never had any copies. This is merely a resolution to furnish the Smithsonian Institution with a copy of whatever volumes of these works we have on hand in the Library.

Mr. HALE. I think it is right. It ought to go there; the most gigantic humbugs of the age ought to be together. [Laughter.]

The joint resolution was reported to the Senate, and ordered to a third reading. It was read the third time, and passed.

ARREST OF GENERAL STONE.

The PRESIDENT *pro tempore*. The Chair calls up the special order, the resolution of the Senator from California, [Mr. MCDOUGALL,] calling for information from the War Department relative to the arrest of Brigadier General Charles P. Stone.

Mr. LATHAM. Before my colleague proceeds, I wish to say that when the Senate adjourned on Friday last they were about to divide on the bill then pending, which will be the unfinished business at one o'clock to-day. I do not wish to interfere with him at that time, and prefer, of course, that he should continue his remarks; but with his consent, I move now that the roll be called, and the consideration of that bill proceeded with.

The PRESIDENT *pro tempore*. Does the Senator's colleague yield the floor for that purpose?

Mr. MCDOUGALL. If the vote is to be taken now.

Mr. FESSENDEN. The Senator proposes to suspend the special order merely for the purpose of calling the roll on the bill referred to. It was not understood that the roll was to be called, or that the debate was finished, but we were willing to let the amendment go through, and let the bill stand in the shape in which the Senator wanted it to be.

Mr. LATHAM. If there is to be discussion, of course I do not desire to interfere with my colleague.

Mr. FESSENDEN. The Senator from Vermont [Mr. COLLAMER] says there will be further discussion.

The PRESIDENT *pro tempore*. The prior business will be proceeded with, and that is the resolution of the Senator from California [Mr. MCDOUGALL] respecting the arrest of General Stone.

Mr. MCDOUGALL. Mr. President, when my remarks were suspended by the expiration of the morning hour, I was discussing the position assumed by the Senator from Ohio, [Mr. WADE,] that it was the duty of the Government to act upon mere suspicion, without requiring even technical evidence against the accused. I expressed my astonishment at the assertion of any such right or power. In reflecting upon this position, and the other views advanced by the Senator, I must confess that I see what appears to me graver cause of comment than first met my apprehension. I seem to see something of the spirit of Dominic De Guzman, the abbot of Citeaux, and of the relentless Torquemada; something of that spirit of the inquisition which in the name of "the holy office" arrogantly and profanely dared to say, "Spare none, God will be able to distinguish his own among the slain." It may be well to trace a brief parallel between the spirit, character, and conduct of the inquisitions of the fourteenth and fifteenth centuries, and the inquisition which has suddenly sprung up in our midst, and appears to frown upon us from every side with hostile and threatening eyes. The features of the inquisition conducted in the name of "the holy office" were, first, secrecy; second, a most intolerant spirit; third, absolute, despotic, tyrannical power, subject to no law; fourth, disregard of every just or known rule of inquiry, any known law of evidence.

These were the great marked characteristics which define the inquisitions of an age the records of which were a terror to our youth, and should be a lesson for our manhood; a lesson for our firesides, a lesson in all places where people congregate, and a lesson in this Senate.

Mr. President, I propose, for the wisdom of this discussion, to institute a brief parallel. The Senator from Ohio, I trust, will excuse me if I employ his language and expressed opinions for the parallel on one side, while I trust to the recollections of past history on the other. The parallel, or the comparison, if you please, will be between the inquisition of the fifteenth century in the States subject to Rome, and the inquisitions now recognized and obtaining in this, the nineteenth century, in the Republic of the United States of North America.

I will first speak of the first marked feature of the ancient inquisition—secrecy. That this was one of the great features of the Roman inquisition is known to all. I will simply inquire, what says the Senator from Ohio?

Mr. WADE. Does——

The PRESIDENT *pro tempore*. The Chair will put the question, does the Senator from California yield the floor to the Senator from Ohio?

Mr. MCDOUGALL. I think the gentleman had better let me conclude my remarks, and then he can be heard.

Mr. WADE. Very well; go ahead, then.

The PRESIDENT *pro tempore*. The Chair does not understand the Senator from Ohio to rise to a question of order. If so, it is his right.

Mr. WADE. No, sir. I rose to put the gentleman right, as I supposed he did not intend to misrepresent; but as he chooses to go along with his speech, be it so.

The PRESIDENT *pro tempore*. The Senator from California will proceed.

Mr. MCDOUGALL. I will state to the gentleman from Ohio that so far as I shall undertake to maintain this proposition, I will do it from his own words, as he is reported in the official paper.

Mr. WADE. When you say that I commended secrecy, you are stating what I have not said or thought of.

Mr. MCDOUGALL. I will only read what has been said; I will put the Senator's language alongside of mine, and then no wrong can be done to him, either here or before the country. He said:

"Sir, we have not published what we have ascertained to any mortal man except it was to him who was armed with the power of administering the remedy. No idle curiosity has prompted any member of that committee to proclaim to the world as idle gossip the testimony that was before it. I challenge the Senate, and every man of it, to tell me which member of the committee or where have we made known to the public what was going on before us. I admit that as we ascertained facts, the existence of malpractices, short-comings, and things inconsistent with the proper and beneficial conduct of the war, we have sought interviews with the President of the United States, we have sought them with the Secretary of War, and on some occasions with the whole Cabinet, and there in secret have disclosed the testimony that has come to us, and we have endeavored to work out a redress, and in innumerable instances I know we have done it, where, had it not been for that so-much maligned committee, the Administration would have been entirely ignorant of what was going on."

I understand, from the published language of the Senator, that it is claimed as a virtue on behalf of this committee, that they have instituted proceedings which have been altogether secret; that matters have been inquired into and conclusions arrived at affecting the honor of gentlemen, and perchance their lives, and that these things have been done in secret. I understand that such things have been done.

Mr. WADE. That was understood wrong, for it is exactly contrary to the fact. That is all I have to say about it.

Mr. MCDOUGALL. Does the Senator from Ohio mean to say that General Stone was advised of any investigation or what was charged against him?

Mr. WADE. I do, sir.

Mr. MCDOUGALL. Was the testimony reported to him?

Mr. WADE. Every word of it.

Mr. MCDOUGALL. General Stone—has he been advised?

Mr. WADE. General Stone has been.

The PRESIDENT *pro tempore*. The Chair is obliged to interrupt this interlocutory conversation as out of order.

Mr. McDOUGALL. It would appear, then, that the Senator is either now incorrect or was incorrect in what he affirmed in his speech made on a former day. I refer to his speech as reported, and as he is reported to have spoken for himself and his committee. In that speech, as reported, he certainly did say that the proceedings of his committee were altogether secret; that they communicated with no one except those who could place their judgment in execution. (Not these words, sir, but these words in substance.) This is the first time that I have heard of General Stone receiving information of anything charged against him. General Stone is a prisoner in the North; I could not, if I would, inquire of him. I have had no correspondence with him by word or paper—I could not have had except under the inspection of the War Department. For myself, I have not sought it, for this reason, let me say, for the strong reason that I have absolute confidence in his right and equal confidence in his adversaries' wrong.

The friends of General Stone, his counsel, do not understand that he is advised of the accusations against him. I do not believe that he is so advised. If, however, there is reason on the part of the Senator from Ohio to affirm that this is so, then permit, if you please, this further remark, that, from information I have received as to the manner of business of this committee as well as of some other committees, gentlemen are at times called before them, as was General Stone. The person called before a committee in his pride, or, if you please, vanity, supposes his opinions are regarded as valuable in that committee, and expects to speak of something involving the capture of Yorktown or Corinth. He appears before the committee; he suddenly finds that another class of questions demand his answers. He finds himself questioned as to his loyalty. He finds himself interrogated about a thousand matters personal to himself; he begins to think that some one has accused him; he inquires, "Are there any charges against me?" He receives the prompt answer, "No." He having answered everything asked, as it seemed to him to the satisfaction of the committee, he goes on his way rejoicing. Suddenly, perhaps at midnight, or at any other hour of the night or day, he receives an order of arrest, ignorant for why or what. I do not mean to state this as the case of General Stone; but it will answer for the statement, and the truthful statement of more than one case; but the case of General Stone may be permitted to illustrate the point of secrecy; he was arrested about midnight, without notice, and at a time when, as I believe, he had just been rendering his country important service.

The next feature of the inquisition is "a most intolerant spirit." To prove this I will read, for I do not care about elaborating or discussing in detail the merits of the various remarks of the Senator from Ohio:

"He may require all the presumptions of innocence that are so often resorted to to shield a culprit from the punishment of his crime. It is done here. But, sir, the man whose life is assailed does not summon a jury, and the nation whose life is assailed by traitors need not summon a jury. All you want is the power, honestly exercised, to put it down."

So I understand it to be proclaimed here to the country that because this is a time of war, any man, a man at the head of our Army whose life has been loyal, a man from any one of our cities, from any one of our towns, from any one of our farm houses, may be seized upon suspicion in the absence of legal testimony, may be tried without a jury, may be condemned without a judicial judgment—this innominable power exists somewhere. It must exist, for we witness its power, not by virtue of the Constitution, not by virtue of any law; but there is a silent, terrible power which we have seen exercised, not limited by any known law, and not qualified by any term. A power which ignores the Constitution and all law. A system which is no system, which is anarchy, which knows neither the Constitution, the laws, the judges, the juries, the judgments, or the verdicts which should determine, as we have learned, the rights, liberties, and lives of our fellow-citizens.

All these rights I understand the gentleman to ignore. The gentleman does not require a Constitution, laws, courts, judges, judgments. He would prefer to fall back into a state of nature, and trust to see what so brave and strong a man as the brave BEN WADE could do in the contest involving the general average of mankind. The Senator said again:

"Sir, I am tired of hearing these arguments in favor of traitors. *The Constitution takes their lives, their property, their all.* Why shall we stop *short?* Are they not in quest of ours? If there is any stain on the present Administration, it is that they have been weak enough to deal too leniently with these traitors. I know it sprung from goodness of heart; it sprung from the best of motives; but, sir, as a method of putting down this rebellion, mercy to traitors is cruelty to loyal men."

And again:

"It is a remarkable fact, and I fear not entirely to our credit either, that while we have been involved in this great rebellion, while this generation is taxed, and future generations will be taxed to the utmost of their capacity to defend themselves, while this ungodly war was waged against the best Government on God's earth, and it has cost the most precious blood of this nation to repel the insurrection, after one whole year has passed by, there has not yet been made a single example of treason, not one; no attempt to take the life, nay, even the property, of the hellish traitor that has caused the sacrifice of our dearest and most precious blood."

Is not this an appeal for blood? Is not this an attempt to rouse up the worst passions of the human heart? Is not this an exhibition of a most intolerant and anti-Christian spirit? Is it not an exhibition, not of anger, but of hate? Anger is known in heaven; the feeling of hate is supposed to be the peculiar property of hell. Why should he hate the people of the South? We are angry with them; we may be so. Anger comes on during the controversy of the day; anger ceases at night; it should with all mortal men. There is and may be an ultimate vengeance which belongs to God alone. He did not transfer to us the power of exercising it. I cannot, in this connection, forbear to read an extract from Russell's Diary in India, which may teach a lesson of humanity to some of our people who urge this anti-Christian spirit:

"Many years must elapse ere the evil passions excited by these disturbances expire; perhaps confidence will never be restored; and if so, our reign in India will be maintained at the cost of suffering which it is fearful to contemplate. It is fortunate for England that her rulers in India and her generals in the field have been animated, on one point, at all events, by a unanimous spirit, and that, in the Cabinet and in the operations carried on by our generals for the pacification of the disturbed districts, they have acted generally as became enlightened statesmen and Christian men, in opposition to the ferocious howl which has been raised by men who have lived so long among Asiatics as to have imbibed their worst feelings, and to have forgotten the sentiments of civilization and religion. As cruel as Covenanters without their faith, as relentless as inquisitors without their fanaticism, these sanguinary creatures from the safe seclusion of their desks utter stridulous cries as they plunge their pens into the seething ink, and shout out 'Blood! more blood!' with the unfailing energy and thirst of Marat or St. Just. 'We want vengeance!' they cry; 'We must have it full; we care not if it be indiscriminate. We are not Christians now, because we are dealing with those who are not of our faith: rather are we of the faith and followers of him who preached "the study of revenge, immortal hate!"' May their school perish forever, and that right soon, or India is lost—lost with the approbation of the world—to the Crown of Great Britain!"

This is a voice from the Old World, and is worth the thought of a moment of the night, intermediate the howlings. The fierce howl for blood heard among us must cease; must certainly cease; it must cease everywhere in the Republic. I warn Senators and the country of this necessity. Above all, I warn the young men of the Republic this cry for blood must cease, or blood will not cease to flow until the time when, young men, your children will be mothers.

I have said that the third feature of an inquisition is absolute, despotic power, subject to no law. Said the gentleman from Ohio:

"Sir, the man who invokes the Constitution in forbearance of the law to punish traitors is himself a sympathizer."

Is there any law to punish traitors that contravenes the Constitution? I take it, not. The Constitution is the supreme law of the land, and the humblest man may invoke it; it is the shield of freemen; and when that shield ceases to be held up by those who are in power to protect the multitude, tyranny reigns among us. Again, said the Senator:

"I do not want to hear any more of a man than that he is invoking the forbearance of the Constitution and the great barriers in favor of American liberty to protect an infernal traitor in his course, to know that he is a sympathizer."

Now, let me ask him who made him his brother's judge, or made these committees judges? There must be government; we may appoint persons to power who on careful deliberation, with all the guards of law, may pronounce as to who is innocent and who is guilty; but I ask the Senator, I ask his committee, what gave them the right in secret to pronounce judgment upon their brother? Suspicion, forsooth, and the want of technical evidence, and the belief that a man is skulking about with evil dispositions towards the Government—these justify such proceedings! Sir, of all the fiends that live in hell, suspicion is worst accursed.

Ariosto undertakes to make this terrible enemy of all uprightness a palpable thing, and in this attempt undertakes to describe one of the victims, or rather subjects, of suspicion. He says:

"Hear a story of one of these miserables, which, whatever you may think of it, is true to the letter; such letter, at all events, as is written upon the hearts of his race. He was one of the first who took to wearing beards; for, great as he was, he had a fear of the race of barbers. He built a tower in his palace, guarded by deep ditches and thick walls. It had but one drawbridge, and one bay window. There was no other opening, so that the very light of day had scarcely admittance, or the inmates a place to breathe at. In this tower he slept; and it was his wife's business to put a ladder down for him when he came in. A dog kept watch at the drawbridge; and except the dog and the wife, not a soul was to be discovered about the place. Yet he had such little trust in her that he always sent spies to look about the room before he withdrew for the night. Of what use was it all? The woman herself killed him with his own sword, and his soul went straight to hell. Rhadamanthus, the judge there, thrust him under the boiling lake, but was astonished to find that he betrayed no symptoms of anguish. He did not weep or howl as the rest did, or cry out, 'I burn, I burn.' He evinced so little suffering that Rhadamanthus said 'I must put this fellow into other quarters.' Accordingly he sent him into the lowest pit, where the torments were beyond all others. Nevertheless, even here, he seemed to be under no distress. At length they asked him the reason. The wretch then candidly acknowledged that hell itself had no torments for him, compared with those which suspicion had given him on earth."

All the sages of hell in consultation could do no more for him in their abode, and yet, unwilling that he should find peace even among its raging fires, sent him again to the earth, there to live in his own old torments forever. Suspicion incarnate, always alone, always watching, the more miserable the more he makes himself secure; but always laboring to increase the security which insures his increasing misery!

Again: the gentleman says distinctly of these proceedings, "I know it is not in accordance with the principles of our Constitution; in ordinary times it could not for a moment be tolerated." This he avows; and how does he, or how do any parties here, get the right to violate the Constitution they have sworn to support? That is a question which I should like to have answered. I should like to hear some one ingenious enough in his logic, profound reasoner enough, to affirm that it is consistent and just on his part, having sworn to support the Constitution of the United States, to indorse an act which he says is in violation of the Constitution of the United States, and which in ordinary times would not be tolerated. The gentleman had better think whether this will be long tolerated under any circumstances. It may be found that the country does agree with him in the proposition that it could not be borne long at any other time. It may be found also that the country also agrees that this wrong and outrage, this violation of the Constitution and laws, will not be tolerated at this time. It would perhaps be wise even for the Senator from Ohio to inquire.

I have shown, Mr. President, the peculiar features that characterize an inquisition. First, secrecy; second, a most intolerant spirit; third, absolute, despotic, tyrannical power, subject to no law; fourth, a disregard of every just rule of inquiry and every law of evidence. Now, as to the rule of inquiry and the law of evidence, which was the subject I happened to be presenting when I was last on the floor, the gentleman said:

"Our Administration is assailed because, not having the technical evidence in their possession to bring a man to trial and judgment of death, they do not let him go at large to plot against the life of the Government."

Not having technical evidence; then, what kind of evidence would they have? Technical evidence is the mere skeleton of evidence, as unfit for life as a skeleton without his clothes. Technical evidence possesses no value without some additional or corresponding facts establishes a corresponding *animus*. Technical testimony as *bare* technical testimony would not justify any man in ordering an inquiry, much less commitment or a judgment. The term technical—the skeleton term—is one that all men understand to be the mere pretense or shadow of a thing, and if this be wanted, what then? The Government may seize, may judge, may execute judgment, without even

technical evidence. Do Senators admit that this may be so? God forefend. I will not reason about this matter, for no argument on the subject could furnish food for boys.

And these are notions presented by the friends of human freedom; men who boast we are a free people. Sir, such law is no law, it is the denial of all law; and when law ceases, I am either free or slave, as my power is. I will attempt to maintain my freedom against all the efforts of tyrants. Again, the Senator says:

"The Administration have attempted to put that down; they have not succeeded; and yet the Senator stands there and says you should not arrest a scoundrel when you know his heart is with the enemy."

And who gave the Senator to know men's hearts, or who gave it to his committee? I thought that belonged to the Great Ruler who knows all hearts. We only, by inference from acts, have an opinion as to what a man's heart is and where it stands, and then it is often a lame and impotent opinion. Here the Senator knows that a man's heart is with the enemy without the facts, as he admits, on which to base the conclusion; without even technical evidence; he knows that this man's "heart is with the enemy, but who meanly skulks from overt acts in their favor." There are, then, no overt acts. Let us inquire, if no overt acts, then what acts? Here is an admission that there have been no overt acts. Then there are skulking acts, and what are skulking acts? Acts done, if they are done, and any man knows of their having been done, are overt acts. Skulking acts are, I suppose, not overt acts. I suppose they are acts of which nobody knows nothing; and in those cases where nobody knows nothing it is perfectly legitimate for an agent to play the absolute. So far as the term is personally applied, I think skulking will be the last of offenses that will be charged against General Stone. He wants now to meet his accusers face to face; he has asked that he may be permitted to meet them face to face. He has never, I learned, even from the first, placed himself in a position wherein or whereabout his friends or enemies have the right to use so low a term as the word skulk in connection with him, and I now beg his pardon in repeating it. General Stone has sought for, he has even begged for inquiry. The Senator said that my argument was, that in such a case "you should not imprison him, you should not restrain him; but you must let it all go, and permit the enemy to be perfectly cognizant of every expedition and of every move you make."

The Senator proceeds upon the knowledge of men's hearts. What is more clearly inquisitorial? What stronger term could Torquemada have used when, in the dungeons of the inquisition, he said to his victim, "I know your heart, and your heart is with the heretic; therefore I condemn you to the torture and to the stake?"

Mr. President, I must say that I do believe that of all that is recorded as having been said by the gentleman from Ohio, perhaps most of what he did say was said by him without consideration, that he did not think and did not intend to say these things; but in the heat of controversy considering himself assailed by me, he lost the control of his judgment, and gave expression to opinions that were not either in or about his heart. I was presented, however, in the course of his remarks as to a certain extent General Stone's advocate, as being his particular champion. I understood that when the gentleman said "small lawyers may get upon these great questions of statesmanship and pettifog as a man would to screen a felon before a justice of the peace, and place his arguments on those narrow principles of constitutional law," it was intended to include myself. I have no dispute with the gentleman in regard to the justice of the measure he applied to me. If it pleases him from his sense of truth or from any disposition to make a comparison between himself and myself, to thus characterize me, it does not offend me in the least. I think I shall be able to bear any such opinion on his part, without being disturbed in my self-respect. But, sir, it is not the fact that I stand here as the representative of General Stone. I regard myself here as the representative of a great and universal cause. Truth, humanity, justice, right are universal, and he who with unlawful power tramples upon the meanest human being developes the tyrant as well as he who sacrifices the victim. It is not in the name of General Stone that I speak. I speak in favor of humanity, justice, and law, universal law, wherever law obtains; from that law which controls the moving spheres to the law under which we live, the Constitution and the enactments which our fathers framed—in their name I speak in this Senate Hall; and I say in their name that tyranny will not and cannot be permitted to be the rule of our land.

But, Mr. President, when you strike down a general who has the confidence of a great body of the Army, you affect the whole country. Have you heard from the press throughout the country already on this question? That press speaks but one voice. You have heard it even from the pulpit, as I have had occasion to advise the Senate. We hear it from all quarters of the land; we hear it from the Army itself. But this is not one isolated instance. This mode of exercising power in the same quarter has been pursued in many other instances, and let me state what I am afraid is the reason for it, and if it be so, it is most mischievous. The Army of the United States, that part of it which has been in service, consists of officers who left their homes in boyhood in Maine, in Vermont, in New York, in the West, to attend the military school, and as soon as they were educated they were sent to all parts of the country and traveled over all portions of the Union. Rendering this service, they learned to think that they had nothing to do with the party controversies which were waged between the North and the South throughout our land; few of them took any part in our political controversies; they hardly even read about them; but they regarded themselves as only bound to fight for the Constitution and the Union. They have been called into service in the field; they are rendering service. They not only hold the offices that they formerly held in the service, but for various considerations they have been placed at the head of our first commands. Entertaining and practicing the opinion that they had nothing to do with manufactures in New England, the grain-growing interest of the West, or the cotton or the negroes of the South, they were at home in all places throughout the Union, and because catholic in the sense of respect for all parts of the Union, and equally willing to maintain every part of the Union under the Constitution and the laws. The question with them has been not what the Constitution and laws should be, but what the Constitution and laws are.

These gentlemen, thus universal in their feelings, and fighting for the Constitution as they supposed, were not willing to prostitute themselves to *any* faction that ignored the Constitution; and thus they became obnoxious to those men who said "this war is to be carried on regardless of the Constitution;" and thus there has been made a systematic war upon the regular service of the Army, an organized systematic war of which we have heard, which we have felt everywhere since the commencement of this struggle, and which has threatened us with great disaster. Has there not been a continuous war made upon that man who now, in high rank and office, stands at the head of our armies? Has there not been a persistent war made upon him for a long time? Have we not heard of applications having been made by private citizens to have him withdrawn from his high command? Have we not heard that he has been annoyed even since he has been with his forces before Yorktown? War has been made upon him as it was upon Stone; but it happened fortunately for the country, fortunately for us all, that he built his eyrie too high among the rocks for the bats and owls to reach *him*. He has winged himself too strongly and too swiftly to the azure sky for such birds to pursue him. Fortunate, indeed, is it for the country, that, from his high position and an already well-won fame, h could not be successfully assailed.

But, sir, there is another instance, one not so high in place, not so inaccessible to power, which, if I have heard the story aright, is an equal instance of outrage and injustice. Why is it that the chief of the medical staff of the Army without inquiry, without trial, without any proceedings known to the administration of military affairs, was suddenly visited in his office and furnished with an order: "Surgeon General Finley will report himself at Boston and await orders." He was an officer who had organized the medical corps of the Army. He entered upon the office of Surgeon General in May last, at the commencement of the war, and now permit me to ask where has the country heard, where have men connected and interested in and with our Army movements heard of any grave complaints of the medical corps of the Army? Has there been any want of organization in the medical staff of the Army? From a small organization of thirteen thousand troops we have swelled up to seven hundred thousand; and I undertake to say we have had a better medical organization than the English or the French had in the Crimea, one of the best medical organizations known to history. The Surgeon General received a notification to report himself at Boston. He is not imprisoned at Fort Warren; he is quite an old man; he has served the Government for forty-five years, and has been acknowledged and accepted as a good and faithful servant. He is an old man; he is not placed in Fort Warren, but he is banished to Boston to await orders. He has been there now, I think, some three weeks, and another person put in his place as Surgeon General. Why should he be removed when he has accomplished all the labor of organization? Is it because the medical corps is now completely organized? Is it because he is a man who has gone through that labor and work, and who has done it well, and in whose case the country has not complained? There is a story about it, and I believe I am authorized to mention it, and I will mention it for the purpose of showing the *animus*, not political but personal, that governs the gentleman who sits at the head of the War Department.

A gentleman, a warm friend, and professedly a great admirer of the Secretary of War, writes to him from Pittsburgh, charging a gentleman of position in Philadelphia, in the Government employ, (Doctor Neill,) with having been guilty of malpractice and stealing. Secretary Stanton, in the regular course of business, sends the communication to the office of Surgeon General Finley, and it is presented to him officially. He directs one of his subordinates to make a copy of it, and send it to Dr. Neill, in Philadelphia, and ask him what he had to say to the accusation made against him. This gentleman, being indignant at the accusation of his having been guilty of malpractice and being a thief, first sends affidavits and all the proof he can to the medical department in reference to the charge, and then brings his action for libel against the accuser. The accuser's letter, or a copy of it, is then produced, and he sends here and asks the Secretary of War how this letter that he wrote to him in all confidence has been published, the result of which has been that he has been sued upon it. Mr. Stanton, not finding any fault with the writer of the letter, calls upon the Surgeon General, and says: "Dr. Finley, you furnished a copy of that letter upon a particular subject," naming it, "to Dr. Neill, of Philadelphia; you have been disclosing the confidential secrets of the office." "No," says Doctor Finley, "if any one practice is universal in the Army, and I think a good practice, it is that whenever a person in its employ is assailed, the charges against him should be immediately preferred." That is the rule, and *the violation of it is what we are now complaining of.* Mr. Stanton told him, "Sir, you had no business to send that letter, under the circumstances, to this gentleman," and he commenced reprimanding him for it. "I am perfectly willing, Mr. Secretary," said he, "to be reprimanded after trial and judgment by court-martial, but I would prefer waiting until I shall have been adjudged worthy of reprimand." "Then," said Mr. Stanton, "*as for your courts-martial, I have a prompter way of doing business of that kind myself; sir, I can strike you from the roll.*" Surgeon General Finley replied in substance, "Sir, I was not prepared either for your assault upon me or any such threat of authority; I beg to withdraw."

The bare act of authority, superseding an officer of forty-five years' service, without any assigned cause, a man who was the head, and the popular head, of the medical corps of the Army, was out of any course or law of authority, and struck the medical corps of the Army and thousands of others with surprise, and upon the heels of surprise comes inquiry. This arrest, for it is a military arrest, of Surgeon General Finley, has opened other and further inquiries which I will not undertake to conduct or answer. For the present I will content myself with saying it is a blow struck at the heart of the service, and by way of

illustrating or stating my own conviction, I will quote a brief extract from the letter of a gentleman well known to the service, who happened to meet Dr. Finley on his way into exile. He said:

"I have never seen him so depressed. It would seem from circumstances as detailed by him to have been cruel treatment. Is it not sad to think of our friend Dr. F., winding up his career of forty-three years' military life in the way he will likely do?"

And how do these things strike not only the heart of such a man, but the heart of the country? No cause is assigned; he is not informed if there is anything against him. This is the exercise of the one man power without regard to law. There is another feature in this which made it to his friends at least seem hard. He is ordered to Boston; he is an old gentleman, with family and children at Philadelphia, himself a native of Ohio, I believe. If he had to be retired, there might at least have been extended to him the courtesy that was given to General Hull, after he was found guilty and condemned to be shot, namely, to send him to his own home to remain there until further orders from the Department.

Now, Mr. President, in regard to all these things, permit me to say again that I am not General Stone's advocate; I am not General McClellan's advocate; I am not Surgeon General Finley's advocate; I am no man's advocate. If General Stone, of whom I have particularly spoken, is guilty of any crime, let him be tried, condemned, and punished. If he has been guilty of any crime worthy of imprisonment, let him be found guilty, let judgment be pronounced, and let him be placed in one of your deepest dungeons, if you please. If upon trial and judgment he shall be found to have forfeited his right to life, give him the volley or the gallows. He demands simply that it shall be ascertained whether he *has* forfeited his right to honor, liberty, or life. He cannot learn whereof he is accused; he cannot learn whether he is charged with treason or misdemeanor. His family cannot learn it. What he wants is to be tried, and he does not fear the chances of the controversy. It has been his wish always to expose every act of his in this connection to full inspection in open day.

Sir, this man in authority at the head of the War Department, who has exercised such strange and extraordinary power, may think that in doing all this he will acquire fame and renown, and that he will endear himself to the heart of the country. He may think that he is making a very successful war upon such men as General Stone. He may think that he may make successful war upon such men as General McClellan. It might be well for him to remember, or for some of his friends to suggest to him, the point of an ancient fable: "The men who once did sell the lion's skin while the beast lived, were killed in hunting him."

In this country, which is called free, these are strange things—strange things to be done in the name of constitutional liberty. I warn gentlemen, if there are any here who are approvers of these proceedings, that the country, the great body of our people from Maine to Kansas and from Kansas to Oregon, will not merely regard these as strange things, but will regard them as acts of intolerable tyranny. No man, no set of men, will long be permitted to hold or exercise such power in this Republic. This is not such a kind of tyranny or dictatorship as this people can submit to. This is not the kind of authority exercised by that Miltiades sent by the Delphian god to lead the people of the Chersonese. This is not the kind of tyranny exercised by Aulus the Dictator, the man of seventy fights; or by Cincinnatus, brought by the Roman Senate from the plow. This is not just power by appointment, "with the consent of the Senate," nor of the people of the United States. This is arbitrary, tyrannous power.

Mr. President, I am not wont to be fault-finding, and I wish to be understood as not now engaged in any partisan controvesy. I am endeavoring to make war on wrong and outrage. I am struggling to maintain constitutional liberty. I am endeavoring to reach the presumptuous arrogance of a man high in place, whose course, if permitted and continued, will bring down upon our present Government confusion, disaster, and utter anarchy.

Sir, who is the Secretary of War? It is said he is an eminent lawyer. This may be so, but I must ask permission for a doubt, it being my opinion that no lawyer can justly claim the term eminent without being true, just, and generous—a complete man.

Who is this Secretary of War? Has the country known him? If so, when? It has known him as the recipient of large professional bounties at the hands of the last Administration, the Administration of Mr. Buchanan, a good and loyal friend of that party who fought under the banner of Breckinridge in 1860. His grace is, that shortly after November last he became a warm and attached friend of the Union. There is an old saw about "rats" that might fit his case. He comes in a warm friend of the present Administration after it has won success. He offers his advice to the present Administration. He is an energetic, active, efficient man, if you please. He acquires a place of power. Now, I say he is no Democrat if I know what a Democrat is; he is no Republican, if I know what a Republican is. Sir, he *belongs to the party in power*.

Mr. WADE. Mr. President, I did not intend to consume much more time upon this resolution than I have already done. I certainly should not have felt it my duty to detain the Senate much longer on the subject had it not been for the elaborate speech that the gentleman from California has just made. After sleeping upon it for a long time he has, with very great labor, prepared a deliberate assault, not only on the committee of which I am the chairman, but upon the administration of the Government, the President, and the Secretary of War. That invests the subject with some degree of importance, and, perhaps, may require that something be said in reply.

On Wednesday last the Senator commenced his remarks by reading from some stump speeches that he had made on the other side of the continent some year and a half ago; and he undertook to exculpate himself from what he supposed was a charge of treason made upon him by myself. I made no such charge. I had given him my views of the propriety of this kind of defense for traitors that I frequently see made in this body; but I had not said one word about his being a traitor or a sympathizer with traitors. Sir, we read that sometimes "the wicked flee when no man pursueth," and may it not be that sometimes gentlemen mistake the whisperings of an uneasy conscience for an open accusation? I have said nothing that should put the gentleman upon so elaborate a defense as he has seen fit to make for himself. I have read those extracts from speeches he had made on the stump in California, in which he very violently assailed an old member of his own party, who had been affiliated with him for many years. I believe he accused him of treason; and I believe he was right. I wish he had continued in the course he then pursued, of assailing traitors wherever he found them. I wish he had been as willing to assail them after they had taken up arms and sought the life of this Republic, as he was to assail a solitary individual, on the Pacific coast, when he apprehended that he was guilty of treason. Why has he departed from the rule he laid down for himself?

Sir, I have been in the Senate for some considerable time, and I should have been an exceedingly dull man if I had not learned the course of defense that is constantly set up here for those who have assailed the institutions of our country. There is an unvarying course of remark that they indulge in, so that no man need be mistaken as to what they intend. Those who assail the Administration on account of what they call tyranny to men sympathizing with traitors never, to my knowledge, open their mouths on this floor in condemnation of the men who have risen in arms and are endeavoring to murder your Constitution and your Government. Towards them they are as mild as sucking doves. You will find one general ear-mark among them all, and that is to assail those who are opposed to traitors and endeavor to bring them to condign punishment; but you will never hear a lisp from one of their mouths in opposition to the men who are now with arms in their hands assailing our institutions and our Government. While the Senator, in his long and elaborate speech, has accused everybody else, have you heard a word from his mouth against the men who are now in arms endeavoring to overthrow your Government? Not one syllable. Sir, you may know all these men from this circumstance: they are the men who cry peace, peace, when they know there can be no honorable peace. Since the Senator—if the papers report him aright, and I see no contradiction of it—descended from his honorable position on this floor and went into secret conclave with those who sympathize with traitors for the avowed purpose of reconstructing the Democratic party, he and all those who coöperate with him throughout the land have violently assailed the administration of the Government, and especially are they opposed to the proceedings of the Secretary of War. There is a premeditated attack of the whole party upon the Administration. In the first place, they assail them as tyrants, as oppressors, as Constitution-breakers; and externally, out of this circle, they are arraigning those who have acted in the Administration before your judicial tribunals. Witness the late attack upon our late Secretary of War, General Cameron. It is but the commencement of proceedings well understood by that party in order to assail and to intimidate the agents of the Government through the judiciary, to overawe them, to prevent them doing their stern duty to traitors; believing, I suppose, that they who can make Dred Scott decisions will be willing to lend their official influence for the purpose of trampling under foot those who stand boldly forth to defend the Constitution and the laws.

The committee of which I happen to be a member is in the same category, and we are to be assailed on all occasions. Why? I am proud that we are assailed from that quarter. It shows that our shots sometimes tell. Who are they who rise up and assail the committee on the conduct of the war? Are they men who are eager to trample this rebellion under foot? Are they the men who have shown a disposition and a zeal to put down rebellion? No, sir. I am happy that we are assailed in such excellent company as that of the President and Secretary of War. I care not who they are nor where they are, whoever shows a zeal for putting down this rebellion will find that he is in the category to be assailed by this new organization to reconstruct the Government.

Now, let me ask who are these gentlemen that are to reconstruct the Democratic party and the Government? What kind of an alliance is to be formed and with whom, in this reconstruction? I am sorry I do not see the Senator from California here, because I know, from the position he holds towards those who make these assaults, he would be able to give us light on the subject. I accuse them of a deliberate purpose to assail, through the judicial tribunals and through the Senate and the House of Representatives of the United States and everywhere else, and to overawe, intimidate, and trample under foot, if they can, the men who boldly stand forth in defense of their country, now imperiled by this gigantic rebellion. I have watched it long. I have seen it in secret. I have seen its movements ever since that party got together, with a colleague of mine in the other House as chairman of the committee on resolutions—a man who never had any sympathy with this Republic, but whose every breath is devoted to its destruction, just as far as his heart dare permit him to go.

What have the committee, who have been thus assailed, done, that should call down upon them the anathemas of the Senator from California, or should compare them, as well as the President and Secretary of War, to grand inquisitors, sitting behind the backs of men to get up accusations by which they are to be tortured and destroyed at the stake? Sir, I grant you we have a zeal, yea, a determination, so far as it lies in our power, that this Government shall be maintained, that treason shall be put down at all hazards and by any means that God Almighty has put in our hands. [Manifestations of applause in the galleries.] No accusation of tyranny, no comparing us with inquisitorial tribunals, no mawkish sensibility in behalf of traitors, will have the effect to deter us from our resolute determination to put treason under our feet and bring back the Government to its old glorious bearings. Notwithstanding all the whining in this body or outside of it, in your courts or anywhere else, this will be done.

Sir, we have heard all these arguments before. We learned this tune a year ago from those who are now in the so-called confederate States. They were always crying out about violations of the Constitution, and ever ready to invoke it in aid of treason. That was the course of remark from the lips of every one who deserted his post and

went out an open enemy to your Constitution and your laws. Sir, I remember well when Mr. Breckinridge stood on the other side of the Chamber, day after day, making this same kind of speeches, accusing us of being violators of the Constitution of the United States; and inasmuch as we plainly had the right to coerce traitors, to put down treason by force of arms, he stood there to deprecate it, and to invoke the Constitution as a barrier against loyal men. The argument we have heard to-day is but a repetition of those we heard a year ago. I could bring the arguments made then on this floor by traitors who are now in open rebellion; and they would make no discord with the speech we have just heard.

But, I ask again, what has this committee done to be complained of in the matter of General Stone, who lies at the bottom of this resolution and of all the Senator's remarks? Sir, early in this session it pleased both Houses of Congress to raise a committee empowered and directed to inquire into the conduct of this war. I sought no position upon that committee; I had nothing to do with getting it up; but when it was raised, being placed at its head, I cast about, as did the rest of the committee, to ascertain how we could make ourselves most useful to the Government in the exercise of the vast powers which it had been the pleasure of Congress to confer upon us. We instituted a pretty broad inquiry into public affairs, and especially into the manner in which this war had been conducted, and among other things we were specially directed by name to look into that great, terrible blunder and catastrophe, the affair of Ball's Bluff. If in that investigation which you commanded us to make, it turned out that there was an appearance of disloyalty in the commander-in-chief, was it not legitimate for us to inquire into it? The Senator seems to think not. He considers that we were traveling greatly out of our way when we took evidence tending to criminate General Stone, at the head of a division of your Army on the very frontiers next to the enemy; that we had no right to look into it. Your soldiers had been slaughtered by hundreds, like cattle taken to the shambles, apparently under circumstances deeply impeaching somebody that had the command. I do not rise with any purpose to argue that matter, as I told you before, not because I could not make out my case as I believe, but because you are not the triers, nor am I the Attorney General to prosecute the case before you; but it is my purpose to state enough of that proceeding, not to justify, but to make the action of that committee triumphant before this nation. I repeat again what I said the other day, that if there ever was a committee that proceeded with discretion, with moderation, with a care and forbearance that no man should be injured, it is the committee of whom I am chairman, and of whose action I am proud. We are an inquisition forsooth! The gentleman assailed the committee long before he knew anything of its action. He accused us of proceeding *ex parte*, getting a kind of illegitimate testimony, going forward with that and presenting it to the Administration to the detriment of innocent men. I will ask the Secretary to read this synopsis of our proceedings to justify the committee from all the imputations the Senator has made.

The Secretary read, as follows:

January 29, 1862, the committee informed the Secretary of War that they had been informed by General McClellan that General Stone was in this city, and that he (General McClellan) was of the opinion that General Stone should appear before the committee in regard to the matters laid to his charge, and the committee informed the Secretary of War that they were willing to hear General Stone at any time.

On January 31, 1862, General Stone appeared before the committee the second time, was informed of the nature of the evidence bearing against him, and was allowed to proceed and make his own explanation in his own way.

The committee then appointed a sub-committee to wait upon the Secretary of War, and inform him that there was a conflict of testimony in relation to General Stone, and to communicate to him what that testimony was.

Mr. WADE. That, sir, is the inquisitorial course we have taken with General Stone. As he was likely to be implicated in the Ball's Bluff affair, he was one of the early witnesses that we called in. We were not inquiring into the conduct of any individual. That was not what we were placed there, as we believed, to do. It was not our construction of the powers that were granted to us. We were to inquire into the facts connected with the conduct of the war, and if there were short-comings or delinquencies that might light upon anybody's head, we were not to direct it; we sought no evidence to impeach any man, and if the evidence seemed to impinge on the credibility, the loyalty, or the character of any man, we sought that man, and laid before him the course of the evidence, and the matters wherein he was inculpated. We did the same to General Stone. We summoned him before us to give an account of that affair at Ball's Bluff, to give us all the information he could on the subject, and after that, as you see from our records, the much applauded chief of your Army, whom the Senator believes to be immaculate and above the suspicion of anybody, was the very man that knocked at our doors to inform us that, in his judgment, it was our duty to summon General Stone again before us, and we accommodated him. We did not want any more testimony than we had got, but if General Stone had any new light to throw on the subject, we, as an impartial committee, were not only willing, but anxious that he should appear before us. He did appear before us. I will not say that in his amended testimony he made the case infinitely worse than it was before. I will not go into that, for I do not want to inculpate him unless he is guilty. Sir, we have done General Stone no more hurt than any other man. If he is an innocent man, his own testimony stands forth as his justification. If we have informed the President, the Secretary of War, and the Cabinet of the testimony that seemed to impeach him, we also showed his own exculpation at the same time, and then, at the instance of this immaculate commander of ours, we received General Stone again, and went through the whole thing.

Where is the accuser of that committee? I hope he has not skadaddled after making his speech. We are an inquisition, are we? We are to be impeached by the Senator from California. Why? If in the course of our investigations we ascertained that there was a traitor in the camp, and were not to make it known, in God's name what business had we in the committee; what business had we in the Senate; what business had we in the United States, even as private citizens? The gentleman said on Wednesday last that it was the deepest, the most disgraceful thing he ever had heard of. He seemed to regret that it had been his fortune to get into a place where he had to associate with men so depraved; for that is a fair construction of what he said. Sir, I imagine he worked hard to get here; and I do not think he is polluted by the contact at all. I consider it to be a part of my senatorial duty here, if I happen to know that a man holding a high office is disloyal, where his disloyalty might prejudice the public, to make it known without being on any committee especially detailed for that purpose. And yet the Senator thinks it is deeply disgraceful to do so! That is his idea of toleration towards traitors whom he never assails, or speaks a word in disparagement of.

Now, sir, as I said before, I have listened to this kind of defense of traitors long enough. What has the Administration done that this gentleman should rise here in the Senate and brand them as tyrants and despots and inquisitors, and tell us he is going to run a parallel between the President and Secretary of War and the old inquisition? Why, sir, only think of the perfect burlesque! The President of the United States, who neither by word or deed or thought would harm a hair of any man's head, who, of all men I know, is the most reluctant to offend anybody, but who as a patriot, is anxious to vindicate the Constitution of the United States and the Government he has sworn to support, and he does it with a toleration and a mildness towards these traitors that has met with the censure of many good men, who think he does not go far enough—this mild, equitable, just man is to be branded here as by a Knight of the Golden Circle with being a grand inquisitor, armed with tyranny, whose purpose it is to destroy the rights and property and the lives of men! Sir, the thing is absolutely ridiculous, and would not become any Senator on this floor, unless he was compelled to do so by joining this new-fangled organization, whose purpose it is, we are told, to reconstruct the Democratic party. I believe I asked the gentleman what kind of reconstruction it was to be. The old Breckinridge-Buchanan party south of Mason and Dixon's line are, to a man, traitors. There are no exceptions. I defy any man to rise in his place and tell me what Buchanan-Breckinridge Democrat south of Mason and Dixon's line is not an open and avowed traitor, committing overt acts, and, under the Constitution of the United States, condemned to death. Their northern sympathizers are but little better; indeed they are worse—worse because they are not so bold. There is something in a bold, courageous man, even in a bad cause, that seems to give him a little right to toleration; but your miserable sneaking hypocrite that sympathizes with him, and yet has not the courage to commit the crime, can expect nothing but to be despised by honorable men. Now, these men are going to reconstruct a party. My God, what a party it will be! Just think of it: the southern Buchanan traitors reconstructing with the Breckinridge traitors of the North! They will be harmonious just as far as their courage will permit them to go together. They will not differ on anything else but as to the length to which they can carry their proceedings.

But, sir, there was salt in the old Democratic party. They do not talk of reconstructing with the followers of Stephen A. Douglas. Mr. Douglas was once a strong partisan of the Democratic faith. He went along with them until he found they were bent upon treason and the destruction of the country in which they lived. The moment Mr. Douglas ascertained that this was their fell, deliberate purpose, he came out from among them like an honest man, and became separate, and his honorable followers came along also, and they are coöperating most cordially to-day with the Republican party everywhere. The Senator seeks no reconstruction with the Douglas party, for how could they join in any reconstruction? They would look well coalescing again with the wretches who have persecuted their great and venerated leader to death. How could his disciples form a coalition with those who crucified him; with those reconstructors under the lead of Mr. VALLANDIGHAM, of the House of Representatives?

The Senator talks about things being done in the dark. I should like to know where this meeting was held for reconstructing and fixing the policy that was to govern the Democratic party in its renovated form. It was some dark purlieu, perhaps, of this Capitol; a fit place for the conspirators who concocted the idea of rising in their places and assaulting the Administration, accusing it of tyranny, and comparing it to an inquisition. Every man of that stamp in the Senate has already risen and belched forth his anathemas against the Administration of the country, and especially against the Secretary of War, Mr. Stanton.

What has he done? The Senator says that he was in the administration of Mr. Buchanan. That is true. When Mr. Buchanan's administration became so corrupt with treachery, when it became so well known that it could not live together any longer, when its rottenness had torn it to pieces and sunk it beneath contempt, it was a necessity that they should call an honest man into their administration; a man who went unwillingly, a man whose character has always been above reproach, a man who, though of Democratic predilections, had retired from politics; a man whose great mind and clearness of intellect had placed him at the very head of one of the most honorable professions; a man who could command at his will whatever price he asked. He did take it upon himself, at the call of Mr. Buchanan, to take part in his administration. So far from acting with those corrupt traitors who had broken it down, I say here in my place, and I speak what is known to many Senators, if this nation was saved from utter shipwreck by treachery, Mr. Stanton, in that administration of Mr. Buchanan, did more to uphold it than any other. Sir, he saved it from utter shipwreck; he saved your Constitution from revolution and ruin. Is he to be assailed here? Sir, he never sought any office. His pure life, his great knowledge of affairs, and his ability had commended him in these perilous times as the best man the President could find to heal the wounds of this Republic and guide the ship of state through the terrible storm which is now upon it. He is an inquisitor! Why?

Mr. President, that man is not quite honest who thus argues constitutional questions in this Senate, and invokes the Constitution in behalf of the rights of every man precisely as he would in times of peace where there were isolated cases of delinquency, and where it was safe to bring a

man to trial. The man who says it, and would have you proceed with these traitors precisely as you would in time of peace is endeavoring to deceive the public. Can you prosecute a traitor south of Mason and Dixon's line? As the old saying is, you might as well try the devil in hell, and summon as jurors his chief angels. It is impracticable; it cannot be done. Why then stand up here contending that men should be tried by all the constitutional guarantees that are thrown around them in peaceful times? I repeat what I said when I was up the other day, as no jurist has yet undertaken to define the limits to which a man might go in the honest defense of his life when assailed, so no statesman would undertake to limit the powers that the Government might use to preserve its life when assailed by traitors. I defy the gentleman to make an argument worthy of the name against that proposition.

Do you think that we will stand by, yielding to your argument, while you fetter our legs, and bind our arms with the Constitution of the United States that you may stab it to death? Is that your idea of the Constitution, that it is made to tie the hands of honest men from its defense, while traitors may stab it to the heart? That is the use you would make of the Constitution of the United States. Sir, I say again, I have no scruples about the Constitution of the United States as wielded against traitors in this time of violent revolution. You have seen that the ordinary course of the common law and of the Constitution cannot be followed. Shall the Constitution lie down and die? Must we give up all our glorious principles that were defended by it because traitors have assailed it in such a way that they have prevented its operation? Sir, folly like that would deserve the ignominious fate which would inevitably follow so foolish a course.

Mr. President, as I have said heretofore, it is a remarkable fact, that although thousands upon thousands of men have fallen victims to this rebellion on the field of battle, and many thousands more have been mangled and wounded, inflicting misery, poverty, and death upon millions of people, we are yet told on this floor that we should be tender-footed, that we cannot tie the hands of a miserable traitor from giving information to the enemy, and thus aiding them to carry on this accursed war. Is that the logic of the Senator? Sir, he will find but few adherents here; he will find less among the people, for they are entirely ahead of us in all that pertains to the vigorous prosecution of this war and a vigorous dealing with traitors according to their crimes. Why, sir, in every hole and corner of this city, nay, in almost every city of the United States, and in the country, too, you find these slippery, slimy, glib-tongued traitors who are ready on all occasions to give information of all the movements of your Army and of every other important fact to the enemy, so that they have it earlier than we. You would not expect that a man taken with arms in his hands, fighting against our armies, persecuting us to death, should go entirely without punishment; and yet he does the enemy infinitely less service than the man who, pretending to be a Union man, pretending to be loyal, worms himself into the knowledge of the most important secrets of your Executive, and then goes forth and gives it to your enemies, whereby thousands of your men may die in vain upon the field of battle, and all brought about by this slippery, slimy traitor. There are men who would get up afterwards in this Senate, and, with tears in their eyes, plead the cause of just such a wretch as that who, with all the evidence of guilt upon him, was sent off for a little while to sojourn in one of our fortifications, and call it inquisitorial, tyrannical, devilish.

Sir, the man that makes use of these arguments need not tell me he is loyal. I tell you the danger to our institutions is not so great from traitors in the field with arms in their hands as it is from the nimble-tongued, slippery hypocrites who go forth apologizing for them, branding every energetic measure of the Administration as tyrannical and wrong, and endeavoring to deceive the people and stir them up to hostility against this wise, this just, this most moderate Administration. I do not believe the people are going to be deceived by it. I do not believe that your night meetings to reconstruct the Democratic party, your resolutions of censure accusing them of tyranny here and intimidation abroad—I do not believe all these things and all your machinations will be able to deceive an awakened people who understand all your arts and are determined to back a wise Administration in the course it shall pursue.

I noticed that the Senator from Kentucky, [Mr. POWELL,] in the speech he made here the other day, mourned over the degeneracy of this Senate. He was horror-stricken or sorrow-stricken with the comparison of the great men who were here in former times and those who are now here. He especially referred to Massachusetts. Well, sir, Massachusetts is my old mother, and I do not like to see her assailed without saying a word in her behalf. I tell him Massachusetts was never more adorned; there never was more patriotism, there never was more efficiency to extricate the country from the difficulty into which it is plunged, than there is from Massachusetts to-day. How is it with old Kentucky? Did the Senator think of that in the remarks he made? His former colleague stood here a year ago preaching these same doctrines of conciliation and anti-coercion, invoking the Constitution in favor of traitors, taking his pay out of the Treasury, holding up his hand to God and swearing he would be loyal to the Constitution, and then sneaking off into the rebel army to stab your Constitution to death. That is the successor of old Harry Clay, of glorious memory! Is not that degeneracy? The Senator himself confesses he has been suspected, at least. Should he, standing upon ground like that, have made this inquiry into the standing of present and past Senators?

Mr. President, I have said, perhaps, all I ought to say, and more; but mark, this controversy was not provoked by me. The Senator from California—with whom I have always lived here on the most intimate terms of friendship, or if not the most intimate, the most cordial—thought it proper to assail me, and the committee with which I act; to assail us violently, as inquisitors, as men that went about accusing and slandering and stabbing men in the dark. It is true that he revised the speech that caused my speaking at all, and, I believe, struck out every single word that related to the committee of which I am a member. Sir, this is all wrong. I do not know but it is permitted in the course of remarks we make here that a man may revise, strike out, and put in whatever he pleases. I care nothing about that. If he says anything here that he is not willing to go to the country, I pity him or anybody else in that position.

He has endeavored to implicate me in asserting that the Constitution and the great guarantees of liberty should not be invoked in behalf of men in judicial tribunals. Sir, I never alluded to any such thing. I know their value. My zeal is stimulated because I see them endangered by this gigantic rebellion. It is to preserve these great barriers of American liberty that I am zealous in the defense of my country, when they are sought to be overthrown by these traitors with arms in their hands. But, sir, is it not marvelous that they who are so zealous of this Constitution, and of these time-honored guarantees, should not have a single word to say against those who are in open hostility to overthrow and destroy them all?

Mr. President, in conclusion I will say, I have no fears in this great controversy. I do not agree with many of my brethren whose hearts seem to fail them before the magnitude of the great issues in which we are embarked. I believe in the justice of God, in his overruling providence, that he will nerve the arms of those who are contending for the right, and will make them victorious at last. I have no fears of it. When this great war is over, when rebellion shall be trampled under foot, when southern men shall see the error of their ways, and the interest they have in the great principles of our Constitution, which has ministered so to their prosperity, divested of passion, and the conceit that they have entertained so long whipped out of them, they will come back again, and glory in us who have saved them from themselves; and reunited again upon a real basis of freedom and republicanism, this great nation will rise from this commotion like the phœnix from its ashes; and whoever shall survive twenty years hence will see this the leading nation on God's earth, existing without reproach, and conscious of her imposing power, she will be the pride, the boast, and the hope of all the nations of the earth.

Mr. POWELL. It is not my purpose, and I do not now propose to enter into this controversy between the Senator from California and the Senator from Ohio; but the latter Senator makes special reference to me, and says distinctly that I assaulted Massachusetts in the speech I made the other day. The Senator is certainly mistaken. I made no assault on Massachusetts. I did reply to the speech of the Senator from Massachusetts that I thought contained doctrines not true and subversive of the Constitution; but I certainly made no assault upon the State of Massachusetts. I commented upon the conduct of some of her public men. The Senator boasts that he is a son of Massachusetts. That is all right; the Senator ought to love his native State. Then he asks me what Kentucky is doing in this controversy. I am not going to enter into any vindication of Kentucky. I know that our people are divided in this unfortunate civil strife, that there are many of them in both armies; but I will tell the Senator what has never been done with Kentuckians: they have never been ordered to the rear in any battle in which they ever fought. They were in the late battle at Pittsburg Landing on both sides; but I have seen no account that Kentuckians in either army were ordered to the rear for want of courage, as the constituents of some Senators were. The Senator dragged my name into this matter, and referred to me. It was not my purpose, and I do not now intend to go into this controversy; but he made a kind of taunt at Kentucky that I do not choose to submit to.

Mr. WADE. I have not dragged the gentleman into this matter. He chose to come in himself. He undertook to run a tilt against Massachusetts, and made a comparison between her present Senators and her former ones, and I thought it but fair to challenge his State in that regard. I have nothing to say about the bravery of old Kentucky; but, sir, if you talk about that, our men did run there along with those from Kentucky. The very regiment of which you complain was about one half Kentuckians.

Mr. POWELL. What regiment was it? No, sir, they were not Kentuckians. None of the children of that proud old Commonwealth ever fled in the face of battle, or were ever sent to the rear and their arms taken from them for want of courage. I think the Senator is totally mistaken when he says half of them were from Kentucky. Kentucky has no such sons; the Senator's constituents cannot be palmed off as Kentuckians.

Mr. WADE. I understand there were a few Kentuckians. But, sir, I do not want to disparage old Kentucky. I know she is a brave old State. I know she came to our assistance during the last war, and I have never forgotten it. I only wish that she had not degenerated.

Mr. POWELL. Yes, sir, Kentuckians did come to your assistance, but we never boast of it. We do great and brave deeds without boasting about them. The Senator speaks of a comparison made by me in regard to the Senators from Massachusetts. Why, sir, if I used one word of eulogy in the speech I made the other day, it was upon a distinguished citizen and Senator from Massachusetts, Mr. Webster. I did contrast him, and I did read his expoundings of the Constitution, and place them in opposition to the views held by one of the Senators now upon the floor from Massachusetts. If I eulogized anybody in that speech, and placed any one man above another, it was Daniel Webster, a Senator from Massachusetts.

Mr. WADE. I have conceded that Kentucky came to our assistance in the war of 1812. Why cannot that Senator be just as ingenuous as I was, and give us the credit of defending Louisville when she was attacked by enemies a little while ago?

Mr. POWELL. If the gentleman will allow me, Louisville was never attacked by enemies.

Mr. WADE. We prevented it from being attacked.

Mr. POWELL. I know there was an army sent over there; but Kentucky has enough men to defend her.

Mr. WADE. She had not then.

Mr. POWELL. I have heard it boasted here that the soldiers from other States had come and helped many of the border States. It has been particularly thrown at the Senators from Virginia. I have not heard it before, as regards Kentucky;

but I can say to the Senator that Kentucky and Kentuckians are sufficiently able to take care of themselves.

Mr. WADE. If she has got men enough, which side are they on?

Mr. POWELL. I regret to say they are on both sides; but they fight like brave sons of a gallant State wherever they are. I regret that they are divided; but they are on both sides.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The question is on the amendment to the resolution offered by the Senator from Massachusetts, [Mr. WILSON.]

Mr. DOOLITTLE. I move that this whole subject-matter be referred to the committee on the conduct of the war.

Mr. SUMNER. Mr. President——

Mr. POWELL. I do not think action ought to be taken on this subject in the absence of the Senator from California. I suggest to the Senator who made the motion to let it lie over till the Senator from California comes in.

The PRESIDING OFFICER. The Senator from Massachusetts has arisen to address the Chair.

Mr. DOOLITTLE. The Senator from Massachusetts has taken the floor to make some remarks on the question.

Mr. POWELL. I beg the Senator's pardon. Of course I do not wish to interfere with him.

Mr. SUMNER. I have no defense to make of the committee on the conduct of the war, for that business I believe may be safely left to the chairman of the committee. I have no opinion to express on the case of General Stone, for I know nothing about it. But it seems to me clear that he ought to be confronted with his accusers at an early day, unless, indeed, there be some reason of an overbearing military character, which, in the present condition of the country—at a moment of war—would render such a trial improper. Of this I cannot pretend to judge; nor am I aware of any evidence on which the Senate can now act. Under these circumstances it seems to me not advisable to counsel the multitudinous inquiries which have been moved by the Senator from California. I concur entirely in the motion of the Senator from Wisconsin. The whole subject, after the discussion it has now received, is proper for one of our committees. This is all that I desire to say now on the general question. I hope I shall be pardoned if, in conclusion, I allude to myself. Sir, I have seen in various newspapers a most persistent attempt to accord to me and to my imagined influence the credit or the discredit of this arrest. This is a mistake. I have been from the beginning an absolute stranger to it. The arrest was originally made without any suggestion or hint from me, direct or indirect, and it has been continued without any such suggestion or hint from me. I knew nothing about it at the beginning, and know nothing about it now. There is no intimate friend or family relative of the prisoner who is more entirely free from all connection with it than myself.

The PRESIDING OFFICER. The question now is on the motion to refer the resolution to the committee on the conduct of the war.

Mr. McDOUGALL. I did not think it necessary, Mr. President, to wait for the reply of the Senator from Ohio to the remarks I addressed to the Senate. If it had been the ordinary course of debate that could be settled by any kind of rule, where the person who made the affirmation should have the opening and conclusion, I might have done so; but the Senator from Ohio has sought to have both. He has endeavored to reply to me on two different occasions. I am not disposed to get into any further discussion with him. The Senator from Ohio, I am satisfied, has not undertaken to reply to me so much as to endeavor to distribute the responsibility. The weight of the burden thrown upon a few shoulders was more than the few, the Secretary and the committee, could exactly bear, and therefore they chose to distribute it over the whole Republican party, from the President, as the head of the Republican party, over all his subordinates. Allow me to say, sir, while we engage in controversies of party, (and parties are legitimate,) while we are all more or less partisans, yet, in my opinion, whenever a man of either party, fit to be placed in the position of the President of the United States, achieves that high position, he ceases to be the President of a party; he is the President of the nation. Let me say further that it should be the same, whether it is or not, with Senators. While out of doors where the storms of party prevail, they are partisans to a greater or less extent, yet when they come here, where there should be a pure atmosphere, they cease to be such; they are national Senators. For myself, I have sought to occupy that position.

Let it be understood here that I have not assailed the Chief Magistrate of the nation. I know well the great burdens resting upon his shoulders—mighty burdens sufficient to weigh down a man of Titanic form and strength. I understand well that in all this detail of business, he cannot take charge either of the inquiry or of the administration. I took occasion on a former day to say that I did not believe he had anything to do with the arrest of General Stone. I do not believe he had anything to do with any of these particular arrests. Of course, he is in a certain sense responsible. The fault I found with him was that he had allowed these things to be done. It is the misfortune of the country that he has not better surroundings; for let me say, as I have had occasion to say before, I know of no wiser or better man in and about the Government than the present Chief Magistrate. The fault I find is that by the accidents of party, by the demanding, exacting influences of partisans, he has been almost compelled to surround himself with some persons altogether unfit for their high place, and unfit to be counselors of the President of the United States. At the same time I wish to be understood that I make no assault upon the Republican party as such. I believe the chief element that placed our present Chief Magistrate in his place of honor and of power was a true democratic, constitutional, law-abiding element, and that it is a vast minority that appeals to a law higher than the Constitution, as they say; lower, as I say—as low as are the gates of hell.

Sir, I am not to be placed in the position of assaulting all men or making war upon all men who have had anything to do with the building up of the present Administration. It was an opposition movement, and brought together many opposition elements, as all opposition movements do, adverse elements of all forms and shapes. I know that many people of my opinion supported the present Chief Magistrate, because they thought there was no chance for the other candidate for the Presidency from Illinois, and believing that the candidate from Kentucky was disloyal, they wanted to demonstrate their loyal sentiment. Thousands and tens of thousands voted for him who are men who believe in the Constitution in all its integrity, in the laws with all their force, and in the courts with all their dignity and power. In my judgment, they are the great body of the men who are now upholding this war and this Government; and I say that those persons who ignore the Constitution, who deny all law, who assert the existence of a power that cannot be measured by any term, but may at its pleasure by a nod mark its victim; I say that those persons are making war, violent war, upon the integrity of the Union, and are, each one of them, as far as in them lies, as mischievous as any of those who head a column of the enemy.

It is in that spirit that I have spoken. I do not charge the Administration. I not only regard the President as an able man, but many of his Cabinet have my high respect. I say great wrong has been done, and I charge it to the head of the War Department. To a certain extent the responsibility has been assumed by the chairman of the committee on the conduct of the war. All the responsibility that he has chosen to take, whether in maintaining himself or assaulting me, does not disturb me at all, nor will it disturb the country; but at whose instance this wrong has been done, whether at the instance of the committee or of the Secretary, is a subject for consideration. The action the Government takes is that into which the people will inquire; and I trust I yet belong to a country where the people are sovereigns. In them rests ultimate sovereignty; and when they, the people, exhibit the result of their judgment in this Hall, in the other end of the Capitol, in the place where the President sits, and in all places of legitimate power, it will be known whether I am right, or whether the Senator from Ohio is right, or whether the Secretary of War is right. I am willing to trust the judgment of the tribunes of the people.

Now, Mr. President, allow me to say a word in regard to the reference of this question to the committee on the conduct of the war. I introduced the resolution. It is a very extraordinary thing that my adversary should ask to have it referred to his committee, the committee on the conduct of the war, the inquisitorial committee. Have we not regular committees of this Senate that are not inquisitions, and who discharge regular public business? If it is to be referred, refer it to some committee that does not sit with sealed doors, take *ex parte* testimony, and give *ex parte* verdicts. In my judgment, the resolution should not be referred at all; but as the Senator has made the motion, I move to amend it by moving that it be referred to the Committee on Military Affairs. I shall consider the vote of the Senate on that motion as somewhat the sense of the Senate as to whether this inquiry should be properly responded to.

The PRESIDING OFFICER. The motion of the Senator from California to refer to a standing committee has precedence over the motion of the Senator from Wisconsin to refer to a select committee, and will be first put.

Mr. KING. As one of the members of the Committee on Military Affairs, I think it proper that I should express my opinion upon the subject of reference to that committee. I think myself that the motion of the Senator from Wisconsin is decidedly the more appropriate one. If there were no committee that had this subject specially in charge, the Committee on Military Affairs would be the appropriate one to which to refer it; but having entire confidence in the committee on the conduct of the war, which is a joint committee of the two Houses and has this whole subject under its consideration, I think it better to refer the resolution to them rather than have this question in the charge of, and under the examination of, two different committees.

Mr. McDOUGALL. Then I understand the Senator from New York to prefer that this inquiry should be made by a committee that carries on its operations in secret, whose business is of a secret character. He prefers that it should go to a special committee raised for a particular purpose, who have taken, as I charge, *ex parte* testimony, and the regular standing Committee on Military Affairs not to investigate it. If the Senate are prepared to indorse that proposition let them take the responsibility.

Mr. KING. I am not responsible for the understanding of the Senator from California. I did not make any such statement as he does, as the ground of my reason for preferring that this matter should go to the committee on the conduct of the war. I think there are good reasons for it, and therefore I am in favor of it.

Mr. DOOLITTLE. The Senator from California is mistaken in supposing that this motion was made by the honorable Senator from Ohio, with whom he has had this discussion. He did not make the motion at all. The motion was made by myself, and I did so for this reason: that committee, as I understand, is clothed with power to make investigations into facts which may be necessary, perhaps, as to what should be done with this whole subject, and therefore it was that I moved to refer it to that committee. I think it is an appropriate committee, and it had better go there.

Mr. McDOUGALL. Allow me, then, to remark in the same connection, and that it may be understood, that the chairman of the committee on the conduct of the war has stated in his place he thought there was probable cause for the arrest; that he has not stated the probable cause, and has revealed none of the facts found by the inquisition. I protest against its going to the committee on the conduct of the war, as I want information, and I have no hope of getting it from that place; and I want to ascertain whether we have got the power to bring it from the Secretary of War or not.

Mr. HALE. Without entering into any feeling on this subject, I confess that I think the resolution relates to a matter that the Senate ought to inquire into, and it strikes me it would be improper to refer it to a committee that is not subject to the control of the Senate. The committee on the conduct of the war is a joint committee cre-

ated by the two Houses, and it would not be competent for the Senate to direct them to report or to take any action upon it; and by referring it to that committee, the Senate loses its control over it. I have not attended to all the discussions that have taken place; but I look upon the question that is involved in this resolution, and in the inquiry which is made, as one of the last importance to the people of this country. I have had occasion herctofore to give my views somewhat at length on this subject; and without indicating any opinion that I have upon it, I think it manifestly proper that the Senate should keep this resolution under their own control, and not refer it to a committee over whom they have no control, and from whom they cannot direct a report.

Mr. KING. Being a member of the Committee on Military Affairs, I expressed my opinions as I entertained them on the question of reference. If, however, there is any doubt as to where the resolution should go, as the opinion of the Senator from New Hampshire indicates, I would prefer that this matter should go over. Hoping that this subject might be disposed of, I have deferred for some time a motion to go into executive session, for which there is good reason. I will make that motion, and let this question go over.

Mr. CHANDLER. Let us dispose of this.

Mr. McDOUGALL. I hope the Senate will make some disposition of it.

Mr. KING. My opinion is that this subject ought not to be in the hands of two committees of the Senate. I desire it disposed of some way. Probably we can dispose of it without further debate, and I will not press my motion at present.

Mr. GRIMES. I desire to be informed which question is the privileged question—the question to refer to the Committee on Military Affairs, or to the joint committee?

The PRESIDING OFFICER. The motion to refer to the Committee on Military Affairs has precedence.

Mr. SUMNER. Allow me to make one suggestion. The committee on the conduct of the war has already had charge, to a certain extent, of the matters involved in this inquiry. That we have become aware of by this debate. It seems to me, therefore, that it would be entirely proper that the further consideration of it should be put in the hands of the same committee. Otherwise another committee will be left to go over, perhaps, the same ground, to summon the same witnesses, and peruse the same documents that have already occupied the attention of the committee on the conduct of the war. It seems to me that there is a practical reason which is ample to sustain us in referring it to the committee on the conduct of the war, rather than to another committee.

Mr. FESSENDEN. I concur fully with the idea that the committee on the conduct of the war is the appropriate committee. If that committee can be trusted, if we have a respect for it, and think it ought to be continued, and that the subject submitted to it ought to be still in its hands, this matter should go to that committee. If it is not to be trusted, it may be well to appoint somebody else, or to do away with the committee. The question is one of delicacy. It may be that it is proper that this should be investigated. I have no objection to the investigation. It may be that it is equally proper that the results of that investigation should not be known, that it is a matter not at present to be made public. There may be very good reasons; and the presumption is, as it has not been made public, (supposing always that public officers do right in relation to these matters,) that there is some very good reason why it has not been stated to the public thus far.

Now, sir, in the view which the honorable Senator from California takes of it—and I coincide with him upon general principles—it is very important, very proper at any rate, that questions of this kind should be investigated by Congress. We are or ought to be the guardians of the rights of the people, and of every individual; but in times like these, we do not proceed, we cannot proceed in all particulars upon the same principles and with the same care and the same publicity that we do in times of perfect peace. That has been well understood, not only by us, but by the people at large. I have heard no very particular complaints in regard to these things, because it has been taken for granted that, in this stage of our country's history and under existing circumstances, there might be occasion to do things which, in ordinary cases, would not be proper to be done. While I am disposed to look upon these proceedings with jealousy, perhaps with suspicion, I can yet understand very readily the difficulties which beset public officers in conducting the affairs of the Government at the present time. I trust the honorable Senator from California is willing to look on all questions with liberality——

Mr. McDOUGALL. He was arrested early in February, and he has been denied a hearing to the present moment.

Mr. FESSENDEN. I understand all that, and I understand perfectly well that there may be circumstances with regard to the arrest and the long continued imprisonment of General Stone without a trial, well calculated to excite the sensibilities of his friends, perhaps the sensibilities of gentlemen like the honorable Senator from California, and like myself, I hope, disposed to look with care and jealousy upon every infringement of the ordinary course of judicial proceeding or of military proceeding. That is all very true; but, as I said before, we are bound to presume in the beginning that there are good reasons for what may seem to us out of the ordinary course.

The honorable Senator has expressed his confidence in the patriotism and the justice of the President of the United States. He must be aware that this thing could not have been done without his concurrence, and could not be continued without his approbation and consent. He is the head of the Army and the head of the Republic; and it is useless to avoid the inference; everybody knows that he is responsible for what is done by those who are his Secretaries, his right hands in reference to all the Departments and their proceedings. The responsibility cannot be shifted from the President; he does not desire it, and nobody who is his friend desires it; for nobody who was his friend would say for him that he did not wish to be held responsible for what was done by his subordinate officers under his own eyes in reference to matters in his own charge. It would be disrespectful to him as a man and as President of the United States to entertain any such suspicion for a moment. When, therefore, the Senator from California expressed his entire confidence in the patriotism and justice of the President of the United States, he settles this whole question so far as the opinions of the President of the United States are concerned.

Mr. McDOUGALL. I would suggest that possibly the President of the United States has not an opinion on the subject; that the facts and testimony being in possession of one of his officers whom he trusts, he may have had nothing to do with it.

Mr. FESSENDEN. Sir, I have too much respect, too much regard for the President of the United States to suppose any such thing, as that his subordinate, who is in communication with him every day, could take a measure of this kind and continue it without the President having any opinion upon the subject. I could not entertain that idea for a single instant consistently with the deep respect which I entertain for the President. As my honorable friend from Vermont [Mr. COLLAMER] suggests, such a supposition would overthrow the whole system of our Government and the whole idea of it. No, sir, it is useless to say that the Senator has entire confidence in the President, and at the same time assert that the President does not know anything about this matter, and has no opinion in regard to it. I think better of him.

Under these circumstances, I hold that the head of the Republic has good reasons for what he does; and I repeat here what I have said before, that in times like these, while I would look with jealousy and suspicion upon every appearance of an infringement upon the rights of the individual citizen, I can readily suppose there are cases in which a man placed as he is must take the responsibility of acting, and leave to a wise, liberal, and just people to judge by results and by motive—by the necessities of the case as they shall be developed.

That this thing has been done and has continued so long, proves that in his opinion it is necessary and wise and prudent, and not inconsistent with the duty which he owes to the Republic. He has not given us the reasons up to the present time; and what is to be inferred from that? That he does not deem it wise and prudent and consistent with the safety and best good of the Republic that he should do so. We choose to inquire into it; we have a right to inquire into it; it may be our duty. I do not dispute the perfect propriety of the proceeding of the honorable Senator from California in this case; but I say, consistently with that, the most proper thing we can do, in my judgment, is to refer the matter to that committee which we have selected to investigate it, to look into it and all similar cases, and report or not as they in their judgment may deem wise and prudent. Must we not trust somebody? When the President, in whom we have full confidence, has acted and we choose to inquire of him, may we not well commit the inquiry to gentlemen selected from this body in whom we have implicit confidence, when we know that many of these things may necessarily be kept secret from the public for a time for the public good? Are we to overstep a course so obviously dictated by prudence on bare suspicion or because a case presents itself to us as a strange one? Sir, let us take that step first; at all events no harm can follow from that. I have entire confidence in the committee that we have selected, and I believe they will do what is wise and satisfactory to us all.

Mr. CHANDLER. Mr. President, the duties of this committee seem to be misapprehended either by the committee or by the Senator from California. The committee on the conduct of the war has never, in any single instance, examined into an individual case unless it came up incidentally in connection with the conduct of the war. Never in a single instance, to my recollection, has the private character of any individual been touched incidentally, as in the case of General Stone, where the testimony has not been submitted to that individual and he himself had an opportunity to vindicate his character before the committee.

Now, sir, I do not like these imputations of inquisitorial secrecy; these charges of *ex parte* testimony. They are untrue in point of fact. It is no such committee. We do not desire the reference of this resolution to us; yet if the Senate of the United States sees fit to impose upon us this duty, we shall be compelled to execute it; but it will be the first instance where the committee has investigated the case of an individual. We have not adopted as a rule our course of action; but I may state the fact that in every instance where there was a single opposing voice on the committee to the receipt of any testimony, to the summoning of any witness, to the examination of any fact, the committee has omitted to examine into that fact or to take the testimony of that witness.

We had Governor JOHNSON, of Tennessee, upon the committee. I presume the Senator from California will not stand up in his place and impugn Governor JOHNSON? We had Mr. ODELL, a highly honorable gentleman from the State of New York, a Democrat, one of the soundest of the sound. And so scrupulous have we been that, where out of the seven members of the committee on the conduct of the war, there has been a single objection to the examination of any witness or any subject or anything, we have omitted to examine that witness or that subject or that thing. Up to this date, every act done, every motion made, every particle of testimony submitted to the Administration, or to those who had the power to correct the evil, has been done by the unanimous consent and desire of the committee on the conduct of the war.

Sir, I do not like these imputations that it is a one-sided, secret, inquisitorial committee. It is false, sir; it is not so. The committee on the conduct of the war, so far as my knowledge extends, is the first committee ever raised that has been above any such imputations as have been cast upon that committee by the Senator from California.

Mr. McDOUGALL. Does the Senator undertake to say that I have said anything false?

Mr. CHANDLER. I say that any imputation that that is an inquisitorial committee is false.

Mr. McDOUGALL. Does the Senator from Michigan undertake to say that I have said anything that is false?

Mr. CHANDLER. The Senator may put his own construction upon it. I say that any man who says this is an inquisitorial committee says what is false.

Mr. McDOUGALL. Now, let me say to the Senator from Michigan——

The PRESIDING OFFICER. The Senator from Michigan is entitled to the floor.

Mr. CHANDLER, (to Mr. McDOUGALL.) I will not answer your question.

Mr. McDOUGALL. You cannot afford to answer it.

Mr. CHANDLER. I say any man who brings that imputation against the committee utters what is not true.

Mr. McDOUGALL. Well, do not shake your finger at me.

Mr. HALE. Order!

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Mr. CHANDLER. The committee on the conduct of the war has endeavored to do its duty, and its whole duty. It has not been an inquisitorial nor a one-sided committee. Whether the Senate see fit now to impose this duty upon it or not, is for the Senate to decide: we do not desire it.

Mr. GRIMES. Mr. President, it seems to me that it would be well enough for the Senate to look at the real question that is before it, and not be drawn off by the attacks that have been made upon the Secretary of War and the defense of him, from the real issue before us. The Senator from California introduces a resolution in relation to the arrest and detention in captivity of Brigadier General Stone. That information he seeks to obtain in a legitimate way, and from a proper and legitimate source. It may be that it is too specific. It may be that it ought not to be furnished. His resolution is peremptory in its character, and requires this information to be furnished. The Senator from Massachusetts, who is not now in his seat, [Mr. WILSON,] has offered a substitute for that proposition. It reads as follows:

"That the President of the United States be requested to communicate to the Senate any information touching the arrest and imprisonment of Brigadier General Stone, not deemed incompatible with the public interest."

Now, can any gentleman furnish me any substantial reason why we should smother this resolution by sending it to any committee, whether that on Military Affairs or on the conduct of the war, and not adopt the substitute that was offered by the Senator from Massachusetts? It throws the entire responsibility on the President, where it properly belongs. If he deems that it would not be compatible with the public interest to transmit any information in regard to it, let him say so, and there ends the subject. But if he says that the interest of the country will be promoted, or if he believes that the interest of the service will be promoted by giving us the information, or if he thinks that the curiosity of these persons who seek to obtain this information ought to be gratified, he will grant it. He is the Commander-in-Chief of the Army; he has the control of the discipline of the Army, and not the Military Committee or the committee on the conduct of the war. By passing the substitute offered by the Senator from Massachusetts, we do not conflict with his jurisdiction; we might if we passed the resolution submitted by the Senator from California. It seems to me, therefore, that from every consideration, we ought to vote down the proposition to refer this resolution to any committee, and adopt the substitute of the Senator from Massachusetts, and let the responsibility in regard to the discipline of the Army be where it properly belongs, with the President of the United States.

Mr. BROWNING. Mr. President, I concur entirely in the suggestions made by the Senator from Iowa. I had intended to make them myself, but I feel a reluctance at all times to claiming the floor.

I know nothing about the causes that led to the arrest of General Stone. I do not know the man; do not know his politics; do not know anything about his antecedents; do not know anything of his conduct that led to his arrest. I regret exceedingly that the Senator from California has deemed it his duty to make the fierce assault upon the Secretary of War that he has made upon this occasion. It appears to me, Mr. President, that no possible good, but evil and evil only could result to us from destroying the confidence of the country in any one of those at the head of the affairs of the nation. I believe the Secretary of War at present enjoys the confidence of the country to as large an extent as any other man connected with the administration of its affairs. I may say more, that I believe he deserves that confidence, for I am inclined to think that we are more indebted to him than we are to any other one man that public affairs were not pushed to much more disastrous extremes under the last Administration than they were. I am not sure but that we are indebted to him and to him alone for the privilege of having inaugurated the present Chief Magistrate of the nation in the capital of the nation. Whatever the opinion of the Senator from California may be of the justice of the arrest of General Stone, I think his assault upon the Secretary of War is unwarranted and unjust. I think it calculated to do injury, and nothing but injury.

Now, Mr. President, I am going into no discussion of this subject at all; but while I am up, I will add another word. I understand from the chairman of the committee on the conduct of the war that when evidence implicating General Stone had been elicited by that committee, that evidence was all submitted to General Stone's inspection, and that the fullest possible opportunity was offered him of inspection; that he came before the committee, and that every facility that he could require was furnished him by the committee to exonerate himself from the charges that had been made. This does not seem to me inquisitorial; does not seem to me to deserve the denunciations to which that committee has been subjected. I understand further from the chairman of the committee that upon the evidence elicited by them, they unanimously came to the conclusion that the good of the service required that General Stone should be superseded in his command, and placed under arrest.

Mr. WADE. I believe I did not say that. I said that after we had taken the evidence and the explanations of General Stone, we made them known to the Secretary of War and to the Cabinet. I believe they all understood it. We might have given opinions in regard to the bearing of the testimony, but we left it very much with them. I do not know that I expressed any decided opinion, and I do not know that the members of the committee generally did. I do not think they did. We thought that it properly belonged to the executive government to take charge of it, and give such weight to it as they deemed best. On a former occasion I did say that I believed there was probable cause for his arrest, but I did not like to go into that.

Mr. BROWNING. That was what I understood the chairman to say, and I may have derived it erroneously, but I still derived the impression that the committee all concurred with him in opinion that there was probable cause for the course that was taken.

Mr. WADE. I believe they did.

Mr. BROWNING. I understood further that the Secretary of War reached the same conclusion upon an examination of the same evidence. I understand that the general who at that time was in command of this division of our Army and of our forces reached the same conclusion. I understood that the President of the United States, than whom I undertake to say no juster or more conscientious or upright man lives, reached the same conclusion.

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

Mr. BROWNING. Certainly.

Mr. McDOUGALL. I want to know whether the Senator takes the license to speak of understandings from those high officials? If so, I will take the same privilege; I have understandings from high authority, too.

Mr. BROWNING. No; I will state distinctly my understandings. That there may be no possible misapprehension, I want it distinctly understood that I speak for myself and myself alone.

Mr. McDOUGALL. But your understandings——

Mr. BROWNING. I will explain it all to you; be patient a moment. I now disclaim, on this or any other occasion, speaking for the President or any one connected with the President in the administration of the Government.

Mr. McDOUGALL. Allow me to ask a question. Why does the Senator say he understands that?

Mr. BROWNING. I will explain to you in a minute if you will not be quite so restless. Just be calm a little while, and I think I shall make myself understood. It is a subject on which I have never ventured to approach either the President or the Secretary of War. I conceive it to be none of my business to catechise them why they did this thing or that thing, or why they will do another. I have no information from them or any one of them upon the subject. When I say I understood certain things, I speak of the understanding I have derived from the discussion that has taken place in my presence and hearing in this Chamber, and of an understanding obtained in no other way. Now, I apprehend the Senator understands me.

Mr. McDOUGALL. Do I understand, then, that the Senator spoke merely from the outgivings of Madame Rumor?

Mr. BROWNING. No, sir, I did not derive it from Madame Rumor; I derived the understanding from the discussions that took place in this Chamber between the Senator from California and the chairman of the committee on the conduct of the war. I presume that every other Senator derived the same understanding, that the committee, the Secretary of War, the general at the time in command of the army here, and the President, all concurred in opinion that the evidence which had been elicited did make probable cause for the arrest of General Stone and for his confinement to this time. If that be so, if the evidence did warrant that conclusion, if the evidence was such as to justify that action, the very fact of publicity that the Senator seeks, the very fact of laying before the country all the evidence that led to these conclusions, might defeat every good object that was intended to be attained, every valuable purpose that was intended to be subserved by superseding that general and placing him under arrest, and it might be attended with the same consequences now.

Let me say one thing more. Suppose this evidence has cast upon General Stone unfounded suspicions, suspicions that are unjust—upon which I undertake to express no opinion, for I know nothing about it; I have no information, no knowledge whatever of the causes of suspicion even that exist against General Stone—but suppose they are all unfounded and unjust, and that it is his misfortune, and not his fault or his crime, that he is in the unhappy circumstances in which he is now: men must bear the consequences of their misfortunes as well as their crimes in this life, and if a general commanding a division of our Army has conducted himself in such a manner as to bring upon him, even causelessly or unjustly, suspicion of disloyalty to the Government, or suspicion of misconduct of any other kind that seems to warrant his arrest, the good of the public service, when these suspicions have found lodgment in the public mind and destroyed the confidence of the public in the individual, requires that he should suffer the consequences of his own misfortune, to call it by no harsher term. If his conduct has been so equivocal, so uncertain; if his language has given forth so uncertain a sound as to bring him under such suspicions; even then, admitting that they are without a basis in truth, I would say the good of the service would require the course that had been adopted to be adopted and firmly pursued.

I feel confident, Mr. President, that neither the Chief Executive of the nation, the Secretary of War, the general who was in command here at the time, nor the committee on the conduct of the war, would willingly do injustice to General Stone, or any other man; and if the grounds of suspicion are just, if they are founded in truth, if his conduct has been such as properly to expose him to the course that has been taken, it may be that the public service requires that he should be continued for the time being where he is, without trial and without investigation; and that is a question we must submit to the discretion of the President of the United States as Commander-in-Chief of the Army. As the head of the Army, it is his especial province to exercise his judgment upon the questions proposed, and to give or withhold the information, as in his opinion the giving or withholding will tend to the promotion of the public service. If General Stone is suffering wrong, and if the President thinks that no evil will result to the country from bringing him to trial at present, let it be done; but if he cannot now, without injury to the public service, be brought to trial, let that trial be postponed until a fitting opportunity, when he can be heard without injury to the country; and if he is suffering wrong, the time will

come when he can get his redress. It is impossible, Mr. President, that any machinery of human government that was ever devised by the ingenuity and wisdom of man shall work so perfectly as to protect every man precisely in the enjoyment of all his rights, and protect every man from any sort of injustice. In the best ordered and best administered Governments on earth more or less of wrong and injustice will occasionally be done to individuals, and they must occasionally suffer wrong for the good of the whole; and if General Stone is a patriot, a true, earnest, zealous patriot, he would gladly suffer what he is suffering now; if he believed his continuance in confinement was promoting the public good, even he would utter no complaint against it.

I have said, Mr. President, a great deal more than I intended; but I felt it to be a duty to enter my protest against these that I cannot otherwise than regard as unwarrantable assaults upon the Secretary of War; and when the Senator from California asks of the chairman of the committee on the conduct of the war who gave him the omniscient power to enter into the secret motives of others and turn and read the leaves of their hearts and all that is written there, I retort upon him the question, who gave him the omniscient power to read the heart of the Secretary of War, and without evidence, without the shadow of evidence before us, to denounce him in the manner in which he has been denounced? I intend nothing unkind to the Senator from California. I think I may venture to say that I do not believe the Senator from California, in a moment of cool, deliberate reflection, with the high sense of justice by which I know him usually to be actuated, would repeat against the Secretary of War what he has here so fiercely uttered. I believe, sir, he will himself see the injustice not only to the individual, but the injustice to the country, the wrong and injury to the country, that is to be done by destroying public confidence in the most important officer connected with the administration of the Government next to the Chief Magistrate. So far, sir, as that official's character is known to the public, he occupies a position that the highest and noblest in the land might well covet. I trust that we are not here for the purpose of making war upon all who are earnestly and diligently engaged in the prosecution of this war to put down this rebellion; we are not here for the purpose of snapping up "unconsidered trifles," to be urged against them for the purpose of breaking down their usefulness and their efficiency.

I can see no purpose, Mr. President, in the reference of the resolution to any committee. Let us adopt the amendment offered by the Senator from Massachusetts, not now in his place; let it go to the President, calling for information, if, in his judgment, it is compatible with the public service to give it. Having the utmost, the most unlimited confidence, not only in the integrity, in the justice, but also in the ability of the Chief Magistrate, I, for one, am willing to submit the entire question to his consideration and his decision.

Mr. McDOUGALL. Mr. President, my apology for seeking the floor so often is that I alone am receiving the assaults of so many of adverse opinions; and as I have introduced this measure and intend to maintain it, I must fight them in detail, for they are too many for me to meet in one single encounter. I am not going to make any but a very few remarks; I hoped the debate would have closed ere this.

The most striking thing said by the Senator from Illinois was that individuals must suffer wrong, that the public interest may be maintained. That is a maxim that was learned by us all in our early education. Human institutions are all imperfect; laws are imperfect; by the imperfection of human reason, justice cannot always be properly rendered. Laws being imperfect, and judgments being imperfect, injustice must every now and then occur; but because injustice is suffered under law, under the wisest administration of justice according to law, is that to be an argument why, without law, above law, regardless of law, injustice and wrong should be done? My objection is that here, by an irresponsible authority, governed by no rule, subject to no inquiry, unknown to our institutions, an innominable power, injustice is done. In the best governed country, under the best laws, under the best judges, evil to a greater or less extent frequently occurs, but I object to having that evil accumulated upon us through a power irresponsible, unknown to the law, and without limitation of authority.

But, sir, what have I called for? Simply an inquiry as to why right under the law has not been recognized. The right I undertook to demonstrate; and I dare assert that I did demonstrate that, under the Constitution and the laws, this man, seized and imprisoned, had certain rights. As he had subjected himself to military law, he was entitled to the protection of military law. As he had sworn to obey it and subjected himself to its penalties, so had he a right to all its benefits. Those benefits to which he was entitled by military law have been denied to him. He was one of the leaders of our armies, a soldier for many years, who had seen service in battle-fields, who had taken the chances of his life on many occasions for our institutions, and surely he should be entitled to the benefits of the protection which he contracted for when he entered the service of the country, and said he was prepared to peril his life for that country. What right did he claim? He claimed the simple right to know of what he was accused, why he was imprisoned, and to have a fair trial. That is all he has claimed. It is all I have ever claimed for him.

It is said in reply that it may not be consistent with the interests of the Government that he should be tried; that it may not be consistent with the interests of the Government that he should be informed of what he is accused! This is to me inconceivable. Some of the hours of my life I have bestowed upon thought, and some to all forms of logical reduction. I cannot conceive, it is beyond the range of my conception, how this Government is so imperiled that it may be in danger from informing a person seized of the substance of the accusation against him. I cannot see why this Government may not give to a man who is brought down from the command of a division of our armies in the field and placed in prison, some notification of why it is done. I cannot see why he may not have a commission to inquire and a court to try him.

It may be said now, and I understand it is said, that our army have left the city of Washington, and that a large body of them is before Yorktown, and another large command at Fredericksburg, and that they are so scattered over the whole country that a court cannot be had for trial, or witnesses cannot be had to testify. What was the difficulty on the 8th of February? Why was he not placed under arrest in the city of Washington, and a court organized then? Why were not the papers placed before the Judge Advocate General of the Army, or the judge advocate of the army of the Potomac? Why was he not informed of the charges against him according to the rules and articles of war? Why was not a court then organized, when our army was lying slumbering on the banks of the Potomac? February passed; March passed; April is nearly passed. All this makes up a long period of time, and so far from his having a court of inquiry, or a court-martial, it has not been intimated to him wherefore he was arrested, and no friends of his have been able to find out wherefore he was arrested. He may have heard what was said by the committee. I will not now dispute what gentlemen say as to that. I am glad to learn that they brought General Stone before them. I am glad to learn that they informed him something as to what they had said and what they had done.

But the committee, by their chairman, say that *they* did not act in the arrest, and that they do not know upon what the Secretary of War acted. It was the action of the Secretary of War. During all this time General Stone has not been informed of the charges against him; and why not informed? Not for want of its being perfectly convenient to the Government during all that time to have given him a trial, or to have at least informed him of the charges. He said and represented to them, "it is important to me, to my honor, to the honor of my family, to those who are to come after me, that I shall be fairly judged; and the men who were about me are in the field of war; they may fall victims to the assault of the enemy on any day. When this war shall be over, there may not be any of those who would vindicate me as to that of which I may be accused, alive to respond to any court of inquiry or any court-martial."

Again, it may be said by the enemies of General Stone, when the war is over and a court-martial is organized, "the men who accuse you were killed in battle; but they said so and so, and as they have died in defense of their country, the brand is upon you." Against all these accidents he has desired to provide by a prompt trial. In this way a man of high honor, a pure man, as I believe, a man whom I call among the beautiful men of the world, beautiful in character, beautiful in all that belongs to a man intellectually and morally, a beautiful man with all his grace, is to be disgraced upon the public records of a great nation. The thing is intolerable!

These things cannot be done in the name of liberty; these things cannot be done in the name of the Constitution and laws; they are violent outrages upon the Constitution and the laws. I have appealed for him and for the heart of the nation that he shall be tried; he has appealed himself in vain; his friends have appealed in vain; his counsel have appealed in vain; I am afraid that I, here in my place, appeal in vain for any aid or assistance that this great wrong shall be inquired into. His right is to a trial. The public interest cannot be impaired by his being furnished with the charges, by his accusers presenting themselves, by the organization of a court-martial, by a trial before a court-martial, by the perpetuating in depositions perishable testimony. These things are not in the category of things that can injure the public service. We should not allow a wrong like this to be done in violation of the Constitution and the laws.

Sir, I am not here to assail Senators; I am not here to assail committees; I am not here to assail parties; I am here to maintain the truth, to maintain our institutions, to see that the law and the right is administered, and if I cannot accomplish this, then with uplifted hand, in my place in the Senate, to protest against this and all like wrongs and outrages.

So far as the proposed reference of the resolution to a committee is concerned, I do not think it valuable. It is not customary to refer resolutions of inquiry. It is customary to inquire on all these subjects of the Secretary of War. If, however, the resolution is to be referred, I hope it will be to the Committee on Military Affairs, where the Senate may be able to express its voice at some time on the subject. If it be referred to the committee on the conduct of the war, that being a joint committee, we have no power over it, as I understand the Senator from New Hampshire. If it is to be referred, let it be referred to a committee over which we have authority. I should prefer, however, the adoption of the resolution as I offered it, for I want to know definitely and distinctly whether Senators really intend to maintain the doctrine that a man can be arrested without notice of the cause for months, he being subject all the time to the civil law of the Government, subject all the time to its military law, and when entering the service promised all the protection of that law, that such a man can be imprisoned by the authority of an arbitrary, unknown, unconstitutional power! I want to see who there is in the Senate that affirms such a doctrine.

The PRESIDING OFFICER. The question is on the motion of the Senator from California to refer the resolution to the Committee on Military Affairs and the Militia.

Mr. DOOLITTLE. I made the motion to refer the resolution to the committee on the conduct of the war; but after hearing both the gentlemen of that committee who have spoken on the subject state that it is not the desire of the committee that that should be done, and the honorable chairman of the committee having stated to me in conversation that I had better yield to the suggestion of the Senator from Iowa, and instead of referring the matter to any committee at all, pass the resolution in the form proposed by the honorable Senator from Massachusetts, [Mr. WILSON,] I will, under these circumstances, withdraw the motion which I made to refer, and allow it to take that course, which, perhaps, will be the shortest way to dispose of it, by the passage of the resolution as the Senator from Massachusetts proposed to amend it.

The PRESIDING OFFICER. Does the Senator from California insist upon his motion?

Mr. McDOUGALL. I shall not do so. I have

insisted that the resolution should be addressed to the Secretary of War. I am aware that the President of the United States is responsible for all these things; but I understand, at the same time, that under the pressure caused by our present difficulties, the President cannot inquire into them all. I understood, from an order of the Secretary of War which was published, that he had taken charge of all arrests. I understand that this arrest was made by him. The facts are in his possession. At the same time, as I desire to be informed, I will consent to the amendment making it a request, if the words in regard to its being compatible with the public interest be left out. It is our right to inquire, and the Secretary is bound to answer. It would be more legitimate for us to address the Secretary by a demand, which we cannot address to the President, and therefore I preferred that; but if the amendment be modified by striking out the phrase in regard to the public interest, I am willing to accept it, and merely request the President to furnish the information. I do not want, in this case, that formal answer which so often comes in, "this is not answered because the interests of the service do not permit." It is a mere formal answer, but it seems to be a conclusive one. I say it is our right to inquire, and their duty to respond. Even if it be sent to the President, our right is the same; whoever has undertaken to exert the authority is bound to respond to, first, the person arrested, then to every one who espouses his cause and has the right of approach; and therefore I will accept the amendment making it a request of the President, if it be modified by saying nothing about the public interest, and then let him answer it as he pleases.

Mr. TRUMBULL. I will state to the Senator from California that the uniform usage is, I think, in addressing a coördinate branch of the Government, as the President is, to request the President to communicate to the Senate certain information, if it be not incompatible with the public interest; but when we call on the Secretaries, we do not use the word "request" at all.

Mr. McDOUGALL. Then I insist on the direction to the Secretary.

Mr. TRUMBULL. That matter was discussed here at one time, and a vote taken by yeas and nays since I have been in the Senate, whether the word "request" should be used in a resolution calling for information from one of the Departments; and the Senate decided on a solemn vote by yeas and nays, within the last two or three years, that the proper language was, that the Postmaster General, for instance, or the Secretary of War, be directed to inform the Senate thus and so. That has always been the language when the question has been made, and it was decided upon discussion; and it was never until the present session that I have known a Secretary undertake to withhold information from the Senate. I agree with the Senator from California that the Senate has a right to demand of the heads of these Departments information; but when we address the coördinate department of the Government, the practice has been to request that the information be communicated, if not incompatible with the public interest; and as this resolution is addressed to the President, it seems to be considered that that is the best form. I hope the Senator from California will not ask to have those words stricken out. I should be obliged to vote myself to retain them, because that has been the practice of the Senate.

Mr. WADE. Without attempting to define what the real right of the Senate is when calling on the Executive, I think in times like these it is best to leave it to his discretion how he will answer questions like these. I do not think we should make a call peremptory, even if we have the right, and in the last resort I am very much disposed to think that we have a right to call for anything; but in the unsettled state of the country, when consequences may arise from these disclosures that we cannot perceive quite as well as he can, I think we ought to put the resolution in this modified form, and I hope it will pass in that shape.

Mr. COLLAMER. What is the question now before the Senate?

The PRESIDING OFFICER. The Chair understands the Senator from California to have withdrawn the motion to refer the resolution to the Committee on Military Affairs.

Mr. McDOUGALL. I have withdrawn it, but then I shall insist on my original resolution.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts.

Mr. COLLAMER. I understand now that the question is on the adoption of the amendment proposed by the Senator from Massachusetts. Let it be read.

The Secretary read the amendment, to strike out all of the resolution after the word "resolved," as follows:

That the Secretary of War be requested to inform the Senate at once on the following points, namely: 1. Whether or not Brigadier General Charles P. Stone has been arrested by any person in authority in the War Department or in the Army of the United States; and if he has been so arrested, from whom the order for General Stone's arrest originally proceeded—whether the Secretary himself or the general then commanding the army of the Potomac. 2. Also, whether at the time of such arrest General Stone was not subject to the articles of war, and entitled to the benefit of them; and if he was so subject and entitled, whether or not he was arrested for a violation of any, and which, of those articles; and on whose complaint General Stone was arrested, and by whom, if by any persons, charges have been preferred against him; and that the Secretary of War be requested to communicate to the Senate the specifications under such charges as fully as his present information will enable him to state them. 3. Also, whether any, and if any, what, steps have been taken towards the preparation of such charges and specifications; and if any such steps have been so taken, whether or not the prosecution of the matter has been intrusted to the judge advocate general of the Army, or of the army of the Potomac, or to some other, and what other, special judge advocate; and if not to either of said judges advocate general, why the case of General Stone did not take the customary course when a general officer is arrested; and whether or not either of the judges advocate above specially named has been, and when first, consulted in this matter. 4. Also, whether or not General Stone has at any time, and when, and how often, either in person or by counsel, applied for an immediate trial; and whether he has not represented to the Secretary of War the injustice which he supposed would result to him from deferring his trial, by reason of the death of an important witness, in any matter connected with the administration of his late command upon the Potomac; and what answer, if any, has been made to such representation by or on behalf of General Stone. 5. Also, whether or not the substance of such charges, more or less, has been in any, and what, way, and upon whose application, communicated to General Stone; and if not, why not; and if not, whether or not General Stone has applied, directly or indirectly, for such charges. 6. Also, whether any, and what, privileges have inured to General Stone under the articles of war Nos. 74, 79, 80, and 82, and Nos. 221 and 223 of the Revised Regulations of the Army; and what degree of confinement was originally ordered in reference to General Stone; and whether any, and what, change has been made, and when, from its original severity. 7. Also, if General Stone was not arrested for some alleged violation of the articles of war, upon what pretense is he kept in close custody.

And in lieu of the words thus stricken out, to insert:

That the President of the United States be requested to communicate to the Senate any information touching the arrest and imprisonment of Brigadier General Stone, not deemed incompatible with the public interest.

Mr. COLLAMER. I have heard remarks about the manner of using the word "request;" but I do not see but that the proposition is in the courteous and common form usually adopted; and I do not understand that anybody has moved to refer it. I do not, therefore, see any occasion for any remarks about the form of inquiry. I am satisfied with the resolution in the shape in which the amendment proposes to put it.

Mr. McDOUGALL. The suggestion made by me was that the phrase in regard to the public interest should be stricken out. I sought to seek information where we had a right to demand it, and I am very glad to be informed, in accordance with my own previous understanding, that we have a right to ask a Secretary for information in his Department. I have sought to get that information. Now, allow me to say that it is not in the President's possession, nor in his office. The President can only reach it through his Secretary. I would as soon have the resolution in this form as in the other form, if he was the proper person to call upon. He is not the proper person to be called upon, and we are throwing upon him a burden out of the ordinary course of his business.

Mr. COLLAMER. It is the usual mode, if you want anything from any Department, to address the President, and he sends to the Department and gets the answer and sends it here. That is the usual method.

Mr. McDOUGALL. I understood from the Senator from Illinois that it was customary to address the Secretaries.

Mr. COLLAMER. I have stated what is the usual practice. I know that some Senators have occasionally presented a direction as addressed to the heads of Departments, and I believe the Senator from Illinois is right in saying that there was once a vote to that effect; but I must be understood now, and on all other occasions, whenever the question arises, as protesting against the exercise of such a power, because, if that be true, we have nothing to do but to bridge the nose of the President and demand information from the Secretaries, and we can get it in spite of him. I do not agree that that is either courteous or proper. I know it has sometimes been done, but I hope it may not be called in precedent. I rose before merely to speak of the form of the resolution which was offered by way of amendment, that being the question before us. Being satisfied with that, I have nothing more to say.

Mr. McDOUGALL. I am perfectly satisfied with submitting the matter to the President, believing that we shall be able to learn in a very short time what the true state of the case is.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts.

Mr. McDOUGALL. I accept the amendment.

The PRESIDING OFFICER. The amendment must be voted on.

Mr. TRUMBULL. Certainly the Senator can accept the amendment. The resolution has not been amended at all. He offers a resolution. Another Senator offers to amend it. I have always understood it to be in the power of the person offering the original resolution to accept an amendment to it.

The PRESIDING OFFICER. It has been placed on the Journal, and a vote of the Senate has been taken on postponing it. It is necessary that the amendment should be formally adopted. Shall the resolution be so amended?

The amendment was agreed to.

The resolution, as amended, was adopted.

CONFISCATION OF PROPERTY.

Mr. HALE. I move that the Senate proceed to the consideration of executive business.

Mr. TRUMBULL. I hope the Senator will withdraw that motion for a moment, until we get the confiscation bill properly before the Senate. It has been passed over to-day, and lost its place.

Mr. HALE. I give way for that purpose.

The PRESIDING OFFICER. The Senator from Illinois moves that the Senate proceed to the consideration of the bill (S. No. 151) to confiscate the property and free the slaves of rebels.

The motion was agreed to; and the Senate resumed the consideration of the bill.

Mr. HALE. I move now that the Senate proceed to the consideration of executive business.

Mr. DAVIS. Wait a moment. I move that the confiscation bill be made the special order for to-morrow at one o'clock.

Mr. TRUMBULL. If it be left as the unfinished business, it will come up, as a matter of course.

The PRESIDING OFFICER. It comes up to-morrow at one o'clock as the unfinished business, and the Senator from Kentucky will be entitled to the floor.

EXECUTIVE SESSION.

Mr. HALE. Now let the question be put on my motion.

The motion was agreed to; and the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *April* 21, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of Friday last was read and approved.

BOUNTY.

The SPEAKER stated the first business in order to be the call of States for the introduction of bills on leave for reference, and next the call of States for resolutions.

Mr. EDWARDS introduced a bill making an appropriation for the payment of bounty to the widows and legal heirs of volunteers who have died or may die, or have been or may be killed, in the service, as provided by the act of July 22,

1861; which was read a first and second time, and referred to the Committee of Ways and Means.

GEORGE W. STICKNEY.

Mr. ARNOLD introduced a bill for the relief of George W. Stickney, a soldier in the late war with Mexico; which was read a first and second time, and referred to the Committee on Pensions.

MINNESOTA COLLECTION DISTRICT.

Mr. ALDRICH introduced a bill to change the location of the port of entry for the Minnesota collection district; which was read a first and second time, and referred to the Committee on Commerce.

PEOPLE'S PACIFIC RAILROAD COMPANY.

Mr. RICE, of Maine, presented joint resolutions of the Legislature of the State of Maine, relating to the People's Pacific Railroad Company; which were laid upon the table and ordered to be printed.

EXPENDITURES IN DEPARTMENT OF THE WEST.

Mr. ELIOT submitted the following resolution, upon which he demanded the previous question:

Resolved, That the Secretary of the Treasury be requested to communicate to the House of Representatives a statement of the expenditures of money in the department of the West.

The previous question was seconded, and the main question ordered; and under the operation thereof, the resolution was adopted.

BRIGADIER GENERALS.

Mr. NIXON submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be requested to furnish this House with a statement of all the appointments to the rank of brigadier general, either in the regular or volunteer service, made between the 1st day of April, 1861, and the 1st day of April, 1862, with the date of their respective commissions.

SOLDIERS' BACK PAY.

Mr. BLAKE submitted the following resolution, and demanded the previous question on its adoption:

Resolved, That the Secretary of the Treasury be directed to cause the necessary blank forms to be printed to enable the sick and wounded soldiers and the relatives of deceased soldiers to make out and obtain their back pay and the bounty due them for military services; and that such blank forms be furnished to all soldiers and their friends by calling on the Treasury Department for the same.

Mr. McPHERSON. I do not see what necessity there is for the passage of this resolution. The matter is already, I understand, before one of the committees of this House.

Mr. BLAKE. It enables the Secretary of the Treasury to furnish these blanks. Blanks are now furnished for the business at the Pension Office.

The previous question was seconded, and the main question ordered; and under the operation thereof, the resolution was adopted.

CONTRABANDS.

Mr. COX submitted the following resolution, on which he demanded the previous question:

Resolved, That the Secretary of War inform this House upon the following points: 1. What has delayed his reply to the resolution of this House, calling for information as to the age, sex, condition, &c., of the Africans employed in General Wool's department. 2. What number of slaves have been brought into this District by the Army officers, or other agents of the Government, from the State of Virginia since the enemy abandoned the possession of Manassas and their lines on the Potomac. 3. What number of fugitives from Maryland and Virginia are now in the city of Washington, their sex and probable ages. 4. What number is now at or has been sent to Frederick, Maryland. 5. How many are now fed and supported by the money of the United States, appropriated by Congress to prosecute the war. 6. By what authority negroes, old and young, male and female, were sent from Virginia by railroad to Philadelphia, and at whose expense, and the amount of the expense, and the purposes for which they were sent. 7. If he has not the means to answer these inquiries, that he take the necessary steps to obtain the desired information.

The previous question was seconded, and the main question ordered.

Mr. LOVEJOY moved that the resolution be laid upon the table.

Mr. COX demanded the yeas and nays.

Mr. VALLANDIGHAM demanded tellers on the yeas and nays.

Tellers were ordered; and Messrs. VALLANDIGHAM and ELIOT were appointed.

The yeas and nays were ordered; the tellers having reported—ayes twenty-four; more than one fifth of those present.

The question was taken; and it was decided in the affirmative—yeas 65, nays 31; as follows:

YEAS—Messrs. Aldrich, Arnold, Babbitt, Baker, Beaman, Bingham, Francis P. Blair, Samuel S. Blair, Blake, Buffinton, Burnham, Chamberlin, Clements, Colfax, Frederick A. Conkling, Roscoe Conkling, Cutler, Davis, Diven, Duell, Dunn, Edwards, Eliot, Ely, Fessenden, Franchot, Frank, Goodwin, Gurley, Harrison, Hickman, Julian, Kelley, Lansing, Loomis, Lovejoy, McKnight, McPherson, Moorhead, Anson P. Morrill, Justin S. Morrill, Nixon, Olin, Patton, Pike, Porter, Potter, John H. Rice, Edward H. Rollins, Shanks, Sheffield, Shellabarger, Stevens, Stratton, Benjamin F. Thomas, Trimble, Trowbridge, Van Horn, Van Valkenburgh, Wall, E. P. Walton, Albert S. White, Wilson, Windom, and Worcester—65.

NAYS—Messrs. Allen, Joseph Baily, Biddle, Jacob B. Blair, George H. Browne, William G. Brown, Calvert, Cox, Crisfield, Dunlap, Grider, Hall, Harding, Kerrigan, Knapp, Law, Lehman, Mallory, Morris, Noble, Norton, Nugen, Price, Shiel, Smith, John B. Steele, Francis Thomas, Vallandigham, Ward, Chilton A. White, and Woodruff—31.

So the resolution was laid upon the table.

During the vote,

Mr. WARD stated that his colleague, Mr. HAIGHT, was detained from the House by illness.

Mr. HUTCHINS stated that he was paired with Mr. WEBSTER.

Mr. VAN HORN stated that his colleague, Mr. SPAULDING, was detained from the House by illness.

The vote was announced as above recorded.

Mr. LOVEJOY moved to reconsider the vote by which the resolution was laid upon the table; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

GRADUAL EMANCIPATION.

Mr. WHITE, of Indiana, submitted the following resolution, on which he demanded the previous question:

Resolved, That the select committee of nine, on the subject of gradual emancipation and colonization, be authorized to employ a clerk at the usual rate of compensation.

Mr. CALVERT moved that the resolution be laid upon the table, and demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 68, nays 28; as follows:

YEAS—Messrs. Allen, Joseph Baily, Beaman, Biddle, Jacob B. Blair, George H. Browne, William G. Brown, Calvert, Chamberlin, Frederick A. Conkling, Roscoe Conkling, Cox, Crisfield, Crittenden, Davis, Delaplaine, Diven, Duell, Dunlap, Dunn, Edwards, Ely, Franchot, Frank, Grider, Gurley, Hall, Harding, Harrison, Hutchins, Kelley, Kerrigan, Knapp, Law, Lazear, Loomis, Lovejoy, Mallory, Justin S. Morrill, Morris, Nixon, Noble, Noell, Norton, Nugen, Olin, Porter, Price, John H. Rice, Sheffield, Shellabarger, Shiel, Smith, John B. Steele, Stevens, Stratton, Benjamin F. Thomas, Francis Thomas, Trimble, Trowbridge, Vallandigham, Van Valkenburgh, Wall, E. P. Walton, Ward, Chilton A. White, Woodruff, and Worcester—68.

NAYS—Messrs. Babbitt, Baker, Bingham, Francis P. Blair, Samuel S. Blair, Blake, Buffinton, Burnham, Casey, Clements, Colfax, Cutler, Eliot, Fessenden, Goodwin, Francis W. Kellogg, Lansing, Lehman, McPherson, Moorhead, Potter, Edward H. Rollins, Shanks, Van Horn, Whaley, Albert S. White, Wilson, and Windom—28.

So the resolution was laid upon the table.

During the roll-call,

Mr. LANSING stated that Mr. SLOAN was detained from the House by sickness.

Mr. FRANCHOT stated that Mr. WHEELER was absent on account of sickness in his family.

Mr. THOMAS, of Massachusetts, announced that Mr. DELANO had been called home in consequence of sickness in his family.

The result of the vote having been announced as above recorded,

Mr. COX moved to reconsider the vote by which the resolution was laid upon the table; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

PATRIOTIC RECORD.

Mr. DUNN submitted the following resolution; which was read, and referred to the Committee on Military Affairs:

Resolved, That the Secretary of War be instructed to cause to be prepared and published twenty thousand copies of a book to be entitled, The Patriotic Record, and to contain full rolls of all the officers and men engaged in the military and naval service of the United States in suppressing the present rebellion.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by Mr. HAY, his Secretary.

PENSIONS TO UNION SOLDIERS.

Mr. PORTER submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Invalid Pensions be instructed to report forthwith, if possible, and if not, then at the earliest day practicable, a bill to provide for the allowance of pensions to the sick and disabled Union soldiers of the present war, and to the families of those who have died in the service.

MILITARY EXPENDITURES.

Mr. BLAIR, of Missouri. I offer the following resolution:

Resolved, That the Secretary of the Treasury be directed to furnish the House with the amount and detailed statement of expenditures in the different military departments.

A resolution was adopted this morning asking for a similar statement in regard to the department of the West. I want the whole thing to go together.

The SPEAKER. No debate is in order.

Mr. STEVENS. I hope the resolution will not be adopted. It will involve an immense amount of labor, and I see no object in it.

Mr. BLAIR, of Missouri. I call for tellers on the resolution.

Tellers were ordered; and Messrs. BINGHAM and SHIEL were appointed.

The House divided; and the tellers reported—ayes seventy-three, noes not counted.

So the resolution was agreed to.

Mr. DUNN. I rise to a privileged motion. I move to reconsider the vote by which the House adopted the resolution of the gentleman from Massachusetts [Mr. ELIOT] calling for a detailed statement of the expenditures in the western department. I hope that motion will prevail, and that then we shall reconsider the vote just taken, by which the resolution of the gentleman from Missouri [Mr. BLAIR] has been adopted, and that we shall not impose upon the Department this immense and unnecessary labor.

The motion to reconsider was agreed to; and Mr. ELIOT's resolution was then disagreed to.

Mr. DUNN. I now move to reconsider the vote by which the resolution of the gentleman from Missouri [Mr. BLAIR] was adopted.

The motion to reconsider prevailed; and Mr. BLAIR's resolution was then disagreed to.

TREATMENT OF PRISONERS OF WAR.

Mr. POTTER. I offer the following resolution:

Resolved, That the Secretary of War be requested to inform the House whether the prisoners taken in the sloop Velma were released by the United States commissioners at Baltimore, with the knowledge and consent of the military authorities of the department of Maryland; also, by what authority Colonel Gunter, of Virginia, who refused to take the oath of allegiance, was released on a conditional parole which bound him only not to take up arms against the Government while the eastern shore counties in Virginia remained under the United States authority; also, by what authority said Gunter was allowed to visit the camp of the sixth Maryland regiment at La Fayette square, Baltimore, to search for runaway negroes.

Mr. VALLANDIGHAM. I propose to debate that resolution.

Mr. POTTER. It is a mere resolution of inquiry.

Mr. THOMAS, of Massachusetts. But it is a very improper subject of inquiry.

The SPEAKER. The resolution goes over under the rule, the gentleman from Ohio proposing to debate it.

RESOLUTIONS OF WISCONSIN.

Mr. POTTER presented joint resolutions unanimously passed by the Legislature of Wisconsin, tendering to the President of the United States approval of his course; which were laid upon the table, and ordered to be printed.

MILITARY CONTRACTS AT ST. LOUIS.

The House then proceeded to the consideration of a resolution, lying over under the rules, offered by Mr. DIVEN on the 23d of December last, requesting the Attorney General to take proceedings to recover from John C. Frémont and E. L. Beard the sum of money obtained from the public Treasury on the order of said Frémont, payable to said Beard, as set forth in the report of the select committee to inquire into contracts of the Government.

Mr. DIVEN. I move the adoption of the resolution.

Mr. STEVENS. I move to lay it upon the table.

Mr. DIVEN. I have the floor, I think, and I

have a word or two to say upon the resolution before I yield it. What I have to say I desire to say calmly and dispassionately, and I solicit the consideration of the House to the very few remarks that I propose to submit.

I want to call attention first to the facts established by the report of this committee—established, if the report of the select committee be true, upon the most incontrovertible kind of testimony. I am aware that that committee has admitted into its report a great deal of matter that would not be testimony in a judicial proceeding subject to objections of law; but I propose to confine my remarks to that kind of testimony that is not obnoxious to these objections—to legal testimony, testimony that has not yet been controverted or attempted to be controverted.

The facts, sir, are these: I am sorry that I have not the report here, but I will state them from memory as nearly as I can. If there are any mistakes in my statement, they will be trivial mistakes in regard to dates or in regard to amounts, that will be immaterial. Now, sir, I have my own notions with regard to these investigating committees. I have uniformly cast my vote against every one that has been created. I have never known any good to result from these investigations. The committee that has been created here might be an exception to my observation. I began at one time to change my opinion with regard to it, but now I question very much whether any good will result from any of these committees. I am opposed to this thing of arraigning men or trying men in their absence, without their having an opportunity to confront their accusers. I am opposed to all inquisitorial proceedings by which investigations are held without an opportunity for rebutting testimony. I am aware that the practice of arraigning parties for trial on indictment by grand juries has received the sanction of wise jurists, and so far as any proceeding may be had for the purpose of determining whether an indictment shall be preferred against a man, individually, I do not object to it. But, sir, after the indictment is thus preferred, a speedy trial, by which the party accused shall have an opportunity to defend himself, always should be had.

But, sir, this accusation has been brought against Mr. Frémont long since, and it is time that Mr. Frémont should have an opportunity to defend himself against these allegations. Either the committee have been guilty of making a false report, and placing before the House a false record, or else he stands convicted of an odious offense for which he should have a trial, and by this resolution I propose to give him a trial—a trial in a court of justice, where the rules of evidence may be applied, and where he will be honorably acquitted unless he shall be found guilty and these charges be proven true. If these charges are true, no character which he may possess before the country, none of his past or present services, nothing, should shield him from conviction. If, on the other hand, the charges be false, it is due to his reputation, due to the country, due to the forms of justice, that he should have a trial and have an opportunity to prove his innocence. This proceeding will give him that opportunity.

Mr. ROSCOE CONKLING. Will my colleague allow me to ask him a question?

Mr. DIVEN. Certainly.

Mr. ROSCOE CONKLING. I will thank my colleague if he will inform the House or inform me of his view of the law, and in what mode of action he proposes that the Attorney General shall afford Major General Frémont an opportunity of testing the truth of these allegations which he says are laid at his door.

Mr. DIVEN. Before I get through the gentleman will understand it.

Mr. ROSCOE CONKLING. I will be very glad to hear it.

Mr. DIVEN. Now, sir, it is established by the proof furnished by the investigating committee, that without any form of law, without any form of right, without any sufficient consideration, by an arbitrary order issued by John C. Frémont, as military commander of the western department, money was drawn from the Treasury of the United States and paid to Beard—money which had never been earned and to which he was in no sense entitled. I say, and I have no doubt of it, that the man who procured and the man who received this money are both liable in a civil action to be made to refund and pay it back to the Treasury. Does my colleague doubt that?

Mr. ROSCOE CONKLING. I do not know whether I doubt the proposition which my colleague affirms or not, because I am not able to apprehend with sufficient distinctness what the proposition is. The resolution suggests to me no form of civil action in which the United States shall be plaintiff against either Beard, defendant, or Major General Frémont, defendant, or both parties defendants.

Mr. DIVEN. The question which I stated to the gentleman was whether, if money had been illegally abstracted from the Treasury, without color of law or right, that money cannot be sued for in a court of law and recovered back?

Mr. ROSCOE CONKLING. Undoubtedly, Mr. Speaker. I have no doubt that an individual taking money from the Treasury without cover of right, can be sued in a civil action.

Mr. DIVEN. That answers my question. I propose to show, if this report of the committee on Government contracts be correct, that $171,000 has been thus obtained, without form of law, without color of right, by a mere arbitrary, unauthorized procedure, and that it was paid to this man Beard, without sufficient consideration.

Mr. BINGHAM. I ask the gentleman from New York if he knows whether this report has yet been printed and distributed among members?

Mr. DIVEN. It has been.

Mr. BINGHAM. I have never seen it.

Mr. DIVEN. I refer to the report of what has been denominated the committee on Government contracts.

Mr. BINGHAM. The special committee on contracts?

Mr. DIVEN. Yes; the Van Wyck committee.

Mr. BINGHAM. This report has not been distributed at all.

Mr. DIVEN. I have had a great many copies furnished to me and have distributed them. Now, if the House will listen to me, I will state the charges to which I allude as contained in that report, and the proof by which it is supported. I will state the facts substantially from memory. A little before the 1st of October, by order of General John C. Frémont, for the purpose of making defenses around the city of St. Louis, there were laid off ten forts, earthworks, outside the city. They were laid out by an engineer employed by John C. Frémont—an officer named Kepler—a man of conceded ability and of conceded integrity. After they were thus laid out, Kepler commenced the construction of the five largest forts. Subsequently Beard commenced the construction of the other forts. Kepler proceeded with his work to the completion of these forts. He did so by hiring laborers in the streets of St. Louis and paying them by days' work. In this mode of construction, which every one knows is the most expensive way of constructing works, the cost was about sixty thousand dollars. Beard went on with the construction of the other five smaller forts. About the day when he commenced them, John C. Frémont drew his order on the paymaster for $10,000, saying that the money was to be applied to the construction of these forts. About seven days after that, John C. Frémont drew his order on the paymaster in something like these words: "Pay to Mr. Beard $60,000, on account of his contract for constructing forts, he informing me that without such an advance he must dismiss some of the hands employed on the work." Thus $70,000 is advanced on account of a work which could not have cost, in the most expensive way, over $60,000. It is paid, not on any estimate of work done, but on the bare say-so of the contractor, that without this advance he must stop the work. The contractor has been but seven days at work, and he has already got $70,000. The very next day he makes another draft for $66,000, saying, "pay to Mr. Beard $66,000, because he informs me that without this he must stop the work." Was there any form of law observed in making that draft? Was there any consideration made by Beard which entitled him to it? Was there any contract under which it was paid? Was there any estimate to warrant it? Was it not rather an arbitrary exaction of so much money from the Treasury of the United States by General Frémont, to pay it over to his friend who had not earned it? Can it be called anything else? It rests on no equivocal testimony. It rests on a public statement signed by John C. Frémont himself. It rests on facts.

Now, Mr. Speaker, we find that by the 6th of October, not more than ten days after the commencement of this work, there has been $131,000 paid in cash for it, without any estimate of the amount of work done, upon no pretense whatever, except that the contractor said it was necessary, upon an arbitrary order of the commander, while a larger work of the same kind was done side and side with it for $60,000.

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

Mr. DIVEN. Certainly.

Mr. COLFAX. Has the gentleman from New York ever read a statement signed by the Army officer in charge of the construction of those works, which declares over his own signature that the larger forts were not built for $60,000, or any such sum, and in which he also stated that the prices paid by him for labor were higher than those that have been stated by the committee in their report? Has the gentleman ever seen that statement? If not, I will show it to him from one of the St. Louis papers.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKEY, their Chief Clerk, notifying the House that the Senate have passed, without amendment, a joint resolution of this House (No. 67) to supply the Smithsonian Institution with volumes of Wilkes's Expedition.

Also, that the Senate have agreed to the amendments of this House to the joint resolution of the Senate (No. 26) explanatory of a certain act therein mentioned.

MILITARY CONTRACTS AT ST. LOUIS—AGAIN.

Mr. DIVEN. I will say to the House that I have seen his testimony, in which he states under oath that it was done for about sixty thousand dollars.

Mr. COLFAX. I have his card, published in the St. Louis Democrat, in which he says it cost more than sixty thousand dollars. He says that the price paid per day for labor was not accurately stated in the report of the committee, that it was stated too low in that report.

Mr. KELLEY. I would like to ask the gentleman from New York whether he has ever seen evidence of the truth of these facts outside the report of the committee.

Mr. DIVEN. Certainly not. All I say is that if these facts are not as stated in this report, the committee have imposed false testimony upon us, and if they have, in God's name let us punish them. But if the report of this committee stands correct, then these men have been guilty of one of the grossest frauds and peculations upon the public Treasury that can be shown in the history of the country.

Mr. STEVENS. I wish to ask the gentleman from New York whether he has read the testimony of General Frémont upon this subject, given before the committee on the conduct of the war.

Mr. DIVEN. Yes, sir.

Mr. STEVENS. Then the gentleman is aware, I presume, that General Frémont states that he directed General McKinstry, the regularly authorized officer of the Government in the quartermaster's department, to reduce this account to the proper prices and to report the amount to him; that those prices were reported, and the amount so ascertained paid.

Mr. DIVEN. No, sir. He states that he was very much occupied with other matters, and that he referred this account to McKinstry to do what was right, and pay what would be a fair equivalent for the work with a moderate profit. But, sir, there was no contract at all.

Mr. STEVENS. I ask the gentleman to allow me one word more. General Frémont in his statement before the committee on the conduct of the war, says:

"Six thousand men were employed upon it, working night and day, and it was finished rapidly in a workmanlike and durable manner. Extra pay was allowed to the laborers, forty cents per day, I think, and extra expenses incurred under the pressure authorized. I was satisfied with him, and the work done by him. I asked no bond from him, because he was a stranger and could give none. He began his work before the contract was made; an accident delayed its execution by General McKinstry. When the prices for his work were under discussion and were referred to me by General McKinstry, I directed this officer to re-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. WEDNESDAY, APRIL 23, 1862. NEW SERIES.....No. 110.

duce them to what was just and reasonable to both parties, having reference to the circumstances under which the work was done, and the extra prices that have been paid, so as to leave the contractor what might be strictly a fair profit on his labor, and his decision was approved by me."

Mr. DIVEN. Yes, sir; that is what General Frémont says.

Mr. STEVENS. Under oath.

Mr. DIVEN. Yes, sir; under oath. But he does not contradict the statement of the committee of this House at all. He does not contradict the statement that this amount of money was paid for the work done, as stated by the committee at all. On the other hand, he corroborates the fact charged in the committee's report that this money was paid without contract, without estimate, without the expenditure of the labor for which the money was paid.

Mr. KELLEY. With the permission of the gentleman from New York, I wish to say that he admits that he has not read this evidence any where else than in the report of the committee, and yet he proposes to found a suit upon it. I ask him whether he does not know that the committee which he mentions, after having had demonstrated to them that a party whom they had charged with stealing $140,000 from the public Treasury had never handled or had access to a dollar of the money, and had accounted for every dollar for which he was accountable, and had settled his account, still maintained, in set speech, the allegation contained in that report?

Mr. DIVEN. I cannot have my time taken up by any defense of Alexander Cummings at this moment.

Mr. KELLEY. I want to know whether the gentleman bases his resolution upon the report of such a committee?

Mr. DIVEN. I will discuss that question with the gentleman at another time. I know the friends of Frémont have occupied a great deal of time in shielding him from the accusations that have been brought against him. I know that the columns of one of the most influential and widely circulated newspapers of the country have been employed for the same purpose. I know that one of his aids has occupied an hour of the time of this House for the same purpose. I know that General Frémont himself has been before a committee of Congress, and attempted to reply to the charges against him; and yet the damning fact remains undenied that he made a draft for $170,000 upon the Treasury of the United States to pay for work which had never been done. That, sir, I know is the testimony reported by this committee, which I know to be uncontradicted, and of which I have heard no explanation, although I have been personally to friends of General Frémont, and asked for an explanation. I have nothing to say in reference to the charges against his military conduct, for I know nothing about them. I profess to know nothing about military matters, and I do not, therefore, profess to know how General Frémont's military operations ought to be conducted. But I do know in reference to these alleged drafts for this immense amount of money without the forms of law, without the requisitions of law; I do know that that remains, down to this day, unexplained.

Now, sir, I do not propose to go into a full history of these transactions. I am willing to make a fair and reasonable allowance for night work and for the hurry under which this work was done; but I know that no such difference could be made as this. But that is wholly unimportant, in comparison with other aspects of the payment of this money.

There was no reason why a contract could not have been made in advance for this work. But, sir, these drafts were not made upon any contract, for there was none. Mr. Beard had scarcely commenced his work before General Frémont made a draft, because he said it was necessary; in a few days another draft was given because Mr. Beard said it was necessary; and so he went on making drafts, until they had reached the amount of $171,000—not for any work done, but because the so-called contractor said it was necessary he should have the money.

I am warranted, then, in saying that the money had not, by any possibility, been earned at the time these drafts were made. I am warranted in saying that there was no great urgency for paying for this work in this way because Kepler swears that he had no difficulty in employing laborers in the city of St. Louis, and because the apologists of General Frémont upon this floor—when making his apology for not doing the work with the soldiers under him, as these works are ordinarily built, without extra cost to the Government—give the excuse for doing it by contract, that there were a great many people in the city of St. Louis, in consequence of the war, thrown out of employment. Well, sir, I have the opportunity of knowing that that was true. I know that about that time, men employed upon the railroads, in consequence of their being stopped, were thrown out of employment, who could have been employed night or day, doubling the gangs as often as required, for very low compensation. But that, it seems, has nothing to do with the matter. These extraordinary sums of money were, I repeat, advanced before the work was performed. They were advanced, not upon estimates, but upon the statement simply of Mr. Beard, who had not even a contract, that it was necessary to prevent the work from being stopped. Under these circumstances $170,000 was taken from the Treasury, while the poor soldiers went unpaid of their monthly wages. That is the state of the case, or else the report of this committee is egregiously false.

But, sir, when General Frémont's last draft was presented, he was informed by the paymaster that there was no contract on which it could be paid, although all these advances had then been paid. After the paymaster had raised this objection, a contract was brought to McKinstry—brought by this man Beard himself, in all probability—and in proportion so monstrous that even McKinstry could not stand it, and he therefore greatly reduced it. I should like, as a contractor—for I have had some experience in that line myself—to see that contract before it underwent that trimming process by McKinstry. I say, as a contractor who has done work like that, that this work was paid for at a rate four times on the average more than the work was worth. But what ought it to have cost? I can suppose, on a stress of circumstances, money may be extravagantly wasted, and paid even at that rate; but the man who wastes it ought to know whether the work was done before he pays for it.

But this contract was made at these fabulous prices. As a specimen, I will give one of them: $100 a thousand feet, board measure, for the timber used in these forts, for stockades and other purposes in the construction of these works. I know about St. Louis and the country in the vicinity. It is surrounded with timber. The whole river bottoms are covered with timber. Nowhere else can it be procured so cheaply.

Mr. WHITE, of Indiana. Is the gentleman from New York aware that at the time Major General Frémont had employed every saw-mill within fifty miles of St. Louis for the purpose of procuring the timber necessary for the construction of the gunboats which have since gained us so many noble victories on the lower Mississippi river?

Mr. DIVEN. The gentleman has stated that General Frémont had employed all of the saw-mills within forty or fifty miles of St. Louis for the purpose of building gunboats as a reason why lumber was scarce at that time. Take that for granted: does not the gentleman from Indiana and this House know that sawed timber is not necessary in the construction of these forts? If he does not, then I now tell him so.

Mr. WHITE, of Indiana. This contractor had to send forty or fifty miles for the timber that he needed.

Mr. DIVEN. I would remind the gentleman that an abundance of the required timber could be procured within ten miles of St. Louis. No one need tell me that it was ever necessary to pay $100 the thousand feet for lumber in the neighborhood of St. Louis, for it is growing in the greatest abundance all around there. Nobody need tell me that there was any real necessity to send off forty or fifty miles for lumber. Nobody need talk to me of the inconvenience of obtaining timber for the construction of forts at St. Louis and the neighborhood.

Now, sir, let me proceed with the history of this transaction. After this enormous sum had been thrown away under the pretense that there was a contract when there was none, after $171,000 had been paid under a pretended contract, when no contract was existing, these fabulous prices were paid. In justice, I must say that the committee of this House, in fixing those prices, have committed some errors. In the estimate they have included the prices as though they applied to the cubic measurement, when it should have applied to the superficial measurement of the embankments. After making a large allowance for the energy and the dispatch with which the work should be done, after making every proper allowance, I say that the price paid for this work was fabulously high. But that is immaterial. I propose to confine the contractor, if an officer of the Government should make a contract at these extravagant prices, to those prices. I would give the contractor the prices which the officer of the Government agreed to pay him; but then I want the work to be measured. I want to know how much timber there is in these forts; I want to know the amount of excavations made in the building of the forts by engineer's rod and line and calculation. Then I want to hold Mr. Beard and Mr. Frémont to the letter of the contract. If there is anything due to Mr. Beard, I want to pay it to him. If he has overdrawn according to the terms of the contract, I want him to pay back the amount he has overdrawn. That is what I ask, and that is the object of this suit. I bring it against John C. Frémont and Mr. Beard for so much money received from the Treasury of the United States without a just equivalent. I ask my colleague whether he would demur to a declaration drawn for such a suit?

Mr. ROSCOE CONKLING. As a fancy sketch, I think that that would be a very good declaration.

Mr. DIVEN. I ask if it is a fancy sketch when the commander-in-chief draws one day for $60,000 because the contractor says he wants it, and the next day for $66,000 because the contractor says he wants it, and then four days afterwards for $40,000 more because the contractor says he wants it, when there is no contract under which the party could have been paid, when the price has not been fixed, and when there has been no estimate of the amount of work done. Is that drawing on the imagination? I take John C. Frémont's own hand-writing upon which to base my calculation. Who has made these estimates yet? If Mr. Frémont has authorized that sum of money to be paid out of the Treasury, then let the work be measured to see whether it has been properly paid. I say measure the work if no wrong has been done, and let us have the result. Why have not the friends of Mr. Frémont, who have been so anxious to clear him from all blame, measured the work, and shown that even under the extravagant prices fixed, this contractor was entitled to what he has received? But he cannot be entitled to it.

But that is not all; gentlemen will remember the visit of the late Secretary of War to St. Louis. We know that that Secretary has since been sent to Siberia, I presume for some political offense, but that is a kind of punishment by-the-by which would rather encourage than discourage crime. He visited St. Louis. He saw these fortifications, and he saw the manner in which the money had been drawn, and he gave instructions that no more money should be drawn on that account. But, sir, hardly was his back turned homeward when another draft for $60,000 was made on account of this work and given to this very man Beard, who had got already three times what the work ought

to have cost. He was admonished by the Secretary of War to expend no more money on these fortifications. He is told that all of the money is to be applied to the current expenses of the war. In defiance of these instructions, without any estimate to show that this man was entitled to it, without any proof that anything was due to Beard, he draws arbitrarily another order for $60,000 more. And I believe that he made another draft for $30,000. Then if all of his drafts have been honored, there will have been $230,000 paid for building these five forts, when it was sworn before the committee that five larger ones were built for $60,000. Suppose it was a mistake; suppose they cost more; suppose the laborers are yet to be paid: that does not get rid of the discrepancy in this case.

Here is a monstrous discrepancy, and here was a payment of money upon a principle which would bankrupt any nation in the world. Think of it! Here was a work undertaken that it was supposed would cost $60,000 or $100,000, or I do not care how much, and in defiance of the rules and articles of war requiring no money to be paid except upon vouchers furnished, large sums of money were advanced to the contractor, all upon the mere *ipse dixit* of the contractor that he wanted the money! If, sir, the friends of Mr. Frémont wish him to lie under this imputation they mistake their duty and their obligations to him. If he was justified in making those drafts for that payment, then a court of law and a jury of his country will so find, and he will stand exonerated before the world. If, on the other hand, there was no justification for those drafts, and for this expenditure of money, the Government has a just claim against those men who obtained it, and we are derelict in our duty if we do not take measures to secure it. What, in the name of Heaven, is the use of our sending a roving commission over the country to ferret out frauds and to expose waste, if, when waste is exposed, we do not adopt means to remedy it.

Sir, in my humble opinion, we make ourselves *particeps criminis* if, with these facts staring us in our faces, based upon testimony of the positive character that this seems to be, we refuse to take measures to right the wrong. Let no tenderness for the reputation of any man stand between us and a rigid performance of our duty in protecting the Treasury of our country against peculation. Every man has his friends, and few more than John C. Frémont. I do not believe that another man lives in the United States of America who could have made these drafts and escaped—not one. I know his hold upon the people of the country. I know how strongly the affections of the people are wound around him. I know how difficult it is to make men believe that he is anything but a pure, upright man, who, in places of trust, will guard the interests committed to his charge. Long I entertained that opinion of him. I continued to entertain it through all the charges made against him of military incompetence, until I saw this testimony; and I say now that this testimony stands and must stand against him until an investigation shall be had. If he is innocent and has a justification, then he suffers nothing by a trial before a jury of his country. I ask that for him and for the Treasury of the country. I ask it that it may be a barrier against future peculation. I ask it in the name of simple, common justice. I ask it with a view to damage no one. I ask it because it is right. I ask it because no apology has yet been offered for this act. Suppose he did, after he had made those enormous drafts, tell Mr. McKinstry to fix the prices at the rate he thought right, that does not justify the making of the drafts. The mischief had been done before. Enormous sums had been abstracted from the Treasury before he ever thus acted. No excuse was made. No other evidence has ever been brought to light to show that even under the prices fixed by McKinstry, which it is supposed guided Frémont afterwards; there is no evidence which shows that, even at those rates, Beard is entitled to another cent under the contract. From what I have heard descriptive of the amount of earth in these works, there can be no approach to such an amount due him, and Frémont's drafts for something like one hundred thousand dollars, remain yet dishonored. Let us measure this work; let us have a trial, and see what is due. If the contractor has been overpaid, let us get back the surplus; if he has not been paid enough, let us be honest and pay what is due. That is all I ask.

Mr. COLFAX. Mr. Speaker, there is one thing that I can say for the enemies of General Frémont, and that is, that they exhibit a persistency in their malignity that is worthy of a far better cause. Why slept the thunder of the gentleman from New York during the five months that Congress has been in session?

Mr. DIVEN. The gentleman will allow me to correct him. This resolution was introduced by me the very day that I read the report of the committee, and I have been watching for its turn ever since. I have not the knowledge of the rules that the gentleman from Indiana has, and which might have enabled me to have brought it forward at an earlier day.

Mr. COLFAX. The explanation is poorer than if the gentleman had answered with silence. He was a prominent member of the New York State Senate before he came here, and must have been familiar with parliamentary rules. We have had opportunities for general debate often in this Hall during this session, and he has had ample opportunities to make the speech which he has made here to-day; but the gentleman waits, as the enemies of Frémont did last fall, until he has taken the field in front of the enemies of his country, and then comes into the Council Chamber of the nation and strikes his arrows at his back. I ask you, in the name of common justice, if it is not time to leave this man alone until the end of the war, and then punish him, if you will, if he can be proven guilty, until the malignity of the gentleman from New York is sated to its fullest extent.

The gentleman said a few moments ago that when he read the report of the committee, he made up his mind against Frémont. I met him in the city of New York before the evidence had been published officially, and when he had seen nothing but the telegraphic dispatches about it which were sent over the wires, and he told me then that he had lost confidence in Frémont. That was before Congress met, and before the committee laid their report before this House, and was based upon mere newspaper statements.

Mr. DIVEN. Does the gentleman say that I said anything of the kind?

Mr. COLFAX. I do. I thought the gentleman was listening to me; but I will repeat what I said. I say that before Congress met, and before the committee made their report, I met the gentleman in the city of New York, and he told me then that he had lost all confidence in Frémont.

Mr. DIVEN. I have no recollection of meeting the gentleman there.

Mr. COLFAX. Yes, sir; it was at the St. Nicholas hotel. I remember exactly the place where we discussed the matter. I am sorry the gentleman's recollection does not accord with mine, for I am positive about it.

Now, sir, if the gentleman from New York desired to put this man at the bar of a criminal court for trial, why did he not seek the opportunity, by appealing to the President, or the Cabinet, or to Congress, when General Frémont was not in active command against the enemies of his country?

Mr. DIVEN. I did.

Mr. COLFAX. Why did he not use his potential influence in this House to demand that investigation? Why did he wait until now, seeking, as it were, to make him appear a criminal before the country, to rob him of his influence in the department assigned to him by the President, and to destroy the confidence of his soldiers and of the people in him, by digging up again the old story about the fortifications at St. Louis, unearthing it here, and attempting to clothe it with sufficient dignity to take General Frémont away from his troops, and put him upon his defense?

Mr. DIVEN. I do not propose a criminal proceeding, but a suit at law.

Mr. COLFAX. The gentleman does make him a criminal. A proceeding of this sort, indorsed by the American Congress, would virtually brand him as a criminal.

I expressed myself fully as to this fortification contract six weeks ago, in the debate between the gentleman from Missouri and myself, when General Frémont was not in an active command. I said then that I believed the terms of this contract were extravagant. I told the friends of Frémont so because I believed it, and because I would not vindicate him at the expense of my own convictions and my own conscience. I think that too much money has been paid to these men, more than ought to have been paid them. But there are two things to be mentioned in palliation. In the first place, unlike other contracts for which money has been taken out of the Treasury, and from which no substantial benefit resulted to the country, there was something substantial, in a military point of view, resulting from this. And let me tell the gentleman from New York, that when he goes home to his constituents and talks to them in opposition to Frémont, they will tell him that they would rather see money taken out of the Treasury, even extravagantly, for fortifications, than see it taken for contracts of other kinds with which other departments have been connected, and in regard to which the gentleman seeks no investigation and no trial before a court at the hands of the Attorney General. Everywhere else, in every other department, mistakes that have been made in the purchase of horses, clothing, and other supplies, have been leniently treated—the public making allowances for the haste with which things had often to be done, the vast amount of business devolved on their heads, the unprepared condition of the country, and the fact that our governmental machinery was intended for peace and not for war. But with Frémont it has been different. Every possible attack has been made on him, and no allowances made for his exigencies.

I think, Mr. Speaker, that the price paid for these fortifications was extravagant; but look at the circumstances under which they were contracted for. Frémont was about leaving St. Louis with his army in pursuit of Price, seeking to rid the State of Missouri of the scoundrels who had brought it into insurrection, and to restore it to loyalty. He knew that St. Louis was threatened, not only by attack from without, if his line at the south or southwest could be broken through, but was also threatened by secessionists in St. Louis. I saw even the other day that so much disloyalty still exists there, that guards had to be placed around the residences of women in St. Louis who moved in what are called "respectable circles," because, when the sick and wounded soldiers from Pittsburg Landing came up, with captured rebel soldiers, these women waved flags and handkerchiefs from their windows, and hurrahed for Jeff Davis. Frémont, knowing that he was about to leave the city, and to start with his army on a long and difficult march, thought it necessary to have fortifications erected, as speedily as possible, to defend St. Louis from foes without and foes within. Without hesitating sufficiently to drive a hard bargain, and to try and save as many sixpences as possible, he made this contract. He felt that he would save more money to the Government by dispensing with the necessity of leaving a large number of men to defend St. Louis than he would by erecting these fortifications. Remember that one man behind fortifications is worth half a dozen men without them, for the defense of a city; and then estimate the saving in the pay of the soldiers who could thus be dispensed with, and let that be offset against this "extravagance." I agree with the gentleman from New York in this one thing, that the price paid for this work was too high. But, sir, the army of the Potomac has cost $500,000,000, and has not yet chased the enemy as far as the army of Frémont did. It has cost nearly as much to take the army of the Potomac down to Fortress Monroe and Yorktown—which, I presume, knowing nothing about military strategy, must be the best movement that can be made, though I much preferred what is understood to have been the President's preferred plan—as the whole expense of the "hundred days of Frémont in Missouri." I think that if the gentleman from New York desires to punish General Frémont, he ought, at least, to wait till the war is over, and then appear and act as prosecuting attorney on behalf of the United States.

The gentleman from New York says that any other man but Frémont would have gone down under the attacks made upon him. In that I concur with the gentleman. I think it is true. I think that if these poisoned arrows had been showered on any other general than Frémont he would have gone down under them. General Frémont was attacked through the telegraph, attacked through committees, without having an opportunity to

defend himself. There has been committee after committee spreading *ex parte* evidence before the country and the world, without ever saying to him, "Here are charges against you: have you any explanation to make? If so, come before us, and you shall have an opportunity to vindicate yourself. You can look these witnesses in the eye, can cross-examine them, and can bring forward witnesses, if you please, to explain these things if they are susceptible of explanation." Instead of that, these *ex parte* reports have been spread before the country, and General Frēmont has not had that opportunity which the humblest man in the land should have to defend himself. All this was done, just as if the charges were unanswerable, undisputed, and as if there could be no explanation.

I saw the other day a report made by a gentleman whose services to the country I esteem, and whom personally I have admired—I allude to Hon. Joseph Holt, of Kentucky—condemning Frēmont for forcing the banks of St. Louis to supply money for his army, and declaring positively that no explanation of it had ever been given by him. If Mr. Holt had read the letter of General Frēmont to the President of the United States at that time, published, too, nearly a month before his report was, he would have found a full explanation of it. He would have seen that General Frémont told the President that he had no money to pay his troops, that they were in a state of mutiny, and that the only way to procure money was to get it out of the sub-Treasury, or force a loan out of the secession banks of St. Louis. As I understand, the President never dissented from the views expressed by General Frēmont in that letter; never said that he should not resort to such means. Having thus notified the highest officer of the Government of his reasons, he obtained the money in this way; and now Mr. Holt comes out and says that no explanation of the act has ever been made, and on that erroneous statement of his own proceeds to condemn him. Here is the proof of what I assert, in a letter from Frēmont to the President, July 30, 1861:

"*Our troops have not been paid, and some regiments are in a state of mutiny*, and the men whose term of service is expired generally refuse to enlist. *I lost a fine regiment last night from inability to pay them a portion of the money due. This regiment had been intended to move on a critical post last night.* The Treasurer of the United States has here $300,000 entirely unappropriated. I applied to him yesterday for $100,000 for my Paymaster General Andrews, but was refused. We have not an hour for delay. There are three courses open to me. One, to let the enemy possess himself of some of the strongest points in the State, and threaten St. Louis, which is insurrectionary. Second. TO FORCE A LOAN FROM SECESSION BANKS HERE. Third. To use the money belonging to the Government which is in the Treasury here. Of course, I will neither lose the State nor permit the enemy a foot of advantage. I have infused energy and activity into the department, and there is a thorough good spirit in officers and men. This morning I will order the Treasurer to deliver the money in his possession to General Andrews, and will send a force to the Treasury to take the money, and will direct such payments as the exigency requires. *I will hazard everything for the defense of the department you have confided to me, and I trust to you for support.*"

Mr. MALLORY. Will the gentleman from Indiana allow me a remark?

Mr. COLFAX. Certainly.

Mr. MALLORY. In view of the facts just mentioned by the gentleman from Indiana, it occurs to me that that gentleman, who is the friend of General Frēmont, ought to desire, by all means, that General Frémont should now have an opportunity of coming before a court of justice and proving that he has not embezzled public money, that he has not taken money without warrant of law, that he has acted justly and honestly and patriotically in those matters wherein so much fraud is imputed to him by this investigating committee. I understand that that is virtually the proposition made by the gentleman from New York, [Mr. DIVEN.] It occurs to me that the last thing which the friends of General Frémont should do, who have heretofore complained that investigation was stifled, and that he was deprived of bringing witnesses before the committee to prove his innocence, is to object to a process by which he would be enabled to appear before a court of justice and defend himself from these charges.

Mr. COLFAX. My friend from Kentucky has been rather long in stating his point, but I will answer him very briefly. He, like myself, has confidence in the President of the United States. The President is the Commander-in-Chief of the Army and Navy. He makes generals and he unmakes them. He puts some up, and puts others down. On charges made against Frēmont he deposed him. From evidence submitted by that general before the committee on the conduct of the war, the President, as I understand, and as I presume from his act, has become satisfied that these charges were not worthy the dignity he first supposed they were entitled to. At all events he has reinstated General Frēmont, and has intrusted him with an important command. From that I think he is satisfied with the vindication of General Frēmont. And I have not heard that anybody, even Frémont's bitterest enemy, ever charged him with embezzling a dollar of the public money for his benefit.

The gentleman from Kentucky will allow me to say further, in all kindness, that the friends of General Frémont—of whom I claim to be one—need hardly be expected to look to those who are inimical to him for suggestions as to what justice requires at their hands. The gentleman from New York told us a little while ago that the friends of General Frémont ought to have demanded his trial. So they might, if there were any substantial charges affecting his honesty properly brought, upon which an impartial hearing could be expected; but not upon such a resolution as this, offered by a gentleman who, in his speech advocating it, prejudges the case and condemns the man he attacks before trial.

Mr. DIVEN. If the gentleman will allow me, I want to refer in this connection to a remark used some time ago by the gentleman from Indiana. I desire to disclaim most expressly what I understood the gentleman to impute to me, and which I presume the gentleman intends now to impute to me, that is, malice. Now, in God's name, how can I entertain malice to a man who is an entire stranger to me?

Mr. COLFAX. I am glad to know the gentleman does not. I supposed from the introduction of this resolution and the speech he has made upon it to-day, that he did entertain hostile feelings towards General Frémont.

Mr. DIVEN. No, sir; I expressly disclaim any such sentiment or feeling. When this resolution was introduced, General Frēmont was not employed at all in the field, nor was he in the service of the country at all, and I proposed this as the most practicable method I could devise of obtaining an impartial investigation.

Inasmuch, however, as the circumstances are now changed in that respect, I would not be willing to do anything that should take him from his official duties or to embarrass him in command. I will, therefore, if I have the opportunity, so amend the resolution as to leave out the name of General Frēmont altogether, leaving the suit to be prosecuted against Mr. Beard, who has pocketed the money, and that he shall receive all that his contract, whatever it is, would allow him.

Mr. LOVEJOY. The gentleman from New York will allow me to say one word.

Mr. COLFAX. I am upon the floor, and do not like to give away all the brief hour I am entitled to.

Mr. LOVEJOY. Just one word.

Mr. COLFAX. Well, go ahead.

Mr. LOVEJOY. The gentleman from New York thinks it is utterly impossible that he should entertain any such feeling as malice, and supposes there can be no reason for entertaining any such sentiment on his part. Mr. Speaker, the gentleman will remember that Juno entertained malice towards the Trojans and towards their stern goddesses, because her charms had been once rejected. Now, the gentleman may have some similar reason for denying that he entertains malice.

Mr. DIVEN. I would like very much to have the gentleman make the application of his allusion. I really cannot comprehend it.

Mr. LOVEJOY. I recommend the gentleman to study Virgil.

Mr. DIVEN. I am afraid it is rather late in the day to commence my classical education. [Laughter.]

Mr. COLFAX. I am very much gratified to learn that the effect of what I have said has half converted the gentleman from New York, as I perceive it has done, so far as to induce him to strike out half his resolution, the part referring to the general at whom his speech was aimed. Now, if the gentleman will go a little further and strike out the other half, I think it will secure a pretty unanimous vote of the House. [Laughter.]

Mr. LOVEJOY. I ask the gentleman to allow me for a moment. I do not want to make any speech, but I wish to say a word particularly upon this point. It does seem to me that when this perepatetic inquisitorial committee has finished its perigrinations over the country, done up its work, got all its victims into the cell, and tortured them with thumb screws down there as much as it desires, it then ought to follow the practice of the old Spanish Inquisition, bring them all out *en masse* and have one general *auto da fe*, instead of bringing them out piece-meal every week, and first torture the victim by burning off one hand, then sending him back, then bringing him out and burning the stump, and then burning off the other hand. I am tired of this protracted torture. I want to see them all brought out, burned up at once, and have the thing done. [Laughter.] I think it is exceedingly inopportune, when these generals are now in the field in the face of the enemy, to be continually bringing up these cases and hounding down these men. If it is not malice prepense, it is something that looks very much like it.

Mr. COLFAX. I had almost concluded what I had to say in reply to the gentleman from New York. But before I take my seat, however, I will add a single other remark in regard to another one of his statements. The gentleman told the truth when he said that no other general could have stood up under all the charges that have been brought against General Frēmont. Sir, it is true; slanders have fallen on him as thick as the leaves of Vallambrosa.

Mr. DIVEN. The gentleman will allow me to correct him. He has repeated that statement before. I did not say that any other general would have fallen under the attacks that have been made upon General Frēmont. I said that any other general would have fallen under the exhibition of the proof which is exhibited against General Frēmont. That is what I said.

Mr. COLFAX. I confess I cannot see the substantial difference between the statement I have made and the correction made by the gentleman; but I will not quarrel about words. I say to the gentleman that it is because of the belief of the people of this country in his patriotism, a belief that no mountain of slander can crush out, that he has not been stricken down by these attacks upon him. I do not believe that he is perfect. I believe that, like every other man, he is liable to mistakes. I do not claim infallibility for him. I believe he made a mistake in reference to the price paid for these fort contracts. I believe, however, that other generals have made far greater pecuniary mistakes. I know also, that in reference to his pontoon-bridge building, of which Judge Holt speaks in his report as a magnificent folly, that it was prepared in view of a plan which was not carried into execution, for reasons that I cannot disclose here, as the war is not yet over, and which would otherwise have been not money thrown away. And I sincerely believe, if there had been half even of such a pontoon bridge on the Potomac upon a subsequent occasion, the people of the country would have been willing to pay for it, even, if needs be, by private subscription, rather than to have seen the gallant soldiers of the country driven into the Potomac and murdered by the enemy after the reverse at Ball's Bluff, while attempting to escape to the opposite shore.

There are many other things for which General Frēmont has been arraigned; but when his acts are subjected to the stern verdict of history, he will be found to be a man far more sinned against than sinning.

Mr. THOMAS, of Massachusetts. The gentleman says he would not attack a general in the field. I ask him, whether, for the same reason, he should not withhold an attack upon a man in prison?

Mr. COLFAX. I have attacked no man in prison.

Mr. THOMAS, of Massachusetts. The gentleman referred to the Ball's Bluff affair, and to General Stone.

Mr. COLFAX. The gentleman does me injustice if he supposes I attacked any one in that connection. I made no reference to General Stone or General McClellan, or the then Secretary of War, or to anybody else, as responsible for that sad disaster. But, sir, whoever is responsible for the

passage of that army over the Potomac, with but two scows as the only means of crossing the river; whoever is responsible for the darkness and desolation brought into the households of so many families in the land, I would not exchange positions with him for a coronet of rubies and diamonds. I would not have upon my skirts the blood thus needlessly spilt upon that disastrous battle-field for all the gold of California or the mines of Golconda. I do not say who is responsible; for, with the imperfect evidence on that point, I do not know positively. But I do say, that if what Judge Holt calls this magnificent folly of pontoon-bridge building had been performed here before the battle of Ball's Bluff, the women of the country, if they could have looked prophetically into the future, would have paid for it with their jewels before they would have permitted the sacrifice of the valuable lives lost in that disaster.

Mr. BLAIR, of Missouri. I wish to ask the gentleman whether lives lost at Springfield were not as precious as those at Ball's Bluff?

Mr. COLFAX. The gentleman from Missouri and myself had a debate upon the subject of the battle of Springfield the other day, in the course of which I made some statements from the record in reference to the battle to which he now alludes, to which he made no reply. If the gentleman desires to reply on some occasion when the House has two or three hours to spare, I shall not object to going over the argument with him again. Yes, sir, the lives lost at Springfield were precious, and if General Frémont could have saved them, and saved Cairo too, as I proved the other day he could not, they would have been saved. The gentleman will recollect that I explained all this in my debate with him last month, quoting McClellan's dispatch about the lack of troops even to save Cairo, General Prentiss's dispatch, and the statement of Lyon's adjutant general.

The gentleman also remembers that, at the time when he was straining every nerve to reinforce Lexington, an order was received by General Frémont to send five thousand of the small force under his command to Washington. And, I might add, that we are indebted to the President of the United States that the order was not for twenty-five thousand instead of five thousand, for that was the number originally demanded to be transferred from the department of the West to the army of the Potomac at that very time.

Mr. Speaker, whatever faults General Frémont has, I am willing to admit them as readily as any other man; but I will not continue to repeat them, forgetful altogether of the very many qualities of energy, daring, and patriotism which he possesses. He says in his defense before the committee on the conduct of the war, that he fixed the prices for the fortification contract on the advice and recommendation of others. The commanding general of a large department has to do many things on the advice of others. My friend from Missouri [Mr. BLAIR] has had the opportunity to see as well as I have had, the vast amount of business, of responsibility, of care, which devolved upon the commander-in-chief of a military department like that of Missouri, Kansas, and Western Kentucky at the time General Frémont was there. It is an utter impossibility for him to investigate every contract that must necessarily be made, and scrutinize every sixpence that may have to be expended.

Mr. BLAIR, of Missouri. What business has a commanding general to make these contracts?

Mr. DIVEN. I do not find fault, if the gentleman from Indiana will permit me to interrupt him——

Mr. COLFAX. I will answer the gentlemen one at a time, unless they insist on my yielding to both at once. General Frémont was sent out there with powers of a larger character than are generally given to a commander of a department. He had received instructions from the Administration here that he should take the responsibility necessary for the preservation of the integrity of the country in that quarter. The dispatches are voluminous, and I do not know that thus suddenly participating in this debate, I can turn to the exact ones which I desire; but I will try to do so. They have all been published. Here is one of the 26th of July, 1861, from a Cabinet officer.

Mr. BLAIR, of Missouri. Read the other one.

Mr. BINGHAM. No, read that one.

Mr. COLFAX. I will read the dispatch, which is as follows:

WASHINGTON, *July* 26, 1861.

DEAR GENERAL: I have two telegrams from you, but find it *impossible* now to get *any* attention to Missouri or western matters from the authorities here. You will have to do the best you can, and *take all needful responsibility to defend and protect the people over whom you are specially set.*

Yours truly and in haste, M. BLAIR.

Now, if a Cabinet officer could not get attention paid to this matter right on the spot, is it fair to make such exacting demands of the commander-in-chief of a department? Here is a Cabinet officer speaking, as on the counsel of the President of the United States, telling General Frémont that he will have to do the best he can, and to take all necessary responsibility to defend the country.

A MEMBER. Who was that Cabinet officer?

Mr. COLFAX. Hon. Montgomery Blair, Postmaster General.

Here is another dispatch from General Montgomery C. Meigs, Quartermaster General of the United States Army:

[Extracts from letters of Hon. M. Blair, P. M. G.]

"WASHINGTON, *September* 3, 1861.

"*Meigs begged me* this afternoon to *get you* to order fifteen-inch guns from Pittsburgh for your gunboats. He says that the boats can empty any battery the enemy can make with such guns. *He advises that* YOU *contract for them* DIRECTLY YOURSELF, *telling the contractor* YOU *will direct* YOUR ORDNANCE OFFICER *to pay for them.*"

There was the authority, from the Quartermaster General of the Army of the United States, sent through a Cabinet officer, telling him to go on with the work, and that if it is necessary to make contracts, to make them, and to give his staff officer the necessary orders for proper payment. Notwithstanding this direct and positive authority, one of the most pointed charges in the recent report of Mr. Holt against General Frémont was, that he had contracted for ordnance without having the matter go through the Ordnance Bureau at Washington. Here is General Frémont's defense, patent to everybody. Here is the order from the highest officer in the quartermaster's department, sent through a Cabinet officer, for him to do exactly what he has done.

But I have not yet got through with these dispatches. If I had supposed that this debate would take place to-day, I would have prepared myself with references; but I did not expect it.

Mr. DIVEN. I am rather astonished to know what has become of the resolution which is really the subject-matter before the House. [Laughter.] I think the gentleman has forgotten it altogether.

Mr. COLFAX. If the gentleman will withdraw his resolution, I will at once leave the floor. But I am only citing these points to show the "justice" General Frémont has received, and of which the pending resolution is only another example.

Mr. DIVEN. I will amend it to the extent I have stated, but I will not withdraw it.

Mr. COLFAX. I do not ask him to do it. But to resume. Here is another telegram from Montgomery C. Meigs directed to FRANCIS P. BLAIR, none other than my honorable friend from Missouri:

"Tell General Frémont that no man more than myself desires to sustain him, no one is more ready to take the responsibility to assist him, and that he has, in my opinion, already the power which you say ought to be conferred upon him by the President. *Whatever a general commanding orders, the subordinates of his staff are by regulations* COMPELLED *to do, if possible.*

"*The general is charged with saving the country. The country will be very careful to approve his measures, and will judge his mistakes, if any, very tenderly, if successful. Success crowns the work, and* LET HIM SPARE NO RESPONSIBILITY, *no effort to secure it.*"

That was on the 21st of August. My friend from Missouri, at that time, to use an expression which fell from the gentleman the other day, was one of those who, up to that time, was "an idolator" of General John C. Frémont. Listen to what General Meigs, an old Army officer, and of much more experience in these matters than General Frémont could be expected to be—listen to what he says: "The country" "will judge his mistakes, if any, very tenderly, if successful." It was General Meigs's honest opinion they would; but experience has shown that he was not a prophet. He did not know how bitterly Frémont was to be attacked before another month even had rolled around. And this letter shows, too, and most significantly, that my friend from Missouri had, at that time, been insisting on *more power* being given to Frémont. And General Meigs closes impressively, with "LET HIM SPARE NO RESPONSIBILITY." And now Frémont is denounced by committees and others, because he complied with this earnest injunction.

I want the House to notice that every responsibility assumed by General Frémont, about which complaint was made, was rolled upon him by or through the authorities in Washington. A Cabinet officer wrote him that he, even with all the power and influence of a Cabinet minister, could not get attention paid to western business at Washington, and that General Frémont must take the responsibility, and defend the people at every hazard. General Meigs said that he need not send down here for cannon, but that he should contract for them out there, and order them to be paid for by his own ordnance officer. When he has assumed that responsibility, these attacks against him on that score, to my mind, seem to me entirely unjustifiable. He was pointedly told by the authorities here that a general is charged with the safety of his country. General Meigs wrote that letter from an honest heart; but he did not know the men of 1861 and 1862. Instead of judging of the acts of a general, under the circumstances, "tenderly," they have, on the contrary, magnified and distorted the actions of General Frémont at a trying time, so as to do his character the grossest injustice before the American people.

These attacks do not cease even now, when he has been appointed to a new department, crowded in between two others, with not a single regiment sent to reinforce him since his arrival there, because, I suppose, none could be spared from other fields, and yet in a week after he reached Wheeling, with his usual vigor, he sets in motion his advance column, few in numbers, but brave as himself, drives the enemy from his front, and regardless of odds, is already threatening Staunton. Now, while he is striving with his might and main to drive rebellious hordes from Virginia, the gentleman from New York [Mr. DIVEN] comes in to-day, upon the floor of the House of Representatives, and gravely asks us, in the face of the country, to vote for a resolution, the effect of which would be to condemn General Frémont in advance, and before he had any trial. General Meigs said that they would judge his mistakes, if he made them, "tenderly." What has been the result? They have been magnified from mole hills into mountains, his best acts misrepresented, and he himself condemned by those hostile to him without the least show of a trial. I ask nothing for General Frémont but justice. I ask that one of the generals of the American Army shall not, by the action of this House, have his usefulness destroyed in the new field of labor to which he has been sent by the President. Let not these attacks be continued, when the President, who is acquainted with all the facts involved in the controversy, has shown his confidence in General Frémont by assigning him to another department. If we love our country, if we love justice, give this man a chance to be heard before he is stricken down. Do not let *ex parte* investigations, of which there have been so many in his case, become the rule of justice in this land.

I say—and I think gentlemen will agree with me—that the expenditures of the department of the West under General Frémont, however extravagant they may be alleged to be, were economical compared with the expenditures in the other military departments, so far as regards the duty performed, the difficulties which were surmounted, and the vexatious responsibilities which had necessarily to be assumed. If we are to take any action like that which has been suggested by the gentleman from New York, let us wait until the end of the war. If the President, for good cause, strikes down General Frémont, I will not be the man to complain. When the President removed him from the command of the department of the West no murmur of complaint was heard from me. I bowed to his decision, though I regretted it. When it was understood the committee on the conduct of the war felt, after hearing both sides, that he was fit for a command, and the President gave one to him, I rejoiced, as did hundreds of thousands of others, at this act of justice. The cause of the country is dear to me—dearer to me than all personal considerations. In every effort which I may make for its safety and success, I never want it to be said that petty malice stood in the way of my duty.

General Frēmont has had no regiments sent to him since he has been put in command of the Mountain department, perhaps, as I have said, because none could be spared. Even Colonel Garfield's brigade has been removed from Cumberland Gap in his department, and ordered by General Halleck to Western Tennessee, probably, I suppose, because needed there, but, of course, postponing a movement into Eastern Tennessee. Notwithstanding that, General Frēmont has gone to work with vigor. He has pushed the enemy back in middle Virginia, and General Milroy, under his orders, still continues to advance upon him.

And now I will yield to the gentleman from Missouri, who appears to desire the floor.

Mr. BLAIR, of Missouri. I thought the gentleman had finished.

Mr. COLFAX. Then I will yield the floor entirely.

Mr. BLAIR, of Missouri. I did not expect to be drawn into this controversy upon the issue made by the gentleman from New York. I wish more particularly to reply to what I consider to be the evasive and unfair answer made by the gentleman from Indiana, who has just taken his seat. He has read to the House a telegraphic dispatch upon which he has put a construction that no man who has any familiarity with the service will bear out. It is a telegraphic dispatch sent to General Frēmont by my brother, in which he tells him to take responsibility. Another dispatch and a letter from General Meigs to myself, in which he tells him to order the officers of his staff to do what he pleases, is brought forward by the gentleman from Indiana as giving power to Frēmont to make these contracts. He had no such power. He could order his staff officers—sworn officers of the Government, under bonds to the Government—to disburse money. He could order them to make contracts, but he could not make contracts for them. That is the distinction. Sir, he could order his ordnance officer to contract for heavy guns at Pittsburgh, but he could not give a contract to a favorite of his own for guns to be made at Pittsburgh at a cost four times what the ordnance officer could contract to get them for. The very letter from General Meigs, which the gentleman has read, and in which he says "your staff officers are compelled to do anything that you order," is conclusive upon that point. Staff officers were sent to him for the purpose of supplying him with commissary and quartermaster's stores and ordnance, and he could give his orders for such stores, or such transportation, or such ordnance, but he could not buy ordnance himself and fix his own price upon it, giving the contract to his own favorite, to the exclusion of others. When any exigency arises the staff officers go into open market and buy what they want, and they are responsible to the Government for it. In the very contract made for these earthworks, there is an example of this. Frēmont sent to McKinstry, as the testimony which has been quoted by the gentleman from New York shows, a list of prices to be paid these men for building the earthworks, and there was one witness who proves the fact that this man Beard brought a contract ready drawn up from headquarters, with an order for McKinstry to enter into it, and that McKinstry put the name of the general on it to show that it was made under his order.

Now, I contend that the gentleman from Indiana has misrepresented, or misstated, I should rather say, the telegraphic dispatch which he has purported to read.

Mr. COLFAX. The gentleman certainly will not claim that I misstated it, for I read it.

Mr. BLAIR, of Missouri. He read it and put a construction on it which I say is not its fair construction.

Mr. COLFAX. It is a point for the public to decide whether I put the right construction upon it. I quoted the dispatch literally, so as to avoid the charge of misstating it, and every one who sees my remarks can read and construe it. I construe it as I think the English language authorizes me to construe it. It is a difference of opinion between the gentleman and myself as to the proper construction.

Mr. BLAIR, of Missouri. I say that when General Meigs said in that letter that the staff officers were compelled to obey the general's orders, it was just what he meant when he said in the dispatch that the general had the power. He had power, not to make contracts himself, but to order his staff officers to make them, men who had been put there by the Government on account of their especial qualification to make contracts. The quartermaster had been selected by the Government and put in that position, because the Government had confidence that he would make proper contracts for quartermaster's stores, and he was under bonds to the Government. The ordnance officer was also qualified for the particular position to which he had been assigned, and so with every disbursing officer. Every disbursing officer of the Army is under bonds to the Government for the proper disbursement of the funds placed in his hands. The general in command can order them to make expenditures, but he cannot take from them the discretion to bargain for the particular supplies needed, and whenever a general does that thing, he does what he himself knows to be wrong. And when a general sends to California and brings a troop of contractors into Missouri, and then makes these atrocious contracts with them—contracts which amount to four times the fair prices—he is defended upon this floor, and we are told that everything he has done was right, because the President has since appointed him to an important command! Now, there may have been motives for that appointment. Probably the President acted properly in reinstating him. There had been such a political issue made by certain portions of the people of the country because he was deposed from his former command, that the President may, in consideration of political influences, have reinstated him in order not to divide the people of the North in prosecuting the war upon such flimsy issues, and for that reason he put him in the Mountain department, where he could do no harm and do no good.

Mr. DIVEN. With the permission of the gentleman, I desire to correct what seems to be a misapprehension as to the gravamen of the charge or complaint upon which I would have suit brought to recover back this money. It is not because this contract was too high; I admit that if the Government makes a contract that is too high, they are bound by it; but it is that this money was paid without any contract, without any reference or regard to the contract, when no contract existed at all, and that not a cent of it was paid in reference to any work done under the contract that was measured up and estimated at all. I want, if I can get an opportunity—for, knowingly, I never will embarrass the military service of this country—and to avoid that excuse, I want an opportunity to offer an amendment by which the name of Frēmont shall be left out of the resolution entirely. A suit may then be prosecuted against Beard, in which all the facts can be investigated; and if there has been any money paid illegally, it can be recovered. And because I want to do that, there are men here who accuse me of malice, and men who talk about torturing a man to death by slow degrees. Now, here is this man Beard, with $171,000 plethoric in his pocket, and it is torture to make him give it back if he has not earned it. If my friend from Illinois [Mr. Lovejoy] calls it torture to recover back from a man money that been illegally paid to him, I have a heart for such torture as that.

Mr. BLAIR, of Missouri. I desire to say that there were motives enough by which the President might have been induced to put this man in command again, without drawing the conclusion which the gentleman from Indiana has drawn. There are a great many people in the North who believe that because this man issued a proclamation liberating two slaves, he is, therefore, the fit representative of that class of people in this war, and the clamor which they made, and the division which they threatened to make in the column of the people of the North in carrying on this war, may have sufficed as a motive for the President to reinstate him and place him in a command in which he could do no harm and no good. I saw an order published in the newspapers the other day which seems to bear out this supposition. It was an order from General Meigs, by command of the Secretary of War, to the quartermaster at Wheeling, not to make any expenditures or pay any bills whatever, except those ordered by the proper officers of the quartermaster's department, and that order was sent to Wheeling the very day that Frēmont was ordered to go there. It may have been that it was intended to guard against what had taken place in the western department.

Now, I think I have as much to complain of as any man on this floor in regard to these peculations and spoliations that have taken place in the western department. I know that these cormorants were brought in there from the four quarters of the globe, and that the character of the western people has been derogated from on account of the frauds committed by these Californian and other speculators brought in there by General Frēmont. Our whole people have been made to suffer in their pockets. Honest men who furnished supplies or did work for the Government have been compelled to wait for money six, eight, or ten months, because these plunderers from California and elsewhere were robbing the Government.

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

Mr. BLAIR, of Missouri. Yes.

Mr. COLFAX. Will the gentleman inform the House who recommended Mr. J. C. Woods to General Frēmont?

Mr. BLAIR, of Missouri. Yes. I take great pleasure in informing the gentleman. This man, J. C. Woods, came to my brother early in the spring, with a pass signed by Beauregard. He had been at Fort Sumter with the rebels. My brother employed him as a spy of the Post Office Department, to get the mails through Baltimore. That was the sort of use he made of him, and he recommended him to Frēmont in the same capacity, telling him his qualifications.

Mr. COLFAX. I know nothing about how Colonel Woods came to be on the staff of General Frēmont; but I understood, and supposed that it was not denied that he was appointed on the recommendation of the brother of my friend from Missouri. I know nothing about his qualifications. I know nothing derogatory to Mr. Woods at all, except that he was a "returned Californian," if that is an offense, and I understand he denies participating in any contracts in the western department, directly or indirectly.

Mr. BLAIR, of Missouri. I repeat what I have just said. He came to my brother in that guise, with that pass from Beauregard. My brother employed him to get the mails through Baltimore, where, as is well known, there was great trouble and difficulty at that time. He afterwards recommended him to Frēmont for his courage and ability in that respect. Frēmont had known him in California. He knew more of him than my brother did. The recommendation which my brother gave him was for the qualifications that I have named.

Mr. DAVIS. Was not Mr. J. C. Woods employed at Baltimore, where he displayed great courage and ability in managing matters for the Post Office Department?

Mr. BLAIR, of Missouri. Yes. My brother employed him as a spy in Alexandria and Baltimore. He found him a man of great capacity, skill, and courage in that particular work, and for these qualifications he recommended him to Frēmont, who put him at the head of his household.

Now, I will say, also, in regard to this man Woods, that I do not know there is anything against his character since he was connected with Frēmont. There is nothing in the testimony which impeaches his character or conduct, so far as has fallen under my observation. The only thing against him is, that he was a returned Californian, as he said, and I believe that is true. He is usually classed, but I think unjustly, among a gang of Californians who are considered—I mean that particular gang—the basest men on earth. There seemed to have been a natural affinity between them and the general commanding that department. The character of the western people was made to suffer by the bringing of these cormorants among them. I have a right to complain of that. I have a right to complain that our people were treated with gross neglect, and were injured in their business; and that the money actually due to them for labor and supplies furnished to the Government was detained from them for months and months, because of the character which those cormorants gave to the whole department.

Mr. CRADLEBAUGH. Will the gentleman from Missouri allow me to make a suggestion?

Mr. BLAIR, of Missouri. Certainly.

Mr. CRADLEBAUGH. I met those Califor-

nians on the line of the overland mail route, and I do believe that if the Government will favor the Pacific States with another such appointment as that of John C. Frēmont, there will be none but honest men left there.

Mr. BLAIR, of Missouri. I do not know how that is; but I would be sorry to have him in our country, to bring the same gang around him which he had there. We are very grateful to the President that he confined him to the mountain region.

Mr. COLFAX. As the gentleman from Nevada has taken a hand in this discussion, I desire to say that his remarks as to General Frēmont were very unkind to the gentleman from Missouri, because it was on the direct appeal of that gentleman, and by the influence of his family connections, after a long acquaintance with Frēmont, that he was put in command of the western department.

Mr. BLAIR, of Missouri. I am afraid the gentleman from Nevada was a little unkind, and the gentleman from Indiana has piled it on. I have admitted in contrition, in sackcloth and ashes, that I had some hand in his appointment and in the designation of him to that command. I do not know that I was so potent as the gentleman from Indiana intimates, and I rather suspect him of laughing at me.

Mr. COLFAX. Oh, no.

Mr. BLAIR, of Missouri. But it makes no kind of difference. I consider that I have suffered enough for that; and if God will forgive me for it, Frēmont will never get into any other command by my help. At the same time, while I was just as blind to the faults of General Frēmont as the gentleman from Indiana is now, and while I did my utmost to serve him, as he well knows, for long years, and while my whole family did the same thing, if the gentleman chooses to pick up the cast-off of anybody else, he is welcome to do so, but I think he will get as sick of him as I have got before he gets through.

Mr. COLFAX. I have not picked up the cast-off of anybody. With the gentleman from Missouri I was, in past years, the friend of Frēmont, and have kept right straight on, while it is the gentleman from Missouri who has switched off.

Mr. BLAIR, of Missouri. When Frēmont began to switch off toward these intrenchments, and to make these contracts for four times prices, I think it was about the time that the gentleman from Indiana should have switched off too. If he can go on the same track with him and defend this kind of acts, I can only say he is welcome to do so.

Now, the long and the short of this thing is, that here is a contract made, as the gentleman from New York [Mr. DIVEN] has said, without any authority at all; because, although the gentleman from Indiana has read dispatches from General Meigs and others to buy guns, these things are properly done by the staff officer who is charged with the making of contracts. It was a usurpation for General Frēmont to make such a contract, and he is responsible for doing so, instead of leaving it to the proper officer of the Government. But he chose to make this contract himself, and to allow four times the price to an adventurer from California. The gentleman from Indiana defends the act because of the necessity of the case. Why, sir, these forts are all in the city of St. Louis. They are not for the protection of the city. They are all inside the city. An enemy who would begin to make an attack on these forts would, by the very bombardment, destroy the city itself. Who ever heard of building a large fort inside the built up part of a city to defend it from the guns of an enemy? If the guns of the enemy had been planted anywhere round and had been turned upon these forts, they would have destroyed the city in bombarding the forts. But I say the city of St. Louis never was in danger except from Frēmont. The only danger we apprehended was from him. Why, sir, General Lyon never thought of building forts around St. Louis, even when he had an enemy encamped a mile and three quarters from the city. He moved out and took them, put them in the calaboose, and kept them there, instead of building fortifications at such immense cost, for which there was, as I have said, no earthly necessity, and which, if there had been, would have done no good except to make jobs for the friends of General Frēmont from California, in whom he has such implicit confidence, as he says he has in his defense.

Now, sir, I would not have myself submitted such a resolution as that now before the House, offered by the gentleman from New York. I would have been content to have left these matters for the public judgment upon the record as it is made up; but when the gentleman from Indiana undertakes to ascribe malicious motives to everybody who does not uphold the course of General Frēmont, I desire to say something in response.

Mr. COLFAX. I have not ascribed any malicious motives to the gentleman from Missouri. I am aware that, from the time the gentleman from Missouri broke with General Frēmont, last September, he has been consistent, open, and undisguised in his opposition to him. What I said was, that I thought the course of the gentleman from New York, in allowing this resolution to lie unacted on without attempting to call it up until the fifth month of the session, and until General Frēmont was again in the field, and in the presence of the enemy, looked somewhat malicious. I said nothing in reference to the gentleman from Missouri in this connection, because his opposition to General Frēmont has been open and undisguised the whole time.

Mr. BLAIR, of Missouri. I understood the gentleman to say that the whole opposition to General Frēmont was the result of malignity.

Mr. COLFAX. No, sir; I confined my remark to the resolution of the gentleman from New York.

Mr. BLAIR, of Missouri. Mr. Speaker, I claim to have acted in this matter from as high motives as the gentleman from Indiana or any other gentleman. I assail General Frēmont because I believe it to be a public duty, and for no other reason. The fact of my past friendship for him, and the fact of my having supported him, would have deterred me from making any assault upon him if I had not regarded it as a public duty to do so. Although he did endeavor in one sense to persecute me, by arrests and in various ways, yet I have never descended to assail him in any manner except where, in my judgment, the public good required it.

The gentleman from Indiana spoke the other day of the great damage done in Missouri by assailing General Frēmont in the presence of the enemy, and he now makes the same remark in relation to Western Virginia; and he commences again to complain that troops are taken away from his command at Cumberland Gap. I noticed, too, the other day, that a correspondent writing from Wheeling to a New York paper goes into the same description of sniveling about the injustice done to General Frēmont's command.

Mr. COLFAX. The gentleman misunderstood me.

Mr. BLAIR, of Missouri. I did not apply the term "sniveling" to the gentleman from Indiana.

Mr. COLFAX. I did not even complain of what had been done. I mentioned the movement of troops to which the gentleman refers, and said that I supposed it to be right. I complain of no military movements. I suppose them all to be meant for the public good, and because the public necessity requires them, even when I differ as to their policy. I made no complaint of any military movement, sniveling or otherwise.

Mr. BLAIR, of Missouri. Then I have done the gentleman from Indiana injustice.

Mr. COLFAX. I think you did.

Mr. BLAIR, of Missouri. But I have not done these letter-writers injustice at all. They have done what I attributed to them. Everywhere General Frēmont goes, these letter-writers follow on, whoever they are; and you will find them assailing the Government for not furnishing more troops, and for not furnishing them sooner, and for everything done or not done by the Government in his department. It was so during the whole campaign of General Frēmont in Missouri It was one succession of sniveling from beginning to end. And so it is now in Western Virginia. It is a continued and persistent attempt to bring the Government into contempt, by showing that they are doing this man great injustice; that they are not doing what is right to him there or elsewhere. It may be a very proper thing for an Army officer to be continually, through his friends, if not directly, assailing the Government he is professing to serve, and a very improper thing to assail him. Of that the country will judge.

The gentleman from Indiana says he has good authority for saying that the order was at first for twenty-five thousand men to be sent from Missouri to Washington at the time of the surrender of Lexington. Well, sir, if such was the fact, General Frēmont never heard of it.

Mr. COLFAX. No, sir; I said the appeal was made to the President for twenty-five thousand troops to be transferred from General Frēmont's command to the Potomac, and that we were indebted to the President for the fact that the call was for five thousand instead of twenty-five thousand.

Mr. BLAIR, of Missouri. Yes, sir; and we are indebted to the President for something more. We owe it to him that the call was not insisted on—that not one man was taken from Missouri under that call.

Mr. COLFAX. I concede that; but the call was not countermanded until four days after the order had been sent to Frēmont, and he had been striving to respond to it on the one hand, and to reinforce Lexington on the other.

Mr. BLAIR, of Missouri. There is another thing which it is very well to remember: that General Frēmont, by his own official statement, had during all this time when Price was marching on Lexington, fifty-five thousand men within striking distance of Lexington. He had in his command fifty-five thousand men within three days' march of Lexington when Price sat down before it. It was not until nine days afterwards that Mulligan surrendered, and Price remained there for ten days subsequent. For nineteen days, therefore, this force under his command was within three days' march of Lexington, and yet because of this call for five thousand men, not one of whom left Missouri under it, General Frēmont could not send reinforcements to Lexington. And this is the statement which the gentleman from Indiana says I could not answer.

Mr. COLFAX. I did not say the gentleman could not answer. I said he did not.

Mr. BLAIR, of Missouri. This call for five thousand troops never was responded to. Not one man went out of Missouri under it. Yet this is the excuse for not sending reinforcements to Mulligan, at Lexington. If there is any other excuse I should like to know what it is.

Mr. COLFAX. If the gentleman from Missouri had done me the honor to listen to my remarks the other day upon this matter, or if he had read my speech after it was printed, as I read his, he would not find it necessary to ask me now what was the reason that Colonel Mulligan did not receive reinforcements.

The surrender of Lexington took place on the 20th of September. On the 13th of September—one week before Lexington fell—as I said the other day, the telegraph wires were hot in every direction with dispatches from General Frēmont for reinforcements. He telegraphed to General Pope, who replied that he would be there with two regiments on a day named, which was two days before the surrender, and two regiments more by the next day. But he failed to reach there. He telegraphed to General Sturgis, who came down to near the north bank of the river, but withdrew in consequence of want of transportation to cross the river. He telegraphed in another direction to Jefferson C. Davis, who started his troops up the river; but they landed at Glasgow in consequence of the rumor that the enemy were there to prevent the passage of the steamboat up the river; and in conseqence of an unfortunate occurrence, to which I alluded the other day, they failed to reach Lexington. During all this time, when General Frēmont was endeavoring in every possible way to send reinforcements to Colonel Mulligan, the order came from Washington for five thousand men, requiring him to weaken his force still more. That is what I said was the reason General Frēmont did not succeed in reaching Lexington with reinforcements.

Mr. BLAIR, of Missouri. And yet the gentleman has not shown that General Frēmont was not responsible for not reinforcing Colonel Mulligan. What was the use, I ask, in telegraphing to Pope on the north side of the river, and to Sturgis on the north side of the river, when he had ten thousand men at Jefferson City, within a short distance up the river?

Mr. COLFAX. He started them up.

Mr. BLAIR, of Missouri. I say he never started them up. Their commander was not or-

dered to proceed to Lexington until after it had surrendered. He was in his quarters in Jefferson City, which he gave up to General Hunter the day after the fall of Lexington. That is the fact. Troops were in Jefferson City; seven thousand were at St. Louis, and six or seven thousand at points on the railroad within three days' march of Jefferson City. Notwithstanding that, he telegraphed to northern Missouri, where there was no railroad connection with Lexington. These are facts which are upon record.

Mr. COLFAX. Here is the order which was issued six days before the fall of Lexington, directed to Colonel Jefferson C. Davis:

HEADQUARTERS WESTERN DEPARTMENT,
ST. LOUIS, *September* 14, 1861.

SIR: As a column of the enemy's force is moving upon Lexington, you are hereby directed immediately to order two of the regiments under your command to the reinforcement of that place. Orders have already been issued to two regiments in this city to proceed to Jefferson City, and reinforce your command.

Brigadier General Sturgis, now at Mexico, will also repair to Lexington with his entire force of infantry and a battery of artillery. On his arrival, he will assume command of all the troops at that place.

JOHN C. FRÉMONT,
Major General Commanding.

To Colonel JEFF. C. DAVIS,
Colonel Commanding at Jefferson City.

Here are the telegrams to General Sturgis also on the 13th, when it was supposed at St. Louis that Price's march was on Boonville, and on the 14th, when it was ascertained that Lexington was the threatened point:

HEADQUARTERS WESTERN DEPARTMENT,
ST. LOUIS, *September* 13, 1861.

SIR: Information having been received at these headquarters of an intended attack on Boonville, you are hereby ordered to move at once, by the shortest possible route, and with all practicable speed, direct to that place with your force of infantry and artillery.

J. C. FRÉMONT,
Major General Commanding.

To Brigadier General STURGIS, *Mexico.*

HEADQUARTERS WESTERN DEPARTMENT,
ST. LOUIS, *September* 14, 1861.

SIR: You are hereby directed to move, via Utica, with all practicable speed to Lexington, on the Missouri river, with your force of infantry and artillery. You will send back the three companies of the Frémont Hussars, under Captain Blum, to St. Louis.

The most practicable route from Utica to Lexington for you will be by Austinville, Finney's Grove, and Morton.

J. C. FRÉMONT,
Major General Commanding.

To Brigadier General STURGIS, *Mexico.*

Here is a dispatch, also, from General Pope, showing that he also expected to be able to reinforce Lexington from his troops before the 20th, when Mulligan surrendered; and I may add that the dispatches show that General Pope had been telegraphed to in northwestern Missouri, where it was supposed he was:

PALMYRA, *September* 16, 1861.

To Major General FRÉMONT:

From paper just handed me I learn for the first time that important matters are occurring at Lexington. The troops I sent to Lexington will be there the day after to-morrow, and consist of two full regiments of infantry, four pieces of artillery, and one hundred and fifty irregular horse. These, with the two Ohio regiments, which will reach there on Thursday, will make a reinforcement of four thousand men and four pieces of artillery. Do you wish me to come down to St. Louis, or go to Canton and Keokuk, to finish matters in this section? The following force along this road at Hannibal: at Kansas, 480; at Palmyra, 320 of twentieth Illinois; at Hudson, 420 of Taster's men; at Brookfield, 650 of Morgan's regiment; at St. Joseph, coming east, 3,000 Iowa and Missouri irregular troops. Please answer to Quincy.

JOHN POPE,
Brigadier General.

Here is also a dispatch ordering railroad transportation for Sturgis, so as to avoid all delay:

HEADQUARTERS WESTERN DEPARTMENT,
September 14, 1861.

To T. R. HARDWOOD, *Superintendent of Hannibal and St. Joseph Railroad, Hannibal:*

Send forward at once to junction of North Missouri road the necessary transportation to move Brigadier General Sturgis, with his command of seventeen hundred infantry and a section of horse artillery, to Utica on your road. Answer by telegraph.

J. C. FRÉMONT,
Major General Commanding.

It will be seen that he orders that transportation shall be obtained and that the troops shall move on to Lexington immediately. Everything in these dispatches shows that General Frémont exerted himself to the utmost for the purpose of reinforcing Colonel Mulligan, who was besieged at Lexington.

Mr. BLAIR, of Missouri. The gentleman can publish all the dispatches, including the private letter.

Mr. COLFAX. Oh, no, I will not publish that. I have not quoted from it.

Mr. BLAIR, of Missouri. The gentleman from Indiana seems to be horrified at the idea of publishing a private letter which he has already referred to, and which has been made public by General Frémont himself.

All that I have to say is, that Colonel Jefferson C. Davis was with his command at Jefferson City the day after the fall of Lexington. I have that on the authority of a staff officer attached to the command of General Hunter, who was ordered up there, and who, when he did get there, had to wait before he could get into Colonel Davis's quarters. Frémont did order a reinforcement of two regiments to be sent to Colonel Mulligan, who was contending against—whom? Why, sir, against General Price, with a force of twenty thousand men. Two regiments from Jefferson City were ordered to reinforce Mulligan; and let me tell the gentleman from Indiana that they were from Indiana, and that when they found they were not strong enough to render the slightest assistance to Colonel Mulligan, they returned.

Mr. COLFAX. I will admit, as the gentleman charges everything on Frémont, that General Frémont ought to be held responsible for the accident which occurred at Glasgow, when the Indiana regiments, while going to reinforce Mulligan, fired upon each other in the darkness of the night. He ought, by all means, to have prevented it. I suppose that he ought to be held responsible for it; for if there is anything which can be brought against General Frémont, just or unjust, my friend from Missouri has got it. He ought to be responsible for the Indiana troops stopping at Glasgow, where they supposed there were fortifications to be reduced before they could go on, and where, as I have said, they suddenly came upon each other by accident, killing many, and throwing the regiments into confusion. He ought to be held responsible that Pope's promised reinforcements did not get down in time. He ought to be held responsible that when Sturgis came down, near the banks of the river opposite Lexington, he did not cross over, the ferry-boats having been captured before his arrival, and reinforce Mulligan. He ought to be responsible because he had not more troops. He ought to be responsible for all these things, which my friend from Missouri has so pertinaciously urged against him, whether justly or unjustly. Such, at least, seems to be the idea of those who attack General Frémont.

Mr. BLAIR, of Missouri. What I have said, and what I now repeat, is this: that fifty-five thousand men were within three days' march of Jefferson City, who could have been sent to the relief of Lexington, and I do say that General Frémont ought to be held responsible for not having sent them, and for having left Mulligan to his fate. It was utterly impossible for General Sturgis to have crossed the Missouri river—a wide and rapid river—in the face of a vastly superior force. Anybody but John C. Frémont would have known that was impossible. Here is a man who comes down to a rapid and bold stream, and there is an enemy of vastly superior force on the other side; who would ever suppose that he would be able to cross that river without any transportation whatever?

Mr. COLFAX. I do not understand military matters as well as my friend from Missouri, because I never have been the colonel of a regiment.

Mr. BLAIR, of Missouri. The gentleman understands them much better than his general.

Mr. COLFAX. I will tell the gentleman from Missouri why still more troops were not sent to Lexington. His forces at Cairo and Paducah were threatened by Polk and Pillow at Columbus, and his troops at Ironton and Pilot Knob were threatened by Hardee with fifteen thousand men. Hence, the only troops available were the troops at Jefferson City, and those on the northern side of the river. And let me add that General Pope thought reinforcements could be sent from that side of the Missouri. The gentleman's hostility to General Frémont has blinded him to the facts of the case. I say that instead of there being fifty-five thousand men within three days' march of Lexington there were only fifty-five thousand men under his command, including home guards, holding exposed points along the line of his vast department. Yet the gentleman keeps on constantly talking about this vast force within three days' march of Lexington.

Mr. BLAIR, of Missouri. For what I have said, I have taken the word of General Frémont; but I think myself he had more troops than the number specified.

Mr. COLFAX. That is, including those at Paducah and those at Cairo, who were holding an important point on the Ohio river, threatened, as they were, by a superior force just below. We had a discussion the other day of nearly four hours, which mainly turned on this point: if Colonel Mulligan was not relieved, it was because, by various mishaps, the troops did not reach Lexington, and not because Frémont did not order them there. He gathered his forces together as rapidly as he could with the means which he had. The gentleman knows that when General Thomas was there, a month later, he officially reported that the army could not move even then, because there was not sufficient transportation. Yet one month before the gentleman argues as if he had sufficient transportation to move armies with celerity.

Mr. BLAIR, of Missouri. Is not Lexington on the Missouri river?

Mr. COLFAX. Certainly it is. If he could have gathered up his scattered forces he might have got there. The gentleman knows that they could not have been got there in one day. One week before Lexington fell the general understanding was that Booneville was threatened, and the direction of the troops had afterwards to be changed. The country understands it; my friend understands it; this House understands it. This House understands the struggle which General Frémont had to make against enormous odds, and that, too, without being supported adequately with transportation. I say that there was more done with inadequate means, in the hundred days of Frémont, in Missouri, than had been done in any department in any hundred days up to that time since the war commenced.

Mr. BLAIR, of Missouri. The gentleman complains of General Frémont's want of transportation. Now, if General Frémont had expended the money which he squandered in building fortifications to defend places which needed no other defense than their own citizens, and which had defended themselves without the assistance of any outside force whatever in more trying times than any while General Frémont was in command; if, instead of devoting all his energies to hunting up jobs to fill the pockets of his California cronies he had attended to the legitimate and pressing duties of his position, he would not have wanted transportation. The gentleman says that the country understands it. I believe him. The gentleman understands it, and the House understands it; and I am willing to abide by the judgment of the country in this matter. I have no fear of what that judgment will be. If it had not been for the unparalleled extravagance of General Frémont in building these fortifications at enormous prices, and absorbing himself in other works to give jobs to his friends, transportation would have been within his reach to any extent that he chose to demand. I say that it does not lie in his mouth, or in the mouth of any of his friends, to rail against the Government on the pretense of a want of transportation; and the same sort of railing is commenced again in his new department, the same kind of sniveling is going on against the Government for not supplying proper transportation to this hero who never got within seventy-five miles of Price, who never was in the face of an enemy in his life, who never fought a battle and never saw one, and who never did anything but build intrenchments for which there was no sort of necessity, in order to make jobs for the vilest creatures that crawl upon the face of the earth.

Mr. STEVENS obtained the floor.

Mr. PHELPS, of California. I ask the gentleman from Pennsylvania to give way to me for a moment. I do not desire to make a speech. I only desire to make a remark in relation to one that fell from the lips of the gentleman from Missouri.

Mr. STEVENS. If the gentleman wants but a moment, I have no objection.

Mr. PHELPS, of California. I do not intend, sir, to make any argument upon this resolution. I am no friend or defender of General Frémont. I believe, however, that he is entitled to a fair hearing, and I should be very glad to have a fair

hearing extended to him. I rise for the purpose of noticing a remark made by the gentleman from Missouri [Mr. BLAIR] in regard to certain persons who were in his command in the West. The gentleman seems to charge everything that was done in the West to a few Californians. He censures them very severely, and uses such polite terms as "California cormorants," and all that sort of thing. Now, I have nothing to say for Mr. J. C. Woods, or Mr. Beard, or anybody else. Mr. Beard, under the direction of General Frémont, or, by a contract under Frémont, constructed certain works in St. Louis. Whether the prices that were agreed to be paid for the work were too high or too low I do not know; but this much I suspect, that these individuals have been quite as much wronged as the Government has been. The facts, as I understand them, are that Mr. Beard agreed to construct certain works, and had received a certain amount to pay for these works, which were progressing when General Frémont was deposed. The surveyor who had charge of these works was prohibited from making an estimate of the work done, and we have no evidence whatever of the value of these works, nor of the extent of them, or the amount of labor done.

Mr. BLAIR, of Missouri. The gentleman will allow me to correct him. I will say, in the first place, that I did not intend to apply my remarks to Californians in general, and I thought I had guarded against any such impression. And now, in regard to the survey of these works, a survey of the fortifications was made by an engineer officer of the United States Army, General Cullum, which is attached to the report of the Holt commission. His report shows that the value of these forts built by Beard was about sixty thousand dollars, as an outside estimate, and he has received $191,000; because he called on the quartermaster at Jefferson City and squeezed $20,000 out of him after this report of the Van Wyck committee.

Mr. PHELPS, of California. There was a certain time allowed for accounts in the western department to be sent in. The survey was not allowed to be made till after that time expired. Whether or not it has been made since, I do not know; I know that Mr. Beard and other parties were here, very anxious to have their accounts examined.

Now, so far as Woods is concerned, I have this to say for him. I know him personally. I am not going to say anything to sustain his reputation, for I do not deem it necessary. I know him to be a very energetic, enterprising man, and one of great ability. A man of greater business capacity I scarcely know anywhere either on this side or the other side of the continent. And if General Frémont did select him as his business manager, I do not believe that he could have made a better selection. I understood the gentleman from Missouri to say that he knew nothing against Mr. Woods, except that he was a returned Californian——

Mr. BLAIR, of Missouri. The gentleman from California will permit me to correct him. I said distinctly that I knew nothing of any sort against Mr. Woods.

Mr. PHELPS, of California. Except that he was a returned Californian.

Mr. BLAIR, of Missouri. I said it was stated that he was a returned Californian; but I did not allude to that as a matter of opprobrium.

Mr. PHELPS, of California. I understood the gentleman to use the expression in that sense.

Mr. BLAIR, of Missouri. I do not understand it as an allegation against any man that he is a returned Californian. I do not want to create a prejudice against returned Californians.

Mr. PHELPS, of California. These parties have been referred to very frequently in this House as returned Californians. There has been a kind of stigma fastened upon them because they were such, whether the gentleman from Missouri intended it so or not. I desire to say to the gentleman that we have a few other returned Californians in our Army. Among them I may name General Denver, General Sumner, General Davidson, General Nagely, General Hooker, General Sherman, General Halleck, General Shields, and General Ord——

Mr. STEVENS. I think the gentleman from California has made his explanation.

Mr. PHELPS, of California. If the gentleman from Pennsylvania claims the floor, of course I will give it up.

Mr. STEVENS. Oh, no; if the gentleman has a point to make, let him go on with it.

Mr. PHELPS, of California. I will close by suggesting to the gentleman from Missouri, and other members of the House, that General Halleck is a returned Californian; and I rather think that if he were to strip the Army of all returned Californians, there would be very little left of it in the way of competent leaders.

Mr. STEVENS. I remember that during the revolutionary war there was more than one cabal got up against General Washington, more powerful in their elements than those which have for some time past assailed General Frémont. The only difference was in the class of assailants. That difference is very much in favor of those who assail General Frémont. Then there were very few found trying to destroy the general of our armies except Cowboys and Tories; now, I am sorry to say, General Frémont's personal friends, and patriots of the nation, are assailing him. That is the only difference between the two cases. Otherwise they would be parallel. But, sir, the means taken to assail General Frémont are more infamous than were ever exercised toward the father of his country to destroy his reputation; and I must say here that I am astonished to find the gentleman from Missouri impeaching the conduct of the President of the United States in his restoration of General Frémont. The motive which the gentleman from Missouri attributes to the President in that appointment was not to vindicate an injured man, not to show that he disbelieved the trash and slander which have been heaped upon him. No; but the gentleman said that it had been heard in the North that General Frémont had not returned fugitive slaves to their masters, that it was supposed that that was the reason of his removal, and that in order to wipe away that impression and to gain some favor himself—if I understood anything of what the gentleman said—the President had put General Frémont into a command where he could do neither harm nor good. Now, if ever there was a more serious charge made against an honorable man in high office than that made against the motives of the President of the United States, by the gentleman from Missouri, I have yet to learn it. The gentleman has made none so bad against General Frémont, although he has joined in condemning him as a plunderer—a venial offense compared with that charged against the President of the United States.

But, sir, I was going on to state the means taken to destroy General Frémont. For some reason or other, after his proclamation declaring freedom to a few of the slaves of rebels—whether in consequence of that or not I do not know; I suppose not—there were extraordinary missions and commissions sent on his track to St. Louis. In the first instance, one was a Cabinet officer, and another an officer of the Government. After their return, another Cabinet officer was sent out, together with a military officer—the Adjutant General. The record made by him is one which would disgrace any man, if he were judged according to his merits; picking up every scrap of scandal, from what an old woman told them in Cincinnati to what old womanish men told them in St. Louis and elsewhere, and noting down these hearsay charges and these opinions of the capacity of General Frémont. A record was made of all this, without his knowledge, behind his back, and without his ever having an opportunity of presenting anything in contradiction or explanation. That paper, containing not one scrap of anything which a decent man could look upon as evidence, not containing anything which even the gentleman from New York [Mr. DIVEN] would look upon as evidence against the man he wishes to injure, was published to the world under the authority of the Department which made it. After that was done a committee, composed evidently of enemies to General Frémont, went on his track to St. Louis, while he was away, hunting the enemy, and there, without notice to him, without ever giving him an opportunity to appear before them, then, or at any other time since—for such I understand to be the general's testimony—they hunted up the evidence which they chose to take. And what is it? Among the rest, that there were returned Californians on his staff. That seems to be the great grievance of the gentleman from Missouri, that the returned Californians got the contracts, and that some other people, of course, did not, which was a pity.

But how came these returned Californians? The testimony taken before the committee on Government contracts shows that General Frémont left California on the 1st of January and went to Europe. He never has been back there since. Invited by his country to come and assist in the defense of the nation against the rebels he returned here, and reached St. Louis, I believe, late in July. This Mr. Beard left California in the beginning of August; and the general states that he had never had a letter from him nor written a letter to him, nor known that he was coming here till he saw him. And yet the gentleman from Missouri, knowing these facts, and having this evidence on record, talks about Frémont's inviting a gang of Californians to plunder the nation. Sir, such things in a pettifogger would be detestable, but in a member of this House they are respectable. [Much laughter.]

Mr. BLAIR, of Missouri. What was the gentleman's remark? I did not hear it.

Mr. STEVENS. I said that in a member of the House they were respectable, and I hope the gentleman takes no offense at that. [Laughter.]

Now, sir, I am not inquiring into the motives which induced these former friends to become such bitter enemies. It has been said, I believe by the gentleman from Indiana, [Mr. COLFAX,] that the gentleman from Missouri professed himself to be an idolator of Frémont some time ago. Well, that only illustrates by another instance, that those who forsake their idols from any cause always become iconoclasts; they are the very men to break down the images that they worshiped before, and they do it more because they have worshiped them than any other reason.

But, sir, I will examine for a single moment the testimony upon which the gentleman from New York [Mr. DIVEN] founds his charge, and asks that suit be brought against General Frémont. I believe it is not anywhere said even in that document—that record of "the school for scandal"—that General Frémont has received one dollar of the public money which he was not entitled to. There is no pretense; and except it be by the insinuations of the gentleman from Missouri—and I do not know that he insinuated it—there is no charge that Frémont was a partner in any of these contracts which have been denounced as fraudulent. It is not proved or pretended that Frémont has one dollar of the public money in his possession; and yet the gentleman from New York introduces a resolution charging that in so many words, and directing the Attorney General of the United States to sue him for the money which he has got in his possession.

Mr. DIVEN. No, sir; the gentleman mistakes the resolution. It is for the money illegally obtained.

Mr. STEVENS. Illegally obtained by General Frémont.

Mr. DIVEN. No; that is not the resolution.

Mr. STEVENS. Suit is to be brought against General Frémont and Beard for money illegally obtained by them, when, even in this record that he has referred to, he cannot find a word indicating that General Frémont has now, or ever had, one dollar of it. Why, sir, this resolution is but the proper supplement to that *ex parte* report.

Mr. THOMAS, of Massachusetts. Will the gentleman from Pennsylvania allow me to suggest that no member of the committee is present?

Mr. STEVENS. Then the gentleman from New York should not have brought up this resolution.

Mr. THOMAS, of Massachusetts. I merely make the suggestion to the gentleman.

Mr. STEVENS. I cannot be prohibited from attending to the record. That is here, if they are not. I cannot sit quiet until they come, although I wish they were present.

The committee take up one matter—and if the gentleman from New York had examined into it he would have seen what this record is worth—under the head of "buying horses," and they say that a man of the name of Sacchi, whom General Frémont had become acquainted with in the city of New York on his return, they suppose, went out there and desired to enter into a contract to furnish Canadian horses, and that Frémont directed a contract to be made with him for Ca-

nadian horses that were never furnished, and I believe they do not say that there was any money paid. The committee then go on to say that it is a remarkable fact that this same Sacchi was a member of General Frémont's staff. Now, sir, an affidavit has been made by this man who had the contract for horses, and who the committee say they suppose lived in a garret in New York, in which he says that he went out there and made his contract, I believe, through this same Mr. Woods; that he never furnished the horses, because when the time was out Frémont abrogated the contract for want of fulfillment; that he is an old man of sixty-odd years of age, who, instead of being an adventurer living in a garret, has, during the last ten years, as the records of the city of New York will show, bought and sold property in that city for more than $100,000; and that the Mr. Sacchi who was on Frémont's staff was a young Hungarian officer, who had come there but a short time before, and was but thirty years of age. And yet the committee, upon such testimony as is here in this report, go on to blacken the character of a man whose patriotism was never doubted until these people were set upon the scent by some person who had become his enemy.

Mr. ROSCOE CONKLING. Will the gentleman allow me to make a remark just there?

Mr. STEVENS. Yes, sir.

Mr. ROSCOE CONKLING. This young man Sacchi, who is named here, is, I understand, a man who has been decorated for heroic actions upon the battle-fields of Italy more than once, a man who came here following the star of freedom as the shepherds followed the star of Bethlehem, and went out into that department and joined Frémont's staff, not for pay, not for rank, but as a volunteer; a man who came here, in the language of another, "to crusade for freedom in freedom's holy land."

Mr. STEVENS. It is enough for me to know that he is not the man who made the horse contract at all. [Laughter.] And if the committee had had an honest purpose to know the truth, they would have known that; and yet they fill several pages of their report in charging that Frémont gave this contract to a member of his own staff. I ask what you would think of the testimony of such a witness found lying one day? Would you believe him on the next? You are an able lawyer and know how much credit such a witness is entitled to. You know that if he is found falsifying in one case you will not believe him in any. Yet this grave charge against General Frémont is set up upon such testimony as that.

Now, in regard to these contracts for forts it is in evidence, in the report of the committee to which I have referred, that General Frémont did not pretend to know the price that ought to be paid for such work. He set men to work on them, and they worked as our men did about this city, night and day, when it was beleaguered, or was supposed to be. And he referred the settlement of their accounts to whom? To the quartermaster general of his army, Mr. McKinstry, a man who the gentleman from Missouri will not find was appointed by the Government here under the recommendation of General Frémont, or at his sugtion. He told Mr. McKinstry to take the accounts and cut them down to what was right, and he would sanction it. That was done; and now he is charged with plundering the Treasury for paying—if they have been paid—these California swindlers and plunderers.

Gentlemen talk about time. Why, sir, it was as late as the 26th of August that a member of the Cabinet, belonging to the family of the respectable member from Missouri, wrote a very friendly letter to General Frémont, and his only complaint was that he could not get anything done for him by a perverse President and a perverse Cabinet. Now, I know not what it was that interrupted the harmony that existed between those two gentlemen; but it seems to me it would have been the same way if a set of contractors—say two, one living in Chicago and the other in St. Louis—had been recommended by certain gentlemen for a contract of perhaps $750,000 on about the 25th of August. It was refused to them, and then the feud broke out. God knows what was the cause of it. I do not. I know nothing about it. I do not believe there is anything infamous in it. I believe it is all for the country's good—the only difference being as to the proper means to be used.

Mr. Speaker, I did not rise to make a long speech. If it were proper I would move to discharge this scandal-hunting committee from any further proceedings, for I believe in my conscience that they have committed more frauds than they have detected. They are spending the country's money and scandalizing the country's best men.

But, sir, I rose to move to lay the resolution on the table, which I now do.

Mr. BLAIR, of Missouri. I ask the gentleman to allow me to say a word in reply to an allusion made to myself.

Mr. STEVENS. I will withdraw the motion if the gentleman will renew it.

Mr. BLAIR, of Missouri. I will. Now, Mr. Speaker, we all understand the way the gentleman from Pennsylvania has of doing things upon this floor. He pretends to draw an imaginary case for illustration, of two contractors, one living in Chicago and the other in St. Louis, recommended by somebody for a contract for $750,000 on the 25th of August, and that thereupon a hostility commences between certain gentlemen. We all understand very well to what he alludes. But, sir, I want to say that the only contract recommended by me to General Frémont was given by him; and if the gentleman will look in the report of the committee, he will see it spread out at length with General Frémont's indorsement upon it; so that I certainly did not fall out with General Frémont on that ground.

Mr. STEVENS. I believe it was first rejected by General Frémont, and afterwards, on his recommendation of a third party, it was given to this party.

Mr. BLAIR, of Missouri. No, sir; the gentleman is mistaken.

Mr. STEVENS. I think it is so asserted.

Mr. BLAIR, of Missouri. If the gentleman refers to a contract in which any recommendation was made by me, it was given as I recommended. There is no other assertion that I ever heard of. Certainly none that is true.

Mr. STEVENS. I think the gentleman will find, when the report of the committee on the conduct of the war comes to be published that it is as I have stated.

Mr. BLAIR, of Missouri. I suppose the gentleman from Pennsylvania has more intimacy with the committee on the conduct of the war than I have; but if they have made out a report differing from the statement I have made, they have reported what is not true.

Mr. STEVENS. I am speaking of the evidence.

Mr. BLAIR, of Missouri. If there is any evidence varying from the statement I have made, it varies from the truth to just that extent. But there is another thing. The gentleman refers to my allusion to Californians having been sent for from abroad by Frémont, and of Frémont having denied sending for them.

Mr. STEVENS. I spoke of the general allegation of Californians having been brought there by General Frémont.

Mr. BLAIR, of Missouri. General Frémont, the gentleman says, denies having brought those men there. Now, I do not know whether he sent for them from California or not, but when they came there he received them with open arms.

Mr. STEVENS. Has the gentleman read General Frémont's testimony before the committee on the conduct of the war?

Mr. BLAIR, of Missouri. I have.

Mr. STEVENS. Does not he say that he had no communication with these men before he met them in St. Louis?

Mr. BLAIR, of Missouri. I do not think it necessary to discuss what General Frémont said in relation to the matter, because there is other evidence in the case upon this point. General Frémont, being a party interested in making it appear that he did not bring these men there, is not the best evidence in the case. But what I say is, that if he did not bring them there, when they came he opened his arms to them and filled their arms with contracts of the most nefarious character. He says himself that he was on the most intimate terms with this man Beard; that he had the utmost confidence in him. I think the result shows that his confidence was misplaced, for he never paid the men who did the work, and they have not been paid to this day. This man in whom General Frémont had the utmost confidence defrauded the laboring men he employed out of their earnings, although General Frémont gave him four times the value of the work. I say, therefore, that whether he sent to California for these men or not, the manner in which he received them, the manner in which he endowed them with contracts, the manner in which he appointed some of them on his staff, and still piled contracts upon them, is sufficient upon that point.

The gentleman characterizes the committee in the severest terms because they mention the name of a certain gentleman as being upon General Frémont's staff, and still the recipient of contracts from him, when, in fact, it was another man. But, sir, there was another member of his staff who was also a contractor; and if the committee made a mistake in one instance, they did not in the other. And there were other members of his staff who were also contractors.

Now, sir, before renewing the motion to lay the resolution on the table, I desire to refer to another remark of the gentleman from Pennsylvania. The gentleman said I had made a charge against the President of the United States.

Mr. Speaker, there is no gentleman in this House who has made more flings at the present Administration, as everybody knows, than the chairman of the Committee of Ways and Means.

Mr. STEVENS. The gentleman will allow me to say that, what I have said, I have said openly. If I have made attacks upon the President, they are upon record, and they may be found. I but repeated what the gentleman himself uttered.

Mr. BLAIR, of Missouri. Yes, sir; and what I say I say openly. I have done nothing under disguise, nor have I said anything in disguise in any remarks I have made here or elsewhere. But all I proposed to say on this subject was, that it does not lie in the mouth of the gentleman from Pennsylvania, who has been constant in his assaults upon, not only the President, but the generals of the Army, to talk to me of making charges against the President.

Now, sir, in obedience to my promise, I move to lay the resolution on the table.

Mr. DIVEN. I hope that motion will be withdrawn, to enable me to move an amendment.

The SPEAKER. The gentleman from New York has the right to modify his resolution.

Mr. DIVEN. I modify it, then, by striking out the name of John C. Frémont wherever it occurs.

The question being on the motion to lay the resolution on the table,

Mr. DIVEN demanded the yeas and nays.

The yeas and nays were not ordered.

The resolution was laid on the table.

Mr. BINGHAM moved to reconsider the vote by which the resolution was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MEXICO.

Mr. WALTON, of Vermont, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

Resolved, That ten thousand copies of the President's message, of the 11th instant, in regard to the present condition of Mexico, be printed for the use of the members of the House, and one thousand for the use of the State Department.

ENROLLED BILLS.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a joint resolution (H. R. No. 67) to supply the Smithsonian Institution with volumes of Wilkes's Exploring Expedition; when the Speaker signed the same.

MILITARY CHAPLAINS.

The SPEAKER. The next business in order is the consideration of resolutions and motions lying over under the rule. The first on the Calendar is a resolution directing the Committee on the Post Office and Post Roads to inquire into the expediency of authorizing military chaplains to frank the letters and other mailable matter of all members of their respective regiments or of the employés of the Government at the military posts where such chaplains may be stationed.

Mr. OLIN moved to lay the resolution on the table.

The motion was agreed to.

MEMBERS OF CONGRESS IN THE ARMY.

The SPEAKER stated that the next resolution in order was one instructing the Committee of Elections to inquire whether a member can retain his seat in this House and hold a commission in the Army at the same time.

Mr. BINGHAM moved that the resolution be referred to the Committee of Elections.

The motion was agreed to.

Mr. HUTCHINS moved that the House adjourn.

The motion was disagreed to.

CONGRESSIONAL GLOBE.

A resolution directing the Clerk to procure for each member of this House not heretofore supplied one copy of the Congressional Globe and Appendix.

Mr. COLFAX. The adoption of that resolution will involve a large expenditure of money, and I therefore move that it be laid upon the table.

The motion was agreed to.

DEBTS OF MEXICO.

A resolution requesting the President of the United States to inform the House, if not incompatible with the public interests, whether any offer has been made by the Executive to the allied Powers of Europe, or any of them, to assume the public debt of Mexico; also, whether any offer has been made by the Executive to Great Britain, or any other Power, of the free navigation of the Mississippi, limited or unlimited.

Mr. LOVEJOY moved that the resolution be referred to the Committee on Foreign Affairs.

The motion was agreed to.

CONFISCATION.

A resolution instructing the Committee on the Judiciary to report back to the House the bill (H. R. No. 126) for the confiscation of all property of rebels, their aiders and abettors, and for the liberation of their slaves, with a section enjoining upon the commander-in-chief of the Army and upon all naval officers the seizure of all enemy's property made liable to capture by said bill.

Mr. BINGHAM. One part of that resolution has been acted on, and a bill covering the other part is now before the House as unfinished business; and I therefore move that the bill be laid upon the table.

The motion was agreed to.

MILITARY TRIALS.

A resolution instructing the Committee on the Judiciary to report back the bill (H. R. No. 119) to subject certain persons to military trial and punishment, and for other purposes.

Mr. ALDRICH. I trust that resolution will be adopted by the House. If it had been passed some time ago, we would not have enjoyed the discussion which has occupied most of this day. There would have been no necessity for any such discussion.

Mr. THOMAS, of Massachusetts. I will say, for one member, Mr. Speaker, that instead of enjoying the discussion which has taken place in this House to-day, on this subject, we have been thoroughly disgusted with it. In my judgment, this quarreling in relation to our generals now in service is equally distasteful to the feelings of the House and the feelings of the country. Attacks upon any officer now in the field, in the service of the country, are distasteful to them, whether they be upon McClellan or upon Frémont. I beg leave to say, sir, that, at this time, the country has more important duties than to give itself up to discussions of these merely personal matters. There is, it seems to me, only one analogy in history which illustrates the condition of this House, and that is the instance of the Roman emperor, Nero, who amused himself with fiddling while Rome was burning.

Mr. COLFAX. I agree with nearly everything the gentleman from Massachusetts has said; but there is something which ought to be said in addition. No friend of General Frémont has ever opened his mouth to speak of him upon this floor except in his defense. Not a word, sir, was said in his defense even, until the gentleman from Missouri attacked him. I believe, just as much as the gentleman, and the friends of General Frémont believe, that it is the duty of us all to stand by the country, and to forget men.

Mr. COX. I make the point of order that this discussion is irrelevant, and therefore out of order.

The SPEAKER. The Chair sustains the point of order.

Mr. BLAIR, of Missouri. I ask the consent of the House simply to correct a misstatement made by the gentleman from Indiana.

Mr. BINGHAM. I object. If we are to have a trial, I want a fair trial.

Mr. ALDRICH. The pending resolution was introduced for the purpose of bringing the bill to which it refers before the House, and it seems to me it is time that the House should adopt some such that measure. It has no reference to this general or to that general, to this man or to that man. It proposes to apply to those men who swindle this Government the rigors of military law. I know my friend from Massachusetts is an honest man, and I am convinced that he will vote for it. I call for the previous question.

The previous question was seconded, and the main question ordered.

Mr. SHEFFIELD moved that the resolution be laid upon the table.

The motion was disagreed to.

The resolution was then adopted.

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

The latter motion was agreed to.

And then, on motion of Mr. F. A. CONKLING, (at five minutes past four o'clock, p. m.,) the House adjourned.

IN SENATE.

TUESDAY, *April* 22, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a petition of citizens of Massachusetts, praying for the adoption of the principle of taxation suggested in a letter from E. B. Bigelow to Hon. THADDEUS STEVENS, entitled "Internal taxation simplified;" which was referred to the Committee on Finance.

Mr. COWAN presented a memorial of citizens of Philadelphia, praying that the Republic of Liberia may be recognized and treated with as an independent nation; which was ordered to lie on the table.

Mr. WADE presented the petition of E. B. Chamberlain, one of the heirs of Joshua Chamberlain, praying compensation for services rendered during the revolutionary war; which was referred to the Committee on Revolutionary Claims.

Mr. HOWARD presented a petition of citizens of Michigan, praying for the passage of a general bankrupt law; which was referred to the Committee on the Judiciary.

Mr. KING presented a petition of citizens of New York, praying for the abolition of slavery; which was ordered to lie on the table.

He also presented a memorial of the Mayor, Common Council, and citizens of Poughkeepsie, New York, praying for the establishment of a national armory at that place; which was referred to the select committee on the subject of a national armory and foundery.

He also presented three petitions of citizens of New York, praying for the passage of a general bankrupt law; which were referred to the Committee on the Judiciary.

Mr. CHANDLER presented a petition of citizens of Michigan, praying for the passage of a general bankrupt law; which was referred to the Committee on the Judiciary.

REPORTS FROM COMMITTEES.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a motion to print additional copies of the report of the select committee to inquire into the circumstances attending the surrender of the navy-yard at Pensacola and the destruction of the property of the United States at the navy-yard at Norfolk, and at the armory at Harper's Ferry, &c., reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That five thousand extra copies of the report of the select committee for investigating the facts relative to the loss of the Norfolk navy-yard, Harper's Ferry armory, and the Pensacola navy-yard, be printed, without the documents, for the use of the Senate.

Mr. CLARK, from the select committee appointed to investigate the truth of certain charges against Hon. BENJAMIN STARK, a Senator from the State of Oregon, submitted a report; which was ordered to be printed.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred the petition of James G. Clarke, praying compensation for his services as chargé d'affaires of the United States to Belgium, asked to be discharged from its further consideration; which was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. KING, it was

Ordered, That the petition of David Ogden and others, on the files of the Senate, be referred to the Committee on Commerce.

On motion of Mr. HOWARD, it was

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

BILL INTRODUCED.

Mr. McDOUGALL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 280) to amend an act entitled "An act to amend 'An act to ascertain and settle private land claims in California,'" passed June 14, 1860; which was read twice by its title, and referred to the Committee on the Judiciary.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ETHERIDGE, its Clerk, announced that the House had passed the bill (S. No. 106) to authorize the district court of the United States for the northern district of California to hear and determine upon its merits the claim of Pedro Chaboya to a certain tract of land in California, called La Posa San Juan Bautista.

The message also announced that the House had passed a bill (No. 369) for the relief of Robert M. Evans; in which the concurrence of the Senate was requested.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed an enrolled joint resolution (H. R. No. 67) to supply the Smithsonian Institution with volumes of Wilkes's Exploring Expedition; and it was signed by the President *pro tempore*.

HOUSE BILL REFERRED.

The bill from the House of Representatives (No. 369) for the relief of Robert M. Evans, was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

GENERAL THOMAS W. SHERMAN.

Mr. ANTHONY. I offer the following resolution, and if there be no objection, ask for its present consideration:

Resolved, That the President of the United States be requested to communicate to the Senate, if not incompatible with the public interest, copies of all orders, dispatches, and communications made by the War Department or by the major general commanding the armies of the United States, to Brigadier General Thomas W. Sherman while in command of the military expedition to the South Atlantic coast, and all communications made by General Sherman during the same period to the War Department and to the commanding general.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ANTHONY. Mr. President, I have proposed this resolution in justice to a gallant and meritorious officer, whose reputation is dear to many of my constituents, who has rendered the country important services, which, I doubt not, are fully appreciated by the President and the War Department, but which, from unfortunate circumstances, are liable to be overlooked in the public apprehension. I detract nothing from any other officer. I am sure that I only anticipate the report of the general commanding the department when I say that the fall of Fort Pulaski was owing not more to the vigor and conduct of the attack than to the long, thorough, and complete preparation of General Sherman, who planned what it was left for others to execute. I desire that this fact, which is already understood and appreciated by the Government and the Army, should be made known by authentic proofs to the public. It happened that General Sherman was relieved from his command, by the arrival of an officer of higher rank, at a time when, all his preparations complete, all the obstacles overcome, he was about to open upon the fort that terrible fire beneath

which its guns were dismounted and its walls crumbled to powder. In the popular mind it is natural not only that this important success should be credited exclusively to those who participated in its final achievement, but that it should be in some degree connected with the change of generals. Nothing could be more unjust to General Sherman, and nothing, I am sure, could be less acceptable to the gallant officer who has succeeded to his command and to all his plans and preparations.

I am confident that it will appear from the correspondence for which this resolution calls that General Sherman has given full satisfaction to the President and to the Secretary of War; that he has accomplished all that he was sent out to do, all that he was at any time expected to do, all that he was permitted to do; and that he has done it all well; and that, if his valuable and important services were not crowned with the brilliant and conspicuous achievement which he especially desired—the capture of Savannah—it was only because in the superior councils it was deemed best for the public interest not to permit him to do it, and he was forbidden to carry out the plans which he had fully formed and partly executed, and which could not have failed.

I shall not, I trust, be charged with a disposition to blame any one. My purpose is to vindicate, not to accuse. I have no sympathy with that temper which seeks to create distrust and dissension among the gallant officers who are leading our armies, or to animate them to any other feeling than the patriotic impulses and generous rivalry which urge them forward, all in the same great cause, all to the same glorious result. I hope the resolution may be adopted, and that the President may not find it incompatible with the public interest to furnish the information asked for.

The resolution was adopted.

HAYTI AND LIBERIA.

Mr. SUMNER. I ask the Senate now to be good enough to take up a bill, not to act on it now, but to make it the order of the day at half past twelve o'clock to-morrow. It is Senate bill No. 184, to authorize the President of the United States to appoint diplomatic representatives to the republics of Hayti and Liberia respectively.

The motion to take up the bill was agreed to; and it was read a second time, and its further consideration postponed to and made the special order for to-morrow at half past twelve o'clock.

INDIAN APPROPRIATION BILL.

Mr. LATHAM submitted a number of amendments which he intends to propose to the bill (H. R. No. 260) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1863; which were received informally, and ordered to be printed.

DEPARTMENT OF AGRICULTURE.

Mr. SIMMONS. I now move to take up House bill No. 269, to establish a Department of Agriculture.

Mr. HALE. I hope not. I think that ought not to be taken up in the morning hour. It is an important bill, and I should rather the Senator would make it an order for some other time. I, for one, am opposed to the whole of it.

Mr. SIMMONS. Do you want to make a speech on it?

Mr. HALE. I should like to take some other time.

Mr. SIMMONS. I would like to accommodate the Senator; but we may make some progress with the bill now.

Mr. SUMNER. The bill was taken up the other day, and proceeded with partly. The Senator from Rhode Island made some remarks introducing it. The Senator from Indiana [Mr. WRIGHT] also made an elaborate address on the subject. It seems to me that the Senate is already occupied with the matter. It was under consideration in the morning hour, and I think upon the whole we had better proceed with it now.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill, the pending question being on the amendment of Mr. WRIGHT, to strike out all of the original bill after the enacting clause, and insert as a substitute:

That there is hereby established at the seat of Government of the United States a Department of Agriculture, the general designs and duties of which shall be to acquire and to diffuse among the people of the United States useful information on subjects connected with agriculture in the most general and comprehensive sense of that word, and to procure, propagate, and distribute among the people new and valuable seeds and plants.

SEC. 2. *And be it further enacted*, That there shall be appointed by the President, by and with the advice and consent of the Senate, a "Commissioner of Agriculture," who shall be the chief executive officer of the Department of Agriculture, who shall hold his office by a tenure similar to that of other civil officers appointed by the President, and who shall receive for his compensation a salary of $5,000 per annum.

SEC. 3. *And be it further enacted*, That there shall be in the said Department of Agriculture four chiefs or heads of bureaus, who shall be appointed by the President of the United States, by and with the advice and consent of the Senate thereof; and the titles of the said bureaus shall be as follows: 1. Bureau of the Science and Practice of Agriculture. 2. Bureau of Natural History connected with Agriculture. 3. Bureau of Agricultural Chemistry. 4. Bureau of Agricultural Mechanics, Manufactures, Commerce, and Statistics. And the several subjects herein assigned to the said bureaus in the titles thereof shall be under the special care and management of the chiefs of said bureaus, subject always to the regulations that may be issued from time to time by the Secretary for the said Department, and to such laws as may establish and regulate the duties to be performed by the chiefs of said bureaus.

SEC. 4. *And be it further enacted*, That it shall be the duty of the Commissioner of Agriculture to acquire and preserve in his Department all information concerning agriculture which he can obtain by means of books and correspondence, and by practical and scientific experiments, (accurate records of which experiments shall be kept in his office,) by the collection of statistics, and by any other appropriate means within his power; to collect, as he may be able, new and valuable seeds and plants; to test, by cultivation and acclimatization, the value of such of them as may require such tests; to propagate such as may be worthy of propagation, and to distribute them among agriculturists. He shall annually make a general report in writing to the Congress of the United States, which report shall contain: First. The transactions of the several bureaus of the Department. Second. An account of the conditions and progress of agriculture throughout the United States. Third. Original essays on practical agriculture and cognate branches of industry. Fourth. A statement of receipts and disbursements of the moneys appropriated for the Department. He shall also make special reports on particular subjects whenever required to do so by Congress, or when he shall think the subject in his charge requires it. He shall receive and have charge of all the property now in the agricultural division of the Patent Office, in the Department of the Interior, and shall annually make additions, by purchase or otherwise, to the library and other property, or apparatus requisite to consummate in a proper manner the intentions of this act. He shall direct and superintend the expenditure of all money appropriated by Congress to the Department, and render accounts thereof, and also of all money heretofore appropriated for agriculture and remaining unexpended. He shall have authority to send and receive through the mails, free of charge, all communications and other matter pertaining to the business of his Department not exceeding in weight thirty-two ounces in any one package or parcel.

SEC. 5. *And be it further enacted*, That the Commissioner of Agriculture shall appoint such other employés as Congress may from time to time provide, with salaries corresponding to the salaries of similar officers in other Departments of the Government.

SEC. 6. *And be it further enacted*, That this act shall take and be in effect from and after the 1st day of July, 1862.

Mr. SIMMONS. I merely wish to make a single remark upon the provisions of that amendment. It was referred to the committee as a separate bill, and by them fully considered. I am not going to controvert any of the positions stated by the Senator from Indiana. I believe I approve them all. But his amendment calls for the expenditure of a larger amount of money, we think, than the bill we reported. The committee did not think we were just now in a situation to make that outlay. The bill calls for no appropriation whatever, and we reported it principally for that reason. This substitute sets up two or three colleges inside of this Agricultural Department. We thought we could wait a little while before we put them in.

Mr. HALE. If this bill of the Senator from Indiana is to be adopted as a substitute, I want to propose one or two amendments to it first. In the first place, in the third section, I want to strike out "four" and insert "three," to begin with. It now reads:

That there shall be in the said Department of Agriculture four chiefs or heads of bureaus, to be appointed by the President.

The head of the bureau that I propose to strike out, is to be found in the tenth line of the same section. If the word "four" is stricken out, and "three" inserted, I shall again propose to amend by striking out "the Bureau of Agricultural Chemistry;" because it strikes me that when there is a "Bureau of the Science and Practice of Agriculture," "agricultural chemistry" most naturally comes under the head of the science of agriculture. I move that amendment, in the second line of the third section, after the word "agriculture," to strike out "four," and insert "three;" so that it will read:

That there shall be in the said Department of Agriculture three chiefs or heads of bureaus, &c.

The amendment to the amendment was agreed to.

Mr. HALE. In the tenth line of that section I move to strike out the words "Three. Bureau of Agricultural Chemistry:" and in line eleven to change "four" to "three."

The amendment to the amendment was agreed to.

Mr. HALE. On the next page, in the fourth section, I move to strike out the nineteenth and twentieth lines, as follows:

Third. Original essays on practical agriculture and cognate branches of industry.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. If no further amendment be offered to the substitute, the question is on striking out all after the enacting clause of the original bill and inserting that which has been offered by the Senator from Indiana, as amended.

Mr. WRIGHT called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 12, nays 23; as follows:

YEAS—Messrs. Carlile, Hale, Henderson, Lane of Indiana, Latham, McDougall, Nesmith, Saulsbury, Stark, Willey, Wilson of Missouri, and Wright—12.

NAYS—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Cowan, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Howe, King, Morrill, Powell, Sherman, Simmons, Sumner, Thomson, Wade, and Wilkinson—23.

So the amendment was rejected.

Mr. FOSTER. I move to amend the bill, by striking out all after the enacting clause and inserting the bill which I offered to the Senate some days ago, and which was referred to the committee, with very slight exceptions. I propose merely to amend that bill, which is Senate bill No. 269 as it stands, by inserting the word "except," after the word "furnished," in the eighth line of the fourth section; and in the fifth line of the fifth section, after the word "the," before the word "agricultural," to insert "Census Office and;" and after the word "papers," in the seventh line of the same section, before the word "belonging," to insert the words "and property."

The PRESIDENT *pro tempore*. The Senator offers it as an amendment, with such modifications as he chooses to make. The Senator from Connecticut now moves to amend this bill, by striking out all after the enacting clause and inserting as follows——

Mr. FOSTER. I will not ask for the reading, unless it should be asked by some member of the Senate.

Mr. CLARK. I desire to have it read.

The PRESIDENT *pro tempore*. It is the right of every member to have it read.

The Secretary read the substitute, as follows:

That there shall be created in the Department of the Interior a Bureau of Agriculture and Statistics, the object of which shall be to promote the interests of agriculture, commerce, and manufactures, the chief executive officer of which shall be denominated "Commissioner of Agriculture and Statistics," who shall be appointed by the President, with the advice and consent of the Senate, and shall receive an annual compensation of $3,000.

SEC. 2. *And be it further enacted*, That it shall be the duty of the said Commissioner, under the direction of the Secretary of the Interior, to procure and distribute new and valuable varieties of seeds, grains, and plants, and to procure, from the best sources, such information as will be most valuable in relation to the mode of cultivation, renovation, and drainage of the soil; also, concerning the domestic and foreign trade of the United States, their manufactures, internal improvements, banks, and currency, and such other subjects as may be adapted to illustrate the condition and progress of the agriculture, manufactures, trade, population, and other material interests of the country. The said Commissioner shall annually make a report to Congress, prior to the 1st day of January in each year, of the operations of the bureau, and of statistics obtained.

SEC. 3. *And be it further enacted*, That the said bureau shall be charged with the duty of taking the decennial census, according to the law of May 23, 1850, and acts supplementary thereto, and shall make timely and suitable provision therefor.

SEC. 4. *And be it further enacted*, That the Commissioner shall procure a seal with a suitable device, and copies of books, statements, or records, with the signature of the Commissioner and seal affixed, shall be competent evidence in all cases where the original records would be evidence. The Commissioner shall charge a reasonable compensation, not to exceed the rate of charges established by the Patent Office for all information or copies furnished, ex-

cept for legislative purposes or for the Departments of Government.

SEC. 5. *And be it further enacted*, That there shall be appointed a chief clerk of said bureau, with an annual salary of $2,000, and such additional clerks as may, in the judgment of the Secretary of the Interior, be necessary, not exceeding the number now employed in the Census Office and agricultural division of the Patent Office, with three additional ones. All the books, records, documents, and other papers and property belonging to the agricultural division of the Patent Office, shall be transferred to said bureau, and all appropriations heretofore made for the benefit of agriculture shall be expended by said bureau.

Mr. FOSTER. Mr. President, this proposed amendment or substitute to the bill of the House, which is now under consideration, is much simpler and less complex than the original, and it seems to me will effect all the beneficial purposes of that bill. Instead of making it an independent Department of the Government, like the Department of the Interior, or the War or the Navy Department, it is made a bureau in the Department of the Interior, not for the purpose certainly of signifying that agriculture is not a most important interest; by no means. All agree that agriculture is the basis of our national prosperity, a paramount interest; but it seems to me to belong peculiarly to the Department of the Interior, and is not at all diminished in its importance by being connected with that Department, rather than being made a separate, independent Department of the Government. All that is desirable to be done by the Department, if we call it a Department, may just as well be done by calling it a bureau, and connecting it with the Department of the Interior. If we make it a Department, there will be a necessity for a greater amount of expenditure; for the head of the Department of Agriculture will naturally consider himself somewhat slighted if he does not have a salary equal in amount to that of the other heads of Departments, with a seat in the Cabinet; and there will be, of course, a much greater number of clerks in order to keep up the rank and dignity of the position. This increase of expense, and of the number of employés, seems to me without any corresponding advantage to the country. If, after this experiment—for it will be an expriment in the outset—has been tried, it is found to be necessary to increase it, and make it a Department, let that be done by and by, when the country is more able than at present, and after this bureau shall have grown into the proportions necessary to make it a Department. For myself, I confess that I would not have chosen this time to create either a Bureau or a Department of Agriculture. We are engaged in a struggle for national existence, and we need all our energies to be directed to that object, and to that alone; at least, I think so; and I would not therefore have brought this measure forward at this time myself, because I think the time is not altogether appropriate As, however, it is brought forward, it seems to me that the bill which I propose by way of amendment, will effect all that we should now attempt more advantageously than the bill before the Senate.

Besides the feature in the bill before the Senate, coming to us from the other branch, making this a separate and independent Department, the bill also makes it the duty of the head of the Department to report to the President, and the Department is really not under the control of Congress as much as I think it ought to be. I think it will be far better if the report were made to Congress and the direction and immediate care of the bureau belonged to Congress rather than to the President. I think we are the more appropriate tribunal to refer the reports of this Department or bureau to than the President. We make the appropriations, and it is peculiarly the business of Congress, as I think, first to create, and then to sustain and have the control and direction of this bureau. In the amendment which I propose, it is made the duty of the head of the bureau to make his report annually to Congress before the 1st of January.

In the amendment which I have offered, I also propose turning over the Census Bureau to this Bureau of Agriculture, and to call it a Bureau of Agriculture and Statistics, for the collection of statistics is one most important part of the duty of this agricultural branch of the Government. Indeed, the two are, as it seems to me, necessarily connected. We do not want a fancy Bureau of Agriculture. We want a Bureau of Agriculture based on facts and figures and experiments, and the census will furnish to the agricultural department most important information, and they should be, as it seems to me, manifestly under one head and subject to one direction. That is a feature in the amendment which I propose, distinguishing it from the House bill. As it respects any other features, they are not peculiarly different from the bill reported by the committee which comes to us from the House of Representatives. The amendment which I propose will, at all events, cost as little money, a pretty important consideration at the present time, as the House bill. I think it will call for no additional appropriation. The number of additional clerks, besides those now employed in the Census Office and in the agricultural branch of the Patent Office, is restricted to three at the most.

Mr. COLLAMER. How many clerks are there in the Census Office now?

Mr. FOSTER. I have not the information.

Mr. COLLAMER. There have been about sixty. I do not know how many there are there now.

Mr. SIMMONS. I think there have been over one hundred.

Mr. COLLAMER. There have been at some times one hundred, and the last time I heard anything about them there were sixty. You do not propose that number here.

Mr. FOSTER. I propose to transfer the Census Bureau to this.

Mr. COLLAMER. When the Census Bureau has completed all its analyses and arrangements of the past census, which may be in the course of the year, the clerks will be dismissed.

Mr. FOSTER. This bill will not by any means make it necessary to perpetuate those clerks in the office.

Mr. COLLAMER. I merely suggest that there is no provision there, as there should be, for transferring the papers of the Census Bureau to this new bureau.

Mr. FOSTER. I believe there is.

Mr. COLLAMER. There is a provision for transferring the agricultural papers over, but not the census papers.

Mr. FOSTER. If so, it is an oversight in that particular. I thought it was done by the amendment which I proposed, but possibly it may be omitted. I certainly should wish to have that addition made, to have all the papers connected with the Census Bureau transferred with the bureau to the Agricultural Bureau.

The PRESIDENT *pro tempore*. The Senator can so modify his amendment.

Mr. FOSTER. In reply to the suggestion of the Senator from Vermont in regard to the number of clerks now in the Census Office, I had supposed that the present law under which those clerks are employed, and by which they may be dismissed, will continue in force as well after the transfer as before; and that if there were any provision made by law for discharging them when the necessity for their employment has ceased, or if any discretion were given to the Secretary or Superintendent, that would still continue, and they would be discharged in the same way.

Mr. COLLAMER. The gentleman probably will have to amend his proposition somewhat. It strikes me favorably. In transferring the Census Bureau, it should be transferred with its Superintendent, because that business should be finished under the same superintendence under which it has been carried on.

Mr. FOSTER. I should certainly hope that would be the case, and I did not, in drawing up my proposition, contemplate his removal. If the effect of it should be to change him, I should want to have it amended.

Mr. COLLAMER. Would it not be sufficient in relation to clerks to say that the Secretary of the Interior should transfer to this bureau from those now in the Census Office and those now in the agricultural division, clerks sufficient to answer the purpose, without making provision for any new ones?

Mr. FOSTER. That would, perhaps, be the more simple and proper mode of effecting the purpose. I certainly shall accept the suggestion, and have the amendment modified in that manner. I trust that if it is deemed advisable to act on the subject, my amendment may be adopted; for, as I believe, it will accomplish all that at the present time we can reasonably expect to accomplish. The amendment will need some little modification.

The PRESIDENT *pro tempore*. The Chair will suggest to the Senator from Connecticut that he take his amendment and modify it in accordance with his own purpose and wish.

Mr. FOSTER. The suggestions of the Senator from Vermont are certainly very judicious, and I am prepared to adopt them at once.

The PRESIDENT *pro tempore*. The Senator will modify his amendment in accordance with the suggestions of the Senator from Vermont.

Mr. COLLAMER. Perhaps there is hardly time to do that here now. I suppose we are not expected to dispose of the subject this morning.

Mr. FOSTER. I should hope not.

Mr. SIMMONS. While the Senator from Connecticut is preparing his modifications, I will say a word on this subject. As I stated the other day in the few remarks I made, the agriculturists have been petitioning Congress about ten or fifteen years to recognize their peculiar interest, by making a Department of Agriculture. The committee were entirely willing to gratify them in that, provided it did not cost any money. We were unanimous about that. I believe there are about eight or nine or ten clerks now in the agricultural department under the Patent Office, and here is a proposition to overlay it with the Census Bureau. It will be nothing but a Census Bureau when that is done. The agriculturists would like to have it kept separate, and recognized as a part of the business of the country. That, I believe, is about all they want. We have voted upon one proposition to enlarge it still more. This proposition of the Senator from Connecticut will carry it into a much larger sphere than the bill proposes; it in fact makes it a Census Bureau. I have no objection to having the census taken every five years, if the Senator wants it, if it can be done without expense. I pretend to represent the farmers a little once in a while, and I should like to have them gratified. I hope the amendment will be rejected. I could pick out a hundred places in it where you could drive a pair of oxen through; but I will not, because I think it will be voted down.

Mr. FESSENDEN. I would suggest to the honorable Senator from Connecticut, whether it would not be as well to strike out that part which includes the Census Bureau. That comes but once in ten years, and it requires a man of peculiar qualifications, and it is a large affair when it does come. I think I would not burden the Agricultural Bureau with it, but leave it distinct, apart from that. I like his proposition better than the original bill, because I want to have it a bureau under the control of the Department of the Interior, rather than an independent affair. It is more appropriate that it should be so. I suggest to him, however, to disconnect the census from it.

Mr. LANE, of Indiana. I do not believe that any legislation is necessary at present, in reference to this matter. Sixty thousand dollars are annually appropriated for the benefit of agriculture. That sum has hitherto been administered by the Commissioner of Patents; I think as well, as usefully, as economically administered as it could be under this or any other bill. The fund provided for is the same, and there is a simple change of name, and that is all that is proposed for the benefit of agriculture by this bill.

In the first place my objection to this bill is, that it will break up a well established system of the Government, by which all inferior divisions are subordinate to and under the direct control of some one of the Departments. The bill under consideration proposes to make a minister or Commissioner responsible to the President alone; the Commissioner to make an unlimited number of appointments without the approval of any person. The Patent Office is now entirely independent of the Government in revenue and funds, and is supported entirely by the inventors of the country; and yet every appointment made by the Commissioner has to be submitted to the approval of the Secretary of the Interior, and can only be made after a rigid examination as to qualifications by a board of examiners appointed by law. This is required in every other Department; yet it is wholly omitted in this bill. The object of this independence is to secure eventually another Cabinet minister, as was the case with the head of the Post Office and the Attorney General.

In my opinion it is impolitic at present to separate the agricultural division from the Patent Office, because the sum proposed to be expended is so small that it would require perhaps one half of $60,000 to pay the salaries, and it would cost a large proportion of the remaining $30,000 to purchase a library and necessary furniture for rooms, &c. The library of the Patent Office now is the very best in the country for a mechanical and agricultural bureau, and it was purchased from the Patent Office fund exclusively, not costing the Government anything. It is used by the agricultural department as freely as if it were under and controlled by it; a librarian is furnished free of all cost to the agricultural fund; and the disbursement of all the agricultural fund is made by the Patent Office, free of cost to that fund, and at no great expense even to the Patent Office itself. In the corps of examiners of the Patent Office are many men eminent for scientific qualifications in all the rural arts—botanists, agricultural chemists, mechanics, who give their opinions freely on all questions requiring investigation and decision. Such men are indispensable to the proper administration of the agricultural division, and this bill provides for their appointment, whereas the services are now as well obtained and better, gratuitously. The bill under consideration provides for no duties not now performed under the Patent Office, and its passage will involve an expense simply to change the administration of the fund from the Commissioner of Patents to another person, who is not required to give bond—though I believe that is now provided for by an amendment—for the security of the funds, or to take an oath for the faithful discharge of his duties.

The labor of franking for the agricultural division, which is immense, is now done by the Commissioner of Patents and his chief clerk, without cost to the agricultural fund. Much of the correspondence is also carried on by clerks in the Patent Office. Heretofore there has been a controversy between former Secretaries of the Interior and Commissioners of Patents as to which had the superintendence and control of the agricultural division of the Patent Office. This controversy has caused a want of efficiency in the agricultural division. Mr. Jacob Thompson assumed that he had the entire control of it, and created, as I conceive, without any authority of law, the office of Superintendent of Agriculture, and appointed a Mr. Clemson at a salary of $2,500 a year. This was a useless expenditure of money, and an office unknown to an existing law. The present Secretary of the Interior, on the resignation of Mr. Clemson, filled the office thus vacated, supposing that he had power to control the appointments in that division; but as he did not wish to do so without full and legal authority under the law, he submitted the whole question to the Attorney General for his decision. The Attorney General gave a decision that under the acts of Congress the application of the agricultural fund was entirely under the control of the Commissioner of Patents; and while the Secretary has been freely consulted, and has cheerfully given his opinion as to the policy to be pursued in the application of this fund, he has not assumed to control it.

For these reasons, and others which I will not now take the time of the Senate to enumerate, I believe that no legislation at this time upon the subject is necessary. If any legislation shall be determined upon, however, I very much prefer the substitute offered by the Senator from Connecticut.

Mr. FOSTER. I do not know whether the Senator from Rhode Island means to press the consideration of this bill now until the Senate shall have action upon it. At the suggestion of the Senator from Maine, in regard to connecting the Census Bureau with this Agricultural Bureau, and in deference to his opinion, I am disposed to strike out from the amendment that part of it which connects the Census Bureau with it, and leave the Bureau of Agriculture separate and distinct by itself. I propose, therefore, to strike out the third section of my amendment, and also to strike out the words "Census Office and," which I inserted in the fifth line of the fifth section before on the suggestion of the Senator from Vermont.

The PRESIDENT *pro tempore*. The amendment is so modified. The question is on agreeing to the amendment as modified.

Mr. HALE. I very much doubt the expediency of any legislation at this time upon this subject. I have thought heretofore that it was a very fortunate thing for the agricultural interests of the country——

The PRESIDENT *pro tempore*. The hour has arrived for the consideration of the special assignment of the day.

Mr. HALE. Very well.

CONFISCATION OF PROPERTY.

The PRESIDENT *pro tempore*. The special order is the bill (S. No. 151) to confiscate the property and free the slaves of rebels, upon which the Senator from Kentucky is entitled to the floor.

Mr. DAVIS. In future times the chapter of history that will be read with more of interest, with more of surprise, with deeper condemnation, and I will say even execration, than any that has yet been written, will be the history of this rebellion, its origin and causes, remote and immediate, its progress, and the stupendous conflict of arms that it has produced.

In ancient times, I have read from heathen mythology, that in a war, either of rebellion or international, among the heathen gods and demi-gods, there was one of them of gigantic proportions who was overcome and confined under Mount Vesuvius for his punishment, and the fable is, further, that whenever he turned over in the bed to which he had been consigned, that mountain would send forth its eruptions of molten lava. That fable is not an unapt illustration of the spirit of secession that has produced our present great difficulties. It is a spirit of gigantic proportions, and in its capacity and disposition for mischief and ruin it comes up to the fabled proportions of the ancient monster. Mr. President, I want that spirit of secession encountered, and I want it exterminated, annihilated. It will not do to confine it; it will not do to permit it to live and to give to it the power of locomotion, because so long as it does live and has the faculty to move it will be moving in the work of mischief and ruin. That spirit, nowhere in the United States where it has walked abroad, is yet subdued. It exists in my own State, and although it is still and quiet, it has as much latent energy and as much disposition to work mischief as it has had since it made its appearance in the United States. I admit that the most effective and proper course for encountering it, for making war upon it, and for the subjugation of that spirit of secession is by arms in the field. In the depth and truth and sincerity of my desire to have the spirit of secession exterminated, I yield to no man in this nation; but while we are at that work of conquest for the purpose of maintaining the Union and the Constitution of the United States, I am utterly opposed to the sacrifice of that Constitution or any one of its principles. The position of my State in this great contest has heretofore not been wholly satisfactory to me, and it is not now. I would have preferred that my native State had planted herself squarely and fully upon her constitutional duties, and had performed them promptly at the call of the proper authorities when this rebellion broke out. From the force of circumstances, the Union men of that State, who are as true to the Union as any men that breathe the breath of life, could not in that manner perform their great duty, and they cannot now put the State completely, fully, and squarely on the plain platform of her duty.

The position of my State and of myself has sometimes been referred to in terms of condemnation in this Senate, and out of the Senate, in the public newspapers, and in private circles. In relation to that matter, I have only to say that, proudly conscious of the rectitude of my position and the position of the Union men I represent on that question, if these imputations or charges against them and myself are of the character that they or I am disloyal, they are basely and utterly false. If they are made in the spirit of envy—I will not say envy, but of resentment, of malevolence, and slander, I scorn and defy them and their authors, whether they are in this Chamber or out of it. If they are made in the heat of passion and for want of correct information, I pity and I despise the charge and its authors. I have never hesitated, nor intended to hesitate, to give my support and my vote, and, if necessary, my voice, to any constitutional measure to put down this war by force of arms, by the civil legislation within the pale of the Constitution. I believe it is the honest and the true purpose of the President so to conduct the war, and in his conduct of it, so far as that conduct is to be indorsed by Congress, I intend to give him my full, unqualified, and hearty support.

I know, sir, that in times of war, and especially a war of rebellion, both the President and the armies of the United States have to perform many discretionary acts that are purely political, and that do not and cannot come under the supervision of the courts, but are referred wholly to the discretion of the functionaries charged with the exercise of those political powers. I know that in times of difficulty and great danger, when the life of the nation is imperiled, and when every effort of its true and honest citizens is required to save the nation and the Government, irregular power must necessarily be sometimes assumed. The assumptions of power, in such cases of exigence, I do not condemn; on the contrary, I give them my sanction and my approval. But these discretionary powers that thus lead to irregular, if not unauthorized acts, appertain wholly to the President and to the generals and armies in the field; they do not belong to Congress. I have faith and confidence that our armies in the field, in number, in prowess, and in military skill, are fully adequate to put down the rebellion and to assert the domination of the Constitution and the laws of the United States, and the authority of their officers in all the seceded States; but I do not believe that the contest is by any means over. On the contrary, I think there are now impending two conflicts in arms, the one at Yorktown, the theater where our liberty and independence in the war of the Revolution were in fact achieved, and the other on the Tennessee river, upon which hang very largely the continuance of this war.

Mr. President, I have regretted, and still regret, that in devising measures to carry on this war to a quick and successful issue, there has ever been any manifestation of party organization in either House of Congress. I would that the dominant party now in power had acted upon a different principle, that they had sunk party and partisanship in one universal, united, and devoted service by every Union man to the cause of the country, the Union, and the Constitution, and that they had determined deliberately to exclude from the consideration of Congress and all of its proceedings any question calculated to produce the least discordance or difference of opinion or views between the true and devoted Union men of every name and party, until the war was brought to a final and successful close. If they had chosen, in the exercise of their discretion and of their duty to their country, to act on that principle, in my humble judgment it would have restricted the continuance of this war months, if not years; it would have saved the loss of the lives of thousands and tens of thousands of our true and gallant men by disease in the camp and by slaughter in the field; and it would have saved the people of the United States the payment of millions and hundreds of millions in the cost of waging the war.

I, in common with the Senator from Ohio, [Mr. WADE,] who addressed the Senate yesterday, condemn the attempt to reorganize and to place upon its feet again the old Democratic party during the pendency of this great national conflict; but I equally and more condemn the mere party organization of the party in power in calling their exclusive party caucuses and holding their councils secretly, and determining upon the measures by which this war was to be waged and brought to its close. Sir, if one as humble as myself could have been invited to take counsel with the true men for the Union and the Constitution in the Senate for the purpose of putting down this rebellion, of chastising its authors, of subjugating the whole military power that has been brought to its support, of compelling unconditional obedience to the Constitution and the laws, and inflicting condign punishment on the authors of this great crime and mischief, upon the principles of the Constitution and for the inviolate preservation of that great ark of American liberty, I would have gone into such a council with as pure a purpose and with as devoted a heart as any man who calls himself Republican. But whenever other questions alien to the war, alien to the rebellion, alien to the honest, truthful, and undivided prosecution of the war for the purposes I have indicated, and for any mere

political purposes whatever, had been introduced into the counsels of such a conclave, I would have entered my protest against the intrusion of such subjects, and if they had been persevered in, I would have taken my leave of that council, but at the same time would have maintained my position of unalterable devotion and fidelity to the Union, to my Government, and to my country.

Mr. President, I do not believe that war alone is an adequate and full remedy for the present great disease of the nation. I know it is the chief, the principal, and the most efficacious remedy, but in addition, and as ancillary to war, the Congress of the United States ought to pass measures to aid in this work of subjugating the rebellion and putting down opposition to the authority of the United States. In performing this duty, we have a chart and a guide. That chart is the Constitution of the United States. Congress, as the legislative power of the nation, has no right to exercise, and ought not to attempt to exercise, any power but what is specially and by name delegated to it by the Constitution, or is necessary and proper for carrying some express power into execution. Sir, we are all sworn here to support the Constitution of the United States. The President tells us solemnly and truthfully that his oath to that effect is registered in heaven, and I suppose the oath of every Senator in Congress has the same inscrutable registry. For one, sir, whenever there is a proposition in the form of a bill or joint resolution to become a law presented in this body in times of peace or war, I intend, according to my judgment and my conscience, to try and test such a measure by the provisions of the Constitution. If, when reduced to that test, I come to the conclusion that any measure whatever is in conflict with that instrument which I am sworn to support, I will oppose it and vote against its adoption. I know that such a position and such a line of duty is derided, scoffed at, reprobated, and denounced in the Senate and out of the Senate; but I scorn such denunciations. If I were capable of yielding to them against my convictions, I should either be a base knave or a craven coward. In yielding to them, I should stain my soul with the turpitude and the crime of perjury; and any man who commits consciously any violation of the Constitution commits the same foul offense against his country and his God.

Having made these preliminary remarks, I shall now proceed to the consideration of the measure under discussion; and that I may not be guilty of any injustice to it, or to the distinguished and able Senator who reported it, or the committee by whose order it was reported, I will read the entire bill, with the exception of the seventh section. It is entitled "A bill to confiscate the property and free the slaves of rebels." The amendments which the honorable Senator from Illinois has proposed to the measure, according to my recollection and comprehension of them, do not materially change the sense of the bill or its effect, if it should become a law. I will therefore read the original bill.

Mr. TRUMBULL. Here is a copy of the bill, as amended.

Mr. DAVIS. I thank the honorable Senator for his courtesy. I will read the bill as it has been amended:

Be it enacted, &c., That the property, real and personal, of every kind whatsoever, both corporeal and incorporeal, and including choses in action, and wheresoever situated, within the limits of the United States, belonging to any person or persons beyond the jurisdiction of the same, or to any person or persons in any State or district within the United States, now in a state of insurrection and rebellion against the authority thereof, so that in either case the ordinary process of law cannot be served upon them, who shall during the present rebellion be found in arms against the United States, or giving aid and comfort to said rebellion, shall be forfeited and confiscated to the United States; and as to all property which shall be seized and appropriated as hereinafter provided, such forfeiture shall take immediate effect upon the commission of the act of forfeiture, and all right, title, and claim of the person committing such act, together with the right or power to dispose of or alienate his property of any and every description, shall instantly cease and determine, and the same shall at once vest in the United States.

SEC. 2. *And be it further enacted*, That every person having claim to the service or labor of any other person in any State under the laws thereof, who during the present rebellion shall take up arms against the United States, or in any manner give aid and comfort to said rebellion, shall thereby forthwith forfeit all claim to such service or labor, and the persons from whom it is claimed to be due, commonly called slaves, shall, *ipso facto*, on the commission of the act of forfeiture by the party having claim to the service or labor as aforesaid, be discharged therefrom, and become forever thereafter free persons, any law of any State or of the United States to the contrary notwithstanding. And whenever any person claiming to be entitled to the service or labor of any other person shall seek to enforce such claim, he shall, in the first instance and before proceeding with the trial of his claim, satisfactorily prove that he is and has been, during the existing rebellion, loyal to the Government of the United States; and no person engaged in the military or naval service of the United States shall, under any pretense whatever, assume to decide on the validity of the claim of any person to the service or labor of any other person, or to surrender up any such person to the claimant.

SEC. 3. *And be it further enacted*, That it shall be the duty of the President of the United States to make provision for the transportation, colonization, and settlement in some tropical country, beyond the limits of the United States, of such persons of the African race made free by the provisions of this act, as may be willing to emigrate, having first obtained the consent of the Government of said country to their protection and settlement within the same, with all the rights and privileges of freemen.

SEC. 4. *And be it further enacted*, That it shall be the duty of the President of the United States, as often as in his opinion the military necessities of the Army, or the safety, interest, and welfare of the United States in regard to the seizure and appropriation, by such officers, military or civil, as he may designate for the purpose, of any and all property confiscated and forfeited under and by virtue of this act, situated and being in any district of the United States beyond the reach of civil process in the ordinary course of judicial proceedings by reason of such rebellion, and the sale or other disposition of said property, or so much of it as he shall deem advisable.

SEC. 5. *And be it further enacted*, That it shall be the duty of the officers so designated to make to the President full reports of their proceedings under such orders, which report shall be filed in the office of the Secretary of the Treasury; and all moneys received on the sale or rent or use of the confiscated property of any person aforesaid shall be deposited in the United States Treasury.

SEC. 6. *And be it further enacted*, That for the purpose of enforcing the forfeiture specified in the first section of this act of property situate and being in loyal States or districts in which the ordinary course of judicial proceedings is not obstructed by the rebellion, proceedings *in rem* may be instituted, in the name of the United States, in any district court of the United States, within which the estate or property so forfeited, or any part thereof, may be found, which proceedings shall conform, as nearly as may be, to proceedings in prize cases, or to cases of forfeiture arising under the revenue laws; and in all cases the property condemned, whether real or personal, shall be sold, and the proceeds deposited as provided in the fifth section of this act.

It will be observed from the reading of the bill that it creates two classes of persons whose property shall be forfeited. One class is composed of those who are out of the United States, or who are within the States now in rebellion, and in such position that the ordinary process of the courts cannot be served upon them. It then provides by different modes of proceeding for all that class of persons in arms in the rebellion, or giving it aid and comfort, who can be found within the loyal States, or in such position in the United States that the ordinary process of law can be served upon them. The white population of the disloyal States amounts to 5,450,831. The slaves in the same States amount to a fraction above the number of 3,500,000. By the last census, there are 3,953,587 slaves in the United States. There are 3,500,000 in the disloyal States—in the States that have seceded—and about 450,000 in the States that are yet loyal, including the western portion of the State of Virginia. I assume that there are as many disloyal men in the loyal States as there are loyal men in the seceding States; and I have no doubt that the number of disloyal men in the loyal States is larger than the number of the Union men in the seceding States. The result, then, is, that the bill takes from a number of white people equivalent to the entire white population of the loyal slave States a slave population equivalent to the entire slave population of the disloyal States. It not only takes their slave property, but it takes all the property that they own. What is the aggregate amount of the property of the disloyal States, according to the census tables? It is $6,792,585,742 in amount. The property of the loyal slave States amounts to $1,983,702,055; so that the aggregate amount of property in the southern States that is subject to be acted upon by the provisions of this bill, if it becomes a law, will affect upwards of six millions of people, and will deprive them of property of the value of $4,808,883,687—nearly five thousand millions of dollars. Now, sir, I ask if this measure in its proportions is not as gigantic as the insurrection and the war itself? Was there ever in any country that God's sun ever beamed upon a legislative measure involving such an amount of property, and such numbers of property holders?

I will take another view of this subject. The surplus production of the States that have seceded, amounts annually to between five hundred and six hundred millions of dollars. Of this large surplus, at least one hundred and fifty millions are distributed to the loyal and free States for cereal grains, for meats, for stock, for mules, horses, and manufactured articles of various kinds. My own State of Kentucky finds a market annually in the southern States, growing out of the productions of their slave labor, to the amount of eight or ten millions of dollars, and the free States in the same market find a sale for their articles of natural or artificial production to the amount of at least one hundred and fifty millions of dollars. Look at the great grain-growing regions of the West, the Egypt of America in fertility and production. Where do they find their principal markets for their corn and their meats? Where do Indiana, Missouri, Ohio, Kentucky, and every other portion of the United States that produces and sells stock find a market for their stock? They find it in the same sunny South, producing cotton and sugar. Where do Chicago, Cincinnati, and the other manufacturing points of plows, agricultural implements, and all the machinery by which crops are produced and harvested, find their market for the sale of their manufactured articles? It is in the South. Where does New England, where does Massachusetts, find the principal market for her boots and her shoes, her coarse woolens, her coarse cottons, and her ice, even? It is in the South.

I intend to maintain and shall endeavor to show that this great and enriching market for the loyal and free States will be cut off by this iniquitous measure—for I so denominate it—if it should become a law. The great devotees to labor and industrial pursuits in the field of agriculture, and in the workshops, who find their markets and the rewards of their toil and of their labor and of their skill in the South, will rise up in earnest protest against any such measure as this. Their voice will be heard before long in this Chamber. It will be heard resounding throughout this nation; and it will be heard in a majesty and strength that will command obedience to it, and it will repress and put down such wholesale measures of confiscation, of injustice, of oppression, and iniquity.

I shall now proceed to a legal, constitutional examination of the provisions of this bill, and I shall endeavor to do it as clearly, as methodically, and as succinctly as I can.

The first question is, has Congress the power to pass the measure under consideration, and if it has the power, from what source does it derive it? I maintain that for Congress there is but one source of power, and that is the Constitution of the United States; that if Congress has any power to pass this bill it derives it by express delegation, or by necessary and proper implication, from the Constitution of the United States; and it can derive it from no other source. If the power is not given there, it is given nowhere; it does not exist; and an attempt to exercise it would be an act of usurpation on the part of Congress which any free citizen of the United States would have the right to resist by all the means and force which he could command, at his peril, abiding the judgment of the courts of the United States upon the question of the legality of his position. I assume that the law of nations, even if it was adopted by the express language of the Constitution, or by necessary implication, confers upon Congress no power whatever to pass this bill. I assume, furthermore, that if the body of international law was expressly adopted by a clause in the Constitution, or by necessary implication, every one of the principles and provisions of that law that stood in conflict with any written provision of the Constitution would fall before its paramount power, and in the United States would have no legal effect whatever. I will now read from two approved authors clauses of international law that bear upon the questions arising in this bill. I will read them consecutively:

"Nations composed of men, and considered as so many free persons living together in a state of nature, are naturally equal, and inherit from nature the same obligations and rights. Power or weakness does not, in this respect, produce any difference. A dwarf is as much a man as a giant: a small republic is no less a sovereign State than the most powerful kingdom.

"By a necessary consequence of that equality, whatever is lawful for one nation is equally lawful for all other nations, and whatever is unjustifiable in one is equally so in all others."—*Vattel's Law of Nations.*

"The whole international code is founded upon reciprocity. The rules it prescribes are observed by one nation, in confidence that they will be so by others."—*Wheaton's Elements of National Law*, p. 421.

Thus reads Wheaton, one of the most recent

and approved writers upon international law. The question then arises, is the United States now in a state of war? It is, in the most general and universal acceptation of the term. It is engaged in a war to put down insurrection and rebellion at home, but it is not engaged in a war according to the distinction and the understanding of international law and according to the rights which that code of law assures to belligerents. The most general definition of war is, the state of a nation in which it is pursuing its right with force:

"A nation is a unity, an entirety, a consequence of which is, that when its sovereign power declares war against another nation, it is understood that the whole nation declares war against that other nation; for the sovereign power represents the nation, and acts in the name of the whole society: and it is only as a body, and in her national character, that one nation has to do with another. Hence these two nations are enemies, and all the subjects of the one are enemies to all the subjects of the other. In this particular, custom and principles are in accord."—*Vattel*, p. 391.

"All the members of the enemy State may lawfully be treated as enemies in a public war."—*Wheaton's Elements of National Law*, p. 491.

"From the moment one State is at war with another, it has, on general principles, a right to seize on all the enemy's property, of whatsoever kind, and whersoever found, and appropriate the property thus taken to its own use, or to the use of the captors."

But by the modern usages of nations, which have now acquired the force of law—

"Temples of religion, public edifices devoted to civil purposes, monuments of art, and repositories of science, are exempted from the general operations of war. Private property on land is also exempt from confiscation, with the exception of such as may become booty in special cases, when taken from enemies in the field, or in besieged towns, and of military contributions levied upon the inhabitants of the hostile territory. This exemption extends even to the case of an absolute and unqualified conquest of the enemy's country."—*Ibid.*, p. 421.

"The sovereignty of a nation is external or internal. External sovereignty consists in the independence of one political society in respect to all other political societies. It is by the exercise of this branch of sovereignty that the international relations of one political society are maintained in peace and in war with all other political societies. The law by which it is regulated has, therefore, been called external public law—*droit public externa*—but may more properly be termed international law."—*Ibid.*, p. 29.

Wheaton says:

"Sovereignty is acquired by a State either at the origin of the political society of which it is composed or when it separates itself from a community of which it previously formed a part, and on which it was dependent."—P. 30.

"This principle (sovereiguty) applies as well to internal as to external sovereignty. But an important condition is to be noticed in this respect between these two species of sovereignty. The internal sovereignty does not, in any degree, depend upon its recognition by other States. A new State springing into existence does not require the recognition of other States to confirm its internal sovereignty. The existence of the State *de facto* is sufficient, in this respect, to establish its sovereignty *de jure*. It is a State because it exists."

But it "must have declared and shown its ability to maintain its independence."

"Until the independence of the new State has been acknowledged, either by the foreign State where its sovereignty is brought into question, or by the Government of the country of which it was a province, courts of justice and private individuals are bound to consider the ancient state of things as remaining unaltered."—*Wheaton's Principles of the Law of Nations*, page 35, and authorities there cited.

Vattel says, in treating of civil war:

"It is very evident that the common laws of war, those maxims of humanity, moderation, and honor which we have already detailed in this work, ought to be observed in a civil war."

And he argues that this is a necessity to prevent retaliation, and to prevent the war from becoming cruel and savage. He says further:

"When the sovereign has subdued the opposite party, and reduced them to sue for peace, he may except from the amnesty the authors of the disturbance, the heads of the party; he may bring them to a legal tribunal, and punish them if they be found guilty. He may act in this manner, particularly on occasion of those disturbances in which the interests of the people are not so much the object in view as the private aims of some powerful individuals, and which rather deserve the appellation of revolt than of civil war."

That is particularly the case in the present rebellion against our Government:

"But when a nation becomes divided into two parties absolutely independent, and no longer acknowledging a common superior, the State is dissolved, and the war between the two parties stands on the same ground in every respect as a public war between two different nations."—Pages 425, 426, 427.

These are authorities of the highest reputation, and the principles laid down by them in the passages which I have read are, in substance: all nations are equal, and the same rights and obligations devolve upon them. International laws are those rules which define the rights and obligations and regulate the intercourse and relations of nations with each other, and which have their authority from the uniform recognition and observance of them by the civilized world. The rights and obligations established by international law are perfectly reciprocal, and whatever is right and lawful or wrong and unlawful, when claimed or done by one nation, is equally so when claimed or done by all other nations. Nations being equal and independent, and there being no common arbiter or authority to decide their disputes, every nation has a perfect right to go to war to assert its rights or to redress its wrongs, and of the sufficiency of the cause each nation for itself is the sole and exclusive judge; and, consequently, the laws of nations do not and cannot make any discriminations whatever between just and unjust international wars.

When national law treats of war generally, and without language defining some other kind of war, it means war between two or more nations. War is the state when one nation is pursuing another nation for its right with force. A nation is a unity, an entirety, and consequently when the war-making power of one nation declares or wages war against another nation, all the citizens and subjects of both nations are considered and treated as at war with each other. All the relations of war and peace between one nation and another nation are in their national character, as individual bodies, and they have no rights, obligations, or relations whatever represented by their individual subjects or citizens; and when two nations are at war with each other, all the subjects and citizens of both are mutually enemies. Formerly, when two nations went to war, each had the right to seize immediately all the property of whatsoever kind and wheresoever found of the other, or its subjects or citizens, and to appropriate it to its own use, or to the use of the captors. But by modern international law, temples of religion, public edifices devoted to civil purposes, monuments of art, repositories of science, and private property on land, except in cases of extreme stress and necessity and excepting such as may be taken from enemies in the field or besieged towns and contributions upon the inhabitants of a hostile country, are exempt from confiscation, even after the permanent conquest of the country by the enemy.

These principles were established for and apply only to sovereign and independent States, and never to a nation and any of its rebellious parts or people until they have declared their independence, and demonstrated their ability to maintain it. They then have established their internal sovereignty; and being absolutely independent, and having formed a separate government for themselves, they are a State, or nation, distinct from the one of which they were previously a part; and all international law applies mutually and equally to them both. But in all the intermediate stages from the first revolt to the consummation of the revolution, although civil war may rage violently and widely between the contending parts, yet they still form but one State; and international law, which applies to nations each as a unity and entirety, has no more application to them than it had before their struggle began. The part which adheres to and is represented by the Government, has against the other no belligerent international rights. It cannot, under the laws of nations, confiscate or forfeit the property of the other, or acquire by right of conquest the portion of the country inhabited by it, or pursue toward it any other line of conduct, having its rightfulness and authority in those laws. Those laws are reciprocal; they devolve the same rights and obligations upon all the parties in any war to which they are applicable. They can be applicable only to nations who are independent and equal, and are wholly inappropriate to the Government and the insurgents in all cases of rebellion.

In our own case all the rebels are traitors and criminals, and they cannot put in operation or claim a single belligerent right until they shall have demonstrated by the success of their arms, their ability to maintain their independence. Before this is done, however discordant and warring our condition may be, all the people of the United States are together but one nation, and are so to be treated by all others; and the parts or people in revolt, although they may have declared their independence and formed a separate government for themselves, cannot be entitled to any rights or privileges from the laws of nations. Hence all the confiscations, forfeitures, and seizures, made or authorized by the rebels of the southern States, are wrongs and outrages without right, law, or excuse; and all their deprivations of life of human beings, whether by the judgment of pretended civil or military courts, or in battle, are flagrant murders; and their authors are subject to the same liabilities, pains, and penalties of wrong-doers and murderers generally, with deeper execration for more enormous guilt.

If these rebels were made responsible by international law, they would be entitled to its immunities by its principle of mutuality and equality among belligerents, and could properly and rightfully do, against the loyal people of the United States, every act for the seizure, confiscation, and appropriation of property or the destruction of life which our Government could lawfully authorize to be done against them. But in carrying on the war, both they and the United States are subject to the usages and modes of war, which have been established by the principles and practices of civilized and Christian nations, that are alike applicable to all wars, whether they be international or civil and domestic. Neither party can murder or enslave prisoners, and both must spare the vanquished when they have laid down their arms. Neither party can use poisoned weapons, or poison water and food; and both must observe flags of truce, armistices, cartels for the exchange of prisoners, and all the principles of humanity, honor, and good faith, so far as the practices of nations in modern times have invoked them to mitigate the horrors of all war. During the pendency of the conflict, the United States are restrained by these principles and practices from all civil or military executions of the rebels for the purpose of obviating bloody retaliations, and preventing the war from becoming cruel and ferocious in its character. But when the United States have subjugated the rebels, and freed all loyal men from their power and revenge, its courts may then bring to trial and punishment such of them as can be arrested, according to the forms and sanction of their laws, and the discretion of their proper authorities.

But neither the existing rebellion in our country, nor the domestic wars of any other country, are the subjects or the objects of international law or of the rights and duties established by it. Such wars are domestic concerns, appertaining exclusively to each nation afflicted by them, and for which each has the perfect and unquestionable right to prescribe any means, mode, laws, and punishment to quell it, according to its sovereign will, so that they do not outrage and shock the universal laws of humanity. Congress has never passed any law or the United States courts made any decision in conflict with those principles. The United States have acted upon this general principle in creating and organizing all the forces and machinery to execute their laws, to suppress insurrections, to crush treason and punish traitors, and to protect the States against invasion and domestic violence; and these forces and this machinery are embodied in the Constitution and laws of Congress, and are distributed among the three departments of the Government.

Mr. President, the Supreme Court, in the celebrated case of the United States *vs.* Brown, and in the cases of the Sally, and the Rapid, and the Venus, decided that the property proceeded against was enemy's property or *quasi* enemy's property; that it did not belong to a citizen or any number of citizens in a state of rebellion or insurrection, but that it was the property of citizens of a foreign and independent nation, and as such was liable to be proceeded against and condemned by the prize and other national law. The particular question decided in the case of Brown was this: after the declaration of war in 1812, some property belonging to a subject of England was brought within the United States, and the most difficult question in the case was, whether it was property still afloat or on land, and the Supreme Court decided this, and this only, that that property was subject to confiscation, but that an act of Congress was necessary to give effect to the confiscation.

Mr. COLLAMER. Will the gentleman suffer me a moment to remind him that in the Brown case the question was, whether property of the enemy, which was in the country when the war was declared, could be seized as prize of war and

subject to confiscation? They decided that it could not be without an act of Congress. That was the question.

Mr. DAVIS. That does not vary the principle I am contending for.

Mr. COLLAMER. Not at all. I only wanted to put the gentleman right as to the true state of the case. That was the question.

Mr. DAVIS. The other question arose incidentally, and was argued at great length, whether the property was afloat or on land

Mr. COLLAMER. Yes, sir.

Mr. DAVIS. There being a different rule of law in relation to confiscation of property upon the sea or afloat and property on land. But the principle there decided, and upon which I rely, is simply this: that the property declared to be subject to confiscation by act of Congress, was the property of an enemy then at war with the United States, and therefore, under international law, was properly subjected to confiscation by an act of Congress. In the other cases, the principle decided was that if an American citizen is domiciled in a foreign country, against which our Government declares war, at the time of the declaration of war, and he puts himself in motion to return with his property to his country within reasonable time, his property is exempt from capture and confiscation; but if he puts his property afloat on the ocean for the purpose of trade, or if he is absent himself from the enemy country and sends to the enemy country to have his property brought to the United States, in both states of the case the Supreme Court decides that the property assumes the character of enemy property, as though it belonged to the subjects of the nation with which we are at war, and is just as much subject to capture, prize, and condemnation as if it were in fact and *bona fide* enemy property. So neither these cases nor any other cases that have been decided by the Supreme Court touch the question now under consideration and involved in the bill. Every act of Congress that has made provision for capture, for confiscation, for prize, and all the cognate acts, are made in relation to a state of war between the United States and other nations, and in relation to property that is owned by the subjects or citizens of other nations, or in relation to property which is *quasi* owned by the subjects or citizens of other nations. The question how far Congress by law can confiscate the property of a citizen, loyal or disloyal, except in cases of violation of revenue laws, to which I will refer presently, is wholly unacted upon by Congress in the passage of any law or by the United States courts in their decisions, according to my reading and researches.

The Government of the United States is more excellent than all others, not only for its free and popular character, but also for its written and stable Constitution, which clearly enumerates, defines, and limits all the primary and principal powers of the Government, but separates them into three departments, and provides for the same number of coördinate and independent bodies of magistracy to execute the powers assigned to each. In this mode, it not only provides against a dangerous concentration of power in the same hands, but creates mutual checks and balances to prevent the usurpation or abuse of power. It is the fundamental law of our Government, and it is the bond of union which binds the States together. It is perpetual, and also immutable, except in the deliberate and difficult mode which it prescribes for its own alteration. The American people, acting by States, ratified and established it, and by its own provisions made it, the laws of Congress, and the treaties of the United States, then, or to be thereafter made, the supreme law of the land, and the judges of every State to be bound thereby, any thing in their constitutions and laws to the contrary notwithstanding; and required the Senators and Representatives of the United States, the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, to be bound by oath or affirmation to support it. Its authority is not only paramount, but it is continual, uniform, and uninterrupted; and there is no power that can suspend or dispense with it, or any part of it, except Congress may suspend "the privilege of the writ of *habeas corpus*, when in cases of rebellion or invasion the public safety may require it." Throughout all the times of war and peace, its stable and fixed authority and operation are without pause or variableness. Its great founders never intended that it should be thrown into a state of catalepsy by the shock of war, or they would have so written one of its provisions. They were too wise not to know that its protection was more needed for private right and public liberty in the midst of the license and violence of war than in the passionless calm and security of peace. They intended that in our country it should refute forever the pusillanimous concession of Cicero, which had been so long received by the world as an aphorism, "*Leges silent inter arma.*" It is the bulwark of American civil and religious liberty, and it is only the enemies of both who seek its destruction by open assault or by Machiavelian machinations. When it falls, the liberties of our country will be buried under its ruins.

This Constitution, in its own provisions, is all the law, or is the source and authority of all the laws which apply to the United States as a nation. Congress may pass laws at large and in detail, or it may, by general language, adopt other bodies of law, as the common law, the civil law, international law, the maritime law, the mercantile law, and martial law. But whether any or all those bodies of law be adopted by Congress or the Constitution, in their whole or part, each and every principle of the bodies of the law so adopted, in conflict with any express principle or provision of the Constitution of the United States, would fall before the paramount authority of that Constitution, and be of no validity whatever in the United States. If such conflicting principle or provision of any bodies of law before referred to, was, *in totidem verbis*, written in an act of Congress, no sensible man would controvert the position that it would be void and of no effect; and it being provided for in general and indefinite language, would add to the force of that truth. Many powers of Government, arising by implication under the Constitution, upon the principle that they were necessary and proper to carry into execution expressly delegated powers, would give rise to a difference of opinion among able and good men. But there can be no such conflict where any power sought to be implied is expressly negatived by or plainly inconsistent with a written provision of the Constitution. That the implied right or power must yield to that which is expressed, is the universal rule in giving construction to all written instruments; and especially it is so in construing the Constitution, which the sovereign power of this country has declared and established to be "the paramount law of the land."

The Constitution has provided for its own protection, preservation, and perpetuity, and for that of the Government and the country. The principles that all laws, State or national, in conflict with it, are of no validity, and that all officers, national or State, shall swear to support it, form one of its great defenses. But it has other guards and protections in other express provisions. They are distributed among the three departments of the Government, so that each body of its magistracy has a part of the duty and responsibility of this defense. Our ancestors were too sagacious, too jealous of power, and too true to liberty, to intrust this wholly to one man, or even one body of magistracy. I will read a number of those provisions of the Constitution which are most applicable to the present condition of the country, and by authority of which the existing rebellion is to be subdued:

"The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense of the United States;"

"To borrow money on the credit of the United States;"

"To define and punish piracies and felonies committed on the high seas, and offenses against the laws of nations;"

"To raise and support armies," &c.;

"To provide and maintain a navy;"

"To make rules for the government and regulation of the land and naval forces;"

"To provide for calling forth the militia to *execute the laws* of the Union, *suppress insurrections*, and repel invasions;"

"To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States," &c.;

"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

"The Congress shall have the power to declare the punishment of treason; but no attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attainted."

"The United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the Executive, (when the Legislature cannot be convened,) against domestic violence."

"The President shall be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States when called into the service of the United States."

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session."

"He may, on extraordinary occasions, convene both Houses of Congress, or either of them;" "he shall take care that the laws be faithfully executed," &c.

"The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as Congress may from time to time ordain and establish."

"The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States," &c.

These clauses of the Constitution embody and confer all the power and authority that is possessed by the Government of the United States to deal with the present rebellion. The duty and power of self-defense are both devolved upon that Government, but that self-defense must be made by the means and in the mode prescribed by the Constitution, as I have read from it, and the laws of Congress in conformity to it. The adoption of any other mode or means would be a usurpation of power which every citizen could rightfully resist. Congress has power to declare war against foreign nations, but not against any of the States, or any portion of the people of the United States. They form but one nation, and it is the duty of the Government to defend not only all the States, but every part, and every citizen of each of them. If any State should be convulsed by domestic violence, on being invoked by its Legislature or Governor, the Government of the United States is bound to suppress it. The Constitution defines what shall be treason against the United States. Congress has passed a law to punish all persons guilty of that crime with death; and the courts are required to enforce that law against all persons who shall have committed it, according to the forms of judicial proceedings. It is the duty of the President to see that the laws are faithfully executed. Courts and marshals are the magistracy by which this office is ordinarily performed; but there may be combinations of men so powerful as to baffle and defeat all their efforts to enforce the law. The President, in cases where it is needful, interposes, and assists them with a portion or with the whole of the military and naval power of the United States, of which he is the Commander-in-Chief. But the resistance may assume the proportions of an insurrection, of a great rebellion, as is now the fact; and the President may call forth the militia of the United States to the utmost limit of numbers authorized by the laws of Congress, and combine this military power with the ordinary Army and Navy of the United States, to subdue the insurrection. He may also convene Congress in extraordinary session, and that body may set in the field the whole military population of the United States, sustained by all their moneyed resources, under the President's control as Commander-in-Chief, to enforce the execution of the laws, to suppress the insurrection, to crush the present stupendous rebellion.

But the whole war power of the Government is vested by the Constitution exclusively in Congress. It alone can declare war and may authorize general hostilities, as against Great Britain in 1812, or may limit them, as against France in 1798. The President cannot raise and support armies, or impose taxes, or borrow money, or make appropriations to support them, or to conduct any operation of Government. He cannot call out the militia to execute "the laws of the Union, suppress insurrections, or repel invasions," except so far as he is authorized by the laws of Congress. He is simply the Commander-in-Chief of the Army and Navy, and of the militia when in the service of the United States; and as such, he is clothed with no more authority, nor can he do any other acts, than the senior general in the service of the United States or any other citizen might, whom the Constitution had designated as such commander-in-chief. In conducting war against a foreign nation, suppressing domestic insurrections, and repelling invasions, he is but the executive officer of Congress, and always subject to its control. Indeed, the chief power and vigor of the Government of the United States is not with the President but with Congress, and it has placed at his disposition an army numerous as the hosts of

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. THURSDAY, APRIL 24, 1862. NEW SERIES....No. 111.

Xerxes to quell and reduce to submission to the laws an organization of insurgents not less numerous.

The United States are now at war, not with a foreign or independent nation, where international law and the rights of belligerents would apply and govern, but they have on hand a domestic war to put down the greatest rebellion of which history has made any record, and the authority and law by which it is to be done is found in their Constitution and the acts of their Congress. They have power to suppress this insurrection by making war upon it, to which they may apply all the military and naval power and every resource of the nation that may be put in requisition by laws passed by Congress. But the power of Congress to carry on this war is restricted to the suppression of the insurrection alone, and when that work is done the power of Congress to carry it on also stops. Until then, it and its generals and armies may conduct the war in the modes and with all the rights appropriate to actual hostilities, for no other end than to bring the insurgents to submit to the Constitution and the laws. The armies of the United States may pursue and engage in battle, and slay and capture the armies of the insurgents, blockade their ports, besiege and storm their towns, seize and appropriate their arms, munitions, and military stores, and all other property that they bring into their armies to be used in aid of the insurrection. But outside of the property used in open and active resistance in fact, by organized forces, to the authority and laws of the United States, our armies have no power, by national law or by the long and uniform usage of all civilized nations, to seize, appropriate, or confiscate the property of loyal or disloyal citizens to put down the existing rebellion. All rebellions concern the nations alone where they break out, and each one adopts of its own will different and varying measures and means to suppress them. As to such domestic wars there is no national law or uniform custom and usage of nations, except a common resort to force of arms to reduce the rebels, and a seizure of every material used by them as a means to strengthen their hands in their revolt.

The examples of the confiscation measures adopted by France and England, at different times, and by several of the States during the revolutionary war, prove nothing in support of the position that Congress may now pass a confiscation or forfeiture act against the rebels. The Government of England was not limited in this respect by any constitutional provisions, and the power of her Parliament over this and all other subjects is omnipotent; and that of France was a despotism in theory and fact, and bound by no limitations upon this or any other matter. When the States referred to, during our war of the Revolution, passed their separate and diverse acts of confiscation they were each sovereign, and were severally possessed of and in the exercise of plenary and unrestricted powers of legislation and government. But Congress has no powers but what are conferred upon it by the Constitution, and such unenumerated and incidental powers as may be necessary and proper to carry into execution those expressly vested. Treason and insurrection are cognate subjects and crimes, and the Constitution has expressly provided how both shall be treated; and no different mode for either, by implication, is allowable.

I have already argued partially of insurrection, and of the remedy which the Constitution has provided for it; but a part of the remedy is the definition it gives of treason, and the punishment which it authorizes Congress to declare for it. Every citizen engaged in an insurrection is guilty of treason, and punishable as a traitor. So far as the Constitution treats of insurrection, *eo nomine*, and authorizes it, which is war, to be put down by military force, by countervailing war, it does not intend or contemplate at all the punishment of the insurgents, but only to put an end to the insurrection, the organized and armed resistance to the authority and laws of the United States. The punishment of the insurgents is provided for in another clause of the Constitution, and therefore it is not to be derived or argued from that which authorizes the "calling forth the militia to execute the laws of the Union and to suppress insurrections." The matter of the punishment of the insurgents, of traitors, must be looked for, and learned, from those provisions of the Constitution which treat particularly of it, and those others which relate to it and all other punishment for crimes. I will here read them:

"The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attainted."

This is the only clause of the Constitution which speaks of the punishment of treason; and it recognizes, what has never been denied, that it may comprehend as well the loss of the property as the life of the traitor. Both are the punishment of the offender, and not of the offense or property forfeited. The idea of punishment being attached to the offense or the offender's property, is simply absurd and impossible. By the existing law of Congress providing for the punishment of treason, forfeiture of property is expressly withheld: it may be made an additional punishment prospectively, but for no longer period than the life of the offender. Both branches of this clause of the Constitution are to be considered together. The first confers upon Congress the *general power* to declare the *punishment*, but the latter prohibits the *attainder* or *judgment* for treason from operating the corruption of the blood, or the forfeiture of the property of the offender for a longer period than his life; and necessarily, to that extent, qualifies and restricts the power to declare the punishment of treason. It is not the meaning of this provision, that Congress can pass a law denouncing the corruption of the blood, and the forfeiture of the property of the traitor, indefinitely and for all time, and yet, that the courts in applying that law, should be required to restrict their judgments of the corruption of the blood and the forfeiture of the property to the life of the offender. The power to declare by Congress the punishment, and the power to pronounce by the courts the judgment against treason, are harmonious, and both are plainly limited to the life of traitors. This is the construction of the Constitution by Story and every authority that is even respectable.

The first paragraph of section three, article three, of the Constitution (I have just read and commented upon the second paragraph) is in these words:

"Treason against the United States shall consist only in levying war against them, or adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court."

But there are other clauses of the Constitution which bear materially upon treason and traitors, and all other crimes and criminals under the laws of the United States, which I will also read:

"No bill of attainder or *ex post facto* law shall be passed."

"The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the State where the said crimes shall have been committed."

"No person shall be held to answer for a capital or otherwise infamous crime, unless on an indictment of a grand jury, except in cases arising in the land or naval forces or in the militia when in actual service in time of war or public danger; nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation."

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him," &c.

The great principles of liberty declared in these provisions of the Constitution have their origin in the common law of England, were established by the Saxon race a thousand years ago, were in part incorporated in Magna Charta, which was wrested from a Norman tyrant by the bold barons of that island at Runnymede, and were plainly and deeply graven upon the pillars of our Government, for the instruction, guidance, and control of all its functionaries, and as an imperishable defense of the American people. They are set forth in such plain and concise language in the clauses which I have read that any other statement of them would be no improvement. I will, however, here remark, that one of them relates to the trial of *all crimes* except in cases of impeachment; and another to all criminal prosecutions; and it is provided that the trial of *both crimes and criminals* shall be by *jury*.

Mr. Justice Blackstone, in treating of the trial by jury and referring to a remark of Montesquieu, says:

"A celebrated French author, who concludes that, because Rome, Sparta, and Carthage have lost their liberties, therefore those of England in time must perish, should have recollected that Rome, Sparta, and Carthage, at the time when their liberties were lost, were strangers to the trial by jury."

Where the trial by jury prevails, according to the principles of the common law, there liberty to some considerable extent dwells; but when the trial by jury departs from any cause, civil liberty flies from that land forever.

Every candid and intelligent man will concede that if the bill under debate is in conflict with any one principle established by the clauses of the Constitution to which I have asked the attention of the Senate, should it be passed, it would be void and inoperative. I hold, and will now attempt to show, that it is palpably and plainly in conflict with many of them. First, it is in substance and effect a bill of attainder. An act of Congress which declares individuals by name, or by description and classes, to be guilty of treason, murder, or other felony, and inflicts upon them the punishment of death or the forfeiture of property, without the intervention of a court and judicial proceedings, would be a bill of attainder. The first section of this bill proposes to forfeit and confiscate to the United States the property "within them of all persons beyond them, or within any State or district of the United States now in a state of insurrection and rebellion against their authority, so that in either case the ordinary process of law cannot be served on them, *who* shall, during the present rebellion, be found in arms against the United States, or giving aid and comfort to said rebellion." It also authorizes the President "to designate any civil or military officers to seize the property so confiscated, and sell that so seized, or so much of it as he shall deem advisable, and to pay the proceeds into the Treasury of the United States." Courts and judicial proceedings are wholly ignored, and without their agency punishment, by forfeiture of property, would be inflicted by the law upon a class of individuals ascertained only by vague description, and whose numbers would be thousands and hundreds of thousands; and the President would be authorized to execute this judgment against myriads pronounced *only by the law*.

Another no less conclusive objection against the bill is, that it would be the usurpation and exercise of a judicial power by the legislative branch of the Government, when the whole judicial power of the United States is vested exclusively in the courts. To obviate these objections the bill would have merely to define or identify the crime, and declare its punishment, and leave it to courts and juries to try and adjudge whether the law and facts in the case of each individual established against him his guilt of the crime. From reading this bill, I was in doubt whether it was intended to have both a prospective and retrospective operation, or only the former. I think its verbiage and arrangement leave that point in much obscurity, but the able Senator who reported it informs the Senate that it was the intention of the committee by whose order it was reported, and of himself also, to make it prospective only; and that if it is not sufficiently clear on that point it can be made so by amendment. But three other objections to this bill arise out of the third section of the third article of the Constitution.

1. The crime denounced and intended to be punished by it, though not denominated, yet, from the language used, it is quite clear is meant treason.

In the definition of treason by that third section the language is nearly identical with that used by the statute of 25 Edward III, to define treason in England. Her courts and the Supreme Court of the United States have ruled that the words, "adhering to their enemies, giving them aid and comfort," found both in the act of Parliament and our Constitution, mean by the term "enemies," not a portion of the people of either country in a state of insurrection or rebellion, but a *foreign nation* with which the countries respectively are at war. Wherefore "the giving aid and comfort to the existing rebellion" cannot be made treason by an act of Congress.

2. "No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or confession in open court."

This bill does not require the testimony of two witnesses, or one witness, or any confession in open court, or any overt act, or any conviction in the cases comprehended by its first section. It assumes the guilt, without trial and conviction, and without testimony or confession, and without overt act or guilty intention, of an indefinite number of persons, and authorizes officers, civil or military, to be designated by the President to brand whom they will as criminals and traitors by seizing their property upon such imputation; and if they seize the slaves of a loyal man in his own possession, to regain them he is required not only to prove his right to his slaves but also his loyalty to the Government of the United States during the whole existence of the rebellion. This view also establishes that the bill, if enacted, would be unconstitutional and void.

3. The terms "confiscation" and "forfeiture" have the same character of legal significance; but the latter, being of the broader import, includes the former. This third section says:

"No attainder [judgment] of treason shall work corruption of blood or forfeiture, except during the life of the person attainted."

The bill declares the forfeiture of property in general language, without restriction as to the time of its continuance and effect. But for this limitation of forfeiture in this provision of the Constitution, under the bill, it would be in perpetuity. Thus another unconstitutional objection to the measure is established.

In the still remaining doubt whether this bill is not subject to the objection of being *ex post facto*, I will here say a word in exposition of that principle. Any law which makes an act a crime which was not criminal when it was done, or if then a crime, aggravates its enormity or punishment, or requires different or less evidence to convict an offender than was requisite when the offense was committed, is *ex post facto*. Laws which would inflict pecuniary penalties, or forfeitures of property, or which would increase them after the criminal act, would be subject to the same constitutional objection. (See Story's Commentaries on Constitution, sec. 1339, and Fletcher *vs.* Peck, 6 Cranch, 138.)

Mr. President, I have not heard any Senator controvert the positions, that where a citizen is under prosecution for treason, or any other crime, and is being tried for the purpose of *personal* punishment, that he must first be indicted by a grand jury, be brought publicly to trial in a court within the State and district where the crime is charged to have been committed, tried by an impartial jury thereof, confronted with the witnesses against him, and have the benefit of counsel.

It is often contended that the law may declare the forfeiture of the property of a criminal as a part of his punishment, and the title of his property may be vested by the law in the United States upon the commission of the offense, and the courts be authorized to proceed against the property *in rem*, and try, without the intervention of a jury, whether the crime which caused the forfeiture had been, in fact, committed, and order the sale or discharge of the property, as it might adjudge that fact; but never, until the present session of Congress, have I known the position to be assumed that property, so declared to be forfeited, could be seized and sold, the sale pass the title to the purchaser, and the proceeds to be paid into the Treasury of the United States, and the owner to be thus forever deprived of his property and all compensation for it, without any finding of a jury or judgment of a court. Such a course of procedure is not allowable; it is unconstitutional; it is monstrous! I am aware that for a violation of the revenue and other laws of the United States, property connected with such violations is directed by those laws to be seized, and the validity of such seizures has been sustained by all our courts; and that those courts have proceeded, in conformity to the provisions of those acts of Congress, *in rem*, against the property they declare to be forfeited, and have, by their judgment and decree, ordered it to be sold for the benefit of the United States and private individuals connected with its seizure; but so far as I know, or am informed, no court of the United States ever decided that the property of a citizen could be taken from him and sold, and he be divested forever of his right to it, and of all compensation for it, without the inquiry and judgment of a court, whether the state of fact which was to produce the forfeiture had occurred. I believe that Congress has never yet passed an act dispensing with such inquiry and judgment. Even in a state of war with a foreign nation, such a proceeding is required in relation to the enemy's property captured on the high seas. In the case of Gelston *vs.* Hoyt, (3 Wheaton, 246,) the Supreme Court decided that:

"By the Constitution the judicial power of the United States extends to all cases of law and equity, arising under the Constitution, laws, and treaties of the United States, and to all cases of admiralty and maritime jurisdiction; and by the judiciary act of 1789 (chapter 20, section 9,) the district courts are invested with exclusive original jurisdiction of all causes of admiralty and maritime jurisdiction, and of all seizures on land or water, and of all suits for penalties and fines under the laws of the United States; and consequently, the right to decide upon the same, by the very terms of the statute, exclusively belongs to the proper courts of the United States, and it depends upon the final decree of the court, *in rem*, whether the seizure is to be adjudged rightful or tortious. If a sentence of condemnation be pronounced, it is conclusive that a forfeiture is incurred; if a sentence of acquittal, it is equally conclusive against the forfeiture—and in either case the question cannot be litigated in any other forum."

Accordant is the case of Slocum *vs.* Mayberry. (2 Wheaton, 3.) These cases recognize the plain principle, that the question of the forfeiture of property under the laws of Congress, is in every case a *judicial question*, the decision of which belongs, both by the Constitution and the judiciary act of 1789, *exclusively* to the United States courts. Congress has no power to transfer the decision of such questions to any other tribunal, or magistracy, or itself, to decide them.

It will be observed that those cases sustain the validity of laws for the forfeiture and seizure of property, and its condemnation by courts by proceedings *in rem*, only for infractions of the *revenue laws*, and other laws relating to *trade* or *civil polity*. There may be found in other decisions *dicta* which intimate or even declare that Congress may pass laws for the forfeiture, seizure, and sale by courts in proceedings *in rem* of property for offenses that are *mala in se*, as well as for those that are only *mala prohibita*. But I have not been able to find a case in which the question of a difference between the two classes of cases, in respect to the right of the owner of the property to have the question of the fact of forfeiture to be tried by a jury, was decided, or argued, or made. Indeed, I have not observed any case in which that question was directly decided, argued, or made, in relation to the forfeiture of property for offenses *mala prohibita*. I feel a good deal of confidence that as to offenses *mala in se* the question is undecided and open, and ought to be decided by a just and true understanding of the Constitution and the laws of Congress.

I maintain that all forfeitures of property are intended, and in fact are punishments of the *owners* of such property for some actual or *constructive* default or offense of the owner or person having the control of such property. The notions imported by the phrases "guilty property" and "the punishment of property," are absurd and nonsensical. Property, except slaves, is wholly incapable of guilt and impervious to punishment. It is unconscious, insensate, far away both from guilt and punishment. But its forfeiture does punish the owner, and forfeiture of property is often only less grievous punishment than forfeiture of life. When judges and courts use the phrases "enemy property" and "guilty property," it is to express its particular situation without a multiplicity of words.

I admit that laws may be so framed as to punish a criminal by separate proceedings in court, both *personally* and by *forfeiture* of his *property;* and that an arrest of the person of the criminal, and his trial and conviction, are not necessary to authorize a judgment for the forfeiture of his estate where the law provides for such separate proceedings. But where the proceedings are separated, to produce a constitutional and valid forfeiture of either life or property, there must be judicial proceedings, and a judgment of a court establishing the facts upon which the forfeiture is to ensue. A person guilty of treason may be made to answer for it by two distinct trials in court, and by two kinds of punishment, after the law shall have so provided—the one by the loss of life, and the other by the loss of property. By both modes the commission of the crime by him has necessarily to be inquired of and adjudged by the court where either the crime or criminal is tried; in both, the criminal is punished; but in neither is there, nor can there be, any *punishment* of the *crime*.

The Constitution asserts that "the trial of *all crimes*, except in cases of impeachment, shall be by *jury;*" and also that "in all *criminal prosecutions* the *accused* shall enjoy the right to a speedy and public trial by an impartial *jury*," &c. The first provision is in the original Constitution, and requires "the trial of *all crimes* to be by jury;" the second is an amendment, and requires "the *accused* in *all criminal prosecutions*" to be also *tried* by a *jury*. It is within the power of Congress to pass a prospective law attaching the additional punishment of the forfeiture of his property for his lifetime to the criminal. The judicial power of the United States courts would extend to all cases arising under such a law, and every case would have to be instituted according to the forms of judicial proceedings, and is directed by the Constitution to be tried by a *jury*. Because this bill is arranged so as to evade that mode of trial, also, it is in conflict with that instrument.

And yet it is liable to another constitutional objection. It provides for the forfeiture of probably millions of slaves, who are scattered all over the fifteen slave States, and declares them all to be immediately free, and leaves them in that condition in the States where the law will act upon them to make this change in their condition. Congress has no expressly granted or *incidental* power to emancipate these slaves. In relation to each slave State, the freedom or thralldom of their slaves is a great question of domestic State polity, over which Congress or the United States Government has no jurisdiction. It is a matter of transcendent interest and importance to most of those States, and no conceivable measure, or spoliation, short of stripping them of all their lands, would, for the present or the future, approximate the magnitude of this measure. It would take from the cotton States the bulk of all their worldly wealth, and reduce them to poverty, wretchedness, and despair; and they will never succumb to it while they can raise an arm to resist it. Congress has neither the expressly delegated nor implied power to liberate these slaves. The implied powers can only be such as are appropriate to the execution of some express power, and must be merely ancillary and incidental to such express power. On the pretext of invoking assistance to execute an express power, Congress cannot assume a greater and more extensive one, particularly one so formidable as to enable it, as to fifteen States, to break down the great principle of our complicated system—that all the internal affairs of the States are exclusively under their own governments.

I ask to know what enumerated power of the Government is to be executed, or to be assisted in its execution, by Congress seizing upon the power to liberate millions of slaves. It is not necessary to enable the Government to subdue the rebellion. Indeed, it would strengthen the rebellion by energizing with despair the rebels, and producing with thousands and tens of thousands of loyal men, in the free as well as the slave States, a feeling of alarm, revulsion, and condemnation for an act of usurpation so flagrant and dangerous. Congress could omit all forfeiture of the slaves; but that is *the not denied pretext* to give a sem-

blance of power to free them. To coin money, could Congress seize all the jewelry and plate which is owned by the American people? To carry on the war against the rebellion, could it rob all the banks of the United States? No Union citizen that I have ever heard of has asked that this war be conducted by the United States for the defense of slavery, or objected to slaves being forfeited like other property. All that the Union slaveholders ask for slave property is, that it shall be treated by Congress and the Government and the Army impartially and equally like other property; and if by such course slavery is to be damaged or to fall by the war, they will make no complaint; but they do, will forever, protest that the war shall not be made a crusade against slavery.

But while we admit the power of Congress to pass laws for the forfeiture of slaves for the life of the owner who has committed treason, upon another ground we deny its power to emancipate them. "Forfeiture" and "confiscation" are technical terms—terms of legal art. They have a precise and well-understood legal meaning, as much so as "bill of attainder," "*ex post facto* law," writ of "*habeas corpus*," and other legal phrases embodied in the Constitution. The meaning of these terms was fixed by their adoption in the Constitution, and the meaning of each is just the same now that it was when the Constitution was formed. Congress has no power to change that meaning, for that would be to change, *pro tanto*, the Constitution. Congress has power to add the forfeiture of property, and make it a part of the punishment for treason. It may do in relation to the property of persons guilty of treason exactly what is imported by the term forfeiture. Blackstone, and all the authors who treat of it, define it to be—

"A punishment annexed by law to some illegal act or negligence in the owner of lands, tenements, hereditaments, or personalty, whereby he loses all his interest therein, and they go to the *party injured* as *recompense* for the wrong which either he alone, or the public with him, hath sustained."

The essential feature of forfeiture is not so much to deprive the one party of the forfeited property as it is to appropriate it to the other as *compensation*. It was once contended in the Supreme Court that the importation of goods into the United States was only to bring them into the country, and did not comprehend their after sale; but that court decided that sale was of the essence of importation and a part of it. Appropriation of the forfeited property to the injured party is no less a *part*, and of the essence of forfeiture; and I challenge my learned friend, the Senator from Michigan, to adduce a single instance of forfeiture or confiscation by legislative action, in this or any other country, where the property forfeited was not so appropriated. The acts of forfeiture and confiscation of the States, in the war of the Revolution, to which he referred us, transferred all the forfeited property to the States severally. Three or four of them were slave States, and the property confiscated by them included slaves, which, alike with all other property, was appropriated to the States. The idea of the forfeiture of property by law, without appropriating it, is one of the mischievous errors of this innovating and reckless age. The provisions of the bill relating to slaves would not come up to the measure of forfeiture, and would be void for incompleteness and imperfection.

Mr. President, I should like to speak from half an hour to an hour longer. I have not concluded my remarks. I have some, of great importance as I deem, yet to make. I feel a good deal exhausted, as it is my habit to speak vehemently. I would therefore throw myself upon the courtesy of the Senate, and ask that they proceed now to the consideration of some other business and allow me to conclude my remarks (which I promise to make as short as I can) to-morrow.

Mr. SUMNER. If the Senator will give way, I move that the Senate proceed to the consideration of executive business. That will leave the Senator in possession of the floor.

Mr. DAVIS. I thank you, sir.

EXECUTIVE SESSION.

On motion of Mr. SUMNER the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *April* 22, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

ARREST OF SIMON CAMERON.

The SPEAKER laid before the House a message from the President of the United States transmitting to Congress a copy of a correspondence between the Secretary of State and Benjamin H. Brewster, of Philadelphia, relative to the arrest in that city of Simon Cameron, late Secretary of War, at the suit of Pierce Butler, for trespass *vi et armis*, assault and battery, and false imprisonment; which was referred to the Committee on the Judiciary, and ordered to be printed.

SURETIES OF GEORGE MARSHALL.

The SPEAKER. The question in order is the consideration of House bill No. 412, for the relief of the sureties on the bond of George Marshall, late postmaster at Valatie, New York. Shall the bill be engrossed and read a third time?

Mr. BINGHAM demanded the previous question.

The previous question was seconded, and the main question ordered.

Mr. DUNN. My colleague, [Mr. COLFAX,] the chairman of the Committee on the Post Office and Post Roads, is not present, and I hope that this bill will not be pressed to its passage at this time.

Mr. BINGHAM. The bill is now properly before the House, and now is the time to consider it.

On ordering the bill to be engrossed and read a third time there were, on a division—ayes 16, noes 22; no quorum voting.

Mr. WALTON, of Vermont, moved that there be a call of the House.

The motion was disagreed to.

Mr. MALLORY moved that the House adjourn; and on that motion demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yea 1, nays 95; as follows:

YEA—Mr. Trowbridge—1.

NAYS—Messrs. Aldrich, Allen, Arnold, Ashley, Babbitt, Joseph Baily, Baker, Beaman, Biddle, Bingham, Francis P. Blair, Jacob B. Blair, Blake, William G. Brown, Buffington, Calvert, Casey, Chamberlin, Clements, Colfax, Frederick A. Conkling, Roscoe Conkling, Crisfield, Cutler, Davis, Diven, Duell, Dunlap, Dunn, Edwards, Eliot, Ely, Fenton, Franchot, Frank, Goodwin, Granger, Gurley, Hall, Hanchett, Harding, Harrison, Hickman, Hooper, Hutchins, Kelley, Francis W. Kellogg, Knapp, Law, Lazear, Loomis, Lovejoy, McKnight, McPherson, Mallory, Menzies, Mitchell, Moorhead, Justin S. Morrill, Nixon, Noble, Noell, Nugen, Olin, Patton, Timothy G. Phelps, Porter, Potter, Price, John H. Rice, Edward H. Rollins, James S. Rollins, Sargent, Shanks, Sheffield, Shellabarger, Smith, John B. Steele, Stevens, Stratton, Benjamin F. Thomas, Francis Thomas, Trimble, Vallandigham, Van Horn, Van Valkenburgh, Vibbard, Wall, E. P. Walton, Ward, Albert S. White, Wilson, Windom, Woodruff, and Worcester—95.

So the House refused to adjourn.

During the roll-call,

Mr. STEELE, of New York, stated that Mr. HAIGHT was detained from the House by sickness.

The result of the vote having been announced as above recorded, the question recurred upon ordering the bill to be engrossed and read a third time.

Mr. BINGHAM. I withdraw the demand for the previous question, for the purpose of reminding the House again of the nature of this bill.

The SPEAKER. The gentleman cannot withdraw it, as the main question has been already ordered; but the gentleman having reported the bill, has a right to close the debate.

Mr. BINGHAM. The bill is a bill to relieve the sureties of George Marshall, formerly postmaster at Valatie, in the State of New York. It simply proposes to refund to them the amount of money which they paid into the Treasury of the United States as sureties of this man, under protest. The equities of the bill are simply these: the Post Office law expressly provides that it shall be the duty (I quote its words) of the Postmaster General to put in suit the bonds of a deputy postmaster in case of a three months' or quarter's default. The accounts rendered by the Post Office Department show that, instead of putting this bond in suit at the end of a three months' default, the Postmaster General allowed seven consecutive quarters of defaults to go without any suit at all, and that was the basis of the protest of the sureties. The testimony shows further, that the Postmaster General never moved in the matter until the office became vacant, in consequence of the withdrawal of the postmaster from the State; in short, he absconded, and when there was no postmaster left at this place to plunder the Treasury of the United States, the Postmaster General then deemed it time enough for him to comply with the requirements of the law, and he put the bond in suit after seven quarters' default, in face of the protest of the sureties.

Now, everybody knows that by the general laws of the States the sureties upon ordinary paper are allowed to give notice to the holder of the paper that he shall put his bond in suit or they will not hold themselves longer bound, and if he refuses to do it they are accordingly discharged.

Mr. OLIN. Will the gentleman allow me to make an inquiry?

Mr. BINGHAM. Certainly I will.

Mr. OLIN. Has there been a report printed in this case?

Mr. BINGHAM. There is no report printed, for the reason that the case has been long before Congress. It was reported in the last Congress by the Judiciary Committee—I do not remember whether there was a printed report or not—and was placed upon the Private Calendar; but it was not reached. I have only to say further to the gentleman that I represent here his own constituents in this matter, under the order of the House, men whom I have never seen and of whom I know nothing, except that one of his former colleagues has represented to me that they are gentlemen of excellent character, and that what is stated in their petition is undoubtedly true, and our investigation through the Post Office Department, I am free to say, confirms their statement to the letter.

Mr. OLIN. The gentleman's statement constrains me to say one word, and it is simply this: that if they were my constituents, I do not suppose that would alter the law of the case in the slightest degree. I wish to state further, that it has become the common understanding of the country that this matter of sureties given for the faithful performance of duties by postmasters and other persons in official positions has come to be a perfect farce, and that whenever a default is made or a breach of public duty committed, no security can be had by the Government by a resort to official bonds.

Now, I do not know what this case is; but one fact is, I understand, conceded, and that is that there was a voluntary payment of money by the sureties without suit, and they now ask an act of Congress to refund that money.

Mr. BINGHAM. The gentleman will excuse me. It was not a voluntary payment. It was a payment under protest, and under the instruction of their counsel, which I say was well given, that he could not plead the default of a Government officer in voidance of their bond, and I say that that was good law.

Mr. OLIN. Will the gentleman permit me?

Mr. BINGHAM. The gentleman will excuse me.

Mr. OLIN. Well, I will see whether the Chair will excuse me.

Mr. BINGHAM. His remark was certainly very far-fetched.

Mr. OLIN. No, sir.

Mr. BINGHAM. The gentleman will excuse me. I will teach him some manners, if he does not know any. I say that it was a very far-fetched remark of the gentleman, that my statement to him that the persons whom I represent are his constituents implied that he ought therefore to vote for the bill. It implied no such thing, and he had no right to make the intimation that I implied any such imputation upon him. I was simply reminding him that I was standing here in discharge of the duty imposed upon me by the House to investigate and report upon a case which had relation to two of his immediate constituents. That was all; neither more nor less. Now, sir, I beg leave to say to him that he does his constituents injustice, and contradicts their statement here upon record, when he says that they paid this money voluntarily and without protest. They paid it under the coercion of a suit.

I have but a word further to say about this matter. The gentleman from Indiana [Mr. PORTER]

correctly reported the statute the other day and the two years limitation. I have examined the statute, and it contains both the provisions that I spoke of; first, that it shall be the duty of the Postmaster General to put in suit the bond of a deputy postmaster upon a three months' default; and second, that no action shall be brought on the bond of a deputy postmaster except within two years after the cause of action may have arisen. Now, I suppose that both those sections of the statute are to have full force and effect. Gentlemen will remember that there are other duties imposed upon deputy postmasters besides making the quarterly returns and payments required by the conditions of the bond. They are to perform all the duties enjoined by law pertaining to their offices, and also to conform to and comply with the various rules of the Department which from time to time may be published for their guidance. If, therefore, he should violate any rule prescribed by the Department, an action arises on the bond; and then that provision of the statute—that such action shall be brought within two years—applies. If a remittance be made by the Department of the Government for the purpose of paying governmental dues of any sort, to be delivered to another person, and if the postmaster makes default in that an action arises, for which the sureties are liable, but it must be brought within the two years.

The other condition is, that if the postmaster makes default in sending his returns to the Post Office Department, and paying in the moneys due thereon for a longer period than three months, it shall be the duty of the Postmaster General to bring suit on the bond. What protection is there to the citizen if, when he gives notice to the Postmaster General, calling upon him to discharge that duty, and when the postmaster declines to do it the citizen is still to be held responsible? The gentleman from Indiana [Mr. COLFAX] said the other day that he hopes this case is exceptional. I have no doubt that it is. I have no doubt that, with this law on the statute-book, if the Postmaster General were to repeat that operation in regard to all his defaulting deputies, it would result in his impeachment and in his removal from office. The case is, so far as I know, entirely exceptional.

This bill, therefore, is simply to refund these citizens their own money which they paid years ago into the Treasury under protest, under the coercion of a threatened suit, and under the advice of their counsel that they could not plead the default of a Government officer. We allow them no interest. We simply give them back their own. As I said the other day, an action between men in private life, under similar circumstances, never could be maintained by the principal against the sureties, because the law would be held as part and parcel of the contract.

Mr. HICKMAN. I trust that my colleague on the Judiciary Committee will allow me to say a word on this bill. I desire to resist its passage.

Mr. BINGHAM. If the gentleman desires to resist the action of the committee, I ask for a vote on the bill.

Mr. HICKMAN. I do desire to resist the action of the majority of the committee, and I think I am entitled to be heard.

The SPEAKER. The main question having been ordered, debate is not in order.

Mr. COLFAX. As the gentleman from Ohio has brought me in reference to a point of law, I desire simply to refer to it.

Mr. HICKMAN. If I cannot get the floor as a minority of the committee opposed to the passage of this bill, I shall oppose it being given to any other gentleman.

Mr. BINGHAM. I do not object to the gentleman from Pennsylvania making a speech.

Mr. HICKMAN. I do not propose to make a speech; but I think it is nothing more than right that the views of the minority of the committee should be expressed.

The question was taken on ordering the bill to be engrossed, and read a third time; and the House refused to order it.

Mr. OLIN. I move to reconsider the vote by which the House refused to order the bill to be engrossed and read a third time.

Mr. VALLANDIGHAM. Is that motion debatable?

The SPEAKER. It is debatable, the previous question being exhausted.

Mr. OLIN. I make this motion, Mr. Speaker, simply because the courtesy of the gentleman from Ohio would not permit me to put a single inquiry to him in reference to this bill. I had asked of the gentleman, in a respectful way, as I supposed, whether the report had been printed, so that the facts on which the House was asked to decide might be brought before it. I was told that the bill had been a long time before the House, and that therefore there had been no report made. That was not a very good excuse, in my judgment, for pressing through, at this period of time, a private claim of more than doubtful character. The gentleman states that the bill is to indemnify a constituent of mine; and when I simply suggested that that could not, in my judgment, alter the law, he takes exception that I should have thus replied to a remark of that kind, seeming to imply that I would vote for a bill for a constituent of mine, which I would not otherwise vote for. Now, I think, with all deference to the gentleman, that the reply was an obvious and natural one. If the gentleman's remark did not imply that, it was about as senseless a remark as an intelligent gentleman could make on this floor.

Now, what is the equity of this claim? I said that the money appeared to have been paid voluntarily. The gentleman says, no. What is a voluntary payment? A payment made when demanded by the proper authority, is a voluntary payment—a payment made without suit, a payment without judgment. Now, does the gentleman say that suit was brought in this case?

Mr. BINGHAM. I beg leave to remind the gentleman that I say I understand a voluntary payment to be——

Mr. OLIN. I do not ask for your definition of a voluntary payment. I asked you simply whether payment had been made before or after suit was brought.

Mr. BINGHAM. I made no such statement.

Mr. OLIN. I know the gentleman is a good lawyer, but I do not ask his definition of a voluntary payment. I believe I know what that is. A mere payment made on demand, so far as I know, never was pronounced an involuntary payment, except by the chairman of the Judiciary Committee.

Mr. BINGHAM. I did not say that.

Mr. HICKMAN. I believe I said no such thing, for I entertain very different opinions upon it.

Mr. OLIN. I beg the gentleman's [Mr. HICKMAN] pardon; I mistake. Neither is a payment made after suit is commenced and before judgment an involuntary payment.

Mr. BINGHAM. I do not say that either.

Mr. OLIN. Now if payment was made after suit and after judgment, that was an involuntary payment. That is a compulsory payment. That entitles a party to claim all the rights of an involuntary payment. But I do not understand that to be the case here. The only equity in the case, so far as I can understand it from the gentleman, is that the postmaster had made default, had fraudulently abstracted, or converted to his own use, the public money, and that the Government had not been so prompt to prosecute the bond and the defaulting postmaster as it might have been. But I do not understand that it is alleged here as an equitable consideration, that by reason of the fault of the Government any security was lost that the sureties would otherwise have had.

Mr. BINGHAM. Then the gentleman did not notice anything I said about it.

Mr. OLIN. I did listen to the gentleman.

Mr. BINGHAM. I beg leave to say that every dollar of this amount, as the account shows, was actually received by the defaulting postmaster after notice of default, and after it had become the duty of the Postmaster General to sue the bond. I stated further that the Postmaster General even permitted the postmaster to abscond, carrying off the money. I suppose that was excusing the security.

Mr. OLIN. The gentleman does not answer the question. Do the facts in this case show that if suit had been commenced at any given moment after default was made, the Government would have recovered the money from the postmaster, and would not have had to resort to the sureties?

Mr. BINGHAM. The facts certainly show that if suit had been brought when notice of default was first given, and if the postmaster had been then removed as a defaulter, those other moneys which came into his hands afterwards, and which constitute the matter in controversy, would never have been received by him. The Post Office account shows that there were as many as seven quarterly defaults of this postmaster, covering a period of a year and three quarters. These parties gave notice previous to the third of these defaults, and we have reported in favor of refunding the amount paid for the last five defaults. That is what we have done. If the Postmaster General had done his duty, this claim would not have been here.

Mr. OLIN. One other inquiry, as the gentleman is very courteous, upon this subject. Were those sureties aware of the default of their principal?

Mr. BINGHAM. They were not only aware of it, but they gave notice of the fact to the Postmaster General.

Mr. OLIN. And yet after the notice the sureties paid the money voluntarily into the Treasury, and made no defense to the suit?

Mr. BINGHAM. They paid the money under protest, as I have said, under the advice of eminent counsel, that the delay of the Postmaster General could not be plead in their defense.

Now, Mr. Speaker, it has been well settled in the circuit court of the southern district of the gentleman's own State, that payment of money into the United States Treasury before suit, under protest, was not a voluntary payment of money, and can be so claimed. That principle was laid down in the case of the United States *vs.* Collier, affirmed by the Supreme Court. I aver that the record shows that fact. So much for that.

Mr. OLIN. The gentleman sees perfectly well that I cheerfully yield to him whenever he wishes to make any explanation or to state any fact, and I hope I am practicing good manners, if I do not profess to be a teacher of good manners; and I think almost any one would be a little astonished that any person should apply to the gentleman from Ohio for that purpose, however destitute might be his condition in that respect in this House. [Laughter.]

The only equities, then, I think, to which my friend is reduced, so far as this bill is concerned, are that some court of law had decided in a certain way, and that if the petitioner in this case had chosen to defend the suit, and had the law been held as that other court had held it to be, he could have successfully defended it. That is the equity of this case as against the General Government, under which these parties claim the right to have this money refunded. Sir, if that principle were recognized and adopted in the States, as well as in the General Government, both Congress and the Legislatures of the States would be constantly employed the year round in making appropriations to indemnify parties for improper judicial decisions, or by reason of their being induced not to controvert at law claims made against them.

As I said before, this question of the liability of sureties upon bonds to the Federal Government has become, in the estimation of the people throughout the country, a perfect farce. Some means are always devised, and generally successfully devised, to avoid all legal liability of such surety. A new theory has recently been devised in the city of New York, by which a defaulting postmaster's sureties were discharged from liability. It has, I think, somewhat astonished the legal world in respect to the decision arrived at in that case, if I understood the facts upon which the decision was made.

Now, the very object of the bond was that, during the continuance in office, for every breach of official duty of any officer appointed by the General Government the sureties should be held liable to the same extent that the officer himself was responsible to the General Government. The only end or object of having sureties for an officer was that they should be held thus responsible. If the delay of a day upon the part of the officers of the Government to bring suit when the default was known is to release the sureties, it would be straining the point of law to such an extent as to avoid all judicial responsibility upon the part of the sureties.

Mr. ROSCOE CONKLING. Will my colleague allow me to make a remark?

Mr. OLIN. With pleasure.

Mr. ROSCOE CONKLING. It was said the

other day, if I understood the gentleman from Ohio [Mr. BINGHAM] correctly, that the merits of this case consisted largely in the fact that the obligee in this bond is the United States, against whom the same defense could not be set up that might have been interposed and would have been good against an individual. In other words, that the non-action of the United States, if it had been indulged in by an individual, would as a defense set up by the surety have been fatal to an enforcement of the bond. Upon this suggestion I have a remark to make, with the consent of my colleague, and I will thank him, or the chairman of the Judiciary Committee, who I see means to say a word upon the subject to enlighten the House upon it. My understanding of this law is this: that in no case is the mere fact of delay, the mere laches of the holder of the bond, a defense in favor of the surety; but that, on the contrary, in order to discharge the surety on a bond or note the holder of that obligation must have made a binding agreement with the principal debtor by which the performance of the obligation is extended, or the obligation in some way varied. If such binding agreement be made, the original agreement is changed and the surety is discharged. This is true, however slight by the second agreement is the enlargement of time; for, in the language of Chancellor Kent, if the liability of the surety is "gone for a moment it is gone forever." If such be the law, and a citizen of the United States had been the holder of this bond, and had delayed precisely as the Government is said to have delayed, the surety could not have set up the laches as a defense *per se*, nor as an allegation establishing an equity which in any forum would answer a proceeding to enforce his liability.

Mr. BINGHAM. Will the gentleman allow me to say that I made no such suggestion as that at all? I claim no such thing at all.

Mr. ROSCOE CONKLING. I qualified my reference to the statement of the gentleman with some care, in order to guard against any discussion upon the accuracy of my repetition of his remarks. I said that this doctrine was stated in substance by the gentleman from Ohio, if I understood him correctly. I did not say that he said so, though I am quite sure that gentlemen around me understood the gentleman to state distinctly and without qualification what I have repeated.

Mr. BINGHAM. The gentleman will allow me to correct him. He has not stated my proposition correctly at all. What I said was, that by the statutes of the States it is provided oftentimes —I know it is so in my own State, and I think it is so in others—that the sureties upon a bond may, by giving notice in writing, require suit to be brought against the principal debtor, in default of which the sureties are discharged from their obligation.

Mr. ROSCOE CONKLING. Does the gentleman speak of laws in the States?

Mr. BINGHAM. Such is the law in my own State.

Mr. ROSCOE CONKLING. Is there any such statute here?

Mr. BINGHAM. The law requires that suit shall be brought within three months after the first default. The law, however, does not provide that failure so to bring suit shall discharge the sureties from their obligations. But I hold that such being the requirement of the law, the failure of the Postmaster General for seven consecutive quarters to bring suit constitutes an equity upon which this House may very properly act, although it would not, under the law, constitute a defense against a suit on the bond.

Mr. ROSCOE CONKLING. I want the floor a moment in reply.

Mr. COLFAX. I want the floor for two or three minutes.

Mr. ROSCOE CONKLING. Allow me a single word of reply to the gentleman from Ohio. In the first place, my opinion would be that the statute cited is only directory, and does not change in this regard the rights of the parties here concerned.

Again: when he puts it upon the ground of equity, I desire to make this reply, and to urge it upon his regard. The Government, on behalf of which he proposes to remit this money, unlike a natural person, has no voice to speak with and no function to act by, except its agents. Therefore, in weighing the equities, it will not do at all, in considering claims arising from the remissness of agents, to try the principal always as if he were a natural person, having all the time a voice and action and intelligence of his own. The Government, in that respect, is at the mercy of its agents quite as much as those with whom it deals, and therefore such a statute as he refers to in this case varies not at all, in my judgment, the legal or equitable rights of the parties.

Mr. COLFAX. I desire, Mr. Speaker, to say a few words in regard to the facts in this case. It is not my purpose to interfere with the legal question in dispute between the gentleman from New York and the gentleman from Ohio, except to quote the law which ought to govern our action here.

I sympathize very heartily with those men who have to pay money as security for others. I know that it is very hard; and I know that there are instances all over the country of men who by going security for others have been broken up, and who have seen their homesteads and everything that is dear to them wrested from them as a consequence. Yet, sir, in order to preserve the legitimate revenues of the Post Office Department, it is absolutely necessary that all securities should be held rigidly to the strict letter of the law. There are twenty-eight thousand postmasters which the Postmaster General has to appoint, whom he does not see, whom he knows but little of further than this, that he has the security for each one of them of two persons, who are known and guarantied to be responsible, that he shall faithfully and honestly discharge the duties of the office to which he has been appointed. So it is with the mail contractors. The Postmaster General, under the law, is compelled to give the contracts for carrying the mails to the lowest bidders, whom he does not know. For the preservation of the interests of the Government, and to secure the performance faithfully and honestly of the contracts for carrying the mails, all the guarantee the Government has are these securities. If you destroy this security system, then the revenues of the Post Office Department will come speedily to an end. It is possible now that we shall lose hundreds of thousands of dollars in the South, by reason of the expiration of the two years when postmasters and their securities can be compelled to make payment to the Department of their balances. Some think that the time ought to be extended. Yet, if it were, it would operate stringently upon postmasters and their securities in the loyal States.

It must be recollected that the Post Office Department sends out to these postmasters postage stamps, which are equivalent to money. The postmasters can order whatever number of stamps they may choose, proportionate to the revenues of the office, and the only security that we have for the stamps or the money thus advanced, is the solvency and responsibility of the two men who are the sureties upon the postmaster's bond.

These sureties are not compelled to remain upon the bond of a postmaster. The law does not compel them to remain upon the bond if they do not want to. In reference to that matter, the law of 1836 provides as follows:

"SEC. 14. *And be it further enacted*, That when any one or more of the sureties of a postmaster shall notify to the Postmaster General their desire to be released from their suretyship, or when the Postmaster General shall deem it necessary, he shall require the said postmaster to execute a new bond, with security, which, when accepted by the Postmaster General, shall be as valid as the bond given upon the original appointment of said postmaster, and the sureties in the prior bond shall be released from responsibility for all acts or defaults of said postmaster which may be done or committed subsequent to the acceptance of the new bond, the date of which shall be indorsed thereon."

Mr. BINGHAM. Suppose they make that request, and the Postmaster General answers that the law is not directory.

Mr. COLFAX. But it is positive.

Mr. BINGHAM. It is no more positive than the other law.

Mr. COLFAX. If the sureties believe that the postmaster is dishonest, and desire to be relieved, they can be relieved by notifying the Postmaster General of their withdrawal from the postmaster's bond.

Mr. BINGHAM. But they are never discharged from the bond until new sureties are procured and make another bond.

Mr. COLFAX. The law gives this alternative: if the sureties feel that the postmaster is dishonest, they can be relieved from remaining on his bond; or if the Department is not satisfied that the sureties are responsible men, it can make the postmaster execute a new bond with new sureties.

I come now to the section of the law which was previously referred to by the gentleman from Ohio. It is the thirteenth section of the law of 1825, and I will read it:

"SEC. 13. *And be it further enacted*, That it shall be the duty of the Postmaster General, upon the appointment of any postmaster, to require and take, of such postmaster, bond, with good and approved security, in such penalty as he may judge sufficient, conditioned for the faithful discharge of all the duties of such postmaster required by law, or which may be required by any instruction or general rule for the government of the Department."

As I have already stated, Mr. Speaker, I sympathize with the sureties who are compelled to pay money for others. But the law must be enforced. If this bill be passed, it will be the establishment of a precedent, and other like cases will come up to us from all parts of the country. If you do not enforce this surety system in all instances, there will be an end to the revenues of the Post Office Department. It is absolutely necessary that the system should be maintained intact. We have twenty-eight thousand postmasters, and thousands of mail contractors, for whose faithful and honest performance of duty we have only this guarantee. If we strike it down, you must not complain if the Postmaster General reports to you that his Department has become more and more a burden on the Treasury.

Mr. HICKMAN. The gentleman from Ohio [Mr. BINGHAM] admits that these sureties have no case in law. He is not willing to admit that the section he refers to is directory, yet his whole argument is a clear admission that he does so regard it. If it is other than directory, it is obligatory, not only upon the officer to whom the command is given, but upon the Government for whom that officer acts. If it is provided by the law that suits shall be brought within three months after the defalcation, and the parties are bound by it, then it is plain to the mind of every lawyer in this House that it may be pleaded as a defense in a suit brought for subsequent defalcation. It strikes me that no legal proposition can be clearer than this. But the section relied upon by the gentleman from Ohio [Mr. BINGHAM] cannot be pleaded because it is merely directory; but that which follows declares that no suit shall be brought after two years.

The one section is obligatory and the other is directory. This is no anomaly, as we often find similar provisions in the laws of the States as well as in the laws of Congress. These parties seeking redress at our hands have no case in law. They had their lawyers present, who advised them to make voluntary payment. I will not stop to discuss whether the payment was, in the sense in which the gentleman from Ohio used it, involuntary, or whether it was voluntary, in the sense of the gentleman from New York. I do not see that there is any real disagreement between them. The former, I am sure, will not say the payment was compulsory. Their counsel advised them that it would be useless to stand a suit at law, as they had no defense in law; and their counsel, upon whom my colleague here passes compliments, clearly understood the law, which he quotes as merely directory, or he would have given them very different advice. Then, sir, I take it that this part of the case is disposed of; that these sureties never had a defense in law, and that the payment of the money was clearly voluntary; for, sir, if I pay money without a demand, it is voluntary; if I pay it after demand, it is voluntary; if I pay it upon suit brought it is voluntary; but after judgment rendered against me, it, for the first time, becomes a compulsory payment.

In addition to this, sir, they have no claim in equity any more than they have in law, and I was opposed, therefore, to the action of the Committee on the Judiciary recommending the refunding of this money. It is, as far as I now remember, the first case of the kind which has come before the Committee on the Judiciary for the last three years where a release or a refunding of the money has been recommended, and I know that much stronger cases than this have been refused, one of which I have now very clearly in my mind. I was, therefore, astonished at the action of the committee upon this bill. I say they have no case in equity any more than they have in law; and if any gentleman here held a different opinion about

it before the chairman of the Committee on the Post Office and Post Roads made his remarks, they have become satisfied, surely, that they were under a misapprehension.

Now, sir, what did those sureties do in order to be relieved? Did they act with prudence? Did they do everything which they could do and everything which they ought to have done to relieve themselves? It is said that they gave a notice of the defalcation. So be it. It would appear that after they had given notice of a quarter's defalcation, the amount for that quarter was paid up to the Department; and these defalcations from which relief is sought were on subsequent quarters of which they gave no subsequent notice. Well, sir, they were required to do more than they did; and I suggest that their action shows that they subsequently acquiesced and were willing to stand as sureties for this postmaster; for they gave notice, I repeat, of the one quarter's defalcation which was afterwards made up, but gave no notice as to the defalcations which occurred subsequently; and as they did nothing further, they are presumed to have acquiesced as sureties for their principal.

Mr. BAKER. I beg to correct the gentleman. The first quarter was not paid up after notice to the Department.

Mr. HICKMAN. Well, then, we are sadly at odds and ends here about the facts. It is my understanding, and it has been repeated here in the course of the argument—and I still believe it to be the fact—that the defalcations occurred subsequently to the notice; but I do not care whether they did or did not. The non-action of these sureties clearly indicated that they were not restless under the obligations of their bond, but were still willing to stand as sureties. Why did they not give subsequent notice? Why did not they insist on being released when this postmaster was constantly abstracting public moneys and putting them in his own pocket? But, sir, they entered into this bond knowing what they were doing. Undoubtedly they knew what the law was, and what it was necessary for them to do in order to be released. They had their counsel at hand, whom they were consulting. Why did not they require the Postmaster General to relieve them and take new security? That they did not do so is conclusive that they acquiesced in continuing his sureties.

But, Mr. Speaker, there are no cases, so far as I know, of money paid by sureties but what are cases of hardship. If a man goes security for a rascal and loses his money, it is his misfortune. It is well that he should pay it, as it will give him a little experience that may be of advantage to him in after life. I have on several occasions paid money in this way, and never asked to have it refunded, and I do not think I ever shall ask it. I think that when men become sureties for a rascal they ought to pay. I recommend to these sureties Christian resignation, and a resolve to be more careful in the selection of their friends for the future.

Mr. MORRILL, of Vermont. I move the previous question.

Mr. OLIN. I withdraw the motion to reconsider.

DRUNKENNESS IN THE ARMY.

Mr. MORRILL, of Vermont. I desire to ask the unanimous consent of the House to offer a resolution to which I think there will be no objection. It has a particular application, and I think the House will agree that it ought to have universal application.

The Clerk read the resolution, as follows:

Resolved, That the President be requested to strike the name of any officer from the rolls who has been known to be at any time while in service intoxicated by the use of spirituous liquors.

Mr. VALLANDIGHAM. I object to that. It is too severe. If it referred to officers habitually intoxicated, I think it ought to pass unanimously; but for a single act of intoxication the penalty is too severe.

Mr. MORRILL, of Vermont. I am willing that the resolution shall be modified as suggested. Mr. Speaker, it will be noticed that in the recent engagement of our forces at Yorktown on the 16th of the month, a very few companies of Vermont troops were ordered to a position of extreme peril and performed, perhaps, one of the most gallant exploits that has been witnessed during this war. About two companies were ordered to take a certain battery, and they went across a stream and did take the position, driving out the enemy, and held it for fifty minutes in the face of a foe numbering something like three thousand men—three regiments under General Cobb—and during all that time were not supported or reinforced by the general who was upon the ground. At last they retired, and the rebel papers report that all but eight were slaughtered. That is not true, but the slaughter was not only great, but useless.

Now, I am informed by a most respectable gentleman, a civilian, who was present at the time, and saw the general, that he was grossly drunk, and it was reported had fallen from his horse twice on that day; that one side of his person was covered with mud, and that his face was also covered with mud and had some blood on it. Under these circumstances, while I do not know that he was responsible for this blunder, yet if there are any men in the Army who get into the condition that I am assured he was in, they deserve to be stricken from the rolls. No such man ought to be allowed to control the destinies of brave men.

Mr. GURLEY. I would like the name of that general.

Mr. MORRILL, of Vermont. I decline to give the name.

The resolution, as modified, was then read and agreed to, as follows:

Resolved, That the President be requested to strike the name of any officer from the rolls who has been known to be habitually intoxicated by the use of spirituous liquors while in the service.

Mr. MORRILL, of Vermont, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

PEDRO CHABOYA.

Mr. HICKMAN, by unanimous consent, reported back from the Committee on the Judiciary a bill (S. No. 106) to authorize the district court of the United States for the northern district of California to hear and determine on its merits, the claim of Pedro Chaboya to a certain tract of land in California, called "La Posa de San Juan Bautista."

The bill was read. It authorizes and requires the district court of the United States for the northern district of California to hear and decide upon the merits, the claim of Pedro Chaboya to a tract of land described in his amended petition, filed in said court on the 15th of June, 1857, and called "La Posa de San Juan Bautista," in the same manner, and with the same jurisdiction, as if the claim to the said tract of land had been duly presented to the board of land commissioners under the provisions of the act entitled "An act to ascertain and settle the private land claims in the State of California," approved March 3, 1851, and an appeal had been duly taken from their decision to the said district court by the said Chaboya.

The second section provides that on the said hearing, the testimony heretofore taken in said court in relation to the said claim on behalf of the said claimant, or of the United States, may be read, subject to all just exceptions to its competency; and additional testimony on either party may be taken, under the direction and order of said district court, as to the validity of said claim, or the extent thereof.

The third section provides that an appeal may be taken from the final decision and decree of said district court to the Supreme Court of the United States by either party, in accordance with the provisions of the tenth section of the said act of March 3, 1851.

Mr. CRITTENDEN. I would inquire of the gentleman from Pennsylvania, whether this bill affects the rights of private individuals on these lands?

Mr. HICKMAN. As I understand, it only affects the single individual who is asking for this legislation. It does not affect any other private rights. It is merely to cure an informality. This legislation is recommended by the district judge for the northern district of California.

The bill was read the third time, and passed.

Mr. HICKMAN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. MALLORY. I ask leave to report a bill from the Committee on Roads and Canals, with a view to put it upon its passage.

Mr. BINGHAM. I call for the regular order of business.

CONFISCATION OF REBEL PROPERTY.

The SPEAKER. The next business in order is the consideration of the bills and resolutions reported from the Committee on the Judiciary, relative to the confiscation of the property of rebels, as follows; the question being on the motion of Mr. PENDLETON to lay them all on the table:

A bill (H. R. No. 126) to forfeit the property and slaves of persons who shall engage in, or aid and abet, armed rebellion against the United States;

A bill (H. R. No. 107) to forfeit the property and slaves of persons who shall engage in, or aid and abet, armed rebellion against the United States;

A bill (H. R. No. 106) to facilitate the suppression of rebellion and prevent its return;

A bill (H. R. No. 110) making it a penal offense for any officer or private of the Army or Navy to capture or return, or aid in the capture or return, of fugitive slaves;

A bill (H. R. No. 128) to punish treason, and to provide a more effectual mode for the collection of taxes imposed by Congress, and to furnish a fund to remunerate the losses of loyal citizens, and to provide homesteads for soldiers employed in suppressing the present rebellion;

Joint resolution (H. R. No. 11) relative to the right and duty of the President in regard to persons held as slaves in any military district in a state of insurrection;

Joint resolution (H. R. No. 13) concerning the rebellion;

Joint resolution (H. R. No. 14) in relation to persons claimed as slaves in the States now in rebellion;

Joint resolution (H. R. No. 15) in relation to the confiscation of the property of rebels;

Joint resolution (H. R. No. 18) to facilitate the suppression of the rebellion and prevent its return;

A resolution (Mis. Doc. No. 9) as to the powers of the President of the United States over the Army and Navy;

A resolution (Mis. Doc. No. 3) relative to the confiscation of the property of rebels;

A resolution on the subject of military orders for the return of slaves;

A resolution relative to the expediency of making void all sales, transfers, and dispositions of property of every kind, by persons engaged in insurrection against the United States; and

Joint resolution (H. R. No. 54) in relation to the powers of the President of the United States.

Mr. BINGHAM. I call for the yeas and nays on the motion to lay on the table.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 38, nays 66; as follows:

YEAS—Messrs. Allen, Joseph Baily, Biddle, Francis P. Blair, Jacob B. Blair, William G. Brown, Calvert, Casey, Clements, Crittenden, Diven, Dunlap, Hall, Harding, Harrison, Knapp, Law, Lehman, Mallory, May, Menzies, Morris, Noble, Noell, Norton, Nugen, Price, James S. Rollins, Smith, John B. Steele, Benjamin F. Thomas, Francis Thomas, Vallandigham, Vibbard, Voorhees, Ward, Chilton A. White, and Woodruff—38.

NAYS—Messrs. Aldrich, Ashley, Babbitt, Baker, Baxter, Beaman, Bingham, Samuel S. Blair, Blake, Buffinton, Chamberlin, Colfax, Frederick A. Conkling, Covode, Cutler, Davis, Duell, Dunn, Edwards, Eliot, Ely, Fenton, Fessenden, Franchot, Frank, Gooch, Granger, Gurley, Hanchett, Hickman, Hooper, Julian, Kelley, Francis W. Kellogg, Loomis, Lovejoy, McKnight, McPherson, Mitchell, Moorhead, Justin S. Morrill, Nixon, Olin, Patton, Pike, Porter, Potter, John H. Rice, Riddle, Edward H. Rollins, Sargent, Shanks, Sheffield, Shellabarger, Stevens, Stratton, Trimble, Trowbridge, Van Horn, Van Valkenburgh, Wiffl, E. P. Walton, Albert S. White, Wilson, Windom, and Worcester—66.

So the House refused to lay the bills and joint resolutions on the table.

During the vote,

Mr. BUFFINTON stated that his colleague, Mr. ALLEY, was paired on this question with Mr. CORNING.

Mr. DAVIS stated that his colleague, Mr. CAMPBELL, had been called away on business, and had paired off with Mr. HAIGHT.

Mr. RICE, of Maine, stated that his colleague, Mr. MORRILL, had been called to New York, to take leave of his daughter, who was about to start for Europe.

Mr. LANSING, not being within the bar when his name was called, asked leave to vote.

Mr. VALLANDIGHAM objected.

Mr. GRIDER, not being within the bar when his name was called, asked leave to vote.

Mr. FESSENDEN objected.

Mr. ARNOLD, not being within the bar when his name was called, asked leave to vote.

Objection was made.

Mr. GRIDER. I hope objection will be withdrawn.

Mr. COLFAX. I propose that gentlemen on both sides be allowed to vote.

Mr. FESSENDEN. I withdraw my objection.

Mr. KELLOGG, of Michigan. I renew it, unless objection be also withdrawn on the other side.

Mr. VALLANDIGHAM declined to withdraw his objection.

Mr. HUTCHINS stated that he was paired off with Mr. WEBSTER.

Mr. KNAPP stated that his colleague, Mr. RICHARDSON, was now, and had been for some days past, detained at his rooms by illness.

Mr. GRIDER again asked consent to vote.

Mr. KELLOGG, of Michigan. I object, unless the objection is also withdrawn on the other side.

Mr. CALVERT. I object all round.

The vote was announced as above recorded.

Mr. GRIDER. Do I understand that the Speaker decided that the objection to my voting came in time and excluded my vote?

The SPEAKER. The Chair did so decide.

Mr. GRIDER. Then it was a misapprehension on the part of the Speaker. The objection was withdrawn in consideration of the gentleman from Illinois [Mr. ARNOLD] being also allowed to vote.

The SPEAKER. The gentleman from Maryland [Mr. CALVERT] objected to all.

Mr. GRIDER. Very well, sir.

The SPEAKER stated that the question before the House was on the substitute offered by Mr. BINGHAM to the bill (H. R. No. 126) to manumit and liberate from servitude the slaves of all persons who shall engage in or aid and abet armed rebellion against the United States; on which the previous question had been demanded.

The substitute was read, as follows:

Strike out all after the enacting words of the bill, and insert:

That if any person or persons within any State or Territory of the United States shall, after the taking effect of this act, engage in armed rebellion against the Government of the United States, or shall aid or abet such rebellion, every such person shall thereby forfeit all claim which such person may have to the service or labor of any slave or slaves; and the slave or slaves of such person shall be, and hereby are, declared free and forever released from such servitude, anything in the laws of the United States or of any State to the contrary notwithstanding. And whenever thereafter the person claiming such labor or service of such slave or slaves shall seek to enforce his or her claim thereto, it shall be a full and sufficient answer to such claim that the claimant, or the person or persons through or by whom he or she claims the right to such service or labor of such slave or slaves, did engage in or aid and abet such rebellion, as aforesaid, contrary to the provisions of this act.

SEC. 2. *And be it further enacted*, That whenever any person claiming to be entitled to the service or labor of any other person or persons shall seek to enforce such claim, he or she shall, in the first instance, and before any order shall be made for the surrender of the person whose service or labor is claimed, establish not only his or her claim to such service or labor, but also that such claimant has not, in any way, aided, assisted, or countenanced the existing rebellion against the Government of the United States.

Mr. BINGHAM called for tellers on seconding the previous question.

Tellers were ordered; and Messrs. BINGHAM and CRISFIELD were appointed.

The House divided; and the tellers reported—ayes 44, noes 58.

So the House refused to second the previous question.

Mr. PORTER. I move to amend the amendment by striking it out, and inserting the following as a substitute:

That the President, in suppressing the present insurrection, is hereby authorized, and wherever practicable, required to take possession of all the property, real and personal, belonging to any one of the following classes of persons, to wit: First. Persons hereafter acting as officers of the army or navy of the rebels now or hereafter in arms against the Government. Second. Persons hereafter acting as president, vice president, member of congress, or judge of the so-called confederate States. Third. Governors of States, members of State conventions and legislatures, and judges of courts of States now in rebellion, who shall hereafter take an oath to support the constitution of said confederate States, or having taken such oath, shall hereafter act as such. Fourth. Persons who having held an office of honor, trust, or profit in the United States, shall hereafter hold or exercise an office in said confederate States. Fifth. Persons who, owning property in the loyal States and residing in a State in rebellion against the Government, shall hereafter assist or give aid and comfort to such rebellion. All sales, transfers, or conveyances by any such person of any such property or of any claim to the service or labor of another, after the committing of either of the acts herein described, shall be null and void; and it shall be a sufficient bar to any suit brought by such person to recover the possession or for the use of such property or any of it, or to enforce such service or labor, to allege and prove that he is one of the persons described in this section.

SEC. 2. *And be it further enacted*, That to secure possession of any of such property situate and being in loyal States or districts in which the ordinary course of judicial proceedings is not obstructed by the rebellion, proceedings *in rem* shall be instituted in the name of the United States, in any district court of the United States, within which the estate or property described in the first section, or any part thereof, may be found, which proceedings shall conform, as nearly as may be, to proceedings in prize cases, or to cases of forfeiture arising under the revenue laws; and in all cases the property adjudged to be the property of any person described in the first section, whether real or personal, shall be sold and conveyed to the purchaser as any sale of property in execution, and the proceeds shall be deposited in the Treasury of the United States.

SEC. 3. *And be it further enacted*, That the property seized under the first section of this act, situate and being in States or districts in which the ordinary course of judicial proceedings is obstructed by the rebellion, shall be used, occupied, rented, or held, until the ordinary course of judicial proceedings shall be restored in the State or district in which such property is situate, when proceedings *in rem* shall be instituted in the mode prescribed in the second section of this act: *Provided*, That articles of subsistence or of a perishable nature seized under this bill shall be used or sold as the interests of the service require.

SEC. 4. *And be it further enacted*, That no person described in the first section of this act shall hold any person to service or labor who was held by him to such service or labor at any time after the passage of this act, and before the termination of this rebellion; and the person so held to service and labor shall be discharged therefrom.

SEC. 5. *And be it further enacted*, That the several district courts of the United States are hereby invested with power to issue all process, whether mesne or final, including garnishee and process, as in cases of foreign attachment, and to do every other matter and thing necessary or proper to carry out the purposes of this act.

SEC. 6. *And be it further enacted*, That the President is hereby authorized, by a proclamation of amnesty, to release either of the five classes of persons described in the first section of this act, residing in any particular State or district, from the operations of this act.

SEC. 7. *And be it further enacted*, That every person who, after sixty days from the passage of this act, shall continue in rebellion against the United States, or adhere to their enemies, giving them aid and comfort, shall be deemed infamous, and shall hold no office of honor, trust, or profit within the United States.

SEC. 8. *And be it further enacted*, That nothing in this act contained shall operate or be construed to prevent or in any way affect any prosecution or other proceedings against any person who may have incurred the forfeiture herein prescribed to punish any crime or assert and enforce any other forfeiture of which such person may be guilty, or which he may have incurred under any other law of the United States.

Mr. BINGHAM. I make the point of order that the amendment, relating as it does to the seizure and confiscation of property, is not germane to the bill before the House, which relates exclusively to persons and not property.

The SPEAKER. The Chair overrules the point of order. The substitute provides for the same thing as the bill.

Mr. BINGHAM. The point I raise is that so much of the amendment as proposes to confiscate property is not in order.

The SPEAKER. The Chair cannot separate the bill. The bill provides for the release of persons held to service or labor. The proposed amendment provides for the release of persons held to service or labor, and although it may contain other provisions not contained in the bill, the Chair cannot decide that it is out of order.

Mr. HICKMAN. I desire to propose an amendment to the amendment.

The SPEAKER. No further amendment is in order.

Mr. PORTER. I do not desire to discuss the provisions of the amendment which I have offered as a substitute for the proposition of the gentleman from Ohio, [Mr. BINGHAM,] but merely to state the features which distinguish it from that proposition.

Mr. MORRILL, of Vermont. I ask the gentleman from Indiana if he has any objection to substituting the amendment proposed in the Senate by Mr. COLLAMER instead of his own?

Mr. PORTER. I shall heartily favor the amendment to which the gentleman alludes if the one which I have proposed shall fail; but I prefer my own.

The amendment which I have offered, which is substantially the same as a proposition presented in the Senate by Mr. SHERMAN, proposes to confiscate the property and liberate the slaves of those who hold official stations, whether in the military, naval, or civil service of the so-called confederate States, or of any member thereof; also, of all persons who, having held an office of honor, trust, or profit, in the United States, shall hereafter hold or exercise an office in said rebellious States; and also of all persons who, owning any property in the loyal States, and residing in a State in rebellion, shall hereafter give aid and comfort to the rebellion.

All sales and transfers of slaves which shall be made by any such classes are to be null and void; and to a suit brought to recover a slave it shall be a sufficient bar to allege and prove that the claimant belongs to any of these classes.

Where property, liable thus to be seized and confiscated, is within a State where the ordinary course of judicial proceedings is not obstructed by the rebellion, proceedings *in rem* are to be regularly instituted and prosecuted to confiscate it; but where the ordinary course of judicial proceedings is obstructed by the rebellion, property, except of a perishable nature, is to be held until, when judicial authority is restored, there can be a regular condemnation. Perishable property may be used or sold, as the interests of the service require. The slaves of all the classes enumerated in the amendment are, by the mere fact of their masters engaging in rebellion, to be free.

This amendment does not propose, like that of the gentleman from Ohio, [Mr. BINGHAM,] and the supplementary bill which he has on our files, to seize and confiscate all the property of all persons in any way connected with this unnatural rebellion. History furnishes no instance of a confiscation so sweeping and indiscriminate as that. It proposes, sir, to confiscate the property and liberate the slaves of those bold and unscrupulous men who, by their official position, and by their authority among the people of the rebellious States, have misled and deceived the people; of those who are the strength and support of the rebellion, and whose overthrow would at once put an end to it. The ignorant, who have been drawn into the rebellion by misrepresentation and delusion; the timid, who have been driven to it by threats of violence towards themselves or those whom they hold still more dear; the unwilling, who have had to yield to conscription or to confiscation and death; these are not embraced within its stern provisions. Atrocious leaders are to be the sufferers; the men whom they have deceived and misled or compelled against their wills to take up arms against the Union are to be the witnesses of their merited punishment.

What patriotic men have most desired to see has been a strife between the erring masses and their haughty and unscrupulous leaders. Here is the way to it. When these masses shall be hard pressed by the armies of the Union, when the foundations of rebel authority shall seem to be crumbling away, they will then see that while for them to lay down their arms is to insure to themselves the return of peace and order and benign Government, it is for their leaders the forerunner of confiscation and slave emancipation and ignominious punishment in prison or on the scaffold. They will perceive that a severance from their leaders opens the way to safety and prosperity.

While, however, the amendment which I have offered does not provide for a sweeping seizure of all the property of the masses in the rebellious States, it contains a safeguard against the injurious influence which those who are not prompt in asserting their loyalty might exert in public affairs upon the restoration to the loyal of the machinery of their State organizations. All who after sixty days from the passage of the act shall continue in rebellion or give aid and comfort to it, are to be deemed infamous, and rendered incapable of holding any office of trust or profit within the limits of the United States.

My amendment also empowers the President to proclaim an amnesty to persons among the proscribed classes, where he may regard the amnesty favorable to the reëstablishment of the authority of the Union.

I greatly prefer this amendment to the proposition of my friend from Ohio. But I am free to

say that if I shall, in the end, be driven to choose between a confiscation measure more severe or none at all, I should not hesitate to choose the more severe one. Hundreds—thousands indeed—have been drawn into this rebellion from frenzied misapprehension, or overawing menace, or conscription. I would like for them to have a ready way out, instead of constraining them to feel that the preservation of the little property which they may possess is dependent upon the success of the rebel cause. But rising above any sentiment of sympathy, it is our supreme duty to adopt whatever measures may at any time seem indispensable to reëstablish the authority of the Union.

Mr. BINGHAM. I desire to ask the gentleman from Indiana what section of his substitute contains this sixty days' limitation?

Mr. PORTER. Section seven. The gentleman from Ohio, [Mr. BINGHAM] out of his honest and implacable hatred of slavery, desires through the provisions of his amendment, to give it a stunning blow. While my amendment is aimed only at weakening the rebellion, it will go, perhaps, very far towards the end which the gentleman desires to see accomplished. The slaveholders in the rebel service are chiefly among the officers. Few privates own slaves. At least such is the testimony of Union men of the slaveholding States. If the slaves of military and civil officers shall be emancipated as a means necessary to secure the restoration of the Union, the institution which my friend from Ohio condemns will cease to be a political power and will gradually and peacefully yield before that humane sentiment which has removed it from other cultivated nations.

Mr. BINGHAM. I desire simply that the House shall understand distinctly the difference between the substitute which I have offered and that presented by the gentleman from Indiana. The amendment of the gentleman from Indiana provides:

That the President, in suppressing the present insurrection, is hereby authorized, and, wherever practicable, required, to take possession of all the property, real and personal, belonging to any one of the following classes of persons, to wit: First. Persons hereafter acting as officers of the army or navy of the rebels now or hereafter in arms against the Government. Second. Persons hereafter acting as president, vice president, member of congress, or judge, of the so-called confederate States. Third. Governors of States, members of State conventions and legislatures, and judges of courts of States now in open rebellion, who shall hereafter take an oath to support the constitution of said confederate States, or having taken such oath, shall hereafter act as such. Fourth. Persons who, having held an office of honor, trust, or profit in the United States shall hereafter hold or exercise an office in said confederate States. Fifth. Persons who, owning property in the loyal States and residing in a State in rebellion against the Government, shall hereafter assist or give aid and comfort to such rebellion. All sales, transfers, or conveyances by any such person of any such property or of any claim to the service or labor of another, after the committing of either of the acts herein described, shall be null and void; and it shall be a sufficient bar to any suit brought by such person to recover the possession or for the use of such property or any of it, or to enforce such service or labor, to allege and prove that he is one of the persons described in this section.

SEC. 2. *And be it further enacted*, That to secure possession of any of such property situate and being in loyal States or districts in which the ordinary course of judicial proceedings is not obstructed by the rebellion, proceedings *in rem* shall be instituted in the name of the United States, in any district court of the United States, within which the estate or property described in the first section, or any part thereof, may be found, which proceedings shall conform as nearly as may be to proceedings in prize cases, or to cases of forfeiture arising under the revenue laws; and in all cases the property adjudged to be the property of any person described in the first section, whether real or personal, shall be sold and conveyed to the purchaser as any sale of property in execution, and the proceeds shall be deposited in the Treasury of the United States.

SEC. 3. *And be it further enacted*, That the property seized under the first section of this act, situate and being in States or districts in which the ordinary course of judicial proceedings is obstructed by the rebellion, shall be used, occupied, rented, or held, until the ordinary course of judicial proceedings shall be restored in the State or district in which such property is situate, when proceedings *in rem* shall be instituted in the mode prescribed in the second section of this act: *Provided*, That articles of subsistence or of a perishable nature seized under this bill shall be used or sold as the interests of the service require.

SEC. 4. *And be it further enacted*, That no person described in the first section of this act shall hold any person to service or labor who was held by him to such service or labor at any time after the passage of this act, and before the termination of this rebellion; and the person so held to service and labor shall be discharged therefrom.

SEC. 5. *And be it further enacted*, That the several district courts of the United States are hereby invested with power to issue all process, whether mesne or final, including garnishee and process, as in cases of foreign attachment, and to do every other matter and thing necessary or proper to carry out the purposes of this act.

SEC. 6. *And be it further enacted*, That the President is hereby authorized, by a proclamation of amnesty, to release either of the five classes of persons described in the first section of this act, residing in any particular State or district, from the operations of this act.

SEC. 7. *And be it further enacted*, That every person who, after sixty days from the passage of this act, shall continue in rebellion against the United States, or adhere to their enemies, giving them aid and comfort, shall be deemed infamous, and shall hold no office of honor, trust, or profit within the United States.

SEC. 8. *And be it further enacted*, That nothing in this act contained shall operate or be construed to prevent or in any way affect any prosecution or other proceedings against any person who may have incurred the forfeiture herein prescribed to punish any crime or assert and enforce any other forfeiture of which such person may be guilty, or which he may have incurred under any other law of the United States.

Mr. Speaker, the House will notice that this is a bill providing for a general confiscation of the property, real and personal, of the persons named in the amendment I have just read. In that it differs altogether from the substitute I submitted to the House. My substitute included a confiscation of the property, real or personal, within the legitimate meaning of the word, of the persons in arms against the authority of the Government of the United States. It has simply one object, and that is the liberation of the slaves of such persons as shall be engaged in armed rebellion against the Government after the taking effect of this act. It shows on its face that it is a general amnesty, so far as our legislation is concerned. It provides that on the passage of the act, if the rebels lay down their arms, the act shall not operate upon them. I am free to say that my own convictions would justify other and different legislation. I framed this provision of the act in deference to the opinion of other gentlemen, who thought a retroactive character would be given to my substitute in violation of that clause of the Constitution which declares that Congress shall pass no *ex post facto* laws. It is purely prospective, and it is not only purely prospective, but it is purely defensive. It is a proposition to strip these rebels of all means of mischief and violence against the Government of the United States, if they will persist in this rebellion after the going into effect of this act.

I desire to say only another word about the substitute which I have offered. It stands upon the same ground as the bill of the 4th of August last, for which the names of a majority of the members of this House were recorded. The only difference in principle between that bill and my substitute is this: that bill did, in terms, provide that the owner of slaves should no longer have claim to the service of those slaves who had been used in aiding those who have taken up arms against the Government of the United States. My substitute provides that if the owners of slaves shall themselves give aid and comfort to the rebels, then that they should have no longer any title to the service of their slaves. It applies to the owners the same rule which the law of August last applied to the slaves. I suppose if there was any good reason which could be urged for the passage of that law last August, there is much more reason for the adoption of my substitute at this time. It is defensive of the Government. It is much worse that the citizen of the Government should employ his own hands in helping the rebellion against the Government, than that he should employ the hands of his slave. It is enough that either of them were employed in aiding the rebellion, but it is more offensive when done directly in the person of the owner, than when done in the person of the slave. My substitute and that bill are alike with only that difference.

In my substitute there is an additional section. It provides for a matter referred to the Committee on the Judiciary the other day on a yea and nay vote. On motion of the gentleman from Indiana, [Mr. JULIAN,] this House directed, on a yea and nay vote, that the Committee on the Judiciary should report a provision that hereafter every person who shall undertake to reclaim a fugitive from service or labor shall not only in the first instance prove his title to the services of the fugitive, but that, in addition, he shall make it appear to the court that he has not engaged in this rebellion against the Government of his country and of our country. My substitute contains that provision which we were directed to report by a solemn vote of this House. It imperatively directed the Committee on the Judiciary to report a bill or other provision for that purpose. With this explanation of the difference between my substitute and the bill of last August, passed by a majority of this House, I resign the floor.

Mr. WALTON, of Vermont. I had intended to propose the substitute offered by Senator COLLAMER to Senate bill No. 151, as an amendment in the nature of a substitute for the proposition of the gentleman from Ohio, [Mr. BINGHAM,] but at the request of that gentleman to be allowed a direct vote, and at his suggestion that my amendment may be offered subsequently to this bill, or to some one of the other pending bills, I have withheld it. Now I wish to say that I altogether prefer the substitute of the Senator from Vermont to either of these propositions.

The substitute of the gentleman from Ohio is altogether too limited in its scope, applying, as it does, to slaves only. The punishment of treason ought to extend to all property; and especially, if life is not to be taken, there should be a forfeiture of all civil privileges which would give future opportunity for fomenting rebellion; for instance, a forfeiture of the right to hold any office under the authority of the United States.

Again: this substitute indicates no way in which it is to be executed. It declares that any person hereafter engaged in armed rebellion shall forfeit his slaves, but the forfeiture is not put in the form of a specific penalty on conviction in due process of law; nor is there provision for any mode, in any judicial tribunal, of proving the fact of rebellion against the master, nor of identifying his slaves, nor of perpetuating the facts on which a slave liberated by the act can bar a subsequent claim to his services. Still again, if this proposition becomes a law, it is to be executed, in part at least, in Federal courts in slave States, and probably in most instances by judges and jurors who differ widely from a majority of this House, and particularly from my friend from Ohio, in opinions upon the whole subject of slavery. I anticipate that some of them at least will hold that slaves are property, and as such cannot be taken from their masters except by "due process of law." Indeed, if I am not mistaken, a majority of the Supreme Court of the United States has already expressed that opinion; and we may justly fear, therefore, that the purpose of this substitute will be entirely defeated.

The gentleman from Indiana [Mr. PORTER] now proposes the original Senate bill No. 151, in place of that of the gentleman from Ohio. It is complicated, and in some respects of doubtful constitutionality, and the latter may be said of nearly all the pending propositions. The substitute of Senator COLLAMER for the original Senate bill is distinguished from them all in avoiding these objections. The confiscation act passed at the last session was drawn by the same hand, and that embraced all property actually *used in rebellion*. The new proposition extends to all property, slaves included, *owned by rebels*. It embraces substantially all that is contained in the proposition of the gentleman from Ohio, and in a mode which obviates constitutional objections. It provides, as punishment for treason, death, or imprisonment not less than five years, and a fine of not less than $10,000, and all the property is taken as security for the fine. To this is added exclusion from all offices under the United States. The property will pass on conviction, and it will therefore be forfeited "in due process of law," after trial by jury. The forfeiture will be strictly a part of the punishment; and it is a kind of punishment and a mode of proceeding practiced, I presume, in every State in the Union. The bill is complete in its machinery in the first and seventh sections to effect all, I think, that can be effected by the proposition of the gentleman from Ohio. The slaves are free on the conviction of the master, and no man can recover a fugitive slave without first showing that he has been loyal.

Mr. Speaker, whole communities, embracing thousands, hundreds of thousands, and millions of people never can be hung for rebellion, nor can they be stripped of all their property. The civilized world would pronounce it barbarous, and perhaps combine in arms against us were we even to attempt to administer justice itself on so large a scale as that. But it would not be justice to inflict these punishments upon all who are legally guilty of treason, for the masses of those who are engaged in rebellion are really the victims of comparatively a few leaders; and victims, most of them, through the forms of law, and some of

them by force itself. This important point is, therefore, met in the fifth section, by giving the President power to extend pardon and amnesty to the masses, and to hold the guilty leaders for condign punishment.

Finally, the sixth section, as I understand it, embraces substantially the purpose of the resolution of the gentleman from Pennsylvania, [Mr. HICKMAN,] by providing that in any State, or part thereof, where the inhabitants have continued in rebellion six months after a proclamation of the President declaring the existence of rebellion, he may fix a day on which *all* slaves in such State, or part of a State, shall be free. Substantially, then, the propositions of the gentlemen from Ohio and Pennsylvania are included in this.

By this proposition, confiscation of property and the freedom of slaves are secured in a legitimate way; and in a mode which will not intensify the rebellion; but rather hold out the strongest inducements for a voluntary return of the people of the rebellious States to their allegiance. I prefer it to all the pending bills, and on the first opportunity I will move it as a substitute for some one of them.

Mr. WRIGHT obtained the floor.

Mr. PORTER. I ask the gentleman from Pennsylvania to yield to me to move that the further consideration of this question be postponed until Tuesday next, and that it be made a special order. I will call for the previous question.

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

Mr. WRIGHT. I do not yield to the gentleman from Indiana to move that the further consideration of this question be postponed.

Mr. Speaker, I have but little to say on the proposition now pending. As a general rule, I have no objection that the Government shall confiscate the property of those who have been engaged in this monstrous rebellion against the Government. Those who have been engaged in the attempt to overthrow this free Government ought to have their property confiscated. But, with the gentleman from Vermont, [Mr. WALTON,] I am inclined to think that there ought to be some line of discrimination. While it would be proper and just to confiscate the property of the leaders and instigators of this rebellion, yet it would not be proper or just to confiscate the property of those who have been compelled into the service of the confederate States. How this discrimination shall be made is a very important question.

In regard to the amendments proposed to this bill, there are, I think, objections to be taken to them. It is provided as follows:

SEC. 2. *And be it further enacted*, That to secure possession of any of such property situate and being in loyal States or districts in which the ordinary course of judicial proceedings is not obstructed by the rebellion, proceedings *in rem* shall be instituted in the name of the United States, in any district court of the United States, within which the estate or property described in the first section, or any part thereof, may be found, which proceedings shall conform, as nearly as may be, to proceedings in prize cases, or to cases of forfeiture arising under the revenue laws; and in all cases the property adjudged to be the property of any person described in the first section, whether real or personal, shall be sold and conveyed to the purchaser as any sale of property in execution, and the proceeds shall be deposited in the Treasury of the United States.

I suppose the proceedings in prize cases dispenses with the intervention of a jury.

Mr. THOMAS, of Massachusetts. Is there not a difference in prize proceedings and proceedings for forfeiture? There certainly is, and yet they are spoken of as the same in all of these propositions.

Mr. WRIGHT. I would hold it as a general rule in regard to the momentous question of forfeiting the entire estate of an individual for having taken up arms against the Government, that there should be the intervention of a jury. I would not give up that great Magna Charta principle of our Constitution—the trial by jury. The President is authorized by this bill in suppressing the present insurrection, wherever practicable, to take possession of all the property, real or personal, belonging to a certain class of persons. It includes all of those who are in the service of, or hold commissions, in the rebel army, and all who hold civil appointments under the confederate government. And it is further provided as follows:

That the property seized under the first section of this act, situate and being in States or districts in which the ordinary course of judicial proceedings is obstructed by the rebellion, shall be used, occupied, rented, or held, until the ordinary course of judicial proceedings shall be restored in the State or district in which such property is situate, when proceedings *in rem* shall be instituted in the mode prescribed in the second section of this act: *Provided*, That articles of subsistence, or of a perishable nature, seized under this bill, shall be used or sold as the interests of the service require.

That squints towards an apology for a judicial hearing, but not by a jury. I, for one, will never support any proposition that deprives any man of the right of a trial by jury.

Mr. THOMAS, of Massachusetts. Not one of these bills provides for a trial by jury or by the court.

Mr. WALTON, of Vermont. The bill of Judge COLLAMER does.

Mr. THOMAS, of Massachusetts. It proposes that the judge sitting in the court shall have discretion to decide whether a man shall be hung or imprisoned for five years. It is the most monstrous proposition ever presented to a legislative body.

Mr. WRIGHT. I agree with the gentleman; it is monstrous. I again call attention to the section of the bill which I have read. These proceedings are to be in the nature of proceedings in case of the violation of the revenue laws. Now, that is not the kind of proceeding that should divest a man, even though he be a rebel, Jeff Davis, for example, of his whole estate, real, personal, and mixed; you ought, at least, in a matter of so momentous a character as this, to go through the form of a trial. You ought at least to give a man who has held the position of captain or lieutenant in the army of the southern confederacy a trial with regard to the mode and manner in which he went there—whether it was his own voluntary act or whether he was there by compulsion. I have no doubt that there are not only hundreds of men but thousands of men enrolled in the ranks of the rebel army and now fighting against the Government who are there by the compulsory process of the confederate institutions, against their own will and their own inclination. I have heard within the last few weeks of instances of impressment on the part of the rebel authorities that have been of the most arbitrary and cruel character.

Now, I maintain that where a man has been forced into the rebel service against his own free will, it would be unjust to render his property liable to seizure and confiscation without even the formality of a trial, simply because you happen to find a rebel uniform upon his person. He ought at least to be allowed the privilege that has never been denied in this country, the right of trial by a jury of his peers. If a bill shall be introduced here containing a provision that a man shall have a trial by jury to ascertain whether he is a traitor or not, because his conviction for treason necessarily makes his property liable to seizure and forfeiture and confiscation, it will afford me great satisfaction to give my adhesion to such a principle. To confiscate, you must sustain the charge of treason. I do not think that the leaders of this rebellion, that is, the men who gave it life and have raised it to its present gigantic proportions, ought to escape with the confiscation of their property. I think as to them we ought to go one step further. They deserve not only the confiscation of their property, but they deserve death or exile. I do not speak of that large multitude, the hundreds of thousands of men who have been forced into the confederate service, perhaps under a wrong impression and under bad advice, many of them minors, who have not yet arrived at years of discretion. I speak of men who have arrived at maturity, and who ought at least to be regarded as men of sound judgment and discretion. I speak of such men as Davis and Toombs and Cobb and Slidell and Mason and Benjamin. I speak of men of that character; and I say further that the Government ought never to be satisfied with the mere confiscation of their property or their imprisonment. There is no place in this Union where they ought to be permitted to live. Let them go and remain in exile; or if they be arrested, let them suffer the penalty which the laws of the country have provided for cases of treason. Their crimes have been monstrous, and so should their punishment be. We must draw a distinction between the leaders, the men who hold commissions in the rebel army, and the men who carry the muskets. If you attempt, as has been well said by the gentleman from Vermont, [Mr. WALTON,] an indiscriminate policy with regard to punishment and confiscation, and forfeit the property of all men who happen to be serving in the rebel army, or to hold some unimportant office under the rebel government, you are adopting a rule that cannot be carried out; and will have a load upon your shoulders that you cannot sustain.

Mr. WALTON, of Vermont. Do I understand the gentleman to say that the proposition I made embraces all that?

Mr. WRIGHT. No, sir, it does not. I am doing the gentleman from Vermont ample justice for the enlarged view that he takes of this question.

Mr. WALTON, of Vermont. Then I misunderstood the gentleman.

Mr. WRIGHT. The experience of the past teaches us that highly penal laws are too often disregarded. It is better, if you would enforce the law, to adopt a safe rule of legislation, and make the punishment certain, and limit its operation to the ringleaders of the rebellion, than to attempt, as the amendment does, to pass a law applicable to five or six hundred thousand men. There must be at least three or four hundred thousand men in the rebel military service, and perhaps fifty thousand more in civil employments; and if you include the aiders and abettors you may have a million of men. Would you punish this number for treason and confiscate their property? If Burke could not frame an indictment against a nation, I very much question whether you can punish a nation in the manner this bill proposes. You have not the power in your Government to enforce it, and it will become a dead letter on your statute-book, merely from the fact that its proportions are so large and its punishments so enormous that you cannot possibly carry it into execution. Let us, therefore, draw a line of discrimination with regard to the men whose property shall be taken. And let us not only do that, but let us also introduce a clause to correspond with the genius and spirit of the age, that no man's property shall be taken, and that no man shall be subjected to imprisonment without that important privilege which has been handed down to us by our fathers, the right of trial by a jury of his peers. This bill contains no such provision. The proceeding *in rem* provided for in the second section ought to be a proceeding against the person. This proceeding *in rem* is never resorted to when you cannot reach the individual, but where you have an opportunity of reaching the person, it is a thing unknown in the law to resort to a proceeding against property or a proceeding *in rem*.

Now, with regard to the clause contained in the fourth section, as to persons held to service or labor, I am not certain in my own mind whether there is any proceeding contemplated in the bill to reach that species of property; at least I have read the bill very carefully, and it seems to me that there is a distinction drawn between slaves, or persons held to service or labor, and property of other kinds and descriptions. I would put all upon the same basis. It is idle, after the experience of some eighty years and upwards, and after the principle has been established by the Supreme Court of the United States, to deny the fact that slaves are property. We must at least treat them as such with regard to legislation, or else we shall be unable to accomplish the very object that we are in pursuit of.

The remarks which I have made have been thrown out hastily and without consideration. I think that the provision with regard to trial by jury, and also a provision with regard to proceedings against the person where you can get at the person, ought to be embodied in the bill. I am entirely willing, as I said before, to vote for any reasonable measure for the confiscation of the property of the leaders of the rebellion, but I do not want to make a general thing of it, applicable to so numerous a class, because then the law itself would necessarily be inoperative. The Constitution defines treason. "It consists in levying war against the United States; or in adhering to its enemies, giving them aid and comfort." It also vests in Congress the nature and character of the punishment; limiting corruption of blood or forfeiture of property to the life of the person, on the attainder of treason. The House will therefore see the necessity of first establishing the guilt of the person charged with treason before they confiscate his estate. I do not, I must confess, exactly see how you can get at the property of the person by a proceeding against his estate,

when you must necessarily deal first with the person. On conviction of treason, the incident is necessarily, under the Constitution and laws, a forfeiture of the estate.

But punish severely the leaders, and so restrain your law, and you will thereby give certainty to its execution, because its provisions are reasonable and thus can be enforced.

Mr. KELLEY. Mr. Speaker, if the provision for a trial by jury, as suggested by my colleague, [Mr. WRIGHT,] be put in in too general terms, I fear that his object may be defeated. It may be possible that in some of the border States some loyal men may chance to get on the jury and find against a rebel. So, if this provision be incorporated, I trust it will be with due guards. For instance, there might be a proviso that in the case of the trial of any question involving the property of a rebel colonel, the jury should be drawn from the field and line officers of his regiment, and that in a case touching the interests of a major, captain, or lieutenant, the jury should be drawn from the men of his command. If jury trial be made a part of the confiscation law, and there be not thrown around it some such guards as these, you may depend on it there will be in some of the border States—there is no danger of any such result in the cotton States, where all are rebels—some findings that may affect the property of rebels. I shall offer no argument on the subject. I rose simply to throw out this suggestion, so that if the proposition of my colleague be adopted it shall be so carefully guarded that his object may be surely attained, and the property of every rebel be sacredly protected against confiscation.

Mr. BIDDLE. Mr. Speaker, I had some thought of offering a few poor observations of mine to the House on the constitutional objections to this batch of bills, of which that before the House is one; but I have found the whole ground so completely preoccupied by the great argument delivered here by the eminent jurist from Massachusetts, [Mr. THOMAS,] some days since, and by another able argument which has been printed, and to which I shall not refer because it was made on the floor of the other House, that I feel I can add nothing to the arguments which have carried conviction to my mind as to the limit of our legislative power in the premises. I will, therefore, say that it is on the grounds laid down in these great arguments that I shall vote against all of the bills reported in this series.

Mr. PORTER. I now submit the motion that this subject be postponed till next Tuesday, and that it be made the special order for that day; and on that I move the previous question.

Mr. BINGHAM. I hope that motion will be voted down.

The SPEAKER. It can only be made a special order by unanimous consent.

Mr. BINGHAM. I object.

The previous question seconded, and the main question ordered; which was on the motion to postpone.

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

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 59, nays 51; as follows:

YEAS—Messrs. Allen, Babbitt, Joseph Baily, Biddle, Francis P. Blair, Jacob B. Blair, George H. Browne, Calvert, Casey, Clements, Roscoe Conkling, Cox, Crisfield, Crittenden, Diven, Dunlap, Dunn, Fisher, Goodwin, Granger, Grider, Gurley, Hall, Harding, Harrison, Kerrigan, Knapp, Law, Lehman, McKnight, Mallory, May, Menzies, Morris, Nixon, Noble, Noell, Norton, Olin, Porter, Price, James S. Rollins, Sheffield, Shellabarger, Smith, John B. Steele, Stratton, Benjamin F. Thomas, Francis Thomas, Trimble, Vibbard, Voorhees, E. P. Walton, Ward, Whaley, Chilton A. White, Woodruff, Worcester, and Wright—59.

NAYS—Messrs. Aldrich, Baker, Baxter, Beaman, Bingham, Samuel S. Blair, Blake, William G. Brown, Buffinton, Burnham, Chamberlin, Colfax, Frederick A. Conkling, Covode, Cutler, Davis, Duell, Edwards, Eliot, Ely, Fenton, Franchot, Frank, Hanchett, Hickman, Hooper, Julian, Kelley, Francis W. Kellogg, Lansing, Loomis, Lovejoy, McPherson, Moorhead, Justin S. Morrill, Patton, Timothy G. Phelps, Pike, Riddle, Edwin S. Rollins, Sargent, Shanks, Stevens, Trowbridge, Vallandigham, Van Horn, Van Valkenburgh, Wall, Albert S. White, Wilson, and Windom—51.

During the vote,

Mr. PIKE stated that his colleague, Mr. FESSENDEN, had been obliged to leave the House on account of sickness.

The SPEAKER. The Chair desires to say to the House that the motion will be considered as applying to all bills and joint resolutions on the Calendar on this subject.

Mr. BINGHAM. I must object to that.

The SPEAKER. The Chair supposes that that was the intention of the gentleman who made the motion.

Mr. HICKMAN. That was not the motion, and I object.

Mr. STEVENS. If the rebels have a majority in this House, I suppose we cannot help it.

Mr. DIVEN. I object to the language addressed by the gentleman from Pennsylvania [Mr. STEVENS] to men who have voted in the negative on this question, as uncourteous and as unmanly. He said that if the rebels were in a majority here he could not help it.

The SPEAKER. The Chair thinks that a motion to postpone the whole of the bills together cannot be made, if objected to. The gentleman from Ohio objects to applying the motion to all the bills, and therefore the Chair will have to hold it as applying only to the bill before the House.

The vote was announced as above recorded.

Mr. DUNN. I move to postpone all the other bills and joint resolutions on this subject.

Mr. BINGHAM. I rise to a question of order. The other bills are not before the House now.

Mr. PORTER. My motion was broad enough. It was to postpone the whole subject.

The SPEAKER. The whole subject would only cover what is properly before the House, unless the House understood it otherwise.

Mr. STEVENS. I guess we all understood it in that way.

Mr. HICKMAN. I make the point of order that all the bills cannot be included in a general motion of this kind.

The SPEAKER. The Chair sustains the point of order.

Mr. DUNN. Then I move to postpone the next bill that is in order, and on that I move the previous question.

The SPEAKER. The next bill in order is House bill No. 107, to provide for the capture and condemnation of enemy property, and to indemnify the United States for expenses incurred in the suppression of rebellion, to which the gentleman from Ohio [Mr. BINGHAM] has offered the following amendment in the nature of a substitute:

Strike out all after the enacting words of the bill, and insert as follows:

That if any person or persons, within any State or Territory of the United States, shall, after the taking effect of this act, engage in armed rebellion against the Government of the United States, or shall aid or abet such rebellion, all the property, moneys, stocks, credits, and effects of such person or persons are hereby declared lawful subjects of prize and capture, wherever found, for the indemnity of the United States against the expenses of suppressing such rebellion; and it is hereby made the duty of the President of the United States to cause all such property, wherever found, to be seized, to the end that the same may be confiscated and condemned as hereinafter provided for the use of the United States.

SEC. 2. *And be it further enacted*, That all property so captured or seized shall be condemned in the district courts of the United States, and that the proceedings of condemnation shall be *in rem*, and shall be instituted and prosecuted in the name of the United States in any district court of the United States within any district in which the same may be seized or situate, or into which the same may be taken and proceedings first instituted, and which proceedings shall conform as nearly as may be to proceedings in prize cases, or to cases of forfeiture arising under the revenue laws; and in all cases the property so seized and condemned, whether real or personal, shall be sold pursuant to such rules as the Secretary of the Treasury may prescribe, and the proceeds deposited in the Treasury of the United States for the sole use of the United States.

SEC. 3. *And be it further enacted*, That the Attorney General or any district attorney of the United States of any district in which the said property or effects may at the time be, or into which the same may be taken, shall institute the proceedings of condemnation as hereinbefore provided.

Mr. BINGHAM. Mr. Speaker, I desire to modify my amendment by inserting, after the words "United States," in the sixth line of the second section, the words "or the district court for the District of Columbia;" so that it will read:

Prosecuted in the name of the United States in any district court of the United States or the district court for the District of Columbia.

Mr. THOMAS, of Massachusetts. I make the point of order that on this motion there can be no amendment offered.

The SPEAKER. The gentleman from Ohio has a right to modify his amendment at any time before a vote is taken on it, and in any way he pleases.

Mr. BINGHAM. Then I ask to have it modified in the manner I have indicated.

The substitute was so modified.

The previous question was seconded, and the main question ordered, which was on Mr. DUNN's motion to postpone.

Mr. BINGHAM. I ask for the yeas and nays.

The yeas and nays were ordered.

ENROLLED JOINT RESOLUTION.

Mr. GRANGER, from the Committee on Enrolled Bills, reported as truly enrolled a joint resolution (S. No. 26) explanatory of, and in addition to, the act of June 3, 1856, granting public lands to the State of Wisconsin to aid in the construction of railroads in said State; when the Speaker signed the same.

CONFISCATION OF REBEL PROPERTY—AGAIN.

The question was taken; and it was decided in the negative—yeas 56, nays 58; as follows:

YEAS—Messrs. Allen, Joseph Baily, Biddle, Francis P. Blair, Jacob B. Blair, George H. Browne, Calvert, Casey, Clements, Cox, Crisfield, Crittenden, Diven, Dunlap, Dunn, Fisher, Goodwin, Granger, Grider, Hall, Harding, Harrison, Knapp, Law, Lehman, McKnight, Mallory, May, Menzies, Morris, Nixon, Noble, Noell, Norton, Nugen, Odell, Olin, Timothy G. Phelps, Porter, Price, James S. Rollins, Sheffield, Shellabarger, Smith, John B. Steele, Stratton, Benjamin F. Thomas, Francis Thomas, Trimble, Vibbard, Voorhees, Ward, Whaley, Chilton A. White, Woodruff, and Wright—56.

NAYS—Messrs. Aldrich, Arnold, Ashley, Baker, Baxter, Beaman, Bingham, Samuel S. Blair, Blake, William G. Brown, Buffinton, Burnham, Chamberlin, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Cutler, Davis, Duell, Edwards, Eliot, Ely, Fenton, Franchot, Frank, Gooch, Hanchett, Hickman, Hooper, Julian, Kelley, Francis W. Kellogg, Lansing, Loomis, Lovejoy, McPherson, Moorhead, Justin S. Morrill, Patton, Pike, Potter, John H. Rice, Riddle, Edward H. Rollins, Sargent, Shanks, Stevens, Trowbridge, Vallandigham, Van Horn, Van Valkenburgh, Wall, E. P. Walton, Albert S. White, Wilson, Windom, and Worcester—58.

So the bill was not postponed.

Mr. HICKMAN. I believe it is now in order to offer an amendment to the amendment.

The SPEAKER. It is.

Mr. HICKMAN. I move to amend by striking out all after the enacting clause, and inserting as follows:

That the President of the United States, as Commander-in-Chief of the Army and Navy of the United States, is hereby authorized to make use of all means not inconsistent with the laws of war, which, in his judgment, may be deemed necessary to crush the rebellion, including the seizure and final disposition of all the property, real and personal, of those engaged in armed rebellion against the Government of the United States, or aiding in such rebellion, including slaves; and that, in the opinion of Congress, decided measures on the part of the Executive have already become necessary.

Mr. BINGHAM. I rise to a question of order. I submit, in the first place, that the resolution is not legislation, but a mere declaration of the opinion of Congress. It is not in the nature of a bill; it is not in the nature of legislation, and is not at all pertinent to the bill before the House.

Mr. HICKMAN. The gentleman will observe that the amendment as now offered by me does not conform precisely to the amendment as printed. I have stricken out the words "in the opinion of Congress," so that it reads, "that the President of the United States is authorized."

Mr. BINGHAM. Still it is not in the form or nature of legislation, and I submit that question of order.

Mr. HICKMAN. I will modify my amendment still further, by inserting the word "hereby," so that it will read: "That the President is hereby authorized." That is in the form of legislation.

Mr. BINGHAM. The gentleman will please wait until I have stated my question of order before he interrupts me. I believe that the amendment, as modified by the gentleman from Pennsylvania, is not legislation under the Constitution of the United States at all, and therefore cannot be admitted as an amendment to this bill.

I desire to state further, in support of my question of order, or as the ground of it rather, to say that it is entirely foreign to the bill before the House, which provides for the seizure and capture of the property of the enemy and its condemnation in the courts. The bill presented by the gentleman from Pennsylvania, if it is treated as a bill at all, or as an act of legislation at all, is simply a declaration that the President of the United States is hereby authorized, himself, to seize property if, in his judgment, it shall be necessary; and I desire the Speaker, in settling the question

whether the amendment is in the nature of legislation, to notice that it merely authorizes the President to seize this property whenever, in his judgment, it may be deemed necessary.

The SPEAKER. The Chair cannot decide upon the efficiency of the laws which Congress may pass. The amendment of the gentleman from Pennsylvania is upon the same subject as the bill, and while the objection of the gentleman may be a valid one for the consideration of the House in voting upon it, the Chair cannot see that it is properly a question of order. The Chair decides that the amendment is in order.

Mr. BINGHAM. Well, sir, I have so much confidence in the judgment of the Chair, that I believe I will not take an appeal.

Mr. HICKMAN. I call the previous question on the bill and amendments.

Mr. NOELL. Before the previous question is seconded, I desire to ask the gentleman from Ohio to accept an amendment to his substitute.

Mr. BINGHAM. I will hear the gentleman's suggestion.

Mr. NOELL. It is to insert the word "willfully" in the fourth line of the first section, after the word "shall," and to insert the same word in the sixth line of the same section, so that it shall apply to those who are willfully in arms against the United States.

Mr. BINGHAM. I will accept the gentleman's amendment.

The previous question was seconded, and the main question ordered to be put.

The question being on Mr. HICKMAN's amendment,

Mr. HICKMAN called for the yeas and nays.

The yeas and nays were not ordered.

Mr. HICKMAN called for tellers on the yeas and nays.

Tellers were not ordered.

The amendment was disagreed to.

The question recurred on the substitute offered by Mr. BINGHAM.

Mr. WALTON, of Vermont. Is it in order to offer an amendment to the amendment?

The SPEAKER. It is not.

Mr. WALTON, of Vermont. The gentleman from Ohio promised me that I should have the opportunity of offering an amendment.

Mr. BINGHAM. The gentleman will have an abundant opportunity of offering it before this matter is disposed of. I call for the yeas and nays upon my substitute.

Mr. DIVEN. Is debate in order at this time?

The SPEAKER. It is not. The previous question has been seconded.

Mr. DIVEN. The gentleman from Ohio certainly gave me the assurance, as a member of the committee, that he would not cut off debate upon this subject.

Mr. BINGHAM. I do not propose to cut off debate, but I desire the vote may be taken upon my amendment without further delay. There will be a further opportunity for debate.

The question was taken; and it was decided in the affirmative—yeas 62, nays 48; as follows:

YEAS—Messrs. Aldrich, Arnold, Ashley, Babbitt, Baker, Beaman, Bingham, Samuel S. Blair, Blake, Buffinton, Burnham, Chamberlin, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Cutler, Davis, Duell, Edwards, Eliot, Ely, Fenton, Franchot, Frank, Gooch, Granger, Gurley, Hooper, Julian, Kelley, Francis W. Kellogg, Lansing, Loomis, Lovejoy, McKnight, McPherson, Mitchell, Moorhead, Nixon, Noell, Patton, Timothy G. Phelps, Pike, Porter, Potter, John H. Rice, Riddle, Edward H. Rollins, Sargent, Shanks, Shellabarger, Stevens, Stratton, Trimble, Trowbridge, Van Horn, Van Valkenburgh, Albert S. White, Wilson, Windom, and Worcester—62.

NAYS—Messrs. Allen, Joseph Baily, Baxter, Biddle, Francis P. Blair, Jacob B. Blair, George H. Browne, William G. Brown, Calvert, Casey, Clements, Cox, Crisfield, Crittenden, Diven, Dunlap, Grider, Hall, Harding, Harrison, Hickman, Kerrigan, Knapp, Law, Lehman, Mallory, May, Menzies, Justin S. Morrill, Morris, Noble, Norton, Odell, Olin, James S. Rollins, Sheffield, Smith, John B. Steele, Benjamin F. Thomas, Francis Thomas, Vallandigham, Vibbard, Voorhees, E. P. Walton, Ward, Chilton A. White, Woodruff, and Wright—48.

So the amendment submitted by Mr. BINGHAM was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, was accordingly read the third time.

Mr. VALLANDIGHAM. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. PORTER. Is it in order to make a motion to recommit with instructions?

The SPEAKER. It is.

Mr. PORTER. I move to recommit the bill to the Committee on the Judiciary, with instructions that they report the substitute which I presented to the other bill, and which I now send to the Clerk's desk.

Mr. MALLORY. I move that the House adjourn.

Mr. BINGHAM. Upon that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 36, nays 72; as follows:

YEAS—Messrs. Joseph Baily, Biddle, Jacob B. Blair, George H. Browne, William G. Brown, Calvert, Casey, Clements, Crisfield, Crittenden, Diven, Dunlap, Grider, Hall, Harding, Kerrigan, Knapp, Law, Lehman, Mallory, May, Menzies, Morris, Norton, Nugen, Odell, Price, James S. Rollins, Smith, John B. Steele, Francis Thomas, Vibbard, Voorhees, Ward, Chilton A. White, and Wright—36.

NAYS—Messrs. Aldrich, Arnold, Ashley, Babbitt, Baker, Baxter, Beaman, Bingham, Francis P. Blair, Samuel S. Blair, Blake, Buffinton, Chamberlin, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Cox, Cutler, Davis, Duell, Dunn, Edwards, Eliot, Fenton, Fisher, Franchot, Frank, Gooch, Goodwin, Granger, Gurley, Harrison, Hickman, Hooper, Julian, Kelley, Francis W. Kellogg, Lansing, Loomis, Lovejoy, McKnight, McPherson, Moorhead, Justin S. Morrill, Nixon, Noble, Noell, Olin, Patton, Timothy G. Phelps, Pike, Porter, Potter, John H. Rice, Riddle, Edward H. Rollins, Sheffield, Shellabarger, Stevens, Stratton, Benjamin F. Thomas, Trimble, Trowbridge, Vallandigham, Van Horn, Van Valkenburgh, Wall, E. P. Walton, Wilson, Windom, and Worcester—72.

So the House refused to adjourn.

During the call of the roll,

Mr. POTTER stated that his colleague, Mr. SLOAN, was detained from the House by illness.

The question recurred on Mr. PORTER's motion to recommit the bill to the Committee on the Judiciary, with instructions to report back the bill indicated.

Mr. WALTON, of Vermont. I move to amend the instructions by providing that the committee shall report back the following:

That if any person or persons owing allegiance to the United States shall, after the passage of this act, levy war against them, or shall adhere to their enemies, giving them aid and comfort, and shall thereof be convicted, on confession in open court, or on the testimony of two witnesses, to the same overt act of treason, whereof he or they shall stand indicted, such person or persons shall be adjudged guilty of treason against the United States, and shall suffer death or imprisonment not less than five years, and be fined not less than $10,000; which fine shall be levied and collected on any or all of the property, real and personal, of which the said person or persons so convicted was owner at the time of the committing of the said act, any sale or conveyance to the contrary notwithstanding; and every person so convicted shall be forever incapable and disqualified from holding any office under the United States; but the President may pardon or remit the whole or any part of said punishment.

SEC. 2. *And be it further enacted*, That the persons to whose labor or service any person convicted under this act has claim by the laws of any State, shall thereupon be forever free and discharged therefrom.

SEC. 3. *And be it further enacted*, That this act shall not be construed in any way to affect or alter the prosecution, conviction, or punishment of any person or persons guilty of treason against the United States before the passage of this act, unless such person is convicted under this act.

SEC. 4. *And be it further enacted*, That whenever it shall be deemed necessary to the speedy and successful termination of a rebellion by the President, he is hereby authorized, by such commissioners as he shall appoint, to sequester and seize the property, real and personal, of such persons as shall bear arms against the United States, or give aid and comfort to such persons wherever situated; and if within any part of the United States the inhabitants whereof have been proclaimed to be in a state of insurrection, to hold, occupy, rent, and control for the United States until the ordinary course of judicial proceeding shall be restored in the State or district where the same is situated, and in all cases until the owners of said property can be proceeded against by legal prosecution; but no persons holden to service, commonly called slaves, shall be taken under this section. And all such personal property as shall be so taken which is perishable, or expensive in keeping, may be sold by said commissioners, who shall keep and render full accounts of all the avails and receipts from said property so sold, let, or occupied, and pay over the avails to the Treasury of the United States.

SEC. 5. *And be it further enacted*, That whenever the President, in pursuance of existing laws, shall, by proclamation, have declared the inhabitants of any State or section, or part thereof, in a state of insurrection against the United States, he is hereby authorized, at any time thereafter, by proclamation, to extend to any such persons who may have participated therein, and in any such State or part thereof as he shall judge proper, pardon and amnesty, with such exceptions and at such time and with such conditions as he shall declare and proclaim.

SEC. 6. *And be it further enacted*, That if any State, or part thereof, in which the inhabitants have by the President been declared in a state of insurrection, the said insurrection shall have continued for a period of six months, then and in that case the President is hereby authorized, if in his opinion it shall be necessary to the successful suppression of said insurrection, by proclamation to fix and appoint a day when all persons holden to service or labor in any such State, or part thereof as he shall declare, whose service or labor is by the law or custom of said State due to any person or persons, who, after the day so fixed by said proclamation, shall levy war or participate in insurrection against the United States, or give aid to the same, shall be free and discharged from all such claim to labor or service; and thereupon said person shall be forever free and discharged from said labor and service, any law or custom of said State to the contrary notwithstanding.

SEC. 7. *And be it further enacted*, That whenever any person claiming to be entitled to the service of any other person as a slave shall seek to enforce such claim, he shall, in the first instance, and as preliminary to the trial of such claim, show satisfactorily that he and the person to whom said service was claimed to be due during the period of insurrection or rebellion was loyal to the United States.

Mr. PORTER demanded the previous question.

Mr. VALLANDIGHAM. I raise the point of order that the proposition of the gentleman from Indiana is not in order, under the 48th rule, which is as follows:

"No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment. No bill or resolution shall, at any time, be amended by annexing thereto, or incorporating therewith, any other bill or resolution pending before the House."

The bill which the gentleman has moved as an amendment is already pending before the House, and its consideration has only been postponed.

The SPEAKER. The Chair overrules the point of order. The rule referred to does not apply to this case.

Mr. WALTON, of Vermont. The proposition I have moved as an amendment is the same, substantially, as that which was proposed in the Senate by Judge COLLAMER. It is upon the desks of members, and I presume that they all understand it.

The previous question was seconded, and the main question ordered.

Mr. WALTON, of Vermont, demanded the yeas and nays.

The yeas and nays were ordered.

Mr. NOBLE. Is it in order to move to refer to the Committee on the Judiciary without instructions? Is it in order to divide this question?

The SPEAKER. It is not. Under the rules the question is indivisible.

Mr. COX. There are many who would vote for the reference who would vote against the instructions.

The question was taken; and it was decided in the negative—yeas 33, nays 69; as follows:

YEAS—Messrs. Baxter, Francis P. Blair, William G. Brown, Calvert, Casey, Clements, Roscoe Conkling, Crittenden, Dunlap, Dunn, Fisher, Goodwin, Granger, Grider, Gurley, Harding, Harrison, McKnight, McPherson, Mallory, Menzies, Mitchell, Moorhead, Justin S. Morrill, Nixon, Olin, Edward H. Rollins, James S. Rollins, Sheffield, Shellabarger, Stratton, E. P. Walton, and Worcester—33.

NAYS—Messrs. Aldrich, Allen, Arnold, Ashley, Babbitt, Joseph Baily, Baker, Beaman, Biddle, Bingham, Jacob B. Blair, Samuel S. Blair, Blake, George H. Browne, Buffinton, Chamberlin, Colfax, Frederick A. Conkling, Covode, Cox, Cutler, Davis, Duell, Eliot, Ely, Fenton, Franchot, Frank, Gooch, Hickman, Julian, Kelley, Francis W. Kellogg, Kerrigan, Knapp, Lansing, Law, Loomis, Lovejoy, May, Morris, Noble, Noell, Odell, Patton, Timothy G. Phelps, Pike, Potter, John H. Rice, Riddle, Sargent, Shanks, Smith, John B. Steele, Benjamin F. Thomas, Francis Thomas, Trimble, Trowbridge, Vallandigham, Van Horn, Van Valkenburgh, Voorhees, Wall, Ward, Albert S. White, Chilton A. White, Wilson, Windom, Woodruff, and Wright—69.

So the proposition of Mr. WALTON, of Vermont, was rejected.

During the vote,

Mr. LEHMAN stated that he was paired with his colleague, Mr. STEVENS.

The vote was then announced.

Mr. MALLORY moved that the House adjourn.

Mr. BROWNE, of Rhode Island, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 41, nays 65; as follows:

YEAS—Messrs. Allen, Joseph Baily, Biddle, Jacob B. Blair, George H. Browne, William G. Brown, Calvert, Casey, Clements, Cox, Crisfield, Diven, Dunlap, Dunn, Fisher, Granger, Grider, Hall, Harding, Harrison, Knapp, Law, Mallory, May, Menzies, Nixon, Noell, Norton, Nugen, Odell, Price, Sheffield, Smith, John B. Steele, Stratton, Francis Thomas, Vibbard, Ward, Chilton A. White, Woodruff, and Wright—41.

NAYS—Messrs. Arnold, Ashley, Babbitt, Baker, Baxter, Beaman, Bingham, Francis P. Blair, Samuel S. Blair, Blake, Buffinton, Chamberlin, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Cutler, Davis, Duell, Edwards, Eliot, Ely, Fenton, Franchot, Frank, Gooch, Goodwin, Gurley, Hickman, Hooper, Julian, Kelley, Francis W. Kellogg, Lansing, Loomis, Lovejoy, McPherson, Mitchell, Moorhead, Morris, Noble, Olin, Patton, Timothy G. Phelps, Pike, Porter, Potter, John H. Rice, Riddle, Edward H. Rollins, Sargent, Shanks, Shellabarger, Benjamin F. Thomas, Trimble, Trowbridge, Vallandigham, Van Horn,

Van Valkenburgh, Wall, E. P. Walton, Albert S. White, Wilson, Windom, and Worcester—65.

So the House refused to adjourn.

The question recurred on Mr. PORTER's motion; and being taken, it was decided in the negative—yeas 25, nays 73; as follows:

YEAS—Messrs. Francis P. Blair, William G. Brown, Calvert, Casey, Clements, Dunlap, Dunn, Fisher, Granger, Grider, Gurley, Harrison, McKnight, McPherson, Mallory, Menzies, Mitchell, Moorhead, Nixon, Patton, Porter, Sheffield, and Stratton—25.

NAYS—Messrs. Aldrich, Allen, Arnold, Ashley, Babbitt, Joseph Baily, Baker, Beaman, Biddle, Bingham, Jacob B. Blair, Samuel S. Blair, Blake, George H. Browne, Buffinton, Chamberlin, Colfax, Covode, Cutler, Davis, Duell, Edwards, Eliot, Ely, Fenton, Franchot, Frank, Gooch, Hickman, Hooper, Julian, Kelley, Francis W. Kellogg, Kerrigan, Lansing, Law, Loomis, Lovejoy, Justin S. Morrill, Morris, Noble, Noell, Nugen, Odell, Olin, Pike, Potter, Price, John H. Rice, Riddle, Edward H. Rollins, Sargent, Shanks, Shellabarger, Smith, John B. Steele, Benjamin F. Thomas, Francis Thomas, Trowbridge, Vallandigham, Van Horn, Van Valkenburgh, Vibbard, Voorhees, Wall, E. P. Walton, Albert S. White, Chilton A. White, Wilson, Windom, Woodruff, and Wright—73.

So the motion was disagreed to.

Mr. BINGHAM. Is not the previous question operating on the final passage of the bill?

The SPEAKER. It is.

BOUNTY.

Mr. MORRILL, of Vermont. I ask unanimous consent of the House to report back, from the Committee of Ways and Means, House bill No. 413, making an appropriation for the payment of bounty to the widows and legal heirs of volunteers who have died or may die, or have been or may be killed, in the service, as provided by the act of July 22, 1861, which was introduced by the gentleman from New Hampshire, [Mr. EDWARDS,] with a substitute.

There was no objection; and the bill and substitute were received, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. BLAIR, of Virginia, moved that the House adjourn.

Mr. BINGHAM demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 58, nays 48; as follows:

YEAS—Messrs. Allen, Joseph Baily, Baxter, Biddle, Francis P. Blair, Jacob B. Blair, George H. Browne, William G. Brown, Calvert, Casey, Clements, Cox, Crisfield, Crittenden, Diven, Dunlap, Dunn, Fisher, Goodwin, Granger, Grider, Hall, Harding, Harrison, Kerrigan, Knapp, Law, Lazear, McKnight, Mallory, May, Menzies, Mitchell, Morris, Nixon, Noble, Noell, Norton, Nugen, Odell, Olin, Timothy G. Phelps, Porter, Price, Sheffield, Shellabarger, Smith, John B. Steele, Stratton, Benjamin F. Thomas, Francis Thomas, Vallandigham, Vibbard, Voorhees, Ward, Chilton A. White, Woodruff, and Wright—58.

NAYS—Messrs. Aldrich, Arnold, Ashley, Baker, Beaman, Bingham, Samuel S. Blair, Blake, Buffinton, Chamberlin, Colfax, Roscoe Conkling, Covode, Cutler, Davis, Edwards, Eliot, Ely, Fenton, Franchot, Frank, Gooch, Hickman, Hooper, Julian, Kelley, Francis W. Kellogg, Lansing, Loomis, Lovejoy, McPherson, Moorhead, Patton, Pike, Potter, John H. Rice, Riddle, Edward H. Rollins, Sargent, Shanks, Trimble, Trowbridge, Van Horn, Wall, E. P. Walton, Albert S. White, Wilson, and Windom—48.

So the motion was agreed to.

And thereupon (at five minutes past five o'clock, p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, *April* 23, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. WILKINSON presented a petition of citizens of Pine county, Minnesota, praying for the establishment of a weekly mail route during the opening of lake navigation by steamboat from Detroit, Michigan, to Superior, Wisconsin; which was referred to the Committee on the Post Office and Post Roads.

He also presented a petition of citizens of Pine county, Minnesota, praying that mail route No. 13581, from St. Paul to Bayfield, and route No. 13586, from Sunrise City to Superior, be abolished, and that one consolidated route be established from St. Paul to Bayfield, via Superior; which was referred to the Committee on the Post Office and Post Roads.

Mr. TRUMBULL presented a petition of citizens of Kadnor, Peoria county, Illinois, praying for the construction of a ship canal between Lake Michigan and the Mississippi river; which was referred to the Committee on Military Affairs and the Militia.

Mr. TRUMBULL. I have also been requested to present the memorial of William C. Jewett, of Colorado, praying for a defensive stand-still policy at Yorktown and western points, and to secure an additional reserve army of two hundred and fifty thousand men for final success. It is hardly necessary that I should say that such a petition does not meet my views at all. I regard it as very unwise; but upon the principle which I have adopted to present all petitions respectfully addressed, I present this, and move that it lie on the table.

The motion was agreed to.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Interior, communicating, in answer to a resolution of the Senate of the 18th instant, information in relation to the amount paid to different parties on account of legal and other services for investigating land titles in the State of California, during the years 1857, 1858, 1859, 1860, and 1861; which was ordered to lie on the table, and be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ETHERIDGE, its Clerk, announced that the House had passed the bill (S. No. 248) for the relief of the owners, officers, and crew of the Danish bark Jorgen Lorentzen.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bill and joint resolution; which thereupon received the signature of the President *pro tempore:*

A joint resolution (S. No. 26) explanatory of and in addition to the act of June 3, 1856, granting public lands to the State of Wisconsin to aid in the construction of railroads in said State.

An act (S. No. 106) to authorize the district court of the United States for the northern district of California to hear and determine upon its merits the claim of Pedro Chaboya to a certain tract of land in California, called La Posa de San Juan Bautista.

REPORTS FROM COMMITTEES.

Mr. LANE, of Indiana, from the Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 369) for the relief of Robert M. Evans, reported it without amendment.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred a petition of citizens of Springfield, Vermont, praying that action may be taken to accept the proposition of Messrs. Ellis, Britton, and Eaton, to furnish employment to liberated negroes, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of F. C. Treadwell, of Brooklyn, New York, representing that certain judicial officers had failed in their duty in securing the apprehension and conviction of persons accused of treason and praying for the application of the proper remedy, asked to be discharged from its further consideration; which was agreed to.

BILL INTRODUCED.

Mr. DAVIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 281) prescribing an additional oath to be taken by grand and petit jurors serving in the United States courts; which was read twice by its title, and referred to the Committee on the Judiciary.

ARMY REGISTER.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution for printing three thousand copies of the Army Register, have directed me to report the same back with an amendment and recommend its adoption, and I am instructed to ask for its present consideration.

There being no objection, the Senate proceeded to consider the following resolution:

Resolved, That there be printed for the use of the Senate three thousand copies of the Army Register for the year 1862.

Mr. ANTHONY. The amendment of the committee is to add as a proviso:

Provided, That the same be not printed until it shall have been perfected, or as nearly so as practicable.

The amendment was agreed to; and the resolution, as amended, was adopted.

PAY OF FIRST MINNESOTA MEMBERS.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred a joint resolution (S. No. 33) in relation to the pay of the first Senators and Representatives in Congress from the State of Minnesota, have directed me to report it back to the Senate with an amendment; and as it is a small matter, if there be no objection, I ask for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which declares that the Senators and Representatives elected to Congress from the State of Minnesota, under the enabling act of February 26, 1857, are entitled to compensation as such from the commencement of the Congress at which the State was admitted to the Union.

The amendment was to strike out all after the word "the," in the seventh line, and insert:

Session at which the State was admitted into the Union, and the money required for that purpose be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

Mr. WILKINSON. I should like to know how the resolution would read as amended.

The Secretary read it, as follows:

Resolved, &c., That the Senators and Representatives elected to Congress from the State of Minnesota under the enabling act of 26th February, 1857, be and they are hereby, entitled to compensation as such, from the session at which the State was admitted into the Union, and the money required for that purpose be and the same is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

ALLEGED DRUNKENNESS OF A GENERAL.

Mr. HALE. I have a resolution that I wish to present, and I ask for its present consideration:

Resolved, That the Committee on Military Affairs and the Militia be instructed to inquire if any general of the Army of the United States before Yorktown has exhibited himself drunk in the face of the enemy on duty, and if so, if any measures have been taken for the trial and punishment of such officer.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SUMNER. I would simply inquire of the Senator from New Hampshire whether his resolution should not be addressed to the committee on the conduct of the war, if that committee has entered upon inquiries of that nature. I do not know that it has had any so disgusting and so painful as that.

Mr. HALE. I have no choice as to what committee it goes to, but if the Senate will indulge me, I desire to read a statement that was made yesterday in the House of Representatives. Mr. MORRILL, of Vermont, offered a resolution in these words:

"*Resolved*, That the President be requested to strike the name of any officer from the rolls who has been known to be at any time while in service intoxicated by the use of spirituous liquors."

And he made this statement:

"I am willing that the resolution shall be modified as suggested. Mr. Speaker, it will be noticed that in the recent engagement of our forces at Yorktown on the 16th of the month, a very few companies of Vermont troops were ordered to a position of extreme peril, and performed, perhaps, one of the most gallant exploits that has been witnessed during this war. About two companies were ordered to take a certain battery, and they went across a stream and did take the position, driving out the enemy, and held it for fifty minutes in the face of a foe numbering something like three thousand men—three regiments under General Cobb—and during all that time were not supported or reinforced by the general who was upon the ground. At last they retired, and the rebel papers report that all but eight were slaughtered. That is not true, but the slaughter was not only great, but useless.

"Now, I am informed by a most respectable gentleman, a civilian, who was present at the time, and saw the general, that he was grossly drunk, and it was reported had fallen from his horse twice on that day; that one side of his person was covered with mud, and that his face was also covered with mud and had some blood on it. Under these circumstances, while I do not know that he was responsible for this blunder, yet if there are any men in the Army who get into the condition that I am assured he was in, they deserve to be stricken from the rolls. No such man ought to be allowed to control the destinies of brave men."

Mr. President, it seems to me that things have got to a pass where Congress ought to vindicate itself as a part of the governing power of this nation. Are these blunders, or whatever they may be called, to be repeated from time to time, and

the heroic and patriotic men who have left their homes and given up everything for their country to be slaughtered like wild beasts as they were at Ball's Bluff? In this last case, it appears that they were marched in the mud up to their armpits, and shot like dogs in the presence of their commanding general, who was too drunk to sit on his horse. If this be true, there is no punishment known to the military law too severe to be promptly visited upon him. These statements are publicly made in Congress and in the public prints, and as yet no notice has been taken of them, and no one has been brought to trial. In regard to the reference to the committee on the conduct of the war, if that is the sense of the Senate, I have not the slightest objection—I have discharged my duty—though, as a matter of propriety, I think these specific questions ought to go to a committee that is under the control of the Senate. If, however, the Senate think differently, I shall acquiesce.

Mr. FOSTER. I am in favor of the inquiry, and should be disposed to have the resolution go, as the Senator from New Hampshire suggests, to a committee of the Senate, rather than to a joint committee of the two Houses; but to whichever committee it goes, I want to say a word before its reference; and it is this: the Senate cannot plume itself upon the high moral ground it has taken upon the question whether the officers of our Army should be sober men or not. It is very well for us, no doubt, whenever we have the right to exert that prerogative, to hold all departments of the Government responsible to us, if those who administer those departments are derelict in duty; but it is far better than that for us to discharge properly the responsibilities belonging to us; and I say, and I say in face of the Senate and in face of the country, that the Senate has not taken the ground it ought to take in refusing to confirm men who were known to be intemperate. Such men have been nominated to us for officers of the Army and Navy of the United States. Having taken the ground we have on that subject, it becomes us, I think, to weed our own garden first, correct first our own laxity—I am pained to add, what I think a more appropriate term, our own criminality in having confirmed men to high positions in the Army and Navy who were charged, and apparently truly charged at the time, with habitual intemperance. Having done that, we certainly should be a little cautious before criticising very severely the conduct of other departments of the Government in regard to men of that character.

The PRESIDENT *pro tempore*. The Chair takes occasion to say, as a Senator from Vermont, that the commanding general on the occasion referred to has not yet been confirmed.

Mr. HALE. I agree very much in what the Senator from Connecticut has said. I know that the standard of the Senate in that respect has been very low, and that there have been some peculiar notions prevailing in the Senate in regard to such matters. I remember that the Senate is a part of the Congress of the United States, and I recognize as belonging to the Congress of the United States the supreme legislative power of the country, and I hold it to be the duty of the Congress of the United States, while they are in session at least, to exercise their vigilance and their care over these matters. I have been asked frequently, "when will this Congress adjourn?" and in answer to that question I have said "I do not know;" and the suggestion has come back, "they ought not to adjourn while this war continues, and continues in the condition it now is." Why not? Why may not Congress go home to-morrow, after having voted the supplies, just as well as not, if they are to take no notice of these things? If they are to let our soldiers be led into the mud and shot down like dogs, in the face of a drunken general who cannot sit on his horse, and they are to take no action and institute no inquiry about it, why not go home? Why stay here? They could not do any worse if we were at home. I say it is the bounden duty of Congress to inquire into these matters.

Agreeing in very much that was said by the Senator from Connecticut, let me suggest to him that this is not an analogous case to that which he put. When questions are made such as those to which he referred, there are disputes, there are inquiries; and I will mention a fact that occurred here years ago. I had occasion to mention it once before. I was attending a private party in this city when I was first a member of the Senate, and I saw a young man whose name was pending before the Senate as a nominee for a lieutenancy in the Navy. I met him at that private party drunk, and he had to leave the house because he was drunk; and as he left the house he stole another bottle of whisky of the host at whose house he was entertained. His nomination came before the Senate. I stated these facts to the Senate just as I state them here to-day, as having taken place under my own eye. What was I answered? "That is no reason why he should not be confirmed. If it is a regular case for promotion he must be confirmed, and you shall not try a man for these moral offenses behind his back; let the Secretary of the Navy order him to a court-martial;" and he was confirmed; and on a subsequent occasion something very similar occurred, and I stated the same facts, and the Senate came to the same conclusion again.

Mr. SUMNER. That was during the old pro-slavery days.

Mr. HALE. Well, sir, we have not made much reformation in the new anti-slavery days in regard to confirming drunkards, not an atom. We may have made progress in other matters, but in that we have nothing to boast of, nothing to brag of.

Mr. DAVIS. That is a good point.

Mr. HALE. I am willing to confess our sins when occasion requires. We have made no progress in this direction. I think this inquiry should be made. I have not the slightest preference about the committee; only as a matter of propriety, I think it should more appropriately go to one of our own committees, because it is a specific inquiry relative to a specific offense by a single officer, and does not relate to the general conduct of the war.

Mr. WILSON, of Massachusetts. It is a matter of indifference to me to what committee this resolution goes. I suppose the reference which has been made here this morning is to General Smith. He has not been confirmed. He is now, I believe, in the hands of the committee, or before the Senate. I know nothing about any of the facts in this case. All I know is that it has been whispered through the winter that he was guilty of intemperance, and his name has been held back to a considerable extent on that account. The Senator from Connecticut reads us a proper lecture here this morning, and I take it kindly. I think we have been very careless in some of our confirmations; but for myself I say here openly before the Senate what I have said within closed doors, that I have recommended no man and voted for no man who is guilty of intemperance; and I do not intend to do it. Whatever his merits may be in other respects, I will not trust the life of any American soldier under any officer who is guilty of intemperance, if I know it.

The PRESIDENT *pro tempore*. The hour has arrived for the consideration of the special order fixed for half past twelve o'clock.

Mr. WILSON, of Massachusetts. I have no desire to prolong these remarks, and I will simply say that it is a matter of indifference to me whether it goes to the committee of which I am a member, or to the joint committee.

The PRESIDENT *pro tempore*. The special order for this hour is bill S. No. 184, to authorize the President of the United States to appoint diplomatic representatives to the republics of Hayti and Liberia, respectively.

Mr. FESSENDEN. Let us take a vote on this resolution.

Mr. SUMNER. If the vote can be taken on this resolution I shall be very glad.

The PRESIDENT *pro tempore*. By common consent, the Chair will put the question on the resolution.

The resolution was agreed to.

HAYTI AND LIBERIA.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 184) to authorize the President of the United States to appoint diplomatic representatives to the republics of Hayti and Liberia, respectively.

The bill proposes to authorize the President of the United States, by and with the advice and consent of the Senate, to appoint diplomatic representatives of the United States to the republics of Hayti and Liberia, respectively. Each of the representatives so appointed is to be accredited as commissioner and consul general, and is to receive, out of any money in the Treasury not otherwise appropriated, the compensation of commissioners provided for by the act of Congress approved August 18, 1856; but the compensation of the representative at Liberia is not to exceed $4,000.

Mr. SUMNER. Mr. President, before proceeding with the statement which I am about to make, I desire to move one or two small amendments in the bill. In the eighth and ninth lines, I move to strike out the words "out of any money in the Treasury not otherwise appropriated." If these words do not amount to an appropriation, they are superfluous; if they do amount to an appropriation, I have no desire to have them in the bill; therefore, I move to strike them out.

The motion was agreed to.

Mr. SUMNER. In line ten, instead of the words "provided for by," I move to substitute the words "according to." It is merely a verbal amendment.

The PRESIDENT *pro tempore*. That alteration will be made according to the suggestion of the Senator from Massachusetts, it being a mere verbal amendment.

Mr. SUMNER. In line twelve, after the word "the," and before "compensation," I move to insert the word "annual;" so that the sentence shall read, "that the annual compensation of the representative at Liberia shall not exceed $4,000."

The amendment was agreed to.

Mr. SUMNER. Mr. President, the independence of Hayti and Liberia has never yet been acknowledged by our Government. It would at any time be within the province of the President to do this, either by receiving a diplomatic representative from these republics, or by sending one to them. The action of Congress is not necessary, except so far as an appropriation may be needed to sustain a mission. But the President has seen fit, in his annual message, to invite such action. By this bill Congress will associate itself with him in the acknowledgment, which, viewed only as an act of justice, comity, and good neighborhood, must commend itself to all candid minds.

But, in proposing to appoint diplomatic representatives, we necessarily contemplate the negotiation of treaties and the establishment of friendly relations with these two republics under the sanctions of international law and according to the usage of nations. If it be important that such treaties should be negotiated, and such relations be established, then the present bill is entitled to your support. Thus far our Government, habitually hospitable to all newly-formed republics, has turned aside from Hayti and Liberia, although the former has been an independent Power for nearly sixty years, and the latter for nearly fifteen. Of course, our national character has suffered from this conduct, while our important commercial relations with these countries have continued without the customary support of treaties or the active protection afforded by the presence of an honored representative of our Government. It is time to put an end to this anomalous state of things.

It was my purpose, originally, to consider this question at length in some of its general aspects; to trace the character and history of the two republics; to exhibit the struggles in our own country for the acknowledgment of their independence, and to vindicate this act in all its manifest relations to civilization. But such a discussion is, I trust, unnecessary, and I shall content myself with a few considerations of a practical character—especially in reply to the suggestion that diplomatic representatives are not needed in our concerns with these two republics.

Hayti is one of the most beautiful and important islands in the world, possessing remarkable advantages in size, situation, climate, soil, productions, and mineral wealth. It is about three hundred and thirty-eight miles in length from east to west, and in breadth, from north to south, varies from one hundred and forty-five miles to seventeen. Its circumference, without including bays, measures eight hundred and forty-eight miles. Its surface, exclusive of adjacent islands, is estimated at thirty thousand five hundred and twenty-eight square miles, being about the area of Ireland. In size it is so considerable as to attract attention among the islands of the world. In situation it is

commanding, being at the entrance to the Gulf of Mexico, and within easy reach of all the islands there. In climate, it is salubrious, with its natural heats tempered by sea breezes. In soil, it is rich with tropical luxuriance; various with mountains and plains; watered by numerous rivers, and dotted with lakes. In productions, it is abundant beyond even the ordinary measure of such favored regions. The mountains yield mahogany, satinwood, and lignumvitæ, while the plains yield all the bountiful returns of the tropics, including bananas, oranges, pine-apples, coffee, cocoa, sugar, indigo, and cotton. Among the minerals are gold, silver, platinum, mercury, copper, iron, sulphur, and several kinds of precious stones. Such, in brief, is the physical character of this wonderful island, which, like Ireland, is a "gem of the sea."

Originally discovered by Christopher Columbus, who named it Hispaniola, or Little Spain, this island was for a long time among the most valued possessions of Spain, from which Power it passed to France. Throwing off the Government of the latter country, it has for nearly sixty years maintained its independence before the world, and performed honorably all its duties in the family of nations. The republic of Hayti once embraced the whole of the island. At present it occupies a portion only, with a population of six hundred thousand souls.

The republic of Liberia extends along the western coast of Africa for a space of five hundred miles, beginning at the British colony of Sierra Leone, with an average breadth of fifty miles, between latitude 4° 20′ and 7° 30′ north, embracing an area of thirty thousand square miles, being almost precisely the area of Hayti; so that these two regions—one an island, and the other a strip of African sea-coast—are of the same size. I say nothing of the origin of this republic, although it cannot be contemplated without the conviction that it is, perhaps, one of the most important colonies ever planted. At last civilization has obtained a foothold in Africa, almost under the equator.

In soil and productions, if not in climate, this region seems hardly less favored than Hayti. Though so near the equator, the mercury seldom rises above ninety degrees in the shade, and never falls below sixty degrees. Most of the productions which are found in the one are also found in the other. But Liberia abounds in iron ore, and it is said that copper and other metals exist in the interior. It is, however, in sugar, cotton, coffee, and palm-oil that Liberia seems destined to excel. It has been said by a person familiar with the country that it "bids fair to become one of the greatest sugar-producing countries in the world." The population embraces some fifteen thousand persons, emigrants or their children, from the United States, with a large native population, held in subjection and already won toward civilization, amounting to more than two hundred thousand souls.

The argument for treaties with two countries like these is strong, without pursuing the inquiry further. But it becomes irresistible when we consider the positive demands of our commerce in these quarters. Even in spite of coldness, neglect, and injustice, our commercial relations with these countries have grown to a great importance. If assured of the customary protection afforded by treaties and the watchful presence of a diplomatic representative, they must become of greater importance still.

I have in my hands a tabular statement of the commerce and navigation of the United States with foreign countries, arranged in order according to their amount, so that the country with the largest commercial intercourse stands first. This authentic statement has been prepared under my directions at the Treasury Department for this occasion. It will be found most interesting and instructive. It is, however, too minute to be read in debate. Here, under one head, will be found the exports from the United States; under another head the imports; and under other heads the number of ships and tonnage; the whole so classified that we may see at a glance the relative importance of foreign countries in their commercial relations with the United States. Such a statement is in itself an argument.

It is in order to exhibit the precise position of Hayti and Liberia in the scale that I have introduced this table. When it is said that out of sixty countries Hayti stands the *twenty-seventh*, and Liberia at least helps to make the *twenty-ninth*, this is not enough. It must be observed that there are no less than nine countries, like Canada and Cuba, which, though enumerated separately, yet belong to other nationalities. If these are excluded, or added to their proper nationalities, Hayti will rank as the *sixteenth*, and Liberia will take her place under the *eighteenth*. But if we examine this table in its details, we shall find the important relative position of these two countries amply sustained. Confining ourselves for the present to Hayti, we have these remarkable results.

Hayti, in the exports which she receives from us, stands next to Russia. The exports to Hayti are $2,673,682; while those to Russia amount to $2,744,219. But the imports from Hayti are $2,062,723, while those from Russia are only $1,532,190. In the number of vessels employed Hayti is much the most important to us. Only 88 vessels are employed between the United States and Russia, while 490 vessels, with corresponding tonnage, are employed between the United States and Hayti. So that, in the importance of commercial relations, Hayti stands above Russia, where we have always been represented by a minister plenipotentiary of the highest class, with a secretary of legation, and have at this moment no less than eight consuls besides.

It appears from the table that there are no less than *thirteen* countries with which the United States maintain diplomatic relations, although lower than Hayti in the scale of commerce and navigation. But this is not all. In point of fact, there are no less than *eight* other countries, where we are now represented by a minister resident, which do not appear in any commercial tables. I refer to Switzerland, Nicaragua, Costa Rica, Guatemala, Honduras, the Argentine Confederation, Paraguay, and Bolivia. So that there are *twenty-one* countries of less commercial importance than Hayti, with which the United States are now in diplomatic relations.

The exports to Austria, (including Venice,) where we are represented by a minister plenipotentiary of the first class, with a secretary of legation, and four consuls, are less than one half of our exports to Hayti, while the number of ships in this commerce is only 45, being 450 less than in our commerce with Hayti. The exports to Peru, where we are represented also by a minister of the first class, with a secretary of legation and five consuls, are still less than those to Austria.

Hayti, in this scale of commerce and navigation, stands above Sweden, Turkey, Central America, Portugal, the Papal States, Japan, Denmark, Prussia, and Ecuador, where we are represented by ministers resident. It also stands above the Sandwich Islands, where we are represented by a commissioner. Out of these countries there are several whose united commerce with the United States is inferior to that of Hayti. This is the case with Turkey, Portugal, Denmark, and Prussia, which altogether do not equal Hayti in commercial relations with our country.

Our exports to Turkey in Europe and Turkey in Asia combined are nearly two millions less than to Hayti; and yet, with this Mohammedan Government we have felt it important within a few weeks to negotiate a treaty of commerce.

The commerce with China is among the most valuable we possess, and the ships engaged in it are of a large size; but in number they are inferior to those engaged in the trade with Hayti. And yet at China we have a minister of the first class, with a salary of $12,000, an interpreter with a salary of $5,000, two consuls, with salaries each of $4,000, one other consul, with a salary of $3,500, two other consuls with salaries each of $3,000, and two other consuls paid by fees.

Perhaps the comparison between Hayti and the Sandwich Islands is the most instructive. Both are islands, independent in government. Hayti has a population of 600,000; the Sandwich Islands have a population of little more than 70,000. The exports to Hayti, as we have already seen, are $2,673,682, while the exports to the Sandwich Islands are only $747,462. And the difference in navigation is as great. In commerce with Hayti there are 489 ships, with an aggregate of 82,360 tons, while in commerce with the Sandwich Islands there are only 85 ships, with an aggregate of 35,368 tons. And yet, at the Sandwich Islands, with this inferior population, inferior commerce, and inferior navigation, we are represented by a commissioner, with a salary of $7,500, one consul with a salary of $4,000, another consul with a salary of $3,000, and still another who is paid by fees.

Nor is the interest in the trade with Hayti confined to any particular State or section of the United States. From other authentic tables it appears that the New England States send fish and cheap cottons; Pennsylvania and the western States send pork; Vermont, New York, Ohio, and Illinois send beef, butter, and cheese; Philadelphia and Boston send soap and candles; while Maine sends lumber, and southern States, in times past, have sent rice and tobacco.

Of fish, Hayti took from us in 1860, 55,652 cwt., being much more than was taken by any other country except Cuba, which took 59,719 cwt.; and much more than was taken by all the rest of the West Indies. Of cotton manufactures, Hayti took from us goods to the value of $228,000, being more than was taken by many other countries together, and much more than was taken by Cuba and Porto Rico together, the two remaining, but most valuable American possessions of Spain. Of butter, Hayti took 211,644 pounds; of cheese, 121,137 pounds; of lard, 675,163 pounds. But of soap she took 2,602,132 pounds, being more than twice as much as was taken by any other country. Cuba, which stands next, took only 867,823 pounds, while Mexico took only 66,874 pounds.

Such are some of the articles, and I mention them that you may see the distribution of this commerce in our own country, as well as the extent to which, though pursued under difficulties, it has already gone. (See Report of Secretary of Treasury on Commerce and Navigation for 1860, Statement No. 1.)

The practical advantages to be derived from the recognition of Hayti were directly urged upon our Government by one of its agents, even under the unfriendly administration of President Pierce. I refer to the consular return of John L. Wilson, commercial agent at Cape Haytien, under date of June 5, 1854, as follows:

"By a recognition of the independence of Hayti, our commerce would be likely to advance still more. Our citizens trading there would enjoy more privileges, besides standing on a better footing. *Many decided advantages might also be obtained through treaty*, and our own Government exercise a wholesome influence over theirs, of which it stands much in need."—*Commercial Relations*, vol. 4, p. 509.

Of course, this is to be regarded as testimony; and, when we consider his political relations, testimony from an unwilling witness. But there is other testimony of a similar character. In the text of the elaborate report by the Department of State, from which the above is taken, will be found the following weighty opinion:

"There being no treaty between the United States and Hayti, the commerce between the two countries is governed by such local laws and regulations as may from time to time be enacted. These are always subject to changes and alterations, sometimes so sudden—decrees of to-day superseding the laws in force but yesterday—that commercial interests, *especially those of the United States*, have been in many instances most seriously affected."—*Commercial Relations*, vol. 1, p. 559.

It appears that as late as June 25, 1850, a law was in force subjecting the vessels of all countries that had not acknowledged the independence of Hayti to an additional duty of ten per cent. American vessels, being within the operation of this law, could not compete with the vessels of other nations which had satisfied its requirements, even in exporting to Hayti our own staples. Then, again, there was a tariff, which took effect in January, 1850, according to which certain articles were not to be sold above certain fixed prices, the effect of which was to make a most injurious discrimination against our trade. A dispatch from Aux Cayes at that period to the Department of State, says: "While the citizens of France are scarcely affected in their importations to Hayti, the Americans here import, and our merchants at home export, scarcely any article that is free." (Commercial Relations, vol. 1, p. 560.) And yet, in the face of these annoyances, and notwithstanding the embarrassments which they must have occasioned, our merchants have secured at least one moiety of the foreign trade of Hayti. With the same encouragements which we give to our relations with other countries, it cannot be doubted that we shall enjoy a much larger proportion.

If any additional motive were needed, it might

be found in the political condition of the West India Islands, and the present movements in Mexico. Spain, quickened by ancient pride, has begun to recover her former foothold, and it is sometimes supposed that France is willing to profit by an imagined change of sentiment in her favor. Thus far the republic of Hayti has been left without sympathy or support from our country. That it has been able to sustain itself so well gives assurance of still greater strength when surrounded by more auspicious circumstances. Nor is the influence of Hayti to be neglected in adjusting that balance of power which is becoming of daily importance in the West Indies. It may be of value to us that this republic should be among our friends, while it cannot be doubted that our friendship will contribute to its security against danger from any quarter whatsoever. It will be remembered that Mr. Canning boasted somewhat grandly that he called a new world into existence to recover the balance of the old—alluding in this way to the acknowledgment of the independence of the Spanish colonies. In the same spirit and without any exaggeration it may be said that by the acknowledgment of Hayti, we shall provide a check to the schemes of ambition at a distance, which have latterly seemed to menace an undue predominance in the West Indies. In this view, the present proposition has a political importance which it is difficult to measure. It becomes a pledge of permanent peace, as well as of commerce; but it can have this character only if made effective, sincerely and honestly, according to the usage of nations.

In acknowledging the independence of Hayti, we follow too tardily the example of other nations. France for a long time hesitated, as Spain hesitated, to acknowledge the independence of its colonial possessions. But in 1825 this concession was made under Charles X, while Hayti, on its part, by treaty, stipulated to pay 150,000,000f., as well on account of the recognition as for an indemnification to colonial proprietors. It was natural that the mother country should hesitate; but when France abandoned all claims, every objection to the recognition by other nations ceased. Accordingly, this republic has been recognized, if not cordially welcomed, by Great Britain, Spain, Denmark, Holland, Belgium, Portugal, Sweden, Hanover, and even by Austria, all of whom have representatives there, duly chronicled in the *Almanach de Gotha*.

Thus far I have confined myself to the case of Hayti. But Liberia has claims of its own. If our commercial relations with this interesting country are less important, they are nevertheless of such consequence as to require protection, while this republic may properly look to us for parental care.

The commercial tables* by which I have illus-

* *Statistical view of the commerce of the United States, exhibiting the value of exports to and imports from each foreign country, and the number and tonnage of American and foreign vessels arriving from and departing to each foreign country during the fiscal year ending June* 30, 1860.

Countries.	Commerce. Value of Exports. Domestic Produce.	Foreign Produce.	Total.	Value of Imports.	Navigation. American Vessels. Entered the United States. No.	Tons.	Cleared from the United States. No.	Tons.	Foreign Vessels. Entered the United States. No.	Tons.	Cleared from the United States. No.	Tons.
	Dollars.	*Dollars.*	*Dollars.*	*Dollars.*	*No.*	*Tons.*	*No.*	*Tons.*	*No.*	*Tons.*	*No.*	*Tons.*
England	187,095,952	5,831,248	192,927,200	133,065,571	889	844,922	902	893,678	494	507,003	532	523,094
France, on Atlantic and Mediterranean	59,048,231	3,158,047	62,206,278	43,219,549	274	259,914	396	341,777	96	38,522	62	18,653
Cuba	11,747,913	634,956	12,382,869	34,032,276	2,059	670,916	2,044	659,611	309	91,796	118	35,396
Brazil	5,945,235	335,020	6,280,255	21,214,803	358	115,019	295	87,731	101	33,444	18	5,100
Canada	11,164,590	2,918,524	14,083,114	18,861,673	4,840	2,617,276	4,962	2,678,525	4,612	658,036	4,633	896,124
China	7,170,784	1,735,334	8,906,118	13,566,587	80	77,254	82	78,370	8	4,213	9	5,755
Bremen	10,564,219	808,663	11,372,882	8,670,814	2	2,090	27	15,523	138	106,861	161	120,574
British East Indies	1,111,697	128,953	1,240,650	10,692,342	122	106,724	42	26,829	11	8,203		
Hamburg	4,297,272	2,768,554	7,065,826	9,827,793	3	1,943	5	2,544	55	63,361	57	65,134
British North American possessions	7,592,839	1,120,375	8,623,214	4,989,708	726	184,062	870	291,812	3,690	475,051	4,133	599,430
Mexico	3,338,739	2,015,334	5,354,073	6,935,872	180	49,272	190	64,130	76	12,748	98	18,190
Spain, on Atlantic and Mediterranean	6,435,317	43,983	6,479,300	3,042,051	86	33,333	62	23,133	69	23,466	178	56,203
British West Indies	5,225,124	143,355	5,368,479	1,934,549	528	103,054	596	108,561	312	53,856	275	40,597
Scotland	4,867,218	137,206	5,004,424	4,607,187	32	19,809	32	17,605	95	62,485	56	38,914
Porto Rico	1,517,837	263,913	1,781,750	4,512,935	286	55,708	221	39,754	82	15,173	20	3,252
Ireland	4,297,586	111,711	4,409,297	923,726	3	1,989	47	28,577	24	28,318	85	55,978
Belgium	2,770,393	1,789,455	4,559,748	2,558,873	30	23,870	39	28,256	3	1,888	25	10,393
Sardinia	4,064,316	92,229	4,156,545	355,551	17	10,331	46	27,588	18	6,761	19	7,585
British Australia	4,069,590	49,697	4,119,287	128,800	17	8,570	67	45,326	22	12,692	22	9,364
Buenos Ayres, or Argentine Republic	729,006	270,702	999,708	4,020,848	68	23,966	61	22,601	8	3,467	2	634
Holland	3,762,413	209,918	3,972,331	2,869,959	25	17,034	46	28,394	33	15,417	67	28,953
New Granada	1,642,800	152,699	1,795,499	3,843,568	215	198,242	233	203,194	10	2,422	10	2,714
Chili	2,845,225	423,448	3,268,673	2,072,912	29	17,428	47	32,991	4	1,316	12	5,744
	368,209	73,265	441,474	2,886,166	28	29,142	9	8,675	2	1,286		
Philippine Islands	1,056,250	91,650	1,147,900	2,883,464	72	16,970	49	11,268	13	2,668	6	1,227
Venezuela	2,713,776	30,453	2,744,219	1,532,190	21	12,309	22	14,609			5	2,901
Russia, on the Baltic and North seas	2,441,905	231,777	2,673,682	2,062,723	221	37,089	215	36,019	25	3,700	29	5,552
HAYTI	484,190	26,458	510,648	2,384,571	120	48,431	24	7,246	108	32,771	15	4,217
Two Sicilies	2,228,177	142,366	2,370,543	1,755,916	73	20,255	105	31,462	4	1,960	2	404
Other ports in Africa, [LIBERIA,]	134,944	4,480	139,424	1,985,501	36	25,862	2	739	12	4,859		
Tuscany	626,282	7,259	633,541	1,900,182	40	13,950	38	15,529	13	4,889	9	1,962
British possessions in Africa	1,416,741	2,386	1,419,127	514,191	11	6,315	15	7,539	10	3,678	13	4,834
Sweden and Norway	1,219,289	44,135	1,263,424	200,416	68	14,908	95	19,432	22	9,113	20	4,076
Danish West Indies	888,950	151,954	1,038,904	732,645	6	2,460	19	7,897	13	3,730	7	2,265
Austria, including Venice	1,035,204	2,916	1,038,120	360,775	18	4,855	53	14,095	24	5,688	28	4,723
British Guiana	920,672	113,520	1,033,592	65,963	5	3,315	36	13,343	9	2,820	10	3,223
Gibraltar	869,781	117,891	987,672	308,452	76	77,330	61	63,309	3	2,418	14	6,772
Peru	305,734	55,000	360,734	942,167	23	8,430	14	5,370	6	3,302	2	708
Turkey in Asia	661,326	128,032	789,358	908,750	24	7,992	54	19,115	1	417	3	928
Uruguay, or Cisplatine Republic	181,840	88,220	270,060	882,808	11	6,621	5	2,187	3	980	2	643
Dutch East Indies	637,489	109,973	747,462	367,859	38	17,469	39	16,307	4	956	4	636
Sandwich Islands	467,517	76,714	544,231	18,353	19	3,182	96	16,408	10	2,251	14	2,640
French West Indies	477,347	11,687	489,034	28,083	2	800	15	4,843			3	851
Turkey in Europe	294,665	8,766	303,431	396,644	71	14,110	34	6,723	38	6,490	1	186
Dutch West Indies	284,009	37,907	321,916	351,895	25	5,954	25	5,743	6	993	4	577
Dutch Guiana	325,181	19,272	344,453	347,108	54	10,147	45	6,980	20	2,145	17	2,067
British Honduras	121,534	28,164	149,698	331,258	14	2,451	18	3,548	5	879	5	1,025
Central Republic	156,054	13,246	169,300	283,098	20	3,516	17	3,068	23	4,056	24	4,346
San Domingo	266,704	6,285	272,989	146,813	2	985	14	5,043	12	2,869	11	2,719
Portugal	266,758		266,758	8,889			3	1,617	1	170		
Papal States	109,291	31,220	140,511	144,473	2	245	8	1,257	20	3,164	24	4,617
French North American possessions	89,856	48,918	138,774	55,091	5	1,180	8	1,982	1	126		
Japan	58,277	6,997	65,274	112,401	31	16,038	23	9,972	6	780	8	956
Other Islands in the Pacific	97,442	11,527	108,969	49,634	1	421	1	427	3	3,648		
Other ports in Asia	97,135	83	97,218	18,793	13	1,418	9	1,565	1	122		
Swedish West Indies	86,794	6,660	93,454	27,252	14	2,873	16	2,871				
French Guiana	79,426	975	80,401	18,886	8	2,342	7	1,518	4	1,039	8	2,247
Canary Islands	36,420		36,420	71,709	1	299	2	824	3	659		
Egypt				71,754	1	248			6	1,241		
Greece	65,123	590	65,713		5	5,182	5	1,041	2	1,474	2	426
French possessions in Africa	65,124		65,124	16,509			1	297			5	1,301
Denmark				62,897								
Ionian Republic	58,699	3,047	61,746	36,001	9	7,414	3	637	4	2,868	2	515
Malta	51,016	2,428	53,444	44,029	15	5,061	13	3,802	4	1,415	13	2,707
Azores	40,293	849	41,142	51,825	9	2,885	4	890	4	1,660		
Cape de Verde Islands	46,991	2,259	49,250								1	436
Other German ports	11,148	35,342	46,490	12,704			1	75	5	2,377	4	1,405
Russian possessions in North America	29,268	13,348	42,616	12,974	4	1,374	3	881	2	764	3	1,736
Asiatic Russia				36,464					1	310		
Prussia	34,708	20	34,728	23,773	1	259	3	486	2	677	2	383
Madeira	19,545		19,545				4	1,311				
Ecuador	110,604	1,659	112,263	595,922	119	36,077	137	41,464				
Whale Fisheries				168,330	1	395						
Uncertain places												
Total	373,189,274	26,933,022	400,122,296	362,166,254	12,206	5,921,285	12,682	6,165,924	10,725	2,353,911	10,912	2,624,005

TREASURY DEPARTMENT, REGISTER'S OFFICE, *April* 21, 1862.

L. E. CHITTENDEN, *Register.*

[The capitals and italics in the list are introduced by Mr. SUMNER. The countries having diplomatic representatives of the United States are italicized.]

trated so completely the relative importance of Hayti, are less precise with regard to Liberia, inasmuch as this republic, owing to unhappy prejudices in recent Administrations, was not allowed a separate place in the tables, but was concealed under the head of "other ports in Africa." But from authentic sources I learn that the exports from the single port of Monrovia for the year 1860, amounted to near $200,000, while those from the whole republic amounted to as much as $400,000.

I forbear from entering into details with regard to the commerce of Liberia. It is enough that it is already considerable, and that it is increasing in value. Already Great Britain, by a treaty, and the cultivation of friendly relations, has done something to divert this commerce from the United States. But it is not too late for us also to enter into a treaty, and to establish similar friendly relations. If beyond the impulse of self-interest we needed anything to quicken us, we should find it in the example of Henry Clay, who, in a letter dated Ashland, October 18, 1851, uses these positive words:

"I have thought for years that the independence of Liberia ought to be recognized by our Government, and I have frequently urged it upon persons connected with the Administration, and I shall continue to do so if I have suitable opportunities."

In taking this step, and entering into a treaty with Liberia, we shall only follow the example of the larger part of the commercial nations of the globe. Nor can I doubt that we shall in this way essentially promote our own commercial interests. Liberia is so situated, that, with the favor of our Government, it may become the metropolitan Power on the whole African coast, so that the growing commerce of that continent will be to a great degree in its hands.

I do not dwell at length on the advantages which will proceed from the recognition of these two Governments, nor do I enlarge on the motives of justice. I mean to state the case simply, without introducing any topic which can justly cause debate in this body. It is enough that the acknowledgment is required for our own good. Happily, in benefiting ourselves, we shall promote the interests of others.

But there is one consequence which I cannot forbear to specify. Emigrants to these republics will be multiplied by such a recognition. But every emigrant, when happily established, will create an additional demand for the productions of our commerce, and contribute to the number of American keels which plow the ocean.

And there is yet one other consequence, which ought expressly to be presented. Our commerce will at once be put under the solemn safeguard of treaties, so that it will enjoy that security which is essential to its perfect prosperity, and can no longer suffer from discriminating duties or hostile legislation, aroused by a just sensibility at our persevering illiberality. If you would have such treaties, you must begin by an acknowledgment of independence.

Sir, there is one business only which can suffer by this measure. I mean that of counterfeit money. You know, sir, that by a familiar rule of international law, declared by the Supreme Court of the United States, (Kensett *vs.* Chambers, 14 Howard's Reports, 38,) it belongs exclusively to the political department of the Government to determine our relations with a foreign country. And, since our Government has refused to acknowledge Hayti, our courts of justice have been obliged to do so likewise; and when criminals have been arraigned for counterfeiting the money of Hayti, they have declined all jurisdiction of the offense. As Hayti was not a nation, it could not have money. Such has been the reasoning, and the counterfeiters have gone free. It is said that during the past thirty years millions of false dollars have in this way been put in circulation. A case has occurred only recently, where the counterfeiter was promptly discharged, while the witness seemed alone to be in danger. Surely, it is time that such an outrage should be stopped.

It may be said that the same objects might be obtained by consuls, instead of commissioners. But it is clear that it has not been the habit of the United States to enter upon negotiations and open friendly relations with foreign States through consuls. And it is also clear that, according to the usage of nations, consuls would not be entitled to the same consideration with diplomatic representatives. Their influence would be less, whether in dealing with the Government to which they were addressed, or with the representatives of other Powers at the same place. On this point I content myself by reading the words of Mr. Wheaton:

"Consuls are not public ministers. Whatever protection they may be entitled to in the discharge of their official duties, and whatever special privileges may be conferred upon them by the local laws and usages, or by international compact, they are not entitled, by the general law of nations, to the peculiar immunities of embassadors. No State is bound to permit the residence of foreign consuls, unless it has stipulated, by convention, to receive them. They are to be approved and admitted by the local sovereign, and, if guilty of illegal or improper conduct, are liable to have the *exequatur* which is granted them withdrawn, and may be punished by the laws of the State where they reside, or sent back to their own country, at the discretion of the Government which they have offended. In civil and criminal cases, they are subject to the local law in the same manner with other foreign residents owing a temporary allegiance to the State."—*Wheaton's Elements of International Law*, p. 304.

It may be true that negotiations have sometimes been conducted by consuls, but very rarely; and the exceptions testify to the prevailing policy. Ministers are the received agents of diplomacy. Any other agent must be inferior in weight and character. If this be true, and it is undeniable, it is obvious that the objects now proposed can be most fitly and effectively accomplished only by diplomatic representatives. And since what is worth doing is worth well doing, I hope there will be no hesitation on the present occasion. Here again the example of the great Powers of Europe may properly influence us. England, France, and Spain all have diplomatic representatives at Hayti, who are reputed to discharge their responsible duties with activity and ability. But all these have already the advantage of subsisting treaties. Our treaty remains to be negotiated. To do this in such a way as to secure for our various interests all proper advantages must be our special aim. Surely any further neglect to do this can be nothing less than an open abandonment of these various interests. Too long already this sacrifice has been made.

Mr. President, a full generation has passed since the acknowledgment of Hayti was urged upon Congress. As an act of justice too long deferred, it aroused even then the active sympathy of multitudes, while as an act for the benefit of our commerce it was ably commended by eminent merchants of Boston and New York without distinction of party. It received the authoritative support of John Quincy Adams, whose vindication of Hayti was associated with his best labors in the other House. The right of petition, which he steadfastly maintained, was long ago established. Slavery in the national capital is now abolished. It remains that this other triumph shall be achieved. Petitioners, who years ago united in this prayer, and statesmen who presented the petitions, are dead. But they will all live again in the good work which they generously began.

Mr. President, this is the statement I have to make on this important question. As I know that the Senator from Kentucky [Mr. DAVIS] desires to move an amendment to this bill, I shall not ask a vote upon it to-day; but I move that its further consideration be postponed until to-morrow at half past twelve o'clock, when I hope we may have a vote upon it.

The motion was agreed to.

CONFISCATION OF PROPERTY.

The Senate resumed the consideration of the bill (S. No. 151) to confiscate the property and free the slaves of rebels.

Mr. DAVIS. Mr. President, I have manifested a great deal of interest in the bill which is under consideration, and I have occupied a considerable portion of time in its discussion. I have done so from my deep convictions of the great importance of the measure. In its extent and in the magnitude of material interests involved by it, in its influence upon the present and the future condition of the whole country, if it should become a law and should be carried into effect, and especially upon my own State, in my judgment, it never has had a parallel in any proposition that was ever presented in the Congress of the United States. In the objections to its constitutionality, to its expediency and policy, to its justice and practicability, it is also without any parallel. That I have not overstated or conceived too largely the great interest of this bill, I will read a concluding sentence of the speech made by the honorable chairman of the Committee on the Judiciary, [Mr. TRUMBULL,] who reported it:

"I appeal to Senators as philanthropists, as patriots, as lovers of the Union and of constitutional liberty, not to let pass this opportunity which a wicked rebellion presents of making it the means of giving freedom to millions of the human race, and thereby destroying to a great extent the source and origin of the rebellion, and the only thing which has ever seriously threatened the peace of the Union."

I concluded yesterday, Mr. President, the view of the constitutional objections which I conceived to arise against the measure, and I will sum up that argument now in a sentence or two. Congress has, by the Constitution, expressly the power to make war. Congress has, by the Constitution, every necessary and proper power to carry that express power to make war into execution. Now, sir, what is the effect of these two provisions? The whole war-making power, except so far as is involved the responsibility and the action of the Commander-in-Chief of the armies of the United States and of his subordinates, is exclusively with Congress. Congress, as auxiliary to that primary and express power, has every necessary and incidental power to give it full effect. How are those incidental powers ascertained; how are they put into active operation? In no other form than by the enactment of laws of Congress embodying those powers. The idea of claiming from international law, or from any other body of law outside of the Constitution and the laws of Congress, an auxiliary power to enable Congress to carry on the war, before that power has been invoked by Congress itself and embodied in the passage of a law, to my mind, is perfectly preposterous and absurd.

Congress has power to call out the militia of the United States to suppress insurrection. That is a primary and express power vested by the Constitution in Congress. What powers have Congress in connection with that power and auxiliary to it? It has the power to invoke every other necessary and proper power to carry into complete operation and effect this power to call out the militia to suppress insurrection; but how are those powers to be ascertained and identified? Precisely in the same mode. No power, as incidental to the power to suppress insurrection, can be available or can be brought to the work of suppressing the insurrection until it is embodied by Congress in an act as auxiliary to the main power of suppressing the insurrection. I then reject and condemn as heterodox entirely the principle that would invoke the general war-making power as recognized by international law, or any other law, to assist Congress in suppressing insurrection until Congress itself has adopted that power by the passage of a law for that purpose. Whenever Congress puts itself in that position and asks the agency and the aid of any auxiliary power, the question immediately arises, is that auxiliary power constitutional or not? If, upon the examination of that question, it is found to be in conflict with an express provision of the Constitution, or if it is incompatible with any right that is recognized by the language of the Constitution, there is no other conclusion than that such an act of Congress would be against the Constitution, the paramount law of the land, and would therefore be void.

Mr. President, I will bring to my aid another authority in support of these positions, an authority that ought to challenge the respect of the abolition members of this House at least, and of all the abolition party, in or out of the Senate, in the United States—the authority of Wendell Phillips. I read from the Philadelphia Inquirer:

"One of the most powerful arguments ever made to prove that slavery is sanctioned and protected by the Constitution of the United States was made by Wendell Phillips. It is because that is the law that, to use his own words, he has advised his followers to 'disavow the Constitution' and 'to trample it under foot;' and it is because he fears that the President, General McClellan, and our brave soldiers are now battling to maintain, and not to subvert, that Constitution and the Union under it, that this itinerant mischief-maker and disunionist is so abusive of the President, General McClellan, and the mode in which the war is being conducted. What! say you, did Wendell Phillips ever argue that slavery was legal and constitutional? Yes, good reader, he did, and we mean to ventilate his record of that and of his secession doctrines.

"In or about 1845, one Lysander Spooner wrote an essay to prove that slavery was unconstitutional; and in 1847, Mr. Phillips took up the cudgels to belabor poor Spooner and to convince the anti-slavery public that the institution of slavery was as much protected by the Constitution as

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. THURSDAY, APRIL 24, 1862. NEW SERIES.....No. 112.

anything else. His motive we will presently see. We will briefly state Spooner's objections and the replies of Phillips. His whole argument was published in the Anti-Slavery Standard, and republished, in 1847, by Andrews & Prentiss, No. 11 Devonshire street, Boston.

"SPOONER. Only what is just and right is law; hence slavery, which is neither, is not lawful.

"PHILLIPS. That is false when applied to municipal law; the latter always means the declared will of the nation; hence slavery is lawful, if they have so willed it.

"SPOONER. A judge, or other person holding office under the Constitution, may retain his office, yet treat the Constitution as void."

That is what Gerrit Smith, Greeley, Garrison, and others of that school say:

"PHILLIPS. Not so. When he takes office he looks over the catalogue of his duties, (namely, the Constitution,) swears he will support it, and thus admits it is moral; otherwise he would be swearing to do what is immoral. Thus he makes a contract with the people, and is perjured if he does not keep it. He should resign his place, and then, *as a man*, treat the laws (namely, the Constitution,) as *void!*"

He has the merit of candor and boldness, if nothing else:

"SPOONER. Each judge may decide for himself what is right and just, and, hence, what is law.

"PHILLIPS. Not so. In that case law would be one thing in Maine and another thing in Maryland; one thing to-day and another thing to-morrow. Then orthodoxy would be *my* doxy; and by *right reason* every one would be willing to mean *his own*. Then follow his citations of legal authorities, and he concludes by affirming 'positive law, then, can so establish even slavery that courts must treat it as legal. The only test to which our courts have any right to submit the action of the Legislature is, to ask is it constitutional?'"

A sounder position was never taken:

"'If so, it is legally binding on them, no matter how unjust or how unreasonable it is. Such is the framework of the Government under which we live.'

"SPOONER. But slavery has never *actually* been established by law in this country."

I wish I had had this argument on the occasion of the debate in this body on the bill to abolish slavery in the District of Columbia. I think I could have used it with some point and force, if not with success, against my honorable friend, the Senator from Minnesota, [Mr. WILKINSON,] and the honorable Senator from Maine, [Mr. MORRILL,] who fathered that measure:

"PHILLIPS. The people who made the Constitution meant by it to protect slavery. To argue otherwise is to attempt 'arguing the nose off one's face.' They meant to protect it by—1. The three fifths slave basis, and that allows slaves to be treated as things, and so not as persons. Yet the South lose by that; for, by the former, the political weight of the master would be *increased* by two fifths, which, by the latter, he loses; and so liberty gains.

"SPOONER. The slave argument wrongly assumes that the word 'free' in this clause is used as the correlative of slavery, and thence it wrongly infers that the words 'all other persons' mean slaves.

"PHILLIPS. The obvious use of the word 'free' is to designate one *not* a slave; hence the Constitution must be confessed to recognize slavery. [Then Phillips proceeded to prove that the true use of that word 'free' is to distinguish such a person from a slave, and, to prove that, he cites authorities from *Magna Charta* to the Declaration of Independence, both inclusive.]

"SPOONER. The word 'importation,' in the slave-trade clause, does not refer to slaves.

"PHILLIPS. It does refer to slaves. It could not mean free white persons, for that would allow Congress, after 1808, to prohibit their arrival altogether—a thing more inconsistent with natural right than the one he (S.) is trying to avoid.

"SPOONER. The so-called fugitive slave clause does not *say slaves*, and it does not mean them.

"PHILLIPS. It does refer to them. The ordinance of 1787 expressly orders the surrender of *slaves*.

"SPOONER. By 'one held to service or labor' is not meant a *slave*.

"PHILLIPS. That *is* its true meaning. Johnson's Dictionary, 1755: slave, one mancipated (bound) to a master. Bondman (*bound*man) is the old and usual English word for slave, and bondage for slavery. It is so used in the Bible. 'Held and holden' are still the popular description of slavery; for we say slave*holder*—slave owner. 'Service' is derived from the Latin word for slave, '*servus*.' Joseph, who was bought and paid for, was called, in King James's translation, 1611, a servant.

"SPOONER. The clause giving power to suppress insurrections does not involve an admission of slavery.

"PHILLIPS. The phrase 'domestic insurrections,' is used in the Declaration of Independence, with reference, it would seem, to slave risings; if so, this use of it would go far to settle its meaning here.

"SPOONER. The Government must be *republican*, but it cannot be a republic if it hold slaves.

"PHILLIPS. The definitions are not so. Mr. Phillips here cites numerous definitions to contradict Spooner, and then adds: 'The Constitution meant by a republic the State governments as they then existed, and twelve of them then held slaves. In the face of such authority as this, as well as the fact that the mass of men in the old republics, from whence we copy the word, (Athens, Sparta, Rome,) were slaves, and that in Holland and Italy, their modern imitators, not one man in a thousand had any share in the Government—who will undertake to say that this word, either in its general sense or as used in our Constitution, has any necessary inconsistency with slavery? Hence it must be presumed that the word "republican," in 1788, did not exclude the idea of slavery. Any other construction makes the public of that day absolute fools.'

"SPOONER. The Constitution made *citizens* of all the people of the United States living in 1789. No citizen can be a slave; hence, negroes, being citizens, are free.

"PHILLIPS. It did not make citizens of *all* the people; not of the Indians. That it was not intended to include slaves under the phrase 'people of the United States,' or to make citizens of them, is evident from the various slave clauses which we have been considering. The truth is, Mr. Spooner perpetually forgets that the United States Constitution has nothing to do with the municipal rights or private relations of men; all these are left to be regulated by the States."

There is not a more important or vital or fundamental principle in our whole complicated system of Government than that enunciated in these clear and strong terms by Wendell Phillips. It will stand as one of the corner stones of the Constitution, the temple of our liberty, until it is rocked and is tottering to its fall. The men who are endeavoring to heave it from the deep foundations of our Government are worse than a blind Samson—trying to overturn the temple of liberty and to bring it down in ruins upon themselves and their common country:

"SPOONER. But even if the Constitution could be applied to slavery, yet there was no slavery *legally* existing in the States in 1789 to which it could be applied, &c. The colonial charters did not authorize it, nor did the English statutes. If it had been tolerated, yet Lord Mansfield's decision in Sommerset's case put an end to it. The Declaration of Independence abolished it, and the Articles of Confederation did not recognize it."

Now let us hear the reply of the powerful logician, Phillips, to that complication of objections:

"PHILLIPS. All these are incorrect. 1. Slave laws are not repugnant to the law of England. When the charters were made, slavery was not illegal. Laws regulating the slave trade were common on the English statute-book till 1807. The charters all legalized the slave trade and slavery, and my friend, William J. Bowditch, Esq., suggests to me that the whole argument on the inconsistency of the slave laws with the charters is unfounded and absurd."

It is equally so in relation to the Constitution. Neither the Declaration of Independence nor the Constitution was ever intended to embrace slaves nor any of the negro race, nor any of the Indian race, nor foreigners. It has been attempted in this argument to apply the prohibitions of the Constitution to foreigners. It no more embraces foreigners than it does quadrupeds. It no more embraces Indians or slaves, except one or two prohibitions that are intended to preserve the humanity of our laws, than it does quadrupeds or wild beasts. The only partners to our political partnership were the white men. The negro was no party, and he cannot now constitutionally be any party to it. He was outside of it at the time the Constitution was formed, and will be forever, to this fundamental law of our Government:

"2. The English statutes recognized it. Mr. Phillips then argues the question at length, and cites, to prove his position, the statutes, 5 George II, cap. 7, 6 Statutes at Large, 74, which render *negroes*, houses, lands, &c., subject to execution for debts; and 23 George II, cap. 31, A. D. 1750, which speaks of '*negroes or other goods*.'"

This is a progressive age. It seeks to change and abolish not only institutions and property, but language—language fixed by fundamental and constitutional law, as much fixed as the language of Holy Writ itself. Why, sir, the United States Government have sold many slaves. They have had debts and recovered judgments against slaveholders in the slave States, and I have no doubt hundreds and hundreds of cases, by an examination of the records of the slave States, could be found where the judgments in favor of the United States themselves have been made by bringing slaves to the block and selling them as other property. Mr. Phillips continues:

"The Sommerset case admitted the validity of slavery in Virginia, whence Sommerset came."

I wish I had hunted up that famous Sommerset case. The law in England was that slavery was lawful there, and slaves were there held, and were bought and sold as property until the moment that Lord Mansfield delivered that opinion. He himself made that law, and not the British Parliament. Courts often make laws, and here was one of the most important principles made by the dictum of a court. He had no power to render such an opinion. It was a judgment of the court against the law of England, and would have been so decided if the number of slaves in that country had been of sufficient magnitude and interest to authorize those who owned that property to controvert the validity of his judgment.

Mr. SUMNER. Will the Senator allow me to mention that the number of slaves at that moment in England, it is understood, was thirteen thousand? Thirteen thousand were emancipated by his decision.

Mr. DAVIS. What were thirteen thousand slaves in that island at that time? I do not remember its population; but I suppose the population of Great Britain, including Ireland, at that time was twenty millions. What are thirteen thousand slaves to twenty millions of people?

"3. The Sommerset case *admitted* the validity of slavery in Virginia, whence Sommerset came. Mr. Phillips then combats an argument of Dr. Belknap, and adds"—

These are Phillips's words, not mine—

"As to the rest, a more truly Yankee notion than pure love of liberty probably secured them freedom, (viz., certain slaves judicially declared to be free,) for Parsons, C. J."—

One of the ablest lights of the law this country has ever produced, whose decisions shed a broad beam of effulgent light upon every legal question embodied in them—

"says, (4 Massachusetts Reports, 128, A. D. 1808:) 'The defense of the master was faintly made, for such was the temper of the times that a restless, discontented slave was worth little; and when his freedom was obtained, in a course of legal proceedings, the master was not holden for his future support if he became poor.' This (adds Mr. Phillips) was probably why men went through court to free slaves."

This war will, to some extent, introduce that consequence in the United States. That is a legitimate consequence of the war; and let that consequence come in all of its full extent, force, and effect, in depriving the master of his property or deteriorating its value. That is one of the legitimate effects of this rebellion and of this war. If that cause should operate to render worthless the whole slave property of the country, it would be a legitimate result, and the slave owner could not reasonably or properly make any complaint of it. But when Congress travels out of the pale of its powers, tramples upon the Constitution, usurps a power that enables it to absorb the management of the most vital domestic interests of the States for the purpose of striking the manacles from the slaves, to use their vaunting phrase, then the slave owner and every lover of the Constitution has the right to enter his protest against the exercise of such a usurped power. Mr. Phillips continues:

"4. The Declaration of Independence *did not* abolish slavery. The Declaration had *nothing to do* with slavery. That paper 'dissolved the political bonds' that bound the colonies to England, and that was *all it did* or *was intended to do*. No court has ever held it to be the fundamental law of the land."

That is his position. It is no law at all. It is a mere paper giving a public and solemn assertion of certain human rights as those rights were applicable to the white race of the United States, and it ignored wholly the red race and the black race of men that were then in the country.

"No court has ever held it to be the fundamental law of the land."

And no court ever will that has any intelligence, judgment, or sense of what the Constitution and laws of Congress are, in contradistinction to the Declaration of Independence, or any other manifesto that may have been put forth by the Continental Congress.

"On the contrary, it is simply a State paper, a political act, changing the form of Government, and having no relation to individual rights."

It severed the political tie that bound the thir-

teen colonies to the mother country. It did not regulate, nor was it intended to regulate property. It had no effect whatever upon the rights of individuals as related to their persons or their property, whether property in slaves, in land, or any other subject of property.

"He then cites in proof of that the declaration of John Quincy Adams, and adds: 'Every one knows, and every page of our history proves, that the Declaration was neither intended nor supposed to abolish slavery.'"

A man would have been thought a dreamer, a madman, or an idiot, who would have assumed that position at that time. That is one of the vast, monstrous ideas that have loomed up from the distempered imagination of the present and the immediately preceding generation. It is false in principle; it is false in fact; it is false in all its relations and consequences.

"5. That the Articles of Confederation do not refer to slavery. Mr. Phillips replies: they refer to 'free inhabitants,' meaning those *not* enslaved; and we shall merely remark that any plain reader of them will at once say that they do' (speak of slaves.) Lastly, 'the Constitution of the United States deals with slavery as a *fact*'"—

As an existing fact, as a fact that had existed for two hundred years under the national law of the whole civilized world, and every nation of the civilized world engaged in the traffic of buying and selling slaves, and owning them as property—

"the Constitution of the United States deals with slavery as a fact, and gives it, as such, certain rights."

The judgment of the Supreme Court of the United States in the case of Prigg *vs.* the Commonwealth of Pennsylvania rendered by Justice Story, decided that the owner of a slave had a right to pursue him into any State of the United States, even where slavery was proscribed and abolished by the laws of that State, and then and there to seize and reclaim his slave if he could do so without a breach of the peace; that he had the same right to recapture his slave that he had to recapture his horse or any other property; that he had a right to retake it wherever he found it, and in that way to assert his right and his dominion over it, so as not to make a breach of the peace; and that principle was as legally and legitimately applicable to a slave as to a horse or any other property. Yet, in this day, at this very session, we have passed laws that throw obstacles in the way and that practically prevent the master of a slave, although he be a loyal man, from exercising that right which the Supreme Court by the concurrence of all its judges and by the judgment of that enlightened jurist, himself an anti-slavery man, Justice Story, decided the slaveholder had the right to exercise wherever he could in any free State, although slavery might be prohibited in that State by its constitution and laws. But I will continue the reading of this extract:

"Such, then, is a very brief but accurate outline of the extraordinary argument of Wendell Phillips in favor of the legality of slavery, by the common law of England, by the common law and charters of all the colonies recognized by the Articles of Confederation, expressly protected by the Constitution of the United States, and not in the slightest degree impugned by the Declaration of Independence!"

If those gentlemen, who have their ears, their minds, and their hearts so wide open to receive the mischievous errors, heresies, and dangerous untruths that Wendell Phillips is promulging through this land, would just open those organs to those great and important truths that he has told with a force that no man can controvert, it would be much better for the peace and the tranquillity of the country.

"But why did Wendell Phillips make it? Was it because he loved slavery? Not at all. It was because he hated and determined to destroy the Constitution of the United States."

And for what purpose? To effect the destruction of slavery. He had constituted himself the great advocate and propagandist of the freedom of the black race in this country. He boldly and recklessly entered the lists to effect that work, and to bring it to a successful issue. He declared that he was willing to walk over the ruins of the Constitution itself to effect that object; and that is what his followers are now attempting to do, not in his bold, courageous, and manly manner, but by skulking under false pretenses.

"But why did Wendell Phillips make it; was it because he loved slavery? Not at all. It was because he hated and determined to destroy the *Constitution of the United States!* He admitted that the Constitution so protected the rights of southern men that they could not be argued away. Hence, in the same essay, he says: 'The people have seldom regained their freedom by finding a loose joint in the harness of their tyrants. No, it has usually been necessary to *trample armor* (the Constitution) *and armor-wearer in the dust.*'"—Page 86.

Yes, sir, he admits that slaves are property; he admits that the rights of the slaveholder are protected by the Constitution; he admits that the Constitution has no joint or break, no weak place in it that permits slave property to be successfully assailed; and the only way by which it can be successfully assailed is by trampling both armor and armor-wearer, the independent and conscientious officers of the law sworn to support the Constitution, and supporting it in truth, under the feet of the assailants; and there is no other mode of effecting the object.

Mr. President, I am no advocate of slavery in the abstract. If my will could remove the slaves from the United States to-morrow, every one of them should go. If my will could place in my own State in operation a system of gradual emancipation that would take about three generations to consummate it, I would not hesitate to adopt it. But this matter of slavery belongs to the States themselves and to their people. The free States have no more right to force the emancipation of slaves upon the slave States than the latter have to enforce slavery upon the North. Suppose, sir, that the men of the South, which was once the dominating power in this Union and in this Government, in the arrogance of their nature, in the intoxication produced by the possession of power, had attempted, by a series of similar measures to those which have been originated at the present session, and have been so perseveringly pushed forward, to force upon Massachusetts and New Hampshire, and all the free States, the institution of slavery; suppose that they had had the power in the two Houses of Congress to pass bills to that effect; would the free, stalwart, brave, and invincible true men of the free States ever have submitted to such an interference with their domestic concerns, to the exercise of such an oppressive power of the Federal Government, in denial of a right assured to them by every feature and every principle of our Constitution, and of our complicated form of Government? No, sir; no.

But Mr. Phillips says again, "the only way their sons," speaking of the framers of the Constitution, "can free themselves is to disown their fathers' act, the Constitution itself."

If gentlemen intend to do that practically, let them do it by open and bold declaration as well as by deed; do not let them do it furtively; do not let them do it by indirection; let them do it as the reckless Phillips himself proclaimed that he would do it.

"The only way their sons can free themselves is to disown their fathers' act, the Constitution itself. The only path to such release is over the Constitution, trampling it under foot, not under it trying to evade its fair meaning."

Sir, this apostle of negro freedom, in defiance of the Constitution, declares his willingness to overturn that instrument to achieve the result at which he aims. This argument in favor of the constitutional rights of the slaveholders and against the policy and measures that the party now in power have originated in both Houses of Congress, none of them can answer successfully.

But, sir, a change has come over the spirit of Mr. Phillips's dream, and what has produced that change? He thinks he has found his own party in power, in the possession of the executive and the legislative branches of the Government; or if his own party are not in power, they have such skillful, dexterous, able, and unscrupulous leaders here that they can cajole the simple, moderate, conservative, constitutional Republicans into their extreme measures, and I expect that he relies very much upon the two Senators now in my eye, one from Massachusetts, [Mr. SUMNER,] and one from New Hampshire, [Mr. HALE.] What does he now say? Mr. Phillips was arguing recently in this city. ["Did you see him?"] I hold no fellowship with him. I disdain to know any such man. Any man who audaciously avows himself a traitor to the Constitution, and is willing to subvert it for the purpose of achieving the emancipation of the slaves, or of dismembering the southern States and establishing a southern confederacy, or for any other purpose under God's heaven, I condemn and denounce. He is a traitor, and his heart is filled with nothing but treason and treasonable projects; he ought so to be treated; and when that man Wendell Phillips was here in this city lecturing as he did lecture, he ought to have been seized by the President or the Secretary of War and manacled and confined at Fort Warren or Fort Hamilton. He was a much more wicked, mischievous, and dangerous man than many who were so treated. What did he say in his lecture here in Washington?

"Now, I love the Constitution, though my friend, (Dr. Pierpont,) who sits beside me, has heard me curse it a hundred times, and I shall again, if it does not mean justice."

Oh, it is to receive a new interpretation! I adhere to the old political bible, and to its interpretation by its apostles and the Supreme Court, and I deny and condemn utterly any of your modern jesuitical interpretations of it.

"I have labored nineteen years to take nineteen States out of this Union;"—

Oh, what a labor!—

"and if I have spent any nineteen years to the satisfaction of my Puritan conscience, it was those nineteen years."

May the Lord deliver this country from any such accursed Puritan conscience as that!

"Unless within twelve months or twenty-four, Maryland is a free State, Delaware, and half Virginia, would to God that building"—

referring to the Capitol—

"with the city of Washington, had been shelled to ashes last July."

What an atrocious sentiment! Suppose a secesh was to come into this capital or to go to Cincinnati, and was to take such a diabolical position as that, would not the whole world of Black Republicanism and of Constitutional Republicanism, and of Unionism of every name or grade or dye, without any exception, have risen in condemnation of the miscreant who dared to give utterance to such a sentiment?

Speaking of the origin of the rebellion, Phillips declares that "it was nobody's fault, but that it is the inevitable results of the seeds our fathers planted seventy years ago." And in another place he says of the fathers of the Republic, "they dared not trust in God."

Referring to William Lloyd Garrison, the inveterate disunionist, who kept standing time out of mind at the head of his paper the sentiment that the men who had framed the Constitution had made "an agreement with death and a covenant with hell," he characterized him as "a man who had done more in the providence of God to shape the fate of this nation than any other one;" and that he (Phillips) "was proud to sit at his (Garrison's) feet." I wish he was sitting there, and would sit there forever, and that they were both in the very central point of the peninsula of Africa. It would be better for the peace of the country that they and all their admirers and proselytes occupied that locality.

Mr. President, I said that I was no advocate for slavery; but I will say a word in relation to slavery and its history. We have a sacred and a profane history running back between three thousand five hundred and four thousand years; and in all of that long tract of time up to the present moment, there never has been a day in the history of man that slavery did not exist by the thralldom of one man to another. From the time of the father of the faithful, when he took up his pilgrimage from Mesopotamia to the land of Canaan, where he had been directed by the command of his God, up to this day, there never has been a time when slavery did not exist in the world; and gentlemen cannot disprove that position. When, through the inscrutable mercy and providence of God, His Son visited the earth as a Messiah, what then was the condition of the Roman empire? There were within its broad and ample limits at least fifty millions of slaves. Those slaves were then bowed down by a yoke more weighty and galling than any that now exists. He was in the midst of a slaveholding population, and He taught men in relation to the subjects of sin, crime, and moral duty, and He was followed by His apostles, and His apostles pursued the line of the same teaching under His inscrutable inspiration; and we find the greatest and wisest of those apostles, Paul himself, directing and commanding one of his disciples to return a fugitive slave to his master. My learned and able friend, the Senator from New Hampshire, [Mr. HALE,] is deeply versed in the Scriptures; I am not, and I speak it to my shame; I wish it were otherwise; but I challenge

him to produce me a word uttered by the Saviour of mankind in His mission upon earth, or by any of His apostles, where He condemned slavery as a crime or a sin by name. On the contrary, He taught the mutual duties of master and slave—humane treatment on the part of the master, and obedience on the part of the slave.

Why, sir, after the Norman conqueror won the battle of Hastings, and struck down common-law liberty in England, what became of the Saxon race? Many of them had brass collars put around their necks, with their masters' names written upon them. In the Roman empire the master had not only the power to sell his slave, but to take his life without committing any crime or subjecting himself to any punishment. That was the condition of the polity of Rome for a considerable number of years.

Mr. HALE. The Senator has appealed to me for an answer to a question which he put. I do not pretend to be deeply versed in Scripture, but I have a text in my mind that I think hits his case.

Mr. DAVIS. Let us have it.

Mr. HALE. It is this: "And the times of this ignorance God winked at; but now commandeth all men everywhere to repent."

Mr. DAVIS. I hope that for all the sins against the Constitution and the peace of the country that have been heaping upon the honorable Senator's head for twenty years, the work of repentance in sackcloth and ashes with him will soon commence and produce its fruits; but I believe he is rather a hardened sinner, and I am afraid his case is hopeless. [Laughter.]

Well now, Mr. President, what do these liberal gentlemen propose to do, and how do they talk in relation to slavery and the negroes after they shall have been emancipated? An honorable Senator from Delaware [Mr. SAULSBURY] proposed that the free States should take all the slaves that they propose to free, and immediately the whole hive was in a buzz, and every man rose up in indignant protest against any such atrocious measure. The Senator from New Hampshire, in a speech which he made touching the subject some days ago, probably on the District bill—I do not recollect the precise question before the Senate at the time—indulged himself in the expression of vehement indignation because of some remarks that I had made. I had said, and I say now, that the slaves of the southern States can never be free in their present numbers without producing one of four consequences. One is, that the people of those States would immediately enslave the negroes again by their laws; and if any such measure as this were attempted in my own State, although I am opposed to slavery, and, in the immortal language of the great statesman of Ashland, no power on earth should ever induce me to carry slavery into any country where it does not exist, yet believing that slavery would thus be destroyed in my native State by the usurpation of an unconstitutional power, I would seek to obviate and neutralize the act by every means and force that I could command. If that consequence did not follow, the slaves would be driven into the free States, or into the country south of the slave States; or if that consequence did not follow, there would be a cruel, exterminating, and savage war between the two races, that would result in the total destruction of the inferior race. And if that did not follow, the inferior race would obtain the mastery, and they would drive the white population from the country, or the white population would abandon it. I was rebuked sternly by an honorable Senator from Massachusetts [Mr. WILSON] because I took these positions, and he charged me with making threats. I did not intend them as threats. I intended to state them as truths. I spoke of a subject of which I have knowledge, because I have lived in its presence all my lifetime, and know all its relations and bearings. If I were to presume to understand the subjects of commerce, of manufactures, of the art of war and military affairs in general, of navigation, and of the fisheries, as the honorable Senator from Massachusetts and many other gentlemen here do, and were to assume that I had as much knowledge upon those subjects, and as much power and capacity to advise in relation to them as they have, I should regard it as great arrogance on my part. But, sir, I am now speaking of a subject familiar to me, which I have been learning from my earliest childhood to the present day, which I have seen in all its phases and in all its relations. If men here who claim to be philanthropists and patriots would have the good sense to take counsel and advice, not of me, but of wise and moderate and safe men from the border slave States, in relation to this subject, in all its bearings, in my judgment they would act more wisely than they do. The general course of this Senate upon all other subjects I greatly approve. The general course of the honorable Senator from New Hampshire, whose acquaintance it has been my good fortune to have had for many years, with the deepest and sincerest personal regard and friendship for him, I approve upon every other subject in the main at the present session. So of the Senators from Massachusetts.

The author of the bill assumes, Mr. President, and truly, that the subject of slavery is the great apple of discord among the American States and people. It gave more trouble to the wise, patriotic, and good men who framed our Constitution than any and all other subjects; but how then was it adjusted, treated and settled? In a spirit of concession and compromise. In no other spirit could the Constitution ever have been adopted or ratified. If the Constitution is to be preserved and perpetuated, Congress and the dominant party must again return to that spirit of concession and compromise which animated and inspired our fathers when they gave this immortal system of government not only to our country, but to the human race.

We understand from all the Senators here, from the unanimous vote by which the proposition of the Senator from Delaware, to which I have referred, was rejected, from the declarations of various Senators from the free States, from the provisions being introduced into the constitutions and laws of the free States for the utter occlusion of negroes from those States, that no free State is willing to have a large number of resident free negroes within its boundaries. If I am allowed to say it, I will say that I know that the free negro population in the State of Kentucky is by far the worst population we have. But gentlemen are not allowed to state positions here embodying their own knowledge of slavery; they are not allowed to get up and contend for their legal and constitutional right to their slaves. There is a spirit of denunciation and browbeating on this subject in the Senate which I have never seen equaled since I used to witness the ravings of Wise in the House of Representatives. I do not denounce or condemn Massachusetts for her free institutions. It is a matter that belongs to her. No slave State that I have any knowledge of has ever meddled or interfered with the domestic institutions of the free States. It was not their province to do so. It would have been mischievous and unfraternal intermeddling to have done so. They were entitled to the same rules of reciprocity and justice from the free States. If those rules of forbearance, of brotherhood, of reciprocity and justice had been scrupulously practiced by the people of the free States towards the slave States, the present great and overwhelming calamity never, never, in my judgment, would have come upon the country. I believe that that is the true origin of it. But, sir, I will now present a few facts to the honorable Senator from New Hampshire, which I have in a table before me. The States that press the abrogation of slavery and a disregard of the interests of the slaveholder most in the Senate are the States of Massachusetts and New Hampshire.

Mr. HALE. I did not hear that.

Mr. DAVIS. I say that the most vigorous and relentless attack upon slavery and the constitutional rights of slaveholders in the Senate of the United States, that comes from any quarter comes from the States of Massachusetts and New Hampshire. A few days ago when, in speaking of the number of free negroes in Maryland, the eloquent Senator from that State, who has a stoppage in his speech, but whose ideas flow along in unbroken majesty and truth, was giving utterance to his feelings and opinions on this subject, the honorable Senator from New Hampshire got up and chided the people of Maryland for having manumitted their slaves, and thereby having so many free negroes among them. [Mr. HALE. Oh, no.] He asked, "was it not their act?" and he said, "yes it was their act." If he did not condemn that act, why did he chide them for it? If the act is proper, humane, benevolent, wise, and statesmanlike to emancipate all the slaves, and their emancipation becomes a local burden upon the States where they now reside and where they would be emancipated, why are you not willing, all of you, to take your share of that burden? Now, for a few moments, let us see how that would operate. I will begin with the State of California. California has a good many free negroes. I suppose the most of them were taken there as slaves before her constitution was made; and when California adopted a constitution excluding slavery, I became perfectly satisfied that there never would or could possibly be another slave State on this side of the cotton region, and I did not lament the conviction to which my mind had come.

In this connection I will say that all this fuss and disturbance about excluding slavery from the Territories of the United States, or permitting the immigration and settlement of slaveholders into those Territories, has been, in my opinion, the most idle, foolish, and mischievous dispute, short of that which now agitates Congress, that ever did disturb any people. As a pro-slavery man, I would not have given a copper for all the protection which the legislation of Congress or of Territorial Councils or Legislatures could have afforded to slavery or to slaveholders in the Territories. Those laws would have been *brutum fulmen;* they would have fallen without the least operation; they had been negatived and vetoed by a higher law, the law coming from the eternal judgment seat that established the climate, soil, and productions of the country. The last Congress might have passed any laws they pleased to admit slavery into Nebraska or Kansas or any of the Territories we now have, and such a law would not have been of the least practical consequence, because it could have produced no result whatever.

Is not that proved by the condition of New Mexico? Her Territorial Legislature adopted a slave code and laws for the protection of slavery stronger and more stringent than those that prevail in my own State; and yet by the authority of the able representative we now have at the Court of St. James, in a speech delivered in the House of Representatives, when he was a member of that body, there were only twenty-five slaves in the whole Territory, and fifteen of them, if I recollect aright, belonged to officers of the Army who had temporarily taken them there. At the close of the last Congress there was not a foot of the public territory of the United States but what was open to the emigration and settlement of slaveholders; and who ever heard of a slaveholder taking his slaves to any of these Territories? If any were so foolish, they took them there, having any sensible purpose, with a view to have their present services, but at no remote time their certain emancipation. Property does not seek hazards except upon the seas. I once heard of a Dutch merchant who—when Holland was the greatest maritime Power upon the earth, when her sails whitened every sea, and she had possession of a great many distant colonies away in Eastern Asia, and her crowding commerce was drawing by their argosies returns from all the ports of the world—an enterprising Holland shipper—said that he would sail in the pursuit of his commerce even through hell itself, at the risk of scorching his sails. But in relation to slave property slaveholders are distrustful, they are timid, they never will take them to local positions where their right to their slaves is liable to be attacked. They never did, and never will. I myself never wanted another slave State short of the cotton region. I do not now. For you men of Congress and of the nation who assumed the position that you would protect the slave States and slave owners in their constitutional rights, but that you would give them no more facilities and would never consent to the admission of another slave State into the Union, I have no word of condemnation. If you will just act upon that policy now, having achieved emancipation in this District, the country, the mass of the reasonable and intelligent men of the South, would become satisfied to accept your compromise upon such a platform.

But I will proceed with my table. California has 3,815 free negroes. How many would she have to take if all the negroes were liberated and if they were then distributed equally among the States? Her ratio would be 56,003. She is not prepared, I reckon, for such an importation of free negroes.

Connecticut, the land of steady habits, among the noblest of the Old Thirteen, in whose men, in whose statesmanship, in whose love of country, in whose valor, in whose performance of all their duties as men and citizens, with such exceptions only as appertain to all frail men, I have the highest confidence, what would be her condition? She has now 8,542 free negroes, and she would have to take 65,733. Illinois now has 7,069. You found that both the Senators from Illinois were a little tender-footed on the subject, and well they might be, for her portion would be 244,536 free negroes. Next I come to Indiana; and what would be her portion? She has a goodly number now, comparatively. She has 10,869, and her portion would be 192,991, an increase making nearly 200,000. The young and growing State of Iowa, that has become an empire in the Northwest, and, according to my information, has more of fertile and productive and less of refuse land than any State in the Union, how many of these slaves would she have to take? She now has 1,023 free negroes. She would have to take 96,421. Kansas has 623. She would have to take 15,301. I wish Kansas had every one of them. [Laughter.] Maine is pretty strong upon the bit on this slavery question. My honored friend, the late Governor of that State and now Senator, [Mr. MORRILL,] is not in his seat. I am sorry that he is not; but in his presence or absence I never would treat him with the least disrespect. My feelings are too strongly and deeply and sincerely of an opposite character. Maine has 1,195 free negroes. Under this apportionment, she would have to take 89,753. Massachusetts has 9,454. She would have to take 175,866. I wish she had her full quota; [laughter;] and I believe that, instead of sending them all to Kansas, I would send at least half to Massachusetts, and if the Kansas Senators protested, I would send the whole of them to Massachusetts. Michigan, the State of my early and honored friend, [Mr. HOWARD,] has now 6,823. She would have to take 121,301. My friend has a good deal of aversion to the Indians resident in his State; I have no doubt this is a very reasonable and well-founded aversion, but it is not half as well or as deeply founded as our aversion to free negroes in Kentucky. I wish I could excite a little more of sympathy in his generous bosom on what I may call our subject, than he at present feels.

Mr. HOWARD. Canada is very near us, and affords a fine market for "wool."

Mr. DAVIS. And I believe they starve and freeze to death there in the long winters. I have received a doleful account of them there. I believe they form them into regiments, and ship them to the West Indies occasionally. Here is Minnesota one of the youngest sisters. She has only 229 free negroes now. She would have to take 24,574. That would be considerable increase. New Hampshire has 450. She has not her *pro rata* of the present free negroes. She would have to take 46,581; and I wish from the bottom of my heart that she had the whole of them this day. New Jersey is very liberal, more so than any of the States except Maryland, in proportion to population. She has 24,947 now; and she would have to add to her numbers until they reached 96,007. Then there is New York, the Empire State, whose broadside once used to decide all presidential elections; I believe that the great West are rather dividing that power with her now. What is her number? She has now 49,005. How many would she have to take? Upwards of 500,000 more than she has—557,390. Where are the Senators from New York that we cannot make a compact with them just to lead that number of free negroes into the Empire State right at once. Then here is Ohio, the eldest sister of the Northwest, and the strongest one yet. She has 36,225; and she is the Botany Bay for the negroes from Kentucky and Tennessee. Every man there who wants to liberate his slaves takes them to Ohio, buys land there, and settles them on those lands. The reason is that Illinois and Indiana, and the other northwestern States, frown upon that policy; but Ohio still opens her bosom to the reception of that people, and I hope in God she will receive her surfeit before a great while. She now has 36,225. She would have to take 334,304. Oregon has 121. She is so distant they will not travel there. They are too indolent to travel that far. She would have to take 7,509. Pennsylvania has 56,376. A good many of them, I believe, were made free by the running of the line between Pennsylvania and Virginia at an early day, a great many people claiming part of Pennsylvania as part of Virginia, and taking slaves there. She would have to take 423,767. Rhode Island has 3,918; she would have to take 24,717. Vermont has 582. I do not think, with due respect to the Chair, she has quite her *pro rata*. She would have to take only 45,016. Wisconsin has 1,481. She would have to take 112,267.

Well, now, what may be the effect of this bill? I am not against forfeiture. I want the property of incorrigible traitors forfeited, and their lives, too. I want them to pay that expiation to the violated Constitution and laws of their country for this wicked and causeless rebellion; but I want a legal and a constitutional and a humane forfeiture. This forfeiture may operate to the disenthralling of 3,500,000 negroes. It is only necessary to state the proposition that it may strike every man's mind as true, whether he has practical observation and experience on the subject or not, that it is utterly impossible, in the cotton States especially, for the negro population and the white population to remain and live together, both being free. As the honorable Senator from Illinois [Mr. BROWNING] said, it would not only be almost better, but it would be better altogether, if the two races are to remain, that the black race should be in a state of slavery, and that the whites should have the mastery. Why, Mr. President, that great law of society, of mankind, that established slavery in the dawn of history, and that has continued it to the present time, will continue and perpetuate it as long as man lives in a state of society. The present form of slavery may be broken up and may be abolished; it probably will be; but it will spring up as a great social necessity in some other form, especially in the tropical countries.

And here permit me to make a general remark in relation to tropical countries. As a general rule, all labor is involuntary. I never knew a man in my life, or with very rare exceptions, that would toil and sweat and labor and fatigue himself in doors and out of doors, in the colds of winter and the heats of summer, in storm and in sunshine, voluntarily. It may be the result of the primal curse of Heaven, "In the sweat of thy face shalt thou eat bread." It is the result of his organization; and in the South that is especially the law of man, be he the black or the white man; and why is it so? In the South, many productions that subsist life are spontaneous. There are fruits and vegetables upon which the indolent people who inhabit the tropics can live without manual labor, and so long as they can do it they will never go under a tropical, burning, scorching sun, and encounter the heats of noonday and the dews of night and morning, and labor in their fields for the production of tropical products, to any considerable extent. Labor in the tropics, to be available and greatly remunerative, must, necessarily, be compulsory labor. It will never be of any other character; it never has been and never will be. In the island of Cuba there is more prosperity than in the other islands. Why? Because involuntary slavery of the negro still exists there. Go to Brazil; it exists in Brazil; and of all the Governments and countries that were peopled and founded by Portugal or Spain, Brazil, at the present time, is the most flourishing, the most happy; its labor is most productive.

The great element of national power and of human progress is labor. If there is anything on God's earth which, next to Christianity, truth, and virtue, I admire and revere, it is labor. It is labor that has brought man from the savage state to be, in truth, the image of his Maker, by his present civilization in Christian countries. For the tropics to be productive, they must have labor; that labor must be involuntary, and it must be the involuntary labor of the negro race, for two reasons: first, they are the inferior race; and second, the climate of the tropics and the labor of the field in the tropics are more congenial to the negro constitution than they are to the white. They can endure a greater amount of it; they can make it more productive, more remunerative. Those are mere abstract opinions of mine, and I deduce no conclusions from them; but I speak of results necessary from the organization of man and his existence in society. If in our country, or any other country, there are to be slaves, I, for one, want those slaves to be of the negro rather than the white race. As to the equality of the races and bringing them up to our level in this country, it is all a chimera, a dream. There is Africa, a great part of it populated by the negro race. It has about eighty millions of the true negro race; it has five millions of square miles of territory; it was populated next to Asia in point of time. In that vast peninsular continent, with such a myriad of people, that race has never risen to any considerable degree of civilization. Why? It is because by their natural organization they are incapable of marching forward and upward to the point of high civilization. They never have; they never will. I want the colonization experiment tried; but if Liberia had not been upheld, protected, and guided by the mind, the energy, and the arms of the white men, all the immigrants there would have degenerated into barbarism and would have mingled with the savage and pagan hordes who surround them. The British West India Islands now are not so productive, by from three to five times, as they were in a state of slavery; but what little efficient industry, and what little amount of production they now have is owing to the fact that they are British possessions; that they receive what little knowledge and skill in cultivation they have from the mind of the white man. If the rule of the white man was expelled from those islands, in a few short years they would sink into unproductive barbarism.

Mr. President, I do not presume to interpret the will of God, either as spoken through His revealed Word or by His vast and wonderful works of creation, upon the subject of slavery. It is far above my ken. I receive it as the Constitution received it, and as I believe the Saviour of the world and His apostles received it, as an existing fact. It has existed for thirty-seven hundred years. That is some evidence that it is tolerated by the omniscient and gracious Ruler of the universe, who permits not a sparrow to fall without His notice. It has been built up by man; it has existed widely over the face of the earth in all the most civilized countries. It will exist, I will utter as a prediction—and I am rash for making any prediction upon the subject—it will exist in some form or other as long as man lives in a state of society. But, Mr. President, there are some men so conceited, so fool-hardy, so audacious and impious, as to claim to penetrate and know the secret will and purposes of the Great Jehovah in relation to this subject, and who daringly utter this profane language, "if the God of heaven and earth tolerates slavery, He is not my God; if His revealed word tolerates slavery, if the Bible tolerates slavery, it is not my Bible." Sir, could there be deeper or more execrable impiety; or do these vain and silly men know all the secret purposes of the Omniscient? How dare they attempt to penetrate His inscrutable and awful arcana? When I, in my closet by myself, in the solitude of the night, in the depths of my humility, seek to obtain the immediate presence of the Great Jehovah, it is with an amount of reverence and wonder and awe that overpowers me; and for these daring and impious men to be seeking impiously to make themselves the interpreters of His will, outside of and beyond His revealed word and His great works of creation, is the greatest amount of wickedness and audacity, in my judgment, that can be exhibited by man.

That incomprehensible Being and Power has spread abroad into an infinity of space His wonderful creations. We occupy one of the smallest planets in our system; there is a planet belonging to our system that requires about one hundred years to perform its revolution—a greater time than any of those wretches live on the face of the earth; and yet this is but one of the millions of systems that are upheld by His omnipotent power and wisdom, and that are harmoniously executing their laws, which He enacted, throughout the enduring years of time. That the great Being who created and upholds such vast and incomprehensible systems permits and knows of the existence of the evil wretches that are thus seeking to interpret His will, in my judgment, is one of the most satisfactory evidences of the omniscience and of the omnipresence of the Great Eternal. That they are not lost in His boundless dominion in their utter insignificance, but that He sees them to-day and forever, is to me a convincing evidence of His omniscience and of His omnipresence; and that he permits such wretches, after the utterance of such impious sentiments,

to live, is another evidence of His all-pervading mercy and goodness. I repudiate all their teachings. I take the revealed Word of God as it is. I take his visible creations as they are. I apply my feeble and dim reason to the interpretation of His will as it is thus spoken, and beyond that I dare not attempt to look into the awful mystery. He has tolerated slavery for three thousand seven hundred years. It will always exist in some form or other; and in His own time, when He wills it, He will bring it to its termination. He may close it in its present form speedily. The judgment of the world, I admit, is against slavery in its present form. It is in process of execution. If that execution can go on slowly, gradually, imperceptibly, as all the great processes of nature to be beneficent and productive of good must, I have no objection to its execution. But this rash, empyrical execution that anticipates beforehand the judgment of God, and seek as His chosen instruments themselves to become the executioners of His judgment, I protest against totally.

But, Mr. President, it is sufficient to us that, in the language of Phillips, the Constitution and the law have written our right to our slaves. We claim that Constitution as the law that secures our right to that property.

Sir, I shall detain the Senate only a few minutes longer; but before I close, I will say a word or two more. The President of the United States and the Senate and the House of Representatives have pledged their honor, their faith, and their word upon this subject. I will read the resolution passed in July last:

"*Resolved by the House of Representatives of the Congress of the United States*, That the present deplorable civil war has been forced upon the country by the disunionists of the southern States now in arms against the constitutional Government and in arms around the capital;"—

that is all true, every word of it—

"that in this national emergency, Congress, banishing all feelings of mere passion or resentment, will recollect only its duty to the whole country; that this war is not waged on their part in any spirit of oppression, or for any purpose of conquest or subjugation, or purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the *supremacy* of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished the war ought to cease."—*Journal House of Representatives*, first session Thirty-Seventh Congress, p. 123.

That resolution passed the House of Representatives with but two dissenting voices. In this body the vote of my friend, the honorable Senator from Illinois, [Mr. TRUMBULL,] was against it. The vote of one of the Senators from Massachusetts was not cast. The vote of the other, the chairman of the Committee on Military Affairs, [Mr. WILSON,] was in its favor. All the other Republican Senators who were then present and in this Chamber, stand committed by that solemn pledge of record to abide by the principles of that resolution; and if they do that, the Union men of Kentucky and of the border States ask nothing further at their hands. The President in his inaugural address said:

"I have no purpose, directly or indirectly, to interfere with the institution of slavery in the States where it exists."

There, sir, is the solemn pledge of the man who is now the chief executive power of this nation—a man, I believe, of good faith. He says further:

"I believe I have no lawful right to do so, and I have no inclination to do so."

And in his annual message in July last, he said:

"Lest there be some uneasiness in the minds of candid men as to what is the course of the Government towards the southern States, after the rebellion shall have been suppressed, the Executive deems it proper to say it will be his purpose then, as ever, to be guided by the Constitution and the laws; and that he will probably have no different understanding of the powers and duties of the Federal Government relating to the rights of the States and the people under the Constitution, than that expressed in the inaugural address."

And to the same purpose and in fewer words a resolution was passed in the House of Representatives unanimously. When were those resolutions passed in the two Houses? When did the honorable, patriotic men constituting the two Houses of Congress—the most august and powerful legislative body upon earth next to the British Parliament, for that claims to be omnipotent—give that solemn pledge? It was on the 25th day of July, if I recollect aright, three or four days after the disastrous defeat and rout at Bull Run. The Republican party had then been inaugurated in power, but it was in those dark days that it gave that pledge. It was uncertain what position the border States would take; and I say, now, if the programme of measures which has been presented and passed by the present Congress—I speak of these propositions as a whole, an entirety, with all their provisions and all their principles—had been presented to the consideration of Congress before or after the battle of Bull Run, the people of the slave States would have come unanimously to the conclusion that the party lately installed in power—the Republican party—did intend to make the war upon slavery. They denied it. Your President denied it. Both Houses of Congress, with unparalleled unanimity, denied it. They denied it after the great disaster to their arms. Your President denied it in his communication to General Frémont.

Sir, suppose these border States—little Delaware, Maryland, Western Virginia, Kentucky, Western Tennessee, and Missouri had all been united, as were South Carolina and the cotton States, against the Government, and you had made the border States the theater of war, as it would have become the theater of war, what additional force would you have had to oppose the reconstruction of the Government and of the Union? You would have had fully two hundred and fifty thousand more men in the field—not braver or better or truer men in battle than the northwestern men, but their equals. With such an increase of power to the confederate arms, where, then, would have been your Union? That was the imposing condition of circumstances that brought Congress and the President to these pledges.

What were those pledges made for? What were they made by the President for? What were they made by the two Houses of Congress for? Were they to be kept in good faith, as they should be by honest, true, and patriotic men, or were they made that they might deceive and betray? Had they any purpose at that time of violating this pledge? Did they make the pledge to the ear that they might break it to the hope? I believe no such monstrous proposition as that. I believe they made it as faithful and true men. I ask them to redeem that pledge in the spirit in which it was given. If they do, all will go well; but if they do not, I tell you, sir, that this war has only begun. The Union never can be restored and it never can continue except upon the great principle of the inviolability of the Constitution and a recognition practically as well as theoretically of the constitutional right of the States respectively, and especially of the slave States, to manage their own domestic concerns. That is an essential principle of American liberty, and it is as important and as necessary a pillar to sustain the American system as is the supremacy of the General Government itself within the sphere of its powers. The prostration of either the constitutional power of the General Government or the reserved rights of the States would be equally fatal to the great American system. The people are pledged to its support, and to uphold it. It was so constructed by Washington and his compeers. They have lived under its protection and guidance. Their hearts and their minds are given to it with a devotion second only to their devotion to their religion. They intend to adhere to that Constitution. They will fight all who assail or attack it and threaten its overthrow, they care not whether they come from the North or the South. I speak of the Union men of the border States. They would regard the subjugation of the military power of the rebel States as no blessing if it is to be won by the sacrifice of the Constitution. If they are to transfer directly or by indirection, by questionable incidental power, their right, which they never parted with, to have slavery or freedom as they will, and to regulate all of their other domestic policy, if that is to be the condition which this party in power intends to exact from them, they will never submit to it, and I here avow it as one of their representatives.

If the war is to be made in that form, proclaim it. You may overwhelm us, you may conquer us, but you will never subdue us. But I tell you, sir, that the people of the United States and the Army of the United States will never enter upon such a crusade as that. Three fourths of that noble and gallant Army that are now in the field are as much devoted to the Constitution and to all the rights of American citizens as I am. They will oppose you and all others who attack it stealthily and indirectly. They will overthrow you. You are now like the Assyrian king, reveling in your halls of power, intoxicated by its possession, dreaming of its perpetuity and all the good that it is to bring to you; but before you know it, if you proceed on your present course of policy, your doom will be written upon the wall, as it was against that ancient tyrant.

I want this war brought to a close in the field. We want this work done; we want it done that we may not have two wars upon the Constitution at once. The war of the abolitionists in the Senate and in the House of Representatives and out of Congress upon the Constitution is as much a war as that of Jeff Davis and his confederate hosts. We are equally the enemies of both. We want to dispose of one war, that we may be engaged singly with the other. We want the rebels subdued that we may then commence an equally successful and triumphant war upon the abolition party, who are trying to immolate the Constitution to their theories.

Mr. President, I have prepared a measure which, if I have a chance—I do not know that I shall—I will offer as a substitute for this bill. I propose confiscation, and I propose it in a practical form. The honorable Senator from Minnesota thought I was trying to benefit Kentucky in the proposition I make, and that I was somewhat selfish and sectional by making it for the benefit of Kentucky and the other border slave States; but the idea did not originate with me. I derived it from a former Senator in this body and a former member of the House of Representatives from Connecticut. He presented me with a bill that restricted its operation entirely to the slave States. I told him it would not do; the bill was unjust; that it would have to be made more liberal; and I set to work and drew up one, forfeiting all the estate of any person engaged in the rebellion, or who should give aid and comfort to it, making the bill prospective, and allowing thirty days' notice, to give those who are still with the rebels knowledge of the passage of such a bill, that they might, if they chose, repent and come back to their duty and their allegiance to the Government.

I knew—and that was the reason why I introduced one feature of it—the conscientious objection of a great many men to the Government selling slaves. With a view of obviating that objection, I have proposed, as may rightfully be done, that the forfeiture shall not inure to the United States Government, but to every person injured by the rebellion in his person or property. I propose that where any man falls in battle or dies from disease in this war, he shall be held to have received damage from the confederates to the amount of $5,000, and his personal representatives may sue for or assign the claim. It is a very small estimate to say that when this deplorable war is concluded, when blood ceases to flow, and the dove of peace is again in our land, at least fifty thousand stalwart men of the free States will have perished. My bill would provide $250,000,000 for the class of men who shall have thus died in the service. I then provide that every man who shall be disabled in the war to any extent, shall have a claim upon this forfeited property of the confederates to the amount of his actual damage, to be ascertained by a jury. There will be at least fifty thousand more that will be disabled to a greater or less degree. Their damages would amount, upon an average, say to $1,000. That would be $50,000,000 of additional claims that the true and patriotic men of the free States would have on the property of the rebels, the very men who brought this war on the country, and who had been the cause of the infliction of death and disability upon them.

I propose, furthermore, that every man whose debts or property have been seized, confiscated, forfeited, or appropriated by the rebel government, or any persons under its authority, shall be remunerated fully. These debts due to the North are estimated to amount to $200,000,000. The claims of northern men that are intended to be provided for by this bill will amount at the close of the war to not less than $600,000,000. Suppose the property of the rebels should be confiscated to the United States, and sold as indemnity of the United States for its expenses. Their lands without their slaves would be of but little value. The great amount of their wealth consists of their slaves. These slaves amount to a little over three

and a half millions, and before these troubles would have brought $2,100,000,000. That sum would be sufficient to indemnify the United States for probably all the expenses of the war. I care not, and my people care not, whether you put the forfeiture in the one form or in the other. With all the faults of my frank and gallant and erring State, a mercenary and a mean disposition is not to be charged against her. All that I desired in making this change was to avoid, if I could, the extreme objection that men had that the United States Government should be concerned directly or indirectly in the sale of slaves. I think I have achieved that by directing the forfeiture, not to the Government, but to the men injured by the war. Property is often forfeited by laws of Congress to injured men——

Mr. HOWARD. I would inquire of my honorable friend from Kentucky what benefit would that sort of indemnity be to the representatives of persons residing in the free States who have fallen or been damaged in this war? How could they possess and enjoy a negro slave in a free State?

Mr. DAVIS. If my honorable friend will permit me to explain, my bill provides for that. It provides that there shall be a lien in favor of every man injured in this war in the way I have explained upon all the rebel property of any kind; and all that the representatives of a northern man who has fallen in battle would have to do, would be either to assign his claim—for the bill authorizes the assignment of the claim—or to send and have a suit instituted as under a common mortgage, proceeding *in rem*, and to have so much of the property thus confiscated, of any description whatever, sold as would satisfy the claim of the individual. If confiscation can be executed in any form, this is the form in which it can be executed, and in which it is practicable. Whenever you give a man a private right and the means of asserting that private right, he is going to do it if the claim is of any consideration.

I do not care about this matter of forfeiture particularly. I want the rebel leaders punished. Those that are impenitent and incorrigible, and continue to be so, I want punished. They cannot live in the same country with Union men. They must come back and submit to the laws and live as quiet citizens, or they must perish upon the gallows or go into exile. If you want to proselyte them and bring them back to the Government and induce them to drop their secession and disunion principles, in my opinion the way to do that most effectually is to offer them, on the one side, where they are not very guilty, immunity, peace, and protection, and on the other, the gallows or exile and the forfeiture of their whole estate. My State wants such a law as that. The Union people of my State want it. I am ready here to vote for it; but not to free their slaves, not to free any slaves, because Congress has no power to do that. I am for Congress passing—and I would be quite as severe and as unrelenting in my feelings and conduct as most men—any law of punishment, of forfeiture of life or property, to fall upon the guilty, the egregiously guilty, and to spare the ignorant and deluded, and to offer them the hope of immunity and pardon. But, sir, I would want such a law as that passed with a condition. I would not want unconditional immunity offered to any man who had left his State to join the rebellion. I do not care what his degree of guiltiness was, I would want him pardoned only on the express condition that he should give up his treason, that he should come back, and submit himself quietly, orderly, as a good citizen, to the law, and whenever he showed a disposition to rise in rebellion against the law that he should still be subject to be prosecuted for his original crime. We cannot have harmony, peace, and quiet upon any other conditions.

Mr. President, I have now laid before the Senate, very briefly, the main features of the measure I have offered. I am only sorry it has not received more of the attention of members. It probably has received as much or more than it was entitled to. But, sir, I want this war to be quick and powerful. Our armies are composed of the best material that ever were put in martial array. The superiority of soldiership over generalship that has been shown in this war has been most striking. The war itself would have been brought to a successful and triumphant close before this time, if we had had adequate talent and enterprise in our commanders. There is no doubt about it.

But, sir, no state of the case will ever induce me or the Union men of my State to go into secessia. As Hamilcar brought his infant son Hannibal to the family altar and made him swear eternal enmity to the Roman power, so I have sworn and will ever maintain eternal enmity to the principle of secession and all its adherents. I want my country to put them down in the battle-field; and I want wise, just, and effective laws passed by Congress to bring about that great result. I am on the brink of the grave. Its crumbling edge is ready to receive me; but I have children and grandchildren, and I want my country restored to peace, and I want the ægis of its Constitution and protection to be extended over my posterity and all my countrymen before I go hence.

The PRESIDENT *pro tempore*. The question before the Senate is on the amendment moved by the Senator from Ohio to the original bill in the form of a substitute, on which the yeas and nays have been ordered.

Mr. SHERMAN. It is not my purpose to protract this discussion, as the argument I think has been exhausted, or take up time. I wish, however, briefly to call the attention of Senators to the difference——

Mr. SUMNER. If the Senator will permit me——

Mr. SHERMAN. I shall not occupy much time. However, I will yield.

Mr. SUMNER. I was going to suggest to the Senator that I should like to move an executive session.

Mr. SHERMAN. I have no objection at all.

Mr. SUMNER. We have some important business in executive session. I agree with the Senator, and also the Senator from Illinois, and desire to have a vote on this question; but I am afraid if we continue this discussion to-day we cannot attend to what is now pending in executive session.

Mr. SHERMAN. My impression is we shall find it necessary to have a long session in order to pass this bill, and I would rather press it now than at any other time. I think we have delayed action on it too long already. I shall not probably take ten minutes' time.

Mr. COLLAMER. I wish to say to gentlemen that they can get no vote to-day.

Mr. SHERMAN. Then I will yield to my friend from Massachusetts.

Mr. SUMNER. I move that the Senate proceed to the consideration of executive business.

Mr. TRUMBULL. I object to any other business until we can get some action on this bill. If we are to go into executive session, I shall call the yeas and nays upon it. The bill has been delayed in this way quite too long already. I know the Senator from Vermont has announced that no vote shall be had to-night; but we have an hour yet, and we can vote upon some propositions to-night, unless Senators wish to speak. If they do, let them speak during the next hour. I shall not consent, for one, to any postponement; and I appeal to the friends of this measure to come here and let us decide that this measure shall be continued before the Senate in some form, either to be voted down or adopted, or that persons who desire to discuss it may have an opportunity to do so. It has been protracted time and again by these propositions; and I say now to my friend from Massachusetts, who is a friend to this bill, that I consider it extremely unreasonable for him, day after day, to insist upon these executive sessions. Sir, when this bill has been made a special order, time and again, he has insisted upon executive sessions, day after day, and put it over. I do not know that we shall get a vote to-night; I hardly expect such a result; but I say to my friend from Vermont we shall never get a vote, to-night or any other night, unless we proceed with the consideration of the measure.

Mr. COLLAMER. If the gentleman will indulge me one moment; when I made that remark, I supposed the common courtesy in this body would be extended to all who desired it, and I know of three gentlemen that wish to speak on this subject. That was all I meant by it.

Mr. TRUMBULL. Does the Senator mean by that that he desires it now to go over? Has he any objection to our passing upon the amendment before us, or any objection to the Senator from Ohio concluding what he desires to say? I apprehend not.

Mr. COLLAMER. I have no objection to that; but he may not desire to speak now.

Mr. TRUMBULL. The Senator from Ohio did not ask a postponement. It was an interposition from another source requesting him to yield the floor. The Senator from Ohio was proceeding with his remarks. It was not at his request that the motion was made.

Mr. COLLAMER. I have no objection to his proceeding. Mr. President, have I the floor?

The PRESIDENT *pro tempore*. The Senator from Vermont is entitled to the floor.

Mr. COLLAMER. I move the bill which I presented as a substitute as an amendment by way of substitution for the amendment of the gentleman from Ohio.

Mr. SHERMAN. I trust my friend will not do that. I have the floor and desire to move an amendment to the original proposition of the Senator from Illinois. The motion of the Senator from Vermont would cut off my amendment. As I have the floor, I have the right to move it.

Mr. COLLAMER. I was just told by the Chair that I had the floor.

Mr. SHERMAN. I yielded to a motion for an executive session.

Mr. SUMNER. I must persevere in my motion for an executive session. I do not want to stand in the way of the Senator from Illinois. I am for his bill most sincerely; he knows that; but it seems to me, after the discussion we have listened to to-day, occupying so much time, that perhaps we have done our duty for the present by that bill, and as there is important business now pending in executive session on which we can act, I hope we shall proceed with that.

The PRESIDENT *pro tempore*. The Chair takes occasion to state, in reference to some questions of order upon the various amendments pending and proposed to be moved to this bill in the form of substitutes, that the original bill now stands before the Senate with an amendment, in the form of a substitute, proposed by the Senator from Ohio, upon which the yeas and nays have been ordered. Should that amendment, in the form of a substitute, which strikes out the whole of the original bill, and inserts in form a new bill, be carried in the affirmative, it is closed against all amendments. No further amendment can be made unless it be mere additional and new matter; no amendment which shall qualify or change the original amendment adopted by the Senate would be admissible. But before the question is taken on the substitute amendment moved by the Senator from Ohio, both that and the original bill are open to amendment by way of perfection. There is no limitation to the extent of one amendment to another amendment, or an amendment to the original bill; it may cover the whole bill, and so an amendment to an amendment may cover the whole of that amendment. In other words, it is competent for the Senator from Vermont to move an amendment in the form of a substitute to the amendment in the form of a substitute moved by the Senator from Ohio. The Chair will further remark in answer to the suggestion of the Senator from Ohio, that although the Senator from Vermont now moves an amendment to his amendment, after the vote shall have been taken on that amendment to the amendment, whether carried in the affirmative or negative, it will be competent for the Senator from Ohio to move further amendments by way of perfection to the original bill.

Mr. COLLAMER. I do not wish to embarrass the gentleman from Ohio. I understand him to say that, independent of the substitute he has offered, he has an amendment to offer to perfect the original bill. I do not desire to cut him off from offering that amendment, and having it adopted, if he pleases. I offer my substitute, and do not wish to withdraw it; but I take it it would be in order to entertain his motion to amend the original bill before acting on any of the substitutes.

The PRESIDENT *pro tempore*. It is in order to move an amendment to the original bill, or to the substitute, at any time before the vote on substitution shall be taken; but while an amendment to the amendment, a substitute to the substitute is pending, it would not be strictly in order until the amendment to the amendment was voted upon.

That vote being taken, then it is in order to recur to the original bill, by way of perfecting it.

Mr. COLLAMER. Then, in order to give the gentleman all latitude about it, I will for the present withdraw my substitute, that he may present his amendment in due time.

Mr. SUMNER. Now, I believe my motion is in order, and I move that the Senate proceed to the consideration of executive business. That will leave this question in order at one o'clock to-morrow.

Mr. SHERMAN. I wish it distinctly understood I do not design making a speech. My purpose was simply to call the attention of Senators to the practical point, and let us, if possible, get an issue and pass some kind of a bill. I think it would be better for us to finish this matter so far as we can now. We have had executive sessions nearly every day. I really see no occasion for one, at least none at present. Still, I will yield in order to obtain the sense of the Senate.

Mr. TRUMBULL called for the yeas and nays, and they were ordered; and being taken, resulted —yeas 19, nays 19; as follows:

YEAS—Messrs. Browning, Carlile, Clark, Collamer, Cowan, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Henderson, Nesmith, Powell, Rice, Saulsbury, Stark, Sumner, and Thomson—19.

NAYS—Messrs. Anthony, Chandler, Grimes, Hale, Howard, Howe, King, Lane of Indiana, Lane of Kansas, McDougall, Morrill, Sherman, Trumbull, Wade, Wilkinson, Willey, Wilson of Massachusetts, Wilson of Missouri, and Wright—19.

So the motion was not agreed to.

Mr. SHERMAN. Now I ask the Secretary to read my amendment to the original bill.

The Secretary read it; to strike out all after the words "United States," in line six of the first section, down to and including the word "rebellion," in the thirteenth line, in the following words:

Belonging to any person or persons beyond the jurisdiction of the same, or to any person or persons in any State or district within the United States, now in a state of insurrection and rebellion against the authority thereof, so that in either case the ordinary process of law cannot be served upon them, who shall during the present rebellion be found in arms against the United States, or giving aid and comfort to said rebellion.

And to insert in lieu thereof the following:

First. Persons hereafter acting as officers of the army or navy of the rebels now or hereafter in arms against the United States. Second. Persons hereafter acting as president, vice president, member of congress, judge, foreign minister, consul, or commissioner of the so-called confederate States. Third. Persons hereafter acting as an officer, whether civil, military, or naval, of any State or Territory who by the constitution of the so-called confederate States is required to take an oath to support said constitution. Fourth. Persons who having held an office of honor, trust, or profit under the United States, shall hereafter take up arms against the United States. Fifth. Persons who, owning property in the loyal States or Territories, or the loyal portions of disloyal States, shall hereafter assist or give aid and comfort to the present rebellion.

The PRESIDENT *pro tempore*. The question is on agreeing to this amendment to the original bill.

Mr. SHERMAN. Mr. President, I will not prolong the discussion of this bill by any very extended remarks, but will confine myself to a general statement of the purpose and the provisions of the pending amendment and substitute. The question of confiscation of the property of rebels has been so ably discussed in both Houses that I could only repeat what has been said by others. The discussion has shown that the difficulty is as to the measure and extent of confiscation, rather than as to the right. No one disputes but that Congress can authorize the seizure of either the person or property of a citizen except as against an open enemy engaged in war. A confiscation bill is purely a military measure. It can only be justified, if it is a proper and necessary measure in prosecuting war. A rebellion so formidable as this is a civil war, and must be subdued by open war. Prosecutions for treason are civil remedies, after war is over, enforced by courts, juries, witnesses, and all the incidents of legal trial. The Constitution surrounds such a trial with numerous safeguards. It must be by due process of law; it must be in a State or district previously ascertained by law; it must be by a jury; it must be upon indictment found by a grand jury; the witnesses must be examined in open court; and the punishment cannot extend to a forfeiture of estate beyond the life of the accused. It is, therefore, manifest that if confiscation is a civil remedy, every measure proposed is unconstitutional.

But it is not a civil remedy. It is war. It is war against an open foe in arms. It is to be tested by the laws of war, by the law of force. We kill our enemies without trial; we enter upon their lands; we destroy their property; we commit numerous acts unjustifiable except by the laws of war. We punish without conviction. To test the constitutionality of this act by the safeguards prescribed for the citizen, would be as ridiculous as to invoke a jury before you kill your enemy in battle.

Seizure of the property of your enemy is justified by the same law which authorizes you to seize his person or destroy his life. In either case it is to destroy his resistance, to weaken his strength, to annihilate his physical power. You are justified in using very different means against him when he is in arms, threatening your life, your Government, than you would if he was in your power on trial for a criminal offense. A traitor as a prisoner on trial for treason is in a very different condition than when arrayed in arms. In the one case the Constitution prescribes the mode and limit of his punishment; in the other case you are authorized to reduce him by force, to kill him, to starve him into submission, to seize and sell or destroy his property.

Confiscation is not only justified by the laws of war, by the practice of many nations, but it is practiced by our enemies in the most obnoxious way. They seize all kinds of property of loyal citizens; they destroy contracts, confiscate debts. All the property of citizens of loyal States which is within a disloyal State is seized without exception, and that whether such citizen has aided the Government or not. They also seize the property of all citizens in disloyal States who will not commit an act of treason by aiding them. Yet they profess to be governed by a constitution similar to the Constitution of the United States, so far as it relates to the rights of persons and property. They draw the distinction between the laws of war and the laws of peace.

Sir, it is folly to conduct a war against open enemies and yet furnish them the means to carry on war against us. They have seized all the property of loyal citizens within their reach, and yet we protect property of leading rebels. Houses are now rented in this city to loyal people, and the rent is transmitted to officers in the rebel army. We protect houses and property in Alexandria belonging to officers of the rebel State government of Virginia. Leading rebels own large property in northern States, and yet seize the property of our citizens. Gentlemen who sympathize with them now in our midst, think it very hard that their friends should be deprived of their property "without due process of law," and yet have not a word to say against the seizure and confiscation of property of our own peaceable and loyal citizens.

Sir, it is time there was an end of this. We are at war. We must destroy our enemies or they will destroy us. We must subdue their armies and we must confiscate their property. The only question with me is as to the best measure of confiscation. That some one should be enacted, and that speedily, is not only my conviction of duty, but it will be demanded by those who will have to bear the burdens of this war. Now, it is the interest of every citizen in a seceding State to be a rebel. If a patriot, his property is destroyed. If a rebel, his property is protected alike by friend and foe. Now, the burdens of the war will fall, by heavy taxation, upon loyal citizens, but rebels are beyond our reach. How long can we conduct such a war? Sir, we have been moderate to excess. War is a horrible remedy, but when we are compelled to resort to it, we should make our enemies feel its severity as well as ourselves.

What, then, is the best measure of confiscation? The bill reported from the Judiciary Committee by the Senator from Illinois [Mr. TRUMBULL] provides that all property of whatever kind of any person within the seceded States "who shall during the present rebellion be found in arms against the United States, or giving aid and comfort to said rebellion," shall be forfeited and confiscated. This will extend to almost every able-bodied man, and to many of the women of the southern States. The words "giving aid and comfort" have received a judicial construction, and have a very extended meaning; all who contribute in money, means, voice, arms, will be included. The willing and the unwilling, leaders and followers, knaves and dupes, cowards and desperadoes are alike included. It may be said that the forfeiture will not be enforced against all these; but it may be. Interest, hate, might induce the forfeiture in improper cases. So general and sweeping a forfeiture is impracticable from its very nature. The whole population would be subject to the penalties of the law. Even if not enforced against them, they would not be likely to purchase property under a law which would include their own. In a *quasi* criminal statute, it is not well to denounce penalties impossible to execute. So sweeping a confiscation will defeat itself. It cannot be and will not be enforced, however theoretically deserved by all described in it.

If too much is attempted in the way of confiscation, nothing will be accomplished. If nothing is confiscated, you array against you all who wish in the civil war merely to preserve their property and to remain quiet. This is always a large class in every community. If rebellion will secure their property from rebels and not endanger it to the Government, they are rebels. Those whose position or character have secured them offices among the rebels can only be conquered by force. Is it not, therefore, possible to frame a bill which will punish the prominent actors in the rebellion, proclaim amnesty to the great mass of the citizens in the seceding States, and separate them from their leaders? This, in my judgment, can be done by confining confiscation to classes of persons. The amendment I propose embraces five classes of persons, namely:

1. Persons hereafter acting as officers of the army or navy of the rebels now or hereafter in arms against the United States.

2. Persons hereafter acting as president, vice president, member of congress, minister, commissioner, consul, or judge of the so-called confederate States.

3. Governors of States, members of State conventions and legislatures, and judges of courts of States now in rebellion, who shall hereafter take an oath to support the constitution of said confederate States, or having taken such oath, shall hereafter act as such.

4. Persons who, having held an office of honor, trust, or profit in the United States, shall hereafter be found in arms against the United States.

5. Persons who, owning property in the loyal States, shall hereafter assist or give aid and comfort to such rebellion.

But, sir, there are other features in this bill that I do not like, and therefore, not with a view of being the author of a confiscation bill, but rather adopting the opinions of many Senators who have spoken on the subject, I have framed several provisions, and have ingrafted them in a bill in the nature of a substitute. I wish to call the attention of Senators briefly to the different clauses of that substitute. The first section authorizes the President in suppressing the present insurrection, wherever practicable, to seize the property, real and personal, of the classes of persons named in the amendment that has been read at the Secretary's desk. It declares that all sales or transfers of this property hereafter shall be utterly void, and that it shall be a sufficient bar to any suit brought by such person to recover the possession of such property to prove that he is one of the persons described in the section. This has not the harsh features of the first section of the bill reported by the Judiciary Committee. It simply authorizes the President, and requires him, when practicable, to seize the property of certain persons and hold it in his possession for subsequent judicial proceedings. It does not prescribe the mode and manner in which it shall be done, but we know it will be done by the military arm of the Government in suppressing the rebellion.

There is no doubt of the power to do all that is authorized to be done by the first section. The power to seize the property of an enemy is as plain and palpable as the power to take his life. You can seize the property of a public enemy without going through the ordinary process of law. The Constitution declares that a man shall not be deprived of his life, liberty, or property without due process of law; and yet without due process of law you arm a regiment to kill him. You may, in the same way, in pursuing war, seize upon his property. The seizure of the property is just as much an act of war as the taking of life, and is justified by the same constitutional power. I believe even my friend from Kentucky [Mr. DAVIS]

has not questioned this. I have not heard it questioned by any gentleman, except perhaps by the Senator from Pennsylvania, [Mr. COWAN,] and I believe he does not question the power of the Government in prosecuting a war, either a foreign or a civil war, to seize the property of an enemy in arms against the Government. It is true he says it cannot be sold so as to deprive the heirs of the title; but he does not deny the right and the duty of the executive authority to seize the property of the rebel and hold it for a certain time and for certain purposes.

Mr. COWAN. If the Senator will allow me I will state that my view has been that this power is with the President, and not with Congress.

Mr. SHERMAN. I did not desire to enter into this argument; but I may as well answer that point. It was made with great strength by the Senator from Illinois, [Mr. BROWNING]—indeed it was the chief burden of his speech—that the power of seizure and confiscation can already be exercised by the President. I cannot agree with the Senator in regard to the power of the President. It is the duty of Congress to declare war, to raise armies, to equip navies, to make rules and regulations governing war, and the President has no power except simply, as Commander-in-Chief of the Army and Navy, to execute those laws. The doctrines asserted by the Senator from Illinois would make the President of the United States worse than a dictator. I was almost startled when I heard him declare that the President, under the simple clause making him Commander-in-Chief of the Army, could do all these things without authority of law. The President can conduct this war only in the manner and in the mode we may prescribe by law. Therefore it is that Congress ought to regulate the mode in which the President may seize this property, in which the President may arm, equip, clothe, pay, organize, regulate, and control your Army. He can only do it in pursuance of law. That is enough in reply to the observation made by the Senator from Pennsylvania.

The second section of the substitute provides that, in a district where the laws are in force, where courts are in operation, the President shall not use the military power to effect a seizure of property, but he shall avail himself of the use of the courts, so as to give the person whose property he seizes an opportunity to contest the rightfulness of the seizure. That is clearly right. For instance, in the State of Pennsylvania, it is said that Mr. Mason, a rebel, owns property. In the seizing of that property the President, by the second section of this substitute, would be compelled to apply to the courts of the United States in the State of Pennsylvania. Wherever the President can appeal to the courts or the laws instead of to military power, it is but right that he should do it; and never exercise any military power or arbitrary authority unless there are no courts within the jurisdiction through which he may enforce the remedy. My remark in regard to this may be made in regard to other matters. I have always been sensitive of the personal rights and privileges of the citizen. I think the President has no power to seize either person or property in any place where the laws are enforced, and where he may appeal to the civil tribunals. I expressed that opinion six months ago, and I believe it now.

The third section provides that in States or districts where the courts are not in force, where the ordinary process cannot be had, the President may seize the property by military power, and hold that property. If it is of a perishable nature, it authorizes him to sell it; if it is not of a perishable nature, it authorizes him to hold it by military power until in due time the courts may be installed in the exercise of their just authority within the district or State; then the proceedings shall be had through the courts; and that the only question to be left to the courts in this proceeding shall be whether the person alleged to be the owner of the confiscated property is one of the persons named in the first section of the act.

The fourth section applies the same rule of confiscation to the service of persons held as slaves as to property held as such under the local law. The slaves of the persons described in the first section are confiscated; but, as a matter of course, as this Government cannot buy or sell slaves, as it cannot dispose of slaves in the mode prescribed by the local laws of the southern States, as when it seizes a slave that slave becomes free by the general law, therefore the section provides that in the case of slaves being confiscated under the act they shall become free. I see no reason why we should extend the provisions of a confiscation law as to slaves further than we do as to ordinary property. When we draw a distinction between the property in the service or labor of a slave and other property, except simply the fact that we cannot sell a slave, but that his seizure makes him free; when, in other words, we make the slaves of rebels free, while we do not seize the other property of the same rebels, it shows that we are pursuing the right of confiscation rather against slavery than against the rebels. We apply a different rule to persons whose property is forfeited when we deal with slaves from that which we apply when we deal with property. I do not think that is just.

Besides, sir, I believe that this section will embrace the slaves of all the rebels now in arms against the Government. There is no slaveholder in the ranks of the rebel army. They are all officers. It is a part of the nature of the institution that the owner of a slave becomes elevated in social and political *status* above his neighbors; and I venture the assertion, and I have do doubt it will be sustained by my friend from Kentucky, that wherever a slaveholder is in the rebel army he is there as an officer and not as a soldier. The first section of my bill, therefore, will embrace all slaveholders who are now in arms against the Government, and I see no reason for extending it beyond that. If any private person is in the army of the southern confedaracy, who is not an officer, and is the owner of a slave, he will not be embraced by the terms of the substitute, but he will be by the terms of the bill of the Senator from Illinois.

The fifth section provides that the several district courts of the United States shall not only have jurisdiction of all cases arising under the act, but shall have power to make such rules and regulations as we may authorize them to make under the Constitution of the United States to carry it into effect. I am perfectly willing, in order to avoid a constitutional argument, to invest these courts with the power of giving a jury trial, so as to enable any person who denies that he is one of those named in the first section, to have that question tried by a jury. I see no objection to that, although I believe it is not required by the Constitution. This being a miliary remedy, not an ordinary civil process, being a military seizure of the property of an enemy, I think the proceedings may be *in rem*, disposing of the property and not affecting the person, so that in my view there is no constitutional difficulty in the way.

The sixth section provides that "the President is hereby authorized by a proclamation of amnesty, to release either of the five classes of persons described in the first section of this act, residing in any particular State or district, from the operations of this act." I think that the President has this power already. The President may pardon an offense, even the crime of treason, and he may extend that pardon to a whole class or community of individuals; but as there may be doubt about it, and as it is the exercise of an important power, I am willing to confer it on him expressly. I have such confidence in the President that I have no doubt he would exercise the power carefully and prudently. If any one of the seceding States, the State of Tennessee for instance, should promptly return to her allegiance to this Government, I should be perfectly willing to allow the President to proclaim that this class, or that class, or the other class of the persons embraced by this act within that State, shall be relieved from the operations of the penalties of the act.

The seventh section I regard as very important and indeed as worth about as much as all the other propositions of confiscation, and it provides that "every person who after sixty days from the passage of this act shall continue in rebellion against the United States or adhere to their enemies, giving them aid and comfort, shall be deemed infamous and shall hold no office of honor, trust, or profit, within the United States."

The return of men who have been guilty of open treason by a local constituency who have participated in that treason is an offense that should not be permitted if we have the power to prevent it. In regard to Congress, there is little doubt but that we can provide by law that a person guilty of crime cannot hold a seat in either House. Either House has the power of expulsion, and by established parliamentary law and practice may and ought to expel from the body any one who, by the commission of the highest political crime, would, if retained, disgrace the body. In the appointment of executive officers, the discretion of the President may, and no doubt would be, controlled by the exclusion from office of persons who had already dishonored high office by perjury and treason. It has been held in the State of New York that the Legislature may constitutionally affix, as a punishment for a crime, the disqualification to hold an office of honor, trust, or profit, although it added to the qualification required by the State constitution. It was clearly proved by the Senator from Illinois, in the able argument he made some time ago, that Congress may by law punish a particular offense, and as a part of that punishment may declare that the person guilty of the offense shall be incapable of holding an office of honor, trust, or profit. The case decided in the State of New York, I think, was full to that effect, and it was conclusive in its reasoning.

The eighth section simply reserves the right to try persons guilty under the first section of the bill, for the crime of treason. I do not think it is necessary, but still I inserted it rather at the suggestion of the Senator from New York, [Mr. HARRIS,] who believed it was necessary.

The ninth section, I have no doubt many Senators will think very harsh, but I believe it is important. It provides:

> That the President is hereby authorized by proclamation to call upon all inhabitants within any State whose officers and State organization shall still be in rebellion against the United States after sixty days from the passage of this act to aid and assist in suppressing such rebellion; and all persons so aiding or assisting the United States, who, under the laws of such State, owe service or labor, or money or property, to any person levying war against the United States, or aiding or assisting their enemies, giving them aid and comfort, shall be forever discharged from such obligation, any law or custom in such State to the contrary notwithstanding; and the President is authorized to employ, arm, and equip all such loyal inhabitants as he may deem advantageous to the public service.

The proposition is simply that if, after sixty days, this rebellion is not subdued, or it shall degenerate into a guerrilla warfare, and our loyal armies shall be driven from that country by the climate, rather than allow this rebellion to succeed, I would arm the slaves of the rebels without hesitation. I would use all the loyal inhabitants of that region to put down the rebellion; but I would not do it except as a *dernier*, a last resort. I believe the white men of this country are able to subdue it; but I would arm the President with the power, in any given district, county, State, or place where he thought the interests of the service required it, to employ as laborers, and to arm and equip any loyal inhabitants who would aid in putting down the rebellion. It may seem harsh; but, sir, we send our brothers, we send our friends, we send our dearest relations, we send all those who are bound to us by the most endearing ties, there to risk their lives to subdue this rebellion. When there is already in that region of country a class of inhabitants who are loyal by necessity, who have proven themselves loyal in every case, I see no reason why, if this rebellion is to be prosecuted to its bitter end, they may not properly be armed in order to subdue it. When we are all risking so much, I do not see why we should not avail ourselves of every means which the position of the enemy, which their weakness affords, in order to subdue the rebellion.

These, Mr. President, are the provisions of the bill I have submitted as a substitute, and I have already amplified upon them more than I intended. I do not intend to discuss the objections to the bill reported by the Judiciary Committee, because they have been already amply discussed. I shall confine my efforts to seeking to perfect the original bill by the amendment I have offered. If I shall succeed in that; if that amendment shall be adopted, together with one or two other provisions contained in my substitute, as amendments to the bill, I shall withdraw the substitute. If the amendments are not adopted, I shall then move my substitute in lieu of the whole bill. If that fails, I shall then vote for any confiscation bill that is likely to pass. If we adjourn without placing it in the power of the President to seize

the property of rebels, so as to compel them to bear a part of the pains and penalties, the task and labor of this war, and throw upon our own people a burden of taxation that is unparalleled, we shall not be justified by them. I wish a moderate confiscation bill, aimed only at the leaders; one that can be used simply as a military arm, as a military power; not for the purpose of persecution, not for the purpose of revenge, not for the purpose of abolition, not for any purpose but to put down this rebellion; a simple, moderate, constitutional confiscation, that will enable the President to use all the property of the South, if necessary, and all the property of the North, all the persons in the South that he can avail himself of, and all the loyal people of the North; that will enable him to use all the physical power of this Government, North and South, to put down the rebellion. I do not hesitate so much in seizing the property of rebels as I do in taking the property of our own loyal citizens, as we shall have to do in the prosecution of the war.

Mr. WILSON, of Massachusetts. I like the amendment proposed by the Senator from Ohio; it is in accordance with the views I have entertained in regard to this subject; but I want to ask him why he does not include in his second branch some other classes. He now provides for confiscating the property of "persons hereafter acting as president, vice president, members of congress, judges," &c. He does not include heads of departments, the cabinet officers of Davis.

Mr. SHERMAN. I have already included quite a number in the amendment that were not in my original proposition.

Mr. WILSON, of Massachusetts. I know it; but these are not in. I think the heads of departments certainly ought to be included; and my own judgment would be that we should include all who hold civil offices there.

Mr. SHERMAN. I would not extend it so far as the small post offices and the like. If there are any other officers there whom the Senate desire to embrace of high character and rank, I am willing to insert them; but I would not extend the confiscation to postmasters and constables and small officers of that kind.

Mr. WILSON, of Massachusetts. I move to amend the amendment by inserting, after "members of Congress," the words "heads of departments."

Mr. SUMNER. I understand that the amendment just offered by the Senator from Ohio has not been printed.

Mr. SHERMAN. It has been printed substantially. The only modification of the amendment as printed, is to insert some other officers. This amendment, which I now offer to the bill of the Senator from Illinois, was offered after consultation with him and various other gentlemen who have interested themselves in the subject.

Mr. SUMNER. I knew that the main proposition of the Senator from Ohio was printed, but I understood him to make a second proposition in the nature of an amendment to the original bill.

Mr. SHERMAN. Yes, sir.

Mr. SUMNER. And that has not been printed. I should like to see that in print before voting on it.

The PRESIDENT *pro tempore*. The Senator from Massachusetts [Mr. WILSON] moves to amend the amendment in the second clause by inserting after the words "members of Congress" the words "heads of departments."

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question now recurs on agreeing to the amendment of the Senator from Ohio, as amended, to the original bill.

Mr. HALE. I have not read the amendment of the Senator from Ohio, but I should like to ask him whether he intends absolutely under the second section to confiscate the real estate of rebels.

Mr. SHERMAN. That question is not involved in the amendment I offer. That is a question to be determined by the courts as a matter of course.

Mr. HALE. On that subject I want to say a word or two. I may subject myself to the charge of temerity in the suggestion which I am going to make; but I can stand that. I have been subjected to much worse charges than that heretofore. A good many people are very tender-footed on this subject of confiscating the property of rebels, and they quote this clause of the Constitution:

"The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attainted."

The general construction which has been given to this clause of the Constitution—and I admit that it has high authority in the commentators that have written upon the Constitution—is, that it absolutely prohibits Congress from confiscating the real estate of traitors. I do not so understand it; and I want to throw out my ideas in regard to it for the consideration of some of the learned lawyers of the Senate, by whom I am surrounded, so that they may give their attention to it, and favor the Senate with their views, if they think proper.

My own opinion is that that is not the meaning of the clause of the Constitution; but it relates to the peculiar state of title which existed in Great Britain antecedent to the settlement of this country, and, indeed, continues to the present time, where estates are holden by tenures, a great many of them not fee simple. Under the English practice in convictions of treason, where the tenant or the person in possession of an estate, with an estate-tail to his heirs after his decease, was convicted of treason, the Government stepped in and took the whole estate, corrupted his blood, and shut out the heirs. The intention of the framers of the Constitution, in my humble judgment, was to prevent that. They intended, where an estate was holden, and the individual held not an absolute fee simple, but an estate with an estate over to his heirs or somebody else, that convicting him of treason should not so work corruption of blood that the person entitled to the estate consequent upon the determination of the convicted person's estate should be ousted. They intended that his heirs should not be prevented from inheriting on account of his conviction; that there should not be that corruption of blood; but it was not intended, and that clause does not mean, that where the traitor had an absolute fee simple estate in the land he was possessed of at the time of his conviction, the Government might not confiscate the whole of that. If this be the true meaning of the Constitution—and it strikes me to be the common sense of the Constitution—it ought to remove, I think, scruples of this sort. I know as well as the Senator from Vermont, who expresses what he thinks in his countenance very intelligibly, that a man who takes such a position as this in contradiction to what has been the common teaching of the commentators upon the Constitution, may subject himself to the charge of temerity and rashness.

Mr. COLLAMER. Will the gentleman permit me to ask him a single question?

Mr. HALE. Yes, sir.

Mr. COLLAMER. I ask him if a conviction of treason in England did not work the same forfeiture of a fee simple as it did of a fee tail?

Mr. HALE. Certainly it did.

Mr. COLLAMER. Now, would it not be strange if, in framing the Constitution, those who made it should have taken such pains to take care of fee tail estates, of which there were very few here, and let the great body of estates in fee simple be forfeited?

Mr. HALE. I might respond to that by asking another question. We never had corruption of blood in this country; and I might task the Senator why they should take so great care to put in a provision against what never existed here?

Mr. COLLAMER. As colonies, we had it here just as they had it in England. It was not forbidden.

Mr. HALE. I look, Mr. President, to the meaning of this clause as it is written. I know very well, as the Senator says, that when the traitor was convicted the judgment took his estate in fee simple. I believe that the intention of the framers of the Constitution was to leave that as at the common law, and to provide only that it should not work corruption of blood, so that the heirs could inherit through him where there was an estate that would descend to the heirs upon the determination of his estate. That I believe to be the common-sense view of the Constitution.

I know, Mr. President, you know, every man knows, how very easy it is and how very readily societies and nations and mankind generally will start off into a certain channel and adopt certain opinions without examination, and take them up as admitted law and gospel, and live according to them for centuries. That is the theory of the gross errors of the Church and the theologians of the world. They have had some John Calvin or some other great saint in the Church who has given an exposition of his own of some of the doctrines of the Christian religion, and without examination his sect have taken it up and followed it, and it has gone down generation after generation without any examination as to the real basis upon which it rested. Such, I apprehend, has been the construction of this clause of the Constitution. It has been adopted in that way.

Mr. COLLAMER. I will put another question to the gentleman in all seriousness. According to his view of the Constitution, it allows in the case of estates in fee tail the confiscation of the property, by act of Congress defining the punishment of treason, so far as the life estate is concerned and not the entailment.

Mr. HALE. Yes.

Mr. COLLAMER. Now, suppose a man is executed, how much is the life estate, which he admits may be confiscated, worth at the length of the halter? It would be a strange thing if they had made all that provision for taking a man's life estate when they were going to take the life itself.

Mr. HALE. It does not follow here, and it did not always follow in England, that whenever a man was convicted and sentence was pronounced the whole of it was executed. The man's life might be remitted and the forfeiture might be enforced.

Mr. DAVIS. Will the Senator allow me to interrupt him a moment?

Mr. HALE. Yes.

Mr. DAVIS. Was there any forfeiture until execution?

Mr. HALE. Yes, a great many. But, sir, I see that I have answered the purpose I had in view. I have set some of the learned lawyers thinking, as is indicated by their questioning me, and I hope they will think more upon it. In answer to the last question suggested by the Senator from Vermont, I will say that in comparatively very few of these cases of conviction where death was part of the sentence with forfeiture of estate, did the parties actually suffer death. The penalty was frequently remitted, and it was sometimes commuted to banishment. It may be commuted in this country to imprisonment. I do not think, therefore, that the argument growing out of that question has any force in answer to the view which I have taken of this clause of the Constitution.

Mr. DOOLITTLE. I desire to say a very few words in relation to the clause of the Constitution on which the Senator from New Hamspshire has commented, so far as it affects the power to confiscate real estate. That clause of our Constitution is undoubtedly borrowed from the statute of Anne, which was passed to take effect after the death of the Pretender, and was again renewed and intended to take effect after the death of the Pretender's son; and the language of the statute I have before me:

"No attainder for treason shall extend to the disinheriting of any heir, nor to the prejudice of the right or title of any person or persons, other than the right or title of the offender or offenders, during his, her, or their natural lives only; and that it shall and may be lawful for every person or persons, to whom the right or interest of any lands, tenements, hereditaments, after the death of any such offender or offenders, should or might have appertained, if no such attainder had been, to enter into the same."

Mr. HALE. Exactly; that confirms my idea.

Mr. DOOLITTLE. The common law so far from confirming the idea of the Senator from New Hampshire is directly the contrary. At the common law there could be no confiscation of any real estate unless it was in the possession of a person with the power to dispose of it. The estate of the issue in tail could not be forfeited at the common law. A learned writer upon that subject says:

"There remains a material difference to be noted between the case of a fee tail and a fee simple; which is that, notwithstanding the forfeiture of lands entailed by an attainder, yet the blood of the attainted person is not corrupted, so as, by any consequential disability, to affect the issue in tail. Therefore, if the son of the donee in tail be attainted of treason during the life of the father, and die, having issue, and then the father dies, the estate shall descend to the grandchild, notwithstanding the attainder. But it is otherwise in the case of a fee simple, as has been shown in speaking of the feudal law. The reason is obvious, because the issue in tail claims *per formam doni;* that is, he is as much within the view and intention of the gift or settlement, and as personally and precisely described in it as his ancestor. But this is not all."—*Yorke on Forfeitures*, p. 81.

To this section of the Constitution I confess that I have given some pains to understand it——

Mr. HOWE. I want to ask my colleague to proceed a little further and inform us how the grantee in fee simple stands otherwise, according to the text book he has in his hand, than a grantee in fee tail.

Mr. DOOLITTLE. The lands of a person holding in fee simple were absolutely forfeited by the attainder at common law, because he had the power of disposition in himself. All personal property at the common law was forfeited upon conviction. Some say that the conviction means the trial and the judgment. No such thing. The conviction is what follows the verdict of guilty. On the finding of the verdict of guilty, before the judgment is pronounced, the goods become forfeited. The forfeiture of personal property is at the common law a forfeiture of the whole estate in the personal property. If the party lives but two minutes after the conviction, the property passes from him. It is not so in reference to the real estate. The real estate does not pass until the judgment is pronounced—the judgment of outlawry or the attainder of treason upon the conviction. Blackstone says, (volume 4, p. 386:)

"There is a remarkable difference or two between the forfeiture of lands and of goods and chattels. 1. Lands are forfeited upon *attainder*, and not before; goods and chattels are forfeited by *conviction*. Because, in many of the cases where goods are forfeited, there never is any attainder, which happens only where judgment of death or outlawry is given."

There is no effect upon the real estate until judgment is pronounced; but the forfeiture of personal property follows instantly upon the conviction.

Mr. HALE. Will the Senator allow me to ask him a question right there?

Mr. DOOLITTLE. Yes, sir.

Mr. HALE. When does the conviction take place? When the verdict is rendered?

Mr. DOOLITTLE. When the verdict is rendered.

Mr. HALE. No, sir.

Mr. DOOLITTLE. So says Mr. Justice Blackstone. The Senator differs from him.

Mr. HALE. Well, I venture my hand that Justice Blackstone never said that.

Mr. DOOLITTLE. Let us see:

"There is a remarkable difference or two between the forfeiture of lands and of goods and chattels. 1. Lands are forfeited upon *attainder*, and not before; goods and chattels are forfeited by *conviction*."

Mr. HALE. Conviction does not mean verdict.

Mr. COWAN. Yes it does; it means the rendition of the verdict.

Mr. DOOLITTLE. "We are now to consider," says Justice Blackstone—I ask the attention of the learned lawyers:

"We are now to consider the next stage of criminal prosecution, *after* trial and conviction are past, in such crimes and misdemeanors as are either too high or too low to be included within the benefit of clergy; which is that of *judgment*."

What does Blackstone say? Let me ask my learned friend, is there no conviction until there is a judgment, when he says in so many words that the next step in a criminal prosecution, after the trial and after the conviction, is to proceed to pronounce the judgment; and when the court pronounce the judgment of death upon the traitor, that is the attainder, and not till then; but before they pronounce that judgment his goods and chattels are forfeited, and Blackstone goes on to give you the reason for it.

Mr. HALE. Will the Senator allow me?

Mr. DOOLITTLE. Certainly.

Mr. HALE. Suppose there is an exception filed to the verdict, and the court set the verdict aside?

Mr. DOOLITTLE. They may set it aside.

Mr. HALE. But what becomes of his estate then? You say it is forfeited the moment the verdict is rendered.

Mr. DOOLITTLE. The personal property is forfeited. Perhaps, it would set aside the consequences, and restitution would be ordered also, if the conviction should be set aside. Sir, I confess to my friends that I have endeavored to study this question with as earnest a desire as any human being ever had to get hold of the real estate of these traitors, and to hold it by a title that would make it fast. I want no boy's play about it. If I take hold of the estate of traitors, I want the title to it; and I state here frankly, having given to it all the examination of which I am capable, that I have become satisfied that the way to get a title and to hold it is through the taxing power of this Government, to tax it and sell it, because they do not pay their taxes upon it, and make your title to it in that way. Blackstone says:

"Lands are forfeited upon *attainder*, and not before; goods and chattels are forfeited by *conviction*. Because, in many of the cases where goods are forfeited, there never is any attainder, which happens only where judgment of death or outlawry is given; therefore in these cases the forfeiture must be upon conviction, or not at all; and, being necessarily upon conviction in those, it is so ordered in all other cases, for the law loves uniformity."

There is another great difference between forfeiture of lands and of personal property. The forfeiture of lands at the common law has relation back to the time when the act was committed; not so as to personal property. The forfeiture of personal property is upon the conviction, and any act over the personal property done by the traitor before the moment of his conviction, is valid. It is not so as to real estate. If he has even sold his real estate to a *bona fide* purchaser, when the conviction of treason takes place, it relates back to the act of treason, and avoids all intervening titles; sweeps them all by the board. There is another distinction between the effect of an attainder and the effect of a conviction.

Our fathers, when they made the Constitution, understood the law of England, and had reference to the law of England, and they knew what they meant by the words which they employed. They did not say that personal property should not be confiscated upon conviction; but they have said that no attainder of treason, which is the sentence of the law pronounced upon a traitor, the judgment of death or of outlawry, that no such judgment pronounced upon a traitor shall either corrupt his blood so that he cannot inherit, or that his children may not inherit, or shall forfeit his estate. The forfeiture is an entirely distinct thing from the corruption of the blood. The forfeiture of estate is the consequence which follows to his own property, that over which he has control, power of disposition, by the judgment of outlawry or of death.

Mr. President, I have not myself the slightest doubt that under the Constitution of the United States we have the power absolute over the personal property of a traitor; but when it comes to the question of his real estate, as the Constitution declares what punishment we may inflict, and in the same sentence declares what punishment we shall not inflict upon the traitor, I do not see how you can go beyond or around it.

No man can be a traitor in this country without making war upon the Government. The Constitution says so in so many words. Treason consists only in levying war against the Government, or in aiding or giving comfort to the enemies who do make war upon it. A traitor, therefore, must of necessity be at war with this Government, and your Constitution steps in and declares just what you may do with him. You may declare the punishment of treason, but one thing you shall not do: by attainder of treason you shall not take away his estate beyond his life. You may imprison, hang, draw and quarter, if you please, banish him; and I would banish the ringleaders, after hanging enough of them, to some penal colony. You may do all that; you may take their property so long as they live, their real estate by judgment of treason against them, or outlawry; but one thing you cannot do, take it from their wives and children after they are dead.

Mr. HALE. Will the Senator allow me to ask him a question, and I ask it in good faith? I do not like the habit of interrupting men, but I ask for information—where does the Senator get the distinction, under our Constitution, between the forfeiture of personalty and of real estate?

Mr. DOOLITTLE. The Constitution speaks of the attainder of treason, which is the judgment pronounced after trial and conviction of treason, and declares that no attainder of treason shall work forfeiture of estate beyond the life of the person attainted. Does not the honorable Senator from New Hampshire know that the forfeiture of a life estate in personal property is the forfeiture of the whole estate, that at the common law the sale of a life estate in personal property is the sale of the absolute property? It is only lately, under those powers which have been given in making dispositions of personal property by will or by settlement, that the new doctrine has crept in that there may be a life estate in personal property at all. Forfeiture for life is the forfeiture of the absolute estate of personal property. Not so with real estate; and it is precisely on this ground that I base the distinction. By your attainder of treason you may imprison a man for life and take all his property for life. If you take his personal property for life, that takes it absolutely. You may take his real estate for life; but when he is dead it goes to his heirs.

I do not desire to take up the time of the Senate in discussing this question at length. What I want is, if we undertake to take the property of these rebels, to take their real estate in such a way that we can hold it and sell it, dispose of it.

Mr. WILSON, of Massachusetts. Allow me to ask the Senator what is his objection to taking the real estate during the life of the traitor.

Mr. DOOLITTLE. That would be perfectly constitutional.

Mr. HALE. I cannot say, as the Senator from Wisconsin has said, which I do not doubt, that I have examined this subject with a good deal of care and given a good deal of attention to it. I have not; I only speak from what my impressions are; but I think the Senator has advanced one distinction which he cannot maintain and which is not warranted by any authority and cannot be made to be the result of ever so much study.

Mr. COWAN. Will the Senator from New Hampshire allow me a word?

Mr. HALE. Yes.

Mr. COWAN. Upon a conviction for treason, *eo instanti*, the personal goods and chattels were forfeited, and upon an attainder, or judgment in treason, the lands were forfeited. Now it might happen very well——

Mr. HALE. I thought the Senator wanted to ask me a question.

Mr. COWAN. If the gentleman is restive, I will yield.

Mr. HALE. Oh no; go on.

Mr. COWAN. It might happen that goods and chattels were forfeited, and that there was not anything else. The Constitution forbids a forfeiture upon attainder; but it does not forbid a forfeiture upon conviction. Therefore there might, perhaps, be a forfeiture of goods and chattels absolutely, and yet no forfeiture of lands, tenements, or hereditaments.

Mr. HALE. The Senator from Wisconsin and the Senator from Pennsylvania seem to have the same notion. Now, I do not pretend to a great deal of law; I never expect to be a judge of the Supreme Court or of any other court; I hope there is no such fate in store for me; and I should be willing to have corruption of blood worked upon me so that none of my heirs ever could be. [Laughter.] The idea that the term "conviction" means the rendering of the verdict, is the idea which the Senator from Wisconsin seems to have, and so does the Senator from Pennsylvania; and a very learned friend of mine has made the same suggestion to me privately, that the rendering of the verdict is the conviction that is spoken of. I confess that I cannot well conceive of a more absurd proposition, because the rendering of a verdict means nothing; it is no judgment; it is no conviction; it is nothing but the finding of twelve men upon their oaths that a certain state of facts exists, and it is of no avail until the judgment of the court has followed upon it. An argument has been attempted to be sustained because the judge, or the clerk speaking for the judge, says to the criminal: "listen to the sentence of the crime whereof you have been convicted." How convicted? By the rendering of the verdict? Not at all; but the court have considered it, the court have determined to enter judgment upon it, and it is the mind of the court rendering this verdict efficient and giving it force that is the conviction.

Suppose a verdict is rendered and exception is taken to it, where is that verdict then? Has it any force? The court say, "we will consider that;" the exception is noted agreeably to the rules of the court; the court take time; it may be a week, it may be a month; and finally they determine that the verdict was illegally rendered. According to the judgment of these gentlemen, that verdict, illegally rendered and contrary to law and without any effect, has forfeited the traitor's estate. That

cannot be so. Again: suppose a verdict is rendered, and the counsel for the prisoner thinks the verdict is illegal, and so illegal on the face of it that judgment may be arrested, and he makes a motion in arrest of judgment.

Mr. DOOLITTLE. Will my honorable friend allow me to interrupt him? I am a very humble lawyer myself, and therefore I desire to stand on authority when the honorable Senator from New Hampshire takes a position against me, and I beg to read a sentence or two bearing on this point.

Mr. HALE. What is the book?

Mr. DOOLITTLE. Blackstone.

Mr. HALE. Is it text or commentary?

Mr. DOOLITTLE. I believe it is the commentary itself. Perhaps I may be struggling as the young lawyer struggled with the justice, whose prejudices were so strongly set against him that he was determined not to hear.

Mr. HALE. No, I will hear.

Mr. DOOLITTLE. He said to the justice that, as he did not desire to make a speech himself, he could read from authority. The justice shook his head, and said, "No, sir; my mind is made up against you." "Your honor," said he, "I had no hope of being able to convince you by anything I should say myself; but I desired to read an extract or two from Blackstone, just to show you what an old fool Blackstone was." [Laughter.] Blackstone says this, speaking of judgment and its consequences:

"We are now to consider the next stage of criminal prosecution, after trial and conviction are past, in such crimes and misdemeanors as are either too high or too low to be included within the benefit of clergy, which is that of *judgment.*"

After the trial and conviction are past, the next stage in criminal proceedings is what Blackstone proposes to consider, which is the judgment. Again, he says:

"When sentence of death, the most terrible and highest judgment in the laws of England, is pronounced, the immediate, inseparable consequence, by the common law, is *attainder.* For when it is now clear beyond all dispute that the criminal is no longer fit to live upon this earth, but is to be exterminated as a monster and a bane to human society, the law sets a note of infamy upon him, puts him out of its protection, and takes no further care of him than barely to see him executed. He is then called attaint, *attinctus*, stained or blackened. He is no longer of any credit or reputation; he cannot be a witness in any court, neither is he capable of performing the functions of another man; for, by an anticipation of his punishment, he is already dead in law. This is after *judgment;* for there is great difference between a man *convicted* and *attainted;* though they are frequently, through inaccuracy, confounded together. After conviction only a man is liable to none of these disabilities, for there is still, in contemplation of law, a possibility of his innocence.

"Something may be offered in arrest of judgment; the indictment may be erroneous, which will render his guilt uncertain, and thereupon the present conviction may be quashed; he may obtain a pardon, or be allowed the benefit of clergy; both which suppose some latent sparks of merit, which plead in extenuation of his fault. But when judgment is once pronounced, both law and fact conspire to prove him completely guilty; and there is not the remotest possibility left of anything to be said in his favor. Upon judgment, therefore, of death, and not before, the attainder of a criminal commences; or upon such circumstances as are equivalent to judgment of death; as judgment of outlawry on a capital crime, pronounced for absconding or fleeing from justice, which tacitly confesses the guilt. And, therefore, either upon judgment of outlawry, or of death, for treason or felony, a man shall be said to be attainted."

Now, bear in mind what I before read from Blackstone: "There is a remarkable difference or two between the forfeiture of lands and of goods and chattels. 1. Lands are forfeited upon *attainder*, and not before."

The attainder follows the judgment pronounced, which is a stage in criminal proceedings that takes place after the conviction:

"Goods and chattels are forfeited by *conviction.*"

I agree that the term conviction is very frequently applied to a man that has been tried, convicted, and condemned as a guilty party; but as Blackstone says, it is through inaccuracy that these two terms—conviction and judgment—are confounded. In all legal proceedings where a party is convicted, on the record is the fact of the charge which is made against him, and also the fact found against him——

Mr. HOWARD. Will my friend from Wisconsin allow me to put a question to him on that point? I understand him as asserting that in cases of prosecution for treason, there is a forfeiture of goods and chattels upon conviction merely, and that that forfeiture takes effect in virtue of the conviction and irrespective of the actual attainder, which is the effect of the judgment, though not the judgment. I desire to know if I understand him correctly. It strikes me as being a very great absurdity. I say it with great respect to my friend.

Mr. DOOLITTLE. I do make that distinction between a conviction and a judgment which produces an attainder.

Mr. HOWARD. Do I understand him that a conviction works a forfeiture of goods and chattels without a judgment? That is the question.

Mr. DOOLITTLE. I do say that it works it before the judgment is pronounced.

Mr. HOWARD. That does not answer the question. The question is whether it works it without judgment.

Mr. DOOLITTLE. My friend is getting into some metaphysical questions that do not meet the point between me and the Senator from New Hampshire.

Mr. HOWARD. No.

Mr. DOOLITTLE. I am not to be pushed from the precise point that upon conviction the goods and chattels are forfeited absolutely, but the real estate is not affected at all until the judgment of death or outlawry is pronounced. I desire to read from New York authority also, if my honorable friend will allow me, while we are on this question. I quote from Mr. Wendell's note, (vol. 4, Blackstone's Commentaries, p. 389,) stating the law of New York:

"If a person convicted of treason abscond or conceal himself so that he cannot be apprehended, the court in which the conviction is held may make an order that he appear at the next term to receive judgment, or that judgment of outlawry will be rendered against him. If he make default, judgment of outlawry is entered against him, by which he forfeits to the people of the State *during his lifetime*—but no longer—every *freehold estate or real property* of which he was seized in his own right at the time of the treason committed, or at any time thereafter; and also *forfeits all his goods and chattels.*"

This maintains the same distinction that I have stated.

Mr. HALE. I will not occupy the time of the Senate. I have heard more of estates tail and of black letter law this afternoon than I have before heard since I was a student of law. But the honorable Senator from Wisconsin says he means to hold me to the point.

Mr. DOOLITTLE. No. I said that I was not to be pushed from the point by my friend from Michigan.

Mr. HALE. No matter. The Senator stated a point that I have had no controversy with him about at all, not the slightest; it is a question that I have no more doubt upon than I have as to my own personal identity—I allude to his argument that certain consequences follow a conviction. The point the Senator made at first, and which I controverted, was that the rendering of the verdict was the conviction.

Mr. FESSENDEN. He sticks to that now.

Mr. HALE. Not in his last remarks. I do not, however, wish to occupy the time of the Senate. Though I think this has been a more profitable discussion than we generally have, I do not think it is very profitable at that, and I will not continue it.

Mr. DOOLITTLE. I desire to say one word in relation to voting on this portion of the amendment. There have been presented one or two very important substitutes for this bill: I refer especially to the one presented by the honorable Senator from Vermont, [Mr. COLLAMER.] For myself I do not feel prepared to vote on this question until I have heard the honorable Senator from Vermont speak upon the substitute which he has presented. I deem it very important, and I think it would be preferable for us to hear what gentlemen desire to say upon these various propositions, before we vote to give our preference to any one of them. I will therefore renew the motion for an executive session.

Mr. SUMNER. I hope that will be done.

Mr. HALE. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *April* 23, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

DANISH BARK JORGEN LORENTZEN.

Mr. COX. I would like the unanimous consent of the House to take up a bill which is now in the Committee of the Whole, and put it upon its passage. It is in reference to a Danish bark which was seized by our blockading squadron. At the request of the Secretary of State, my attention has been called to this matter, and for diplomatic reasons, which I do not altogether know, and which I would not state if I knew, this matter may as well be disposed of now as at any time. An award has been made by an eminent merchant of New York for the damage sustained by the seizure of the bark. The money proposed to be appropriated by the bill is only $1,850. It is a Senate bill. It passed the Senate Committee on Foreign Affairs, and was sent to the House. It has passed through our Committee on Foreign Affairs, and the papers show that it is a correct case in every respect. I ask that the bill may be read.

The bill, which was read, directs that there be paid, out of any money in the Treasury not otherwise appropriated, to the order of the proper functionary of the Government of his Majesty the King of Denmark, the sum of $1,850, as full compensation to the owners of the Danish bark Jorgen Lorentzen, or their legal representatives, for damages occasioned by reason of the wrongful seizure and detention of the bark by the Morning Light, a vessel of the United States blockading squadron, in December last, and also as full compensation to the master, mate, and crew of the bark, the sum to be distributed agreeably to the award of Messrs. Moses Taylor and H. Dollner, to whom the claim was referred.

Mr. WASHBURNE. Is there any report accompanying the bill?

Mr. COX. Yes, sir; there is a report printed and laid upon the tables of members. It is Executive Document No. 28.

Mr. WASHBURNE. I call for the reading of the report.

Mr. COX. It is nine pages long. Perhaps it will be sufficient for the Clerk to read the award.

The Clerk read the following:

NEW YORK, *March* 5, 1862.

In the case of the Danish bark Jorgen Lorentzen, seized at sea by the United States ship Morning Light, and sent to New York in charge of a prize crew, the undersigned, Moses Taylor, appointed on the part of the United States, and Horace Dollner, consul of Denmark at New York, appointed on the part of the Danish minister, a commission to assess pecuniary damages, do assess such damages as per statement herewith, as follows:

For damages sustained by vessel and owners.....	$1,500
For damages sustained by the crew and mate, and claimed by the master as their agent.....	350
	$1,850

(The master waives claim on his own part.)

The total amount of damages, and in full settlement of all claims on the part of vessel, owners, officers, and crew, $1,850.

MOSES TAYLOR,
H. DOLLNER,
Commissioners.

Mr. COX. The bark was seized under a misapprehension that she was about running the blockade, and taken into the port of New York. It was there ascertained that the seizure was through a mistake. The master claimed $2,600 damages. The matter was laid before the Secretary of State, and the Secretary of State laid it before the Secretary of the Navy. The Secretary of the Navy, upon examination, found that it originated in a mistake upon the part of our officer, and the subject was referred to Moses Taylor, of New York, and the Danish consul at New York, to assess the damages, and the claim of $2,600 was cut down to $1,850 by the arbitrators. The report shows the different items of claim and the amount allowed on each item.

Mr. WASHBURNE. Has the bill been recommended by the Secretary of the Navy or the Secretary of State?

Mr. COX. It has been recommended by the Secretary of the Navy, the Secretary of State, and by the President of the United States, in a special message.

No objection being made, the Committee of the Whole was discharged from the further consideration of the bill; and it was brought before the House for consideration.

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

Mr. COX moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

BINDING A DOCUMENT.

Mr. COX. The House, I desire to say, ordered the publication of ten thousand copies of the Mexican papers. I am informed by the printer of the House that under the present law, when that number of copies are ordered, they must be bound. I do not think it necessary to bind all of them, and therefore I offer the following resolution:

Resolved, That the printer of the House be directed to bind only two thousand copies of the Mexican papers ordered by the House to be printed.

The resolution was agreed to.

FORTIFICATION OF THE SEA-COAST.

Mr. BLAIR, of Missouri. I ask the unanimous consent of the House to report from the Committee on Military Affairs a bill in reference to the fortification of the sea-coast simply to have it printed.

No objection being made,

Mr. BLAIR, of Missouri, reported a bill authorizing the appointment of a board on fortifications, to provide for the sea-coast and other defenses of the United States, and for other purposes; and moved that it be printed, and its consideration postponed until Friday next.

Mr. LOVEJOY. I object to the day.

Mr. BLAIR, of Missouri. I will move that it be postponed to any day the gentleman will name. It is a very important matter. I will say, postpone it until next Wednesday.

Mr. ELIOT. Say next Tuesday.

Mr. BLAIR, of Missouri. Say Tuesday, then.

The motion to postpone until Tuesday was agreed to; and the bill was ordered to be printed.

LAND GRANT TO CALIFORNIA.

Mr. CRISFIELD. I ask the unanimous consent of the House to report from the Committee on Public Lands a bill to grant to the State of California a tract of land known as the Colorado desert, for the purpose of introducing a sufficient supply of fresh water upon and over the same, together with a report. I am instructed also by the committee to ask that the bill be printed and recommitted to the committee.

No objection being made,

Mr. CRISFIELD reported the said bill, and it was recommitted to the Committee on Public Lands, and ordered to be printed.

ROBERT IRVINE, SR.

On motion of Mr. FENTON,

Ordered, That leave be granted to withdraw from the files of the House the papers of Robert Irvine, sr., upon leaving a copy of the same on file.

BOUNTY TO SOLDIERS.

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

Resolved, That the Committee on Public Lands be, and they are hereby, instructed to inquire into the expediency of giving to every soldier who has served three months or more in the volunteer or regular Army of the United States, during the present war, a bounty of one hundred and sixty acres of land.

CONFISCATION OF REBEL PROPERTY.

Mr. HUTCHINS. I rise to a question of privilege. I want to move to reconsider the vote by which the main question has been ordered upon the bill now pending, introduced by my colleague, [Mr. BINGHAM.]

The SPEAKER. The Chair decides that such a motion is not in order at this time. After the main question has been partly executed a motion to reconsider is not in order.

Mr. BINGHAM. I call for the regular order of business.

The SPEAKER. The regular order of business is the consideration of House bill No. 107, to provide for the capture and condemnation of enemy property, and to indemnify the United States for expenses incurred in the suppression of rebellion. The question is upon the substitute; upon which the main question has been ordered, and the yeas and nays ordered upon its passage.

Mr. MALLORY. I move that there be a call of the House.

The SPEAKER. That motion is not in order at this time, unless the Chair first ascertains, by a count, that there is no quorum present.

Mr. MALLORY. I thought that motion was always in order.

The SPEAKER. The Chair will count the House if it is desired.

Mr. MALLORY. I call for a count.

The SPEAKER counted the House, and announced that there were ninety-nine members present—a quorum.

Mr. SHEFFIELD. I move to lay the bill on the table; and upon that I demand the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 54, nays 49; as follows:

YEAS—Messrs. Allen, Ancona, Joseph Baily, Biddle, Francis P. Blair, Jacob B. Blair, George H. Browne, William G. Brown, Calvert, Casey, Clements, Cox, Crisfield, Crittenden, Diven, Dunlap, Dunn, Goodwin, Granger, Grider, Haight, Hall, Harding, Harrison, Holman, Kerrigan, Law, Leary, Lehman, Mallory, Maynard, Menzies, Justin S. Morrill, Morris, Nixon, Noble, Norton, Olin, Perry, Porter, Price, James S. Rollins, Sheffield, Shiel, Smith, John B. Steele, Stratton, Benjamin F. Thomas, Trimble, Vallandigham, E. P. Walton, Ward, Chilton A. White, and Woodruff—54.

NAYS—Messrs. Aldrich, Arnold, Ashley, Babbitt, Baker, Beaman, Bingham, Samuel S. Blair, Blake, Buffinton, Burnham, Chamberlin, Frederick A. Conkling, Cutler, Davis, Duell, Edwards, Eliot, Fenton, Franchot, Hanchett, Hickman, Hooper, Hutchins, Julian, Francis W. Kellogg, Lansing, Loomis, Lovejoy, McKnight, McPherson, Patton, Pike, Potter, John H. Rice, Riddle, Edward H. Rollins, Sargent, Shanks, Shellabarger, Sloan, Stevens, Trowbridge, Van Valkenburgh, Wall, Washburne, Albert S. White, Wilson, and Windom—49.

So the bill was laid on the table.

During the call—

Mr. HOLMAN stated that Mr. CRAVENS was absent in consequence of indisposition in his family, and that if he were present he would vote in the affirmative upon this motion.

Mr. PERRY stated that Mr. COBB was paired off with Mr. TRIMBLE; that Mr. COBB would have voted "ay" and Mr. TRIMBLE "nay."

Mr. FRANCHOT stated that Mr. WHEELER, of New York, was absent in consequence of sickness.

Mr. VALLANDIGHAM moved to reconsider the vote by which the bill was laid upon the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

At a subsequent period of the day, several gentlemen who were absent when the vote was taken asked permission to record their votes. General permission was given to those who were absent to record their names; whereupon, Messrs. DELAPLAINE, MAY, THOMAS of Maryland, VOORHEES, and WRIGHT voted in the affirmative; and Messrs. FRANK, GOOCH, HUTCHINS, and VAN HORN voted in the negative.

The SPEAKER announced the next business in order to be the consideration of the bill (H. R. No. 106) to facilitate the suppression of the rebellion, and to prevent its return.

The bill was read *in extenso*.

Mr. OLIN. Mr. Speaker, I wish to get the ear of the House to make one suggestion upon this subject. I understand now that the Committee on the Judiciary have been, substantially, unable to agree upon any bill in reference to this subject, and we have had a variety of bills reported back to this House. Some fourteen or fifteen bills in number, I believe.

Mr. THOMAS, of Massachusetts. The gentleman will permit me to correct him. The Committee on the Judiciary have agreed unanimously to report all these bills to the House, with the recommendation that they do not pass, and the chairman of the committee has made that report.

Mr. OLIN. I understand that to be substantially a disagreement upon the subject under consideration before the House. Now, I think the inclination of the House, and perhaps the desire of the country, is that some legislation should be had upon this subject; and I suggest now to the House, if the Committee of the Judiciary cannot agree upon some bill, that this bill and the whole subject in reference to the confiscation of rebel property be referred to a special committee to be appointed by the Chair, say of five in number.

Mr. COLFAX. Seven.

Mr. OLIN. Well, seven; it does not matter about the number. I do not desire to be upon that committee. I have business enough, and more than enough, upon my hands already. But I throw out the suggestion that the Speaker, untrammeled by any considerations, other than the public good, shall appoint such a committee, to which this whole subject shall be referred, and let them consider it carefully, and report to this House, and then let the House act upon such bill as they may report.

Now, it is manifest that we may spend a whole week in disposing of all these various bills that are before the House, and in reference to which, perhaps, no three members of the House can agree, while there are measures before the House of pressing importance that demand instant legislation, and have been demanding it for the last three months.

Mr. DUNN. I believe that the gentleman from New York moved to refer this whole subject of confiscation to a special committee.

Mr. OLIN. My motion is to refer the whole subject to a special committee to be appointed by the Chair.

Mr. DUNN. I have the floor.

Mr. OLIN. Oh, no, you have not.

Mr. DUNN. I thought the gentleman had yielded it.

Mr. OLIN. No; I will yield for the purpose of any suggestion, but I do not resign the floor.

Mr. DUNN. I was very glad indeed to hear the suggestion of the gentleman from New York. This matter of the confiscation of the property of the rebels and as to the course to be pursued towards States in rebellion against the Government is the most difficult question that we have before Congress, and upon the decision which Congress may make upon that subject may depend the great question whether or not this Government shall be restored to its former state of peace and prosperity. I confess, sir, that I have been greatly grieved at the haste which has been manifested by the House to dispose of a matter of such importance; and I congratulate the House and the country that we have just now laid upon the table a bill which would have disgraced the civilization of the age.

Mr. OLIN. Well, Mr. Speaker——

Mr. DUNN. Wait a moment.

Mr. OLIN. Be short, then.

Mr. DUNN. I will be short. It was a bill which "at one fell swoop" was to impoverish some eight millions of people—a bill which was to involve in one common ruin old age and childhood.

Mr. OLIN. I hope my friend will not insist on holding the floor any longer. I wish he would desist, because I do not think the temper of the House is such as to submit to a lecture upon this subject. It is manifest that there is a great variety of sentiment and opinion here in reference to the legal questions involved in these various bills. I have looked at them with some care. I voted to lay the bill of the gentleman from Ohio [Mr. BINGHAM] upon the table, not because, perhaps, some legislation is not necessary upon this subject, but after the most anxious inquiry and examination that I have been able to give to the subject, I can find no warrant in the Constitution for the power he proposed to exercise under that bill, and so believing, I could not vote for a bill of that description. There are men in this House fully competent to examine all the legal aspects that such a question presents, and I hope to see that legal information brought to the consideration of this question.

Now, as to the policy of this measure, whatever my opinions may be upon that subject, I should cheerfully yield them to the greater wisdom of this House. But I may be permitted to suggest to gentlemen who are as desirous, I presume, as I am of supporting the present Administration in crushing this rebellion, suppose that when the President sent ANDREW JOHNSON to Tennessee, as military Governor, he had instructed him to say to the people of that State, "You have been engaged in this rebellion; your lives are forfeited and your property is now justly confiscated; I am instructed by the Government of the United States to say that we mean to execute against you the penalties of the law you have incurred; if you continue to fight us, you may possibly preserve your necks from the halter and your property from confiscation, but if you surrender you are to be hung and your property to be confiscated!" And yet that is substantially the measure which is pressed upon this House in many of these bills of confiscation. Now, this may be wise and politic, but I cannot see the prudence and justice of such a course. Sir, never in the history of the world, where a Government has been disabled from throwing around its citizens the shield of its protection, and where the powers

of the Government have been arrested by men in arms against the Government, where men who would have continued their allegiance to the Government have been compelled to support the rebellion upon pain of death and confiscation of property—never, under such circumstances, has it been proposed that those who have been thus constrained to give in their adhesion to the rebellion should be subjected to the same pains and penalties as those who originated this hellish rebellion. There never was such a system proposed in a legislative assembly since the Christian era.

And now, sir, as I do not desire to be upon the committee, if some gentleman will move that this whole subject be referred to a special committee, to be appointed by the Speaker, I will gladly give way to him to make that motion.

Mr. BINGHAM. I object to his giving way upon any such terms.

Mr. OLIN. I will then make the motion myself, leaving it to the Chair to appoint the committee, with the understanding that I do not desire to be upon the committee.

Mr. COLFAX obtained the floor.

Mr. HICKMAN. I make the point of order that there is nothing now before the House upon which this discussion can take place. The gentleman from New York has not made any motion that can be recognized by the Chair.

The SPEAKER. The Chair would remind the gentleman that House bill No. 106 is before the House, and a motion to refer to a select committee is in order. The Chair understands the gentleman from New York to submit that motion.

Mr. HICKMAN. My point of order is that the motion is not in such a shape that the Chair can take notice of it, or the House take action upon it. The number of the committee is not named.

The SPEAKER. The Chair overrules the point of order.

Mr. OLIN. I modify my motion so as to provide that the committee consist of seven members, to be appointed by the Speaker, and on that I call the previous question.

Mr. COLFAX. Oh, no; I object to that. I had the floor.

The SPEAKER. The Chair understood the gentleman to have yielded the floor, and assigned it to the gentleman from Indiana. The gentleman from New York moves that the bill now pending, and the whole subject to which it relates, be referred to a select committee of seven, to be appointed by the Chair.

Mr. COLFAX. Mr. Speaker, I differ to some extent with the gentleman from New York, [Mr. OLIN,] who made this motion, and with my colleague, [Mr. DUNN,] who made some remarks during the pendency of his speech. I deem it due to myself to state here particularly and frankly what my views are in regard to this proposition, as it is only by the general expression of views that the present conflict as to the confiscation bills can be reconciled. I voted yesterday against recommitting this bill to the Committee on the Judiciary, with instructions to report Senator SHERMAN's bill in its place, not because I was not willing to support Senator SHERMAN's bill, but because that Judiciary Committee had had the matter before them for four months, and were unable to agree upon any bill.

Mr. HICKMAN. I desire the gentleman from Indiana to give me the opportunity of correcting that which has been persistently misrepresented here from day to day, as long as the subject has been before the House. It has already been corrected by my colleague on the Judiciary Committee, [Mr. THOMAS, of Massachusetts.] We *have* agreed. We have reported all these bills back with a recommendation that they be rejected by the House. It will not do, therefore, for gentlemen to say longer that the Judiciary Committee was unable to agree. It was not my will, but it was the action of the committee instructing me so to report; and I desire that the declaration that the Judiciary Committee was unable to agree on any action shall no longer be made.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. HAY, his Secretary, informing the House that the President had approved and signed an act to establish a branch mint of the United States at Denver City, in the Territory of Colorado.

CONFISCATION OF REBEL PROPERTY—AGAIN.

Mr. COLFAX. I do not see that the gentleman from Pennsylvania has changed very materially the point which I made; but I will accept the statement as made by him, that the Judiciary Committee had, after four months' deliberation, agreed to disagree. They agreed, perhaps, as the gentleman says, to make a negative report against all these bills.

Mr. HICKMAN. I desire to correct that again. We did not "agree to disagree." A majority of the committee, thinking it right to make a determination of the matter, instructed me to report to the House all these bills with a recommendation that they shall not pass. Now, sir, that action is certainly legitimate on the part of the committee, and is as much a legitimate action of the committee as if they had reported back a bill with a recommendation that it should pass.

Mr. COLFAX. I am very much obliged for the information which my friend from Pennsylvania has given me, and given to the House. And now, I suppose, that there is no question of fact that a majority of the committee was opposed to any of the pending bills for confiscation.

Mr. HICKMAN. Certainly.

Mr. COLFAX. I take it in this light, then, that the committee could not agree affirmatively in favor of any one of these bills, which is the point I intended to allude to.

Mr. HICKMAN. One single word, which I trust my friend from Indiana will permit me, as this is a matter affecting the committee. There was a majority of the committee opposed to each individual bill. Now, I trust that will be satisfactory. The action of the committee is against each and all of them.

Mr. COLFAX. Then I suppose they were opposed to any other confiscation bill, as they did not report any other bill as a substitute for any of the bills they reported back adversely.

Mr. PORTER. Mr. Speaker——

Mr. COLFAX. I will withdraw every word that I said about the Judiciary Committee, if the members of that committee will only let me go ahead the few minutes I desire to speak. [Laughter.]

Mr. PORTER. The gentleman from Pennsylvania has said that a majority of the Judiciary Committee were opposed to any bill for confiscation. That is not so; but there was not a majority in favor of these bills before the committee, and therefore they reported against all of them.

Mr. BINGHAM. Will my friend from Indiana allow me a word?

Mr. COLFAX. I think this matter gets more and more into a fog the further it progresses; and it convinces me that this measure ought to be referred to some other committee.

Mr. BINGHAM. I only want to suggest to my friend this: if a majority of the committee were in favor of any confiscation bill, how does it happen that a majority of the committee did not report any confiscation bill? They had the power to do it; why did they not do it?

Mr. COLFAX. Mr. Speaker, I have been almost diverted from the few remarks which I intended to make on this subject.

Mr. HICKMAN. Mr. Speaker——

Mr. COLFAX. I must decline to yield further.

Mr. HICKMAN. I thought the gentleman was done.

Mr. COLFAX. No, sir; the gentleman from Pennsylvania has had most of my time so far.

Mr. HICKMAN. I thought that the gentleman had no subject but the Judiciary Committee, and he abandoned that.

Mr. COLFAX. The gentleman from Pennsylvania has had the most of my time so far, and, while regretting that that gentleman is not favorable to a confiscation bill, I now propose to take the balance of my time myself.

The bill that was laid on the table a short time ago would have left the matter in a very indefinite state, as I thought, in scanning its provisions after our adjournment last night. I was in favor of the first section of the bill, which declares that any man who shall hereafter willfully persist in the unholy rebellion against this Government shall be stripped of his property, of his stocks, of his money, and effects. But the second section provides that these proceedings shall be in the United States court, and that that court is to order this property to be sold. And when I recollected the decision of the Supreme Court of the United States made at one time in reference to "property," a decision which helped to inflame the South into demands for "rights" never before recognized, I felt it might possibly decide that the slaves of these rebels were "property," and that then we should be held up before the country and before the world as authorizing the slaves of rebels to be sold, and their proceeds to be paid into the Treasury. I do not myself, as the House knows, regard slaves as property. They are persons "held to labor," to use the language of the Constitution. But I have grave doubts as to what the Supreme Court would decide, and the bill just laid on the table, having been under the previous question, and therefore not amendable, I prefer that we shall ourselves settle this important point indisputably by the details of whatever bill we may pass, and not leave it as a vague question of construction to the courts.

Mr. BINGHAM. Will the gentleman allow me to correct him?

Mr. COLFAX. I must decline to yield. I am willing to authorize the President to extend an amnesty to those of the rank and file of the rebel army who have either been forced into its ranks by conscription and draft, or who were deluded into enrolling themselves under the traitor flag which now floats in the South, on condition that they at once lay down their arms and return to their allegiance. But for those of them who have taken the oath to sustain the Constitution of the United States——

Mr. HICKMAN. I raise the question of order that the gentleman from Indiana is not addressing himself to the question before the House, which is the question of referring this bill to a special committee.

The SPEAKER. The bill before the House is for facilitating the suppression of the rebellion and preventing its return.

Mr. HICKMAN. I understood the gentleman from New York [Mr. OLIN] to submit a motion to refer the bill to a select committee.

The SPEAKER. That leaves the whole subject open to debate.

Mr. HICKMAN. I desire to know how the matter stands.

The SPEAKER. The Chair has stated that a motion to refer a bill leaves the whole subject open to debate.

Mr. HICKMAN. Mr. Speaker——

Mr. COLFAX. Unless the gentleman from Pennsylvania appeals from the decision of the Chair, I must claim my right to the floor.

The SPEAKER. The whole proposition is open to debate.

Mr. COLFAX. I do not object to the point of order raised by the gentleman from Pennsylvania, although I have given way to him two or three times; and he must let me finish my brief remarks without further interruption.

Mr. HICKMAN. I was afraid the gentleman might get on to the Judiciary Committee again.

Mr. COLFAX. No, sir; I do not wish to give way to another interlocutory debate among its members.

I was saying, Mr. Speaker, when interrupted, that the engineers of this rebellion—the Catilines who sat here in the council chambers of the Republic, and who, with the oath on their lips and in their hearts to support the Constitution of the United States, plotted treason at night—as has been shown by papers recovered at Florida, particularly the letter of Mr. Yulee, describing the proceedings of the midnight conclaves of these men to their confederates in the southern States—should be punished by the severest penalties of the law, for they have added to their treason perjury, and are doubly condemned before God and man. Never, in any land, have there been men more guilty and more deserving of the extremest terrors of the law. The murderer takes but a single life, and we call him infamous. But these men wickedly and willfully plunged a peaceful country into the horrors of civil war, and inaugurated a *regime* of assassination and outrage against the Union men in their midst, hanging, plundering, and imprisoning in a manner that throws into the shade the atrocities of the French Revolution. Not content with this, they aimed their blows at the life of the Republic itself; and

on many a battle-field, in a carnival of blood, they sought not only to destroy the Union itself, but to murder its defenders. Plunging into even still darker crimes, they have bayoneted the wounded on the field of carnage, buried the dead that fell into their hands with every possible ignominy, and then, to gloat their revenge, dug up their lifeless remains from the tomb, where even savages would have allowed them to rest, and converted their skulls into drinking cups—a barbarism that would have disgraced the Visigoths of Alaric the barbarian, in the dark ages of the past. The blood of our soldiers cries out from the ground against them. Has not forbearance ceased longer to be a virtue? We were told a year ago that leniency would probably induce them to return to their allegiance, and to cease this unnatural war; and what has been the result? Let the bloody battle-fields of this conflict answer.

When I return home I shall miss many a familiar face that has looked in past years with the beaming eye of friendship upon me. I shall see those who have come home with constitutions broken down by exposure and wounds and disease to linger and to die. I shall see women whom I have met Sabbath after Sabbath leaning on a beloved husband's arm, as they went to the peaceful sanctuary, clothed now in widow's weeds. I shall see orphans destitute, with no one to train their infant steps into paths of usefulness. I shall see the swelling hillock in the grave-yard—where, after life's fitful fever, we shall all be gathered—betokening that there, prematurely cut off by a rifle ball aimed at the life of the Republic, a patriot soldier sleeps. I shall see desolate hearth-stones and anguish and woe on every side. Those of us here who come from Indiana and Illinois know too painfully the sad scenes that will confront us amid the circles of our constituents.

Nor need we ask the cause of all this suffering, the necessity for all these sacrifices. They have been entailed on us as part of the fearful cost of saving our country from destruction. But what a mountain of guilt must rest upon those who, by their efforts to destroy the Government and the Union, have rendered these terrible sacrifices necessary.

Standing here between the living and the dead, we cannot avoid the grave and fearful responsibility devolving on us. The people will ask us when we return to their midst, when our brave soldiers went forth to the battle-field to suffer, to bleed, and to die for their country, what did you civilians in the Halls of Congress do to cripple the power of the rebels whom they confronted at the cannon's mouth? What legislation did you enact to punish those who are responsible, by their perjury and treason, for this suffering, desolation, and death? Did you levy heavy taxes upon us and our property to pay the expenses of a war into which we were unwillingly forced, and allow the men who are the guilty and reckless authors of it to go comparatively free? Did you leave the slaves of these rebels to plant and sow and reap, to till their farms, and thus support their masters and the armies of treason, while they, thus strengthened, met us in the field? Did you require the patriots of the loyal States to give up business, property, home, health, life, and all for the country, and yet hesitate about using the law-making power of the Republic to subject traitors to the penalties as to property and possessions which their crimes deserve? I would feel as if worthy of the severest condemnation for life, if I did not mete out to those who are the cause of all this woe and anguish and death, by the side of which all the vast expenses of the war dwindle into insignificance, the sternest penalties of the law while they still remain in arms in their parricidal endeavor to blot this country from the map of the world.

Why do we hesitate? These men have drawn the sword and thrown away the scabbard. They do not hesitate in punishing Union men within their power. They confiscate their property, and have for a year past, without any of the compunctions that trouble us here. They imprison John M. Botts for silently retaining a lingering love for the Union in his desolate home. They hang Union men in East Tennessee for bridge-burning, refusing them even the sympathy of a chaplain to console their dying hours. They persecute Brownlow because, faithful among the faithless, he refused, almost alone, in his outspoken heroism, to bow the knee to the Baal of their worship. Let us follow his counsel by stripping the leaders of this conspiracy of their possessions and outlawing them hereafter from the high places of honor and of trust they have heretofore enjoyed.

In no other way can we more effectually be felt throughout all the region where treason rears its blackened crest. The loyal Union men of all those regions will see in this legislation, and in the concurrent advance of our armies toward the Gulf, that we have put our hands to the plow, determined not to look back; that we have resolved that every man who raises his hand against the Union shall be punished; that those who remain true to the nation shall be protected; and that the retribution which shall follow the leaders of this rebellion for life, shall be so thorough and severe that no reptile flag of disunion will ever again be reared on the soil of this Republic. And they will at last all realize that the inducement to sympathize with secession (so as to save their property from rebel confiscation, and to claim at the same time Union protection) no longer exists; that the time for this misplaced lenity has expired; that the property of rebels is to be confiscated; and the armies of the Republic sustained thereon in the regions which treason requires them to occupy.

Mercy to traitors, it has been well said, is cruelty to loyal men. I would not imitate their crimes or their barbarity, but I would imitate their resolution. The gentleman from Kentucky nearest me [Mr. GRIDER] told us, a month or two ago, that the rebel army had run off $300,000 worth of slaves of Union men from counties near his residence, and they have confiscated and taken slaves as sweepingly as anything else claimed or held by these men. Their own slaves work on their fortifications, from cannon behind which our soldiers are mercilessly slain; they perform their camp drudgery, thus increasing the power of their army; they raise the produce that feeds their troops, and the crops on the faith of which their scrip is rendered current. If we wish to break the power of the rebellion, let us strike it wherever we can weaken it, and strike it boldly and fearlessly, as the justice of our cause most fully warrants. And let us if there are but fifty or five hundred loyal men in a State resolve that they shall be protected by the whole power of the Government, and clothed with all the advantages hereafter that their unfaltering allegiance during these dark hours so richly merits.

None of the confiscation bills before us are *ex post facto* in their operation. They operate only against those who, having been engaged in this rebellion, continue in arms after this long legislative forbearance. I can vote for nearly any one of them, variant as their provisions are. Any one of them is preferable to none. The Clerk of this House, (Mr. ETHERIDGE,) recently returned from Tennessee, tells us that, in an extensive inquiry, he heard of but a single slaveholder of that State who was a private in the rebel army. This is a striking and significant fact. With that single exception, the slaveholders were either in office, civil or military, or at home. I have no doubt that four fifths of all the slaves held by rebels belong to officers, civil or military, under the rebel government. And we cannot longer doubt that there are thousands upon thousands of men who prefer the Union who have been absolutely forced by threats, by terror, by delusions, or by conscription into the armies of the rebellion.

I am willing, therefore, to go for the bill known as Senator SHERMAN's, which confiscates the property and discharges the slaves of all the leaders of the rebel government; of all who had ever taken an oath to support the Constitution and had violated it, which would include all postmasters, mail contractors, Congressmen, Governors, members of the State Legislature, judges, &c.; of all who have taken an oath of any office of any kind under the rebel authority; and of all officers of the rebel army and navy. As to our manifest, palpable duty as to all these classes, it seems to me there can be no question. Another provision in his bill I favor strongly, which declares that all persons, high and low, officers and privates, who continue in arms against the Union for sixty days after the passage of the act, shall be declared infamous, and shall never hold an office of trust, honor, or profit within the United States. This bill certainly cannot be considered extreme. It runs no hazard of injuring any one whose heart is not callous with treason. It gives the privates all the benefit of a doubt as to the willingness of their enlistment. It makes allegiance to the Union the test, not only of protection under the law, but of official advancement hereafter. It prevents the conspirators of this rebellion from returning to occupy seats here. And I cannot see why a majority cannot unite on this bill, if they cannot on any other more stringent and sweeping in its provisions.

But I am not wedded to the details of any bill. I will very cheerfully support Senator TRUMBULL's bill, now pending in the Senate. I plead only for action. Let our legislation respond to the appeal of Brownlow; and let us not, by a conflict between bills looking to the same end, fail to strike the blow that hundreds of thousands of patriot hearts demand at our hands.

Mr. DUNN. The remarks just made by my colleague [Mr. COLFAX] suggest additional objections to the bill reported by the gentleman from Ohio, [Mr. BINGHAM,] and which the House has just laid upon the table. If the vote had been taken on the bill before our adjournment yesterday, as its friends endeavored to have done, I believe the bill would have passed. A night's reflection has brought the House to a wiser judgment. I am in favor of the motion of the gentleman from New York, [Mr. OLIN,] to refer the whole subject of confiscation and emancipation to a select committee. Let these grave subjects have the deliberate consideration their importance demands. Our action on them may involve the life of the nation. If I represented a Latin State, I would say "*in medio ibis tutissimus;*" but as I am a Representative of a people who speak plain English and fight in plain English, I will say the true policy of our nation is to adopt moderate counsels, and pursue them steadfastly. It is neither good policy for an individual or a nation to insist on extreme rights or extreme measures. We should deliberately consider and wisely adopt those untried measures which the exigencies of the country may make it necessary for us to adopt. But those who bring forward such measures for our action seem disposed to crowd them through under the stringent rules of the House without fair opportunity for debate or amendment. It is but a few days since we passed the bill for the immediate emancipation of the slaves in this District. I struggled, but in vain, to secure for that important measure the deliberate action of this House. I voted for it notwithstanding its imperfections. The President, in returning the bill with his approval, administered to us not an unmerited rebuke for the inadequacy of its provisions.

Now, sir, what is the bill which we have just laid on the table? This is it:

Be it enacted, &c., That if any person or persons, within any State or Territory of the United States, shall willfully, after the taking effect of this act, engage in armed rebellion against the Government of the United States, or shall willfully aid or abet such rebellion, all the property, moneys, stocks, credits, and effects of such person or persons are hereby declared lawful subjects of prize and capture, where ever found, for the indemnity of the United States against the expenses of suppressing such rebellion; and it is hereby made the duty of the President of the United States to cause all such property, wherever found, to be seized, to the end that the same may be confiscated and condemned as hereinafter provided, for the use of the United States.

SEC. 2. *And be it further enacted*, That all property so captured or seized shall be condemned in the district courts of the United States, and that the proceedings of condemnation shall be *in rem*, and shall be instituted and prosecuted in the name of the United States in any district court of the United States within any district in which the same may be seized or situate, or into which the same may be taken and proceedings first instituted, and which proceedings shall conform as nearly as may be to proceedings in prize cases, or to cases of forfeiture arising under the revenue laws; and in all cases the property so seized and condemned, whether real or personal, shall be sold pursuant to such rules as the Secretary of the Treasury may prescribe, and the proceeds deposited in the Treasury of the United States for the sole use of the United States.

SEC. 3. *And be it further enacted*, That the Attorney General or any district attorney of the United States of any district in which the said property or effects may at the time be, or into which the same may be taken, shall institute the proceedings of condemnation as hereinbefore provided.

I will briefly discuss the merits of this bill, although it is defeated, because it is but one of a dozen or more of like character that are ready to rise up out of its ruins, and which may be put under the previous question, and thus prevent either debate or amendment. It makes no discrimination between the leaders of this rebellion and its victims. It gives no day for repentance. The information of the probable passage of the act could not reach

those to be most affected thereby, as all the usual means of transmitting intelligence to the rebel regions are suspended. It is a Draconian law, and the President is ordered to execute it. It matters not how ignorant the soldier in arms against his Government may be, nor under what delusions and prejudices he may have become involved in this insurrection; it matters not that he may have volunteered to serve in the rebel army to avoid being impressed by the "shoulder tappers," acting under the authority of a military despotism—in his absence, without his knowledge, with no opportunity to lay down his arms to escape the penalties of the law, *all* his property is to be "seized," and his wife and his children, his father and his mother, all who may be dependent upon him or his property for subsistence, are to be turned out into the world paupers. *All* his property is to be seized and sold. Not only, if he has them, his houses and his lands, his cotton and his tobacco, his wheat and his corn, his sugar and his rice, his cattle, his swine, his beasts and implements of husbandry, but his household furniture and the very bed on which his wife and children sleep. This bill would take from the family of the soldier the cow that gave them milk, the meal from their tray, and the meat from their barrel. It would seize and sell the bed on which dependent, trembling age rests itself, and the covering that keeps warm the infant sleeping in its cradle. The widow dependent upon a rebel son, the orphan sister dependent upon a rebel brother, the aged and the young, the sick, the halt, the lame, the lunatic, the imbecile—all ages, sexes, and conditions are to be involved in this common ruin. We would strip the rebels and their families of all their property, deprive them of food, and turn them out naked into the world, a nation of paupers, and we profess to be a Christian nation, and ours claims to be a parental Government, and this is our grand scheme of pacification! Was ever such a proposition made before in the councils of a civilized nation? In the name of our common humanity, which it should be our effort to elevate and bind together by kindliest sympathies; in the name of my country, whose fair record is darkened by no such statute, and in the name of Christianity, which teaches us to forgive as we hope to be forgiven, I thank Him who tempers justice with mercy, that this House has defeated a bill so cruel and disgraceful in its provisions.

Sir, I am for punishing with red hot vengeance, the authors, promoters, and leaders of this wicked and unprovoked rebellion. I would "smite them hip and thigh," in the name of the Lord. They have lifted their parricidal hands against a just and beneficent Government. They have deceived, misled, intimidated, and forced the people of the South into rebellion. They have filled all parts of our once happy country with lamentation and mourning. The desolate homes, the widows and orphans, made so by these wicked conspirators, and the memory of my many friends slaughtered in nobly defending their country, so fill my heart that I cannot now consider our vast public debt and increasing expenditures as among the calamities of the war. The men who brought these calamities upon our country must not escape punishment. Theirs is a crime not only against their country, but against humanity. Grievous is their crime, and grievously let it be punished. But, sir, I want a discrimination to be made in our legislation between the men who have brought about this rebellion and the masses of the people who have been involved in it. Seize, if you can, the perjured traitors who sat in the Cabinet councils of the late Administration while secretly plotting the overthrow of the Government they were under oath to support. Seize those Senators who, in the other end of this Capitol, took counsel together how they might promote rebellion, and lingered in their seats only that they might prevent all legislation needful to aid the then incoming Administration to suppress the rebellion. Seize those who sat with us in this Hall in the last Congress, and here boldly threatened treason, not only in our presence, but in the presence of an applauding auditory crowding these galleries. By their speeches in this Hall they filled the southern mind with falsehoods, educated it to treason, and fired it to rebellion. Seize the late officers of our Army and Navy, who, educated and sustained by the liberality of our Government, in the hour of its need turned their ungrateful and treacherous hands against it. Seize all who have ever taken an official oath to support the Constitution of the United States and who are now in rebellion against it. Seize all who have sat in their State secession conventions and legislative bodies. Seize the members of their pretended congress. Seize the great pretender himself, Jefferson Davis, and all who hold military or civil authority under his usurpation. Seize the leaders and promoters of a disloyal public sentiment at the South, whether in the church or the State, and punish them and all the classes I have named, so that this rebellion shall stand alone in history, no one ever daring to enter upon an imitation of so base and hazardous an experiment.

But, sir, I draw a broad distinction between the guilt of those who have dragged the people of the South into this rebellion, and the people who, to a great extent, have been the victims of misrepresentation, fraud, and violence. And this House should draw that distinction broadly in its legislation for the punishment of rebels. I liked that feature of the amendment proposed yesterday by my colleague, [Mr. PORTER.] He very truly remarked that such a discrimination would tend to divide southern counsels and distract their army. Let us show to the rebels with muskets on their shoulders that a way of reconciliation is open to them. Let them understand that they can have peace if they will lay down their arms of rebellion, and they will soon understand that their military and civil leaders are carrying on the war on private account. When this becomes generally understood among the private soldiers, we may expect to see the southern army melting like snow in the summer heat. But, sir, the classification in the amendment of my colleague [Mr. PORTER] does not embrace all the classes of men of leading position and influence who should be held to a higher responsibility for their pernicious influence in bringing on and sustaining this rebellion. I would further designate as worthy subjects of distinguished punishment the editors of newspapers, who daily or weekly have been issuing their sheets filled with falsehoods to prejudice the minds and mislead the judgments of their readers. And I would still further designate as worthy of severe punishment the preachers of the Gospel who have prostituted their high positions to deceive and mislead a confiding people. There are hundreds of such cases. One such occurs to me now, and as an example of the pernicious teachings of one of these apostles of treason I read an extract from a fast day sermon preached in Richmond, Virginia, in January last, by Rev. Thomas V. Moore, D. D., a pastor of one of the Presbyterian churches in that city. The Doctor declares:

"Never since the terrible scenes of La Vendée, under the ravaging hordes of republican France, has the old heathen war cry, *Ve victis!* (woe to the conquered!) been more unmistakably sounded by an army of invaders. Let this tremendous crusade become successful, either by mismanagement in the army, or cowardice and greediness at home, and history furnishes no page so dark and bloody as that which would record the result. Our best and bravest men would be slaughtered like bullocks in the shambles; our wives and daughters dishonored before our eyes; our cities sacked, our fields laid waste, our homes pillaged and burned, our property, which we are perhaps selfishly hoarding, wrested from us by fines and confiscations, our grand old Commonwealth degraded from her proud historic place of ancient dominion, to be the vassal province of a huge central despotism, which, having wasted her with fire and sword, would compel her by military force to pay the enormous expense of her own subjugation, or, in default of this, parcel out her broad lands to insulting emigrants as a feudal reward for the rapine and murder of this new Norman conquest, while the owners of these lands must either remain as cowering factors for insolent conquerors and oppressive lords, or wander as penniless and hopeless fugitives in a land of strangers."

Here is a beloved pastor standing before a confiding people, and telling them that "history furnishes no page so dark and bloody as that which would record the result" if our arms were successful in subduing the South; that their "best and bravest men would be slaughtered like bullocks in the shambles; their wives and daughters dishonored before their eyes; their cities sacked; their fields laid waste; their homes pillaged and burned," &c.

Now, if the men in his congregation believed what their beloved and eloquent pastor told them, they were cowards and poltroons if they did not rush to arms. And why should they not believe him? Dr. Moore is a northern man by birth, a native of Pennsylvania, educated in his collegiate and theological course at the North, married to his first wife at the North, settled as a pastor of a church at the North, until his eminent talents caused him to be invited to the rich and cultivated city of Richmond to take pastoral charge of one of its largest and most influential congregations. Why should not those men of the South believe this northern man, this preacher of the Gospel, when from the sacred desk he told them that the northern people were barbarians? And yet he, under the provisions of the bill under consideration, is only to suffer a common fate with, it may be, the young men who, believing his statements and fired by his eloquence, have taken up arms against their Government, supposing they were in the noble line of patriotic duty. I knew Mr. Moore well when he was a student at a college in Indiana, and loved him much, and still love him so much that I hope he may soon find a place in Fort Warren, where he will be preserved from further danger for a while at least.

But, sir, how nobly have our gallant soldiery vindicated themselves from the charges of Rev. Dr. Moore. Was there ever a war in which private property was better protected by an invading army, or non-combatants in an enemy's country subjected to less annoyance. Our Government has endeavored to conduct this war on the established principles of civilized warfare, and to prevent it from degenerating into a system of guerrilla strife and robbery, which appears to be a favorite system with the southern chivalry.

Mr. Speaker, what I most earnestly desire is that we, the Representatives of the people of this nation, may be enabled to discharge the high duties devolved so unexpectedly upon us like men aware of their high responsibility to more than thirty millions of people to the present and future generations. If we act under a proper sense of our responsibilities, we will endeavor to know what we are doing, and do it wisely. We had better do nothing than do an unwise thing.

I have sometimes thought, Mr. Speaker, that some of the measures introduced and advocated here indicated that their advocates did not desire to see us again a united people. I know that when this rebellion broke out, some persons in the country, of great influence over public opinion, advised that we should "let the South go" and acknowledge the independence of the southern confederacy. A just public sentiment compelled them to cease publicly to advocate the "let them go" policy, but I sometimes think the same persons are endeavoring to accomplish the same purpose by urging Congress to adopt a policy that will render a reunion impossible. At any rate, many of the bills presented here would, if enacted, make a reunion extremely difficult.

But, say gentlemen, the secessionists have stripped Union men of their property, and why shall we not deprive them of theirs? We shall soon arrive at a very low state of morals if we set out to retaliate in kind all the practices of the secessionists. Shall we perjure ourselves because nearly all the rebel leaders have notoriously violated their solemn oaths? They have treated our prisoners with barbarity, scalped our wounded, mutilated our dead, buried them with indignity, made drinking cups of the skulls of our hero martyrs, and pipes and trinkets of their bones. Shall we imitate their savage examples? If you do like the rebels, you will be base like them. Except your righteousness shall exceed the righteousness of the Scribes and the Pharisees, wherein are you better than they?

I would not propose the example of the usurper Davis or any of his associates as worthy of imitation by any honest or honorable man. When I seek for examples worthy of my imitation, or that of others, I will seek for them in the annals of the good, the patriotic, the great; or I would turn to that Book of books which is ever "a lamp to our feet and a light unto our path." What a noble instance of forbearance to a prostrate foe is given us by David, when Saul lay asleep at his feet, in the cave in the wilderness of Engedi. Did he slay him? No; he spared him; and when Saul was told by David how he had spared his life, "he lifted up his voice and wept," and said to David, "Thou art more righteous than I; for thou hast rewarded me good, whereas I have rewarded thee evil." That was a revenge worthy of the chosen king of Israel, and such an example of that forbearance which is often far better than severity, as is worthy of imitation by a Christian people.

This war is upsetting a good many old ideas, and is establishing some new ones. An old idea it has effectually demolished is that of southern chivalry, and one it has established is that of the superior civilization of the free States.

My colleague [Mr. COLFAX] has suggested that under the provisions of this bill slaves may be seized and sold as other property, and of course the price of their blood brought into the Treasury of the nation.

Mr. BINGHAM. With the gentleman's permission, I will ask him a question. I want to know whether the word property is not used in the Constitution as it is used in this bill? Is it not so used in the forfeiture statute touching the revenue laws? Is it not so used in the prize laws? Any court of the United States, under those laws, authorizes the forfeiture and sale of property.

Mr. DUNN. I believe the Supreme Court has decided something of that kind; but as I am not upon the Judiciary Committee, I will not undertake to say how that is.

Mr. COLFAX. My colleague did not exactly state my position. I stated that by the first section we forfeited all their property; that by the second section we declared the proceedings to be in the United States courts, and that under their orders the property should be sold. I stated that the courts might, though I do not believe they will, decide that slaves are property; that they decided very much in that way in the Dred Scott case; and not being willing to intrust them with that decision, and fearing that they might decide so, I was not willing to put myself in the position of being arraigned for voting for a bill having such an effect.

Mr. BINGHAM. I ask the gentleman from Indiana [Mr. DUNN] to answer himself the question whether that which is property under the Constitution cannot be held everywhere in every State under the Federal law, in spite of every State constitution?

Mr. DUNN. I think the House will agree that the Supreme Court has decided this question, and decided it very much as stated. If the question were decided as indicated in the Dred Scott case, it would be decided that slaves were property, and men, women, and children would be sold and bought under process of the court. I do not believe that decision was right.

Mr. BINGHAM. I supposed not.

Mr. DUNN. I am not willing to trust the court in relation to this question of slavery, because very much of the trouble in which we are now involved may be attributed to the fact that we had a pro-slavery judiciary. The Supreme Court of the United States, in giving the intimations they did in the Dred Scott case, brought the great weight of their authority to bear upon public opinion on the side of slavery. The weight of that authority was at the time very great, though subsequently it was not so great. If they had not brought the force of that authority to bear upon public sentiment, we might not have had the trouble we have to-day. They informed the people of the South that the North was endeavoring to invade their rights; and we in Indiana had to strike for the rights of free labor and free soil through the shield of the Supreme Court, and we struck manfully and struck to the death.

Mr. COX. I desire to say that it has been decided by the Supreme Court that execution goes out of United States courts against property which the laws of a State regard as property.

Mr. DUNN. We are wandering from the subject before the House.

Mr. MALLORY. I desire to state to my friend that in the State of Kentucky, under process of United States courts, slaves have been sold to satisfy claims of the United States in that State, and that the money was put into the United States Treasury.

Mr. BINGHAM. Will my friend be good enough to tell me where that decision is?

Mr. MALLORY. I did not refer to a decision; I referred to facts which have occurred in the history of the United States more than once.

Mr. DUNN. I cannot consent to have this cross discussion during my remarks. What I desire is this: I want to call this House to a halt upon this great measure. I want consideration; I want deliberation; I want discussion. I am opposed to bringing in a bill of so much importance and pressing it straight through. Gentlemen may say that we have had an opportunity to examine this bill. That may be so; but we have so much other business that we cannot always examine bills when we would like to. I like many of the features of the bill introduced into the Senate by the Senator from Ohio, [Mr. SHERMAN.] I like the discrimination which it makes between the deluded people and those who deluded them. I want the men who wear stars and eagles and shoulder straps, men who are called *honorable* in their sham confederacy, and every man that has sworn to support the constitution of their usurpation, to be put beyond the pale of repentance and mercy—I will not say repentance, but mercy.

Mr. LOVEJOY. I want to say to the gentleman that it is hardly in accordance with Scripture to put a man beyond the pale of *repentance*. [Laughter.]

Mr. DUNN. I have already so qualified my too hasty remark, and I will qualify it still further by saying for them what I would say for the worst criminal, that I do not want them put beyond the pale of mercy, but I want them to have to look to the next world for it.

The bill introduced into the Senate by the distinguished Senator from Vermont, [Mr. COLLAMER,] has much in it worthy of the favorable consideration of this House. If time and deliberation are given to this matter, some measure that will be proper and useful can certainly be devised.

Ever since the unhappy controversy commenced that now distracts our country, and has arrayed its sections into hostile armies, I have made it my purpose to follow after the things that make for peace. Peace could not be secured by compromise, because the rebels wanted none. They wanted an independent government. They might possibly have been satisfied by the abject submission of the North to their will and policy. This, of course, could not be granted. Now we are at war, and there is no way left but to fight it out. On with the armies, then, and let might and the God of battles settle the right. I have no doubts about the result. The rebels will be vanquished, will be subjugated to the just authority of their Government. It will be time enough for us then to lay upon their shoulders the weightiest share possible of the heavy burdens their iniquitous rebellion has caused. In the mean time let us not, by any too violent legislation, throw any difficulties in the way of securing peace. My heart's desire is to see our people reunited in fraternal bonds as they were in the days of our fathers, and the great energies of this nation, now devoted to mutual destruction, restored to those peaceful pursuits in which our conquests were rapidly making us the greatest Power on the globe.

I shall never forget the impression of the greatness of my country, made on my mind the first day I took my seat in this House, as I listened to the roll-call of the States and Territories. Commencing in Maine, first answered the Representatives of the people of New England, so distinguished for their education, their enterprise, their commerce, and their manufactures; next answered New York, an empire herself, through her thirty-three Representatives; and then Pennsylvania, the keystone of the Federal arch; and then, sweeping down the Atlantic coast, came the answers from that land of sunshine and flowers, where the cotton-bloom whitens their broad acres, and where grow the sugar cane and rice. Then came the roll-call up the great valley of the Mississippi, and from that valley and the valleys of all its tributaries, extending from the Gulf of Mexico to the northern lakes, were heard the responses of the Representatives of the people of great States and Territories; but still the roll-call proceeded, and bounding over the Rocky mountains, called upon the States on the Pacific coast, and they answered through the Representatives of California and Oregon. Again there was a call, and the Delegate from far-off Washington Territory answered the summons. Around me sat the Representatives of all the great material interests of our country; of the hardy seamen who spread their sails on every ocean, of the cotton and woolen manufacturers, of the cunning workmen in brass and iron, of the great railroad interests, of the agricultural products, of the cattle on a thousand hills, and of the mines of iron, gold, and silver in our mountains. On my right sat a Representative who, in his home at midsummer was chilled by the cold winds of the north, and on my left one around whose southern home the flowers bloomed throughout the year. Here sat another, from our farthest eastern coast, who looked upon the sun as he rose fresh from the Atlantic to run his daily course, and there another, who looked upon that sun as his daily journey run, he gathered the robes of evening around him and sunk to rest in the bosom of the Pacific. What a country! How great in extent! How vast in its resources; what a variety of soil, climate, and production! This was my country; this is my country, and if any poor efforts or sacrifices of mine can secure so great a blessing, this, undiminished of its territory and power, shall be my country, and the country of my children, and of my children's children to remotest generations.

Mr. BINGHAM. Nothing could have amazed me more than the extraordinary speech of the gentleman from Indiana, [Mr. DUNN.] I ask the gentleman to say himself what objection he has to this bill, and not fall back upon a decision in the case of Dred Scott, which he cites and repudiates and scorns in the same breath. This bill, just rejected by the gentleman and his new associates, simply provides for the seizure and condemnation of all property of armed rebels, their aiders and abettors, as an indemnity to the United States for the expenses of this wicked rebellion. The gentleman, with the magisterial air of a Sir Oracle, declares that such legislation is a disgrace to the age—and therefore he rejects it, as if all of patriotism, all of honor, and all of manhood inhere alone in those gentlemen who tremble with fear lest men who are engaged in ARMED REBELLION against the Government and its laws should be punished as their crimes deserve. When the gentleman thus denounces the bill let him give reasons which he accepts, and not skulk behind the decisions of some of the judges, which he repudiates. Surely when the gentleman thus denounces the bill, he should furnish a better reason for his denunciation than to cite the Dred Scott decision.

Mr. DUNN. I wish the gentleman who uses the word "skulk" to understand that I skulk nowhere. I do not base my denunciation of this bill upon the decisions of the Supreme Court, or upon the point made by the gentleman from Indiana, [Mr. COLFAX.] I base them upon the language of the first section, which says that *all* property shall be taken from every man. That is the foundation of my denunciation.

Mr. BINGHAM. The gentleman is very tender over the word "skulk," and he ought to have been more tender over the word "disgrace."

Mr. DUNN. I hold to that word.

Mr. BINGHAM. Then I hold to the word "skulk." I beg leave to remind the gentleman that the bill does not provide that "all property shall be taken from every man." What I want of the gentleman is that he should say for himself whether he believes that men are property under the Federal Constitution and laws, and whether he believes that this bill authorizes the seizure and sale of human beings as property, and the payment of the proceeds thereof into the Treasury.

Mr. DUNN. If the gentleman will allow me the opportunity——

Mr. BINGHAM. The gentleman has had an opportunity already; but I will yield, as I desire to do justice.

Mr. DUNN. I am free to say that I do not myself believe any human being can be regarded as property under the Constitution of the United States. Yet I do not know that the courts will not decide that they are; for we know that the court in the Dred Scott decision indicated that they were, and in accordance with that is the statement of the gentleman from Kentucky [Mr. MALLORY] that slaves have been sold under process from the United States courts in Kentucky.

Mr. BINGHAM. That is a singular dodge again. And the gentleman will allow me to say that I do not use that word offensively towards him or towards the gentleman from Kentucky. The question raised by me to-day was, not whether slaves had been seized under execution, and, as property under State laws, sold; but the point I made distinctly was that, under the law of the Federal Government declaring that "property" might be seized and condemned for the use of the United States, it had never been held or intimated

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. FRIDAY, APRIL 25, 1862. NEW SERIES.....No. 113.

that *men* could be seized and condemned as *property* for public use. I stand by that assertion.

Mr. MALLORY. Will the gentleman permit me to ask him one question? I wish the gentleman to state, before he proceeds further, whether he does not know that where the laws of the United States speak of property, the courts of Ohio, in their action upon those laws, will determine anything to be property which is fixed and decided as property within the limits of the State where the court operates?

Mr. BINGHAM. I know no such thing as that where the Federal law authorizes the seizure and sale of "property," the courts of Ohio will determine that men are property, neither does the gentleman from Kentucky know any such thing; and I challenge him to bring forward any Federal decision which decided that any Federal law authorizing the seizure and condemnation of "property," real and personal, for the public use authorized the seizure and sale by the Government of the United States of *human beings*. There is no decision of that sort, and there never was. Such a decision would sear the eye-balls of the judge who should make it. I agree to what the gentleman says, that slaves may have been taken in execution as property under State laws. That is not the question here. This bill does not provide for seizure and sale by execution; it provides that "all property" of those who engage in armed rebellion against the Government of the United States shall be lawful subject of prize, capture, and condemnation in the courts, and upon such condemnation, to sale, under rules to be prescribed by the Treasury Department, as in cases of forfeitures under the revenue laws. Such a law the gentleman from Indiana *fears* will be construed to mean not *property*, but *men*—not that property shall be so seized and sold, but that *men* shall be so seized and sold.

Mr. Speaker, I beg leave to inquire do not gentlemen know that forfeitures, condemnations, and sales, under the revenue laws of the United States, of "all goods, wares, and merchandise," imported in fraud of the revenue laws, have been in force ever since we have had a Government? Do not gentlemen know that the importation of slaves in violation of the act of 2d March, 1807, which took effect on the first day, and the first hour of the year 1808, and which is still in force, provides that every ship so employed, together with her tackle, apparel, and furniture, and the "goods or effects which shall be found on board the same, shall be forfeited to the use of the United States?" Now, sir, does any gentleman here pretend to say that in any instance, or at any time, or in any place, the Federal courts ever intimated that such slaves as were found on board of such vessel, and which was condemned as importing, either in violation of our revenue laws or in violation of the act of 1807, were liable to be taken and sold under either act for the use of the United States, and the proceeds thereof put into your Treasury? There is no such decision; there has been no such sale under either law. How comes it that slaves found on board these vessels never were held to be of the "goods and effects" to be forfeited to the use of the Government? But the gentleman insists that the courts may construe the word "property" in this bill to include *men*. Has the gentleman duly considered the effects and consequences of such a decision? Sir, the effect of such a decision would be to nationalize slavery, to legalize it upon every rood of the Republic, to overthrow the constitution of every free State which declares that slavery or involuntary servitude, except as punishment for crime upon due conviction, is forever prohibited within its limits, and to put that "property" in men like all other "property," under the shield of the Constitution of the Federal Government. I stand here to say that that which is "property" under the Federal Constitution and laws, is everywhere property within the Union, and that its owner cannot be deprived of it within any State, or excluded from its just enjoyment within any State, unless he forfeits it by crime.

Let me illustrate the truth of this. Horses are "property" within the meaning of that term, as used in the Federal Constitution; and I assert, that inasmuch as they are property within the meaning of that term in the Federal Constitution, and inasmuch as the privilege of the enjoyment of whatever is "property" under the Federal Constitution is guarantied to the citizens of the United States, no State in this Union can say, by its fundamental law, or by its statute laws, to the venerable gentleman from Kentucky [Mr. CRITTENDEN] that he shall not bring that property within its limits, and enjoy its use; or, that if he does so bring such property, he shall thereby be deprived of it by forfeiture. There is no question about it. Every citizen of the United States has the right to hold and enjoy whatever he owns as "property" under the Federal Constitution in every State and Territory of the Republic. No man can doubt the truth of that proposition. I beg leave to remind gentlemen of the words of one of the supreme judges in a great case, that the Constitution of the United States never operates upon slaves as "property," but always as persons. It is not improper that I should take some further notice of the gentleman's remark that if the bill should pass, he feared what the Supreme Court might do. I regret as much as any man can regret that the venerable Chief Justice of the United States, full of years and full of honors, having done much in his day and generation to shed luster upon the history of his country, borne down by the infirmities of age, when his eye had grown dim with years, when his perceptions had become blunted by the decay always attendant upon that extreme age to which he had attained, and which is beyond the ordinary period allotted to man, when the grasshopper had become a burden, forgot his own brilliant record spread out in characters of living light in the reports of the highest judicial tribunal which he had so long adorned, and took a step backward. Something, sir, may be pardoned to an intellect shattered by age and darkened by the approaching shadows of the grave. I am willing to forgive, and would, if I could, forget, his error of judgment. At all events, sir, I will not, like the gentleman from Indiana, cite his erroneous and unjust decision only to cast unnecessary reproach upon him, and make it the excuse, the weak excuse, for opposing necessary and just legislation against rebellion.

But when gentlemen stand here making these remarks of a want of confidence in the Supreme Court, and especially in its Chief Justice, I refer them to the decision that the Chief Justice made in the vigor of his manhood, in the case of a slave who filed his petition of right for freedom, and who, by the last will and testament of his late owner, had been bequeathed to another upon the express condition that if the legatee transferred or sold him into slavery beyond the State of his nativity—which was Maryland, if I recollect aright—the legatee should forfeit the property, and the slave should be free. The slave filed his petition in your circuit court for his freedom; he filed it upon the ground that the condition of the bequest had been broken. He stated in his petition that he was born a slave; he stated that he was transmitted a slave; he stated that the title passed to the legatee; he stated that in violation of the terms of the will of his late master, he had been taken out of his native State and transferred to Virginia; and on that ground he asked that he be decreed a free man. The case was brought up to your Supreme Court, and is reported in its decisions. The judgment was pronounced by that same venerable Chief Justice whose decision in the Dred Scott case makes the gentleman afraid that *men* will be declared "property." This judgment was that the slave was thenceforth a free man, entitled to himself, and not the property of another. "Property" could hardly file a petition for liberty and obtain a judgment of emancipation from bonds. Whatever he may have said in his *opinion* in the Dred Scott case, the Chief Justice and the court did not *decide* in that case that men are property under the Federal Constitution and the Federal laws. What apology, then, can be made by these gentlemen who come here and say that they will not vote for this bill, lest, perchance, they should be voting for a law to authorize the seizure of men as chattels, their sale in market overt, and the placing of the proceeds of such sale—the price of human blood—in the Treasury of the United States? I ask gentlemen who make this objection to this bill to remember that upon the Journals of this House stand recorded their votes in favor of a similar provision in the law of the 6th of August last. I am rather inclined to think that my friend from Indiana, [Mr. DUNN,] whose heart is right in this matter, but who is only apprehensive that we may do too much, recorded his vote in favor of that bill.

Mr. DUNN. What bill?

Mr. BINGHAM. A bill to provide for the confiscation of rebel property "of whatsoever kind or description," employed in aid of the rebellion by the owner thereof or by his consent.

Mr. DUNN. I believe I did vote for that bill as it finally passed.

Mr. BINGHAM. I have no doubt of it; and it finally passed, as I have stated, confiscating all *property* of "whatsoever kind or description" so employed.

Mr. DUNN. Well, what if I did?

Mr. BINGHAM. The gentleman pertly asks what if he did vote for that bill of August which expressly provides for the confiscation of all "property of whatsoever kind or description" that the owners thereof may employ or permit to be employed in aid of this rebellion! It is very extraordinary that it did not occur to the gentleman then, when he so voted, that the act might be interpreted to sanction the monstrous proposition which so alarms him now that slaves are property under the Constitution of the United States, and therefore by our act to be sold as property, and their price put into the Treasury.

Mr. DUNN. My recollection of that bill is that it made express provision that the slaves of rebels who had been employed in any way in the rebellion should be set free.

Mr. BINGHAM. No, sir; the act of 6th of August did not contain the provision that "the slaves of rebels who had been employed in *any way* in the rebellion should be set free," as the gentleman has stated. It made express provision that whenever any person claimed to be held to service or labor under the laws of any State shall be required or permitted by his claimant to take up arms against the United States, or to work or be employed in or upon any fort, navy-yard, dock, armory, ship, intrenchment, or in any military or naval service whatsoever against the Government of the United States, the claimant in such case should forfeit his claim to such service or labor. The gentleman hardly supposed that all slaves were or would be so employed, especially little children held as slaves. It is extraordinary that the gentleman did not wish to have that bill corrected before he voted for it. It does not follow, because the bill deprives a man of the control over the person of the slave so employed, that therefore the other section of the bill is to become inoperative, that the property of the claimant so offending "of whatsoever kind or description," including all his slaves, is not to be confiscated. That is a piece of special pleading that would not be entertained in a court of justice. If slaves are property as well as persons, you must construe every section of the bill so as to give it effect. That is an old rule of construction which the gentleman cannot ignore if he would.

But the gentleman cannot evade the issue which he this day makes against the present bill, by any such paltry and flimsy suggestion, that *property* may be construed to mean "*men*." Side by side with this bill was another, reported by me, providing expressly that *all* slaves held by any person who, after the taking effect of the act, should engage in armed rebellion against the United States, or aid and abet the same, should be forever free. When this last bill was before the House on yesterday, the gentleman from Indiana,

like others who are so tender-footed about the supposed rights of rebels in arms, was very careful to vote for its postponement. The gentleman first postpones a bill declaring freedom to all the slaves of rebels, their aiders and abettors, and then votes to table a bill confiscating "all the property" of such rebels, lest their slaves should be deemed "property." It will not do for the gentleman to seek shelter under the provisions of the act of August last, touching slaves employed in the military or naval servics of the rebellion, in view of the record that he has made here yesterday and to-day in this connection, because the bill that he yesterday voted to postpone provided for the liberation of *all* the slaves of rebels, their aiders and abettors, and if he had sent these two laws out together they would have been, in all respects in principle, the same as the act of last August, for which the gentleman voted. The difference between the act of August, for which the gentleman voted, and the two bills of yesterday and to-day, against both of which he votes and declaims, was simply this: the act of August confiscated "all property, of whatsoever kind or description," used or employed by its owner or by his permission in aid of the rebellion, and liberated all slaves used or employed by their owner or by his permission in the military or naval service or work of the rebellion. While the two bills now under discussion provide that if the owner of property or the holder of slaves shall himself engage in armed rebellion against the United States, or aid and abet such rebellion, his property shall be confiscated for the purpose of indemnifying the Government of the United States for the expense of suppressing the rebellion, and his slaves shall be freemen.

By the act of August we declared the property confiscated if it should be employed by its owner in the service of the rebellion, and declared his slaves liberated if he employed or permitted them to be employed in the military or naval service of the rebellion, or in constructing their forts, &c. One would suppose it would be equally just and politic to confiscate property and liberate slaves when the owner becomes in person an armed rebel against the Government. Strong though the gentleman be, he is not strong enough to reconcile his vote of August with his vote of yesterday and to-day. I ask him again, why he voted to postpone the bill liberating all the slaves of these rebels, and declaring them "free men," if he wanted to prevent the sale of rebels' slaves as property under the bill of to-day?

Mr. DUNN. What bill does the gentleman refer to?

Mr. BINGHAM. The bill which I reported in conjunction with this confiscation bill, and which was postponed till next Tuesday, by the gentleman's vote.

Mr. DUNN. For the very reason that that bill presents the same evidence of ill-considered haste and hot blood as is apparent in this bill.

Mr. BINGHAM. That does not excuse the gentleman making the distinction which he attempts to make between this bill and the bill of the 6th of August, for the two bills—that of yesterday and to-day—are the same in principle with that of August. There is no difference between them on principle. The gentleman's remark about the evidence in these bills of "ill-considered haste and hot blood" applies as well to the bill of August, for which he voted, as to these against which he votes.

The gentleman was unfortunate in his argument further. He states that this bill provides to reduce to desolation and want, old age on its crutches or dying on its last bed, and defenseless women and little children. Where was the gentleman's regard for old age on its crutches and defenseless women and little children when yesterday he voted against the bill to release millions of such held by armed rebels as slaves, and sold as chattels? Why, sir, the gentleman drew on his imagination for his facts, and on his fancy for his argument. When he speaks of the bill which is fatal to old age on its crutches, he does not refer to the emancipation bill, against which he voted yesterday, but to the bill confiscating armed rebels' property, against which he voted to-day. Old men on crutches do not engage in armed rebellion against the Government of the United States. That is the first remark that I have to make about this fancy sketch of the gentleman. Women and little children do not engage in armed rebellion, as a general thing, against the Government of the United States.

Mr. DUNN. Will the gentleman allow me to interrupt him?

Mr. BINGHAM. I do not intend to misrepresent my friend.

Mr. DUNN. But you do misrepresent me.

Mr. BINGHAM. Well, I am willing to yield to the gentleman.

Mr. DUNN. I want to conduct this matter very amicably. I will not ask the gentleman from Ohio whether old men on crutches may not aid in rebellion; but I will ask him whether old men on crutches may not be supported by young men, their sons? I ask him whether women do not derive support from their fathers and husbands; and if you take property from the men, do you not deprive the aged and the dependent of their support?

Mr. BINGHAM. I intended to give the gentleman the benefit of that view of the relation of rebels to others who are guiltless of their country's blood. Entertaining such views, I know not how the gentleman allows our present laws to remain unrepealed. Sir, your act of 1790 declares the penalty of death against each one of these armed rebels upon conviction. The gentleman, by his speech to-day, assumes if we pass the two bills under discussion, their provisions will be executed against all offenders; why not assume the same of your treason act of 1790? Why does not the gentleman rise in his place and say that that statute ought to be repealed, because all rebels in arms against the Government are subject to the penalty of death; and as the law is surely to be executed upon all the guilty, you thereby take the last stay from old age, the last protection from defenseless women, the last support from innocent children? That the innocent suffer both from the crimes and just punishment of the guilty, may be a misfortune; but it must be submitted to, as no man can prevent it, nor can legislation cure it. The death penalty, by the act of 1790, stands on your statute-book undisturbed by the benevolent gentleman from Indiana, and its denunciation goes forth this day against every rebel in arms, and every man who aids and abets rebellion. I am prepared to hear a proposition from the gentleman to repeal that act, as it reduces, if executed on these rebels, to desolation and want old age and defenseless women and innocent children. The difference between that act of 1790 and this is, that the first dooms to death upon conviction all who have engaged or shall engage in the rebellion at any time, past, present, or to come, while this act only confiscates the property; and the act of yesterday only liberates the slaves of those who may persist in their rebellion after you shall have passed the bills. It appears to me that the gentleman gave evidence of "ill-considered haste and hot blood" in making his argument. If he were consistent, he ought to relieve old age on crutches and defenseless women and innocent children, who would suffer by the death penalty being inflicted on their only protectors, in accordance with the act of 1790. Why not demand its repeal at once, lest the innocent suffer if they be deprived of the protection and support of armed rebels?

The gentleman's objection, if valid, makes improper and inhuman any effective legislation for the suppression of this rebellion or the punishment of traitors. I give him the credit of saying that he did not mean that. But the great misfortune of the gentleman's argument is that it proves too much, and therefore, with all respect to him, I beg leave to say, in the language of the logicians, that it proves nothing at all. His argument was that this law was unjust and inhuman, because although it only operates directly upon armed rebels, their aiders and abettors, the effects and consequences of depriving them of their property and slaves is to reduce to desolation those dependent upon them, little children, defenseless women, and old age. Sir, that which the gentleman deplores as misfortune is incident to all penal enactments. If the gentleman's argument be valid, it may be interposed to shield from just punishment the arch-traitor in this rebellion, the chief architect in the great ruin which this day covers the Republic with gloom like the shadow of a dark eclipse. He may, perchance, have an aged father dependent on his active intellect for the comforts of old age. He may, perchance, have a mother, dependent on him in like manner. He may, perchance, have little innocent children prattling at his knee, looking up into his face, and calling him "father." Would you deprive all these innocent and unoffending persons of their support by executing the arch-traitor in this rebellion? If the gentleman's argument be sound, then, of course, Jefferson Davis ought not to be strangled by the neck "until he is dead," because, forsooth, those innocents would suffer in the loss of his protection and of his support.

Mr. DUNN. The gentleman does me injustice in his argument. If, under our laws, a man commits murder, he forfeits his life, and all these misfortunes come on his innocent wife and children. That is true. But we have no law in any State that I know of which makes the loss of the criminal's property a consequence of his crime, and turns his wife and children into the world as beggars.

Mr. BINGHAM. Then the gentleman is at fault in his reading, or rather in his recollection. I have seen more than once the penalties of the criminal law of my own State sweep away every vestige of property belonging to the criminal. The penal statutes impose on the criminal not only pecuniary penalties oftentimes, but also the costs of the prosecution. I have seen these costs mount up to the sum of two or three thousand dollars; and I have no doubt but the gentleman will find the same thing true in his own State.

But the gentleman proceeded further. He was unfortunate, in my judgment, in another position assumed in his argument, and I ask him to reconsider it. He sent to the Clerk's desk and had read the address of a pastor of a church in Richmond, in which he states that this army of invaders are going to pillage their houses and violate their homes, and thereby attempts to stir up his people to madness and fury. All the fear, all the apprehension was of the "invading army." He said nothing about confiscation. He said nothing about a bill to liberate the slaves of rebels. He spake only of the "invading army." And the gentleman's argument was that we ought to disarm these "misguided brethren" of ours of their prejudice by refusing the proposed measure for the liberation of the slaves and the confiscation of the property of armed rebels. With all due respect, I submit that was a most lame and impotent conclusion of the gentleman. The trouble with this Richmond pastor of whom he spoke was that an invading army was going to do the mischief, and it surprises me that the gentleman does not rise in his place and move that the invading army be disbanded, in order that our "misguided brethren" in Richmond may no longer labor under this terrible misconception that the army is going to pillage and violate their homes.

Mr. DUNN rose.

Mr. BINGHAM. The gentleman will excuse me, I am not misrepresenting his statement.

Mr. DUNN. I think you are.

Mr. BINGHAM. I was about to say, and now say, for the benefit of the gentleman, that he shrunk from and did not state the conclusion which logically results from his premises. I suppose the gentleman will not say that he did. I think it logically results from the remarks of the Richmond pastor, and what the gentleman has said, if he be right in his statements, that the invading army ought to be disbanded, and that the gentleman should be the first to move that it be disbanded.

Mr. DUNN. Will the gentleman allow me for a moment? I am sure he does not desire to misrepresent me.

Mr. BINGHAM. I do not desire to misrepresent the gentleman, and will yield to him.

Mr. F. A. CONKLING. I object to the gentleman from Ohio yielding the floor.

The SPEAKER. The gentleman has a right to yield for personal explanation.

Mr. DUNN. I introduced the extract which was read from the fast-day sermon of Rev. Thomas V. Moore, of Richmond, to show how he was inflaming the minds, the passions, and the prejudices of the people, and how he was leading them into the rebellion for want of proper information. It is not because I do not want this invading army to go there. The gentleman knows better than that. I wish they were in Richmond to-day. I wish we had him in our power, and I would make him the chief offender, for I believe there is no one more guilty than Rev. Thomas V. Moore, although he was formerly my friend.

Mr. BINGHAM. Unlike the gentleman, I have not questioned his motives. I deal only with his arguments and statements. The gentleman says he would not disband the invading army. I tell him, if his theory is correct and his reasoning just, he had better disband it, for this invading army of ours, on every battle-field—at Pea Ridge, at Fort Donelson, at Wilson's Creek, at Pittsburg, and everywhere else, wherever they have fought under the old flag—have struck down the strong and vigorous armed rebels, upon whom old men and defenseless women and little children are dependent for their support. Sir, the American people are not to be reasoned out of their rights and their duties by any such false logic and false conclusions. If the gentleman will not disband the "invading army," he should disband his argument.

The gentleman says the world never saw such infamous legislation as is here proposed. The world, I beg leave to say, never saw a more honest endeavor to enact a more righteous law. That is the difference between the gentleman's opinion and my own. The Congress of the United States is, in my judgment, criminal before God and man if they do not promptly and speedily enact all the legislation recognized by the law of nations and contemplated by the letter and spirit of the Constitution, to overthrow this rebellion, let the consequences which may follow be what they may. If little children are left desolate in consequence, pray, whose fault is it? Is it not the fault, the crime, of those who have conspired to overthrow the Government?

I beg leave, Mr. Speaker, to remind the gentleman that when just civil government is imperiled, every effort must be made to save it. I beg gentlemen to consider that whoever lays violent hands upon the fabric of just civil government for the purpose of its overthrow, lays violent hands upon the very ark of the covenant of the living God, and forfeits and should be deprived at once of property and life. Why, sir, there is no interest visible to the eye of man this side of the grave more important to all classes, old and young, to the innocent and guilty alike, than a wise and just government. That is precisely the instrumentality through which it comes to be that men live apart and separate in families. That is the precise instrumentality through which it comes to be that mothers and daughters are respected and protected in the land, and are not owned and sold as slaves. That is the precise instrumentality through which it comes to be that little children are secure and protected by the hearthstone. The gentleman knows that never, since the morning stars sang together, have any people upon this planet come up out of the darkness of savage life to the beautiful and brilliant light of civilization save under the shelter, care, and protection of civil government. And yet, when these armed traitors strike at this most beneficent and wisest of all Governments ever given to the children of men, and we propose to disarm them by taking from them the means by which and through which they would accomplish their destructive purposes, the gentleman rises and talks about the inhumanity of such legislation.

Mr. Speaker, I have said all that I proposed to say touching this general subject. Let me, however, say a word touching the joint resolution which it is now proposed to refer to a special committee. The resolution was introduced into the House at an early stage of the session by the honorable chairman of the Committee of Ways and Means. It is substantially what the President has seen fit to *intimate* in his special message to this House. Whoever looks into that resolution will see that it provides for the liberation of all the slaves in the Republic. It pledges, however, in the second section, full indemnity to all loyal citizens.

Here, then, is a simple proposition, a very plain proposition. It pledges the faith of the nation to make full indemnity to all loyal citizens for their slaves. I believe its enactment and enforcement would disarm rebellion and save the Republic.

I appeal to my venerable friend from Kentucky [Mr. CRITTENDEN] whether this bill should not pass and be enforced if its enactment and enforcement would bring security to his neighbors and my neighbors, his countrymen and my countrymen, bring peace to a distracted country, and make the institutions of his fathers and my fathers perpetual, giving hope at least that they may outlive all the ravages of time, and stand in all the hereafter a landmark and a refuge for afflicted nations, only falling at last, if fall they must, in that dread hour seen in the vision of the seer, when the great globe itself must perish, and the witness of its fall, standing on the sea and the earth, with uplifted hand shall swear by Him that liveth forever and ever that time shall be no longer. If such legislation will be the proclamation and guarantee of peace, perpetual peace and stability to the Republic and its free Constitution, I ask my venerable friend whether he would not vote for it? I cannot doubt him. I want no response. What right has any loyal man to complain if his relation as master to a slave is severed by the act of the whole people when by the same act he is secured full indemnity? Why, sir, there is not a man in his place here who will raise his voice and say that he denies the right of this Government, in the exercise of its just judgment, to take every dollar of the property of every citizen in order to maintain the perpetuity of the institutions of the country, with the pledge of the whole people for just indemnity. He has neither the brain nor heart of a good citizen who denies it. Every man holds all that he has a sacred trust for the common defense and the security of the Government. I say that the little property which I own—and God knows it is not much—the little humble spot which I call the home of my wife and children, is a sacred trust for the defense of my country, and is liable to be taken, and ought to be taken, any moment when it is necessary for that purpose. I would be ashamed of myself if I sat here and denied it.

I beg leave to suggest to my venerable friend from Pennsylvania [Mr. STEVENS] that his bill be so amended as to strike out the word "requested," in the third line of the first section, and insert the words "empowered and directed." The amendment changes no principle or provision of the bill, but only gives to it, if passed, the form and effect of law. The gentleman's bill is the very want of the Republic to-day; it contains not a principle or a provision which, dying, I would wish to blot. I am for it or for any other bill, come whence it may, which will secure to the people, from the property of these rebels, some just indemnity for their great losses by reason of this rebellion, which will take from these traitors their means of support and the strength by which they make formidable their treason, and which will secure lasting peace to the Republic, and reassert the supremacy of the Constitution and laws. The terrible slaughter of battle is not the only means by which this great rebellion is to be suppressed—it must be suppressed by laws as well as by arms.

Mr. LEHMAN. Mr. Speaker, I rise for the purpose of saying a few words on the motion made by the gentleman from New York, [Mr. OLIN.] It struck me when it was made, considering the temper of the House and the animated discussions which have taken place on this most important question, that it was eminently wise and proper at this time. It is manifest that on some points there is little difference of opinion among the members of Congress on the subject of our present troubles, while on others there is a wide difference; and for the purpose of harmonizing variances, and that we may come to some proper agreement, I deem it prudent at this juncture that this resolution should be referred to a select committee, to be appointed by the Speaker from the body of the House, with all other bills and resolutions having in view the accomplishment of the same purpose.

I was glad that the House adjourned last evening without taking a vote on the substitute of the gentleman from Ohio, [Mr. BINGHAM,] and I am rejoiced that this House this morning reversed the conclusion at which it had arrived, without publishing it to the world, by laying the bill upon the table, in order that we may have time for further and more mature deliberation.

When I said that there were some points on which the members of the House agreed, I referred to the causelessness and the unprovoked character of this rebellion, which has so sorely distressed the country. I had reference to the unanimity of opinion that it was the duty of the Executive to use all powers vested in him for the speedy suppression of treason in the land; and that it was our duty, the duty of loyal citizens everywhere, to strengthen the hands of the President in the discharge of the high mission confided to him. The points of difference to which I referred were as to the cause of the rebellion and as to the best means to be taken for its suppression. It seems to me, in looking at any question, however important, however abstract, however complicated, that common sense best resolves it, and most speedily. What is the cause of this war, and what is the best way to terminate it? That a mighty civil war exists in this land no one will dispute; but it is a rebellion differing from other rebellions only in its magnitude, perhaps I may say also in its utter want of sufficient cause. It is, in point of fact, an organized resistance to the law, a defiance of the Constitution, an insurrection against the supremacy of the Constitution and the law. It is not to be considered as a southern rebellion, or the rebellion of States; but it is simply an organized resistance of a portion of the people of the country against the authority of the Government. It is only to be so considered and so treated. We have organized a vast Army for the purpose of aiding the President of the United States in his efforts to put down this rebellion and with the view of reasserting the supremacy of the laws over the section of country now in arms against the Government. The best way of suppressing this rebellion is that which the President has commenced by calling out the necessary force to subdue the rebels and protect the Union. That is my opinion in regard to this matter.

As to the proposed measures to reduce the seceded States into a territorial condition, I wish to say that it has not my approval. That is an indirect method of getting at this matter. It is not the direct way of suppressing this rebellion. By adopting such a measure we admit the position taken by the secession leaders of the South, that the disaffected States are actually out of the Union. Shall we give them authority for the untenable ground they have assumed? Shall we declare that we are making war against States? No, sir; we are making war against the disloyal people in the seceded States. We are making war against them, and do not direct our offensive operations against the loyal as well as the disloyal people of a State. If we are making war against the united people of the eleven States engaged in this rebellion, we may find that it is utterly impossible to put it down. I have never allowed it to come into my mind that we were making a war against States. I believe that there is a majority of loyal people in the South, and that only a portion of them are disloyal, against whom we have to direct our offensive operations.

I am not in favor of any act of general emancipation, because I do not think that it is necessary. While I say that, I also say that no man, however wide his experience, however great his sagacity, can lay down any rule for his action in the complication of events during the progress of this rebellion. Therefore I deprecate the attempts I have seen in this House to fix a policy to control us in the future, whatever may happen. I would have every man keep his mind clear and unprejudiced to pursue that policy which the succession and change of events in the progress of this war may demand.

My friend from New Jersey, [Mr. NIXON,] in his able and eloquent speech the other day, said that he had no idea that South Carolina was "out of the Union," and that her acts of secession were nullities. Sir, that was a strong and perfectly sound position. South Carolina is not out of the Union. No State is out of the Union. There is no power vested in the Legislature, or vested in any popular convention of any State, that can take a State out of the supremacy or out of the jurisdiction of the laws of this Union. Sir, it is admitting the doctrine of the southern leaders, when we assume that we are to make war against any State. We are making war simply against the people that are in rebellion in a section, and that section happens to be embraced within the limits of a State or several States.

But, sir, what I would say is, that the proper way to put down this rebellion is to carry out the conservative policy of the President, to recognize the supremacy of the Constitution over the breadth and extent of the land; over every State, whether in revolt or no. The Constitution is suspended for a time, the laws are disregarded and resisted for a time, but still the Union is intact, and South Carolina is as much in this Union as the State of Massachusetts.

Mr. LOVEJOY. With the permission of the gentleman I wish to ask him, if these revolted States are in the Union, what right the President has to place Governors over them, as in the case of Tennessee?

Mr. LEHMAN. I do not intend to quibble about words, and therefore I will answer the question of the gentleman directly. In the course of my argument I said that no man, however wide his experience, and however great his sagacity, could lay down any formula for his action. Events may complicate themselves, so that it will be necessary to use every power that is vested in the Government under the right of self-preservation. As was said by the gentleman from Massachusetts, [Mr. ELIOT,] the safety of the people may become the supreme law; and when it becomes necessary to carry out any of these measures, now considered unnecessary and unwise, I will go as far as the gentleman from Illinois.

Mr. LOVEJOY. Do I understand the gentleman to say that the appointment of a Governor for the State of Tennessee was an unwise one?

Mr. LEHMAN. Well, sir, this custom of asking questions is one which is often resorted to to divert the train of thought of the speaker, while at the same time it gives a very undue advantage to him who, sitting by, is able to suggest them. I will answer any question which, to use a word popular with the House, is germane to the subject; but I do not exactly see that the question of the propriety of the action of the President in appointing a Governor for Tennessee has anything to do with my argument.

Mr. LOVEJOY. I would not disagree with the gentleman in regard to the Union being intact; but still it does not seem to me that we can consider that precisely in the character of a State where we even temporarily establish a government deriving its power from the Federal Government.

Mr. LEHMAN. I was proceeding to say that I was perfectly willing to trust in the President of the United States, and to submit to the justice of his action, in whatever policy he may deem expedient to initiate for the purpose of reasserting the supremacy of the laws in the disaffected States. It may be necessary to organize temporary governments; it may be necessary to send a Governor there for the time being, and, if the President thinks it is necessary, I am perfectly willing to acquiesce in the justice of his course, and I approve of it.

And I will go further and say that, if it becomes necessary in the progress of this rebellion to use other measures which I do not think now necessary, I will give my full and hearty assent to them.

Mr. MALLORY. If the gentleman from Pennsylvania will allow me, I wish to suggest to the gentleman from Illinois that neither he nor any one else can regard Governor ANDREW JOHNSON, or General ANDREW JOHNSON, as a civil Governor of Tennessee, appointed by the President of the United States in his capacity as the Executive of the United States. He is there, as I understand it, as a brigadier general, acting as the military Governor of the State, and appointed by the President in his character as Commander-in-Chief of the armies of the United States.

Mr. LEHMAN. Every Representative upon this floor has considered the probable issue of this rebellion. He has considered what may attend its progress. It may be necessary that this war may become—God forbid it—a war of extermination. It may be necessary and we may be compelled to reduce these States into Territories. It may be necessary for us to pass acts of confiscation. It may be a war of life and death, so far as this Government is concerned. If so, the duty of every loyal man is plain. It is to his Government, and it is to give up every dollar he possesses for the purpose of supporting the Government, and if necessary to lay down his life. I do not think that this terrible issue will ever come upon us. I do think that that issue may be hastened, and I do think that the readiest way of bringing it about is by unwise, cruel, and vindictive legislation.

If, as I conceive, there are loyal people in those States, how are you to keep them true to their allegiance to the Government? Not by putting moral power into the hands of disloyal men who have raised the standard of rebellion, but by showing them that the only object we have is to restore the supremacy of the Constitution, and to carry the laws which are now defied and resisted again over every land. Let the influences of the Constitution pass over that infected and clouded territory, as the fresh air would rush in and fill a vacuum.

That is the way I propose that this Union is to be restored. As the rebellion is put down in every foot of our territory, the Constitution, without the exercise of any legislation, passes, and the law passes over that territory. Let our armies go on triumphantly as they have, let rebellion be crushed out from this State and from that State, and then the Constitution passes over, with its supremacy and its influence, and the laws are reasserted in all their former force.

After this rebellion is put down, some legislation may be necessary; and if I am asked now what legislation may be necessary, beyond some modifications which may be suggested, I say none, absolutely none. If my proposition be correct that the Union is still undissolved, that these States have no power to secede, and that this is no more than an ordinary organized rebellion against the Government, (differing only in magnitude,) after we have carried our armies triumphantly into the disaffected districts, and reasserted the Constitution and the laws, nothing is to be done except to punish these rebels by the existing laws of the land, and by the civil power. If we cannot enforce our present laws, how can we put into force any vindicatory acts we may pass now. Our present energies should be wholly directed to the restoration of peace to our disturbed country.

ENROLLED BILL.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill (S. No. 106) to authorize the district court of the United States for the northern district of California to hear and determine upon its merits the claim of Pedro Chaboya to a certain tract of land in California valley, La Rosa de San Juan Bautista.

PAY OF MINNESOTA MEMBERS.

A message was received from the Senate by Mr. FORNEY, its Secretary, notifying the House that that body had passed a joint resolution (S. No. 33) in relation to the pay of the first Senators and Representatives in Congress from the State of Minnesota.

CONFISCATION OF REBEL PROPERTY—AGAIN.

Mr. COX. I desire to say one word. I stated that it had been decided by the Supreme Court of the United States that all process issued from United States courts should run in the States, and that all proceedings, including levy, should be had therein precisely as the laws of the States themselves were. The gentleman from Ohio, upon the Judiciary Committee, [Mr. BINGHAM,] denied that authority very truculently, and in that tone in which he denies almost every legal proposition, assuming to be the Moses and lawgiver of the House, and disputing almost everything which does not agree with his own ideas.

I have looked up the authority, and find it in 9 Peters's Reports, page 330—the case of Beers and others *vs.* Houghton. The syllabus says:

"The process act of 1798 expressly adopts the mesne process and modes of proceeding in suits at common law then existing in the highest State court under the State laws; which, of course, included all the regulations of the State laws as to bail, and exemptions of the party from arrest and imprisonment. In regard, also, to writs of execution, and other final process, and '*the proceedings thereupon*,' it adopts an equally comprehensive language, and declares they shall be the same as were then used in the courts of the State.

"The rule of the circuit court is in perfect coincidence with the State laws existing in 1828; and if it were not, the circuit court had authority, by the very provisions of the act of 1828, to make such a rule, as a regulation of the proceedings upon final process, so as to conform the same to those laws of the State on the same subject."

On page 360, the court says:

"But in fact the present case does not depend upon the provision of the acts of 1789 or 1792, but it is directly within and governed by the process act of the 19th of May, 1828, ch. 68. That act, in the first section, declares that the forms of mesne process, and the forms and modes of proceeding in suits at common law in the courts of the United States, held in States admitted into the Union since 1789, (as the State of Ohio has been,) shall be the same in each of the said States, respectively, as were then used in the highest court of original and general jurisdiction in the same, subject to such alterations and additions as the said courts of the United States, respectively, shall, in their discretion, deem expedient, or to such regulations as the Supreme Court shall think proper, from time to time, by rules, to prescribe to any circuit or district court concerning the same. The third section declares that writs of execution, and other final process issued on judgments and decrees rendered in any courts of the United States, and '*the proceedings thereupon*,' shall be the same in each State, respectively, as are now used in the courts of such State, &c.: *Provided, however*, That it shall be in the power of the courts, if they see fit, in their discretion, by rules of court, so far to alter final process in such courts as to conform the same to any change which may be adopted by the Legislature of the respective State for the State courts.

"This act was made after the decisions in Wayman *vs.* Southard, and the Bank of the United States *vs.* Halstead, (10 Wheat., 1 and 51,), and was manifestly intended to confirm the construction given in those cases to the acts of 1789 and 1792, and to continue the like powers in the courts to alter and add to the processes, whether mesne or final, and to regulate the modes of proceedings in suits and upon processes, as had been held to exist under those acts. The language employed seems to have been designed to put at rest all future doubts upon the subject. But the material consideration now to be taken notice of is, that the act of 1828 expressly adopts the mesne processes and modes of proceeding in suits at common law then existing in the highest State courts under the State laws; which, of course, included all the regulations of the State laws as to bail, and exemptions of the party from arrest and imprisonment. In regard, also, to writs of execution and other final process, and 'the proceedings thereupon,' it adopts an equally comprehensive language, and declares that they shall be the same as were then used in the courts of the State. Now, the words, 'the proceedings on the writs of execution and other final process,' must, from their very import, be construed to include all the laws which regulate the rights, duties, and conduct of officers in the service of such process, according to its exigency, upon the person or property of the execution debtor, and also all the exemptions from arrest or imprisonment under such process created by those laws."

Mr. DUELL. I am in favor of the substitute proposed by the gentleman from Ohio, [Mr. BINGHAM,] because I believe it is the duty of Congress to pass an act giving freedom to the slaves of those engaged in the present rebellion. I am not, however, wedded to this particular substitute, but stand ready to vote for any bill having for its object the same general purpose. Sir, the Government is launched upon one of those great conflicts with conspiracy and rebellion which every great nation at some period of its existence has been doomed to encounter, and from which, if met with true appreciation and heroic courage, every nation has emerged purer and nobler, and capable of more lofty deeds than ever before. A mighty conspiracy, wielding prodigious ability, political experience, and military skill, and prompted by the towering ambition of gifted men, who know no aim but the gratification of their own aspirations, and no law but that of their own desires, has undertaken deliberately the destruction and annihilation of the American Republic. It aims distinctly at the extinction of popular government. It rebels, not against any particular law, but against the principle which lies at the basis of all free government, without which a government of the people is impossible—*the principle that the majority must rule*. It seeks to override and overthrow this principle by destroying the Government which embodies it, and to erect upon its ruins a despotism embracing no more of the *forms* of freedom than may be necessary to command the assent of its subjects.

I need not say that the Empire State, which I have the honor in part to represent upon this floor, has no sympathy with this rebellion. Whatever may have been the divisions of parties hitherto, the people of New York have with one accord given their assent and firm support to two propositions: First, that obedience to the Constitution and the laws must be insisted upon and enforced, as necessary to the existence of the Government. Second, that the election of a Chief Magistrate of the nation in strict conformity with the Constitution is no sufficient cause for the release of any State from any of its obligations to the Union. The working of our Government is based upon the principle of the indisputable rights of majorities, and the people have heretofore relied upon the efficacy of frequent elections for relief, even if they were persuaded that a great error had been committed, rather than resort to bloody revolution for redress.

There is a great question growing out of this war which cannot be overlooked—a question too formidable to be neglected, and it may be too exciting to be easily settled. It already flings its shadow along the whole extent of the country. The considerations which gather about it are so important, and the interests which it affects are so great, that it must awaken apprehensions in any one who comprehends its power. I speak, sir, of the policy which this Government is hereafter to

pursue towards those in rebellion against its lawful authority.

To the conspirators in the South, who would destroy the fair fabric of our Union, we owe only the punishment due to the outraged laws of the country; but to our friends among them, who have endeavored thus far in vain to stem the torrent of disunion and lawless violence, we owe every encouragement and protection that can be rendered, with a due regard to honor and justice, and without the sacrifice of essential principle. Those conspirators who have crimsoned with blood and desolated with fire and sword the southern country, who have plunged their people into beggary, bankruptcy, and starvation, should be dealt with as voluntary and self-convicted criminals, and should be subjected to the inevitable doom, in person and property, which they have deliberately invoked. Those capable of such violence to the Government of their birth, such contempt of law, such base ingratitude, such malicious treason—I care not who they are or where they belong—are miscreants, not men, who would fain soak their guilty hands to the elbows in the heart's blood of their own countrymen struggling to preserve from ruin the only genuine Republic on the face of the earth. They are in heart barbarians and murderers, and their mission is infernal. The leaders and instigators of this giant rebellion are the most malignant and meanest of mankind, whose names have already become a by-word and reproach throughout the civilized world. Language is too barren fully to express the abhorrence of every loyal heart towards the men that would plot treason against this Union, and batter down its free institutions, or would for a single moment meditate the severance from it of a single State.

It may be well, before proceeding further, to ascertain the origin and cause of this rebellion, for if we can punish its authors and remove the cause at the same time, a great point will have been gained.

This rebellion is no spasmodic effort that came suddenly upon the South. "The secession of South Carolina," said Mr. Rhett, "is not an event of a day. It is not anything produced by Mr. Lincoln's election, or by non-execution of the fugitive slave law. It has been a matter which has been gathering head for thirty years." We are thus assured by one of the fathers of this rebellion that secession is not of recent origin. The overthrow of this Government and the establishment of a slaveholding confederacy has been the great object and desire of certain leading men in the cotton States for a long series of years. "The tariff was the pretext in 1832," said General Jackson, "and the next excuse will be the slavery question." In 1847, John C. Calhoun wrote a letter to a member of the Alabama Legislature in reply to one asking his opinion as to the steps which should be taken to guard the rights of the South. Colonel Benton, in his Thirty Years View, says that this letter furnishes the key to unlock Mr. Calhoun's whole system of policy in relation to the slavery agitation. In that letter Mr. Calhoun says:

"Instead of *shunning*, we ought to *court the issue* with the North on the slavery question. I would even go one step further and add that it is our duty—due to ourselves, to the Union, and our political institutions *to force the issue on the North*. Had the South, or even my own State, backed me, I would have *forced* the issue on the North in 1835."

In another part of the letter he says:

"If the South act as it ought, the Wilmot proviso, instead of proving to be the means of successfully assailing us and our peculiar institution, may be made the means of successfully asserting our equality and rights, by enabling us to *force* the issue on the North."

Mr. Calhoun then proceeds to say that the issue must be met first of all by a resort to "retaliation." He says:

"There is but one remedy short of *disunion*, and that is to *retaliate* upon our part, by refusing to fulfill the stipulations in their favor. Among these, the right of their ships and commerce to enter and depart our ports is the most effectual, and can be enforced. My impression is that it should be restricted to sea-going vessels, which would leave open the trade of the valley of the Mississippi to New Orleans by river, and to the other southern cities by railroad; and tend thereby *to detach the northwestern from the northeastern States.*"

He then states that the only difficulty in the way is to secure the "*coöperation of all the slaveholding States lying on the Atlantic gulf.*" To this end he advises the holding of southern conventions, so as to compel submission on the part of the non-slaveholding States to the demands of the South, or force them "*to take measures to coerce us, which would throw on them the responsibility of dissolving the Union.*"

Colonel Benton uttered the truth when he declared that this letter furnished the "key which unlocks his (Calhoun's) whole system of slavery agitation, which he commenced in 1835. *That system was to force issues upon the North under the pretext of self-defense, and to sectionalize the South, preparatory to disunion.*"

The advice contained in Mr. Calhoun's letter was religiously followed by his friends and supporters in the South, who have, from that time to the present, been constantly engaged in "forcing the slavery issue upon the North" in every possible shape. The secession howl was, in the mean time, kept up through the whole administrations of Presidents Taylor and Fillmore down to the time of the election of President Pierce. Then the aspirations of the secession leaders could be, to some extent, gratified; and they were kept quiet by the possession of all the offices they wanted, and all the power they could attain under the Federal Government. No menaces of secession were heard under the administration of Mr. Pierce. Jefferson Davis, upon whom the mantle of Calhoun seems to have fallen, was made Secretary of War. His fellow-traitors were content then with wielding power, and with laying their plans to be ready for the time when they should be deprived of it. If Davis could not obtain a seat for himself in the Cabinet of Mr. Buchanan, he could, at least, be heard there by his representatives and fellow-conspirators, Thompson, Floyd, and Cobb. Power, plunder, opportunity—all these were enjoyed throughout the administration of Mr. Buchanan; and for that term, therefore, we heard nothing more of the secession and rebellion which had been so rife and rampant during the exile of these slaveholding conspirators from power, in the times of Taylor and Fillmore.

Another class of public men at the South under the leadership of Yancey and Rhett, who had been less successful than Davis, Floyd, Thompson, and Cobb, were engaged in the laudable occupation of "firing the southern heart, and precipitating the cotton States into revolution." The success of the free State movement in Kansas, the raid of John Brown, the long and bitter contest resulting in the election of a Republican Speaker in the Thirty-Sixth Congress, enabled these men to work upon the fears of the slaveholders of the South for the safety of their peculiar institution. They were dazzled by the vision held up to view of a great slaveholding confederacy—a confederacy whose bond of union was to be human slavery, and which, by conquest or by purchase, was to spread southward over the continent. It is not necessary to repeat in detail what followed, for the events of the past year have been branded upon all memories as with red-hot iron. Rebellion has levied armies, attacked forts, burned navy-yards, coerced States into joining the new confederacy, turned out mobs upon conventions, subjecting Union men to the most humiliating and savage treatment, causing the loss of thousands of valuable lives, and producing sorrow and anguish throughout the land. In consequence of this unholy rebellion, the nation is called upon to mourn the death of those gallant heroes—Lyon, Baker, Ellsworth, Lander, Wallace, Slocum, and a host of others, of whom it may be said,

"They fell devoted but undying;
The very gale their names seem sighing,
The waters murmur of their name,
The woods are peopled with their fame.
The silent pillar—lone and gray—
Claims kindred with their sacred clay;
Their memory sparkles o'er the fountain,
Their spirits wrap the dusky mountain;
The meanest rill, the mightiest river,
Rolls mingling with their name forever!"

The rebellion is now so murderous, so defiant, and so formidable in its character, that all attempts at conciliation are not only useless, but are actually affording aid and comfort to the foe, and placing the Government in the ridiculous position of exerting itself against its own cause. Slavery, instead of being an element of weakness, is an element of strength to the rebels. There are nearly four millions of slaves in the South, who till their soil, produce their supplies, build their fortifications, strengthen their columns, perform the menial service of their camps, and in a thousand ways contribute to their power, comfort, and success. The rebels are enabled to send their white men to the field to meet as many of ours as we can spare. No matter how many they send they do not weaken their agricultural force, but almost every man who enters the northern army is taken from some department of productive labor, and by so much diminishes our resources for conducting the war.

In view of these things it becomes a question of no small moment what ought the Government to do with slavery now? What policy, if any, should the loyal men of the country adopt respecting the future treatment of this cancer upon the body-politic? The reply which ought, in my judgment, to be made to these questions is this: *since slavery made the war, let slavery feel the war*—not by exciting servile insurrection, whose many and nameless atrocities would outrage humanity, but by confiscating the slaves and other property owned by rebels, and using the former, as far as practicable, as hired laborers, until the rebellion is crushed in part by their aid. Thus the power of slavery would be rightfully used against itself. Thus the issue which the rebel conspirators have tendered the Government would be precisely met as tendered, and the burdens of the war, to some extent, would fall where they properly belong. By despoiling rebel slaveholders of their so-called property, which is the chief service to them in maintaining an attitude of rebellion, it would come to pass that the main strength—the backbone in short—of the southern treason would be broken, and the overshadowing political power of slavery fall into decay.

In my judgment, it is a short-sighted view which assumes that, if we can go back to the old position, and restore our affairs and relations to their old standing, the safety and prosperity of the nation will be secured. Leave slavery in the confederate States, when the present rebellion has been suppressed, as it was at the commencement, and it would inevitably hatch a fresh brood of political vipers. It would generate in the future, as it has in the past, new conspiracies and combinations against popular government. It would bully and swagger in Congress, corrupt and betray in the White House, rob and steal in the Departments, and infuse its deadly venom into the minds of parties, as it has hitherto done. It will prove the bane of our national existence, unless it is now put under by the military interests and necessities of this loyal war. If slavery do not receive its death-blow now, it is not difficult to foresee that a long series of wasting and desolating conflicts must be maintained with it, both with the bullet and ballot, that will allow our country but small enjoyment of the blessings of peace for long years to come.

But we are told that it would be a violation of the Constitution of the United States for Congress to enact a law to confiscate the slaves of rebels. Sir, there has been no measure proposed by the Government since the war commenced calculated to cripple the rebels and put down this rebellion, but what has been denounced in certain quarters and by a certain class as *unconstitutional*. Coercion with them was unconstitutional; the invasion of a State was unconstitutional; the suspension of the writ of *habeas corpus* was unconstitutional; suppression of treasonable newspapers was unconstitutional; the arrest and confinement of traitors was unconstitutional; everything calculated to weaken the rebels and strengthen our own Government, is unconstitutional. We hear nothing but complaints and fault-finding from this class of so-called Union men. Congress has done wrong, the President has done wrong, the abolitionists have done wrong, everybody has done wrong but the plunderers and murderers of our people. It is time that this kind of pretended *unionism* was held up to view, so that the people can see its cloven foot.

The efforts of gentlemen on this floor to enact a law confiscating the property of rebels in arms—a measure called for by public necessity, and demanded by every consideration of justice—is at once assailed as an abolition measure, and the motives of its advocates misrepresented. We are told that this war now being waged for the preservation of the Union is really and solely an abolition war, or will become such if we pass a confiscation act. Every appeal that can be made to human motives is urged, and names supposed to be of bad odor are freely bestowed upon those

who have the firmness to advocate this measure. Several gentlemen have said, by way of abstract proposition, that our soldiers will not fight if slavery is to be interfered with. This may be a forcible argument with some, and most likely has had its effect. But I trust that this House and this nation are not to be addressed in this way. Our understandings may be convinced by reason, but an address to our fears ought to be treated with contempt. If the nation be satisfied that any course is proper, it would be base and degrading to be driven from it by the discordant murmurs of a minority. I should be the last to persist in a measure which would jeopardize the success of the Union cause, and I have yet to learn that the proposition in question will have that effect.

It is said that the Constitution forbids us to enact a law confiscating the slaves of rebels in arms. No one questions but that where slavery remained upon its own ground, obedient to the Constitution, the national Government was prohibited from interfering with it in the States where it existed. "But the moment it threw off its obligations to the Constitution, and set at defiance the authority of the nation, the question of its existence became wholly discharged of all constitutional prohibitions and restraints; and from thenceforth the national Government was imperatively bound to take possession of it as a national affair, to deal with it, as with any other question vitally affecting the national well-being, on its own merits, and dispose of it with an enlightened, fearless, and far-reaching statesmanship."

This rebellion is civil war. Slavery has organized its powers into a regular form of government with all the functions of sovereignty, it has embodied and sent into the field a large military force, formidable enough to hold the armies of the Union in check for nearly one year, and has solemnly declared, through its congress, that it is the unalterable determination of the people of the confederate States to suffer all the calamities of the most protracted war, rather than return to their allegiance to the United States.

What are the powers conferred upon every Government by the laws of nations in a time of actual war? Where the object of the war is a just one, waged to prevent or punish an injury, we have a right, according to an eminent writer on the law of nations—

"To put in practice against our enemy every measure that will tend to weaken or disable him from maintaining his injustice. To this end, we are at liberty to choose any and all such methods as we may deem most efficacious. *We have thence a right to deprive our enemy of the possession of everything which may augment his strength, and enable him to make and carry on the war. And if that of which we have a right to deprive our enemy can help us, we have a right to convert it to our own use, or to destroy it, whenever that is necessary to the main object, which is to disable our enemy and destroy the cause of the war.* And thence, ultimately, all other methods proving insufficient to conquer his resistance, we have a right to put our enemy to death. Under the name of enemy is comprehended, not only the first author of the war, but likewise all those who join, abet, or aid in the support of this cause. So, also, as between belligerent Powers actually at war, all rights, claims, and liabilities affect the whole body of the community together with every one of its members."

Further, upon this question as to the rights of nations engaged in war, Professor Martin says:

"The conqueror has a right to *seize* on the property of the enemy, whether *movable* or *immovable*. This may be done: 1. In order to obtain what may be demanded to be due. 2. To force the enemy to an equitable peace. 3. To defray the expenses of the war. 4. To deter him, or by reducing his strength, to hinder him, from *repeating* in future the injuries which have been the cause of the war. And with this object in view, a Power at war has a right to destroy the possessions and property of the enemy for the express purposes of doing him mischief."

The Supreme Court of the United States, the highest tribunal known to our laws, has decided that—

"*War* gives the full right to take the persons and confiscate the property of the enemy wherever found." "It may be considered as the opinion of all who have written on the *jus belli*, that war gives the right to confiscate."

The opponents of confiscation tell us that this is not such a war as these authorities refer to; that it is but a temporary insurrection, and not a civil war; that in putting down this rebellion we must confine ourselves strictly to the powers granted by the Constitution. How absurd! This doctrine is precisely what the rebels would wish to see prevail; for, while they have thrown off all obligations to the Constitution, and while slavery is left free to murder, rob, and pillage, the heart of treason is covered and protected by the Constitution. It is said the rebels have, indeed, committed a great outrage upon the Constitution, but that that is no reason why the loyal people of the Union and their Government should do the same thing by confiscating slave property, the Constitution containing no express provision giving them that power. As if the Constitution did contain an express provision authorizing the blockade of southern ports, or filling them up with stone-filled hulks, the burning of the rebels' dwellings, and sweeping his whole land with the besom of destruction. Only one act, it seems, imposed by the terrible necessities of war, is unconstitutional, and that is a destruction of its cause—slavery! No wonder that the great heart of the world swells with a suppressed shout of derision at such acumen and statesmanship! War and its laws alone justify and make constitutional any of these acts; and much more do they justify and command the utter extinction in the rebel States of its acknowledged cause.

Sir, the great law of necessity authorizes us to confiscate the property of rebels in arms. Under this law of necessity we may do many things not affirmatively warranted by the Constitution, but yet consistent with it. What right have I, affirmatively under the Constitution, to blow up my neighbor's dwelling with a train of gunpowder? Yet, if I do so to arrest the progress of devouring flames, the law of necessity arises higher than the Constitution, but still consistently with it, and justifies the act. So, to save a city from capture, or a nation from destruction, we may go beyond the express letter of the Constitution, and suspend many of the personal rights secured to individuals. No one has ever sustained this doctrine more ably than Mr. Jefferson. He says in one of his letters, (vol. 4, p. 150, of his works,) as follows:

"The question you propose, whether circumstances do not sometimes occur which make it a duty in officers of high trust to assume authorities beyond the law, is easy of solution on principle, but sometimes embarrassing in practice. A strict observance of the written law is doubtless *one* of the high duties of a good citizen; but it is not *the highest*. The laws of necessity, of self-preservation, *of saving our country when in danger*, are of higher obligation. To lose our country by a scrupulous adherence to the written law itself, with life, liberty, property, and all those who are enjoying them with us: thus absurdly sacrificing the end to the means. When, in the battle of Germantown, General Washington's army was annoyed from Chew's house, he did not hesitate to plant his cannon against it, although the property of a citizen. When he besieged Yorktown, he leveled the suburbs, feeling that the *laws* of property must be *postponed* to the safety of the nation. While the army was before York, the Governor of Virginia took horses, carriages, provisions, and even men, by force, to enable that army to stay together till it could master the public enemy; and he was justified." * * * *
"All these constituted a law of necessity and self-preservation, and rendered the *salus populi* supreme over the written law."

I submit, sir, that it is time that we ceased to put the salvation of slavery above the salvation of our country. We can no longer afford to follow the modern device of holding that institution sacred above all other things, instead of returning to the good old way of the framers of the Constitution, "who went on with their good work as though slavery had no existence." Let us pass a law confiscating rebel property in slaves. Let us strike at the vulnerable point of this rebellion, and thereby save the lives of our brave men and prevent the utter bankruptcy of the people by bringing the war to a speedy and triumphal close.

A few words more, and I am done. Are examples necessary to convince us of the baneful effects of protracted civil war? Review the pages of history. Go to the ruins of the once populous cities of Athens and Sparta, and ask what mighty power laid them low in the dust? A voice from the dead will resound through their deserted streets and answer—civil war. For ages the city of Jerusalem, in which the God of Israel delighted to dwell, the wisdom of whose kings and rulers extended to the most remote regions of the earth, withstood the attacks of her enemies. Like a queen she sat in the midst of her native hills, and the scattered tribes of Palestine laid their tribute at her feet. Rome with her conquering legions encompassed her about, and besieged her almost impregnable walls. Long she withstood the attacks of the Roman soldiers led on by the invincible Titus, but at length the demon rebellion sprang up within the city, created divisions in the minds of her citizens and arrayed them against each other in battle. Civil war with all its horrors raged within, while the Romans without completed the ruin of this mighty city, which had so long resisted the invader's power. Her walls were thrown down; her beautiful temple destroyed, and her inhabitants led away captive to far distant lands. She fell a victim to the might of rebellion.

Rome herself, the "seven-hilled city," that in pride her scepter swayed over earth and sea and in her strength the world defied, she also fell a prey to this spoiler. Discord and dissension arose among her rulers. Cæsar and Pompey marshaled their hosts against each other in battle array; and from that time Rome sank down until at length she has become a by-word and reproach among the nations of the earth. Her fate is written in characters that all may read, "civil war destroyed Rome." Turn to the history of more modern times. Look at France, in that stormy period which immediately followed the American Revolution, emphatically called the reign of terror, when her streets were deluged with the blood of her noblest citizens, her prisons filled to overflowing, and the voice of mourning resounded through the land. Religion was for a time hurled from her throne, the ties of society, both civil and social, were destroyed, and rebellion, with all its horrors, reigned omnipotent in the sunny clime of France. There we may behold its sad effects; and shall we not tremble lest the like calamities come upon us. Look at yonder vessel on the calm and gentle sea. How joyful are its crew as their ship glides silently along to their destined port, which, in anticipation, they already behold. They think of the friends of their youth and their much-loved home, the memory of which time nor distance cannot erase. But these, alas! they are doomed never to behold. A furious tempest suddenly arises, the sea is lashed into fury, the vast concave of heaven is lighted up, the thunders roar, and the devoted ship is overwhelmed by the raging elements. She sinks down within sight of the destined port. So it may be with us. Like some beautiful and majestic vessel, we have been wafted by gentle gales over the calm and unruffled sea of prosperity. The heavens above us have been unclouded, the sun has shone with ceaseless brilliancy, and nothing has arisen to disturb the tranquillity of the scene. But at length the storm gathers around us, the sky grows black, the thunders roar, and we are in the midst of danger, surrounded by the wrecks of those who have preceded us. It is not yet too late to save this fair land from the touch of the spoiler. Let us stand firmly by the Union. Let the love of country and the love of our flag, engraved on our minds and hearts by our mothers' instruction in childhood, nerve and animate us in the mighty struggle going on; and when at last the conflict shall have ended, our beloved country will be found firm and unbroken; like an arch, every additional pressure having only served to test and prove its strength.

Mr. CUTLER made some remarks, which will be published in the Appendix.

Mr. PATTON. Mr. Speaker, during the months past in which I have sat in this Hall, I have never claimed the attention of the House. The measures that have come up for our consideration have, for the most part, been of that nature that the duty of every loyal Representative has been so clear and unmistakable that debate, further than necessary to the perfection of details, has seemed to me impertinent and factious, and to have only the effect to confuse and embarrass or delay proper action. The time has called for deeds, not words; and, fortunately for the country, there has been that unanimity of patriotic spirit in this House, that all attempts to paralyze by delay and to divide by the introduction of false issues have been promptly put aside.

I should not have departed from my habit of silence now, but for the belief that my constituents, in common with all loyal men of whatever section, have a deep interest in the passage of some measure for the confiscation of the property of rebels, and I should feel myself neglectful of my duty did I allow the occasion to pass without urging the considerations which will determine my own action.

I desire to address myself to the Representatives of the "border States" more especially. It is not my purpose to stand here and denounce any of the loyal citizens of the slaveholding States because they may differ from me on questions of policy or expediency, nor do I entertain an unkind feeling against a single one of them. I can

truly say that I have none of the prejudices common to partisans. Politics has not been my profession; nor, except so far as necessary to enable me to vote understandingly, and to discharge my duties to my constituents, have I made it my study. Since I have been a member of this House it has been my privilege to form many agreeable acquaintances among the members from the border States, and I have found them true and loyal citizens, and, I believe, as willing to make any sacrifice that they are clearly convinced is necessary to save our common country as those from the North. If there are differences between us I believe they are the result, on both sides, of honest convictions; and I desire to address myself only to their reason and their patriotism, disclaiming, on my own part, all partialities and prejudices, and asking an equally kind and candid consideration of what I may have to say.

What is it, I ask, that has so terribly distracted and disorganized our country, that has put in motion a million of bayonets, caused the sacrifice of thousands of lives, and the expenditure of hundreds of millions of dollars? Certainly no differences of language, religion, or ancestry; nor can it be the clashing of the true interests of various sections. The champions of both sides agree that it is the result of the natural conflict between slave labor and free. And where rests the responsibility for the culmination of this conflict in open war?

I apprehend that, after the events of the past year, there can be but one answer to this question, whatever may be the differences of opinion as to the original merits of the controversy. For, while the people of the North have believed slavery to be wrong, morally, religiously, and politically, and calculated to retard the proper development of the industrial interests of the States where it existed, if not contrary to the letter and the spirit of our Constitution, they have not by a single act of legislation interfered with the just or the assumed rights of those States. As Mr. Benton once said, "they (the slave States) never asked for anything that they did not receive;" and up to this very day there has not been the shadow of a law passed by Congress restricting any rights of slaveholders in the States. We have said, "you may have and enjoy your system of labor, and we will have and enjoy ours." But the slaveholding States were not content with this, or with anything short of the employment of the whole power of the Government in the extension and perpetuation of their system. Because, for the first time in almost half a century, we have placed a man at the head of the nation who is only *not partial* to slavery, the slaveholding leaders have combined against the proper authority of the Government, and are now attempting to institute a government "the corner stone of which," according to their own declaration, "shall be the institution of human bondage."

Sir, from the very beginning of the agitation, now half a century old, we sought to avert the final struggle by compromise after compromise. To the successive and ever-rising demands of the slave power we opposed only compliance after compliance, oftentimes accompanied, I rejoice to say, with protest, but always ending in submission, until there was nothing but the very vital principle of our free society that we had not yielded, and even that we had compromised. It is not my intention to review the history of the period referred to. We are all familiar with its leading events. I desire only to introduce a single reminiscence, with a view to illustrate the good faith in which I know that the people of the North acted throughout, and their desire for an amicable settlement of the matter in dispute. It was my privilege to be a member of the national Whig convention held at Baltimore, in 1852, at which General Winfield Scott was nominated for President. We then entered into a solemn agreement that we would discountenance all agitation of the slavery question, both in and out of Congress. The same year the Democracy held their national convention, and passed similar resolutions. The country then rested in the belief that these pledges were made in good faith, and that the vexed question had been put forever to rest. I returned to my home after the adjournment of that convention with the confident belief that the slavery question, as settled by Congress in 1850, and ratified by the two great national parties in 1852, was a "finality," as it was then pronounced; and I, in common with other members of the party to which I belonged, determined that there should be nothing wanting on my part to make the fulfillment of that compromise complete; and I can say, without the possibility of contradiction, that, distasteful as was the fugitive slave law to a majority of our people, for the sake of peace it was acquiesced in, and allowed to have its full force in our strongest anti-slavery communities, and no law of Congress was ever more faithfully executed in either section of the Union.

From 1850 to the assembling of Congress in the winter of 1853, the North was profoundly silent on this and all other subjects calculated to irritate our neighbors in the slaveholding States; and so earnestly was the compromise of 1850 sustained, that the radical anti-slavery element was held in check by the overpowering influence of the "finality" sentiment. I am proud to say that the pledge made by the Whig party to discountenance all agitation of the slavery question was kept in good faith. We are all familiar with the manner in which, in 1853-54, the question was reopened by a portion of the Democratic party, and the whole country kindled to a blaze of excitement. The exciting scenes through which we have passed since the repeal of the Missouri compromise need not be recited. The southern mind was poisoned against the people of the North, through misrepresentations of their purposes and desires; while the Whig party in the South was crushed out, and the slaveholding States were left exclusively in the control of Davis, Toombs, and Floyd, their confederates and co-conspirators.

I have thus, Mr. Speaker, alluded briefly to events with which we are all familiar, because I apprehend that the subject to which they relate will have a most important influence on the fate of this measure of confiscation in this House. For, while I do not doubt that many members will oppose it conscientiously, I as fully believe that most of the opposition it will meet will have its source in considerations connected more or less intimately with the institution of slavery. In the brief survey which I have taken of the past relations of the free States to the institution of slavery, it has been my purpose to call to the recollection of members from the border States the fact that all political action of the North has been uniformly friendly to the South—for of the opinions and acts of an inconsiderable minority, who never were able to affect legislation seriously, we are not bound to take account—and considerate of her every right; and I firmly believe it would have so continued so long as the South should have seen fit to avail herself of the protection of the Constitution. Therefore it is that I hold slavery has no right to claim from loyal Representatives on the floor of this House any degree of immunity from the retribution it has so rashly invoked upon itself by its crimes against the Constitution.

I rejoice that there are men here from the border slave States whom treason could neither seduce nor intimidate from their allegiance. I honor them for their fidelity, and I appeal to their candor and patriotism for that measure of coöperation with us of the free States which shall be needful for the salvation and restoration of the Republic. From the bare fact of their presence in this Hall we have a right to expect it. And what should hinder the men of the border States from joining with us in the fraternal consideration of whatever questions may grow out of the necessities and exigencies involved in the suppression of this most unholy rebellion? Have we not shown a disposition to respect your every right? What compromise was ever broken by the people of the North? Of what violation of the Constitution do you accuse us? Even during the last year, while slavery has stood confessed the one cause of seemingly impending national ruin, through all the dark hours in which existence itself hung trembling in the balance, and while the border States were more than doubtful in their loyalty, the people of the North stood unwavering to their constitutional obligations—obligations trampled under foot with every circumstance of insult and contumely by those claiming their shelter and protection.

In this House and by the executive head of the nation the same jealous regard for constitutional obligations has been preserved; regard not merely for obligations due to those who continued unquestionably loyal, but to those who wavered between loyalty and rebellion, and even to those who have gone over to rebellion and are desperately striving to destroy the Constitution. While I do not hesitate to say that I believe this tenderness has been carried further than the supreme law of national as of individual life, self-preservation, warranted, I am proud to recognize that in grain loyalty to constitutional forms which could have been developed only under a free constitutional Government, and which is itself the highest vindication of such a form of government.

But, sir, we have gone further in our respect to the obligations we owe to you as loyal, constituent parts of our common country. The loyal men of the free States are suffering losses of life and of property compared with which yours are trifling. For our communities are compact, with infinite interests and industries. All those vital relations and complex interests which have formed and become cemented during half a century of peace are rudely torn asunder by this war. The loss of life is mainly ours; the burden of taxation must be borne mainly by the large-producing and large-consuming, compact, industrial population of the free States. If it become necessary in the prosecution of this war for the preservation of the Union to adopt measures which should involve the ruin or the injury of the institution of slavery in the rebellious States we might well say to you of the border States, that, if loss be entailed on you by such measures, it is no more than has befallen our own communities. By the strict letter of the compact, the man whose interests are in slaves can with no more propriety claim compensation for injury to those interests which grow out of a common struggle for self-preservation than he whose interests may be in merchandise or machinery, and may be affected in an equally injurious way.

But this House, on the recommendation of the Executive, with a singular unanimity, voluntarily, and in advance, has tendered to those loyal citizens who are interested in the institution of slavery full compensation for all injury to either public or private relations which may ensue from its downfall. We have not done this arbitrarily; we have not proposed to meddle with your internal affairs; but, finding you, without crime or fault of your own, involved in the fate of a system upon which events, no less than the immutable principles of divine justice, have set the seal of speedy destruction, we have come forward, and, in effect, invited the people of your States to a friendly consideration of the loss to them—volunteering, in addition to bearing our own heavy burdens, to relieve them from a loss which is inevitable.

What, I ask, stands in the way of a magnanimous recognition of this generous offer? And what has there been in the political action of the North, either before or since the rebellion, which should deter you from entering fully, freely, and without any feeling of jealousy or of injury, upon the consideration, with us, of whatever measures the progress and continuance of this war may render necessary? Suppose the bill now before the House shall operate unfavorably to the institution of slavery, what is there in that circumstance to call out your opposition, or to prevent your giving it that calm, candid consideration which you would to any other measure of like justice and necessity? If slavery must have the life of the Republic, or the Republic must have the life of slavery, will you hesitate in choosing between the two? Are you not *unconditional* Union men? Would you not regard it as a high privilege to preserve the Government to which you and we owe *all*, by the sacrifice even of a portion of what you regard as your interests? But we invite you to no sacrifice in which we are not willing to bear even more than an equal part. Not only, then, on the ground that we have respected every constitutional obligation as toward all the slave States; not only on the ground of a magnanimity and a fraternal consideration of the rights of the border States beyond what is set down in the compact, but on the ground of common suffering and common wrong endured at the hand of a common enemy, do we appeal to those who represent those States in this House to join with us in all measures which tend to the restoration of the Union on the basis of mutual justice and protection.

Some settlement of the conflict which is now

oeing waged there must be, and the interests of the border Stsates, any more than ours of the more northern States, do not admit of any settlement which does not involve a restoration of the former limits of the Union. But on what terms shall the people of the rebellious States, or rather that portion of the two or three hundred thousand slaveholders which instigated and which upholds the rebellion, come back? What do gentlemen propose? Are those seats which were vacated on the eve of this rebellion, by men then, already, while the oaths they had sworn to uphold the Constitution were fresh on their lips, steeped to the eyes in treason, are those seats to have the same occupants as before? Are the men who come fresh from leadership on the fields of rebellion, whose hands are red with the blood of our sons and our brothers, to come again on to this floor, and here, again, under the protection of the Constitution they have outraged and defied, to renew in these Halls the contest which has disturbed the country for more than half a century, and the bitter fruits of which we are now reaping? How will the constituents of gentlemen from the border States whose homes have been desolated; how will the loyal people of the North who have contributed of their treasure and their lives so lavishly to put down the rebellion, relish such a proposition? For myself, I say—and in this I know that I represent all but an inconsiderable, a completely powerless minority of the people of the free States—while the problems connected with our social and political institutions were working themselves out in pacific contests, regulated by legal and constitutional forms, I was content to leave their solution to natural laws. Whatever might be our ideas, our private convictions, we all felt bound to subordinate our action to the precepts and the obligations imposed by the Constitution. When all existing interests and relations are bound up in the inviolability of an existing compact, the responsibility of disturbing it, of breaking up the foundations of society, of unloosing the passions of thirty millions of people, and entailing upon them the suffering and privation inseparable from a state of war, is one which may well cause the most unscrupulous partisan to shrink from pressing to the last appeal any cause of difference.

The South, with no provocation, without even a reasonable apprehension of any, has rashly assumed this responsibility, and I am for holding the men who have instigated the act to strict accountability. So far as those actively and voluntarily engaged in promoting the rebellion are concerned, I hold that we come to the consideration of the status to be assigned to them and their property of whatever kind, as an entirely original question. They having rejected all the resources of argument, having deliberately repudiated all the obligations of the compact, and waged atrocious war, I am for a final settlement of the questions in dispute, one which shall leave no room for a renewal of the struggle. The rebellious States, by the very act of rebellion have forfeited all their rights under the Consutitution. The only laws by which they held slave property have become void, so far as they are concerned, because of their repudiation of the only authority that could give them force.

But gentlemen will say that the people of the southern States have been forced into rebellion, that they have no heart in it, and that they will gladly return to their allegiance if they are treated with lenity and forbearance. But the measure of retribution contemplated by this bill is not for the misguided *people* of the South, but for those who have instigated, and who, *after its passage*, shall continue to instigate and to uphold it. I believe that the great mass of the *people* of the South are not disloyal except as they are deceived and misled. It is only slavery that is disloyal; and we propose to visit upon the abused masses only mercy and forbearance, but upon the few who embody this disloyal power, exemplary punishment in seizing their property, and upon their persons if they shall be within our reach. Is there anything in this to which any loyal man, whether from the border States or the more northern, can object?

If the decision of the question involved in this bill embraced only ordinary interests, if the matter of slavery could be kept out of sight, I apprehend there could be only one opinion on the main question involved, however we might differ as to details. If the people of the Northwest or of New England stood in the relation to the rest of the country and to this House in which the people of the extreme southern States stand, I apprehend there would be no difference of opinion as to the powers of the Government to hold the leaders of the rebellion responsible *either* in their persons or their property, which is all that is now proposed with regard to the rebels of the South for their crime. But why should there be this extreme sensitiveness whenever the subject or the relations of slavery are involved? Is there any section of the country which slavery has ever benefited? Is there any interest which its final overthrow would prejudice? What has slavery done for you of the border States, that you should stand between it and merited retribution? The facts developed in the settlement of the western States bear me out in the assertion that if the entire area on which slavery exists could be swept clean of all inhabitants, if it could be restored to the condition it was in before civilized man set his foot upon it, and if with this the very name of slavery could be made to perish from off the continent, within twenty-five years a larger white population than is now within its borders would have carried thither the institutions and observances of freedom; that there would be more that is valuable to humanity than now exists there after the lapse of two hundred years since some of the States within it were settled. I say this without bitterness, not by way of taunt or reproach, but in all soberness and kindness.

Again I ask Representatives from the border States, what has slavery done for their constituencies? What has slavery done for Missouri, for Kentucky, for Tennessee, for Maryland, or Virginia? The answer is, in part, under our very eyes. The ravaged fields, the desolated firesides, the ruined industries, which are the fruits of the struggle of slavery, not for existence and protection, but for absolute, undivided sway over the whole continent—these exhibit but a small portion of its infernal handiwork.

But, Mr. Speaker, sad as are these to contemplate, they constitute but a trifling share of the evil which slavery has wrought in some of the fairest regions of this continent. What magnificent possibilities have been sacrificed or held in abeyance in those States by the institution of slavery! They possess a soil unsurpassed by any on the continent for fertility, deposits of coal sufficient to furnish motive power for the world, inexhaustible supplies of mineral wealth, and yet the average valuation of land in Kentucky is only one half what it is in Ohio. In Missouri, with her incalculable mineral wealth, the average is only one quarter what it is in Pennsylvania; in Maryland only one third what it is in New Jersey, while Virginia, with fertile valleys, with unrivaled water power and rich beds of coal and iron, is worth only one quarter as much per acre as bleak, barren New Hampshire. Cold granite, under the influence of free labor, is more valuable than coal and iron under the influence of slave labor. In no spirit of boasting or of unkindness I ask you to compare, or rather to contrast, the general intelligence, enterprise, and comfort of the respective populations of the States named.

Supposing, then, that this bill were to affect—and I do not deny that it will—the institution of slavery in the border States unfavorably, are not the people of those States ready to sacrifice not only property but life, as true and loyal citizens of the Union? But, I repeat, we ask no such dear testimony of their fidelity. We have tendered them entire immunity from loss in any event, and now we ask them to join with us in all measures which the salvation of the Union may render necessary. They have now an opportunity to take their place with the progressive communities of the North, with full compensation for any temporary injury to public or private interests which might result from the change in their domestic policy. The war which weighs and must weigh so disastrously upon the industrial North and upon the States of the extreme South, may be made the source of the greatest benefits to them.

Why should not the people of the border States rouse themselves to a sense of the magnitude of the issues now presented, and rise to the exigencies of the hour? Why allow old prejudices and associations to bind them down to a policy which the events of the last year have made antiquated? If the rebellion be crushed, slavery comes out of the contest mortally weakened. If it be successful, do the people of those States believe that the North will ever give up territory which has been redeemed at the cost of Springfield, Pea Ridge, Mill Spring, Donelson, and Pittsburg? Would they desire that it should be given up? Maryland has pronounced herself for the Union overwhelmingly, so has Kentucky, and half, at least, of Tennessee. Supposing those States, then, to remain with the North, how long would they be content, when associated exclusively with our free Commonwealths, to lag behind in population, intelligence, wealth, and influence—as they must, slavery continuing—their sister States? Nay, how long could they resist the influences from the free States? Slavery could not, under these circumstances, diffuse itself. But there is no such thing as standing still. Slavery and freedom are two essentially, necessarily, hostile forces, and one or the other must perpetually advance.

The fortunes and the fate of the people of the border States, by their own choice and by the force of events mightier than they or we, then, are cast with us of the free States, whatever may be the result of this rebellion. Why should not their Representatives on the floor of this House recognize and act upon this fact in regard to this measure of confiscation? The measure is intended to relieve the loyal citizens of all the States, free and slave, in some degree from the burdens imposed by the war, and to fasten them upon those who are responsible for its existence. In this benefit all loyal citizens share alike. The loyal citizen of Massachusetts, of Kentucky, of South Carolina, has an equal interest in the passage of such a measure. While the loyal people of the country are sacrificing property and life in the maintenance of the forms of constitutional liberty, is it too much for them to demand that those who are seeking to annihilate them should be held responsible to the full extent of what is periled in their defense?

Under what possible supposition, then, can it be for the interest of the border States longer to cling to the support of slavery? I lay aside in this argument all considerations of humanity. I believe, indeed, that humanity and the true interests of individuals and States are always coincident; but I waive all but the plainest considerations of immediate interest, and on this ground alone I hold that every possible supposition indicates the policy of freedom as the true one, both for the free and the border slave States. You say that we are legislating for the negro; but if I were indifferent to the rights and to the fate of the negro race on this continent, my course would be the same that it is.

My vote for the measure of emancipation in this District the other day would be justified by such considerations alone. For more than half a century has slavery held undisputed possession of this District; and here you may behold the effects of slavery epitomized. In all this time not one single branch of useful industry has sprung up. With a genial climate suited to the production of every kind of fruit and vegetable which is grown in the milder regions of the temperate zone, the markets are supplied largely from remote districts in the free States; large amounts of Federal patronage are yearly dispensed to, and in favor of, residents, but few improvements are made; schools and churches are fully half a century behind the institutions of education and religion even in the rual districts of the free States. An air of general unthrift pervades the town and the surrounding country.

I desire, sir, to see the capital represent fairly the industry, the energy, and the enterprise of our country; I desire to see arts and industries, intelligence and culture represented here; and the country surrounding us blooming under the hand of the free laborer. Above all, I desire to see labor respected, so that foreigners may see here somewhat of what makes our national greatness; so that my own constituents may feel themselves at home in their national capital. Near this city is one of the most striking illustrations of what slavery does for a community. Hardly a cannon shot from this very spot is one of the most magnificent water powers on the continent. From that point a canal is already constructed, affording means of transportation to navigable waters with a depth of fourteen or fifteen feet. At this point is concentrated a power greater than drives the wheels of all the cotton mills of New England. Why is it that capital has shunned this

magnificent power, with the facilities for transportation, and has built up the great seats of manufacturing industry in regions destitute of the advantages here found? Why is it that the fertile regions of the Potomac, the Shenandoah and the James, instead of the regions, barren and comparatively difficult of access, of the Merrimac, have not attracted capital and industry?

I was forcibly impressed, sir, a few weeks ago, by a remark made by the venerable gentleman from Maryland, [Mr. THOMAS,] in regard to his connection with slavery. He said that his father and grandfather were slaveholders; that he had always resided in a slave State; that he had never been willingly the owner of a single slave, but had liberated eleven human beings. This was said in no spirit of boasting, and yet it was with a heart overflowing with honest pride that he announced the fact; I doubt not that the heart of every man in the House responded to this feeling. I confess I felt grieved and disappointed when a little later I saw that gentleman, by his vote against the resolution providing for concurrent emancipation recommended by the President, and afterwards by his vote against emancipation in this District, do all in his power, in his legislative capacity, to prevent others from experiencing the same satisfaction.

In what I have said, Mr. Speaker, I have not attempted the discussion of legal, constitutional questions connected with the measure of confiscation. I leave that to others who are better qualified for it. I have aimed to present some general considerations in its favor, and to remove some general objections, more especially those entertained by gentlemen from the border States, which I believe stand more in the way of such a measure than strictly legal objections. I have alluded to the good faith always observed by the North towards those interested in the institution of slavery; to the sincere desire always evinced in her political action to arrive at a peaceful solution of all difficulties; to the unprovoked and atrocious character of the rebellion; and to the jealous regard shown by the national Legislature, and by the Executive, for all constitutional obligations towards loyal slaveholders. I have referred to the magnanimous tender, on the part of the Executive and of Congress, of compensation to all loyal slaveholders, a tender made while every industrial interest of the North is prostrate, and while her people are staggering under the burdens which they are bearing. I have endeavored to show that the real, the permanent interests of the border slave States are identical, inseparable indeed, from those of the free States.

And now, I appeal to the gentlemen who represent those States on the floor of the House, if it is not time to give up the prejudices of the past, and to look to the great facts of the present, and calculate their probable influence upon the future. In times of revolution events come thick and fast, and wait not upon measures of timid policy. If this struggle goes on—and to me it seems not doubtful that it will—no sane man can doubt what will be the result, so far as the institution of slavery is concerned. The North has acted magnanimously; but it cannot be supposed that she will postpone to slavery the question of self-preservation. In all kindness I say to gentlemen from the border States that what we stand ready to do to-day the events of to-morrow may put beyond the bounds of possibility.

RESOLUTION OF STATE LEGISLATURE.

Mr. FRANK, by unanimous consent, presented joint resolutions of the Legislature of the State of New York; which were laid on the table, and ordered to be printed.

The resolutions were as follows:

ASSEMBLY CHAMBER, ALBANY, *April* 19, 1862.

On motion of Mr. Dewey, the following preamble and resolutions were unanimously adopted:

Whereas there are on file in the Comptroller's Office of the State of New York, sundry claims of soldiers of the war of 1812-13-14 for clothing worn out in the service of the United States, for arms used and lost, and for equipments and unavoidable expenses in said war, a large proportion of which claims have been duly audited and revised by the proper authorities of this State: Now, therefore,

Be it resolved, That the Representatives of this State in both Houses of Congress be requested to obtain, at the earliest possible day, an acknowledgment by the General Government of its obligation to refund to this State any advances that it may make in payment of all just demands made by the soldiers of this State who served in its defense during the last war with Great Britain.

Resolved, That the Clerk of this House transmit a copy of this preamble and resolution to each member of Congress from this State.

By order of the Assembly.

J. B. CUSHMAN, *Clerk*.

CONFISCATION OF REBEL PROPERTY—AGAIN.

Mr. HICKMAN. Mr. Speaker, I desire very informally to give expression to some opinions I entertain bearing upon the matter now engaging the attention of this House. I am led to believe, from the remarks which have fallen here this morning, that those who are earnest in the support of this contemplated legislation, are impelled to lend that support from a desire to weaken the enemy during the present war, rather than to inflict punishment upon them after the restoration of peace. In the votes which I have cast upon the different confiscation bills, so far as they have been submitted to vote, I have in no single instance been able to represent my views as I would desire them to be represented. From the strange condition of things existing in this House, it has been impossible for me to do so; and therefore it is that I desire briefly to express the opinions I entertain touching the whole of this contemplated legislation. If it is the determination of gentlemen by confiscation to weaken the enemy during this war, then I hold that the Constitution of the United States never contemplated any such thing, because, in view of the Constitution all such legislation is entirely unnecessary. But, sir, we have been forced to take our stand here as we have taken it, in consequence of the refusal on the part of the President of the United States to discharge what is a plain duty imposed upon him. We have been called upon, not merely to perform legislative acts, but we have been asked to constrain the Executive of the country to discharge a plain, sworn, constitutional duty.

I hold, sir, that it is the bounden duty of the President of the United States to suppress this rebellion. I contend that he is bound by oath to do so; that the Constitution makes it imperative upon him to do so. When he swears that he will "preserve, protect, and defend the Constitution of the United States," he swears that he will make use of all the means necessary to the accomplishment of that end, and when rebellion is inaugurated, having for its object the total subversion of the Constitution of the United States, it requires no legislation by Congress to enable him to discharge his sworn duty. And, sir, he believes as I believe, for acts, time and again, performed by him evidence the fact. Under the clause of the Constitution to which I make reference, he has caused things to be done which are as extreme as the seizure of rebel property, and which would be as indefensible in time of peace, or under any other notion than that they were necessary to defend the Constitution of the United States. Acts which, under ordinary circumstances, would be regarded as most tyrannical and indefensible, have been resorted to by the President of the United States, quite as indefensible and precisely of the same character as seizure and confiscation without legislation; I do not mean technical confiscation, but the seizure and final disposition of the property of rebels, including slaves.

Why, sir, under what authority of existing law was it that the President incarcerated the Legislature of Maryland? Under what provision of existing law is it that men are daily seized and imprisoned in forts? Under what provision of existing law is it he appoints military governors? Unless the President falls back upon the clause of the Constitution upon which I rely, his oath of office, which binds him "to preserve, protect, and defend the Constitution of the United States," he has no defense whatever, and he has played the tyrant as much as Nero ever did. He believed that these men arrested and held were engaged in the work of treason, or were about to engage in the work of treason, and that it was, therefore, necessary for the preservation of the existing Government and the maintenance of the sanctity of the laws that they should be put in such a position as to render them incapable of mischief. He did it, not by virtue of any statute law, but by the strength of the military arm. He did it as a measure of precaution, of necessity, and not in pursuance of an act of Congress. And, sir, does not every man see that when those engaged in rebellion have an unrestricted use of their property, and are at liberty to employ their slaves, not only in the erection of fortifications, but in the formation of companies and regiments, and in the defense of military works, it is a matter of necessity to deprive them of those auxiliaries. If the President may arrest a man and deprive him of his liberty because he is a dangerous element in society at the present moment, why, I inquire, may he not deprive the rebel of the property that he is using in the rebellion, and of the slave that constitutes a part of his physical force?

Sir, the President of the United States believes that he has a right to deprive the rebel of his property and the master of his slave. I repeat, his acts time and again evidence the fact, and it is nothing more, in my opinion, than a determination upon his part to shirk an unpleasant duty, which has disorganized and corrupted this body of legislators. It is a lack of those traits of character necessary to the discharge of grave responsibilities which has forced us into discord and disagreement. Sir, I am opposed to that legislation which is needed merely to compel a compliance with sworn obligations, and more especially when the dereliction is on the part of the highest executive officer of the Government. Were Andrew Jackson alive and President of the Republic at such a time as this, no legislation of this contemptible character would be required at the hands of Congress, nor would a Democratic party in power, under such circumstances, ever conceive there was a necessity for any such thing. These are days of irresponsibility and imbecility, and we are required to perform two offices—the office of legislators and the office of President. As I am no man-worshipper, Mr. Speaker, I may be allowed to express myself without disguise, and as I have ever professed to respect manly devotion to principle and sincere love of country more than party names, I must not be accused of inconsistency.

It was in accordance with this opinion which I entertain as to the obligations imposed upon the President by the Constitution, and as to the soundness of which I have no doubt whatever, that I presented, as a minority report from the Committee on the Judiciary, a joint resolution which has been for some time before the House, and to which I desire for a moment to call the attention of gentlemen. It is as follows:

That the President of the United States, as Commander-in-Chief of the Army and Navy of the United States, is authorized to make use of all means not inconsistent with the laws of war, which, in his judgment, may be deemed necessary to crush the rebellion, including the seizure and final disposition of all the property, real and personal, of those engaged in armed rebellion against the Government of the United States, or aiding in such rebellion, including slaves; and that, in the opinion of Congress, decided measures on the part of the Executive have already become necessary.

That resolution, when offered in the form of an amendment to a bill yesterday, having been voted down by this House, I have been driven to the necessity of doing the next best thing I could; and believing that the property of rebels ought to be seized and taken, and that they ought to be deprived of the services of their slaves, I have voted for every measure which looked to that end, although it might not be what I would prefer. This joint resolution is predicated upon that provision of the Constitution cited—upon the principle that the President, inasmuch as he is sworn to defend the Constitution, has, by virtue of that provision, all the powers necessary to defend it; that the law never imposes a duty upon a man without giving him the powers necessary to perform the duty; that whatever is necessary to execute the command follows the command. And if the President shall find in the prosecution of this war that it is necessary to seize the real and personal property of the common enemy, and to confiscate their slaves, I say that, under the war power which is vested in him as Commander-in-Chief of the Army and Navy, he may do it; and that any act of legislation conferring additional power upon him to that end, is a work of supererogation.

Then, sir, as I view it, it is not necessary to have such legislation as is now contemplated. I say that it is impolitic and weakening to resort to it. It is impolitic for the reason that you cannot see into the future. That faculty is denied us. I know very well that those gentlemen who were most earnest for the legislation of August last; believed that they would thereby very materially strengthen the hands of the Executive, whereas it turned out eventually that they were defeating the very purpose that they had in view; for when

General Frémont issued his proclamation declaring the slaves of certain persons in Missouri free, the President of the United States fell back upon that legislation and commanded General Frémont to make his proclamation conform to the act of Congress.

If you pass an act of the same kind to-day, I think I hazard little in saying that, instead of its strengthing the military arm or fortifying the President of the United States, it will be found, in the end, to have defeated the very object which you have in view in passing it; and that, judging of the future by the past, the President of the United States will turn it into an act of weakness rather than of strength. Sir, I wish him to discharge his duties fearlessly and fully, and I do not want him to impose them on me. I have never assumed them. I am not willing that he shall avoid the weight of the responsibilities which he willingly incurred when he took his oath of office; and I, for one, intend to hold him to them. It would be comfortable, indeed, if, under trying circumstances, we could relieve ourselves of such burdens.

It will be easily seen, Mr. Speaker, that I am opposed in principle, to all bills providing for the seizure and confiscation of the property of men engaged in this rebellion. That is not because I do not think they ought to be punished, for I know they ought to be, and I insist that they shall be. Their crime is one of the highest known in civil Government, and I desire that they shall be punished to the extent of the law, civil and military. It is rather because I believe the law is stronger as it now stands, than it would be if we tinkered with it by our legislation. In other words I believe that the military arm, in such a crisis as the present, is longer and stronger than the civil arm, and that military process will reach where civil process will not. My opinion has been heretofore—and I do not know that I ought at this time to change it—that such a declaration as I proposed by way of amendment yesterday, would accomplish everything that we desire. I think that with this expression of opinion as to his power, the President of the United States would discharge his whole duty, and that where it was proper for him to seize, and finally dispose of property of the enemy, he would do so.

Now, sir, I do not say in that amendment or in the joint resolution, that the President of the United States has a right to seize and sell the real estate of a rebel and to make to the purchaser a fee-simple or an indefeasible title. I say nothing of that kind. I do not say that he may seize the slave, and liberate him unconditionally. I say no such thing. I say that he may seize and finally dispose of property, leaving the character of that disposition to him, with his law advisers I say that he may seize the property of rebels, and dispose of it, either by holding it for a day, or for a week, or for a month, or for a year, or for five years, or during the existence of the rebellion—receiving the rents, issues, and profits of the real estate, using the personal property for war purposes, and employing the negro in the fields or in the camp. I have no manner of doubt, nor do I believe that any reasonable man here has a doubt on that point. But with respect to the absolute sale of this property, that is a very different question. It is one which I do not undertake to settle. I leave it for the President to ascertain, under the best lights that he can secure, what his duty is in that regard.

It would be well, perhaps, to entertain more confidence in the President of the United States than I have expressed this morning. He may be deserving of more confidence than I myself feel in him. But it will be observed I entertain much more than some others, as I am willing to trust him further. I am satisfied, whatever my measure of confidence may be, to trust him further, with the declaration of Congress, solemnly made, that he has all the powers necessary in a state of war; that he is not merely a civil magistrate, but that he is a military leader, and, to a considerable extent, a military despot, if you please; that there is no act not inconsistent with the laws of war or with the principles of Christianity, which he may not do, in order to save the Constitution and the Union. This being all that I desired to say, I will, in accordance with my promise to the gentleman from New York, [Mr. OLIN,] renew the call for the previous question.

Mr. DIVEN. I hope the gentleman will indulge me. I am a member of the Judiciary Committee with himself, and every member of that committee except myself has had an opportunity of expressing his views on this subject.

Mr. HICKMAN. I give up the floor to the gentleman from New York, at whose instance I made the motion. I obey his will, and could not do otherwise in good faith.

Mr. CRITTENDEN also sought the floor.

Mr. OLIN. We have already heard two members of the Judiciary Committee, and if I were to yield the floor to any one I should certainly yield it to the gentleman from Kentucky.

Mr. STEVENS. I had hoped to have an opportunity of submitting a few remarks on this question of reference before it was disposed of.

Mr. OLIN. Let me make one remark. Every member of the House who is expected to speak on this subject of slavery would, I have no doubt, debate this question of reference if he had an opportunity to do so. What I desire is, to let the gentlemen opposed to, and in favor of, the reference of this matter to a special committee—some one or more on each side of the House, if there can be said to be two sides in this House—speak upon it; but I do desire above everything else that this question shall be disposed of in a proper mode, for the present, so that we may proceed to some other subject of legislation. I think it eminently due to the House, to the Administration, and to the country, that some remark should be made in reply to the very extraordinary speech of the gentleman from Pennsylvania, [Mr. HICKMAN;] but I forbear even that. I will, however, yield to the gentleman from Kentucky, [Mr CRITTENDEN,] if he desires to speak on the subject of the reference of this question. But I hope and trust that debate will be confined to the topics ordinarily to be treated of on a question of this kind. I withdraw the call for the previous question, and hope that the gentleman from Kentucky will renew it.

Mr. CRITTENDEN. Mr. Speaker, if I failed to ask the indulgence of the House to address it on this subject, I would have felt that I had not entirely acquitted myself of my duty. Of all the great questions that have presented themselves for our consideration, this I regard as the most momentous. I have considered that the adoption of such a measure as this, authorizing the President of the United States, and making it his duty so to do, to declare that all persons held to service in the United States shall be free, would, in the present condition of affairs, be perfectly fatal to this Republic. I believe it would continue and exasperate the war, and make it fatal to the country. For its preservation we are striving. Let us not, out of over-wrought zeal, and in a spirit of mere passion and vindictiveness, do things that would defeat our own object. I do not believe that there is a gentleman here who does not honestly desire a restoration of the Union in all its extent, and with all the blessings which it has heretofore shed on the country. I believe that we have a common object in view. Is it not, then, of all importance in this great and arduous struggle—the issue of which appears doubtful to some—that we should continue, as far as possible, united? Are we not all agreed that, without this confiscation measure, we have the means of suppressing this rebellion? I think we are. Is there a gentleman here who thinks that, with the army we now have, and with the army we can have, we are not able to suppress this rebellion, and restore in all their majesty the Constitution and the laws? I think there is no one here who doubts that.

If we have the means then, in the use and employment of which we can all agree, why should gentlemen insist upon prosecuting other measures about which we differ, measures of doubtful constitutionality and doubtful policy? Why insist upon them when it must be at the expense of a division amongst ourselves, and a division of the country? Why insist upon such measures, I say, when we are ready to agree, and have agreed upon measures which, in the judgment of all of us, are competent to accomplish the object desired? Why insist upon them, I ask you as statesmen and men of honor? Why should we differ about non-essentials when we are agreed about the essentials? The essential object is to restore the Union, to vindicate the law, and to cause its authority everywhere to be respected. To accomplish this, we have the means agreed upon, and means in the use of which we are united. And yet there are some who insist upon the adoption of other supplemental measures which they consider proper, but the adoption of which will certainly separate and divide us not only in opinion, but divide us in feeling, and which will divide the whole country. Why do you do that when the country demands the union of every hand in the restoration of the Union? Is there any policy, any statesmanship in it? What are the motives that prompt a party in this House to adopt these ultra, extraordinary measures? There is, I repeat, no policy in it.

But, Mr. Speaker, I regret this measure as totally and entirely unconstitutional—without the semblance of constitutionality. It authorizes the President to manumit every slave in the Union. Where in the Constitution do you find the power to do that? You have agreed that Congress has no power to do any such act. You have agreed over and over again that you have no power to interfere with slavery in the States. Has the President a power which Congress has not? The President has no legislative power. We are vested with the legislative power of the country, and we ourselves have agreed that we have no such power. It would be strange indeed to look for such a power, which is a legislative power, in the hands of the President. The honorable gentleman from Pennsylvania [Mr. HICKMAN] argued that the President had the power in himself, without any authority from Congress. Well, sir, it is clear that you cannot delegate to him any such power; for if you have no power yourselves to interfere with slavery within the limits of the States that have authorized it, you cannot, of course, delegate such a power to him, nor would he be authorized to exercise it were you to attempt to delegate it. How is it then that the gentleman from Pennsylvania discovers or argues that the President of the United States has been a coward because he had not, without any legislation, performed this act? Now, gentlemen, I beg you to reflect that we have not considered with proper solemnity even as yet the condition of the country. We have not felt the great consequences of the present troubles. We must preserve the Constitution, and at the same time we must put down the rebellion; and there must be no interference between our duties in these two respects. I say that the Constitution is our strength, and it is by the strength of the Constitution and in your own patriotism that you will find the means by which this rebellion is to be overthrown.

Mr. LOVEJOY. If the gentleman will allow me a moment, I wish to make this inquiry: supposing a resolution had been introduced into this House that the President had no power to appoint a Governor over a State——

Mr. CRITTENDEN. That is no case in point.

Mr. LOVEJOY. I beg the gentleman will allow me to finish my question. I say suppose the House had passed such a resolution, would the gentleman hold that the President had no right, under the present circumstances, to appoint ANDREW JOHNSON Governor of Tennessee?

Mr. CRITTENDEN. I mean no discourtesy to the gentleman, but I cannot be diverted from my course of argument at this moment.

The gentleman from Pennsylvania discovers that the President has this power under the oath he has taken. I never supposed, nor have I in any former instance heard, that the oath taken by the President conferred any power upon him in addition to that conferred by the Constitution. Who ever looked to the oath to find the power of the President? The Constitution itself has specifically enumerated the powers of the President which are recognized as belonging to him; and when that is done, when all these powers are enumerated, then the Constitution prescribes the oath the President shall take to perform the duties prescribed for him. His oath is to see that the laws are faithfully executed. And the Constitution, among those laws, is of the highest authority.

The gentleman from Pennsylvania says the oath of the President gives him power to do everything necessary to suppress the rebellion. What then becomes of those provisions of the Constitution which undertake to specify precisely what powers the President may exercise, and that he shall not be allowed to exercise any others? If, as the gentleman says, in taking his oath he is required to use whatever means are necessary to suppress the

rebellion, and, among others, to confiscate and liberate all the slaves held under the laws of any State, if, in his judgment, it may be necessary to the suppression of the rebellion, why was not that power conferred upon him expressly in the Constitution as a legitimate means of suppressing the rebellion? Why not give him unlimited power to execute any rebel who may be taken, without waiting for the judgment of any tribunal, civil or military?

Sir, the gentleman totally mistakes the Constitution of the United States. The President's oath to support the Constitution of the United States is no more than his oath to support it by the exercise of all legal and constitutional powers that have been conferred upon him.

Mr. HICKMAN. With the permission of the gentleman from Kentucky, I would like to ask a question. I ask whether the arrest of the members of the Maryland Legislature and other citizens suspected of treasonable acts, without positive evidence of the fact, is, in his opinion, entirely illegal and without warrant—whether the President in these matters acted arbritrarily?

Mr. CRITTENDEN. It is my opinion that he did; but, nevertheless, it is the opinion of the Attorney General, and one of the most eminent jurists I have known in the country, that under the language of the Constitution giving authority to suspend the writ of *habeas corpus* the President himself may do it in time of rebellion. That, however, was not my opinion.

Mr. HICKMAN. I would like to ask the honorable gentleman another question.

Mr. CRITTENDEN. I cannot stop to answer it. The honorable gentleman, whose intelligence and independence I respect, however much I may differ with him in opinion, is totally wrong in assuming that the President has the right to do whatever is necessary to suppress the rebellion. I deny any such authority. What power would that give him? It would make him a despot. Nothing more, nothing less. His oath is to see that the laws are executed and the rebellion suppressed.

Now, suppose a court does not sit, has the President, under the pretext of seeing that the laws are duly executed, a right to sit in judgment and go on with a case? If the clerk is dead, has he the right to issue an execution? If the sheriff will not act, has he the right to take the writ in his own hand and go and execute it? Under the power conferred, as the gentleman says, he is, by his oath, bound to see that the laws are enforced. Such an interpretation as the gentleman has insisted upon would subvert the Constitution. The oath which it provides that he shall take, is to do such things as the Constitution and the laws require. He has to appoint judges when Congress passes laws for the establishment of courts. He has to appoint judges and marshals, and to do all the things which the laws, under the Constitution, may demand. When he has done all these things, he has done all that the Constitution expects of him. The President has no right, he has no more power than any other man, as a general thing, to seize property in slaves or any other description of property. This bill, sir, not only authorizes the President of the United States to take the property of rebels, but it also authorizes him to take the property of every man who may own slaves. I do not stand here to discuss the question of the merits or demerits of slavery. It is no part of my purpose to make an argument with reference to the moral and religious aspect of slavery. That is not the question now before the House. I look upon it as a matter settled and determined by the great compromises of the Constitution. If those compromises had not been entered into, the present Government would not have been established. It was necessary that there should be an agreement between all the States in reference to this question of slavery, and that there should be a constitutional provision in regard to it. Under that Constitution the States have a right to decide for themselves in reference to the question of slavery. They have decided, and you have no right to interfere with their decision by any legislation which you may make here. You have confessed that over and over again.

This bill, sir, proposes to interfere with that property in the States. Let us look at it as practical men. There are some States where slavery exists not in this rebellion at all. There are some States whose laws forbid any free negroes within their limits other than those there at the time of the passage of those laws. Now, can you, contrary to the laws in those States, turn all these emancipated slaves into their midst? Can you do the things provided for in this bill in reference to slave property without violating the Constitution of the United States? You certainly cannot, unless you adopt the argument of the gentleman from Ohio, [Mr. BINGHAM,] who finds the ground for liberation of these slaves in the Constitution itself, or rather in an amendment to the Constitution, which provides that no person shall be deprived of life, liberty, or property, but by a judgment of his peers, by due process of law. The honorable gentleman from Ohio is of the opinion that since the foundation of this Government, these slaves have been unconstitutionally deprived of their liberty. That at least was his argument. Now, so far as my experience goes, that provision of the Constitution was designed for the protection of slave property as well as for the protection of every other kind of property. The Constitution considers slaves property, and Congress under the Constitution has considered them as property. The gentleman from Ohio, however, rises up in this House, and denies that there can be any property in slaves. I tell him that slaves are recognized as property by the Constitution, and by the law, and that under the Constitution, and under the laws, I have the same right to be protected in that property as he has to be protected in any property which he may possess. This protection of my property in slaves was intended to be secured by that provision of the Constitution which declares that no man shall be deprived of life, liberty, or property, but by due process of law. Let it be recollected that General Washington, and all your good and great men who signed the Constitution, held slaves. General Washington held them, so did every gentleman from the southern States. They all held slaves at the time they framed and signed the Constitution of the United States, and they continued to hold them after it had gone into operation. Now, with what color of reason can we applaud the name of Washington? With what color of reason can we make it our national boast to have had such a man who could sign an instrument declaring slaves to be free, and then go right home and still continue to hold them in servitude? The proposition is a monstrous one. I trust, on more consideration, the able and intelligent gentleman from Ohio will withdraw the argument which he has advanced on this subject.

I am glad to see the doctrine is not adopted in this bill which came down to us from what is denominated, in parliamentary language, the other House. It was there urged by a learned debater that you can forfeit a man's property without a judicial proceeding. By some sort of legal trick it is proposed to utterly strip a man of his property without any judicial proceeding; yet it is called a proceeding *in rem*. By machinery of that sort the Constitution and the laws are to be set aside. If all that has been urged in behalf of this doctrine be sound doctrine in reference to these proceedings *in rem*, and then going to work as you would in a prize court, of what worth or value is the Constitution for the protection of property? If by a legal trick, if by the use of a few Latin terms, you can deprive property of its protection under the Constitution, then what a miserable pretext it is that the Constitution affords any protection at all. This doctrine seems to have employed all the ingenuity of its author in devising the machinery by which it is to be carried out. I cannot, in justice to the subject, express myself in milder terms. In what I have said I meant nothing personally disrespectful to the gentleman to whom I have referred.

I say that the security of property is a great object to be accomplished in every Government. It is a great object to secure to the owner the undisturbed enjoyment of his property. It is necessary for the prosperity of any Government, for peace and harmony, that every man who acquires property shall feel that he shall be protected in the enjoyment of it, and in his right to hold it. It elevates the man; it gives him a feeling of dignity. It is the great old English doctrine of liberty. Said Lord Mansfield, the rain may beat against the cabin of an Englishman, the snow may penetrate it, but the king dare not enter it without the consent of its owner. That is the true English spirit. It is the source of England's power. The doctrine to which I have referred would deprive property of all protection. By these proceedings *in rem*, a man would be stripped of his property in violation of all the safeguards of the Constitution. It would make a slave of him. You would not make a pauper of him, you would make a slave of him. I am for adhering to this great principle, this magnificent old relic of the English law, that no man shall be deprived of his property but by due process of law. It has been translated into our Constitution, and let us hold to it. It is our great constitutional security for the protection of the rights of property, and do not let us lightly part with it.

I appeal to gentlemen on all sides not thus, at one blow, to destroy the right which citizens have in their property. Let not this monstrous injustice be done to them. The Constitution provides that they shall not be deprived of life, liberty, or property, except by the due process of law. Do not let us violate that sacred provision, but, on the contrary, let us hold to it to the last. All have property to a greater or less extent. These laws are our castles, our defenses, relying upon which kings, lords, and commons dare not enter upon our property and take it away without our consent. Those rights exist by the laws of the land, and those laws we are to make. Let us be careful to make no laws, no rash legislation, which reduces the idea of property. It is forbidden by the Constitution. The idea of property is deeply seated in our minds. By the English law and by the American law you have the right to take the life of any man who attempts, by violence, to take your property from you. So far does the spirit of these laws go. Let us not break down this idea of property. It is the animating spirit of the country. Indeed, it is the spirit of liberty and freedom, and its inculcation will give you a set of men against whom no rebellion can succeed unless you break it down in attempting to suppress this rebellion. You have no need to do that. You have means now ample. No man will say we have not. We have men now, with arms in their hands, ready to do it, and able to do it; and yet, not satisfied with that, you pretend that there is a necessity for this. Under a pretended necessity you undertake to break down the law, the Constitution, and property.

The gentleman from Indiana [Mr. DUNN] and other gentlemen who have made objections to this law of confiscation, have stated the misery it would bring upon innocent members of society, connected with the rebellion. Gentlemen have animadverted with severity upon this sympathy for rebellion. Sympathy with rebellion! With a strong insinuation that all sympathizers with rebellion participated a little, more or less, in the guilt of the crime.

I tell you how I consider this question. I consider what it is for our interest to do, and for the country's interest. You might exhaust your means of punishment upon them, and yet the punishment would not exceed the guilt. But look at the whole matter, and not at one side of it. How long will it take, threatened beforehand, to accomplish the confiscation of all the property of the country belonging to citizens in loyal States? Would it not be bad property; would it not be a losing business? As the gentleman from New York [Mr. OLIN] happily said, it would tempt these men to be more desperate; to continue the struggle longer; to shed more of the blood of our true and loyal fellow-citizens. Would not that be the inevitable tendency and consequence of such a measure? Tell these men that they may stand a chance to succeed if they persevere, but if they surrender they shall be hung. Is that an inducement to peace or an inducement to continued war? No one can doubt about the influence of it. It is for our own sake, and for the sake of that for which we are waging this war—the suppression of the rebellion—that I am opposed to this measure. I think it is bad policy, and one tending to protract this war and make it very fierce and bloody. It cannot be a peace measure; but it will make this a war of extermination. Do you want to invite that sort of a war? We have been a pattern to the world, and you want, after a proper establishment of your authority by force, to bring back your country blooming and smiling once again. If that is not your object, your object is not a patriotic one.

Mr. WHITE, of Indiana. I desire not to embarrass the gentleman, and I could not if I attempted. If an individual takes my property by force, I have an action to receive damages from him by the municipal law. If a body of individuals, too numerous and too powerful to be subjected to the municipal law, involves the country in a debt of a $1,000,000,000, is there not a principle of public law, higher than municipal law, which will authorize a reclamation?

Mr. CRITTENDEN. I am not going into a law suit. The gentleman begins with a law suit and ends with the law of nations. I tell the gentleman that he cannot find an instance in history where it has been done. Viewing the matter upon the small scale of a law suit, it would be right enough to do so. It would be better to make peace at once than to procrastinate the war for an endeavor to make the enemy pay the expenses of the war. What nation in modern times has attempted to make the enemy pay the expenses of a war?

Mr. STEVENS. Let me say to the gentleman that it may be within his recollection that England and France both compelled the payment of the cost of the war from China at a very recent period.

Mr. CRITTENDEN. Not the whole cost of the war. They compelled China to pay something.

Mr. STEVENS. They called it the cost of the war.

Mr. CRITTENDEN. It was not the cost of the war. The gentleman must revive his recollections of history. I say there is no such instance. But if there were any such instance, I put it to the judgment of the House to decide whether they do not believe the sacrifice of life and property would be greater if the war was attempted to be prosecuted to that end, than it would be if you were to conclude it now, if it were in your power.

Mr. STEVENS. As I may be mistaken in the facts, and as the gentleman thinks I am, though I do not, let me call his attention to another case. The gentleman remembers the rebellion of certain Cantons in Switzerland a few years ago. Am I right in believing that, in the settlement or suppression of that rebellion the Government compelled the rebellious Cantons to pay the expenses of the war?

Mr. CRITTENDEN. I do not remember, but the gentleman may.

Mr. GRIDER. The Government came to that resolution at first, but they afterwards retracted and paid the whole expense themselves.

Mr. CRITTENDEN. Is it policy to do so? That is the question. Is it policy to insist upon making them pay the expenses of this war before it comes to an end? Or is it policy to insist upon their paying only their proper proportion after they shall be reduced to the condition of abiding by the Constitution and the laws? They will then have to pay their portion. Will we not lose more in blood and treasure, by driving the war to extremity, than we shall gain? I think so.

And, besides, this policy is a barrier to the restoration of peace. Peace is the want of the country. Our brave soldiers who have gone to the wars, went with their bosoms swelling with the idea that they were to battle for the restoration of the Union; but if you fight for a set of confiscation laws, and because these people insist upon holding slaves, you are waging an anti-slavery war. If the country had been told that, what would you have had in the place of that Army which now challenges the admiration of the world and excites the fears of all? Patriots and the lovers of their country? No, sir; but only those who wanted slavery emancipation, and none others. There would have been no question of country then. It would have been a mere question of the abolition of slavery. I speak candidly and plainly, but with no spirit of offense. That is the way the people look at it; and the people of the United States will preserve their institutions both against secessionists and against those who would violate the Constitution by interfering with a subject with which they have no business. All understand that, and neither secessionists nor abolitionists will be permitted to put down these institutions and this country.

Mr. EDWARDS. I wish to know if the gentleman asserts that those who support the confiscation measure, do it for the purpose of ultimate abolition; and not with reference to the subjugation of the rebellion—whether those gentlemen who support the confiscation measure do it for the purpose of producing the abolition of slavery?

Mr. CRITTENDEN. I did not so assert, and you have no right to ask me whether I would so assert. But this I do assert; I believe that these gentlemen have persuaded themselves that it is for the good of the country and for the suppression of this rebellion; I believe they think that, but I believe another object with them is the abolition of slavery.

Mr. EDWARDS. Does the gentleman mean to charge that upon all, or only a few?

Mr. CRITTENDEN. Oh, no; not upon all. But I believe that some gentlemen are so zealous, and so honestly and sincerely zealous, in this matter, that they regard the abolition of slavery as a prize next in value, at least, to the preservation of the Union.

Mr. EDWARDS. I desire to say, if the gentleman will allow me, that if any such version of the matter was to proceed authoritatively from the gentleman to the South, it would only be that kind of misrepresentation which, on the part of southern gentlemen, has produced the alienation between the North and the South. I undertake to say that a large majority of the people of the North——

Mr. CRITTENDEN. You are disposed to be offensive, sir, and I do not yield to you further.

Mr. EDWARDS. Only one word.

Mr. CRITTENDEN. No, sir; not a word. I will not yield one moment to a gentleman who is offensive.

Mr. EDWARDS. I had no desire to offend the gentleman, and I did not think the language I used could do so.

Mr. CRITTENDEN. Then I beg the gentleman's pardon.

Mr. EDWARDS. I certainly intended no offense.

Mr. CRITTENDEN. I am incapable to taking offense were none is intended. I yield to the gentleman.

Mr. EDWARDS. I meant merely to state what I believe to be the fact. I believe that a very large majority of the people of the North have no desire to interfere with slavery at the South, and that a very large majority of those who sit upon this side of the House have no desire to interfere with slavery at the South, unless it shall be necessary to save the country.

Mr. CRITTENDEN. I am very glad, very glad, indeed, that the gentleman's interruption has taken place. That is what I have believed myself, and the gentleman but verifies me. I said but an instant before the gentleman interrupted me that the people of this country will preserve their Constitution and defend it against the extremes of all parties, North and South. That is what I mean to say, and the gentleman assures me, so far as his testimony goes, that they have the power to do it and the will to do it.

Mr. Speaker, it is very possible, such is my own infirmity, that I may have been betrayed upon this occasion into a departure from that calmness and deliberation which should characterize our proceedings here. I wish to see these questions considered dispassionately and discussed temperately; and if in any instance I have been provoked into a departure from proper calmness and temperance in my remarks, I am sorry for it, and beg pardon of the House. Questions of such momentous import ought to be seriously and dispassionately considered.

Mr. Speaker, I have a few words more to say, in conclusion, in reply to my eloquent friend from Ohio, [Mr. BINGHAM.] He says he is sure that if I could thereby establish peace and promote the restoration of the Union, I would make any sacrifice upon the subject of slavery. Mr. Speaker, I have only to say upon that point that if I knew and could see that any personal sacrifice of mine would restore the Union and give peace to the country for the present, with a hope of its perpetuity, I trust I should be ready to make that sacrifice. But there is one sacrifice I cannot make, because it is a sacrifice of duty; I cannot sacrifice my understanding of the Constitution; I cannot sacrifice my obligation, my sworn obligation, to obey it, according to my understanding of it. We have no constitutional power to enact these measures. We have no constitutional power to do these things, and, therefore, I cannot, no matter what may be the result—I cannot do this thing that the gentleman wants me to do. And, sir, perhaps I would not do it if it were in my power to do it, because I do not believe that it would accomplish the object which he has in view; I do not believe that it would bring about the millennium and give perpetuity to the Constitution of the country.

Mr. Speaker, suppose the President were to declare all the slaves in the United States free, according to the mandate of the chairman of the Committee of Ways and Means, [Mr. STEVENS,] the leader of this House: four millions of slaves would then be turned loose on the country. We have now an Army of six hundred thousand men, and the gentleman knows how difficult it is to furnish means to support them. But the cost of this Army would be a mere pittance compared to that which the support of these four millions of emancipated slaves would involve. And yet the chairman of the Committee of Ways and Means, who might have been expected to take a practical view of this subject, as it is his especial province to look to the means by which money is to be obtained for carrying on the war, is for turning loose these slaves. They are to be turned loose by your authority. You take from them the protection of their masters, and release the masters from all obligation to provide for them. Penniless and utterly destitute, you take these four millions of people into your hands. How will the chairman of the Committee of Ways and Means provide for them? The cheapest way would be to leave them to starve, but the gentleman's humanity would not consent to that. Where, then, would he get the money necessary to defray the expenses of the four millions of the "redeemed," as he calls them? Would he redeem them from bondage merely for the purpose of starvation? Is that your motive?

When we look at it practically, the proposition seems to me to be utterly untenable. Now, at any rate, we are not in a condition to provide for them. We complain of the $1,000,000,000 we are now in debt, but what would that be in view of the necessity of feeding and clothing four millions of people? How long would it be before the gentleman, with all his ingenuity, could enable the President of the United States to meet the expenses involved by his newly imposed duty of becoming the overseer for four millions of negroes? How could he do it? Look at this question, I pray you gentlemen, as a practical one, and not as a sort of romance, in which you are dissolving the bonds of the slave, wiping away all tears, and making a new creation according to your own fancy. The things of this world are made up of right and wrong. For what purpose it has been so ordained we cannot tell. We must proceed practically in this matter when we do undertake it. You are not in a condition, I say, to do it now. You have not the means of supporting them when you have liberated them. This war is already sufficiently expensive and costly to be endured by any people. Let us then go calmly forward with the work in which we are engaged, using the practical means in our hands to accomplish the first, the great, or, what the President calls, the primary end. When that is accomplished, if we shall find in slavery anything that is likely to endanger our future peace, anything that we can remedy and ought to remedy, let us remedy it; but let us be content to do one thing at a time, and that the greatest of all things, to restore this Union and preserve the integrity of the Constitution. That is our duty, our great duty, and it is to the mode in which we perform that high, that sublime duty that history will look in what it shall hereafter say of us. Discharge that duty and all will be right. Trust to the wisdom of the people for the future. Trust to the sacrifices that North and South will be willing to make when brotherhood shall be restored, in order to secure the perpetuity of the Government. The people are interested in its perpetuity, the South as well as the North, and the North as well as the South. Why not trust to our common counsels hereafter, to the feeling of a common brotherhood and a common patriotism to accomplish it? This war was declared to be a war for the Union, and no longer ago than last session it was proclaimed that you did not intend to assail the institutions of any State, but that the rebellion put down and the war at an end, each State would emerge from the ruin, with all its pristine rights and dignity complete, untouched, and undiminished.

Not only have we created alarm throughout the whole country by proposing measures of this sort, but we have also created the idea, whether so intended or not, that our whole aim is to make this war an abolition measure, and now that we see we are able to put down the enemies of the Union, to throw in another object—the abolition of slavery. That is the way in which it is represented, or, if you please, misrepresented. We can easily avoid that. Let these unnecessary measures alone for the present. You know, and must confess, that they are not necessary. We all look forward cheerfully to the termination of this war before the end of the year, at the longest, by the means that we now have. Why, then, adopt a measure which might divide us at a time when our united strength is necessary to keep up the effort we are now making? Let us look at it in that point of view. Let no extreme purposes of any member or set of members divert us from the performance of this one single duty.

Sir, it is not my duty, perhaps, to defend the President of the United States. I have endeavored to show, however, that Mr. Lincoln could not have done those things which the gentleman from Pennsylvania [Mr. HICKMAN] says he is a coward for not doing. I voted against Mr. Lincoln, and opposed him honestly and sincerely; but Mr. Lincoln has won me to his side. There is a niche in the temple of fame, a niche near to Washington, which should be occupied by the statue of him who shall save this country. Mr. Lincoln has a mighty destiny. It is for him, if he will, to step into that niche. It is for him to be but a President of the people of the United States, and there will his statue be. But if he choose to be, in these times, a mere sectarian and a party man, that niche will be reserved for some future and better patriot. It is in his power to occupy a place next to Washington—the founder and the preserver side by side. Sir, Mr. Lincoln is no coward. His not doing what the Constitution forbade him to do, and what all our institutions forbade him to do, is no proof of his cowardice.

The gentleman's [Mr. HICKMAN's] deductions of the President's cowardice are from false constitutional doctrines of his own. He thinks that the President is wrong in opinion, and therefore the President must be a coward for not acting in accordance with the gentleman's opinion. That is the whole sum and substance of his cowardice. Because he has not committed an outrage in violation of the Constitution of his country he is a coward. I have observed, sir, that some gentlemen in and out of Congress think that a little unconstitutionality gives a sort of relish to a public measure; that it lacks piquancy, efficacy, and energy, unless its author shows his daringness by violating the Constitution or by pronouncing an unconstitutional doctrine. Sir, I know no safety for myself, or my country, or my countrymen except in the preservation of the Constitution and the Union inviolate. It is sacred to me in peace; it is sacred to me in war. I go to war in confidence with that on me as my shield, for, when I come out of the war, I know I am entitled to all my constitutional rights and privileges. I take the Constitution for my spear and shield and fear no evil.

[Here the hammer fell.]

Mr. LOVEJOY obtained the floor, but yielded to Mr. BLAIR, of Missouri, who moved that the House do now adjourn.

The motion was agreed to; and thereupon (at four o'clock, p. m.) the House adjourned.

IN SENATE.

THURSDAY, *April* 24, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in obedience to law and in conformity with the Senate's resolution of February 14, 1862, statements showing the contracts made under the authority of the War Department during the year 1861; which, on motion of Mr. POWELL, was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also laid before the Senate a message from the President of the United States, communicating, in answer to a resolution of the Senate of the 17th instant, the testimony and judgment of the naval court of inquiry in the case of Lieutenant Charles E. Fleming, of the United States Navy, and also the testimony and judgment of the naval retiring board in the case of Lieutenant Charles E. Fleming; which, on motion of Mr. GRIMES, was referred to the Committee on Naval Affairs.

PETITIONS AND MEMORIALS.

Mr. GRIMES presented fifty-one memorials of brewers of malt liquors, praying that the proposed tax on malt liquors shall not exceed fifty cents per barrel of thirty-one gallons; which were referred to the Committee on Finance.

Mr. POMEROY presented a petition of citizens of Kansas, of German birth, remonstrating against the proposed tax on lager beer; which was referred to the Committee on Finance.

Mr. WILMOT presented twenty-eight petitions of citizens of Philadelphia, praying the passage of a general bankrupt law; which were referred to the Committee on the Judiciary.

Mr. SUMNER presented a petition of citizens of Massachusetts, praying for the abolition of slavery under the war power; which was ordered to lie on the table.

REPORTS FROM COMMITTEES.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the bill (H. R. No. 406) for the relief of Francis Hüttmann, reported it without amendment.

Mr. THOMSON, from the Committee on Naval Affairs, to whom was referred the petition of W. N. Wood, submitted a report, accompanied by a bill (S. No. 282) for the relief of Oliver Spencer Wood. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. NESMITH, and Mr. WILSON of Missouri, from the Committee on Indian Affairs, submitted additional amendments, intended to be proposed by that committee to the Indian appropriation bill; and they were received informally, and ordered to be printed.

ARRESTS IN KENTUCKY.

Mr. POWELL. I ask the Senate to take up the resolution I offered a few days ago, asking certain information from the State Department.

Mr. SUMNER. I hope the Senate will not take up that resolution.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Kentucky, to postpone prior orders, and take up the resolution indicated by him for consideration.

Mr. SUMNER. I oppose that motion. I wish to be heard upon it. I understand the motion is to take up the resolution.

Mr. POWELL. After the resolution is taken up, the Senator can be heard upon it.

Mr. SUMNER. I do not think it advisable to take it up.

Mr. POWELL. Is the motion to take it up debatable?

Mr. SUMNER. Certainly; I believe it is.

The PRESIDENT *pro tempore*. It is debatable to a limited extent.

Mr. POWELL. If it is debatable, let the Senator make his speech now. I am willing to hear him.

Mr. SUMNER. I merely wish to state that I objected to the resolution when offered by the Senator from Kentucky the other day. It was a resolution which I thought, under the circumstances at the present moment, it was not advisable for us to consider. It proposed a call upon the Department of State with regard to the number of arrests made in Kentucky. It confined the inquiry to a particular State. It had an object, doubtless, in which the Senator from Kentucky was specially interested; but I doubted whether, under the circumstances, the interest of the country at this moment would be promoted by any such inquiry, and, looking at the resolution since, I have been confirmed in the conclusion at which I arrived at that moment. I hope, therefore, the Senate will not take the resolution up.

The PRESIDENT *pro tempore*. The Chair takes occasion to repeat what he has before stated, that if Senators would permit the ordinary business of the morning hour first to be presented, before interposing motions to take up special business out of its order, the business of the Senate would be very much facilitated. The question is on the motion of the Senator from Kentucky to take up the resolution indicated by him.

Mr. POWELL. The Senator from Massachusetts has assigned no reason why this resolution should not be taken up other than that in his opinion it would not promote the public interest. That, in my judgment, is no reason at all. This resolution merely proposes that the Secretary of State inform the Senate how many of the citizens of Kentucky have been arrested by his order, and have been imprisoned by his order without the Commonwealth of Kentucky. It further directs him to give to the Senate the names of those persons, the names of those who have been discharged, the names of those who are still in confinement, and the places where they are confined. That is all it proposes; and why it is that the Senator from Massachusetts can interpose any objection that is valid is most astonishing to me.

I know, sir, and the country knows, that a large number of the citizens of Kentucky have been arrested by the order of the Secretary of State, and have languished for months in the northern bastiles. We know that some of them are now confined there, and there is not a Senator here but knows that each one of those arrests made by the Secretary of State is without warrant of law, that these arrests overthrow the laws and the Constitution of your country. There is no law authorizing the Secretary of State to make arrests; and whenever he attempts it, whenever he has done it, he has been a usurper, and to that extent has overthrown the constitutional rights of the citizen. Many eminent citizens of Kentucky, who are the peers of the Secretary of State or any Senator on this floor, have been arrested without warrant, without cause, without charge, and have been confined in these prisons for months upon months. A few of them have been released, not by law, but by the *dictum* of the usurper who placed them there without law, without authority, without right. Many more of them still languish in prison, and I but simply ask that the tyrant, that the usurper who thus overthrows the Constitution and laws and violates the personal rights and takes away the liberties of citizens without law, without warrant, shall give us their names, tell us where they are, and how long he has kept them. Sir, they are white men. If they had been negroes, the Senator from Massachusetts, I dare say, would have himself had a resolution here on the subject. If a single negro is taken and delivered to his master by any officer of the Army, we find Senators on that side quick and speedy to inquire into it; but when free-born white men, when men who are the peers of the Senator and of the Secretary, are thus arrested, we cannot even have an inquiry.

I wish to know whether or not the Senate of the United States will refuse to pass a resolution asking one of the officials of this Government how many citizens of a State he has caused to be dragged from their homes, to be taken without the limits of the State, and confined in prison, without warrant, without charge—men who have protested their innocence, who have demanded all the time that they be taken before the civil tribunals and tried, and if guilty they are ready to meet their fate, and ought to be punished. But no, sir; when that is proposed the Senator from Massachusetts objects—he who is forever and eternally prating of liberty. Away with such liberty! The Senator, it seems, has no respect for the rights of any man unless he wears a sable skin. I know the Senator has been clamorous about the seizing of the poor black man, but I believe white men have some rights as well as black men; and I want this resolution to pass; I want to know from the Secretary of State how many of the citizens of the Commonwealth of Kentucky, by his order, have been thus unlawfully imprisoned and are now held in confinement. Sir, I hope there will be no objection to the adoption of the resolution. I did not expect an objection; I certainly did not expect one from the Senator from Massachusetts, who is eternally and forever prating of human liberty. I will tell that Senator, I will announce to Senators on this floor, that if they will get up in their places and state that the poorest and most degraded of their citizens has been deprived of his liberty by any power in the Government, I will vote for any resolution of inquiry they want in regard to it. A wise man of Greece once said that that was the best Government in which an insult offered to the poorest citizen was an insult to the whole State. Citizens of every degree in Kentucky have been arrested by the authority, it

is said, of the Secretary of State, and hurried off, some of them taken from their beds in the night time, and confined in these forts, and not one of them has been allowed to see the charges against him. Among them are ex-members of Congress, one an ex-Governor of the State, and allow me to say, many men who were without reputation, men in the humblest walks of life. I have a dozen letters from those persons now. I desire not only to obtain their names, but I want to prosecute the inquiry further, and I will do it unless the Senate shall absolutely, by solemn vote, say that they will allow no resolution of inquiry against officials in this Government, who, without law, violate all the constitutional rights of the citizens of the States. I hope, sir, there will be no further objection to the passage of this resolution.

Mr. SUMNER. Mr. President——

The PRESIDENT *pro tempore*. The Chair is obliged to say here, having heard both sides upon this motion, that the debate has run far beyond the proper limit upon a motion to take up a question merely for consideration, and unless it be restricted to proper limits upon such a motion, the Chair will call the Senator on the floor to order.

Mr. SUMNER. I beg to assure the Chair that the Chair shall have no occasion to call me to order. I proposed to inquire of the Chair what the precise question before the Senate was, but the Chair has anticipated me by stating it is, shall the resolution be taken up? On that question the Senator from Kentucky has addressed to the Senate an elaborate, and I might say an inflamed, speech, in which he has characterized a distinguished officer of this Government as a usurper and a tyrant. Now, sir, on this question at this moment I shall make no answer to that impeachment. I content myself by simply saying that the very speech of the Senator from Kentucky is the best argument that can be presented against taking up his resolution on the present occasion. It is evident that the resolution cannot be proceeded with without opening that whole question which the Senator has so emphatically presented in his remarks.

Is the Senate ready at this moment to go into that inquiry? Is it ready to consider whether the Secretary of State is a tyrant and a usurper? Is it ready to consider whether certain persons, said now to be in confinement, are traitors or not? For, sir, it is said on the one side that the Secretary of State is a usurper and a tyrant; and I say on the other side that there are unquestionably persons in custody by his order who are traitors.

Mr. POWELL. Who are they, sir? Name them.

Mr. SUMNER. I go into no inquiry.

Mr. POWELL. Name them.

The PRESIDENT *pro tempore*. Order! The Senator from Kentucky, without the consent of the Senator upon the floor, is not privileged to interrupt him.

Mr. POWELL. I was aware of that, sir. I beg pardon of the Chair.

The PRESIDENT *pro tempore*. The Senator from Massachusetts will proceed.

Mr. SUMNER. If the resolution of the Senator from Kentucky in regard to the arrests made in Kentucky is advisable, we must have resolutions in regard to other States, in regard to every State in the Union. We must travel from State to State, and this Senate must erect itself into a high court of judicature, to try whether a great functionary of the Government is a tyrant or a usurper. I think we had better put our foot down at this moment, and not go, certainly not now, into this inquiry. I therefore content myself with opposing the taking up of the resolution.

Mr. POWELL. The Senator from Massachusetts has chosen to say that some of these persons were traitors. That may be. But there is one thing I will say to the Senate and to the Senator, that all these persons wish is to have a trial. If they are traitors, take them before the civil tribunals, try them, and punish them, but never, never punish a man as if he were a traitor without giving him a trial. There are many men of Kentucky who have been confined by the mandate of the Secretary of State in these prisons that are as loyal as the Senator from Massachusetts ever dared to think he was, and they could well contrast their loyalty with his in any forum.

But it was not my object to discuss the resolution. I know this discussion is out of time and out of place. I wanted the information, and then I did intend to propose a discussion of it. The Senator says this is not the time to discuss it. Why, sir, it was he that brought on the discussion. I never intended to say a word other than to ask the action of the Senate upon the resolution. The Senator enters the arena, and he seems to repudiate the idea of the Secretary of State usurping any power. I put it to the Senator now to point me to the law that authorizes the Secretary of State to make an arrest in the State of Kentucky or elsewhere, and to carry the party arrested and confine him in a fortress in Massachusetts, as has been done, and in various forts in the State of New York. I defy the Senator to point to the law that authorizes the Secretary to do that; and if the law cannot be adduced, the conclusion is irresistible that he who does it is a usurper, and puts the Constitution and laws of the country under his feet. I do not know anything that could more directly establish usurpation than to instance the case of one who overthrows the Constitution and laws of his country. That I boldly proclaim here the Secretary of State has done, and I do not wish gentlemen to get clear of this matter by talking about treason. Let them point to the law, point to the authority that this party has to order a man to be arrested in Kentucky and hurry him off to a distant State, and keep him in confinement for four or five months, as was done with some persons, Governor Morehead for instance, and Mr. Stanton, two eminent citizens of Kentucky, and then release them without trial. I hope——

The PRESIDENT *pro tempore*. The Senator from Kentucky will suspend his remarks. The special order for half past twelve o'clock supersedes and overrides the motion of the Senator from Kentucky; and the question now before the Senate is on Senate bill No. 184, to authorize the President of the United States to appoint diplomatic representatives to the republics of Hayti and Liberia, respectively.

Mr. LANE, of Kansas. I should like to have unanimous consent to offer a resolution of inquiry of a local character, which will provoke no debate.

The PRESIDENT *pro tempore*. If no objection be interposed, the Chair will receive the resolution.

SALE OF INDIAN LANDS IN KANSAS.

Mr. LANE, of Kansas, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Indian Affairs be instructed to inquire as to the expediency of authorizing the Secretary of the Interior to postpone the sale of the lands of the Sac and Fox and Kansas tribes of Indians in Kansas, and to revoke all arrangements for the erection of buildings for said tribes heretofore entered into, to be paid out of the proceeds of the sales of said lands.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. ETHERIDGE, its Clerk, announced that the Speaker of the House had signed an enrolled bill (S. No. 248) for the relief of the owners, officers, and crew of the Danish bark Jorgen Lorentzen; and it was signed by the President *pro tempore*.

HAYTI AND LIBERIA.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 184) to authorize the President of the United States to appoint diplomatic representatives to the republics of Hayti and Liberia respectively.

Mr. DAVIS. I move an amendment in the nature of a substitute to the bill, to strike out all after the enacting clause, and insert:

That the President of the United States be, and hereby is, authorized, by and with the advice and consent of the Senate, to appoint a consul to the republic of Liberia, and a consul general to the republic of Hayti, respectively, with powers to negotiate treaties of amity, friendship, and commerce between the United States and those republics.

Mr. President, I am weary, sick, disgusted, despondent with the introduction of the subject of slaves and slavery into the Chamber; and if I had not happened to be a member of the committee from which this bill was reported, I should not have opened my mouth upon the subject.

I opposed in committee the form of the bill which has been reported, and then gave notice that I would resist the bill in the Senate; but at the same time I signified my willingness to do something, and, indeed, offered a measure in substance the same as the bill the committee reported, so far as commercial relations are concerned. In ordinary times this bill would have no particular interest, and it is only as a series of a system of measures that manifest a deliberate purpose to assail the institution of slavery in the slave States everywhere, and to push that assault to final success, that this measure has any interest, according to any opinion which I can form of it. What does the bill propose to do in addition to what is offered to be done by the substitute which I have presented? It is to establish diplomatic relations between the negro republics of Liberia and Hayti and the United States. I have not the least objection to the recognition by our Government of the existence of those two republics as independent Powers, and I have no objection to any extent of commercial relations between our country and those two republics. I have no objection to the negotiation of a treaty of amity and commerce and friendship between our Government and the Governments of those countries; but I oppose the sending of embassadors of any class from our Government to theirs, upon this consideration: it would establish, diplomatically, terms of mutual and equal reciprocity between the two countries and us. If, after such a measure should take effect, the republic of Hayti and the republic of Liberia were to send their ministers plenipotentiary or their chargés d'affaires to our Government, they would have to be received by the President and by all the functionaries of the Government upon the same terms of equality with similar representatives from other Powers. If a full-blooded negro were sent in that capacity from either of those countries, by the laws of nations he could demand that he be received precisely on the same terms of equality with the white representatives from the Powers of the earth composed of white people. When the President opened his saloons to the reception of the diplomatic corps, when he gave his entertainments to such diplomats, the representatives, of whatever color, from those countries would have the right to demand admission upon terms of equality with all other diplomats; and if they had families consisting of negro wives and negro daughters, they would have the right to ask that their families also be invited to such occasions, and that they go there and mingle with the whites of our own country and of other countries that happened to be present. We recollect that a few years ago the refined French court admitted and received the representative of Soulouque, who then denominated himself or was called the Emperor of Dominica, I think.

Mr. SUMNER. Of Hayti.

Mr. DAVIS. Well, a great big negro fellow, dressed out with his silver or gold lace clothes in the most fantastic and gaudy style, presented himself in the court of Louis Napoleon, and, I admit, was received. Now, sir, I want no such exhibition as that in our capital and in our Government. The American minister, Mr. Mason, was present on that occasion, and he was sleeved by some Englishman—I have forgotten his name—who was present, who pointed him to the embassador of Soulouque, and said, "What do you think of him?" Mr. Mason turned round and said, "I think, clothes and all, he is worth $1,000." [Laughter.]

Now, Mr. President, I am friendly to both these infant negro republics. Both of them are, to a greater or less extent, mixed. I see it announced in the papers this morning that England has brought over Spain to her view in relation to the attack upon Mexico, by promising not to interfere in the enterprise of Spain in the reconquest and subjugation of the whole island of San Domingo. In such a controversy my sympathies would be with the negro and against Spain. I should want the present power and government of that island to maintain its independence. That would be my judgment and my feeling in relation to the matter. I am not less, but a great deal more, friendly to the republic of Liberia. I consider that an offshoot from our country. I have long contemplated the enterprise of establishing a negro republic upon the western coast of Africa with feelings of the greatest interest and hope. I have contributed my money towards the enterprise, and I expect still to do so. I want this Government and the people of the United States to extend all sympathy and all aid consistent with our power under the Constitution to that infant republic, in building it up, and developing it to a

great degree of power and of civilization, if it be practicable. I would want our Government, like a true mother does to her own natural offspring, when it is crawling upon the floor, to take that offspring by the hand and lift it upon its feet and teach it to walk. I would want our Government to tend and to nurse that republic in its infancy, and to give it all the assistance and protection that it possibly can, except upon the terms of equality. If that republic should be menaced by a foreign Power or by foreign attack, or should desire to suppress the slave trade, I should want our ships and our cruisers, and our arms, if need be, to be sent there to give it all assistance to protect it against such aggression. I do not believe that the scheme will ever succeed to the extent of the hopes of the benevolent and great founders of the enterprise. I trust that I may be disappointed, and more than disappointed, in the opinion which I have formed. The growth of that colony has been slow, but nearly as rapid as that of Plymouth, and that of the colony in Virginia when it was planted at Williamsburgh first. It may be that the slowness of this growth will give it a more vigorous and a protracted existence when it has reached somewhat to maturity. I hope so. I wish as many colored people, to use the mild term, as can be induced to go there, to go and to cast their destinies in the land of their fathers. If they and their friends can succeed in building up a self-sustaining negro republic or empire, that will bear back to the benighted and pagan regions of Africa the civilization and the Christianity of their masters, be it so. It would be a noble retribution to that race. But any legitimate assistance which we can render to such an enterprise and such a philanthropic object, we can render without the passage of the measure under consideration to place these two republics on a perfect equality diplomatically with our own. I therefore propose, with a view not to excite prejudice anywhere in the United States against these republics, that the measure shall pass in the form of the amendment which I have offered. The independence of these republics can be recognized as well in that form as in that proposed by the original bill, and every friendship, every favor, every protection that they can properly receive from our country can be given under the substitute as well as under the original bill.

Mr President, I regret to have felt myself forced to speak the words upon this subject I have. I do begin to nauseate the subject of slaves and slavery in debate in this Chamber; and it was only because this measure has been perseveringly and uniformly opposed from the slave States heretofore, and I know is distasteful, to a very considerable extent, to the people of those States, and because the measure, in the form in which it has been reported, would have the effect, in my opinion, to increase this feeling, that I have thought it incumbent on me to say a word. I have not any idea that the measure which I have offered will in the present Senate receive such a vote as will cause it to be adopted. Perhaps it will receive no vote at all of any consequence between the two extremes. I have discharged what I have felt I was required to do under the force of the opposition which I gave to the measure when it was under consideration in the Committee on Foreign Relations, and my pledge then to oppose it when it came into the Senate.

Mr. SUMNER. Mr. President, the Senate will bear me witness that in presenting this important question yesterday, I made no allusion to the character of the population of those two republics. I made no appeal for them on account of their color. I did not allude to the unhappy circumstance in their history, that they had once been slaves. It is the Senator from Kentucky who has introduced that topic into debate. And not only this, sir, he has followed it by alluding to some possible difficulties—I hardly know how to characterize them—which may occur here in social life, should the Congress of the United States undertake at this late day, simply in harmony with the law of nations, and following the policy of civilized communities, to pass the bill now under discussion. I shall not follow the Senator on those sensitive topics. I content myself with a single remark. I have more than once had the opportunity of meeting citizens of these republics, and I say nothing more than truth when I add that I have found them so refined and so full of self-respect that I am led to believe no one of them charged with a mission from his Government will seek any society where he will not be entirely welcome. Sir, the Senator from Kentucky may banish all anxiety on that account. No representative from Hayti or Liberia will trouble him.

But the proposition which the Senator presents makes a precise objection to the bill, which I am ready to meet. He insists that we shall be represented at these two republics by consuls only, and not by diplomatic agents. Yesterday, in the remarks I had the honor of addressing to the Senate, I anticipated this very objection. I quoted then the authoritative words of Mr. Wheaton in his work on the law of nations, where he sets forth the distinction between ministers and consuls, and shows the greater advantage to be derived from a representation by one rather than by the other. I follow up that quotation now by reading a passage from another work. It is a treatise on international law and the laws of war, by General Halleck; and as I quote this authority, which is now little known, I venture to remark that I doubt if there is any recent contribution to the literature of the law of nations which, upon the whole, is of more practical value. In a few words he states the character of consuls. I quote from him as follows:

"Consuls have neither the representative nor diplomatic character of public ministers. They have no right of exterritoriality; and therefore cannot claim either for themselves, their families, houses, or property, the privileges of exemption which, by this fiction of law, are accorded to diplomatic agents who are considered as representing, in a greater or less degree, the sovereignty of the State which appoints them. They, however, are officers of a foreign State, and when recognized as such by the *exequator* of the State in which they exercise their functions, they are under the special protection of the law of nations. Consuls are sometimes made also chargés d'affaires, in which cases they are furnished with credentials, and enjoy diplomatic privileges; but these result only from their character as chargés, and not as consuls."—*International Law or Rules Regulating the Intercourse of States in Peace and War, by H. W. Halleck, A. M.*, p. 242.

The committee who had the subject in charge, taking it into most careful consideration, as I believe the Senator from Kentucky will confess, deliberately reached the conclusion that it was advisable for the United States at this moment to be represented at each of those republics by a person of diplomatic character. The committee put aside the proposition that we should be represented merely by a consul. It was felt that such an officer would not adequately do all that our country might justly expect to have done. Nor was this all. We were guided also by the precedents of our Government. There are twenty-three different States lower down in the scale of commerce and navigation with the United States, where we are now represented by diplomatic agents. One of these, as I explained yesterday, is the Sandwich Islands, with a population of only eighty thousand people, and with a commerce and navigation vastly inferior to that between the United States and Hayti.

Mr. DAVIS. I think we have too many.

Mr. SUMNER. Possibly. I go into no inquiry on that point. Suffice it to say we already have these twenty-three diplomatic representatives, and one of these is at the Sandwich Islands, with a population, a commerce, and navigation inferior to that of Hayti. Besides, at the Sandwich Islands we have three consuls highly paid. If we have too many, let us strike them off the list, but do not commence and economize on Hayti and Liberia.

Nor is this all, sir. The committee in their conclusion followed the usage of nations, and also the example of the great Powers at this moment, at Hayti. In presenting this measure, I make no appeal on account of an oppressed race. I urge it simply as an act for our own good. We go about the world hunting up the smaller Powers, where to enter into treaties and to place diplomatic representatives, under the temptation of petty commercial advantages. Thus far we have stood aloof from two important opportunities, as I would characterize them, of extending and strengthening our influence. It is time to change.

In Hayti we are represented now by what is called a commercial agent, not enjoying even consular powers or privileges, a gentleman of my own State, an intelligent, active, instructed, careful observer of men and of things. I have in my hand a dispatch very recently addressed by him to the Department of State, and as it presents an idea of the actual condition of things in Hayti at this moment, I shall send it to the desk and ask that it be read. Let the Senate listen to this letter, and they will see something of the embarrassments to which our interests are now exposed from the absence of a diplomatic representative there.

The PRESIDENT *pro tempore*. The hour of one o'clock having arrived the further consideration of this bill is superseded——

Mr. SUMNER. I think we can dispose of this bill in a short time.

The PRESIDENT *pro tempore*. The Chair will state the condition of the question. The hour of one o'clock having arrived, the special order for that hour comes up, which is the bill (S. No 151) to confiscate the property and free the slaves of rebels. The direct question upon that bill is a modification of the original bill, moved as an amendment by the Senator from Ohio, [Mr. SHERMAN.]

Mr. SUMNER. I hope that by general consent we shall proceed with this question now. I think we can come to a vote upon it very soon.

Mr. TRUMBULL. I cannot consent to that.

Mr. SUMNER. I ask the Senator to consent to it for fifteen minutes.

Mr. TRUMBULL. I trust not.

The PRESIDENT *pro tempore*. Senate bill No. 151 is, of its own force, by order of the body, now before the Senate for consideration. It supersedes the previous question without motion.

Mr. SUMNER. I hope the Senator from Illinois will allow us a few minutes to dispose of this bill.

Mr. TRUMBULL. If I was merely asked to allow a vote to be taken, I should not object; but it is evident that will not be arrived at very soon. Other things have crowded the confiscation bill out of place so often, and the Senator from Massachusetts has had it postponed so many days that I do not think it is proper for him to ask that it should be postponed for any other business. I insist on the order of the day.

Mr. SUMNER. Mr. President——

The PRESIDENT *pro tempore*. The Senator from Massachusetts will allow the Chair to state the proper question before the body. The object of the Senator from Massachusetts can only be reached now by a motion to postpone, for the time being, Senate bill No. 151. That is the bill of its own force, under the rule of the Senate, before the body for consideration.

Mr. SUMNER. Should there be any discussion occupying any time, I shall cheerfully allow the bill which has been under debate this morning to go over until to-morrow.

Mr. TRUMBULL. If I am asked simply to yield to allow a vote to be taken, I have no objection to that.

Mr. SUMNER. I merely wish to have the letter read, and then I shall call for a vote; and should there be a promise of discussion after that, I will consent to a postponement.

Mr. TRUMBULL. I am willing, for one, to allow the vote to be taken on this proposition; but I am not willing to allow the discussion to be continued. If the Senate is ready and willing to vote, I have no objection.

The PRESIDENT *pro tempore*. If no objection be interposed, the letter sent to the Secretary's desk by the Senator from Massachusetts will be read, and the question put upon the amendment offered by the Senator from Kentucky to Senate bill No. 184.

Mr. TRUMBULL. That is with the understanding that I may call up the confiscation bill in case the vote cannot be taken, I suppose.

Mr. SAULSBURY. I do not propose to discuss this measure; but I propose to assign, very briefly, some reasons why I shall vote against it.

Mr. TRUMBULL. Then I insist on the order of the day.

Mr. SUMNER. Then I move that the Senate postpone all prior orders, in order to proceed with the consideration of Senate bill No. 184.

The PRESIDENT *pro tempore*. Senate bill No. 151, to confiscate the property and free the slaves of rebels, is the bill before the Senate, by special order of the Senate, at this hour, and the Senator from Massachusetts now moves to postpone that special order for the consideration of the bill indicated by him which has been under debate during the morning.

Mr. TRUMBULL. I trust that will not be done.

The motion was not agreed to.

CONFISCATION OF PROPERTY.

The PRESIDENT *pro tempore*. The bill (S. No. 151) to confiscate the property and free the slaves of rebels is before the Senate; and the immediate question is an amendment in the form of a modification of the original bill, moved by the Senator from Ohio, [Mr. SHERMAN.]

Mr. COLLAMER. At this late stage of the discussion upon this subject, it can hardly be expected that very much of the attention of the Senate will be given to remarks from perhaps any quarter; but I have felt it to be my duty to undertake to address the Senate as well as the circumstances will permit. I have no desire to make a speech for the purpose of home consumption. I have prepared no rhetorical discourse. I have no figures of rhetoric set down in a note-book, and conned by rote. What I have to say is matter of business, and I shall talk right on, for I am in earnest about what I have to say, too much in earnest to undertake to find figures of rhetoric or anything by way of embellishment or adornment.

Mr. President, our nation is in a stage and condition of its national existence where undoubtedly it attracts more than it ever did before the notice of the nations of the world, not merely in relation to the skill which is shown in our new projectiles or improved ordnance or invulnerable ships, or even in our battles, but the attention of the world is attracted to what is to be the result on this great occasion of this national experiment of ours. They say, "your experiment of a republican form of government succeeds well enough in time of peace when there is no occasion to try it, when there is nothing to test it;" but they have looked forward to some time which might bring periods of trial and convulsion; and the question before the world is, is our system competent to that occasion, does it possess strength and elements of power sufficient to meet the shock of such a contingency? If it will not do that, they say it is not what we have claimed it to be before the world—the great and successful experiment in popular government. "Now," say the world, "we shall see whether you can succeed with what appears to us a feebly formed Government in a period of trial." That we may be enabled to sustain the integrity of the nation—I mean its entirety, not its sense of justice—by the physical force of the nation is but one step in it. That is not the point. The great question before the world to be now settled by us is, can we sustain the integrity of our Government, and perpetuate our institutions, and do it according to the limitations and provisions of the Constitution? That is what is to show that our Constitution is competent to the trial, and nothing short of that. If, when this occasion arises, we are compelled to resort to means which, in effect, are the means used by stronger Governments, our experiment is a failure. If we are constrained to call up, invoke, and put in exercise in any one department of the Government—it is immaterial in what department of the Government—more of power, more of force than the Constitution provides, or than is limited by that Constitution—the moment we do that, or are constrained from our supposed necessities to do it, we acknowledge before the world that our institutions are insufficiently founded, and that we are after all compelled, in the period of trial, to resort to the force which, they say, is necessary to the existence of a nation, and our experiment is a failure. We should, therefore, particularly in a period like this, carefully study and sacredly regard all the limitations and provisions of the Constitution. It is vain and idle in us to war against a part of our people because they have made war upon this Government, if we at the same time have to sap the foundations of the Government by stabbing through the vitals of the Constitution.

Now, sir, I wish to call the attention of gentlemen a moment, (for it is a matter of curiosity,) not to what I say, but to a few words that Mr. Madison said. I hold in my hand a part of the proof-sheets of the first volume of the works of Mr. Madison. Those works are now being printed under an act of Congress, and I have been furnished with the proof-sheets of a part of the first volume. In examining this work of one who has been called the father of our Constitution, who certainly had more to do with framing it and obtaining its adoption than any other man in the nation, I have found a memorandum of his made in April, 1787, before the meeting of the convention that formed the Constitution. Here is his memorandum, which seems to have been made for his own use, containing heads, stating what were the particular difficulties, infirmities, and trouble with the Articles of Confederation, wherein they needed change, with his remarks under each head in brief notes. I desire now to read one of those heads. It is this:

"6. Want of guaranty to the States of their constitutions and laws against internal violence."

"NOTE.—6. The Confederation is silent on this point, and therefore by the second article the hands of the Federal authority are tied. According to republican theory, right and power, being both vested in the majority, are held to be synonymous. According to fact and experience, a minority may, in an appeal to force, be an overmatch for the majority: 1. If the minority happen to include all such as possess the skill and habits of military life, and such as possess the great pecuniary resources, one third only may conquer the remaining two thirds. 2. One third of those who participate in the choice of the rulers may be rendered a majority by the accession of those whose poverty excludes them from a right of suffrage, and who, for obvious reasons, will be more likely to join the standard of sedition than that of the established Government. 3. Where slavery exists, the republican theory becomes still more fallacious."

Mr. President, who can read a remark of that kind and not stand almost astonished at its uninspired predictions? Before us now, to-day, is realized every word that was there written seventy-five years ago. We have seen a few active politicians, a few military men possessed of military skill and ambitious of renown, with a few or more, if you please, men of wealth, never, in my opinion, constituting a third of the people of the southern States, who have ridden rough-shod over the majority of their people and have established a government *de facto* that rides over them to-day. That is what he said would happen; it has happened.

I shall be obliged occasionally to repeat things that perhaps have been said better than I say them in this debate, but they are necessary to the consecutiveness of my remarks.

The duties of protection by the Government and allegiance and loyalty by the people are reciprocal terms and duties. Neither of them can be exacted by the other unless that part due by itself is performed. This is as true now as it was when it was said and elaborated by Judge Parsons. Now, sir, the men who have ridden over the people in the southern States have established governments *de facto;* they are operative on that people, however much they may have originated in usurpation. How are we to look at such a people? What, as a nation, is our duty to them? What is their duty to us as citizens? It is the duty of the Government of the United States, under the Constitution, to suppress insurrection. That is our duty, clearly expressed in the Constitution, to put down insurrection everywhere in the United States. An insurrection is essentially injurious to that section in which it arises, and the duty to have it suppressed is most owing to those that are most injured by it. Mr. President, have we put down that insurrection? Have we relieved that people from the incubus which is upon them? Have we dispersed the insurgents who ride rough-shod over them? We have not done it. You may say, "our duty of protection is to people that are loyal, and we will protect them." Sir, if the people are all the while loyal they do not need any protection; they stand in peace, of course. If we have any obligations to the people of the States as members of this Republic, it is to protect them from violence. When we guaranty them a republican form of government in each State, it implies that we have the exercise of power over them, at least to secure to the body of that people the opportunity to have, not a nominal and usurped, but an actual government within the Constitution of the United States. That is what we owe them.

I will remark another thing. These men have established a *de facto* government over that people. If a man finds himself in a *de facto* government which he cannot resist and has no power to control, what are the limits and measures of his obligations? It requires a brave man to say that he will war upon it because he thinks it is a usurpation. It would be a bold man who should say now, "the United States made a rebellion against England, and all the present power you have, national and State, is itself but a usurpation; I do not owe it any obedience, and I will not obey it." How idle it would be for an individual, a weak man, to talk in that way! Just so it is with the people in these States. However loyal their feelings, a government *de facto* is over them; they cannot get away; they have nowhere to go; they have nothing to go with. What would you have a man there to do? What has this nation a right to demand of him? What right have we to demand of these people loyalty, allegiance, and obedience to this Government, and to war on the government *de facto* which is established over them, when we do not relieve them, furnish them with arms, disperse the armies that are there, or disarm the men who are their usurpers, but leave them in that condition?

Mr. President, when I look at things in this light, it seems to me it is a very questionable policy, and still more questionable ethics, for us to sit here day after day, before relieving that people, and while they are thus trodden on, making laws by which we declare that they have taken their States out of the Union and annihilated them, that whatever charters they hold under their laws are gone, to unhouse them, strip them, and confiscate their property, taking advantage of their absence when they are not represented here because they submit to armed usurpation, and have no power to do otherwise. It may suit the notions of equity and right of some, but to my mind it looks more like taking counsel from our resentments than from our judgments.

But it is said "men have actually taken offices there under that government; they have had the audacity to do that since that government has been established over them." I do not profess to be very highly versed in the ethics of politics, but I am fond of looking to examples that are bright and high. At the time of the rebellion under Cromwell, which had established a Government *de facto* over the people of England, and had put down the existing Government, application was made to Chief Justice Hale—a man whose character stands as high, perhaps, as any in the annals of Christian judges—to take the place of Chief Justice, he being opposed to that Government. Justice Hale consulted with a couple of his friends, (bishops,) and after full deliberation came to this conclusion: "justice must be administered; the rights between man and man must be adjudged upon; somebody must hold courts; I can consider it no sin to take an office under a *de facto* Government, though it is a usurpation." He took it; and that man was not adjudged guilty of treason upon the restoration of Charles II. He continued in position ever afterwards. In all the troubles between the house of York and the house of Lancaster, in the wars of the Roses, when revolutions were constant and frequent, one day a man of this family upon the throne, and the next day one of the other, as early as the period of Henry VII, a statute was passed which has abided in England through all the revolutions afterwards, that no man should be adjudged guilty of treason because he was obedient to the reigning king, no matter if his was a usurpation. Such, sir, is the respect paid by the world, and especially that part of the world from which we sprung, to a *de facto* Government; and the nations of the earth deal with them as Governments, no matter what the usurpation.

Now, Mr. President, at this time of great, severe trial, while this great problem is in our hands, it becomes us to address whatever of wisdom we possess, with discretion and moderation, to some adjustment of it. Let me not be mistaken. Two branches of duty devolve upon us. The first is: that the insurrection by force against us must be put down by force. We shall never be legislated out of war. We can no more be legislated out of a war than we can be legislated into the millennium. I do not believe that either will ever happen. There is resistance by force, and it must be met by force. No treatment can apply to it but that of phlebotomy; it has to be addressed entirely by blood-letting. It is of a kind that "cometh not forth even with prayer and fasting." That remedy alone can apply, and it must be sharp, decisive, conclusive; and no legislation can palliate that, none can relieve it. It is not any resolutions or laws or speeches or vaporing within this Hall that can anyway turn aside the bayonets of the enemy. But, sir, there may be measures in the other branch of duty, and that is an endeavor to

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. FRIDAY, APRIL 25, 1862. NEW SERIES.....No. 114.

restore this Government. What is implied in this Government and in its restoration? To my view the true leading features of this system of government were in a great measure fortuitous. Much credit has been given to the high discernment of those who formed this Constitution and this form of government; but to my mind, however willing I am to give credit to their discernment, after all, I cannot but perceive that in its essential, leading features it was almost entirely fortuitous or providential. The original notion was that a popular form of government could only exist in a very limited country, to a very small extent, where there was almost perfect unity of interests and purposes and views and intelligence and mutual interchange of opinion. But we supposed that we had made a discovery in this, that, by forming a General Government in relation to our external affairs and matters of general concernment, and leaving all local legislation to local tribunals or local legislatures, the conflicting interests of the community would not come in contact; and that we might, therefore, by this system of State legislation and United States legislation, spread a system of popular government over an almost unlimited extent of country. That is the great feature. Now that feature came into our system because it so happened that the country was settled by separate and distinct colonies which were entirely independent of each other, to start with, and so came through the Revolution as States; and the whole of that form of local legislation had taken its existence before the United States Constitution was ever adopted.

Mr. President, it is quite obvious that State legislation, local legislation and government, is as essential a feature of this Government as the General Government. The system cannot exist any more without the one than the other. It is a failure utterly, unless both exist. Then, in restoring government, it implies that we must restore the State governments, put them again into operation, or we fail in our system altogether. In relation to this last branch of duty, I can conceive that there may be legislation even at this period which may possibly tend, if well administered, in some measure to secure that great end. But the first thing to be observed is, that, however legislation may take place, nothing can be practically done on that point until the insurrection as an armed insurrection is put down, suppressed, for then alone is it that your law can really operate. The plans which different gentlemen have presented all look to that. None of them in any of their essential and leading purposes can be carried into effect in any way until we possess the country. They are not means to that end—the end of suppressing the armed rebellion; they are only to take effect after the armed rebellion is suppressed, for that must be done in order to put such a law into operation; and the question is, can we legislate now wisely, discreetly, advisedly, in such manner that our law may be put in operation at that time with success to the end which I have stated? I confess for myself I have some misgivings about that. I cannot but agree with some suggestions that fell from the honorable Senator from New York [Mr. HARRIS] the other day. Events are rapidly transpiring, circumstances take place in the course of a week, perhaps, which will call for new forms of legislation or supersede those we may now think pretty well advised, and I cannot but think that we are losing nothing, if we mean to act with discretion on this point, by waiting the progress of events.

Mr. President, I have already remarked that in whatever we do we must keep fairly within the limitations of the Constitution. It will not do to say that because we need to do this thing, because it is necessary in our judgment, we will do it for that reason. The limitations and prohibitions of power in the Constitution were put there on purpose to prevent our doing such things when we wanted to do them. They were not put in to prevent our doing things we never wanted to do. When it provided, for instance, that you should not pass any attainder bill, that you should not take away any man's property without due process of law, that no man should be punished unless it was on conviction by a jury, that no man should be twice punished for the same offense—prohibitions of this kind are prohibitions to everybody, and they were put in to prevent Congress doing such things when they wanted to do them. They were put in there on purpose to prevent us doing these things when we thought they were necessary. They were not put in to prevent our doing these things when we did not want to do them, and when they were not necessary at all in our judgment.

Now, the question is, after we shall have possessed that country by force of arms, can we do anything consistently with the provisions of the Constitution that will tend to bring back those people to their allegiance. If we can, and if we are clear that our measures will tend to produce a good effect in that way, very well; but if we cannot do it pursuant to and within the provisions of the Constitution, let us not, at this particular period of our trial, acknowledge in the face of the world that our Constitution and institutions are insufficient to sustain us.

A considerable part of the projects before the two Houses propose to confiscate people's property, real and personal, either all of the people in the South, or classes of them. How are you to do it without trying and convicting the men, as the Constitution says men shall be punished only in that way, and shall not be deprived of their property but according to due process of law? There has been a recent discovery that there is a certain term—a law phrase—which, perhaps, the people will not understand, that has a vast deal of *hocus pocus* in it by which we can get rid of all that sort of business. What is it? It is what is called proceedings *in rem*. A man has been guilty of treason. Well, what is your Constitution? Try him on indictment, by a jury. You cannot punish him in any other way; you cannot deprive him of his property for it in any other way. "To be sure," say gentlemen, "that is a troublesome thing; but there is a certain *in rem* by which we will let the man entirely alone, but will seize hold of such property as he has got, and we will punish that by way of proceedings *in rem;* and by and by, when we catch him, we will try him and hang him, though that is another punishment, and the Constitution says we shall not punish him but once." So you have proceedings *in rem*, and then proceedings *in personam!* That is the discovery!

Now, Mr. President, what are these proceedings *in rem*, where you do not have any jury? What is the form, what is the character of them? They are trials before prize courts or admiralty courts. In what cases? It is when a thing is the instrument of wrong, so that in legal estimation it is a guilty thing. Then you may proceed with that thing. If a man is trying to smuggle goods, you know he cannot be guilty of smuggling without goods. The goods are the instrument of the wrong; and therefore there is a proceeding by which you may take and condemn the thing, for that is what *rem* means, I believe. So, too, if a pirate's vessel, with which he marauds upon the seas against the nations, is taken, it is a guilty thing, it is the instrument of wrong, and you proceed against it. So when men pursue the slave trade with ships, they are the instruments of the wrong, and you proceed against them *in rem*. In proceedings *in rem* you do not give the thing notice, because it cannot answer; you do not give it a trial by jury, as when you proceed against the man.

But, sir, on this occasion there has been cited and used the decision of the Supreme Court in the case of the Palmyra, in 12 Wheaton, and it is cited for the purpose of supporting the doctrine that if a crime is committed for which the thing is liable to be forfeited, as well as the man subject to punishment, you may proceed against the thing by itself without convicting the man. That is not so; that case was not so. Let us look at the case and see what it was. What the judges talked about outside of the case is a matter of no consequence; it is extra-judicial; what the boys call "slopping over." We had a statute of 1819, which was revised and enlarged and extended in 1820, which authorized the President "to instruct the commanders of public armed vessels of the United States to seize, subdue, and send into any port of the United States, any armed vessel or boat, or any vessel or boat the crew whereof shall be armed, and which shall have attempted or committed any piratical aggression, search, restraint, depredation, or seizure, upon any vessel of the United States, or of the citizens thereof, or upon any other vessel." A vessel of that kind was seized and brought in and on trial, and one point that was made before the court was that they could not condemn that vessel by a proceeding *in rem* until the owners or crew of the vessel had been themselves tried, and remarks were made about that. Observe, there was no law to punish the men who were engaged on board the vessel; the court say that; and therefore they say it will not do to argue that we cannot condemn this vessel, she being the guilty instrument of the wrong, because the men are not tried for the crime and convicted, for there is no crime for them to be convicted of; we cannot try them, it is not provided for. Hence the thing was a guilty thing, and it was proceeded with in that way as within the class that I have already alluded to.

This proceeding *in rem* is spoken of in a manner which would be rather ludicrous if it were not so serious an affair, but it is no slight thing to say that when a man has committed a crime like that of treason, and is within the reach of your process, you may proceed to strip him of his property or do anything you can do, as you say, and then punish him afterwards. Is it a rule that you must do on such occasions whatever you have physical means to do, and therefore, if you cannot reach him in any other way, if he has gone out of the reach of process, you must take his property because you have nothing else to take? If a man is guilty of counterfeiting your Treasury notes, and you cannot catch him, if he is out of the way, why not, on the same principle, have a law to cut his wife's throat if he has no property? Sir, the whole idea in my estimation is entirely wrong, and an attempt to do that which the provision of the Constitution was intended to guard against. It nowhere says that if you cannot punish the man because he gets out of the reach of process, therefore you may disregard the provisions of the Constitution and take some other way. There is nothing of that kind in the Constitution. I take it we have all our powers from the Constitution, and that in itself inhibits to us by absolute abnegation that we shall exercise any powers but what are there granted, and all the rest were reserved from us.

Mr. President, this word "confiscate" literally means "put into the Treasury," and it can legitimately be applied only to that out of which you can get something to put into the Treasury. That is truly the meaning of the term. But, sir, when we legislate for the people of the southern seceded States we do it because they are our people. We treat all this secession as void, and, I take it, that that which is void can have no legal effect. It can have no effect to confiscate anybody's goods or annihilate the States; nor can it have any other legal effect whatever. When we legislate for that people as our people in common with the rest of our citizens, we must allow to them all the rights and privileges, immunities and protections that the Constitution gives to citizens of the Union. I have therefore made the remarks which I have made upon this question on the basis that we cannot take courses in relation to them, by laws made by us over them as a people bound by those laws, on any other grounds than those which apply to all our people. If we make laws by our power under the Constitution we must regard the prohibitions of the Constitution, else we are lawless. And it makes very little difference to what department of the Government all this usurpation goes. If it is true that the Congress of the United States on an occasion like a

war of this kind can take to itself and exercise all power, regardless of the prohibitions of the Constitution, and further, can make itself commander-in-chief of the Army and conduct the particulars and details of the war in all respects, I do not know that there was any usurpation by the House of Commons in the time of Cromwell. They said they represented the people, and they took command of the generals of the army; they overrode the other departments of the Government and broke down the Government itself. Suppose we choose to take control of the Army and all its command, and of its Commander-in-Chief, and direct all its details as we please, and send our committee on the conduct of the war out into the camps to inspect the proceedings of the generals and direct them in their duty, as was done under Cromwell, I do not see that it would be anything more or anything less than a usurpation and tyranny; and its being in this body, or in these two bodies constituting the Congress, does not relieve it of the difficulty in the least.

It is said, however, that we are at war, and that we have become elevated to the privileges, and are entitled to exercise the rights of a belligerent; that this power of confiscation is a sort of war power over our own citizens that we have a right to exercise in the capacity of a belligerent. I have given what little reflection my limited powers would allow to this branch of the subject. I at first thought it was tolerably plausible, that, to some extent, such a power might be used; but the more I reflect on it, the more I perceive that the whole of that doctrine about the relative rights and privileges of belligerents to each other is utterly inapplicable to the present condition of things between us and the seceded States and their people. Undoubtedly, so far as regards the conducting of the war, it should be conducted according to the laws of nations, and, if you please, according to the usages of nations in these times of civilization; but when we come to the rights of belligerents, can we apply them? When we conquer a country with which we are at war, we own the public property there. Now, we have conquered Tennessee, if you please. Do we own the capitol, at Nashville, to-day? Do we own any of the universities and colleges and public property of the State of Tennessee to-day? If they are treated as belligerents, then when you conquer the country, the property in the land remains in the individuals who owned it before, and the nation acquires no title to it by conquest. Here is an attempt to get possession of all that property of individuals who have been concerned in this rebellion. And how? As a belligerent. According to the laws of nations, a belligerent does not get it. I know that the Constitution provides that Congress may issue letters of marque and reprisal, and make regulations in relation to captures or seizures by sea and land. That looks to a state of war, undoubtedly. What is a seizure or capture? What is the meaning of the term? Something that you take, make prize of, carry away. Can you carry away the farms of an enemy? Are they the subject of capture? Not at all.

But, Mr. President, when after a war with another nation, you make peace with it, all matters are ended, depending on the form of your articles of peace. It may be the *status ante bellum*, it may be *uti possidetis*, depending on the terms of your treaty; but all matters are then ended. Now, when we have conquered these people, taken military possession of the country, can we not punish the men who have been in rebellion; can we not render it legitimate to hang them? Certainly. Could you do so with enemies with whom you have made war and peace? No; but in such cases when peace was declared, the past would be wiped out.

Again, to treat with them and treat about them as being belligerents, is to acknowledge them, so far as this war is concerned, as a coequal power. We have complained that any foreign nation acknowledged and recognized them as in a state of belligerency. We thought it was pretty hard usage to us. I do not see it in that light exactly; but at any rate, especially after what has been said to the other nations of the world by our functionary and correspondent of the State Department, it ill becomes us to take measures founded on the ground that they are coequals and belligerents, and that we may make laws accordingly. This legislating for that people as bound by the laws that we here make, and at the same time legislating for them as enemies and belligerents not bound by the laws we make, is to my mind utterly inconsistent, utterly irreconcilable, and I shall not therefore make any further remarks in relation to what might by possibility be done by us as belligerents.

Mr. President, I am fully aware that in a time of war, or in a time of rebellion as this is, it was clearly contemplated or implied in the Constitution that a pretty large amount of executive power would have to be put in exercise. I have always considered that that provision of the Constitution which declares that "the privilege of the writ of *habeas corpus* shall not be suspended unless when, in cases of rebellion or invasion, the public safety may require it," implies that, in a state of rebellion and of invasion, even that sacred writ may be suspended, would have to be suspended; and the moment it is suspended, a large latitude of executive power must necessarily be put in exercise; it was contemplated that it would be. I do not stop here now to consider whether that suspension of the *habeas corpus* should be by legislative or by executive act. All I have to say upon that is, that if we were to pass a law authorizing the Executive to suspend the *habeas corpus*, he would have to exercise precisely the power which he has exercised. When, how, for what class of cases it should be suspended, would, of course, in our statute be left to the Executive; we never could anticipate all conditions of things that might arise. The form of a statute that could have any practical effect would bring you to precisely the condition of things that now exists.

So, too, in the prosecution of the war, I am aware that when the President calls out the militia to suppress insurrection, and uses the Army according to law for that purpose, it implies force, it implies that everything shall be done which is necessary to secure the end as a military necessity; but I insist that the Executive, his generals, the military power, are the sole judges of what is military necessity. It is not possible that we can by legislation provide for the prosecution of the war in all respects, and enact the laws by which it shall in all cases be governed. War, even in its most modified form, is in a great measure the law of retaliation. You do what is necessary to meet the enemy's acts; you retaliate on him, and go sometimes to great extremity, laying waste his country, spreading over it utter desolation. It may be a military necessity to do that; but to undertake to sit here and make laws directing the Executive and the generals as to what they may, and what they may not, consider, as military necessities, is utterly idle, because they are constantly changing with the changing circumstances; and as I have before said on another occasion, when you undertake to make the laws to regulate what they may do, you necessarily imply that they must not do anything but what you have regulated. It was said by the honorable Senator from Ohio, [Mr. SHERMAN,] yesterday, that the Executive, through his officers, may take ships and burn them. Did we make any law for that? No. Do we complain of its being done wrongfully? No. It did not need any law then to do it. It does not need any law to stop it. It is said that this confiscation is a military proceeding, a military necessity. If it is—I do not decide that point—we know where to go, we know who is to decide whether it is or is not; and if we do anything that takes away from the Executive and his generals the deciding upon what is military necessity, we usurp their rights, usurp their powers.

Mr. President, the legislation which is called for at the hands of legislative bodies depends in a great measure upon the exigencies of circumstances, and ought to be addressed to them, fitted to them. The old law of the mischief and the remedy, lawyers well understand. We should look to what is the present law, and see what is needed, and what shape the law should take to effect the desired end. When the Executive, through its generals and its armies, shall have put down the armed rebellion—and nothing of great importance can be done here until that is effected—what is wanted, what is needed? Nothing can now be offered by the President to these people but that, if they will return to their allegiance and be obedient, they shall not be hanged. We all perfectly well know that the idea of hanging a hundred thousand men, or ten thousand men, or anything of that kind, is idle. Nobody apprehends it; nobody has any fears of it, and I trust nobody has any hopes of it. Then that will not enable the President to hold out any inducement at all, because they have no apprehensions on that subject. All rebellions that are unsuccessful, that are suppressed, among any civilized people, end in a bill of amnesty, from which some are reserved and excepted for punishment. The great body of the people are pardoned. I recollect among a civilized people of but one rebellion that was ever attempted to be treated in any other way, and that was the Monmouth rebellion, under the Duke of Monmouth, in England, in the time of James II—a very foolish rebellion, and one which was readily suppressed. King James sent Jeffreys, and he hung two hundred and odd people, including females; it was called "Jeffreys's western campaign." Though the people of England disliked the man for his bigotry, they disliked that rebellion; but when that experiment was tried on the British people, when it shocked the humanity of the British nation, it produced the culmination of the public disgust with that same James II, and within a short time Jeffreys was in the Tower, and his master was fleeing from the throne of England That was an attempt to deal in another way with a rebellion.

I look to no such result in this country. I know our people are exceedingly exasperated, and I participate in that feeling myself, as an individual. But revenge, exasperation, feelings of vengeance should not be entertained by nations, nor by bodies representing nations. Rebels must be treated with severity to extremity; a proper number of those who are needed for example, for its wholesome influence afterwards, should be brought to condign punishment; but the great mass must have an amnesty.

When we began with putting down this rebellion we had but one law which related to the subject in any way—the law of 1795—which provided that the President, in case of an insurrection, should issue his proclamation directing the insurgents to disperse by a certain day, and calling out the militia to suppress that insurrection and to enforce the laws. Probably that was as much as was needed for the Pennsylvania whisky insurrection, for which the law was made. It was not a severe affair any way. At any rate, the law answered its purpose there. When we assembled here last summer, the President had ordered the dispersion of the rebels, but they had not dispersed. He had called out the militia, and they were here. The circumstances which had transpired required more legislation. That already provided had been so far executed; but it did not answer the purpose. We then proceeded to pass a law, which, among other things, contains a section declaring that whenever an insurrection shall exist in any State, claiming to act under the authority of the State, and those exercising authority in the State do not disclaim it and do not suppress it, in such cases the President is authorized to issue his proclamation declaring the people of those States or parts of States which are in that condition in a state of insurrection, and that thereupon all intercourse with them shall cease, and prize be made of all who attempt intercourse to and from them. That is the law under which we have acted, and under which we are acting, and under which prizes are made. Now, it seems that does not entirely answer; it does not effect its purpose. Our armies, too, increased as they are, valiant and bold as they are, "armies with banners," splendid and brave, have not answered the purpose yet. I venture to say, though it was said before on an occasion when it was not very acceptable to our people, that if five hundred thousand men will not do, a million of men must. It must be put down, because if we fail in suppressing the armed rebellion, the Government is a failure; we cannot sustain the integrity of our nation. That being done, I say we come to treat of the subject of which we are now talking. What next? Legislation is needed. I have said that what is needed is, in the first place, some law to put into the hands of the Executive the means of offering some inducement to those people, after he shall have taken possession of their country, to come back to their allegiance, duty, and loyalty—some interest, some motive, some purpose, some mode of relieving them from some liability under which they are and which they fear, something which

they believe we can put into execution. They have no belief in our putting into execution the idea of hanging two, three, or four hundred thousand of them. It must be something which they believe is practicable, capable of being executed, and from which they have apprehension. That is what is needed.

Again: the same law which provides for that, should provide a mode by which the guilty can be punished in an exemplary manner, in a way practicable of being carried into effect. That is what is needed, as well as to deal with the guilty, stubborn, disobedient, incorrigible, on the one side, as to protect those who become obedient, or subservient, or submissive, on the other.

With these views I now proceed to examine somewhat the projects before us. The bill of the honorable Senator from Illinois, [Mr. TRUMBULL,] which has been reported I believe by the Committee on the Judiciary, though I think he first presented it himself, substantially declares that the property, real and personal, of all people who shall be in rebellion shall be forfeited or confiscated—I may not use the words, but that is the substance—and that forfeiture shall take effect from the time the act was committed. It says that so much property as is seized in the manner thereinafter provided for, shall be taken by commissioners appointed by the President, and the way thereinafter provided is that the President may appoint officers, civil or military, to take possession of this property, sell, and dispose of it, and account to the Treasury. That implies, of course, that you have got possession of the country so that it can be done. If you have possession of the country, and can do that, you can just as well have courts regularly administered, and there is no necessity for resorting to this extraordinary means. But in my view, when a thing is declared forfeited by an available law, though you direct the mode of proceeding by the President, all that he does not take it is the business of the prosecuting attorney in that State, whenever your laws are in full operation, to proceed against. He is to take measures for the confiscation of the rest. It is all forfeited, all confiscated. The proceedings to be taken with it may depend on the condition of the country. If you have military possession merely, you may take what your Army can lay hold of, and when that is through with, and you have government established, you may take the rest. This, then, amounts to taking possession of the whole of the property as far as practicable, by the President, and disposing of it, selling it, and delivering possession, land, and all.

The amendment presented by the honorable Senator from Ohio, qualifies that in this, it says that the property of certain classes named in it shall be forfeited. The honorable Senator from Illinois has told us, and very correctly no doubt, that the people engaged in this rebellion, in point of fact, own almost the whole of the slaves and all the other property generally. The Senator from Ohio tells us that the officers own all the property. That is probably so.

Mr. SHERMAN. My friend misunderstood what I said. I said there were probably no privates in the army of the confederate States owning slaves. I have no doubt that the great body of slaves in the southern States are owned by people who are quietly on their farms, but whose sons perhaps are engaged in the rebel army. That is probable.

Mr. COLLAMER. I am not familiar with that; but I supposed they did not let anybody stay at home on his farm, but required every one to contribute in some way to aid or assist the rebellion. They do not suffer such people to be there. There may be old men who cannot perform military duty, but they must make their contribution, they must aid and assist, give their countenance to the rebellion.

Mr. SHERMAN. The proposition offered by me does not embrace persons who simply give aid and comfort, but only officers who are actually engaged in armed rebellion.

Mr. COLLAMER. I was not aware that the amendment made that distinction. It certainly includes civil officers.

Mr. SHERMAN. Certain civil officers.

Mr. COLLAMER. And includes those who have owed allegiance to this country and afterwards abandoned it. That proposition will include the people who own slaves mainly. I have no doubt the gentleman intended to include them. Those who own the slaves also own the land generally and all other species of property. I look upon the practical effect of these two propositions as amounting to the same thing. Now let us look at the effect for a moment. The way to test a thing of this kind is, in some measure, to "try it on."

A short time since, Mr. Cave Johnson was at Clarksville, and he informed Commodore Foote that the rebel army had gone away from Clarksville and he had better come there and take the town and take care of it. These people had all been engaged in the army pretty much, but Commodore Foote came and took possession. The people were in great consternation, not knowing what would happen; and he published a card informing them that if they remained in their houses and attended to their ordinary business, and behaved themselves, they should be protected. When General Buell got to Nashville, he published a proclamation to the same effect. Now, suppose you pass this bill in this shape, and another city which has been possessed by the enemy is abandoned or their soldiers are driven out of it. The people of that city have been almost entirely concerned with the rebels and they come to our general and say, "we are satisfied that we cannot continue this rebellion any more; we are willing to submit; we want to know whether you will protect us from wrong and violence." "What do you want to be protected in?" "In our property, in our families, in our houses, our residences." "You have got no houses, you have no homes, you want to be protected in your property; you have not got any property; the whole of it was confiscated by Congress last week; and we are here to sell it, dispose of it, and put the purchasers into possession; you are all of you in that condition." "Is that all that is left to us if we become obedient to the laws?" "Yes, all except to be shot; I do not know that there is anything else; if you resist and go on, I do not know how you will come out; but if you submit to us, subject yourselves to our laws, that will be your fate; and your slaves will be set at liberty; and your six or eight millions of people unhoused have nothing and have nothing to buy it with." [Laughter.]

Now, Mr. President, it is beyond my comprehension how the road to peace lies in such a path. I am unable to see how peace can be attained by any means of that kind. Oh, but it is said we must have some money, our people are burdened with taxes and debts and expenses and we must have something to repay them. I should like to ask a man who talks in that way, how much he thinks can be got out of it. What would you give for a farm down in Tennessee or Georgia, with the people swarming around you unhoused, people believing themselves to be owners who were outlawed and deprived of their property by you? Why, sir, it would require two regiments to take care of every plantation. [Laughter.] No man would give a dollar for such a title. The idea of realizing money in that way is to me as idle as the idea of realizing peace in that way.

I come now, Mr. President, to talk more particularly in relation to another branch of this bill, which is not so obvious perhaps. It seems to me that there is another purpose that is covered up by this pretense of forfeiture or confiscation and proceedings *in rem*, which have really nothing to do with it. When we are communing together, and talking freely, we may as well tell the truth as not. I cannot exactly recommend my example in that respect, as the old gentleman did who told his sons that honesty was the best policy, "because," says he, "I have tried it both ways." [Laughter.] Now, the truth is, that there is a large provision in this bill for the liberation of slaves, and I am strongly apprehensive that the more particular friends of this bill regard that as *the* bill. Without that, they would care nothing about it. Many of them, I have no doubt, are exactly in that condition. Are you going to have these slaves seized as prize of war? There is no provision of that kind, because you know that what you declare prize of war must be seized during the war; and if it is not, when the peace comes it escapes, and you cannot take it at all. No; this provision is made to declare all slaves free without ever taking them. There is no caption of them required. They are not declared prize of war, or required to be proceeded with as such. How is it, then? They are regarded as property. I do not mean to fall into any objectionable point on that. I do not believe in having property in man any more than anybody else; but certain it is that the master, as he is called, is acknowledged by the Constitution to have an interest in the labor and service of his slave. There is an acknowledged pecuniary interest there recognized. It is a pecuniary interest. You propose to get rid of that interest, clear it out, discharge it. Can you do that by a proceeding *in rem*? I know we made a law at the last session declaring that where slaves were made the instruments of wrong by using them for military purposes in aid of the rebellion, they should be free, and that falls within the doctrine, within the principle, I have stated. But nothing of that kind is here. It was not put here purposely, because a proceeding *in rem* implies that you have possession of the thing, and brought it into court to be adjudicated upon. It is not provided that these slaves are to be taken or brought into any court, or in any way adjudicated upon. There is not any proceeding *in rem* required upon them, nor any other proceeding. If that is not depriving a man of his interest in a slave without any conviction of himself, and without any process of law, and operating as a punishment on him, and yet leaving him to be hanged, I do not understand it. It seems to me to be all that, every particle of it.

Again, Mr. President, we have individually, and the Republican party as a party, thrown our creed and articles of political faith before the world. We have subscribed to them, most of us personally, individually at different stages, and I believe it is not necessary for me to make any personal professions about that. I am still very much inclined to abide by a plighted public faith, and by private faith too. I cannot but observe that those gentlemen who certainly have been distinguished as much or more for their activity in relation to the subject of slavery as for anything else, are committed to the creed of the Republican party on this point. Take, for instance, the honorable Senator from Massachusetts, [Mr. SUMNER.] I will read his words. On offering a certain memorial, on the 25th of February, 1861, he said:

"I offer this memorial, sir, because I deem it my duty to offer all memorials that are respectful in form, when sent to me; but in offering it, I take this occasion to declare, most explicitly, that I do not think that Congress has any right to interfere with slavery in a State."

I do not know that the gentleman has ever spoken in any other way.

Mr. SUMNER. Never.

Mr. COLLAMER. I have never heard him speak otherwise, and I have generally heard what he had to say. I have been glad to find that this somewhat early and uniform doctrine of our party had not become outlawed by war, and hence I was pleased to hear some Senators who sit near me, and whom I always hear with very great pleasure and respect, make use of the expressions which I am about to read. I will use their language as better expressing the idea than any language I could employ. The honorable Senator from Maine, [Mr. FESSENDEN,] in the course of the debate upon the bill for the abolition of slavery in this District, said:

"Mr. President, that the Republican party would rejoice to see slavery abolished everywhere, that they would rejoice if it no longer existed, that they feel it to be a blot upon our fair institutions, and a curse to the country, there is no doubt. I can answer, for one, that has been my opinion always, and I have expressed it here and elsewhere; but, sir, I have held, and I hold to-day, and I say to-day, what I have said in my place before, that the Congress of the United States, or the people of the United States through the Congress, under the Constitution as it exists now, have no right whatever to touch, by legislation, the institution of slavery in the States where it exists by law. I have said that, and I say it again, boldly; for my position never has been misunderstood on this subject."

The honorable Senator from Ohio, [Mr. SHERMAN,] on the same occasion, said:

"We ought now to abolish slavery in this District. We have the right, and it is our duty to do it; and if we had wasted less time in doing it, it would probably be just as well. We ought, then, religiously to adhere to the promises we made to the people of this country when Mr. Lincoln was elected President. We ought religiously to abstain from all interference with the domestic institutions of the slave or the free States. We ought to stand by the Constitution as it is, by the Union as it is. Whether rebels are in arms or not, our duty is to stand by our pledges, to stand by our manhood; and I, for one, will do it."

If we make a law, intending it to be operative, by which we declare that the slaves of all en-

gaged in this rebellion, or of all the officers and classes mentioned in the amendment of the Senator from Ohio are free, and all right over them abolished, do you believe, does any man of common sense believe, that you can make the world understand that we have not interfered with slavery in the States, and not to a very limited extent either, but to about the whole extent to which it exists? All remarks, however ingenious, and all sophistry, however plausible, which can make this look any otherwise, is but a delusion. It cannot be seen in any other light. This is not put on the ground that it is a military operation, not on the ground of proceedings *in rem*, not that it deprives a man of his property and yet leaves him to be hung, not upon any conviction, not upon any process of law whatever, except this law which we now make.

It seems to me, obtuse as I am, perhaps, in my perceptions, that that is directly interfering with this plighted faith; and it seems to me, further, that it is in direct violation of the provisions, prohibitions, and securities which the Constitution enacts. I, for one, will not do it. I do not regard myself as needing any apology for not doing it. I do not think my people wish me to contribute to breaking any provision of the Constitution, and they know I would not do it if they did wish it; nor do they need any apologies from me for regarding the oath I have taken.

But, sir, if we had this power, allow me to make a single remark as to the policy of it in aiding to put down the rebellion. You propose to say to the officers, "your property is confiscated," and to the soldiers, "you may proceed with impunity; if you do not succeed you shall not be punished." Is it not saying, "now, you officers, fight on to save yourselves; and soldiers, you may follow your officers as far as you can; for, after all, if you do not succeed, you are not going to lose anything." Really that does not seem to be very good policy. The same treatment is proposed in regard to slaves. The slaves are now in the possession and control of their masters, except so far as our Army goes. If they try to get away, especially if they are at any considerable distance from our armies, their masters will not allow them do it. Of course, the masters are not going to let them get away to join us to shoot them; they will stop them; perhaps kill them in the attempt. If we knew people were going from us to join the enemy and fight us, we should not let them go. Neither do they. Now, by this bill, we say to these slaves, if they are ever to learn what we do at all—and if they do not, it can have no effect—"you need not run any risk about offending your master; perhaps your master will succeed in the rebellion; and you will suffer pretty hard if you undertake to run away and he catches you; you may remain quietly with your master, and not incur the hazard of his displeasure or punishment; but if, after all, your master does not succeed, you shall be free, whether you help us or not." Is that good policy? That is the bill. It does not seem to me to be a very wise means to the end, if such an end is had in view, as I suppose.

I will now call the attention of the Senate to the bill which I have submitted as an amendment. It is printed, but I have made some little alterations in the copy left on the table. In the first place, in order to enable the President to have in his hands an opportunity to offer some objects and advantages and purposes to that people, I have taken this course: in the first section of my bill, I provide that the punishment for treason upon conviction may be death, or, in the discretion of the court, it may be fine and imprisonment. That fine is limited to be not less than $10,000, and the imprisonment to be not less than five years. The maximum I have left to the discretion of the court. I intended that the fine in the power of the court to lay should be such as was adapted to the man's means, and I would put the fine large enough to strip any man who was incorrigible.

I further provide that the effect of the conviction shall be that he shall be incapable of holding any office under the Government, and that his slaves shall be free, and that this fine shall be levied and collected out of any property he possessed at the time the act was committed. I am free to acknowledge one purpose that I had in this provision. Much has been said about the subject of the forfeiture of a man's estate beyond his life. I do not choose to discuss that; I do not desire that we should be involved in it. What is forfeiture? It is the taking of some specific thing, as all the visible property a man now possesses—his farm, his horse, his ship. That is a visible, material identity that is forfeited. A fine has no such quality. A fine is but the mulcting of the respondent in a sum of money. If he pays it, well; if he does not pay it, you may levy and collect it out of his property. I have created no forfeiture by my bill. The act creates none, but it enables the courts to levy and collect the fine out of the convicted traitor's property. I involve no question as to whether you can create a forfeiture of anything beyond his life or during his life. It is no forfeiture whatever. I avoid that question altogether.

It is next provided in my bill that, in order to meet this, the President shall have power to take possession of the property of a person thus engaged, wherever situated in the United States, real and personal, to sequester it to meet this fine, to be holden until the man is tried, sooner or later.

Having done this, I propose in the next section that the President shall be authorized to issue his proclamation offering indemnity and pardon to the people, with such exceptions and upon such conditions and at such times as he shall point out. Suppose we take possession of a State, and the people remain; the President issues a proclamation to the people, saying to them, "I have appointed officers; and now if you will within sixty days, all of you, except Jefferson Davis, Robert Toombs," or their generals—what exceptions he thinks the public safety requires should be condignly punished—"with these exceptions, if you will come in to the officers I have appointed, and take your oath of allegiance, I give to you amnesty and pardon." He has something to offer then.

Pass such a bill, and they see by it that they are subject to be fined and stripped as well as imprisoned, and to save themselves and families from that they would do what they would not do to escape hanging, which they know will never be administered. You can hold out to them some purpose, some object, some advantage, and in my opinion the great body of the people not excepted would at once avail themselves of the offer. If you take off the pressure of their armies from them, if you relieve them of those armies that are riding over them, of the incubus that is resting down on them, and give them the opportunity of loyalty and allegiance, you will have it, I have no doubt; but I propose to have the punishment remain in force, capable of being executed on all those who are so bad as to be excepted out of the proclamation of amnesty, or so obstinate that they will not submit. That it seems to me will be the practical effect. It will have to be carried into execution after possession is had of the country, after the proper discriminations can be made, after our authorities have looked around amongst the people and seen who it is that needs to be punished, and who are those whom the safety of the public would permit to be admitted to their loyalty and allegiance. You cannot make that distinction by classes now and here before the thing happens, as is attempted to be done by the honorable Senator from Ohio. He says by his amendment that the President may extend an amnesty, if he pleases, to any of the classes named. Why, sir, that is not what is wanted. You cannot make the discrimination now. There may be men as good as Matthew Hale who have actually taken and hold offices under that *de facto* government, and who, the gentleman from Ohio would have no more desire to hang or to strip than Charles II had to hang Chief Justice Hale. These discriminations can only be made when the means and opportunity for information exist.

I can conceive that there may be found some parts of the United States, some sections perhaps in South Carolina, where the people would never submit. I have no idea that any very great success, in the way of submission and restoration of the Government, will take place successfully in Tennessee, so long as there is a rebel army down there in the neighborhood to which the people look either with hope or apprehension. If there is an army of rebels in the vicinity, which part of them believe is to come back to relieve them, or part of them believe will get back to punish them, you can easily see what will be the result. The armed rebellion must be suppressed utterly, and then means like these may be operative; but, sir, suppose you come to a people that will not submit. That may happen, and hence I have inserted a section looking to such an extremity, authorizing the President, if he finds it necessary in order to bring the war to a close, that is, if it becomes a military necessity, to issue a proclamation to the people, fixing a day, and saying to them, "If any of you are engaged in this rebellion after that day, your slaves shall all be free." That is to give fair notice, and that may produce an effect. You have it in your hands as the means of reconciliation.

I cannot but further remark, Mr. President, that in all these bills declaring all the slaves of these people free, no pardon or amnesty that the Executive would have power to render could ever restore them to bondage. If the law, as it declares, makes them free when the owners are guilty of being in arms against us, they are free *ipso facto*, and they are free from that moment. The pardon or amnesty to those people mentioned in the amendment of the Senator from Ohio could not restore their slaves to bondage. That part of that bill is framed with a view to the freedom of the slaves absolutely, without process, without law, without proceedings *in personam* or *in rem*, and without the possibility of reënslavement; and yet we are told this is not interfering with slavery.

I have but one other section in my bill which I have copied from others, and that is one which I regard as nothing but an addition to the fugitive slave law. It provides that when men undertake to pursue their slaves, they shall, in order to give them *status* in court, show that they have been loyal in this rebellion. I have no objection to that as a part, an addition, an amendment, of the fugitive slave law. That ends my bill, sir, and I have no more to say.

The PRESIDENT *pro tempore*. The question is on the amendment, by way of perfecting the original bill, moved by the Senator from Ohio.

Mr. SHERMAN. I should like to have the yeas and nays upon it.

The yeas and nays were ordered.

Mr. SAULSBURY. I wish to make a single remark in explanation of the course that I shall pursue. The original bill, and every amendment to that bill, proposes in some shape or form to set slaves free. I do not intend to vote for any bill with any such provision in it. Although I might prefer some of the amendments offered to the original bill, yet, inasmuch as they contain that same principle—the principle of abolition—I shall neither vote for the original bill, nor any amendment that may be offered to it.

Mr. HOWARD. Permit me to inquire of the Senator from Ohio whether the amendment upon which we are now to vote is the same one which he offered yesterday morning to the original bill—I think the first section of the original bill.

Mr. SHERMAN. It is the same amendment which the Senator read before it was offered.

Mr. HOWARD. And it applies to the original bill, and not to the substitute offered by my friend from Ohio.

The PRESIDENT *pro tempore*. The Chair stated on stating the question that the question now pending, on which the Senator called a vote, is the amendment moved by the Senator from Ohio by way of perfecting the original bill.

Mr. HOWARD. Then I beg to say, that as this answers the same purpose as the proposed amendment to which I referred in the remarks which I had the honor to address to the Senate a few days ago, I shall not offer any amendment myself, but accept that of my friend from Ohio as entirely satisfactory to me.

Mr. DAVIS. I will ask a question for information. If the Senate should adopt a substitute for the original bill, would it be afterwards in order to offer another substitute to that substitute?

The PRESIDENT *pro tempore*. It will not then be in order. While the substitute of the Senator from Ohio to the original bill is pending, it will be in order to move an amendment to that amendment in the form of a substitute for a substitute. The question now is on the amendment moved by the Senator from Ohio to the original bill, by way of perfecting it.

Mr. COLLAMER. Then if the gentleman from Ohio will withdraw his substitute I will offer mine. However, he may do just as he pleases about that.

Mr. SHERMAN. Certainly I will withdraw it. In order to give the Senate a fair opportunity to choose between them, I will withdraw my substitute so as to enable the Senator from Vermont to offer his.

The PRESIDENT *pro tempore*. The question now pending is on the amendment to the original bill.

Mr. COLLAMER. I suppose no one will object to my offering the substitute, as the Senator from Ohio has withdrawn his.

The PRESIDENT *pro tempore*. That will be understood, but the question cannot now be put upon it.

Mr. SHERMAN. I wish to state, that in withdrawing the substitute, I have not changed my opinions in the slightest, but I desire the Senator to have an opportunity to have a vote on his substitute whenever he desires it.

The PRESIDENT *pro tempore*. Then the question stands in this wise: the Senator from Ohio has withdrawn his amendment in the form of a substitute for the original bill. The Senator from Vermont moves an amendment in the form of a substitute for the original bill. That amendment is then open to amendment by way of perfection. The question now, however, pending, and before it can be taken upon any other, is upon the amendment moved by the Senator from Ohio by way of perfecting the original bill, upon which the yeas and nays have been ordered.

Mr. KING. The Chair has just stated it, but I do not yet understand what the question is. I will ask that it be read by the Secretary.

The PRESIDENT *pro tempore*. The amendment moved by the Senator from Ohio to the original bill will again be read.

The Secretary read it; to strike out all after the words "United States," in line six of the first section, down to and including the word "rebellion," in the thirteenth line, in the following words:

Belonging to any person or persons beyond the jurisdiction of the same, or to any person or persons in any State or district within the United States, now in a state of insurrection and rebellion against the authority thereof, so that in either case the ordinary process of law cannot be served upon them, who shall during the present rebellion be found in arms against the United States, or giving aid and comfort to said rebellion.

And to insert in lieu thereof the following:

First. Persons hereafter acting as officers of the army or navy of the rebels now or hereafter in arms against the United States. Second. Persons hereafter acting as president, vice president, member of congress, judge, foreign minister, consul, or commissioner of the so-called confederate States. Third. Persons hereafter acting as an officer, whether civil, military, or naval, of any State or Territory who by the constitution of the so-called confederate States is required to take an oath to support said constitution. Fourth. Persons who having held an office of honor, trust, or profit under the United States, shall hereafter take up arms against the United States. Fifth. Persons who, owning property in the loyal States or Territories, or the loyal portions of disloyal States, shall hereafter assist or give aid and comfort to the present rebellion.

Mr. KING. I will inquire whether an amendmend to that amendment by way of addition is in order.

The PRESIDENT *pro tempore*. It is in order. The amendment to the original bill is open to amendment.

Mr. KING. Then I move to amend the amendment by adding the following:

Sixth. Persons in the present insurrection levying war against the United States or adhering to their enemies, giving them aid and comfort.

It will be perceived that the amendment which I propose makes the principle of confiscation applicable to traitors, and to traitors only. In my opinion, the principle should be applied to them indiscriminately. The argument that a great many persons were under the influence of others; that the wealthy and leading members of the community enticed others to join this rebellion, and that they are the only persons to whom this doctrine of confiscation is to be applied, is, in my judgment, erroneous. Those persons who have exercised an influence over the great mass of the community will have their influence increased by being able to represent that they are made the martyrs, who are to suffer sacrifices, and are pointed out as persons to be punished, while those who, under their influence, have been drawn into this rebellion may be told that they are to be exempted from the penalties of their treason. It is said as a reason why these persons should be exempted from the penalties that many of them are persons without property. If so, a law of confiscation will have no effect upon them. The law can only take effect upon those who have property. In my opinion, the penalties of the law against treason should be frankly and distinctly declared against all traitors. If at any time there should be a disposition on their part to consider whether they will desist and refrain from the continuance of their resistance to the Government, this would give an opportunity to the President to extend to them an inducement to do so. At any time those who will desist might, on a proclamation of the President, have extended to them clemency. They might be informed that all those who would return to their allegiance might have the penalties of confiscation remitted. They certainly have forfeited all their legal and constitutional rights. When a man commits treason against his Government, he has forfeited his claim to its protection; and I would make the law apply to all traitors, and to traitors only.

Mr. SHERMAN. I trust my friend from New York will not press his amendment, because it is equivalent to the original bill; and if the amendment I offered be voted down, as a matter of course, the words he now offers will be embodied in the original bill.

Mr. CARLILE. I should like very much that the sense of the Senate should be tested upon the principle of the proposition submitted by the Senator from Vermont. I have listened not only with pleasure, but my hopes for a speedy restoration of the Union have been revived since I heard the speech of the Senator from Vermont. It was the speech, not alone of the statesman, but of the patriot. Its manner, its temper, and its spirit, must commend it to every just man everywhere throughout the broad limits of our country, and the justice of the sentiments which he uttered must be acknowledged in their calmer and cooler moments, even by those who are engaged in an effort to overthrow the Government. Now, sir, if it be the intention of the Senate to adopt such a proposition as that of the Senator from Vermont, we may save time, if I am right as to the rules governing this body, by testing the sense of the Senate on a motion to postpone the subjects now immediately under consideration; and if they shall be postponed, then I imagine it will be competent for the Senator from Vermont to offer, as an independent proposition, his proposed amendment.

The PRESIDENT *pro tempore*. The Chair will suggest to the Senator from Virginia that his proposition is impracticable. An amendment pending to a bill cannot be postponed without carrying with it the whole subject.

Mr. CARLILE. But I understand that the proposition of the Senator from Vermont not being in order to be moved as an amendment or substitute to the pending proposition, is not now before the Senate.

The PRESIDENT *pro tempore*. It is before the Senate; but it stands aside for propositions of amendment, it being in the form of a substitute for the original bill. The question upon the substitution cannot be taken while propositions of amendment or modification shall be made either to the original bill or to the substitute.

Mr. CARLILE. The objection that I have is not only to the consumption of time, which, perhaps, is not a very serious matter, but in voting upon these amendments some of us may be placed in a false position. Now, sir, entertaining the views that I do as to the constitutional power of this body, I see no way to vote for any of these propositions; and thus it may in the end put upon the statute-book that which would be the most objectionable. I should therefore have to follow the Senator from Delaware, and vote against the whole of them.

The PRESIDENT *pro tempore*. The pending question is on the amendment to the amendment to the original bill. The Senator from New York moves an amendment to the amendment of the Senator from Ohio.

Mr. TRUMBULL. Before the vote is taken on these amendments, I wish to state what I understand to be the purport of the amendment proposed by the Senator from Ohio. In one respect that amendment is a limitation of the bill as it was reported by the committee; in another respect, it is a very great enlargement of it. So far as that amendment defines the classes of persons upon whom the bill is to operate, it is a limitation. It confines it to officers in the civil, military, and naval service of the so-called confederate States. It divides them into classes, but they would all be embraced in the designation of officers in the civil, military, or naval service of the so-called confederacy, who took up arms against the General Government. But in this respect, it is an enlargement of the original bill; the original bill is based on the principle that the property of no rebel is to be forfeited whose person is within reach of judicial process. The Senator from Ohio proposes to strike out that proposition, which is the basis of the bill, and he will confiscate the property of the man who can be tried for treason; and that brings us right back to the constitutional question argued by the Senator from Wisconsin [Mr. DOOLITTLE] last evening. He insisted that under the Constitution, which prescribes the punishment for treason, you cannot confiscate the real estate except for the life of the traitor. Well, sir, I agree to that; at least I am inclined to agree to the proposition that the clause in the Constitution limiting the power of Congress to define the punishment for treason does prevent the confiscation of property beyond the life of the traitor where the treason is tried. But a perfect answer to the Senator from Wisconsin is, that it has no application to a man who cannot be tried for treason. It would be absurd to say that a clause in the Constitution applied to a person who could not be affected by it. To make that perfectly clear, I will, by way of illustration, ask a question. Suppose an unnaturalized foreigner is fighting in the rebel army against us, and there are hundreds and thousands of such cases; the Senator from Wisconsin knows we could not try that unnaturalized foreigner for treason, because he owes no allegiance to this Government; he has never been naturalized; but he is fighting us. Then that clause of the Constitution that inhibits you from punishing a traitor by forfeiture of life has no application to the unnaturalized foreigner, because the unnaturalized foreigner cannot be tried for treason. Then I ask the question, is it not competent by way of punishment, or by way of confiscation, if you please, to be dealt out to that unnaturalized foreigner to take his property, and to take his property absolutely? What clause in the Constitution inhibits it? Certainly not the clause fixing the punishment for treason, because the unnaturalized foreigner cannot be tried for treason; that is an impossibility; he owes no allegiance to the Government.

The original bill goes upon that idea, that the property of the men in arms against the Government who are beyond the reach of judicial process and cannot be tried for treason is to be forfeited. For instance, Slidell's property, who is abroad, and the property of unnaturalized foreigners, and the property of every man being a citizen of the United States who flees beyond the jurisdiction of the process of our courts; for where the process of the court could reach him, and he could be made to answer in his person for his crime, and where he himself can be brought to the scaffold for his wicked deeds, I would not propose to take from his posterity his property.

If the amendment to the original bill prevails, it will provide for confiscating the property of the particular classes of rebels designated in his amendment, whether they are within the reach of judicial process or not. I will not say that cannot be done. I will not say that the power does not exist; because I hold that this Government, in putting down rebellion, has the power to do whatever is necessary to accomplish it, taking real estate and everything else. I hold that if it be necessary, this Government may not only slay every white man in South Carolina but every negro, and, if it had the power, sink it and make it like the Dead sea, ingulf the whole State in the ocean, lands, negroes, whites, women, children, and all. As a question of power, if it were necessary to put down this rebellion, we could do it.

But, sir, I did not rise to argue the question, but merely to state what the effect of the amendment of the Senator from Ohio would be. I shall not vote for the amendment, although I think that so far as it designates the classes of persons, it will reach most of the cases. I think that the persons designated in his amendment own most of the property, and if it is adopted I shall have no fault to find with it, so far as it is a limitation upon the persons to be affected by the bill; but I object to it more on the ground that it departs from a prin-

ciple which lies at the basis of the original bill. However, sir, with my views, I think I shall be able to sustain the bill amended in that form, if the Senate should think proper to amend it. If I have had the attention of the Senate I have accomplished all I desired—to point out the difference between the amendment and the original bill.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment, offered by the Senator from New York.

Mr. KING. I should like to have the yeas and nays on that question.

The yeas and nays were ordered.

Mr. SHERMAN. I think a single remark will dispose of this amendment. It will include not only all the men of the southern States, but all the women and most of the children. It is far more extensive than any proposition that has ever been submitted. I trust, therefore, it will not be agreed to.

Mr. COWAN. My honorable friend from New York is only carrying out the joke. He is a bachelor. [Laughter.]

Mr. KING. Mr. President, the Senator from Ohio states that this will apply to all the men, women, and children in the South. I differ with him. I think there are a great many loyal citizens there. I trust there are. I would make a distinction between them and the traitors of the South or the North. The proposition contained in my amendment is to apply the principle of confiscation to traitors, to all those who by the definition of treason in the very words and terms of the Constitution are traitors, and to no others. I would apply this principle to all such persons great and small. I desire to give my vote for that purpose. It is a simple question presented to the Senate whether they will apply this principle to all traitors, or whether they will in advance hold out to a part of them the idea that they will not be subject to the penalties of their offenses. In my judgment, expediency, justice, and every principle which should move a Government, require the assertion of the doctrine that I present. If, in the progress of time, there should be any such condition of things as should induce the hope that a portion of those who have been in complicity with this treason would return to their allegiance, lay down their arms and abandon their hostility to the Government, a proclamation of clemency from the President could be extended to them. In my judgment, if they are to be released from the penalties of their most infamous crimes, they should understand it to be a release from these penalties extended by the clemency of this Government, and not immunity which they enjoy because this Government is either afraid to exercise its power, or because it distrusts that it possesses the power to punish treason. In my judgment, it is desirable for this Government to assume at once that it possesses the power to punish its enemies, and the disposition to inflict the penalties against treason which the Constitution and the laws impose, and if there be any indulgence, any release or remission of these penalties, that it is to go to them from the clemency of the Government, and neither from the distrust of its power nor from the fear to exercise it. The citizen of this country who raises a hand to destroy the Government which gives security to all alike, I care not whether man, woman, or child, is guilty of treason, and I would not discriminate in the law, whatever might be allowable to the Executive in executing it. The law should pronounce the same penalty upon all alike, whoever may be guilty of the offense.

The question being taken by yeas and nays, resulted—yeas 7, nays 32; as follows:

YEAS—Messrs. Chandler, Grimes, King, Pomeroy, Trumbull, Wade, and Wilkinson—7.

NAYS—Messrs. Anthony, Browning, Carlile, Clark, Cowan, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Hale, Henderson, Howard, Howe, Lane of Indiana, Lane of Kansas, Latham, Morrill, Nesmith, Powell, Saulsbury, Sherman, Simmons, Stark, Sumner, Ten Eyck, Thomson, Willey, Wilson of Massachusetts, Wilson of Missouri, and Wright—32.

So the amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment moved by the Senator from Ohio by way of perfecting the original bill, and upon which the yeas and nays have been ordered.

Mr. DOOLITTLE. I desire to inquire what the effect will be if this substitute should be adopted.

The PRESIDENT *pro tempore*. It is not the substitute that is now under consideration. The substitute offered by the Senator from Ohio has been withdrawn. The Senator from Vermont has indicated his purpose to move his substitute, to which the Senator from Ohio assents, that the question may be taken upon that before the question shall be tried upon the substitute of the Senator from Ohio. The question now is on the amendment, by way of perfecting the original bill, moved by the Senator from Ohio.

The question being taken by yeas and nays, resulted—yeas 26, nays 11; as follows:

YEAS—Messrs. Anthony, Browning, Chandler, Clark, Cowan, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Henderson, Howard, Howe, Lane of Indiana, Nesmith, Sherman, Simmons, Sumner, Ten Eyck, Thomson, Willey, Wilson of Massachusetts, and Wright—26.

NAYS—Messrs. Carlile, King, Lane of Kansas, Morrill, Pomeroy, Saulsbury, Stark, Trumbull, Wade, Wilkinson, and Wilson of Missouri—11.

So the amendment was agreed to.

The PRESIDENT *pro tempore*. If no further amendment be pending by way of perfection of the original bill, the question recurs on the amendment moved by the Senator from Vermont in the form of a substitute for the whole bill.

Mr. WILSON, of Massachusetts. Let us have it read.

The Secretary read the amendment, to strike out all after the enacting clause of the original bill and to insert the following in lieu thereof:

That if any person or persons owing allegiance to the United States shall, after the passage of this act, levy war against them, or shall adhere to their enemies, giving them aid and comfort, and shall thereof be convicted, on confession in open court, or on the testimony of two witnesses to the same overt act of treason, whereof he or they shall stand indicted, such person or persons shall be adjudged guilty of treason against the United States and shall suffer death, or imprisonment not less than five years, and be fined not less than $10,000; which fine shall be levied and collected on any or all of the property, real and personal, of which the said person or persons so convicted was owner at the time of the committing of the said act, any sale or conveyance to the contrary notwithstanding; and every person so convicted shall be forever incapable and disqualified from holding any office under the United States; but the President may pardon or remit the whole or any part of said punishment.

SEC. 2. *And be it further enacted*, That the persons to whose labor or service any person convicted under this act has claim by the laws of any State, shall be thereafter forever free and discharged therefrom.

SEC. 3. *And be it further enacted*, That this act shall not be construed in any way to affect or alter the prosecution, conviction, or punishment of any person or persons guilty of treason against the United States before the passage of this act, unless such person is convicted under this act.

SEC. 4. *And be it further enacted*, That whenever it shall be deemed necessary to the speedy and successful termination of a rebellion by the President, he is hereby authorized, by such commissioners as he shall appoint, to sequester and seize the property, real and personal, of such persons as shall bear arms against the United States, or give aid and comfort to such persons wherever situated; and if within any part of the United States the inhabitants whereof have been proclaimed to be in a state of insurrection, to hold, occupy, rent, and control for the United States until the ordinary course of judicial proceeding shall be restored in the State or district where the same is situated, and in all cases until the owners of said property can be proceeded against by legal prosecution; but no persons holden to service, commonly called slaves, shall be taken under this section. And all such personal property as shall be so taken which is perishable, or expensive in keeping, may be sold by said commissioners, who shall keep and render full accounts of all the avails and receipts from said property so sold, let, or occupied, and pay over the avails to the Treasury of the United States.

SEC. 5. *And be it further enacted*, That whenever the President, in pursuance of existing laws, shall, by proclamation, have declared the inhabitants of any State or section, or part thereof, in a state of insurrection against the United States, he is hereby authorized, at any time thereafter, by proclamation, to extend to any such persons who may have participated therein, and in any such State or part thereof as he shall judge proper, pardon and amnesty, with such exceptions and at such time and on such conditions as he shall declare and proclaim.

SEC. 6. *And be it further enacted*, That if in any State, or part thereof, in which the inhabitants have by the President been declared in a state of insurrection, the said insurrection shall have continued for a period of six months, then and in that case the President is authorized, if in his opinion it is necessary to the successful suppression of said insurrection, by proclamation to fix and appoint a day when all persons holden to service or labor in any such State, or part thereof as he shall declare, whose service or labor is by the law or custom of said State due to any person or persons who after the day so fixed by said proclamation shall levy war or participate in insurrection against the United States, or give aid to the same, shall be free and discharged from all such claim to labor or service; and thereupon said person shall be forever free and discharged from said labor and service, any law or custom of said State to the contrary notwithstanding.

SEC. 7. *And be it further enacted*, That whenever any person claiming to be entitled to the service of any other person as a slave under the law of any State shall seek to enforce such claim, he shall, in the first instance, and as preliminary to the trial of such claim, show satisfactorily that he and the person to whom said service was by said law due during the period of insurrection or rebellion was loyal to the United States.

Mr. BROWNING. Before the vote is taken I desire briefly to address the Senate upon this bill, but do not wish to do so to day; and if it is agreeable to the Senate, I will move to proceed to the consideration of executive business.

Mr. SUMNER. Perhaps the Senate, before proceeding to the consideration of executive business, in which I am interested also as much as the Senator from Illinois, would take the vote on the Hayti bill which we had under discussion during the morning hour.

Mr. BROWNING. I have no objection to that, if it is supposed the vote can be reached.

Mr. SUMNER. I think it can be. The Senator from Delaware [Mr. SAULSBURY] proposes to make a few remarks, but I understood from him it would be only for a moment.

The PRESIDENT *pro tempore*. The pending question must be disposed of before another bill can be taken up for consideration.

Mr. SUMNER. I will move that the present bill be postponed until one o'clock to-morrow and made the special order for that hour.

The motion was agreed to; two thirds of the Senate concurring therein.

HAYTI AND LIBERIA.

Mr. SUMNER. Now, I move that the Senate proceed to consider the bill authorizing diplomatic relations with Hayti and Liberia.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 184) to authorize the President of the United States to appoint diplomatic representatives to the republics of Hayti and Liberia respectively.

Mr. SUMNER. There is a letter from the commercial agent of the United States at Hayti which I sent to the desk to be read just as the discussion closed this morning.

The PRESIDENT *pro tempore*. The question pending is on the amendment, in the form of a substitute, proposed by the Senator from Kentucky, [Mr. DAVIS.] The Senator from Massachusetts sends forward to the desk, as a part of his argument, a letter, which will be read:

The Secretary read it, as follows:

UNITED STATES COMMERCIAL AGENCY,
PORT AU PRINCE, HAYTI, *December* 12, 1861.

SIR: Not being in receipt of any of your favors, I have the honor to inform the Department that since the date of my last dispatch this country has been perfectly tranquil. No further sign of insurrection has appeared; the commercial movements of the country have not been disturbed, and the public funds and currency have not fallen.

I deem it my duty to call the earnest attention of the Department to the activity of European Powers in this place, and to the determined and concerted attempt which is apparently being made to drive American trade from the island and to destroy our influence among the Haytien people.

In the first place an almost entire change has just been made in the *personnel* of the foreign legations here. England has just recalled Mr. Spencer St. John from the East Indies, and appointed him chargé d'affaires and consul general here. His vice consul is Mr. Henry Byron, who is thoroughly acquainted with Haytien affairs, having been here many years, and identified himself with the country by marrying a Haytien wife. The Marquis de Forbin Janson has just arrived at Port au Prince as French chargé and consul general, together with a new chancellor and secretary of legation. Signor Antonio Alvarez, with a new secretary of legation, has likewise just been made chargé and consul general for Spain. He has been transferred from St. Domingo City, where he represented Spain when she occupied Dominica.

These are all able men, much more so than their predecessors, and they are acting in union wherever they can, to cripple the power and interest of the United States in Hayti. Their liberal salaries enable them to assume a style of living and a place in the social world of Hayti entirely beyond my reach; and there is nothing, or next to nothing, to counteract their activity.

I must say with frankness to the Department, that I find my position much embarrassed by the failure of our Government to take any step towards acknowledging the nationality of Hayti, or entering into the usual relations of comity which exist between neighboring peoples. The Haytiens believed that when the present Administration came into power in the United States, our former coldness and neglect would cease; and they feel, and do not hesitate to express, a bitter disappointment that nothing has yet been done. This makes itself felt in a thousand ways, difficult to describe, in the intercourse of the Haytien Government with me, though they treat me personally with entire respect.

Our commercial and navigation interests are very large in Hayti, and they are suffering from the present state of things. Apart from the depressing effect of the war, a still greater depression of our Haytien trade has been caused by the circumstances I have named. Few Haytiens will now charter an American vessel, or transact their business with

American houses, unless absolutely necessary. And in spite of what little I can do as commercial agent this feeling is increasing. It is a feeling of very recent growth, and one, as I have named, that has been to a great degree stimulated by the foreign representatives here; but, in my judgment, it threatens the most serious consequences to the permanency and stability of our commerce with Hayti, and unless something is done to check it, we shall probably be substantially driven from the island.

As an example of this feeling, I would state that about a month ago our vice commercial agent at Gonaives, who had been in the habit of hoisting an American flag at his country house, just outside the town, on Sundays and holidays, without interruption from the authorities, was ordered to take down his flag-staff at that place, and requested to confine himself, so far as hoisting his flag went, to his consulate in the town. I looked into the matter, and not being able to satisfy myself that, under the former practice and general police regulations of Hayti, he had anything which could be insisted on as a right to have a flag there, I did not make a point of it with the Government. The occurrence is significant, and would not have happened three months ago.

I beg leave to repeat to the Department my conviction that our Government ought to lose no time in acknowledging the independence of Hayti, and sending a diplomatic legation here, to counteract the schemes of foregn Powers. Situated as I am, merely tolerated, without diplomatic powers, without even consular powers, and cramped in every way by a mere pittance of a salary, in a city which is most expensive to live in, while I promise the Department to use my utmost exertions to protect and extend the commercial and political interests of our country in the island, I can, nevertheless, do little good at present.

I am, with great respect, your obedient servant,

SETH WEBB, Jr.,

United States Commercial Agent.

Hon. WILLIAM H. SEWARD, *Secretary of State.*

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kentucky, in the form of a substitute for the entire bill.

Mr. POWELL. On that I demand the yeas and nays.

The yeas and nays were ordered.

Mr. POWELL. I will ask to have the amendment reported.

The PRESIDENT *pro tempore*. The Chair will put the question to the Senate. It is not in the province of a single Senator to demand the reading of any paper after it has once been read. The Senator from Kentucky asks for the second reading of the amendment. Shall it be again read?

The question being put, it was decided in the affirmative.

The Secretary read the amendment, to strike out all of the original bill after the enacting clause, and to insert in lieu thereof the following:

That the President of the United States be, and hereby is, authorized, by and with the advice and consent of the Senate, to appoint a consul to the republic of Liberia, and a consul general to the republic of Hayti, respectively, with power to negotiate treaties of amity, friendship, and commerce between the United States and those republics.

The question being taken by yeas and nays, resulted—yeas 8, nays 30; as follows:

YEAS—Messrs. Davis, Henderson, Latham, Powell, Saulsbury, Stark, Thomson, and Willey—8.

NAYS—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Cowan, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Howard, Howe, King, Lane of Indiana, Lane of Kansas, McDougall, Morrill, Pomeroy, Sherman, Simmons, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Wilson of Massachusetts, and Wright—30.

So the amendment was rejected.

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

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

Mr. SAULSBURY. After the vote just taken in the Senate I shall not trespass upon their attention, as I intended to do, only for a brief period however. It is evident that this bill is going to pass. I want the country, however, to know that according to the rules of the Senate foreign ministers have a right upon this floor, and we have set apart a portion of the gallery for the ministers and their families. If this bill should pass both Houses of Congress and become a law, I predict that in twelve months some negro will walk upon the floor of the Senate of the United States and carry his family into that gallery which is set apart for foreign ministers. If that is agreeable to the taste and feeling of the people of this country it is not to mine; and I only say that I will not be responsible for any such act. With this I will content myself.

Mr. POWELL. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. McDOUGALL. I am not altogether pleased with this bill, for I consider this one of the many measures that I think inopportune; but I must say as the expression of my opinion and the reason that will govern my vote that I do not understand why in the relations of nations the people of Hayti and Liberia may not officially communicate with us. I am not able to find any sentiment or any opinion that justifies my refusing them the privilege of being represented in our Court, if you please to call the President of the United States and his surroundings a Court. I do not know why we have the right to deny to them that privilege; and although I regret that this bill should be brought forward now as a disturbing influence, and I do not think the chairman of the Committee on Foreign Relations has adopted a wise policy; still, at the same time, believing it right in itself, I must sustain the proposition.

The question being taken by yeas and nays, resulted—yeas 32, nays 7; as follows:

YEAS—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Cowan, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Henderson, Howard, Howe, King, Lane of Indiana, Lane of Kansas, Latham, McDougall, Morrill, Pomeroy, Sherman, Simmons, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Wilson of Massachusetts, and Wright—32.

NAYS—Messrs. Bayard, Carlile, Davis, Powell, Saulsbury, Stark, and Thomson—7.

So the bill was passed.

STEAMSHIP LINE TO CHINA.

Mr. LATHAM. I move to take up Senate bill No. 75, to establish a line of steam mail ships between San Francisco, in California, and Shanghae, in China, touching at the Sandwich Islands and Japan, with a view of setting it down for consideration to-morrow morning at half past twelve o'clock.

Mr. TRUMBULL. I wish to inquire if this is assigned for half past twelve o'clock to-morrow, if it would not be the subject in order at one o'clock.

Mr. LATHAM. I will give way even if it will.

The PRESIDENT *pro tempore*. It will not supersede the special order assigned for that hour.

The motion to take up the bill was agreed to; and its further consideration was postponed to, and made the special order for, to-morrow at half past twelve o'clock; two thirds of the Senate concurring therein.

EXECUTIVE SESSION.

Mr. SUMNER. I now move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in the consideration of executive business, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *April* 24, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

CONTRACTS OF WAR DEPARTMENT.

The SPEAKER laid before the House a report of contracts by the War Department for 1861; which was laid on the table, and ordered to be printed.

CHESAPEAKE AND OHIO CANAL.

The SPEAKER also laid before the House a communication from the Secretary of War, in answer to a resolution of the House calling for papers relative to an alteration in the bridge across the Chesapeake and Ohio canal at Georgetown; which was laid on the table, and ordered to be printed.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. HAY, his Private Secretary, informing the House that the President had approved and signed a joint resolution to supply the Smithsonian Institution with Wilkes's Exploring Expedition.

EXCUSED FROM SERVICE ON COMMITTEE.

The SPEAKER also laid before the House a letter from Mr. BAILEY, of Massachusetts, asking to be excused from service on the Committee on Territories, owing to protracted ill health.

The question was taken; and Mr. BAILEY, of Massachusetts, was excused from further service on the Committee on Territories.

WAR EXPENSES OF 1821.

Mr. FENTON, by unanimous consent, introduced a bill to settle the accounts of the State of New York for advances made to the United States during the war with Great Britain, and for other purposes; which was read a first and second time, and referred to the Committee of Claims.

DIPLOMATIC CORRESPONDENCE WITH FRANCE.

Mr. VALLANDIGHAM, by unanimous consent, offered the following resolution; which was read, considered, and referred to the Committee on Foreign Affairs:

Resolved, That the President be requested to transmit to this House, if not incompatible with the public interest, copies of such correspondence between the French Government and the United States as may have been received within the last two months relating to the present troubles in America.

TREATIES WITH INDIANS.

Mr. ALDRICH, by unanimous consent, reported from the Committee on Indian Affairs a bill to authorize the making of treaties with the Indians in the Territory of Utah, with a view to the purchase of their lands; which was read a first and second time, referred to the committee of the Whole on the state of the Union, and ordered to be printed.

Mr. ALDRICH also, by unanimous consent, reported back from the same committee, with a recommendation that it do pass, a bill (H. R. No. 322) to authorize the making of treaties with the Navajo, Apache, and Utah Indian tribes in New Mexico, defining their limits and extinguishing their title to lands outside of said Territory; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

DEPREDATIONS ON INDIANS.

Mr. ALDRICH also, by unanimous consent, reported from the same committee, a bill to provide payment for depredations committed by the whites on the Sac and Fox Indians in the Territory of Kansas; which was read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

Mr. WASHBURNE called for the regular order of business.

The SPEAKER announced the next business in order to be the consideration of the bill (H. R. No. 106) to facilitate the suppression of the rebellion, and to prevent its return; on which the gentleman from Illinois [Mr. LOVEJOY] was entitled to the floor.

RECOGNITION OF LIBERIA.

Mr. McKNIGHT. I ask consent of the House to present a petition for the recognition of Liberia, signed by Bishop Potter and other citizens of Philadelphia.

The SPEAKER. The Chair must see that the regular order of business shall be insisted on, unless the gentleman who calls for it withdraws the call. The gentleman from Pennsylvania can file the petition under the rule.

EVACUATION OF JACKSONVILLE, FLORIDA.

Mr. LAW. I ask the gentleman from Illinois to give way for a single moment.

Mr. LOVEJOY. Yes, sir.

Mr. LAW, by unanimous consent, offered the following resolution:

Resolved, That the Secretary of War be directed to communicate to this House, if not inconsistent with the public interests, all the facts and circumstances within his knowledge in reference to the late evacuation of Jacksonville, Florida, by the troops of the United States.

Mr. VALLANDIGHAM. I hope that part of the resolution which relates to inconsistency with the public interests will be stricken out. We had a controversy which occupied this House for nearly a whole day, growing out of a similar clause.

Mr. LAW. I modify the resolution by striking out that part.

The resolution, as modified, was adopted.

CONFISCATION OF REBEL PROPERTY.

The SPEAKER stated the business next in order to be the consideration of the bill (H. R. No. 106) to facilitate the suppression of the rebellion and to prevent its return; on which the gentleman from Illinois [Mr. LOVEJOY] was entitled to the floor.

Mr. LOVEJOY. It was my purpose yesterday in seeking the floor at the close of the day's

session to reply to the gentleman from Kentucky, [Mr. CRITTENDEN.] And I shall in the main pursue that purpose this morning. I desire to say, however, before proceeding to notice the remarks of the gentleman, that it is a novelty I think almost without a parallel in the history of nations that a Government engaged in a serious war, to put down a rebellion, should have advocates of that rebellion on the floor of its national Legislature. And yet that strange, and I think I may say, unheard-of, fact, is witnessed here almost every day. At any rate every time any attempt is made at legislation looking toward the suppression of this foul and parricidal revolt, the fact is developed that that rebellion has sympathizers, advocates, and defenders on this floor. And that defense and advocacy is none the less fatal, none the less to be deprecated, because it is indirect and disguised.

I know very well that these defenders and advocates of the rebellion do not acknowledge the fact that they are such. But the truth of my statement is demonstrated by the fact that whenever a blow is struck at that which has produced, nurtured, and sustained the rebellion, into which it has thrust its roots, without which it never would have existed, without which it could not sustain itself for a quarter of a twelvemonth, then its defenders start up, if not as thickly as Roderic Dhu's, at least as earnest. Sir, it cannot with decency be denied that those who defend slavery are defenders of the rebellion; slavery and the rebellion are synonyms; they are interchangeable terms.

The arch-fiend when he had fallen from his first estate, and had been sent forth with the mark of treason upon his brow, is represented by the great English poet as roaming over the universe exclaiming:

"Me miserable! which way shall I fly
Infinite wrath and infinite despair?
Which way I fly is hell: myself am hell."

Now, sir, precisely so is it with his progeny, the first-born of hell, the system of American slavery; wherever it is, there is rebellion. It is itself rebellion. It is its corner stone and support, and the man who defends slavery at the present period of our history, in the present circumstances and peril of the Republic, advocates and defends rebellion.

About once a week or so—I do not pretend to be accurate—we are regaled with solemn homilies and pathetic appeals from gentlemen on the other side of the Chamber—yes, and as a gentleman suggests, on this side, too, in some sort—homilies and appeals in defense and in behalf of this system of slavery; at least very strongly deprecating any interference with it.

The speech of the gentleman from Kentucky, [Mr. CRITTENDEN,] yesterday, was one of these homilies and appeals. He seems to sustain the same relation to slavery, not to say to the rebellion, and to indulge in the same misplaced feelings of tenderness and affection for it—for I will not suppose that any natural affection draws him in that direction—that David had for the rebellious Absalom.

At the risk and by the sacrifice of many of their lives, the soldiers of the kingdom had achieved a victory over the rebellious son of the old king; they came back triumphantly, expecting to receive some token of his approbation; but instead of that, they encountered an icy reception from the king, who thus bemoaned the fate of his rebellious son: "Oh! my son Absalom! Oh, Absalom, my son! my son!"

For this ill-timed and misplaced fondness, a stern old warrior, the commander-in-chief, who believed in slaying the enemies of the Government administered this just rebuke:

"Thou lovest thy enemies and hatest thine friends; for this day I perceive that if Absalom had lived and all we had died this day, then it had pleased thee well."

It is precisely with this kind of feeling that gentlemen come here bemoaning the attempted overthrow of this traitorous system of human bondage.

Now, Mr. Speaker, I take this position: either slavery or the Republic must perish; and the question for us to decide is, which shall it be?

Mr. Speaker, at the risk of being a little tedious, I will fortify my position by reading a few quotations from the fathers of this Republic, who, from their wisdom, their patriotism, and singleness of purpose, had a prophet's forecast:

"Can the liberties of a nation be thought secure, when we have removed their only firm basis, a conviction in the minds of the people that these liberties are the gift of God?"—*Thomas Jefferson.*

"I have no hope that the stream of general liberty will forever flow unpolluted through the mire of partial bondage.

"That the dangerous consequences of this system of bondage have not as yet been felt, does not prove that they never will be. To me, nothing, for which I have not the evidence of my senses, is more clear than that it will one day destroy that reverence for liberty which is the vital principle of a republic."—*William Pinkney, of Maryland,* 1789.

That, sir, is from William Pinkney, of Maryland; and lest I should forget to make a comment on that remark hereafter, I will do it now. The answer to this sentiment may be that we have already lived with slavery; that the Republic has survived seventy years with it in a large portion of the country. But Pinkney remarks, and justly, that because it has not destroyed the liberties of the people, it must not be inferred that it never will. The fact that the cancer has not by its corrupting power destroyed the life of the patient, does not prove that it never will. Because a man has a constitution that can survive that fatal form of disease for a period of years does not prove that he can always survive it; does not prove that there may be a crisis in that disease which must be either cured, or carry the patient to the grave:

"Is it not amazing, that at a time when the rights of humanity are defined with precision, in a country above all others fond of liberty, that in such an age, and in such a country, we find men, professing a religion the most humane and gentle, adopting a principle as repugnant to humanity, as it is inconsistent with the Bible, and destructive to liberty? I could say many things on this subject, a serious view of which gives a gloomy prospect for future times."—*Letter of Patrick Henry of Virginia.*

"Slavery is inconsistent with the genius of republicanism, and has a tendency to destroy those principles on which it is supported; as it lessens the sense of the equal rights of mankind, and habituates us to tyranny and oppression."—*Luther Martin, of Maryland,* 1787.

"It is a fact too well known, at least by the poor, to admit of successful controversy, that the man who will oppress and abuse his own slaves, will also, when an opportunity is afforded, oppress his indigent neighbor, or any one else over whom he may have gained an advantage. This principle strikes at the root of our Republican institutions, and if suffered to become sufficiently strong, it will overturn even our liberty itself."—*Address of William Swaim, Guildford county, North Carolina,* 1830.

Now, Mr. Speaker, it will be seen by these extracts, that the statement which I have made is not one which has proceeded from the heated brains of extreme men, filled with the fanaticism with which the heart and head of modern abolitionism is said to be surcharged. These are the solemn prophecies of those patriots of old, who foresaw with the clearness of a seer's vision and foretold that if we allowed this system of slavery to continue to rob the poor helpless slave of his rights, that it would sooner or later work out its natural and inevitable result, namely, the destruction of the liberties of us all. An epigrammatic French author says:

"That Heaven has decreed that whoever fastens a chain on the heel of his fellow-man, shall have the other end of that chain put around his own neck."

Yet, sir, when we talk of destroying slavery, the gentleman from Kentucky and others seize this deformed whelp of slavery, which they are petting like a she bear, and snarling and gnashing their teeth, run into the sanctuary of the Constitution of the United States, shrieking and screaming, "The abolition avenger is upon you!" In other words, in plain language, whenever we propose anything practicable looking towards the overthrow of this system, however gradual the process, gentlemen talk about a violation of the Constitution, and claim that this system of oppression has protection and defense in that Constitution.

Mr. Speaker, I want to say here, and now, a word in regard to this constitutional question. I tell the gentleman from Kentucky, and I tell all the advocates and defenders of this system, I tell those who get up here and make themselves hoarse in attempting to throw the protection of the Constitution round this destroyer of the Republic, I tell them, sir, there is no city of refuge into which this treason-breeding system can flee and be safe from the avenger of blood. By the Constitution, with all its high and sacred obligations, by the oath which we have sworn to defend that Constitution, by all that is sacred in that oath, are we not bound to strike that murderer who has attempted, and is now attempting, the life of this Republic? This fiend of slavery has, with a tiger spring, fastened its fangs upon the throat of the Government, and vampire-like sucks its heart's blood, and unless it is itself destroyed, will destroy the Republic. The Constitution is for the country and against slavery. Slavery has no shelter there. There is, I repeat, no city of refuge for it; least of all in the Constitution. It must be slain. I declare here, in the presence of this House, the declaration that slavery has a shelter or guarantee in the Constitution is a miserable and unmitigated falsehood. Shall we talk about constitutional guarantees when this murderer is standing with gleaming knife threatening the very existence of the Republic? Can we not under the Constitution, and with its sanction and requirement, save the nation?

The assertion has been made so often on this floor that I suppose it is believed by those who make it; and the hope is entertained, I have no doubt, that those who listen to it will believe it also, that slavery is guarantied by the Constitution; that we cannot even emancipate the slaves of rebels without violating the Constitution and its compromises and guarantees. I have taken occasion several times to meet this assertion, and I want to meet it every time that it is made with a flat denial, because it is utterly without foundation. I deny in the presence of this House, I deny in the presence of the country, that slavery has any guarantee, any approving recognition, any sanction in the Constitution of these United States; none whatever. This claim is utterly false. As I have said once already, we have a traditionary Constitution, which has been devised by the slaveholder Scribes and Pharisees, but it is a perversion of the original Constitution. That instrument, standing in the light, the beauty, and glory of its own perfection, has no sanction, no guarantee, no protection for this system of human slavery. I wish gentlemen would point out the chapter and verse when they talk about the guarantees of the Constitution. Where do you find them in the Constitution—in what article, in what section, in what clause? Nowhere, in letter or syllable, or word or line, or section or article, can they be found, for they are not there. No lawyer, even with microscopic glass, can find them. It is worthy of notice that the advocates of slavery never give us chapter and verse, but always allude in a general way to these guarantees. I ask for the article and section. Bold and reckless assertions will not do.

I would love, Mr. Speaker, if I had the time, to go through the Constitution article by article, section by section, and demonstrate, as I think I could demonstrate, that what I say is true in regard to there being no guarantee in the Constitution for the protection of slavery. The very purpose of that Constitution was to establish justice. It was to promote the public welfare. It was to secure the blessings of liberty to ourselves and our posterity. And it is no proper answer to say that the blacks or slaves are not the posterity of those who framed the Constitution. In the first place, at that time in most of the States black men voted. In the next place, if we liberate the slaves who trace their paternal ancestry to the whites, it will at least give freedom to a decimal part of the slaves.

Gentlemen talk about the reconstruction, about the reëstablishment of the old Union, and I am for it. I am for the Union entire, but I am not for the return of the domination and tyranny of slavery, which has not allowed me for the last quarter of a century and more to tread the soil of more than one half of the territories of these United States. I want the privilege, which I claim under the Constitution, of standing anywhere, upon any square foot of American soil over which the "stars and stripes" float, with the full rights and immunities of an American citizen. You say that I can come into the slave States. No, sir, I cannot. No American citizen can go there unless he will bow the knee to Baal and kiss the accursed image. No man can go there unless his lips are sealed on the subject of human freedom. No man can go and reside where slavery is without sacrificing his right to read the current literature of his choice.

Slavery claims the same right to exclude a newspaper or book which advocates the cause of human freedom as it does to put out the fuse of a shell which threatened to explode and destroy life. I insist, therefore, that slavery must perish in

order that American citizens may have the enjoyment of all of their rights. I desire the seceded States to come back, but to come in such manner that I can enjoy the privileges of an American citizen within their limits. I have been excluded long enough. In other words, I want them to come back free, and not slave States. Long enough have American citizens been subjected to the cord and knife, and last and worst of all, the terrible indignity of the scourge, for no other cause than holding and uttering principles in favor of freedom, impartial and universal.

It was the boast of the Roman citizen that no one dare inflict upon him the indignity of subjecting him to the scourge. Although fettered and bound to the stake, yet if the smothered cry was heard, "I am a Roman citizen," it arrested the falling rod as the voice of God arrested the sacrificial knife of the patriarch. Yet slavery seizes and binds and scourges American citizens like very slaves, and exiles them for their religious opinions like the very worst tyrannies that have ever oppressed mankind. Sir, I am willing and anxious to welcome back every State, but I never will consent to reinstate this slaveholding power! as God is my helper, never!

The Union shall be restored, the Constitution preserved inviolate, but slavery must perish. It is decreed in the councils of Heaven, it is decreed in the hearts of the American people. American citizens cannot and will not consent longer to creep and crawl over American soil with stealthy step and bated breath. They must have the rights and immunities of American citizens in all the States. They cannot have these rights while slavery lives. Slavery must, therefore, die. It has been trampling on the Constitution and constitutional rights for years; it has done it systematically; it has done it constantly, remorselessly, and now at last it has culminated in rebellion, and laid its murderous hands upon the life of the Republic. Its slaughtered victims are scattered from Yorktown to Pea Ridge, and they lie thick and ghastly over broad acres on the field of Shiloh. I do not care ever to utter another anti-slavery sentiment. The gaping wounds of these brave heroes slain in battle speak with a power and eloquence beyond those of a dead Cæsar as they are borne home to heart-stricken wives and mothers, weeping sisters and fathers bowed with grief. Every ghastly corpse finds a tongue, and cries from its open coffin, "LET SLAVERY PERISH!"

I come now to the consideration of some of the points made by the gentleman from Kentucky, [Mr. CRITTENDEN.] He asks what will the slaves do if they should be emancipated—four millions of slaves turned loose. Mark this language—"turned loose." Do not you see, sir, how it carries the very idea that they have been chained; that they have been the subjects of despotic power and rule? The same language is employed as if speaking about wild beasts that had been caged. Turned loose! "What do you propose to do with them?" asks the gentleman. What can they do with themselves turned loose? There is a great deal to say upon that point. I propose to let them alone; to let them take care of themselves, which they are abundantly able to do, if they have the opportunity. Slaveholders had better turn their attention towards this point: what will the slaveholders do when the slaves do not support them; when they do not live upon the unrequited toil and sweat of slaves; when their fields are not reaped down by those whose wages are withheld from them? That is the great inquiry for slaveholders to make, and not what the slaves will do. The slaves will take care of themselves quite as well as their masters, I venture to affirm.

And here I want to refer to the subject of emancipation, and to state some facts in relation to emancipation in the West Indies. The general apprehension is that emancipation would be followed by violence, rapine, and murder. The following is a well-authenticated account of how the slaves in the West Indies received their freedom. It is generally conceded that the slaves of these islands were not at this time equal to the slaves in this country:

"The Wesleyans kept 'watch-night' in all their chapels. One of the missionaries gave us an account of the watch-meeting at the chapel in St. John's. The spacious house was filled with the candidates for liberty. All was animation and eagerness. A mighty chorus of voices swelled the song of expectation and joy; and, as they united in prayer, the voice of the leader was drowned in the universal acclamations of thanksgiving, and praise, and blessing, and honor, and glory to God, who had come down for their deliverance. In such exercises the evening was spent, until the hour of twelve approached. The missionary then proposed that when the cathedral clock should begin to strike, the whole congregation should fall on their knees, and receive the boon of freedom in silence. Accordingly, as the loud bell tolled its first note, the crowded assembly prostrated themselves. All was silence! save the quivering, half stifled breath of the struggling spirit. Slowly the tones of the clock fell upon the waiting multitude. Peal on peal, peal on peal, rolled over the prostrate throng, like angels' voices, thrilling their weary heart strings. Scarcely had the *last* tone sounded, when lightning flashed vividly, and a loud peal of thunder rolled through the sky. It was God's pillar of fire! His trump of jubilee! It was followed by a moment of profound silence. Then came the outburst! They shouted 'Glory! Hallelujah!' They clapped their hands, they leaped up, they fell down, they clasped each other in their free arms, they cried, they laughed, they went to and fro, throwing upward their unfettered hands. High above all, a mighty sound ever and anon swelled up. It was the utterance of gratitude to God, in broken negro dialect.

"After this gush of excitement had spent itself, the congregation became calm, and religious exercises were resumed. The remainder of the night was spent in singing and prayer, in reading the Bible, and in addresses from the missionaries, explaining the nature of the freedom just received, and exhorting the people to be industrious, steady, and obedient to the laws, and to show themselves in all things worthy of the high boon God had conferred upon them."

The effect of emancipation on the commercial interests is briefly stated in the subjoined extracts. A writer in the Edinburgh Review says:

"These specific accounts of the several islands are borne out by the statistics and reports that relate to our West Indies *en masse*. Lest it should be thought that these extracts are carefully culled, to produce a particular impression, and that if the reader had the *whole* reports before him, he would find complaints and lamentations, we may at once say that they appear to us to be fair samples of the views entertained by the Governors, and also by other gentlemen acquainted with the West Indies. The language of complaint is no longer heard. Throughout these colonies, hope and congratulation seem to have taken the place of irritation and despair. In all cases, the later the report, the more gratifying it is found to be.

"To men of business, one fact will seem almost enough by itself to show the sound commercial state of these colonies, namely, that in the year 1857, the Colonial Bank received bills from the West Indies to the amount of more than £1,300,000, ($6,298,500;) and less than £8,000 ($38,760) were returned. Nor was there a single failure in the West India trade during the severe commercial crisis of that year. Furthermore, coffee, cotton, wool, sugar, rum, and cocoa are all exported in increasing quantities. The total exports from Great Britain to the West Indies in 1857 were valued at half a million more ($2,422,500) than the average of the preceding ten years."

Mr. C. Buxton made a speech in the British House of Commons, March, 1859, in which he said:

"Because labor is free, and trade is free, the West Indies are now rising to a pitch of wealth and happiness unknown before. It would be impossible for me to lay before the House the immense mass of evidence, which demonstrates that fact. I am assured of it by mercantile men, I find it strongly set forth in the reports from the Governors of the islands, and in the statistics furnished by the board of trade. In the four years between 1853 and 1857, there has been an increase in the exports and imports of the West Indies and Guiana of £4,500,000 ($21,802,500.) Considering what mere specks these islands look on the map of America, it is astonishing that their trade to and fro, in the year 1857, should actually amount to £10,735,000 ($52,011,075.) It is altogether absurd to suppose this prosperity is owing to the immigration of a few thousand laborers; and in fact the islands which have received no immigrants are quite as flourishing as those that have. Interested parties describe the negroes as barbarous and idle; but I find ample evidence that they are living in a high degree of industry and comfort; though I admit that they somewhat prefer working on freeholds they have purchased, to laboring for hire."

The Edinburgh Review concludes its array of evidence, by saying:

"A long and thorough investigation of the case has borne us irresistibly to the conclusion that, merely as a dry question of *economy*, emancipation has *paid*; that it was an act of prudence, for which we as a nation of shopkeepers need not blush before that golden god whom we are thought to worship so eagerly. Slavery and monopoly were bearing the West Indies to ruin. Under free labor and free trade they are rising to wealth. They are yearly enriching us more and more with the wealth of their fertile soil. Instead of being the plague of statesmen and the disgrace of England, they are becoming invaluable possessions of the British crown. Never did any deed of any nation show more signally that to do right is the truest *prudence*, than the great deed of emancipation."

"An intelligent gentleman in St. Thomas said to Mr. Thome, 'the planters have set their hearts upon the ruin of the island,' and they will be sorely disappointed if it should not come.' But this disappointment was in reserve for them, and no ingenuity of theirs could prevent it. As individuals, they suffered for their blind and narrow policy; but public prosperity began to move steadily onward."

The social position of the emancipated slave is thus described. Sir Charles Grey, who was Governor of Jamaica in 1850, says:

"There are few races of men who will work harder, or more perseveringly, than the negroes, when they are sure of getting the produce of their labor.

"The free villages which have sprung up since emancipation, are described by all travelers as a new and most pleasing feature in the scenery of the West Indies. In the days of slavery, laborers generally lived in thatched hovels, with mud walls, thrown together without any order or arrangement. A few calabashes, a water jar, and a mortar for pounding corn, mainly constituted their furniture. As the women were driven into the fields to toil early and late, they had no time for household cleanliness. These negro dwellings looked picturesque in the distance, nestling among palm trees and tamarind groves: but, like slavery itself, they would not bear a close inspection. As you came near them, the senses were offended by decaying vegetables and nauseous effluvia. Now the laborers live in free villages, regularly laid out. The houses are small, many of them built of stone or wood, with shingled roofs, green blinds, and verandahs to shield them from the sun. Most of them are neatly thatched, and generally plastered and white-washed outside and in. They now have looking-glasses, chairs, and sideboards decorated with pretty articles of glass and crockery. Each dwelling has its little plot of vegetables, generally neatly kept, and many of them have flower gardens in front, glowing with all the bright hues of the tropics. In 1843, Mr. Phillippo said that, by a rough estimate, the number of these villages in Jamaica was about two hundred, and the number of acres of land purchased was not less than one hundred thousand. It was estimated that in the course of four years the emancipated apprentices had paid £170,000 ($823,650) for land and buildings. And that was done when wages were from eighteen to twenty-four cents a day, out of which they boarded themselves! And these were the people who the slaveholders were so sure would 'skulk in the woods, and live on yams,' rather than work, after they ceased to be flogged!"

Lord Stanley, now Earl of Derby, in a dispatch dated February, 1842, says:

"Experience has shown, what reason would anticipate, that the industry of the negro, like that of all mankind, is drawn out just in proportion to the interest he has in his labor."

Lord John Russell declared in one of his public speeches:

"None of the most inveterate opponents of our recent measures of emancipation allege that the negroes have turned robbers, or plunderers, or bloodthirsty insurgents. What appears from their statements is that they have become shopkeepers and petty traders, hucksters, and small freeholders. A blessed change this, which Providence has enabled us to accomplish!"

"In Guadaloupe, where liberty was proclaimed at the same time as in St. Domingo, the sudden transition took place with perfect safety. The reports from the Governors, for successive years, bear testimony that the emancipated laborers were universally industrious and submissive to the laws.

"General La Fayette, the consistent friend of human freedom, made a practical experiment of emancipation as early as 1785. In the French colony of Cayenne most of the soil belonged to the Crown, and he was able to obtain it on easy terms. He expended $30,000 in purchasing land and slaves. He employed an amiable and judicious gentleman to take the management. The first thing the agent did when he arrived in Cayenne was to call the slaves together, and in their presence burn all the whips and other instruments of punishment. He informed them that their owner, General La Fayette, had bought them for the purpose of enabling them to obtain their freedom. He then stated to them the laws and regulations by which the estate would be governed, and the pecuniary advantages that would be granted according to degrees of industry. This stimulus operated like a charm. The energy of the laborers redoubled, and they were obedient to the wishes of their managers. He died from the effects of the climate. But when the slaves in all the French colonies were emancipated in 1793, the laborers on this estate in Cayenne waited upon the new agent, and said if the land still belonged to General La Fayette they wished to resume their labor for him on the old terms, giving as a reason that they were 'desirous to promote the interests of one who had treated them like men, and cheered their toil by making it a certain means of freedom.'"

What will the slaves do when they are set free or turned loose? There is a woman in this city under forty years of age—and you may learn from one the whole—who was kidnapped when she was a babe, or, in the language of slavery, was born a slave. She was claimed to belong to Mr Garland, formerly Clerk of this House. The family fell into decay, and removed to St. Louis, and this woman, a seamstress, in eighteen months earned $1,000, and that was all the support that family had during that period. This is only one case out of many similar ones. And I am told that the family, although they were not too proud to take the earnings of this woman's needle, were ashamed that it should be known. Now what do you suppose that woman, if she were "turned loose," would do with herself? She has since become free, having paid $1,200 for her freedom. Do the worshipers of Baal think this woman can take care of herself? It might be added that the only son of this woman was killed in the battle of Springfield, where the lamented Lyon fell.

The gentleman from Kentucky says we want to make this an anti-slavery war. I deny it. No man ever wanted to make it an anti-slavery war. We did not make the war at all. It was precip-

itated upon us by the rebellion, and I wish briefly to state just the position we occupy. We did not make this war for the sake of killing men; for the sake of breaking down bridges or destroying any other property. We carry it on for the purpose of putting down the rebellion, and for the purpose of putting it down we kill men, burn bridges, and destroy any amount of property. I want to destroy slavery for the same purpose, because that is the only way, in my opinion, in which we can rescue this country from the rebellion and preserve the Union. There can be no Union until slavery is destroyed. We may bind with iron bands antagonistic nations in one, but there will be no permanent and substantial Union, no harmony, and this nation will not be homogeneous and be one in truth, as it is in form, until slavery is destroyed.

The gentleman says our soldiers would not fight if this were an anti-slavery war. That has been asserted here time and again. Who knows it? Who is authorized to speak on that point for those brave soldiers who are laying down their lives by thousands? I deny the assertion. I say that most of the soldiers of the North are anti-slavery men, and that those who did not originally go into the war as such have been regenerated by baptism of blood.

The gentleman says that if it had been an anti-slavery war, another class of men would have fought it, intimating that anti-slavery men are not in this war. I deny it. Three fourths of all the soldiers, when they enlisted, were anti-slavery.

Mr. CRITTENDEN. I did not say that no anti-slavery men were in the Army. I never thought it; nor did I say that this was made as an anti-slavery war. I stated what the effect would be if this was converted into an anti-slavery war in this House.

Mr. LOVEJOY. I understood the gentleman to say that if, in the progress of this war, it should become necessary for the President—and he intimates that it may be necessary—to make it an anti-slavery war, and emancipate the slaves for the sake of the Union and to suppress the rebellion, then our soldiers would not fight.

Mr. CRITTENDEN. I argued somewhat at length to show that it could not be necessary, and that there was not a gentleman here who would say that it was necessary; that there was not a gentleman who would not say that we have not ample means, already, for the accomplishment of that end.

Mr. LOVEJOY. I say you cannot put down the rebellion and restore the Union without destroying slavery. I have said it all along. I say it is utterly impossible to do it, and that the irreconcilable and antagonistic principles of freedom and slavery cannot live in the same nation; and that has been demonstrated during this whole rebellion, and by the very fact of the rebellion. If slavery was content to live in the nation, why did it revolt? The gentleman from Kentucky, as is the wont of those defending slavery, quotes the example of Washington. It is the old story of garnishing the sepulcher of dead prophets and slaying the living ones. If any one should come in the spirit and power of Washington, as John came in the spirit and power of Elias, the slaveholders would murder him. I am tired of this cant and hypocrisy. I do not hold a sentiment that has not the recorded sanction of Washington.

The gentleman says that if the confiscation act shall pass, those affected by it will resist it; and if I understood him, he advocated resistance to this confiscation law, teaching another rebellion, in view of confiscation, in advance.

The gentleman pronounced an enthusiastic eulogy on the rights of poor men. He says that the king, even, cannot invade the sacred inclosure of the poor man's cottage. He has several times pronounced a glowing eulogy upon the Constitution: there it stands, says he, the old, glorious, imperishable Constitution. I thank the gentleman for that eulogy. It is true. I subscribe to every word of it; and that Constitution knows no black, no white; knows no slave; but recognizes all men as entitled to the rights of men, and throws its protecting ægis over the poor slave as much as over any other individual. The gentleman has eulogized, and justly, the British common law. I read an extract from the celebrated speech of Curran:

"I speak in the spirit of the British law, which makes liberty commensurate with, and inseparable from, the British soil, which proclaims even to the stranger and the sojourner the moment he sets his foot upon British earth that the ground on which he treads is *holy*, and consecrated by the genius of UNIVERSAL EMANCIPATION.

"No matter in what language his doom may have been pronounced; no matter what complexion incompatible with freedom an Indian or an African sun may have burnt upon him; no matter in what disastrous battle his liberty may have been cloven down; no matter with what solemnities he may have been devoted upon the altar of slavery; the first moment he touches the *sacred soil* of Britain the altar and the god sink together in the dust; his soul walks abroad in her own majesty; his body swells beyond the measure of his chains, that burst from around him, and he stands redeemed, regenerated, and disenthralled by the irresistible genius of UNIVERSAL EMANCIPATION."

The same sentiment is breathed forth in the verse of Cowper:

"Slaves cannot breathe in England; if their lungs
Receive our air, that moment they are free;
They touch our country and their shackles fall.
That's noble, and bespeaks a nation proud
And jealous of the blessing. Spread it then,
And let it circulate through ev'ry vein
Of all your empire, that where Britain's power
Is felt, mankind may feel her mercy too."

Oh, how my heart yearns to have this true of America. Thank God, it is true of this District.

The gentleman from Kentucky says he has a niche for Abraham Lincoln. Where is it? He pointed upward. But, sir, should the President follow the counsels of that gentleman, and become the defender and perpetuator of human slavery, he should point downward to some dungeon in the temple of Moloch, who feeds on human blood and is surrounded with fires, where are forged manacles and chains for human limbs—in the crypts and recesses of whose temple woman is scourged and man tortured, and outside the walls are lying dogs gorged with human flesh, as Byron describes them stretched around Stamboul. That is a suitable place for the statue of one who would defend and perpetuate human slavery.

Sir, the friends of American slavery need not beslime the President with their praise. He is an anti-slavery man. He hates human bondage. The gentleman says he did not vote for him. Why did not the gentleman remind the House that he did vote for a man now among the rebels? I did vote for the occupant of the executive chair, and labored for his election as I never labored for that of any other man. If the gentleman wants to sustain the President in his Administration in its stormy and perilous voyage, why did he not vote for his wise and patriotic message, hailed and approved, so far as I know, by the whole country, except slaveholders?

I voted cordially for that message. Extreme men, as they are called, voted for that message. On saying, as I have said, slavery must perish, I do not mean that it must perish at once necessarily. And while I say that the slaves can take care of themselves, and that they should be let alone, do I mean to preclude the idea of colonization that is not compulsory. The message of the President, therefore, presented ground where all might stand, the conservative and radical, and with common purpose and combined effort put forth their exertions for the beneficent object of universal emancipation accompanied by colonization, if just to the slave and best for the country. Why did not the gentleman vote for it? I yield to no one in my honest belief in the pure patriotism of the President. I believe in these respects he stands by the side of Washington.

I, too, have a niche for Abraham Lincoln; but it is in Freedom's holy fane, and not in the blood-besmeared temple of human bondage; not surrounded by slaves, fetters, and chains, but with the symbols of freedom; not dark with bondage, but radiant with the light of liberty. In that niche he shall stand proudly, nobly, gloriously, with shattered fetters and broken chains and slave whips beneath his feet. If Abraham Lincoln pursues the path evidently pointed out for him in the providence of God, as I believe he will, then he will occupy the proud position I have indicated. That is a fame worth living for; ay, more, that is a fame worth dying for, though that death led through the blood of Gethsemane and the agony of the accursed tree. That is a fame which has glory and honor and immortality and eternal life. Let Abraham Lincoln make himself, as I trust he will, the emancipator, the liberator, as he has the opportunity of doing, and his name shall not only be enrolled in this earthly temple, but it will be traced on the living stones of that temple which rears itself amid the thrones and hierarchies of heaven, whose top stone is to be brought in with shouting of "Grace, grace unto it."

It is said that Wilberforce went up to the judgment seat with the broken chains of eight hundred thousand emancipated slaves. And it is not too much to believe that the slave liberated by the beneficent power of the President should, in that future world, next to the God that made him, and the Saviour who redeemed him, thank the benefactor who released him from the thralldom of slavery, and allowed him to learn the pathway to heaven in the light of that volume which had to him been a sealed book. This is a fame worthy the aspirations of the noblest nature. But the soul recoils from the accursed and bloody fame to which the gentleman would consign the President as the champion of human bondage, and the preserver and perpetrator of American slavery.

"Dark would his fame be! darker still
His immortality of ill."

And now, let me say that this is the nation's opportunity, and I appeal to the members around me as Christian men, as the Representatives of a Christian people, to improve this opportunity which is given to them, under the providence of God, to put an end to slavery.

"Once to every man and nation comes the moment to decide
In the strife of truth with falsehood, for the good or evil side;
Some great cause, God's new Messiah, offers each the bloom or blight,
And the choice goes by forever 'twixt the darkness and that light."

"Oh that thou hadst known, at least in this thy day, the things that belonged to thy peace!" God grant that they may not be hidden from our eyes.

Mr. ROSCOE CONKLING. Mr. Speaker, I believe the question before the House is the motion of my colleague [Mr. OLIN] to commit this subject to a select committee, and it is one of the curious infelicities of our multitudinous rules that on that question so roaming a debate is in order. I rise particularly for the purpose of demanding the previous question; but before doing so I wish to say a word upon the proposition actually before us now, as that is the only topic nobody has lately referred to.

Mr. DIVEN. If the gentleman will allow me, I desire before he moves the previous question, as a member of the committee who have made a report adverse to these bills, to submit some remarks to the House.

Mr. ROSCOE CONKLING. I think that is only a reasonable request, as my colleague is a member of the committee once in charge of this whole subject, and therefore, unless somebody objects, I will in a moment relinquish the floor to my colleague, with the understanding that he shall renew the demand for the previous question.

Mr. ROLLINS, of Missouri. I desire to make an appeal to the gentleman from New York. I have a few remarks, rather of a general character, which I have been seeking an opportunity for several days to make to this House, and as I have not been a troublesome member in the discussion of the great questions which agitate the country, I trust, as this discussion has taken quite a wide range, the gentleman will do me the favor to allow me on this occasion to say what I have to say in reference to this question before the House. I ask it as a courtesy at his hands.

Mr. ROSCOE CONKLING. Allow me to make a suggestion to the gentleman from Missouri. If this subject shall be committed to a special committee, to be reported back presently, the gentleman from Missouri and all others will have an opportunity then, more appropriate than now, to submit such remarks as they desire to make. I should much prefer that course, and yet I dislike very much to stand in the way of the desire of gentlemen to be heard. I believe it never fell to my lot but once to insist upon the previous question, and it is not a practice I should like to adopt; on the contrary, I would rather see everybody's convenience promoted.

I favor the motion to commit, not as a dilatory motion, but as an expeditious motion. Upon one thing we are all agreed. We all regard this subject as one of vast importance, and likely to be greater in its ultimate bearings and consequences than in its immediate magnitude. The Judiciary Committee, it is said, has been able to agree upon

something, and there was a difference on yesterday as to precisely what it was. Whatever it was, it is negative, and presents nothing for our action. The Judiciary Committee has been unable to agree upon any bill upon this great subject. The Judiciary Committee has omitted to make, or refrained from making, any written report to the House, and the whole matter comes before us in a way, to say the least, not calculated to facilitate or aid us in dealing with it. Some fifteen bills, many of them very complex, were heaped together and covered *en masse* by a motion, to which it seems unanimous consent was given, to lay upon the table, and we voted on the motion to lay upon the table together all these bills, good, bad, and indifferent, pointing in different directions and having different ends, so that, of course, no member gave an intelligent vote upon the subject. By that vote, not a single member can have expressed his convictions or pronounced an intelligent opinion. The state of the question continued almost equally confused until the pending motion was brought forward by my colleague.

A committee such as the Chair will appoint—for no doubt the Chair will seek gentlemen who have time, inclination, and ability to investigate the subject—can presently make a report which will enable every one to give practical expression to his support or his opposition to legislation of this sort. I suggest to the gentleman from Missouri, therefore, that a report will undoubtedly be here so soon that there is little motive for him or for my colleague on the Judiciary Committee to speak now rather than then. I throw out the suggestion, but I do not intend to be tenacious about it.

Mr. MAYNARD. Mr. Speaker, I trust that the gentleman from New York will not feel called upon to move the previous question at this stage of the debate. This is one of those questions, it seems to me, the discussion of which will be of positive advantage to the House and to the country. It is a new question. It is new to the country and new to us. That we shall have to adopt some punitive legislation, call it by what name you will, seems to me a very clear proposition. Neither the country nor the individual sense of justice of every loyal man will be satisfied with anything less.

The gentleman suggests, and he is very probably correct in that, that this subject will be referred to a select committee to investigate and report upon. I submit to him whether such committee will not conduct their deliberations with more judgment, more intelligently, and more successfully after a debate shall have been had in which gentlemen shall have expressed their individual sentiments, of every shade of opinion, than they will in anticipation of that discussion? Is it not better to have at least a partial discussion at this time, and preparatory to the action of the committee, than after the committee shall have matured a measure, and perhaps committed themselves and their friends to it? I hope, therefore, that the previous question will not be called at this time, but that the discussion will be allowed to go on for a while.

Mr. COX. Will the gentleman from New York allow me to put a question to him with reference to the utility or inutility of a discussion on this subject?

Mr. ROSCOE CONKLING. Yes, sir.

Mr. COX. I ask the gentleman from New York whether this matter has not already been fixed out in the Republican party caucus that was held last night; and, if that be the case, I ask whether there is any use in our discussing it at all? The gentleman indicates that it is a foregone conclusion that the committee is to be raised, that the Speaker is to appoint it, and that he will appoint it right. Will the gentleman also please to tell us whether the caucus gave him directions to call the previous question?

Mr. ROSCOE CONKLING. Mr. Speaker, ever since I first heard the gentleman from Ohio introduce the subject of Ohio politics into this House, as he has so often done, and discuss it, I have looked upon him as Erskine looked upon Washington, "with an awful reverence;" so profound have I deemed him as a student of caucuses, conventions, and party maneuvers. I dread him too much in that field of science to allow him to seduce an unsophisticated man like myself into the discussion he proposes. He ought to be more generous than to invite it; he knows I should stand no chance with him in such a game of tag. But if the gentleman is curious to know——

Mr. COX. I am very curious.

Mr. ROSCOE CONKLING. Then I will gratify him just a little, so far as to say that there has been no such action in any caucus that I know of, no such action in any caucus that I have heard of, as the gentleman suggests. He will now excuse me if I decline to go into any discussion with him at this time about party politics.

Mr. COX. I call the attention of the gentleman to the Globe, which says that there was such a party caucus last night.

Mr. ROSCOE CONKLING. The gentleman must excuse me.

Mr. DIVEN. I ask my colleague to yield to me for a moment.

Mr. ROSCOE CONKLING. Presently, not at this moment. Mr. Speaker, my purpose in seeking the floor to move the previous question was a practical and serious one. As I said, I am in favor of the motion to commit, as an expeditious proceeding. I am in favor of a confiscation bill. I was in favor of one in July last; and as it cannot be an *ex post facto* bill, I think it important that the time should begin to run, which may constitutionally be covered. For this reason, and for other reasons, I would, if I might, hasten the time when we shall have before us some basis of action. The gentleman from Tennessee [Mr. MAYNARD] proposes that the discussion shall continue, shall go on *ad libitum*. Of course he knows that a committee, if we are to have one, cannot be appointed until a vote is reached on the pending question, and that all the intermediate time is virtually thrown away. He knows also that when the motion to refer was made yesterday, after two speeches had been made on a bill which had been already laid on the table, the floor was resigned by my colleague, [Mr. OLIN,] the mover of the proposition, to the distinguished gentleman from Kentucky, [Mr. CRITTENDEN,] on the express condition that he should, at the end of his remarks, renew the demand for the previous question. That motion was not renewed. But the gentleman from Illinois [Mr. LOVEJOY] obtained the floor, and has carried on, this morning, the general debate.

Mr. CRITTENDEN. Will the gentleman allow me a single moment?

Mr. ROSCOE CONKLING. Certainly.

Mr. CRITTENDEN. Am I the gentleman from Kentucky alluded to as having promised to renew the demand for the previous question?

Mr. ROSCOE CONKLING. I did not say that my distinguished friend promised to move the previous question.

Mr. CRITTENDEN. I did not understand that I was to renew the demand for the previous question.

Mr. ROSCOE CONKLING. I was very far from intimating that there was any disregard of a promise on the part of the gentleman from Kentucky. I simply stated that my colleague said he would yield to the distinguished gentleman; but he desired that, at the end of his remarks, the previous question should be moved, and the floor was transferred on that understanding. Doubtless the gentleman from Kentucky was not aware of it. The present debate, though it has continued for hours, reflects no light at all upon the question, the motion to recommit; but, on the contrary, without shedding the least light on it, it postpones hour after hour action on a question which everybody professes a desire to see reached in some tangible form.

I think—and in that respect I must differ entirely from my friend from Tennessee—that a far more business-like and practical way of treating this subject is to allow this committee to be appointed, if it be the sense of the House to appoint it, to allow it to commence its labors; and in the mean time, general debate can go on, there will be a plenty of opportunities for that, and special and general debate will be in order when the committee comes in with its report. My colleague, [Mr. DIVEN,] who is a member of the committee, intends to be absent, and for that reason desires to be heard now. Unless for some such special reason, there would seem to be no advantage for any one to gain by postponing the vote. A majority of the House is desirous of an early opportunity to come to a conclusion, and to express it. For myself, I am prepared now to support a confiscation bill, not an indiscriminate bill, such as has been objected to by gentlemen on either side of the House, not of a bill for which I would have to vote, if at all, in violation of the Constitution of the United States; but a bill which will, in the first place, amplify the punishment of treason, as far as that is desirable, and facilitate the punishment of traitors, and which, in the second place, will devote, as far as the Constitution will allow, the property of the ringleaders of this unholy rebellion to defraying the expense of quelling it. How far these two ends can be practically reached, and how far the effect to be produced will consist of moral effect merely, I will not venture to affirm. I will content myself with saying I am in favor of a bill which will attain both these ends to the uttermost of constitutional power exercised with prudence.

I agree entirely with a remark made here the other day, that the certainty rather than the severity of punishment is the mark to aim at in criminal jurisprudence. Hence, I am not in favor of an extravagant or passionate measure which, though it might afford an outlet to the exasperated feelings of most of us, would not comport at all with practical usefulness and wisdom. I believe that if we would have an opportunity to vote upon and adopt a wise and well-considered measure, we should at once raise a committee to take the whole subject in charge and report at an early day a single bill. If it is defective it can be perfected; if radically erroneous in the estimation of the House, some other bill can be substituted for it. A day certain can be assigned for the consideration of the subject, and it can hold its place until finally disposed of.

Mr. ROLLINS, of Missouri. Will the gentleman yield the floor to me?

Mr. ROSCOE CONKLING. I cannot. I promised my colleague [Mr. DIVEN] to yield the floor to him when I yield it.

Mr. MAYNARD. I desire to ask the gentleman from New York whether he will not accomplish his purpose as well by fixing some hour at which the debate shall terminate? If he would designate the hour I would be very glad; or I will designate it if he will permit me.

Mr. ROSCOE CONKLING. At what time does the gentleman propose to terminate the debate?

Mr. MAYNARD. To-morrow being Friday, I will suggest one o'clock on Monday.

Several MEMBERS. Oh, no.

Mr. MAYNARD. I will suggest one o'clock on Friday, then. I hope the gentleman from New York will assent to the proposition to close debate on Friday.

Mr. ROSCOE CONKLING. Is there any objection to taking the vote this afternoon at four o'clock, or at the usual hour of adjournment?

Mr. VALLANDIGHAM. With the understanding that the vote be taken by yeas and nays.

Mr. ROSCOE CONKLING. Yes, sir; I take it for granted that the vote will be taken by yeas and nays.

The SPEAKER. The Chair asks whether there is objection to the proposition of the gentleman from New York, that the vote be taken by yeas and nays at four o'clock this afternoon?

Mr. CRISFIELD. I object.

Mr. ROSCOE CONKLING. Does the gentleman from Maryland prefer any other hour?

Mr. CRISFIELD. If the gentleman chooses to call the previous question, and stop debate, be it so. But I object to the debate proceeding, unless we have full license to those who choose to enter into debate.

Several MEMBERS. Let us have the vote now, then.

Mr. ROSCOE CONKLING. The customary effect of these efforts to agree for the accommodation of all upon a time to close debate has been produced. Gentlemen all around me say let us have the previous question now. It usually happens that the general convenience incommodes some one, and he objects without always having, I suspect, a very good reason for it.

Mr. CRISFIELD. My reasons, if the gentleman from New York will allow me, were addressed to the House. I did not address them to him particularly, and I do not know why the gentleman from New York should undertake to pronounce upon the strength of my reasons. I believe I am entitled to the privileges of a member of this House, and I shall exercise them, the gentleman to the contrary notwithstanding.

Mr. ROSCOE CONKLING. Every member has the right of objection, and is the exclusive judge of the propriety of its exercise. This is an unquestionable privilege; and in the enjoyment of a privilege equally undeniable I shall, whenever I choose, express my opinion of the weight and force of reasons submitted here, as well by the irritable gentleman from Maryland as by others, the gentleman from Maryland to the contrary notwithstanding.

I was endeavoring to promote the convenience of the House, and to that end submitted the proposition in the hope that it might be agreeable all around. The gentleman from Maryland, without assigning, as it seems to me, any very good reason, objects, and without expressing a willingness to accept anything, persists in his objection.

After this experiment my judgment is that no agreement can be reached, and to test the sense of the House I will move the previous question, unless my colleague may be allowed to take the floor, with the understanding that at the end of his remarks he will renew the demand.

Mr. EDWARDS. I object to any such agreement as that.

The SPEAKER. The Chair cannot, of course, recognize any such agreement.

Mr. ROSCOE CONKLING. Then I move the previous question now.

Mr. DIVEN. I hope my colleague will not insist on his demand.

The SPEAKER. No debate is in order.

Mr. DIVEN. I hope the Chair will permit me to say to my colleague and the House that, as a member of the Judiciary Committee, it is but fair and proper that I should have the opportunity of expressing my views upon this subject. That committee has reported adversely upon several bills and resolutions which are now to be referred to a select committee. When that committee makes its report, after expressing their own views the previous question will in all probability be called, and I shall have no opportunity of a hearing before the House.

Mr. ROSCOE CONKLING. My colleague forgets that the gentleman from New Hampshire but this moment refused to acquiesce in his request, which I think is a very reasonable one. I have not the power, therefore, to yield the floor except unconditionally.

The SPEAKER. The Chair must arrest this debate. The gentleman from New York will either withdraw the demand for the previous question or relinquish the floor.

Mr. ROSCOE CONKLING. I must, then, insist upon my demand for the previous question.

The previous question was seconded.

Mr. COX. I call for the yeas and nays on ordering the main question.

The yeas and nays were ordered.

Mr. VALLANDIGHAM. I hope my colleague will withdraw his call for the yeas and nays.

Mr. COX. I will withdraw it.

Mr. BROWNE, of Rhode Island. I renew it.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 71, nays 47; as follows:

YEAS—Messrs. Aldrich, Arnold, Ashley, Babbitt, Baker, Baxter, Beaman, Francis P. Blair, Samuel S. Blair, Blake, Buffinton, Burnham, Chamberlin, Clements, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Cutler, Davis, Edwards, Eliot, Fenton, Fessenden, Franchot, Frank, Gooch, Goodwin, Granger, Gurley, Hanchett, Hickman, Hooper, Hutchins, Julian, Kelley, Francis W. Kellogg, Lansing, Lehman, Loomis, Lovejoy, McKnight, McPherson, Mitchell, Moorhead, Justin S. Morrill, Nixon, Olin, Patton, Timothy G. Phelps, Pike, Porter, John H. Rice, Riddle, Edward H. Rollins, James S. Rollins, Sargent, Shanks, Shellabarger, Sloan, Stratton, Trimble, Trowbridge, Van Horn, Van Valkenburgh, E. P. Walton, Whaley, Albert S. White, Wilson, Windom, and Worcester—71.

NAYS—Messrs. Allen, Joseph Baily, Biddle, George H. Browne, William G. Brown, Calvert, Casey, Cox, Crisfield, Crittenden, Diven, Dunlap, Dunn, Fisher, Grider, Haight, Hall, Harding, Harrison, Knapp, Law, Leary, Mallory, May, Maynard, Menzies, Morris, Noell, Norton, Odell, Perry, Price, Sheffield, Shiel, Smith, John B. Steele, Benjamin F. Thomas, Francis Thomas, Vallandigham, Vibbard, Voorhees, Wall, Ward, Webster, Chilton A. White, Woodruff, and Wright—47.

So the main question was ordered.

During the calling of the roll,

Mr. VAN VALKENBURGH stated that his colleague, Mr. POMEROY, had been detained by sickness; also, that Mr. SPAULDING was absent for the same reason.

Mr. LAZEAR stated that he had agreed to pair off with his colleague, Mr. WALLACE, who was absent.

Mr. NUGEN stated that he had paired with his colleague, Mr. EDGERTON.

Mr. DAVIS stated that Mr. CAMPBELL being compelled by business engagements to absent himself from the city, had paired with the gentleman from New Jersey, Mr. COBB.

The question recurred on the adoption of Mr. OLIN's resolution.

Mr. VALLANDIGHAM demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 90, nays 31; as follows:

YEAS—Messrs. Aldrich, Arnold, Ashley, Babbitt, Baker, Baxter, Beaman, Jacob B. Blair, Samuel S. Blair, Blake, George H. Browne, William G. Brown, Buffinton, Burnham, Casey, Chamberlin, Clements, Colfax, Frederick A. Conkling, Roscoe Conkling, Covode, Cutler, Davis, Dawes, Diven, Dunn, Edwards, Eliot, Fenton, Fessenden, Fisher, Franchot, Frank, Gooch, Goodwin, Granger, Gurley, Haight, Hanchett, Harrison, Hickman, Holman, Hutchins, Julian, Kelley, Francis W. Kellogg, Lansing, Lehman, Loomis, Lovejoy, McKnight, McPherson, Maynard, Mitchell, Moorhead, Justin S. Morrill, Nixon, Noell, Odell, Olin, Patton, Pike, Price, John H. Rice, Riddle, Edward H. Rollins, James S. Rollins, Sargent, Shanks, Sheffield, Shellabarger, Sloan, Smith, John B. Steele, Stevens, Stratton, Benjamin F. Thomas, Trimble, Trowbridge, Van Horn, Van Valkenburgh, Wall, E. P. Walton, Washburne, Whaley, Albert S. White, Wilson, Windom, Woodruff, and Worcester—90.

NAYS—Messrs. Allen, Ancona, Joseph Baily, Biddle, Calvert, Cox, Crisfield, Dunlap, Grider, Harding, Kerrigan, Knapp, Law, Leary, Mallory, May, Menzies, Morris, Noble, Norton, Perry, Shiel, William G. Steele, Francis Thomas, Vallandigham, Vibbard, Voorhees, Ward, Webster, Chilton A. White, and Wright—31.

So the resolution was adopted.

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

The latter motion was agreed to.

Mr. OLIN. I move that all of the other bills upon the Calendar upon the same subject shall be referred to the same committee.

The motion was agreed to.

TREASON.

Mr. WALTON, of Vermont, by unanimous consent, introduced a bill relating to treason and rebellion; which was read a first and second time, and referred to the select committee on the subject.

ENROLLED BILL.

Mr. GRANGER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (S. No. 248) for the relief of the owners, officers, and crew of the Danish bark Jorgen Lorentzen; when the Speaker signed the same.

PATENT OFFICE REPORT.

Mr. WALTON, of Vermont. I am directed by the Committee on Printing to report the following resolution:

Resolved, That there be printed for the use of the members of this House, two hundred thousand extra copies of the Patent Office Report on Agriculture for 1861, and fifteen thousand extra copies for official distribution by the Department of the Interior.

The usual number of that report has already been printed and distributed, and this extra number is found necessary at this time for the use of the members of this House and of the Department of the Interior. Of the agricultural portion of the Patent Office report for 1859, three hundred thousand extra copies were ordered to be printed; and of the Agricultural Report of 1860 two hundred and fifteen thousand extra copies were ordered. The committee are of the opinion that the same number should be ordered to be printed for 1861. The cost of two hundred and fifteen thousand extra copies of the Agricultural Report for 1860 was $77,739 32, and I presume that it will cost the same for the same number of the report for 1861.

Mr. DUNN. I move the following amendment:

And that there be also printed and bound thirty-five thousand copies of the second volume of the Mechanical Report of the Patent Office for the year 1860, to supply that number destroyed by fire.

I wish to say, in explanation of that amendment, that I was directed to report it to the House by the Committee on Patents and the Patent Office. The House may not be aware of the facts in this case. By a fire which occurred in this city, previous to the meeting of Congress at this session, nearly all of the copies of that second volume, intended for members of this House were destroyed. In order to supply the number that was destroyed, the passage of the amendment I have offered is demanded.

Mr. STEVENS. The deficiency bill will soon be brought to the attention of the House; and the amendment, I think, would be more germane to that bill than to the resolution reported from the Committee on Printing. I therefore suggest that the amendment be withheld to that time.

Mr. DUNN. I think it may as well be adopted at this time. The second volume of the Mechanical Report for 1860 contained the diagrams of inventors which were explained in the first volume. The first volume has been already printed and distributed. Many of the members of the House have received their share of the second volume, and others have received none at all. The first volume which they have distributed is as so much waste paper unless this second volume is furnished to them. I hope the amendment will be adopted.

Mr. STEVENS. If I understand the Superintendent of the Patent Office, there has been no mechanical report furnished for 1861.

Mr. WALTON, of Vermont. The gentleman is mistaken. A mechanical report has been communicated to Congress for 1861. I think the agricultural report for 1861 is one of unusual interest to the farmers of the country. I have examined it.

The second volume of the Mechanical Report of the last year was destroyed by fire, or rather nearly all the copies which were printed were destroyed, leaving only the copies of the first volume to be distributed. The Mechanical Report of 1861 is unlike the preceding ones for several years. It does not contain any drawings of the patents granted. It contains simply a list of the patents expired and the patents granted. The Committee on Printing have not been disposed to report in favor of the printing of the second volume of the Mechanical Report for 1860, which was destroyed by fire, because the Patent Office seems to have abandoned the plan of furnishing drawings of inventions.

Mr. STEVENS. I doubt very much the propriety of printing these reports. Heretofore I have gone for the printing of the largest number, for they have been distributed to the agricultural portion of our population, beside being printed at the public expense. The franking privilege has been abolished, and the people may not be now willing to receive them through the post office. If they be printed they will impose a heavy burden upon members for their distribution.

Mr. ROSCOE CONKLING. When was the franking privilege abolished?

Mr. STEVENS. I will tell the gentleman. The Senate have in former years passed bills for the abolition of the franking privilege. This year we have passed a bill for that purpose, and we have good reason to infer that it is virtually abolished. I do not suppose the Senate are going to turn back upon their tracks because we have imitated them in their folly. I think the distribution of these documents will be a burden to the people and to Congress.

Mr. McPHERSON. I move that the number be reduced to one hundred and fifteen thousand copies. That will give six or seven hundred copies to each member.

The SPEAKER. The amendment is not quite germane to the amendment of the gentleman from Indiana.

Mr. McPHERSON. I withdraw it for the present.

Mr. ALDRICH. I move to amend by providing that fifty thousand copies of said report be printed in the German language.

Mr. ROSCOE CONKLING. I want to inquire of the chairman of the Committee on Printing whether the plates from which the drawings for these books are to be printed have been destroyed?

Mr. WALTON, of Vermont. They were not.

Mr. ROSCOE CONKLING. What will be the expense of printing thirty-five thousand copies?

Mr. WALTON, of Vermont. About seventeen thousand dollars.

Mr. ROSCOE CONKLING. How much will the expense be reduced if the motion of the gentleman from Pennsylvania be adopted, and only half the number of copies of the Agricultural Report for 1861 be ordered to be printed?

Mr. WALTON, of Vermont. The expense will only be one half.

Mr. DUNN. I have no feeling about this subject. If these volumes be not ordered, then the first volume will be so much waste paper.

Mr. ALDRICH. I withdraw my amendment for the present.

The question was taken on Mr. DUNN's amendment, and it was agreed to.

Mr. McPHERSON. I now insist upon my amendment, to strike out "two hundred thousand copies" and insert "one hundred thousand copies." If one hundred thousand copies are printed, we will have about six hundred copies apiece. If the number proposed originally is adopted, we shall have over a thousand copies, an excessive number. The difference in expense will be about thirty-five thousand dollars.

Mr. ALDRICH. At the suggestion of my friend I will modify my amendment, and move that twenty-five thousand copies be printed in the German language.

Mr. HOLMAN. I move to amend that amendment by increasing the number to forty thousand copies.

The SPEAKER. That amendment is not in order now.

Mr. HOLMAN. I ask the gentleman from Minnesota to accept that as a modification of his amendment.

Mr. WASHBURNE. I hope the gentleman from Indiana will not insist upon that amendment. I think that the number proposed by the gentleman from Minnesota is sufficient, and I think that the House will vote that number.

Mr. ALDRICH. I modified my amendment to meet the wishes of my friends.

Mr. ROSCOE CONKLING. I would like to suggest to the gentleman from Minnesota that it would be better to take a vote upon the amendment of the gentleman from Pennsylvania first; because, if we are to have two hundred thousand copies, the House will be more inclined to vote a larger proportion in German than they would if the number is to be cut down to one hundred thousand. If we vote to print the large number, the amendment of the gentleman from Minnesota will stand a better chance than it does now.

Mr. ALDRICH. If the House will permit a vote to be taken first upon the amendment of the gentleman from Pennsylvania, and allow me afterwards to offer my amendment, I will not object. [Cries of "Agreed."]

Mr. McPHERSON. I have no objection.

Mr. KELLOGG, of Michigan. I move to amend the proposition of the gentleman from Pennsylvania by increasing the number to one hundred and fifty thousand.

The SPEAKER. The amendment is not in order, pending the amendment of the gentleman from Minnesota.

Mr. ALDRICH. I withdraw my amendment with the understanding that I shall have permission to introduce it hereafter.

Mr. KELLOGG, of Michigan. I now move to increase the number to one hundred and fifty thousand.

Mr. COLFAX. I move the previous question upon the pending amendments.

The previous question was seconded, and the main question was ordered to be put.

The amendment offered by Mr. KELLOGG, of Michigan, was not agreed to.

The question recurring upon the amendment offered by Mr. McPHERSON,

Mr. ANCONA demanded tellers.

Tellers were ordered; and Mr. KELLOGG, of Michigan, and Mr. ANCONA were appointed.

The House divided; and the tellers reported—ayes 34, noes 62.

So the amendment was not agreed to.

Mr. ALDRICH. I now move that twenty-five thousand copies of said report be printed in the German language.

Mr. HOLMAN. I move to amend by increasing the number to forty thousand. I wish to say, in behalf of this amendment, that it provides for the printing of one fifth of the entire number in the German language. When the fact is remembered that the great body of the German population is engaged in agricultural pursuits, it seems to me that is a fair proportion to be published in German. I trust the gentleman from Minnesota will accept my amendment.

Mr. WASHBURNE. I understand that the gentleman from Minnesota demanded the previous question.

Mr. ANCONA. I desire to say that I have been anticipated by the gentleman from Minnesota in offering an amendment to print twenty-five thousand additional copies in the German language, a little more than one tenth of the whole number.

Mr. MORRILL, of Vermont. I trust the gentleman from Minnesota will not accept the modification proposed by the gentleman from Indiana.

Mr. WASHBURNE. I rise to a point of order. The gentleman from Minnesota, when he introduced the amendment, demanded the previous question, and debate is now out of order.

The SPEAKER. The gentleman from Minnesota did not demand the previous question until after the Chair had recognized the gentleman from Indiana.

Mr. ALDRICH. I had not yielded the floor, or did not intend to, at any rate.

The SPEAKER. The gentleman from Indiana was recognized before the previous question was called.

Mr. MORRILL, of Vermont. I trust the House will not adopt any amendment of this kind. It would be, for the first time in the whole history of our Government, a departure, as I conceive, from the sound and correct principle which has heretofore been acted on, of printing our documents in the English language. If we are now to adopt a proposition of this kind, is there any reason for adopting it in behalf of the German population, which does not equally apply to the French or the Norwegian population? It will cost as much for composition to print this report in German as it will in English, and probably much more. I am in favor of having the foreign population which comes here assimilated with and become Americans. There is no reason why this should be adopted in behalf of the German population, for, so far as my knowledge is concerned, they are educated, and understand, perhaps, more in relation to languages than any other class of foreign population that comes to this country. I have seen common laboring men in the West who not only understood the native German language, but understood the English and the French also. There is, therefore, no necessity for this proposition, and I trust it will be rejected. If we are to commence a new era in this business we ought to make a careful computation of what the proper number should be. I undertake to say that one quarter of the number proposed to be printed in the German language would be utterly a disproportionate number, if we are to print any number in that language. No one will pretend to say that the German population numbers one quarter of the population of this country of thirty millions of people. I consider the proposition as unsound in principle, and as utterly subversive of the true doctrine of the country, and I hope we shall continue to hold to the sound and safe practice of printing in the English language.

Mr. WASHBURNE. I am in favor of the amendment which has been offered by the gentleman from Minnesota, [Mr. ALDRICH,] to print twenty-five thousand additional copies of this report in the German language. The objection which the gentleman from Vermont urges is that we are initiating a new practice. I trust that practice will be initiated, and initiated to-day, in the adoption of a measure of justice to our German population. We have, sir, according to the census tables, a German population amounting to hundreds of thousands, and most of those men are agriculturists, and the best agriculturists, too, we have, and a large number of them do not understand the English language. And yet the gentleman from Vermont proposes, because these men do not understand the English language, that we shall not give them the benefit of the agricultural reports, which we propose to scatter broadcast among our constituents. Sir, I ask the House if they are willing to see these honest, patriotic, and liberty-loving citizens of our country, who have rallied, sixty thousand strong, under our flag to fight the battles of the country, deprived of that information to which they are entitled, because we shall be inaugurating a new system here? The practice has been already inaugurated in many of the States of publishing documents in the German language, and who has ever complained of the evil results of that? No one. I am proud to say that in my own State, where we have so many of those estimable and patriotic citizens, we are not unwilling to print documents in German, in order that all Germans may read and understand what the Government is doing—a Government which they contribute, in so great a degree, to sustain and uphold, not only by their labor, but by their blood; for they are an industrious as well as an honest and patriotic class of citizens, deserving the consideration of this House.

I trust, therefore, that the House will not hesitate to pass this amendment of my friend from Minnesota, to publish this number of the reports in the German language.

As to the cost, what is that? What is the paltry cost of publishing twenty-five thousand copies of these reports in German, in comparison with your whole monstrous expenditures? It amounts to but a drop in the bucket. Let us pay this compliment, so well deserved by our German citizens. They are a grateful people, and it will add still further to their generous love of their adopted country. But the gentleman from Vermont says why not publish them in the French language? When, sir, the sons of beautiful and sunny France shall come here in the same numbers with the Germans, I will be in favor of printing these reports in the French language. But they are not here in any such numbers. When they shall come, I will welcome them, and mete out to them the same measure of justice I would now mete out to the Germans.

Mr. MALLORY. Will the gentleman from Illinois allow me to ask how many copies of his speeches he has printed and circulated in the German language? [Laughter.]

Mr. WASHBURNE. I will say to the gentleman from Kentucky that if my speeches were worthy of translation into the German, I would be very glad to have them translated and read in that language, because I tell my friend that he will find in those speeches the true doctrine laid down. [Laughter.]

I will not trouble the House further, and will demand the previous question.

Mr. POTTER. I hope the gentleman from Illinois will withdraw the demand for the previous question, to allow me to say that I intended to make a speech upon this subject, as I have a large German constituency. [Laughter.] I indorse all that the gentleman has said.

Mr. WASHBURNE. I call for tellers on seconding the demand for the previous question.

Tellers were ordered; and Messrs. NOELL and ANCONA were appointed.

The House divided; and the tellers reported—ayes fifty-nine, noes not counted.

So the previous question was seconded.

The main question was then ordered to be put.

Mr. HOLMAN's amendment to the amendment was disagreed to.

The question recurred on Mr. ALDRICH's amendment.

Mr. WASHBURNE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 57, nays 51; as follows:

YEAS—Messrs. Aldrich, Allen, Ancona, Arnold, Ashley, Beaman, Francis P. Blair, Blake, Burnham, Chamberlin, Colfax, Cox, Cutler, Davis, Dawes, Dunn, Fessenden, Fisher, Granger, Gurley, Hanchett, Holman, Hooper, Julian, Kelley, Knapp, Law, Leary, Lovejoy, Mitchell, Morris, Noble, Noell, Nugen, Odell, Olin, Patton, Porter, Potter, Price, Riddle, James S. Rollins, Sargent, Smith, William G. Steele, Stevens, Stratton, Trowbridge, Wall, Ward, Washburne, Albert S. White, Chilton A. White, Wilson, Windom, Worcester, and Wright—57.

NAYS—Messrs. Baker, Biddle, Jacob B. Blair, Samuel S. Blair, George H. Browne, Buffinton, Calvert, Casey, Clements, Frederick A. Conkling, Crittenden, Diven, Dunlap, Edwards, Eliot, Fenton, Franchot, Frank, Gooch, Goodwin, Grider, Haight, Hall, Harding, Harrison, Hickman, Hutchins, Francis W. Kellogg, Lansing, Lehman, May, Maynard, Justin S. Morrill, Nixon, Norton, Pike, John H. Rice, Edward H. Rollins, Shellield, Shellabarger, Shiel, John B. Steele, Benjamin F. Thomas, Francis Thomas, Trimble, Van Horn, Van Valkenburgh, Vibbard, E. P. Walton, Webster, and Woodruff—51.

So the amendment was agreed to.

Mr. WASHBURNE moved to reconsider the vote by which the amendment was agreed to; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

The resolution reported from the Committee on Printing, as amended, was then adopted.

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

The latter motion was agreed to.

Mr. MORRILL, of Vermont, moved that the House proceed to the business on the Speaker's table.

The motion was agreed to.

The joint resolutions and bills from the Senate on the Speaker's table were taken up, severally read a first and second time, and disposed of as indicated below:

SWEENY, RITTENHOUSE, FANT AND COMPANY.

Joint resolution (No. 74) to confirm the opinion of the Court of Claims adverse to the claim of Sweeny, Rittenhouse, Fant & Co.—referred to the Committee of Claims.

THOMAS B. GRAHAM.

Joint resolution (No. 75) to confirm the opinion of the Court of Claims adverse to the claim of Thomas B. Graham—referred to the Committee of Claims.

MAIL CARRIERS.

An act (No. 237) to remove all disqualification of color in carrying the mails—referred to the Committee on the Post Office and Post Roads.

UNITED STATES COURTS IN MICHIGAN.

An act (No. 270) concerning the courts of the United States in and for the district of Michigan—referred to the Committee on the Judiciary.

QUALIFICATIONS OF ELECTORS.

An act (No. 271) prescribing the qualifications of electors in the cities of Washington and Georgetown, in the District of Columbia—referred to the Committee for the District of Columbia.

MARINES ON TRANSPORT GOVERNOR.

Joint resolution (No. 77) for the relief of the officers, non-commissioned officers, and privates of the battalion of marines on board the transport Governor on the 3d of November, 1861—referred to the Committee on Naval Affairs.

LAND OFFICE IN COLORADO.

An act (No. 273) to establish a land office in Colorado Territory—referred to the Committee on Public Lands.

LAND GRANTS OR CLAIMS.

The bill of the House (No. 189) for the survey of grants or claims of land, returned from the Senate with amendments—referred to the Committee on Public Lands.

PACIFIC RAILROAD.

Mr. ALDRICH. I ask the consent of the House to have printed an amendment which I design to offer to the Pacific railroad bill.

It was so ordered.

IOWA CONTESTED ELECTION.

Mr. BROWNE, of Rhode Island. I desire to give notice to the House that to-morrow I will call up the report of the Committee of Elections in the case of Colonel VANDEVER, of Iowa.

SEA-COAST DEFENSES.

Mr. RICE, of Maine, by unanimous consent, submitted the following resolution; which was read, and referred to the Committee on Printing:

Resolved, That ten thousand extra copies of the report from the Committee on Military Affairs, submitted by Mr. BLAIR, of Missouri, relating to sea-coast defenses, be printed for distribution by the members of the House.

BOUNTY TO VOLUNTEERS.

Mr. MORRILL, of Vermont. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of giving the gentleman from Missouri, [Mr. ROLLINS,] an opportunity of making his speech, and any other gentlemen who desire to be heard. I shall propose to take up House bill No. 413.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WALTON, of Vermont, in the chair.)

On motion of Mr. MORRILL, of Vermont, the committee proceeded to the consideration of the bill (H. R. No. 413) making an appropriation for the payment of the bounty to widows and legal heirs of volunteers who have died or may die, or have been killed or may be killed in service, as provided in the act of July 22, 1861.

Mr. ROLLINS, of Missouri. Mr. Chairman, I feel deeply indebted to the gentleman from Vermont [Mr. MORRILL] for his generous courtesy, in submitting the motion to go into Committee of the Whole, at this time, in order to enable me to speak upon the subject of our present national troubles. I propose to make an old-fashioned, patriotic speech, and in the brief hour allowed to me to-day, I shall not attempt, to any extent, the discussion of those great constitutional questions which have grown out of the present rebellion. I shall content myself by stating frankly the impressions made upon my own mind, and the opinions formed by the changed circumstances which surround us, and with such appropriate allusion to the causes of our great troubles, and the remedy for them, as the occasion seems to suggest.

Perhaps in all history no more melancholy spectacle was ever presented to the gaze of men than that which we have looked upon in this country during the last twelve months. A great nation hitherto blessed beyond that of any other people in ancient or modern times, with a Constitution and form of government at once the wonder and admiration of mankind, without a public debt, and almost free from taxation, enjoying a degree of civil and religious liberty never attained by any other nation, having the benefits of moral and intellectual culture diffused among all the masses of the people, great in all the elements of national power, in the supposed intelligence, virtue, and patriotism of the people, in commerce, in manufactures, in agriculture, in art, literature, and science, and bidding fair to rival the proudest nation of all the earth; our armies invincible at home, our navies riding upon every sea! Such, Mr. Chairman, is a fair presentation of the condition of our country one short year ago! But how changed the scene! In the place of peace, prosperity, and happiness, we find ourselves engaged in civil strife; the hostile tread of armed men is heard on every side; the nation is convulsed from center to circumference with great and warlike preparations; the clash of arms is heard throughout the land, and blood is made to flow on a hundred battle-fields, and our national existence is threatened with overthrow. It is a fearful question. Who and what has caused this sudden and unexpected change? Where were our wise men and prudent legislators, that whatever causes of discontent existed might not have been removed? Upon the administration of James Buchanan, and the Thirty-Sixth Congress, rests the fearful responsibility of permitting the present fearful state of things to exist; and in all time to come the closing days of his administration, and the action of that Congress, will be regarded as the darkest period in American history!

Mr. Chairman, I belong to that class of men who believe that it is far better to settle all questions of national difficulty by an appeal to reason and to the ballot-box rather than by the arbitrament of arms; and I am sincere in the reflection that, considering the boasted civilization of the American people, the present civil war must be regarded in all time to come as a scandal and disgrace to the age in which we live, and the authors of it, when the passions of the present hour shall have subsided, in the judgment of posterity will be considered as the moral monsters of this generation, and the worst foes to free institutions and the cause of well-regulated liberty among men.

This rebellion is one of the legitimate fruits of the excesses to which party spirit has been carried in this country, and of the continued and fierce agitation of the question of African slavery; the loss of political power furnishing a motive to ambitious men to put it on foot, and the slavery question being the moving power by which they hoped to excite and enlist the sympathies and the services of the great body of the southern people. The national Government having fallen into the hands of a weak and vacillating President, his Cabinet composed in part of the conspirators themselves—bold, reckless, and unscrupulous—using their ill-gotten power to encourage the purposes of disloyalty and precipitate national disaster; whilst the people, shocked and amazed, and yet incredulous as to the wicked objects which these men had in view, the rebellion at the outset met with a degree of success and encouragement, causing thousands of good men to doubt the ability of the Government to check its progress and to overthrow those who had taken up arms against it. Never did a free people enter more reluctantly into an unwilling contest than did the loyal people of the United States with the disunionists of the South, who "forced this war upon the country." It was not until State after State had broken their plighted faith and violated all the obligations of the Federal Constitution, in passing ordinances of secession, not until the Federal Treasury had been robbed, our arsenals and armories despoiled of their arms, our ships sent to distant seas, armies raised to resist the authority of the General Government, peaceful vessels fired into, and a weak and beleaguered garrison compelled to surrender, that the national Government took the first step to exert its authority and to maintain the supremacy of the laws and the Federal Constitution. Never in the history of the world was so much forbearance displayed by a great Government towards those in rebellion against it, and who were plotting its overthrow.

The purpose from the beginning was to break up the Government. For more than a quarter of a century a great party, founded upon the most pernicious theories, and denying the most obvious and direct teachings of the Federal Constitution, as found in the letter as well as the spirit of that instrument, and its cotemporaneous exposition by the authorized departments of the Government, as well as by the great minds of the nation most competent to expound it, have been seeking pretexts to divide and dismember the Confederacy. Checked in their purposes of disloyalty by that man of iron will, Andrew Jackson, in 1832, and relieved from the dangerous predicament in which they found themselves placed at that time, by the generous and liberal statesmanship of Henry Clay, they have lost no opportunity since to sow the seed of discord and encourage and foment a spirit of disloyalty and opposition to the authority of the Federal Government. Starting out originally in their crusade upon the tariff question, they readily relinquished it for one of a more excitable character, and in regard to which the "southern heart could be more easily fired." Receiving all the aid which they desired from another class of men, little less dangerous and no better than themselves, and equally intent upon mischief—men who act upon the motto of "*no union with slaveholders*," and who have inscribed upon their banner that the Constitution of the United States is a "*covenant with death and an agreement with hell;*" who have done all in their power to obstruct and to prevent the execution of the Federal laws in the northern States; who have inspired a spirit of hatred among their own people against the South and southern institutions; who prefer to see the Union broken if slavery be not abolished—it is not to be wondered at that the leaders of this "infamous rebellion," representing the opinions of these "fanatical men," as the voice of the northern people, and urging upon them the false idea that it was the purpose to interfere with and destroy one of their institutions in the southern States, without regard to the guarantees thrown around it in the Federal Constitution, have so far succeeded in enlisting beneath their banner so many well-meaning but deluded followers. Instead of seeking redress through the mode pointed out in the Constitution itself, for any grievances of which they had a right to complain, by asking an amendment of that instrument, they seized upon the election of Abraham Lincoln as President, although fairly chosen, and according to all the forms of law, by a majority of the freemen of the nation, to carry into effect their unpatriotic and hellish purposes. Even before he was inaugurated, before any step had been taken by him calculated to produce alarm or to indicate that he intended in any way to interfere with the legal and constitutional rights of southern men, and in the face of the resolution, constituting a part of the platform of the party that elected him, this rebellion is set on foot, and before the 4th day of March, 1861, seven out of fifteen southern States had passed ordinances of secession, and erected another government within the boundaries of the Republic.

Mr. Chairman, I denounce this as a most cause-

less and infamous rebellion. I have regarded it as such from the beginning, and as involving a greater degree of turpitude and crime than any other attempted revolution in the world's history. I do not pretend to deny but that there were causes of irritation and discontent; that a large portion of the northern people had acted in bad faith in not yielding to, and carrying out in good faith, the true spirit and purposes of the Federal Constitution in regard to the rendition of fugitive slaves. But these things furnished no justification to these ambitious men for starting a rebellion like this. And especially was it a most wicked and unjustifiable step on the part of South Carolina and the other extreme southern States by which she was encouraged, and all of whose citizens had not suffered as much in any disturbance of their rights of property as the citizens of one single county of the district that I have the honor to represent on this floor.

Mr. Chairman, I have said that these grievances ought to have been settled; our bleeding country feels the truth of this remark to-day. In a spirit of fraternity and union, and led by the same noble and elevated sentiments of patriotism which guided and controlled the fathers of the Republic in the formation of the Federal Constitution, they would have been settled. Surely, sir, there is not a man holding a seat here, or in the nation, and who is governed by the noble instincts of patriotism and humanity, who would not to-day have preferred the adoption of the compromise offered by my venerable friend who sits before me, [Mr. CRITTENDEN,] or that offered by the gentleman from Illinois, [Mr. KELLOGG,] or, indeed, either of the compromises offered in the Thirty-Sixth Congress, to the present lamentable state of things by which we find ourselves surrounded. I hear men frequently denounce all compromise; but, sir, what is government itself but a compromise of conflicting opinions? How would our own matchless form of government ever have been instituted except by conciliation and compromise? How would the little State of Rhode Island, so ably and so honorably represented here, exert the same influence in the other end of the capital, in the legislation of the country, as the great State of New York, except for the spirit of compromise and concession which controlled and guided the framers of the Federal Constitution? If such men as George Washington and John Hancock, Thomas Jefferson and John Adams, could meet in council together in devising and framing a system of government for themselves and their posterity, in comparing and yielding their preconceived individual sentiments, in order to form a Constitution adapted to the wants and necessities and varied and discordant interests and dissimilar institutions of the then thirteen colonies, there is no reason why the men of this generation, who have profited so much by the labors and sacrifices of these great and good men, should not follow their example, and, in a spirit of peace and conciliation, make to each other such concessions as are demanded by the growth, the practical necessities, and the more enlarged and varied interests of the entire country. In all this, there would have been no sacrifice either of truth or principle. And but for this yielding of preconceived notions, we might not and would not have been blessed with the noble form of government under which we live, and which has been and can only be preserved in all future time by listening to the admonitions and following the wise example of those who framed it. We have heard much about clinging to an idea. The gentleman from Maine [Mr. FESSENDEN] tells us that he honors the men of "an idea to which they cling with the tenacity of death!" Sir, the men of the American Revolution were preëminently men of ideas; but they thought that it was not best to cling with such tenacity to a "single idea" as to endanger the great purpose which they had in view—the founding on this continent of a Government dedicated to the principles of civil and religious liberty.

If the doctrine of which we now hear so much, "no Union with slaveholders," no Union without emancipation, had been proclaimed and adhered to in the convention that framed the Constitution, we all know that the Government under which we live would never have been established. An attempt to enforce the same thing now will be equally fatal to the cause of the Union. It is the province of wisdom to deal with things as we find them. There is no practical statesmanship in clinging to "an idea," and thereby endangering the very existence of the Government. Men who cling with such tenacity to "an idea" may mean well, but they cannot be safe counselors in times like these, when all that we hold dear is so deeply imperiled. Such men are well described in the following extract which I recently met with in an interesting book, and which I cordially commend to the gentleman from Maine, and also the gentleman from Illinois, [Mr. LOVEJOY,] and those who act with them:

"Among the objects of interest very often, if not always, to be found at the foot of dams and cataracts, are what are called 'pot holes.' They are round holes worn in the solid rock by a single stone kept in motion by the water. Some of them are very large, and others are small. When the stream becomes dry there they are, smooth as if turned out by machinery, and the hard round pebbles at the bottom by which the curious work was done. Every year, as the dry season comes along, we find that the holes have grown larger, and the pebbles smaller, and that no freshet has been found powerful enough to dislodge the pebbles and release the rock from its attrition.

"Now, if a man will turn from the contemplation of one of these 'pot holes,' and the means by which it is made, and seek for that result and that process in the world of mind, which most resemble them, I am sure that he will find them in a man of 'one idea.' In truth, these scenes that I have been painting were all recalled to me by looking upon one of these men, studying his character, and watching the effect of the 'single idea' by which he was actuated. 'There,' said I involuntarily, 'is a moral pot hole with a pebble in it, and the hole grows larger and the pebble smaller every year.'

"I suppose it is useless to undertake to reform men of 'one idea.' The real trouble is that the pebble is in them, and whole freshets of truth are poured upon them only with the effect to make it more lively in its grinding, and more certain in its process of wearing out itself and them. The little man who, when ordered by his physician to take a quart of medicine, informed him with a deprecatory whimper that he did not hold but a pint, illustrates the capacity of many of those who are subjects of a 'single idea.' They do not hold but one, and it would be useless to prescribe a larger number. In a country like ours, in which everything is new, and everybody is free, there are multitudes of self-constituted doctors, each of whom has a nostrum for curing all physical and moral disorders and diseases—a patent process by which humanity may achieve its proudest progress and its everlasting happiness. The country is full of hobby riders, booted and spurred, who imagine they are leading a grand race to a golden goal, forgetful of the truth that their steeds are tethered to a single idea, around which they are revolving only to tread down the grass, and wind themselves up, where they may stand at last amid the world's ridicule, and stoned to death."

Mr. Chairman, I have been taught to believe that the true theory of our Government is, that "the Federal Constitution and the laws passed in pursuance thereof" are the "supreme law of the land." Any other view would produce an endless conflict, and it is the opposite doctrine of those who attempt to exalt the States above the General Government, and the pressing of these claims to an extreme length, which has been largely instrumental in bringing about the present disastrous state of things. Our first and paramount allegiance is due to the General Government. In his great speech on the compromise measures of 1850, Henry Clay used the following language:

"If any one State, or any one portion of the people of any State, choose to place themselves in array against the Government of the Union, *I am for trying the strength of this Government.* I am for ascertaining whether we have a Government or not, practicable, efficient, capable of maintaining its authority, and upholding the powers and interests which belong to a Government. Nor, sir, am I to be alarmed or dissuaded from any such course by intimations of the spilling of blood. If blood is to be spilt, by whose fault is it to be spilt? Upon the supposition, I maintain, it will be the fault of those who choose to raise the standard of disunion, and endeavor to prostrate the Government. And, sir, when that is done, so long as it pleases God to give me a voice to express my sentiments, or an arm, weak and enfeebled as it may be by age, that voice and that arm will be on the side of my country, for the support of the general authority, and for the maintenance of the powers of the Union."

I stand upon this doctrine to-day. It is based upon the true theory of our Government. And when Missouri, or any other State, shall raise the standard of rebellion, I shall feel that my primary allegiance is due to the General Government. And if in a conflict of this kind the nation is involved in war, as it now is, and blood be shed, let the responsibility rest where it properly belongs, on those who have commenced the contest in striking the first blow and firing the first gun. And if disaster and ruin shall follow the interests and institutions of those who have thus involved the nation in an unfortunate and bloody contest to maintain its own existence, I have that confidence in the courage and integrity of the masses that they will, in due season, visit upon the heads of the guilty authors of those troubles that punishment which they so justly merit. Acquiescence in the election of Mr. Lincoln, and which was the patriotic duty of every citizen of the Republic, would have saved us all the fearful struggle and all the sacrifices which we have been compelled, individually and as a nation, to make. If he had erred in his administrative duties, the party in power, by an appeal to the intelligence and patriotism of the people, would only have had a brief existence of four years.

That no great harm could have befallen any particular interest, is known by the fact that every other department of the Government stood politically opposed to him, and with a majority in each House of Congress. But the "fiat" had gone forth. Demagogues and traitors had partially prepared the public mind, and they were ready to enter upon their bloody experiment. And what was the Government to do? Must it yield to the demand of these maddened leaders? Must the nation's life be sacrificed, and without an effort to preserve it? Shall our nationality be destroyed, and the Government of the United States struck from the map of the nations of the earth? Shall we be placed in the condition of a second-rate Power? Shall we give up the prestige and glory of our great name? Shall we be unmindful of the hallowed memories of the past, and our great obligations to the future?

Sir, man might as well have looked for the great luminary of day to be struck from the heavens without a convulsion in the material world, or the cross of our Saviour to be darkened and obscured without a pang to the heart of Christianity, as to have seen this great nation, now known and honored throughout all the earth, to die without a struggle more terrible than any which the world has witnessed, since the "morning stars sang sweetly together." There was but one course for the President of the United States to pursue—meet the obligations of his oath, "to take care that the laws were faithfully executed," and to the best of his ability "preserve, protect, and defend the Constitution of the United States;" and in the discharge of these high and imperative duties he was entitled to the sympathy and support of every loyal and patriotic citizen of the Republic. No partisan zeal, no past or present difference of opinion on mere political topics, no hostility to supposed extreme theories held by the party in power, no sickly or morbid sympathy with those who were aiming a fatal stab at the nation's heart, ought to have prevented us from coming to the rescue, and saving the life of the Republic.

Sir, it is idle to say that in meeting this great crisis the President has violated the Constitution of his country. It may be that, in some instances, doubtful powers may have been exercised, and the Constitution not strictly observed. But who caused these things? And with what bad grace does an objection of this kind come from the lips of those who, disregarding all the precepts of our beloved Washington, as contained in his Farewell Address, and the teachings of the great and good men of all parties throughout the history of the Republic, with sacrilegious hands have torn in shreds *the very charter of our liberties?* Who put in peril the existence of the nation, and by their act threatened to turn back the tide of civilization and of moral and intellectual progress upon the continent? How can these men who have attempted to tear up the tree of liberty, root and branch, complain of those who, in order to preserve it, have only plucked a twig here and there from its ample boughs? Sir, it was either unconditional surrender to rebellion, and thus permit the nation to die, or *to resist it* with all the power which the Constitution had lodged in the hands of the President, in order to "defend, preserve, and protect it!" And, sir, whatever may be the judgment of the present hour, the gratitude of the nation and of mankind will be due to those who may save the Republic from overthrow.

Lovers of peace, looking with dread and horror upon the fratricidal conflict which now pierces their hearts with agony; were willing to let the seceded States go, in the vain hope that this might have prevented the shedding of blood! and under the influence of the "sober second thought" they might have returned. Vain delusion! There *could* be no such thing as peaceable secession. Listen to that man of great renown, the favorite son of *New England*, but whose fame has added to his country's glory:

"Peaceable secession! Peaceable secession! Sir, your

eyes and mine are not destined to see that miracle! The dismemberment of this vast country without convulsion! The breaking up of the great fountains of the deep without rippling the surface!"

The very idea of division brings to mind at once a thousand causes that would lead to strife and war. One great inducement with those who formed the American Union was to prevent forever those intestine feuds, and ever present dangers which would spring up between independent States. Questions of boundary, of revenues, of large standing armies, of commerce on the sea and on the land, of the free navigation of our great rivers, these, and all other questions which from the beginning of time have been the foundation of national disputes and endless wars among the nations of the earth, would have existed in full force here. It is far better, if fight we must, to preserve the grandeur and glory of the nation, than, by separation, to lay the foundation of perpetual strife with our posterity throughout all coming time.

Never, Mr. Chairman, in the history of the nation, was there a time when we so much needed prudent and wise counselors as at the present hour. While our armies are advancing with success, and victory is shouted from every battle-field, a single false step taken here may convert all into "Dead sea fruit." Discarding all Utopian dogmas, let us look steadily and only to the maintenance of the authority of the General Government, and the preservation of the Federal Union.

"Let all the ends thou aimest at be thy country's." Let not the people be deceived and deluded in regard to the objects of this war. Let us stand firmly by the resolution passed, with such great unanimity, at the extra session in July last:

"That this war is not waged on our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights and established institutions of those States, but to defend and maintain the supremacy of the Constitution and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired, and that as soon as these objects are accomplished, the war ought to cease."

In most of what I have seen coming from the pen of the President of the United States since his inauguration—in his messages to Congress, in his instructions to our ministers abroad, and in the general influence and tendency of his administration, as so eloquently and ably shown by the gentleman from Indiana [Mr. VOORHEES] a few days since, I am cheered with the belief that he fully sanctions all that is contained in the foregoing resolution. In regard to the resolution which passed this House a few days since, and which accompanied the special message of the President, while I thought its introduction ill-timed, there were nevertheless great principles recognized in it, which I cheerfully indorse:

1. That Congress has no constitutional power to interfere with the institution of slavery in any State where it exists.

2. That to the States themselves belong the *exclusive control* of the institution of slavery within their respective borders.

3. That if at any time the people of any State should choose to adopt a system of gradual emancipation, the General Government ought to extend pecuniary aid to compensate the owners of slaves for any losses which they might sustain growing out of the change of system.

I repeat that the principle of this resolution is right; the time of its introduction was unfortunate, and especially the indecent haste in which it was hurried through, without giving the Representatives from those States most deeply interested an opportunity even of consulting upon the subject. For one, I do not doubt the patriotic intentions of the President in sending here this message and resolution. I believe that *his* object was to check the progress of radical measures. The people watch with great anxiety the course of the Administration; and in order that the purposes of the President may be distinctly known, I shall take the liberty of requoting here some passages from his messages, and also from instructions given by him to our ministers abroad.

In his inaugural address, the President used the following language:

"Apprehension seems to exist among the people of the southern States, that, by the accession of a Republican Administration their property and their peace and personal security are to be endangered. There has never been any reasonable cause for such apprehension. Indeed, the most ample evidence to the contrary has all the while existed, and been open to their inspection. It is found in nearly all the published speeches of him who now addresses you. I do but quote from one of those speeches, when I declare that 'I have no purpose, directly or indirectly, to interfere with the institution of slavery in the States where it exists.' I believe I have no lawful right to do so; and I have no inclination to do so. And, more than this, they placed in the platform, for my acceptance, and as a law to themselves and to me, the clear and emphatic resolution which I now read:

"'*Resolved*, That the maintenance inviolate of the rights of the States, and especially the right of each State to order and control its own domestic institutions according to its own judgment exclusively, is essential to that balance of power on which the perfection and endurance of our political fabric depend; and we denounce the lawless invasion by armed force of the soil of any State or Territory, no matter under what pretext, as among the gravest of crimes.'

"I now reiterate these sentiments; and in doing so I only press upon the public attention the most conclusive evidence of which the case is susceptible, that the property, peace, and security of no section are to be in anywise endangered by the now incoming Administration.

"I add, too, that all the protection which, consistently with the Constitution and the laws, can be given will be cheerfully given to all the States when lawfully demanded, for whatever cause, as cheerfully to one section as to another." * * * * * * * *

"I hold that in the contemplation of universal law and of the Constitution, the union of these States is perpetual." * * * * * * * * * *

"It follows from these views that no State, upon its own mere motion, can lawfully get out of the Union; that resolves and ordinances to that effect are legally void; and that acts of violence within any State or States against the authority of the United States are insurrectionary or revolutionary, according to circumstances.

"I therefore consider, that, in view of the Constitution and the laws, the Union is unbroken."

In the message the President laid before Congress at the special session in July last, he referred back to these just and pointed declarations, and applied them expressly to the condition of the rebel States after the rebellion should be suppressed. With most wise and fortunate anticipation he then said:

"Lest there be some uneasiness in the minds of candid men as to what is to be the course of the Government towards the southern States after the rebellion shall have been suppressed, the Executive deems it proper to say it will be his purpose then, as ever, to be guided by the Constitution and the laws; and that he will probably have no different understanding of the powers and duties of the Federal Government relatively to the rights of the States and the people under the Constitution than that expressed in the inaugural address."

This is full and explicit. It is unmistakable. It leaves no room for doubt.

In strict conformity to this view, Mr. Seward, in his letter of instructions, in April last, to Mr. Dayton, our minister at Paris, said:

"I need not further elaborate the proposition that the revolution is without a cause; it has not even a pretext.

"It is just as clear that it is without an object. Moral and physical causes have determined inflexibly the character of each one of the Territories over which the dispute has arisen, and both parties after the election harmoniously agreed on all the Federal laws required for their organization. The Territories will remain in all respects the same, whether the revolution shall succeed or shall fail. The condition of slavery in the several States will remain just the same whether it succeed or fail. There is not even a pretext for the complaint that the disaffected States are to be conquered by the United States if the revolution fail; for the rights of the States and the condition of every human being in them will remain subject to exactly the same laws and forms of administration whether the revolution shall succeed or fail. In the one case the States would be federally connected with the new confederacy; in the other, they would, as now, be members of the United States; but their constitutions and laws, customs, habits, and institutions, in either case, will remain the same.

"It is hardly necessary to add to this incontestable statement the further fact that the new President, as well as the citizens through whose suffrages he has come into the Administration, has always repudiated all designs whatever and whenever imputed to him and them of disturbing the system of slavery as it is existing under the Constitution and laws. The case, however, would not be fully presented if I were to omit to say that any such effort on his part would be unconstitutional; and all his actions in that direction would be prevented by the judicial authority, even though they were assented to by Congress and the people."

Of the same tenor are Mr. Seward's instructions on this point to our minister at London in the same month of the same year. I make the following pregnant extracts from this elaborate paper:

"The movement, therefore, in the opinion of the President, tends directly to anarchy in the seceding States, as similar movements in similar circumstances have already resulted in Spanish America, and especially in Mexico. He believes, nevertheless, that the citizens of those States, as well as the citizens of the other States, are too intelligent, considerate, and wise to follow the leaders to that disastrous end. For these reasons, he would not be disposed to reject a cardinal dogma of theirs, namely, that the Federal Government could not reduce the seceding States to obedience by conquest, even although he were disposed to question that proposition. But, in fact, the President willingly accepts it as true. Only an imperial or despotic Government could subjugate thoroughly disaffected and insurrectionary members of the State. This Federal, republican system of ours is, of all forms of government, the very one which is most unfitted for such a labor. Happily, however, this is only an imaginary defect. The system has within itself adequate, peaceful, conservative, and recuperative forces."

* * * * * * * * * *

"You will indulge in no expressions of harshness or disrespect, or even impatience, concerning the seceded States, their agents, or their people; but you will, on the contrary, all the while remember that those States are now, as they always heretofore have been, and, notwithstanding their temporary self-delusion, they must always continue to be, equal and honored members of this Federal Union, and that their citizens, throughout all political misunderstandings and alienations, still are, and always must be, our kindred and countrymen."

These views are sound, and must be indorsed by every just-thinking man. Surrounded as he is by the greatest difficulties and with responsibilities resting upon him that no other President ever had, it is right for me to express the conviction that from all I have seen of him and heard from him, Abraham Lincoln is governed by a sincere and patriotic desire to save the Constitution AS IT IS, and to prevent the overthrow of the Government. To him the people look, and in their behalf I make the appeal, not only to him, but to that large, controlling, and conservative element in the Republican party which elected him to stand by their country, and to prevent those excesses in legislation which must not only tend to prolong the war, enlarge the proportions of this already overgrown rebellion, and lay the foundation, eternal and enduring, of the most relentless and bitter hatred betwixt the two sections of country.

Acting upon the theory that the Federal Union remains unbroken, that all ordinances passed for this purpose are unconstitutional, and therefore null and void, that the authority of the Government is only for the time being suspended in those States that have seceded, and that all laws passed by Congress will, in the end, be observed and executed in those States, it is at once apparent that with the accumulated debt of the rebellion in the southern States, superadded to their full proportion of the taxes which must be levied to pay the expenses of the war and to sustain the public credit, that their burdens for years to come must be very oppressive, far more so than those of the people of the loyal States.

How far and in what form either the principles of justice or of necessity shall require these people to be subjected to still further exactions, become questions of the gravest importance, and requiring the forecast and sound judgment of the most experienced statesmanship. Shall they be required, in common parlance, to "foot the bill," and to pay all the expenses occasioned by this wicked revolt? Will you pass laws confiscating the property of all those who have taken up arms against the Government, and who have in any way given "aid and comfort" to the rebellion? Will you pass acts emancipating the slaves in the southern States? Will you even go so far as to pass laws emancipating the slaves of those who have been actively engaged in the rebellion? Will you blot out State lines, as has been proposed in the other end of the Capitol, and convert the whole southern country into territorial dependencies to be controlled and governed by officers appointed by the General Government?

Mr. Chairman, upon the answer to these solemn questions hangs yet the destiny of the nation. If in the affirmative, then the Government is lost, and the sun of liberty will go down upon this continent in a sea of blood! Perhaps, sir, I owe as little to secession as any other member on this floor. The sanctity of my hearthstone has been violated, and my rights trampled under foot by these lawless men. But rising above all questions of personal feeling and party animosity, and looking alone to the safety of my country and the welfare of the whole people, I am at present opposed to any and all of these extreme measures. They cannot be adopted without doing the greatest injustice to thousands of faithful Union men to be found in every southern State, and who, with grateful hearts, will gladly welcome the old flag, that bright "banner of beauty and of glory," and dedicate their lives to its defense whenever they may dare to do so. Our first and highest duty is to suppress the rebellion, and whatever legislation may be necessary within our constitutional power to do this *let it be had*.

Further than this, it is needless, nay, it is dan-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. SATURDAY, APRIL 26, 1862. NEW SERIES....No. 115.

gerous, to go *now*. Let us await the "tide of events," take counsel of our respective constituencies, ponder upon the "sober second thought," and in the future, with that experience which the changed circumstances of the country will bring to us, we shall be the better able to devise a system of laws that will do injustice to no one, tend to reunite the people of the whole Union, soften the asperities of the present hour, and bring about once more that kind and fraternal feeling, the loss of which is so much to be deplored by every Christian heart. To the extent that the laws of the country have been violated, let the guilty leaders be punished; they must not escape; but extend to the masses, who have been deluded and misled, pardon and amnesty, upon the condition that they will return to their loyalty and "sin no more," remembering always that the law inflicts its punishment upon the guilty citizen, not so much to reform the offender as to prevent a repetition of the crime. Let it not be said, Mr. Chairman, that the policy which I indicate is too gentle in times of disaster and revolution like these. We must look to the *effect* which any system of laws that we may enact will have upon the country.

My motto is, "save the nation at any cost;" but believing as I do that the Constitution affords us the amplest power to do this, I am utterly opposed to its violation. Let it not be said, either, that I am governed by any purpose to shield and protect any interest which comes in contact with the *safety of the Republic* and the integrity of the Union. In regard to African slavery, I value far higher the permanency of the Government and the preservation of the Constitution—for these are essential to *our own liberties*—than I do any question connected with the freedom or slavery of this inferior race of men. I desire to preserve the Government as it is, and to do this, I am for using all necessary powers granted in the Constitution, executive, legislative, and judicial. But, sir, I do not wish to see the public mind agitated, and the nation's life still further endangered, not only by the pressure upon us of unconstitutional, but of idle humanitarian theories, and abstract opinions. And least of all, if the nation must die, let not be written upon its tomb the epitaph: "Here lies a great people, who, in their efforts to give freedom to the African slave on this continent, *lost their own liberties!*"

Mr. Chairman, I can hardly presume that we shall ever have again in this country, or at least for many years to come, the same pleasant and agreeable condition of things such as existed before the commencement of this wicked rebellion. This war, however, cannot last always. It must terminate, and, I sincerely trust, before a great while. It is a question of the deepest magnitude, and especially in those States where the rebellion exists, how matters are to be adjusted so as to produce the least possible sacrifice of the business interests of the country, and as little alienation among the great masses of the people. Unless this be our object, a *state of peace may be made more terrible even than a state of war*. In a short time we hope, under the lead of her distinguished son, that Tennessee, thrust out of the Union temporarily against the wishes of a large majority of her people, will return to assume her vacant seats in this Hall. And how are her Representatives to be met, upon their entrance into this body? Will it be as men coming from a coequal State, with all its "rights and dignity unimpaired?" Shall we meet them at the threshold with manifestations of joy? Shall the "fatted calf be killed?" Or are they to be told that they have returned *too late;* that Tennessee is no longer a State of the American Union; that we have, under the "war power," blotted out its existence, and converted it into a territorial dependency? Shall we attempt to console them with the idea that we had sent to them as their Governor some man of that extreme political school who originated the idea of destroying their State sovereignty, and blotting out State lines, and that their offices of honor and of profit were to be filled by the same class of men? Shall we tell them, furthermore, that in order to preserve among them the most agreeable and harmonious state of society, we had passed laws confiscating the property of one half of their inhabitants? Shall we say to them, still further, that, acting upon the theory of the gentleman from Kansas, [Mr. CONWAY,] "that by the act of secession they had dissolved the Union," we had treated them as "belligerents," under the law of nations, and, availing ourselves of these changed relations, we had broken up one of their established institutions, by emancipating all their slaves, amounting to two hundred and eighty thousand in number? That in this, however, we had acted a very generous part toward them; that we do not intend to remove this servile race from among them; that they will still remain their neighbors and friends, and that when they get them thoroughly educated and Christianized, they would make most agreeable members of society! And that, in order most effectually to prevent them from leaving the territory, the northern States had commenced the passage of laws, and inserting into their respective State constitutions such amendments as these:

"ART. XIII—SEC. 1. No negro or mulatto shall come into or settle in this State, after the adoption of this constitution.

"SEC. 2. All contracts made with any negro or mulatto coming into the State, contrary to the provision of the foregoing section, shall be void; and any person who shall employ such negro or mulatto, or otherwise encourage him to remain in the State, shall be fined in any sum not less than ten dollars nor more than $500."—*Constitution of Indiana.*

In the constitution adopted by the convention lately held in Illinois, we find the following provision:

"ART. XVIII—SEC. 1. No negro or mulatto shall migrate to or settle in this State, after the adoption of this constitution.

"SEC. 2. No negro or mulatto shall have the right of suffrage or hold any office in this State.

"SEC. 3. The General Assembly shall pass all laws necessary to carry into effect the provision of this article."

Is this your plan of reconstruction? Is this the way you expect to save the Constitution and the Union? Is this the way you expect to win and, in the language of my good friend, [Mr. CRITTENDEN,] "woo back" the people of the southern States? What! break up their State organizations, destroy forever their domestic tranquillity, beggar them and their children, and yet expect them to return to their allegiance and become again peaceful and patriotic citizens? Sir, I ask is not this the *ne plus ultra* of human folly? I beseech you to abandon these unwise and impracticable measures. You have made by law the capital of the nation free! Be content. Let there be no further congressional agitation of the question of slavery. Leave the question for all future time to the people of the States where it exists, and to be disposed of by them as they may deem best for the welfare of all concerned. Sir, I listened with infinite satisfaction to the able argument of the learned gentleman from Massachusetts [Mr. THOMAS] a few days since against these extreme measures. I cordially indorse almost his entire speech. With such Republicans as himself, and of my friends from Indiana [Mr. DUNN] and from New York, [Mr. DIVEN,] and many others that I could name, my constituents could live, ay, and all the reasonable people of the South could live, upon terms of the most enduring friendship. Let the wisdom of such men guide and control the action of the dominant party here, and all will yet be well.

Mr. Chairman, we were treated a short time ago, by the gentleman from Pennsylvania, [Mr. DAVIS,] to a disquisition upon the dignity of labor. Sir, this is a noble theme, and if he had confined himself to the subject without going out of his way to make an onslaught upon the loyal people of the southern States, there was much which he said that met my hearty indorsement. Sir, I honor and respect the laboring man: to him is our country, in a large degree, indebted for its rapid advancement in physical, moral, and mental improvement; and there is no better specimen of manhood to be found, and no higher and more admirable illustration of the beneficent influence of our free institutions than that of the man who by his own labor rises from the humbler to the higher walks of life; and I care not in what department or in what direction these beneficial results of labor may be directed. And allow me to say, sir, that these liberal sentiments are largely entertained by the people in that section of the country where I live. The gentleman from Pennsylvania, while leveling his malice at the border slave States, seemed to think that the only motive which prompted them to adhere to the Union was in order that their institution of slavery might be made more secure!

Sir, I am ready to confess that I believe slavery to be more secure in the Union than it would be out of it, and especially so if we are to have such men as the gentleman from Pennsylvania for our neighbors. But how unkind; oh! how uncharitable, to attribute a motive like this to the brave and loyal men who have risked their all in endeavoring to put down this rebellion. Is not their love of country as sincere, and their motives of action as pure and honorable, as those that guide and control the citizens of other States? Such attacks at this time are out of place here. They reach back to the foundation of the Government. They are aimed equally at the memories of many of those who aided in its establishment—Washington and Jefferson, Madison, Clay, and Jackson, were not only southern men, but they were all slave owners. While, if you will trace the history of slavery on this continent, you will find that the people of the northern States were as largely instrumental, and profited as much in the establishment of African slavery here as did the southern people. Whatever guilt attaches to it in a moral or political point of view, it must be forever shared equally by the North and by the South. Sir, the great men of the South need no defense at my hand. There is not a page in your country's history that is not illuminated and adorned by their wisdom, their patriotism, and their valor. From the time that the first blow was struck in the cause of American independence, until the breaking out of this "accursed rebellion," there is scarcely a battle-field whose sands were not moistened by the blood of patriotic southern men. To them the world is largely indebted for the establishment of free government on this continent. And the cause of humanity and liberty in the distant regions of the earth have had no truer and warmer advocates than southern men in this Capitol, and whose eloquent words came

"So softly, that like flakes of feathered snow,
They melted as they fell."

No, sir, the Union men of the border slave States, estimating at their true value all the blessings conferred upon them by the Union, regarding the Federal Constitution and the Government established under it as the best ever instituted among men, following the teachings of the Father of his Country, and desiring to hand down to their children these priceless gifts, they have and are now risking all that is dear to them for its preservation, and but for whose action this day the Government would inevitably have been destroyed. And these croakings come with bad grace, especially from those whose action has contributed so much to the present unfortunate state of things, and who, setting aside the Constitution as their guide and rule of action, are pressing upon us daily the most absurd propositions, the success of which must at once destroy the last vestige of hope for the reconstruction and salvation of the Government.

It has been charged here that Kentucky desired to dictate the policy of the nation! Sir, I love and honor the people of that noble and proud old Commonwealth. It is the land of my birth, and I trust I shall ever be as sensitive in regard to her reputation as the brave and true men around me, who so faithfully represent her interests here. Where are the evidences of the truth of this charge? Sir, they do not exist. Kentucky does not wish to dictate the policy of the nation further than to keep the nation right. At the commencement of this rebellion Kentucky did all in her power to preserve the peace and to per-

vent this fratricidal war. In the councils of the nation and before the assemblies of the people she plead with all the earnest enthusiasm of a warm-hearted patriotism; she offered to the nation, through her illustrious son, terms of conciliation and compromise, which ought to have been accepted. But her voice was unheeded. Neither section would listen to her timely and generous appeals. Strife and bitterness seemed to have filled the hearts of men on every side.

Yet Kentucky did not falter; seeing the danger of her own position, and knowing that her fair fields would be the inevitable theater upon which the heavy clash of arms would first be felt, and realizing the natural sympathies of her own people with the southern States, and the misrepresentations by which bold leaders and crafty traitors expected to mislead the honest masses, the loyal men of Kentucky had a most difficult and critical duty to discharge. With what fidelity and good judgment she met the crisis, let the history of passing events tell. No crimes or blunders were committed by her true sons. Rejecting all false theories springing out of the secession movement, forgetting the sympathies which were appealed to in order to enlist her in the southern cause, rising to a true national position, and planting herself upon the bulwarks of the Federal Constitution, she threw off her neutrality, unsheathed her sword, and by the side of the gallant men who flocked to her rescue, from Ohio, Indiana, Illinois, and other loyal States, she bid defiance to traitors, and proclaimed, in the language of the immortal Jackson: "The Federal Union, it must be preserved." Upon the crimsoned fields of Wildcat, of Somerset, of Fort Henry, of Fort Donelson, and Pittsburg Landing, she illustrated anew her deep devotion to the cause of constitutional liberty.

No, sir; Kentucky has not attempted or desired to dictate the policy of the nation in this terrible crisis. She has done her whole duty under the most trying and difficult circumstances that ever surrounded a brave and chivalrous people; with true and filial devotion she has bared her bosom, and received the blow which was intended for the heart of the nation; poised upon her own great centers of truth and loyalty, she has resisted every appeal made to her by recreant sons, and stood as a wall of fire to check the encroachments of those whose purpose was to destroy the nation. What I have said of Kentucky is equally true of the other border slave States—Maryland, Western Virginia, Delaware, and Missouri. They regard American nationality as the precious casket in which is contained the priceless gifts of free institutions, and they would regard themselves as alike recreant to their generation, to posterity, and to struggling humanity throughout the world, if they failed to do their part towards preserving and transmitting unimpaired to future generations this sacred and invaluable trust.

Sir, whatever others may have done, or may yet do, to uphold and maintain the Government and the Constitution, the loyal men of the border slave States, as long as time shall last and free institutions be prized among men, will be remembered and honored for their heroic courage and devoted patriotism. Like poor old Lear, they have withstood the "peltings of the pitiless storm" that raged around them; they have checked and rolled back the mad waves of passion and of prejudice which were sweeping with desolating fury over the land, and threatening to ingulf all that was most precious on this continent. For the sake of their country and its free institutions they have sacrificed their material interests, broken the tenderest ties of family and of social life, and determined either to perish or to save from dismemberment and ruin the Union and the Constitution, threatened by the fierce assaults of ambitious leaders, and their deluded and misguided followers. And, sir, as long as a love of liberty and of free government shall find a lodgment in the hearts of men, the names of Johnson, of Etheridge, of Prentice, of Guthrie, of Davis, of Gamble, of Bates, of Phelps, and though last, yet first, of my venerable friend who sits before me, [Mr. CRITTENDEN,] will be associated with the founders of republican government on this continent.

Mr. Chairman, I fear the end is not yet. My mind alternating betwixt hope and fear, I put my faith upon the patriotism and good sense of the great majority of the American people, and the kindness of that good Providence that has thus far watched over and guided our country through all the dangers which have beset us:

"A thousand years scarce serve to form a State,
An hour may lay it in the dust; and when
Can man its shattered splendor renovate,
Recall its virtues back, and vanquish time and fate?"

What we most need in the present hour is calm and prudent counsels in our legislative halls. I am sincere in the belief that the Government is in more danger from the indiscreet action of impracticable politicians and misguided theorists than from any failure of our arms. What we want is a great Union conservative party, made up from all other parties, within whose folds may be gathered the good men of the nation, North and South, planted firmly on the Constitution, and determined to resist and to overthrow the aggressions of extremists, and, by a liberal and beneficent policy, win back the wandering children of the Republic to their duty and their loyalty.

Sir, if my poor voice could reach our distant brethren in the South, I would ask each and every one of them, what has the South gained by secession? What has any one southern State gained by secession? What has any one individual in all the South gained by secession? Has it or is it likely to give to them a better form of government? Is their property more secure? Has it brought peace and happiness to their firesides, prosperity to their business? Have they profited in any respect by this movement? On the contrary, have not the ambitious leaders who put on foot this rebellion, contrary to the wishes and better judgment of the masses, brought bankruptcy, ruin, and desolation upon the entire South? There never was, so far as I know, a single solitary meeting of the people asking a change of Government. The movement did not originate with the people themselves. They are patriotic. It originated with Davis and his traitorous crew in this Capitol. And oh!

"Is there not some chosen curse,
Some hidden thunder in the stores of Heaven,
Red with uncommon wrath, to blast the man
Who owes his greatness to his country's ruin?"

The masses were happy and contented, satisfied with their Government as it was. Living under the protection and benign influence of a free Constitution and wholesome laws, they asked for no change, they wanted none, and they are now sighing for the old order of things. This monstrous crime of involving the country in rebellion and war lies at the door of uneasy and discontented politicians, reckless and maddened leaders, and was gotten up to promote their own reckless and selfish ends. A day of terrible retribution awaits them. Like Actæon, in heathen mythology, they will, in the end, be destroyed by their own friends. The loyal citizens of the South, deceived and betrayed, will in due season turn upon them and punish them for their crimes; while the great and beneficent Government, the glory and admiration of every loyal American heart, planted amidst all the perils and dangers of our revolutionary conflict, will exert its authority throughout the length and breadth of the nation, and our hearts will be once more cheered and animated at the sight of the "old flag," baptized, as it will have been, in fire and blood, planted *securely* upon every mountain top and in every valley, from the Atlantic to the Pacific coast.

Mr. Chairman, the effect of this revolution will be to settle, and forever, certain dangerous theories springing out of our form of government, and tending constantly to a collision between the State and national authorities.

"Sweet are the uses of adversity,
Which, like the toad, ugly and venomous,
Wears yet a precious jewel in its head."

The nation has been convulsed to its center; thousands of true and brave men have been sacrificed in the contest; we have created a national debt which will be a heavy burden to the present and to several generations which will come after us; but all these are as nothing compared with the value of the life of the nation. The people will not murmur if the Constitution is preserved, and our matchless form of government not seriously impaired. They will feel assured that no such revolution will be attempted again for "light and transient causes." They will feel their faith greatly strengthened in *republican institutions*.

The experiment will have been thoroughly tested as to the ability of the people to govern themselves. And "when wild war's deadly blast is o'er," and the angel of peace shall once more spread his bright wings across the continent, starting afresh in the race of nations, and purified by the severe ordeal through which we have been compelled to pass, we will be a wiser, a better, and a stronger people; and when men have returned to the peaceful pursuits of private life, and society shall have assumed again the steady forms of law and order, the energies of the masses will be unchained in new fields of enterprise that will lure them on to reinstate their fortunes, and despite the terrors and calamities of the frightful and unnatural revolution through which we are now passing, our great nation, with the strength of a young giant, will at one bound assume its lost position, and go forward in the march of improvement in a manner that will eclipse even our former unparalleled success; and before the close of the present century, in all the elements of power and of national strength, and in our contributions to science and literature, to art, to arms, to commerce, to manufactures, to agriculture, we will assume a position second to no other civilized nation in the world.

Mr. Chairman, in casting our eyes across the beautiful valley westward, we behold a vast and unfinished monument, intended by his affectionate countrymen to perpetuate a lively recollection of the virtues and character of Washington. Each State of the American Union has contributed a part of the material of which this beautiful shaft is built. From one a block of limestone, from another a block of marble, from another a block of granite, from another a block of quartz sprinkled with gold, &c. The motto of the great State that I have the honor, in part, to represent in this Hall, is, "*United we stand; divided we fall*," and in her contribution to the Washington monument she has sent here a block of solid iron, carved from her own great mountain, typical of her vast mineral resources, and of her strength and power when these resources are fully developed, and indicating further that, as iron is more durable than marble or granite, so Missouri will be *more* steadfast in maintaining THE UNION OF THESE STATES and in preserving the CONSTITUTION and GOVERNMENT which WASHINGTON gave to us.

Mr. NORTON. I had hoped, and the country expected, that this pestiferous question of slavery which for the last fifteen or twenty years has engrossed so much of the time of the representative men of the Republic on this floor, would be banished from the council chambers of the nation. If, heretofore, in times of profound peace and national tranquillity, its discussion had been attended with results either practical or beneficial, its introduction now, in these times of darkness, danger, and peril to constitutional liberty, might be excused, if not justified. But, in times gone by, when evil rather than good, mischief rather than benefit, embittered hate rather than fraternal feeling, discord rather than harmony, sectional division rather than national union, have been its invariable products, its revival now manifests, to say the very least of it, a disregard of the past foreboding nothing good for the future. If, forty years ago, its introduction into these Halls struck like a fire bell at night upon the ears of Thomas Jefferson, and caused him to tremble because of the consequences likely to flow from it, what can justify its renewal now when one third of the States stand in revolt to the authority of the Government? Its discussion, sir, has no charms for me, and nothing but a stern sense of duty to those I represent on this floor would drive me to a participation in it. I propose to discuss the various propositions involving the confiscation of property and the emancipation of slaves.

In the advocacy of these various propositions, it has been said by the gentleman from Massachusetts, [Mr. ELIOT,] and repeated by others, that slavery is the cause of this rebellion, and should therefore be exterminated on the principle, I suppose, of removing the cause to get rid of the effect of that cause, of curing the disease by taking away that which produces it. If the premises taken by the gentleman are correct, the conclusion at which he arrives is irresistibly true. But, sir, is this position well taken? I think not, and shall endeavor to demonstrate its incorrectness, and show the fallacy and sophistry of the argument built upon it. In what sense is it the cause of this rebellion? Can the country, or any gentleman on this

floor, from any remark which fell from the lips of the gentleman from Massachusetts, tell how slavery is the cause of this rebellion? Is it the procuring, producing, or instrumental cause; and if either, how has it operated so as to put arms in the hands of one million of our people, with a common ancestry, common kindred, and common country, with which they are trying to cut each other's throats, and take each other's lives?

It will not do to rest the argument upon the simple, bare, and unproved statement that slavery is the cause of this rebellion. I deny the proposition, and if successful in overthrowing it the fabric built upon it falls to the ground. It is no more the cause of this rebellion than the match which I ignite and apply to my neighbor's barn is the cause of the destruction of his property. I am the cause and the fire of the match the instrument. It is no more the cause of this rebellion than the rifle loaded with ball, discharged by me into the heart of another, is the cause of his death. I am the murderer, and the rifle the instrument used to commit the crime. That judicial officer who, upon a state of case like this, instead of punishing me for arson in the one case and murder in the other, would pronounce in his sentence in the one case, that all the fire in the country should be put out and no more matches made, or in the other, that all the rifles should be destroyed and no more powder and ball should be manufactured—that judicial officer would be deemed to possess strange powers of reasoning, and be universally pronounced unfit for the station which he would thus disgrace. I desire to treat this subject fairly, and fling away from it all sophistry; for it is presumed that no gentleman in this House will do otherwise than follow the dictates of an honest judgment and the promptings of a conscience schooled to approve the right and condemn the wrong.

In what sense, then, if any, is it that slavery is the cause of the present unhappy and unfortunate condition of the country? It is not to be found in the fact that four millions of slaves are simply owned as property by the citizens of fifteen States that revolution runs riot in the land. It is not to be found in the fact that the citizens of these States own under their laws from three to four thousand millions of dollars' worth of slave property. That seems to me to be absurd, and the history of mankind furnishes no example of a people undertaking to revolutionize a Government simply because they owned property. But Governments being established for the protection of person and property, the history of our race is full of examples where Governments have been revolutionized because the people of those Governments believed that the Government, so far from protecting them in their rights of property, was about to destroy that property itself. The cause, then, of this war is not (as I infer the gentleman from Massachusetts intended to be understood) to be found in the simple existence of slavery and the ownership of slaves, but, sir, it is to be found in the fact that the owners of this kind of property have been made to believe that it was to be ignored, and that the Government in the hands of the Republican party, a party built up on their opposition to slavery, would not only cease to protect, but absolutely destroy this particular species of property. It is not slavery, the ownership of slaves, which has led them to take up arms, but the firm and religious belief that by remaining in the Government they will lose their property.

I will not enter into an argument here for the purpose of showing whether this belief is well founded or not, and will simply content myself by adverting to one method of argumentation which has been used to impress this belief upon the minds of the people in the slaveholding States. They have been told, and gentlemen upon the other side know how truly or falsely, that a large majority of the people of the non-slaveholding States believe that slavery is a sin against the laws of God, and not only a moral evil, but a national curse; that while the Republicans admitted that, under the existing Constitution, they had no power to interfere with or abolish slavery in the States where it existed, they had incorporated in their platform, as a part of their doctrinal creed, that no more States with slave constitutions were to be admitted in the Union; that under the operation of this principle, in a very short time, Nebraska, New Mexico, Washington, Utah, Nevada, Colorado, and Dakota would come into the Union as free States, and that other States could be divided until three fourths of the States were free, and that then the majority of the citizens of those States, believing slavery to be a sin both against God and the nation, if they were honest men, would be compelled, by a sense of moral and national obligation, to call a convention of all the States to amend the Constitution, and confer upon Congress the power constitutionally to abolish slavery. They have been told that, if they would save their property, they must strike the blow at once, and cut their connection with the Government before they were bound hand and foot; that delay in this matter would be death and destruction to them, ultimately resulting in the Africanization of the southern States.

I will not stop to point out the various other methods of argumentation which have been adopted for the purpose of riveting and fastening this conviction on the minds of the citizens of the southern States. I will not detain the House by reading extracts from the speeches and letters of the leading men of the Republican party, nor by quoting from their acknowledged and accredited party organs, nor by criticising the dogma that an irrepressible conflict had commenced between free and slave labor, which must continue till slavery was established everywhere in the United States, or abolished everywhere. It is sufficient for the purposes of this argument that I have shown that it is the firm, deep-seated, and settled conviction and belief of the people of the southern States that their slave property was endangered and would be finally lost, that has caused them to rush to arms and endeavor to establish a government of their own, independent of the Government of the United States. It is not the condition of slavery as an existing social, domestic, or political relation which has caused the revolt, but, sir, the belief that this condition will be destroyed, and that belief superinduced by the Republican party.

Now, sir, if this is a fair presentation of the case, the conclusion of the gentleman from Massachusetts, so far from following as a logical sequence, falls to the ground, and the opposite of his deduction is true. For, sir, if it be the fact, as I think it has been shown that it is, the belief of the people now in arms that this particular species of property by the action of the Federal Government and the Republican party will be destroyed, then by destroying it, abolishing it, and emancipating the slaves—as the gentleman and the various bills propose—you at once convince them and the country that their belief is well founded, and not without a cause. Instead, sir, of this resolution or these bills relieving this war of the cause producing it, it is but an aggravation to the cause; and if the gentleman desires to wind up this war—which he treats as the effect of a cause—let him and his party remove that cause by so acting as to take away from the minds and hearts of the citizens of the slaveholding States the belief that property of the value of hundreds and thousands of millions of dollars was about to be destroyed. He does not propose that, but insists upon doing a thing which, if done, will destroy the very thing the fear of the destruction of which has caused the present condition of things.

If, sir, the fears of the people upon this subject had been allayed last winter by congressional action, the country, instead of being engaged not only in a civil but social war, visiting ruin upon the commerce, agriculture, and manufactures of the country, would now be at comparative peace, enjoying its accustomed prosperity and happiness. The country knows why this was not done, and by what party it was prevented from being done. It constitutes a part of our history already written; and the impartial reader will be at no loss to determine why the patriotic and energetic efforts of the then venerable Senator from Kentucky to save his country from its present state failed to succeed. It has been my endeavor to expose the fallacy of the argument of gentlemen on the other side, and on this branch of the subject I have nothing further to say. They are acting on this belief, a belief or conviction brought about by the course of current events in the non-slaveholding States for some years past. Gentlemen may say that their belief, their conviction, is a delusion. If it is a delusion, does the gentleman propose the proper remedy when he proposes to make their delusion a reality, or would it not rather comport with sound logic to remove the delusion under which they are acting by giving them an assurance that their fears were groundless, as the propositions of the Senator from Kentucky, last winter, proposed.

Suppose that the southern section were the dominant section, and that they were to declare a war of extermination, not with swords and bullets, but a political war under the Constitution, in a constitutional way, against the workshops and manufacturing and commercial interests of the New England States, ultimating in their total destruction and overthrow, and the impoverishment of their people; and suppose that they were to complain, to the extent even of resisting the proposed destruction of their interests by armed resistance, I ask gentlemen if they think and believe that the introduction and passage of an act consummating the very thing of which they complain would make the New Englanders lay down their arms and love the Government with a perfect love? I think not. Seek not, then, to apply the poisoned chalice to the lips of others, which you would dash with scorn from your own.

The principal argument adduced in support of the proposition under consideration having, as I conceive, been shown to be fallacious, there are many reasons why the proposition should not be embodied in a law. Congress possesses no power except what the Constitution gives it. The Constitution creates Congress, and confers upon it its authority. Beyond the authority or power thus conferred we dare not go. I do not think that the Constitution confers upon Congress, either expressly or impliedly, the power proposed to be exercised in the passage of this bill. I have been unable to recognize the clause which confers it, and it is for those who insist upon the passage of the bill to point out the clause from which it is derived. It will not do to derive it from the power to declare war, for Congress has not declared war. Congress has raised an army and navy to do what? Why, sir, to suppress an insurrection, repel invasion, and put down a rebellion.

What is the attitude, what the relation, of the insurgents or rebels? Are they in the position of alien enemies and foreigners to the Government? Clearly not. The Government itself does not so consider it, and hence will not recognize them as belligerents. If they are not to be regarded as foreign enemies and aliens at war with the Government of the United States, then the law of nations regulating the conduct of two Powers at war does not apply to the case, and it cannot be treated according to the rules of war governing conflicts between such Powers. The Government itself does not so treat the case. For privateers sailing with letters of marque and reprisal from the so-called confederate States, when taken as prisoners, are treated as pirates under our laws against piracy, handed over to the civil authorities of the country, and by them are indicted, tried, and convicted.

What, then, sir, is the relation of the insurgents or rebels. According to our theory they are citizens of the United States in revolt, in arms, against the Government, and called traitors. How are they to be dealt with, and what is to be done with them? If that is their relation, which seems to be conceded, and is the view at least of the executive as well as the judicial department of the Government, the case is a plain one, and we are not left in the dark as to the course to be pursued. Who, sir, is a traitor? That citizen who commits treason. And what is treason? It, sir, is a crime of so high a nature that our fathers would not leave its definition to the ordinary Legislature of the country, but deemed it of sufficient importance to incorporate the following definition of it in the organic law of the land:

"Treason against the United States shall consist only in levying war against them or adhering to their enemies, giving them aid and comfort."

That, sir, and that alone is treason, and he who commits the act therein specified is guilty of treason. What are you to do with him? Arrest him, if it becomes necessary, with the military arm of the Government, pass him over to the civil tribunals of the country for indictment, trial, conviction, and execution. That is the plain, necessary, and only legal course which, under our system, can be taken. It was the view entertained by our fathers, from which latter-day saints are disposed to dissent. Why, sir, it is said that a citizen who thus acts—and the argument is made here—is dis-

loyal, and therefore loses all his rights under the Constitution. Did the framers of that Constitution say so? No, sir. They said that the citizen thus acting was a traitor, and when convicted in a court competent to try him should pay the penalty affixed to the crime. A, harboring malice against his neighbor, waylays him, stabs him to the heart, committing willful and deliberate murder with malice prepense, and by this act makes himself a disloyal man. When he is arraigned for trial charged with his crime, would any court listen with complacency to the lawyer who would rise in his place and urge that, because the criminal was disloyal, that he should not be heard in court either by himself or counsel, that he should not be confronted face to face by his accusers, that he should not have compulsory process for his witnesses, nor the benefits of a trial by jury? Instead of listening to an argument like this, would not the court be rather justified in ordering an inquest of lunacy for the attorney before he tried the prisoner, for it would certainly be unsafe to trust the prosecution of one charged with so high crime to such hands. So, sir, with the case at bar; so, sir, with the traitor the same reasoning would apply with the same force as with the murderer.

But, sir, it may be said that Congress, in addition to the death penalty attached to the crime of treason, may affix other punishment in the way of forfeiting or confiscating the guilty man's property. Grant that it may be so, yet, in affixing this additional punishment to the crime, the power to do it can only be exercised under the limitations imposed in the Constitution. That instrument in article three, section three, reads thus:

"The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attainted."

Now, sir, under this limitation Congress cannot confiscate or forfeit property for a longer period than the life of the owner, and this forfeiture cannot take place, if affixed as a punishment to the crime, till the conviction of the party charged. If it is made a part of the penalty for the offense, you might as well hang the criminal before he is tried, convicted, and sentenced, as to confiscate his property. In my section of Missouri, if this were done, it would be esteemed to be done by mob authority, and without warrant of law. According to our theory, as it seems to be understood and practiced upon by the Administration, we have an Army of upwards of six hundred thousand men as a police force charged with arresting those who are guilty of treason, and passing them over to the civil authorities for punishment.

But, it is said by the gentleman from Massachusetts, in support of this resolution to confiscate property, that *inter arma leges silent*. In arms, in war, or in battle, as you may choose to interpret it, the laws are silent. This is a high-sounding phrase, striking upon the ears of the vulgar with wonder, if not with admiration; but I have been unable to understand its application or force in support of a proposition to pass a law when, according to the logic of the gentleman, the laws sleep or are silent for the time being after they are made. What idea is intended to be conveyed when the maxim is used, that when in war the laws are silent? Is it intended to convey the idea that this country, when engaged in war with a foreign country, that the war thus prosecuted or defended suspends the Constitution and laws of the country, and that the mere pendency of the war confers upon the Executive and Congress unlimited power to do whatever to them seemeth good? Does it mean that the judiciary or civil power of the Government is subordinated to the military; or, in other words, that the only law is that of force or arbitrary will? Such a meaning would destroy our whole system and convert a constitutional government into a military despotism. Our fathers have had the wisdom to repudiate this idea by providing in the organic law that the military arm of the Government shall be always kept in subordination to the civil. Does it mean that an armed soldiery shall enter the premises of the citizen, take his horses, cattle, hogs, and corn, and when told by the owner that they are acting in violation of law, they make to him a sufficient reply when they say, that in war the laws cannot operate? Does it mean that an armed soldiery can enter, as they did in my State, a village—the county seat—take possession of it, burn it, destroy from three to seven hundred thousand dollars' worth of property, and also burn in the vicinity of it the mansion of a Senator in Congress, who had been quietly, ever since the adjournment of Congress, and was at the time with his family in northwestern Virginia, and a sufficient reply to all this found in the maxim that the laws are silent? Such, sir, cannot be its intendment. I pass from this digression.

It is also asked by those who advocate the passage of this resolution: shall all other property of rebels be subject to forfeiture and confiscation, and slave property exempt? Surely not; but treat it as you do other property. When you confiscate the wagon, do you sink it in the sea? when you forfeit the horse, do you give its carcass a prey to the vulture? or do you confiscate it to the use of the State, converting it into money, first, paying the honest debts of the citizen who forfeits, and retaining the surplus for the use of the State? This is certainly the natural course for the law to take; but this resolution does not propose to treat this as other property. All other kinds of property but slave property are to be used for the purpose of paying the debts of the original owner first, and then the remainder to go into the public Treasury; but slave property is to be destroyed, and no longer to be considered as property. Under this resolution, injustice of the most flagrant kind would be perpetrated. A citizen of Virginia, loyal to the Government, has, upon the faith of his neighbor's property in slaves, become his creditor, knowing at the time that his neighbor's only ability to pay rested in this kind of property. Under this resolution his debt would be made worthless, and he left to whistle to the winds for his pay. This may be meting out justice by the Government, but it is a kind of justice with which the minds of the people have never been familiarized, and with which I trust they never will become acquainted.

In this point of view, then, an insurmountable objection presents itself, to my mind, to the passage of the resolution or bill to confiscate slave property. But, sir, the passage of such a law would be doing great injustice to the loyal men of the seceded or revolutionary States. In the conduct of this war, and in the hope entertained of restoring the authority of the Constitution in the revolutionary States, the Government has acted upon the idea that there is a large Union element in those States opposed to the rebellion. I do not believe that such is the case, for excluding Western Virginia, Eastern Tennessee, Maryland, Delaware, Kentucky, and Missouri, my belief is that the people of the revolutionary States stand almost a unit upon the question. But, for the sake of the argument, admit that the loyal feeling in those States is in the proportion of one third or one half, would it be doing justice to them to destroy their property and render it valueless by turning loose upon them one half or two thirds of the slaves of those in revolt? It seems to me not, sir, and they would be compelled, in their own defense, to manumit their slaves. What, sir, would be its effect upon the material wealth of the country? The estimated value of all the property in the United States is, I think, about twelve thousand millions of dollars. This war in all probability will not cost the country in money, to say nothing of the depreciation of property in value, less than $1,000,000,000. This resolution proposes at one dash to blot out almost three thousand millions of dollars' worth of property. Depreciation in the value of property caused by our troubles will probably not amount to less than $1,000,000,000 more, placing it at a decrease of one twelfth.

In this point of view another powerful reason presents itself to my mind why this measure should be defeated. I will not elaborate it, for it is seen at a glance, and needs but a presentation. The great and leading objection to the proposition is that it violates the Constitution, our organic law. I acknowledge no necessity which will authorize Congress to legislate in contravention of the Constitution. We are not sworn to legislate according to necessity and circumstances. I am for maintaining the Constitution, and when that is said everything is said. The Constitution makes the Government, brings it into being. The Union of the States is one of the consequences of its adoption. It is the ligament, the bond which binds the Union together; break it, and to the extent that you infract it you destroy the Union. That man, and only that man, who disregards his obligations to the Constitution is a disunionist. It creates and organizes the best Government ever made for man, and we can only transmit the blessings of that Government to our posterity by maintaining the Constitution in all its parts.

Now, sir, my judgment is that this whole slavery question ought to be postponed. At the very threshold, at the very outset, after the battles of the Revolution had been fought, the independence of the colonies established, and the imperfections of the Articles of Confederation had been demonstrated, when our fathers met to adopt a Constitution, to form a more perfect union, &c., they found three classes of persons to be provided for—the red man, the black man, and the white man. What did they do with them? They were about making a Government to be founded upon the virtue and intelligence of the governed, upon the idea that those who were to become the subjects of that Government possessed intelligence enough to perceive the right, and virtue enough to do what their intelligence prompted. Let us learn wisdom from them, for surely they were as patriotic as the patriots of the modern times. What did they do with these classes? Did they elevate the red man to a condition of equality with the white man, by conferring upon him the right to vote, and making him eligible to office, to a seat on this floor? They did not, and why? Simply because he was not capable of self-government. Savage in his disposition, cruel in his nature, brutal in his passions, dwarfish in his intellect, he was not fit to govern himself. He would hunt and fish, roam the prairie, chase the buffalo, shoot the deer and the antelope, but he would not work, he would not be civilized. So they left him without conferring any benefits upon him under the Constitution which they had met to adopt.

So with the black man; they found him in his native wilds a barbarian, a savage, degraded almost to the level of the brute. They found him also a cannibal in his habits, cruel in his nature, brutal in his passions, dwarfish in his intellect. They found him in his native State almost too indolent to gather a precarious subsistence from the spontaneous productions of nature; that he had never invented either a spade, hoe, or plow. They found him in the State to which he had been transported, moralized, Christianized, and semi-civilized, a most useful instrument of labor, with every inducement of interest as well as humanity on the part of his master to feed him well, clothe him well, and work him moderately. They did not believe that he should be elevated to an equal place with the white man in the Government, and hence they made no provision for him in that Constitution, except as a slave, and conferred no benefit upon him under it. They left him as an instrument of labor in the hands of his master; and so deeply were they impressed with his utility as a laborer that they inserted a clause prohibiting Congress from forbidding the slave trade for nearly one fourth of a century after the adoption of the Constitution. This Congress should treat the question as our fathers treated it, and not complicate the questions of the day by pragmatical interference with it.

For these reasons, Mr. Chairman, and others as cogent which might be assigned, I shall vote against either one of the propositions which have been introduced.

Mr. ALLEN obtained the floor.

Mr. VALLANDIGHAM. I ask my colleague to allow me five minutes.

Mr. ALLEN. I desire to submit some remarks this evening, but my colleague asks me to allow him about five minutes of my time, and the gentleman from New Hampshire [Mr. EDWARDS] about fifteen minutes, and if those two gentlemen will punctually yield the floor at the expiration of that time, that I may then have it, I will give way to them.

Mr. EDWARDS. I will do so.

Mr. VALLANDIGHAM. Certainly I will.

Mr. ALLEN. I yield now to my colleague for five minutes and then to the gentleman from New Hampshire for fifteen minutes, and then I trust the committee will permit me to submit my remarks this evening.

Mr. VALLANDIGHAM. Mr. Chairman, I have waited patiently for three days for this the

earliest occasion presented for a personal explanation.

In a speech delivered in this city the other day—not in this House—certainly not in the Senate?—no such speech could have been tolerated in an American Senate—I find the following:

"I accuse them [the Democratic party] of a deliberate purpose to assail, through the judicial tribunals and through the Senate and the House of Representatives of the United States, and everywhere else, and to overawe, intimidate, and trample under foot, if they can, the men who boldly stand forth in defense of their country, now imperiled by this gigantic rebellion. I have watched it long. I have seen it in secret. I have seen its movements ever since that party got together, with a colleague of mine in the other House as chairman of the committee on resolutions—*a man who never had any sympathy with this Republic, but whose every breath is devoted to its destruction, just as far as his heart dare permit him to go.*"

Now, sir, here in my place in the House, and as a Representative, I denounce—and I speak it advisedly—the author of that speech as a liar, a scoundrel, and a coward. His name is BENJAMIN F. WADE.

The CHAIRMAN. The gentleman from Ohio is out of order.

Mr. EDWARDS. Mr. Chairman, the committee will do me the justice to believe that I should not rise at this late hour to make a speech of any length. I should not, sir, rise at all if it were not that the bill before the committee was introduced by me and referred to the Committee of Ways and Means, and is now reported back by them with an amendment, in the form of a substitute, and that I am desirous of submitting a few remarks upon the bill and substitute which I may not have another opportunity of doing.

It is true that I should have been glad of the opportunity of placing my poor sentiments before the committee upon the great subject which has been under discussion for the last two days to the exclusion of every other, and which seems to have lost none of its interest—referring, of course, to the question of confiscation; but I shall not attempt it now, and if I shall not have the opportunity hereafter, shall content myself, as I have so far done, with expressing my opinions in relation to it by my votes. I should have been glad, too, to have listened to the gentleman from New York [Mr. DIVEN] who desired to speak this afternoon on the same subject; but I am constrained to say that I think there are other subjects equally deserving some share at least of the attention of the House. I regard the measure now before the committee as one of that character. For the last two months I have been endeavoring to place before the House the claims of a class of the community who cannot speak for themselves, and whose natural guardians—those upon whom they would have relied to speak for them—now sleep buried under the soil of what was to them and is to us almost a foreign land. I refer to the widows and heirs of the volunteer soldiers who have laid their lives on the altar of their country. The committee has reported back this bill in a shape which makes it a general appropriation bill, and has thereby given an opportunity for this general discussion, in which, I repeat, I do not design to participate. The amendment which the committee has reported is perfectly satisfactory, so far as the subject-matter of the bill is concerned, and I hope that the House will give its prompt attention to the matter.

Sir, there are already filed in the Second Auditor's office applications from a large number of those persons asking this small pittance from the Government, which it has promised and the payment of which it delays. It is due to them that there should be no further unnecessary delay in these payments, if we have any consideration for the dead or for the living. Each payment is to close an account. Let us look at that account a moment and see what items compose it. Every $100 proposed to be appropriated in this bill will settle finally the account of the Government with the representatives of some one volunteer who has fallen in its service. On the one side, the Government stands a debtor for a prompt response to its calls in its hour of danger, with the service performed, with the hardships endured, and his life laid down as a sacrifice in the very prime and vigor of early manhood; and on the other side the Government will stand credited with the pay of thirteen dollars a month and some little clothing and an inconsiderable bounty at the outset, and by a further credit of the paltry sum it shall now provide. This bill is to close that account finally and forever so far as concerns sixty thousand deceased soldiers. How immeasurably it will still leave the Government indebted to each. I say, then, sir, that it is our duty to pass this bill without further delay. It was said at first that there was some doubt about the interpretation of the existing law, but the Attorney General has removed that doubt, if there was any. There could not, however, have been any doubt about it with any one at all accustomed to the reading of statutes.

Mr. Chairman, I do not expect to trouble the House again in reference to this bill, and as it is now late, and there is a disposition to adjourn after hearing the remarks of the gentleman from Ohio upon a different subject, I will only express the hope that this House will not hold this bill as a convenient arrangement for general discussion hereafter; but that at its next session it will, under the previous question, hasten its passage, and at once provide the means necessary for discharging this liability of the Government, than which none is more sacred or imperative.

Mr. ALLEN resumed the floor.

Mr. WASHBURNE. I desire to say that it was on my suggestion the other day that the House gave to the committee leave to report back this bill at any time. No man can appreciate more than I do the truth of the remarks of the gentleman from New Hampshire, [Mr. EDWARDS.] Such a measure as this is due to those brave soldiers of my own State who were killed or wounded at the battle of Pittsburg Landing, and other battles. I hope that the gentleman from Ohio will give way that the committee may report the bill to the House with a view to have it passed immediately.

Mr. ALLEN. I have already yielded twenty minutes of my time, and must decline to yield further. I shall not occupy all the time to which I am entitled, and trust the committee will indulge me in concluding my remarks this evening.

Mr. BLAKE. I appeal to my colleague to give way to me a moment.

Mr. ALLEN. I would like to extend every courtesy to my colleague, and if it be only to make a single remark, I will yield.

Mr. BLAKE. Does my colleague yield to me?

Mr. ALLEN. I would like to be courteous; but I cannot yield any further.

[Mr. A. then addressed the committee. His speech will be published in the Appendix.]

Mr. HOLMAN obtained the floor.

Mr. WASHBURNE. Will the gentleman permit this bill to be reported to the House, with a recommendation that it do pass?

Mr. MORRILL, of Vermont. I will suggest to the gentleman from Illinois that the bill will require some consideration. I am not sure that the amount appropriated is not too much by a million of dollars. It is hardly proper that a bill appropriating so large an amount should be pushed through without due consideration.

Mr. WASHBURNE. If a member of the Committee of Ways and Means interposes an objection of this kind, I cannot of course urge it.

Mr. F. A. CONKLING. I move that the committee do now rise, with a view to adjournment.

Mr. DIVEN. I wish to make an inquiry.

The CHAIRMAN. The motion is not debatable.

Mr. DIVEN. I am aware it is not, but I suppose that an inquiry may be made.

The motion was agreed to.

So the committee rose; and Mr. WASHBURNE having taken the chair as Speaker *pro tempore*, Mr. WALTON of Vermont reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly House bill No. 413, making an appropriation for the payment of the bounty to widows and legal heirs of volunteers who have died or who may die, or have been or may be killed in service, as provided in the act of July 22, 1861, and had come to no conclusion thereon.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. FORNEY, its Secretary, announcing that the Senate had passed an act (S. No. 184) to authorize the President of the United States to appoint diplomatic representatives to the republics of Hayti and Liberia respectively, in which he was directed to ask the concurrence of the House.

PERSONAL EXPLANATION.

Mr. BLAKE. Mr. Speaker, a short time since when my colleague [Mr. VALLANDIGHAM] got the floor, and made some desultory remarks——

Mr. COX. What is before the House?

The SPEAKER *pro tempore*. For what purpose does the gentleman from Ohio [Mr. BLAKE] rise?

Mr. BLAKE. For a personal explanation.

The SPEAKER *pro tempore*. Is there objection?

Mr. VALLANDIGHAM. If it relates to me I shall, of course, have the same privilege extended to me, and with that understanding I have no objection.

The SPEAKER *pro tempore*. Is there any objection to the gentleman from Ohio making a personal explanation?

Mr. COX. I will not object if the same privilege be extended to my colleague [Mr. VALLANDIGHAM] to make a reply.

There was no objection.

Mr. BLAKE. Mr. Speaker, I was not aware, when my colleague [Mr. VALLANDIGHAM] commenced his remarks, that he referred to a member of Congress. I understood him to say distinctly that no member of this House had made the remarks to which he referred, and that certainly they were not made in the Senate, because the Senate would not tolerate such remarks. I therefore paid little attention to my colleague till he came to the close of his remarks wherein he denounced a Senator from Ohio as "a liar, a scoundrel, and a coward." Now, I wish to call the attention of the House to the fact that my colleague perpetrated these remarks on the House under the false pretext that they were not made in reference to a member of Congress.

Mr. VALLANDIGHAM. I call the gentleman to order.

The SPEAKER *pro tempore*. On what ground does the gentleman call his colleague to order?

Mr. VALLANDIGHAM. Because he states that I uttered that sentence under a false pretext. I will take down the gentleman's words.

Mr. BLAKE. I desire to change that a little. If my colleague wishes me to be more explicit, I will utter something which my colleague may take down. I say, then, Mr. Speaker, that my colleague uttered the remarks which he made in reference to the Senator from Ohio under the false declaration that they were not to be made in reference to any member of Congress.

Mr. VALLANDIGHAM. I call the member from Ohio to order, on the ground that his remarks are of personal application to me, and I call for the decision of the Chair on that point.

The SPEAKER *pro tempore*. The gentleman on the left will proceed in order.

Mr. BLAKE. I sought the floor immediately after the gentleman dropped into his seat for the purpose of calling him to order, and for the purpose of having the words uttered by him in reference to the Senator from Ohio taken down. I have since constantly sought the floor, but this is the first opportunity I have had to call the attention of the House to the matter. In doing so now, I ask that the remarks of the gentleman from Ohio, my colleague, may be taken down in order that the House may take subsequent action thereupon. I desire, however, first to say to him and to the House that his character and the character of the Senator to whom he has referred are well known, and I do not rise here to repel any charge of liar, any charge of scoundrel, or any charge of coward, coming from the source from which these charges now proceed. The Senator from Ohio is too well known in my own State and in the United States, and my colleague is too well known, to make it necessary to answer any declaration coming from my colleague. I repeat, they are both known to the people of that State, they are both known to the people of the United States, and I am willing to let them stand upon their own record for their own defense.

Mr. VALLANDIGHAM. I am known, sir, in the State of Ohio, having somewhat the advantage of my colleague in that respect. I am known to the people of my own city also, and I take occasion to say that on the 7th of the present month the issue was there made at the polls whether I should be indorsed as a public man and a public servant in my public conduct here and elsewhere, and the verdict of the people of that city upon that direct issue was returned in my favor in the persons of my friends, by a majority of one hundred and forty-eight, being a change since last October of six hundred and forty votes.

Mr. BLAKE. Was the gentleman a candidate in that election?

Mr. VALLANDIGHAM. No, sir; but the issue was made directly, and if the gentleman questions it, I propose to read the resolution upon which it was made.

Mr. MOORHEAD. I rise to a question of order. I cannot see that this has anything to do with the matter before the House.

The SPEAKER *pro tempore*. The Chair thinks the gentleman from Ohio is in order; and he will proceed.

Mr. VALLANDIGHAM. A convention was held in Dayton, where I reside, by the party to which my colleague now belongs, a combination or fusion of Republicans and other elements of a mixed character, opposed now to the Democratic party. This regularly-called city convention, in nominating its candidates, adopted a platform containing but a single point. It was extraordinary, sir, indeed, that such a platform should have been made, forgetting the high purposes of an election, and containing but a single issue, and that merely personal to a fellow-citizen, appealing to the people of that city to vote for candidates solely upon that personal issue. But the platform was in these words:

"*Resolved*, That we will take the occasion of our ensuing city election to make it known to all men that the city of Dayton REPUDIATES CLEMENT L. VALLANDIGHAM and his organ, the Dayton Empire, and REBUKES them for their refusal to support the Government in its death struggle with treason; and to the end that this rebuke may be made the more emphatic, we call upon all loyal men, without respect to party, to vote for the Union, ANTI-VALLANDIGHAM, anti-Empire ticket this day nominated."

Sir, that direct issue thus proffered was openly, flatly, and boldly accepted by my friends, and after a violent contest of three weeks, the election resulted in the success of the entire Democratic ticket, from mayor down, upon that sole question, by an average majority of some two hundred, against four hundred and ninety-two fusion majority at the State election last fall. The issue was indeed unworthy even of a municipal election, and it is not fit that it should be named here, except in reply to the member from Ohio. That, sir, is all that I have to say in regard to it.

The request of my colleague that my words may now be taken down, comes quite too late. The rule upon this subject is emphatic. And although I am ready to meet here and elsewhere any responsibility that may arise from anything I have uttered, yet my colleague shall not deprive me of my constitutional rights as a member of this House.

Mr. BLAKE. I should like to know what my colleague means by elsewhere. I know of no place to meet these issues but here.

Mr. VALLANDIGHAM. Well, sir, this city comprises several square miles within its circumference, the District of Columbia is somewhat larger, the State of Ohio includes a yet more extended area of territory, and the United States are very much larger still. I believe that covers all that comes under the denomination of "elsewhere," so far as regards my present purposes. I mean outside of the House. I need say nothing more beyond that now. Any explanation or negotiation demanded or proposed outside of the House, will, of course, be responded to according to the manner in which it may happen to be presented. I neither seek nor shun controversy with any gentleman. Anything done inside, must be settled in accordance with the Constitution, the laws, and the rules of the House.

Now, in the first place, I deny that I have violated any rule. I took a paper, and read from a printed speech that which related to me personally, and which contained a foul and infamous libel which the utterer knew, at the time, to be false and slanderous. He, the member from Ohio, talk now, indeed! of the opprobrium of the epithets, "liar," "scoundrel," and "coward!" Does he not know that the word "traitor" enters here now covered ten times over with the leprosy of reproach; and am I to sit in this Hall unmoved while that epithet is insinuated against me, in all its taint and foulness, by a member of the Senate, it may be, where I have no chance to meet and hurl it back on the spot as it deserves? Am I to bear it calmly any longer, uttered by any responsible person? I tell you, nay. And when I choose to meet and brand it as a man and as a gentleman should meet and brand it, am I to be called in question here and the first offender go acquit? Sir, I referred to the man, not to the Senator. My manner of allusion was in accordance with ancient parliamentary usage; and if the member from Ohio had known anything about parliamentary usage, he would have known that, following the practice of the Irish and the British Parliaments, I said nothing for which I could properly be called to order in debate. I put a supposititious case, and no man can, under parliamentary precedent, object to it. That, sir, is my first answer.

But I scorn to stand upon that point alone. If what I said has been out of order, let the member from Ohio go to the Senate first and there vindicate the violated obligations of parliamentary decorum. Is it disorderly for a member of this House to refer to a member of the Senate, and yet exactly in order for a Senator to denounce a member of this House, who sits here not by your consent—although you have the right to expel him, two thirds concurring, if he has been guilty of a sufficiently grave offense—but under the same Constitution and laws, and by the equal, nay, better title of the will of the people—to denounce him as "a man who never had any sympathy with this Republic, and whose every breath is devoted to its destruction, just as far as his heart dare permit him to go?" And has the member from Ohio no holy indignation against a Senator who has thus wantonly, and in violation of all parliamentary law, slandered a Representative in this House? Sir, let him go to the Senate, where those false words were uttered, if they were uttered in the Senate, and let him see to it that that body shall first vindicate its obligations to the members of this House, before he dares to call me to a reckoning for words spoken in retort here. How does he know that the words spoken by me had reference to a Senator? But no; suppose they had, what of it? Was not the retaliation just what he deserved? Could anything less have expiated the offense? Sir, I spoke of him as BENJAMIN F. WADE, an individual, a citizen of my own State, and made no allusion to him as a Senator. He was the aggressor; he provoked the retaliation, and it was deserved. I pass by his assault upon the Democratic party. That party will take care of itself.

But, sir, independent of all this if I were out of order, it is too late, under the positive and peremptory language of your rules, to make inquisition into it now. I repeat again, that, assailed as I have been, persecuted and hounded as I have been for twelve months past, not to speak of former years, I have a right to throw myself back immovably upon the strictest law of parliamentary proceeding, and insist upon every right and privilege which the Constitution, the laws, and the rules of this House give to me. The 62d rule of the House is peremptory upon this subject. It is in these words:

"If a member be called to order for words spoken in debate, the person calling him to order *shall repeat the words excepted to*, and they shall be taken down *in writing at the Clerk's table*; and *no member shall be held to answer, or be subject to the censure of the House, for words spoken in debate, if any other member has spoken, or other business has intervened*, after the words spoken, and before exception to them shall have been taken."

That is the rule, sir, and there is no evading it. It has been acted upon in this House on several occasions. The question was decided once, when the words were applied to a member of the House in his presence, and under that rule, and because the words excepted to were not at once taken down, the House did not inflict its censure, as in that case it otherwise deservedly might have done. In another case Mr. SHERMAN, of Ohio, instantly rose, and demanded that the objectionable words should be taken down, when uttered by Mr. Houston, of Alabama. They were taken down and censure moved, but the motion was finally withdrawn after explanations, and the case thus disposed of. Such, sir, is the rule, and the practice under it; and yet my colleague comes now here, and asks that the Constitution shall be violated, which authorizes and requires this House to establish its rules; and the rules themselves overridden. And for what? To censure me for words spoken of one who has basely traduced my character as a loyal citizen and Representative, and made a charge against me which I choose hereafter to meet only just as I have met it to-day.

Sir, the accusation which he preferred he knew could not be established. This House had failed even to make inquisition into it, because it was without even a decent pretext for inquisition. He knew that when a resolution of inquiry merely was offered here, it was withdrawn by the mover after debate. He knew all that, and yet wantonly and without provocation renewed the charge of disloyalty.

Sir, the rule declares that the words must be taken down at the time. They cannot be reduced to writing after another member has spoken, or other business has intervened. No censure can be inflicted for words taken down an hour afterwards, and not at the Clerk's desk. On that subject I am perfectly indifferent, and it is with the utmost reluctance that I throw myself upon the indulgence of the House to make this explanation. The gentleman has made his. I have made mine, and am content. Whenever the Senator from Ohio——

The SPEAKER *pro tempore*. The gentleman is out of order in alluding to a member of the Senate.

Mr. VALLANDIGHAM. I could not avoid it after the reference to him as Senator by my colleague; but I retract it. Whenever BENJAMIN F. WADE——

The SPEAKER *pro tempore*. The gentleman is again out of order.

Mr. VALLANDIGHAM. I have not finished the sentence. Whenever BENJAMIN F. WADE shall take back the false and slanderous accusation which he has made against me, I will take back the language I have applied to him; but not before.

Mr. BLAKE. I have not desired to do my colleague injustice. I was amazed to hear the remarks which fell from his lips in regard to the Senator from Ohio. I felt, as a Representative from Ohio, that that State had been insulted—shamefully insulted—by the remarks which fell from my colleague's lips.

Mr. VALLANDIGHAM. May I ask a question?

Mr. BLAKE. Wait until I get through.

I have not read the speech to which the gentleman refers. My colleague said that that speech was not made here, nor was it made in the Senate of the United States, because, as he said, such remarks would not be tolerated in that body. I had a right to presume that no such remarks as he was about to characterize would fall from a Senator's lips. Since I heard his remarks, I have obtained the floor as soon as I could, to call him to order and have his words taken down. I do not desire to do my colleague injustice, but I will say this: I infer from the remarks that he has made, that the Senator from Ohio has characterized him as a traitor. Am I right?

Mr. VALLANDIGHAM. The language of BENJAMIN F. WADE was, that I was a man who never had any sympathy with this Republic.

The SPEAKER *pro tempore*. Both the gentlemen from Ohio are out of order.

Mr. BLAKE. I desire to say that three fourths of the people of Ohio look upon my colleague in the same light.

Mr. VALLANDIGHAM. And three fourths of the people of Ohio denounce the gentleman himas an abolition disunionist.

Mr. HUTCHINS obtained the floor.

Mr. VALLANDIGHAM. I ask the gentleman to yield to me.

Mr. HUTCHINS. I decline. I rise to a question of privilege, and offer for adoption the following resolution; and on its adoption I demand the previous question:

Whereas Hon. C. L. VALLANDIGHAM, a member of this House, of the State of Ohio, in Committee of the Whole made use of the following language concerning Hon. B. F. WADE, a Senator in Congress:

"Mr. Chairman, I have waited patiently for three days for this the earliest occasion presented for a personal explanation. In a speech delivered in this city—not in this House—certainly not in the Senate—no such speech could have been tolerated in an American Senate—I find the following:"

* * * * * * * * *

"Now, sir, here in my place in the House, and as a Representative, I denounce—and I speak it advisedly—the author of that speech as a liar, a scoundrel, and a coward. His name is BENJAMIN F. WADE."

And whereas said remarks are a violation of the rules of this House, and a breach of its decorum, and deserve the censure of the House: Therefore,

Resolved, That C. L. VALLANDIGHAM, for said violation of the rules of the House and its decorum is deserving of censure, and is hereby censured.

Mr. VALLANDIGHAM. I make the point that the resolution is not in order under the following rule:

"62. If a member be called to order for words spoken in debate, the person calling him to order shall repeat the words excepted to, and they shall be taken down in writing at the Clerk's table; and no member shall be held to answer, or be subject to the censure of the House, for words spoken in debate, if any other member has spoken, or other business has intervened, after the words spoken, and before exception to them shall have been taken."

And then, on motion of Mr. SHEFFIELD, (at five o'clock, p. m.,) the House adjourned.

IN SENATE.

FRIDAY, *April* 25, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

REBEL PRISONERS AT CAMP CHASE.

Mr. SHERMAN. I present joint resolutions of the Legislature of Ohio, relative to the rebel officers in Columbus and Camp Chase prison. I ask that they may be read, and I shall then make a statement in regard to them.

The Secretary read, as follows:

Joint Resolution relative to rebel officers in Columbus and Camp Chase prison.

Whereas the feelings of the loyal people of Ohio have been outraged by the appearance in the streets of their capital, of rebel officers in rebel uniforms, released on parole, and by the fact that rebel prisoners in Camp Chase prison have been permitted to retain and use their former slaves as servants, thus practically nullifying our State constitution by allowing slavery in Ohio; and whereas said matters are not under the control of the Governor or State authorities: Therefore,

Resolved by the General Assembly of the State of Ohio, That in the name of the people of Ohio, who have freely given their treasure and their blood to sustain the Government and the Union, we do most solemnly protest against this mistaken clemency to the guilty, and this outrage upon the feelings of the loyal people of Ohio.

Resolved, That a copy hereof, together with a copy of the report of said select committee, be forwarded by the Governor to the President of the United States, the Secretary of War, and our Senators and Representatives in Congress.

JAMES R. HUBBELL,
Speaker of the House of Representatives.
JAMES MONROE,
President pro tempore of the Senate.

Passed April 8, 1862.

Mr. SHERMAN. These resolutions are accompanied with a report, an extract of which I read in the remarks I made the other day on the bill to abolish slavery in the District of Columbia. I would present them without any observations but for a note that appears annexed to the resolutions, signed by the Governor of Ohio. This makes it necessary for me to make an explanation in regard to them. I will ask the Secretary to read the note signed by the Governor.

The Secretary read, as follows:

EXECUTIVE CHAMBER.

In communicating the above resolutions, it is due to Colonel Moody, the commander of Camp Chase, that I state that the Legislature labored under a mistake in supposing that the rebel prisoners were permitted to retain and use their former slaves as servants. It is also due that I add that by a vote of 41 to 26, the House of Representatives in fown reconsidered their action.

DAVID TOD,
Governor of Ohio.

Mr. SHERMAN. In order that the matter may stand correctly upon the record, and the precise facts be understood, I will state that after the resolutions I have presented were adopted, and after the time for reconsideration had passed, it was believed that these resolutions reflected unjustly upon Colonel Moody. A motion to reconsider was made in the House of Representatives and was adopted by a majority of the House; but as the time for reconsideration had passed, the Presiding Officer of the House deemed it his duty to annex his signature to the resolutions, and they are therefore presented here in that form.

There is no doubt about the leading facts stated in the report. No one questions the main facts contained in the resolutions or report, except so far as they affect Colonel Moody, who was, and still is, the officer in command at Camp Chase. The negroes referred to were sent with their masters to Columbus. They were placed in his charge as prisoners. He had to take care of them. He was not in fault, therefore, in anything that was done. But as the resolutions declare that Colonel Moody *permitted* these slaves to be held by their masters in Columbus, it was believed that this was a statement that was not correct; Colonel Moody had no control over the matter except to keep safely the prisoners intrusted to his custody. I have a letter from the chairman of the committee who framed the report, and who also framed the resolutions. In justice to him, I will read the greater part of the letter:

"Nobody pretended to deny the correctness of the report; but, on the contrary, Colonel Moody and the other officers at the camp, to different members of the House, admitted its correctness in every particular.

"But a telegram from the War Department, at Washington frightened Colonel Moody, and he importuned his friends to reconsider the vote by which the resolutions were adopted, *but merely for the purpose* of changing a single word, '*permitted*,' which he thought reflected upon him."

* * * * * * * * *

"In the discussion one or two members did call in question the truth of the report, but even *then* and *there* Colonel Moody again admitted it true and correct in every particular. During the week a Major Jones came from Washington, and it was reported, examined the prisons, and expressed himself as finding '*all right.*' His visit was made nearly ten days after ours. He may have found things right, but if he did they must have been much changed since our visit. Or, we may differ as to what is '*all right*,' for I hear that they left the slaves in the same prisons with their masters; and if so, it follows, as a matter of course, that the master will continue to assume the right to command, and the slave, from force of habit, continue to serve as before. Why confine these negroes with their masters, unless to permit a continuance of the evils of which we and the people all over the State so much complain? It must have been designed; why else should it happen that in no case has a slave been placed in a different prison from his master? It is the concurrent testimony of both the officers and the negroes, that none of these slaves were in arms, nor even voluntarily in the rebel army. Ought they to be confined at all? If necessary, why not confine them in a separate prison, and so prevent the possibility of any such abuses?

"I would be glad to believe that *all is now right;* that Major Jones found no such outrages as we did. It would be strange if, after the indignation expressed by the press and the people, some change had not been made. But we ought to have had the opportunity of accompanying the major. We could have pointed out what we conceived to be wrong, and directed him to our sources of information on several of the subjects. But this was not granted. Nor did we even have an opportunity to see him on the subject."

* * * * * * * * *

"No matter has occurred for a long time which has caused such a profound sensation all over the State. As to conduct of the rebel officers in Columbus, the facts stated in the report are known to everybody there, and have never been questioned.

"As to slaves in prison, I examined the case as I would have done in law practice, and only came to my conclusions after getting all the testimony from all the sources possible. My fellow committeemen did the same, and our joint conclusions are *true beyond all question.*"

There is no doubt about certain facts: that the negroes were brought to Columbus as prisoners; that they were put in the same prisons or the same barracks with their masters; that they were separated from the privates and left with their masters, and by their custom and habit continued to serve their masters. This was continued until some time after this report was made to the Legislature, and after the Legislature had taken the matter in hand, and passed these resolutions. The only controversy that ever occurred about it was as to whether Colonel Moody, who is a colonel of one of the regiments of Ohio volunteers, was at fault. I believe the Legislature and public opinion in Ohio exonerate Colonel Moody from all blame. The negroes were brought there as prisoners and he had to take care of them. And I believe no one blames the Governor of Ohio. He was the executive officer of our State, having no control over Camp Chase, having no authority in the matter. No one should blame him, although he seems a little sensitive on account of the passage of these resolutions. The officer who took these negroes as prisoners and sent them to Camp Chase at the expense of the Government, whoever he may be, is at fault in this matter.

Mr. WILSON, of Massachusetts. Who was he?

Mr. SHERMAN. I do not know who he was.

Mr. GRIMES. I desire to ask the Senator from Ohio whether any steps have been taken, to his knowledge, to set these colored persons free under the act of Congress passed in August last. I suppose under that act they become entitled to their freedom, having been captured in the service and rendering service to our enemies in the field.

Mr. SHERMAN. I cannot answer the Senator's question. I have no information about it. I know the Legislature was very indignant about it, but up to the last information I had on the subject, the negroes were still held there.

Mr. GRIMES. And this Major Jones, one of the inspectors of the United States Army, reported everything right after having examined this state of facts and found them to exist, as I understand the Senator?

Mr. SHERMAN. And ten days after the report was made to the Legislature of Ohio.

The PRESIDENT *pro tempore*. These resolutions will lie on the table and be printed.

Mr. WILSON, of Massachusetts. Before the subject passes away, I hope the Senate will indicate some action in the matter. It seems to me these persons are entitled to their freedom, and all the Government has to do is to execute the law of Congress. If it is not done, I think we ought to let the Government know that we expect to have it done. I am not ready to make any motion in regard to the matter this morning, but I shall call it up early in the next week, unless these persons are discharged.

The PRESIDENT *pro tempore*. The Senator from Massachusetts is doubtless aware that the presentation of resolutions from a Legislature presents no question for the action or consideration of the Senate except a motion to refer. A motion to refer would open the whole question to debate.

Mr. WILSON, of Massachusetts. I give notice that on Monday morning I shall move the reference of these resolutions.

The PRESIDENT *pro tempore*. They will lie on the table and be printed in the meanwhile.

PETITIONS AND MEMORIALS.

Mr. DOOLITTLE presented a petition of citizens of Philadelphia, praying that the republic of Liberia may be recognized and treated with as an independent nation by the Government of the United States; which was ordered to lie on the table.

He also presented the petition of Kiler K. Jones, lieutenant colonel of the fifteenth regiment Wisconsin volunteers, who was mustered out of service by order of the Governor of Wisconsin without a trial, praying that he may be restored to his command; which was referred to the Committee on Military Affairs and the Militia.

Mr. TRUMBULL presented the petition of G. W. H. Gilbert and others, citizens of Peoria county, Illinois, praying for the construction of a ship canal between Lake Michigan and the Mississippi river; which was referred to the Committee on Military Affairs and the Militia.

Mr. GRIMES presented the petition of William Kellison and others, citizens of Benton county, in the State of Iowa, praying for the construction of a ship canal between Lake Michigan and the Mississippi river; which was referred to the Committee on Military Affairs and the Militia.

He also presented the petition of H. Green and others, citizens of Chickasaw county, Iowa, praying for the construction of a ship canal between Lake Michigan and the Mississippi river; which was referred to the Committee on Military Affairs and the Militia.

Mr. KING. I present resolutions of the House of Assembly of the State of New York, which I ask may be read and referred to the Committee on Military Affairs and the Militia.

The Secretary read, as follows:

ASSEMBLY CHAMBER, ALBANY, *April* 19, 1862.

On motion of Mr. Dewey, the following preamble and resolutions were unanimously adopted:

Whereas there are on file in the Comptroller's Office of the State of New York, sundry claims of soldiers of the war of 1812-13-14, for clothing worn out in the service of the United States, for arms used and lost, and for equipments and unavoidable expenses in said war, a large proportion of which claims have been duly audited and revised by the proper authorities of this State: Now therefore,

Be it resolved, That the Representatives of this State in both Houses of Congress be requested to obtain, at the earliest possible day, an acknowledgment by the General Government, of its obligations to refund to this State any advances that it may make in payment of all just demands made by the soldiers of this State who served in its defense during the last war with Great Britain.

Resolved, That the Clerk of this House transmit a copy of this preamble and resolution to each member of Congress from this State.

By order of the Assembly.

J. B. CUSHMAN, *Clerk.*

The resolutions were referred to the Committee on Military Affairs and the Militia.

REPORTS FROM COMMITTEES.

Mr. WILSON, of Massachusetts, from the Committee on Military Affairs and the Militia, to whom was referred a joint resolution (H. R. No. 68) authorizing the payment of certain moneys heretofore appropriated for the completion of the Washington aqueduct, reported it with an amendment.

He also, from the same committee, to whom was referred a bill (S. No. 97) to provide for the reorganization of the medical department of the

Army, asked to be discharged from its further consideration, Congress having acted on this subject; which was agreed to; and, on his motion, the bill was postponed indefinitely.

Mr. HALE, from the Committee on Naval Affairs, to whom was referred a joint resolution (H. R. No. 66) authorizing the Secretary of the Navy to discharge contractors with his Department when they have furnished the amount estimated in their contracts, and fifty per cent. additional, reported it without amendment.

Mr. CLARK, from the Committee on Claims, to whom was referred the memorial of Joseph Knox Boyd, one of the surviving captors of the Tripolitan frigate Philadelphia, praying remuneration for his services at the recapture of the Philadelphia in the year 1804, reported it with a motion that it be indefinitely postponed; which was agreed to.

PRESTON STARRITT.

Mr. BAYARD. The Committee on the Judiciary, to whom was referred the petition of Preston Starritt, a messenger of the Senate, claiming pay which he asserts to have been illegally withheld from him, have instructed me to report two resolutions. Of course they can be taken up whenever it is the pleasure of the Senate to do so. I think they ought to be disposed of, because they involve simply a decision of a question of law.

The resolutions reported by the committee are as follows:

Resolved, That Preston Starritt having been appointed a messenger of the Senate by a resolution passed February 17, 1857, "*until otherwise ordered by the Senate*," remains an officer of the body until death, resignation, or removal by its order.

Resolved, That the order of February 17, 1857, be, and the same is, hereby rescinded, and the office created thereby vacated.

The resolutions lie over, under the rule, for consideration.

BILLS INTRODUCED.

Mr. LATHAM asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 283) to quiet land titles in the State of California; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 284) to incorporate a bank in the District of Columbia; which was read twice by its title, and referred to the Committee on Finance.

Mr. WADE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 285) concerning private actions against public officers; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. COWAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 286) supplementary to the act passed the 30th day of April, A. D. 1790, entitled "An act for the punishment of certain crimes against the United States;" which was read twice by its title.

Mr. COWAN. I move to refer this bill and all other bills now before the Senate for the punishment of rebels and the forfeiture of their property, to a select committee of five, to be appointed by the Chair.

The PRESIDENT *pro tempore*. The Chair will inquire of the Senator from Pennsylvania if he includes in his motion the confiscation bills, so denominated, now before the Senate?

Mr. COWAN. I will read the motion as I have drawn it. That all the bills, substitutes, and amendments relating to the punishment of rebels and the forfeiture or confiscation of their property be referred to a select committee of five to examine and report upon the same.

Mr. TRUMBULL. I suppose it is not in order to refer bills that are not under consideration. The bills are not up at this hour; and a motion to refer a bill that stands on the Calendar a special order at one o'clock, cannot be made at this hour, I suppose.

The PRESIDENT *pro tempore*. The question will more properly come up when the bill is taken up at the hour for which it is especially assigned for consideration.

Mr. COWAN. I have no objection to deferring the motion to a time which is proper.

STEAMSHIP LINE TO CHINA.

The hour of half past twelve o'clock having arrived, the special order for that hour was called up, and the Senate resumed the consideration of the bill (S. No. 75) to establish a line of steam mail ships between San Francisco, in California, and Shanghae, in China, touching at the Sandwich Islands and Japan.

Mr. COLLAMER. When this bill was up the other day, I suggested that a vote should not then be taken. I had heard other gentlemen say they desired to speak upon it. I have no wish to speak upon it. I will merely say that I doubt the propriety of again establishing a policy of this kind in the present condition of our country.

Mr. GRIMES. I move to amend the second section of the bill by striking out the words "they shall each be commanded by a lieutenant of the United States Navy."

Mr. LATHAM. I have no objection to the amendment.

The amendment was agreed to.

Mr. HALE. I feel constrained to say a word or two on this subject, inasmuch as the bill was referred to the Committee on Naval Affairs, and the committee reported against the bill at this time. The committee did not go into an examination of the matter in regard to its relation to commerce and the postal facilities which this line will furnish to the country; but taking that view of it which made the reference of it to the Naval Committee appropriate, they thought that it was not expedient at the present time to recommend the passage of such a bill. The second section, it will be seen, is the one that refers to that matter; and it provides—

"That these mail steam vessels shall be appropriately armed and equipped as war steamers, in such manner as the Secretary of the Navy may direct; they shall each be commanded by a lieutenant of the United States Navy"—

which latter clause has been stricken out—

"and while employed in carrying the mails, as herein provided, they shall be required to protect commerce in their route between Shanghae and San Francisco, in the same manner as if the said vessels were wholly devoted to that service."

I need not say that since this bill was first introduced, events which are familiar to all the Senate have produced as total a revolution in regard to the subject of naval warfare by steam vessels as ever has been known in any department of government from the foundation of the world, and what might have been considered appropriate and requisite and proper three months ago, would be considered, perhaps, as absurd at the present time. The committee did not, as I said at the outset, deem it their duty to inquire particularly in reference to the commercial or the postal relations which this line of steamers was to have to the interests of the country, but simply in regard to this latter subject; and the committee believed that in that connection it was not worthy the support of Congress. They came to that conclusion before the revolution of which I have spoken in public sentiment had occurred. Since that has occurred, it seems to me that all the reasons which influenced the committee in their decision are infinitely stronger than they were before, and that the attention of the Navy Department in this hour of the country's emergency and in this crisis of naval warfare, its energies and resources, should not be directed in any manner to the construction of vessels of this character. It was for these reasons that the committee were opposed to the adoption of this system then, and are opposed to it as such now.

The PRESIDENT *pro tempore*. The question is on ordering the bill to be engrossed for a third reading.

The question being taken by yeas and nays, resulted—yeas 27, nays 13; as follows:

YEAS—Messrs. Anthony, Browning, Carlile, Cowan, Davis, Doolittle, Henderson, Howard, Lane of Indiana, Lane of Kansas, Latham, McDougall, Nesmith, Pomeroy, Powell, Rice, Saulsbury, Simmons, Stark, Sumner, Thomson, Wade, Wilkinson, Willey, Wilson of Massachusetts, Wilson of Missouri, and Wright—27.

NAYS—Messrs. Chandler, Collamer, Dixon, Fessenden, Foot, Foster, Grimes, Hale, Howe, King, Morrill, Sherman, and Wilmot—13.

The bill was read a third time.

The PRESIDENT *pro tempore*. The question is, "Shall the bill pass?"

Mr. FESSENDEN. I ask for the yeas and nays upon the passage of the bill. It may be considered a very impertinent remark, but I must say that I can hardly suppose the Senate understood, especially the members of the Finance Committee, what they were voting for. This bill, in the present stage of our finances, makes a positive requisition upon the Government, not only authorizes, but directs, the Government to pay $500,000 a year to establish a line of steamships under the Post Office regulations, at a period when we need all the money we can get by any possibility to carry on the war, and when it is not to be supposed that any income whatever can come from it under the Post Office regulations. There is no Post Office business for this line to do; but it is to be established under the pretense of postal regulation, when we have abandoned that whole system on the Atlantic coast, where commerce, to a great extent, is carried, and where, if anywhere, we suffer from the competition of English steamers. The system has been tried and abandoned, and we have come to the plan of giving nothing whatever in the shape of subsidies except the postages. We abandoned the system which is now proposed to be again inaugurated after a deliberate trial, when our Treasury was full, when we had ample ability to sustain it; and yet, in this stage, where no postages and no income of any consequence at all can be expected under the Post Office regulations, it is proposed to establish this new line of steamships. I have said before that at a proper time, and when our Treasury could afford it, I might be in favor of the system; but at present I conceive it to be a matter that is fraught with very great danger.

I made all the remarks that I had to make upon it the other day, by way of argument and suggestion. If the Senate differ from me, I submit with all the grace that I can. I must do so; but I want it distinctly understood by everybody what the measure is. I cannot say that I am surprised at anybody's vote, because everybody else knows just as well as I do how to vote. I do not pretend to dispute that; but I am surprised at the members of my committee, who know what difficulty we have to get money, even for the current expenses of the day, voting in favor of this bill.

Mr. SIMMONS. I want to say one word in explanation of my vote. I know it has got to be somewhat of a habit for gentlemen to question the ability of the people to support the Government of the country. I have never entertained exactly the opinion of the chairman of the Committee on Finance about the deplorable condition of the finances of the country. I vote for this bill because I think its object a laudable one, that I would vote for at any time, that I have been in favor of for the last twenty years.

Mr. McDOUGALL. As the chairman of the Committee on Finance has stated his conclusions, and the chairman of the Committee on Naval Affairs has stated his, allow me to say that I have not discussed this question on the floor for the reason that I sought action and did not want to delay it; but I wish to say here that this is a measure not to take money out of, but to put money into the Federal Treasury; this is a measure not to weaken the strength of the Government, it is to give it strength. If there is any field of enterprise that demands the attention of the Federal Government, so that we may be strengthened in commercial relations, by finding a market for our manufactures, it is China at this present moment, and the time when we can seize an advantage should not be lost.

Mr. FESSENDEN. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. HALE. I voted in the minority and therefore cannot make a motion to reconsider; but if some gentleman who voted in the majority would move a reconsideration of the engrossment of the bill, I should like to submit another amendment to be acted upon.

Mr. WILKINSON. To accommodate the Senator from New Hampshire, I move to reconsider the vote ordering the bill to be engrossed for a third reading.

Mr. HALE. I will state to the Senate that my only object is to move an amendment to the bill.

Mr. McDOUGALL. Will the Senator state the amendment he desires to offer?

Mr. HALE. I will state it so that the Senate can vote understandingly on the motion to reconsider. I want to move an amendment to strike out the second section. That is a naval matter entirely, and the views of the Naval Committee are that it is not worthy of the support of the Senate as a naval measure. If that is the opinion

of the Naval Committee, to whom it appropriately belongs, it seems to me that the Senate should not fasten a naval measure on a postal bill. If it is a postal and commercial measure, let it stand on its own merits; do not saddle it on the Navy when the Navy do not ask it and do not want it. My amendment is simply to strike out the second section.

The PRESIDENT *pro tempore*. The Senator from Minnesota moves to reconsider the vote by which this bill was ordered to be engrossed for a third reading.

Mr. LATHAM. I hope the motion to reconsider will not prevail. The amendment suggested by the Senator from New Hampshire, if moved by him and adopted by the Senate, would emasculate the bill and render it in great degree worthless for the purposes for which we wish the bill passed by the Senate.

Mr. GRIMES. If the motion of the Senator from Minnesota prevails, I shall propose to amend the bill by striking out the word "directed," in the fourth line of the first section, which makes it obligatory on the Postmaster General to expend this $500,000, leaving it with him to do it or not as he may deem that the public interest will require, and there is where I think it ought to be left.

Mr. LATHAM. If I move to lay the motion to reconsider on the table, will it carry the bill with it?

The PRESIDENT *pro tempore*. It will carry the bill with it.

Mr. LATHAM. I shall not make the motion.

The motion to reconsider was not agreed to; there being on a division—ayes 17, noes 24.

The question being taken by yeas and nays on the passage of the bill, resulted—yeas 26, nays 16; as follows:

YEAS—Messrs. Anthony, Browning, Carlile, Cowan, Davis, Henderson, Howard, Lane of Indiana, Lane of Kansas, Latham, McDougall, Nesmith, Pomeroy, Powell, Rice, Saulsbury, Simmons, Stark, Sumner, Thomson, Wade, Wilkinson, Willey, Wilson of Massachusetts, Wilson of Missouri, and Wright—26.

NAYS—Messrs. Chandler, Clark, Collamer, Dixon, Fessenden, Foot, Foster, Grimes, Hale, Howe, King, Morrill, Sherman, Ten Eyck, Trumbull, and Wilmot—16.

So the bill was passed.

ADJOURNMENT TO MONDAY.

On motion of Mr. WILMOT, it was

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

EXECUTIVE SESSION.

Mr. WILSON, of Massachusetts. I move that the Senate postpone all other matters for the purpose of proceeding to the consideration of executive business; and I will simply state that it is necessary that this should be done.

The motion was agreed to; and after an executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *April* 25, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

QUESTION OF PRIVILEGE.

The SPEAKER. The question pending when the House adjourned was one of privilege, raised by the gentleman from Ohio, [Mr. HUTCHINS,] against his colleague, [Mr. VALLANDIGHAM.] The following is the resolution submitted to censure the gentleman from Ohio for disorderly words spoken in debate in the Committee of the Whole on the state of the Union:

Whereas Hon. C. L. VALLANDIGHAM, a member of this House, of the State of Ohio, in Committee of the Whole, made use of the following language concerning Hon. B. F. WADE, a Senator in Congress:

"Mr. Chairman, I have waited patiently for three days for this the earliest occasion presented for a personal explanation. In a speech delivered in this city—not in this House—certainly not in the Senate—no such speech could have been tolerated in an American Senate—I find the following:" * * * * * * * * * *

"Now, sir, here in my place in the House, and as a Representative, I denounce—and I speak it advisedly—the author of that speech as a liar, a scoundrel, and a coward. His name is BENJAMIN F. WADE."

And whereas said remarks are a violation of the rules of this House, and a breach of its decorum, and deserve the censure of the House: Therefore,

Resolved, That C. L. VALLANDIGHAM, for said violation of the rules of the House and its decorum, is deserving of censure, and is hereby censured.

On that resolution the question of order is made that under the express language of the 62d rule of the House the gentleman from Ohio could not now be held to answer, or be subject to the censure of the House, for the words spoken, another member having spoken and other business having intervened before exception to them was taken, and that consequently the preamble and the resolution could not be entertained by the House. The Chair will have read the 62d rule, and a paragraph from the Manual.

The Clerk read, as follows:

"If a member be called to order for words spoken in debate, the person calling him to order shall repeat the words excepted to, and they shall be taken down in writing at the Clerk's table; and no member shall be held to answer, or be subject to the censure of the House, for words spoken in debate, if any other member has spoken, or other business has intervened, after the words spoken, and before exception to them shall have been taken."—*Sixty-Second Rule.*

"Disorderly words spoken in a committee must be written down as in the House, but the committee can only report them to the House for animadversion."—*Manual*, p. 77.

The SPEAKER. The Chair decides, the gentleman from Ohio [Mr. HUTCHINS] in his resolution not having complied with either the rule of the House or the provision of parliamentary law, that therefore the point of order is well taken.

IOWA CONTESTED-ELECTION CASE.

The SPEAKER stated that the next question in order was the consideration of the report of the Committee of Elections on the Iowa contested-election case of Byington against Vandever.

CALIFORNIA LAND TITLES.

Mr. PHELPS, of California, by unanimous consent, introduced a bill to quiet the land titles in the State of California; which was read a first and second time, and referred to the Committee on Public Lands.

ADJOURNMENT OVER.

Mr. MALLORY moved that when the House adjourns, it adjourn to meet on Monday next.

The motion was agreed to.

NAVY APPROPRIATION BILL.

Mr. MORRILL, of Vermont, by unanimous consent, from the Committee of Ways and Means, reported a bill making appropriations for the naval service for the year ending the 30th of June, 1863; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

GOVERNMENT CONTRACTS.

Mr. WASHBURNE. I call up for consideration the following resolutions, reported from the committee on Government contracts. The committee have the right to report at any time, and these resolutions come up as a privileged question.

The Clerk read, as follows:

Resolved, That the Secretary of the Treasury be requested to decline making any further payment to the parties interested in the steamboat Cataline, on account of the charter of the said vessel by the United States on the 25th day of April, 1861.

Resolved, That the Secretary of the Treasury be requested to adjust the claim against the Government for the five thousand Hall carbines, purchased through Simon Stevens, Esq., by General John C. Frémont, on the 6th day of August, 1861, and afterwards delivered at the United States arsenal at the city of St. Louis, on the basis of a sale of said arms to the Government for $12 50 each, rejecting all other demands against the Government on account of the purchase of said arms.

Resolved, That the practice of employing irresponsible parties, having no official connection with the Government, in the performance of public duties which may be properly performed by regular officers of the Government, and of purchasing by private contract supplies for the different Departments, where open and fair competition might be properly invited by reasonable advertisement for proposals, is injurious to the public service and meets the unqualified disapprobation of this House.

Mr. MALLORY. Before we proceed to consider those resolutions, which will lead to prolonged discussion, I ask the gentleman to permit me to take up and pass another bill.

Mr. WASHBURNE. I wish to hear first what is the request of my friend from Ohio, to whom I yield.

CHARTER OF WASHINGTON, ETC.

Mr. ASHLEY, by unanimous consent, introduced bills of the following titles; which were severally read a first and second time, and referred to the Committee for the District of Columbia:

A bill to amend an act, entitled "An act to continue, alter, and amend the charter of the city of Washington;" and

A bill to incorporate the Guardian Society to reform juvenile offenders in the District of Columbia.

GOVERNMENT TRANSPORTATION.

Mr. MALLORY. I ask the gentleman from Illinois to yield the floor to me so that I may move to take up and put on its passage a bill to facilitate the passage of troops and mails between New York and Washington.

Mr. WASHBURNE. I cannot yield for that purpose, for that bill will require a great deal of discussion.

Mr. MALLORY. It is a matter of great interest to the people. It is a subject of practical legislation, and in that respect somewhat different from the resolutions urged upon our consideration by the gentleman from Illinois.

Mr. WASHBURNE. I do not yield for that purpose.

PAYMENT OF SOLDIERS' BOUNTY.

Mr. MORRILL, of Vermont. I ask the gentleman to yield to me in order that I may secure action on House bill No. 413, making appropriations for the payment of the bounty authorized by the sixth section of an act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July 22, 1861, and for other purposes. It will not take up much time, and it ought to be passed to-day.

Mr. WASHBURNE. I will yield for that purpose, if the gentleman from Vermont will move that the Committee of the Whole on the state of the Union be discharged from the further consideration of that bill, and be considered in the House without debate.

Mr. MORRILL, of Vermont. I make the motion that the Committee of the Whole on the state of the Union be discharged from the further consideration of that bill.

Mr. F. A. CONKLING. I object.

Mr. WASHBURNE. I have the right to yield to the gentleman from Vermont, and I will do so, in order that he may move the House resolve itself into the Committee of the Whole on the state of the Union to consider that bill, if he will close the general debate.

Mr. MORRILL, of Vermont. I will do so. I move that all general debate in the Committee of the Whole on the state of the Union on that bill be closed in five minutes after its consideration shall be resumed.

GOVERNMENT TRANSPORTATION.

Mr. MALLORY, by unanimous consent, moved that the bill to facilitate the transportation of the troops and mails from Washington city to New York, be ordered to be printed, and recommitted to the Committee on Roads and Canals.

The motion was agreed to.

PAYMENT OF SOLDIERS' BOUNTY.

Mr. MORRILL, of Vermont, moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. WALTON, of Vermont, in the chair.)

The CHAIRMAN stated the question before the committee to be House bill No. 413, making appropriations for the payment of the bounty authorized by the sixth section of an act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July 22, 1861, and for other purposes; and that the first question was on the substitute of the Committee of Ways and Means, as follows:

That the following sums be, and the same are hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the objects hereinafter expressed:

For payment of the bounty to widows and legal heirs of such volunteers as may have died or been killed, or may die or be killed in service, authorized by the sixth section of an act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July 22, 1861, $6,000,000, or so much thereof as may be found necessary.

For compensation of ten additional clerks, hereby authorized to be employed in the office of the Commissioner of Pensions, $12,000.

SEC. 2. *And be it further enacted*, That the sum of $3,000,

or so much thereof as may be found necessary, be, and the same is hereby appropriated, for the expenses of the committee on disloyal employés of the Government, appointed by resolution of the House of Representatives, July 8, 1861.

SEC 3. *And be it further enacted*, That the sum of $2,000 be, and the same is hereby appropriated, for the repair and preservation of the custom-house at Milwaukee, Wisconsin.

Mr. MORRILL, of Vermont. Mr. Chairman, the Second Auditor of the Treasury reported that it would require $6,000,000 for the purpose of executing the first section, but by subsequent investigation of the subject by the gentleman from New Hampshire, [Mr. EDWARDS,] we have become satisfied that $1,000,000 less would do. And in these days $1,000,000 saved is something. It will be enough to pay for the printing of our documents in the German language. Therefore I move to reduce the appropriation from $6,000,000 to $5,000,000.

Mr. F. A. CONKLING. I wish to ask the attention of the gentleman from Vermont for a moment. Have the Committee of Ways and Means made inquiry at the War Department as to the amount necessary to carry out the object indicated in the first section of the bill? I understand that this appropriation is proposed to be made in pursuance of the provisions of section six of an act entitled, "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," which is in these words:

"*And be it further enacted*, That any volunteer who may be received into the service of the United States under this act, and who may be wounded or otherwise disabled in service, shall be entitled to the benefits which have been or may be conferred on persons disabled in the regular service; and the widow, if there be one, and if not, the legal heirs of such as die or may be killed in service, in addition to all arrears of pay and allowances, shall receive the sum of $100."

Now, as I understand the bill, the appropriation now asked for is to pay this bonus of $100, and the sum named is $6,000,000, an amount, in my judgment, very far beyond the necessities of the service. The original bill introduced by the gentleman from New Hampshire [Mr. EDWARDS] provides, as I am informed, for the appropriation of $5,000,000. The Committee of Ways and Means have, in their wisdom, seen fit to augment that amount, upon some ground or another, $1,000,000, and they have reported accordingly. I think that $6,000,000, or $5,000,000, or $3,000,000 is in excess of the amount required.

Mr. MORRILL, of Vermont. I thought that I had put the committee in possession of the facts of the case. The original bill appropriated $5,000,000. The proper officer of the pay department, or the Second Auditor of the Treasury, sent us a communication that $6,000,000 would be required. I now move to reduce the appropriation from $6,000,000 to $5,000,000, in consequence of information derived from a further investigation of the subject that $5,000,000 will be sufficient. Whatever sum may be appropriated, no more can be expended than is actually required.

Mr. F. A. CONKLING. Was the gentleman's information received from the War Department?

Mr. MORRILL, of Vermont. No, sir, from the Second Auditor of the Treasury.

Mr. HOLMAN. I am opposed to the amendment. It is of the utmost importance that this appropriation should be large enough. Inasmuch as this appropriation is probably only large enough, where is the impropriety of making an appropriation of $6,000,000? I understand from the cautious language made use of by the gentleman from Vermont, that it may possibly be that $5,000,000 may be sufficient. Now, inasmuch as not one dollar of this money will be expended except in pursuance of laws already in force, and for a purpose eminently right and proper, I suggest to the gentleman who acts on behalf of the Committee of Ways and Means, whether it is not extremely unwise, under these circumstances, to make a reduction. I insist upon the appropriation of the whole of this $6,000,000 in pursuance of the recommendation of the War Department; and if $5,000,000 be sufficient, well and good. I trust in God that it will be more than sufficient. If it is sufficient, well and good, and no more will be expended. If it is not sufficient, I protest against one dollar, at the end of the current year, remaining unpaid to these parties. I would rather there should be an excess of millions, than a deficit of one dollar.

I desire, Mr. Chairman, before taking my seat, to move to strike out that which is contained in the last section of the substitute—the one appropriating $2,000 for the benefit of the custom-house in Milwaukee, Wisconsin. I know nothing about the merits of the question; but whether necessary or not, I object to its being in this bill.

Mr. ROSCOE CONKLING. I wish to suggest to the gentleman from Indiana that I desire to amend the second section of the substitute before we proceed to the last section; and I understand that several gentlemen desire to offer amendments to the first section.

Mr. HOLMAN. I presume my amendment will not interfere with other amendments. However proper or right an appropriation may be of the $2,000 contained in the last section, I do object to its being attached to this bill. It is in no sense germane to the subject. Here is a bill proposing to appropriate five or six millions of dollars for the purpose of carrying out the engagements of the Government with the soldiers of the Republic, where they fall in honorable battle. There is no reason why an appropriation for a custom-house should be attached to this bill. It is part and parcel of a log-rolling system which has been ignored by both branches of Congress, and which has been found, in the State Legislatures, to be eminently destructive to the public interests. I object to any measures being connected with the bill, except such as refer to its main object.

Mr. SHELLABARGER. I wish to move an amendment.

The CHAIRMAN. No further amendment is in order at this time.

The question was taken upon the amendment offered by Mr. MORRILL, of Vermont; and it was not agreed to.

Mr. SHELLABARGER. I move the following amendment:

And no money shall be paid to the heirs of any such deceased soldier who are more remote than brother and sister of such deceased, nor to such heirs as have in any way been engaged in, or who have aided or abetted in, the rebellion against the United States.

Mr. Chairman, it is not within my recollection that there is any general law providing for the same end to which this amendment is directed. I offered the amendment in the way of a suggestion, in order that if there was no such provision, the amendment might be adopted. It is obvious that at this time, and in the present state of our public Treasury, we should in all these appropriations economize to the very last degree consistent with right.

The only remark I have to make in reference to the first clause of the amendment is, that whenever an heir becomes so remote to the deceased soldier as that he ceases to constitute a part of his family, or of those who are dependent upon him, it does not seem to be right to extend the bounty of the Government to such remote relationship. I hope, therefore, there will be no reluctance in adopting that part of the amendment. Indeed, I do not know but that brothers and sisters might be very properly excluded from the range of the amendment.

Mr. HOLMAN. I would inquire of the gentleman whether the language made use of in the act of July is not "widow and children of the deceased?"

A VOICE. "Legal heirs" is the language.

Mr. SHELLABARGER. I remarked that I was not fully advised as to the state of the general law; and if my amendment is not necessary, I will withdraw it. I understood, from some remarks which were made by the gentleman from Indiana, that my amendment was required by the present state of the law.

In regard to the propriety of excluding persons not loyal from a participation in the Government bounties, no remarks need be made. I hope the amendment, if it be found necessary, will be adopted.

Mr. MAYNARD. I ask the gentleman from Ohio to allow his amendment to be modified, so as to include the parents, or at least the widowed mothers. Many mere lads have gone into the service, lads upon whom aged fathers and mothers depend for their support in old age.

Mr. SHELLABARGER. I only will say that I accept cheerfully the idea of the gentleman from Tennessee; and if it can be put into form, I will embody it into my amendment.

Mr. ROSCOE CONKLING. Whether the amendment be left in the form proposed, or changed, as indicated by the gentleman from Tennessee, I am opposed to it, and for a reason in which the House will concur. It will be perceived that this bill relates to the widows and legal heirs of such volunteers as may have died or have been killed, or may die or be killed, in the service. The amendment of the gentleman from Ohio applies alike to all, the heirs of those who have been slain heretofore, as well as the heirs of those who may fall hereafter. I think a moment's reflection will dissuade him from taking the sense of the House upon an amendment to that effect. I had prepared an amendment, to come in at line thirteen, in these words:

Provided, That no bounty shall be paid to the heirs of any volunteer who shall hereafter die or be killed, unless such volunteer leaves him, surviving, a wife, parent, child, brother, or sister.

It seems to me that such an amendment as this does carry quite far enough the reach of the bill; because if a soldier leaves surviving no legal heir except some remote collateral relative, I see no reason in the world why, at any time, a bounty should be allowed to trace out a descent thus far. But if it is confined to parents, to children, to widows, and to brothers and sisters—and as to these latter I confess I have some doubt—it seems to me it goes as far as it should.

[Here the hammer fell.]

The CHAIRMAN. The amendment of the gentleman from New York is not in order at this time.

Mr. ROSCOE CONKLING. I desire to say the rights of these men, whose kinsmen have already fallen in battle, whatever they may be, have accrued. They are vested and fixed under the act, and my point is that we should not, and perhaps we could not if we would, change and divest those rights.

Mr. SHELLABARGER. I think that the amendment of the gentleman from New York is proper, and therefore I accept it, and modify my amendment accordingly.

The amendment, as modified, was read, as follows:

After the word "necessary," in line thirteen, insert:

Provided, That no bounty shall be paid to the heirs of any volunteer who shall hereafter die or be killed, unless such volunteer leaves him, surviving, a wife, parent, child, brother or sister; and no money shall be paid to the heirs of any such deceased soldier who have in any way been engaged in, or who have aided or abetted in the rebellion against the United States.

Mr. MAYNARD. I desire to make a suggestion. I do not propose to make a speech or a motion. My suggestion is, that it would be well to modify the amendment so as to order the precedence in which the bounty should be received. I suggest that it be paid first to the widow; if none, then to the children; if none, then to the parents; if none, then to the brothers and sisters. I suggest that the phraseology be changed so as to accomplish that result. As far as the word "heirs" is concerned, it is a word of technical legal import; and we know that, at least, at common law, parents are not heirs. I think, therefore, it would be well to limit its signification in this particular connection. I have drawn out my idea in these words:

Provided, That all payments shall be made, first, to the widow; second, to the children; third, to the parents; and fourth, to the brothers and sisters of the deceased soldier, and no other relative shall be included in the word "heirs."

Mr. ROSCOE CONKLING. That amendment will be perfectly in order, except the last few words, after this amendment is adopted.

The CHAIRMAN. It may be offered as an additional amendment.

Mr. HARRISON. I desire to make a suggestion to the committee. I think that the action of the committee upon this bill is premature. The Committee on Invalid Pensions have this whole subject under consideration. There are several bills now pending before that committee, involving the questions which it is proposed to dispose of in this appropriation bill. The committee in a few days, undoubtedly, will report a bill amending the act of July, and prescribing the class of persons who shall be entitled to pensions under that act. The question has also been discussed, but not determined by the committee, as to whether any modification can be made of the provisions of the act of July in regard to bounty. I therefore suggest that further action upon this bill ought to be postponed until the House shall pass upon a bill regulating this whole subject.

Mr. WASHBURNE. In view of what the gentleman from Ohio has stated——

The CHAIRMAN. The Chair must say that debate is not in order.

Mr. WASHBURNE. I am going to move that the committee rise, in view of what the gentleman from Ohio has stated, and also in view of the fact that I did not suppose, when I gave way, that this matter was going to be discussed in this way, as the House had determined that the other question should be taken up. I move that the committee rise, and I call for tellers on that motion.

Tellers were ordered; and Messrs. WASHBURNE and MAYNARD were appointed.

The committee divided; and the tellers reported —ayes 58, noes 37.

The motion was agreed to.

So the committee rose; and the Speaking having resumed the chair, Mr. WALTON, of Vermont, reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly House bill No. 413, making an appropriation for the payment of the bounty to widows and legal heirs of volunteers who have died or who may die, or have been or may be killed in service, as provided in the act of July 22, 1861, and had come to no conclusion thereon.

GOVERNMENT CONTRACTS.

Mr. DAWES. I now call up the report of the committee on Government contracts.

The resolutions reported by the committee were read, as follows:

Resolved, That the Secretary of the Treasury be requested to decline making any further payment to the parties interested in the steamboat Cataline, on account of the charter of said vessel by the United States on the 25th day of April, 1861.

Resolved, That the Secretary of the Treasury be requested to adjust the claim against the Government for the five thousand Hall carbines, purchased through Simon Stevens, Esq., by General John C. Frémont, on the 6th day of August, 1861, and afterwards delivered at the United States arsenal at the city of St. Louis, on the basis of a sale of such arms to the Government for $12 50 each, rejecting all other demands against the Government on account of the purchase of said arms.

Resolved, That the practice of employing irresponsible parties, having no official connection with the Government, in the performance of public duties which may be properly performed by regular officers of the Government, and of purchasing by private contract supplies for the different Departments, where open and fair competition might be properly invited by reasonable advertisements for proposals, is injurious to the public service, and meets the unqualified disapprobation of this House.

When the subject was before the House upon a former occasion, Mr. HOLMAN submitted the following as an additional resolution:

Resolved, That Hon. Simon Cameron, late Secretary of War, by investing Alexander Cummings, without requiring from him any guarantee for the faithful performance of his duty, with the control of large sums of the public money, and authority to purchase without restriction large amounts of military supplies; and the Secretary of the Navy, in the employment of George D. Morgan, without requiring any such guarantee, in the purchase of large numbers of vessels for the public use, with a compensation dependent on the prices paid and receivable from the sellers, instead of employing responsible officers of the Government, have adopted a policy highly injurious to the public service, destructive of public economy and public confidence, and deserve the censure of this House.

Mr. FENTON moved to add the following to the second resolution:

Provided, That nothing herein contained shall be so construed as to exonerate the Government from the payment of any claims arising from advances made in good faith on certificates made by authorized officers of the Government.

Mr. STEVENS moved to amend the second resolution by striking out the word "through," in the third line, and inserting "by."

Mr. DAWES. Mr. Speaker, the first of these resolutions pertains to a subject about which some testimony has been taken by the committee, and which has not yet been reported to the House. I therefore ask the unanimous consent of the House to lay aside that resolution; and I shall ask their attention to the second of the series of resolutions at this time.

The SPEAKER. The resolutions are all before the House at this time.

Mr. DAWES. I suppose that by unanimous consent of the House the first resolution can be laid aside.

Mr. COLFAX. I object, unless I can have an opportunity of offering an amendment to the second resolution of the series.

Mr. WASHBURNE. It will be open to amendment.

Mr. COLFAX. Then I will offer the amendment which I send to the Clerk's desk.

Mr. HOLMAN. I suggest that my colleague has not the floor for that purpose; but let it be read for information.

Mr. WASHBURNE. I rise to a question of order. My colleague on the committee, the gentleman from Massachusetts, [Mr. DAWES,] has the floor. He proposes to speak to the second resolution. I understand that it is not proposed to ask for any consideration of the first and third resolutions to-day.

The SPEAKER. The Chair does not see any point of order in that statement.

Mr. WASHBURNE. The point of order is that the gentleman from Indiana, when the resolution is before the House, will have an opportunity to offer his amendment, and I object to the time of my colleague on the committee being taken up.

Mr. COLFAX. Then I object to the unanimous consent asked by the gentleman from Massachusetts.

The SPEAKER. The gentleman from Massachusetts is entitled to the floor, and all the resolutions are before the House.

Mr. DAWES. I wish it to be understood that I do not object to the gentleman's offering his amendment.

Mr. COLFAX. Then I offer the following as a substitute for the second resolution:

Resolved, That the course adopted by the naval investigating committee of 1859, of communicating to officers of the Government copies of evidence apparently adverse to them, and giving them the opportunity to cross-examine the witnesses against them, or to refute or explain their testimony is, in the opinion of this House, worthy of imitation wherever practicable, by investigating committees appointed by order of the House of Representatives, especially where the said committees receive and collect such testimony in secret session; and that it is contrary to the plainest principles of justice to condemn any citizen upon *ex parte* evidence taken against him by a committee in secret, and the purport of which has not, if practicable, been laid before him by said committee, with an opportunity to explain or refute it before their report.

The SPEAKER. The amendment can only be received by unanimous consent.

Mr. COLFAX. I offer it as a substitute for the second resolution.

The SPEAKER. No amendment would be in order except an amendment to the amendment of the gentleman from Pennsylvania, [Mr. STEVENS,] which is to strike out the word "through" and insert "by."

Mr. COLFAX. Then I will offer it as an amendment to that amendment, moving to strike out additional words, to wit, the remainder of the section, and to insert what I have offered.

The SPEAKER. The Chair does not think that can be done. The Chair thinks that no further amendment is in order at this time, except by unanimous consent.

Mr. HOLMAN. If my colleague will offer it as an addition to the second resolution, I presume there will be no objection to it.

Mr. COLFAX. I will offer it in that form as an addition to the second resolution.

The SPEAKER. Then the Chair understands the amendment to be pending as an addition to the second resolution.

Mr. DAWES. Mr. Speaker, I do not know that I shall have any disposition to say a single word in opposition to the amendment just submitted by the gentleman from Indiana. When he comes to know the course which this committee has pursued a little more fully than he seems to do now, he will find no occasion for offering it in the light of an admonition to this committee. The abstract principle I agree with entirely, and its application, individually and personally, I have no objection to.

The evidence before the committee touching the second resolution has been reported to the House. It is proposed by the committee at this time to ask the attention of the House to that resolution and to the evidence which sustains it, and to ask them for a vote upon it.

But, sir, the House will expect from the committee, I doubt not—they certainly have a right to expect from the committee before they call upon the House to vote upon that resolution—some allusion to matters which have transpired in this House within the last few days. Sir, on Monday last the committee on Government contracts was for a second time in its absence honored with a premeditated and, as it would appear from the Globe, a preconcerted attack upon the personal character and integrity of its members. The committee received notice of this attack by the telegraph when they were quietly and, as they supposed, faithfully discharging the duties the House imposed upon them in the city of New York, and inasmuch as the telegraph was silent upon the fact that it was announced to the House that no member of the committee was present during that attack, it went forth that no reply of the committee was made to the attack at all, and that they were to be held as silently confessing its justice and its truth. They can hardly expect, and have no right to expect, the House to vote for the resolution if the charges made against the committee on Monday last have any foundation in truth, and therefore it is that it is incumbent upon the committee before asking that vote to say whatever they may have to say upon the character of these attacks.

The House will bear the members of the committee out in the assertion, that although much time has been occupied in this House concerning it and its transactions, they have never occupied one moment of its time except in self-defense; they have never taken up one moment of the time of this House in speeches touching their mission or its results, and have only sought, when driven to it, to defend themselves as well as they may.

The nature of this second, as of the first, attack on the committee, in its absence, is such that it forbids their silence. That the House should differ with the committee in its conclusions, that the House should differ with the committee in its arguments and in its method of proceeding, is most natural. Differences of that kind with committees of the House are of daily occurrence. They are always expected, and are always to be met by any committee charged in this House with any of its duties. But attacks on the integrity and personal character of members of a committee are, I am happy to say, somewhat unusual in this House. Yet it has been the peculiar experience of this committee to encounter them from step to step of its progress.

These attacks, Mr. Speaker, have been always made on the committee in its absence. So far as I am able to know, they resolve themselves into but two charges. I ask the attention of the House, not to any refutation of arguments or conclusions, but simply to questions impugning the committee's integrity of purpose and its fidelity to the House. They consist, I say, of two points. In a report of evidence containing more than eleven hundred printed pages, the diligence and scrutiny of those who have felt it their mission to seek after the mistakes of this committee have found out only two mistakes. The first was that which was the foundation of the attack made on it in its absence by the gentleman representing one of the Philadelphia districts, [Mr. KELLEY.] It was that the committee had made use of a misprint in the testimony, for which it was not answerable, as not having originated with it, and in regard to which I showed on a former occasion two things—first, that it was entirely the work of the printer, of which no member of the committee had the slightest knowledge; and second, that it was immaterial, not altering in one particle the meaning and substance of the testimony in which it occurred.

The second was made the basis of an attack on the committee last Monday. That was a mistake in the name of an individual. In an investigation running through eleven hundred pages, it has been the good fortune of another of the distinguished Representatives of Pennsylvania to detect a single mistake. It has happened two men in this whole country happen to bear a very peculiar name—a foreign name—and that the committee has confounded the two persons. These are the only two mistakes of fact—that of the printer and this one—which I have heard of as having been charged upon this committee. They have both been charged to have been willfully made.

Mr. MOORHEAD. I ask the gentleman from Massachusetts whether the mistake that he acknowledges now was acknowledged publicly heretofore by the committee, when it was required to do so?

Mr. DAWES. The first moment that the attention of the committee was called to it, that moment it admitted the mistake, and pointed out how it occurred.

Mr. MOORHEAD. And made public reparation for having charged a man with having an

amount of Government money in his hands, and admitted that to be a mistake?

Mr. DAWES. The committee did not admit that it had made one particle of mistake touching the point to which the gentleman alludes; but I am not going to consume any part of my hour by rearguing to this House that there is no difference between a man saying he has in the hands of a third party a given sum of money, and his saying that it is there subject to his own order. I was about to say that these two are the only accusations against the committee made in the House General Frémont, however, has made another, to which I desire to call the attention of the committee on the conduct of the war, for the mere purpose of setting this committee right. I have no purpose of bringing into this controversy any accusation against General Frémont. In the lately published statement of General Frémont, made before the committee on the conduct of the war, he charged the committee on Government contracts with having come to St. Louis encouraging insubordination in his department; that they created a public opinion there that it was their object to cause his removal; that they refused to receive evidence offered them in explanation of matters inquired into by them, and suppressed testimony which had been received by them; and that he would offer evidence to that committee to sustain these charges.

I wish to ask the members of the committee on the conduct of the war—and I see one member, the gentleman from New York, [Mr. ODELL,] in his seat—whether any evidence has been offered to that committee to sustain this charge. If it is not an improper inquiry, will the gentleman from New York do me the favor to answer it?

Mr. ODELL. There is no evidence of that character before the committee, save that given by General Frémont himself, so far as I recollect.

Mr. DAWES. That is all that I desire to say touching that matter. The charge is of a serious character, and I know that that committee would have notified us of any testimony that had been offered to sustain it.

I now recur to the second of these charges made in the House. It is of such a character, if the House remembers what appears in the Globe, that no man, having any self-respect, could pass it over without asking for the evidence on which it is sustained. A gentleman stands up in the House and declares that he believes in his conscience that this committee has perpetrated more frauds than it has detected—that it is a lying committee—a scandal-hunting committee, expending the people's money and bringing disgrace on the public servants. The only evidence brought in support of the charge is what I have already stated—that the committee has confounded two persons of the same name. The committee expected to meet all other accusations of short-comings on their part. They had not expected to meet an attack of this kind. I am sorry that the gentleman who made it [Mr. STEVENS] is not now in his seat. I informed him but a few moments ago, while he was in the House, that I was about to call the attention of the House to the remarks which he made at that time. He felt it his duty, as I suppose, to withdraw from the House on business which to him appeared to be more pressing than to remain and hear what I had to say.

Mr. COLFAX. Will the gentleman permit me to say a word?

Mr. DAWES. Yes.

Mr. COLFAX. The gentleman from Pennsylvania desired me to state if his absence should be alluded to, that before the gentleman from Massachusetts had notified him of his intention to allude to his speech, he had made an appointment with some friends from Pennsylvania, who had to leave this afternoon, and that he could not break his engagement.

Mr. DAWES. Mr. Speaker, I do not feel that I am called upon, after having given the gentleman notice, to wait for his return. The committee is obliged to my colleague, [Mr. THOMAS,] prompted by that sense of justice which pervades his whole being, for calling the attention of the gentleman from Pennsylvania on Monday last, in the midst of his accusatory philippic on the committee, to the fact that no member of the committee was then present in the House. We are obliged to my colleague for two reasons: first, because the Globe now shows the reason why no reply was then made to this serious accusation; and second, because the subsequent course of the gentleman from Pennsylvania illustrated, better than anything I can say on this occasion, the motives which prompted that attack on the committee. While admitting the force and propriety of the suggestion of my colleague, the gentleman from Pennsylvania was so charged with that accusation against the committee that he said he could not be stopped from making it, then and there, by any such consideration as the fact that the committee was absent from the House when it was made. It would seem from the report in the Globe that there was even a feeling of relief from all restraint on the part of the gentleman from Pennsylvania when he came to be assured that all the members of the committee were absent. His speech leaves a conviction, certainly, on the minds of those who were the subjects of that attack, that it was to him an opportune occasion on which to be delivered of that with which he had been charged for some time. The committee have had occasion, as I have repeated, to encounter these charges from different quarters, in this House and out of it. The committee know better than the House or the public can what has been the course of their proceedings, and they have, therefore, been better able to appreciate these charges than the public or this House can, and they have accepted them from time to time as testimonials to their fidelity in the duty with which they have been charged.

Sir, any lawyer in threading the complicated labyrinths of conspiracies, deceits, and frauds, knows very well, when he puts his finger upon the key to the whole. The physician, probing an abscess, be it ever so deep, be it ever so foul, is at no time at a loss to know when he touches the quick. It is the galled jade that winces, or there is no truth in England's poet. And therefore the committee have been prepared for all this, and have accepted cheerfully, as a tribute to their fidelity, from time to time, this rustling and this fluttering, even this bitterness and malignity, heaped upon them. It is only because the House and the country are ignorant of the hidden springs, sometimes far off, which move men, that they are compelled to self-defense.

Why were we arraigned here on Monday last in our absence? The occasion arose from no matter connected with us or with any of our proceedings. We had not at all arraigned anybody in this House. It appears from the Globe that the discussion arose from a resolution introduced into this House by the gentleman from New York, [Mr. DIVEN,] on my right, introduced without the knowledge of the committee, and I am sure the gentleman will say to us, without any responsibility on our part; to which the committee, if they had been here in the House at the time, would have had nothing to say. The gentleman from New York, actuated by what he felt to be a sense of duty, introduced a resolution here, in consequence of nothing from this committee, but it was availed of as the opportunity to destroy the confidence of the House in this committee, and the confidence of the country in this committee, and the confidence of all honest men in them as individuals.

Sir, it is known to the public that there has been a systematic effort to break down this committee. It has found its way into pamphlet form upon the part of the contractors, containing a deliberate attack on the individual members of the committee; and which wisdom or some other monitor suggested would be more effective, if, instead of seeing the light in the form of the pamphlet of the contractors, it could take on the form of an attack in this House from members of the House; and hence it is that that which was originally intended merely as a pamphlet crusade against this committee has acquired that additional strength and influence which ought to attach to statements made in this House by members of the House upon their responsibility.

I am not surprised to learn what was the effect of that statement upon the House. I am not surprised that the House were ready, almost, in the absence of the committee, to order their discharge from further duty when it had been stated that they themselves had committed frauds, when it was stated that they themselves had lied, that they had squandered the people's money in the guise of an effort to save it. I only wondered that my friend from Pennsylvania on my left, who, I understand, had charge of a resolution on that occasion to discharge the committee from further duties, refrained from offering it.

Mr. MOORHEAD. As the gentleman has referred to me, I wish to say that I was not charged with any such resolution; but I think I have had reason to vote for such a resolution when it does come before the House. I repeat that I was not charged with any such resolution, and do not propose to offer any.

Mr. DAWES. I do not know as the gentleman ever did draft any particular resolution, or that it was handed to him, or that he was waiting for an opportune moment to offer it. I only know that the gentleman announced himself ready to vote for such a resolution, and I only wonder that he did not offer and the House pass such a resolution.

Mr. MOORHEAD. I understood the gentleman to assert that I was charged with such a resolution.

Mr. DAWES. I only took the gentleman from Pennsylvania as a candid man, as a man of good judgment, with a disposition to do what was right. I was only alluding to the effect which the charge made upon the committee on Monday last must have had upon the gentleman, and saying to the House that I did not wonder that gentlemen under the influences of such a charge were ready to offer and adopt such a motion as the gentleman from Pennsylvania now says he is ready to vote for. He sees, I trust, the force of my remark. It is due to the gentleman's candor and sensitiveness to what he believes to be right. I would not for a moment believe that there is any lack of courage on his part to move that resolution.

Now, sir, the gentleman from Pennsylvania, [Mr. STEVENS,] in the discussion of another matter which had no reference to the committee, traveled out of that discussion to accuse the committee. It was thought necessary, in order to defeat the resolution of the gentleman from New York, to accuse the committee on Government contracts with being enemies of General Frémont. The committee had said nothing in reference to General Frémont. They had never, in this House or elsewhere, made any accusation against General Frémont.

Whether correctly or not, it was supposed that certain documents brought before the House, official documents, by the committee in their report, reflected upon General Frémont. And therefore the committee were charged with being the enemies of General Frémont, and that going out to St. Louis as his enemies, we were seeking after cause for his removal. Now, I am able to say, as one who knows quite as much about the real sentiments and feelings of every member of that committee as perhaps any gentleman in this House, that the gentleman from Pennsylvania who has made this accusation is entirely mistaken upon that point. It will be somewhat new to my constituents, who know me quite as well as the gentleman from Pennsylvania does, to hear at this late day that I am counted one of the enemies of General Frémont. It will be equally unjust to every other member of the committee to make the accusation against them.

The mistake into which my kind friend from Indiana [Mr. COLFAX] has fallen, and all other members who have arraigned this committee for the method in which they have pursued their investigations, lies right here: they forget what duties the committee were charged with. My friend referred, with great pride, to the proceedings of an investigating committee in a former Congress, and he held it up as a pattern for us to follow. He forgets that the one committee was charged with investigating the conduct of individuals, and that the other committee was charged solely with investigating the character of contracts; that we were to examine those contracts without regard to persons, and that we had nothing to do with persons in the investigation of those contracts. He says we failed in our duty, because when we went out to St. Louis we did not invite General Frémont to aid us in investigations touching the contracts which McKinstry had entered into there, as quartermaster, for the purpose of carrying on the war. Why, sir, we went out there without knowing General Frémont, or General Frémont's accusers in that department. We were treated with kindness and attention by both sides, and we felt it prudent to decline all proffers of hospitality ex-

tended to us upon either side, and in our investigations there to imitate, humbly as we might, but as far as in us lay, that personification of Justice which hangs in all our courts, and which makes her blindfold, hearing, but not seeing, men. We were no respecters of persons. We were charged with the duty of examining into contracts made, and the report upon which would be a matter of consideration for the House.

Therefore it is that I care not for the amendment of the gentleman from Indiana, [Mr. COLFAX,] for it may be that it should be adopted as a proper course of examination when it has any application to the course of examination, and not otherwise.

The gentleman from Pennsylvania says we went out there as the enemies of Frēmont, pursuing him. And what was the awful result? That when we found out a contract made there about horses—a contract about which the quartermaster who made it said he had spent hours and weeks and months in trying to find, without any success, the man Sacchi, who made it. The quartermaster who made this inquiry was a tried soldier of the regular Army, who has served for many a year in that capacity. In reference to this Sacchi, who had this contract, Quartermaster Turnley says—not the committee, though we are held responsible for what the quartermaster said:

"It came out that Sacchi was nobody, a man of straw, living in a garret in New York, whom nobody knew anything about; a man who was brought here (St. Louis) as a good person through whom to work. That rather recoiled upon Wood, who brought him to me."

That is the language of Captain Turnley of the regular Army, and not the language of the committee. And yet the gentleman from Pennsylvania arraigns the committee, and says that there are two things, dreadful and awful—*dishonest* is the word used—and the result of fraud upon the part of the committee; for he says it turned out afterwards, on the affidavit of the man himself, that this Sacchi, whom the witness said was nobody, was somebody, and did not live in anybody's garret in New York, but had given deeds and mortgages in New York—especially mortgages—as to which he referred to the records. And just at this moment, as appears by the Globe, in the midst of that most intense and terrific philippic of the gentleman from Pennsylania [Mr. STEVENS] against the committee for this mistake of their's, rises the gentleman from New York, [Mr. ROSCOE CONKLING,] as if intending to interrupt the gentleman from Pennsylvania for some important communication, and wishes the gentleman from Pennsylvania to give way right there. The gentleman from Pennsylvania gives way, and the gentleman from New York says he wishes to call the attention of the House, in this connection, to the "star of Bethlehem" [laughter] and the "crusade for freedom in freedom's holy land." [Renewed laughter.] But the gentleman from Pennsylvania was in no mood for poetry, and thrust aside the gentleman's sentimentality and eloquence. He felt, as it appears from the Globe, too much as the blood-hound does at the moment of springing upon the throat of his victim, to be interrupted by poetry; and he exclaims, as much as to say, "away with your 'star of Bethelem' and your 'crusade for freedom in freedom's holy land'"—says he does not care any more about that than he does about the contract for horses, though steeped in fraud dark as the bottomless pit. He says, "it is enough for me to know that he (Sacchi) was not the man who made the horse contract at all;" it is enough for me to know that I have detected the committee, not in any mistake about the fraudulent character of the contract, but in the great mistake of supposing that one man, bearing the same name, happened to be another man who bore that name; and then, upon the strength of that, rising in triumph over the committee he exclaims:

"And if the committee had had an honest purpose to know the truth, they would have known that; and yet they fill several pages of their report in charging that Frēmont gave this contract to a member of his own staff. I ask what you would think of the testimony of such a witness found lying one day? Would you believe him on the next?"

And here, just at this point, he addresses some able lawyer of the House—the Globe does not do him justice here, for it does not state to whom he alludes—

"You are an able lawyer, and know how much credit such a witness in entitled to. You know that if he is found falsifying in one case, you will not believe him in any."

This is the charge, *falsus in uno, falsus in omnibus*—they make a mistake in reference to the individual, and that is enough for me. I charge them with lying; I charge them with falsehood; and I ask some able lawyer in this House if it is not enough? Such is substantially the language of the gentleman from Pennsylvania.

But I do not want to do injustice to this scene; and I beg the House to let me read this language just as it occurred, in order that the whole beauty and force of this passage may be better seen than I can describe it. I said that in the midst of this accusation of the gentleman from Pennsylvania, the gentleman from New York, whom I like always to hear, always eloquent, always classical, sometimes biblical, rushes to the floor, and says:

"Will the gentleman allow me to make a remark just there?

"Mr. STEVENS. Yes, sir.

"Mr. ROSCOE CONKLING. This young man Sacchi, who is named here, is, I understand, a man who has been decorated for heroic actions upon the battle-fields of Italy more than once, a man who came here following the star of freedom as the shepherds followed the star of Bethlehem, and went out into that department and joined Frēmont's staff, not for pay, not for rank, but as a volunteer; a man who came here, in the language of another, 'to crusade for freedom in freedom's holy land.'

"Mr. STEVENS. It is enough for me to know that he is not the man who made the horse contract at all."

[The reading of the above extract excited great merriment in the House.]

The gentleman from New York will pardon me—for he knows that I appreciate the beauty of that passage as well as he does—for saying that that elegant passage of his in connection with the speech of the gentleman from Pennsylvania, reminds me of what my friend from Missouri [Mr. ROLLINS] said yesterday of the pearl in the toad's head. [Great laughter.] And then the gentleman from Pennsylvania exclaims: "It is enough; my soul is satisfied; I have the committee by the throat; here is a mistake in the name of an individual; *falsus in uno, falsus in omnibus;* I put it to the ablest lawyer in this House: are not the committee liars?" Sir, it reminds me of a lawyer who told me that upon a certain occasion he undertook, with what success he might be able, to defend a criminal detected *in flagrante delicto*, and, as is always the custom when men are so detected, the only defense was to set up an *alibi;* he proved the *alibi* with great success; the man had never been on the spot, and knew not where the spot was where the crime had been committed; and toward the close, the prisoner, thinking he was something of a lawyer also, got up and insisted on putting in his view of the case, and declared to the jury that he could show them that the witnesses swore falsely when they said there were two beds in the room; he told them, as my friend from Pennsylvania said here, upon his conscience, that there was only one bed in that room, and then exclaimed triumphantly, in the language of the gentleman from Pennsylvania, "witnesses who can be false in one thing are false in all—*falsus in uno, falsus in omnibus!*" The difficulty was in the verdict of the jury more than in the theory of the defendant on that occasion.

Mr. WASHBURNE. If my friend will give way for a moment, as illustrating this Sacchi contract, which has so much sympathy here, I desire to read an extract from the report of the Holt and Davis commission in St. Louis. It seems that a certain number of horses were really bought under that contract, amounting to some six or seven thousand dollars, but when the matter came to be exposed, there was no man who dared to come before the commission and make that claim. They say:

"Though the claim was for the large sum of $6,500, none of the original papers were filed, nor did Mr. Bitting [the man who claimed to own it] ever appear before us. It is hardly possible that he would have run the chance of losing a claim of such magnitude, unless there had been some urgent reason for declining to submit himself to such an examination, either on his own account, or on that of the persons from whom he obtained an assignment of the contract."

That is what the Holt commission say.

Mr. KELLEY. I would ask the gentleman from Illinois whether the contract to which that passage refers was a contract made by a member of General Frēmont's staff? For that is the question in issue now. Does that paragraph refer to a contract made by a member of General Frēmont's staff?

Mr. DAWES. I will dispose of that question. It refers to a contract drafted by Captain Turnley, of the regular Army, by the direction of J. C. Woods, upon General Frēmont's staff, sitting in General Frēmont's office, or else Captain Turnley is mistaken. That is all. My friend from Indiana [Mr. SHANKS] suggests, which I believe is true, that Woods was directed to make it by Frēmont himself.

Mr. SHANKS. Captain Turnley was directed to do it.

Mr. DAWES. I have studied, in order to avoid other complications in this matter, not to mention Frēmont's name, or anything that reflects upon him, during this discussion. Whatever there may be in that matter, the committee on Government contracts are on trial at this time, and not General Frēmont or any of his party.

Mr. KELLEY. Will the gentleman yield to me for a single question?

Mr. DAWES. If the House will let me have my time, I have no objection.

Mr. KELLEY. I simply want to ask whether Auguste Sacchi, of General Frēmont's staff, had part or lot in the contract to which that paragraph relates? He has a character as well as other men.

Mr. DAWES. Well, my dear sir, do be patient with me, and hear me till I get to the end. I was about to say that the committee are on trial on a charge of dishonesty for making a mistake and confounding the Sacchi who made the contract with this Sacchi upon General Frēmont's staff. The gentleman from Pennsylvania, [Mr. STEVENS,] who took command of the attack on Monday—and in which attack my friend from the Philadelphia district acted only as a subordinate—charged the committee, upon that occasion, with occupying several pages of their report in attempting to prove that that Sacchi was the same Sacchi who was upon General Frēmont's staff, when every word in the report touching that point is contained in three lines, which I have before me, and which I will read:

"It will hardly be believed that the name of this same Sacchi appears in the newspapers as being on the staff of General Frēmont, at Springfield, with the rank of captain.

That is all—just three lines; the committee supposing that the name referred to the same individual, called attention to the fact that the newspapers contained that name. And yet the gentleman from Pennsylvania felt justified in saying that we devoted several pages of our report to an endeavor to prove that fact! Now, it is absolutely necessary to convict the gentleman from Pennsylvania of utter ignorance of what he was talking about, in order to acquit him of an intentional misrepresentation of the committee.

Mr. KELLEY made a remark which was inaudible at the reporters' desk.

Mr. DAWES. As the gentleman seems desirous of taking part in this controversy, I will just say to him that when he attacked the committee in its absence several weeks since, we accepted his apology that he did it inadvertently, although the Globe shows that his attention was called to the fact, when he rose to make that attack, that the committee were absent from the House; and the gentleman returned to the attack the first time he found the committee again absent from the House. This is the only remark I desire to make in this connection touching his disposition to assault the committee in its absence. If the final report of the committee does not reveal why the gentleman is desirous of undermining the confidence of the House in the committee, then there may be occasion for us to remark further upon the question, why upon two distinct occasions, when the committee were absent, the gentleman felt it to be his bounden duty to undertake to undermine the confidence of the House and the country in the committee.

Now I wish to call the attention of the House distinctly to the motives which prompted the attack of Monday last. When the House and the country come to know, as the committee knows, what prompted this attack, they will appreciate it quite as well as the committee does. The committee encountered no such opposition from the gentleman from Pennsylvania, the chairman of the Committee of Ways and Means, in the early stages of their investigation. It was only when the committee, in the way of its duty, came to throw itself between the Treasury of the United States and a private speculation in which one Si-

mon Stevens was interested, and through which $90,000 was to be taken out of the Treasury of the United States, without a dollar of consideration, in the simple sale and repurchase of five thousand arms by the United States, that the committee encountered the opposition of the chairman of the Committee of Ways and Means. It first manifested itself in delaying the appropriation to pay the expenses of the committee, and it then brought out a speech in the House ridiculing the committee and the committee's efforts to rescue the Treasury from the harpies that hung around and hovered over it. And last of all, it culminated in an attack last Monday on the integrity and character of the committee, and that, too, after the gentleman from Pennsylvania had been duly notified that every member of the committee was absent and could not reply. The amendment offered by him to the second resolution looks to the same end. Sir, if that fact had gone forth with his charge the committee would have been content to have put themselves with it on their country and to have abided the issue.

Sir, I am not permitted to overlook also the connection of others in this matter. Although I had not the privilege of being present during the forepart of this week, when this scene transpired, I am informed that a distinguished ex-functionary of the Government was here in this House as the generalissimo on that occasion. I am informed that subsequently he appeared at the seat of the distinguished member from Pennsylvania, [Mr. STEVENS,] and congratulated him on the signal success of his achievement over the committee in their absence, and that he conferred with the lieutenant in that attack, [Mr. KELLEY,] and with my other distinguished friend from Pennsylvania, [Mr. MOORHEAD,] who feels courage enough, and is sufficiently prompted by a sense of duty to vote for the discharge of the committee. Sir, I had hoped not to be compelled to allude to any one else in connection with this matter; but justice to the committee requires me to call attention to these singular coincidences.

That is not all. The committee has had fair notice served upon it by this distinguished ex-Secretary that its members are to hear from him elsewhere. Why, sir, the accusation which the gentleman from Pennsylvania [Mr. KELLEY] made on the committee a few weeks ago was published as an advertisement in the newspaper in my district, in the vain attempt to make the people of my district believe that I was not an honest man. Of course the gentleman from Pennsylvania did not pay for that advertisement. [Laughter.] Of course it could not be the distinguished Secretary, who had served notice on every member of the committee that he would be laid out in his own district at the next election. I know not who paid for the advertisement, nor do I care. No man who was here at the last session of the last Congress can forget how the distinguished chairman of the Committee of Ways and Means made it public that he had represented to President Lincoln the true character of that distinguished individual and the danger of taking him into his Cabinet, how gentleman from Pennsylvania protested in writing to President Lincoln against taking him into the Cabinet, and yet we find how, one by one, they were, some of them at least, brought up before President Lincoln, on their knees, and made to retract it all.

A MEMBER. Not all of them.

Mr. DAWES. "Not all." The exceptions were not as many as were necessary to save Sodom. [Laughter.] I am happy to say, Mr. Speaker, that although I have been compelled to speak thus of gentlemen from Pennsylvania, I do not reflect on Pennsylvania herself. I only speak of the power of that distinguished ex-Secretary over individual men. I am happy to know that Pennsylvania is true when she is herself, and that she is herself on this floor as well as elsehere.

Mr. McKNIGHT. Will my friend from Massachusetts yield to me a moment?

Mr. DAWES. Yes, sir.

Mr. McKNIGHT. I desire to say, as the gentleman has not particularized members of the Pennsylvania delegation, that, so far as I am concerned, I am one of the members from Pennsylvania who protested to President Lincoln against the admission of Mr. Cameron into the Cabinet, and that I never withdrew nor qualified that protest.

Mr. MOORHEAD. As my colleague has taken occasion to set himself right, I desire to say that I recommended the appointment of General Cameron to the Cabinet, that I worked heartily to accomplish it, and that I am here ready to stand by it. I believe that it was a good appointment, and that it represented the people of Pennsylvania.

Mr. DAWES. I desire to say in reply to the gentleman from Pennsylvania that the newspapers did not leave us in ignorance at the time——

[Here the hammer fell.]

Mr. KELLEY obtained the floor.

Mr. KELLOGG, of Michigan. I hope the gentleman's time will be extended. [Cries of "Go on!"]

Mr. ROSCOE CONKLING. I object.

Mr. KELLEY. I wish it understood that I did not object; but I should like to have the floor when the gentleman is done, without his time being taken out of mine.

Mr. DAWES. I thought there was a tacit acquiescence on the part of the House that if I yielded the floor to gentlemen my time would be extended.

The SPEAKER. Does the gentleman from New York withdraw his objection?

Mr. ROSCOE CONKLING. I decline to withdraw it. I have listened as long as I desire to listen to refuting an attack which no one has ever made on the committee.

Mr. KELLEY. I hope the gentleman from New York will withdraw his objection.

Mr. DAWES. Allow me to say that, when I was asked to yield to other gentlemen, I understood the House to assent to my proposition, that my time should be extended. I regret that the gentleman from New York did not object at that time, as I would then have saved my own time.

Mr. ROSCOE CONKLING. I raise the point of order that the gentleman from Pennsylvania is entitled to the floor, and must either occupy it or yield it. The time of the gentleman from Massachusetts having expired, it is not in order for him to pursue this discussion.

The SPEAKER. The gentleman from Pennsylvania cannot yield the floor if objection be made.

Mr. KELLEY. I am willing to yield the floor, but not the time, and therefore I will proceed.

Mr. ROSCOE CONKLING. I object to that.

The SPEAKER. The gentleman cannot yield except unconditionally.

Mr. KELLEY. Mr. Speaker, when, a few days ago, the gentleman from Massachusetts [Mr. DAWES] protested that he had not meant to reflect on the present Secretary of War, I felt that his remark, incomprehensible as it might seem to others, was perfectly true; that it was not in his nature to reflect on single individuals. The current of all his remarks in this House, since I have had the honor of holding a seat, has been rather a wail over the fact that the Almighty had not called him into counsel when He was about to create man and order His providence, than a finding of fault with individual members of our imperfect species. I am glad of one thing, which is, that the gentleman has discovered, even if the impression lingered but for a moment, though it endured but for a brief paroxysm of time, that there is value in character for integrity and veracity.

I was brought up in a State where the people believe, sacredly almost as they do the Scriptures, that teaching of Shakspeare which says that good name in man or woman is the immediate jewel of the soul. We in that State punish slander by reclamations upon the estate of the slanderer, and if that is insufficient to respond adequately, by his confinement in prison. We regard libel as an infamous crime; and I have seen the libeler in the cells of the same corridor in our penitentiary with the burglar and the horse thief. Therefore, it may be that some of us are a little sensitive when character is falsely assailed.

So it may have been with Alexander Cummings. And just here, let me ask the gentleman from Massachusetts if he will be kind enough to furnish me with the subpena which he produced before the House several days ago? In the speech made by the gentleman on that occasion, he regaled the House with the reiterated assurance that a subpena had been issued for Mr. Blatchford, of New York, and that in order to prevent injustice that gentleman had been sought for, that his evidence had been sought through a whole day, and for a longer period, and could not be obtained before the making up of the report of the committee. And he produced the subpena. His speech is on record. It fixes the date of the subpena and the incorrectness of his allegation. The subpena thus referred to in support of the slander contained in this report, as produced by the gentleman, bears date the 18th of December, while you will find, by examining the report, that it was presented to the House on the 17th of December, and on the morning of the 18th, the date of the subpena so generously issued, was ordered to be printed with all its mistakes upon its head.

Now, I ask the gentleman from Massachusetts whether he or his colleagues on the committee ever received from Alexander Cummings a communication, saying, "I have retained $140,000?" They never did. They will not say they did. The dodge adopted by the gentleman was that the printer had made the mistake. The country, Mr. Speaker, does not hold the printer responsible for the mistakes contained in the report, but the committee that sent them out; and if the members of the committee did not read the proof of their report, or cause it to be read, and it contains errors prejudicial to character which they fail to explain or retract, or to accept and publish explanations of, it will hold them guilty of libel.

"This," says the gentleman—for while he prates of character he cannot utter a sentence that does not assail it and carp at somebody—"this," says he, "was a concerted movement. The ex-Secretary of War was here to incite my colleague to action, and I played a lieutenant's part in the game under his direction." I would thank the gentleman from New York, [Mr. DIVEN,] who opened the discussion, and in the course of the debate told us that his speech was a surprise to himself as well as to us, what concert of action he had with Simon Cameron, or with the humble individual who now speaks, or with the chairman of the Committee of Ways and Means, or with the distinguished gentleman from Indiana, [Mr. COLFAX,] on that occasion? I wait for his answer. If he was advised in or engaged in any conspiracy, God knows I was and am ignorant of the fact.

Mr. DIVEN. As I am appealed to, all I have to say is, that in the remark I made on that occasion, that the calling up of the resolution was a surprise to me, I simply spoke the truth.

Mr. KELLEY. The gentleman from Massachusetts says "the galled jade winces." If that was meant to apply to me or cover me by innuendo, I pronounce it false. I never was a political friend of Simon Cameron. He never represented the State of Pennsylvania by my vote or my influence. He did not become the Cabinet minister of Abraham Lincoln by my voice or by the withdrawal of my protest, and I am in debt to him for no one act of official courtesy. Look at your Army list and the influences that secured appointments, and see if there is any other man in this House who can say as I can, that my influence has made no officer. No, sir; I am responsible for the conduct of no officer commissioned by Secretary Cameron, nor does one of all the number owe me gratitude for his appointment. As a citizen of my own State who, from humble orphanage, has by his own labor and force of character risen to high position, I honor him, but as a statesman I have not admired him. In politics his lines and mine have run in opposite directions, although we have twice been members of the same party. I can, however, distinguish between the politician and the man; and as a man of extraordinary and generous traits of personal character I know and respect him.

The gentleman intimates that somebody on this floor may suffer by the final report of the committee. Sir, let the final report come! and if, in their star chamber, there be accusations filed against me, I ask the committee to pursue them to the bitter end. If I have done aught to militate against my Government, or impair my character as a man or a member of this House, ascertain and proclaim it, and let the people of my native city drive me from their midst. But, sir, it will take more than envenomed and slanderous innuendoes to silence my tongue when truth and justice are the theme. Go through your Departments, bureaus, which, with or for some of my constituents

I enter almost daily, and find, if you can, the man I have solicited to give a contract to friend or townsman. Go to my own city and pass through the departments there, and see if you can find an officer to say that I have solicited or been chaffering in contracts. As one of the representatives of a great manufacturing city, I have reminded the President and the members of his Cabinet, that our people, more largely than those of any other important city, depend on daily labor for daily bread. To these distinguished gentlemen I have spoken of the fact that my city has done its full part in enabling Pennsylvania to put twenty-five per cent. more than her quota of troops in the field, and have urged them so to direct the patronage of the Government that the wives and children of our poor but patriotic laboring men, now in the field, should not have want of food, fuel, and clothing added to the loss of husband and father. And, sir, with all this I am willing the committee should brand me.

I did not provoke the ire of the gentleman or his committee rashly. I made, when I first called attention to the injustice of the report, no assault upon either. Duty to an abused man required me to do what I did. It was because I saw that the committee were not acting as I thought in a spirit of candor and justice that I presented to the House a letter from a constituent, calling the attention of the country to a mistake which members of the committee, as individuals, had refused to correct. I did keep that communication for days, as the gentleman suggested in his former speech, and I meanwhile suggested the mistake to members of the committee, and asked them to correct it on their own motion that I should not have to do it publicly, for I did not want to get into collision with any gentleman upon this floor.

Now, sir, a word to the present chairman of that committee. I ask the gentleman, as, if I am correctly informed, others have done, to name the friend of Alexander Cummings who, during that man's long, painful, and dangerous illness, while his family were concealing from him the slanders originating in this report, with which the papers teemed, came and informed him that "upon Mr. Cumming's recovery he would make a clean breast of it." When the gentleman made the assertion he was interrupted and asked to name the author of that statement, and if I have not been misinformed he has been solicited personally and in writing to name his authority, but has been unwilling or unable to respond. Unwilling, sir—oh! cruel thought—or unable. I ask him now who were the men whom he pronounced the friends of Alexander Cummings who told him that Mr. Cummings would be prepared "to make a clean breast of it" as soon as he had sufficiently recovered.

Mr. DAWES. The gentleman addresses me as the chairman of the committee. The gentleman from Illinois [Mr. WASHBURNE] is chairman of the committee. I will state to the gentleman, however, that I did receive such an application, and responded to it in writing. The gentleman may produce my letter.

Mr. KELLEY. Show it to me.

Mr. DAWES. The gentleman from Pennsylvania was the chosen friend of Mr. Cummings to present his accusation to the House. Another gentleman from Pennsylvania, however, with considerable formality, served upon me a letter from Mr. Cummings, to which I took the opportunity to reply. That is all I have to say upon this occasion.

Mr. KELLEY. I would ask still another question. I have not had the advantage of seeing that letter, and do not know its contents. Will the gentleman have the kindness to inform me whether it names the persons?

Mr. DAWES. The gentleman who was the chosen friend of Alexander Cummings for that purpose, and who conducted the correspondence between him and myself, can answer for himself. The papers are out of my possession, and I am not at liberty to expose their contents.

Mr. KELLEY. Is this the representative of the justice and candor of a committee of the American Congress, who gives the world assurance that a man's friends have proclaimed him criminal, and yet withholds the names of the alleged friends, that the truth of the assertion may be tested? Is this, I ask, the justice of the American Congress, as represented by one of its committees?

Sir, in the presence of such a spectacle, do you wonder that the report of this committee has been assailed?

Mr. DAWES. Does the gentleman accuse me of any want of candor when I say that his letter is in the possession of one of his colleagues?

Mr. KELLEY. What colleague?

Mr. DAWES. Whoever has got the letter.

Mr. KELLEY. Has any gentleman a letter from the gentleman from Massachusetts on the subject in question? If any member has such a letter, I would be glad if he would produce it. I will be glad to know whether the gentleman from Massachusetts had the name of any friend or pretended friend of Alexander Cummings who called upon him, and told him that Mr. Cummings was sorry, and that when his health would permit, he would make a clean breast, or that any friend of Mr. Cummings used those words, or any other words implying that he had a knowledge of the accusation which was made against him. We learn to-day that the brilliant young soldier upon Frémont's staff, Sacchi, was not engaged in a horse contract. We learn it to-day through the committee, whose report is flying wide-spread, and that the information upon which the assertion that he had is founded was derived from a newspaper. Have Congress and the country been at the heavy expense of a wandering committee to announce under its sanction newspaper reports and scandal? We sent them out to collect evidence of witnesses, and not to tell us what newspapers say. We can read them.

God knows there was much to need investigation. My complaint is not that investigation has been made, but that this committee, for some purpose or other, or by reason of some fact or other, has made a report so sweeping in its statements that the Government and Congress shrink from taking any action on it. Punish the men who have defrauded the Treasury. Gather your evidence, show that they are guilty, and then, under the law of the land, punish them. But do not imitate the cuttle-fish, which, though it scarcely rises above the level of a reptile, pours fourth a juice so venomous that it stains, blackens, and befouls the broad and free-rolling waves of the ocean. Do not fling your vile odors around everybody, and make the names of contractor and agent so odious that honest men will shrink from dealing with the Government, and force it into hands of sharks and sharpers.

Mr. HICKMAN. I wish to say a word, and that is this: if there be such a letter in the possession of any member of the Pennsylvania delegation in this House as has been referred to by the member of the committee recently upon the floor, I trust he will produce it, and relieve the other members of the delegation from the imputation of having such a letter in their possession.

Mr. MOORHEAD. I endeavored to get the floor sometime ago, but I failed to do so. I have a letter from the gentleman from Massachusetts, [Mr. DAWES,] but, as it is at my room, I cannot produce it. I did not expect this matter would have come up this morning, or I would have brought it with me. But in that letter the gentleman from Massachusetts gives no name, and refuses to give the name of the friend of Mr. Cummings, who made the statement to which he referred. He refuses to tell who it was that told him that when Mr. Cummings had recovered his health he would appear before the committee and make a clean breast of the matter. I stated that it was a slander upon Mr. Cummings, and that none of his friends had ever said so. Yet the gentleman from Massachusetts has refused to give the name of his informant.

Mr. KELLEY. If my colleague will furnish me with a copy of that letter of the gentleman from Massachusetts, I will incorporate it in my printed remarks.*

Mr. MOORHEAD. I will furnish it to my colleague.

Mr. DAWES. That is all I ask.

Mr. KELLEY. The gentleman spoke of those who had made it their business to seek out the mistakes of the committee. I wish I could get

---

* The following is the correspondence referred to:

WASHINGTON, *April* 25, 1862.

DEAR SIR: Herewith I send you the correspondence referred to by Mr. DAWES in the House to-day. After receiving the verbal reply of Mr. DAWES, I communicated with Mr. Cummings, but from some mishap or misdirection he did not receive my letter promptly, and I did not hear from him again until the 15th instant, which will account for the lapse of time between the date of the first and second letters.

Respectfully yours, J. K. MOORHEAD.

Hon. WILLIAM D. KELLEY.

I have marked the papers in their regular order, 1, 2, 3, and 4.

(1)

NEW YORK, *March* 29, 1862.

SIR: In a speech delivered by you in the House of Representatives on the 26th instant, as reported in the Daily Globe, I find the following passage:

"Sir, the committee was advised through friends of Mr. Cummings during the winter that he was sick, that he was very sick, that the testimony which he had given before our committee troubled him and weighed upon his mind; that the effort which he had there made to screen and cover up transactions was a thing that rested heavily on his mind, and the committee was assured through his friends that if he ever recovered he would make a full and free statement of the whole matter, and that the men who had put him up to this and had taken the money and expended it themselves, should bear the burden. The committee was waiting anxiously to know that which they had failed to get from him.

"Mr. STEVENS. If that statement were made to the committee it is right that the person who made it should be named, that the statement may be refuted if it were false, as I have no doubt it was.

"Mr. DAWES. After the kind remark of the gentleman from Pennsylvania, he can hardly expect that I should be tempted to take advice from him.

"Mr. STEVENS. I did not mean to apply the word 'false' to the statement of the committee, but to that which was conveyed to the committee.

"Mr. DAWES. Let me go through with my story.

"Mr. STEVENS. Well, I should like to have the name.

"Mr. DAWES. I say that through the friends of this man we had assurances that he was about to make a full statement, a clean breast of it, and to make plain and clear that which was so mystified in his testimony, so that the world might know who expended that money. But when he came to get well, the political necessities of his principal in this matter happened, at the time, to be so pressing that it was necessary that that which was early promised to be a full statement of what had been done with that money was turned into an accusation and assault upon the integrity of the committee."

The only weight this statement can have is derived from the intimation that it has some authority or sanction from me, the authors of it being spoken of as my "friends." It is, therefore, due to you, as well as to myself, to say that you have been grossly imposed upon by the persons to whom you refer.

The bitterest enemy I might possibly have could not, by any contrivance, invent anything more false and injurious to my character and reputation.

The whole statement thus made to you is not only a sheer fabrication, but an atrocious calumny. It contains not one particle of truth. It is false from beginning to end, in whole and in part, in every particular.

I am sure you will agree with me that the authors of this fraud which has been imposed upon you should at once be made known. And I doubt not you will, without hesitation, furnish me their names.

And for the purpose of ascertaining who they are, my friend, General MOORHEAD, member of Congress from Pennsylvania, will call on you with this note and receive your reply.

I am, respectfully, yours, &c.,

ALEXANDER CUMMINGS.

Hon. H. L. DAWES,
Member of Congress from Massachusetts.

(2)

Mr. DAWES returned this letter, saying, verbally, "Until Mr. Cummings withdraws the charges made against the integrity of the committee, I can hold no correspondence with him."

(3)

HOUSE OF REPRESENTATIVES, *April* 16, 1862.

DEAR SIR: Having declined for reasons satisfactory to yourself to answer Mr. Cummings, and give him the names of "his friends" alluded to in your speech of the 26th March, I feel it my duty, as one of his friends, and believing as I do, the emphatic denial made in his letter herewith, to which I refer, to ask you to furnish me with the names of the persons who have so basely misrepresented him before your committee.

Respectfully yours, J. K. MOORHEAD.

Hon. H. L. DAWES.

(4)

WASHINGTON, D. C., *April* 16, 1862.

DEAR SIR: I acknowledge the receipt of yours of this date, inclosing one addressed to me of March 29, 1862, signed by Alexander Cummings. I recognize this letter to be the one which you handed me on the day of its date, and which I returned to you with the remark that until its author publicly retracted the imputation upon the honor and integrity of a committee of which I was a member, which he in the absence of that committee had caused to be publicly made in the House, knowing it to be false, I should hold no correspondence with him. I have only to add that it does not awaken in me any new regard for his character to find him endeavoring to avail himself of the known friendly relations which exist between yourself and me to obtain from me that which self-respect forbids that I should give him directly.

I return, inclosed, a second time, Mr. Cummings's letter, but have taken the liberty to retain yours which accompanied it, trusting that our own personal friendship will suffer no diminution from this correspondence.

I am truly, yours, H. L. DAWES.

Hon. J. K. MOORHEAD.

time to read the papers and reports with which my desk is filled. I cannot find time to read the least elaborate of them, much less such ponderous volumes as this report, covering over eleven hundred pages. I am a widely-known member of a community numbering more than six hundred thousand people. My constituents and townsmen can take the cars late in the evening and have their breakfast in Washington, or they can attend to the bank business of the morning and take their tea in Washington, so that I am rarely or never out of the presence of my constituents and townsmen. Unhappily, I am not able to answer one tenth of the letters brought me by mail, and am not, therefore, able to take upon myself the reading of volumes of the kind now before us, and to analyze and sift their contents. I am discussing the report of the committee, because one of my constituents called my attention to a flagrant error, and the basing upon that error of a report destructive of his character, the result of nearly half a century of an honest and energetic life, and to which I invited attention, when no member of that committee, to whom I spoke on the subject, would admit that there was an error and correct it.

I wish I could get time to read this report through. If it discloses that measure of fraud which public rumor says it does, I would favor energetic action, and at once expose the perpetrators to the public eye and condign punishment.

In the course of the gentleman's speech to which I have alluded, Mr. Cummings is denounced for his contracts for linen pantaloons and straw hats for our troops. Yes, sir, he did make purchases of those articles; and the gallant men who came from distant Maine and northern Michigan, leaving the snow under their feet and at the doors of their homes, were brought suddenly under a summer sun, thanked God many a time that somebody had the sagacity to provide them with light linen instead of heavy woolens, and a wide brimmed straw hat to protect them from the sun while working as laborers in the trenches. Gentlemen need not tell me that there was to be no necessity for such articles. Your Quartermaster General, I am told, tried to buy such articles before learning there were some on hand, and when he went into the market he found that he could not obtain them except at double the price paid by Alexander Cummings. Yes, for white pantaloons he was charged one hundred per cent. higher than was paid by Mr. Cummings.

Mr. STEELE, of New Jersey. The hats and linen pantaloons purchased by Mr. Cummings are now in the possession of the quartermasters. The pantaloons cannot be used because they are not half sewed, and the hats are too small for anybody.

Mr. KELLEY. There is a question of veracity between us, and I will go to the Department with the gentleman to settle it.

Mr. STEELE, of New Jersey. I am willing to accept that.

Mr. WASHBURNE. Inquire also about the one hundred and fifty bags of coffee purchased by Mr. Cummings.

Mr. KELLEY. The circumstances under which Mr. Cummings was appointed were hitherto unknown. The order of 23d of April, under which he was appointed, announces them, as follows:

"In consideration of the extraordinary emergencies which demand immediate and decisive measures for the preservation of the national capital and the defense of the national Government—"

What were those extraordinary emergencies? Look at the date: 23d of April, 1861—four days after the shooting of the Massachusetts soldiers in Baltimore; two days after the burning of the bridges, when the capital was invested and deprived of intercourse with the North; when there was only one means of access to this building; when more than half of the men in the city were disloyal; when a little company of less than one hundred men from various States were guarding the President's House; when a local military company of eighty members went to be mustered into service, and more than forty refused to take the oath; and when a few companies of Pennsylvanians, unarmed as they were, fought their way through Baltimore to this capital with clubs, and made a nucleus, which the loyal troops from New York and Massachusetts came to sustain and expand. And who was to provide for them? A gentleman who had never been in military life was ordered to coöperate with the officers of the Government, and he bought coffee. But he ought not to have given to the seventh and seventy-first New York, or the sixth or eighth Massachusetts regiments, any coffee. Why, they had become common soldiers, and to give them such a luxury as coffee was to outrage the sensibilities and the principles of the Van Wyck committee. Yet, thank God, he provided coffee for them; he sent to the capital refreshments for these men, who had left their luxurious homes, and had come, with muskets on their shoulders, to guard your barricaded capital.

Mr. STEELE, of New Jersey. Will the gentleman yield to me a moment?

Mr. KELLEY. Yes, sir; I yield the floor, having finished my remarks. I came not willingly into this discussion, but I am ready now, and will be when the final report comes in, to bear my part in asking this House to do justice, and to correct mistakes that strike at the character of citizens, and which are persisted in by the members of the committee.

Mr. STEELE, of New Jersey. I merely desire to say to the gentleman from Pennsylvania, who says that one of his constituents had furnished coffee to the regiments which came on here at that time, that the coffee sent on here by Alexander Cummings is now in possession of the commissary, and has not been distributed at all, for the reason that it was not fit for distribution. [Laughter.]

Mr. KELLEY. We will settle that question as we settle the other. I had never heard a question raised about the coffee. I say it was provided for such a purpose, and I am willing to go with the gentleman from New Jersey to the source of truth upon that subject, and learn what it is.

Mr. STEELE, of New Jersey. I had the evidence before me this morning, together with samples of the coffee itself.

Mr. DAWES. I do not desire to be turned aside from my original purpose in this discussion by any question as to the propriety of the purchases of Alexander Cummings in April of last year, or the propriety of giving, in the midst of a snow storm, straw hats and linen pantaloons to the shivering soldiers of Maine and Massachusetts, on their way to defend the capital. I do not desire to enter into that question, for I rose to finish the few remarks I designed to make when I opened this discussion.

But before going further, I ask the pardon of the gentleman from New York [Mr. ROSCOE CONKLING] for wounding his feelings so seriously in the poor attempt I made at pleasantry when appreciating the beauties of his remarks. I found them in such strange settings that I was incautiously led to make the remarks I did. I was innocent of any design to wound him.

The complaint of the gentleman from Pennsylvania, the chairman of the Committee of Ways and Means, [Mr. STEVENS,] and in reference to which nothing but the rule of the House prevented him from moving to discharge the committee, was that the committee were expending the people's money. Now, I wish to ask the gentleman from Pennsylvania if he has any idea what this committee has cost, over and above what they have saved to the Treasury thus far? I want to know whether he had the slightest idea about that when he charged upon the committee such expenditure and such extravagance as to justify him in moving to discharge them from further duty, and that, too, in their absence?

But before I go further, and lest I forget it, it is due to the Pennsylvania delegation in the House that I should be more explicit upon the matter to which I have before alluded. I spoke of the great influence of an ex-Secretary over men, and I spoke of the attempt upon his part to accomplish a certain end in that way. I alluded, what seemed to be well known as a fact, to his influence upon distinguished gentlemen from Pennsylvania, in and about and out of the last Congress. I think upon the testimony I have received here since I made that remark, that I ought to say that none of those gentlemen, members of the present House at least, were induced by any consideration to withdraw the protest they filed with the President. I think there is no doubt of the fact, however. The newspaper publications announced, and it was never contradicted, that many of the gentlemen who were induced to sign such a protest, were also induced by the exercise of that influence always attendant on great minds and great men over others not so great, to withdraw that protest.

But to return; I was asking the gentleman from Pennsylvania about the expenses of this committee. The gentleman is before me, and as I have put the matter in the form of an interrogatory, I hope the gentleman will at some time indicate to the House his knowledge upon that subject.

Mr. STEVENS. What question does the gentleman put to me?

Mr. DAWES. Whether the gentleman is aware of the expenses of that committee over and above what they have saved to Government?

Mr. STEVENS made a reply which was not distinctly heard by the reporters, but the purport of which was understood to be, that he hoped to have an opportunity hereafter to reply to the gentleman's remarks and interrogatories.

Mr. DAWES. I stated to the House on a former occasion that the committee had endeavored to render its action as practical as possible, and whenever they had discovered what they thought to be a fraudulent or profligate contract, to lay it before the proper Department; the Department cooperating with the committee in correcting abuses. Arithmetic shows that the committee had brought back—when this report was made—in dollars and cents into the Treasury, just about the amount of their current expenses; and they have saved in contracts amounts which would seem almost fabulous in other times. I may be permitted to allude to a single contract which was made last September—made by the then Secretary of War himself, Mr. Cameron, its terms not known at the Ordnance Bureau until three days before he resigned, for the purchase of one hundred and fifty thousand muskets abroad, to be inspected abroad by a man sent out there by the War Department, and whose expenses were to be borne by the parties selling the arms, and under such circumstances that the man who was sent out by the party who had made this contract with the Secretary of War, went out under an assumed name; a brother-in-law of a distinguished officer of a Pennsylvania railroad. Brothers-in-law, I may be permitted to say, are very fortunate in these times, and if I ever begin life again I will take care to be somebody's brother-in-law. [Laughter.] I say I may be permitted to refer to such a contract, and when this committee came to investigate it, the parties came straightway here before the commission on ordnance and ordnance stores, now sitting in this city, and consented to a settlement of it upon terms by which $1,300,000 have been saved to the Government in a single contract. That contract, I say, was made by the then Secretary of War himself, and, as appears by the document I have before me, its terms were not known to the Ordnance Bureau until the 10th day of January last, three days before the Secretary resigned.

In connection with this statement, I send up to the Clerk the document, and ask him to read what I have marked. It is a document addressed to the Senate of the United States by the then Secretary of War. It bears date the 15th day of January last, two days after he had resigned, while he was then acting Secretary of War, and while his nomination as minister to Russia was pending in the Senate, and where it encountered opposition because of certain statements which I happened to make here upon this floor upon the day he resigned.

The Clerk read, as follows:

"In the mean time I take occasion to state that I have, myself, not made a single contract for any purpose whatever; having always interpreted the laws of Congress as contemplating that the heads of bureaus, who are experienced and able officers of the regular Army, shall make all contracts for supplies for the branches of the service under their charge respectively.

"So far, I have not found any occasion to interfere with them in the discharge of this portion of their responsible duties.

"I have the honor to be, very respectfully, your obedient servant, SIMON CAMERON,

"Secretary of War.

"Hon. H. HAMLIN,

"President of the Senate of the United States."

Mr. DAWES. I have stated that, in this solemn declaration, signed by the then Secretary of War, and addressed to the Senate when his nomination was pending, and when the accusation was made against him that he had made contracts for the purchase of arms, as stated by me upon this

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. WEDNESDAY, APRIL 30, 1862. NEW SERIES.....No. 116.

floor, to the amount of one million ninety-six thousand muskets, he stated deliberately that he never made a contract, when the book I have before me, which is Executive Document No. 67, containing all the contracts made for arms by the War Department, recapitulates and sums up the whole matter in these words:

	Muskets and Rifles.
Contracts by order of Secretary of War.....	1,836,900
Contracts by Chief of Ordnance.....	64,400
Contracts by order of Major General Fremont...	1,000
Contracts by order of Major P. V. Hagner.....	1,500
	1,903,800

This document, in the face of the solemn declaration of the then Secretary of War that he had never made one of these contracts, reveals contracts made by him, and by his order, to the amount of one million eight hundred and thirty-six thousand nine hundred muskets, and that upon the very day he made this statement—the 15th day of January, two days after he had resigned, and while he was acting Secretary of War, and while his nomination was pending in the Senate—he put his hand to a contract for swords and sabers to an unlimited amount—all that the parties, resident in Philadelphia, could furnish in six months; and this, too, against the protest of the Chief of Ordnance, now before me in print. It was a contract that had expired, or was about to expire, by its limitation, and which the Chief of Ordnance refused to extend, and gave this reason for not doing so, addressed to the Secretary of War:

"As regards the extension, I have to state that an arrangement has already been made for obtaining on prospective deliveries, one hundred and twenty-one thousand seven hundred and five swords and sabers; and the unlimited order to Messrs. Horstman was given only because of short time to the deliveries of sabers of their own manufacture. I do not think an extension of the order is necessary or advisable.

"Respectfully, &c., JAS. W. RIPLEY,
"*Brigadier General.*

"Hon. SIMON CAMERON, *Secretary of War.*"

Beneath this is the extension of that contract by order of the Secretary of War, for four months; and still beneath that, on the 15th day of January, are these words:

JANUARY 15, 1862.

This order is extended for six months, from the termination of the time mentioned above.

SIMON CAMERON,
Secretary of War.

Now, sir, it was this public statement of his, upon his responsibility as an officer of the Government, to which I have referred, that induced a distinguished Senator and colleague of mine, noble and generous-hearted, who would do no man any wrong, and who believes that all men tell the truth, to urge, after having moved, the unanimous confirmation of this man, whose name was then before the Senate, and to state, in words as kind towards me, his colleague in this House, as he was capable of using, that he had the authority of this man, Simon Cameron, for stating that I was altogether mistaken when I said that these contracts had been made.

Sir, the distinguished gentleman from Pennsylvania, the chairman of the Committee of Ways and Means, says *falsus in uno, falsus in omnibus.* I wish to quote these two things together, and let my friend from Pennsylvania answer them in the light of the principle which he has laid down.

I submit then that the charge of expending the public money as a reason why this committee should be discharged comes with ill grace from the quarter from whence it comes. Why, sir, who does not know, what all the papers stated, that political feuds were healed by horse contracts, and that the healing of them was celebrated by a great feast? I have once alluded to it myself. I am able now to state more particularly the details of the affair. It took four horse contracts each for one thousand horses to settle those old political feuds, and every one of those contracts cost the Government $100,000—$400,000 in four horse contracts; and let me tell you, Mr. Speaker, that some of them were in men's names who did not know of it until the contracts were made. It does not need to be told to gentlemen who know so much about the way things are done as we do here in this House, why it is and for whose benefit it is that large contracts are made in men's names without their knowing anything about it. My distinguished friend from Pennsylvania, [Mr. STEVENS,] who, in the discharge of what appeared to be a high duty, protested against such a man as Simon Cameron going into the Cabinet, the papers say, graced that feast with his presence, and that these persons were, over this entertainment, celebrating the restoration of harmony among old political antagonists, and some of them certainly knew the consideration. It seems to me that the $400,000 should be saved to the Treasury somehow or other. It is a poor expenditure of the public money just at this time when it is used for no better purpose than to heal political feuds. These gentlemen enjoyed themselves, the papers told us.

Mr. STEVENS. The gentleman will allow me to ask him a question, as I do not very well understand his allusion. I suppose he is referring to something not yet published; or is it to anything that has been published?

Mr. DAWES. I stated that it was published in all the papers.

Mr. STEVENS. In his remarks about the horse contracts, does the gentleman refer to anything contained in the report of the committee?

Mr. DAWES. No, sir; not to anything published in the report. I am speaking now of what is known to everybody. It did not take even the poor Van Wyck committee to find it out. [Laughter.] The parties fell out over one of these arrangements and told of it; and I have only to say that at that particular time there was, according to the newspapers, great harmony among these men. I do not know whether the gentleman from Pennsylvania on my left, [Mr. MOORHEAD,] was there or not.

Mr. MOORHEAD. I would like to know why the gentleman refers to me. I do not wish the gentleman from Massachusetts, and I will not permit him or any other gentleman, to put me in a false position. I want to know why he refers to me.

Mr. DAWES. I did not know the gentleman was there, and therefore I would not say that he was there.

Mr. MOORHEAD. Then why refer to me at all? What reason have you to suppose that I was there?

Mr. DAWES. Because the gentleman has avowed himself at this moment, and under all the lights of the present day, an ardent advocate and admirer of the man whose character, public and official, I have been commenting upon, and I thought it was but natural he should be invited to such a feast. I hope he was not overlooked. [Laughter.] I have only to say that the papers described it as being a delightful occasion, but I remembered, and I think the country remembered, all about the antecedents of these parties, and put the interrogatories, "why, and what for, and what has it cost?" I wonder they did not sing, as they closed, those lines of the poet appropriate to each of them:

"I know not, I care not, if guilt's in thy heart,
I but know that I love thee, whatever thou art."

[Laughter.]

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill (No. 75) to establish a line of steam mail ships between San Francisco, in California, and Shanghae, in China, touching at the Sandwich Islands and Japan, in which he was directed to ask the concurrence of the House.

On motion of Mr. WASHBURNE, by unanimous consent, the bill was taken up, received its first and second readings, and was referred to the Committee on Commerce.

GOVERNMENT CONTRACTS—AGAIN.

Mr. DAWES. Mr. Speaker, I have a word or two to say upon the suggestion of the gentleman from Pennsylvania, [Mr. STEVENS,] that he would move to discharge the committee if it were only in order. The gentleman's duties in this House and the duties of the committee have been of a different description. I have no disposition to criticise his performance of his. I know the ability with which he discharges them. I know very well what I encounter in attempting to reply to his attack upon the committee. I have only to say, that his labors and the labors of the committee are yet to be appreciated. When the thumb-screws of the tax bill which the committee of which he is the head originated and passed through the House from the necessities of the times, so nicely adjusted, shall begin to reach the bones of the poor industrious, intelligent men of the country, and force from them so much of their hard earnings to replenish the Treasury of the country, beggared and depleted as it has been during this war, then, I fancy, this report of ours will come to be read; then, I fancy, if his constituents are as intelligent as mine are—and I have no doubt they are—they will ask him the question, and he will be compelled to answer it, "where is all this money gone?" They will want to know what was the need of putting out such lavish and unjustifiable contracts—contracts at such enormous and extravagant rates that the owners of them are willing to discount what is estimated at $1,300,000 on a single contract, and then save two and a half per cent. commission. They will ask the question, and the committee of which I am an humble member, which has struggled all this time, while the gentleman from Pennsylvania, impelled by the necessities of the Government, has been racking his ingenuity to contrive how to reach the last farthing that can be reached to replenish the Treasury—this committee which has been placing their feeble efforts between the plunderers and the Treasury—are willing to abide that time. They are willing to let this book be read by the side of the tax bill at any time, and more especially at that particular time when the clamps of the tax bill shall be brought round about the industry and resources of the country, and when my friend from Pennsylvania will be turning the screw. If the gentleman from Pennsylvania [Mr. STEVENS] had made that motion, and if the House had adopted it, as I have no doubt they would have done that day, the committee then would have hailed it as a glorious deliverance from a most unpleasant duty, which no one member of it had sought, but which no one felt himself at liberty to shrink from.

I say to him, therefore, that if he will make a motion to discharge the committee, and will give me the liberty of asking for the yeas and nays on his motion, that is all I desire. I will say to him, as an honored and leading member of the party to which I belong, that I am credited at home as being a sincere member of that party for principle's sake, and I am willing to do what within me lies to see the consummation and final prevalence of those principles. Having devoted myself to them in the past, I am ready to do more for them; but I tell him that when he asks this House to discharge a committee whose efforts are to put themselves and this House between the Treasury and the plunderers of it, while he busies himself with making a tax bill to wrench out of the hard earnings of the people money to supply the leaks in the Treasury, he must, and I must, and the party to which we belong must, answer the question, why it is so? The book and the report of the evidence yet unpublished cannot be hid under a bushel.

The gentleman must remember that in the first year of a Republican Administration, which came into power upon professions of reform and retrenchment, there is indubitable evidence abroad in the land that somebody has plundered the public Treasury well nigh in that single year as much as the entire current yearly expenses of the Government during the Administration which the people hurled from power because of its corruption. Do not understand me as saying that your friends and mine are alone responsible for this plunder, although we are in power and have the responsi-

bility of the administration of this Government. My friends on the committee of different politics from me, will have the justice to say that the Republican party is not the only one that has participated in these plunders. I will not say on which party the greater amount of this plunder rests. And yet we have got to answer for them and justly, unless we put forth every effort in our power to prevent them, and unless we call these men to a rigid and strict account. It will not be enough to say that we found that we had a committee who had made a mistake about a man's name; that we found that a blunder had been made in printing a man's letter and the committee did not correct it, and that therefore we discharged that committee and proclaimed to these plunderers that they might go about their work without let or hinderance.

While it may be easily shown that this Republican party is not altogether responsible for plundering and profligacy, yet they cannot hold themselves guiltless before the country if they shrink from every effort, if they fail to sustain the hands and quicken the zeal of the men who have put their strength and their life for the past six months to the work; even although they may have made a mistake—as doubtless they have many in this large book; even although injustice to an individual may be, as probably it has been, committed in some instance; a committee which has been devoting itself by day to this work, and riding by night upon the cars, finding, while they are busy at work, that arrows are sent after them from behind to undermine the confidence of the country in them; I say that this Republican party, to which I am as devoted as my friend, cannot hold itself guiltless.

I hope the gentleman will take these words kindly from one whose political life, humble and unimportant as it is, is bound up in the principles of that party. He has all to sacrifice for those principles, but he is irreconcilably hostile here and everywhere to the thieving, the stealing, and the plundering that characterizes the present time. Sir, I doubt not that Alexander Cummings and those other men have lost confidence in this committee; and that in their opinion there is wonderful unanimity among all the public plunderers and their defenders throughout the country. I hope it is so. I should feel a distrust of the committee if I found that its course was agreeable to these men. The House and the country hold the committee responsible for the truth and justice of what they say, and the country, sir, holds you and me and our friends responsible that we do nothing that shall tend to give the idea that we encouraged and countenanced this work. I proposed to speak plainly to my friends, whether they hear or whether they will forbear. "Faithful are the wounds of a friend, but the kisses of an enemy are deceitful."

Mr. HOLMAN. I understood, Mr. Speaker, when these resolutions were before the House some time since, that the gentleman from Pennsylvania, [Mr. STEVENS,] who recently submitted an amendment to the second of the series, desired to be heard on the subject. I see that he is now in his seat; and I rise for the purpose of moving, if there be no desire to debate the matter further, the previous question on the adoption of such of these resolutions as it shall be understood may be acted on to-night. On the third resolution of the series which may be regarded as a censure on the manner in which military and naval supplies have been purchased, the chairman of the Committee on Naval Affairs [Mr. SEDGWICK] desires to be heard; and that gentleman is now absent in consequence of indisposition.

Mr. WASHBURNE. The gentleman alluded to was present this morning, but left the House on account of indisposition, with the understanding that the resolution on which he desired to be heard was not to be taken up.

Mr. HOLMAN. That is what I understood. I trust, therefore, that by unanimous consent the third and fourth resolutions, and that which has been submitted in connection with them and which involves the same subject, will be postponed; that the first resolution, which applies to the manner in which the Cataline was purchased, and to the whole of that transaction, in connection with which testimony has been taken that has not yet been published, will be also passed over, leaving only open for the consideration of the House now the second resolution of the series and the independent proposition of the gentleman from Indiana, [Mr. COLFAX.]

Mr. SHANKS. Does the gentleman propose to move the previous question now?

Mr. HOLMAN. I desire to say——

Mr. STEVENS. I suggest whether it is not proper for us to postpone action on the whole series of resolutions until we can proceed to vote upon them all. I was unavoidably absent from the House this morning while the gentleman from Massachusetts made most of his remarks; and I cannot, of course, answer them till I see them reported in the Globe. I hope, therefore, that the whole subject will be postponed till Monday, and I make that motion.

Mr. WASHBURNE. If my colleague on the committee [Mr. HOLMAN] does not propose to speak upon the resolutions at this time, I suppose they had better be postponed.

Mr. HOLMAN. I propose to speak upon this second resolution if it is made the special subject of debate, but not otherwise.

Mr. WASHBURNE. If the gentleman from Pennsylvania proposes to discuss the second resolution, I presume he is prepared to do so to-day; if not, then I see no objection to acceding to his request and allowing the whole subject to be postponed until Monday.

Mr. STEVENS. I think the whole subject had better be postponed.

Mr. WASHBURNE. I will simply suggest that the committee are ready now, or at any time, to dispose of all the resolutions reported by them. The suggestion that any of them be postponed is because of the absence of the chairman of the Committee on Naval Affairs, who indicated a desire to be heard upon them.

Mr. HOLMAN. If the desire is to postpone the whole subject until next Monday, I see no objection to it.

Mr. WASHBURNE. I desire to know what the business will be for Monday next?

The SPEAKER. The call of committees for reports for reference is the business in order for the morning hour.

Mr. WASHBURNE. The point which I wish to reach is, whether there is any business for Monday which will prevent the consideration of these resolutions if they are postponed until that time; whether there are any prior orders that will take precedence.

The SPEAKER. There are no special orders set down for Monday, and nothing, so far as the Chair knows, after the morning hour, that would take precedence of these resolutions.

Mr. WASHBURNE. I move, then, to postpone these resolutions until Monday.

Mr. HOLMAN. I said I desired to debate this second resolution. I do not desire to debate it unless the gentleman from Pennsylvania presses his motion to strike out a particular word in that resolution and substitute another. If he does, then I wish to assign reasons why the amendment should not be adopted.

Mr. STEVENS. I have not looked at the resolutions since they were reported, and really do not know the order in which they were presented. I do not, in fact, know what the second resolution is. I would suggest that it would be well enough to postpone the whole subject until Monday next, and then dispose of it.

Mr. HOLMAN. I yield the floor for that purpose.

The resolutions were then postponed until Monday next.

PRINTING OF FORTIFICATION REPORT.

Mr. WALTON, from the Committee on Printing, submitted the following resolution; which was read, considered, and adopted:

Resolved, That extra copies, two thousand bound and eight thousand in pamphlet form, of the report (No. 86) relating to fortifications and sea-coast defenses, be printed for the use of the members of the House.

PRINTING IN GERMAN.

Mr. WALTON, of Vermont. I am instructed by the Committee on Printing to report the following resolution:

Resolved, That so much of the resolution of this House of the 24th instant as provides for the printing of twenty-five thousand copies of the Agricultural Report of 1861 in the German language be, and the same is hereby, rescinded.

Mr. WASHBURNE. I rise to a question of order. That subject has been disposed of, and cannot be brought up again, except by a suspension of the rules.

The SPEAKER. The Chair does not see that that point of order can be raised.

Mr. ALLEN. I move to lay the resolution on the table.

Mr. COLFAX. I submit another point of order as to whether this matter has been referred to the Committee on Printing.

Mr. WALTON, of Vermont. There are now pending before that committee a large number of memorials upon this subject. The committee have, therefore, the right under the rules certainly to report upon it.

The SPEAKER. The Chair thinks the committee have the right to report the resolution.

Mr. WASHBURNE. Will the Chair direct the Clerk to read the rule which provides that when a matter has once been disposed of it is not in order to bring it up again?

The SPEAKER. The Chair does not know what rule the gentleman refers to.

Mr. WASHBURNE. I think there is such a rule. I move, however, to lay the resolution upon the table.

The SPEAKER. The gentleman from Vermont is entitled to the floor.

Mr. WALTON, of Vermont. I desire only to say that if the public printer proceeds to execute the order made yesterday, to print this document in the German language, the first step will be to employ a corps of German translators to translate the report into the German language. The next step required will be to furnish the Government Printing Office with a large quantity of type for the purpose of printing German, for I am informed that there is not a single font of German in the office; and the public printer must then procure a set of German printers to execute the work.

The question then arises whether, if this class of citizens—and I admit that they are a most meritorious class—are to have the Agricultural Report printed in German, they are not entitled also to have other documents printed for their use; whether we should not print the laws and the debates of Congress in German? I would be willing to incur this expense for these German citizens if I would for anybody, but I submit the question whether we are to have a national language or not?

Mr. WASHBURNE. I move to lay the resolution on the table. I am surprised that the gentleman from Vermont should bring this subject up again in this way.

Mr. MAYNARD. I should like, if it be in order, to ask the question whether, in point of fact, we have any legal language or not?

The SPEAKER. To answer the question would be in the nature of debate, which is not in order during the pendency of the motion to lay the resolution on the table.

Mr. ALLEN. I ask for the yeas and nays upon that motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 40, nays 71; as follows:

YEAS—Messrs. Aldrich, Allen, Arnold, Ashley, Babbitt, Beaman, Francis P. Blair, Blake, Chamberlin, Colfax, Davis, Fisher, Granger, Gurley, Hanchett, Holman, Hutchins, Julian, Knapp, Leary, Mitchell, Moorhead, Morris, Noble, Odell, Olin, Patton, Potter, Price, Riddle, Shanks, William G. Steele, Trowbridge, Voorhees, Ward, Washburne, Albert S. White, Chilton A. White, Wilson, Windom, and Worcester—40.

NAYS—Messrs. Joseph Baily, Baker, Baxter, Biddle, Bingham, Samuel S. Blair, George H. Browne, William G. Brown, Buffinton, Burnham, Calvert, Casey, Clements, Cobb, Frederick A. Conkling, Roscoe Conkling, Crisfield, Crittenden, Diven, Duell, Dunn, Eliot, English, Fenton, Fessenden, Franchot, Frank, Gooch, Goodwin, Grider, Hall, Harding, Harrison, Hickman, Francis W. Kellogg, Kerrigan, Lansing, Lehman, Loomis, McKnight, McPherson, Mallory, May, Maynard, Menzies, Anson P. Morrill, Justin S. Morrill, Nixon, Norton, Timothy G. Phelps, Pike, John H. Rice, Edward H. Rollins, James S. Rollins, Sheffield, Shellabarger, Shiel, Smith, John B. Steele, Stevens, Benjamin F. Thomas, Francis Thomas, Trimble, Van Valkenburgh, Vibbard, Wall, E. P. Walton, Webster, Woodruff, and Wright—71.

So the resolution was not laid on the table.

Mr. WALTON, of Vermont. I ask for the previous question on the resolution.

The previous question was seconded, and the main question ordered to be put.

Mr. WASHBURNE called for the yeas and nays upon the adoption of the resolution.

The yeas and nays were not ordered.

Mr. WASHBURNE called for tellers on the yeas and nays.

Tellers were not ordered.

The resolution was adopted.

Mr. WALTON, of Vermont, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ADDITIONAL SUB-TREASURY CLERKS.

Mr. BLAIR, of Missouri, by unanimous consent, introduced a bill to provide a further clerical force for the office of the Assistant Treasurer of the United States at St. Louis, and for other purposes; which was read a first and second time.

Mr. BLAIR, of Missouri, moved that it be referred to the Committee on Public Expenditures.

Mr. WASHBURNE moved to refer it to the Committee on Commerce.

Mr. BLAIR, of Missouri. I will say to the gentleman that the Committee on Public Expenditures have reported a similar bill for the sub-Treasury at Boston.

Mr. WASHBURNE. I will withdraw my motion.

Mr. STEVENS. I ask the gentleman from Missouri whether we have not already made an appropriation for additional clerical force at the sub-Treasury in St. Louis?

Mr. BLAIR, of Missouri. This is to legalize their employment.

The resolution was referred to the Committee on Public Expenditures.

OHIO RESOLUTIONS.

Mr. HUTCHINS, by unanimous consent, presented the joint resolutions of the Legislature of Ohio in relation to rebel officers and other prisoners of war at Columbus and Camp Chase; which were laid on the table, and ordered to be printed.

On motion of Mr. COX, (at three o'clock and thirty-five minutes, p. m.,) the House adjourned until Monday next.

IN SENATE.

MONDAY, *April* 28, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of Friday last was read and approved.

SLAVE OWNERS IN THE DISTRICT.

The PRESIDENT *pro tempore* laid before the Senate the following communication from the Secretary of the Interior:

DEPARTMENT OF THE INTERIOR,
WASHINGTON, *April* 24, 1862.

SIR: In pursuance of a resolution of the Senate of the 18th instant, I herewith transmit a list of slaves and persons holding slaves in the District of Columbia, indicating the ages of those held to service and their distribution in the cities of Washington and Georgetown and the county of Washington.

As this record, after the lapse of twenty months, may not present a correct statement of the present or very recent relation of the free population to that of the slave, and as it exposes the private affairs of individuals, to publish which would be inconsistent with the authorized representations of the census taken, I would respectfully suggest the inquiry whether it would be proper to print it for circulation.

I have the honor to be, with great respect, your obedient servant, CALEB B. SMITH, *Secretary*.

The PRESIDENT OF THE SENATE.

Mr. SUMNER. It seems to me advisable that this communication should be referred to the Committee on the District of Columbia.

The PRESIDENT *pro tempore*. Does the Senator make that motion?

Mr. SUMNER. I make that motion, and in making it I will add one remark. In offering the resolution I did the other day, I felt that I was doing a good service to the commissioners who would have to carry out our recent emancipation act, and I felt also that I was helping to obtain means to correct the abuses which might take place in anticipation of that act. I was sorry to hear of efforts during the last few weeks to run able-bodied slaves out of the District. Slavery is often called a patriarchal institution, and I was anxious to see how many of the patriarchs in this District, in avoidance of the action of Congress, had transported slaves beyond the reach of its beneficent power. Such an outrage ought to be exposed. I confess that I can find no good reason for any delicacy towards persons guilty of such conduct, and I am sure that freedom and truth will both be gainers when it is laid bare. It seems to me that the object proposed was important. These statistics should be brought before the Senate, if not before the country. They will be needed by the commissioners, and I am sure they will do something to illustrate the character of slavery. But I do not desire that my own views on this subject should be adopted by the Senate unless they shall have the sanction of the Committee on the District of Columbia, and I therefore move that the communication be referred to that committee, which I am sure will do what is best.

The motion was agreed to.

Mr. SHERMAN. I desire, rather at the request of another, to say that it would be advisable to have this paper delivered at once to the chairman of the commission, and I think that would be a better disposition of the paper than to refer it to a committee. I do not think it ought to be published; it would be a violation of the rule and custom to publish personal information obtained in census reports. I think, therefore, if it is in order, it would be better to deliver the paper itself to Mr. Vinton, as chairman of the commission, and if that is satisfactory to the Senator from Massachusetts, I will make the motion.

Mr. SUMNER. It seems to me that upon the whole the question had better be committed to our Committee on the District of Columbia, who are familiar with this subject, familiar also with the character of the District. I should cheerfully follow any conclusion at which that committee might arrive.

Mr. SHERMAN. I have no objection.

The PRESIDENT *pro tempore*. The reference has been ordered, and the subject is not before the Senate, and cannot be, without a reconsideration of that vote of reference.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the Union Merchants' Exchange of St. Louis, praying for the construction of a ship canal between Lake Michigan and the Mississippi river; which was referred to the Committee on Military Affairs and the Militia.

Mr. NESMITH presented the petition of William S. Ladd, Alexander Dodge, and J. G. Hustler, board of pilot commissioners for the Columbia bar and river, in the State of Oregon, praying that an act may be passed declaring that sea-going ships, though navigated by steam and carrying pilots licensed under the act of 1852, shall not by construction of that act be exempted from the operation of State laws respecting harbor pilotage; which was referred to the Committee on Commerce.

Mr. LATHAM presented resolutions of the Legislature of California, in favor of the establishment of a daily mail from the town of Cuison, Nevada Territory, to Aurora, California, and the establishment of a post office at Aurora; also an extension of the present tri-weekly mail route between the city of Sacramento and Lancha Plana, terminating at Sonora; and also the establishment of post offices at Brushville, Salt Spring Valley, and Copperopolis, in the county of Calaveras, and at Jeffersonville, in the county of Tuolumne; which were referred to the Committee on the Post Office and Post Roads.

Mr. COLLAMER presented a petition of citizens of Hyde Park, Lamoille county, Vermont, praying that the "freedom of speech and the press shall not be abridged," and that "the New York Caucasian and all other Democratic papers now excluded from the mails, in the loyal States, have the same privileges as those by the Republican and abolition papers;" which was referred to the Committee on the Post Office and Post Roads.

Mr. KING presented a petition from citizens of New York, praying for the adoption of such measures "as will insure emancipation to all the people throughout the whole land, and thus complete the work which the Revolution began;" which was ordered to lie on the table.

He also presented a petition of citizens of Allegany county, New York, praying for the establishment of a mail route from Scio to Bolivar, in that county; which was referred to the Committee on the Post Office and Post Roads.

He also presented a petition of citizens of Brooklyn and a petition of citizens of the city of New York, praying for the passage of a general uniform bankrupt law; which were referred to the Committee on the Judiciary.

Mr. SUMNER presented a petition of citizens of New London, Connecticut, praying for the adoption of such measures "as will insure emancipation to all the people throughout the whole land, and thus complete the work which the Revolution began;" which was ordered to lie on the table.

Mr. DAVIS presented a memorial of manufacturers of tobacco in the city of Covington, Kentucky, praying that the proposed tax on tobacco may be reduced to five cents per pound; which was referred to the Committee on Finance.

Mr. COWAN presented a petition of citizens of Philadelphia, praying that the republic of Liberia may be recognized and treated with as an independent nation; which was ordered to lie on the table.

Mr. WADE presented three petitions of citizens of Ohio, praying that the direct tax necessary to carry on the war and to support the General Government may be apportioned among the several States according to their population, and suggesting that the tax should have an equal and uniform bearing on all citizens and classes; which were referred to the Committee on Finance.

Mr. WILSON, of Missouri, presented a memorial from the Union Merchants' Exchange of St. Louis, praying for the construction of a ship canal from St. Louis to Chicago; which was referred to the Committee on Finance.

ARMY SIGNAL CORPS.

Mr. WILSON, of Massachusetts. I am directed by the Committee on Military Affairs and the Militia, to whom was referred House bill No. 352, to provide for the organization of a signal corps to serve during the present war, to report it back, with a recommendation that it do not pass; and I move the indefinite postponement of the bill. I wish simply to state, as a reason for this motion, that the Government now has the power to detail the proper officers to perform this duty. This bill provides for the creation of three captains for each department of the service, one first lieutenant for each division of the Army, and two lieutenants for each brigade, which would make about four hundred captains and first and second lieutenants. I am sure that, in the present condition of the country, such a bill ought not to pass Congress, and therefore I move its indefinite postponement.

The motion was agreed to.

MIDSHIPMEN FOR THE DISTRICT.

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

Resolved, That the Committee on Naval Affairs be directed to inquire into the propriety of providing by law for the appointment of acting midshipmen at the Naval Academy from the District of Columbia, in the manner now provided for each congressional district, and that they report by bill or otherwise.

HARPER'S FERRY ARMORY.

Mr. WILSON, of Massachusetts. I submit the following resolution, and ask for its present consideration:

Resolved, That the Secretary of War be, and hereby is, requested to inquire into the present condition of Harper's Ferry armory, Jefferson county, Virginia, what damage has been done thereto during the existing rebellion, by whom so done, and by what authority, the value of the United States property there in its present condition, the amount of money necessary to repair said damage, and whether it is expedient to repair and restore the said armory to be employed as heretofore.

I wish simply to say that the Senator from Virginia [Mr. WILLEY] the other day submitted a resolution asking the Committee on Military Affairs to make this investigation. On reflection the committee came to the conclusion that it would take several days to make the proper examination so as to be of any value; they therefore decided to call on the Secretary of War to make the investigation and report it to Congress.

The resolution was considered by unanimous consent, and agreed to.

REPORT OF CAPTAIN MAYNADIER.

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

Resolved, That the Secretary of War be directed to transmit to the Senate the report of Henry E. Maynadier, captain of the tenth infantry, of his operations in conducting an escort for emigrants to the Pacific coast in the year 1861, from Omaha City to Fort Walla-Walla.

BILL INTRODUCED.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No.

287) supplementary to "An act for the examination of drugs, medicines, &c.," approved the 26th of June, A. D. 1848; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

BILLS BECOME LAWS.

A message from the President of the United States by Mr. HAY, his Secretary, announced that the President had approved and signed, on the 25th instant, the following acts and joint resolution:

An act (S. No. 106) to authorize the district court of the United States for the northern district of California, to hear and determine upon its merits the claim of Pedro Chaboya to a certain tract of land in California called La Posa San Juan Bautista.

An act (S. No. 248) for the relief of the owners, officers, and crew of the Danish bark Jorgen Lorentzen.

A resolution (S. No. 26) explanatory of, and in addition to, the act of June 3, 1856, "granting public lands to the State of Wisconsin to aid in the construction of railroads in said State."

REBEL PRISONERS AT CAMP CHASE.

Mr. WILSON, of Massachusetts. I move to take up, with a view to move their reference to the Committee on Military Affairs, the resolutions of the Legislature of Ohio, which were presented on Friday.

The PRESIDENT *pro tempore*. The Senator from Massachusetts moves that the Senate now proceed to the consideration of certain resolutions presented by the Senator from Ohio [Mr. SHERMAN] from the Legislature of Ohio at the last sitting of the Senate.

The motion was agreed to.

Mr. WILSON, of Massachusetts. I move to refer the resolutions to the Committee on Military Affairs and the Militia.

Mr. SHERMAN. I desire to make a brief statement for the information of the committee before the motion to refer is decided. The treatment of the negroes who were taken at Fort Donelson and New Madrid and the treatment of the officers who are prisoners in Columbus has created a great deal of excitement in Ohio, probably an undue excitement. I wish, therefore, to place the committee in possession of all the information I have on the subject before they act on it. I have a letter from a Democratic member of the Legislature to a colleague of mine in the other House, in which he says:

"The consideration shown the rebel prisoners here is a source of mortification and shame to the loyal men. Our hotels are full of rebel officers in full uniform gathered in groups cracking their jokes, apparently as happy as the happiest. I think it is quite a contrast to the condition of our prisoners in their hands."

I ask the Secretary to read a short editorial statement, published in the Columbus Journal of last Wednesday, which is the leading Republican paper at the capital.

The Secretary read, as follows:

"COLUMBUS TURNED OVER TO SECESH.—We do not know how it happens, nor by whose order it comes to pass, but it is nevertheless a fact that our city is turned over to 'secesh' to such a degree as to make our streets and hotels more resemble Richmond than a loyal city of the Northwest. A stranger happening in at our hotels, in view of the swarms of rebel uniforms and the fierce utterance of rebel oaths and threats, might fancy himself set down at the capital of Jeff Davis's dominions, instead of at the capital of Ohio. Why such a number of men, who have just come, red-handed, from the butchery of our friends and kindred, and who are still 'breathing forth threatenings and slaughter' against us and our Government, should be indulged with the privilege of swaggering and gasconading through our streets and in our public resorts, we cannot comprehend. We know that our whole community feel the constant insults to which, as loyal people, they are subjected by these flaunting popinjays in rebel uniforms, with burning indignation against the authorities, whoever they are, that give them license to preach treason in our midst under the protection of a parole. The matter has become a positive nuisance, and if not abated by the proper authorities the people will ere long take the business of its abatement into their own hands. When that time comes, let 'secesh' or 'any other man' stand from under."

Mr. SHERMAN. I will also ask to have read a short extract from an editorial in the Daily Commercial of Cincinnati, which is known to be a paper extensively circulated in Ohio, and of great influence.

The Secretary read, as follows:

"The rebel prisoners who have their quarters at Camp Chase have been guilty of the gravest crimes recognized by law and known to society, or it is a great wrong to deprive them in any degree of their personal liberty. In the judgment of the loyal people of the nation, they are criminals. They have been taken with arms in their hands, fighting to overthrow our republican form of government. The precious blood of the young men who have fallen in this war, fighting under the star spangled banner, has been shed by them, and others like them. All over the land are homes made desolate by them. They should be treated with humanity—as we treat convicts in the penitentiary and vagrants in the watch-houses. But the fact is, they appear to be received at Columbus with distinguished consideration. They are permitted to visit the town, and swell about the hotels, where they write themselves down as of the confederate States of America. They prowl about the barrooms, drink the mean whisky for which Columbus is famous, and condescend to make acquaintance among the poor white trash of the North, who fawn upon them. They order new confederate uniforms, and talk treason publicly, as rampantly as if in Richmond."

Mr. SHERMAN. As a matter of course the people of Ohio are humane people. They do not desire these prisoners to be badly treated; on the contrary, they wish them to be well taken care of; but it is manifest that the very liberal conduct of the officers of the Government to the prisoners there is exciting a warm, bitter hostility against them, and it is better—better for the prisoners and certainly better for the people there that they should be confined under some proper restraints. The idea of our prisoners running at large in this way in Richmond, Charleston, and New Orleans would never be tolerated for a moment.

I desire now in regard to the negroes at Camp Chase to have an extract from the Cincinnati Gazette, another leading organ from our State, read—read to show that some arrangements have already been made to dispose of them.

The Secretary read, as follows:

"THE NEGROES AT CAMP CHASE.—Governor Tod has been given full authority as to disposal of negroes (former slaves) confined in Camp Chase. His plan has been committed to the wise discretion of Colonel Moody, who is gradually providing for the unconditional release of such negroes in small squads, instead of letting them all loose at one time. Some have already been dismissed.

"The Camp Chase prisoners are in commotion to-day; those out on parole temporarily here, getting clothes, have extended their parole to appear at the cars at eight o'clock, a. m., to-morrow, to repair to Johnston's Island, Sandusky. Lieutenant Colonel McGroarty commands the escort of over two hundred of these rebel prisoners to-morrow. It includes the field officers captured recently at Island No. 10, and some of those taken at Forts Donelson and Henry, and a few captains. Ex-Congressman Avery, of Memphis, is one of the number.

"On Saturday two hundred and fifty more will be sent up to Johnston's Island, being remainder of the captains and lieutenants, with a few exceptions. A few are continued in Columbus under temporary parole.

"Governor Tod has well nigh been overwhelmed with written and personal solicitations to grant paroles to the rebel officers at Camp Chase. Loyal Union men of the South have been appealed to most urgently, sometimes by real rattlesnake secessionist prisoners, to aid their applications to Governor Tod for liberal treatment by parole, &c.

"Governor Tod to-day allowed a loyal Union man of Kentucky, Mr. Smith, to take back to Lexington his adopted son, a grandson of Henry Clay, and son of Colonel Henry Clay who was killed in the Mexican war. This young Henry Clay is seriously sick, and if he remained as rebel prisoner would soon die."

Mr. SHERMAN. I have nothing further to add, Mr. President. I am willing that this matter should be referred. I think the executive authorities who have charge of it ought certainly to put an end to the complaint that has been made about the negroes in Ohio, and also about the prisoners. These negroes are as free as you or I; they are made free by the act of last session. They were found in Fort Donelson in the service of the enemy, and as a matter of course are made free by law, if the law is operative, and they ought to be discharged, in fact they ought never to have been removed. In regard to the prisoners, if they are now placed under the charge of the Governor of Ohio, as it would seem from the last extract read, I have no doubt they will be removed to Johnston's Island, a healthy place, where they can be kept in safety until exchanged or released.

The motion to refer was agreed to.

SECURITY TO KEEP THE PEACE.

Mr. TRUMBULL. I move to take up for consideration Senate bill No. 266, a bill for the more convenient enforcement of the laws of the United States concerning security to keep the peace, and for good behavior.

The motion was agreed to; and the bill was considered as in Committee of the Whole. Its first section provides that the commissioners who now are, or may hereafter be, appointed by any circuit court of the United States with authority to arrest, imprison, or hold to bail for crimes or offenses against the laws of the United States, shall have and exercise the same powers as judges of the respective district courts of the United States to hold to security of the peace and for good behavior in cases arising under the Constitution and laws of the United States.

The second section provides that all bail bonds in criminal cases, and bonds to keep the peace and for good behavior, shall, from their date until they are discharged, be a lien upon all the real estate of the respective principals in the bonds, situate within the State where the bonds respectively are taken.

The Committee on the Judiciary proposed to amend the bill by striking out the second section.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, and it was read the third time.

Mr. HOWARD. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. TRUMBULL. I am inquired of all around me what this bill is. It is a bill of about half a dozen lines, of a single section, authorizing the commissioners appointed by the United States courts, who are now vested with authority to hold persons charged with criminal offenses to bail, also to require security for good behavior and to keep the peace, the same as judges of the United States courts have power to do. The bill is asked for by our officers in the States of Missouri and Kentucky chiefly. They think it important that the commissioners appointed by the circuit court should have the authority to hold to security to keep the peace and for good behavior the same as the judges have. The commissioners now have that authority so far as criminal offenses are concerned. That is all there is of it.

Mr. SAULSBURY. I should like to hear that bill read, if it be in order to call for the reading.

The PRESIDENT *pro tempore*. The bill has just been read, but the Chair will take it to be the sense of the Senate that it be again read. No objection being made the bill will be again read at length.

The Secretary read the bill.

Mr. HALE. I am glad that attention has been called to this bill, although it is a very harmless one on the face of it. I am opposed to it and to all laws that are connected with it, as being in gross violation of the Constitution of the United States. The first section of the third article of the Constitution reads as follows:

"The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish."

These commissioners are no court; they are not provided by the Constitution; they are not appointed by the President. If this is not "judicial power" that they exercise in judging whether an alleged criminal ought to give security to keep the peace and ought to give security for good behavior, I do not know what a judicial question can be. It is a question peculiarly, eminently, and exclusively judicial. It calls for the weighing of evidence, for determining whether the respondent is of such a character, and whether the facts proved are of such a nature that he ought to be required to give security for his good behavior; and if they adjudge that he shall give security for his good behavior, they have power of imprisoning and of fining, the same power that a judge of the United States court has.

Mr. TRUMBULL. Not of fining.

Mr. HALE. Yes, they may fine. They "shall have and exercise the same powers as judges of the respective district courts of the United States to hold to security of the peace and for good behavior," and if parties do not give that security, they may imprison them, and imprison them at pleasure. If any gentleman here can state a judicial question if that is not one, I will give up; for I do not know what pertains to a judicial question if that is not one. I will go further; I will take no advantage; I think the whole business of these commissioners is in direct violation of the Constitution. They have exercised in the State of Massachusetts and in various States the most important judicial functions that could possibly be exercised. They have torn the citizen from the protection of the laws of one State and consigned him to a horrible slavery in another State by virtue of this assumed and unconstitutional power. It is a power that I have always resisted in my humble sphere of action and always will resist as

a gross violation of the Constitution of the United States.

Mr. McDOUGALL. Does the Senator from New Hampshire undertake to say that a grand jury exercises "judicial power" in the sense of the Constitution—that an inquest which does not go into judgment is the exercise of judicial power? The grand juries in all the States inquire into facts preliminary to judgment, and upon their information in regard to *prima facie* cause an arrest is made and the party is held to bail. They have none of the characteristics of a judicial tribunal in the sense of the Constitution, for nothing they do enters into judgment; it is mere preliminary action. No grand jury is a court. The United States courts have grand juries; they inquire; on their inquest a warrant runs. Now the gentleman for the same reason might dispose of all the grand juries in the United States. I understand that judicial power is that which when exercised enters into judgment and determines the rights of the party. This does not do so. So far as I am concerned, I approve the measure; it will give us legitimate, open, legal proceedings, in place of the exercise of unconstitutional power.

Mr. HALE. With all respect to the Senator, the case which he puts is not analogous. The grand jury is a part of the court. The proceeding is in court. The grand jury are organized and take their oaths in court. They are instructed, charged by the court. The grand jury is a part of the machinery of the court, just as much as the judge or the petit jury. But here is a tribunal outside of the court, a commissioner appointed, and he adjudges a man to prison; he adjudges him to give security of the peace or to go to jail. How long may he keep him in jail? And when a man is committed by one of these commissioners, to whom shall he apply for relief? The thing is of dangerous precedent, and I hope the Senate will not pass the bill.

Mr. McDOUGALL. I ask the Senator from New Hampshire whether the judge presiding where the grand jury is organized has any control over their finding a bill or ignoring a bill?

Mr. HALE. Of course not. Neither does he over the petit jury. He has no control over them. The courts have cognizance of the grand jury; they order their time of sitting and rising generally; and if a witness is guilty of contempt in refusing to answer before the grand jury, the grand jury, report the case to the court, and the court take summary measures upon it. The grand jury is part of the court, just as much as the petit jury or the judge.

Mr. TRUMBULL. There is an unnecessary sensitiveness about this bill. Certainly my friend from New Hampshire has discovered something that I do not think exists in the bill. I do not care whether the bill passes in this form or passes at all, except as it may be thought to be useful in this emergency in the country to have the authority somewhere, a little more extensive than it now exists, to hold parties to security to keep the peace. The commissioners already appointed have authority to take bail in criminal cases, and the judges of the United States courts have authority everywhere to take security to keep the peace. There is but one judge of the United States in Kentucky. He, I think, resides at Louisville. The people of Kentucky, quite a number of them, have written to me. I have had letters from the judge on the subject; I have also had letters from the judges in Missouri on the subject; and the attention of the committee was called to the matter by the Attorney General, who thought it might be desirable to have the authority of the commissioners to hold to bail extended so as to embrace the cases designated by this bill. Now, if the Senator from New Hampshire would rather confer the power upon any other officers than the commissioners, I have no objection to designating any other officers. It was supposed by parties in the States to which I have alluded that it was desirable to have persons in different portions of the State so located that they could hold disloyal persons to bail. Such persons are now sometimes arrested and discharged again, and it was thought desirable to have authority to require security from them to keep the peace and to be of good behavior.

I think there can be no harm in such a bill, and I can see in it no violation of the Constitution. This is a power that is exercised by inferior officers. I suppose we may confer it upon the clerks. Indeed I am informed by the Senator before me, [Mr. FOSTER,] that the clerks of the courts now exercise the power to hold parties to security of the peace; and the idea of scaring up a constitutional principle that is to be violated by this bill had never once occurred to me. It is not at all like the provision of the fugitive slave law, allowing commissioners to decide whether a person is a fugitive or not. There is a remedy. They cannot hold a person in prison indefinitely, as the Senator from New Hampshire suggests, for it would be competent for the party at any time to apply, by writ of *habeas corpus*, to the judge of the court to be discharged if a commissioner improperly confined him because he would not give security to keep the peace. The bill is sought for by our loyal friends in the border States, as I think the Senator from Kentucky will bear me witness. Probably he has been written to on the same subject. That is the whole scope and design of the bill.

Mr. DAVIS. A single word, sir, in relation to this bill. It will not only be a useful, but a necessary law in all the border States. The circuit judge of the circuit of which Kentucky is a part, and the district judge and the district attorney for that district, have all written to me in favor of the passage of such a bill. The object is to give a summary power against traitors and hold them to bail for treason by the action of the United States commissioners. There is nothing at all, I think, in the objection of the Senator from New Hampshire. Why, sir, in every case in the State courts of Kentucky, a party plaintiff who wishes to hold the defendant or defendants to bail goes into the clerk's office, he makes a particular affidavit, and upon that affidavit an order of arrest is issued by the clerk to hold the party against whom the affidavit is made to bail. It is a common case.

Mr. CLARK. The Senator will pardon me. In the State of New Hampshire a man is not required to go to the clerk. He may go to any justice of the peace and get such an order holding the man to the next session of the court, and then the court judge finally. Perhaps the difficulty may be here that the commissioner may have final jurisdiction, and there may be no appeal to the court.

Mr. DAVIS. Not at all; he has no final jurisdiction. All he is to do is to hold to bail the party to make his appearance at the ensuing term of the court, and the judge of the court disposes of the case then as though that duty had been performed in the State courts instead of the United States courts.

Mr. CLARK. If that be so, I should be in favor of it, because a justice of the peace may do all that in New Hampshire.

Mr. FOSTER. And so may he in Connecticut.

Mr. HALE. Exactly; and the reason is, that the constitution of New Hampshire confers that power on him; but the Constitution of the United States denies it in this instance. That is the difference between the two cases.

Mr. CLARK. But I do not understand that to be entirely so. I understand this commissioner to be entirely preliminary and auxiliary to the court. He only holds a man for his appearance before the court, and prevents him from doing mischief until he gets before the court.

Mr. DAVIS. That is it. I think that the Senator from New Hampshire [Mr. CLARK] is a much better constitutional lawyer than his colleague, [Mr. HALE.]

Mr. CLARK. I beg the Senator not to compliment me at the expense of my colleague. I do not quite like it. [Laughter.]

Mr. HALE. I believe that every slaveholder in the Union would think just so. [Laughter.]

Mr. DAVIS. No doubt of it. [Laughter.]

The question being taken by yeas and nays resulted—yeas 35, nays 3; as follows:

YEAS—Messrs. Anthony, Browning, Carlile, Chandler, Clark, Cowan, Davis, Dixon, Fessenden, Foot, Foster, Grimes, Henderson, Howard, Howe, Kennedy, Lane of Indiana, Lane of Kansas, Latham, McDougall, Pomeroy, Sherman, Simmons, Stark, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Willey, Wilmot, Wilson of Massachusetts, Wilson of Missouri, and Wright—35.

NAYS—Messrs. Doolittle, Hale, and Saulsbury—3.

So the bill was passed.

NAVAL CONTRACTS.

Mr. HALE. There is a little resolution lying on the table, which has come from the House of Representatives, relating to naval contracts, that has been examined by the Naval Committee, and unanimously recommended by them. I move to take it up, and put it on its passage. It is House joint resolution No. 66.

Mr. KING. I desire to state that I was instructed by the Military Committee to move at one o'clock or thereabouts that the Senate go into executive session. As that hour has all but arrived, I hope the Senator will not press his motion.

Mr. HALE. This will not occasion debate.

Mr. KING. I apprehend that it will. I make my motion now, if it is in order.

The PRESIDENT *pro tempore*. The Chair must put the question on the motion of the Senator from New Hampshire.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 66) authorizing the Secretary of the Navy to discharge contractors with his Department when they have furnished the amount estimated in their contracts, and fifty per cent. additional.

It proposes in all cases where parties holding contracts with the Navy Department have fulfilled the same to the estimated amount of the contracts, and fifty per cent. additional, to empower the Secretary of the Navy to release the contractors from further obligation to furnish the articles stipulated, and to settle their accounts as in cases of completed contracts.

Mr. HALE. I am asked to explain this. I will do it in two minutes. By the law as it now is if a contractor contracts to furnish a thousand bushels of corn at a given price, he is liable not only to furnish the thousand bushels but one hundred thousand more if they want it, notwithstanding the price may rise one hundred per cent. higher than his contract. This resolution simply authorizes the Secretary of the Navy, but does not require him, where the party has furnished everything he contracted to furnish, and fifty per cent. in addition, to release him from the binding necessity of going on further after the price has risen one hundred per cent.

Mr. KING. I think a bill relating to these contracts had better have a more thorough examination. Does this come from the Naval Committee?

Mr. HALE. It does. It passed the House of Representatives unanimously, and comes unanimously from the committee.

Mr. KING. I desire to look into a bill which confers upon the Secretary of the Navy, or any other Secretary, the power to make these great contracts, and then to take half, and reduce and vary and change the contracts. It is out of these arrangements and settlements that extended frauds happen. I do not know but that this bill is all right enough, for I have not had time to look at it, but I think we ought to look into it. I will say for one member of the Naval Committee, a vigilant member of the committee, that he tells me he has not examined it, and knows nothing about it. That is one reason for my suggestion. I move that the Senate go into executive session. That will leave us time to look at it.

Mr. GRIMES. I suppose the Senator alludes to me as the person who has not examined the bill. That is true, because I was accidentally absent at the last meeting of the committee. The bill may be, for all I know, as perfect and correct a bill as was ever submitted to the action of the Senate, and I do not desire that it should be postponed on my account.

The PRESIDENT *pro tempore*. The morning hour having expired, this subject passes over, and the Senator from New York moves that the Senate proceed to the consideration of executive business.

EXECUTIVE SESSION.

The motion was agreed to; there being, on a division—ayes 22, noes 15; and after some time spent in the consideration of executive business, the doors were reopened.

PRINTING OF A BILL.

On motion of Mr. COWAN, it was

Ordered, That the bill (S. No. 286) supplementary to an act passed the 30th day of April, A. D. 1790, entitled "An act for the punishment of certain crimes against the United States," be printed.

CONFISCATION OF PROPERTY.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) The business regularly in order is the

bill (S. No. 151) to confiscate the property and free the slaves of rebels.

Mr. COWAN. The other day I moved to refer this bill and the bill introduced by myself and all kindred bills to a select committee. The motion was not then in order. I now desire to make it in order.

Mr. SUMNER and others. Let it lie over.

The PRESIDING OFFICER. The motion of the Senator from Pennsylvania is, that "all the bills, substitutes, and amendments relating to the punishment of rebels and the forfeiture or confiscation of their property, be referred to a select committee of five, to examine and report upon the same."

Mr. COWAN. The consideration of that resolution, I believe, is objected to to-day. ["Yes."] It will lie over, therefore. Indeed, I do not desire its immediate consideration. I now move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *April* 28, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of Friday last was read and approved.

SELECT COMMITTEE ON CONFISCATION.

The SPEAKER announced the following as the select committee on the confiscation of the property of rebels: ABRAHAM B. OLIN, of New York; THOMAS D. ELIOT, of Massachusetts; JOHN W. NOELL, of Missouri; JOHN HUTCHINS, of Ohio; ROBERT MALLORY, of Kentucky; FERNANDO C. BEAMAN, of Michigan; and GEORGE T. COBB, of New Jersey.

Mr. OLIN. Mr. Speaker I ask the indulgence of the House for a moment. When I offered the resolution for the appointment of this select committee I stated to the House that I did not desire to act on that committee, for the reason that the duties imposed upon me already were greater than any ability which I could bring to their proper discharge. I repeated that determination to decline serving on such committee when the subject of its appointment was under consideration in a meeting of our friends. It is due to myself, therefore, and to my friends who coöperated in the vote to appoint this committee, that I should decline the service which has been assigned to me by the Chair. I could not consent, with a proper sense of my own duty in this regard, to act on this committee. I move, therefore, that I be excused from serving on the committee.

The motion was agreed to.

CHANGE IN THE MEANS OF DEFENSE.

The SPEAKER laid before the House a communication from the Secretary of War, in response to a resolution of the House as to whether any changes are necessary in the materials used in the construction of forts, &c., stating that the subject had been referred to the chief of the Engineer Bureau, whose report would be transmitted to Congress as soon as it was made; which was laid upon the table, and ordered to be printed.

GOVERNMENT CONTRACTS.

The SPEAKER stated the question in order to be the consideration of the following resolutions, reported from the select committee on Government contracts:

Resolved, That the Secretary of the Treasury be requested to decline making any further payment to the parties interested in the steamboat Cataline, on account of the charter of the said vessel by the United States on the 25th day of April, 1851.

Resolved, That the Secretary of the Treasury be requested to adjust the claim against the Government for the five thousand Hall carbines, purchased through Simon Stevens, Esq., by General John C. Frémont, on the 6th day of August, 1861, and afterwards delivered at the United States arsenal at the city of St. Louis, on the basis of a sale of said arms to the Government for $12 50 each, rejecting all other demands against the Government on account of the purchase of said arms.

Resolved, That the practice of employing irresponsible parties, having no official connection with the Government, in the performance of public duties which may be properly performed by regular officers of the Government, and of purchasing by private contract supplies for the different Departments, where open and fair competition might be properly invited by reasonable advertisement for proposals, is injurious to the public service, and meets the unqualified disapprobation of this House.

Mr. WASHBURNE. The gentleman from Pennsylvania, [Mr. STEVENS,] who has the floor on this subject, is not present, and I move that the further consideration of the resolution be postponed until after the morning hour.

Mr. BROWNE, of Rhode Island. I would like to call up for consideration the report of the Committee of Elections in the Iowa contested-election case.

Mr. WASHBURNE. I hope that the gentleman will not call that case up to-day.

Mr. BROWNE, of Rhode Island. I will abide the pleasure of the House on this question.

Mr. WASHBURNE. I ask that the vote be taken on my motion.

The motion was agreed to.

PACIFIC RAILROAD.

Mr. CAMPBELL. Mr. Speaker, the committee on the Pacific railroad question have had a further meeting during the last week and adopted some of the suggestions which were made here in general debate; and they have instructed me to report an amendment. If the amendment of the gentleman from Illinois [Mr. LOVEJOY] be withdrawn or voted down, the committee will recommend the adoption of the amendment I now present, in lieu of the committee's substitute. This question is the special order in the Committee of the Whole on the state of the Union, and I give notice that I will call it up to-morrow after the morning hour. I now move that the amendment I submit be ordered to be printed.

The motion was agreed to.

CALIFORNIA CONTESTED-ELECTION CASE.

Mr. DAWES. Mr. Speaker, the parties interested in the California election case are desirous of having it taken up and disposed of, and if there be no objection I will call it up during the course of the day. I would like to have gentlemen of the House to send to the document-room and obtain the reports of the committee, so that they may know the facts of this case, which involves a very important principle touching the organization of the House.

SHILOH.

Mr. McPHERSON submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be requested to transmit to this House copies of the reports of commanders of regiments, brigades, and divisions engaged in the battle of Shiloh, Tennessee.

HAYTI AND LIBERIA.

Mr. FESSENDEN presented joint resolutions of the State of Maine, relative to the recognition of the republics of Hayti and Liberia; which were laid upon the table, and ordered to be printed.

Mr. GOOCH. I ask the unanimous consent of the House to take up Senate bill No. 184, to authorize the President of the United States to appoint diplomatic representatives to the republics of Hayti and Liberia, for reference.

The bill was taken up, read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

PANAMA RAILROAD COMPANY.

Mr. MOORHEAD, from the Committee on Naval Affairs, reported a bill for the relief of the president and directors of the Panama Railroad Company; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

DIPLOMATIC SYSTEM.

Mr. WHITE, of Indiana, from the Committee on Foreign Affairs, reported back House bill No. 320, to amend an act passed August 18, 1861, entitled "An act to regulate the diplomatic and consular system of the United States," with the recommendation that it do not pass; which was laid upon the table, and the accompanying report ordered to be printed.

HERMAN J. EHLE, ETC.

Mr. ELY, from the Committee on Invalid Pensions, reported bills of the following titles, which were severally read a first and second time, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying reports, ordered to be printed:

A bill granting a pension to Herman J. Ehle; and

A bill for the relief of Amanda Botts, Laura P. W. Young, and Betsey Murdock, heirs of Barbara Walker.

ZINA WILLIAMS.

Mr. GOODWIN, from the Committee on Invalid Pensions, reported a bill for the relief of Zina Williams; which was read a first and second time; referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

JOHN McGINNIS, ETC.

Mr. GOODWIN, from the same committee, made adverse reports on the cases of John McGinnis and of Caroline E. Clark, minor child of Ransom Clark; which were laid upon the table, and ordered to be printed.

MARY CUNNINGHAM.

Mr. HARRISON, from the Committee on Invalid Pensions, made an adverse report in the case of Mary Cunningham, widow of John Cunningham, deceased; which was laid upon the table, and ordered to be printed.

ILLINOIS AND MICHIGAN CANAL.

Mr. ARNOLD, from the Committee on Roads and Canals, submitted a report in reference to the enlargement of the Illinois and Michigan canal; which was laid upon the table, and ordered to be printed.

HIRAM PAULDING.

Mr. SEDGWICK, from the Committee on Naval Affairs, reported a bill for the relief of Commodore Hiram Paulding; which was read a first and second time, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

SPEEDY TRANSPORTATION OF THE MAILS.

Mr. COLFAX, from the Committee on the Post Office and Post Roads, reported a bill to secure the speedy transportation of the mails; which was read a first and second time, ordered to be printed, and recommitted to the said committee.

ARIZONA.

The SPEAKER then announced, as the business next in order, House bill No. 357, to provide a temporary government for the Territory of Arizona.

Mr. OLIN. My colleague [Mr. WHEELER] is not present, and I hope the further consideration of this bill will be postponed.

Mr. ASHLEY. I move that it be postponed until Thursday next.

The motion was agreed to.

TERRITORIAL BUSINESS.

Mr. ASHLEY moved that Thursday and Friday of next week be set apart for the consideration of territorial business; which motion was agreed to.

DISLOYAL JUDGE.

Mr. POTTER submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be directed to inform the House whether Judge Edward P. Pitts, of Northampton county, Virginia, who, on the 10th day of March last, was indorsed by a meeting of secessionists in that State "as loyal to the South," and who, after that date, sent a memorial to the rebel legislature at Richmond reiterating his loyalty to the cause of Virginia, and the so-called confederate States, now holds his courts with the knowledge and by the consent of the major general commanding the department which embraces Accomac and Northampton counties, Virginia.

The SPEAKER. The regular order of business is the call of the States for resolutions or bills introduced on leave.

The list of States was called.

MAXWELL WOOD.

Mr. BABBITT introduced a bill for the relief of Maxwell Wood, a surgeon in the Navy of the United States; which was read a first and second time, and referred to the Committee on Naval Affairs.

SUSAN DICKSON.

Mr. BABBITT introduced a bill for the relief of Susan Dickson, widow of John Dickson, deceased; which was read a first and second time, and referred to the Committee on Naval Affairs.

GOVERNMENT CONTRACTORS.

Mr. COLFAX. I offer the following resolution, and call the previous question upon its adoption:

Resolved, That the Committee on the Judiciary be in-

structed to inquire into the propriety of reporting a bill punishing all contractors guilty of fraud against the Government with punishment similar to that inflicted for the crime of grand larceny.

Mr. WASHBURNE. I would like, in connection with that resolution, to make an inquiry of the chairman of the Committee on the Judiciary.

The SPEAKER. Debate is not in order.

Mr. WASHBURNE. I ask unanimous consent to make an inquiry of the Committee on the Judiciary. Early in the session a bill to accomplish the same object as that specified in this resolution was referred to the Committee on the Judiciary. I would be glad to know if that committee has considered that bill, and whether they are ready to report it.

Mr. BINGHAM. I would inform the gentleman that if he refers to the bill introduced by the gentleman from New York, [Mr. ROSCOE CONKLING,] it was a very different matter from that which is now proposed by the gentleman from Indiana. And I would say further, in answer to the gentleman from Illinois, that I am not aware of any bill having been referred by the House to the Judiciary Committee which accomplishes the object contemplated by the resolution now offered by the gentleman from Indiana.

Mr. DAWES. The gentleman from Indiana was not, perhaps, aware that a bill introduced by the gentleman from Illinois, and a bill introduced by the gentleman from New York, and all the papers which were referred—a portion of them to the Judiciary Committee and a portion of them to the committee on Government contracts—were finally referred to the Committee on Military Affairs, and those other committees respectively discharged from their further consideration. All those bills are now before the Committee on Military Affairs.

Mr. COLFAX. I will modify my resolution so as to refer it to the Committee on Military Affairs, if desired by the gentleman from Massachusetts. I have been waiting patiently for a bill of that sort to be reported by some committee for our action. I think that frauds of that character in public matters should be punished in the same manner as frauds in private transactions. I have, therefore, moved this resolution by way of reminder and instructions to the committee. Let us promptly pass a law which shall punish every man who is found, on a fair trial, to have defrauded the Government, with the same disgracing penalty behind the bars of a prison that we visit against the thief who robs your dwelling or your storehouse.

Mr. DAWES. I did not propose any such modification. I said at the time, that I thought the Judiciary Committee was the proper committee to which to refer those bills; but the House seemed to think that it was better to take the matter out of the hands of the Judiciary Committee, and out of the hands of the committee on Government contracts, and put it into the hands of the Committee on Military Affairs.

The SPEAKER. Does the gentleman from Indiana modify his resolution?

Mr. COLFAX. I do not, as it is not desired by the gentleman from Massachusetts, and as the Judiciary Committee seems the most appropriate one. All I want is action, a fair bill, a fair trial where both sides can be heard, and a heavy penalty on conviction. I demand the previous question upon the original resolution.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

MESSAGE FROM THE PRESIDENT.

A message in writing, from the President of the United States, was received by Mr. HAY, his Private Secretary.

BOUNDARIES OF NEVADA.

Mr. CRADLEBAUGH introduced a bill to legalize the survey of the boundary line between the Territory of Nevada and the State of California; which was read a first and second time, and referred to the Committee on Territories.

RESOLUTIONS OF LEGISLATURE OF NEVADA.

Mr. CRADLEBAUGH also presented to the House joint Union resolutions of the Legislative Assembly of Nevada Territory; and also resolutions concerning the retirement of Lieutenant General Scott from active service in the Army; which were laid on the table, and ordered to be printed.

FOREIGN OFFICERS, ETC.

Mr. RICHARDSON. I was absent when the State of Illinois was called, and ask unanimous consent to introduce a resolution.

The resolution was read, as follows:

Whereas Hon. William H. Seward, Secretary of State, in a letter bearing date September 11, 1861, addressed to Colonel Polindor Casalta d'Ornano, in reply to a communication from that officer, dated July 20, 1861, tendering his military services to the United States, says: "Should you see fit to come to our shores you will be hospitably received, and the Government will take pleasure in assigning to you an honorable position in the Army of the United States;" and whereas upon this assurance the recipient thereof resigned his commission as colonel in the army of Italy, and at great expense came here to engage in the war for the Union, and has now been here more than four months and has been unable to obtain official position or recognition from the Departments:

Resolved, That the Secretary of State be requested to transmit to this House the number and names of all foreigners who have been so invited to this country, together with the dates of such invitations, the authority of law by which they were made, the disposition of the officers since their arrival, and the expense to this Government.

The following is the letter referred to in the resolution:

DEPARTMENT OF STATE,
WASHINGTON, *September* 11, 1861.

SIR: Your letter of the 20th of July, to the President of the United States, has been referred by him to this Department.

The President appreciates very highly the generous tender you have made of your services in the cause of this Government, which is, indeed, as you have truly described it, the cause of civilization.

Should you see fit to come to our shores, you will be hospitably received and the Government will take pleasure in assigning to you an honorable position in the Army of the United States.

I have the honor to be, with high consideration, your obedient servant, WILLIAM H. SEWARD.

TO COLONEL POLINDOR CASALTA D'ORNANO, *Ajaccio, Island of Corsica, France.*

Mr. BINGHAM. I object.

Mr. RICHARDSON. I move to suspend the rules.

The SPEAKER. The motion is not in order at this time.

RECIPROCITY TREATY.

Mr. SPAULDING introduced a joint resolution authorizing the appointment of commissioners to negotiate a new treaty with the British provinces of North America, based upon the true principles of reciprocity, and also authorizing the President to give the necessary notice for terminating the present unsatisfactory treaty; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

PRISONERS TAKEN ON SLOOP VELMA.

The SPEAKER announced that the next business in order was the consideration of the following resolution, which was laid over from Monday last:

Resolved, That the Secretary of War be requested to inform the House whether the prisoners taken in the sloop Velma were released by the United States commissioners at Baltimore, with the knowledge and consent of the military authorities of the department of Maryland; also, by what authority Colonel Gunter, of Virginia, who refused to take the oath of allegiance, was released on a conditional parole which bound him only not to take up arms against the Government while the eastern shore counties in Virginia remained under the United States authority; also, by what authority said Gunter was allowed to visit the camp of the sixth Maryland regiment at La Fayette square, Baltimore, to search for runaway negroes.

Mr. POTTER. I demand the previous question upon the passage of the resolution.

Mr. COX. I object to the resolution.

The SPEAKER. The gentleman cannot object. It is a resolution which comes up regularly in order.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the resolution was adopted.

CONTRACTS FOR ARMS.

The SPEAKER announced that the next business in order was the consideration of a joint resolution (H. R. No. 44) to annul certain orders for fire-arms, and to authorize the Secretary of War to suspend others; which, giving rise to debate on a previous Monday, was laid over under the rules.

Mr. WICKLIFFE. I understand that there is now a commission in session in this city for the purpose of investigating the contracts for arms. Upon their making their report to the War Department, we shall be better able to judge how far our power extends to rescind these contracts or to interfere with those abominable contracts which have disgraced the Department by which they were made. I hope the resolution will not pass until that report comes in. I understand that three days prior to the resignation of the late Secretary of War, he made a contract for three millions of arms—$1,000,000 worth—and gave three or four years, perhaps, to supply them for the present Army.

Mr. FENTON. As my colleague [Mr. ROSCOE CONKLING] who introduced the resolution is not present, I move to postpone its consideration for one week.

The motion was agreed to.

CENSUS RECORD.

The SPEAKER announced the next business in order to be the consideration of a joint resolution (H. R. No. 53) for a census record, which, giving rise to debate, was laid over on a previous Monday, being the resolution introduced by the gentleman from Vermont, [Mr. WALTON.]

Mr. WALTON. A resolution of the same tenor has been referred to the Committee on Printing. That committee will report it back at a convenient time, and I therefore move that the resolution be laid on the table.

The motion was agreed to.

The SPEAKER, as the next business in order, commenced the regular call of the committees for reports.

NEVADA TERRITORY, ETC.

Mr. ASHLEY, from the Committee on Territories, reported back a bill (H. R. No. 306) extending the territorial limits of Nevada, and increasing the salaries of certain officers.

Mr. ASHLEY. I move that the consideration of the bill be postponed until Thursday of next week, and ordered to be printed.

The motion was agreed to.

PUNISHMENT OF POLYGAMY.

Mr. ASHLEY, from the Committee on Territories, reported back, with a recommendation that it do pass, a bill (H. R. No. 391) to punish and prevent the practice of polygamy in the Territories of the United States and other places, and disapproving and annulling certain acts of the Territorial Legislature of Utah.

The bill was read.

Mr. MORRILL, of Vermont. I desire to say to the House that this is the identical bill passed about two years ago, when there was an elaborate report made by a gentleman from Tennessee, Mr. Nelson, and when it received the almost unanimous support of the House. The only difference between the two bills is this: that bill excepted from its provisions the District of Columbia, and that exception is stricken out in this bill. I presume there is no member of the House who desires to discuss this measure, and I move the previous question.

Mr. MAYNARD. I ask the gentleman from Vermont to allow me to suggest a single verbal amendment, rather a matter of taste than otherwise.

Mr. MORRILL, of Vermont. I will hear the suggestion.

Mr. MAYNARD. It is to strike out the word "nevertheless" in the proviso to the first section. It has no business there; it is surplusage.

Mr. MORRILL, of Vermont. Well, if the gentleman from Tennessee says that "nevertheless" has no business there, I presume he is right; and I have no objection to the amendment.

Mr. MAYNARD. I offer the amendment. I have no speech to make about it.

The amendment was agreed to.

Mr. CRADLEBAUGH. I ask the gentleman from Vermont to allow me to offer an amendment.

Mr. MORRILL, of Vermont. I prefer to have the bill pass as it is.

Mr. CRADLEBAUGH. I think if the gentleman understood the character of the amendment he would not object. It is merely to correct the bill, and not for the purpose of throwing any impediments in the way of its passage. The bill, in its present shape, does not amount to anything.

The SPEAKER. Does the gentleman withdraw the demand for the previous question?

Mr. MORRILL, of Vermont. I decline to do so.

The previous question was seconded, and the main question ordered.

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

Mr. MORRILL, of Vermont. I move the previous question on the passage of the bill.

Mr. BIDDLE. Is all debate necessarily cut off at this time?

The SPEAKER. It will be if the previous question is sustained.

Mr. BIDDLE. There are some of us who would like to hear debate, if not to participate in it.

The SPEAKER. Does the gentleman withdraw the demand for the previous question?

Mr. MORRILL, of Vermont. I decline to do so, and call for tellers.

Tellers were ordered; and Messrs. Cox and CHAMBERLIN were appointed.

The House divided; and the tellers reported—ayes sixty-five, noes not counted.

So the previous question was seconded.

The main question was ordered to be put; and being put, the bill was passed.

Mr. ASHLEY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

GOVERNMENT CONTRACTS.

The House then resumed the consideration of the report of the select committee on Government contracts.

The resolutions reported by the committee were read, as follows:

Resolved, That the Secretary of the Treasury be requested to decline making any further payment to the parties interested in the steamboat Cataline, on account of the charter of said vessel by the United States on the 25th day of April, 1861.

Resolved, That the Secretary of the Treasury be requested to adjust the claim against the Government for the five thousand Hall carbines, purchased through Simon Stevens, Esq., by General John C. Frémont, on the 6th day of August, 1861, and afterwards delivered at the United States arsenal at the city of St. Louis, on the basis of a sale of such arms to the Government for $12 50 each, rejecting all other demands against the Government on account of the purchase of said arms.

Resolved, That the practice of employing irresponsible parties, having no official connection with the Government, in the performance of public duties which may be properly performed by regular officers of the Government, and of purchasing by private contract supplies for the different Departments, where open and fair competition might be properly invited by reasonable advertisements for proposals, is injurious to the public service, and meets the unqualified disapprobation of this House.

The SPEAKER stated that there were several amendments pending, and that the question immediately before the House was on the motion of the gentleman from Pennsylvania [Mr. STEVENS] to amend the second resolution by striking out the word "through," in the third line, and inserting "from" in lieu thereof.

Mr. WASHBURNE. I move to postpone the first of the resolutions for two weeks for reasons stated on Friday.

The motion was agreed to.

Mr. STEVENS. I presume, then, the second resolution is before the House.

Mr. WASHBURNE. Yes, sir.

Mr. STEVENS. I withdraw my amendment to the second resolution, and offer the following as a substitute for the resolution:

Resolved, That nothing has occurred to lessen our confidence in the honesty, integrity, and patriotism of Major General John C. Frémont.

Mr. WASHBURNE. I raise a point of order on that amendment.

The SPEAKER. The gentleman will state it.

Mr. WASHBURNE. The point of order is, that the amendment is not germane to the resolution, which is a direction to the Secretary of the Treasury with regard to the settlement of claims for arms.

Mr. STEVENS. This is a report relating to a transaction of John C. Frémont, and I say that this is a resolution of censure upon him by its very operation.

The SPEAKER. The Chair sustains the point of order. The resolution is one directing the settlement of accounts, and the Chair does not see how the amendment can be germane to that. The resolution provides for settling the accounts of certain persons; the amendment proposes a vote of confidence in a certain individual.

Mr. STEVENS. I contend that this is really a vote of censure for the purchase of these arms.

The SPEAKER. That addresses itself to the discretion of the House, and not to the decision of the Chair, on the point of relevancy.

Mr. STEVENS. Well, sir, I cannot help thinking it is germane, but I do not like to take an appeal from the decision of the Chair. I withdraw my amendment for the present, and renew the motion to strike out "through" and insert "from."

Mr. SEDGWICK. Mr. Speaker, I am grateful to the House for their kindness and courtesy in permitting these resolutions to stand over until to-day out of regard to my convenience. I shall endeavor to discuss one of the subjects presented in the report of the investigating committee, and to discuss it upon its merits, endeavoring in all I may say upon the subject to avoid anything impertinent to the matter under consideration or personal to any member of the House.

The committee had occasion, among other things, to examine certain transactions in the Navy Department, and from that examination they have arrived at certain conclusions which I propose to controvert. The committee say and insist that in the purchase of the vessels which the circumstances of the times had rendered necessary, it was proper for the Navy Department to employ naval officers of experience in that service, and that they from their habits of life, their experience, their knowledge of naval affairs, their education and training, were more competent and better prepared to do that service to the advantage of the Government than any mercantile agency out of the Department and out of the line of its officers which could be employed. They insist that they should be men who are subject to military discipline, and to exemplary and prompt punishment for any misconduct; but that if officers of the Navy could not be employed for that purpose, then the business should be intrusted to those having experience in sea life, and in the building or sailing of vessels, and competent to know of the character, capacity, and value of the various vessels offered to the Government. They complain through the entire report that the purchasing of vessels, which was commenced upon their principles by an experienced officer of the Navy, was taken from him and committed to a man who had been engaged all his life in commercial pursuits, and they insist upon it that this change in the agency of the Government was attended with loss and damage to the Government; that it was a novel experiment; that it was without precedent and without law, and which, instead of securing benefit to the public service, will result in loss to it. In accordance with that resolution, the committee reported the third of this series of resolutions, which is as follows:

That the practice of employing irresponsible parties, having no official connection with the Government, in the performance of public duties which may be properly performed by regular officers of the Government, and of purchasing by private contract supplies for the different Departments, where open and fair competition might be properly invited by reasonable advertisement for proposals, is injurious to the public service, and meets the unqualified disapprobation of this House.

That is the resolution of the committee. One member of the committee, Mr. HOLMAN, of Indiana——

The SPEAKER. The Chair will state that it is not in order to call members by name. The Chair called attention to it the other day. It is contrary to parliamentary rule.

Mr. SEDGWICK. I did it merely for the purpose of calling his attention and to give him an opportunity, which I understand he desires, of separating from the resolutions of the committee the resolution which he introduced; not from the committee, but upon his own personal responsibility.

Mr. HOLMAN. Mr. Speaker, for the purpose of submitting the question more definitely, I will modify the amendment which I offered to the fourth of the series of the resolutions, by substituting for it the following:

Resolved, That Simon Cameron, late Secretary of War, by investing Alexander Cummings with the control of large sums of the public money, and authority to purchase military supplies, without restriction, without requiring from him any guarantee for the faithful performance of his duties, when the services of competent public officers were available, and by involving the Government in a vast number of contracts with persons not legitimately engaged in the business pertaining to the subject-matter of such contracts, especially in the purchase of arms for future delivery, has adopted a policy highly injurious to the public service, and deserves the censure of the House.

Resolved, That the Secretary of the Navy, in the employment of George D. Morgan, without requiring from him any guarantee for the faithful performance of his duties in the purchase of a large number of vessels for the public use, with a compensation dependent on the prices paid for such vessels, and receivable from the seller, instead of employing responsible officers of the Government, has adopted a policy unauthorized by law, destructive of public economy and public confidence, and deserves the censure of this House.

Mr. MOORHEAD. I propose, if it be proper now, to offer an amendment to the amendment.

Mr. SEDGWICK. That amendment can be offered afterwards.

Mr. MOORHEAD. I desire to offer it now.

The SPEAKER. The gentleman from New York declines to yield.

Mr. SEDGWICK addressed the House for an hour and a quarter, (his time having been extended by unanimous consent.) [His remarks will be published in the Appendix.]

Mr. STEVENS obtained the floor.

Mr. WICKLIFFE. Will the gentleman give way for a moment to permit me to offer an amendment?

Mr. STEVENS. I suppose the gentleman will have another opportunity. I prefer not to yield at present.

Mr. WICKLIFFE. I do not wish to discuss it. I merely desire to get the amendment before the House.

The SPEAKER. The gentleman from Pennsylvania is entitled to the floor.

Mr. STEVENS. If I were not impelled by a sense of duty to defend gentlemen who have been calumniated in this report and upon this floor, yet I am sure it would be expected of me to make some reply to the remarks of the gentleman from Massachusetts, [Mr. DAWES,] and that he would feel that he was treated with neglect if I wholly omitted that duty. [Laughter.] I shall, therefore, I trust, in a spirit of calmness, and certainly without any further personalities than are unavoidable in the discussion of this report, proceed to make a few remarks. I shall argue this question *in re*, and not *in persona*, any further than the person sticks to the thing. And certainly no member of the committee will be brought in question in the remarks I shall make, except the honorable member from Massachusetts, [Mr. DAWES,] for no other member has said anything which can be considered as personal or unkind.

The gentleman from Massachusetts on Friday last announced to the House that he had notified me that he was about to proceed to call up these resolutions, but that I had deemed it proper to be absent on that occasion notwithstanding that notice. I had expected from the candor of the gentleman from Massachusetts one further remark, which I am sure he omitted through mere forgetfulness, which was that I was about leaving the House when he informed me that he would call up this matter, and that I told him that I had an appointment which I could not forego with strangers about to leave the city, but that I supposed I should have an opportunity of seeing his remarks in the papers, unless he should think proper to postpone the discussion of the subject until Monday. If he determined, however, to call up the subject and proceed with the discussion, I hoped he would mention the circumstances to the House. The gentleman from Massachusetts did not mention the latter fact, and I was indebted to my friend from Indiana [Mr. COLFAX] for bringing that information to the attention of the House, so that no harm was done. I merely mention the circumstance. I make no complaint at all.

The gentleman from Massachusetts further complains that while all the members of his committee were absent—I have no doubt very usefully and properly employed, some of them wandering about in New York, some in Pennsylvania, some in Ohio, and others to the four quarters of the globe, tracking these rogues that they have been pursuing with such commendable industry—some remarks were made in this House reflecting upon the integrity of their report.

Now, Mr. Speaker, you know, and the House know, that the discussion which took place on that occasion was not voluntary on the part of those who rose to defend the characters of persons assailed in that report. The learned gentleman from New York [Mr. DIVEN] introduced a resolution, which I do not say was called up on that day on his motion. I do not recollect how it came up. Upon that resolution he made a speech, able, eloquent, somewhat bitter, against the gentlemen who were named in his resolution, which sought

the direction of this House to proceed to recover money illegally retained, as was alleged, by Major General Frémont and Mr. Beard. And he founded his authority and justification for such an extraordinary proceeding, with which, in my humble judgment, we had nothing more to do than we have with these resolutions, for they are all beyond the jurisdiction of the House—he founded his resolution upon what he called the condemnation of these men by the report of this committee.

Now, it would have been possible for those who were disposed to see justice done by this House to do one of two things: either to sit quietly by and suffer this charge to go forth as true, or to impeach the testimony upon which the gentleman from New York founded it. We pursued the latter course. It is true that when the gentleman from Massachusetts [Mr. THOMAS] called our attention to the fact that the committee were not here, we might have stopped at once and allowed the House to condemn the other gentlemen who were never here, without a hearing. That would have been, I suppose, what the gentleman from Massachusetts [Mr. DAWES] would call "even-handed justice," that is, even-handed *à la mode* the report of this committee. [Laughter.]

But, sir, passing over that, the gentleman complained that those who defended the gentleman against the charges of this report, charged that the report itself contained fraudulent representations, false representations, injurious, calumnious representations against several parties.

Well, sir, it shall be my humble task here to prove every one of these charges, not by invoking facts that have not been brought before the House, not by giving my version of testimony which may be locked up in my breast, not by quoting what may have been reported in the newspapers, but I shall attempt to prove them by what would be legitimate legal evidence before any jury in any court of justice in the land. If I fail in that, I will not attempt to support my position by other means.

Preliminary to that, however, I will say that I think I have a right to complain that this committee have not conducted their investigations in a manner which I call fair. That is to say, when they proceeded to investigate the frauds of any gentleman connected with the Government or not connected with it, they gave such person no notice of it, they furnished him with no copy of the evidence supposed to implicate him, and they afforded him no opportunity to call witnesses to explain the testimony against him or to recall the witnesses whose testimony, as is alleged, goes to impeach his conduct.

Mr. FENTON. I cannot say what the practice of the committee may have been in Ohio or on the Mississippi, where they have held their sessions; but so far as I know, the practice pursued by them in New York, in Harrisburg, and in this city, at the sessions of the committee when I have been present, the practice which the gentleman condemns has not been pursued by the committee. I cannot call to mind one instance where the committee have failed to serve upon the party accused a copy of the testimony bearing upon him, or have not afforded him ample opportunity for personal explanation. Beyond the sessions of the committee in the places I have named, I have no information other than that in the possession of every member of the House.

Mr. WASHBURNE. That has been the general practice of the committee everywhere.

Mr. STEVENS. Yes, sir. The documents, however, do not show it, and I am sure the sworn testimony will not show it. I know that in New York application was several times made to have witnesses subpenaed, and yet the committee never issued such subpenas. I am quite sure that such was the fact in reference to General Frémont. At least I believe it to be so. I think it was so in regard to Mr. Cummings; and in no case, so far as I recollect, does the journal of the committee show that they pursued that course.

Mr. DAWES. What does the gentleman say in reference to Mr. Cummings?

Mr. STEVENS. I spoke of a single instance when it was desired that Mr. Blatchford should be subpenaed; but he was not subpenaed.

Mr. DAWES. That was sufficiently set forth in the debate the other day, and I supposed everybody understood it; but of course the gentleman from Pennsylvania did not.

Mr. STEVENS. Did the gentleman issue a subpena for Mr. Blatchford?

Mr. DAWES. I suppose the gentleman does not refer to me individually?

Mr. STEVENS. I mean the committee.

Mr. DAWES. Certainly they did.

Mr. STEVENS. But was that before the report was filed?

Mr. DAWES. We gave the invitation before the report was filed.

Mr. STEVENS. Ah!

Mr. DAWES. The gentleman knows that before the report was made an appointment was made to meet Mr. Blatchford, but when he did not appear, the committee then had a subpena issued to compel his appearance. The gentleman knows that.

Mr. STEVENS. I did not know it.

Mr. DAWES. I perceive that the gentleman does not know it.

Mr. WASHBURNE. I say that General Frémont had notice given to him.

Mr. DAWES. If the gentleman from Pennsylvania will yield to me right here I will state that Mr. Simon Stevens, a gentleman who feels aggrieved by one of the resolutions, called upon the committee, and the committee told him to go to General Frémont and inquire of him when it would be most agreeable for him to appear before the committee. They wanted him to fix his own time, and the committee would accommodate him.

Mr. STEVENS. I suppose he would have answered a subpena. But the journal of the committee shows precisely what I have stated—that no notice was given and no testimony furnished to the accused. I find in the journals of a former select committee on naval contracts that they not only gave the party implicated notice, but a copy of the testimony implicating him. I see in the Globe that Mr. WADE, a Senator from Ohio, and chairman of another select committee, made this declaration:

"We sought no evidence to impeach any man, and if the evidence seemed to impinge on the credibility, the loyalty, or the character of any man, we sought that man, and laid before him the course of the evidence, and the matters wherein he was inculpated."

A worthy and just example, which I regret extremely that this committee, which has so large an influence upon the public mind, has not followed, and given notice in the case I have referred to. I know, sir, that the Spanish inquisition may be cited on the other side. They did business just as this committee have done it. But as worthier examples for imitation, I would have preferred those of Senator WADE and the committee on naval contracts. But all of this is incidental.

I do not object to these interruptions, but as they occupy my time, I hope that the House will not object to my continuing beyond my hour, if necessary, in order to finish my remarks.

Now, sir, I have said that there were fraudulent reports. I will have to take a single instance because I shall not have an opportunity to refer to more than half of this book; [laughter;] and these gentlemen, they say, have something in reserve which they will make public at another time. I am led to believe from the mysterious hints which have fallen from the gentleman from Massachusetts that they have enough behind to answer for all that it is necessary to kill. They can, no doubt, very easily fill their quivers with arrows of the sort they have already shot at the characters of others.

I will give one or two examples. They undertake to censure the Secretary of War for his appointment of Governor Morgan and Alexander Cummings, at the time we were blockaded here, to forward men and supplies to the Government here. There is nothing brought against the character of the men here. They stand before the world unimpeached and unimpeachable so far as the case in controversy is concerned. It was necessary in order to implicate the Secretary of War that something should be made out of the impropriety and fraud of any of his appointees.

I will mention, in this connection, that until my personal relation toward the Secretary of War became the topic of discussion and denunciation by the gentleman from Massachusetts, I never mentioned the name of General Cameron. Heretofore I have never mentioned his name in connection with this report. I did speak of the transaction of Alexander Cummings, but not of the Secretary of War.

Let us see whether General Cameron is to be censured for appointing Mr. Cummings. That is the only ground of censure. The committee may have in their reserve magazine other grounds which they are not now willing to publish to us. If this does not kill, they are to bring out other weapons. They charge Mr. Cummings, who was appointed to purchase supplies and forward them, in connection with Governor Morgan, with receiving and not accounting for $140,000 of the public money, I say that that is a false charge. I did not understand the committee exactly confirmed that fact; but we have in this report elaborately—well, not elaborately, for they could not devote too much time to one victim, they had so many to skin [laughter]—but we have most distinctly the charge that Mr. Cummings had $140,000 more in his possession than he testified to in his testimony, and that he has not accounted for it. I say that the testimony does not show that he has one dollar of the kind. I said before, in answer to the gentleman from Massachusetts, who said that he might have settled it with the War Department, that he knew he could not have settled it there.

Mr. DAWES. I do not see my colleague on he committee here.

Mr. STEVENS. Yes; the gentleman from Indiana [Mr. HOLMAN] is right in front of me.

Mr. DAWES. My colleague can inform the House that those vouchers are still unsettled before the Department, although the gentleman got somewhat angry because I would not admit that they were settled.

Mr. STEVENS. The gentleman did not profess anything.

Mr. DAWES. The gentleman seemed to know, because he positively asserted that they were settled.

Mr. STEVENS. I asked the gentleman if he did not know they were. My colleague states that the accounts have been settled.

Mr. KELLEY. I have information that the members of the committee have been misinformed on this subject, and that every dollar of these accounts has been settled.

Mr. HOLMAN. Will the gentleman permit me?

Mr. STEVENS. The gentleman will follow me.

Mr. HOLMAN. I want to say a word right here. An issue of fact is made whether these accounts are settled.

Mr. STEVENS. Whether his vouchers are filed and settled.

Mr. HOLMAN. I ask the Clerk to read the letter which I send to his desk.

The Clerk read, as follows:

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE, *April* 28, 1862.

SIR: In reply to your letter of this date, in which you inquire, in behalf of the Government contract committee, "in what manner the accounts of Alexander Cummings, Esq., agent for the War Department in the months of April and May, 1861, have been settled," I have the honor to inform you that such accounts, with receipts and vouchers pertaining thereto, are on file in this office, but have not yet been settled.

Very respectfully, your obedient servant,
R. J. ATKINSON, *Auditor.*

Hon. W. S. HOLMAN, *House of Representatives.*

Mr. KELLEY. This gentleman undoubtedly has a receipt in full through Mr. Cisco, and a draft for the balance on hand.

Mr. HOLMAN. Who executed the receipt? I undertake to say that the accounts have not been settled; that they have never passed through any Department of the Government.

Mr. STEVENS. I understand that he has filed his vouchers for every dollar.

Mr. HOLMAN. I want an answer to my question.

Mr. KELLEY. I will answer it by saying that I am not as skilled in mousing as some of the gentlemen of this committee, and have not examined the copy of the receipt, but it is a receipt from the proper officer of the Government. It is a full receipt, and such as would be satisfactory in any court.

Mr. HOLMAN. Will the gentleman state the name of the officer?

Mr. KELLEY. I tell the gentleman I am not sufficiently skilled in the practice of mousing to be able to give him the information he asks.

Mr. HOLMAN. Does the gentleman know who signed the receipt?

Mr. STEVENS. This cross-firing is a little annoying to me just now. I believe, from the information obtained from the Treasury Department, that the matter amounts to this, that there are vouchers there for the whole amount of it, but that they have not been yet put on file, and put the other end up, as they will have to be before they are filed away. [Laughter.]

Now, sir, there are vouchers for all. And as to the rest of this money—$140,000—it is of no importance so far as this question is concerned, for he never had a dollar of it in his possession. And yet the committee undertake to say that he had. A reference to it is found on page 66 of the report, and I wish the attention of gentlemen who are interested in the matter. The committee say:

"After Mr. Cummings had concluded his testimony and taken the same for revision, he added the following note:

"'I have retained, under authority of the Secretary of the Treasury, by Messrs. Dix, Blatchford, and Opdyke, $140,000, besides what I have stated in my testimony, which is accounted for by the vouchers.'"

They made his note read, "I have retained." Now, I will read a few words to show how this committee understood that:

"Still we are informed by this note"—

after having spoken of the disposition of the remainder—

"that Mr. Cummings has retained $140,000 of the money over and above that stated in his testimony, ($250,000,) 'which is accounted for by the vouchers.' This item seems to have been overlooked by him in his testimony. One hundred and forty thousand dollars *is in his hands* over and above the $160,000 for which he has filed vouchers in the War Department," &c.

And then they go on to censure the Secretary of War for not having called sooner for the vouchers for the $140,000, the other having been accounted for. Now, it turns out that Cummings never wrote such a note. He wrote them a note informing them that "there had been retained, under authority of the Secretary of the Treasury, by Messrs. Dix, Blatchford, and Opdyke," in whose hands, you will remember, the whole was deposited, and drawn out as needed, "$140,000, besides what I have stated in my testimony, which is accounted for by the vouchers."

Mr. DAWES. Accounted for by *the* vouchers?

Mr. STEVENS. Yes, sir; *the* vouchers; and beyond that they say there were $140,000 in his hands. And then they go on to say that it was in his hands, and what a crime it was. Thus, it being a fraudulent transaction, and not having for four months accounted for it, they draw the inference that the Secretary of War should be censured.

Now, as I said before, I want you to look at the original note. It does not say, "I have retained under authority," &c., but "there retained under the authority," &c. Now, when the original was found, admitting that there was a mistake in this, the committee say it was the mistake of the printer—these printers' mistakes are very convenient things—and that it should have read, "there retained." Now, Mr. Speaker, recollect that whoever made the mistake, the printer did not write the report charging Cummings with having $140,000 in his hands. The printer did not say that Mr. Cummings said so. That was written by the committee; when, I do not know. It was before the report was printed that the thing was written; for when this thing was first up before the House the testimony was not printed. It was not before the House, nor for some weeks afterwards; and the gentleman from Massachusetts alone [Mr. DAWES] had what he said were the proof-sheets, from which he sometimes enlightened us with what was behind, but which we had not seen. Now, how do the committee account for their writing a report upon the mistake of the printer? I suppose the report was written before it was furnished to the printer.

Mr. WASHBURNE. I will state to the gentleman that the evidence and report were printed together.

Mr. STEVENS. Then, if the evidence and report were printed together, the report was founded upon a falsehood, and all printed together.

Mr. DAWES. If the gentleman will allow me——

Mr. STEVENS. I do not want any other explanation. This suits me exactly. [Laughter.] I will excuse the gentleman.

Mr. DAWES. Does the gentleman decline to have me interrupt him and tell him just how it is?

Mr. STEVENS. I have not declined to hear any gentleman's explanation, though these explanations are a little annoying.

Mr. DAWES. I do not think my colleague [Mr. WASHBURNE] designed to say that the report was written before the evidence was printed.

Mr. STEVENS. That is what he did say.

Mr. WASHBURNE. I said, or intended to say, that the report and evidence were presented together.

Mr. STEVENS. "Printed" was the word. These *lapsi linguæ* and *lapsi pennæ*, &c., are bad things. [Laughter.]

Mr. DAWES. I suppose the gentleman from Pennsylvania desires to have it right. I do not know.

Mr. STEVENS. Undoubtedly.

Mr. DAWES. I told the gentleman from Pennsylvania the other day—what every member of the House will bear me out in saying—that no member of the committee ever saw that writing until the day before I brought it into the House; that it was handed to the clerk of the committee by Mr. Cummings, by the clerk taken to the printing office, by the printer set up, by the printer read in proof, and after it was set up and in the proof, it was handed to us in print, and not a member of the committee ever saw the original note until the day before I brought it into the House here, more than three months after the report had been made.

Mr. STEVENS. How did it get into the printer's hands?

Mr. DAWES. Does the gentleman forget how I told him it got there? I told you a moment ago that Cummings handed it to the clerk, that the clerk of the committee took it to the printer, and that not a member of the committee ever saw it until three months after the printed report appeared here in the House. I hope the gentleman will not forget it.

Mr. STEVENS. I have not forgotten it.

Mr. DAWES. Then you are to blame for the mistake.

Mr. STEVENS. Perhaps I may be; but I have a letter here from Mr. Defrees, the Superintendent of Public Printing, who states that as he printed this matter he sent a copy of each proof-sheet to each member of the committee.

Mr. DAWES. Certainly.

Mr. STEVENS. Now, it will hardly do to say that they did not see the proof, and when it was taken, it seems to me they ought to have looked at it. The committee that takes testimony, that has it printed, that reads the proof, are responsible for it, especially if they found upon it a grave charge against the integrity of an upright citizen, and charge him with embezzlement. And I may be allowed to say that the statement of the gentleman from Massachusetts makes the matter no better. There is a principle in law which he well knows, that when a man rashly, and without taking the proper means to ascertain the facts, swears to a fact material to the issue, and it turns out to be false, although he did not know it to be false, although he supposed it to be true, yet, as he has rashly sworn to a fact which he did not know to be true, he is guilty of perjury, and deserves the penitentiary. Such is the law of the country, and such is its application to this report. A committee, having every opportunity of knowing the facts, makes a report to the country, damning the character of a man, so far as their damnation will go, and have no other excuse than saying it was a mistake of the printer. I say it is their fault, and they are just as much answerable for it as if they had willfully forged it, and written "I have," instead of "there was retained;" and the sense of justice of the community will hold them responsible before the world, as the law holds them responsible in a legal point of view. This is fraudulent representation No. 1.

Let me come to No. 2. That is the celebrated case of Augustus A. Sacchi. The committee say that General Frémont found a man in New York by the name of Sacchi, and that he went out West——

Mr. WASHBURNE. Will the gentleman be good enough to read that part of the report in which the committee say that?

Mr. STEVENS. Well, then, that a man from New York, found Frémont. [Laughter]. I think the testimony shows that a man by the name of Sacchi, from New York, went to St. Louis, if I recollect the evidence aright, under directions from General Frémont, and entered into a contract with an aid of General Frémont by the name of Wood, for a certain number of Canadian horses. After he had made that contract, he went off and never complied with it; he did not live up to the contract. The contract, the committee say, was made in defiance of all propriety, because they ought to have bought the horses in the western country, and yet they contracted with this man Sacchi, who failed to comply with the contract. They do not say that he ever received any of the money. I believe the contrary appears even in their own book, if I understand it correctly. They then go on to censure it as having been a fraudulent transaction, made under the direction of General Frémont. They show what a fraudulent contract it was, made with a man of the name of Sacchi. They did not care anything about Sacchi, who, they say, lived in a garret in New York, or Captain Turnley said so. They were fishing for larger fish than that. The gentleman says that I said they devoted several pages of this report to this matter. I was wrong. It is only three pages, and not several. But they gravely wind up with this significant phrase:

"It will hardly be believed that the name of this same man, Sacchi, appears in the newspapers as being on the staff of General Frémont at Springfield, with the rank of captain."

Well now, if the gentlemen meant that literally, they are right, for nobody would believe it because it is found in their report. [Laughter.] But if they meant, as I suppose they did, that nobody, without their veracious report, would believe that this man, with whom a fraudulent contract had been entered into through Frémont's agent, was a member of Frémont's staff, it turns out that there is not a word of truth in it. This man Sacchi, who made the contract, was a resident of New York, an old man between sixty and seventy, who had lived there a great many years, and the Mr. Sacchi on Frémont's staff was a young gentleman from Europe, who never heard anything about this contract.

Mr. WASHBURNE. Will the gentleman enlighten the House as to where he gets his facts?

Mr. STEVENS. I have seen an affidavit made by the genuine horse dealer, Sacchi.

Mr. WASHBURNE. *Ex parte?*

Mr. STEVENS. Yes; and therefore I suppose the gentleman has a right to deny it if he will. It is not much better in that respect than this book. [Laughter.]

Mr. WASHBURNE. I suppose the gentleman will admit that the book is quite as good.

Mr. STEVENS. Well, I do not suppose it is pretended now that this man Sacchi on Frémont's staff is the man who is implicated by this report. Even the gentleman from Massachusetts did not assert that, and I am sure my friend on the right will not.

Mr. WASHBURNE. It is a matter I know nothing about. I do not know whether he came here "to crusade for freedom in freedom's holy land" or not. [Laughter.]

Mr. STEVENS. I do not think he did know anything about it; and yet the committee report the fact solemnly to the country, and base upon it this charge against Frémont. Why, I do not believe they knew more about this than they did about two thirds of the other things they have put in this report. [Laughter.] Now, sir, they ought to have known whether they did or not. There is a mistake, whether you call it fraudulent or not.

Mr. WASHBURNE. The gentleman seems to think that this is an attack upon his friend and my friend Frémont—because we fought the battle together in 1856. Will he be good enough to read, not three lines, but four lines and a half, at the top of the 94th page of the report?

Mr. STEVENS. Oh, I have read it, sir.

Mr. WASHBURNE. Will my friend be good enough to read it to the House?

Mr. STEVENS. Oh, no; I do not care to do that.

Mr. WASHBURNE. I wish you would.

Mr. STEVENS. I can tell the House what it is, though. It is taking him by the beard and saying, "art thou in health, my brother?" [Much laughter.] They ought to have known the facts,

if they did not, before they charged that this fraudulent contract had been made with a member of Frémont's staff.

Mr. WASHBURNE. Does the gentleman say that the contract was a proper one? Has he any fault to find with the committee for exposing the contract?

Mr. STEVENS. The contract is not brought here in the resolution. If it was, I would vote that the Mr. Sacchi who made the horse contract should not get a dollar more money.

Mr. WASHBURNE. If he had an honest contract, why did he not ask for the money due him?

Mr. STEVENS. Because he did not furnish the horses. [Laughter.] Because Frémont, having limited the time, revoked the contract when it expired, and would not let him go on and furnish the horses.

Mr. WASHBURNE. The gentleman has certainly read the report, and he must have seen that Sacchi did deliver a certain number of horses, for which six or seven thousand dollars was due him. If it was a perfectly honest transaction, why did not he appear and claim the payment of that amount?

Mr. STEVENS. I do not say that it was an honest transaction; and if the committee had set upon old Sacchi about it, I should not have objected. The whole significance of it is in the question—a little jesuitical, perhaps, but it shows the ingenuity of the gentlemen—"who would believe that this same Sacchi, who had thus made this contract with Frémont, or under his orders, was one of his own staff?"

Mr. WASHBURNE. You say you would not believe it.

Mr. STEVENS. I would not have believed it unless I had known it. I would not have believed that Frémont would have made a contract with one of his own staff in that way, and I do not believe it yet, although the gentleman did assert it in that interrogative way.

Having got through with what I had to say about No. 2, I come now to No. 3, upon which this resolution is founded, and my friend from Massachusetts has discovered that it is that particular item which has interested me in this matter—I mean the contract with one Simon Stevens for Hall's carbines, page 40 of the report. The gentleman from Massachusetts, with that perfect ingenuousness which is the index of his character, in attempting to account for my defending some of these gentlemen against this report, and not being able to conceive of a higher motive than interest or connection, with a great flourish of trumpets informed this House that they, perhaps, did not know what it was that produced the disapprobation of the chairman of the Committee of Ways and Means, but he would state to them what it was; that the committee encountered from him no opposition until they had touched a contract in which one Simon Stevens was interested.

Now, I ask the House what the public would infer, and what the gentleman intended that this House should infer, from that statement? Why, that because this man happens to be of the same name, he is some connection or some family relative of mine. If he did not mean that, then it was a most unmeaning flourish of trumpets. Now, sir, at this point I will say that Simon Stevens is in no way, even in the most remote degree, any kindred of mine. The gentleman would not tell the public that, nor have them believe it, I suppose, from his remarks. I do not say this for the purpose of casting any reflection upon Simon Stevens. He is a constituent of mine. I knew his father when I was very young, in Vermont. He is still living, and as intelligent and honorable a man as that noble State has ever produced. His son came to Pennsylvania to seek his fortune long after I came there; not to the same county, but I went to the county where he resided. His character, where he is known, stands as fair as that of any member of this House—except the committee. [Laughter.] He has never been charged or impeached with fraud until now by this committee.

Mr. DAWES. Where was he educated?

Mr. STEVENS. In Vermont.

Mr. DAWES. Where did he study law?

Mr. STEVENS. He read law with me, and hence I speak of him with the more confidence as being a man of unimpeachable character. [Laughter.] And unless by these insinuations, which anywhere else would be despised, the gentleman can say naught to the contrary. Whatever I may be, *he* is a gentleman of high character and standing.

But it is said that until I found he was attacked the committee encountered no opposition from me. Does the gentleman from Massachusetts see in what an awkward place he puts himself? I never knew that Mr. Stevens was attacked, nor did anybody else to my knowledge, till the report of the committee was published. How could I make any opposition to any part of its proceedings until I knew what those proceedings were? The first I ever heard of the charge was when the book was first published.

Mr. DAWES. Then I think that great injustice has been done to the gentleman by this same Simon Stevens.

Mr. STEVENS. If there is anything in the record the gentleman may state it, but if the gentleman is going to give parole evidence I must object. We have had enough of that already.

Mr. DAWES. I was only going to tell the gentleman——

Mr. STEVENS. You need not tell me. I do not want to hear anything except what is in the record.

The SPEAKER. The gentleman from Pennsylvania declines to yield.

Mr. DAWES. I see he does.

Mr. STEVENS. So much for the insinuations of the gentleman as to motive. Now, what were the facts? You will remember, from the report all the way through, that the committee undertook to infer that Simon Stevens bought and sold these guns not for himself, but that it was a purchase of General Frémont's through Simon Stevens. The adoption of the resolution would censure General Frémont by charging him with attempting to get for these carbines ten dollars each more than they cost, and with buying them from the Government through an agent. Hence it was that I humbly submitted to the Chair that this was a resolution of censure on General Frémont, and that therefore I had a right to offer my resolution as an amendment. Now, did not the gentleman know that was not true? Had he not direct evidence that that contract was made by Simon Stevens, not for General Frémont, but for himself? The committee called Simon Stevens before it, and asked him that question. He was asked whether he bought these arms and sold them for himself, or on account of General Frémont; and he distinctly swore that nobody having anything to do with the Government had anything to do with his purchase or sale of those arms. He was asked:

"Were you acting during any of the time you mention as an agent of the Government?"

And his answer is:

"I was not in any manner whatever."

Now, sir, having some evidence that Mr. Simon Stevens had sent some guns to General Frémont by express, the committee reasoned from that that General Frémont purchased these arms, through him, for the Government, and afterward sold them for his own profit. General Frémont would not go voluntarily before the committee, but he professed his readiness to go if summoned. The committee was often invited to subpena him, but did not do it, although he was several weeks in this city. A member of this House [Mr. SEDGWICK] addressed him a letter which, with General Frémont's reply, I ask to have read——

[Here the hammer fell.]

Several MEMBERS. Let the gentlemen from Pennsylvania conclude his remarks.

Mr. WASHBURNE. I will not object to that; but I am very sorry that the same courtesy could not have been yielded to my colleague on the committee [Mr. DAWES] when he desired to make an explanation.

The SPEAKER. Is there any objection?

Mr. WASHBURNE. I do not object, although my colleague was very abruptly cut off the other day.

Mr. STEVENS. Not by me.

Mr. WASHBURNE. I am proud to say, sir, that it was not by you. You would never have done such a thing.

The following documents were read:

HOUSE OF REPRESENTATIVES,
WASHINGTON CITY, *February* 20, 1862.

SIR: I desire to have a statement from you, in writing, for the use of the House of Representatives, as to whether you purchased the five thousand Hall's carbines alluded to in the report of the committee to investigate Government contracts, of which Mr. VAN WYCK is chairman, from Simon Stevens, or through him; and whether at any time Mr. Stevens was acting for you in the purchase or forwarding of ordnance stores to St. Louis during the time you were in command of the western department.

I have the honor to be very truly your obedient servant,
C. B. SEDGWICK.

Major General J. C. FRÉMONT, *United States Army.*

WASHINGTON, *February* 22, 1862.

SIR: In reply to your note of inquiry, dated 20th instant and received to-day, I have to say that the Hall's carbines, concerning which question is made, were purchased by me directly from Mr. Stevens, and not through him, agreeably to the offer of sale received from him by telegram.

Subsequently—about the 18th of August—Mr. Stevens was appointed to a post on my staff, and instructed by me to occupy himself as might be directed in procuring and forwarding arms and stores from New York and consignments to me from Europe on account of the United States. In this capacity he continued to act until about the 26th September.

With respect, yours truly, J. C. FRÉMONT.

Hon. C. B. SEDGWICK, *House of Representatives.*

Mr. STEVENS. Now, Mr. Speaker, we have the positive testimony of Simon Stevens that in this matter he acted for himself, and not as an agent, and we have also the express declaration of General Frémont that he bought these arms directly *from* Simon Stevens, and not *through* him. And yet this resolution is so framed as to assert—and the committee, in its report, undertakes to assert—that General Frémont must have bought them through an agent, and that Simon Stevens was the agent for the purpose. I ask, therefore, whether I characterized this report too harshly when it asks you to believe this, and when it declares that Simon Stevens is a perjured man, without having called a witness to impeach him? That is not the sort of justice which the citizens of this country expect from committees of Congress. It is not the kind of inference by which men's characters are to be destroyed. As I said before, this effort, insidious as it is, jesuitically drawn as it is, is an effort to charge General Frémont with purchasing these arms from the Government, through Simon Stevens, making it his transaction and his gain, instead of the transaction and gain of Stevens; and that is the proposition which this House is called upon to affirm. Now, I have a right to say that such a report as that is wholly false and unworthy of credit, for I have proved it to be so. The House must say so. If Simon Stevens purchased these arms from the owner at a cheap rate, had them altered, and then sold them back, it was a speculation which may not be very pleasant to look at; but it was a legitimate business transaction, and involves no officer of the Government. If any officers of the Government were involved, they were those who sold the arms at $3 50 each. Simon Stevens purchased them for $12 50, and after having them rifled and breeched, he sold them to General Frémont at $22. General Frémont states, in his testimony, that they are good arms, and that they are now in use in the western department.

Mr. SHANKS. They are in use in General Halleck's army, and did good service at the battle of Pea Ridge.

Mr. DAWES. I ask the gentleman from Pennsylvania to turn his attention to the testimony of Captain Callender, of the St. Louis arsenal.

Mr. STEVENS. I believe the gentleman from Indiana, [Mr. SHANKS,] and General Frémont as quickly as I would Captain Callender, or any other cullender that may be brought up. It is amazing with what tenacity my friend from Massachusetts will insist on fixing fraudulent conduct on citizens who have not offended him, interlarding, very often, his own testimony to bring out the testimony of others. It is accounted for in a measure by his habits and training as a prosecuting officer. We often acquire habits in this way which we cannot get rid of. I do not think this quality natural to my friend. He says that we have abused this report, and characterized it as a lying report. I was speaking of the effect of the instrument, and did not desire to be understood as implying falsehood on the part of the committee. I propose to call a living witness to prove that fact, because I stand by what I say, and will prove it if I can; if I cannot, I will retract it.

General Frémont, on his sworn testimony before the joint committee on the conduct of the war, uses this language in reference to the opportunity afforded him by the committee of the House of being heard:

"And while examining into the conduct and events of the war, I think it right to call the attention of your com-

mittee to the fact that a committee charged to 'investigate frauds' came into a department which was under martial law, in the midst of civil dissensions encouraging insubordination, discrediting and weakening the authority of the commanding general then absent in the field, and I offer testimony to show that their conduct while at St. Louis created a public opinion that their special object was to make out a case against myself which should justify my removal from that department. (See page 79 of that report.) And I offer testimony to show that they avoided and declined to receive, and have suppressed, testimony which militated against this object, and further to show that there are in the report many inaccuracies and perversions and some positive falsehoods."

Who impeaches that witness?

Mr. DAWES. Perhaps the gentleman did not observe, as he was absent a portion of the time on Friday, that I asked the committee on the conduct of the war whether General Frēmont had furnished any further evidence upon that point.

Mr. STEVENS. One member of that committee.

Mr. DAWES. I asked the committee on the conduct of the war that question.

Mr. STEVENS. I heard the gentleman ask the gentleman from New York, [Mr. ODELL,] who is a member of that committee, and he responded.

Mr. DAWES. My question was addressed to the committee, several members of which I saw present; and I then remarked that I would call on the gentleman from New York for an answer. In the presence of the committee, he replied that General Frēmont had not furnished any evidence to sustain the charges made by him, except his own statement.

Mr. STEVENS. I recollect the question of the gentleman, and my recollection is that the gentleman from New York stated that he did not know that there was any evidence before them upon this point, except General Frēmont's. I think that was the answer. Now, I do not say that that evidence has been taken, but I would ask the gentleman from Indiana on my right, [Mr. JULIAN,] who is a member of that committee, whether General Frēmont has furnished them with the names of witnesses which he still desires to have them examine?

Mr. JULIAN. I will state, in answer to the question, that General Frēmont did furnish us with a list of witnesses whom he desired us to call, by whom he told us he could prove every material fact which he asserted upon his own responsibility. The committee, however, at that time only sent for such witnesses as in their judgment were necessary to clear up matters left in doubt, and settle the substantial merits of the case as they then understood it.

I ought, perhaps, further to state that both General Frēmont and those who have assailed him have since insisted upon further testimony upon one side and upon the other, and that I believe some further examination will be made of other witnesses upon these matters by the committee on the conduct of the war.

Mr. DAWES. Perhaps the gentleman from Indiana will either corroborate or deny the statement made by his colleague on the committee on the conduct of the war?

Mr. STEVENS. Oh! there is no dispute about that.

Mr. JULIAN. I think the statement made by my colleague was correct, although I did not understand it precisely as the gentleman from Massachusetts states it.

Mr. DAWES. Will the gentleman allow me to ask the gentleman from New York whether I did not state his answer to my question correctly?

Mr. ODELL. The gentleman stated my answer, as I recollect it.

Mr. STEVENS. I have not called in question the accuracy of the statement at all. I think it was correct. But I was going to ask the gentleman from Indiana whether he did not at the request of General Frēmont furnish to the committee on the conduct of the war the names of witnesses who General Frēmont supposed would prove the facts I have suggested.

Mr. SHANKS. I did furnish to one member of the committee some names which General Frēmont handed to me, who, he told me, could prove the facts suggested by the gentleman from Pennsylvania, among a good many others, which I could mention, but I suppose it is unnecessary.

Mr. GOOCH. I desire to ask the gentleman from Indiana whether he furnished to any member of the committee on the conduct of the war the names of any witnesses who, he said, could prove those charges against the committee on Government contracts?

Mr. SHANKS. I hope the gentleman from Massachusetts did not understand, when I said that General Frēmont furnished me with a list of witnesses and stated what they could prove, that I prescribed to the committee what questions they should ask them.

Mr. GOOCH. Was there any communication to the committee as to what testimony these witnesses would give?

Mr. SHANKS. Certainly not.

Mr. GOOCH. I desire to state, in behalf of that committee, that we have been desired to take the testimony of a cloud of witnesses to prove various points, but as these witnesses were, many of them, in Missouri, and others at other distant points, the committee have found it impracticable to bring before them the persons whose names have been suggested. At the same time, so far as this matter is concerned, if the House desire to spend the money of the Government in that way, we are willing to send for and examine all those gentlemen.

Mr. WASHBURNE. The gentleman from Pennsylvania has read an extract from General Frēmont's testimony in which he says the committee on Government contracts have declined to receive testimony and have suppressed testimony. I desire to say that the committee did not decline to take testimony or suppress testimony. And any assertion of that kind by General Frēmont, or anybody else, is utterly untrue.

Mr. STEVENS. It may all be so. I have very often heard them plead "not guilty" before. [Laughter.] But, sir, I am not using my own assertion; I am not using my own perversion of testimony; I am reading sworn evidence.

Mr. WASHBURNE. Does the gentleman call that evidence, when General Frēmont, who gives it, proposes to prove the truth of his assertions by witnesses which he does not call?

Mr. STEVENS. He did call them, but they have not come.

Mr. WASHBURNE. And they never will come.

Mr. STEVENS. They will come, I suppose, if the committee send for them; but I do not intend to cast any reflection upon the committee on the conduct of the war for not sending for them.

Mr. WASHBURNE. The gentleman has referred to the example, as he calls it, of the committee on the conduct of the war in giving notice to the party accused. Did that committee give this committee of the House notice that they were accused of falsehood and the suppression of testimony?

Mr. STEVENS. I do not know. I do not belong to that committee. If they have not given it, they ought to. That is all I have to say. The gentleman from Illinois does not, of course, understand me as intending to make any reflections upon him.

Mr. WASHBURNE. Certainly not. The gentleman has too much amiability for that.

Mr. GOOCH. The committee on the conduct of the war have not found it necessary to give any such notice. The publication of the testimony of General Frēmont was a sufficient notice.

Mr. WASHBURNE. By the order of the committee?

Mr. GOOCH. No, sir.

Mr. WASHBURNE. By whose order?

Mr. GOOCH. General Frēmont, I suppose, had it published.

Mr. WASHBURNE. How did he obtain possession of the evidence?

Mr. GOOCH. I suppose he retained a copy.

Mr. COLFAX. Can the gentleman from Illinois inform the House how a telegraphic summary of the testimony taken before his committee in St. Louis, while General Frēmont was in the field in the face of the enemy, came to be sent to New York and published in the New York papers?

Mr. WASHBURNE. No, sir. I do not know anything about it. Does the gentleman from Indiana know?

Mr. COLFAX. No, sir. I do not.

Mr. WASHBURNE. Then why does the gentleman bring it in here at this time?

Mr. COLFAX. Because it was a fact that while the committee on Government contracts were in St. Louis, an abstract of their report was sent to the New York papers, very much to the detriment of General Frēmont and the military operations of his department, while he was chasing the enemy in a distant part of the State. They went through the State of Missouri and took testimony behind his back. They sat in secret session with closed doors, and yet an abstract of that *ex parte* testimony was put upon the telegraph wires and spread all over the country. That abstract of testimony could have only been obtained in one way.

Mr. WASHBURNE. There was no abstract so published.

Mr. COLFAX. It must have been published by the consent of the committee.

Mr. STEVENS. It must have merely been a mistake of the printer. [Laughter.] Now, sir, this House called for that testimony by a large majority.

Mr. WASHBURNE. What was that resolution?

Mr. STEVENS. To furnish the testimony if it were deemed compatible with the public interest.

Mr. ODELL. It is true the House called upon the committee on the conduct of the war to furnish the testimony taken before them in General Frēmont's case. It is also true that the resolution provided that it should be done if it was compatible with public interest. The committee had the resolution of the House before them and unanimously agreed that it was not public interest to furnish the evidence. This was the opinion of every member of the committee, and they are of the same mind still. In reference to its publication in the New York Tribune, it was not with the consent or approbation of the committee. They were all surprised that it should appear in print; the committee having declined, to all parties, to allow its publication.

Mr. WASHBURNE. Did the House order General Frēmont to publish it without the consent of the committee?

Mr. STEVENS. Neither did the Adjutant General ask the consent of Congress to publish his charges. Perhaps we ought to have consulted him about it.

Mr. COLFAX. The committee are aware and the House are aware that the charges of the committee and of the communication of General Thomas were spread all over this land against General Frēmont, and it was not deemed incompatible with the public interest. That was considered all right and proper; but when General Frēmont's defense is made public, we hear the allegation that it was not compatible with the public interest. When these charges were made against him, and disseminated throughout the country for effect upon the public mind, he could not believe that it was not right and proper to give his reply to the public.

Mr. STEVENS. I am sorry that General Frēmont made the mistake of not consulting Adjutant General Thomas. He had been attacked by the Adjutant General for three months, and he had been attacked by this special committee, and he had gone before the world on their reports without one word in his behalf. Then he was weak enought to dare, through the publication of his testimony, to let the public know that he was not guilty. Without being a member of General Frēmont's staff, although there is a man upon it of my name, I take upon myself the responsibility of apologizing for General Frēmont's mistake. [Laughter.]

Now, sir, a word about a personal matter, which has been given much publicity by the eloquence of the gentleman from Massachusetts, [Mr. DAWES.] He denounced me with once having been on unfriendly terms with General Cameron, and with not being in social intimacy with him. As I have said already, I have not introduced the name of General Cameron in this debate. It is unpleasant to go into one's biography. It is true, as the gentleman has said, before the appointment of General Cameron to a place in the Cabinet of Mr. Lincoln, I, together with eight or ten others of my colleagues, waited on Mr. Lincoln and protested against his appointment as a member of the Cabinet. We did not think that he was the proper person to go there, nor did we think that he had the capacity. We gave other strong reasons why he should not be appointed. It is true that those reasons did not appear very

strong, for the executive power treated them as I expect they deserved to be treated, with silent contempt. General Cameron was appointed a member of Mr. Lincoln's Cabinet. There was no reason why, if he spoke to me, I should not speak to him. He had done me no harm, but he took it into his head that it was offensive for me to go with others to the President to protest against his appointment as a Cabinet officer, as no doubt it was. He cut my acquaintance, and we had no further intercourse until I came here to Congress last July.

In the mean time General Cameron was a Cabinet officer, and I made up my mind, as a Christian, I suppose, to forget what I had said about him, and to judge him by his official conduct. I intended that my judgment of him should be controlled by his official conduct. I was somewhat surprised that he took the same view of conducting and ending this war that I did. I know that there was a difference of opinion whether he was right or wrong. I thought that he was right. I thought he was better upon that ground than any other member of the President's Cabinet. I had ascertained, not through him, but through others, that he had written instructions to General Sherman, in Cincinnati, which had been materially altered before they reached him. He was in favor of employing fugitives from labor or service in the service of the United States; but there was added that "this, however, was not to be a general arming of them for military service." "You will assure all loyal masters that Congress will provide just compensation to them for the loss of the services of the persons so employed. You will assure all persons held to involuntary labor who may be thus received into the service of the Government, that they will, under no circumstances, be again reduced to their former condition, unless at the expiration of their respective terms of service they freely choose to return to the service of their former masters." The latter was in the original, but it was all stricken out. The people know how his report was emasculated. I felt that he was right, and I said here, and I said everywhere, that I would support him so long as he pursued that course. After I had said that publicly, General Cameron waited on me, and he came, he said, to renew our acquaintance. He said that he saw I was supporting him, and as we had to act together he desired to be on terms of personal intercourse. I replied that I had not the slightest objection. I told him that I would support him so long as he followed out the course which he had started. I told him further, that I would look upon his past record as a blank sheet, and that I would judge him by his official conduct as a Cabinet officer. That is how General Cameron and I came to speak.

The gentleman who has alluded to this personal matter has seen no indelicacy either in referring to private hospitalities in this city. He said that I was found at General Cameron's table, with others, and that there all of these differences were reconciled through four horse contracts, yielding a profit of some four hundred thousand dollars. I do not know whether any slander is attempted to be insinuated against me. He said my colleague was there, and that these contracts settled all political differences, and that we went before the President upon our knees and begged to withdraw our protest against General Cameron. I would like to know upon what authority the gentleman makes that declaration. Neither my colleagues or myself ever withdrew any protest which we had made to the President, nor did we ever attempt to apologize for it. Yet the gentleman would make the public believe that because of these horse contracts some of my colleagues withdrew the protest which they had made against the appointment of General Cameron to a Cabinet appointment. I regret that the gentleman should have deemed it necessary to give currency to this slander. After the time referred to, I was invited to dine with General Cameron, in company with the Governor and chief justice of Pennsylvania. I could see no good reason why I should not. I went there, and I did not find one of my colleagues who had protested to the President against the appointment of General Cameron. I met there some thirty persons, whom I did not feel very much ashamed to have met, though if the insinuations of the gentleman were true, I ought to have been ashamed. I met there the Governor and chief justice of Pennsylvania, several officers of the Army, and most of the Cabinet; and the Commander-in-Chief of the armies and navies of the United States was also present at that polluted and polluting feast, which the gentleman from Massachusetts has twice dragged before the public.

Mr. DAWES. The gentleman has probably inadvertently fallen into two mistakes: the first is that I asserted, here or elsewhere, that any of his colleagues were there with him; and secondly, that I have brought out here twice this matter of the feast. It was a telegram from this city, contained in the public papers, and it was considered of sufficient importance to state that the distinguished gentleman from Pennsylvania was there, and that the purpose of the feast was precisely what I stated to the House. I did not say it in any such connection as the gentleman has used it. Nor have I ever put the matter of the feast in connection with the fact that the men who protested against the appointment of Mr. Cameron afterwards went up and——

Mr. STEVENS. I understood the gentleman to say, in connection with that feast, that old political feuds and horse contracts were there settled.

Mr. DAWES. I do not qualify that. I repeat it, and stand by it.

Mr. STEVENS. That the gentleman repeats, but gives no evidence of it. He is in the habit of asserting things of which there is no evidence and no foundation in fact.

But, sir, the gentleman stated another thing. He stated that after I had stated what I did and made my attack upon their report on the Monday when the committee were absent, he accounted for it by saying that that gentleman—I understood him to refer to an ex-Cabinet minister—was in this Hall and came to my seat and immediately congratulated me upon the success of my achievement. I would be glad if the gentleman would tell me the source of his information.

Mr. DAWES. I would be glad to have the gentleman state whether Mr. Cameron did not appear at his seat on Wednesday last and take him by the hand and congratulate him upon the matter which transpired on Monday.

Mr. STEVENS. I say he did not. Now, I ask for the authority.

Mr. DAWES. He appeared at your seat on Wednesday?

Mr. STEVENS. Mr. Cameron was not here on Monday, that I know of.

Mr. DAWES. That was not my interrogatory.

Mr. STEVENS. Let me finish my answer. On Wednesday Mr. Cameron called here and asked me when he could have an interview with me; and I believe that is all he said. He did not then, nor has he since, mentioned to me my speech, or its effect.

Mr. DAWES. The gentleman, if he has read my remarks, will understand that I said that I did not have the privilege of being present when he attacked me and my associates, but that I was informed that subsequently to this attack, General Cameron appeared at his seat and congratulated him. I state now that I was so informed. The gentleman says that General Cameron did appear at his seat just when I say he did, that he did take him by the hand just when I say he did, and did ask him when he might have a private interview with him. What else he said I do not know, and I do not care.

Mr. STEVENS. I have not time to turn to the gentleman's speech, but it strikes me that the gentleman connected General Cameron's presence in this Hall with my speech on that same day.

Mr. DAWES. I state further that I did suppose that he was here on Monday, for I understood a gentleman to tell me distinctly that General Cameron was here on Monday, and with the gentleman he mentioned. I know he was here on Wednesday, and that was the time to which I referred, when he appeared at the gentleman's seat and congratulated him upon his achievement.

Mr. STEVENS. I have now the gentleman's speech before me. He says:

"Sir, I am not permitted to overlook also the connection of others in this matter. Although I had not the privilege of being present during the forepart of this week, when this scene transpired, I am informed that a distinguished ex-functionary of the Government was here in this House as the generalissimo on that occasion. I am informed that subsequently he appeared at the seat of the distinguished member from Pennsylvania, [Mr. STEVENS,] and congratulated him on the signal success of his achievement over the committee."

Mr. DAWES. I was so informed.

Mr. STEVENS. Will the gentleman allow us to know who informed him?

Mr. DAWES. Does the gentleman want a private conversation?

Mr. STEVENS. Why was it made use of in this House, if it was a private conversation?

Mr. DAWES. The gentleman, in undertaking to defend General Frèmont from an attack made behind his back, thinks it justifiable to attack somebody else behind his back; and the person attacked behind his back was compelled to get the information as to the manner in which the attack was made from those who knew about it.

Mr. STEVENS. I do not object to that; but I want to know who gave such information.

Mr. DAWES. I have not myself the slightest objection to informing the gentleman; but I do not suppose the gentlemen who gave me the information desire to have their names involved, and themselves exposed to the scarification of the gentleman from Pennsylvania.

Mr. STEVENS. I shall not scarify the gentlemen, if I know what that word means. [Laughter.] The gentleman awhile ago said that he was informed that Alexander Cummings, when he was so sick that he was not expected to recover, said that if he got well he would confess his sins and make a clean breast of it.

Mr. DAWES. I repeat it now, and I have the good fortune to know that it does not depend upon my recollection alone.

Mr. STEVENS. And the gentleman will not give the name of his informer when he is asked for it.

Mr. DAWES. When a man charges me with lying he must take what he gets in return, and should not expect me to give him any sort of explanation until he retracts what he has said.

Mr. STEVENS. To whom does the gentleman refer?

Mr. DAWES. I refer to the man who complains that I will not give the name of my informer.

Mr. STEVENS. Several have made that complaint.

Mr. DAWES. Having charged me with lying upon this floor merely because the printer makes a mistake, when I attempt to reply he goes around whining, and wants me to give the name of my informer. I told him distinctly that no man who made such a charge against me could hold any correspondence with me. I refer not to the gentleman who is now speaking; but to the man whom he is trying to defend by a very small hole in the indictment.

Mr. STEVENS. I must leave this matter, as the gentleman will not say from whom he derived his information. I have detained the House too long upon a mere personal matter.

I am willing to believe that the members of the committee are actuated by the purest of motives in this investigation. I cannot believe that it is an innate love of scandal which induces them to their course. They must have some higher motive. I can hardly believe that they should rejoice or take any pleasure in feeding upon the mangled carcasses of the reputations of their fellow-citizens, for that would be ranking them with the furies of the French Revolution, who attended the scaffolds, who dipped their handkerchiefs in human gore, and gobbled up the garbage which lay around the foot of the guillotine.

Mr. HOLMAN obtained the floor, but yielded to Mr. WASHBURNE, who moved that the House adjourn.

EXECUTIVE COMMUNICATION.

Pending the motion,

The SPEAKER, by unanimous consent, laid before the House a communication from the President of the United States, transmitting, in compliance with a resolution of the House of Representatives of the 24th of February last, asking information in relation to insurgent privateers in foreign ports, a report from the Secretary of State, and accompanying documents; which were laid on the table, and ordered to be printed.

And then (at four o'clock and fifteen minutes, p. m.) the House adjourned.

IN SENATE.

TUESDAY, *April* 29, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. HALE presented a memorial of woolen manufacturers, agents, and overseers, remonstrating against the "bill to provide internal revenue and pay interest on the public debt," so far as it relates to woolen manufactures, and praying that it may be so modified that it may secure equality and justice; which was referred to the Committee on Finance.

Mr. CHANDLER presented a petition of citizens of Gun Plain, Allegan county, Michigan, praying for the construction of a ship canal between Lake Michigan and the Mississippi river; which was referred to the Committee on Military Affairs and the Militia.

Mr. HOWARD presented a petition of citizens of Moscow, Hillsdale county, Michigan, praying for the passage of a general uniform bankrupt law; which was referred to the Committee on the Judiciary.

Mr. GRIMES presented nine memorials of citizens of the loyal States, remonstrating against the proposed tax of one dollar a barrel on beer, and praying that it may be reduced; which were referred to the Committee on Finance.

Mr. TRUMBULL presented a petition of citizens of Oswego, Kendall county, Illinois, praying for the construction of a ship canal from Lake Michigan to the Mississippi river; which was referred to the Committee on Military Affairs and the Militia.

Mr. WADE presented two petitions of citizens of Lebanon, Ohio, praying for the confiscation of the property of traitors; which were ordered to lie on the table.

Mr. DOOLITTLE presented a petition of citizens of Richland county, Wisconsin, praying for the construction of a ship canal from Lake Michigan to the Mississippi river; which was referred to the Committee on Military Affairs and the Militia.

Mr. LANE, of Indiana, presented a petition of Adjutant General Thomas and others, officers of the Army, praying that the mother of the late Major Theodore Talbot may be granted a pension; which was referred to the Committee on Pensions.

REPORTS FROM COMMITTEES.

Mr. LATHAM, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 253) to create a Bureau of Transportation, reported it with an amendment.

Mr. WILSON, of Massachusetts, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 258) to create a Bureau of Clothing, reported it with amendments.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ETHERIDGE, its Clerk, announced that the House had passed a bill (No. 391) to punish the practice of polygamy in the Territories of the United States, and other places, and disapproving and annulling certain acts of the Legislative Assembly of the Territory of Utah; in which the concurrence of the Senate was requested.

SLAVE OWNERS IN THE DISTRICT.

Mr. GRIMES. I am instructed by the Committee on the District of Columbia to offer the following order for adoption:

Resolved, That the Secretary of the Senate be directed to transmit the communication made to the Senate by the Secretary of the Interior on the 24th instant, touching the enumeration of slaves in the District of Columbia, with the papers accompanying the same, under seal, to the commissioners appointed under the late emancipation act of Congress, for the use of said commissioners.

This order merely directs that the Secretary of the Senate shall transmit the communication of the Secretary of the Interior, with the accompanying papers, under seal, to the commissioners appointed under the recent law, for the use of that commission.

Mr. SUMNER. I will inquire of the chairman of the committee whether he has considered carefully the expediency of publishing that communication with the statistics.

Mr. GRIMES. The subject of the publication of the report was not very much considered in the committee. I read it myself, and I did not think it would be of very essential benefit to us. It might be of some practical benefit to the commission, but I do not think it would be of any benefit to the Senate or to the country at large. It would furnish some data to the members of the commission upon which to act; otherwise it would be of no essential benefit to anybody.

Mr. SUMNER. I should like to have it lie over until to-morrow.

The PRESIDENT *pro tempore*. The resolution will lie over.

MOUNT OLIVET CEMETERY COMPANY.

Mr. GRIMES. I am also directed by the same committee, to whom was referred the bill (S. No. 265) to incorporate the Mount Olivet Cemetery Company in the District of Columbia, to report it back with an amendment. It is a very small matter, and I will ask for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It creates Edward A. Knight, Charles J. White, and Charles D. Bowling, and their successors, a body politic and corporate by the name and title of "The Mount Olivet Cemetery Company," by which name they may have perpetual succession.

The bill, through several sections, minutely gives powers and prescribes and limits their exercise for the purposes contemplated.

The amendment reported by the committee was in section one, line eleven, after the word "may," to strike out the words "increase the number of corporators," and to insert the words "associate with them such other persons."

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

CONSUL GENERAL FOR PACIFIC PORTS.

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

Resolved, That the Committee on Foreign Relations be instructed to inquire into the necessity of creating a consul general for the Pacific ports, as recommended by the Secretary of the Treasury and Fifth Auditor, in their annual report.

BILLS INTRODUCED.

Mr. WILSON, of Massachusetts, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 288) to amend an act entitled "An act to confiscate property used for insurrectionary purposes," approved August 6, 1861; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 289) to facilitate the discharge of enlisted men for physical disability; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. COLLAMER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 291) providing for the issuing of process to, and the service of the same by indifferent persons; which was read twice by its title, and referred to the Committee on the Judiciary.

EDUCATION OF COLORED CHILDREN.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 290) providing for the education of colored children in the city of Washington, District of Columbia; which was read twice by its title.

Mr. GRIMES. In order that there may be no misapprehension as to what this bill seeks, I desire to say now, before it is referred, that, according to the census of 1860, there are three thousand one hundred and seventy-two colored children in this District. The amount of real estate then and now owned by colored persons within the District is in value $650,000. There is now levied a tax upon that property amounting to $36,000. The school tax, as I understand, is ten per centum of that amount, or $3,600, which goes to the support of schools which are devoted exclusively to the education of white children. This bill simply provides that the tax which is levied on the property of colored persons shall be used exclusively in the education of colored children. I move that the bill be referred to the Committee on the District of Columbia.

The motion was agreed to.

TAXES IN INSURRECTIONARY DISTRICTS.

Mr. DOOLITTLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 292) for the collection of direct taxes in insurrectionary districts within the United States, and for other purposes; which was read twice by its title.

Mr. DOOLITTLE. This is in substance the same bill which I once before introduced to the Senate, and which was referred to the Committee on Finance, and was reported back to the Senate and laid upon the table; but by some accident it has been postponed indefinitely, the mover I have no doubt not knowing what the nature of the bill was. I move that it be printed, and laid on the table.

The motion was agreed to.

Mr. SUMNER. I ask if this differs from the bill originally introduced?

Mr. DOOLITTLE. It is that bill with some modifications.

HOUSE BILL REFERRED.

The bill from the House of Representatives (No. 391) to punish the practice of polygamy in the Territories of the United States, and other places, and disapproving and annulling certain acts of the Legislative Assembly of the Territory of Utah, was read twice by its title, and referred to the Committee on the Judiciary.

OLIVER SPENCER WOOD.

Mr. THOMSON. I ask the permission of the Senate to call up Senate bill No. 282, which will give rise to no debate. It is a very short and very plain bill for the relief of Oliver Spencer Wood, reported from the Committee on Naval Affairs. The report which is very short explains the case. I move that the bill be taken up.

The motion was agreed to; and the bill (S. No. 282) for the relief of Oliver Spencer Wood was read the second time, and considered as in Committee of the Whole. It proposes to direct the proper accounting officers of the Treasury to examine and settle, on principles of equity, the accounts of Oliver Spencer Wood, late temporary naval storekeeper for the United States squadron on the African station, and to make him such allowances, subject to the approval of the Secretary of the Navy, as under the circumstances shall appear to them reasonable and just, not to exceed the deficiencies with which he now stands charged, amounting to the sum of $1,620 97.

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

FRANCIS HÜTTMANN.

Mr. CHANDLER. I move to take up House bill No. 406. It will lead to no discussion, and will not occupy more than one minute of the time of the Senate.

The motion was agreed to; and the bill (H. R. No. 406) for the relief of Francis Hüttmann was considered as in Committee of the Whole. It proposes to direct the Secretary of the Treasury to adjust the claim of Francis Hüttmann for return of tonnage and light duties illegally exacted and paid by him on the Peruvian bark Callao, at the port of San Francisco, California, on the 5th day of September, 1848, amounting to $124 80, and also import duties collected in excess upon the cargo of the vessel, amounting to the sum of $350 16, and to pay him the amount due.

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

NAVY CONTRACTS.

The PRESIDENT *pro tempore*. The Chair will state that, if there are no further bills to be introduced, the business first in order is the unfinished business of the morning hour of yesterday, which is House joint resolution No. 66, authorizing the Secretary of the Navy to discharge contractors with his Department when they have furnished the amount estimated in their contracts, and fifty per cent. additional.

Mr. POWELL. I move to take up the resolution I offered a few days ago, directing the Sec-

retary of State to furnish the names of persons arrested by his order in Kentucky.

Mr. HALE. I hope the Senate will dispose of this joint resolution. It will take but a moment. We got nearly through with it yesterday, when we were interrupted by an executive session. I hope we shall dispose of that now.

Mr. POWELL. I withdraw my motion for the present, but when the joint resolution is disposed of I shall renew it.

The consideration of the joint resolution (H. R. No. 66) authorizing the Secretary of the Navy to discharge contractors with his Department when they have furnished the amount estimated in their contracts, and fifty per cent. additional, was resumed as in Committee of the Whole.

Mr. SHERMAN. I was not present in the Committee on Naval Affairs when this joint resolution was considered, although my attention was called to it by the chairman. A little reflection has convinced me there may be danger in passing the resolution. The difficulty is this: by the general law regulating contracts and which applies as well to the Navy as to the Army, indeed to all the Departments, nearly everything is purchased from the lowest bidder, after advertisement; but the amount of articles required is not always accurately specified, and thus sometimes the schedule of articles contains very few of one thing and very many of another. The privilege is reserved to the Department always to increase any article demanded, and the contractor files his bid with that view. Now, I know many cases of fraud that have occurred in regard to this very matter. Contractors have filed bids offering to furnish certain articles that they knew would not be required at a very low price indeed, and many articles which they knew would be required in great quantity at a very high rate, and although upon averaging their bid it might appear to be the lowest, yet with their knowledge of the business, with their knowledge that a large quantity of the aricle for which they had bid a high price would undoubtedly be called for, they made large sums out of the contracts. If this joint resolution is passed, a bidder of this kind would probably get great advantages, because if he found that some of the articles on which he bid low were called for in quantity, he would have the contract set aside.

Mr. COLLAMER. Let the joint resolution be read.

Mr. SHERMAN. The Senator from Vermont asks that the joint resolution be read.

Mr. COLLAMER. I wish to ascertain whether it is obnoxious to the objection.

The Secretary read the joint resolution.

Mr. SHERMAN. The gentleman from Vermont will see that, as is usual, a large number of articles are bid for by a contractor, with a distinct understanding that the Department may call for a greater number of one kind, or a less number of another. This substantially defeats the important provision of the contracts, which is indispensably necessary in contracting for the Navy and the War Department. It seems to me that it would be better not to interfere with the law regulating contracts, unless the Judiciary Committee or some committee having charge of the subject should examine it. The present law on the subject does not relate exclusively to the Navy Department; it relates to all the Departments; and I think a year or two ago a new law was passed regulating the manner in which the Departments should make contracts; and it seems to me it would be very unwise to change that law without full consideration.

Mr. HALE. I believe that the particular matter referred to in this resolution is not a matter of law, but a matter of practice, and a matter of form that the Departments use in making their contracts. The evil to which the Senator from Ohio refers undoubtedly has occurred; and complaints have been made in the public papers that it has been done with the connivance of some of the officers in the Navy Department, that these contractors have had knowledge of what they would want and what they would not want. This joint resolution does not require these contracts to be abrogated, but simply gives to the Secretary of the Navy power to release contractors in cases where he sees that injustice is being done, where they have furnished everything they contracted to furnish, and fifty per cent. additional.

If the Senator from Vermont will give me his attention for a moment, I will tell him what, as I understood from the House of Representatives, gave rise to this joint resolution. There was a contract entered into by some very honest and worthy gentlemen in the State of Massachusetts to furnish some article—at this moment I do not know what it was—at a stipulated price. The contractors were men worth about forty thousand dollars. Soon after the contract was entered into, the article which they agreed to furnish rose in the market very much. They were called upon to furnish it at a much less price than the market price, according to the terms of the contract, until they actually failed, and the $40,000 they were worth when they commenced was all sunk by the Department exacting from them the rigid fulfillment of the terms of their contract. You must have some confidence in your heads of Departments; you must have some confidence in their discretion, in their judgment, and in their honesty. This resolution simply authorizes—not compels—the Secretary of the Navy, where he sees a case like that, and the contractors have furnished the whole stipulated amount, and fifty per cent. in addition, to release them. That is all it does; and it seems to me, as long as we have honest officers at the head of the Departments, there is no difficulty to be apprehended from its passage.

Mr. SHERMAN. I do not question the honesty of the head of any Department. I merely look to the general effect of such legislation. Take the case mentioned by the Senator from New Hampshire; if the article falls in value, the Secretary goes on and is compelled by law to get the article from that contractor, all that he requires of it for the service during the fiscal year, although the article may have fallen largely in value; but yet, under the operation of this resolution, if the article goes up in value, so that the contractor loses money, the Secretary may discharge the contractor. Thus the contract will always be against the Government. If the article goes down, and is cheapened to the contractor, so that he can furnish it at a great profit, the Department is bound to take the article from him, all that is required during the fiscal year; but if the price goes up, so that the contractor loses money, the Department may discharge him from his contract. Let me state a case that was given to me by the Superintendent of Public Printing. It seems that bids were filed for furnishing paper, and among the items named was a class of paper that is not now used, very expensive paper, which formerly was used here in Congress. The contractor, knowing that it was not used, bid on this article a very low figure indeed, so low that when they came to sum up the aggregate his bid was the lowest, although on the articles that he would actually be required to furnish his bid was higher than others. The law compelled the Superintendent of Public Printing to give the contract to the man whom he knew would get the most money from the Government. In order to avoid that, after the contract was made, the Superintendent of Public Printing made a requisition on the contractor for this expensive class of paper. The contractor came to him and said, "what do you want of this paper? I cannot furnish it for three times what I shall get for it." The Superintendent said, "very well; you agreed to do it, and by agreeing to it you got a large price for other paper." That is the case as presented there. Under the operation of a bill like this, if the same principle was extended to him, the Superintendent of Public Printing might release the contractor from this hard part of the bargain, and yet he could not release the contractor from the other; the contractor would not desire it. I think that all laws regulating the mode of contracting with the Government should be made carefully, and should not be changed except after full consideration. In making this objection, I certainly do not question the honesty or integrity of the Secretary of the Navy, but I say simply that the rule ought to be applied rigidly in every case.

Mr. GRIMES. This is a new question to me, and I should like to be informed whether or not the public service requires this change. Is that the view of the Department?

Mr. HALE. I do not think that that is the view of the Department. They do not think the public service does require it. It is an act of justice to contractors. And while I am up, if the Senate will indulge me a single moment, I will mention a case that has occurred under our recent legislation. For instance, a contract to furnish the Department with coffee has been made, running, I believe, for a number of years; and by an act of Congress the duty on coffee has been increased, and consequently the price has risen. The contractors have applied for relief to the head of the Navy Department, who has informed them that he has no power to relieve them, and they must go on. That is only one of a species of cases. The public service undoubtedly, so far as the matter of economy is concerned, does not require it. It is a matter of relief to honest contractors, reposed in the discretion of the head of the Department. But as there seems to be some opposition to it, I will consent that the joint resolution shall lie over, and I will consult the Department about it, and see what their views are.

The PRESIDENT *pro tempore*. The resolution will be postponed.

WASHINGTON CITY RAILWAY.

Mr. POWELL. I now renew my motion.

Mr. MORRILL. I ask the Senator from Kentucky to give way to enable me to make a motion which will occupy but a moment. I desire to call up a bill with a view to its recommitment.

Mr. POWELL. I yield.

Mr. MORRILL. I ask the Senate to take up Senate bill No. 178, with a view to its recommitment.

The motion was agreed to; and the Senate resumed the consideration of the amendments of the House of Representatives to the bill (S. No. 178) to incorporate the Washington and Georgetown Railway Company.

Mr. MORRILL. I now move that the bill and amendments be recommitted to the Committee on the District of Columbia.

The motion was agreed to.

ARRESTS IN KENTUCKY.

Mr. POWELL. I now renew my motion.

The PRESIDENT *pro tempore*. The Senator from Kentucky moves that the Senate proceed to the consideration of the following resolution:

Resolved, That the Secretary of State be, and he is hereby, directed to inform the Senate how many residents or citizens of the State of Kentucky have been arrested or removed from said State by his order or direction, and confined or imprisoned outside of the limits of said State, since the 1st of September last; that he state the names of the persons arrested, and the camps, forts, or prisons where they are or were confined; how long they and each of them have been imprisoned; and that he give the number and names of the persons so arrested and imprisoned who have been released, and the names of the persons so arrested who are still confined, and the place or places where they are imprisoned; and that he report to the Senate the names of all the citizens of Kentucky that have been imprisoned by his orders.

Mr. SUMNER. The other day, as the Senator from Kentucky will remember, I opposed the taking up of the resolution. I shall not oppose the motion to take up now, but when the resolution is taken up, I shall offer a substitute.

The motion of Mr. POWELL was agreed to; and the Senate proceeded to consider the resolution.

Mr. SUMNER. Now I move to strike out all after the word "resolved," and insert the following:

That the President of the United States be requested to communicate to the Senate, if in his opinion not incompatible with the pubic interests, any information in his possession touching the arrest of persons in Kentucky since the 1st of September, 1861, and their imprisonment beyond the limits of that State.

Mr. POWELL. I trust the substitute will not be adopted. The resolution that I offer is specific, for calling for information from the head of one of the Departments of this Government who, as is well known to the whole country, has been ordering the imprisonment of citizens of the State I have the honor in part to represent in forts beyond the jurisdiction of the State. I think I understand perfectly the object of the substitute of the Senator from Massachusetts. I have seen a studied desire exhibited here by some Senators at least to prevent any information touching the imprisonment of persons by the Government. I know that the Senator from Illinois [Mr. TRUMBULL] early in this session offered a general resolution on this subject, which, after some little debate, was referred to the Judiciary Committee, and it sleeps there to-day. The object is to withhold the information from the people. That is apparent from the very wording of the Senator's substitute, that the President be requested to give this information "if in his opin-

ion not incompatible with the public interest," and under that I have no doubt we shall get a reply that it is not compatible with the public interest to give this information. In my judgment, the object is to avoid the information I seek.

Mr. CLARK. Will the Senator allow me to ask him one question?

Mr. POWELL. With pleasure.

Mr. CLARK. It is, whether he desires this information if it is incompatible with the public interest?

Mr. POWELL. I will answer that it cannot be incompatible with the public interest. I believe this amendment is resorted to for the purpose of a dodge, to prevent the information being given. That is my opinion; I may be mistaken. What harm can result to the country from the Secretary of State giving to the Senate the names of such persons as have been imprisoned by his order in forts beyond the limits of the State of Kentucky? No wrong certainly can result from it. The resolution is directed to a Department, a Department which has been charged in the public papers with arresting and imprisoning citizens of the country, and imprisoning them, too, against law; for there is not a Senator here but knows there is no law that authorizes the Secretary of State to arrest a person in one State without warrant, without charge, and transferring him beyond the limits of that State and confine him for six, seven, or eight months in a prison. No Senator will claim that there is any constitutional or legal warrant for such a proceeding. I wish to obtain this information, and I call for it from the head of that Department, who, it has been announced in the public journals, and I know it personally, has ordered the arrest of some citizens of my State. I do not wish it to be dodged in any form whatever. If the Secretary of State has not imprisoned these persons by his order, let him answer to the Senate, and say he has not, and that will be an end of it. If he has imprisoned any, it is right that the Senate should know it. I do not like this kind of secrecy, this throwing of responsibility from one Department to another. Such secrecy is becoming the cabinets of despotic Governments, but certainly it is not becoming the heads of departments of a free Government.

Sir, the Representatives of the State of Kentucky, in my judgment, have submitted to this thing without clamor or complaint already too long. I put it to Senators whether, if their constituents were taken by twenties and hundreds and imprisoned in this way, without law, they would not make incessant clamor here to obtain information on the subject, and to hold up the parties who thus violated the Constitution and laws of the country to the scorn and contempt of the people. It would be their duty to do it. There have been efforts made to get this information, in some form or other, since the commencement of this session. I hope the amendment of the Senator from Massachusetts may be voted down, and that the resolution may be adopted.

Mr. SUMNER. The resolution proposed by the Senator from Kentucky is peremptory in form, and is addressed directly to the Secretary of State. It calls upon him, without reference to existing public interests, to make a certain communication to this body with reference to his conduct in an important matter. Now, sir, I am not disposed, at this moment, to go into the question the Senator from Kentucky chooses to precipitate upon the Senate. It may be that some of those arrests were made without the proper sanction of law. On that I say nothing. The time has not come for that discussion, at least in my opinion; nor am I disposed, by my vote, to see the Senate peremptorily call upon the Secretary of State to render an account of his conduct in those premises. Whatever that functionary has done, he has done under the order of the President of the United States, who himself is completely responsible for it. Whatever the President has sanctioned, he has sanctioned under all the responsibilities of his high position and the responsibilities of his oath. Sir, it is customary to call upon the President to communicate with this body, so far as, in his opinion, such communication shall not be incompatible with the public interests. That limitation I have thought it proper that the Senate should adopt on this occasion; nor did anything which fell from the Senator from Kentucky just now lead me to believe that the Senate, on this occasion, ought to depart from its customary rule of conduct. It is enough, sir, that if the President of the United States deems this information not incompatible with the public interests we shall have it; if he deems it incompatible with the public interests we shall not have it, and I do not want it under such circumstances.

Mr. POWELL. The Senator from Massachusetts the other day objected to this resolution because it was specific, and called for information concerning the citizens of Kentucky only. A little before that there were objections to a resolution asking for such information, introduced by the Senator from Illinois, [Mr. TRUMBULL,] because it was too general. The Senator seems to waive that ground this morning, and asserts that it is not usual to demand of the Secretary information in this way. Why, sir, this resolution is in the very form of perhaps four fifths of the resolutions that are passed by this Senate asking for information from the head of a Department. When you demand it of a head of a Department, you direct him to give it; you order him to give it. When you ask it of the President, the usual form is to accompany it with the phrase, "if not incompatible with the public interest." This resolution is in the precise form in which it has been the custom of the Senate, certainly since I have been a member of the body; to pass such resolutions.

The Senator says he will not go into a discussion of the question as to whether the Secretary of State has transcended the powers that he can legitimately exercise in his office. I suppose the Senator will never go into that discussion—never, never. The Senator has too much ability ever to attempt in this or any other forum to prove that the Secretary of State, under the Constitution and laws of the United States, has power to arrest without warrant, without charge, a citizen in any State of this Union and have him transferred and imprisoned for months in a fortress beyond the limits of that State. We shall never have that discussion here. The Senator says it may be incompatible with the public interest to give this information, and this is not now the time to meet it. When will be the time, sir? I had always been of opinion that in a free government, when any one transcended his power and overthrew the laws of his country, and committed acts of oppression upon the meanest and the most humble citizen of the State, that that was the time to investigate it. These are things that should admit of no delay among a people who love liberty and constitutional right. I suppose we shall never reach the time when those who are overthrowing the Constitution of your country and oppressing the citizen, and their peculiar friends, will think that these things should be discussed. They never want them discussed. I am free to say that in my judgment no Senator will ever attempt to show that the Secretary of State has not violated both the law and the Constitution of his country, and that he has not oppressed citizens without right. It is a subject that I suppose will be forever waived.

But, sir, I want this resolution to pass as I have proposed it. It is usual. It is customary. I want no avoiding of this matter. I hope the substitute of the Senator from Massachusetts will be voted down and the resolution adopted. I only ask what I am confident every Senator on this floor would ask for his constituents were they placed in the same situation that mine are. If any Senator will get up here and assert that the rights and the liberties of the poorest, the meanest, the most degraded constituent in the borders of the State he represents have been overthrown by any officer of the Government, from the very highest to the very lowest, I will vote for any resolution of inquiry on the subject.

The PRESIDENT *pro tempore*. The Senator from Kentucky will suspend his remarks. The morning hour having expired, the further consideration of this resolution is superseded by the special order of the day. The special order of the day is Senate bill No. 151, to confiscate the property and free the slaves of rebels. The Senator from Vermont [Mr. COLLAMER] moves an amendment to that bill to strike out all after the enacting clause and insert, in form, a new bill. On that question the Senator from Illinois [Mr. BROWNING] has the floor.

Mr. POWELL. I will ask the indulgence of the Senator from Illinois to allow the vote to be taken on this resolution. I shall not discuss it myself any further.

Mr. BROWNING. If the vote can be obtained at once, I will not object.

Mr. POWELL. I shall not say another word.

Mr. WILSON, of Massachusetts. I do not think it can be taken at once. It will occupy some time yet.

Mr. BROWNING. Then I shall not give way.

Mr. POWELL. Very well, sir.

CONFISCATION OF PROPERTY.

The Senate resumed the consideration of the bill (S. No. 151) to confiscate the property and free the slaves of rebels, the pending question being on the amendment offered by Mr. COLLAMER in the form of a substitute.

Mr. COWAN. Perhaps the Senator will give way to enable me to make the motion I submitted yesterday.

Mr. BROWNING. I will, sir.

Mr. COWAN. I will now make a motion which is in order—I believe it is in writing at the Secretary's desk—to refer all bills now before the Senate relating to the forfeiture and confiscation of the property of rebels to a select committee of seven, to be appointed by the Chair for that purpose. I alter the number to seven.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania moves that the pending bill, together with the substitutes and amendments offered to that bill, be referred to a select committee of seven members. This opens the whole subject embraced within the motion to discussion, and the Senator from Illinois is entitled to the floor.

Mr. HALE. I rise to a question of order on that motion: whether it is in order to move to refer a bill that is not before the body. There is one bill before us; and it may be in order to refer that, but it is not in order to move to refer a bill not before us.

The PRESIDENT *pro tempore*. The Senator's motion is to refer the bill now under consideration, and all substitutes or amendments to the bill to a select committee.

Mr. HALE. And all pending bills, I understand. Let the motion be read.

The Secretary read, as follows:

That all bills, substitutes, and amendments relating to the punishment of rebels and the forfeiture and confiscation of their property be referred to a select committee of seven, to examine and report upon the same.

The PRESIDENT *pro tempore*. The motion is in order. The Senator from Illinois is entitled to the floor.

Mr. BROWNING. Mr. President, I do not regard the time devoted to the discussion of the bill before us as misspent. It involves great questions and great consequences, and ought to be well, wisely, and maturely considered. If I were satisfied its passage would tend to subdue the rebellion; to restore peace, harmony, and fraternal regard between the people of the different sections of this unhappy land; to bring back erring and disobedient citizens to their allegiance, and to restore the now contemned authority of the Government in every part of the country; even then I should feel constrained to pause and inquire whether, compatibly with the very solemn obligation I, in common with all other Senators, am under to observe and maintain inviolate the Constitution, I could give it my support. But when the strong conviction of my mind is that its passage will be attended with precisely the opposite results; that it will strengthen rebellion instead of subduing it, widen the breach instead of closing it up, alienate instead of conciliating, and weaken instead of reëstablishing the power and authority of the Government; and when, in addition to all this, I believe its enactment would be a gross violation of the Constitution, I cannot hesitate as to my duty. On this occasion, I will not trespass long upon the attention of the Senate, confining myself mainly to some of the most prominent and striking of the constitutional objections to the bill, and to a reply to the leading arguments of the mover of the bill in its support. Before, however, proceeding to do this, I desire to remark for a moment upon the complaints of my colleague at what he is pleased to call the misrepresentations of the Senator from Pennsylvania and myself of the features of his bill. He complains of it as a misrepresentation to charge that it "strikes at all the property of every kind and character of all

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. THURSDAY, MAY 1, 1862. NEW SERIES....No. 117.

the citizens of the seceded States, with scarcely an exception." If, in supposing this to be the scope of the bill, we have misapprehended it, we are certainly entitled to his charitable forbearance, for it is a mistake into which the language of the bill was well calculated to betray us. Its language is:

"That the property, real and personal, of every kind whatsoever, and wheresoever situated, within the limits of the United States, belonging to any person or persons beyond the jurisdiction of the same, or to any person or persons in any State or district within the United States, now in a state of insurrection and rebellion against the authority thereof, so that in either case the ordinary process of law cannot be served upon them, who shall, during the present rebellion, be found in arms against the United States, or giving aid and comfort to said rebellion, shall be forfeited and confiscated to the United States; and such forfeiture shall take immediate effect upon the commission of the act of forfeiture, and all right, title, and claim of the person committing such act, together with the right or power to dispose of or alienate his property of any and every description, shall instantly cease and determine, and the same shall at once vest in the United States."

Was it strange that we should fall into the error of supposing that it struck at "all the property of every kind and character of all the citizens of the seceded States, with scarcely an exception?" But now the Senator says he did not intend it to have any such latitude, and that it "would not probably reach the property of one in ten of the rebels, and in no case would touch the property of a loyal citizen." If, however, it should become a law, I apprehend its construction would have to be determined by its language, and not by the meaning and intentions of the Senator who drafted and introduced it. But before the Senator concluded his speech, he intimated that one of the purposes of the bill was to raise means "to help to defray the expense of maintaining the Government against the rebellion." To replenish the somewhat depleted coffers of the Treasury would certainly be a valuable and acceptable service to the country; but whatever pleasing expectations of relief from taxation may have been built up by the promises of the bill, are likely to be rudely overthrown by the authoritative announcement that its provisions "will not probably reach the property of one in ten of the rebels." If this be so, the golden rivulets flowing through the bill from the rebels to the exchequer will be few and feeble; not enough to keep the machinery of the bill in motion. True, these two parts of my colleague's speech do not seem more harmonious than rebels and loyalists, and hardly as likely to be reconciled. Yet I do not bring them together for the purpose of exposing inconsistencies. He was kind enough to announce that he did not place different portions of my speech in contrast for the purpose of exposing my inconsistency, and it affords me great pleasure to avail myself of this occasion to reciprocate his forbearance. Complaint is also made that injustice has been done in treating the bill as intended to have a retroactive operation. If this be a mistake, it also is chargable upon the equivocal language of the bill. If it was intended to be prospective, it would have been easy and certainly much better to have said so in direct terms than to leave it to construction to extract from it such a meaning. But, as the learned author of the bill says it was his purpose that it should operate in the future only, I so accept it, and will so treat it in the examination which I propose to make of it.

Says my colleague:

"Another ground of objection to this bill is the allegation that it is an encroachment on the prerogative of the President, who, it is alleged, as Commander-in-Chief of the Army and Navy, already possesses the power of confiscation; that the extraordinary powers which the Government may wield in time of war, called war powers, belong to the President, and not to Congress," &c.

Again says my colleague:

"There is not a syllable in the Constitution conferring on the President war powers."

And again, after reciting the fifty-eighth of the articles of war, he says:

"Surely the men who made and put into operation the Constitution understood very little of its provisions when they passed such a law as this, if my colleague is right in his assertion that 'the war executing powers are vested in the President, in the executive department of the Government,'" &c.

And again:

"The advocates of this arbitrary power in the President, without limitation or restraint of any kind, will find as little support for the assumption in judicial decisions as in the Constitution and the practice of the Government."

Now, sir, is it perfectly fair and candid in my colleague to assert that I, or any other Senator who opposes this measure, has advocated "*arbitrary power in the President without limitation or restraint of any kind?*" We have resisted what we understand to be a claim of arbitrary and unlimited power for Congress; an absorption by Congress not only of all the powers of all the departments of Government, but all the sovereignty of the people. The difference between my colleague and myself upon this branch of the subject, as I understand him, is, that he claims for Congress the power not only to make but to execute laws, while according to my view of the Constitution the powers of Congress are legislative only; and when it attempts either to adjudicate or execute laws it usurps powers not delegated to it and subverts the Constitution. Congress may declare by law, within the limits prescribed by international law, what property of an armed enemy shall be subject to seizure and confiscation; but when it undertakes to execute that law it breaks away from its legitimate orbit of power, and invades the prerogative of the President.

Let us recur for a moment to the provisions of the Constitution. Its very first section is that "all legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." It then proceeds to define the powers and prescribe the duties of Congress—all of which are, I believe, legislative, with the single exception of proceedings in cases of impeachment. Not one of its powers is executive.

The Constitution further provides that "the executive power shall be vested in a President of the United States," and that "the President shall be Commander-in-Chief of the Army and Navy of the United States," and, in the enumeration of his duties, that "he shall take care that the laws are faithfully executed." And yet it is asserted that the President "would not have the power to confiscate enemy property, because this is a power which can only be exercised in pursuance of an act of Congress, and does not belong to the Commander-in-Chief," &c. Now, sir, suppose it were conceded to be true—which I respectfully submit is not true—that the power to confiscate the property of an armed public enemy, a belligerent in the field, could "only be exercised in pursuance of an act of Congress," then, I ask, who under the Constitution is to execute that law of Congress—the Congress itself, or the President, as Commander-in-Chief of the Army? The law itself cannot confiscate the property. It can only provide what property shall be subject to confiscation, and declare the emergencies and conditions and manner in which the confiscation shall take place. This law is, and must be, the law of nations, whether it is re-enacted by Congress or not. The confiscation consists in the seizure and appropriation of the property by the execution of the law. If the law remains unexecuted, confiscation no more ensues than if no law upon the subject had ever existed, and it cannot be executed by Congress. The execution of the law is the prerogative of the President, and I am not willing to strip him of it and surrender it into other hands.

Because Congress has power "to declare war" and "make rules concerning captures on land and water;" "to raise and support armies;" "to provide and maintain a navy; to make rules for the government and regulation of the land and naval forces; to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, repel invasions," &c., it seems to be supposed that it may also take the control of the Army when in the field; guide and direct all its movements, order its advance and retreat, and execute all the laws of nations, and also the laws which itself had made. I utterly deny that Congress may do any such thing. It is, in my judgment, a total misapprehension of the nature, structure, and functions of the different departments of our Government which leads to the claim of such power. As well might it be insisted that because Congress may "constitute tribunals inferior to the Supreme Court," and "declare the punishment of treason," that, therefore, it may proceed to try and inflict the punishment for treason, as it will virtually do by the passage of this bill; that because it may create courts and prescribe their duties, it may exercise all their functions.

What I insist upon is that Congress shall not legislate upon subjects which are not to be regulated by legislation, and that it shall not execute, nor attempt to execute, laws upon any subject. Resort must be had to the laws of nations to determine what property of a belligerent—a public enemy—is subject to confiscation, and the circumstances under which it may be confiscated; and then the executive, and not the legislative, department of the Government must carry the law into force and effect. It will be understood, of course, that I speak of enemy's property on land, and within the territory occupied by the enemy, and not of maritime captures, which rest upon different principles, and are subject to different rules from captures on land; but neither of them are subject to the control of municipal laws, unless such municipal laws conform to the laws of nations, and then they are of force only because of such conformity. The law of nations comes in and takes cognizance of the whole subject of captures and belligerent rights, both on sea and land.

I understand, however, this distinction among others to exist in the two classes of cases, that in captures of property on land from an enemy in actual war, the confiscation is consummated by the seizure and appropriation of the property by the generals in the field, without adjudication. It is a mere *execution* of the law, an exercise of military executive power, without the aid or cooperation of either the legislative or judicial department of the Government.

But in regard to maritime captures both adjudication and condemnation are necessary to complete the confiscation, and transmute the title.

When we entered into the family of nations, taking to ourselves the character, and assuming the sovereign rights of a separate and independent people, and formed treaties and alliances, and entered into intercourse with other nations, an obligation, which we cannot throw off, attached to us to observe, respect, and abide by the law of nations. But the obligation is not only an implied one. The Constitution, in express terms, acknowledges their obligatory force by imposing it upon Congress as one of its duties to provide for the punishment of "offenses against the law of nations." It recognizes the law of nations as the code by which we agree to be governed, to which we agree to conform our conduct in our intercourse with other nations, ingrafts it upon the Constitution itself, making its observance as solemn a duty, as high an obligation as any we have assumed; and it was with very great surprise I heard my colleague declare that "the law of nations is only a guide which the sovereign follows or abandons at his will," and that "it is wholly dependent on our Government for its being recognized here at all."

The Government has no more right or power to dispense with the law of nations in cases falling within its purview, than it has to dispense with any other constitutional obligation. We are as much bound by it as we are by the laws of Congress which we ourselves enact. What we do in consonance with it is done under the Constitution, and what we do in violation of it is done in disregard of the Constitution. Hence all the powers conferred by the law of nations in a state of war are possessed by us, and whatever it sanctions as necessary to be done in the prosecution of the war, and for the attainment of its just ends, we may do under the Constitution, and what it forbids we cannot do. All conceivable emergencies are provided for. We need not legislate to

meet them. It is only necessary that the laws shall be executed. If to put down the rebellion and reëstablish the authority of the Government it shall become a plain necessity to seize and confiscate property of any kind, and to any extent, the power to do so is full and plenary. If the rebellion cannot be suppressed, insurgents brought to obedience, and the just objects of the war reached without marching over the institution of slavery, and trampling it out of existence, the power to do that, under the law of nations, and in complete harmony with the Constitution, in subordination to it, and without any departure from, or encroachment upon, its provisions is alike ample, and more efficient than it can be made by any enactment of ours.

I cannot help believing, Mr. President, that many good citizens who have heretofore revered the Constitution and respected the laws, and who are now sincerely attached to our form of Government, and honestly anxious for its preservation are, or have been, inclined to favor the class of legislation now pressed upon us, from an impression which, although totally erroneous, has in some way been made, that the Constitution so fetters the Government that, without breaking away from its restraints, hard, powerful, and efficient blows for crushing the rebellion and speedily ending the war cannot be struck. No greater mistake could be made. The Constitution forbids nothing which is necessary, desirable, or expedient to be done. On the contrary, by keeping within our appropriate sphere, by keeping inviolate our obligations to a Constitution, every letter of which should be canonized in our hearts, we will end this melancholy strife, this fratricidal war, and charm back peace, protection, and prosperity to every part of our distracted country far sooner and more certainly than we can by leaving behind us the light-houses and land-marks of the Constitution and adventuring upon the ever restless, turbulent, and uncertain sea of uncontrolled legislation. We have, under the Constitution, all requisite power of self-defense and self-protection. I have said, sir, that the law of nations, which we may assert and execute, and the benefits of all the provisions of which we are entitled to and may claim under the Constitution, made better provisions for meeting the exigencies intended to be provided for by the bill than the bill itself either does or can do.

Mr. Wheaton, in his admirable work upon international law, says:

"By the modern usage of nations, which has now acquired the force of law, temples of religion, public edifices devoted to civil purposes only, monuments of art, and repositories of science are exempted from the general operations of war. Private property on land is also exempt from confiscation, with the exception of such as may become booty in special cases, when taken from enemies in the field or in besieged towns, and of military contributions levied upon the inhabitants of the hostile territory."—*Wheaton's International Law*, p. 420.

"The exceptions to these general mitigations of the extreme rights of war, considered as a contest of force, all grow out of the same original principle of natural law, which authorizes us to use against an enemy such a degree of violence, and such only, as may be necessary to secure the object of hostilities. The same general rule which determines how far it is lawful to destroy the persons of enemies will serve as a guide in judging how far it is lawful to ravage or lay waste their country. If this be necessary, in order to accomplish the just ends of war, it may be lawfully done, but not otherwise."—*Ibid.*

In the prosecution of the war emergencies may be developed which will impose a necessity, for the attainment of the just ends of the war, to ravage the enemy's country, and confiscate his property even to a greater extent than is now proposed. It may become necessary before this war, so needlessly and so wickedly forced upon the country, is ended, to proclaim manumission of the slaves of rebels to a greater extent than this bill contemplates; and, if such a necessity should arise, the power to meet it under, and in harmony with, the Constitution, is, in my judgment, undeniable. But who is to judge of the necessity and decide when we are authorized to resort to these extreme measures to secure the just object of the war, and to proceed to execute the law which justifies them? Is it Congress? Has Congress anything whatever to do with it? Just as well might Congress claim the right to tell the general on the field of battle when to advance and when to withdraw a column, and when the bayonet should be substituted for the musket and the rifle. These are not legislative functions, but executive. So is the seizure and confiscation of the property of a public enemy on land in time of war executive. It is not the *making*, but the *executing* of a law. The law already exists, and settles both what kind of property is subject to seizure, and the circumstances under which it shall be lawful to make the seizure. Whether the circumstances have arisen which justify the act, and if so, to what extent; whether the capture and confiscation shall be restricted to certain specified articles of the enemy's property, or whether they shall embrace it all; whether the necessity has come for dashing to pieces the bonds which bind together masters and slaves, and bidding the latter go free; and if so, whether we shall simply turn them loose, or make them available for the prosecution of the war, and in what way they shall be used, if used at all—are all questions to be considered, and measures to be carried into effect by the President as Commander-in-Chief of the Army, and by those who act under him and by his authority. If this be a fair and correct statement of the laws of war as they now are—and that it is, I think will not be controverted by any one who will take the pains to give the subject a candid examination—then whence the necessity of such legislation as is proposed by the bill; and what other effect could the bill have, if passed, than to exasperate on the one side, and complicate and embarrass on the other?

But the appropriate and all-sufficient answer, after all, is, that if we keep within the limits of the Constitution we are without competent authority to pass it, and we could derive from its operation no possible advantage commensurate with the evil which would inevitably result from so great a violation of the great charter of our rights and liberties.

Gentlemen have chosen to sneer at what they are pleased to designate as the constitutional scruples of small lawyers, and have not blushed to represent the opponents of the bill as advocating doctrines equivalent in practical effect to the puerile proposition—too puerile for ridicule—to empannel juries upon the tented field, and try, convict, and sentence the armed foe before it would be lawful for our soldiers to shoot them even in the actual conflict of battle. I will not, Mr. President, retort either by sneers or perversions. There is no argument in either, and the cause cannot be strong which takes shelter behind them. Standing, as I feel that I do, within the impregnable fortress of the Constitution, I can well afford to push them aside without one word of rebuke. The questions before us, and which we are bound to meet and consider and in some way decide, are new, intricate, embarrassing, and momentous. We have no precedents to follow, no lights of past experience, under the Constitution, in similar emergencies, to guide us. For one, I am earnestly and honestly, with a full sense of my responsibility to my country and my God, laboring to inform myself what we have rightful authority to do, what it is just and proper to do, what it is expedient to do, and what will be for the true interests of the country and the cause when it is done; and I cheerfully accord to every other Senator equal sincerity and purity of purpose with myself.

Approaching the subject in this spirit, it has seemed to me that no good, neither temporary or permanent, but evil, and evil only, would result from departures from the Constitution; and that safety was to be found only in a faithful adherence to its plain provisions.

To bring my own mind to satisfactory conclusions as to our powers of legislation upon the great questions before us, it has seemed to me that the first step was to determine what relation, under the Constitution, the rebels sustain to us, and must sustain during the continuance of the war? When this is done, our own course will be disembarrassed of much which might otherwise seem difficult. We cannot regard them as alien enemies. To do so, would be to admit the permanent dismemberment of the States, the overthrow of the Union, the triumph of their cause, their separate and independent nationality. It would be to admit all for which they contend, and the further prosecution of the war would be both wicked and objectless. Nothing would remain but to adjust the terms of settlement, close the strife, and accept the rebellion as an accomplished revolution. If not alien enemies, then they must stand to us in one of two other relations.

First, as citizens in so formidable a rebellion as to reach the dignity of a civil war; in which event we must recognize them as belligerents and public enemies while the war lasts, and deal with them during that time according to the laws of war, as ascertained and settled by the law of nations, with the right unimpaired, when the rebellion shall be crushed, to resume authority over them as citizens, and grant an amnesty for past offenses, or punish them for treason, in accordance with the Constitution and laws in such cases provided; or

Second, as insurgent citizens, entitled to no belligerent rights, but subject to be indicted, tried, convicted, and executed as traitors as soon and as fast as captured. Very manifestly we cannot adopt this latter course. The rebellion is too formidable, too huge in its proportions to admit of it. If adopted it would soon degenerate into the indiscriminate slaughter on both sides of all who were so unfortunate as to be captured as prisoners. It would become a war of extermination, too barbarous, sanguinary, and relentless, for contemplation. The other nations of the world would not stand by idle spectators of the murderous strife, but, by common consent, would interpose to put an end to a proceeding so disgraceful to humanity, civilization, and Christianity. Such extreme measures would defeat their own ends and aims. There is, then, but one course open to us, and that is, as long as the war continues, to regard them as belligerents and public enemies, entitled to be dealt with according to the laws of war as settled by the law of nations.

This my colleague admits. He says:

"When a rebellion becomes so formidable as to be able to muster armies of hundreds of thousands of men, and maintain itself in arms against the forces of the Government for almost a year, it surely has attained a magnitude entitling it to be called a civil war; and international law writers agree that the common laws of war are to be observed in a civil war in the same manner as in a war between independent States."

Upon this, then, we all agree, that we must accord to the rebels while the war lasts the character of belligerents, and that, under the laws of war, we can do to and with them just what we could do to and with the citizens of Canada, if we were at war with Great Britain, and nothing more. And what would that be? Why, just what the laws, as settled and established by the law of nations, would permit: kill in battle, capture those in arms and hold them as prisoners of war, and capture and confiscate all their munitions of war, and all their property of every kind and character which had any relation to the end of the war, and by the capture and confiscation of which we would either strengthen ourselves or weaken them. And this would be done by the generals in the field, acting by the orders of the President. And if Congress should attempt to pass a law authorizing and directing the Army to do anything to either person or property not warranted by the law of nations, that act of Congress would be null and void. It would be no law. The law of nations, and not municipal laws, fix and regulate belligerent rights; and a law of Congress can neither make nor modify a law of nations; and if the act of Congress should conform to the law of nations, then it would be only declaratory, but it would give no additional force or efficacy to the preëxisting law.

Now, sir, if we were at war with Great Britain, the passage of a law by us to confiscate the property of the citizens of Canada to the same extent and in the same manner that this bill proposes to confiscate the property of the citizens of the rebel States would bring upon us the ridicule of the world; and if we executed the law, as it could only be executed by marching an army into the enemy's country, and by the strong hand of war, robbing and plundering all the people, in the language of the bill, of all "the property, real and personal, of every kind whatsoever, and wheresoever situated," and reducing them to abject poverty, to the pinchings of want, to the horrors of famine, we would bring upon ourselves the deserved execrations of mankind. Could we do it? Will any one contend that we would have the power to do it? And would our own people consent to such an act of barbarism if we had the power?

And now, sir, I respectfully ask of my colleague, and all other Senators who support this bill, whether, if we regard the rebels as belligerents and public enemies, we are not bound to deal with them under the laws of nations as long as the war continues precisely as we would be bound to

deal with a foreign nation with which we might be at war; and further, whether, if we were at war with a foreign nation we could pass such a bill as this in regard to its people, and whether we would have any right to execute it upon them even if we did pass it? A correct answer to these inquiries will dispose of the questions before us, provided we recognize the rebels as belligerents and public enemies.

But if we do not recognize them as belligerents and public enemies, then the law of nations will have no application, but we will be obliged to treat them as insurgent citizens, and deal with them under the Constitution and the municipal laws made to carry into effect the provisions of the Constitution. And what, in that event, would be the course of proceeding? What, in that event, would we have power to do in respect to the confiscation of their property? If they were shot down on the battle-field, nothing; there would be an end of it. If they were captured alive they would be subject to immediate trial and punishment for treason, without waiting for the end of the war, according to the provisions of the Constitution and laws in that regard, and in no other way, and to no greater extent. And what would that punishment be? The second clause of the third section of the third article of the Constitution declares:

"The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted."

The law declares that the punishment of the person shall be death. Forfeiture of property may be superadded, but the instant the sentence of the law is executed upon the person, it is remitted against the property, which descends to the heir precisely as if the ancestor had never committed treason at all. Thus, when you treat the rebel as a citizen, and indict, try, and convict him of treason, you cannot forfeit or confiscate his property absolutely. The Constitution forbids it. But this bill attempts to do that very thing—to forfeit the property, and all the property, both real and personal, of every kind and character, and where ever situated, and that forever.

But it is said this is not a bill of attainder, and is not, therefore, obnoxious to the constitutional objection which has been urged. I am not fastidious about *names*. I aim at the substance of the *thing*. Call it what you will, it is a bill to forfeit, absolutely and forever, property for treason, to punish citizens for treason by the forfeiture of their property in perpetuity. Now, suppose, for the sake of the argument, it be admitted that this is not a bill of attainder, is the difficulty got over by the admission? Surely not. The Constitution not only declares that "no bill of attainder shall be passed," but also that "no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted." And it matters not whether the treason is ascertained by indictment, trial, and conviction before the judicial tribunals, or whether it is determined by legislative enactment, the prohibition of forfeiture is equally imperative in either case. Is not the offense for which you are seeking to enforce this sweeping forfeiture treason? If it is not treason, what is it? Will Senators who urge the passage of this bill tell us? And if it is treason, does not the Constitution positively forbid you to declare such a forfeiture for such a cause?

Will it be answered that this bill is not within the constitutional inhibition because the persons against whom it is leveled have not been convicted of treason? Then you are brought to the monstrous proposition that, by assuming guilt, you may punish with a severity which the Constitution absolutely forbids when the assumed offense has been ascertained by proof and judicially established. The Constitution intended to abolish, in all cases of treason, the absolute forfeiture of estates as a punishment for the crime, and expresses that intention in the strongest and tersest terms—that not even an attainder shall be attended by such a consequence. Can it be supposed that it was ever in the imaginations of the framers of that wonderful instrument—the sublimest political production of human genius and wisdom—that this humane amelioration of the barbarous severities of criminal jurisprudence could be evaded by seeking victims among the unconvicted, when they had taken so much pains to protect the family of even the attainted felon? Nor is the difficulty obviated by alleging that the bill embraces only those who have levied war against the United States, or who have adhered to their enemies, giving them aid and comfort, for this is the exact definition of treason, and what alone constitutes treason; and if we punish in the manner proposed, we punish, in my judgment, in palpable disregard of the Constitution. And yet the extraordinary proposition is put forward that, by a legislative assumption and declaration of guilt, Congress acquires a power, under the Constitution, to inflict punishments which could not be visited upon the offender for the same precise offense even after his guilt was judicially ascertained. It is upon this ground that my distinguished colleague rests his argument in support of the bill. I quote his own language:

"Surely, the prohibition against confiscating beyond life the property of the man who is arrested and made to suffer in his person for his crimes cannot prevent the absolute confiscation of the property of the criminal who is beyond our reach, and cannot be arrested, but who has left property within our jurisdiction, which we can reach."

And again:

"It is manifest that the clause of the Constitution limiting the punishment for treason can have no more application to the confiscation of the property of a person who cannot be arrested and tried for treason than has the punishment prescribed by statute for murder to do with that for larceny."

Now, sir, I would be glad to know from the honorable chairman of the committee who reported this bill how and where we get the power to punish for treason at all without arrest and trial and conviction in the State where the offense was committed? And further, I should be glad to know whence he derives the power to *Congress* to "inflict punishment upon any person for treason or any other offense whatever, wherever or however committed." Congress may pass laws within constitutional limits, declaring what the punishment of offenses shall be, but it cannot decide the question of guilt and inflict the punishment. The Constitution provides that—

"No person shall be held to answer for a capital, or other wise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger," &c.

And again:

"In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense."

But this bill is for the punishment of treason by *Congress*, and for nothing else, and that by penalties positively prohibited by the Constitution; and this upon the sole ground that the traitor cannot be arrested and brought for trial before the judicial tribunals of the country in the manner prescribed by the Constitution.

If this doctrine be true, and if this power of legislative punishment really exists, what is to prevent us in any individual case of treason or other offense, where the offender has fled from justice and got beyond the reach of the process of law—what, I ask, is to prevent us, in any such case, from proceeding to a legislative outlawry of the fugitive, and the absolute confiscation of all his estate, both real and personal, and the total impoverishment of his family?

If, for the reason that the rebels in the seceded States are beyond the reach of legal process, Congress may proceed to declare them guilty of treason, and inflict a punishment forbidden by the Constitution, what is to hinder us from doing the same thing in regard to any citizen or citizens of any of the States who may be charged with the commission of treason, and who may have fled beyond the reach of the process of the courts? It is no answer to say that the rebels are numerous. The mode of proceeding to punish offenders against our laws, and the kind and measure of punishment to be inflicted, in no degree depends upon the number who may have been guilty of the same offense at the same time. If we can pass an act of outlawry and forfeiture—not to call it a bill of attainder—against a thousand, or ten thousand, or a hundred thousand, surely we may do the same precise thing against one or a dozen. It seems to me it would be preposterous to say that we could not.

Now, suppose a citizen of Illinois, residing there, having his home, his family, and his property there, to have committed treason by giving aid and comfort to the enemy; suppose him to have been detected; suppose a warrant to have issued for his arrest, and him to have escaped the clutches of the marshal and fled beyond the jurisdiction of our courts and the reach of legal process, leaving his family and property behind him: may Congress then proceed to pass a bill for the forfeiture of his property, and execute it by robbing his family by way of punishment of his crime? I presume no Senator will venture to claim for Congress any such power. And yet, we may clearly do so if we may properly pass the bill under consideration. They stand precisely upon the same ground, and we have exactly the same power in the one case that we have in the other. We are to pass this bill against the rebels because they are citizens of the United States who have committed treason against the Government, and are temporarily beyond the reach of process. This is the basis upon which my colleague places it. It has no other foundation, as is shown by the portions of his speech already quoted. He repeats the same proposition in other parts of his speech. He reiterates it whenever he attempts to demonstrate the possession of power by Congress to pass the bill. I again quote his own language:

"This bill provides for the forfeiture of estates in certain cases, as a punishment for crime hereafter to be committed, when the person of the individual committing the offense cannot be reached."

And again:

"The right to confiscate the property of a rebel or traitor attaches without any conviction of the offender."

There, sir, it is boldly announced, as a general principle of congressional power, that the right to confiscate the property of a traitor attaches without any conviction of the offender. Now, if we have this right to confiscate the property of a traitor without conviction, why have we not the same right of confiscation for murder, or larceny, or any other offense known to the law, without trial or conviction? How can we possess such power in regard to treason without having it in regard to all other offenses; and where do we get it in respect to any offense? This is not explained by any of the Senators who advocate the passage of this bill.

Let me bring the statement of my colleague in juxtaposition with the statements of the Constitution upon the same subject. He says:

"The right to confiscate the property of a rebel or traitor attaches without any conviction of the offender."

The Constitution says:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or *property* without due process of law."

And yet, in the face of these safeguards which the Constitution has endeavored to throw around person and property, it is confidently announced as a general principle, that "the right to confiscate the property of a rebel or traitor attaches without any conviction of the offender," and this by *ex parte* legislative proceeding, without indictment, trial, or opportunity of defense.

"Can such things be,
And overcome us like a summer's cloud,
Without our special wonder?"

If the right to punish for treason by the confiscation of property attaches without the conviction of the offender, why does not the same right attach, in the same way, in respect to every other offense? What distinction does the Constitution make in the mode of proceeding for the punishment of treason and other offenses? Does not this newly-invented, India-rubber, *in rem* proceeding for the punishment of offenses committed by the person, and in which the property was not implicated, stretch itself over the entire category of crimes, and cover them all? And if so, what becomes of the provisions of the Constitution to which I have referred? To what end, and for what purpose, were they made? What does the Constitution mean, if anything, when it declares that no person shall be held to answer for crime unless on a presentment or indictment of a grand jury? That in all criminal prosecutions the accused shall enjoy the right of trial by a jury, and that he shall

not be deprived of his property without due process of law? After blundering blindly and stupidly along for three quarters of a century, in the belief that these provisions were limitations upon the powers of the Government, and guarantees of individual right which we could not disregard, the scales have now suddenly fallen from our eyes, and we perceive that they were intended to apply only in the event of the arrest of the offender; but that when he has fled from justice, nothing is easier than to proceed to punish him without indictment, without trial, without due process of law, simply by arresting his horse and cow, instead of himself, and proceeding against them *in rem* by some newly-invented military machinery. True, the Constitution makes no such exception; but now it is discovered that we may shoot enemies in battle without indictment or trial, and therefore the same principle of punishment without indictment or trial may be applied to all offenders who flee from justice. How long will it be before this patent is so improved as to embrace all offenders, whether they flee or not?

Can it be necessary to pursue this branch of the argument further? Can it be possible that we have wandered so far from the political faith of our fathers as to be ready to admit, in the august character of Senators, the fatal heresy of the bill, and the arguments in support of it, that "the right to confiscate the property of a rebel or traitor attaches without any conviction of the offender." To do so is to subvert the Constitution, and to concentrate not only all the powers of the Government, but all the sovereignty of the people in a single department of the Government, which was intended to be only coördinate with two others. To do so is to rend away all restraints and limitations sought to be imposed by the Constitution, and to establish a legislative despotism more capricious, more fatal to order, and more dangerous to the liberty and security of the citizen than any form of government on earth.

But to return for a moment to the question: Is this a bill of attainder? My colleague says:

"It is not a bill of attainder at all; it does not corrupt the blood of the party; but it is a bill, as I said, operating upon property."

In support of his opinion that it is not a bill of attainder, he relies, first, upon the case of Brown *vs.* The United States. The question in that case was simply whether enemies' property within our jurisdiction at the declaration of war was subject to seizure and confiscation for that reason, and the court held that it was not, and could not be, unless Congress would first pass an act subjecting it, and providing a mode of proceeding for the judicial enforcement of the forfeiture.

The other cases upon which he relied relate, I believe, exclusively to maritime captures, having no applicability to captures on land, nor to forfeiture of estates as a punishment for treason, and are, in my opinion, no authority in support of the principles or any one of the features or provisions of this bill, as will readily be perceived by any one who will take the pains to examine them.

Although the bill operates upon property only, it does so not because of any complicity of the property in crime, not because of any guilty use to which the property has been applied, but simply as a punishment of the owner for his personal violation of the law.

The argument of my colleague proceeds upon an assumption which I conceive to be entirely erroneous, that there can be no attainder without the corruption of blood. Attainder is the judgment of the law upon the guilt of the offender, and the corruption of the blood is but a consequence. It is not a *necessary* consequence. The attainder may be complete without it.

Blackstone, in speaking of the corruption of blood as a consequence of attainder, says:

"This is one of those notions which our laws have adopted from the feudal constitutions at the time of the Norman conquest, as appears from its being unknown in those tenures which are indisputably Saxon or gavelkind, wherein, though by treason, according to the ancient Saxon laws, the land is forfeited to the king, yet no corruption of blood, no impediment of descent ensues; and on judgment of mere felony no escheat accrues to the lord. And, therefore, as every other oppressive mark of feudal tenure is now happily worn away in these kingdoms, it is to be hoped that this corruption of blood, with all its connected consequences, not only of present escheat, but of future incapacities of inheritance even to the twentieth generation, may, in process of time, be abolished by act of Parliament, as it stands upon a very different footing from the forfeiture of lands for high treason affecting the king's person or Government. And, indeed, the legislature has, from time to time, appeared very inclinable to give way to so equitable a provision, by enacting that, in certain treasons respecting the papal supremacy and the public coin, and in many of the new made felonies created since the reign of Henry VIII by act of Parliament, corruption of blood shall be saved. But as in some of the acts for creating felonies (and those not of the most atrocious kind) this saving was neglected or forgotten to be made, it seems to be highly reasonable and expedient to antiquate the whole of this doctrine by one undistinguishing law, especially as by the aforementioned statute of 7 Anne, chap. 21, (the operation of which is postponed by statute 17 George II, chap. 39,) after the death of the sons of the late Pretender no attainder of treason will extend to the disinheriting any heir, nor the prejudice of any person other than the offender himself, which virtually abolishes all corruption of blood for treason, though (unless the legislature should interpose) it will still continue for many sorts of felony."—4 *Blackstone's Commentaries*, p. 388.

And in Sir Salathiel Lovell's case, reported in 1 Salk. 85, which came to the House of Lords on appeal, it was held by the judges that,

"In the case of an attainder of felony, the forfeiture of the estate to the lord is only by way of escheat, *pro defectu tenentis*, and the not descending is the consequence and effect of the corruption of blood or incapacity; but in treason the lands come to the Crown as an immediate forfeiture, and not as an escheat. And the forfeiture and corruption of blood are distinct parts of the penalty; so that the forfeiture may be saved, and yet the corruption remain, or the corruption be saved, and the forfeiture remain."

These authorities are surely sufficient to show that even in England the corruption of blood and obstruction of descents is not a necessary consequence of either a judicial or legislative attainder. What is a bill of attainder? It is an act passed by a legislative body declaring a citizen or subject, by name or other sufficient description, guilty of treason or other felony, and inflicting punishment therefor; and it is equally a bill of attainder whether the punishment combines corruption of blood and forfeiture of life and property, or whether it is limited to any one of them separately.

Now, what does this bill propose to do but to declare a large number of citizens guilty of treason, and punish them therefor by forfeiture of their estates? Then is not this a bill of attainder? And if it is not, what is it? It is no answer to say that a bill of attainder punishes a crime already past, and that this is prospective in its provisions. It declares that certain acts committed, or to be committed, shall be followed by forfeiture of estate, and proceeds to inflict the penalty without judicial inquiry or determination; and what the Constitution intended to guard against was punishment for imputed crime without indictment and trial. If the acts intended to be reached by this bill had already been committed, then I think, in the face of the authorities I have read, it would hardly be denied the character of a bill of attainder. Is its character changed and is the Constitution satisfied by declaring that certain acts hereafter to be committed shall be punished as crime, and by proceeding to inflict the punishment without trial? I say again that this is exactly what the Constitution intended to hedge against punishment in any form, or by any device without indictment and trial; and its provisions cannot be in this way evaded.

The Constitution does not declare that there shall be no attainder of treason. It admits that there may be, but neither corruption of blood nor forfeiture of estate except for the life of the offender shall ensue as a consequence. The attainder may still take place, but it must be judicial attainder. There can be no legislative attainder in any case, nor under any circumstances or conditions, nor deprivation of life, liberty, or property without due process of law.

To demonstrate the unconstitutionality of the bill, it is not necessary that it shall be assumed or proven to be a bill of attainder. Give it what name you will, it is still a bill to punish for treason and rebellion, not upon the battle-field by the military arm of the Government, but by legislative enactment, and legislative enforcement of the enactment, without indictment and trial, without due process of law, which the Constitution forbids, under whatever name and by whatever contrivance it may be attempted. But if it *were* necessary to prove it a bill of attainder, is not that already sufficiently done by the English authorities cited? To these let me again add the most illustrious names which have illustrated and adorned American jurisprudence. Mr. Justice Story, in treating of this subject in his very able Commentaries on the Constitution, holds this language:

"Bills of attainder, as they are technically called, are such special acts of the legislature as inflict capital punishments upon persons supposed to be guilty of high offenses, such as treason and felony, without any conviction in the ordinary course of judicial proceedings. If an act inflicts a milder degree of punishment than death, it is called a bill of pains and penalties. But, in the sense of the Constitution, it seems that bills of attainder include bills of pains and penalties; for the Supreme Court have said, 'a bill of attainder may affect the life of an individual, or may confiscate his property or both.'

"In such cases the legislature assumes judicial magistracy, pronouncing upon the guilt of the party without any of the common forms and guards of trial, and satisfying itself with proofs, when such proofs are within its reach, whether they are conformable to the rules of evidence or not. In short, in all such cases, the legislature exercises the highest power of sovereignty, and what may be properly deemed an irresponsible despotic discretion, being governed solely by what it deems political necessity or expediency, and too often under the influence of unreasonable fears or unfounded suspicions." * * * * "The punishment has often been inflicted without calling upon the party accused to answer, or without the formality of proof; and sometimes because the law, in its ordinary course of proceedings, would acquit the offender. The injustice and iniquity of such acts, in general constitute an irresistible argument against the existence of the power. In a free government it would be intolerable, and in the hands of a reigning faction, it might be, and probably would be, abused to the ruin and death of the most virtuous citizens. Bills of this sort have been most usually passed in England in times of rebellion, or of gross subserviency to the Crown, or of violent political excitements; periods in which all nations are most liable, as well the free as the enslaved, to forget their duties, and to trample upon the rights and liberties of others."—2 *Story on the Constitution*, sec. 1334.

In the case of Fletcher *vs.* Peck the construction of the clause of the Constitution forbidding the enactment of bills of attainder was not necessarily drawn into consideration; and yet its discussion was not impertinent or irrelevant, and what was said by the court can hardly be considered as loose *dicta*. The case was carefully and well considered, and the decision had the approval of all the judges; and I therefore quote, as authority entitled to very great weight, what was said by Chief Justice Marshall in delivering the opinion of the court:

"A bill of attainder may affect the life of an individual, or may confiscate his property, or may do both. In this form the power of the legislature over the lives and fortunes of individuals is expressly restrained."

In what form? Why, sir, in the form of a law by which an individual may be deprived of either life or property without judicial investigation and decision.

I trust it will be understood that I am speaking of the powers of Congress, and not of the powers of the Army and its commanders. I trust I will not be understood as advocating the novel doctrine, first suggested by my colleague and repeated by the Senator from Ohio, [Mr. WADE,] of impanneling juries upon the battle-field to try armed enemies before firing upon them.

The war powers of the Government to deal with the rebellion, with the rebels, and with the property of the rebels, I admit to the fullest extent that is allowed by the laws of war.

But the war power of the Government to be wielded by the President and the generals in the field is not a despotic, capricious, and irresponsible power, as my friend the honorable Senator from Ohio [Mr. SHERMAN] seems to have understood me to contend; but is to be exercised as much in subordination of the Constitution and the laws recognized by the Constitution as any civil function of the Government whatever.

All the argument I made on a former occasion, and all I have made now, has been intended to point the distinction between what may be done by the civil authorities in the punishment of the violators of municipal law, and what may be done by the military power in subduing and punishing public enemies at war with the Government. The one is to be by due process of law, in obedience to the constitutional requirement; the other is to be equally in obedience to the Constitution, and in conformity to law, but a different law, differently administered by a different department of the Government.

Mr. President, the annals of past ages furnish no instance of such patriotic devotion to a Government as has been exhibited by the people of the loyal States of the Union. Armies of unexampled magnitude, and at unexampled sacrifice of individual interests and the comforts and enjoyments of private life, sprung into existence when danger threatened the country, as if at the call of Deity. No conscriptions, no forced enlistments; but by the impulse of devotion to the country, veneration for the Constitution of our fathers, and

love for the *institutions* of our fathers, thousands and tens of thousands and hundreds of thousands voluntarily abandoned the quiet, peaceful, and happy scenes of home, and rushed to the stormy fields of war, to vie with each other in doing and dying for their country. Hill-top and valley, field and forest, mountain peak and mountain gorge, quiet village and city full, have all, as if by one impulse, sent forth their armed men to swell the nation's force; and when the ranks have been thinned by the breath of pestilence and disease, and the storm and tempest of battle, other eager hearts and strong arms have crowded to the camp to fill the melancholy chasms. My own State, glorious Illinois—I do not claim more than others, but equally with any other—has furnished her full share of gallant men, and borne her full share of these great sacrifices. The valor of her sons has been vindicated upon every bloody battlefield of the West. Fredericktown and Belmont, and Forts Henry and Donelson and Pittsburg Landing have been consecrated to history and made classic ground by their deathless deeds of heroism. The bones of her glorious dead lie strewn wherever the foe has been met, and her mutilated living are receiving homage in every city, village, and neighborhood. Every household has been turned to a household of mourning, and every heart has quivered under the torture of grief.

And why, Mr. President, all these sacrifices, all this suffering and woe and anguish and death? Why are they so heroically, so sublimely met and borne? To what end, and to what purpose? I answer, to uphold, maintain, defend, and preserve, in all its integrity, perfect and uninjured, in every word and letter, whole and sound, in all its parts and provisions, in its form, and in its essence, the venerated Constitution of our fathers. This is the inspiration which sustains the heart and nerves the arm of the nation, and gives to the soldier, amid the horrors of war, his fortitude and endurance. The Constitution was assailed by traitors and rebels, and these gallant men have come to its defense. While they are doing battle *for* it in the field, let it go forth that we are warring *against* it here, that we scoff its principles and spurn its restraints, and usurp any and every power which the passion or prejudice of the hour may suggest as necessary to accomplish a wished-for result, and the hope of the country will die, the inspiration of the Army will be gone, the arms of our brave, true-hearted soldiers become nerveless and impotent, and this great national struggle for national life will sink into disgraceful and disastrous failure.

Let us stand by the Constitution. Our only safety is there; our only hope of triumph is there. Let us not forget our obligations for its protection in the past, nor blast all just expectation of continued protection in the future. Let us stand by it in gratitude for the blessings it has heretofore secured us, and in hope of the blessings it shall hereafter dispense to the unborn millions of our race. Let us prove to our brethren in arms that we are, honestly and in good faith, coöperating with them to maintain the Constitution with all its salutary restraints, and to uphold a Government of laws, and resist a reign of licentiousness and the confusion of anarchy which will inevitably rush in upon us over the shattered fragments of the Constitution whenever we shall have broken it down, and this wicked and stupendous rebellion will be subdued, the just and full authority of the Government will be restored, and the flag of our fathers, the symbol of our greatness and glory, will again float, with the assent of all our people, with not a stripe obliterated, not a star obscured, over every inch of territory it heretofore protected.

Mr. WILMOT obtained the floor; and, on his motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *April* 29, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

CONFISCATION OF REBEL PROPERTY.

The SPEAKER informed the House that he had appointed Mr. SEDGWICK as member of the committee on the confiscation of rebel property, in the place of Mr. OLIN, excused.

BRIGADIER GENERALS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, in answer to a resolution of the House of Representatives of the 21st instant, asking for information as to appointments to the rank of brigadier general between the 1st of April, 1861, and the 1st of April, 1862; which was laid on the table, and ordered to be printed.

EVACUATION OF JACKSONVILLE, FLORIDA.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, in answer to a resolution of the House of the 24th instant, directing the Secretary of War to communicate to the House all the facts and circumstances within his knowledge in relation to the late evacuation of Jacksonville, Florida, by the troops of the United States; in which communication the Secretary of War states that, conceiving it to be the province of the President of the United States to direct the Department of War what facts in relation to military operations shall be communicated, the President had instructed him to say that Jacksonville was evacuated by the order of the commanding general of the department for reasons not deemed compatible with the public interest at present to disclose; which communication was laid on the table, and ordered to be printed.

RESOLUTION OF CALIFORNIA.

Mr. SARGENT, by unanimous consent, presented to the House a joint resolution of the Legislature of California, in favor of the establishment of certain mail routes therein mentioned; which was referred to the Committee on the Post Office and Post Roads.

EDWARD P. PITTS.

Mr. BLAIR, of Virginia. I desire the unanimous consent of the House to ask a question of the gentleman from Wisconsin, [Mr. POTTER,] who offered a resolution yesterday touching the loyalty of Judge Pitts. I desire to know from the gentleman upon what he predicated the resolution of inquiry which he offered yesterday in relation to the loyalty of Edward P. Pitts, of Northampton county, Virginia?

Mr. POTTER. Mr. Speaker, in reply to the gentleman from Virginia, I will state that the foundation of that resolution is an address which has been published, and which I have here in print, to the Legislature of Virginia—the present disloyal Legislature at Richmond.

Mr. BLAIR, of Virginia. If the gentleman has that address, I hope he will send it to the Clerk's desk to be read. It is but right that it should accompany the resolution.

Mr. POTTER. I send to the Clerk's desk the address to which I refer, and ask that it may be read.

The Clerk read the paper, as follows:

To the honorable President of the Senate, honorable Speaker of the House, and members of the General Assembly of Virginia:

GENTLEMEN: I have heard it rumored, for I have received no notice, that I am to be tried before both Houses of the General Assembly for disloyalty to the State of Virginia and to the confederate States of America, in adhering to and giving aid and comfort and counsel to the enemies of the said State and of the confederate States. It is impossible for me in the present condition of the country, and under existing circumstances, to make my defense before the General Assembly, and it would be quite difficult could I appear before that honorable body to defend myself against charges so vague and general in their nature. The constitution of Virginia provides, as the General Assembly is aware, "that the judge against whom the General Assembly may be about to proceed shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least twenty days before the day on which either House of the General Assembly shall act thereupon." Now, I have received no notice at all, and never heard until Thursday, the 6th day of March, that any proceeding had been instituted against me by either House of the General Assembly, and of course have never received any copy of the charges alleged against me. I heard through our representative in the convention that some action had been taken against me before that body, but that it was defeated, and I have heard nothing of the matter since, till the 6th day of March instant, when I was told that there was a notice in the Philadelphia Inquirer and in the New York Herald of some proceeding to be had against me before the General Assembly of Virginia. I do not take either of those papers and have not been able to find but one in which the said subject is mentioned at all.

Now, I respectfully submit to the General Assembly that to be tried, under these circumstances, in my absence, and in the absence of all proof, which I would desire to be heard by the General Assembly, and thus to be removed from office, would be manifestly unjust. I cannot get to Richmond with witnesses and other testimony which I would wish to use in my defense at this time, or I would take no exception to the want of notice and the constitutionality of the proceeding against me. I can only plead not guilty, and I court investigation if I can but be heard in my defense; but if this poor privilege is denied me, I must submit to what I cannot prevent till I can have an opportunity of appealing to the public. I respectfully ask of the General Assembly to delay the trial to some more favorable opportunity to justice, when I may be heard in my own defense, and then I promise triumphantly to vindicate myself from every charge, I care not what it may be, that my enemies and persecutors may bring against me. I will say that a vast majority of my own people (I mean of my circuit) would rise up and vindicate me from any such charges, but they cannot be heard now, and my enemies think it a favorable opportunity to prostrate me before them. I do not know that a single representative from this shore will say a word in my behalf; unfortunately, the strifes of party warfare have alienated them from me, or at least two of them, and I know not one whom to call there for a kindly word.

At the recent election in my circuit, when I was not a candidate for anything, all or nearly all the votes polled at Pungoteague and Locust Mount, were as a mere compliment given to me for the office I now hold. I will add that both these places of voting were strongly secession, not a single Union vote being cast at either of them, at the election for the ratification of the ordinance of secession; and I am satisfied that had it been thought of at the time of the election and a poll had been opened, I should have gotten nearly every vote polled in both counties. These are facts easily established, but I cannot do it now. Since writing the above there has been a large meeting of the people of Northampton, at their court-house, on Monday last, the 10th instant, at which they unanimously passed resolutions indorsing my fidelity to the State and South, and asking my retention on the bench. It will be remembered that this county sustained the action of Virginia and the South with a unanimity scarcely equaled by any in the State, not a single Union vote being cast within her borders on the ratification of the ordinance of secession. I have no doubt if an opportunity should offer before the day of my trial, the people of Accomac would speak with equal unanimity. As before said I received every vote polled at Locust Mount, (one hundred and twenty-three,) the largest vote ever polled, although not before the people for anything, being a mere complimentary vote. This was on the 25th of January last, and the same was the fact at Pungoteague, and would have been all over the county had a poll been opened, but it was not thought of.

Now, if those who know me best indorse me and are satisfied with me as their judge, why should my loyalty to my State be questioned and my course investigated at a time when I can make no defense, and when all hands and eyes and hearts should be engaged in guarding the welfare of the State, and restoring peace and prosperity to a once happy and prosperous Commonwealth? Can it be for any other purpose, though unknown to the General Assembly, than to gratify the spleen and envy of my enemies and revilers, most of whom are congregated now in Richmond and Norfolk. I incurred their displeasure here because I could not go the lengths for secession they did, and the establishment of camps on this shore, which had no other effect but to fill the pockets of certain favorites and waste the means of the State. I also opposed their ridiculous boasting of bravery and prowess before the enemy appeared, and their inglorious flight in advance of his earliest movements. These and like causes have incurred their displeasure, and I learn some have said I invited the Federal forces here, which is utterly without foundation; never in my life having done so, or anything of the kind; but they are glad to have any means of turning the indignant gaze of the public from themselves to any one or anything else. I have bitter and malignant enemies, who would do anything to prostrate me. The move in the convention was made at the instigation of a personal enemy, who had not the manliness to assume the responsibility, but got another to do the work for him. These things I would not complain of nor name, but for the advantage they are taking of me in my absence, when they know it is impossible for me to make my defense. I do not deny that I was for the Union, and did all I could in a proper way to preserve it, not because I loved the North more, but from my devotion to the Constitution and my whole country, and ardent affection for my native State of Virginia and the whole South, when I saw, or thought I saw, their destruction pending. If I erred in this, it was an honest error of the head, not the heart, and I trust in the just rulings of a wise Providence my apprehensions may prove unfounded.

I have but one other consideration to present to the General Assembly, and I shall leave the matter with them. The constitution of the State contains the provision I have already cited as to notice, &c., but I am told the late convention made a provision in the new constitution, or adopted an ordinance substituting a publication in the papers for actual notice, and a copy of the charge preferred. But the General Assembly will remember that the new constitution is inoperative to change the present until it is adopted or ratified by the people. Can it be, then, that any judge can be removed from his office otherwise than as the constitution provides, till it is changed by the adoption of a new one? And can it be that an ordinance of that convention is more potent than a solemn constitution for the State agreed upon by it? That convention could pass an ordinance upon any subject within its competency not prohibited by the constitution, but I humbly submit it could pass no ordinance changing the constitution without submitting it to the decision of the people; for if it could it had but to change the name, from a *constitution* to an *ordinance* to effect a total change of the constitution without any ratification by the people. How did the convention acquire power to change a part of the constitution, without ratification by the people, and not the whole? It is true these are revolutionary times, but I do not perceive the necessity,

except to gratify my enemies, to remove me from my office by some extra constitutional means, when, too, the people of my circuit desire to retain me as their judge.

The office of itself is of but little moment to me, but I have friends and acquaintances all over the State and elsewhere, and my good name in their estimation is of priceless value to me. May I not ask, then, of the General Assembly of my native State to grant me the delay necessary for a fair trial, especially in view of the fact that the people of my circuit have no complaint to allege against me? I have been guilty of no act of disloyalty to the government and defy any proof, and however persons inimical to me may excite suspicions against me by false accusations and innuendoes, I know I can refute them all if I can but have an opportunity to do so, and therefore ask that the proceeding against me be dismissed, or that it be postponed till the condition of the country will enable me to make my defense.

I respectfully submit the accompanying printed card, the proceedings of the public meeting of the people of Northampton of the 10th instant, and other accompanying papers, for the consideration of the General Assembly, and would be much gratified to have them published.

Very respectfully, your obedient servant,

E. P. PITTS.

REVOLVING BATTERIES, ETC.

Mr. OLIN. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the Secretary of War be requested to furnish the House with copies of such letters and documents as are on file in his Department, written by George Vanderheyser, Esq., in reference to the construction of revolving batteries, and upon the subject of coast, river, and harbor defenses.

Mr. WASHBURNE. I suggest that the gentleman strike out the word "requested," and insert "directed." That is the ordinary form. We direct the heads of Departments and request the President.

Mr. OLIN. I will accept the modification.

The resolution, as modified, was agreed to.

GOVERNMENT CONTRACTS.

The House then resumed the consideration of the report of the select committee on Government contracts.

The resolutions reported by the committee and now pending before the House, were read, as follows:

Resolved, That the Secretary of the Treasury be requested to adjust the claim against the Government for the five thousand Hall carbines, purchased through Simon Stevens, Esq., by General John C. Frémont, on the 6th day of August, 1861, and afterwards delivered at the United States arsenal at the city of St. Louis, on the basis of a sale of such arms to the Government for $12 50 each, rejecting all other demands against the Government on account of the purchase of said arms.

Resolved, That the practice of employing irresponsible parties, having no official connection with the Government, in the performance of public duties which may be properly performed by regular officers of the Government, and of purchasing by private contract supplies for the different Departments, where open and fair competition might be properly invited by reasonable advertisements for proposals, is injurious to the public service, and meets the unqualified disapprobation of this House.

The SPEAKER stated that the gentleman from Indiana [Mr. HOLMAN] was entitled to the floor.

Mr. ROSCOE CONKLING. I desire to ask the gentleman from Indiana a single question, if he will allow me. I desire to inquire of him whether it be his purpose to ask the previous question after he shall have concluded his remarks.

Mr. HOLMAN. It is my purpose to do so; but I shall be disposed to consult the wishes of the House upon that subject.

Mr. ROSCOE CONKLING. Well, sir, as I have no doubt the gentleman desires to close this debate, and as I would like to say something upon the subject, it is very likely that he would prefer that I should precede him rather than follow him.

Mr. WICKLIFFE. Will the gentleman from Indiana permit me to offer an amendment to the resolutions?

Mr. HOLMAN. I yield to the gentleman for that purpose.

Mr. WICKLIFFE. I offer the following amendment:

Resolved, That any officer now in the service of the United States who, while in office, connived at any of the fraudulent contracts referred to in this report, or who knowing of such fraudulent contracts, consummated the same, and required the public money to be misapplied in violation of law to satisfy such fraudulent contracts, should be removed from the public service.

Resolved, That a copy of this report, with the evidence, be delivered by the Clerk to the President of the United States.

The SPEAKER. The amendment can only be received by unanimous consent.

Mr. BLAKE and Mr. LOVEJOY objected.

Mr. WICKLIFFE. I would like to know, when I have the floor, whether I have to get unanimous consent to offer an amendment to the pending proposition?

The SPEAKER. When the gentleman proposes an amendment out of order, it requires unanimous consent.

Mr. WICKLIFFE. It is not out of order. I got leave of the House to offer it, and the gentlemen did not object.

The SPEAKER. There are three amendments already pending.

Mr. WICKLIFFE. I did not know that, sir.

Mr. HOLMAN. I am disinclined to take advantage of having the floor to impose any restraint whatever upon debate. I do not desire to precede the gentleman from New York, and if he desires to speak I will yield the floor to him for that purpose.

Mr. ROSCOE CONKLING. Mr. Speaker, on the 17th of July last, in common with about fifty other members of this House, I voted against the permission then asked by the committee on Government contracts to do much which since that time they have done. It was the opinion then of some of the oldest and most experienced members of the House that such a proceeding as that proposed would not be wise under any circumstances. It seemed so to me. It seemed to me that no committee could be so honest or so eminent that it would be suitable to clothe it with the unheard of powers asked for on that occasion. It seemed to me unfit to create a supervisory board and set it over all the Departments of the Government to review, at its own pleasure and in its own way, the integrity and motive of every man engaged in the administration of public affairs. It seemed to me that a roving commission, virtually irresponsible, to sit in judgment, open or secret, at its option, upon the honesty or fraud of all future contracts and transactions, to be entered into by any Department of the Government, was open to grave objections, and found little argument in its favor of a kind calculated to commend it to the sound discretion of the House. We had at that time, as we have at all times, power to call for every contract from time to time, and to inspect and inquire into all the transactions of each Department of the Government. We had then, as we have now, two standing committees, with but little occupation, whose duties are identical with those professed by this committee; we could instruct them as often as the House should deem it necessary to inquire and report; and therefore it seemed to me that the enormous powers asked for were fraught with dangerous objections, and likely to be productive of pernicious and odious results.

The hesitation of the House, however, aroused the displeasure of at least one member of the committee. The gentleman from Massachusetts [Mr. DAWES] felt himself attacked, and came to the defense. He protested his innocence of bad motives which no one had imputed to him; he denied several charges which no one had made, and hinted broadly that he would resign unless the House indulged him in the permission asked for. That indulgence was granted, and I think it safe to say now, that experience has vindicated and approved every objection then insisted upon. The doings of the committee—its extraordinary doings—have led to the most wide-spread misapprehensions and exaggerations. They have filled the whole country with indiscriminate suspicion and distrust. The political complexion of the committee is such that its sayings and doings were calculated to have far greater effect than would have been the case if it had stood in political antagonism to the present Administration. Its flitting constantly from State to State, sometimes from one side of the Union to the other, the vague mystery in which it has been enshrouded, with its still vaguer givings out, its secret sessions, and above all, the sweeping and unmeasured declarations of some of its members, have engendered the belief, not only at home but abroad—and I judge from the foreign papers, more abroad than at home—that corruption and venality are universal in this country, and that swindling and theft, like the frogs of Egypt, have entered the very kneading-troughs of the land. Such an impression is a wicked aspersion upon the American people; it is as false of them as of any nation in history, and if possible more false now in the hour of their patriotic trial than ever in the time of their prosperity and peace. I charge no man with a design to do this great wrong, but it has been done, and as an humble lover of my country I deplore it with impatient regret. In addition to this all-embracing injury, proceedings of the committee have done injustice—gross, irreparable injustice, to individuals and classes. So much is admitted now, though not voluntarily admitted; but it is said to have arisen from inadvertence and mistake. So be it; that does not lighten the obloquy which has blasted private character and public reputation.

My proposition is that the nation, the Government, classes of individuals, and individuals themselves, have suffered in character; that we have lost caste, and that much harm has come, not from detecting or exposing fraud or extravagance, but from magnifying and exaggerating what has happened, and charging and publishing to the world what has never happened at all. The gentleman from Massachusetts [Mr. DAWES] said the other day, if I read him aright in the Globe, that the plundering under this present Administration had been as great as the expenditures under that hated dynasty which the people had hurled from power. Sir, if that statement is true, the American people would be justified in resorting to anything short of revolution to snatch power from men who wield it for such horrible prostitution.

Mr. DAWES. I am sorry that the gentleman did not read me aright in the Globe. If he read me aright he would have seen that I said it would nearly equal that.

Mr. ROSCOE CONKLING. I will read the statement precisely as it appears in the Globe, revised by the gentleman himself. I have no purpose to do him an injustice. Said the gentleman from Massachusetts:

"The gentleman must remember that in the first year of a Republican Administration, which came into power upon professions of reform and retrenchment, there is indubitable evidence abroad in the land that somebody has plundered the public Treasury well nigh in that single year as much as the entire current yearly expenses of the Government during the Administration which the people hurled from power because of its corruption."

I say that if this statement can be verified the people would be warranted in rising *en masse* and demanding, by any means short of revolution, the correction of abuses and evils too intolerable and atrocious to be longer endured.

Groundless as it may be, it has gone forth as an announcement by the committee—gone beyond recall. Yes, sir, a poisoned arrow, poisoned with the virus of exaggeration, and feathered with the franking privilege, has been shot far and wide to the remotest confines of the loyal States of the Republic. Like other statements and insinuations made by that gentleman, however elaborately they may have been prepared and conned over, this is a reproach, an impeachment of the existing Government, which I think, on reflection, he will long to recall. But, sir, another evil, greater, perhaps, than any other, has resulted from these anomalous proceedings. A system of semi-judicial, one-sided trial and condemnation has been inaugurated for the first time, I am happy to know, in the history of the nation; a system which finds no place in any enlightened jurisprudence, nor in the genius of any free Government, and no defense in any sound code of morals; a system utterly subversive of the plainest principles and safeguards of justice and the rights of the citizen. Jurisdiction has been assumed of the characters of men, and their rights of property, and judgments blasting to both have been pronounced on *ex parte* testimony, testimony taken in secret, and of which the parties aspersed were never informed. Men have thus been tried unheard, and convicted, stigmatized, and hung up to fester in infamy as long as their names can retain a place on the roll of remembered names.

The gentleman from Massachusetts felt constrained to admit the odious character of such a mode of investigation in ordinary cases; but he contended that the principle of justice embodied in the amendment offered by the gentleman from Indiana [Mr. COLFAX] had no application here—and why, forsooth? I ask the attention of the House to the distinction to which the gentleman from Massachusetts is driven—worthy, I must say, of this extraordinary age of invention, and of the strait in which the inventor finds himself placed. Why, says the gentleman, if you were only to deal with a man's character, you ought to give him notice and hear him; but if you are to deal with his character and property too, then you may try and condemn him unheard on *ex parte* test-

imony. He says his committee was appointed to investigate fraud "in contracts," and not in persons, and that, therefore, they were right in organizing a star chamber, and condemning men without their knowing that they were accused; cleaving down the rights and characters of citizens, and leaving them to find it out when some abstract of concealed evidence went over the wires, telegraphed from the West or from the East, and only confirmed when this report came in as a sort of corollary at the commencement of this session. The gentleman must have borrowed somebody's thunder, I think, before making that suggestion. He must have heard learned lawyers talk who have declared that if you fairly try and convict a man as a traitor, you cannot take away his lands; but if you only call him a traitor, and assume that he is a traitor, you can take all his property forever by a little proceeding *in rem*; so the gentleman considers this a proceeding *in rem*, and thinks that he has violated no principle of justice or humanity in the investigations he has made, or in the indelible stigmas he has attempted to affix.

Sir, contracts do not commit fraud. Persons commit fraud. If there be fraud in a contract somebody has put it there, somebody has committed it. I would like to know how to investigate frauds in contracts without bringing into question the character and acts of individuals. If the investigation was solely as to things, and did not relate to persons, I hope every member of the House will take home to himself this question: how came this committee to report and publish to the world the names of individuals and to pass final judgment on them as the guilty actors in transactions denounced in the report as worse than fraudulent? How comes it that theft is charged upon civilians and soldiers, and painted in colors blacker than the hues of common fraud or robbery, because laid at the door of those who stood in a double trust, not merely as citizens of this Republic, upon whom confidence and honors have been showered, in the hour of its agony, but as the sworn trustees to guard its Treasury and its funds?

Sir, if the doctrine put forth by the gentleman from Massachusetts is sound, what becomes of the principle which lies at the foundation of the right of trial by jury? What did Edmund Burke mean when he said that the greatest object of civil government was to get twelve honest men into the jury box? What becomes of that principle inwrought with every jurisprudence, from the twelve tables down, which gave the Athenian, and has given the meanest culprit ever since, the right to say, "strike, but hear me?" The gentleman said that the gentleman from Indiana [Mr. COLFAX] complained the other day because the committee did not send for General Frémont and ask him to consult with them and assist them in the investigation of fraudulent contracts. No, sir. The gentleman from Indiana never said that. The gentleman from Indiana complained, and I say "Amen," that not the committee, but a fraction of it, went to the far West, and in the absence of a major general in the field, while he stood facing the enemies of his country, privily, clandestinely, collected *ex parte* and even hearsay evidence against him, tending to blast his character as a general, as a citizen, and as a man, and came back with it in their pocket, never informing him that he had been drawn into question; never giving him an opportunity to offer an explanation or to hand in the name of a witness. That, if I apprehended the gentleman from Indiana, was the complaint he made. I refer to it now merely as an illustration, because I have other matters to discuss within my hour than the rights or wrongs of Major General Frémont.

It may be that the committee deemed all its acts entirely defensible; but that is not the question, and will not be the question for us to pass upon. The House must, for itself and in its own behalf, pronounce its own judgment as to the just and proper mode in which committees should proceed.

The gentleman from Massachusetts evinced great sensitiveness and emotion at the idea that the committee might be discharged by the House. There seems no reason for his taking the matter so much to heart, and he must have mistaken somewhat the spirit in which such a motion may be made or supported. I suppose that in theory of parliamentary law, at least, a committee has no interest in such a question, *pro* or *con*. Committees are creatures of the House, and the body which had the power to give has the power to take away. I should be very sorry to have it supposed, when I vote—as I shall whenever the opportunity is presented—to dissolve the committee, that my action implied any personal discourtesy to any gentleman of the House, whether he be a member of the committee or not. Gentlemen around me say that these are their sentiments also. The simple idea is, that this is a pioneer experiment, a new thing, never tried before, and it has turned out badly, and the House ought to dispense with it.

And now, sir, having spoken of some evils, which, I think, have flowed from raising this committee and enlarging its powers, I would like to put the question, what practical good has resulted from these unusual proceedings to offset the harm it must be admitted they have done?

It is claimed in the first place, as I understand, that frauds have been detected which, without such a committee, would not have been found out. It is claimed, in the second place, that money has been saved by the committee, which would otherwise have been lost.

Mr. Speaker, I have taken some pains to inform myself on both these points, and do not understand that either of them can be successfully maintained. I think no fraud has even been developed by the committee which would have remained buried had they not dug it up. Their report sets out with the steamboat Cataline. Well, sir, that affair was notorious all over the State of New York before I left my home to come to the session at which this committee was created. It passed in review in a court of justice, where the witnesses were called *pro* and *con.*, many months ago. So with the purchase of ships by George Morgan, in New York; that, too, was publicly known, the knowledge of it was as public as the New York Herald could make it before the committee ever gave it its attention. So with regard to the fortifications at St. Louis.

Mr. HOLMAN. Will the gentleman from New York inform the House what information he had in reference to the fortifications at St. Louis prior to the last session of Congress, and also what investigation had occurred before a court of justice in reference to the Cataline before we adjourned last summer?

Mr. ROSCOE CONKLING. My friend puts two questions to me, which I will be happy to answer, though they both rest upon false premises. I did not say that the matter of the steamboat Cataline had been investigated in court before the adjournment of the last session. I said it had been done many months ago.

Mr. HOLMAN. I ask the gentleman whether he did not intend to leave the impression that this investigation took place before the organization of this committee?

Mr. ROSCOE CONKLING. I intended most specifically to leave the impression that nothing in this report that I have ever read, or that any man has read, has added one scintilla of material fact to that which was notorious before the report was made, and notorious by means of information totally independent of the committee. I mean to say that I heard in general about the affair at my home, and heard the particulars about it in the city of New York on my way to the session of Congress which created the committee.

Mr. HOLMAN. I trust the gentleman will answer my question. I ask him whether he did not intend to convey the impression upon the mind of the House that this investigation occurred before the creation of the committee?

Mr. ROSCOE CONKLING. I should be happy to oblige the gentleman, if I could make the admission he asks me to; but I cannot. Candor compels me to answer that I did not intend to create any such impression. If I had, I should have been very likely to say so, as it is quite my habit to say what I mean. I repeat, that there may be no doubt about my meaning, that the affair of the steamboat Cataline was notorious in the country before this committee was raised, and that it passed in review before a court in New York long months ago. I had no other impression upon my own mind, and I intended to convey no other.

The other question of the gentleman from Indiana about the fortifications at St. Loius being a topic of discussion before our adjournment last summer, seems to me very far fetched, because those fortifications were not built before that adjournment, and if they did not exist at that time, perhaps the gentleman will be able himself to judge how long they had then been talked about. What I say is, that those fortifications, and their alleged extravagance, had become food for itemmen of newspapers and others before the committee ever saw them, or took testimony about them. This is true, not only of the fortifications, but of the trash relating to the department of the West. The fifty pairs of kid gloves, the retinue of mounted men going to Jefferson City, the splendor of quarters and equipage, and a great variety of clap-trap was got up by those who had the advantage of the committee of being earlier on the ground. My friend from Indiana, [Mr. COLFAX,] in a letter written, I believe, to his own paper in Indiana, had referred fully to all that history and tattle a long time before.

Mr. COLFAX. I did not indorse the tattle.

Mr. ROSCOE CONKLING. No, sir; the gentleman did not indorse or countenance it in any way. Now, I return to the statement that I am not aware that a single transaction has been uncarthed by this committee which, without their excavations, has not become known to the public.

Mr. DAWES. I dislike to interrupt the gentleman from New York.

Mr. ROSCOE CONKLING. It gives me great pleasure to yield to the gentleman.

Mr. DAWES. I should like to have my friend tell us what he knew of the New Bedford and Starbuck matter until the investigation was made by the committee, the matter disclosed, and the money paid back?

Mr. ROSCOE CONKLING. Oh, Mr. Speaker, I should not have forgotten the Starbuck-New-Bedford matter. That is a part of my case. That has been paraded and reparaded; it has appeared and disappeared and reappeared, and been made to stalk over the stage; the changes have been rung upon it as something for which the gratitude of the nation was due to the rescuers of $6,166 48, until no man could forget the New Bedford transaction, even if he wanted to.

The gentleman from Massachusetts said the other day in his speech that he and his associates had saved "*fabulous*" sums of money to the Treasury. I have read somewhere that the actor Garrick once said that he would give a hundred pounds if he could say "Oh," as Whitfield did. Sir, I would give a hundred pounds, if I was not too poor, if I could only say "*fabulous*," as the gentleman from Massachusetts did. Yes, sir, fabulous indeed, entirely fabulous. [Laughter.]

Let us see a little about the dollars and cents which these gentlemen have saved to the Government. In the first place, this report puts forth—and the gentleman from Massachusetts, with that extreme temperance and moderation of assertion which is one of his distinguishing characteristics, repeated the other day that $6,166 48 was saved to the Treasury—"we saved it," says the gentleman, $6,166 48; that is the amount exactly; it is engraved on my memory. The gentleman impresses us with a vague belief that by some sort of alchemy, by some sleight-of-hand, known only to the committee, this amount of specie was extracted from the crucible of fraud, lugged all the way to Washington, and dropped into an empty Treasury, resounding as it struck the bottom. [Laughter.]

Now, I undertake, confining myself to evidence before us, to say that the committee on Government contracts no more recovered this money, no more determined the question whether it should be returned to the Treasury, than I did, not a bit.

What was done in this case? Mr. Aspinwall, of New York, one of the men who has run the gauntlet of this committee, and remains undefiled with the soil of accusation—Mr. Aspinwall, of New York, recommended to Commodore Breeze a man by the name of Starbuck, to buy vessels. Starbuck went to New Bedford, and bought two vessels, the Roman and the Badger. He paid a small sum and turned them over to the Government for a large sum, which he was paid, and $6,166 48 is the amount of over payment. The committee claim, in the grave language of the gentleman from Massachusetts, that they brought back and put into the Treasury this amount of money; it must have happened when they came back from a foray on one of those "gay and festive" occasions when they "took the field in person" to investigate contracts.

Now, Mr. Speaker, let us look for a moment at the title by which the committee is to hold the credit of saving this sum. At one of the first meetings of the committee, they called, as we might have done, upon the Navy Department, for a complete statement of contracts and purchases, with the names and residence of the parties. On reaching the city of New York, they called before them Commodore Breeze, and this was before going to New Bedford at all—and I am now partly upon a rejoinder to the point of which my friend from Indiana [Mr. HOLMAN] is tenacious—I want to show him, not only that the money could have been recovered without a committee, but that there was no Christopher Columbus upon this committee, no man who discovered a continent or even a fraud. Commodore Breeze, in his statement before the committee, conveyed to them fully for all practical purposes, preliminary to the Government instituting legal proceedings, the facts and circumstances in regard to this transaction. And what is more important still, he testified that he had already given the facts to the Department. They asked him if these vessels had recently changed hands before the Government had received them. I will read from his testimony:

"*Answer.* I heard indirectly that they had been sold at a much less price to somebody else, whether at auction or not I do not know. But the Government paid about seven thousand three hundred dollars each for them. When I got them to the dock of the yard I had to expend some two thousand dollars upon them by way of repairs.

"*Question.* Who was this agent you employed?

"*Answer.* His name was Starbuck.

"*Question.* Of whom did he make the purchase?

"*Answer.* They were citizens of New Bedford, but I do not recollect their names."

Then follows a statement about the arrangement made by Mr. Aspinwall for the payment for these vessels; and then comes this evidence:

"*Question.* Who made the payment?

"*Answer.* Mr. Aspinwall; and hence I wrote to the Department at Washington that, under the circumstances, I desired that Mr. Aspinwall might be considered the purchaser and not myself. They acceded to that request, inasmuch as I was ordered to coal the vessels and dispatch them.

"*Question.* At what price did you understand that these vessels had been purchased shortly before they were purchased by the Government?

"*Answer.* A letter was written to one of my lieutenants, by a resident of New Bedford, expressing his surprise at the price paid, and stated that the vessels had been sold a short time before for $2,500 each.

"*Question.* Were the vessels worth more than $2,500 each?

"*Answer.* One of them certainly was not; and the other, after we put the repairs on her, might have been worth about what we paid for her.

"*Question.* State whether you informed the Navy Department of the circumstances under which these vessels were purchased through the agency of Mr. Aspinwall?

"*Answer.* Certainly."

Now, Mr. Speaker, after that testimony was delivered, the committee went to New Bedford, and there the collector of that port and some other public officers and a commission merchant appeared before them and told the story over again more fully than Commodore Breeze had done, but whether more fully than he had communicated to the Department, does not appear. Shortly afterward the district attorney of the southern district of New York instituted proceedings for the recovery of the money. In consequence of these proceedings, Starbuck disgorged and paid back the money to Mr. Cisco, the sub-Treasurer at New York, and a certificate of that fact was handed to the committee, and they sent it by mail to the Secretary of the Treasury, and then put down in their journal, with solemn formality, that on such a day was transmitted to the Secretary of the Treasury, through the acting chairman of the committee, a certificate of deposit with Mr. Cisco for $6,166 48.

Now, my point is this: Commodore Breeze had ascertained this fraud and had lodged in the Navy Department information of the fact. The remaining step necessary was to direct the district attorney for the southern district of New York to prosecute the claim, and I want to know whether it was necessary to send a committee of seven members of this House, with a stenographer and Sergeant-at-Arms, all the way up to New Bedford to see the collector of the customs there and others, who have constant communication with the Government here, and are no doubt frequently here themselves; and especially when Starbuck, the known actor in the matter, was all the time a business man, not in New Bedford, but in New York?

Mr. DAWES. The gentleman omits to state that, after all these papers were laid before the Navy Department by Commodore Breeze, the Navy Department nevertheless paid for the vessel the full price asked for by this charter; and he omits to state—I suppose because it did not attract his attention—that the reason the district attorney instituted process was because the committee, on their return from New Bedford, laid their testimony before him, and was in his office when it was instituted, and when the money was paid over. I suppose that that did not attract his attention.

Mr. ROSCOE CONKLING. Will the Chair be kind enough to inform me how much time I have left?

The SPEAKER. Eighteen minutes.

Mr. DAWES. Permit me——

Mr. ROSCOE CONKLING. The gentleman will pardon me, I trust, for declining to yield further; my time is so nearly gone.

Mr. DAWES. I do not want to consume the gentleman's time.

Mr. ROSCOE CONKLING. Let me set the gentleman right about his facts. Neither the Navy Department nor the Government ever paid Starbuck at all. Howland & Aspinwall paid him, having advanced the money or credit to him before he left New York to buy the ships. All the Government had to do with making payment was to reimburse Howland & Aspinwall. This was done, of course. They had advanced the money in good faith, and were entitled to its repayment on every principle of equity, regardless of Starbuck's acts. This disposes of all the gentleman says I omitted to state, except that the Government had not been as expeditious as it might have been, and in ordinary times probably would have been, in taking steps to reclaim from Starbuck the excess of money in his hands. This is as natural as it is true. The pressure of events has been such that, no doubt, all classes of prosecutions directed by the Executive Departments at Washington are far in arrears, unless, perhaps, it be those of a very important public nature. But it would all have come in due time, committee or no committee. I am fully persuaded that it is an error to suppose that a congressional committee was needed, or essentially useful, either in the Starbuck or the Boker matter, which latter has been referred to as a saving of $1,300,000 by the committee. The Boker contract, as will be seen from the report of General Ripley, (pp. 75 to 84, inclusive,) needed no investigation or action beyond that instituted by the appropriate Department. The whole facts were of record in the War Office, and underwent thorough scrutiny there in the regular old-fashioned way. The matter was referred to the commission on contracts for arms, and after that was adjusted by the Secretary of War.

Now, Mr. Speaker, passing by several other things, I come to the cost of such investigations. The present committee is an expensive luxury; it can hardly be deemed one of the necessaries of life; I do not know but it should have been taxed in the tax bill, as one of the showy ornaments of legislation. There is an expense account which ought to be preserved as one of the relics of the rebellion, and I propose to take it out and air it a little this morning. The gross sum cannot yet be stated accurately, but I understand that $20,000 has already been received by these gentlemen, who have made the tour of the continent at the public expense. In addition to this sum considerable amounts are still outstanding. These amounts are thousands more. I call the attention of the House to the journal of the committee, containing as it does, an entry such as other journals do not contain, an entry which I commend to the curious and the honest. While the committee remained here, that is before it began to rove, two things are noticeable in its journal; one is, that it was content with the homely phraseology of civil life, and the other is, that some one was responsible as the author and mover of the resolutions of the committee. The form was, "on motion of Mr. So and So, resolved." But when they took the field, they dropped resolved and adopted the more expressive and authoritative military term of "ordered." One of the first orders they made, is an order which nobody stands sponsor for; it is anonymous and needs to be carefully read to be comprehended. I commend it to those accomplished in the science of statutory construction, and to those who would like to know how money is sometimes rapidly acquired. Here it is, August 29, 1861, at New York:

"*Ordered*, That the Sergeant-at-Arms be directed to pay, as a part of the expenses of this committee, the traveling and other necessary expenses of the several members thereof, and also their necessary traveling and other expenses while attending to the duties of the committee; the allowance for traveling from their respective places of residence, and pay while on the duties of the committee to be the same as that usually paid to witnesses."

That is twenty cents a mile, ten cents each way, and a per diem of two dollars beside. Now, sir, there are some unpleasant rumors on this subject owing to "mistakes of the printer," or to "confounding different men of the same name." It is said that members of this reform committee have taken the amount of money indicated there, and had their expenses profusely paid beside out of the impoverished public Treasury. I can hardly believe it. I suggest to the lawyers of the House some questions in regard to such an appropriation of public money to private use merely as questions of law. The Constitution of the United States says that Representatives in Congress shall receive a compensation to be "*ascertained by law.*" That is what the Constitution says. The law says that each Representative shall receive $6,000 a Congress—that is, for the two sessions—and mileage by the most usually traveled route from his home to the capital. That, then, is the amount "*ascertained by law.*" Now, if there is any law or warrant anywhere by which $5,000, besides all their pay, had been put into the pockets of certain members of this body before they made their report on the 17th of December—and some thousands more have been taken since that time—I should like to hear that statute read, even though it should consume all my time.

The gentleman from Massachusetts, [Mr. DAWES,] in his modest recitals of his labors, stated that he had ridden and ridden "while others slept." There is something very touching in that; Jack Downing would have called it "teching." On a previous occasion the same gentleman asserted that he had ridden six thousand miles "*without compensation.*" I confess, in the light of the facts as they turn out, these long rides are hard; they must be so irksome and fatiguing. I pity the gentleman, as I see him now in my mind's eye the chosen champion of economy, the knight-errant of scrupulous honesty and pecuniary exactness, mounted on his favorite Rosanante, attended by his faithful Sancho Panza, the sergeant-at-arms, and attended further by a stenographer to record his heroic struggles with those who would take anything from the Treasury, leaving his home slowly and sadly, in these troublous times, and proceeding from Boston to St. Louis, from St. Louis to New Bedford, from New Bedford to Harrisburg, from Harrisburg to New York, and all for the low price of twenty cents a mile, besides free living and pay per diem. There is nothing like it for cheapness; it beats the showman's advertisement where he says, "the speaking pig, the fat boy, Tom Thumb, and the slippery wiggler, and all for the low price of one shilling." Now, Mr. Speaker, this committee never received from this House, even if the House could give it, any permission to take this money and convert it to private use. On the contrary, the resolution was,

"That the Sergeant-at-Arms of the House be directed to attend in person, or by assistant, the sittings of the committee, and serve all the subpenas put into his hands by the committee, pay the fees of all witnesses, *and the necessary expenses of the committee.*"

There is not a shadow of right to mileage here, still less to per diem.

They report, December 17, that "the members" had traveled between six and seven thousand miles. This would amount, in mileage alone, without per diem or expenses up to that time, to about five thousand dollars.

Mr. F. A. CONKLING. Has any other committee taken it?

Mr. ROSCOE CONKLING. None that I have ever heard of. I had the honor once to serve on a special investigating committee, and it went to New York, and rode "while others slept," and worked while others slept; but no man on that committee ever dreamed of taking mileage and per diem. My colleague asks whether members of any other committee have taken mileage or per diem. If the Covode committee did so, my colleague [Mr. OLIN] will know it; he was a member of it. If the committee on the conduct of the war has done so, no doubt some gentleman will be

found to state it. If the Kansas committee took a cent beyond actual expenses, somebody will know it. I state the facts as they are, with no desire to wound any man; but if we are to have a committee costing twenty or thirty thousand dollars up to this time, assailing men and blackening their characters—whether justly or unjustly I will not say at this moment—I say that it behooves us to know whether it does any good, and how much it costs; and in these times it behooves us to know whether any one is rifling the Treasury, either inside or out.

One other thing I should like to have explained before leaving this point. Until by accident—a hint being given me very recently—I discovered the little "order" on the journal, hid away in the ponderous volume of testimony, too big to be opened, I had relied upon a statement in the report of the committee, and was, of course, totally deceived—as every one must be—as to the amount of money absorbed by the committee, and for what purpose it had gone.

Page 2 of the report contains this passage:

"The expenses of the committee paid thus far, (excepting the pay of the stenographer,) being for the traveling and other expenses of the committee, for the mileage and fees of witnesses, for the mileage and fees of the Sergeant-at-Arms, for messenger hire, for stationery, rent of rooms, telegraphing, express charges, &c., amount to the sum of $5,153 38."

Is that statement true, sir?

When speaking of witnesses and the Sergeant-at-Arms, the report uses the words "mileage and fees;" but when speaking of the committee, the words are "traveling and other expenses." Was this accidental? Was it "a mistake of the printer" which makes a distinction between what witnesses received and what the members of the committee took? Why did not the report inform us that mileage and pay, besides their pay as Representatives, had been taken? If we were not to be told this, would it not have been enough to conceal and suppress the fact without a positive affirmative misstatement?

It shows, Mr. Speaker, that a little mileage is a dangerous thing. That is what Pope would say if he lived now. Mileage is like liquor, if tasted in excess men become slaves to it; but it usually takes long to fasten the habit in so inveterate a degree as would seem to be the case here. I do not see how it can have become so aggravated a case in so short a time. If there had been anybody on the committee who ever heard of a Representative who for many years successively made a mistake every year of six or seven hundred miles in certifying the distance of his home from the capital, and thus put in his pocket perhaps $489, not his own, year after year, that would have accounted for it. But as it is, who can account for it?

It must be admitted that rather a dubious example has been set, and that a precedent has been established which is not good for the frugality or for the morals of the nation.

Now, there are various other things, all *in rem*, which I would like to remark upon, and which I should not omit if I had time; but I suppose my time has substantially expired, and I would inquire again how much time I still have?

The SPEAKER. Ten minutes.

Mr. ROSCOE CONKLING. That's a long lease here, and it gives me time to speak of this: the other day, when the gentleman from Massachusetts [Mr. DAWES] had the floor, and had spoken as long as by the rules of the House any member is entitled to speak, I objected to his continuing. When he resumed the floor he went through the ceremony of an apology to me, which was partly inaudible where I sat, and unintelligible for another reason, as I happened to be out of the House during that portion of his preceding remarks which had most pointed reference to me.

But looking at the Globe the next day, I saw what the design of the gentleman was. It was to convey to the House the impression that I felt offended at the pleasantry which he had indulged concerning me, and retaliated upon him with an objection for that reason. I had assigned a different reason for my objection, and how far it became the gentleman, how far it was proper, and how far it was egotistical, to make the suggestion that he had wounded my feelings, is a question for him. I heard enough of his speech to regret deeply what I heard, and on no account personal to myself. I heard enough of his speech to believe that it was not calculated to promote those objects which he professed to have in view, and I was weary of hearing the gentleman's wail *se defendendo*, and of hearing him drag into common suspicion half, if not all, the officers of the Government. From the report of his speech, it must have been, as a success, the most magnificent affair on record. The gentleman seems to have roamed through the House like the stately boar of the forest, tearing with his tusks, and tossing into the air every one he encountered; the ground must have been strewn far and wide with the mangled bodies of his victims. Judging from the amount of laughter and applause which appears in the report, revised and improved by the gentleman himself, it must have been the wittiest, the funniest, the most excruciatingly side-splitting production that was ever brought forth, even by the gentleman himself. Among other things, he made himself most merry at my expense; and I want to admit that fairly and most effectually he put the laugh upon me. That is all right. But a great man has said that it is not from the laughers alone that the philosophy of history is learned.

A few days ago, when the gentleman from Pennsylvania [Mr. STEVENS] was speaking of the young man Sacchi, who has been gibbeted by the committee at the cross-roads of public opinion as a swindler, I was thinking of another stranger who came from the vine-clad hills of France, and ranged himself by the side of our fathers upon the bloody battle-fields of the American Revolution. The stranger of whom I was thinking is he whose picture alone, by the side of Washington's, is allowed to adorn the tapestries of this Hall. I recollected that in 1824, when La Fayette revisited this country, one of New England's orators applied to him, in the city of Boston, some beautiful words which had lingered long in my memory. And, struck, as the gentleman was speaking, with the general parallel between the stranger who came then and the stranger who came now to espouse our cause, I made application of the quotation to the case in hand. It was a needless thing; it was an ill-judged thing, if you please, but it injured no one, and might have given a harmless pleasure to him, I meant to praise. The gentleman from Massachusetts [Mr. DAWES] thinks it was poetry, and poor poetry. Well, there was a time when Charles Sprague held distinguished eminence in the republic of letters, and it was God's mercy to him that he did not live in Massachusetts at a time when the proprieties of speech have been so highly cultivated there that his sentences are tawdry and offensive to the delicate, fastidious ears of the distinguished gentleman who represents one district, at least, I do not know but more, of the glorious old Commonwealth.

But I have another purpose in referring to this now; one member of this committee said yesterday that he had not heard yet who Sacchi was; and in pitiful imitation of the gentleman from Massachusetts, he broke down in the attempt to plagiarize a laugh by repeating over again the words I had quoted from Sprague, that he "fought for freedom in freedom's holy land." I do not know Sacchi; I never saw him; but I know his story as it was told me by General Frémont, and I will repeat it as well as I can remember it. He said that when clouds of revolution had gathered here, and the first muttering of the storm began to be heard in Europe, there came to him in Paris a young man bringing letters of introduction and testimonials from the highest military and social sources in France and Italy. He had been the companion in arms of Garibaldi, and had served with honorable distinction in the Italian campaign, which had then recently closed. He said to General Frémont, "I see by the public journals that there is to be a struggle of arms on the continent of America, and if so, I wish to cast in my lot with those who strike for constitutional liberty and the maintenance of the American Republic." General Frémont told him that, as an American citizen, he thanked him for his sympathy, but had no authority to offer him position, nor even to say that his services would be accepted. After a brief interview they parted, and General Frémont soon returned home, and in, perhaps, the darkest and most portentous hour of American history was assigned to the department of the West. One morning a stranger was announced, and the general was surprised to recognize the young soldier with whom he had conversed in Paris. But there he was; he said, "I am still bent upon my purpose; I have followed you across the ocean, and all I ask is to fight under the starry banner of your great Republic." General Frémont attached him to his staff, and he remained while his chief remained; and I understand that to this hour he has never asked or received a farthing from the Government he has served.

Mr. HOLMAN. I wish to ask the gentleman——

Mr. ROSCOE CONKLING. No, sir; I decline to yield.

Mr. HOLMAN. I hope the gentleman from New York will——

Mr. ROSCOE CONKLING. I decline to yield. I decline absolutely. I repeat again every statement I made the other day—I repeat again, for so the letters presented to General Frémont attested, that this slandered stranger was decorated for conspicuous bravery upon the burning battle-fields of Italy. I repeat again that he followed the star of liberty across the sea, not for pay, but because he believed—who laughs at Sacchi now?

[Here the hammer fell.]

Mr. WASHBURNE obtained the floor.

Mr. HOLMAN. With the permission of my friend, I desire simply to say, before he proceeds, that having yielded very freely to allow the gentleman from New York to consume an hour in debate, I did not expect the discourtesy which he has shown me. I will try, however, to bear it in mind. The question I desired to ask the gentleman was, whether this was the same Sacchi who had this horse contract.

Mr. WASHBURNE. After the most extraordinary speech of the member from New York in his attack upon the committee constituted by this House, and appointed by yourself, Mr. Speaker, it is but natural that you and the House should expect of me, as chairman of the committee, a reply. And sir, I need not ask the patient attention of the members of this House, because I know their natural instincts of justice will impel them to give me that patient hearing, while I repel the gross and scandalous imputations upon one of the organs of the House, through which the stupendous frauds upon the Treasury have been discovered, and their perpetrators held up to the indignation of an outraged public.

Sir, on the 8th of July, 1861, this House, by a unanimous vote, constituted a committee to examine into Government contracts growing out of the rebellion; and you know, Mr. Speaker, with what reluctance I consented to serve upon that committee. Blind, indeed, any man must have been who could not have foreseen that rugged must be the path of him who endeavored to discharge with fidelity the trust committed to him by the House in connection with that committee. I could but take into consideration the fact that this committee would have to stand between the contractors and the untold and countless millions in the Treasury which would be expended in this war, and would have to meet the opposition of all their affiliations and influences in this House and out of it. I knew what I was to undertake. My colleagues knew what they were to undertake also. We appreciated, I hope, the great and delicate and responsible trust confided to us. But charged with that trust, and with no other feeling but to discharge it honestly and faithfully, we entered upon our duties.

Sir, whatever might have been the attacks elsewhere, it was not expected by us that the tribunal which constituted us would be so fierce to assail us. The member from New York [Mr. ROSCOE CONKLING] tells us what was known before—that he voted against the second resolutions, giving us powers to make our examinations effective. Sir, there was no doubt of it; the record shows it; and it does not require much foresight to know the *reason* why the member from New York voted against it. We went on in the discharge of our duties; and, let me say for myself, that since the 23d day of August last, with the exception of ten days when prostrated by an affliction, which my friend before me [Mr. SEDGWICK] can at least appreciate, I have devoted some portion of every day, and I might almost say every night, to the discharge of those duties. I have traveled some twelve thousand miles, passed more than thirty nights in traveling in railroad cars, and have, at times, labored seventeen hours a day, day by day, in the endeavor to discharge faithfully the duties

which you had committed to me; and I will say for my colleagues, who have labored no less diligently and faithfully than myself, we endeavored to discharge those duties without fear, favor, or affection. No man's politics and no man's position had any influence upon the manner in which those duties were discharged, and in our report we have nothing extenuated nor set down aught in malice. We have not claimed much of the attention of the House, and what has been claimed has been claimed in defense of the committee from the assaults made upon it. And by whom? Sir, it was the "unkindest cut of all" when the chairman of the Committee of Ways and Means, the able and distinguished member from Pennsylvania, [Mr. STEVENS,] the leader of the House, and, as it were, holding the purse-strings of the nation, rose in this House and attacked us a week ago Monday last, when every member was absent on official duty, charging that the committee had committed more frauds than it had detected; and to-day *his* "pitiful imitator" comes in in the same way.

Sir, the attack of the gentleman from Pennsylvania—the Ways and Means chairman—I say was, from his position, the unkindest cut of all. It was known that the gentleman from Pennsylvania and the member from New York had been for some time charged with these attacks upon us, and the contractors and plunderers have for two weeks held high carnival over the prospect that our committee was to be demolished and disgraced by this House, and then they could have "free course, run, and be glorified." Sir, it was fair to give us notice of these attacks, that we might at least be prepared to die with decency. The attacks of the gentleman from Pennsylvania are not to be despised, for he has character enough without ability and ability enough without character to crush almost any committee, and we were prepared for his biting sarcasm and his blistering invective, and we have received it, and yet we survive. We have also listened to the very poor and pitiful attack of the member from New York. Sir, I do not come here to defend the personal honor or personal character of this committee. When the member from New York wants to make any charges, let him make them like a man and not like a skulking coward, and then we will be ready to meet them. Sir, apologies are made for crime and never for virtue. The member, too, in "pitiful imitation," has undertaken to hold us up here as costing the Government more than we have saved, and he has gone to figuring out our expenses. Why did not he sneak into the Clerk's office and ascertain how much each member had been paid, and then produce the amount to the House? And let me reply to his assertion here, that no committee had ever before taken anything for traveling expenses of this kind. Sir, the member, if he knew anything about it, must have known that that statement was false, for no committee of this character has ever been appointed by the House where the traveling and other necessary expenses of the members of which have not been paid. Is there a man who complains of what expenses I have been paid or what my colleagues on the committee have been paid? If there is, let him stand up and say so

While our fellow-members here, during the recess of Congress, were at their homes with their families, and pursuing their ordinary vocations and professions, the committee gave up everything to discharge the duties with which the House intrusted them. And now the clamor is to discharge the committee. Let me say, Mr. Speaker, that if the House believes the charges which have been made against the committee, it will be unjust to itself and unjust to the country unless, before it adjourns to-night, it shall discharge the committee and place upon their foreheads the brand of dishonor. If we have failed to discharge our duty, or are amenable to the charges which have been made against us, I call upon every man here to vote to-day to discharge us. I am sure the committee will gratefully accept their discharge. Conscious of what they have done, they will accept it as a tribute to their fidelity, which has already led them to be attacked by the member from New York, and by every plunderer and thief and robber who has broken into the Treasury. While we have been thus engaged, I find that the member from New York was besieging the doors of the War Department in order to get contracts for one of his constituents. He is a pretty man to come in here and lecture this committee!

The member has been addressing solemn argument to the House in relation to what the committee has saved to the Government and what it has expended. Why, these are all matters of record, and the history of the Department and the appointed commissions will show the amounts which have been saved to the Government through the labors and through the instrumentalities inaugurated by this committtee. In the western department alone, I am told, nearly *two millions* of dollars will be saved through our investigations, and in the arms contracts, one of which the member himself sought to obtain, as I have stated, I was recently told by one of the commissioners, Judge Holt, that if Congress and the Government would sustain him, he thought he would be able to save some *seven or eight millions* more. Nearly *ten millions* saved through the investigations of this committee and commissions appointed upon evidence taken by the committee and upon the recommendations of the committee. And we think, from further evidence taken and presented to the Departments, and from other commissions to be appointed, there will be yet two more millions saved. Sir, twelve millions of dollars saved to the people and the tax payers of the country—as much as it cost to carry on the whole Government under the administration of John Quincy Adams for one year. And yet the committee are to be held up to the country as spending the people's money!

How much, sir, has been spent by this committee in the examinations producing the results stated? How much for ten thousand miles travel; how much for the examination and for payment of mileage of witnesses—nearly five hundred have testified; how much for the report of the testimony—two or three thousand pages? Twenty thousand dollars is all that has been appropriated for all the committees of investigation of the House; and I undertake to say, deducting what the committee has paid into the Treasury in dollars and cents, the total expenditure of the committee thus far is not more than ten or twelve thousand dollars, and I assert no committee has ever conducted its operations with a more strict regard to economy. But why talk about this? I scorn to defend the committee for their expenditures. If the House believe they are not to be trusted with the little expenditures necessary to carry on its work, it is another reason to discharge it. We are not disappointed, however, in the attack; we knew well we should encounter all this opposition and all this obloquy. We knew whose paths we crossed. We knew when we touched the quick. We knew that the harpies and plunderers who have the Treasury by the throat would be upon our heels; and we knew, too, full well who were their sympathizers and who were their abettors, both in this House and out of this House. We, of course, did not expect and could not afford to have their approval. These men do not like the committee; they want it discharged; it is an uncomfortable institution; indeed, it is an expensive one, too. The expense troubles them. The committee is doing great damage. Of course, they do not like it; and why should they, for it is well known

> "No rogue e'er felt the halter draw
> With good opinion of the law."

No denunciations, no reproaches for public plunderers, but all are reserved for the committee that exposes them. And now one word for my Republican friends on this side of the Chamber, many of whom listened with so much apparent, if not real, interest to the attacks upon the committee. Let me talk to them in all the frankness and candor of a sincere Republican, identified heart and soul with the principles of our great party, and desiring to see that party sustained, and those principles triumphant throughout the land. I believe this is a Republican House. I believe the Republicans have a majority. I believe we elected a Republican Speaker, who appointed this committee. I presume, sir, you appointed that committee to make the examinations directed by the resolution raising it. Did you pay the Republican members of that committee no higher compliment than to believe they would be base enough, corrupt enough, dishonest enough to betray the trust you reposed in them, and to cover up fraud if they found it, instead of exposing it? No, sir; you would, as a Republican and as a man, and as the Speaker of this House, have felt dishonored if your committee had proved false to its trust. But I hear it suggested that this investigation is to break down our Republican party.

Now, one word on that point. I have been in Congress some little time, and during that time have seen many investigating committees raised when the Democrats have been in power, and I always found my political friends on hand in season and out of season to ferret out and punish fraud. They went to the country on the exposure of frauds, and the people hurled from power the men who upheld them. We charged these frauds upon Democrats, and we proved them, and held the party responsible for them; not that the party could be held responsible for the rascality of any member of it; but we said that when these frauds had been exposed by us, that the party did not denounce them, but in the House here became their champions and their defenders, and that, therefore, they were justly responsible. The frauds exposed by our committee were not committed by the members of any one party, but all parties have participated—Republicans and Democrats and Americans, all mixed up together. Whatever my Republican friends may do, I do not propose to appear on the record as upholding these frauds, no matter by whom committed or where committed. If by a Republican, so much the worse; for I feel more indignant towards a Republican who perpetrates a fraud on the Government than I do against a Democrat, for the Republican brings reproach and disgrace upon my own party.

Do my Republican friends propose to imitate the example of the Democrats heretofore, and cover up and justify fraud; or do they propose to vindicate their consistency and their honor by standing up here as one man in bold denunciation of any frauds that may have been committed? Will they not take such a position here on the record to-day as to say to their constituents, when inquired of as to these frauds, we heard of these frauds upon the Treasury when our country was in danger; we found base and bad men taking advantage of the perils of the nation to rob it? *We* were in a majority in this House, *we* raised this committee, and when the committee brought to light anything wrong, *we*, as *Republicans*, were the first to denounce and punish it, no matter where it hit. We were determined to leave no smell of fraud on the garments of our party, and to wash our hands of all responsibility of them. The head of our Administration is a man whose integrity, whose purity of purpose, never has been and never will be assailed. The blighting breath of calumny even has never dared to suggest that *his* honesty was impeached. If in any Department of Government there is fraud, no man is more anxious than he is for its exposure. I am proud to say that while others have complained of the committee, it has had his fullest confidence and most cordial coöperation. That should be said, too, of the present Secretary of War, who has labored with us constantly in the work of our investigations. Availing himself of our labors and our suggestions, he is saving to the tax-payers hundreds of thousands of dollars per day, for which he deserves and will receive the gratitude of all honest men everywhere.

Now, sir, let us look for a moment at the position which we, as Republicans, would occupy before the country if this committee were discharged. The effort to discharge it is foreshadowed by the member from New York. I call upon him to introduce his resolution, and if the committee has not the confidence of the House and of the Republican party, let it be discharged. Let the House show its hand. It may be a very simple thing to expose and punish frauds and robberies in time of peace, and have investigating committees when the Democrats were in power; but can we, in a time of war and while our national Treasury is depleted and reeling like a drunken man under the attacks of plunderers, afford, as Representatives of the American people, afford, as representatives of the Republican party, to stand here and whistle down the wind these exposures and give full scope to the bad men who would rob the Government? Whatever other gentlemen may do, however they may deem it due to their party to vote, I, for one, do not propose to stand on the record in that light. As the Representative who has been longest a member, I believe, of any man now on the floor of the House, representing, as I have

for ten years, a district by majorities unparalleled in the history of congressional elections, I should deem myself unfaithful to that noble constituency if I did not stand up with all my ability to protect and defend their interests. My friend from Pennsylvania, [Mr. STEVENS,] the chairman of the Committee of Ways and Means, a great and shining light in our Republican party, reports a tax bill one day so large that it would take a wheelbarrow to get it into the House, and on the next day, almost, you find him assailing a committee because it has stepped in to prevent the unjustifiable depletion of the Treasury by fraudulent contracts. The country, sir, must look with no little interest to the vote of the Committee of Ways and Means when the proposition comes up censuring this committee for its labors to save the Treasury, for the country may look upon the discharge of this committee as nothing more nor less than the indorsement of what has been exposed.

My colleague [Mr. LOVEJOY] also deemed it proper to assail this committee in the absence of all its members one week ago yesterday. That, too, was an unkind cut; and when I read it as coming from him, I involuntarily exclaimed, "*et tu, Brute!*" My friend will pardon me for being a very little classical; he is much more so, and, as the House knows, is much more fresh in the reading of the classics than I am. He spoke of our committee—the "Van Wyck committee"—because if we have not had, as the gentleman from New York [Mr. SEDGWICK] alleges, the valued services of our late respected chairman, we have had, at any rate, the benefit of his name. He spoke of it as a "peripatetic inquisitorial committee," and said it was exceedingly inopportune to bring up these charges and hunt down these men while they were in the field in the face of the enemy. My colleague seems to have considered that it was all very wrong to bring up this subject touching a general when he was absent—although the committee brought up nothing—but it was all very right to fall upon the committee in its absence, and apply to it offensive epithets. I know my colleague felt no personal unkindness to me, for I believe I have long enjoyed his friendship, and I would fain hope his esteem; but I want him to specify what there is in the action of the committee which led him into his denunciation. He does not, I trust, desire to cover up and aid and abet fraud. He will not find fault, I hope, because we have been the means of saving the Government vast sums and lessening the taxation of his constituents. I tell my colleague I am willing to go before the people of our State on this report and on these questions of fraud. If my colleague wishes to assail the committee for its labors before his constituents and before mine, I am ready and willing to meet him in his district or the district I represent.

Sir, when I speak of that district I speak with no ordinary emotion, and when I think of the six thousand soldiers, my constituents, who have rushed to arms in this peril of the country, of so many who have been killed and whose bones now mingle with the soil of every battle-field in the country; when I think that among those men who have thus laid down their lives there were so many near and dear friends; when I think of the sufferings of the wounded, yet with courage unsubdued, and the tears and anguish of bereaved relatives, and of the mourning which shrouds every neighborhood throughout the length and breadth of my district, who will wonder at my speaking with an emotion almost too strong for utterance? And that noble people are willing to suffer and to pour out their treasure as they have poured out their blood in the defense of their flag, so honored and loved and revered as it is by them. They will pay every legitimate tax, not only without a murmur but with cheerfulness. But when on the line of argument of the member from New York, [Mr. ROSCOE CONKLING,] they are called upon to contribute to gorge the pockets of plunderers and jobbers, they would be justified in calling me an unworthy and faithless Representative, did I not interpose all my feeble influence for their protection. I shall stand by my constituency, and "if ever I forsake or forget them may my right arm fall from its shoulder-blade and my tongue cleave to the roof of my mouth."

Mr. Speaker, I did not expect to make a speech of any length this morning. There was one subject which I was or should be prepared to speak on, and at length: that is in relation to matters connected with General Frémont's administration of the western department. The House will bear witness that this committee has not brought General Frémont into these debates. While speech after speech has been made by friends of the general, while my enthusiastic young friend from Indiana [Mr. COLFAX] has over and over again electrified the country by his eloquent defenses of the "Pathfinder," the committee have said nothing, though resting under every provocation. As matters remain, we intended to say nothing. When that report was made, General Frémont was not at the head of an army. He is there now. We had not proposed to enter on the discussion of these matters, for the reason that he was there. Some of my friends are very sensitive when anything is said in relation to General Frémont; but when anything is said in relation to another general, not very far off, I find out they are not quite so sensitive.

Sir, I propose to leave our generals in the field where they are. When they are out of the field I will be willing to try all matters in issue with my friend from Indiana, [Mr. COLFAX.] I am willing to go to the country on that report, so far as regards matters in the western department. I will be ready and willing then to defend the action of the committee against all comers, and when that time comes I will say to every antagonist,

> "Lay on, Macduff;
> And damned be he that first cries, 'hold, enough.'"

Mr. COLFAX. If the gentleman from Illinois is going to have a debate with me in Indiana, he must leave out the "damned."

Mr. WASHBURNE. I did not know, Mr. Speaker, that that would be any objection to an Indiana man. Now, I wish to call attention to one other matter. The House will bear witness that in the elaborate speech of the gentleman from Pennsylvania [Mr. STEVENS] yesterday, he summed up the report of more than eleven hundred pages, covering the transactions of the committee for nearly nine months. And what were the charges which he brought against the committee? The first was in relation to the manuscript of Alexander Cummings. That matter has been sufficiently exploded over and over again. There is not a man in the House, whatever may be his prejudice against the committee, who is not entirely and thoroughly satisfied in regard to it. Another charge was in regard to Sacchi. We have had him appearing to us again to-day. The "star of Bethlehem" has again appeared in the firmament, and poetry has been quoted, and a great deal of sarcasm launched at my friend from Massachusetts, [Mr. DAWES.] I am glad to see he has survived the shafts of the member from New York. I congratulate him, because those shafts were envenomed, and had been prepared for some time; but they fell harmless at his feet.

Now, sir, in regard to this matter of Sacchi, I intend to bring the House, whether they are willing or not, to the consideration of this case, upon which so much capital has been attempted to be made. What do gentlemen mean when they attempt to impugn our action in regard to the contract of Sacchi? Do they find fault with us for exposing this attempted fraud in purchasing one thousand horses in Canada? Let the member from New York get up and say that; let the gentleman from Indiana, [Mr. COLFAX;] let the gentleman from Pennsylvania, [Mr. STEVENS,] and all these men, if they find fault with the committee for exposing these fraudulent contracts, make the charge boldly, and not go beating about the bush, and dealing in innuendoes, and talking about the eternal Sacchi.

Mr. WICKLIFFE. Will the gentleman from Illinois allow me to ask him to inform the House of one fact. The question has been asked, but not satisfactorily answered, and I now repeat it, was this Sacchi the horse contractor? [Laughter.]

Mr. WASHBURNE. I say to the gentleman from Kentucky that he will have to go to the member from New York, his attorney, now on the gentleman's left.

Mr. WICKLIFFE. His New York attorney was asked the question, and has not answered it. That is the reason why I ask the gentleman from Illinois.

Mr. WASHBURNE. What was the action of the committee in relation to this Sacchi contract? The gentleman from Indiana [Mr. COLFAX] knows what that action was, because he has read this testimony. He has never made any charge against the committee in this connection, because he has read the testimony, and knows what the conduct of the committee was. I give him credit for it. The history of the contract was thus: Captain Turnley, the quartermaster at St. Louis, says that one Wood—Ike Wood, as he is called, who has done the committee the honor to publish a pamphlet against them, as a great many other gentlemen have done; this Ike Wood is the man who appears in the testimony, and I am not going through the whole of it; but Captain Turnley states that Ike Wood called upon him and told him that General Frémont wanted him, Turnley, to draw out a contract for a thousand horses. And where were these horses to come from?

Mr. COLFAX. Will the gentleman yield to me?

Mr. WASHBURNE. No, sir; I cannot yield further.

Mr. COLFAX. The gentleman says I have read the testimony, and that I know what this contract was. Now, I desire to say a word in relation to that contract.

Mr. WASHBURNE. I cannot yield to the gentleman.

Mr. COLFAX. The gentleman should not bring my name into his speech in connection with a transaction, unless he will permit me to prevent myself from being placed in a false position in reference to it.

Mr. WASHBURNE. I will place the gentleman from Indiana in no false position. I said that the gentleman from Indiana understood this contract, and, understanding all about it, he had not assailed the committee in regard to it. I ask him if he has assailed the committee upon it?

Mr. COLFAX. I have not.

Mr. WASHBURNE. Then I have not misrepresented the gentleman, and I must respectfully decline to yield.

I was going on to say that Wood appeared with this Sacchi. Now, who is Sacchi? That is the question. "Who struck Billy Patterson?" That is another question. [Laughter.] Wood told Captain Turnley to draw a contract for a thousand horses. Where were they to come from? Were they to come from Missouri? Were they to come from the State of my friend from Indiana, or from mine? Were they to come from Wisconsin or Iowa? Oh, no; that would not do. They went—and I see my venerable friend from Indiana [Mr. LAW] laughs a little at the idea—from St. Louis to Canada to buy the little Canuck ponies at $130 apiece, which would have been just about as useful for Army purposes as so many sheep. That is the Sacchi contract.

Captain Turnley, an old, experienced, and, I may add, honest quartermaster, brought "red tape" into the contract. That is a very objectionable term now-a-days. Men who want to get contracts, when they find an incorruptible public officer like General Ripley and others, who act according to law, who interpose obstacles in their way, at once raise the cry of "red tape!" "old fogies!" The honest quartermaster at St. Louis, Colonel Crosman, must be removed because he is an "old fogy," and McKinstry must be placed in the position, in order that "red tape" should not be interposed between the contractors and the Treasury, and he did not interpose any such obstacle.

But I am wandering a little from the Sacchi contract. I said that Captain Turnley had put in "red tape" to interfere with the execution of this contract. He drew the contract in duplicate, according to Army regulations, and he bound up the contracting party in regard to the purchase and delivery of the horses. I say, however, in justice to General Frémont, that the committee never believed he had anything to do with this matter. On the other hand, his conduct was just what would have been expected of an honest man. Sacchi did not comply with the conditions of his contract, and wrote to St. Louis for an extension of time. And this was, I believe, the first time General Frémont had had his attention called to the contract. He very promptly said that Sacchi should not have another day, and his contract was put to an end. Yet these gentlemen in this House labor hour after hour to convince this body that in this matter of the Sacchi contract the committee have assailed

General Frémont. What do the committee say? The gentleman from Pennsylvania, [Mr. STEVENS,] yesterday called the attention of the House to this portion of the report of the committee, and when I asked him to allow that part of the report to be read exculpating General Frémont in the matter, he utterly refused. Having the floor now, however, I propose to read it:

"It is due to General Frémont to state that he seems not in anywise to have been interested in Sacchi's having the contract, for when he was advised by Captain Turnley that Sacchi wanted more time, he promptly stated, as has already been set forth, that not a day more could be given."

That, sir, is what the committee say. Now, let us look a little further. The testimony shows that a portion of the horses were received upon this contract, and that there was some six or seven thousand dollars due, which, with other claims, went before the commission composed of Messrs. Holt, Davis, and Campbell, who went to St. Louis to examine into these transactions. That commission, I may add, composed of those distinguished men, sustain the committee on Government contracts in every single position they take. What do this commission say in regard to this claim?

"Among other claims submitted to us, was one of Louis Bitting, amounting to $6,500, for furnishing fifty horses. Accompanying it was the copy of what purported to be a contract entered into by Captain Turnley, on the part of the Government, and Augustus Sacchi, of New York, 'to purchase one thousand horses and mares in Canada, not over sixteen nor under fourteen hands high, and deliver them in St. Louis at $130 a head,' and also a copy of an assignment of the contract by Sacchi to Bitting. Having been informed that the contract was made by Captain Turnley by direction of the military secretary of the general commanding, and not from any judgment of his own, and it appearing upon the voucher as filed that the same quartermaster had refused to pay the voucher issued in the name of Sacchi to Bitting, we gave notice to the attorney of the claimant that the latter must appear in person, with a view to his examination under oath; and also that he produce the original contract and assignment. The reasons why this was required will sufficiently appear in the testimony of Captain Turnley before the investigating committee. Though the claim was for the large sum of $6,500, none of the original papers were filed, nor did Mr. Bitting ever appear before us. It is hardly possible that he would have run the chance of losing a claim of such magnitude, unless there had been some urgent reason for declining to submit himself to such an examination, either on his own account or on that of the person from whom he obtained an assignment of the contract."

Such was the rottenness, such the corruption of that contract which we had exposed, although there were $6,500 due upon it, yet for fear of further exposure those men never appeared and claimed the amount due them.

But, Mr. Speaker, this committee are assailed for bringing out these facts, and the matter is pressed until the House is tired of hearing of the Sacchi contract. This is a contract in which the committee have saved to the Government $6,500 to pay their mileage, I suppose, and per diem, according to the New York member, all against the Constitution of the United States in such cases made and provided. [Laughter.] Do gentlemen complain of that? Where is the member who wishes to get up and denounce the committee for the exposure of that fraud?

One word more in regard to the member from New York—and I return to him with great reluctance. In his opening, the member from New York delivered a speech in regard to trial by jury, and how we were striking down a man's character and contracts without giving a hearing to parties interested. Now, sir, I ask the House, in the light of the member's speech, to read a resolution which he introduced into this House the other day. I ask the House, I say, in the light of the speech of the member from New York on the sacredness of the right of trial by jury and breaking down contracts without notice, to listen to this resolution introduced by him this session, which I ask the Clerk to read:

The Clerk read, as follows:

"*Resolved by the Senate and House of Representatives in Congress assembled*, That all orders unexecuted from the War Department for the manufacture or delivery of fire-arms by companies, firms, or individuals, who were not at the time of the issue of such orders manufacturers, importers, or regular dealers in fire-arms, be, and they are, rescinded and annulled; and that the Secretary of War be authorized, in his discretion, to suspend until the further action of Congress, or wholly annul any or all other unexecuted orders for fire-arms."

Mr. WASHBURNE. Thus, Mr. Speaker, you will see that by one fell swoop this champion of the rights of the people, and of trial by jury, by a resolution of the House proposes to strike down contracts for fire-arms in existence. And yet he has the face to get up here before this House and charge this committee with trampling upon the rights of citizens! It is worthy of him. There is his consistency. He started out in this Congress as a man who was going to punish frauds. He introduced a bill—and I will do him the justice to say that I believe it was a very good bill—to punish these frauds which we have exposed. But now a change comes over the spirit of his dreams. Instead of punishing them, he appears to-day as their champion and as their defender.

I regret that I have had thus to characterize the member from New York. This is none of my seeking. His attack upon the committee was infamous and base, and of course the member cannot expect to go unscathed. I will permit no man to thus challenge my conduct on this floor or off this floor.

The SPEAKER. The gentleman's remarks are out of order.

Mr. COLFAX. Will the gentleman from Illinois be kind enough to read to the House the sworn statement of Mr. Sacchi which was put into his possession this morning. I do not know Mr. Sacchi, but I understand that he has placed a sworn statement in the hands of the gentleman from Illinois, which I would like to have placed in the possession of the House.

Mr. WASHBURNE. Since I have been sitting at my seat I have received a paper signed by one Sacchi, this brilliant "star of Bethlehem," who, according to the member from New York, came here "to fight in freedom's holy land." There is such a letter from that Sacchi, but I have not read it. I will pass it over to the gentleman from Indiana, and after looking at it, if he will inform me, I will take the matter into consideration. I will then consider whether it is worth while to take up time with the reading of it.

Mr. COLFAX. As Mr. Sacchi cannot in any other way answer the charges that are made against him, I hope that the gentleman from Illinois will publish his letter in the Globe with his remarks.

Mr. WASHBURNE. I prefer to make no promises to put in or keep out anything from my speech. I know that my friend from Indiana, who has been with me here so long, and with whom I have been in so many well-fought fields, in the early as well as in the latter days, does not expect me to do that. Now, does he expect me, or that it would be just for me, to publish with my remarks a letter which I have not read, and of which I know nothing?

Mr. COLFAX. My rule is never to attack a man who is absent without giving him an opportunity to appear in his own defense. As the gentleman has talked about going with me before my constituents, I will say that I will attack no man, whether he be a general, member of the Cabinet, or any other public officer, until he has had an opportunity to confront the witnesses who have made the charges against him, and given the testimony upon which they are founded. Every man should have an opportunity of defending himself against the charges made against him.

Mr. WASHBURNE. That is what would be expected from the gentleman's sense of justice. But he is mistaken about my proposing to meet him in his district. If I should go there to meet him, where he has such hosts of friends, it would be at a disadvantage. On the prairies of Illinois I am somewhat at home, and I would always be glad to see him there.

I did not intend to-day to occupy the attention of the House but for a few moments, and might not have spoken at all had it not been for the attack made upon the committee. It had been my determination when I spoke on this subject to speak to a particular portion of these investigations. I have forborne to do that for the reasons which I have stated. The House, in view of the facts before it, will appreciate that forbearance. I am sure that the gentleman from Indiana will appreciate it. I do not propose to go into that discussion to-day. I propose that the case of General Frémont shall not be taken up so long as he occupies the position he now does in the field. If I had been present in the House when the distinguished gentleman from New York [Mr. DIVEN] called up his resolution on this subject, I should have endeavored to secure its postponement. What I have said has only been in defense. I have only spoken in reply to the extraordinary attacks which have been made on the committee.

My colleague on the committee, [Mr. HOLMAN,] who will follow me, will speak more particularly to the resolution first to be considered by the House, in relation to the payment of money to Simon Stevens ($51,000) on an arms contract, where he paid no money and rendered no service. If the House desire that Mr. Stevens shall thrust his arm into the Treasury, already depleted by too many such transactions, and put this enormous sum into his pocket, let them vote it for their constituents to help pay hereafter. For one, I propose to consent to no such transaction. My colleague will speak particularly as to the facts in this matter, as disclosed by our investigations.

Mr. Speaker, I would be glad to allude to some other matters of importance before my time is out. I will ask the Speaker how much time I have?

The SPEAKER. Three minutes.

Mr. WASHBURNE. It is too short a time, and I will give way to my colleague now, particularly as I cannot lay my hand on my memoranda.

Mr. KELLOGG, of Illinois. I ask the unanimous consent of the House that my colleague have time to finish his remarks.

There was no objection, and it was so ordered.

Mr. WASHBURNE. I have mislaid the papers to which I wish to refer, and my colleague can proceed with his speech until I can find them.

Mr. ROSCOE CONKLING. I object to that, unless I can be heard in reply.

Mr. HOLMAN. We expected that from the courtesy of the gentleman.

Mr. ROSCOE CONKLING. I do not object if I can have an opportunity for reply.

Mr. HOLMAN obtained the floor, but yielded to

Mr. SHANKS. Mr. Speaker, I want to say a few words upon this very troublesome Sacchi question; and I desire to do so mainly for the reason that it has been linked with other matters. Gentlemen of the committee have seen fit to claim that they have saved to the United States Treasury the value of fifty-eight horses. I will show that the Government has received those horses and not paid for them. Captain Turnley, in swearing in relation to the horses furnished by Bitting, who was the assignee of Sacchi, as appears on pages 792 and 793 of the evidence taken by this committee, said:

"On the 2d of October the first batch arrived, thirty or upwards, and afterwards a few more, making fifty all together. They were not as good horses as were required by the terms of the contract. There were some mares among them. They were by no means the class of horses to be received under that contract; and although my inspector, Miller, had received and branded them, they were here really subject to acceptance or rejection. I therefore sent my inspector here, and Mr. Reeside, who happened to be here from Cincinnati on that day, along with Mr. Bitting and his own assistant, to examine the horses carefully. I allowed them to put the horses into a livery stable two days that they might recover from the rack and wear of a long journey on the cars. Under those circumstances the inspectors rejected some twelve or fourteen of them. Mr. Bitting seemed to be in a very bad humor about his horses. I could not do anything better for him than to reject them. But at that very hour, while we were talking about them, a requisition came from General Smith, from Paducah, stating that he must have forty or fifty horses, and sent his quartermaster here to get them. I said to the quartermaster that those horses were at his service if they would answer his purpose. He went to the stable with Bitting and my inspector and looked at the horses. He said they were better than none; that he thought they would pull their wagons, and he took every one of them. I said to Bitting that if they took those horses for General Smith we would accept them, although our inspector had rejected them. So I took the whole fifty horses and shipped them in one hour to Paducah. Bitting then came in for a settlement, but I told him I could not settle with him. But as he insisted upon a settlement, I told him my objection. I told him the contract was not assignable. He said it was; that I was to pay to Sacchi or his assigns. He, for the first time, then discovered that the contract was not assignable. It was written 'payable to Sacchi or his assigns," because he might die and his widow or executor might want the money. A long dispute arose about that matter. He said that a judge in Philadelphia, who knew more about it than I did, said it was assignable. Bitting was four or five days importuning to get a settlement. I told him that I could at any rate only pay him for those horses, less twenty per cent., though I did not think that I should pay him anything under the circumstances."

And for which neither Turnley or any other person has paid anything, and of which robbery the gentleman from Illinois [Mr. WASHBURNE] speaks in glowing terms as a triumph of the committee in having kept from the owners of the fifty horses the sum of $6,500 due for them, as shown by Turnley's testimony, submitted with the re-

port by the gentleman from Illinois, now acting chairman of the committee, the horses having gone into the service of the Government in General Smith's department at Paducah, Kentucky, delivered by Bitting, on the Sacchi contract, and by Quartermaster Turnley at the time so received, and with the special promise that they should be paid for, and who further testifies:

"I finally instructed Mr. Clark, the auditing clerk in my office, that if Bitting would renounce forever all claim for damages against the Government, and indorse that upon his contract and voucher, I would give him a voucher for all the horses. Bitting demurred at that for two or three days, but finally accepted it. Then I had to consider the matter again."

And what is still more surprising, the gentleman from Illinois [Mr. WASHBURNE] quoted in support of this monstrous assumption of power at the expense of justice from that cunningly devised fable known as "the final report by the commission on war claims at St. Louis," and better known as Holt's attack on Frémont, the first line of which reads as follows: "The undersigned, commissioners appointed to examine and *decide* upon claims," &c.; being a false assumption, no commission having such power emanating from any of the Departments of this Government; yet, sitting in that mission of assumed authority, commit the flagrant, uncommon, and monstrous act of boasting, and recording the boast, that *parties, persons having claims* to be settled with the Government, feared to present them in this extraordinary and self-constituted court, met to "examine and decide" whether they would sustain the contracts of the Government or violate them and slander and condemn the claimants. Since the days of Jeffries until this, no court of which I now recollect, either in fact or assumed, has felt it a duty to threaten parties to its records or comment upon their fears to enter into what seems to have been a necessary competition with the court, instead of its clemency and protection of their legal rights.

The following is what the Holt report says on the Sacchi and Bitting contract:

"Among other claims submitted to us was one of Louis Bitting, amounting to $6,500, for furnishing fifty horses. Accompanying it was the copy of what purported to be a contract entered into by Captain Turnley, on the part of the Government, and Augustus Sacchi, of New York, 'to purchase one thousand horses and mares in Canada, not over sixteen nor under fourteen hands high, and deliver them in St. Louis at $130 a head,' and also a copy of an assignment of the contract by Sacchi to Bitting. Having been informed that the contract was made by Captain Turnley, by direction of the military secretary of the general commanding, and not from any judgment of his own, and it appearing upon the voucher as filed that the same quartermaster had refused to pay the voucher issued in the name of Sacchi to Bitting, we gave notice to the attorney of the claimant that the latter must appear in person, with a view to his examination under oath, and also that he produce the original contract and assignment. The reasons why this was required will sufficiently appear in the testimony of Captain Turnley before the investigating committee. Though the claim was for the large sum of $6,500 none of the original papers were filed, nor did Mr. Bitting ever appear before us. It is hardly possible that he would have run the chance of losing a claim of such magnitude unless there had been some urgent reason for declining to submit himself to such an examination, either on his own account or on that of the persons from whom he obtained an assignment of the contract."

If this contract was not a good one for the Government, there can be no loss sustained to it by Bitting not fulfilling the remainder of it, and in that case Bitting should have been paid for his fifty horses, as shown by the testimony of Turnley is due him. If the contract was a good one for the Government, then the charges of fraud by the Van Wyck committee fall to the ground. And no man or body of men, assuming to act with the authority to *decide* claims, are justifiable, on the most common grounds of justice or discretion, in animadverting in their records before investigation upon the character of claims or claimants, and a deviation from this forms the partisan.

Now, sir, a word in relation to these carbines. It is immaterial whether these carbines were paid for or not. Was it not a contract upon the part of the Government, executed in good faith by the Government, through a Government officer? I want to draw the attention of the House to this fact, that the Hall carbines were manufactured by the Government, in the Government armories, under an ordnance officer. They had been accepted in 1855 as Government arms. In the regulations of that date I find they are valued at twenty-one dollars. This was prior to the time when they were rifled. I find in a regulation of more recent date, and since the contract for these arms was made, they are valued at seventeen dollars.

I find, by the report of the committee, that these arms were sold by the Government recently for $3 50 apiece. I desire to know who committed that fraud? If the Government sold arms for $3 50 shortly after they were appraised at $17, I want to see that fraud explained by the commitee. Is it the man who purchases them, when the arms are needed for the Army, at $22, who is guilty of fraud, and is he to be charged with committing a fraud, or is it he who sold them originally at $3 50, in a time of war, who is justly chargeable with the fraud? The committee do not ask the man who sold the arms for $3 50, when the Government needed them, to pay the difference in their value to the Government. The committee suffer him to go; they suffer the Treasury to be robbed in that way, and attempt to strike at another, who had nothing whatever to do with the original wrong.

I am obliged to the gentleman from Indiana for giving me the opportunity to present these matters to the House.

Mr. HOLMAN addressed the House for an hour and three quarters, having been permitted to occupy a portion of the time allotted to Mr. DAWES in addition to his own hour. [His speech will be published in the Appendix.]

Mr. DAWES obtained the floor.

Mr. OLIN. I hope the gentleman from Massachusetts will yield to me for a moment.

Mr. MORRILL, of Maine. I object.

Mr. DAWES. Mr. Speaker, I deprecate as much as any man the personalities which have occurred in this debate, and of which I have had my full share. No man can regret them more than myself.

Only a word as to the expenses of the committee. The committee never charged a per diem of any kind; and their only charges have been for their proper and necessary expenses, according to the rule adopted by all committees, as ascertained from the First Comptroller of the Treasury, calculated while traveling at ten cents a mile actual travel on business of the committee, which included all expenses of every kind while so traveling; the sum total not exceeding, I think, $13,000.

And now, leaving all other personalities out of view altogether, I desire to bring the House back to the question which is pending before it, and to ascertain what it is the committee want the members to vote for. I ask them to turn their attention to the resolutions which the committee have reported, and ask them to vote for. I ask members, in all fairness and candor, to read those resolutions. The first resolution, upon which the vote will be taken, is in these words:

"*Resolved*, That the Secretary of the Treasury be requested to adjust the claim against the Government for the five thousand Hall carbines, purchased through Simon Stevens, Esq., by General John C. Frémont, on the 6th day of August, 1861, and afterwards delivered at the United States arsenal at the city of St. Louis, on the basis of a sale of said arms to the Government for $12 50 each, rejecting all other demands against the Government on account of the purchase of said arms."

That resolution proposes to pay a fair and reasonable price for these arms. I understand the price which is there fixed to be the same as that fixed by the commission before whom the claim is submitted. It is the recommendation of the committee that it shall be settled on those terms. As to the amendment proposed by the gentleman from Pennsylvania, [Mr. STEVENS,] I do not look upon it as material, and I do not care a copper whether it is adopted or not. We are not here to censure any living man, but for the purpose of throwing ourselves in the way of an attempt to take $50,000 out of the Treasury for nothing. The whole profit is $90,000; and if this claim is settled at $12 50 for each arm, it will still leave a profit of $40,000.

The next resolution is in these words:

"*Resolved*, That the practice of employing irresponsible parties, having no official connection with the Government, in the performance of public duties which may be properly performed by regular officers of the Government, and of purchasing by private contract supplies for the different Departments, where open and fair competition might be properly invited by reasonable advertisements for proposals, is injurious to the public service, and meets the unqualified disapprobation of this House."

I submit, in the light of the experience of the last six months, that no man can refuse his vote for that resolution. It is said that the exposures made by this committee have brought the nation into disgrace abroad. Is it the committee that has brought the nation into disgrace? Is it the court where scandal is tried that brings disgrace upon the parties, or the scandal itself? The question is, shall we cover up this sore, or open and probe it to the bottom? The question is, whether, after we had appointed the committee and they had ascertained that these frauds existed, we should prefer that they should be concealed from the public, than that the fact should go abroad that such disgraceful frauds existed in this nation? There may be disgrace when we show ourselves unable to come up to the rescue; when we show that we have not vital life enough for public virtue; that we have not recuperative energy enough to reform these abuses when we have clearly ascertained that they exist in our midst. If we do not at once strike down these frauds, and do all within our power to prevent them in the future, then, indeed, they may say abroad, and they may say at home, that all love for public virtue has abandoned our land and our Government. But, sir, no man can be personally responsible when we have done what in us lies to correct these abuses.

The House is asked to vote down these resolutions, first, because of a typographical error, which, as I have already stated to the House, I sought to correct last March, and, secondly, because the committee confounded two men of the same name, which fact was admitted on last Friday upon this floor. Those, sir, are all the sins which have been brought to our door. I doubt not there are other mistakes. It would be wonderful, if, in such a vast amount of testimony as they present to this House, the committee had not made more mistakes. We submit to you, on our character and good faith, these resolutions for your adoption. We submit to the House, who raised this committee and set us about this work, that the public reproach at home and abroad will not be that we have labored to lay bare and correct these evils, but that, having had them brought to our notice, we shrunk from their magnitude and consequence. It is said that it is better far that they had been kept out of sight—better far that you had covered them up with a vail, than to have opened them to the sight, and to have probed them and corrected them. That is not the position which I take; and my friends on this side of the House ought to know it when they undertake to have these resolutions voted down. Gentlemen have offered amendments reflecting on the character of Government officials; they are amendments for which this committee is not responsible.

Sir, shall we be a whitewashing committee? Is it the complaint that we have not been a whitewashing committee? It is claimed that we have been a star chamber. Now, in point of fact, that is not true. We pursued the work which had been intrusted to us. We were a committee of the grand inquest of the nation. This House, in its State papers, if not in the Constitution itself, is held to be the grand inquest of the nation. This grand jury, in any inquiry it makes, acts in the manner of a grand jury. It can do nothing but bring these facts before those who have the power to enter judgment. We have pursued the matter which was intrusted to us in that way.

And, sir, we now submit these two resolutions, the second one modified according to the wishes of the gentleman from Pennsylvania, if the majority of the House is satisfied that it should be so modified, though I shall vote against the modification. Then, when these two resolutions are presented, I submit to the House whether, in the face of the present state of things in the country, and at this time, we shall hesitate, we shall shrink from recommending to the Secretary of the Treasury not to pay more than $40,000 profits upon a single trade for five thousand arms? Shall we shrink from that? The Secretary of the Treasury is not bound by our acts, I know; but I am happy to say here, as I have elsewhere, that he has cooperated with the committee to the full extent of the purposes and wishes of the committee, in attempting to correct all these abuses, and I have no doubt that he will take the action of this House to-day upon this resolution as decisive with him.

On the other hand, have we not seen a system of commissions to middle men growing up—I care not who set the first example—all over the country, stepping in between the producer and fur-

nisher on the one side and the Government upon the other, and has not that cost this Government millions and millions of dollars? We call upon you, as one of the convictions of the committee growing out of their proceedings, covering over eleven hundred pages, to say here that that practice, wherever it is known, shall be abandoned.

There are submitted to the House amendments to the resolutions, but we as a committee do not ask you to vote for them. They are to be passed upon by each member upon his own responsibility and his own opinion as to the propriety of the amendment. But the committee submit to you, not only in the face of this country, but, as the gentleman from New York says, of the whole world, whether this nation, which the Old World has come to believe, for some cause or other, is corrupt in all its transactions, in all its dealings, has vital power enough to recover itself and correct this evil. When it shall be shown to the nations of the earth, and when it shall come to be understood, that the moment these abuses are pointed out, we contain within ourselves the elements of rectitude sufficiently strong and sufficiently vigorous to apply the remedy, then the nations of the earth will turn that which has been scorn and ridicule into respect and admiration.

[Here the hammer fell.]

Mr. DAWES. I move the previous question.

Mr. BINGHAM. I hope the gentleman will not move the previous question.

Mr. OLIN. I hope the gentleman will give way a few moments.

Mr. COLFAX. I ask for a moment to make a single suggestion.

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

Mr. WASHBURNE. I hope the gentleman from Ohio will withdraw his motion to adjourn.

Mr. DAWES. I withdraw the demand for the previous question; I give way to my colleague upon the committee, [Mr. FENTON,] upon the condition that he will renew the demand for the previous question when he leaves the floor.

Mr. FENTON obtained the floor.

Mr. COX. I withdraw my motion.

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

Mr. OLIN. I appeal to my colleague to allow me a single moment.

Mr. FENTON. I will yield a moment.

Mr. LOVEJOY. I withdraw my motion.

Mr. OLIN. I am under obligation, Mr. Speaker, to my colleague from New York; the only purpose I had in rising at this moment was to say but a word which I deemed proper to say upon this occasion, and the importance of which perhaps will be lost upon any subsequent hour of the session.

I rise to no purpose of entering into this discussion, either to advocate the report of this committee or to attack it. In my judgment, if the committee cannot defend their report, it ought to fall before the judgment of this House. But I do rise for the purpose of saying one word in relation to a subject which has been broached by my friend from Pennsylvania, [Mr. MOORHEAD.] It is the second occasion since I have been upon this floor, in which gentlemen have taken the opportunity of remarking in reference to the conduct of the officer at the head of the Ordnance department, and to reflect upon the conduct of that gentleman, if not by way of impugning his integrity or capacity, at least by way of disparaging his efforts while he has been at the head of that department.

Sir, my duties in this House have almost daily brought me in contact with that officer since the commencement of the present session of Congress. It is said by the gentleman from Pennsylvania [Mr. MOORHEAD] that he did not know that there is anything morally derelict in that officer, but that he has not yet waked up to the exigencies of this occasion. Is there any man upon the floor of this House who does not know that the earliest moment our present difficulties reached General Ripley, while abroad in China, he sought the first opportunity to return to the United States to offer his humble services to the Government; and that he reached here much quicker than most officers in the naval and military service of the Government, who had the advantages of steamships to return them to the service of their country if they desired? One charge was made upon a former occasion, which I refuted, that he had been instrumental in selling those valuable arms to the service—Hall's carbines—at a mere nominal consideration, and which were subsequently purchased by General Frémont, or by his agent, whereby the Government was defrauded. I was not aware upon that occasion of all the facts, but it so turned out that General Ripley had nothing whatever to do with that transaction; that the arm was condemned years ago, and an order made for its sale before he returned to this country, and the sale made in pursuance to that order.

Now the gentleman has made another charge against General Ripley—that he has caused to be sold some Springfield muskets, which were subsequently purchased by the Government as a more valuable arm than they could purchase anywhere else. Now, I venture to say, without knowing anything about facts, that there is not one word of truth in it. Let me say to the gentleman that not an arm belonging to the United States Government has been sold since the 4th of March, 1861, unless it had been condemned by a regular board of officers of the Ordnance department, and sold in pursuance of that order. And I venture to assert that General Ripley has not been upon such an inspecting and condemning board since his return to this country, I care not who asserts it. And so far as any sale of arms by the Government is concerned, I venture to say that no other connection of General Ripley has been had with such sale unless in carrying out the order of the Department in the discharge of his duties.

Now, sir, while I make no attack here, and am no party to this controversy, while I regret as much as any member of the Republican party can possibly regret, that exhibition which we have had during the past two days, and perhaps three, I do protest, that when gentleman find it necessary, in defense of their friends or of any particular measure, to pull down the character and reputation of other men, I will not for one sit in silence and listen to it. I assert, without fear of contradiction, that so far as the character and conduct of this particular officer is concerned, with whom I have been in daily contact, that no officer of the Government has discharged his duty with more fidelity, with more entire devotion, and with more patriotic zeal, than this same gentleman, who has been the constant object of attack in this House. And why? Is it because this report, in reference to the purchase of arms, is considered by some gentlemen necessary to be discredited in defense of their particular friends, that these attacks are made? If it is, I beg gentlemen to peruse carefully that report, to trace it step by step, and see with what fidelity, with what regard to duty, with what intelligence, and with what reference to public interests, the duties of that officer have been discharged. If his admonitions had been listened to, what an amount of money would have been saved to the public Treasury. Now, about the loyalty of some men there may be a question, but it is not possible that in reference to this man there should be a question of controversy.

I am glad to have this opportunity to raise my voice in vindication of him. I know it is said frequently, by way of taunt and ridicule, that this man is behind the age; that he has not listened patiently to every man who has come to him with some device with which he is going to put an end to this present rebellion, and to modify the whole system of warfare existing in this country. Every variety of "devilish enginry" has been brought for his inspection, and all the ordnance officers of the Department would not have been sufficient to have examined all the contrivances that have been thrust under the noses of the Ordnance department for them to inspect, examine, and recommend for adoption. General Ripley has put all that aside. He had other duties to perform. The remark has been frequently made that his real preference is for the old arm of the service, the old Springfield smooth-bore musket, and that he has not listened with patience to every new invention presented to him. I undertake to say now that if you will listen to the experience of the best-informed military men in the Army, the almost concurrent judgment of those men will be that the old smooth-bore Springfield musket is the best arm now in the service, either domestic or foreign, and that is the opinion of General Ripley. I have heard him avow it frequently and assign his reasons for it, and I have heard the most accomplished men in your Army avow the same opinion, and for the obvious reason that until a man is so familiarized with the rifled musket, and so skilled in its use as to keep it in order, the Springfield rifled musket is often found to be a far inferior arm to the smooth-bore musket.

Mr. LOVEJOY. I rise to a question of order.

Mr. OLIN. My friend usually creates more disorder than he quells. [Laughter.]

Mr. LOVEJOY. My point of order is that the gentleman is not entitled to the floor during the time of his colleague, if there is objection; and I object.

The SPEAKER. If the gentleman had made the objection when the floor was taken by the gentleman from New York it would have been in time, but the Chair thinks it is too late now.

Mr. OLIN. Out of courtesy to my friend from Illinois, whom I greatly respect, I will resign the floor to my colleague.

Mr. FENTON resumed the floor.

Mr. COLFAX. Will the gentleman allow me a single moment to make a suggestion?

Mr. FENTON. I must be excused for declining to give way to any gentleman for any purpose. All will agree that it is time this debate was brought to a close.

Mr. COLFAX. The gentleman will allow me to make a single suggestion to him. It is simply this: that the resolution shall be amended by striking out the price fixed by the committee to be paid for these carbines, and inserting "at the prices fixed for the same in the revised United States Army Regulations," which is seventeen dollars. With that amendment, I will cheerfully vote for the resolution.

Mr. OLIN. Let me say a word as to the price.

Mr. FENTON. I must decline to give way to my colleague. I desire to make no speech, nor to detain the House two minutes.

Mr. WHITE, of Indiana. Will the gentleman allow me to ask him a question in reference to the resolution?

Mr. FENTON. I must decline. I wish first to ask the consent of the House that a portion of the testimony of General Ripley, given on the 16th of December, 1861, may be printed with his written statement which has been submitted to the House to-day.

Mr. HOLMAN. I suggest to the gentleman that he allow it to be read. It is only a paragraph.

Mr. FENTON. Very well; I will ask the Clerk to read it.

The Clerk read, as follows:

"The Hall's arms had been tried in service and been reported unfit for use as a military weapon, and none of these arms were issuable to troops. Many had been previously condemned and sold at auction, bringing from six dollars (the highest price for a small lot) to seventy-two cents, and not averaging at auction more than two dollars. The condemnation for use in service was on account of the principle of the arm, and applied to new as much as to damaged arms. In September last a special estimate was received at the Ordnance office for funds to pay for arms purchased by General Frémont or his agents. Among the purchases, as shown by the vouchers accompanying that estimate, were Hall's carbines, (number not remembered, but quite considerable,) at $22 50 each. Whether they were the same arms that Eastman bought or not is not known at this office. The Ordnance office declined to send the funds estimated for, and submitted the estimate to the Secretary of War, giving its reasons therefor, that the purchases were not made as required by law, third section of the act of February 8, 1815; that the prices for some of the articles purchased (specifying, among others, the Hall's carbines—an arm rejected, after trial, from the United States service—at $22 50) were very high; and that there was no evidence that the arms purchased had undergone inspection by a United States officer, or any inspection at all."

Mr. SHANKS. When was that testimony taken?

Mr. FENTON. Last December. It has been stated by one of my colleagues, [Mr. ROSCOE CONKLING,] and by other gentlemen upon the floor of the House, that the explanations of the committee were disingenuous in regard to the errors, or alleged errors, in the testimony touching Mr. Sacchi and Mr. Alexander Cummings. That there may be no occasion for any complaint, I take this opportunity to state that, though not at St. Louis with the committee, the facts warrant me in saying that the Mr. Sacchi having the horse contract is not the Mr. Sacchi mentioned as a member of General Frémont's staff. I regret the error, and the prejudice to the reputation of either, if any, by this confounding of names.

Then in regard to the note of Mr. Cummings, I have to state that the error was made by the mistake of the printer alone, and from the proof-

sheets of this as well as all other testimony the committee drew up their report, it not being possible to use the manuscript, and I am, therefore, free to acknowledge that the phraseology employed by the committee, under the circumstances, touching this particular, was unintentionally prejudicial to Mr. Cummings. This much I say in justice to these parties, and in explanation of the unintentional errors of the committee, and I believe these are the only ones complained of.

Now, one word in reference to a complaint made by the gentleman from Pennsylvania [Mr. STEVENS] in his speech yesterday. He alleged that the committee had failed to furnish persons implicated in the investigation with copies of the testimony, or to afford them an opportunity to come before the committee and reply. I wish to repeat my statement made at the time, that in no instance during the sessions of the committee in New York, Harrisburg, or in this city, when I was present, except in one instance, that I bring to mind now, did they fail to furnish the party accused with a copy of the testimony affecting him, or to afford him the opportunity of coming before the committee and explaining.

The gentleman said the journal of the committee did not show it. The journal does not show that the committee furnished the Secretary of War with a copy of the testimony taken before them. It does not show that they furnished information to Mr. George D. Morgan, or Mr. Comstock, or to parties interested in the Cataline, or others, with copies of the testimony or the character of the charges which implicated those parties. It is, nevertheless, true, and I assert again that except in one instance there was no such failure on the part of the committee, so far as my personal knowledge goes.

Mr. COLFAX. Did they do it in the western department?

Mr. FENTON. I repeat, although it can scarcely be necessary, I apprehend, for the information of the House or the country, that I was at no time with the committee during their investigations in the western military department. I was not only absent from their sittings, but I took occasion when the report was made to the House to dissent from the conclusions of the committee upon the testimony taken in that department. I demand the previous question on the resolutions.

The previous question was seconded, and the main question ordered.

Mr. STEVENS. I move to lay the whole subject upon the table.

Mr. WASHBURNE. I demand the yeas and nays upon that motion.

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

The motion was agreed to; and thereupon (at five minutes after five o'clock, p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, *April* 30, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented two petitions from merchants, traders, and citizens of Brooklyn, New York, praying for the passage of a general uniform bankrupt law; which were referred to the Committee on the Judiciary.

Mr. HARRIS. I present the memorial of the Chamber of Commerce of the city of New York. It is a more than usually interesting document. It relates to the subject of taxation; and as it emanates from a highly respectable body of men representing the capital and the commercial interests, to a great extent, of that city, and relates to a subject which will very soon demand the attention of the Senate, and presents views which, in my judgment, are worthy of consideration, I take the liberty, hoping it will meet with the approbation of the Senate, of moving that it be printed, and also that it be referred to the Committee on Finance.

The motion was agreed to.

Mr. WILMOT presented two memorials of merchants and business men of the city of Philadelphia, remonstrating against the passage of a bankrupt law; which were referred to the Committee on the Judiciary.

He also presented a petition of citizens of Pennsylvania, praying for the adoption of such measures "as will insure emancipation to all the people throughout the whole land, and thus complete the work which the Revolution began;" which was ordered to lie on the table.

Mr. DIXON presented the petition of Sarah A. Ward, widow of James H. Ward, deceased, late of the United States Navy, praying for the passage of an act requiring the Commissioner of Patents to issue letters patent to her for an improvement in gun carriages invented by her husband; which was referred to the Committee on Patents and the Patent Office.

REPORTS FROM COMMITTEES.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was recommitted the amendment of the House of Representatives to the bill (S. No. 178) to incorporate the Washington and Georgetown Railway Company, reported it with amendments.

Mr. GRIMES, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 290) providing for the education of colored children in the city of Washington, District of Columbia, reported it with amendments.

Mr. HOWARD, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 208) making a donation of lands to the States of Wisconsin and Michigan to aid them in making a military road and telegraph line in said States, reported it with an amendment, and submitted a report; which was ordered to be printed.

ALEXANDER J. ATOCHA.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred the memorial of Alexander J. Atocha, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the memorial of Alexander J. Atocha, together with all the documents and proofs material to the adjudication of his claim against Mexico, disallowed by the commissioners under the treaty of Guadalupe Hidalgo, be referred to the Court of Claims to take such action thereon as may be deemed proper.

REBEL BARBARITIES.

Mr. WADE. The joint committee on the conduct of the war, who were instructed by a resolution of the Senate of the 1st instant, to collect the evidence and report as to the barbarities committed upon the bodies of the dead at Manassas, &c., and also whether Indian savages have been employed by the rebels in their military service against the Government of the United States, ask leave in part to report. I move that the reading of the report be dispensed with, and that the usual number of copies of the report, with the accompanying papers, be printed for the use of the Senate.

The motion was agreed to.

Mr. WRIGHT. I move that an extra number, say fifty thousand copies, of the report, be printed.

The PRESIDENT *pro tempore*. That motion will go to the Committee on Printing under the rules.

BILLS INTRODUCED.

Mr. COWAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 293) for the protection of soldiers in the military service of the United States, and to suspend civil proceedings against them in the United States courts; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. WILSON, of Massachusetts, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 294) for the better organization of the Adjutant-General's department; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. NESMITH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 295) to amend an act entitled "An act to found a military asylum for the relief and support of invalid and disabled soldiers of the Army of the United States," approved 3d of March, 1851; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ETHERIDGE, its Clerk, announced that the House had passed the bill of the Senate (No. 124) relating to highways in the county of Washington, and District of Columbia, with amendments, in which the concurrence of the Senate was requested.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed an enrolled bill (H. R. No. 406) for the relief of Francis Hüttmann.

THE HOMESTEAD BILL.

Mr. WADE. I move now to take up the bill of the House of Representatives, called the homestead bill. It passed the House of Representatives some time ago, and I think we ought to take it up and act on it during the morning hour.

Mr. SUMNER. I think so, too.

The motion was agreed to; and the bill (H. R. No. 125) to secure homesteads to actual settlers on the public domain, and to provide a bounty for soldiers in lieu of grants of public lands, was considered as in Committee of the Whole.

Mr. WADE. I am very anxious to bring this bill to a conclusion and pass it through; but I am informed that the Senator from Iowa, [Mr. HARLAN,] who is now absent, takes an interest in the bill, and is very desirous to be here when we act upon it. This is the same bill that I believe has passed both branches once or twice, and is very well understood by all the Senators who have been in the Senate for some four or five years past. It hardly needs any explanation, in my opinion; but I understand that the Senator from Iowa has amendments which he wishes to propose. It would not be right to press it to a conclusion in his absence; and therefore, unless some other Senator wishes now to offer amendments to be considered hereafter, I suggest that the bill be postponed. I do not know what time to fix for its consideration, but I want it postponed until the Senator from Iowa comes in, and I hardly know when that will be.

The PRESIDENT *pro tempore*. It can be postponed until to-morrow, and then it can come up on motion at any time.

Mr. WADE. I move to postpone the further consideration of the bill until to-morrow.

Mr. CARLILE. Before that motion is put, I desire to offer an amendment by way of substitute for the bill.

The PRESIDENT *pro tempore*. There are pending amendments reported by the Committee on Public Lands.

Mr. CARLILE. My amendment can be submitted and printed, I suppose, as an intended substitute.

The PRESIDENT *pro tempore*. It will be received with the suggestion that it is to be offered when it shall be in order to do so. The question is on the motion to print the amendment submitted by the Senator from Virginia.

The motion was agreed to.

Mr. DOOLITTLE. I suggest to the honorable Senator from Ohio that he fix this bill as a special order for Monday next. The Senator from Iowa to whom he refers will no doubt be in the Senate at that time, and if it is fixed for a given day we can take it up and dispose of it.

Mr. WADE. I am not much in favor of special orders. I would rather run the risk of taking the bill up on motion. I give notice now that when the Senator from Iowa comes in I shall press it on the consideration of the Senate whenever I see an opportunity, and I expect that the friends of the bill will act with me.

Mr. POMEROY. I understand that the Senator from Iowa is expected here to-morrow. For my own part I take some interest in this bill, and being on the Committee on Public Lands with the Senator from Iowa, I agreed with him that it should be taken up as soon as he returned. I suppose he will be here to-morrow. He is expected then.

Mr. WADE. Very well; my motion leaves the bill in a position where we can take it up at any time. My motion is that it be postponed until to-morrow.

The motion was agreed to.

ARRESTS IN KENTUCKY.

The PRESIDENT *pro tempore*. The business next in order is the unfinished business of the morning hour of yesterday, which is a resolution

by the Senator from Kentucky, [Mr. POWELL,] concerning the arrest of certain persons in the State of Kentucky, upon which the Senator from Kentucky was addressing the Senate when the further consideration of the resolution was interrupted by the special order of the day. The pending question is on the amendment offered by the Senator from Massachusetts [Mr. SUMNER] as a substitute for the original resolution, and upon that the Senator from Kentucky is entitled to the floor.

Mr. POWELL. I will ask for the reading of the resolution and of the substitute proposed by the Senator from Massachusetts.

The Secretary read the original resolution, as follows:

Resolved, That the Secretary of State be, and he is hereby directed to inform the Senate how many residents or citizens of the State of Kentucky have been arrested or removed from said State by his order or direction, and confined or imprisoned outside of the limits of said State, since the 1st of September last; that he state the names of the persons arrested, and the camps, forts, or prisons where they are or were confined; how long they and each of them have been imprisoned; and that he give the number and names of the persons so arrested and imprisoned who have been released, and the names of the persons so arrested who are still confined, and the place or places where they are imprisoned; and that he report to the Senate the names of all the citizens of Kentucky that have been imprisoned by his orders.

The amendment of Mr. SUMNER is to strike out all after the word "resolved," and to insert the following:

That the President of the United States be requested to communicate to the Senate, if in his opinion not incompatible with the public interests, any information in his possession touching the arrest of persons in Kentucky since the 1st of September, 1861, and their imprisonment beyond the limits of that State.

Mr. POWELL. I had hoped that this resolution would be passed without any debate, and I have not been more surprised since I have had the honor of being a member of this body than I was when opposition was made to it. The Senator from Massachusetts offers as a substitute a proposition asking of the President of the United States, if not incompatible with the public interest, information touching those persons who may have been taken from the State of Kentucky and imprisoned without the State. The Senator asserts that it might be incompatible with the public interest to direct the Secretary of State to furnish the information required. The substitute proposed by the Senator from Massachusetts does not and will not, if answered by the President, furnish the information sought. It is general and vague in its terms, and I have no doubt myself that the intent and object of it is to avoid the inquiry that I make being responded to directly by the party who has been engaged in making these unlawful arrests. It cannot be incompatible with the public interests to direct the Secretary of State to give the names of the persons he has unlawfully imprisoned, and who may now be held unlawfully by his order. It cannot be incompatible with the interests of a free people to demand of a public officer the names of the persons he has caused to be arrested without warrant, without cause, and the names of those whom he has kept in prison for months without charge, and then discharged them, not by virtue of the law, but by his own arbitrary will and dictum. It is utterly impossible that it could be incompatible with the interests of any free people thus to inquire and make known to the Senate and to the country such usurpations of power by any officer of the Government. The people have secured to them by the Constitution certain rights, and among them is the right that they shall be free from unreasonable searches and seizures. I will read one or two clauses of the Constitution; I read from the amendments to the Constitution:

"ART. 4. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

"ART. 5. No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger; nor shall any person be subject, for the same offense, to be twice put in jeopardy of life or limb; nor be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation.

"ART. 6. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense."

From the provisions of the Constitution that I have read, it must be apparent to every Senator that the Secretary of State, in proceeding to arrest citizens in any State of this Union, has violated the Constitution of the United States. There is no law authorizing the Secretary of State to make any arrest, so far as I am advised; and were you to make such a law, the law you made conferring such power would be null and void, because in direct violation of the Constitution. What authority is there in the head of the State Department to exercise judicial functions? The officers of the judiciary department are those charged with issuing warrants; the marshals are the persons to execute the warrants and make arrests in obedience to lawful authority. The Secretary of State accuses, he arrests, and through his agents he confines in prison whom he chooses. Does he do it by authority of law? No, sir. The Constitution says that no arrest shall be made except upon warrant, and that upon probable cause. The Secretary of State has caused these arrests without warrant and without charge. Many of those arrested have protested their innocence, and demanded the charges against them. No charges were made. Many were released after months of confinement, and others still languish in prisons, not knowing the cause of their arrest or imprisonment.

The Constitution further says that no man shall be tried in a criminal case except after indictment by a grand jury. The Constitution declares that he shall be entitled to a speedy trial in the district where he commits the offense. All these provisions are violated by an officer of this Government who has no authority to issue warrants; who has no authority to confine persons for any cause whatever; who usurps the functions pertaining to another body of magistracy; and when he has assumed to exercise that power, he does it in a manner unknown to your laws, and in palpable violation of the Constitution of your country. When I ask him to give the names of the persons that he has arrested, and carried beyond the limits of their State, in violation of law, when I simply ask their names, and where they are confined, and how long they have been confined, and the names of such as have been released, and of such as are still retained in prison, it is objected that he shall not give the information, because it will be incompatible with the public interest! It would be incompatible with the public interest of every well regulated Government of a free people if an officer of the Government were thus permitted to violate the Constitution without receiving the sternest rebuke that the representatives of the people could give him.

What power has Mr. Seward, the Secretary of State, to arrest citizens of Kentucky, or any other State, and have them, in violation of the Constitution, transferred to distant prisons and there kept without law—not only himself violating the Constitution of his country, which he swears, I suppose, to support, but trampling under foot the most sacred constitutional rights of the citizens thus arrested? The Secretary of State has no more authority to do this than the humblest citizen in the land. I fear it is not because of any tenderness of the public interest that the Senator from Massachusetts makes this objection. I am of the opinion—I hope I am mistaken—that the sole object is to screen the Secretary of State, a delinquent and usurping official, for exercising powers not conferred on him by law, and who, being clothed with "a little brief authority," uses it to oppress the citizens of the country in violation of their constitutional rights. If the Secretary of State has done right in this matter, let him give the information I ask. He can accompany it with the reasons why he has made these arrests, if any he has. If he has acted in this way for the purpose of promoting the best interests of the country, if his motives have been patriotic, let him state his reasons, and let the country see what they are. But that is not the object. The Secretary of State has, in utter violation of the Constitution of the country and of the constitutional rights of the citizens, exercised this tyrannical and oppressive power to a most alarming extent, and his friends want to shield him from the odium and just indignation that a free people will visit upon him if the magnitude of his offendings are made manifest. I want the country to see the long catalogue of names—for in my judgment it will be a long and fearful one—that this man has unlawfully deprived of their liberty.

The Senator from Massachusetts seems to think there is a kind of necessity arising in consequence of the peculiar circumstances by which we are surrounded at this time. Allow me to tell that Senator that there never was any necessity for any such acts as this Secretary of State has been guilty of in the State of Kentucky. Our courts have always been open in Kentucky, and at the very time that a large portion of the arrests were made we had two United States judges there about whose loyalty there was no question. A distinguished ex-Governor of that State was taken from under the very nose of Judge Catron. The judge issued his writ of *habeas corpus* when he heard that Governor Morehead had been seized, but the cruel tyrants hurried him across the Ohio river before the process could be served. Nobody doubts Judge Catron's loyalty. He was there; his court was open. We have another judge there who has been in the exercise of the office of district judge of the United States, Mr. Ballard, a Republican, appointed by Mr. Lincoln, and I will do Mr. Ballard the justice to say that I believe he is a very competent and a very correct judge. He was there with his court always open; and yet our citizens were seized without charge or warrant, and hurried to northern bastiles, where some of them languished for four, five, six, or seven months, and seized, too, as we have understood, by the order of this Secretary of State. What cause was there for it? If those parties had been guilty of any offense, I do not wish to screen them; issue your warrant, bring them before the courts. The courts have always been open in Kentucky and presided over during the entire time by Judge Catron, and during nearly the whole time in which these arrests were made by Judge Ballard, and nobody questions the loyalty of either of those judges. These men, if they had committed any offense, should have been arrested upon warrant, they should have been taken before the courts, they should have been tried, and if found guilty of any offense they should have been punished; but that was not done.

The Secretary of State chose to think otherwise, and he has hurried them off, and they languish perhaps some of them now in prison. I want to know the number; I want to know how long he has retained them, when he discharged those that have been discharged, and the places of confinement of the others. We know that in tyrannical times in other countries persons have been seized and thrown into prisons and lain there for years until they were almost forgotten; and I know that some of the most humble men in Kentucky have been arrested in this way. I have received letters from them, and I feel that I have been somewhat delinquent in my duty in not pressing this matter before. The reason I did not do it was because the Senator from Illinois, [Mr. TRUMBULL,] about the time I received the first letter, introduced a resolution making general inquiry into these matters, and I thought that would be acted upon; but I found, to my regret, that that was to sleep in death in the Judiciary Committee. Still receiving these letters, I knew it was my duty to make the appeal directly to the Senate to get this information; and after I get the information, I shall then want some other proceedings touching the usurpations of the Secretary of State.

It seems, however, that the Senator from Massachusetts desires to put the Secretary of State under the shield of the President. He says he did it by order of the President. If he did, he can state so in his response. I am slow to believe that he did it in obedience to the order of the President, for the President of the United States is bound to support the Constitution as much as you or I, Mr. President. He solemnly swore on the 4th of March of the last year in the front of this Capitol that he would observe it, that he would protect it, that he would support it; and if the Secretary acted in obedience to his order, he has been faithless to his constitutional obligations; but I will not charge the President with any such thing

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. THURSDAY, MAY 1, 1862. NEW SERIES.....No. 118.

in this connection until he openly avows it. I do not think you should permit your Secretary of State to take shelter under the wing of the President for a plain, palpable violation of the Constitution. Had the Secretary of State been observant of his constitutional obligations, he would not have permitted himself, by order of the President or any human being, to overthrow the Constitution of his country, and to deprive the citizen of his constitutional rights; he would have scorned it. Had he been an honest and just man, rather than have done it he would have thrown his commission into the face of the President, if he demanded of him such an exercise of unconstitutional power.

Mr. President, would you or I or any Senator here, at the behest of Presidents, of Cabinets, of any power on earth, violate the Constitution we have sworn to support? No, sir; there is no power that could force us to do it; there is no place that could tempt us to do it; and thus it will be ever with an honest man. Sir, I want the Secretary of State to make response to this resolution, and I want him to do it directly. He is the party who has done this thing, and I want him to speak specifically and directly.

Every citizen has an interest in the Constitution, and I want the whole people to know who has thus outrageously, flagrantly, and wantonly violated it without any cause or justification. Had the courts been suspended in Kentucky, had the courts not always been open there and presided over by enlightened and patriotic judges, to give the accused a speedy trial, there might have been some possible excuse. In my judgment that would not have excused him for overthrowing the Constitution of his country; but it might have been pleaded in extenuation. But, sir, there has been nothing of that kind. The courts have been open, and they have been presided over the whole time since these arrests have been made, certainly by Judge Catron, and nearly all the time by Judge Ballard. Judge Monroe was there, perhaps, when the first arrests were made, but the most of them were made when Judge Ballard presided in the district court. So there can be no excuse.

I do not want the Senate to give this Secretary of State, for these usurpations, the shelter of the presidential wing. If he had not manliness enough to refuse the mandate of the President to violate the Constitution of his country, he is unworthy of place, he is unworthy of confidence, he is unworthy of public trust, and his name should be execrated and scorned by all men who love liberty, who love the Constitution, and who are in favor of maintaining the fundamental law of the land. If he can be used in that way, let him file the plea, let the Secretary of State put it in; I do not wish him to do it by his attorney from Massachusetts, I want him to plead in person. If he acted under the orders of the President, that, in my judgment, would enhance his offense. If he had done this on his own motion, honestly believing that he was acting in such a manner as to promote the best interests of the country, on a principle of patriotism, you might excuse him; but if he did it in obedience to a master, in obedience to the President, he is a truckling official. I speak plainly, but I trust not offensively.

I hope the Senate will pass the resolution as I have presented it, and reject the amendment of the Senator from Massachusetts. The amendment does not meet the case. It is general; it is evasive; and the object of it, in my judgment, as I said yesterday, is to throw the blame off the Secretary, and give him shelter under the wing of the President. A man who would exercise such power as Mr. Seward has usurped, with the influence he has in the Cabinet, I have no doubt would have the President answer that it is not compatible with the public interest that these names should be given. I do not see any good reason why the Secretary of State should be thus screened. Let him respond; and if he has excuse for having thus acted, let him say so, and let the country judge. I think there is no valid excuse; none can be given. The courts of the United States in the State from which these persons were taken have been open, and they could have been tried. But this man, in the exercise of a despotic power unknown to the Constitution and laws of the country, has taken them from their homes, many of them in the night time; he has confined them in prisons, to the destruction of the health of many of them; numbers of them languish there now. Is it possible that the Senate of the United States will refuse to pass a resolution merely asking the names of the persons who have been arrested, the period of their confinement, the names of such as have been released, and of such as still remain in prison? I do not believe that the American Senate will refuse such a request.

Mr. WILSON, of Massachusetts. Mr. President, we all remember—I am sure none of us can ever forget—that at the called session of Congress last summer, Mr. Breckinridge, of Kentucky, in that dark hour stood up here on the floor of the Senate, and arraigned and denounced the action of the Administration, but never uttered one word of condemnation of the traitors that were attempting to overthrow the institutions of the country. To-day the Senator from Kentucky follows the example of that apostate. He stands up here to-day, in face of the country, applying words of opprobrium to the Secretary of State; words that are offensive and insulting to him, and offensive and insulting to the Senate and to the loyal men of the country.

The PRESIDENT *pro tempore*. The Senator from Massachusetts will suspend his remarks. The morning hour having expired, the further consideration of the subject now before the Senate is superseded by the special order of the day for one o'clock, which is Senate bill No. 151, to confiscate the property and free the slaves of rebels; and the direct motion pending is to refer that and all cognate questions to a select committee of seven members of the body. Upon that question the Senator from Pennsylvania [Mr. WILMOT] is entitled to the floor.

Mr. POWELL. Mr. President——

The PRESIDENT *pro tempore*. Does the Senator from Pennsylvania yield the floor to the Senator from Kentucky?

Mr. WILMOT. For a moment.

Mr. POWELL. The object of my rising is to move that this resolution be made the special order of the day for one o'clock to-morrow. I want it concluded.

Mr. CLARK. I hope it will not be made a special order. Let it go over and come up as the unfinished business of the morning hour.

Mr. POWELL. Will it come up as unfinished business?

Mr. CLARK. It will come up, as a matter of course, if it goes over now, I understand.

The PRESIDENT *pro tempore*. It goes over as the unfinished business of the morning hour. It will not supersede the ordinary business of the morning hour to-morrow; but whatever time there shall remain after the introduction of the ordinary business, before the special order of the day, the consideration of this resolution will be properly in order.

Mr. POWELL. Very well.

CONFISCATION OF PROPERTY.

The Senate resumed the consideration of the bill (S. No. 151) to confiscate the property and free the slaves of rebels.

Mr. WILMOT. Mr. President, the second section of the bill reported from the Judiciary Committee is an act of emancipation, giving freedom to the slaves of those who, during the present rebellion, shall take up arms against the United States, or in any manner give aid and comfort to said rebellion. The bill itself declares their emancipation without the intervention of court or commissioners, and provides that in any proceeding by the master to enforce his claim against the slave, he shall establish his loyalty before an order shall be made for the surrender of the slave. The bill also provides for the confiscation to the national Treasury of both the real and personal estate of rebels who shall, after the passage of this act, be engaged in the rebellion, or in giving it aid and comfort, and who are beyond the United States, or, if within the United States, are beyond the reach of judicial process. The bill does not *per se* work a forfeiture, but forfeiture takes place after seizure and appropriation by the commissioners appointed to act within those States and districts where the rebellion makes the holding of courts impossible, and after condemnation by the courts, in districts where they can be held, of the property seized, upon proceedings *in rem*, as in prize cases, or cases of forfeiture arising under the revenue laws.

I will consider briefly of both features of the bill. The second section, that providing for the emancipation of the slaves of rebels, I sustain in the whole length and breadth of its provisions. While I shall claim for the Government full power over the subject of slavery, I would not at this time go beyond the provisions of this bill. I would to-day give freedom to the slaves of every traitor; and after that would confidently look for the early adoption of the policy recommended by the President, gradually to work out the great result of universal emancipation.

Special guarantees are claimed for the protection of slavery. Exemption is demanded for it from the hazards and necessities of war. Greater security is attempted to be thrown around it than is accorded to any other interest or right. I deny the legality of this pretension in behalf of slavery. It has no constitutional basis. Its claims of peculiar sacredness, and for special protection, are an insult to the nation. Life and liberty are made secondary to the safety and preservation of slavery. The property of the nation is to be subjected to heavy contributions, the lives of tens of thousands of its citizens sacrificed, hundreds of thousands of widows and orphans cast upon the charity of friends for support, all that we possess, life and property, are at the disposal of the Government: slavery alone claims exemption, the cause of the rebellion, the parent of all the calamities that threaten and afflict us. This great revolt against the integrity and sovereignty of the nation has no other foundation than slavery. Democratic government is a perpetual danger to slavery. The government of an oligarchy is demanded as security for its perpetuity and power. Here is the cause of the rebellion with its immense sacrifices of life and treasure. Amidst the sacrifices of this hour, this universal wreck of interests, shall the slaveholding traitor grasp securely his human chattel? Not, sir, if my voice or vote can reach him.

We must rightly comprehend the unparalleled wickedness of slavery, and the desperate determination with which it makes war on the Government, or we shall fail to deal with it as our security and peace demand. For thirty years slaveholders have looked with fear and hatred on our free system of government. Universal suffrage and the wide diffusion and increase of knowledge were sources of constant dread. For years they have kept the peace only on the terms of their domination and our subjection. They have governed the country, shaped its foreign and domestic policy, controlled its legislation on all questions of interest to themselves, and administered, in their own hands or through northern men subservient to them, every high office of State. A more imperious oligarchy never ruled a government.

The freemen—the democracy of the nation—in the election of Abraham Lincoln, vindicated their right to administer the Government, and in the first hour of victory were met by the armed rebellion of the slaveholders. Shall slavery overthrow this Government? The nation has the right of self-defense, of self-protection—the right to make secure its peace and safety, and to remove whatever stands in the way. Slavery, in the war it has provoked, perils the national existence. It is the immutable law of nature and of nations, that a State shall preserve itself, that it may destroy whatever enemy threatens its life.

Vattel, a writer of caution, and of high authority on national law, lays it down that—

"A State has a right to everything that can secure it from threatened danger, and to keep at a distance whatever is capable of causing its ruin. A nation is *obliged* to preserve itself, and the law of nature gives it the right to everything without which it could not fulfill this obligation.

"The law of nations is originally no more than the law of nature applied to nations. We call that the *necessary* law of nations that consists in the application of the law of nature to nations. It is necessary because nations are absolutely obliged to observe it. The *necessary* law of nations, being founded on the nature of things, is immutable. Whence, as this law is immutable, and the obligations that arise from it necessary and indispensable, nations can neither make any changes in it by their conventions, dispense with it themselves, nor reciprocally with each other."

Again, Mr. Rawle, in his View of the Constitution, in speaking of our duty to maintain the Union, says:

"In every aspect, therefore, which this great subject presents, we feel the deepest impression of a sacred obligation to preserve the Union of our country; we feel our glory, our safety, and our happiness involved in it; we unite the interests of those who coldly calculate advantages with those who glow with what is little short of filial affection, and we must resist the attempt of our own citizens to destroy it with the same feelings that we should avert the dagger of the parricide."

Slavery is the parricide that now aims at the national life. We must bind the criminal in perpetual bonds, if we would secure to the nation safety and peace.

The right of a State to preserve itself is clearly set forth by Vattel; nay, it is *obliged* so to do by a necessary and paramount law. Every writer of authority on the law of nations agrees with Vattel touching the right of national self-defense. The law is consonant with reason and justice and the common sense of mankind, and needs no citation of authorities to support it.

The law being established, the only questions open for examination are, the nature of this Government, and the hostile character of the enemy by which it is assailed. If we are a league of independent States, each having the right to withdraw at pleasure, and for causes the sufficiency of which each may judge, then the confederate States are right in the independence they assume, and the war on our part is a war of subjugation, flagrant and unjust. Our right to carry on the war can only be defended on the ground that we are a nation, bound by the obligation to defend our national existence.

What enemy puts our safety in peril; assails with war our unity and life? All enlightened and impartial men will give the same answer. Slavery is that enemy—the deadly and persistent foe of the nation. Slavery has organized for the overthrow of the Government the greatest rebellion in history, and without cause, save its fear and hatred of republican institutions. The nation was prosperous and happy; life and property were secure; we enjoyed a freedom given to no other people, a prosperity full to overflowing. Every blessing and every right was ours. The Government was only felt in the protection it gave and in the blessings it conferred. The armed revolt of the slaveholders against a Government so just and beneficent is the most detestable crime on record. Slavery arms brother against brother, and imbrues the nation in fraternal blood. It offers alliances with foreign despots and consents to the establishment of monarchies on our continent. Does any Senator on this side of the Chamber doubt that slavery is the immediate cause of our troubles? If not, then I claim his support for such measures against slavery as shall make it powerless for future mischief. I demand indemnity for the past and security for the future. The nation must never again pass under the yoke of the slave power. We must have no reconstruction reëstablishing the domination of slavery. We shall deserve, and will receive, the scorn and execration of the civilized world if we step back from the plain duty before us. We must give the country *lasting* peace; we must cripple forever the power of slavery, and enfranchise the nation from its insolent rule. Slavery has made and unmade, built up and torn down at pleasure. It has enforced upon the Government and country novel and unwarrantable constructions of the Constitution by threats of disunion and blood.

It is an element of constant disturbance and danger. Mr. Calhoun earlier saw and more clearly comprehended than his cotemporaries the irreconcilable antagonism between freedom and slavery. Commodore Stewart is the witness that, as early as 1814, Mr. Calhoun became satisfied that the two systems of society and labor could not both stand under one Government; that slavery must go to the wall, or a dissolution of the Union was inevitable. He devoted his life in giving strength to slavery, and thus preparing for the conflict which he saw must surely come. What Mr. Calhoun saw in 1814 is now the philosophy and fixed belief of the leaders of the South. This war on their part is for the perpetuity of slavery, and this can only be secured at the expense of individual and national freedom.

The Constitution is continually pushed forward in support of the inviolability of slavery. Sir, I deny that the Constitution contains any special guarantees in behalf of slavery. It provides for the surrender of *persons* owing labor or service escaping from one State into another to the person to whom such labor or service is due. This is as applicable to apprentices as to slaves; and, at the time the Constitution was framed, embraced a large number of emigrants known as redemptioners. No one ever claimed that property in the service of an apprentice was specially placed under national protection because of this provision. If, however, the Constitution were all that slavery claims for it in this respect, the paramount law of self-preservation is not the less obligatory on the nation. Whatever we deem necessary, in the exercise of an honest and sound discretion, as a means of preserving national existence, that we have the authority of reason and of law to do. This doctrine is clearly recognized in the late special message of the President to Congress recommending national aid to the liberating border States. It is sound law, and has both reason and authority in its support. Slavery is not only the cause, but one of the great supports of the rebellion. Slaves do much of the work of the rebel army—throw up the intrenchments and build the fortifications of the enemy. Their labor, in a large degree, furnishes the means of support to the armies employed against us, and gives to the confederate States the little credit they have either at home or abroad. Yet slavery is the one thing we must not disturb. We must not directly attack it, even though the nation perish through our forbearance. To no other interest do we accord this exemption from the dangers and necessities of war.

Mr. President, I come now to consider the bill as an act of confiscation. Here its provisions are not as broad and sweeping as its opponents represent. It is not a general act of confiscation against the property of all rebels, but against the property of such only as shall be beyond the reach of judicial process. The bill is based on the principle that if the rebel can be arrested, and punishment inflicted upon him through the courts, his property is not molested. But if he abandon his property, and flee the country, or be within territory where the rebellion has overriden the authority of the United States, the bill proposes, after condemnation in court, or by military commissioners when no courts can be held, to take and sell his property, placing its proceeds in the national Treasury. I favor the amendment adopted on Thursday last, of the Senator from Ohio, [Mr. SHERMAN.] I desire to reach only the property of the leaders of the rebellion. To the masses of the southern people, who have been grossly deceived, I would grant an amnesty, a full and free pardon.

Three grounds of objection are made to this bill. It is claimed to be in contravention of the law of nations; violative of the Constitution of the United States; and that its passage would be most impolitic, driving our enemies to desperation, and sowing the seeds of bitter enmity for generations to come.

I will consider, briefly, the objections presented. The Senator from Missouri [Mr. HENDERSON] labored learnedly to make good the first ground of objection. He cited authorities of weight and respectability; but upon further examination he will find, I think, the law settled against him, both on general authority and by the decision of our own courts.

National law rests upon the law of nature, conventional law, or treaties, and upon general customs which, by common consent, have the force of law. Nations are *bound* by the natural law, which is called the *necessary* law of nations. Of this I considered in speaking of emancipation under this bill. It is of universal obligation, binding at all times and under all circumstances. Conventional law rests upon conventions and treaties, and of course binds those nations only that are parties to them. General customs or usage have the authority of law only by the consent of nations, and each nation has the right to decide for itself under what circumstances and to what extent it will submit to a custom or usage. This must of necessity be so. The right is essential to the freedom of nations. Vattel says:

"The natural society of nations cannot subsist, if the rights each have received from nature are not respected. None would willingly renounce its liberty; it would rather break off all connection with those that should attempt to violate it. From this liberty and independence it follows that every nation is to judge what its conscience demands; of what it can or cannot do; of what it is proper or improper to be done. In all cases where a nation has the liberty of judging what its duty requires, another cannot oblige it to any given action. For attempting this would be an injury to the liberty of nations."

As an independent member of the commonwealth of nations, we alone determine when and how far we will be bound by the customary law. Upon the hypothesis, then, that the measure before us is in conflict with international law, still our right to enact it cannot be questioned.

Should we pass this bill, what power will annul it within our jurisdiction, on the ground that the law of nations is violated? If national law is invaded nations must come to its support. Does any Senator believe that the passage of this bill would provoke towards us the hostility of nations? Would the foreign ministers resident here, protest on behalf of their respective Governments? Sir, we know they would not, and for the best of reasons: the bill does not impinge on the national law. So much of the bill as is a measure of emancipation would be hailed with joy throughout the civilized world. For this we would receive the plaudits instead of the censure of nations.

I have thus far considered the case on the hypothesis that the bill is violative of national law, and presented the ground that we are bound to obedience by our consent alone. But the law is well settled in favor of our right to seize and confiscate the property of an alien enemy in time of war, and who, at the time of seizure, is engaged in peaceful commerce. The case is greatly strengthened against a rebel in arms. The point was decided in our Supreme Court, in the case of Brown *vs.* The United States, (8 Cranch, 110.) The points raised for adjudication were:

1. May enemies' property found on land at the commencement of hostilities be seized and condemned? And

2. Is an act of Congress, authorizing such seizure and condemnation, necessary; or does the right follow a declaration of war?

The opinion of the court was delivered by Chief Justice Marshall. On the first point, the court says:

"Respecting the power of the Government, no doubt is entertained. That war gives the sovereign full right to take the persons, and confiscate the property of the enemy where ever found, is conceded. The mitigations of this rule, which the humane and wise policy of modern times has introduced into practice, will more or less affect the exercise of this right, but cannot impair the right itself. That remains undiminished, and when the sovereign authority shall choose to bring it into operation, the judicial department must give effect to its will."

Kent, in commenting on this case, says:

"However strong the current of authority in favor of the modern and milder construction of the rule of national law on this subject, the point seems to be no longer open for discussion in this country. It has been definitely settled in favor of the ancient and sterner rule, by the Supreme Court of the United States. The effect of war on British property, found in the United States, on land, at the commencement of the war, was learnedly discussed and thoroughly considered, in the case of Brown; and it was decided as upon a settled rule of the law of nations, that the goods of an enemy found in the country, and the vessels and cargoes found afloat in our ports, at the commencement of hostilities, are liable to seizure and confiscation; and the exercise of the right vested in the discretion of the sovereign of the nation."

The right to seize and confiscate the property of an alien enemy, wherever found within our territory, is as clearly established as the adjudications of our own courts can establish it. He who is both a public enemy and a traitor surely cannot claim to stand in a better position than an alien enemy actually guilty of no offense. The traitors of our country occupy a very different position from that of lawful belligerents. It is true that we accord to them many belligerent rights, but we may properly treat them as trai-

tors. As against them, we are possessed of every belligerent right, as fully as if they were an independent nation levying war against us; and we are also possessed of all the rights of a legitimate sovereign against traitors in armed revolt. Their property cannot be reached, because they are citizens, and entitled to the protection of the Constitution!

"No person shall be deprived of life, liberty, or property, without due process of law;" that is, without proceedings according to the course of the common law. How grossly we violate the Constitution in shooting down these citizen traitors! There can be no mistake. The violation of the Constitution is most palpable. We take the lives of these citizens and brothers without due process of law. How absurd is all this. Those in rebellion are both traitors and public enemies, and are amenable to the laws provided against both. An alien enemy, whose property is found among us, having never himself borne arms against the country, this property we seize and forfeit; but if his allegiance were due to us, if he had sworn to support and defend the Constitution, and then wickedly perjured himself, if he had borne commission in rebel armies, and devoted his all to the overthrow of the Government, we cannot take and forfeit his property; it is under the ægis of the Constitution, and must be used only in the service of the rebellion! The very point I am now considering was recently before the United States district court for Massachusetts.

The Amy Warwick was captured on the high seas by the United States ship-of-war Quaker City, August 10, 1861. The libel was against both vessel and cargo. The vessel and part of the cargo were admitted to belong to citizens and permanent residents of Richmond, Virginia. The hearing was confined to the property so owned; the question as to the rest of the cargo being left for future investigation. Sprague, Justice, delivered the opinion of the court. I give so much as bears on the point under consideration:

"Some have apprehended that if this conflict of arms is to be deemed war, our enemies must have, as against the Government, all the immunities of international belligerents. But this is to overlook the double character which these enemies sustain. They are at the same time belligerents and traitors, and subject to the liabilities of both; while the United States sustains the double character of belligerent and sovereign, and have the rights of both. These rights coexist, and may be exercised at pleasure. Thus we may treat the crew of a rebel privateer, merely as prisoners of war, or as pirates or traitors; or we may, at the same time, give to a part of the crew the one character, and to the residue the other, and after treating them as prisoners of war, we may exercise over them sovereign power and deal with them as traitors. The temporary non-user of such rights is not a renunciation of them, but they may be called into practical exercise."

"Mr. Wharton, in his Elements of International Law, (page 365,) so strongly maintains belligerent rights in civil war, that some of his language would imply that there were no other rights. This, however, could not have been intended; for if sovereign rights be at an end, the war is merely international. Civil war, *ex vi termini*, imports that sovereign rights are not relinquished, but insisted on. The war is waged to maintain them. Rose *vs.* Himely (4 Cranch, 272) was a case arising out of the exercise of sovereign rights by France in her civil war with St. Domingo. The court recognized the coexistence of belligerent and sovereign rights."

"The United States have, during the present war, exercised both belligerent and sovereign rights.

"Examples of the former are, receiving capitulations of the enemy as prisoners of war, and holding and exchanging them as such; and a still more prominent instance is the blockade which, before the assembling of Congress, was established by military authority of the Commander-in-Chief."

"I am satisfied that the United States as a nation, have full and complete belligerent rights, which are in no degree impaired by the fact that their enemies owe allegiance, and have superadded the guilt of treason to that of unjust war."

The confiscation of the property of those engaged in rebellion and unsuccessful revolution is a part of the history of civilized nations. It is deeply impressed upon English legislation during the last century. Half the titles of the kingdom rest upon acts and decrees of confiscation. Such, too, is the history of France. Every one, I think, of the old Thirteen Colonies confiscated the property of enemies within their respective jurisdictions in the time of our own Revolution. The property of German refugees who engaged in the revolution of 1848 beyond question was confiscated. It is the policy and practice of every nation thus to punish rebellion and treason. In passing this bill, we are traveling in the beaten path of nations. All men who understand the true nature of the struggle in which we are engaged will hail this measure as just, and demanded by a wise consideration of our own interests, and by the atrocious wickedness of our enemy.

Again: objection is made to the bill because of its alleged unconstitutionality. The Constitution, after defining the crime of treason, provides that—

"Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attainted."

What is "*attainder*," as here used? Simply judicial judgment against an offender for the crime of treason. The provision then is, no judgment pronounced by a court for treason shall work corruption of blood or forfeiture beyond the life of the party. This provision changed the rule of the common law; the judgment of a court against an offender for treason did corrupt the blood, and destroy its inheritable qualities, and his property became forfeited to the Crown. The Constitution simply does away with the common-law consequences of the judgment, by declaring that no attainder, that is, no judgment for treason, shall work corruption of blood or forfeiture beyond the life of the party against whom judgment shall be pronounced. Our right to confiscate the property of rebels cannot be affected by a constitutional provision which declares that certain consequences which attached to a judgment for treason at common law, shall not follow such judgment here. This bill does not pronounce judgment against any one. No man can be tried under it. It affects property alone, and touches no property of an offender amenable to process. It does not change the punishment of treason by declaring a forfeiture of estate as part of the penalty. Those whose property is taken are beyond the reach of personal punishment. Are the refugees of this rebellion to live upon the revenues of large estates here? Is Slidell to live in Europe in affluence on the revenue from estates in Louisiana? Does a traitor, possessing large estates, gain immunity from all punishment whatever by fleeing the country and making his permanent residence abroad?

Sir, this bill has no relation whatever to the punishment provided against treason. It attaches to the *property* of those in rebellion, and provides for proceedings *in rem* and not *in personam*. The two are wholly distinct. Under this bill, you take and confiscate the property of rebels; if afterwards they should come within our power, they may be indicted, convicted, and hung for the crime of treason. The bill provides for proceedings *in rem*, as in prize cases, and in no way affects the penalties *in personam* administered by our criminal courts.

The case of the Palmyra (12 Wheaton, p. 1) was the case of seizure by a Government vessel, the Grampus, under the acts of piracy, of the 3d March, 1819, and of 15th May, 1820. One ground taken against a condemnation of the vessel was, that it was not averred in the libel that there had been a conviction *in personam* of the offense charged in the libel; and it was contended that there must be a conviction upon an indictment for the offense *in personam*, averred and proved, in order to maintain the libel *in rem*.

Justice Story, who delivered the opinion of the court, in noticing this objection, says:

"The point of objection is of an important and difficult nature. It is well known that at common law, in many cases of felonies, the party forfeited his goods and chattles to the Crown. No right to the goods and chattles of the felon could be acquired by the Crown, by the mere commission of the offense; but the right attached only by the conviction of the offender. In contemplation of the common law, the offender's right was not divested until conviction. But this doctrine never was applied to seizures and forfeitures created by statute *in rem*, cognizable on the revenue side of the exchequer. The thing is here primarily considered as the offender, or rather the offense is primarily attached to the thing. Many cases exist where the forfeiture for acts done attaches solely *in rem*, and there is no accompanying penalty *in personam*. Many cases exist where there is both a forfeiture *in rem* and a personal penalty. But in neither class of cases has it ever been decided that the prosecutions were dependent upon each other. But the practice has been, and so this court understand the law to be, that the proceeding *in rem* stands independent of and wholly unaffected by any criminal proceeding *in personam*."

Here the offense is attached to the thing, and the bill provides for proceedings *in rem*, as in prize cases or forfeitures arising under the revenue laws. It has no connection whatever with criminal proceedings *in personam;* they are still open to be resorted to, if the offender shall ever come within the reach of our criminal process.

The Constitution provides that "no bill of attainder or *ex post facto* law shall be passed;" and it is objected that the bill under consideration impinges on this constitutional provision. It is claimed to be a bill of pains and penalties within the mischief, and, therefore, within the constitutional prohibition against bills of attainder. I agree, if this be a bill of "pains and penalties," that we have no constitutional power to enact it. A bill of "attainder," differs from a bill of "pains and penalties" only in pronouncing the judgment of death, instead of a milder punishment. Both are equally within the reason and spirit of the constitutional prohibition. In both, the Legislature assumes judicial functions, and pronounces sentence for past offenses, and without the safeguards of a trial. No jury, no court, no evidence—the Legislature, by an act of legislation, pronounces sentence. Both a bill of attainder and a bill of pains and penalties are of the nature of *ex post facto* laws. In both, the Legislature assumes judicial functions, and proceeds to conviction without law or evidence.

This bill has no feature of a bill of pains and penalties. It is not *ex post facto;* it inflicts no penalty for past offenses, but only inflicts forfeiture against such as shall, after its passage, be guilty of bearing arms against the United States, or in giving them aid and comfort. It pronounces no legislative sentence. The bill itself does not appropriate any property, but only makes the appropriation after condemnation by the courts, or through commissioners where the rebellion makes the sitting of courts impossible. If it is complained that the bill gives too great power to the commissioners, I answer that this objection is not open to those who, by arms, have set up another jurisdiction, and driven our courts from the territory of several States. This would be to give exemption to the property of traitors because of their treason.

Very extraordinary powers are claimed for the President on this subject of emancipation of slaves and the confiscation of property. As Commander-in-Chief, it is claimed that he has full power to emancipate the slaves, and the right to take for public use such property of the rebels as he pleases. This, sir, is claiming large powers for the President, and if he possess them, then, indeed, does war make him as absolute as the Czar or Sultan. The President, as Commander-in-Chief, has no power to emancipate slaves, except as actually connected with his military operations, and here he is limited to the actual power of the force under his command. A general in the field has the same power. A proclamation by the President of general emancipation, or of emancipation of the slaves of rebels, is utterly without force. He may control by martial law (which, for the time being, supersedes the municipal law) within his military array. Here he may call upon the slave for military service, and take him out of the power and control of his master. His authority as military commander goes not beyond his lines. He has no power whatever of confiscation. He may take such military stores, forage, and provisions as are necessary for the support of his Army, and this he may do alike from friend or foe.

The supreme power of this Government, under and within the limits of the Constitution, is in Congress. In the case before cited of Brown *vs.* The United States, while it was determined that we might confiscate enemies' property found on land; it was also decided—and the case turned on this point—that the power of confiscating enemies' property is in Congress. After citing the act of Congress declaring war against Great Britain, the court say:

"There being no other act of Congress which bears upon the subject, it is considered as proved that the Legislature has not confiscated enemy property which was within the United States at the declaration of war, and this sentence of condemnation cannot be sustained."

Again:

"It appears to the court, that the power of confiscating enemy property is in the Legislature, and that the Legislature has not yet declared its will to confiscate property which was within our territory at the declaration of war."

This disposes effectually of the extraordinary pretensions set up for the President, as a ground of opposition to this bill. Those who really favor the confiscation of rebel property, will go for some legislation to effectuate that end. The President has no more power of confiscation than any Senator on this floor.

Mr. President, the passage of this bill is demanded by the strongest considerations of justice

and policy. It is very much a question, whether the property of loyal men of the North shall be confiscated by taxation, or the vast property of the leading rebels be taken to defray in part the expenses of the war? Between independent Powers, it is not unusual in treaties of peace to introduce stipulations providing for the payment in part by one party to the other of the expenses attending the war. Indeed, it is most common in modern times. If nations thus claim and receive indemnity for the expenses into which unjust war has plunged them, may we not, with much justice and propriety indemnify ourselves in part for the enormous costs of this most causeless and unprovoked war? All loyal men agree that the rebellion must be crushed out. This can only be done by driving the leaders from the country and confiscating their estates. They must be reduced to poverty before their power in the South can be broken. Our interests and our safety demand the speedy passage of this bill. Leniency emboldens the traitors. They feel secure in their property, come what may. Those suspected of loyalty only suffer. Refuse to pass this bill, and you offer a premium to disloyalty and treason. The safety of a man's property in the South will impel him to side with our enemies. The rebels seize and appropriate the property of loyalists; we secure and protect the property of rebels. The passage of this measure is demanded as a just measure of retaliation. Hundreds of millions of property in the South, belonging to northern men, has been confiscated or destroyed. Other hundreds of millions of debts due our merchants and manufacturers, and of investments in railroad stocks and other southern securities, have been forfeited to the rebel government. Other millions, the property of loyal southern men, have been pillaged and destroyed. "A State," says Vattel, "taking up arms in a just cause, has a double right against its enemy. A right of putting itself in possession of what belongs to it, and which the enemy withholds; and to this must be added the expenses incurred to this end, the charges of the war, and the reparation of damages." We must not give license to rebellion by the forbearance with which we treat the rebels. We must protect the interests of loyal citizens by charging the property of traitors with the expenses of the war.

Mr. WRIGHT. Mr. President, without detaining the Senate at any great length, I propose to state some of the reasons which will control my action on the pending propositions. I am in favor of some measure for the confiscation of the property of those in rebellion against the Government. Too long, already, in my judgment, have we delayed the discharge of this duty, imposed upon us for the speedy suppression of an armed rebellion, which has struck, with murderous intent, at the very vitals of this Republic. If Congress had truly felt the necessities of the occasion, if, instead of acquiescence in a policy of leniency towards these conspirators, we had held the reins of Government firmly in our grasp, a confiscation law would have been enacted at the called session, and have been now upon the statute-book, a terror to traitors. It would seem that, until within a recent period, we have gone on as though there was not a great war upon us, which demanded serious legislation and earnest effort at our hands. If that impression had not yet been removed from the minds of Senators when Congress came together in December last, it can no longer exist, when the whole valley of the Mississippi trembles beneath the fierce conflict of vast armies. We must be alive, sir, to the exigency of the hour. This monster rebellion must be destroyed, and destroyed speedily; and as one of the means for the accomplishment of that object, I look to the passage of some proposition for the confiscation of the property of rebels.

This proceeding is absolutely necessary. It will strike a heavier blow against the rebellion than an army with banners. Now, when the power of this Government has been displayed upon land and sea, it proclaims to the deluded masses of the South that the only way in which they can save themselves and their property, escape from anarchy and bloodshed, enjoy peace and prosperity, and once more live under a beneficent, free Government, is to lay down the arms which they have taken up for its destruction. If they persist in their madness, then let the vengeance of outraged justice pursue them to the death. We have forborne until forbearance has grown to be dishonor. Treason has run riot in the land. It is time that lawlessness should cease, whether under a pretended government in the rebellious States, or in the more insidious guise of "freedom of speech," which gloats over every obstacle that can be brought forward to prevent or retard the restoration of the Union. It is time that rapine and murder should be called by their right names, and punished as they deserve. I would direct the operations of this law against the instigators of the rebellion, against the leaders of its army—those who hold its executive appointments, the members of the confederate conventions and legislatures, and all those who have deceived and infuriated the southern masses against this Government. They should be made to feel, in their persons and in their property, the disasters which afflict those whom they have led to the brink of destruction. I would impoverish them as they have impoverished their own people. The Davises and Slidells, the Yulees and Masons, the Beauregards and Johnsons, the Breckinridges and Benjamins, who have sought the annihilation of the Republic that nourished, honored, and protected them, spreading desolation throughout the southern States, and who have been remorseless in carrying out the promptings of their unholy ambition, cannot expect from this Congress any other treatment than that of a rigid enforcement of the sternest penalties of justice. It is a duty that we owe to our country, that we owe to posterity, to the peace and happiness of our citizens, and to the perpetuity of our institutions.

I would provide no way of escape for those who, with reference to a possible hour of their country's peril, had been educated for and supported in its Army and Navy, and then, when that hour came, went over to its enemies. We must make it understood that we educate and support men for their country's service, not to officer rebel armies.

There may be a certain class of civil functionaries, for instance in the local judiciary, as suggested by the reference of the Senator from Vermont to the case of Chief Justice Hale, whose duties might differ little whether they acknowledged to confederate or Federal Government, and towards whom lenity might be shown. Still that case is not apposite, because Cromwell's Government was established at home and acknowledged abroad.

It is not my design to enter into an examination of all the details of a confiscation law. It may suffice, at the present time, if I avow that, in the execution of that law, I should much prefer the requisite proceedings should be taken before some judicial tribunal, and that there should be invested in the President of the United States a general power of granting amnesty. Such a provision will, I think, do away with all honest objection to the passage of this measure.

Now, sir, I have no patience for long disquisitions upon the power of Congress to pass an act of confiscation. It is not denied that we have the power to declare war and to suppress rebellion. Having the power to declare war and to suppress rebellion, have we not also the power for the vigorous and successful prosecution of these objects? The greater power certainly includes the lesser one. By depriving the rebels of their means for continuing this rebellion we go a great way towards securing its extinction. But away with these quibbles about the constitutionality of this proposition or that proposition. Instead of granting powers, and also affording all the necessary means for their execution, it would seem to be the belief of those who so frequently advance the objection of unconstitutionality, that the Constitution has conferred powers never intending they should be exercised; that it is so fettered as to be incapable of making a struggle for the preservation of the integrity of the Government to which it gave birth. I may say, sir, outside of all questions of constitutionality in times of great peril to our free institutions, when recreant and disloyal citizens in a large section of the country rise in rebellion, spurn the Constitution, defy the laws, and resist the authority of the Government, there is one duty supreme and absorbing, a duty to which all others are subordinate—the *duty of self-preservation, the safety of the Union from disruption, and of the Constitution from annihilation.* Everything opposed to the existence of the Government must be made to yield, or be swept off with an iron hand. *That the State may live*, all minor considerations must be neglected, all inferior interests must perish.

I wish to refer, for a moment, to the character of the war in which we are now engaged, in order that the mind may not be led astray by citations from and references to authorities which have and can have no application to this subject. There are two kinds of war; the one I may denominate a perfect war, and the other a mixed war. A perfect war is where one nation declares war against another nation; and it has laws which are as well understood, and which must be adhered to as strictly, as any other laws. A mixed war, on the contrary, is a rebellion or insurrection of a portion of the people of a country against the Government. It is against law, in defiance of authority, and meets with no encouragement from the laws of nations. In a perfect war, the citizens or subjects of one country are each and all the enemies of the citizens or subjects with which it is carrying on hostilities. They are so recognized and so treated in the laws of war. There is no exception. All those owing allegiance to the one nation are the foes of the other. It is far different in a mixed war. In that case, the loyal citizens are the enemies of the disloyal citizens. When we declare war against the rebellion in the South we do not declare war against the States, or against independent nationalities. Our hostilities are only directed against those who have taken up arms against the Government, and those who render them assistance; and the end which we seek is the suppression of the insurrection and the restoration of order. We do not declare that the citizens of all the seceded States shall be considered as alien enemies; that the innocent shall be involved in ruin with the guilty; that there shall be no discrimination between those who are loyal and those who are disloyal; but we ask, and in no measure more plainly than the one before us, that there shall be a discrimination, that there shall be a method of determining between the true men and the false, and where we shall inflict severe punishment and where extend the protecting help or the clemency of this Government.

A war, strictly speaking, is between independent Powers. Its laws are a branch of that code known as international law. No single member of the family of nations can establish, alter, or amend them; but a suggestion made by one Power becomes, when approved by others, a part of the code. Our present contest may, on the contrary, as I have already said, be called a *mixed* war—one of the parties standing to the other in the double relation of enemies and citizens. In other words, it is a mere multiplication of crimes committed by individual citizens until the attempt of the Government to put them down has grown to the dimensions and assumed the name of a war; which crimes may be dealt with in detail under the names of murder, theft, arson, as the case may be or comprehended under the name of treason, which expresses the animus of the whole. The moment we come to regard it in an aggregate or organized character, we are in danger of giving it a recognition which we should take care to avoid. The conflict of armies, one of which is made up of these felons, should be viewed as neither more nor less than the result of an attempt to arrest them for these crimes.

The Senator from Vermont, [Mr. COLLAMER,] who has made some of the happiest discriminations between this rebellion and a proper war, has not, in my opinion, quite escaped the error which he combats. He seems to regard the rebels as a Power, and not as felons, separately guilty of the crimes committed by them; and half approves of England's recognition of them as a belligerent Power. He says that the war should be conducted in accordance with the law of nations, perhaps meaning that the principles of humanity recognized by the civilized and Christian world should be observed in its prosecution. If this be the meaning, no one will question the justice of the remark. But if it means, as might be inferred, that foreign Powers have a right to call us to account for neglecting the maxims of international warfare and pursuing our own course, I utterly dissent from the view.

If the Senator was right in the views he took, we might as well, on the ground of international law, have claimed to interfere against the oppressions of the Austrian, or the late Neapolitan Gov-

ernment, and surely no Government on earth ever outraged humanity more than they did. And yet I have never learned of any interference of this Government, or of any civilized Government, with the Neapolitan Government, calling in question the treatment of their criminals or those engaged in rebellion.

The Senate will pardon me while I allude to one incident, illustrative of their treatment of those engaged in rebellion. It will be borne in mind by many Senators that about sixty refugees from the Neapolitan Government were directed to be sent to this country. Many of them had been imprisoned for ten years, and doubtless the Senate will remember one little incident of that venerable old man, called Simbrini. He had lain for ten years in prison, until the chains had worn deep holes in his wrists, and when he was put on board the vessel, he told this remarkable story: "The first year I was in prison I had about two inches of light, and there was a tree before my prison bars and a little bird came and sang for me for some weeks, but his Majesty happened to hear of it, and he had the bird shot." And yet I never heard of any Government calling in question the acts of that Government. There was a party in rebellion against an established Government. Surely it cannot be said by implication here that any Government would have the right to call in question our treatment of criminals in our own land.

Military commanders may, for want of definite instruction and as mere matters of convenience, follow the maxims of the public laws of war. But a Government is bound by no such considerations where its own citizens are the other belligerent party, unless it be in case of blockade, which, as affecting the world's commerce, is matter of international law. It seems true, sir, that we have all fallen more or less into the error we would all avoid. Why should our armies restrict their seizures of rebel property to that found in rebel camps and contraband of war according to the international code? If this is for want of proof that property in private hands belongs to rebels, it is right; but if it is on the ground that we are bound to observe the rules of international warfare, and recognize only organized bodies, it is wrong.

We seem to be under the delusion that this is properly a war, instead of a contest for the arrest and punishment of our own citizens, who have committed felony, and every one of whom is individually responsible for the crimes of this rebellion, and might be adjudged to the death penalty under existing law; a view which transforms the measure now before the Senate from an aspect of sanguinary cruelty to one of unheard of clemency—a measure providing for the release of the great body of criminals from the penalty of violated law, and reserving only a few leaders to punishment.

I hold, sir, that every loyal citizen of South Carolina, or of Mississippi, or of any other of the rebellious States, is as much entitled to the rights and privileges of this Government as the loyal citizens of New York, or Indiana, or any other of the loyal States. To listen to any other teachings, to adopt any other policy, would be rank injustice. We should therefore be very careful not to countenance in the slightest degree any proposition looking to the destruction of the States and the organization of territorial government within their limits, for in direct terms we would admit the foul doctrine of secession. Therefore I say, with all due respect, the less favor we show towards a measure like that of the Senator from Massachusetts [Mr. SUMNER] the better, for if it were passed I fear it would be an invitation to the great Powers of Europe to recognize and give force to this revolution. This Government denies with all its energy that under the Constitution there can be any such thing as the secession of a State. It does not look upon this rebellion as the act of the States, but as the act alone of the individuals who have engaged in it.

Mr. President, this powerful nation needs a strong Government. By temporizing and by the want of firmness and decision we foster and tolerate enemies in all parts of the country. What the people demand and will have is a strong Government to punish promptly and completely the monstrous and unparalleled crimes which have been committed against its authority. Justice cries aloud for vengeance upon the banded traitors who have conspired to destroy this Government. They have perpetrated the highest crime against God and civilization; and there can be no enduring peace until they have been made to pay the penalty. We are not only contending for unity and the supremacy of the law, but for the respect of the great nations of the earth. By the vigorous prosecution of this war, and by meting out the terrible vengeance which this rebellion has called down upon its leaders, we will have taken a sure means to prevent any future renewal of the horrors of civil war, and impress the nations with the power and stability of the Republic, and the hazards which they would run in interfering with our affairs.

I am tired of hearing the leaders, those who have brought on this war, called our brethren. They do not deserve any favors at our hands. They have shocked the civilization of the age, and have committed barbarities almost unparalleled in history. Shall we call those our brethren who have brought sorrow and suffering to almost every hearthstone in our country? Shall we call those our brethren who have armed the savages and commissioned them for the perpetration of all manner of fiendish atrocities? Will cooing and soft words change the heart of those assassins who, in the midnight watches, stealthily creep upon the pickets of our armies and murder them in cold blood? Do our brethren insult the lifeless bodies of our patriot soldiers? Do they bury them with their face downwards, or pilfer their graves and dishonor their bones, and do other vile acts which we could expect only from vampires and cannibals? No, Mr. President, these are not our brethren. They are our mortal foes, and we must deprive them of all power for mischief.

I need not, for the purpose I have in view, more than casually refer to the sublime spectacle of the rising of the American people to maintain the existence of their imperiled Government. It has astonished the world, and extorted admiration even from the antagonists of republican institutions. The greatest of modern armies has been gathered, equipped, disciplined, and put into the field without resorting, in any instance, to conscription. Men have not only implored that the Administration should tax them and their property, in order that it may have ample means for the vigorous prosecution of this war, but, with a divine enthusiasm, they stand ready to seal their devotion to the Union with their hearts' blood. They have never yet faltered in the good work. Notwithstanding all that Indiana has done so far in this contest, yet I am informed, from the best authorities in that State, so eager are the people in the suppression of this rebellion that they would tomorrow uncomplainingly, if the necessities of the hour demanded it, feed and clothe the sixty thousand troops which she has sent into the field. Contributions of every description pour in from all quarters, to be used for the purpose of securing every comfort to her brave sons, who, upon almost every recent battle-field, have won imperishable renown. When the citizens of the country have done and are doing so well, shall we neglect the high trust which they have confided to us? They look to this Congress to pass some measure for the confiscation of the property of rebels, and I for one am not willing to disappoint their just expectation. They do not ask it from any sordid motive, or because of malignant hatred to the South, but for the reason that it is necessary to subserve the ends of justice. Do not let us palter with them in a double sense, but let us at once come up to the discharge of our obligations to them and to the Government.

I regard this as one of a series of acts essential to put down this rebellion. As our armies advance into the regions where treason is rampant, they must be subsisted upon the enemy, and it is incumbent upon us to make provision for that purpose. It is a fact not to be disguised that there are very many men who have waxed fat and grown rich from the supplies which they have furnished to our troops at enormous prices—men who at best only abstain from coöperation in the insurrection because of the overwhelming forces of the Union which happen to surround them. They would like to see this war protracted until the Treasury was at its last gasp. What care they for the distresses that may befall others so long as their coffers are filled with Federal gold? I would not have, Mr. President, our soldiers, as they have done in Virginia, go starving through the rich regions of their enemies. As our flag presses forward toward the Gulf States, let any of the landed proprietors who have granaries bursting with grain and pastures full of cattle be questioned, and they will tell you, while refusing food to our soldiers, except at starvation rates, that their sons and their neighbors are in open hostility to the Federal Government. These men, who not long before gave up their produce with the freedom of a spendthrift to support the rebel cause, must not be permitted to adopt a dog-in-the-manger policy when the Union armies have fought their way into their midst.

What has been the result of the declarations of our commanding generals, that the property even of the most venomous secessionist shall be guarded, and that to touch it will be followed with the penalty of death? Only renewed and more astounding extortions upon our troops and upon the Government. Those whose sex protect them from personal injury may, in their insane fury, insult our wounded and dying as they are carried to the hospitals, and yet, as things now are, the estates where they reside, and which have been abandoned by husbands and sons, to join the confederate army, are fruitful only for the enemies of the Republic, and as unproductive as the desert for the soldiers of the Union. We must change all this, and those who have broken the public peace ought to be made to subsist those who have come to restore order. It will have a magnetic effect in terminating this civil strife, when the southern people know that they will be compelled to subsist our armies so long as treason shall require their presence among them. If we pay exorbitantly for subsistence of our troops, the desire then will be that the war shall be protracted rather than brought to a speedy termination. Such a measure as I have indicated is next in importance to the one for the confiscation of rebel property, and I feel assured, in advance, that in casting my vote for them both, I shall have the hearty applause of the State which I am proud, in part, to represent. I know the feeling of the people there. I know that it is one of undying hostility to this rebellion and of uncompromising fidelity to the Government.

It will not, of course, be supposed that I object to strict orders against soldiers pillaging the property even of known rebels. This is right. The armies of the Government should be subsisted by the rebels only under regulations prescribed by the Government, and not by the liberty of indiscriminate pillage.

There is one instance which I will state: fifty years ago four brothers left their father's home in the Green mountains of Vermont, and two of them settled in Virginia; the remaining two in my own State. One of the brothers in Virginia died, and the other brother and his nephew have been among the promoters of the existing rebellion. One of them went so far as to contribute $15,000 to arm his poor relations against this Government. The brothers in Indiana, whose sons are in the armies of the Republic, and who have contributed largely of their means to carry on this war, indignantly demand that the old homestead of their revolutionary father, now owned by traitor sons, shall be confiscated to the use of the Government. There comes up from these loyal men no cringing appeal for forbearance, but, on the contrary, the expression of a hope that exemplary punishment shall be inflicted upon those who have disgraced their heroic ancestry, and with parricidal hands have struck at the existence of the Union which gave them prosperity and protection. This is not a single case. There are thousands like it; and they all speak of the noble and unwavering courage of the citizens of the loyal States.

Mr. President, outside of the loathing and abhorrence which I feel towards the conspirators who instigated this accursed rebellion, if I know my own heart, it entertains no unmanly prejudice, and is fired with no unholy fanaticism against the southern people. But I cherish the free institutions of America as a sacred legacy to be preserved at all hazards and at whatever cost. Such, too, I am confident, is the motive which controls the people of Indiana. They have been lavish of their treasure and of their blood to justify their faith by deeds; and I may be pardoned when I state that the heroism of her brave sons, in defense of the integrity of this Government, has more than once during this war gained the grateful tribute of praise from the American people. Full of the patriotism

of the ancient republics, they will cling to their country through every peril, and against all foes, at home or abroad, with the tenacity of death. *That the nation may live*, they will use all the means which God has given them to suppress this insurrection. They believe that these measures will greatly conduce to that end, and with that view, and none other, I shall extend to them my hearty support.

We are all united in the sentiment that the integrity of the Union must be vindicated and its authority fully restored. Our differences of opinion as to the means of consummating these objects should not lead us to neglect the employment of all our just powers in view of the fearful consequences which would ensue from our omission to do so. If we cannot agree as to the precise grant of power in the Constitution, we can agree, if we approach the question in a proper and conciliatory spirit, upon some general and definite plan of operations, by which we can aid the President in the discharge of his high duty of seeing that the laws are faithfully executed. If the Constitution has withheld from us the power to *direct* the President, we must, from necessity, possess the power to *advise* him; and nobody who knows the President will doubt that he will receive our advice in a proper and becoming spirit. Such a definite plan will relieve him from the unavoidable consequences which have ensued from the conflicting opinions of our commanding generals, which have already been the occasion of reproach to us among the Governments of Europe. And the whole country will then know, as the Army advances, the precise policy to be established. The eyes of the whole civilized world are upon us; and if we expect to excite the admiration of mankind, we must act as becomes a great nation, conscious of its integrity and power, and resolved to maintain both at whatever hazard. If left to myself to prescribe a course of action, I would give notice of sixty or ninety days to all who participate in the rebellion that they must lay down their arms and return to their allegiance, or in default of so doing that they must take all the consequences of their unnatural and most iniquitous attempt to overthrow and destroy the best Government upon earth. I feel an abiding confidence that a large proportion of them would rejoice at the opportunity to do so, and that such a measure would be attended with the happiest results, that the trade and commerce of the country would then revive as our conquering Army should advance, and that the end would be the speedy suppression of the rebellion.

I might cite the last news we have from Nashville, and enlarge upon this point. Tennessee was certainly one of the strongest States that the leaders got into this rebellion. It nerved and strengthened the rebellion not only in men, but in resources; and yet it is now demonstrated beyond all controversy that the loyal men of Tennessee are the commercial and the trading men. Hundreds of them owing money in New York have been saving their cotton for the last fifteen months and piling it up in various little places, hoping soon for the deliverance which would enable them to send it to their creditors to pay their debts. As our Army goes on, these roads will be opened, and this sentiment of Union should be cultivated, and I believe the happiest consequences will result. To this end I would direct all the energies and resources of the Government, entertaining no sort of doubt about our powers under the Constitution to do what the necessities and exigencies of our condition require.

Mr. President, I have sat here restlessly day after day and heard questions raised such as were discussed this morning touching the arrest of certain persons charged with treason. It may be doubted whether we have really a Government as yet or not. Violence, lawlessness, and resistance to established authority are everywhere to be seen. The very atmosphere is full of treason. I cannot listen patiently to gentlemen who talk about power being assumed by a Secretary of State or by a President. In this dark hour of my country, I know no limit to the power of the President to do all he can to suppress the insurrection. He must make everything bend before that imperative duty. I would not question it any more than I would think of pulling out Blackstone to inquire what my right of defense is when the assassin comes at me with the steel dagger. I can say to my respected friend from Kentucky, in a free State, where the courts are open and there is no trouble, I think arrests without warrant are unjustifiable; but it has been otherwise in the border slave States. The President and his Cabinet are not politically my friends; but I look to them most confidently for the discharge of their whole duty in these perilous times. So far as Kentucky was concerned, some improper arrests may have been made; but there were some that were not made that ought to have been made. There sat a man [pointing to the seat formerly occupied by Mr. Breckinridge] who was nourished, fostered, and honored by the Government, who abused the high confidence reposed in him to lead off one third of the nation into armed rebellion against the best Government on earth. To him should have been meted out not only imprisonment, but the extreme penalty of the law. Tell me not of the danger of preserving this Government by the power of a President and Secretary. Tell me not of the danger of allowing the President to answer whether or not he can say that certain information cannot be communicated without danger to the public interest. It has been the practice of the Government heretofore, even when calling on the President to communicate treaties with the greatest nations of the earth, to ask him to do so provided it is not incompatible with the public interest; and shall we now, when treason fills the very air around us, and we may well say that it is doubtful whether we have a Government, (for we are trying to bring order and government out of anarchy, insurrection, and treason;) tell us, can we not trust the Administration of the country to say what is compatible and what is incompatible?

And I would implore the Senate to remember that in the great and important work before us, it is our solemn duty to rise up to the true dignity of statesmen, and lend our coöperation to whatsoever remedies may be found necessary to heal the diseases of the country, and to remove the poison of secession from our system of government. When this shall be done, we shall have the proud satisfaction of seeing our Government advance, with reinvigorated authority, until it shall become what the fathers of the Republic designed it should be, the leading Government of the earth—first in military power, and greatest in all the elements of wealth, happiness, and prosperity.

The PRESIDING OFFICER, (Mr. CARLILE in the chair.) The question before the Senate is on the motion of the Senator from Pennsylvania [Mr. COWAN] to refer the matters under consideration to a select committee of seven. Is the Senate ready for the question?

Mr. WILKINSON. I hope that motion will not prevail. It is very apparent that the Senate are as well prepared to vote on this bill as they will be after it is referred to the committee proposed by the Senator from Pennsylvania. I can see no necessity for the reference. It will create delay. Indeed, I am rather inclined to think that is the object of the motion; to postpone, to put off the action of the Senate on this question until it shall be so late that no action can be had. I hope the motion will not prevail.

Mr. WILSON, of Massachusetts. I propose to amend the amendment of the Senator from Vermont, [Mr. COLLAMER,] which I believe is the amendment now pending.

The PRESIDING OFFICER. The motion of the Senator from Massachusetts is not now in order, the question pending being the motion to refer.

Mr. WILSON, of Massachusetts. Let us vote on that.

The PRESIDING OFFICER. Is the Senate ready for the question?

Mr. SAULSBURY. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. WADE. I hope this motion will not prevail. It is made by no friend of the bill; and therefore I hope every one who is a friend of the bill will resist this motion, for it comes from an enemy.

Mr. COWAN. Mr. President, I have a very few words to say. I made this motion to refer, and I shall be exceedingly gratified if it shall prevail; I think, too, the honorable Senator from Ohio is performing a very ungracious task when he charges that it comes from an enemy. I would like to know, in my place here, how it comes that certain Senators upon this floor are arrogating to themselves constantly that they are the friends of the country to the exclusion of others who have her interests at heart, I trust, quite as much as anybody, although they may not blow so many trumpets before them in the endeavor to execute their duty towards her.

Mr. WADE. Will the gentleman allow me? I see that he misconstrues what I said. I did not say anything about his enmity to the country. I believe, however, the Senator is an opponent or enemy of this confiscation bill. I believe I have gathered that from his speeches.

Mr. COWAN. Certainly; there is no doubt about that.

Mr. WADE. If I am mistaken in that, I am mistaken in what I said; but that is no allusion to his patriotism or to his being an enemy to the country.

Mr. COWAN. I am very glad to find that I misunderstood the honorable Senator from Ohio, because I understood him to make an appeal to his party friends to stand by him on this occasion and prevent this reference, because the motion came from an enemy.

Mr. WADE. An enemy of the bill.

Mr. COWAN. It would have been very well to put "of the bill" to it, and then all would have understood it.

Mr. WADE. I spoke of the friends of the bill and the enemies of the bill.

Mr. COWAN. Mr. President, I hope this reference will be made, and I think if there ever was a necessity or an occasion for such a reference, it is here presented to us now. It is admitted upon all hands that these bills involve grave questions of policy and of constitutional law, questions in the presence of which anybody not heated beyond the point where reason has sway would stop and hesitate. If there is any one thing which is better calculated than another to satisfy us that such is the fact, look at the number of these bills before the two Houses. There are no two advocates of them who can agree upon the plan to be adopted. We have, I think, six or seven here, and I am told there are ten or a dozen in the other House. Why is that? If this is a plain question, if we have this power and it is politic to exercise it, where is the necessity for all this difference on the part of gentlemen who ought at least to know what they want and how to get at it.

Now, sir, I think the only way by which we can settle it, rationally, calmly, and wisely, is to refer it to a committee, chosen impartially. Let the advocates of all the several schemes be heard there, and they will have time to discuss and digest such a measure as may, perhaps, be acceptable to all.

I have no doubt that we have some power in the premises, and in pursuance of what I conceive to be the true measure of it, I have myself drawn a bill in which I propose to push the punishment by municipal law against the rebels to the very verge of its constitutional limits. In this I propose to amend the old law, the punishment under which is now death, by adding to it confiscation of the personal property of the rebel upon his conviction, and forfeiture for life of his lands, tenements, and hereditaments when the final judgment is pronounced upon him. I have also proposed, in addition to all that, over and above, to institute in this country a new proceeding, that of *outlawry*. I have proposed that whenever the traitor cannot be arrested, or having been arrested he has escaped, the grand jury find a bill against him, process of outlawry may issue, and after it has been issued and returned "not found" for three successive months, that then he shall be put in the exegit, and when that is done that his personal property be forfeited absolutely, and when judgment of outlawry is pronounced against him after having been three times exacted, then the judge shall forfeit his lands, tenements, and hereditaments for life.

Well, sir, how anybody in Congress, with the powers we have can go further, I cannot see, unless we adopt the theory which seems to be prevalent here, that Congress is, in defiance to the Constitution, and directly in the teeth of it, the commander-in-chief of the Army of the United States. It does seems to me, however, that that question has been sufficiently discussed already to satisfy anybody, (unless they are determined

not to be convinced,) that we have nothing to do with the command of the Army. Our function is to provide the means to raise it, the means to equip it; and our power over it and over the President in the command of it is simply our power over the supplies which keep it on foot in the field. It is precisely the power which the English Parliament has over the English army in the field, and no more; and the President, in the command of the Army, and in directing its operations, is, in my humble judgment, just as supreme and as independent of any direction from Congress, or the judiciary, or anybody else, as the King of Great Britain is in the command of the armies of Great Britain. Why, sir, it is only to read the horn-books to know this; and more, it is only to read them to know the reason of it; and that reason is overwhelming, and no man can answer it. It is, that no deliberate assembly, such as this, has ever undertaken the command and direction of the operations of an army with success. The war is to be carried on under the direction and control of a single head. If we cannot agree upon our constitutional power as to the right to pass a confiscation bill, which involves only a question of constitutional law, how can it be expected that we can manage the operations of an army which requires intimate knowledge of a vast number of facts complicated in their nature, and which can never be known to us?

Mr. President, I am as much in favor of putting, not the mere idle, empty declarations of this Congress, but the actual force of the nation itself against the rebels. That which is effective, and that which is only effective now to reach them, I desire as much as any other man living. I stand behind no man in that behalf. At the same time, I do not think it necessary that I should lose my head about it on all occasions, or that I should bluster, fulminate, and denounce everybody who does not happen to agree with me as to my way of doing it. If Senators have another method by which this force is to be applied to the enemy, they may entertain it for aught I care. All I ask is that others have a decent respect for me and for my opinion. I want the force applied, and I am perfectly satisfied to intrust the direction of that force, the command and control of our armies, as against the rebellion, to the President and his military advisers, and I do so simply because they know all about that duty, and I know nothing. What can I know? I am not, in the first place, a military man, intrusted with command; in the next, I am not in the presence of the enemy, and if I were at this present speaking, I think I should not be rash enough to interpose my judgment as to what was best to be done upon any given contingency.

And, sir, while refraining from thrusting my judgment in upon all and every occasion where it is entirely uncalled for, I think it is only the part of prudence that I should withhold it. Then, with regard to the subject now before the Senate, a subject upon which all people seem to differ more or less in their views, I have proposed a reference; and if in that reference, where I suppose all shades of opinion will be represented, nothing can be agreed upon; if men, all equally patriotic, men all equally desirous to do the best for the country in their own way, cannot agree, then, I should think it was conclusive evidence that such a measure was not at this time either lawful or politic. If, on the other hand, there is anything feasible which can be done, of course they will find it, and it will be submitted to the Senate in such form as to have the advantage of all the previous discussions upon the subject here.

I cannot conceive that there is anything improper, anything rash, or anything tending to delay in this. If it tends to anything, it tends to a speedy termination of the business, by giving a chance to compact a bill and bring it before us in a shorter time than we will get it here by means of amendments; and, what is more, it is calculated, I think, to give us the measure in a better shape by endeavoring to reconcile and to pick out from all the measures before the Senate such parts as might be advisable to form into a new whole. I therefore trust that the motion will prevail.

There is no especial haste in this matter. If this is a mischievous thing in some shapes, as many of us believe, the reference may do great good. I, for one, do most sincerely believe that if a confiscation bill is passed here in the shape in which I have seen some of them, it will not only do no good towards the suppression of the rebellion, but will do great harm and mischief. Why, sir, what is it that the rebel leaders want to-day? Is it not that you may be led to trample your Constitution under foot, and that you may do something which they can demonstrate to be a violation of it? Is it not that their people should be a unit against us, a unit in their hate, a unit in their determination to resist us? And if you undertake this mode of dealing with them, in the objectionable form of a bill of attainder, I ask whether you you could do anything in the world which would be better calculated to make them a unit against us, or to show their people that you disregard the plain provisions of the Constitution?

Then there is another thing, and I am sorry that it is continually brought here and made to stand out foremost in all this business—so much so that I am sometimes inclined to the belief that those who continually introduce it esteem it paramount, higher than the restoration of the Union, higher than the Constitution, and higher than the laws—I mean the emancipation of the negroes. Now, Mr. President, I am as much opposed to slavery as anybody; I as much desire that all men all over the earth should be free, as anybody; but let me say here that this is a Government of the people, this is a Government of thirty millions of people; and does any man believe that we can carry on that Government if we trespass upon and violate the belief of twenty millions of the thirty millions of those people? It is not a question whether that belief is right or whether it is wrong; it is not a question whether the practice is right or whether it is wrong under it. We are not here to frame a code of morals for this nation. We are here to administer its Government and to take the people as we find them. I say, then, that if the twenty millions of the North were to entertain the most heretical belief, and were to engage in the worst practice under it, the man who attempted in this Senate or in this Government to compel them to abandon it, because, in his opinion, it was wrong, would himself produce a revolution.

Then, sir, how is it about slavery with the southern people? I say no matter whether it be a vicious or a virtuous institution; no matter whether the belief of the people in it be heretical or whether it be orthodox; no matter whether they are right or wrong, there are seven or eight millions of them who, so far as I can ascertain their sentiments, are unanimously opposed to our meddling with it. They have rebelled upon the belief that we intended to correct it; and we are here to show them they are wrong, to try to get them back, to restore the Union, to restore the Constitution and the laws, and to punish those who have incited them to rebellion. How are we to do it? Are we to take that particular dogma and belief of theirs, and to make that the end and aim of all our attacks? Is that the way? Mr. President, with all deference to those who entertain that method, and who urge it, to my mind it is the very worst way in the world. We cannot compel these people to believe as we do; nor can we compel them to adapt their practice to our beliefs. And, Mr. President, if this course is adopted, and emancipation is to be made the prime end and purpose of this war, the war itself will fail inevitably, just because as soon as the people of the South understand and know certainly that that is the end and purpose of the war, they are a unit against us; and I say that no people united, in a country of the size they occupy, with the numbers they have, and the spirit with which we have reason to believe they will carry on the war, can ever be conquered. It is impossible.

Then, sir, how are they to be conquered? I tell you, Mr. President, they are to be conquered by us in standing literally, strictly, and truly upon the Constitution. That is the compact; that is the bargain. The allegation now on our part is that they have broken it. Shall we break it too, and justify them? No, Mr. President, the very life, the very soul which animates this terrible exertion on the part of the nation to put down this rebellion, which gives it force and strength in the minds and hearts of all our people, is that it is a war for the Constitution and for the laws, and not for their overthrow and destruction. That is a position which cannot be gainsayed; it violates nobody's dogma, nobody's belief. On the other hand, so far from being able to gainsay it, the rebel leaders themselves have paid the highest compliment in the world to that Constitution, for they have adopted it themselves, as I understand, almost *verbatim et literatim*, and now pretend they are fighting for it against us who intend its violation. Shall we verify their falsehood, and make that true which is now but a wicked pretense? If we do, it is all they want, and it does besides what they could not do for themselves—it makes them as one man against us.

Make the war for the restoration of the Constitution; make it for the protection of the institutions of the country and the beliefs of the people of the country, whether their beliefs are right or wrong; make it for the people you govern, and then you may restore it, and not otherwise. But to assail a universal opinion prevailing over a country of that extent, among such a number of people whom we expect to govern, while at the same time we call our Government a government of the people, it does seem to me, Mr. President, is to ignore, to deny, and to abandon the very first principle upon which that Government rests. And what, to my mind, is worse, it will end in the utter destruction of both parties if it is persisted in. Let us stand upon the law; let us be cautious, wise, and prudent, and not occupy ourselves, as we have been here day after day and month after month, in talking about what we will do with the rebels before we have caught them. Will it not be time enough to determine it when we have caught them? There is one mode now, and only one, by which we can hope to succeed, a mode pointed out by the law, and that is the only one that we dare adopt. Whatever the Commander-in-Chief of the Army may do, governing by military law, we, the Congress, are bound by the municipal law, and we cannot go outside of it; we have no authority to go outside of it. Everything we do, we must find warrant for in the Constitution as against these people, because, although the President and his Army may deal with them as rebels, we can only deal with them within the purview of the Constitution, and every law that we make in its application to them must be administered through the judiciary; nobody else can administer it. Every man who is amenable to a law of ours has a right to be heard, and he has a right to answer in court, because in that consists the very liberty we are fighting for. It is also because the rebels are without the domain of the law, and standing there in defiance of it, that we have put into the hands of the President the force of the nation, in order to compel them to come back again within its charmed circle, that they may be punished there according to the laws. The war we wage is to reduce them to obedience under the law; that once done, they are entitled to the same constitutional guarantees with the rest of us. The function of the law begins when that of war ends; the war is a mode of arrest on a great scale, and when the arrest is made, the force ceases except under the direction of the law.

What could you do with one of the rebels if you had him now? What could anybody do with him after the Army takes him prisoner? Try him by the law: that is all you can do; and if so, our law punishes him capitally. Death by hanging is the punishment. I have no objection to it; on the contrary, I propose to add to it and make it as much more effective as I can under the Constitution; but I would not go a hair's breadth beyond it. I would impose all the punishment I could, and no more, because if we did it would come back to plague its inventors.

Then I say let the President do everything he can in his endeavor to suppress this rebellion, and arrest the rebels, so that we may punish them. In the mean time, if advisable, let us amend the law quietly; and, if you please, impose severer punishments as far as we can; that we have a right to do. But we should remember that every effort we make to control the President in the direction of the Army is a mischief, one demonstrated to be a mischief ever since the world was, and ever since deliberative and representative assemblies took it into their heads that they could manage armies. Indeed, the same mischief precisely France experienced at the time her Assembly undertook to censure generals for every blunder they made, and to recall them for every defeat they suffered. I think, too, that instead of rash and misguided censure, without the proper caution, we should strengthen the arms and hold up the hands of the President and his generals. Do this

instead of condemning them, charging them with treason, and imputing to them the worst of crimes. But let us not demoralize the Army and make the general so fearful, having so little of the confidence of his fellow-citizens and of this Congress especially, that he will falter in his duty and tread as though he were in slippery places. I say strengthen his arms, hold up his hands, rather than weaken them, until the rebellion is suppressed; and then it will be time enough calmly and deliberately to determine how we shall judge him, how deal with the leaders of the rebellion, and how many of them we shall punish for their offenses. I have not a word to say in extenuation of their offense. I feel just as sensibly as any other man the enormities of it. When eight hundred thousand square miles of territory are laid desolate, when the grass is growing in the streets of their cities, unless it be kept down by the tread of armed men, when there are no crops in their fields, when war rages everywhere, all over it—if any man wants to enhance or heighten that picture of terror I do not know where he would go. I feel, then, I think, as sensibly as anybody else, the crime and the offense of these men; but, as I said before, this does not justify me in doing anything and everything which I might suppose was proper to be done in order to punish it. It is well to remember, it has been stated on this floor, properly stated, that the things which the Constitution prohibits us from doing are not those things that nobody would think of doing; they are not the open, palpable absurdities that would enter into no man's head as a remedy in a case of this kind; no, sir, they are plausibilities, things that look as though they were going to work well, and which have seduced the world into the practice of them down to the formation of our Constitution; and there, perhaps for the first time, was there a barrier expressly set up to prevent us from injuring ourselves as people had done before by adopting them.

Suppose you confiscate the real estate of the rebels, take it away from the wives and children, and what is to be the consequence? You do not suppose they will forget; you do not suppose that the remembrance of it will not induce them to endeavor to revenge it. You will have Robin Hoods in every Sherwood Forest from Mason and Dixon's line to Florida for hundreds of years before the feud is satisfied. What do you gain? Nothing. The honorable Senator from New York, [Mr. HARRIS,] the other day, was candid enough to say—other Senators, I believe, are of the same opinion—that he did not expect the Government would get a dollar out of this measure by way of indemnity. But can it be looked upon as a punishment inflicted on the traitor, when that punishment falls upon his wife and his children, when it falls upon those who may be innocent? If the estate is worth anything in the world, one would think it only worth retaining it in his family in order to stop the breed of traitors and to make the brood loyal. Surely it will be of little avail for any other good purpose.

I do not know what anybody expects to achieve by it. Suppose you pass it in the form in which it now stands before the Senate by the adoption of the amendment of the honorable Senator from Ohio. We have said here that this power of confiscation is in the President if it is anywhere; if there is anybody that has the right to seize upon this property and appropriate it to the United States, it is the President. That is not only law, but it is fact. It is an absolute necessity which the framers of these bills themselves acknowledge. Under the bill of the honorable Senator from Illinois, who is to say whether the bill shall be a law, or whether it shall not be a law? If the President chooses to put the bill in his pocket it is no law at all. It would never amount to anything, because all the property confiscated is the only property he pleases to seize, and he is only to seize it as the necessities of the case arise in his judgment. That demonstrates, if anything will demonstrate, that this is not in the true sense of the word a law. A law is that which speaks to command, and when it commands it has the power to compel obedience; but here you have no power to compel obedience. Take the bill of the honorable Senator from Ohio. Suppose the President sees fit to disregard it entirely; where is our mode of compulsion? Senators may say, impeachment. That is no remedy at all in this case. The President, if he pleases, has the right, to-morrow, to pardon all these men now in arms against the United States. He is the sole depository of the pardoning power of this Government. He is not only Commander-in-Chief of its armies, but he has the right to pardon everybody now sinning and offending against it; and as you, sir, well know, he has the right to do that previous to any trial and any conviction of the offender.

Then, I say, to pass a law, as it is called, to confiscate the property of rebels in the manner and form in which it is attempted here is a mere *brutum fulmen;* it is the mere idle blowing of a trumpet, and of no more efficacy than that, just because it achieves nothing. The President is Commander-in-Chief of the Army, and he is now dealing, and he is bound to deal with the rebellion by the laws of war. It is not material whether you call it a civil war, a mixed war, or a war of rebellion; it is war, real, genuine war, in which armies meet armies and kill one another upon the field of battle. The President is bound by the laws of war. Why? Because these laws of war are arbitrary? Because they are written down in books somewhere? No, sir. The laws of war are in the nature of things; they are the laws of humanity; the laws that have been discovered through a long series of mistakes and blunders in bygone centuries, and which to violate now would be to strike at yourself. These laws of war are the laws by which great victories are obtained, by which wars are ended, by which rebellions are suppressed. Your laws that you would substitute instead of them, your violent confiscation laws, and your old worn-out remedies, are the very laws which continue wars, which embitter them, and which prevent the suppression of rebellion; the laws, in fact, which would keep a rebellion alive forever, which would tear and distract this continent as it has torn and distracted Europe ever since we had a history of it. The laws of war, then, are the laws by which the President expects to achieve his ends, the laws by which he expects to conquer and to triumph; not arbitrary laws which may or may not be right or wrong in a given contingency. Those laws are right always.

Then, I say, the whole resolves itself into this: you pass your law, but it is optional with the President whether it shall be a law or no; it depends upon his discretion whether he will execute it or not. Whether you can delegate your legislative power to him is another question; but here, at least, it is optional with him. Very well; if the contingency arises where it becomes necessary for him to execute it, he could only do it by way of retaliation, and then not for the purpose of establishing it as the law, but for the purpose of destroying it as the law, and restoring the true law in its stead. What does the President do? He says, "I am directed to confiscate the property of all these people; I am directed to seize and appropriate it." He decides, or his military commander decides in his behalf, perhaps, that it would be exceedingly impolitic to do so just then; that it would be exceedingly impolitic to go into this house and seize it, or into that granary and seize it; that it would be far worse for the Republic, far worse for the cause, than to pay dollar for dollar for it. Then, in such cases, the President would disregard the law, and would not seize it. He would be derelict, indeed, to his duty and to the country if he did seize it. Where is the law then? Suppose, again, the President says, "this law is inhuman." He is not bound to do inhuman things. He is bound to stand upon the humanity of the age and its progressive civilization; to stand there and fight this battle through, and the responsibility is upon him. Where, then, again, is your law? The President cannot execute it against the law of war, the law of humanity, and he disregards it; and you have left him this option. It is, then, law or no law, at his discretion, which is just the same as saying his discretion is the law; and so we say it is the law without congressional intervention at all. It will only be used for retaliation, and retaliation in all cases comes readily enough without it.

Sir, I impugn no man's honesty. I impugn no man's sincerity. I have never yet stood on this floor and arrogated to myself that I was the only one here who had a proper sense of my responsibility in putting down this rebellion. I never pretended that I or my set were the only men who truly and ardently hated the rebels. I never pretended that any other man here, however much mistaken I thought he was, intended to encourage this rebellion. I differ as wide as the poles from some Senators on this floor; but I have never been so uncharitable as to suppose that they wanted to encourage this rebellion; I give them this credit, and I desire it and no more for myself. And yet what do we hear at times? That if we raise constitutional objections to any scheme here against rebels, we are aiding the rebellion. I am weary of this, sir, and hope for the future it shall be heard no more, and that we shall all address ourselves to our duty, without crimination or recrimination.

Then, Mr. President, in this conflict of opinion, I desire that we should, coolly, quietly, calmly, without any fanfaronade, bluster, or wounding of feelings one way or the other, endeavor to do our duty to the country in this her crisis; and mark me, sir, we shall all have just as much to do as we can do, if we save it, without personal bickerings to indulge in, without personal ends to serve, and without personal aims to achieve. The work is here upon us just at this instant, and it would be well if we were to stop and coolly and carefully look at the magnitude of it. We do not go along any better by shutting our eyes against the difficulties that are in front. We would go a great deal better, I think, by coolly, carefully, and cautiously scanning them, and providing for them. If we should fail, Mr. President—and it is possible—what a spectacle will our folly present here in this course of conduct!

Mr. WADE. It is not possible.

Mr. COWAN. Gentlemen say it is not possible. I doubt that; and although I desire it as much as anybody, yet I have always found that they who achieved great results were not those who believed blindly in success without taking all the requisite measures of precaution in order to secure it. The cooler, the clearer, the calmer, and the less passion there is in and about this work, in my judgment, the better. I may be wrong, and it may be taken by storm; I do not know, and I think the very reverse; that the only way we can secure it is by standing together as brothers, and, forgetting our differences upon all topics, strive for this end alone. We can agree to seek this one without dissension, *that this rebellion be suppressed.* Let no other disturbing element enter here. That the rebellion be suppressed—we can all agree upon that. Then where is the necessity to divide and to weaken ourselves by going off after this particular scheme or that other? Certainly no benefit comes to us from aguing these things here day after day, exposing our nakedness even to our enemies, and giving them aid and encouragement. Where is the necessity? Sir, I have been, from the beginning, fully and firmly impressed with the belief that the duty of this Congress was to come here with a united North, as we had a united North, with loyal hearts beating in unison all over it with us, and keep our eyes steadily and solely upon that aim and object. Then we were brothers; then we did present, and could present, a full front and bulwark to the enemy—no division, no weakening then.

How is it now? I am very much mistaken if the extremes are not getting up presidential candidates already. I am rather inclined to think that we have a mischievous set of politicians who are endeavoring to distract and to divide the force of the country, on the one side, by making General McClellan a President, and on the other by making General Frémont a President. They are both very respectable gentlemen, men for whom I have the highest regard; but I hope and pray that God in His mercy would take them both away from these United States just as soon as they become pegs upon which to hang a division of that kind in this crisis. I think, further, that any man who looks towards it, who thinks of it, who dreams of it in this our hour of calamity, is false to himself, false to the country, and aiding in its destruction. Sir, what have we to differ about now? When the bones of those who might have differed before are lying side by side on every battle-field, in the name of God may not the old differences be buried with them? Cannot we spare a little hour for the country beside their graves, and fondly believe, at least for a time, that all our ancient feuds and dissensions are buried there with them.

Sir, I have opposed the Democratic party in my own humble way as well as I could every-

where, but I have no opposition to that party now, as such; none at all. If the people are true, as I fain hope they are, I will not stop or hesitate a moment to speculate upon or revive the differences that existed between us heretofore. Let them be forgotten in the past. I know no reason, when the whole strength and force of the country, its means and resources are needed to achieve its success and its safety, why we should turn ourselves into a pack of petty, scrambling politicians, filled with venom and strife and Billingsgate raked up from the ashes of bygone follies in order to destroy the very prize for which we ought honorably to struggle—why we ought to embitter and curse all our social relations, engendering hate and malice at a time when mourning is in every house, the empty chair of death sits at almost every hearthstone.

Then, Mr. President, I hope that all these troublesome, irritating, and vexatious questions, which were calculated to anger and embitter from the first, and never calculated to do any good in the world, with nothing practical about them, in my judgment, though I may be wrong, will be referred to a committee. I desire further to say that I really have no wish myself to be upon that committee or to be connected with it. I am willing to intrust it to the decision of any seven Senators of the body who will calmly sit down and examine the Constitution and our authority in the premises under it. I will therefore suggest that my name be left off as a member, and that my honorable friend from Vermont [Mr. COLLAMER] be placed at the head as its chairman, as I think that position will be accorded to him with great heartiness on the part of everybody.

Mr. HALE. Mr. President, it is related in some veritable history that when a certain poet of the East had recited one of the most beautiful poems that have come down to us, that critic of critics, Fadladeen, undertook to criticise it; but he prefaced it by saying it would be necessary, in the first place, to review all the stories that had ever been written in the world before. It seems to me the spirit of Fadladeen must have presided over the discussions of the Senate on this simple proposition of my friend from Illinois, for it is hardly possible to conceive of any question that can be got out of the black-letter law of antiquity, or out of the speculations upon the Constitution, or upon the theories of peace and war, that have not been brought into it. The Senate were edified and the country instructed, in the first place, with a learned speech to show that this was not a war. I do not know that anybody has risen up here to discuss that old and vexed question whether there is anything at all in the world; whether there is any real solid substance; whether we are not all mere floating imaginary ideas, without anything of solidity about us, not even excepting my friend from New York [Mr. KING]—all mere phantoms.

Now, sir, this proposition, to my mind, is simple in its character. What a spectacle does the country present to-day! I call it war; I call it war in the most horrid front and features in which it has ever presented itself to the gaze of man. What do you find in the rebellious seceding States? Every man suspected of regarding man or fearing God in regard to his constitutional obligations to support the country, maintain the Constitution, and defend the flag, is to-day an exile and a wanderer from his own hearth, and his property is confiscated. Gentlemen have talked to us about the feelings that will be engendered in behalf of the widows and children of these traitors whose property we propose to confiscate. Sir, I confess that while the wail of the widows and the cry of the orphans of the brave and chivalric soldiers who have bared their breasts to the shock of battle, and poured out their blood to consecrate this soil of liberty, are in my ear coming from every section of the land, I have no heart to listen to the complaint of him who would plead for the widows of rebels and traitors. The property of every loyal man, from one end of the country to the other, where rebellion has reared its head and seized upon the reins of Government, has been confiscated. Debts, property, lands, all, have been confiscated; and to-day what do we see in this city, to our lasting disgrace? Rebels, traitors, spies, and those that sympathize with them, in the employment of your Federal Government, receiving their money and eating their bread, while our loyal friends, wanderers and exiles from their own homes are here in this city appealing to the sympathy of friends to aid and support and cheer them in the destitution and desolation which armed rebellion has visited upon them. That is what the city shows to-day.

Mr. HOWARD. And even women in that condition.

Mr. HALE. Yes, sir; and children. Now, sir, I am opposed to referring this matter to a committee, and I will tell you the reason why. I want, and the country wants, some proof of action, something to prove that you are in earnest, something to let the country know that the Government is acting vigorously. I do not care who the Government is, or what it is; but I will tell you, Senators, you will find out ere very long that you are not the Government, unless you take hold of this question and treat it vigorously. You will find that there is a people over and above what is called a Government here at the seat of Government in Washington, and they will take a common-sense view of this matter. I am opposed to it for that reason, because I want action, and I want to prove that we intend action.

Some gentlemen have thought that this reference would be a wise course, and they refer to the compromise of 1850, where a great many bills were committed to a great compromise committee, and such beautiful results followed. Now, sir, I want to tell you a little something about that. I had the honor, or the dishonor—I do not care which you call it—of being a member of that famous Congress that passed those compromise bills. There were a great lot of them introduced, and finally, for the very purpose now indicated and avowed by the Senator from Pennsylvania, Mr. Clay—a man of, I believe, as patriotic heart as ever stood in the national councils, though it was my fortune to differ with him on that occasion almost totally—Mr. Clay, I think it was, got up and moved a famous compromise committee, to which all these measures were to be committed. The Senate, in its wisdom or its folly—I will not undertake to say which—adopted the motion of Mr. Clay. A compromise committee was raised. All the bills and substitutes and amendments were committed to that committee, and they set and set and set—I do not mean sat, but set—and finally they produced a great bill which, from its character, for everything was involved in it, was called an "omnibus bill;" and then Congress repeated the incubation of the committee; they "set" upon it, but they produced nothing. [Laughter.] The compromise turned out to be a bad egg, and it broke down, it did not pass, it was killed in the Senate, and Mr. Clay left the Senate in despair and disgust, and went down to resuscitate himself at the city of Newport, in Rhode Island. After he had gone, and the famous report of his compromise committee had been broken down, and he had abandoned it in despair, the Senate took it up just exactly where they were before the compromise committee was appointed, and passed the bills in detail, every one of them. That is the result of that experience.

I do not remember how long it is since my honorable friend (if he will allow me to call him so) from Illinois introduced this bill; but it is a good while, a good many weeks. We have had a great many speeches, and I will say a great many speeches of a great many kinds, but nothing has come of it yet; and now it is proposed to take the whole subject, all the bills and all the substitutes and all the proposed substitutes and amendments and submit them to this committee of seven. What will be the result? The committee may agree or they may not. It will postpone the matter some weeks and will come back here, and you will find yourselves after the end of the discussion upon the report of that committee just exactly where you are to-day. You will not make the least progress in the world.

Sir, it is time to do something. It is time that this stand-still policy was abandoned. It seems to me there is something fatal in our example. The contagion of our supineness and inertness seems to have seized upon the armies that are in our neighborhood, and all that they have done as yet is to set and set and set. They have had a winter campaign in Washington, and they have gone to the tide-waters of Hampton Roads for a summer campaign to repeat the Washington campaign in warm weather. That is my judgment. We have been sitting here in a besieged city. The poverty-stricken inhabitants of this city—I speak of the very poor—have been paying famine prices for fuel, for wood and for coal, all winter, and we have been besieged here with an army of two hundred and fifty thousand men, or about that number, by an army of less than sixty thousand, and we have done nothing. Whenever anything is proposed to be done, somebody gets up some constitutional objection. I tell you, sir, the Constitution was made for a time of peace. It was made for a civilized society, and was not framed and did not contemplate the exigencies and emergencies of an armed rebellion. I trust I have as much regard for the Constitution as any one. I confess I have sat here day after day and have held my peace and withheld my voice and vote upon measures that in my humble judgment were in violation of the Constitution, because I would not venture to throw my poor scruples out when the cause of the country was at stake.

While I am upon this subject I will say that while I, and I trust the people that I represent and the friends with whom I sympathize, will be ready to look with a very charitable eye upon every act of the President or of any of the Secretaries which has been honestly and well meant for the defense and protection of the country, I tell them there is a fearful responsibility that will rest somewhere, and they will have to show to the tribunals of the country, to the public sentiment of the country and of the world, that there were extraordinary emergencies which justified some of the measures that have been adopted. I am willing to have faith that it is so, though I confess it is rather a blind faith, and not call these gentlemen to account at the present time; but I think the time has come when Congress should move, and should show to armed rebels with arms in their hands—hands red with the blood of our brethren—that the Constitution and laws made for the protection of the rights of persons and property were made for the protection of those who were true to their allegiance, and not for the protection of those who threw it off and were fighting against it, and would subvert the Constitution and destroy the country which it was instituted to govern.

It is said that this bill is defective in some of its details; I have not looked into it; but there were some suggested by my honorable friend from Pennsylvania which, it seems to me, were not worthy of his reputation. He says it depends upon the President for its execution, and if you pass these laws the President may pardon every one of these traitors. So he may. Why, then, make a law against murder? Why have a law on your statute-book for the punishment of piracy? The President may pardon both murderer and pirate. Why make a law to raise an army to go out and meet the enemy, vindicate the cause of the country and an outraged Constitution, and rescue the land from the curse of rebellion? It all depends on the President. Suppose he refuses to commission the officers; suppose he will not commission a major general, a brigadier, a captain, or anybody else, and you get together and have a mob, not even subject to the jurisdiction to which Peter the Hermit was, when he led the hordes of Europe to rescue the sepulcher from the infidels. You depend upon the President, and you put confidence in him, and for aught I know or for aught I believe that confidence has not been and will not be betrayed. It is no objection, not the slightest, to the bill of the honorable Senator from Illinois that it requires the assent and the cordial coöperation of the President, and we shall have it. There is no question about that. If we pass the bill, we will have it.

Mr. McDOUGALL. Allow me to ask the Senator from New Hampshire a question.

Mr. HALE. Certainly.

Mr. McDOUGALL. I wish to ask the Senator from New Hampshire, as he speaks for the President and says we shall have it, whether he is authorized to say that. I do not believe it. I should like to know whether he is authorized to say it. If he says so, I will believe it.

Mr. HALE. Well, sir, I am authorized to say it; not by anything the President has ever said to me, but from what I know of the history of the President and the history of the country and of the Government. Let me ask you, sir, when did you ever know a President to throw himself in the way of the operation, and the efficient operation, of a statute which he had passed upon and

approved? It seems to me—I say it with all respect; I do not mean to say anything unkind to anybody, least of all to the Senator from Pennsylvania—the suggestion is absurd. I simply mean that in a Pickwickian sense; nothing offensive. [Laughter.]

Mr. COWAN. If the Senator will allow me, he has not entirely mistaken me; but he has mistaken the sense in which I interposed that objection to the law. Our allegation on this side is, that this thing is within the President's discretion already; that you do no more than put it there again; and even if you attempted to make that imperative on him, that in the last resort he has the pardoning power upon which to fall back, which still leaves it in his discretion as before.

Mr. HALE. I admit that; but I do not think it weakens the little force there was in my argument before; I do not claim much for it. I do not think it is very material. But, sir, nothing was further from my idea than to make a speech, and these few thoughts that I have suggested have been provoked by the discussion to which I have listened. I must take occasion here to say in justification of myself, that I have listened as little to the speeches that have been made on this question as any member of the Senate, and the Senate may for that reason thank themselves that they have been troubled so little with me on the subject. [Laughter.] But I do think the time has come and is pressing upon us for action. I do not believe you are gaining anything by handling this thing so gently. I believe, while our property and the property of all our friends is confiscated, and they are wanderers from these rebellious States, that you will do nothing more than justice in passing a confiscation act of this sort. The time has gone by for parleying with this matter; and I will close the few remarks that I have made by relating an incident that occurred in the early history of Massachusetts, which I think has some instruction in it.

Massachusetts, as you all know, and as everybody knows, has a history of which all her children are proud. But, sir, there was once a rebellion in Massachusetts—so there was in heaven, Milton says [laughter]—headed by a man by the name of Shay. He brought his forces out, and General Tucker, who had been commissioned under authority of the State of Massachusetts, was directed to go against him. The popular doctrine of that day was, that the rebels must be dealt with gently; their bodies must not be hurt, nor their property touched. The general insisted that the best argument with which rebels could be met was powder and ball; and after urging his arguments for a long time, at last the Governor consented, and gave the order to fire. General Tucker turned round to him and said: "Governor, that is the argument for rebels;" and in that vicinity leaden balls went by the name of "Tucker's arguments" for years afterwards, and I do not know but they do now.

I think something analogous to that is what is required of us. I think if there be any defect in this bill, it is that it does not go far enough. I will tell you what I want, and I will tell you what I feel ashamed that we have not got, and that is, some statute, some measure of the General Government, to deal with rebels right in the midst of us. Why, sir, there is no place on the North American continent where treason stands up and stalks abroad with more impudent, brazen face, than it does within this Federal District of Columbia. These assemblies, which meet together Sunday after Sunday, calling themselves Christian churches, are too pious to obey the injunction of their bishop to utter thanksgiving to God for the victories that He has vouchsafed to our arms; and if there has been some man standing in the sacred place of the Christian teacher who is determined to do his whole duty as a patriot and as a Christian, and has used the prayer which the head of the church has ordained, treasonable and traitorous members of his congregation have got up and slammed the doors of their pews in derision, and marched out of the house, turning their back on the altar of their faith and the country that they should be bound to love and preserve. I say these things are an everlasting disgrace, and until this Government does put forth a strong hand right here in the citadel of its power, and take traitors and treason by the throat, you will fail to convince the country that you appreciate the emergencies in which the country is placed. Sir, I say it becomes this Government to awake, to arouse itself from its lethargy, and to show to its friends and its enemies that it has a strong arm as well as a good cause. It becomes us, we owe it to the memory of our fathers, and to the God of our fathers, who has given us this goodly inheritance, to let traitors know that the sword of justice is not committed in vain to the hands of our countrymen.

Mr. McDOUGALL. Mr. President, I have understood that is was the practice of those whose business it was to delight an audience and to send them home satisfied, with good chance to rest, to introduce the tragedy first, the farce afterwards. The weighty things first, the light things afterwards, to evoke the tears, and afterwards stay them. The Senator from New Hampshire, playing the full game, has violated all the laws of art, as well as all the customary rules of artists; for with opening jests and appeals to our recollection of Arabian tales, the kiosk, and the beautiful things that rest in eastern imagery, he has finished with an appeal for blood. In his exordium, he appeared to revel in the fancies of oriental literature, and speak of happy and laughing things. In his peroration, he enjoyed the satisfaction—it seemed to me, luxury, to him—in placing his victims under or beneath the pains which would compel the tears of laughter into the tears of pain.

Mr. President, I did not design to speak further on this question. I do not wish to speak now, but I cannot permit a remark of the Senator from New Hampshire to pass in this Senate unrebuked. The sentiment expressed which I desire to rebuke is this: Sir, I do not belong to New Hampshire. I do not belong to Maine. I do not belong to Illinois. I do not belong to California. I belong to the entire Union aggregated. But as the gentleman speaks for New Hampshire, permit me to speak for the great West. In the name of the West permit me to say, in the name of the people north of the Ohio and thence westward to the Pacific permit me to say, that among them all there is no sympathy with the sentiment expressed by the Senator from New Hampshire, and I think I may speak from the heart of the great Northwest as well as from the heart of the people on the distant shores from whence I come. We make no war upon widows and orphans.

The Senator has said why should we regard the widows and orphans of the South? Have we not, he asks, widows and orphans at home, and are they not to be avenged? If women and children mourn, or are made to mourn in the South, do not women and children mourn in the North, and are not they rebels, and are not we loyal?

This is pleasant, delectable, beautiful discourse for the Senator from New Hampshire. Who has he sent into the field? I have sent into the field to maintain our flag every one of my name or kindred over whom I had even the appearance of authority. Two have left their blood and bodies on the field in the maintenance of the Constitution and the laws; two of them live to fight.

Mr. President, I beg pardon; I approach the subject, or rather object, of offense with sensitive step. "Why," says the Senator, "should we regard the widows and orphans of the South, when our widows and orphans of the North, whose husbands and fathers fighting in a just cause, having fallen, have left widows and orphans?" Sir, does any true man think that all these wailings, from South and North, will not go up to the common Father? Think you the hearts of kindred will not respond? Think you the hearts of the bereaved will not respond? The heart in agony is correspondent with all other agonies. The agonized heart knows neither North or South. The heart of the bereaved one on the shores of Lake Michigan will go up in sacrifice with the heart of the bereaved one on the shores of the southern Gulf. This temper, I will not say opinion, of the Senator, I say I cannot permit to go unrebuked. I say it is against the true convictions of all just men. No true man can approve it. God will not approve it.

The expression of such opinions cannot be excused by the calamities that surround us. The Senator from New Hampshire, perchance, may be agonized. Let me say that in my agony I would rather shed tears than blood. On some other question, and in some other place, I might, and indeed I can, enjoy the Persian tales told by light women to old men. Let me beg that they shall not be even the introduction to the argument involving lives, fortunes, happiness, destruction, ruin, despair, utter hopelessness—questions where widows and orphans are the staple of the controversy. When I have spoken here on grave matters I have endeavored to speak gravely, and my discourse cannot be illustrated by any Persian tales. We are in the midst of stern necessities, severe trials, terrible sacrifices, great sufferings; great sufferings for us, great sufferings for all. Shall we mercilessly add to suffering? Shall we by our voice, and in the name of law, increase suffering? Shall we of the strong, powerful, compelling North say, as says the Senator from New Hampshire, make the orphan homeless, and make the widow homeless throughout all the South, and do it because widows mourn in New Hampshire?

Mr. President, I do not propose to engage in argument; but there is something which I regard as grave, and about which I desire to speak gravely. I should like that Senators would hear what I do say. I regret that the Senator from New Hampshire is not in his place to hear what I am about to say. The Senator from New Hampshire has to-day, in his place, repudiated the Constitution which he has, as I am advised, sworn to support. Of all the crimes the great Master of the universe has denominated, so far as we can learn, the crime of perjury stands first. I do not speak of technical perjury, perjury as it is known to the law; that is, perjury as lawyers understand it, the swearing falsely as to a past fact. We have had the privilege of promising ourselves for the future. God has thus permitted us; and if I understand His law, He pronounces an equal, if not a greater, penalty against him who falsifies the future than against him who denies the past.

Every man in this Senate has sworn to support the Constitution of these United States. I do not understand how men dare play such fantastic tricks as to deny their allegiance to the Constitution. I dare not do it. I would sooner front twenty batteries; I would sooner suffer death. The Constitution, the Government under which I have lived, which has protected me, and which I have sworn to support—to cast it to the winds and say there is no Constitution! If there is no Constitution to-day, is there any protection, is there any right?

Mr. President, the affirmative of this doctrine, that the Constitution and the laws are silent, voiceless in this Senate Hall, compels me to say, and I say it, they, each one, and all of them, who affirm such doctrines—I am compelled to say of them, there are rebels in the North as well as in the South.

Mr. President, I have said as much as I wish to say on this subject; but I will say this further: I learned, in my early youth, to believe that we were capable to maintain a Republic of freemen under the Constitution established by our fathers, to maintain ourselves as a free people, both in peace and war. That conviction has remained with me unshaken until now, except so far as for the moment it has been shaken by gentlemen who profess to represent the Government—the head of the Government—the President of the United States. Did I not know the President of the United States, had I not known him, my convictions might have been now shattered into fragments. It is my fortune to know him well, and, I may say, I know as well as mortal man can know, that he would as soon commit self-sacrifice as knowingly violate the Constitution which he was appointed to uphold.

Mr. President, the sufficiency of our Government for war as well as peace was fully canvassed when by the Constitution we established our form of government. It was thought sufficient then. I think the Government under the Constitution, or rather, the Government the creature of the Constitution, is sufficient now. The Constitution and Government is sufficient for a war with England, France, or Spain, it is sufficient for domestic civil war; this I think—this I intend to maintain. If this cannot be maintained, then in the grief of my heart, I shall say "freedom, farewell forever!"

I got up, Mr. President, designing simply to respond to a remark of the Senator from New Hampshire, which I protest against as against the heart of the country. I protest against making vindictive war upon the South. I protest against

the comparison that he chose to introduce. In the valley of the Mississippi, north of the Ohio and westward to the Pacific, the widows and orphans of one side suppose that their sighs and prayers and mournings go up to the great Fountain of truth, as do those who live in the southernmost portion of the Confederacy. We are of a common race from the mouth of the Mississippi up to its sources, from Oregon to Florida, and it is hard to believe that there is no sympathy between the people of all the land in this most unhappy war. As to the right and the wrong of this controversy, I think I am well understood; for when there was a time for controversy on this question, I was engaged in establishing what I thought sound opinions, Union opinions, on the shores of the Pacific; and I will go as far as any gentleman from New England, or from New York, or from any State, to maintain that Union as it was born to us and as it was given to us; but I am not going to maintain it by practices which place our erring brethren of the South outside of and beyond the pale of civilized war. It cannot be thus maintained.

Mr. President, we have a war before us still. If the spirit manifested here is heard among our adversaries, if the remarks made here to-day are made known to them, if they understand that the Senator from New Hampshire expresses the spirit of this war, if they understand that this war is waged not merely in a revengeful but a vindictive spirit, children, as well as gray-headed men, will muster for the fight. The boy of ten will lift the rusty musket left in his father's cabin, and, when he cannot load it, will point it at the enemy of his mother and himself. If this is the spirit in which the war is to be made, then beyond the border, boys will be men and men will be iron. Everything, man, husband, wife, mother, children, will be absolutely and continuously either assailant or resistant. If this should be so, when think you could we conquer a peace? Not with a victory at Yorktown or Corinth, nor with such victories multiplied.

Mr. President, I did not propose to speak at any length. I arose to reply chiefly to a sentiment from the Senator from New Hampshire. I trust the motion of the Senator from Pennsylvania may prevail, for some wise and just measure may be devised which will reach the persons who should be punished. I am for punishing the persons responsible. I will go as far for and make as few objections against, as any person, the most rigorous penalties the law can inflict upon the men who have inaugurated this great wrong, and who have been its leaders; but I will not have it visited upon the women and children, the ignorant and unadvised followers of the southern rebels. I trust the reference will be made, and that we may have a bill that we can support, by which we shall punish, punish justly, and have, at the same time, a small reservation for magnanimity.

Mr. WILSON, of Massachusetts. If the vote can now be taken on the motion to commit these bills to a special committee, I shall be very glad to have it taken; but if it cannot, if Senators intend to discuss that proposition further, I desire to have a brief executive session.

Mr. SHERMAN. I simply desire to express my hope that this question will be disposed of before we adjourn to-night. In a very short time the tax bill, with many amendments, will be brought here, and that will undoubtedly absorb the attention of the Senate for some time; and as nearly every member of the Senate has spoken on the confiscation bill, and as every Senator, I have no doubt, has made up his mind precisely how far he will go on the question of confiscation, I trust it will not be deemed unreasonable to insist upon a vote on the pending proposition, because I think that in two or three days more the pressure of other business will necessarily drive this away. The position of public affairs demands that we should devote a little attention to the practical legislation necessary to be passed upon at this session of Congress. I hope, therefore, that before the Senate adjourns to-day, the question of reference will be disposed of, so that we may know whether we shall have to vote on the pending propositions or whether the whole subject is to pass away from us by the reference.

Mr. HOWARD. I beg to submit an amendment to the pending resolution, in the following words:

With instructions to bring in a bill for the confiscation of all the property of the leading insurgents, and the emancipation of the slaves of all persons who have taken up arms against the United States during the present insurrection.

And upon the amendment I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SHERMAN. I simply desire to say that I shall vote against this amendment and any other relating to the question of reference. I think we can decide the question without a reference; and if the vote is carried in the affirmative on the amendment, it will not have any effect at all. I think, therefore, we had better vote against all amendments to the proposed reference, and let us have a vote upon the question of reference directly.

Mr. TRUMBULL. I will say a word in regard to this proposition, as I shall vote differently from the Senator from Ohio. I shall vote in favor of the instructions, so that in case the Senate should think proper to refer these matters, it may be with instructions. Otherwise, I should regard the reference as decisive of the opinion of the Senate that nothing was intended to be done upon this subject. It is known that this question has been before Congress for many months. The subject was under consideration for weeks in the Committee on the Judiciary. The Senator from Pennsylvania is a member of that committee. He fought it there with all the power that he could exert. It was some time before anything was reported from that committee. At length, however, a majority of the committee consented to report the bill which is before the Senate. The Senator from Pennsylvania, not satisfied with that, after having been upon one committee which considered it for weeks, asks now to have it referred again to another committee, of which, of course, he being the mover, will take charge. We all know his views on the subject; he has expressed them here to-day; he has informed the Senate and the country that all that is necessary is to clothe the President with power. He has said in a speech on this floor that all we have to do is to raise men and money. He believes that the President of the United States possesses the power of confiscation, and that no legislation in reference to that subject is necessary. We understand his views. If there is a disposition in the Senate to refer this bill, of course it will be the end of the question, if it is referred without instructions; and while, therefore, I shall vote for the instructions, I shall vote against the reference, notwithstanding the instructions may be adopted.

Mr. DAVIS. I move to amend the amendment by striking out so much of it as relates to the subject of emancipating the slaves.

Mr. WILSON, of Massachusetts. I simply rise to say that I think we had better withdraw this amendment, and take the question on the naked proposition to recommit. I think we can vote it down. I think we ought to vote it down; but if it is carried, we can then give the instructions. I think we have a majority in the Senate.

Mr. SHERMAN. I trust my friend from Michigan, in order to allow us to have this matter disposed of to-night, will withdraw his amendment, and that we shall be allowed to vote upon the reference.

Mr. HOWARD. I will do so with great pleasure.

The PRESIDING OFFICER. The Chair will state that the amendment of the Senator from Kentucky is out of order, inasmuch as the motion of the Senator from Michigan is an amendment to the proposition of the Senator from Pennsylvania, and an amendment to an amendment is as far as under the rules we can go. The motion of the Senator from Kentucky would be in the third degree.

Mr. DAVIS. I think the Chair misconceives the state of the propositions. The Senator from Pennsylvania moves an original proposition; the Senator from Michigan moves to amend it; I move to amend the amendment. That is certainly according to parliamentary rule.

The PRESIDING OFFICER. The Chair was mistaken. The motion of the Senator from Pennsylvania was an original resolution. The amendment of the Senator from Kentucky is in order. The Senator from Kentucky proposes to amend the amendment of the Senator from Michigan. The amendment of the Senator from Michigan will be read, and then the proposition to strike out, moved by the Senator from Kentucky, will also be read.

Mr. SHERMAN. I understand the Senator from Michigan to have withdrawn his amendment.

Mr. HOWARD. I inquire whether it is in order for me to withdraw the amendment which I offered.

The PRESIDING OFFICER. It can be withdrawn by the common consent of the Senate. The yeas and nays having been ordered upon it, it cannot be withdrawn except by the common consent of the Senate.

Mr. DAVIS. I object to the withdrawal of it.

Mr. HOWARD. Very well; let us have the yeas and nays.

Mr. SAULSBURY. On the amendment to the amendment, I call for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The amendment and the amendment to the amendment will be read before the vote is taken.

The Secretary read the amendment of Mr. HOWARD, as follows:

With instructions to bring in a bill for the confiscation of all the property of the leading insurgents, and the emancipation of the slaves of all persons who have taken up arms against the United States during the present insurrection.

The amendment of Mr. DAVIS is to strike out the words "and the emancipation of the slaves of all persons."

Mr. SAULSBURY. At the request of the Senator from Maryland, [Mr. KENNEDY,] I state that he has been called home suddenly by the indisposition of a member of his family, and will not be back, perhaps, for several days.

The question being taken by yeas and nays, resulted—yeas 11, nays 29; as follows:

YEAS—Messrs. Carlile, Davis, Henderson, Latham, McDougall, Nesmith, Powell, Saulsbury, Stark, Willey, and Wilson of Missouri—11.

NAYS—Messrs. Anthony, Browning, Chandler, Clark, Collamer, Cowan, Dixon, Doolittle, Foot, Foster, Grimes, Hale, Harris, Howard, Howe, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Sherman, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Wilmot, Wilson of Massachusetts, and Wright—29.

So the amendment to the amendment was rejected.

The PRESIDING OFFICER, (Mr. FOSTER.) The question is on the amendment of the Senator from Michigan.

Mr. HOWARD. I inquire now if it be in order for me to withdraw the amendment which I offered.

The PRESIDING OFFICER. By the common consent of the Senate only.

Mr. HOWARD. Of course I leave it to the Senate.

Several SENATORS. No objection.

Mr. HOWARD. I withdraw it.

The PRESIDING OFFICER. The amendment is withdrawn, no objection being made, and the question is on the adoption of the motion of the Senator from Pennsylvania.

Mr. DOOLITTLE. I desire to say that I shall vote for this reference, because there are four or five different propositions pending at the same time, which have been introduced by honorable Senators. Mr. CLARK, of New Hampshire, has introduced one; Mr. COLLAMER, of Vermont, has presented one.

Mr. CLARK. I did not offer any.

Mr. DOOLITTLE. I so understood. There is the proposition of the Senator from Ohio, [Mr. SHERMAN,] and there is the proposition of the Senator from New York, [Mr. HARRIS.] It seems to me that these propositions ought to be compared together by some committee who are friendly to some kind of proposition, to see if they cannot agree. We are placed in this position: the immediate pending question is between the amendment of the Senator from Ohio, I believe, and the original bill.

Mr. TRUMBULL. No, sir.

Mr. DOOLITTLE. Well, the amendment of the Senator from Vermont. The Senator from Ohio, perhaps, may prefer his amendment to that of the Senator from Vermont, and yet prefer the Senator from Vermont's to the original bill; and what position is he placed in, and how can he give his vote? I think it would be wiser that it should go to a committee. So far from the Senator from Pennsylvania [Mr. COWAN] claiming the position of being chairman of the committee, he proposes that the Senator from Vermont, [Mr. COLLAMER,] or any other gentleman, shall be

placed at the head of that committee, and he does not wish to be upon the committee himself.

Mr. WADE. If this subject shall be referred at this period to a select committee, I am satisfied that it will be the end of this measure of confiscation. The proposition comes, as I said before, from an enemy of this bill, a man bent upon its destruction. If the friends of the measure will weakly yield to this, they give up the whole case. Here we have been more than four months brooding over this. Every proposition has been presented, and it is as easy now for any man to test his measure by way of amendment to this bill as by referring it to a committee. We know the proposition of every Senator that has submitted a proposition. Several of them have been offered, and voted down. If any one has a proposition on hand, now is the time for him to bring it forward; let him offer it as an amendment, and if he shall be sustained by a majority of the Senate, his proposition will be the triumphant one; but it is a renunciation of the whole question now to refer it to a select committee. What cannot be agreed upon now in open Senate, and under the yeas and nays, certainly cannot be agreed upon in committee. You cannot find seven members here who will agree exactly upon a measure, and when they report, we shall be no nearer to an agreement than we are now. Therefore I shall regard this as a test question upon the subject of confiscation.

Mr. CLARK. When the motion was made to commit this subject to a select committee, I was inclined to favor it; but upon more mature reflection, I am satisfied that it is not a wise course, for I think, after the evidence we have had of the disagreement and difference among Senators, it will be impossible for the report of a committee to settle the question. We have got to have this discussion in the Senate, and we shall have to adopt the best system that we can get upon a comparison of the views of all Senators. If we commit it, one of two things will happen: either it will be killed in the committee, or there will be a report in regard to it; and if there shall be a report, we shall have the discussion over again. I therefore think we may as well continue now until we get a vote.

Mr. HENDERSON. I hope that this motion to refer all the propositions before the Senate will prevail. I feel somewhat anxious to see a bill matured to which I can give my vote. I am opposed to the proposition reported by the Senator from Illinois from the Judiciary Committee; I never can vote for it; and yet a proposition may be matured that I am perfectly willing to vote for. I know it may be said that it does not matter whether my vote be cast for it or not. I suppose it does not; but I would infinitely prefer that some proposition should be matured which the border State men can vote for, or at least some of them. I do not intend to get excited about it. If the Senate desire to pass this bill, they can do so. The indications are, I think, this evening, that the bill will become a law; but let me suggest whether, if this bill becomes a law, the property even of leading rebels is to be taken from them without the payment of their just and honest debts to loyal citizens. There is no provision here for that case.

Mr. WILMOT. An amendment may be offered to cover it.

Mr. HENDERSON. I know an amendment may be offered; but cannot a committee mature the measure just as well as it can be done in the Senate, and much better? Are we to have the discussion renewed over every proposition that may be made here? The very suggestion I have now made may bring about a discussion lasting for four, five, or ten days. If commissioners are to go and take possession of the property of disloyal men throughout the seceded States, even when they are reduced to submission, and the payment of their honest and just debts is to be avoided by the Government, the loyal men of the community may complain that injustice is being done them.

Let me make another suggestion. There is a proposition contained in this bill about which I have said nothing heretofore, but I will mention it now, and I will never vote for it so long as it remains in that shape. I know that Senators say this is a slaveholders' rebellion. I know, sir, that this rebellion exists in its force and in its power in the slaveholding States, and slavery has had much to do, I acknowledge, in originating it, in fomenting it, and in keeping it alive to the present time. That urges upon us the greater necessity, in legislating upon the subject, to legislate with a view to the prejudices of the people; and the remarks made by the honorable Senator from Pennsylvania [Mr. COWAN] are worthy of reflection, and worthy of notice by all Senators. These prejudices exist. It is impossible for me to eradicate them; it is impossible for all the Senators on this floor to eradicate them. They are there. They are a living, existing thing, and we cannot remove them. It is utterly impossible by any legislation that we can perfect and mature here to remove these prejudices.

There is a proposition in this bill changing the burden of proof on the slaveholder when he attempts the recapture of his fugitive slave. I will not vote for it. I will vote for a proposition saying that it may be set up in defense against the slaveholder that he is disloyal, and if in that defense it is shown that he is disloyal, he may lose his negro. I will not, however, vote for a proposition which puts the burden of proof upon the southern people to prove their loyalty. Do you not change the whole burden of proof by one section of this bill? You take it for granted that every man who is the owner of slaves is a disloyal man. I cannot vote for it. Will you blindly legislate in this manner? There are men in the border slaveholding States who have withstood all the violence and all the power of this rebellion, men who have shown their loyalty amidst scences that might have driven many who are now loyal in the non-slaveholding States against the Government; these men have remained loyal and continue to remain so; but yet you tell them "if you undertake to assert a right which has been acknowledged, justly or unjustly, in times gone by, when you attempt in the State of Illinois or Indiana to recapture your slave, the burden of proof is against you," and why? "Simply because you are a slaveholder, not because you were engaged in the rebellion, but you must show a precedent fact before you can recover your property." I submit to Senators that that is unfair and unjust. You may call it a slaveholders' rebellion if you please, but if you find a loyal slaveholder, do not impose restrictions, do not impose burdens upon him that were not heretofore upon him. If you make this discrimination, if you make this difference, I submit to you that you have embittered again a large number of southern men.

Now, sir, I think that these things can be better done before the committee than anywhere else. I know that gentlemen say, "if you vote for this proposition to refer back again to a committee, you are opposed to this measure, and you sympathize with the rebellion." I do not suppose that anybody who knows my opinions will dream of any sympathy on my part with this rebellion. I have gone through scenes that will protect me against any such suspicion whatever, and hence it is unnecessary for me to make any argument on that subject.

I think a bill can be matured. The gentleman from Pennsylvania [Mr. COWAN] has prepared a bill which he has read to me, many of the provisions of which I can support. The larger portion of the provisions of the bill introduced by the excellent Senator from Vermont [Mr. COLLAMER] I can support. My impression is that the whole law punishing treason ought to be changed, and therein I agree with the gentleman from Vermont. There ought to be a change in the law which will obviate one of the difficulties now presented in the Constitution of the United States against punishing in the mode that you aim to arrive at. I will not vote for a proposition, and if gentlemen will think for one moment of the constitutional provision, they cannot vote for a proposition that will take the life of the traitor and then confiscate his property absolutely. That cannot be done. It is nothing but a punishment for treason. It has been placed upon no other ground by Senators on this floor. Then I will not take his property without judicial investigation. I cannot do it. Give him a hearing; let him be heard. There are hundreds and thousands of men in the border slaveholding States who, when the reign of terror first commenced, were driven into it. It is true they might have gotten out of it, but it is not so in the more southern States. There is a government *de facto* there, and they are compelled by every regard that they have for their lives and their property to uphold that *de facto* government; but they will be very glad, indeed, to see your armies march there; they will be very glad again to recognize the power of the Government of the United States in the seceded States.

Then, sir, I would suggest that it is no confiscation bill that is going to put down treason. The gentlemen at Richmond now are passing a bill I believe to throw open their ports to the commerce of all the world except the United States; they propose to give the privilege to all the world to deal with them free and to enter their ports, except the people of the United States; and that, strange to say, is at the moment when the United States have completely blockaded their ports, and if any people can get into them it must be the people of the United States and nobody else. Now, sir, we are passing a bill to do what? To confiscate all the property, real and personal, of rebels. Had we not better conquer those men first? When you do get them conquered and can set up courts in their States, when you can get the machinery of the law to operate in the seceded States, why can you not give them a trial and punish them as the civilization of the age demands and as our Constitution and laws have always demanded? You cannot take away their property until you shall have marched your armies there and shall have reduced this rebellion. Then your bill is a *brutum fulmen;* it is an idle declaration, just as idle as the declaration on the part of those men at Richmond, throwing open their ports to all the world except the United States; it is doing something that accomplishes nothing on our part. Then let us change the law of treason, because, as was very properly said by the Senator from Vermont, you cannot dream of hanging six millions of people. You cannot hang a million.

Mr. CLARK. Will the Senator permit me to make a suggestion? I agree with him entirely in the proposition to change the law for treason; I shall be very happy to vote with him on that; but the question is, cannot we perfect the bill in the Senate as well as by committing it to a committee.

Mr. HENDERSON. I think not. My opinion is that by a reference of all these various propositions we shall save time. I shall vote for the motion to refer, not with a view of crippling the measure, not with a view of delaying it, but with a view of facilitating the ends that its friends have in view. Even if I were opposed to any bill on this subject, I would not throw any obstacle in the way of the friends of the bill. There are measures that I can vote for. I will vote for any measure taking from the rebel his slaves and all his personal property, provided I do it within the limits of the Constitution. If, on conviction, we can forfeit his personal property, as is suggested by some gentlemen, I will do it; if the real estate can be taken only during his life, let us change the law of treason and put him in prison and confiscate his property during life. I am willing to go to any extent, provided you have a judicial investigation.

Mr. WADE. I want to ask the Senator one question. I understood him to say that there was a *de facto* government in the southern States that the people there were bound to submit to. Did I understand him aright?

Mr. HENDERSON. I said this: that there were thousands of men who felt loyal in the southern States, who, in order to protect their own lives, their persons, their families, and their property from overthrow, were compelled to give acquiescence to the existing government there.

Mr. WADE. That I did not doubt; but I understood the Senator to say that there was a *de facto* government which they were bound to sustain.

Mr. HENDERSON. I did say there was a *de facto* government there, and the gentleman from Ohio does not deny that there is a *de facto* government in the seceded States. I do not say it is a government *de jure;* I deny that proposition; but there is a government *de facto* there.

Mr. WADE. Does the Senator hold that the people there are bound to sustain that government?

Mr. HENDERSON. I hold this, that men would be in very great danger in the southern States that would not obey it.

Mr. WADE. That might be.

Mr. HENDERSON. That is all I intended to say. My argument is simply that we ought to

go there and give those people an opportunity of again showing their loyalty before turning loose their negroes, and taking their property by commissioners, merely because they may have acquiesced in a *de facto* government.

Now, Mr. President, in conclusion, let me hope that Senators will refer this proposition. I do not think there is any disposition on the part of those who have opposed the measure in its present terms, to defeat any proposition at all. If one can be adopted within the limits of the Constitution, I will go as far as any one, but do not let us go contrary to the Constitution. Whatever measure may be adopted, let it be clearly within the limits of that instrument.

Mr. DOOLITTLE. I move to amend the proposition by instructing the committee to report at an early day, say Monday or Tuesday of next week, so that there shall be no delay. I believe, myself, that if gentlemen representing the different shades of opinion can get together in a committee of seven, they can bring out of the mass of propositions a bill for which men who differ in opinion here can conscientiously vote, and to which they can give their support, and accomplish the great object.

Mr. TRUMBULL. I should like to ask the Senator from Wisconsin if he does not know that this bill has been before a committee of seven? If he thinks another seven would be better, very well.

Mr. DOOLITTLE. These other propositions have not been before the committee.

Mr. TRUMBULL. Yes, every one of them has been before the Committee on the Judiciary, except that which has been submitted by the Senator from Pennsylvania, who is a member of the committee, and that which has been submitted by the Senator from Vermont. The propositions of the Senator from New York and of the Senator from Ohio have both been before the committee.

The PRESIDING OFFICER. Will the Senator from Wisconsin state his proposed amendment?

Mr. DOOLITTLE. It is that the committee be instructed to report by Monday next.

Mr. CARLILE. I have always understood it to be within the power of the Senate at any time to instruct its committees, or any one of them, to report upon any matter referred, if in the opinion of the Senate the committee has unreasonably delayed a report. This is a reply, if not an answer, to the argument of the Senator from Ohio against referring the various propositions before the Senate to a select committee. I may be allowed to express the hope that it will be the pleasure of the Senate to adopt the resolution. I cannot hope that anything I may say will influence Senators. It is said that the bill and amendments have been before the Senate for a long time. Some of the proposed amendments have been introduced within the last few days. The very discussion which has been had since the Senator from Illinois reported this bill, as chairman of the Judiciary Committee, will facilitate the select committee in coming to their conclusions, and in making a report. The various opinions of Senators here have been expressed in the hearing of gentlemen who will serve upon the committee. Now, sir, for myself, I deny utterly all power in the Congress of the United States to pass what gentlemen call a confiscation bill, while I fully admit the power of Congress to provide additional punishment for treason. Hence, I was forcibly struck with the amendment submitted by the distinguished Senator from Vermont, [Mr. COLLAMER,] and I listened with infinite pleasure to the very able speech which he made in support of his views.

A measure emanating from a committee with that Senator at its head would command not only in this body the confidence of its members, but it would go with additional weight before the country. I think it a circumstance not to be overlooked in any measure that the Senate may pass upon this subject, that it shall have the sanction not alone of a bare majority of this body to the exclusion of nearly every representative here from a border slave State, but that it shall be acceptable to the representatives from States upon whose people the bill is to act. Sir, something ought to be conceded to those who differ from the majority here. No Senator supposes that the mere power of force can of itself restore this Union, and bring back the people of the seceded States again to a proper regard for their constitutional obligations. We can meet their armies, and I have no doubt we shall in the future, as we have in the past, defeat them; but, sir, it is one thing to defeat an army in the field, and it is another and a very different thing to hold and occupy seven hundred thousand square miles of territory inhabited by a hostile people. That is a consideration, it seems to me, which should enter into the minds of gentlemen who expect to see peace again in this country.

I admit the power of this Government. I have confidence that if we but act wisely we shall restore the supremacy of the Constitution and bring back the people of the seceded States to their allegiance, and I predicate that hope upon what I believe to be the fact, that there is a loyal element in those States that will aid you by the reorganization of their governments the very instant you relieve them from the terror this organized rebel force has brought upon them. But, sir, it occurs to me—I may be wrong—if you strike down that sentiment, if you drive it away from you, there will be but little hope for an early peace. What is there a man will fight for with more desperation or die for more readily than he will for his property. If you make it a war for property and for homes, will it not, as the Senator from Pennsylvania well remarked, unite the entire country? I confess I have very little hope that peace will ever again be enjoyed by the people of either the seceded or the loyal States if measures such as are proposed shall become laws.

Mr. SHERMAN. I should like to ask my friend if he supposes that the loyal people of Western Virginia would consider themselves very much aggrieved if Congress should authorize the seizure of the property of Major Jenkins and other officers who have been harassing and killing them, burning their houses and robbing them.

Mr. CARLILE. Not at all; nor do I think such a conclusion was inferable from anything I said, or could be drawn from any remark that I have made. On the contrary, as I indicated the other day, I stand here ready to give my vote and aid in the passage of some such proposition as that submitted by the Senator from Vermont. I believe that we have the constitutional power to proceed in that way. I believe, if you make it a punishment for crime, and place in the discretion of the court, where a party seems to be entitled to some clemency, not to hang him, but to fine him, you can fine him to the entire extent of his estate, and that you have the power to do it. But, sir, it is not alone what we have the power to do that we must consider. There is a question of policy and expediency and humanity underlying the whole of our action here.

As the Senator from Vermont remarked the other day, we had as well tell the truth when communing together. I desire always to speak what I think. I have no concealments. I deal with perfect frankness with Senators on this floor, and I express my opinions and inferences not in an offensive way at all, nor do I design to be offensive to any one. I give to others all the credit that I claim for myself for patriotism and every other proper motive that should influence Senators in the discharge of their duties. But, sir, it has been suggested, the inference has been drawn, and I believe it may be drawn, whether properly or not, from what has occurred in this Senate, that the chief object in these bills is the emancipation of the slaves.

Now, let me make one remark to Senators. It is sometimes said to me, You put slavery above the Constitution. No such thing, sir; it is doing me injustice, and, I believe, doing the loyal people of the southern States injustice, to make the charge. I might say that there are those who put abolitionism above the Constitution. It is for the Constitution that they who think with me are loyal; it is for the Union that that Constitution has formed that they are loyal, and they have been taught to believe that it is a constitutional right that each separate member of this confederacy has for itself to establish or abolish, to recognize or prohibit slavery within the limits of its territory; and therefore when I say you have not the power to do this, I mean you have not the constitutional power. I do not place slavery above the Constitution, nor do I say that physical force may not do what the Constitution forbids. When I speak of power, I mean constitutional power.

Wherever our armies have gone slavery, to a greater or less extent, has been affected by it, and must be affected by it; and there is not a man anywhere in the land that objects to rebel losses where they are the legitimate result of their own acts. Up to this hour I believe this Government can stand before our own people and before the world, and say that it has not by the exercise of arbitrary power interfered with the constitutional rights of the people in the seceded States. While it is admitted on the floor by the distinguished Senator from New York, [Mr. HARRIS,] who has himself a proposition on this subject, that he does not expect a dollar to go into the Treasury of the country, while the coffers of the Treasury are not to be replenished by the passage of confiscation bills, why press them?

The argument is predicated upon the ground that additional punishment should be provided for treason; that many guilty parties can only be punished through their property. Then why not take some such proposition as the one submitted by the Senator from Vermont. Treason is a crime; but is it supposed that in providing a punishment for the traitor you can punish his State by taking from it rights secured by the Constitution, or the innocent citizens of that State by turning loose upon its society the slaves of the traitor. And is a provision in a confiscation bill, interfering with slavery in the States, and declaring free a people declared by the States to be slaves, any the less an unconstitutional act than a like declaration in a separate bill for the emancipation of the slaves in the slave States? If you have the right to punish the traitor by taking from him and liberating his slave, can you not prescribe a like punishment for the man who robs your mail, counterfeits your coin, or commits any other crime punishable by your courts? If such a power exists in this Government, of little value are the State governments, and instead of a limited Federal Government we have a central despotism.

Mr. President, the white people of the slaveholding States never will consent that the negro shall be made their equal. This has been called the slaveholders' rebellion, and slavery is said to be the cause of the war. The secession candidates in Virginia for the convention that adopted the ordinance of secession appealed to the non-slaveholder and charged that it was the object of the Republican party to place upon an equality with the whites the negroes of the country, and instanced as evidence of the charge the laws of those States that allow negroes to vote and sit upon juries, &c. Sir, the white man in the slaveholding States, non-slaveholder though he may be, never will admit the negro as his equal or allow him to sit in the same jury box. It was this apprehension and charges like these that united slaveholder and non-slaveholder in these seceded States.

I have sat here and listened to arguments on this subject very near akin to those that have been used by secessionists, and the action of these rebels in their so-called confederate congress is cited to us as a reason why we should thus act. We were told this evening by the Senator from New Hampshire that the rebels had enacted a confiscation measure. I trust their example will not be followed by this body in any particular. If we enact anything making additional punishment for the crime of treason, I hope it will not be because a similar provision has been enacted by the rebel congress.

It has been announced that there is a power above the Government, and allusion has been made to the people, that the people may exert their power if a confiscation bill is not passed, and thus, if any inference can be drawn, deprive the present gentlemen who are discharging the people's trusts from their places and usurp the power that legitimately belongs to the legislative or executive branches of this Government. Sir, that was the argument used in Richmond by the secessionists. It was that there was a power above that convention that demanded the overthrow of the Constitution and the disruption of the Union. I mean it not at all in any offensive sense, but if Senators will pardon me, I will repeat a remark that was made to me a few days ago by, I believe, as loyal a man as there is in this country. It was this: "It does seem to me that Jeff Davis is running two Congresses, and this one here in Washington is doing him more service than the one at Rich-

mond." If I may be allowed to express an opinion, I would say, from recent indications, that the people will not by usurpation, but constitutionally, fill the places of trust that may become vacant with representatives who will regard the preservation of the Constitution, the institutions bequeathed us by the founders of our Government, and the peace of the country, of far more value than the interference with slavery in the States, or the rights of the people to their property in the respective States. The people of this country do not, and will not say, as has been said elsewhere, that either "the Union or slavery will perish." No, sir, the Union hangs by no such slender thread. It was formed by slaveholding and non-slaveholding States; it has endured for near three fourths of a century under our present Constitution; *and if we do not put the abolition of slavery above the Constitution*, it may and I believe will endure for ages to come.

Sir, there are considerations to be looked to in our action here, if we would restore the Union. I repeat again, I have no doubt that we shall conquer their armies—none on earth. It must be so; but when that is done, if they are a united and determined hostile people, we shall find it a very different thing to hold and occupy their territory.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) The question is on the amendment of the Senator from Wisconsin to the motion of the Senator from Pennsylvania.

The amendment was agreed to; there being on a division—ayes thirty-one, noes not counted.

The PRESIDING OFFICER. The question now is on the motion to refer as amended.

The question being taken by yeas and nays, resulted—yeas 18, nays 22; as follows:

YEAS—Messrs. Browning, Carlile, Collamer, Cowan, Davis, Doolittle, Fessenden, Foster, Henderson, Howe, Latham, McDougall, Nesmith, Powell, Saulsbury, Stark, Willey, and Wilson of Missouri—18.

NAYS—Messrs. Anthony, Chandler, Clark, Dixon, Grimes, Hale, Harris, Howard, King, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Sherman, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Wilmot, Wilson of Massachusetts, and Wright—22.

So the motion to refer was not agreed to.

Mr. WILSON, of Massachusetts. I now move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *April* 30, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, in answer to the resolution of the House of the 31st ultimo, relative to contracts made by Augustus Schell, late collector of New York, for packing, distributing, and delivering goods, &c., imported into the port of New York; which was laid upon the table, and ordered to be printed.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, in answer to the resolution of the House of the 14th instant, in relation to the purchase and distribution of cotton seed; which was laid upon the table, and ordered to be printed.

PENSION BILL.

Mr. GOODWIN, by unanimous consent, from the Committee on Invalid Pensions, reported a bill to grant pensions; which was read a first and second time, recommitted to the Committee on Invalid Pensions, and ordered to be printed.

HIGHWAYS IN THE DISTRICT OF COLUMBIA.

Mr. ROLLINS, of New Hampshire, by unanimous consent, from the Committee for the District of Columbia, reported back, with sundry amendments, bill of the Senate No. 124, relating to highways in the county of Washington and District of Columbia.

The bill was read *in extenso*.

The House then proceeded to the consideration of the amendments of the committee.

First amendment:

Insert the word "widen;" so that the section will read: That from and after the passage of this act it shall be lawful for the levy court of Washington county, in the District of Columbia, to alter, repair, widen, and regulate the public roads and highways in said county, and to lay out additional roads as hereinafter specified.

The amendment was agreed to.

Second amendment:

Insert as follows: "And it may also cause the width of any of the existing roads in said county to be increased to not more than one hundred feet, and to change the location of any of them;" so that it will read:

That hereafter, in laying out new roads in said county of Washington, the levy court shall cause such roads to be of a width of not less than fifty nor more than one hundred feet, and it may also cause the width of any of the existing roads, &c.

The amendment was agreed to.

Third amendment:

Insert the words "and widening;" so that it will read: And for the purpose of opening and widening such roads the said levy court is hereby empowered to cause to be condemned any land or lands necessary for the same, as other lands are now condemned by law.

The amendment was agreed to.

Mr. BLAIR, of Missouri. I ask the Clerk to read the second section.

The Clerk read, as follows:

SEC. 2. *And be it further enacted*, That all roads within said county of Washington which have been used by the public for a period of twenty-five years or more as a highway, and have been recognized by the said levy court as public county roads, and for the repairs of which the said levy court has appropriated and expended money, are declared public highways, whether the same have been recorded or not; and any person who shall obstruct the free use of said highways, or any one of them, without authority from said levy court, shall be subject to a fine for each and every offense of not less than $100 or more than $250, to be imprisoned till the said fine and the costs of suit and collection of the same are paid; said fines to be collected in the name of the United States for the use of the levy court.

Mr. BLAIR, of Missouri. I move to add the following proviso:

That wherever any charter has been granted for a turnpike road in said county, which has not been kept in the condition required by the charter, it shall be vacated by the levy court.

Mr. Speaker, I will simply say, in explanation of my amendment, that the object of it is to compel these turnpike road companies in the county of Washington to keep their roads in good condition, and for that purpose it proposes to give this power to the levy court. Why, sir, we have turnpike roads in this county that no man on earth would recognize as such, they are kept in such bad condition, and yet the companies owning them go on charging toll upon every horse and wagon passing over them. Some of them are worse than the common dirt roads of the county. It is proper that this levy court should have the power to insist upon the conditions of the charter being fulfilled.

Mr. CALVERT. I hope that the gentleman's amendment will not be adopted. It will be a new species of legislation to invest the levy court with this power. It should be invested in a judicial tribunal, and not in a levy court, which is incompetent to decide the question.

Mr. BLAIR, of Missouri. It would seem as though the judiciary here were owned by these turnpike companies; and I think it is better to place this matter in the hands of men who can attend to it. I am in favor of simplifying it, and therefore for placing this power with the levy court.

Mr. SHEFFIELD. By what process does the gentleman propose to carry out the power conferred by his amendment?

Mr. BLAIR, of Missouri. By the very summary process of declaring the charters to be vacated.

Mr. SHEFFIELD. These charters are property, and the parties cannot be divested of them, except by process of law. It seems to me that the amendment is inadequate to the purpose the gentleman has in view.

The amendment was disagreed to.

Mr. CALVERT. I desire to ask the gentleman from New Hampshire, who reported this bill, whether it contains any provision granting an appeal from this levy court to the county court?

Mr. ROLLINS, of New Hampshire. The bill does not change the existing law.

Mr. CALVERT. I think that there ought to be a provision inserted in this bill giving to any person who may feel aggrieved the right to appeal from the levy court to the county court.

I wish also to ask the gentleman from New Hampshire whether the clause remains giving the appointment of the surveyor to the levy court?

Mr. ROLLINS, of New Hampshire. That amendment was not agreed to by the committee. The bill leaves the appointing power, so far as the surveyor is concerned, where it is now under the law. The amendments of the Committee for the District of Columbia are only important for the perfection of the bill. I hope the bill will pass as it has been amended, and I now demand the previous question.

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

Mr. ROLLINS, of New Hampshire, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

CONFISCATION OF REBEL PROPERTY.

Mr. ELIOT, by unanimous consent, introduced bills of the following titles; which were severally read a first and second time, referred to the special committee on the confiscation of rebel property, and ordered to be printed:

A bill to confiscate the property of rebels for the payment of the expenses of the present rebellion, and for other purposes; and

A bill to free from servitude the slaves of rebels engaged in abetting the existing rebellion against the Government of the United States.

EMANCIPATION IN SOUTH CAROLINA.

Mr. WICKLIFFE. I ask the unanimous consent of the House for leave to introduce a resolution of inquiry.

The Clerk read, as follows:

Resolved, That the Judiciary Committee inquire and report by what authority General Hunter assumes the power to emancipate the slaves in the mode and manner expressed in the annexed printed certificate, purporting to have been given by him, and report to this House whether the power to emancipate slaves is given by any law to a military commander of the United States:

It having been proved, to the entire satisfaction of the general commanding the department of the South, that the bearer, William Jenkins, heretofore held in involuntary servitude, has been directly employed to aid and assist those in rebellion against the United States of America:

Now, be it known to all that, agreeably to the laws, I declare the said person free, and forever absolved from all claims to his services. Both he and his wife and his children have full right to go North, South, East, or West, as they may decide.

Given under my hand, at the headquarters of the department of the South, this 19th day of April, A. D. 1862.

D. HUNTER,
Major General Commanding.

Mr. LOVEJOY. I object.

Mr. WICKLIFFE. I thought if there were objection it would come from the gentleman from Illinois.

GOVERNMENT CONTRACTS.

Mr. WASHBURNE. I call for the regular order of business.

The SPEAKER. The regular order of business is the consideration of the following resolutions, reported from the select committee on Government contracts:

Resolved, That the Secretary of the Treasury be requested to adjust the claim against the Government for the five thousand Hall carbines, purchased through Simon Stevens, Esq., by General John C. Frémont, on the 6th day of August, 1861, and afterwards delivered at the United States arsenal at the city of St. Louis, on the basis of a sale of such arms to the Government for $12 50 each, rejecting all other demands against the Government on account of the purchase of said arms.

Resolved, That the practice of employing irresponsible parties, having no official connection with the Government, in the performance of public duties which may be properly performed by regular officers of the Government, and of purchasing by private contract supplies for the different Departments, where open and fair competition might be properly invited by reasonable advertisements for proposals, is injurious to the public service, and meets the unqualified disapprobation of this House.

Mr. LOVEJOY. I move to reconsider the vote by which the main question was ordered for the purpose of adding a proviso to the second resolution:

That nothing herein contained shall be considered as reflecting on the integrity of Major General John C. Frémont.

The SPEAKER. The pending question is on the motion of the gentleman from Pennsylvania, [Mr. STEVENS,] to lay upon the table.

Mr. LOVEJOY. I appeal to the gentleman from Pennsylvania to withdraw his motion, so that I may make a motion to reconsider for the purpose I have indicated.

Mr. WICKLIFFE. I object.

The SPEAKER. The gentleman from Illinois has a right to appeal to the gentleman from Pennsylvania to withdraw his motion.

Mr. STEVENS. I would withdraw it if I could see any way by which the gentleman could get at his amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 17, nays 107; as follows:

YEAS—Messrs. Beaman, Samuel S. Blair, Colfax, Roscoe Conkling, Franchot, Hooper, Lovejoy, McPherson, Moorhead, Anson P. Morrill, Sedgwick, Shanks, Stevens, Stratton, Trowbridge, Wall, and Albert S. White—17.

NAYS—Messrs. Aldrich, Allen, Arnold, Joseph Baily, Baker, Biddle, Francis P. Blair, Jacob B. Blair, Blake, George H. Browne, William G. Brown, Buffinton, Burnham, Calvert, Campbell, Chamberlin, Clements, Cobb, Frederick A. Conkling, Cox, Crisfield, Crittenden, Cutler, Dawes, Delano, Diven, Duell, Dunlap, Dunn, Eliot, Ely, English, Fenton, Frank, Goodwin, Granger, Grider, Gurley, Haight, Hall, Hanchett, Harding, Harrison, Holman, Horton, Hutchins, Julian, William Kellogg, Killinger, Knapp, Leary, Lehman, Loomis, McKnight, Mallory, May, Menzies, Mitchell, Justin S. Morrill, Morris, Noell, Norton, Nugen, Odell, Olin, Patton, Pendleton, Perry, Pike, Porter, Potter, Price, John H. Rice, Richardson, Riddle, Robinson, Edward H. Rollins, James S. Rollins, Sargent, Sheffield, Shellabarger, Shiel, Smith, John B. Steele, William G. Steele, Benjamin F. Thomas, Francis Thomas, Train, Trimble, Van Horn, Van Valkenburgh, Verree, Vibbard, Voorhees, Wallace, E. P. Walton, Ward, Washburne, Webster, Wheeler, Wickliffe, Wilson, Windom, Wood, Woodruff, and Worcester—107.

So the House refused to lay the whole subject on the table.

During the vote,

Mr. BIDDLE stated that his colleague, Mr. ANCONA still continued unwell.

Mr. VAN VALKENBURGH stated that his colleague, Mr. POMEROY, had been confined by sickness for the last ten days, and still was confined.

The vote was announced as above recorded.

Mr. LOVEJOY. I move to reconsider the vote by which the main question was ordered.

Mr. WASHBURNE. I move to lay that motion on the table.

Mr. WASHBURNE's motion was agreed to.

The SPEAKER stated the question to be on Mr. STEVENS's amendment.

Mr. LOVEJOY. I rise to a question of order. I have made a motion to reconsider the vote ordering the main question.

The SPEAKER. That has just been laid on the table.

Mr. LOVEJOY. I understood my colleague's motion to be to reconsider and lay on the table the vote that has just been taken.

Mr. WICKLIFFE. What question is the gentleman debating?

The SPEAKER. A point of order.

Mr. WICKLIFFE. Is that debatable?

The SPEAKER. The gentleman is stating his point.

Mr. LOVEJOY. I think that under the circumstances I am entitled to have a vote on my motion.

The SPEAKER. It can be done by unanimous consent.

Mr. HOLMAN. I object.

The SPEAKER. The Chair can only correct mistakes of its own, not mistakes of the member. It would have enough to do then.

Mr. LOVEJOY. I think so. [Laughter.]

The SPEAKER stated the question to be on Mr. STEVENS's amendment to the second resolution, which was to strike out the word "through," and insert in lieu of it the word "from;" so that the resolution will read:

Resolved, That the Secretary of the Treasury be requested to adjust the claim against the Government for the five thousand Hall carbines, purchased from Simon Stevens, Esq., by General John C. Frémont, on the 6th day of August, 1861, and afterwards delivered at the United States arsenal at the city of St. Louis, on the basis of a sale of such arms to the Government for $12 50 each, rejecting all other demands against the Government on account of the purchase of said arms.

Mr. STEVENS demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 60, nays 66; as follows:

YEAS—Messrs. Aldrich, Arnold, Baker, Beaman, Bingham, Samuel S. Blair, Blake, Burnham, Campbell, Chamberlin, Colfax, Frederick A. Conkling, Roscoe Conkling, Cutler, Diven, Duell, Eliot, Ely, Franchot, Frank, Granger, Hanchett, Hutchins, Julian, Francis W. Kellogg, Lansing, Loomis, Lovejoy, McKnight, McPherson, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Olin, Patton, Timothy G. Phelps, Pike, Porter, Potter, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Shanks, Stevens, Stratton, Trimble, Trowbridge, Van Valkenburgh, Verree, Wall, Wallace, E. P. Walton, Wheeler, Albert S. White, Wilson, Windom, and Worcester—60.

NAYS—Messrs. Allen, Joseph Baily, Biddle, Francis P. Blair, Jacob B. Blair, George H. Browne, William G. Brown, Buffinton, Calvert, Clements, Cobb, Corning, Cox, Crisfield, Crittenden, Dawes, Delano, Dunlap, English, Fenton, Goodwin, Grider, Gurley, Haight, Hall, Harding, Harrison, Holman, Horton, William Kellogg, Kerrigan, Killinger, Knapp, Leary, Lehman, Mallory, May, Menzies, Morris, Noble, Noell, Norton, Odell, Pendleton, Perry, Price, Richardson, Robinson, James S. Rollins, Sheffield, Shellabarger, Shiel, Smith, John B. Steele, William G. Steele, Benjamin F. Thomas, Francis Thomas, Train, Vibbard, Voorhees, Ward, Washburne, Webster, Wickliffe, Wood, and Woodruff—66.

So the amendment was rejected.

During the vote,

Mr. VERREE stated that his colleague, Mr. DAVIS, was unavoidably absent.

The question recurred on Mr. FENTON's amendment, to add to the second resolution the following proviso:

Provided, That nothing herein contained shall be so construed as to exonerate the Government from the payment of any claims arising from advances made in good faith on the certificates made by the authorized officers of the Government.

Mr. STEVENS demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 53, nays 76; as follows:

YEAS—Messrs. Aldrich, Beaman, Bingham, Samuel S. Blair, Blake, Burnham, Campbell, Chamberlin, Colfax, Cutler, Dunn, Eliot, Fenton, Fessenden, Franchot, Frank, Granger, Hanchett, Hooper, Horton, Hutchins, Julian, Kelley, Francis W. Kellogg, Lehman, Loomis, Lovejoy, McKnight, McPherson, Mitchell, Moorhead, Anson P. Morrill, Nixon, Timothy G. Phelps, Pike, Potter, Riddle, Sargent, Sedgwick, Shanks, Stevens, Stratton, Trimble, Trowbridge, Van Horn, Van Valkenburgh, Verree, Wall, E. P. Walton, Wheeler, Albert S. White, Wilson, and Windom—53.

NAYS—Messrs. Allen, Ancona, Joseph Baily, Biddle, Francis P. Blair, Jacob B. Blair, George H. Browne, Buffinton, Calvert, Clements, Cobb, Frederick A. Conkling, Corning, Cox, Crisfield, Crittenden, Dawes, Delano, Diven, Duell, Dunlap, Ely, English, Gooch, Goodwin, Grider, Gurley, Haight, Hall, Harding, Harrison, Holman, William Kellogg, Kerrigan, Killinger, Knapp, Law, Leary, Mallory, May, Menzies, Justin S. Morrill, Morris, Noble, Noell, Nugen, Odell, Olin, Pendleton, Perry, Porter, Price, John H. Rice, Richardson, Robinson, Edward H. Rollins, James S. Rollins, Sheffield, Shellabarger, Shiel, Smith, John B. Steele, William G. Steele, Benjamin F. Thomas, Train, Vallandigham, Vibbard, Voorhees, Wallace, Ward, Washburne, Webster, Wickliffe, Wood, Woodruff, and Worcester—76.

So the amendment was rejected.

The question recurred on the second resolution reported by the committee, as follows:

Resolved, That the Secretary of the Treasury be requested to adjust the claim against the Government for the five thousand Hall carbines, purchased through Simon Stevens, Esq., by General John C. Frémont, on the 6th day of August, 1861, and afterwards delivered at the United States arsenal at the city of St. Louis, on the basis of a sale of said arms to the Government for $12 50 each, rejecting all other demands against the Government on account of the purchase of said arms.

Mr. COLFAX. What has become of the amendment which I offered?

The SPEAKER. There were three independent resolutions received by unanimous consent, and the Chair stated that they were to be voted on as independent resolutions.

Mr. COLFAX. I understood distinctly that mine was offered as an amendment to the second resolution.

The SPEAKER. The Chair received all these three amendments, by the unanimous consent of the House, as independent resolutions.

Mr. WASHBURNE. I ask for the yeas and nays on the passage of the resolution.

The yeas and nays were ordered.

Mr. COLFAX. I rise to a point of order. The gentleman from Massachusetts [Mr. DAWES] asked unanimous consent to consider the second resolution by itself. I stated that I for one would consent to that unanimous consent, on condition that I might offer an amendment to the resolution. That was consented to on both sides.

The SPEAKER. The Chair stated that no amendment was then in order under the rules; but the House, by unanimous consent, allowed independent resolutions to be offered, to come in after this resolution. The Chair will regard them all as independent resolutions.

Mr. COLFAX. My understanding of the matter is somewhat different from that of the Chair. When I first offered my proposition, my colleague [Mr. HOLMAN] asked me to move it as an additional resolution. I said I would offer it as an amendment to the resolution. But I will not get into any controversy with the Chair.

The SPEAKER. The Chair will state to the gentleman from Indiana, that voting on his resolution by itself is the same as voting on it as an amendment; for when the House come to vote on the resolution as amended, any member may ask for a division of the question; so that the only question is, whether the vote on the gentleman's resolution shall be taken first or second.

Mr. COLFAX. I will not insist. I demand the reading of my amendment.

The amendment was read.

Mr. RICHARDSON. Do I understand the Chair to say that that amendment was received by unanimous consent?

The SPEAKER. It was.

Mr. RICHARDSON. I rose to object.

Mr. COLFAX. When?

Mr. RICHARDSON. Now.

The SPEAKER. The amendment was received some days ago. The Chair desires to say that the series of resolutions was reported from the committee as a whole, and in accordance with parliamentary practice the vote would be taken on them as a whole, unless some gentleman demanded a separate vote upon each resolution.

Mr. RICHARDSON. I call for a separate vote on each resolution.

The SPEAKER. The Chair was about to say that in consequence of the amendments which are pending having been received as separate resolutions, he would direct that the vote be taken separately upon them.

The question was taken on the first resolution of the series; and it was decided in the affirmative—yeas 103, nays 28; as follows:

YEAS—Messrs. Aldrich, Allen, Ancona, Joseph Baily, Baker, Biddle, Francis P. Blair, Jacob B. Blair, George H. Browne, William G. Brown, Buffinton, Burnham, Calvert, Campbell, Casey, Chamberlin, Clements, Cobb, Corning, Cox, Crisfield, Crittenden, Dawes, Delano, Diven, Dunlap, Dunn, Eliot, Ely, English, Fenton, Gooch, Goodwin, Granger, Grider, Gurley, Haight, Hall, Harding, Harrison, Holman, Horton, Hutchins, William Kellogg, Kerrigan, Killinger, Knapp, Law, Leary, Lehman, Loomis, McKnight, McPherson, Mallory, May, Menzies, Mitchell, Justin S. Morrill, Morris, Noble, Noell, Norton, Nugen, Odell, Olin, Patton, Pendleton, Perry, Pike, Porter, Price, John H. Rice, Richardson, Robinson, Edward H. Rollins, James S. Rollins, Sargent, Sheffield, Shellabarger, Shiel, Smith, John B. Steele, William G. Steele, Benjamin F. Thomas, Francis Thomas, Train, Vallandigham, Van Horn, Van Valkenburgh, Verree, Vibbard, Voorhees, Wallace, Ward, Washburne, Webster, Wheeler, Wickliffe, Wilson, Windom, Wood, Woodruff, and Worcester—103.

NAYS—Messrs. Beaman, Bingham, Samuel S. Blair, Blake, Colfax, Frederick A. Conkling, Roscoe Conkling, Fessenden, Franchot, Frank, Hanchett, Hooper, Julian, Kelley, Lansing, Lovejoy, Moorhead, Anson P. Morrill, Riddle, Sedgwick, Shanks, Stevens, Stratton, Trimble, Trowbridge, Wall, E. P. Walton, and Albert S. White—28.

So the resolution was adopted.

The SPEAKER stated the question next in order to be upon the following resolution offered as an amendment by Mr. COLFAX:

Resolved, That the course adopted by the naval investigating committee of 1859, of communicating to officers of the Government copies of evidence apparently adverse to them, and giving them the opportunity to cross-examine the witnesses against them, or to refute or explain their testimony is, in the opinion of this House, worthy of imitation wherever practicable, by investigating committees appointed by order of the House of Representatives, especially where the said committees receive and collect such testimony in secret session; and that it is contrary to the plainest principles of justice to condemn any citizen upon *ex parte* evidence taken against him by a committee in secret, and the purport of which has not, if practicable, been laid before him by said committee, with an opportunity to explain or refute it before their report.

Mr. COLFAX. Does the previous question apply to that resolution?

The SPEAKER. The previous question will not exhaust itself until the entire report of the committee has been exhausted.

Mr. COLFAX. I call for the yeas and nays upon the adoption of the resolution.

The yeas and nays were ordered.

Mr. WASHBURNE. I hope the House will adopt that resolution.

Mr. COLFAX. I call the gentleman to order.

Mr. WASHBURNE. It is a statement substantially of the practice pursued by this committee, and I hope it will be adopted.

Mr. ROSCOE CONKLING. I call the member from Illinois to order.

Mr. DAWES. I hope the resolution will be unanimously adopted by the House. It is certainly the practice which we have pursued.

Mr. ROSCOE CONKLING. I call the gentleman from Massachusetts to order.

The SPEAKER. No debate is in order.

Mr. WICKLIFFE. Is it in order to move to lay that resolution on the table?

The SPEAKER. It is.

Mr. WICKLIFFE. Without carrying the whole subject with it?

The SPEAKER. It would carry the whole report with it.

Mr. HOLMAN. I desire to ask the gentleman from Indiana whether he intends the resolution as an impeachment of the conduct of the committee on Government contracts?

Mr. COLFAX. I say to my colleague that I intend it as the assertion of a correct principle.

The SPEAKER. No debate is in order.

Mr. WICKLIFFE. I rise to a question of order. I understand the Chair to decide that a motion to lay this particular resolution on the table would carry the whole subject with it. I wish now to ask whether it would be in order to move to postpone this resolution?

The SPEAKER. Not during the pendency of the previous question.

Mr. WICKLIFFE. Then I shall be compelled to vote against it as a matter of necessity.

The question was taken; and it was decided in the affirmative—yeas 90, nays 41; as follows:

YEAS—Messrs. Aldrich, Allen, Babbitt, Baker, Beaman, Bingham, Samuel S. Blair, Blake, George H. Browne, Buffinton, Burnham, Campbell, Chamberlin, Clark, Cobb, Colfax, Frederick A. Conkling, Roscoe Conkling, Cox, Crisfield, Cutler, Dawes, Diven, Duell, Dunn, Eliot, Ely, Fenton, Fessenden, Franchot, Frank, Gooch, Goodwin, Granger, Gurley, Hanchett, Harrison, Hooper, Horton, Hutchins, Julian, Kelley, Francis W. Kellogg, William Kellogg, Kerrigan, Killinger, Lansing, Leary, Loomis, Lovejoy, McPherson, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Nixon, Noble, Norton, Patton, Timothy G. Phelps, Pike, Porter, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Shanks, Sheffield, Shellabarger, John B. Steele, Stevens, Stratton, Francis Thomas, Trimble, Trowbridge, Vallandigham, Van Horn, Verree, Wall, Wallace, E. P. Walton, Ward, Washburne, Webster, Wheeler, Albert S. White, Wilson, Windom, and Worcester—90.

NAYS—Messrs. Ancona, Joseph Baily, Biddle, Francis P. Blair, Jacob B. Blair, William G. Brown, Calvert, Casey, Clements, Corning, Crittenden, Delano, Dunlap, English, Grider, Haight, Harding, Holman, Knapp, Law, Lehman, Mallory, May, Menzies, Morris, Noell, Nugen, Perry, Price, Robinson, James S. Rollins, Shiel, Smith, William G. Steele, Benjamin F. Thomas, Train, Vibbard, Voorhees, Wickliffe, Wood, and Woodruff—41.

So the resolution was adopted.

Mr. COLFAX moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

The SPEAKER stated the question to be next upon the adoption of the following resolution reported by the committee:

Resolved, That the practice of employing irresponsible parties, having no official connection with the Government, in the performance of public duties which may be properly performed by regular officers of the Government, and of purchasing by private contract supplies for the different Departments, where open and fair competition might be properly invited by reasonable advertisements for proposals, is injurious to the public service, and meets the unqualified disapprobation of this House.

The resolution was agreed to.

The SPEAKER stated the question next in order to be the adoption of the first branch of the amendment offered by Mr. HOLMAN, as follows:

Resolved, That Simon Cameron, late Secretary of War, by investing Alexander Cummings with the control of large sums of the public money, and authority to purchase military supplies, without restriction, without requiring from him any guarantee for the faithful performance of his duties, when the services of competent public officers were available, and by involving the Government in a vast number of contracts with persons not legitimately engaged in the business pertaining to the subject-matter of such contracts, especially in the purchase of arms for future delivery, has adopted a policy highly injurious to the public service, and deserves the censure of the House.

Mr. STEVENS. I demand the yeas and nays upon the adoption of that resolution.

The yeas and nays were ordered.

Mr. McKNIGHT. Is that resolution divisible?

The SPEAKER. The Chair thinks not.

Mr. BLAKE. I would like to have it divided, so as to have that part of it which refers to Alexander Cummings voted on by itself, for I do not think there is any evidence to sustain any charge against him.

The SPEAKER. No debate is in order.

Mr. McKNIGHT. I desire to ask if the resolution is not divisible, so as to have a separate vote upon the portion which refers to Alexander Cummings?

The SPEAKER. The gentleman will please indicate the point at which a division may be made.

Mr. McKNIGHT. I will indicate the point at the word "available."

The SPEAKER. The Chair will direct the Clerk to read the rule.

Mr. McKNIGHT. I understand the rule, and what I desired the Chair to decide was, whether it could be divided, so as to leave each branch of the resolution a distinct proposition.

The SPEAKER. The Clerk will read the rule.

The Clerk read the 46th rule, as follows:

"Any member may call for the division of a question before or after the main question is ordered, which shall be divided, if it comprehend propositions in substance so distinct that, one being taken away, a substantive proposition shall remain for the decision of the House. A motion to strike out and insert shall be deemed indivisible, but a motion to strike out being lost, shall preclude neither amendment nor a motion to strike out and insert."

The SPEAKER. The Chair does not see how there will be a substantive proposition remaining if the resolution is divided, as the gentleman indicates.

Mr. McKNICHT. That is just the difficulty in my own mind. I am afraid there will not, as the resolution is drawn up.

The SPEAKER. The Chair decides that the resolution is not divisible.

Mr. MOORHEAD. I desire to offer an amendment to this resolution.

The SPEAKER. No amendment is in order.

Mr. MOORHEAD. I ask the unanimous consent of the House to offer an amendment.

Mr. COX. I object.

Mr. MOORHEAD. I ask that my amendment may be read.

Mr. WOOD. I object.

The question was taken; and it was decided in the affirmative—yeas 79, nays 45; as follows:

YEAS—Messrs. Aldrich, Allen, Ancona, Joseph Baily, Baker, Biddle, Francis P. Blair, Jacob B. Blair, George H. Browne, Buffinton, Calvert, Casey, Clark, Clements, Cobb, Frederick A. Conkling, Corning, Cox, Crisfield, Crittenden, Cutler, Dawes, Delano, Dunlap, Dunn, English, Gooch, Granger, Grider, Hall, Hanchett, Harding, Harrison, Holman, Horton, Kerrigan, Knapp, Law, Leary, McKnight, Mallory, May, Menzies, Mitchell, Justin S. Morrill, Morris, Nixon, Noble, Noell, Norton, Nugen, Odell, Patton, Pendleton, Perry, Pike, Richardson, Robinson, Edward H. Rollins, James S. Rollins, Shiel, Smith, John B. Steele, William G. Steele, Stratton, Benjamin F. Thomas, Francis Thomas, Train, Vallandigham, Verree, Vibbard, Voorhees, E. P. Walton, Ward, Webster, Wheeler, Wickliffe, Wilson, Wood, and Woodruff—79.

NAYS—Messrs. Arnold, Babbitt, Beaman, Bingham, Samuel S. Blair, Blake, Burnham, Campbell, Chamberlin, Colfax, Roscoe Conkling, Duell, Edgerton, Eliot, Ely, Fessenden, Franchot, Frank, Goodwin, Haight, Hooper, Hutchins, Julian, Francis W. Kellogg, William Kellogg, Lansing, Lehman, Lovejoy, McPherson, Moorhead, Anson P. Morrill, John H. Rice, Riddle, Sargent, Sedgwick, Shanks, Sheffield, Shellabarger, Stevens, Trimble, Trowbridge, Van Valkenburgh, Wall, Wallace, and Albert S. White—45.

So the resolution was adopted.

Mr. HOLMAN moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The question recurring on the adoption of the following resolution:

Resolved, That the Secretary of the Navy, in the employment of George D. Morgan, without requiring from him any guarantee for the faithful performance of his duties in the purchase of a large number of vessels for the public use, with a compensation dependent on the prices paid for such vessels, and receivable from the seller, instead of employing responsible officers of the Government, has adopted a policy unauthorized by law, destructive of public economy and public confidence, and deserves the censure of this House.

Mr. SHEFFIELD demanded the yeas and nays.

The yeas and nays were ordered.

Mr. THOMAS, of Massachusetts. Will it be in order to lay that resolution on the table, without carrying the other resolutions with it?

The SPEAKER. These resolutions were all offered as amendments, and their relation to the original will be the same as in any other case, though voted on separately; and to lay one on the table would carry all the others with it. It is fair, at least, that the Chair should hold that way, having separated the resolutions.

The question was taken; and it was decided in the negative—yeas 45, nays 72; as follows:

YEAS—Messrs. Allen, Ancona, Babbitt, Joseph Baily, Beaman, Biddle, Jacob B. Blair, Calvert, Clements, Frederick A. Conkling, Roscoe Conkling, Cox, Crisfield, Dunlap, Dunn, Grider, Hanchett, Harding, Holman, Kerrigan, Killinger, Knapp, McPherson, Mallory, May, Menzies, Morris, Noble, Norton, Patton, Pendleton, Porter, Robinson, James S. Rollins, Shiel, William G. Steele, Francis Thomas, Vallandigham, Voorhees, Wallace, Washburne, Webster, Wickliffe, Wilson, and Worcester—45.

NAYS—Messrs. Aldrich, Bingham, Francis P. Blair, Samuel S. Blair, George H. Browne, Buffinton, Burnham, Campbell, Casey, Chamberlin, Clark, Cobb, Colfax, Corning, Cutler, Delano, Duell, Edgerton, Eliot, Ely, English, Fessenden, Franchot, Frank, Gooch, Goodwin, Granger, Gurley, Haight, Hall, Harrison, Hooper, Horton, Hutchins, Julian, Kelley, Francis W. Kellogg, Lehman, Loomis, Lovejoy, McKnight, Moorhead, Anson P. Morrill, Nixon, Noell, Nugen, Olin, Timothy G. Phelps, Pike, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Sheffield, Shellabarger, Smith, John B. Steele, Stratton, Benjamin F. Thomas, Train, Trimble, Trowbridge, Van Horn, Van Valkenburgh, Verree, Vibbard, Wall, Wheeler, Albert S. White, Wood, and Woodruff—72.

So the resolution was not agreed to.

Mr. SEDGWICK moved to reconsider the vote by which the resolution was rejected; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PACIFIC RAILROAD.

Mr. CAMPBELL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the special order, being the Pacific railroad bill. Pending that motion, I move that all debate upon the special order be closed in five minutes after the committee shall resume the consideration thereof.

Mr. NOELL. Upon that motion I demand tellers.

Tellers were ordered; and Messrs. KELLOGG, of Michigan, and LEHMAN were appointed.

The House divided; and the tellers reported—ayes 55, noes 25; no quorum voting.

Mr. RICHARDSON. I ask for a recount, as there is evidently a quorum present.

The SPEAKER. If there is no objection, a recount will be ordered.

Mr. CAMPBELL. We only propose to close the general debate. The five minutes' debate is continued.

Mr. LOVEJOY. Oh, yes; there are only sixty millions in the bill.

No objection being made, the tellers resumed their places; and the House being again divided, the tellers reported—ayes 54, noes 40.

So the motion was agreed to.

Mr. CAMPBELL. I now call for a vote upon my motion to go into committeee.

Mr. LOVEJOY. Before that vote is taken I ask the gentleman to permit me to offer some amendments, in order that they may be printed.

Mr. CAMPBELL. Amendments can be offered *ad infinitum* in the committee. Every amendment can be considered in committee.

Mr. LOVEJOY. I hope the gentleman will withdraw his motion.

Mr. CAMPBELL. I cannot delay the bill any longer.

The motion of Mr. CAMPBELL was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. CRISFIELD in the chair,) and resumed the consideration of the special order, being a bill (H. R. No. 364) to aid in constructing a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes.

Mr. CAMPBELL. I suppose the proper course will be to proceed to perfect the substitute for bill No. 364.

The CHAIRMAN. As there is no amendment offered to the original bill, the committee will proceed to perfect the amendment offered by the gentleman from Pennsylvania, [Mr. CAMPBELL.] The pending question is upon the amendment offered by the gentleman from Nevada.

Mr. CAMPBELL. I suggest that the substitute for bill No. 364 be read by sections, in order that it may be perfected.

The Clerk read the first section.

Mr. WILSON. I offer a substitute for the first section of the bill. I ask that it may be read, omitting the first clause, which contains the names

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. FRIDAY, MAY 2, 1862. NEW SERIES.....No. 119.

of the corporators, as they are the same as in the other bill.

The substitute, with the exception of the names of the corporators, was read, as follows:

All persons who shall or may be associated with them, (the corporators,) and their successors, are hereby created and erected into a body corporate and politic, in deed and in law, by the name, style, and title of "The Union Pacific Railroad Company;" and by that name shall have perpetual succession, and shall be able to sue and to be sued, plead and be impleaded, defend and be defended, in all courts of law and equity within the United States, and may make and have a common seal; and the said corporation is hereby authorized and empowered to lay out, locate, construct, furnish, maintain, and enjoy a continuous railroad, with the appurtenances, from such points on the Missouri river, as in this act determined, to San Francisco, upon the route and terms hereinafter provided, and is hereby vested with all the powers, privileges, and immunities necessary to carry into effect the purposes of this act as herein set forth. The capital stock of said company shall consist of one hundred thousand shares of $1,000 each, which shall be subscribed for and held in not less than one share or more than two hundred shares by any one person, and shall be transferable in such manner as the by-laws of said corporation shall provide. The persons hereinbefore named are hereby constituted and appointed commissioners, with power to add to their number by appointment of not more than two additional commissioners for any State or Territory not herein represented, and such body shall be called the board of commissioners of the Union Pacific railroad, and eleven shall constitute a quorum for the transaction of business. The first meeting of said board shall be held at Chicago at such time as the commissioners from Illinois herein named shall appoint, not more than three nor less than one month after the passage of this act, notice of which shall be given by them to the other commissioners by depositing a call thereof in the post office at Chicago, post paid, to their address, at least thirty days before said meeting. Said board shall organize by the choice from its number of a president, secretary, and treasurer, and they shall require from said treasurer such bonds as may be deemed proper, and may from time to time increase the amount thereof as they may deem proper. It shall be the duty of said board of commissioners to open books, or cause books to be opened, at such times and in such principal cities in the United States as they or a quorum of them shall determine, to receive subscriptions to the capital stock of said corporation, and a cash payment of ten per cent. on all subscriptions, and to receipt therefor. So soon as two thousand shares shall be in good faith subscribed for, the said president and secretary of said board of commissioners shall appoint a time and place for the first meeting of the subscribers to the stock of said company, and shall give notice thereof in at least one newspaper in each State in which subscription books have been opened at least thirty days previous to the day of meeting, and such subscribers as shall attend the meeting so called, either in person or by proxy, shall then and there elect by ballot not less than thirteen directors for said corporation; and in such election each share of said capital shall entitle the owner thereof to one vote. The president and secretary of the board of commissioners shall act as inspectors of said election, and shall certify under their hands the names of the directors elected at said meeting; and the said commissioners, treasurer, and secretary shall then deliver over to said directors all the properties, subscription books and other books in their possession. The directors so chosen shall, as soon as may be after their election, elect from their own number a president and vice president, and shall also elect a treasurer and secretary. No person shall be a director in said company unless he shall be a stockholder. Said directors shall have power to make by-laws, rules, and regulations as they shall deem needful and proper, touching the disposition of the stock, property, estate, and effects of the company, not inconsistent herewith, the transfer of shares, the term of office, duties and conduct of their officers and servants, and all matters whatsoever which may appertain to the concerns of said company; and the said board of directors shall have power to appoint such engineers, agents, and subordinates as may from time to time be necessary to carry into effect the object of this act, and to do all acts and things touching the location and construction of said road. Said directors may require payment of subscriptions to the capital stock, after due notice, at such times and in such proportions as they shall deem necessary to complete the railroad and telegraph within the time in this act prescribed. Said president, vice president, and directors shall hold their office for three years, and until their successors are duly elected, or for such less time as the by-laws of the corporation may prescribe; and a majority of said directors shall constitute a quorum for the transaction of business. The secretary and treasurer shall give such bonds, with such security, as the said board shall from time to time require, and shall hold their offices at the will and pleasure of the directors. Annual meetings of the stockholders of the said corporation, for the choice of officers (when they are to be chosen) and for the transaction of annual business, shall be holden at such time and place and upon such notice as may be prescribed in the by-laws.

Mr. KELLOGG, of Illinois. I desire to amend the substitute, and I presume the gentleman from Iowa will accept the amendment. It is to strike out the name of John Evans of Illinois, as one of the corporators at Chicago, and insert his name as a corporator from Colorado, where he now resides; and also to insert the names of Amos C. Babcock and W. Seldon Gale, as corporators from Illinois.

The CHAIRMAN. There are two amendments already pending, and the amendment of the gentleman from Illinois is not in order.

Mr. KELLOGG, of Illinois. I suppose the gentleman from Iowa will receive my amendment as a modification of his substitute.

Mr. ARNOLD. I believe it is the understanding of the special committee that that change may be made.

Mr. WILSON. I accept the amendment.

Mr. VALLANDIGHAM. Is it in order to move to amend the substitute?

The CHAIRMAN. It is not.

Mr. VALLANDIGHAM. Is it in order to move an amendment to the original bill?

The CHAIRMAN. It is.

Mr. VALLANDIGHAM. Inasmuch as I cannot move to amend the substitute, I will propose one to the original bill. I desire to vote for a constitutional and just Pacific railroad bill.

The CHAIRMAN. Does the gentleman propose an amendment?

Mr. VALLANDIGHAM. I do. I move to strike out the name of S. L. L'Hommedieu and insert the name of William H. Clement. I shall oppose all dilatory motions and indirect motions designed to defeat this measure, because I am in favor of a proper bill for a railroad to the Pacific. I assume that there is no combination of certain persons to reap the benefits arising from this corporation, and therefore it is not material to the friends of the bill in this House who shall be chosen, provided they be fit persons. The gentleman I have named is one of large experience in railroad business, of great energy, and of more than ordinary capacity.

I presume, then, if there be no understanding that particular names shall be retained here, that this man will not be objected to, because I believe the name I propose to strike out has been handed down for five or six years, from one bill to another, and probably it is unknown to any one concerned in this measure.

Mr. CAMPBELL. I have already stated that the corporators named in the bill, having but a single purpose to perform—that is to organize the company—there can be no possible objection to the substitution of any good man, with enlarged experience, as one of the corporators or directors in the bill. Our only object is not to make the number unwieldy. The committee will certainly make no objection to the substitution.

The amendment was agreed to.

Mr. STEVENS. I desire to perfect a bill which shall run clear of all difficulties and doubts as to its constitutionality. I like the substitute for the first section of this bill, because it makes this an open corporation. I move to amend by striking out all after the word "seal," in the thirty-second line, down to and including the words "set forth," in the thirty-ninth line, as follows:

And the said corporation is hereby authorized and empowered to lay out, locate, construct, furnish, maintain, and enjoy a continuous railroad, with the appurtenances, from the Missouri river to San Francisco, upon the route and terms hereinafter provided, and is hereby vested with all the powers, privileges, and immunities necessary to carry into effect the purposes of this act as herein set forth.

I will state my purpose in offering that amendment. I do not desire that this corporation shall have the power of locating the road the whole way through the States. I do not know that I share in the doubt as to the constitutionality of the United States incorporating companies to make railroads through the States; but I know that it is entertained by a large number of people. The bill as originally reported, or the one to which this is an amendment, avoids that difficulty by authorizing certain companies incorporated by the States to make the road through those States, and then the company itself is to make the road through the Territories, through the public lands.

Now, I can vote for such a bill as that; but the words which I propose to strike out give the privilege of locating the road to the whole corporation, instead of allowing the companies specified in the body of the bill to locate it through the States, and this company to locate the balance. It is for that reason that I have made this motion. I intend to vote for the first section of the substitute, because it meets the objection very well made by the gentleman from Indiana, [Mr. WHITE,] the other day, that this is not an open corporation. It seems to me to be better than the original bill. I hope the committee will agree to this amendment.

Mr. WHITE, of Indiana. I wish to make an inquiry of the Chair upon a question of order. I am satisfied that unless we make the substitute which has been presented by the committee this morning the text, we cannot work intelligently upon this bill. I am sure of that. I would inquire of the Chair what position the amendment presented this morning by the committee occupies? Is it now before this committee for action, or how is it to be acted on? I desire, in a word, to make that the text upon which we are to operate.

Mr. STEVENS. The committee have not offered any amendment.

Mr. CAMPBELL. I will explain to the gentleman from Indiana. The gentleman will find the substitute which we offered for the original bill in Document No. 364, and it is that substitute that we are now perfecting. It provides for the construction of this railroad by authorizing a company to build the main trunk in the Territories, and existing companies in California, Nevada, Kansas, and Iowa, to construct branches. It avoids the point of the power of Congress to organize a corporation within a State. The committee, however, last week—and I will say here that it was during my absence, although I do not object to the action of the committee—changed that substitute so far as to create a single company to construct the entire road, authorizing, however, one company in Iowa and one in Missouri to make connections.

Now, the gentleman will perceive that the great difference between the two measures is this: the substitute which we are now perfecting proceeds upon the idea that several existing companies in the States shall construct the roads in those States, and a main company is organized to construct the road in the Territories. The gentleman from Iowa [Mr. WILSON] has offered as an amendment to the substitute the first section of the amendment authorized by the committee at their meeting last week, and which authorizes a single company to construct the entire road. The gentleman from Pennsylvania [Mr. STEVENS] moves to strike out of the amendment of the gentleman from Iowa that part of it which gives to one company the right to construct the entire road. Does the gentleman from Indiana comprehend?

Mr. WHITE, of Indiana. I comprehend the gentleman's explanation.

Mr. CAMPBELL. I want to say, in conclusion, that the committee have been somewhat divided upon this measure.

Mr. WHITE, of Indiana. The Chair has intimated that the amendment of the gentleman from Pennsylvania is not in order, being an amendment in the third degree.

Mr. CAMPBELL. I do not so understand. The substitute is the text, and we are now perfecting that text. The gentleman from Iowa has offered an amendment, and the gentleman from Pennsylvania offers an amendment to the amendment offered by the gentleman from Iowa. I think, with all respect to the Chair, that that amendment is in order.

The CHAIRMAN. The Chair thinks the amendment offered by the gentleman from Pennsylvania is not now in order. It is an amendment in the third degree. There are two amendments already pending.

Mr. CAMPBELL. What two amendments?

The CHAIRMAN. The substitute No. 364 is pending. To that the gentleman from Iowa offers an amendment. The gentleman from Pennsylvania [Mr. STEVENS] offers an amendment to the

amendment of the gentleman from Iowa, and the Chair thinks that is not in order.

Mr. CAMPBELL. Then with a view to make it in order and to remove the original bill, which is not now under consideration, I will withdraw the original bill, in order that it may be out of the way, and the substitute may be treated as the original bill.

Mr. WHITE, of Indiana. That may be done by unanimous consent, I suppose.

Mr. CAMPBELL. I hope no gentleman will object.

The CHAIRMAN. The bill has been referred to the committee by the House, and it is not in the power of the committee to lay it aside or withdraw it.

Mr. SARGENT. It was the understanding of the committee at the time the substitute now under consideration was reported, that the original bill was withdrawn. It was so understood by the Speaker, and he directed the reading of the substitute instead of the original bill. It was conceived by the committee that they had the power to report another bill, and they reported the substitute which is now under consideration. The original bill was, in fact, withdrawn by the committee. We now propose to amend the substitute, which differs only verbally from the original bill.

The CHAIRMAN. The Chair thinks that the question must be taken on the amendment of the gentleman from Iowa before any further amendment can be offered.

Mr. LOVEJOY. There is another objection to the withdrawal of the original bill. I offered an amendment to the original bill, so that it cannot be withdrawn.

Mr. SARGENT. I would inquire whether, if the amendment of the gentleman from Iowa shall be adopted, the section will still be open to amendment?

The CHAIRMAN. The Chair thinks it would be.

Mr. PHELPS, of California. In order to get rid of the original bill, I move the adoption of the substitute. I believe it will then be open to amendment, just as it is now, but that it will take the place of the original bill.

The CHAIRMAN. The Chair thinks that if the substitute should be adopted now, it would not be open to amendment.

Mr. PHELPS, of California. Then I withdraw my motion.

Mr. CAMPBELL. When this amendment is disposed of the section will still be open to amendment.

The CHAIRMAN. The Chair is aware of that.

Mr. WHITE, of Indiana. Suppose the amendment is adopted *in hæc verba*, as offered by the gentleman from Iowa, could we then interpolate any matter in that amendment so as to change its effect?

The CHAIRMAN. The Chair thinks that if the amendment of the gentleman from Iowa is adopted and made part of the pending substitute, it will then be open for amendment, and that no further amendment is in order until the vote is taken upon that amendment.

Mr. LOVEJOY. Before the vote is taken o that amendment, I ask the gentleman from Iow to modify it so as to include the name of John H. Bryant, of Illinois.

Mr. WILSON. I have no objection if the committee has none.

Mr. CAMPBELL. There is no objection to that.

Mr. WILSON. Then, since the chairman of the committee has no objection, I accept the modification.

Mr. CHAMBERLIN. The select committee will consent to the introduction of the name of Jesse L. Williams, of Fort Wayne, Indiana.

Mr. WILSON. I accept the modification.

Mr. DAILY. I see that the Territory of Nebraska is not represented in the list of directors. I suggest the names of Gilbert C. Morrill and Augustus Kountz.

Mr. WILSON. I accept the modification.

Mr. MENZIES. I desire that the gentleman from Iowa shall insert two names from Kentucky, the names of Laban J. Bradford and John D. Levis.

Mr. WILSON. I will state to the gentleman from Kentucky what I have stated to other gentlemen, who have made similar appeals, that if the select committee are satisfied with the insertion of the names proposed, I shall make no objection, but shall modify my amendment in that respect.

Mr. CAMPBELL. I hope the gentleman from Iowa will accept the amendment suggested by the gentleman from Kentucky. The select committee has no objection whatever to it.

Mr. WILSON. Then I accept the modification.

Mr. SHANKS. The select committee, I believe, have no objection to the name of Jonas Votaw being inserted.

Mr. WILSON. Very well. Let the name be inserted in my amendment.

Mr. WILSON further modified his amendment by the insertion of the name of Franklin S. Stevens, of Massachusetts.

Mr. STEVENS. I move to amend the substitute by striking out the words "Missouri river, as in this act determined, to San Francisco," and to insert in lieu thereof the words "one hundred and second meridian of longitude west from Greenwich, to the western boundary of Nevada Territory."

I have already stated the reason why I cannot go for a bill which authorizes this company to make a road through the States; but if companies already organized in States shall be authorized to build the parts of the line within those States, I shall have no objection to it. My amendment is intended to strike from the bill everything that gives authority to this company to build the road through the States on this and the other side of the Rocky mountains, and to leave the companies already organized in the States to make the road through those States. This amendment will, therefore, do away with the constitutional objection to this bill, which, I admit, is a serious one, and may affect many minds unless we forget all our old lessons. I hope there will be no objection to the amendment.

Mr. WILSON. The amendment presented by the gentleman from Pennsylvania will allow us a test vote between the two principles that have been proposed for adoption—that is, whether the bill shall be formed on the basis of the original bill, which includes all the companies in Kansas, Iowa, Colorado, and California, and which authorizes them to construct the road, or whether one company shall be authorized to construct it. The objection made by the gentleman from Pennsylvania would certainly apply to no other portion of the road than that which passes through the State of Kansas, if the objection be good at all. The bill does not propose to authorize this company to construct a road through the State of Missouri; it authorizes it to construct two branches, one from the western boundary of the State of Iowa, through Nebraska, another from the western boundary of Missouri, through Kansas. The objection, therefore, would only apply to so much of the road as might be constructed through the State of Kansas.

Mr. STEVENS. And California.

Mr. WILSON. I do not understand that the substitute proposes to give the company authority to build the road through California.

Mr. STEVENS. All the way through to San Francisco.

Mr. WILSON. The substitute, as I understand, proposes to give the California company power to construct that portion of the road.

Mr. PHELPS, of California. The amendment which the gentleman himself [Mr. WILSON] proposes is, that the road shall be built by this company to San Francisco.

Mr. WILSON. I am willing to modify my amendment so as to give the company in California power to construct their part of the road; but I do not see the necessity of applying the same principle to that portion of the road which is to run through the Territory. The amendment offered by the gentleman from Pennsylvania will apply to the Territories as well as to the States.

Mr. STEVENS. It provides that the company shall have authority only over the Territories.

Mr. WILSON. I understood the gentleman to favor the original proposition reported by the committee; that is, to confer on the several companies named in the bill the authority to construct this road.

Mr. STEVENS. As far as the States go.

Mr. WILSON. If the gentleman will confine his amendment in that regard to the companies in States, I do not know that I shall have any objection to it.

Mr. STEVENS. That is my intention; and I believe that that is the effect of my amendment.

Mr. WILSON. I understood the gentleman to say that he intended to confer on some company in Nevada the authority.

Mr. STEVENS. Oh, no.

Mr. WHITE, of Indiana. I call for the reading of the amendment. I do not understand this colloquy.

The amendment was again read.

Mr. WILSON. That is a very material modification of the amendment which the gentleman first proposed.

The question being on Mr. STEVENS's amendment,

Mr. PHELPS, of California, demanded tellers.

Tellers were ordered; and Messrs. PHELPS, of California, and OLIN were appointed.

The committee divided; and the tellers reported —ayes 59, noes 39.

So the amendment was agreed to.

Mr. WHITE, of Indiana. I wish to offer an amendment which I think to be of the very highest importance to this measure. It is a twofold amendment, but I desire to have them taken together.

The amendments were read, as follows:

After the word "Nebraska," insert the words "together with five commissioners to be appointed by the Secretary of the Interior." After the word "possession," in the eighty-fourth line, insert as follows: "at the time of the first and each triennial election of directors by the stockholders, two additional directors shall be appointed by the Secretary of the Interior, who shall act with the body of directors, to be denominated directors on the part of the Government; any vacancy happening in the Government directors at any time, may be filled by the Secretary of the Interior."

The CHAIRMAN. The gentleman from Indiana can offer but one amendment at a time.

Mr. WHITE, of Indiana. Then, take the first amendment. I think it is of the very first importance that the Government should be represented in this enterprise. I have always thought that the grant by the Government to the company should be almost in the nature of a bonus, and that the freights and tariff should be so fixed on this road as that it should only pay a dividend on the amount of private stock necessary to be added to that contributed by the Government to build the road. Otherwise, the great West could not transport her cereal products to the Pacific coast, and probably no through freight would be transported either way, except it was of a precious character. In a word, the road should be so constructed as that through freight should be carried at a low figure, leaving the local freight to be charged for as on other roads. In order to do this, it should not be in the hands of half a dozen companies. This bill proposes to trust the building of parts of this road to companies that have not shown capacity to build their own roads, even with the large grants of land made to them—to compainies of which this House knows nothing at all. The amendment offered by the gentleman from Pennsylvania [Mr. STEVENS]—not to satisfy his own scruples, but to satisfy the scruples of States, not one of which is represented here—would take this road out of the hands of the company created by the bill, and put it into the hands of individual companies in different States.

I desire the Government to be represented. I have no constitutional scruples on the subject. Before any board of directors is organized, there must be $2,000,000 of stock subscribed. That may or may not be subscribed. It will depend on the confidence which the public may have in the work. This first board of directors will have the making up of the road, and will be in power until they are succeeded by the regularly elected board of directors. I desire that the Government shall be represented in this board of corporators; and if this amendment shall be agreed to, I think it will be then proper and desirable that the Government shall be represented in the board of directors, who are to be constituted by the stockholders as a permanent board. I think it is no more than right, and I do not think it can be liable to any constitutional objection on the part of the most scrupulous and tender-footed gentleman upon this subject.

If the House shall determine to insert such a provision, inasmuch as the section provides that no person shall be a member of the board of directors who is not a stockholder, and as it is desirable that any representative of the Government in that board shall not be personally interested in the road, I shall then propose to amend so as to provide that these representatives shall not be stockholders. I think the interest of the Government in the millions it will have invested in the road requires that it should be represented in the board of directors who are to be constituted. But more than that, there is to be a continental business and commerce connected with the road which the Government should have something to say in the regulation of.

[Here the hammer fell.]

Mr. SARGENT. It seems to me the gentleman from Indiana is very far from understanding this bill from the manner in which he ventilates his ideas upon it.

Mr. WHITE, of Indiana. I have not had time to read it.

Mr. SARGENT. The gentleman from Indiana acknowledges that he has not read the bill, and yet he has made three or four speeches upon the bill since the committee has been in session to-day.

Mr. WHITE, of Indiana. I mean I have not read the amendment.

Mr. SARGENT. The fact is that the Government is not a stockholder but a creditor of this Pacific Railroad Company. The bill provides for the repayment of the money to be advanced by the Government to the last cent; and they have no right to direct, in the first place, what provision shall be made for repaying them for the money advanced to build the road, and then to say that they shall also supervise the expenditure of the money itself, and not merely the money advanced by the Government, but that which is paid out of the private pockets of the stockholders. I say that is going very far in our interference with the affairs of this company.

There is no objection to my mind to the amendment which the gentleman now proposes, but I am very much opposed to the second amendment, which he indicates that he will offer. The gentleman, however, is mistaken in supposing that these corporators are to mark out the route on which the road is to be built. They have no power except to organize the company. When that is done all future proceedings are to be under the supervision of the stockholders, who are to contribute their own private means to build the road. They are to contribute some $200,000,000, while the Government only proposes to advance some $50,000,000. It is from private capital that the road is mainly to be built, and it is private persons only who are to be the stockholders. Is it right, then, to place the interests of these stockholders in the hands of irresponsible agents, whom the Government may appoint?

For these reasons, sir, I am opposed to the amendment which the gentleman indicates, that the Government shall be represented in the board of directors, though I have no objection to the amendment which he now offers, that it shall be represented in the board of corporators who are to organize the company. I think it would be a very good idea.

The amendment was agreed to.

Mr. WHITE, of Indiana. I now submit the second amendment indicated by me in respect to the Government being represented in the board of directors.

I will take this opportunity to say that it is very true that this bill does provide for the repayment of these advances by the Government. The gentleman from California lays stress on his objection especially upon that fact, and for that reason he objects to providing for Government directors. Now, sir, I contend that, although this bill provides for the repayment of the money advanced by the Government, it is not expected that a cent of the money will ever be repaid. If the committee intended that it should be repaid, they would have required it to be paid out of the gross earnings of the road, as is done with the roads in Missouri, Iowa, and other States, and not the net earnings. There is not perhaps one company in a hundred where the roads are most prosperous that has any net at all. I undertake to say that not a cent of these advances will ever be repaid, nor do I think it desirable that they should be repaid. This road is to be the highway of the nation, and we ought to take care that the rates provided shall be moderate. I think, therefore, that this will turn out a mere bonus to the Pacific railroad, as it ought to be.

The Government, then, ought to be considered as having an interest in the road, and it should have a voice in the management of its affairs.

Mr. CAMPBELL. I understand the amendment of the gentleman from Indiana to provide for the appointment of two directors on the part of the Government. I have no objection to that amendment, if the gentleman will modify it so that these directors shall be appointed by the President.

Mr. WHITE, of Indiana. I have no objection to that modification, and will accept it. I modify my amendment so as to make these directors to be appointed by the President, instead of the Secretary of the Interior.

Mr. CAMPBELL. With that modification I hope the amendment will be adopted.

Mr. WHITE, of Indiana. I see no objection that can be urged to it. It seems to me a proper precautionary measure.

The amendment was agreed to.

Mr. WHITE, of Indiana. There is another amendment entirely germane that should be made to that clause which provides that no person shall be a director of the company unless he be a stockholder, so as to make it read that no person shall be elected a director by the stockholders unless he be a stockholder.

Mr. CAMPBELL. I would suggest that the gentleman will accomplish his purpose by simply inserting the words "except two to be appointed by the Government."

Mr. WHITE, of Indiana. I will make my motion in that form.

The amendment was adopted.

Mr. STEVENS. I move to amend, in the absence of the gentleman from Kansas, by inserting in the list of corporators the name of "John Kerr of Kansas." If there is anybody here from Kansas, he knows Mr. Kerr to be a highly respectable banker at Leavenworth.

The amendment was agreed to.

Mr. BLAIR, of Pennsylvania. I trust that the name of Daniel J. Morrell of Pennsylvania, which was in the bill reported in the last Congress by Mr. Curtis, will be inserted as a corporator in this bill. I make that motion.

Mr. CAMPBELL. I think the committee have probably gone far enough in this direction; but inasmuch as this gentleman was in the bill of the last session, and my colleague knows him to be an experienced man, I have no objection to his name being inserted. I trust, however, that the committee will see the propriety of making no further extension of the list of corporators.

The amendment was agreed to.

Mr. OLIN. I move to add after the name just inserted, that of "Samuel R. Campbell, of New York." He is a gentleman of great experience in railroad matters.

The amendment was agreed to.

Mr. SHELLABARGER. I ask the committee to restore the name of Mr. L'Hommedieu. It will be seen that the State of Ohio has only three corporators named, while almost every other State has four.

Mr. GURLEY. I hope that motion will prevail. I was not aware that that name had been dropped.

Mr. SHELLABARGER. I will only say that every one at all familiar with railroads in the West, knows Mr. L'Hommedieu to be a man of great intelligence and experience, especially in railroad matters.

Mr. VALLANDIGHAM. I presume both gentlemen will concur in the testimony I gave to the capacity of Mr. Clement.

Mr. SHELLABARGER. I most certainly do.

Mr. VALLANDIGHAM. If the purpose is to have another corporator from Ohio, I shall not now quarrel about it. I have said all that I desire to say at this time.

The CHAIRMAN. The Chair will suggest that the name of Mr. L'Hommedieu was stricken out of the original bill. It still remains in the substitute.

Mr. CAMPBELL. The Chair states correctly, that this name was stricken out of the original bill. It is true, however, also, that the name was not inserted in the substitute for the first section proposed by the gentleman from Iowa, [Mr. WILSON.]

Mr. SARGENT. I think by moving a substitute, embracing the names of William H. Clement and S. L'Hommedieu, the difficulty which seems to have arisen here would be obviated.

Mr. SHELLABARGER. I accept the gentleman's suggestion; and move that substitute.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to insert the name of Henry H. Baxter, of Vermont. He is a very competent man, and in any division of spoils under this bill I know that he will be able to take particular care of No. 1.

Mr. CAMPBELL. Mr. Chairman, I oppose the amendment of the gentleman from Vermont. If Mr. Baxter's name is to be inserted here upon the ground that there are any spoils to be divided, he is not the proper person to be included in this bill. But it is only out of respect to my friend from Vermont that I withdraw my objection.

The amendment was agreed to.

Mr. WINDOM. Is it in order to include in the first section of this bill the appendix to the census report, which contains the names of the heads of families in the United States?

The CHAIRMAN. The amendment is not in order.

Mr. WOOD. I move to insert, after the name of Mr. Secor, the name of John Anderson, of New York city. He is a man of wealth and of the highest character.

Mr. SARGENT. I oppose the amendment of the gentleman from New York. No particular privileges are granted to the gentlemen named in this bill. They will have some hard work to do, and without pay, because there is no means to provide for paying them for the organization of this company. It is not a desirable position. If, however, we burden this bill with a large number of the names of those who cannot attend the meetings of this board of commissioners we will make an unwieldy body, and defeat the very object which we have in view.

The committee are opposed to the addition of any more names from the State of New York. There are now in the bill more names from the State of New York than any other State. We are well aware that a large amount of the capital for building this road will come from that State, and for that reason, sir, the committee gave to that State a large number of those who are to meet in the organization of this company for the building of this Pacific railroad. We have gone as far as could be expected of us in giving names to the State of New York. As it is a position of no emolument, and which no man can desire unless he takes an active interest in carrying out the objects of the bill, I think we have gone far enough in adding names. I hope, therefore, the amendment will be rejected.

Mr. WOOD. Mr. Anderson, whose name I have moved to insert, is a gentleman of great wealth, of large experience in railroad matters, and one of the most public-spirited citizens of the city of New York. His name, sir, I feel assured would give great strength to this proposition.

The CHAIRMAN. Debate is not in order.

Mr. WOOD. I withdraw my amendment, and move to strike out the name of Isaac Sherman, and in lieu thereof to insert the name of John Anderson, of New York.

Mr. ALDRICH. I would ask the gentleman from New York whether this John Anderson is the "John Anderson, my Jo John," so much sung about? [Laughter.]

Mr. WOOD. He is one of the largest and most celebrated tobacco merchants in the United States.

The amendment was disagreed to.

Mr. LAW. I move to strike out the name of Jesse L. Williams, and in lieu thereof to insert the name of William D. Griswold, the president of the Alton and St. Louis Railroad Company. He is a man of high character and of large property, and I hope that his name will be inserted.

Mr. HOLMAN. I hope, after what my colleage has said, that he will add, that everything he has said in favor of Mr. Griswold will apply with equal force to Mr. Williams, of Indiana.

The CHAIRMAN. The gentleman from Indiana has moved an amendment to a proposition

which is not now before the committee. The substitute of the committee is now pending.

Mr. CRADLEBAUGH. I see that Nevada is not represented in this bill at all, and I therefore move to insert the names of John Atkinson and John D. Winters, of that Territory.

Mr. CAMPBELL. As there is no commissioner named in the bill from the Territory of Nevada, I think it would be proper to insert the names which are suggested.

The amendment was agreed to.

Mr. WALTON, of Vermont. I move to insert, after the name of Mr. Baxter, the name of Elisha P. Jewett, of Vermont. I observe that most of the States have three commissioners named, and in order that Vermont may have that number, I move to insert the name of Mr. Jewett.

The amendment was disagreed to.

Mr. MORRILL, of Vermont. I move, in the sixty-ninth line, after the word "for," to insert the words: "and actually paid into the Treasury of the United States for the use of the Pacific Railroad Company." I desire to make this strictly a cash subscription, and in order to do that it is necessary to insert the words I have indicated.

Mr. SARGENT. The gentleman from Vermont proposes when these private parties subscribe for stock, that they shall pay for it to the United States. In other words, it makes the United States Treasurer the treasurer of this company. The Treasurer of the United States has his own particular functions to attend to in handling the public money, and he ought not to have anything to do with the handling of private funds. This is money proposed to be subscribed by the stockholders in this road, and I suppose it was never designed to use the vaults of the United States for the purpose of keeping the funds of private persons.

On a division there were—ayes forty-three, noes not counted.

Mr. MORRILL, of Vermont, demanded tellers.

Tellers were ordered; and Messrs. SHEFFIELD and CALVERT were appointed.

The tellers reported—ayes 42, noes 39.

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

Mr. STEVENS. If the gentleman will withdraw his motion that the committee rise, my friend from Vermont will withdraw his amendment, and I propose then to offer an amendment which I think will be agreeable to the committee.

Mr. LOVEJOY. I withdraw my motion.

Mr. MORRILL, of Vermont. I withdraw my amendment

Mr. STEVENS. I move to insert in the sixty-ninth line these words:

And so soon as ten dollars on each share is paid into the Treasury.

Mr. CAMPBELL. I oppose the amendment of the gentleman from Pennsylvania. The amendment of the gentleman from Iowa [Mr. WILSON] provided that these commissioners should open books at such time and in such principal cities as a quorum of them should determine, and receive subscriptions, and on the cash payment of ten per cent. of the subscriptions, give a receipt therefor. The bill, as it stands at present, requires that ten per cent. of all stock subscribed for shall be paid in cash, not into the Treasury of the United States, which has nothing to do with the matter, but to the proper officer of this company, who is required to give bond for the faithful performance of his duty. That certainly meets the objection made by the gentleman from Vermont.

I would like to know what further objection he can have. The amendment of the gentleman from Vermont would require that the money be paid into the Treasury of the United States; and why into the Treasury of the United States? Why depart from the rules governing companies of a similar character? A provision is already in the bill that something shall be paid in cash, shall be paid to the proper officer of this company, as has been done in all other like cases. I do not want this company held to a greater accountability than any other company.

Mr. MORRILL, of Vermont. There is nothing mandatory in the provision read by the gentleman that these parties shall pay this sum. It is only to be their duty to receive subscriptions, and the money, if any, is paid. On the other hand, the provision is clear that so soon as two thousand shares will be in good faith subscribed for, without a farthing being paid in, they may proceed with the work.

Mr. CAMPBELL. In reply to the gentleman from Vermont, I will say that it was the intention of the committee to make the provision obligatory, and they so understand it now—that ten per cent. shall be paid in when the stock is subscribed for. If there is any doubt upon that point let the gentleman modify the amendment and make it right. The point I make is, that there is no propriety in making this company pay $2,000,000 into the Treasury of the United States.

Mr. LOVEJOY. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. CRISFIELD reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the special order, being a bill (H. R. No. 364) to aid in constructing a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes, and had come to no resolution thereon.

LAND DISTRICT IN NEVADA.

Mr. KELLOGG, of Michigan, by unanimous consent, reported from the Committee on Public Lands a bill to establish a land district in the Territory of Nevada, and for other purposes; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

ADELAIDE TALBOT.

Mr. McPHERSON, by unanimous consent, introduced a bill for the relief of Adelaide Talbot, widowed mother of the late Major and Assistant Adjutant General Theodore Talbot; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

And then, on motion of Mr. LOVEJOY, (at four o'clock, p. m.,) the House adjourned.

IN SENATE.

THURSDAY, *May* 1, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

ENROLLED BILL SIGNED.

The PRESIDENT *pro tempore* signed the enrolled bill (H. R. No. 406) for the relief of Francis Hüttmann, which had heretofore received the signature of the Speaker of the House of Representatives.

PETITIONS.

Mr. HOWARD presented a petition of citizens of Owosso, and a petition of citizens of Lapeer, State of Michigan, praying for the speedy passage of a law to establish a uniform system of bankruptcy throughout the United States; which were referred to the Committee on the Judiciary.

Mr. WRIGHT presented four petitions from citizens of the city and State of New York praying for the passage of a general uniform bankrupt law; which were referred to the Committee on the Judiciary. He remarked that he had not had occasion yet to present any such petitions from citizens of Indiana.

He also presented the petition of David Landreth & Son, seed growers and dealers in seeds, praying that "the Department charged with the distribution of seeds be prohibited from using any portion of the appropriation made, or to be made, for the purchase of varieties of garden or flower seeds, which may have been previously distributed by the Agricultural Bureau, or seeds of any description which may be readily obtained in the seed stores of the Union;" which was ordered to lie on the table.

Mr. SHERMAN presented a petition of citizens of Ohio, praying for the confiscation of the property of traitors; which was ordered to lie on the table.

REBEL BARBARITIES.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a motion to print fifty thousand extra copies of the report of the joint committee on the conduct of the war in regard to the barbarous treatment by the rebels at Manassas of the remains of officers and soldiers of the United States killed in battle there, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That there be printed, in addition to the usual number, for the use of the Senate, fifty thousand copies of the report of the joint committee on the conduct of the present war, without the documents.

WASHINGTON STREET RAILROAD.

Mr. WRIGHT. I present a memorial on the subject of a railroad in the city of Washington, and I wish to make a remark to the Senate upon it. This memorial is from a gentleman of the name of Brock, a gentleman of very high character, who has been largely engaged in the building of city railroads. I find that we have three or four propositions here on the subject, and I always suspect when I see bills for close corporations that there is some "money in them." We have learned in my State one great truth, and that is, where there are such applications to let individual companies organize and compete. I would greatly prefer, as a member of the Senate, so far as I know anything of this question, that that course should be adopted with these measures; but if it is not adopted by the Senate, this gentleman makes a proposition, and it is evident at least that there is some "money in it." Coming from a gentleman of his intelligence and long experience, he proposes to build this road in sixty days, giving a guarantee to pay $10,000 annually for the improvement of this city. I ask that it be read and referred to the Committee on the District of Columbia.

The Secretary read the memorial as follows; and it was referred to the Committee on the District of Columbia:

To the Senate and House of Representatives of the United States:

Your memorialist respectfully represents that the want of an organized, cheap, and adequate means of passenger conveyance between the distant points of Washington has for years been recognized both by the resident population of this city and by the thousands of strangers who visit it each week, as a most pressing need of the national metropolis; one, the immediate supplying of which is generally felt to be demanded both by the personal comforts and by the business interests of the community. A fact so patent, and which involves, to a great extent, the convenience of the public service, has not failed to attract the attention of both Houses of Congress, and coupled with the manifest anxiety of the citizens of Washington to have this great desideratum provided for by the introduction of street passenger railways, to invoke their official action.

Unfortunately, the diverse views of the Senate and of the House of Representatives, relative to the details of the several plans of relief submitted to them, have up to this time prevented any concert of action between them; and the graver duties of national import now claiming their anxious deliberations are likely, unless the subject be promptly disposed of before the close of the present session of Congress, to lead to its abandonment, at least for a considerable period.

Under these circumstances, your memorialist, believing that no measure of municipal reform yet suggested for Washington is of more urgent importance to the public convenience than the establishment here of a desirable passenger railway, respectfully and in good faith proposes to Congress to construct, under the authority of any one of the several bills now pending in either House, a street passenger railway in Washington, upon the following general conditions:

The road to be built and completed within sixty days, in a substantial, first-class manner; to be furnished and equipped in the most approved style; and to be operated, subject to such congressional or municipal control as may be instituted, at a fare of five cents for each single passenger.

For the privilege of constructing and of operating the road, your memorialist offers to set aside from its gross receipts, and to pay over to the corporate authorities of Washington, or to any other party authorized to receive it, the sum of $10,000 annually, to be expended in paving the unpaved streets and avenues of the city.

For the full and faithful performance of all these conditions, or of any other which may be agreed upon, your memorialist will enter into the amplest obligations, and offer all requisite guarantees. His confidence in an entirely satisfactory result, both from a popular and a professional point of view, is based upon the evident necessity of the work and the success which attended his construction of similar railways in Philadelphia, Baltimore, Cincinnati, and St. Louis.

JONATHAN BROCK,
Philadelphia, Pennsylvania.

WASHINGTON, D. C., *April* 30, 1862.

ARMY APPOINTMENTS IN KANSAS.

Mr. WILSON, of Massachusetts. I desire to submit a resolution; I do not wish to have it acted on this morning, but I shall call it up to-morrow:

Resolved, That the Secretary of War be directed to report to the Senate whether one Frederick Emery, who murdered Mr. William Phillips at Leavenworth, Kansas, in 1855 or in 1856, has been appointed to any place in the quartermaster's department at Leavenworth, Kansas.

Mr. LANE, of Kansas. I desire to state that

the Government has now before it to-day the Kansas difficulty, and I presume will correct the evils that the people of Kansas are complaining of, by removing the present incumbent in command, and placing there a man who will be satisfactory to the people of Kansas.

OBJECT OF THE WAR.

Mr. DAVIS. I offer the following resolution, and ask for its consideration at the present time:

Resolved, That the war now being carried on by the United States of America to suppress the existing insurrection against them, should be vigorously prosecuted and continued to compel obedience to the Constitution and laws of Congress to the limits of every State and Territory of the United States, and by all the citizens and residents thereof, and for no other end whatever.

Mr. SUMNER. Let it lie on the table.

Mr. DAVIS. I inquire what vote it requires of the Senate to take up the resolution and consider it now.

The PRESIDENT *pro tempore*. It cannot be considered at this time except by unanimous consent, under the standing rule of the Senate, which is equally applicable to all resolutions.

HIGHWAYS IN WASHINGTON COUNTY.

Mr. GRIMES. For the purpose of concurring in two or three slight amendments made to a Senate bill by the House of Representatives, I move to take up the bill (S. No. 124) relating to highways in the county of Washington and District of Columbia.

The motion was agreed to; and the Senate proceeded to consider the amendments of the House of Representatives to the bill. The first amendment of the House was in the fifth line of the first section, to insert, after the word "repair," the word "widen;" so as to make it read:

It shall be lawful for the levy court of Washington county, in the District of Columbia, to alter, repair, widen, and regulate the public roads and highways, &c.

The next amendment was in the fourth line of the fifth section, after the word "feet," to insert "and it may also cause the width of any existing roads in said county to be increased to not more than one hundred feet, and change the location of any of them."

The next amendment was in the sixth line of the fifth section, after the word "opening," to insert "or widening;" so as to make the clause read:

For the purpose of opening or widening such roads, the said levy court is hereby empowered to cause to be condemned any land or lands necessary for the same.

The amendments were concurred in.

BILL INTRODUCED.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 296) supplementary to an act approved on the 13th July, 1861, entitled "An act to provide for the collection of duties on imports, and for other purposes;" which was read twice by its title and referred to the Committee on Commerce.

SURRENDER OF SLAVES BY THE ARMY.

On motion of Mr. WILSON, of Massachusetts, the Senate resumed the consideration of the following resolution, submitted by him on the 3d of April:

Resolved, That the Committee on Military Affairs and the Militia be directed to consider and report whether any further legislation is necessary to prevent persons employed in the military service of the United States from aiding in the return or control over persons claimed as fugitive slaves, and to punish them therefor.

The pending question being on the amendment of Mr. GRIMES, to add to the resolution:

And to report what reorganization of the Army, in its *personnel* or otherwise, may be necessary to promote the public welfare, and bring the rebellion to a speedy and triumphant end.

The amendment was agreed to.

Mr. SUMNER. Some time has elapsed since we listened to the persuasive speech of the Senator from Iowa, [Mr. GRIMES,] but the subject is fresh still. The character, if not the efficiency, of our armies, is concerned in the complete enforcement of the late legislation with regard to slaves. If this legislation be set at defiance or evaded, I think that our military strength will be impaired, and I am sure that our good name will suffer.

I am grateful to the Senator from Iowa for the frankness with which he exposed and condemned the recent orders of several of our generals.

One of these officers, though recently of California, was originally of Massachusetts. He served honorably in the Mexican war, and, I believe, is an excellent soldier. His present position as a general is due partly to my exertions. I pressed his appointment. But had I for a moment imagined he could do what he has just perpetrated, he would never have had my support. When an officer falls bravely in defense of his country, there is an honest pride which mingles with the regret that we feel. But when an officer falls as General Hooker has now fallen, there is nothing but regret. He has fallen, although not dead. I say this with pain; but I cannot say less.

The order of General Hooker has been quoted by the Senator from Iowa, [Mr. GRIMES.] I ask leave to read part of a letter which I have received from his camp:

"I take the liberty of forwarding to you the inclosed order of General Hooker, with a report of its results, thinking that you will be interested to know how the late act of Congress forbidding the rendition of slaves by Army officers is violated; and hoping that some effort may be made to prevent such unjust and outrageous measures on the part of superior officers.

"Our moral and humane feelings have been violated by having been compelled to witness the attempts of slaveholders, known to be of secession proclivities, coming into our camps and searching our private quarters for their slaves, under the cover of a protecting order from a general who exceeds his authority.

"If such unjust orders are to be issued, and such oppressive measures enforced, all order and discipline in our ranks will be lost.

"It is exceedingly difficult to restrain the indignation of our soldiers, who are learning more and more to sympathize with the poor slave, as an oppressed laborer, and who feel a righteous antipathy towards the slave masters whose loyalty they have every reason to question.

"Is there to be no end of such offenses against the moral sense and the patriotic feelings of our officers and soldiers? Are we still to be made the protectors and defenders of slave hunters, who surround and infest our camps, by authority, with deadly weapons to employ in the recovery of their fugitive slaves?"

This letter expresses feelings that are natural to every humane bosom. In contrast to the conduct of General Hooker, I desire to call attention to the course of General Doubleday, whose headquarters are here in Washington. I read his order:

HEADQUARTERS, MILITARY DEFENSES
NORTH OF THE POTOMAC,
WASHINGTON, *April* 6, 1862.

SIR: I am directed by General Doubleday to say, in answer to your letter of the 2d instant, that all negroes coming into the lines of any of the camps or forts under his command, are to be treated as persons, and not as chattels.

Under no circumstances has the commander of a fort or camp the power of surrendering persons claimed as fugitive slaves, as it cannot be done without determining their character.

The additional article of war recently passed by Congress positively prohibits this.

The question has been asked, whether it would not be better to exclude negroes altogether from the lines. The general is of the opinion that they bring much valuable information, which cannot be obtained from any other source. They are acquainted with all the roads, paths, fords, and other natural features of the country, and they make excellent guides. They also know and frequently have exposed the haunts of secession spies and traitors and the existence of rebel organizations. They will not, therefore, be excluded.

The general also directs me to say that civil process cannot be served directly in the camps or forts of his command, without full authority be obtained from the commanding officer for that purpose.

I am, very respectfully, your obedient servant,
E. P. HALSTED,
Assistant Adjutant General.

Lieutenant Colonel JOHN D. SHAUL, *Commanding Seventy-Sixth Regiment New York Volunteers.*

General Doubleday acted bravely at Fort Sumter; but he did not render a truer service to his country on that occasion than he has now done in issuing this order. If this example were followed everywhere in our camps, we should at least save ourselves from shame, even if we did not secure victory.

There are other generals at the West who think they do their duty best when they serve slavery. There is General McCook, of whom we have the following sad report, on the authority of a paper at Nashville, which recounts the visit of a slave-hunter to his camp:

"He visited the camp of General McCook, in Maury county, in quest of a fugitive, and that officer, instead of throwing obstacles in the way, afforded him every facility for the successful prosecution of his search. That general treated him in the most courteous and gentlemanly manner, as also did General Johnson and Captain Blake, the brigade provost marshal. Their conduct toward him was in all respects that of high-toned gentlemen, desirous of discharging their duties promptly and honorably. It is impossible for the army to prevent slaves from following them; but whenever the fugitives come into the lines of General McCook, they are secured, and a record made of their names and the names of their owners. All the owner has to do is to apply either in person or through an agent, examine the record, or look at the slaves, and if he finds any that belong to him take them away."

Can we listen to such a statement and not feel indignant at the levity with which human freedom is treated?

But similar cases multiply. There is the provost marshal of Louisville, who seems to be a disgrace to our Army, if we may believe the following report:

"Louisville has been noted as being one of the best southern cities for privileges toward our people, but it has undergone many changes for several years—for the worst. When the rebellion broke out we were worshiping every Sabbath and once through the week, in our churches, and when the legions of the North made Louisville their headquarters it seemed that a new reign was instituted, and we worshiped in our splendid churches almost *ad libitum*, and nothing said to the contrary notwithstanding.

"But, lo! a sad change has taken place, the northern army has proceeded southward, forcing its passage into the 'land of Dixie.' Kentucky has been redeemed; 'her white people are free' and her 'free blacks are enslaved,' and they have no more 'rights that white men are bound to respect.' Our condition so far is worse than before the war. Our churches are closed, and a free man cannot walk after dark though he has his free papers, with the great seal of the State and county, and owns thousands of dollars' worth of property, (which some do,) and pay taxes, and support the war, and be also loyal to the Government. All this has been brought about by a slaveholder and a negro hater, the provost marshal, whose name is Dent, he having control of the city since the removal of the headquarters of Gen. Buell to Nashville, and instead of hunting rebels, as there are thousands in the city, he has made the colored people his subjects of oppression and inhuman treatment. He commenced his cruel operations by ordering his provost guards, the cavalry men, to flog all colored persons out after dark, free or slave; so we were then pounced upon with the cow-hide and cat-o'-nine-tails in old 'plantation style' without hinderance, for his order was supreme. He had many visitors the next day to inquire into his order: he replied, it was a 'military' order, and must be respected."

"Mr. Editor, these are some of the ordeals we are passing through in the 'neutral State of Kentucky,' and we have yet to see the first remonstrance raised against it by the press. Our daily editors are dumb; they open not their mouths. From their silence I judge it is approved by them. I think that if the Government has any loyal people in her midst, it is the colored people, and they have done good service even in this city towards detecting smugglers and traitors; and the marshal has at times been suspected of secession proclivities. I judge that he is now being revenged on the colored people for their faithfulness to the Union cause, as his guards have dispensed with fire arms and formed into 'patrols' and instituted the cowhide and cat-o'-nine-tails, which seem to please them well, for they are very nimble and dexterous in chasing the blacks after dark through the streets, on the pavements, down lanes and alleys, as though they were riding down wild bulls, and when caught, their cries and screams are heart-rending; but no one dare interfere, for the patrol are dressed in 'Uncle Sam's livery.' Some have been whipped unmercifully.

"Our churches have suffered much since this barbarous treatment. He has told them to open on Sunday; but some have had the flogging meted out to them after benediction, so many have concluded to stay at home, since old Satan has been loosed, but we trust 'only for a little season.' Now you see the effect of the war in this direction. This is considerably worse than the old status, and if it is to continue, I think of all men we will be the most miserable."

Mr. DAVIS. Will the Senator from Massachusetts favor me with his authority for that statement?

Mr. SUMNER. It is a statement from a religious newspaper published in New York.

Mr. DAVIS. I have no doubt it is false.

Mr. WILSON, of Massachusetts. I have no doubt it is substantially true.

Mr. DAVIS. You do not know anything about it, sir.

Mr. WILSON, of Massachusetts. Quite as much as you do.

Mr. DAVIS. No, sir.

Mr. SUMNER. My colleague says he has no doubt it is true. It was put in my hands by a trustworthy person, who assured me it could be relied upon as true; but of course I cannot pretend to vouch for it myself from any personal knowledge.

Mr. WILSON, of Massachusetts. If my colleague will allow me, I will simply say that I have other testimony, not so full, not so complete as this, going to show that the grossest oppressions exist there. That is all I mean to say about it. I do not mean to say that this in all its details is correct; but that under our Army the grossest abuses exist there, I have no doubt, for I have the best testimony to that effect.

Mr. SUMNER. But, sir, there is an incident which has occurred under General Buell's command, which cannot be read without a blush. Here it is, as described in the letter of a soldier, who was more than a witness, even a party to it. I find this letter in a newspaper; but I have also

had it furnished to me in manuscript by the person to whom it is addressed:

"CAMP ANDY JOHNSON, NEAR NASHVILLE, TENNESSEE, *March* 8, 1862.

"MY DEAR PARENTS:" * * * * "A great outrage was perpetrated in our camp yesterday, as follows:

"A black boy, named Henry, has been at work for the colonel for some days. His owner came after him while we were camped on the other side of the river, but the boys hooted him out of camp. The negro said he would sooner be killed on the spot than go back with his master, even if he knew he would not be punished. His master, he said, was a secessionist, and had kept him (the boy) on some fortifications down the river at work for four months.

"Nothing more transpired concerning his return until yesterday. While the greater part of the regiment were out on picket, the boy's owner came with two sentinels of the provost guard from the city, and after chasing the poor frightened boy through the camp several times—he drawing a knife once, and the sentinel knocking him down with his musket—they captured and delivered him to his owner, who stood waiting outside the lines. The latter paid the catching sentries fifteen dollars each, and led 'Henry' away with him unmolested, flourishing a pistol at his head as he went. They had no order—at least showed none—for the boy from headquarters, and the lieutenant colonel of our regiment, who was in command, need not have delivered him up without such an order, yet allowed him to be caught, and the major forbade our boys from giving him any assistance. One of the sentinels was from a Kentucky and one from an Indiana regiment." * * * *

"The former master of our boy will not get him without an order, and an imperative one, I believe; and if one is given for him, his master having been a strong and active secessionist—a quartermaster for the southern army, in fact—I have about concluded to follow it by immediate resignation, and this, whether the order be for him or any other negro. The order would make it an official act. What do you think my duty would be in the premises?"

Of General Buell I know nothing personally; but such an incident must fill us with distrust. He may possess military talent. He may be a thunderbolt of war; but it is clear that he wants that just comprehension of the times and that sympathy with humanity without which no officer can do his complete duty.

But General Buell may perhaps shelter himself behind the instructions of his superior officer; and this brings me to the famous order No. 3 of Major General Halleck. I have it in my hands, and quote these words:

"We will prove to them that we come to restore, not to violate, the Constitution and the laws." * * * * "The orders heretofore issued from this department in regard to pillaging, marauding, and the destruction of private property, and stealing and the concealment of slaves, must be strictly enforced. It does not belong to the military to decide upon the relation of master and slave. Such questions must be settled by the civil courts. *No fugitive slave will therefore be admitted within the lines or camps, except when specially ordered by the general commanding.*"

In this order, so strangely inconsistent, absurd, unconstitutional, and inhuman, the general has perversely persevered. In every aspect it is bad. It wants common sense as well as common humanity. It is unworthy a man of honor and a soldier.

It is inconsistent with itself, inasmuch as the general proclaims that he "comes to restore, not to violate, the Constitution and laws," and then proceeds to a direct violation of them. In the same order, he says: "It does not belong to the military to decide upon the relation of master and slave. Such questions must be settled by the civil courts." And then, in the face of this declaration, he proceeds to say that no fugitive slaves are to be admitted in our lines or camps. But pray, sir, how can such persons be excluded from the lines or camps without deciding that they are fugitive slaves? Here is a flat and discreditable inconsistency.

But worse than its inconsistency is its absurdity. This watchful, prudent general proposes to exclude all fugitive slaves from his camps. In other words, he shuts out from his camps all those opportunities of information with regard to the condition of the enemy which may be afforded by this class of deserters. They may come charged with knowledge of the movements and plans of the enemy, but the general will not receive them, because they are slaves. They may be able to disclose the secret of a campaign, but the general will not have it, because they are slaves. If we have failed thus far in knowledge of the designs of the enemy, it has been because this absurd policy has prevailed.

General Halleck may be instructed by General McDowell, whose opposite conduct appears in a dispatch published in the papers:

CATLETTSVILLE STATION, VIRGINIA,
FIFTEEN MILES SOUTH OF MANASSAS JUNCTION,
April 13.

Hon. EDWIN M. STANTON, *Secretary of War:*

An intelligent negro has just come in from Stafford county, and says his master returned this morning from Fredericksburg to his home, and told his wife, in this negro's presence, that all the enemy's troops had left Fredericksburg for Richmond and Yorktown, the last of them leaving on Saturday morning. This last has just been confirmed by another negro.

IRWIN McDOWELL, *Major General.*

Here are two negroes who have come into the camp with important information, both of whom General Halleck's order would repel and drive back to bondage. And he may be instructed by the dispatch of General Wool, just received, announcing our success at New Orleans, the news of which came by a "fugitive black." General Wool adds, "the negro bringing the above, reports that the rebels have two iron-clad steamers nearly completed, and that it is believed that the Merrimac will be out to-morrow." But all this information would be shut out by General Halleck. Can absurdity be more complete?

But worse than its inconsistency or absurdity is its positive unconstitutionality. What right, under the Constitution, has this general to set himself up as the judge in cases of human freedom? Where does he find his power? By whom has he been invested with this attribute? It is the boast of the Constitution of the United States that all are "persons." The Constitution so regards everybody, and surrounds everybody with the safeguards of "persons," even to the extent of declaring that "no person shall be deprived of *liberty* without due process of law;" and yet the Army is gravely told to treat certain persons as slaves. Of course, this cannot be done without sitting in judgment most summarily on human freedom. How does the general know that they are slaves? On what evidence? Because they are black? Why may they not be free blacks? General Halleck would reverse the true presumption. He assumes slavery when he ought to assume freedom. In the eye of the Constitution all are freemen until proved to be slaves, no matter of what color or race. The only question to be asked is as to loyalty. Are you loyal or rebel? If loyal, then welcome to the hospitality and protection of our camps. If rebel, then surrender to our arms. Let these be the inquiries and let this be the rule, and the Union which we seek to restore will not be indefinitely postponed.

But worse than its unconstitutionality is the inhumanity of this order, so shocking to the moral sense. This general, who professes to fight the battle of the Constitution with the commission of the Republic, speaks of the "concealment of slaves" in the same class with "pillaging, marauding, and stealing." I complain of this confusion of language, showing an insensibility to human rights. It is like those shameful advertisements which garnish southern newspapers, where "the boy Tom" and "the girl Sally" are to be sold in the same lot with "horses, mules, cattle, and swine." That such an order should be put forth in the name of the United States may justly excite our indignation.

On these various grounds I object to this order. In my criticism, which I make with sincere sorrow, I do not travel out of the order. General Halleck is said to be an able officer, and I think also an able lawyer. I do not intend to question his talents. But I do protest against his perverse violation of the Constitution in order to carry out a miserable and disgraceful pro-slavery policy; and I protest against his being allowed to degrade the character of our country. Sir, we are making history now. Every victory adds something to that history; but such an order is worse for us than a defeat. More than any defeat, it will discredit us with posterity, and with the friends of liberal institutions in foreign nations. I have said that General Halleck is reputed to be an able officer; but most perversely he undoes with one hand what he does with the other. He undoes by his orders the good he does as a general. While professing to make war upon the rebellion, he sustains its chief and most active power, and degrades his gallant army to be the constables of slavery.

Slavery is the constant rebel and universal enemy. It is traitor and belligerent together, and is always to be treated accordingly. Tenderness to slavery now is practical disloyalty and practical alliance with the enemy.

Against these officers to whom I have referred to-day I have no personal unkindness. I should much prefer to speak in their praise; but, sir, I am in earnest. While I have the honor of a seat in the Senate, no success, no victory, shall be any apology or any shield to a general who undertakes to insult human nature. From the midst of his triumphs I will drag him forward to receive the condemnation which such conduct deserves.

Mr. SAULSBURY. I move to amend the resolution by adding to it the following:

And what further legislation is necessary to prevent the illegal capture and imprisonment of the free white citizens of the United States.

The Senator from Massachusetts has informed us this morning of many abuses, which, in his judgment, arise from the action of the commanders of our armies in reference to fugitive slaves. I do not propose to enter into the discussion of that branch of the question, as I prefer upon this occasion to represent the interests of the free *white* citizens of my country, and this resolution gives me the opportunity of bringing to the attention of the Senate some instances in my own State where persons have been illegally taken and carried out of the State by military authority. Without attempting anything like a formal speech, I shall proceed simply with a narration of facts.

Some three or four weeks ago a highly respectable citizen of the town of Dover, a member of the bar, a gentleman of family, having a wife and children, was in the hours of the night taken from his family, shut up in the court-house of that town, as I am informed, and the next day hurried off by the military authorities into the State of Maryland, detained there for nearly a week, and finally discharged, because the officer had to say, like Pilate, that he found no fault in him. That man was John B. Pennington. Unfortunately, he was *white*.

At the same time, sir, another highly respectable citizen of my State, at present the clerk of the Senate of the State, was taken by the same military authority, for no cause whatever, carried from the capital of the State into the State of Maryland, detained for a week and then released, because they could find no fault in him. He, too, had the misfortune of being *white*.

At the same time Mr. Whorter, a most highly respectable citizen of my State, residing near the capital, was dragged away from his home and carried into the State of Maryland by the military authorities, there detained for a week or more, and then discharged—no fault found in him. He, too, sir, was one of that unfortunate class of the people of this country who at the present day seem not to awaken much interest, and to whose interests not much attention is paid. He, too, was *white*. William A. Atkinson, ex-sheriff of the county, a man universally esteemed, a true friend, a noble man, and as loyal to the constitutional Union of the fathers as any man that lives, was at the same time dragged by the same arbitrary power from his family and home, and hurried to a military camp in the State of Maryland. Unfortunately, he too was *white*, and *white* men now-a-days seem to have few rights which either *negroes* or *public functionaries* feel bound to respect.

Several others at the same time were dragged from their homes. In the county where I live a student at law, one of the most respectable young gentlemen in the county, was dragged away from his home, and carried off into Maryland. There was nothing against him, no fault found in him, and he was allowed, after a while, to return. He was carried away into the State of Maryland, detained there for nearly a week, and then when nothing could be found against him, he was discharged. He, too, was one of that unfortunate class of *white* men who can be dragged from their homes into other States and detained without cause, without warrant, without process of law, and in utter violation of every principle of right secured to the American citizen by the Constitution and laws of his country.

Again, sir, some two or three weeks ago the city of Wilmington was visited, and several of the most respectable citizens in that city were dragged from their families and their homes, one of whose names I now recollect, Mr. William Graves, a most respectable citizen. They were marched between a file of soldiers down the public streets of Wilmington to the depot, and carried off to Drummondtown, in the State of Virginia, and detained there for one or two weeks. No process was issued against Mr. Graves; he had committed no offense against the laws of his country; no citi-

zens of the State of Delaware, that I know of, ever breathed aught against his loyalty; and yet he was dragged away and carried to Drummondtown, in the State of Virginia, by the military authority. No voice which is potential in behalf of freedom on this floor or in the other Hall can be raised for him, because unfortunately for him, as far as his personal rights are concerned, he too belongs to that unfortunate class of people who are *white*.

Now, sir, if the military authorities act oppressively against the negro race, if they abuse their authority to the injury of the humblest being on the face of God Almighty's earth, I am not here to advocate oppression. In times like these, I know that the citizen necessarily must suffer some little wrong, because it is impossible in all cases to discriminate nicely in reference to what should or should not be done under particular circumstances; but while saying nothing in reference to the action of the military authorities in regard to the negro race, what I ask is that if their wrongs are to be redressed, if their grievances are to be brought into the Senate Chamber, and we are to be entertained every morning with a narration of the wrongs they suffer, let the same measure of justice, at least, be meted out to the loyal *white* citizens of the country. I ask nothing for those who have raised their hand in rebellion against the constitutional authorities of their country; let them suffer the full extremity of the law, if you think it advisable and have the *power* to inflict it. If any man violates the laws or the Constitution of his country, he ought to be punished; and I am not here to advocate that such a man as that should be allowed to go free. But while we are entertained every morning with a narrative of the grievances of the black men of this country, the free negroes and the slaves of this country, thinking equally as much, and—although it may be an infirmity and a weakness at the present time to say it—thinking a little more of the free white citizens of my country, I will, in my place, demand that justice shall be done them, and that free *white* men who have done naught to injure their country, to destroy its institutions, or its Union, shall be protected, and that inquiry shall be made to see if further legislation is necessary to secure them in *their* rights.

The PRESIDENT *pro tempore*. The Senator from Delaware will suspend his remarks. The further consideration of the present question is superseded by the special order of the day, the unfinished business of yesterday, which is Senate bill No. 151.

Mr. WADE. I hope we shall take it up.

The PRESIDENT *pro tempore*. It is up.

CONFISCATION OF PROPERTY.

The Senate resumed the consideration of the bill (S. No. 151) to confiscate the property and free the slaves of rebels, the pending question being on the motion of Mr. COLLAMER to amend the bill by striking out all after the enacting clause and inserting the substitute proposed by him, as follows:

That if any person or persons owing allegiance to the United States shall, after the passage of this act, levy war against them, or shall adhere to their enemies, giving them aid and comfort, and shall thereof be convicted, on confession in open court, or on the testimony of two witnesses to the same overt act of treason, whereof he or they shall stand indicted, such person or persons shall be adjudged guilty of treason against the United States, and shall suffer death, or imprisonment not less than five years, and be fined not less than $10,000; which fine shall be levied and collected on any or all of the property, real and personal, of which the said person or persons so convicted was owner at the time of the committing of the said act, any sale or conveyance to the contrary notwithstanding; and every person so convicted shall be forever incapable and disqualified from holding any office under the United States; but the President may pardon or remit the whole or any part of said punishment.

SEC. 2. *And be it further enacted*, That the persons to whose labor or service any person convicted under this act has claim by the laws of any State, shall be thereafter forever free and discharged therefrom.

SEC. 3. *And be it further enacted*, That this act shall not be construed in any way to affect or alter the prosecution, conviction, or punishment of any person or persons guilty of treason against the United States before the passage of this act, unless such person is convicted under this act.

SEC. 4. *And be it further enacted*, That whenever it shall be deemed necessary to the speedy and successful termination of a rebellion by the President, he is hereby authorized, by such commissioners as he shall appoint, to sequester and seize the property, real and personal, of such persons as shall bear arms against the United States, or give aid and comfort to such persons wherever situated; and if within any part of the United States the inhabitants whereof have been proclaimed to be in a state of insurrection, to hold, occupy, rent, and control for the United States until the ordinary course of judicial proceeding shall be restored in the State or district where the same is situated, and in all cases until the owners of said property can be proceeded against by legal prosecution; but no persons holden to service, commonly called slaves, shall be taken under this section. And all such personal property as shall be so taken which is perishable, or expensive in keeping, may be sold by said commissioners, who shall keep and render full accounts of all the avails and receipts from said property so sold, let, or occupied, and pay over the avails to the Treasury of the United States.

SEC. 5. *And be it further enacted*, That whenever the President, in pursuance of existing laws, shall, by proclamation, have declared the inhabitants of any State or section, or part thereof, in a state of insurrection against the United States, he is hereby authorized, at any time thereafter, by proclamation, to extend to any such persons who may have participated therein, and in any such State or part thereof as he shall judge proper, pardon and amnesty, with such exceptions and at such time, and on such conditions as he shall declare and proclaim.

SEC. 6. *And be it further enacted*, That if in any State, or part thereof, in which the inhabitants have by the President been declared in a state of insurrection, the said insurrection shall have continued for a period of six months, then and in that case the President is authorized, if in his opinion it is necessary to the successful suppression of said insurrection, by proclamation to fix and appoint a day when all persons holden to service or labor in any such State or part thereof as he shall declare, whose service or labor is by the law or custom of said State due to any person or persons who, after the day so fixed by said proclamation, shall levy war or participate in insurrection against the United States, or give aid to the same, shall be free and discharged from all such claim to labor or service; and thereupon said person shall be forever free and discharged from said labor and service, any law or custom of said State to the contrary notwithstanding.

SEC. 7. *And be it further enacted*, That whenever any person claiming to be entitled to the service of any other person as a slave under the law of any State, shall seek to enforce such claim, he shall, in the first instance, and as preliminary to the trial of such claim, show satisfactorily that he and the person to whom said service was by said law due during the period of insurrection or rebellion was loyal to the United States.

Mr. WILSON, of Massachusetts. I sent to the Chair yesterday an amendment that I intended to offer; but instead of doing that I move to strike out the sixth section of the amendment of the Senator from Vermont, and to substitute this in lieu of it:

SEC. 6. *And be it further enacted*, That in any State or part thereof in which the inhabitants have by the President been heretofore declared in a state of insurrection, the President is hereby authorized and required, for the speedy and more effectual suppression of said insurrection, within thirty days after the passage of this act, by proclamation to fix and appoint a day when all persons holden to service or labor in any such State or part thereof, whose service or labor is by the law or custom of said State due to one who, after the passage of this act, shall levy war or participate in insurrection against the United States, or give aid to the same, shall be free, and discharged from such claim to labor or service, and thereupon said person shall be forever free and discharged from said labor or service, any law or custom of said State to the contrary notwithstanding.

Mr. DAVIS. I inquire if it is in order to move and have acted upon amendments to the original bill before the amendment offered by the Senator from Massachusetts is voted upon.

The PRESIDENT *pro tempore*. There is no positive rule of order upon that question. The practice is to amend alternately. As a question of expediency and of practical convenience—and the Chair so stated when the bill was first before the Senate and the first substitute was offered—it is better to proceed to amend the original bill, in other words and in parliamentary language, to perfect the original bill, in the first instance, and then proceed in like manner with the substitute; but there is no rule which prohibits recurrence to the original bill after that. Both are open to amendment. At this present time, an amendment to an amendment being pending, it is not in order to receive and act upon, put the question upon, an amendment to the original bill; but after the pending amendment to the amendment shall have been disposed of, it will be in order to move an amendment to the original bill.

Mr. DAVIS. I wish to conform to the rules of the Senate and to the rules of convenience, too.

Mr. WILSON, of Massachusetts. The Senator from Vermont, [Mr. COLLAMER,] in submitting this amendment to the original bill, proposes to authorize the President of the United States, if in his judgment it shall be necessary for the more speedy suppression of this insurrection, to appoint a day when all persons held to service or labor in any State whose inhabitants he has declared by proclamation to be in a state of insurrection, shall be declared free. That honorable Senator, in the course of his speech, said that it seemed to be the chief object of some of the supporters of the original bill to carry that provision of the bill emancipating the slaves of rebels; and yesterday the Senator from Virginia [Mr. CARLILE] alluded to and indorsed that declaration. Now, sir, I am free to confess here, that it is with me the chief object of solicitude. I care something for the confiscation of the property of the leading rebels; but I do not wish to touch the property of the masses of the people. I think the distinction is a just one—that the leaders should be punished, and that the masses of the people should feel that they will be forgiven and protected if they return to their loyalty.

I do not expect that we shall realize any large amount of property by any confiscation bill that we shall pass. After the conflict, when the din of battle has ceased, the humane and kindly and charitable feelings of the country and of the world will require us to deal gently with the masses of the people who are engaged in this rebellion. It will be pleaded that wives and children will suffer for the crimes of husbands and fathers; and such appeals will have more or less effect upon the future policy of the Government. But, sir, take from rebel masters their bondmen, and from the hour you do so until the end of the world, to "the last syllable of recorded time," the judgment of the country and the judgment of the world will sanction the act, and it will be stronger every day while the world lasts. Therefore, sir, I am in favor of emancipating the slaves of all the rebels who are engaged in this rebellion.

Sir, with the lights of to-day, I do not see how any man can be for slavery and at the same time be a loyal man. Slavery and treason this day and this hour in this country are one and the same. Slavery and treason are synonymous words. I can conceive how a man of intelligence and character can recognize the existence of slavery, look upon it as it is, as an evil, and yet not see how it is to be abolished, or when it is to be got rid of. I can appreciate the position of such a man, and I think I do appreciate it. But, sir, how can any man, looking over this broad land to-day and seeing flashing from every quarter of the heavens the crimes of human slavery against this country and its institutions, how can any man be loyal to this country and labor to uphold, strengthen, and support human slavery in America? It is the cause, and the whole cause, of this rebellion. We talk about Jeff Davis, Slidell, Mason, and Toombs, and their treasonable confederates; but they are not the cause of this rebellion; they are simply the hands, the tools; the heart, the brain, the soul is slavery; the motive power is slavery. Slavery is the great rebel, Davis and his compeers are but its humble tools and instruments.

Slavery for thirty years has been hostile to and aggressive upon the free institutions of America. There is not a principle imbodied in our free institutions, there is not an element of our Government that elevates or blesses mankind, there is not anything in our Government or our institutions worth preserving, that slavery for a generation has not warred against and upon. It smote down, thirty years ago, the great right of petition in these Halls. It destroyed, in large sections of the country, the constitutional freedom of the press. It suppressed freedom of speech. It corrupted presses, churches, and political organizations. It plunged the nation into a war for the acquisition of slaveholding territory. It enacted a fugitive slave law, inhuman, unchristian, disgraceful to the country and to the age. It repealed the prohibition of slavery over half a million square miles in the central regions of the continent. It seized the ballot-boxes in Kansas, it usurped the government of the Territory, it enacted inhuman and unchristian laws, it made a slave constitution and attempted to force it upon a free people, it bathed the virgin sods of that magnificent Territory with the blood of civil war. It mobbed, flogged, expelled, and sometimes murdered Christian men and women in the slaveholding States for no offense against law, humanity, or religion. It turned the hearts of large masses of men against their brethren, against the institutions of their country, against the glorious old flag and the Constitution of their fathers. It has now plunged this nation into this unholy rebellion, into this gigantic civil war that rends the country, and stains our waters and reddens our fields with fraternal blood.

Sir, I never see a loyal soldier upon a cot of sickness, sorrow, or death, without feeling that slavery has laid him there. I never gaze upon the wounds of a loyal soldier fallen in support of the flag of the Republic, without feeling that slavery inflicted

those wounds upon him. I never see a loyal soldier, wounded and maimed, hobbling through your streets, without feeling that he was wounded and maimed by slavery. I never gaze upon the lowly grave of a loyal soldier dying for the cause of his country, without feeling that he was murdered by slavery. I never see a mourning wife or sorrowing children, without realizing that slavery has made that mourning wife a widow, and those sorrowing children orphans. Sir, all these sacrifices of property, of health, of life, all this sorrow, agony, and death, now upon us, are born of slavery. Slavery is the prolific mother of all these woes that blight our land and fill the heart of our people with sorrows.

Slavery pronounced long ago against the free elements of our popular institutions, it scoffed at the Declaration of Independence, it pronounced free society a failure, it jeered and sneered at the laboring masses as mudsills and white slaves. Scoffing at everything which tended to secure the rights and enlarge the privileges of mankind, it has pronounced against the existence of democratic institutions in America. Proud, domineering, defiant, it has pronounced against the supremacy of the Government, the unity and life of the nation. Sir, slavery is the enemy, the clearly-pronounced enemy of the country. Slavery is the only clearly-pronounced enemy our country has on God's earth. There it stands. Hate is in its heart, scorn in its eye, defiance in its mien. It hates our cherished institutions, despises our people, defies our Government. Slavery is the great rebel, the giant criminal, the murderer striving with bloody hands to throttle our Government and destroy our country. Senators may talk round it if they please, they may scold at its agents and denounce its tools. I care little about its agents or its tools. I think not of Davis and his compeers in crime; I look at the thing itself, to the great rebel with hands dripping with the blood of my murdered countrymen. I give the criminal no quarter. If I, with the lights I have, could utter a word or give a vote to continue for one moment the life of the great rebel that is now striking at the vitals of my country, I should feel that I was a traitor to my native land and deserved a traitor's doom. Sir, I believe that every word spoken in Congress or out of Congress, every act that continues, strengthens, or keeps the breath of life in human slavery in America, is against the existence and perpetuity of democratic institutions, against the dignity of the toiling millions of my country, against the peace, the honor, the glory, and the life of the nation.

Sir, slavery being the criminal, slavery being the rebel, it should be stricken down through the agents it employs. It has its hundreds of thousands of rebels in arms against the country. To punish its instruments, I will strike at it and destroy it if I can. I believe that we have a constitutional right to free the slaves of rebel masters, and I think it would be a crime against my country if I did not give a vote to free the slaves of every rebel on this continent. If this Congress adjourns without putting upon the statute-book of the country an act to free the slaves of every rebel in the United States, I believe it will be false and recreant to the cause of the country.

I believe it is policy to emancipate the slaves of rebels. Gentlemen tell us that they do not see success in this direction. I do not see success in any other direction. I expect the armies to win brilliant victories. I have no doubt of success, either on the Mississippi or at Yorktown, under Halleck or McClellan. I have no doubt but that the brave men whose hearts are burning with love of liberty and of country and hatred of this criminal that is striving to destroy the Republic, will, with arms in their hands, smite down its agents on land or wave Victory I am sure will flash upon the banner of the Republic.

I believe that we are to win victories, but how are we to change the hearts of the masses of men that have plunged into this rebellion? What made them hate the people of this country? What made them jeer at the toiling millions of the free States as "mud-sills" of society? What made them scoff at the Declaration of Independence, and at the free institutions that do not pull down the highest to elevate the lowly up? What made them hate the old flag of our country? What made them raise their hands for the overthrow of our institutions, the destruction of this Government, and this nation? Slavery made them do it. It was slavery, nothing more, nothing less, that perverted their hearts, clouded their reason, blinded their consciences, and made them traitors. Just in proportion to the strength of slavery in any locality in the country is the hate of the people against our institutions, our Government, and our people; and so long as slavery shall live, so long as it shall have vitality, so long as it shall be an institution to be nurtured and strengthened, upheld and sustained, so long as it shall be an element of power on this continent, just so long will the people now in rebellion against the Government hate our people and hate our country. An intelligent man who believes in slavery, who would strengthen and spread it, who would nurture it, who would make it an element of political power, cannot love the democratic institutions of this country; he cannot love the country itself. It is an impossibility, a moral impossibility.

You have all cast your eyes over the country in rebellion. Where live the loyal men? In western Virginia, in eastern Tennessee, in western North Carolina, in Missouri, in the mountain regions where there are few slaves. There you have men who are not seduced or conquered by slavery, men who yet love our institutions, love our Government, love our people, love our old flag. But wherever slavery is strong it has seduced, subdued, or conquered the hearts of the people, made them disloyal against the country; and they will hate us so long as slavery is a power on earth.

Sir, casting aside all regard for the bondman, looking at this question simply in the light of action for the suppression of the rebellion and the restoration of the future harmony and repose of the country, I believe it is our duty to destroy the cause that has changed the hearts of millions of our people. Destroy slavery, and you take from the heart of that people the sole motive for hating us and hating our country. When they shall see that the cause of all their hate and disloyalty lies low in the dust, they will rise again and support your institutions and your Government, and be proud again to recognize the flag of their country. Slavery has intoxicated and maddened the people of the slaveholding States. Take the cup from the trembling hand of the drunkard, who is ready, in his delirium, to smite down wife and child, and the drunkard will be a man again and love and protect that wife and child. Strike the chains from the limbs of the slaves of rebel masters, and those masters will become loyal again, ready to pour out their blood for the institutions they now hate and the Government they so madly assail.

Every hour of thought and reflection brings me to the conclusion that death to slavery is life to the Republic. Believing this, I think it is our duty to walk up to the extreme verge of our constitutional power, and I would go no further, but I would walk up to the extreme verge of constitutional power to destroy slavery. If there is a doubt, I would not give that doubt to slavery, but I would give that doubt to my country. If I have any doubts on these points I give the doubts in favor of my country against slavery, and not for slavery against my country. But, sir, I have no doubt we have a right to take the life, take the property, and free the slaves of every rebel on this continent While I would not take the lives of many, if any, while I would not take the property of more than the leaders, I would take the bondmen from every rebel on the continent, and in doing it I should have the sanction of my own judgment, the sanction of the enlightened world, the sanction of the coming ages, and the blessing of Almighty God. Every day, while the world stands, the act will be approved and applauded by the human heart all over the globe.

Sir, it seems to me our duty is as clear as the track of the sun across the heavens, and that duty is before the adjournment of this Congress to lay low in the dust under our feet, so that iron heels will rest upon it, this great rebel, this giant criminal, this guilty murderer, that is warring upon the existence of the country. It is in our power to do it, and we ought to meet it; and I must confess I have no sort of respect for any of those doubts that have been thrown out during this session of Congress in regard to this policy of freeing the slaves of rebel masters.

Why, sir, I remember from the time the flag of rebellion was raised, that every act of the Government to uphold its authority has been denounced in Congress and out of Congress as offensive to the rebels. We could not propose anything to sustain the authority of the Government without being told, "oh, you will offend the loyal men of the border States, and you will exasperate the rebels." We disregarded it in many cases, and this country has lost many lives and millions of dollars because we did not disregard it in the commencement and boldly act up to our constitutional obligations. Last summer, when it was proposed to free the slaves who had been actually employed by their masters with arms in their hands to smite down our brethren, we were told, "it will not do; you will offend these rebels; you will unite the hearts of the people of the slave States against us; you will offend the loyal border State men." Well, sir, we passed the act in spite of these doubts, and it is the law of the land to-day. I only regret that it is not more faithfully executed by the Government and by the military men in the service of the Government. When we proposed to abolish slavery in this District the other day, we were told it would not do; we would unite the hearts of traitors against the country and strengthen their hands, and it would be a rock of offense before our border State men. We passed the bill, and this day and this hour thirteen thousand black men in this District in their churches are offering up prayers to Almighty God for blessings on us for that beneficent act. Sir, every movement we make, every proposition we make, we are met with this same talk, about giving offense to rebels. I do not fear these rebels. Our bayonets will be as bright and as sharp after we act upon this subject as they are now.

Sir, every day that slavery stands, every moment that it breathes the breath of life in all its power, there stands an enemy that can never love our people, our institutions, or our Government. It is a moral impossibility. Then destroy it, and when it is gone will come back the old sentiments of the Washingtons and the Jeffersons and the great men of the revolutionary era in the slaveholding States. Then will come back the love for the Declaration of Independence, for the Constitution of the United States, for the free institutions that adorn, bless, and elevate the masses of mankind. Then will come back the reverence for the glorious memories of the past. Then will come back the love for the stars and stripes of our country. Then will come back a feeling of amazement and of shame that men were so perverted by the monster slavery as to imbrue their hands in the blood of their countrymen. Rebels will come back with a feeling of repentance for these crimes against their country. Then, when slavery is stricken down, they will come back again and offer their hands, red though they be with the blood of our brethren, and we shall forgive the past, take them to our bosoms, and be again one people. But, Senators, keep slavery; let it stand; shrink from duty; let men, whose hands are stained with the blood of our countrymen, whose hearts are disloyal to our country, hold fast to the chains that bind three millions of men in bondage, and we shall have an enemy to hate us, ready to seize on all fit opportunities to smite down all that we love, and again to raise their disloyal hands against the perpetuity of the Republic. Sir, I believe this to be as true as the Holy Evangelist of Almighty God, and nothing but the prejudices of association on the one side, or timidity on the other, can hold us back from doing the duty we owe to our country in this crisis.

The Senator from Vermont has proposed in his amendment to authorize the President of the United States, whenever he shall believe it necessary for the suppression of this rebellion, to issue his proclamation declaring the slaves of rebels free. This proposition gives up the whole question. If I understand it, it is a full concession. It concedes the right of this Congress to authorize the President of the United States to emancipate the slaves of rebels in all the States where he has made proclamation that the people are in insurrection. I accept it, sir; and if Congress has the right to authorize the President to issue a proclamation emancipating these slaves, if, in his judgment, he believes it necessary, then Congress has the right to authorize and require the President to do it if Congress believes it necessary for the suppression of the rebellion, that such a proclamation shall be issued. The Senator from Vermont has laid down a doctrine upon which we can stand; and there-

fore I propose to amend his proposition, and not allow any discretion anywhere but in the law, and let the law say that, for the more speedy and efficient suppression of this rebellion, the President shall be authorized and required to issue his proclamation. We decide that question for ourselves. With the lights that are flashing upon us this day, how can we doubt for a moment? If the Senate will sustain the amendment I have proposed, we shall require the President, thirty days after the passage of this act, for the speedy and more effectual suppression of this rebellion, to issue a proclamation declaring the slaves of rebels, in these States and parts of States, free. I hope the Senate will thus amend this proposition, so that we shall leave nothing to accident, nothing to contingencies. With the lights of to-day, let us meet the responsibilities of to-day, and do our whole duty.

I feel, sir, that if we adjourn, if we go hence without putting upon the statute-book of our country a law declaring the slaves of rebels free men, we shall be guilty of the blood of the brave men who are to uphold the flag of our country in the hot and sickly climes of the South. Many of them lie to-day in humble graves in the land of strangers. Many of them are now marching to the far South. They are to die by thousands with the disease and sickness of the climate. They are to perish by thousands on battle-fields. Shall we permit this power to stand in front of them, ready to overwhelm them? Shall we permit this power to stand unbroken, because we are afraid of offending timid or doubting men? Sir, I care for the blood of the brave men from my State, from the loyal part of the country, who are fighting this battle for freedom and for national life. Their lives are dearer to me than the doubtful constitutional rights of criminals. We are very tender of the constitutional rights of crime. Hardly a day passes that the constitutional rights of crime are not illustrated in this Chamber or in the other House. Sir, I joyfully give my vote and my voice for the cause of my countrymen and my country, against the great criminal that stands to-day, with bloody hands, ready to pull down the institutions and destroy the existence of my country. In thus acting, I am cheered and sustained by the proud consciousness that I amactuated by a patriotism that embraces our whole country, and the present and future welfare of the Republic.

Mr. MORRILL. I desire, Mr. President, to submit a few observations upon the general subject of the bill and the substitutes, and although I am conscious that my remarks are not particularly applicable to the amendment under consideration, as the whole subject is necessarily before us, I have concluded to avail myself of this opportunity to ask the indulgence of the Senate while I attempt to analyze these several propositions and to see what they mean. I had the honor on a former occasion to say on the general subject of the power of this Government to deal with the property and the slaves of men in arms against it, and of the expediency of exercising that power, all that I then desired or now desire to submit upon the question.

We have had this subject before us since the commencement of this session. The general subject has been referred to one of your leading and most important committees, who have given it great consideration and have reported to the Senate the result of that deliberation. That bill is before us. There are now, according to my recollection, some four distinct propositions as substitutes for that bill. I desire to characterize these bills by saying that they may all be arranged in two classes. Three of them, including the bill of the committee, are not dissimilar. The bill and the amendment, or substitute in the shape of an amendment, of the Senator from New York [Mr. HARRIS] and that of the Senator from Ohio [Mr. SHERMAN] are identical in principle and in effect. They belong to that class, and they represent and are the expression of a class of men in the country and in the Senate who are in favor of effective, present, decided measures applicable to the present state of public affairs, measures that touch the rebellion, measures that deal with the rebels, and measures that do not postpone the subject to another day. The other bills I characterize as bills intended to do nothing, and the product of a class of men who are opposed to doing anything and have been opposed to doing anything from the beginning. Therefore I say the bills before us consist only of two classes, characteristic of their representatives.

In the brief moments I purpose to occupy the attention of the Senate, I shall direct my remarks to this proposition: first, the bill before us is an effective bill, proposing to deal with the rebellion as we find it, and proposing to do whatever is necessary to be done to put down this rebellion, and nothing more. That I may not misstate the purpose of the bill, I will ask the indulgence of the Senate while I read the fourth section, which is the gist of the whole bill—the kernel, the hinge on which it turns. The fourth section of the bill is in these words:

"That it shall be the duty of the President of the United States"—

"It shall be the duty"—positively, effectively, directly—of the President of the United States—

"as often as in his opinion the military necessities of the Army, or the safety, interest, and welfare of the United States, in regard to the suppression of the rebellion shall require"—

All having reference to the present state of affairs, the putting down of the rebellion—to do what?

"to order the seizure and appropriation by such officers, military or civil, as he may designate for the purpose, of any and all property confiscated and forfeited under and by virtue of this act, situated and being in any district of the United States," &c.

This is the kernel of the bill, the gist of the whole matter—a simple direction and authority to the President of the United States to seize the property, real and personal, of men in rebellion, or certain classes of men, to which I shall allude by and by. For what purpose? For punishment? For a purpose foreign to this war? Not at all; but to seize so much, precisely so much and no more, as in his judgment the military necessities of the Army, the safety of the country, its interests and its welfare demand. When? In some remote and uncertain future? No; but so much as these grand necessities of the hour and the exigencies of State to-day require for the purpose of putting down the rebellion. Is there any Senator here opposed to the exercise of such a power? Is there any Senator who will rise in his place and say that he will not authorize the President to seize the property of rebels where he shall judge there is a military necessity for so doing? Is there any Senator here, or friend of the country anywhere, who will say he is opposed to empowering and authorizing the President to seize the property of rebels whenever he shall deem that the safety, the interest, and the welfare of the country demand it for the purpose of suppressing this rebellion? I trust not. Then you are in favor of this bill necessarily, for this is the extent of the power exercised. The extent of the power to be exercised under this bill is applicable to the present state of affairs. Congress does nothing by itself. Congress authorizes the President to do nothing except such as the military necessities and exigencies of the occasion demand, and except so far as the President shall find it necessary in the prosecution of this war and in suppressing the rebellion. To say that you are not willing to authorize that, is to say that you are not willing to put into the hands of the President the power necessary to suppress this rebellion.

I am perfectly aware that this bill has been characterized as a bill of pains and penalties. I am perfectly aware that it has been characterized as a bill so sweeping in its character as that, to use the graphic language of the honorable Senator from Vermont, it would unhouse six millions of men, women, and children; but that is in the imagination of the honorable Senator. That is not the bill; that is not in the terms of the bill, nor is it in the purposes of the bill. The bill in its terms is precisely adapted to the present contingency of affairs. The bill is constructed upon the idea that something is necessary to be done; that when you advance your armies into the enemy's country, the President must be authorized to do something.

What? How much? To what extent will you authorize him to go? We will authorize him, says the bill, to take whatever property of rebels, either real or personal, that the military exigencies of the occasion require. That is the first proposition. We will authorize him to take all the property, real and personal, of the rebels, whenever the safety and the welfare of this country demands. For what purpose? For the purpose of reconstruction? No. For the purpose of emancipating slaves? No. For the purpose of general emancipation? No such thing; but for the purpose expressly, in the language of the bill, of suppressing the rebellion. Is there any man here in the Senate who enters his dissent to that exercise of power? Not one. I have heard no dissent. Although I have heard a great deal of extravagant denunciation against this bill, I challenge any Senator to rise on this floor and show me by a fair construction of any section of this bill, it can be extended one iota beyond the construction I put upon it. It is simply in essence and in effect, by legal and logical inference, only to be extended so far as the President shall find the military and civil necessities which surround him, when he advances into this country to put down this rebellion, and there it ends. Congress exercises the power it has by saying to the President, substantially, "when you advance your armies, do with the rebels and with their property whatever you find it necessary to do to put down this rebellion;" no more.

The chief merit of this bill is that it is effective; it is designed to meet the difficulty in the case; it has an application to the present state of affairs; and the difficulty with the other bills is that they do not touch the present state of affairs. They would legislate precisely as if there was no rebellion in the land. They do not authorize the President to lift his finger in the present state of affairs. They postpone everything to the future when your armies shall be disbanded. Then, as I shall show you by and by, when I come to speak of those bills, they propose to constitute a general criminal assize over this whole country, when the whole country is to be engaged, in contemplation of those bills, in criminal prosecutions—for what? To put down rebellion? That is already done. What then? To punish? That is to be the vocation of the nation under the bill either of the honorable Senator from Vermont or the honorable Senator from Pennsylvania. This nation, in contemplation of those bills, is to do nothing. This Congress will do nothing now to authorize the President; they will not empower him at all to take the property, real or personal, of a single rebel for the purpose of putting down this rebellion. Let him put it down, is their policy, and when the rebellion is suppressed in some way not precisely described, then, I say, the whole country is to be turned into a general criminal assize, and for the next fifty years we are to be occupied on the criminal side of the court in punishing rebels. The bills mean that or they mean nothing, and I suspect them very much of the latter.

A great deal has been said, and the country has been greatly alarmed, and I am afraid a great many of us frightened from our propriety, by the eloquent and able speeches that have been made denunciatory of the powers in this bill; but in every instance, so far as I have been able to observe, they have avoided this section upon which I have commented. Not a word has been said upon that; it has not been read in our hearing; and yet it is the gist of the whole bill and all the power there is in it; for notwithstanding the sections to which I shall refer by and by, you will find they give no vitality or power to it. The life, the substance, the vitality, and power of the bill is in this section. There is no authority anywhere else; and the President by this section is not authorized to raise his finger, is not authorized to appropriate the first dollar of real or personal estate, except upon a military necessity or a great State exigency, and only then for the purpose of putting down this rebellion. There is no broad margin here for speculation as to the emancipation of slaves. It does not look to it. There is no term in this section to authorize the inference that those who drew it contemplated that the President would do the first thing to free the first slave in all this territory. How is it then that we have been so frightened from our propriety in regard to this bill? I will tell you how it is. Read the first section and you will see. The first section provides for a general forfeiture of the property of rebels. That section has been amended, and I ought to say, in order to understand precisely the case as it is presented to us, that the first section as amended provides for the forfeiture of the real and personal estate of certain classes of rebels. Let me read it, because it has been said that this bill is to unhouse six millions of

people, is sweeping in its provisions. In the first place it applies to

Persons hereafter acting as officers of the army or navy of the rebels, now or hereafter in arms against the United States.

That is the first application.

Second. Persons hereafter acting as president, vice president, member of congress, head of department, judge, foreign minister, consul, or commissioner of the so-called confederate States.

None of us, I think, have any hesitation as to its application in that direction. None of us, I take it, would be particularly desirous that a jury of twelve men should be summoned to try the loyalty or disloyalty of Jefferson Davis, or the vice president or the heads of departments of the rebel government. Their property is forfeited under the action of this bill, without summoning a jury to try their disloyalty.

Third. Persons hereafter acting as an officer, whether civil, military, or naval, of any State or Territory, who, by the constitution of the so-called confederate States, is required to take an oath to support said constitution.

Fourth. Persons who, having held an office of honor, trust, or profit under the United States, shall hereafter take up arms against the United States.

Fifth. Persons who, owning property in the loyal States or Territories, or the loyal portions of disloyal States, shall hereafter assist or give aid and comfort to the present rebellion.

The property of these persons is forfeited, and so under this bill it would turn out that the President of the United States, instead of being authorized to unhouse six millions of persons in the slave States, would be authorized to ascertain whether this property with which he was to deal belonged to any of the classes herein indicated, and that is all. The forfeiture in this bill is to be enforced, and only enforced by the President in the prosecution of the war, and in the suppression of the rebellion, and when that is suppressed all the power and all the authority under this bill are at an end. There is no other working power except through the President. It contemplates nothing, it proposes nothing but what is applicable to the present state of affairs.

With this brief exposition of the character of this bill, I desire to invite the attention of the Senate to the other class of measures, and see whether Senators who have denounced this bill as sweeping, who have characterized it as a bill of pains and penalties, who have denied the power of this Government to confiscate property at all—whether they do not contemplate in their bills the exercise of precisely the power that they deprecate in this bill. The obvious distinction, and the only distinction, that can be drawn between these bills is, that the bill under consideration, reported from the committee, is active, effective, present in its operation and in its scope and power; it does not transcend the power contemplated by the bills which I have characterized in opposition to this bill. That I may not be misunderstood, and in order to make myself precisely intelligible, I desire to call the attention of the Senate to the provision in the bill offered as a substitute by the honorable Senator from Vermont. The first section of that bill provides:

That if any person or persons owing allegiance to the United States shall, after the passage of this act, levy war against them, or shall adhere to their enemies, giving them aid and comfort, and shall thereof be convicted, on confession in open court, or on the testimony of two witnesses, to the same overt act of treason, whereof he or they shall stand indicted, such person or persons shall be adjudged guilty of treason against the United States, and shall suffer death, or imprisonment not less than five years, and be fined not less than $10,000; which fine shall be levied and collected on any or all of the property, real and personal, of which the said person or persons so convicted was owner at the time of the committing of the said act, any sale or conveyance to the contrary notwithstanding.

The remark I make upon this section of the bill is this: that, in contemplation of the bill, any and all persons, who during this rebellion levy war on the Government or give aid and comfort to the enemy are liable to indictment, conviction, and the punishment of death. All persons—there are no exceptions—all persons in the rebellious States who have been guilty of aiding and abetting the enemy are exposed to the penalty of death by this bill. How is that? Is that in the nature of a bill of pains and penalties? The honorable Senator from Vermont says nobody expects that we are to hang a hundred thousand men; nobody expects that any great body of these rebels are to be executed. I am not permitted to know how that is, but I declare, and I challenge the honorable Senator to controvert it, that he has made a provision in his bill broad enough to hang everybody in the seceded States who by force of law could be convicted of treason. I trust the honorable Senator will not put his reputation upon a bill which provides for a punishment he does not intend to inflict. This bill provides in express terms for the trial and conviction of everybody in arms against the Government. It is sweeping in its provisions. It applies the penalty of death to everybody who can be proved to have aided in or abetted this rebellion.

But more: discretionary with the court, any person, all persons who can be convicted, or who can be proved to have participated in this rebellion, may—what? May be imprisoned indefinitely, or they may be fined in an indefinite sum, large enough, in the exact phrase of the bill, to cover all their real and personal estate. Putting these things together, the bill contemplates the trial and conviction of every man, woman, and child in these rebellious States who can be proved to have participated in this rebellion; and there is no escape from that conclusion, unless the honorable Senator is willing to concede that he never expects the provisions of the bill he makes to be executed.

Superadded to this death penalty, superadded to this unlimited confinement in prison, and superadded to this sweeping clause for the confiscation of all real and personal estate, or for the taking, on judgment, of all real and personal estate, is a general provision disqualifying the person from forever holding any office of trust hereafter. That provision, I suppose, applies only to such as are imprisoned for life, or those whose property is taken from them, as by fair inference it could hardly be presumed that the honorable Senator intended first to hang a man and then disqualify him, although the terms of the bill would not seem to exempt him or disqualify him.

Now, sir, I desire to call the attention of the Senate to the second section of that bill, which seems to provide for an additional penalty; and these provisions are all in the nature of penalties, none of them designed to suppress the rebellion, none of them having the remotest relation to rebellion, not one of them to be exercised during the present contingency of public affairs, but all postponed to a day of peace, all postponed to a period when I hope we shall be doing something else than prosecuting our fellow-citizens. The first section having provided for the conviction and punishment by death of all rebels, or for their unlimited imprisonment, and for an unlimited penalty to be levied upon their real and personal estate, there is still another penalty superadded. The second section provides:

"That the persons to whose labor or service any person convicted under this act has claim by the laws of any State, shall be thereafter forever free and discharged therefrom."

Now, sir, it is obvious that if these two sections go together, and if, in contemplation of law, the first section is ever to be carried out, and those guilty of the crime of rebellion are to be convicted under this bill, and punished, to that extent the slaves are to be freed. How? By judgment of the court? There is no provision of that sort, none whatever; but the honorable Senator declares in his bill that the slaves of all persons convicted under the bill shall be freed. By whom? The bill does not provide that they are to be freed by judgment of the court. That is no part of the judgment. It is a penalty superadded to all the penalties in that bill, and, what is a little peculiar, and I desire to call the attention of the Senate to it, is this: although the honorable Senator in the first section of the bill provides that the President of the United States shall have power to pardon from the death penalty, shall have power to release from the imprisonment, and also from the penalty of loss of real and personal estate, yet after conviction, although the person may be pardoned, his slaves are still to be free. I therefore submit to the Senate that as to the scope of powers contemplated in this bill, they are vastly beyond anything that is proposed in the bill which comes from the committee. The bill which comes from the committee is limited. If you could suppose that this bill is intended to be executed, the bill which comes from the committee is leniency itself compared with that proposed by the honorable Senator from Vermont.

The honorable Senator from Vermont, in his speech the other day on the general bill and the amendment, read us a lecture upon our duty as members of the Republican party. He not only argued against the unconstitutionality of confiscation, but we were told that as Republicans we were pledged not to interfere with slavery in the States; not only had we no power under the Constitution to interfere with slavery in the States, but we were pledged and bound by those pledges, which he, for one, was bound to keep, not to interfere with slavery in the States. Under that view of the subject, I was a little careful to look into his bill. After listening here with very great interest to a very able, oftentimes eloquent, speech deprecating all power to confiscate property, and deprecating all power on the part of the Government to interfere with slavery at all, I was a little curious to look into his bill, and looking at the sixth section of it I found this provision:

"SEC. 6. *And be it further enacted*, That if in any State, or part thereof, in which the inhabitants have by the President been declared in a state of insurrection, the said insurrection shall have continued for a period of six months, then and in that case the President is authorized, if in his opinion it is necessary to the successful suppression of said insurrection, by proclamation to fix and appoint a day when all persons holden to service or labor in any such State, or part thereof as he shall declare, whose service or labor is by the law or custom of said State due to any person or persons who, after the day so fixed by said proclamation, shall levy war or participate in insurrection against the United States, or give aid to the same, shall"—

What? Here is the scope of the provision: if any person holding slaves after a given date, in any of these districts, shall give aid and comfort to the enemy, or be found in arms against the Government, his slaves shall be forever free. How sir? By judgment of a court? No such thing. By what authority? Express authority is given in the bill not only to free the slaves of rebels, but to free the slaves of both rebels and loyal masters, who shall be found in any district, the limits of which the President of the United States may arbitrarily assign.

Now, sir, I should like to know if any such power has been proposed on this side of the Senate, or anywhere by anybody, as that. I should like to know with what sort of grace it is that we are told that there is no power in this Government to interfere with slavery at all, and that we are bound by our pledges as Republicans not to interfere with it, and then, presented with a bill—a most fearful *non sequitur* to the speech—which by its terms, allows the President arbitrarily, in his own judgment and at his own discretion, to free not only the slaves of rebels, but all the slaves within any district, he himself assigning the limits of the district. I say that under that section of the Senator's bill—and I challenge contradiction—you authorize the President, if you pass it, to free every slave in this country the moment he chooses to issue his proclamation. Now, I should like to ask the honorable Senator from Virginia, who felicitated himself so much upon this speech of the honorable Senator from Vermont, whether it is that part of the honorable Senator's measure that so gratifies him?

Mr. CARLILE. It was the speech that I admired.

Mr. MORRILL. I supposed as much from some shrewd hint the honorable Senator from Virginia gave yesterday. I supposed it was the speech, and not the bill.

Now, Mr. President, if I am capable of comprehending the bill, I have not overstated, I have not misstated the effect and purport of it, and I come to this conclusion upon the whole bill, that it is not only more sweeping than the bill from the committee, but most sweeping of all the bills combined; it, if carried out, would do precisely the thing that the honorable Senator said in his speech we had no constitutional power and no right by our pledges to do. It would not only do all that, but it would free the slaves of loyal as well as disloyal men. I say, sir, that I have not only come to that conclusion, but I am forced to come to the conclusion, in harmony with the speech, that it is the expectation of the honorable Senator, and of those who vote for it, that it is never to be executed; it is not designed to be executed; the bill, if you pass it, although it goes into effect at once, has no provision which allows any mortal man, either the President, or marshal, or court, to do anything until the rebellion is suppressed, order is restored, peace and harmony prevail; and then, sir, you are to commence the work of punishment!

Advocates who are opposed to doing anything now, Senators who tremble at the idea of taking the slightest responsibility on this subject, shuffle it off on to the President, shuffle it off on to coming generations, put it by to a period when it is impracticable to do anything, and when all you propose will be totally ineffectual. That is what I understand to be the character of the measure proposed by the honorable Senator from Vermont, and also that proposed by the honorable Senator from Pennsylvania, for they are one and the same in effect, in scope, and in principle.

Mr. President, I will notice that also now, as I do not intend to say another word on this subject. I would not now have occupied the attention of the Senate a moment, if I had not felt myself called upon to make a discrimination between the two classes of bills that are presented to us. If I could have given a vote upon a single proposition, I should not have found it necessary to say anything. Now, as I am up, and have had occasion to make these remarks in regard to the two classes of measures, to show that I do not misstate in regard to the proposition of the honorable Senator from Pennsylvania, I desire for a moment to call the attention of the Senate to that bill, because I suppose if it should chance that we vote down the proposition of the honorable Senator from Vermont, we shall then, in the order of business, be called upon next to vote on this.

One would suppose, after all that has been said by the honorable Senator from Pennsylvania deprecating the power of the bill from the committee, that he would look in vain to that Senator's bill to find any power at all touching the punishment of rebels, or touching their property; and yet, marvellous to say, you find the most extraordinary and the most sweeping power here; you find a power that reaches everybody that ever did take up or ever in contemplation of law could be supposed to take up arms against the Government. I know it is all postponed to a future day; I know the power is not to be exercised now; but I am speaking of the power contemplated in contrast with the power that is effective and that is to be exercised. I ask attention to the first section of the Senator's bill. It is "a bill supplementary to an act passed the 30th day of April, A. D. 1790, entitled 'An act for the punishment of certain crimes against the United States.'" It provides:

"That in addition to the capital punishment declared in and by the first section of the act to which this is a supplement, as the punishment of treason against the United States, the court before whom any person shall be tried and found guilty of treason against the United States shall, immediately on the rendition of the verdict of guilty, as aforesaid, pronounce and declare all the goods, chattels, rights, credits, and effects of the person so convicted to be forfeited to the United States."

Now, on that clause I desire to make this comment. It will be perceived that the terms of the provision embrace everybody guilty of treason in the present rebellion; nobody is exempted; it is a sweeping clause, subjecting everybody to indictment and conviction. Of course, it must be so, for it is a general bill for *punishment;* it is not a bill having reference to the duties of the hour; it is not a bill to provide remedies for the President, to aid him in putting down the rebellion; but it is a bill to provide punishment for crime—that is all. It has no relation whatever to the present state of affairs. It does not offer the President the first item of aid; it does not say to the President "you may do this," or "you may do that;" but it provides a punishment for crime, and that is all it proposes. It brings in a whole class of men, not only six millions, but as many as can be shown in rebellion, as many as you can convict technically according to the law of treason, and subjects them to death and the penalty of the loss of goods, chattels, rights, credits, and effects. Is there anything in the bill of the committee as broad as that? Is there anything as sweeping as that? Is there anything in contemplation of law that begins to reach that? Honorable Senators ask, "do you expect to put down the rebellion, to reconstruct this glorious Union, when you legislate against all classes;" and yet here the honorable Senator from Pennsylvania deals his blows in all directions; here he proposes to reduce every man, woman, and child to the penalty of death and a virtual confiscation of estate, called by another name. The concluding clause of the first section of the Senator's bill is:

"And the said court shall, also, when pronouncing judgment upon the person so tried and convicted as aforesaid, declare forfeit to the United States all his or her lands, tenements, and hereditaments for and during his or her natural life," &c.

Here, then, in contemplation of law, the Senator does not confine his bill to a class; he does not confine it, as is the bill of the committee by the amendment of the Senator from Ohio, [Mr. SHERMAN,] to the leaders, the conspirators, the men who have got up the rebellion and who are conducting it; but he makes an unlimited provision, embracing everybody in the rebellious States as criminals, subjecting them to the penalty of death and the forfeiture of real and personal estate. I know what the answer to all this is. It is a perfect answer, I admit; but I am speaking of the contemplation of the law, and of the terms of the law. The answer to all this is, that nobody expects that any one is to be indicted. The bill is not expected to take effect until the rebellion is suppressed, your courts are restored, and you have got harmony; and then it will be a crime to indict anybody, and thus open afresh the national strife.

Mr. COWAN. Will the honorable Senator from Maine allow me to ask him whether he does not expect, in case the rebellion is put down, that somebody, the leaders, if you please, shall be indicted, tried, convicted, punished by the laws on the statute-book?

Mr. MORRILL. My answer to that is, that I think it very likely; and a further answer is, that there is abundant provision of law for that now. There is a law on the statute-book for punishing treason; and that can be attended to after the rebellion. My criticism on these bills is, that while these Senators deprecate the exercise of power, they contemplate a more arbitrary exercise of power than has ever been conceived of before. The bill of the Senator from Pennsylvania would be absolutely a bill of pains and penalties. It has no reference to the present state of affairs. It is not designed by its provisions to operate on the present state of affairs. It will not aid the President in putting down this rebellion. It has reference to a state of peace. It only applies to a condition of affairs when the nation ought to be in repose. That is the point; and therefore the bill aids you nothing; the bill does not contemplate giving the President any aid whatever; and taking the argument of the Senator from Pennsylvania, I feel authorized to say here that it is not designed to give any aid; it is not designed to aid the nation; it is designed to appease the North with the idea that something is done, when nothing is intended to be done; and under the bill nothing can be done. It postpones the idea of doing anything until a period when we shall be at peace and repose, and when, I repeat, to undertake to prosecute bodies of men, or classes of men, in those districts, would be little less than criminal.

Sir, when this rebellion has been put down and suppressed, the arts of peace and the comities of peace will be our duty and our office. We shall not feel then that the time has come to institute a general assize, a general inquiry all over the country in rebellion, for the purpose of punishing by indictment, trial, conviction, sentence, forfeiture of estate. The honorable Senator from Vermont gave you an illustration of the effect of such an undertaking, when he told you the fate of Jeffreys, who undertook, after the suppression of the rebellion in England, to *punish* those who had been engaged in it. All that is practicable to be done now, and all that ought to be done, should be done with reference to putting down the rebellion; and instead of shirking the responsibility, instead of passing a bill with provisions to be executed hereafter, instead of throwing upon the President the responsibility of judging what ought to be done, this Congress, under the Constitution, the great war council of the nation, ought to have the manliness to do their duty, and to advise the President, to authorize the President, and to direct the President what is proper to be done in the premises.

The President has no power whatever to confiscate estates. I know that in the march of his armies he may devastate a country, take possession of and occupy it, and use it. I do not doubt that; but no act of his can change the title to a dollar's worth of property, either real or personal. It is your authority, yours alone, that can give him the power to change the title to property, either real or personal. Instead of strengthening his hands, instead of giving him the power when he marches his Army to use the property he shall find, according to the exigencies of his Army and according as he at the head of the Army may judge that the interests of the country require—instead of that, honorable Senators stand here and argue day after day, deprecating all authority and the exercise of all power; and yet by sweeping bills, a perfect *non sequitur* to their arguments, they give you provisions to be exercised hereafter, which nobody supposes ever will be exercised, to be executed at a time when everybody knows we shall need to be about something else than punishing vindictively these persons.

There is one other somewhat extraordinary provision in the bill of the honorable Senator from Pennsylvania, to which I desire to advert—not so extraordinary in its character or its terms, not so extraordinary in its effect or its purport, as in its principle, and as it is rendered extraordinary by the argument and speeches of the honorable Senator. He has deprecated here, day after day, time after time, the exercise of any power which by the remotest implication should interfere with the relation of slavery. Whatever the Army does, whatever accidents befall it, said the honorable Senator, he would rejoice in; no man hates the institution worse than he; but as to putting his finger on it to do the least thing himself, he is not the man for that. He is willing, nay, anxious that slavery should be throttled to death; that is what he desires, as all men of his generous impulses must desire; he is willing that the Army should do it; he greatly desires that the President should do it; but as to putting anything in a bill himself and committing himself or the Senate to the responsibility of advising it, that he does not propose to do. That was his speech. Now, let us see what is his bill. Let us see how these propositions differ, and how widely apart we are in the end. We talk one thing; but when we come to put our sentiments in a bill as legislators, let us see where we are, let us see whether I am much ahead of the honorable Senator from Pennsylvania.

His bill provides, as I have already said, for an indictment and conviction of all persons who have been engaged in the rebellion, and who are under arms against the Government. It provides that their real and personal property shall be forfeited. It provides for the issue of an execution for the transfer of the title; and the curious thing to which I desire to invite attention is what the marshal is to do with that execution. He is to levy it upon the real estate, and give title to the Government for the life of the convicted person. He is then to levy upon all personal estate everywhere, not only in his district, but out of it, wherever it can be found; and having done all that, he is to do what else? He is to sell all the *choses in action.* What is that? Lawyers know what that means. What does the bill say? All the real and personal estate is to be levied on by the marshal under this warrant, and then he is to hunt up the *choses in action;* but there is an exception, and now I will read the exception:

But whenever such choses in action shall consist of a right to services from another as servant or apprentice, for life or for a term of years, then such servant or apprentice shall be immediately freed and discharged from all obligation or duty to perform such services, and the marshal shall allow him, her, or them to depart without let or hinderance, to the care and control of their parents or guardians, of such as are minors, and freely, according to their own will, all such as are of full age, and not charged with any crime by warrant in his hands.

The comment I desire to make on that is, that if such a law is executed, it frees every slave in the rebel States by necessary implication, and directly by a power authorized by this Congress. The bill first authorizes the trial and conviction of everybody in rebellion; it authorizes the marshal to levy, as a penalty, upon all the real and personal estate; and it superadds that the marshal, mind you—not the court, not the judgment of a court, not the order of the President, but this petty officer, at his own discretion—may free the slaves of any man against whom he has a warrant. That is an extraordinary provision, to say the least of it, a very extraordinary provision; because it rests wholly and entirely upon the will of the marshal, a subordinate and petty officer, to say whether men shall have their liberty or not.

The next feature about it that strikes me as a little curious is the phraseology. A great many of us are willing to see this thing done; a great

many of us are willing to see the slaves free, and we are willing to let them run; but we do not like to take the word "freedom" on our lips; we do not like to pronounce the judgment; we do not like to say we will emancipate. The honorable Senator from Pennsylvania has discovered a remedy at last by which we can do the thing without taking the word upon our lips. Defining the negro "a chose in action," he finds it not difficult to free all the slaves of all the rebels, preserve our constitutional scruples, keep our party fidelity and pledges, and point triumphantly to this bill and say to the world, "we have taken the word 'negro' from our lips; we have simply said to 'choses in action' who are minors, 'depart, and go to your parents or guardians;' and to the adults the cabalistic words, 'freely, according to your will.'"

Of course, Mr. President, this comment is no part of my argument. My argument is, that while both the honorable Senators from Pennsylvania and Vermont deprecate the exercise of the power contained in this bill from the Committee on the Judiciary, which is limited and confined to the present state of affairs, looks to no remote or uncertain future, contemplates doing what the President shall find necessary to be done to put down the rebellion, they both put in their bills ample power to do vastly more than is contemplated in this bill, the only difference in this respect being that they postpone it to a period when—I do not say by design—every man must see that it is impracticable to do anything. This suggestion brings me back to the point at which I began, that there are but two classes of propositions before us. One is a measure for effective, earnest, active effort to put down the rebellion, arming the President with such power as he shall deem necessary to put it down, no more; authorizing him to take hold of the real and the personal estate of the rebels, support his Army upon it, do what is necessary to restore peace, do what is necessary for the welfare of the nation, nothing more, and it looks to no remote or uncertain future. It does not authorize him to do the first act he may not deem necessary to be done to put down the rebellion. That is the limit, that is the extent, that is the upshot and purport of the whole measure.

I can hardly conceive how any loyal or patriotic man can enter his dissent to the exercise of such power. To deprecate that power is to say that you will arm your President with no power; it is to place him at the head of his forces, destitute of adequate means, and say to him, "we take no responsibility; we raise an army, we equip it; the Constitution puts you at the head of it; we give you no advice; we cower before the great events of the hour; we have not the manhood to say to you, 'sir, we authorize you to take the property of the rebels; we hope you will; we think you will, possibly; but as to us, the representatives of the people, the great war power of the Government by the Constitution; we advise nothing, we propose nothing; we do not uphold your hands, we will not strengthen you or encourage you; do what you do on your own responsibility.'"

For these reasons, Mr. President, I am opposed to this proposition of the honorable Senator from Vermont, and of course to the proposition of the honorable Senator from Pennsylvania.

Mr. HOWE. Mr. President, I do not rise to discuss the merits of any of the propositions before the Senate. There are a good many of them. I am not prepared to discuss them. I have not considered them. My attention has been occupied by other matters. The science of confiscation I have not been able to investigate. Upon the sublimer science of taxation I may, perhaps, from my position, be considered one of the most learned men in the Senate, except my associates upon the Committee on Finance. If I was as intelligent on the subject of confiscation as I am upon the other, I should endeavor to say something upon this matter to-night. I have not been able, positively, to read these different bills. The only speeches I have been able to hear were the speech of the honorable Senator from Vermont the other day when offering his substitute, and the speeches of the Senator from Massachusetts and the Senator from Maine this afternoon. I read with a great deal of care and interest a speech delivered some days since by the honorable Senator from Illinois, the chairman of the Judiciary Committee, [Mr. TRUMBULL.] I have read a portion of the speech of the Senator from Kentucky, [Mr. DAVIS.] I have a large volume of speeches nicely packed up at home, which, if fortune favors me, I propose to examine as soon as I can; and I have no doubt that when I have read them all, I shall be very intelligent upon the subject of confiscation. I rise this afternoon to make a very few suggestions upon some of the arguments which have been employed by the advocates and by the opponents of these measures. I am advised by my friend, the Senator from Maine, who has just taken his seat, that I must not judge the measures themselves by the character of the arguments, and therefore I shall not do it. If I did, I should oppose pretty much the whole of them. I have listened to a great many suggestions from different opponents of this measure, to which I wish to enter my dissent now.

It is said that the country is excited. I do not dissent from that proposition. It is said that there is a great deal of bitter feeling enlisted, and that the tendency of such a measure will be to increase the excitement, to inflame passions already at white heat, to shake the confidence of the friends of the Government, to increase the animosity of the enemies of the Government. I deny that either of these consequences can legitimately follow. If they do follow, it will not be the fault of the bill. The question has been very pertinently put by different Senators and at different times, whether this is a war for this purpose or for that purpose, to seize property, to emancipate slaves—whether these are the purposes of the war? I suppose not; I do not know anybody who asserts that they are. Indeed, I do not know that the Government are called upon to define the purposes of the war. They did not make it. It came from an entirely different quarter, and those who originated it, I suppose, know what they meant by it. All Senators who are curious to know what the purpose of the war is, I respectfully refer to those inspired authorities who made it; not to the Government or its friends.

Mr. President, so far as I have invested anything in this war, it is for a very simple and single purpose. I will state it. I do not know that I shall ever have a better opportunity, and I do not think this is a very good one. It is to demonstrate what I understand to be the fundamental principle of your Constitution, that one man is as good before the law as another, and that therefore twenty millions are better than ten millions, each man being equal before the law. When that is demonstrated, the war will be ended, and I shall have no further occasion for the war, and therefore shall not want to perpetuate it an hour beyond that moment. Before the war commenced that was the status of every citizen of the United States; when it is ended, if I consent to its termination, that will again be the status of every citizen of the United States; and why the war happened was simply because some eight or ten millions of the population of the United States had been dreaming for a great many years that they were better than any similar eight or ten millions; stronger, abler to make conditions, abler to pass laws and expound them, abler to administer government, abler, in fact, to do it than twenty millions. They undertook to demonstrate this, not under the ballot-box, but with the cartridge-box; not by ballots, but by bayonets. That is why the war happens.

Now, sir, I am inclined to think from the temper with which these different measures are discussed, that some of them are very bad. I cannot say that the worst of them will not pass. What then? It will be enacted by the representatives of the people of the United States, and it will be the judgment of those representatives that the measure is right. That judgment is not final. They may mistake as to their power to enact the particular measure. Their judgment upon that is not final; there is another tribunal to rehear, to revise, and to reverse that decision, if it deems it proper to do so. Admitting that they have authority to pass the particular measure, it may be unwise, inexpedient, unjust, to enact it. Our judgments upon these matters are not final; an appeal lies, but to whom? To the American people, and to nobody else in this world—not to the rebel hosts who are in arms against us; not to any of their sympathizers, if they have them, who are not in arms against us; but an appeal lies to the American people. They can reverse this sentence; they can reverse our judgment on this question of expediency; and they can send up representatives to correct the blunder we make, if we make one. These are all the evil consequences that I admit can flow from a mistake on these questions. When, therefore, Senators tell me that the enactment of that measure or this will unite a certain portion of the country in a more determined, combined, resolute hostility to the Government, I say that is no argument why the bill should not pass; for if we have anything in the wide world to demonstrate by this revolution, it is the right of the representatives of the people to pass just such laws as they see fit to pass while they are here, and the penalty of passing a bad law is the forfeiture of their seats, and not the destruction of the Government under which they hold their seats.

That is all I care to say at this time in reference to the arguments which have been employed against these measures; and now I have one or two remarks to make touching the arguments which have been urged in their favor. I have listened to them this afternoon. It is very evident that the Senate are not agreed as to what sort of a measure ought to be enacted. I voted yesterday to commit these several propositions to a select committee of the Senate. I thought I might well hesitate, might well be excused for having some doubt as to which road I had better travel, when the distinguished Senator from Illinois pointed me to one, the distinguished Senator from Vermont pointed me to another, the Senator from Pennsylvania to another, and the Senator from Ohio to another—able counselors all. I could not follow the direction that every one of them gave me; and without the opportunity to satisfy myself which was the best road to take, it did seem to me that I might well hesitate a little whose advice to take; and I thought it would be well enough to submit all these propositions to a committee of the Senate, let them compare them all, and let them finally report some one such as they should agree upon, and we should have the authority of one committee of the body then for the measure before us. I do not understand that we have the authority of any committee for any measure now before the Senate, though I believe the bill submitted by the Senator from Illinois was reported from the Judiciary Committee. I understand that committee not to be united upon it; and one of the leading members of the committee has himself introduced a different measure from this; how different it is I am not yet informed. Under such circumstances, I think I might be pardoned for doubting; I think I might be pardoned for a little hesitation; and I was not prepared to hear the Senator from Massachusetts say to-day that he had no respect for those who could doubt or who could hesitate.

Mr. WILSON, of Massachusetts. The Senator is certainly mistaken; I did not so intend to be understood. I said that I did not respect these doubts. I did not mean that I do not respect the gentlemen who utter these things. What I meant to say was that these doubts do not influence me.

Mr. HOWE. I was very confident that the Senator from Massachusetts was not influenced by any doubts; nothing was clearer to my apprehension than that; but I did understand him to say that he had no respect whatever for those who had these doubts; and being one of the doubting kind myself, I felt as though I was hit by the remark. I felt, also, as though I was hit by another remark which fell from the lips of the Senator from Massachusetts, and by a similar remark which fell from the lips of the Senator from Maine, which was, that the passage of these measures was obstructed by the prejudices of association on the one side, and by the timidity of men on the other. The Senator from Maine spoke of Senators trembling at the idea of taking any responsibility whatever—of cowering before the responsibilities of the hour. I say I felt hit by these remarks, because I belong to the timid class, and of course they could not fail to mean me.

Mr. President, I am a little timid about these matters; but I do not submit to the justice of that reflection which suggests to the Senate or to the country that my fear or timidity arises from any dread of meeting the enemy with which the country is now engaged. It is not the fear of the rebels that particularly distresses me. The rebels do not vote for Senators and members of Congress up in Wisconsin; they do not enjoy the right of suffrage

there. I am a little afraid of doing wrong; I am a little afraid of making a mistake, because these questions are all novel; we have no precedents to guide us; they are new to us; we have but little light before us; and we may make a mistake, the best of us, the most careful, the most prudent. Besides that, I have not the time to devote to these matters that others have; I have not had; I do not know how much I may have before I am called upon to vote.

But I want to say, for the admonition of Senators, that it is not the most conclusive evidence in the world of cowardice that a man hesitates to support the bill reported by the Senator from Illinois from the Judiciary Committee. That may not be the dangerous path. Nay, sir, we all know, if there is any safe path, politically considered, that is, for the representative of a State like that I represent. For the representative of any northern State that is the safe and the prudent course to take. But I want to say here to-day, once for all, that the one fear which embarrasses me as much as any other is the fear that I may cast a vote which will give offense to as good men as breathe in the world, men from whose judgments mine may possibly differ, and men rather than offend whom I would almost submit to any personal consequence. That is the fear which embarrasses me as much as any other. It is not the fear of any eloquence which can be poured out on my head here, or any invective which can be heaped upon me; nor is it the fear of any hostility I may excite in those who are the sworn and avowed enemies of the country. I think I passed by all fear of that portion of the people of the United States a great many months ago. I trust never to come within the range of it again, if I ever was within range of it.

Now, I have to beg that in the future discussion of this subject all these appeals, all these suggestions shall be left out of view. Let it be assumed that we all, who stand here representing the different States of the Union, are animated by a common purpose, that is to uphold the Union and the Government of the Union; that if we differ as to the measures which are best calculated to uphold the Union and to defend its Government, it is an honest difference; and let no man assume, because he favors this measure or that, that therefore he is at heart a better friend of the country than one who dissents from that particular measure. As for myself, I have never ventured to assume and to wear upon my forefront that inscription of "Holiness to the Lord." I do not care at this late day to mount it. I want the Senate to believe what I have made myself believe, that I shall endeavor to be as true to my convictions when I form them, and reflect them by my votes as religiously here and as fearlessly here as any man I am honored with a seat by the side of.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) The question is on the amendment proposed by the Senator from Massachusetts to the amendment of the Senator from Vermont.

Mr. DAVIS. I send to the desk an amendment which I propose to offer hereafter, and I ask that it may be read.

The Secretary read, as follows:

And be it further enacted, That the title to all the property and rights of every description declared to be forfeited under this act, shall upon such forfeiture vest in the following described persons and the loyal representatives of such as may be deceased, viz: all persons who may have entered into the military, naval, or marine service, or any business or duty connected with them, or either of them, during the existing rebellion, and who may have died or become permanently disabled in such service; and all persons whose property, real or personal, or whose debts, choses in action, or other rights, legal or equitable, may have been forfeited, confiscated, seized, converted, appropriated, or detained by the pretended government of the so-called confederate States of America, or any of them, or any provisional government of any other of the United States, or by any person or persons acting for or in their name. And the persons in whom the property herein declared to be forfeited shall vest as aforesaid, may institute suit or suits, as in cases for the foreclosure of mortgages, in any circuit or district court of the United States in any State or Territory in which any property, &c., or debt, may be found or owing, and have the same or so much thereof sold by the judgment and decree of the court as will be sufficient to satisfy the claim or claims of the person or persons instituting such proceeding. And all persons dying in the service of the United States, as aforesaid, shall be held and adjudged to have a claim upon the property, &c., herein declared to be forfeited, each for the sum of $5,000, and all other persons in whom the title thereto is herein declared to vest shall be held and adjudged to have a claim on the same to the amount of damages they may have sustained as aforesaid, to be ascertained by a jury to be impanneled for that purpose by the court in which the proceedings may be instituted. Suit may be instituted under this act in the name or names of the person or persons having claim or claims on the forfeited property, or his or their legal representatives, or the assignee or assignees of either of them, and all claims shall be satisfied in the order in which suit for them may be commenced.

Mr. DAVIS. I am not going to enter upon a discussion of the general principles and features of the bill, because I have done that at considerable length heretofore, but I will say a few words in this connection in regard to some of its features and provisions.

There is only one essential difference between members of the Senate in relation to the subject under consideration, as I apprehend their opinions and their views. A portion of the Senate act in conformity to the purpose avowed so frankly by the Senator from Massachusetts, who is at the head of the Military Committee, that one of his paramount objects in the passage of this bill is to free the slaves. If that could be dropped by members of the Senate, it seems to me that we should speedily agree generally upon a measure embracing the punishment of the rebels and the confiscation of their property.

I utterly deny the power of Congress, directly or indirectly, to emancipate a slave in the States. That, though, is the purpose, and one of the principal purposes, of this bill and of the gentlemen who support it. *Carthago delenda est;* slavery must be destroyed; that is the purpose and the fixed determination of a large number of gentlemen in the Senate Chamber, as I believe; and if the question were propounded to them to-day, and they had the option to decide it, are you willing to take a reconstruction of the Union upon the principles of the Constitution, with slavery to continue under the Constitution as it has heretofore existed, or to submit to a disruption of the Union, they would choose the latter alternative, I have no doubt.

Now, Mr. President, I have no toleration of any such purpose as that. I know of no man in this Chamber who is opposed in feeling, or opinion, or principle to the just and proper punishment of the rebels; but I do know of gentlemen here who are willing, under the pretext and cover of punishing the rebels, to do an act which the Congress of the United States have no constitutional power to do.

Mr. WILKINSON. I should like to ask the Senator one question, with his permission.

Mr. DAVIS. Certainly.

Mr. WILKINSON. My question is, whether the Senator thinks his colleague on this floor is in favor of punishing the rebels?

Mr. DAVIS. I answer for myself. It is sufficient for me to answer for myself, and I have enough on hand to do that.

Mr. WILKINSON. I understood the Senator to say that there was no man on this floor who was not willing to punish the rebels.

Mr. DAVIS. No Union man. I am as much in favor of punishing the rebels as the honorable Senator from Minnesota himself is. But, Mr. President, slavery is to be destroyed. I ask the honorable Senator from Minnesota, where does he derive the power of Congress to abolish slavery in a State? It is claimed as an indirect consequence of the power to forfeit property, and slaves as other property. Is not the act of forfeiture different and distinct from the act of emancipation? Are they not separate and independent in their character and in their scope? I admit the power of Congress to forfeit slaves, and I am willing that power should be exercised; but I take issue with gentlemen there, and deny that Congress has, either under the cover of that power, or any other power whatever, incidental or express, primary or implied, the power to emancipate a slave. Are not the two subjects provided for in different sections of this bill? Might they not properly be the subject of two separate bills? Is the emancipation of slaves necessary or essential in any way to carry into full operation and effect the law of forfeiture of slaves? No, sir; on the contrary, it defeats the very purpose which is professed. Gentlemen profess and avow that their object is to carry on the war to a successful repression and subjugation of the rebellion. What agencies are necessary thus to carry on the war? You must have money, you must have men; and if you get money, you can command men. It is easier for this Government to command the necessary number of men to go into the field of battle to put down this rebellion, than it is to raise the funds necessary for paying them, and for subsisting them when they are put in battle array. If gentlemen's purpose was singly and honestly to raise the ways and means to enable the Government to carry on this war, when they confiscate the slaves, why do they not require the slaves to be sold, and the proceeds to be paid into the exchequer, in order to indemnify the nation against the expenditures of the war? We all know that before the troubles commenced, the slaves belonging to the rebels and those who sympathize with the rebels would have been worth upwards of two thousand millions of dollars. Under a bill to confiscate slaves just as other property is confiscated, to sell slaves as other property is sold, and as slaves have been heretefore sold, if anything like the number of slaves that belong to the rebels and to those who are giving them aid and comfort were to be brought to sale, they would realize the sum of $1,000,000,000.

When gentlemen say that their object is to aid the Government in suppressing this insurrection, and they confiscate property worth $2,000,000,000, and that would certainly command in the market $1,000,000,000, and refuse to appropriate the proceeds of that property to the Treasury of the Government, and to the indemnity of the United States for carrying on the war to a successful issue, what other conclusion can we come to than that they have some other purpose which they prefer to that? That purpose was honestly avowed by the honorable Senator from Massachusetts, who last addressed the Chair on this subject to-day.

Many gentlemen who have addressed the Senate on this subject have assumed that the slave owners and the slave States require a protection of slavery. I have not known any gentleman to assume that position here. I do not occupy it myself; I repudiate it. I ask no protection for slave property; but I ask that no discrimination shall be made in forfeiture or in the course of the Government towards property in slaves, prejudicial to it, different from the course of the Government and of the law in relation to other property. I, myself, am appalled by the amount of taxation that this nation will have to assume to pay for this war. I would greatly desire to have my constituency, my State, and myself relieved from the whole of it if possible, and if not from the whole of it, from as large a portion of it as is practicable. And what is the direct and the obvious mode of relieving the loyal people of the United States from the burdens of this war in the form of taxation? It is that the whole of the property of such rebels as the Congress of the United States chooses to punish by confiscation of estate, shall be brought to the market and sold, and the proceeds paid into the public Treasury.

If gentlemen are not willing to do that, I submit, then, this question to them: how many men will lose their lives by this war? I venture to say that life and health will be lost by at least fifty thousand of the freemen of the free States by this war. How many men will be injured in their property and estate pecuniarily by this war, and to what amount? It is already estimated that the debts due northern men from men in the seceding States amount to upwards of two hundred millions of dollars. The amount of loss from the confiscation of property, the destruction of property, the breaking up of business, the appropriation of property by the rebel government and rebel armies, will be at least two hundred and fifty millions more. Now, what party, what men in this country, caused all this loss to the loyal Union people of the United States? It is the rebels; it is the rebel government and their authorities; it is their armies and their marauders. They have inflicted wrong by violence and crime upon the loyal men of the United States to the amount of at least two or three hundred millions of dollars. According to retributive justice and the eternal principles of right, ought not their property be made to answer for the damage that they have thus done, and to recompense the men whom they have thus injured? What do I ask now in a proposition that I have drawn up, (which I never expect to have the opportunity of offering as a substitute to the bill, but which I would offer if I had the opportunity,) but that indemnity shall be made? If gentlemen are disposed to free themselves and their puritanical consciences from the trading in

slaves, directly or indirectly, let them pass a law that the title to the slaves alone, or to all the property of the rebels, if they choose to group their property together, shall be forfeited, and shall vest in the loyal Union men who have been damaged by the war. Would there be anything wrong in that? Would there not be what is right and just retribution in such a measure as that?

"But, oh," say gentlemen, "you want slavery defended, you want slavery fortified by the law and by the armies." No such thing. No gentleman has asked for any such concession to slavery as that. The Constitution recognizes the property of slave owners in their slaves; there are repeated decisions of the Supreme Court of the United States to that effect. In the case of Prigg *vs.* The State of Pennsylvania, Judge Story, all the judges concurring, decided the principle that if I am a slaveholder in the State of Kentucky and my slave escapes and runs away to Ohio, and the laws of Ohio abolish slavery and forbid the reclamation of slaves, notwithstanding these laws of Ohio, I have the right to pursue my slave, as I have the right to pursue my horse, into the State of Ohio, and there reclaim him and take him away and return him to my residence, if I do not commit a breach of the peace in the act. Have we not been legislating in violation of that right—that constitutional right guarantied by the charter of our liberties, as expounded by Justice Story himself, and all the members of the Supreme Court, and by Judge McLean in many decisions? They have all sanctioned, sustained, and enforced that principle; and yet the Congress of the United States are engaged in passing laws, at the instance of gentlemen here who prefer the abolition of slavery to the perpetuation of the Constitution and the Union, to defeat that constitutional right of each slaveholder which is recognized by the solemn decision of the Supreme Court.

Mr. HOWARD. Will my friend from Kentucky point me to any act of this Senate in which such a principle as that is asserted?

Mr. DAVIS. Yes, sir.

Mr. HOWARD. I am not aware of any such act. I should like to hear it.

Mr. DAVIS. I refer to the law passed at this session which added another to the articles of war, to prevent a man who is in command of a post from giving his consent to or acquiescing in a slave owner going into the camp and reclaiming his slave.

Mr. HOWARD. Would my friend from Kentucky allow such an act to be done if he had the command of the forces?

Mr. DAVIS. I would.

Mr. HOWARD. Then you would not be a commander of mine.

Mr. SAULSBURY. If my friend from Kentucky will allow me a moment, I wish to suggest to him that the Senate, by solemn vote, refused to make it a like penal offense for an officer to entice or decoy away from his loyal master a slave.

Mr. DAVIS. I was going to state an amendment which I proposed, which was voted down by the Senate. I proposed as an amendment to that bill a provision which would subject the officer to the same penalty that the bill as it passed subjects him to, if he should entice or secrete a slave in his camp, and the Senate voted down that amendment.

Mr. HOWARD. That is very true; but certainly the Senator from Kentucky is not unaware that the fugitive slave act of 1850 imposes very severe penalties upon all persons who interfere to prevent the reclamation of fugitive slaves; that is to say, slaves who were such in a slaveholding State, and who have fled, run away without the consent of their master into some other State. That is the kind of persons to whom the statute relates, and no other class of persons. They must be fugitives; they must be escaped slaves. I must confess, if the Senator will allow me to say so, that I am a little surprised at the greediness for punishment in such cases which is evinced by the Senator from Kentucky and others when they demand that in addition to the severe, almost Draconian, penalties imposed by the fugitive slave act of 1850, military officers who have nothing to do with the execution of civil laws shall be punished in addition to the penalties which are already imposed. What more do they want than the act of 1850?

Mr. DAVIS. All I asked was this, and I can ask it upon principle and upon justice: that if a military officer intervenes to prevent the owner of a slave who has gone to his camp from retaking that slave, he himself violates the fugitive slave law and is a proper subject for punishment.

Mr. WILKINSON. Suppose the claimant is a rebel.

Mr. DAVIS. I am speaking of Union men. The honorable Senator from Michigan touches the very point of grievance. There are Union men of this city, there are Union men of the neighboring State of Maryland, who have gone to the Union camps with proof to establish their right to their fugitive slaves, and the commanders of those camps have interposed to prevent them from seizing, much less removing, their slaves. Now, I say it is the duty of a commandant on such an occasion and under such circumstances to remain perfectly passive, entirely quiescent, to do nothing to favor the reclamation of the slave or to prevent it.

Mr. HOWARD. My honorable friend will excuse me for interrupting him; but I merely desire to put a question for information. He remarks that cases have occurred in which the owners of slaves applying to military officers have been repelled and driven out of camp. I desire to know if in any of those cases the owner has taken out regular process from a commissioner or a court, such as is authorized by the fugitive slave act of 1850, for the purpose of reclaiming his slave by due process of law? I desire to understand whether the Senator knows of a single instance of that sort where the process of a proper court has been resisted or service of it prevented and denied by an officer in the Union Army—a single case in any State.

Mr. DAVIS. I did not intend to say that any of these owners of slaves had been driven from any of the camps, but that they had been defeated in their purpose to reclaim their property. Now I appeal to the honorable Senator from Michigan, who is an able lawyer, if the Supreme Court have not decided that a man, the owner of a slave, has a right to go and take him wherever he finds him, if he does it without a breach of the peace.

Mr. HOWARD. Certainly, I will answer my honorable friend from Kentucky, the Supreme Court have so determined. It was not, however, new in the Supreme Court of the United States; the principle did not originate there. The first decision to that effect was in the supreme court of the State of New York, near the close of the last century, if my memory serves me. The principle was there clearly and distinctly laid down that the owner had a right when the slave fled from the State where he was held as such to another, to pursue him there and reclaim and carry him away if he could do so without occasioning a breach of the peace. Certainly that is the law.

Mr. DAVIS. The reason why I brought up the authority of the Supreme Court of the United States in favor of that position was that that is the court of the highest authority over such subjects in the nation, and the opinions rendered in support of that principle were by two of the ablest jurists that the nation ever produced, Justice Story and Justice McLean.

And I stated this further position: that when the owner of a slave presents himself in that state of case, no officer has the right to make such resistance as will amount to or bring about a breach of the peace; his course and his duty is plain, and that is to be perfectly passive, taking no part for or against the attempt to reclaim the slave.

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

Mr. DAVIS. Certainly.

Mr. GRIMES. Suppose the officer, in a state of war, is satisfied that the attempt to take the slave by his owner will occasion a breach of the peace in his own camp, is he still constrained to allow the owner to go in and take the slave away?

Mr. DAVIS. Until a breach of the peace occurs, he is.

Mr. GRIMES. Do I understand the Senator to say, then, that the fugitive slave law, or that this right to capture a slave, or to capture any other property, for I suppose a slave stands in the same category with any other property, overrides the military law, and that the officer in command of the camp must act in subordination to that right of property? Is that the Senator's position?

Mr. DAVIS. My position is, that by the Constitution and the law, the owner of any property, slave or horse, has the right to reclaim it where ever he finds it, if he can do so without a breach of the peace.

Mr. CLARK. Will the Senator permit me to ask him a question?

Mr. DAVIS. I think I have allowed a pretty wide latitude of questions already.

Mr. CLARK. I shall not ask the question if the Senator is at all disinclined to yield.

Mr. DAVIS. I will not yield any more, without meaning any discourtesy to the honorable Senator from New Hampshire.

Mr. CLARK. I am entirely willing to be denied. I do not want to interrupt the honorable Senator.

Mr. DAVIS. We have heard a great cry in this Chamber, Mr. President, this morning, and it is reiterated every day, that slavery is the cause, and the sole cause of this war. I deny it; I utterly deny it. Mr. Yancey knows something about the cause of the war. He denies it. Because gentlemen assume that slavery is the cause of the war, they therefore say that to prevent future wars slavery must be destroyed. Let us examine a moment how that argument will operate. There is the marriage institution, one of the most sacred and holy and important for the good of society that exists. How much of evil and crime is that institution connected with! How much of incontinence, how much of crime of every grade and class is connected with the marriage institution! Do gentlemen assume that because crime, and horrid crime, connects itself with this holy institution, therefore the institution is the cause of all this crime, and must be abolished? Go to gunpowder, and to warlike arms; how much of crime and bloodshed are they connected with! Are they the cause of all the wars and all the blood that flows through their instrumentality? They are connected with crime, and with a vast and inconceivable amount of human misery and woe. Because they are made the agents of working out so much misery and woe, are they to be condemned, and are they to be put down, abolished, exterminated?

What was the cause of the war of 1812? It was the violation by England of the freedom of the seas, and it was to vindicate "free trade and sailors' rights" that our country went to war. If we had had no ships and no commerce, there would have been no war; we should have had no occasion for war; we should have had no wrongs on the ocean to redress by war—the last arbiter of independent nations. Because the cupidity and the dominating spirit of that haughty Power, England, prompted her, in her struggle for national existence with Bonaparte, to violate our rights upon the ocean, upon the highway of nations, and to impress our sailors, and by her orders in council to condemn our ships and order them into port for condemnation and confiscation, therefore, according to the argument of the gentleman, we must abolish all those ships and all that commerce for the reason that those ships and that commerce caused the war. What of Christianity? What threw the Crusaders from Europe against Asia under the lead of Peter the Hermit? What caused the horrid massacre on the night of St. Bartholomew, when ninety thousand people in Spain and in France were assassinated in the name of religion? What has caused more of wars, and more of human crime, and human misery, and the shedding of human blood than anything else that exists or ever has existed in this world, than disputes growing out of religion? If the amount of blood that has been caused to flow in the sacred name of religion could be collected together, it would make a stream larger than the Potomac, down which all our navy might float to the ocean. Because religion has been abused, has been connected with the bad and hellish passions of man, and has caused war and misery and devastation to be spread over the face of the civilized earth, shall we therefore proscribe religion, and expel it from the face of the earth, from civilized society? No. Religion has been seized upon as a pretext to inflame the passions of nations, and precipitate them against each other in the shock of war, just as slavery is now seized upon by the rebels, and in no other sense.

Mr. President, if the free States would just let slavery alone in the slave States and not meddle with it, it would never harm them. I have never known of any pro-slavery man, or any citizen of

a slaveholding State, that wanted to force slavery upon the free States. They have never meddled with the domestic institutions of the free States, so far as I know. The honorable Senator from Massachusetts this morning adduced many cases to show that slavery was aggressive and absorbing. Who brought Louisiana with its slave population into the United States? It was brought in with the common consent of the representatives of free and slave States. Mr. Jefferson assumed, in the first instance, that the United States could not acquire foreign territory even by treaty, without an amendment to the Constitution, and he recommended that such an amendment should be made. I believe myself that he was right as to the original design and purpose of the framers of the Constitution. In 1817, when Florida was acquired—another slave country—who introduced it into the United States? The treaty was negotiated by John Quincy Adams; it was ratified by Senators alike from slave and free States. Who annexed Texas? It was annexed in the same way, by the votes of free and slave State members of the two Houses of Congress. If the members from the free States had voted against that measure, it never would have passed, and we should have escaped the difficulties by which we are now environed, I think. Who recognized the war which Mr. Polk made upon Mexico, growing out of the annexation of Texas? Who recognized his war when he ordered General Taylor to march the American army to Corpus Christi, a portion of territory that had never been part of Texas at all? It was done by the common votes of Senators and Representatives from free and slave States. I voted against both these measures; and if the members of the free States had voted against them, neither of them would have ever passed Congress. Who repealed the Missouri compromise in 1854? If the members of the two Houses of Congress from the free States had voted against that measure, I believe, from my recollection, it would not have passed. The gentlemen are bringing up the sins and shortcomings of the Senators and Representatives from their own States and are throwing them on this scape-goat—slavery. It is the old cry of "bad dog," "mad dog."

If the gentlemen and their constituency had never brought slavery into Congress and into national politics, we should not now, in my opinion, be involved in this war; but here is the Yankee character; a great character, I admit; some features of it I admire beyond measure; but it has its weaknesses, like all other nationalities, and among them is an immense amount of conceit and meddlesomeness. They think that they have more of intellect than others; undoubtedly they have more of inventive mind than any people on earth; and they have developed mind in all its fields, and in its highest regions, equal to any people upon earth, I admit; but they have prurience to manage other people's business; they are meddlers; they think they are so smart that they cannot only manage their own business well, but the business of all the rest of the world besides; and, consequently, they are continually poking their nose into everybody's bucket of swill. [Laughter.]

What did you tell us, gentlemen, last summer? You were in straits then. You all voted that you did not intend to meddle with slavery in the States. Now, whenever the slave States concede directly or indirectly any power on the part of Congress to abolish slavery in the States, they conceded the whole question. The members of this House stand pledged by as solemn an act as men ever performed to that position; the President of the United States stands pledged to it; he stands pledged to it by his correspondence on the part of his Secretary of State addressed to our minister to France, that is supposed to come under his supervision, and to be approved by him; and that correspondence I have no doubt was used as an argument with the Emperor of the French against the recognition of the confederate States. Are men bound by their word? Are they bound by their solemn and sacred pledges? Is there an individual, that is an honorable man and a private gentleman, that would give such a pledge as this body and the other body in their aggregate characters and as the President of the United States gave to the nation, and then stand up, in the face of man and of the sun of heaven, and deliberately violate that pledge? What was your asseveration all the while? "We are not making war upon slavery; we are not making war upon any of the institutions of the slave States; we are making war upon the rebellion, upon the insurrection; and whenever we subdue the insurrection and bring the insurgents to obey the Constitution and the laws, the war is to cease, for we have no other end or purpose in waging it."

Mr. WILKINSON. The rebels made the war.

Mr. DAVIS. It is true they made the war, and you are turning the war from them to slavery. Confine it to them, and I will go with you. What was the question in the border States? We had difficulty in holding them to their Union anchorage, and we did it upon the pledges of the Senate and of the House of Representatives and of Abraham Lincoln, the President of the United States. We assumed that this was not a war against slavery, and that if the United States triumphed in the war they would make no attack upon the domestic polity or the institutions of any of the States. We believed you; we were credulous enough to believe that what you said to us was true. We took up your pledge; and that pledge, upon the faith of your having made it solemnly in your character of Senators and Representatives and President, we quoted and reiterated to the people of Kentucky, and to all the people of the border States. It was upon that pledge made by you, as held up by us, that we were enabled to hold those States to their Union anchorage; and we never could have held them to that anchorage in the face of the programme of measures that you have presented at the present session of Congress.

All we ask of you, gentlemen, is, keep your pledge, keep your word, keep faith with us. If you do that, all will be well. But pass this bill, and you array—and I make no threat in making the statement—every white being in all the slave States, the border States as well as those that have seceded, against your law, and the whole object and effort of their minds, their lives, their energies, their ingenuity will be to neutralize that law and to negative its effect. I am speaking now what I believe I know. I am no secessionist. My fortunes are cast, for weal or for woe, for all time, with the Union, upon the Constitution, and under the old flag. I will never desert my Government or that flag. We intend to battle for the Constitution against all of its enemies. We want this war to be brought to a successful close speedily, because we believe that every day of its continuance imperils the Constitution. We believe that when the rebels in the field are put down and that war is brought to a close, we can make short and effectual work with the war in this Chamber and in the House of Representatives, and among a small portion of the people of this Union against the Constitution. I intend to adhere to the old flag. I will follow it wherever it leads. I will follow it even against the iniquitous measures, if I may so characterize them without offense, that have been proposed, and that are now pending before this body; but I will do it in the religious hope that the people of America are deeply and faithfully and truly attached to the Constitution and its principles. I will appeal from Cæsar here in this Chamber to the majesty of the American people, even to the armies of the United States that are now set in battle for the vindication of the authority of the United States and the Constitution and the laws. I am willing to submit all these issues to the armies to-day. I have no doubt that they would decide in favor of good faith, fidelity to the Constitution, and reconstruction without adding one principle to or abstracting a single one from it.

But, Mr. President, I know, at least I think I know, and my people know, or at least they believe, that the purpose now is to follow the new tactics of Wendell Phillips. He believes that it is no longer necessary openly to defy the Constitution and its principles, and to invoke men to trample under foot armor and armor-wearer. He believes, but in this I trust he is mistaken, that he now has Congress to act with him in his purpose—him who has not sworn to support the Constitution—and in defiance of its restrictions and of the principles that it adopts, to walk over its broken fragments, and to do a deed which he says is against the Constitution—emancipate the slaves.

I trust that it will not be done, sir; but if it is done, another war has but just begun. We in the border States are few. We are derided, contemned. I ask no favors. I have never asked any from any power. I ask but justice and right under the Constitution. So far as the administration of the Constitution and laws made in conformity to it can damage and overthrow slavery, be it so; if you choose to confiscate slaves, be it so; but whenever you discriminate against slaves, and submit them to harsher measures and other laws than you do other property, you violate your pledge, and you make war upon the institutions of the slave States. I make my protest against that.

All I ask is that our slaves shall have the same fate with all other property. I will go as far as any man here in sustaining and in executing a proper forfeiture law that will make no discrimination; but when you seek to do by indirection what you cannot do directly; when you attach to this constitutional power of forfeiture the exercise of a power entirely alien to it, not necessary to give it any effect or execution, but which abstracts from its efficiency; and under this illegal, illegitimate, and unconstitutional power you seek to do a deed that enables you to determine whether a State shall have slavery or not, I enter my protest against any such measure and against any such principle. The State of Michigan has a right to establish slavery to-morrow, if she chooses, and Kentucky has no right to object. The State of Kentucky has the right to-morrow, if she chooses, to abolish slavery, and the State of Missouri has no right to object. The State of Illinois has the right to-morrow to establish slavery, and no people in this land have any right to say a word in the matter except the people of Illinois themselves.

If gentlemen wish to punish the rebels and to make no discrimination, no war upon slavery, we could act together, and we could agree harmoniously upon a bill in a few minutes; but whenever they claim indirectly to exercise this power over slavery which they all concede they have not the right to exercise directly, and which was so jealously watched and guarded by the framers of the Constitution, they are introducing a source of trouble, a fountain of bitter waters that will flow, and no man can tell when its flow will cease; and the amount of trouble, bitterness, and woe which it will bring upon this land no man is wise or sagacious enough to foretell.

Mr. CLARK. I am not quite sure that I understood the Senator from Kentucky. I desire that he should make me a little more certain if he can. I understood him to say that he had no objection to a bill of confiscation, and no objection to confiscating a slave with other property. Was I right in that?

Mr. DAVIS. You were right in that, sir; that is upon condition that the proceeds should go into the Treasury.

Mr. CLARK. I presume I understand the position of the Senator now: that a slave shall be taken with other property and sold. He shall not be set free.

Mr. DAVIS. Yes, sir.

Mr. CLARK. The objection then is, not that the slave is taken from the rebel, but that he is not sold, and the proceeds put into the Treasury of the United States.

Mr. DAVIS. Will the gentleman allow me one word?

Mr. CLARK. Certainly.

Mr. DAVIS. There are two hundred and thirty thousand slaves in the State of Kentucky. At a small estimate, at least one fourth of them would be subject to the operation of this law, which would be seventy-five thousand slaves. The bill proposes, without any provision, at least in the bill, in regard to them, to liberate those slaves and leave them there. Now, if the question were submitted to the people of Kentucky to-day, which do you prefer, to have $600 apiece on an average for all your slaves, and they to remain with you in the State, or have the slaves taken for nothing and colonized out of the United States, they would accept the latter proposition fivefold over.

Mr. TRUMBULL. This bill proposes to colonize.

Mr. DAVIS. But it makes no provision for it.

Mr. TRUMBULL. Yes, it does.

Mr. DAVIS. What provision? It says it shall be done, and authorizes the President to do

it, but what means does it give him to do it? Besides, your colonization is voluntary. I have said and believe that slaves will never consent to voluntary colonization. I have known many slaves to be manumitted in my State upon condition that they would go to Liberia, and they refused to go to Liberia, and chose to remain in slavery. The idea of voluntary colonization to any considerable extent is all moonshine. It never did take place, and it never will. If this body, or any members of this body want to favor and help along the cause of colonization, in my humble judgment this would be the best and the most practicable mode. Let Congress, if it has the power, appropriate a sum of money that will colonize the slaves of every State that will free them, and of every slaveholder in any State that will free his slaves, and in the course of a few years you would have thousands and tens of thousands of emancipations annually.

Mr. CLARK. I did not propose to argue the effect of this measure upon Kentucky, nor did I propose to allude even to the subject of colonization; but what I did propose was to put the Senator's argument to the test. I understand the Senator now distinctly to admit that under the Constitution, the Government have the power to confiscate a slave with other property; that is to say, they can take the slave and make him the property of the United States.

Mr. DAVIS. For the lifetime of the owner.

Mr. CLARK. Very well. Then if the Senator will look in the Constitution he will find that Congress have the power to make all needful rules and regulations concerning the property of the United States. Then they may set him free.

Mr. DAVIS. Not at all.

Mr. CLARK. They may make all needful rules and regulations, and if they deem it needful they can set him free.

Mr. DAVIS. That is a matter of State polity.

Mr. CLARK. Ah! a matter not of constitutional law but of State polity. I am looking at the national power. Now, suppose we take a mule from a rebel, and cannot sell him, and have nothing to do with him; cannot we turn him loose?

Mr. DAVIS. Yes; but anybody can pick him up afterwards if he chooses.

Mr. CLARK. So anybody can pick the negro up if he can find him. [Laughter.]

Mr. DAVIS. We will go after him.

Mr. CLARK. I want to look at this matter a moment. You take a negro from a rebel, as the Senator proposes; he belongs to the United States. The Senator contends that you must sell him. You sell him. Who buys him? Where do you sell him? Where do you find your market? Not in a free State, but in a slave State. You sell him to one of these slaveholders, and the rebels come and seize him and have him engaged on fortifications in a week.

Mr. DAVIS. Will the gentleman allow me to say a word of explanation?

Mr. CLARK. Certainly.

Mr. DAVIS. I want the whole white population of South Carolina changed, and if I had the power I would change it just as the people of Acadia were changed by the conquest of that province by England. I would permit the hardy sons of the West and of the free States, who have gone to fight the battle of reconstruction and restoration of the Government and Constitution and laws of the United States, to go there and possess themselves of the lands and the slaves of these southern planters, and themselves to become planters.

Mr. CLARK. I was not talking about South Carolina.

Mr. DAVIS. Well, any State.

Mr. CLARK. I was not talking about settling that land. I was talking about these slaves that you want to take away from rebels. I saw a letter yesterday from an officer high in your army down at Yorktown, which stated that thousands of the slaves of these rebels were at this time on those fortifications. There is no dispute of the fact. Would not the Senator have them taken away? And when we had taken them away, would he have them sold to go right back there again? Sir, I would set them free. I would do more: I would organize them, and I would make them fight for the Union cause. I would put them on our side. That is the confiscation I would give the rebels for them.

Mr. SAULSBURY. I move that the further consideration of this subject be postponed until to-morrow, at one o'clock.

Mr. SUMNER. There is occasion for an executive session. I will therefore move that the Senate proceed to the consideration of executive business. That will leave this question the order at one o'clock to-morrow.

Mr. SAULSBURY. I hope that will be done. I will remark that I had no idea at all of saying a word on confiscation until to-day, after listening to the speech of the Senator from Massachusetts. I want to see a report of that speech, and I think it will afford subject-matter for a few remarks impromptu to-morrow.

Mr. TRUMBULL. Before the question is put on the motion to go into executive session, to which I shall not object, if the Senator from Delaware desires to have this subject put over to make some remarks to-morrow——

Mr. SAULSBURY. I will state frankly to the Senator from Illinois, I had not the remotest idea of saying a word on this subject until to-day; but if the subject is postponed until one o'clock to-morrow, I propose, not to make a set speech, for I have not even a note made, but very briefly to review some of the positions taken by the Senator from Massachusetts to-day.

Mr. TRUMBULL. I wish to say to the Senator from Delaware he must be aware that this bill has been very long delayed. I certainly do not wish to be discourteous to him or any one else; but it seems to me it is about time we were trying to get a vote on these measures, and if the Senator will not go on to-night with his remarks, I trust it may be understood we shall have the vote to-morrow. I do not know of any one else who desires saying anything upon it, except it may be the Senator from Wisconsin, [Mr. DOOLITTLE,] who remarked to me that perhaps he would say something. I do not know whether he designs making a speech upon it or not. If he does, there will be time to hear him to-morrow also; but I trust there will be no effort to run this thing over to-morrow. I am willing that the Senate should now go into executive session, on the suggestion of the Senator from Massachusetts, if we can have an understanding that we shall press this subject to a vote to-morrow. The tax bill will be upon us next week. For myself, I would prefer to sit here to-night and finish this bill; but still I do not wish to be discourteous, and if friends around me wish an executive session now, I desire it to be understood that to-morrow I shall insist as far as I can, and I hope the Senate will sustain me, in bringing this matter to a vote.

Mr. SAULSBURY. If the Senator from Illinois will allow me, I will simply remark that I do not wish to interpose any objection to the business of the Senate; neither do I ask that this subject be postponed from any courtesy to me. I had no idea of speaking until I heard the speech of the Senator from Massachusetts to-day, and I only proposed, in case it was perfectly convenient to the Senate, to postpone this subject until to-morrow to submit a very few remarks; I do not know how long they may be. But I do not wish to ask this as a favor from the Senate or to interpose any obstacle to the business of the Senate.

EXECUTIVE SESSION.

Mr. SUMNER. I now renew my motion for an executive session.

The motion was agreed to; and the Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *May* 1, 1862.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

DUTIES FROM IMPORTS.

Mr. STEVENS, by unanimous consent, from the Committee of Ways and Means, reported a bill to amend an act entitled "An act to provide increased revenue from imports, to pay the interest on the public debt, and for other purposes," approved August 5, 1861; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

SEA-COAST FORTIFICATIONS.

The SPEAKER announced the unfinished business before the House to be the consideration of the bill (H. R. No. 416) authorizing the appointment of a board of fortifications, to provide for sea-coast and other defenses of the United States, and for other purposes, the pending question being upon ordering the bill to be engrossed and read a third time.

Mr. BLAIR, of Missouri. It is very evident, from circumstances which have transpired since the passage of the bill making appropriations for fortifications, that some modification of our present system of sea-coast defense is absolutely necessary, and it is equally clear that Congress cannot be prepared to act upon the subject of changing such defenses without submitting the plan to the scrutiny of the men best qualified to pass upon such a measure.

The bill reported by the Committee on Military Affairs provides that a board of fortifications shall be established, appointed and convened by the President of the United States, to consist of two officers of the corps of engineers, one officer of the Ordnance department, one officer of artillery, two officers of the Navy, two members selected by reason of their eminent scientific and practical attainments, and an officer of the corps of engineers as secretary. The committee have deemed it necessary that the engineer department should be largely represented in this commission, and that ordnance and artillery officers who have made it a specialty to attend to this particular branch of the subject should be represented, as also the Navy Department. I know there has been a contest for years between the officers of the Navy and of the Army in regard to the proper system of fortifications—the Army contending, as a general thing, that these stone forts can be made so efficient as to prevent any hostile vessels entering our harbors; while the officers of the Navy have contended that under certain circumstances, as for instance in the dark, or in foggy weather, even wooden vessels could pass by any of our forts and enter into our harbors. And the results of this war have demonstrated the correctness of the latter theory, even as applicable to wooden steamships of war, and much more so as to the present style of gunboats which are used by the maritime nations of the world.

It is therefore important that in any plan or any system of fortifications upon which this Government shall hereafter enter, we should have the benefit of the experience of our naval officers who have made it their special study how to destroy these boats. The news which we received a day or two since from New Orleans, where we have two first-class forts nearly opposite each other on the Mississippi, where it is not more than three quarters of a mile in width, shows that those forts have been silenced and passed by a fleet of wooden vessels alone. That fact demonstrates that great changes and modifications will have to be made in our system of coast fortifications, if we intend to defend our ports against the entrance of the vessels of an enemy.

I cannot conceive of any other mode in which this can be so well done as by the establishment of a commission somewhat of the character of that provided for in the bill which has been reported by the Military Committee. The report of the commission, it will be seen by reference to the bill, will be made to Congress, unless the exigencies of the public service shall require that the new system, which shall be reported in favor of by the board should be put into operation immediately; and in that case the President may prosecute the work without reference to Congress.

Mr. WICKLIFFE. I desire to inquire of the gentleman whether there is any provision in the bill which suspends the expenditure of the money already appropriated upon the present fortifications now in progress? If there is, it is a good provision.

Mr. BLAIR, of Missouri. I will state to the gentleman that there is a provision in this bill which transfers the unexpended balance of the money already appropriated, to be expended upon the plan which shall be devised by this board, under the authority and direction of the President of the United States.

Mr. WICKLIFFE. I wanted to know if there was a provision suspending the expenditure of the present appropriation, because if they go on and

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SEVENTH CONGRESS, 2D SESSION. SATURDAY, MAY 3, 1862. NEW SERIES.....No. 120.

expend this money upon wooden fortifications, it will be expended to no account. If that expenditure is suspended, I see no particular objection to this bill.

Mr. BLAIR, of Missouri. All the unexpended balance which remains in the Treasury when this bill shall pass, will be transferred and appropriated to carrying out the plan which shall be devised by this board. That language is used because it is not known how much of that money, already appropriated, has been expended upon the present works. All the appropriation which shall remain in the Treasury when this bill passes, if it pass with that provision in it, will be applicable to the prosecution of the system which shall be devised by the board of commissioners authorized by this act.

There are one or two other items of the bill of less importance. In addition to authorizing the unexpended balance to be applied to the new plans which may be adopted, the bill authorizes the President to accept the loans or advances which may be made by any State or States for the purpose of defending their own coasts or territory, and to apply them, under an agreement between the authorized agents of such State or States and the Government, to the prosecution of the defenses within those States. The State of Maine has, I understand, agreed, through its constitutional authorities, to advance any sum of money to the Government which the Government may deem necessary or proper to be expended in defense of the coast of Maine. It may be of great advantage to the Government to avail itself of that fund. And it is not at all unlikely that the State of Massachusetts, and the State of New York, and other States, may see proper to advance large sums of money to the Government of the United States for the purpose of completing the fortifications of those States. This bill authorizes the acceptance by the President of these advances, and the application of them for the purposes indicated, or for which the loans and advances have been made by the States.

There is another provision in the bill in regard to an additional number of cadets at the West Point Academy and the Naval Academy, which authorizes the President to send a number equal to the number now sent to those academies, requiring, however, that the parents and guardians of the additional number of cadets shall pay the entire expense of their education at the two academies. This will leave the number now provided for to be appointed as now provided by law, and will enable them to be appointed from the children of men who are not able to defray their expenses at the academies, leaving it in the option of men who have the ability to educate their sons for the service of the Government to do it at their own expense.

Mr. WOOD. How are the appointments to be made?

Mr. BLAIR, of Missouri. The bill provides that any number of young gentlemen may make application to the academic board, and the academic board are to appoint one cadet from each congressional district and one from each Territory, and to appoint that one from each district or Territory who shall appear, upon examination, to be the best qualified for admission into the institutions. It distributes them as the cadets now authorized are distributed, among the congressional districts of the different States and the Territories, and subjects them to an examination of their qualifications by the academic board, and that board admits them into the academy, requiring, however, a deposit of the sum estimated to be sufficient to defray the expenses of each cadet for one year in advance.

The bill also provides for the establishment by this board of an armory, to be established at the West, and a foundery for heavy ordnance, and for an arsenal of construction, and also for additional arsenals of repair and deposit, which are very much needed, and are, in fact, indispensable. It leaves to the commission the power to determine the sites upon purely military considerations.

Mr. COX. I would inquire of the gentleman from Missouri whether, if the commission shall agree upon the location of this armory, and so forth, their decision will not be subject to the approval of Congress?

Mr. BLAIR, of Missouri. No, sir; the bill provides that it shall be subject to the approval of the President of the United States.

Mr. COX. Will it not require an appropriation by Congress afterwards?

Mr. BLAIR, of Missouri. It will require an appropriation.

Mr. BINGHAM. I desire to ask the chairman of the Committee on Military Affairs whether he has any objection to allowing an amendment to the fourth section, striking out the word "President," and inserting "Congress;" so that it will read, "subject to the approval of the Congress of the United States?"

Mr. BLAIR, of Missouri. I have no disposition to prevent any amendments being offered and submitted to the vote of the House; and I shall cheerfully accept any amendments that seem to be desirable.

Mr. BINGHAM. I shall desire an opportunity to offer that amendment, and also an amendment to the fifth section.

Mr. BLAIR, of Missouri. The Committee on Military Affairs do not, of course, expect the House to adopt the measure as reported by them without discussion or amendment, but they desire that the House shall consider it in a candid spirit, and offer such amendments as may perfect it. I shall not call the previous question on the bill as long as there is any gentleman who desires to offer an amendment.

Mr. ALLEN. I ask the chairman of the Committee on Military Affairs to allow me to offer an amendment to the fifth section to strike out from the word "Territory" in the sixth line, down to the word "provided" in the tenth line, and to insert in lieu thereof the words "by the Representative or Delegate in Congress from such district." As I understand this section of the bill, it proposes to take away from the Representatives of congressional districts the right of appointing cadets to the Military Academy at West Point and the Naval Academy. No gentleman who has ever exercised that right will claim that it is a great privilege; but, at the same time, it seems to me that to confer this power upon the academic board might give an opportunity for favoritism and for the appointment of applicants for cadetships at the West Point Academy purporting to come from congressional districts and States when in fact they do not hail from such districts or States, but only claim to do so for the purpose of obtaining appointments. That has sometimes been the case in the Departments here. The directory is full of instances of the kind, where gentlemen, purporting to come from Ohio, Indiana, and other States, have been appointed to places in the Departments, and who, perhaps, were scarcely ever within the limits of the States from which they purport to have been appointed, but were hangers-on about the Departments, who, by means of favoritism, have secured places, and for the purpose of apparently distributing the offices as much as possible over the country, they purport to come from particular States and districts.

Mr. BLAIR, of Missouri. The gentleman totally misapprehends the facts of the case. This bill does not take away from Representatives in Congress the right of nominating cadets to either of these academies. The law upon that subject stands unaltered. There is no proposition to change the present mode of nominating the present number of cadets at either of these academies. This is a proposition to receive an additional number equal to the present number at the two academies, to be received upon the same terms as those now educated at these academies, except that the expenses of the additional cadets are to be defrayed by their parents or guardians.

Mr. ALLEN. I understand the chairman of the Committee on Military Affairs to say that these additional appointments are to be made by the academic board. As the law now stands, each Representative in Congress has a right to nominate one cadet at each of these academies, and I do not see why these additional appointments should not be made in the same manner by the Representatives in Congress, so that the persons selected shall be residents of the proper districts.

Another objection that I have to the section is that it requires the expenses of these additional cadets to be defrayed by their parents and guardians. It appears to me that that would give a preference to those persons having wealthy parents or guardians over those who are destitute, and I do not think any such distinction ought to be made.

Mr. BLAIR, of Missouri. I wish to say a word in reply to the objection of my colleague on the Committee on Military Affairs, [Mr. ALLEN,] that this provision would give a preference to those young men whose parents or guardians are able to pay their expenses at these institutions. This measure is proposed and advocated upon the ground that it would relieve members of Congress from the necessity of appointing the son of anybody who is able to pay his expenses at these institutions. Under the present state of affairs, members of Congress receive applications from their constituents for these cadetships, and if you tell a man that you will not nominate his son because he happens to be a wealthy man, he responds to you that he wishes his son to enter into the military or naval service of the Government, and that he has no way to get him into that service except upon the nomination of a member of Congress. This bill will enable members of Congress to confine their appointments to the sons of men who are not able to defray their expenses, because the additional number of cadets who will be received into the academies under this bill will be from that class of persons who are capable of defraying the expenses of their children at these academies.

Mr. SEDGWICK. I ask the gentleman from Missouri to yield to me for a moment.

Mr. BLAIR, of Missouri. Certainly, sir.

Mr. SEDGWICK. In regard to the provision for sending paying scholars to our Military and Naval Academies, I desire to suggest to the chairman of the Committee on Military Affairs that the proposition has been before the Committee on Naval Affairs informally, and has been submitted to the board of instructors at the Naval Academy, from whom we have received a communication, which shows that they have bestowed upon it a good deal of attention. In foreign military and naval schools this system prevails, especially in French military and naval schools. I know a citizen of my own State who has been educated in a French military school, and who is now promoted to the highest military school in France, where he is pursuing his education. The idea, however, is very imperfectly expressed in this fifth section of the bill, both as to the provision for the mode of appointment, and as to the whole course of education at the school. The plan which strikes me as being the most practical and most beneficial is, after making the selections, of which I have no desire to speak now, to have this course pursued.

It is well known that from one third to one half of all the scholars selected by members of Congress and sent to the military and naval schools, fail before the year of graduation—some from ill health, some from want of taste for pursuing those professions, and others from being entirely incompetent, from the mode in which they are selected, to go through with their studies. My proposition would be to have the paying scholars limited in number, and their record of merit kept, as is the case with regular students in the Academy; and when one student fails in a class, from any of the causes that I have named, or from any other, that the scholar in the paying class who is the highest on the merit roll shall be selected and put in his place, and shall from that time go on the same as if he had been originally appointed to go to the school, shall have his education undertaken by the Gov-

ernment, and shall be graduated with the graduating class—so that each class, instead of graduating one third or one half the number that entered it, shall graduate the whole number. I would have no others receive commissions except those who should graduate with the regular class. Now, you will perceive, if you examine this a moment, that in this way, for every person selected by a member of Congress, who fails and proves incompetent, you will get in his place a person who stands highest on the merit roll of paying scholars. His education is paid for by his parents or guardian until the time when he goes into the class, and after that the Government pays for his education. As it now stands, the Government pays for the education, up to a certain period, of those who never go into the military or naval service; and that money is entirely lost to the Government. It receives no benefit whatever from it. You cannot now put a student into an advanced class. Those who are selected go into the lowest class, and there is no way of supplying the places of those who fail in the second, third, or fourth years of their course; so that, whatever the Government expends upon them is entirely lost. In the other way, the Government pays for the education of the scholar through a four or five years' course, and at the end of that time gets into its service a competent military or naval officer.

The House will also perceive another advantage in this. Those who go to these schools as paying scholars, are likely to be those who have a taste for the naval or military service, who are anxious and ambitious to be educated for those professions; and therefore there is likely to be more than the average number of scholars, and more than the average amount of qualifications. And so, at the end of a course, you will always secure a full number of the best fitted and most accomplished persons for the naval and military service that can possibly be found in the community.

Mr. Speaker, this section has the germ of a plan which I should be very much disposed to favor, but, as it is stated in this fifth section, it strikes me as being very imperfect—as wanting in many details which should be incorporated in it. I should, therefore, much prefer that the whole subject of sending paying scholars and of selecting cadets for these different schools should be put in a separate bill, where its details may be perfected. I have no doubt that the whole system of naval and military education may be most essentially improved by a well-considered bill on the subject; but I do not perceive that this section proposes such a system with such details as might be provided in a bill brought in for the purpose of securing these advantages.

Mr. BLAIR, of Missouri. I am very much obliged to the gentleman from New York for his criticism on the section. I am as well aware as he can be of its imperfections. The Committee on Military Affairs has given to it all the consideration that it could possibly give, and yet it has not arrived at that perfection which probably some other committee might, if it were intrusted with this matter. At the same time, sir, I think that the system proposed by the gentleman from New York is one so complicated and involved that it can hardly meet the favor of the House. It really effects nothing that is not effected by the proposition as it now stands. He says that when a cadet fails in a class, if one of these paying students is allowed to take his place, he will go on through the course at the expense of the Government, and the Government will not lose the money which it has expended on the cadet who has failed at the end of the first, second, or third year. I submit to the House that the Government will lose just as much as if it had not appointed the other man in his place, and will not obtain any more service from the paying cadet, who would go on under this system just as he would go on under the system proposed by the gentleman from New York. There is absolutely no difference at all, in effect, between the complicated system proposed by the gentleman from New York and the proposition reported by the Committee on Military Affairs; none whatever. It would only provide that the member of Congress who had nominated the youth who had failed should not have the privilege of nominating another in his place; and that a youth who had gone to West Point or the Naval Academy at the expense of his parents or guardian, would be taken into the service of the Government, and his expenses paid by the Government.

Mr. McKNIGHT. Will the gentleman from Missouri yield to me?

Mr. BLAIR, of Missouri. Certainly.

Mr. McKNIGHT. I wish to ask the gentleman from Missouri whether it is the design of the Committee on Military Affairs to put this bill on its passage now—whether it is up for final action? It occurs to me that such an important bill as this—none more important has been offered this session—should not be passed hurriedly, and I suggest that a day be fixed for its consideration when it can be discussed *seriatim*.

Mr. BLAIR, of Missouri. It depends entirely on the disposition of the House. The Committee on Military Affairs do not desire to press the bill if any member of the House wishes to debate it. If the gentleman from Pennsylvania will submit a motion to postpone and make it a special order for an early day—for I think it is of sufficient importance to demand the early attention of Congress—I will have no objection.

Mr. STEVENS. I hope it will be postponed for a considerable time, for this reason: looking at the bill, I find that it contains three or four provisions, each of them very important, and likely to involve the Government in a very large expenditure. I think the House ought to have time to consider it fully, and I hope that some distant day will be fixed.

Mr. BLAIR, of Missouri. Let any day be fixed that will suit the convenience of the House.

Mr. McKNIGHT. I merely put the preliminary question to the gentleman from Missoui, with a view of going on to say that this discussion on the question of appointment of cadets to West Point seems to be coming out of its place, because it is one of the closing sections of the bill. If the bill is coming up for action I desire that its sections should be discussed *seriatim*. As my colleague [Mr. STEVENS] has said, there are four or five propositions in this bill. There is a proposition for a committee to examine the lake and sea-coast fortifications. I undertake to say that that of itself is a pretty heavy business. Then there is the location of an armory and arsenal and naval depot on the lakes. Then there is this West Point matter besides.

Now, I am looking at this matter for the first time, and of course I am not prepared to discuss it at this time. I will suggest, however, that these important propositions should come up at a time when they can receive the deliberate consideration of the House. I hope, therefore, the gentleman from Missouri will fix some day when the bill can be considered as a special order and be disposed of.

Mr. COX. With the permission of the gentleman from Missouri, I desire to propose an amendment to the fourth section of this bill. I propose as a substitute for that section the bill presented by the gentleman from New York [Mr. BAKER] who is now absent. He expected to be here when this matter of the establishment of an armory came up, and would have presented his proposition himself. I propose that bill as an amendment for the fourth section of the bill, and then move that the bill be postponed to and set down as a special order for next Tuesday.

Mr. BINGHAM. I hope the gentleman will say Tuesday week.

The SPEAKER. The Chair will say to the gentleman from Ohio [Mr. Cox] that one bill pending before the House cannot be offered as an amendment to another.

Mr. COX. Oh, I will alter it enough to make it come within the rule.

Mr. BLAIR, of Missouri. I move that the bill be postponed until next Tuesday, and that it be made a special order.

Mr. COX. Does the gentleman permit me to offer my amendment?

Mr. BLAIR, of Missouri. I think the gentleman can offer it as well when it comes up at the time to which it is postponed.

Mr. COX. I can, if the gentleman will give me the floor for that purpose.

Mr. BLAIR, of Missouri. Certainly I will. I hope the gentleman from Ohio will offer his amendment, and that every other gentleman who desires to offer an amendment for the purpose of perfecting the bill, will do so.

Mr. STEVENS. I move to amend the motion of the gentleman from Missouri, so as to postpone the bill until next Tuesday week.

Mr. ALDRICH. I see this bill makes an appropriation. I suppose it will have to be considered in the Committee of the Whole; will it not?

The SPEAKER. It would if the gentleman had raised the question in time, but the Chair decides that since the bill has been read, and discussion permitted upon it, it is now too late to make the point.

The amendment submitted by Mr. STEVENS was agreed to.

Mr. BLAIR, of Missouri. I ask that it may be made a special order.

Mr. STEVENS. I must object to that.

The bill was then postponed until one week from Tuesday next, at one o'clock.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. FORNEY, their Secretary, notifying the House that the Senate agreed to the amendments of the House to the bill (S. No. 124) relating to highways in the county of Washington and District of Columbia.

ADJUTANT GENERAL'S OFFICE.

Mr. DUNN, by unanimous consent, reported from the Committee on Military Affairs a bill for the better organization of the Adjutant General's department; which was read a first and second time, recommitted to the Committee on Military Affairs, and, with a communication from the Adjutant General and a communication from the Secretary of War on the subject of the bill, ordered to be printed.

NAVAL ACADEMY.

Mr. SEDGWICK. I desire the consent of the House to report from the Committee on Naval Affairs House bill No. 280, which was some time ago recommitted to that committee, for the purpose of having it postponed until the same day, to be considered in connection with the bill just reported by the gentleman from Missouri, and postponed until next Tuesday week, that bill containing, as it does, provisions in relation to the Naval Academy.

The SPEAKER. The Chair does not see how the two bills can be considered in the House at the same time.

Mr. SEDGWICK. I desire to have it postponed until the same day.

Mr. BLAIR, of Missouri. I will suggest to the gentleman from New York that he can move any amendment he desires to the bill I have reported when it comes up for consideration.

The SPEAKER. By unanimous consent the gentleman from New York can offer his bill as an amendment.

Mr. SEDGWICK. I prefer that it should be considered as a separate bill. I withdraw my motion.

NATIONALITY OF FREEDOM.

Mr. LOVEJOY, by unanimous consent, reported from the Committee on Territories a bill to render freedom national and slavery sectional; which was read a first and second time, recommitted to the Committee on Territories, and ordered to be printed.

PACIFIC RAILROAD.

Mr. CAMPBELL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. CRISFIELD in the chair,) and resumed the consideration of the special order, being a bill (H. R. No. 364) to aid in constructing a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes.

The CHAIRMAN stated the question pending to be on the amendment submitted by Mr. STEVENS to the substitute proposed by Mr. CAMPBELL, to insert after the word "four," in the fourth section, the words, "and ten dollars per share actually paid into the treasury of the company."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to amend in the sixty-eighth line by striking out all after the

word "as" to and including the word "for," in the sixty-ninth line, including what has been inserted on motion of the gentleman from Pennsylvania, and inserting in place thereof as follows:

One half of the capital stock shall be in good faith subscribed for, and a sum not less than $10,000,000 shall be actually paid thereon and deposited in the Treasury of the United States, to be refunded to the Pacific Railroad Company.

Mr. Chairman, if this bill is to pass, it obviously ought to be amended so that it will provide for a genuine working company. Now, in the ordinary charters of corporations in States, it is usual to provide that on shares of fifty dollars five dollars shall be paid in before the company shall be organized, or, if the shares are to be $100, that ten dollars shall be paid.

Now, this provision that $10,000,000 shall be actually paid in, is no more than is required in the several States of corporations chartered by State authority. This company is to wield a large capital, provided in great part by the United States—capital in bonds and capital in land.

If this bill is to go into operation, certainly one half the stock ought first to be subscribed. It is the usual practice in the States to require the whole stock to be subscribed; and is there any reason why this company, which is to wield so vast a capital, shall be allowed to be incorporated upon a basis of two thousand shares, of which only ten dollars per share is to be paid in? In that case, there will be but $20,000 paid in before the company may be organized. Any man may pay that amount, and secure to himself all the gigantic appropriation of land and money which it is proposed to make to this road. I suggest this amendment in good faith, and I hope it will strike the good sense of the House that at least one half the amount shall be subscribed in good faith, and that not less than $10,000,000 shall be paid in.

Mr. CAMPBELL. As the section now stands, with the amendment adopted on motion of my colleague from Pennsylvania, this company before its organization is required to pay to the treasurer of the company, who is obliged to give adequate security for the faithful performance of his duty, the sum of ten dollars per share on at least two thousand shares, amounting in the aggregate to $20,000.

Now, it will be perceived that before these commissioners can assemble together, even for the purpose of organizing the company, they must have in their treasury $20,000. According to all precedent in all of the old States where companies are organized by acts of Assembly, it is a very unusual thing to make the subscribers for such a purpose pay more than five dollars a share on their stock subscribed. The only object is to have a sufficient sum in the treasury to pay the necessary expenses of organizing the company, as well as to show that the corporation are acting in good faith.

It will be perceived that this company cannot receive one dollar from the Treasury of the United States until millions of money have been subscribed, and one section of the road constructed. The gentleman seems to labor under the idea that we are legislating for the benefit of the corporators, and that they may run away with the money of the United States before they shall have done any of the work.

The gentleman must bear in mind that in addition to the payment of ten dollars per share, the company are compelled to build at least one section of forty miles in length before they can receive a dollar from the United States Treasury.

The gentleman from Vermont I believe has indicated heretofore that he is opposed to the whole scheme, at this time, for the construction of a Pacific railroad; and it is very evidently the result of that opposition when he proposes that $10,000,000 shall be paid into the Treasury of the United States before the company can be organized.

Sir, no company that you can organize can raise $10,000,000, and put it into the Treasury of the United States as dead capital. To remain there how long, and for what purpose? As a guarantee that they will carry out this project. The guarantee is that they will go to work and build forty miles of the road, and equip it before they can get a dollar from the United States. That is guarantee enough, and the first clause intended, and my colleague intended, that at least two thousand shares should pay in ten dollars a share to represent a *bona fide* company. Then, if they do not proceed immediately, within the restrictions of this bill, to the construction of the road, their powers become null and void. I hope that the members of this committee, who are in favor of the construction of a Pacific railroad, will vote down this amendment.

Mr. MORRILL's amendment was disagreed to.

Mr. WHITE, of Indiana. I would inquire of the Chair whether the amendment submitted yesterday by the gentleman from Pennsylvania [Mr. STEVENS] was adopted?

The CHAIRMAN. It was.

Mr. SHELLABARGER. I move to amend the first section by striking out the word "stockholder," in the eighty-ninth line, and in lieu thereof to insert the words, "*bona fide* holder of five shares of stock in said company." Mr. Chairman, I hope that the gentlemen who are conducting this bill will agree to this very moderate amendment. This is to be a gigantic corporation, and it should be our object to provide, as far as possible, against any sham stockholders, or this railroad company becoming a mere speculative concern. I do not know but that the amount in my amendment should be made higher than $5,000. It is certainly an amendment to which there can be no just objection.

Mr. CAMPBELL. I think that it is a reasonable amendment. I do not believe that a man should be made a director unless he owns five shares of stock, and has made at least an investment in the road of $5,000.

The amendment was agreed to.

Mr. LOVEJOY. Mr. Chairman, I rise to a question of order, and my point of order is this: the select committee on this subject reported a bill for the construction of a Pacific railroad, to which bill I submitted an amendment in the nature of a substitute. The committee have informally reported a substitute for the original bill and for my substitute. It was offered after my substitute, and I make the point that, under the rules, the first question in order is the perfection of my amendment, and that for that purpose it is now before this committee for action. I ask for the decision of the Chair.

Mr. SARGENT. The select committee reported the original bill in March last; and before the gentleman from Illinois submitted his substitute, the committee proposed various alterations in the original proposition. The alterations were more than verbal, such as filling in the names in the first section, &c., and for the purpose of convenience, the committee submitted an engrossed bill, which at the time was understood to take the place of the original bill. That is the substitute which we are now considering, and to that substitute the gentleman from Illinois submitted his amendment. The gentleman's amendment is to strike out all of the proposition of the committee from the enacting clause, and we are now proceeding, under parliamentary law, to perfect the part proposed to be stricken out before taking the vote on the matter proposed to be inserted.

Mr. CAMPBELL. I understand, when the committee have perfected the substitute on which we are now acting, it will then be in order to take a vote on the amendment of the gentleman from Illinois. His amendment is pending as a substitute for the substitute of the committee, and no amendment to his is in order until the committee's substitute has been perfected.

Mr. LOVEJOY. My amendment, in the nature of a substitute, was moved to the original bill, and not to the substitute of the committee.

Mr. CAMPBELL. The gentleman is mistaken.

Mr. ALDRICH. I presume that the journals of the committee will show how the matter stands. I have the bills and amendments upon my file. On the 14th of March the select committee reported a bill, which is the first Pacific railroad bill upon our files. On the 8th of April the gentleman from Illinois offered his substitute; and on the 9th of April the special committee submitted a substitute for the original bill, which they reported. On the 28th of April the committee reported another amendment. Now, sir, I think that the journals of this committee will show that the substitute of the gentleman was moved to the original bill reported by the select committee; and I think, therefore, that he is right in the question of order which he has raised. I am of the opinion that the amendment of the gentleman from Illinois is the proposition now before us for action.

Mr. CAMPBELL. If the gentleman from Illinois will look at the printed copy of his amendment, he will see it stated as having been offered as a substitute for the substitute of the committee.

Mr. LOVEJOY. I see that it is so printed; but if the Chair will notice the dates he will agree, I think, that it must be a mistake. I distinctly recollect that my amendment was offered as a substitute for the original bill.

Mr. SHEFFIELD. I rise to a point of order.

The CHAIRMAN. A point of order is already pending.

The Chair understands the facts in this case to be these: the select committee reported the original bill, and then, on a subsequent day, they reported an amendment in the nature of a substitute, and then the gentleman from Illinois submitted his amendment in the nature of a substitute. The Chair must, therefore, overrule the point of order.

Mr. LOVEJOY. My substitute was offered on the 8th of April, and the substitute of the committee was not offered until the next day, the 9th of April.

The CHAIRMAN. The dates do not change the decision of the Chair. The amendment of the committee was anterior to the amendment of the gentleman from Illinois. And, then, the amendment of the gentleman from Illinois, while it has been offered in the House, has never been submitted in the committee.

Mr. LOVEJOY. Then I move it now. I call the attention of the committee to its reading by the Clerk, as I have made some corrections in my substitute as it was printed.

Mr. SARGENT. I rise to a point of order. The proposition of the committee is a complete bill, and not merely one section. The first section has been amended, and something else substituted for it. Now, I make the point of order that before the amendment of the gentleman from Illinois can be voted on as an amendment to the first section, the substitute of the committee must be read through and perfected.

The CHAIRMAN. First comes the original bill, then the substitute of the committee, and then the substitute of the gentleman from Illinois.

Mr. SARGENT. Is the substitute of the gentleman from Illinois to the first section?

The CHAIRMAN. It is for the entire substitute of the committee.

Mr. SARGENT. I make the point of order that it is not in order to move to strike out the whole of the committee's substitute until it has been gone through with and perfected.

The CHAIRMAN. The Chair overrules the point of order.

Mr. SARGENT. I appeal from the decision of the Chair.

Mr. STEVENS. I wish to understand how this matter is. I understand that the gentleman from Illinois now withdraws his original amendment, and offers another modified or perfected.

Mr. LOVEJOY. It is the same, only with a few verbal modifications.

Mr. STEVENS. I do not understand it then as being offered as an amendment to the substitute which has been adopted for the first section of the bill.

Mr. LOVEJOY. I offer it precisely as it was offered before, with some verbal modifications.

Mr. STEVENS. Then of course we will have to take a vote upon the matter which he proposes to strike out—which is the substitute for bill No. 364, and which was substituted for the whole original bill—before a vote is taken upon the bill of the gentleman from Illinois. But the Chair understands the gentleman to offer it as an amendment to the present amendment.

The CHAIRMAN. The Chair understood the gentleman so.

Mr. STEVENS. I understand the gentleman from Illinois as having withdrawn his amendment as formerly moved, and to move it again, insisting, however, that it is merely a correction.

Mr. LOVEJOY. I understood the Chair to decide that the motion I made was not in order, but that it was in order to offer my bill as a substitute, and I did so. I supposed that I had offered it as a substitute for the original bill. That was my recollection of it, but the Chair decides that it was not so, but that it would be in order to offer it now as a substitute.

Mr. STEVENS. Then the gentleman offers it as a substitute for what has become the text of the bill, and the Chair did not decide that it was not correct to offer it then, but only that a vote cannot be taken upon it until after the text of the bill is perfected. Now, we must go on and perfect that which the gentleman proposes to strike out before we take a vote upon his substitute.

Mr. CAMPBELL. I understand the practice of the House to be—it has been frequently so ruled, and I do not understand the chairman to dissent from it—that inasmuch as the gentleman from Illinois has now offered an amendment in the way of a substitute for the entire bill of the committee—or rather for the substitute, which has now become the original text—we must go on and perfect that original text, and that a vote cannot be taken upon the substitute of the gentleman from Illinois until we are through with the text. If I am right in that, then I understand the Chair.

The CHAIRMAN. The Chair will state the matter again: the text before the Chair is the original bill, and that is the matter to be amended and perfected. That being before the committee, the committee on the Pacific railroad offered its substitute, by way of an amendment, to strike out all after the enacting clause, and insert what is, in fact, a new bill. Then the gentleman from Illinois, pending that amendment, offers, in the understanding of the Chair, to amend the amendment; and it being a second amendment, his whole proposition must be taken together; and the Chair ruled it in order as such. If he offers it as a substitute for the original bill, that is quite another question, which the Chair has not decided. The Chair understood his amendment to be proposed to perfect the pending amendment, which was the proposition of the select committee to amend the text, which is the original bill.

Mr. WHITE, of Indiana. It follows, then, as a matter of course, that we have a right to perfect the details of the substitute offered by the select committee, before a vote can be taken upon the proposition of the gentleman from Illinois.

The CHAIRMAN. The Chair understands the motion of the gentleman from Illinois to be an effort to perfect the pending amendment.

Mr. KELLOGG, of Illinois. Upon this question of order I desire to say a word. The proposition of the select committee was this bill for the construction of a Pacific railroad. The next step in the proceedings was the offering by them of a substitute, as they had a right to do. Parliamentary law, then, would permit the friends of the bill to perfect that original bill, if they desired to do so. In all these proceedings the original bill is the text, and the substitute, in parliamentary law, is in the nature of an amendment. But, while the friends of the bill have a right to perfect it, if they desire to do so, yet, as the substitute is before the committee, and an amendment has been adopted thereto, it is competent yet to amend the substitute. But it is not competent to go on with this second substitute and perfect it, because the result would be that, instead of having four pending amendments, which you may have under the doctrine of substitutes, you will have six pending amendments. The gentleman from Illinois having introduced his amendment to the substitute, and it being an entire bill, you cannot now proceed to perfect it, but must vote upon it as it is, or else a vote must be taken, if anybody desires it, upon amendments to the original bill which is being perfected. So there is no perfecting a substitute for a substitute, as the original substitute is not the text, but an amendment.

Mr. CAMPBELL. I rise to a point of order. It is that this debate is out of order.

Mr. LOVEJOY. I made my point of order in good faith. There is one point I wish to hear the Chair upon. The original bill was offered, and my amendment, in the way of a substitute, was offered on the 8th of April. The substitute of the committee was not offered until after that. Then, how can my amendment be an amendment to that which was not before the committee when I offered my amendment?

The CHAIRMAN. The Chair understood the gentleman as offering his substitute when the bill and substitute were before the committee.

Mr. LOVEJOY. If the decision of the Chair stands, and my bill is now before the committee, and it shall be adopted, what would be its position?

The CHAIRMAN. It would then be a substitute for the bill.

Mr. LOVEJOY. Then, I ask the Clerk to proceed with the reading of my bill. I withdraw my point of order.

Mr. WHITE, of Indiana. I desire to offer an amendment.

The CHAIRMAN. It is not in order now, if the gentleman from Illinois insists upon his amendment.

Mr. WHITE, of Indiana. I understand the gentleman to withdraw his amendment.

The CHAIRMAN. Does the gentleman from Illinois insist upon his amendment?

Mr. LOVEJOY. I ask the Clerk to proceed with the reading of my bill, in accordance with the decision of the Chair.

The Clerk proceeded with the reading of the substitute; but was interrupted by

Mr. LOVEJOY, who said: After consulting with the friends of the original bill, I have concluded to withdraw my substitute for the present, as I do not wish to embarrass the bill.

Mr. WHITE, of Indiana. I now move to amend the first section of the bill. It is to add to the amendment heretofore adopted the words:

The directors to be appointed by the President shall not be stockholders in the Union Pacific Railroad Company.

The amendment was agreed to.

Mr. BLAIR, of Missouri. I desire to move a verbal amendment. The name of one of the corporators from Missouri is printed William McPherson; it should be William M. McPherson. I move that the amendment be made accordingly.

The amendment was agreed to.

Mr. SHEFFIELD. I move to strike out "two," in line sixty-eight, and insert "fifty;" so that it shall read "fifty thousand shares." I notice that it is provided by this section of the bill that the stock of this corporation shall be divided into one hundred thousand shares. It is the custom, so far as I know, of the States to require that the entire stock shall be subscribed before a corporation shall be permitted to go into operation; and it seems to me, that as we are incorporating so large a company as this, there should be at least one half of the capital stock subscribed before the corporation shall go into operation.

Again, the amount of money which is to be paid in under this section of the act is simply $20,000 before the company shall go into operation. There is no provision in the charter that I am aware of, I am not, however, very familiar with it, by which we can compel any further sum to be paid in.

Now, it seems to me that there ought to be ten per cent. on the fifty thousand shares paid in before the corporation shall be permitted to go into operation. It is very unsafe to the public to allow a corporation of this magnitude, capable of performing so much mischief as this corporation may perform, to be launched out upon so small a capital. We ought certainly, before we advance so enormous a sum of money as is proposed to be advanced by this act, thus far guard the public against imposition.

Mr. PHELPS, of California. I regret very much to see this kind of amendments offered. I cannot think they are offered for any other purpose than to embarrass the favorable action of this committee upon this bill. Under the provisions of the bill as it now stands, when there is subscribed in good faith two thousand shares, of $1,000 each, the company is authorized to organize and choose directors. I venture the assertion that that is as large an amount as is usually exacted by any State in the organization of a railroad company anywhere. We have already adopted a provision that the directors of the company shall be stockholders to the extent of at least $5,000, and the sooner that the parties whom we name in this bill are displaced by parties actually interested in the road, the better it will be.

Now, the fact that this is a large incorporation does not justify us in embarrassing it by requiring a larger proportionate amount of subscriptions before organization than we would if it were a small company. For a small company, requiring but two or three hundred thousand dollars capital, it would be no very great hardship to require the whole amount of stock to be subscribed before the company could be legally organized, but that is not the case here. I think the amount required by the bill, as it now stands, to be subscribed before they organize is sufficiently large, and I hope the amendment will not be adopted.

The question was taken on Mr. SHEFFIELD's amendment; and it was disagreed to.

Mr. SARGENT. I move to amend the second section by striking out the following words:

And the right of way and lands granted by this act shall be exempted from taxation within the Territories of the United States.

The amendment was agreed to.

Mr. SHANKS. I move to strike out the following words:

And the right, power, and authority is hereby given to said company to take from the public lands adjacent to the line of said road, earth, stone, timber, and other materials for the construction thereof.

This clause which I propose to strike out grants to the company the power to take from the lands of the United States the materials to construct their road after we have given them the alternate sections of the public lands for ten miles on either side of the road, making a width of twenty miles, and giving them a strip of ten miles along the entire line of the road. They ask us also to give them the timber off the sections of land which we retain for the settler, so that his land will be stripped of timber while it may be that the timber on the sections given to the road would be left untouched. I do not say that that would be the case, but we know frauds are sometimes committed in this country, and might be committed in this instance.

Mr. SARGENT. The grant of land in this bill is much smaller than that proposed in any other Pacific railroad bill ever introduced into Congress and much smaller than that proposed in any of the pending amendments. It may be that it is too large. It seems to me, however, that this is the manner in which the Government can extend its aid to this work at the least expense and with the greatest benefit to the Government. If the argument of the gentleman amounts to anything, it is that too much land is granted. But upon a large portion of the route, through the deserts and other places, the land is absolutely valueless, and the committee propose by an amendment to this substitute, to strike out the provision which authorizes the company to select lands in place of those worthless lands, and that will very much contract the grant of land to be enjoyed by the company.

Now, it seems to me that the provision that they may use the stone and timber, which may be very necessary in order to carry on the work, is not an extravagant grant. It has been in every Pacific railroad bill that has ever passed, and it seems to me that the gentleman from Indiana evinces a misapprehension of the spirit of the bill in proposing this amendment. It cannot injure the Government to allow the company to take the stone and timber along the route and apply it to the uses of the road, when at present it is of no use whatever, and never may be, unless the road is built. I think the amendment ought not to be adopted.

Mr. SHANKS's amendment was disagreed to.

Mr. WHITE, of Indiana. I move to strike out the word "two," in the eighth line, and insert "one;" so as to reduce the right of way from four hundred feet to two hundred feet. I desire to say, that two hundred feet is an abundant roadway for any road in the world. Four hundred feet is about twenty-five rods. There should be a provision in the bill authorizing the removal of any timber, or anything which may by possibility obstruct the road, but a right of way as wide as that of the Illinois Central railroad is abundant for any company in the country, over the plains or through the mountains. I do not see what the company wants with four hundred feet right of way.

Mr. CAMPBELL. Engineers who have surveyed the route say that the heavy embankments, side-cuts, and other things render it necessary to have two hundred feet on either side. It is not an ordinary road, or to be constructed over ordinary ground. Some of the embankments over the mountains will extend over one hundred feet on either side. The greater part of the road is to be constructed through the mountains, and over the plains, and there ought to be no unreasonable limit placed upon the right of way. The engineers say that over one hundred feet on either side will be needed, and the committee thought it best to give them two hundred feet on either side.

Mr. WHITE, of Indiana. My object was to call out the gentleman, and ascertain whether this is really necessary in the judgment of engineers. I now withdraw my amendment.

Mr. CAMPBELL. Mr. Chairman, in order to meet the views of gentlemen who are friendly to this measure, I move to amend the third section, by striking out all after the word "fixed," in the tenth line, to the word "railroad," in the sixteenth line, inclusive, and inserting in lieu thereof the following:

Provided, That all mineral lands shall be excepted from the operation of this act.

The amendment explains itself.

Mr. WHITE, of Indiana. I suggest to the gentleman that the proviso ought only to apply to this section and not to the entire act.

Mr. CAMPBELL. I will accept the modification, and substitute the word "section" for "act."

Mr. OLIN. I rise merely for the purpose of suggesting to the gentleman from Pennsylvania to modify his amendment so as to limit the selection of land to somewhere in the vicinity of the road.

Mr. CAMPBELL made an explanation which was inaudible at the reporter's desk.

Mr. OLIN. By the gentleman's explanation my objection is obviated.

Mr. PHELPS, of California. I ask for the reading of the amendment.

The amendment was again read.

Mr. OLIN. As the amendment is now read by the Clerk I do not understand that it obviates the difficulty which occurred to my mind.

Mr. CAMPBELL. The section provides substantially that if the company finds the lands to be worthless or mineral lands within the alternate sections granted in the bill, the company may go elsewhere, under the direction of the Secretary of the Interior, and select lands in lieu thereof, as near as may be to the line of said railroad, but of course outside of the alternate sections. We found, however, that the friends of the homestead policy and of preëmption, and other gentlemen, thought that this was too broad a grant, and on reconsideration, we thought it advisable to strike out entirely the right to go elsewhere for land, and to confine the company within the five alternate sections on either side of the road, and at the same time to except mineral lands.

Mr. OLIN. I so understood the gentleman's explanation before; but I do not understand, from the reading of the amendment, that its provisions are as he states them.

Mr. CAMPBELL. Oh, precisely.

Mr. OLIN. If they are so, I have no objection.

Mr. CAMPBELL. They are so.

Mr. OLIN. But if the provision leaves this company, as it seems to me it does, with the right to go, under the direction of the Secretary of the Interior, to the Gulf of Mexico, the North pole, or 54° 40', then I am opposed to it.

The CHAIRMAN. If the gentleman from New York will let the Clerk read what is proposed to be stricken out, his objection will disappear.

The amendment was again read.

The question was taken on Mr. CAMPBELL's amendment, and it was agreed to.

Mr. LOVEJOY. I move to amend the fourth section by adding at the close the following proviso:

Provided, That the provisions of this section shall not apply to any road either wholly or partially constructed at the time of the passage of this act.

Mr. STEVENS. I do not know that it will make any difference; but I intended to move an amendment to a preceding part of the section.

Mr. LOVEJOY. I have no objection to withdrawing my amendment for a time.

Mr. STEVENS. I move to amend by striking out of the seventh line the words "with rails," and to insert in lieu thereof the words, "the rails and all other iron used in the construction and equipment of said road shall be of American manufacture of the best quality." The proposition explains itself, and I do not care to discuss it.

Mr. DIVEN. To what does the gentleman mean that provision to apply?

Mr. STEVENS. I mean that it shall apply to the chairs, the spikes, and the locomotives. These are all now being made in great abundance in the United States. Unless this road is to furnish some advantage to the manufactures of the country I am opposed to the bill. But if it is to give advantages equivalent to what I suppose to be the burdens imposed upon the people, I shall support it.

Mr. DIVEN. I can inform the gentleman that car wheels are now manufactured of foreign iron.

Mr. STEVENS. If so, there is no necessity for it. I know that the very best wheels manufactured now are manufactured of American iron. I know that one establishment in our county sends to Boston iron for wheels which chills better than the foreign iron. I can see no necessity for foreign iron being used.

Mr. MORRILL, of Vermont. I move to amend the amendment, by adding the words, "and to be procured from the mines and forges nearest to the road." Of course it is not the purpose of the gentleman from Pennsylvania to put this road to the vast expense of bringing iron from remote distances.

The CHAIRMAN. No amendment is in order at this time.

Mr. STEVENS. I did not know that my friend from Vermont was possessed of such a fund of irony. [Laughter.] Of course, sir, the company will get its iron wherever it can procure it cheapest and best. If the gentleman will move to insert these words as an amendment I will think he is in earnest. However, as he is a little for fun this morning, and as I like it very much myself, I have no objection; but I hope his amendment will not be adopted.

The CHAIRMAN stated the question to be on Mr. STEVENS's amendment.

Mr. MORRILL, of Vermont. What has become of my amendment?

The CHAIRMAN. The Chair understood the gentleman to offer it only as a suggestion.

Mr. MORRILL, of Vermont. Oh, no. I offered it as a positive amendment.

The CHAIRMAN. Then it was not in order.

Mr. STEVENS's amendment was agreed to.

Mr. MORRILL, of Vermont. I now move to amend, by adding to the amendment just adopted the words, "and to be procured from the mines and forges nearest to the road."

Mr. PHELPS, of California. I am opposed to the amendment, because it would compel this company to deal with persons who may have forges a little nearer to the road and would charge higher prices.

Mr. MORRILL, of Vermont. I have no objection to adding the words, "provided it can be obtained at as low prices."

Mr. PHELPS, of California. Then the whole amendment is unnecessary.

Mr. McKNIGHT. Mr. Chairman——

Mr. STEVENS. Oh, take the vote.

The CHAIRMAN. No further debate is in order.

Mr. McKNIGHT. I would like to have the amendment put in the shape suggested by the gentleman from Vermont before the vote is taken on it: that is, "provided it can be obtained at as low prices."

Mr. COLFAX. I rise to a question of order. I inquire whether this is in accordance with the principles of the Morrill tariff?

Mr. MORRILL, of Vermont. I think it is.

The CHAIRMAN. Debate is out of order.

Mr. MORRILL's amendment was rejected.

Mr. LOVEJOY. I now move to amend by adding at the end of the section the words:

Provided, That the provisions of this section shall not apply to any road either wholly or partially constructed at the time of the passage of this act.

Mr. BLAIR, of Missouri. I should like to have some explanation of the object of this amendment.

Mr. LOVEJOY. My purpose is this: that if there are any roads already constructed—and I am told that there are forty miles constructed that were covered by the original bill and the second substitute—we are not to pay for them.

Mr. BLAIR, of Missouri. This section applies simply to the road between the western boundary of Kansas and the western boundary of Nevada. There is no road between these points to which this can apply.

Mr. LOVEJOY. That has been suggested to me, and it may be the fact that the present bill only covers that region. But there may be a purpose to have some bill to cover other portions of territory. If that is true, then my amendment will do no harm; if it is not true, then my amendment is necessary.

Mr. BLAIR, of Missouri. The gentleman's amendment applies to that section which contemplates the building of a road between the western boundary of Kansas and the western boundary of Nevada, where, as everybody knows, there is no road in existence.

Mr. LOVEJOY. I understand that this whole amendment applies only to that region between the western line of Kansas and the western line of Nevada.

Mr. BLAIR, of Missouri. The section, as it now stands, amended yesterday on the motion of the gentleman from Pennsylvania, [Mr. STEVENS,] confines the corporation created by this bill to the two points that I have named.

Mr. LOVEJOY. There can be no possible objection, except that it is inapplicable; and in that case it can do no harm. But before we finish the bill in another portion of it, it may so happen that other sections of road may slide into the bill to which my amendment would be applicable, and then it would be useful.

Mr. BLAIR, of Missouri. I will suggest to the gentleman from Illinois that if it is inapplicable to the bill, that is a sufficient objection to the amendment.

Mr. LOVEJOY. I do not know that.

Mr. CAMPBELL. If, as we proceed with the bill, any provision should be adopted to which the amendment of the gentleman from Illinois would be applicable, then would be a proper time to offer it. It certainly is not applicable to this section.

The amendment was not agreed to.

Mr. WHITE, of Indiana. I submit an amendment which seems to me to be necessary from the amendment adopted on motion of the gentleman from Pennsylvania, which provides that the rails shall be of the best quality of iron, but does not provide for the weight of the rails. I move to amend by inserting, "the rails to be used shall not weigh less than sixty pounds to the lineal yard."

Mr. CAMPBELL. They ought not to be less than that weight, certainly. I think they ought to weigh more. That, however, ought to be left entirely to the company, who are required to construct a first-class railroad. It is, therefore, useless to fix a limit for the weight of the rails. The general requirement will be sufficient to accomplish the purpose which the gentleman seeks to accomplish.

Mr. WHITE, of Indiana. If it does not do good, it can do no harm. There can be no objection to it.

The amendment was disagreed to.

Mr. COX. I move to amend by striking out the provision in this section relative to the description of iron to be used, and to insert in lieu thereof as follows:

With rails, and all the other iron used in the construction and equipment of the said road, to be purchased in the cheapest markets of the world.

The amendment was disagreed to.

Mr. CRADLEBAUGH. I move to amend by inserting, after the word "aforesaid," in line fifteen of section four, as follows:

Excepting from said conveyance, all minerals in the lands conveyed, and reserving to the public the right to prospect therein for minerals and the working of the mines discovered thereon; the owner of the lands to be compensated for such injury as may be done to his improvements thereon, or to his lands considered as agricultural lands, which compensation shall be assessed by a jury, in such manner as may be provided by law, and shall be paid by the person or persons doing said injury.

My object in offering that amendment is this: the previous section, it is true, provides that the lands to be conveyed to this company shall not include mineral lands. They are excluded by the terms of the bill; but suppose that, without ascertaining the fact, such lands are actually conveyed to the company, their title to the lands becomes perfect. It will then be too late to prevent such lands from coming into the full possession of the company. Now, what I propose is, that when discoveries of minerals in those lands are made subsequent to the location of the route and the conveyance of the lands, such lands shall be open to the public the same as all other mineral lands of the Government, to be worked; but that the owner of the land shall be compensated for any injury he may sustain thereby. I think it is our duty to make this provision for that country through

which this road is to run. There is a vast mineral field through which a portion of this road runs. It is our duty to see that these lands by no process get into the hands of private individuals or corporations.

For further security to carry out the provisions of the section, I propose that these lands, after they shall have been conveyed to the railroad company, shall remain open, to be prospected upon by the public, and if they shall be found to be mineral lands they shall be thrown open to the public; but whoever occupies them or holds a title to them shall be allowed compensation for the injuries he may sustain in consequence of their being thus thrown open to the public.

Unless a provision of this kind is inserted in the bill, I am afraid we shall be placing an impediment in the way of the full development of the rich mineral field through which this road is to pass.

Mr. SARGENT. I am opposed to the amendment. It seems to me that it is very injudicious for a great many reasons, and for reasons which the gentleman from Nevada ought to appreciate. It has been the policy of the United States heretofore to leave the local care of the mines of gold and silver in the States and Territories to the people of those States and Territories. Whenever that system is changed I trust it will be by a carefully considered bill, and that it will not be by patchwork legislation.

The amendment of the gentleman proposes to allow the public to enter upon the lands of any man, whether they be mineral lands or not, and prospect for gold and silver, and as compensation proposes some loose method of payment for the injuries inflicted. Now, sir, it may turn out that the man who thus commits the injuries may be utterly insolvent, not able to pay a dollar, and how is the owner of the property to be compensated for tearing down his dwellings, rooting up his orchards, and destroying his crops?

I cannot think this committee will seriously entertain such a proposition as that of the gentleman from Nevada. The mineral lands through which this road is to pass are already excepted in this bill from the lands to be granted to this company. They will still belong to the Government of the United States. This bill proposes for the mineral lands affected by it the same policy that the Government has always pursued, and whenever a change is to be made in that policy I want to be heard upon it more at length than I can be in a five minutes' speech.

I hope for these reasons the committee will vote down the amendment of the gentleman from Nevada.

The amendment was disagreed to.

Mr. CRADLEBAUGH. There is an amendment on the Clerk's desk which I sent up when the third section was pending, but which was overlooked by the Chair. I ask that it may now be considered.

The CHAIRMAN. The committee having passed the third section, the gentleman's amendment can only be considered by unanimous consent.

Mr. CAMPBELL. I must object.

Mr. LOVEJOY. I move to amend by striking out from the fourteenth line of section five the words "part or portion," and inserting "entire line." As a part of the same amendment, I move to strike out the word "so," in the fifteenth line, and after the word "completed," to insert "in accordance with this act;" so as to make the clause of the section read:

And to secure the repayment to the United States, as hereinafter provided, of the amount of said bonds so issued and delivered to said company, the issue of said bonds and delivery to the company shall *ipso facto* constitute a first lien or mortgage on the entire line of the railroad and telegraph finished and completed in accordance with this act, and in consideration of which said bonds may be issued.

My object is to make a mortgage or lien upon the whole road, instead of only the particular section for which a particular sum of money is advanced.

The CHAIRMAN. The Chair will suggest that the gentleman can offer but one amendment at this time.

Mr. LOVEJOY. Then I will offer the first one indicated by me, to strike out the words "part or portion," and insert "entire line."

The amendment was agreed to.

Mr. LOVEJOY. I now move, in the fifteenth line, to strike out the word "so," and to insert in the same line, after the word "completed," the words "in accordance with the provisions of this act."

Mr. CAMPBELL. I think a literal construction of the section as it stands would accomplish the same object the gentleman from Illinois proposes by his amendment. The gentleman's object is to make a lien on the whole road as fast as sections of it are finished.

Mr. LOVEJOY. Yes, sir; my object is to create a lien upon the entire line of the road.

Mr. CAMPBELL. I have no objection to the amendment.

The amendment was adopted.

Mr. WILSON. I move to amend, in the seventh line of the section, by striking out the word "six" and inserting "five;" so that the clause will read:

That, for the purpose herein mentioned, the Secretary of the Treasury shall, upon the certificate in writing of said commissioners of the completion of any forty consecutive miles of said railroad and telegraph, in accordance with the provisions of this act, issue to said company bonds of the United States of $1,000 each, payable in thirty years after date, bearing five per cent. per annum interest.

Mr. Chairman, the rates of interest fixed in this bill which the bonds of the United States are to bear is six per cent., and is greater than that which has been fixed in other bills. I think five per cent. is sufficient.

Mr. CAMPBELL. I hope the amendment will not be adopted. There is no reason why, after giving what we believe is barely sufficient to enable the company to build the road, we should not make our bonds bear the same rate of interest which is the established rate in the country—that is, six per cent. They could not be negotiated at par if the rate is fixed at less. I am disposed to treat this company fairly, and I do not think it will be treating them fairly if we fix the rate of interest on the bonds we propose to give them at less than six per cent.

Mr. WILSON. I ask the gentleman whether the bills which have been heretofore reported provide for more than five per cent. interest?

Mr. CAMPBELL. Some of them have made the rate of interest six per cent. and some five, but I am certain the bonds cannot be negotiated for par if the rate is less than six.

The amendment was disagreed to.

Mr. STEVENS. I move to insert in the ninth line, after the word "annual," the words "which interest may be paid in United States Treasury notes, or any other money or currency which the United States shall declare legal money or a legal tender." My object in moving that amendment is, that the payment of interest shall not be confined to specie; but that it may be made in the legal currency of the country.

Mr. CAMPBELL. I do not object to the amendment.

The amendment was agreed to.

Mr. LOVEJOY. I move, in the twentieth line of the fifth section, to strike out the words "such portion or portions of," and in lieu thereof to insert the word "the;" so that it will read:

And on the refusal or failure of said company to redeem said bonds, or any part of them, when required so to do by the Secretary of the Treasury, in accordance with the provisions of this act, the said road, with all the rights, functions, immunities, and appurtenances thereunto belonging, shall at once vest in the United States, &c.

The amendment was agreed to.

Mr. LOVEJOY. I move, in the same clause, to insert the word "entire," before the word "road," and after that word to insert "constructed under the provisions of this act."

Mr. SARGENT. I do not know but that this amendment is offered in good faith by the gentleman from Illinois, but it is certainly a departure from what I deem to be correct and fair dealing with these companies. The theory of this substitute is that we are going to employ certain companies, and to aid them in building a certain portion of the road. We have allowed a mortgage to be held by the Government on those portions. If there should be a default on the part of any portion of the road, then it is provided that that portion should be forfeited to the United States. But the road in California or Kansas may pay its full share and act up to all of its obligations, while the central portion of this Pacific railroad may not, or the central may do so and one of the others may not. Additional legislation may be needed hereafter, so as to compel the building of the road in one or more of its links, though I think not. We cannot expect to make an absolutely perfect bill, one that will be free from all objections, when there is so much difference of opinion. The amendment would savagely provide for forfeiting this entire road, in which millions of private capital would be invested, because the central portion, or one of the ends, may have failed to pay its bonds or some portion of them, notwithstanding the other portions of the road may have promptly paid their bonds and the Government have a mortgage on the defaulting portion. I am not in favor of forfeiting all of these roads because any one of them may fail to pay its bonds. It is easy to find out where the default is, and at once to provide the remedy by the further legislation I have spoken of, and which is provided for in this bill.

I do not believe, Mr. Chairman, that it is right to encourage separate companies to go on and build these roads, and then to provide that if a single link shall fail, then that and all the other links which may have paid shall be forfeited to the United States, without chance for redemption or any redress. I say that it is a monstrous proposition. Because the amount is not paid over on one hundred miles of the road, although it may have been paid over on all of the rest, it is gravely proposed by the gentleman from Illinois that in that case we shall provide for the confiscation of the whole road from the Missouri to the Pacific. I say that the amendment is monstrous, and I do not think that this committee ought to adopt it.

The CHAIRMAN. The first amendment moved by the gentleman was adopted. If there be no objection it will be considered as pending, as the two amendments relate to the same matter.

There was no objection.

Mr. LOVEJOY. Mr. Chairman, I desire and that is the purpose of my amendment to make the entire line of the road responsible. The remarks of the gentleman from California would lead one to suppose that this measure has a disguised purpose. The gentleman says that we are going to entice the people to invest their money in these roads, and then make them responsible for the entire road. This bill, sir, proposes to entice the United States to make a liberal appropriation for the building of a succession of roads. Now we may make an appropriation of so much a mile to one company to build a road a certain distance from the point of commencement of this Pacific railroad. That is a profitable road, and the company will promptly pay all of its debts and meet all of its obligations. But there are other portions which will not be paying portions of this road, the receipts of which would not pay the cost of running them. These portions this bill proposes to give to the United States. Why, sir, they are worthless, and as I have said they would not pay the cost of running them. The roads running from three hundred to four hundred miles from either end of the road can be run and make a profit, and they will meet all of their obligations. But the other portions of the road will break down, and they will come to us asking for more money. I am for making the whole line responsible. We want, sir, a mortgage upon the whole line, and that is the purpose of my amendment.

The question was put; and on a division there were—ayes 17, noes 49.

Mr. KELLOGG, of Illinois, demanded tellers.

Tellers were ordered; and Messrs. KELLOGG, of Michigan, and LEHMAN, were appointed.

The tellers reported—ayes 31, noes 41; no quorum voting.

The roll was then called, and the following members failed to answer to their names:

Messrs. Goldsmith F. Bailey, Joseph Baily, Baker, Baxter, Beaman, Samuel S. Blair, George H. Browne, Burnham, Casey, Conway, Corning, Covode, Cravens, Crittenden, Davis, Delaplaine, Edwards, Ely, English, Fisher, Fouke, Gooch, Goodwin, Hale, Hanchett, Hickman, Hooper, Horton, Jackson, Johnson, Kelley, Knapp, Law, Lazear, Logan, McKean, Marston, May, Maynard, Justin S. Morrill, Noell, Pendleton, Perry, John S. Phelps, Pomeroy, Porter, Potter, Alexander H. Rice, Richardson, Robinson, Sherman, Sloan, Spaulding, Stratton, Train, Vallandigham, Vandever, Van Horn, Van Wyck, Vibbard, Wadsworth, Washburne, Webster, Whaley, Chilton A. White, and Wright.

The committee then rose; and the Speaker having resumed the Chair, Mr. CRISFIELD reported that the Committee of the Whole on the state of Union had, according to order, had the Union generally under consideration, and particularly the Pacific railroad bill, and finding itself without

a quorum had caused the names of the absentees to be noted, and had directed him to report the same to the House.

A quorum having answered to their names, the committee resumed its session, (Mr. CRISFIELD in the chair.)

The question recurred on the amendment of Mr. LOVEJOY, and it was disagreed to; the tellers having reported—ayes 48, noes 55.

Mr. SHELLABARGER. I move, in the fifth section, twenty-second line, before the word "shall," to insert the following:

Also all lands granted to the said company by the United States, which, at the time of said default, shall remain in the ownership of said company.

Mr. SARGENT. The committee have no objection to that amendment.

The amendment was agreed to.

Mr. SHELLABARGER. I move to insert the words "together with all interest thereon which shall have been paid by the United States;" so that it will read:

And to secure the repayment to the United States, as hereinafter provided, of the amount of said bonds so issued and delivered to said company, together with all interest, &c.

Mr. Chairman, that probably is the design of the clause as it stands, and I have moved the amendment only to prevent misapprehension.

The amendment was agreed to.

Mr. KELLOGG, of Illinois. I move to add the following proviso:

Provided, That this section shall not apply to that part of any road now constructed and forming a part of said forty miles.

Mr. Chairman, I am solicitous that this bill shall be so drafted as to accomplish the construction of this Pacific railroad; and I think that this amendment will help to that end. In principle and phraseology there is very little difference between my amendment and the one moved by my colleague. I am aware that under the amendment of the gentleman from Pennsylvania the ends of the road have been cut off, and that it is only to run from western Kansas to eastern California; but I feel assured that it is the intention of the committee to make the road run from eastern Kansas to the Pacific, and therefore my amendment is a proper one to be adopted.

What I am afraid of is this: that where there are so many interests, so many companies, they may strip off the gauze vail in which they are now presented here; and after figuring and engineering and managing, under the guise of building a great thoroughfare to the Pacific, they may get possession, not only of the bill, but of the bonds, and that when they shall have filled their own pockets, they will be enabled to drop the enterprise and accomplish what they desire, but not what the nation desires. If this provision is adopted, it can do no harm.

Mr. CAMPBELL. If I understand the amendment of the gentleman from Illinois, there can be no manner of objection to the amendment which he offers, for I am very sure that there is not a man upon the committee—and I do not believe a man in this House—who would undertake to receive a double compensation from the Government on parts of roads already constructed. Where ever there is a road now built, or a part of a road now built, which would come within the provision of this bill, and be incorporated into and form a part of the Pacific Railroad Company, there is no design to receive a bonus for that part already completed.

Mr. KELLOGG, of Illinois. I do not charge that upon the committee.

Mr. CAMPBELL. Of course not. I never supposed, for a moment, that the gentleman intended to impute such a thing to the committee, but I want the gentleman to understand that the committee have the same view of the subject; and if the gentleman's amendment is limited to those parts of the road constructed, leaving the bill to operate upon the part of the road to be constructed, the committee have no objection to the amendment.

Mr. KELLOGG, of Illinois. It is clearly and specifically so stated in the amendment.

The amendment was agreed to.

Mr. LOVEJOY. I am aware of several cases where gentlemen voted under a misapprehension in reference to one point on a former occasion, thinking it was the substitute they were voting upon; and for that reason I now propose to amend the fifth section by inserting, after the word "said," in the twentieth line, the word "entire;" and by striking out the words "with all the rights, functions, immunities, and appurtenances thereunto belonging;" so that the clause shall read as follows:

And to secure the repayment to the United States, as hereinafter provided, of the amount of said bonds so issued and delivered to said company, the issue of said bonds and delivery to the company shall, *ipso facto*, constitute a first lien or mortgage on the part or portion of the railroad and telegraph so finished and completed, and in consideration of which said bonds may be issued; and on the refusal or failure of said company to redeem said bonds, or any part of them, when required so to do by the Secretary of the Treasury, in accordance with the provisions of this act, such portion or portions of said entire road shall at once vest in the United States.

It does not seem to me possible that this House will refuse to make the entire line of this road responsible, allowing a section of it responsible and leaving a portion of it to refund to the United States.

Mr. STEVENS. I rise to a point of order. I believe that is the same amendment we have already voted on.

The CHAIRMAN. The Chair thinks the amendment is in order.

Mr. PHELPS, of California. So far as I am concerned, I am not opposed, and I presume no friend of this bill is opposed, to having the liabilities rest upon the whole line of the road built by any one company. It is in contemplation, it is true, that there shall be two companies, and there ought to be, in order to facilitate the construction of this road. If the gentleman's amendment shall be so worded that it shall apply to only that portion of the road, and the whole portion of the road constructed by any single company, or by the main line of the road, I shall be in favor of it. If, however, the indebtedness of one company is to apply to another, I think the committee very properly decided before that it should not be done.

Mr. LOVEJOY. We were told by a gentleman upon my left a few moments ago, that the provision applied to only one company; this one section, if I understood him, which was from the western line of Kansas to the eastern line of California. If that is true, this only binds one company, and makes it a unit, and responsible for its obligations.

The question recurring on the amendment of Mr. LOVEJOY,

Mr. WHITE, of Indiana, called for tellers.

Tellers were ordered; and Messrs. SHEFFIELD and BLAIR, of Missouri, were appointed.

The committee divided; and the tellers reported—ayes 34, noes 63.

So the amendment was not agreed to.

Mr. ALDRICH. I move to amend the fifth section, by striking out of the fourth line the words "any forty," and inserting "fifty;" so that the clause will read, "any fifty consecutive miles," &c. If the amendment is adopted, the company will be required to complete fifty consecutive miles before they can draw these bonds, instead of completing any forty miles, away out on the plains, perhaps, where it can be done for $10,000 per mile. If the amendment is adopted, I understand that the company will be compelled to commence at some point and complete the road right straight along. Forty miles of road alone, away out on the plains, would be of no use.

Mr. SARGENT. The gentleman is in error in supposing that his amendment will change anything in the bill beyond the mere extension of this section ten miles. It does not make any difference whatever about the company building the road out upon the plains, because the bill as it is says "any forty consecutive miles," and the amendment says "any fifty consecutive miles," so that it merely becomes a question whether it shall be forty or fifty miles. Under the bill as it stands they are required to complete forty miles before they can draw a dollar of bonds. The committee supposed that forty miles was about a fair distance. Forty miles will cost a heavy sum of money, and the committee thought that to compel the company to complete forty miles would be better than to compel them to complete two hundred miles, or fifty miles; therefore they put it forty miles. The gentleman is in error, because he only changes the distance from forty to fifty miles.

Mr. ALDRICH. The bill now reads, "any forty consecutive miles," while my amendment is not what the gentleman supposes, but it will leave the clause to read, "the completion of fifty consecutive miles."

Mr. SARGENT. If the gentleman will modify his amendment, so that it shall read, "the completion of forty consecutive miles," striking out simply the word "any," I will not object.

Mr. ALDRICH. I will modify my amendment in that way.

The amendment was agreed to.

Mr. WHITE, of Indiana. It will be observed, by reference to the section, that there is no provision in reference to the payment of the current interest. I therefore move to amend by adding to the section the following:

It is declared to be the true intent and meaning of this section that the current interest on said bonds shall be chargeable to said company, to be by them reimbursed to the United States within one month after each semi-annual payment thereof by the United States; and a default therein shall subject the said company to the same liability and forfeiture above provided for in case of the non-redemption of the bonds at their maturity.

The section, as it now stands, does not make any provision for the payment of the current interest as it accrues semi-annually. It may or may not have been the intention of the committee that the interest should be paid by the company. Probably it was; but if not, then this amendment, of course, will involve a principle which the committee have not sanctioned. If it was the intention of the committee, and it is the intention of the Committee of the Whole, that the railroad company shall pay the current interest, then, to avoid the difficulty and uncertainty which creditors will have, and to insure its prompt payment by the United States, this amendment provides that the Government shall first pay it, and the company reimburse it to the United States within one month. Of course, it will be a little gain to the company, to the extent of the interest upon the interest. This is the only way the interest can be promptly secured to the creditors.

Mr. CAMPBELL. I suppose, of course, that the gentleman from Indiana is acting in perfect good faith; but I am clearly of opinion that the gentleman has not studied faithfully the provisions of this bill. It has been demonstrated to this House that the cost to the Government of transportation to our forts in the Territories is more than double the amount of the entire interest upon all the bonds proposed to be issued; and the bill is based upon the supposition that the transportation of Government supplies over the road will be equal to, if not greatly exceed, the annual interest upon the bonds issued from year to year. It is the intention of the bill that the interest shall be paid semi-annually to the Government. It is not supposed that, in the first instance, the company will reimburse the interest to the Government. It will reimburse it in transportation; but if the transportation does not meet the interest, then the Government is to have a mortgage on the entire road for the full amount of principal and interest. I hope, therefore, that the amendment will be voted down.

Mr. WHITE's amendment was rejected.

Mr. HOLMAN. I move to amend by striking out the words "at reasonable rates of compensation, not to exceed the amounts paid by private parties for the same kind of service; and all compensation for services rendered for the Government shall be applied to the payment of said bonds and interest until the whole amount is fully paid," and by inserting in lieu thereof, the following:

And the said railroad shall forever remain a public highway for the use of the Government of the United States, free from any charge whatever upon the transportation of any property or troops of the United States.

I simply desire to say that the principle embodied in this amendment is the same that has been applied to all the railroads in the country to which railroad grants have been made; and I know no reason why an exception should be made in favor of this great and extensive thoroughfare which is to appropriate a large part not only of the lands of the Government, but of its credit.

Mr. CAMPBELL. Mr. Chairman, it will be observed that in our liberal grants of lands to western railroad companies, the roads were in almost every instance, if not in all, constructed through the rich prairie lands of the West; and the grants thus given by the Government to aid in the construction of those roads were of prime ne-

cessity and of very great value. The road contemplated by the bill before us differs from any road probably ever contemplated by the wit of man.

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

Mr. CAMPBELL. Certainly.

Mr. STEVENS. I see that all the roads in the West that were built by the aid of grants made by the Government, come in now with bills and ask to be paid for the transportation of troops and munitions of war this year. Is that so?

Mr. CAMPBELL. I believe that to be the case. I believe that, notwithstanding the rich grants of valuable lands made by the Government, we are now obliged to pay the usual rates of transportation for our troops and munitions. Now, Mr. Chairman, this road never could be constructed on terms applicable to ordinary roads. Every member of the committee knows that it is to be constructed through almost impassable mountains, deep ravines, cañons, gorges, and over arid and sandy plains. The Government must come forward with a liberal hand, or the enterprise must be abandoned forever. The necessity is upon us. The question is whether we shall hold our Pacific possessions, and connect the nations on the Pacific with those on the Atlantic slopes, or whether we shall abandon our Pacific possessions. Gentlemen are not to apply ordinary rules governing roads in the western States to this great enterprise. We must be liberal at the same time that we are just. We must aid this Pacific railroad to the extent of paying on the business of the Government the ordinary rates of transportation, or such rates as will be paid by individuals.

The road is a necessity to the Government. It is the Government that is asking individual capitalists to build the road. Gentlemen are under the impression that it is a very great benefit to these stockholders to aid them to an extent of about half the capital required. I beg leave to call the attention of gentlemen to the fact that it is the Government which is under the necessity to construct the road. If the capitalists of the country are willing to come forward and advance half the amount necessary for this great enterprise, the Government is doing but little in aiding the company to the extent of the other half by way of a loan. Not one dollar of it is given as a bonus to this company. Every dollar of it is to be secured on the investments of the company, and is to be repaid at the end of a certain period. If not repaid, the Government then steps in and takes possession of the entire road. The least that we can do is to pay for transportation over this road at the usual rates. The whole scheme is based upon a return to the United States of every dollar of the loan; and on that basis we certainly must feel ourselves obligated to pay the usual rates of transportation.

Mr. HOLMAN. I wish to ask the gentleman a question.

The CHAIRMAN. Debate is exhausted.

Mr. HOLMAN. I only desire to ask whether, considering the whole features of this bill, the Government is not really the contractor for building this road?

Mr. CAMPBELL. No, sir.

The CHAIRMAN. Debate is out of order.

The amendment was rejected.

Mr. HOLMAN. I move to amend by striking out the words "at reasonable rates of compensation, not to exceed the amount paid by private parties for the same kind of service," and inserting in lieu thereof the words "at such rates of compensation as the Government of the United States shall from time to time prescribe." The section provides that the amount to be paid for transportation of troops and supplies shall be at the same rates as may be paid by private parties. My amendment leaves the rates entirely at the discretion of the Government. It seems to me that after such enormous grants as we are making, of land, of bonds, and of credit, the corporators in this great enterprise may well afford to leave to the Government of the United States the fixing of the rates for transportation of troops and supplies. And I say, further, to the gentlemen especially interested in this question, that on the adoption or rejection of this amendment will depend certainly the votes of some gentlemen. There are many reasons why this bill ought to be passed, but certainly it will not be, unless its provisions are at least as favorable to the Government as to the corporators and capitalists who may be interested in the enterprise.

Mr. CAMPBELL. Mr. Chairman, the bill provides that Government shall have the preference in the use of this road for all purposes of Government transportation at fair and reasonable rates of compensation. I do not see the propriety of allowing the Government to fix the rates. The Government is not to be the owner of this road unless the company fail to perform its part of the contract, in which case the Government is to take possession of it under the charter, or under a forfeiture or foreclosure mortgage. But while the stockholders own the road, they certainly should have the privilege of fixing the rates of transportation. Why should the Government fix them?

Mr. HOLMAN. Will the gentleman yield?

Mr. CAMPBELL. I will.

Mr. HOLMAN. The gentleman lays stress upon the words "fair and reasonable compensation." The only question is, who shall determine that? All I insist on is that the Government shall determine what is fair and reasonable, instead of these corporators.

Mr. CAMPBELL. I think that, as in the case of all other railroad companies, the company itself should have the right to fix the rates; but they are controlled by the terms of the charter from fixing unreasonable rates or making unfair charges.

Mr. MORRILL, of Vermont. I would suggest to the gentleman from Indiana to modify his amendment by inserting "at the average rates paid by the War Department during the past year."

Mr. HOLMAN. Oh, no. That average would exceed by thirty-three and one third per cent. the rates paid by individuals for the like service during the same period of time.

Mr. MORRILL, of Vermont. Well, modify it by saying "at the lowest rate," instead of "at the average rate."

Mr. HOLMAN. Oh, no.

Mr. HOLMAN's amendment was rejected.

Mr. SHELLABARGER. I offer the following amendment, to come in at the end of the seventh section:

Provided, however, That upon the maps, profiles, and descriptions aforesaid being filed as aforesaid, the same shall be submitted by the President of the United States to three competent and disinterested commissioners, to be approved by the President and confirmed by the Senate, who shall discharge their duties upon oath, whose duty it shall be carefully to examine said maps, profiles, descriptions, and such other sources of reliable information as may be within their reach, and to determine whether the proposed route of said road is practicable as a continuous line of road throughout its entire length for the transportation of the mails, troops, munitions of war, and public stores of the United States; and no lands shall be granted nor bonds issued to the said company by the United States, in any event, until after said commissioners shall have determined as aforesaid that the said route is practicable as aforesaid.

I am very anxious to be able to vote for some Pacific railroad bill. The dangers that I apprehend from this bill are, first, that there is a very great liability that this thing will occur, which has been so often alluded to in the discussions upon this floor, to wit: that this bill will be made the means and instrumentality of a large draft upon the Treasury and lands of the Government without resulting in the construction of any continuous line of railroad from our States to the Pacific. The danger is found in the fact that there is nothing in the bill to prevent that which has been so often alluded to here, the construction of a portion of this road through such lands as are fertile and productive, and which portion is also, as we all understand, the cheapest and easiest made, drawing from the Government of the United States, first these alternate sections, extending ten miles on each side of the road, and of the most fertile lands, and then also $16,000 per mile, and the dropping of the enterprise there. Now, what degree of danger of that sort there may be I shall not, of course, undertake to assert in a five minutes' speech.

Another danger is this—and disguise it as you will, the fact still stares us all in the face—that it is not at all demonstrated that any line of railroad is now ascertained to be practicable for the purposes for which this bill is mainly advocated. There has not been made, as I understand—and if I am misinformed, I shall be very glad to be corrected—any accurate survey or profile of any line of railroad over the two great ranges of mountains that intervene between us and the Pacific. One has, perhaps, been made by the State of California over one hundred and fifty or two hundred miles, applicable to the Sierra Nevada; but beyond that there is nothing but these unreliable barometrical surveys, that do not even approximate accuracy.

If this amendment shall be adopted, there will be some additional changes required in other portions of the bill, which can readily be made. The object of the amendment is to interpose between the Treasury of the United States and the lands that are to be granted a commission of sworn officers, appointed by the President, and confirmed by the Senate, to whom shall be submitted, before any bonds are issued in favor of this company, or any land grants made, profiles, maps, and statements, such as are provided for in the amendment, upon which it shall be determined whether the route proposed and submitted to the Interior Department be or be not a practicable route.

I know, sir, that even this is a very inadequate protection to the Government. I should be very glad to see a better one devised, but it is, I think, very much better than nothing that somebody shall determine upon actual profile surveys whether the route is one over which the ordnance stores and other property of the Government, contemplated by this bill, can be carried on a continuous road.

[Here the hammer fell.]

Mr. CAMPBELL. I am sorry that the gentleman has not informed himself in regard to the very many and very accurate surveys which have been made of this entire route, at least so far as that portion is concerned from the South Pass to California.

Mr. SHELLABARGER. Does the gentleman mean to say that there have been accurate profiles made of actual surveys of this route over the Rocky mountains?

Mr. CAMPBELL. I do. I have seen the profiles, and ascertained the grades, and have examined every grade foot by foot, and mile by mile, and if the gentleman, when he has leisure, will accompany me, I can show him the profiles. I say that from the South Pass to California, every mile of this route has been surveyed.

Mr. CUTLER. I have been at some pains to ascertain whether there has ever been an instrumental railroad survey of the line across the Rocky mountain range. I have examined, as far as I have been able, all the facts connected with that subject, and I have not as yet been able to find anything that approaches an accurate instrumental survey of the line across the Rocky mountain range. There has been a very perfect survey of the line across the Sierra Nevada range, but when you have crossed that range, coming in this direction, you pass over the great basin at an elevation of some four thousand feet above the ocean level, and then you encounter the Rocky mountain range at an elevation of eleven thousand feet above the ocean, and over which, so far as I am informed, there has been no survey.

Mr. CAMPBELL. There have been barometrical surveys such as to satisfy committees of this House, both past and present, that the road is a practicable one, and that there is no difficulty that could not be overcome in its construction. But, sir, this is not pertinent to the question before the committee, and I hope the committee will excuse the digression.

The amendment of the gentleman from Ohio only provides for cumbersome machinery, and is totally unnecessary. The selection and survey of these lands is under the direction of the Secretary of the Interior, and I hope the House will not provide for cumbersome and quite impracticable machinery.

Mr. SHELLABARGER's amendment was rejected.

Mr. ARNOLD. I move to amend the seventh section by striking out the words "western boundary of Kansas," in line five, and inserting in lieu thereof:

Some point on the one hundred and second meridian of longitude west from Greenwich, to be determined by the Union Railroad Company, subject to the approval of the President of the United States.

The object of the amendment which has been read is to give to the Union Pacific Railroad Company the power, with the approval of the President, to determine where this main line of railroad shall start. It is provided in the eighth section of the bill that it shall start at the terminus of the western railroad, so that the Pacific railroad must start where a local railroad company chooses to make its terminus.

Now, the object of the amendment which I have offered is to provide that the company which we are about to create shall, with the approval of the President, determine the point on this one hundred and second meridian of longitude. It will not, gentlemen should observe, interfere at all with the various connections which are contemplated in the bill; but it will give the company itself the power to select the very best point of starting that, from an actual survey, can be found, so as to secure the largest business, the largest commercial interests, and so as to make the best connections that can be made. In other words, it will require this little local road to make its terminus at the point where the great Pacific railroad shall start, and not require the Pacific railroad to start at a point to be selected by the local company. It fixes, I repeat, the one hundred and second meridian of longitude, but otherwise leaves the company to select their own starting point.

Mr. BLAIR, of Missouri. Do I understand the gentleman from Illinois to say that the terminus of the western railroad is not at the one hundred and second meridian of longitude?

Mr. ARNOLD. I will inform the gentleman again what my proposition is. It provides that the words "western boundary of Kansas" shall be stricken out, and that it shall read "that the road shall start from a point on the one hundred and second meridian of longitude, which shall be determined by the Pacific Railroad Company under the approval of the President of the United States;" leaving the various roads in Missouri and Iowa to make their connections the same as are provided in the section as it stands. It will of course be for the interest of the company, as well as of the whole country, that the road should start from a point which will accommodate the greatest extent of country, and to accomplish that object it should make the most convenient connections with the roads running westwardly from the Mississippi river. It should be that point which will give the greatest commerce, and that point can be best determined by the company itself.

Now, then, shall we leave it to a local company in Kansas to determine, or shall we leave it to the Pacific Railroad Company to determine where the point shall be? My design is to confer upon the company the power of locating their road at such points as will furnish the greatest possible commerce.

I move the amendment with a view of perfecting the bill, and I am not aware that it is objectionable to the members of the committee having charge of the bill. Those with whom I have had the opportunity of conferring on the subject agree in its propriety.

[Here the hammer fell.]

Mr. BLAIR, of Missouri. The gentleman sets out upon a false predicate in this matter. The bill provides, as I understand it, as the committee agreed upon at its last session, when the gentleman from Illinois himself was present, that the location of the road shall be determined by actual survey upon the ground. The company are to be left free to select the best route across the continent, between certain degrees of latitude. The proper route can only be determined by actual survey upon the ground, and that discretion we agreed to leave to the company who are to construct the road.

Mr. ARNOLD. That is very true, and I do not propose to strike out that provision or interfere with it at all.

Mr. BLAIR, of Missouri. Now, Mr. Chairman, the question of the location of a railroad across the continent is, as I have said, one that can only be properly determined by engineers upon the ground. And when it is determined at what point it will cross the Rocky mountains, that will determine the point at which it will strike the one hundred and second meridian of longitude. That, I think, was by a vote of the committee incorporated into the bill. I have not looked at the bill very carefully at that point, but my recollection is that such were the instructions of the committee, that the point at which the road should strike the one hundred and second meridian of longitude was to be determined by the route of the railroad through the Rocky mountains, and that can only be determined by actual survey.

Mr. ALDRICH. The bill we are voting upon does not contain any such provision.

Mr. SARGENT. We intend it shall contain it.

Mr. ALDRICH. This is not the bill upon which the committee on the Pacific railroad finally determined, and I would suggest that we substitute that bill for the one we are voting upon.

Mr. BLAIR, of Missouri. The gentleman is well aware what was the determination of the committee in this respect.

Mr. ARNOLD. I propose to vote, when the time comes, for the very amendment to which the gentleman alludes, and the amendment which I have now offered only carries out the idea that the terminus of the road shall be at such a point as from actual survey shall be found to be the best for the interests of the road and for the interests of the country, and of course that must be determined, to a great extent, by the point at which the road crosses the Rocky mountains.

Mr. BLAIR, of Missouri. I repeat that that is provided for by the amendment which the committee on the Pacific railroad ordered to be incorporated in the bill, an amendment which received the sanction of the entire committee; and it seems to me that the amendment the gentleman now proposes is not only entirely unnecessary, but it looks also to another object which ought not to be sanctioned by the House.

I am in favor of locating this route by the surveys to be made through the Rocky mountains. I do not care where it goes so that we get the best route through the mountains. When we have determined that, the local routes can conform to it.

[Here the hammer fell.]

The amendment was disagreed to.

Mr. LOVEJOY. I move that the committee rise.

Mr. STEVENS. I wish the gentleman would withdraw the motion for a moment, to allow me to offer an amendment to perfect this section.

Mr. LOVEJOY. The committee can determine whether they want to rise or not.

Mr. STEVENS. I will renew the motion, I will occupy but a moment.

Mr. LOVEJOY. I ask for a vote upon my motion.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. CRISFIELD reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the special order, being a bill (H. R. No. 364) to aid in constructing a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes, and had come to no resolution thereon.

ENROLLED BILL.

Mr. GRANGER, from the Committee on Enrolled Bills, reported as truly enrolled a bill (H. R. No. 406) for the relief of Francis Hüttmann; when the Speaker signed the same.

REBEL BARBARITIES.

Mr. GOOCH, by unanimous consent, submitted the following resolution, which was read, and referred to the Committee on Printing:

Resolved, That there be printed for the use of the House fifty thousand copies of the report of the joint committee on the conduct of the war, submitted to the Senate on the 30th of April, in response to a resolution of the Senate directing it to collect evidence in regard to the barbarous treatment by the rebels of the remains of the Union soldiers killed at the battle of Bull Run.

And then, on motion of Mr. GURLEY, (at four o'clock and fifteen minutes, p. m.,) the House adjourned.

IN SENATE.

FRIDAY, *May* 2, 1862.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

PETITIONS.

Mr. HARLAN presented six petitions from citizens of Iowa, praying for the construction of a ship canal from Lake Michigan to the Mississippi river: which were referred to the Committee on Military Affairs and the Militia.

He also presented two petitions from citizens of Linn county, Iowa, praying for the abolition of slavery; which were ordered to lie on the table.

Mr. WADE presented two petitions of citizens of Ohio, praying for the confiscation of the property of traitors; which were ordered to lie on the table.

Mr. SHERMAN presented a petition of citizens of Ohio, praying for the abolition of slavery; which was ordered to lie on the table.

REPORTS FROM COMMITTEES.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the bill (H. R. No. 407) authorizing the Secretary of the Treasury to change the name of the vessel John Faron to Excelsior, reported it without amendment.

Mr. MORRILL, from the Committee on Commerce, to whom was referred the joint resolution (S. No. 62) authorizing and directing the Secretary of the Treasury to change the location of the light vessel on Eel Grass Shoals, reported it without amendment.

He also, from the same committee, to whom was referred the memorial of David Ogden and others, praying that the owners of ships or vessels may be refunded moneys alleged to have been illegally exacted of them by collectors of the customs for constructive permits for the examination and landing of the baggage of passengers, under the forty-sixth section of the act of 2d of March, 1799, reported adversely thereon.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ETHERIDGE, its Clerk, announced that the House had passed the bill (S. No. 177) for the relief of Sylvester Crooks.

The message also announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (No. 446) supplementary to an act approved on the 13th July, 1861, entitled "An act to provide for the collection of duties on imports and for other purposes;" and

A bill (No. 447) for the relief of Horace M. Hieskell, a paymaster in the United States Army.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House of Representatives had signed an enrolled bill (S. No. 124) relating to highways in the county of Washington and District of Columbia, and it was signed by the President *pro tempore*.

BILLS BECOME LAWS.

The message further announced that the President of the United States had approved and signed on the 21st of April an act (H. R. No. 287) to establish a branch of the Mint of the United States at Denver, in the Territory of Colorado; and on the 24th of April a joint resolution (H. R. No. 67) to supply the Smithsonian Institution with volumes of Wilkes's Exploring Expedition.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States transmitting a petition of citizens of Oregon and of Washington Territory, and a report of the Third Auditor of the Treasury, in relation to the Indian war claims in Oregon and Washington Territory; which were ordered to lie on the table, and be printed.

ARREST OF GENERAL STONE.

The PRESIDENT *pro tempore* also laid before the Senate the following message:

EXECUTIVE MANSION, WASHINGTON,
May 1, 1862.

To the Senate of the United States:

In answer to the resolution of the Senate in relation to Brigadier General Stone, I have the honor to state that he was arrested and imprisoned under my general authority, and upon evidence which, whether he be guilty or innocent, required, as appears to me, such proceedings to be had against him for the public safety. I deem it incompatible with the public interest, as also, perhaps, unjust to General Stone, to make a more particular statement of the evidence.

He has not been tried because, in the state of military operations at the time of his arrest and since, the officers to constitute a court-martial and for witnesses could not be withdrawn from duty without serious injury to the service. He will be allowed a trial without any unnecessary delay; the charges and specifications will be furnished him in due season, and every facility for his defense will be afforded him by the War Department.

ABRAHAM LINCOLN.

The message was ordered to lie on the table, and be printed.

MILITARY ASYLUM.

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

Resolved, That the Secretary of War be, and he is here-

by, directed to report to the Senate the present condition of the Military Asylum, together with a detailed statement of all funds which have been received for the benefit of that institution, and the different sources from which they have been received, from its organization to the present time; also of the disbursement of said funds, the amount of property owned by said asylum, the investments and the balances on hand, and where deposited, the number of invalid soldiers who have been supported at the asylum for each year since its organization, together with the annual expenses of supporting each inmate of the institution.

COASTWISE SLAVE TRADE.

Mr. SUMNER. I desire to give notice that I shall at an early day ask leave to introduce a bill to abolish the coastwise traffic in slaves, and to prohibit the transportation of slaves under the flag of the United States. In giving this notice, I desire to say that there is a disgraceful statute which still exists unrepealed, and my object in the bill which I propose to introduce is to remove it from the statute-book.

MAJOR AND BRIGADIER GENERALS.

Mr. GRIMES. I ask leave to introduce a bill of which no previous notice has been given.

Leave was granted by unanimous consent; and the bill (S. No. 297) to limit the appointment of major generals and brigadier generals in the Army and volunteers, was read twice by its title.

Mr. GRIMES. Mr. President, I move that the bill be referred to the Committee on Military Affairs and the Militia. I desire to say that I have made several ineffectual attempts to do something toward curtailing the number of general officers in the Army of the United States, or at least preventing the continued increase of them. It does seem to me that the time has arrived when it becomes the duty of the Congress of the United States to limit the number of these officers. We are told every day that this is going to be a financial war more than a war to be fought upon the battle-field. If so, it seems to me that the time has arrived when we should attempt to curtail some of the expenses of the Government. We have now between two hundred and three hundred brigadier generals in the United States Army, while the French army, the official register of which I have before me, with a force of about seven hundred thousand men, has only one hundred and sixty brigadier generals on the active list. We exceed their number to-day more than one hundred, and yet we are constantly increasing them, and increasing by the appointment not of men who have distinguished themselves upon the battle-field, not of men who have shown gallantry in action, not of men who have had military educations, not of men who have shown skill in the handling of troops, but mere political appointments, men who, so far as we know, have not the slightest military capacity. Why continue to increase them while the line of service is being decreased? We are told that we want a brigadier general for every four regiments. Each regiment, when it went into the field, embraced somewhere from eight hundred to one thousand men; but they have been greatly depleted. Take for instance some of the regiments from my State. The seventh Iowa regiment lost nearly three hundred men at the battle of Belmont, lost upwards of one hundred at the battle of Donelson, at Pittsburg Landing lost nearly two hundred more, and from disease has lost another hundred or two, so that now it is actually reduced to somewhere in the neighborhood of two hundred men; the second is reduced in the same way; so are the eighth, the twelfth, and the fourteenth, from the same causes. You can embrace a dozen such fragments of regiments in one brigade; and instead of increasing the number of brigadier generals all the time as the war progresses, it is our interest and our duty to decrease them. I commend this subject to the attention of the Military Committee of the Senate; and whatever may be their action on the subject, I can say hereafter that I have done whatever lay in my power to stop this constant increase of general officers in the Army.

Mr. WILSON, of Massachusetts. I should like to hear the bill read.

The Secretary read the bill, which provides that the third section of the act of July 25, 1861, entitled "An act in addition to an act to authorize the employment of volunteers to aid in enforcing the laws and protecting the public property, approved July 22, 1861," shall be so construed as not to allow the appointment of more than twenty major generals and two hundred brigadier generals in the Army and volunteers.

Mr. WILSON, of Massachusetts. I have no objection certainly to the reference of the bill. I will say that it is the opinion of the Committee on Military Affairs that we have had or are having too many of these general officers made; and we have now before us in the committee quite a large number of these nominations, and I think it will be some time before they will be reported, with perhaps here and there an exception of some important man. I repeat that I have no objection to the reference of the bill.

Mr. GRIMES. The Senator from Maine [Mr. FESSENDEN] suggests that I amend the bill by fixing the number of brigadiers at one hundred and fifty, instead of two hundred. I suppose it is well enough to leave the bill as it is, and let the Committee on Military Affairs change it if they think proper; but I desire to say in this connection that I have been told by two generals of the Army, who have no interest either in the increase or in the decrease of the number, who are skillful officers, whose opinion I rely upon, that there is not the slightest necessity for more than one hundred brigadier generals in our Army; but I leave the number to be fixed by the Committee on Military Affairs.

The bill was referred to the Committee on Military Affairs and the Militia.

APPOINTMENTS IN THE MARINE CORPS.

Mr. HALE. I offer the following resolution:

Resolved, That the Committee on Naval Affairs be instructed to inquire if it be not practicable and expedient to regulate by law the selection and appointment of officers in the Marine Corps.

I want to make a single statement, that the Senate may understand this matter, for I think it requires action. The selection of officers in the Navy is regulated by law by the appointment of midshipmen at the Naval Academy; the selection of officers in the regular Army is regulated by the appointment of cadets at the Military Academy; but the appointment of officers for the Marine Corps is left without any regulation; and the result is that the appointments are generally matters of favoritism, and they are huddled together, great quantities from some States, and few or none from others. I think the Committee on Naval Affairs may be enabled to present some scheme which will equalize and distribute them as the officers of the other corps are.

The resolution was considered, by unanimous consent, and agreed to.

DISCHARGE OF ENLISTED MEN.

Mr. WILSON, of Massachusetts. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 289) to facilitate the discharge of enlisted men for physical disability, to report it back and recommend its passage. I am also directed to ask the Senate to put it upon its passage now.

By unanimous consent, the bill was considered as in Committee of the Whole. It proposes to empower the medical inspector general, or any medical inspector, to discharge from the service of the United States any soldier or enlisted man laboring under any physical disability which makes it disadvantageous to the service that he be retained therein; and the certificate in writing of the inspector general or medical inspector, setting forth the existence and nature of such physical disability, is to be sufficient evidence of the discharge; but it is provided that every such certificate shall appear on its face to have been founded on personal inspection of the soldier discharged, and shall specifically describe the nature and origin of his disability; and that the discharge shall be without prejudice to the right of the soldier to the pay due him at its date.

Mr. WILSON, of Massachusetts. I do not know that anybody will oppose the bill, or that it needs any explanation. I will simply say in regard to it that for the last few months there has been collected a large class of soldiers with diseases developed by the service or by the climate, or the change of life, who are unfitted for duty, and there is every probability that they will continue to be unfit for duty. They generally desire to go home. This class of men have made applications often, and in large numbers, and the War Office has endeavored, as far as possible, to facilitate their discharge. Of course they cost the Government large sums of money and render no service, if they are not discharged. The difficulty has been in the medical department. We have passed a bill to reorganize that department, and the provisions of that bill require an inspector general and eight medical inspectors to be appointed, whose business it is to visit the hospitals; and this bill provides that the inspector general and these eight inspectors may on their certificate upon personal examination give discharges. We have several thousand of these men scattered about our hospitals that, for the good of the country and for their own good, ought to be discharged and sent home; ninety-nine in one hundred of them want to go home. They are of no service to the Government, but subject it to a large bill of expense. The bill meets entirely the approbation of the medical department of the Army, of the new Surgeon General, and if it is passed, as we hope it will be promptly, it will be carried out and will save thousands of dollars to the Treasury, and be a real relief to those soldiers who are in ill health and who desire to return home to their families.

Mr. FESSENDEN. I desire to ask the honorable chairman of the Committee on Military Affairs if the Department has not now the power to discharge upon a surgeon's certificate.

Mr. WILSON, of Massachusetts. I understand that the War Department are entirely satisfied with the mode provided in this bill. The law is now, that a surgeon may give a certificate of disability; but there is so much form about the process, it is so long, and there is so much of it, that it is very difficult for the men to get discharges. Now, however, having these new inspectors, it is thought that we may very well allow them to give discharges upon personal inspection. The Government cannot suffer by it, and the men will be relieved.

Mr. FESSENDEN. I do not interpose any objection to the bill.

Mr. GRIMES. I do not want to interpose any objection to this bill, and I think something of the kind ought to pass; but it strikes me that it is very necessary that that office which has charge of the *personnel* of the Army should know who is discharged and who is not. If it is all going to be done under the direction of the Surgeon General, and the records are kept at the Surgeon General's office, how will they know it? If this bill passes, it will be the Surgeon General who will know what is the condition of your Army and not the Adjutant General, who has exclusive charge of the *personnel* of your service.

Mr. SHERMAN. Let him report to the Adjutant General.

Mr. WILSON, of Massachusetts. He can report to the Adjutant General.

Mr. GRIMES. The bill does not require him to report.

Mr. WILSON, of Massachusetts. Let the Senator offer an amendment requiring it to be done.

Mr. GRIMES. What I say is this, that your Adjutant General will at no time know how many men there are in the service, unless you require that each man, as he is discharged, shall be reported to the Adjutant General, who keeps the records of the *personnel* of the entire service. If you allow the Surgeon General to discharge a man on one account, and then another officer to discharge him on another, nobody will know how large your Army is.

Mr. WILSON, of Massachusetts. I do not think there will be any practical difficulty in this matter, because a person sent to the hospital is supposed to carry with him the muster roll, or his evidence of being a soldier. If he does not do it, his company officer neglects his duty. In some cases, when in a hurry they have neglected it, it has required a great deal of labor and trouble to have that matter regulated. When a man is discharged, he has to receive his pay, and go regularly through prescribed forms. There is no trouble about it; but I think a simple remedy to all these objections would be to insert that the officer so acting shall report his action to the Adjutant General's office.

Mr. CLARK. It had better lie over.

Mr. WILSON, of Massachusetts. It has been suggested by the gentleman from New Hampshire that the bill had better lie over until to-morrow. I certainly do not wish to press it this morning against the wish of anybody, and therefore I will consent to let it lie over.

The PRESIDENT *pro tempore*. It will be passed over at the suggestion of the Senator from Massachusetts.

COLLECTION OF DUTIES.

Mr. CHANDLER. The Committee on Commerce, to whom was referred the bill (S. No. 296) supplementary to an act approved on the 13th of July, 1861, entitled "An act to provide for the collection of duties on imports and for other purposes," have directed me to report the same back with an amendment, and with a recommendation that it pass; and I desire to ask the unanimous consent of the Senate to act upon this bill now. It is a very important measure and is of immediate and pressing necessity. It proposes to give the control of the commerce of the ports we are about opening, New Orleans, Beaufort, and others, to the Secretary of the Treasury, and to give him extraordinary powers.

Mr. SUMNER. It does seem to me that we ought to see a bill of such importance in print before acting upon it.

Mr. CHANDLER. If there is any objection, of course I shall not press it.

Mr. SUMNER. I do not make any objection. If my friend says it is of such imperative importance that it should be acted upon at once, I shall interpose no objection.

Mr. CHANDLER. It is deemed so, and the Committee on Commerce have made a very careful examination of it.

Mr. HALE. I do not wish to interpose an objection, and shall not; but I have an important amendment that I want to offer to that bill.

The PRESIDENT *pro tempore*. The bill will go the Calendar.

Mr. SUMNER. Let it be printed, with the amendments.

The PRESIDENT *pro tempore*. It will be printed, as a matter of course, coming from a committee.

Mr. CHANDLER. I have no objection to the printing of the amendments.

Mr. HALE. The amendment I propose to offer is a bill which has already passed the Senate limiting the enormous and extravagant compensation of officers of customs.

Mr. CHANDLER. I will state to the Senator that the Committee on Commerce have placed that identical amendment upon the bill already.

Mr. HALE. Then I am glad of it.

The PRESIDENT *pro tempore*. The Chair will state that the bill is not now under consideration.

HOMESTEAD BILL.

Mr. WADE. I now move that the Senate proceed to the consideration of the homestead bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 125) to secure homesteads to actual settlers on the public domain, and to provide a bounty for soldiers in lieu of grants of the public lands.

The PRESIDENT *pro tempore*. The first business in order will be the consideration of the amendments reported by the Committee on Public Lands.

The first amendment of the committee was in line seven of the first section, after the words "United States," to insert the words "who has never borne arms against the United States Government, or given aid and comfort to its enemies."

The amendment was agreed to.

The next amendment of the committee was in lines ten and eleven of the first section, to strike out the words "free of cost, one hundred and sixty acres," and to insert "one quarter section;" so that the clause will read:

Shall, from and after the 1st of January, 1863, be entitled to enter one quarter section of unappropriated public lands, &c.

The amendment was agreed to.

The next amendment of the committee was in line six of the second section, after the word "age," to insert the words "and that he has never borne arms against the Government of the United States, or given aid and comfort to its enemies."

The amendment was agreed to.

The next amendment of the committee was in line twelve of the second section, after the word "the," to insert the word "said," and after the word "receiver," to insert the words "and on payment of ten dollars;" so that the clause will read:

And upon filing the said affidavit with the register or receiver, and on payment of ten dollars, he or she shall thereupon be permitted to enter the quantity of land specified.

The amendment was agreed to.

The next amendment of the committee was, after line twenty-four of section two, to insert the words:

And shall make affidavit that no part of said land has been alienated, and that he has borne true allegiance to the Government of the United States.

The amendment was agreed to.

The next amendment of the committee was in lines twenty-eight and twenty-nine of section two, to strike out the words "on payment of ten dollars;" so that the clause will read:

Then, in such case, he, she, or they, if at that time a citizen of the United States, shall be entitled to a patent, as in other cases provided for by law.

The amendment was agreed to.

The next amendment of the committee was in line seven of section five, after the word "or," to strike out the words "abandoned the said entry," and to insert "shall have ceased to occupy said land;" so that it will read:

That if, at any time after the filing of the affidavit, as required in the second section of this act, and before the expiration of the five years aforesaid, it shall be proven, after due notice to the settler, to the satisfaction of the register of the land office, that the person having filed such affidavit shall have actually changed his or her residence, or shall have ceased to occupy said land for more than six months at any time, then, and in that event, the land so entered shall revert to the Government.

The amendment was agreed to.

The next amendment of the committee was in line two of section six, to strike out the words "make more than one entry," and to insert "acquire title to more than one quarter section;" so that it will read:

That no individual shall be permitted to acquire title to more than one quarter section under the provisions of this act, &c.

The amendment was agreed to.

The next amendment of the committee was in line fourteen of section six, after the word "issued," to insert the words "but this shall not be construed to enlarge the maximum of compensation now prescribed by law for any register or receiver;" so that the clause will read:

And that the registers and receivers of the several land offices shall be entitled to receive the same compensation for any lands entered under the provisions of this act that they are now entitled to receive when the same quality of land is entered with money, one half to be paid by the person making the application at the time of so doing, and the other half on the issue of the certificate by the person to whom it may be issued; but this shall not be construed to enlarge the maximum of compensation now prescribed by law for any register or receiver.

The amendment was agreed to.

The next amendment of the committee was to strike out the seventh section in the following words:

SEC. 7. *And be it further enacted*, That all commissioned and non-commissioned officers, musicians, or privates who have performed, or who shall hereafter perform, military service under the proclamation of the President of the 15th of April, 1861, or any of the acts of the first session of the Thirty-Seventh Congress, or under any acts which may hereafter be passed by Congress during the present war with States in rebellion against the Federal Government, or war with any foreign nation during the same; and all militia, volunteers, or State troops of any description, of any State or Territory, who have performed, or who shall hereafter perform, any military service in aid of the Federal Government, or in defense of their own State or Territory, against armed forces in rebellion against the Federal Government; and also every officer, commissioned and non-commissioned, seaman, ordinary seaman, flotilla man, marine, clerk, and landsman who have performed, or shall hereafter perform, service in the Navy of the United States in the present war, or in any foreign war during the same, shall be entitled to the right of homestead secured by this act, any limitation hereinbefore contained to the contrary notwithstanding: *Provided, however*, That as to all teamsters and wagonmasters who have been or shall hereafter be employed under direction of competent authority in the present war, or any foreign war during the same, shall be entitled also to the right of homestead secured by this act.

The amendment was agreed to.

The next amendment of the committee was to strike out the eighth section in the following words:

SEC. 8. *And be it further enacted*, That, in lieu of bounty land grants, each of the three months volunteers, officers, non-commissioned officers, musicians, and privates, called into military service under the proclamation of the President of the 15th of April, 1861, and who have performed service during the period of three months, or been honorably discharged within that period, and the widow, if there be one, and if not, then the legal heirs, of all of such three months volunteers as shall have died or been killed in service during said term, shall, in addition to the right of homestead secured by this act, be entitled to receive from the Treasury of the United States the sum of thirty dollars. And all commissioned and non-commissioned officers, musicians, and privates of volunteers, enlisted in pursuance of the act of July 22, 1861, who shall have served for a period of not less than six months, or have been honorably discharged within that period, and the widow, if there be one, and if not, then the legal heirs of such as die or may be killed in service, shall be entitled to receive the $100 provided for by said act of July 22, 1861, in addition also to the right of homestead secured by this act: *Provided*, That in case of the death of any person entitled to the said bounties of thirty dollars or $100, as the case may be, after the accruing of his right thereto by his honorable discharge or by the expiration of his term of service, as hereinbefore limited and expressed, the widow, if there be one, and if not, then the legal heirs, shall have the right to receive the same: *And provided, further*, That in no case shall the said bounties be liable to be taken for the debts of either the person originally entitled to the same, or his widow or legal heirs in case of his death; and also that the pay of the private soldier, seaman, or marine shall in no case be liable to be taken for his debts, or the debts of his widow or legal heirs in case of his death.

The amendment was agreed to.

The next amendment of the committee was to strike out the ninth section, in the following words:

SEC. 9. *And be it further enacted*, That the proof of service to entitle any one to the right of homestead secured by this act, by reason of having performed service as hereinbefore limited and expressed, shall be the same as now provided for by the several existing laws granting bounty lands to soldiers.

The amendment was agreed to.

The next amendment of the committee was to strike out the tenth section, in the following words:

SEC. 10. *And be it further enacted*, That the period during which any one performing service within the meaning of this act may have been held as a prisoner of war shall be reckoned a part of his active service in ascertaining whether such person is entitled to the benefits of this act.

The amendment was agreed to.

The next amendment of the committee was to strike out the eleventh section, in the following words:

SEC. 11. *And be it further enacted*, That no claim for the bounties aforesaid shall be assignable or transferable in any manner whatever until the same shall have been ascertained and allowed by the proper department; and all sales, mortgages, contracts, or agreements, of any nature whatever, made prior thereto, for the purpose or with intent of alienating, pledging, or mortgaging any such claim, are hereby declared, and shall be held, null and void.

The amendment was agreed to.

The next amendment of the committee was to insert the following as a new section:

SEC. 7. *And be it further enacted*, That the fifth section of the act entitled "An act in addition to an act more effectually to provide for the punishment of certain crimes against the United States, and for other purposes," approved the 3d of March, 1857, shall extend to all oaths, affirmations, and affidavits, required or authorized by this act.

The amendment was agreed to.

The next amendment of the committee was to insert the following as a new section:

SEC. 8. *And be it further enacted*, That nothing in this act shall be so construed as to prevent any person who has availed him or herself of the benefit of the first section of this act from paying the minimum price, or the price to which the same may have graduated, for the quantity of land so entered at any time before the expiration of the five years, and obtaining a patent therefor from the Government as in other cases provided by law, on making proof of settlement and cultivation as provided by existing laws granting preemption rights.

The amendment was agreed to.

The PRESIDENT *pro tempore*. All the amendments reported by the committee have now been acted on. The Senator from Virginia [Mr. CARLILE] offers a substitute for the whole bill, which will be read.

The Secretary read, as follows:

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

That all commissioned and non-commissioned officers, musicians, or privates, who have performed or who shall hereafter perform military service under the proclamation of the President of the 15th of April, 1861, or any of the acts of the first session of the Thirty-Seventh Congress, or under any acts which may hereafter be passed by Congress during the present war with States in rebellion against the Federal Government, or war with any foreign nation during the same; and all militia, volunteers, or State troops of any description, of any State or Territory, who have performed or who shall hereafter perform any military service in aid of the Federal Government, or in defense of their own State or Territory, against armed force in rebellion against the Federal Government; and also every officer, commissioned and non-commissioned, seaman, ordinary seaman, flotilla man, marine, clerk, and landsman, who have performed or shall hereafter perform service in the Navy of the United States, in the present war or in any foreign war dur-

ing the same, shall be entitled, in lieu of the bounty of $100 authorized by law, to enter one hundred and sixty acres of any unappropriated public lands, which may at the time the application for said entry is made, be subject to pre-emption at $1 25 or less per acre; or eighty acres of such unappropriated lands, at $2 50 per acre, to be located in a body, in conformity to the legal subdivision of the public lands, and after the same shall have been surveyed.

Mr. HARLAN. If the Senator from Virginia will so modify that proposition as to let it be entered as a new section, I shall make no objection to it. If any soldier is disposed to receive a quarter section of land in lieu of $100 bounty, I have no objection to its being granted; and if, instead of moving to strike out the whole bill after the enacting clause, and inserting this as a substitute, the Senator will so modify it as to make it a new section to the bill, I will vote for it.

Mr. CLARK. I desire to suggest to the chairman of the committee that we had better follow the policy of the committee, and keep the military bounty land entirely free from this homestead bill, and let it be provided for, if necessary, in a separate bill. I think we had better have the homestead bill by itself.

Mr. CARLILE. It was my purpose to have submitted a few remarks upon this amendment; but I have been suffering since the adjournment yesterday with a very severe pain; and I am in no condition this morning to say what I had proposed to myself to say upon this proposition. I am opposed at all times, and particularly at a time like the present, to disposing of the public domain of this country without adequate consideration. I do not think it wise, when we rely upon loans for the means to defray the expenses of the Government, that we should dispose of any of the available property of the Government out of which means could be had to enable us to repay those loans. To the extent that the Treasury would be replenished by the receipts arising from the sales of the public lands, the taxes upon the people will have to be increased if we give away the lands, and dispose of them without adequate consideration.

I do not think that it would be extending any additional reward to those who have volunteered in the service of their country, to adopt, as the Senator from Iowa suggests, the proposition that I have submitted as a substitute for the bill as an additional section to the bill. All, whether in the military service or otherwise, under the bill as it is proposed by the committee, are entitled, upon complying with its provisions, to one hundred and sixty acres of land; the man who has rendered no service equally with the man who has rendered service to his country. The citizen is placed upon the same footing with one who is not a citizen by the provisions of this bill. It is a general giving away and disposition of the public domain; squandering, in other words, the means of the Government, which at this particular time of all others should, I think, be husbanded. It is perfectly consistent with the policy that would destroy, strike out of existence at one blow, two billions of dollars of personal property subject to taxation. There are propositions that have been pressed upon the Senate to strike out of existence taxable property to the amount of two billions. If that is done, as a matter of course the taxes must be increased upon other subjects of taxation, and you increase the burdens of the loyal people of this country to that extent, and you affect your credit by disposing of the public lands and take from those who have furnished you with money the property to which they had a right to look as one of the securities for its return.

But, Mr. President, I cannot discuss this proposition. I am not disposed to delay the Senate in its action, and I shall have to content myself with recording my vote in favor of the amendment and against the bill.

Mr. POMEROY. I am desirous of discussing this amendment and the bill, and as I see there is not time this morning, for we have a special order at one o'clock, I move that the further consideration of the bill be postponed until Monday, at half past twelve o'clock, and be made a special order at that time.

The motion was agreed to.

WASHINGTON CITY RAILROAD.

Mr. MORRILL. Is it in order to submit a motion to proceed to the consideration of the amendments of the House of Representatives to Senate bill No. 178?

The PRESIDENT *pro tempore*. The motion is in order, though it is within five minutes of the time fixed for the special order of the day.

Mr. MORRILL. I will call it up with a view of asking a day for its consideration. I move to take up the amendments of the House of Representatives to Senate bill No. 178, to incorporate the Washington and Georgetown Railway Company.

The motion was agreed to.

Mr. MORRILL. I move that this subject be made the special order for Monday next at half past twelve o'clock.

The PRESIDENT *pro tempore*. A special order has just been assigned for that hour which will take precedence of this under the rule, but the Chair will put the motion of the Senator.

Mr. MORRILL. I withdraw the motion.

Mr. WADE and others. Say Tuesday.

Mr. MORRILL. I do not like to postpone it so long.

Mr. WADE. That is not long.

Mr. MORRILL. I move then that the subject be made the special order for Tuesday next, at half past twelve o'clock.

The motion was agreed to.

ADJOURNMENT TO MONDAY.

On motion of Mr. COWAN, it was

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

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles and referred as indicated below:

A bill (No. 446) supplementary to an act approved on the 30th July, 1861, entitled "An act to provide for the collection of duties on imports and for other purposes"—to the Committee on Commerce.

A bill (No. 447) for the relief of Horace M. Heiskell, a paymaster in the United States Navy—to the Committee on Naval Affairs.

DEPARTMENT OF AGRICULTURE.

On motion of Mr. SIMMONS, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 269) to establish a Department of Agriculture, the pending question being on the amendment of Mr. FOSTER, to strike out all after the enacting clause of the bill, and insert as a substitute:

That there shall be created in the Department of the Interior a Bureau of Agriculture and Statistics, the object of which shall be to promote the interests of agriculture, commerce, and manufactures, the chief executive officer of which shall be denominated "Commissioner of Agriculture and Statistics," who shall be appointed by the President, with the advice and consent of the Senate, and shall receive an annual compensation of $3,000.

SEC. 2. *And be it further enacted*, That it shall be the duty of the said Commissioner, under the direction of the Secretary of the Interior, to procure and distribute new and valuable varieties of seeds, grains, and plants, and to procure, from the best sources, such information as will be most valuable in relation to the mode of cultivation, renovation, and drainage of the soil; also, concerning the domestic and foreign trade of the United States, their manufactures, internal improvements, banks, and currency, and such other subjects as may be adapted to illustrate the condition and progress of the agriculture, manufactures, trade, population, and other material interests of the country. The said Commissioner shall annually make a report to Congress, prior to the 1st day of January in each year, of the operations of the bureau, and of statistics obtained.

SEC. 3. *And be it further enacted*, That the Commissioner shall procure a seal with a suitable device; and copies of books, statements, or records, with the signature of the Commissioner and seal affixed, shall be competent evidence in all cases where the original records would be evidence. The Commissioner shall charge a reasonable compensation, not to exceed the rate of charges established by the Patent Office for all information or copies furnished, except for legislative purposes or for the Departments of Government.

SEC. 4. *And be it further enacted*, That there shall be appointed a chief clerk of said bureau, with an annual salary of $2,000, and such additional clerks as may, in the judgment of the Secretary of the Interior, be necessary, not exceeding the number now employed in the agricultural division of the Patent Office, with three additional ones. All the books, records, documents, and other papers and property belonging to the agricultural division of the Patent Office, shall be transferred to said bureau, and all appropriations heretofore made for the benefit of agriculture shall be expended by said bureau.

Mr. SIMMONS. I merely wish to say that this amendment, as it has been modified by the Senator from Connecticut, ceases to be of any practical benefit to the Department. The object of the committee was to compliment the agricultural interest by giving it the character of a Department. This amendment would only make it a bureau, which is no essential improvement of the present system. I hope the bill will pass as the committee reported it. I shall not consume the time of the Senate with any argument upon it.

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

Mr. FOSTER. The Senate is very thin now, and I should be very sorry to have the question taken at this time. There is but a moment left of the morning hour or less than a moment.

Mr. SUMNER. There is a quorum here.

Mr. FOSTER. There is probably a quorum present; but I shall have something to say before the vote is taken.

The PRESIDENT *pro tempore*. The hour of one o'clock has arrived, and the special order of the day supersedes the consideration of this bill.

CONFISCATION OF PROPERTY.

The Senate resumed the consideration of the bill (S. No. 151) to confiscate the property and free the slaves of rebels.

The PRESIDENT *pro tempore*. The Senator from Vermont [Mr. COLLAMER] has moved an amendment to strike out all after the enacting clause of the bill, and insert a substitute which has heretofore been read. The Senator from Massachusetts [Mr. WILSON] has moved to amend the amendment of the Senator from Vermont by striking out the sixth section of that substitute or amendment, and inserting what was yesterday read. The question now is on the amendment of the Senator from Massachusetts to the amendment of the Senator from Vermont, and upon that question the Senator from Delaware is entitled to the floor.

Mr. SAULSBURY. It was my intention to address the Senate on this bill, but understanding that the Senator from Wisconsin wishes to be heard upon it, I will cheerfully yield the floor to him, as what I propose to say may be said as well upon some other bill, or at another time, with greater convenience to myself. I yield the floor to the Senator from Wisconsin.

Mr. DOOLITTLE addressed the Senate for some time in a constitutional argument on the propositions before the Senate. [His speech will be published in the Appendix.]

Mr. WADE. It was not my intention to say anything in regard to this bill, for the reason that I have been anxious and impatient that it should pass; but those who will probably vote with me, and who take the same view of the subject that I do, have so frequently been assailed in the course of the argument on this measure as persons who have no regard to the Constitution of the country, and as being willing at all times to break it, and lectures have been so frequently read to us from every side of this Chamber on the sacredness of the Constitution and our obligation to observe it, that it seems to me to remain silent under these constant charges would be a tacit assent that that was our position.

I am not unmindful that when I took my seat on this floor I raised my hand to God and swore that I would observe the Constitution. I believe I am just as mindful of it as those who so often lecture us on the subject. It is an arrogant assumption on their part that they are the peculiar friends and observers of the Constitution, while we on this side of the Chamber are unmindful of its obligations. I do not believe there is anything in this bill that contravenes one word or syllable of that Constitution. I agree that the defense of that great instrument, the palladium of our freedom, is the most sacred duty that devolves on any man who takes a seat on this floor; and I am the last man who, knowingly, would do anything to contravene any of its provisions.

The gentlemen who oppose us on this subject, and who have come to the conclusion that this bill is unconstitutional, do not agree among themselves as to what points of the Constitution it is unconstitutional. If I understood the Senator from Illinois, [Mr. BROWNING,] he holds that this Government has as much power to suppress treason and to maintain its authority as any Government on the face of God's earth; and I believe him. The only question then is, where is this authority lodged? He contends it is altogether in the President of the United States; that the moment war is declared the President is a despot, armed with

irresponsible power to do just what he thinks the necessity of the occasion requires to put down rebellion and to maintain the Constitution. A more dangerous construction of that instrument could not be conceived. It is altogether anomalous; it is not in harmony with any provision of the Constitution, or the spirit of our institutions. I suppose the rights of war do invest this Government with all the power that is necessary to maintain itself intact. The Senator from Illinois, if I recollect him aright, and he is an excellent lawyer, said that if it were necessary to maintain the Constitution, we might not only forfeit and confiscate the property of the rebels, but take the life of every man of them. Yes, sir; I know we can. A Government, in the last resort, shorn of these great rights, would stand at the mercy of pirates and assassins who might conspire to defy it. No doubt that was sound doctrine; but the simple question is, who shall exercise the power? I do not know that even the Senator from Pennsylvania [Mr. COWAN] contends that there is no power of self-defense somewhere lodged in the Constitution equal to its preservation under any emergency. Does he suppose that we are somehow fettered by the Constitution so that we cannot defend it?

Mr. COWAN. I believe precisely as the honorable Senator from Illinois [Mr. BROWNING] does. I think the power is in the President, full, ample, to do everything that is necessary, and I think that he is an absolute despot as against the rebels. He has the right to do anything and everything necessary to suppress the rebellion that is warrantable by the law of civilized war.

Mr. WADE. I am very glad to hear it, sir, for I was not quite clear, from hearing the Senator's argument, that he did not believe there was somewhere some limit by which we, who intend to maintain the Constitution, must lie down inert, defenseless, and allow the rebellion to triumph, lest we should violate some provision of the instrument in attempting its defense. I am glad to hear that such an absurdity has not taken lodgment in the brain of the Senator.

Then, sir, the controversy dwindles down to this: the power exists, but where is it lodged? Where would our fathers, in establishing the freest Government on God's earth, be likely to lodge it? In the irresponsible power of one man, called a President? Was it not the labor of their lives to prevent any man's being armed with absolute, unlimited power? Do you believe that those men who so sedulously guarded against irresponsible power anywhere, would, the moment war was declared, when the exigencies of the Government were such that irresponsible power in a President might endanger our institutions, arm him with the power to trample all the limitations they had established for liberty under his feet? There is nothing in the Constitution that warrants you in saying this power is in the President. He is the Commander-in-Chief of your Army and Navy, and holds that exalted position by the consent of the people of the United States. He is their creature and agent; but, according to the argument of some Senators, he can assume to be their master, and when their institutions are imperiled their hands are tied, and they can do nothing! The absurdity is in placing the creature above the creator; in placing the man, who by the Constitution is the agent of the people, above the people and above Congress. Away with so slavish a doctrine.

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

Mr. WADE. Yes, sir; as many as you please.

Mr. COWAN. Is not Congress, as much as the President, the creature and agent of the people? Are there not in the Constitution powers delegated to the President that were not delegated to Congress; and powers delegated to the judiciary that were not delegated to Congress? Would it not be a violation of the Constitution if the one were to usurp the powers which are expressly given to the other?

Mr. WADE. Suppose all that to be so, who stands nearest the people, the source of all power: we or this irresponsible chief of yours? Congress has power to declare war and make peace, to provide armies to defend the country, or to assail other countries. That power is lodged in Congress by the Constitution. And yet you suppose, with these vast and important powers in Congress, that the President is, somewhere outside of the Constitution, invested with a supreme power above that of despots—unlimited, uncontrolled, and uncontrollable. The idea is absurd, and unworthy an American Senator or an American Congress. The President is Commander-in-Chief of your armies. When war is declared, or if war exists without any declaration, as it may, it depends upon Congress, not upon him, to say whether that war shall continue, and to prescribe precisely upon what principles it shall be governed. The President cannot lay down and fix the principles upon which a war shall be conducted. He is as powerless as one of us or one of the people. It is for Congress to lay down the rules and regulations by which the Executive shall be governed in conducting a war.

Senators drag in the law of nations as a stumbling block to our constitutional rights. Why, sir, does not every man who is a lawyer know that, although we ought to be observant of the law of nations, it is in the power of Congress, if they please—not that they ought—to overrule it, and trample it under foot? Why, then, interpose the law of nations between us and our rights? It may be very good advisory doctrine, but when you put it as a limitation of our power, it is nothing better than nonsense. It is but a very few days since we deliberately, and I believe without any dissent, laid down an article of war binding and tying the hands of the President as Commander-in-Chief of the Army, and directing him upon what principle he should, in a certain particular, conduct the war. Was that constitutional? Could we, under the Constitution, provide an article of war? There may be a hundred articles of war; and if we can prescribe the rule to the President in one, so we can in all.

Mr. COWAN. Will the gentleman allow me to ask him another question?

Mr. WADE. Certainly.

Mr. COWAN. He persists in utterly and totally misrepresenting the position of the opposition to this bill. What we say is, that the power of the Executive of this nation is absolutely despotic and unrestrained as against the rebels. Now, the Senator says, because Congress can make articles of war therefore that is not true. Upon whom do the articles of war operate? Upon rebels? No; but upon our own citizens in the ranks of the Army. Congress have a right to make rules and regulations for the Army *inter se*, but those rules and regulations do not affect rebels, those at war with the Government. I trust gentlemen, if they have a good case, will meet this question fairly, and not endeavor to divert the attention of the country from the real issue; because I admit there is a real issue, and I have great respect even for those who entertain a different opinion from myself—and put it upon something else. The question is distinctly, and I would be glad to hear the learned, and I had almost said venerable Senator from Ohio——

Mr. WADE. Do not say that, above all things. [Laughter.]

Mr. COWAN. I mean to say the Senator from Ohio has a great deal more of experience, a great deal more of learning and knowledge upon this subject than I have. I say the real question is, in a time of rebellion, when these people are resisting the municipal law, who shall, under the Constitution, meet them and apply to them the force of the nation, so as to bring them back within the domain of our law made by Congress? We say it is the President. The gentleman says, if I understand his argument, that Congress is to direct those operations. Now, I am willing to hear him make that point good if he can.

Mr. WADE. I did not intend to yield the floor for the gentleman to make a speech, but to ask me a question, and he has asked me the very question that I supposed I was arguing, and that was, where was the power to conduct this war lodged? That is precisely what I am discussing, and I have endeavored to show the absurdity of making an irresponsible chief of the Commander-in-Chief of your Army and Navy. Then, sir, where does it belong? I say it is in Congress, and I was proceeding to show it, not only from the Constitution, but from our action as assented to by Congress, always and without dispute, in making articles of war. Not one of them exists, nor can exist, without the consent of Congress, for an hour. The Senator wants to know whether we can have anything to do with the conduct of this war. Sir, can we not prescribe to the President upon what principle he shall release every prisoner of war he has got? Can we not prescribe to him: you may take prisoners of war, but they shall be discharged upon taking the oath of allegiance, or they shall be hung when taken? We are to say whether a rebel taken in war shall forfeit his estate, or whether he shall go scot free. It is all with us; and he who believes that this great power is lodged anywhere else, is an advocate of despotism, and has never caught the spirit of his fathers in forming the Constitution. He would make the President an irresponsible despotic chief, whom Congress could not reach nor touch. What are we legislating about? Why, sir, if I understood the Senator from Pennsylvania, the other day, he thought, in times of peril to our institutions, in a gigantic rebellion like this, that the whole power of Congress consisted in furnishing means to the President for carrying on the war; that that was our limitation, and we could do nothing more. If we sought to do less, I do not know what he would do. It would be strange, if in this, as in all other cases, the greater did not include the less. If we might fetter the President and render him powerless by withholding supplies, and thus put an end to the war, would it not be singular if we could not prescribe the rule upon which the war should be conducted?

It is said that the President can do anything; that he can forfeit estates. Was that the Senator's argument? Does he believe that the President may by his proclamation forfeit all the estates in the South? I want to know that.

Mr. COWAN. Does the Senator want an answer?

Mr. WADE. Yes, sir; now and here.

Mr. COWAN. I stated I think, repeatedly, certainly at least three times, the extent to which the President could go in that respect.

Mr. WADE. Answer my question if you please.

Mr. COWAN. Well, sir, in the first place, the President is guided in that by the laws of war. He has the right to take all the public property of the enemy, and to apply it and appropriate it to the maintenance of the war against the rebels.

Mr. WADE. Has he the right to take the private property?

Mr. COWAN. He has the right to take private property only by way of retaliation, not to establish the rule, but to prevent the rule from becoming established. He has a right to take possession of their real estate and hold it until the war is over, until he procures the submission of the rebels, and is able to hand them over to the civil tribunals for punishment for their crime.

Mr. WADE. I thought the Senator would not like to meet directly the inferences drawn from his own doctrine. I cannot extort from him whether, in his judgment, the President has power to confiscate the property of rebels, put the proceeds in the Treasury, and apply it to the indemnification of those who have lost in the war, or for paying the expenses of the war?

Mr. COWAN. May I ask what kind of property the gentleman alludes to?

Mr. WADE. Any kind that a man has.

Mr. COWAN. I answer distinctly, the President has no right to forfeit the title of a rebel to his real estate, nor has Congress either, for longer than his lifetime. Congress may forfeit it for his life on conviction of treason, and, as I believe, upon a judgment in outlawry against him upon an indictment found for treason. That is as far as either Congress or the President can go.

Mr. WADE. Can he forfeit the personal property?

Mr. COWAN. The President may take and seize personal property. It is not exactly a forfeiture. It is a capture that he takes under the laws of war, by way of retaliation when they take and seize our personal property. That constitutes what is called the military necessity, and that military necessity is the measure of the power of the President, the measure of the power of the Commander-in-Chief of the Army in that regard.

Mr. WADE. The Senator is not quite consistent with himself. He said, a minute ago, it could be done by way of retaliation, and now he says it must be done as a military necessity. Let it be so. What becomes of it in the end? Does it go back to the individual, or does it come to the Government? Will the Senator tell me that?

Mr. COWAN. If the gentleman desires an answer, I say no; it does not go back to the

enemy any more than the life of a person killed for retaliation.

Mr. WADE. The Senator does not like to meet the proper inferences deduced from his own doctrine. He denies that the President, even armed as he says with despotic power, can change the title of property, for retaliation or anything else. He can do nothing beyond his camp. Notwithstanding all these attempts to magnify the power of the Commander-in-Chief, the true doctrine is this: when he marches an army into the enemy's country and seizes upon his property, all that by main strength comes into manual possession he takes; but can he make a rule beyond his camp, beyond the line of his military department? None at all; he is perfectly, totally powerless. Sir, every man who has caught the spirit of our institutions should frown down this attempt to magnify the President into an irresponsible despot with power to prescribe rules and regulations by which the estates, real or personal, of men can be forfeited. The belligerent rights of your general, your commander-in-chief in the field, never did and never will go one inch beyond the boundary of his camp where he holds martial law. There he must prescribe rules while he does hold it; but the moment he moves his camp, that moment all his rules and regulations are gone with his removal. That is all there is of it; and that ghost of an authority the other side have endeavored to magnify into plenary despotic power. I denounce the doctrine as utterly slavish, anomalous, and at war with our free institutions. But enough upon that subject.

Sir, there is no man in this Senate who needs lecturing upon constitutional obligation less than myself. I believe I am as much impressed with the full importance of maintaining that great instrument as any man in this or the other House of Congress. I go further, and say that not only the American people are interested in maintaining our free, glorious institutions intact, but it interests the whole civilized world, yea, and the uncivilized world; for the great and just principles deduced from the law of nature and the nature of man, and woven by our wise forefathers into our Constitution, are the political hope of the world. Destroy them, and the world is again at sea without a compass. It is because I am zealous to maintain them that I trample under my feet these slavish doctrines of to-day, that the Congress of the United States have not the power to maintain that Constitution against all violation from any quarter.

Talk to me, sir, about violating the Constitution! I do not like to hear it. I have heard too much of it. Every man who was here a year or two ago knows that this same idea was inculcated then by those who are now open traitors. They sought to tie and fetter our limbs by the cry of a violated Constitution, that its enemies might stab it to death. There is not a man now in what are called the confederate States levying arms, coercing men into this accursed rebellion to overthrow this glorious Constitution of ours but harped upon the same string that Senators have harped upon in this debate. The arm of the Constitution was too short to defend itself from aggression. These were the doctrines that they announced, and then they went off and formed an organization, and implored foreign nations, yea, and agreed to become the vassals of foreign despots, if they would only aid and assist them in overthrowing this Constitution of ours. First they claimed that we had no constitutional power to defend the Constitution, a very cheap way if they could succeed in it to get along with their rebellion. We must lie right down in our tracks, because if we undertook to form an army to go forth to conquer the rebellion, we were acting without constitutional authority. Was not that what they harped upon? Did they not say of the Administration what Senators on the other side of the Chamber are saying every morning now? Did not the former colleague of the Senator from Kentucky [Mr. POWELL] accuse the Administration of tyranny and despotism. It is the old tune that was harped upon by every traitor who is now an open enemy to the Constitution of the United States. They undertook to show that the Constitution was, somehow, *felo de se;* that it did not contain any power, or it restricted us from using any power for its preservation. Sir, these arguments will not do.

Senators are very tender of forfeiture and of confiscation. How is it with the open enemies of the Constitution of the United States? Have they any scruples to maintain that infamous counterfeit called the confederate constitution? The man who fails to come up to all of its requisitions, if he escapes with the loss of all his property with his life is fortunate. This cowardly, this unworthy doctrine that Senators preach is only for the gratification of those who are seeking the destruction of the Constitution.

Let me say in passing, that you compel loyal men in the confederate States to become the abettors of treason because you are so lenient that you will not raise your hand against their murderers and robbers. In truth, up to this hour, the men in the confederate States who have raised their unhallowed arms to strike down the Constitution of the United States are more favored by this Government than are the true and much persecuted loyal men there. It is a blemish upon our Administration, and I hope to God that it is about to pass away forever.

Senators regret the scope of this bill forfeiting the property of traitors in these confederate States. If my will could prevail, the men whose unhallowed and damning ambition has incited them to bring all this misery upon the country through this rebellion, who have stirred it up without cause, should be made justly guilty of all the consequences of their infernal acts—murder, treason, perjury, robbery. They are guilty of all. You are very tender-footed towards these men; your Constitution will not let you take their property. You may rob your own citizens, you may bankrupt your Treasury, to defend yourselves against them; but their property must not be touched to fill the coffers of your Treasury!

If you defeat this bill, if you fail to take all the property of rebels who are seeking the destruction of the Government, and confiscate it to relieve the burdens of loyal men, and to indemnify us for the just debts we have incurred in defending ourselves against these traitors, I say to you, and through you to the people, for I want it to go to them, I am not the man who has prevented it. I go for the largest forfeiture. I am in favor of visiting just punishment on every man who has raised his accursed hand to strike down the institutions of our fathers. I will take their property, and I will relieve the loyal North, and the loyal men of the South, and indemnify them with the confiscated property; yea, to the last dollar of these scoundrels. He who will not do it may meet me before our masters, the people, upon this subject. If I am wrong, they will undoubtedly remind me of it. If it is right, if it is just, if it is equitable, if it is demanded by the high exigencies of the times in which we live, I trust I shall stand justified. But, sir, I wish to state distinctly that I will go for the utmost scope of your bill. I would make it stronger if I could. When I have brought a traitor who is seeking my life and my property to terms, and when I become bankrupt in my endeavors to put him down and defend myself, I have no scruples about the property of his that shall be taken to indemnify me.

I do not like the argument of some of my friends here who have risen and prefaced their remarks by saying they did not expect to get much to indemnify the losses by this war out of this confiscation. Sir, I do expect it. If we are true to ourselves, if we go on with that patriotism, that regard to the Constitution, that hatred of treason and all its consequences that ought to govern us, we shall find property sufficient to indemnify loyal men for the expenses of this unholy war. It will be but a poor indemnity at last. Sir, what will indemnify us for the most precious blood of our young men who, by these scoundrels, have been compelled to go forth on the field of battle and hazard their lives in defense of our liberty. They will lie in their graves, lamented by all just men, deplored by all their acquaintances, mourned by their country. If you were to take all the property of the rebels, it would never make satisfaction for the great and most burdensome losses occasioned by this accursed rebellion. So much for their property.

I was very sorry to hear that my friend from Wisconsin had become so exceedingly tender about the forfeiture of the slaves of rebels. He thought that was too sweeping. Sir, I am more amazed at this idol which is set up in the form of slavery, that seems to deprive men of their reason, than anything else. Some of my friends think, and I believe that is the doctrine of my friend from Wisconsin, that we might forfeit property in some shape; but when you come to slavery, he seems to be struck with horror at the thought. Why, sir, the South consider slaves just as other property. I do not concede it; I never did concede it. All I conceded was, that in times of peace, when they let our institutions alone, I would let them alone in the States; that I would not touch a hair of their head. Abhorrent as slavery is to man and God, I had agreed that in their States they might have it, provided they would keep it there, and let us alone; but when they repudiated the Constitution of the United States, when they waged violent war against it, when they made use of those very slaves as the fulcrum by which to overturn the Constitution of the country, I lost all my veneration—no, not veneration, for I never had any veneration for slavery; I repudiate the idea; but it absolved me from all my sense of duty in that regard, and allowed me to give full scope to my sense of justice in dealing with slaves and their masters. They have repudiated me; they have repudiated you; they have used these very slaves to murder your brethren and mine, and to rob us of our property. Being now withdrawn from all obligation in their behalf, I say to every traitor who holds a slave, "so far as my hand can reach that slave is free and a much better man than you. You ought to thank God if you escape the gallows; your slave is remitted to his rights."

I am a little astonished at the doctrines of these border State gentlemen. I am not much astonished at them, because I know they have strong influences pleading in their behalf, just as we on this side have pleading in our behalf. They were nurtured in the institution. It had been in their States from time immemorial, at least to them. All their relations, and all the great men they have had among them, had practiced this system of slavery. Of course, they do not view it as we do; and I make all due allowances upon that subject. But, sir, I wonder that gentlemen, as sagacious as they are, men of great capacity and of generous impulses, fail to see the absurdity of attempting longer to maintain an institution of that kind. I admit that, in the progress of nations from barbarism to civilization, there is, and has been a time in every nation of which I know anything when slavery was not only permitted, but formed an institution among men. If you look back to the institutions of antiquity, you will find it there; if you look at the middle ages, you find it there; but you find it in times of ignorance, when the arts and sciences had advanced hardly beyond barbarism. Then, sir, your institution of slavery was in harmony with the other institutions; but do you not see that in the progress of a nation from a barbarous state to a high degree of civilization you will reach a time when slavery becomes utterly impossible?

Why, sir, do you not see that it has emasculated you; that it has laid you almost prostrate at the feet of a power scarcely greater than your own? During one year of this accursed war—and I take some pride in saying it—no hostile foot has yet invaded the territory of a free State. How is that? It is not because you southern men are not brave; it is not because you are not enterprising; but you have leaned upon this accursed institution until you are as weak as infancy in the grasp of freemen, and to-day you are tenants at will, tenants at sufferance, to the masculine principles and the manly attributes of free communities. I wonder that you are not more anxious than we are to do away with an institution that makes you tenants at will to us for your liberties. I talk plainly, but it is even so.

We have been complained of by some gentlemen on this floor that this war was prosecuted in a spirit of severity and intolerance towards traitors. They have harped upon it from day to day. Sir, from the earliest period of the history of mankind to the present, you will find no war, much less any rebellion, that has been characterized with the forbearance, the lenity bordering on imbecility, with which this one has been prosecuted. If, with the aid and assistance of all your slaves brought into your camps to build your fortifications, to do all your manual service, to cultivate all the agricultural productions on which you feed,

you have accomplished so little against us, I ask you, suppose we had appealed to your bondmen to come on our side, where, in God's name, would you have been to-day? Do you not see that it is owing to our forbearance to use the power the Almighty has put in our hands that you breathe the breath of life to-day. I wonder, sir, that honorable men, statesmen——

Mr. HENDERSON. Will the Senator permit me to interrupt him for a moment?

Mr. WADE. Certainly.

Mr. HENDERSON. I appreciate the kindness of the Senator in his allusion to the border State men; but I desire to ask him if it be desirable to do away with the institution of slavery entirely throughout these States, if he has perfectly satisfied his mind that his course will accomplish it sooner than the course of the border State men?

Mr. WADE. Mr. President, I am not permitted to choose my course; and this leads me to another observation that I will make on a point which has been very much argued here: what is the object of the war? For what is it prosecuted? Is it for the purpose of abolition and emancipation? Gentlemen have sometimes charged that the war was commenced and prosecuted with that view. So far from it, we had no choice in the matter. The war was commenced upon us, and all there was for us to do was purely the right of self-defense. We had no other alternative.

Mr. HENDERSON. The Senator will excuse me for saying I certainly made no such argument.

Mr. WADE. I did not say the gentleman did. I excuse him, and know that among all the sagacious men in the South he is among the most liberal. He cannot help seeing that a great many things I have said here to-day are true.

Sir, if you are not able to make head against us in the field, it is not because you are not equally brave and enterprising; it is not even for the lack of numbers; but it is because slavery has impoverished you, emasculated you, and now without our appealing to the force you feel would be most potent to put you down, you are still on the declining side. I do not invoke it; but when I see black regiments put forward to shoot down my sons who are in the war, and your relatives, when I see these black chattels thrust forth in front of the chivalrous owners to shoot down, murder, and destroy our men who have gone to the fields only in defense of our glorious institutions, I am strongly tempted to make the appeal, and say to your bondsmen: "Stand forth invested in the rights wherewith God Almighty has clothed you; come to our side; help to fight the battles of freedom, and you shall be free." It would only be a righteous retribution to those who have held them against common right. Suppose we should do it, what would become of you, my friends? Where would you be? Talk to us of prosecuting the war in a vindictive spirit! You may thank your God that we have been as forbearing as we have.

But, sir, I was diverted from the course of argument I wanted to pursue. I say these reflections fill me with wonder that sagacious, honorable men of the southern States do not of their own accord arise and put down an institution that so weakens and emasculates them, and which places them in the power of the free States around them whenever they shall think best to put them down. My border State friends might just as well look this subject square in the face as not. I am not an abolitionist in the sense in which they speak of abolition; but I am going to announce the plain fact.

I have said that in the progress of nations, after a certain advance in civilization and the arts, slavery becomes impossible. Deeply rooted as this institution of slavery was, every invention of a useful character for a thousand years has tended to make it impossible. Once you might work the galley slave with profit. Warlike nations formerly put slaves aboard of their armed ships to row them to the enemy, and made them labor in that way. Could that system be continued now? Slavery might then be useful in war when nobody knew any better, and when the nation having the most slaves to man its galleys was the strongest and most powerful. How is it when you put the galley slave against the steam engine? Was it any abolitionist that rose up and argued down the institution? Can you work a naked savage or a negro against a steam engine? If you cannot, your system is at an end. Every labor-saving machine is an abolitionist. Every puff of the engine upon a railroad is an abolition sermon, more potent and more effective than was ever preached by mouth of abolitionist. Can you work a slave, carrying his bundle on his back, against the tremendous power and energy of your railroad? Can you put the one against the other? How is it with the reaper we have introduced into our fields to harvest our grain, the tremendous power of our mowing-machines, power-looms, and spinning-jennies? I might count over from now till to-morrow the instrumentalities that have rendered your system absolutely impossible; and yet against the laws of God and nature, you are hanging on with pertinacity to a system that has passed away, and can never be renewed.

Sir, I am not very solicitous about it. It is very rare that you hear me speak on this subject of slavery; but when gentlemen rise here day by day and talk about the object of this war, whether it be for the perpetuation of slavery or freedom, I think it best to take a common-sense view of the subject and see how it stands. I am so entirely convinced of its impotency, its failure to answer the requisitions of the state of civilization to which we have approached, that I have no fears of it. Sir, it will pass away. If every man in this Senate, if every man in this Congress, stood forth as an advocate for perpetual and eternal slavery, it would only be the poor instrumentalities of man fighting against God. God and nature have determined the question, and we shall not affect it much either way. But I throw out these hints to these gentlemen who seem to believe that the world will not go round when slavery is abolished. As the Almighty sometimes overrules the wickedness of man to perfect a glorious end, so the hand of God was never more obvious than in this rebellion. Slavery might have staggered along against the improvement of the age, against the common consent of mankind, a scoff and a by-word on the tongue of all civilized nations for a great many years, but this rebellion has sealed its fate and antedated the time when it becomes impossible. You cannot escape from this war without the emancipation of your negroes. It will not be because I am going to preach it; it will not be because I am going to move anything in that direction; but it is because I see the hand of God taking hold of your own delinquency to overrule for good what your rulers meant for evil. Pro-slavery men seem to suppose that the Ruler of the universe is a pro-slavery Being; but if I have not mistaken Him greatly, He is at least a gradual emancipationist. [Laughter.]

This war, you say, should not be prosecuted for the purpose of abolishing slavery. I grant it. After we got into it—perhaps it is not very honorable to make the admission, but it is so—we did pass a resolution here that we would not prosecute this war with the idea of abolishing slavery. I believe I voted for that resolution. I did not care with what view you prosecuted the war; I knew slavery was gone, whatever your views might be. I warned gentlemen of it in that famous committee of thirteen. I was a member of that committee, which contained almost every high officer of the so-called southern confederacy, with Mr. Davis at their head. Month after month we discussed this principle. I told those gentlemen, "I rely infinitely more upon you to abolish slavery than upon all the Garrisons and Fosters and Phillipses on earth. They are theorists; they are right in theory, but they never will harm a hair of your head; but you attempt this secession, and the first blast of civil war is the death-warrant of your institution." It was so.

The part of wisdom, then, in any border State man is to elevate himself above the prejudices of the times, above the strong prepossessions of education, which I can make as much allowance for as anybody. I say, elevate yourselves to the great principles of human destiny and to the great crisis in which we are placed. The fate of your darling institution is sealed. All human institutions must finally come to an end; but, thank God, the worst of them has come to an end first. You cannot defend it, if you would. You do yourselves infinite harm in not conforming to what is the plain and most manifest will of the Almighty; and that is, that your bondsmen shall be free. Regulate your institutions accordingly; follow the indications of Providence that are thrown out so plainly in your path, and all will be well. Any attempt to resist them will be worse than idle, nugatory, and vain.

In regard to the amendments to this bill I have but little to say after the most forcible and conclusive argument made yesterday by the Senator from Maine, [Mr. MORRILL.] He proved conclusively that the argument and the bill of the Senator from Vermont did not very well accord. That bill or substitute does nothing to the rebels until peace is proclaimed. It proceeds on the assumption that this Government in all its parts is invested with full power in all its judicial tribunals to go on just the same as though it were a time of profound peace. Sir, there is nothing more unphilosophic, nothing I will say more unstatesmanlike, than for a man to overlook the condition in which the country is plunged, and make just such provisions and provide just such remedies for evils now as he would when the Government in all its parts stood upright, when every delinquency could be prosecuted in any of your courts with a full assurance that impartial justice would be done both to the accused and the accuser. Is that the condition of things now? Do gentlemen wish to close their eyes and blink the fact that over a territory larger than the half of Europe you cannot summon a jury, you have not a judge to try a case who is not liable to the condemnation that you seek to have him pronounce. No, sir; that cannot be done. But Congress is invested in this tremendous crisis of our nation with power to provide all things and anything which it is thought will best minister to the putting down of this rebellion and the restoration in its integrity of the glorious old Constitution of our fathers.

Sir, I repeat in conclusion, that any remedy that you provide that has no reference to putting down this rebellion, and only looks to the punishment of traitors after peace shall be proclaimed everywhere, is not a remedy that seems to me to be wise. It would be a kind of vindictiveness. Badly as these men have used us, venomous as they have shown themselves—mutilating our dead, murdering our prisoners, doing every wrong that savage malice could invent—still if they would lay down their arms to-day and come into the fold and ask pardon for their infernal treason, I do not feel that I could coolly go on under the bill of the Senator from Vermont to take their lives. That would be no remedy. It would be wreaking mere vengeance upon those who were deprived of power to defend themselves. The magnanimity of the American people would forbid the creation of any such tribunal as that. As my friend from Maine said, the American people would not brook the bloody assize traversing from State to State for the purpose of summoning juries and hanging men, who, whatever their past crimes might have been, were now entirely in their power. They are to be dealt with as the American people would see fit to deal with them. Their magnanimity would forgive them, and your bill would be powerless. I want the remedy provided by my friend from Illinois, that has reference to all these things, and which proposes to indemnify the Treasury for the vast sacrifices that we have been compelled to make in our defense.

Sir, if there was anything wrong in our position, the whole tenor of this argument would be changed; but there is not. What have we done? What have those of us who stand here for the Constitution and the laws done that should provoke these scoundrels to this position of rebellion? They have made it incumbent upon us to defend ourselves or die. For what purpose? For no other or better purpose than to establish a government founded on eternal slavery. Sir, we have indices by which we know what the traitors sought. It was despotism against freedom. Mr. Stephens, who is the very brain of the southern rebellion, in his inaugural address, undertook to set forth the principles on which this southern confederacy was to be founded; and he went on philosophically to state that the purpose of it was to make slavery the basis of their institutions, which would be eternal. He believed it was the will of God and the order of Providence that some men were born to rule, and some men to be their slaves and their servants. He took great credit to themselves that they of the South had made this grand discovery, which had escaped all men up to that period. This, sir, is the principle on which this war is prosecuted. If you want to know the

organization of that government and the principle on which it is founded read that exposition of it as laid down by their chief expositor, and see for what purpose they sought to erect upon the ruins of our glorious institutions this southern confederacy. They fight for eternal slavery, and I fight for eternal freedom. That is the difference. Knowing my cause to be just, knowing that I stand where the fathers stood when they framed the Government, I will stand here with a strong hand, and with every instrumentality that God Almighty has given me I will labor to put down this accursed rebellion and defend free institutions, not only for ourselves, but for all mankind.

Mr. COLLAMER. Mr. President, I have been called to the floor just at this time by the manner in which the honorable Senator from Ohio has spoken of my proposition. I can hardly believe that the honorable Senator has done himself the benefit or me the justice to read it. I should think from his manner of speaking of it, that he never had read it. It has never been read by some gentlemen, and probably, in a great measure, never will be.

I have heard a member object that my bill left the punishment of treason to be death, or, in the discretion of the court, a fine not less than a certain amount. He thought it most intolerable that a man should be punished at the discretion of the court. It has been gravely made an objection that it would be the utmost tyranny that a man should be punished by a fine at the discretion of the court. That has been urged as a valid, serious objection. The member who made it did not seem to understand, or did not remember, that unless we make such a provision, by the law as it now stands the man is to be hung. That, I suppose, he thinks very tolerable, very well to be endured by the man, but the other is intolerable!

It is objected that the bill proposed by me by way of amendment implies for carrying it into entire effect, a reëstablishment of the Government in the country—at least that part of it where you carry it into effect. It does imply that, and so does every other bill. The bill proposed by the Senator from Illinois provides that the President may take possession of property by men by him appointed. How can he do it without taking possession of the country? The officers whom he appoints must have possession of the country to take possession of the property. All the bills here imply that that state of things must exist, because we all agree that this forcible rebellion must be put down by force, and not by legislation. All the propositions, therefore, take that form. The proposition of the honorable Senator from Ohio, [Mr. SHERMAN,] and that of the honorable Senator from New York, [Mr. HARRIS,] provide that the President may seize property and hold it until the Government is reëstablished, when proceedings *in rem* may be taken. That all implies getting possession of the country and establishing some form of government there. It is not a perfect lawlessness, nor is it a case where we can make provision for carrying things into effect and do anything with the people and property before we get possession of the country. All the bills imply that we must have possession of the country before they can be carried into effect. They must imply it, unless, indeed, you find what the boy said there was, a new kind of writ that was to take a man as well where he ain't as where he is. If you get hold of such a writ as that, you may do it, but I believe nobody has yet found out such a contrivance. My bill is no more obnoxious to objection of that kind than any of the other pending bills, or any bill that can be framed.

What does my bill propose? It declares what shall be the punishment for treason. I have stated my reasons for that, and I do not want to go over them again. I propose that the punishment may be a fine, and that the fine may be collected from the property of which the persons convicted were owners when they committed the crime. That may be the punishment on sentence by the court; and what next? It is provided, just as it is in the other bills, that the President may sequester and take possession of all the property that he can get possession of, and hold it to respond to these fines. Is it not exactly so in the other? Where he can take possession of property under those bills, he can under this. If he cannot under mine, he cannot under any other. Therefore, in my estimation, if it is obnoxious to objection of that kind as being practically inoperative for the want of getting possession of the country, so must every bill that you can frame that reaches any kind of property or any person. It must in the nature of the thing be so.

I find objections made that this is too much and that is too little. In short, when an opinion is made up and a resolution is formed that you will find fault with a measure, you can easily find reasons enough, no matter how inconsistent. It is like the boy finding fault with his jacket because it was made out of his father's old one: "it is too big and too little, and it puckers at the end, and it does not fit anyhow." So you can find fault with anything, but in this respect all these bills are in the same condition.

I have not risen with a view to reply to the ingenious and able speech made by the honorable Senator from Ohio—I mean able in the manner in which it addresses the feelings of the people. I said when I was up before, that it does not require anything to inflame the public mind on this occasion; it needs no declamation on this floor. There are causes deep-seated enough which have addressed themselves to the resentments of the community. In my humble estimation, as grave legislators, Senators of the United States, it becomes us to take counsel from our judgment, and not inflame the resentments which may be operating upon us individually.

But, Mr. President, in relation to the Senator's remarks about the doomed condition of slavery, I am very much of his opinion, and I do not think it needs any legislation. I say again with him who said it before me, and said it infinitely better than I can, that it is not necessary to enact any law to assist God in the purposes which are clearly His purposes. The Senator says that the progress of the age, the progress of improvement, the progress of the application of motive power, the general sentiment of the world, and its civilization and humanity, doom the institution of slavery. Very well; let it be doomed. I take it if it is destined, and its destiny has come, its doom does not need any help at our hands. I think it will go down, and we may just as well stand by and see the judgment of God executed. I believe, too, with the Senator, that the madness which dictated this rebellion will, in the dispensation of Providence, unavoidably hasten, and indeed has hastened, if I may say so, the progress of events in relation to that result. How, in what manner, the result is to be attained, I cannot now say, and in regard to that point probably different men entertain different views.

For myself, without any prophetic vision—and I do not think it requires any—I believe I can perceive the coming result; its development may be seen in the progress of our armies and the necessary consequences which follow them. I see the masters dispersed; I see the slaves scattered; I see that, in all probability, they will never be reclaimed, whatever laws we may make. I see that the further that progress goes, the more extended will be its effect. I think I can perceive, too, that unless some method be reached, addressed to the better sense and the judgment of the great mass of that people, which will bring them back to their allegiance to this country, there may be realized anew many of those lessons which we read in the history of Europe relative to the progress of what used to be called the northern barbarians. They went down and possessed the lands of a people who had become degenerate and effeminate, if you please, by the very nature of their climate. Our northern people—not barbarians, although they are called so in the South—will occupy that country, if the southern people persist, are obstinate, and will not be overcome by our power. If large armies pass down the Mississippi, go from the West, and from the North, if they are compelled to sweep over all the southern country, and meet in a great body, if you please, away down in Georgia, armies of five, six, seven, or eight hundred thousand men, I can easily conceive that our Government may then say to them, "we have done with you, except that we want some of you for garrison purposes; and now we will disband all the rest of you; to be sure, we may be bound to march you to your homes, but we will easily commute with you and give you some twenty-five, thirty, or forty dollars, and then you can get home as you please." Now, sir, do you believe, in view of the lessons taught by the history of the world, that the men composing those armies will ever go back to their old homes? A very small part of them. They will remain; they will say to each other, "there is land enough here; the owners are scattered, the slaves are dispersed over the country needing employment; here is good land and a fine climate; we have read much of 'the sunny South;' here it is." And they will do what is done in the West, "squat;" and they will say "here are the 'white trash,' as they have been called, who own no land and who are willing to help us; as to the men who once owned here, we know not what has become of them." Suppose fifty or one hundred thousand of these men put themselves in possession of a State, they will outvote any State, they will mold its institutions, they will reconstruct society. If the war goes on, results of that kind, I think, it requires no prophecy to foresee. Any man can see that in the ordinary course of events such will probably be the result. I do not believe that will arise from our making laws here. What I say will probably never reach the southern people; I do not know that it will reach many anywhere else; but it seems to me very strange short-sightedness that men of their discernment and discretion cannot easily perceive that if they persist such must be the results. I therefore carry my views on that point even further than the honorable Senator from Ohio, not differing from him in what he says in principle on this point, but saying that it does not call for legislation at our hands.

Mr. President, I have no idea of going over again the grounds which I heretofore presented, or of occupying the attention of the Senate by their repetition. I am not apt to be guilty of that. It is quite enough to state my views once; and all can know them that desire to know anything about them. But I wish to put things simply right, and then gentlemen can vote as they think proper. The honorable Senator from Massachusetts [Mr. WILSON] has presented an amendment to the sixth section of my bill. All I desire is, that it shall be distinctly understood, not that I expect to alter any man's opinions, or to change his vote. In considering that section, it must be borne in mind that I have all along made a large measure of distinction between the power exercised in time of war in this Government by the Executive and by Congress. I think that distinction is broad, clear, obvious to anybody that desires to see it. I think the very form of our oath, and that of the President, shows that there is a difference. We swear to support the Constitution; the President swears that he will protect and defend it. The very form of the oath implies the exercise of a different power. I think that the provision of the Constitution which declares that the writ of *habeas corpus* shall not be suspended unless when, in case of war or rebellion, the public safety shall require it, implies that in those times the public safety may require it, and does require it. That implies the exercise of a large measure of executive power.

I further say that the exercise of this executive power in a time of war is almost without limitation as against the enemy; it is the creature of circumstances as they arise; it is in a great measure the law of retaliation; it changes with circumstances, and with changing circumstances is almost without limit. Let me give an illustration. There is no doubt that the Executive, through the officers of the Army, may burn down a city of the enemy, entirely destroy it; it may become necessary to do it. Nay, further, all history is full of it, and all writers on the laws of nations admit that you may desolate a country, or a particular section of it, if it becomes absolutely necessary to its subjugation in a war. Who is to judge when that crisis comes, when that necessity arises? Clearly those who carry on and execute the war. Can it be said that because the President has power in an emergency or in a necessity to destroy a city, therefore Congress can make a law directing the President to set fire to the four quarters of the city of New Orleans to-day? Can it be possible that we can make a statute, by any power delegated to us in the Constitution, by which we can compel the Executive to set fire to the four quarters of the city of New Orleans to-day? Certainly that cannot be. Can we pass a law directing the Executive to desolate the northern neck of Virginia to-morrow, cut every blade of grass, raze every house to its foundation, kill